

VOLUME ONE OF THREE

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Appeal from Dorchester County
Edgar W. Dickson, Circuit Court Judge

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S.C. Supreme Court

STEVEN C. BRISCOE,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2014-001910

APPENDIX

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ATTORNEYS FOR RESPONDENT

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STATE OF SOUTH CAROLINA
COUNTY OF DORCHESTER

COURT OF GENERAL SESSIONS
FIRST JUDICIAL CIRCUIT

STATE OF SOUTH CAROLINA

CASE NO. 04-GS-18-1100

versus

)
) VOLUME ONE OF THREE
) TRANSCRIPT OF RECORD
)

STEVEN C. BRISCOE,

) DATE:
) OCTOBER 31, 2005
) THROUGH
) NOVEMBER 4, 2005
)

DEFENDANT

BEFORE:

HONORABLE DEADRA L. JEFFERSON, PRESIDING JUDGE

AND A JURY.

APPEARANCES:

HARRISON BELL, ESQUIRE

ASSISTANT SOLICITOR

FOR THE STATE

KEVIN KEARSE, ESQUIRE

ATTORNEY AT LAW

FOR THE DEFENDANT

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COURT REPORTER, FIRST JUDICIAL CIRCUIT
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ROWESVILLE, SOUTH CAROLINA 29133

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1 DATE:

2 OCTOBER 31, 2005

3 THE COURT: WE'RE GOING TO SELECT
4 THE JURY FOR THE STATE OF SOUTH CAROLINA VERSUS STEVEN
5 CHRISTOPHER BRISCOE, IT IS AN INDICTMENT FOR MURDER.
6 THAT INDICTMENT ALLEGES AS FOLLOWS: THAT THE DEFENDANT,
7 STEVEN CHRISTOPHER BRISCOE, DID IN DORCHESTER COUNTY ON
8 OR ABOUT JULY THIRD, TWO THOUSAND AND THREE, WITH MALICE
9 AFORETHOUGHT, KILL ONE MARK A. COOK BY SHOOTING THE
10 VICTIM WITH A PISTOL AND SAID VICTIM DID DIE AS A
11 PROXIMATE RESULT THEREOF.

12 BEFORE WE BEGIN THE JURY SELECTION
13 PROCESS I'M GOING TO ASK COUNSEL FOR THE STATE TO STAND
14 AND INTRODUCE HIMSELF, AS WELL AS ANYONE WHO WILL BE
15 ASSISTING HIM IN THE TRIAL OF THIS CASE, AND ALSO
16 PUBLISH THE NAMES OF THE MEMBERS OF HIS OFFICE. I'M
17 GOING TO ASK COUNSEL FOR THE DEFENSE TO ALSO PROVIDE THE
18 SAME INFORMATION AND TO INTRODUCE HIS CLIENT TO THE
19 PANEL.

20 AND IF YOU WILL BEAR WITH ME ONE
21 SECOND, MR. BELL, I NEED TO MAKE SURE THAT ALL JURORS
22 HAVE BEEN COLLECTED FROM THE HALLWAY. I'M GOING TO WAIT
23 FOR MR. GEORGE TO COME IN AND TELL ME THAT.

24 NOW, LADIES AND GENTLEMEN, ONCE THE
25 ATTORNEYS HAVE EXPLAINED THEMSELVES I'M GOING TO GO

1 THROUGH A SERIES OF QUESTIONS THAT WE CALL VOIR DIRE.
2 SOME OF THESE QUESTIONS MAY SEEM INTENSELY PERSONAL. IF
3 YOU DO NOT WANT TO ANSWER ANY OF THESE QUESTION IN THE
4 PRESENCE OF YOUR FELLOW JURORS PLEASE MAKE ME AWARE OF
5 IT SO THAT I CAN SPEAK WITH YOU WITH THE COURT REPORTER
6 AND THE ATTORNEYS.

7 DO WE HAVE EVERYBODY, GEORGE?

8 BAILIFF: YES, MA'AM, THEY ARE ALL
9 INSIDE.

10 THE COURT: OKAY, THANK YOU.

11 YOU MAY PROCEED.

12 SOLICITOR BELL: THANK YOU, YOUR
13 HONOR, IF IT PLEASE THE COURT.

14 MY NAME IS HARRISON BELL, AND I'M A
15 SENIOR ASSISTANT SOLICITOR FOR THE FIRST JUDICIAL
16 CIRCUIT. I WORK FOR YOUR ELECTED SOLICITOR, MR. DAVID
17 PASCOE. WE HAVE IN OUR OFFICE DEPUTY SOLICITOR DON
18 SORENSON, AND WE HAVE OUR NEWEST ASSISTANT SOLICITOR,
19 MR. RUSTY PILTON, WHO WILL BE HELPING ME. WE ALSO HAVE
20 BILL MCINTOSH, SUSAN WILLIAMS, WE HAVE VIRGIL DEASE, WHO
21 IS OUR JUVENILE PROSECUTOR.

22 THE COURT: MR. KEARSE.

23 MR. KEARSE: MAY IT PLEASE THE
24 COURT, YOUR HONOR.

25 MY NAME IS KEVIN KEARSE, I'M A SOLO

1 PRACTITIONER OUT OF BERKELEY COUNTY.

2 THE COURT: THANK YOU. IF YOU WILL
3 INTRODUCE YOUR CLIENT TO THE PANEL.

4 MR. KEARSE: MAY IT PLEASE THE
5 COURT, YOUR HONOR.

6 THIS IS MR. STEVEN BRISCOE.

7 THE COURT: THANK YOU, YOU MAY BE
8 SEATED.

9 IS THERE ANY MEMBER OF THE PANEL
10 RELATED BY BLOOD OR MARRIAGE TO STEVEN CHRISTOPHER
11 BRISCOE OR MARK A COOK? IF SO, PLEASE STAND AT THIS
12 TIME.

13 (Negative response from jury panel.)

14 THE COURT: IS THERE ANY MEMBER OF
15 THE PANEL WHO HAS A CLOSE PERSONAL, SOCIAL OR BUSINESS
16 RELATIONSHIP WITH EITHER STEVEN CHRISTOPHER BRISCOE OR
17 PREVIOUSLY HAD A RELATIONSHIP WITH MARK A. COOK? IF SO,
18 PLEASE STAND AT THIS TIME.

19 (Negative response from jury panel.)

20 THE COURT: THE FOLLOWING ARE A LIST
21 OF POTENTIAL WITNESSES IN THIS CASE I WOULD ASK THAT YOU
22 LISTEN VERY CAREFULLY: VERNELL COLLINS SELLARS, HELEN
23 COLES, AUSTIN NEWCOMB, BILLY GRAVES, DEPUTY R. PETREY,
24 LIEUTENANT TOM MARSHALL, LIEUTENANT EARL ASBELL,
25 SERGEANT TERRY VAN DORAN, RAY DIXSON, -- AND ALL OF

13

1 THOSE ARE OF THE DORCHESTER COUNTY SHERIFF'S OFFICE ---

2 SOLICITOR BELL: YOUR HONOR, DO YOU
3 WANT THEM TO STAND IF THEY'RE IN THE COURTROOM?

4 THE COURT: SURE. IF ANYONE WHOSE
5 NAMES I'VE JUST CALLED ARE PRESENT, PLEASE STAND. THANK
6 YOU, YOU MAY BE SEATED.

7 STEVE DERRICK, OF THE SOUTH CAROLINA
8 LAW ENFORCEMENT DIVISION, VELLO PAAVEL, OF SLED, DR.
9 SEXTON, JERMAINE CUSACK, JASSON TURNER, JOHNNY COBBS,
10 RYAN NORTH, TRAVIS NORTH, ANTHONY FOLK, LANESHA GREEN,
11 KAREN CROUCH, CHRIS SCARBOROUGH, DETECTIVE WILLIAM
12 CHANEY OF THE DANVILLE, VIRGINIA, POLICE DEPARTMENT,
13 ALICE DURR, THE DEPUTY CORONER FOR DORCHESTER COUNTY,
14 SERGEANT BRUCE TILTON, AND MARK KELLY, OF THE ALCOHOL,
15 TOBACCO AND FIREARMS DEPARTMENT.

16 IS THERE ANY MEMBER OF THE PANEL
17 RELATED BY BLOOD OR MARRIAGE TO ANY OF THE PEOPLE THAT
18 I'VE JUST LISTED, OR DOES ANYONE HAVE A CLOSE PERSONAL,
19 SOCIAL OR BUSINESS RELATIONSHIP WITH ANY OF THESE
20 INDIVIDUALS? IF SO, I WOULD ASK THAT YOU STAND AT THIS
21 TIME.

22 (Negative response from jury panel.)

23 THE COURT: HAS ANY MEMBER OF THE
24 PANEL EVER BEEN REPRESENTED BY ANY OF THE ATTORNEYS
25 INVOLVED IN THIS CASE, OR BY ANYONE WITH WHOM THEY HAVE

1 PRACTICED LAW? IF SO, PLEASE STAND AT THIS TIME.

2 (Negative response from jury panel.)

3 THE COURT: IS THERE ANY MEMBER OF
4 THE PANEL RELATED BY BLOOD OR MARRIAGE TO, OR HAVE A
5 CLOSE PERSONAL OR SOCIAL RELATIONSHIP WITH ANY OF THE
6 ATTORNEYS INVOLVED, OR WITH ANYONE WITH WHOM THEY HAVE
7 PRACTICED LAW? IF SO, PLEASE STAND AT THIS TIME.

8 (Negative response from jury panel.)

9 THE COURT: IS THERE ANY MEMBER OF
10 THE PANEL AWARE OF ANY BIAS OR PREJUDICE TOWARD EITHER
11 THE STATE OR THE DEFENSE IN THIS CASE? IF SO, PLEASE
12 STAND AT THIS TIME.

13 (Negative response from jury panel.)

14 THE COURT: IS THERE ANY MEMBER OF
15 THE PANEL THAT WAS A MEMBER OF THE GRAND JURY WHICH
16 ISSUED THE INDICTMENT IN THIS CASE? IF SO, PLEASE
17 STAND.

18 (Negative response from jury panel.)

19 THE COURT: IS THERE ANY MEMBER OF
20 THE PANEL WHO IS A MEMBER OF OR CONTRIBUTOR TO ANY GROUP
21 WHICH HAS AS ITS PRIMARY CONCERN AND FOCUS THE PROMOTION
22 OF LAW ENFORCEMENT OR VICTIM'S RIGHTS? THESE GROUPS
23 WOULD INCLUDE, BUT ARE NOT LIMITED TO MOTHERS AGAINST
24 DRUNK DRIVING, STUDENTS AGAINST DRUNK DRIVING, CITIZENS
25 AGAINST VIOLENT CRIME, PEOPLE AGAINST RAPE, AND CITIZENS

15

1 ADVOCATING A RETURN TO DECENCY AND ETHICS. IF SO, PLEASE
2 STAND AT THIS TIME?

3 (Negative response from jury panel.)

4 THE COURT: IS THERE ANY MEMBER OF
5 THE PANEL A MEMBER, CURRENTLY EMPLOYED WITH LAW
6 ENFORCEMENT, OR A MEMBER OF YOUR FAMILY CURRENTLY
7 EMPLOYED WITH LAW ENFORCEMENT? IF SO, PLEASE STAND AT
8 THIS TIME.

9 (Affirmative response from jury panel.)

10 THE COURT: YES, MA'AM, IF YOU WOULD
11 TELL ME YOUR NAME AND YOUR JUROR NUMBER?

12 JUROR RAVENELL: MY NAME IS WANDA
13 RAVENELL, NUMBER ONE EIGHTEEN.

14 THE COURT: AND MA'AM, IS IT YOU OR
15 A FAMILY MEMBER?

16 JUROR RAVENELL: MY BROTHER.

17 THE COURT: AND WHERE IS HE
18 EMPLOYED?

19 JUROR RAVENELL: HE'S AN F.B.I.
20 AGENT IN NEW JERSEY.

21 THE COURT: MA'AM, AS A RESULT OF
22 THIS RELATIONSHIP, DO YOU FEEL THAT YOU CAN REMAIN FAIR
23 AND IMPARTIAL, AND RENDER A FAIR AND IMPARTIAL DECISION
24 IN THIS CASE, BASED SOLELY ON THE EVIDENCE AS IT WILL BE
25 PRESENTED, AND ON THE LAW AS THE COURT WILL CHARGE?

1 JUROR RAVENELL: YES, MA'AM.

2 THE COURT: THANK YOU, MA'AM, YOU
3 MAY TAKE YOUR SEAT.

4 IS THERE ANY MEMBER OF THE PANEL
5 EMPLOYED OR ENGAGED IN BUSINESS WITH THE COUNTY OF
6 DORCHESTER? IF SO, PLEASE STAND AT THIS TIME.

7 (Negative response from jury panel.)

8 THE COURT: HAVE YOU OR ANY MEMBER
9 OF YOUR IMMEDIATE FAMILY EVER BEEN A PARTY OR A VICTIM
10 TO A CRIMINAL PROSECUTION? IF SO, PLEASE STAND AT THIS
11 TIME.

12 (Affirmative response from jury panel.)

13 THE COURT: YES, MA'AM, YOUR NAME
14 AND YOUR JUROR NUMBER?

15 JUROR GIBSON: I'M MARY GIBSON, I
16 AM NUMBER FIFTY.

17 THE COURT: YES, MA'AM. CAN YOU TELL
18 ME WHETHER IT WAS YOU OR A FAMILY MEMBER?

19 JUROR GIBSON: IT WAS A FAMILY
20 MEMBER.

21 THE COURT: AND WERE YOU A VICTIM OR
22 WERE YOU A WITNESS?

23 JUROR GIBSON: NO, NOTHING. IT WAS
24 IN ANOTHER STATE.

25 THE COURT: OKAY. WERE YOU -- DID

17

1 YOU HAVE TO TESTIFY -- YOU WERE JUST THERE AS A
2 SPECTATOR, IS THAT WHAT YOU'RE TELLING ME?

3 JUROR GIBSON: IT WAS JUST MY
4 BROTHER, HE WAS INCARCERATED IN FLORIDA.

5 THE COURT: OKAY. MA'AM, AS A RESULT
6 OF THIS EXPERIENCE DO YOU FEEL THAT YOU CAN REMAIN FAIR
7 AND IMPARTIAL AND RENDER A FAIR AND IMPARTIAL DECISION
8 IN THIS CASE, BASED SOLELY ON THE EVIDENCE AS IT WILL BE
9 PRESENTED, AND ON THE LAW AS THE COURT WILL CHARGE?

10 JUROR GIBSON: YES, MA'AM.

11 THE COURT: THANK YOU, MA'AM, YOU
12 MAY BE SEATED.

13 DOES ANY MEMBER OF THE PANEL KNOW OF
14 ANY REASON WHATSOEVER WHY HE OR SHE SHOULD NOT SERVE AS
15 A JUROR IN THIS CASE, WITH PARTICULAR EMPHASIS BEING
16 PLACED ON YOUR ABILITY TO BE FAIR AND IMPARTIAL TO BOTH
17 THE STATE AND THE DEFENSE? IF SO, PLEASE STAND AT THIS
18 TIME.

19 (Negative response from jury panel.)

20 THE COURT: HAS ANY MEMBER OF THE
21 PANEL READ, VIEWED OR HEARD ANYTHING CONCERNING THIS
22 CASE PRIOR TO HAVING BEEN SUMMONED TO SERVE AS A JUROR
23 IN THIS CASE? THAT WOULD INCLUDE ANYTHING THAT YOU MAY
24 HAVE HEARD ON THE RADIO, TELEVISION, INTERNET, OR
25 OTHERWISE. IF SO, PLEASE STAND AT THIS TIME.

1 (Affirmative response from jury panel.)

2 THE COURT: YES, MA'AM, CAN YOU TELL
3 ME YOUR NAME AND YOUR JUROR NUMBER?

4 JUROR EDWARDS: CAROL EDWARDS,
5 THIRTY-SEVEN. I WORK AS AN EDITOR AT THE POST AND
6 COURRIER.

7 THE COURT: I DON'T WANT YOU TO GO
8 TOO MUCH FURTHER, I JUST WANT YOU TO TELL ME, YOU READ
9 SOMETHING IN THE POST AND COURRIER?

10 JUROR EDWARDS: I FEEL CERTAIN I
11 PROBABLY DID, BUT I DON'T REMEMBER IT.

12 THE COURT: OKAY. YOU ONLY -- WELL,
13 I NEED YOU TO APPROACH FOR ME.
14 (Whereupon, Juror approaches
15 and the following bench conference
16 is held out of the hearing of the jury
17 panel.)

18 THE COURT: OKAY, MA'AM, YOU SAID
19 THAT YOU ARE NUMBER THIRTY-SEVEN?

20 JUROR EDWARDS: YES.

21 THE COURT: TELL ME YOUR NAME,
22 MA'AM?

23 JUROR EDWARDS: CAROL EDWARDS.

24 THE COURT: AND MS. EDWARDS, YOU
25 SAID YOU READ SOMETHING IN THE POST AND COURRIER?

1 JUROR EDWARDS: I DO NOT REMEMBER IF
2 I DID OR NOT, IT IS MY JOB TO EDIT.

3 THE COURT: OH, YOU WORK AT THE POST
4 AND COURRIER?

5 JUROR EDWARDS: YES, MA'AM.

6 THE COURT: OKAY.

7 JUROR EDWARDS: BUT I DON'T REMEMBER
8 ANYTHING ABOUT THIS CASE.

9 THE COURT: BUT YOU FEEL SURE THAT
10 SOMETHING WAS WRITTEN?

11 JUROR EDWARDS: YES, MA'AM, BUT I
12 DON'T REMEMBER IT.

13 THE COURT: OKAY. MA'AM, AS A
14 RESULT OF THAT DO YOU FEEL THAT YOU HAVE FORMED ANY
15 FIXED OPINION ABOUT THIS CASE?

16 JUROR EDWARDS: NO, I HAVE NOT.

17 THE COURT: DO YOU FEEL THAT YOU CAN
18 REMAIN FAIR AND IMPARTIAL?

19 JUROR EDWARDS: YES, MA'AM.

20 THE COURT: DO YOU FEEL THAT YOU CAN
21 RENDER A FAIR AND IMPARTIAL DECISION IN THIS CASE?

22 JUROR EDWARDS: YES, MA'AM.

23 THE COURT: BASED SOLELY ON THE
24 EVIDENCE AND THE LAW AS THE COURT WILL CHARGE?

25 JUROR EDWARDS: YES, MA'AM.

1 THE COURT: THANK YOU, MA'AM, YOU
2 MAY TAKE YOUR SEAT, I APPRECIATE YOUR CANDOR.

3 (Whereupon, the following
4 takes place in the hearing
5 of the full jury panel.)

6 THE COURT: HAS ANY MEMBER OF THE
7 PANEL OBTAINED, RECEIVED OR DISCUSSED ANYTHING
8 CONCERNING THIS CASE PRIOR TO HAVING BEEN SUMMONED TO
9 SERVE AS A JUROR IN THIS MATTER? IF SO, PLEASE STAND AT
10 THIS TIME.

11 (Negative response from jury panel.)

12 THE COURT: ARE THERE ANY ADDITIONAL
13 QUESTIONS FROM THE STATE?

14 SOLICITOR BELL: NOTHING FROM THE
15 STATE, YOUR HONOR.

16 THE COURT: FROM THE DEFENSE?

17 MR. KEARSE: NOTHING FROM THE
18 DEFENSE, YOUR HONOR.

19 THE COURT: OKAY. THE STRIKES ARE
20 TEN AND FIVE, AND WE'LL PROCEED WITH JURY SELECTION.

21 LADIES AND GENTLEMEN, AS YOUR NAME
22 IS CALLED -- SMITTY, IF YOU COULD STAND THERE FOR ME,
23 AND SHOW THEM WHAT THEY NEED TO DO -- AS YOUR NAME IS
24 CALLED I NEED YOU TO COME FORWARD AS OFFICER SMITTY IS
25 DOING, AND TURN AROUND AS HE IS DOING, FACING BACK OUT

1 TOWARD THE PANEL. AND YOU NEED TO BRING ALL OF YOUR
2 PERSONAL BELONGINGS WITH YOU.

3 MADAM CLERK, YOU MAY PROCEED.

4 CLERK: YES, MA'AM.

5 JUROR ONE O TWO, FREDERICK MIXSON.

6 WHAT SAYS THE STATE?

7 SOLICITOR BELL: PRESENT THE JUROR.

8 CLERK: THE DEFENSE?

9 MR. KEARSE: SEAT THE JUROR.

10 CLERK: HAVE A SEAT IN OUR JURY BOX.

11 JUROR NUMBER THIRTY-NINE, DAVID

12 FELLERS. WHAT SAYS THE STATE?

13 SOLICITOR BELL: PRESENT THE JUROR?

14 CLERK: THE DEFENSE?

15 MR. KEARSE: SEAT THE JUROR.

16 CLERK: JUROR ONE O SEVEN, JIMMY

17 MUCKENFUSS. WHAT SAYS THE STATE?

18 SOLICITOR BELL: PLEASE EXCUSE THE

19 JUROR FROM THIS TRIAL.

20 CLERK: YOU MAY HAVE A SEAT BACK IN

21 THE AUDIENCE.

22 JUROR NUMBER NINETY-SEVEN, ALTON

23 MCCALIP.

24 THE COURT: PLEASE GIVE ME THAT

25 NUMBER AGAIN?

1 CLERK: NINETY-SEVEN. WHAT SAYS THE
2 STATE?

3 SOLICITOR BELL: PLEASE EXCUSE THE
4 JUROR FROM THIS TRIAL.

5 CLERK: JUROR NUMBER THIRTY-TWO,
6 YERBY DESAURSSURE. WHAT SAYS THE STATE?

7 SOLICITOR BELL: PLEASE EXCUSE THE
8 JUROR FROM THIS TRIAL.

9 CLERK: JUROR ONE FIFTY-NINE, CHRIS
10 DONNELLY. WHAT SAYS THE STATE?

11 SOLICITOR BELL: PLEASE PRESENT THE
12 JUROR.

13 CLERK: THE DEFENSE?

14 MR. KEARSE: SEAT THE JUROR.

15 THE COURT: I'M SORRY, I DIDN'T
16 HEAR, DID HE SAY SEAT THE JUROR?

17 CLERK: SEAT THE JUROR. JUROR
18 NUMBER EIGHTY-TWO, THOMAS KELLY. WHAT SAYS THE STATE?

19 SOLICITOR BELL: PLEASE EXCUSE THE
20 JUROR FROM THIS TRIAL.

21 CLERK: JUROR ONE FORTY-TWO, ERNEST
22 WARDER. WHAT SAYS THE STATE?

23 SOLICITOR BELL: PLEASE PRESENT THE
24 JUROR.

25 CLERK: THE DEFENSE?

1 MR. KEARSE: EXCUSE THE JUROR.
2 CLERK: HAVE A SEAT BACK IN THE
3 AUDIENCE.
4 JUROR NUMBER TWENTY-FOUR, WILLARD
5 COOPER.
6 THE COURT: WAS THAT NUMBER TWENTY-
7 ONE?
8 CLERK: TWENTY-FOUR.
9 THE COURT: THANK YOU.
10 CLERK: WHAT SAYS THE STATE?
11 SOLICITOR BELL: PRESENT THE JUROR.
12 CLERK: THE DEFENSE?
13 MR. KEARSE: SEAT THE JUROR.
14 CLERK: HAVE A SEAT IN OUR JURY BOX.
15 JUROR ONE FIFTY-EIGHT, CYNTHIA
16 WATKINS. WHAT SAYS THE STATE?
17 SOLICITOR BELL: PRESENT THE JUROR.
18 CLERK: THE DEFENSE?
19 MR. KEARSE: EXCUSE THE JUROR.
20 CLERK: HAVE A SEAT BACK IN THE
21 AUDIENCE.
22 JUROR NUMBER FIFTY-NINE, JOHN
23 HARPER. WHAT SAYS THE STATE?
24 SOLICITOR BELL: PRESENT THE JUROR.
25 CLERK: THE DEFENSE?

1 MR. KEARSE: SEAT THE JUROR.

2 CLERK: JUROR ONE TWENTY-SIX, EDWARD
3 SIMPSON. WHAT SAYS THE STATE?

4 SOLICITOR BELL: PRESENT THE JUROR.

5 CLERK: THE DEFENSE?

6 MR. KEARSE: SEAT THE JUROR.

7 CLERK: JUROR ONE FORTY-ONE, KENNETH
8 UTHE. WHAT SAYS THE STATE?

9 SOLICITOR BELL: PRESENT THE JUROR.

10 CLERK: THE DEFENSE?

11 MR. KEARSE: SEAT THE JUROR.

12 CLERK: JUROR NUMBER EIGHTY-ONE,
13 CARMEN JUDY. WHAT SAYS THE STATE?

14 SOLICITOR BELL: PRESENT THE JUROR.

15 CLERK: THE DEFENSE?

16 MR. KEARSE: SEAT THE JUROR.

17 CLERK: JUROR ONE THIRTY-NINE, JAMES
18 TERRY. WHAT SAYS THE STATE?

19 SOLICITOR BELL: PRESENT THE JUROR.

20 CLERK: THE DEFENSE?

21 MR. KEARSE: SEAT THE JUROR.

22 CLERK: JUROR NUMBER NINETY-SIX,
23 KISHA MCBRIDE. WHAT SAYS THE STATE?

24 SOLICITOR BELL: PLEASE EXCUSE THE
25 JUROR FROM THIS TRIAL.

25

1 CLERK: JUROR NUMBER FIFTY-FOUR,
2 JEANETTE GREGG.

3 THE COURT: THE STATE HAS EXHAUSTED
4 THEIR STRIKES.

5 SOLICITOR BELL: THANK YOU, YOUR
6 HONOR.

7 THE COURT: YOU'RE WELCOME.

8 CLERK: WHAT SAYS THE STATE?

9 SOLICITOR BELL: PRESENT THE JUROR.

10 CLERK: THE DEFENSE?

11 MR. KEARSE: SEAT THE JUROR.

12 CLERK: JUROR NUMBER THIRTY-EIGHT,
13 BENJAMIN EMANUELSON. WHAT SAYS THE STATE?

14 SOLICITOR BELL: PRESENT THE JUROR.

15 CLERK: THE DEFENSE?

16 MR. KEARSE: SEAT THE JUROR.

17 CLERK: JUROR ONE ELEVEN, REMUS
18 NOWELL. WHAT SAYS THE STATE?

19 SOLICITOR BELL: PRESENT THE JUROR.

20 CLERK: THE DEFENSE?

21 MR. KEARSE: SEAT THE JUROR.

22 THE COURT: ONE OR TWO ALTERNATES?

23 SOLICITOR BELL: YOUR HONOR,
24 WHATEVER THE COURT DEEMS APPROPRIATE IS THE STATE'S
25 POSITION.

1 THE COURT: TWO ALTERNATES, THE
2 STRIKES ARE ONE AND TWO.

3 CLERK: JUROR ONE THIRTY-SIX, RALPH
4 TAULBEE. WHAT SAYS THE STATE?

5 SOLICITOR BELL: PRESENT THE JUROR.

6 CLERK: THE DEFENSE?

7 MR. KEARSE: SEAT THE JUROR.

8 CLERK: HAVE A SEAT IN OUR JURY BOX.

9 JUROR NUMBER EIGHTY-FIVE, ROBERTA
10 KING. WHAT SAYS THE STATE?

11 SOLICITOR BELL: PRESENT THE JUROR.

12 CLERK: THE DEFENSE?

13 MR. KEARSE: EXCUSE THIS JUROR.

14 CLERK: JUROR NUMBER SEVENTY-FOUR,
15 KENNETH JACKSON. WHAT SAYS THE STATE?

16 SOLICITOR BELL: PRESENT THE JUROR.

17 CLERK: THE DEFENSE?

18 MR. KEARSE: SEAT THE JUROR.

19 CLERK: HAVE A SEAT IN OUR JURY BOX.

20 THE COURT: THANK YOU.

21 ANY MOTIONS REGARDING THE SELECTION
22 OF THE JURY FROM THE STATE?

23 SOLICITOR BELL: NONE FROM THE
24 STATE, YOUR HONOR.

25 THE COURT: FROM THE DEFENSE?

1 MR. KEARSE: THE DEFENSE DOES HAVE
2 A MOTION, YOUR HONOR.

3 THE COURT: PLEASE APPROACH.

4 (Whereupon, a bench conference
5 is held out of the hearing of
6 the jury and the court reporter.)

7 THE COURT: IF YOU WOULD TAKE THE
8 JURY INTO THE JURY ROOM FOR ME, PLEASE.

9 LADIES AND GENTLEMEN, I HAVE A
10 MATTER OF LAW I NEED TO TAKE UP WITH THE ATTORNEYS, IT
11 WILL BE VERY BRIEF. DURING THIS BREAK PLEASE DO NOT
12 DISCUSS THE CASE. IF YOU NEED ANYTHING PLEASE LET THE
13 BAILIFFS KNOW. IT SHOULD BE FAIRLY BRIEF. IF YOU WOULD
14 GO WITH THE BAILIFFS.

15 (Whereupon, the following
16 takes place out of the
17 presence of the jury.)

18 THE COURT: LADIES AND GENTLEMEN, I
19 HAVE A MATTER OF LAW THAT I NEED TO TAKE UP WITH THE
20 ATTORNEYS. UNFORTUNATELY, I'M GOING TO HAVE TO ASK THAT
21 YOU ALL STEP OUTSIDE OF THE COURTROOM. PLEASE INDULGE
22 US, IT WILL NOT TAKE LONG. IF YOU WOULD GO WITH MR.
23 BAILEY AT THE BACK OF THE COURTROOM.

24 (Whereupon, the remaining
25 jury panel leaves the courtroom.)

1 THE COURT: OKAY. NOW, MR. KEARSE
2 HAS RAISED A BATSON MOTION REGARDING THE STATE'S
3 EXERCISE OF ITS STRIKES. THE STATE STRUCK NUMBER ONE O
4 SEVEN, AN INDIAN MALE, NUMBER NINETY-SEVEN, A WHITE
5 MALE, THIRTY-TWO, A BLACK MALE, EIGHTY-TWO, A WHITE
6 MALE, AND NINETY-SIX, A BLACK FEMALE. AT THE BENCH I
7 ASKED THE STATE TO GIVE ME THE REASONS AND EXPLANATION
8 FOR ITS STRIKES, AND THE STATE PROVIDED ME WITH THE
9 FOLLOWING REASONS: THEY INDICATED THAT NUMBER ONE O
10 SEVEN WAS FROM THE RIDGE AREA OF ST. GEORGE, WHICH IS
11 TYPICALLY A NATIVE AMERICAN AREA, THAT THEY HAD A CASE
12 SOME TIME AGO THAT WAS UNPOPULAR, AND THEY FEEL THAT
13 THERE MAY BE SOME RESIDUAL EFFECTS FROM THAT, AND
14 THEREFORE, THEY STRUCK NUMBER ONE O SEVEN FOR THAT
15 REASON. THEY ALSO INDICATED THAT THEY STRUCK OTHER
16 JURORS IF THEY HAD ANY CRIMINAL RECORD. NUMBER NINETY-
17 SEVEN HAD A CHARGE OF PETTY LARCENY BUT NOT CONVICTION;
18 NUMBER THIRTY-TWO HAD -- WELL, HAD ANY CRIMINAL CHARGES,
19 NOT NECESSARILY CONVICTIONS -- NUMBER THIRTY-TWO HAD TWO
20 CONVICTIONS FOR SIMPLE POSSESSION OF MARIJUANA, NUMBER
21 EIGHTY-TWO HAD A SHOPLIFTING CONVICTION, AND NUMBER
22 NINETY-SIX, THEY INDICATED THEY STRUCK BECAUSE SHE WORKS
23 WITH THE CHARLESTON COUNTY DETENTION CENTER AND SHE
24 WORKS WITH INMATES ON SUBSTANCE ABUSE ISSUES AND THEY
25 COULD NOT DETERMINE WHETHER SHE WOULD BE FAVORABLE OR

1 UNFAVORABLE TO THEM, SO OUT OF AN ABUNDANCE OF CAUTION
2 THEY STRUCK HER. IS THAT AN ACCURATE SUMMATION, MR.
3 BELL?

4 SOLICITOR BELL: THAT IS CORRECT,
5 YOUR HONOR.

6 THE COURT: MR. KEARSE INDICATED
7 THAT HE IS RAISING A CHALLENGE TO THE STRIKE OF NUMBER
8 ONE O SEVEN AND NUMBER NINETY-SIX. MR. KEARSE, THE
9 BURDEN IS ON YOU, AND I NEED TO KNOW IF YOU CAN SHOW
10 THAT THE REASONS THEY HAVE GIVEN ME ARE PRETEXTURAL.

11 MR. KEARSE: YOUR HONOR, AS TO
12 NUMBER ONE O SEVEN, I BELIEVE THAT IS A PRETEXT. THERE'S
13 NO SHOWING THAT THIS INDIVIDUAL ACTUALLY WAS A PARTY TO
14 THAT CASE, PARTICIPATED, WAS A WITNESS, OR WOULD EVEN BE
15 AFFECTED. THEY'RE SIMPLY ARTICULATING THAT THE MIGHT
16 LIVE IN THE AREA. AND THE CASE WAS -- NOT KNOWING THE
17 NAME OF THE CASE, I DON'T KNOW HOW LONG THE CASE, HOW
18 LONG AGO THIS CASE WAS. AND THIS GUY APPEARS TO BE A
19 FAIRLY YOUNG MAN, AND I DON'T THINK HE WOULD REALLY HAVE
20 ANY PROBLEM OF RECOLLECTION OF THAT CASE AT ALL.

21 AS TO NUMBER NINETY-SIX, IT WOULD
22 APPEAR THAT THE HISTORY OF NUMBER NINETY-SIX WOULD
23 ACTUALLY BE FAVORABLE TO THE STATE, GIVEN THE FACTS OF
24 THIS CASE, AND I BELIEVE THAT'S JUST PRETEXTURAL. THEY
25 STRUCK EVERY MINORITY THAT WAS BROUGHT BEFORE THE COURT.

1 AND I BELIEVE THAT THEY'RE USING THAT AS A PRETEXT TO
2 KEEP MINORITIES OFF OF THAT JURY. MINORITIES DID NOT
3 SIT ON THAT JURY UNTIL THE STATE RAN OUT OF STRIKES.

4 THIS IS A CASE CONCERNING A
5 HOMICIDE, IT DOES INVOLVE DRUGS AND DRUG USAGE, BUT THE
6 ONLY, I BELIEVE, DRUG ADDICT THAT MAY EVEN BE REFERENCED
7 IN THIS CASE WOULD ACTUALLY BE THE VICTIM, HIMSELF, AND
8 IT WOULD SEEM LIKE HER BACKGROUND WOULD MAKE HER MORE
9 ENDEARED TO THE VICTIM AND NOT ---

10 THE COURT: YOU MEAN, HE, THE VICTIM
11 IS MARK COOK, CORRECT?

12 MR. KEARSE: CORRECT.

13 THE COURT: OKAY. ANYTHING FURTHER?

14 MR. KEARSE: THAT'S ALL.

15 THE COURT: WOULD YOU LIKE TO
16 RESPOND, MR. BELL?

17 SOLICITOR BELL: YOUR HONOR, ALL I
18 CAN SAY IS, AS TO THE FIRST ONE, AS TO THE INDIAN, I
19 HAVE NO IDEA OF READING HIS MIND, IT'S JUST THAT I KNOW
20 IT'S A CLOSE KNIT COMMUNITY. ARGUABLY, THIS DID HAPPEN,
21 I WILL ADMIT, SOME TEN YEARS AGO, BUT WE'RE JUST
22 CONCERNED THAT, BEING THE CLOSE KNIT COMMUNITY, THERE
23 MAY BE SOME HIDDEN, OR SOME LEFT OVER RESIDUAL
24 RESENTMENT OF OUR OFFICE. IT WAS SOMETHING -- THE LAST
25 NAME OF THE INDIVIDUAL WE PROSECUTED WAS CREEL, WHO IS

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1 ONE OF THE FAMILIES, IT WAS A CLOSE KNIT GROUP UP THERE.

2 AND I DON'T KNOW, IF THE NINETY-SIX,
3 SHE COULD SOMEHOW GAIN SOME TYPE OF SYMPATHY FOR PEOPLE
4 THAT ARE INCARCERATED OR IN TROUBLE, YOU KNOW, THAT DOES
5 HAPPEN. I JUST DON'T KNOW, AND I DON'T WANT TO TAKE THAT
6 CHANCE.

7 THE COURT: WHENEVER A BATSON MOTION
8 IS RAISE THE COURT MUST CONDUCT A HEARING IF IT IS
9 REQUESTED. THE STRIKING PARTY MUST OFFER AN EXPLANATION
10 FOR ITS STRIKES. THIS EXPLANATION NEED NOT BE SPECIFIC,
11 LEGITIMATE OR PERSUASIVE, IT ONLY NEED BE RACE AND/OR
12 GENDER NEUTRAL. THE ULTIMATE BURDEN, OF COURSE, LIES
13 WITH THE CHALLENGING PARTY, AND THAT IS PURSUANT TO
14 STATE VERSUS ADAMS.

15 THE COURT WOULD FIND -- WELL, I'M
16 GETTING AHEAD OF MYSELF, I APOLOGIZE.

17 THE STRIKING PARTY HAS BEEN ALLOWED
18 TO PROVIDE ITS NEUTRAL REASONS FOR THE STRIKES THAT HAVE
19 BEEN EXERCISED.

20 THE COURT WOULD FIND THAT THE
21 EXPLANATIONS GIVEN ARE COMPLETELY PLAUSIBLE, AND WITHIN
22 THE RANGE OF WHAT WOULD BE CONTEMPLATED BY SOMEONE
23 SIMILARLY SITUATED STRIKING A JURY. BASED ON THE
24 TOTALITY OF THE FACTS AND CIRCUMSTANCES OF THE RECORD
25 THE COURT WOULD FIND THAT THE REASONS GIVEN ARE NOT

1 PRETEXTURAL, NOR HAVE THEY BEEN RACE -- NOR HAVE THEY
2 BEEN MOTIVATED BY RACE. I WOULD FIND THAT THE
3 EXPLANATIONS GIVEN BY THE SOLICITOR ARE RACE NEUTRAL AND
4 THAT THE DEFENDANT IN THIS CASE HAS FAILED TO MEET HIS
5 BURDEN IN CHALLENGING THE, THESE JURORS HAVING BEEN
6 SEATED. HE HAS NOT PROVIDED ANY EVIDENCE THAT THE
7 EXPLANATIONS GIVEN HAVE BEEN PRETEXTURAL, AND THAT IS
8 LOOKING AT EACH INDIVIDUAL EXPLANATION AS WELL AS THE
9 TOTALITY OF THE FACTS AND CIRCUMSTANCES OF THIS RECORD.
10 THEREFORE, THE MOTION IS DENIED.

11 SOLICITOR BELL: THANK YOU, YOUR
12 HONOR.

13 THE COURT: IS THERE ANYTHING
14 FURTHER FOR THE RECORD FROM THE STATE?

15 SOLICITOR BELL: NOTHING FROM THE
16 STATE, YOUR HONOR.

17 THE COURT: FROM THE DEFENSE?

18 MR. KEARSE: NOTHING AS TO THIS
19 ISSUE, YOUR HONOR.

20 THE COURT: MR. GEORGE, PLEASE BRING
21 IN EVERYBODY ELSE SO I CAN EXCUSE THEM. I NEED YOU TO
22 BRING IN EVERYBODY YOU HAVE OUT IN THE HALLWAY.

23 (Whereupon, the remaining
24 jury panel enters the
25 courtroom and are excused

1 by the court.)

2 THE COURT: HAS ANYONE BEEN GRANTED
3 ANY IMMUNITY FOR PROVIDING TESTIMONY IN THIS CASE?

4 SOLICITOR BELL: YOUR HONOR, THE
5 ONES THAT HAVE BEEN GRANTED IMMUNITY WE'VE MADE SOME
6 PLEA NEGOTIATIONS WHICH I DID, I THINK I FAXED THEM TO
7 MR. KEARSE.

8 THE COURT: MR. KEARSE, HAVE YOU
9 BEEN FULLY ADVISED OF THIS?

10 SOLICITOR BELL: ON FRIDAY, I SENT
11 IT LATE FRIDAY, I WILL ADMIT THAT, ON LATE FRIDAY
12 AFTERNOON, IN RESPONSE TO HIS MOTION.

13 THE COURT: WHICH WITNESSES WOULD
14 THAT ENTAIL?

15 SOLICITOR BELL: IT WOULD BE JASSON
16 TURNER, NUMBER ONE.

17 THE COURT: WHAT DID YOU OFFER HIM?

18 SOLICITOR BELL: YOUR HONOR, HE WAS
19 ORIGINALLY CHARGED WITH MURDER, HE PLED GUILTY TO
20 MISPRISION OF A FELONY. HE RECEIVED -- THE STATE WAS
21 GOING TO RECOMMEND THAT HE RECEIVE THE TIME SERVED,
22 WHICH WAS APPROXIMATELY ONE YEAR IN JAIL, AND
23 PROBATIONARY SENTENCE PROVIDED THAT HE TRUTHFULLY
24 COOPERATE AND TESTIFY FOR THE STATE. HE DID THAT, AND
25 HE WAS, ALSO GAVE US THE NAME OF THE PERSON THAT WAS THE

1 ACTUAL SHOOTER, THAT WAS SUBJECT TO SOME CORROBORATION
2 WITH SOME OTHER WITNESSES IN OTHER AREAS. THAT WAS DONE,
3 HE RECEIVED A TEN YEAR SENTENCE, SUSPENDED UPON, I
4 BELIEVE IT WAS ONE YEAR IN JAIL AND FOUR YEARS
5 PROBATION, AND IF HE CONTINUES TO COOPERATE TRUTHFULLY
6 I THINK WE WOULD RECOMMEND THAT HIS PROBATION BE
7 TERMINATED ONCE HE SUCCESSFULLY COMPLETES THE CONDITIONS
8 OF OUR AGREEMENT.

9 THE COURT: HE'S ALREADY BEEN
10 SENTENCED, THOUGH, CORRECT?

11 SOLICITOR BELL: THAT'S CORRECT, HE
12 HAS BEEN SENTENCED.

13 THE COURT: SO, THERE ARE REALLY NO
14 GUARANTEES THAT THE COURT IS GOING TO ALTER HIS
15 SENTENCE, THAT WOULD BE UP TO THE COURT.

16 SOLICITOR BELL: THAT IS CORRECT,
17 BUT IF HE -- THERE IS THE CATCH THAT AS PART OF HIS
18 PROBATION, THAT IF HE DOES NOT SUCCESSFULLY COOPERATE,
19 THEN WE CAN VOID THE DEAL AND START FROM THE BEGINNING.

20 THE COURT: OKAY. AND WHO ELSE DID
21 YOU MAKE PLEA NEGOTIATIONS WITH?

22 SOLICITOR BELL: RYAN NORTH.

23 THE COURT: UH HUH.

24 SOLICITOR BELL: HE WAS ORIGINALLY
25 CHARGED WITH MISPRISION OF A FELONY, HE HAS PLED GUILTY

35

1 TO THAT, HE HAS NOT BEEN SENTENCED. IF HE SUCCESSFULLY,
2 IF HE COOPERATES TRUTHFULLY WITH THE STATE WE WOULD
3 RECOMMEND PROBATION, A PROBATIONARY SENTENCE.

4 THE COURT: OKAY. ANYONE ELSE?

5 SOLICITOR BELL: JERMAINE CUSACK.

6 THE COURT: UH HUH.

7 SOLICITOR BELL: IT'S THE SAME, HE
8 WAS CHARGED WITH MISPRISION OF A FELONY, AND HE PLED
9 GUILTY TO THAT, AND WE WOULD RECOMMEND PROBATION IF HE
10 COOPERATES TRUTHFULLY AND COMPLETELY WITH THE STATE, AS
11 BEST HE CAN.

12 THE COURT: ANYONE ELSE?

13 SOLICITOR BELL: THAT IS ALL THE
14 PEOPLE THAT I'M AWARE OF, YOUR HONOR.

15 THE COURT: LET ME ASK ANOTHER
16 QUESTION, THE ONLY OTHER PRETRIAL MOTION THAT I HAVE IS
17 ONE DEALING WITH THE IDENTIFICATION OF -- THE
18 IDENTIFICATION PROCEDURE, IS THAT CORRECT?

19 MR. KEARSE: YOUR HONOR, THERE ARE
20 OTHER MOTIONS THAT I'D LIKE TO PASS UP TO THE COURT IF
21 I CAN. AND I NEED CLARIFICATION WHILE WE'RE ON THE --
22 IN TERMS OF THE DEALS THAT MAY HAVE BEEN BARGAINED FOR
23 AND NEGOTIATED DURING THE PENDENCY OF THIS MATTER. IS
24 COUNSEL SAYING THAT LANESHA GREEN AND ANTHONY FOLK WERE
25 NEVER CHARGED WITH ANYTHING?

1 SOLICITOR BELL: THAT IS CORRECT, TO
2 MY KNOWLEDGE THEY WERE NOT CHARGED, NOR TRAVIS NORTH.
3 JOHNNY COLLINS WAS CHARGED, BUT I HAVE NO DEAL WITH HIM,
4 AND HE MAY NOT EVEN TESTIFY AS FAR AS I KNOW.

5 THE COURT: HIS CHARGES ARE STILL
6 PENDING?

7 SOLICITOR BELL: THAT'S CORRECT,
8 YOUR HONOR.

9 THE COURT: WHAT IS HE, WHAT ARE
10 THOSE CHARGES?

11 SOLICITOR BELL: MISPRISION OF A
12 FELONY.

13 THE COURT: AND WHERE IS HE NOW?

14 SOLICITOR BELL: I ASSUME HE'S IN
15 THE AREA, I TALKED TO HIS ATTORNEY LAST WEEK TO BRING
16 HIM TO COURT AND HE DIDN'T BRING HIM TO COURT, SO --

17 THE COURT: WHO IS HIS ATTORNEY?

18 SOLICITOR BELL: MR. JOHN LLOY.

19 THE COURT: WHEN YOU SAY, DIDN'T
20 BRING HIM TO COURT, WHAT DO YOU MEAN?

21 SOLICITOR BELL: WELL, HE'S STILL
22 UNDER PENDING CHARGES, I WAS TRYING TO GET WITH HIM TO
23 SEE ---

24 THE COURT: OH, I SEE WHAT YOU'RE
25 SAYING NOW, YEAH, I UNDERSTAND.

1 SOLICITOR BELL: AND I DON'T
2 ANTICIPATE HIM TESTIFYING, SO ---

3 THE COURT: I SEE A MOTION IN LIMINE
4 TO PROHIBIT ANY TESTIMONY REGARDING THE ALLEGED
5 SUFFERING OF THE VICTIM, CAN'T THAT BE TAKEN UP AT THE
6 TESTIMONY OF THE CORONER?

7 MR. KEARSE: I BELIEVE SO, YOUR
8 HONOR.

9 THE COURT: YES.. WE CAN WAIT ON
10 THAT. IS THERE GOING TO BE ANY SUCH TESTIMONY?

11 SOLICITOR BELL: NO, YOUR HONOR, WE
12 ANTICIPATE WE'RE GOING TO HAVE DR. SEXTON, THE MEDICAL
13 EXAMINER, TO TESTIFY AS TO THE MANNER AND CAUSE OF
14 DEATH, NOT AS TO THE ---

15 THE COURT: SO, THAT MAKES THAT
16 MOOT, THEN, RIGHT?

17 MR. KEARSE: THAT WOULD MAKE IT
18 MOOT, YOUR HONOR, IF THEY'RE GOING TO NARROW THE
19 MATERIAL OF THAT TESTIMONY TO THAT PURPOSE. YOUR HONOR,
20 I RESERVE THE RIGHT IF THEY ---

21 THE COURT: WELL, IN A MOTION IN
22 LIMINE, ANYWAY YOU'RE GOING TO HAVE TO MAKE A
23 CONTEMPORANEOUS OBJECTION. IT'S NOT BINDING.

24 WE CAN DEAL WITH THIS STUFF ABOUT
25 THE PHOTOS AT THE TIME THAT -- WELL, LET ME JUST SHORT

1 CUT THAT A LITTLE BIT. MR. BELL, SHOW HIM THE PHOTOS
2 YOU PLAN TO INTRODUCE, PLEASE.

3 SOLICITOR BELL: I DIDN'T BRING THEM
4 IN THE COURTROOM WITH ME, YOUR HONOR, I CAN CERTAINLY DO
5 THAT.

6 THE COURT: YEAH. AND I NEED TO SEE
7 THEM, BECAUSE WE MAY BE ABLE TO ELIMINATE THE ISSUE ONCE
8 HE LOOKS AT THEM. DOES THE CORONER PLAN TO INTRODUCE
9 ANY PHOTOS?

10 SOLICITOR BELL: NO, YOUR HONOR, I
11 THINK I WAS ONLY PLANNING POTENTIALLY TO INTRODUCE ONE
12 PHOTO THAT HE MAY HAVE PROBLEMS WITH THAT I KNOW OF, AND
13 IT IS A PHOTO OF WHERE THE BODY WAS FOUND AT THE TIME,
14 AND IT'S KIND OF A FAR AWAY PHOTO JUST TO KIND OF GET
15 THE CONTEXT TO THE SCENE.

16 THE COURT: IS THAT THE ONLY PHOTO
17 YOU PLAN TO INTRODUCE?

18 SOLICITOR BELL: NO, JUST -- I WILL
19 HAVE SOME PHOTOGRAPHS AT THE SCENE THAT SHOWS SOME BLOOD
20 SPATTER AND WHERE SOME EVIDENCE WAS FOUND ON THE SCENE.

21 THE COURT: YEAH, I NEED YOU TO HAVE
22 THEM BRING ALL THOSE PHOTOS SO MR. KEARSE CAN LOOK AT
23 THEM AND SEE IF HE HAS ANY OBJECTION TO THEM SO WE CAN
24 DEAL WITH THAT.

25 WHO DO YOU PLAN TO INTRODUCE THOSE

1 PHOTOS THROUGH?

2 SOLICITOR BELL: PROBABLY LIEUTENANT
3 ASBELL, THE VAST MAJORITY OF THEM. THERE IS ALSO A
4 PHOTOGRAPH -- OTHER PHOTOGRAPHS ARE JUST OF A VEHICLE
5 TAKEN A YEAR LATER IN VIRGINIA, AND A PHOTO THAT WAS
6 FOUND DURING A SEARCH WARRANT IN VIRGINIA.

7 THE COURT: MR. KEARSE, HAVE YOU
8 REVIEWED THE PHOTOS?

9 MR. KEARSE: I REVIEWED THOSE SIX,
10 YOUR HONOR, HE HAS SOME OTHER PHOTOGRAPHS I HAVEN'T
11 SEEN.

12 THE COURT: DO YOU PLAN TO INTRODUCE
13 ANY OTHER THAN THESE?

14 SOLICITOR BELL: YES, YOUR HONOR.

15 THE COURT: AND WHAT DO THOSE SHOW,
16 OR PURPORT TO SHOW?

17 SOLICITOR BELL: AS I SAID, THERE
18 WILL BE A COUPLE OF PHOTOS OF THE VEHICLE TAKEN A YEAR
19 LATER AFTER THIS INCIDENT, IN VIRGINIA, AND A PICTURE
20 THAT WAS FOUND IN A HOUSE IN VIRGINIA OF THE TWO PEOPLE
21 TOGETHER.

22 THE COURT: BUT THEY'RE NOT GORY OR
23 BLOODY, OR ANYTHING LIKE THAT?

24 SOLICITOR BELL: NO, THEY'RE NOT
25 GORY OR BLOODY, THERE'S NO ---

1 THE COURT: WHAT I NEED TO DO IS, I
2 NEED TO HAVE THE COURT -- WOULD YOU DO ME A FAVOR AND
3 HAND THOSE TO THE COURT REPORTER. I NEED YOU TO PREMARK
4 THESE FOR ID ONLY.

5 COURT REPORTER: AS A COURT'S
6 EXHIBIT OR STATE?

7 THE COURT: STATE..

8 MR. KEARSE: YOUR HONOR, I DO HAVE
9 AN OBJECTION TO ---

10 THE COURT: LET ME GET -- LET ME
11 FOLLOW MY PROCEDURE. BECAUSE IF I DON'T HAVE THEM
12 MARKED WE DON'T KNOW WHAT WE'RE REFERRING TO.

13 (State's Exhibits One through Seven
14 photographs,
15 marked for identification.)

16 THE COURT: DO YOU HAVE ANY
17 EXCEPTION TO THESE PHOTOS?

18 MR. KEARSE: YOUR HONOR, MY
19 EXCEPTION WOULD BE, I DON'T KNOW WHICH ONE IS THE ONE
20 SHOWING THE BODY.

21 THE COURT: NUMBER ONE -- THE ONLY
22 ONE THAT SHOWS THE BODY IS NUMBER SIX, WHICH IS A FAIRLY
23 DISTANT VIEW OF THE BODY LAYING ON THE FLOOR NEXT TO AN
24 INFLATABLE MATTRESS THROUGH A DOORWAY.

25 MR. KEARSE: YOUR HONOR, WE WOULD

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1 OBJECT -- I JUST THINK IT'S INFLAMMATORY TO BE
2 STIMULATING MOTIONS IN THE JURY. THEY HAVE A DIAGRAM OF
3 THE SCENE AND HOW THE CRIME SCENE WAS FOUND. AND
4 CERTAINLY, LIEUTENANT ASBELL CAN TESTIFY TO THAT, AND
5 ONE OF THEIR WITNESSES WHO WAS SUPPOSEDLY AN EYE WITNESS
6 AND AT THE SCENE CAN TESTIFY TO WHERE THE BODY WAS WHEN
7 THEY LEFT, OR WHO ASSISTED THEM IN MAKING THAT DIAGRAM.
8 AND I THINK THEY CAN ADEQUATELY TESTIFY AS TO WHERE THAT
9 BODY WAS FOUND WITHOUT THE USE OF THAT PHOTOGRAPH. IT'S
10 NOT NECESSARY.

11 THE COURT: WOULD YOU LIKE TO
12 RESPOND, MR. BELL?

13 SOLICITOR BELL: YOUR HONOR, I THINK
14 IT JUST KIND OF PROVIDES CONTEXT. I THINK WE HAVE TO
15 PROVE OUR CASE, AND WE'RE SHOWING WHERE THE BODY WAS
16 FOUND IN RELATION -- IT HADN'T BEEN MOVED, APPARENTLY
17 HADN'T BEEN DISTURBED AS FAR AS WE KNOW, THERE HAD BEEN
18 NO AUTOPSY OF IT, AND THAT'S KIND OF WHERE EVERYBODY
19 FOUND IT WHEN THEY SHOWED UP. AND I THINK THAT, THAT
20 FAR DISTANT SHOT DOES NOT ADD ANYTHING THAT WOULD
21 INFLAME THE JURY, IT JUST HAS CONTEXT AND IS PROBATIVE
22 OF WHAT WAS FOUND AT THE TIME.

23 MR. KEARSE: BUT YOUR HONOR, AS I
24 SAID, THEY CAN TESTIFY TO THAT FACT WITHOUT THE USE OF
25 THAT PHOTOGRAPH, IT'S NOT NECESSARY.

1 THE COURT: ARE YOU OFFERING IT TO
2 ESTABLISH ANY ELEMENT OF THE OFFENSE?

3 SOLICITOR BELL: YOUR HONOR, I'M
4 OFFERING IT TO ESTABLISH THAT THE BODY WAS FOUND, AND
5 WHERE IT WAS SAID TO BE FOUND, TO GIVE PHOTOGRAPHIC
6 EVIDENCE OF THAT FACT, OTHER THAN PEOPLE JUST TESTIFYING
7 ABOUT IT, WHICH I THINK IS PROBATIVE AND IS RELEVANT
8 MATERIAL.

9 THE COURT: DO YOU HAVE ANY
10 EXCEPTION TO ONE THROUGH FOUR, MR. KEARSE?

11 MR. KEARSE: NO, I DON'T, YOUR
12 HONOR.

13 THE COURT: DO YOU HAVE ANY
14 EXCEPTION TO NUMBER SEVEN?

15 MR. KEARSE: I DON'T KNOW WHAT
16 NUMBER SEVEN IS, I'LL HAVE TO SEE IT.

17 THE COURT: NUMBER SEVEN IS A
18 PICTURE OF THE RESIDENCE.

19 MR. KEARSE: NO, I DON'T, YOUR
20 HONOR.

21 THE COURT: THE MATERIALITY AND THE
22 ADMISSIBILITY OF PHOTOGRAPHIC EVIDENCE ARE MATTERS
23 WITHIN THE SOUND DISCRETION OF THE TRIAL COURT, AND THE
24 STANDARD IS AN ABUSIVE DISCRETION STANDARD. THE COURT,
25 OF COURSE, HAS A GREAT LATITUDE ON RULING ON THE

1 ADMISSIBILITY OF EVIDENCE. AGAIN, AS I'VE INDICATED,
2 THIS IS A MOTION IN LIMINE, AND THEREFORE, IS NOT FINAL,
3 AND MR. KEARSE, OF COURSE, WOULD BE BOUND TO MAKE A
4 CONTEMPORANEOUS OBJECTION IN ORDER TO PRESERVE THAT FOR
5 THE RECORD.

6 THE COURT IS REQUIRED TO BALANCE THE
7 PREJUDICIAL EFFECT OF GRAPHIC PHOTOGRAPHS AGAINST THEIR
8 PROBATIVE VALUE. THE COURT WOULD FIND THAT THE STATE'S
9 NUMBER SIX FOR ID IS NOT GRAPHIC IN ITS NATURE. THE
10 COURT WOULD FIND THAT THE PHOTOGRAPH IS RELEVANT TO
11 ESTABLISH THE CIRCUMSTANCES OF THE OFFENSE, AND IT ALSO
12 IS RELEVANT TO SERVE TO CORROBORATE THE TESTIMONY.

13 THE COURT WOULD FIND THAT THE
14 PHOTOGRAPHS ARE NOT CALCULATED TO AROUSE THE SYMPATHY OR
15 PREJUDICE OF THE JURY, AND THAT THEY ARE NECESSARY TO
16 SUBSTANTIATE THE MATERIAL FACTS AND CONDITIONS.

17 IN ORDER TO CONSTITUTE UNFAIR
18 PREJUDICE THE PHOTOGRAPH MUST CREATE A TENDENCY TO
19 SUGGEST A DECISION ON AN IMPROPER BASIS, COMMONLY,
20 THOUGH NOT NECESSARILY AN EMOTIONAL ONE. THE COURT WOULD
21 FIND THAT THE DEFENDANT HAS FAILED TO MEET THAT BURDEN
22 TO ESTABLISH THAT THE JURY WOULD DECIDE OR THAT -- TO
23 ESTABLISH UNFAIR PREJUDICE. THERE IS NOTHING IN THE
24 PHOTOGRAPH BASED ON MY ASSESSMENT THAT WOULD CREATE A
25 TENDENCY TO SUGGEST A DECISION ON AN IMPROPER BASIS OR

1 AN EMOTIONAL ONE. AND THE PHOTOGRAPH IS SOUGHT TO BE
2 INTRODUCED TO CORROBORATE THE TESTIMONY OF THOSE
3 WITNESSES, AND TO CORROBORATE THE CONDITION IN WHICH THE
4 DECEDENT'S BODY WAS FOUND.

5 MADAM CLERK, IF YOU WOULD HAND THOSE
6 BACK TO THE COURT REPORTER FOR ME.

7 COURT REPORTER: ARE THESE STILL FOR
8 ID?

9 THE COURT: YES, MA'AM. UNTIL THE
10 STATE MOVES TO INTRODUCE THEM.

11 AND THAT IS BASED ON STATE VERSUS
12 FLETCHER, WHICH IS FOUND AT THREE SIXTY-THREE SOUTH
13 CAROLINA, TWO TWENTY-ONE, SIX O NINE SOUTHEAST, SECOND,
14 FIVE SEVENTY-TWO, JANUARY, TWO THOUSAND FIVE, COURT OF
15 APPEALS DECISION.

16 HAVE YOU PROVIDED ALL THE PHYSICAL
17 EVIDENCE TO MR. KEARSE, MR. BELL, TO ALLOW THE REVIEW OF
18 ALL THE PHYSICAL EVIDENCE AND ANY SCIENTIFIC RESULTS --
19 THE RESULTS OF ANY SCIENTIFIC TESTS THAT HAVE BEEN
20 CONDUCTED?

21 SOLICITOR BELL: YOUR HONOR, I HAVE
22 PROVIDED ALL OF OUR SCIENTIFIC RESULTS THAT I'M AWARE
23 OF, I BELIEVE I HAVE DONE THAT. AND I HAVE TOLD HIM,
24 WHENEVER HE WANTS TO COME AND LOOK AT THE PHYSICAL
25 EVIDENCE, HE'S WELCOME. I HAVE IT UP HERE IF HE WANTS TO

1 FURTHER REVIEW IT.

2 THE COURT: OKAY, MR. KEARSE, DOES
3 THAT MEAN THE MOTION IS MOOT?

4 MR. KEARSE: NO, IT DOESN'T, YOUR
5 HONOR. I NEED -- THERE ARE SOME CAST MOLDS THAT WERE
6 DONE, AND I WOULD IMAGINE THEY DID SOME TESTING ON IT,
7 I'M NOT CERTAIN, I TALKED TO COUNSEL ABOUT THIS THIS
8 MORNING. I WOULD JUST ASK FOR THE RESULTS OF ANY OF
9 THOSE TESTS, WHETHER OR NOT THEY ACTUALLY EXCLUDE THE
10 DEFENDANT. THEY ARE FOOT PRINTS AND TIRE TRACKS.

11 SOLICITOR BELL: YOUR HONOR, I AM
12 NOT AWARE OF ANY TESTS THAT WERE DONE, I KNOW THE MOLDS
13 WERE MADE, BUT I DON'T BELIEVE THERE WAS ANYTHING THAT
14 WAS OFFERED TO SLED TO TRY TO, TO MATCH OR NOT MATCH
15 THOSE RESULTS.

16 THE COURT: YOU'RE REPRESENTING TO
17 THE COURT THAT NO SCIENTIFIC TEST RESULTS EXIST,
18 CORRECT?

19 SOLICITOR BELL: THAT'S CORRECT,
20 YOUR HONOR.

21 THE COURT: ALRIGHT. THAT MAKES IT
22 MOOT, THEN.

23 SOLICITOR BELL: BUT I DO HAVE THE
24 MOLDS IF COUNSEL WISHES TO INSPECT THEM.

25 MR. KEARSE: ADDITIONALLY, YOUR

1 HONOR, THERE WAS A ---

2 THE COURT: WELL, YOU NEED TO ANSWER
3 MY QUESTION, DOES THAT, IN FACT, MAKE THE MOTION MOOT?

4 MR. KEARSE: AS TO THAT PARTICULAR
5 FACT, YOUR HONOR, THAT IS CORRECT, ---

6 THE COURT: OKAY. ALRIGHT.

7 MR. KEARSE: --- AS TO THAT
8 SCIENTIFIC TEST. I DO HAVE FINGER PRINT ANALYSIS FROM
9 A MR. DERRICK AND AN AUTOPSY REPORT, AND A FORENSIC
10 REPORT, YOUR HONOR, AND I WOULD ASSUME THAT WOULD BE THE
11 SCIENTIFIC TEST RESULTS IN ITS ENTIRETY.

12 SOLICITOR BELL: THERE WAS ALSO THE
13 REPORT FROM THE SLED FIREARMS, DO YOU HAVE THAT, ABOUT
14 THE FIVE BULLETS AND THE TEN MILLIMETER SHELL CASING?

15 MR. KEARSE: YOUR HONOR, I BELIEVE
16 I DO HAVE THAT REPORT.

17 SOLICITOR BELL: I BELIEVE I ---

18 THE COURT: OKAY. DOES THAT INCLUDE
19 ALL OF THE SCIENTIFIC REPORTS OR OTHER SCIENTIFIC
20 EVIDENCE THAT THE STATE WOULD BE SEEKING TO INTRODUCE?

21 SOLICITOR BELL: YES, YOUR HONOR, I
22 BELIEVE THAT'S ALL, THE FINGER PRINTING REPORT
23 ENCOMPASSES, I BELIEVE IT'S SEVEN INDIVIDUALS, GIVE OR
24 TAKE ONE, OFF THE TOP OF MY HEAD, THAT HASN'T BEEN
25 COMPARED TO FINGER PRINTS. EVEN HIS CLIENT WAS COMPARED

1 AND THERE WAS NO MATCH FOUND OF ANY OF THE LATENT PRINTS
2 THEY FOUND AT THE SCENE. I KNOW I'VE SHARED THAT WITH
3 HIM. AND AS FAR AS I KNOW THOSE ARE THE ONLY OTHER
4 SCIENTIFIC REPORTS.

5 THE COURT: OKAY. DOES THAT, THEN,
6 MAKE THE MOTION MOOT?

7 MR. KEARSE: AS TO THAT PARTICULAR
8 MATTER, IT WOULD, YOUR HONOR.

9 THE COURT: AND YOU GAVE ME TWO
10 COPIES OF YOUR MOTION, I DON'T KNOW IF YOU MEANT TO DO
11 THAT.

12 ARE THERE ANY STATEMENTS THAT THE
13 DEFENDANT IS PURPORTED TO HAVE MADE?

14 SOLICITOR BELL: NONE THAT THE STATE
15 WOULD INTRODUCE.

16 THE COURT: SEEK TO INTRODUCE? DOES
17 THAT THEN MAKE THAT MOTION MOOT, MR. KEARSE?

18 MR. KEARSE: IT DOES, YOUR HONOR.

19 THE COURT: THAT, THEN, LEAVES US
20 ONLY WITH THE BIGGERS HEARING, THEN, CORRECT?

21 MR. KEARSE: OH, YOUR HONOR, THERE
22 IS ONE OTHER ISSUE, I'D ASK FOR ALL IMPEACHING EVIDENCE.
23 IT'S MY UNDERSTANDING THERE WAS A PHOTOGRAPH OF A GRAY
24 OR TEAL PONTIAC, WHETHER IT WAS A GRAND PRIX OR A GRAND
25 AM, THAT WAS CIRCULATED AMONGST SOME OF THE WITNESSES.

1 IT'S MY UNDERSTANDING THAT THREE OF THOSE WITNESSES, OR
2 AT LEAST TWO IDENTIFIED THAT -- OR AT LEAST ONE
3 IDENTIFIED THAT AS BEING THE SAME COLORED CAR, THAT
4 PARTICULAR PICTURE, ONLY THE CAR WAS LARGER. I WOULD ASK
5 THE STATE IF IT HAS, OR IF LAW ENFORCEMENT HAS THAT
6 PHOTOGRAPH IN ITS POSSESSION TO ALLOW US TO INSPECT A
7 COPY OF IT.

8 THE COURT: MR. HARRISON.

9 SOLICITOR BELL: YOUR HONOR, I HAVE
10 ASKED LAW ENFORCEMENT, I ASKED A COUPLE OF THE
11 DETECTIVES, WE ARE AWARE OF IT, IT WAS IN A REPORT I
12 KNOW THAT WE FURNISHED MR. KEARSE, SO HE KNOWS OF THE
13 INFORMATION. I'M TRYING TO ASK IF WE CAN FIND THAT,
14 LOCATE THAT PARTICULAR PHOTOGRAPH IF IT STILL EXISTS.

15 THE COURT: ARE YOU STILL WAITING TO
16 LOOK TO SEE?

17 SOLICITOR BELL: YOUR HONOR, I'M
18 SEEING IF THEY STILL HAVE IT.

19 THE COURT: OKAY. WELL, THEY CAN
20 CONTINUE TO LOOK, AND WE CAN TAKE THAT UP LATER. BUT IF
21 IT IS NOT IN THEIR POSSESSION, OF COURSE, THEY CAN'T
22 TURN IT OVER TO YOU, MR. KEARSE, BUT IF THEY HAVE IT I
23 WILL REQUIRE THAT THEY GIVE IT TO YOU.

24 SOLICITOR BELL: CERTAINLY, YOUR
25 HONOR, WE WILL PROVIDE THAT. AND HE'S HAD THE

1 INFORMATION ABOUT THE PHOTOS, SO ---

2 MR. KEARSE: I'VE MADE THE REQUEST
3 NUMEROUS TIMES, YOUR HONOR, LET THE RECORD REFLECT --
4 AND I'M NOT SAYING THEY DON'T HAVE IT, BUT IT'S NOT
5 LIKE I WAITED UNTIL THIS MORNING.

6 THE COURT: UH HUH. THE COURT DID
7 NOT PERCEIVE IT THAT WAY.

8 MR. KEARSE: YOUR HONOR, THERE'S
9 ONLY ONE MORE ISSUE, I JUST WANTED TO PUT THIS ONE ON
10 THE RECORD. THAT WOULD BE AS TO CELL PHONE RECORDS THAT
11 WERE TURNED OVER. I HAVE ASKED FOR AN UNREDACTED COPY OF
12 THOSE CELL PHONE RECORDS. IT'S MY UNDERSTANDING THAT
13 THE STATE CAN'T PROVIDE THEM, BUT I WANT THE RECORD TO
14 REFLECT, OR PUT INTO THE RECORD THAT THEY CAN'T PROVIDE
15 UNREDACTED COPIES.

16 SOLICITOR BELL: YOUR HONOR, WE --
17 WHAT I HAVE TOLD MR. KEARSE IS THAT WE'VE GOT, WE
18 RECEIVED A -- I THINK WE ASKED FOR SPECIFIC DATES, AND
19 THERE ARE SOME BLACKED OUT THAT WE RECEIVED THEM BLACKED
20 OUT FROM VERIZON. THEY ARE THE ONES THAT BLACKED OUT THE
21 INFORMATION, WE DIDN'T BLACK IT OUT. THERE ARE SOME
22 NOTES THAT THE DETECTIVES MADE ON THE ORIGINAL, I WILL
23 SAY THAT, AND THAT'S THE RECORDS THAT WE HAVE.

24 THE COURT: AND YOU'VE PROVIDED
25 THOSE TO MR. KEARSE?

1 SOLICITOR BELL: WE'VE PROVIDED
2 COPIES, YES.

3 MR. KEARSE: I WOULD LIKE THE
4 OPPORTUNITY TO SEE THE ORIGINALS, YOUR HONOR.

5 THE COURT: YOU'D HAVE TO ---

6 MR. KEARSE: BECAUSE I DON'T HAVE
7 ANYTHING WITH NOTES WRITTEN ON THEM.

8 THE COURT: OKAY. ALRIGHT, AFTER
9 THAT, THAT LEAVES US WITH THE BIGGERS ISSUE?

10 MR. KEARSE: THAT'S CORRECT, YOUR
11 HONOR.

12 THE COURT: IS THERE ANY REQUEST TO
13 SEQUESTER THE WITNESSES?

14 MR. KEARSE: YES, YOUR HONOR.

15 THE COURT: ANY OBJECTION FROM THE
16 STATE?

17 SOLICITOR BELL: NO, YOUR HONOR, AS
18 LONG AS ALL WITNESSES ARE SEQUESTERED.

19 THE COURT: WE'LL SEQUESTER ALL
20 WITNESSES. THE VICTIMS, HOWEVER, CANNOT BE SEQUESTERED
21 UNDER STATE LAW, THEY ARE ENTITLED TO BE AT EVERY
22 PROCEEDING THAT AFFECTS THE OUTCOME OF ANYTHING THAT
23 AFFECTS THEM. I DIDN'T SAY THAT AS ELOQUENTLY AS I'D
24 LIKE TO, BECAUSE IT'S GETTING NEAR LUNCH TIME, BUT YOU
25 UNDERSTAND WHAT I MEAN.

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1 MR. KEARSE: I UNDERSTAND, YOUR
2 HONOR.

3 THE COURT: NOW, -- AND I GUESS THE
4 CASE AGENT WOULD REMAIN IN THE COURTROOM, BUT EVERYONE
5 ELSE WOULD BE SEQUESTERED.

6 NOW, HOW MANY IDENTIFICATIONS DO WE
7 HAVE?

8 SOLICITOR BELL: THREE. THAT WOULD
9 BE THREE, YOUR HONOR.

10 MR. KEARSE: THERE ARE THREE
11 POSITIVE, I BELIEVE THERE ARE TWO OR THREE THAT WERE
12 NEGATIVE OR INCONCLUSIVE. WE, OF COURSE, DON'T OBJECT TO
13 THE INCONCLUSIVE ID'S, YOUR HONOR.

14 THE COURT: SO, WHICH ONES ARE WE
15 DEALING WITH, THEN?

16 MR. KEARSE: THAT WOULD BE TRAVIS
17 NORTH, RYAN NORTH AND JASSON TURNER.

18 THE COURT: OKAY, AND WHO WOULD YOU
19 BE CALLING AS WITNESSES ON THAT BIGGERS HEARING? I
20 ASSUME THE OFFICER WHO PREPARED -- WERE THEY DONE BY
21 PHOTO LINEUP?

22 SOLICITOR BELL: YES, YOUR HONOR.

23 THE COURT: OKAY. AND WERE THEY ALL
24 DONE AT THE SAME TIME OR AT DIFFERENT TIMES?

25 SOLICITOR BELL: THEY WERE DONE AT

1 DIFFERENT TIMES.

2 THE COURT: WERE THEY DONE BY THE
3 SAME OFFICER OR DIFFERENT OFFICERS?

4 SOLICITOR BELL: I BELIEVE THEY WERE
5 DONE BY THE SAME OFFICER.

6 THE COURT: AND WHO PERFORMED THEM?

7 SOLICITOR BELL: THERE WERE ACTUALLY
8 TWO OFFICERS THAT WERE PRESENT.

9 THE COURT: WHO PROVIDED EACH -- WHO
10 DID EACH ONE?

11 SOLICITOR BELL: EXCUSE ME?

12 THE COURT: WHO DID EACH ONE?

13 SOLICITOR BELL: WELL, BOTH OFFICERS
14 WERE INVOLVED IN ALL OF THEM, THAT WOULD BE ---

15 THE COURT: LET ME PUT IT ANOTHER
16 WAY, WHICH WITNESS ARE YOU GOING TO CALL IN EACH LINEUP?

17 SOLICITOR BELL: DETECTIVE DIXSON
18 AND LIEUTENANT MARSHALL.

19 THE COURT: FOR WHICH ONE? FOR BOTH
20 OF THEM, ALL THREE?

21 SOLICITOR BELL: FOR ALL THREE.

22 THE COURT: AND HOW LENGTHY WILL
23 THEY BE?

24 SOLICITOR BELL: I CAN'T IMAGINE
25 THEY WOULD BE MORE THAN FIVE OR TEN MINUTES, YOUR HONOR,

1 I MEAN, FROM MY SIDE, I CAN'T SPEAK FOR ---

2 THE COURT: DO YOU HAVE TO GET INTO
3 THOSE IN OPENING ARGUMENTS?

4 MR. KEARSE: YOUR HONOR, I THINK I
5 WOULD. IT'S PRETTY IMPORTANT TO MY CLIENT TO, WHEN WE
6 OPEN TO KNOW WHETHER OR NOT THESE IDENTIFICATIONS ARE
7 GOING TO BE ADMISSIBLE.

8 THE COURT: HOW LONG IS YOUR CROSS
9 GOING TO TAKE OF THE WITNESSES?

10 MR. KEARSE: OF THESE PARTICULAR
11 WITNESSES?

12 THE COURT: UH HUH.

13 MR. KEARSE: AS TO JUST
14 IDENTIFICATION OR OVERALL, YOUR HONOR?

15 THE COURT: AS TO THE ID ONLY, IT'S
16 A PRETRIAL MOTION, KEEPING IN MIND THAT YOU CANNOT USE
17 THIS AS A DISCOVERY PROCEDURE.

18 MR. KEARSE: YOUR HONOR, I WOULD
19 THINK MAYBE TWENTY MINUTES -- TEN MINUTES EACH, IF HE
20 CALLS ---

21 THE COURT: YOU MEAN, FOR ALL THREE?

22 MR. KEARSE: RIGHT.

23 THE COURT: OKAY. IF WE START BACK
24 AT TWO:FIFTEEN COULD WE COMPLETE THE PRETRIAL MOTIONS ON
25 THE BIGGERS BY THREE O'CLOCK?

1 MR. KEARSE: I DON'T SEE WHY NOT,
2 YOUR HONOR.

3 SOLICITOR BELL: I WOULD HOPE SO.

4 THE COURT: BECAUSE I'D LIKE TO DO
5 THAT, AND THEN WE'LL START WITH THE OPENING ARGUMENTS AT
6 THREE WITH THE JURY.

7 AND WHO ARE GOING TO BE YOUR FIRST
8 WITNESSES, MR. BELL?

9 SOLICITOR BELL: MY FIRST WITNESS,
10 I BELIEVE, WOULD BE, DEPUTY PETREY WILL BE MY VERY FIRST
11 WITNESS, PROBABLY NOT NECESSARILY IN THE CORRECT ORDER,
12 BUT JASSON TURNER AND LANESHA GREEN, RYAN NORTH, ANTHONY
13 FOLK, JERMAINE CUSACK, AND TRAVIS NORTH WOULD BE MY
14 FIRST SIX OR SEVEN WITNESSES.

15 THE COURT: DO YOU THINK WE COULD DO
16 ALL OF THEM TODAY, ARE THEY LENGTHY?

17 SOLICITOR BELL: I WOULD EXPECT THEM
18 TO BE SOMEWHAT LENGTHY, I MEAN, --

19 THE COURT: DEFINE LENGTHY FOR ME.

20 SOLICITOR BELL: I'D LIKE TO SAY,
21 FROM MY PERSPECTIVE, PROBABLY AROUND THIRTY MINUTES FOR
22 MOST OF THEM.

23 THE COURT: AND TELL ME, YOU'RE
24 GOING TO CALL -- ON DIRECT?

25 SOLICITOR BELL: ON DIRECT.

1 THE COURT: UH HUH. AND YOU'RE GOING
2 TO CALL SIX TODAY, YOU HAVE SIX READY TO GO TODAY?

3 SOLICITOR BELL: YES, YOUR HONOR.

4 THE COURT: AND THEN, HOW MANY DO
5 YOU PLAN TO CALL TOMORROW?

6 SOLICITOR BELL: AS MANY AS I --
7 HOPEFULLY, THE REST OF THEM.

8 THE COURT: WELL, THAT LEAVES
9 FIFTEEN.

10 SOLICITOR BELL: AND THAT MIGHT BE
11 -- DEPENDING ON HOW THE TRIAL IS GOING AND WHAT ---

12 THE COURT: SO, TECHNICALLY YOU
13 COULD FINISH TOMORROW?

14 SOLICITOR BELL: I COULD, I COULD
15 GIVE IT A VERY GOOD TRY, YOUR HONOR.

16 THE COURT: AND MR. KEARSE, HOW MANY
17 WITNESSES DO YOU HAVE? I SAW YOUR ALIBI LIST, DO YOU
18 PLAN TO CALL ALL OF THEM?

19 MR. KEARSE: I DO, YOUR HONOR.

20 THE COURT: SO, THAT'S FOUR
21 WITNESSES, CORRECT?

22 MR. KEARSE: THAT'S CORRECT, ALONG
23 WITH THE DEFENDANT.

24 THE COURT: WHAT DO YOU ESTIMATE THE
25 TIME PERIOD TO BE ON EACH OF THEM TESTIFYING? I WOULD

1 IMAGINE FAIRLY SHORT.

2 MR. KEARSE: ONE WITNESS WILL BE
3 FAIRLY SHORT, YOUR HONOR, MAYBE ABOUT FIFTEEN MINUTES,
4 FIFTEEN OR TWENTY MINUTES. THE OTHER TWO -- WELL, TWO
5 WITNESSES WILL BE FAIRLY SHORT, ONE MAY BE ---

6 THE COURT: WELL, I GUESS LET ME
7 STRUCTURE IT ANOTHER WAY, WE COULD FINISH YOUR CASE IN
8 CHIEF BY LUNCH, CORRECT, IF WE STARTED ON WEDNESDAY
9 MORNING?

10 MR. KEARSE: MAYBE, YOUR HONOR,
11 MAYBE. IF THE DEFENDANT TAKES THE STAND THAT'S
12 QUESTIONABLE.

13 THE COURT: OH, THAT'S A WHOLE OTHER
14 STORY. I'M TALKING ABOUT YOUR ALIBI WITNESSES.

15 MR. KEARSE: RIGHT, YES, THEY SHOULD
16 BE FINISHED BY LUNCH, YOUR HONOR, IF WE START WEDNESDAY
17 MORNING.

18 THE COURT: OKAY. PLEASE BRING IN
19 THE JURY.

20 (Whereupon, the following
21 takes place in the
22 presence of the jury.)

23 THE COURT: LADIES AND GENTLEMEN, WE
24 APPRECIATE YOUR PATIENCE. WE'RE GOING TO BREAK NOW FOR
25 LUNCH, I'M GOING TO ASK THAT YOU RETURN AT THREE

1 O'CLOCK, THERE ARE SOME MATTERS OF LAW I NEED TO TAKE UP
2 WITH THE ATTORNEYS THAT WILL TAKE UP UNTIL THAT TIME AND
3 THERE'S NO POINT IN YOU ALL WAITING WHILE WE DO THAT.

4 WHEN YOU RETURN AT THREE I
5 ANTICIPATE THAT WE WILL BEGIN THE TRIAL OF THIS CASE
6 WITH THE COURT'S OPENING INSTRUCTIONS, AS WELL AS THE
7 OPENING ARGUMENTS OF THE ATTORNEYS, AND WE ANTICIPATE TO
8 PUSH FORWARD WITH AS MANY WITNESSES AS WE CAN BEFORE
9 BREAKING FOR THE EVENING RECESS.

10 DURING THIS BREAK PLEASE DO NOT
11 DISCUSS THIS CASE AMONG YOURSELVES OR WITH ANYONE ELSE.
12 PLEASE DO NOT WATCH, READ OR LISTEN TO ANY MEDIA REPORTS
13 ABOUT THIS CASE IF THERE ARE ANY. PLEASE DO NOT DO ANY
14 INDEPENDENT RESEARCH OF ANY TYPE, THAT INCLUDES ANYTHING
15 THAT YOU COULD FIND ON THE INTERNET.

16 WHEN YOU RETURN TO THE COURT HOUSE
17 PLEASE RETURN DIRECTLY TO YOUR JURY ROOM, AGAIN
18 REMEMBERING MY INSTRUCTIONS NOT TO HAVE ANY CONTACT WITH
19 ANYONE THAT DOES NOT HAVE ON A JUROR BADGE, BECAUSE I
20 WOULD HATE FOR AN INNOCENT CONVERSATION TO BE OBSERVED
21 BY A THIRD PARTY AND MISCONSTRUED.

22 I HOPE YOU ALL ENJOY YOUR LUNCH, AND
23 WE APPRECIATE YOUR PATIENCE. YOU'RE EXCUSED.

24 (Whereupon, the jury leaves
25 the courtroom.)

1 THE COURT: WE WILL RECESS NOW FOR
2 LUNCH, WE WILL RETURN AT TWO:FIFTEEN, AT THAT TIME WE
3 WILL BEGIN THE BIGGERS HEARING. HAVE A GOOD LUNCH.

4 SOLICITOR BELL: THANK YOU, YOUR
5 HONOR.

6 MR. KEARSE: THANK YOU, YOUR HONOR.

7 THE COURT: YOU'RE WELCOME.

8 (Recess)

9 THE COURT: IS THE STATE READY TO
10 PROCEED?

11 SOLICITOR BELL: YES, YOUR HONOR.

12 THE COURT: IS THE DEFENSE READY TO
13 PROCEED AS SOON AS THEY BRING YOUR CLIENT OUT?

14 MR. KEARSE: YES, YOUR HONOR.

15 THE COURT: PLEASE LIMIT YOUR
16 QUESTIONING. PLEASE REMEMBER THAT THE PURPOSE OF THIS
17 HEARING IS NOT FOR DISCOVERY, SO THAT WE CAN TRY TO
18 COMPLETE THIS IN A TIMELY MANNER.

19 ONE OF THE JURORS JUST CAME IN ALSO
20 AND TOLD ME THAT ANOTHER JUROR HAD A NOSE BLEED DURING
21 LUNCH, SO WE'RE GOING TO HAVE TO WAIT AND SEE IF HE
22 RETURNS WHEN INSTRUCTED, AND IF HE DOES NOT RETURN I'LL
23 DEAL WITH IT, BUT IF HE DOES RETURN, THEN THE ISSUE IS
24 MOOT.

25 (Whereupon, the defendant

1 enters the courtroom.)

2 THE COURT: MR. BELL, YOU MAY
3 PROCEED.

4 SOLICITOR BELL: THE STATE WOULD
5 CALL DETECTIVE RAY DIXSON TO THE STAND.

6 THE COURT: SIR, IF YOU WILL COME TO
7 THE WITNESS STAND AND BE SWORN. RAISE YOUR RIGHT HAND.
8 (Whereupon, the witness, RAY DIXSON,
9 is duly sworn.)

10 THE COURT: PLEASE HAVE A SEAT, SIR,
11 AND STATE YOUR FULL NAME FOR THE RECORD, SPELLING YOUR
12 LAST NAME FOR THE COURT REPORTER.

13 WITNESS: RAYMOND DIXSON, D-I-X-S-O-
14 N.

15 THE COURT: D-I-X-S-O-N?

16 WITNESS: YES, MA'AM.

17 THE COURT: YOU MAY PROCEED.

18 SOLICITOR BELL: THANK YOU, YOUR
19 HONOR.

20 (NOTE: Blank lines on this page do not indicate any
21 part of record has been omitted.)

DIRECT, IN CAMERA - RAYMOND DIXSON BY SOL. BELL

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DIRECT EXAMINATION, IN CAMERA, OF RAYMOND DIXSON
BY SOLICITOR BELL:

Q. WHERE ARE YOU EMPLOYED, DETECTIVE DIXSON?

A. DORCHESTER COUNTY SHERIFF'S OFFICE.

Q. AND WERE YOU INVOLVED IN AN INVESTIGATION OF A
MURDER THAT OCCURRED ON [REDACTED] ROAD BACK ON
JULY THIRD, TWO THOUSAND AND THREE?

A. YES, SIR, I WAS PART OF THE INVESTIGATION.

Q. OKAY. AND AS PART OF THIS INVESTIGATION, IT WAS A
KIND OF A TWO-TIERED INVESTIGATION, WAS IT AN
INVESTIGATION THAT HAPPENED BACK AROUND THE TIME
OF JULY THIRD OF TWO THOUSAND AND THREE, IS THAT
CORRECT?

A. YES, SIR.

Q. AND THEN THERE BECAME ANOTHER PHASE THAT OCCURRED
ABOUT A YEAR LATER, I BELIEVE IN AUGUST OF TWO
THOUSAND AND FOUR, IS THAT CORRECT?

A. YES, SIR, THAT SOUNDS ABOUT RIGHT.

Q. OKAY. DO YOU RECALL THE CIRCUMSTANCES OF THE
INVESTIGATION IN AUGUST OF TWO THOUSAND FOUR?

A. AS FAR AS WHAT TRANSPIRED IN AUGUST OF TWO
THOUSAND AND FOUR?

Q. THAT'S CORRECT.

A. ONE OF THE SUBJECTS THAT WAS ARRESTED WAS A JASSON
TURNER, HE HAD ADVISED US -- I DON'T KNOW HOW

DIRECT, IN CAMERA - RAYMOND DIXSON BY SOL. BELL

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1 SPECIFIC YOU WANT ME TO GET, BUT HE ADVISED US
2 THAT DURING THE COURSE OF AN INTERVIEW WITH HIM HE
3 NAMED THE PERSON THAT WAS WITH HIM AND THAT HAD
4 ACTUALLY PULLED THE TRIGGER WAS A SUBJECT BY THE
5 NAME OF STEVEN BRISCOE, AND HE LIVED IN DANVILLE,
6 VIRGINIA.

7 COURT REPORTER: TAP ON THAT MIKE TO
8 SEE IF IT'S ON, PLEASE, SIR. THANK YOU.

9 A. IT MIGHT BE ME.

10 COURT REPORTER: SPEAK UP A LITTLE
11 BIT.

12 Q. AS A RESULT OF LEARNING THIS NAME WHAT DID Y'ALL
13 DO -- WELL, LET ME JUST CUT TO THE CHASE, DID
14 Y'ALL GET A PHOTOGRAPH OF HIM FROM SOMEWHERE?

15 A. YES, SIR, WE DID.

16 Q. WHERE DID YOU GET THE PHOTOGRAPH FROM?

17 A. FROM THE DEPARTMENT OF MOTOR VEHICLES IN VIRGINIA.

18 Q. LET ME SHOW YOU THIS PIECE OF PAPER AND ASK IF YOU
19 CAN RECOGNIZE IT?

20 A. YES, SIR. THAT APPEARS TO BE A COPY OF THE
21 PHOTOGRAPH THAT WE RECEIVED FROM VIRGINIA.

22 Q. OKAY.

23 SOLICITOR BELL: YOUR HONOR, I'D
24 MOVE IT -- DO YOU WANT TO MARK IT AS COURT'S EXHIBIT ONE
25 OR --

DIRECT, IN CAMERA - RAYMOND DIXSON BY SOL. BELL

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1 THE COURT: UH HUH. ANY EXCEPTIONS?

2 MR. KEARSE: WITHOUT OBJECTION, YOUR
3 HONOR.

4 THE COURT: MARKED AS COURT'S ONE
5 WITHOUT OBJECTION.

6 COURT REPORTER: COURT'S ONE.

7 SOLICITOR BELL: THANK YOU.

8 (Court's Exhibit One
9 marked and filed.)

10 Q. NOW, DETECTIVE DIXSON, WHAT DID YOU DO WITH
11 COURT'S ONE?

12 A. ONCE -- UPON RECEIVING THAT PICTURE I RECEIVED --
13 I WENT TO THE DORCHESTER COUNTY DETENTION
14 FACILITY, WENT INTO THE JAIL PICTURES, LOOKED UP
15 SOME OF THE SUBJECTS THAT WERE INCARCERATED, FOR
16 SIMILARITIES, AND DID A PHOTO LINEUP.

17 Q. OKAY. LET ME SHOW YOU THIS ITEM AND ASK IF YOU
18 CAN IDENTIFY IT?

19 A. YES, SIR, THIS APPEARS TO BE THE PHOTO LINEUP
20 CONTAINING STEVEN BRISCOE.

21 Q. OKAY. AND THE ONE THAT YOU MADE UP?

22 A. YES, SIR.

23 Q. OKAY.

24 SOLICITOR BELL: YOUR HONOR, I WOULD
25 MARK THIS AS COURT'S TWO.

DIRECT, IN CAMERA - RAYMOND DIXSON BY SOL. BELL

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1 THE COURT: ANY OBJECTION?

2 MR. KEARSE: WITHOUT OBJECTION, YOUR
3 HONOR.

4 THE COURT: MARKED AND ADMITTED,
5 COURT'S TWO, WITHOUT OBJECTION.

6 COURT REPORTER: COURT'S TWO.

7 (Court's Exhibit Two
8 marked and filed.)

9 Q. ALRIGHT, I WANT TO LEAVE COURT'S TWO WITH YOU.
10 ALRIGHT, ONCE YOU HAD COURT'S ONE, WHICH IS THE
11 PICTURE YOU GOT FROM VIRGINIA, AND COURT'S EXHIBIT
12 TWO, THE LINEUP, WHAT DID YOU DO WITH THOSE?

13 A. INITIALLY I BROUGHT IT TO THE -- I'M SORRY, I TOOK
14 IT TO JASSON TURNER. MR. TURNER IDENTIFIED MR.
15 BRISCOE, WHO WAS THE SUBJECT IN THE PHOTOGRAPHS,
16 DEPICTED AS NUMBER TWO IN THIS LINEUP RIGHT HERE.

17 Q. IT'S INSIDE?

18 A. YES, SIR, I'M SORRY, THIS IS THE INSIDE, THIS IS
19 THE ONE THAT WAS ACTUALLY SHOWN TO MR. TURNER.

20 Q. OKAY. AND IT HAS A NOTE ON THAT? I'M SORRY, AT
21 THE BOTTOM OF THIS PAPER?

22 A. YES, SIR.

23 Q. OKAY.

24 SOLICITOR BELL: WE'D OFFER THIS AS
25 COURT'S THREE, YOUR HONOR.

DIRECT, IN CAMERA - RAYMOND DIXSON BY SOL. BELL

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1 THE COURT: ANY OBJECTION?

2 MR. KEARSE: NO, YOUR HONOR.

3 THE COURT: MARKED AND ADMITTED AS
4 COURT'S THREE, WITHOUT OBJECTION.

5 COURT REPORTER: IDENTIFY THIS.

6 THE COURT: IT'S THE ACTUAL LINEUP
7 THAT WAS SHOWN TO THE WITNESS TURNER.

8 COURT REPORTER: COURT'S THREE.

9 (Court's Exhibit Three
10 marked and filed.)

11 Q. KEEP COURT'S THREE UP HERE WITH YOU, DETECTIVE.
12 LET ME ASK YOU THIS, DETECTIVE, WAS THERE
13 SOMETHING THAT OCCURRED WITH THIS PHOTOGRAPH
14 BEFORE YOU SHOWED HIM THAT ACTUAL LINEUP?

15 A. YES, SIR. I HAD INADVERTENTLY HAD A SINGLE
16 PHOTOGRAPH OF MR. BRISCOE IN MY HAND FACING THE
17 DIRECTION OF MR. TURNER. UPON WALKING INTO THE
18 ROOM I ASKED MR. TURNER TO HAVE A SEAT. HE LOOKS
19 UP AND SAYS, -- HE LOOKS UP AND SAYS, I SEE YOU'VE
20 GOT A PICTURE, YOU FOUND A PICTURE OF HIM, YOU
21 HAVE A PICTURE OF HIM. REALIZING MY MISTAKE, I
22 SHOWED HIM THE LINEUP ANYWAY. I DID NOT ASK HIM
23 ANY QUESTIONS ABOUT ANYTHING PRIOR TO THAT, BUT HE
24 DID SEE AN INDIVIDUAL PHOTOGRAPH OF MR. BRISCOE.

25 Q. OKAY. NOW, DID YOU SHOW COURT'S EXHIBIT NUMBER

DIRECT, IN CAMERA - RAYMOND DIXSON BY SOL. BELL

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1 TWO TO ANYBODY?

2 A. YES, SIR. MYSELF AND LIEUTENANT MARSHALL SHOWED
3 THIS PHOTOGRAPHIC LINEUP TO MR. RYAN NORTH, MR.
4 ANTHONY -- MR. TRAVIS NORTH, MR. ANTHONY -- I'LL
5 HAVE TO LOOK BECAUSE I CAN'T READ HIS LAST NAME --
6 ANTHONY FOLK. HE ALSO GOES BY DEE DEE.

7 Q. OKAY.

8 THE COURT: PLEASE SPELL THAT LAST
9 NAME.

10 A. F-A-U-L-K.

11 Q. DID YOU SHOW IT TO HIM ALL AT ONCE WHEN THEY WERE
12 TOGETHER?

13 A. NO, SIR.

14 Q. HOW DID THAT HAPPEN?

15 A. WHEN IT HAPPENED, I HAD MADE CONTACT WITH MR.
16 NORTH WHILE HE WAS ---

17 Q. WHICH ONE?

18 A. --- I'M SORRY, RYAN NORTH.

19 Q. OKAY.

20 A. MR. RYAN NORTH WAS AT HIS JOB. I CONTACTED HIM BY
21 CELL PHONE. I -- WELL, LET ME REPHRASE THAT, I
22 BELIEVE HE WAS AT HIS JOB. I CONTACTED HIM BY CELL
23 PHONE, HE CALLED ME BACK, AND I SCHEDULED TO HAVE
24 HIM COME IN THE FOLLOWING DAY, WHICH WOULD HAVE
25 BEEN THE TWELFTH OF AUGUST.

DIRECT, IN CAMERA - RAYMOND DIXSON BY SOL. BELL

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1 Q. WHAT YEAR?

2 A. TWO THOUSAND FOUR. RYAN ADVISED ME THAT HE COULD
3 BRING DEE DEE IN WITH HIM -- I'M SORRY, WHICH IS
4 ANTHONY FOLK, AND THE TWO OF THEM ARRIVED AT THE
5 SHERIFF'S OFFICE. WE BROUGHT MR. NORTH IN
6 INDIVIDUALLY, WHILE MR. FOLK STAYED OUT IN THE
7 LOBBY, OR WAITING AREA. I READ THE ADVISING ON THE
8 BACK OF THE LINEUP FORM, AND SHOWED THE LINEUP TO
9 MR. RYAN NORTH.

10 Q. OKAY. AND HOW WAS THE LINEUP WHEN YOU SHOWED IT TO
11 RYAN NORTH, WAS IT AS IT IS NOW?

12 A. NO, SIR, THE LINEUP AS IT WAS SHOWN TO MR. RYAN
13 NORTH WAS IDENTICAL TO THE LINEUP SHOWN TO MR.
14 JASSON TURNER, WHEREAS, THE SUBJECT, MR. STEVEN
15 BRISCOE, WAS SUBJECT TWO.

16 Q. OKAY. IT'S COURT -- WHAT YOU SHOWED MR. NORTH WAS
17 IDENTICAL TO COURT'S TWO -- COURT'S EXHIBIT THREE,
18 I'M SORRY?

19 A. YES, SIR.

20 Q. OKAY. AND DID HE -- WAS HE ABLE TO PICK OUT A
21 PHOTOGRAPH IN THAT LINEUP?

22 A. YES, SIR. HE LOOKED AT THE LINEUP AND ADVISED US
23 THAT PHOTOGRAPH NUMBER TWO WAS THAT OF THE PERSON
24 THAT PULLED THE TRIGGER.

25 Q. OKAY. AND DID HE SIGNIFY THAT ON THE LINEUP

DIRECT, IN CAMERA - RAYMOND DIXSON BY SOL. BELL

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1 ANYWHERE?

2 A. YES, SIR, HE SIGNED ON THE BACK, WROTE HIS
3 INITIALS, AND THEN, NUMBER TWO, NEXT TO THE
4 INITIALS, SIGNIFYING THAT THAT WAS HIS PICK.

5 Q. OKAY. AND HE -- WHO WAS IN THE ROOM AT THE TIME
6 THAT YOU SHOWED HIM THAT?

7 A. MYSELF, RYAN NORTH, AND DETECTIVE LIEUTENANT
8 MARSHALL.

9 Q. OKAY. MR. FOLK WAS NOT IN THE ROOM?

10 A. NO, SIR.

11 Q. OKAY. NOW, DID YOU BRING MR. FOLK INTO THE ROOM?

12 A. YES, SIR, I DID.

13 Q. DID YOU SHOW HIM THE SAME LINEUP YOU SHOWED RYAN
14 NORTH?

15 A. YES, SIR, I DID, AND ---

16 Q. EVERYBODY IN THE SAME POSITION?

17 A. YES, SIR.

18 Q. OKAY. AND WAS HE ABLE TO IDENTIFY ANYBODY?

19 A. NO, SIR, HE ADVISED US THAT HE COULDN'T MAKE A
20 POSITIVE IDENTIFICATION.

21 Q. OKAY. NOW, WHO ELSE DID YOU SHOW THAT LINEUP TO?

22 A. THE -- ON THE FOURTEENTH -- EXCUSE ME, ON THE
23 FOURTEENTH OF AUGUST, TWO THOUSAND FOUR, MR.
24 TRAVIS NORTH WAS BROUGHT TO THE SHERIFF'S OFFICE
25 BY RYAN NORTH. AND KNOWING THAT MR. RYAN NORTH

DIRECT, IN CAMERA - RAYMOND DIXSON BY SOL. BELL

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1 HAD ALREADY VIEWED THESE PHOTOGRAPHS, WE CHANGED
2 THE POSITION OF MR. BRISCOE'S PHOTOGRAPH.

3 Q. OKAY. AND WHERE DID YOU PUT THAT?

4 A. WE BASICALLY JUST SWITCHED PHOTOGRAPH NUMBER ONE
5 AND NUMBER TWO.

6 Q. OKAY. AND WHY DID YOU DO THAT, AGAIN?

7 A. JUST TO MAKE SURE THAT THE IDENTIFICATION WAS
8 POSITIVE, AND THAT MR. NORTH, MR. RYAN NORTH HAD
9 NOT TOLD MR. TRAVIS NORTH THE LOCATION OF MR.
10 BRISCOE.

11 Q. OKAY. AND YOU SHOWED -- AND THAT'S HOW COURT'S
12 EXHIBIT TWO IS NOW, IS THAT CORRECT?

13 A. YES, SIR.

14 Q. OKAY. AND YOU SHOWED HIM THAT LINEUP?

15 A. YES, SIR, I DID.

16 Q. OKAY. AND DID HE PICK OUT A PICTURE?

17 A. YES, SIR, HE IDENTIFIED SUBJECT NUMBER ONE
18 PHOTOGRAPH AS BEING THE PERSON THAT PULLED THE
19 TRIGGER.

20 Q. OKAY. AND DID HE IDENTIFY THAT ON THAT PARTICULAR
21 LINEUP?

22 A. YES, SIR, IT'S SIGNED WITH HIS - IT'S SIGN THAT IT
23 WAS READ TO HIM AND INITIALED, WITH SUBJECT NUMBER
24 ONE JUST ABOVE HIS INITIALS.

25 Q. OKAY. LET ME ASK YOU THIS, DETECTIVE DIXSON, IN

DIRECT, IN CAMERA - RAYMOND DIXSON BY SOL. BELL

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1 REGARDS TO THOSE THREE INDIVIDUALS, MR. FOLK, MR.
2 RYAN NORTH, AND MR. TRAVIS NORTH, HOW DID YOU HAND
3 THEM THE PICTURES AND WHAT DID YOU SAY WHEN YOU
4 HANDED THEM THE PICTURES?

5 A. WHENEVER -- WHEN I HAND SOMEBODY A PHOTOGRAPHIC
6 LINEUP, ARE YOU READY TO LOOK AT THE PICTURES?
7 YES. AND I'LL TURN THE PHOTOGRAPHS OVER AND HAND
8 IT TO THEM.

9 Q. OKAY. I MEAN, DO YOU SAY, THE PERSON'S HERE, OR
10 THE PERSON'S NOT HERE OR ---

11 A. NO, SIR, NO, SIR.

12 Q. YOU JUST ASK THEM IF THEY CAN IDENTIFY ANYBODY IN
13 THOSE PICTURES?

14 A. NO, SIR, I ACTUALLY DON'T SAY ANYTHING, I ALLOWED
15 THEM TO IDENTIFY SOMEBODY IF THEY IDENTIFY
16 ANYBODY. IF THEY DON'T, THEN I TELL THEM, YOU
17 KNOW, THAT'S ALRIGHT, IT'S NO PROBLEM, WE'LL JUST,
18 YOU KNOW, WE'LL CONTINUE TO INVESTIGATE THE CASE.

19 Q. BUT YOU DON'T INDICATE THAT EVEN THE PERSON MIGHT
20 EVEN BE IN THAT PHOTOGRAPHIC LINEUP?

21 A. NO, SIR.

22 Q. OKAY. DID YOU IN ANY WAY THREATEN MR. TURNER, OR
23 INDICATE WHICH PICTURE TO PICK OUT?

24 A. NO, SIR.

25 Q. THERE WAS AN ACCIDENTAL WHERE YOU HAD HIS.

DIRECT, IN CAMERA - RAYMOND DIXSON BY SOL. BELL

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1 PHOTOGRAPH, AND DID HE FLINCH IN IDENTIFYING MR.
2 BRISCOE?

3 A. NO, SIR, I -- HE JUST SAID, I SEE, YOU FOUND A
4 PICTURE OF HIM.

5 Q. OKAY.

6 A. THAT WAS HIS REACTION TO IT.

7 Q. OKAY. AND DID YOU IN ANY WAY, OR DID DETECTIVE,
8 OR LIEUTENANT MARSHALL IN ANY WAY SUGGEST WHO THEY
9 SHOULD PICK OUT?

10 A. NO, SIR.

11 Q. OR WHO HE SHOULD PICK OUT -- AS TO RYAN NORTH, DID
12 YOU SUGGEST WHICH NUMBER -- WHICH PICTURE TO PICK
13 OUT?

14 A. NO, SIR.

15 Q. DID LIEUTENANT MARSHALL SUGGEST WHICH PICTURE TO
16 PICK OUT?

17 A. NO, SIR.

18 Q. DID YOU INDICATE IN ANY WAY WHICH PICTURE WAS HIS?

19 A. NO, SIR.

20 Q. AS TO MR. FOLK, DID YOU OR LIEUTENANT MARSHALL
21 INDICATE IN ANY WAY WHICH PICTURE TO PICK OUT?

22 A. NO, SIR.

23 Q. WITH TRAVIS NORTH. DID YOU INDICATE OR DID
24 LIEUTENANT MARSHALL INDICATE IN ANY WAY WHICH
25 PICTURE TO PICK OUT?

DIRECT, IN CAMERA - RAYMOND DIXSON BY SOL. BELL

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1 A. NO, SIR.

2 Q. OKAY.

3 SOLICITOR BELL: YOUR HONOR, WOULD
4 THE COURT LIKE TO VIEW THE TWO LINEUPS, COURT'S NUMBER
5 TWO AND COURT'S NUMBER THREE?

6 THE COURT: I'D LIKE TO SEE ALL OF
7 THEM, COURT'S ONE, TWO AND THREE.

8 A. NUMBER ONE I DON'T HAVE.

9 (Whereupon, the Court examines
10 Court's One, Two and Three.)

11 THE COURT: WHAT IS THIS ONE THAT'S
12 IN COLOR, WAS THAT USED AT ALL?

13 A. NO, MA'AM, IT WAS NOT USED AT ALL, THAT WAS A --
14 THAT WAS THE ACTUAL PRINT OF THE SIX PHOTOGRAPHS I
15 OBTAINED FROM THE ---

16 THE COURT: THAT NEEDS TO BE MARKED
17 AS -- WELL, YOU DIDN'T USE IT, CORRECT?

18 A. NO, MA'AM.

19 SOLICITOR BELL: DIDN'T USE IT, BUT
20 IF YOU WANT TO MARK IT AS COURT'S FOUR, WE CAN.

21 THE COURT: IT'S UP TO YOU.

22 SOLICITOR BELL: I DON'T WANT TO USE
23 IT, WE USED THE BLACK AND WHITE PHOTOGRAPHS.

24 A. MR. BRISCOE IS NOT DEPICTED IN THAT PHOTOGRAPH.

25 THE COURT: ANY FURTHER QUESTIONS OF

DIRECT, IN CAMERA - RAYMOND DIXSON BY SOL. BELL

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1 THE WITNESS?

2 SOLICITOR BELL: NO, YOUR HONOR.
3 PLEASE ANSWER ANY QUESTIONS THAT MR. KEARSE HAS FOR YOU.

4 THE COURT: YOU MAY PROCEED.

5 MR. KEARSE: THANK YOU, MAY IT
6 PLEASE THE COURT.

7 (NOTE: Blank lines on this page do not indicate any
8 part of record has been omitted. Headers on testimony
9 pages and hard page breaks between testimony are now
10 required by the Court. See next ensuing page for
11 sequential continuation of record.)

CROSS, IN CAMERA - RAYMOND DIXSON BY MR. KEARSE

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CROSS-EXAMINATION, IN CAMERA, OF RAYMOND DIXSON

BY MR. KEARSE:

Q. IS IT DETECTIVE DIXSON?

A. YES, SIR.

Q. INITIALLY, WHEN YOU WENT IN YOU GOT, YOU WENT IN TO SHOW THIS LINEUP TO JASSON TURNER, IS THAT CORRECT?

A. YES, SIR.

Q. AND YOU HAD A COPY OF THE LINEUP IN THE FOLDER, BUT YOU ALSO HAD ONE SINGLE PHOTO OF MR. BRISCOE, IS THAT CORRECT?

A. NO, SIR, ACTUALLY, I HAD SEVERAL PHOTOGRAPHS. WHAT THEY WERE WAS THE PHOTOGRAPHS THAT I HAD TO TRY AND CUT AND PASTE, AND MR. BRISCOE AT THE TIME WAS NOT IN OUR JAIL PHOTOGRAPHS, SO I COULD NOT PUT HIM DIRECTLY INTO A LINEUP. SO, IT WAS A NUMBER OF COPIES OF CUTTING AND PASTING, AND TRYING TO GET IT THE RIGHT SIZE, AND TRYING TO GET IT TO WHERE IT MATCHED EVERYBODY ELSE.

Q. WELL, MY QUESTION IS, YOUR TESTIMONY WAS THAT WHEN YOU WALKED IN MR. TURNER SAW A SINGLE PHOTO OF MR. BRISCOE, IS THAT CORRECT?

A. YES, SIR, HE DID.

Q. AND HOWEVER IT WAS OUT, INADVERTENT, WHATEVER, IT WAS IN -- YOU HAD IT POSITIONED SUCH THAT HE COULD

1 SEE THAT ONE SINGLE PHOTO, IS THAT CORRECT?

2 A. YES, SIR.

3 Q. AND IMMEDIATELY HE LOOKED AT THAT PHOTO AND SAID,
4 YEAH, THAT'S THE GUY THERE, RIGHT?

5 A. NO, SIR, IT WAS, MORE OR LESS, I SEE YOU FOUND A
6 PHOTOGRAPH OF HIM, OR I SEE YOU FOUND A PICTURE OF
7 HIM.

8 Q. AND IT WAS ONLY AFTER YOU CONFIRMED, YEAH, WE
9 FOUND A PICTURE OF HIM -- HE SAID, I SEE YOU FOUND
10 A PICTURE OF HIM, AND WHAT DID YOU DO, NOD, OR
11 SAY, YEAH, OR WHAT?

12 A. NO, SIR. AT THE TIME I WAS A LITTLE SHOCKED THAT
13 I HAD DONE SOMETHING LIKE THAT, AND SO, I JUST, I
14 SAID, WELL, LET ME SHOW YOU THE PHOTOGRAPHIC
15 LINEUP.

16 Q. ALRIGHT. AND THEN YOU SHOW HIM THIS PHOTOGRAPHIC
17 LINEUP?

18 A. YES, SIR.

19 Q. THAT PICTURE, DO YOU HAVE THE PICTURE THAT HE SAW
20 INITIALLY?

21 A. NO, SIR, I DON'T BELIEVE I DO.

22 Q. THAT MR. TURNER, YOU GUYS DIDN'T HAVE, OR TURNED
23 OVER.

24 A. IT WAS, IT WAS A COPY OF THE, DMV PHOTO WITHOUT
25 ANYTHING WRITTEN ON IT, JUST LIKE I SAID, ---

CROSS, IN CAMERA - RAYMOND DIXSON BY MR. KEARSE

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1 Q. I MEAN THAT'S WHAT'S MARKED AS EXHIBIT ONE, I
2 BELIEVE?

3 A. YES, SIR, BUT YOU WERE ASKING ME IF I HAVE THE
4 EXACT PICTURE HE SAW.

5 Q. WHAT I'M SAYING, THAT'S THE SAME PHOTO MR. TURNER
6 SAW?

7 A. YES, SIR, YES, SIR.

8 Q. AND WHICH IS THE SAME PHOTO THAT WAS IN THE
9 LINEUP?

10 A. YES, SIR.

11 Q. AND THEN YOU SHOW HIM THE LINEUP, AND HE GOES,
12 YEAH, THAT'S HIM, CORRECT?

13 A. YES, SIR.

14 Q. ALRIGHT. THEN YOU SAY YOU BROUGHT RYAN NORTH IN
15 TO, ABOUT THE TWELFTH, IS THAT CORRECT?

16 A. YES, SIR.

17 Q. AUGUST TWELFTH, TWO THOUSAND FOUR?

18 A. YES, SIR.

19 Q. ALRIGHT, WHICH IS -- WAS THAT A DAY OR TWO AFTER
20 TURNER IDENTIFIES THE PICTURE?

21 A. YES, SIR, ON THE TWELFTH WAS THE NEXT DAY.

22 Q. OKAY. NOW, YOU GUYS ALSO DID A LINEUP OF JASSON
23 TURNER, CORRECT?

24 A. YES, SIR, WE DID.

25 Q. AND WHEN YOU DID THAT LINEUP OF JASSON TURNER, YOU

CROSS, IN CAMERA - RAYMOND DIXSON BY MR. KEARSE

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1 GUYS USED ALL DMV PHOTOGRAPHS, DID YOU NOT?

2 A. I CAN'T ANSWER THAT QUESTION BECAUSE I WAS NOT
3 INVOLVED IN THAT ASPECT OF ---

4 Q. YOU DON'T KNOW WHETHER THEY DID OR THEY DIDN'T?

5 A. NO, SIR, I WAS NOT INVOLVED IN THAT PARTICULAR
6 PART OF THE INVESTIGATION.

7 Q. WELL, WE KNOW FOR CERTAIN THAT WHEN YOU DID MR.
8 BRISCOE'S LINEUP YOU GUYS ONLY GOT HIS DMV PHOTO
9 AND THEN WENT AND GOT JAIL HOUSE PHOTOS, IS THAT
10 CORRECT?

11 A. YES, SIR.

12 Q. AND IN THAT LINEUP MR. BRISCOE IS THE ONLY ONE
13 WITH A COLLARED SHIRT ON, IS HE NOT?

14 THE COURT: DO YOU NEED TO LOOK AT
15 THIS?

16 A. YES, MA'AM. THE LINEUP WAS PLACED INTO BLACK AND
17 WHITE.

18 Q. I UNDERSTAND WHAT YOU'RE SAYING, BUT MY QUESTION
19 IS, ISN'T IT TRUE THAT MR. BRISCOE IS THE ONLY ONE
20 WITH A COLLARED SHIRT ON?

21 COURT REPORTER: ARE YOU SAYING
22 COLORED?

23 MR. KEARSE: COLLARED, C-O-L-L-A-R-
24 E-D.

25 COURT REPORTER: OKAY.

CROSS, IN CAMERA - RAYMOND DIXSON BY MR. KEARSE

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1 A. A COLLAR THAT COMES UP TO HIS NECK, YES, SIR,
2 THERE IS ANOTHER PHOTOGRAPH THAT'S SHOWING A
3 SHIRT.

4 Q. BUT THAT GUY DOESN'T HAVE A COLLAR?

5 A. NO, SIR.

6 Q. BECAUSE IT'S A JAIL HOUSE PHOTO, YOU KNOW THEY
7 DON'T WEAR COLLARS IN JAIL, CORRECT?

8 A. YES, SIR.

9 Q. ALRIGHT. AND THIS IS THE PHOTOGRAPH YOU PRESENTED
10 TO RYAN -- THESE ARE THE PHOTOS YOU PRESENTED TO
11 RYAN NORTH?

12 A. YES, SIR.

13 Q. ALRIGHT. ADDITIONALLY, YOU SAID ANTHONY FOLK CAME
14 WITH RYAN NORTH, IS THAT CORRECT?

15 A. YES, SIR.

16 Q. ALRIGHT. AND HE SAW THE SAME LINEUP?

17 A. YES, SIR.

18 Q. BUT ANYTHING FOLK INDICATED THAT HE COULD NOT PICK
19 OUT THE ASSAILANT, THE SO CALLED, ALLEGED
20 ASSAILANT, IS THAT CORRECT?

21 A. YES, SIR.

22 Q. ALRIGHT. NOW, TRAVIS NORTH DID NOT COME THAT DAY,
23 IS THAT RIGHT?

24 A. YES, SIR, THAT'S CORRECT.

25 Q. ARE YOU CERTAIN OF THAT?

CROSS, IN CAMERA - RAYMOND DIXSON BY MR. KEARSE

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1 A. YES, SIR.

2 Q. ALRIGHT, DO YOU DO, OR TAKE, OR DICTATE NOTES WHEN
3 YOU DO YOUR INVESTIGATIONS, DETECTIVE DIXSON?

4 A. YES, SIR.

5 Q. DO YOU HAVE A COPY OF THOSE NOTES THAT MIGHT HELP
6 YOU REFRESH YOUR RECOLLECTION?

7 A. YES, SIR, I'M LOOKING AT THE NOTES.

8 Q. OKAY. AND YOU REFERRED TO, WAS IT ON OR ABOUT
9 AUGUST FOURTEENTH WHEN TRAVIS NORTH CAME TO YOUR
10 OFFICE?

11 A. YES, SIR.

12 Q. ALRIGHT, WHICH WOULD BE TWO DAYS AFTER RYAN NORTH,
13 CORRECT?

14 A. YES, SIR.

15 Q. ALRIGHT, AND IT WAS RYAN NORTH WHO BROUGHT HIM TO
16 YOUR OFFICE, IS THAT CORRECT?

17 A. YES, SIR.

18 Q. ALRIGHT, AND YOU GUYS SHOW TRAVIS NORTH, AS FAR AS
19 THE PHOTOS ARE CONCERNED, THE SAME PHOTOGRAPHIC
20 LINEUP, CORRECT?

21 A. THE SAME PHOTOS.

22 Q. AS FAR AS THE PHOTOS ARE CONCERNED. BUT YOU
23 CHANGED THE ORDER OF THOSE PHOTOS, CORRECT?

24 A. YES, SIR.

25 Q. AND PRIOR TO YOU PRESENTING THIS PHOTOGRAPHIC

CROSS, IN CAMERA - RAYMOND DIXSON BY MR. KEARSE

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1 LINEUP TO TRAVIS NORTH YOU TOLD HIM, WE CHANGED IT
2 AROUND? I WANT YOU TO REFER TO YOUR NOTES, AUGUST
3 FOURTEENTH, TWO THOUSAND FOUR. YOU CALLED IT
4 ABOUT TWELVE:FIFTY-TWO P.M.

5 A. YES, SIR.

6 Q. AND DID YOU NOT TELL HIM BEFORE YOU LET HIM TRY TO
7 ID, WE WANT YOU TO KNOW WE SWITCHED THE
8 PHOTOGRAPHS AROUND?

9 A. YES, SIR, HE WAS ADVISED THAT THE PHOTOGRAPHS WERE
10 -- THE LINEUP WAS DIFFERENT THAN PREVIOUS.

11 Q. ALRIGHT, WHICH YOU GUYS DID BECAUSE YOU WERE
12 CONCERNED THAT RYAN NORTH MIGHT HINT HIM TO WHICH
13 PHOTO WAS SUPPOSEDLY THE ONE, IS THAT CORRECT?

14 A. WELL, WE HAD ADVISED MR. RYAN NORTH NOT TO SAY
15 ANYTHING, BUT ON THE OFF CHANCE HE DID, WE DECIDED
16 TO CHANGE THE ORDER.

17 Q. RIGHT. BUT DON'T YOU SEE HOW THAT COULD POSSIBLY
18 TAINT THE IDENTIFICATION, DETECTIVE DIXSON?

19 A. NO, SIR, I'M SORRY, WE, WE ---

20 Q. SO, YOU DON'T UNDERSTAND IT, RIGHT?

21 A. --- WE TRIED TO PREVENT THAT FROM ACTUALLY
22 HAPPENING.

23 Q. RIGHT, I UNDERSTAND, BUT IF RYAN TELLS HIM, IT'S
24 NUMBER ONE, AND HE COMES IN AND HE SAYS, IT'S
25 NUMBER ONE, ---

1 A. IF RYAN TOLD HIM IT WAS NUMBER ONE IT WOULD HAVE
2 BEEN INCORRECT.

3 Q. RIGHT. SO, BEFORE HE COULD EVEN GET TO THAT POINT
4 YOU MADE SURE IT WAS NOT NUMBER ONE, DID YOU NOT?

5 A. NO, SIR, WE JUST TOLD THEM THAT THE LINEUP HAD
6 BEEN CHANGED.

7 Q. RIGHT. AND DON'T YOU, DOESN'T THAT INDICATE TO
8 HIM THAT IT'S NOT NUMBER ONE?

9 A. I'M SORRY, I'M MISSING THAT.

10 Q. IF YOU TELL HIM IT'S CHANGED ---

11 A. RIGHT.

12 Q. --- BECAUSE YOU THINK RYAN MIGHT TELL HIM THE
13 ASSAILANT, OR THE PERSON THAT WE'RE SAYING DID
14 THIS IS NUMBER ONE, DOESN'T THAT TELL TRAVIS NORTH
15 IT'S NOT NUMBER ONE?

16 A. OKAY. I UNDERSTAND WHAT YOU'RE SAYING, I'M JUST -
17 - BUT IF HE TOLD HIM THAT IT WAS NUMBER ONE, HE
18 WOULD HAVE BEEN INCORRECT.

19 Q. EXACTLY. MY NEXT QUESTION, IS THERE ANY
20 PARTICULAR REASON WHY YOU GUYS COULD NOT USE DMV
21 PHOTOS FOR MR. BRISCOE'S IDENTIFICATION?

22 A. I CAN'T TESTIFY TO WHETHER OR NOT THERE WAS ANY
23 REASON THAT VIRGINIA DID OR DID NOT SEND A
24 PHOTOGRAPHIC LINEUP, I'M NOT SURE IF THEY, IF THEY
25 ALLOWED THAT, OR TO GIVE THAT OR NOT.

CROSS, IN CAMERA - RAYMOND DIXSON BY MR. KEARSE

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1 Q. BUT WHEN -- YOU SAY YOU DON'T KNOW ANYTHING ABOUT
2 TURNER, SO YOU DON'T KNOW IF THEY USED DMV OR JAIL
3 HOUSE PHOTOS OR NOT?

4 A. SIR, I DON'T KNOW.

5 Q. DID YOU SHOW THIS PHOTOGRAPH TO ANY OF THE OTHER
6 SUSPECTS AT THAT TIME, LANESHA GREEN, JERMAINE
7 CUSACK?

8 A. I DID NOT, I DID NOT SHOW IT AGAIN.

9 MR. KEARSE: YOUR HONOR, I DON'T
10 HAVE ANYTHING FURTHER.

11 THE COURT: ANY REDIRECT?

12 SOLICITOR BELL: JUST ONE QUESTION,
13 YOUR HONOR.

14 (NOTE: Blank lines on this page do not indicate any
15 part of record has been omitted. Headers on testimony
16 pages and hard page breaks between testimony are now
17 required by the Court. See next ensuing page for
18 sequential continuation of record.)

REDIRECT, IN CAMERA - RAYMOND DIXSON BY SOL. BELL

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REDIRECT EXAMINATION, IN CAMERA, OF RAYMOND DIXSON

BY SOLICITOR BELL:

Q. YOU -- ALL YOU TOLD TRAVIS NORTH WAS, THE PHOTOS
HAVE BEEN CHANGED AROUND, IS THAT CORRECT?

A. YES, SIR.

Q. DID YOU TELL THEM THAT THE PHOTO WAS IN THERE, OR
IF ANYBODY HAD PICKED A PHOTO OUT OF THAT LINEUP?

A. NO, SIR, I JUST TOLD HIM THAT THE PHOTO -- THAT
THE ORDER HAD BEEN CHANGED.

SOLICITOR BELL: NOTHING FURTHER.

THE COURT: SIR, YOU MAY STEP DOWN.
YOU MAY CALL YOUR NEXT WITNESS.

SOLICITOR BELL: I CALL LIEUTENANT
MARSHALL.

THE COURT: RAISE YOUR RIGHT HAND
AND BE SWORN, SIR.

YOU NEED TO LEAVE THOSE ON THE LEDGE
IN CASE HE NEEDS TO USE THEM.

(Whereupon, the witness,
THOMAS MILES MARSHALL,
is duly sworn.)

THE COURT: SIR, IF YOU WOULD, HAVE
A SEAT AND STATE YOUR FULL NAME FOR THE RECORD, SPELLING
YOUR LAST NAME FOR THE COURT REPORTER.

WITNESS: THOMAS MILES MARSHALL, M-

1 A-R-S-H-A-L-L.

2 THE COURT: YOU MAY PROCEED.

3 SOLICITOR BELL: THANK YOU, YOUR
4 HONOR.

5 (NOTE: Blank lines on this page do not indicate any
6 part of record has been omitted. Headers on testimony
7 pages and hard page breaks between testimony are now
8 required by the Court. See next ensuing page for
9 sequential continuation of record.)

DIRECT, IN CAMERA - THOMAS M. MARSHALL BY SOL. BELL

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DIRECT EXAMINATION, IN CAMERA, OF THOMAS M. MARSHALL
BY SOLICITOR BELL:

Q. DETECTIVE, YOU'RE A LIEUTENANT WITH THE DORCHESTER
COUNTY SHERIFF'S OFFICE?

A. THAT'S CORRECT.

Q. AND YOU HAVE BEEN INVOLVED IN THIS INVESTIGATION
OF A MURDER THAT OCCURRED ON THE [REDACTED] ROAD
BACK ON JULY THIRD OF TWO THOUSAND AND THREE, FROM
THE BEGINNING?

A. THAT'S CORRECT.

Q. OKAY. AND THIS MURDER, BASICALLY, HAD KIND OF TWO
SEPARATE INVESTIGATIONS, IS THAT CORRECT?

A. YES.

Q. THERE WAS THE INITIAL INVESTIGATION WHERE MR.
TURNER WAS FOUND, IS THAT CORRECT?

A. THAT'S CORRECT.

Q. AND THEN, WHEN MR. TURNER NAMED SOMEBODY WHO WAS
INVOLVED, STEVEN BRISCOE, THERE WAS A SECOND
PHASE, IS THAT CORRECT?

A. THAT'S CORRECT.

Q. OKAY. AND AS TO THE SECOND PHASE, WHEN STEVEN
BRISCOE'S NAME CAME UP, WERE YOU AROUND WHEN THE
PHOTOGRAPHS CAME IN?

A. YES.

Q. OKAY. WERE YOU INVOLVED WITH THE LINEUP OF MR.

DIRECT, IN CAMERA - THOMAS M. MARSHALL BY SOL. BELL

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1 TURNER?

2 A. I WAS NOT INVOLVED WITH THAT, IT WAS ACTUALLY DONE
3 IN THE JAIL PRIOR TO THE PLEA ARRANGEMENT AND
4 EVERYTHING.

5 Q. OKAY. WERE YOU PRESENT WHEN RYAN NORTH CAME TO
6 VIEW THE LINEUP?

7 A. THAT'S CORRECT.

8 Q. OKAY. YOU WERE WITH DETECTIVE DIXSON?

9 A. THAT'S CORRECT.

10 Q. OKAY. DID YOU IN ANY WAY SUGGEST TO MR. NORTH WHO
11 TO PICK?

12 A. NO.

13 Q. DID YOU TELL HIM THAT THE PERSON WAS IN THAT
14 LINEUP?

15 A. NO, WHAT -- ACTUALLY ON THE BACK OF THE LINEUP WE
16 READ THIS STATEMENT TO THEM PRIOR TO GIVING IT TO
17 THEM. THE STATEMENT SAYS, "YOU WILL BE ASKED TO
18 LOOK AT A GROUP OF PHOTOGRAPHS. AND THE FACT THAT
19 THE PHOTOGRAPHS ARE SHOWN TO YOU SHOULD NOT
20 INFLUENCE YOUR JUDGEMENT. YOU SHOULD CONCLUDE OR
21 GUESS THAT THE PHOTOGRAPHS CONTAIN THE PICTURE OF
22 THE PERSON WHO COMMITTED THE CRIME. YOU ARE NOT
23 OBLIGATED TO IDENTIFY ANYONE. IT IS JUST AS
24 IMPORTANT TO FREE INNOCENT PERSONS FROM SUSPICION
25 AS TO IDENTIFY GUILTY PARTIES. PLEASE DO NOT

DIRECT, IN CAMERA - THOMAS M. MARSHALL BY SOL. BELL

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1 DISCUSS THIS CASE WITH OTHER WITNESSES, NOR
2 INDICATE IN ANY WAY THAT YOU HAVE IDENTIFIED
3 SOMEONE." AND THAT IS ALWAYS READ TO ANYBODY WE
4 HAVE DO A PHOTOGRAPHIC LINEUP.

5 Q. OKAY. AND ON THAT ONE I THINK MR. RYAN NORTH
6 PICKED PHOTOGRAPH NUMBER TWO, AND INDICATED ON THE
7 BACK OF IT?

8 A. RYAN NORTH PICKED NUMBER TWO OUT ON AUGUST THE
9 TWELFTH AT ELEVEN:FIFTY-NINE A.M.

10 Q. OKAY. AND THEN, AFTER THAT YOU BROUGHT IN -- WAS
11 ANYBODY ELSE IN THE ROOM BESIDES YOURSELF AND
12 DETECTIVE DIXSON AND RYAN NORTH?

13 A. THAT'S THE ONLY ONES THAT WAS IN THERE.

14 Q. OKAY. AND THEN YOU BROUGHT IN MR. FOLK, IS THAT
15 CORRECT?

16 A. YES, MR. FOLK WAS BROUGHT IN ON THE SAME DAY AT
17 TWELVE:0 TWO P.M., AND HE DID NOT IDENTIFY
18 ANYBODY.

19 Q. AND YOU READ THAT TO HIM?

20 A. YES, AGAIN, I READ THIS WHOLE STATEMENT I JUST
21 READ.

22 Q. AND YOU DIDN'T INDICATE IN ANY WAY THAT THE
23 PICTURE OF A PERSON THAT MAY HAVE BEEN INVOLVED
24 WAS IN THERE?

25 A. NO.

DIRECT, IN CAMERA - THOMAS M. MARSHALL BY SOL. BELL

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1 Q. OKAY. AND THEN, TWO DAYS LATER, I BELIEVE TRAVIS
2 NORTH WAS BROUGHT IN, IS THAT CORRECT?

3 A. THAT'S CORRECT.

4 Q. OKAY. AND AS DETECTIVE DIXSON TESTIFIED, HE
5 CHANGED THE ORDER OF THE PICTURES?

6 A. ACTUALLY, IT WAS AT MY REQUEST, I SUGGESTED THAT
7 WE CHANGE THE ORDER OF THE PICTURES.

8 Q. OKAY. AND HE WAS READ THAT SAME STATEMENT YOU
9 READ EARLIER?

10 A. HE WAS -- CORRECT.

11 Q. OKAY. AND WAS HE TOLD THAT THE PERSON WHO WAS
12 INVOLVED MIGHT BE IN THERE?

13 A. NO.

14 Q. OKAY. DID ANYBODY TRY TO SHOW HIM WHICH ONE TO
15 PICK?

16 A. NO.

17 Q. OKAY. AND I BELIEVE HE PICKED PHOTO NUMBER ONE, IS
18 THAT CORRECT?

19 A. YES, SIR, HE PICKED THAT PHOTO NUMBER ONE OUT AT
20 TWELVE:FIFTY-FIVE P.M., AND MYSELF AND DETECTIVE
21 DIXSON INITIALED IT, AND HE INITIALED RIGHT UNDER
22 NUMBER ONE, THE NUMBER, ONE.

23 Q. OKAY. AND WAS A PHOTOGRAPHIC LINEUP SHOWN TO
24 ANYBODY ELSE THAT YOU'RE AWARE OF?

25 A. NO, WE DIDN'T SHOW IT TO ANYBODY ELSE, THIS WAS

DIRECT, IN CAMERA - THOMAS M. MARSHALL BY SOL. BELL

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1 PER KNOWING THAT THESE INDIVIDUALS FROM THE
2 INVESTIGATION, THESE WERE THE ONLY INDIVIDUALS
3 THAT POSSIBLY HAD A CHANCE TO SEE MR. BRISCOE.

4 Q. DO YOU KNOW IF A LINEUP WAS SHOWN TO JERMAINE
5 CUSACK?

6 A. YES, I THINK SO, I THINK IT WAS IN A BACK ROOM
7 OVER HERE IN THE COURT HOUSE AFTER HE -- AFTER HIS
8 PLEA, AND HE INDICATED HE DIDN'T SEE ANYTHING.
9 SO, HE ---

10 Q. THIS LINEUP, THAT YOU KNOW OF, OR DO YOU RECALL?

11 A. I THINK I HAD SOME LOOSE PICTURES AND I WAS
12 GETTING READY TO GO THROUGH THIS, AND HE JUST
13 IMMEDIATELY SAID, I CAN'T TELL YOU ANYBODY IN
14 THERE. SO, RATHER THAN GO THROUGH IT, THAT'S
15 WHERE I STOPPED WITH IT.

16 Q. DID YOU SHOW HIM ANY PICTURES AT ALL?

17 A. NO, HE -- HE TOLD ME HE WASN'T -- CAN'T IDENTIFY
18 ANYBODY, SO IT WAS NO NEED FOR ME TO ---

19 Q. SO, YOU DIDN'T SHOW HIM A LINEUP?

20 A. NO.

21 Q. AND AGAIN, DID YOU OR DETECTIVE DIXSON, IN ANY WAY
22 ON MR. FOLK, MR. RYAN NORTH, OR MR. TRAVIS NORTH
23 INDICATE WHO TO PICK, OR THAT ANYBODY INVOLVED IN
24 THIS CASE WAS IN THIS PHOTOGRAPHIC LINEUP, WHICH
25 IS COURT'S EXHIBIT TWO?

DIRECT, IN CAMERA - THOMAS M. MARSHALL BY SOL. BELL

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1 A. NO.

2 Q. AND COURT'S EXHIBIT ONE. WELL, YOU WEREN'T
3 INVOLVED IN COURT'S EXHIBIT -- THREE, I'M SORRY.

4 SOLICITOR BELL: THANK YOU,
5 LIEUTENANT MARSHALL, PLEASE ANSWER ANY QUESTIONS MR.
6 KEARSE MAY HAVE FOR YOU.

7 THE COURT: MR. KEARSE.

8 MR. KEARSE: MAY IT PLEASE THE
9 COURT, YOUR HONOR.

10 THE COURT: YES, SIR.

11 (NOTE: Blank lines on this page do not indicate any
12 part of record has been omitted. Headers on testimony
13 pages and hard page breaks between testimony are now
14 required by the Court. See next ensuing page for
15 sequential continuation of record.)

CROSS, IN CAMERA - THOMAS M. MARSHALL BY MR. KEARSE

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CROSS-EXAMINATION, IN CAMERA, OF THOMAS M. MARSHALL

BY MR. KEARSE:

Q. LIEUTENANT MARSHALL, YOU WERE IN THE ROOM WHEN
TRAVIS NORTH WAS SHOWN THIS LINEUP, WERE YOU NOT?

A. THAT'S CORRECT.

Q. AND IT WAS MADE MENTION TO HIM THAT, IT'S BEEN
CHANGED AROUND?

A. I DON'T RECALL THAT BEING SAID, BUT IF IT'S IN
DETECTIVE DIXSON'S NOTES THEN IT WAS SAID. I JUST
DON'T RECALL IT.

Q. AND WOULDN'T THAT INDICATE TO HIM THAT NUMBER ONE
IS EXCLUDED, WOULDN'T THAT EFFECTIVELY INDICATE AN
EXCLUSION OF NUMBER -- PHOTO NUMBER ONE?

A. NO, I WOULD SAY THAT IT WOULD INDICATE TO HIM, IF
ANYTHING, THAT HE NEEDS TO IDENTIFY THE PROPER
PERSON. IT'S SHOWING HIM THAT WE ARE TAKING EVERY
PRECAUTION, THAT IF SOMEBODY INADVERTENTLY SAID
ANYTHING TO HIM.

Q. AND YOU AND DETECTIVE DIXSON WORKED FAIRLY CLOSE,
HAND IN HAND IN THIS CASE, RIGHT?

A. ON THE SECOND PART OF IT, YES, HE WAS HELPING ME
WITH IT.

Q. ALRIGHT. AND ON AUGUST TWENTY-FOURTH, TWO THOUSAND
AND FOUR, DO YOU RECALL SHOWING THIS PHOTO LINEUP
TO JERMAINE CUSACK?

CROSS, IN CAMERA - THOMAS M. MARSHALL BY MR. KEARSE

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1 A. I REMEMBER BEING IN THE BACK ROOM, BUT I DO NOT
2 REMEMBER SHOWING HIM THE PHOTOGRAPH. I THINK HE
3 TOLD ME, AND I MIGHT HAVE PUT IT IN MY NOTES IF
4 IT'S IN THERE, BUT I THOUGHT THAT HE TOLD ME THAT
5 HE WAS NOT GOING TO LOOK AT ANYTHING.

6 Q. Y'ALL SHARE CASE FILE, CASE NOTES, AND YOU REVIEW
7 EACH OTHER'S INVESTIGATIVE NOTES WHEN YOU'RE
8 WORKING TOGETHER, DON'T YOU?

9 A. I PUT THEM IN THERE, YES.

10 Q. ALRIGHT. SO, IT WOULDN'T SURPRISE YOU IF THIS,
11 HERE DETECTIVE LIEUTENANT MARSHALL MET WITH
12 JERMAINE CUSACK AND SHOWED HIM A PHOTOGRAPHIC
13 LINEUP. JERMAINE LOOKED OVER THE PHOTOGRAPHS BUT
14 STATED THAT HE WASN'T EXACTLY POSITIVE SO HE DID
15 NOT PICK ANY OF THE PHOTOS, DO YOU RECALL THAT?

16 A. IF IT'S WRITTEN DOWN THERE, THEN YES.

17 Q. IS THIS THE PHOTOGRAPHIC LINEUP, THE ONE THAT'S
18 BEEN PRESENTED AS EXHIBIT THREE, THAT YOU SHOWED
19 MR. CUSACK?

20 A. I'M THINKING SO, YES, SIR.

21 Q. ALRIGHT. YOU SAID, HAVE YOU HAD A CHANCE TO
22 REVIEW THE LINEUP FOR JASSON TURNER?

23 A. SAY AGAIN?

24 Q. DID YOU REVIEW THE LINEUP FOR JASSON TURNER?

25 A. WHICH ONE ARE YOU TALKING ABOUT, THIS ONE HERE ---

1 Q. THE PHOTOGRAPHIC LINEUP FOR JASSON TURNER.

2 A. --- OR THE ONE THAT WAS SHOWN IN THE JAIL PART OF
3 IT? I MEAN, YES, I HELPED -- WE GOT TOGETHER AND
4 WE HELPED PUT IT TOGETHER, MYSELF AND DETECTIVE
5 DIXSON PUT THESE GUYS, AND TRIED TO PICK THEM OUT.

6 Q. ALRIGHT, WHEN YOU GUYS PULLED PHOTOS FOR JASSON
7 TURNER'S LINEUP YOU USED DMV PHOTOS, DID YOU NOT?

8 A. CALIFORNIA DMV SENT IT TO US. THEY SAID, WE CAN
9 MAKE PHOTO LINEUPS FOR YOU, AND THEY WILL SEND
10 THEM TO US.

11 Q. ALRIGHT, BUT YOU DID NOT USE DMV PHOTOS FOR
12 VIRGINIA?

13 A. I DON'T THINK VIRGINIA, IF I REMEMBER CORRECTLY,
14 VIRGINIA DOES NOT MAKE PHOTO LINEUPS, THEY WILL
15 JUST SEND US THE ORIGINAL PHOTO, AND IF I RECALL
16 CORRECTLY, THAT'S WHAT THEY DID. MOST ---

17 Q. BUT -- I'M SORRY, GO AHEAD.

18 A. MOST STATES WILL NOT DO A PHOTO LINEUP FOR US.

19 Q. ALRIGHT. BUT THERE IS NO INDICATION IN YOUR NOTES
20 TO THAT EFFECT?

21 A. IF THEY DID NOT PUT ME TOGETHER A LINEUP, THEN
22 THEY DID NOT GIVE ME A LINEUP.

23 Q. DID YOU TRY TO USE SOUTH CAROLINA, OR ANY OTHER
24 PHOTOGRAPHS THAT WERE NOT JAIL HOUSE PHOTOS?

25 A. THE ONLY PHOTOGRAPHS WE HAVE AVAILABLE TO US RIGHT

CROSS, IN CAMERA - THOMAS M. MARSHALL BY MR. KEARSE

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1 OFF THE BAT AT THE TIME THAT WE HAD WAS OURS
2 THERE. AND THAT'S WHY WE GO INTO THE COMPUTER AND
3 WE BLACK THEM OUT, AND AS YOU CAN SEE, THEY ARE
4 ALL UP TO THE NECK, WHICH WOULD KEEP COLLARS OR
5 ANYTHING FROM SHOWING, THEY ARE BLACK AND WHITE.

6 Q. MY QUESTION IS, YOU SAID THE ONLY ONES AVAILABLE
7 TO US RIGHT THEN, BUT MY QUESTION IS, DID YOU TRY
8 TO OBTAIN OTHER PHOTOGRAPHS THAT WERE NOT JAIL
9 HOUSE PHOTOGRAPHS?

10 A. NO, SOUTH CAROLINA WOULD NOT BE ABLE TO MAKE US A
11 PHOTOGRAPHIC LINEUP BECAUSE OF THE PURE AND SIMPLE
12 FACT, THEY HAVE NO PICTURE TO COMPARE TO. WE HAVE
13 THE ONLY PICTURE TO COMPARE, SO I WOULD NOT HAVE
14 BEEN ABLE TO GO TO SOUTH CAROLINA DMV AND ASK THEM
15 TO TRY TO PULL SOME PICTURES OUT FOR ME. THEY DO
16 IT COMPUTER GENERATED.

17 Q. WELL, ADMITTEDLY, MR. BRISCOE'S PHOTOGRAPH IS THE
18 ONLY ONE WITH THE COLLAR AROUND THE SHIRT?

19 A. THERE IS -- IN BLACK AND WHITE I WOULDN'T SAY THAT
20 EVEN LOOKS LIKE A COLLAR, JUST TO ME, IF I WAS
21 LOOKING AT IT, IT LOOKS LIKE THERE WAS JUST A
22 WHITE OUT AREA AROUND HIS NECK.

23 Q. MY QUESTION, DETECTIVE MARSHALL, IS, ADMITTEDLY,
24 MR. BRISCOE'S PHOTOGRAPH IS THE ONLY ONE WITH A
25 COLLAR. THAT WAS THE ONLY ONE Y'ALL USED THAT HAD

1 A COLLAR AROUND HIS SHIRT, IS THAT CORRECT?

2 A. THAT WAS THE ONLY PEOPLE WE PICKED OUT THAT MET
3 HIS DESCRIPTION.

4 Q. IS THAT A YES OR A NO?

5 A. I AM TELLING YOU, THE PEOPLE WE PICKED ARE THE
6 ONES SIMILAR TO HIM IN STATUTE, AND FACE, AND
7 FACIAL HAIR IS WHAT WE USED TO PICK OUT THE
8 PHOTOGRAPHS.

9 Q. RIGHT. BUT HE'S THE ONLY ONE WITH A COLLAR?

10 A. HE'S THE ONLY ONE WITH SOMETHING ON THERE IF
11 THAT'S WHAT YOU'RE SAYING, BUT THIS IS THE BEST
12 LINEUP WE COULD PICK WITH THE PEOPLE AROUND AND
13 WHAT WE HAD TO CHOOSE FROM.

14 MR. KEARSE: YOUR HONOR, I DON'T
15 HAVE ANYTHING FURTHER.

16 THE COURT: ANYTHING FURTHER?

17 SOLICITOR BELL: JUST ONE QUESTION.

18 (NOTE: Blank lines on this page do not indicate any
19 part of record has been omitted. Headers on testimony
20 pages and hard page breaks between testimony are now
21 required by the Court. See next ensuing page for
22 sequential continuation of record.)

REDIRECT, IN CAMERA-THOMAS M. MARSHALL BY SOL. BELL

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1 REDIRECT EXAMINATION, IN CAMERA, OF THOMAS M. MARSHALL
2 BY SOLICITOR BELL:

3 Q. DETECTIVE MARSHALL, EVEN THOUGH YOU TOLD TRAVIS
4 NORTH THAT YOU CHANGED THEM AROUND, YOU COULD HAVE
5 NOT EVEN CHANGED THEM AROUND, IS THAT CORRECT?

6 A. THAT'S CORRECT.

7 SOLICITOR BELL: THAT'S ALL. THANK
8 YOU.

9 THE COURT: ANYTHING FURTHER?

10 MR. KEARSE: NOTHING FURTHER, YOUR
11 HONOR.

12 THE COURT: SIR, YOU MAY STEP DOWN.
13 ANY FURTHER WITNESSES, MR. BELL?

14 SOLICITOR BELL: NO, YOUR HONOR, I
15 THINK WE'LL STAND ON THAT.

16 THE COURT: ANY WITNESSES, MR.
17 KEARSE?

18 MR. KEARSE: NONE FROM THE DEFENSE,
19 YOUR HONOR.

20 THE COURT: I'LL BE GLAD TO HEAR
21 ARGUMENT.

22 MR. KEARSE: YOUR HONOR, I BELIEVE
23 THE LINEUP IS TAINTED. IT'S TAINTED AS TO NUMBER ONE. HE
24 HAS THE ONLY PHOTOGRAPH WE HAVE WHERE THERE IS A COLLAR.
25 AND OF COURSE, THEY WANT TO SAY THAT IT'S BLACK AND

1 WHITE, AND WE TRIED TO RUN IT UP TO THE NECK, OR
2 WHATEVER, BUT STILL, IT DEPICTS MR. BRISCOE WITH A
3 COLLAR AROUND HIS NECK, NUMBER ONE.

4 NUMBER TWO, AS TO JASSON TURNER, THE
5 DETECTIVE ADMITS THAT BEFORE HE EVEN SUBMITTED THE
6 PHOTOGRAPHIC LINEUP HE HAD THE SINGLE PHOTO OUT IN PLAIN
7 VIEW FOR JASSON TURNER, MARKED AS EXHIBIT ONE, IN HIS
8 HAND. AND THAT'S WHAT JASSON TURNER POINTS TO AND SAYS,
9 YES, THAT HIM, OR I SEE YOU'VE GOT A PICTURE OF HIM, OR
10 WHATEVER. THAT'S NOT A LINEUP, THAT'S JUST ONE
11 PHOTOGRAPH HE SHOWED TO HIM. AND THE HE SHOWS HIM A
12 PHOTOGRAPHIC LINEUP WITH THAT SAME PHOTO ENTERED INTO
13 IT. THAT'S TAINTED.

14 AS TO TRAVIS NORTH, CLEARLY RYAN
15 NORTH HAS THE OPPORTUNITY TO TELL HIM ABOUT THE LINEUP,
16 WHO TO PICK OUT. HE BRINGS HIM TWO DAYS LATER AND
17 DRIVES HIM UP THERE TO DO THE LINEUP. THEY WANT TO
18 PREVENT IT FROM BEING TAINTED BY RYAN NORTH. WELL, THE
19 THING TO DO IS JUST TO LET TRAVIS NORTH PICK WHATEVER
20 PHOTOGRAPH HE'S GOING TO PICK OUT. THEY SPECIFICALLY
21 SAY TO HIM, WE WANT YOU TO KNOW WE'VE CHANGED IT AROUND,
22 WHICH IS TO CLEARLY EXCLUDE PHOTOGRAPH NUMBER ONE TO
23 TRAVIS, AS FAR AS TRAVIS NORTH IS CONCERNED. I MEAN, IF
24 THEY'RE SAYING, WE COULD HAVE TOLD HIM WE CHANGED IT
25 AROUND AND WE DIDN'T CHANGE IT AROUND -- WELL, THEY DID

1 CHANGE IT AROUND. AND THEY COULD HAVE JUST NOT SAID
2 ANYTHING, AND ALLOWED HIM TO PICK WHATEVER PHOTOGRAPH HE
3 WANTED TO PICK. I MEAN, IT'S NOT LIKE THEY CHANGED IT
4 FROM ONE TO SIX, OR ONE TO FIVE, THEY WENT ONE TO TWO.

5 THE COURT: ACTUALLY, ACCORDING TO
6 THEIR TESTIMONY, THE WITNESS PICKED NUMBER TWO, AND THEY
7 CHANGED HIS PICTURE TO NUMBER ONE. IS THAT CORRECT?

8 SOLICITOR BELL: YES, THAT'S
9 CORRECT, YOUR HONOR.

10 MR. KEARSE: ALRIGHT, WELL, EXCUSE
11 ME, YOUR HONOR, THEY CHANGED IT FROM TWO TO ONE. THERE
12 WAS NO DRAMATIC CHANGE IN THE SEQUENCE OF THE PHOTOS,
13 BUT IT'S TAINTED, I MEAN, THEY TELL HIM ---

14 THE COURT: WELL, ALL OF THESE
15 FELLOWS KNEW EACH OTHER, DIDN'T THEY?

16 MR. KEARSE: AS FAR AS TRAVIS NORTH
17 AND RYAN NORTH ARE BROTHERS. ANTHONY FOLK IS A GOOD
18 FRIEND OF BOTH OF THEM.

19 THE COURT: BUT THE NORTHS KNEW YOUR
20 CLIENT?

21 MR. KEARSE: NO, THEY DID NOT, YOUR
22 HONOR.

23 THE COURT: BUT THEY WERE AT THE
24 SAME PLACE WITH HIM ALLEGEDLY AT THE TIME THIS TOOK
25 PLACE?

1 MR. KEARSE: ALLEGEDLY, THEY'RE
2 SAYING THAT THEY WERE AT THIS HOUSE AND THAT ---

3 THE COURT: BUT THEY OBVIOUSLY KNEW
4 HIM WELL ENOUGH TO KNOW HIS NAME, CORRECT?

5 MR. KEARSE: NO, THEY DID NOT, YOUR
6 HONOR.

7 THE COURT: DID I MISUNDERSTAND THE
8 TESTIMONY?

9 MR. KEARSE: JASSON TURNER IS THE
10 INDIVIDUAL WHO KNEW THE ACCUSED, YOUR HONOR.

11 THE COURT: OKAY. THAT'S THE PART I
12 MISUNDERSTOOD. OKAY.

13 SOLICITOR BELL: THAT'S CORRECT.

14 THE COURT: UH HUH. BUT ISN'T HE --
15 WELL, ---

16 MR. KEARSE: HE DOES NOT KNOW RYAN
17 NORTH OR TRAVIS NORTH, YOUR HONOR.

18 YOUR HONOR, I KNOW YOUR HONOR IS
19 TALKING ABOUT THE NEW LINE OF CASES, I HAVEN'T HAD A
20 CHANCE TO READ THOSE SPECIFIC CASES, YOUR HONOR, BUT I
21 KNOW THAT THE SUPREME COURT, AT LEAST, AS FAR AS RECENT
22 CASE HISTORY, WAS CONCERNED, FROWNED UPON THE USE OF
23 THESE JAIL HOUSE PHOTOGRAPHS IN PHOTOGRAPHIC LINEUPS,
24 WHICH IS ALL THAT THEY USED WHEN THEY ---

25 THE COURT: BUT WHEN HE HAD --

1 INADVERTENTLY HAD THE PHOTO IN HIS HAND HE WAS WITH MR.
2 TURNER -- I MEAN, MR. -- YES.

3 MR. KEARSE: THAT'S CORRECT, HE WAS
4 WITH MR. TURNER.

5 THE COURT: AND MR. TURNER IS THE
6 ONE THAT KNEW HIM, CORRECT?

7 MR. KEARSE: THAT'S CORRECT, YOUR
8 HONOR.

9 THE COURT: OKAY.

10 MR. KEARSE: BUT TO PARADE HIM UP
11 THERE AND SAY HE PICKED THEM OUT OF A PHOTOGRAPHIC
12 LINEUP GIVES CREDIBILITY TO MR. TURNER THAT HE DOESN'T
13 DESERVE.

14 THE COURT: WELL THEY REALLY DIDN'T
15 HAVE TO DO A LINEUP, DID THEY, IF HE KNEW HIM? DID THEY
16 EVEN REALLY HAVE TO DO A LINEUP AT ALL?

17 MR. KEARSE: WELL, I MEAN, HE
18 TESTIFIED THAT, I KNEW HIM -- THAT HE KNEW HIM, YOUR
19 HONOR. BUT THEY'RE SAYING THAT HE PICKED HIM OUT OF A
20 PHOTOGRAPHIC LINEUP. I MEAN, IF THE COURT WANTS TO LET
21 -- HE CAN IDENTIFY HIM, SAY, WE WERE FRIENDS, AND THE
22 FRIENDSHIP -- AND AS A DEFENSE, YOUR HONOR, WE'RE NOT
23 GOING TO CONTEST THAT, THAT HE KNEW HIM. AS TO TRAVIS
24 NORTH, SPECIFICALLY, IT'S TAINTED. HE CAN'T SAY, THEY
25 CAN'T SAY HE PICKED HIM OUT, AND THAT IT WAS

1 CONSTITUTIONAL. THEY TOLD HIM BASICALLY, WE'VE CHANGED
2 IT AROUND FOR YOU.

3 THE COURT: WHY WOULD THAT NOT INURE
4 TO YOUR CLIENT'S BENEFIT? IF THE OTHER PEOPLE PICKED
5 OUT TWO, AND THEORETICALLY, HE DROVE THIS OTHER PERSON
6 TO THE POLICE STATION, AND THEORETICALLY, HE TOLD HIM
7 THAT YOUR CLIENT WAS NUMBER TWO, WHY WOULD THEM SAYING
8 THAT WE CHANGED IT AROUND NOT INURE TO YOUR CLIENT'S
9 BENEFIT?

10 MR. KEARSE: IT MAY VERY WELL, YOUR
11 HONOR, BUT ---

12 THE COURT: BECAUSE IT SEEMS TO ME,
13 IF I FOLLOW ---

14 MR. KEARSE: --- WHO KNOWS WHAT GOES
15 THROUGH ---

16 THE COURT: DON'T INTERRUPT ME. IF
17 I FOLLOW YOUR LOGIC, AND I FOLLOW YOUR THEORY, THAT
18 MEANS, THEN, THAT THE WITNESS WOULD HAVE COME IN AND
19 AUTOMATICALLY PICKED NUMBER TWO, WHICH WAS THE OTHER
20 NUMBER THAT THE OTHER GENTLEMAN PICKED. RIGHT?

21 MR. KEARSE: HE COULD HAVE QUITE
22 POSSIBLY, YEAH, HAD IT BEEN TAINTED. I MEAN, IT WORKS
23 BOTH WAYS, IT MAY HELP MR. BRISCOE OUT, AND IT MAY NOT
24 HELP MR. BRISCOE OUT, YOUR HONOR, AND I DON'T WANT TO
25 TAKE THAT CHANCE THAT IT MAY NOT HELP HIM. IF THEY'RE

1 GOING TO HOLD HIM OUT, SAYING HE INDEPENDENTLY, YOU
2 KNOW, PICKED HIM OUT OF A PHOTOGRAPHIC LINEUP, HE DID
3 NOT.

4 THE COURT: ANYTHING FURTHER?

5 MR. KEARSE: NOTHING FURTHER, YOUR
6 HONOR.

7 THE COURT: MR. BELL?

8 SOLICITOR BELL: YOUR HONOR, MAY IT
9 PLEASE THE COURT, I THINK THE STANDARD FOR US IS UNDULY
10 SUGGESTIVE, WHETHER THESE PHOTOGRAPHS WERE UNDULY
11 SUGGESTIVE, AND I WOULD EVEN ARGUE THAT THE FIRST, MR.
12 TURNER'S, EVEN THOUGH IT'S PROBABLY NOT NECESSARY,
13 ACCORDING TO DETECTIVE DIXSON, HE DIDN'T SAY ANYTHING
14 ABOUT THE PHOTOGRAPH, HE JUST HAD IT AND THE GUY GOES,
15 OH, THAT'S HIM RIGHT THERE, JUST OUT OF THE BLUE. I
16 MEAN, PICKED HIM, I DON'T KNOW THAT THAT'S TAINTING, OR
17 WHATEVER, AND THEY JUST ARE TRYING TO MAKE SURE THEY
18 HAVE THE RIGHT -- THE PICTURE OF THE RIGHT INDIVIDUAL
19 BEFORE THEY GO OFF AND SHOW IT TO OTHER PEOPLE AT THAT
20 TIME.

21 AND AS TO THE COLLARED SHIRT, I
22 MEAN, THEY -- YOU KNOW, THEY WENT AS FAR AS THEY COULD
23 TO, TO GET IT BLACK AND WHITE, AND GRAINY, AND ALL THAT,
24 JUST SO THERE'S NO -- NOTHING THAT STICKS OUT. I THINK
25 THAT THEY DID A GOOD LINEUP. AND I KNOW THERE WAS A

1 RECENT CASE ABOUT A YEAR OR TWO AGO WHERE THEY BROUGHT
2 THREE PEOPLE IN AT ONE TIME AND SHOWED THEM ALL THE
3 LINEUP. AND IN THIS CASE, THEY GOT AWAY FROM THAT, THEY
4 BROUGHT THEM IN INDIVIDUALLY, AND THEY, YOU KNOW, --
5 HOPEFULLY, THE BROTHERS DIDN'T TALK, BUT THEY, YOU KNOW,
6 WORRIED ABOUT THAT, AND TOOK STEPS TO TRY TO AVOID THAT
7 TO MAKE SURE THAT THIS WAS A -- THIS WAS A GOOD LINEUP.
8 AND OF COURSE, TALKING ABOUT THE COLLARED SHIRT, WELL,
9 IT CERTAINLY DIDN'T SUGGEST ANYTHING TO MR. FOLK, OR TO
10 THE OTHER PERSON THEY PARTICULARLY SHOWED IT TO, MR.
11 CUSACK. SO, I THINK THOSE, IN AND OF ITSELF, SHOWED
12 THAT IT WASN'T SHOWING, YOU KNOW, TRYING TO POINT OUT
13 ONE PARTICULAR PERSON. YOU KNOW, OTHER PEOPLE COULDN'T
14 PICK HIM OUT THAT WERE THERE AT THE SCENE, OR WOULD BE
15 AT THE SCENE. SO, I THINK THAT THE STANDARD IS, WHETHER
16 THIS WAS UNDULY SUGGESTIVE, AND I THINK THAT THE STATE
17 HAS GONE WAY BEYOND, TO MAKE SURE THAT THE WAS A FAIR
18 LINEUP, TO HAVE SOMEBODY LOOK AT IT AND PICK OUT WHO
19 THEY PERCEIVE AS THE CORRECT PERSON.

20 THE COURT: COULD I HAVE THE PHOTOS
21 BACK, PLEASE, COURT'S ONE, TWO AND THREE.

22 UNDER THE DUE PROCESS CLAUSE,
23 "EVIDENCE OF AN IDENTIFICATION OF THE ACCUSED MUST BE
24 EXCLUDED IF THE PROCESS USED TO OBTAIN THE
25 IDENTIFICATION WAS SO UNNECESSARILY SUGGESTIVE AS TO

1 GIVE RISE TO A VERY SUBSTANTIAL LIKELIHOOD OF
2 MISIDENTIFICATION." AND THAT IS BASED ON STATE VERSUS
3 MOORE WHICH IS FOUND AT THREE FORTY-THREE SOUTH CAROLINA
4 TWO EIGHTY-TWO, FIVE FORTY SOUTHEAST, SECOND, FOUR
5 FORTY-FIVE, WHICH IS A TWO THOUSAND SUPREME COURT
6 DECISION.

7 "IN EVALUATING AN OUT OF COURT
8 IDENTIFICATION THE TRIAL COURT SHOULD FOLLOW A TWO STEP
9 PROCEDURE: FIRST, WAS THE OUT OF COURT IDENTIFICATION
10 PROCESS UNDULY SUGGESTIVE? IF THE COURT DETERMINES THAT
11 IT WAS NOT UNDULY SUGGESTIVE, IT IS NOT REQUIRED TO GO
12 ANY FURTHER INTO THE INQUIRY. HOWEVER, IF THE COURT
13 DETERMINES THAT IT IS UNDULY SUGGESTIVE, THE NEXT PART
14 OF THE TEST IS, IF SO, WAS THE IDENTIFICATION,
15 NEVERTHELESS, SO RELIABLE THAT NO SUBSTANTIAL LIKELIHOOD
16 OF MISIDENTIFICATION EXISTED," AGAIN, BASED ON MOORE.
17 "AND IN DETERMINING THE SECOND PART OF THE PRONG OF THAT
18 TEST THE COURT IS REQUIRED TO LOOK AT RELIABILITY, BEING
19 THE LYNCH PEN IN DETERMINING THE ADMISSIBILITY OF THE
20 IDENTIFICATION TESTIMONY," BASED ON STATE VERSUS JONES,
21 TWO SEVENTY-THREE SOUTH CAROLINA SEVEN TWENTY-THREE, A
22 SUPREME COURT NINETEEN SEVENTY-NINE OPINION. "AND THE
23 FACTORS TO DETERMINE RELIABILITY ARE THE WITNESS'S
24 OPPORTUNITY TO VIEW THE CRIMINAL AT THE TIME OF THE
25 CRIME, THE WITNESS'S DEGREE OF ATTENTION, THE ACCURACY

1 OF THE WITNESS'S PRIOR DESCRIPTION OF THE CRIMINAL, THE
2 WITNESS'S LEVEL OF CERTAINTY OF AT THE TIME OF
3 CONFRONTATION, AND THE TIME BETWEEN THE CRIME AND THE
4 CONFRONTATION."

5 AS REGARDS THE IDENTIFICATION
6 PROCEDURE EMPLOYED BY MR. TURNER, THE COURT WOULD FIND
7 THAT THE PROCEDURE WAS NOT SUGGESTIVE. HOWEVER, I DO
8 FIND IT TROUBLING THAT THE OFFICER, BECAUSE OF THE
9 OFFICER'S INATTENTION, THAT HE HAD A PICTURE OF THE
10 DEFENDANT IN HIS HAND. HOWEVER, AFTER CLARIFICATION OF
11 HIS TESTIMONY, IT WAS NOT JUST THE DEFENDANT'S PHOTO HE
12 HAD, HE HAD ALL OF THE PHOTOS, THE COMPOSITES THAT HE
13 USED IN THE IDENTIFICATION LINEUP, IN THE LINEUP, AND
14 INADVERTENTLY HAD THOSE WITH HIM AT THE TIME THAT HE WAS
15 GETTING READY TO SHOW THE LINEUP TO JASSON TURNER.
16 HOWEVER, WHAT THE COURT FINDS PERSUASIVE IS THE FACT
17 THAT MR. TURNER IS THE PERSON THAT PROVIDE THE STATE
18 WITH MR. BRISCOE'S NAME. OBVIOUSLY, HE KNEW HIM. SO,
19 REALLY, FOR ALL INTENTS AND PURPOSES THEY REALLY DIDN'T
20 HAVE TO DO A LINEUP, IT'S CLEAR HE KNEW HIM. THE
21 STATEMENT THAT WAS MADE WAS, "OH, I SEE YOU FOUND A
22 PICTURE OF HIM." IT WAS NOT AS IF THE OFFICER SAID,
23 "HERE'S A PICTURE OF MR. BRISCOE, CAN YOU IDENTIFY IT?"
24 AND ISOLATED IT FROM THE LINEUP. CLEARLY, IF HE WAS
25 ABLE TO SAY, "OH, I SEE YOU FOUND A PICTURE OF HIM," HE

1 KNEW HIM WELL ENOUGH TO KNOW, AND WAS SUFFICIENTLY AWARE
2 OF HIS CHARACTERISTICS TO KNOW THAT THIS WAS A PICTURE
3 OF THE PERSON WHOSE NAME HE HAD PROVIDED TO THE POLICE.
4 SO, WHILE I FIND THAT SOMEWHAT TROUBLING, AND IN OTHER
5 CIRCUMSTANCES IT MAY WELL PROBABLY, UNLESS I LOOKED AT
6 THE TOTALITY OF THE CIRCUMSTANCES AND DETERMINED THAT
7 EVEN THOUGH IT WAS SUGGESTIVE, THERE WAS NO SUBSTANTIAL
8 LIKELIHOOD OF MISIDENTIFICATION, MY OPINION MAY WELL BE
9 VERY DIFFERENT, AND THE OUTCOME MAYBE WOULD, I PROBABLY
10 CAN TELL YOU IN SOME SUBSTANTIAL LIKELIHOOD, VERY
11 DIFFERENT THAN THE DECISION I'M MAKING NOW. BUT SINCE
12 IT IS CLEAR TO ME THAT MR. TURNER KNEW HIM, I DO NOT
13 THINK THAT IT'S PROBLEMATIC FOR THIS IDENTIFICATION.

14 NOW AS REGARDS THE ADDITIONAL
15 IDENTIFICATIONS, THOSE OF MR. NORTH, BOTH TRAVIS AND
16 RYAN, AND TO SOME EXTENT THAT OF MR. FOLK IS NOT
17 RELEVANT TO THIS INQUIRY, IN THAT HE COULD NOT IDENTIFY
18 ANYONE. BUT AS REGARDS TRAVIS AND RYAN NORTH, THE COURT
19 WOULD FIND THAT THE IDENTIFICATION PROCEDURE EMPLOYED
20 WAS NOT SUGGESTIVE. I'VE LOOKED AT THE PHOTOS, AND
21 WHILE THERE HAS BEEN MUCH MADE ABOUT HIM HAVING A
22 COLLARED SHIRT ON, IN COURT'S EXHIBIT ONE YOU CAN FULLY
23 SEE THE EXTENT OF THAT COLLAR, BUT IN THE IDENTIFICATION
24 PROCEDURE, I MEAN, THE ID'S THAT ARE USED IN COURT'S TWO
25 AND THREE, YOU REALLY CAN'T SEE IT. AND THE ONLY REASON

1 I REALLY AM EVEN FOCUSING IN ON IT IS BECAUSE IT WAS
2 MENTIONED. AND IF IT WERE NOT MENTIONED TO ME I
3 PROBABLY WOULD NOT HAVE PAID ATTENTION TO IT AT ALL. IN
4 ADDITION TO THAT, IN NUMBER ONE AND NUMBER FOUR, THEY
5 BOTH HAVE SOME EVIDENCE OF SOMETHING AROUND THEIR NECKS,
6 BUT THE WAY THESE PICTURES WERE DONE THEY WERE REALLY
7 CROPPED AT THE NECK, SO THE COURT WOULD NOT FIND THAT
8 THAT IS UNDULY SUGGESTIVE.

9 IN ADDITION, THERE'S NO WAY UNLESS
10 YOU HAD INSTITUTIONAL KNOWLEDGE, THAT YOU WOULD EVEN
11 KNOW THAT THESE ARE MUG SHOTS. THE AVERAGE PERSON WOULD
12 NOT KNOW THAT, AND CERTAINLY, I WOULDN'T KNOW IT UNLESS
13 I HAD BEEN DOING THIS FOR QUITE A WHILE.

14 SO, THE COURT WOULD FIND, THE FACT
15 THAT HE HAS SOME PORTION, A VERY MINIMAL PORTION OF HIS
16 COLLAR IS SHOWING, THE COURT WOULD FIND THAT THAT IS NOT
17 SUGGESTIVE.

18 THE ISSUES BASICALLY THAT HAVE BEEN
19 RAISED BY THE DEFENDANT ARE THOSE OF CREDIBILITY THAT GO
20 TO WEIGHT, AND THOSE ARE FOR THE JURY TO DECIDE, NOT AT
21 THRESHOLD FOR THE COURT TO DETERMINE. THE PURPOSE OF THE
22 COURT'S INQUIRY IS TO DETERMINE IF THE POLICE IN ANY WAY
23 HAS OVERSTEPPED THEIR BOUNDARIES IN DEVELOPING A LINEUP
24 PROCEDURE, IDENTIFICATION PROCEDURE THAT WAS
25 UNNECESSARILY SUGGESTIVE, WHICH GIVES RISE TO A

1 SUBSTANTIAL LIKELIHOOD OF MISIDENTIFICATION OF THIS
2 DEFENDANT AS THE PERSON WHO COMMITTED THE OFFENSE.

3 NOW, AS REGARDS SOME DISCUSSION
4 ABOUT TELLING -- LET'S SEE, THE SECOND GENTLEMAN WHO WAS
5 BROUGHT, WHICH WAS TRAVIS NORTH, THAT THEY HAD CHANGED
6 THE PHOTOS AROUND, THE COURT WOULD NOT -- WOULD FIND
7 THAT THAT PROCEDURE WAS NOT UNDULY, UNNECESSARILY
8 SUGGESTIVE -- WAS NOT UNDULY SUGGESTIVE. QUITE FRANKLY,
9 I THINK THE FACT THAT THEY SAID THAT TO HIM INURES TO
10 HIS BENEFIT, AND IT MILITATED AGAINST ANY CHANCE THAT
11 RYAN NORTH HAD TOLD HIM THAT PREVIOUSLY HE HAD SELECTED
12 NUMBER TWO. AND I DON'T THINK IT WOULD HAVE MATTERED
13 WHETHER THEY CHANGED ONE AND TWO, SIX AND TWO, FOUR AND
14 TWO, I DON'T THINK THAT IT WOULD HAVE MADE ANY
15 SUBSTANTIAL DIFFERENCE. I THINK THE FACT THAT THEY DID
16 CHANGE IT INURES TO THE DEFENDANT'S BENEFIT, AND I WOULD
17 NOT FIND THAT THAT PROCESS WAS UNDULY SUGGESTIVE.

18 AS REGARDS THE IDENTIFICATION WAS
19 MADE BY MR. TURNER, I THINK THAT I HAVE ALREADY, JUST
20 OUT OF AN ABUNDANCE OF CAUTION, I MAY COVER THE SECOND
21 PRONG OF THE TEST JUST BECAUSE THE DETECTIVE HAD A
22 PICTURE OF THE DEFENDANT. AND THAT IS, IF SO, WAS THE
23 IDENTIFICATION NEVERTHELESS SO RELIABLE THAT NO
24 SUBSTANTIAL LIKELIHOOD OF MISIDENTIFICATION EXISTED,
25 WITH RELIABILITY, OF COURSE, BEING THE LYNCH PEN IN

1 DETERMINING THE ADMISSIBILITY -- ACTUALLY, I'M SORRY,
2 I'M MIXING APPLES AND ORANGES, AND I APOLOGIZE. IF SO,
3 WAS THE ID NEVERTHELESS SO RELIABLE THAT NOT SUBSTANTIAL
4 LIKELIHOOD OF MISIDENTIFICATION EXISTED? IN LOOKING AT
5 THE RELIABILITY FACTORS, THE WITNESS'S OPPORTUNITY TO
6 VIEW THE CRIMINAL AT THE TIME OF THE CRIME, I WILL ONLY
7 HAVE TO EXTRAPOLATE THAT HE WAS AN EYE WITNESS, BECAUSE
8 THERE'S BEEN NO TESTIMONY AS TO EXACTLY DURING THIS
9 PROCEEDING, THIS IN CAMERA PROCEEDING, AS TO THE BLOW BY
10 BLOW DETAILS THAT ALLEGEDLY HAPPENED ON THAT EVENING,
11 BUT I WOULD HAVE TO IMAGINE THAT HE WAS AN EYE WITNESS,
12 SO CERTAINLY, HE HAD A GREAT DEAL OF OPPORTUNITY TO VIEW
13 THIS DEFENDANT AT THE TIME OF THE CRIME. HIS DEGREE OF
14 ATTENTION, I WOULD IMAGINE WOULD HAVE BEEN ACUTE BECAUSE
15 IT INVOLVED A SHOOTING. THE ACCURACY OF THE WITNESS'S
16 PRIOR DESCRIPTION, THAT IS NOT APPLICABLE BECAUSE THERE
17 IS NO INDICATION, OTHER THAN THE FACT THAT HE PROVIDED
18 MR. BRISCOE'S NAME. SO THAT WOULD INDICATE THAT HE KNEW
19 HIM. THE WITNESS'S LEVEL OF CERTAINTY AT THE TIME OF
20 THE CONFRONTATION. AND HE CERTAINLY WAS CERTAIN WHEN HE
21 IDENTIFIED HIM, BASED ON THE TESTIMONY OF THE OFFICERS.
22 AND THERE WAS A FAIRLY SHORT TIME BETWEEN THE CRIME AND
23 THE CONFRONTATION, AS REQUIRED BY RELIABILITY FACTOR
24 NUMBER FIVE. WEIGHING THOSE FACTORS, THE COURT WOULD
25 DETERMINE AND FIND THAT THE IDENTIFICATION WAS

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1 NEVERTHELESS SO RELIABLE THAT NO SUBSTANTIAL LIKELIHOOD
2 OF MISIDENTIFICATION EXISTED, WITH THE LYNCH PEN OF
3 THAT, HOWEVER, BEING THAT IT IS APPARENT THAT HE KNEW
4 THE DEFENDANT AND HAD SOME RELATIONSHIP WITH HIM. SO,
5 REGARDLESS OF A LINEUP, HE STILL WOULD HAVE BEEN IN A
6 POSITION TO HAVE IDENTIFIED THE DEFENDANT FOR THE
7 PURPOSES OF THIS TRIAL.

8 THEREFORE, THE MOTION TO SUPPRESS
9 THE IDENTIFICATIONS IS DENIED.

10 IS THERE ANYTHING FURTHER FOR THE
11 RECORD FROM THE STATE?

12 SOLICITOR BELL: NOTHING FROM THE
13 STATE, YOUR HONOR.

14 THE COURT: FROM THE DEFENSE?

15 MR. KEARSE: NOTHING FURTHER, YOUR
16 HONOR.

17 THE COURT: ARE WE READY TO PROCEED
18 WITH OPENING ARGUMENTS AND THE COURT'S OPENING CHARGE TO
19 THE JURY?

20 MR. KEARSE: YOUR HONOR, AS FAR AS
21 THE DEFENDANT IS CONCERNED, THE -- IF THE COURT RECALLS
22 IN CHAMBERS, I MADE MENTION THAT THE DEFENDANT WANTED TO
23 MAKE A MOTION FOR A CHANGE OF VENUE.

24 THE COURT: OH, YOU KNOW WHAT, DID
25 YOU WAIVE THAT, HOWEVER, THAT YOU DIDN'T -- YOU DIDN'T

1 MENTIONED IT WHEN WE WERE PICKING THE JURY.

2 MR. KEARSE: I SURE DIDN'T.

3 THE COURT: I THINK YOU MAY HAVE
4 WAIVED IT NOW.

5 MR. KEARSE: I KNOW YOU ---

6 THE COURT: I MEAN, YOU CAN MAKE IT
7 IF YOU WANT TO, TO PRESERVE IT, BUT REALLY ---

8 MR. KEARSE: I'D LIKE TO PRESERVE
9 IT, I MEAN, EVEN THOUGH THEY HAVEN'T BEEN -- HAVE THEY
10 BEEN SWORN IN?

11 THE COURT: I DON'T THINK -- YEAH,
12 I CAN'T -- PARDON ME?

13 MR. KEARSE: I DON'T THINK THE JURY
14 HAS BEEN SWORN IN.

15 THE COURT: THEY HAVEN'T BEEN SWORN,
16 BUT THERE'S CERTAIN CRITERIA THAT I NEED TO CONSIDER
17 WHILE I'M SELECTING THE JURY BECAUSE ULTIMATELY IT IS
18 THAT PROCESS THAT DETERMINES WHETHER I CHANGE VENUE OR
19 NOT, BECAUSE IT GOES TO MY ABILITY TO PICK AN UNBIASED
20 JURY.

21 QUITE FRANKLY, I DON'T THINK YOUR
22 CLIENT HAS ANY BASIS FOR A CHANGE OF VENUE, BUT I'LL
23 ALLOW YOU TO GO AHEAD AND MAKE THE MOTION.

24 MR. KEARSE: YOUR HONOR, YOU KNOW
25 THE MOTION IS ---

1 THE COURT: ESPECIALLY WHEN THERE'S
2 ONLY ONE PERSON THAT STOOD -- AND SHE'S AN EMPLOYEE OF
3 THE POST AND COURRIER, AND SHE COULDN'T EVEN REMEMBER
4 WHAT SHE READ. SO, ---

5 MR. KEARSE: THANK YOU, YOUR HONOR,
6 I UNDERSTAND THAT, BUT FOR PURPOSES OF THE RECORD I
7 WOULD LIKE TO MAKE THAT MOTION, YOUR HONOR.

8 THE COURT: YOU MAY --- ANY
9 EXCEPTION FROM THE STATE?

10 SOLICITOR BELL: NONE, YOUR HONOR.

11 THE COURT: YOU MAY PROCEED.

12 MR. KEARSE: IT'S JUST QUITE SIMPLE,
13 YOUR HONOR, THE DEFENDANT CONTENDS THAT HIS CASE HAS
14 RECEIVED SOME PUBLICITY, I WON'T SAY A GOOD BIT, I DON'T
15 WANT TO OVER BLOW IT, BUT IT HAS BEEN ON TELEVISION,
16 THIS WAS BACK IN TWO THOUSAND AND THREE, I BELIEVE, AND
17 THERE WERE A POST AND COURIER ARTICLES WRITTEN AND OTHER
18 LOCAL NEWSPAPERS THAT WROTE ABOUT IT, AND THERE WERE
19 SOME STATEMENTS GIVEN BY SOME OF THE STATE'S WITNESSES,
20 SPECIFICALLY THE INVESTIGATORS, THAT THEY WERE
21 ABSOLUTELY POSITIVE THAT THEY HAD FOUND THE ASSAILANT,
22 WHICH INDICATED THAT IT WAS MR. BRISCOE. THAT BEING THE
23 CASE, WE FEEL THAT THE PROLIFERATION, THIS MATERIAL IN
24 THE COMMUNITY WOULD ALLOW HIM, OR ENTITLE HIM, YOUR
25 HONOR, TO CHANGE VENUE OF THIS MATTER SUCH THAT HE COULD

1 NOT OBTAIN A FAIR AND IMPARTIAL TRIAL IN THE COUNTY OF
2 DORCHESTER.

3 THE COURT: OKAY. WOULD YOU LIKE TO
4 RESPOND?

5 SOLICITOR BELL: YOUR HONOR, ALL I
6 WOULD SAY IS, I THINK IT'S THAT THE COURT DURING
7 SELECTION OF THE JURY IS REQUIRED TO SEE IF A JURY CAN
8 BE PICKED. AND I THINK YOU ASKED THE QUESTION, IF
9 ANYBODY HAD HEARD OR SEEN OR READ ANYTHING ABOUT THIS
10 CASE, AND AS STATED, AND AS WE HAVE ON THE RECORD, THERE
11 WAS ONE PERSON THAT SAID THAT SHE MIGHT HAVE HEARD
12 SOMETHING BECAUSE SHE WAS A PROOF READER OR WHATEVER, OR
13 AN EDITOR OF THE POST AND COURIER AND SHE THOUGHT SHE
14 WOULD HAVE HAD TO HAVE READ IT, BUT SHE COULDN'T
15 REMEMBER THE SPECIFIC INCIDENT. SO, I THINK, YOU KNOW,
16 WE CERTAINLY WERE ABLE TO GET A JURY, AND I KNOW SHE'S
17 NOT ON -- I DON'T BELIEVE SHE'S ON THE JURY ANYWAY. SO,
18 AS FAR AS I KNOW, NO ONE INDICATED THAT THEY KNEW
19 ANYTHING ABOUT THIS CASE. SO, I DON'T SEE WHY A CHANGE
20 OF VENUE IS WARRANTED.

21 THE COURT: ANYTHING FURTHER?

22 MR. KEARSE: YOUR HONOR, THERE IS
23 ONLY ONE OTHER ISSUE I WANT, AND IT'S KIND OF ---

24 THE COURT: WELL, NO, I NEED TO
25 ADDRESS -- ANYTHING FURTHER REGARDING THE MOTION FOR

1 CHANGE OF VENUE?

2 MR. KEARSE: OH, NO, AS TO THAT, NO,
3 MA'AM, I'M SORRY. I KIND OF JUMPED THE GUN.

4 THE COURT: THAT'S OKAY.

5 THE DECISION TO CHANGE VENUE IS AT
6 THE SOUND DISCRETION OF THE TRIAL COURT. THAT IS BASED
7 ON STATE VERSUS PATTERSON, THREE TWENTY-FOUR, SOUTH
8 CAROLINA -- A PAGE IS MISSING HERE -- IT'S FIVE
9 SOMETHING. I'LL GIVE THE SOUTHEAST, SECOND CITE, FOUR
10 EIGHTY-TWO SOUTHEAST, SECOND, SEVEN SIXTY, WHICH IS A
11 NINETEEN NINETY-SEVEN SUPREME COURT DECISION, AND STATE
12 VERSUS CALDWELL, WHICH IS THREE HUNDRED SOUTH CAROLINA
13 FOUR NINETY-FOUR, A NINETEEN NINETY SUPREME COURT
14 DECISION.

15 THE FACT THAT THERE HAS PRETRIAL
16 PUBLICITY IN A CASE IS NOT DETERMINATIVE IN WHETHER A
17 CHANGE IN VENUE IS APPROPRIATE. THE DISPOSITIVE
18 QUESTION IS WHETHER THE JURY CAN PUT ASIDE ANY
19 PREDISPOSITIONS THAT THEY MAY HAVE DEVELOPED AS A RESULT
20 OF PRETRIAL PUBLICITY. AND WHAT HAPPENS, AND THAT'S WHY
21 I INDICATED THAT IT WAS NOT RAISED DURING JURY VOIR DIRE
22 OR QUALIFICATION OF THIS PARTICULAR JURY, BECAUSE
23 GENERALLY WHAT WE DO, IN A CASE WHERE THERE IS HIGH
24 PROFILE AND A LOT OF PUBLICITY YOU GENERALLY DO, WHERE
25 YOU HAVE A LOT OF JURORS STANDING, YOU ASK THEM WHAT, IN

1 FACT, THEY WERE EXPOSED TO, WHETHER AS A RESULT OF WHAT
2 THEY'VE BEEN EXPOSED TO THEY'VE FORMED A FIXED OPINION
3 ABOUT THE CASE, AND IF THEY CAN REMAIN FAIR AND
4 IMPARTIAL AND RENDER A DECISION BASED SOLELY ON THE
5 EVIDENCE AND THE LAW AS THE COURT WILL CHARGE. IN
6 RESPONSE TO THE QUESTION OF PRETRIAL PUBLICITY ONLY ONE
7 WITNESS STOOD, AND SHE WAS NUMBER THIRTY-SEVEN, SHE WAS
8 AN EMPLOYEE OF THE POST AND COURIER, AND SHE IS A PAGE
9 DESIGNER. SHE INDICATED THAT SHE KNEW THE PAPER WOULD
10 HAVE PROCESSED SOMETHING ABOUT THIS CASE, SHE HAD NO
11 INDEPENDENT RECOLLECTION OF WHAT WAS SAID OR NOT SAID,
12 BUT OUT OF ABUNDANCE OF CAUTION SHE DISCLOSED THIS
13 INFORMATION SO THAT THE COURT COULD BE AWARE THAT SHE,
14 IN FACT, MAY HAVE BEEN EXPOSED. BUT EVEN IN RESPONSE TO
15 THE COURT'S INQUIRY SHE INDICATED THAT SHE HAD NOT
16 FORMED A FIXED OPINION ABOUT THE CASE, AND THAT SHE
17 COULD BE FAIR AND IMPARTIAL. AND I GUESS TO SOME
18 EXTENT, REALLY, QUITE FRANKLY, IT'S MOOT, BECAUSE SHE
19 WAS NOT SELECTED FOR THIS JURY, NOR DID SHE EVEN COME UP
20 DURING THE STRIKE PROCESS FOR SELECTION ON THIS JURY.

21 IN RESPONSE TO THE PUBLICITY
22 QUESTION NO OTHER JUROR STOOD, WHICH I THINK SPEAKS
23 VOLUMES AS TO WHETHER, IN FACT, THE LEVEL OF PRETRIAL
24 PUBLICITY REGARDING THIS CASE.

25 MERE EXPOSURE TO PRETRIAL PUBLICITY

1 DOES NOT AUTOMATICALLY DISQUALIFY A PROSPECTIVE JUROR,
2 AND AGAIN, AS I'VE INDICATED, THE RELEVANT QUESTION IS
3 NOT WHETHER THE COMMUNITY REMEMBERED THE CASE, BUT
4 WHETHER THE JURORS HAD SUCH FIXED OPINIONS THAT THEY
5 COULD NOT IMPARTIALLY JUDGE THE GUILT OR INNOCENCE OF
6 THE DEFENDANT, BASED ON STATE VERSUS TUCKER, A NINETEEN
7 NINETY-SIX SUPREME COURT CASE.

8 AND AS I'VE ALREADY INDICATED, IF A
9 CHANGE IN VENUE IS SOUGHT BASED ON PRETRIAL PUBLICITY
10 THE GENERAL PRACTICE IS TO POSTPONE RULING ON THE MOTION
11 UNTIL THE VOIR DIRE IS COMPLETE. AND THAT IS BASED ON
12 STATE VERSUS MANNING, A NINETEEN NINETY-SEVEN SUPREME
13 COURT CASE.

14 THE MOVING PARTY BEARS THE BURDEN OF
15 SHOWING ACTUAL JUROR PREJUDICE AS A RESULT OF SUCH
16 PUBLICITY. AND IN DECIDING WHETHER A CHANGE OF VENUE IS
17 APPROPRIATE, THE COURT CANNOT RELY ON BELIEFS, OPINIONS,
18 AND CONCLUSIONS.

19 GIVE ME ONE MOMENT, I NEED TO LOOK
20 AT A STATUTE.

21 ANY MOTION FOR A CHANGE OF VENUE IS
22 DENIED. THERE -- THE MOVING PARTY HAS FAILED TO MEET
23 HIS BURDEN THAT HE CANNOT BE GIVEN A FAIR TRIAL IN THIS
24 AREA. IN ADDITION, HE HAS NOT MET HIS BURDEN OF PROOF
25 REGARDING PRETRIAL PUBLICITY, NOR HAS HE MET HIS BURDEN

1 THAT THE JURORS THAT HAVE BEEN SELECTED IN THIS CASE
2 HAVE FORMED SUCH A FIXED OPINION ABOUT THIS CASE THAT
3 THEY CANNOT BE FAIR AND IMPARTIAL REGARDING THE MERITS
4 OF THIS ACTION.

5 THE COURT HAS ALSO REVIEWED
6 SEVENTEEN, TWENTY-ONE, EIGHTY, WHICH IS THE APPLICABLE
7 STATUTE REGARDING CHANGE IN VENUE. THAT REALLY PROVIDES
8 FOR SEIZURE FOR CHANGE IN VENUE, IT DOES NOT, OF COURSE,
9 PROVIDE THE COURT WITH ANY CRITERIA THAT IS TO BE
10 EMPLOYED IN ITS ANALYSIS.

11 OKAY, IS THERE ANYTHING FURTHER FOR
12 THE RECORD REGARDING THE MOTION?

13 MR. KEARSE: YOUR HONOR, I'D LIKE TO
14 SUBMIT, JUST IN SUPPORT OF THAT MOTION, A COPY OF THE
15 ARTICLE THAT ---

16 THE COURT: PARDON ME?

17 MR. KEARSE: A COPY OF THE ARTICLE
18 THAT WAS DONE IN THE POST AND COURIER.

19 THE COURT: ANY EXCEPTIONS?

20 SOLICITOR BELL: NONE, YOUR HONOR.

21 THE COURT: IT WILL BE MARKED AS A
22 COURT'S EXHIBIT. AND WHAT YEAR IS THAT FROM? I'M
23 SORRY, MADAM COURT REPORTER, I DIDN'T MEAN TO DO THAT TO
24 YOU.

25 MR. KEARSE: I BELIEVE IT'S TWO

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1 THOUSAND -- IT APPEARS TO BE AUGUST TWENTY OF TWO
2 THOUSAND FOUR, YOUR HONOR.

3 COURT REPORTER: THIS WILL BE
4 COURT'S FOUR.

5 (Court's Exhibit Four
6 marked and filed.)

7 THE COURT: ANYTHING FURTHER BEFORE
8 WE PROCEED WITH OPENING ARGUMENTS AND SWEARING OF THE
9 JURY?

10 MR. KEARSE: YOUR HONOR, THERE IS
11 ONE MORE MATTER AS TO ADMISSIBILITY, IT SHOULD BE REAL
12 QUICK.

13 THE COURT: UH HUH.

14 MR. KEARSE: DURING THE COURSE OF
15 THE PHOTOGRAPHIC LINEUP, AND I NEED, I GUESS I'M KIND OF
16 BACK TRACKING TO MAKE SURE I MAKE THE, GET THE RECORD --
17 TRAVIS NORTH WAS PROVIDED WITH AND UNDERTOOK A POLYGRAPH
18 EXAM. IT'S MY UNDERSTANDING THAT HE'S FAILED THAT
19 EXAMINATION.

20 THE COURT: UH HUH.

21 MR. KEARSE: WE WOULD LIKE TO KNOW,
22 YOUR HONOR, WHETHER OR NOT WE WILL BE ABLE TO CROSS-
23 EXAMINE HIM AS TO THAT PARTICULAR EXAMINATION.

24 THE COURT: YOU KNOW, YOU'RE GOING
25 TO HAVE TO -- AND I HAVE TO, I THINK THAT'S SOMETHING I

1 CAN TAKE UP BEFORE HE TESTIFIES. I DON'T KNOW THAT
2 THAT'S URGENT NOW, BUT YOU CERTAINLY WOULD NOT --
3 NEITHER OF YOU WOULD GO INTO THAT, I WOULD PRECLUDE YOU
4 FROM GOING INTO IT IN OPENING, BUT OF COURSE, POLYGRAPH
5 EXAMINATIONS, IN AND OF THEMSELVES, ARE NO LONGER PER SE
6 INADMISSIBLE. BUT I NEED TO READ THAT CASE, BECAUSE YOU
7 MAY HAVE TO MEET SOME SCIENTIFIC BURDEN IN BEING ABLE TO
8 ADMIT THAT.

9 MR. KEARSE: THEN I WILL RESERVE IT
10 UNTIL THE STATE GETS READY TO -- I DON'T KNOW IF HE'S
11 GOING TO PUT THEM UP TODAY OR NOT, IF HE WOULD TIME.

12 SOLICITOR BELL: I'M GOING TO PUT
13 THEM UP ---

14 MR. KEARSE: OF COURSE, TRAVIS NORTH
15 DID AND RYAN NORTH ACTUALLY DID NOT, HE REFUSED, YOUR
16 HONOR. SO, THE ONLY QUESTIONNAIRE WOULD BE, IS THERE
17 TOO ---

18 THE COURT: YEAH, MY GUT IS THAT
19 YOU'RE NOT GOING TO BE ABLE TO ASK HIM ABOUT IT, BUT I
20 NEED TO RESEARCH THAT.

21 MR. KEARSE: THAT WOULD BE ---

22 THE COURT: BECAUSE I DON'T KNOW
23 THAT YOU'RE GOING TO HAVE WHAT YOU NEED TO MEET THE
24 BURDEN FOR IT TO EVEN COME IN. BUT I NEED TO READ THAT
25 CASE AGAIN. I'LL RESERVE RULING ON THAT, BUT I -- MY

1 GUT FEELING AT THIS MOMENT IS THAT YOU'RE NOT GOING TO
2 BE ABLE TO ASK HIM ABOUT THAT.

3 MR. KEARSE: THANK YOU, YOUR HONOR.

4 THE COURT: YOU'RE WELCOME.

5 NOW, FOR PURPOSES OF THE RECORD, AND
6 SO THAT WE WON'T HAVE TO HAVE THE BENEFIT OF HIND SIGHT
7 LATER, MR. BRISCOE, I NEED TO MAKE SURE FOR THE RECORD
8 THAT YOU ARE CLEAR ON THE OFFERS THAT HAVE BEEN EXTENDED
9 TO YOU FROM THE STATE OF SOUTH CAROLINA, AND THAT YOUR
10 LAWYER, MR. KEARSE, HAS COMMUNICATED THOSE OFFERS TO
11 YOU, AND THAT YOU, IN FACT, HAVE REJECTED THEM. AND I
12 NEED TO BE CLEAR FOR THIS RECORD THAT YOU UNDERSTAND
13 THAT ONCE WE PROCEED WITH THIS TRIAL AND THE JURY IS
14 SWORN, THE STATE WILL TAKE THOSE OFFERS OFF THE TABLE
15 AND THEY WILL NO LONGER BE AVAILABLE.

16 DEFENDANT BRISCOE: I UNDERSTAND.

17 THE COURT: AND I NEED TO MAKE SURE
18 THAT YOU UNDERSTAND THAT.

19 MR. KEARSE, IS IT CORRECT THAT YOU
20 HAVE COMMUNICATED THE STATE'S LAST OFFER TO YOUR CLIENT?

21 MR. KEARSE: YES, I HAVE, YOUR
22 HONOR.

23 THE COURT: WHICH I BELIEVE WAS
24 VOLUNTARY MANSLAUGHTER, WITH A RECOMMENDED CAP OF TWENTY
25 YEARS?

1 MR. KEARSE: THAT'S CORRECT, YOUR
2 HONOR.

3 THE COURT: OKAY. AND HE WISHES TO
4 REJECT THAT OFFER, IS THAT CORRECT?

5 MR. KEARSE: THAT IS CORRECT, YOUR
6 HONOR.

7 THE COURT: SIR, DO YOU UNDERSTAND
8 WHAT I'VE EXPLAINED TO YOU, FOR THE PURPOSES OF THE
9 RECORD, SHORTLY AGO?

10 DEFENDANT BRISCOE: YES, MA'AM.

11 THE COURT: AND YOU UNDERSTAND THAT
12 ONCE THIS TRIAL BEGINS THE STATE WILL TAKE THOSE OFFERS
13 OFF THE TABLE AND THEY WILL NO LONGER BE AVAILABLE TO
14 YOU?

15 DEFENDANT BRISCOE: YES, MA'AM.

16 THE COURT: AND YOU'RE DOING THAT
17 FREELY AND VOLUNTARILY?

18 DEFENDANT BRISCOE: YES, MA'AM.

19 THE COURT: OKAY. LET'S PROCEED.

20 MR. KEARSE: YOUR HONOR, I'D LIKE
21 THE RECORD TO ALSO REFLECT THAT I EXPLAINED TO HIM ABOUT
22 THE EIGHTY-FIVE PER CENT.

23 THE COURT: DID YOU ALSO EXPLAIN TO
24 HIM THAT WITH HIS EXPOSURE, IF HE WERE TO RECEIVE A LIFE
25 SENTENCE, THAT IN SOUTH CAROLINA THAT IS DAY FOR DAY,

1 THERE IS NO PAROLE OR PROBATION FROM THAT?

2 MR. KEARSE: YES, MA'AM.

3 THE COURT: OKAY. I JUST WANTED TO
4 MAKE SURE YOU UNDERSTOOD. I JUST HAD A TERM OF PCR'S,
5 THAT'S THE ONLY REASON I'M ASKING THESE QUESTIONS.

6 MR. KEARSE: THANK YOU, YOUR HONOR.

7 THE COURT: YOU'RE WELCOME. BECAUSE
8 THE COURT TAKES NO POSITION ONE WAY OR THE OTHER, IT
9 DOESN'T MATTER TO ME, I'M GOING TO BE HERE EITHER WAY.

10 ALRIGHT. PLEASE BRING IN THE JURY.

11 AND MADAM CLERK, WHEN THEY COME --
12 OH, YOU KNOW, I NEED TO PICK A FOREPERSON, I JUST
13 THOUGHT ABOUT THAT.

14 (Whereupon, the following
15 takes place in the
16 presence of the jury.)

17 THE COURT: LADIES AND GENTLEMEN, IF
18 YOU WOULD STAND AND RAISE YOUR RIGHT HANDS TO BE SWORN.
19 (Whereupon, the jury is
20 duly sworn and impaneled.)

21 THE COURT: THANK YOU, LADIES AND
22 GENTLEMEN, I'M GOING TO APPOINT A FOREPERSON, NUMBER ONE
23 ELEVEN. IS THAT YOU, SIR?

24 JUROR: YES, SIR.

25 THE COURT: YOU ARE APPOINTED, YOU

1 GOT -- SINCE YOU WERE CLOSEST TO THE HOT SEAT, BY THE
2 ODDS, I'M APPOINTING YOU AS FOREPERSON OF THE JURY.

3 THE FOREPERSON IS YOUR SPOKES-PERSON
4 HERE IN THE COURTROOM, THEY DON'T HAVE ANY GREATER VOTE
5 OR VOICE THAN YOU DO, IT'S AN ADMINISTRATIVE FUNCTION,
6 THEY PRESIDE DURING JURY DELIBERATIONS AND THEY ALSO
7 COMMUNICATE WITH THE COURT IN THE EVENT THAT THERE ARE
8 ANY QUESTIONS DURING JURY DELIBERATIONS. AND SOMETIMES
9 I ALLOW JURIES TO ELECT THEIR FOREPERSON, BUT IN THE
10 INTEREST OF TIME I JUST WENT AHEAD AND APPOINTED
11 SOMEBODY. AGAIN, THEY DON'T HAVE ANY GREATER VOTE OR
12 VOICE THAN YOU DO, IT IS SIMPLY AN ADMINISTRATIVE
13 FUNCTION.

14 SIR, I WOULD NEED YOU TO TAKE THIS
15 FIRST SEAT. YOU ARE THE ONLY PERSON THAT HAS TO HAVE
16 THE SAME SEAT THE ENTIRE COURSE OF THE TRIAL.

17 IF YOU WILL BEAR WITH US, THE
18 BAILIFFS ARE GETTING PADS AND PENCILS FOR ME SO THAT IN
19 THE EVENT THAT YOU WOULD LIKE TO TAKE NOTES YOU WILL BE
20 ABLE TO, AND I WILL GIVE YOU SOME ADDITIONAL INSTRUCTION
21 REGARDING THAT AT THE CONCLUSION OF MY INITIAL
22 INSTRUCTION TO YOU.

23 LADIES AND GENTLEMEN OF THE JURY,
24 THE CASE THAT WE'RE ABOUT TO TRY IS THE STATE OF SOUTH
25 CAROLINA VERSUS STEVEN CHRISTOPHER BRISCOE. WHAT I WILL

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1 NOW SAY IS INTENDED TO SERVE AS AN INTRODUCTION TO THE
2 TRIAL OF THIS CASE. I WILL INSTRUCT YOU LATER ON THE LAW
3 APPLICABLE TO THIS CASE BEFORE YOU RETIRE TO CONSIDER
4 YOUR VERDICT. THIS IS MERELY AN EXPLANATION OF THE
5 PROCEDURE THAT WE WILL FOLLOW IN THE TRIAL OF THIS CASE
6 SO THAT YOU MAY BETTER UNDERSTAND WHAT IS HAPPENING.

7 THE DEFENDANT IS CHARGED BY AN
8 INDICTMENT FILED WITH THIS COURT WITH THE CRIME OF
9 MURDER, THE ELEMENTS OF WHICH I WILL EXPLAIN TO YOU
10 AFTER ALL OF THE EVIDENCE AND DURING THE COURT'S CHARGE
11 ON THE LAW. THE INDICTMENT IS SIMPLY THE CHARGE BY
12 WHICH THIS CASE IS BROUGHT INTO COURT AND IT IS NOT IN
13 ANY SENSE EVIDENCE OF ANY OF THE ALLEGATIONS IT
14 CONTAINS.

15 THE DEFENDANT HAS PLED NOT GUILTY TO
16 THE INDICTMENT, THE STATE THEREFORE HAS THE BURDEN OF
17 PROVING EACH AND ELEMENT OF THE INDICTMENT BEYOND A
18 REASONABLE DOUBT. AND IT WILL BE YOUR DUTY, LADIES AND
19 GENTLEMEN, TO DECIDE WHETHER THE STATE HAS MET THAT
20 BURDEN OR NOT.

21 YOUR PURPOSE AS JURORS IS TO FIND
22 AND DETERMINE THE FACTS, BECAUSE YOU ARE THE SOLE JUDGES
23 OF THE FACTS IN THIS CASE. IF AT ANYTIME I MAKE ANY
24 COMMENT REGARDING THE FACTS YOU MUST DISREGARD IT. YOU
25 ARE TO DETERMINE THE FACTS FROM THE TESTIMONY YOU HEAR

1 AND THE OTHER EVIDENCE INTRODUCED IN COURT. IT IS UP TO
2 YOU TO DETERMINE THE INFERENCES WHICH YOU FEEL MAY
3 PROPERLY BE DRAWN FROM THE EVIDENCE. IT IS ESPECIALLY
4 IMPORTANT THAT YOU PERFORM YOUR DUTY OF DETERMINING THE
5 FACTS DILIGENTLY AND CONSCIENTIOUSLY, BECAUSE ORDINARILY
6 THERE IS NO WAY TO CORRECT AN ERRONEOUS DETERMINATION OF
7 FACTS MADE BY A TRIAL JURY.

8 ON THE OTHER HAND, AND WITH EQUAL
9 EMPHASIS, THE SAME LAW THAT MAKES YOU THE JUDGES OF THE
10 FACTS MAKES ME THE JUDGE OF THE LAW. THE LAW IS GIVEN
11 BY THE COURT AS THE ONLY LAW YOU MAY CONSIDER. YOU MUST
12 ACCEPT AND FOLLOW IT EVEN THOUGH YOU MAY DISAGREE WITH
13 IT. I CANNOT TELL YOU WHAT THE FACTS ARE, AND YOU
14 CANNOT DISAGREE WITH ME ABOUT WHAT YOU THINK THE LAW IS
15 OR WHAT YOU THINK THE LAW OUGHT TO BE.

16 YOUR JOB IS TO TAKE THE LAW AS I
17 WILL GIVE IT TO YOU AND APPLY IT TO THE FACTS AS YOU
18 FIND THEM FROM THE TESTIMONY OF THE WITNESSES AND ANY
19 OTHER EVIDENCE THAT IS INTRODUCED. AFTER DOING THAT YOU
20 WILL RENDER YOUR VERDICT, A TRUE AND JUST VERDICT UNDER
21 THE SOLEMN OATH THAT YOU HAVE JUST TAKEN AS JURORS IN
22 THIS CASE.

23 UNTIL I ADVISE YOU TO BEGIN YOUR
24 DELIBERATIONS YOU MUST NOT DISCUSS THIS CASE WITH
25 ANYONE, INCLUDING YOUR FELLOW JURORS, FRIENDS, FAMILY

1 MEMBERS, AND ANYONE INVOLVED IN THIS CASE. AFTER THE
2 CASE IS SUBMITTED TO YOU, YOU MUST DISCUSS IT ONLY IN
3 THE JURY ROOM AMONG YOUR FELLOW JURORS. THE ATTORNEYS
4 AND THE PARTIES IN THIS CASE HAVE BEEN ADVISED NOT TO
5 SPEAK TO YOU AT ALL, SO IF YOU SHOULD SEE THEM AROUND
6 THE COURT HOUSE AND THE PARKING GARAGE OR AT RESTAURANT
7 AND THEY DON'T SPEAK TO YOU PLEASE DON'T THINK THAT THEY
8 ARE BEING RUDE, THEY ARE SIMPLY FOLLOWING THE COURT'S
9 INSTRUCTIONS.

10 DURING THE TRIAL YOU ARE STRICTLY
11 INSTRUCTED THAT YOU ARE NOT TO READ, LISTEN TO, OR WATCH
12 ANY NEWS REPORTS ABOUT THIS CASE. THIS INCLUDES
13 ANYTHING THAT MIGHT BE IN NEWSPAPERS, ON THE RADIO,
14 TELEVISION, OR OTHERWISE. IN ADDITION, YOU ARE
15 STRICTLY INSTRUCTED THAT YOU ARE NOT TO DO ANY
16 INDEPENDENT RESEARCH OF ANY TYPE ABOUT THIS CASE. THAT
17 INCLUDES ANYTHING THAT YOU COULD FIND ON THE INTERNET OR
18 OTHERWISE. YOU MUST NOT CONSIDER ANYTHING THAT YOU MAY
19 HAVE READ OR HEARD ABOUT THIS CASE OUTSIDE THE
20 COURTROOM, WHETHER BEFORE OR DURING THE TRIAL OF THIS
21 CASE.

22 IT IS IMPORTANT THAT YOU KEEP AN
23 OPEN MIND AND NOT DECIDE ANY ISSUE IN THIS CASE UNTIL
24 ALL OF THE EVIDENCE HAS BEEN PRESENTED, THE PARTIES HAVE
25 MADE THEIR CLOSING ARGUMENTS, AND I HAVE INSTRUCTED YOU

1 ON THE LAW APPLICABLE TO THIS CASE. IT IS YOUR SOLEMN
2 RESPONSIBILITY TO DETERMINE THE GUILT OR INNOCENCE OF
3 THE DEFENDANT, AND YOUR VERDICT MUST BE BASED SOLELY ON
4 THE EVIDENCE AS IT IS PRESENTED TO YOU IN THIS TRIAL,
5 AND ON THE LAW AS I INSTRUCT YOU DURING AND AT THE CLOSE
6 OF THIS TRIAL.

7 IN JUST A MOMENT THE SOLICITOR WILL
8 MAKE WHAT WE CALL AN OPENING STATEMENT, IN WHICH THE
9 SOLICITOR WILL EXPLAIN TO YOU THE ISSUES IN THIS CASE,
10 OR AT LEAST WHAT HE BELIEVES THE ISSUE TO BE IN THIS
11 CASE. THE ATTORNEY FOR THE DEFENDANT MAY ALSO MAKE AN
12 OPENING STATEMENT, ALTHOUGH HE IS NOT REQUIRED TO DO SO.
13 WHAT THE ATTORNEYS TELL YOU DURING THEIR OPENING
14 STATEMENTS IS NOT EVIDENCE IN THIS CASE, IT IS ONLY
15 THEIR CONTENTION AS TO WHAT THEY BELIEVE THE ISSUES TO
16 BE IN THIS CASE. THE EVIDENCE IN THIS CASE WILL BE
17 PRESENTED TO YOU BY THE TESTIMONY OF SWORN WITNESSES
18 FROM THIS WITNESS STAND, AND\OR BY EXHIBITS THAT MAY BE
19 INTRODUCED INTO EVIDENCE.

20 FROM TIME TO TIME DURING THE TRIAL
21 YOU MAY HEAR ONE OF THE LAWYERS SAY SOMETHING LIKE, YOUR
22 HONOR, WE HAVE AN OBJECTION. JUST LIKE IN SPORTS,
23 BUSINESS, OR ANY OTHER STRUCTURED ACTIVITY, THERE ARE
24 CERTAIN RULES THAT WE MUST OBEY IN THE PRESENTATION OF
25 EVIDENCE, AND THOSE RULES HAVE A DEFINITE PURPOSE, THEY

1 INSURE THAT YOU RECEIVE THE MOST RELIABLE EVIDENCE
2 AVAILABLE. AND FOR THIS REASON YOU SHOULD NOT HOLD AN
3 ATTORNEY'S OBJECTION AGAINST HIM OR HER, NOR SHOULD YOU
4 CONCLUDE FROM THE COURT'S RULING THAT I FAVOR ONE SIDE
5 OR THE OTHER IN SUSTAINING OR OVERRULING AN OBJECTION.

6 ALSO, FROM TIME TO TIME YOU MAY HEAR
7 ONE OF THE ATTORNEYS SAY THEY HAVE A MATTER OF LAW TO
8 TAKE UP WITH THE COURT. AND SOMETIMES THEY MAY ASK TO
9 APPROACH THE BENCH, OR I MAY ASK THEM TO APPROACH THE
10 BENCH, OR WE MIGHT FIND IT NECESSARY TO EXCUSE YOU FROM
11 THE COURTROOM FOR A SHORT WHILE, WHILE THESE DISCUSSIONS
12 TAKE PLACE. THE REASON WE DO THIS IS BECAUSE YOU ARE
13 THE JUDGES OF THE FACTS IN THIS CASE, AND SOMETIMES WHEN
14 I'M DISCUSSING MATTERS OF LAW WITH THE ATTORNEYS IT
15 MIGHT BE NECESSARY FOR ME TO MAKE SOME COMMENT ABOUT THE
16 FACTS IN CONNECTION WITH RULING WHETHER OR NOT A
17 PARTICULAR LAW OR RULE OF EVIDENCE APPLIES. AND FOR
18 THIS REASON WE WILL EXCUSE YOU FROM THE COURTROOM SO
19 THAT IN NO WAY WILL YOU BE INFLUENCED BY ANYTHING THAT
20 THE COURT MAY SAY OR DO IN CONNECTION WITH THE FACTS OF
21 THIS CASE, BECAUSE I'M NOT SUPPOSED TO TELL YOU WHAT I
22 THINK THE FACTS ARE.

23 IN DETERMINING WHAT THE TRUE FACTS
24 ARE IN THIS CASE YOU MUST DECIDE WHETHER OR NOT THE
25 TESTIMONY OF A WITNESS OR WITNESSES IS BELIEVABLE. IT

1 WILL BE MY RESPONSIBILITY TO RULE AS A MATTER OF LAW AS
2 TO WHETHER CERTAIN TESTIMONY IS ADMISSIBLE AT ALL. BUT
3 ONCE THE TESTIMONY IS ADMITTED, WHETHER OR NOT YOU
4 BELIEVE IT IS A MATTER SOLELY FOR YOU, THE JURY, TO
5 DETERMINE. IN DECIDING WHETHER TO BELIEVE A WITNESS YOU
6 HAVE THE RIGHT TO CONSIDER THE INTEREST OF ANY WITNESS,
7 THE BIAS OF ANY WITNESS, THE PREJUDICE OF ANY WITNESS,
8 WHETHER THE WITNESS HAS HAD ADEQUATE OPPORTUNITY TO HAVE
9 SEEN THE MATTERS AND THINGS ABOUT WHICH THE WITNESS MAY
10 TESTIFY, AND THE WAY THE WITNESS ACTS ON THE WITNESS
11 STAND. YOU HAVE A RIGHT TO CONSIDER ANYTHING THAT IS IN
12 THE RECORD THAT WILL HELP YOU EVALUATE THE TESTIMONY OF
13 THE WITNESSES. THAT MEANS IT IS YOUR DUTY TO PAY CLOSE
14 ATTENTION TO THEM, TO OBSERVE THEM AND TO PAY CLOSE
15 ATTENTION TO THE ATTORNEYS AND THE COURT. ALTHOUGH I
16 KNOW IT IS VERY DIFFICULT, PLEASE DO NOT ALLOW YOUR
17 THOUGHTS TO WANDER DURING THE COURSE OF THAT TESTIMONY,
18 BUT GIVE STRICT ATTENTION SO THAT AT THE END OF THE
19 TESTIMONY, AFTER THE ARGUMENTS OF COUNSEL AND THE CHARGE
20 ON THE LAW BY THE COURT, YOU WILL THEN BE IN A POSITION
21 TO DETERMINE WHAT THE TRUE FACTS ARE, AND TO APPLY THE
22 LAW TO THOSE FACTS, AND THUS RENDER A TRUE AND JUST
23 VERDICT IN THIS CASE.

24 AS I'VE INDICATED IT IS YOUR ADDED
25 DUTY, MR. FOREMAN, TO PRESIDE IN THE JURY ROOM, AND TO

1 BE THE JURY SPOKES-PERSON HERE IN THE COURTROOM. IT
2 WILL ALSO BE YOUR DUTY TO WRITE THE VERDICT, BUT I WILL
3 GIVE YOU INSTRUCTIONS THAT AT THE CONCLUSION OF THE CASE
4 WHEN I GIVE THE COURT'S CHARGE ON THE LAW.

5 IN ADDITION, AS I'VE INDICATED YOU
6 WILL HAVE THE OPPORTUNITY TO TAKE NOTES DURING THE
7 COURSE OF THIS TRIAL, AND I WILL GIVE YOU SOME SHORT
8 INSTRUCTIONS REGARDING THAT. NOT EVERYONE FINDS NOTE
9 TAKING HELPFUL. NOTE TAKING IS A PRIVILEGE THAT YOU MAY
10 CHOOSE TO EXERCISE OR CHOOSE NOT TO EXERCISE. PLEASE DO
11 NOT FEEL COMPELLED TO TAKE NOTES, BECAUSE YOU DO NOT
12 HAVE TO. IF YOU SHOULD DECIDE THAT YOU WANT TO TAKE
13 NOTES, PLEASE DON'T TRY TO RECORD EVERYTHING THAT IS
14 SAID, IT IS VIRTUALLY IMPOSSIBLE FOR YOU TO DO THAT
15 UNLESS YOU ARE THE COURT REPORTER. AND AS I'VE
16 INDICATED, IT IS ABSOLUTELY ESSENTIAL THAT YOU RELY ON
17 YOUR POWERS OF OBSERVATION, AND IF YOU ARE DISTRACTED IN
18 NOTE TAKING YOU WILL NOT HAVE ADEQUATE OPPORTUNITY TO
19 OBSERVE THE BELIEVABILITY AND CREDIBILITY OF THE
20 WITNESSES AS YOU OUGHT.

21 ALSO, IT MIGHT BE HELPFUL FOR YOU TO
22 KEEP AN OUTLINE OF THE MAIN POINTS THAT ARE BEING MADE,
23 AND ONCE YOU ARE SENT TO YOUR JURY ROOM YOU MAY WANT TO
24 TAKE A FEW MINUTES TO REVIEW YOUR NOTES AND LET THEM
25 SERVE TO REFRESH YOUR MEMORY OF THE TRIAL EVIDENCE AND

1 THE GENERAL ARGUMENTS THAT HAVE BEEN MADE TO YOU.

2 DURING BREAKS AND RECESSES WE WILL
3 KEEP YOUR NOTES, DURING BREAKS IN TESTIMONY THEY WILL BE
4 LEFT IN YOUR SEATS, DURING THE EVEN RECESSES WE WILL
5 KEEP THEM UNDER LOCK AND KEY TO MAKE SURE THAT YOUR
6 PRIVACY IS INSURED AND THAT NO ONE READS YOUR NOTES.
7 SO, PLEASE REST ASSURED OF THAT.

8 I WOULD REMIND YOU THAT YOUR NOTES
9 ARE FOR YOUR SPECIFIC AND YOUR INDIVIDUAL PURPOSES.
10 PLEASE USE THEM ONLY FOR THE PURPOSE OF REFRESHING YOUR
11 OWN RECOLLECTIONS AS TO THE TRIAL TESTIMONY AND
12 ARGUMENTS. YOU ARE INSTRUCTED THAT YOU ARE NOT TO SHARE
13 YOUR NOTES WITH ANYONE ELSE, AND PLEASE ALSO BE REMINDED
14 THAT JUROR NOTES SHOULD NOT BE GIVEN ANY GREATER WEIGHT
15 THAN THE INDIVIDUAL RECOLLECTIONS OF OTHER JURORS.
16 THOSE INDIVIDUAL RECOLLECTIONS SHOULD BE CONSIDERED JUST
17 AS RELIABLE AS NOTES TAKEN BY OTHER JURORS.

18 IN ORDER TO PRESERVE EVERYONE'S
19 RIGHTS I'M GOING TO GIVE THE PARTIES AN OPPORTUNITY TO
20 OBJECT TO ANYTHING THAT I'VE SAID.

21 IS THERE ANY EXCEPTION BY THE STATE?

22 SOLICITOR BELL: NONE FROM THE
23 STATE, YOUR HONOR.

24 THE COURT: BY THE DEFENSE?

25 MR. KEARSE: NONE FROM THE DEFENSE,

1 YOUR HONOR.

2 THE COURT: OKAY.

3 MR. BELL, YOU MAY PROCEED.

4 SOLICITOR BELL: THANK YOU, YOUR
5 HONOR.

6 THE COURT: YOU'RE WELCOME.

7 SOLICITOR BELL: MAY IT PLEASE THE
8 COURT.

9 THE COURT: YES, SIR, THE COURT'S
10 PLEASED.

11 OPENING STATEMENT BY SOLICITOR BELL

12 MR. FOREMAN, AND LADIES AND
13 GENTLEMEN OF THE JURY, BACK ON JULY THIRD, TWO THOUSAND
14 THREE, MARK COOK MADE A GRAVE, GRAVE MISTAKE. ON THAT
15 PARTICULAR EVENING OUT HERE ON [REDACTED] ROAD, WHICH IS
16 OUT HERE JUST OUTSIDE OF GROVER, OFF OF U. S. FIFTEEN,
17 [REDACTED] ROAD TO BE EXACT, SOME PEOPLE
18 HAD GOTTEN TOGETHER THAT NIGHT. THERE WERE SOME PEOPLE
19 THAT CAME OVER FROM COLLETON COUNTY, FROM THE SMOAKS
20 AREA, THAT GOT TOGETHER WITH SOME FELLOWS, AND THERE WAS
21 A FEMALE FROM THE GROVER AREA, AND THERE WERE TWO
22 INDIVIDUALS, TWO MALES THAT WERE COMING DOWN FROM
23 VIRGINIA, DANVILLE, VIRGINIA. RYAN NORTH, ONE OF THE
24 INDIVIDUALS FROM OVER IN SMOAKS, HAD SET UP A DRUG DEAL
25 WITH THESE INDIVIDUALS FROM VIRGINIA, ONE OF THEM IN

1 PARTICULAR, A FELLOW THAT HE KNEW AS "SMOKE" WHO YOU
2 WILL LEARN IS JASSON TURNER. THEY CAME DOWN THAT NIGHT
3 FROM DANVILLE, VIRGINIA, THEY CAME DOWN, MET UP WITH THE
4 FELLOWS FROM SMOAKS, AND THEN CAME OVER TO [REDACTED]
5 ROAD. THEY WENT INTO THIS HOUSE THAT ONE OF THE
6 WITNESSES, YOU'LL HEAR LANESHA GREEN, WAS RENTING, AND
7 THEY STARTED BRINGING OUT -- THEY BROUGHT SOME COCAINE
8 DOWN, THEY WERE GOING TO SELL IT TO SOME PEOPLE HERE IN
9 SOUTH CAROLINA. DURING THE COURSE OF THEIR DEALINGS MARK
10 COOK DECIDED THAT HE WAS GOING TO GRAB SOME OF THIS
11 STUFF, SOME OF THE COCAINE AND SOME OF THE MONEY. HE DID
12 GRAB IT, HE GRABBED IT AND TRIED TO MAKE IT OUT THE
13 DOOR. FORTUNATELY, HE COULDN'T GET OUT THE DOOR. WHEN
14 THE INDIVIDUALS JUMPED UP ONE OF THE CAME UP WITH A GUN,
15 FIRED, AND SHOT HIM FIVE TIMES, AND KILLED HIM. THAT
16 INDIVIDUAL THAT WE SAY FIRED AND SHOT FIVE TIMES WAS
17 THIS MAN, STEVEN BRISCOE.

18 WHAT YOU'LL HEAR, LADIES AND
19 GENTLEMEN, DURING THE COURSE OF THIS TRIAL IS, YOU'LL
20 HEAR KIND OF TWO INVESTIGATIONS. THE FIRST
21 INVESTIGATION BY THE DORCHESTER COUNTY SHERIFF'S
22 DEPARTMENT OCCURRED RIGHT THERE AFTER JULY THIRD, TWO
23 THOUSAND THREE. THEY WERE RUNNING PEOPLE DOWN EVERY
24 WHICH A WAY, THEY TALKED TO WITNESSES WHO CAME FORWARD
25 AT THE TIME, AND THEY PIECED TOGETHER WHAT WENT ON THAT

1 EVENING, JULY THIRD, TWO THOUSAND THREE. THEY WERE ALSO
2 ABLE TO GET SOME RECORDS FROM RECORDS, AND THEY FOUND AN
3 INDIVIDUAL WHO THEY EVENTUALLY TRACED OUT TO LOS
4 ANGELES, HIS NAME WAS JASSON TURNER, "SMOKE". THEY
5 ARRESTED HIM AT THE TIME FOR MURDER AND BROUGHT HIM
6 BACK, AND PEOPLE HAD IDENTIFIED HIM.

7 LATER ON, ABOUT A YEAR HE WAS
8 GETTING READY TO GO TRIAL WHEN HE GAVE THE NAME OF THE
9 PERSON WHO WAS THE SHOOTER. THAT PERSON WAS STEVEN
10 BRISCOE. THEY TOOK -- BROUGHT BACK A COUPLE OF THE
11 WITNESSES THAT WERE THERE THAT EVENING, AND THEY
12 IDENTIFIED STEVEN BRISCOE AS THAT INDIVIDUAL THAT FIRED
13 THOSE SHOTS THAT KILLED MARK COOK. AND THE DORCHESTER
14 COUNTY SHERIFF'S OFFICE, IN CONJUNCTION WITH SOME
15 OFFICERS UP IN DANVILLE, VIRGINIA, WERE ABLE TO PIECE
16 TOGETHER A LITTLE MORE EVIDENCE TO TIE STEVEN BRISCOE TO
17 THIS CRIME.

18 AND THAT'S WHAT YOU'LL HEAR, LADIES
19 AND GENTLEMEN, YOU'RE GOING TO HEAR A LOT OF WITNESSES,
20 YOU'RE GOING TO HEAR MOST OF THE PEOPLE THAT WERE AT [REDACTED]
21 [REDACTED] E [REDACTED] THAT NIGHT TELL WHAT WENT ON IN
22 THEIR OWN WORDS. YOU'RE GOING TO HEAR POLICE OFFICERS
23 TELL WHAT THEY FOUND, CRIME SCENE INVESTIGATORS TELL
24 WHAT THEY FOUND. THE INVESTIGATORS WHO WORKED THIS
25 CASE, WHAT THEY DID, AND THAT'S WHAT YOU'LL HEAR FROM

1 THIS WITNESS STAND, ALONG WITH SOME EVIDENCE, SOME
2 PICTURES AND OTHER EVIDENCE THAT WILL PROVE THE STATE'S
3 CASE.

4 WHAT I'LL ALSO TELL YOU IS, THERE
5 WERE OTHER PEOPLE CHARGED. RYAN NORTH WAS CHARGED IN
6 THIS CASE, JERMAINE CUSACK WAS CHARGED, AND MR. TURNER.
7 MR. NORTH AND MR. CUSACK WERE CHARGED WITH WHAT'S CALLED
8 A MISPRISION OF A FELONY, WHICH MEANS YOU DIDN'T REALLY
9 BRING THAT PERSON -- YOU KNEW A CRIME HAPPENED AND YOU
10 DIDN'T COME FORWARD TO HELP THE POLICE TO BRING THAT
11 CRIME TO JUSTICE, THAT THEY HAD INFORMATION THAT DIDN'T
12 COME RIGHTLY FORWARD. YOU'LL HEAR THAT JASSON TURNER
13 PLED GUILTY TO MISPRISION OF A FELONY. IN EXCHANGE FOR
14 HIS TESTIMONY AND HIS HELP IN FINDING WHO FIRED THOSE
15 FATAL SHOTS AGAINST MARK COOK THAT NIGHT. AND YOU'LL
16 UNDERSTAND AT THE END OF THIS CASE WHY THESE THINGS WERE
17 DONE. WE'LL DEVELOP THAT DURING THE COURSE OF THIS
18 TRIAL.

19 AND OF COURSE, THERE WILL BE PEOPLE
20 THAT HAVE CRIMINAL RECORDS THAT WILL BE TESTIFYING ON
21 BEHALF OF THE STATE, BECAUSE LADIES AND GENTLEMEN, WITH
22 WHAT WAS GOING ON YOU DON'T HAVE CHOIR BOYS AND CHOIR
23 GIRLS THAT ARE OUT THERE DEALING DRUGS AT NIGHT.

24 SO, LADIES AND GENTLEMEN, AS I TOLD
25 YOU, STEVEN BRISCOE, THAT MAN HAS BEEN CHARGED WITH

1 MURDER IN THE STATE OF SOUTH CAROLINA. MURDER IS
2 DEFINED IN SOUTH CAROLINA AS THE UNLAWFUL KILLING OF
3 ANOTHER WITH MALICE AFORETHOUGHT, EITHER EXPRESSED OR
4 IMPLIED. SO THAT MEANS THE STATE MUST PROVE EVERY
5 ELEMENT OF EVERY CRIME BEYOND ALL REASONABLE DOUBT. WE
6 MUST PROVE THAT THERE WAS AN UNLAWFUL KILLING OF ANOTHER
7 PERSON OTHER THAN THE PERSON CHARGED, WITH MALICE
8 AFORETHOUGHT. MALICE MEANS, IN SOUTH CAROLINA, MANY
9 THINGS. IT'S KIND OF ONE OF THOSE WORDS YOU CAN'T REALLY
10 PUT YOUR HAND ON BUT THERE ARE MANY DEFINITIONS. AND
11 SOME OF THOSE DEFINITIONS USED IN SOUTH CAROLINA ARE,
12 THE DOING OF A WRONGFUL ACT INTENTIONALLY WITHOUT JUST
13 CAUSE OR EXCUSE; OR THE WRONGFUL INTENT TO INJURY
14 ANOTHER PERSON, MEANING YOU HAD AN INTENT TO INJURY
15 SOMEBODY; OR A WICKED OR DEPRAVED SPIRIT INTENT ON DOING
16 WRONG. THOSE ARE JUST SOME OF THE DEFINITIONS OF
17 MALICE. AND MALICE AFORETHOUGHT IS AN IMPORTANT
18 CONCEPT, BECAUSE THE AFORETHOUGHT MEANS THAT THAT MALICE
19 MUST HAVE EXISTED PRIOR TO THE KILLING OF THE PERSON.
20 NOW, YOU WILL HEAR, I BELIEVE AT THE END OF THE TRIAL
21 THAT AFORETHOUGHT CAN EXIST ANY TIME, UP TO A SECOND
22 BEFORE THAT WRONG OR THAT KILLING WAS DONE, BUT IT MUST
23 EXIST BEFOREHAND. AND THEN YOU HEARD ME SAY, EXPRESSED
24 OR IMPLIED. AND THOSE TERMS DON'T MEAN TWO DIFFERENT
25 TYPES OF MALICE, IT JUST MEANS HOW -- DIFFERENT WAYS

1 THAT IT CAN BE EXPRESSED. IT CAN BE EXPRESSED BY --
2 EXPRESSED MALICE COULD BE, I'M GOING TO KILL YOU, BOOM.
3 OR THE USE OF A DEADLY WEAPON, IT COULD BE IMPLIED
4 THROUGH THE USE OF A DEADLY WEAPON. IT COULD BE IMPLIED
5 THROUGH THE ACTIONS OF ANOTHER. AND THERE'S NO DIRECT
6 EVIDENCE TO SHOW SOMEBODY SAID, I'M GOING TO KILL YOU,
7 OR PLANNED TO KILL YOU, OR LYING IN WAIT, OTHER THAN
8 IT'S JUST IMPLIED FROM THE FACTS AND CIRCUMSTANCES THAT
9 SURROUND WHAT HAPPENED.

10 NOW, LADIES AND GENTLEMEN, AS I
11 SAID, THE STATE MUST PROVE THE CHARGE OF MURDER AND EACH
12 ELEMENT BEYOND ALL REASONABLE DOUBT. I'M GOING TO TRY TO
13 TELL YOU, REASONABLE DOUBT IS ANOTHER ONE OF THOSE
14 TERMS, LIKE MALICE, THERE'S NO REALLY GOOD DEFINITION,
15 IT'S KIND OF, YOU'VE JUST KIND OF GOT TO TALK ABOUT IT
16 AND FIGURE IT OUT. BUT I'LL TELL YOU KIND OF WHAT IT'S
17 NOT. IN SOUTH CAROLINA, AND IN THE UNITED STATES, THE
18 STATE IS NOT BURDENED BY PROVING SOMEBODY GUILTY BEYOND
19 EVERY SINGLE DOUBT, OR SOME OF YOU MAY REMEMBER THOSE
20 OLD MYSTERY MOVIES THAT SAID, OH, BEYOND THE SHADOW OF
21 A DOUBT. THAT'S NOT THE STANDARD, IT'S BEYOND ALL
22 REASONABLE DOUBT. AND ONE OF THE DEFINITIONS IN SOUTH
23 CAROLINA ABOUT REASONABLE DOUBT IS, REASONABLE DOUBT, OR
24 EVIDENCE BEYOND ALL REASONABLE DOUBT IS EVIDENCE THAT
25 WILL LEAVE YOU ---

1 MR. KEARSE: YOUR HONOR, I'M GOING
2 TO HAVE TO OBJECT.

3 THE COURT: BASIS? PLEASE APPROACH.
4 I DON'T TAKE SPEAKING OBJECTIONS.
5 (Whereupon, a bench conference
6 is held out of the hearing of
7 the jury and the court reporter.)

8 THE COURT: MR. BELL, IF YOU WOULD
9 MOVE ALONG.

10 SOLICITOR BELL: THANK YOU, YOUR
11 HONOR.

12 THE COURT: THANK YOU. AND THE
13 OBJECTION IS OVERRULED.

14 SOLICITOR BELL: THANK YOU, YOUR
15 HONOR.

16 AS I WAS SAYING, REASONABLE DOUBT
17 IS, ONE OF THE DEFINITIONS IS EVIDENCE THAT WILL LEAVE
18 YOU FIRMLY CONVINCED OF THE DEFENDANT'S GUILT.

19 NOW, LADIES AND GENTLEMEN, HER
20 HONOR, JUDGE JEFFERSON, TOLD YOU ABOUT HAVING TO FIND
21 THE CREDIBILITY OF THE WITNESSES, WHICH MEANS THE
22 BELIEVABILITY, HOW MUCH YOU BELIEVE THE WITNESSES. AND
23 THERE'S NOBODY THAT CAN REALLY TELL YOU HOW TO DO THAT.
24 I MEAN, I CERTAINLY CAN'T DO THAT, I DON'T THINK JUDGE
25 JEFFERSON CAN DO THAT, OR MR. KEARSE CAN TELL YOU. ALL

1 WE CAN SAY IS, USE WHAT YOU BROUGHT INTO THIS COURTROOM,
2 YOUR EVERYDAY EXPERIENCES. YOU KNOW, WHEN YOU TALK TO
3 FRIENDS OR FAMILY OR CO-WORKERS OR EVEN STRANGERS. A LOT
4 OF TIMES JUST FROM THE WAY THEY ACT AND, AND YOU HEAR
5 THEM, YOU CAN TELL WHETHER THEY'RE TELLING YOU THE TRUTH
6 OR NOT. USE THAT STANDARD TO DECIDE WHETHER A WITNESS
7 IS BELIEVABLE OR WHETHER A WITNESS IS NOT BELIEVABLE.

8 AND I WILL SAY ALSO, LADIES AND
9 GENTLEMEN, THAT HER HONOR, JUDGE JEFFERSON, IS NOT THE
10 ONLY JUDGE IN THIS COURTROOM, BE CAUSE YOU, AS TWELVE
11 AND AS INDIVIDUALS ARE JUDGES, TOO. JUDGE JEFFERSON IS
12 THE JUDGE OF THE FACTS, I MEAN, EXCUSE ME, THE JUDGE OF
13 THE LAW. WHAT SHE SAYS ABOUT THE LAW, YOU JUST TOOK AN
14 OATH THAT YOU MUST FOLLOW THE LAW THAT SHE GIVES YOU,
15 BUT YOU LADIES AND GENTLEMEN ARE THE JUDGES OF THE
16 FACTS, AND NOBODY IN THIS COURTROOM CAN TELL YOU HOW TO
17 FIND THOSE FACTS, NOT JUDGE JEFFERSON, NOT MYSELF, NOT
18 OPPOSING COUNSEL. SO, LADIES AND GENTLEMEN, THAT'S WHAT
19 YOU'RE HERE TO DO IS FIND THOSE FACTS. YOU LISTEN TO
20 ALL THE TESTIMONY, YOU LOOK AT ALL THE EXHIBITS THAT MAY
21 BE ENTERED, AND THEN AT THE END YOU TAKE THE LAW THAT
22 SHE, JUDGE JEFFERSON CHARGES YOU, AND YOU APPLY THOSE
23 FACTS TO THAT LAW TO FIND THE TRUTH IN THIS CASE, LADIES
24 AND GENTLEMEN.

25 NOW, ALL I CAN ASK YOU, LADIES AND

1 GENTLEMEN, FROM THE STATE'S PERSPECTIVE, WE HAVE THE
2 BURDEN OF PROOF, AS I TOLD YOU, WE MUST PROVE THE CASE
3 BEYOND ALL REASONABLE DOUBT. ALL I ASK YOU IS THAT YOU
4 LISTEN CAREFULLY, BECAUSE WE'RE HERE TO TRY TO FIND THE
5 TRUTH, WE'RE HERE ON BOTH SIDES TRYING TO FIND THE TRUTH
6 OF WHAT HAPPENED.

7 NOW, LADIES AND GENTLEMEN, AT THE
8 END OF THIS CASE I BELIEVE THAT THE STATE WILL PRESENT
9 YOU WITH MORE, MORE THAN ENOUGH EVIDENCE TO FIND THAT
10 THE DEFENDANT IS GUILTY OF MURDER BEYOND ALL REASONABLE
11 DOUBT.

12 THANK YOU.

13 THE COURT: YOU MAY PROCEED.

14 MR. KEARSE: MAY IT PLEASE THE
15 COURT, YOUR HONOR.

16 THE COURT: YES, SIR.

17 MR. KEARSE: COUNSEL.

18 OPENING STATEMENT BY MR. KEARSE

19 GOOD AFTERNOON.

20 JULY THIRD, TWO THOUSAND THREE,
21 STEVEN BRISCOE'S LIFE WOULD CHANGE FOREVER. JULY THIRD,
22 TWO THOUSAND THREE, THE DAY BEFORE THE FOURTH OF JULY,
23 STEVEN'S LIFE, STEVEN'S DAY WAS JUST AS UNEVENTFUL AS
24 NORMAL. HE HUNG AROUND THE HOUSE, HE GRILLED WITH HIS
25 FIANCE', THE TWO OF THEM WERE EXPECTING A CHILD. HE WAS

1 GETTING READY TO GO TO A BIG COOKOUT THE NEXT DAY. HE
2 MET UP WITH A FRIEND OF HIS, THEY MET UP ABOUT,
3 SOMEWHERE CLOSE TO NINE O'CLOCK, MAYBE ABOUT
4 EIGHT:THIRTY IN THE EVENING. THEY GO TO THE MALL, THEY
5 BUY SOME OUTFITS FOR THIS COOKOUT THEY'RE GOING TO, THEY
6 LEAVE THE MALL RIGHT AT CLOSING, ABOUT NINE O'CLOCK. HIS
7 FRIEND IS DRIVING. HE DRIVES HIM OVER TO HIS MOTHER'S
8 HOUSE. NOW, STEVEN BRISCOE LIVES IN DANVILLE, VIRGINIA,
9 HIS MOTHER LIVES IN DANVILLE, VIRGINIA. HE GOES TO HIS
10 MOM'S HOUSE BECAUSE HIS AUNT IS LIVING WITH HIS MOTHER.
11 HE HAS TO TAKE HIS AUNT TO WORK AT ABOUT ELEVEN O'CLOCK,
12 SHE WORKS ELEVEN TO SEVEN. HE HANGS OUT AT HIS MOTHER'S
13 HOUSE UNTIL, HE MAY GO TO A FRIEND'S HOUSE OR SOMETHING,
14 BACK AND FORTH, SOMETHING INSIGNIFICANT. HE COMES BACK
15 IN TIME TO TAKE HIS AUNT ABOUT TEN:THIRTY, TEN:FORTY-
16 FIVE, TAKES HER TO WORK AT ABOUT ELEVEN O'CLOCK, AND
17 DROPS HER OFF. HE'S DRIVING HIS AUNT'S CAR. HE DRIVES
18 THE CAR BACK TO HIS MOTHER'S HOUSE, CONTINUES TO HANG
19 OUT AND GET READY FOR THE NEXT DAY, THE FOURTH OF JULY,
20 SEE HIS FRIENDS, THINGS OF THAT NATURE, GOES HOME TO HIS
21 FIANCE` NO LATER THAN TWO O'CLOCK THE MORNING OF THE
22 FOURTH OF JULY.

23 THE FOURTH OF JULY COMES AROUND,
24 ONCE AGAIN, HE AND HIS FIANCE` PUT FOOD ON THE GRILL,
25 CELEBRATE THE FOURTH OF JULY, JUST AS ANY OF US. THEY

1 GO TO THIS BIG COOKOUT THE FOURTH OF JULY, TWO THOUSAND
2 THREE. IT WAS UNEVENTFUL FOR STEVEN BRISCOE. JULY
3 THIRD, JULY FOURTH, TWO THOUSAND FOUR, WAS UNEVENTFUL
4 AUGUST NINETEENTH -- I'M SORRY, TWO THOUSAND THREE, JULY
5 THIRD, TWO THOUSAND FOUR WAS UNEVENTFUL UNTIL AUGUST
6 NINETEENTH, TWO THOUSAND FOUR. UNEVENTFUL BECAUSE ON
7 AUGUST NINETEENTH, TWO THOUSAND AND FOUR, WHILE IN
8 DANVILLE, VIRGINIA, MR. BRISCOE GETS ARRESTED. AND HE
9 GETS ARRESTED FOR A MURDER THAT TOOK PLACE IN SOUTH
10 CAROLINA.

11 NOW, YOU'RE GOING TO HEAR EVIDENCE,
12 AND THAT EVIDENCE IS GOING TO BE PRESENTED TO YOU
13 THROUGH SOME WITNESSES THAT WILL BE PUT UP BY THE STATE.
14 AND THESE FOLKS, YOU HAVE TO DETERMINE THEIR
15 CREDIBILITY, AND YOU WILL HAVE THAT OPPORTUNITY TO SEE
16 THEIR CREDIBILITY, OR LACK OF CREDIBILITY WHEN THEY ARE
17 PRESENTED TO YOU.

18 BUT LET ME TELL YOU WHAT HAPPENED,
19 AND WHAT THE EVIDENCE IS GOING TO BE, JULY THREE, TWO
20 THOUSAND THREE. THERE WAS A DRUG DEAL BY DRUG DEALERS.
21 THESE FOLKS, WHOMEVER, DECIDED THEY WANTED TO BUY, SOME
22 FOLKS WANTED TO SELL. YOU'LL HEAR ABOUT A RYAN NORTH,
23 TRAVIS NORTH, ANTHONY FOLK, THESE GUYS WANT TO SELL
24 DRUGS, WANT TO BUY DRUGS RIGHT HERE IN GROVER, SOUTH
25 CAROLINA. YOU'LL HEAR ABOUT A LANESHA GREEN WHO RENTS

1 OUT A CRACK HOUSE RIGHT IN GROVER, SOUTH CAROLINA.
2 YOU'LL HEAR ABOUT JERMAINE CUSACK AND HIS DESIRE TO SELL
3 AND BUY DRUGS RIGHT HERE IN GROVER, SOUTH CAROLINA, AND
4 YOU'LL HEAR FROM A JASSON TURNER WHO'S FROM CALIFORNIA
5 OR NEW YORK OR VIRGINIA, WHATEVER THE CASE MAY BE. BUT
6 THESE FOLKS WILL COME AND TESTIFY TO YOU.

7 NOW, WHAT YOU WILL HEAR AND THE
8 EVIDENCE WILL BE, THESE FOLKS WERE ACTUALLY AT THIS
9 HOUSE IN GROVER, SOUTH CAROLINA, WITHOUT A DOUBT, WE
10 ASSUME. YOU WILL HEAR THAT THEY WERE ACTUALLY IN THE
11 BUSINESS OF DEALING DRUGS RIGHT HERE IN GROVER, SOUTH
12 CAROLINA, THERE IS NO DOUBT ABOUT THAT, YOU WILL HEAR
13 THEIR TESTIMONY. YOU WILL HEAR HOW MARK COOK, FOR
14 WHATEVER REASON, BUT THEY WILL PRESENT THAT MARK COOK,
15 THE DECEDENT, WAS ATTEMPTING TO STEAL DRUGS IN THAT
16 HOUSE AND ENDED UP GETTING SHOT AND GETTING KILLED. AND
17 EACH AND EVERY ONE THAT COMES BEFORE YOU WHO WAS IN THAT
18 HOUSE AND WHO'S PRESENTED TO YOU FROM THE STATE WILL
19 TELL YOU, I DIDN'T HAVE ANYTHING TO DO WITH IT. AND YOU
20 WILL HEAR THE TESTIMONY OF HOW DURING THE COURSE OF AN
21 ENTIRE YEAR THESE PEOPLE CONTINUED TO DENY THEIR
22 INVOLVEMENT, NOT JUST IN THE MURDER, BUT ANYTHING.
23 YOU'LL HEAR HOW THEY MISLED LAW ENFORCEMENT, YOU'LL HEAR
24 HOW THEY CHANGED AND REARRANGED THEIR STORIES. YOU'LL
25 HEAR HOW ALL OF A SUDDEN THIS THING DEVELOPED SOMETIME

1 IN AUGUST, TWO THOUSAND FOUR, TO A POINT WHERE IT WAS
2 MR. STEVEN BRISCOE WHO GETS ARRESTED MORE THAN ONE YEAR
3 AFTER THE OCCURRENCE OF THIS EVENT. AND YOU'LL HEAR HOW
4 THE INDIVIDUAL, ONE OF THE STATE'S PRIMARY STAR
5 WITNESSES, JASSON TURNER, WHO HIMSELF IS ON TRIAL FOR
6 MURDER, SOMEHOW MANAGES TO GET OUT OF THAT AND POINT TO
7 MR. BRISCOE. YOU WILL HEAR THESE THINGS, YOU WILL JUDGE
8 THE CREDIBILITY, OR THEIR LACK OF CREDIBILITY.

9 LET ME TELL YOU WHAT YOU WILL NOT
10 HEAR IN THIS CASE, YOU WILL NOT HEAR ANYONE SAY THAT
11 STEVEN BRISCOE'S FINGERPRINTS WERE FOUND AT THIS
12 RESIDENCE. YOU WILL NOT HEAR THAT CAST MOLDS WERE MADE
13 OF STEVEN BRISCOE'S SHOES IN THE YARD, AND THERE WERE
14 CAST MOLDS MADE BUT THEY'RE NOT LINKED TO STEVEN
15 BRISCOE. YOU WILL NOT HEAR THAT THE STATE HAS ANY DNA
16 EVIDENCE THAT TIES MR. BRISCOE TO THIS INCIDENT, YOU
17 WILL NOT HEAR THAT. YOU WILL HEAR EVIDENCE ABOUT
18 FORENSICS, ABOUT GUNS, ABOUT BULLET FRAGMENTS THAT WERE
19 FOUND IN THE DECEDENT. THERE WERE ABOUT FIVE BULLET
20 FRAGMENTS FOUND IN THE DECEDENT DURING THE AUTOPSY, BUT
21 WHAT YOU WILL NOT HEAR, YOU WILL NOT HEAR THAT THERE
22 WERE FIVE SHELL CASINGS FOUND AT THE SCENE OF THIS
23 RESIDENCE. YOU WILL HEAR THAT THERE IS AT LEAST THREE,
24 MAYBE EVEN FOUR MAKE OR MODEL GUNS THAT COULD DISCHARGE
25 THOSE BULLET FRAGMENTS. THIS WILL BE THE TESTIMONY THAT

1 YOU WILL HEAR.

2 LADIES AND GENTLEMEN, I UNDERSTAND
3 THIS IS A BURDEN ON YOUR TIME. JURY SERVICE IS EXTREMELY
4 IMPORTANT, JUST AS IMPORTANT, OR EQUALLY IMPORTANT TO
5 EXERCISING YOUR RIGHT TO VOTE. WE ACKNOWLEDGE, AND WE
6 ARE GRATEFUL THAT YOU HAVE DECIDED TO SERVE ON OUR JURY.
7 WE KNOW YOU WILL DO A GOOD JOB, WE KNOW THAT YOU WILL
8 LISTEN TO THIS EVIDENCE, YOU WILL JUDGE THE CREDIBILITY,
9 OR LACK OF CREDIBILITY OF THESE WITNESSES, AND YOU WILL
10 UNDERSTAND AND SEE WHY I HAVE SAID THE THINGS THAT I
11 HAVE SAID THIS AFTERNOON ABOUT THE STATE'S CASE.
12 UNFORTUNATELY, THIS IS A STORY, THIS IS A STORY OF THE
13 GENIUS OF THE CRIMINAL MIND, THE ABILITY OF THE CRIMINAL
14 MIND NOT ONLY TO ENGAGE IN CRIMINAL ENTERPRISE BUT TO
15 ALSO FIGURE OUT A WAY HOW TO NOT INCUR LIABILITY FOR
16 THAT ENTERPRISE. AND YOU WILL SEE, AND THE EVIDENCE WILL
17 PRESENT THAT THERE IS SOME INGENIOUS STORY MAKING THAT
18 GOES INTO THIS CASE, SUCH TO ABSOLVE THOSE PARTICIPANTS
19 FROM ANY AND ALL LIABILITY. YOU WILL SEE THAT THESE
20 FOLKS EITHER DID NOT GO TO JAIL OR HAVE NO EXPECTATION
21 OF GOING TO JAIL AT ALL, WHEN ADMITTEDLY, THEY ARE
22 INVOLVED IN A DRUG DEAL, IN A COVER UP, AND MAY BE
23 INVOLVED IN A MURDER.

24 THANK YOU.

25 THE COURT: YOU MAY CALL YOUR FIRST

1 WITNESS.

2 SOLICITOR BELL: THANK YOU, YOUR
3 HONOR, THE STATE WOULD CALL DEPUTY PETREY TO THE STAND.

4 THE COURT: PLEASE RAISE YOUR RIGHT
5 HAND AND PLACE YOUR LEFT HAND ON THE BIBLE.

6 (Whereupon, the witness,
7 BENNIE RAY PETREY,
8 is duly sworn.)

9 THE COURT: SIR, IF YOU WILL, HAVE
10 A SEAT FOR ME AND STATE YOUR FULL NAME FOR THE RECORD,
11 SPELLING YOUR LAST NAME FOR THE COURT REPORTER.

12 WITNESS: BENNIE RAY PETREY, P-E-R-
13 E-Y.

14 THE COURT: YOU MAY PROCEED.

15 (NOTE: Blank lines on this page do not indicate any
16 part of record has been omitted. Headers on testimony
17 pages and hard page breaks between testimony are now
18 required by the Court. See next ensuing page for
19 sequential continuation of record.)

DIRECT - BENNIE RAY PETREY BY SOL. BELL

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DIRECT EXAMINATION OF BENNIE RAY PETREY

BY SOLICITOR BELL;

Q. DEPUTY PETREY, WHERE ARE YOU EMPLOYED?

A. I'M EMPLOYED BY THE DORCHESTER COUNTY SHERIFF'S DEPARTMENT.

Q. AND HOW LONG HAVE YOU BEEN WITH THE DORCHESTER COUNTY SHERIFF'S DEPARTMENT?

A. APPROXIMATELY SIX YEARS.

Q. AND DO YOU HAVE A SPECIFIC AREA THAT YOU'RE INVOLVED WITH IN DORCHESTER COUNTY?

A. YES, SIR, I WORK THE UPPER END, THE ST. GEORGE-GROVER-HARLEYVILLE AREAS.

Q. AND HOW LONG HAVE YOU WORKED THAT AREA?

A. ABOUT FIVE YEARS.

Q. WERE YOU WORKING BACK ON JULY THIRD OF TWO THOUSAND THREE?

A. YES, SIR, I WAS.

Q. OKAY. DO YOU RECALL WHAT SHIFT YOU WERE WORKING?

A. I WAS WORKING -- WE HAVE A DAY SHIFT AND A NIGHT SHIFT, AND I WAS WORKING THE NIGHT SHIFT.

Q. AND WHEN IS THAT FROM?

A. IT STARTS ABOUT FIVE:THIRTY AND RUNS TO FIVE;THIRTY THE NEXT MORNING.

Q. OKAY. AND THAT WAS AROUND THE FOURTH OF JULY, TWO THOUSAND THREE?

DIRECT - BENNIE RAY PETREY BY SOL. BELL

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1 A. YES, SIR.

2 Q. OKAY. DID YOU HAVE AN OCCASION TO BE CALLED OUT
3 TO THE GROVER AREA THAT EVENING?

4 A. YES, SIR, I WAS, I WAS DISPATCHED TO [REDACTED] [REDACTED]
5 [REDACTED] -- ORIGINALLY TO [REDACTED] [REDACTED] [REDACTED] [REDACTED]
6 ROAD AT APPROXIMATELY ELEVEN:TWENTY-FIVE.

7 Q. A.M. OR P.M.?

8 A. P.M.

9 COURT REPORTER: ARE YOU SAYING
10 [REDACTED] ROAD?

11 A. UTSEY, YES, MA'AM, U-T-S-E-Y.

12 Q. AND WHERE, WHERE IS [REDACTED] ROAD?

13 A. IT'S JUST SOUTH OF GROVER ON HIGHWAY FIFTEEN
14 SOUTH.

15 Q. SO, IT'S OFF OF U. S. HIGHWAY FIFTEEN?

16 A. YES, SIR.

17 Q. OKAY. HEADED TOWARDS COLLETON COUNTY?

18 A. YES, SIR.

19 Q. FROM ST. GEORGE?

20 A. APPROXIMATELY FOUR OR FIVE MILES FROM ST. GEORGE.

21 Q. AND WHY WERE YOU DISPATCHED ORIGINALLY TO [REDACTED]
22 [REDACTED]?

23 A. ORIGINALLY WE WERE DISPATCHED TO A SHOTS FIRED
24 CALL.

25 Q. OKAY. AND WHAT DID YOU DO?

DIRECT - BENNIE RAY PETREY BY SOL. BELL

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1 A. UPON ARRIVAL I GOT OUT OF THE VEHICLE AND I WENT
2 AND TALKED WITH THE COMPLAINANT, I BELIEVE IT WAS
3 A MR. SINGLETARY WHO ORIGINALLY CALLED IT IN. IN
4 TALKING WITH HIM, HE STATED THAT HE HAD HEARD FOUR
5 OR FIVE SHOTS FROM THE HOUSE NEXT DOOR. AND MY
6 PARTNER AT THE TIME, HE ARRIVED ABOUT THAT TIME,
7 AND WE DROVE NEXT DOOR TO [REDACTED] [REDACTED] [REDACTED]
8 [REDACTED] ROAD, AND IT HAS A VERY LONG DRIVEWAY DOWN
9 IT, PROBABLY, I'D SAY, A HUNDRED YARDS, AND IT'S A
10 LITTLE HOUSE SITTING WAY BACK IN THE WOODS ALL BY
11 ITSELF.

12 Q. OKAY. AND WHAT DID YOU DO?

13 A. I WENT UP, THERE WAS NO LIGHTS ON, WE WENT UP AND
14 KNOCKED ON THE DOOR, KNOCKED REPEATEDLY, LOUDER
15 AND LOUDER. THE THIRD TIME AFTER WE GOT NO
16 RESPONSE AT ALL WE TOOK FLASHLIGHTS AND STARTED TO
17 WALK AROUND THE OUTSIDE OF THE HOUSE AND MADE SURE
18 EVERYTHING WAS SECURED, AND SHINED A FLASH LIGHT
19 IN THE WINDOW AND SAW A GENTLEMAN LYING ON THE
20 FLOOR.

21 Q. OKAY. AND WHAT DID YOU DO AS A RESULT OF THAT?

22 A. WE IMMEDIATELY NOTIFIED DISPATCH THAT WE HAD A
23 PERSON DOWN, WE CALLED FOR DETECTIVES, CRIME
24 SCENE, AND NOTIFIED OUR SUPERIORS. OUR ORIGINAL --
25 THAT WAS ON THE RADIO, AND RIGHT AFTER THAT THE

DIRECT - BENNIE RAY PETREY BY SOL. BELL

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1 FIRST THING YOU DO IS, WE CLEARED THE HOUSE, AND
2 MADE SURE THERE WAS NOBODY ELSE AROUND.

3 Q. AND WHAT DO YOU MEAN BY CLEARING THE HOUSE?

4 A. YOU, YOU GO THROUGH AS A PAIR, AND YOU CHECK ALL
5 THE ROOMS, YOU CHECK UNDER EVERY, EVERY
6 CONCEIVABLE THING WHERE A PERSON COULD HIDE,
7 BECAUSE A GENTLEMAN HAD BEEN SHOT AND WE DIDN'T
8 KNOW WHERE THE SHOOTER WAS.

9 Q. OKAY.

10 A. AND AT ELEVEN:THIRTY AT NIGHT, THAT'S NOT A GOOD
11 FEELING.

12 Q. DID YOU FIND ANYBODY ELSE IN THE HOUSE OTHER THAN
13 THE PERSON THAT WAS LYING ON THE GROUND?

14 A. NO, SIR.

15 Q. OKAY. AND WHAT DID YOU DO AFTER THAT?

16 A. WE WENT RIGHT BACK OUTSIDE TO THE FRONT, WE
17 SECURED THE AREA WITH CRIME SCENE TAPE, WE STARTED
18 A LOG OF EVERYBODY THAT HAD BEEN THERE, EMS AND
19 EVERYBODY ELSE THAT SHOWED UP, THE DETECTIVES,
20 EVERYBODY. WHEN THE DETECTIVES SHOWED UP THE CRIME
21 SCENE WAS TURNED OVER TO THEM.

22 Q. OKAY. AND THAT'S WITH DORCHESTER COUNTY?

23 A. YES, SIR.

24 Q. OKAY. AND LET ME ASK YOU THIS QUESTION, [REDACTED]
25 [REDACTED] [REDACTED] [REDACTED] ROAD, WHAT COUNTY IS THAT

DIRECT - BENNIE RAY PETREY BY SOL. BELL

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1 LOCATED IN?

2 A. THAT IS IN DORCHESTER COUNTY.

3 Q. OKAY.

4 SOLICITOR BELL: THANK YOU, DEPUTY
5 PETREY, PLEASE ANSWER ANY QUESTIONS MR. KEARSE HAS FOR
6 YOU.

7 THE COURT: MR. KEARSE, YOU MAY
8 PROCEED.

9 (NOTE: Blank lines on this page do not indicate any
10 part of record has been omitted. Headers on testimony
11 pages and hard page breaks between testimony are now
12 required by the Court. See next ensuing page for
13 sequential continuation of record.)

CROSS - BENNIE RAY PETREY BY MR. KEARSE

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CROSS-EXAMINATION OF BENNIE RAY PETREY

BY MR. KEARSE:

Q. DEPUTY, YOU SAID WHEN YOU GOT TO THE HOUSE THERE
WAS NOBODY AT THE HOUSE, CORRECT?

A. CORRECT, SIR.

Q. AND THAT WOULD INCLUDE THE LESSOR OF THE HOUSE,
LANESHA GREEN, OR ---

A. THERE WAS NO ONE THAT MADE THEMSELVES KNOWN TO US.

Q. ALRIGHT, AND YOU SAID THAT WHEN YOU GOT THERE YOU
MET AN INDIVIDUAL BY THE NAME OF CLAY SINGLETARY,
IS THAT CORRECT?

A. THAT WAS THE INITIAL COMPLAINANT, YES, SIR.

Q. ALRIGHT. AND HE JUST SAID HE HEARD SHOTS?

A. HE SAID HE HEARD SHOTS NEXT DOOR.

Q. ALRIGHT. HE DIDN'T SAY HE SAW ANYTHING, HE DIDN'T
SEE ANY CARS OR ANYONE, HE JUST HAPPENED TO HEAR
SHOTS?

A. YES, SIR.

MR. KEARSE: I DON'T HAVE ANYTHING
FURTHER, YOUR HONOR.

THE COURT: ANY REDIRECT?

SOLICITOR BELL: NONE, YOUR HONOR.

THE COURT: ANY OBJECTION TO THE
WITNESS BEING EXCUSED FROM THE STATE?

SOLICITOR BELL: NO, YOUR HONOR.

1 THE COURT: FROM THE DEFENSE?

2 MR. KEARSE: NONE, YOUR HONOR.

3 THE COURT: SIR, YOU'RE EXCUSED,
4 HAVE A GOOD DAY.

5 WITNESS: THANK YOU, MA'AM.

6 THE COURT: YOU MAY CALL YOUR NEXT
7 WITNESS.

8 SOLICITOR BELL: YOUR HONOR, I NEED
9 TO CALL JASSON TURNER, I BELIEVE HE'S OUTSIDE.
10 (Whereupon, the witness
11 enters the courtroom.)

12 THE COURT: COME DOWN TO BE SWORN.
13 PLACE YOUR LEFT HAND ON THE BIBLE AND RAISE YOUR RIGHT
14 HAND TO BE SWORN.

15 (Whereupon, the witness,
16 JASSON TURNER,
17 is duly sworn.)

18 THE COURT: IF YOU'D HAVE A SEAT FOR
19 ME, SIR, AND STATE YOUR FULL NAME FOR THE RECORD, AND
20 SPELL BOTH YOUR FIRST AND YOUR LAST NAMES FOR THE COURT
21 REPORTER.

22 WITNESS: FIRST NAME JASSON, J-A-S-
23 S-O-N, LAST NAME, TURNER, T-U-R-N-E-R.

24 THE COURT: THANK YOU.
25 YOU MAY PROCEED.

DIRECT - JASSON TURNER BY SOL. BELL

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DIRECT EXAMINATION OF JASSON TURNER

BY SOLICITOR BELL:

Q. MR. TURNER, WHERE ARE YOU FROM?

A. FROM BROOKLYN, NEW YORK.

Q. AND HAVE YOU LIVED ANYWHERE ELSE BESIDES BROOKLYN,
NEW YORK?

A. A LITTLE BIT OUT HERE, A LITTLE BIT IN CALIFORNIA.

Q. LET ME ASK YOU THIS, DO YOU HAVE A NICK NAME?

A. YES, SIR.

Q. WHAT IS YOUR NICK NAME?

A. SMOKE.

Q. I'M GOING TO ASK YOU DO YOU RECALL BACK ON JULY
THIRD, TWO THOUSAND THREE, AROUND THAT TIME, DO
YOU REMEMBER THAT?

A. YES, SIR.

Q. WHERE WERE YOU AT THAT TIME?

A. SOUTH CAROLINA.

Q. AND WHY WERE YOU IN SOUTH CAROLINA?

A. I WAS COMING OUT HERE TO DO SOME BUSINESS.

Q. OKAY. AND WHERE WERE YOU COMING FROM?

A. COMING FROM VIRGINIA.

Q. DO YOU KNOW SPECIFICALLY WHERE IN VIRGINIA?

A. DANVILLE, VIRGINIA.

Q. OKAY. WHY WERE YOU IN VIRGINIA, IN DANVILLE,
VIRGINIA?

DIRECT - JASSON TURNER BY SOL. BELL

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1 A. I WAS GETTING UP WITH STEVE, OVER RIGHT THERE.

2 Q. OKAY. HOW LONG HAD YOU BEEN THERE?

3 A. MAYBE ABOUT TWO WEEKS -- TWO WEEKS, MAYBE THREE
4 WEEKS.

5 Q. OKAY. AND YOU SAID, DO YOU KNOW STEVE BRISCOE?

6 A. YES, I DO.

7 Q. HOW LONG HAVE YOU KNOWN HIM?

8 A. ABOUT, SINCE NINETY-FOUR, NINETY-FIVE.

9 Q. HOW DID YOU FIRST MEET HIM?

10 A. MUSIC. HE RAP -- YOU KNOW, I MAKE BEATS, I RAP,
11 YOU KNOW.

12 Q. WHERE DID YOU MEET HIM?

13 A. IN BROOKLYN, BASICALLY, THIS NEIGHBORHOOD CALLED
14 BEDFORD STUYVESANT.

15 COURT REPORTER: I DIDN'T UNDERSTAND
16 WHAT YOU SAID.

17 THE COURT: COULD YOU SPELL THAT FOR
18 THE COURT REPORTER, PLEASE, AND REPEAT IT?

19 A. BEDFORD, B-E-D-F-O-R-D, STUYVESANT, S-T-U-Y-V-E-S-
20 A-N-T, I BELIEVE.

21 Q. AND HOW LONG, I MEAN, HOW LONG HAD YOU BEEN WITH
22 HIM BACK THEN WHEN YOU MET HIM I BROOKLYN?

23 A. I MEAN, I WAS -- WE HANG OUT A LITTLE BIT, YOU
24 KNOW, I MEAN, BUT WE WASN'T HANGING OUT LIKE THAT.
25 I MEAN, HE WAS DOING BEATS, HE WOULD, YOU KNOW,

DIRECT - JASSON TURNER BY SOL. BELL

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1 BUY LITTLE BEATS FROM ME, OR WHATEVER, RHYME, YOU
2 KNOW, WE HAVE LITTLE STUDIO SESSIONS AND STUFF
3 LIKE THAT, BUT IT REALLY WASN'T, YOU KNOW, WE WAS
4 -- IT WASN'T UNTIL LATER THAT ME AND HIM, YOU
5 KNOW, GOT REAL COOL.

6 Q. OKAY. AND WHEN WAS THAT, ABOUT?

7 A. I GUESS THROUGHOUT THE YEARS, I GUESS THROUGHOUT
8 THE YEARS. IT'S NOT REALLY NOT SET TIME NOW, YOU
9 KNOW, WE JUST DECIDED, YEAH, ME AND YOU ARE GOING
10 TO KICK IT, WE'RE GOING TO HANG OUT. AND IT'S LIKE
11 THIS AND LIKE THAT. I MEAN, THROUGHOUT THE YEARS
12 OUR RELATIONSHIP SORT OF PROGRESSED, YOU KNOW, WE
13 STARTED BECOMING A LITTLE MORE CLOSER. WE AIN'T
14 NEVER LIVED WITH EACH OTHER OR NOTHING LIKE THAT,
15 BUT, YOU KNOW, WE WAS, WE WAS PRETTY ALRIGHT
16 FRIENDS.

17 Q. OKAY. HOW DID YOU COME DOWN TO DANVILLE IN THAT
18 PART OF TWO THOUSAND AND THREE?

19 A. BASICALLY, HE JUST TOLD ME TO COME OUT THERE AND
20 SEE HIM, YOU KNOW, BECAUSE I HAVEN'T SEEN HIM IN A
21 MANY -- YOU KNOW, TALKING ABOUT, YOU KNOW,
22 EVERYTHING IS GOOD OUT THERE. SO, I JUST WENT OUT
23 THERE, YOU KNOW. HE BASICALLY PICKED ME UP FROM
24 THE AIR PORT, YOU KNOW, I STAYED AT HIS CRIB, YOU
25 KNOW, LIKE I SAID, FOR ABOUT TWO WEEKS, OR

DIRECT - JASSON TURNER BY SOL. BELL

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1 WHATEVER.

2 Q. OKAY. AND DO YOU SEE HIM IN THE COURTROOM?

3 A. YES, I DO.

4 Q. COULD YOU PLEASE POINT HIM OUT FOR THE JURY?

5 A. STEVE, RIGHT THERE.

6 Q. AT THE DEFENSE TABLE?

7 A. YES, SIR.

8 Q. NOW, WHY DID Y'ALL DECIDE, OR WHY DID Y'ALL COME
9 TO SOUTH CAROLINA ON JULY THIRD OF TWO THOUSAND
10 AND THREE?

11 A. BASICALLY, YOU KNOW, I KNOW SOME PEOPLE, YOU KNOW,
12 AND I KNOW HIM. SO, I BASICALLY PUT THESE TWO
13 PEOPLE TOGETHER.

14 Q. AND WHO DID YOU KNOW IN SOUTH CAROLINA?

15 A. I KNOW THIS DUDE NAMED RYAN NORTH.

16 Q. AND HOW DID YOU MEET HIM?

17 A. I MET HIM FROM ONE OF MY OTHER FRIENDS, YOU KNOW,
18 HIS NAME IS JEFF.

19 COURT REPORTER: I'M SORRY, HIS NAME
20 IS WHAT?

21 A. JEFF. J-E-F-F.

22 Q. WHEN DID YOU MEET RYAN?

23 A. MAYBE, I GUESS -- MAYBE A MONTH OR TWO BEFORE, YOU
24 KNOW, ME AND HIM WENT TO MEET RYAN, SO MAYBE ABOUT
25 MAY.

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1 Q. OKAY. AND WHERE DID YOU MEET RYAN AT?

2 A. I MET HIM AT HIS HOUSE. HE'S GOT A TRAILER
3 SOMEWHERE IN, OUT HERE, SOMEWHERE OUT HERE.

4 Q. YOU DON'T KNOW SPECIFICALLY?

5 A. I DON'T KNOW EXACTLY WHERE, I ONLY BEEN THERE
6 TWICE IN MY LIFETIME.

7 Q. OKAY. AFTER YOU MET HIM AT THAT PARTICULAR TIME,
8 SOME MONTH OR SO BEFORE JULY THIRD, TWO THOUSAND
9 AND THREE, IS THAT THE ONLY TIME YOU MET HIM,
10 UNTIL JULY THIRD?

11 A. WHAT, MET RYAN?

12 Q. YEAH.

13 A. NO, I MET HIM TWO MONTHS BEFORE.

14 Q. YEAH. IS THAT THE ONLY TIME YOU MET HIM BEFORE
15 JULY THIRD?

16 A. YEAH, YEAH, YES, SIR.

17 Q. ALRIGHT. AND IS THAT THE PERSON YOU'RE TALKING
18 ABOUT IN SOUTH CAROLINA YOU WERE PUTTING UP WITH
19 STEVE?

20 A. YEAH.

21 Q. OKAY. AND WHY WERE YOU PUTTING THEM TOGETHER, FOR
22 WHAT REASON?

23 A. BASICALLY, RYAN, I KNOW RYAN, YOU KNOW, BEING IN
24 THE GAME, IN THE DRUG GAME, YOU KNOW, AND I KNOW
25 STEVE, YOU KNOW, BASICALLY I WAS TRYING TO GET HIM

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1 TO, YOU KNOW, SWITCH HIS GAME UP FROM WHAT HE WAS
2 DOING, YOU KNOW, TO SOMETHING DIFFERENT, BECAUSE I
3 KNOW, YOU KNOW, BASICALLY, WHAT THE REPERCUSSIONS
4 OF THE GAME HE WAS MESSING WITH, YOU KNOW, MAY
5 OCCUR, YOU KNOW. SO, THAT'S WHY I WAS TRYING TO
6 GET HIM -- HE WAS ABOUT TO GET OUT THE GAME,
7 BASICALLY, HE WAS ABOUT TO GET OUT OF THE GAME,
8 OUT OF THAT GAME, AND I THAT WAS IT, BASICALLY,
9 UNTIL, YOU KNOW, I PUT THEM TWO TOGETHER. AND
10 THEN, THE UNFORTUNATE HAPPENED.

11 Q. WELL, LET ME ASK YOU THIS, WHAT GAME ARE YOU
12 TALKING ABOUT, BECAUSE THESE PEOPLE DON'T KNOW
13 WHAT KIND OF GAME YOU'RE TALKING ABOUT?

14 A. I'M TALKING ABOUT THE DRUG GAME.

15 Q. OKAY. AND WHAT, I MEAN, WHAT GAME WAS HE IN THAT
16 YOU WERE TRYING TO GET HIM OUT OF?

17 A. COKE.

18 Q. OKAY. AND WHAT WERE YOU TRYING TO GET HIM TO?

19 A. TRYING TO GET HIM TO A DIFFERENT GAME.

20 Q. AS IN?

21 A. AS IN SOME, LIKE, MARIJUANA OR SOMETHING LIKE
22 THAT, SOMETHING LIGHT, SOMETHING THAT -- I MEAN, I
23 KNOW IT SOUNDS CRAZY, BUT, YOU KNOW, THAT'S A
24 WHOLE DIFFERENT GAME RIGHT THERE. THAT'S A WHOLE
25 OTHER GAME RIGHT THERE, I MEAN, YOU DON'T GOT TO

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1 WORRY ABOUT TOO MANY PEOPLE, YOU KNOW, RUNNING UP
2 ON YOU TRYING TO KILL YOU AND STUFF LIKE THAT, YOU
3 KNOW. AND I KNOW THAT THE COCAINE GAME IS THAT
4 KIND OF GAME. THE CRACK GAME IS THAT KIND OF
5 GAME.

6 Q. OKAY. SO, WHAT WAS, I MEAN, WHY GO DOWN ALL THE
7 WAY TO SOUTH CAROLINA?

8 A. I MEAN, BASICALLY, THAT'S JUST PEOPLE I KNEW OUT
9 THERE FROM OTHER PEOPLE.

10 Q. SO, WHAT WAS THE PLAN WHEN YOU -- WHEN DID YOU
11 CALL RYAN ABOUT COMING TO SOUTH CAROLINA?

12 A. I CALL HIM ABOUT TWO DAYS, TWO DAYS BEFORE WE WENT
13 OUT THERE, IT WAS PROBABLY LIKE THE FIRST, THE
14 FIRST OF JULY.

15 Q. OKAY. AND DID Y'ALL SET SOMETHING UP THEN, OR ---

16 A. YEAH, I SET SOMETHING UP WITH THEM, I BASICALLY
17 TOLD, YOU KNOW, MY MAN, YOU KNOW, HE HAD ABOUT,
18 YOU KNOW, A QUARTER KEY, OR WHATEVER, YOU KNOW,
19 SOMEBODY.

20 COURT REPORTER: HE HAD WHAT?

21 A. A QUARTER OF A KEY.

22 Q. IS THAT THE SAME AS A KELO?

23 A. YEAH, BUT IT'S A QUARTER OF A KELO.

24 Q. OKAY.

25 A. SO, BASICALLY, YOU KNOW, I TOLD HIM, I SAID, I

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1 KNOW MY MAN, HE'S GOT A QUARTER KEY, AND WHAT NOT,
2 DO YOU KNOW ANYBODY THAT MIGHT WANT SOME WITH
3 THIS? AND HE WAS, LIKE, RYAN, THIS IS WHO I'M
4 TALKING ABOUT, HE WAS, LIKE, YEAH, BRING IT DOWN,
5 YOU KNOW, COME ON DOWN. SO, THEN, BASICALLY, FROM
6 THERE WE WAS JUST BASICALLY TRYING TO FIND A WAY
7 TO GET OUT THERE.

8 Q. TO SOUTH CAROLINA?

9 A. YEAH.

10 Q. OKAY. SO, WHEN WERE YOU ABLE TO COME TO SOUTH
11 CAROLINA?

12 A. WE WAS ABLE TO COME ON THE THIRD.

13 Q. OKAY. AND WHAT WAY DID YOU FIND TO COME TO SOUTH
14 CAROLINA?

15 A. STEVE'S MOM, YOU KNOW, LET HIM BORROW THE CAR.

16 Q. OKAY. WHAT KIND OF CAR DID SHE HAVE?

17 A. IT WAS A GRAND AM, I DON'T KNOW THE MODEL YEAR,
18 BUT I KNOW IT WAS A GRAND AM PONTIAC.

19 Q. MR. TURNER, LET ME SHOW YOU THIS PICTURE AND I ASK
20 YOU IF YOU CAN IDENTIFY THAT?

21 A. YEAH, IT'S A CAR SIMILAR TO THAT, IF THAT'S NOT
22 THE SAME ONE IT'S ONE SIMILAR TO THAT.

23 Q. OKAY. LET ME SHOW YOU ANOTHER PICTURE, A SECOND
24 PICTURE.

25 A. YES.

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1 Q. AND A THIRD PICTURE?

2 A. YES.

3 Q. IS THAT THE CAR, YOU WANT TO SAY IT'S SIMILAR TO
4 THAT?

5 A. NO, THAT'S THE CAR RIGHT THERE.

6 Q. OKAY.

7 SOLICITOR BELL: YOUR HONOR, WE'D
8 OFFER THESE THREE IN EVIDENCE, FOR IDENTIFICATION AT
9 THIS TIME.

10 THE COURT: ANY OBJECTION?

11 MR. KEARSE: YOUR HONOR, I OBJECT.

12 THE COURT: BASIS? YOU CAN
13 APPROACH.

14 (Whereupon, a bench conference
15 is held out of the hearing of
16 the jury and the court reporter.)

17 THE COURT: JUST TO SHOW THEM RIGHT
18 NOW?

19 SOLICITOR BELL: JUST FOR
20 IDENTIFICATION.

21 THE COURT: OKAY. OBJECTION
22 OVERRULED, IT GOES TO WEIGHT. YOU MAY PROCEED. THEY
23 CAN BE MARKED FOR ID ONLY.

24 COURT REPORTER: STATE'S EIGHT, NINE
25 AND TEN FOR ID ONLY.

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1 (State's Exhibits Eight, Nine and Ten,
2 Photographs,
3 marked for identification.)

4 THE COURT: YOU MAY PROCEED.

5 SOLICITOR BELL: THANK YOU, YOUR
6 HONOR.

7 Q. SO, ONCE YOU GOT THE CAR WHEN DID YOU HEAD TO
8 SOUTH CAROLINA?

9 A. WELL, THE AFTERNOON.

10 Q. OKAY. AND WAS THIS THE ONLY REASON THAT YOU WERE
11 COMING TO SOUTH CAROLINA?

12 A. BASICALLY, YEAH.

13 Q. YOU HAD NOTHING ELSE TO DO?

14 A. NO.

15 Q. OKAY. DO YOU RECALL WHAT TIME YOU GOT TO SOUTH
16 CAROLINA?

17 A. MAYBE ABOUT NINE, TEN O'CLOCK MAYBE, AROUND NINE,
18 IT WAS AROUND NINE.

19 Q. OKAY. WERE YOU CALLING RYAN ANYTIME DURING THAT
20 DAY?

21 A. THE WHOLE DAY, THE WHOLE DAY WE WAS CALLING HIM,
22 CALLING HIM, CALLING, AND THEN WE KEPT CALLING
23 HIM. WELL, I WAS THE ONE WHO KEPT CALLING HIM,
24 BASICALLY, BECAUSE I WAS THE ONLY PERSON WHO KNEW
25 HIM. SO, I KEPT CALLING HIM, CALLING HIM, CALLING

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1 HIM. HE WOULDN'T PICK UP HIS PHONE, SO ALREADY I
2 FELT LIKE, YOU KNOW, SOMETHING WAS FISHY.

3 Q. OKAY. HOW WERE YOU CALLING HIM?

4 A. MY CELL PHONE.

5 Q. AND WHERE WAS YOUR CELL PHONE FROM?

6 A. FROM NEW YORK.

7 Q. WAS IT IN YOUR NAME?

8 A. NO.

9 Q. WHOSE NAME WAS IT?

10 A. MY FIANCE`.

11 Q. DO YOU RECALL WHAT NUMBER -- WHAT'S YOUR
12 FIANCE`'S NAME?

13 A. SHANA SWAZY.

14 Q. WHERE DOES SHE LIVE?

15 A. CALIFORNIA.

16 Q. AND WHERE IN CALIFORNIA?

17 A. PANORAMA CITY.

18 Q. OKAY, WHERE IS THAT NEAR?

19 A. LOS ANGELES.

20 Q. OKAY. LET ME SHOW YOU THIS, THESE PIECES OF PAPER
21 AND ASK YOU, ON THE TOP OF THAT, THAT'S HER, AND
22 HER ADDRESS?

23 A. THAT HER MOTHER'S ADDRESS.

24 Q. OKAY. IS THAT THE PHONE NUMBER YOU USED?

25 A. UH HUH.

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1 Q. OKAY.

2 SOLICITOR BELL: YOUR HONOR, WE'D
3 ASK THAT THESE BE MARKED FOR IDENTIFICATION.

4 THE COURT: ANY OBJECTION?

5 MR. KEARSE: JUST FOR ID, NO
6 OBJECTION.

7 THE COURT: YOU REALIZE YOU'VE
8 MARKED ALL THESE THINGS FOR ID ONLY?

9 SOLICITOR BELL: THAT'S CORRECT,
10 YOUR HONOR.

11 THE COURT: OKAY. ANY OBJECTION?

12 MR. KEARSE: IF IT'S FOR ID, YOUR
13 HONOR, NO OBJECTION.

14 THE COURT: MARKED FOR ID ONLY
15 WITHOUT OBJECTION.

16 COURT REPORTER: DO YOU WANT THEM
17 MARKED INDIVIDUALLY OR ---

18 SOLICITOR BELL: JUST -- NO, AS ONE.

19 COURT REPORTER: STATE'S ELEVEN FOR
20 ID.

21 (State's Exhibit Eleven,
22 Cell Phone records,
23 marked for identification.)

24 SOLICITOR BELL: THANK YOU.

25 THE COURT: YOU MAY PROCEED.

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1 Q. YOU SAY, THEN, YOU WERE CALLING RYAN NORTH DURING
2 THE DAY, IS THAT CORRECT?

3 A. UH HUH.

4 Q. DID YOU EVER GET TO TALK TO HIM?

5 A. NO, NO, NOT SINCE BEFORE WE LEFT WHEN I CALLED HIM
6 TO TELL HIM TO TELL HIM WE WAS COMING OUT THERE,
7 CALLING HIM ALL DAY, ALL DAY, ALL DAY. WE DRIVE
8 UP, WE PULL UP, YOU KNOW, I'M STILL TRYING, I'M
9 GETTING DIRECTIONS FROM HIS, HIS GIRL FRIEND, OR
10 WHOEVER THAT GIRL WAS, SHORTIE, I DON'T KNOW WHO
11 IT WAS, BUT I'M GETTING DIRECTIONS FROM HER
12 BECAUSE I CAN'T GET IN TOUCH WITH HIM, YOU KNOW.
13 SO, SHE TELLING US HOW TO GET THERE, THEN WHEN WE
14 FINALLY DO PULL UP, THEN RYAN, OUT OF NOWHERE,
15 RYAN, HIS BROTHER, AND SOME OTHER DUDE PULL UP --
16 I MEAN, NOT PULL UP, BUT THEY COME OUT OF, LIKE,
17 IT WAS REAL DARK AND THEY JUST COME OUT OF
18 NOWHERE, LIKE.

19 Q. SO, YOU WENT TO RYAN'S HOUSE?

20 A. YEAH.

21 Q. OKAY. WHAT HAPPENED THEN?

22 A. AFTER THAT, HE AIN'T INVITE US IN OR NOTHING, AND
23 WE WAS, IT WAS A LITTLE RAINING OUTSIDE, SO HE
24 TOLD US TO COME ON THE STOOP, THAT'S WHEN RYAN
25 BROUGHT A GUN OUT, YOU KNOW. HE WAS, LIKE, HE WAS

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1 TRYING TO SELL US A GUN, YOU KNOW. SO, THEN, AFTER
2 THAT I TOLD RYAN, I WAS, LIKE, YOU KNOW, WE AIN'T
3 REALLY COME OUT HERE FOR THAT, YOU KNOW, WE CAME
4 OUT HERE, YOU KNOW, WITH, YOU KNOW -- WE CAME OUT
5 HERE DIRTY, WE CAME OUT HERE ILLEGAL ALREADY,
6 WE'RE NOT TRYING TO GO BACK THAT WAY. WE'RE NOT
7 TRYING TO GO BACK ILLEGAL LIKE THAT. SO, THEN
8 AFTER THAT, THAT'S WHEN, I GUESS RYAN WAS USING
9 THAT TO TRY TO PICK OUR MINDS TO SEE IF, YOU KNOW,
10 IF WE CAME WITH A GUN OR NOT. BUT THAT'S HOW, YOU
11 KNOW, LOOKING AT THE WHOLE SITUATION IN HIND
12 SIGHT, THAT'S HOW I LOOK AT IT, YOU KNOW.

13 Q. OKAY. BUT AT THE TIME YOU SAID YOU DIDN'T WANT TO
14 BUY THE GUN, SO YOU DIDN'T, IS THAT RIGHT?

15 A. RIGHT. SO, THEN I SAID, WELL, WHAT'S GOING ON WITH
16 THE OTHER DEAL? SO, THEN, THAT'S WHEN HE'S TALKING
17 ABOUT, WE'VE GOT TO GO TO SOME OTHER HOUSE. I'M,
18 LIKE, WHY WE GOT TO GO TO SOME OTHER HOUSE, YOU
19 SAID EVERYTHING, YOU KNOW, WE NEEDED TO TAKE CARE
20 OF WAS RIGHT HERE. SO, THEN AFTER THAT, THAT'S
21 WHEN WE GO -- HE JUMP IN THE FRONT SEAT, STEVE
22 DRIVING, I'M IN THE BACK SEAT, THAT'S WHEN HE, YOU
23 KNOW, WE BACK UP, WE GO TO, I THINK IT WAS UTSEY
24 ROAD, WHATEVER THAT WAS. RYAN'S BROTHER AND THEIR
25 HOME BOY, OR WHATEVER, DEE DEE, HE FOLLOWS, HE

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1 FOLLOWS BEHIND US BASICALLY, BECAUSE HE'S LETTING
2 US -- WELL, NO, AS A MATTER OF FACT, A MATTER OF
3 FACT, WE FOLLOWED THEM, WE FOLLOWED THEM, BECAUSE
4 I REMEMBER NOW, WE FOLLOWED THEM, BECAUSE THEY HAD
5 GOT OUT. THEY GOT OUT OF THE CAR, RYAN GOT OUT OF
6 THE CAR, THEY ALL WENT IN THE STORE, AND THEN
7 AFTER THAT WE PULLED FROM BEHIND THEM. THEY WENT
8 SOMEWHERE ELSE, BECAUSE I REMEMBER, BECAUSE ONE
9 THING, I'M LIKE, WHY, YOU KNOW, WHY THEY -- WHY WE
10 FOLLOWING THEM, AND THEN WE'RE GOING OUR OWN WAY?
11 SO, FOR THEM TO PULL UP BEHIND US. SO, THEN AFTER
12 THAT, WE FINALLY GET UP IN THERE TO UTSEY ROAD AND
13 WHAT NOT, WE FINALLY GET TO UTSEY ROAD, AND THEN
14 AFTER THAT IT'S DARK OUTSIDE, NO LIGHTS, NO
15 NOTHING. AND WE GET IN THERE, IT'S AN OLD CRACK
16 HEAD LOOKING DUDE, THE DUDE WHO GOT SHOT OR KILLED
17 AND ---

18 COURT REPORTER: WHAT GOT SHOT?

19 A. THE GUY WHO GOT SHOT, THE MAN WHO GOT SHOT, WE GO
20 UP IN THERE, RYAN -- WITH RYAN, BECAUSE HE'S
21 INTRODUCING US TO JERMAINE CUSACK AND THIS OTHER
22 DUDE NAMED JOHNNY COBB, AND THEN AFTER THAT, THEN
23 THAT'S WHEN RYAN'S BROTHER AND RYAN'S HOME BOY,
24 DEE DEE, PULLED UP, THAT'S WHEN THEY PULLED UP
25 RIGHT AFTER THAT, LIKE, MAYBE ABOUT FIVE MINUTES

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1 AFTER THAT.

2 Q. OKAY. LET ME STOP YOU THERE AND GO BACK FOR A
3 SECOND. YOU LEFT FROM RYAN'S HOUSE?

4 A. RIGHT.

5 Q. AND WHERE DID YOU GO THEN?

6 A. WE WENT TO THE -- STOPPED -- WENT TO UTSEY ROAD,
7 BUT WE STOPPED AT A GAS STATION FIRST.

8 Q. OKAY.

9 A. WE WAS FOLLOWING RYAN AND DEE DEE, WE WAS
10 FOLLOWING THEM IN A, I THINK IT WAS THREE HUNDRED
11 C, SOMETHING, A GOLD THREE HUNDRED SOMETHING LIKE
12 THAT, A CHRYSLER SOMETHING, THREE HUNDRED M, OR
13 SOMETHING LIKE THAT. WE'RE RIDING BEHIND THEM.
14 THEN AFTER THAT, THEN THAT'S WHEN RYAN GET OUT OF
15 THE CAR AND TWO OTHER DUDES, TRAVIS AND DEE DEE,
16 AND THEY GO, I DON'T KNOW IF THEY'RE GOING TO BUY
17 BLUNTS OR WHATEVER, BUT THEY STOP IN THE STORE.
18 RYAN GETS BACK IN THE CAR, THEN WE PROCEED ON TO
19 UTSEY ROAD.

20 Q. OKAY. DID YOU KNOW TRAVIS BEFORE THAT NIGHT?

21 A. I MET HIM, I DIDN'T KNOW HIM.

22 Q. WHAT ABOUT THE OTHER FELLOW YOU SAY ---

23 A. DEE DEE, I MET HIM, I DIDN'T KNOW HIM.

24 Q. AND DID YOU KNOW WHERE, WHAT [REDACTED] ROAD WAS?

25 A. NO, I DIDN'T EVEN KNOW WHERE WE WAS GOING.

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1 Q. OKAY.

2 A. I NEVER MET NONE OF THEM DUDES, THE ONLY PERSON I
3 KNEW WAS RYAN, I NEVER MET NONE OF THEM DUDES
4 BEFORE.

5 Q. OKAY. SO, NOW YOU GET TO THIS HOUSE WHERE Y'ALL
6 GOT OUT, IS THAT CORRECT?

7 A. YEAH, WE GET TO THE HOUSE, IT'S JUST US AND TRAVIS
8 AND HIS BROTHER DIDN'T COME OUT YET, AND WHAT NOT.
9 THEY DIDN'T PULL UP YET. I DON'T KNOW WHERE THEY
10 WENT, BUT THEY PULLED UP MAYBE ABOUT FIVE MINUTES
11 AFTER THAT. BUT WE'RE ALREADY IN THE HOUSE
12 ALREADY.

13 Q. ALRIGHT, WHO IS WE?

14 A. ME, STEVE, RYAN, JOHNNY, AND THE ONLY REASON WHY I
15 KNOW THEIR NAMES IS BECAUSE OF THE CASE IN MY
16 MOTION OF DISCOVERY, THAT'S THE ONLY REASON WHY I
17 KNOW THEIR NAMES, BECAUSE I DIDN'T KNOW THEIR
18 NAMES PRIOR TO THIS.

19 Q. OKAY. DID YOU KNOW THEM, DID YOU EVER MEET THEM?

20 A. I DIDN'T, I NEVER MET THEM IN MY LIFE.

21 Q. OKAY. WHAT DID Y'ALL DO IN THE HOUSE?

22 A. BASICALLY, PULLED OUT THE DRUGS AND WHAT NOT, YOU
23 KNOW. STEVE HAD IT ALL IN ONE, BASICALLY, SO HE
24 WEIGHED IT OUT, YOU KNOW, BASICALLY, BECAUSE RYAN
25 WAS TALKING LIKE HE WAS GOING TO HAVE PEOPLE

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1 COMING THROUGH TO BUY IT AND WHAT NOT, YOU KNOW,
2 AND THE WHOLE TIME WE'RE THINKING THAT THE GUY WHO
3 HE'S TAKING US TO, JERMAINE, IS GOING TO BUY
4 EVERYTHING, BUT HE'S NOT, HE'S TALKING ABOUT
5 BUYING ONE OUNCE. SO, BEFORE HE PAYS FOR IT, HE'S
6 PUTTING IT IN A PYREX AND HE'S COOKING IT INTO
7 CRACK COCAINE AND WHAT NOT. SO, HE'S COOKING IT
8 AND WHAT NOT IN THE PYREX. SO RIGHT THERE, I'M
9 SITTING THERE, LIKE, YOU KNOW, OKAY, WHY IS HE
10 COOKING IT AND HE'S NOT EVEN PAYING FOR IT, YOU
11 KNOW, I DON'T UNDERSTAND THIS RIGHT HERE.

12 Q. OKAY.

13 A. SO, THAT RIGHT THERE LET ME KNOW SOMETHING WAS
14 FISHY AGAIN, THAT'S NUMBER TWO RIGHT THERE, THAT
15 SOMETHING WAS FISHY.

16 Q. OKAY. NOW, WHEN HE -- YOU SAID STEVE PULLED THE
17 STUFF OUT, WHERE DID HE PUT IT, I MEAN, WHERE WAS
18 HE PUTTING IT OUT?

19 A. IT WAS ON THE TABLE, IT WAS TABLE NEXT TO THE
20 DOOR.

21 Q. OKAY. DO YOU REMEMBER WHAT KIND OF TABLE?

22 A. LIKE A LITTLE CARD TABLE, WHATEVER, A LITTLE TRAY
23 TABLE, YOU KNOW, YOU COULD BREAK IT DOWN AND PUT
24 IT SOMEWHERE.

25 Q. OKAY. WHAT HAPPENED AFTER THAT, AFTER HE STARTED

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1 COOKING IT?

2 A. BASICALLY, WE JUST STANDING AROUND, YOU KNOW,
3 BECAUSE IT SEEMED LIKE, YOU KNOW, IT'S TAKING
4 FOREVER, SO WE'RE JUST SITTING THERE, YOU KNOW.
5 SO, BASICALLY, THE GUY, TALKING ABOUT JERMAINE,
6 NOW HE'S TALKING ABOUT HE WANT IT NOW. I'M, LIKE,
7 YOU KNOW, YOU'RE COOKING IT, OF COURSE, YEAH, YOU
8 DO WANT IT. OF COURSE, YOU WANT IT, YOU'RE
9 COOKING IT, YOU KNOW, BECAUSE YOU CAN'T TURN CRACK
10 BACK INTO COCAINE. SO, THEN AFTER THAT, YOU KNOW,
11 HE'S TALKING ABOUT HE AIN'T GOT THE RIGHT AMOUNT
12 OF MONEY. RYAN'S TELLING ME TO CHARGE, CHARGE
13 JERMAINE A THOUSAND DOLLARS SO HE COULD BASICALLY
14 -- BECAUSE RYAN'S TALKING ABOUT HE ONLY HAS SIX
15 HUNDRED OR SOMETHING LIKE THAT. SO, HE'S TRYING TO
16 GET US TO CHARGE HIS OWN MAN A THOUSAND DOLLARS
17 AND WHAT NOT. AND YOU KNOW, WE ALREADY TOLD HIM
18 EIGHT HUNDRED FOR IT, WE ALREADY HIM EIGHT HUNDRED
19 FOR IT. WELL, I TOLD HIM EIGHT HUNDRED FOR IT.
20 SO, HE'S TRYING TO GET ME TO CHARGE HIM A THOUSAND
21 DOLLARS SO HE WOULD ONLY HAVE TO PAY SIX HUNDRED,
22 AND WHAT NOT. SO, THEN, AFTER THAT, THAT'S WHEN --
23 AFTER THEY FINISHED COOKING IT AND EVERYTHING, THE
24 DUDE, JERMAINE, IS STILL TRYING TO SHORT US AND
25 WHAT NOT. SO, STEVE IS, LIKE, NO, BECAUSE HE'S

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1 COMING TO ASK ME, HE'S, LIKE, I GOT SEVEN HUNDRED
2 AND SOME ODD DOLLARS. AND I'M, LIKE, OH, STEVE,
3 THEY ONLY GOT -- STEVEN IS, LIKE, NO, I WANT MY
4 EIGHT, OR EIGHTY FIFTY, OR WHATEVER, YOU KNOW WHAT
5 I MEAN? SO, THEN, AFTER THAT, THAT'S WHEN, THAT'S
6 WHEN THIS GIRL, I DON'T KNOW HER NAME, BUT SHE
7 KEPT GOING BACK AND FORTH LIKE, I KEPT SEEING
8 JERMAINE GOING BACK AND FORTH TO THE DOOR, I GUESS
9 HE WAS TRYING TO GET SOME MORE MONEY, OR WHATEVER,
10 I DON'T KNOW WHAT WAS GOING ON, BUT ALL I KNOW IS
11 THAT HE KEPT SAYING, YEAH, IN A MINUTE, BECAUSE WE
12 KEPT SAYING, Y'ALL WE GOT TO GO, WE GOT TO GO.
13 SO, HE'S SENDING SOME GIRL BACK AND FORTH FOR SOME
14 MONEY AND WHAT NOT.

15 Q. BACK AND FORTH WHERE?

16 A. I DON'T KNOW WHERE SHE WAS GOING. I DON'T KNOW
17 WHERE SHE WAS GOING.

18 Q. DID SHE LEAVE FROM THE HOUSE?

19 A. SHE LEFT FROM THE HOUSE, THEN SHE'LL PULL UP, AND
20 THEN SHE'LL LEAVE AGAIN, AND THEN -- THERE WASN'T
21 NO PULLING UP AFTER THAT.

22 Q. OKAY. THEN WHAT HAPPENED?

23 A. THEN, AFTER THAT, THAT'S WHEN RYAN COME OUT WITH
24 THE GUN AGAIN, TALKING ABOUT, ARE YOU SURE YOU
25 DON'T WANT TO BUY THIS, ARE YOU SURE YOU DON'T

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1 WANT TO BUY THIS? WE'RE, LIKE, NO, WE'RE
2 STRAIGHT, WE DON'T NEED NO GUN. I MEAN, YOU KNOW,
3 WE'RE GOOD. SO, THEN, AFTER THAT, THAT'S WHEN RYAN
4 START TALKING ABOUT, YEAH, BECAUSE BEFORE WE WENT
5 UP IN THERE I TOLD HIM, I SAID, STEVE GOT A GUN,
6 MAN. WHEN WE WAS AT THE GAS STATION, I SAID, STEVE
7 GOT A GUN, MAN. SO, PLEASE DON'T LET NOTHING
8 FUNNY HAPPEN, PLEASE DON'T LET NOTHING FUNNY
9 HAPPEN. BECAUSE I WAS ALREADY FEELING IT ALREADY.
10 SO, I SAID, PLEASE DON'T LET NOTHING HAPPEN. SO,
11 THEN, THAT'S WHEN STEVEN WAS, LIKE, MAN, WHY YOU
12 TELLING HIM, WHY YOU TELLING HIM? YOU KNOW, I
13 MEAN, OR WHATEVER, YOU KNOW, AND I WAS, LIKE,
14 BECAUSE, MAN, I DON'T REALLY, I'M NOT REALLY
15 FEELING THIS LIKE THIS, I DON'T WANT NOTHING TO
16 HAPPEN, YOU KNOW WHAT I MEAN? THAT'S WHY I TOLD
17 HIM. SO, RYAN TOOK THAT LIKE, YOU KNOW, LIKE I
18 WAS, LIKE I WAS BEING FAKING OR SOMETHING, LIKE,
19 BECAUSE THAT'S WHY I SAID EARLIER THAT HE WAS
20 TRYING TO PICK OUR MINDS TO SEE IF WE HAD BROUGHT
21 A GUN OR NOT, LIKE, LET'S SAY HE COME OUT WITH A
22 GUN, DO YOU WANT TO BUY THIS? NO, WE ALREADY GOT
23 ONE ALREADY, YOU KNOW WHAT I MEAN? THAT'S HOW,
24 THAT'S HOW HE WAS LOOKING AT IT, OR THAT'S SHOW I
25 WAS LOOKING AT IT FROM LOOKING AT THE WHOLE

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1 SITUATION IN HIND SIGHT. SO, THEN, AFTER THAT
2 RYAN PULLS OUT THE GUN AGAIN, YOU KNOW, TALKING
3 ABOUT, DO WE WANT TO BUY THIS, DO WE WANT TO BUY
4 THIS? WE, LIKE, NO, WE DON'T WANT TO BUY THIS,
5 MAN, WE DON'T WANT TO BUY THIS, WE JUST WANT TO
6 GET THIS MONEY AND GO, GET BACK ON THE HIGHWAY,
7 MAN. SO, THEN, AFTER THAT, ALL THEM DUDES WALK
8 OUT, RYAN, JOHNNY, ALL THEM DUDES, THE DUDE THAT
9 GOT SHOT, JUST ME AND STEVE IN THE ROOM, YOU KNOW,
10 COUNTING THIS LITTLE BIT OF MONEY, BECAUSE RYAN
11 HAD ALREADY SORT OF PREPAID US ALREADY. SO, YOU
12 KNOW, WE'RE SITTING AT THE TABLE, YOU KNOW,
13 COUNTING THE MONEY, AND WHAT NOT. THEY ALL -- ALL
14 OF THEM DUDES IS IN ANOTHER ROOM, LIKE, THE
15 KITCHEN, WE'RE IN, LIKE, THE LIVING ROOM AREA.

16 Q. WHO ARE ALL THESE DUDES?

17 A. RYAN, TRAVIS, JOHNNY, JERMAINE AND THE DUDE WHO
18 GOT SHOT.

19 Q. OKAY. AND YOU AND WHO ELSE ARE IN THE OTHER ROOM?

20 A. ME AND STEVE IS IN THE OTHER ROOM.

21 Q. AND WHAT WERE Y'ALL DOING THERE?

22 A. WE WERE COUNTING THE MONEY, COUNTING THE LITTLE
23 BIT OF MONEY, OR WHATEVER, OR WE'RE WAITING TO SEE
24 WHAT'S GOING ON WITH THESE GUYS, YOU KNOW, TO FIND
25 OUT WHAT'S GOING ON WITH JERMAINE AND RYAN. SO,

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1 THE NEXT THING YOU KNOW IT'S, LIKE, IT'S ALMOST
2 LIKE THEY WAS ALL TALKING WITH EACH OTHER, AND
3 THEN THEY ALL CAME IN THE ROOM ALL AT ONE TIME,
4 JUST STANDING AROUND LIKE SOMETHING WAS ABOUT TO
5 HAPPEN. SO, THEN, AFTER THAT THE TALL DUDE CAME
6 WALKING, AND WHAT NOT, HE CAME WALKING BY THE
7 TABLE, THEN HE TRIED -- HE SNATCHED SOME OF THE
8 COKE OFF THE TABLE, AND THEN AFTER HE SNATCHED THE
9 COKE, THE GUY, HE DON'T GET IT ALL, SO HE GOES
10 BACK AGAIN AND REACHES FOR IT AGAIN, AND THEN,
11 AFTER THAT HE TRIES TO RUN TO THE DOOR, AND ALL OF
12 A SUDDEN STEVE CAME OUT WITH THE HEAT, YOU KNOW, I
13 MEAN, AND HE JUST STARTED SHOOTING AT THE DUDE,
14 LIKE, AS FAST AS, LIKE, HOW I'M SAYING IT RIGHT
15 NOW, IT HAPPENED EVEN FASTER THAN THAT. THAT'S HOW
16 FAST THE WHOLE SITUATION WENT DOWN, LIKE LIGHTNING
17 FAST.

18 Q. AND WHAT DO YOU MEAN BY THE HEAT?

19 A. THE GUN.

20 Q. OKAY. AND THAT WAS THE FELLOW THAT ---

21 A. THE GUY WHO GOT KILLED.

22 Q. OKAY. WHAT HAPPENED THEN?

23 A. THEN, AFTER THAT I TRIED TO RUN TO THE DOOR.
24 STEVE, YOU KNOW, LIKE, I GUESS IN SUCH A, YOU
25 KNOW, LIKE A PANIC OR WHATEVER, YOU KNOW, AND

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1 FEAR, WHATEVER, HE RAISED THE GUN AT ME, AND I
2 THOUGHT I WAS GETTING READY TO GET SHOT, BECAUSE I
3 RAN TOWARD HIM, AND I WAS TRYING TO RUN OUT THE
4 DOOR, BUT THEN HE RAISED THE GUN, AND I'M, LIKE,
5 YO CHILL, YO, IT'S ME, IT'S ME. AND HE WAS, LIKE,
6 OH, SMOKE, I TOLD YOU IF THIS THING GO DOWN TO GET
7 ON THE FLOOR. BUT, YOU KNOW, I'M NOT, I AIN'T
8 THINK NOTHING WAS GOING TO GO DOWN. SO, THEN
9 AFTER THAT, YOU KNOW, I'M TRYING TO RUN TO THE
10 DOOR, AND WHAT NOT. AND THEN, YOU KNOW, I FINALLY
11 DO GET TO THE DOOR, AND WHAT NOT. SO, I'M WAITING
12 OUTSIDE, BECAUSE I'M THINK AFTER THIS, EVERYTHING
13 HAPPENED, WE'VE GOT TO GET IN THE CAR AND BE OUT,
14 GO, YOU KNOW, GO, WHATEVER. SO, THEN, AFTER THAT,
15 THAT'S WHEN I SEE TRAVIS OUTSIDE, AND I GUESS HE
16 WAITING -- TRAVIS IS RYAN'S BROTHER, HE'S WAITING
17 OUTSIDE, LIKE, YOU KNOW -- AND I'M, LIKE, YO, WE
18 GOT TO GET OUT OF HERE, WE GOT TO GET OUT OF HERE.
19 YOU KNOW, WE BOTH SAYING, WE NEED TO GET OUT OF
20 HERE, WE'VE GOT TO GET OUT OF HERE, BECAUSE I
21 AIN'T KNOW IF THE DUDE, YOU KNOW, WAS DEAD OR
22 DYING, OR WHAT, YOU KNOW. ALL I KNOW IS, I AIN'T
23 KNOW HOW MANY TIME SHE GOT HIT OR NOTHING. ALL I
24 KNOW, IT WAS PRETTY CLOSE, HE GOT HIT, YOU KNOW,
25 STEVE REACHED FOR IT REAL QUICK LIKE, WHEN THAT

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1 HAPPENED, AND THAT'S WHAT HAPPENED, MAN, THAT'S
2 WHAT HAPPENED.

3 Q. WHAT -- DID YOU SEE WHAT HAPPENED TO THE EVER
4 PEOPLE IN THE HOUSE?

5 A. OH, THEY RAN, THEY RAN THE OTHER WAY, BECAUSE AS
6 SOON AS HE PULLED OUT THE GUN EVERYBODY'S EYES
7 WAS, LIKE, YOU KNOW, LIKE, SURPRISED, LIKE, WHAT?
8 OH, HE REALLY DID HAVE A GUN, YOU KNOW. SO, THEN,
9 AFTER, YOU KNOW, HE SHOOTS THE GUY, THEN AFTER
10 THAT, EVERYBODY RUN OUT THE BACK, EVERYBODY RUN
11 OUT THE BACK, QUICK LIKE.

12 Q. OKAY. AND DID YOU, DID Y'ALL LEAVE RIGHT THEN?

13 A. ME? I WAS OUTSIDE WAITING, I WAS OUTSIDE WAITING.

14 Q. WHERE DID STEVE GO?

15 A. STEVE STAYED IN THE HOUSE.

16 Q. HOW LONG DID HE STAY IN THE HOUSE?

17 A. I GUESS MAYBE ABOUT, ABOUT THREE TO FIVE MINUTES.

18 Q. DID HE COME OUT?

19 A. YEAH, HE CAME OUT.

20 Q. DID HE HAVE ANYTHING?

21 A. NOT THAT I SEEN. I MEAN, I'M PRETTY SURE HE WAS IN
22 THERE TRYING TO GRAB WHATEVER, YOU KNOW, WHATEVER
23 GOT DROPPED, AND YOU KNOW, WHATEVER WAS LEFT, BUT
24 I DIDN'T, YOU KNOW, VISUALLY SEE WHAT HE, ANYTHING
25 IN HIS HAND.

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1 Q. OKAY. WHEN HE CAME OUT WHAT DID Y'ALL DO?

2 A. AFTER THAT STEVE JUMPED IN THE CAR, I JUMPED IN
3 THE PASSENGER SEAT, WE HAD, REVERSED, OR WHATEVER,
4 THEN AFTER THAT, I'M THINKING WE'RE GOING TO
5 VIRGINIA, AND WHAT NOT, BUT THEN, HE WAS, LIKE,
6 YOU KNOW, LET'S STICK TO THE PLAN, BECAUSE OUR
7 PLAN WAS TO END UP IN CHARLESTON.

8 Q. WHY WERE YOU GOING TO CHARLESTON?

9 A. WE WAS GOING TO CHARLESTON BECAUSE I HAD A LITTLE
10 SOMETHING THAT I NEEDED TO WORK OFF.

11 Q. OKAY. DID YOU CALL ANYBODY?

12 A. YEAH, I CALLED THIS DUDE THAT I KNEW.

13 Q. WHERE?

14 A. LET ME SEE, I KNOW HE'S FROM IN CHARLESTON, IT'S
15 NORTH CHARLESTON, YOU KNOW, THAT'S ALL I COULD
16 TELL YOU ON THAT, NORTH CHARLESTON.

17 Q. SO, WHERE DID Y'ALL GO?

18 A. WE MET HIM AT THE DENNY'S OUT THERE, I DON'T KNOW
19 IF IT WAS -- I DON'T KNOW WHAT STREET THAT WAS.
20 WHAT STREET WAS THAT? I DON'T EVEN -- I THINK IT
21 WAS ASHLEY OR SOMETHING LIKE THAT, ASHLEY,
22 SOMETHING LIKE THAT, ASHLEY OR SOMETHING LIKE
23 THAT.

24 Q. AND HOW LONG DID Y'ALL STAY AROUND?

25 A. WE STAYED AROUND FOR MAYBE ABOUT A COUPLE OF

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1 MINUTES.

2 Q. AND THEN WHERE DID Y'ALL GO?

3 A. AND THEN WE HEADED BACK TO -- NO, THEN WE WENT TO
4 GO SEE ONE OF MY PEOPLE; THIS OTHER DUDE NAMED
5 DEON. IT REALLY WASN'T NOTHING GOING ON, SO WE
6 JUST WENT BACK TO VIRGINIA AFTER THAT.

7 Q. THAT EVENING, OR THAT EARLY MORNING, OR ---

8 A. YEAH.

9 Q. AND DO YOU KNOW WHAT TIME YOU GOT BACK TO
10 VIRGINIA?

11 A. ABOUT SIX O'CLOCK.

12 Q. OKAY. WHAT DID Y'ALL DO IN VIRGINIA?

13 A. WE AIN'T DO NOTHING. I DIDN'T DO NOTHING.
14 BASICALLY, I WAS JUST AT HIS HOUSE, YOU KNOW, AND
15 THAT WAS IT.

16 Q. DID YOU SEE THE GUN AGAIN?

17 A. NO.

18 Q. DO YOU KNOW IF HE DID ANYTHING WITH IT?

19 A. NOT THAT I RECALL.

20 Q. OKAY. DID YOU CALL BACK DOWN TO SOUTH CAROLINA
21 ANYTIME AFTER THAT?

22 A. NOT THAT I RECALL. I DEFINITELY DON'T RECALL
23 CALLING NONE OF THEM GUYS.

24 Q. AND THE PERSON THAT SHOT THE FELLOW WAS STEVE
25 BRISCOE?

DIRECT - JASSON TURNER BY SOL. BELL

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1 A. YES, IT WAS.

2 Q. SITTING OVER HERE IN THE COURTROOM?

3 A. YES, IT WAS.

4 Q. OKAY. THEN, I THINK AT SOME POINT IN THE NEXT
5 MONTH OR TWO YOU HAD THE OCCASION TO MEET
6 LIEUTENANT MARSHALL, IS THAT CORRECT?

7 A. I HAD AN OCCASION TO MEET HIM?

8 Q. DID YOU EVER SEE HIM AFTER THAT?

9 A. WELL, I WENT BACK TO CALIFORNIA AFTER THAT, AFTER
10 THAT WHOLE, YOU KNOW, ALTERCATION HAPPENED, YOU
11 KNOW, I WENT TO HOME BASE. AND THEN, AFTER THAT,
12 THAT'S WHEN I FOUND OUT THAT DETECTIVES FROM SOUTH
13 CAROLINA IS AT MY FIANCE`'S HOUSE, WELL, AT MY
14 FIANCE`'S MOTHER'S HOUSE LOOKING, ASKING ABOUT ME,
15 YOU KNOW. SO, THEN, YOU KNOW, SHE WENT IN FOR
16 QUESTIONING, OR WHATEVER, AND SHE BASICALLY TOLD
17 THEM THAT SHE AIN'T REALLY KNOW NOTHING, OR
18 WHATEVER, BUT, YOU KNOW, THEY THREATENED TO LOCK
19 HER UP, TOO. SO, YOU KNOW, I DIDN'T WANT TO SEE
20 NOTHING HAPPEN TO HER BECAUSE SHE AIN'T HAD
21 NOTHING TO DO WITH WHAT WENT DOWN. SO, THAT'S WHEN
22 I JUST TURNED MYSELF IN.

23 Q. AND THEY ARRESTED YOU AT THAT TIME, IS THAT RIGHT?

24 A. YES, THEY DID.

25 Q. THEY ARRESTED YOU FOR MURDER, IS THAT RIGHT?

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1 A. YES, THEY DID. AND I HAD NO IDEA THEY WAS
2 ARRESTING ME FOR MURDER.

3 Q. THEN THEY BROUGHT YOU BACK TO SOUTH CAROLINA?

4 A. EXTRADITED ME TO SOUTH CAROLINA.

5 Q. AND YOU WERE PUT IN JAIL HERE IN DORCHESTER
6 COUNTY?

7 A. FOR A YEAR, TWENTY-THREE HOURS, ONE HOUR OUT OF MY
8 CELL, WAITING THERE, SITTING THERE, WAITING FOR
9 BAIL MONEY, WAITING FOR LAWYER MONEY, NOTHING.

10 Q. AND THEN YOU DECIDED TO TELL THE STORY, THIS STORY
11 TO THE POLICE, IS THAT CORRECT?

12 A. NO, I DECIDED TO TELL THE STORY WHEN THEY WAS
13 ABOUT TO TAKE ME TO TRIAL, WHEN Y'ALL WAS ABOUT TO
14 TAKE ME TO TRIAL FOR MURDER AND TWO INDICTMENTS ON
15 ME, MURDER AND ACCESSORY, YES, IT WAS TIME FOR ME
16 TO TALK.

17 Q. TALK ABOUT ---

18 A. TO TELL WHAT HAPPENED. I MEAN, I CAN'T PROTECT
19 SOMEBODY WHO AIN'T REALLY TRYING TO PROTECT ME,
20 YOU KNOW. THAT'S, THAT'S HOW IT IS. YOU KNOW, I'M
21 SITTING UP IN JAIL FOR A WHOLE YEAR WAITING TO
22 HEAR SOMETHING. I AIN'T MADE NOT ONE STATEMENT, I
23 AIN'T TALKED TO THE POLICE NOT ONE TIME UNTIL IT
24 WAS TIME FOR ME TO GO TO TRIAL. WHEN I SEE THAT
25 WAS REALLY SERIOUS, IT WAS REALLY SERIOUS.

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1 Q. AND YOU PLED GUILTY TO SOMETHING, IS THAT CORRECT?

2 A. YES, I DID.

3 Q. YOU PLED GUILTY, I BELIEVE, TO MISPRISION OF A
4 FELONY?

5 A. MISPRISION OF A FELONY, WHICH IS, I WAS THERE FOR
6 THE FELONY, BUT I DIDN'T REPORT IT OR ANYTHING
7 LIKE THAT.

8 Q. AND WHAT DID YOU GET?

9 A. I GOT FOUR YEARS PROBATION -- WELL, TEN YEARS,
10 SUSPENDED TO FOUR YEARS PROBATION.

11 Q. IN RETURN FOR WHAT?

12 A. IN RETURN FOR THIS TESTIMONY RIGHT HERE.

13 Q. TRUTHFUL TESTIMONY?

14 A. TRUTHFUL TESTIMONY.

15 Q. OKAY. LET ME ASK YOU THIS, JASSON, HOW DID YOU
16 WEAR YOUR HAIR BACK THEN ---

17 A. I HAD BRAIDS.

18 Q. --- IN TWO THOUSAND AND THREE?

19 A. BRAIDS.

20 Q. HOW DID STEVEN WEAR HIS?

21 A. BALD HEAD.

22 Q. DID HE HAVE A BEARD?

23 A. HE HAD A LITTLE MUSTACHE.

24 COURT REPORTER: HOW DID STEVEN WEAR
25 HIS?

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1 A. BALD HEAD.

2 Q. BALD, B-A-L-D.

3 A. BALD.

4 Q. LET ME SHOW YOU THIS PICTURE AND ASK YOU IF YOU
5 CAN IDENTIFY IT, MR. TURNER?

6 A. YES, I CAN.

7 Q. WHAT'S THIS A PICTURE OF?

8 A. THAT'S A PICTURE OF ME AND STEVE, PROBABLY AROUND
9 NINETY-EIGHT.

10 Q. OKAY. AND WHICH ONE IS WHICH?

11 A. THAT'S ME, AND THAT'S STEVE.

12 Q. YOU'RE ON WHICH SIDE?

13 A. I'M ON THE LEFT SIDE.

14 Q. AND STEVE'S ON THE RIGHT?

15 A. YES, SIR.

16 SOLICITOR BELL: YOUR HONOR, WE'D
17 OFFER THIS AS STATE'S EXHIBIT FOR IDENTIFICATION AS
18 WELL.

19 THE COURT: ANY OBJECTION?

20 MR. KEARSE: NOT AT THIS TIME, NOT
21 FOR IDENTIFICATION PURPOSES.

22 THE COURT: MARKED FOR ID, WITHOUT
23 OBJECTION.

24 COURT REPORTER: STATE'S TWELVE FOR
25 ID.

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1 (State's Exhibit Twelve,
2 Photograph,
3 marked for identification.)

4 THE COURT: YOU MAY PROCEED.

5 Q. AND EVERY TIME DURING YOUR TESTIMONY YOU WERE
6 TALKING ABOUT STEVE, YOU WERE TALKING ABOUT THE
7 DEFENDANT, STEVEN BRISCOE?

8 A. YES, THAT'S RIGHT.

9 Q. AND THAT WAS THE PERSON THAT WAS WITH YOU GOING
10 FROM DANVILLE, VIRGINIA, DOWN TO SOUTH CAROLINA
11 AND BACK?

12 A. THAT'S RIGHT.

13 Q. AND HE'S THE ONE THAT SHOT THAT FELLOW?

14 A. YES, HE WAS.

15 SOLICITOR BELL: THANK YOU, MR.
16 TURNER, PLEASE ANSWER ANY QUESTIONS MR. KEARSE HAS FOR
17 YOU.

18 THE COURT: YOU MAY PROCEED.

19 MR. KEARSE: MAY IT PLEASE THE
20 COURT, YOUR HONOR.

21 THE COURT: YOU MAY PROCEED.

22 (NOTE: Blank lines on this page do not indicate any
23 part of record has been omitted. Headers on testimony
24 pages and hard page breaks between testimony are now
25 required by the Court.)

CROSS - JASSON TURNER BY MR. KEARSE

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CROSS-EXAMINATION OF JASSON TURNER

BY MR. KEARSE:

Q. MR. TURNER, YOU SAY YOUR NAME IS, OR YOUR NICK
NAME IS SMOKE?

A. THAT'S RIGHT.

Q. AND SMOKE PRETTY MUCH IS A STREET NAME, IS THAT
CORRECT?

A. NO, PRETTY MUCH MY RAP NAME.

Q. ALRIGHT. AND ON THE STREET SMOKE CAN MEAN A LOT OF
THINGS, SMOKE CAN MEAN, LIKE, DRUGS, SMOKING DRUGS
OR SOMETHING, CORRECT?

A. YEAH, IT COULD MEAN THAT.

Q. AND WHEN YOU GO OUT AND YOU KILL SOMEBODY, IT'S
COMMON THAT THE TERM, SMOKE, YOU SMOKED THEM, IS
THAT CORRECT?

A. YEAH.

Q. ALRIGHT. AND THAT'S THE NAME YOU CHOOSE TO CALL
YOURSELF, SMOKE, CORRECT?

A. NO, I DON'T CALL MYSELF SMOKE BECAUSE I DONE
KILLED SOMEBODY, NO.

Q. ALRIGHT. NOW, YOU SAY YOU KNEW STEVEN BACK IN
NINETY-EIGHT OR NINETY-FIVE, NINETY-FOUR, IS THAT
CORRECT?

A. UH HUH.

Q. AND IS IT TRUE THAT STEVEN USED TO HELP YOU OUT,

1 IS THAT CORRECT, GAVE YOU MONEY HELPED YOU OUT,
2 TRIED TO HELP YOU PICK YOURSELF UP WITH YOUR
3 MUSIC, DID HE NOT?

4 A. I MEAN, YEAH, EVERY NOW AND THEN, YEAH.

5 Q. ALRIGHT. AND YOU CAME TO DEPEND ON THAT HELP FROM
6 HIM, IS THAT CORRECT?

7 A. NO, NOT DEPEND ON IT, NO.

8 Q. ALRIGHT. NOW, YOU SAY, ADMITTEDLY, RYAN NORTH IS
9 YOUR FRIEND?

10 A. NO, I DIDN'T SAY HE WAS MY FRIEND, I SAY I KNEW
11 HIM.

12 Q. ALRIGHT. WELL, YOU KNOW HIM, AND YOU ALSO KNOW A
13 GUY BY THE NAME OF JEFF HILL, IS THAT CORRECT?

14 A. YEAH.

15 Q. AND IN AUGUST OF TWO THOUSAND AND THREE, YOU WERE
16 OUT THERE IN CALIFORNIA HANGING OUT WITH JEFF
17 HILL, IS THAT CORRECT?

18 A. NO, I WOULDN'T SAY WE WAS HANGING OUT, I MEAN, HIS
19 BABY'S MOM AND MY FIANCE' IS SISTERS.

20 Q. Y'ALL KNOW EACH OTHER PRETTY WELL, RIGHT?

21 A. RIGHT, EXACTLY.

22 Q. AND BOTH OF YOU WERE OUT THERE IN L.A., CORRECT?

23 A. YEAH.

24 Q. ALRIGHT. AND JEFF IS A FRIEND OF RYAN NORTH, IS
25 HE NOT?

CROSS - JASSON TURNER BY MR. KEARSE

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1 A. NO, MORE LIKE AN ACQUAINTANCE.

2 Q. A BUSINESS ACQUAINTANCE?

3 A. YES.

4 Q. ALRIGHT. JEFF HILL IS IN THE BUSINESS OF SELLING
5 DRUGS?

6 A. I GUESS YOU COULD SAY THAT.

7 Q. ALRIGHT. AND RYAN NORTH'S IN THE BUSINESS OF
8 SELLING DRUGS?

9 A. I DEFINITELY KNOW THAT.

10 Q. AND YOU'RE IN THE BUSINESS OF BROKERING DRUG
11 DEALS?

12 A. I GUESS YOU COULD SAY THAT.

13 Q. ALRIGHT. NOW, YOU SAY THAT YOU ARE THE ONE WHO
14 CALLED RYAN NORTH, AND YOU WANTED TO GET THESE
15 DRUGS AND SELL THESE DRUGS, IS THAT CORRECT?

16 A. NO, I AIN'T WANT TO GET NO DRUGS BECAUSE ---

17 Q. WELL, YOU WANTED TO SELL THEM?

18 A. I WANTED TO PUT TWO PEOPLE TOGETHER, BASICALLY.

19 Q. YOU WANTED TO SELL DRUGS?

20 A. NO, I DIDN'T WANT TO SELL NO DRUGS.

21 Q. WELL, YOUR TESTIMONY IS, YOU WERE TRYING TO CHANGE
22 THINGS FOR STEVEN BRISCOE?

23 A. I MEAN, YEAH, YEAH, YOU CAN SAY THAT. OKAY, IF
24 THAT'S WHAT YOU WANT TO CALL IT, BROKERING DRUGS,
25 OR WHATEVER, BEING THE MIDDLE MAN, OKAY, YEAH, WE

1 COULD SAY THAT.

2 Q. BUT YOU SAID, BUT YOU WERE CONCERNED ABOUT HIM
3 BECAUSE YOU -- YOUR TESTIMONY IS, HE DEALED IN
4 COKE?

5 A. RIGHT.

6 Q. SO, YOUR CONCERN AND THE WAY YOU'RE GOING TO HELP
7 HIM OUT IS, YOU'RE GOING SET UP A COCAINE DEAL?

8 A. I MEAN, IT SOUNDS CRAZY, BUT I MEAN, YEAH, IF THIS
9 IS THE LAST DEAL THAT YOU'RE GOING TO DO SO YOU
10 DON'T HAVE TO BE OUT THERE LIKE THAT, THEN YEAH.

11 Q. RIGHT. SO, YOU CALLED RYAN NORTH TO DO A DRUG
12 DEAL. YOU KNOW RYAN, YOU MET HIM BEFORE ---

13 A. YEAH.

14 Q. --- RYAN KNOWS JEFF, EVERYBODY'S A DRUG DEALER,
15 RIGHT?

16 A. YEAH, YOU CAN SAY THAT.

17 Q. OKAY. AND YOU SAY THAT YOU GUYS, YOU CAME TO
18 VIRGINIA, YOU WENT OVER TO RYAN NORTH'S HOUSE?

19 A. YEAH.

20 Q. ALRIGHT. AND YOU CLAIM THAT YOU HAD BEEN DOWN
21 THERE ONLY ONCE BEFORE?

22 A. YEAH.

23 Q. AND HE LIVES IN SOME REMOTE AREA IN A TRAILER?

24 A. THAT'S RIGHT.

25 Q. BUT YOU WERE ABLE TO FIND HIS HOUSE, NO PROBLEM?

CROSS - JASSON TURNER BY MR. KEARSE

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1 A. NO, I DIDN'T SAY I WAS ABLE TO FIND HIS HOUSE, NO
2 PROBLEM, WHAT I DID SAY WAS THAT I CALLED RYAN,
3 AND HIS SHORTIE, OR WHOEVER THEY WAS, DIRECTED US
4 EXACTLY TO WHERE RYAN LIVED AT.

5 Q. OKAY. AND SO, YOU GO OVER TO RYAN'S HOUSE AND YOU
6 MEET RYAN UP ON THE PORCH. THAT'S YOUR TESTIMONY,
7 ISN'T IT?

8 A. ABSOLUTELY.

9 Q. THAT YOU WENT TO RYAN'S HOUSE?

10 A. ME AND STEVE WENT TO RYAN'S HOUSE.

11 Q. RIGHT. AND YOU MET HIM ON A PORCH?

12 A. YEAH.

13 Q. AND HE PRESENTED YOU WITH A GUN?

14 A. THAT'S RIGHT.

15 Q. AND HE ASKED YOU DID YOU WANT TO BUY IT?

16 A. THAT'S RIGHT.

17 Q. AND YOU SAID, NO, I DIDN'T COME DOWN HERE FOR
18 THAT?

19 A. RIGHT.

20 Q. ALRIGHT. AND RYAN WAS SUPPOSED TO BUY THESE DRUGS
21 FROM YOU AND STEVE, AND THAT'S YOUR TESTIMONY?

22 A. THAT'S RIGHT.

23 Q. ALRIGHT. AND IT'S ALSO YOUR TESTIMONY, RYAN GETS
24 INTO THE CAR, CORRECT?

25 A. ABSOLUTELY.

CROSS - JASSON TURNER BY MR. KEARSE

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1 Q. AND YOU GUYS RIDE OFF FROM RYAN'S TRAILER?

2 A. ABSOLUTELY.

3 Q. ALRIGHT, AND YOU RIDE TO SOME TRUCK STOP?

4 A. ABSOLUTELY.

5 Q. AND EVERYBODY GETS OUT, OR AT LEAST RYAN GETS OUT?

6 A. RYAN, TRAVIS AND DEE DEE GET OUT. TRAVIS AND DEE
7 DEE WAS RIDING IN THEIR CAR, AND RYAN WAS RIDING
8 WITH US.

9 Q. OKAY. NOW, YOU SAY THAT YOU GUYS ARE TRYING TO
10 SELL A QUARTER KEY?

11 A. RIGHT.

12 Q. A QUARTER OF A KELO OF POWDER COCAINE, RIGHT?

13 A. RIGHT.

14 Q. WHICH WOULD TRANSLATE INTO ABOUT NINE OUNCES,
15 WOULD IT NOT?

16 A. RIGHT.

17 Q. ALRIGHT, NOW DO YOU RECALL GIVING A STATEMENT ON,
18 ON ABOUT AUGUST TENTH OF TWO THOUSAND AND FOUR?

19 A. YEAH, YEAH.

20 Q. ALRIGHT. AND IN THAT STATEMENT YOU TOLD THE
21 DETECTIVE THAT THERE WERE ABOUT FOUR OUNCES IN
22 ALL?

23 A. FOUR OUNCES.

24 Q. RIGHT.

25 A. WELL, A QUARTER OF A KEY IS NINE OUNCES, OR A

CROSS - JASSON TURNER BY MR. KEARSE

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1 QUARTER OF A KEY IS FOUR OUNCES, HERE IT IS, YOU
2 KNOW, I'M NOT IN THE COKE BUSINESS.

3 Q. YOU'RE NOT IN THE COKE BUSINESS BUT YOU UNDERSTAND
4 HOW TO COOK IT, AND WHEN SOMEBODY'S ---

5 A. NO, I DON'T UNDERSTAND HOW TO COOK IT, BUT I MEAN,
6 I MEAN, YOU CAN LISTEN TO RAP MUSIC ALL DAY AND
7 KNOW, KNOW ABOUT THE GAME, KNOW ABOUT HOW PEOPLE
8 COOK COKE AND STUFF LIKE THAT.

9 Q. BUT YOU RECALL TELLING THEM IT WAS ABOUT FOUR
10 OUNCES, RIGHT?

11 A. I KNOW THAT IT WAS FOUR PORTIONS THAT WAS SUPPOSED
12 TO BE SPLIT UP, IT WAS FOUR PORTIONS.

13 Q. AND IT'S YOUR TESTIMONY, Y'ALL WERE SUPPOSED TO
14 SELL THESE FOUR OUNCES TO RYAN NORTH?

15 A. YEAH, ABSOLUTELY.

16 Q. AND DANVILLE, VIRGINIA, IS ABOUT, WHAT, FIVE OR
17 SIX HOURS FROM HERE?

18 A. ABOUT, I'D SAY IT TOOK US ABOUT, MAYBE SIX TO
19 SEVEN HOURS. WE THOUGHT IT WAS ABOUT THREE HOURS,
20 FOUR HOURS.

21 Q. SO YOU SAY IT WAS ABOUT SIX OR SEVEN HOURS?

22 A. YEAH.

23 Q. AND YOU ARE TRYING TO SELL ABOUT FOUR OUNCES,
24 ACCORDING TO YOUR TESTIMONY?

25 A. YEAH, WHATEVER HE HAD LEFT.

1 Q. ALRIGHT. AND YOU KNOW FROM THE STREET THAT AN
2 OUNCE IS GOING TO COST YOU ABOUT SIX OR SEVEN
3 HUNDRED DOLLARS, IS IT NOT?

4 A. I MEAN, THE PRICES RANGE FROM WHEREVER YOU GO, I
5 MEAN, THAT'S JUST LIKE WITH ANYTHING, YOU MIGHT GO
6 TO ONE DEPARTMENT STORE HERE THEY MIGHT SELL YOU
7 SOMETHING FOR THIS PRICE, AND YOU MIGHT GO HERE
8 AND THEY SELL YOU SOMETHING FOR ANOTHER PRICE.

9 Q. BUT, MR. TURNER, YOU KNOW THAT AN OUNCE, I MEAN,
10 YOU KNOW ABOUT THIS DRUG GAME, AN OUNCE IS GOING
11 TO RUN YOU ABOUT SEVEN HUNDRED DOLLARS, IS IT NOT?

12 A. SIX, SEVEN, EIGHT, EIGHT FIFTY, I DON'T KNOW.

13 Q. AND IT'S YOUR TESTIMONY THAT YOU AND STEVE DROVE
14 DOWN HERE TO SELL AN OUNCE, OR TO SELL FOUR OUNCES
15 FOR EIGHT HUNDRED DOLLARS A PIECE?

16 A. SOMETHING LIKE THAT, I GUESS.

17 Q. WHICH WOULD MEAN THAT YOU GUYS WOULD BE MAKING
18 ABOUT A HUNDRED DOLLARS PER OUNCE?

19 A. WHO WOULD BE MAKING -- I WASN'T MAKING NOTHING OFF
20 OF THAT.

21 Q. ALRIGHT, WELL, YOU'RE RIDING WITH HIM AND YOU'RE
22 NOT GOING TO MAKE NOTHING OFF THE DEAL?

23 A. BECAUSE LIKE I SAID, NO, I'M NOT MAKING NOTHING
24 OFF THE DEAL, BUT WHAT I'M DOING IS, I'M GETTING A
25 RIDE SO I CAN GO AHEAD WITH MY OTHER BUSINESS,

CROSS - JASSON TURNER BY MR. KEARSE

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1 THAT'S WHAT I'M DOING.

2 Q. SO, YOU'RE SAYING HE DROVE DOWN HERE SEVEN HOURS
3 SO HE COULD MAKE A HUNDRED DOLLARS AN OUNCE?

4 A. NO, AIN'T NO, COME ON, MAN, COCAINE, A HUNDRED
5 DOLLARS AN OUNCE? COME ON, MAN.

6 Q. NO, YOU DON'T, COME ON, MAN, THAT'S YOUR TESTIMONY
7 TODAY, IS IT NOT?

8 A. COME ON, I DIDN'T SAY NOTHING ABOUT NO HUNDRED
9 DOLLARS AN OUNCE, MAN.

10 Q. WELL, I MEAN, YOU SAY YOU'RE SELLING IT FOR EIGHT
11 HUNDRED DOLLARS, OR EIGHT FIFTY, OR WHATEVER,
12 CORRECT?

13 A. A PIECE. A PIECE, EIGHT A PIECE.

14 Q. RIGHT. WHICH WOULD TRANSLATE INTO ABOUT A HUNDRED
15 DOLLARS A PIECE, DOES IT NOT?

16 A. WHAT ARE YOU SAYING, MAN? I DON'T UNDERSTAND WHAT
17 YOU'RE SAYING IT'S FOUR PIECES, SO WE'RE SUPPOSED
18 TO MAKE FOUR HUNDRED DOLLARS?

19 Q. NOW, YOU ALSO SAY, AND YOU RECALL, YOU GAVE A
20 STATEMENT AUGUST TENTH, TWO THOUSAND FOUR,
21 CORRECT?

22 A. ABSOLUTELY.

23 MR. KEARSE: I WANT THIS AS A
24 DEFENDANT'S MARKED FOR ID.

25 COURT REPORTER: DEFENDANT'S ONE,

CROSS - JASSON TURNER BY MR. KEARSE

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1 ID.

2 THE COURT: ANY OBJECTION?

3 SOLICITOR BELL: NO OBJECTION.

4 THE COURT: MARKED FOR ID ONLY,
5 WITHOUT OBJECTION.

6 (Defendant's Exhibit One,
7 Statement of Jasson Turner,
8 marked for identification.)

9 Q. MR. TURNER, I'M GOING TO HAND YOU YOUR STATEMENT,
10 WHICH IS MARKED AS DEFENDANT'S ONE, TO HELP YOU
11 REFRESH YOUR RECOLLECTION.

12 A. UH HUH.

13 Q. YOU SAID YOU CAME DOWN HERE FOR THE PURPOSE OF
14 CONDUCTING SOME PERSONAL BUSINESS BETWEEN CERTAIN
15 INDIVIDUALS IN SOUTH CAROLINA, RIGHT?

16 A. YES.

17 Q. ALRIGHT. AND YOUR BUSINESS WAS WHAT?

18 A. MY BUSINESS WAS SEPARATE FROM HIS BUSINESS.

19 Q. ALRIGHT. BUT YOU CONDUCTED DRUG BUSINESS?

20 A. YES.

21 Q. EVEN BY, EVEN IN THIS STATEMENT?

22 A. RIGHT.

23 Q. ALRIGHT. AND IT'S YOUR TESTIMONY THAT YOU WANTED
24 TO SET STEVE UP, SO Y'ALL DRIVE OVER TO THIS
25 HOUSE?

CROSS - JASSON TURNER BY MR. KEARSE

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1 A. RIGHT.

2 Q. - AND IT'S YOUR TESTIMONY THAT HE IS SUPPOSEDLY
3 SELLING FOUR OUNCES, BUT HE ONLY ENDS UP SELLING
4 ONE OUNCE?

5 A. RIGHT.

6 Q. AND IT'S YOUR TESTIMONY ---

7 A. WELL, IT'S SUPPOSED -- WELL, REALLY, IT WAS TWO
8 OUNCES, BUT WE DIDN'T NEVER GET PAID, FULLY PAID
9 FOR BOTH OF THEM.

10 Q. ALRIGHT. IT'S YOUR -- ALSO IN THAT STATEMENT, I
11 WANT YOU TO REFER TO YOUR STATEMENT, YOU CLAIM
12 THAT AFTER YOU NEGOTIATED THE DEAL ON THIS OUNCE,
13 THAT YOU GUYS DECIDED THAT YOU WERE GOING TO AGREE
14 TO ALLOW THESE FOLKS IN THE HOUSE TO SELL, OR HELP
15 YOU GET RID OF THE DRUGS, DO YOU RECALL THAT?

16 A. SAY THAT AGAIN.

17 Q. YOU SAID THAT, IN YOUR STATEMENT, SOMEHOW THE TWO
18 OF YOU SIT DOWN AT A TABLE, AND YOU START CUTTING
19 THE COCAINE UP?

20 A. NO, I AIN'T SAID I WAS CUTTING NO -- I SAID STEVE
21 WAS CUTTING THE COKE, I'M COUNTING THE MONEY.

22 Q. ALRIGHT. AND HE WAS SUPPOSED TO BE CUTTING IT UP,
23 WHAT TO?

24 A. IT WAS A WHOLE ---

25 Q. SO, THESE GUYS CAN SELL IT?

CROSS - JASSON TURNER BY MR. KEARSE

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1 A. --- IT WAS A WHOLE QUARTER, A QUARTER KEY, BUT
2 HE'S BREAKING IT INTO FOUR PIECES, OR WHATEVER.

3 Q. RIGHT. AND ALLEGEDLY, AT THIS TIME HE'S ALREADY
4 BEEN PAID, OR SOMEBODY'S BEEN PAID?

5 A. NO, NO. LIKE WHAT I SAID, ONCE HE, ONCE HE WEIGHED
6 OUT ONE OUNCE OF IT, THAT'S WHEN HE GAVE IT TO
7 JERMAINE. JERMAINE PUT IT IN A PYREX AND WAS
8 STIRRING IT UP OR WHATEVER, COOKING IT IN A PYREX
9 OR WHATEVER, BEFORE ---

10 Q. AND ---

11 A. --- BEFORE HE -- BEFORE ANY MONEY EXCHANGED.

12 Q. RIGHT. AND SOMEHOW MONEY GOT EXCHANGED?

13 A. YEAH.

14 Q. ALRIGHT. SO, WHEN, ACCORDING TO YOUR STORY, MARK
15 COOK DECIDES HE'S GOING TO RUN AT THE TABLE, THE
16 DRUGS HAVE ALREADY BEEN PAID FOR?

17 A. YEAH, BECAUSE, YOU KNOW, IT WAS LOT -- A LITTLE
18 BIT OF DRINKING GOING ON, YOU COULD TELL EVERYBODY
19 WAS A LITTLE HIGH AND EVERYTHING. SO, I GUESS RYAN
20 AND THOSE PUT HIM UP TO DOING THAT.

21 Q. OKAY. SO, IT'S YOUR TESTIMONY THAT MR. BRISCOE
22 SHOT THIS MAN FOR GRABBING DRUGS THAT HAVE ALREADY
23 BEEN PAID FOR?

24 A. YEAH, BUT IT WASN'T PAID FOR BY HIM, THOUGH, IT
25 WASN'T PAID -- HE DIDN'T HAVE NOTHING TO DO WITH

CROSS - JASSON TURNER BY MR. KEARSE

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1 IT, HE WAS JUST THERE. SO, YEAH, HE IS GRABBING
2 DRUGS THAT'S NOT PAID FOR, AND IS NOT HIS, AND HE
3 DON'T HAVE NOTHING TO DO WITH THE DEAL.

4 Q. BUT YOU UNDERSTAND MY QUESTION, THESE DRUGS THAT
5 ALLEGEDLY WERE GRABBED HAD ALREADY BEEN PAID FOR,
6 CORRECT?

7 A. NO. NO.

8 Q. ALRIGHT.

9 A. NO.

10 Q. NOW, YOU ALSO ---

11 A. AND EVEN IF THEY WAS PAID FOR, THEY WASN'T PAID
12 FOR BY HIM.

13 Q. NOW, YOU SAY THAT, AND IT'S YOUR TESTIMONY THAT
14 SOMEHOW AFTER THIS THING OCCURS YOU LEAVE THE
15 HOUSE AND STEVE IS IN THE HOUSE, BY HIMSELF?

16 A. YEAH.

17 Q. ALRIGHT. DID YOU AT ANYTIME MOVE THE DECEDENT'S
18 BODY?

19 A. DID I DO WHAT?

20 Q. DID YOU MOVE THE DECEDENT'S BODY?

21 A. NO.

22 Q. DID YOU EVER ASSIST ANYBODY IN MOVING THE
23 DECEDENT'S BODY?

24 A. NO.

25 Q. ALRIGHT. YOU CLAIM THAT YOU WENT OUTSIDE AND -- OR

CROSS - JASSON TURNER BY MR. KEARSE

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1 STEVEN CAME OUTSIDE AND Y'ALL GET IN THE CAR?

2 A. THAT'S RIGHT.

3 Q. ALRIGHT. SO, CONCEIVABLY Y'ALL GET IN THE CAR AND
4 YOU HAVE MONEY AND DRUGS ON YOU?

5 A. I DON'T HAVE NO MONEY AND NO DRUGS ON ME, BECAUSE
6 AS SOON AS IT HAPPENED I LEFT.

7 Q. WELL, YOU'RE SAYING, AND I WANT YOU TO REFER TO
8 YOUR STATEMENT THAT YOU GAVE ON AUGUST OF TWO
9 THOUSAND AND FOUR, THAT STEVE IS IN THE HOUSE
10 PICKING UP MONEY AND WHATEVER DRUGS, CORRECT?

11 A. YEAH.

12 Q. SO, CONCEIVABLY HE PUTS THAT STUFF BACK IN THE
13 CAR?

14 A. I GUESS, I MEAN, YOU ASKED EARLIER, OR MR. BELL
15 ASKED EARLIER DID I SEE ANY DRUGS OR ANYTHING, AND
16 I SAID, VISUALLY, NO, I DIDN'T SEE NOTHING. I
17 DIDN'T SEE NO GUN, NOTHING.

18 Q. ALRIGHT. AND IT'S ALSO YOUR TESTIMONY THAT AFTER,
19 SUPPOSEDLY, MR. BRISCOE SHOTS THIS MAN, HE
20 DECIDES HE WANTS TO DRIVE DOWN TO CHARLESTON?

21 A. YEAH.

22 Q. ALRIGHT, SO HE'S NOT UPSET, HE'S NOT CONCERNED,
23 Y'ALL JUST HEAD DOWN TO CHARLESTON, NO BIG DEAL?

24 A. YEAH.

25 Q. TO TAKE CARE OF YOUR BUSINESS?

CROSS - JASSON TURNER BY MR. KEARSE

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1 A. ABSOLUTELY.

2 Q. ALRIGHT. WHICH YOU SAID, IS DRUGS?

3 A. YES.

4 Q. ALRIGHT. AND SO, YOU GO DOWN THERE, AND YOU MEET
5 WHOM, YOU DRIVE DOWN TO CHARLESTON, YOU'RE NOT
6 CONCERNED ABOUT BEING FOLLOWED BY THE POLICE OR
7 IDENTIFIED OR NOTHING?

8 A. WELL, HOW I FELT LIKE HE WAS LOOKING AT IT WAS,
9 BECAUSE I'M NOT THE DRIVER SO, YOU KNOW, I'M NOT
10 THE ONE MAKING THE DECISION AS TO WHERE WE'RE
11 GOING. I'M JUST A PASSENGER AT THIS POINT. SO,
12 I'M LOOKING AT IT LIKE, HE THINKING ABOUT IT,
13 LIKE, THEY KNOW IT'S VIRGINIA TAGS, SO, YOU KNOW,
14 WE -- WHY, YOU KNOW, GO BACK THIS WAY TO VIRGINIA,
15 YOU KNOW, EXPECT -- YOU KNOW, WHEN THEY'RE
16 EXPECTING US TO GO THIS WAY. LET'S GO THIS WAY.
17 THAT'S MY ONLY RATIONALE TO THE WHOLE SITUATION.

18 Q. ALRIGHT. AND YOU SAY THAT ACCORDING TO YOUR
19 TESTIMONY THAT YOU GO NOT ONE PLACE, BUT TWO
20 PLACES IN CHARLESTON?

21 A. THAT'S RIGHT.

22 Q. AFTER ALLEGEDLY A MAN GETS SHOT, CORRECT?

23 A. LIKE I SAID, MAN, I'M THE PASSENGER, YOU KNOW, WE
24 COULD HAVE WENT BACK TO VIRGINIA. I AIN'T NEVER
25 KILLED NOBODY, I DON'T KNOW WHAT TO DO OR HOW

CROSS - JASSON TURNER BY MR. KEARSE

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1 EVERYTHING IS SUPPOSED TO GO DOWN, OR NONE OF
2 THAT.

3 Q. UH HUH. ALRIGHT, NOW, YOU, YOURSELF, SAY, SOMETIME
4 IN AUGUST, TWO THOUSAND FOUR, YOU UNDERSTAND THAT
5 YOU HEAR ABOUT A WARRANT THAT'S PENDING FOR YOUR
6 ARREST, DO YOU NOT?

7 A. TWO THOUSAND FOUR, NO. TWO THOUSAND THREE.

8 Q. TWO THOUSAND THREE, I'M SORRY, JULY OR AUGUST, TWO
9 THOUSAND THREE, CORRECT?

10 A. THIS IS JULY.

11 Q. RIGHT. YOU KNOW ABOUT THE WARRANT?

12 A. TWO THOUSAND THREE.

13 Q. YOU KNOW ABOUT THE WARRANT?

14 A. YEAH, I KNOW, BECAUSE THE POLICE IS COMING,
15 DETECTIVE MARSHALL AND THEM CAME TO MY FIANCE`S
16 HOUSE, HER MOTHER'S HOUSE, YEAH, YEAH, I DO KNOW.

17 Q. AND YOU DID NOT TURN YOURSELF IN UNTIL YOU FELT
18 LIKE, YOU SAY, YOUR FIANCE` MIGHT GET IN TROUBLE?

19 A. ABSOLUTELY.

20 Q. ALRIGHT. BECAUSE SHE WENT OUT AND GOT HERSELF AN
21 ATTORNEY, DID SHE NOT?

22 A. THAT'S RIGHT.

23 Q. AND YOU PRESUMED AND YOU KIND OF KNEW SHE WAS
24 GOING TO TURN YOU IN IF YOU DIDN'T DO IT?

25 A. NO. SHE DIDN'T TURN, SHE WASN'T GOING TO TURN ME

CROSS - JASSON TURNER BY MR. KEARSE

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1 IN, BECAUSE THE SIMPLE FACT, SHE ALREADY GAVE A
2 STATEMENT AND TOLD THE POLICE SHE DIDN'T KNOW I
3 WAS OR NONE OF THAT.

4 Q. ALRIGHT. SO, IN AUGUST, TWO THOUSAND THREE, YOU
5 GET ARRESTED?

6 A. THAT'S RIGHT.

7 Q. AND YOU GET EXTRADITED BACK TO SOUTH CAROLINA?

8 A. THAT'S RIGHT.

9 Q. ALRIGHT. YOU DON'T GIVE ANY STATEMENT TO THE
10 POLICE UNTIL AUGUST OF TWO THOUSAND FOUR?

11 A. THAT'S RIGHT.

12 Q. YOU GO A WHOLE YEAR?

13 A. THAT'S RIGHT.

14 Q. YET, YOU'RE SAYING YOU WEREN'T INVOLVED, YOU DID
15 NOT DO THE SHOOTING, YOU HAD NOTHING TO DO WITH
16 IT, YOU HAD NO CONCERN?

17 A. I'M NOT GOING TO SAY I WASN'T INVOLVED WITH IT,
18 BECAUSE I DID, YOU KNOW, BUT AS FAR AS THE
19 SHOOTING TOOK PLACE, I DIDN'T HAVE A GUN, YOU KNOW
20 WHAT I'M SAYING, I DIDN'T HAVE NO GUN, AND I AIN'T
21 MOVED NO BODY AND NO SHELLS AND NO NOTHING, NO
22 DRIVER, AND NONE OF THAT.

23 Q. ALRIGHT. NOW YOU ALSO CLAIMED THAT YOU DIDN'T
24 KNOW ANY OF THESE GUYS OTHER THAN RYAN, CORRECT?

25 A. THAT'S RIGHT.

1 Q. ALRIGHT. AND YOU DIDN'T FIND OUT ANY NAMES, AND
2 THE ONLY REASON YOU KNOW NAMES NOW IS BECAUSE OF,
3 AS YOU SAY, YOUR MOTION FOR DISCOVERY?

4 A. THAT'S RIGHT.

5 Q. ALRIGHT. NOW, AUGUST -- AND I WANT YOU TO REFER
6 TO YOUR STATEMENT, PLEASE, SIR -- AUGUST TENTH,
7 TWO THOUSAND AND FOUR, DO YOU REMEMBER TELLING THE
8 DETECTIVES -- SECOND -- THIRD PAGE -- I'M SORRY,
9 SECOND PAGE, BOTTOM, "AT THIS TIME JOHNNY COBB,
10 JERMAINE CUSACK, MARK COOK, TRAVIS NORTH AND RYAN
11 NORTH ARE ALL PRESENT IN THE HOUSE."

12 A. THE BOTTOM OF PAGE TWO, RIGHT?

13 Q. RIGHT. AT THIS TIME YOU STATED ---

14 A. YES.

15 Q. --- "AT THIS TIME JOHNNY COBBS, JERMAINE CUSACK,
16 MARK COOK, TRAVIS NORTH AND RYAN NORTH ARE ALL
17 PRESENT IN THE HOUSE."

18 A. THAT'S RIGHT.

19 Q. ALRIGHT. AND THAT WAS ONLY ABOUT -- THAT WAS
20 ALMOST THE SAME DAY YOU GOT ARRESTED, WAS IT NOT?

21 A. NO. I GOT ARRESTED ---

22 Q. THAT WAS A YEAR AFTER YOU GOT ARRESTED?

23 A. THAT'S RIGHT.

24 Q. ALRIGHT. AND YOU KNEW THEIR NAMES AND YOU KNEW
25 HOW TO PROVIDE THE POLICE WITH THEIR NAMES AT THAT

CROSS - JASSON TURNER BY MR. KEARSE

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1 TIME, DID YOU NOT?

2 A. YEAH. YEAH, IT BEEN A YEAR, I'D BEEN STUDYING MY
3 CASE.

4 Q. AND YOU KNEW THESE GUYS. THAT'S BECAUSE YOU KNEW
5 THESE GUYS, MR. TURNER, YOU CALLED RYAN NORTH, DID
6 YOU NOT?

7 A. YES, I DID.

8 Q. YOUR FRIEND IS JEFF HILL, IS IT NOT?

9 A. YES. BUT JEFF WASN'T EVEN THERE.

10 Q. DO YOU KNOW -- DO YOU KNOW PATRICK JONES?

11 A. YES, I DO.

12 Q. SO, IS YOUR TESTIMONY THAT JEFF HILL WAS NOT IN
13 SOUTH CAROLINA IN JULY OF TWO THOUSAND ---

14 A. NOT IN SOUTH CAROLINA JULY, TWO THOUSAND THREE.
15 PATRICK JONES WAS NOT IN SOUTH CAROLINA, AS FAR AS
16 MY KNOWLEDGE, IN TWO THOUSAND THREE. AND HE
17 DEFINITELY WASN'T WITH US.

18 Q. AND ALL OF THESE GUYS ARE DRUG DEALERS, ARE THEY
19 NOT, AND FRIENDS OF YOURS, ASSOCIATES, BUSINESS,
20 WHATEVER YOU WANT TO CALL IT?

21 A. PETE, I'M NOT GOING TO SAY, AS FAR AS MY
22 KNOWLEDGE, I KNOW HIM BECAUSE I MAKE BEATS FOR
23 PETE, I PRODUCE MUSIC FOR PETE.

24 Q. ALRIGHT. DO YOU ALSO RECALL POINTING OUT LANESHA
25 GREEN, YOU SAY, AND I'LL READ THE SECOND PAGE,

1 "JERMAINE IS SENDING LANESHA GREEN TO GET SOME
2 MONEY FROM HIS MOTHER'S HOUSE," ---

3 A. RIGHT.

4 Q. --- DO YOU RECALL SAYING THAT?

5 A. RIGHT.

6 Q. ALRIGHT. SO, WHEN YOU SAID BEFORE YOU DIDN'T KNOW
7 WHERE SHE WAS GOING OR WHAT SHE WAS DOING, THAT
8 WASN'T THE TRUTH, YOU KNEW WHAT SHE WAS DOING.

9 A. I MEAN, ---

10 Q. IF THAT'S WHAT SHE WAS DOING.

11 A. --- NOW THAT I RECALL, YEAH, NOW THAT I RECALL,
12 YEAH.

13 Q. ALRIGHT.

14 A. I KNOW, I KNOW THAT HE WAS SENDING HER FOR SOME
15 MONEY, I KNOW THAT.

16 Q. YOU KNOW STEVEN AND YOU KNOW HIS MOM FAIRLY WELL,
17 RIGHT?

18 A. I ONLY MET HIS MOM WHEN I WENT OUT THERE, I NEVER
19 MET HIS MOM PRIOR TO THAT.

20 Q. YEAH, BUT YOU HAD SEEN HER CAR, YOU HAD BEEN OVER
21 TO HER HOUSE, HADN'T YOU?

22 A. YEAH, AT THAT TIME, WHEN I WENT TO VIRGINIA.

23 Q. ALRIGHT, WELL, YOU'D BEEN THERE BEFORE, AND YOU'D
24 BEEN IN THAT CAR BEFORE, HAD YOU NOT?

25 A. LIKE WHAT I JUST SAID, NO.

CROSS - JASSON TURNER BY MR. KEARSE

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1 Q. DO YOU RECALL TELLING STEVEN, OR SHOWING STEVEN
2 YOUR TEN MILLIMETER HAND GUN?

3 A. THAT'S FUNNY. NO.

4 Q. YOU DON'T REMEMBER TELLING HIM, OR A CONVERSATION
5 YOU HAD WITH HIM, SAYING THAT, I'VE GOT A GUN
6 THAT'S A TEN MILLIMETER HAND GUN JUST LIKE YOUR
7 MOTHER'S?

8 A. I MEAN, THAT'S PREPOSTEROUS, MAN, NOT AT ALL.

9 Q. THAT'S PREPOSTEROUS?

10 A. THAT'S RIGHT.

11 Q. BUT YOU DO CARRY HAND GUNS?

12 A. NO, I DON'T.

13 Q. YOU DEAL DRUGS, AND YOU DON'T CARRY HAND GUNS?

14 A. NO, THAT'S, THAT WAS MY WHOLE POINT, I DON'T HAVE
15 TO CARRY A GUN WITH, YOU KNOW, WEED, I DON'T HAVE
16 TO CARRY NO GUN, I DON'T HAVE TO WATCH MY BACK.

17 Q. NOW, YOU SAY AUGUST, TWO THOUSAND FOUR, YOU'RE
18 GETTING READY TO BE TRIED FOR MURDER?

19 A. THAT'S RIGHT.

20 Q. AND YOU'RE FACING LIFE?

21 A. THAT'S RIGHT.

22 Q. ALRIGHT. SO, YOU DECIDE YOU'RE GOING TO REVEAL
23 THIS STORY TO THE POLICE THAT'S GOING TO GET YOU
24 OUT OF IT, DO YOU NOT?

25 A. ABSOLUTELY.

CROSS - JASSON TURNER BY MR. KEARSE

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1 Q. EXACTLY. AND NOT ONLY DID YOU NOT GET LIFE, OR
2 EVEN ANYTHING CLOSE TO THAT, YOU GET PROBATION.

3 A. THAT'S RIGHT.

4 Q. YOU GET FOUR YEARS PROBATION.

5 A. THAT'S RIGHT.

6 Q. ALRIGHT, SO YOU, JULY THIRD, TWO THOUSAND THREE,
7 ARE IN THE BUSINESS OF DEALING DRUGS?

8 A. UH HUH.

9 Q. YOU CARRY OUT A DRUG TRANSACTION, DID YOU NOT?

10 A. UH HUH.

11 Q. EVEN UNDER YOUR SCENARIO, CORRECT?

12 A. UH HUH.

13 Q. AND EVEN UNDER YOUR SCENARIO YOU WITNESS AND COVER
14 UP A MURDER?

15 A. NO. WITNESS, YES. COVERED UP, NO.

16 Q. WELL, YOU DIDN'T GO TO THE COPS, DID YOU?

17 A. I AIN'T KNOW THAT WAS A CRIME.

18 Q. YOU DID NOT GO TO THE POLICE, CORRECT?

19 A. I DID NOT KNOW THAT WAS A CRIME.

20 Q. YOU DID NOT TELL THEM ANYTHING THAT HAPPENED,
21 CORRECT?

22 A. ABSOLUTELY.

23 Q. ALRIGHT. SO, YOU COVERED IT UP?

24 A. THAT'S RIGHT.

25 Q. AND YOU GET ABSOLUTELY, POSITIVELY NO JAIL TIME

CROSS - JASSON TURNER BY MR. KEARSE

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1 AT ALL?

2 A. NO, EXCUSE ME, EXCUSE ME, LET'S BRING IT BACK.
3 COVERED IT UP, NO.

4 Q. ALRIGHT. AND YOU GET ABSOLUTELY, POSITIVELY NO
5 JAIL TIME AT ALL?

6 A. THE YEAR I SPENT IN HERE, YEAH.

7 Q. ALRIGHT. AND ALL YOU HAD TO DO WAS SAY IT WAS
8 SOMEBODY ELSE?

9 A. NO, IT WASN'T THAT SIMPLE.

10 Q. ALRIGHT. ISN'T IT TRUE, YOU AND RYAN NORTH
11 CONCOCTED THIS WHOLE STORY TO AVOID ANY KIND OF
12 LIABILITY?

13 A. NO. I MEAN, HOW?

14 Q. YOU KNEW RYAN.

15 A. LIKE I TOLD YOU, I AIN'T KNOW RYAN LIKE THAT.

16 Q. YOU SAY YOU DIDN'T KNOW HIM LIKE THAT, BUT YOU'RE
17 WILLING TO DRIVE SEVEN HOURS, BASED ON HIS WORD
18 THAT HE'S GOING TO MAKE A BUY?

19 A. YEAH.

20 Q. YOU KNEW HIM WELL ENOUGH, EVEN UNDER YOUR STORY,
21 THAT YOU DIDN'T REQUIRE HIM, EVEN UNDER YOUR
22 STORY, TO DRIVE TO VIRGINIA?

23 A. SAY THAT AGAIN.

24 Q. YOU DID NOT SAY, ACCORDING TO YOUR STORY, WELL,
25 YOU COME TO VIRGINIA IF YOU WANT TO BUY THESE

1 DRUGS?

2 A. NO, BECAUSE WE -- I ALREADY KNEW THAT RYAN
3 WOULDN'T COME OUT THERE LIKE THAT.

4 Q. OKAY. AND YOU KNOW THAT TRAVIS NORTH IS RYAN'S
5 BROTHER, RIGHT?

6 A. YEAH, I DO KNOW THAT.

7 Q. ALRIGHT. YOU, RYAN, AND TRAVIS NORTH ARE THE
8 THREE PEOPLE WHO ARE FAMILIAR WITH EACH OTHER?

9 A. I'M NOT FAMILIAR WITH, REALLY, NONE OF THEM, I
10 JUST KNOW RYAN FROM JEFF.

11 Q. ALRIGHT. NOW, YOU SAY THAT RYAN SOMEHOW PREPAID.
12 WHAT DID RYAN PREPAY?

13 A. BEFORE HE GOT ANYTHING HE SAID, I GUESS IT WAS
14 ABOUT SIX HUNDRED DOLLARS, OR SOMETHING LIKE THAT,
15 THAT HE HAD. THAT'S WHY HE WAS TRYING TO GET US TO
16 CHARGE JERMAINE A THOUSAND DOLLARS, BECAUSE EIGHT
17 HUNDRED, YOU KNOW, FOR WHATEVER JERMAINE HAD, AND
18 THEN JERMAINE WOULD HAVE BEEN PAYING TWO HUNDRED
19 FOR WHATEVER RYAN WAS GETTING, TOO.

20 Q. SO, RYAN HAD ALREADY PAID FOR HIS DRUGS?

21 A. OKAY. IF THAT'S WHAT YOU WANT TO SAY, THEN YEAH.

22 Q. ALRIGHT, NOW, YOU SAID IN YOUR TESTIMONY THAT
23 STEVEN TOLD YOU TO JUMP ON THE FLOOR OR SOMETHING
24 IF SOMETHING GO DOWN?

25 A. UH HUH.

CROSS - JASSON TURNER BY MR. KEARSE

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1 Q. DO YOU RECALL THAT STATEMENT YOU GAVE TO THE
2 POLICE, CORRECT?

3 A. UH HUH.

4 Q. YOU MADE NO MENTION OF ANY OF THIS.

5 A. I MEAN, I DIDN'T MENTION EVERY IOTA OF THE DETAIL.

6 Q. YOU DIDN'T MENTION ANYTHING ABOUT, JUMP ON THE
7 FLOOR, OR YOU DIDN'T MENTION ANYTHING ABOUT, YOU
8 KNEW HE HAD A GUN, AND YOU DIDN'T MENTION ANYTHING
9 ABOUT, HE SHOWED YOU THE GUN BEFORE HE GOT TO THE
10 HOUSE, NONE OF THAT IN THAT STATEMENT OF AUGUST,
11 TWO THOUSAND FOUR, CORRECT?

12 A. IT COULD BE.

13 Q. SO, BASICALLY, YOUR STORY GETS JUST MORE AND MORE
14 SPECIFIC AS TO STEVEN AS NEED BE, CORRECT?

15 A. AS I RECOLLECT IT, YES.

16 Q. ALRIGHT.

17 MR. KEARSE: I BEG THE COURT'S
18 INDULGENCE, YOUR HONOR.

19 THE COURT: UH HUH.

20 MR. KEARSE: YOUR HONOR, I DON'T
21 HAVE ANYTHING FURTHER.

22 THE COURT: ANY REDIRECT?

23 SOLICITOR BELL: NOTHING FURTHER,
24 YOUR HONOR.

25 THE COURT: YOU MAY STEP DOWN. I

1 ASSUME THERE'S NO OBJECTION TO THE WITNESS BEING
2 EXCUSED.

3 SOLICITOR BELL: NO, YOUR HONOR.

4 THE COURT: ANY OBJECTION FROM THE
5 DEFENSE?

6 MR. KEARSE: I BEG THE COURT'S
7 INDULGENCE JUST ONE MOMENT.

8 THE COURT: IF YOU COULD WAIT ONE
9 SECOND FOR ME, SIR.

10 MR. KEARSE: NONE FROM THE DEFENSE,
11 YOUR HONOR.

12 THE COURT: SIR, YOU'RE EXCUSED,
13 HAVE A GOOD EVENING.

14 WITNESS: THANK YOU, MA'AM.

15 THE COURT: LADIES AND GENTLEMEN,
16 I'M GOING TO GIVE YOU A BRIEF BREAK SO THAT I CAN
17 DETERMINE HOW WE WILL BE PROCEEDING, WHETHER WE HAVE THE
18 TIME TO TAKE ANOTHER WITNESS BEFORE WE BREAK FOR THE
19 EVENING. DURING THE BREAK PLEASE DO NOT DISCUSS THIS
20 CASE, LEAVE YOUR NOTE PADS IN THE SEATS. IF YOU NEED
21 ANYTHING PLEASE LET THE BAILIFFS KNOW.

22 (Whereupon, the following
23 takes place out of the
24 presence of the jury.)

25 THE COURT: WHO WILL YOUR NEXT

1 WITNESS BE?

2 SOLICITOR BELL: LANESHA GREEN, I
3 BELIEVE I WILL CALL NEXT.

4 THE COURT: AND WHO IS THAT?

5 SOLICITOR BELL: SHE WAS THE GIRL
6 THAT WAS MENTIONED WHO WAS AT THE HOUSE, GOING BACK AND
7 FORTH BETWEEN ---

8 THE COURT: OKAY, HOW LENGTHY WILL
9 SHE BE?

10 SOLICITOR BELL: HOPEFULLY, NOT AS
11 LENGTHY AS MR. TURNER, BUT SHE'S NOT GOING TO BE A SHORT
12 WITNESS.

13 THE COURT: SAY THAT ONE MORE TIME,
14 I'M SORRY.

15 SOLICITOR BELL: I SAID, HOPEFULLY,
16 NOT AS LENGTHY AS MR. TURNER, BUT SHE WON'T BE, REALLY,
17 A BRIEF WITNESS.

18 THE COURT: OKAY. AND MR. TURNER'S
19 ATTORNEY WAS PRESENT TODAY, CORRECT?

20 SOLICITOR BELL: YES.

21 THE COURT: I JUST WANTED TO MAKE
22 THAT'S REFLECTED ON THE RECORD.

23 SOLICITOR BELL: HE'S BACK THERE IN
24 THE BACK.

25 THE COURT: AND ALSO, I NEED THE

1 RECORD TO REFLECT THAT YOU ALL WAIVED GENERAL JURY
2 QUALIFICATIONS BEING ON THE RECORD, IS THAT CORRECT?

3 SOLICITOR BELL: FROM THE STATE,
4 YES, THAT'S CORRECT.

5 MR. KEARSE: THAT'S CORRECT, YOUR
6 HONOR.

7 THE COURT: AND ARE THERE ANY OTHER
8 WITNESSES THAT HAVE RECORDS, AND HAVE YOU PROVIDED ALL
9 OF THOSE TO MR. KEARSE?

10 SOLICITOR BELL: AS FAR AS I KNOW,
11 YOUR HONOR.

12 THE COURT: AND HAVE YOU ALREADY
13 PROVIDED HIM WITH HIS CLIENT'S RECORD?

14 SOLICITOR BELL: I BELIEVE SO. I
15 DON'T BELIEVE HIS CLIENT HAS ANY RECORD.

16 THE COURT: I JUST NEED TO MAKE SURE
17 SO THAT HE WOULD HAVE ADEQUATE TIME TO REVIEW THAT.

18 NOW, YOU SAID THAT YOUR NEXT WITNESS
19 IS WHO, AGAIN, I'M SORRY?

20 SOLICITOR BELL: LANESHA GREEN.

21 THE COURT: AND WHO WOULD BE YOUR
22 NEXT WITNESS AFTER THAT?

23 SOLICITOR BELL: PROBABLY RYAN
24 NORTH.

25 THE COURT: AND HE WOULD BE LENGTHY,

1 I WOULD ASSUME?

2 SOLICITOR BELL: AND HE WOULD BE
3 PROBABLY ---

4 THE COURT: I AM NOW HAVING CONCERNS
5 ABOUT WHETHER WE'RE GOING TO BE ABLE TO FINISH THIS
6 TRIAL IN A WEEK, IF ALL THE WITNESSES ARE AS LENGTHY AS
7 THIS LAST ONE. I HAVE CONCERNS ABOUT WHETHER WE WILL
8 FINISH IT BY FRIDAY.

9 SOLICITOR BELL: WELL, ONCE I GET
10 THREE OF THESE WITNESSES, IT WILL PROBABLY SLOW, I MEAN,
11 QUICKEN UP A BIT, IT'S JUST THAT THESE ARE THE WITNESSES
12 THAT ---

13 THE COURT: DO YOU HAVE ANOTHER
14 SHORT WITNESS WE CAN CALL TODAY AFTER MS. LANESHA?

15 SOLICITOR BELL: I'M TRYING TO THINK
16 WHO'S HERE. HONESTLY, I DON'T BELIEVE SO, YOUR HONOR,
17 I WAS TRYING TO GET THESE PEOPLE GOING IN MY ORDER OF
18 PROOF, AND -- I HAVE A COUPLE OF POLICE OFFICERS, BUT
19 I'M SURE THEY'RE GOING TO BE LENGTHY AS WELL. I MEAN,
20 THEY'RE NOT GOING TO BE QUICK WITNESSES..

21 THE COURT: ANTHONY FOLK, WHAT IS
22 HIS, WHERE DOES HE FALL IN THE CONTINUUM?

23 SOLICITOR BELL: HE WAS A PERSON
24 THAT WENT OUT THERE.

25 THE COURT: IT'S FOLK, ISN'T IT, IT

1 ISN'T FAULK?

2 SOLICITOR BELL: IT'S F-O-L-K, I
3 DON'T KNOW HOW YOU PRONOUNCE IT. I THINK IT'S F-O-L-K.

4 THE COURT: OKAY. I MISUNDERSTOOD.

5 SOLICITOR BELL: HE MIGHT BE THE
6 SHORTEST OF ALL THESE WITNESSES.

7 THE COURT: BECAUSE HE WAS THERE,
8 ALLEGEDLY?

9 SOLICITOR BELL: YES.

10 THE COURT: IS HE HERE TODAY?

11 SOLICITOR BELL: YES, YOUR HONOR.

12 THE COURT: HOW -- WHEN YOU SAY,
13 SHORT, HOW SHORT WOULD YOU ESTIMATE HIM TO BE?

14 SOLICITOR BELL: I WOULD THINK, ON
15 MY SIDE ABOUT FIFTEEN OR TWENTY MINUTES.

16 THE COURT: HOW LONG DO YOU THINK
17 YOUR CROSS WOULD BE?

18 MR. KEARSE: MAYBE THIRTY MINUTES,
19 YOUR HONOR, AT THE LONGEST.

20 THE COURT: LET'S TRY TO GET -- AND
21 WHAT ABOUT KAREN CROUCH, WHAT'S HER INVOLVEMENT?

22 SOLICITOR BELL: SHE'S JUST FOR THE
23 PHONE RECORDS. I HAVEN'T GOTTEN HER HERE YET, I WAS NOT
24 ANTICIPATING DOING HER UNTIL PROBABLY TOMORROW.

25 THE COURT: UH HUH. AND YOUR PEOPLE

1 ARE ON THEIR WAY, CORRECT?

2 MR. KEARSE: THAT'S CORRECT, YOUR
3 HONOR.

4 THE COURT: OKAY, WE'RE GOING TO
5 TAKE A FIVE MINUTE BREAK AND THEN WE'RE GOING TO RESUME.
6 YOU CAN HAVE YOUR WITNESS READY.

7 (Recess)

8 (Whereupon, the witness
9 enters the Courtroom.)

10 THE COURT: PLEASE BRING IN THE
11 JURY.

12 SOLICITOR BELL: COME ON AROUND,
13 LANESHA.

14 (Whereupon, the following
15 takes place in the
16 presence of the jury.)

17 THE COURT: LADIES AND GENTLEMEN, WE
18 APPRECIATE YOUR PATIENCE.

19 MA'AM, PLEASE PUT YOUR LEFT HAND ON
20 THE BIBLE AND RAISE YOUR RIGHT HAND TO BE SWORN.

21 (Whereupon, the witness,
22 LANESHA GREEN,
23 is duly sworn.)

24 THE COURT: MA'AM, IF YOU WOULD HAVE
25 A SEAT FOR ME AND STATE YOUR FULL NAME FOR THE RECORD,

1 SPELLING YOUR LAST NAME FOR THE COURT REPORTER.

2 WITNESS: MY NAME IS LANESHA SHADREL
3 GREEN, LAST NAME, G-R-E-E-N.

4 THE COURT: AND COULD YOU ALSO SPELL
5 YOUR FIRST AND MIDDLE NAME FOR THE COURT REPORTER.

6 WITNESS: LANESHA, L-A-N-E-S-H-A,
7 MIDDLE NAME SHADREL, S-H-A-D-R-E-L.

8 THE COURT: YOU MAY PROCEED.

9 SOLICITOR BELL: THANK YOU, YOUR
10 HONOR.

11 (NOTE: Blank lines on this page do not indicate any
12 part of record has been omitted. Headers on testimony
13 pages and hard page breaks between testimony are now
14 required by the Court. See next ensuing page for
15 sequential continuation of record.)

DIRECT - LANESHA S. GREEN BY SOL. BELL

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1 DIRECT EXAMINATION OF LANESHA S. GREEN

2 BY SOLICITOR BELL:

3 Q. MS. GREEN, DID YOU KNOW MARK COOK?

4 A. I KNEW OF HIM FROM THE COMMUNITY.

5 Q. OKAY. WHERE DID HE HANG OUT, AND IN WHICH
6 COMMUNITY?

7 A. IN THE GROVER COMMUNITY.

8 Q. IN THE GROVER COMMUNITY?

9 THE COURT: MA'AM, YOU'RE A TINY BIT
10 SOFT SPOKEN, AND WE CAN'T REALLY MOVE THAT MIKE VERY
11 MUCH I DON'T THINK.

12 COURT REPORTER: MAYBE YOU CAN PULL
13 YOUR CHAIR FORWARD.

14 THE COURT: YEAH, IF YOU COULD PULL
15 YOUR CHAIR FORWARD -- NO, IT'S BOLTED DOWN, ISN'T IT?
16 YEAH.

17 COURT REPORTER: OH, OKAY.
18 A. I'LL TRY TO SPEAK LOUDER.

19 THE COURT: YEAH, LET'S SEE IF WE
20 CAN -- I DON'T THINK WE CAN PULL THAT ANY FURTHER, BUT
21 IF YOU COULD LEAN A LITTLE CLOSER TO IT, THAT WOULD HELP
22 US TREMENDOUSLY.

23 A. OKAY.

24 THE COURT: THANK YOU.
25 YOU MAY CONTINUE.

DIRECT - LANESHA S. GREEN BY SOL. BELL

218

1 Q. DO YOU REMEMBER WHEN SOMETHING HAPPENED TO HIM?

2 A. THE NIGHT HE WAS KILLED OR ---

3 Q. YES, MA'AM.

4 A. I REMEMBER THE NIGHT.

5 Q. WHERE WERE YOU LIVING AT THAT TIME?

6 A. I HAD RENTED A HOUSE ON [REDACTED] ROAD BUT I
7 LIVED DOWN AT [REDACTED] ROAD
8 MOST OF THE TIME.

9 Q. WHOSE RESIDENCE WAS THAT?

10 A. THAT WAS GWENDOLYN CUSACK'S RESIDENCE.

11 Q. OKAY. AND YOU DIDN'T LIVE AT -- WHAT WAS THE
12 ADDRESS OF THE HOUSE THAT YOU RENTED?

13 A. I'M NOT SURE BUT I'M THINKING IT WAS TWO FORTY-
14 TWO, I WAS BARELY THERE.

15 Q. OKAY. WHY WERE YOU RENTING IT?

16 A. GWENDOLYN'S SON ASKED ME -- JERMAINE CUSACK ASKED
17 ME TO RENT THE HOUSE BECAUSE I HAD BEEN STAYING
18 WITH HIS MOTHER FOR A WHILE.

19 Q. OKAY.

20 A. AND AT THE TIME I DIDN'T KNOW WHY, I JUST DID SO.

21 Q. OKAY. AND ON THE NIGHT WHEN MARK WAS SHOT, CAN
22 YOU TELL US WHAT YOU WERE DOING THAT EVENING?

23 A. I WAS JUST HANGING AROUND MS. GWEN'S AND I WAS
24 ABOUT TO GO TO MY FRIEND'S HOUSE THAT EVENING.

25 Q. OKAY. AND WHAT HAPPENED?

DIRECT - LANESHA S. GREEN BY SOL. BELL

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1 A. WHEN I WAS, WHEN I WAS LEAVING MS. GWEN'S HOUSE,
2 YOU HAVE TO PASS BY THE RESIDENCE THAT I RENTED IN
3 ORDER TO GET OUT OF THERE, SO INSTEAD OF PASSING I
4 TURNED UP, I WENT THERE, ---

5 Q. OKAY.

6 A. --- TO THE HOUSE I WAS RENTING.

7 Q. OKAY. AND WHO WAS THERE?

8 A. WHEN I PULLED UP IN THE YARD MARK WAS OUTSIDE AND
9 JERMAINE WAS OUTSIDE, A GUY NAMED CLAY C. WAS
10 OUTSIDE, AND JOHNNY CAME OUTSIDE THE HOUSE.

11 Q. OKAY. AND MARK IS MARK WHO?

12 A. MARK IS THE -- WELL, I KNEW HIM BY MARK, BUT YOU
13 SAID HIS LAST NAME IS COOK, MARK COOK.

14 Q. YOU DIDN'T KNOW HIS LAST NAME?

15 A. NO, SIR, I DIDN'T KNOW HIM ON A LAST NAME BASIS.

16 Q. OKAY. AND JERMAINE WAS WHO?

17 A. JERMAINE IS JERMAINE CUSACK.

18 Q. OKAY. AND WERE YOU, DID YOU DRIVE UP THERE?

19 A. YES, SIR.

20 Q. WHAT WERE YOU DRIVING?

21 A. A NINETY-SIX CHEVROLET CAPRI CLASSIC.

22 Q. OKAY. WHERE WERE THEY WHEN YOU DROVE UP THERE?

23 A. CLAY C., MARK AND JERMAINE WAS OUTSIDE, AND MOOK
24 WAS WALKING OUTSIDE ONCE I WAS THERE, HE CAME
25 OUTSIDE THE HOUSE.

DIRECT - LANESHA S. GREEN BY SOL. BELL

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1 Q. AND WHO IS MOOK?

2 A. OH, I'M SORRY, JOHNNY.

3 Q. BUT YOU KNOW HIM AS MOOK?

4 A. I KNOW HIM AS MOOK ALSO.

5 Q. OKAY. WHAT WAS HAPPENING?

6 A. WE WERE ALL JUST -- I NEVER GOT OUT THE CAR AT THE
7 TIME, WE WERE ALL JUST JOKING AROUND OUTSIDE.

8 Q. OKAY. AND DID YOU STAY THERE OR DID YOU GO
9 ANYWHERE?

10 A. I WAS THERE FOR ABOUT, I CAN'T REMEMBER HOW LONG
11 BUT IT WASN'T MORE THAN THIRTY MINUTES THAT I WAS
12 THERE.

13 Q. OKAY. AND DID YOU, DID YOU GO SOMEWHERE?

14 A. YES, SIR, I DID LEAVE.

15 Q. WHERE DID YOU GO?

16 A. I WENT BACK TO JERMAINE'S MOTHER'S HOUSE.

17 Q. WHY?

18 A. WHILE I WAS UP AT -- WHILE I WAS UP AT MY HOUSE
19 JERMAINE ASKED ME FOR SOME MONEY AND I TOLD HIM --
20 NO, HE ASKED ME HOW MUCH MONEY DID I HAVE, AND I
21 TOLD HIM I HAD A HUNDRED AND FIFTY DOLLARS FOR MY
22 CAR INSURANCE. AND HE SAID, WELL, HE NEEDED TO
23 BORROW THE MONEY AND HE WOULD PAY ME BACK THE
24 FOLLOWING DAY. SO, I TOLD HIM THAT I NEED TO GO
25 DOWN TO HIS MOTHER'S TO PAY THE INSURANCE BY

DIRECT - LANESHA S. GREEN BY SOL. BELL

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1 PHONE, AND I DID SO.

2 Q. OKAY. HOW LONG DID YOU STAY DOWN THERE?

3 A. I'M NOT CERTAIN, MAYBE I WAS ON THE PHONE FIFTEEN,
4 TWENTY MINUTES, I'M NOT CERTAIN.

5 Q. ALRIGHT. DID YOU STAY THERE, OR DID YOU LEAVE FROM
6 THAT HOUSE?

7 A. YES, SIR, I DID LEAVE.

8 Q. WHERE DID YOU GO?

9 A. I CAME BACK TO THE RESIDENCE.

10 Q. OKAY. AND WHAT DID YOU DO WHEN YOU GOT THERE?

11 A. WHEN I GOT THERE, THERE WERE SOME MORE CARS IN THE
12 YARD.

13 Q. AND WHAT KIND OF CARS WERE IN THE YARD?

14 A. THERE WAS A GRAND AM, THERE WAS A BIG SIZE CAR
15 LIKE A CHRYSLER, A CHRYSLER OR A LINCOLN TYPE CAR,
16 AND THERE WAS THE BLACK HONDA THAT WAS THERE WHEN
17 I LEFT THE HOUSE.

18 Q. DO YOU KNOW WHOSE CAR THAT WAS?

19 A. THAT WAS MS. GWEN'S CAR.

20 Q. OKAY. ANY OTHER VEHICLES?

21 A. AND AN OLD BROKEN DOWN CAR THAT'S ALWAYS IN THE
22 YARD.

23 Q. OKAY. AND YOU SAID THERE WAS A GRAND AM?

24 A. YES, SIR.

25 Q. HAD YOU EVER SEEN THAT BEFORE?

DIRECT - LANESHA S. GREEN BY SOL. BELL

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1 A. NO, SIR.

2 Q. CAN YOU DESCRIBE IT?

3 A. IT WAS A TAN COLORED GRAND AM, A NEWER, LIKE A
4 NEWER MODEL.

5 Q. OKAY. AND DID YOU NOTICE ANYTHING ELSE ABOUT IT?

6 A. IT LOOKED LIKE I SAW A VIRGINIA TAG ON THE FRONT,
7 BECAUSE WHEN I GOT OUT OF MY CAR I WALKED, THAT'S
8 THE WAY THAT I WALKED TO GO UP THE STEPS, AND I
9 NEVER SAW, I NEVER SAW THE CARS BEFORE SO I LOOKED
10 AT THEM.

11 Q. OKAY. AND WHEN YOU GOT OUT YOUR CAR AND WENT UP
12 THE STEPS WHERE DID YOU GO?

13 A. I WENT INSIDE THE HOUSE.

14 Q. OKAY. WHO WAS THERE?

15 A. WELL, WHEN I FIRST CAME IN I WENT INSIDE THE
16 LIVING ROOM AREA, AND SAT FOR A MOMENT, AND NO ONE
17 WAS INSIDE THE LIVING ROOM AT THE TIME. AND THEN,
18 WHILE I WAS IN THERE A GUY CAME IN THERE TO GET
19 CIGARETTES OR SOMETHING OFF THE TABLE. AND I GOT
20 UP AND WENT TO THE KITCHEN, TO THE KITCHEN
21 OPENING.

22 Q. OKAY. AND DID YOU KNOW THAT FELLOW THAT GOT THE
23 CIGARETTES?

24 A. NO, SIR.

25 Q. OKAY. WHAT HAPPENED THEN?

DIRECT - LANESHA S. GREEN BY SOL. BELL

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1 A. I WAS, I HAD JUST WALKED UP TO THE KITCHEN
2 OPENING, AND ANYONE -- THERE WAS, THEY WERE
3 STANDING ON DIFFERENT ANGLES, THERE WERE A GOOD
4 BIT OF GUYS IN THERE.

5 Q. AND DID YOU KNOW ANY OF THEM?

6 A. I KNEW JERMAINE, AND I KNEW JOHNNY, AND THAT WAS
7 ABOUT IT AT THE TIME.

8 Q. DID YOU KNOW ANY -- HOW MANY OTHERS WERE THERE?

9 A. WELL, BRIEFLY LOOKING, IT LOOKS LIKE MAYBE FIVE,
10 FIVE MORE UNFAMILIAR FACES OR SO.

11 Q. OKAY. AND YOU SAID YOU WENT IN THE KITCHEN AND
12 THEY WERE THERE?

13 A. I WENT TO THE OPENING, AND JERMAINE WAS CLOSEST TO
14 ME, AND HE MOTIONED FOR ME TO GO BACK OUTSIDE.

15 Q. DID YOU KNOW WHAT HE WAS DOING IN THERE?

16 A. HE HAD A GLASS IN HIS HAND, AND HE WAS STIRRING UP
17 SOMETHING.

18 Q. OKAY. WHERE DID YOU GO WHEN HE MOTIONED YOU?

19 A. I WENT BACK OUTSIDE ON THE PORCH.

20 Q. OKAY. AND WHAT HAPPENED OUT THERE?

21 A. WHEN I WENT BACK OUTSIDE THE GUY, THERE WAS THE
22 GUY, CLAY C., OUTSIDE, AND ---

23 COURT REPORTER: WHO?

24 A. --- THERE WAS ANOTHER UNFAMILIAR GUY THAT WAS
25 SITTING ON THE PORCH.

DIRECT - LANESHA S. GREEN BY SOL. BELL

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1 THE COURT: MA'AM, COULD YOU REPEAT
2 THE NAME YOU MENTIONED BEFORE? THE COURT REPORTER DID
3 NOT GET IT.

4 A. I'M SORRY, CLAY C.

5 COURT REPORTER: CLAY C.?

6 A. YES, MA'AM.

7 Q. AND WHAT DID Y'ALL DO OUTSIDE?

8 A. WELL, I WAS BASICALLY TALKING TO CLAY C. FOR A
9 MOMENT, AND JERMAINE CAME OUTSIDE AND GOT THE
10 MONEY FROM ME AND SAID THAT HE NEEDED SOME MORE,
11 HE NEEDED FIFTY MORE DOLLARS.

12 Q. OKAY. AND WHAT DID YOU DO THEN?

13 A. SO, I LEFT, I THINK I LEFT AT THAT MOMENT TO GET
14 THE MONEY.

15 Q. AND DID ANYBODY ELSE COME OUT?

16 A. MARK, I THINK MARK CAME OUT.

17 Q. HOW WAS HE ACTING?

18 A. HE WAS ACTING KIND OF WEIRD, OUT OF CHARACTER FROM
19 WHAT I USUALLY SEE HIM ACTING.

20 Q. HOW WAS HE OUT OF CHARACTER, I MEAN, HOW WAS HE
21 ACTING?

22 A. MAYBE HE WAS UNDER THE INFLUENCE OF SOMETHING, HE
23 WAS VERY TALKATIVE AND KIND OF MOVING AROUND A
24 LOT, AND THAT'S BASICALLY HOW HE WAS.

25 Q. OKAY. DID YOU TALK TO HIM?

DIRECT - LANESHA S. GREEN BY SOL. BELL

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1 A. NOT AT THAT MOMENT, I DON'T THINK I DID.

2 Q. OKAY. WHAT DID YOU DO NEXT?

3 A. I WENT BACK UP TO THE HOUSE, AND JERMAINE SENT ME
4 BACK TO THE HOUSE TO ASK HIS MOTHER FOR SOME
5 MONEY.

6 Q. OKAY. AND DID YOU GET THAT?

7 A. YES, SIR, HE SENT ME BACK TO THE HOUSE FOR FIFTY
8 DOLLARS.

9 Q. OKAY. AND WHERE DID YOU GO WITH THE FIFTY
10 DOLLARS?

11 A. I CAME BACK TO THE HOUSE.

12 Q. OKAY. AND WHAT HAPPENED WHEN YOU CAME BACK TO THE
13 HOUSE?

14 A. AS SOON AS I GOT UP TO JERMAINE HE TOLD ME THAT --
15 I GAVE HIM THE FIFTY DOLLARS AND HE SAID THAT HE
16 NEEDED SEVENTY-FIVE MORE DOLLARS.

17 Q. OKAY. DID YOU SEE ANYBODY ELSE WHILE YOU WERE
18 THERE?

19 A. YES, SIR. NOW MARK WAS, MARK WAS ON THE PORCH
20 NOW, AND CLAY C. AND THE GUY THAT WAS ALWAYS
21 SITTING ON THE PORCH, I NEVER HAD ANY CONTACT WITH
22 HIM BECAUSE THE LIGHT WAS OFF ON THE PORCH, THE
23 LIGHT -- THE ONLY LIGHT THAT WE HAD WAS THE ONE
24 COMING FROM INSIDE THE HOUSE.

25 Q. OKAY. WHAT DID YOU DO THEN?

DIRECT - LANESHA S. GREEN BY SOL. BELL

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1 A. I ASKED JERMAINE, I THINK I ASKED HIM WHY HE
2 NEEDED IT, OR SOMETHING, AND HE SAID THAT HE JUST
3 NEEDED SEVENTY-FIVE MORE DOLLARS.

4 Q. OKAY. DID YOU TALK TO ANYBODY ELSE?

5 A. YES, MARK AT THAT POINT TOLD ME TO MEET HIM ON
6 THIS ROAD CALLED THE PEA FIELD ROAD IN FIVE
7 MINUTES.

8 Q. WHERE IS THAT LOCATED?

9 A. THAT'S LOCATED SOME FEET FROM THE DRIVEWAY OF THE
10 HOUSE THAT I WAS RENTING.

11 Q. OKAY. AND HOW WAS HE ACTING THEN?

12 A. REALLY WEIRD. HE TOLD ME THAT, HE SAID, MEET ME
13 ON THE PEA FIELD ROAD IN FIVE MINUTES. HE SAID,
14 I'M ABOUT TO DO SOMETHING. AND HE KIND OF GRABBED
15 ME, AND I PUSHED HIM OFF OF ME AND TOLD HIM, DON'T
16 GRAB ME LIKE THAT. AND I TOLD HIM I WASN'T GOING
17 TO MEET HIM.

18 Q. OKAY. AND WHAT DID YOU DO THEN?

19 A. I WENT BACK TO MS. GWEN'S HOUSE TO GET THE MONEY.

20 Q. AND AFTER YOU GOT THE MONEY WHAT DID YOU DO?

21 A. I WAS ON MY WAY BACK TO THE HOUSE AND I MET MOOK,
22 OR JOHNNY COMING DOWN THE ROAD, AND HE DIDN'T HAVE
23 ON A SHIRT, AND I SAW CLAY C. GOING TO A
24 NEIGHBOR'S HOUSE TO KNOCK ON THE DOOR, AND I TRIED
25 TO STOP MOOK AND HE KEPT WALKING, AND SO I STOPPED

DIRECT - LANESHA S. GREEN BY SOL. BELL

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1 IN THE ROAD AND I PUT THE CAR IN REVERSE, MY CAR
2 IN REVERSE, AND THEN THE GRAND AM AND THE LINCOLN,
3 WHILE I WAS DOING THAT, WAS PULLING OUT OF THE
4 DRIVEWAY, AND THERE WAS A GUY WALKING IN THE
5 DISTANCE.

6 Q. OKAY. DID YOU KNOW WHO THAT WAS?

7 A. THE GUY THAT WAS WALKING?

8 Q. YES.

9 A. NO, SIR.

10 Q. OKAY. WHAT HAPPENED NEXT?

11 A. I THOUGHT IT WAS, I THOUGHT IT WAS MARK, THAT'S
12 WHO IT LOOKED LIKE FROM THE BACK, FROM HIS BUILD,
13 BUT I DIDN'T KNOW, I NEVER SAW HIS FACE.

14 Q. AND WHAT HAPPENED NEXT?

15 A. THEN MOOK CAME UP TO ME SAYING THAT HE NEEDED TO
16 USE MY CAR, AND I WAS ASKING HIM FRANTICALLY
17 WHAT'S GOING ON, AND I SAW -- THE CARS THAT WERE
18 IN THE YARD, I SAW ALL OF THEM LEAVE, AND I SAW
19 MOOK AND EVERYONE ELSE, AND I NEVER SAW JERMAINE,
20 AND SO, I THOUGHT SOMETHING HAPPENED TO HIM, AND
21 MOOK JUST KEPT TELLING ME THAT SOMETHING HAPPENED,
22 AND HE SAID HE NEEDED MY CAR. SO, I GOT OUT. I
23 WAS ALREADY IN THE ROAD TALKING TO HIM, AND HE GOT
24 IN MY CAR AND WENT DOWN THE DRIVEWAY TO THE HOUSE.

25 Q. AND WHERE DID YOU GO?

DIRECT - LANESHA S. GREEN BY SOL. BELL

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1 A. AND I CAME DOWN THE DRIVEWAY ON FOOT.

2 Q. OKAY. WHAT DID YOU SEE WHEN YOU GOT TO THE HOUSE?

3 A. WHEN I GOT TO THE HOUSE JERMAINE AND MOOK WERE
4 STANDING IN FRONT OF THE HOUSE AND THEY WERE
5 TALKING -- NO, WHEN I WAS WALKING DOWN TO THE
6 HOUSE THEY WERE BRINGING SOME STUFF OUT OF THE
7 HOUSE, IT LOOKED LIKE MAYBE SOME TOTES AND BOOKS
8 AND DIFFERENT THINGS OUT OF THE HOUSE. AND WHEN I
9 ACTUALLY GOT UP TO THE FRONT OF THE HOUSE THEY
10 WERE JUST STANDING THERE IN FRONT OF THE HOUSE.

11 Q. OKAY. AND WHAT DID YOU DO NEXT?

12 A. SO, I WAS ASKING THEM WHAT HAPPENED, AND NEITHER
13 ONE OF THEM WAS REALLY SAYING ANYTHING, THEY WERE
14 JUST SAYING THAT SOMETHING HAPPENED. AND THEN I
15 WENT INSIDE THE HOUSE AFTER THAT, AND I SAW THAT
16 THERE WERE CHAIRS AND THE TABLE WAS TURNED OVER IN
17 THE LIVING ROOM, SO ---

18 Q. WHAT KIND OF TABLE AND CHAIRS WERE THEY?

19 A. SOME FOLDING CHAIRS AND THERE WAS JUST A LITTLE
20 FOUR LEGGED TABLE IN THE LIVING ROOM.

21 Q. OKAY. DID YOU DO ANYTHING?

22 A. YES, SIR, I PICKED UP THE TABLE, I TURNED IT BACK
23 OVER, AND I PUT THE CHAIRS BACK TO THE TABLE, AND
24 I WENT -- FROM THERE I WENT TO THE KITCHEN.

25 Q. OKAY. WAS THERE ANYTHING IN THE KITCHEN?

DIRECT - LANESHA S. GREEN BY SOL. BELL

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1 A. I SAW A MEASURING, LIKE A MEASURING CUP OR
2 SOMETHING IN THE KITCHEN, IT WAS GLASS. I SAW --
3 THERE WERE BEER BOTTLES AND STUFF IN THE KITCHEN,
4 SO I WAS TELLING THEM THAT IT WAS A BIG MESS SO I
5 WAS, I PUT SOME OF THE STUFF THAT WAS MESSED UP
6 INTO A BLACK BAG.

7 Q. OKAY. WHAT WERE THEY DOING?

8 A. THEY WERE, THEY WENT INTO THE ROOM, INTO ONE OF
9 THE ROOMS OF THE HOUSE THAT MOST OF THE STUFF WAS
10 IN, LIKE THE BOOKS AND CLOTHES, AND THERE WAS AN
11 AIR MATTRESS AND THEY WERE TAKING STUFF OUT OF THE
12 HOUSE.

13 Q. AND WHAT WERE THEY DOING WITH IT?

14 A. A DUFFLE BAG AND SOME SHOES AND A BOTTLE OF
15 LIQUOR, AND MAYBE A FEW OTHER THINGS THEY PUT INTO
16 MY CAR, AND THE REST OF THE STUFF WENT INTO THE
17 BLACK HONDA.

18 Q. OKAY. WHAT DID YOU DO THEN?

19 A. THEY GOT -- OH, NO, THEN THEY SAID, THEN THEY
20 FINALLY SAID THAT MARK HAD BEEN SHOT, AND I TOLD
21 THEM THAT THAT WAS IMPOSSIBLE, THAT MARK WASN'T
22 SHOT. WE WERE INSIDE THEN, WHEN THEY TOLD ME
23 THAT. AND I -- THEN I WALKED BACK THROUGH THE
24 HOUSE LOOKING MORE CLOSELY, AND I SAW THAT THERE
25 WAS A BULLET CASING ON THE FLOOR AND THERE WERE

DIRECT - LANESHA S. GREEN BY SOL. BELL

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1 SOME DROPS OF BLOOD ON THE FLOOR, AND JERMAINE
2 TOLD ME THAT THERE WAS NO WAY THAT HE SURVIVED,
3 AND HIS EXACTS WORDS WERE, THAT THE NIGGER SHOT
4 HIM.

5 Q. AND WHAT DID YOU SEE -- YOU SAY YOU SAW A
6 CARTRIDGE CASING AND BLOOD DROPS, WHERE DID YOU
7 SEE THOSE?

8 A. BOTH, BOTH OF THOSE WERE IN THE LIVING ROOM.

9 Q. WHERE THE TABLE WAS?

10 A. WHERE THE TABLE -- RIGHT, IN THAT SAME ROOM.

11 Q. OKAY.

12 A. AND THE, THE BULLET CASING WAS IN FRONT OF --
13 THERE WAS A SET OF DOUBLE WINDOWS IN THE LIVING
14 ROOM, AND THE BULLET CASING WAS THERE, AND THE,
15 THE DROPS OF BLOOD WERE IN FRONT OF THE FRONT --
16 AROUND THE FRONT DOOR AREA.

17 Q. OKAY. AND WHAT DID YOU DO NEXT?

18 A. SO, I KEPT TELLING THEM THAT IT LOOKED LIKE I SAW
19 MARK WALKING DOWN THE ROAD, AND JERMAINE SAID,
20 WELL, HE DON'T THINK THAT HE'S GOING TO SURVIVE,
21 OR WHATEVER, SO AFTER THAT I DECIDED TO, TO LOOK
22 THROUGH THE HOUSE. AND I DON'T KNOW WHOSE IDEA WAS
23 IT, ONE OF -- IT WAS ONE OF OUR IDEAS TO LOOK
24 THROUGH THE HOUSE. AND AT THIS POINT, THERE IS A
25 ROOM THAT WE REALLY NEVER GO INTO, THERE WAS,

DIRECT - LANESHA S. GREEN BY SOL. BELL

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1 LIKE, JUST A LITTLE AIR MATTRESS OR SOMETHING IN
2 THERE. AND THAT'S THE FIRST ROOM THAT YOU WOULD
3 COME TO WHEN YOU COME INSIDE THE HOUSE. AND THE
4 FRONT DOOR SWINGS BACK OVER THAT ROOM. AND ONE OF
5 US PULLED THE FRONT DOOR BACK, AND HE WAS LYING
6 THERE IN A POOL OF BLOOD, MARK WAS.

7 Q. OKAY. WHAT DID YOU DO THEN?

8 A. SO, I STARTED SCREAMING AND JUST PANICKING, AND I
9 WAS SCREAMING HIS NAME AND -- BUT I COULD TELL
10 THAT HE WAS ALREADY DEAD WHEN WE GOT -- ONCE WE
11 FOUND HIM. AND SO, I WAS ASKING JERMAINE AND THEM
12 WHAT TO DO AND JUST WHAT HAPPENED, I WAS JUST
13 ASKING A WHOLE BUNCH OF QUESTIONS, AND THEY SAID,
14 LET'S GO, AND WE LEFT THE HOUSE, AND WE WENT TO
15 HIS MOTHER'S HOUSE. JERMAINE AND MOOK GOT IN THE
16 BLACK CAR AND I GOT IN MY CAR, AND WE WENT DOWN TO
17 HIS MOTHER'S HOUSE.

18 Q. OKAY. AND WHAT DID YOU DO DOWN THERE?

19 A. AS SOON AS WE GOT THERE JERMAINE GOT INTO MY CAR
20 AND WE LEFT. WE LEFT HIS MOTHER'S HOUSE.

21 Q. WHERE DID YOU GO?

22 A. WE WENT TO ORANGEBURG TO MY FRIEND'S HOUSE, AND --
23 THE FRIEND'S HOUSE THAT I WAS GOING TO GO TO
24 EARLIER THAT NIGHT, AND WHEN I GOT THERE -- WELL,
25 WE STOPPED IN BRANCHVILLE AT A STORE. AND THEN,

DIRECT - LANESHA S. GREEN BY SOL. BELL

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1 WHEN I GOT TO MY FRIEND'S HOUSE I ASKED TO USE HER
2 CELL PHONE, I NEVER TOLD HER WHAT WAS GOING ON OR
3 ANYTHING, BECAUSE I REALLY DIDN'T KNOW -- ON THE
4 WAY -- ON THE WAY TO HER HOUSE JERMAINE DID TELL
5 ME WHAT HAPPENED, HE SAID THAT MARK CAME ---

6 MR. KEARSE: OBJECTION, YOUR HONOR.

7 THE COURT: SUSTAINED. HEARSAY.
8 MA'AM, YOU CANNOT TELL US WHAT ANYONE SAID, YOU CAN SAY
9 WHAT YOU DID AS A RESULT OF THE CONVERSATION.

10 YOU MAY PROCEED.

11 A. OKAY.

12 THE COURT: WOULD YOU LIKE TO RE-ASK
13 THE QUESTION?

14 Q. JUST, YOU WENT TO ORANGEBURG AND WHAT DID YOU DO
15 THEN?

16 A. WE WENT TO ORANGEBURG AND I USED MY FRIEND'S CELL
17 PHONE TO CALL BACK TO JERMAINE'S MOTHER'S HOUSE.

18 Q. OKAY.

19 A. AND ---

20 Q. DID YOU TALK WITH HIS MOTHER?

21 A. YES, SIR.

22 Q. OKAY. AFTER TALKING WITH HER, WHAT DID Y'ALL DO?

23 A. AFTER TALKING WITH HER I DECIDED TO COME BACK TO
24 ST. GEORGE -- WELL, TO GROVER TO THE SCENE.

25 Q. OKAY.

DIRECT - LANESHA S. GREEN BY SOL. BELL

233

1 A. AND I THOUGHT THAT JERMAINE WAS COMING, TOO, BUT
2 HE TOLD ME TO DROP HIM OFF IN THE VILLA.

3 Q. WHERE IS THE VILLA?

4 A. THAT'S AN APARTMENT COMMUNITY IN ST. GEORGE.

5 Q. AND DID YOU DO THAT?

6 A. YES, SIR.

7 Q. DID HE TAKE ANYTHING WITH HIM?

8 A. HE TOOK EVERYTHING THAT, THAT WAS INSIDE THE CAR -
9 - WELL, IN THE TRUNK ANYWAY. I NEVER GOT OUT.

10 Q. OKAY. AND WHERE DID YOU GO?

11 A. I CAME BACK TO THE SCENE.

12 Q. OKAY.

13 A. NO, ACTUALLY, I WENT TO JERMAINE'S MOTHER'S HOUSE
14 FIRST.

15 Q. OKAY. AND DID YOU GO ANYWHERE AFTER THAT?

16 A. BACK TO THE SCENE OF THE ACCIDENT.

17 Q. OKAY. AND WHAT WAS HAPPENING WHEN YOU WENT BACK
18 THERE?

19 A. THERE WAS A LOT OF POLICE. THAT'S BASICALLY --
20 THERE WAS A LOT OF POLICE AND THEY WERE JUST
21 ASKING A LOT OF QUESTIONS.

22 Q. OKAY. DID THEY TALK WITH YOU?

23 A. YES, SIR.

24 Q. OKAY. DID THEY TALK WITH YOU THAT, WHEN YOU WENT
25 BACK?

DIRECT - LANESHA S. GREEN BY SOL. BELL

234

1 A. YES, SIR, THEY TALKED TO ME ABOUT WHAT HAPPENED
2 THERE.

3 Q. OKAY. WHAT DID YOU TELL THEM AT THAT TIME, WHEN
4 THEY FIRST TALKED TO ME?

5 A. WHEN THEY FIRST TALKED TO ME I DIDN'T TELL THEM
6 THE TRUTH.

7 Q. WHY NOT?

8 A. BECAUSE I WAS AFRAID, THERE WAS A WHOLE BUNCH OF
9 PEOPLE DOWN AT JERMAINE'S MOTHER'S HOUSE SAYING
10 THAT DIFFERENT THINGS WOULD HAPPEN TO ME, AND I
11 WAS TELLING THEM, WELL, I WASN'T THERE AND I
12 DIDN'T DO ANYTHING. I DIDN'T KNOW WHAT TO DO. SO,
13 I CALLED MY PARENTS WHILE I WAS THERE, I CALLED MY
14 FATHER ACTUALLY.

15 Q. OKAY.

16 A. AND THEN I, THEN I WENT BACK.

17 Q. WHEN YOU TALKED TO THE POLICE THAT TIME, DID YOU
18 GIVE THEM A STATEMENT A WRITTEN STATEMENT?

19 A. YES, SIR.

20 Q. OKAY. AND THAT WASN'T TRUE?

21 A. NO, SIR.

22 Q. AND THEN, YOU SAID YOU TALKED TO YOUR FATHER?

23 A. RIGHT. BOTH OF MY PARENTS. I TALKED TO -- AFTER
24 THAT FIRST THING, WHEN I TALKED TO BOTH PARENTS,
25 AND ---

DIRECT - LANESHA S. GREEN BY SOL. BELL

235

1 Q. OKAY. DID YOU TALK TO THE POLICE AGAIN?

2 A. YES, SIR.

3 Q. THAT DAY?

4 A. I'M THINKING IT WAS THAT SAME DAY.

5 Q. OKAY. AND WHAT DID YOU TELL THEM THEN?

6 A. I TOLD THEM THE TRUTH. I GAVE THEM THE TRUE
7 ACCOUNT OF WHAT REALLY HAPPENED.

8 Q. OKAY. DID YOU TALK WITH THEM AFTER THAT, IT WAS
9 JULY FOURTH, I BELIEVE, THAT'S THE MORNING AND,
10 AFTER THAT EVENING, DID YOU TALK WITH THEM ANYTIME
11 AFTER JULY FOURTH?

12 A. YES, SIR.

13 Q. DO YOU RECALL WHEN?

14 A. MAYBE ABOUT FIVE OR SIX DAYS LATER, IT COULD BE A
15 LITTLE MORE.

16 Q. AND WHAT DID YOU TELL THE POLICE THEN?

17 A. AND THINGS THAT I HAD LEFT OUT IN MY STATEMENT,
18 THINGS THAT I REMEMBERED, OR EITHER THEY ASKED ME
19 MORE SPECIFICALLY I TOLD THEM.

20 Q. OKAY. MS. GREEN, LET ME SHOW YOU WHAT'S BEEN
21 MARKED AS STATE'S EIGHT FOR IDENTIFICATION, AND
22 I'D JUST ASK YOU IF YOU RECOGNIZE THAT?

23 A. THAT LOOKS LIKE THE CAR. IT'S A CAR JUST LIKE THE
24 ONE I SAW.

25 Q. THAT SAME COLOR?

DIRECT - LANESHA S. GREEN BY SOL. BELL

236

1 A. YES, SIR.

2 Q. OKAY.

3 SOLICITOR BELL: THANK YOU, MS.
4 GREEN, PLEASE ANSWER ANY QUESTIONS MR. KEARSE HAS FOR
5 YOU.

6 A. OKAY.

7 THE COURT: MR. KEARSE, YOU MAY
8 PROCEED.

9 MR. KEARSE: MAY IT PLEASE THE
10 COURT, YOUR HONOR?

11 THE COURT: YOU MAY PROCEED.

12 (NOTE: Blank lines on this page do not indicate any
13 part of record has been omitted. Headers on testimony
14 pages and hard page breaks between testimony are now
15 required by the Court. See next ensuing page for
16 sequential continuation of record.)

CROSS - LANESHA S. GREEN BY MR. KEARSE

237

CROSS-EXAMINATION OF LANESHA S. GREEN

BY MR. KEARSE:

Q. MS. GREEN, YOU LEASED THAT RESIDENCE, DID YOU NOT?

A. YES, I DID.

Q. AND YOU KNEW WHAT KIND OF ACTIVITY WAS OCCURRING
IN THAT RESIDENCE, DID YOU NOT?

A. NO, SIR, I DIDN'T.

Q. YOU DID NOT KNOW THAT THEY WERE SELLING DRUGS OUT
OF THAT HOUSE?

A. NO, SIR, I DIDN'T.

Q. YOU DON'T RECALL TELLING THE INVESTIGATORS THAT
YOU KNEW WHAT JERMAINE AND THOSE GUYS WERE DOING
OUT OF THAT HOUSE?

A. I RECALL TELLING THEM AT A LATER TIME THAT I
FIGURED OUT SOMETHING WAS GOING ON DOWN THERE.

Q. OKAY. SO, YOU'RE RENTING THAT HOUSE, AND THEY'RE
SELLING DRUGS OUT OF IT, AND IT'S YOUR TESTIMONY
YOU DIDN'T KNOW NOTHING ABOUT IT?

A. NO, SIR, I WAS BARELY THERE.

Q. NOW, YOU TALKED TO, YOU SAY YOU GAVE THE POLICE A
STATEMENT ON THAT NIGHT?

A. YES, SIR.

Q. ALRIGHT, BUT YOU GAVE THE INVESTIGATORS, AT
MINIMUM, FOUR STATEMENTS, IS THAT CORRECT?

A. I'M NOT CERTAIN HOW MANY STATEMENTS I GAVE.

CROSS - LANESHA S. GREEN BY MR. KEARSE

238

1 Q. YOU DON'T RECALL YOU TALKED TO THEM AT TWO:FIFTY-
2 NINE, JULY FOURTH, DO YOU RECALL THAT?

3 A. IF THAT'S, I'M NOT CERTAIN WHAT TIME IT WAS.

4 Q. ALRIGHT, DO YOU RECALL TALKING TO THE POLICE AT
5 FIVE:FIFTY, JULY FOURTH?

6 A. I WOULDN'T BE ABLE TO TELL YOU THE EXACT TIME, BUT
7 I RECALL --

8 Q. ALRIGHT.

9 A. --- TALKING TO THEM NUMEROUS TIMES.

10 Q. ALRIGHT. DO YOU RECALL TALKING TO THEM AGAIN ON
11 JULY FIFTH, TWO THOUSAND FOUR?

12 A. THAT'S POSSIBLE.

13 Q. ALRIGHT. AND SO, THAT WOULD MAKE ABOUT THREE
14 TIMES, YOU SAY YOU DON'T RECALL SPECIFICALLY, BUT
15 AT LEAST TWO OR THREE TIMES, ---

16 A. RIGHT.

17 Q. --- CORRECT?

18 A. YES, SIR.

19 Q. AND IN EACH OF THOSE TIMES YOU DID NOT TELL THE
20 POLICE THE TRUTH, ISN'T THAT CORRECT?

21 A. I DON'T UNDERSTAND THE QUESTION.

22 Q. YOU DID NOT TELL THE POLICE THE TRUTH?

23 A. I TOLD THEM THE TRUTH.

24 Q. ALRIGHT. YOU DON'T RECALL GIVING THEM A STATEMENT
25 ON JULY TENTH, TWO THOUSAND FOUR?

CROSS - LANESHA S. GREEN BY MR. KEARSE

239

1 A. THAT'S POSSIBLE.

2 Q. ALRIGHT, DO YOU RECALL TELLING THEM ON THAT DAY --

3

4 MR. KEARSE: MAY IT PLEASE THE
5 COURT.

6 THE COURT: UH HUH.

7 COURT REPORTER: ID?

8 MR. KEARSE: THAT'S FOR ID, YES,
9 MA'AM.

10 COURT REPORTER: DEFENDANT'S TWO,
11 ID.

12 (Defendant's Exhibit Two,
13 Statement of Lanesha Green,
14 marked for identification.)

15 Q. NOW, WE ESTABLISHED YOU TALKED TO THE
16 INVESTIGATORS THE FOURTH OF JULY, THE MORNING
17 AFTER THE INCIDENT?

18 A. I REMEMBER TALKING TO THEM.

19 Q. ALRIGHT. AND YOU DON'T RECALL, BUT IF I SAID YOU
20 TALKED TO THEM TWICE THAT DAY, THAT COULD HAVE
21 POSSIBLY HAPPENED?

22 A. THAT POSSIBLY HAPPENED.

23 Q. AND THEN, YOU TALKED TO THEM AGAIN ON JULY FIFTH?

24 A. THAT'S A POSSIBILITY.

25 Q. ALRIGHT. AND I WANT TO HAND YOU WHAT'S MARKED AS

CROSS - LANESHA S. GREEN BY MR. KEARSE

240

1 DEFENDANT'S TWO ---

2 A. OKAY.

3 Q. --- FOR IDENTIFICATION PURPOSES. ALRIGHT, AND THE
4 DAY OF THAT IS JULY TENTH, TWO THOUSAND THREE, IS
5 IT NOT?

6 A. THIS STATEMENT WAS GIVEN JULY TENTH.

7 Q. AND DO YOU RECALL TELLING THEM THAT DAY THAT YOU
8 HAD PREVIOUSLY LIED TO THEM?

9 A. YES, I ADMITTED TO THEM THAT THE FIRST STATEMENT
10 WAS NOT TRUE.

11 Q. ALRIGHT. AND ESSENTIALLY, THAT STATEMENT YOU
12 WROTE TO THEM WAS WHAT YOU TESTIFIED TO HERE
13 TODAY, CORRECT?

14 A. WHICH STATEMENT, SIR?

15 Q. WHEN YOU TALKED TO THE POLICE ON JULY FOUR, JULY
16 FOURTH, THE SECOND TIME, JULY FIFTH?

17 A. THE FIRST STATEMENT I GAVE THEM WAS NOT TRUE.

18 Q. ALRIGHT.

19 A. AND THAT'S WHAT I TESTIFIED TO.

20 Q. NOW, YOU WENT BACK, YOU SAY YOU HAD NO INVOLVEMENT
21 IN THIS THING, ALLEGEDLY?

22 A. CORRECT.

23 Q. ALRIGHT, WELL, YOU WENT BACK TO THIS RESIDENCE AND
24 YOU CLEANED IT UP.

25 A. NO, SIR, THAT'S JUST INSTINCT. I TURNED BACK OVER

CROSS - LANESHA S. GREEN BY MR. KEARSE

241

1 STUFF THAT WAS OVERTURNED.

2 Q. WELL, WHETHER IT WAS ANYTHING OR NOT, YOU GUYS
3 REMOVED SOME -- Y'ALL PUT STUFF IN THE CAR, ISN'T
4 THAT CORRECT?

5 A. THERE WAS STUFF IN THE CAR, YES, SIR.

6 Q. ALRIGHT. AND YOU GUYS TOOK OUT OF THAT RESIDENCE
7 WHATEVER YOU THOUGHT WOULD BE INCRIMINATING
8 TOWARDS YOU GUYS, ISN'T THAT CORRECT?

9 A. NO, SIR, I WOULDN'T SAY THAT.

10 Q. ALRIGHT. Y'ALL, YOU WOULD NOT SAY YOU CLEANED UP
11 AND PUT THIS STUFF YOU SAID YOU PUT IN THE BLACK
12 HONDA AND YOU PUT IT IN YOUR CHEVY CAPRI?

13 A. I PUT STUFF IN -- I PUT SOMETHING INTO MY CAR.

14 Q. RIGHT. AND ONCE Y'ALL DID ALL THAT, YOU GUYS TOOK
15 OFF TO ORANGEBURG?

16 A. WE WENT BACK TO HIS MOTHER'S HOUSE.

17 Q. ALRIGHT. AND YOU DROVE TO ORANGEBURG, DID YOU NOT?

18 A. I DROVE TO ORANGEBURG.

19 Q. ALRIGHT. YOU DIDN'T GO DOWN TO THE SHERIFF'S
20 OFFICE, YOU DIDN'T CALL THE INVESTIGATOR, YOU
21 DIDN'T DIAL NINE ONE ONE, Y'ALL LEFT THE SCENE?

22 A. WE LEFT, WE LEFT THE SCENE.

23 Q. ALRIGHT. AND YOU SAY THAT YOU BASICALLY DID NOT
24 KNOW, OR WASN'T THAT FAMILIAR WITH MARK?

25 A. NO, SIR, NOT VERY FAMILIAR.

CROSS - LANESHA S. GREEN BY MR. KEARSE

242

1 Q. ALRIGHT.

2 A. I KNEW OF HIM.

3 Q. BUT YET, YOU'RE SAYING IN YOUR TESTIMONY THAT
4 SOMEHOW HIS BEHAVIOR THAT NIGHT WAS OUT OF
5 CHARACTER?

6 A. RIGHT, OUT OF CHARACTER FROM THE TIMES THAT I HAVE
7 COME IN CONTACT WITH HIM.

8 Q. BUT ISN'T IT TRUE THAT HE WAS A REGULAR DOWN THERE
9 AT THAT HOUSE?

10 A. AT WHICH HOUSE?

11 Q. YOUR HOUSE.

12 A. I DON'T KNOW, I'M BARELY DOWN THERE AT THAT HOUSE.

13 Q. ALRIGHT. ISN'T IT TRUE THAT JERMAINE IS A REGULAR
14 -- JERMAINE CUSACK IS A REGULAR DOWN THERE AT THAT
15 HOUSE?

16 A. JERMAINE IS DOWN THERE REGULARLY.

17 Q. ALRIGHT, AND JERMAINE AT THE TIME WAS YOUR BOY
18 FRIEND, OR SOMEBODY YOU HAD A ROMANTIC
19 RELATIONSHIP WITH?

20 A. NO, SIR, THAT'S NOT TRUE.

21 Q. ALRIGHT. AND JOHNNY COBBS WAS SOMEBODY YOU KNOW?

22 A. YES, SIR.

23 Q. AND THE TWO OF YOU WERE GOOD FRIENDS?

24 A. YES, SIR.

25 Q. AND HE WAS A REGULAR AT THAT HOUSE, TOO, WASN'T

CROSS - LANESHA S. GREEN BY MR. KEARSE

243

1 HE?

2 A. YES, SIR.

3 Q. AND RYAN NORTH IS SOMEBODY YOU KNOW?

4 A. I DIDN'T KNOW RYAN LIKE THAT.

5 Q. ALRIGHT. BUT THEY SHOWED UP AND HE WAS IN THE
6 AREA ON A REGULAR BASIS, WAS HE NOT?

7 A. BUT I DIDN'T KNOW HIM, I DIDN'T KNOW HIM WELL
8 ENOUGH TO RECOGNIZE HIM IF I SAW HIM IN A
9 PHOTOGRAPH.

10 Q. SO, IT'S YOUR TESTIMONY THAT YOU DID NOT KNOW THAT
11 THESE GUYS WERE WHEELING AND DEALING DRUGS DOWN AT
12 THAT RESIDENCE?

13 A. THAT'S MY TESTIMONY.

14 Q. ALRIGHT. YOU'RE JUST RENTING IT OUT?

15 A. YES, SIR.

16 Q. ALRIGHT. NOW, YOU DID NOT COME BACK TO GROVER
17 UNTIL YOU GOT A PHONE CALL, ISN'T THAT CORRECT?

18 A. NO, I CALLED.

19 Q. ALRIGHT.

20 A. I CALLED BACK TO GROVER.

21 Q. AND THE PERSON ON THAT PHONE, WHETHER YOU SAY YOU
22 CALLED OR NOT, TOLD YOU THAT THE COPS WERE
23 SWARMING ALL OVER YOUR RESIDENCE?

24 A. SHE TOLD ME THAT THE COPS WERE DOWN THERE, AND SHE
25 TOLD ME THAT SHE HEARD THAT SOMETHING HAPPENED

1 DOWN THERE.

2 Q. RIGHT. AND IT WAS JERMAINE OR JOHNNY OR SOMEBODY
3 WHO TOLD YOU, YOU NEEDED TO GET DOWN THERE TO FIND
4 OUT WHAT'S GOING ON?

5 A. NO, IT WASN'T.

6 Q. ALRIGHT, YOU DON'T RECALL THAT?

7 A. IT WAS HIS MOTHER, IT WAS JERMAINE'S MOTHER, WHEN
8 I SPOKE TO HER.

9 Q. YOU DON'T RECALL SAYING THAT THEY TOLD YOU TO GO
10 DOWN TO THE RESIDENCE TO FIND OUT WHAT'S GOING ON?

11 A. I'M NOT CERTAIN. THAT'S A POSSIBILITY, BUT I CAN'T
12 REMEMBER.

13 Q. RIGHT. THAT'S A POSSIBILITY, BECAUSE YOU WENT DOWN
14 THERE, NOT TO COOPERATE OR TO TELL WHAT HAPPENED,
15 BUT TO FIND OUT WHAT'S GOING ON FOR EVERYBODY
16 ELSE?

17 A. NO, SIR. I WENT DOWN THERE TO COOPERATE.

18 Q. BUT YET, YOU DID NOT COOPERATE?

19 A. EVENTUALLY I DID. IF I DIDN'T WANT TO COOPERATE I
20 JUST WOULDN'T HAVE COME BACK.

21 COURT REPORTER: IT'S WHAT DID YOU
22 SAY?

23 A. I SAID, IF I WASN'T WILLING TO COOPERATE I JUST
24 WOULD NOT HAVE COME BACK.

25 Q. WELL, YOU KNOW THAT'S NOT TRUE BECAUSE YOU KNEW

CROSS - LANESHA S. GREEN BY MR. KEARSE

245

1 THAT YOUR NAME WAS THE NAME ASSOCIATED WITH THAT
2 RESIDENCE, DID YOU NOT?

3 A. I KNEW THAT.

4 Q. AND IN THE PHONE CALL YOU WERE TOLD, WHETHER YOU
5 SAID YOU CALLED THEM OR THEY CALLED YOU, THAT THE
6 POLICE ARE ALL OVER YOUR RESIDENCE?

7 A. WELL, I KNEW THAT THE POLICE WOULD BE THERE,
8 BECAUSE WHEN I SAW -- WHEN I SAW SOMEONE COMING
9 FROM THE HOUSE, I MEAN, I WAS CERTAIN SOMEONE
10 WOULD CALL THE POLICE.

11 Q. RIGHT.

12 A. WHEN I SAW CLAY C. DEFINITELY KNOCKING ON A
13 NEIGHBOR'S DOOR, I'M CERTAIN SOMEONE WOULD CALL
14 THE POLICE.

15 Q. SO, YOU WENT DOWN THERE NOT TO COOPERATE BUT TO
16 FIND OUT WHAT'S GOING ON, BECAUSE YOU KNEW YOUR
17 NECK WAS ON THE LINE?

18 A. THAT'S NOT TRUE.

19 Q. ALRIGHT. NOW, ADMITTEDLY, YOU CLEANED UP THE
20 SCENE, DID YOU NOT?

21 A. I WOULDN'T ---

22 Q. Y'ALL REMOVED ITEMS, YOU SAY YOU REMOVED ITEMS?

23 A. RIGHT.

24 Q. ALRIGHT. BUT YET, YOU MANAGED NOT TO BE CHARGED
25 WITH ANYTHING, ISN'T THAT CORRECT?

CROSS - LANESHA S. GREEN BY MR. KEARSE

246

1 A. THAT'S CORRECT.

2 Q. ALRIGHT. AND YOU CORROBORATED WITH THE
3 INVESTIGATORS THAT A DRUG DEAL WAS GOING ON IN
4 THAT HOUSE?

5 A. I'M SORRY?

6 Q. YOU CORROBORATED THE FACT THAT A DRUG DEAL WAS
7 GOING ON IN THAT HOUSE?

8 A. NO, SIR, I DID NOT, I DID NOT SAY THAT.

9 Q. ALRIGHT. WHEN YOU STATED THAT YOU WERE RUNNING
10 BACK AND FORTH TO GET MONEY ---

11 A. RIGHT.

12 Q. --- WERE YOU NOT PARTICIPATING IN A DRUG DEAL?

13 A. I WASN'T AWARE IF I WAS.

14 Q. SO, WHEN HE TOLD YOU TO GO TO ---

15 A. I WAS JUST DOING A FAVOR FOR A FRIEND. HE ASKED
16 ME TO GO GET MONEY FROM HIS MOTHER, AND I DID.

17 Q. YOU ABSOLUTELY, POSITIVELY HAD NO IDEA ---

18 A. NO IDEA.

19 Q. --- WHAT WAS GOING ON IN THAT HOUSE?

20 A. NO IDEA.

21 Q. SO, WHEN YOU HANDED HIM THE MONEY, A HUNDRED FIFTY
22 DOLLARS OR SO, YOU HAD NO IDEA WHY YOU WERE
23 HANDING HIM A HUNDRED AND FIFTY DOLLARS?

24 A. NO IDEA.

25 Q. ALRIGHT. AND WHEN YOU SAW HIM STIRRING UP

CROSS - LANESHA S. GREEN BY MR. KEARSE

247

1 SOMETHING IN A CUP, YOU HAD NO IDEA WHAT WAS GOING
2 ON?

3 A. NO IDEA.

4 Q. SO, YOU WERE TOTALLY ABSENT OF ANY KNOWLEDGE ABOUT
5 THIS DRUG TRANSACTION?

6 A. ABSENT.

7 Q. YOU DON'T HAVE NOTHING TO DO WITH NONE OF THAT?

8 A. NOTHING.

9 Q. ALRIGHT. AND THAT'S BECAUSE YOU KNOW YOU COULD
10 FACE SOME LIABILITY IF YOU KNEW THAT STUFF, ISN'T
11 THAT CORRECT?

12 A. I'M NOT -- I'M SORRY, CAN YOU REPEAT THE QUESTION?

13 Q. WELL, YOU'VE DEALT WITH THE POLICE BEFORE PRIOR TO
14 THIS, HAVE YOU NOT?

15 A. I MEAN, I DON'T UNDERSTAND WHAT YOU'RE ASKING ME.

16 Q. YOU HAVE DEALT WITH -- MY QUESTION, YES OR NO, YOU
17 HAVE DEALT WITH THE POLICE PRIOR TO THIS INCIDENT,
18 HAVE YOU NOT?

19 A. I MEAN, CAN YOU TELL ME A SPECIFIC INCIDENT THAT
20 YOU'RE TALKING ABOUT?

21 Q. DEALT WITH, IN NINETEEN NINETY-EIGHT, DID YOU DEAL
22 WITH THE POLICE?

23 A. YES, SIR.

24 Q. ALRIGHT. TWO THOUSAND ONE, DID YOU DEAL WITH THE
25 POLICE?

1 A. MAYBE.

2 Q. ALRIGHT. SO, YOU ARE FAMILIAR WITH WHAT GOES INTO
3 A POLICE INVESTIGATION, ARE YOU NOT?

4 A. NO, SIR, I WOULDN'T CALL IT THAT.

5 Q. ALRIGHT. AND IN THOSE DEALINGS YOU DIDN'T LEARN
6 ANYTHING OUT OF THEM?

7 A. WELL, I LEARNED, I LEARNED SOME THINGS, BUT I
8 DON'T UNDERSTAND WHAT YOU'RE GETTING AT.

9 Q. ALRIGHT, YOU LEARNED HOW TO AVOID BEING HELD
10 CRIMINALLY RESPONSIBLE, HAVE YOU NOT?

11 A. NO, SIR, I WOULDN'T SAY THAT.

12 Q. NOW, THERE WAS A GOLD CAR. RYAN NORTH DRIVES A
13 GOLD CAR, DOES HE NOT?

14 A. THAT'S WHAT I WAS TOLD, YES.

15 Q. ALRIGHT. AND HIS CAR WAS AT THIS HOUSE?

16 A. WAS AT WHOSE HOUSE?

17 Q. YOUR HOUSE, WAS IT NOT?

18 A. YES, BUT I DIDN'T KNOW WHO WAS DRIVING WHAT.

19 Q. AND YOU DON'T KNOW THE COLOR OF HIS CAR, YOU KNOW
20 IT WAS AT YOUR HOUSE?

21 A. I KNOW THERE WAS TAN, A TAN CHRYSLER THERE.

22 Q. ALRIGHT. YOU WOULD CALL IT TAN, NOT GOLD?

23 A. TAN, GOLD, THEY'RE ALL IN THE SAME FAMILY.

24 Q. DID YOU AT ANY POINT ASSIST IN MOVING THE BODY OF
25 MARK COOK?

CROSS - LANESHA S. GREEN BY MR. KEARSE

249

1 A. NO, SIR.

2 Q. DO YOU HAVE ANY IDEA WHO MOVED HIS BODY?

3 A. NO, SIR.

4 Q. AND IT'S YOUR TESTIMONY THAT WHEN YOU WENT INTO
5 THE HOUSE THE BODY WAS IN THE ROOM?

6 A. I NEVER KNEW THAT THE BODY WAS IN THE ROOM WHEN I
7 ENTERED THE HOUSE.

8 Q. OKAY. WAS IT IN FRONT OF THE FRONT DOOR WHEN YOU
9 WENT IN THE HOUSE?

10 A. WAS HIS BODY IN FRONT OF THE FRONT DOOR?

11 Q. CORRECT.

12 A. NO, SIR.

13 Q. ALRIGHT, CAN YOU DESCRIBE THIS RESIDENCE FOR THE
14 JURY, PLEASE?

15 A. AS FAR AS, YOU WOULD LIKE FOR ME TO TELL WHERE ALL
16 THE ROOMS ARE LOCATED INSIDE THE HOUSE?

17 Q. CORRECT.

18 A. WHEN YOU WALK THROUGH THE FRONT DOOR THE DOOR, THE
19 FRONT DOOR SWINGS BACK OVER THE FIRST ROOM THAT'S
20 IN THE HOUSE. AND THAT'S THE ROOM WHERE MARK WAS
21 FOUND. AND WHEN YOU FIRST WALK IN YOU WALK INTO
22 THE LIVING ROOM. AND THEN, WHEN YOU WALK OUT OF
23 THE LIVING ROOM TO YOUR LEFT YOU WOULD WALK -- IF
24 YOU WALK STRAIGHT YOU WOULD WALK INTO A BATH ROOM.
25 IF YOU WALK TO THE LEFT, AT THE FRONT OF THE HOUSE

CROSS - LANESHA S. GREEN BY MR. KEARSE

250

1 THERE IS ANOTHER BEDROOM, AND IF YOU WALK TO THE
2 RIGHT, TO THE BACK OF THE HOUSE THERE IS THE
3 KITCHEN. AND THEN, THERE WAS A PORTION OF THE
4 HOUSE IN THE BACK THAT WAS JUST NEVER USED, THE
5 FLOOR, THE FLOORING IN THE HOUSE NEEDED TO BE
6 JACKED UP, SO WE NEVER USED THAT PORTION OF THE
7 HOUSE.

8 Q. ALRIGHT. SO, WHEN YOU CAME INTO THE HOUSE DID YOU
9 GO THROUGH THE FRONT DOOR?

10 A. YES, SIR.

11 Q. ALRIGHT, AND THERE WAS NO BODY BY THE FRONT DOOR?

12 A. THERE WAS NO BODY.

13 Q. AND THIS BODY WAS ACTUALLY IN A ROOM TO THE RIGHT?

14 A. YES, SIR.

15 Q. AND IT'S YOUR TESTIMONY THAT NOBODY USED THAT
16 ROOM?

17 A. YES, SIR.

18 Q. IT HAD A WEAK FLOOR OR SOMETHING LIKE THAT?

19 A. RIGHT. MOST OF THE FLOORS IN THE HOUSE HAD WEAK
20 FLOORS.

21 Q. AND DID YOU NOTICE ANYTHING IN TERMS, HE WAS FACE
22 UP, WAS THE BODY FACE UP?

23 A. WHEN I DID SEE HIM, HE WAS FACE UP.

24 Q. ALRIGHT. DID YOU SEE ANY CIGARETTES IN HIS HAND,
25 OR ANYTHING OF THAT NATURE?

CROSS - LANESHA S. GREEN BY MR. KEARSE

251

1 A. NOT THAT I RECALL AT THIS TIME.

2 Q. NOW, YOU DID A DRAWING FOR THE DETECTIVES, DID YOU
3 NOT?

4 A. YES, I DID.

5 COURT REPORTER: DEFENDANT'S THREE,
6 ID.

7 (Defendant's Exhibit Three,
8 Drawing,
9 marked for identification.)

10 Q. I'M GOING TO HAND YOU WHAT'S BEEN MARKED AS
11 DEFENDANT'S THREE FOR IDENTIFICATION PURPOSES, CAN
12 YOU IDENTIFY THIS FOR ME?

13 A. YES, SIR, THIS IS MY HANDWRITING.

14 Q. CAN YOU DESCRIBE WHAT, OR WHY YOU DREW THAT
15 PARTICULAR DIAGRAM?

16 A. I THINK IT WAS JUST TO GIVE THE POLICE A BETTER
17 IDEA OF, OF WHAT I BRIEFLY SAW IN THE HOUSE.

18 Q. OKAY. NOW, WE KNOW THAT'S NOT TO SCALE, BUT DOES
19 THAT PRETTY MUCH, AS FAR AS YOUR DRAWING AND YOUR
20 REMEMBRANCE, ACCURATELY REFLECT HOW YOU FOUND THAT
21 SCENE WHEN YOU GOT IN THE HOUSE?

22 A. YES, SIR.

23 Q. IS THAT PRIOR TO OR AFTER YOU GUYS STRAIGHTENED IT
24 UP OR, AND REMOVED THE ITEMS?

25 A. THAT WAS, THAT WAS -- PRIOR TO THAT WAS ME WALKING

CROSS - LANESHA S. GREEN BY MR. KEARSE

252

1 IN THE HOUSE.

2 MR. KEARSE: MAY IT PLEASE THE
3 COURT, YOUR HONOR, I'D LIKE TO MOVE THIS IN AS
4 DEFENDANT'S ONE.

5 SOLICITOR BELL: NO OBJECTION.

6 THE COURT: MARKED AND ADMITTED
7 WITHOUT OBJECTION.

8 COURT REPORTER: THAT WOULD BE
9 DEFENDANT'S FOUR.

10 MR. KEARSE: THREE -- FOUR?

11 COURT REPORTER: YES. FOR ID OR
12 NOT?

13 THE COURT: IT'S MARKED AND ADMITTED
14 WITHOUT OBJECTION.

15 COURT REPORTER: OH, SORRY. OH,
16 THAT'S -- THIS IS DEFENDANT'S THREE.

17 (Defendant's Exhibit Three
18 marked and filed.)

19 Q. NOW, YOU SAID YOU HAD NO IDEA WHAT WAS GOING ON IN
20 THAT HOUSE, CORRECT?

21 A. CORRECT.

22 Q. ALRIGHT, BUT YOU GAVE A STATEMENT TO THE POLICE?

23 A. UH HUH.

24 Q. LET ME HAND IT TO YOU, THIS IS MARKED AS
25 DEFENDANT'S EXHIBIT TWO FOR IDENTIFICATION

CROSS - LANESHA S. GREEN BY MR. KEARSE

253

1 PURPOSES.

2 A. OKAY.

3 Q. I WANT YOU TO NOTICE DOWN TOWARDS THE BOTTOM, I
4 KNOW IT'S NOT SEPARATED BY PARAGRAPHS, BUT DO YOU
5 REMEMBER WHEN YOU TOLD THEM, I JUST FIGURED HE WAS
6 DISTRIBUTING DRUGS BECAUSE I WAS NOT ALLOWED THERE
7 SOMETIMES?

8 A. UH HUH.

9 Q. SO, YOU HAD AN IDEA ABOUT THE DRUGS THAT WERE
10 BEING SOLD IN A RESIDENCE YOU RENTED, CORRECT?

11 A. BUT INITIALLY, I DID NOT KNOW THAT. BUT
12 EVENTUALLY I DID TELL THEM THAT I, THAT'S WHAT I
13 FIGURED OUT.

14 Q. EVENTUALLY?

15 A. RIGHT.

16 Q. ALRIGHT, AND THAT WAS AFTER THE THREE OTHER TIMES
17 YOU INTERVIEWED WITH THEM?

18 A. I'M SORRY?

19 Q. THAT WAS AFTER THE THREE OTHER TIMES YOU
20 INTERVIEWED WITH THE INVESTIGATORS, CORRECT? YOU
21 FINALLY TOLD THEM, YEAH, I KNEW THEY WERE
22 DISTRIBUTING DRUGS IN THE HOUSE?

23 A. NO, I NEVER TOLD THEM THAT I KNEW, I TOLD THEM
24 THAT THAT'S WHAT I FIGURED.

25 COURT REPORTER: DO YOU WANT THIS IN

CROSS - LANESHA S. GREEN BY MR. KEARSE

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1 NOW?

2 MR. KEARSE: NO, MA'AM.

3 THE COURT: NO, MA'AM, THAT'S NOT
4 ADMISSIBLE.

5 MR. KEARSE: I BEG THE COURT'S
6 INDULGENCE, YOUR HONOR.

7 Q. DO YOU RECALL GIVING A STATEMENT TO -- WHEN YOU
8 GAVE OUR STATEMENT TO LAW ENFORCEMENT?

9 A. OKAY.

10 Q. YOU SAY YOU DESCRIBED THE CAR, SO IT APPEARED, OR
11 AS IT APPEARED ON THAT PICTURE THAT YOU
12 IDENTIFIED?

13 A. I DESCRIBED SEEING A TAN COLORED GRAND AM THAT
14 APPEARED TO HAVE A VIRGINIA PLATE.

15 Q. ALRIGHT. DO YOU RECALL TELLING THEM IT WAS A FOUR
16 DOOR AUTOMOBILE?

17 A. I POSSIBLY TOLD THEM THAT, I'M NOT CERTAIN.

18 Q. NOW, IN YOUR TESTIMONY YOU SAY THAT MR. CLAY C.
19 SINGLETARY WAS AT THE HOUSE?

20 A. YES, SIR.

21 Q. ALRIGHT. SO, AS FAR AS YOU KNOW HE WOULD HAVE
22 BEEN THERE AT THE TIME OF THIS INCIDENT?

23 A. I DON'T KNOW BECAUSE I WASN'T THERE.

24 Q. OKAY. NOW, YOU REMEMBER WHEN YOU TOLD -- WELL,
25 YOU GAVE A COUPLE OF STATEMENTS ABOUT JERMAINE.

CROSS - LANESHA S. GREEN BY MR. KEARSE

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1 A. OKAY.

2 Q. YOU SAID YOU WENT BACK, YOU WERE CONCERNED ABOUT
3 JERMAINE, IS THAT CORRECT?

4 A. RIGHT.

5 Q. BUT YOU SAY YOU HAD NO ROMANTIC RELATIONSHIP WITH
6 HIM?

7 A. NO, SIR.

8 Q. BUT FOR SOME -- WHY ARE YOU CONCERNED ABOUT HIM AS
9 OPPOSED TO JOHNNY COBBS OR ANTHONY FOLK?

10 A. BECAUSE I SAW EVERYONE ELSE EXCEPT HIM.

11 Q. ALRIGHT. AND JERMAINE WAS THE INDIVIDUAL YOU GAVE
12 A RIDE TO. DID HE RIDE WITH YOU OR DRIVE YOU?

13 A. HE RODE -- HE RODE WITH ME AFTER -- AFTER WE LEFT
14 THE HOUSE, ---

15 Q. AND INITIALLY ---

16 A. --- HIS MOTHER'S HOUSE.

17 Q. I'M SORRY. INITIALLY YOU GAVE A FALSE STATEMENT
18 ABOUT WHERE YOU TOOK JERMAINE?

19 A. THAT'S A POSSIBILITY. ANYTHING, ANYTHING COULD
20 HAVE BEEN FALSE IN THAT FIRST STATEMENT, I
21 ADMITTED THAT TO THE POLICE.

22 Q. RIGHT. BECAUSE YOU DIDN'T WANT ANYTHING TO HAPPEN
23 TO JERMAINE, CORRECT?

24 A. I WAS JUST AFRAID AT THE TIME, SO THAT ---

25 Q. WERE YOU AFRAID OF JERMAINE?

CROSS - LANESHA S. GREEN BY MR. KEARSE

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1 A. I WAS JUST AFRAID, PERIOD, BECAUSE A LOT HAD
2 HAPPENED THAT NIGHT.

3 Q. ARE YOU AFRAID NOW?

4 A. NO, SIR.

5 Q. ALRIGHT. BUT AS YOU SAY, ANYTHING IN THOSE FIRST
6 STATEMENTS COULD HAVE BEEN FALSE?

7 A. YES, SIR, IN THAT FIRST STATEMENT.

8 MR. KEARSE: YOUR HONOR, I HAVEN'T
9 ANYTHING FURTHER.

10 THE COURT: ANY REDIRECT?

11 SOLICITOR BELL: YES, YOUR HONOR.

12 (NOTE: Blank lines on this page do not indicate any
13 part of record has been omitted. Headers on testimony
14 pages and hard page breaks between testimony are now
15 required by the Court. See next ensuing page for
16 sequential continuation of record.)

REDIRECT - LANESHA S. GREEN BY SOL. BELL

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REDIRECT EXAMINATION OF LANESHA S. GREEN

BY SOLICITOR BELL;

Q. MS. GREEN, LET ME SHOW YOU WHAT WAS MARKED AS
DEFENDANT'S EXHIBIT NUMBER TWO. AND YOU READ THE
FIRST SENTENCE OUT LOUD, HE ASKED YOU TO READ THE
FIRST SENTENCE. COULD YOU READ THAT AGAIN?

A. "THE FIRST STATEMENT I WROTE WAS NOT TRUE."

Q. AND COULD YOU READ THE NEXT ONE?

A. "THE SECOND STATEMENT I WROTE IS TRUE, MINUS
CERTAIN DETAILS."

Q. OKAY. AND YOUR TESTIMONY TODAY WAS BASED ON THOSE
STATEMENTS, IS THAT CORRECT?

A. YES, SIR.

Q. THE SECOND, AND THEN THAT STATEMENT FROM THE
TENTH?

A. YES, SIR.

SOLICITOR BELL: NOTHING FURTHER,
YOUR HONOR.

THE COURT: ANY OBJECTION TO THE
WITNESS BEING EXCUSED, FROM THE STATE?

SOLICITOR BELL: NONE FROM THE
STATE, YOUR HONOR.

THE COURT: FROM THE DEFENSE?

MR. KEARSE: I BEG THE COURT'S
INDULGENCE, YOUR HONOR. NONE FROM THE DEFENSE, YOUR

1 HONOR.

2 THE COURT: MA'AM, YOU'RE EXCUSED.

3 THANK YOU.

4 WITNESS: YOU'RE WELCOME.

5 THE COURT: YOU CAN TAKE THAT WITH
6 YOU.

7 LADIES AND GENTLEMEN, WE'RE GOING TO
8 TAKE ADVANTAGE OF THIS BREAK TO TAKE OUR EVENING RECESS.
9 YOU ALL HAVE BEEN EXTREMELY PATIENT, I KNOW YOU'VE HAD
10 A LONG DAY, AND I'D LIKE TO TELL YOU ON BEHALF OF THE
11 STATE AND THE DEFENSE THAT WE TRULY APPRECIATE IT.

12 WE WILL RESUME THE TRIAL OF THIS
13 CASE AT NINE IN THE MORNING. IF YOU -- WELL, ACTUALLY,
14 LET ME RESTATE THAT. PLEASE ABIDE BY MY EARLIER
15 INSTRUCTIONS, AND HAVE NO DISCUSSION ABOUT THIS CASE
16 AMONG YOURSELVES OR WITH ANYONE ELSE. I KNOW IT MAY SEEM
17 VERY INNOCENT, BECAUSE WHEN YOU'RE ON JURY DUTY PEOPLE
18 ALWAYS ASK YOU, WHAT KIND OF CASE ARE YOU HEARING? AND
19 IT'S OUR NATURAL INCLINATION TO SAY, WELL, LET ME TELL
20 YOU ABOUT IT. BUT TO EVEN DO THAT WOULD BE SOMETHING
21 THAT WE WOULD CONSIDER PREMATURE JURY DELIBERATIONS,
22 BECAUSE IN ORDER TO DO THAT YOU HAVE TO TALK ABOUT WHAT
23 YOU'VE ALREADY HEARD, WHICH MEANS YOU THEN HAVE TO START
24 TO THINK THROUGH THE INFORMATION YOU'VE HEARD AND TO
25 PROCESS IT. AND THAT BY ITS VERY NATURE IS

1 DELIBERATION. SO, I WOULD ASK THAT YOU STRICTLY ABIDE
2 BY THAT INSTRUCTION.

3 ALSO, PLEASE DO NOT READ, WATCH, OR
4 LISTEN TO ANY REPORTS ABOUT THIS CASE, AND PLEASE DO NOT
5 DO ANY INDEPENDENT RESEARCH OF ANY TYPE ON THE INTERNET
6 OR OTHERWISE.

7 PLEASE RETURN DIRECTLY TO YOUR JURY
8 ROOM, AND AGAIN, PLEASE DO NOT HAVE ANY CONTACT WITH
9 ANYONE IN OR ABOUT THE COURT HOUSE. IF YOU WOULD, AS YOU
10 LEAVE THE COURTROOM, LEAVE YOUR NOTE PADS STACKED ON THE
11 EDGE OF THE BANNISTER SO THAT WE CAN SECURE THEM DURING
12 THE RECESS. WE WOULD GREATLY APPRECIATE IT, AND I HOPE
13 YOU ALL HAVE A GOOD EVENING, AND YOU'RE DISMISSED.

14 COURT REPORTER: JUDGE, WOULD YOU
15 ASK THE ATTORNEYS TO COUNT THEIR EXHIBITS FOR ME?

16 THE COURT: YES, I WILL.
17 (Whereupon, the following
18 takes place out of the
19 presence of the jury.)

20 THE COURT: ALRIGHT, IS THERE
21 ANYTHING WE NEED TO TAKE UP BEFORE WE TAKE THE EVENING
22 RECESS, FROM THE STATE?

23 SOLICITOR BELL: NOTHING FROM THE
24 STATE, YOUR HONOR.

25 THE COURT: FROM THE DEFENSE?

1 MR. KEARSE: NOTHING FROM THE
2 DEFENSE, YOUR HONOR.

3 THE COURT: THE STATE SHOULD HAVE AS
4 MANY WITNESSES AS POSSIBLE TO GO FORWARD IN THE MORNING.
5 AND ALSO, I'M INSTRUCTING THE DEFENSE, I DON'T KNOW IN
6 WHAT STAGE OF PREPARATION YOUR WITNESSES ARE, TO BE
7 HERE, BUT I NEED TO MAKE YOU AWARE THAT AS SOON AS THE
8 STATE CONCLUDES I'M GOING TO BE READY TO PROCEED WITH
9 THE DEFENDANT'S CASE. SO, ---

10 MR. KEARSE: YOUR HONOR, I TOLD THEM
11 TO BE HERE AT ONE O'CLOCK TOMORROW.

12 THE COURT: OKAY. THAT'S FINE. I
13 JUST WANTED TO MAKE SURE THAT THERE WOULD NOT BE ANY
14 LAG, AND THERE WOULD NOT BE ANY MIS-COMMUNICATION.

15 ALSO, MR. BRISCOE, I NEED TO ADVISE
16 YOU THAT I KNOW YOU NEED TO COMMUNICATE WITH YOUR
17 LAWYER, AND I KNOW YOU NEED TO MAKE HIM AWARE OF YOUR
18 CONCERNS DURING TRIAL, BUT I NEED YOU TO BE A LITTLE
19 LESS ANIMATED. OKAY?

20 DEFENDANT BRISCOE: CAN I PLEASE SAY
21 SOMETHING?

22 THE COURT: NO, SIR. I NEED YOU TO
23 -- YOU NEED TO UNDERSTAND THAT THIS IS A VERY SMALL
24 COURTROOM. THE ACOUSTICS IN HERE ARE HORRIBLE, AND YOU
25 HAVE A PRIVILEGE WITH YOUR ATTORNEY THAT'S CALL THE

1 ATTORNEY-CLIENT PRIVILEGE, BUT WHEN YOU SAY CERTAIN
2 THINGS IN THE PRESENCE OF OTHER PEOPLE THAT ABROGATES
3 THAT PRIVILEGE. OKAY? SO, I NEED YOU TO -- IF YOU'RE
4 GOING TO SPEAK TO HIM, BE VERY SOFT IN SPEAKING TO HIM.
5 THIS IS IN YOUR BEST INTEREST, AND THAT'S THE REASON I'M
6 ADVISING YOU OF THAT. AND ALSO, IT'S GOING TO ALIENATE
7 YOU WITH THE JURY. OKAY? SO, I'M JUST TELLING YOU WHAT
8 I THINK IS IN YOUR BEST INTEREST. AND I WANT YOU TO --
9 I HAVE NO PROBLEM WITH YOU TALKING TO MR. KEARSE, YOU'RE
10 SUPPOSED TO DO THAT. BUT ALSO REMEMBER THAT MR. KEARSE
11 HAS TO MAINTAIN A CERTAIN LEVEL OF OBJECTIVITY IN THESE
12 PROCEEDINGS AS YOUR LAWYER. OKAY? AND THAT HE HAS YOUR
13 BEST INTEREST AT HEART. BUT YOUR VOICE CARRIES, AND
14 IT'S LOUD AND IT'S A LITTLE DISTRACTING. OKAY? IT'S
15 DISTRACTING TO HIM AND IT'S DISTRACTING TO THE JURY WHEN
16 OTHER PEOPLE ARE TESTIFYING, SO I'M GOING TO HAVE TO ASK
17 YOU, AS I'VE INDICATED, JUST TO BE A LITTLE LESS
18 ANIMATED FOR ME.

19 NOW, IS THERE ANYTHING FURTHER?

20 COURT REPORTER: I WANT THE LAWYERS
21 TO COUNT THE EXHIBITS.

22 THE COURT: YEAH, I NEED YOU ALL TO
23 COUNT THE EXHIBITS AND MAKE SURE THEY'RE IN ORDER FOR
24 THE COURT REPORTER.

25 OKAY, WE'LL BE IN RECESS UNTIL IN

1 THE MORNING AT NINE O'CLOCK.

2 (Recess for the day.)

3 DATE:

4 NOVEMBER 1, 2005

5 THE COURT: IS THE STATE READY TO
6 PROCEED?

7 SOLICITOR BELL: THE STATE'S READY,
8 YOUR HONOR.

9 THE COURT: IS THE DEFENSE READY TO
10 PROCEED?

11 MR. KEARSE: THE DEFENSE IS READY,
12 YOUR HONOR.

13 THE COURT: MR. KEARSE, I'VE SHARED
14 THIS WITH MR. BELL THIS MORNING, I HAVE NOT HAD AN
15 OPPORTUNITY TO SHARE IT WITH YOU. AFTER SOME REFLECTION
16 LAST NIGHT ON THE WAY HOME, I -- WELL, ACTUALLY, I GUESS
17 I MADE THIS DECISION LONG BEFORE THAT. I'M NOT GOING TO
18 STRESS MYSELF TO FINISH THIS TRIAL BY WEDNESDAY. SO --
19 AND I DON'T WANT -- AFTER I THOUGHT ABOUT IT SOME MORE
20 I FELT LIKE -- WELL, I ALWAYS FELT THIS WAY, THAT THIS
21 IS A SERIOUS MATTER, AND MR. BRISCOE'S LIBERTY IS AT
22 STAKE, AND I FEEL THAT THE STATE SHOULD BE ABLE TO CALL
23 AS MANY WITNESSES AS THEY NEED TO AND FULLY DEVELOP
24 THEIR CASE, AS WELL AS THE DEFENSE. AND SO, WE'LL JUST
25 HAVE TO PROCEED WITH THIS AT THE NORMAL COURSE, AND

1 WE'LL SEE WHERE THAT LEAD US. IF THAT LEAVES ME IN TIME
2 TO GO MAKE MY PRESENTATION AT MY SEMINAR, FINE. IF IT
3 DOESN'T, FINE.

4 AND, SOMETHING ELSE -- OH, I JUST
5 DON'T -- I WATCHED THE JURORS LAST NIGHT, THEY WERE VERY
6 FATIGUED, AND I'M JUST NOT INCLINED -- I'M GOING TO
7 WATCH THEM TODAY AND SEE HOW LONG WE GO, BUT I JUST FEEL
8 THAT THEY NEED TO BE REALLY RESTED AND FULLY IN TUNE
9 WHEN THEY'RE LISTENING TO TESTIMONY. THEY WERE IN TUNE
10 LAST NIGHT, AND THEY WERE LISTENING, BUT I THINK AFTER
11 JURY QUALIFICATION AND EVERYTHING ELSE THEY PROBABLY
12 WERE TIRED JUST AS THE REST OF US WERE.

13 SO, WITH THAT IN MIND, ARE WE READY
14 TO PROCEED?

15 SOLICITOR BELL: YES, YOUR HONOR.

16 THE COURT: OKAY, PLEASE BRING IN
17 THE JURY.

18 (Whereupon, the following
19 takes place in the
20 presence of the jury.)

21 THE COURT: GOOD MORNING, MR.
22 FOREMAN, AND LADIES AND GENTLEMEN, I HOPE Y'ALL HAD A
23 RESTFUL EVENING, I HOPE YOU ENJOYED YOUR BREAKFAST THIS
24 MORNING.

25 I ALSO WANTED TO TELL YOU SOMETHING

1 THAT I NEGLECTED TO TELL YOU THIS ON YESTERDAY, YOU MAY
2 WANT TO WRITE YOUR JUROR NUMBERS ON THE FRONT PAGE OF
3 YOUR PAD, AND THAT WAY YOU'LL BE ABLE TO IDENTIFY YOUR
4 NOTES MORE QUICKLY INSTEAD OF HAVING TO DECIPHER
5 HANDWRITING.

6 WE WILL NOW PROCEED WITH THE TRIAL
7 OF THE STATE'S CASE. WE ALSO HAVE WITH US THIS MORNING
8 A CLASS FROM SUMMERVILLE HIGH SCHOOL WHO WILL BE
9 OBSERVING THE PROCEEDINGS.

10 MR. BELL, YOU MAY PROCEED.

11 SOLICITOR BELL: THANK YOU, YOUR
12 HONOR.

13 THE STATE WOULD CALL RYAN NORTH TO
14 THE STAND.

15 THE COURT: MR. NORTH, IF YOU WILL
16 COME TO THE WITNESS STAND AND BE SWORN.

17 CLERK: PLEASE RAISE YOUR RIGHT HAND
18 AND PUT YOUR LEFT HAND ON THE BIBLE.

19 (Whereupon, the witness,
20 RYAN SPENCER NORTH,
21 is duly sworn.)

22 CLERK: PLEASE HAVE A SEAT, AND GIVE
23 US YOUR FULL NAME.

24 WITNESS: RYAN SPENCER NORTH.

25 THE COURT: YOU MAY PROCEED.

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1 SOLICITOR BELL: THANK YOU, YOUR
2 HONOR.

3 THE COURT: YOU'RE WELCOME.

4 (NOTE: Blank lines on this page do not indicate any part
5 of record has been omitted. Headers on testimony pages
6 and hard page breaks between testimony are now required
7 by the Court. See next ensuing page for sequential
8 continuation of record.)

DIRECT - RYAN S. NORTH BY SOL. BELL

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DIRECT EXAMINATION OF RYAN S. NORTH

BY SOLICITOR BELL;

Q. MR. NORTH, WHERE DO YOU LIVE?

A. SMOAKS, SOUTH CAROLINA.

Q. WHERE IS THAT LOCATED?

A. OFF OF HIGHWAY SIXTY-ONE, IN COLLETON COUNTY.

Q. OKAY. AND HOW LONG HAVE YOU LIVED THERE?

A. APPROXIMATELY ABOUT EIGHT YEARS.

THE COURT: SIR, I'M GOING TO NEED
YOU TO LEAN CLOSER TO THE MICROPHONE. THEY TELL ME THAT
CHAIR WON'T MOVE, AND IF YOU COULD SPEAK DIRECTLY INTO
THE MICROPHONE AS BEST YOU CAN SO WE CAN HEAR YOU.

YOU MAY CONTINUE, MR. BELL.

SOLICITOR BELL: THANK YOU, YOUR
HONOR.

THE COURT: YOU'RE WELCOME.

Q. MR. NORTH, DO YOU RECALL BACK ON JULY THIRD OF TWO
THOUSAND THREE?

A. YES, SIR.

Q. YOU CAME OVER TO DORCHESTER COUNTY ON THAT
EVENING?

A. YES, SIR.

Q. LET ME START OUT WITH, WHY WERE YOU COMING OVER TO
DORCHESTER COUNTY ON THAT EVENING?

A. WE WAS BRINGING A QUANTITY OF DRUGS TO JERMAINE

DIRECT - RYAN S. NORTH BY SOL. BELL

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1 CUSACK.

2 Q. OKAY. DO YOU KNOW EXACTLY WHERE IT WAS?

3 A. THE DRUGS?

4 Q. NO, WHERE YOU WERE GOING?

5 A. YES, SIR, YES, SIR, TO GROVER.

6 Q. OKAY. WHERE IN GROVER?

7 A. WE WAS SUPPOSED TO BE ORIGINALLY GOING TO
8 JERMAINE'S MOTHER'S HOUSE, BUT WE WENT TO THIS
9 OTHER HOUSE, WHICH WAS A COUPLE OF BLOCKS BEFORE
10 YOU GET TO HIS MOTHER'S HOUSE.

11 Q. OKAY. LET ME GO BACK AND TALK ABOUT, FIRST OF
12 ALL, HOW DID YOU ARRANGE TO COME OVER THERE?

13 A. SMOKE, I GUESS, JASSON TURNER, THAT'S HIS REAL
14 NAME, I JUST FOUND OUT, MADE A COUPLE OF CALLS
15 PREVIOUS, THE DAY BEFORE, THAT DAY AND NIGHT, AND
16 TOLD ME HE HAD SOME DRUGS HE NEEDED TO GET RID OF,
17 A QUANTITY OF DRUGS, AND HE WAS COMING DOWN. AND
18 WHEN HE FINALLY CONTACTED ME WE MET UP AND I
19 TALKED TO JERMAINE PRIOR TO, AND LET HIM KNOW THAT
20 WE HAD SOME DRUGS, AND WE WAS GOING OVER THERE TO
21 MAKE THE SALE.

22 Q. OKAY. WELL, LET ME ASK YOU, HOW DID YOU MEET
23 SMOKE, HOW DID YOU KNOW SMOKE?

24 A. I MET SMOKE THROUGH SOME OTHER GUYS I KNEW FROM
25 COLLEGE, JEFF HILL, AND WE DID A BUNCH OF OTHER

DIRECT - RYAN S. NORTH BY SOL. BELL

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1 DEALS, AND SMOKE WAS -- I DID SOME OTHER DEALS
2 WITH JEFF AND SMOKE CAME DOWN WITH HIM.

3 Q. HOW MANY TIMES DID HE COME DOWN?

4 A. SMOKE MIGHT HAVE CAME DOWN MAYBE THREE TIMES.

5 Q. OKAY. AND WHERE WOULD HE COME TO?

6 A. SMOKE WOULD COME TO MY HOUSE WITH JEFF.

7 Q. OKAY. OUT IN SMOAKS?

8 A. YES, SIR, OUT IN SMOAKS.

9 Q. OKAY. DID YOU HAVE A PHONE NUMBER YOU COULD
10 CONTACT SMOKE?

11 A. YEAH, THAT WAS THE ONLY CONTACT I HAD WAS A
12 CELLULAR PHONE WHICH I WOULD CALL HIM, OR THEY
13 WOULD CALL ME FROM THE PHONE WHENEVER THEY HAD
14 SOMETHING, OR WHENEVER I NEEDED SOMETHING.

15 Q. DO YOU RECALL THAT NUMBER?

16 A. THAT NUMBER I THINK WAS SEVEN ONE EIGHT, NINE
17 THREE EIGHT, FORTY-SIX FOURTEEN, TO THE BEST OF MY
18 KNOWLEDGE.

19 Q. OKAY.

20 COURT REPORTER: SIR, I CAN HEAR YOU
21 WELL, BUT YOU'RE A LITTLE BIT TOO CLOSE TO THE MIKE NOW.

22 A. OKAY, I'M SORRY.

23 COURT REPORTER: THAT'S FINE.

24 A. I WAS TRYING TO MAKE SURE YOU CAN HEAR ME.

25 COURT REPORTER: YOU HAVE TO PLEASE

DIRECT - RYAN S. NORTH BY SOL. BELL

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1 EVERYBODY.

2 Q. OKAY. DID SMOKE HAVE YOUR PHONE NUMBER?

3 A. YES, SIR?

4 Q. WHAT'S YOUR PHONE NUMBER?

5 A. MY HOUSE PHONE NUMBER IS EIGHT FOUR THREE, FIVE
6 SIX TWO, EIGHTY-FOUR SIXTY-FIVE.

7 Q. OKAY. NOW, WHEN THIS THING HAPPENED ON JULY
8 THIRD, WHEN WAS THE FIRST TIME YOU HAD TALKED TO
9 SMOKE ABOUT THIS DEAL?

10 A. HE HAD CALLED ME THE DAY BEFORE AND HE JUST WANTS
11 TO COME DOWN, HE TOLD ME HE HAD SOME DRUGS FOR
12 SOME CHEAP PRICES, AND I NEVER REALLY DEALT WITH
13 SMOKE BEFORE. AND THEN HE CALLED ME THE DAY OF,
14 THERE WAS NUMEROUS CALLS MADE BACK AND FORTH, AND
15 HE WAS ACTUALLY LATE, HE WAS SUPPOSED TO HAVE BEEN
16 HERE EARLIER THAT DAY, AND HE WIND UP GETTING HERE
17 LATER ON THAT NIGHT. AND WHEN HE CAME DOWN HE HAD
18 ANOTHER INDIVIDUAL WITH HIM.

19 Q. OKAY. HAD HE CALLED YOU ANYTIME BEFORE THE DAY
20 BEFORE JULY THIRD?

21 A. YES, SIR, SMOKE HAD CALLED ME, I BELIEVE IT WAS A
22 DAY IN ADVANCE BEFORE THE THIRD, TO LET ME KNOW HE
23 HAD DRUGS.

24 Q. OKAY. AND HOW DID Y'ALL MEET UP ON THE THIRD?

25 A. THROUGH A PHONE CALL. HE WAS LATE, HE WAS SUPPOSED

DIRECT - RYAN S. NORTH BY SOL. BELL

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1 TO HAVE BEEN, IT WAS SUMMERTIME, AROUND THREE
2 O'CLOCK THAT AFTERNOON. HE WIND UP GETTING OUT
3 HERE LATE THAT NIGHT, AROUND SEVEN OR EIGHT
4 O'CLOCK THAT NIGHT, SOMEWHERE IN THAT TIME FRAME,
5 IT WAS LATE THAT NIGHT. AND HE CALLED ME AND LET
6 ME KNOW HE WAS COMING, AND HE JUST KEPT CALLING,
7 HE WAS -- FROM THREE O'CLOCK TO SIX O'CLOCK, AND I
8 WAS BACK AND FORTH TO JERMAINE'S HOUSE TELLING
9 JERMAINE THAT HE'S COMING, YOU KNOW, WE'RE
10 BRINGING THE DRUGS. AND ACTUALLY, I BELIEVE I
11 CALLED HIM OFF JERMAINE'S PHONE ONE TIME, JERMAINE
12 HAD A CELL PHONE.

13 Q. OKAY. AND SO, WHERE DID YOU EVENTUALLY MEET SMOKE?

14 A. WE GOT TOGETHER AT THE GAS STATION OFF NINETY-
15 FIVE, HIGHWAY SIXTY-ONE.

16 Q. OKAY. AND WHAT KIND OF VEHICLE DID THEY SHOW UP
17 IN?

18 A. THEY WAS DRIVING A PONTIAC GRAND AM.

19 Q. DO YOU RECALL WHAT COLOR IT WAS?

20 A. IT WAS A BEIGE GRAND AM. IT'S ACTUALLY OUTSIDE IN
21 THE PARKING LOT.

22 Q. AND WAS HE WITH SOMEBODY?

23 A. YES, SIR.

24 Q. OKAY. CAN YOU DESCRIBE HOW SMOKE LOOKED BACK
25 THEN?

DIRECT - RYAN S. NORTH BY SOL. BELL

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1 A. SMOKE, HE'S A SHORT STOCKY FELLOW WITH BRAIDS,
2 BROWN SKIN, MUSTACHE, A LITTLE GOATEE, NO BEARD.

3 Q. OKAY. AND THE OTHER FELLOW THAT WAS WITH HIM, HOW
4 WOULD YOU DESCRIBE HIM?

5 A. LIGHT SKIN, BALD HEAD, HE HAD A LIGHT MUSTACHE, A
6 LITTLE LIGHT HAIR UNDER HIS CHIN.

7 Q. DO YOU SEE HIM IN THE COURTROOM TODAY?

8 A. OF COURSE, YES, SIR.

9 Q. WHERE IS HE?

10 A. THE DEFENDANT.

11 MR. KEARSE: YOUR HONOR, I OBJECT.

12 THE COURT: BASIS?

13 MR. KEARSE: ON THE BASIS PREVIOUSLY
14 ARGUED.

15 THE COURT: OVERRULED.

16 MR. KEARSE: THANK YOU.

17 Q. COULD YOU PLEASE POINT HIM OUT?

18 A. THAT'S THE DEFENDANT RIGHT THERE.

19 Q. DOES HE LOOK THE SAME TODAY AS HE DID BACK THEN,
20 TWO YEARS AGO?

21 A. EXACTLY, EXCEPT WITHOUT THE HAIR, THE FACIAL HAIR,
22 AND HE'S GROWN HAIR OVER THE TIME, HE'S GOT A
23 LITTLE BIGGER.

24 Q. OKAY. AND Y'ALL MET AT THE GAS STATION, AND WHAT
25 HAPPENED THEN?

DIRECT - RYAN S. NORTH BY SOL. BELL

. 272

1 A. WE WENT INSIDE, GOT SOME CIGARS, WE TALKED FOR A
2 FEW MINUTES ABOUT WHERE WE WAS GOING, AND HE WAS
3 NERVOUS ABOUT TRAVELING OVER THERE AND WHO WE WAS
4 GOING TO MEET. AND THEN, I TOLD SMOKE EVERYTHING
5 WAS OKAY, YOU KNOW, I KNEW JERMAINE REAL WELL. SO,
6 THEN WE GOT TOGETHER AND WE WENT OVER TO GROVER.

7 Q. AND WHO WAS WITH YOU?

8 A. MY BROTHER, TRAVIS, AND MY NEXT DOOR NEIGHBOR,
9 ANTHONY FOLK.

10 Q. DOES HE GO BY ANY OTHER NAMES?

11 A. ANTHONY?

12 Q. YEAH.

13 A. HE GOES BY DEE DEE.

14 Q. OKAY. WHY WERE THEY ALONG WITH YOU?

15 A. WELL, THEY WAS JUST RIDING WITH ME, AND BASICALLY,
16 WE WAS GOING TO SMOKE SOME REEFER, AND THEY ALWAYS
17 RIDE WITH ME MOST OF THE TIME ON THE WEEKENDS.

18 Q. LET ME JUST STEP BACK FOR A SECOND AND ASK -- LET
19 ME SHOW YOU WHAT'S BEEN MARKED AS STATE'S EIGHT
20 FOR IDENTIFICATION. YOU TALKED ABOUT THE CAR AND I
21 ASK YOU IF YOU, IS THAT ---

22 A. THAT IS THE CAR.

23 Q. OKAY. AND LET ME SHOW YOU WHAT'S BEEN MARKED AS
24 STATE'S NINE AND ASK IF EIGHT AND NINE, IF THAT'S
25 WHAT YOU SAW, THE CAR YOU SAW THAT NIGHT?

DIRECT - RYAN S. NORTH BY SOL. BELL

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1 A. YES, SIR.

2 Q. OKAY. WHAT KIND OF VEHICLE WERE YOU IN?

3 A. I WAS IN MY CHRYSLER.

4 Q. OKAY. WHAT COLOR IS THAT?

5 A. IT'S A TAN CAR.

6 Q. AND WHERE DID Y'ALL GO FROM THE TRUCK STOP?

7 A. WE WENT OVER TO MEET JERMAINE AT THIS LITTLE HOUSE
8 JUST BEFORE YOU GET TO THE MOTHER'S HOUSE, AND SAW
9 THE DRIVEWAY THAT YOU PULL INTO, MAYBE ABOUT A
10 HUNDRED FEET OFF THE ROAD.

11 Q. OKAY. AND WHICH VEHICLE WERE YOU IN?

12 A. MY CHRYSLER LHS.

13 Q. OKAY. WHERE WAS THE OTHER VEHICLE?

14 A. THE OTHER VEHICLE WAS BEHIND US.

15 Q. OKAY. WHAT HAPPENED WHEN YOU GOT UP TO THAT
16 HOUSE?

17 A. WHEN WE FIRST ORIGINALLY GOT TO THE HOUSE THERE
18 WAS A COUPLE OF OTHER PEOPLE THERE, WHICH WAS
19 SURPRISING TO ME, TOO, I DIDN'T EXPECT EVERYBODY
20 TO BE THERE.

21 Q. OKAY. WHERE WERE THEY?

22 A. SOME WERE ON THE PORCH, YOU COULD SEE PERSONS ON
23 THE INSIDE OF THE HOUSE THROUGH THE WINDOWS.

24 Q. OKAY. WHAT DID THE PEOPLE OUTSIDE LOOK LIKE?

25 A. IT WAS A TALL SLENDER FELLOW WAS OUTSIDE, AND AN

DIRECT - RYAN S. NORTH BY SOL. BELL

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1 OLDER MAN, IT WAS A SHORT, OLDER GUY, DARK SKIN,
2 IT WAS DARK AT NIGHT.

3 Q. OKAY. AND WHO ELSE, DID YOU SEE ANYBODY ELSE
4 THERE?

5 A. WHEN WE WENT INSIDE THE HOUSE THERE WAS ANOTHER
6 GUY THERE THAT HAD SOME DRED LOCKS.

7 Q. DID YOU KNOW HIM?

8 A. YES, I HAD SEEN HIM PREVIOUSLY A COUPLE OF TIMES
9 BEFORE, I ONLY KNEW HIM AS HIS NICK NAME.

10 Q. WHAT WAS HIS NICK NAME?

11 A. MOOK.

12 Q. OKAY. AND WHO ELSE WAS THERE?

13 A. JERMAINE CUSACK.

14 Q. OKAY. ANYBODY ELSE THERE?

15 A. THERE WAS A YOUNG LADY THERE FOR A SHORT TIME, I
16 DON'T KNOW HER NAME.

17 Q. OKAY. NOW, WHO WENT INSIDE?

18 A. BEFORE WE EVEN WENT INSIDE WE -- SMOKE AND THE
19 DEFENDANT WAS NERVOUS ABOUT GOING INSIDE THE
20 HOUSE, BECAUSE THEY DIDN'T KNOW ANYBODY. SO, WE
21 HAD A SMALL DISCUSSION ABOUT, YOU KNOW, EVERYTHING
22 WAS OKAY, AND THEY WAS WORRIED ABOUT, I GUESS, WAS
23 I TRYING TO SET THEM UP FOR A ROBBERY OR
24 SOMETHING. AND THEY ASKED ME WAS EVERYTHING OKAY
25 TO GO INSIDE, AND I SAID, YEAH, I KNOW THIS GUY

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1 REAL WELL, I'VE BEEN KNOWING HIM FOR YEARS. SO,
2 WHEN WE FIRST WENT INSIDE, I WENT INSIDE AND I
3 TOOK THE DEFENDANT AND SMOKE INSIDE WITH ME,
4 INTRODUCED THEM TO EVERYBODY. MY BROTHER, TRAVIS,
5 CAME IN. JERMAINE WAS IN THERE, MOOK WAS IN
6 THERE, AND THE GIRL WAS IN THERE.

7 Q. WHEN DID YOUR BROTHER COME IN?

8 A. HE CAME IN A SHORT PERIOD BEHIND ME.

9 Q. OKAY. BUT AT FIRST IT WAS JUST YOU AND SMOKE AND
10 THE DEFENDANT?

11 A. AND THE DEFENDANT.

12 Q. OKAY. WHAT WENT ON INSIDE?

13 A. WHEN WE FIRST GOT INSIDE I INTRODUCED THEM TO
14 JERMAINE, AND THEN WE DID SOME PRICE NEGOTIATION,
15 AND THEY HAD COCAINE POWDER, AND JERMAINE WANTED
16 TO COOK IT JUST TO TEST IT TO SEE HOW GOOD IT WAS,
17 AND SO WE WENT IN THE KITCHEN AND WE WEIGHED OUT
18 AN OUNCE OF COKE AND JERMAINE PROCEEDED TO COOK
19 IT. AND IT TOOK, MAYBE ABOUT THIRTY OR FORTY
20 MINUTES. AND THE DECEASED, NOW, WAS IN THE ROOM
21 WITH US, AND HE WAS PRANCING UP AND DOWN,
22 EVERYBODY WAS PRETTY MUCH HIGH WHEN WE GOT THERE,
23 JERMAINE AND THE DEFENDANT, THEY WAS PRETTY MUCH
24 HIGH, WE WAS SMOKING REEFER, DRINKING, LISTENING
25 TO LOUD MUSIC.

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1 Q. OKAY. AND BY REEFER, YOU MEAN MARIJUANA?

2 A. YES, SIR, MARIJUANA.

3 Q. OKAY. DID YOU SEE -- YOU SAID THE DECEDENT, IS
4 THAT THE FELLOW THAT GOT SHOT?

5 A. YES, SIR.

6 Q. OKAY. HAD YOU -- WHERE WAS HE BEFORE, WAS HE
7 SOMEWHERE ELSE BEFORE HE WAS IN THERE?

8 A. ON FIRST APPROACH HE WAS STANDING ON THE PORCH, I
9 BELIEVE IT WAS, AND THEN WHEN WE WENT INSIDE
10 BASICALLY EVERYBODY CAME IN AND WE DID THE
11 INTRODUCTION, AND WE SAID WHAT WE WAS THERE FOR,
12 AND THEY HAD SOME LOUD MUSIC PLAYING, AND WE CAME
13 WITH THE ANTICIPATION TO SMOKE SOME MARIJUANA
14 ANYWAY. AND I BELIEVE WE TALKED FOR ABOUT, MAYBE
15 FIFTEEN MINUTES BEFORE WE ACTUALLY GOT DOWN TO
16 BUSINESS.

17 Q. OKAY.

18 A. AND THAT'S WHEN WE STARTED TO COOK THE COCAINE.

19 Q. ALRIGHT. WHERE WAS THE COCAINE BEFORE THEY TOOK IT
20 TO COOK IT?

21 A. I BELIEVE IT WAS IN THE TRUNK OF THE CAR, BECAUSE,
22 YOU KNOW, BEFORE WE WENT IN JASSON WARNED ME, HE
23 SAID, MAN, I HOPE IT AIN'T NOTHING FUNNY HERE,
24 BECAUSE THIS GUY THAT I GOT WITH ME, HE AIN'T
25 PLAYING NO GAMES AND HE'S NOT DOWN FOR NO BULL --

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1 I DON'T WANT USE THE CURSE WORD HE USED.

2 Q. WHEN THEY BROUGHT IT IN WHAT DID THEY DO WITH IT?

3 A. WHEN WE FIRST BROUGHT IT IN THEY STILL HAD IT IN
4 THEY STILL HAD IT IN, I THINK IT WAS IN A LITTLE
5 POUCH, LIKE A LITTLE HAND BAG, AND THEN WE WENT
6 INTO THE KITCHEN AND TALKED ABOUT PRICES. JERMAINE
7 TOLD HIM HE WANTED TO SEE HOW ONE OF THEM COOKED
8 FIRST, THAT HE HAD OTHER SALES TO GET RID OF THE
9 REST OF THE COKE. AND THEY WEIGHED OUT AN OUNCE
10 FOR HIM, AND HE PROCEEDED TO COOK IT. WE WAS IN
11 THERE WHILE -- THEY WAS WATCHING HIM, YOU KNOW, TO
12 MAKE SURE HE WASN'T STEALING ANYTHING WHILE HE WAS
13 COOKING IT, TO MAKE SURE IT WAS GOOD COKE. AND HE
14 COOKED IT, I THINK MAYBE TWICE OR THREE TIMES TO
15 TRY TO MAKE IT SWELL UP.

16 Q. WHERE WAS SMOKE AND THE DEFENDANT AT THAT TIME?

17 A. THEY WAS RIGHT IN THE KITCHEN WITH US. IT WAS ME,
18 SMOKE, THE DEFENDANT, JERMAINE, AND MOOK.

19 Q. OKAY. WHAT HAPPENED AFTER THAT?

20 A. AFTER WE FINISHED COOKING THE COKE, JERMAINE WAS
21 SATISFIED WITH IT. HE WAS SATISFIED WITH THE
22 QUALITY OF IT, AND WE PROCEEDED BACK INTO THE --
23 WELL, HE PAID, HE HAD A CERTAIN AMOUNT OF MONEY,
24 HE WAS SHORT, I THINK IT WAS A HUNDRED AND SIXTY-
25 FIVE DOLLARS FOR THE OUNCE, AND THAT'S WHEN HE

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1 SENT THE YOUNG LADY TO THE MOTHER'S HOUSE TO GET
2 THE REST OF THE MONEY. AND THEN HE SAID THAT HE
3 KNOW A PLACE WHERE WE CAN GO SELL THE REST OF THE
4 COKE AT. SO, THEY TOLD HIM TO BREAK IT DOWN IN
5 OUNCES. SO, HE HAD A SCALE, HE GAVE THEM SOME
6 RAGS, AND WE WENT BACK INTO THE LIVING ROOM, AND
7 SMOKE AND JASSON SAT AT THE TABLE, A LITTLE ---

8 Q. WHAT KIND OF TABLE WAS THAT?

9 A. LIKE A LITTLE FOLD UP TABLE, A LITTLE WOODEN TABLE
10 WITH SOME ALUMINUM RAILS THAT COULD FOLD UP. AND
11 THEY WAS ON ONE SIDE OF THE TABLE, IT WAS A VERY
12 SMALL ROOM. AND THEY PROCEEDED TO BREAK IT DOWN
13 INTO OUNCES.

14 Q. OKAY. AND WHAT HAPPENED AFTER THAT?

15 A. WELL, DURING THAT TIME THE DECEASED WAS, HE WAS
16 REALLY, YOU KNOW, HE WAS ACTING SUSPICIOUS, BUT WE
17 WAS THERE FOR MAYBE AN HOUR THEN, SO YOU KNOW,
18 EVERYBODY HAD DONE CALMED AND WE FIGURED IT WAS,
19 YOU KNOW, A GOOD DEAL, WE WAS GOING TO LEAVE AND
20 GO MAKE SOME MORE MONEY. AND THE DECEASED STEPPED
21 OUTSIDE FOR A SECOND, AND DURING THE TIME HE
22 STEPPED OUTSIDE SMOKE, JASSON TURNER, AND THE
23 DEFENDANT WAS STILL BAGGING UP THE OUNCES. AND
24 THEY HAD SEVERAL OUNCES AWAY FROM THE ORIGINAL
25 BLOCK SITTING ON THE EDGE OF THE TABLE. AND ME AND

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1 MY BROTHER, TRAVIS, WAS IN THE ROOM. JERMAINE, THE
2 DEFENDANT, JASSON, AND THE DECEASED, HE JUST, HE
3 CAME BACK IN THE DOOR, IT WAS A LITTLE DOOR RIGHT
4 BY THE TABLE, AND HE CAME IN, HE WALKED PAST THE
5 TABLE, MAYBE THREE OR FOUR FEET, AND HE TURNED
6 AROUND AND HE SNATCHED ONE OF THE BAGS AND TRIED
7 TO RUN OUT THE DOOR WITH IT.

8 Q. OKAY. AND WHAT HAPPENED?

9 A. WELL, HE MADE A HORRIBLE MISTAKE. WHEN HE
10 SNATCHED THAT BAG THAT DEFENDANT REACHED IN HIS
11 PANTS AND PULLED OUT A GUN, AND HE JUST CAME RIGHT
12 PAST ME WITH THE GUN, AND JUST, HE COCKED IT,
13 POINTED AT THE DEFENDANT'S BACK, AND I JUST TURNED
14 MY HEAD AND I RAN.

15 Q. THIS DEFENDANT HERE?

16 A. YES, SIR. YES, SIR.

17 Q. HOW MANY -- HE SHOT HIM?

18 A. HE -- YES, SIR, HE SHOT HIM.

19 Q. HOW MANY TIMES?

20 A. SEVERAL TIMES, I -- I DON'T KNOW, I HEARD SO MANY
21 SHOTS, BUT I WAS RUNNING SO FAST.

22 Q. WHERE DID YOU GO?

23 A. I RAN OUT THE BACK DOOR, WHEN I WAS RUNNING I
24 COULD STILL HEAR THE SHOOTING UNTIL I GOT OUT THE
25 BACK DOOR, HE STILL WAS SHOOTING.

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1 Q. WHAT, WHAT KIND OF GUN WAS IT, AS BEST YOU COULD
2 TELL?

3 A. A SEMI-AUTOMATIC, BLACK, IT LOOKED TO BE LIKE A
4 NINE MILLIMETER TO ME, IT WAS A PRETTY SOLID GUN,
5 A NINE MILLIMETER OR A GLOCK, IT WAS A BLACK GUN.

6 Q. WHERE DID YOU GO?

7 A. WHEN I RAN OUT THE LIVING ROOM, WHEN HE PULLED THE
8 GUN OUT AND HE PUT IT TO THE GUY'S BACK I TURNED
9 MY HEAD. BEFORE I COULD TAKE THE FIRST STEP I
10 HEARD THE FIRST SHOT. AND THEN, THE SHOTS WAS JUST
11 AS FAST AS MY FOOT STEPS, I MEAN, THEY WAS
12 REPEATED. AND I RAN INTO THE KITCHEN, AND THAT'S
13 WHEN MOOK WAS RUNNING. MOOK WAS IN THE KITCHEN, HE
14 TOOK OFF RUNNING BECAUSE HE HEARD THE FIRST SHOT,
15 AND ME AND MOOK RAN OUT THE BACK DOOR. WHEN I RAN
16 OUT THE BACK DOOR I ORIGINALLY RAN TO THE LEFT, I
17 RAN DOWN IN THE WOODS, MAYBE SEVENTY-FIVE, A
18 HUNDRED FEET, UNTIL I HEARD ALL THE CARS PULLING
19 OFF. AND THEN I CAME BACK OUT THE WOODS AND I
20 WALKED UP TO A FRIEND'S HOUSE WHO LIVED DOWN THE
21 ROAD NAMED REGGIE AND I TOLD HIM WHAT HAPPENED. I
22 TOLD HIM, I SAID, SOMEBODY JUST GOT KILLED. AND I
23 TOLD HIM I NEEDED TO GET OUT OF THERE, AND HE GAVE
24 ME A RIDE DOWN THE ROAD, WHICH, MY BROTHER,
25 TRAVIS, HAD TOOK MY CAR AND LEFT IN IT. AND BY THE

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1 TIME ME AND REGGIE GOT TO THE END OF THE ROAD WE
2 RAN INTO MY BROTHER, TRAVIS. HE CAME BACK LOOKING
3 FOR ME, BECAUSE HE KNEW I HAD RAN. HE FIGURED I
4 WAS IN THE WOODS SOME PLACE. AND I GOT OUT AND
5 GOT IN MY CAR, AND I LEFT.

6 Q. AND WAS ANYBODY WITH YOUR BROTHER?

7 A. YES, DEE DEE.

8 Q. OKAY. AND WHERE DID Y'ALL GO?

9 A. I WENT HOME. I WAS NERVOUS AT FIRST, BECAUSE IT
10 JUST HAPPENED SO SUDDENLY, I DIDN'T KNOW WHAT WAS
11 GOING ON. I DIDN'T WANT SMOKE TO THINK, YOU KNOW,
12 THE WAY IT WENT DOWN, I SAID, YOU KNOW, I WAS
13 NERVOUS THAT SMOKE -- BECAUSE THEY HAD WARNED ME
14 ABOUT IT BEFORE WE WENT THERE, THEY WAS, LIKE,
15 LISTEN, WE DON'T WANT NO FUNNY BUSINESS. AND I
16 KNEW JERMAINE FOR SEVERAL YEARS THERE, IT WASN'T
17 FOR A LONG TIME, AND NOTHING LIKE THAT EVERY
18 HAPPENED. AND I KNEW HE JUST KILLED A MAN. AND ME
19 AND MY BROTHER WENT TO THE HOUSE, AND I WAS JUST,
20 I WAS IN PANIC.

21 Q. OKAY. WHEN YOUR BROTHER PICKED YOU UP, OR WHEN
22 YOU WERE WITH YOUR FRIEND, WHERE DID Y'ALL DRIVE
23 TO?

24 A. WITH REGGIE?

25 Q. YEAH.

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1 A. WELL, REGGIE LIVES DOWN PAST THE HOUSE, I RAN TO
2 HIS HOUSE, AND WE CAME BACK, AND BY THE TIME -- I
3 SAT IN REGGIE'S HOUSE FOR MAYBE THIRTY MINUTES TO
4 WAIT ON HIM TO GET DRESSED, BECAUSE IT WAS, LIKE -
5 - IT WAS LATE AT NIGHT. AND HE WAS NERVOUS, AND
6 HE DIDN'T WANT TO GET INVOLVED IN IT, WHICH I
7 UNDERSTAND, AND I TOLD HIM, I SAID, I JUST NEED A
8 RIDE. AND HE BRUNG ME BACK AND WE PASSED BY THE
9 HOUSE. BY THIS TIME THE DEPUTY SHERIFFS WAS
10 ALREADY THERE AT THE HOUSE, PRESENT. SO, ---

11 Q. WHY DIDN'T YOU STOP?

12 A. NO REASON, I KNEW THERE WAS DRUGS IN THE HOUSE, I
13 KNEW SOMEBODY GOT SHOT, EVERYBODY ELSE LEFT, I
14 JUST DIDN'T WANT TO BE THE ONLY ONE THERE TO
15 ANSWER QUESTIONS.

16 Q. OKAY. SO, WHERE DID Y'ALL END UP, YOU AND YOUR
17 BROTHER AND DEE DEE?

18 A. I WENT HOME.

19 Q. BACK TO SMOAKS?

20 A. YES, SIR.

21 Q. OKAY. DID YOU CALL THE POLICE THEN?

22 A. NO, SIR.

23 Q. OKAY. WHAT DID YOU DO THE NEXT DAY?

24 A. I ORIGINALLY CALLED JERMAINE AND ASKED HIM WHAT
25 HAPPENED, I SAID, JERMAINE, WHAT HAPPENED? YOU

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1 KNOW, WERE YOU TRYING TO ROB US? AND JERMAINE TOLD
2 ME THAT HE DIDN'T KNOW WHAT WAS GOING ON. AND THEN
3 I LET JERMAINE KNOW MY CONCERNS, I SAID, WELL,
4 NOW, JASSON AND THEM THINK THAT I SET THEM UP,
5 WHICH I DIDN'T KNOW NOTHING WAS GOING ON, AND I
6 HAD NO ANTICIPATION THAT SOMEBODY WAS GOING TO GET
7 KILLED, AND I DID MAKE A CALL TO SMOKE, YOU KNOW,
8 TO LET HIM KNOW THAT I, YOU KNOW, I DIDN'T KNOW
9 WHAT THE HELL WENT ON, I DIDN'T KNOW THAT WAS
10 GOING TO HAPPEN, IT WAS NO PRE-KNOWLEDGE. AND HE
11 JUST SIMPLY HAD AN ATTITUDE AND GOT OFF THE PHONE.

12 Q. OKAY. DID YOU GO ANYWHERE THAT DAY?

13 A. SATURDAY?

14 Q. YES, SIR.

15 A. I'M PRETTY SURE I DID, I REMEMBER SUNDAY I CAME
16 OVER TO ST. GEORGE. THAT'S WHEN I WAS APPROACHED
17 BY DEPUTY KICKLIGHTER.

18 Q. OKAY. AND DID YOU LEARN THAT THE POLICE WERE
19 LOOKING FOR YOU?

20 A. YES, WHEN I WAS OVER THERE WITH MY WIFE AND MY
21 CHILDREN, WE WENT GROCERY SHOPPING, AND
22 KICKLIGHTER STOPPED ME, I GUESS HE RECOGNIZED THE
23 CAR BECAUSE I NEVER SEEN HIM BEFORE IN MY LIFE.
24 AND HE SAID, ARE YOU RYAN NORTH? AND I SAID, YES,
25 I AM. AND HE SAID, DETECTIVES TOM MARSHALL AND VAN

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1 DORAN WANT TO TALK TO YOU. AND I SAID, OKAY, I'M
2 PRETTY SURE I KNOW WHAT THEY WANT TO TALK TO ME
3 ABOUT. AND HE SAID, WELL, YOU NEED TO COME ON DOWN
4 HERE NOW AND TALK TO THEM. AND IT WAS LATE IN THE
5 AFTERNOON, AND I TOLD HIM, I SAID, WELL, I'LL COME
6 DOWN THERE TOMORROW AND TALK TO THEM. AND HE SAID,
7 WELL, YOU NEED TO COME DOWN THERE TODAY AND TALK
8 TO THEM. AND I ASKED HIM DID THEY HAVE A WARRANT
9 ON ME, AND HE SAID, NO, THEY JUST WANT TO TALK TO
10 YOU. AND I SHOULD HAVE TOOK HIS ADVICE THEN, I
11 STILL WAS NERVOUS, TRYING TO RUN AWAY FROM THE
12 PROBLEM.

13 Q. SO, YOU DIDN'T GO TALK TO THE POLICE THEN?

14 A. NO, SIR.

15 Q. OKAY. WHEN DID YOU NEXT TALK TO THE POLICE?

16 A. THE NEXT TIME I TALKED TO THE POLICE WAS THE NEXT
17 DAY, THE POLICE WERE AROUND AT MY HOUSE. I WASN'T
18 HOME, MY WIFE TOLD ME THE POLICE HAD BEEN THERE
19 WITH A WARRANT. SO I IMMEDIATELY CALLED THEM AND
20 TOLD THEM I WAS COMING IN. AND I CAME AND TURNED
21 MYSELF IN.

22 Q. WHERE DID YOU TURN YOURSELF IN AT?

23 A. I CAME OVER HERE TO DORCHESTER COUNTY.

24 Q. AND THEY SERVED YOU WITH AN ARREST WARRANT, IS
25 THAT CORRECT?

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1 A. YES, SIR.

2 Q. AND WHAT WAS THAT FOR?

3 A. MISPRISION OF A FELONY.

4 Q. OKAY. DID YOU TALK TO THEM AT THAT TIME?

5 A. YES, SIR.

6 Q. DID YOU TALK TO DETECTIVE MARSHALL?

7 A. YES, SIR, I TALKED TO DETECTIVE MARSHALL.

8 Q. OKAY. DID YOU GIVE HIM A STATEMENT?

9 A. YES, SIR.

10 Q. AFTER THAT DID YOU TALK WITH HIM ANYMORE AFTER
11 THAT DAY?

12 A. I TALKED -- YES, THEY TOOK ME DOWN TO THE ANNEX,
13 AND MARSHALL AND VAN DORAN, THEY WAS CONSTANTLY
14 COMING TO MY CELL, GETTING ME OUT OF THE CELL, AND
15 WAS TRYING TO GATHER INFORMATION ON WHAT HAPPENED,
16 WHO WAS INVOLVED, HOW TO GET IN TOUCH WITH THEM.
17 THE ONLY LEAD I HAD WAS A PHONE NUMBER, LIKE I
18 SAID, I NEVER DEALT WITH SMOKE BEFORE
19 INDIVIDUALLY.

20 Q. DID YOU GIVE THEM THAT PHONE NUMBER THAT YOU
21 TALKED ABOUT, SMOKE'S PHONE NUMBER?

22 A. YES, I DID, YES, SIR, I DID.

23 Q. THE SEVEN ONE EIGHT, NINE THREE EIGHT, FOUR SIX
24 ONE FOUR NUMBER?

25 A. YES, SIR.

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1 Q. OKAY. AT SOME POINT AFTER THIS DID THEY COME AND
2 SHOW YOU SOME PICTURES AT THAT TIME?

3 A. YEAH, I WAS TELLING THEM ABOUT THE OTHER PEOPLE,
4 HOW I MET SMOKE, YOU KNOW, I MET SMOKE THROUGH
5 JEFF. I DIDN'T KNOW HIS LAST NAME AT THE TIME, BUT
6 IT WAS JEFFREY HILL I BELIEVE IT WAS. AND THEY HAD
7 SOME CONNECTION WITH -- MR. MARSHALL HAD SOME
8 F.B.I. AGENTS, I BELIEVE IT WAS, IN NEW YORK WHO
9 WAS ABLE TO GET SOME INFORMATION, SOME PHOTOS, AND
10 PUT SOME NAMES WITH FACES. AND THEN, WE FIRST
11 IDENTIFIED JEFF. ONCE I IDENTIFIED JEFF, THEN I
12 BELIEVE THAT WAS A GOOD BREAK IN THE CASE FOR
13 THEM, THEY KNEW THEY WAS ON THE RIGHT DIRECTION,
14 AND SOONER OR LATER THE FINALLY GOT SMOKE, AND
15 THEN ID'D THE DEFENDANT.

16 Q. OKAY. SO, LET'S GO BACK ABOUT SMOKE, DID THEY
17 SHOW YOU SOME PICTURES TO SEE -- DID THEY SHOW YOU
18 SOME PICTURE AND YOU SAW SMOKE?

19 A. YES, SIR, THEY GAVE ME, IT WAS A PHOTO LIST OF
20 MAYBE SIX OR NINE PICTURES INVOLVED IN THE LIST. I
21 DID AN IMMEDIATE ID, I KNEW WHO SMOKE WAS.

22 Q. LET ME SHOW YOU THIS AND ASK YOU, FIRST OF ALL, IF
23 YOU RECOGNIZE THE PICTURES?

24 A. YEAH, THAT'S SMOKE RIGHT HERE ON THE BOTTOM.

25 Q. THAT'S WHAT THEY SHOWED YOU?

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1 A. I DON'T REMEMBER WHAT THEY SHOWED ME, WHAT ORDER
2 HE WAS IN.

3 Q. LET ME ASK YOU, DO YOU SEE YOUR NAME SIGNED ---

4 A. YES, SIR, THAT'S MY SIGNATURE ON THE BACK.

5 Q. OKAY. AND YOU SAY, THAT'S HIM RIGHT ---

6 A. YES, SIR, BOTTOM RIGHT, THAT'S JASSON TURNER.

7 Q. OKAY.

8 SOLICITOR BELL: YOUR HONOR, WE'D
9 OFFER THIS AS STATE'S EXHIBIT ---

10 COURT REPORTER: THIRTEEN.

11 SOLICITOR BELL: THIRTEEN. I'D OFFER
12 TO PUT IT IN.

13 THE COURT: ANY OBJECTIONS?

14 MR. KEARSE: YOUR HONOR, I DON'T
15 HAVE ANY OBJECTION.

16 THE COURT: MARKED AND ADMITTED
17 WITHOUT OBJECTION.

18 COURT REPORTER: STATE'S THIRTEEN.

19 (State's Exhibit Thirteen

20 marked and filed.)

21 Q. AND WHEN YOU SAW WHAT'S BEEN MARKED AS STATE'S
22 THIRTEEN, THIS PHOTO ID, THAT WAS BACK, NOT TOO
23 LONG AFTER THIS HAPPENED, CORRECT?

24 A. YES, SIR.

25 Q. OKAY. AND THEN, AT SOME POINT A WHILE LATER, DID

1 YOU GET A CALL FROM ONE OF THE DETECTIVES?

2 A. YES, SIR, DETECTIVE, IT WAS EITHER MARSHAL OR VAN
3 DORAN CALLED ME, AND CONTACTED MY LAWYER, AND WE
4 WENT DOWN THERE TO DO ANOTHER PHOTO ID.

5 Q. OKAY. AND HOW LONG AFTER THIS INCIDENT HAPPENED
6 WAS THIS CALL?

7 A. THAT I DID THE LINEUP ON THESE GUYS?

8 Q. THE SECOND LINEUP.

9 A. IT WAS A SHORT TIME, I DON'T KNOW THE EXACT TIME,
10 I THINK THIS WAS ALMOST TWO YEARS AGO, BUT I
11 BELIEVE MAYBE IT WAS A MONTH OR TWO MONTHS
12 AFTERWARDS, I'M NOT EXACTLY SURE.

13 Q. AND DID YOU GO THERE BY YOURSELF TO SEE THE
14 POLICE?

15 A. NO, SIR, MY COUNSEL WENT WITH ME.

16 Q. OKAY. ANYBODY ELSE?

17 A. YES, SIR, I TOOK TRAVIS, MY BROTHER, WITH ME, AND
18 ANTHONY FOLK.

19 Q. OKAY. AND WHEN THEY BROUGHT YOU, WHERE DID YOU GO
20 TO?

21 A. WE WENT TO THE POLICE DEPARTMENT OVER THERE AT THE
22 ANNEX, UPSTAIRS IN THE OFFICE, I THINK IT WAS THE
23 INTERROGATION ROOM WE WAS IN.

24 Q. OKAY. AND DID THEY SHOW YOU SOME PHOTOGRAPHS?

25 A. YES, THEY GAVE ME A SIMILAR LINEUP LIKE THAT, WITH

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1 THE DEFENDANT IN IT.

2 Q. OKAY. WERE YOU -- AND WHO WAS IN THE ROOM WHEN
3 THEY SHOWED YOU THAT?

4 A. JUST ME, THE DETECTIVES, AND MY LAWYER.

5 Q. OKAY. AND DID THEY TELL YOU THAT ANYBODY INVOLVED
6 IN THE CASE WAS IN THE LINEUP?

7 A. NO, SIR, THEY ACTUALLY TOLD ME, THEY SAID, DON'T
8 PICK SOMEBODY JUST BECAUSE YOU THINK IT'S THEM, OR
9 YOU WANT TO, YOU KNOW, GET THIS OVER WITH. IF IT'S
10 NOT THE RIGHT PERSON, DON'T PICK THEM.

11 Q. OKAY. BUT DID THEY SAY THE PERSON WAS ONE OF
12 THEM?

13 A. NO, SIR, THEY DID NOT GIVE ME A HUNDRED PER CENT
14 ID THAT THE PERSON WAS THERE. BUT IT DIDN'T TAKE
15 ME BUT A SECOND, AS SOON AS I SEEN HIM I KNEW WHO
16 HE WERE.

17 Q. OKAY. DID THEY IN ANY WAY TELL YOU TO PICK A
18 PARTICULAR PICTURE?

19 A. NO, SIR, IT WAS IN NO ORDER THAT I KNEW OF, ANY
20 FASHION FOR ME TO HAVE AN ADVANTAGE OF KNOWING WHO
21 IT WAS.

22 Q. OKAY. LET ME SHOW YOU THIS AND ASK -- LET ME SHOW
23 YOU THIS AND ASK IF YOU CAN IDENTIFY IT?

24 A. YES, SIR. I SEE HIM.

25 Q. I JUST WANT TO MAKE SURE, IS YOUR INITIALS ON THE

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1 BACK AND SIGNATURE?

2 A. YES, SIR.

3 Q. OKAY.

4 SOLICITOR BELL: YOUR HONOR, I WOULD
5 OFFER THIS AS STATE'S FOURTEEN.

6 MR. KEARSE: YOUR HONOR, I WOULD
7 OBJECT ON GROUNDS PREVIOUSLY ARGUED.

8 THE COURT: OVERRULED. MARKED AND
9 ADMITTED.

10 MR. BELL, PLEASE APPROACH, WITH MR.
11 KEARSE.

12 (Whereupon, a bench conference
13 is held out of the hearing of
14 the jury and the court reporter.)

15 COURT REPORTER: STATE'S FOURTEEN,
16 ID.

17 (State's Exhibit Fourteen,
18 Photographic lineup,
19 marked for identification.)

20 Q. MR. NORTH, I WANT TO SHOW YOU AGAIN STATE'S
21 FOURTEEN FOR ID, AND I WANT YOU TO LOOK ON THE
22 BACK, AND YOU SIGNED THE BACK?

23 A. YES.

24 MR. KEARSE: YOUR HONOR, I'D LIKE TO
25 OBJECT FOR PURPOSES OF THE RECORD.

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1 THE COURT: OBJECTION IS NOTED AND
2 OVERRULED.

3 Q. YOU SIGNED THE BACK?

4 A. YES, SIR, AND INITIALED IT.

5 Q. OKAY. AND WHAT DID YOU INITIAL?

6 A. "NUMBER TWO, R.N."

7 Q. OKAY, THAT YOU PICKED, DOES THAT MEAN YOU PICKED -
8 --

9 MR. KEARSE: YOUR HONOR, I OBJECT
10 AGAIN.

11 THE COURT: I THINK IT'S ALREADY
12 PRESERVED FOR THE RECORD.

13 MR. KEARSE: THANK YOU, YOUR HONOR.

14 A. IT SAYS, I PICKED NUMBER TWO, AND IT HAS MY
15 SIGNATURE AND MY INITIALS.

16 COURT REPORTER: STATE'S FOURTEEN.

17 (State's Exhibit Fourteen
18 marked and filed.)

19 Q. OKAY. NOW, MR. NORTH, AS YOU PREVIOUSLY
20 TESTIFIED, YOU WERE CHARGED WITH MISPRISION OF A
21 FELONY, IS THAT CORRECT?

22 A. YES, SIR.

23 Q. AND YOU HAVE PLED GUILTY TO MISPRISION OF A
24 FELONY?

25 A. YES, SIR.

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1 Q. YOU HAVE NOT BEEN SENTENCED, IS THAT CORRECT?

2 A. THAT'S CORRECT.

3 Q. AND THERE IS A DEAL WITH THE STATE, IS THAT
4 CORRECT?

5 A. YES, SIR.

6 Q. AND WHAT IS THAT DEAL?

7 A. THERE'S SUPPOSED TO BE A RECOMMENDATION OF
8 PROBATION.

9 Q. IN RETURN FOR WHAT?

10 A. MY TESTIMONY.

11 Q. ANY OTHER THING?

12 A. NO, SIR.

13 Q. OKAY. AND YOU ALSO HAVE A CRIMINAL RECORD, IS THAT
14 CORRECT?

15 A. YES, SIR.

16 Q. WHAT IS YOUR CRIMINAL RECORD?

17 A. I WAS CONVICTED IN NINETEEN NINETY-SEVEN OF
18 DISTRIBUTION OF CRACK COCAINE.

19 Q. OKAY. AND I BELIEVE YOU ALSO HAD SOME RECENT
20 TROUBLE, IS THAT CORRECT?

21 A. YES, SIR, I ALSO BEEN INDICTED BY THE FEDERAL
22 GOVERNMENT ON SOME DRUG CHARGES.

23 Q. OKAY. AND BEFORE, BACK IN TWO THOUSAND THREE AND
24 ALL THAT, YOU WERE A DRUG DEALER, IS THAT CORRECT?

25 A. OF COURSE.

DIRECT - RYAN S. NORTH BY SOL. BELL

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1 Q. ARE YOU STILL A DRUG DEALER?

2 A. NO, SIR.

3 Q. WHY NOT?

4 A. I, FOR THE LAST THREE YEARS I'VE OPENED UP MY OWN
5 BUSINESS, I'M LICENSED IN THE STATE OF SOUTH
6 CAROLINA, I OWN MY OWN CONSTRUCTION BUSINESS, I'M
7 ACTUALLY, I'M WORKING ON THE AIR FORCE BASE FOR
8 THE LAST TWO YEARS.

9 SOLICITOR BELL: THANK YOU, MR.
10 NORTH, PLEASE ANSWER ANY QUESTIONS MR. KEARSE HAS FOR
11 YOU.

12 A. YES, SIR.

13 THE COURT: MR. KEARSE.

14 MR. KEARSE: MAY IT PLEASE THE
15 COURT, YOUR HONOR?

16 THE COURT: YOU MAY PROCEED.

17 MR. KEARSE: COUNSELLOR.

18 (NOTE: Blank lines on this page do not indicate any part
19 of record has been omitted. Headers on testimony
20 pages and hard page breaks between testimony are now
21 required by the Court. See next ensuing page for
22 sequential continuation of record.)

CROSS - RYAN S. NORTH BY MR. KEARSE

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CROSS-EXAMINATION OF RYAN S. NORTH

BY MR. KEARSE:

Q. MR. NORTH, FEBRUARY FOURTH, TWO THOUSAND FOUR, YOU GOT CONVICTED IN THE FEDERAL COURT, IS THAT CORRECT?

A. NO, SIR, NOT FEBRUARY FOURTH.

Q. WHAT DAY WAS THAT, FEBRUARY TWENTY-FOURTH?

A. I WAS ACTUALLY SENTENCED, I DIDN'T PLEAD GUILTY UNTIL AUGUST OF -- THAT WAS IN AUGUST, I THINK IT WAS SEPTEMBER OF TWO THOUSAND AND FOUR WHEN I PLED GUILTY.

Q. AND YOUR SENTENCE IS PROJECTED AT, WHAT, A HUNDRED AND SIXTY-EIGHT MONTHS OR SO?

A. YES, SIR.

Q. ALRIGHT. SO, CONSEQUENTLY, YOU ARE IN FEDERAL CUSTODY, ARE YOU NOT?

A. YES, SIR.

Q. ALRIGHT. WHICH MEANS YOU ARE DETAINED AND YOU ARE PRESENTLY A CONVICT AS FAR AS FEDERAL ---

A. THAT IS CORRECT.

Q. ALRIGHT. BUT YOU DON'T EXPECT TO HAVE TO DO MUCH OF THAT TIME, DO YOU?

A. WELL, NO, THAT WAS PRIOR TO NEGOTIATIONS WITH THE FEDERAL GOVERNMENT.

Q. RIGHT. YOU SOMEHOW FIGURE YOU CAN NEGOTIATE WITH

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1 THEM BY COOPERATING IN OTHER CASES, INCLUDING THIS
2 CASE, AND YOU WOULD BE ENTITLED TO A DOWNWARD
3 DEPARTMENT, IS THAT RIGHT?

4 A. I WOULD ASSUME I WOULD GET ONE, BUT I WAS
5 COOPERATING WITH THIS CASE BEFORE I EVEN HAD A
6 FEDERAL INDICTMENT.

7 Q. I'M SAYING, AND YOU UNDERSTAND WHAT A DOWNWARD
8 DEPARTMENT IS, DON'T YOU?

9 A. OH, YES, SIR.

10 Q. YOU KNOW WHAT I'M TALKING ABOUT?

11 A. YES, SIR.

12 Q. AND YOU FIGURE IF YOU DO IT SUBSTANTIALLY ENOUGH,
13 YOU HELP THE GOVERNMENT ENOUGH, YOU HELP TO
14 CONVICT ENOUGH PEOPLE, YOU WON'T HAVE TO DO ANY
15 TIME AT ALL?

16 A. THAT'S POSSIBLE.

17 Q. ALRIGHT. JUST LIKE THIS CASE, YOU GAVE THEM THIS
18 STORY, YOU COOPERATED, YOU TOLD THEM WHAT THEY
19 WANTED TO HEAR, AND YOU DIDN'T GET ANY TIME FOR
20 THIS, OR YOU DON'T EXPECT TO GET ANY TIME IN THIS
21 CASE, DO YOU NOT?

22 A. NO, SIR.

23 Q. ALRIGHT. JUST LIKE NINETEEN NINETY-EIGHT, WHEN
24 YOU GOT ARRESTED AND CONVICTED OF DISTRIBUTION OF
25 CRACK COCAINE, RIGHT?

CROSS - RYAN S. NORTH BY MR. KEARSE

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1 A. YES, SIR, I WAS A FIRST TIME FELON IN NINETY-
2 EIGHT.

3 Q. RIGHT. BUT YOU GOT PROBATION FOR THAT?

4 A. YES, SIR.

5 Q. AND YOU HAD TO DO SOME THINGS TO GET PROBATION FOR
6 THAT CHARGE, TOO, I MEAN, YOU HAD TO EITHER
7 COOPERATE OR GIVE THEM INFORMATION, OR SOMETHING?

8 A. NOT FOR THAT CHARGE, SIR.

9 Q. ALRIGHT. SO, THEY JUST GAVE YOU PROBATION FOR NO
10 REASON?

11 A. WELL, IT WAS MY FIRST TIME AND I GOT CAUGHT WITH A
12 TWENTY DOLLAR ROCK.

13 Q. AND YOU'VE BEEN SELLING DRUGS SINCE NINETEEN
14 NINETY-EIGHT, OR EVEN BEFORE THEN?

15 A. YES, SIR.

16 Q. ALRIGHT. AND THAT'S IN THIS AREA, IS IT NOT?

17 A. NOT IN DORCHESTER COUNTY.

18 Q. NOW, YOU SAY THAT YOU KNEW JASSON TURNER, IS THAT
19 CORRECT?

20 A. I KNEW HIM AS SMOKE.

21 Q. ALRIGHT, SMOKE.

22 A. THAT'S RIGHT.

23 Q. YOU HAD SEEN, OR MET HIM IN SOUTH CAROLINA AT YOUR
24 HOUSE FOR AT LEAST ABOUT THREE TIMES?

25 A. YES, SIR, HE CAME WITH OTHER INDIVIDUALS.

CROSS - RYAN S. NORTH BY MR. KEARSE

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1 Q. ALRIGHT, AND EACH TIME HE CAME TO YOUR HOUSE,
2 THREE TIMES PRIOR TO THIS INCIDENT?

3 A. I THINK IT WAS, YEAH, MAYBE THREE TIMES AT THE
4 MAX.

5 Q. THREE TIMES, MORE OR LESS?

6 A. YES, SIR.

7 Q. ALRIGHT. AND HE CAME WITH A GUY, JEFF HILL?

8 A. YES, SIR.

9 Q. AND THERE WAS ANOTHER GUY YOU KNOW AS PEA, IS THAT
10 CORRECT?

11 A. YES, SIR.

12 Q. AND PEA IS PATRICK?

13 A. PATRICK.

14 Q. ALRIGHT. I THINK HIS LAST NAME IS JONES, IS THAT
15 CORRECT?

16 A. I DON'T KNOW HIS LAST NAME.

17 Q. ALRIGHT, WELL, YOU KNEW PEA BECAUSE YOU SET HIM UP
18 AS PART OF THIS INVESTIGATION, DID YOU NOT?

19 A. THAT'S CORRECT.

20 Q. WHEN YOU GOT ARRESTED, OR TURNED YOURSELF IN, YOU
21 IMMEDIATELY STARTED NEGOTIATING WITH THE LAW
22 ENFORCEMENT, DID YOU NOT?

23 A. I IMMEDIATELY, BECAUSE I DIDN'T WANT THE BLAME FOR
24 WHAT HE DID.

25 Q. YOU KNEW PATRICK, AND YOU KNEW PATRICK TO BE A

CROSS - RYAN S. NORTH BY MR. KEARSE

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1 DRUG DEALER LIKE YOURSELF, SO YOU VOLUNTEERED TO
2 TURN HIM IN TO THE POLICE?

3 A. THAT'S CORRECT. I'LL TURN ANY DRUG DEALER IN NOW.

4 Q. AND, ALRIGHT, AND YOU CALLED HIM ON THE PHONE, YOU
5 SET UP A DEAL, UNBEKNOWNST TO HIM, YOU AND THE
6 POLICE OFFICERS DROVE UP TO COLUMBIA, CONSUMMATED
7 THE DEAL, AND HE GOT ARRESTED?

8 A. THAT'S CORRECT.

9 Q. ALRIGHT. AND PEA WAS AN ASSOCIATE OF YOURS AND
10 JASSON TURNER'S, SMOKE, CORRECT?

11 A. YES.

12 Q. ALRIGHT. AND ALONG WITH JEFF HILL, CORRECT?

13 A. YES.

14 Q. ALRIGHT. NOW, JEFF HILL, WAS HE IN SOUTH CAROLINA
15 DURING THIS TIME?

16 A. I DON'T THINK, I DON'T KNOW IF JEFF IS
17 INCARCERATED OR NOT.

18 Q. ALRIGHT, BUT I'M SAYING, ABOUT JULY FIFTH, TWO
19 THOUSAND THREE, HE WAS -- OR JULY OF TWO THOUSAND
20 THREE, I'M SORRY, HE WAS IN SOUTH CAROLINA, WAS HE
21 NOT?

22 A. YEAH, YES, SIR, SOMEWHERE.

23 Q. ALRIGHT.

24 A. I DIDN'T KNOW WHERE THESE GUYS LIVED AT.

25 Q. NOW, THIS DEAL SUPPOSEDLY WAS TOTALLY NEGOTIATED

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1 BY YOU AND MR. TURNER, SMOKE?

2 A. YES, SIR.

3 Q. AND THAT IS, EVERY PHONE CALL MADE, EVERY
4 CONVERSATION, EVERY TERM OF NEGOTIATION WAS DONE
5 BETWEEN YOU AND SMOKE?

6 A. YES, SIR.

7 Q. ALRIGHT. AND AS FAR AS JERMAINE CUSACK, ACCORDING
8 TO YOUR STORY IS CONCERNED, YOU NEGOTIATED WITH
9 JERMAINE CUSACK, CORRECT?

10 A. YES, SIR.

11 Q. AND YOU NEVER CALLED, NEVER TALKED TO, NEVER MET
12 WITH MR. BRISCOE AT ANYTIME?

13 A. NO, SIR.

14 Q. ALRIGHT. HE NEVER CALLED YOU, YOU NEVER CALLED
15 HIM, ---

16 A. NO.

17 Q. --- BEFORE, DURING OR AFTER?

18 A. NO, SIR.

19 Q. ALRIGHT. YOU SAY, AND YOUR STORY IS THAT SMOKE
20 WAS SUPPOSED TO BE DOWN ABOUT THREE O'CLOCK?

21 A. YES, SIR, EARLY THAT AFTERNOON.

22 Q. ALRIGHT. AND HE WAS LATE?

23 A. YES, SIR.

24 Q. ALRIGHT. AND IT'S ALSO YOUR STORY THAT YOU MET
25 THEM AT A TRUCK STOP?

CROSS - RYAN S. NORTH BY MR. KEARSE

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1 A. YES, SIR.

2 Q. ALRIGHT. YOU DIDN'T MEET THEM AT YOUR HOUSE?

3 A. NO, SIR, I DON'T RECOLLECT MEETING THEM AT MY
4 HOUSE.

5 Q. ALRIGHT. Y'ALL MET UP AT A TRUCK STOP. WHEN DID
6 YOU SHOW SMOKE THE GUN YOU HAD?

7 A. THE GUN I HAD?

8 Q. YEAH. WHEN DID YOU SHOW HIM THE GUN YOU HAD?

9 A. I DIDN'T HAVE A GUN.

10 Q. ALRIGHT. WHEN DID YOU TRY TO -- DID YOU TRY TO
11 SELL HIM THAT GUN AT THE TRUCK STOP?

12 A. NO, SIR.

13 Q. ALRIGHT. WHEN YOU GOT TO THE HOUSE DID YOU TRY TO
14 SELL HIM THAT GUN?

15 A. THE GUN, YOU GOT ME CONFUSED ABOUT A GUN, I DON'T
16 KNOW ANYTHING ABOUT A GUN.

17 Q. ALRIGHT. YOU DIDN'T TRY TO SELL HIM A GUN, YOU
18 DIDN'T SHOW HIM YOUR GUN?

19 A. NO, SIR, I DIDN'T HAVE A WEAPON.

20 Q. AND WHY DID YOU NOT -- WHEN THIS THING SUPPOSEDLY
21 TOOK PLACE DOWN IN GROVER AT THE HOUSE ON [REDACTED]
22 [REDACTED] ROAD, WHY DIDN'T YOU PULL YOUR GUN OUT AND
23 TRY TO DEFEND YOURSELF?

24 A. IF I HAD ONE I WOULD HAVE PULLED IT OUT.

25 Q. NOW, YOU RECALL, AND YOU DID A FEW INTERVIEWS WITH

CROSS - RYAN S. NORTH BY MR. KEARSE

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1 LAW ENFORCEMENT, DID YOU NOT?

2 A. YES, SIR.

3 Q. ALRIGHT. DO YOU RECALL INTERVIEWING WITH THEM ON
4 JULY EIGHT, TWO THOUSAND THREE?

5 A. YES, SIR, I CAN'T GIVE YOU EXACT DATES.

6 Q. ALRIGHT. YOU TOLD THEM THAT, AND YOU RECALL THIS,
7 THAT SMOKE HAD A GUN?

8 A. BETWEEN BOTH OF THEM, I DON'T KNOW EXACTLY WHICH
9 ONE HAD THE GUN. I KNOW WHO PULLED THE GUN OUT AND
10 WHO SHOT THAT BOY.

11 Q. BUT YOU DON'T RECALL TELLING THE INVESTIGATORS
12 THAT SMOKE HAD A GUN?

13 A. THE REASON I INTERPRETED SMOKE HAVING A GUN,
14 BEFORE WE WENT IN THE HOUSE SMOKE WARNED ME THAT
15 HIS BUDDY WAS NOTHING TO PLAY WITH, THAT THIS
16 BETTER BE A LEGIT DEAL, BECAUSE HE DOESN'T PLAY
17 ANY GAMES.

18 Q. OKAY. NOW, YOU SAID YOU HAD ANTHONY FOLK, KNOWN
19 AS DEE DEE, WITH YOU, RIGHT?

20 A. YES, SIR.

21 Q. AND YOU HAD TRAVIS, YOUR BROTHER, WITH YOU, RIGHT?

22 A. YES, SIR.

23 Q. AND Y'ALL MET UP AT THIS TRUCK STOP?

24 A. YES, SIR.

25 Q. AND YOU WENT OVER TO THE CAR WITH SMOKE AND THE

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1 PERSON WHO WAS IN HIS CAR, RIGHT?

2 A. YES, SIR, WE GOT OUT THE CAR AND WENT IN THE
3 STORE, TOO.

4 Q. DO YOU REMEMBER TELLING LAW ENFORCEMENT THAT SMOKE
5 WAS DRIVING THE VEHICLE?

6 A. NO, SIR, I BELIEVE MR., I BELIEVE MR. BRISCOE, I
7 BELIEVE THAT'S HIS NAME, WAS DRIVING THAT VEHICLE.

8 Q. ALRIGHT. AND YOU REMEMBER TELLING THEM, OR DO YOU
9 REMEMBER TELLING THEM THAT THE CAR THAT THEY WERE
10 DRIVING SUPPOSEDLY WAS A GRAY OR A STEEL COLOR?

11 A. YES, SIR, I REMEMBER THAT.

12 Q. ALRIGHT. SO, ON JULY EIGHTH, TWO THOUSAND THREE,
13 YOU SAID THE COLOR OF THE CAR THAT YOU SAW AT THIS
14 TRUCK STOP WAS GRAY OR STEEL, CORRECT?

15 A. YES, SIR, YES, SIR.

16 Q. ALRIGHT.

17 A. BUT I DIDN'T HAVE MY GLASSES, WHICH, I DON'T HAVE
18 MY GLASSES ON ME NOW.

19 Q. DO YOU REMEMBER ALSO TELLING THEM THAT JASSON
20 TURNER WAS FIVE-NINE?

21 A. NO, JASSON ALWAYS WAS SHORT, I'M A TALL FELLOW.

22 Q. ALRIGHT.

23 A. IF I SAID FIVE-NINE, IT WAS A ---

24 Q. YOU DON'T REMEMBER TELLING LAW ENFORCEMENT THAT
25 THE FIRST BLACK MALE GOES BY THE STREET NAME OF

CROSS - RYAN S. NORTH BY MR. KEARSE

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1 SMOKE, AND HE IS FIVE-SEVEN TO FIVE-NINE?

2 A. NO, NO, SIR, I COULD HAVE SAID -- I DON'T REMEMBER
3 SAYING IT.

4 Q. ALRIGHT. YOU DON'T RECALL SAYING TO LAW
5 ENFORCEMENT THAT THE OTHER BLACK GOES BY THE NAME
6 OF BENJY?

7 A. YES, SIR, THAT'S WHAT HE WAS INTRODUCED TO ME AS.

8 Q. ALRIGHT. AND YOU SAID THAT HE WAS THE SAME HEIGHT
9 AS JASSON TURNER ON JULY EIGHTH, TWO THOUSAND
10 THREE?

11 A. YES, SIR, SOMEWHERE BETWEEN THAT, THEY WAS BOTH
12 SHORT GUYS. I'M A RELATIVELY TALL MAN, I KNOW THEY
13 WERE BOTH SHORTER THAN ME.

14 Q. ALRIGHT, BUT YOU SAID THEY WERE THE SAME HEIGHT?

15 A. YES, YES, SIR, THEY LOOKED TO BE, APPEARED ABOUT
16 THE SAME HEIGHT, ONE MAY BE TALLER THAN THE OTHER,
17 BUT YEAH, THEY APPEARED TO BE THE SAME HEIGHT.

18 Q. NOW, YOU ALSO SAID, AND YOU GUYS HAVE IDENTIFIED
19 THIS GUY AS BENJY, CORRECT?

20 A. YES, SIR, THAT'S THE NAME ---

21 Q. SUPPOSEDLY, THIS IS THE ASSAILANT WHO SHOT MARK
22 COOK?

23 A. YES, SIR.

24 Q. ALRIGHT. NOW, IN ADDITION, DO YOU RECALL TELLING
25 LAW ENFORCEMENT SOMEBODY CLEANED UP THE HOUSE

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1 AFTER THE INCIDENT?

2 A. THAT WAS MY INTERPRETATION, YES, SIR.

3 Q. ALRIGHT. YOUR INTERPRETATION ON JULY EIGHTH, TWO
4 THOUSAND THREE, WAS THAT TWO CUSACK SISTERS
5 CLEANED UP THE COKE AND TOOK IT TO THEIR UNCLE,
6 AND HAD THE MARIJUANA.

7 A. THAT'S WHAT I GOT FROM JERMAINE THE NEXT DAY,
8 BECAUSE I KNEW THERE WAS DRUGS IN THE HOUSE SPREAD
9 OUT ALL OVER, AND JERMAINE GOT HIS PART OF THE
10 DRUGS AND HIS MARIJUANA OUT OF THE HOUSE. SO,
11 SOMEBODY HAD TO COME BACK AND GET IT.

12 Q. ALRIGHT, AND IT WAS YOUR UNDERSTANDING IT WAS
13 JERMAINE WHO CAME BACK AND GOT ALL OF THE DRUGS
14 OUT OF THE HOUSE?

15 A. YES, SIR.

16 Q. ALRIGHT. AND THEY TOOK THESE DRUGS AND WHATEVER
17 COCAINE OR MARIJUANA WAS IN THERE OVER TO HIS
18 UNCLE OR THE CUSACK'S HOME?

19 A. THE CUSACK'S FAMILY, YES, SIR.

20 Q. DO YOU UNDERSTAND WHO ELSE WAS SUPPOSEDLY WITH
21 JERMAINE, WAS LANESHA GREEN WITH JERMAINE, OR
22 ANYONE ELSE OF THAT NATURE?

23 A. I BELIEVE IT MIGHT HAVE BEEN HIS SISTER, OR
24 LANESHA, IF THAT'S HER NAME.

25 Q. OKAY. DO YOU KNOW A WOMAN BY THE NAME OF WAKISHA

CROSS -- RYAN S. NORTH BY MR. KEARSE

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1 SIMMONS?

2 A. YES, SIR.

3 Q. AND WHO IS SHE?

4 A. THAT'S MY SISTER-IN-LAW.

5 Q. ALRIGHT. AND DO YOU RECALL TELLING HER THAT THE
6 TWO PEOPLE WHO WERE INVOLVED IN THE SHOOTING WAS
7 PEA AND JUNE BUG?

8 A. NO, SIR.

9 Q. ALRIGHT. AND JUNE BUG WOULD BE WHO, JEFF HILL?

10 A. I ALWAYS KNEW JEFF AS JEFF. WE WENT TO COLLEGE
11 TOGETHER, I NEVER KNOWED HIM AS A NICK NAME.

12 Q. ALRIGHT. AND JEFF IS THE GUY YOU POINTED OUT AS
13 SOON AS YOU WENT TO THE LAW ENFORCEMENT OFFICE,
14 RIGHT?

15 A. WHAT DO YOU MEAN, POINTED OUT?

16 Q. WELL, I MEAN, YOU SAID, I KNOW JEFF HILL, I KNOW
17 THIS SMOKE GUY THROUGH JEFF HILL, I CAN GIVE YOU
18 BOTH OF THEM.

19 A. YES, BECAUSE, TO GET THE SHOOTER. THEY ASKED --
20 THEY WAS WANTING THE SHOOTER, AND I TOLD THEM I
21 DIDN'T KNOW HIS NAME, THAT WAS THE FIRST TIME I
22 HAD EVER MET HIM, I DIDN'T KNOW NOTHING ABOUT HIM.
23 I KNOW HE CAME WITH SMOKE, AND I KNOW I MET SMOKE
24 THROUGH JEFF, SO IF HE WANTED TO GET THE SHOOTER
25 HE HAD TO GET JEFF AND SMOKE, AND THEY WOULD LEAD

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1 YOU TO THE SHOOTER.

2 Q. ALRIGHT. SO YOU WERE READY TO GIVE UP JEFF, TOO,
3 BECAUSE YOU POINTED HIM OUT IN A COLLEGE ANNUAL,
4 DID YOU NOT?

5 A. YES, SIR.

6 Q. ALRIGHT. AND YOU WOULD HAVE SET HIM UP, TOO, HAD
7 IT BEEN TO YOUR ADVANTAGE.

8 A. YES, SIR.

9 Q. NOW, ---

10 SOLICITOR BELL: OBJECTION, YOUR
11 HONOR.

12 THE COURT: STRIKE THE LAST COMMENT
13 FROM THE RECORD.

14 MR. KEARSE: I APOLOGIZE, YOUR
15 HONOR.

16 THE COURT: LADIES AND GENTLEMEN,
17 YOU ARE TO DISREGARD COUNSEL'S LAST REMARK.

18 YOU MAY PROCEED.

19 Q. NOW, WHEN YOU FOUND OUT ABOUT THIS THING YOU DID
20 NOT GO DOWN TO THE POLICE STATION?

21 A. NO, SIR.

22 Q. ALRIGHT. YOU, IN FACT, YOU SAID YOU MET
23 KICKLIGHTER AT THE CAR WASH, IS THAT RIGHT?

24 A. YES, SIR.

25 Q. AND THIS WAS ABOUT JULY FIFTH OR SO, WAS IT NOT?

CROSS - RYAN S. NORTH BY MR. KEARSE

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1 A. YES, SIR.

2 Q. AND YOU TOLD THEM, LAW ENFORCEMENT THAT YOU WOULD
3 BE RIGHT DOWN THERE, YOU NEEDED TO DROP YOUR
4 FAMILY OFF, OR DROP A FAMILY MEMBER OFF, AND YOU
5 WOULD COME RIGHT DOWN TO THE STATION?

6 A. I SAID, I TOLD HIM I WOULD COME DOWN THERE.

7 Q. RIGHT. AND YOU DID NOT GO?

8 A. NO, SIR.

9 Q. ALRIGHT. AND THEN, AGAIN, YOU SAID YOU HAD SOME
10 INCLINATION, OR SOME UNDERSTANDING THAT THERE WAS
11 GOING TO BE A WARRANT OUT FOR YOUR ARREST?

12 A. I HAD NO, NO INTERPRETATION THERE WAS GOING TO BE
13 A WARRANT. I WAS STILL UPSET ABOUT IT BECAUSE I
14 WAS NERVOUS.

15 Q. WELL, YOU KNEW THAT ON JULY THIRD, TWO THOUSAND
16 THREE, YOU WERE ADMITTEDLY INVOLVED IN A DRUG
17 DEAL?

18 A. YES, I WAS.

19 Q. ALRIGHT. AND YOU KNEW THAT THE POLICE OFFICERS HAD
20 BEEN OUT TO THIS HOUSE, IS THAT CORRECT?

21 A. YES, SIR.

22 Q. ALRIGHT, AND YOU KNEW THAT THERE WERE SEVERAL
23 PEOPLE THERE WHO KNEW YOU, CORRECT?

24 A. JERMAINE WAS THE ONLY ONE, AND MOOK, WHO KNEW ME.

25 Q. WELL, YOU IDENTIFIED YOURSELF WHEN YOU WENT IN THE

1 HOUSE.

2 A. YES, SIR.

3 Q. TO JERMAINE, TO JOHNNY COBB, TO LANESHA GREEN,
4 CORRECT?

5 A. AND, AND THE DECEASED.

6 Q. AND SMOKE, CORRECT? SO, THERE WERE A LOT OF
7 PEOPLE WHO KNEW YOUR NAME AND KNEW YOU WERE AT THE
8 HOUSE?

9 A. THAT'S CORRECT.

10 Q. ALRIGHT, AND YOU STILL DIDN'T GO, KNOWING ALL THAT
11 STUFF, STRAIGHT DOWN TO THE POLICE STATION ---

12 A. NO, SIR, I DIDN'T.

13 Q. --- TO COOPERATE, RIGHT?

14 A. THAT'S WHAT ---

15 Q. AFTER ALL, YOU SAY YOU WERE INNOCENT AND YOU
16 DIDN'T DO NOTHING.

17 A. I WAS INNOCENT OF THAT SHOOTING.

18 Q. ALRIGHT.

19 A. I DIDN'T SAY I WAS INNOCENT OF THE DRUGS.

20 Q. BECAUSE THEY GOT IN CONTACT WITH YOU, BECAUSE THEY
21 CAME TO YOUR HOUSE ON JULY SEVENTH, DID THEY NOT?

22 A. A MONDAY.

23 Q. DORCHESTER COUNTY AND COLLETON COUNTY CAME OUT?

24 A. AND COLLETON COUNTY, THAT'S EXACTLY RIGHT.

25 Q. AND YOU TOLD THEM YOU WERE COMING DOWN THAT DAY TO

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1 TURN YOURSELF IN, DID YOU NOT?

2 A. I TOLD THEM -- I TOLD KICKLIGHTER THAT DAY THAT HE
3 WANTED CORROBORATION -- AND I DIDN'T DENY IT WHEN
4 HE STOPPED ME, I DIDN'T ACT STUPID, I DIDN'T SAY I
5 DIDN'T KNOW WHAT WAS GOING ON. I HAD MY WIFE AND
6 MY CHILDREN IN THE CAR, AND I SAID, I NEED TIME, I
7 WILL COME DOWN THERE AND TALK. AND HE WANTED ME
8 TO COME IMMEDIATELY, AND IT WAS LATE IN THE
9 AFTERNOON, AND I HAD TOLD HIM I WOULD COME DOWN
10 THERE TOMORROW, AND THEN HE EXPRESSED URGENCY, AND
11 I TOLD HIM I WOULD COME RIGHT ON, WHICH I DIDN'T,
12 I HAD ANTICIPATION TO COME. WHEN THE POLICE CAME
13 TO MY HOUSE I DIDN'T HESITATE TO CALL AND COME
14 TURN MYSELF IN.

15 Q. BUT JULY FIFTH YOU DID NOT GO?

16 A. JULY FIFTH?

17 Q. WHEN YOU SAW KICKLIGHTER YOU DID NO GO?

18 A. NO, SIR, I DID NOT GO.

19 Q. JULY SEVENTH, WHEN THEY CAME TO YOUR HOUSE IN
20 COLLETON, BECAUSE THE COPS ALL OVER THE PLACE
21 LOOKING FOR YOU, DID THEY NOT?

22 A. I DON'T KNOW WHERE THEY WENT.

23 Q. ALRIGHT. YOU STILL DID NOT GO?

24 A. I CALLED AND TOLD THE POLICE THAT I NEED TO COME
25 AND TURN MYSELF IN. I CAME TO THIS POLICE

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1 DEPARTMENT, AND NOBODY WAS HERE.

2 Q. ALRIGHT. ISN'T IT ---

3 A. IT WAS ---

4 Q. YOU'RE SAYING THAT YOU CAME JULY SEVENTH AND
5 NOBODY WAS AT THE POLICE DEPARTMENT?

6 A. WAS JULY SEVENTH MONDAY?

7 Q. WELL, I'M ASKING YOU, DID YOU GO JULY SEVENTH?

8 A. I CAME HERE ON MONDAY AFTERNOON, YES, I DID, I
9 CAME DOWN HERE TO THE JAIL HOUSE. NOBODY WAS HERE.
10 I DIDN'T KNOW THE DETECTIVE'S OFFICE WAS IN ST.
11 GEORGE. AND I CAME AND TURNED MYSELF IN THE NEXT
12 MORNING.

13 Q. WELL, COULDN'T YOU HAVE GONE TO ANOTHER POLICE
14 STATION?

15 A. I ---

16 Q. BECAUSE YOU KNEW THE POLICE WERE OUT LOOKING FOR
17 YOU.

18 A. YES, SIR.

19 Q. ALRIGHT. ISN'T IT TRUE YOU WERE JUST BUYING TIME
20 TRYING TO GET YOUR STORY STRAIGHT?

21 A. NO, SIR. IT'S ONLY ONE STORY.

22 Q. DID YOU NOT COME TO A BOND HEARING FOR JERMAINE
23 CUSACK?

24 A. DID I COME TO HIS BOND HEARING?

25 Q. YES.

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1 A. NO, SIR.

2 Q. YOU DID NOT COME ---

3 A. I THINK I WAS INCARCERATED WHEN HE GOT A BOND.

4 Q. ALRIGHT. YOU DON'T RECALL COMING TO A BOND HEARING
5 AND MEETING WITH, I DON'T KNOW IF IT WAS SIMMONS'
6 SISTERS, OR A COUPLE OF SISTERS, OR HIS SISTERS AT
7 THE BOND HEARING?

8 A. NO, WHEN I CAME TO TURN MYSELF IN MONDAY, HE WAS
9 ALREADY INCARCERATED, AND HE WAS DOWN HERE, AND
10 THEY WAS TRYING TO GET IN TOUCH WITH HIM, AND THEY
11 COULDN'T GET IN TOUCH WITH HIM, AT THE BACK OF
12 THIS COURT HOUSE. AND IT WAS MAYBE A DEPUTY CAR
13 OUT THERE AND I CALLED THE JAIL HOUSE OFF THE
14 PHONE, AND THEY GAVE ME, MR. MARSHALL'S PHONE
15 NUMBER, THE DETECTIVE'S NUMBER, AND I WAS HERE
16 FIRST THING TUESDAY MORNING, AT EIGHT O'CLOCK IN
17 THE MORNING.

18 Q. SO, THERE WASN'T ANY PERSON'S BOND HEARING,
19 WHETHER IT WAS JERMAINE OR JOHNNY OR SOMEBODY
20 ELSE, ANTHONY FOLK ---

21 A. THAT I ATTENDED, NO, SIR.

22 Q. --- THAT YOU ATTENDED?

23 A. NO, SIR.

24 Q. AT NO TIME?

25 A. ANTHONY WASN'T CHARGED WITH THIS CRIME.

CROSS - RYAN S. NORTH BY MR. KEARSE

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1 Q. ALRIGHT. NOW, YOU SAY THAT YOU PICKED MR. TURNER
2 OUT OF A LINEUP, CORRECT?

3 A. YES, SIR.

4 Q. WELL, YOU KNEW HIM, HE HAD BEEN BACK AND FORTH TO
5 YOUR HOUSE?

6 A. YES, SIR, I KNEW HIM.

7 Q. ALRIGHT. AND YOU ALSO SAY THAT YOU HAD, YOU
8 PICKED OUT MR. BRISCOE?

9 A. YES, SIR.

10 Q. NOW, ISN'T IT TRUE THAT THIS WAS A WHOLE YEAR
11 AFTER THIS INCIDENT?

12 A. THAT I PICKED HIM OUT?

13 Q. YEAH.

14 A. I, IT WAS A PERIOD OF TIME IN BETWEEN.

15 Q. IT WAS AUGUST, TWO THOUSAND FOUR, MORE THAN A YEAR
16 AFTER THE INCIDENT.

17 A. WELL, THAT SHOWS YOU I KNOW THE DEFENDANT.

18 Q. WELL, BY THAT TIME YOU HAD HAD ENOUGH TIME TO TALK
19 TO SMOKE AND ANTHONY FOLK, AND JERMAINE AND
20 JOHNNY, Y'ALL HAD A WHOLE YEAR TO GET THIS THING
21 TOGETHER, IS THAT CORRECT?

22 A. WELL, NO, AFTER I BUSTED PAT, OR PATRICK, WHATEVER
23 YOU CALL HIS NAME, THEY CUT -- YOU KNOW THEY CUT
24 CONTACT OFF WITH ME, SMOKE, ALL THAT CREW, THAT
25 CONTACT WAS SEVERED, AND THAT WAS MAYBE A WEEK

CROSS - RYAN S. NORTH BY MR. KEARSE

313

1 WHEN I GOT ARRESTED, WHEN I SET PATRICK UP.

2 Q. BUT IT WAS A WHOLE YEAR, I MEAN, Y'ALL, EVERYBODY
3 HAD WHAT THEY CALL THEIR MOTIONS OF DISCOVERY, IS
4 THAT CORRECT, BY THIS TIME?

5 A. WHAT'S A MOTION OF DISCOVERY YOU TALKING ABOUT?

6 Q. WELL, I MEAN, YOU HAD GOTTEN INFORMATION ABOUT
7 YOUR CASE, YOU HAD ALREADY BEEN ARRESTED, WERE YOU
8 NOT?

9 A. ON MY CASE OR -- EVERYBODY KNOWS WHO SHOT THAT
10 GUY.

11 Q. ISN'T IT TRUE THAT YOU HAD ALL OF YOUR
12 INFORMATION, CORRECT?

13 A. WHAT INFORMATION ARE YOU TALKING ABOUT HAVING?

14 Q. ABOUT THE CASE, ANY STATEMENTS, OR ANY STORY OR
15 ANY EVIDENCE THAT WAS GOING TO BE USED TO
16 PROSECUTE YOU?

17 A. I WAS THERE, I KNOW THE STORY.

18 Q. ALRIGHT. AND YOU HAD THAT, AND Y'ALL PLENTY
19 ENOUGH TIME, Y'ALL HAD A WHOLE YEAR OR SO TO GET
20 YOUR STORY TOGETHER.

21 A. TO GET THE TRUTH TOGETHER.

22 Q. ALRIGHT. NOW, ISN'T IT ALSO TRUE THAT YOU BROUGHT
23 YOUR BROTHER TO THE LINEUP THE NEXT DAY?

24 A. YES, SIR.

25 Q. ALRIGHT. AND YOU HAD PLENTY OF TIME TO TALK TO

CROSS - RYAN S. NORTH BY MR. KEARSE

314

1 HIM THE DAY AFTER YOU DID THE LINEUP ON THE DRIVE
2 UP TO THE LINEUP, IS THAT CORRECT?

3 A. WELL, WE DIDN'T HAVE NO PICTURES OR NO WAY TO
4 IDENTIFY HIM.

5 Q. BUT YOU DID, YOU TALKED TO HIM ABOUT WHAT WAS
6 GOING ON.

7 A. OF COURSE, I MEAN, WE TALKED IN GENERAL.

8 Q. ALRIGHT. WERE YOU EVER, OR DID YOU EVER SUBMIT TO
9 ANY KIND OF GUN SHOT RESIDUE TEST?

10 A. NO, SIR.

11 Q. DID THE POLICE EVER EXECUTE A SEARCH WARRANT ON
12 YOUR HOUSE?

13 A. NO, SIR.

14 Q. DID THEY EVER SEARCH YOUR CAR?

15 A. THEY HAD MY CAR, YES, SIR, THEY SEARCHED MY CAR.

16 Q. DID THEY SEARCH -- YOU SAY THEY SEARCHED YOUR CAR?

17 A. WE BRUNG MY CAR TO THE POLICE DEPARTMENT.

18 Q. ALRIGHT. BUT THEY NEVER SEARCHED YOUR HOUSE, OR
19 ANYTHING OF THAT NATURE?

20 A. NO, SIR.

21 Q. ALRIGHT. AND YOU REALIZE, AND YOUR DEAL INCLUDES
22 THAT YOU GET A -- AND YOU HELP TELL A STORY THAT'S
23 GOING TO CONVICT THE DEFENDANT, RIGHT?

24 A. I DON'T KNOW IF IT'S GOING TO CONVICT HIM OR NOT,
25 I'M JUST TELLING THE TRUTH.

CROSS - RYAN S. NORTH BY MR. KEARSE

315

1 Q. ALRIGHT, BUT YOU EXPECT IF THAT HAPPENS YOU'RE
2 GOING TO GET THE PROBATION YOU'RE LOOKING FOR?

3 A. FOR HIS CONVICTION?

4 Q. RIGHT. I MEAN, YOU EXPECT ---

5 A. I DON'T EXPECT ---

6 Q. --- IF YOUR CASE IS SUCCESSFUL ---

7 A. I AIN'T EXPECTING CONVICTION OR NOT CONVICTION TO
8 GET WHAT I WAS PROMISED FOR WHAT I TOLD, THE
9 TRUTH.

10 Q. ALRIGHT. AND YOU FIGURE YOU'RE GOING TO GET WHAT
11 YOU GET, YOU'RE STRAIGHT NOW?

12 A. I FEEL I SHOULDN'T HAVE BEEN CHARGED, I DIDN'T
13 SHOOT THE GUY.

14 Q. ALRIGHT. BECAUSE EVEN THOUGH YOU WERE DEALING
15 DRUGS, YOU WERE PART OF THIS WHOLE FELONIOUS
16 ACTIVITY, YOU SHOULD NEVER HAVE BEEN CHARGED OR
17 ARRESTED?

18 A. OH, I REGRET SELLING DRUGS, THE ONLY THING I DON'T
19 REGRET IS, I TELL THESE KIDS IN THERE, DON'T DO
20 IT, BECAUSE IT'S HORRIBLE, SOMEBODY LOST THEIR
21 LIFE BUYING DRUGS.

22 Q. BUT EVEN AFTER THAT YOU SAY YOU'VE GOT ALL THIS
23 REGRET YOU SUPPOSEDLY WITNESSED THIS GRUESOME
24 HOMICIDE, YOU STILL CONTINUED TO DO IT AND GOT
25 ARRESTED FEBRUARY TWENTY-FOURTH, TWO THOUSAND

CROSS - RYAN S. NORTH BY MR. KEARSE

316

1 FOUR?

2 A. NO, I DIDN'T, THESE INDICTMENTS WAS FOR CHARGES A
3 YEAR BEFORE THIS INCIDENT HAPPENED.

4 MR. KEARSE: I BEG THE COURT'S
5 INDULGENCE, YOUR HONOR.

6 THE COURT: UH HUH.

7 Q. NOW, MR. NORTH, DO YOU REMEMBER THE FIRST TIME YOU
8 TOLD THE OFFICERS ABOUT THIS INCIDENT, YOU TOLD
9 THEM YOU DIDN'T SEE ANYTHING?

10 A. WHAT DO YOU MEAN, SEE ANYTHING?

11 Q. YOU TOLD THEM YOU DIDN'T SEE IT. YOU SAID YOU WERE
12 IN THE KITCHEN, YOU DIDN'T SEE ANYTHING.

13 A. THE SHOOTING?

14 Q. CORRECT.

15 A. NO, I DON'T REMEMBER TELLING THEM I DIDN'T SEE
16 ANYTHING -- I DIDN'T ACTUALLY SEE HIS HAND SQUEEZE
17 THE TRIGGER.

18 Q. ALRIGHT.

19 A. BUT YOU DON'T HAVE TO SEE AIR TO BREATHE IT, BUT
20 HE TOOK THAT GUN AND HE PUT IT PAST ME, AND WHEN I
21 TURNED MY HEAD I HEARD THE SHOTS, AND THAT MAN
22 SHOT THAT BOY.

23 Q. YOU TOLD LAW ENFORCEMENT YOU DID NOT SEE THIS
24 BECAUSE YOU WERE IN THE KITCHEN.

25 A. I MIGHT HAVE, I DON'T KNOW.

CROSS - RYAN S. NORTH BY MR. KEARSE

317

1 Q. ALRIGHT. YOU TOLD THEM THAT AS SOON AS SOMETHING
2 HAPPENED YOU WENT STRAIGHT FROM THE KITCHEN AND
3 RAN OUT THE BACK DOOR.

4 A. I WAS IN THE LIVING ROOM.

5 Q. ALRIGHT. YOUR STATEMENT NOW IS, YOU WERE IN THE
6 LIVING ROOM.

7 A. I WAS.

8 Q. MY QUESTION IS, ISN'T THAT WHAT YOU TOLD THEM THE
9 FIRST TIME?

10 A. I'M NOT SURE, I GAVE A LOT OF STATEMENTS.

11 Q. AND YOU TOLD THEM THAT FROM THE BACK DOOR YOU WENT
12 AND HID IN THE WOODS?

13 A. YES, SIR.

14 Q. ALRIGHT. YOU ALSO TOLD THEM YOU STAYED IN THE
15 WOODS, EVERYBODY LEFT, AND THEN YOU RAN OUT AND
16 TRIED TO CATCH A RIDE WITH REGGIE BALDWIN,
17 CORRECT?

18 A. YES, SIR.

19 Q. ALRIGHT. YOU NEVER ONCE IDENTIFIED THE PERSON --
20 YOU EVEN TOLD THEM THAT YOUR BROTHER WAS THE
21 PERSON WHO COULD DO THAT, DO YOU RECALL THAT?

22 A. WELL, MY BROTHER GOT STUCK IN THE ROOM WITH HIM,
23 BECAUSE HE WAS IN A PREDICAMENT WHERE HE COULDN'T
24 GET OUT THE HOUSE, HE WAS IN A CORNER. AND WHEN HE
25 SHOT THE GUY MY BROTHER WAS CAUGHT IN BETWEEN, I'M

CROSS - RYAN S. NORTH BY MR. KEARSE

318

1 ASSUMING THE CROSS-FIRE, BUT HE WAS STUCK IN THE
2 HOUSE.

3 Q. WELL, THAT'S MY -- MY QUESTION IS, WHEN THIS
4 THING, WHEN YOU FIRST GOT IN THERE YOU TOLD THEM A
5 PRETTY MUCH DIFFERENT STORY, YOU SAID, I COULDN'T,
6 BUT MY BROTHER CAN, HE CAN TELL YOU ALL THAT YOU
7 NEED TO KNOW ABOUT THIS, ---

8 A. WELL, THAT'S TRUE.

9 Q. --- THAT HE WAS STANDING RIGHT NEXT TO HIM, DO YOU
10 REMEMBER THAT STORY?

11 A. YES, SIR, I TOLD THEM MY BROTHER WAS STANDING
12 RIGHT BY HIM.

13 Q. ALRIGHT. AND YOU SAID, I DIDN'T SEE NOTHING, I
14 JUST LEFT OUT THE BACK DOOR?

15 A. I RAN.

16 Q. ALRIGHT. YOU DIDN'T GIVE, DO YOU REMEMBER YOU
17 DIDN'T GIVE ANY DISTINGUISHING MARKS ABOUT MR.
18 BRISCOE?

19 A. BESIDES HIM BEING BALD, NO HAIR, LIGHT SKIN, SURE.

20 Q. RIGHT.

21 A. YES, SIR. NO TATOOS OR ANYTHING.

22 Q. CORRECT.

23 MR. KEARSE: I BEG THE COURT'S
24 INDULGENCE.

25 THE COURT: UH HUH.

CROSS - RYAN S. NORTH BY MR. KEARSE

319

1 Q. ISN'T IT TRUE, MR. NORTH, THAT WHEN YOU INITIALLY
2 DESCRIBED, OR SAID YOU DESCRIBED THIS SUPPOSED
3 ASSAILANT, YOU NEVER MENTIONED THE FACT THAT HE
4 WAS BALD?

5 A. I TOLD THEM HE HAD A REAL LOW, IT EITHER WAS BALD
6 OR JUST STUBS, IT WAS LOW, HE WAS BALD, I REMEMBER
7 SAYING THAT.

8 MR. KEARSE: YOUR HONOR, I DON'T
9 HAVE ANYTHING FURTHER.

10 THE COURT: ANY REDIRECT OF THE
11 WITNESS?

12 SOLICITOR BELL: YES, YOUR HONOR.

13 THE COURT: YOU MAY PROCEED.

14 (NOTE: Blank lines on this page do not indicate any part
15 of record has been omitted. Headers on testimony pages
16 and hard page breaks between testimony are now required
17 by the Court. See next ensuing page for sequential
18 continuation of record.)

REDIRECT - RYAN S. NORTH BY SOL. BELL

320

REDIRECT EXAMINATION OF RYAN S. NORTH

BY SOLICITOR BELL:

Q. MR. NORTH, I SHOW YOU WHAT'S BEEN MARKED AS
STATE'S EXHIBIT FOURTEEN, THAT'S WHEN YOU PICKED
OUT THE DEFENDANT?

A. YES, SIR.

Q. DID ANYBODY TELL YOU WHICH PICTURE TO PICK OUT?

A. NO, SIR.

Q. DID YOU GET TO GO WITH SMOKE OR YOUR BROTHER, OR
WHATEVER, TO DECIDE WHICH PICTURE TO PICK OUT OF
THAT LINEUP?

A. NO, SIR.

Q. DID YOU TELL YOUR BROTHER WHICH PICTURE YOU PICKED
OUT OF THAT LINEUP?

A. NO, SIR.

Q. DID YOU TELL HIM WHICH PICTURE TO PULL OUT OF THAT
LINEUP?

A. NO, SIR.

Q. YOU JUST SAID YOU TALKED GENERALLY ABOUT THE
LINEUP, WHAT DID YOU TELL HIM?

A. I DIDN'T SAY, WELL, WE DIDN'T TALK ABOUT THE
LINEUP, WE WAS JUST TALKING ABOUT WE HAD TO GO
DOWN THERE, I WAS REQUESTED FOR US TO COME DO A
LINEUP, BUT WE WAS ALL ANXIOUS WONDERING WHAT -- I
WAS EVEN NERVOUS ABOUT WHETHER WE COULD EVEN ID

REDIRECT - RYAN S. NORTH BY SOL. BELL

321

1 THE DEFENDANT, BECAUSE I ONLY SAW HIM ONE TIME.
2 AND WHEN THEY SHOWED ME THE LINEUP I, IT DIDN'T
3 TAKE ONE SECOND, I IMMEDIATELY PICKED HIM OUT, AND
4 SAID, THIS IS THE MAN.

5 Q. OKAY. AND FROM THE NIGHT THIS HAPPENED UNTIL
6 TODAY, UNTIL WE PICKED THE LINEUP OUT HERE,
7 STATE'S FOURTEEN, IDENTIFIED AS EIGHT-TWELVE,
8 AUGUST TWELVE, DID YOU TALK WITH SMOKE AND HE TELL
9 YOU WHICH PICTURE TO PICK OUT?

10 A. I'VE HAD NO COMMUNICATION WITH SMOKE, PERIOD,
11 SINCE THEN.

12 SOLICITOR BELL: THANK YOU.

13 THE COURT: RECROSS?

14 MR. KEARSE: BRIEFLY.

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16 part of record has been omitted. Headers on testimony
17 pages and hard page breaks between testimony are now
18 required by the Court. See next ensuing page for
19 sequential continuation of record.)

RECROSS - RYAN S. NORTH BY MR. KEARSE

322

RECROSS-EXAMINATION OF RYAN S. NORTH

BY MR. KEARSE:

Q. MR. NORTH, WHEN YOU GO ARRESTED YOU GOT HOUSED
WHERE, DORCHESTER COUNTY JAIL?

A. YOU SAY WHEN I WAS ARRESTED?

Q. WHEN YOU ARRESTED YOU GOT PLACED IN DETENTION FOR
A PERIOD OF TIME, DID YOU NOT?

A. YES, SIR.

Q. ALRIGHT, AND YOU STAYED AT DORCHESTER COUNTY JAIL
RIGHT BEHIND THE COURT HOUSE, IS THAT CORRECT?

A. NO, SIR, I WAS TAKEN TO THE ANNEX.

Q. ALRIGHT. AND THERE WERE OTHER PEOPLE ALSO IN THAT
JAIL DURING THAT TIME, CORRECT?

A. NO, SIR, THAT'S WHY THEY TOOK ME THERE. THEY SAID
THEY WANTED TO KEEP ME SEPARATE FROM JERMAINE
CUSACK TO MAKE SURE WE DIDN'T PUT NO STORY
TOGETHER.

Q. BUT DURING THAT TIME EVERYBODY'S CASE WAS PENDING,
WAS IT NOT?

A. I DON'T KNOW WHAT WAS GOING ON AT THAT TIME, I
KNOW THEY PUT ME IN SOLITARY CONFINEMENT AND HAD
ME IN A ROOM BY MYSELF WHERE I HAD NO
COMMUNICATION. I WASN'T EVEN ALLOWED TO USE THE
TELEPHONE.

Q. WELL, MY QUESTION IS, FOR A WHOLE YEAR OR SO THIS

RECROSS - RYAN S. NORTH BY MR. KEARSE

323

1 CASE WAS PENDING, WAS IT NOT?

2 A. YES, SIR.

3 Q. AND GENERALLY, YOU HAD TO COME TO COURT ON A
4 FAIRLY REGULAR BASIS, DID YOU NOT?

5 A. I DIDN'T, MY LAWYER MADE ALL THE TRIPS, I THINK I
6 CAME TWICE FOR ROLL CALL.

7 Q. FOR ROLL CALL. AND WHEN YOU CAME EVERYBODY ELSE
8 WAS HERE, RIGHT?

9 A. JERMAINE WAS HERE.

10 Q. ALRIGHT. JERMAINE, ANTHONY, SMOKE?

11 A. ANTHONY WAS NOT CHARGED.

12 Q. ALRIGHT. EVERYBODY -- BUT EVERYBODY, WELL, YOU,
13 JERMAINE AND SMOKE, Y'ALL ALL HAD ROLL CALLS,
14 Y'ALL ALL CAME TO COURT, IS THAT RIGHT?

15 A. SMOKE WAS INCARCERATED, OR ON THE RUN AT THAT
16 TIME.

17 Q. Y'ALL HAD COMMUNICATIONS FOR THAT YEAR OR SO, DID
18 YOU NOT?

19 A. WHO HAD COMMUNICATIONS?

20 Q. YOU, YOUR BROTHER, JERMAINE AND SMOKE?

21 A. NO, SIR.

22 MR. KEARSE: YOUR HONOR, I DON'T
23 HAVE ANYTHING FURTHER.

24 THE COURT: ANYTHING FURTHER FROM
25 THE STATE?

1 SOLICITOR BELL: NOTHING, YOUR
2 HONOR.

3 THE COURT: ANY OBJECTION TO THE
4 WITNESS BEING EXCUSED?

5 SOLICITOR BELL: NONE FROM THE
6 STATE, YOUR HONOR.

7 THE COURT: ANY FROM THE DEFENSE?
8 MR. KEARSE: NONE FROM THE DEFENSE,
9 YOUR HONOR.

10 THE COURT: SIR, YOU'RE EXCUSED.

11 WITNESS: THANK YOU.

12 THE COURT: LADIES AND GENTLEMEN,
13 I'M GOING TO GIVE YOU A BRIEF RECESS, YOU'VE BEEN
14 SITTING SINCE ABOUT TEN OF TEN, WHICH IS ABOUT, A LITTLE
15 SHY OF AN HOUR, AND IT'S THE MORNING, I KNOW YOU'VE BEEN
16 DRINKING COFFEE, AND YOU HAD BREAKFAST, SO I'M GOING TO
17 GIVE YOU A VERY BRIEF BREAK. DURING THE BREAK PLEASE DO
18 NOT DISCUSS THE CASE, PLEASE LEAVE YOUR NOTE PADS IN
19 YOUR SEATS, AND WE'LL TAKE ABOUT TEN MINUTES.

20 (Whereupon, the following
21 takes place out of the
22 presence of the jury.)

23 THE COURT: ALRIGHT, WE'RE GOING TO
24 TAKE A TEN MINUTE RECESS.

25 (Recess)

1 (Whereupon, the witness
2 enters the courtroom.)

3 THE COURT: ARE YOU READY TO
4 PROCEED?

5 SOLICITOR BELL: THE STATE'S READY,
6 YOUR HONOR.

7 THE COURT: IS DEFENSE READY?

8 MR. KEARSE: YES, YOUR HONOR.

9 THE COURT: ALRIGHT, BRING THE JURY
10 OUT.

11 (Whereupon, the following
12 takes place in the
13 presence of the jury.)

14 THE COURT: ALRIGHT, WE'LL PROCEED
15 WITH THE TRIAL TESTIMONY.

16 MR. BELL, YOU MAY CALL YOUR NEXT
17 WITNESS.

18 SOLICITOR BELL: THE STATE WOULD
19 CALL ANTHONY FOLK TO THE STAND.

20 CLERK: PLEASE COME AND STAND RIGHT
21 HERE AND RAISE YOUR RIGHT HAND, AND PLACE YOUR LEFT HAND
22 ON THE BIBLE, AND STATE YOUR FULL NAME.

23 WITNESS: ANTHONY D. FOLK.

24 (Whereupon, the witness,
25 ANTHONY D. FOLK,

1 is duly sworn.)

2 THE COURT: YOU MAY PROCEED.

3 MR. BELL: THANK YOU, YOUR HONOR.

4 (NOTE: Blank lines on this page do not indicate any
5 part of record has been omitted. Headers on testimony
6 pages and hard page breaks between testimony are now
7 required by the Court. See next ensuing page for
8 sequential continuation of record.)

DIRECT - ANTHONY D. FOLK BY SOL. BELL

327

DIRECT EXAMINATION OF ANTHONY D. FOLK

BY SOLICITOR BELL:

Q. WOULD YOU STATE YOUR NAME FOR THE RECORD, MR. FOLK?

A. YES. FOR THE RECORD MY NAME IS ANTHONY D. FOLK.

Q. HOW DO YOU SPELL YOUR LAST NAME?

A. F-O-L-K.

Q. WHERE DO YOU LIVE, MR. FOLK?

A. I LIVE IN THE LITTLE SMALL COMMUNITY OF SMOAKS.

Q. OKAY. AND IS THAT IN COLLETON COUNTY?

A. YES, IT IS.

Q. OKAY. DO YOU KNOW RYAN NORTH?

A. YES.

Q. DO YOU KNOW TRAVIS NORTH?

A. YES.

Q. YOU LIVE KIND OF CLOSE TO THEM, DON'T YOU?

A. YES.

Q. OKAY. MR. FOLK, I WANT TO ASK IF YOU REMEMBER BACK IN JULY OF TWO THOUSAND THREE, DO YOU REMEMBER COMING OVER TO DORCHESTER COUNTY ON JULY THIRD OF THAT YEAR?

A. YES, I DO.

Q. LET ME ASK YOU WHO YOU WERE WITH AT THAT TIME?

A. I WAS WITH RYAN AND TRAVIS.

Q. OKAY. WHERE DID Y'ALL MEET OR GET TOGETHER?

DIRECT - ANTHONY D. FOLK BY SOL. BELL

328

1 A. WELL, WE LEFT RYAN'S HOUSE AN STOPPED AT CIRCLE-C
2 TRUCK STOP, WE DECIDED WE HAD WANTED TO GET SOME
3 MARIJUANA.

4 Q. WHAT PART OF THE DAY WAS THIS, BACK THEN?

5 A. I WOULD SAY MAYBE IN THE LATE EVENING PART.

6 Q. OKAY. AND SO Y'ALL DECIDED TO DO WHAT, NOW?

7 A. GO GET SOME MARIJUANA FROM GROVER.

8 Q. OKAY. AND WHY WERE YOU GOING TO GROVER TO GET IT?

9 A. WELL, FOR THE FACT THAT WITH THE DIFFERENT KINDS
10 OF MARIJUANA, THERE WAS THIS PARTICULAR ONE THAT
11 WAS CALLED MID-GREEN, AND THIS IS WHAT WAS POPULAR
12 AT THE TIME. AND OVER IN GROVER WAS THE ONLY
13 PLACE THAT REALLY HAD IT.

14 Q. OKAY. SO, YOU WENT WITH WHO?

15 A. TRAVIS AND RYAN.

16 Q. NORTH?

17 A. RIGHT.

18 Q. OKAY. WHO WAS DRIVING?

19 A. TRAVIS WAS DRIVING.

20 Q. OKAY. AND WHAT KIND OF CAR DOES HE HAVE?

21 A. A CHRYSLER LHS.

22 Q. WHAT COLLAR IS IT?

23 A. BEIGE.

24 Q. OKAY. AND YOU LEFT RYAN'S HOUSE WHERE DID YOU GO?

25 A. WE STOPPED BY THE CIRCLE-C TRUCK STOP TO GET SOME

DIRECT - ANTHONY D. FOLK BY SOL. BELL

329

1 BLUNTS BECAUSE WE DIDN'T WANT TO STOP ON THE WAY
2 BACK WITH THE MARIJUANA.

3 Q. OKAY, WHERE IS THAT TRUCK STOP?

4 A. IT'S LOCATED ON THE AUGUSTA HIGHWAY, HIGHWAY
5 SIXTY-ONE, BY THE INTERSTATE.

6 Q. OKAY. STILL IN COLLETON COUNTY?

7 A. STILL IN COLLETON COUNTY.

8 Q. OKAY. AND THEN, WHERE DID YOU -- DID YOU SEE --
9 MEET UP WITH ANYBODY AT THE TRUCK STOP?

10 A. NO, SIR.

11 Q. WHO GOT OUT OF THE CAR AT THE TRUCK STOP?

12 A. TRAVIS AND RYAN GOT OUT, I STAYED IN.

13 Q. OKAY. WHERE DID YOU GO AFTER THAT?

14 A. WE LEFT THERE, WE PROCEEDED TO GROVER, TO
15 JERMAINE'S HOUSE TO GET THE MARIJUANA.

16 Q. OKAY. DO YOU KNOW WHERE HE LIVES?

17 A. YES, ON UTSEY ROAD.

18 Q. OKAY. AND WHERE IS THAT FROM WHERE YOU CAME FROM,
19 FROM THE CIRCLE-C TRUCK STOP?

20 A. I DON'T KNOW EXACTLY THE DIRECTION, BUT IT'S
21 HEADING TOWARD CHARLESTON, AND THEN YOU GET, MAKE
22 A LEFT WHEN YOU GET TO CANNADY'S GOING TOWARDS ST.
23 GEORGE..

24 Q. OKAY. AND WHERE DID Y'ALL END UP?

25 A. WE ENDED UP AT JERMAINE'S HOUSE ON [REDACTED]

DIRECT - ANTHONY D. FOLK BY SOL. BELL

330

1 Q. OKAY. AND WHAT HAPPENED WHEN Y'ALL PULLED UP AT
2 THAT HOUSE?

3 A. WE GOT THERE, RYAN WENT IN, SUPPOSED TO GO GET THE
4 MARIJUANA, AND ME AND TRAVIS, WE STAYED IN THE CAR
5 FOR A FEW MINUTES, AND THEN TRAVIS DECIDED THAT HE
6 WANTED, THAT HE WAS GOING TO GO INSIDE, SO I STILL
7 STAYED IN THE CAR. AND MAYBE ABOUT TEN OR FIFTEEN
8 MINUTES LATER I GOT OUT AND I JUST SAT ON THE
9 PORCH AND WAS WAITING ON THEM.

10 Q. OKAY. WERE YOU BY YOURSELF OUT THERE?

11 A. NO, SIR, IT WAS AN ELDERLY GUY SITTING ON THE
12 PORCH WITH ME.

13 Q. OKAY. DID ANYBODY ELSE COME TO WHERE YOU WERE AT
14 WHILE YOU WERE THERE?

15 A. BEFORE I GOT OUT IT WAS A CAR HAD PULLED UP RIGHT
16 BESIDE US.

17 Q. OKAY. WHAT KIND OF CAR?

18 A. A PONTIAC GRAND AM, BEIGE LOOKING IN COLOR.

19 Q. OKAY. DID YOU NOTICE ANYTHING ELSE ABOUT IT?

20 A. ONLY THAT IT HAD, LIKE, OUT OF STATE TAGS, MAYBE
21 SOME PERSONALIZED TAGS.

22 Q. OKAY. AND DID YOU SEE ANYBODY GET OUT OF THE
23 VEHICLE?

24 A. YES, I SAW TWO INDIVIDUALS GOT OUT, TWO MALES.

25 Q. CAN YOU DESCRIBE THEM AS BEST YOU CAN?

DIRECT - ANTHONY D. FOLK BY SOL. BELL

331

1 A. THE DRIVER MAYBE WAS FIVE-SIX AND HAD LONG DRED
2 LOCKS IN HIS HAIR. THE PASSENGER WAS CLEAN CUT, NO
3 FACIAL HAIR, DISCREETLY BALD.

4 Q. OKAY. AND WHAT DID THEY DO?

5 A. THEY JUST GOT OUT AND WENT ON INSIDE.

6 Q. OKAY. AND YOU STAYED OUTSIDE?

7 A. YES, SIR.

8 Q. DID ANYTHING HAPPEN WHILE YOU WERE OUTSIDE -- OH,
9 LET ME ASK YOU THIS, BESIDES THE OLD FELLOW YOU
10 SAID WAS OUTSIDE DID ANYBODY ELSE COME UP OUTSIDE
11 WHERE YOU WERE AT?

12 A. FROM TIME TO TIME THERE WAS A GUY THAT WAS ALREADY
13 THERE HAD WALKED IN, WALKED OUT MAYBE TWO OR THREE
14 DIFFERENT TIMES.

15 Q. OKAY. ANYBODY ELSE COME OUT WHERE YOU WERE
16 LOCATED?

17 A. NO, SIR, NO, SIR.

18 Q. OKAY. HOW LONG DID YOU STAY OUT THERE?

19 A. OH, I STAYED OUT THERE I KNOW ABOUT THIRTY MINUTES
20 UNTIL, YOU KNOW, UNTIL I HEARD THE SHOTS, OR
21 WHATEVER.

22 Q. YOU HEARD SHOTS?

23 A. YES, SIR.

24 Q. WHERE DID THE SHOTS COME FROM?

25 A. FROM THE INSIDE OF THE HOUSE.

DIRECT - ANTHONY D. FOLK BY SOL. BELL

332

1 Q. HOW MANY?

2 A. NO LESS THAN FOUR.

3 Q. OKAY. WHAT DID YOU DO WHEN YOU HEARD THE SHOTS?

4 A. I JUST JUMPED OFF THE PORCH AND RAN.

5 Q. WHERE DID YOU RUN?

6 A. I RAN STRAIGHT OUT THE LITTLE DIRT ROAD, BACK ON
7 UTSEY ROAD, AND FROM THERE JUST, YOU KNOW, TRIED
8 TO GET UP OUT OF THERE.

9 Q. WHY DID YOU RUN?

10 A. I HEARD SHOTS, I MEAN, THAT WAS JUST A REACTION.

11 Q. OKAY. WERE YOU CONCERNED WHERE TRAVIS AND RYAN
12 WERE?

13 A. YES, I WAS.

14 Q. BUT YOU WERE LOOKING OUT FOR YOURSELF FIRST OF
15 ALL, IS THAT CORRECT?

16 A. EXACTLY.

17 Q. OKAY. WHAT HAPPENED AFTER YOU RAN OUT TO THE DIRT
18 ROAD?

19 A. AFTER I RAN OUT TO THE DIRT ROAD, THEN A FEW
20 MINUTES LATER I HEARD A CAR CRANKED UP, AND I
21 DARTED IN THE WOODED AREA, MAYBE TEN FEET INTO THE
22 WOODED AREA, BUT THEN I NOTICED THE SOUND OF THE
23 CAR, BEING THAT RYAN USED TO RACE HIS CAR, I
24 NOTICED HIS, RECOGNIZED THE SOUND OF IT, SO WHEN
25 THE CAR CAME I JUMPED BACK AND WAS FLAGGING HIM

DIRECT - ANTHONY D. FOLK BY SOL. BELL

333

1 DOWN, AND IT WAS TRAVIS. AND THEN HE PASSED ME
2 AND HE BACKED UP, AND I WAS SO SCARED I DIDN'T
3 EVEN OPEN THE DOOR, I JUST JUMPED THROUGH THE
4 WINDOW, AND I WAS, LIKE, WHERE IS RYAN, WHERE IS
5 RYAN? AND THE ONLY THING TRAVIS COULD SAY WAS,
6 THAT GUY SHOT THAT GUY, THAT GUY SHOT THAT GUY. I
7 WAS, LIKE, WHO, WHERE IS RYAN? AND I NEVER COULD
8 GET A STRAIGHT ANSWER OUT OF HIM. AND SO, WE WENT
9 ALL THE WAY BACK TOWARDS, BACK TOWARDS COLLETON
10 COUNTY, TO THE TRUCK STOP BEFORE TRAVIS GOT HIS
11 MIND BACK TOGETHER, AND THEN HE WAS, LIKE, WE'VE
12 GOT TO GO BACK AND GET RYAN. AND I WAS, LIKE,
13 YEAH, WE DO. AND ON THE WAY BACK WE MET A CAR THAT
14 WAS FLASHING THE LIGHTS AT US. SO, I SAID, THAT'S
15 GOT TO BE RYAN IN THERE, SO HE CAUGHT A RIDE AND
16 MET BACK UP THERE, AND WE JUST WENT ON.

17 Q. OKAY. NOW, AFTER THAT DID YOU HAVE AN
18 OPPORTUNITY, DID THE POLICE COME SEE YOU?

19 A. NO, SIR.

20 Q. WHEN, I MEAN, THAT DAY, OR ---

21 A. NO, SIR, MAYBE ABOUT TWO DAYS LATER BEFORE I
22 TALKED TO ANYBODY.

23 Q. OKAY. HOW DID YOU GET UP WITH THE POLICE?

24 A. THEY CONTACTED ME.

25 Q. OKAY. AND WHERE DID YOU MEET THEM?

DIRECT - ANTHONY D. FOLK BY SOL. BELL

334

1 A. AT THE DORCHESTER DETENTION CENTER.

2 Q. OKAY. HERE IN ST. GEORGE?

3 A. SUMMERVILLE.

4 Q. SUMMERVILLE. OKAY. AND YOU GAVE, DID YOU GIVE
5 THEM A STATEMENT OF WHAT YOU KNEW?

6 A. YES, YES, SIR.

7 Q. DID THEY SHOW YOU ANYTHING AT THAT TIME?

8 A. THEY SHOWED ME, -- LET ME SEE, THE FIRST TIME --
9 ALL THEY SHOWED ME WAS A PICTURE, A COUPLE OF
10 PICTURES AND ASKED ME DID I RECOGNIZE ANYONE.

11 Q. AND DID YOU?

12 A. YES, SIR. THE PICTURE THAT THEY SHOWED ME WAS
13 JERMAINE ---

14 MR. KEARSE: YOUR HONOR, I OBJECT,
15 YOUR HONOR.

16 THE COURT: BASIS?

17 MR. KEARSE: ALREADY, PREVIOUSLY
18 ARGUED.

19 THE COURT: THE IDENTIFICATION, IS
20 THAT WHAT YOU'RE REFERRING TO?

21 MR. KEARSE: THAT'S CORRECT, YOUR
22 HONOR.

23 THE COURT: OVERRULED.

24 YOU MAY PROCEED.

25 Q. OKAY. AND THIS WAS BACK, SHORTLY AFTER THE

DIRECT - ANTHONY D. FOLK BY SOL. BELL

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1 SHOOTING, IS THAT CORRECT?

2 A. YES, SIR.

3 Q. OKAY. AND WHO DID YOU PICK OUT ON THAT?

4 A. IT WAS JERMAINE CUSACK AND I DON'T REMEMBER THE
5 OTHER GUY'S NAME BUT I RECOGNIZED HIS FACE THAT
6 WAS THERE WITH JERMAINE.

7 Q. OKAY. AND THEN, AFTER THAT DID THEY SHOW YOU ANY
8 OTHER PICTURES AROUND, BACK AT THAT TIME?

9 A. NOT AT THAT TIME THEY DIDN'T.

10 Q. OKAY. DID YOU TALK TO THE POLICE ANYMORE BACK,
11 RIGHT AFTER THE SHOOTING HAPPENED?

12 A. YES, SIR.

13 Q. OKAY. WHEN DID YOU TALK TO THEM AGAIN?

14 A. MAYBE ABOUT A WEEK LATER THEY COME WITH PHOTO, A
15 PHOTO LINEUP.

16 Q. OKAY. AND DID YOU, DID YOU RECOGNIZE ANYBODY IN
17 THAT PHOTO LINEUP?

18 A. NO, SIR.

19 Q. OKAY. AND THAT WAS A WEEK AFTER THE SHOOTING?

20 A. YES, SIR.

21 Q. OKAY. DID YOU TALK TO THE POLICE ANYTIME AROUND
22 THAT TIME?

23 A. WELL, THEY CAME A SECOND TIME WITH SOME MORE PHOTO
24 LINEUPS.

25 Q. OKAY, WHEN WAS THAT?

DIRECT - ANTHONY D. FOLK BY SOL. BELL

336

1 A. MAYBE A WEEK OR MAYBE TWO WEEKS LATER.

2 Q. OKAY. WAS THAT, LIKE, IN AUGUST OF TWO THOUSAND
3 THREE?

4 A. YES, SIR.

5 Q. OKAY. AND WHAT HAPPENED THAT TIME?

6 A. I STILL WASN'T ABLE TO PICK OUT ANYONE THAT I
7 REALLY RECOGNIZED?

8 MR. KEARSE: I OBJECT, YOUR HONOR,
9 AGAIN, ---

10 THE COURT: BASIS?

11 MR. KEARSE: SAME BASIS.

12 THE COURT: OVERRULED.

13 YOU MAY PROCEED.

14 Q. OKAY. ANYTIME BACK THEN, RIGHT AFTER THE SHOOTING
15 IN TWO THOUSAND AND THREE, DID YOU TALK TO THE
16 POLICE AFTER THAT?

17 A. NO.

18 Q. OKAY. NOW, DID THE POLICE EVER CONTACT YOU DOWN
19 THE ROAD FROM THAT IN TIME?

20 A. ON MAYBE ONE TIME TO SHOW ME A PICTURE OF A CAR.

21 Q. OKAY.

22 A. UH HUH.

23 Q. WHAT KIND OF CAR WAS IT?

24 A. IT WAS A GRAND AM, SAME BEIGE COLOR.

25 Q. OKAY. AND WHAT DID YOU SAY?

DIRECT - ANTHONY D. FOLK BY SOL. BELL

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1 A. I TOLD THEM THAT IT MAY -- IT WAS A POSSIBILITY
2 THAT WAS THE CAR I SEEN, BUT I WASN'T SURE BECAUSE
3 I WAS THINKING THAT MAYBE IT WAS A FOUR DOOR, AND
4 IT WAS TWO DOOR CAR THAT THEY SHOWED ME.

5 Q. OKAY. AND WHEN WAS THAT, DO YOU RECALL?

6 A. I HAVE NO IDEA.

7 Q. WAS IT CLOSE IN TIME TO THE SHOOTING OR WAS IT
8 MONTHS AFTER, OR ---

9 A. IT WAS A LITTLE, A LITTLE WHILE AFTER.

10 Q. OKAY. AND THEN A LITTLE WHILE AFTER THAT WHAT DID
11 YOU -- DID YOU TALK TO THE POLICE ANYMORE?

12 A. I DON'T THINK I DID.

13 Q. YOU WEREN'T ASKED TO COME OVER TO SUMMERVILLE AT
14 ANYTIME AFTER THAT?

15 A. ONLY TO, ONLY TO BRING RYAN'S CAR AS EVIDENCE.

16 Q. OKAY. WHAT ABOUT LAST YEAR, TWO THOUSAND FOUR?

17 A. NO, SIR.

18 Q. YOU WEREN'T ASKED TO COME TO SUMMERVILLE POLICE
19 DEPARTMENT, ---

20 A. NO, SIR.

21 Q. --- I MEAN, TO THE SHERIFF'S DEPARTMENT IN
22 SUMMERVILLE?

23 A. NO, SIR.

24 Q. OKAY.

25 SOLICITOR BELL: THANK YOU, MR.

DIRECT - ANTHONY D. FOLK BY SOL. BELL

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1 FOLK, PLEASE ANSWER ANY QUESTIONS THAT MR. KEARSE FOR
2 YOU.

3 A. SURE.

4 THE COURT: MR. KEARSE, YOU MAY
5 PROCEED.

6 MR. KEARSE: MAY IT PLEASE THE
7 COURT, YOUR HONOR.

8 COUNSEL.

9 (NOTE: Blank lines on this page do not indicate any
10 part of record has been omitted. Headers on testimony
11 pages and hard page breaks between testimony are now
12 required by the Court. See next ensuing page for
13 sequential continuation of record.)

CROSS - ANTHONY D. FOLK BY MR. KEARSE

339

CROSS-EXAMINATION OF ANTHONY D. FOLK

BY MR. KEARSE:

Q. MR. FOLK, TODAY YOU SAY YOUR TESTIMONY IS THAT YOU
SAW A CAR AND THIS CAR WAS BEIGE IN COLOR?

A. YES, SIR.

Q. AND YOU SAY THAT YOU WERE SHOWN A PICTURE,
CORRECT?

A. CORRECT.

Q. BY THE OFFICERS, OF A CAR?

A. YES.

Q. AND YOU PICKED OUT THAT PICTURE, AND YOU SAID THAT
PICTURE DEPICTED A CAR THAT WAS BEIGE IN COLOR,
CORRECT?

A. RIGHT.

Q. THAT'S YOUR TESTIMONY TODAY?

A. YES.

Q. AND YOU SAY YOUR ONLY HESITATION WAS, YOU BELIEVED
THAT, AS YOU TESTIFIED TODAY, THAT CAR WAS A FOUR
DOOR, IS THAT CORRECT?

A. CORRECT.

Q. SO, YOU DON'T RECALL THAT ON JULY TWENTY-FIRST,
TWO THOUSAND THREE, THIS IS ABOUT NINETEEN DAYS OR
LESS AFTER THIS INCIDENT, YOU PICKED OUT A CAR,
BUT THAT CAR WAS NOT BEIGE?

A. YES. I SPECIFICALLY REMEMBER TELLING THEM THAT IT

CROSS - ANTHONY D. FOLK BY MR. KEARSE

340

1 WAS THE SAME KIND OF CAR, BUT DIFFERENT IN COLOR.

2 Q. RIGHT. YOU DON'T RECALL TELLING THEM THAT -- THEY
3 SHOWED YOU A PICTURE OF A SILVER OR GRAY GRAND AM?

4 A. NO.

5 Q. YOU DON'T RECALL THAT?

6 A. NO.

7 Q. AND YOU DON'T RECALL TELLING THEM, YES, THAT IS
8 THE CAR, BUT IT MAY BE JUST A LITTLE SMALLER?

9 A. NO.

10 Q. BUT YOU SPECIFICALLY SAID THAT THE CAR WAS THE
11 SAME COLOR, BUT IT WAS SMALLER, YOU DON'T RECALL
12 THAT STATEMENT TO LAW ENFORCEMENT?

13 A. I DON'T RECALL THAT.

14 Q. ALRIGHT. DO YOU NOT ALSO RECALL, YOU GAVE A
15 STATEMENT, A WRITTEN STATEMENT TO THE POLICE
16 OFFICERS, CORRECT?

17 A. UH HUH.

18 Q. AND YOU DID THAT ON JULY EIGHT, TWO THOUSAND, DID
19 YOU NOT?

20 A. YES, SIR.

21 MR. KEARSE: YOUR HONOR, AT THIS
22 TIME I'D LIKE TO MARK THAT STATEMENT FOR IDENTIFICATION
23 PURPOSE.

24 THE COURT: ANY OBJECTION?

25 SOLICITOR BELL: NO OBJECTION, YOUR

CROSS - ANTHONY D. FOLK BY MR. KEARSE

341

1 HONOR.

2 THE COURT: MARKED FOR ID ONLY, NO
3 OBJECTION.

4 COURT REPORTER: DEFENDANT'S FOUR,
5 ID.

6 (Defendant's Exhibit Four,
7 Statement of Anthony D. Folk,
8 marked for identification.)

9 THE COURT: YOU MAY PROCEED.

10 MR. KEARSE: THANK YOU.

11 Q. YOU DON'T RECALL TELLING THEM -- TODAY YOU
12 TESTIFIED THAT AFTER THIS THING HAPPENED YOU GOT
13 IN THE CAR WITH TRAVIS, AND Y'ALL DROVE OFF, AND
14 THEN MET RYAN SOMEWHERE HALF WAY UP THE STREET OR
15 SOMETHING AND TURNED BACK AROUND?

16 A. AS WE TURNED BACK AROUND, RIGHT.

17 Q. THAT'S YOUR STORY TODAY?

18 A. YES, IT IS.

19 Q. ALRIGHT, DO YOU RECALL BACK WHEN YOU GAVE THAT
20 STATEMENT, I'M GOING TO HAND IT TO YOU SO YOU CAN
21 REFRESH YOUR RECOLLECTION, DO YOU RECOGNIZE WHAT
22 HAS BEEN MARKED AS DEFENDANT'S EXHIBIT FOUR?

23 A. YES, THIS IS THE STATEMENT I WROTE.

24 Q. ALRIGHT, AND THAT'S YOUR SIGNATURE ON THAT
25 STATEMENT, CORRECT?

CROSS - ANTHONY D. FOLK BY MR. KEARSE

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1 A. YES, IT IS.

2 Q. AND THAT WAS BACK IN TWO THOUSAND THREE?

3 A. UH HUH.

4 Q. ALRIGHT, CAN YOU TURN TO THE THIRD PAGE FOR ME?

5 A. OKAY.

6 Q. DO YOU RECALL WHEN YOU TOLD THEM THAT Y'ALL, IN
7 FACT, WENT STRAIGHT TO SUNRISE ROAD, OR SUNRISE
8 STREET?

9 A. NO. THAT'S ---

10 Q. ISN'T THAT WHAT YOU PUT IN THAT STATEMENT? TAKE
11 YOUR TIME AND READ YOUR STATEMENT, NOW.

12 A. ALRIGHT. OH, THAT WAS AFTER, THAT WAS GOING HOME,
13 THAT'S THE ROAD I STAY ON, SUNRISE ROAD.

14 Q. ALRIGHT.

15 A. THAT WAS AFTER EVERYTHING DONE HAPPENED.

16 Q. YOU SAID, "BEING SO SCARED, WE LEFT RYAN BEHIND
17 NOT KNOWING WHO WAS SHOT OR WHAT HAPPENED."

18 A. UH HUH.

19 Q. "WE NEVER STOPPED UNTIL WE GOT TO MY RESIDENCE AT
20 SIXTY-TWO THIRTY-FIVE SUNRISE ROAD. I THEN GOT OUT
21 AND WENT IN MY HOUSE."

22 A. UH HUH.

23 Q. IS THAT NOT WHAT YOU TOLD THE POLICE?

24 A. THAT'S WHAT I SAID.

25 Q. ALRIGHT, SO YOUR STATEMENT TODAY IS DIFFERENT FROM

CROSS - ANTHONY D. FOLK BY MR. KEARSE

343

1 WHAT YOU TOLD THE POLICE BACK THEN, ISN'T THAT
2 CORRECT?

3 A. NOT REALLY.

4 Q. TODAY YOU'RE SAYING YOU TURNED AROUND, YOU PICKED
5 RYAN UP ---

6 A. AFTER WE, AFTER WE GOT RYAN, AFTER WE GOT RYAN I
7 WENT HOME.

8 Q. OKAY. SO, WHEN YOU SAID, "WE LEFT HIM BEHIND, AND
9 I DID NOT SEE HIM OR KNOW -- OR I DID NOT WHAT
10 HAPPENED," ---

11 A. UH HUH.

12 Q. --- THAT WASN'T THE TRUTH?

13 A. NO, THAT IS THE TRUTH.

14 Q. OR ARE YOU NOT SAYING THE TRUTH TODAY?

15 A. THAT WAS THE TRUTH, AND I'M TELLING YOU THE TRUTH
16 TODAY.

17 Q. DO YOU RECALL WHEN YOU TOLD THE OFFICERS THAT BOTH
18 INDIVIDUALS WERE FIVE-TWO OR FIVE-FOUR?

19 A. YES.

20 Q. OKAY. AND YOU SAY THEY WERE THE SAME HEIGHT, IS
21 THAT NOT RIGHT?

22 A. RIGHT.

23 Q. ALRIGHT. DO YOU RECALL TELLING THEM THAT THIS
24 ELDERLY GUY KNOWN AS CLAY C. WAS AT THE HOUSE THE
25 WHOLE TIME?

1 A. RIGHT.

2 Q. AND IT'S YOUR TESTIMONY THAT YOU, TRAVIS AND RYAN
3 MET THESE GENTLEMEN, WHOMEVER THEY WERE, AT A
4 TRUCK STOP?

5 A. I NEVER SAID WE MET NO ONE, BECAUSE I STAYED IN
6 THE CAR. I DON'T KNOW WHO THEY MET.

7 Q. ALRIGHT. SO, YOU WERE IN THE CAR WITH THEM?

8 A. RIGHT.

9 Q. AND WHEN AND WHERE DID YOU GET IN THE CAR?

10 A. I GOT IN THE CAR AT RYAN'S HOUSE.

11 Q. DID Y'ALL MEET ANYBODY AT RYAN'S HOUSE?

12 A. NO.

13 Q. ALRIGHT. AND WHERE DID Y'ALL GO AFTER Y'ALL LEFT
14 RYAN'S HOUSE?

15 A. OUR FIRST STOP WAS AT THE CIRCLE-C TRUCK STOP TO
16 GET SOME CIGARS.

17 Q. OKAY. DID Y'ALL MEET ANYBODY AT CIRCLE-C?

18 A. NOT THAT I KNOW OF.

19 Q. SO, IT'S YOUR TESTIMONY Y'ALL DIDN'T MEET ANYBODY
20 AT THE TRUCK STOP?

21 A. I CAN'T SPEAK FOR NOBODY ELSE, I CAN ONLY SPEAK
22 FOR ME.

23 Q. THAT'S WHAT I'M ASKING, YOUR TESTIMONY IS THAT
24 Y'ALL MET NOBODY AT THE TRUCK STOP?

25 A. I HAVE NO RECOLLECTION OF THAT. LIKE I SAID, I

CROSS - ANTHONY D. FOLK BY MR. KEARSE

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1 NEVER GOT OUT THE CAR.

2 Q. AND THEN, I MEAN, WELL, YOU WERE IN THE CAR?

3 A. YEAH, I WAS IN THE CAR.

4 Q. ALRIGHT. SO, IT'S YOUR TESTIMONY, Y'ALL WENT TO
5 THIS TRUCK STOP AND THEN WENT STRAIGHT TO THE
6 HOUSE?

7 A. RIGHT.

8 Q. ALRIGHT. AND SUPPOSEDLY, THESE PEOPLE WHO
9 SUPPOSEDLY YOU MET WERE ALREADY AT THE HOUSE?

10 A. JUST THE OLD GUY I WAS ON THE PORCH WITH AND
11 JERMAINE.

12 Q. ALRIGHT, SO THERE WASN'T ANYBODY THERE THAT Y'ALL
13 MET OR NOTHING OF THAT NATURE, Y'ALL JUST WENT TO
14 THE HOUSE?

15 A. RIGHT.

16 Q. ALRIGHT. AND YOU SAT OUTSIDE FOR A PERIOD OF TIME?

17 A. RIGHT, THE WHOLE WHILE.

18 Q. AND THEN THIS INCIDENT HAPPENED?

19 A. RIGHT.

20 Q. AND YOU TOOK OFF RUNNING, JUMPED IN THE CAR, AND
21 LEFT?

22 A. NO. AFTER THE INCIDENT HAPPENED I RAN OFF AND
23 AFTER I HEARD THE CAR, ONE OF THE CARS LEAVE OUT
24 THE RESIDENCE, THAT'S WHEN I GOT IN THE CAR WITH
25 TRAVIS.

1 Q. OKAY. AND Y'ALL WENT BACK TO YOUR HOUSE?

2 A. NO. WE LEFT THE SCENE, AND AFTER WE REALIZED THAT
3 RYAN -- AFTER TRAVIS GOT HIS HEAD TOGETHER THAT
4 RYAN WASN'T THERE, OR WHATEVER, THEN WE HEADED
5 BACK TOWARDS THE RESIDENCE, AND THAT'S WHEN WE SAW
6 THE CAR FLASHING LIGHTS, AND I SAID, THAT MUST BE
7 RYAN RIGHT THERE.

8 Q. ALRIGHT. WHICH IS NOT WHAT YOU TOLD THE POLICE,
9 THOUGH, ON THE DAY THEY ASKED YOU IN TWO THOUSAND
10 THREE?

11 A. APPARENTLY NOT, BECAUSE THIS IS THE STATEMENT THAT
12 I WROTE.

13 Q. ALRIGHT. WELL, YOU KNOW RYAN NORTH, YOU KNOW
14 TRAVIS NORTH, GOOD FRIENDS WITH THEM, ARE YOU NOT?

15 A. YES, I AM

16 Q. YOU'RE THEIR NEIGHBOR?

17 A. RIGHT.

18 Q. AND YOU LIVED AROUND THEM, WHAT, PRACTICALLY ALL
19 YOUR LIFE?

20 A. MAYBE ABOUT EIGHT YEARS.

21 Q. ALRIGHT, AND YOU DON'T WANT TO SEE THEM GO TO
22 JAIL, AND YOU DON'T WANT TO GO TO JAIL, IS THAT
23 CORRECT?

24 A. OF COURSE.

25 Q. ALRIGHT, AND YOU, IN FACT, HAVE HAD SOME CONTACT

CROSS - ANTHONY D. FOLK BY MR. KEARSE

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1 WITH THE POLICE, HAVE YOU NOT, PRIOR TO THIS?

2 A. AS FAR AS WHAT?

3 Q. ALRIGHT, YOU'VE BEEN INVOLVED IN DRUGS, I MEAN,

4 YOU'VE BEEN INVOLVED IN DRUGS ---

5 A. YEAH.

6 Q. --- IN THE PAST, YOU WERE INVOLVED I DRUGS ON THAT

7 DAY, ---

8 A. RIGHT, I WAS ON ---

9 Q. --- IS THAT NOT CORRECT?

10 A. THAT IS CORRECT.

11 Q. ALRIGHT, AND THESE GUYS SELL DRUGS, AND YOU KNOW

12 THAT, RIGHT?

13 A. RIGHT.

14 Q. AND Y'ALL ARE IN THE BUSINESS OF MAKING MONEY OFF

15 OF IT?

16 A. RIGHT.

17 Q. CORRECT?

18 A. WELL, I'M A USER, SO I ---

19 Q. YOU'RE A USER?

20 A. THAT'S RIGHT.

21 Q. SO, YOU WERE THE USER WHO BOUGHT FROM THEM?

22 A. NO. NO, NO, NO, NO. I JUST CAME ALONG FOR THE

23 RIDE.

24 Q. YOU JUST WENT ALONG FOR THE RIDE?

25 A. RIGHT. I HAVE NO IDEA WHAT WAS GOING ON, I -- THE

CROSS - ANTHONY D. FOLK BY MR. KEARSE

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1 ONLY THING I KNEW, WE WAS GOING TO GET MARIJUANA
2 TO SMOKE.

3 Q. ALRIGHT. NOW, YOU RECALL, YOU SAID YOU VIEWED SOME
4 KIND OF LINEUP, CORRECT?

5 A. UH HUH.

6 Q. AND THIS WAS IN AUGUST, TWO THOUSAND FOUR, OR SO,
7 RIGHT?

8 A. UH HUH.

9 Q. AND YOU COULDN'T IDENTIFY NOBODY?

10 A. NO, I COULDN'T.

11 Q. ALRIGHT.

12 MR. KEARSE: I BEG THE COURT'S
13 INDULGENCE, YOUR HONOR.

14 THE COURT: UH HUH.

15 Q. NOW, DO YOU RECALL TELLING THE -- OR IN YOUR
16 STATEMENT TELLING THE POLICE THAT IT WASN'T UNTIL
17 YOU GOT A PHONE CALL FROM RYAN THAT YOU FIGURED
18 OUT HE WAS OKAY?

19 A. NO, I DIDN'T.

20 Q. ALRIGHT, AND THAT'S NOT IN YOUR STATEMENT?

21 A. NO. IT SHOULDN'T BE, BECAUSE ---

22 Q. YOU SAY, IT SHOULDN'T BE?

23 A. WHEN I REALIZED HE WAS ALRIGHT WAS WHEN WE CAME,
24 WHEN WE WENT BACK AND HE GOT BACK IN THE CAR WITH
25 US, THEN I KNEW HE WAS ALRIGHT.

CROSS - ANTHONY D. FOLK BY MR. KEARSE

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1 Q. YOU DON'T RECALL SAYING, "AFTER SOME TIME HAD
2 PASSED, THE EXACT TIME FRAME I'M NOT SURE OF, I
3 RECEIVED A CALL FROM RYAN ASKING ME WHAT HAPPENED,
4 AND WAS TRAVIS ALRIGHT?"

5 A. THAT'S, LIKE, AFTER WE GOT HOME.

6 Q. WELL, THIS IS IN YOUR STATEMENT, IS IT NOT?

7 A. YES, IT IS.

8 Q. NOW, MR. FOLK, WHY WOULD YOU HAVE TO ASK -- OR WHY
9 WOULD HE HAVE TO ASK, IS TRAVIS ALRIGHT, IF ALL OF
10 Y'ALL RODE FROM THE SCENE TOGETHER?

11 A. BUT WE NEVER, BUT WE DIDN'T LEAVE BACK FROM THE
12 SCENE TOGETHER, IS WHAT I'M TELLING YOU.

13 Q. AND YOU SAY, "I RAN," THIS IS WHAT YOU TOLD THEM,
14 "ALL I HEARD WAS SOME SHOTS BEING FIRED. I RAN,
15 BUT YOUR BROTHER IS ALRIGHT."

16 A. THAT IS NOT CORRECT.

17 Q. THAT'S NOT CORRECT?

18 A. NO.

19 Q. BUT THAT'S WHAT YOU TOLD THE POLICE JULY OF TWO
20 THOUSAND THREE?

21 A. APPARENTLY SO.

22 MR. KEARSE: YOUR HONOR, I DON'T
23 HAVE ANYTHING FURTHER.

24 THE COURT: ANY REDIRECT FOR THE
25 WITNESS?

1 SOLICITOR BELL: NOTHING FURTHER,
2 YOUR HONOR.

3 THE COURT: ANY OBJECTION TO THE
4 WITNESS BEING EXCUSED FROM THE STATE?

5 SOLICITOR BELL: NONE FROM THE
6 STATE, YOUR HONOR.

7 THE COURT: FROM THE DEFENSE?

8 MR. KEARSE: NOTHING, YOUR HONOR.

9 THE COURT: SIR, YOU'RE EXCUSED.
10 THANK YOU.

11 YOU MAY CALL YOUR NEXT WITNESS.

12 SOLICITOR BELL: THE STATE WOULD
13 CALL JERMAINE CUSACK.
14 (Whereupon, the witness
15 enters the courtroom.)

16 THE COURT: YOU CAN LEAVE THAT RIGHT
17 THERE, SIR, THANK YOU.

18 WITNESS FOLK: OKAY. ALRIGHT.

19 CLERK: PLEASE PLACE YOUR LEFT HAND
20 ON THE BIBLE AND RAISE YOUR RIGHT, AND STATE YOUR FULL
21 NAME.

22 WITNESS: JERMAINE CUSACK.

23 (Whereupon, the witness,
24 JERMAINE CUSACK,
25 is duly sworn.)

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7

CLERK: OKAY, PLEASE HAVE A SEAT.

THE COURT: YOU MAY PROCEED.

(NOTE: Blank lines on this page do not indicate any part of record has been omitted. Headers on testimony pages and hard page breaks between testimony are now required by the Court. See next ensuing page for sequential continuation of record.)

DIRECT - JERMAINE CUSACK BY SOL. BELL

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DIRECT EXAMINATION OF JERMAINE CUSACK

BY SOLICITOR BELL:

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

A. JERMAINE CUSACK.

Q. OKAY. YOU ARE APPARENTLY INCARCERATED, WHERE ARE
YOU INCARCERATED AT THE MOMENT?

A. GEORGIA.

Q. OKAY. WHY ARE YOU, WHAT ARE YOU INCARCERATED FOR?

A. POSSESSION OF MARIJUANA.

Q. OKAY.. WHERE ARE YOU FROM?

A. SOUTH CAROLINA.

Q. WHERE SPECIFICALLY?

A. ST. GEORGE.

THE COURT: I'M SORRY, COULD YOU
REPEAT THAT?

A. ST. GEORGE.

Q. YOU'LL HAVE TO SPEAK UP SO ALL THESE LADIES AND
GENTLEMEN CAN HEAR YOU, OKAY, MR. CUSACK?

A. YES, SIR.

Q. OKAY. WHERE DO YOU LIVE IN ST. GEORGE, OR WHERE
DID YOU LIVE IN ST. GEORGE?

A. [REDACTED] ROAD.

Q. OKAY. AND THAT'S OUT IN GROVER, IS THAT ---

A. YES, SIR.

DIRECT - JERMAINE CUSACK BY SOL. BELL

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1 Q. OKAY. WHO DID YOU LIVE WITH THERE?

2 A. MY MOTHER.

3 Q. OKAY. DID YOU HAVE ANOTHER HOUSE OUT THERE THAT
4 YOU USED, BACK A COUPLE OF YEARS AGO?

5 A. YES.

6 Q. OKAY. WHERE WAS, DO YOU RECALL THAT ADDRESS?

7 A. I DON'T KNOW THAT ADDRESS, SIR.

8 Q. OKAY. I WANT TO TAKE YOU BACK TO JULY THIRD OF TWO
9 THOUSAND THREE, DO YOU RECALL THAT TIME?

10 A. YES, SIR.

11 Q. DID SOMETHING HAPPEN OUT THERE THAT NIGHT?

12 A. YES, SIR.

13 Q. WHAT HAPPENED?

14 A. WELL, EARLY THAT DAY RYAN NORTH CAME TO ME AND
15 ASKED ME ABOUT PURCHASING SOME DRUGS OR SOMETHING.
16 AND I TOLD HIM TO COME BACK LATER, AND WHEN HE
17 CAME BACK HE HAD, LIKE, FOUR GUYS WITH HIM. AND
18 THEY CAME IN AND I SAID, I WALKED INTO THE KITCHEN
19 AREA, AND I WAS IN THE KITCHEN AREA FOR ABOUT TEN
20 MINUTES. I HEARD GUN SHOTS, I RAN OUT THE BACK
21 DOOR.

22 Q. OKAY. WHERE -- NOW, WHERE WERE Y'ALL AT WHEN THIS
23 HAPPENED?

24 A. I WAS IN THE KITCHEN WHEN THIS HAPPENED.

25 Q. THE KITCHEN OF WHAT?

DIRECT - JERMAINE CUSACK BY SOL. BELL

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1 A. THE HOUSE, I DON'T REMEMBER THE ADDRESS BUT -- I
2 DON'T REMEMBER THE ADDRESS OF THE HOUSE, BUT THE
3 OTHER HOUSE THAT YOU WERE REFERRING TO, I DON'T
4 KNOW THE ADDRESS OF IT, BUT IT'S ON [REDACTED] [REDACTED]
5 ROAD.

6 Q. OKAY. DO YOU KNOW WHOSE HOUSE THAT WAS?

7 A. WELL, LANESHA WAS RENTING THE HOUSE.

8 Q. OKAY. AND YOU WOULD COME UP AND USE THE HOUSE?

9 A. YES, SIR.

10 Q. OKAY. DOES LANESHA GO BY ANY OTHER NAME?

11 A. MUFFIN.

12 COURT REPORTER: WHAT?

13 A. MUFFIN.

14 Q. SO, LET ME GET IT RIGHT. RYAN CAME TO THE HOUSE?

15 A. YES, SIR.

16 Q. AND HE SET UP A DEAL BETWEEN SOME FELLOWS AND YOU,
17 IS THAT CORRECT?

18 A. YES, SIR.

19 Q. OKAY. WHO WAS IN THE HOUSE BEFORE THEY CAME?

20 A. ME, LANESHA, MARK, JOHNNY, AND I'D SAY A DUDE, A
21 GUY NAME CLAY-C.

22 Q. WHERE WAS HE?

23 A. WELL, PEOPLE WOULD GO FROM, LIKE, THE PORCH AREA
24 TO, LIKE, THE LIVING ROOM AREA.

25 Q. AND DOES -- JOHNNY, DOES HE GO ANY OTHER NAME?

DIRECT - JERMAINE CUSACK BY SOL. BELL

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1 A. MOOK.

2 Q. OKAY. AND HOW LONG WERE Y'ALL THERE BEFORE RYAN
3 SHOWED UP?

4 A. ALL DAY.

5 Q. ALL DAY?

6 A. YES, SIR.

7 Q. WHAT WERE Y'ALL DOING THERE?

8 A. JUST HANGING OUT, PLAYING VIDEO GAMES, DRINKING.

9 Q. OKAY. AND THEN, WHEN RYAN CAME THERE EXACTLY WHAT
10 HAPPENED?

11 A. HE WALKED IN, HE HAD THESE GUYS WITH HIM, AND
12 DURING THE TIME THEY CAME IN I LEFT OUT THE AREA,
13 I WENT INTO THE KITCHEN AREA, I WAS IN THE KITCHEN
14 FOR ABOUT TEN OR FIFTEEN MINUTES.

15 Q. WHAT WERE YOU DOING IN THE KITCHEN AREA?

16 A. I WENT TO GET A BEER AND FIX ME SOMETHING TO EAT,
17 AND LATER, I HEARD GUN SHOTS SO I RAN OUT THE BACK
18 DOOR.

19 Q. OKAY. DID YOU HAVE -- WELL, YOU WERE THERE TO BUY
20 SOME DRUGS, DID YOU HAVE SOME MONEY?

21 A. I HAD SOME MONEY, I SENT LANESHA TO GO GET SOME
22 MONEY.

23 Q. OKAY. BECAUSE YOU DIDN'T HAVE ENOUGH?

24 A. YES, SIR.

25 Q. WHERE DID SHE -- WHERE DID YOU SEND HER TO?

DIRECT - JERMAINE CUSACK BY SOL. BELL

356

1 A. DOWN TO MY MOM'S HOUSE.

2 Q. OKAY. DO YOU RECALL HOW MANY TIMES YOU SENT HER?

3 A. I THINK IT WAS ONCE OR TWICE.

4 Q. OKAY. WHEN -- NOW, WHEN YOU HEARD THE GUN SHOTS,
5 HOW MANY GUN SHOTS DID YOU HEAR?

6 A. ABOUT FOUR, I THINK.

7 Q. AND WHAT DID YOU DO?

8 A. I RAN OUT THE BACK DOOR.

9 Q. WHERE DID YOU GO?

10 A. I HID IN THE WOODS.

11 Q. OKAY. HOW LONG WERE YOU IN THE WOODS?

12 A. I'D SAY ABOUT, AT LEAST, I CAN'T RECALL, ABOUT
13 FIFTEEN OR TWENTY MINUTES.

14 Q. OKAY. WHAT DID, WHERE DID YOU GO AFTER THE
15 FIFTEEN OR TWENTY MINUTES?

16 A. I WAITED -- I WAS WATCHING THE HOUSE, AND I WAITED
17 UNTIL I SAW THE CARS LEFT OUT THE YARD. WHEN I
18 SAW THE CARS LEFT OUT THE YARD I WENT BACK INTO
19 THE HOUSE.

20 Q. OKAY. AND WHAT DID YOU DO WHEN YOU WENT BACK TO
21 THE HOUSE?

22 A. I GRABBED UP, LIKE, A DUFFLE BAG THAT I HAD WITH
23 SOME CLOTHES IN IT.

24 Q. WAS ANYBODY ELSE THERE?

25 A. JUST ME, LANESHA AND JOHNNY.

DIRECT - JERMAINE CUSACK BY SOL. BELL

357

1 Q. WERE THEY ALL THERE WHEN YOU GOT THERE, OR DID ---

2 A. NO, WE KIND OF, LIKE, ALL WENT IN THERE AT THE
3 SAME TIME.

4 Q. OKAY. WHERE DID JOHNNY COME FROM?

5 A. HE WAS IN THE WOODS ALSO.

6 Q. WHERE DID LANESHA COME FROM?

7 A. SHE WAS COMING BACK FROM DOWN, DOWN THE STREET.

8 Q. OKAY. HOW WAS SHE COMING?

9 A. SHE WAS IN HER CAR.

10 Q. OKAY. AND WHAT HAPPENED WHEN Y'ALL MET AT THE
11 HOUSE?

12 A. WE WENT INSIDE, AND I GRABBED UP, LIKE, A DUFFLE
13 BAG, AND WE DIDN'T KNOW IF ANYBODY HAD GOT SHOT OR
14 NOT, SO WE WAS KIND OF, LIKE, WONDERING WHAT HAD
15 HAPPENED, TO SEE DID ANYBODY GET HIT. WE DIDN'T
16 SEE ANYBODY AT FIRST, AND I GRABBED A DUFFLE BAG
17 AND WAS WALKING OUT THE DOOR, AND SOMEBODY, I
18 DON'T KNOW WHO IT WAS, BUT THEY SAID, HE'S IN
19 HERE. AND WE GLANCED INTO, LIKE, A CORNER ROOM,
20 AND WE SAW MARK IN THERE.

21 Q. OKAY. WHAT WAS -- HOW WAS HE?

22 A. HE WAS SHOT.

23 Q. WAS HE MOVING?

24 A. NO.

25 Q. DID -- WHAT WAS JOHNNY DOING WHILE YOU WERE

DIRECT - JERMAINE CUSACK BY SOL. BELL

358

1 GRABBING UP THE DUFFLE BAG AND ALL?

2 A. I'M NOT SURE.

3 Q. YOU DIDN'T SEE HIM?

4 A. NO.

5 Q. WHAT WAS LANESHA DOING?

6 A. WE WERE ALL IN THE HOUSE, BUT I WASN'T REALLY
7 PAYING ATTENTION TO WHAT THEY WERE DOING, I JUST
8 GRABBED UP A DUFFLE BAG, I WASN'T WATCHING THEM.

9 Q. WHAT ALL DID YOU -- DID YOU PICK UP ANYTHING?

10 A. NO, JUST THE BAG.

11 Q. OKAY. WHAT HAPPENED AFTER YOU SAW MARK?

12 A. WE PANICKED, WE JUST PANICKED AND LEFT OUT THE
13 HOUSE.

14 Q. OKAY. WHERE DID YOU GO?

15 A. WE WENT TO MY MOM'S HOUSE FIRST, AND THEN WE, ME
16 AND LANESHA WENT TO, LIKE, BRANCHVILLE, AND THEN
17 ORANGEBURG. AND THEN SHE END UP DROPPING ME OFF
18 AT, IN THE VILLAS IN ST. GEORGE.

19 Q. OKAY. DID YOU TAKE ANYTHING WITH YOU?

20 A. NO.

21 Q. WHEN SHE DROPPED YOU OFF AT THE VILLAS?

22 A. NO.

23 Q. DO YOU KNOW WHERE SHE WAS GOING?

24 A. I TOLD HER TO GO BACK DOWN THERE TO SEE WHAT HAD
25 HAPPENED AND TO, YOU KNOW, I GUESS TELL WHAT

DIRECT - JERMAINE CUSACK BY SOL. BELL

359

1 HAPPENED. I TOLD HER TO GO BACK TO ST. GEORGE, TO
2 GROVER.

3 Q. WHY DIDN'T YOU GO WITH HER?

4 A. I DIDN'T WANT TO BE INVOLVED.

5 Q. WHY NOT?

6 A. I JUST DIDN'T WANT TO.

7 Q. AND DID THE POLICE COME TO SEE YOU AT SOME POINT
8 AFTER THAT?

9 A. NO.

10 Q. YOU NEVER TALKED TO THE POLICE AFTER THAT?

11 A. I TURNED MYSELF IN, LIKE, A DAY AND A HALF LATER,
12 I TURNED MYSELF IN, LIKE, THAT SATURDAY.

13 Q. DID THEY HAVE A WARRANT FOR YOU?

14 A. YES, SIR.

15 Q. AND WHAT WAS THAT FOR?

16 A. MISPRISION OF A FELONY.

17 Q. DID YOU TALK TO THE POLICE?

18 A. YES.

19 Q. WHAT DID YOU TELL THEM AT THAT TIME?

20 A. I SAID THAT IT WAS A CARD GAME GOING ON AND I
21 HEARD GUN SHOTS AND I RAN -- BASICALLY, THE SAME
22 STORY, I JUST LEFT OUT THE PART ABOUT THE DRUGS.

23 Q. OKAY. AND WHY DID YOU TELL THEM IT WAS A CARD
24 GAME, WHY DID YOU LEAVE OUT THE DRUGS?

25 A. I JUST DIDN'T WANT TO SAY ANYTHING THAT WOULD

DIRECT - JERMAINE CUSACK BY SOL. BELL

360

1 INCRIMINATE MYSELF OR SOMETHING.

2 Q. OKAY. YOU PLED GUILTY TO MISPRISION, IS THAT
3 CORRECT?

4 A. YES, SIR.

5 Q. AND DID THE STATE HAVE A DEAL WITH YOU?

6 A. NO, SIR.

7 Q. NO, SIR, YOU JUST PLED TO THE MISPRISION OF A
8 FELONY?

9 A. YES, SIR.

10 Q. OKAY. WERE YOU EXPECTING TO RECEIVE ANYTHING ON
11 IT?

12 A. NO, SIR.

13 Q. OKAY. LET ME ASK YOU THIS, SOMEWHERE AFTER --
14 SOMETIME AFTER, DID DETECTIVE MARSHALL OR
15 DETECTIVE DIXSON COME BY AND SHOW YOU SOME
16 PHOTOGRAPHS?

17 A. YES.

18 Q. OKAY. AND THEY SHOWED YOU SOME PHOTOGRAPHS, DID
19 YOU IDENTIFY ANYBODY OUT OF THE PHOTOGRAPHS?

20 A. NO, SIR.

21 Q. THEY SHOWED YOU, LIKE, FIVE OR SIX PHOTOGRAPHS
22 TOGETHER?

23 A. YES, SIR?

24 Q. AND YOU COULDN'T IDENTIFY ANYBODY ---

25 A. NO, SIR.

DIRECT - JERMAINE CUSACK BY SOL. BELL

361

1 Q. --- THAT WAS AT THE HOUSE?

2 A. NO, THEY CALLED ME TO COME DOWN TO SUMMERVILLE.

3 Q. OKAY. AND, BUT I MEAN, THEY SHOWED YOU SOME
4 PHOTOGRAPHS AND YOU DIDN'T RECOGNIZE ANYBODY IN
5 THERE?

6 A. NO, SIR.

7 SOLICITOR BELL: THANK YOU, MR.
8 CUSACK, PLEASE ANSWER ANY QUESTIONS MR. KEARSE HAS FOR
9 YOU.

10 (See Volume Two for continuation
11 of transcript.)

STATE OF SOUTH CAROLINA
COUNTY OF DORCHESTER

COURT OF GENERAL SESSIONS
FIRST JUDICIAL CIRCUIT

STATE OF SOUTH CAROLINA

CASE NO. 04-GS-18-1100

versus

)
) VOLUME TWO OF THREE
) TRANSCRIPT OF RECORD
)

STEVEN C. BRISCOE,

) DATE: 1
) OCTOBER 31, 2005
) THROUGH
) NOVEMBER 4, 2005

DEFENDANT

BEFORE:

HONORABLE DEADRA L. JEFFERSON, PRESIDING JUDGE

AND A JURY.

APPEARANCES:

HARRISON BELL, ESQUIRE

ASSISTANT SOLICITOR

FOR THE STATE

KEVIN KEARSE, ESQUIRE

ATTORNEY AT LAW

FOR THE DEFENDANT

HARRY A. WALKER (MRS.)
COURT REPORTER, FIRST JUDICIAL CIRCUIT
POST OFFICE BOX 127
ROWESVILLE, SOUTH CAROLINA 29133

I N D E X

SEE VOLUME ONE FOR COMPLETE INDEX TO THIS TRANSCRIPT

1 (Continued From Volume One of this Transcript)

2 THE COURT: YOU MAY PROCEED.

3 (NOTE: Blank lines on this page do not indicate any
4 part of record has been omitted. Headers on testimony
5 pages and hard page breaks between testimony are now
6 required by the Court. See next ensuing page for
7 sequential continuation of record.)

CROSS - JERMAINE CUSACK BY MR. KEARSE

365

CROSS-EXAMINATION OF JERMAINE CUSACK

BY MR. KEARSE:

Q. MR. CUSACK, YOU WERE IN THAT HOUSE AND YOU HEARD
THAT GUN, OR SOMEBODY PULL A GUN OUT. WHY DIDN'T
YOU PULL YOUR GUN OUT AND DEFEND YOURSELF?

A. I DIDN'T HAVE A GUN, SIR.

Q. ALRIGHT, BUT ISN'T IT TRUE YOU HAVE BEEN
CONVICTED FOR UNLAWFUL POSSESSION OF A WEAPON ON
SEVERAL OCCASIONS?

A. ONCE, YES.

Q. ONCE? IN NINETEEN NINETY-EIGHT, IS THAT A THIRD
OR FOURTH OFFENSE, OR YOU'RE JUST SAYING THAT WAS
ONE OFFENSE?

A. ONE OFFENSE.

Q. ALRIGHT, SO YOU HAVE CARRIED GUNS?

A. NO, SIR.

Q. YOU DIDN'T CARRY A GUN ON THAT OCCASION, THAT'S
YOUR TESTIMONY TODAY?

A. NO, SIR.

Q. ALRIGHT. AND YOU WERE DOWN THERE DEALING DRUGS
OUT OF LANESHA GREEN'S HOUSE?

A. NO, SIR.

Q. YOU WEREN'T?

A. NO, SIR.

Q. SO, THIS WAS NOT A DRUG DEAL?

CROSS - JERMAINE CUSACK BY MR. KEARSE

366

1 A. YES, BUT I WASN'T DEALING DRUGS.

2 Q. YOU WERE BUYING DRUGS?

3 A. YES, SIR.

4 Q. SO, THAT'S A DIFFERENCE, BUYING AND DEALING,
5 THAT'S TWO DIFFERENT THINGS?

6 A. I MEAN, IF THAT'S THE WAY YOU WANT TO PUT IT.

7 Q. RIGHT, BUT YOU WOULD HAVE BEEN PURCHASING THOSE
8 DRUGS FOR THE PURPOSE OF RESELLING THEM, ISN'T
9 THAT CORRECT?

10 A. NO, SIR.

11 Q. YOU WERE JUST GOING TO USE AN OUNCE OF COCAINE --

12 -

13 A. I DON'T KNOW HOW MUCH OF DRUGS ---

14 Q. --- FOR YOUR PERSON USE? SO, YOU DIDN'T BUY ANY
15 DRUGS AT ALL?

16 A. I DIDN'T END UP BUYING THEM, NO.

17 Q. ALRIGHT. AND YOU NEVER NEGOTIATED OR TENDERED ANY
18 MONEY TO ANYBODY?

19 A. NO, SIR.

20 Q. ALRIGHT. BUT YOU HAVE DONE THAT IN THE PAST?

21 A. NO.

22 Q. I MEAN, IN NINETEEN NINETY-FIVE YOU WEREN'T
23 CONVICTED FOR TRAFFICKING OR POSSESSION OF
24 ILLEGAL SUBSTANCE?

25 A. YES, SIR.

CROSS - JERMAINE CUSACK BY MR. KEARSE

367

1 Q. SO, YOU HAVE DONE IT IN THE PAST?

2 A. WELL, IT'S A SITUATION WHERE I WAS WITH SOMEBODY
3 ELSE, AND BOTH OF US WERE CHARGED.

4 Q. WHAT ABOUT NINETEEN NINETY-EIGHT, WAS THAT THE
5 SAME SITUATION?

6 A. WELL, POSSESSION OF MARIJUANA.

7 Q. SO, YOU'RE SAYING THAT WAS JUST POSSESSION, YOU
8 WEREN'T TRYING TO SELL IT?

9 A. NO. IT WAS ONLY, LIKE, A COUPLE OF OUNCES.

10 Q. ALRIGHT. SO, WHEN IT CAME BACK ON MAY FOURTH,
11 TWO THOUSAND FOUR, AND YOU GOT CHARGED AND
12 CONVICTED OF DISTRIBUTION OF MARIJUANA, YOU
13 WEREN'T TRYING TO SELL IT THEN, EITHER, OR A
14 CONTROLLED SUBSTANCE, YOU JUST HAPPENED TO BE
15 WITH SOMEBODY ELSE? IS THAT A YES OR A NO OR ---

16 A. YES, SIR.

17 Q. ALRIGHT, NOW, WHEN YOU TALKED TO THE POLICE
18 OFFICERS THE FIRST TIME, YOU ADMIT YOU DIDN'T
19 TELL THEM THE TRUTH?

20 A. YES, SIR.

21 Q. AND THAT'S BECAUSE YOU DIDN'T WANT ANY TROUBLE?

22 A. YES, SIR.

23 Q. AND, IN FACT, YOU KNEW YOU COULD GET IN TROUBLE,
24 BECAUSE YOU WERE ON PROBATION AT THE TIME, RIGHT?

25 A. YES, SIR.

CROSS - JERMAINE CUSACK BY MR. KEARSE

368

1 Q. AND YOU KNEW THAT IF YOU GOT IN TROUBLE, YOU NEED
2 TO SAVE YOURSELF, BECAUSE YOUR PROBATION COULD BE
3 REVOKED, COULD IT NOT?

4 A. YES, SIR.

5 Q. AND WHAT WOULD THAT MEAN, MR. CUSACK?

6 A. I'M NOT SURE, I WOULD HAVE WENT TO JAIL.

7 Q. THAT'S RIGHT, THEY WOULD REVOKE YOUR PROBATION
8 AND YOU WOULD HAVE TO SERVE THE UNDERLYING TERM
9 OF YOUR SENTENCE, IS THAT CORRECT?

10 A. YES, SIR.

11 Q. AND YOU DIDN'T WANT THAT TO HAPPEN?

12 A. NO, SIR.

13 Q. SO, YOU WOULD BASICALLY DO WHAT YOU HAD TO DO TO
14 KEEP FROM GOING TO JAIL AT THAT POINT?

15 A. NO, SIR.

16 Q. ALRIGHT. AND IT'S ALSO TRUE THAT YOU SENT LANESHA
17 GREEN BACK THERE TO FIND OUT WHAT WAS GOING ON AT
18 THAT HOUSE?

19 A. YES, SIR.

20 Q. YOU TOLD HER TO GO AND INVESTIGATE AND SEE WHAT'S
21 GOING ON, BECAUSE Y'ALL HEARD THE POLICE WAS AT
22 THE HOUSE, HAD SWARMED THE HOUSE, IS THAT RIGHT?

23 A. WELL, I'M NOT SURE.

24 Q. YOU'RE NOT CERTAIN?

25 A. I JUST TOLD HER TO GO BACK THERE.

CROSS - JERMAINE CUSACK BY MR. KEARSE

369

1 Q. BUT YOU SENT HER BACK THERE TO FIND OUT?

2 A. YES, SIR.

3 Q. BECAUSE SHE WAS NOT ON PROBATION, AND YOU FELT
4 LIKE NOTHING WOULD HAPPEN TO HER, AND SHE COULD
5 BASICALLY GO SEE WHAT WAS UP, AND THERE WOULD BE
6 NO PROBLEM?

7 A. YES, SIR.

8 Q. ALRIGHT. AND YOU DIDN'T, I MEAN, OF COURSE, YOU
9 DIDN'T TURN YOURSELF IN ONLY UNTIL YOU FOUND OUT
10 YOU PROBABLY WOULD GET ARRESTED, IS THAT NOT
11 TRUE?

12 A. WELL, I TURNED MYSELF -- WELL, I KNEW I WAS GOING
13 TO GET ARRESTED. I TURNED MYSELF IN THE NEXT DAY.

14 Q. ALRIGHT. NOW, TELL ME, WHY IS IT THAT ON JULY
15 FIFTH, YOU AND RYAN NORTH WERE DISCUSSING THIS
16 THING ON THE TELEPHONE?

17 A. I DIDN'T DISCUSS ANYTHING WITH HIM.

18 Q. ALRIGHT, DID RYAN NORTH NOT CALL YOUR HOUSE TO
19 DISCUSS THE OCCURRENCE AT THE ---

20 A. HE CALLED, BUT I DIDN'T ---

21 Q. --- AT [REDACTED]

22 A. HE CALLED BUT I DIDN'T TALK TO HIM.

23 Q. YOU DIDN'T TALK TO HIM AT ALL?

24 A. NO.

25 Q. WHEN WAS THE FIRST TIME YOU TALKED TO RYAN NORTH?

1 A. I HAVEN'T REALLY TALKED TO HIM SINCE THIS
2 HAPPENED.

3 Q. ALRIGHT, SO Y'ALL HAVEN'T TALKED FOR THE WHOLE
4 YEAR PRIOR TO AUGUST, TWO THOUSAND FOUR, WHEN
5 SMOKE WAS GETTING READY TO GO ON TRIAL?

6 A. NO, SIR.

7 Q. OKAY. BUT YOU STILL STAY OUT IN THAT SAME
8 COMMUNITY?

9 A. NO, SIR.

10 Q. NOT ANYMORE NOW, BUT I MEAN, AT THE TIME YOU
11 WERE?

12 A. I WAS THERE, BUT I WASN'T STAYING THERE.

13 Q. ALRIGHT. AND YOU NEVER TALKED TO ANTHONY FOLK OR
14 ---

15 A. I DON'T EVEN KNOW HIM.

16 Q. --- JOHNNY COBBS OR ---

17 A. I DON'T KNOW ANTHONY FOLK.

18 Q. ALRIGHT. SO, YOUR TESTIMONY IS, YOU DON'T KNOW
19 THESE GUYS, BUT YET YOU'VE GOT THEM IN YOUR HOUSE
20 ---

21 A. I KNOW RYAN NORTH.

22 Q. --- TO BUY DRUGS FROM THEM?

23 A. I KNOW RYAN NORTH.

24 Q. ALRIGHT. DID YOU KNOW SMOKE PRIOR TO THIS?

25 A. NO, SIR.

CROSS - JERMAINE CUSACK BY MR. KEARSE

371

1 Q. ALRIGHT. ISN'T IT TRUE THAT YOU, IN FACT, HAVE
2 KNOWN SMOKE FROM , VIRGINIA?

3 A. I DON'T KNOW SMOKE.

4 Q. YOU'VE NEVER HEARD OF EARL B?

5 A. NO, SIR.

6 Q. WHAT ABOUT MAD BUTCHER'S RECORDING STUDIO IN
7 GRETNA, VIRGINIA?

8 A. NO, SIR.

9 Q. SO, IT'S YOUR TESTIMONY YOU'VE NEVER BEEN UP
10 THERE TO HANG OUT WITH SMOKE OR TO DO ANY KIND OF
11 RECORDING, OR TO DO WHATEVER Y'ALL DO UP THERE IN
12 VIRGINIA?

13 A. NO, SIR.

14 Q. AND YOU ADMIT THAT YOU COULDN'T IDENTIFY ANYBODY
15 WHO ALLEGEDLY WAS SUPPOSED TO BE AN ASSAILANT IN
16 THIS CASE?

17 A. NO, SIR.

18 Q. AND YOU DON'T HAVE ANY INFORMATION ABOUT WHAT CAR
19 THEY DROVE OR NOTHING?

20 A. NO, SIR.

21 MR. KEARSE: I BEG THE COURT'S
22 INDULGENCE, YOUR HONOR.

23 THE COURT: TAKE YOUR TIME.

24 Q. LET ME ASK YOU THIS MUCH, MR. CUSACK, WHO MOVED
25 MARK COOK'S BODY?

1 A. I HAVE NO IDEA.

2 Q. WHICH ONE OF Y'ALL MOVED THAT BODY FROM THE FRONT
3 OF THE DOOR?

4 A. I HAVE NO IDEA.

5 Q. WELL, DIDN'T Y'ALL GO BACK TO CLEAN UP THE SCENE?

6 A. NO, SIR.

7 Q. DIDN'T Y'ALL PICK STUFF UP, PACK A BAG, MAKE SURE
8 YOU GOT ANY INCRIMINATING EVIDENCE OUT OF THAT
9 HOUSE?

10 A. NO, SIR.

11 Q. ISN'T THAT WHY YOU, LANESHA GREEN, AND WHOMEVER
12 WENT BACK, WHETHER IT WAS SIMMONS OR CUSACK'S
13 SISTERS, ISN'T THAT WHY Y'ALL WENT BACK TO THE
14 HOUSE?

15 A. NO, SIR.

16 Q. AND IF YOU WEREN'T INVOLVED IN THIS THING, WHY
17 DID Y'ALL FEEL THE NEED TO CLEAN UP A CRIME
18 SCENE?

19 A. I DIDN'T CLEAN UP, SIR.

20 Q. WELL, YOU SAID YOU PACKED YOUR STUFF UP AND PUT
21 IT IN THE CAR AND DROVE OFF?

22 A. I GRABBED A DUFFLE BAG THAT HAD CLOTHES IN IT.

23 Q. ALRIGHT. AND DIDN'T YOU GO UP TO ORANGEBURG WITH
24 LANESHA GREEN?

25 A. YES, SIR.

CROSS - JERMAINE CUSACK BY MR. KEARSE

373

1 Q. BUT YOU SAID YOU WEREN'T INVOLVED AT ALL, BUT YOU
2 JUST DECIDED YOU WAS GOING TO GET OUT OF THERE?

3 A. YES, SIR.

4 Q. WHAT DID Y'ALL DO IN ORANGEBURG, DID Y'ALL GET
5 RID OF THE FIREARM, OR SOMETHING, ---

6 A. NO, SIR.

7 Q. --- IN ORANGEBURG? WHEN YOU TURNED YOURSELF IN
8 WERE YOU SUBMITTED TO A GUN SHOT RESIDUE TEST?

9 A. NO, SIR.

10 Q. WAS YOUR HOUSE EVER SEARCHED?

11 A. I'M NOT SURE.

12 Q. WHERE WERE YOU LIVING AT THE TIME?

13 A. [REDACTED] ROAD.

14 Q. ALRIGHT. BUT YOU NEVER GOT SERVED WITH ANY KIND
15 OF SEARCH WARRANT OR ANYTHING OF THAT NATURE?

16 A. NO, SIR.

17 Q. ALRIGHT, SO CONCEIVABLY, YOUR HOUSE WAS NOT
18 SEARCHED?

19 A. THEY WENT THERE, I DON'T KNOW IF THEY SEARCHED IT
20 OR NOT.

21 Q. ALRIGHT. AND WHAT KIND OF CAR WERE YOU DRIVING?

22 A. I WAS RIDING WITH LANESHA.

23 Q. ALRIGHT. WAS THAT CAR EVER SEARCHED BY LAW
24 ENFORCEMENT?

25 A. I'M NOT SURE.

CROSS - JERMAINE CUSACK BY MR. KEARSE

374

1 Q. LANESHA GREEN, WHAT KIND OF RELATIONSHIP DO Y'ALL
2 HAVE?

3 A. WE'RE JUST FRIENDS.

4 Q. JUST FRIENDS. WAS THERE ANY SPECIFIC REASON WHY
5 SHE WAS SO CONCERNED FOR YOU, OR WHY SHE WOULD
6 HELP YOU ESCAPE THIS CRIME SCENE?

7 A. FRIENDS.

8 Q. JUST BECAUSE SHE WAS YOUR FRIEND. AND THAT'S
9 WHAT YOUR FRIENDS DO, ALLOW YOU TO USE THEIR
10 RESIDENCES TO SELL DRUGS?

11 A. IF THAT'S WHAT YOU WANT TO SAY.

12 Q. ALRIGHT. DOES SHE HAVE -- I MEAN, BUT SHE KNEW
13 YOU WERE SELLING DRUGS OUT THE HOUSE,
14 UNQUESTIONABLY, IS THAT CORRECT?

15 A. I DON'T KNOW WHAT SHE KNEW.

16 Q. YOU WERE SELLING DRUGS OUT OF THIS WOMAN'S HOUSE,
17 AND YOUR STATEMENT TO THIS JURY IS THAT YOU DON'T
18 KNOW WHETHER OR NOT SHE ACTUALLY KNEW THAT?

19 A. I WASN'T SELLING DRUGS.

20 Q. YOU WERE BUYING THEM, I'M SORRY. CORRECT?

21 A. HOWEVER YOU WANT TO PUT IT, SIR.

22 Q. ALRIGHT.

23 MR. KEARSE: YOUR HONOR, I DON'T
24 HAVE ANYTHING FURTHER.

25 THE COURT: ANY REDIRECT?

1 SOLICITOR BELL: NOTHING FURTHER,
2 YOUR HONOR.

3 THE COURT: ANY OBJECTION TO THE
4 WITNESS BEING EXCUSED, FROM THE STATE?

5 SOLICITOR BELL: NO, YOUR HONOR.

6 THE COURT: FROM THE DEFENSE?

7 MR. KEARSE: NONE, YOUR HONOR.

8 THE COURT: SIR, YOU'RE EXCUSE.

9 YOU MAY CALL YOUR NEXT WITNESS.

10 SOLICITOR BELL: YOUR HONOR, MAY
11 WE APPROACH?

12 THE COURT: YES.

13 (Whereupon, a bench conference
14 is held out of the hearing of
15 the jury and the court reporter.)

16 SOLICITOR BELL: THE STATE WOULD
17 CALL TRAVIS NORTH.

18 (Whereupon, the witness
19 enters the courtroom.)

20 CLERK: PLEASE RAISE YOUR RIGHT
21 HAND, PLACE YOUR LEFT HAND ON THE BIBLE AND GIVE US
22 YOUR FULL NAME.

23 WITNESS: TRAVIS SENTEL NORTH.

24 (Whereupon, the witness,
25 TRAVIS SENTEL NORTH,

1 is duly sworn.)

2 CLERK: PLEASE HAVE A SEAT.

3 THE COURT: I NEED -- IF THERE IS
4 ANYONE IN THE GALLERY THAT HAS A CELL PHONE ON, IT
5 NEEDS TO BE IN THE OFF POSITION. IT MIGHT HAVE BEEN
6 OUT IN THE HALLWAY.

7 ALRIGHT, YOU MAY PROCEED.

8 SOLICITOR BELL: THANK YOU, YOUR
9 HONOR.

10 (NOTE: Blank lines on this page do not indicate any
11 part of record has been omitted. Headers on testimony
12 pages and hard page breaks between testimony are now
13 required by the Court. See next ensuing page for
14 sequential continuation of record.)

DIRECT - TRAVIS S. NORTH BY SOL. BELL

377

DIRECT EXAMINATION OF TRAVIS S. NORTH

BY SOLICITOR BELL:

Q. WOULD YOU PLEASE STATE YOUR NAME?

A. TRAVIS SENTEL NORTH.

Q. AND MR. NORTH, WHERE DO YOU LIVE?

A. SMOAKS, SOUTH CAROLINA.

Q. OKAY. DO YOU KNOW RYAN NORTH?

A. YES, SIR.

Q. HOW DO YOU KNOW RYAN?

A. THAT'S MY BROTHER.

Q. I'M GOING TO ASK YOU TO SPEAK UP SO ALL THE
JURORS CAN HEAR YOU, YOU'RE KIND OF FADING OFF
THERE AT THE END. JUST KIND OF LEAN INTO THE
MIKE A LITTLE MORE. DO YOU ANTHONY FOLK?

A. YES, SIR.

Q. HOW DO YOU KNOW HIM?

A. HE'S A -- HE'S NOT MY RELATIVE, BUT HE STAYS DOWN
THE STREET FROM ME.

Q. OKAY. OVER AROUND SMOAKS?

A. YES, SIR.

Q. AND THAT'S IN COLLETON COUNTY?

A. YES, SIR.

Q. WHAT DO YOU DO?

A. I WORK FOR O. L. THOMPSON CONSTRUCTION.

Q. OKAY. MR. NORTH, DO YOU RECALL BACK IN JULY OF

DIRECT - TRAVIS S. NORTH BY SOL. BELL

378

1 TWO THOUSAND AND THREE, COMING OVER TO DORCHESTER
2 COUNTY?

3 A. YES, SIR.

4 Q. SPECIFICALLY, ON JULY THIRD, TWO THOUSAND THREE?

5 A. YES, SIR.

6 Q. WHERE WERE YOU GOING IN DORCHESTER COUNTY?

7 A. OVER TO JERMAINE CUSACK'S HOUSE.

8 Q. OKAY. WHY WERE YOU GOING THERE?

9 A. I WAS GOING WITH MY BROTHER THERE, BECAUSE HE
10 SAID WE WERE GOING TO GET SOME MARIJUANA.

11 Q. OKAY. WHERE DID Y'ALL START OUT FROM?

12 A. CIRCLE-C TRUCK STOP.

13 Q. OKAY. IS THAT WHERE Y'ALL MET UP?

14 A. WELL, THAT'S WHERE RYAN MET WITH THE GUYS.

15 Q. OKAY. WHERE DID YOU AND RYAN MEET?

16 A. OH, AT MY MOTHER'S HOUSE.

17 Q. OVER IN SMOAKS?

18 A. RIGHT.

19 Q. OKAY. AND WHO CAME -- WHO LEFT FROM YOUR
20 MOTHER'S HOUSE?

21 A. NO ONE.

22 Q. YOU MET RYAN AT YOUR MOTHER'S HOUSE?

23 A. RIGHT. I WAS AT MY MOTHER'S HOUSE, HE STAYS NEXT
24 DOOR, AND HE CAME OVER AND ASKED ME TO RIDE WITH
25 HIM.

DIRECT - TRAVIS S. NORTH BY SOL. BELL

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1 Q. OKAY. WAS ANYBODY ELSE WITH Y'ALL?

2 A. ANTHONY FOLK.

3 Q. OKAY. AND YOUR BROTHER, WHEN YOU REFER TO YOUR
4 BROTHER, YOU'RE REFERRING TO RYAN, IS THAT
5 CORRECT?

6 A. YES, SIR.

7 Q. YOU HAVE OTHER BROTHERS, DON'T YOU?

8 A. YES, SIR.

9 Q. OKAY. NOW, FROM OVER THERE, WHEN YOU GOT UP WITH
10 RYAN, WHERE DID Y'ALL GO?

11 A. WE WENT TO THE TRUCK STOP TO GET GAS, AND THEN,
12 AFTER WE PUMPED THE GAS WE LEFT AND WENT OVER TO
13 GROVER.

14 Q. OKAY. WHERE WAS THE TRUCK STOP THAT YOU MET UP
15 AT?

16 A. RIGHT ACROSS I-NINETY-FIVE, ON SIXTY-ONE.

17 Q. OKAY. DID ANYTHING HAPPEN WHILE Y'ALL WERE AT
18 THE TRUCK STOP?

19 A. WELL, RYAN STARTED ENGAGING IN A CONVERSATION
20 WITH SOME GUYS IN A CAR.

21 Q. OKAY. AND WHERE DID THE CAR COME FROM?

22 A. I, I DIDN'T SEE WHICH WAY THE CAR CAME FROM. WHEN
23 I LOOKED OVER I SEEN HIM ENGAGING IN A
24 CONVERSATION.

25 Q. OKAY. HOW MANY GUYS WERE THERE?

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1 A. I DIDN'T EVEN PAY ATTENTION.

2 Q. OKAY. WHAT KIND OF CAR WAS IT?

3 A. IT WAS A TWO DOOR GRAND AM.

4 Q. OKAY. AND HOW LONG DID HE ENGAGE IN CONVERSATION
5 WITH THEM?

6 A. MAYBE THREE MINUTES, FIVE MINUTES.

7 Q. OKAY. WHERE WERE YOU?

8 A. I WAS SITTING IN THE CAR.

9 Q. WHERE WAS ANTHONY?

10 A. HE WAS PUMPING THE GAS, BUT THEN HE GOT BACK INTO
11 THE CAR.

12 Q. OKAY. WHAT HAPPENED AFTER THAT?

13 A. WE PULLED OFF FROM THE TRUCK STOP, AND WE HEADED
14 TOWARDS GROVER.

15 Q. AND WHO WAS WE?

16 A. ME, RYAN NORTH, MY BROTHER, AND ANTHONY FOLK.

17 Q. DID YOU SEE WHAT HAPPENED TO THE CAR THAT YOUR
18 BROTHER WAS TALKING TO, RYAN?

19 A. WELL, I DIDN'T PAY ATTENTION TO THE CAR. AFTER WE
20 PULLED OFF I NOTICED A CAR COMING UP BEHIND US.

21 Q. OKAY. AND WHERE DID YOU GO FROM THE TRUCK STOP?

22 A. STRAIGHT OVER TO JERMAINE CUSACK'S HOUSE.

23 Q. AND DO YOU KNOW WHERE HIS HOUSE WAS LOCATED?

24 A. YES, SIR.

25 Q. AND WHERE?

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1 A. IT'S LOCATED IN GROVER, IT'S DOWN A LITTLE SHORT
2 DIRT ROAD.

3 Q. OKAY. DO YOU KNOW WHAT THAT DIRT ROAD IS OFF OF?

4 A. I DON'T KNOW THE NAME OF THE STREET.

5 Q. OKAY. NOW, WHEN YOU GOT TO JERMAINE'S HOUSE WHAT
6 HAPPENED, WHERE DID Y'ALL DRIVE TO, YOU DROVE UP
7 A DIRT ROAD?

8 A. YES, SIR.

9 Q. AND WHERE DID -- WHO WAS DRIVING?

10 A. RYAN NORTH.

11 Q. OKAY. WHAT KIND OF CAR WAS THIS?

12 A. A CHRYSLER LHS.

13 Q. AND WHOSE CAR WAS IT?

14 A. RYAN'S.

15 Q. OKAY. AND WHEN YOU GOT UP TO THE HOUSE WHAT
16 HAPPENED?

17 A. WELL, WE PULLED UP, AND ME AND ANTHONY SAT IN THE
18 CAR. RYAN GOT OUT AND BEGAN TO WALK INSIDE THE
19 HOUSE. A SHORT MINUTE AFTER THAT THE CAR PULLED
20 UP ON THE LEFT SIDE OF US, AND TWO GUYS GOT OUT.

21 Q. OKAY. AND WHAT KIND OF CAR WAS THAT?

22 A. A TWO DOOR GRAND AM.

23 Q. IS THAT THE SAME CAR YOU HAD SEEN EARLIER AT THE
24 CIRCLE-C TRUCK STOP?

25 A. YES, SIR.

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1 Q. OKAY. AND DESCRIBE -- CAN YOU DESCRIBE THE CAR?
2 I THINK YOU JUST DID, BUT CAN YOU DO IT AGAIN,
3 PLEASE?

4 A. IT WAS A TWO DOOR BEIGE GRAND AM.

5 Q. DID YOU NOTICE ANYTHING ELSE ABOUT IT?

6 A. I NOTICED IT HAD VIRGINIA TAGS.

7 Q. OKAY. AND HOW MANY PEOPLE GOT OUT?

8 A. TWO GUYS.

9 Q. CAN YOU DESCRIBE THEM?

10 A. ONE WAS A LIGHT SKINNED BALD HEADED GUY, SLIM,
11 AND THE OTHER GUY HAD BRAIDS, HE WAS DARK
12 SKINNED.

13 Q. OKAY. WHERE DID THE FIRST GUY COME OUT -- YOU
14 SAID THE LIGHT SKINNED BALD HEADED GUY?

15 A. RIGHT, HE CAME OUT OF THE DRIVER'S SIDE.

16 Q. OKAY. AND WHERE DID THE ONE WITH BRAIDS COME OUT
17 OF?

18 A. HE CAME OUT OF THE PASSENGER SIDE.

19 Q. OKAY. AND WHERE DID THEY GO?

20 A. WELL, THE GUY ON THE PASSENGER SIDE GOT OUT AND
21 WAITED FOR A MINUTE WHILE THE DRIVER POPPED THE
22 TRUNK AND GRABBED A BAG OUT OF THE TRUNK. THEN
23 THEY BEGAN TO WALK IN THE HOUSE.

24 Q. OKAY. AND WHERE WAS YOUR BROTHER, RYAN?

25 A. HE WAS, HE HAD ALREADY ENTERED THE DOOR OF THE

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1 HOUSE.

2 Q. OKAY. ALRIGHT, AND WHERE WERE YOU AT THIS POINT?

3 A. I WAS STILL SITTING IN THE CAR.

4 Q. OKAY. SO, THEY WENT IN, AND WAS ANYBODY ELSE
5 OUTSIDE?

6 A. IT WAS A GUY SITTING ON THE PORCH.

7 Q. OKAY. NOW, HOW -- DID YOU STAY IN THE CAR?

8 A. YES, SIR, FOR ABOUT THIRTY MINUTES.

9 Q. OKAY. AFTER THIRTY MINUTES WHAT DID YOU DO?

10 A. WELL, I HAD TO GO, SO I SAID, YOU KNOW, I TOLD
11 ANTHONY, I SAID, ANTHONY, RYAN'S TAKING A LONG
12 TIME. I SAID, I HAVE TO GO, YOU KNOW, I HAVE TO
13 GO. I SAID, I'M GOING TO SEE IF HE'S READY OR
14 NOT.

15 Q. OKAY. AND WHAT DID YOU DO?

16 A. I GOT OUT OF THE CAR AND WENT INTO THE HOUSE.

17 Q. WHAT DID ANTHONY DO?

18 A. HE GOT OUT AND SAT ON THE PORCH.

19 Q. OKAY. DID HE GO IN?

20 A. NO, SIR.

21 Q. OKAY. AND YOU WENT INTO THE HOUSE?

22 A. YES, SIR.

23 Q. AND WHEN YOU GOT IN THE HOUSE WHAT DID YOU SEE?

24 A. I SEEN ABOUT FOUR OR FIVE GUYS IN THE HOUSE.

25 Q. OKAY. WAS YOUR BROTHER IN THE HOUSE?

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1 A. YES, SIR.

2 Q. WAS THERE ANYBODY ELSE THAT YOU RECOGNIZED IN THE
3 HOUSE?

4 A. JERMAINE CUSACK, A GUY WITH DREDS, AND THE TWO
5 GUYS THAT GOT OUT OF THE GRAND AM.

6 Q. AND WAS ANYBODY ELSE IN THERE?

7 A. AND A GIRL.

8 Q. OKAY. AND WHAT DID YOU DO WHEN YOU WENT IN THE
9 HOUSE?

10 A. I WENT TO RYAN AND I TOLD HIM I HAD TO GO, AND
11 THAT WE NEEDED TO COME ON, DID HE GET THE
12 MARIJUANA, AND LET'S GO. AND HE SAID, YEAH, GIVE
13 ME A MINUTE.

14 Q. OKAY. AND WHERE WERE YOU IN THE HOUSE?

15 A. I WALKED TO THE KITCHEN WHERE THEY WAS STANDING
16 AT.

17 Q. OKAY. AND WHAT WAS GOING -- DID YOU SEE ANYTHING
18 GOING ON IN THE KITCHEN?

19 A. THEY WERE COOKING UP SOME STUFF, SOME DRUGS IN A
20 CUP.

21 Q. OKAY. HOW DID YOU KNOW IT WAS DRUGS?

22 A. WELL, I COULD, I ASSUME IT WAS DRUGS.

23 Q. OKAY. AND WHO WAS IN THE KITCHEN?

24 A. RYAN NORTH, JERMAINE CUSACK, AND THE TWO GUYS
25 THAT WERE IN THE GRAND AM.

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1 Q. OKAY. WHAT HAPPENED NEXT?

2 A. I -- JERMAINE OFFERED ME A DRINK.

3 Q. OKAY. DID YOU TAKE IT?

4 A. YES, SIR.

5 Q. WAS THAT, LIKE, A LIQUOR DRINK?

6 A. YES, SIR.

7 Q. OKAY. WHAT HAPPENED NEXT?

8 A. WELL, THE TWO GUYS BEGAN TO SIT DOWN AT THE TABLE
9 AND I TOLD RYAN, I SAID, COME ON, I'M GOING BACK
10 TO THE CAR. AND AS THE GUYS WAS SITTING AT THE
11 TABLE THEY BEGAN BAGGING UP SOME COCAINE, AND I
12 WAS BEGINNING TO WALK OUT OF THE HOUSE. WHEN I
13 GOT TO THE DOOR A GUY OPENED THE DOOR, THE GUY
14 THAT GOT SHOT OPENED THE DOOR, AND SPENT OFF MY
15 SHOULDER AROUND ME. AND AS I WAS TURNING AROUND
16 I HEARD THE TABLE MAKE A NOISE, LIKE, BOOM. AND
17 AS I TURNED AROUND HE SNATCHED SOMETHING OFF THE
18 TABLE.

19 Q. OKAY, LET ME GO BACK FOR A SECOND. WHAT KIND OF
20 TABLE WAS THIS?

21 A. IT WAS A ROUND TABLE.

22 Q. OKAY. WERE THERE ANY CHAIRS OR ANYTHING AROUND
23 IT?

24 A. I DON'T, I THINK IT MIGHT HAVE BEEN ONE OR TWO
25 CHAIRS.

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1 Q. OKAY. NOW, YOU SAID YOU HEARD A BOOM AND YOU SAW
2 SOMETHING HAPPEN. WHAT DID YOU SEE HAPPEN?

3 A. WELL, AFTER HE, AFTER HE SNATCHED SOMETHING OFF
4 THE TABLE I TURNED AROUND, AND AS I WAS TURNING
5 THE GUY SPENT BACK AROUND ME TO RUN. AND WHEN I
6 TURNED AROUND THE LIGHT SKINNED BALD HEADED GUY
7 JUMPED UP FROM THE TABLE, PULLED OUT A BLACK GUN,
8 COCKED IT, AND STARTED SHOOTING.

9 Q. OKAY. WHO WAS HE SHOOTING?

10 A. THE GUY THAT SNATCHED THE STUFF OFF THE TABLE.

11 Q. WHERE DID THAT GUY GO?

12 A. HE TURNED AROUND TO RUN BACK TOWARDS THE DOOR.

13 Q. OKAY. AND DID HE MAKE IT OUT OF THE DOOR?

14 A. NO, SIR.

15 Q. OKAY. HOW MANY SHOTS DID YOU HEAR?

16 A. IT WAS NUMEROUS SHOTS.

17 Q. THE PERSON THAT FIRED THE GUN, DO YOU SEE HIM IN
18 THE COURTROOM TODAY?

19 A. YES, SIR.

20 MR. KEARSE: I OBJECT, YOUR HONOR.

21 THE COURT: BASIS? DO YOU WANT TO
22 APPROACH?

23 MR. KEARSE: PREVIOUS ARGUMENT.

24 (Whereupon, a bench conference
25 is held out of the hearing of

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1 the jury and the court reporter.)

2 THE COURT: OBJECTION IS
3 OVERRULED.

4 MR. KEARSE: THANK YOU.

5 THE COURT: YOU'RE WELCOME.

6 Q. AGAIN, MR. NORTH, THE PERSON THAT FIRED THE SHOTS
7 AT THAT FELLOW, DO YOU SEE HIM IN THE COURTROOM?

8 A. YES, SIR.

9 Q. COULD YOU POINT HIM OUT, PLEASE, FOR THE JURY?

10 A. (Points toward defense table.)

11 Q. SEATED AT THE TABLE THERE?

12 A. YES, SIR.

13 Q. DOES HE LOOK THE SAME TODAY AS HE DID BACK IN TWO
14 THOUSAND THREE?

15 A. NO, SIR.

16 Q. WHAT'S DIFFERENT?

17 A. HIS HAIR.

18 Q. OKAY. WHAT HAPPENED AFTER THE SHOTS WERE FIRED -
19 - HOW MANY SHOTS WAS IT, AGAIN?

20 A. IT WAS NUMEROUS SHOTS, I WASN'T COUNTING, IT WAS
21 JUST, BOOM, BOOM, BOOM, BOOM, BOOM.

22 Q. OKAY. WHAT HAPPENED AFTER THAT?

23 A. AFTER THE SHOTS WERE FIRED I RAN INTO THE CLOSET.
24 WHEN I RAN IN THE CLOSET I LOOKED OUT OF THE
25 CLOSET AND HE WAS STARING AT ME.

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1 Q. WHO WAS STARING AT YOU?

2 A. THE GUY RIGHT THERE.

3 Q. OKAY. WHAT DID YOU DO?

4 A. I PUT MY HANDS IN THE AIR, AND I STARTED SHAKING
5 MY HEAD AND HE LOOKED AT ME, AND THEN HE TOOK HIS
6 EYES OFF ME AND STARTED REACHING OUT FOR
7 SOMETHING ON THE FLOOR. AND WHEN HE REACHED OUT I
8 TOOK OFF RUNNING THROUGH THE BACK DOOR.

9 Q. WHO WAS AROUND AT THAT TIME, DID YOU NOTICE?

10 A. THE GUY THAT WAS WITH HIM.

11 Q. OKAY. WHAT, WHAT ABOUT THE GUY THAT GOT SHOT,
12 DID YOU SEE HIM?

13 A. I NEVER SEEN HIM, AFTER THE SHOTS WERE FIRED I
14 NEVER LOOKED BACK, BECAUSE HE WAS BEHIND ME.

15 Q. OKAY. AND YOU SAID YOU RAN, WHERE DID YOU RUN?

16 A. I RAN AROUND TO THE BACK DOOR, I RAN AROUND AND
17 JUMPED IN RYAN'S CAR AND PULLED OFF.

18 Q. OKAY. WAS ANYBODY WITH YOU AT THAT POINT?

19 A. NO, SIR.

20 Q. OKAY. WHERE DID YOU GO?

21 A. I LEFT OUT THE DIRT ROAD, AND AS I WAS LEAVING
22 OUT ANTHONY RAN OUT OF THE WOODS AND TO THE FRONT
23 OF THE CAR, AND I KIND OF SLOWED DOWN, AND HE
24 JUMPED THROUGH THE WINDOW.

25 Q. OKAY. AND WHERE DID YOU GO THEN?

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- 1 A. I BEGAN TO GO HOME.
- 2 Q. BACK TO SMOAKS?
- 3 A. RIGHT.
- 4 Q. OKAY. WHAT ABOUT YOUR BROTHER?
- 5 A. I LEFT HIM, I TOLD HIM, HE MADE IT OUT.
- 6 Q. EXCUSE ME?
- 7 A. I LEFT HIM AT THE HOUSE.
- 8 Q. OKAY. DID YOU KNOW WHAT HAPPENED TO HIM?
- 9 A. HE TOOK OFF RUNNING.
- 10 Q. WHICH WAY?
- 11 A. HE RAN THROUGH THE BACK DOOR, I DIDN'T SEE WHICH
- 12 WAY HE WENT.
- 13 Q. WHERE WAS HE WHEN THE FELLOW CAME AROUND YOU, DID
- 14 YOU NOTICE WHERE YOUR BROTHER WAS?
- 15 A. HIM AND JERMAINE WERE STANDING, LIKE, IN THE
- 16 KITCHEN WALKWAY.
- 17 Q. OKAY. AND WHERE DID YOU GO ONCE YOU HAD PICKED
- 18 ANTHONY UP?
- 19 A. I WENT DOWN FIFTEEN A PIECE, AND ANTHONY WAS
- 20 ASKING ME WAS RYAN ALRIGHT, AND I SAID, YEAH, HE
- 21 MADE IT OUT, HE MADE IT OUT OF THE HOUSE.
- 22 ANTHONY SAID, WELL, YOU WANT TO GO BACK AND CHECK
- 23 AND MAKE SURE HE'S ALRIGHT, LET'S SEE IF WE CAN
- 24 GET HIM? I SAID, NO. HE SAID, WE NEED TO TURN
- 25 AROUND AND GET RYAN. SO, AS I WAS TURNING AROUND,

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1 I WENT DOWN ABOUT A QUARTER OF A MILE, AND A CAR
2 STARTED STOPPING ME, WHICH WAS REGGIE.

3 Q. OKAY.

4 A. AND RYAN JUMPED OUT OF THE CAR.

5 Q. AND WHERE DID YOU GO -- I MEAN, DID RYAN GET IN
6 THE CAR?

7 A. YES, SIR.

8 Q. AND WHERE DID YOU GO THEN?

9 A. WE WENT HOME.

10 Q. OKAY. WHEN Y'ALL GOT HOME WHAT HAPPENED?

11 A. I WENT STRAIGHT TO THE HOUSE. I WAS SHOOK UP, I
12 WENT STRAIGHT, I JUMP OUT OF THE CAR AND WENT
13 STRAIGHT INTO THE HOUSE.

14 Q. OKAY. AT SOME POINT AFTER THAT WERE YOU
15 CONTACTED BY THE POLICE?

16 A. YES, SIR.

17 Q. DO YOU RECALL HOW LONG AFTER THAT EVENING THAT IT
18 HAPPENED?

19 A. MAYBE A DAY.

20 Q. OKAY. AND DO YOU -- WHICH POLICE CONTACTED YOU?

21 A. DETECTIVE MARSHALL.

22 Q. OKAY. AND WHAT DID HE ASK YOU, DID HE ASK YOU TO
23 COME OVER TO TALK TO HIM, OR -- HOW DID THAT
24 CONTACT WORK?

25 A. WELL, HE CALLED ME AND TOLD ME HE NEEDED ME TO

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1 COME DOWN TO THE POLICE STATION.

2 Q. OKAY. AND WHAT DID YOU DO?

3 A. I, I WENT DOWN TO THE POLICE STATION.

4 Q. WHERE?

5 A. IN DORCHESTER COUNTY.

6 Q. OKAY. IN SUMMERVILLE OR ST. GEORGE?

7 A. SUMMERVILLE.

8 Q. OKAY. AND DID YOU TALK TO HIM?

9 A. YES, SIR.

10 Q. OKAY. DID YOU TELL HIM WHAT HAPPENED AT THAT
11 TIME?

12 A. YES, SIR.

13 Q. DID YOU TELL HIM THE TRUTH OF WHAT HAPPENED AT
14 THAT TIME?

15 A. YES, SIR.

16 Q. OKAY. HOW LONG DID YOU TALK TO DETECTIVE
17 MARSHALL?

18 A. MAYBE AN HOUR AND A HALF, ---

19 Q. OKAY.

20 A. --- TWO HOURS.

21 Q. ALRIGHT. DID YOU STAY -- WHAT HAPPENED AFTER YOU
22 FINISHED TALKING WITH HIM?

23 A. HE TOLD ME, HE ASKED ME TO COME BACK IN ON, YOU
24 KNOW, STAY ON STAND BY, BECAUSE HE MIGHT, HE
25 PROBABLY WOULD NEED ME BACK THERE.

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1 Q. OKAY. DID HE NEED YOU BACK THERE?

2 A. YES, SIR.

3 Q. OKAY. HOW LONG AFTER THAT DAY?

4 A. MAYBE A WEEK OR TWO.

5 Q. OKAY. AND WHY DID HE BRING YOU BACK?

6 A. FOR MORE QUESTIONING.

7 Q. OKAY. DID HE EVER, AFTER JULY THIRD DID HE EVER
8 CALL YOU IN AND ASK YOU TO LOOK AT SOME PICTURES?

9 A. YES, SIR.

10 Q. HOW LONG AFTER THE SHOOTING DID HE DO THAT?

11 A. MAYBE THREE MONTHS, FOUR MONTHS, SOMETHING LIKE
12 THAT.

13 Q. OKAY. AND WHERE DID YOU GO TO SEE THE PICTURES --
14 I'M TALKING ABOUT BACK NEAR THE SHOOTING NOW, DID
15 HE EVER ASK YOU TO COME IN AND SEE -- LOOK AT ANY
16 PICTURES BACK THEN?

17 A. ONE TIME.

18 Q. OKAY.

19 A. HE CAME BY MY HOUSE.

20 Q. OH, HE CAME BY YOUR HOUSE?

21 A. YES, SIR.

22 Q. OKAY. AND WHAT DID HE SHOW YOU?

23 A. HE SHOWED ME A GROUP OF PICTURES?

24 A. OKAY. DID YOU RECOGNIZE ANYBODY?

25 A. YES, SIR.

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1 Q. WHO DID YOU RECOGNIZE THAT TIME?

2 MR. KEARSE: YOUR HONOR, I'M
3 OBJECT.

4 THE COURT: BASIS?

5 MR. KEARSE: PREVIOUSLY ARGUED.

6 THE COURT: OVERRULED. YOU MAY
7 PROCEED.

8 Q. WHO DID YOU RECOGNIZE IN THAT GROUP OF PICTURES?

9 A. THE DARK SKINNED GUY THAT WAS WITH HIM.

10 Q. OKAY. THE GUY YOU SAID SOMETHING ABOUT DREDS, IS
11 THAT THE GUY?

12 A. NO, THE GUY WITH THE BRAIDS THAT WAS ---

13 Q. BRAIDS, I'M SORRY. WAS THAT THE ONE THAT YOU
14 RECOGNIZED THEN?

15 A. YES, SIR.

16 Q. OKAY. LET ME SHOW YOU WHAT'S BEEN MARKED AS
17 STATE'S THIRTEEN FOR IDENTIFICATION, OR STATE'S
18 THIRTEEN, AND ASK IF YOU RECOGNIZE THAT?

19 A. RIGHT.

20 Q. IS THAT THE PICTURES HE SHOWED -- DETECTIVE
21 MARSHALL CAME BY AND SHOWED YOU AT YOUR HOUSE?

22 A. YES, SIR.

23 Q. OKAY. IS YOUR SIGNATURE ON THE BACK OF THAT?

24 A. YES, SIR.

25 Q. OKAY. AND YOU PICKED OUT, DO YOU RECALL WHICH

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1 PICTURE YOU PICKED OUT?

2 A. RIGHT HERE.

3 Q. THAT WAS THE FELLOW?

4 A. YES, SIR.

5 Q. OKAY. ALRIGHT, SOMETIME AFTER THAT WERE YOU
6 CONTACTED AGAIN BY THE DORCHESTER COUNTY
7 SHERIFF'S DEPARTMENT?

8 A. YES, SIR.

9 Q. MONTHS, OR A YEAR OR SO AFTER THAT?

10 A. MONTHS, MAYBE A COUPLE OF MONTHS.

11 Q. OKAY. AND WHAT WERE YOU ASKED TO DO?

12 A. TO COME BACK DOWN AND LOOK AT MORE PICTURES.

13 Q. OKAY. AND HOW DID YOU -- WHERE DID YOU GO?

14 A. SUMMERVILLE POLICE DEPARTMENT.

15 Q. OKAY. DETECTIVE MARSHALL AGAIN, OR WAS IT
16 ANOTHER DETECTIVE?

17 A. DETECTIVE MARSHALL.

18 Q. OKAY. AND HOW DID YOU GET TO THE, TO SEE
19 DETECTIVE MARSHALL?

20 A. WELL, I THINK I WENT WITH MY BROTHER THAT DAY,
21 BECAUSE HE ASKED ALL THREE OF US TO COME DOWN.

22 Q. OKAY.

23 A. MY BROTHER AND ANTHONY FOLK.

24 Q. OKAY. AND WHEN THEY GOT THERE, DID THEY PUT ALL
25 OF YOU IN THE SAME ROOM AND SHOW YOU SOME

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1 PICTURES?

2 A. NO, SIR.

3 Q. HOW DID THEY DO IT, ONE AT A TIME?

4 A. YES, SIR.

5 Q. OKAY. AND WHEN YOU WERE BROUGHT INTO THE ROOM,
6 WHO WAS IN THE ROOM?

7 A. NO ONE.

8 Q. I MEAN, WAS DETECTIVE MARSHALL THERE?

9 A. RIGHT.

10 Q. WAS THERE ANOTHER DETECTIVE?

11 A. DETECTIVE MARSHALL AND VAN DORAN.

12 Q. OKAY. WAS YOUR BROTHER THERE?

13 A. NO, SIR.

14 Q. WAS ANTHONY FOLK THERE?

15 A. NO, SIR, NOT IN THE ROOM.

16 Q. OKAY. DID THEY SHOW YOU SOME PICTURES AGAIN?

17 A. YES, SIR.

18 Q. AND WHAT DID THEY SAY ABOUT THOSE PICTURES?

19 A. THEY ASKED ME DID I RECOGNIZE ANYONE IN THE
20 PICTURES?

21 Q. DID THEY POINT OUT WHO TO PICK?

22 A. NO, SIR.

23 Q. DID THEY TELL YOU THERE WAS SOMEBODY IN THERE YOU
24 NEEDED TO PICK?

25 A. NO, SIR.

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1 Q. OKAY. DID YOU PICK SOMEBODY OUT THERE?

2 A. WHO DID YOU PICK ---

3 MR. KEARSE: YOUR HONOR, I'M GOING
4 TO OBJECT.

5 THE COURT: BASIS?

6 MR. KEARSE: PREVIOUSLY ARGUED.

7 THE COURT: OVERRULED.

8 Q. AND WHO DID YOU PICK OUT THERE?

9 A. THE GUY THAT'S SITTING RIGHT OVER THERE.

10 Q. OKAY. LET ME SHOW YOU WHAT'S BEEN MARKED STATE'S
11 FOURTEEN FOR IDENTIFICATION, AND ASK YOU IF THIS
12 IS WHAT YOU WERE SHOWN?

13 A. YES, SIR.

14 MR. KEARSE: YOUR HONOR, I'M GOING
15 TO OBJECT.

16 THE COURT: BASIS?

17 MR. KEARSE: PREVIOUSLY ARGUED.

18 THE COURT: OVERRULED.

19 Q. OKAY. AND I WILL TURN ON THE BACK, IS THAT YOUR
20 SIGNATURE?

21 A. YES, SIR.

22 Q. OKAY. DO YOU ALSO SEE SOME INITIALS?

23 A. YES, SIR.

24 Q. WHAT ARE THOSE INITIALS OF?

25 A. MY, MY FULL NAME.

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1 Q. AND WHAT ARE THOSE INITIALS BY, OR UNDER?

2 A. UNDER MY NAME.

3 Q. OKAY. AND IS THERE A NUMBER THERE?

4 A. YES, SIR.

5 Q. WHAT NUMBER?

6 A. NUMBER ONE.

7 Q. OKAY. NUMBER ONE, WITH YOUR INITIALS, IS THAT
8 RIGHT?

9 A. YES, SIR.

10 Q. IS THAT FOR THE PICTURE THAT YOU PICKED OUT?

11 A. YES, SIR.

12 Q. OKAY. LET ME SHOW YOU WHAT'S BEEN MARKED AS
13 STATE'S EIGHT AND NINE FOR IDENTIFICATION AND ASK
14 IF YOU CAN RECOGNIZE THEM. I'M GOING TO SHOW YOU
15 WHAT'S BEEN MARKED STATE'S EIGHT FOR
16 IDENTIFICATION FIRST. DO YOU RECOGNIZE THAT
17 VEHICLE?

18 A. YES, SIR.

19 Q. HOW DO YOU RECOGNIZE IT?

20 A. THAT WAS THE VEHICLE THAT THEY WERE DRIVING THAT
21 NIGHT.

22 Q. OKAY. AND I WANT TO SHOW YOU WHAT'S BEEN MARKED
23 STATE'S NINE FOR IDENTIFICATION AND ASK IF YOU
24 RECOGNIZE THAT?

25 A. YES, SIR.

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1 Q. WHAT IS THAT?

2 A. THAT'S THE BACK OF THE VEHICLE THAT THEY WERE
3 DRIVING.

4 Q. OKAY. IS THAT WHERE YOU RECOGNIZE THE PLATES
5 FROM?

6 A. YES, SIR.

7 Q. OKAY.

8 SOLICITOR BELL: THANK YOU,
9 TRAVIS, PLEASE ANSWER ANY QUESTIONS MR. KEARSE HAS.

10 MR. KEARSE: MAY IT PLEASE THE
11 COURT, YOUR HONOR.

12 THE COURT: YES, SIR.

13 MR. KEARSE: COUNSEL.

14 THE COURT: CAN COUNSEL APPROACH
15 FOR ME FOR A SECOND?

16 (Whereupon, a bench conference
17 is held out of the hearing of
18 the jury and the court reporter.)

19 THE COURT: LADIES AND GENTLEMEN,
20 IF YOU COULD JUST INDULGE US FOR A MOMENT, WE'RE GOING
21 TO TAKE A VERY BRIEF RECESS. PLEASE LEAVE YOUR NOTE
22 PADS IN YOUR SEATS AND PLEASE DO NOT DISCUSS THE CASE.

23 (Whereupon, the following
24 takes place out of the
25 presence of the jury.)

1 THE COURT: ALRIGHT, WE'LL TAKE A
2 TEN MINUTE BREAK.

3 (Recess)

4 THE COURT: ALRIGHT, IS THE STATE
5 READY TO PROCEED?

6 SOLICITOR BELL: THE STATE'S READY.

7 THE COURT: DEFENSE?

8 MR. KEARSE: YES, YOUR HONOR.

9 THE COURT: BRING IN THE JURY.

10 (Whereupon, the following
11 takes place in the
12 presence of the jury.)

13 THE COURT: MR. KEARSE, YOU MAY
14 PROCEED.

15 MR. KEARSE: MAY IT PLEASE THE
16 COURT, YOUR HONOR.

17 THE COURT: YES, SIR.

18 MR. KEARSE: COUNSEL.

19 (NOTE: Blank lines on this page do not indicate any
20 part of record has been omitted. Headers on testimony
21 pages and hard page breaks between testimony are now
22 required by the Court. See next ensuing page for
23 sequential continuation of record.)

CROSS - TRAVIS S. NORTH BY MR. KEARSE

400

CROSS-EXAMINATION OF TRAVIS S. NORTH

BY MR. KEARSE:

Q. MR. NORTH, YOUR TESTIMONY TODAY IS THAT YOU SAW
THIS GRAND AM AT A TRUCK STOP?

A. YES, SIR.

Q. AND IT'S YOUR TESTIMONY THAT YOU GUYS MET THESE
GUYS DRIVING THIS GRAND AM AT THAT TRUCK STOP?

A. RIGHT.

Q. Y'ALL DIDN'T MEET THEM AT A HOUSE OR NOTHING OF
THAT NATURE?

A. NO, SIR.

Q. ALRIGHT. WHEN DID YOUR BROTHER SHOW THESE GUYS
THE GUN HE WANTED TO SELL?

A. I NEVER SEEN A GUN HE WANTED TO SELL.

Q. WHEN -- DID HE SHOW IT TO THEM AT THE HOUSE?

A. I NEVER SEEN A GUN.

Q. DID YOUR BROTHER SHOW YOU THE GUN HE HAD ON HIM?

A. NO.

Q. DO YOU KNOW WHAT KIND OF GUN YOUR BROTHER HAD?

A. I NEVER SEEN A GUN.

Q. ALRIGHT. BUT YOU WERE WITH YOUR BROTHER THE
WHOLE TIME THAT NIGHT, CORRECT?

A. RIGHT.

Q. ALRIGHT. NOW, YOU RECALL, YOU'RE SAYING TODAY
THAT THIS CAR, THIS GRAND AM YOU SAW WAS A BEIGE

CROSS - TRAVIS S. NORTH BY MR. KEARSE

401

1 OR TAN IN COLOR, IS THAT YOUR TESTIMONY?

2 A. RIGHT.

3 Q. DO YOU RECALL TALKING TO THE LAW ENFORCEMENT
4 OFFICERS ABOUT THIS CASE IN TWO THOUSAND FOUR?

5 A. YES.

6 Q. OKAY. DO YOU RECALL WHAT YOU TOLD THEM ABOUT
7 THAT CAR BACK THEN?

8 A. YES.

9 Q. ALRIGHT. AT THAT TIME YOU DIDN'T SAY THE CAR WAS
10 BEIGE OR TAN OR ANYTHING, CORRECT?

11 A. I DID SAY THE CAR WAS BEIGE.

12 Q. ALRIGHT. YOU DON'T RECALL TELLING THEM THAT THE
13 CAR WAS SILVER OR GRAY IN COLOR?

14 A. NO, I NEVER DID TELL THEM THAT.

15 Q. YOU NEVER DID TELL THEM THAT?

16 A. NO.

17 Q. THAT'S YOUR TESTIMONY TODAY?

18 A. RIGHT.

19 Q. ALRIGHT. YOUR TESTIMONY TODAY ALSO IS THAT YOU
20 SAID THIS LIGHT SKINNED GUY WAS THE DRIVER?

21 A. RIGHT.

22 Q. OKAY. DO YOU RECALL TALKING TO THE LAW
23 ENFORCEMENT OFFICERS ON AUGUST - IN AUGUST OF TWO
24 THOUSAND AND THREE?

25 A. YES.

CROSS - TRAVIS S. NORTH BY MR. KEARSE

402

1 Q. ALRIGHT. DO YOU RECALL, YOU SAID THERE WAS A
2 DARKER SKINNED GUY IN THE CAR?

3 A. RIGHT.

4 Q. A SHORT GUY?

5 A. RIGHT.

6 Q. A GUY YOU HAVE COME TO KNOW AS SMOKE, IS THAT
7 CORRECT?

8 A. RIGHT.

9 Q. ALRIGHT. AND YOUR BROTHER KNEW SMOKE?

10 A. I'M, I DON'T KNOW.

11 Q. YOU DON'T RECALL SMOKE COMING TO YOUR BROTHER'S
12 HOUSE THREE OR MORE OCCASIONS?

13 A. NO.

14 Q. WELL, YOU LIVE CLOSE TO YOUR BROTHER, DO YOU NOT?

15 A. NOT AT THAT TIME.

16 Q. ALRIGHT. WELL, YOU DON'T RECALL TELLING LAW
17 ENFORCEMENT THAT IT WAS SMOKE WHO WAS DRIVING
18 THIS VEHICLE?

19 A. NO.

20 Q. ALRIGHT, YOU SAID YOU RECALL DOING A PHOTO LINEUP
21 IN WHICH YOU PICKED OUT THIS GUY WHO'S BEEN
22 IDENTIFIED AS SMOKE, CORRECT -- AND I'M REFERRING
23 TO EXHIBIT THIRTEEN?

24 A. RIGHT, ON THE RIGHT HAND SIDE.

25 Q. RIGHT, DOWN THERE AT THE BOTTOM, IS THAT HIM?

CROSS - TRAVIS S. NORTH BY MR. KEARSE

403

1 A. RIGHT.

2 Q. ALRIGHT, YOU DON'T RECALL, SAME DAY, SAME TIME,
3 SAME OCCASION, YOUR MEMORY IS -- YOU REMEMBER
4 THIS INCIDENT, CORRECT?

5 A. RIGHT.

6 Q. YOU DON'T RECALL TELLING THEM THAT HE WAS THE
7 DRIVER OF THE VEHICLE?

8 A. NO, I NEVER DID TELL THEM THAT.

9 Q. OKAY. AND LIKE YOU SAID, YOU DON'T RECALL
10 TELLING LAW ENFORCEMENT THAT THIS CAR WAS SILVER
11 OR GRAY IN COLOR?

12 A. RIGHT.

13 Q. NOW, YOU SAY THAT ON THIS OCCASION YOU WERE AT
14 THE HOUSE, OR IN THE HOUSE AT THE TIME THE GUN
15 WAS PULLED OUT?

16 A. RIGHT.

17 Q. ALRIGHT. AND YOU ALSO SAY THAT YOU HEARD THE
18 SHOTS FIRED AND YOU RAN INTO THE CLOSET?

19 A. RIGHT.

20 Q. ALRIGHT. DO YOU RECALL GIVING A STATEMENT TO LAW
21 ENFORCEMENT ABOUT FIVE DAYS AFTER THIS THING
22 HAPPENED?

23 A. RIGHT.

24 Q. ALRIGHT.

25 COURT REPORTER: ID OR ---

CROSS - TRAVIS S. NORTH BY MR. KEARSE

404

1 MR. KEARSE: FOR IDENTIFICATION.

2 SOLICITOR BELL: NO OBJECTION,

3 YOUR HONOR.

4 THE COURT: MARKED FOR ID ONLY,

5 WITHOUT OBJECTION.

6 COURT REPORTER: DEFENDANT'S FIVE,

7 ID.

8 (Defendant's Exhibit Five,

9 Statement of Travis North,

10 marked for identification.)

11 Q. ALRIGHT, YOUR TESTIMONY IS THAT YOU RAN IN A
12 CLOSET, AND WHEN YOU CAME OUT THE ASSAILANT WAS
13 LOOKING DIRECTLY AT YOU?

14 A. EXACTLY.

15 Q. AND YOU KIND OF SHOOK YOUR HEAD AND THREW YOUR
16 HANDS UP?

17 A. RIGHT.

18 Q. AND THEN HE DID WHATEVER YOU SAY, HE STARTED
19 PICKING STUFF UP?

20 A. RIGHT.

21 Q. AND YOU RAN OUT THE BACK DOOR?

22 A. RIGHT.

23 Q. ALRIGHT. NOW, I WANT TO HAND YOU WHAT'S BEEN
24 MARKED AS DEFENDANT'S EXHIBIT NUMBER FIVE, OKAY,
25 TAKE YOUR TIME AND LOOK THAT OVER. DO YOU

CROSS - TRAVIS S. NORTH BY MR. KEARSE

405

1 REMEMBER GIVING THAT STATEMENT?

2 A. YES.

3 Q. ALRIGHT. NOW, THAT'S NOT WHAT YOU SAID ON THAT
4 STATEMENT, CORRECT?

5 A. THIS IS EXACTLY WHAT I SAID.

6 Q. ALRIGHT, WELL, LET'S -- YOU SAY IT'S EXACTLY WHAT
7 YOU SAID?

8 A. RIGHT.

9 Q. YOU SAID, AND I WANT YOU TO TURN TO PAGE TWO OF
10 THE STATEMENT, "I WAS POURING MY DRINK, I HEARD
11 THE DOOR FLY OPEN, ABOUT TWO SECONDS LATER I
12 HEARD SHOTS FIRED, I TURNED AND RAN THROUGH THE
13 BACK DOOR, WHERE RYAN AND THE GUY WITH DREDS RAN
14 THROUGH." IS THAT NOT WHAT YOU PUT IN THAT
15 STATEMENT?

16 A. RIGHT. THIS IS THE FIRST STATEMENT.

17 Q. THIS IS THE FIRST STATEMENT.

18 A. RIGHT.

19 Q. SO, THIS IS NOT AN ACCURATE STATEMENT?

20 A. THIS ONE ISN'T.

21 Q. ALRIGHT. YOU GAVE ---

22 COURT REPORTER: I'M SORRY, WHAT
23 DID YOU SAY?

24 A. THIS ONE ISN'T.

25 COURT REPORTER: THIS ONE ISN'T?

1 A. RIGHT.

2 Q. ALRIGHT. AND YOU GAVE THIS STATEMENT JULY EIGHT,
3 TWO THOUSAND AND THREE, FOUR DAYS AFTER THE
4 INCIDENT, BUT IT'S NOT ACCURATE?

5 A. RIGHT. THIS ONE.

6 Q. YOUR MEMORY IS FRESHER NOW?

7 A. ON THE OTHER ONE.

8 Q. ALRIGHT. BUT ISN'T IT IMPORTANT FOR YOU, --
9 BECAUSE YOU, I MEAN, YOU GUYS PREPARED FOR THIS
10 CASE, DID YOU NOT?

11 A. NO, I DIDN'T.

12 Q. ALRIGHT. YOU DIDN'T TALK TO THE OTHER WITNESSES,
13 OR TALK TO THE PROSECUTOR?

14 A. NO.

15 Q. ALRIGHT, AND YOU DON'T UNDERSTAND THE IMPORTANCE
16 OF PUTTING YOURSELF IN CIRCUMSTANCES THAT WOULD
17 ALLOW YOU TO SAY YOU COULD IDENTIFY THE
18 ASSAILANT?

19 A. I DIDN'T THAT QUESTION.

20 Q. YOU DON'T UNDERSTAND -- YOU UNDERSTAND WHY IT'S
21 IMPORTANT THAT YOU SHOULD PAINT A STORY THAT
22 WOULD SUGGEST YOU CAN IDENTIFY THE ASSAILANT?

23 A. OH, RIGHT, YES, I UNDERSTAND.

24 Q. CORRECT?

25 A. YES.

CROSS - TRAVIS S. NORTH BY MR. KEARSE

407

1 Q. ALRIGHT, SO YOU CHANGED YOUR STORY TO MAKE -- TO
2 BOOST YOUR CREDIBILITY?

3 A. NO, I DIDN'T.

4 Q. ALRIGHT. BECAUSE YOU KNOW THAT RYAN NORTH IS,
5 WHAT, YOUR OLDER?

6 A. YEAH -- NOT MY OLDER, NEXT TO THE OLDEST.

7 Q. NEXT TO THE OLDEST?

8 A. RIGHT.

9 Q. BUT HE'S YOUR OLDER BROTHER?

10 A. RIGHT.

11 Q. AND YOU DON'T WANT TO SEE ANYTHING HAPPEN TO YOUR
12 BROTHER?

13 A. IT'S NOT THAT. I TOLD THE TRUTH.

14 Q. DID YOU GET ARRESTED FOR THIS?

15 A. NO, SIR.

16 Q. YOUR BROTHER GOT ARRESTED.

17 A. RIGHT.

18 Q. AND YOU KNOW THAT SUCCESS MEANS HE CAN GET WHAT
19 HE'S LOOKING TO GET, PROBATION?

20 A. NO, I DON'T KNOW.

21 Q. YOU DON'T KNOW ANYTHING ABOUT THAT.

22 A. I KNOW HE GOT PROBATION, HE GOT OFFERED A DEAL,
23 BUT AS FAR AS ME PUTTING FORTH, AS IN GETTING
24 THAT, NO.

25 Q. RIGHT. BUT YOU DON'T WANT TO SEE HIM GO TO JAIL?

CROSS - TRAVIS S. NORTH BY MR. KEARSE

408

1 A. I'M NOT GOING TO SAY THAT, BUT, YOU KNOW, ---

2 Q. AND YOU ALSO KNOW HE'S GOT FEDERAL TIME HANGING
3 OVER HIS HEAD?

4 A. RIGHT.

5 Q. HE'S GOT ABOUT FOURTEEN YEARS?

6 A. I DON'T KNOW THE DETAILS.

7 Q. ALRIGHT. BUT YOU RODE UP WITH HIM THIS MORNING,
8 DID YOU NOT?

9 A. RIGHT.

10 Q. RIGHT. AND Y'ALL TALK AND SEE EACH OTHER
11 PRACTICALLY, ALMOST EVERY DAY?

12 A. RIGHT.

13 Q. AND THIS HAS BEEN ONE OF THE MOST IMPORTANT
14 THINGS, AT LEAST IN TERMS OF YOUR LIFE, SINCE
15 JULY, TWO THOUSAND THREE, CORRECT?

16 A. RIGHT.

17 Q. BUT YOU'RE SAYING THAT YOU HAVEN'T HAD ANY
18 DISCUSSIONS ABOUT THIS THING WITH YOUR BROTHER?

19 A. NO.

20 Q. AND ABOUT THE TIME HE'S FACING?

21 A. NO.

22 Q. AND ABOUT HOW YOU CAN HELP HIM OUT?

23 A. NO.

24 Q. ALRIGHT. LET'S ALSO TALK ABOUT, YOU SAY YOU WERE
25 ABLE TO IDENTIFY MR. BRISCOE THROUGH A LINEUP.

CROSS - TRAVIS S. NORTH BY MR. KEARSE

409

1 THAT'S YOUR TESTIMONY, RIGHT?

2 A. RIGHT.

3 Q. YOU COULD PICK HIM OUT AND POINT HIM OUT. BUT
4 ISN'T IT TRUE THAT YOUR BROTHER HAD BEEN, AND HAD
5 CONDUCTED THAT LINEUP THE DAY BEFORE?

6 A. NO.

7 Q. IT'S NOT TRUE?

8 A. NOT AS I KNOW OF.

9 Q. ALRIGHT. IS IT NOT TRUE THAT YOUR BROTHER DROVE
10 YOU UP TO LAW ENFORCEMENT TO DO THIS
11 IDENTIFICATION?

12 A. RIGHT, WE ALL WENT TOGETHER, AT THE SAME TIME.

13 Q. ALRIGHT. AND IN THAT, WHETHER IT WAS BEFORE OR
14 DURING THE DRIVE, YOU AND YOUR BROTHER DISCUSSED
15 THIS LINEUP ---

16 A. NO, WE DID NOT.

17 Q. --- WITH ONE ANOTHER, DID YOU NOT?

18 A. NO, WE DID NOT.

19 Q. ALRIGHT. AND HE TOLD YOU WHAT TO LOOK FOR, AND
20 HOW TO LOOK FOR IT, AND HOW TO PICK THIS GUY OUT?

21 A. NO, HE DIDN'T.

22 Q. ISN'T IT ALSO TRUE THAT WHEN YOU GOT IN THAT ROOM
23 THE OFFICER TALKED TO YOU?

24 A. YES, HE TALKED TO ME.

25 Q. ALRIGHT. AND HE SAID MORE THAN JUST, I'M NOT

1 SAYING THAT THE PERSON IS IN THE PHOTOGRAPHS, I'M
2 NOT SAYING HE'S NOT. HE SAID A LITTLE MORE THAN
3 THAT, DIDN'T HE?

4 A. NO, HE DID NOT.

5 Q. YOU DON'T RECALL HIM TELLING YOU, I WANT YOU TO
6 KNOW THAT BECAUSE YOUR BROTHER WAS HERE A DAY OR
7 TWO BEFORE, WE'VE CHANGED THESE PHOTOS AROUND FOR
8 YOU?

9 A. NO, HE DIDN'T -- I DON'T REMEMBER HIM MENTIONING
10 THAT.

11 Q. ALRIGHT. YOU DON'T RECALL HIM HELPING, OR
12 ASSISTING, OR KIND OF EDGING YOU TO MAKE SURE YOU
13 GOT THE RIGHT GUY, WHICH YOU KNEW ANYWAY?

14 A. HE LAID THE PICTURES OUT IN FRONT OF ME AND TOLD
15 ME TO PICK.

16 Q. ALRIGHT. AND SO, HE DIDN'T SAY ANYTHING OF THAT
17 NATURE?

18 A. NO.

19 Q. ALRIGHT. AND ISN'T IT ALSO TRUE THAT THIS THING
20 TOOK PLACE, THIS LINEUP YOU GUYS WENT AND PICKED
21 OUT, OVER A YEAR AFTER THIS INCIDENT?

22 A. NO. IT WASN'T OVER A YEAR.

23 Q. IT WASN'T OVER A YEAR, AUGUST, TWO THOUSAND FOUR,
24 WHEN -- WE'RE TALKING ABOUT MR. BRISCOE?

25 A. ME PICKING THE LINEUP?

CROSS - TRAVIS S. NORTH BY MR. KEARSE

411

1 Q. RIGHT.

2 A. NO. IT COULDN'T HAVE BEEN OVER A YEAR.

3 Q. AND YOU SAY IN YOUR PHYSICAL -- IN YOUR PHYSICAL
4 DESCRIPTION YOU GAVE A -- YOU'VE GOT YOUR
5 STATEMENT IN FRONT OF YOU, DON'T YOU?

6 A. RIGHT.

7 Q. ALRIGHT. YOU GAVE A FAIRLY GENERIC DESCRIPTION,
8 YOU SAID, SOME GUY MAYBE SLIM, BALD HEADED, LIGHT
9 SKINNED?

10 A. RIGHT.

11 Q. AND YOU AIN'T SAID NOTHING ABOUT CLOTHES,
12 CORRECT?

13 A. NO.

14 Q. YOU CAN REMEMBER THAT? YOU CAN REMEMBER HIS
15 SHOES, YOU CAN REMEMBER A JACKET OR IF HE DID NOT
16 HAVE A JACKET, IF HE HAD A HAT OR IF HE DIDN'T
17 HAVE A HAT. YOU JUST SAID, LIGHT SKINNED, BALD,
18 WHATEVER. CORRECT?

19 A. RIGHT.

20 Q. ALRIGHT. AND THEN, OVER A YEAR LATER SOMEHOW YOU
21 PICKED THIS GUY OUT OF THIS PHOTOGRAPH?

22 A. RIGHT.

23 Q. AND IN THAT PHOTOGRAPH, IT WAS DIFFERENT THAN
24 YOUR DESCRIPTION, WAS IT NOT?

25 A. NO. IN THE PHOTOGRAPH - YEAH, THE PHOTOGRAPH WAS

1 A LITTLE DIFFERENT.

2 Q. ALRIGHT. BECAUSE THIS GUY WAS NOT BALD HEADED.

3 A. YES, HE WAS. THE GUY THAT I SEEN THAT NIGHT WAS
4 BALD HEADED.

5 Q. ALRIGHT. AND THE GUY IN THE PHOTOGRAPH WAS NOT?

6 A. NO.

7 Q. BUT OVER A YEAR LATER YOU JUST, YOUR MEMORY IS SO
8 GOOD, YOU CAN JUST REMEMBER EXACTLY WHO THAT
9 PERSON IS WITHOUT COACHING?

10 A. YES.

11 Q. ALRIGHT. NOW, YOU KNOW THAT YOUR BROTHER AND
12 SMOKE HAVE A RELATIONSHIP?

13 A. NO, I DON'T.

14 Q. ALRIGHT, BUT YOU KNOW YOUR BROTHER SELLS DRUGS?

15 A. THAT'S IN THE PAST.

16 Q. BUT HE WAS SELLING DRUGS AT THE TIME?

17 A. RIGHT.

18 Q. AND YOU KNOW THAT HE WAS NEGOTIATING A DEAL TO
19 SELL DRUGS, ACCORDING TO HIS TESTIMONY?

20 A. NO.

21 Q. HE WASN'T GOING TO SELL DRUGS?

22 A. NO.

23 Q. HAD HE BOUGHT DRUGS THAT DAY?

24 A. I DON'T, I WASN'T WITH HIM THAT WHOLE DAY.

25 Q. ALRIGHT. YOU DON'T RECALL YOUR BROTHER GIVING

CROSS - TRAVIS S. NORTH BY MR. KEARSE

413

1 SMOKE SIX HUNDRED DOLLARS FOR SOME DRUGS?

2 A. NO, I DIDN'T SEE WHEN HE GIVE HIM THE MONEY.

3 Q. ALRIGHT. NOW, YOU SAID THIS CAR PULLED UP AT
4 THIS TRUCK STOP, CORRECT?

5 A. RIGHT.

6 Q. THE GRAND AM, SUPPOSEDLY, AND IT PULLED RIGHT
7 NEXT TO YOU GUYS?

8 A. NO, IT DIDN'T.

9 Q. WELL, YOU SAID YOUR BROTHER WAS TALKING TO THEM?

10 A. RIGHT.

11 Q. IT WAS AT THE TRUCK STOP?

12 A. RIGHT.

13 Q. AND YOU GUYS WERE AT THE TRUCK STOP?

14 A. RIGHT.

15 Q. AND YOU WERE IN THE CAR?

16 A. RIGHT.

17 Q. YOU COULD SEE THE CAR?

18 A. RIGHT.

19 Q. CLEAR ENOUGH, TO YOUR TESTIMONY, WHERE YOU CAN
20 IDENTIFY IT?

21 A. THE CAR, YES.

22 Q. AND YOUR BROTHER WAS TALKING TO THESE GUYS?

23 A. RIGHT.

24 Q. AND YOU'RE SAYING THAT ANTHONY FOLK, OTHERWISE
25 KNOWN AS DEE DEE, WAS RIGHT THERE NEXT TO YOU,

1 CORRECT?

2 A. RIGHT.

3 Q. ALRIGHT. AND HE WAS EITHER PUMPING GAS RIGHT NEXT
4 TO YOU, OR SITTING RIGHT NEXT TO YOU, CORRECT?

5 A. HE WAS PUMP -- HE WAS SITTING NEXT TO ME, HE GOT
6 OUT AND STARTED PUMPING THE GAS.

7 Q. ALRIGHT. I MEAN, SO HE WAS IN THE SAME AREA,
8 WITHIN THE SAME PROXIMITY THAT YOU WERE IN
9 RELATIONSHIP TO THIS CAR, IS THAT CORRECT?

10 A. HE WAS IN THE FRONT SEAT ON THE PASSENGER SIDE,
11 AND I WAS IN THE BACK SEAT.

12 Q. ALRIGHT. THE ENTIRE TIME?

13 A. RIGHT.

14 Q. OKAY. NOW, YOU ALSO SAY THAT, AND I WANT YOU TO
15 REFER TO YOUR STATEMENT -- AND TODAY, YOU SAY
16 THAT YOU SAW YOUR BROTHER RUN OUT THE BACK DOOR?

17 A. I SEEN HIM WHEN HE RAN, I DIDN'T KNOW WHETHER HE
18 RAN OUT THE BACK DOOR.

19 Q. OKAY. AND YOU DIDN'T SEE THE GUY WITH THE DRED
20 LOCKS, WHETHER HE RAN OUT THE BACK DOOR?

21 A. I NEVER DID SEE HIM.

22 Q. ALRIGHT, BUT THAT'S WHAT YOU SAY IN YOUR
23 STATEMENT.

24 A. AFTER THE SHOOTING I NEVER DID SEE THE GUY WITH
25 THE DREDS.

CROSS - TRAVIS S. NORTH BY MR. KEARSE

415

1 Q. ALRIGHT, WELL, MY QUESTION IS, ISN'T THAT WHAT
2 YOU SAY IN YOUR STATEMENT?

3 A. YES.

4 Q. OR IS THAT WHAT YOU TOLD -- YOU TOLD THEM, I RAN
5 OUT THE BACK DOOR, RYAN RAN OUT THE BACK DOOR, WE
6 ALL RAN OUT THE BACK DOOR?

7 A. RIGHT, IN THE FIRST STATEMENT.

8 Q. RIGHT. BUT IF YOU ALLEGEDLY, AS YOU TESTIFIED
9 TODAY, RAN INTO THE CLOSET, YOU COULD NOT HAVE
10 SEEN ANYBODY RUN ANYWHERE, IS THAT CORRECT?

11 A. RIGHT.

12 Q. BECAUSE YOU'RE IN THE CLOSET?

13 A. RIGHT.

14 Q. SO, YOU DID NOT TELL THE TRUTH, OR YOU'RE NOT
15 TELLING THE TRUTH NOW, WHICH ONE IS IT?

16 A. SIR, I'M TELLING YOU WHAT I SAW.

17 MR. KEARSE: I BEG THE COURT'S
18 INDULGENCE, YOUR HONOR.

19 THE COURT: UH HUH.

20 Q. DO YOU KNOW WHY YOUR BROTHER JERMAINE CUSACK'S
21 BOND HEARING?

22 A. NO, I DON'T.

23 Q. DID HE DISCUSS WITH YOU WHY HE WAS CALLING
24 JERMAINE ABOUT TWO DAYS AFTER THIS THING?

25 A. NO, HE DIDN'T.

CROSS - TRAVIS S. NORTH BY MR. KEARSE

416

1 Q. SO, YOU DON'T, ISN'T IT TRUE, YOU GUYS WERE JUST
2 GETTING YOUR STORY TOGETHER?

3 A. NO.

4 Q. ALRIGHT. AND ISN'T IT TRUE, ALL OF Y'ALL
5 DISCUSSED THIS THING DURING THE YEAR OR SO
6 PENDING SMOKE'S TRIAL?

7 A. NO, WE DIDN'T.

8 Q. HAD NO CONTACT WITH ONE ANOTHER, NOTHING, JUST --

9 -

10 A. WE NEVER TALKED ABOUT THE CASE.

11 Q. NEVER TALKED ABOUT THE CASE AT ALL?

12 A. NO.

13 Q. ALRIGHT. AND WHEN YOU DROVE UP HERE THIS MORNING
14 WITH YOUR BROTHER YOU NEVER TALKED ABOUT THE
15 CASE?

16 A. NO.

17 Q. ALRIGHT.

18 MR. KEARSE: THAT'S ALL.

19 THE COURT: ANY REDIRECT?

20 SOLICITOR BELL: YES, YOUR HONOR.

21 THE COURT: YOU MAY PROCEED.

22 (NOTE: Blank lines on this page do not indicate any
23 part of record has been omitted. Headers on testimony
24 pages and hard page breaks between testimony are now
25 required by the Court.)

REDIRECT - TRAVIS S. NORTH BY SOL. BELL

417

REDIRECT EXAMINATION OF TRAVIS S. NORTH

BY SOLICITOR BELL:

Q. MR. NORTH, DID ANYBODY TELL YOU WHAT TO SAY HERE
THIS MORNING?

A. NO, SIR.

Q. WHY IS THAT STATEMENT THAT YOU WERE SHOWN
DIFFERENT FROM WHAT YOU TESTIFIED TODAY?

A. BECAUSE WHEN, THE FIRST TIME WHEN I WROTE THIS
STATEMENT I TOLD THEM THAT I DIDN'T SEE NOTHING
BECAUSE I WAS NERVOUS, AND I TOLD THE POLICE
THAT. I DIDN'T -- I HEARD FROM SOME STREET TALK
THAT THE GUYS WAS COMING BACK.

Q. AND THAT WAS WHY YOU WERE NERVOUS?

A. YES, SIR.

Q. YOU WERE SCARED SOMEBODY WAS GOING TO COME AFTER
YOU?

A. YES, SIR.

Q. DID ANYBODY TELL YOU WHAT TO TESTIFY TO TODAY?

A. NO, SIR.

Q. DID YOU TALK TO YOUR BROTHER ABOUT WHAT YOU'VE
TESTIFIED TO TODAY?

A. NO, SIR.

Q. DID YOU TALK TO ANTHONY FOLK ABOUT WHAT YOU'VE
TESTIFIED TO TODAY?

A. NO, SIR.

REDIRECT - TRAVIS S. NORTH BY SOL. BELL

418

1 Q. DID YOU TALK TO SMOKE, JASSON TURNER, ABOUT WHAT
2 YOU TESTIFIED TODAY?

3 A. NO, SIR.

4 Q. DID ANYBODY TELL YOU WHAT PICTURES TO PICK OUT IN
5 BOTH OF THOSE LINEUPS, STATE'S THIRTEEN AND
6 FOURTEEN FOR IDENTIFICATION?

7 A. NO, SIR.

8 Q. NOBODY TOLD YOU WHAT PICTURES TO PICK OUT?

9 A. NO, SIR.

10 Q. DID YOU KNOW STEVEN BRISCOE, DO YOU KNOW STEVEN
11 BRISCOE?

12 A. NO, SIR.

13 Q. DID YOU EVER KNOW THAT NAME?

14 A. NO, SIR.

15 MR. KEARSE: THANK YOU, I HAVE
16 NOTHING FURTHER.

17 THE COURT: ANY OBJECTION TO THE
18 WITNESS BEING EXCUSED FROM THE STATE?

19 SOLICITOR BELL: NONE FROM THE
20 STATE, YOUR HONOR.

21 THE COURT: FROM THE DEFENSE?

22 MR. KEARSE: NONE FROM THE
23 DEFENSE, YOUR HONOR.

24 THE COURT: SIR, YOU'RE EXCUSED.
25 MR. FOREMAN, AND LADIES AND

REDIRECT - TRAVIS S. NORTH BY SOL. BELL

419

1 GENTLEMEN, WE'RE GOING TO TAKE ADVANTAGE OF THIS BREAK
2 IN TESTIMONY TO TAKE OUR LUNCH AND RECESS. WE WILL
3 BREAK UNTIL TWO O'CLOCK. DURING THE BREAK PLEASE DO
4 NOT DISCUSS THIS CASE WITH ANYONE OR AMONG YOURSELVES,
5 PLEASE DO NOT WATCH, READ OR LISTEN TO ANY MEDIA
6 REPORTS ABOUT THIS CASE IF THERE ARE ANY. WHEN YOU
7 RETURN TO COURT HOUSE PLEASE RETURN DIRECTLY TO YOUR
8 JURY ROOM, AND AGAIN, PLEASE DON'T HAVE ANY CONTACT
9 WITH ANYONE IN OR ABOUT THE COURT HOUSE, I WOULD HATE
10 FOR AN INNOCENT CONVERSATION TO BE OBSERVED BY A THIRD
11 PARTY AND MISCONSTRUED.

12 I HOPE Y'ALL HAVE A GOOD LUNCH AND
13 WE'LL SEE YOU AT TWO.

14 AND YOU CAN LEAVE YOUR NOTE PADS
15 IN YOUR SEATS.

16 (Whereupon, the jury leaves
17 the courtroom.)

18 THE COURT: WHO WILL BE THE NEXT
19 WITNESS, MR. HARRISON -- MR. BELL, AFTER LUNCH?

20 SOLICITOR BELL: ASSUMING HE'S
21 HERE, DR. SEXTON, HE'S SUPPOSED TO BE HERE AT TWO
22 O'CLOCK.

23 THE COURT: OKAY, AND THEN HOW
24 MANY ---

25 SOLICITOR BELL: IF NOT, ---

REDIRECT - TRAVIS S. NORTH BY SOL. BELL

420

1 THE COURT: WHO ELSE AFTER THAT,
2 DO YOU KNOW?

3 SOLICITOR BELL: PROBABLY, I
4 ANTICIPATE DETECTIVE ASBELL, I MAY HAVE A KAREN CROUCH
5 I WANT TO FIT HER IN PROBABLY AFTER THAT, SHE SHOULD
6 BE FAIRLY BRIEF, AND IT WOULD BE PROBABLY DETECTIVE
7 MARSHALL, DETECTIVE DIXSON, LIEUTENANT VAN DORAN,
8 VELLO PAAVEL FROM SLED.

9 THE COURT: THAT SHOULD TAKE US
10 THROUGH TODAY.

11 SOLICITOR BELL: AND THAT'S GOING
12 TO COME CLOSE, I WOULD HAVE PROBABLY ONE OR TWO MORE
13 AFTER THAT ---

14 THE COURT: OKAY.

15 SOLICITOR BELL: --- DEPENDING ON
16 THE TIME.

17 THE COURT: OKAY. MR. KEARSE, YOU
18 HAD MENTIONED SOMETHING ABOUT CROSS-EXAMINING A
19 WITNESS REGARDING A POLYGRAPH TEST, I ASSUME YOU
20 DECIDED NOT TO DO THAT, SINCE YOU DIDN'T BRING IT UP
21 PRIOR TO THAT, WITNESS TESTIFYING?

22 MR. KEARSE: YEAH, YOUR HONOR, I
23 DON'T THINK THE LAW SUPPORTS IT.

24 THE COURT: OKAY. I JUST WANTED TO
25 MAKE SURE.

REDIRECT - TRAVIS S. NORTH BY SOL. BELL

421

1 MR. KEARSE: BUT IF THE COURT'S
2 GOING TO GIVE ME A FORMAL RULING ON IT, ---

3 . THE COURT: WELL, I DON'T THINK I
4 CAN GIVE YOU A FORMAL RULING ON SOMETHING YOU DIDN'T
5 BRING UP BEFORE THE WITNESS. MY RESEARCH REFLECTS,
6 PURSUANT TO STATE VERSUS COUNSEL AND STATE VERSUS
7 JACKSON, THAT I WOULD HAVE TO HAVE AN IN CAMERA
8 HEARING REGARDING THE POLYGRAPH AND DETERMINE ITS
9 RELIABILITY PURSUANT TO THE EVIDENTIARY RULES THAT ARE
10 APPLICABLE, AND THE MAKE A DECISION. BUT I CAN'T MAKE
11 A HYPOTHETICAL DECISION. I THINK THAT WOULD BE
12 ADVISORY IN NATURE AND WOULD BE INAPPROPRIATE.

13 MR. KEARSE: YEAH, I DIDN'T BRING
14 IT UP, SO ---

15 THE COURT: OKAY. ALRIGHT, THEN,
16 I JUST WANTED TO MAKE SURE, TO SEE IF I NEEDED TO MAKE
17 ANY FURTHER PREPARATION REGARDING THE ISSUE.

18 I'LL SEE YOU ALL AT TWO, HAVE A
19 GOOD LUNCH.

20 SOLICITOR BELL: THANK YOU, YOUR
21 HONOR.

22 (Recess)

23 THE COURT: IS THE STATE READY TO
24 PROCEED?

25 SOLICITOR BELL: THE STATE'S

REDIRECT - TRAVIS S. NORTH BY SOL. BELL

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1 READY, YOUR HONOR.

2 THE COURT: IS THE DEFENSE READY
3 TO PROCEED?

4 MR. KEARSE: THE DEFENSE IS READY,
5 YOUR HONOR.

6 THE COURT: PLEASE BRING IN THE
7 JURY.

8 (Whereupon, the following
9 takes place in the
10 presence of the jury.)

11 THE COURT: LADIES AND GENTLEMEN,
12 I HOPE THAT YOU ALL HAD A GOOD LUNCH, WE'LL NOW RESUME
13 WITH THE TRIAL OF THE STATE'S CASE.

14 YOU MAY PROCEED, MR. BELL.

15 SOLICITOR BELL: THANK YOU, YOUR
16 HONOR, THE STATE WOULD CALL DR. JOEL SEXTON TO THE
17 STAND.

18 CLERK: COME STAND RIGHT HERE AND
19 RAISE YOUR RIGHT HAND AND PLACE YOUR LEFT HAND ON THE
20 BIBLE, AND GIVE US YOUR FULL NAME.

21 WITNESS: DR. JOEL STEVEN SEXTON.
22 (Whereupon, the witness,
23 DR. JOEL STEVEN SEXTON,
24 is duly sworn.)

25 CLERK: THANK YOU, COME AROUND AND

REDIRECT - TRAVIS S. NORTH BY SOL. BELL

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1 HAVE A SEAT.

2 THE COURT: YOU MAY PROCEED.

3 SOLICITOR BELL: THANK YOU, YOUR

4 HONOR.

5 THE COURT: YOU'RE WELCOME.

6 (NOTE: Blank lines on this page do not indicate any
7 part of record has been omitted. Headers on testimony
8 pages and hard page breaks between testimony are now
9 required by the Court. See next ensuing page for
10 sequential continuation of record.)

DIRECT - DR. JOEL S. SEXTON BY SOL. BELL

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DIRECT EXAMINATION OF DR. JOEL S. SEXTON

BY SOLICITOR BELL:

Q. WOULD YOU STATE YOUR NAME AGAIN FOR THE RECORD,
PLEASE?

A. DR. JOEL STEVEN SEXTON.

Q. DR. SEXTON, WHERE ARE YOU EMPLOYED?

A. AT NEWBERRY, SOUTH CAROLINA, I'M THE DIRECTOR OF
PATHOLOGY AND A CONSULTING FORENSIC PATHOLOGIST
FOR APPROXIMATELY TWENTY-SIX OF THE COUNTY
CORONERS.

Q. AND CAN YOU PLEASE TELL THE JURY A LITTLE BIT
ABOUT YOUR EDUCATIONAL BACKGROUND?

A. I GRADUATED FROM THE UNIVERSITY OF VIRGINIA IN
NINETEEN FIFTY-EIGHT, I SERVED IN THE NAVY FOR
THREE YEARS SINCE I WAS ON A NAVAL SCHOLARSHIP, I
ENTERED THE MEDICAL COLLEGE OF SOUTH CAROLINA IN
NINETEEN SIXTY-ONE AND OBTAINED A DEGREE IN
CHEMISTRY, A MASTERS IN CHEMISTRY FROM THE
ANALYTICAL CHEMISTRY DEPARTMENT. THEN I WENT ON
TO MED SCHOOL THERE AND IN NINETEEN SIXTY-EIGHT
BE CAME A MEDICAL DOCTOR AND BECAME LICENSED IN
THIS STATE. I STUDIED THERE FURTHER IN THE FIELD
PATHOLOGY, AND IN NINETEEN SEVENTY-TWO BECAME
NATIONALLY BOARD CERTIFIED IN ANATOMIC PATHOLOGY,
CHEMICAL PATHOLOGY, AND FORENSIC PATHOLOGY. I

DIRECT - DR. JOEL S. SEXTON BY SOL. BELL

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1 THEN TAUGHT AT THE MEDICAL UNIVERSITY AND WAS THE
2 FORENSIC PATHOLOGIST IN CHARGE OF THE SECTION OF
3 FORENSIC PATHOLOGY AT THE MEDICAL UNIVERSITY FROM
4 SEVENTY-TWO TO NINETEEN EIGHTY-THREE, WHEN I
5 MOVED TO NEWBERRY INTO PRIVATE PRACTICE.

6 Q. AND YOU'VE BEEN IN PATHOLOGY YOUR ENTIRE CAREER?

7 A. THAT'S CORRECT.

8 Q. OKAY. AND HAVE YOU EVER BEEN QUALIFIED IN THE
9 COURTS OF THE STATE OF SOUTH CAROLINA AS AN
10 EXPERT IN THE FIELD -- A MEDICAL EXPERT IN THE
11 FIELD OF FORENSIC PATHOLOGY?

12 A. YES, OVER SEVEN HUNDRED TIMES.

13 Q. AND ANY OTHER COURTS OF RECORD HAVE YOU BEEN
14 QUALIFIED IN THAT YOU COULD NAME?

15 A. IN THE FEDERAL COURTS AND IN SOME NEIGHBORING
16 STATES.

17 SOLICITOR BELL: YOUR HONOR, WE'D
18 OFFER DR. SEXTON AS AN EXPERT IN FORENSIC PATHOLOGY.

19 THE COURT: ANY EXCEPTIONS OR
20 QUESTIONS?

21 MR. KEARSE: NO QUESTIONS, YOUR
22 HONOR, AND NO EXCEPTIONS.

23 THE COURT: SO ADMITTED. YOU MAY
24 PROCEED.

25 SOLICITOR BELL: THANK YOU, YOUR

DIRECT - DR. JOEL S. SEXTON BY SOL. BELL

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1 HONOR.

2 Q. DR. SEXTON, I WANT TO DIRECT YOUR ATTENTION BACK
3 TO JULY OF TWO THOUSAND THREE, I BELIEVE JULY
4 EIGHTH -- EXCUSE ME, JULY FOURTH. DID YOU HAVE
5 AN OCCASION TO EXAMINE THE BODY OF A MARK COOK?

6 A. I DID. HE WAS BROUGHT TO US ON THE FOURTH OF
7 JULY AND MYSELF AND DR. ROSS AUTOPSIED HIM.

8 Q. OKAY. AND LET ME -- BEFORE I START THAT LET ME
9 GET A LITTLE INTO -- I KIND GOT AHEAD OF MYSELF.
10 COULD YOU TELL JURY GENERALLY WHAT THE FIELD OF
11 PATHOLOGY IS, AND THE MORE SPECIFICALLY WHAT
12 FORENSIC PATHOLOGY IS?

13 A. A PATHOLOGIST, AS I MENTIONED, IS AN M.D. WHO
14 STUDIES HOW TO DIAGNOSIS ILLNESS AND DISEASE FROM
15 LOOKING AT TISSUE. MOST PHYSICIANS EXAMINE AN
16 INDIVIDUAL AND CHECK THEIR SIGNS AND SYMPTOMS AND
17 DO PHYSICALS. WE EXAMINE TISSUE, TISSUE REMOVED
18 AT SURGERY SO WE CAN HELP YOUR PHYSICIAN
19 UNDERSTAND WHETHER YOU HAVE CANCER OR SOME OTHER
20 CONDITION AND TO WHAT EXTENT IT'S PRESENT IN THE
21 BODY, TISSUE THAT'S USED IN THE LABORATORIES,
22 SUCH AS BLOOD, CEREBRAL SPINAL FLUID, URINE, TO
23 DETERMINE IF YOU HAVE THE NORMAL CONSTITUENTS OF
24 THOSE PARTICULAR FLUIDS IN THE BODY, AND WHETHER
25 THEY ARE THERE IN NORMAL QUANTITY. A PERSON THAT

DIRECT - DR. JOEL S. SEXTON BY SOL. BELL

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1 DIES IN THE HOSPITAL, THE PHYSICIANS ASK THE
2 FAMILY IF THEY WOULD LIKE FOR AN AUTOPSY TO BE
3 DONE TO DETERMINE MORE ABOUT THAT PARTICULAR
4 ILLNESS OR DISEASE TO HELP THE PHYSICIANS IN THE
5 FUTURE TREAT THAT CONDITION, AND TO HELP THE
6 FAMILY AND THE PHYSICIANS UNDERSTAND THE SYMPTOMS
7 THAT THAT PARTICULAR PATIENT HAD. SO
8 PATHOLOGISTS DO THESE TYPES OF PROCEDURES. IN THE
9 CASE OF THE LABORATORY WE DON'T ACTUALLY THE
10 TESTS, WE SUPERVISE THE TESTS TO MAKE SURE THEY
11 ARE DONE PROPERLY AS FAR AS EXAMINING THE URINE,
12 SPINAL FLUID AND BLOOD. IN ADDITION, A FORENSIC
13 PATHOLOGIST WITH THAT BACKGROUND AND TRAINING IS
14 TAUGHT HOW TO RECOGNIZE VARIOUS INJURIES ON THE
15 BODY AND WHAT CAUSED IT, AS WELL AS EXAMINING
16 SCENES OF DEATH TO DETERMINE FACTS AT THE SCENE
17 THAT HELP NOT ONLY TO DETERMINE THE CAUSE OF
18 DEATH BUT THE CIRCUMSTANCES, FOR INSTANCE, HOW
19 DID A DEATH OCCUR, WAS IT AT THE HANDS OF THE
20 INDIVIDUAL, HIMSELF OR HERSELF, WAS IT AN ACT OF
21 GOD IN SOME TYPE OF ACCIDENT, OR WAS IT AT THE
22 HANDS OF ANOTHER, OR WAS IT JUST SOME TYPE OF
23 NATURAL DISEASE THAT TENDED TO MIMIC SOME SORT OF
24 TRAUMA, SO THAT A PATHOLOGIST EXAMINES TISSUES,
25 EXAMINES FLUIDS, INDICATES -- A FORENSIC

DIRECT - DR. JOEL S. SEXTON BY SOL. BELL

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1 PATHOLOGIST EXAMINES SCENES AND BODIES THAT HAVE
2 BEEN FROM SCENES TO DETERMINE NOT ONLY THE CAUSE
3 OF DEATH BUT AS MUCH AS POSSIBLE ABOUT THE
4 CIRCUMSTANCES SURROUNDING THAT DEATH, AND COLLECT
5 EVIDENCE.

6 Q. NOW, DR. SEXTON, I WANT TO DIRECT YOUR ATTENTION
7 BACK TO JULY FOURTH, TWO THOUSAND AND THREE, MARK
8 COOK. WHO BROUGHT THE BODY TO YOUR OFFICE?

9 A. THE DEPUTY CORONER FROM THIS COUNTY, ALICE DURR.

10 Q. AND ONCE YOU RECEIVED THE BODY WHAT DID YOU DO?

11 A. WE FIRST EXAMINE THE BODY EXTERNALLY,
12 PHOTOGRAPHING THE BODY AS IT COMES, THEN WE
13 SLOWLY REMOVE THE CLOTHING AFTER LOOKING TO SEE
14 IF THERE'S ANY EVIDENCE EXTERNALLY, AND THEN WE
15 EXAMINE THE EXTERNAL SURFACE OF THE BODY AFTER
16 REMOVING THE CLOTHING TO SEE IF THERE'S ANYMORE
17 EVIDENCE. IF NOT -- OR IF THERE IS, WE COLLECT
18 IT. AFTER WE DO, THEN WE CLEAN THE BODY SO WE
19 MAKE SURE WE DON'T MISS INJURIES THAT MIGHT BE
20 HIDDEN BY BLOOD OR SOME DEBRIS. AND THEN, AFTER
21 WE'VE DOCUMENTED ALL OF THAT WITH DIAGRAMS, WITH
22 DICTATION, WITH PHOTOGRAPHS, WE DO A COMPLETE
23 INTERNAL EXAMINATION TO SEE IF THERE IS ANY
24 DISEASE OR ILLNESS, AND IN THE CASE OF TRAUMA, TO
25 SEE IF THE EXTENT OF THE INTERNAL TRAUMA, AND TO

DIRECT - DR. JOEL S. SEXTON BY SOL. BELL

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1 RECOVER EVIDENCE SUCH AS BULLETS THAT MIGHT BE
2 PRESENT.

3 Q. AND WHAT DID YOU EXAMINE, OR WHAT WAS THE RESULT
4 OF YOUR EXAMINATION OF MARK COOK?

5 A. WE FOUND THAT HE DID HAVE AN ENLARGED HEART, BUT
6 THAT WAS NOT HIS CAUSE OF DEATH BECAUSE HE HAD
7 FIVE GUN SHOT WOUNDS, AND WE RECOVERED FIVE
8 BULLETS. ALL FIVE OF THESE ENTERED FROM HIS
9 RIGHT SIDE, THREE OF THEM PASSING THROUGH HIS
10 RIGHT UPPER ARM AND INTO HIS CHEST, ONE ACTUALLY
11 ENTERED THE CHEST CAVITY AND STRUCK HIS HEART AND
12 BOTH LUNGS, CAUSING FATAL INTERNAL BLEEDING. THE
13 OTHER TWO SIMPLY WERE IN THE SUBCUTANEOUS TISSUE
14 BETWEEN THE RIBS AND THE SKIN WHEN THEY WERE
15 RECOVERED. ONE ENTERED HIS RIGHT SIDE DOWN NEAR
16 HIS WAIST, WENT ACROSS HIS BODY AND THE
17 SUBCUTANEOUS TISSUE, AND WAS RECOVERED FROM HIS
18 LEFT LEG. ANOTHER ENTERED HIS RIGHT BACK AND WAS
19 RECOVERED FROM INSIDE THE ABDOMEN, IT HAD
20 PERFORATED THE PORTION OF THE INTESTINES THAT
21 ARE, OR THE PORTION THAT HOLDS THE INTESTINES IN
22 PLACE THAT WE CALL THE MESENTERY, AND CAUSED A
23 LITTLE BLEEDING IN THE ABDOMEN DUE TO THAT GUN
24 SHOT WOUND. BUT THE MOST BLEEDING WAS IN THE
25 CHEST DUE TO THE ONE THAT WENT THROUGH THE HEART

DIRECT - DR. JOEL S. SEXTON BY SOL. BELL

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1 AND BOTH LUNGS.

2 Q. DR. SEXTON, DURING THE COURSE OF THE AUTOPSY, DID
3 YOU PREPARE SOME DIAGRAMS AS TO WHAT YOU FOUND?

4 A. I DID.

5 Q. DR. SEXTON, WHAT I WANT TO SHOW YOU IS TWO BLACK
6 AND WHITE PAGES AND ASK IF YOU RECOGNIZE THESE?

7 A. YES, THESE ARE COPIES OF THE TWO DIAGRAMS THAT I
8 MADE.

9 Q. THAT YOU MADE IN PREPARATION FOR THIS CASE?

10 A. YES, THAT'S CORRECT.

11 Q. TO AID YOU IN EXPLAINING THE WOUNDS THAT WERE
12 PRESENT IN THE BODY OF MARK COOK?

13 A. YES, IN MY OPINION THEY DO.

14 SOLICITOR BELL: YOUR HONOR, WE
15 WOULD OFFER THESE TWO INTO EVIDENCE.

16 MR. KEARSE: YOUR HONOR, I OBJECT.

17 THE COURT: I RESERVE RULING ON IT
18 UNTIL HE'S HAD AN OPPORTUNITY TO REVIEW THE DOCUMENTS.
19 THEY CAN BE MARKED FOR ID ONLY.

20 COURT REPORTER: STATE'S FIFTEEN
21 AND SIXTEEN, ID.

22 (State's Exhibits Fifteen and Sixteen,
23 Diagrams by Dr. Sexton,
24 marked for identification.)

25 SOLICITOR BELL: WHAT I'D LIKE TO

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1 DO, YOUR HONOR, IS PUT THEM UP ON THE OVERHEAD SO WE
2 HAVE HIM USE A LASER PEN SO HE CAN POINT OUT ---

3 THE COURT: CERTAINLY, YOU MAY
4 PROCEED.

5 SOLICITOR BELL: THANK YOU, YOUR
6 HONOR.

7 Q. FIRST, I'M PUTTING ON WHAT'S BEEN MARKED STATE'S
8 FIFTEEN FOR IDENTIFICATION. DR. SEXTON, I'LL
9 HAND YOU THE LASER POINTER AND ASK IF YOU COULD
10 SHOW THE JURY THE WOUNDS THAT YOU WERE TALKING
11 ABOUT THAT YOU FOUND?

12 A. THE WOUNDS ARE NUMBERED, YOU MAY HAVE TROUBLE
13 READING IT FROM WHERE YOU ARE, BUT THEY'RE
14 NUMBERED ONE THROUGH FIVE. THIS IS AN ARBITRARY
15 NUMBERING BECAUSE I CANNOT TELL IN WHAT SEQUENCE
16 THE SHOTS OCCURRED. I HAVE AN IDEA, BASED ON
17 WHETHER THEY ARE HORIZONTAL OR GOING AT DIFFERENT
18 ANGLES, BUT I CAN'T TELL WHICH ONE CAME FIRST.
19 NUMBER ONE IS HERE AT THIS LOCATION, AND THAT
20 ENTERS THE LATERAL ASPECT OF THE RIGHT ARM, AND
21 IT GOES ACROSS THE BODY, THEN IT'S LOOSE IN THE
22 LEFT CHEST CAVITY, AND THAT'S THE FATAL WOUND,
23 THE ONE THAT GOES ACROSS THE CHEST, ENTERS THE
24 RIGHT LUNG, THE HEART, THE LEFT LUNG, AND THEN
25 IT'S LOOSE IN THE LEFT CHEST CAVITY. THE ONE

DIRECT - DR. JOEL S. SEXTON BY SOL. BELL

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1 BELOW THAT ENTERED JUST A FEW INCHES BELOW, NOT
2 QUITE TWO INCHES BELOW, IT GOES ACROSS BUT ONLY
3 ENTERS THE SUBCUTANEOUS TISSUE AND IS FOUND THERE
4 JUST UNDER THE SKIN ON THE FRONT OF THE CHEST.
5 IT'S OF INTEREST, HE HAS AN INJURY ON HIS
6 FOREARM, AN ABRASION THAT'S CONSISTENT WITH THE
7 FOREARM BEING AT THAT LOCATION WHEN THE BULLET
8 HITS THE SKIN, BECAUSE IT TENDED TO SCRAPE THE
9 ARM AT THAT POINT. THERE'S ANOTHER THAT ENTERS
10 THE BACK OF THE RIGHT ARM AND PASSES UPWARD, IT
11 LOOKS LIKE IT'S GOING INTO THE BACK HERE, BUT
12 IT'S, IN FACT, COMING UNDERNEATH THE ARM AND IT
13 ALSO IS FOUND IN THE SKIN ABOVE THE RIBS AND
14 BETWEEN THE SKIN AND THE RIBS OF THE RIGHT CHEST.
15 SO, THOSE ARE THREE THAT ENTERED THE RIGHT UPPER
16 ARM AND ARE FOUND EITHER IN THE SUBCUTANEOUS
17 TISSUE OF THE CHEST OR INSIDE THE CHEST WALL.
18 ONE ENTERS THE WAIST AREA AND PASSES ACROSS IN THE
19 SUBCUTANEOUS TISSUE WITHOUT ENTERING THE
20 ABDOMINAL CAVITY, AND IS FOUND HERE IN THE LEFT
21 LEG. THE FIFTH ONE, WHICH I NUMBERED, LIKE I
22 SAY, ARBITRARILY, THIS ONE ON THE BACK ENTERS THE
23 RIGHT BACK AND GOES ACROSS, AND IS FOUND IN THE
24 LEFT ABDOMINAL CAVITY.
25 Q. AND LET ME PUT UP WHAT'S BEEN MARKED STATE'S

DIRECT - DR. JOEL S. SEXTON BY SOL. BELL

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1 SIXTEEN FOR IDENTIFICATION, AND LET YOU EXPLAIN
2 WHAT THAT ONE IS.

3 A. THIS IS A LITTLE BUSIER. IN FACT, IS THERE ANY
4 WAY YOU CAN JUST BLOW UP THE RIGHT SIDE WHERE THE
5 HOLES ARE? YEAH, THAT'S MUCH BETTER. THIS SHOWS
6 THAT ENTRY WOUND THAT'S LABELED NUMBER ONE THAT'S
7 THE FATAL WOUND, ENTERING THE OUTSIDE OF THE ARM,
8 EXITING THE INSIDE OF THE ARM, ENTERING THE
9 CHEST, GOING ACROSS THE CHEST, HITTING THE WALL
10 INTERNALLY OF THE CHEST CAVITY, AND THEN FALLING
11 DOWN JUST ABOVE THE DIAPHRAGM, IN THAT THE CHEST
12 CAVITY IS HOLLOW. THE LUNGS ARE JUST INFLATED IN
13 IT. AND THAT IS THE FATAL WOUND. THIS WOUND
14 COMES IN THE RIGHT ARM, PASSES THROUGH THE ARM,
15 AND IS HERE IN THE CHEST CAVITY -- I'M SORRY, IN
16 THE CHEST AREA BUT JUST UNDER THE SKIN. THIS ONE
17 ENTERS, AGAIN, ON THE BACK SIDE OF THE ARM, GOING
18 UPWARD, AND AGAIN, IT'S JUST UNDER THE SKIN OF
19 THE CHEST. AND THEN, THE ONE IN THE RIGHT WAIST
20 AREA THAT GOES DOWN AND TO THE LEFT BUT DOES NOT
21 ENTER THE BODY CAVITY, JUST PASSES ACROSS TO THE
22 OTHER SIDE BUT IT'S GOING DOWNWARD. AND THE ONE
23 THAT ENTERS THE RIGHT BACK THAT PASSES TO THE
24 FRONT AND TO THE LEFT AND IT'S FOUND IN THE
25 ABDOMINAL CAVITY. SO, ALL THE SHOTS ARE FROM THE

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1 RIGHT, THREE OF THEM ARE HORIZONTAL, ONE IS GOING
2 UP AND ONE IS GOING DOWN, ALL OF THEM ARE GOING
3 TO THE OTHER SIDE, TO THE LEFT SIDE.

4 Q. THANK YOU. DR. SEXTON, BASED ON YOUR TRAINING
5 AND EXPERIENCE, CAN YOU DRAW ANY CONCLUSION AS TO
6 THE POSITION OF THE DECEDENT WHEN HE RECEIVED
7 THESE WOUNDS BEYOND A REASONABLE DEGREE OF
8 MEDICAL CERTAINTY?

9 A. I CANNOT GIVE YOU A POSITION HE WAS IN, I CAN
10 INDICATE WHERE THE GUN WAS IN RELATION TO HIM.
11 THE GUN WAS TO HIS RIGHT DURING THOSE THREE SHOTS
12 THAT ENTERED THE RIGHT ARM, AND HE'D BE ALMOST
13 DIRECTLY TO THE RIGHT, ALTHOUGH TWO OF THEM
14 PASSED FORWARD IN THE CHEST SLIGHTLY. THE ONE
15 THAT GOES ACROSS THE WAIST AND ACROSS THE LOWER
16 ABDOMEN ALSO WOULD BE FROM THE RIGHT, AND THEN
17 THE ONE GOING IN THE BACK WOULD BE FROM THE
18 RIGHT. SO, BASICALLY, THE GUN WAS TO THE
19 DECEASED'S RIGHT AT THE TIME ALL THESE SHOTS WERE
20 FIRED, WITH SOME OF THEM BEING SUCH THAT HIS BODY
21 IS TURNED AT LEAST, SO THEY'RE GOING A LITTLE BIT
22 FORWARD AS OPPOSED TO STRAIGHT ACROSS.

23 Q. CAN YOU MAKE ANY CONCLUSION BASED ON WHAT YOU
24 FOUND AND ON YOUR EXPERIENCE AND TRAINING AS TO
25 THE RAPIDITY OF THE GUN SHOTS, OR HOW FAST THEY

DIRECT - DR. JOEL S. SEXTON BY SOL. BELL

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1 WERE FIRED, BEYOND A REASONABLE DEGREE OF MEDICAL
2 CERTAINTY?

3 A. NOT BEING THERE AT THE TIME, I DON'T KNOW WHETHER
4 THEY WERE FIRED SLOWLY AND THIS PERSON WAS UNABLE
5 TO MOVE. IF HE WAS STANDING, WHICH YOU MIGHT
6 EXPECT, SINCE HE WAS -- CONSIDERING THE SCENE
7 FINDINGS, THEN YOU WOULD EXPECT THEM TO BE FAIRLY
8 FAST SO THAT HE WOULDN'T BE ABLE TO MOVE THAT
9 MUCH IN BETWEEN SHOTS. THREE OF THEM ARE NEARLY
10 PARALLEL, BUT THAT'S ASSUMING HE CAN MOVE, AND
11 MOST PEOPLE, UNLESS THEY'RE IN SOME WAY BOUND
12 DOWN OR RESTRICTED OTHERWISE, WOULD CERTAINLY BE
13 ABLE TO MOVE AS SOON AS THEY REALIZED THEY WERE
14 BEING SHOT.

15 Q. OKAY. AND DR. SEXTON, DURING THIS AUTOPSY WERE
16 YOU ABLE TO RECOVER SOME EVIDENCE FROM THE BODY?

17 A. YES, WE WERE ABLE TO RECOVER ALL FIVE OF THE
18 BULLETS.

19 Q. OKAY. DR. SEXTON, LET ME SHOW YOU THIS BAG THAT
20 CONTAINS SEVERAL ITEMS AND ASK IF YOU CAN
21 IDENTIFY THESE ITEMS?

22 A. THIS LARGE BAG HAS OUR LABEL ON IT, HAS MY
23 INITIALS, AND THE DATE, JULY FOURTH. INSIDE OF
24 EACH OF THESE SMALLER BAGS IS A VIAL THAT HAS OUR
25 LABEL, HAS MY INITIALS, AND HAS A BULLET. THE

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1 FIRST ONE I'M LOOKING AT WE ARBITRARILY, OR I
2 ARBITRARILY LABELED NUMBER ONE, AND IN LOOKING AT
3 THE PHOTOGRAPHS THAT I TOOK, THE CLOSE UP
4 PHOTOGRAPHS WITH OUR CLOSE UP CAMERA, AND IN
5 LOOKING AT THE MARKING I PUT ON THE BASE OF THE
6 BULLET THIS IS BULLET NUMBER ONE THAT I
7 ARBITRARILY DESIGNATED AS SUCH, AND IT ALSO HAS A
8 SMALL FRAGMENT WITH IT, SO THIS IS THE BULLET
9 THAT I REMOVED FROM MARK COOK'S CHEST THAT WAS
10 THE FATAL BULLET. AS I MENTIONED, IT BEARS MY
11 MARK AND MATCHES THE BLOWN UP PHOTOGRAPHS OF IT.

12 Q. LET ME ---

13 SOLICITOR BELL: YOUR HONOR, I'D
14 LIKE TO OFFER THIS FOR ID AT THIS TIME.

15 THE COURT: ANY OBJECTION?

16 MR. KEARSE: NO OBJECTION.

17 THE COURT: MARK THEM, THEN, FOR
18 ID ONLY, WITHOUT OBJECTION.

19 COURT REPORTER: STATE'S SEVENTEEN
20 FOR ID ONLY.

21 (State's Exhibit Seventeen,
22 Vial No. One containing bullet,
23 marked for identification.)

24 Q. NEXT, DR. SEXTON?

25 A. NEXT IS A VIAL THAT'S LABELED NUMBER TWO, IT ALSO

DIRECT - DR. JOEL S. SEXTON BY SOL. BELL

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1 BEARS MY MARK, THERE ARE SEVERAL MARKS ON THE
2 BASE BECAUSE OF THE INVESTIGATOR WHO EXAMINED THE
3 BULLET FOR BALLISTICS ALSO PUT MARKS, BUT HE LEFT
4 MINE UNSCATHED. AND THIS MATCHES THE BULLET
5 PHOTOGRAPHS I TOOK OF NUMBER TWO. SO, THIS IS
6 THE BULLET THAT WAS FOUND IN THE ANTERIOR CHEST
7 THAT ENTERED THE RIGHT ARM, AND IT'S ONE OF THE
8 BULLETS I REMOVED FROM MARK COOK. IT WAS A
9 SUPERFICIAL BULLET AND NOT A FATAL ONE.

10 SOLICITOR BELL: I WOULD OFFER
11 THIS IN EVIDENCE FOR IDENTIFICATION, YOUR HONOR.

12 THE COURT: ANY OBJECTION?

13 MR. KEARSE: NO OBJECTION.

14 THE COURT: MARK THEM AS ID ONLY,
15 WITHOUT OBJECTION.

16 A. THIS IS THE BULLET THAT IS IN VIAL ---

17 COURT REPORTER: JUST ONE MOMENT.

18 THE COURT: WAIT ONE SECOND, SHE'S
19 STILL WRITING.

20 A. I'M SORRY.

21 THE COURT: THAT'S OKAY.

22 COURT REPORTER: STATE'S EXHIBIT
23 EIGHTEEN, ID ONLY.

24 (State's Exhibit Eighteen,
25 Vial Two containing bullet,

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1 marked for identification.)

2 Q. NEXT, DOCTOR?

3 A. NEXT, IN LOOKING AT THE BULLET THAT'S IN THE VIAL
4 LABELED NUMBER THREE, IT BEARS THE PROPER MARK ON
5 ITS BASE AND MATCHES THE PHOTOGRAPHS THAT I TOOK
6 OF IT. THIS IS THE OTHER SUPERFICIAL BULLET THAT
7 ENTERED THE BACK OF THE RIGHT ARM AND WAS FOUND
8 IN THE CHEST BUT HAD NOT PENETRATED THE CHEST
9 CAVITY.

10 SOLICITOR BELL: YOUR HONOR, I'D
11 OFFER THIS INTO EVIDENCE FOR IDENTIFICATION AT THIS
12 TIME.

13 THE COURT: ANY OBJECTION?

14 MR. KEARSE: NO OBJECTION, YOUR
15 HONOR.

16 THE COURT: MARKED AND ADMITTED
17 WITHOUT OBJECTION, ID ONLY.

18 COURT REPORTER: STATE'S EXHIBIT
19 NINETEEN, ID ONLY.

20 (State's Exhibit Nineteen,
21 Vial No. Three containing bullet,
22 marked for identification.

23 Q. NEXT, DOCTOR?

24 A. NEXT IS THE VIAL LABELED NUMBER FOUR, AND IN THE
25 PLASTIC BAG WITH IT IS A BULLET THAT BEARS THE

DIRECT - DR. JOEL S. SEXTON BY SOL. BELL

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1 PROPER MARK, IT MATCHES THE PHOTOGRAPHS THAT I
2 TOOK OF BULLET NUMBER FOUR, AND THE LITTLE SMALL
3 JACKET FRAGMENT THAT WAS PRESENT WITH BULLET
4 NUMBER FOUR. SO, THIS IS THE BULLET THAT I
5 REMOVED FROM THE LEFT THIGH THAT ENTERED THE
6 RIGHT WAIST AREA OF MARK COOK.

7 SOLICITOR BELL: WE'D OFFER THIS
8 INTO EVIDENCE FOR IDENTIFICATION AT THIS TIME.

9 THE COURT: ANY OBJECTION?

10 MR. KEARSE: NO OBJECTION, YOUR
11 HONOR.

12 THE COURT: MARKED FOR ID ONLY.

13 COURT REPORTER: STATE'S TWENTY,
14 ID.

15 (State's Exhibit Twenty,
16 Vial No. Four with bullet and fragment,
17 marked for identification.)

18 Q. NEXT, DR. SEXTON?

19 A. NEXT IS THE BULLET THAT'S IN VIAL NUMBER FIVE,
20 WHICH BEARS MY MARK, AND THE BASE OF THE BULLET
21 ALSO BEARS MY MARK ON THE LEAD CORE WHICH
22 SEPARATED FROM THE JACKET FRAGMENT. IT BEARS THE
23 PROPER LABEL AND MATCHES THE PHOTOGRAPHS THAT I
24 TOOK OF THE SEPARATE JACKET AND CORE. AS YOU
25 LOOK AT THESE YOU'LL SEE HOW IRREGULAR THE

DIRECT - DR. JOEL S. SEXTON BY SOL. BELL

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1 BULLETS ARE FROM HAVING BEEN DAMAGED, AND IT'S
2 EASY ENOUGH FOR ME TO LOOK AND COMPARE THEM WITH
3 THE PHOTOGRAPHS I TOOK, AS WELL AS SEEING THE
4 MARK THAT I PUT ON THEM. SO, THIS IS BULLET
5 NUMBER FIVE WHICH ENTERED THE RIGHT BACK OF MARK
6 COOK.

7 SOLICITOR BELL: THANK YOU. WE'D
8 OFFER THIS INTO EVIDENCE FOR IDENTIFICATION AT THIS
9 TIME.

10 THE COURT: ID ONLY. ANY
11 OBJECTION?

12 MR. KEARSE: NONE, YOUR HONOR.

13 THE COURT: MARKED FOR ID, NO
14 OBJECTION.

15 COURT REPORTER: STATE'S EXHIBIT
16 TWENTY-ONE, ID.
17 (State's Exhibit Twenty-one,
18 Vial No. Five containing bullet,
19 marked for identification.)

20 Q. NOW, DR. SEXTON, WHAT I WOULD ASK IS, WHAT'S NOW
21 BEEN MARKED STATE'S SEVENTEEN FOR IDENTIFICATION,
22 EIGHTEEN FOR IDENTIFICATION, NINETEEN FOR
23 IDENTIFICATION, TWENTY FOR IDENTIFICATION, AND
24 TWENTY-ONE FOR IDENTIFICATION, WHAT DID YOU DO
25 WITH THOSE?

DIRECT - DR. JOEL S. SEXTON BY SOL. BELL

441

1 A. THOSE WERE TRANSFERRED TO DEPUTY CORONER ALICE
2 DURR AT THE TIME OF THE AUTOPSY.

3 Q. AND SHE SIGNED FOR THEM AND TOOK THEM WITH HER
4 BACK TO DORCHESTER COUNTY?

5 A. THAT'S CORRECT.

6 Q. OKAY. AND JUST TO REVIEW, DOCTOR, WHAT WAS THE
7 CAUSE OF DEATH OF MARK COOK, PURSUANT TO YOUR
8 AUTOPSY?

9 A. IN MY OPINION, WITHIN REASONABLE MEDICAL
10 CERTAINTY, HE DIED OF THE BLOOD LOSS, HE LOST
11 THREE PINTS OF BLOOD INTO EACH CHEST CAVITY, AND
12 WE ONLY HAVE TEN PINTS IN OUR BODY, AND IF YOU
13 LOOSE A THIRD OF YOUR BLOOD VOLUME THAT'S ENOUGH
14 TO CAUSE DEATH, SO THE AMOUNT IN EACH CHEST
15 CAVITY WAS ENOUGH TO CAUSE DEATH, AND THAT BLOOD
16 LOSS WAS DUE TO THE BULLET THAT ENTERED THE RIGHT
17 ARM, MISSED THE BONE IN THE ARM, RE-ENTERED THE
18 CHEST AND STRUCK BOTH LUNGS AND THE HEART,
19 CAUSING INTERNAL BLEEDING.

20 Q. OKAY. AND THE MANNER OF HIS DEATH?

21 A. THESE WOUNDS WERE MOST PROBABLY AT A DISTANCE TOO
22 FAR FOR HIM TO HAVE SHOT HIMSELF, ESPECIALLY
23 SHOOTING HIMSELF IN THAT ARM, SO IN OUR OPINION
24 IT'S AT THE HANDS OF SOMEONE ELSE. THAT'S
25 REFERRED TO AS HOMICIDE, IT'S NOT THE SAME AS

DIRECT - DR. JOEL S. SEXTON BY SOL. BELL

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1 MURDER, IT MERELY MEANS AT THE HANDS OF ANOTHER,
2 IT HAS NOTHING TO DO WITH INTENT, AS OPPOSED TO,
3 AT THE HANDS OF THE DECEASED, OR AS AN ACT OF
4 GOD. SO, IN OUR OPINION IT WAS HOMICIDE.

5 SOLICITOR BELL: THANK YOU, DR.
6 SEXTON, PLEASE ANSWER ANY QUESTIONS MR. KEARSE HAS FOR
7 YOU.

8 MR. KEARSE: YOUR HONOR, MAY I
9 APPROACH?

10 THE COURT: YES.

11 (Whereupon, a bench conference
12 is held out of the hearing of
13 the jury and the court reporter.)

14 THE COURT: LADIES AND GENTLEMEN,
15 WE'RE GOING TO TAKE A SHORT BREAK BEFORE CROSS-
16 EXAMINATION. IT WILL BE VERY BRIEF. PLEASE DO NOT
17 DISCUSS THE CASE DURING THIS BREAK, AND PLEASE LEAVE
18 YOUR NOTE PADS IN YOUR SEATS. IF YOU NEED ANYTHING,
19 PLEASE LET THE BAILIFFS KNOW.

20 (Whereupon, the following
21 takes place out of the
22 presence of the jury.)

23 THE COURT: HOW MUCH LONGER DO YOU
24 NEED, MR. KEARSE?

25 MR. KEARSE: ABOUT TEN MINUTES.

1 THE COURT: OKAY. WE'LL BE AT EASE
2 FOR TEN MINUTES. DOCTOR, YOU MAY STEP DOWN BUT PLEASE
3 DON'T DISCUSS YOUR TESTIMONY DURING THIS BREAK.

4 WITNESS: THANK YOU, YOUR HONOR.

5 (Recess)

6 THE COURT: IS THE DEFENSE READY
7 TO PROCEED?

8 MR. KEARSE: THE DEFENSE IS READY.

9 THE COURT: OKAY, IS THE STATE
10 READY?

11 SOLICITOR BELL: THE STATE'S
12 READY, YOUR HONOR.

13 THE COURT: PLEASE BRING IN THE
14 JURY.

15 (Whereupon, the following
16 takes place in the
17 presence of the jury.)

18 THE COURT: LADIES AND GENTLEMEN,
19 WE APPRECIATE YOUR PATIENCE.

20 DR. SEXTON, IF YOU WOULD RETAKE
21 THE STAND, AND WE WILL RESUME WITH THE CROSS-
22 EXAMINATION OF THE WITNESS.

23 YOU MAY PROCEED.

24 MR. KEARSE: YOUR HONOR, MAY I
25 APPROACH?

1 THE COURT: YES, I WANT BOTH OF
2 Y'ALL TO APPROACH FOR ME.

3 (Whereupon, a bench conference
4 is held out of the hearing of
5 the jury and the court reporter.)

6 THE COURT: ARE YOU READY FOR
7 CROSS-EXAMINATION?

8 MR. KEARSE: YES, MA'AM.

9 THE COURT: YOU MAY PROCEED WHEN
10 YOU ARE READY.

11 MR. KEARSE: MAY IT PLEASE THE
12 COURT, YOUR HONOR.

13 COUNSELLOR.

14 NOTE: Blank lines on this page do not indicate any
15 part of record has been omitted. Headers on testimony
16 pages and hard page breaks between testimony are now
17 required by the Court. See next ensuing page for
18 sequential continuation of record.)

CROSS - DR. JOEL S. SEXTON BY MR. KEARSE

445

1 CROSS-EXAMINATION OF DR. JOEL S. SEXTON

2 BY MR. KEARSE:

3 Q. DR. SEXTON, THERE WAS NO TOXICOLOGICAL REPORT
4 DURING -- OR ANALYSIS, I'M SORRY, THAT YOU KNOW
5 OF?

6 A. I'LL CHECK. AS FAR AS I KNOW THERE WAS. YES.
7 THE TOXICOLOGY SHOWED ALCOHOL IN THE BLOOD TO A
8 LEVEL OF ZERO POINT ONE ONE FOUR, AND NO DRUGS OR
9 OTHER CHEMICALS IN THE BLOOD.

10 MR. KEARSE: I BEG THE COURT'S
11 INDULGENCE, YOUR HONOR.

12 THE COURT: UH HUH.

13 Q. I WANT YOU TO REFER TO DEFENDANT'S SIXTEEN FOR
14 ME, IF YOU CAN, PLEASE, SIR.

15 A. IS THAT WHAT'S ON THE SCREEN?

16 Q. THAT'S CORRECT.

17 A. YES, I HAVE A COPY OF THAT.

18 Q. NOW, YOU SAID GUN SHOT WOUND NUMBER ONE ENTERED
19 THE SIDE OF THE RIGHT ARM, IS THAT CORRECT?

20 A. YES, THAT'S CORRECT.

21 Q. ALRIGHT. ALONG WITH GUN SHOT WOUND NUMBER TWO?

22 A. YES.

23 Q. OKAY. AND THE GUN SHOT WOUND WAS A POTENTIALLY
24 FATAL WOUND, IS THAT CORRECT?

25 A. NUMBER FIVE WAS THE ONE THAT WAS POTENTIALLY

1 FATAL. NUMBER TWO, THREE AND FOUR WERE ALL JUST
2 IN THE SUBCUTANEOUS TISSUE AND DID NOT CAUSE
3 SIGNIFICANT BLEEDING.

4 Q. OKAY. AND ONE, TWO, THREE AND FOUR WERE ALL FROM
5 THAT RIGHT SIDE?

6 A. ALL FIVE OF THEM WERE.

7 Q. ALL FIVE OF THEM WERE FROM THE RIGHT SIDE?

8 A. FROM THE RIGHT SIDE. THE ONE IN THE MID BACK WAS
9 GOING MORE TOWARDS THE FRONT, SO IT DIDN'T COME
10 DIRECTLY FROM THE SIDE, IT CAME FROM THE SIDE AND
11 FROM THE REAR.

12 Q. OKAY. AND IT'S ALSO YOUR TESTIMONY THAT THE --
13 NUMBER TWO SHOWS THAT THE FOREARM WAS IN THE SAME
14 POSITION AS IS SET OUT ON YOUR DIAGRAM, IS THAT
15 CORRECT?

16 A. YES, THAT'S CORRECT. THERE IS THE FACT THAT THE
17 BULLETS EXITED THE ARM AND RE-ENTERED THE CHEST
18 PUTS THE UPPER PART OF THE ARM AT A PARTICULAR
19 LOCATION -- OTHERWISE, THEY COULDN'T RE-ENTER THE
20 CHEST, BECAUSE THERE WAS A STRAIGHT LINE BETWEEN
21 WHERE THEY PASSED THROUGH THE ARM AND ENTERED THE
22 CHEST. AND THERE WAS AN ABRASION ON THIS RIGHT
23 FOREARM THAT MATCHED WHERE THE BULLET NEARLY
24 EXITED THE CHEST. AND SO, THAT PUT THE FOREARM UP
25 ACROSS THE CHEST AT THE TIME THAT SHOT WAS FIRED.

CROSS - DR. JOEL S. SEXTON BY MR. KEARSE

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1 Q. OKAY. SO, COMING FROM THE SIDE, AND FOREARM IS
2 UP, ACROSS THE CHEST?

3 A. AT LEAST DURING ONE OF THE SHOTS, CORRECT.

4 Q. ALRIGHT. AND WHEN YOU -- YOU SAID THAT THERE IS
5 NO WAY, OR YOU COULD NOT PROVIDE TO A REASONABLE
6 DEGREE OF MEDICAL CERTAINTY THE POSITION OF THE
7 DECEDENT AT THE TIME OF THE SHOOTING?

8 A. RIGHT. I DON'T KNOW WHERE THE DECEDENT, I JUST
9 KNOW THE SHOOTER WAS TO HIS RIGHT, AND AT ONE
10 POINT EITHER THE DECEDENT TURNED TO THE LEFT SO
11 AS TO GET THE SHOT IN THE BACK, OR THE PERSON
12 DOING THE SHOOTING MOVED IN THAT DIRECTION.

13 Q. AND WHEN YOU SAY, TO HIS RIGHT, THAT WOULD MEAN
14 THAT THE SHOOTER WAS SOMEWHERE TO THIS SIDE OF
15 THE DECEDENT, IS THAT CORRECT?

16 A. THAT'S CORRECT. THE SHOOTER WOULD BE IN MY
17 DIRECTION FROM THE DECEDENT, AS YOU STOOD.

18 Q. ALRIGHT. SO, I'M STANDING SOMEWHAT SIDEWAYS TO
19 YOU, IS THAT CORRECT?

20 A. YES, THAT'S CORRECT.

21 Q. ALRIGHT. WHICH WOULD MEAN, AND WOULD RULE OUT
22 THE FACT THAT THE SHOOTER WAS THE DECEDENT, AND
23 THE SHOOTER WAS NOT, IN FACT, BEHIND THE
24 DECEDENT, IS THAT CORRECT?

25 A. CORRECT, EXCEPT FOR THAT ONE SHOT HE'D BE MORE

1 BEHIND INSTEAD OF TO THE SIDE, BUT THAT COULD BE
2 BECAUSE THE PERSON BEING SHOT TURNED, OR THE
3 SHOOTER COULD HAVE TURNED.

4 Q. RIGHT. HE WOULDN'T -- THE DECEDENT LIKELY THAN
5 NOT, TO A REASONABLE DEGREE OF MEDICAL CERTAINTY,
6 COULD HAVE TURNED THIS WAY ---

7 A. THAT'S CORRECT.

8 Q. --- OR SO, IS THAT CORRECT?

9 A. CORRECT, OR THE ONE IN THE BACK COULD HAVE BEEN
10 ONE OF THE FIRST SHOTS. LIKE I SAY, I DON'T KNOW
11 WHAT SEQUENCE THEY CAME.

12 Q. BUT IT'S CLEARLY, YOUR OPINION TO A REASONABLE
13 DEGREE OF MEDICAL CERTAINTY, IS THAT THE --
14 WHOEVER WAS THE SHOOTER WAS NOT DIRECTLY BEHIND
15 THE DECEDENT?

16 A. CORRECT.

17 Q. ALRIGHT. NOW, YOU SAY THAT IT WAS GUN SHOT WOUND
18 NUMBER FIVE WHICH WAS POTENTIALLY THE FATAL SHOT,
19 IS THAT CORRECT?

20 A. THAT'S CORRECT. IT CAUSED ABOUT A HALF A CUP OF
21 BLEEDING INTO THE ABDOMEN, WHEREAS, AS I
22 MENTIONED EARLIER, THE ONE THAT WENT THROUGH THE
23 UPPER ARM AND INTO THE CHEST CAUSED SIX PINTS OF
24 BLEEDING INTO THE TWO CHEST CAVITIES.

25 Q. ALRIGHT. AND THAT WOULD ALSO, AS YOU TESTIFIED

CROSS - DR. JOEL S. SEXTON BY MR. KEARSE

449

1 EARLIER, APPEAR TO HAVE COME FROM THE RIGHT SIDE,
2 IS THAT CORRECT?

3 A. YES, THAT'S CORRECT.

4 Q. ALRIGHT. AND THIS IS BASED ON YOUR EXPERTISE AS
5 A FORENSIC PATHOLOGIST, AND TO A REASONABLE
6 DEGREE OF MEDICAL CERTAINTY, IS THAT CORRECT?

7 A. YES, THAT IS CORRECT.

8 MR. KEARSE: I BEG THE COURT'S
9 INDULGENCE, YOUR HONOR. YOUR HONOR, I DON'T HAVE
10 ANYTHING FURTHER.

11 THE COURT: ANY REDIRECT?

12 SOLICITOR BELL: YOUR HONOR, THE
13 ONLY THING I WOULD ASK IS TO MARK SIXTEEN AND
14 SEVENTEEN INTO EVIDENCE.

15 THE COURT: ANY OBJECTION TO THE
16 DIAGRAMS BEING ENTERED, MR. KEARSE?

17 MR. KEARSE: YOUR HONOR, I DO
18 OBJECT FOR GROUNDS PREVIOUSLY ARGUED, FOR THE RECORD.
19 MAY WE APPROACH?

20 THE COURT: UH HUH.

21 (Whereupon, a bench conference
22 is held out of the hearing of
23 the jury and the court reporter.)

24 THE COURT: OBJECTION IS
25 OVERRULED. THEY ARE MARKED AND ADMITTED WITHOUT

1 OBJECTION.

2 COURT REPORTER: SOLICITOR, HAND
3 THEM TO ME SO THAT I CAN TAKE THE ID OFF OF THEM.

4 AND YOU SAID -- THEY ARE FIFTEEN
5 AND SIXTEEN INSTEAD OF --

6 SOLICITOR BELL: FIFTEEN AND
7 SIXTEEN, I'M SORRY.

8 (State's Exhibits Fifteen and Sixteen
9 marked and filed.

10 SOLICITOR BELL: AND I WOULD HAVE
11 NO FURTHER QUESTIONS FOR DR. SEXTON, YOUR HONOR.

12 THE COURT: PARDON ME, I'M SORRY,
13 MR. BELL.

14 SOLICITOR BELL: I'D HAVE NO
15 FURTHER QUESTIONS FROM DR. SEXTON.

16 THE COURT: ANY OBJECTION TO THE
17 DOCTOR BEING EXCUSED FROM THE STATE?

18 SOLICITOR BELL: NONE FROM THE
19 STATE, YOUR HONOR.

20 THE COURT: FROM THE DEFENSE? MR.
21 KEARSE, ANY ---

22 MR. KEARSE: NONE, YOUR HONOR.

23 THE COURT: THANK YOU, DOCTOR,
24 YOU'RE EXCUSED.

25 WITNESS: THANK YOU, YOUR HONOR.

1 THE COURT: YOU'RE WELCOME.
2 YOU MAY CALL YOUR NEXT WITNESS.
3 SOLICITOR BELL: YOUR HONOR, WE'D
4 CALL KAREN CROUCH.

5 (Whereupon, the witness
6 enters the courtroom.)

7 CLERK: COME STAND RIGHT HERE,
8 PLEASE. WOULD YOU RAISE YOUR RIGHT HAND AND PLACE
9 YOUR LEFT HAND ON THE BIBLE AND GIVE US YOUR FULL
10 NAME.

11 WITNESS: KAREN CROUCH.
12 (Whereupon, the witness,
13 KAREN CROUCH,
14 is duly sworn.)

15 CLERK: OKAY, COME ON AROUND AND
16 HAVE A SEAT.

17 THE COURT: YOU MAY PROCEED.

18 SOLICITOR BELL: THANK YOU.

19 (NOTE: Blank lines on this page do not indicate any
20 part of record has been omitted. Headers on testimony
21 pages and hard page breaks between testimony are now
22 required by the Court. See next ensuing page for
23 sequential continuation of record.)

DIRECT - KAREN CROUCH BY SOL. BELL

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DIRECT EXAMINATION OF KAREN CROUCH

BY SOLICITOR BELL:

Q. WOULD YOU STATE YOUR NAME AGAIN FOR THE RECORD,
PLEASE, MA'AM?

A. KAREN CROUCH.

Q. AND WHERE ARE YOU EMPLOYED?

A. VERIZON WIRELESS IN ORANGEBURG.

Q. AND WHAT DO YOU DO AT VERIZON WIRELESS?

A. I'M A STORE MANAGER FOR THE RETAIL STORE.

Q. OKAY. AND ARE YOU FAMILIAR WITH VERIZON'S
BUSINESS PRACTICES AND, AND HOW THEY CREATE
DOCUMENTS IN THE COURSE OF THEIR BUSINESS?

A. YES, SIR.

Q. OKAY. LET ME SHOW YOU WHAT'S BEEN MARKED STATE'S
ELEVEN FOR IDENTIFICATION, AND ASK IF YOU CAN
IDENTIFY THIS?

A. YES, SIR, THIS IS AN ITEMIZED BILL THAT VERIZON
SENDS TO CUSTOMERS.

Q. OKAY. AND DOES IT SAY WHAT PHONE NUMBER IT GOES
TO?

A. MOBILE NUMBER EIGHT ONE -- EXCUSE ME, SEVEN ONE
EIGHT, NINE THREE EIGHT, FOUR SIX ONE FOUR.

Q. AND IS THERE AN ACCOUNT NUMBER TIED TO THAT
NUMBER?

A. YES, SIR. THAT IS ONE ZERO EIGHT ZERO SEVEN SIX

DIRECT - KAREN CROUCH BY SOL. BELL

453

1 NINE ONE ZERO.

2 Q. OKAY. AND IS THAT ACCOUNT NUMBER ON THE
3 SUBSEQUENT PAGES THAT YOU CAN ---

4 A. YES, SIR.

5 Q. OKAY. AND ARE THESE FORMS THAT YOU HAVE
6 EXAMINED, STATE'S ELEVEN FOR ID, DOCUMENTS THAT
7 ARE PRODUCED DURING THE NORMAL COURSE OF BUSINESS
8 BY VERIZON WIRELESS?

9 A. YES, SIR.

10 Q. AND YOU SAID THIS IS A CUSTOMER BILLING, IS THAT
11 WHAT CUSTOMERS GET EVERY MONTH WITH THEIR CELL
12 PHONE BILL FROM VERIZON?

13 A. CORRECT, YES, SIR.

14 Q. THANK YOU.

15 SOLICITOR BELL: YOU'RE HONOR,
16 WE'D OFFER THIS INTO EVIDENCE AS STATE'S ELEVEN.

17 THE COURT: ANY OBJECTION?

18 MR. KEARSE: NONE, YOUR HONOR.

19 THE COURT: MARKED AND ADMITTED
20 WITHOUT OBJECTION.

21 (State's Exhibit Eleven
22 marked and filed.)

23 SOLICITOR BELL: AND I HAVE NO
24 FURTHER QUESTIONS FROM MS. CROUCH.

25 THE COURT: DO YOU HAVE ANY

1 QUESTIONS FOR THE WITNESS?

2 MR. KEARSE: NONE, YOUR HONOR.

3 THE COURT: ANY OBJECTION TO THE
4 WITNESS BEING EXCUSED?

5 SOLICITOR BELL: NONE FROM THE
6 STATE, YOUR HONOR.

7 THE COURT: MA'AM, YOU'RE EXCUSED.

8 'THANK YOU.

9 WITNESS: THANK YOU.

10 THE COURT: YOU MAY CALL YOUR NEXT
11 WITNESS.

12 SOLICITOR BELL: THE STATE WOULD
13 CALL EARL ASBELL.

14 (Whereupon, the witness
15 enters the courtroom.)

16 CLERK: WOULD YOU COME RIGHT HERE,
17 PLEASE. RAISE YOUR RIGHT HAND, PLACE YOUR LEFT HAND ON
18 THE BIBLE, AND GIVE US YOUR FULL NAME.

19 WITNESS: EARL VINCENT ASBELL,
20 JUNIOR.

21 (Whereupon, the witness,
22 EARL VINCENT ASBELL, JUNIOR,
23 is duly sworn.)

24 CLERK: THANK YOU, COME AROUND AND
25 HAVE A SEAT.

DIRECT - EARL V. ASBELL, JR., BY SOL. BELL

455

DIRECT EXAMINATION OF EARL V. ASBELL, JR.,

BY SOLICITOR BELL:

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

A. EARL VINCENT ASBELL, JUNIOR.

Q. AND WHERE ARE YOU EMPLOYED?

A. DORCHESTER COUNTY SHERIFF'S OFFICE.

Q. AND HOW ARE YOU EMPLOYED AT DORCHESTER COUNTY
SHERIFF'S OFFICE?

A. I'M A LIEUTENANT IN CHARGE OF CRIME SCENES.

Q. AND HOW LONG HAVE YOU BEEN EMPLOYED BY THE
DORCHESTER COUNTY SHERIFF'S OFFICE?

A. SEVENTEEN AND A HALF YEARS FULL TIME, PLUS
THIRTEEN YEARS RESERVE PRIOR TO THAT.

Q. AND HOW LONG HAVE YOU BEEN INVOLVED IN CRIME
SCENES?

A. ABOUT FOURTEEN YEARS, SINCE NINETEEN NINETY.

Q. AND HAVE YOU TESTIFIED IN THE COURTS OF THE STATE
OF SOUTH CAROLINA ABOUT CRIME SCENES?

A. YES, I HAVE.

Q. PROCESSING CRIME SCENES?

A. YES, I HAVE.

Q. NOW, WERE YOU WORKING, OR WERE YOU CALLED TO A
SCENE BACK IN JULY OF TWO THOUSAND THREE?

A. THAT IS CORRECT, I WAS CONTACTED BY LIEUTENANT

DIRECT - EARL V. ASBELL, JR., BY SOL. BELL

456

1 NETTLES.

2 Q. OKAY. WHAT DAY WAS THAT THAT YOU WERE CONTACTED?

3 A. IT WAS RIGHT AT MIDNIGHT, SO I WAS PROBABLY
4 CONTACTED ON THE THIRD, BUT IT WAS RIGHT AT THE
5 FOURTH, IT WAS RIGHT AT MIDNIGHT WHEN I WAS
6 CALLED.

7 Q. OKAY. LIEUTENANT ASBELL, I'M GOING TO ASK IF
8 YOU'D SPEAK JUST A LITTLE STRONGER SO ALL THE
9 JURORS CAN HEAR UP HERE. OKAY?

10 A. YES, SIR.

11 Q. AND WHERE DID YOU PROCEED AS A RESULT OF BEING
12 CALLED BY LIEUTENANT NETTLES?

13 A. IT WAS [REDACTED] ROAD, OFF OF HIGHWAY FIFTEEN,
14 IT WAS RIGHT OUTSIDE OF ST. GEORGE, I THINK IT
15 WAS TWO FORTY-FIVE, I'M NOT EXACTLY SURE OF THE
16 CORRECT ADDRESS. HOLD IT JUST A MINUTE. [REDACTED]
17 [REDACTED] ROAD.

18 Q. AND THAT'S IN DORCHESTER COUNTY?

19 A. YES, IT IS.

20 Q. OKAY. WHAT DID YOU DO WHEN YOU ARRIVED THERE?

21 A. WHEN I ARRIVED ON THE SCENE CORPORAL JEROME JONES
22 AND CORPORAL PETREY WERE ON THE SCENE. THEY KIND
23 OF INSTRUCTED ME THAT THE HAD CLEARED THE HOUSE,
24 AND THEY HAD CRIME SCENE TAPE GOING ACROSS THE
25 DRIVEWAY. THEY TOLD ME THEY HAD ALREADY CLEARED

DIRECT - EARL V. ASBELL, JR., BY SOL. BELL

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1 THE HOUSE, AND THERE WAS A MALE SUBJECT DECEASED
2 FROM GUN SHOT WOUNDS IN THE BEDROOM AS YOU WENT
3 IN THROUGH THE DOOR.

4 Q. OKAY. AND WHAT DID YOU DO?

5 A. I REMOVED MY CAMERA AND STARTED TAKING
6 PHOTOGRAPHS AS I WAS APPROACHING THE HOUSE AND AS
7 I ENTERED THE HOUSE. I INSTRUCTED PFC GREER,
8 WHICH WAS ONE OF MY ASSOCIATES, TO GO AHEAD AND
9 START MARKING ALL OF THE FOOTWEAR AND TIRE
10 IMPRESSIONS OUTSIDE OF THE RESIDENCE.

11 Q. OKAY. AND YOU SAY YOU STARTED TAKING PICTURES AS
12 YOU WERE GOING IN?

13 A. YES, SIR, I DID.

14 Q. OKAY. LET ME SHOW YOU WHAT'S BEEN MARKED STATE'S
15 SEVEN FOR ID AND ASK IF YOU RECOGNIZE THAT?

16 A. YES, SIR, STATE ID, I BELIEVE THAT'S NUMBER
17 SEVEN, STATE'S EXHIBIT SEVEN. THAT'S A
18 PHOTOGRAPH, I WAS STANDING IN THE DRIVEWAY IN
19 FRONT OF THE RESIDENCE AND PHOTOGRAPHING THE
20 RESIDENCE, AND IT SHOWS THE CRIME SCENE TAPE
21 BEING STRETCHED ACROSS THE YARD.

22 Q. OKAY.

23 SOLICITOR BELL: WE'D OFFER THIS
24 INTO EVIDENCE NOW AS STATE'S SEVEN.

25 THE COURT: ANY OBJECTION?

DIRECT - EARL V. ASBELL, JR., BY SOL. BELL

458

1 SOLICITOR BELL: NONE, YOUR HONOR.

2 THE COURT: MARKED AND ADMITTED

3 WITHOUT OBJECTION.

4 (State's Exhibit Seven

5 marked and filed.

6 Q. AND WHAT DID YOU DO AS YOU STARTED GOING INTO THE
7 HOUSE?

8 A. I JUST CONTINUED TAKING PHOTOGRAPHS AS I WAS
9 GOING IN. WE TAKE INITIAL PHOTOGRAPHS AS WE'RE
10 GOING THROUGH SCENE, BEFORE ANYTHING IS MOVED.
11 AS I ENTERED THE FRONT DOOR I TOOK A PHOTOGRAPH
12 TO THE LEFT, WHICH WAS THE LIVING ROOM. AS SOON
13 AS I STEPPED IN THE DOORWAY THERE WAS A TRAIL OF
14 BLOOD LEADING FROM THE HALLWAY RIGHT THERE AT THE
15 DOOR, GOING INTO THE BEDROOM, AND AS I LOOKED TO
16 THE RIGHT THERE WAS A BODY LAYING IN THE FLOOR IN
17 THE BEDROOM ON THE RIGHT.

18 Q. OKAY. I SHOW YOU WHAT'S BEEN MARKED AS STATE'S
19 FIVE FOR IDENTIFICATION, AND ASK IF YOU CAN
20 IDENTIFY THAT?

21 A. YES, SIR, I CAN. STATE'S EXHIBIT NUMBER FIVE,
22 I'M STANDING IN THE DOORWAY OF THE RESIDENCE, AND
23 FACING TO MY LEFT. THIS IS THE LIVING ROOM OF THE
24 RESIDENCE.

25 SOLICITOR BELL: YOUR HONOR, WE'D

DIRECT - EARL V. ASBELL, JR., BY SOL. BELL

459

1 OFFER THAT INTO EVIDENCE.

2 THE COURT: ANY OBJECTION.

3 MR. KEARSE: NONE, YOUR HONOR.

4 THE COURT: MARKED AND ADMITTED
5 WITHOUT OBJECTION.

6 (State's Exhibit Five
7 marked and filed.)

8 SOLICITOR BELL: I'D LIKE TO PUT
9 IT UP ON THE OVERHEAD.

10 Q. THIS IS NOW STATE'S FIVE?

11 A. YES, SIR.

12 Q. OKAY. AND THAT, WHERE IS THAT PICTURE, HOW WAS
13 THAT PICTURE TAKEN?

14 A. I'M STANDING IN THE DOORWAY, JUST AS YOU GO IN
15 THE PORCH, ENTERING THE RESIDENCE, I'M IN THE
16 DOORWAY, AND AS SOON AS YOU WALK IN THERE'S A
17 DOORWAY ON THE LEFT, AND THAT'S THE LIVING ROOM
18 AREA. THAT CARPET PROCEEDS ON BACK TO THE CORNER
19 WHICH GOES INTO THE KITCHEN, AND THEN THERE'S A
20 BATH ROOM OFF TO THE LEFT AT THE END OF THE
21 CORRIDOR.

22 Q. OKAY, AND THEN THERE'S A TABLE, A CARD TABLE, OR
23 A TABLE WITH SOME CHAIRS AROUND IT?

24 A. THAT'S CORRECT. THERE WAS A CARD TABLE THERE ON
25 THE RIGHT AS YOU WALK INTO THE LIVING ROOM.

DIRECT - EARL V. ASBELL, JR., BY SOL. BELL

460

1 Q. AND THAT'S HOW YOU SAW IT AS SOON AS YOU ENTERED
2 THE HOUSE?

3 A. THAT'S CORRECT.

4 Q. OKAY. THEN WHAT DID YOU DO AFTER YOU LOOKED --
5 YOU TOOK THAT PICTURE TO YOUR LEFT?

6 A. I BELIEVE THE NEXT PICTURE WAS PROBABLY OF THE
7 DECEASED LYING IN THE BEDROOM THERE.

8 Q. OKAY, AND WHERE WAS HE, IN RELATION TO HOW YOU
9 LOOKED?

10 A. HIS FEET WAS TOWARDS THE BEDROOM -- AS YOU WALK
11 IN HE WAS -- I SAW HIS FEET FIRST, HE WAS LAYING
12 ON HIS BACK, HIS RIGHT ARM WAS EXTENDED OUT AWAY
13 FROM THE BODY, HE HAD CIGARETTE ASHE IN THE PALM
14 OF HIS HAND, WITH A CIGARETTE BUTTE IN HIS
15 FINGERS.

16 Q. OKAY. WHEN YOU WALKED IN, STRAIGHT INTO THE HOUSE
17 COULD YOU SEE HIM AS SOON AS YOU WALKED IN?

18 A. NO, YOU HAD TO LOOK BACK TO YOUR RIGHT, INTO THE
19 BEDROOM. BUT, YEAH, AS SOON AS YOU WALKED INTO
20 THE BEDROOM HE'S LAYING RIGHT IN THE MIDDLE OF
21 THE FLOOR.

22 Q. OKAY. LET ME SHOW YOU WHAT'S BEEN MARKED AS
23 STATE'S SIX FOR IDENTIFICATION AND ASK IF YOU CAN
24 IDENTIFY THAT?

25 A. YEAH, THIS IS AFTER YOU STEP INTO THE HALLWAY,

DIRECT - EARL V. ASBELL, JR., BY SOL. BELL

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1 THIS IS STATE'S EXHIBIT NUMBER SIX. AS SOON AS
2 YOU STEP INTO THE HALLWAY AND CLOSE THE FRONT
3 DOOR YOU LOOK TO YOUR RIGHT AND THIS IS THE
4 VICTIM LYING ON THE FLOOR NEXT TO AN AIR
5 MATTRESS.

6 Q. OKAY. AND THAT'S HOW YOU FOUND HIM AT THAT TIME?

7 A. THAT'S THE WAY THE BODY, THAT'S THE POSITION OF
8 THE BODY.

9 SOLICITOR BELL: YOUR HONOR, WE'D
10 OFFER STATE'S SIX INTO EVIDENCE NOW.

11 MR. KEARSE: YOUR HONOR,
12 OBJECTION, AS PREVIOUSLY ARGUED.

13 THE COURT: I NEED TO SEE WHICH
14 ONE SIX IS, PLEASE. OVERRULED, BASED ON THE COURT'S
15 EARLIER RULING.

16 MR. KEARSE: THANK YOU, YOUR
17 HONOR.

18 THE COURT: YOU'RE WELCOME.

19 (State's Exhibit Six
20 marked and filed.)

21 Q. AFTER LOOKING IN TO THE LEFT AND TO THE RIGHT,
22 WHAT DID YOU DO NEXT?

23 A. AFTER WE TOOK THE OVERALL PHOTOGRAPHS WE CAME
24 BACK IN WITH THE PHOTO PLACARDS AND MARKED
25 CERTAIN PIECES OF EVIDENCE AND THEN RE-

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1 PHOTOGRAPHED EACH ITEM WITH THE EVIDENCE. THERE
2 WAS SOME BLOOD SPATTER ON THE BACK OF THE DOOR, I
3 PASTED SEVERAL PIECES OF TAPE, I THINK THEY WERE
4 LABELED, LIKE, A THROUGH E, ON VARIOUS POSITIONS
5 ON THE DOOR, JUST MARKING SOME OF THE BLOOD
6 STAINS.

7 Q. OKAY. LET ME SHOW YOU WHAT'S BEEN MARKED STATE'S
8 ONE FOR IDENTIFICATION.

9 A. STATE'S EXHIBIT ONE, THIS IS A PHOTOGRAPH OF THE
10 BACK DOOR, THIS IS AFTER I POSTED SEVERAL SCALE
11 TAPES ON IT, AND I'VE GOT TWO THIRTY-SIX INCH
12 RULERS, ONE MOUNTED ON TOP OF THE OTHER ONE, TO
13 SHOW YOU THE HEIGHT OF EACH ONE OF THE SCALE
14 TAPES. AND THERE'S BLOOD SPATTER PATTERNS AROUND
15 EACH TAPE.

16 SOLICITOR BELL: YOUR HONOR, WE'D
17 OFFER THIS AS STATE'S ONE NOW.

18 THE COURT: ANY OBJECTION?

19 MR. KEARSE: NO OBJECTION, YOUR
20 HONOR.

21 THE COURT: MARKED AND ADMITTED
22 WITHOUT OBJECTION.

23 (State's Exhibit One
24 marked and filed.)

25 SOLICITOR BELL: I'M GOING TO PUT

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1 THIS UP ON THE OVERHEAD.

2 Q. FIRST OF ALL, LIEUTENANT ASBELL, YOU SAID
3 SOMETHING ABOUT BLOOD SPATTER?

4 A. THAT'S CORRECT.

5 Q. WHAT IS BLOOD SPATTER?

6 A. WHEN THERE'S AN INJURY TO THE BODY, LET'S SAY FOR
7 INSTANCE, A GUN SHOT WOUND, WHEN THE BULLET
8 ENTERS THE BODY AND AS IT EXITS IT TAKES TISSUE
9 AND BLOOD WITH IT. DEPENDING ON IF IT'S BARE
10 SKIN, A LOT OF TIMES YOU'D HAVE WHAT WE CALL A
11 BACK SPATTER, WHICH IS USUALLY A LOT LESS. WHEN
12 YOU'RE DEALING WITH A GUN SHOT WOUND YOU'RE
13 DEALING WITH BLOOD SPATTER IN EXCESS OF A HUNDRED
14 FEET PER SECOND, SO USUALLY THE BLOOD SPATTER IS
15 LESS THAN ONE MILLIMETER WHEN YOU'RE DEALING WITH
16 A GUN SHOT WOUND, WHEREAS IN A BEATING IT WOULD
17 BE ANYWHERE FROM ONE TO THREE MILLIMETERS.

18 Q. OKAY. AND YOU'VE HAD TRAINING IN BLOOD SPATTER
19 ANALYSIS?

20 A. MY FIRST SESSION WITH IT WAS IN NINETEEN NINETY-
21 TWO, AT I.P.T.M., I WAS INTRODUCED TO DIFFERENT
22 PATTERNS AT THAT CLASS, IT WAS A CRIME SCENE
23 TECHNICIAN'S WORK SHOP. THEN IN NINETEEN NINETY-
24 FOUR I ATTENDED BASIC BLOOD SPATTER. IN NINETEEN
25 NINETY-SEVEN I ATTENDED ADVANCED BLOOD SPATTER

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1 COURSE. IN THE BASIC CLASS WE CREATED OUR OWN
2 BLOOD SPATTER AT THAT TIME, WE HAD A LIFT WHERE
3 WE DROPPED IT FROM DIFFERENT HEIGHTS, WE TOOK
4 OBJECTS WITH A SPONGE ON IT AND HAMMERS,
5 WRENCHES, JUST DIFFERENT ITEMS, AND WE BEAT IT,
6 AND WHEN WE DID WE HAD LIGHT PAPER SURROUNDING IT
7 SO WE COULD SEE WHAT THE PATTERN WAS ON THAT.
8 AND THEN, LATER ON THAT WEEK WE WENT INTO MOCK
9 CRIME SCENES. NOW, WHEN I WENT BACK FOR THE
10 ADVANCED BLOOD SPATTER COURSE THEY HAD MOCK
11 SCENES, WE HAD DOMESTIC BLOOD SPATTER, WE HAD
12 ARMED ROBBERIES WITH SHOOTINGS INVOLVED, AND
13 BEATINGS, AND WE WORKED DIFFERENT CRIME SCENES AT
14 THAT TIME, LEARNING HOW TO DOCUMENT THE BLOOD
15 SPATTER.

16 Q. OKAY. I'M GOING TO HAND YOU A LASER POINTER SO
17 YOU CAN USE IT.

18 A. I'VE GOT ONE RIGHT HERE, THANK YOU.

19 Q. YOU'VE GOT ONE, OKAY. IF YOU'D JUST POINT OUT TO
20 THE JURY, AND I HOPE I'VE PUT IT UP THERE WELL
21 ENOUGH, JUST WHAT YOU WERE LOOKING AT. I KNOW
22 IT'S KIND OF HARD, IT'S A DARK BACKGROUND.

23 A. THE ONLY ONE THAT CAN SHOW A CLEAR SECTION OF
24 BLOOD SPATTER IS RIGHT ON HERE. THIS WOOD IS SO
25 DARK, IF THAT COULD BE BLOWN UP, THERE IS SOME

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1 HIGH VELOCITY BLOOD SPATTER RIGHT THERE. THAT
2 PHOTOGRAPH IS A LITTLE BIT TOO DISTANT, BUT YOU
3 CAN SEE ONE HERE, THIS IS A FAIRLY LARGE ONE
4 HERE, THIS IS PROBABLY ONE TO TWO MILLIMETERS.
5 BUT THERE IS SOME REAL FINE BLOOD SPATTER RIGHT
6 ALONG HERE. AND THIS IS JUST INDICATING THE
7 HEIGHT AREA, YOU LOOKED AT THIRTY-SIX INCHES PLUS
8 ANOTHER THIRTEEN INCHES, THAT'S ABOUT FORTY-NINE,
9 THAT'S ABOUT FOUR FEET ONE INCH OFF THE FLOOR IS
10 WHERE THAT BLOOD SPATTER IS AT. AND IF YOU'LL
11 ZOOM BACK OUT FOR ME, SIR -- THANK YOU. RIGHT
12 HERE IS A DEAD BOLT. THIS HOUSE HAD NO DOOR
13 HANDLE, WHAT YOU HAVE IS A DEAD BOLT WHEN YOU
14 CAME IN, SO THERE WAS NOT A DOOR KNOB WHERE YOU
15 JUST TURN THE DOOR KNOB WHEN YOU WANTED TO GO
16 OUT, YOU HAD TO PHYSICALLY UNLOCK IT.

17 Q. BUT A THROUGH E ARE WHAT YOU FOUND AS BLOOD
18 SPATTER, IS THAT CORRECT?

19 A. THAT'S CORRECT.

20 Q. NOW, WHAT ELSE DID YOU FIND IN THE HOUSE?

21 A. AS YOU WALK IN THE DOOR, I THINK IT WAS FOUR
22 FEET, THREE INCHES TO THE LEFT, WE NOTICED A
23 SHELL CASING DOWN THERE. AND I THOUGHT IT WAS
24 KIND OF UNUSUAL BECAUSE WE ONLY FOUND ONE SHELL
25 CASING WHICH WAS A TEN MILLIMETER. THE VICTIM HAD

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1 SEVERAL GUN SHOT WOUNDS. AT THAT TIME I COULD
2 SEE THREE ENTRANCE WOUNDS IN THE BODY AND THEY
3 WERE ALL ON THE RIGHT HAND SIDE OF THE BODY.

4 Q. OKAY. AND BASED ON YOUR EXPERIENCE AND TRAINING,
5 WHAT DID ALL THIS INDICATE TO YOU AT THAT TIME?

6 A. THAT SOMEBODY HAD POLICED THE BRASS, EITHER
7 SOMEBODY CLEANED UP AFTER WHOEVER THE SUSPECTS
8 WERE HAD LEFT, OR THE SUSPECTS PICKED UP THEIR
9 OWN BRASS AND JUST MISSED ONE OF THEM.

10 Q. AND WHAT DO YOU MEAN BY POLICING THE BRASS?

11 A. PICKING IT UP, TAKING IT WITH YOU.

12 Q. OKAY. LET ME SHOW YOU WHAT'S BEEN MARKED STATE'S
13 THREE FOR IDENTIFICATION. AND WHILE I'M AT IT,
14 STATE'S TWO FOR IDENTIFICATION. LET ME SHOW YOU
15 WHAT'S BEEN MARKED STATE'S THREE FOR
16 IDENTIFICATION FIRST AND ASK IF YOU CAN IDENTIFY
17 THAT?

18 A. STATE'S EXHIBIT THREE, AS YOU COME INTO THE
19 LIVING ROOM THROUGH THE FRONT DOOR TO YOUR LEFT
20 THERE'S A WINDOW AND THERE'S A CURTAIN, AND RIGHT
21 BELOW THE CURTAIN YOU'LL SEE A BULLET CASING
22 LAYING ON THE FLOOR. I WAS STANDING SOMEWHERE IN
23 THE VICINITY OF THE CARD TABLE WHEN I TOOK THIS
24 PICTURE. THIS IS JUST A DISTANT SHOT SHOWING THE
25 SHELL CASING ON THE FLOOR.

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1 Q. OKAY. AND I'M SHOWING YOU WHAT'S BEEN MARKED
2 STATE'S TWO FOR IDENTIFICATION.

3 A. STATE'S EXHIBIT TWO IS A CLOSE UP SHOT OF THE TEN
4 MILLIMETER CASING THAT WAS FOUND ON THE FLOOR.

5 SOLICITOR BELL: YOUR HONOR, I'D
6 OFFER STATE'S THREE AND TWO INTO EVIDENCE.

7 THE COURT: ANY OBJECTION?

8 MR. KEARSE: WITHOUT OBJECTION,
9 YOUR HONOR.

10 THE COURT: MARKED AND ADMITTED
11 WITHOUT OBJECTION.

12 (State's Exhibits Two and Three
13 marked and filed.)

14 Q. DETECTIVE ASBELL, LET ME SHOW YOU THIS BOX AND
15 WHAT'S IN IT AND ASK IF YOU CAN IDENTIFY WHAT
16 THAT IS?

17 A. DO YOU HAVE A PAIR OF SCISSORS? THIS IS THE
18 METAL TIN THAT I COLLECTED THE SHELL CASING IN
19 THAT NIGHT. IT'S A TEN MILLIMETER SPENT SHELL
20 CASING, IT'S GOT THE CASE NUMBER ON IT, MY
21 INITIALS, AND IT'S LISTED AS PHOTO PLACARD NUMBER
22 ONE. THE EVIDENCE TAPE ON THE OUTSIDE IS
23 LABELED, DORCHESTER COUNTY, IT'S A RED AND WHITE
24 TAPE, IT'S TAMPER PROOF TAPE, AND IT'S GOT MY
25 INITIALS AND THE DATE ON IT WHEN I SEALED IT.

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1 Q. OKAY. AND THAT'S WHAT, THE BULLET CASING THAT WAS
2 IN STATE'S PICTURE TWO AND STATE'S THREE?

3 A. THAT'S CORRECT.

4 SOLICITOR BELL: YOUR HONOR, I'D
5 OFFER THIS FOR IDENTIFICATION AT THIS TIME.

6 THE COURT: ANY OBJECTION?

7 MR. KEARSE: NO OBJECTION.

8 THE COURT: WITHOUT OBJECTION,
9 MARKED FOR ID.

10 COURT REPORTER: TWENTY-TWO ID.

11 (State's Exhibit Twenty-two,
12 Metal Tin with shell casing,
13 marked for identification.)

14 Q. WHAT ELSE DID YOU FIND IN THERE, LIEUTENANT
15 ASBELL -- WELL, LET ME ASK YOU THIS, YOU TALKED
16 ABOUT THE BLOOD SPATTER THAT WAS ON THE DOOR, DID
17 YOU SEE ANY OTHER WHAT YOU WOULD CHARACTERIZE AS
18 BLOOD SPATTER IN THE HOUSE?

19 A. THERE WAS A DRIP PATTERN ON THE FLOOR WHERE THE
20 SUBJECT HAD, AFTER HE WAS SHOT, HAD WALKED, OR
21 WANDERED INTO THE BEDROOM.

22 Q. AND WHERE DID THIS PATTERN EXTEND FROM AND TO?

23 A. JUST INSIDE THE FRONT DOOR, RIGHT BEHIND, AS YOU
24 OPEN -- IF YOU SHUT THE DOOR YOU COULD SEE THE
25 PATTERN, AND RIGHT THERE IN THE HALLWAY AS YOU

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1 STEPPED RIGHT INSIDE, RIGHT BEHIND THE FRONT
2 DOOR, AND THEN IT WENT RIGHT INTO WHERE THE BODY
3 WAS LAYING.

4 Q. OKAY. LET ME SHOW YOU WHAT'S BEEN MARKED STATE'S
5 FOUR FOR IDENTIFICATION AND ASK IF YOU CAN
6 IDENTIFY THAT?

7 A. STATE'S EXHIBIT NUMBER FOUR, THAT'S THE BLOOD
8 DRIP PATTERNS AS THEY'RE GOING INTO THE BEDROOM.

9 A. AND THAT'S COMING FROM THE VICINITY OF THE DOOR
10 INTO THE BEDROOM WHERE THE BODY WAS?

11 A. CORRECT.

12 SOLICITOR BELL: YOUR HONOR, WE'D
13 OFFER THIS AS STATE'S FOUR?

14 THE COURT: ANY OBJECTION?

15 MR. KEARSE: NONE, YOUR HONOR.

16 (State's Exhibit Four
17 marked and filed.)

18 Q. LET ME ASK YOU HOW -- LET ME PUT STATE'S FOUR UP
19 HERE, AND ASK HOW YOU CAN SAY THAT'S A DRIP
20 PATTERN?

21 A. WHEN BLOOD IS IN MOTION AND WHEN IT HITS THE
22 FLOOR, A LOT OF IT DEPENDS ON THE TEXTURE OF THE
23 SURFACE. IF YOU HAD A SMOOTH SURFACE IT WOULD BE
24 A LOT MORE ROUNDER AND A LOT MORE SMOOTHER, BUT
25 THERE WAS SOME, THIS FLOOR WAS NOT EXACTLY REALLY

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1 SMOOTH, BUT THE SATELLITE SPATTER IS WHAT WE CALL
2 WHEN BLOOD HITS IN THE DIRECTION THAT IT'S GOING
3 IT CASTS OFF LITTLE SATELLITE SPATTERS, AND IT
4 SHOWS THE DIRECTION IN WHICH THE BLOOD IS
5 TRAVELING.

6 Q. AND WHICH DIRECTION WAS THAT IN THIS CASE?

7 A. IT WAS GOING FROM THE FRONT DOOR INTO THE BEDROOM
8 WHERE THE BODY WAS.

9 Q. OKAY. AND HOW WAS THAT BLOOD -- WHERE WAS THAT
10 BLOOD COMING FROM?

11 A. I WOULD ASSUME IT WAS COMING FROM THE WOUND ON
12 THE DECEASED AS HE WAS WALKING INTO THE BEDROOM
13 THERE.

14 Q. AS IF HE'S DRIPPING BLOOD ---

15 A. YES, SIR.

16 Q. --- GOING IN THERE?

17 A. YES, IT'S NOT, IT WASN'T BEING CAST OFF OR
18 ANYTHING, IT WAS JUST DRIPPING STRAIGHT DOWN AS
19 HE WAS WALKING IN.

20 Q. OKAY. LIEUTENANT ASBELL, WHAT ELSE DID YOU FIND
21 WHEN YOU WERE WORKING INSIDE THE HOUSE?

22 A. THERE WAS, ON THE CARD TABLE THAT WAS SITTING
23 THERE WE PROCESSED THE TABLE, THE CHAIRS FOR
24 LATENT PRINTS, WE PROCESSED THE DOOR, THE FRONT
25 DOOR, THE STORM DOOR, THE KITCHEN AREA, AND WE

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1 COLLECTED SOME CIGARETTE BUTTS, I HAD PFC GREER
2 START DRAWING THE CRIME SCENE SKETCH, AND WHILE
3 SHE WAS DOING THAT I WAS PROCESSING FOR LATENT
4 PRINTS, AND THEN AFTER SHE GOT IT DRAWN I HELPED
5 HER WITH THE MEASUREMENTS.

6 SOLICITOR BELL: ONE MOMENT, YOUR
7 HONOR.

8 THE COURT: UH HUH.

9 Q. DID YOU FIND ANY LATENT PRINTS IN THOSE AREAS
10 THAT YOU WERE ---

11 A. WE MADE A TOTAL OF THIRTY-THREE LATENT PRINTS, I
12 DIDN'T CHECK ANY OF THEM TO SEE WHAT DEGREE OF
13 CLARITY THEY WERE, I JUST, WE JUST DID THE LATENT
14 PRINTS THAT DAY AND PACKAGED EVERYTHING TO TAKE
15 TO SLED.

16 Q. OKAY. AND THERE WERE ALSO CASTS THAT WERE MADE
17 OUT IN THE DRIVEWAY?

18 A. THERE WERE SEVERAL FOOTWEAR CASTS AND SOME TIRE
19 CASTS. WE EXAMINED THE SHOES OF SEVERAL OF THE
20 PEOPLE THAT WERE THERE. THERE WERE PROBABLY TWO
21 OR THREE PATTERNS THAT WAS NOT, AT THE CRIME
22 SCENE. I DON'T KNOW WHO ALL WAS AT THE CRIME
23 SCENE, BUT THE PEOPLE THAT WE SAW, I THINK I GOT
24 THREE PAIRS OF SHOES THAT CAME IN AND THEY WERE
25 NOT CONSISTENT WITH THE PATTERNS THAT WERE THERE.

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1 ONE PAIR OF SHOES WAS CONSISTENT WITH IT, BUT THE
2 OTHER TWO, WE GOT, I THINK IT WAS TWO OR EITHER
3 THREE SETS OF FOOTWEAR OFF THE CRIME SCENE THAT
4 WE NEVER HAVE SEEN THE SHOES THAT GO WITH IT.

5 Q. NOW, AFTER PROCESSING THE CRIME SCENE YOU TOOK
6 EVERYTHING YOU HAD WHERE?

7 A. I TRANSPORTED IT BACK TO THE SHERIFF'S OFFICE AND
8 SECURED IT THERE.

9 Q. OKAY. AND DO YOU RECALL, DID YOU RECEIVE SOME
10 EVIDENCE FROM ANOTHER SOURCE IN THIS CASE?

11 A. WELL, FROM THE CORONER'S OFFICE, SHE TURNED OVER
12 THE BULLETS THAT WERE REMOVED FROM THE BODY AT
13 THE AUTOPSY.

14 Q. OKAY. LET ME SHOW YOU WHAT'S BEEN MARKED AS
15 STATE'S SEVENTEEN FOR IDENTIFICATION, STATE'S
16 EIGHTEEN FOR IDENTIFICATION, STATE'S NINETEEN FOR
17 IDENTIFICATION, STATE'S TWENTY FOR
18 IDENTIFICATION, AND STATE'S TWENTY-ONE FOR
19 IDENTIFICATION, AND ASK IF YOU RECOGNIZE THOSE?

20 A. STATE'S EXHIBIT SEVENTEEN, EIGHTEEN, NINETEEN AND
21 TWENTY, THESE ARE THE VIALS THAT THE PROJECTILES
22 WERE IN WHEN I RECEIVED THEM FROM CORONER ALICE
23 DURR, DEPUTY CORNER.

24 Q. OKAY. WHAT ABOUT TWENTY-ONE, I THINK I GAVE YOU
25 TWENTY-ONE?

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1 A. I'M SORRY, AND TWENTY-ONE, EXCUSE ME. SEVENTEEN,
2 EIGHTEEN, NINETEEN, TWENTY AND TWENTY-ONE, THESE
3 WERE THE FIVE VIALS I RECEIVED FROM THE DEPUTY
4 CORNER.

5 Q. ALICE DURR?

6 A. THAT'S CORRECT.

7 Q. OKAY. DID YOU ALSO, DURING THE ENTIRE COURSE OF
8 THE INVESTIGATION, HAVE OR GAIN CUSTODY OF
9 SEVERAL KNOWN PRINT CARDS, FINGER PRINT CARDS?

10 A. YES, SIR, I ROLLED SEVERAL OF THE PEOPLE THAT
11 WERE AT THE INCIDENT THAT NIGHT.

12 Q. OKAY. AND THEN, I THINK YOU GAINED SOME LATER ON
13 AFTER THAT NIGHT, IS THAT CORRECT?

14 A. YES, SIR.

15 Q. OKAY. OVERALL, HOW MANY -- CAN YOU NAME THE
16 PRINT CARDS THAT YOU ---

17 A. I'LL HAVE TO REFER TO MY SLED SHEET. WE SENT
18 MAJOR CASE PRINTS ON JOHNNY COBBS, JERMAINE
19 CUSACK, ANTHONY FOLK, LANESHA GREEN, TRAVIS
20 NORTH, I TOOK THE FINGER AND PALM PRINT CARDS ON
21 MR. COOK, MARK COOK, THE DECEASED, RYAN NORTH,
22 JASSON ROLAND TURNER, AND STEVEN JEROME BRISCOE.
23 THESE WERE ALL TAKEN AT DIFFERENT TIMES.

24 Q. OKAY. AND THEY WERE TAKEN TO SLED ALONG WITH THE
25 LATENT PRINTS THAT YOU HAD DEVELOPED?

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1 A. THAT'S CORRECT.

2 Q. ARE YOU AWARE WHO AT SLED LOOKED AT THESE
3 FINGERPRINT CARDS, AS WELL AS THE LATENT PRINT
4 CARDS?

5 A. SPECIAL AGENT STEVE DERRICK.

6 Q. ARE YOU AWARE OF WHAT HE FOUND?

7 A. YES, SIR. I'D HAVE TO PUBLISH HIS REPORT, BUT HE
8 DID MAKE A COUPLE OF ID'S.

9 Q. OKAY. COULD YOU PLEASE TELL THE JURY WHAT ID'S
10 HE FOUND AND WHERE THEY WERE LOCATED?

11 A. MAY I SEE THE PACKET OF LATENTS LAYING ON YOUR
12 DESK THERE? THERE WAS THIRTY-THREE LATENTS
13 TURNED IN, THREE OF THE LATENT PRINT CARDS HAD
14 ID'S, THERE WERE TWO LATENT PRINT CARDS OF WHICH
15 NO ID'S WERE EVER MADE, AND THEN THE REMAINING
16 TWENTY-EIGHT CARDS, I BELIEVE IT IS, THEY WERE
17 ALL OF INSUFFICIENT DETAIL TO MAKE ANY TYPE OF
18 IDENTIFICATION. MR. COOK WAS IDENTIFIED -- LET
19 ME PULL THE CARD REAL QUICK JUST TO MAKE SURE I
20 DON'T MAKE A MISTAKE -- ON THE RIGHT HAND CORNER
21 OF THE SINK MR. DERRICK IDENTIFIED MR. COOK'S
22 PRINTS. ON THE INSIDE GLASS OF THE FRONT STORM
23 DOOR MR. COBBS' PRINTS WERE IDENTIFIED.

24 Q. WHERE IS THE STORM DOOR?

25 A. YOU HAD A STORM DOOR AND THEN YOU HAD THE FRONT

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1 DOOR, IT'S ON THE FRONT PORCH, IT'S THE FRONT
2 DOOR GOING IN.

3 Q. OKAY.

4 A. ITEM NUMBER FORTY-SIX, LANESHA GREEN WAS
5 IDENTIFIED ON THAT, LET ME SEE WHERE THAT ONE WAS
6 TAKEN FROM, I THINK IT WAS FROM THE CANDLE
7 HOLDER. YEAH, THAT WAS THE CANDLE FROM THE CARD
8 TABLE IDENTIFIED MS. GREEN'S FINGER PRINTS ON
9 THAT. THAT WAS THE ONLY THREE ID'S THAT WERE
10 MADE.

11 Q. OKAY. AND YOU SAID TWO OF THEM WERE NOT
12 IDENTIFIED TO ANY OF THOSE PEOPLE THAT YOU
13 MENTIONED?

14 A. THAT'S CORRECT, THEY WERE IDENTIFIABLE, BUT TO
15 NONE OF THE CARDS THAT WERE SUBMITTED. AND THE
16 OTHER TWENTY-EIGHT LATENTS WERE NOT IDENTIFIABLE.

17 Q. WHAT DOES THAT MEAN?

18 A. THERE WAS NOT ENOUGH CHARACTERISTICS -- MATCHING
19 CHARACTERISTICS IN THE FINGER PRINT TO MAKE AN
20 IDENTIFICATION.

21 Q. THERE WERE NO FINGER PRINTS THAT WERE LINKED TO
22 MR. BRISCOE, IS THAT CORRECT?

23 A. THAT'S CORRECT.

24 Q. OR MR. TURNER?

25 A. THAT'S CORRECT.

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1 Q. LET ME ASK YOU ONE OTHER THING, WHAT DID YOU DO
2 WITH THE BULLET FRAGMENTS, STATE'S SEVENTEEN FOR
3 ID, EIGHTEEN FOR ID, NINETEEN FOR ID, TWENTY FOR
4 ID, AND TWENTY-ONE FOR ID, AND ALSO WHAT'S BEEN
5 MARKED AS STATE'S -- THE CARTRIDGE CASING WHICH
6 HAS BEEN MARKED STATE'S TWENTY-TWO FOR
7 IDENTIFICATION, WHERE DID YOU -- DID YOU TAKE
8 THOSE ANYWHERE?

9 A. ON JULY SIXTEENTH I TRANSPORTED THOSE TO SLED.

10 Q. OKAY. AND DO YOU KNOW WHO THEY WENT TO AT SLED?

11 A. STEVE DERRICK GOT THE LATENT PRINTS, THE EVIDENCE
12 CUSTODIANS, THEY TOOK THE SHELL CASING, I MEAN,
13 THE BULLETS IN, THE EVIDENCE THEMSELVES, THEY
14 LOCKED THEM IN THERE AND KEPT THEM, AND THEN, THE
15 STUFF, ANY STUFF THAT WAS SENT FOR DNA WAS PLACED
16 IN THE DNA FREEZER ---

17 Q. OKAY.

18 A. --- BY ME.

19 SOLICITOR BELL: THANK YOU,
20 LIEUTENANT ASBELL, PLEASE ANSWER ANY QUESTIONS MR.
21 KEARSE HAS.

22 THE COURT: MR. KEARSE, YOU MAY
23 PROCEED.

24 MR. KEARSE: MAY IT PLEASE THE
25 COURT, YOUR HONOR.

1 THE COURT: YES, SIR.

2 MR. KEARSE: COUNSELLOR.

3 (NOTE: Blank lines on this page do not indicate any
4 part of record has been omitted. Headers on testimony
5 pages and hard page breaks between testimony are now
6 required by the Court. See next ensuing page for
7 sequential continuation of record.)

CROSS - EARL V. ASBELL, JR., BY MR. KEARSE

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CROSS-EXAMINATION OF EARL V. ASBELL, JR.,

BY MR. KEARSE:

Q. LIEUTENANT ASBELL, YOU SAY YOU GOT, TOOK PRINTS,
AND THERE WERE NO PRINTS OF MR. BRISCOE AT THE
SCENE, IS THAT CORRECT?

A. THAT'S CORRECT, BUT THERE WAS OTHER PEOPLE IN THE
SCENE AND WE DIDN'T THEIR PRINTS ALSO.

Q. OKAY. BUT YOU DIDN'T FIND HIS PRINT, THAT'S MY
QUESTION?

A. THAT'S CORRECT.

Q. ALRIGHT. ADDITIONALLY, YOU GUYS DID MOLDS OF THE
TIRES, MOLDS OF FOOTPRINTS, IS THAT CORRECT?

A. THAT'S CORRECT.

Q. ALRIGHT. AND YOU DID QUITE A FEW, OR SEVERAL, I
DON'T WANT TO SAY A WHOLE LOT, BUT YOU WERE ABLE
TO FIND SEVERAL?

A. YES, SIR, WE DID.

Q. ALRIGHT. AND NONE OF THE MOLDS OF ANY SHOE PRINT
LINKS MR. BRISCOE TO THE SCENE, IS THAT CORRECT?

A. I NEVER RECEIVED ANY SHOES FROM HIM TO BE
EXAMINED.

Q. SO, THE ANSWER IS NO?

A. THAT'S CORRECT.

Q. YEAH. AND IN ADDITION, YOU GUYS DID SOME TIRE
MOLDS, IS THAT CORRECT?

CROSS - EARL V. ASBELL, JR., BY MR. KEARSE

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1 A. THAT'S CORRECT.

2 Q. AND THERE'S NO TIRE MOLD THAT WAS DONE AT THE
3 SCENE, THE CRIME SCENE THAT LINKS HIS MOTHER'S
4 CAR TO THE SCENE OF THIS CRIME, IS THAT CORRECT?

5 A. THAT'S CORRECT.

6 Q. ALRIGHT. NOW, YOU SAID WHEN YOU WENT INTO THE
7 RESIDENCE YOU NOTICED THAT, AND YOU COULD LOOK
8 AROUND, AFTER LOOKING AT THE DECEDENT, THAT
9 SOMEBODY HAD -- YOU SAID THAT -- ALRIGHT, YOU
10 TESTIFIED THAT YOU COULD SEE WHERE SOMEBODY HAD
11 POLICED THIS SCENE, IS THAT CORRECT?

12 A. ALL I -- IT APPEARED THAT SOMEBODY POLICED IT,
13 THERE WAS ONLY ONE SHELL CASING ON THE FLOOR.

14 Q. ALRIGHT.

15 MR. KEARSE: I BEG THE COURT'S
16 INDULGENCE.

17 THE COURT: UH HUH. Y'ALL MIGHT
18 WANT TO TURN YOUR COMPUTERS OFF UNTIL THEY FIGURE OUT
19 WHAT'S GOING ON WITH THAT ELECTRICITY, UNLESS YOU HAVE
20 A SURGE PROTECTOR ON THEM, UNLESS YOU WANT THEM TO
21 DIE. AND YOU MIGHT WANT TO UNPLUG THEM.

22 Q. NOW, WHEN YOU WALKED INTO THE SCENE YOU SAID YOU
23 STARTED TAKING PHOTOGRAPHS AFTER YOU GUYS, AFTER
24 IT WAS CLEARED, IS THAT CORRECT?

25 A. THAT'S CORRECT.

1 Q. ALRIGHT, NOW I HAVE WHAT'S BEEN MARKED AS
2 DEFENDANT'S THREE, I BELIEVE, THAT WAS A DIAGRAM
3 PREPARED BY THE OWNER, LANESHA GREEN?

4 A. OH, OKAY..

5 Q. ARE YOU FAMILIAR WITH THAT DIAGRAM?

6 A. I'VE NEVER SEEN IT.

7 Q. OKAY. WELL, YOU SAID YOU CAME INTO THE HOUSE AND
8 YOU TOOK A PICTURE COMING INTO WHAT I GUESS IS A
9 DEN OR A LIVING ROOM, IS THAT CORRECT?

10 A. TO THE LEFT ---

11 Q. ALRIGHT.

12 A. --- IS THE DEN OR LIVING ROOM. WHEN YOU WALK
13 STRAIGHT INTO THE DOOR THERE'S A WALL RIGHT
14 STRAIGHT IN FRONT OF YOU.

15 Q. ALRIGHT. AND THAT HAS BEEN MARKED AS STATE'S
16 EXHIBIT FIVE?

17 A. THAT'S IT, THAT'S THE PICTURE.

18 Q. AND YOU COULD NOT TELL WHETHER OR NOT THAT TABLE
19 WAS ACTUALLY MOVED OR ANYTHING, YOU WOULDN'T KNOW
20 THAT, IS THAT CORRECT?

21 A. THAT'S CORRECT. IT WAS WHERE -- THAT'S WHERE IT
22 WAS AT WHEN I WALKED IN THE DOOR.

23 Q. ALRIGHT. AND ADDITIONALLY, YOU SAID YOU LOOKED
24 TO THE LEFT OR SO, AND THERE WAS A -- SOME SHELL
25 CASING UNDERNEATH, OR BY A CURTAIN, IS THAT

CROSS - EARL V. ASBELL, JR., BY MR. KEARSE

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1 CORRECT?

2 A. ONE SHELL CASING, YES, SIR.

3 Q. ALRIGHT. AND YOU COULD NOT TELL WHETHER OR NOT
4 THAT SHELL CASING HAD ACTUALLY BEEN PLACED DOWN
5 THERE, PUT DOWN THERE, OR ANYTHING OF THAT
6 NATURE, IS THAT RIGHT?

7 A. THAT'S CORRECT.

8 Q. AND YOU COULDN'T TELL IF IT HAD ACTUALLY BEEN
9 SPENT THAT NIGHT, IF SOMEBODY -- WHEN I SAY,
10 SPENT, IF IT HAD BEEN FIRED THAT NIGHT, IT JUST
11 HAPPENED TO BE DOWN THERE BY THE WINDOW, IS THAT
12 CORRECT?

13 A. THAT'S CORRECT.

14 Q. ALRIGHT. AND AS YOU SAID, IT SEEMED TO BE
15 SOMEWHAT FISHY BECAUSE THERE WERE NUMEROUS GUN
16 SHOT WOUNDS TO THE DEFENDANT, I MEAN, THE
17 DECEDENT, IS THAT CORRECT?

18 A. THAT'S CORRECT.

19 Q. ALRIGHT. NOW, YOU SAID THERE WAS ALSO A DRIP
20 PATTERN GOING INTO THE BEDROOM, IS THAT CORRECT?

21 A. THAT'S CORRECT.

22 Q. IS IT POSSIBLE THAT THE DECEDENT COULD HAVE BEEN
23 MOVED FROM IN FRONT OF THE DOOR TO, INTO THE
24 BEDROOM?

25 A. THAT'S POSSIBLE.

1 Q. ALRIGHT. ADDITIONALLY, YOU SAID THAT WHEN YOU
2 FOUND THE DECEDENT HE HAD IN HIS RIGHT HAND I
3 BELIEVE, THERE WERE SOME BURNT CIGARETTE ASHES,
4 IS THAT CORRECT?

5 A. THAT'S CORRECT.

6 Q. AND HE ALSO HAD, I BELIEVE IT WAS BETWEEN HIS TWO
7 FINGERS A CIGARETTE, IS THAT CORRECT, OR AT LEAST
8 A CIGARETTE FILTER?

9 A. A CIGARETTE FILTER.

10 Q. ALRIGHT. AND WAS THAT IN HIS RIGHT HAND OR LEFT
11 HAND?

12 A. THAT WOULD HAVE BEEN IN HIS RIGHT HAND.

13 Q. ALRIGHT. SO, WHEN YOU FOUND HIS BODY LAYING ON
14 HIS BACK WITH A CIGARETTE IN BETWEEN HIS FINGERS,
15 IS THAT CORRECT?

16 A. THAT'S CORRECT.

17 Q. IN HIS RIGHT HAND. AND HE HAS BURNT ASHES ON HIS
18 PALM, IS THAT CORRECT?

19 A. THAT'S CORRECT.

20 Q. ALRIGHT. AND HE'S LYING FLAT ON HIS BACK ---

21 A. THAT'S CORRECT.

22 Q. --- IN THE BEDROOM?

23 A. THAT'S CORRECT. EMS HAD DONE SOMETHING TO HIM
24 PRIOR TO ME GETTING THERE, THEY HAD THEIR
25 ATTACHMENTS ON HIM. I DON'T KNOW WHAT POSITION

CROSS - EARL V. ASBELL, JR., BY MR. KEARSE

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1 THE BODY WAS IN PRIOR TO THAT, BUT THAT'S THE WAY
2 IT WAS WHEN I CAME IN.

3 Q. ALRIGHT. ALRIGHT, AND YOU ALSO, I THINK YOU
4 NOTED THAT FOR SOME STRANGE REASON THERE WAS A
5 PARTIAL DRIVER'S LICENSE NEXT TO HIM OR
6 SOMETHING, DO YOU RECALL THAT?

7 A. ON THE MATTRESS LYING, IT WAS TO HIS LEFT, MY
8 RIGHT, THERE WERE SOME EYE DROPS AND THERE WAS A
9 DRIVER'S LICENSE THAT WAS BROKEN IN HALF, LENGTH-
10 WISE, SHOWING HIS PICTURE.

11 Q. SHOWING THE ---

12 A. THE DECEASED'S PICTURE, IT WAS HIS.

13 Q. --- THE DECEASED'S PICTURE?

14 A. YES, SIR.

15 Q. SO, IT WAS A TORN OR SOMEHOW PERFORATED LICENSE,
16 HIS DRIVER'S LICENSE THAT YOU FOUND?

17 A. RIGHT, IT WAS BROKEN LENGTH-WISE ACROSS.

18 Q. ALRIGHT. NOW, YOU ALSO, IN CHECKING THE SCENE YOU
19 FOUND A BULLET HOLE THAT WAS ABOUT A FOOT FROM
20 THE FLOOR, IS THAT CORRECT, DO YOU RECALL THAT?

21 A. THAT WAS -- CORRECT, THAT WOULD HAVE BEEN OVER
22 HIS LEFT SHOULDER. AND THERE WAS A BED ROOM
23 WINDOW IN THERE, AND JUST TO THE RIGHT OF THE
24 WINDOW AND DOWN, ABOUT A FOOT OFF THE FLOOR THERE
25 WAS A BULLET HOLE.

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1 Q. ALRIGHT. AND SO, THAT BULLET HOLE WAS ACTUALLY
2 IN THE BEDROOM WHERE THE BODY WAS?

3 A. THAT'S CORRECT.

4 Q. ALRIGHT. DID YOU TAKE ANY PHOTOGRAPHS OF THAT
5 BULLET HOLE?

6 A. YES, I DID.

7 Q. ALRIGHT. BUT THAT DOESN'T APPEAR IN WHAT'S BEEN
8 MARKED AS STATE'S EXHIBIT SIX, DOES IT -- I MEAN,

9 ---

10 A. THE AREA THAT THE BULLET HOLE WAS LOCATED IS IN
11 THE PHOTOGRAPH, YOU CANNOT SEE IT FROM THIS
12 DISTANCE.

13 Q. OKAY.

14 A. BUT IT IS, IT'S IN THE PANEL JUST TO THE RIGHT OF
15 THE WINDOW AND DOWN BELOW THE WINDOW, ABOUT
16 MIDDLEWAYS OF THAT AIR MATTRESS.

17 Q. ALRIGHT. OKAY, ARE YOU SAYING IT WAS BELOW THAT
18 WINDOW, AS RIGHT BEHIND THE DECEDENT? I'M SORRY.

19 A. THAT'S ALRIGHT, I DON'T WANT TO HIT YOU WITH THIS
20 LEDGER. HERE'S A CORNER OF THE WINDOW, AND
21 THERE'S SOME PANELS GOING DOWN, AND IT'S RIGHT
22 ABOUT HERE, ABOUT A FOOT OFF THE FLOOR IS WHERE
23 THERE WAS A BULLET HOLE LOCATED.

24 Q. OKAY. AND THAT WAS JUST ONE SINGLE BULLET HOLE?

25 A. THAT WAS ONE SINGLE BULLET HOLE.

CROSS - EARL V. ASBELL, JR., BY MR. KEARSE

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1 Q. AND DID YOU FIND A SHELL CASING IN THAT ROOM?

2 A. NO, SIR, WE DIDN'T.

3 Q. ALRIGHT. YOU GUYS COLLECTED BLOOD SAMPLES FROM
4 THE SCENE?

5 A. I DON'T BELIEVE I DID, ALL I HAVE IS THE BLOOD
6 SPATTER THAT WAS ON THE DOOR, AND THE VICTIM --
7 YES, I DID. BLOOD SAMPLE INSIDE FRONT DOOR.

8 Q. AND YOU SAID THAT THERE WAS BLOOD SPATTER OVER
9 THAT DOOR, IS THAT CORRECT?

10 A. YES, SIR.

11 Q. THE FRONT DOOR?

12 A. IT WAS ON THE BACK SIDE OF THE FRONT DOOR, THAT'S
13 CORRECT.

14 Q. ALRIGHT. AND THE WOULD BE THE SIDE, IF YOU WERE
15 INSIDE THE HOUSE YOU WOULD HAVE TO SOMEHOW GO
16 THROUGH THE DOOR TO GET OUT INTO THE YARD?

17 A. THAT'S CORRECT.

18 Q. ALRIGHT. IS THERE ANY, OR WAS THERE ANY BLOOD
19 FOUND IN THIS, MR. BRISCOE'S MOTHER'S CAR, ARE
20 YOU FAMILIAR WITH THAT PONTIAC IN QUESTION?

21 A. I'VE NEVER SEEN IT, I WAS -- NOT AS I KNOW OF, I
22 DON'T KNOW IF IT WAS EXAMINED OR NOT.

23 Q. ALRIGHT. SO, Y'ALL DON'T HAVE ANY DNA EVIDENCE
24 AND NO BLOOD LINKING THAT CAR TO THIS CRIME
25 SCENE, IS THAT CORRECT?

1 A. THAT'S CORRECT.

2 Q. ALRIGHT. NOW, IN ADDITION, YOU GUYS CONDUCTED A
3 GUN SHOT RESIDUE TEST OF THE DECEDENT, IS THAT
4 CORRECT?

5 A. THAT'S CORRECT.

6 Q. ALRIGHT, AND IT CAME BACK NEGATIVE, IS THAT
7 RIGHT?

8 A. THAT'S CORRECT.

9 Q. THERE WAS NO -- WHAT'S THE PURPOSE OF A GUN SHOT
10 RESIDUE TEST, LIEUTENANT ASBELL?

11 A. TO SEE IF ANYBODY HAS FIRED A WEAPON. USUALLY, IF
12 YOU FIRE A WEAPON, AS THE BULLET EXPANDS OUT THE
13 BARREL, THE SMOKE COMES AROUND AND ALSO YOU GET A
14 FLASH BACK FROM AROUND THE CYLINDER IF IT'S A
15 PISTOL, BUT YOU GET, SMOKE IS DEPOSITED -- IF
16 YOU'RE FIRING THE GUN USUALLY SMOKE IS DEPOSITED
17 ON THE BACK SIDE OF THE HAND.

18 Q. OKAY. NOW, THERE WAS NO GUN SHOT RESIDUE TEST
19 CONDUCTED OF LANESHA GREEN?

20 A. NO, SIR, THERE WAS NO OTHER TEST DONE.

21 Q. ALRIGHT. NO GUN SHOT RESIDUE TEST CONDUCTED OF
22 JERMAINE COOK, JOHNNY COBBS -- I'M SORRY,
23 JERMAINE CUSACK, JOHNNY COBBS EITHER, IS THAT
24 CORRECT?

25 A. NO, SIR.

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1 Q. AND NONE DONE OF RYAN NORTH, TRAVIS NORTH OR
2 ANTHONY FOLK, IS THAT CORRECT?

3 A. THAT'S CORRECT.

4 Q. ALRIGHT. AND THAT TEST IS DONE TO HELP TO SEE,
5 LIKE YOU SAID, WHETHER OR NOT SOMEBODY ACTUALLY
6 FIRED A WEAPON, IS THAT CORRECT?

7 A. THAT'S CORRECT.

8 Q. ALRIGHT. AND IT ALSO CAN HELP TO EXCLUDE AS TO
9 WHETHER OR NOT A PERSON FIRED A WEAPON, ISN'T
10 THAT CORRECT?

11 A. THAT'S CORRECT ALSO.

12 MR. KEARSE: I BEG THE COURT'S
13 INDULGENCE.

14 THE COURT: UH HUH.

15 MR. KEARSE: YOUR HONOR, I DON'T
16 HAVE ANYTHING FURTHER.

17 THE COURT: REDIRECT?

18 SOLICITOR BELL: YES, YOUR HONOR,
19 A COUPLE OF QUESTIONS.

20 (NOTE: Blank lines on this page do not indicate any
21 part of record has been omitted. Headers on testimony
22 pages and hard page breaks between testimony are now
23 required by the Court. See next ensuing page for
24 sequential continuation of record.)

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REDIRECT EXAMINATION OF EARL V. ASBELL, JR.,

BY SOLICITOR BELL;

Q. LIEUTENANT ASBELL, YOU WERE JUST ASKED ABOUT GUN
SHOT RESIDUE TESTS?

A. YES, SIR.

Q. AND YOU'RE FAMILIAR WITH THOSE IN YOUR TRAINING
AND EXPERIENCE IN CRIME SCENES?

A. YES, I AM.

Q. IS THERE -- AGAIN I WILL ASK YOU, WHAT'S THE
PURPOSE OF THEM?

A. TO TRY TO FIND OUT, DETERMINE WHO FIRED A WEAPON.

Q. AND WHAT ARE YOU LOOKING FOR?

A. IT'S A BARIUM, IT'S A METAL THAT'S INSIDE OF THE
PRIMER, AND ALSO, IT'S, IT'S DIFFERENT METALS
LOCATED INSIDE, I'M NOT THAT FAMILIAR WITH IT, I
KNOW WHEN YOU FIRE A WEAPON IT PRODUCES DIFFERENT
TYPES OF, PIECES OF POWDER, AND THEY CAN
DETERMINE FROM THE POWER WHAT TYPE OF GUN WAS
FIRED.

Q. ARE YOU AWARE IF THERE'S LIKE A TIME LIMIT ON HOW
LONG YOU CAN WAIT TO PERFORM THESE TESTS?

A. SLED WILL NOT -- USUALLY WON'T TAKE THEM, IT'S
EITHER FOUR OR SIX HOURS AFTER A GUN'S BEEN
FIRED, OR SOMEONE HAS FIRED A GUN THEY DO NOT
ACCEPT ANY TEST AFTER THAT PERIOD OF TIME BECAUSE

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1 THEY CAN BE BRUSHED OFF JUST BY PUTTING YOUR
2 HANDS IN YOUR POCKETS.

3 Q. OKAY. SO, IT'S A FOUR TO SIX HOUR WINDOW AFTER A
4 GUN HAS BEEN FIRED, IS THAT CORRECT?

5 A. THAT'S CORRECT.

6 Q. LET ME ASK YOU THIS QUESTION, YOU'VE BEEN TRAINED
7 IN FINGER PRINTS AS WELL, LATENT PRINTS?

8 A. THAT'S CORRECT.

9 Q. A SIMPLE QUESTION, JUST BECAUSE THERE ARE NO
10 FINGERPRINTS DOES THAT MEAN THAT NOBODY HAS EVER
11 BEEN THERE?

12 A. THAT'S CORRECT. AND I'LL GIVE YOU AN EXAMPLE.
13 I'VE BEEN SITTING HERE, YOU KNOW, THIRTY MINUTES
14 OR SO. WHEN I GET UP AND LEAVE IF YOU COME AND
15 PROCESS THIS CHAIR, YOU'RE NOT GOING TO FIND MY
16 PRINTS, I HAVE NOT TOUCHED THIS CHAIR. BUT JUST
17 BECAUSE YOU DON'T FIND PRINTS DOESN'T MEAN THAT
18 SOMEBODY IS NOT THERE. THE ONLY THING A
19 FINGERPRINT CAN DO IS PROVE THAT YOU WERE THERE
20 OR THAT YOU HANDLED SOMETHING, IT CAN'T PROVE
21 THAT YOU WERE NOT THERE.

22 Q. OKAY. SO, JUST BECAUSE THERE'S NO FINGERPRINTS
23 FOUND OR LINKING SOMEBODY IT DOESN'T MEAN THEY
24 WERE NECESSARILY NOT THERE?

25 A. THAT'S CORRECT.

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1 Q. OF COURSE, IF YOU FIND A PRINT THAT MATCHES
2 SOMEBODY, IT PROVES THEY WERE THERE, IS THAT
3 CORRECT?

4 A. THAT'S CORRECT.

5 SOLICITOR BELL: OKAY, THANK YOU.
6 I HAVE NOTHING FURTHER.

7 THE COURT: ANY OBJECTION TO THE
8 WITNESS BEING EXCUSED, FROM THE STATE?

9 SOLICITOR BELL: NONE FROM THE
10 STATE, YOUR HONOR..

11 THE COURT: FROM THE DEFENSE?

12 MR. KEARSE: NONE FROM THE
13 DEFENSE, YOUR HONOR.

14 THE COURT: SIR, YOU'RE EXCUSED,
15 YOU MAY STEP DOWN.

16 WITNESS: THANK YOU, YOUR HONOR.

17 THE COURT: YOU MAY CALL YOUR NEXT
18 WITNESS.

19 SOLICITOR BELL: THE STATE WOULD
20 CALL VELLO PAAVEL.

21 (Whereupon, witness
22 enters the courtroom.)

23 THE COURT: LET ME ASK BEFORE WE
24 DO THIS, DOES ANYONE ON THE JURY NEED A BREAK? YOU ALL
25 HAVE BEEN SITTING A LITTLE OVER AN HOUR.

1 (Negative response from jury panel.)

2 THE COURT: OKAY. YOU MAY
3 PROCEED, MADAM CLERK.

4 CLERK: COME OVER HERE AND RAISE
5 YOUR RIGHT HAND AND PLACE YOUR LEFT HAND ON THE BIBLE,
6 AND STATE YOUR FULL NAME, PLEASE.

7 WITNESS: VELLO PAAVEL, SPELLED V-
8 E-L-L-O, P-A-A-V-E-L.

9 (Whereupon, the witness,
10 VELLO PAAVEL,
11 is duly sworn.)

12 CLERK: THANK YOU, HAVE A SEAT.

13 THE COURT: YOU MAY PROCEED.

14 SOLICITOR BELL: THANK YOU, YOUR
15 HONOR.

16 (NOTE: Blank lines on this page do not indicate any
17 part of record has been omitted. Headers on testimony
18 pages and hard page breaks between testimony are now
19 required by the Court. See next ensuing page for
20 sequential continuation of record.)

DIRECT - VELLO PAAVEL BY SOL. BELL

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DIRECT EXAMINATION OF VELLO PAAVEL

BY SOLICITOR BELL;

Q. WOULD YOU STATE YOUR NAME AGAIN FOR THE RECORD?

A. MY NAME IS VELLO PAAVEL.

Q. WHERE ARE YOU EMPLOYED?

A. I WORK FOR THE SOUTH CAROLINA LAW ENFORCEMENT
DIVISION, WHICH IS COMMONLY KNOWN AS SLED.

Q. HOW LONG HAVE YOU WORKED FOR SLED?

A. I'VE BEEN THERE JUST OVER EIGHTEEN AND A HALF
YEARS.

Q. AND WHAT IS YOUR POSITION AT SLED?

A. I AM A FIREARM AND TOOL MARK EXAMINER IN THE
FIREARMS DEPARTMENT, IN THE FORENSIC SERVICES
LABORATORY.

Q. OKAY. AND HOW LONG HAVE YOU BEEN WORKING WITH
FIREARMS AT SLED?

A. I'VE BEEN IN THE FIREARMS DEPARTMENT ALL OF MY
TIME. THE FIRST TWO YEARS THAT I WAS IN THE
FIREARMS DEPARTMENT MY RESPONSIBILITY INCLUDED
LATENT PRINTS, CRIME SCENE AND PHOTOGRAPHY.
AFTER THE FIRST TWO YEARS OUR DEPARTMENT SPLIT
AND I STAYED WITH STRICTLY FIREARMS, SO FOR THE
PAST SIXTEEN AND A HALF YEARS I'VE BEEN DOING
STRICTLY FIREARM IDENTIFICATION AND TOOL MARK
IDENTIFICATION AND TOOL MARK IDENTIFICATION, AND

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1 FIREARM RELATED WORK.

2 Q. AND WHAT TRAINING HAVE YOU HAD IN REGARDS TO
3 FIREARMS IDENTIFICATION?

4 A. IN THE AREA OF FIREARMS IDENTIFICATION I HAD TO
5 PARTICIPATE IN A TRAINING PROGRAM THAT WAS
6 ADMINISTERED BY SLED. WHAT I HAD TO DO WAS WORK
7 UNDER THE SUPERVISION OF COURT QUALIFIED
8 EXAMINERS, I WAS GIVEN INFORMATION I HAD TO
9 STUDY, BOOKS I HAD TO READ, I WAS TESTED ON THIS
10 INFORMATION, I WAS GIVEN PRACTICAL PROBLEMS, AND
11 I HAD TO ASSIST EXAMINERS IN WORKING CASES AND
12 THEY SUPERVISED ME AS I WORKED THESE CASES.
13 DURING THAT TIME ALSO I HAD THE OPPORTUNITY TO
14 ATTEND CERTAIN SCHOOLS ON FIREARMS AND HOW THEY
15 FUNCTION. BUT AGAIN, THE BULK OF THE TRAINING
16 REGARDING FIREARMS IDENTIFICATION OR EXAMINING
17 BULLETS AND CARTRIDGE CASINGS CAME FROM THAT
18 TRAINING PROGRAM. I ALSO HAD THE OPPORTUNITY TO
19 ATTEND SCHOOL ON FIREARMS IDENTIFICATION THAT WAS
20 PRESENTED BY THE F.B.I. IN QUANTICO. AFTER I
21 SUCCESSFULLY COMPLETED THAT TRAINING AT SLED AND
22 ALL THE SCHOOLS, I WAS ALLOWED TO WORK CASES ON
23 MY OWN AND TO TESTIFY IN COURT.

24 Q. AND DO YOU KEEP CURRENT WITH FIREARMS ON
25 CURRICULAR, BOOKS, ARTICLES ABOUT FIREARM

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1 IDENTIFICATION?

2 A. YES, SIR, I DO. I'M A MEMBER OF AFTE, WHICH IS
3 THE ASSOCIATION OF FIREARM AND TOOL MARK
4 EXAMINERS. THIS ASSOCIATION PROMOTES THE EXCHANGE
5 OF INFORMATION AND KEEPS US ABREAST WITH
6 INFORMATION ABOUT FIREARM AND TOOL MARK
7 IDENTIFICATION. THEY HAVE A JOURNAL WHICH I
8 RECEIVE, THEY HAVE A WEB SITE THAT VISIT, I
9 ATTEND THEIR CONFERENCES. ALSO AS A PART OF
10 SLED'S ACCREDITATION PROGRAM I HAVE TO
11 PARTICIPATE IN PROFICIENCY PROGRAMS WHICH AGAIN
12 MONITOR MY PROFICIENCY AND MY SKILL IN THE AREA
13 OF FIREARM AND TOOL MARK IDENTIFICATION.

14 SOLICITOR BELL: YOUR HONOR, AT
15 THIS TIME I WOULD OFFER MR. PAAVEL AS AN EXPERT IN
16 FIREARMS IDENTIFICATION.

17 THE COURT: ANY QUESTIONS OR
18 OBJECTIONS?

19 MR. KEARSE: WITHOUT OBJECTION,
20 YOUR HONOR.

21 THE COURT: SO ADMITTED.

22 SOLICITOR BELL: THANK YOU, YOUR
23 HONOR.

24 THE COURT: YOU'RE WELCOME.

25 Q. MR. PAAVEL, I WANT TO SHOW YOU FIVE ITEMS WHICH

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1 HAVE BEEN MARKED STATE'S EXHIBIT SEVENTEEN FOR
2 IDENTIFICATION, EIGHTEEN FOR IDENTIFICATION,
3 NINETEEN FOR IDENTIFICATION, TWENTY FOR
4 IDENTIFICATION, AND TWENTY-ONE FOR
5 IDENTIFICATION, AND ALSO WHAT'S BEEN MARKED
6 STATE'S TWENTY-TWO FOR IDENTIFICATION,
7 ALTOGETHER, AND ASK YOU IF YOU RECOGNIZE THESE
8 ITEMS?

9 A. SIR, I'M GOING TO HAVE TO OPEN THIS ONE
10 CONTAINER, IF THAT'S PERMISSIBLE.

11 Q. SURE. I'LL FIND YOU A PAIR OF SCISSORS.

12 A. YES, SIR, I DO RECOGNIZE THESE ITEMS. THESE ARE
13 PIECES OF EVIDENCE THAT WERE SUBMITTED TO ME FOR
14 EXAMINATION IN REFERENCE TO THIS CASE.

15 Q. OKAY. AND WHAT DID YOU DO IN TERMS OF EXAMINING
16 THESE ITEMS?

17 A. WHAT I DID WAS EXAMINE THESE EXHIBITS, LET ME GET
18 THE NUMBERS HERE. NUMBERS SEVENTEEN, EIGHTEEN,
19 NINETEEN, TWENTY AND TWENTY-ONE, THESE EXHIBITS I
20 EXAMINED TO TRY TO DETERMINE WHAT CALIBRE THEY
21 WERE, THESE ARE FIRED BULLETS AND BULLET
22 FRAGMENTS. I ALSO MICROSCOPICALLY COMPARED THEM
23 TO SEE IF I COULD DETERMINE WHETHER THEY WERE
24 FIRED BY ONE OR MORE FIREARMS. I ALSO TRIED TO
25 PREPARE A LIST OF POSSIBLE FIREARMS THAT COULD

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1 HAVE FIRED THESE PARTICULAR BULLETS AND FRAGMENTS
2 BASED ON THE RIFLING CHARACTERISTICS THAT I COULD
3 SEE ON THE BULLETS. IN REFERENCE TO STATE'S
4 EXHIBIT NUMBER TWENTY-TWO, THIS IS A FIRED
5 CARTRIDGE CASE. IN THIS PARTICULAR INSTANCE I
6 DETERMINED WHAT CALIBRE IT WAS BY LOOKING AT THE
7 HEAD STAMP THAT'S ON THE CARTRIDGE CASE, ITSELF.
8 I EXAMINED THE MARKINGS ON IT TO SEE WHETHER OR
9 NOT THIS PARTICULAR CARTRIDGE CASE COULD BE
10 IDENTIFIED TO A PARTICULAR FIREARM IF A FIREARM
11 WAS RECOVERED. I ALSO LOOKED AT THE MARKINGS THAT
12 WERE LEFT ON THIS AND TRIED TO GIVE THE SUBMITTER
13 AN IDEA OF WHAT TYPE OF FIREARM COULD HAVE FIRED
14 THIS PARTICULAR CARTRIDGE CASE. AND THEN,
15 ULTIMATELY THIS CARTRIDGE CASE WAS SUBMITTED TO
16 OUR IBIS COMPUTER, WHICH THE INTEGRATED BALLISTIC
17 IDENTIFICATION SYSTEM COMPUTER, AND WHAT THIS IS,
18 IS A SYSTEM THAT ALLOWS THE DIGITAL IMAGE OF THE
19 HEAD OF THIS CARTRIDGE CASE AND THE MARKINGS THAT
20 ARE ON THIS CARTRIDGE CASE TO BE ENTERED INTO THE
21 SYSTEM, AND THEN IT IS SEARCHED AGAINST ANY
22 POTENTIAL ENTRIES THAT MAY BE IN THAT SYSTEM, AND
23 IF IT FOUND ANY SORT OF SIMILARLY MARKED
24 CARTRIDGE CASE, THEN I WOULD HAVE TO FIND THAT
25 CARTRIDGE CASE AND ACTUALLY DO A MICROSCOPIC

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1 COMPARISON ON THOSE.

2 Q. WHAT ARE YOU FINDINGS AS TO THE FIVE BULLET
3 FRAGMENTS.

4 A. IN EXAMINING THESE BULLETS AND FRAGMENTS I
5 DETERMINED THAT THEY WERE MOST CONSISTENT WITH
6 BULLETS THAT YOU FIND IN TEN_MILLIMETER AUTO, OR
7 FORTY SMITH AND WESSON CALIBRE CARTRIDGES. THOSE
8 TWO CARTRIDGES USE THE SAME DIAMETER OF BULLET,
9 SO YOU CANNOT TELL BY SIMPLY EXAMINING THE BULLET
10 BY ITSELF WHETHER IT WAS TEN MILLIMETER OR A
11 FORTY SMITH AND WESSON CALIBRE CARTRIDGE THAT IT
12 ORIGINATED FROM. IN DOING THE MICROSCOPIC
13 COMPARISON OF THESE BULLETS TO EACH OTHER I COULD
14 NOT DETERMINE WHETHER THEY WERE FIRED BY ONE GUN
15 OR MULTIPLE GUNS. THE REASON FOR THAT IS, THE
16 TYPE OF RIFLING THAT IS PRESENT ON THESE BULLETS
17 IS WHAT'S KNOWN AS POLYGIMAL RIFLING, AND THIS IS
18 A VERY SMOOTH TYPE OF RIFLING, AND IN MOST CASES
19 IT LEAVES VERY LITTLE MARKINGS ON THE BULLETS
20 THAT CAN BE USED FOR MICROSCOPIC COMPARISON. I
21 ALSO THEN PREPARED A LIST OF FIREARMS THAT COULD
22 HAVE FIRED THESE PARTICULAR BULLETS, BASED ON THE
23 RIFLING CHARACTERISTICS.

24 Q. AND WHAT, WHAT WERE THOSE PARTICULAR FIREARMS
25 THAT YOU LISTED?

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1 A. BEAR WITH ME. IN TEN MILLIMETER AUTO I LISTED A
2 GLOCK FIREARM, IN FORTY SMITH AND WESSON CALIBRE
3 IT COULD BE GLOCK, A HECKLER AND KOKE, WHICH IS
4 ALSO KNOWN AS HK, AN IMI, WHICH IS AN ISRAELI
5 MADE FIREARM, AND KAHR FIREARMS, K-A-H-R
6 FIREARMS. THOSE ARE THE BRANDS OF FIREARMS THAT
7 COULD HAVE FIRED THESE PARTICULAR BULLETS. AND
8 THIS IS BASED ON INFORMATION THAT'S PROVIDED TO
9 US BY THE FEDERAL BUREAU OF INVESTIGATION
10 FIREARMS AND TOOL MARK UNIT. THEY COMPILE
11 INFORMATION ON THE VARIOUS TYPES OF FIREARMS AND
12 WHAT TYPE OF RIFLING IS PRESENT IN THOSE
13 FIREARMS. IT IS POSSIBLE THAT THERE MAY BE SOME
14 OTHER BRAND OF FIREARM THAT I'M NOT FAMILIAR
15 WITH, OR THAT WAS NOT IN THEIR DATA BASE THAT
16 COULD HAVE FIRED THESE PARTICULAR BULLETS.
17 HOWEVER, THOSE WERE THE POSSIBILITIES THAT CAME
18 OUT OF THE DATA BASE SEARCH.

19 Q. AND THAT'S, YOU SAID A FORTY SMITH AND WESSON, IS
20 FORTY REFERRING TO THE CALIBRE?

21 A. YES, SIR, A FORTY SMITH AND WESSON REFERS TO THE
22 CALIBRE OF THE CARTRIDGE CASE THAT THE BULLET
23 COULD HAVE COME OUT OF. THE SMITH AND WESSON,
24 DON'T LET THAT FOOL YOU, A FORTY SMITH AND WESSON
25 IS SIMPLY A NAME FOR A PARTICULAR CALIBRE OF

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1 CARTRIDGE. FORTY SMITH AND WESSON CALIBRE
2 CARTRIDGES ARE LOADED IN MANY, MANY DIFFERENT
3 TYPES OF FIREARMS OR, CORRECT, THERE ARE MANY
4 TYPES OF FIREARMS THAT ARE CHAMBERED FOR FORTY
5 SMITH AND WESSON CALIBRE CARTRIDGES.

6 Q. NOW, BACK TO STATE'S TWENTY-TWO, THE CARTRIDGE,
7 THE FIRED CARTRIDGE ---

8 A. YES, SIR.

9 Q. --- WHAT DID YOU FIND, OR WHAT WERE YOU FINDINGS
10 ABOUT THAT?

11 A. AGAIN, THE HEAD OF THE CARTRIDGE CASE INDICATES A
12 PARTICULAR BRAND, E.L.D., WHICH INDICATES
13 ELDERADO CARTRIDGE COMPANY. IT ALSO SAYS, TEN
14 MILLIMETER AUTO, SO THAT TELLS YOU RIGHT AWAY
15 WHAT CALIBRE THIS PARTICULAR CARTRIDGE CASE WAS,
16 SO IT'S LIKELY TO BE FIRED FROM A TEN MILLIMETER
17 AUTO CALIBRE FIREARM. IN LOOKING AT THE FIRING
18 PIN MARKINGS AND THE MARKINGS THAT ARE LEFT BY
19 THE BREACH, OR SLIDE ON THIS, ON THE FIREARM, THE
20 MOST LIKELY FIREARM THAT COULD HAVE FIRED THIS
21 CARTRIDGE CASE, BASED ON THOSE MARKINGS, WAS THE
22 GLOCK FIREARM. GLOCK FIREARMS HAVE A RATHER
23 UNIQUELY SHAPED FIRING PIN, AND A RATHER UNIQUELY
24 SHAPED BREACH FACE AREA. IT'S RECTANGULAR IN
25 SHAPE AS OPPOSED TO BEING ROUND, AND IN TEN

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1 MILLIMETER AUTO THE ONLY FIREARM THAT I'M
2 FAMILIAR WITH THAT USES THIS TYPE OF FIRING PIN
3 AND BREACH FACE MARKING IS THE GLOCK FIREARM.

4 Q. WELL, LET ME ASK YOU ANOTHER STUPID QUESTION,
5 COULD THAT CARTRIDGE HAVE BEEN FIRED BY THE FORTY
6 SMITH AND WESSON GLOCK, HECKLER AND KOKE, I.M.I,
7 OR KAHR?

8 A. NO, SIR, THE TEN MILLIMETER AUTO CARTRIDGE CASE
9 IS ENTIRELY TOO LONG TO FIT INTO A PROPERLY
10 CHAMBERED FORTY SMITH AND WESSON CALIBRE FIREARM
11 BARREL. SO, IT COULD NOT HAVE BEEN FIRED BY A
12 FORTY SMITH AND WESSON CALIBRE FIREARM.

13 Q. MR. PAAVEL, LET ME ASK YOU, OR AGENT PAAVEL, LET
14 ME ASK YOU THIS QUESTION, COULD THE FIRED BULLETS
15 THAT YOU HAVE, THERE'S FIVE FIRED BULLETS, COULD
16 THEY HAVE BEEN CONTAINED IN THE STATE'S TWENTY-
17 TWO BULLET CARTRIDGE?

18 A. YES, SIR, OBVIOUSLY, ALL OF THEM COULDN'T HAVE
19 BEEN THERE AT ONE TIME, BUT ANY ONE OF THESE
20 BULLETS IN THIS STATE'S EXHIBIT COULD HAVE BEEN
21 IN THIS PARTICULAR FIRED CARTRIDGE CASING.

22 Q. YOU CAN ONLY SAY THAT IT'S CONSISTENT WITH THAT
23 FIRED CARTRIDGE CASING?

24 A. YES, SIR, IT IS THE SAME CALIBRE, AND THESE
25 PARTICULAR, ANY ONE OF THESE BULLETS COULD HAVE