

VOLUME TWO OF THREE

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from Dorchester County

Edgar W. Dickson, Circuit Court Judge

RECEIVED

NOV 24 2014

S.C. Supreme Court

STEVEN C. BRISCOE,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2014-001910

A P P E N D I X

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DIRECT - VELLO PAAVEL BY SOL. BELL

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1 ORIGINATED FROM THIS PARTICULAR FIRED CARTRIDGE,
2 CARTRIDGE CASE.

3 Q. OKAY. NOW, YOU SAID SOMETHING ABOUT IBIS, DID YOU
4 HAVE ANY -- DID THAT MATCH ANYTHING ON THE IBIS
5 SYSTEM?

6 A. NO, SIR, THE IBIS SYSTEM DID NOT BRING UP ANY
7 HIGH CONFIDENCE CORRELATIONS OR ANY SORT OF HITS,
8 AS WE WOULD CALL THEM. THERE WAS NOTHING IN OUR
9 DATA BASE THAT WAS SIMILAR TO THIS PARTICULAR
10 CARTRIDGE CASE.

11 Q. OKAY. DID YOU HAVE A, A WEAPON TO COMPARE THOSE
12 ITEMS, ALL SIX OF THOSE ITEMS WITH?

13 A. NO, SIR, NO FIREARM WAS SUBMITTED FOR COMPARISON.

14 SOLICITOR BELL: YOUR HONOR, AT
15 THIS TIME I WOULD OFFER STATE'S SEVENTEEN, EIGHTEEN,
16 NINETEEN, TWENTY, TWENTY-ONE, AND TWENTY-TWO INTO
17 EVIDENCE.

18 THE COURT: ANY OBJECTION?

19 MR. KEARSE: NO OBJECTION, YOUR
20 HONOR.

21 THE COURT: MARKED AND ADMITTED
22 WITHOUT OBJECTION.

23 COURT REPORTER: HAND THEM TO ME.
24 (State's Exhibits Seventeen, Eighteen,
25 Nineteen, Twenty, Twenty-one, and

DIRECT - VELLO PAAVEL BY SOL. BELL

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1 Twenty-two marked and filed.)

2 SOLICITOR BELL: THANK YOU, AGENT
3 PAAVEL, PLEASE ANSWER ANY QUESTIONS MR. KEARSE HAS FOR
4 YOU.

5 A. YES, SIR.

6 MR. KEARSE: MAY IT PLEASE THE
7 COURT, YOUR HONOR.

8 THE COURT: YOU MAY PROCEED.

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

CROSS - VELLO PAAVEL BY MR. KEARSE

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CROSS-EXAMINATION OF VELLO PAAVEL

BY MR. KEARSE:

Q. MR. PAAVEL, YOU SAID THOSE FRAGMENTS YOU FOUND, THEY COULD HAVE BEEN FIRED BY, AT LEAST ACCORDING TO YOUR DATA BASE, A GLOCK TEN MILLIMETER OR A FORTY SMITH AND WESSON, IS THAT CORRECT?

A. YES, SIR, THEY COULD HAVE BEEN FIRED BY A GLOCK TEN MILLIMETER AUTO, THE BULLETS COULD HAVE BEEN FIRED BY A GLOCK FIREARM IN FORTY SMITH AND WESSON CALIBRE, AN HK, AN IMI, OR A KAHR, THOSE ARE THE ONES THAT CAME OUT OF THE DATA BASE.

Q. SO, THAT WOULD BE APPROXIMATELY SIX DIFFERENT TYPED OF FIREARMS OR HAND GUNS THAT ARE CONTAINED IN YOUR DATE BASE, IS THAT CORRECT?

A. WELL, ACTUALLY, THERE'S FIVE, YES, SIR.

Q. FIVE, I'M SORRY.

A. YES, SIR.

Q. ALRIGHT.

A. DIFFERENT BRANDS, YES, SIR.

Q. OKAY, AND YOU ALSO SAID THAT THERE ARE FIREARMS OR HAND GUNS THAT AREN'T CONTAINED IN YOUR DATA BASE THAT MAY HAVE FIRED THOSE PARTICULAR FRAGMENTS, IS THAT CORRECT?

A. YES, SIR, THAT IS POSSIBLE. THIS DATA BASE IS NOT ALL INCLUSIVE, THERE'S NO WAY TO PUT EVERY

1 SINGLE TYPE OF FIREARM OR BRAND OF FIREARM INTO
2 THIS DATA BASE.

3 Q. AND THAT WOULD BE INCLUSIVE OF THOSE THAT ARE NOT
4 WITHIN YOUR OWN PERSONAL KNOWLEDGE, IS THAT
5 CORRECT?

6 A. THAT'S CORRECT, SIR.

7 Q. ALRIGHT. AND IN ADDITION TO THAT, THAT WOULD ALSO
8 COVER THIS SHELL CASING THAT WE WERE TALKING
9 ABOUT, IS THAT CORRECT, OR THAT YOU WERE SPEAKING
10 OF?

11 A. THAT IS POSSIBLE, YES, SIR. THE ONLY GUN THAT
12 I'M FAMILIAR WITH IN TEN MILLIMETER AUTO THAT HAS
13 THIS TYPE OF BREACH FACE AND FIRING PIN MARKING
14 IS THE GLOCK FIREARM, BUT I ---

15 Q. SO, ANY -- I'M SORRY, GO AHEAD.

16 A. --- I CAN'T SAY THAT'S THE ONLY ONE.

17 Q. RIGHT. AND THERE MAY BE A GUN THAT YOU ARE NOT
18 FAMILIAR WITH THAT'S NOT IN THE DATA BASE THAT
19 MAY HAVE FIRED THAT SHELL CASING?

20 A. THAT IS POSSIBLE, YES, SIR.

21 Q. ALRIGHT. IN ADDITION TO THAT, YOU ARE PRETTY,
22 YOU'RE FAMILIAR WITH THE GLOCK HAND GUN, ARE YOU
23 NOT?

24 A. YES, SIR.

25 Q. ALRIGHT, AND YOU ARE AWARE THAT, AT LEAST, AS FAR

CROSS - VELLO PAAVEL BY MR. KEARSE

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1 AS THE TEN MILLIMETER CALIBRE, THERE ARE ABOUT
2 THREE TYPES OF IT AT LEAST, IS THAT CORRECT?

3 A. YOU MEAN ---

4 Q. GLOCK MAKES ABOUT THREE DIFFERENT BRANDS OR THREE
5 DIFFERENT TYPES OF TEN MILLIMETER HAND GUNS, DO
6 THEY NOT?

7 A. YES, SIR, THEY HAVE A FULL SIZE, A COMPACT, AND A
8 SUBCOMPACT.

9 Q. RIGHT. WHICH THEY MARKET TO THE AVERAGE
10 CIVILIAN, GLOCK TWENTY-NINE, GLOCK TWENTY, I
11 THINK IT'S A GLOCK TWENTY-C, IS THAT CORRECT?

12 A. YES, SIR.

13 Q. ALRIGHT, AND EACH OF THOSE ARE TEN MILLIMETER?

14 A. YES, SIR, THE TWENTY, THE TWENTY-NINE AND THE
15 TWENTY-C THAT YOU REFERRED TO ARE TEN
16 MILLIMETERS.

17 Q. ALRIGHT, WHICH MEANS THEY FIRE THE SAME CALIBRE
18 WEAPONS ---

19 A. CORRECT.

20 Q. --- I MEAN, BULLETS. OKAY. IN ADDITION TO THAT,
21 YOU CANNOT SAY WHEN THAT SHELL CASING WAS
22 ACTUALLY FIRED, I MEAN, YOU ---

23 A. NO, SIR, I CANNOT.

24 MR. KEARSE: I BEG THE COURT'S
25 INDULGENCE, YOUR HONOR. YOUR HONOR, I DON'T HAVE

CROSS - VELLO PAAVEL BY MR. KEARSE

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1 ANYTHING FURTHER.

2 THE COURT: ANYTHING FURTHER?

3 SOLICITOR BELL: YES, YOUR HONOR.

4 (NOTE: Blank lines on this page do not indicate any
5 part of record has been omitted. Headers on testimony
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7 required by the Court. See next ensuing page for
8 sequential continuation of record.)

REDIRECT - VELLO PAAVEL BY SOL. BELL

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REDIRECT EXAMINATION OF VELLO PAAVEL

BY SOLICITOR BELL:

Q. AGENT PAAVEL, CAN YOU DIFFERENTIATE BETWEEN THOSE
THREE DIFFERENT TYPES OF GLOCK TEN MILLIMETERS?

A. THE TWENTY IS THE FULL SIZE GLOCK, THE TWENTY-
NINE IS WHAT'S CALLED THE COMPACT GLOCK, IT
SIMPLY HAS A SHORTER BARREL AND A SHORTER GRIP,
THE TWENTY-C IS A FULL SIZE GLOCK THAT HAS A
COMPENSATOR OR PORT CUT INTO THE BARREL, ITSELF,
IT'S A COMPETITION TYPE MODEL.

Q. WOULD THAT, I MEAN, COULD THAT SHELL CASING BEEN
FIRED -- STATE'S TWENTY-TWO BEEN FIRED BY ALL OF
THOSE?

A. YES, SIR, IT COULD HAVE BEEN FIRED BY ANY OF
THOSE, YES, SIR.

Q. OKAY. LET ME ASK YOU THIS, YOU'VE BEEN DOING
THIS FOR EIGHTEEN YEARS?

A. I'VE BEEN DOING FIREARM AND TOOL MARK
IDENTIFICATION FOR EIGHTEEN AND A HALF YEARS
APPROXIMATELY. I'VE ACTUALLY HAD FIREARMS AS A
HOBBY ALMOST ALL OF MY LIFE, AND PRIOR TO LAW
ENFORCEMENT I WAS IN THE FIREARMS BUSINESS AS A
LIVELIHOOD.

Q. HOW MANY, HOW MANY WEAPONS IN CRIMINAL CASES
WOULD YOU ESTIMATE THAT YOU'VE SEEN OVER THE

REDIRECT - VELLO PAAVEL BY SOL. BELL

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1 YEARS?

2 A. IN CRIMINAL CASES, PROBABLY TENS OF THOUSANDS.

3 Q. HAVE YOU SEEN MANY TEN MILLIMETERS, OR TEN
4 MILLIMETER GLOCKS?

5 A. I DON'T SEE MANY TEN MILLIMETER GLOCKS, I DON'T
6 HAVE A STATISTICAL DATA BASE TO TELL YOU HOW
7 MANY, BUT I SEE MORE FORTY SMITH AND WESSON
8 GLOCKS THAN I SEE TEN MILLIMETER AUTO GLOCKS.

9 SOLICITOR BELL: THANK YOU.

10 NOTHING FURTHER.

11 THE COURT: ANYTHING FURTHER?

12 MR. KEARSE: YES.

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14 part of record has been omitted. Headers on testimony
15 pages and hard page breaks between testimony are now
16 required by the Court. See next ensuing page for
17 sequential continuation of record.)

RECROSS - VELLO PAAVEL BY MR. KEARSE

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RECROSS-EXAMINATION OF VELLO PAAVEL

BY MR. KEARSE:

Q. A GLOCK IS A VERY POPULAR HAND GUN, IS IT NOT?

A. YES, SIR, IT IS.

Q. AND A FORTY SMITH AND WESSON IS ALSO A VERY
POPULAR HAND GUN, IS IT NOT?

A. YES, SIR.

Q. AND ARE YOU AWARE OF THE FACT THAT GLOCK BARRELS
ARE EVEN INTERCHANGEABLE?

A. THEY ARE INTERCHANGEABLE, YES, SIR, WITHIN THE
ACTUAL CALIBERS, THEMSELVES. YOU COULD TAKE A
BARREL OUT OF ONE FORTY SMITH AND WESSON GLOCK
AND PUT IT INTO ANOTHER ONE. YOU COULD TAKE A TEN
MILLIMETER GLOCK BARREL AND PUT IT INTO ANOTHER
TEN MILLIMETER GLOCK. THE FORTY AND THE TEN
DON'T DIRECTLY INTERCHANGE, THERE'S A LITTLE BIT
DIFFERENCE IN THE SIZE.

Q. OKAY. ARE YOU AWARE THAT THEY HAVE MARKETED
WHERE YOU CAN CHANGE THE BARREL ON DIFFERENT
CALIBRE HAND GUNS?

A. YES, SIR.

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

THE COURT: ANYTHING FURTHER?

SOLICITOR BELL: NOTHING FURTHER.

1 THE COURT: ANY OBJECTION TO THIS
2 WITNESS BEING EXCUSED?

3 SOLICITOR BELL: NONE, YOUR HONOR.

4 MR. KEARSE: NONE FROM THE
5 DEFENSE, YOUR HONOR.

6 THE COURT: SIR, YOU'RE EXCUSED.
7 THANK YOU.

8 WITNESS: THANK YOU, MA'AM.

9 THE COURT: LADIES AND GENTLEMEN,
10 I'M GOING TO GIVE YOU ABOUT A FIVE MINUTE BREAK TO
11 REFRESH YOURSELVES. DURING THE BREAK PLEASE DO NOT
12 DISCUSS THE CASE, AND PLEASE LEAVE YOUR NOTE PADS IN
13 YOUR SEATS. AND IF YOU NEED ANYTHING PLEASE LET THE
14 BAILIFFS KNOW.

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

18 (Recess)

19 THE COURT: IS THE STATE READY TO
20 PROCEED?

21 SOLICITOR BELL: THE STATE'S
22 READY, YOUR HONOR.

23 THE COURT: IS THE DEFENSE READY
24 TO PROCEED?

25 MR. KEARSE: YES, YOUR HONOR.

1 THE COURT: PLEASE BRING IN THE
2 JURY.

3 (Whereupon, the following
4 takes place in the
5 presence of the jury.)

6 THE COURT: LADIES AND GENTLEMEN,
7 WE APPRECIATE YOUR PATIENCE, I HOPE YOU ENJOYED YOUR
8 BREAK.

9 MR. BELL, YOU MAY PROCEED.

10 SOLICITOR BELL: THE STATE WOULD
11 CALL LIEUTENANT TOM MARSHALL.

12 CLERK: PLEASE PLACE YOUR LEFT
13 HAND ON THE BIBLE AND RAISE YOUR RIGHT HAND AND GIVE
14 US YOUR FULL NAME.

15 WITNESS: THOMAS MILES MARSHALL.
16 (Whereupon, the witness,
17 THOMAS MILES MARSHALL,
18 is duly sworn.)

19 CLERK: PLEASE HAVE A SEAT.

20 THE COURT: YOU MAY PROCEED.

21 (NOTE: Blank lines on this page do not indicate any
22 part of record has been omitted. Headers on testimony
23 pages and hard page breaks between testimony are now
24 required by the Court.)

DIRECT - THOMAS M. MARSHALL BY SOL. BELL

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DIRECT EXAMINATION OF THOMAS M. MARSHALL

BY SOLICITOR BELL;

Q. STATE YOUR NAME AGAIN FOR THE RECORD, PLEASE SIR.

A. THOMAS MILES MARSHALL.

Q. WHERE ARE YOU EMPLOYED?

A. I'M EMPLOYED WITH THE DORCHESTER COUNTY SHERIFF'S
DEPARTMENT.

Q. AND HOW ARE YOU EMPLOYED?

A. I'M A LIEUTENANT IN CHARGE OF THE DETECTIVE
DIVISION.

Q. AND HOW LONG HAVE YOU BEEN IN LAW ENFORCEMENT?

A. I'M ON MY, I'VE STARTED MY THIRTIETH YEAR.

Q. AND HOW LONG HAVE YOU BEEN A DETECTIVE WITH
DORCHESTER COUNTY SHERIFF'S OFFICE?

A. I'VE BEEN A DETECTIVE WITH THE DORCHESTER COUNTY
SHERIFF'S DEPARTMENT APPROXIMATELY FOURTEEN YEARS
NOW.

Q. AND WERE YOU WORKING AS A DETECTIVE BACK IN JULY
OF TWO THOUSAND THREE?

A. YES, I WAS.

Q. AND DID YOU HAVE AN OCCASION TO GO TO THE, THIS
END OF THE COUNTY ON JULY THIRD, TWO THOUSAND
THREE, OR JULY FOURTH?

A. ACTUALLY, I WAS CALLED OUT IN THE MORNING OF JULY
FOURTH TO COME OUT ON THE HOMICIDE.

DIRECT - THOMAS M. MARSHALL BY SOL. BELL

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1 Q. OKAY. AND WHERE DID YOU GO AS A RESULT OF THAT
2 PHONE CALL?

3 A. WELL, I ACTUALLY CAME HERE TO THE SHERIFF'S
4 DEPARTMENT WHERE SOME INTERVIEWS WERE BEING
5 CONDUCTED, AND I WAS TO ASSIST IN THE INTERVIEWS.

6 Q. OKAY. AND YOU WERE -- WHAT ROLE DID YOU TAKE IN
7 THIS INVESTIGATION OF THE, I BELIEVE IT WAS MARK
8 COOK THAT WAS MURDERED OVER ON [REDACTED] ROAD?

9 A. ONCE I CAME ON SCENE, LIEUTENANT NETTLES AT THAT
10 TIME, I WAS A SERGEANT, AND HE DIRECTED ME TO BE
11 IN CHARGE OF THE CASE, AND IT WAS MYSELF AND
12 SERGEANT VAN DORAN WERE PUT IN CHARGE OF THE
13 CASE, I WAS LEAD AND SERGEANT VAN DORAN WAS
14 SECOND.

15 Q. AND WERE OTHER DETECTIVES AIDING, AS WELL?

16 A. YES, IN THE FIRST FORTY-EIGHT HOURS OF THE
17 HOMICIDE, AND MOST HOMICIDES, JUST ABOUT THE
18 WHOLE DETECTIVE DIVISION IS CALLED OUT AND
19 RUNNING DOWN LEADS.

20 Q. OKAY. AND WHAT GENERALLY DID YOU START TO DO WHEN
21 YOU CAME ON THE SCENE?

22 A. WELL, I WAS ACTUALLY BRIEFED BY SERGEANT VAN
23 DORAN ON WHAT HE HAD DONE THE PREVIOUS, ACTUALLY
24 DURING THE NIGHT TIME, AND BEEN OUT SINCE THAT
25 MORNING TIME AND HADN'T GONE HOME YET, AND THEN

DIRECT - THOMAS M. MARSHALL BY SOL. BELL

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1 FROM THERE HE TOLD ME THAT THERE WAS A DECEDENT
2 OUT THERE, AND WE IDENTIFIED HIM. AND THEN, FROM
3 THERE WE WENT INTO INTERVIEWING POSSIBLE
4 WITNESSES AND TRYING TO LINEUP IF WE HAD SUSPECTS
5 OR WHERE THEY WERE AT.

6 Q. AND DURING THE COURSE OF THIS INVESTIGATION DID
7 YOU LEARN THAT THERE WERE A NUMBER OF PEOPLE THAT
8 HAD BEEN OUT AT THAT HOUSE?

9 A. YES. ACTUALLY, FROM, I THINK IT'S LASHANA GREEN
10 IS HOW SHE PRONOUNCES IT, THEY CALL HER MUFFIN,
11 SHE BASICALLY GAVE US THE NAMES, AND THAT'S WHERE
12 WE STARTED WORKING, FROM THERE.

13 Q. OKAY. AND I BELIEVE SHE SAID, GAVE NAMES OF
14 PEOPLE THAT WERE THERE, AND YOU WENT TO GO AFTER
15 THEM, IS THAT CORRECT?

16 A. YES, THAT'S CORRECT.

17 Q. I'M TRYING TO RECALL THE NAMES, I KNOW ONE WAS
18 JOHNNY COBBS, IS THAT CORRECT?

19 A. JOHNNY COBBS, JERMAINE CUSACK, RYAN NORTH, CLAY
20 SINGLETON, AS THEY CALL CLAY-C SINGLETON, OR
21 SINGLETARY, AND THEN SHE DESCRIBED SOME OTHER
22 PEOPLE THERE THAT WE LATER PUT NAMES TO.

23 Q. OKAY. AND WHAT DID YOU DO IN REGARDS TO THESE
24 INDIVIDUALS?

25 A. WE WENT OUT, IMMEDIATELY WENT OUT TRYING TO

DIRECT - THOMAS M. MARSHALL BY SOL. BELL

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1 LOCATE THE INDIVIDUALS WHERE THEY WERE AT SO THAT
2 WE COULD INTERVIEW THEM AND FIND OUT IF THEY KNEW
3 WHAT HAPPENED, OR WHAT WAS GOING ON INSIDE THERE.

4 Q. OKAY. DO YOU RECALL WHICH OF THESE YOU GOT TO
5 FIRST?

6 A. ACTUALLY, I THINK WE WERE ABLE TO DRAW UP A
7 WARRANT FIRST ON COBB, I MEAN, I THINK IT WAS
8 JONATHAN COBB, AND THEN, WE HAD A WARRANT DRAWN
9 UP ON JERMAINE CUSACK, AND THEN LATER ON WE HAD A
10 WARRANT DRAWN UP ON RYAN NORTH.

11 Q. OKAY.

12 A. I THINK IT WENT IN THAT ORDER.

13 Q. OKAY. DO YOU RECALL WHAT ORDER YOU MAY HAVE
14 TALKED TO ANY OF THESE?

15 A. MYSELF AND DETECTIVE VAN DORAN TRIED, WHEN WE
16 ARRESTED MR. COBB, JOHNNY COBB, HE ACTUALLY, ONCE
17 WE GOT HIM IN THE ROOM AND READ HIM HIS RIGHTS,
18 HE IMMEDIATELY INVOKED HIS CONSTITUTIONAL RIGHT
19 TO REMAIN SILENT, AND SAID HE WANTED A LAWYER.

20 Q. WHO DID YOU TRY TO TALK TO NEXT?

21 A. JERMAINE CUSACK WAS THE NEXT TO BE TALKED TO, AND
22 BASICALLY, THE FIRST PART OF HIS STORY WAS THAT
23 THEY WERE OUT THERE PLAYING CARDS AND THE GUN
24 PLAY STARTED. IN SHORT, THAT'S WHAT HE WAS
25 SAYING, BUT HE WOULD NOT -- WE HAD ALREADY HAD

DIRECT - THOMAS M. MARSHALL BY SOL. BELL

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1 INFORMATION THERE WAS POSSIBLY A DRUG DEAL GOING
2 DOWN, BUT HE KEPT TELLING US THEY WERE OUT THERE
3 PLAYING CARDS.

4 Q. AND WHO DID YOU TALK TO NEXT?

5 A. RYAN NORTH WAS -- RYAN NORTH WAS THE LAST ONE TO
6 BE ARRESTED, AND HE WAS TAKEN DOWN TO THE
7 SUMMERVILLE ANNEX TO BE QUESTIONED DOWN THERE.

8 Q. AND AS A RESULT OF THAT, DID THAT LEAD TO SOME
9 MORE PEOPLE?

10 A. AS A RESULT OF THAT, HE STARTED COOPERATING FROM
11 THERE, AND AS A RESULT OF THAT WE WERE ABLE TO
12 SET UP A, A BUY, AND FROM THERE WE WENT UP TO
13 COLUMBIA, SOUTH CAROLINA, AND ARRESTED AN
14 INDIVIDUAL.

15 Q. AND WHO WAS THAT INDIVIDUAL?

16 A. THAT INDIVIDUAL WAS GOING BY THE STREET NAME OF
17 PEA, HE WAS PATRICK JONES.

18 Q. OKAY. AND ONCE HE WAS ARRESTED, DID YOU ATTEMPT
19 TO TALK TO HIM?

20 A. WELL, RYAN HAD TOLD US THAT IF WE HAD GOTTEN, WAS
21 ABLE TO ARREST PEA THAT HE WOULD PROBABLY BE ABLE
22 TO GIVE US THE NAME OF THE TWO PEOPLE WE WERE
23 LOOKING FOR, WHICH WAS SMOKE AND BENJY. WE HAD
24 FINALLY GOTTEN THEIR STREET NAMES AND THESE WERE
25 THE POSSIBLE SUSPECTS AND POSSIBLE PEOPLE THAT

DIRECT - THOMAS M. MARSHALL BY SOL. BELL

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1 HAD KILLED MARK COOK.

2 Q. OKAY. AND WHERE DID YOU GET THE NAMES, SMOKE AND
3 BENJY, FROM?

4 A. THAT WAS GIVEN TO US BY RYAN NORTH. ONCE HE
5 STARTED COOPERATING WITH US, THEN HE TOLD US WHO
6 THEY WERE AND GAVE US A DESCRIPTION. AND GOING
7 BACK TO MUFFIN AND BACK AND FORTH QUESTIONING
8 THESE TWO, THAT'S WHERE WE WERE ABLE TO PUT
9 EVERYTHING TOGETHER.

10 Q. DID, DID RYAN GIVE YOU A TELEPHONE NUMBER, OR
11 TELEPHONE NUMBERS TO CONTACT SOME PEOPLE?

12 A. AT FIRST HE -- YES, HE GAVE US THREE TELEPHONE
13 NUMBERS. WE WERE LOOKING FOR JEFF, JEFF HILL, WE
14 WERE LOOKING FOR PEA, AND OF COURSE, HE SAID THAT
15 SMOKE AND JEFF USED THIS PARTICULAR TELEPHONE
16 NUMBER TOGETHER.

17 Q. OKAY. WAS ONE OF THOSE NUMBERS SEVEN ONE EIGHT,
18 NINE THREE EIGHT, FOUR SIX ONE FOUR?

19 A. THAT'S CORRECT.

20 Q. AND WHEN YOU GOT WITH THIS PEA JONES, DID YOU
21 ATTEMPT TO TALK WITH HIM?

22 A. YES. AND BASICALLY, HE DID NOT COOPERATE WITH US
23 AT ALL, AND WOULD NOT GIVE US ANY INFORMATION,
24 BUT WE DID HAVE, CONFISCATED HIS CELL PHONE THAT
25 NIGHT, AND WENT THROUGH HIS PHONE BOOK ON THE

DIRECT - THOMAS M. MARSHALL BY SOL. BELL

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1 CELL PHONE AND VERIFIED THE SAME TELEPHONE
2 NUMBERS THAT RYAN NORTH HAD GIVEN US, WHICH
3 CORROBORATED HIS STORY THAT HE WAS TELLING US.

4 Q. OKAY. DID YOU DO ANYTHING IN REGARDS TO THOSE
5 TELEPHONE NUMBERS?

6 A. WE DID TELEPHONE SEARCH WARRANTS AND SUBPOENAS TO
7 THE PHONE COMPANIES, AND I ACTUALLY, THERE WERE
8 SO MANY WE DID, I ACTUALLY FORGOT THE NAME OF
9 THAT PARTICULAR PHONE COMPANY.

10 Q. OKAY. LET ME SHOW YOU STATE'S EXHIBIT ELEVEN.

11 A. IT'S A VERIZON WIRELESS.

12 Q. OKAY. AND WHOSE NAME IS IT IN?

13 A. IT CAME BACK TO LASHANA M. SWAZY, WHO LIVED OUT
14 IN, ON THIS ADDRESS HERE WAS TWO THIRTY-SEVEN
15 WEST FORTY-SEVENTH PLACE, LOS ANGELES,
16 CALIFORNIA.

17 Q. OKAY. AND DID YOU GET THESE -- YOU GOT THESE
18 RECORDS BACK?

19 A. YES.

20 Q. AND DID YOU EXAMINE THEM?

21 A. WE EXAMINED THOSE NUMBERS AND WE SAW THAT THE
22 TELEPHONE NUMBER WAS BEING, THAT TELEPHONE NUMBER
23 WAS PLACING TELEPHONE CALLS UP AND DOWN THE STATE
24 FROM VIRGINIA TO HERE, AND EVEN OUT TO
25 CALIFORNIA.

DIRECT - THOMAS M. MARSHALL BY SOL. BELL

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1 Q. OKAY. AND WERE THERE SOME PHONE CALLS AROUND JULY
2 THIRD AND FOURTH THAT YOU HAD PARTICULAR INTEREST
3 IN?

4 A. YES.

5 Q. AND WHAT DID THAT SHOW?

6 A. THAT SHOWED THAT -- ONCE RYAN TOLD US ABOUT THE,
7 THEY WERE COMING DOWN HERE -- HE KNEW SMOKE, AND
8 THEY WERE COMING DOWN HERE TO MAKE A DEAL, THEN
9 THAT CORROBORATED THE DATE AND THE TIME THAT RYAN
10 NORTH WAS TELLING US THAT HE HAD GOTTEN A
11 TELEPHONE CALL FROM THEM, THEY CALLED HIM AND
12 THAT HE WAS IN CONSTANT CONTACT AS THEY WERE
13 DRIVING DOWN FROM VIRGINIA TO HERE.

14 Q. CALLING HIS NUMBER?

15 A. YES, THAT'S CORRECT.

16 Q. OKAY. AFTER LEARNING THAT WHAT DID YOU DO?

17 A. AFTER GETTING THAT INFORMATION WE WERE ABLE TO
18 CONTACT THE DETECTIVE OUT IN LOS ANGELES, AND HE
19 WAS ABLE TO TRACK DOWN LASHANA SWAZY, AND WAS
20 ABLE TO TALK TO HER AND FIND OUT ABOUT HER PHONE
21 AND WHO HAD IT.

22 Q. OKAY. AND DID YOU GET AN IDENTITY OF ANYBODY AT
23 THAT TIME?

24 A. YES, AT FIRST WE DIDN'T, LASHANA DID NOT GIVE US
25 ANY -- DID NOT GIVE THAT DETECTIVE ANY NAME OTHER

DIRECT - THOMAS M. MARSHALL BY SOL. BELL

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1 THAN JASSON. THE DETECTIVE STAYED ON THE CASE
2 FOR, AND WAS FINALLY ABLE TO TRACK DOWN JASSON
3 AND WAS ABLE TO GIVE US A NAME AND A DATE OF
4 BIRTH.

5 Q. OKAY. AND DID YOU DO ANYTHING WITH THAT
6 INFORMATION?

7 A. ONCE WE GOT THAT IT WAS JASSON TURNER, AND HIS
8 DATE OF BIRTH, WE WERE TRYING TO GET A PHOTO
9 LINEUP, AND THERE WAS NO CRIMINAL RECORD, IF I
10 REMEMBER CORRECTLY, ON HIM. SO, WHAT WE DID IS,
11 WE CALLED THE CALIFORNIA DMV AND THEY MAILED US A
12 PHOTOGRAPHIC LINEUP.

13 Q. OKAY. AND LET ME SHOW YOU WHAT'S BEEN MARKED AS
14 STATE'S EXHIBIT THIRTEEN, AND ASK IF YOU
15 RECOGNIZE THAT?

16 A. STATE'S EXHIBIT THIRTEEN IS THE PICTURES THAT
17 WERE SENT TO US FROM THE CALIFORNIA DMV. AND WHAT
18 WE DID IS, WE PRINTED THEM OUT IN COLOR AND CUT
19 OFF THE, THE NAMES AND THE DESCRIPTIONS, AND THE
20 DL NUMBERS, AND PUT IT IN HERE FOR A PHOTOGRAPHIC
21 LINEUP.

22 Q. OKAY. AND WHICH ONE WAS JASSON TURNER?

23 A. JASSON TURNER IS THE BOTTOM RIGHT, WHICH WOULD
24 HAVE BEEN, HE'S NUMBER FIVE IS THE NUMBER SYSTEM
25 WE'RE GOING ON HERE, BECAUSE WE DID NOT HAVE SIX.

DIRECT - THOMAS M. MARSHALL BY SOL. BELL

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1 BUT HE WAS NUMBER FIVE, AND HE WAS THE BOTTOM
2 RIGHT.

3 Q. OKAY. AND WHAT DID YOU DO WITH THIS STATE'S
4 THIRTEEN?

5 A. ONCE WE GOT THAT WE GOT IN TOUCH WITH RYAN NORTH,
6 HIS BROTHER, TRAVIS, AND ANTHONY FOLK, AND
7 BROUGHT THEM IN TO SHOW THEM THE PHOTOGRAPHIC
8 LINEUP. WE ACTUALLY WENT TO FOLK'S HOUSE AND
9 WENT TO TRAVIS'S HOUSE, WE HAD TO GET AN ATTORNEY
10 OR RYAN NORTH AND BRING HIM IN.

11 Q. OKAY. AND I'M SHOWING YOU AGAIN STATE'S
12 THIRTEEN, DOES IT INDICATE IF ANYBODY WAS ABLE TO
13 IDENTIFY ANYONE?

14 A. YES, TRAVIS NORTH WAS SEEN, MYSELF AND DETECTIVE
15 VAN DORAN WENT OVER THERE AND SAW HIM ON AUGUST
16 THE SIXTH, TWO THOUSAND THREE, AT NINE:THIRTY-
17 FOUR IN THE MORNING, AND HE DID PICK OUT AND
18 INDICATE THAT THE SUBJECT WE WERE LOOKING AT,
19 JASSON TURNER, WAS IN THERE, AND HE POINTED TO
20 THE BOTTOM RIGHT HAND CORNER. WE THEN WENT OVER
21 TO ANTHONY FOLK'S HOUSE, AND THAT WAS ON THE SAME
22 DAY AT NINE:FORTY-TWO A.M., AND HE ALSO PICKED
23 OUT THE SAME ONE. RYAN NORTH WAS SHOWN THE
24 PICTURE LINEUP, THIS LINEUP AT SEVENTEEN:THIRTY,
25 WHICH IS FIVE:THIRTY IN THE AFTERNOON, IN THE

DIRECT - THOMAS M. MARSHALL BY SOL. BELL

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1 PRESENCE OF HIS ATTORNEY, AND HE ALSO IDENTIFIED
2 JASSON TURNER.

3 Q. AND DO YOU RECALL SHOWING THAT TO ANYBODY ELSE?

4 A. WHEN WE WENT OUT TO, WENT OUT TO CALIFORNIA,
5 AFTER WE IDENTIFIED ALL THE ---

6 Q. BEFORE CALIFORNIA, DID YOU SHOW THAT TO ANYBODY
7 ELSE IN SOUTH CAROLINA THAT YOU'RE AWARE OF?

8 A. NO.

9 Q. AND AFTER THEY IDENTIFIED JASSON TURNER IN THESE,
10 WHAT DID YOU DO AS A RESULT OF THAT?

11 A. WE THEN GOT AN ARREST WARRANT FOR MURDER.

12 Q. AND THEN WHAT DID YOU DO?

13 A. FROM THERE, MYSELF AND DETECTIVE DIXSON GOT ON A
14 PLANE AND FLEW OUT TO CALIFORNIA TO SEARCH FOR
15 MR. TURNER.

16 Q. OKAY. AND OUT IN CALIFORNIA WHO DID YOU TALK TO?

17 A. WE TALKED TO LASHANA SWAZY AND ACTUALLY FOUND
18 JEFFREY LAMONT HILL, AND THEN WHILE WE WERE OUT
19 THERE WE TALKED TO LASHANA SWAZY'S MOTHER, AND
20 SHE IDENTIFIED AND CORROBORATED THE STORIES THAT
21 WE HAD WITH THE NAMES THAT WE HAD.

22 Q. YOU MET WITH LASHANA SWAZY?

23 A. YES.

24 Q. OKAY. AND DID YOU EVER FIND JASSON TURNER?

25 A. YES, WHILE WE WERE OUT THERE, AFTER DOING LEG

DIRECT - THOMAS M. MARSHALL BY SOL. BELL

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1 WORK AND GOING AROUND L.A., WE FINALLY -- THE
2 SUBJECT FINALLY CALLED UP AND ACTUALLY CAME IN TO
3 THE POLICE DEPARTMENT AT THE NEWTON DISTRICT,
4 IT'S SORT OF LIKE A SUBSTATION OUT THERE IN THE
5 NEWTON DISTRICT -- PRECINCT IS WHAT IT WAS
6 CALLED, AND THEY CAME IN THERE AND HE TURNED
7 HIMSELF IN.

8 Q. DID YOU TALK WITH ANYBODY ELSE OUT THERE?

9 A. WE TALKED TO JEFFREY HILL, HE WAS -- THE ONLY
10 THING HE WOULD ADMIT TO, THAT HE KNEW RYAN NORTH,
11 HE KNEW PEA, AND OF COURSE, HE KNEW SMOKE BECAUSE
12 HE WAS, IF I REMEMBER CORRECTLY, HE WAS DATING
13 LASHANA SWAZY'S SISTER.

14 Q. AND THEN Y'ALL BROUGHT JASSON TURNER BACK AT THAT
15 TIME, OR AT A LATER TIME?

16 A. AT A LATER TIME MYSELF AND DETECTIVE DIXSON,
17 AFTER BEING DOWN THERE FOR ABOUT A WEEK, WE FLEW
18 BACK, AND THEN, THE EXTRADITION HEARING WAS DONE,
19 AND THEN HE WAIVED EXTRADITION, AND ANOTHER GROUP
20 WENT OUT THERE AND PICKED HIM UP AND BROUGHT HIM
21 BACK.

22 Q. AND THEN, HE WAS BROUGHT BACK AND HOUSED ACROSS
23 THE STREET, IS THAT CORRECT?

24 A. THAT'S CORRECT.

25 Q. OKAY. DO YOU RECALL ANYTHING ELSE BEING DONE IN

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1 REGARDS TO THIS CASE AROUND THAT PERIOD OF TIME,
2 FROM JULY TO AUGUST OF TWO THOUSAND THREE?

3 A. WELL, ACTUALLY, ONCE -- AND FROM CALIFORNIA TO
4 HERE HE HAD ALREADY -- JASSON HAD ALREADY INVOKED
5 HIS CONSTITUTIONAL RIGHTS AND SAID HE WANTED AN
6 ATTORNEY, SO WE DIDN'T TALK TO HIM UNTIL THE DAY
7 OF THE MURDER -- THE ACTUAL TRIAL WE WERE GETTING
8 READY TO GO TO.

9 Q. OKAY. AS TO THE OTHER INDIVIDUAL, BENJY, DID YOU
10 HAVE ANY LEADS AT THAT POINT?

11 A. ALL WE HAD WAS THE NAME BENJY, STILL HAD NOT PUT
12 ANYTHING TO IT, NOBODY COULD GIVE US A REAL NAME.
13 THEY KNEW HIM, THEY HAD HEARD ABOUT HIM, BUT AS
14 FAR AS PUTTING A NAME TO THE FACE AND GIVING US
15 ANYTHING, NO.

16 Q. OKAY. THEN, HOW LONG WAS IT UNTIL YOU WERE ABLE
17 TO TALK TO JASSON TURNER FROM THAT POINT?

18 A. A YEAR.

19 Q. OKAY. AND WHAT DID JASSON TURNER PROVIDE?

20 A. HE FINALLY PROVIDED THE NAME OF BENJY, AND GAVE
21 US A NAME AND DATE OF BIRTH AND EVERYTHING, AND
22 WE WERE ABLE TO TRACK HIM DOWN FROM THERE.

23 Q. AND WHAT NAME DID HE GIVE YOU?

24 A. STEVEN BRISCOE.

25 Q. OKAY. AND YOU'RE AWARE OF A PLEA NEGOTIATION

DIRECT - THOMAS M. MARSHALL BY SOL. BELL

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1 THAT WENT ON AT THAT TIME?

2 A. THAT'S CORRECT.

3 Q. IN FACT, YOU WERE A PART OF IT, IS THAT CORRECT?

4 A. YES.

5 Q. OKAY. AND WHY DID YOU, WHY WERE YOU A PART OF
6 THAT PLEA NEGOTIATION?

7 A. BECAUSE I WAS THE LEAD INVESTIGATOR FOR THE
8 CHARGE THERE, AND AM STILL THE LEAD INVESTIGATOR
9 ON THIS MURDER CASE.

10 Q. AND WHY WERE YOU LOOKING FOR THIS PERSON THAT
11 SOMEBODY TOLD YOU WAS NAMED BENJY?

12 A. BECAUSE WE WERE ACTUALLY LOOKING FOR THE SHOOTER,
13 AND WE BELIEVED THAT BENJY WAS THE SHOOTER.

14 Q. OKAY. SO, UP UNTIL AUGUST OF TWO THOUSAND FOUR
15 YOU HAD NO LEADS, NO INFORMATION AS TO WHO THE
16 SHOOTER WAS?

17 A. NO.

18 Q. AND THEN YOU TALKED TO JASSON TURNER?

19 A. AND ONCE WE TALKED TO HIM AND HE COOPERATED WITH
20 US AND GAVE US THE NAME, WE GOT A PHOTOGRAPHIC
21 LINEUP TOGETHER FOR THAT.

22 Q. OKAY. AND THAT WOULD BE -- LET ME DIG UNDER
23 HERE -- THAT WOULD BE WHAT IS MARKED STATE'S
24 FOURTEEN FOR IDENTIFICATION?

25 MR. KEARSE: YOUR HONOR, I OBJECT

DIRECT - THOMAS M. MARSHALL BY SOL. BELL

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1 FOR PURPOSES OF THE RECORD.

2 MR. KEARSE: NOTED AND OVERRULED.

3 YOU MAY PROCEED.

4 A. YEAH, THIS IS STATE'S EXHIBIT FOURTEEN.

5 Q. OKAY. FOR IDENTIFICATION?

6 A. YES, FOR IDENTIFICATION.

7 Q. OKAY. AND WHAT WAS DONE WITH STATE'S FOURTEEN FOR
8 IDENTIFICATION?

9 A. ONCE WE GOT THAT TOGETHER WE, DETECTIVE DIXSON
10 AND ANOTHER DETECTIVE CAME UP HERE AND ACTUALLY
11 SHOWED THE PHOTOGRAPHIC LINEUP, OR WERE GOING TO
12 SHOW IT TO JASSON TURNER. FROM THERE, AFTER THAT
13 INCIDENT WITH JASSON TURNER, THEN WE WENT AND GOT
14 IN TOUCH WITH RYAN NORTH, TRAVIS NORTH, AND
15 ANTHONY.

16 Q. OKAY. AND HOW DID -- HOW DID YOU GET WITH THEM?

17 A. I GOT IN TOUCH WITH RYAN NORTH FIRST, AND THEN HE
18 CAME IN AND THEN HE WAS ABLE TO BRING IN HIS
19 BROTHER AND ANTHONY LATER ON, I THINK THAT'S ON
20 THE BACK HOW IT WAS DONE.

21 Q. OKAY. WELL, I'LL SHOW YOU WHAT'S BEEN MARKED
22 STATE'S FOURTEEN FOR IDENTIFICATION, SO YOU CAN
23 HELP TO REFRESH YOUR RECOLLECTION.

24 A. RYAN NORTH WAS CONTACTED, AND HE CAME IN ON
25 AUGUST THE TWELFTH AT ELEVEN:FIFTY-ONE A.M., AND

DIRECT - THOMAS M. MARSHALL BY SOL. BELL

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1 HE WAS GIVEN THIS PHOTOGRAPH, AND ACTUALLY BEFORE
2 WE GAVE IT TO HIM WE READ THE BACK OF THE
3 PHOTOGRAPHIC LINEUP TO HIM.

4 Q. AND WHAT DOES IT SAY?

5 A. IT SAYS, "YOU WILL BE ASKED TO LOOK AT A GROUP OF
6 PHOTOGRAPHS. THE FACT THAT THE PHOTOGRAPHS ARE
7 SHOWN TO YOU SHOULD NOT INFLUENCE YOUR JUDGEMENT.
8 YOU SHOULD NOT CONCLUDE OR GUESS THAT THE
9 PHOTOGRAPHS CONTAIN THE PICTURE OF THE PERSON WHO
10 COMMITTED THE CRIME. YOU ARE NOT OBLIGATED TO
11 IDENTIFY ANYONE. IT IS JUST AS IMPORTANT TO FREE
12 INNOCENT PERSONS FROM SUSPICION AS TO IDENTIFY
13 THE GUILTY PARTIES. PLEASE DO NOT DISCUSS THIS
14 CASE WITH OTHER WITNESSES NOR INDICATE IN ANY WAY
15 THAT YOU HAVE IDENTIFIED SOMEONE."

16 Q. OKAY. AND DO YOU RECALL WHO WAS WITH, WITH YOU
17 AND RYAN NORTH AT THAT TIME?

18 A. DETECTIVE RAY DIXSON WAS WITH ME AT THAT TIME.

19 Q. AND WAS ANYBODY ELSE IN THE ROOM?

20 A. NO, IT WAS JUST MYSELF AND RAY DIXSON AND RYAN
21 NORTH.

22 Q. OKAY. WAS THAT THE LINEUP THAT YOU SHOWED, OR
23 WERE THE PICTURES IN A DIFFERENT POSITION?

24 A. ACTUALLY, THE PICTURES WERE NOT IN THIS POSITION
25 HERE, THEY WERE IN A DIFFERENT POSITION. THE

DIRECT - THOMAS M. MARSHALL BY SOL. BELL

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1 SUSPECT WAS ACTUALLY IN THE NUMBER TWO POSITION
2 AT THE TIME WE SHOWED IT TO RYAN NORTH. IN THIS
3 PHOTO I'M HOLDING HERE NOW THE SUSPECT IS IN
4 POSITION NUMBER ONE.

5 Q. AND THAT'S STEVEN BRISCOE'S PICTURE YOU HAVE IN
6 THOSE TWO POSITIONS?

7 A. THAT'S CORRECT.

8 Q. OKAY. AND WHAT NUMBER DID, DID RYAN NORTH SELECT
9 FROM THE LINEUP?

10 A. RYAN NORTH, AS SOON AS THE PHOTOGRAPHIC LINEUP
11 WAS GIVEN TO HIM, HE TURNED IT OVER AND HE PICKED
12 NUMBER TWO.

13 Q. OKAY. AND HE PICKED STEVEN BRISCOE?

14 A. THAT'S CORRECT.

15 Q. OKAY. DID YOU SHOW ANYBODY ELSE THAT
16 PHOTOGRAPHIC LINEUP ON THAT DAY?

17 A. NOT ON THAT DAY, IT WAS, IT WAS TWO DAYS LATER
18 THAT WE WERE ABLE TO GET IN TOUCH WITH -- EXCUSE
19 ME, WE GOT IN TOUCH WITH ANTHONY FOLK THAT DAY, I
20 REMEMBER HE CAME IN WITH RYAN NORTH, SO ON THE
21 TWELFTH ANTHONY WAS SHOWED THIS PHOTOGRAPHIC
22 LINEUP.

23 Q. WAS HE ABLE TO PICK ANYBODY OUT?

24 A. NO, HE WAS NOT.

25 Q. OKAY. WHILE YOU WERE IN THE ROOM WITH ROOM, LET

DIRECT - THOMAS M. MARSHALL BY SOL. BELL

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1 ME ASK YOU THIS, DID YOU IN ANY WAY INDICATE
2 WHICH PICTURE HE SHOULD PICK OUT?

3 A. NO.

4 Q. DID YOU TELL HIM THAT THERE'S A PERSON IN THIS
5 LINEUP WHO DID IT?

6 A. NO, THAT'S WHY WE READ THAT, THAT ON THE BACK OF
7 THE LINEUP.

8 Q. YOU FLIPPED IT OVER AND SAID, IF YOU SEE ANYBODY
9 YOU KNOW?

10 A. I TOLD HIM, ONCE I READ IT TO HIM AND ONCE I
11 FLIPPED IT OVER, I SAID, I WANT YOU TO LOOK AT IT
12 AND IF YOU SEE ANYBODY IN THERE YOU KNOW PLEASE
13 TELL ME WHERE AND HOW YOU KNOW THIS PERSON.

14 Q. DID DETECTIVE DIXSON INDICATE IN ANY WAY WHICH
15 PICTURE TO PICK?

16 A. NO.

17 Q. OKAY. DID YOU SHOW THIS PARTICULAR LINEUP TO
18 ANYBODY ELSE?

19 A. ON AUGUST THE FOURTEENTH AT TWELVE:FIFTY-FIVE
20 P.M., TRAVIS NORTH CAME INTO THE SHERIFF'S
21 DEPARTMENT.

22 Q. OKAY.

23 MR. KEARSE: YOUR HONOR, I WOULD
24 OBJECT, SAME GROUNDS.

25 THE COURT: NOTED AND OVERRULED.

DIRECT - THOMAS M. MARSHALL BY SOL. BELL

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YOU MAY CONTINUE.

Q. AND ON THAT PARTICULAR OCCASION WHO WAS THERE WITH MR. TRAVIS NORTH?

A. AGAIN, MY -- NO ONE WAS IN THE ROOM, IT WAS MYSELF AND DETECTIVE DIXSON WERE THE ONLY ONES THERE. HIS BROTHER, RYAN, HAD BROUGHT HIM TO OUR STATION.

Q. OKAY. AND DID YOU DO ANYTHING, DID YOU MANIPULATE THE PHOTO LINEUP IN ANY WAY IN REGARDS TO TRAVIS NORTH?

A. AT THIS PARTICULAR TIME WE MOVED THE SUSPECT FROM POSITION NUMBER TWO TO POSITION NUMBER ONE.

Q. OKAY. ANY PARTICULAR REASON?

A. FOR THE INTEGRITY OF THE CASE, TO MAKE SURE THAT THERE WAS NOBODY WHO POSSIBLY TALKED, AND SEEN IF THE BROTHERS HAD TALKED.

Q. OKAY. AND DID YOU TELL TRAVIS ANYTHING ABOUT THAT?

A. WE TOLD HIM, AS WE READ THIS WE ALSO, DETECTIVE DIXSON QUOTED, TOLD HIM THAT THE PICTURES HAD BEEN CHANGED AROUND, AND WE DIDN'T INDICATE HOW THEY HAD BEEN CHANGED, WE JUST SAID THEY HAD BEEN CHANGED AROUND.

Q. AND DID YOU INDICATE THAT, THAT THERE WAS A PERSON IN THIS PHOTOGRAPHIC LINEUP HE NEEDED TO

DIRECT - THOMAS M. MARSHALL BY SOL. BELL

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1 PICK?

2 A. NO, WE JUST SAID, THE PICTURES HAD BEEN CHANGED
3 AROUND, AND THEN WE AGAIN READ THE STATEMENT I
4 JUST GAVE YOU.

5 Q. OKAY. AND WHICH PICTURE DID HE PICK OUT, OR DID
6 HE PICK OUT A PICTURE? I'M SORRY.

7 A. YES, HE DID, AND ONCE TRAVIS WAS HANDED THIS
8 FOLDER HE TURNED IT OVER AND HE PICKED NUMBER
9 ONE, WHICH IS STEVEN BRISCOE, AND HE'S THE
10 DEFENDANT.

11 Q. OKAY. DID HE INDICATE THAT ON THAT PARTICULAR
12 FOLDER?

13 A. YES, HE DID, HE PUT NUMBER ONE ON THERE, AND PUT
14 HIS INITIALS UNDERNEATH IT. AND OF COURSE, MYSELF
15 AND DETECTIVE DIXSON INITIALED AT THE OFFICER'S
16 INITIAL.

17 Q. OKAY. DID YOU OR DETECTIVE DIXSON INDICATE IN
18 ANY WAY WHICH PHOTOGRAPH FOR TRAVIS NORTH TO PICK
19 OUT?

20 A. NO, WE DID NOT.

21 Q. OKAY. DID YOU IN ANY WAY INFLUENCE HIM THAT HE
22 PICK OUT NUMBER ONE?

23 A. NO.

24 SOLICITOR BELL: YOUR HONOR, I
25 WOULD OFFER THIS INTO EVIDENCE, THIS IS STATE'S

DIRECT - THOMAS M. MARSHALL BY SOL. BELL

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1 FOURTEEN FOR IDENTIFICATION.

2 MR. KEARSE: I WOULD OBJECT, YOUR
3 HONOR, SAME GROUNDS.

4 THE COURT: NOTED AND OVERRULED.
5 MARKED AND ADMITTED.

6 COURT REPORTER: STATE'S FOURTEEN.
7 (State's Exhibit Fourteen
8 marked and filed.)

9 SOLICITOR BELL: THANK YOU,
10 LIEUTENANT MARSHALL, PLEASE ANSWER ANY QUESTIONS MR.
11 KEARSE MAY HAVE FOR YOU.

12 MR. KEARSE: YOUR HONOR, CAN I
13 APPROACH?

14 THE COURT: UH HUH.
15 (Whereupon, a bench conference
16 is held out of the hearing of
17 the jury and the court reporter.)

18 MR. KEARSE: MAY IT PLEASE THE
19 COURT, YOUR HONOR.

20 THE COURT: YES, SIR.

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

CROSS - THOMAS M. MARSHALL BY MR. KEARSE

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CROSS-EXAMINATION OF THOMAS M. MARSHALL

BY MR. KEARSE:

Q. DETECTIVE MARSHALL, DID LANESHA GREEN COME DOWN
TO THE SCENE OF THE CRIME ON OR ABOUT THE MORNING
OF JULY FOURTH?

A. I PERSONALLY -- THE ONLY WAY I -- EXCUSE ME, I
WAS NOT THERE AT THE SCENE AT THAT PARTICULAR
TIME, I WAS TOLD SHE CAME BACK TO THE SCENE.

Q. OKAY. AND YOU TOOK A STATEMENT FROM HER AT SOME
POINT ON JULY FOURTH, DID YOU NOT?

A. YES, MYSELF AND DETECTIVE VAN DORAN INTERVIEWED
HER.

Q. ALRIGHT. AND, IN FACT, YOU TOOK, I BELIEVE
THERE'S TWO STATEMENTS FROM HER ON JULY FOURTH,
IS THAT CORRECT?

A. YES, SIR, IF YOU'VE GOT THEM BOTH IN FRONT OF
YOU, I CAN'T TELL YOU THE DATE AND THE TIMES,
BUT, YES, I'M ALMOST ---

Q. ALRIGHT. WAS SHE SUBMITTED TO A GUN SHOT RESIDUE
TEST?

A. NO.

Q. ALRIGHT. DID YOU, DID SHE DIVULGE HER RESIDENCE,
WHERE SHE LIVED?

A. YES, I THINK IF I REMEMBER CORRECTLY, SHE SAID
THAT WAS HER HOUSE THERE.

1 Q. SHE SAID SHE LIVED IN THE HOUSE?

2 A. I THINK SHE SAID SHE RENTED IT AND SHE WAS IN AND
3 OUT OF THAT HOUSE.

4 Q. ALRIGHT. SO, YOU'RE NOT CERTAIN WHETHER SHE
5 LIVED THERE OR NOT?

6 A. NO, I'M NOT A HUNDRED PER CENT SURE SHE LIVED
7 THERE, I'M GOING BY WHAT SHE TELLS ME.

8 Q. ALRIGHT, SO YOU GUYS DID NOT EXECUTE, OR MAKE
9 CERTAIN TO EXECUTE A SEARCH WARRANT ON HER
10 RESIDENCE, THE RESIDENCE IN WHICH SHE LIVED?

11 A. WE EXECUTED A SEARCH WARRANT ON THAT, THAT HOUSE.

12 Q. ALRIGHT, BUT IF SHE LIVED SOMEWHERE ELSE OTHER
13 THAN -- WHAT WAS THE ADDRESS OF THAT HOUSE?

14 A. I'D HAVE TO LOOK, I THINK IT WAS [REDACTED]
15 [REDACTED] ROAD, IF I REMEMBER ---

16 Q. [REDACTED] ROAD?

17 A. I THINK SO.

18 Q. ALRIGHT. WHEN YOU TOOK HER STATEMENT SHE GAVE
19 YOU A DIFFERENT ADDRESS, DID SHE NOT?

20 A. I THINK IT WAS HER FATHER'S ADDRESS.

21 Q. IT WAS THREE SEVENTY OR SEVEN OR SO, IS THAT
22 CORRECT?

23 A. IF IT WAS [REDACTED] ROAD, THEN THAT WOULD HAVE
24 NOT BEEN HER FATHER'S RESIDENCE, THAT WOULD HAVE
25 BEEN JERMAINE CUSACK'S RESIDENCE, OR HIS MOTHER'S

CROSS - THOMAS M. MARSHALL BY MR. KEARSE

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1 RESIDENCE.

2 MR. KEARSE: I BEG THE COURT'S
3 INDULGENCE.

4 Q. OKAY, I'M GOING TO HAND TO YOU WHAT'S MARKED AS
5 DEFENDANT'S EXHIBIT NUMBER TWO.

6 A. OKAY, THEN THAT'S THE MOUNT ZION ADDRESS THAT SHE
7 PUT ON HERE AS HER FATHER'S ADDRESS, IF I
8 REMEMBER CORRECTLY.

9 Q. OKAY. AND YOU GUYS DID NOT EXECUTE ANY KIND OF
10 SEARCH WARRANT AND GO SEARCH THAT HOUSE, IS THAT
11 CORRECT?

12 A. WE HAD NOTHING TO DRAW UP A SEARCH WARRANT TO GO
13 SEARCH THAT RESIDENCE.

14 Q. AND THAT WAS DURING THAT TIME, OR EVEN AFTER THAT
15 TIME, I MEAN, YOU DIDN'T GO OVER THERE TO SEE IF
16 YOU COULD FIND A FIREARM OR ANYTHING THAT MIGHT
17 HAVE BEEN USED?

18 A. I HAD NO INFORMATION, OR NO PROBABLY CAUSE TO
19 DRAW UP A SEARCH WARRANT TO GO INTO ANY ONE OF
20 THOSE HOUSES.

21 Q. NOW, SHE SAID, WE AGREED THAT SHE GAVE YOU A
22 SECOND STATEMENT, IS THAT CORRECT? I MEAN, THAT'S
23 JUST ONE OF JULY FOURTH?

24 A. ACTUALLY, THIS ONE YOU HANDED ME HERE IS JULY
25 TENTH.

CROSS - THOMAS M. MARSHALL BY MR. KEARSE

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1 Q. OKAY. WELL, THAT'S JULY TENTH, I'M SORRY.

2 A. YES. YEAH, THE ONE -- THIS ONE WAS ONE THAT
3 DETECTIVE BELL AND DETECTIVE DIXSON TOOK FROM
4 HER.

5 COURT REPORTER: FOR ID OR ---

6 MR. KEARSE: FOR IDENTIFICATION
7 PURPOSES.

8 SOLICITOR BELL: NO OBJECTION.

9 THE COURT: IT'S MARKED FOR ID
10 ONLY, CORRECT?

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

13 COURT REPORTER: DEFENDANT'S SIX,
14 ID.

15 MR. KEARSE: ID.

16 COURT REPORTER: LET ME HOLD THAT
17 BACK JUST ONE MOMENT.

18 MR. KEARSE: THERE ARE TWO
19 DIFFERENT ONES.

20 COURT REPORTER: JUST FOR THE
21 DATES.

22 MR. KEARSE: OKAY. AND THE TIME,
23 YOU MIGHT WANT TO PUT THE TIME, BECAUSE THEY WERE THE
24 SAME DATE.

25 COURT REPORTER: OKAY.

CROSS - THOMAS M. MARSHALL BY MR. KEARSE

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1 (Defendant's Exhibit Six,
2 Statement of Lanesha Green,
3 dated 7/4/03, at 02:59,
4 marked for identification.)

5 COURT REPORTER: DEFENDANT'S SEVEN
6 ID.

7 (Defendant's Exhibit Seven,
8 Statement of Lanesha Green,
9 dated 7/4/03, at 05:50,
10 marked for identification.)

11 MR. KEARSE: THANK YOU.

12 Q. AND I'M ALSO GOING TO HAND YOU WHAT'S BEEN MARKED
13 AS DEFENDANT'S SEVEN AND DEFENDANT'S SIX. THOSE
14 ARE ALL COPIES OF WRITTEN STATEMENTS YOU GUYS
15 TOOK FROM LANESHA GREEN, ARE THEY NOT?

16 A. YES, THAT'S CORRECT.

17 Q. ALRIGHT. AND ON ONE, WE AGREED SHE GAVE YOU A
18 MOUNT ZION ROAD RESIDENCE, IS THAT CORRECT?

19 A. ON NUMBER, ON ---

20 Q. NUMBER FIVE, DEFENDANT'S EXHIBIT NUMBER FIVE?

21 A. ACTUALLY, IT'S DEFENDANT'S EXHIBIT NUMBER TWO.

22 Q. OH, I'M SORRY, DEFENDANT'S EXHIBIT NUMBER TWO.

23 A. YEAH. SO, THAT, SHE GIVES THE UT -- EXCUSE ME,
24 THE MOUNT ZION ROAD ADDRESS.

25 Q. CORRECT.

1 A. ON STATE'S EXHIBIT SEVEN FOR ID SHE GIVES THE
2 [REDACTED] ADDRESS, AND ON STATE'S EXHIBIT NUMBER
3 SIX FOR ID SHE GIVES THE [REDACTED] ADDRESS.

4 Q. ALRIGHT. AND NEITHER OF THESE ADDRESSES, NEITHER
5 [REDACTED] ROAD, OR MOUNT
6 ZION ROAD WERE SEARCHED?

7 A. NO, WE HAD NO PROBABLE CAUSE TO SEARCH THESE.

8 Q. WELL, IT'S TRUE, YOU DON'T NEED PROBABLE CAUSE TO
9 SEARCH IF A PERSON CONSENTS TO A SEARCH, CORRECT?

10 A. WELL, THIS WASN'T ACTUALLY HER RESIDENCE, IT WAS,
11 BELONGED TO, IT WAS JERMAINE CUSACK'S MOTHER'S
12 RESIDENCE.

13 Q. ALRIGHT, BUT MY QUESTION IS, YOU DON'T NEED
14 PROBABLE CAUSE IF THE PERSON CONSENTS TO A
15 SEARCH, CORRECT?

16 A. THAT'S CORRECT.

17 Q. ALRIGHT. SO, IF YOU ASK HER, CAN I SEARCH YOUR
18 RESIDENCE, AND\OR THE OWNER OF THE HOUSE, AND THE
19 OWNER SAYS, SURE, COME ON IN AND SEARCH, YOU CAN
20 SEARCH?

21 A. WELL, I HAVE TO HAVE SOMETHING TO SEARCH FOR, BUT
22 YES.

23 Q. ALRIGHT. AND ADDITIONALLY, AT SOME POINT IN
24 THESE THREE STATEMENTS SHE TOLD YOU THAT SHE AND
25 JERMAINE CUSACK AND JOHNNY COBBS DROVE OF, AND

CROSS - THOMAS M. MARSHALL BY MR. KEARSE

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1 WENT UP TO ORANGEBURG, IS THAT CORRECT?

2 A. THAT'S CORRECT.

3 Q. DID YOU FIND OUT WHERE THEY WENT IN ORANGEBURG
4 WHEN THEY LEFT THE SCENE?

5 A. IF I REMEMBER CORRECTLY, MS. GREEN AND JERMAINE
6 CUSACK WENT TO BRANCHVILLE, IF I'M NOT MISTAKEN,
7 AND WENT TO A CONVENIENCE STORE UP THERE, AND
8 THEN TURNED AROUND AND CAME BACK.

9 Q. ALRIGHT. DID YOU GUYS GO AND FIND THIS RESIDENCE
10 THAT THEY WENT TO, OR THIS PLACE THEY WENT TO IN
11 ORANGEBURG?

12 A. YES, I SENT TWO DETECTIVES UP THERE.

13 Q. ALRIGHT, DO YOU KNOW WHETHER OR NOT THOSE TWO
14 DETECTIVES SEARCHED THAT PARTICULAR RESIDENCE?

15 A. IT WASN'T A RESIDENCE, THEY ACTUALLY WENT TO A
16 STORE IS WHERE WE KNOW THEY WENT TO.

17 Q. SO, YOU DON'T KNOW WHERE EXACTLY THEY WENT TO IN
18 ORANGEBURG, OTHER THAN THE STORE?

19 A. OTHER THAN THE STORE.

20 Q. ALRIGHT. BUT SHE DID TELL YOU THEY WENT TO
21 ORANGEBURG FOR A PERIOD OF TIME?

22 A. WELL, YEAH, THEY WENT INTO ORANGEBURG COUNTY,
23 THEY ACTUALLY WENT TO THE TOWN OF BRANCHVILLE.

24 Q. SHE ALSO TOLD YOU THAT WHEN SHE RETURNED, SHE
25 RETURNED JERMAINE CUSACK TO EITHER THE VILLA

1 APARTMENTS, OR LATER ON SHE SAID, OAKWOOD
2 APARTMENTS, IS THAT CORRECT?

3 A. THE FIRST TIME I THINK SHE TOLD US THE VILLA
4 APARTMENTS.

5 Q. ALRIGHT, DID YOU GUYS GO OVER TO THE VILLA
6 APARTMENTS AND ASK TO TRY TO SEARCH?

7 A. WE HAD NO PLACE TO SEARCH FOR OVER THERE, NO, WE
8 DID NOT GET AN APARTMENT NUMBER.

9 Q. ALRIGHT. WELL, YOU KNEW THAT A SHOOTING HAD
10 OCCURRED, CORRECT?

11 A. YES, THAT'S CORRECT.

12 Q. AND AT SOME POINT SHE SAID THAT THEY WENT IN
13 THERE AND THEY -- WHETHER YOU WANT IT, STRAIGHTEN
14 UP, CLEAN UP, HOWEVER SHE WANTS TO COUCH IT, THEY
15 TOOK THINGS OUT OF THE RESIDENCE?

16 A. SHE FINALLY DISCLOSED THAT LATER ON, YES.

17 Q. ALRIGHT. AND THOSE THINGS SHE TOOK WOULD HAVE
18 BEEN, OR COULD HAVE BEEN DRUGS, COCAINE,
19 MARIJUANA, AND/OR A FIREARM, CONCEIVABLY?

20 A. CONCEIVABLY IT WOULD HAVE BEEN THE DRUGS IS WHAT
21 SHE WAS TELLING US.

22 Q. ALRIGHT. BUT, AND YOU COULD HAVE SEARCHED THESE
23 PLACES TO FIND OUT IF THAT WAS WHERE THEY PUT
24 THESE ITEMS, IS THAT CORRECT?

25 A. AGAIN, I WOULD HAVE HAD TO HAVE HAD A PLACE TO

CROSS - THOMAS M. MARSHALL BY MR. KEARSE

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1 SEARCH. FIRST OFF, WITH THE VILLAS WE HAD NO
2 PLACE, OTHER THAN, I DROPPED HIM OFF AT THE
3 VILLAS. THE EARLY PORTION OF THIS NOBODY WAS
4 ADMITTING TO THE DRUGS OR ANYTHING LIKE THAT.
5 EVENTUALLY, SHE TOLD US, AND WE FOUND OUT THROUGH
6 THE INVESTIGATION THAT THINGS WERE CLEANED UP,
7 I.E., JERMAINE CUSACK'S BOOKS AND PAPERS THAT HAD
8 HIS NAME ON THEM, SOME CLOTHES, SOME SHOES, AND
9 STUFF LIKE THAT.

10 Q. BUT DETECTIVE MARSHALL, DID YOU GUYS PUSH HER TO
11 FIND OUT WHERE EXACTLY SHE DROPPED JERMAINE
12 CUSACK OFF?

13 A. SHE SAID SHE DROPPED HIM OFF AT THE VILLAS, SHE
14 DID NOT DROP HIM OFF AT A PARTICULAR APARTMENT,
15 IF I REMEMBER CORRECTLY.

16 Q. AND DID Y'ALL ASK HER WHAT APARTMENT DID HE GO
17 TO, WHO DOES HE KNOW OUT THERE?

18 A. WE -- NO, ACTUALLY, I DON'T REMEMBER THAT AT ALL,
19 I JUST KNOW THAT SHE SAID SHE DROPPED HIM OFF AT
20 THE FRONT OF IT.

21 Q. ALRIGHT. SO, CONCEIVABLY, IN THIS TIME SHE COULD
22 HAVE DROPPED THE PERPETRATOR OFF, YOU GUYS DID
23 NOT KNOW THAT?

24 A. AT THE BEGINNING WE DIDN'T KNOW ANYTHING OTHER
25 THAN WE WERE TRACKING THESE PEOPLE DOWN, WHICH

1 WAS JERMAINE CUSACK, JOHNNY COBBS, AND RYAN
2 NORTH.

3 Q. AND WITHIN THIS PERIOD OF TIME SHE COULD HAVE
4 POTENTIALLY DROPPED NOT ONLY THE PERPETRATOR OFF,
5 SHE COULD HAVE RIDDEN HERSELF OF ANY EVIDENCE, IS
6 THAT CORRECT?

7 A. IF, AT THE BEGINNING, IF WE HAD LISTED HER AS A
8 SUSPECT, YES.

9 Q. ALRIGHT. AND SO, WOULD IT HAVE BEEN IMPERATIVE -
10 - LET'S GO BACK BEFORE I ASK THIS QUESTION -- YOU
11 SAID, IF YOU LISTED HER AS A SUSPECT, THAT'S YOUR
12 STATEMENT, CORRECT?

13 A. YEAH.

14 Q. BUT SHE ADMITTED SHE WAS AT THE HOUSE, IS THAT
15 CORRECT?

16 A. ADMITTING TO BEING IN THE HOUSE AND BEING, YOU
17 KNOW, DOING SOMETHING IS ONE THING. RIGHT NOW WE
18 DIDN'T HAVE ANY INDICATION OF WHAT SHE HAD DONE
19 AT THE BEGINNING OF THIS CASE.

20 Q. ALRIGHT. WELL, YOU'RE SAYING THAT BECAUSE SHE
21 DID NOT ADMIT, SHE DID NOT HAVE ANY PARTICIPATION
22 IN ANYTHING OTHER THAN JUST BEING AT THE HOUSE,
23 SHE WAS NOT A SUSPECT?

24 A. THE FIRST PART OF IT WAS THAT SHE WAS BEING VERY
25 VAGUE AND ELUSIVE TO US AND NOT TELLING US

CROSS - THOMAS M. MARSHALL BY MR. KEARSE

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1 ANYTHING.

2 Q. WELL, IF SHE'S AT THE HOUSE AT THE TIME OF THIS
3 SHOOTING, ISN'T SHE CONSIDERED A SUSPECT?

4 A. WELL, SHE'S SAYING THAT SHE WAS COMING UP, AND
5 EVERYBODY WAS LEAVING. SO, YOU KNOW, I HAVE TO
6 GO BY WHAT SHE'S TELLING ME. SHE'S GOING DOWN
7 THE ROAD, AND SHE COMES BACK, SHE RUNS INTO, IF
8 I'M NOT MISTAKEN, SHE CALLS HIM MOOK, AND THEN HE
9 TAKES THE CAR, SHE RUNS DOWN THERE, AND THEN
10 EVERYBODY IS PULLING OUT. SO, SHE'S NOT AT THE
11 HOUSE AT THE TIME OF THE SHOOTING.

12 Q. RIGHT. SO, IT'S YOUR STATEMENT THAT BECAUSE SHE
13 TOLD YOU SHE WAS NOT THERE AT THE TIME OF THE
14 SHOOTING, THEN YOU HAVE TO SAY SHE'S NOT THERE AT
15 THE TIME OF THE SHOOTING?

16 A. BASED ON WHAT SHE'S TELLING US RIGHT NOW, UNTIL
17 WE CAN DETERMINE OTHERWISE, YES. I HAVE TO GO BY
18 WHAT SHE'S TELLING ME UNTIL I CAN PROVE THAT SHE
19 WASN'T THERE, OR SHE WAS INSIDE THERE.

20 Q. ALRIGHT.

21 A. SO, THE INVESTIGATION WOULD HAVE TO GO FROM WHAT
22 SHE'S TELLING US.

23 Q. HOWEVER, WHEN YOU QUESTIONED OTHER PEOPLE, YOU
24 QUESTIONED JERMAINE CUSACK, YOU QUESTIONS ANTHONY
25 FOLK, TRAVIS NORTH, RYAN NORTH, YOU QUESTIONED

1 ALL THESE GUYS, YOU DID NOT BELIEVE, OR TRULY
2 BELIEVE EVERYTHING THEY SAID, IS THAT CORRECT?

3 A. WE CORROBORATED WHAT THEY WERE TELLING US, YES.

4 Q. ALRIGHT. WHEN YOU QUESTIONED RYAN NORTH YOU
5 BROUGHT HIM DOWN TO THE DEPARTMENT BECAUSE HE WAS
6 A SUSPECT, DID YOU NOT?

7 A. WE HAD AN ARREST WARRANT FOR HIM.

8 Q. ALRIGHT. BUT PRIOR TO THAT YOU WANTED HIM DOWN
9 THERE BECAUSE HE WAS A SUSPECT, CORRECT?

10 A. HE WAS A SUSPECT, HE WAS ARRESTED FOR MISPRISION
11 OF A FELONY, SO WE HAD A WARRANT FOR HIS ARREST.
12 WE WERE LOOKING FOR HIM.

13 Q. I'M SAYING JULY FOURTH, JULY FIFTH, WHEN HE RAN
14 INTO KICKLIGHTER, HE WAS A SUSPECT, THERE WAS NO
15 ARREST WARRANT, IS THAT CORRECT?

16 A. HE WAS A PERSON OF INTEREST, I WOULD SAY, BECAUSE
17 HE WAS INSIDE THE HOUSE, AND WE HAD TO KNOW WHAT
18 HAPPENED. WE STILL DID NOT KNOW EXACTLY WHAT
19 HAPPENED.

20 Q. ALRIGHT. AND TRAVIS NORTH, WHEN YOU -- HE WAS A
21 SUSPECT WHEN YOU BROUGHT HIM DOWN INITIALLY, IS
22 THAT CORRECT?

23 A. NO, I WOULD NOT SAY TRAVIS NORTH WAS A SUSPECT.
24 HE WAS NOT READ HIS RIGHTS OR ANYTHING.

25 Q. ALRIGHT. JERMAINE CUSACK, WHEN YOU GUYS PICKED

CROSS - THOMAS M. MARSHALL BY MR. KEARSE

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1 HIM UP HE WAS A SUSPECT, WAS HE NOT?

2 A. HE WAS UNDER ARREST, YES. THERE WAS AN ARREST
3 WARRANT FOR HIM.

4 Q. SO, YOU'RE SAYING YOU -- LANESHA GREEN GIVES YOU
5 THESE DIFFERENT ADDRESSES AND YOU GUYS DON'T TRY
6 TO SEARCH THEM, BOTTOM LINE, CORRECT?

7 A. BOTTOM LINE, I HAD NO PROBABLY CAUSE TO GET
8 INSIDE THE HOUSE TO SEARCH, AND I DIDN'T KNOW
9 WHAT I WAS GOING TO BE SEARCHING FOR AT FIRST.

10 Q. AND EVEN AFTER SHE TOLD YOU THEY REMOVED THINGS
11 FROM THE HOUSE, YOU GUYS STILL DID NOT GO AND TRY
12 TO SEARCH THESE RESIDENCES, CORRECT?

13 A. BY THE TIME WE GOT INFORMATION ON THINGS THAT
14 WERE PUT IN THE HOUSE IT HAD BEEN WELL PAST THE
15 FOURTH OF JULY. SO, IF ANYTHING WAS THERE, OR IF
16 THERE WAS ANYTHING TO SEARCH FOR, IT WAS POSSIBLY
17 THEN GONE.

18 Q. AND WHEN SHE CAME BACK TO THIS RESIDENCE, WHEN
19 SHE APPEARED THAT NIGHT OR EARLY THAT MORNING
20 Y'ALL DID NOT SUBMIT HER TO A GUN SHOT RESIDUE
21 TEST, IS THAT CORRECT?

22 A. NO, IT WAS WELL AFTER THE INCIDENT, AS WAS
23 TESTIFIED EARLIER, THE GUN SHOT RESIDUE, HANDS
24 ARE NOT TESTED AFTER A FOUR HOUR PERIOD, BECAUSE
25 THE EVIDENCE ON THE -- IS VERY EASILY REMOVED.

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1 Q. NOW, WHEN YOU FIRST TALKED TO HER -- SO THE
2 ANSWER IS NO?

3 A. THAT'S CORRECT.

4 Q. ALRIGHT. WHEN YOU FIRST TALKED TO HER SHE GAVE
5 YOU A STATEMENT, BUT THAT STATEMENT PROVED NOT TO
6 BE TRUE?

7 A. I -- THE FIRST ONE SHE GAVE WAS TO DETECTIVE
8 DIXSON. YOU COULD SAY PART OF IT WAS TRUE AND
9 PART OF IT WAS NOT TRUE.

10 Q. BUT THAT'S WHAT SHE SAID?

11 A. YES.

12 Q. SHE TOLD YOU GUYS, PART OF IT -- HER FIRST
13 STATEMENT -- HER SECOND STATEMENT, SHE SAYS, MY
14 FIRST STATEMENT WAS FALSE, THAT'S THE FIRST LINE
15 OF HER STATEMENT ON JULY TENTH, NINETEEN -- TWO
16 THOUSAND THREE?

17 A. THE THIRD STATEMENT SAYS THAT SHE'S SAYING THAT
18 THE FIRST STATEMENT ---

19 Q. RIGHT.

20 A. --- WHICH IS THE ZERO FIVE -- FIVE:FIFTY IN THE
21 MORNING, IS NOT TRUTHFUL.

22 Q. ALRIGHT. AND SO, THEN SHE COMES AND YOU GUYS DO
23 SOME INVESTIGATION, AND BASED ON WHAT YOU DO ON
24 JULY FOURTH, YOU GO OUT AND TALK TO A FEW PEOPLE,
25 ONE IN PARTICULAR, ANGELA MARTINO, YOU KNOW YOU

CROSS - THOMAS M. MARSHALL BY MR. KEARSE

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1 HAVE TO CALL HER BACK IN?

2 A. YES.

3 Q. ALRIGHT. AND THAT'S BECAUSE SHE HAS NOT BEEN
4 TRUTHFUL?

5 A. THAT'S CORRECT.

6 Q. AND SHE GAVE ANOTHER STATEMENT?

7 A. THAT'S CORRECT.

8 Q. ALRIGHT. AND EVEN AFTER THAT STATEMENT, AGAIN YOU
9 GUYS DO SOME INVESTIGATION, AND YOU HAVE TO CALL
10 HER BACK IN?

11 A. YES.

12 Q. BECAUSE THAT STATEMENT WAS NOT TRUE?

13 A. WE BELIEVE THAT SHE WAS STILL NOT TELLING US
14 EVERYTHING. SHE HAD TOLD US A GOOD -- THE
15 MAJORITY OF IT, BUT THERE WERE STILL SOME
16 QUESTIONS THAT WERE UNANSWERED.

17 Q. ALRIGHT. WELL, SHE SAID, SHE DESCRIBES A CAR AT
18 THAT TIME, BUT THE CAR SHE DESCRIBES IS A FOUR --
19 SHE SAYS IT'S A FOUR DOOR, DOES SHE NOT?

20 A. I THINK SO, YES.

21 Q. ALRIGHT. AND AT SOME POINT YOU GUYS SHOWED HER A
22 LINEUP, DO YOU RECALL THAT?

23 A. NO, I DON'T, ACTUALLY.

24 THE COURT: MR. KEARSE, ---

25 MR. KEARSE: YES, MA'AM.

1 THE COURT: CAN I INTERRUPT YOU
2 POSSIBLY?

3 MR. KEARSE: YES, MA'AM.

4 THE COURT: IS THIS A GOOD PLACE
5 FOR YOU, OR IS THIS A BAD PLACE FOR YOU?

6 MR. KEARSE: YES, MA'AM, THIS IS.

7 THE COURT: IS IT A GOOD PLACE?

8 MR. KEARSE: YEAH, I CAN ---

9 THE COURT: YOU CAN PICK UP ON
10 THAT?

11 MR. KEARSE: --- PICK UP ON THAT
12 QUESTION TOMORROW.

13 THE COURT: SIR, YOU MAY STEP
14 DOWN. I WOULD -- THANK YOU.

15 MR. FOREMAN, AND LADIES AND
16 GENTLEMEN, I AM GOING TO TAKE ADVANTAGE OF THIS BREAK
17 IN TESTIMONY TO BREAK FOR OUR -- TAKE OUR EVENING
18 RECESS. I DON'T KNOW ABOUT YOU ALL, BUT WITH THE TIME
19 CHANGE, I'M GETTING SLEEPY EARLIER. AND I DON'T KNOW
20 WHETHER IT'S JUST THE NATURAL HUMAN INSTINCT TO
21 HIBERNATE WHEN TIME CHANGES OR WHAT IT IS ATTRIBUTABLE
22 TO, BUT I KNOW THAT YOU ALL HAVE OTHER
23 RESPONSIBILITIES, AND LAST NIGHT IT JUST DIDN'T DAWN
24 ON ME HOW QUICKLY IT GETS DARK, AND HOW DARK IT GETS,
25 SO, I'M GOING TO GO AHEAD AND BREAK FOR THE EVENING.

CROSS - THOMAS M. MARSHALL BY MR. KEARSE

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1 DURING THE RECESS, PLEASE DO NOT
2 DISCUSS THIS CASE AMONG YOURSELVES OR WITH ANYONE
3 ELSE. PLEASE DO NOT WATCH, READ OR LISTEN TO ANY
4 MEDIA REPORTS ABOUT THIS CASE, AND PLEASE DO NOT DO
5 ANY INDEPENDENT RESEARCH OF ANY TYPE ON THE INTERNET.

6 WE WILL RESUME THE TRIAL AT
7 NINE:THIRTY IN THE MORNING. PLEASE RETURN DIRECTLY TO
8 YOUR JURY ROOM AT THAT TIME, AND PLEASE DON'T HAVE ANY
9 CONTACT WITH ANYONE IN OR ABOUT THE COURT HOUSE.

10 AS YOU LEAVE IF YOU COULD LEAVE
11 YOUR NOTE PADS STACKED ON THE BANNISTER WE WILL
12 COLLECT THEM AND MAKE SURE THAT YOUR PRIVACY IS
13 PROTECTED.

14 I HOPE YOU ALL HAVE A WONDERFUL
15 EVENING, AND WE'LL SEE YOU IN THE MORNING.

16 (Whereupon, the jury leaves
17 the courtroom and the following
18 takes place out of the
19 presence of the jury.)

20 THE COURT: MR. WITNESS, SIR, YOU
21 ARE TO HAVE NO DISCUSSION ABOUT YOUR TESTIMONY DURING
22 THIS BREAK WITH ANYONE. THANK YOU.

23 (Recess)

24 DATE:

25 NOVEMBER 2, 2005

CROSS - THOMAS M. MARSHALL BY MR. KEARSE

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1 THE COURT: IS THE STATE READY TO
2 PROCEED?

3 SOLICITOR BELL: THE STATE'S
4 READY, YOUR HONOR.

5 THE COURT: IS THE DEFENSE READY?

6 MR. KEARSE: THE DEFENSE IS READY,
7 YOUR HONOR.

8 THE COURT: THANK YOU. I
9 APPRECIATE YOU ALL INDULGING US SO THAT WE COULD GET
10 SITUATED THIS MORNING.

11 PLEASE BRING IN THE JURY.

12 (Whereupon, the following
13 takes place in the
14 presence of the jury.)

15 THE COURT: MR. FOREMAN, AND
16 LADIES AND GENTLEMEN, WE APPRECIATE YOUR PATIENCE THIS
17 MORNING, WE NEEDED TO GET OUR CLASS SITUATED WHO IS
18 OBSERVING WITH US FROM SUMMERVILLE HIGH SCHOOL THIS
19 MORNING, AND ALSO JUST TO PREPARE FOR THIS MORNING'S
20 TESTIMONY.

21 SO, WE HOPE THAT YOU ALL HAD A
22 RESTFUL EVENING.

23 WE'LL NOW RESUME WITH THE WITNESS
24 WHO WE WERE PREVIOUSLY IN THE MIDST OF HIS CROSS-
25 EXAMINATION.

CROSS - THOMAS M. MARSHALL BY MR. KEARSE

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1 OFFICER, IF YOU COULD RETAKE THE
2 STAND, I'LL REMIND YOU, YOU'RE STILL UNDER OATH.

3 AND MR. KEARSE, WHEN YOU'RE READY
4 YOU MAY PROCEED WITH YOUR CROSS EXAMINATION OF
5 LIEUTENANT MARSHALL.

6 MR. KEARSE: MAY IT PLEASE THE
7 COURT, YOUR HONOR.

8 THE COURT: YES, SIR.

9 MR. KEARSE: YOUR HONOR, IF I
10 COULD HAVE THE COURT REPORTER READ WHAT I LEFT OFF
11 WITH?

12 COURT REPORTER: OKAY. THE LAST
13 QUESTION WAS, "AND AT SOME POINT YOU GUYS SHOWED HER A
14 LINEUP, DO YOU RECALL THAT?" ANSWER: "NO, I DON'T."

15 Q. OKAY. DETECTIVE MARSHALL, WHEN I REFERRED TO
16 HER, YOU KNOW THAT THE HER I WAS SPEAKING OF WAS
17 LANESHA GREEN, IS THAT CORRECT?

18 A. YES, THAT'S CORRECT.

19 Q. ALRIGHT. AND I MENTIONED THE FACT THAT YOU GUYS
20 SHOWED HER A PHOTO LINEUP, AND YOU SAID YOU DON'T
21 RECALL DOING THAT?

22 A. YEAH, I DON'T RECALL DOING IT.

23 Q. ALRIGHT. DO YOU HAVE A COPY OF YOUR CASE FILE
24 WITH YOUR NOTES?

25 A. YES, AND I LOOKED OVER IT AGAIN LAST NIGHT, AND

1 IF IT'S IN THERE I MISSED IT, BUT I DON'T SEE
2 WHERE I GAVE HER ANY PHOTO ---

3 Q. DO YOU HAVE A COPY IN THE COURTROOM ---

4 A. YES.

5 Q. --- THAT YOU CAN REFER TO, TO REFRESH YOUR
6 RECOLLECTION? OKAY, I'M GOING TO DIRECT YOU TO -
7 --

8 A. ARE YOU TALKING ABOUT MY NOTES, MAYBE?

9 Q. YOUR NOTES, CORRECT.

10 A. OKAY.

11 Q. PAGE ELEVEN OF YOUR NOTES, IT'S THE FIFTH
12 PARAGRAPH, AT THE BOTTOM OF THAT PAGE.

13 A. ALRIGHT.

14 Q. DO YOU RECALL, IT READS, "LANESHA GREEN SHOWED UP
15 AT THE SHERIFF," I IMAGINE THAT MEANS THE
16 SHERIFF'S OFFICE?

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

18 Q. "LOOKED AT THE LINEUP AND SHE DID NOT SEE ANYBODY
19 THAT SHE KNEW."

20 A. I'VE GOT IT IN THERE, BUT I HONESTLY DON'T
21 REMEMBER HER COMING IN, BUT I DO HAVE HER IN
22 THERE AS COMING IN.

23 Q. BUT YOU RECORDED THOSE THINGS CONTEMPORANEOUS TO
24 WHEN IT OCCURRED, IS THAT CORRECT?

25 A. THAT'S CORRECT, I MEAN, I JUST DON'T REMEMBER, ---

CROSS - THOMAS M. MARSHALL BY MR. KEARSE

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1 Q. ALRIGHT.

2 A. --- IT'S BEEN A WHILE, AND I DON'T REMEMBER HER
3 BEING IN THERE.

4 Q. THAT INDICATES THAT SHE CLEARLY VIEWED A LINEUP
5 AND COULDN'T PICK ANYBODY OUT?

6 A. THAT'S CORRECT.

7 Q. ALRIGHT. DO YOU RECALL, AND WE'VE TALKED ABOUT
8 HER WRITTEN STATEMENT. SHE GAVE THREE WRITTEN
9 STATEMENTS, IS THAT CORRECT?

10 A. YES, I THINK YOU HAD TWO FOR HER THE FIFTH, OR
11 THE FOURTH, ---

12 Q. JULY FOURTH, AND THEN ---

13 A. --- AND THEN ONE ON THE TENTH, AND I THINK THAT
14 ONE WAS DONE WITH DETECTIVE BELL.

15 Q. ALRIGHT. ALL THOSE THINGS ARE PART OF THE CASE
16 FILE, ARE THEY NOT?

17 A. YES.

18 Q. THEY'RE KEPT IN THE REGULAR COURSE OF THE
19 SHERIFF'S BUSINESS?

20 A. YES.

21 Q. ALRIGHT. I'M GOING TO DIRECT YOU TO WHAT'S
22 MARKED AS DEFENDANT'S EXHIBIT TWO, I BELIEVE
23 THAT'S THE ONE SHE GAVE ON JULY TENTH, TWO
24 THOUSAND AND THREE?

25 A. THIS WOULD HAVE BEEN NUMBER -- THIS WOULD HAVE

1 BEEN NUMBER THREE.

2 Q. RIGHT, THAT'S HER THIRD WRITTEN STATEMENT, IS IT
3 NOT?

4 A. THAT'S CORRECT.

5 Q. ALRIGHT. DO YOU RECALL, AND I WANT YOU TO REVIEW
6 THAT STATEMENT, WHERE SHE DESCRIBED THE TWO
7 INDIVIDUALS, ONE BEING LIGHT SKINNED, BUT SAID
8 THAT HE HAD CORN ROWS? IT'S ON THE SECOND PAGE
9 TOWARDS THE -- NOT EXACTLY THE MIDDLE, BUT ---

10 A. I'VE GOT THE LIGHT SKINNED, I'M TRYING TO FIND
11 THE CORN ROWS.

12 Q. ALRIGHT. IF I CAN APPROACH, I'LL ---

13 A. I THINK I'M RIGHT HERE, I'M NOT SURE WHERE THE
14 LIGHT -- IS THAT THE ONE YOU'RE TALKING ABOUT?

15 Q. THAT'S CORRECT.

16 A. OKAY.

17 Q. SHE SAYS, "I'M NOT SURE WHERE THE LIGHT SKINNED
18 GUY WITH THE CORN ROWS WAS POSITIONED."

19 A. YES, THAT'S CORRECT.

20 Q. ALRIGHT. AND THAT'S IN THE STATEMENT SHE GAVE YOU
21 ON JULY TENTH, TWO THOUSAND THREE?

22 A. THAT'S CORRECT.

23 Q. AND SHE DESCRIBED THE OTHER GUY AS BEING OF A
24 DARKER COMPLEXION?

25 A. YES.

CROSS - THOMAS M. MARSHALL BY MR. KEARSE

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1 Q. OKAY. ALRIGHT, I IMAGINE YOU GET IDENTIFICATION
2 INFORMATION ALL THE TIME IN YOUR WORK, IS THAT
3 CORRECT?

4 A. YES, WE DO.

5 Q. SO, YOU HAVE TO BE SOMEWHAT FAMILIAR WITH THE
6 DIFFERENT HAIR STYLES THAT PEOPLE WEAR, IS THAT
7 CORRECT?

8 A. TRY TO.

9 Q. I KNOW YOU'RE NOT AN EXPERT.

10 A. NO, NOT AN EXPERT.

11 Q. BUT FROM A CULTURAL STANDPOINT YOU HAVE TO KNOW
12 THE DIFFERENCE BETWEEN SOMEBODY WITH A CREW CUT
13 OR CORN ROWS OR AN AFRO, AND THINGS OF THAT
14 NATURE, ---

15 A. YES.

16 Q. --- IS THAT CORRECT? ALRIGHT, WHAT -- YOUR
17 UNDERSTANDING OF CORN ROWS IS PRETTY MUCH WHEN
18 SOMEBODY HAS THEIR HAIR BRAIDED DOWN, CORRECT?

19 A. YEAH, MINE IS WHEN THEY'VE GOT THE HAIR BRAIDED
20 DOWN, BUT I'VE BEEN TOLD THAT THE BRAIDS, AND
21 THEN I'VE ACTUALLY CALLED SOMEBODY WITH CORN
22 ROWS, WHERE THEY ACTUALLY LOOK LIKE, NOW THEY'VE
23 TOLD ME THEY WERE DREDS.

24 Q. OKAY. BUT PEOPLE INTERCHANGE THE TWO, BUT PRETTY
25 MUCH THEY USE IT TO SAY HIS HAIR WAS PLATTED, OR

1 CORN ROWED, OR HE HAD DREDS, IS THAT CORRECT?

2 A. THAT'S CORRECT.

3 Q. AND IT CERTAINLY IS DIFFERENTIATED BETWEEN
4 SOMEBODY WHO HAS A BALD HEAD OR A LIGHT HAIR CUT,
5 OR A LOW HAIR CUT?

6 A. THAT'S CORRECT.

7 Q. NOW, I WANT TO KIND OF SKIP OVER SOME THINGS AND
8 WE'LL COME BACK TO LANESHA GREEN. DO YOU RECALL
9 RYAN NORTH COMING TO YOUR OFFICE AND DOING WHAT
10 YOU SAID AN IDENTIFICATION OF JASSON TURNER?

11 A. ARE YOU TALKING ABOUT THE PHOTO LINEUP?

12 Q. CORRECT.

13 A. YES.

14 Q. ALRIGHT. YOU HAVE A CASE FILE, LET ME DIRECT YOU
15 TO PAGE TWELVE, THE THIRD PARAGRAPH.

16 A. THE AUGUST THE SEVENTH?

17 Q. THAT IS CORRECT.

18 A. ALRIGHT.

19 Q. ALRIGHT. IN THAT PHOTO LINEUP HE PICKS -- WHICH
20 IS ONE THAT I BELIEVE YOU GUYS HAVE ENTERED INTO
21 EVIDENCE, THAT WOULD BE THE SAME LINEUP, IS THAT
22 CORRECT?

23 A. THAT WOULD BE -- IF YOU'RE TALKING ABOUT THE ONE
24 FOR JASSON ---

25 Q. THE ONE OF JASSON TURNER?

CROSS - THOMAS M. MARSHALL BY MR. KEARSE

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1 A. YES, THAT'S CORRECT.

2 Q. ALRIGHT. AND HE PICKS JASSON OUT AND SAYS,
3 THAT'S SMOKE?

4 A. THAT'S CORRECT.

5 Q. ALRIGHT. IF I CAN DIRECT YOU TO THE LAST
6 SENTENCE, YOU WRITE, OR THE INVESTIGATORS WRITE,
7 AND IT'S PART OF THE CASE FILE, THAT "RYAN SAID
8 THAT THIS IS SMOKE, AND SAID THAT HE WAS IN THE
9 HOUSE, AND SAID THAT HE HAD A GUN AND WAS SITTING
10 AT THE TABLE WITH THE DRUGS WITH BENJY WHEN THE
11 VICTIM WAS SHOT AND MURDERED."

12 A. THAT'S CORRECT.

13 Q. ALRIGHT. AND YOU WRITE THESE CONTEMPORANEOUS TO
14 WHEN YOU'RE TALKING TO A PERSON, AND WHEN HE
15 WOULD HAVE PICKED HIM OUT AND PROVIDED THESE
16 STATEMENTS, IS THAT RIGHT?

17 A. THAT'S CORRECT.

18 Q. ALRIGHT. IN ADDITION, WHEN YOU GUYS USED THAT
19 PHOTO LINEUP YOU ACTUALLY PULLED A PHOTOGRAPH OF
20 MR. TURNER FROM HIS DRIVERS RECORDS, IS THAT
21 RIGHT?

22 A. THAT'S CORRECT.

23 MR. KEARSE: I BEG THE COURT'S
24 INDULGENCE.

25 THE COURT: UH HUH.

CROSS - THOMAS M. MARSHALL BY MR. KEARSE

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1 Q. DETECTIVE MARSHALL, I WANT YOU TO SEE IF YOU CAN
2 IDENTIFY THAT FOR ME?

3 A. THIS APPEARS TO BE THE DMV, CALIFORNIA DMV PHOTO.

4 Q. OF JASSON TURNER, CORRECT?

5 A. YEAH, IT'S A COPY. THE ACTUAL ONE THAT I HAD IN
6 THE RECORD FILE IS A COLOR ONE, BUT ---

7 Q. DOES THAT APPEAR TO BE, LIKE YOU SAID, A
8 PHOTOSTATIC COPY OF YOUR ORIGINAL?

9 A. THAT'S CORRECT.

10 Q. AND DOES THAT APPEAR TO BE A FAIR AND ACCURATE
11 DEPICTION OF THAT ORIGINAL YOU HAD?

12 A. YES.

13 Q. ALRIGHT. SO, IT DOESN'T, IT DOESN'T APPEAR TO BE
14 ALTERED OR CHANGED IN ANY FORM?

15 A. NO, OTHER THAN MINE WAS COLORED AND YOURS ISN'T.

16 Q. ALRIGHT. AND THAT WOULD DEMONSTRATE, OR SHOW THAT
17 ON OR ABOUT JULY THIRD, TWO THOUSAND THREE,
18 JASSON TURNER HAD A VALID DRIVER'S LICENSE, IS
19 THAT CORRECT?

20 A. THAT'S CORRECT.

21 MR. KEARSE: YOUR HONOR, IF I CAN
22 I'D LIKE TO MARK THIS AS DEFENDANT'S EXHIBIT EIGHT.

23 THE COURT: ANY OBJECTION?

24 SOLICITOR BELL: NO OBJECTION,
25 YOUR HONOR.

CROSS - THOMAS M. MARSHALL BY MR. KEARSE

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1 THE COURT: MARKED AND ADMITTED
2 WITHOUT OBJECTION.

3 COURT REPORTER: DEFENDANT'S
4 EIGHT.

5 (Defendant's Exhibit Eight
6 marked and filed.)

7 Q. ALRIGHT, IN THAT LICENSE, WHAT'S MARKED AS
8 DEFENDANT'S EXHIBIT EIGHT, IT DEPICTS JASSON
9 TURNER'S HEIGHT AS BEING FIVE-FOUR, IS THAT
10 CORRECT?

11 A. YES, THAT'S CORRECT.

12 Q. ALRIGHT. NOW, IN EACH OF THESE STATEMENTS THAT
13 WERE GIVEN TO YOU BY TRAVIS NORTH, RYAN NORTH,
14 LANESHA GREEN, JERMAINE CUSACK, THEY EACH SAID
15 THAT BOTH OF THESE GUYS WERE THE SAME HEIGHT, IS
16 THAT CORRECT?

17 A. THEY WERE SAYING APPROXIMATELY THE SAME HEIGHT
18 AND BUILD.

19 Q. NOW, IF YOU CAN REFER TO LANESHA GREEN'S FIRST
20 STATEMENT, THAT WOULD BE THE ONE ON ---

21 A. THIS WOULD BE THE FIRST ONE HERE, AT ZERO ---

22 Q. OKAY.

23 A. --- FIVE:FIFTY.

24 Q. EITHER THAT FIRST ONE OR THE SECOND ONE. I
25 BELIEVE SHE SAID AT SOME POINT THAT MARK AND

1 CLAY-C WERE SITTING ON THE PORCH ---

2 A. AND ---

3 Q. --- CLAY-C BEING MR. SINGLETARY?

4 A. GIVE ME A MINUTE AND LET ME READ.

5 Q. OKAY.

6 A. I SEE IT HERE ON THE FIRST ONE, I'LL HAVE TO GO
7 BACK IF IT'S ON THE SECOND ONE -- I THINK THERE'S
8 ONE IN THE SECOND ONE, BUT IT'S GOING TO --
9 THERE'S SIX PAGES, SO I'D HAVE TO READ IT. HERE
10 ON THE FIRST ONE SHE'S PUTTING IN THERE THAT
11 SHE'S ON THE PORCH WITH CLAY-C, AND ---

12 Q. AND THAT WOULD BE -- I'M SORRY, I DIDN'T MEAN TO
13 CUT YOU OFF.

14 A. I'M SORRY. AND IT SAYS, CLAY-C, AND THEN SHE
15 SAYS, MARK WALKED ABRUPTLY INSIDE.

16 Q. OKAY. AND CLAY-C WOULD BE MR. SINGLETARY, IS
17 THAT CORRECT?

18 A. THAT'S CORRECT.

19 Q. AND THAT WOULD BE THE GENTLEMAN WHO MADE THE NINE
20 ONE ONE CALL?

21 A. THAT'S CORRECT.

22 Q. AND HE WAS QUESTIONED, AND HE INDICATED THAT AT
23 NO TIME WAS HE AT THE HOUSE?

24 A. YES, THAT'S CORRECT.

25 Q. ALRIGHT. SHE ALSO INDICATES IN THAT FIRST

CROSS - THOMAS M. MARSHALL BY MR. KEARSE

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1 STATEMENT THAT SHE WAS AFRAID AND DID NOT CALL
2 THE POLICE BECAUSE SHE KNEW THAT JERMAINE WAS ON
3 PROBATION, DOES SHE NOT?

4 A. ALRIGHT. YEAH, IN THIS DOWN HERE, "HE TOLD ME TO
5 DROP HIM OFF AT THE BEGINNING OF CEDAR WOODS
6 BECAUSE HE WAS ON PROBATION."

7 Q. ALRIGHT. SHE DOESN'T SAY THAT SHE WAS AFRAID FOR
8 HER LIFE, OR RETALIATION, OR ANYTHING LIKE THAT,
9 SHE SAID, SHE UNDERSTOOD HE WAS ON PROBATION, HER
10 FEAR WAS THE OUTGROWTH OF THAT?

11 A. WELL, SHE'S DOING WHAT HE'S TELLING HER TO DO,
12 HERE IS WHAT I UNDERSTOOD WHEN WE WERE TALKING TO
13 HER, SHE SAID "HE TOLD ME TO DROP HIM OFF AT THE
14 BEGINNING OF THE CEDAR WOODS APARTMENTS," BECAUSE
15 SHE KNEW HE WAS ON PROBATION. "AND I SAID, OKAY,
16 AND I DROPPED HIM OFF, AND THEN CAME STRAIGHT TO
17 GROVER." AND THEN SHE SAYS SHE PASSED THE CRIME
18 SCENE, "AND I WAS AFRAID." SO, BASICALLY WHAT
19 SHE'S SAYING IS, SHE'S DOING WHAT HE SAYS, AND
20 THEN SHE COMES BACK AND SEES EVERYBODY THERE AND
21 SHE'S SCARED OF WHAT WENT ON THERE.

22 Q. BUT SHE DOESN'T SAY THAT, SHE SAYS, "I KNEW HE
23 WAS ON PROBATION, I WAS AFRAID, SO WE TOOK HIM ON
24 TO CEDAR WOOD."

25 A. WELL, I MEAN, BUT IT'S IN CON -- YOU'VE GOT TO

1 READ IT IN CONTEXT WITH THE WAY IT'S GOING. IT
2 SAYS, "HE TOLD ME," SO, SHE'S DOING WHAT HE'S
3 TELLING HER TO DO.

4 Q. RIGHT.

5 A. AND SHE SAYS, "I DROPPED HIM OFF AT THE BEGINNING
6 OF CEDAR WOODS BECAUSE HE WAS ON PROBATION."
7 "AND I SAID, OKAY, AND DROPPED HIM OFF AND CAME
8 STRAIGHT TO GROVER. I PASSED THE CRIME SCENE
9 BECAUSE I WAS AFRAID." THAT CONTEXT THERE SAYS,
10 SHE'S AFRAID TO PULL UP INTO THE CRIME SCENE
11 WHERE WE'RE AT, WHERE, BECAUSE SHE'S AFRAID OF
12 WHAT, -- IF -- WHAT'S GOING ON.

13 Q. AND AT THAT TIME, LET'S SAY SHE WAS AFRAID, BUT
14 WASN'T IT SURROUNDED BY POLICE?

15 A. YES, SHE'S AFRAID OF US IS WHAT IS WHAT SHE'S ---

16 Q. RIGHT, EXACTLY. THERE'S NO FEAR OF REPRISALS
17 FROM SOME THIRD PERSON, SHE'S AFRAID OF ---

18 A. SHE'S AFRAID OF US AND WHAT'S GOING ON AT THE
19 HOUSE, AND SHE'S AFRAID OF WHAT HAPPENED INSIDE
20 THE HOUSE.

21 Q. ALRIGHT. AND IT WASN'T UNTIL, WHAT, HER THIRD
22 STATEMENT WHEN SHE ADMITTED THAT THEY CAME BACK
23 AND CLEANED THE HOUSE UP? WELL, THAT WOULDN'T BE
24 TRUE, I WANT YOU TO REFER TO YOUR NOTES -- LET ME
25 SCRATCH THAT QUESTION AND ASK YOU THIS, AND YOU

CROSS - THOMAS M. MARSHALL BY MR. KEARSE

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1 CAN LOOK AT YOUR NOTES, PAGE FOUR, PARAGRAPH TWO,
2 SHE CAME BACK TO THE POLICE DEPARTMENT ON JULY
3 FIFTH, DID SHE NOT?

4 A. WHICH PAGE IS THAT, WHAT PAGE WERE YOU ON?

5 Q. PAGE FIVE. I'M SORRY, PAGE TWO, I APOLOGIZE.

6 A. ALRIGHT, I'M ON PAGE TWO. WHERE?

7 Q. WHEN SHE CAME BACK YOU GUYS HAD A CONVERSATION, I
8 BELIEVE IT WAS JULY FIFTH I BELIEVE.

9 A. WELL, THAT, THAT'S THE TWO -- IF YOU'RE TALKING
10 ABOUT RIGHT HERE UP AT FOURTEEN:THIRTY HOURS,
11 THAT'S THE SECOND INTERVIEW.

12 Q. RIGHT. OKAY, BUT IT'S CLEAR IN THAT SECOND
13 INTERVIEW, WHAT YOU ASCERTAINED FROM WHAT SHE
14 TOLD YOU IS THAT THEY CLEANED UP THE HOUSE.

15 A. YEAH, THAT'S IN THE SIX PAGE STATEMENT THAT SHE
16 WROTE, THAT THEY WENT BACK AND CLEANED UP THE
17 HOUSE, WHICH WE HAD INDICATIONS FROM THE WAY THE
18 HOUSE WAS AT THAT SOMEBODY HAD TO CLEAN IT UP, SO
19 IT WAS ---

20 Q. ALRIGHT. SO, IT WASN'T A MERE PACKING CLOTHES OR
21 NOTHING LIKE THAT, I MEAN, THEY CLEANED -- THEY
22 CLEANED THE HOUSE?

23 A. WELL, SHE CLARIFIES THAT LATER ON, IN THE THIRD
24 ONE. BASICALLY, SHE WAS SAYING THEY WENT BACK IN
25 THERE, AND SHE WAS TRYING TO TELL US AT THE

1 BEGINNING THAT THEY WENT BACK IN THERE AND WERE
2 JUST PICKING UP SOME BOXES. AND THEN, OF COURSE,
3 WE STILL FELT THAT THAT WAS NOT THE COMPLETE
4 TRUTH. AND WE FINALLY GOT THE TRUTH OUT OF HER
5 WHERE SHE -- YEAH, THEY WENT IN THERE, PICKED
6 BOXES UP AND STRAIGHTENED THAT TABLE UP, AND THEN
7 ---

8 Q. WELL, SHE ALSO SAYS THAT THEY PUT THINGS IN A
9 DUFFLE BAG, IN A TOTE BAG, IN A BIG PLASTIC BAG,
10 AND PUT ALL THAT STUFF IN THOSE TWO CARS THEY
11 HAD, RIGHT?

12 A. YEAH, AND THEY SAID THEY PICKED UP THE LIQUOR
13 BOTTLES AND THE CANS AND EVERYTHING LIKE THAT.
14 AND SHE CLARIFIES THAT IN THE THIRD ONE, BECAUSE
15 THAT'S WHAT SHE DIDN'T CLARIFY IN DETAIL IN THE
16 SECOND ONE. SHE'S BASICALLY TELLING US THAT SHE
17 CLEANED UP, BUT SHE WASN'T GOING INTO THE DETAILS
18 THAT WE WANTED HER TO GO INTO. OF COURSE, WE WERE
19 TRYING TO FIND OUT AT THAT PARTICULAR TIME WHERE
20 THE DRUGS WERE AT.

21 Q. ALRIGHT. SO, SHE DIDN'T -- AND YOU GUYS DIDN'T
22 HAVE THE OPPORTUNITY TO SEARCH THE DUFFLE BAG OR
23 THE TOTE BAG OR THIS BIG PLASTIC BAG THEY PUT IN
24 THE CAR, CORRECT?

25 A. NO, BECAUSE WE DIDN'T GET THE INFORMATION ON THAT

CROSS - THOMAS M. MARSHALL BY MR. KEARSE

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1 MOVING OUT UNTIL -- THE CLARIFICATION ON THAT
2 UNTIL A FEW DAYS LATER.

3 Q. ALRIGHT. AND CLEARLY, THEY TOOK THESE BAGS AND
4 THESE CARS, OR AT LEAST ONE OF THEM AND DROVE UP
5 TO ORANGEBURG?

6 A. THE NIGHT OF -- YES, THEY WENT TO BRANCHVILLE,
7 HER AND JERMAINE.

8 Q. ALRIGHT. DOESN'T SHE SAY IN HER SECOND STATEMENT
9 THAT THEY HAD PLANNED ON SPENDING THE - THAT HER
10 JERMAINE PLANNED ON SPENDING THE NIGHT IN
11 ORANGEBURG AT A FRIEND'S HOUSE?

12 A. NO, THAT'S GOING TO BE IN THE FIRST STATEMENT.

13 Q. ALRIGHT. BUT SHE SAID THEY HAD PLANNED ON GOING
14 AND SPENDING THE NIGHT IN ORANGEBURG ANYWAY?

15 A. YEAH, WHAT SHE -- SHE'S INDICATING DOWN ON THE
16 FIRST ONE, WHICH SHE WAS BEING A LITTLE DECEPTIVE
17 ON IT. I DON'T THINK THEY WERE GOING THERE AT
18 ALL.

19 Q. BUT ISN'T IT TRUE THAT THEY, IN FACT -- AND SHE
20 SAYS, IF WE ARE TO BELIEVE HER, THAT THEY, IN
21 FACT, WENT TO SOMEBODY'S HOUSE IN ORANGEBURG?

22 A. WE KNOW THEY WENT TO A STORE IN BRANCHVILLE, I
23 CAN VERIFY THAT. I DON'T KNOW IF THE PHONE
24 RECORDS VERIFY THAT SHE WENT AND MADE A TELEPHONE
25 CALL TO THIS OTHER HOUSE, I CAN'T REMEMBER, AND

1 MY NOTES DON'T REFLECT THAT WE, THAT I CAN SEE
2 RIGHT NOW, THAT WE VERIFIED THE HOUSE. I KNOW
3 THAT WE VERIFIED A STORE THAT THEY WENT TO.

4 Q. ALRIGHT. IF YOU CAN CHECK -- LOOK AT THAT FIRST
5 STATEMENT SHE GAVE.

6 A. WHERE DO YOU WANT ---

7 Q. LET ME -- WE'RE TALKING ABOUT, THAT'S ---

8 A. YOU'RE TALKING ABOUT -- THAT'S THE FIRST ONE.

9 Q. ALRIGHT. SHE SAYS, RIGHT HERE, "WE THEN WENT TO
10 MY FRIEND'S HOUSE IN ORANGEBURG." DOES SHE NOT?

11 A. YES.

12 Q. ALRIGHT. DID YOU EVER ASCERTAIN WHO THIS FRIEND
13 IN ORANGEBURG WAS?

14 A. I DON'T RECALL IF WE DID, THROUGH PHONE RECORDS
15 OR ANYTHING, WERE WE ABLE TO CONFIRM THAT. I SAID
16 THE ONE THAT WE CAN CONFIRM IS THAT THEY WENT TO
17 THE -- AND SHE HAS IT ON THERE, THEY WENT TO THE
18 EASY SHOP.

19 Q. AND Y'ALL NEVER ASCERTAINED WHO THIS FRIEND WAS,
20 IS THAT CORRECT?

21 A. NO.

22 Q. ALRIGHT. SO, YOU HAD NO OPPORTUNITY TO GO AND GET
23 CONSENT FROM THIS FRIEND, OR EVEN QUESTION THIS
24 FRIEND THAT THEY ALLEGEDLY WENT TO SEE IN
25 ORANGEBURG?

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1 A. NO.

2 Q. ALRIGHT. AND THAT WOULD HAVE BEEN RIGHT AFTER
3 THEY LEFT THE HOUSE WITH THE TOTE BAG, THE DUFFLE
4 BAG, AND THE BIG PLASTIC BAG IN THE TRUNKS OF THE
5 CARS?

6 A. WELL, WE DIDN'T KNOW THAT THEY TOOK THE TOTE BAG
7 AND THE BIG PLASTIC BAG FOR CLEANING UP MORE. ALL
8 WE KNOW IS, AT THE BEGINNING SHE WAS SAYING THAT
9 THEY, THEY GRABBED A BAG AND THE LEFT.

10 Q. ALRIGHT. WELL, IT'S QUITE PLAUSIBLE THAT THEY
11 COULD HAVE PUT INCRIMINATING EVIDENCE, INCLUDING
12 A FIREARM, IN THOSE BAGS AND TOOK IT ALL TO
13 ORANGEBURG AND HAD IT DISCARDED, IS IT NOT?

14 A. IF WE BELIEVED THAT THEY WERE THE SHOOTERS, YES.

15 Q. WELL, IT DOESN'T MATTER WHETHER YOU BELIEVE IT OR
16 NOT, I'M SAYING, -- WHETHER YOU BELIEVE THEY WERE
17 THE SHOOTERS, I'M SAYING THEY COULD HAVE DONE IT,
18 YES OR NO?

19 A. YEAH, THEY COULD HAVE TAKEN SOMETHING.

20 Q. ALRIGHT. ALRIGHT, AND SHE NEVER REALLY
21 IDENTIFIED ANYBODY UNTIL YOU GUYS STARTED ASKING
22 HER AROUND THE THIRD TIME WHO WERE THE PEOPLE IN
23 THE HOUSE, IS THAT CORRECT?

24 A. YEAH, AT THE VERY BEGINNING WE REALLY DIDN'T KNOW
25 WHAT WE HAD, THAT'S THE WHOLE THING, KNOWING, OR

1 GOING ANYWHERE, WE DIDN'T EVEN HAVE ANY
2 INFORMATION. NOBODY WAS TALKING AT FIRST.

3 Q. ALRIGHT. AND IF YOU LOOK AT PAGE NINE, PARAGRAPH
4 FOUR OF YOUR NOTES FOR ME, REAL QUICK, I KNOW
5 THIS IS TEDIOUS, BUT I'M GOING TO NEED TO COVER
6 IT WITH YOU.

7 A. PAGE NINE?

8 Q. THAT'S CORRECT.

9 A. OKAY. WHERE ARE YOU AT?

10 Q. PARAGRAPH FOUR ON THAT PAGE

11 A. JULY TWENTY-FIRST AT TWELVE?

12 Q. IT'S JULY NINTH, TWO THOUSAND THREE, I'M SORRY.

13 A. OKAY. JULY NINTH?

14 Q. RIGHT. SHE INDICATES TO YOU THAT WHENEVER THESE
15 CARS PULLED OUT SHE DIDN'T SEE THE CARS, SHE LOST
16 SIGHT OF THE CARS, DID SHE NOT?

17 A. WHAT SHE'S TALKING ABOUT THERE IS HER PERSONAL
18 CAR WHEN SHE MET JOHNNY COBBS OR MOOK DOWN THE
19 ROAD.

20 Q. ALRIGHT.

21 A. IN HER TESTIMONY EARLIER WHEN SHE WAS TALKING
22 ABOUT, SHE WAS COMING DOWN THE ROAD AFTER
23 GETTING, I THINK IT WAS, LIKE, THE THIRD TRIP
24 BACK FROM GETTING MONEY, SHE'S COMING BACK AND
25 SEES MOOK OR JOHNNY COBBS RUNNING DOWN THE ROAD.

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1 Q. BUT IN ACCORDANCE WITH ALL THE STATEMENTS THAT
2 WOULD HAVE BEEN WHEN ALL THESE CARS SUPPOSEDLY
3 WERE PULLING OUT OF THE DRIVEWAY, CORRECT?

4 A. THEY COULD HAVE ALREADY PULLED OUT BY THE TIME
5 SHE GOT THERE, FROM WHAT I'M UNDERSTANDING. THE
6 WAY SHE WAS EXPLAINING IT TO US AND THE WAY I
7 UNDERSTAND THIS IS THAT THIS IS HER STOPPING JUST
8 PRIOR TO THE DRIVEWAY, THE CARS WOULD HAVE
9 POSSIBLY ALREADY BEEN MOVED OUT BY THEN AND LEFT.
10 SHE IS SAYING SHE'S LOST SIGHT OF HER CAR. HE
11 DRIVES IT INTO THE DRIVEWAY, SHE LOSES SIGHT OF
12 HER CAR IS WHAT SHE'S TELLING ME.

13 Q. SO, MY QUESTION IS, CLEARLY, IF SHE COULD NOT SEE
14 HER OWN CAR, THEN SHE'S NOT GOING TO SEE THESE
15 OTHER CARS THAT SUPPOSEDLY ARE LEAVING THE
16 RESIDENCE?

17 A. I WOULD SAY THEY HAD ALREADY LEFT BY THEN, BY THE
18 TIME FRAME OF HER COMING DOWN THE ROAD AND THEM
19 RUNNING OUT THERE. THE SHOOTING HAS ALREADY
20 TAKEN PLACE AT THAT TIME BECAUSE JOHNNY EVEN
21 TELLS HER THAT SOMETHING HAPPENED UP THERE AND
22 THEY ARE OUT ON THE ROAD.

23 Q. SO, THERE'S NO WAY SHE COULD HAVE IDENTIFIED, OR
24 WOULD HAVE -- IF THEY HAD ALREADY LEFT, OR IF SHE
25 COULDN'T SEE, SHE COULD NOT HAVE IDENTIFIED THIS

1 GRAND AM AT THAT TIME, IS THAT CORRECT?

2 A. WELL, SHE SAID SHE SAW THE GRAND AM ONE TIME
3 PRIOR, WHEN SHE CAME IN THERE BRINGING BACK THE
4 MONEY.

5 Q. ALRIGHT.

6 A. SO, YES, SHE WOULD HAVE SEEN THE GRAND AM.

7 Q. BUT NOT AT THAT TIME?

8 A. SHE HAD SEEN THE GRAND AM PRIOR WHEN SHE FIRST
9 CAME IN THERE, AND WHEN THE GRAND AM CAME IN
10 THERE. AND THEN SHE WAS SENT TO GO GET A HUNDRED
11 AND FIFTY DOLLARS. THE GRAND AM WAS ALREADY
12 THERE.

13 Q. RIGHT, BUT NOT ---

14 A. SO, YES, SHE WOULD HAVE SEEN THE GRAND AM.

15 Q. BUT NOT AT THAT TIME, NOT AT THIS SPECIFIC TIME
16 WHEN THIS THING WAS SUPPOSEDLY TAKING PLACE?

17 A. IF YOU'RE SAYING THAT, IF I'M UNDERSTANDING YOU
18 CORRECTLY, YOU'RE SAYING HER SEEING THE CAR
19 LEAVE, I DON'T RECALL ---

20 Q. CORRECT.

21 A. --- I DON'T RECALL HER TESTIFYING TO THAT.

22 Q. WELL, MY QUESTION IS, YES OR NO, IF SHE COULDN'T
23 SEE HER OWN CAR GOING INTO THE DRIVEWAY, SHE
24 WOULD HAVE NOT SEEN THE OTHER CARS EITHER, IN
25 SPITE OF WHAT YOU THINK SHE TESTIFIED TO?

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1 A. YEAH, IF I'M UNDERSTANDING WHAT YOU'RE STAYING,
2 YES.

3 Q. ALRIGHT. NOW, ISN'T IT TRUE THAT NONE OF THESE
4 WITNESSES GAVE YOU A STATEMENT WHEN YOU
5 QUESTIONED THEM IN JULY ABOUT THE TAGS ON THIS
6 CAR, NOBODY SAID IT HAD VIRGINIA TAGS?

7 A. IN WHAT ---

8 Q. DO YOU HAVE A COPY OF THOSE STATEMENTS IN YOUR
9 FILE?

10 A. ARE YOU TALKING ABOUT RYAN NORTH AND THEM?

11 Q. RYAN NORTH, TRAVIS NORTH, ANTHONY FOLK, JERMAINE
12 CUSACK, ANY AND EVERYBODY YOU QUESTIONED, LANESHA
13 GREEN.

14 A. SOMEWHERE I RECALL RYAN NORTH TELLING ME THAT IT
15 HAD VIRGINIA TAGS OR SOMETHING ON THERE.

16 Q. DO YOU HAVE IT IN YOUR NOTES?

17 A. NO.

18 Q. ALRIGHT. IN ADDITION, NOBODY -- MS. COLES, MS.
19 BRISCOE, THE NAME IS BRISCOE COLES, THE
20 DEFENDANT'S MOM, MR. BRISCOE, HAS A VERY
21 DISTINCTIVE PLATE IN HER CAR, DOES SHE NOT?

22 A. YES, CORRECT.

23 Q. ALRIGHT, AND THAT IS DEPICTED, AND YOU GUYS TOOK
24 A PICTURE OF IT BECAUSE OF THAT PURPOSE, AND IT'S
25 GOING TO BE DEFENDANT'S, I MEAN, STATE'S EXHIBIT

1 NUMBER TEN?

2 A. YES.

3 Q. ALRIGHT. AND WHEN YOU GUYS WENT TO TAKE THAT
4 PICTURE YOU WERE LOOKING FOR THAT BECAUSE JASSON
5 TURNER TOLD YOU ABOUT IT, DID HE NOT?

6 A. YES, THAT'S CORRECT.

7 Q. AND ISN'T IT TRUE THAT NONE OF THESE WITNESSES,
8 NONE OF THE PEOPLE YOU TALKED TO, JERMAINE
9 CUSACK, TRAVIS NORTH, RYAN NORTH, LANESHA GREEN,
10 ANTHONY FOLK, NOBODY OTHER THAN JASSON TURNER
11 IDENTIFIED THAT TAG AS BEING IN THAT CAR?

12 A. THAT'S BECAUSE JASSON TURNER WAS IN THE CAR.

13 Q. WELL, MY QUESTION IS, IS IT NOT TRUE, NOBODY ELSE
14 MADE MENTION OF ---

15 A. THAT'S CORRECT.

16 Q. ALRIGHT. IF YOU CAN'T -- WILL YOU REFER TO JASSON
17 TURNER'S STATEMENT? DO YOU HAVE IT?

18 A. YES, I'M SORRY.

19 Q. ALRIGHT. DOES NOT, ON THE SECOND PAGE AT THE
20 TOP, DOES NOT JASSON TURNER SAY, RYAN WENT BACK
21 IN THE TRAILER, THEN CAME BACK OUT AND ENTERED
22 INTO THE FRONT PASSENGER SEAT OF THE VEHICLE THAT
23 STEVE AND I TRAVELED IN?

24 A. YES.

25 Q. ALRIGHT. AND HE SAYS THAT HE DIRECTED THEM TO

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1 JERMAINE CUSACK'S RESIDENCE?

2 A. YES, THAT'S WHAT HE SAID.

3 Q. WHICH WOULD MEAN, IF THIS IS TRUE, RYAN NORTH
4 WOULD HAVE CLEARLY HAD THE OPPORTUNITY TO SEE
5 THAT PLATE HANGING IN FRONT OF THEM?

6 A. IF THAT'S TRUE.

7 Q. ALRIGHT. AND HE MADE NO MENTION ABOUT IT IN HIS
8 STATEMENT, WRITTEN STATEMENT OR OTHERWISE?

9 A. RYAN NORTH OR ---

10 Q. RYAN NORTH. RYAN NORTH.

11 A. NO, BECAUSE HE'S SAYING HE DIDN'T GET INTO THE
12 CAR.

13 Q. ALRIGHT. NOW, ACCORDING TO THEIR OWN TESTIMONY,
14 TRAVIS NORTH AND ANTHONY FOLK SAY THAT THEY SAW
15 THIS CAR AT THE TRUCK STOP, CORRECT?

16 A. IF I REMEMBER CORRECTLY, TRAVIS NORTH DOESN'T
17 ADMIT THAT HE SAW THE CAR THERE. THEY STOPPED AT
18 THE TRUCK STOP, AND I THINK ANTHONY ALSO SAYS HE
19 STAYS IN THE -- RYAN NORTH'S CAR AND NEVER GETS
20 OUT OF IT.

21 Q. ALRIGHT. IS IT NOT TRUE, ANTHONY FOLK IN HIS
22 STATEMENT AND IN HIS TESTIMONY TESTIFIED THAT HE
23 SAT OUT ON THE FRONT PORCH DURING THE ENTIRE
24 TIME?

25 A. YES, HE SAID HE WAS ON THE FRONT PORCH.

1 Q. ALRIGHT. IS IT FURTHER NOT TRUE THAT THESE GUYS
2 ARE SAYING THAT THIS CAR PULLED UP IN THAT FRONT
3 YARD, IN FRONT OF THAT FRONT PORCH?

4 A. PULLED UP ALONG SIDE, IF I REMEMBER CORRECTLY
5 FROM THE TESTIMONY, THEY SAID THEY PULLED ALONG
6 SIDE OF RYAN NORTH'S CAR.

7 Q. ALRIGHT. IS IT NOT PLAUSIBLE THAT ANTHONY FOLK
8 WOULD HAVE HAD PLENTY OF OPPORTUNITY TO SEE THAT
9 TAG SITTING IN THAT CAR WHILE HE WAS SITTING ON
10 THAT PORCH, IF HIS STATEMENT IS THE TRUTH?

11 A. NOT THE WAY THEY DESCRIBED THE SCENE OUT THERE,
12 THEY SAID THERE WAS NO LIGHTS OUT THERE, SO I
13 DON'T THINK THAT YOU WOULD BE ABLE TO LOOK INSIDE
14 A CAR AND SEE A TAG UP THERE.

15 Q. WELL, LET ME ASK YOU THIS, LIEUTENANT MARSHALL,
16 IF THERE'S ENOUGH LIGHT FOR LANESHA GREEN TO
17 IDENTIFY THE COLOR OF THE CAR, ISN'T THERE ENOUGH
18 LIGHT FOR ANTHONY FOLK TO SEE THAT PLATE IN THE
19 WINDOW?

20 A. I CAN'T ANSWER THAT.

21 Q. WHEN YOU GUYS CALLED, OR WERE ALERTED THAT RYAN
22 NORTH WAS A PART OF THIS INCIDENT, DID YOU HAVE
23 ANY INFORMATION ABOUT HIM BEING INVOLVED IN OTHER
24 LIKEWISE INCIDENTS?

25 A. I KNEW OF THE NAME, AND I HAD NOT PERSONAL

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1 INFORMATION, I HAD SCUTTLEBUTT.

2 Q. BUT THE DEPARTMENT HAS DEALT WITH HIM?

3 A. I DON'T KNOW, I PERSONALLY HAVE NOT DEALT WITH
4 HIM, I DON'T KNOW IF ANY OF THE GUYS UP ON THE
5 UPPER END OF THE COUNTY HAD DEALT WITH HIM.

6 Q. WELL, WHEN Y'ALL WENT LOOKING FOR HIM IN COLLETON
7 COUNTY DID YOU NOT DEAL ALSO WITH THE COLLETON
8 COUNTY SHERIFF'S OFFICE?

9 A. COLLETON COUNTY HAS DEALT WITH HIM, CORRECT.

10 Q. ALRIGHT. AND I'M SURE YOU HAD CONVERSATIONS WITH
11 COLLETON COUNTY SHERIFF'S OFFICE, DEPUTIES,
12 INVESTIGATORS ABOUT RYAN NORTH?

13 A. THAT'S CORRECT.

14 Q. ALRIGHT. DID THEY NOT ALERT YOU THAT HE HAD BEEN
15 PREVIOUSLY INVOLVED IN A CASE THAT WAS A SIMILAR
16 TYPE JUST LIKE THIS?

17 SOLICITOR BELL: YOUR HONOR, I'M
18 GOING TO OBJECT. HE'S GOING WAY INTO HEARSAY.

19 THE COURT: BASIS? PLEASE
20 APPROACH.

21 (Whereupon, a bench conference
22 is held out of the hearing of
23 the jury and the court reporter.)

24 THE COURT: THE OBJECTION IS
25 SUSTAINED.

1 MR. KEARSE: THANK YOU, YOUR
2 HONOR.

3 THE COURT: YOU'RE WELCOME.

4 Q. ALRIGHT, YOU GUYS WENT LOOKING FOR RYAN NORTH
5 AFTER HE SAID HE WOULD TURN HIMSELF IN, RIGHT?

6 A. AFTER WE GOT AN ARREST WARRANT FOR HIM.

7 Q. OKAY. AND HE WAS NOWHERE TO BE FOUND?

8 A. WE DID NOT FIND HIM AT HIS RESIDENCE, THAT WAS
9 THE ONLY PLACE I HAD NOTICE -- YOU KNOW, WHERE HE
10 WAS AT.

11 Q. BUT Y'ALL ALSO WENT LOOKING FOR HIM IN
12 COTTAGEVILLE, DID YOU NOT?

13 A. THERE WAS -- YES, THERE WAS A RESIDENCE OVER
14 THERE, I THINK THAT MIGHT HAVE BEEN HIS PARENTS
15 OR SOMEBODY ELSE THAT WE WENT, THAT COLLETON
16 COUNTY KNEW ABOUT.

17 Q. RIGHT. I MEAN, YOU GUYS WENT SEVERAL PLACES AND
18 HE WAS NOWHERE AROUND, EVEN AFTER HE KNEW YOU
19 WERE LOOKING FOR HIM?

20 A. THAT'S CORRECT.

21 Q. ALRIGHT. OKAY. AND WHEN HE CAME DOWN TO THE --
22 FINALLY TO THE STATION HE IMMEDIATELY SAID, WHAT
23 I GOT TO DO TO GET THIS WARRANT OFF OF ME OR TO
24 GET A PR BOND, DID HE NOT?

25 A. HE SAID -- I CAN'T SAY THE EXACT WORDS, WE WENT

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1 IN THERE AND READ HIM HIS RIGHTS AND STARTED
2 QUESTIONING HIM AND ASKED HIM WHAT INVOLVEMENT HE
3 HAD IN THERE, AND ASKED HIM TO TELL THE TRUTH.

4 Q. ALRIGHT. AND HE SAID, BEFORE HE COOPERATED HE
5 MENTIONED, HOW CAN I KEEP YOU FROM SERVING A
6 WARRANT ON ME AND\OR A GUARANTEE THAT I'LL GET A
7 PR BOND, DID HE NOT?

8 A. NO.

9 Q. ALRIGHT. THAT'S NOT HOW YOU RECALL THE
10 CONVERSATION?

11 A. NO, I MEAN, WE READ HIM HIS RIGHTS AND ASKED HIM
12 TO GO INTO IT, AND THEN HE WAS, YOU KNOW, TELLING
13 US WHAT HAPPENED AT THE, AT THE SCENE.

14 Q. AND DID HE NOT BRING THAT UP, THE NECESSITY OF
15 HAVING A PR BOND OR THE WARRANT NOT SERVED
16 AGAINST HIM?

17 A. OH, THE WARRANT WAS ALREADY SERVED ON HIM, SO, I
18 MEAN, THAT'S A MOOT POINT THERE, EVEN IF HE SAID
19 THAT.

20 Q. SO, AND HE WANTED A PR BOND?

21 A. I DON'T RECALL HIM SAYING ANYTHING ABOUT THAT, I
22 JUST KNOW THAT HE WANTED TO GO AHEAD AND HELP US
23 FROM THAT POINT ON.

24 Q. OKAY. AND WHAT'S YOUR UNDERSTANDING OF A PR
25 BOND, WHY WOULD THAT BE IMPORTANT?

1 A. IT WOULDN'T HAVE BEEN IMPORTANT, ALL IT IS IS A
2 PERSONAL RECOGNIZANCE BOND, I MEAN, THAT HE'S
3 BASICALLY OUT ON HIS, YOU KNOW, HIS HONOR THAT
4 HE'LL SHOW UP IN COURT AND COME TO COURT ON ALL
5 OF HIS COURT DATES.

6 Q. RIGHT, HE DOESN'T HAVE TO GET A BONDSMAN, PAY ANY
7 MONEY, AND NOTHING LIKE THAT?

8 A. THAT'S CORRECT.

9 Q. ALRIGHT. AND THEN HE TELLS YOU HOW THIS GUY,
10 JERMAINE, COMES DOWN WITH A GUY BY THE NAME OF
11 BENJY?

12 A. HE -- YEAH, EXCEPT HE WAS USING THE STREET NAMES.

13 Q. ALRIGHT, YOU CALL IT A STREET NAME, BUT EVERYBODY
14 SAID THE NAME WAS BENJY, CORRECT, THE GUY'S NAME
15 WAS BENJY?

16 A. YES, THEY WERE CALLING HIM BENJY. I'M SAYING HE
17 USED THEIR STREET NAMES, HE WAS CALLING JASSON
18 TURNER SMOKE, HE WASN'T CALLING HIM ANYTHING BUT
19 SMOKE.

20 Q. BUT MY QUESTION IS, YOU'RE DENOTING THAT AS A
21 STREET NAME, ALL THEY SAY, THE GUY'S NAME WAS
22 BENJY?

23 A. YES.

24 Q. ALRIGHT. HE SAID BENJY, TRAVIS NORTH SAID BENJY,
25 JERMAINE CUSACK SAID BENJY, LANESHA GREEN SAID

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1 BENJY, EVERYBODY SAID BENJY?

2 A. THAT'S CORRECT.

3 Q. ALRIGHT. AND IN DOING YOUR INVESTIGATION YOU CAME
4 ACROSS A GUY KNOWN AS BENJY, DID YOU NOT?

5 A. WE LOOKED UP AND WENT ON SOME SITES AND FOUND
6 SOME PEOPLE THAT WERE POSSIBLY NAMED, OR WENT BY
7 THE NAME OF BENJY OR HAD A STREET NAME, OR A
8 BROKEN UP NAME, WHERE BENJY COULD HAVE STOOD FOR
9 BENJAMIN. WE LOOKED THROUGH ALL POSSIBILITIES.

10 Q. ALRIGHT. DIDN'T YOU GUYS COME ACROSS SOME GUY WHO
11 YOU THOUGHT WAS BENJY AND HIS NAME WAS BIGGER
12 MAN, OR SOMETHING OF THAT NATURE?

13 A. YEAH, I THINK THAT WAS SOME -- WE RULED OUT THOSE
14 PEOPLE.

15 Q. ALRIGHT. BUT AT NO TIME DID MR. BRISCOE'S NAME
16 COME UP, STREET NAME, OTHERWISE, AS BENJY?

17 A. NO.

18 Q. OTHER THAN THROUGH JASSON TURNER'S STATEMENT,
19 CORRECT?

20 A. YES, WE'VE LEARNED THAT IT WAS ANOTHER STREET
21 NAME ON HIM.

22 Q. I'M SAYING, AS TO BENJY?

23 A. NO, AS TO BENJY, THAT'S WHY WE ASSUMED IT WAS A
24 STREET NAME.

25 Q. OKAY. ALRIGHT. NOW, WHEN JASSON TURNER GAVE YOU

1 HIS STATEMENT, AND YOU HAVE IT THERE IN YOUR
2 HAND, I THINK YOU'VE STILL GOT IT, HE SAID, AND
3 HE WAS VERY INSISTENT ABOUT THAT, THAT THIS GUY,
4 BENJY, WHO THEY'RE NOT SAYING IS MR. BRISCOE,
5 STOOD UP INSTINCTIVELY AND STARTED FIRING AT THE
6 DECEDENT, DID HE NOT?

7 A. ON THE THIRD PAGE YOU'RE TALKING ABOUT, THEN --
8 IT SAYS, "MARK IS AHEAD OF ME, MARK IS AHEAD OF
9 ALL THEM. THEN HE GRABS THE MONEY AND COCAINE OUT
10 OF STEVE'S HAND," AND IT LOOKS LIKE,
11 "INSTINCTIVELY, STEVE FIRES OFF SIX ROUNDS."

12 Q. OKAY. NOW, HE -- EVERYONE PRETTY MUCH WAS
13 CONSISTENT WITH THAT STORY, WERE THEY NOT?

14 A. PRETTY MUCH SO, THERE WERE NUMEROUS ROUNDS FIRED,
15 AS THE LOT OF THEM WERE PUTTING IT.

16 Q. AND, YOU HAVE TO FORGIVE ME, MY BATTERIES ON MY
17 POINTER WENT DOWN -- AND THEY ALL DEPICTED PRETTY
18 MUCH WHAT'S MARKED AS DEFENDANT'S EXHIBIT THREE
19 AS THE SET UP OF THIS RESIDENCE AT THE TIME?

20 A. THE WAY -- YEAH, THE SAY SHE'S DRAWN IT, BUT I
21 THINK THE, IT'S A LITTLE DIFFERENT, BUT YEAH,
22 THAT'S -- I MEAN, WE'LL GO WITH GENERALIZATION,
23 YES.

24 Q. ALRIGHT. WHEN MEANS THAT THE DECEDENT WOULD HAVE
25 RUN FROM THIS POINT TOWARDS THE DOOR WHEN HE

CROSS - THOMAS M. MARSHALL BY MR. KEARSE

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1 GRABBED, OR ALLEGEDLY GRABBED DRUGS AND MONEY?

2 A. FROM WHAT EVERYBODY IS TELLING US, HE'S HEADING
3 TOWARD THE DOOR.

4 Q. RIGHT. WHICH WOULD MEAN THAT IF MR. BRISCOE IS
5 THE SHOOTER, HE STANDS UP INSTINCTIVELY AND
6 STARTS FIRING AS HE'S RUNNING TOWARDS THE DOOR,
7 IS THAT CORRECT?

8 A. AS MARK IS RUNNING TOWARD THE DOOR?

9 Q. CORRECT.

10 A. YES.

11 Q. WHICH CLEARLY WOULD INDICATE THAT MR. BRISCOE
12 WOULD BE BEHIND THE DECEDENT AT THE TIME?

13 A. WELL, I CAN'T TESTIFY TO WHERE HE WAS AT, OTHER
14 THAN THE FACT THAT, WHAT THE PATHOLOGIST TOLD US,
15 THAT HE WAS DEFINITELY TO THE RIGHT OF HIM,
16 FIRING A GUN.

17 Q. RIGHT, BUT I'M SAYING, BASED ON THAT -- YOU'RE A
18 HOMICIDE DETECTIVE, IS THAT CORRECT?

19 A. YES.

20 Q. ALRIGHT, SO, I MEAN, YOU'RE FAMILIAR WITH THIS,
21 BECAUSE YOU HAVE TO MAKE AN ANALYSIS AND TRY TO
22 PUT THESE CASES TOGETHER, IS THAT CORRECT?

23 A. AND I'M GOING TO HAVE TO SAY THAT HE WOULD BE OFF
24 TO THE SIDE, BECAUSE EVERYTHING WENT INTO THE
25 RIGHT SIDE.

1 Q. NOW, BASED ON, YOU SAY THE FORENSIC PATHOLOGIST,
2 HE WOULD HAVE TO HAVE BEEN RUNNING THIS WAY,
3 WOULD HE HAVE NOT, FOR THAT TO BE TRUE?

4 A. NO, NOT NECESSARILY, HE COULD BE REACHING AT THE
5 DOOR, AND THE GENTLEMAN WOULD BE BEHIND HIM AND
6 FIRING THE ROUNDS THROUGH THERE.

7 Q. ALRIGHT. BUT HE SAID, MR. TURNER SAID,
8 INSTINCTIVELY AND\OR IMMEDIATELY, WHEN Y'ALL
9 TALKED TO HIM, DID HE NOT?

10 A. YES, HE SAID IMMEDIATELY, AS SOON AS THE MONEY
11 WAS GRABBED, THEN HE COME UP FIRING?

12 Q. I WANT YOU TO SEE IF YOU CAN IDENTIFY SOMETHING
13 FOR ME, PLEASE.

14 A. IT'S THE DRAWING ---

15 Q. DO YOU RECALL THAT DIAGRAM?

16 A. NO, I WAS LOOK -- I SEE IT'S FADED OUT, I DON'T
17 KNOW WHO DREW THE DIAGRAM IS WHAT I'M TRYING TO
18 FIGURE OUT.

19 Q. THERE'S A NOTE ON THE TOP OF IT THAT SAYS ---

20 A. IT SAYS, TRAVIS NORTH, BUT I DON'T REMEMBER, BUT
21 I THINK TRAVIS DID DRAW ONE.

22 Q. ALRIGHT. AND WAS THAT DURING THE CONVERSATION
23 THE TWO OF YOU HAD ABOUT THIS PARTICULAR MATTER?

24 A. I AM NOT IN THE ROOM AT THIS TIME, I THINK THIS
25 IS WHEN DETECTIVE VAN DORAN MIGHT HAVE BEEN

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1 QUESTIONING HIM ON THERE. BUT I'VE TALKED TO
2 HIM.

3 Q. ALRIGHT. YOU ARE FAMILIAR WITH THAT DIAGRAM,
4 IT'S PART OF YOUR CASE FILE?

5 A. YES, I THINK I HAVE IT.

6 Q. ALRIGHT. AND YOU GUYS KEEP THAT CASE FILE IN THE
7 NORMAL COURSE OF THE INVESTIGATIVE BUSINESS AT
8 THE DORCHESTER COUNTY SHERIFF'S OFFICE?

9 A. THAT'S CORRECT.

10 Q. ALRIGHT. AND YOU'VE SEEN IT BEFORE, AND YOU GUYS
11 HAVE DISCUSSED IT BEFORE, ABOUT THE CONTENTS OF
12 THIS PARTICULAR DIAGRAM, HAVE YOU NOT?

13 A. I WOULD -- YEAH.

14 Q. ALRIGHT.

15 MR. KEARSE: YOUR HONOR, I WOULD
16 LIKE TO HAVE THIS MARKED FOR IDENTIFICATION PURPOSES.

17 SOLICITOR BELL: YOUR HONOR, I
18 OBJECT -- AUTHENTICATION.

19 THE COURT: OBJECTION SUSTAINED.

20 Q. RYAN NORTH TURNED IN PATRICK JONES, NO PROBLEM,
21 CORRECT?

22 A. CORRECT.

23 Q. ALRIGHT. AND VOLUNTEERED TO TURN IN JEFF HILL,
24 WITHOUT HESITATION?

25 A. I THINK JEFF WAS THE FIRST ONE WE TRIED TO MAKE

1 CONTACT WITH HIM AND WAS UNABLE TO.

2 Q. ALRIGHT. AND JEFF HILL WAS A, AS RYAN PUTS IT,
3 AN OLD, HIS OLD COLLEGE BUDDY, IS THAT CORRECT?

4 A. THAT'S CORRECT.

5 Q. ALRIGHT. AND AS SOON AS YOU TALKED TO HIM, HE
6 IMMEDIATELY SAID, I CAN GIVE YOU JEFF, I'LL SET
7 UP A DRUG DEAL?

8 A. HE SAID HE, THAT HE DID NOT KNOW THE NAMES OF
9 SMOKE OR BENJY, BUT HE SAID HE KNEW WHO WOULD
10 GIVE US THE NAMES.

11 Q. ALRIGHT, WHICH WAS JEFF?

12 A. HE TRIED JEFF, HE SAID JEFF WOULD KNOW IT. AND
13 THEN, WHEN HE COULDN'T GET IN TOUCH WITH JEFF,
14 THEN HE PUT US ON TO PEA, WHICH IS PATRICK JONES.

15 Q. RIGHT. AND HE SET HIM UP, AND YOU GUYS WENT TO
16 COLUMBIA AND ARRESTED HIM?

17 A. WE WENT UP THERE AND ARRESTED PATRICK JONES,
18 THAT'S CORRECT.

19 Q. ALRIGHT. DO YOU RECALL YOUR INVESTIGATION
20 REVEALING THAT PATRICK JONES AND JEFF HILL MAY
21 HAVE BEEN INVOLVED IN THIS INCIDENT?

22 A. I REMEMBER GETTING A PHONE CALL FROM AN
23 INDIVIDUAL, WHICH WAS ALLEGEDLY, AND I CAN'T
24 VERIFY ONE WAY OR THE OTHER, THAT WAS SUPPOSEDLY
25 RYAN NORTH'S SISTER, A WAKESHA SIMMONS OR

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1 SOMETHING LIKE THAT.

2 Q. RIGHT, AND SHE SAID, PEA AND JEFF WERE THE
3 SHOOTERS?

4 A. THAT'S WHAT SHE SAID OVER THE PHONE.

5 Q. ALRIGHT. AND THAT'S RECORDED IN YOUR NOTES, IS
6 THAT CORRECT?

7 A. THAT'S CORRECT.

8 Q. AND YOU GUYS CAUGHT PATRICK IN COLUMBIA, CORRECT?

9 A. THAT'S CORRECT.

10 Q. AT THE TIME HE WAS ARRESTED HE HAD A GUN ON HIM,
11 DID HE NOT?

12 A. THAT'S CORRECT.

13 Q. ALRIGHT. JEFF HILL WAS LOCATED OUT IN
14 CALIFORNIA, WAS HE NOT?

15 A. THAT'S CORRECT.

16 Q. AND THAT WOULD BE, HE WAS IN LOS ANGELES, OUT
17 THERE WITH JASSON TURNER, WAS HE NOT?

18 A. YES.

19 Q. ALRIGHT. AND THAT WAS IN, ON OR ABOUT JULY OR
20 AUGUST OF TWO THOUSAND THREE, WAS HE NOT?

21 A. I WOULD SAY CLOSER TO AUGUST, I THINK, WHEN WE
22 WENT OUT THERE.

23 Q. ALRIGHT.

24 A. HOLD ON A MINUTE, AND I ---

25 Q. BY THAT TIME PATRICK JONES HAD MADE BOND,

1 CORRECT?

2 A. WE WENT OUT THERE ON AUGUST THE TENTH. I DON'T
3 KNOW IF PATRICK HAD MADE BOND OR NOT. I THINK I
4 CALLED UP THERE AND HE WAS OUT.

5 Q. ALRIGHT.

6 A. I KNOW AT ONE POINT THAT HE HAD ENOUGH MONEY TO
7 MAKE BOND.

8 Q. ALRIGHT, PAGE EIGHT OF YOUR NOTES, YOU'VE GOT A
9 NOTATION, JULY ELEVENTH, TWO THOUSAND THREE.

10 A. YEAH. ALRIGHT, JULY ELEVENTH, THAT'S WHAT I
11 SAID, I DIDN'T FIND IT -- I WAS LOOKING ON THE
12 OTHER PAGE FOR IT.

13 Q. NOW, IT SAYS, PATRICK JONES BONDED OUT, IT'S
14 UNKNOWN AS TO WHETHER HE'S STILL IN TOWN OR NOT?

15 A. THAT'S CORRECT.

16 Q. AND Y'ALL WERE NEVER ABLE TO LOCATE HIM AFTER
17 THAT?

18 A. HE HAD AN ATTORNEY, AND HIM AND HIS ATTORNEY
19 WOULD NOT COME DOWN AND TALK TO US.

20 Q. ALRIGHT. DID YOU GUYS EVER QUESTION JEFF HILL?

21 A. YES, WE INTERVIEWED HIM OUT IN CALIFORNIA, AND
22 BASICALLY, THE ONLY THING THAT HE WOULD ADMIT TO
23 IS THAT HE KNEW RYAN NORTH, AND OF COURSE, HE WAS
24 THERE WITH SMOKE, AND AFTER THAT HE WOULDN'T TALK
25 TO US ANYMORE.

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1 Q. HE ALSO KNEW PATRICK JONES, IS THAT CORRECT?

2 A. IF I REMEMBER CORRECTLY, I THINK HE DID SAY HE
3 KNEW PAT -- OR HE CALLED HIM PEA, BUT THEN, HE
4 WENT RAMBLING ON SOME OTHER STUFF, AND THEN,
5 BASICALLY, HE TOLD US HE DIDN'T WANT TO TALK TO
6 US ANYMORE.

7 Q. ALRIGHT. NOW, YOU ALSO RECALL IN YOUR
8 INVESTIGATION, OR DO YOU RECALL THE FACT THAT
9 THERE'S AN INDICATION THAT JERMAINE CUSACK HAD,
10 IN FACT, BEEN TO GRETN, VIRGINIA?

11 A. YES, THERE IS SOMETHING -- YEAH, I REMEMBER THAT.

12 Q. ALRIGHT. AND THAT'S SIGNIFICANT, BECAUSE THAT IS
13 ONE OF THE PLACES WHERE JASSON TURNER HANGS OUT,
14 OR STAYS, OR LIVES, IS THAT CORRECT?

15 A. THAT'S ALLEGEDLY WAS AT THAT TIME, OR THE EARLY
16 PART OF THE INVESTIGATION THAT'S WHERE WE THOUGHT
17 HE WAS STAYING.

18 Q. ALRIGHT, AND THERE'S SOME INDICATION THAT THE TWO
19 OF THEM FREQUENT WHAT SUPPOSEDLY IS A RECORDING
20 STUDIO?

21 A. THAT'S WHAT WAS TOLD US BY ANOTHER INDIVIDUAL
22 THAT WAS DOWN HERE ON CHARGES FOR SOME DRUGS.

23 Q. ALRIGHT. SO, THERE WAS SOME INDICATION THAT
24 JERMAINE AND JASSON HAD KNOWN EACH OTHER PRIOR TO
25 THIS?

1 A. I COULDN'T CONFIRM OR DENY THAT.

2 Q. ALRIGHT. NOW, DOESN'T RYAN NORTH STATE, OR WHEN
3 YOU GUYS TALKED TO HIM, HE ADMITTED, OR SAID THAT
4 IT WAS PARTLY JASSON AND JERMAINE WHO WERE DOING
5 THESE NEGOTIATIONS?

6 SOLICITOR BELL: YOUR HONOR, I'M
7 GOING TO OBJECT.

8 THE COURT: BASIS?

9 SOLICITOR BELL: THIS IS HEARSAY
10 HE'S BEEN GOING ON.

11 THE COURT: APPROACH.

12 (Whereupon, a bench conference
13 is held out of the hearing of
14 the jury and the court reporter.)

15 THE COURT: THE OBJECTION IS
16 SUSTAINED. YOU MAY PROCEED.

17 Q. DETECTIVE MARSHALL, YOU UNDERSTAND THE DIFFERENT
18 CALIBERS OF HAND GUNS, DO YOU NOT?

19 A. I KNOW THERE'S DIFFERENT -- YEAH, THERE'S
20 DIFFERENT TYPE AND DIFFERENT CALIBRE HAND GUNS.

21 Q. ALRIGHT, WHICH WOULD MEAN A TEN MILLIMETER IS
22 DIFFERENT FROM A FORTY, IS IT NOT?

23 A. YES.

24 Q. AND CALIBRE IS SIMPLY PRETTY MUCH THE SIZE OF THE
25 AMMUNITION, IS THAT CORRECT?

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1 A. THAT'S CORRECT.

2 Q. AND YOU PUT THE AMMUNITION IN A CARTRIDGE

3 FORMERLY KNOWN AS ---

4 SOLICITOR BELL: YOUR HONOR, I'M
5 GOING TO OBJECT.

6 THE COURT: BASIS?

7 SOLICITOR BELL: HE'S NOT AN
8 EXPERT.

9 THE COURT: IS THE OBJECTION
10 FOUNDATION?

11 SOLICITOR BELL: FOUNDATION, YES,
12 YOUR HONOR.

13 THE COURT: AND QUALIFICATION OF
14 THE WITNESS?

15 SOLICITOR BELL: AND
16 QUALIFICATION.

17 THE COURT: YOU CAN LAY THE
18 APPROPRIATE FOUNDATIONAL QUESTIONS. YOU MAY PROCEED.

19 Q. HOW LONG HAVE YOU BEEN ---

20 MR. KEARSE: THANK YOU, YOUR
21 HONOR.

22 THE COURT: YOU'RE WELCOME.

23 Q. HOW LONG HAVE YOU BEEN A HOMICIDE DETECTIVE?

24 A. PROBABLY GOING ON NOW, AS WELL AS I WORKED WITH
25 SEX CRIMES FIRST, SO IT WENT FROM SEX CRIMES TO

1 HANDLING HOMICIDES AT DORCHESTER COUNTY, SO FOR
2 THE LAST FIFTEEN YEARS ---

3 Q. ALRIGHT. AND DURING YOUR INVESTIGATION OF
4 HOMICIDES HAVE YOU HAD THE OPPORTUNITY TO
5 INVESTIGATE HOMICIDES INVOLVING HAND GUNS?

6 A. YES.

7 Q. ALRIGHT. AND WHEN YOU INVESTIGATE THESE HAND
8 GUNS, HAS YOUR EXPERIENCE AND TRAINING ALLOWED
9 YOU TO BE ABLE TO DIFFERENTIATE BETWEEN THE
10 DIFFERENT TYPES OF CALIBERS OF HAND GUNS?

11 A. NO, MY TRAINING WOULD ALLOW -- MY EXPERIENCE --
12 NOT EXPERIENCE BUT KNOWLEDGE OF HAND GUNS WOULD
13 ONLY LET ME KNOW THAT I CAN PURCHASE A FORTY
14 CALIBRE AS WELL AS A NINE MILLIMETER OR A THREE
15 FIFTY-SEVEN MAGNUM, AND MOST OF -- YOU KNOW,
16 THOSE ARE REVOLVERS VERSUS SEMI-AUTOMATICS.

17 Q. ALRIGHT. SO, YOU'RE SAYING YOUR EXPERIENCE AND
18 YOUR TRAINING AS A LAW ENFORCEMENT OFFICER
19 DOESN'T ALLOW YOU TO DIFFERENTIATE BETWEEN THE
20 DIFFERENT TYPES OF CALIBERS?

21 A. WELL, I MEAN, I'D HAVE TO LOOK AT THE GUN AND
22 HOPE THAT IT SAID ON THE SIDE THAT IT'S A TEN
23 MILLIMETER OR, I MEAN, A GLOCK'S A GLOCK. IF IT'S
24 A FORTY I'M NOT GOING TO BE ABLE TO LOOK AT IT
25 ACROSS THE ROOM AND TELL YOU THAT'S A FORTY

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1 CALIBRE GLOCK VERSUS A NINE MILLIMETER WITHOUT
2 ACTUALLY EXAMINING THE GUN AND HOPING ON THE GUN,
3 ITSELF, IT TELLS ME IT'S A NINE MILLIMETER OR A
4 FORTY CALIBRE.

5 Q. ALRIGHT. BUT EVEN AS A CONSUMER YOU WOULD
6 UNDERSTAND THERE'S A DIFFERENCE BETWEEN A THREE
7 FIFTY-SEVEN MAGNUM AND A FORTY-FIVE, CORRECT?

8 A. YES.

9 Q. AND THAT DIFFERENCE WOULD BE THE CALIBRE OF THE
10 GUN?

11 A. THE CALIBRE OF THE GUN.

12 MR. KEARSE: I BEG THE COURT'S
13 INDULGENCE, YOUR HONOR. NOTHING FURTHER.

14 THE COURT: ANY REDIRECT OF THE
15 WITNESS?

16 SOLICITOR BELL: JUST A COUPLE OF
17 QUESTIONS.

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 - THOMAS M. MARSHALL BY SOL. BELL

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REDIRECT EXAMINATION OF THOMAS M. MARSHALL

BY SOLICITOR BELL:

Q. DETECTIVE MARSHALL, HE WAS ASKING YOU A QUESTION ABOUT LANESHA GREEN LOSING SIGHT OF A CAR AND GOING UP A DRIVEWAY, IS THAT CORRECT?

A. YES, THAT'S CORRECT.

Q. AND YOUR ANSWER WAS, IT WAS HER CAR, IS THAT CORRECT?

A. THAT'S WHAT SHE WAS EXPLAINING TO US, THAT SHE IS TELLING US THAT JOHNNY COBBS, WHO SHE CALLED MOOK THE WHOLE TIME DURING THE INVESTIGATION, GOT INTO HER CAR AND DROVE UP THE DRIVEWAY BACK TO HER HOUSE.

Q. AND THAT WAS THE DRIVEWAY TO THE HOUSE?

A. THAT'S CORRECT.

Q. WHERE THE VEHICLES WOULD HAVE TO COME OUT OF THAT HOUSE AND THAT DRIVEWAY TO GET ON A ROAD?

A. THAT'S CORRECT.

Q. NOW, YOU WERE ALSO ASKED ABOUT PATRICK JONES BEING ARRESTED. WAS HE ARRESTED FOR ANYTHING IN THIS PARTICULAR CASE?

A. NO.

Q. WAS HE ARRESTED BY DORCHESTER COUNTY SHERIFF'S OFFICE?

A. HE WAS ACTUALLY ARRESTED BY, IF I REMEMBER

REDIRECT - THOMAS M. MARSHALL BY SOL. BELL

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1 CORRECTLY, IT WAS RICHLAND COUNTY SHERIFF'S
2 DEPARTMENT THAT ASSISTED US UP THERE, AND HE WAS
3 CHARGED WITH A CRIME UP THERE.

4 Q. AND DID ANYBODY IN THIS CASE THAT YOU'RE FAMILIAR
5 WITH NAME JEFF HILL OR PEA JONES BEING AT THE
6 HOUSE ON [REDACTED] ROAD ON THE NIGHT OF JULY
7 THIRD, TWO THOUSAND THREE?

8 A. NO.

9 SOLICITOR BELL: THANK YOU.

10 THE COURT: ANY OBJECTION TO THE
11 WITNESS BEING EXCUSED, FROM THE STATE?

12 SOLICITOR BELL: NONE FROM THE
13 STATE, YOUR HONOR.

14 THE COURT: FROM THE DEFENSE?

15 MR. KEARSE: YOUR HONOR, WE WOULD
16 ASK THAT ---

17 THE COURT: HE BE SUBJECT TO
18 RECALL?

19 MR. KEARSE: THAT'S CORRECT.

20 SOLICITOR BELL: YOUR HONOR, HE'LL
21 BE HERE, HE'S THE CASE OFFICER.

22 THE COURT: OKAY. SIR, YOU MAY
23 STEP DOWN.

24 WITNESS: YES, MA'AM.

25 THE COURT: MR. FOREMAN AND LADIES

1 AND GENTLEMEN, I'M GOING TO TAKE ADVANTAGE OF THIS
2 BREAK IN TESTIMONY AND GIVE YOU A SHORT MORNING
3 RECESS. DURING THE BREAK PLEASE DO NOT DISCUSS THE
4 CASE, AND PLEASE LEAVE YOUR NOTE PADS IN YOUR SEAT.
5 IF YOU NEED ANYTHING PLEASE LET THE BAILIFFS KNOW.

6 (Whereupon, the following
7 takes place out of the
8 presence of the jury.)

9 (Recess)

10 THE COURT: IS THE STATE READY?

11 SOLICITOR BELL: THE STATE'S
12 READY, YOUR HONOR.

13 THE COURT: IS DEFENSE READY?

14 MR. KEARSE: THE DEFENSE IS READY,
15 YOUR HONOR.

16 (Whereupon, the witness
17 enters the courtroom.)

18 THE COURT: PLEASE BRING IN THE
19 JURY.

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

23 THE COURT: LADIES AND GENTLEMEN,
24 I HOPE YOU ENJOYED YOUR BREAK, WE'LL NOW RESUME WITH
25 THE TRIAL OF THE STATE'S CASE.

1 MR. BELL, YOU MAY CALL YOUR NEXT
2 WITNESS.

3 SOLICITOR BELL: THE STATE WOULD
4 CALL LIEUTENANT TERRY VAN DORAN.

5 CLERK: PLEASE PLACE YOUR LEFT
6 HAND ON THE BIBLE AND RAISE YOUR RIGHT HAND, AND GIVE
7 US YOUR FULL NAME.

8 WITNESS: TERRANCE ARNOLD VAN
9 DORAN.

10 (Whereupon, the witness,
11 TERRANCE ARNOLD VAN DORAN,
12 is duly sworn.)

13 CLERK: OKAY. PLEASE HAVE A SEAT.

14 THE COURT: YOU MAY PROCEED.

15 SOLICITOR BELL: THANK YOU, YOUR
16 HONOR.

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

DIRECT - TERRANCE A. VAN DORAN BY SOL. BELL

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DIRECT EXAMINATION OF TERRANCE A. VAN DORAN

BY SOLICITOR BELL:

Q. WOULD YOU STATE YOUR NAME AGAIN FOR THE RECORD?

A. TERRANCE ARNOLD VAN DORAN, V-A-N D-O-R-A-N.

Q. AND WHERE ARE YOU EMPLOYED?

A. THE DORCHESTER COUNTY SHERIFF'S OFFICE.

Q. HOW LONG HAVE YOU BEEN EMPLOYED THERE?

A. A LITTLE OVER TWELVE YEARS.

Q. AND IN WHAT CAPACITY ARE YOU EMPLOYED THERE
CURRENTLY?

A. CURRENTLY I'M THE REGION THREE LIEUTENANT.

Q. OKAY. AND HOW LONG HAVE YOU BEEN IN THAT
POSITION?

A. OH, ABOUT THREE MONTHS NOW.

Q. OKAY. AND WHAT DID YOU DO BEFORE THAT?

A. I WAS A DETECTIVE WITH THE SHERIFF'S OFFICE,
DETECTIVE DIVISION.

Q. OKAY. AND HOW LONG WERE YOU IN THAT POSITION?

A. A LITTLE OVER NINE AND A HALF YEARS.

Q. OKAY. LIEUTENANT VAN DORAN, I WANT TO DIRECT
YOUR ATTENTION TO A MURDER THAT OCCURRED UP ON
[REDACTED] ROAD BACK ON JULY THIRD OF TWO
THOUSAND AND THREE, DO YOU RECALL THAT?

A. YES, SIR.

Q. AND WERE YOU INVOLVED IN ANY PART OF THE

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1 INVESTIGATION OF THAT?

2 A. YES, SIR, I WAS.

3 Q. WHEN DID YOU FIRST BECOME INVOLVED WITH THAT?

4 A. I GOT CALLED A COUPLE OF HOURS AFTER THE FIRST
5 RESPONDING OFFICER ARRIVED AT THE INCIDENT
6 LOCATION, AND OFF AND ON I WORKED ON THE CASE UP
7 UNTIL IT CAME TO TRIAL.

8 Q. DID YOU GO TO THE -- WERE YOU CALLED TO THE
9 ACTUAL SCENE THAT DAY, OR WHERE WERE YOU CALLED
10 TO?

11 A. YES, SIR, I INITIALLY RESPONDED TO THE INCIDENT
12 LOCATION. HOWEVER, I NEVER WENT TO THE ACTUAL
13 LOCATION, I STAYED OUT ON THE STREET AREA WHICH
14 WAS RIGHT IN FRONT OF WHERE THE INCIDENT
15 OCCURRED.

16 Q. OKAY. AND WHAT -- GENERALLY, BACK IN THAT,
17 AROUND THE TIME OF THE INCIDENT, WHICH WOULD HAVE
18 BEEN JULY THREE, TWO THOUSAND THREE, WHAT WAS
19 YOUR, WHAT DID YOU DO IN THE INVESTIGATION?

20 A. I ASSISTED OTHER INVESTIGATORS TO ATTEMPT TO
21 LOCATE ANY SUSPECT THAT AT THE TIME WERE UNKNOWN,
22 AND ANYBODY THAT MAY HAVE BEEN AT THE HOUSE AT
23 THE TIME THE INCIDENT OCCURRED. THAT PROCEEDED
24 FOR AT LEAST ANOTHER TWENTY-FOUR HOURS BEFORE WE
25 MADE INITIAL CONTACT WITH -- MAYBE A LITTLE LESS

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1 THAN TWENTY-FOUR HOURS BEFORE WE MADE INITIAL
2 CONTACT WITH ANYBODY THAT WOULD HAVE BEEN AT THE
3 RESIDENCE WHEN THIS OCCURRED. AND THEN, WE SPOKE
4 TO WITNESS AFTER WITNESS FROM THAT POINT ON.

5 Q. AND YOU WERE GATHERING INFORMATION DURING THIS
6 TIME?

7 A. YES, SIR.

8 Q. GETTING NAMES AND ADDRESSES?

9 A. THAT'S CORRECT, SIR.

10 Q. AND VARIOUS PIECES AND TYPES OF EVIDENCE?

11 A. YES, SIR.

12 Q. AND WHAT WOULD YOU DO WITH THIS INFORMATION?

13 A. WELL, ONCE I OBTAINED IT AND IT WAS DOCUMENTED,
14 OR I HAD MADE A NOTE OF IT I WOULD GIVE IT TO THE
15 LEAD INVESTIGATOR, LIEUTENANT MARSHALL.

16 Q. OKAY. AND HE WOULD -- AND THE LEADS WOULD BE
17 FOLLOWED AS BEST THEY COULD?

18 A. YES, SIR.

19 Q. OKAY. AND HOW LONG DID YOU STAY INVOLVED IN THAT
20 PORTION OF THE INVESTIGATION?

21 A. INITIALLY FOR PROBABLY THE FIRST WEEK, OR MAYBE A
22 LITTLE BIT LONGER. AND THEN, OFF AND ON JUST AS
23 NEEDED.

24 Q. OKAY. TO TRACK DOWN ANYTHING?

25 A. YES, SIR.

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1 Q. OKAY. NOW, DID YOU CONTINUE IN THAT
2 INVESTIGATION OR AT SOME POINT DID YOU JUST CEASE
3 TO STOP WORKING ON IT AT THAT POINT IN TWO
4 THOUSAND AND THREE?

5 A. AT SOME POINT, OR AT A POINT THERE WAS NOT A LOT
6 TO DO OR FOLLOW UP ON, SO THERE WAS A BREAK IN
7 TIME, BUT I STAYED WITH THE INVESTIGATION AS
8 NEEDED THROUGHOUT.

9 Q. OKAY. DID YOU BECOME MORE INVOLVED APPROXIMATELY
10 ONE YEAR FROM JULY THIRD, TWO THOUSAND THREE?

11 A. YES, SIR.

12 Q. DO YOU RECALL ABOUT WHEN THAT WAS?

13 A. NO, SIR, I DON'T REMEMBER THE DATE, I DIDN'T
14 BRING ANY NOTES, OR MY NOTES WITH ME, I DON'T
15 REMEMBER EXACTLY WHEN THAT WOULD HAVE BEEN, BUT
16 WE, WITH THE INFORMATION THAT WAS OBTAINED, MADE
17 A TRIP TO DANVILLE, VIRGINIA.

18 Q. OKAY. AND DO YOU KNOW APPROXIMATELY WHEN THAT
19 WAS, THEN?

20 A. NO, SIR, I DON'T REMEMBER, I'M SORRY.

21 Q. OKAY. AND WHO -- DID YOU GO TO DANVILLE,
22 VIRGINIA, ALONE?

23 A. NO, SIR, ANOTHER DETECTIVE ACCOMPANIED ME,
24 DETECTIVE RAY DIXSON.

25 Q. AND WITHOUT SAYING WHAT IT WAS, WHY DID YOU GO TO

DIRECT - TERRANCE A. VAN DORAN BY SOL. BELL

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1 DANVILLE, VIRGINIA?

2 A. JUST TO FOLLOW UP ON SOME INFORMATION THAT WE
3 HAD.

4 Q. OKAY. AND THAT WAS SOME RECENT INFORMATION?

5 A. YES, SIR.

6 Q. OKAY. AND WHEN Y'ALL GOT TO DANVILLE, VIRGINIA,
7 WHAT DID YOU DO?

8 A. WE MADE CONTACT WITH DETECTIVES IN DANVILLE,
9 VIRGINIA, AND THEY ASSISTED US WITH GOING TO A
10 LOCATION THAT WE WANTED TO DO SOME BACKGROUND
11 WORK ON.

12 Q. WERE YOU LOOKING FOR A PARTICULAR INDIVIDUAL?

13 A. YES, SIR. WE WERE ALSO LOOKING FOR AN
14 INDIVIDUAL, YES, SIR.

15 Q. OKAY. DID YOU HAVE ANYTHING TO SERVE ON AN
16 INDIVIDUAL?

17 A. WE DID HAVE AN ARREST WARRANT, YES, SIR.

18 Q. AND WHAT WAS THE NAME OF THAT PERSON?

19 A. MR. BRISCOE.

20 Q. OKAY. AND WHAT DID YOU GO LOOKING FOR -- WHERE
21 DID YOU GO LOOKING FOR INFORMATION IN DANVILLE,
22 VIRGINIA?

23 A. INITIALLY WE WENT TO AN APARTMENT COMPLEX DUE TO
24 SOME INFORMATION THAT HAD BEEN OBTAINED ABOUT AN
25 ACCIDENTAL MISFIRE ON A WEAPON INTO AN ADJACENT

DIRECT - TERRANCE A. VAN DORAN BY SOL. BELL

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1 APARTMENT FROM WHERE WE UNDERSTOOD MR. BRISCOE
2 HAD RESIDED.

3 Q. OKAY. AND THEN, AFTER THAT WHERE DID YOU GO?

4 A. WE THEN, AFTER THAT, DID SOME MORE BACKGROUND
5 WORK AND WENT TO A SECONDARY LOCATION WHICH WAS
6 PRETTY CLOSE TO THE INITIAL APARTMENT THAT WE
7 WENT TO, WHICH WAS MR. BRISCOE'S GIRL FRIEND'S
8 APARTMENT.

9 Q. OKAY. AND WHEN YOU WENT TO THAT APARTMENT DID
10 YOU SERVE HIM WITH THE ARREST WARRANT?

11 A. HE WAS THERE, AND WE DID SERVE HIM WITH THE
12 ARREST WARRANT, YES, SIR.

13 Q. OKAY. LET ME SHOW YOU WHAT'S BEEN MARKED STATE'S
14 TWELVE FOR IDENTIFICATION AND ASK IF YOU
15 RECOGNIZE THAT?

16 A. YES, SIR.

17 Q. WHAT, WHAT IS THAT?

18 A. THIS IS A PHOTOGRAPH THAT WAS LOCATED IN THE
19 RESIDENCE WHERE WE ARRESTED MR. BRISCOE.

20 Q. OKAY. IN DANVILLE, VIRGINIA?

21 A. YES, SIR.

22 SOLICITOR BELL: YOUR HONOR, WE'D
23 OFFER THIS AS STATE'S TWELVE AT THIS TIME.

24 THE COURT: ANY OBJECTION?

25 MR. KEARSE: NO OBJECTION, YOUR

DIRECT - TERRANCE A. VAN DORAN BY SOL. BELL

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1 HONOR.

2 THE COURT: MARKED AND ADMITTED
3 WITHOUT OBJECTION.

4 COURT REPORTER: STATE'S TWELVE.
5 (State's Exhibit Twelve
6 marked and filed.)

7 Q. OKAY. I SHOW YOU WHAT'S BEEN MARKED STATE'S
8 TWELVE, ARE YOU AWARE WHAT THIS PHOTOGRAPHS
9 SHOWS?

10 A. YES, SIR.

11 Q. WHAT?

12 A. IT IS A PHOTOGRAPH OF MR. BRISCOE AND MR. JASSON
13 TURNER.

14 Q. AFTER DOING THAT AT THE APARTMENT WHERE MR.
15 BRISCOE WAS -- AND THAT PERSON THAT YOU ARRESTED,
16 DO YOU SEE HIM IN THE COURTROOM TODAY?

17 A. YES, SIR, HE IS.

18 Q. WOULD YOU PLEASE POINT HIM OUT?

19 A. IT'S THE GENTLEMAN SITTING AT THIS BENCH, AT THE
20 FAR LEFT.

21 Q. DOES HE APPEAR THE SAME TODAY AS HE DID BACK IN,
22 WHEN YOU ARRESTED HIM BACK IN TWO THOUSAND FOUR?

23 A. YES, SIR.

24 Q. OKAY. NOW, AFTER THAT, WHERE DID Y'ALL GO NEXT
25 IN YOUR INVESTIGATION IN DANVILLE, VIRGINIA?

DIRECT - TERRANCE A. VAN DORAN BY SOL. BELL

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1 A. WELL, THAT -- AFTER -- EXCUSE ME, AFTER HE WAS
2 ARRESTED WE WENT AND SPOKE WITH HIS MOTHER.

3 Q. OKAY. DO YOU RECALL HER NAME?

4 A. MS. COLES BRISCOE, OR MS. BRISCOE COLES, I DON'T
5 REMEMBER WHICH WAY IT GOES.

6 Q. OKAY. AND WHERE DID YOU GO TO SPEAK WITH HER?

7 A. AT ANOTHER APARTMENT COMPLEX IN DANVILLE,
8 VIRGINIA, AND IT WAS IN THE GENERAL AREA, IT
9 WASN'T THAT FAR FROM WHERE WE WERE AT.

10 Q. OKAY. WHEN YOU GOT THERE DID YOU NOTICE
11 ANYTHING?

12 A. WE, IN OUR INVESTIGATION, HAD BEEN LOOKING FOR A
13 PARTICULAR VEHICLE, OR A PARTICULAR TYPE VEHICLE,
14 AND OUT IN FRONT OF THE APARTMENT COMPLEX WAS A
15 VEHICLE THAT MATCHED THE DESCRIPTION OF THE
16 VEHICLE THAT WE HAD BEEN TRYING TO LOCATE.

17 Q. OKAY. AND DID YOU DO ANYTHING IN REGARDS TO THAT
18 VEHICLE?

19 A. YES, SIR, WE PHOTOGRAPHED IT, AND BASICALLY,
20 DOCUMENTED THAT IT WAS THE TYPE VEHICLE THAT WE
21 HAD BEEN LOOKING FOR.

22 Q. DETECTIVE VAN DORAN, LET ME SHOW YOU WHAT'S BEEN
23 MARKED AS STATE'S EXHIBIT EIGHT FOR
24 IDENTIFICATION AND ASK IF YOU RECOGNIZE THAT?

25 A. YES, SIR. THIS IS ONE OF THE PHOTOGRAPHS OF THE

DIRECT - TERRANCE A. VAN DORAN BY SOL. BELL

604

1 VEHICLE WE TOOK THE PHOTOGRAPHS OF.

2 Q. IN DANVILLE, VIRGINIA?

3 A. IN DANVILLE, VIRGINIA, YES, SIR.

4 Q. LET ME SHOW YOU STATE'S NINE FOR IDENTIFICATION
5 AND ASK IF YOU ---

6 A. YES, SIR, THE SAME.

7 Q. AND STATE'S TEN FOR IDENTIFICATION?

8 A. YES, SIR. THIS PARTICULAR PHOTOGRAPH SHOWS A
9 PHOTOGRAPH OF THE INTERIOR OF THE VEHICLE WHERE A
10 PERSONALIZED LICENSE PLATE HUNG FROM THE REAR
11 VIEW MIRROR, MARKED, "HELEN."

12 Q. OKAY.

13 SOLICITOR BELL: YOU'RE HONOR, WE
14 WOULD OFFER STATE'S EIGHT, NINE AND TEN INTO EVIDENCE
15 AT THIS TIME.

16 MR. KEARSE: NO OBJECTION, YOUR
17 HONOR.

18 THE COURT: MARKED AND ADMITTED
19 WITHOUT OBJECTION.

20 COURT REPORTER: STATE'S EIGHT,
21 NINE AND TEN.

22 (State's Exhibits Eight, Nine
23 and Ten marked and filed.)

24 Q. AFTER GOING TO HIS MOTHER'S APARTMENT, DID YOU DO
25 ANYTHING ELSE IN REGARDS TO THIS INVESTIGATION IN

DIRECT - TERRANCE A. VAN DORAN BY SOL. BELL

605

1 DANVILLE, VIRGINIA?

2 A. WITH INFORMATION LEARNED FROM THAT CONVERSATION
3 WITH THE MOTHER, WE WENT TO A GUN SHOP CALLED
4 CARTER'S IN DANVILLE, VIRGINIA, TO OBTAIN SOME
5 PAPERWORK DOCUMENTATION.

6 Q. LET ME SHOW YOU TWO PAGES AND ASK IF YOU CAN
7 IDENTIFY JUST -- IS THIS WHAT YOU GOT FROM THAT
8 PARTICULAR BUSINESS?

9 A. YES, SIR, THIS APPEARS TO BE EITHER WHAT WE
10 OBTAINED, OR COPIES OF WHAT WE OBTAINED.

11 Q. OKAY.

12 SOLICITOR BELL: YOUR HONOR, I
13 WOULD OFFER THIS AS STATE'S FOR IDENTIFICATION AT THIS
14 POINT.

15 MR. KEARSE: YOUR HONOR, I WOULD
16 OBJECT.

17 THE COURT: PLEASE APPROACH.

18 (Whereupon, a bench conference
19 is held out of the hearing of
20 the jury and the court reporter.)

21 THE COURT: YOU MAY PROCEED. THE
22 OBJECTION IS SUSTAINED. FOUNDATION.

23 Q. AND AGAIN, I MAY HAVE ASKED YOU, BUT I JUST WANT
24 TO MAKE SURE, WHO DID YOU GO UP TO DANVILLE,
25 VIRGINIA, WITH?

DIRECT - TERRANCE A. VAN DORAN BY SOL. BELL

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1 A. DETECTIVE RAY DIXSON, SIR.

2 Q. OKAY.

3 SOLICITOR BELL: YOUR HONOR, MAY
4 WE APPROACH ONE SECOND?

5 THE COURT: UH HUH.

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

9 THE COURT: ID ONLY.

10 SOLICITOR BELL: MARK THIS AS
11 STATE'S, ID.

12 COURT REPORTER: STATE'S EXHIBIT
13 TWENTY-THREE FOR ID.

14 (State's Exhibit Twenty-three,
15 Firearms transaction documentation,
16 marked for identification.)

17 Q. LET ME ASK YOU A COUPLE OF QUESTIONS, JUST -- DO
18 YOU RECALL THE NAME OF THE SHOP THAT YOU WENT TO?

19 A. I'M PRETTY SURE IT WAS CARTER'S.

20 Q. OKAY. AND DO YOU RECALL WHO WAS WITH YOU WHEN YOU
21 WENT THERE?

22 A. DANVILLE DETECTIVES, DETECTIVE DIXSON, AND
23 MYSELF.

24 SOLICITOR BELL: THANK YOU,
25 LIEUTENANT VAN DORAN, PLEASE ANSWER ANY QUESTIONS THAT

DIRECT - TERRANCE A. VAN DORAN BY SOL. BELL

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1 MR. KEARSE HAS FOR YOU.

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

4 MR. KEARSE: MAY IT PLEASE THE
5 COURT.

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.)

CROSS - TERRANCE A. VAN DORAN BY MR. KEARSE

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CROSS-EXAMINATION OF TERRANCE A. VAN DORAN

BY MR. KEARSE:

Q. LIEUTENANT VAN DORAN, YOU GUYS GOT UP TO VIRGINIA ABOUT WHAT TIME?

A. THE FIRST DAY IT WOULD HAVE BEEN A LITTLE AFTER NOON.

Q. OKAY. AND WHEN YOU GOT THERE THAT AFTERNOON YOU KNEW THAT YOU WANTED TO GO AND TAKE PICTURES OF THIS CAR YOU WERE LOOKING FOR, IS THAT CORRECT?

A. IF WE COULD LOCATE A CAR LIKE THAT, YES, SIR.

Q. ALRIGHT. AND THAT WOULD BE THE CAR THAT'S DEPICTED IN STATE'S EXHIBIT TEN, EIGHT AND NINE, CORRECT?

A. THAT'S CORRECT, SIR.

Q. ALRIGHT. DID YOU, YOURSELF, TAKE THESE PHOTOGRAPHS?

A. I TOOK SOME PHOTOGRAPHS, I CANNOT TELL YOU THAT THOSE ARE THE EXACT PHOTOGRAPHS I TOOK.

Q. OKAY. AND YOU GUYS WAITED UNTIL IT WAS DARK TO TAKE THESE PHOTOGRAPHS, DID YOU NOT -- EVERY PICTURE YOU HAD WAS IN THE DARK, CORRECT?

A. WE DIDN'T INTENTIONALLY WAIT, IT JUST WORKED OUT THAT WAY.

Q. ALRIGHT. WHEN YOU HAVE NO PICTURE, YOU GUYS DON'T HAVE ANY PICTURE WHERE YOU TOOK IT WHERE IT

CROSS - TERRANCE A. VAN DORAN BY MR. KEARSE

609

1 WAS LIGHT OF DAY, OR THE CAR WAS UNDER A LIGHT,
2 IS THAT CORRECT?

3 A. THAT'S CORRECT, SIR.

4 Q. ALRIGHT, AND EVEN IN WHAT'S MARKED AS STATE'S
5 EXHIBIT NINE, IT'S PRETTY MUCH ALMOST PITCH DARK
6 ON THIS PICTURE, ISN'T THAT CORRECT?

7 A. YES, SIR, WE HAD TO USE FLASH TO TAKE THE
8 PHOTOGRAPHS.

9 Q. OKAY. ISN'T IT TRUE, WHEN Y'ALL WENT UP THERE
10 YOU GUYS WERE ACTUALLY LOOKING FOR A GRAY
11 VEHICLE?

12 A. NO, SIR.

13 Q. AND WASN'T THAT CONSISTENT WITH WHAT WITNESSES IN
14 THIS CASE HAD SAID ABOUT THE DESCRIPTION OF THE
15 CAR?

16 A. WE HAD BEEN GIVEN A DIFFERENT, A COUPLE OF
17 DIFFERENT COLORS, YES, SIR.

18 Q. ALRIGHT. DID Y'ALL FIRST NOT CIRCULATE A GRAY
19 COLORED CAR FOR IDENTIFICATION PURPOSES?

20 A. I DON'T KNOW IF CIRCULATE WOULD BE THE RIGHT
21 TERM, BUT WE HAD BEEN LOOKING FOR A GOLD OR
22 GRAYISH COLORED VEHICLE, YES, SIR.

23 MR. KEARSE: YOUR HONOR, I DON'T
24 HAVE ANYTHING FURTHER.

25 THE COURT: ANY REDIRECT?

1 SOLICITOR BELL: NOTHING FROM THIS
2 WITNESS, YOUR HONOR.

3 THE COURT: ANY OBJECTION TO THE
4 WITNESS BEING EXCUSED?

5 SOLICITOR BELL: YOUR HONOR, I
6 WOULD, I MAY NEED HIM LATER ON.

7 THE COURT: YOU WANT HIM SUBJECT
8 TO RECALL?

9 SOLICITOR BELL: YES, YOUR HONOR.

10 THE COURT: SIR, YOU'RE EXCUSED
11 SUBJECT TO RECALL.

12 WITNESS: THANK YOU, MA'AM.

13 THE COURT: YOU'RE WELCOME.

14 CALL YOUR NEXT WITNESS.

15 SOLICITOR BELL: THE STATE WOULD
16 CALL DETECTIVE RAY DIXSON.

17 (Whereupon, the witness
18 enters the courtroom.)

19 CLERK: STAND RIGHT HERE, PLEASE,
20 RAISE YOUR RIGHT HAND, PLACE YOUR LEFT HAND ON THE
21 BIBLE AND STATE YOUR FULL NAME.

22 WITNESS: RAYMOND EUGENE DIXSON.

23 (Whereupon, the witness,
24 RAYMOND EUGENE DIXSON,
25 is duly sworn.)

1 CLERK: COME AROUND AND HAVE A
2 SEAT, PLEASE.

3 THE COURT: YOU MAY PROCEED.

4 SOLICITOR BELL: THANK YOU, YOUR
5 HONOR.

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 - RAYMOND E. DIXSON BY SOL. BELL

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DIRECT EXAMINATION OF RAYMOND E. DIXSON

BY SOLICITOR BELL:

Q. WOULD YOU STATE YOUR NAME AGAIN, PLEASE, FOR THE RECORD?

A. RAYMOND DIXSON, D-I-X-S-O-N.

Q. AND WHERE ARE YOU EMPLOYED?

A. DORCHESTER COUNTY SHERIFF'S OFFICE.

Q. AND HOW LONG HAVE YOU BEEN WITH THE DORCHESTER COUNTY SHERIFF'S OFFICE?

A. APPROXIMATELY ABOUT SIX TO SEVEN YEARS.

Q. AND WHAT IS YOUR CURRENT POSITION?

A. I'M AN INVESTIGATOR AND DETECTIVE.

Q. AND HOW LONG HAVE YOU BEEN A DETECTIVE?

A. THREE, GOING ON, I THINK, FOUR YEARS.

Q. WERE YOU A DETECTIVE BACK IN TWO THOUSAND THREE?

A. YES, SIR, I WAS.

Q. AND WERE YOU INVOLVED IN THIS INVESTIGATION OF THE SHOOTING OF MARK COOK THAT OCCURRED UP ON [REDACTED] ROAD BACK ON JULY THIRD, TWO THOUSAND AND THREE?

A. YES, SIR, I ASSISTED DETECTIVE MARSHALL AND DETECTIVE VAN DORAN.

Q. OKAY. AND BACK AT THAT TIME WHAT WERE YOUR PRIMARY DUTIES IN RESPONSE TO THIS, THIS INCIDENT?

DIRECT - RAYMOND E. DIXSON BY SOL. BELL

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1 A. BASICALLY TO ASSIST THEM WITH WHATEVER THEY
2 NEEDED AT ANY GIVEN MOMENT.

3 Q. OKAY. DID YOU TAKE ANY STATEMENTS?

4 A. I ASSISTED WITH THE STATEMENT OF A SUBJECT BY THE
5 NAME OF CLAY-C SINGLETON, OR SINGLETARY. THERE'S
6 A COUPLE OF STATEMENTS THAT I WAS INVOLVED IN,
7 YES, SIR.

8 Q. OKAY. AND AT SOME POINT DID YOU GO AWAY FROM
9 DORCHESTER COUNTY AND RESPOND, OR AS A PART OF
10 THIS INVESTIGATION?

11 A. AWAY FROM DORCHESTER COUNTY?

12 Q. YES.

13 A. YES, SIR, WE WENT TO LOS ANGELES, CALIFORNIA, AND
14 DANVILLE, VIRGINIA.

15 Q. OKAY. AND LOS ANGELES, CALIFORNIA, WHO DID YOU
16 GO TO LOS ANGELES WITH?

17 A. DETECTIVE MARSHALL.

18 Q. OKAY. AND THAT WAS BACK WHEN, APPROXIMATELY?

19 A. IT WAS, I BELIEVE IT WAS ABOUT SIX TO EIGHT
20 MONTHS AFTER THE HOMICIDE, ---

21 Q. OKAY.

22 A. --- I THINK.

23 Q. OKAY. AND AT SOME POINT YOUR INVOLVEMENT IN THIS
24 INCIDENT KIND OF ENDED BACK IN TWO THOUSAND
25 THREE, IS THAT CORRECT?

DIRECT - RAYMOND E. DIXSON BY SOL. BELL

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1 A. YES, SIR.

2 Q. THERE WAS NOTHING LEFT TO DO FOR YOU, IS THAT ---

3 A. PRETTY MUCH, YES, SIR.

4 Q. OKAY. DID, AT SOME POINT AFTER THAT, DID YOU
5 BECOME INVOLVED WITH THE INVESTIGATION AGAIN?

6 A. YES, SIR, AFTER OBTAINING INFORMATION FROM THE
7 INITIAL SUBJECT THAT WE WENT TO IN CALIFORNIA TO
8 SPEAK WITH, WE GOT INFORMATION FROM HIM ABOUT
9 ANOTHER SUBJECT THAT LIVED IN DANVILLE, VIRGINIA.

10 Q. OKAY. AND WHEN DID THAT OCCUR?

11 A. WITHOUT MY NOTES IN FRONT OF ME I WOULD HAVE TO
12 GUESSTIMATE, IT WAS ABOUT, PROBABLY, I'M THINKING
13 AROUND JULY OF LAST YEAR.

14 Q. WELL, LET ME ASK YOU THIS, WOULD YOUR NOTES HELP
15 TO REFRESH YOUR RECOLLECTION?

16 A. YES, SIR, IT ACTUALLY WOULD.

17 Q. I'M GOING TO HAND YOU THESE AND ASK IF THESE ARE
18 YOUR NOTES?

19 A. THANK YOU, SIR. AUGUST OF LAST YEAR.

20 Q. OKAY. THESE ARE YOUR NOTES FROM WHEN?

21 A. AUGUST OF TWO THOUSAND FOUR.

22 Q. OKAY. NOW, AS A RESULT OF THIS INFORMATION WHAT
23 WAS DONE?

24 A. WHAT WE DID IS, WE OBTAINED THE INFORMATION FROM
25 MR. TURNER THAT THE OTHER PERSON THAT WAS WITH

DIRECT - RAYMOND E. DIXSON BY SOL. BELL

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1 HIM AND INVOLVED IN THIS INCIDENT WAS A STEVEN
2 BRISCOE. SO, FROM THERE WE -- AND HE TOLD US
3 THAT HE LIVED IN DANVILLE, VIRGINIA. WE
4 CONTACTED THE DANVILLE POLICE DEPARTMENT,
5 OBTAINED INFORMATION ABOUT DAVID -- I'M SORRY,
6 ABOUT STEVEN BRISCOE. WE GOT A PICTURE OF MR.
7 BRISCOE FROM THE DEPARTMENT OF MOTOR VEHICLES
8 FROM VIRGINIA. WITH THAT PICTURE, I USED THAT
9 PICTURE TO SET UP A PHOTOGRAPHIC LINEUP
10 CONTAINING FIVE OTHER INDIVIDUALS THAT RESEMBLED
11 MR. BRISCOE IN ONE -- IN AS MANY DIFFERENT
12 CHARACTERISTICS AS I COULD FIND.

13 Q. AND DID YOU MAKE A PHOTOGRAPHIC LINEUP?

14 A. YES, SIR, I DID.

15 Q. LET ME SHOW YOU WHAT'S BEEN MARKED AS STATE'S
16 EXHIBIT FOURTEEN AND ASK IF THAT'S THE LINEUP
17 THAT YOU MADE UP?

18 A. IT'S THE SAME PICTURES, YES, SIR, IT IS.

19 Q. OKAY. DO YOU HAVE -- OKAY. AND WITH THIS
20 LINEUP, STATE'S FOURTEEN -- I'LL JUST LEAVE IT UP
21 HERE -- WHAT DID YOU DO WITH THAT LINEUP?

22 A. THE FIRST THING THAT I DID WAS TO TRY AND MAKE
23 SURE THAT WE HAD THE CORRECT STEVEN BRISCOE,
24 BECAUSE I KNOW THAT A LOT OF TIMES PEOPLE HAVE
25 THE SAME NAMES, SIMILAR NAMES. I TOOK THE LINEUP

DIRECT - RAYMOND E. DIXSON BY SOL. BELL

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1 IN TO MR. JASSON TURNER TO HAVE HIM IDENTIFY
2 WHETHER OR NOT IT WAS THE SAME STEVEN BRISCOE
3 THAT HE HAD MENTIONED TO US, THAT HE HAD STATED
4 TO US.

5 Q. ALRIGHT. AND HOW DID THAT OCCUR, AND WHAT
6 HAPPENED, WHAT DID YOU DO?

7 A. WELL, SIR, WHAT I HAD DONE IS, I HAD, OF COURSE,
8 WITH THE PICTURE FROM THE DEPARTMENT OF MOTOR
9 VEHICLES I HAD GOTTEN FIVE ADDITIONAL PICTURES,
10 AND IN THE COURSE OF TRYING TO SET UP THE LINEUP
11 I HAD SEVERAL PICTURES OF SEVERAL OTHER
12 INDIVIDUALS, AND I WAS TRYING TO PUT THEM
13 TOGETHER. I CALLED JASSON TURNER, WHO WAS IN OUR
14 FACILITY, I CALLED HIM DOWN TO A ROOM. I WENT
15 INTO THE ROOM WITH THE PHOTOGRAPHIC LINEUP. THE
16 LINEUP WAS IN THE FASHION TO WHERE THE LINEUP,
17 ITSELF, WAS AGAINST MY BODY. I HAD INADVERTENTLY
18 HAD THE PICTURE OF MR. BRISCOE, AS WELL AS THE
19 PICTURES OF SEVERAL OTHER PEOPLE, IT WAS FACING
20 OUT. SO, WHEN I WALKED INTO THE ROOM MR. TURNER
21 LOOKED UP AT ME AND STATED, I SEE YOU FOUND A
22 PICTURE OF HIM.

23 COURT REPORTER: AND STATED WHAT?

24 A. HE STATED THAT -- HE SAW THAT I HAD FOUND A
25 PICTURE OF HIM. I SAID, OF WHO? HE SAID, STEVEN

DIRECT - RAYMOND E. DIXSON BY SOL. BELL

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1 BRISCOE. AND I LOOKED DOWN AND REALIZED WHAT I
2 HAD DONE.

3 Q. SO, I MEAN, HE SAW THE PICTURE AND HE RECOGNIZED
4 HIM?

5 A. YES, SIR.

6 Q. OKAY. DID YOU SHOW HIM THAT LINEUP, AS WELL?

7 A. YES, SIR, I DID, WITHOUT ACKNOWLEDGING WHETHER OR
8 NOT ANYTHING, I JUST SAT DOWN AND SAID, WELL, I
9 NEED YOU TO LOOK AT THE LINEUP.

10 Q. AND WHOSE PICTURE DID HE PICK OUT?

11 A. HE PICKED OUT -- IT WAS PHOTOGRAPH NUMBER TWO, I
12 BELIEVE, WHICH WAS MR. BRISCOE'S PICTURE.

13 Q. OKAY. AFTER THAT DID YOU SHOW THIS STATE'S
14 FOURTEEN TO ANY OTHER PEOPLE?

15 A. YES, SIR, MYSELF AND DETECTIVE MARSHALL SHOWED
16 THIS SAME LINEUP TO MR. RYAN NORTH AND ANTHONY
17 FOLK, I BELIEVE IS HIS LAST NAME.

18 Q. AND WHEN DID YOU SHOW THEM THAT?

19 A. MR. RYAN NORTH WAS SHOWN THE PICTURES ON THE
20 TWELFTH OF AUGUST AT ABOUT ELEVEN:FIFTY-NINE
21 A.M., AND ANTHONY FOLK WAS SHOWN THE LINEUP ON
22 THE TWELFTH OF AUGUST AT ABOUT TWELVE OF AUGUST
23 AT ABOUT TWELVE:O TWO P.M.

24 Q. OKAY. WAS STATE'S FOURTEEN, WERE THE PICTURES
25 EXACTLY AS THEY ARE NOW WHEN YOU SHOWED THEM TO

DIRECT - RAYMOND E. DIXSON BY SOL. BELL

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1 THOSE TWO INDIVIDUALS?

2 A. NO, SIR, THEY WERE NOT.

3 Q. HOW WERE THEY THEN?

4 A. PHOTOGRAPH NUMBER ONE AND PHOTOGRAPH NUMBER TWO
5 WERE CHANGED. MR. BRISCOE'S PICTURE, WHO IS
6 CURRENTLY IN THIS LINEUP AS NUMBER ONE, WAS IN
7 THE POSITION OF NUMBER TWO, AND NUMBER TWO'S
8 PHOTOGRAPH WAS IN THE POSITION OF NUMBER ONE.

9 Q. OKAY. AND WHO -- DID RYAN NORTH PICK A PHOTO
10 OUT?

11 A. YES, SIR, HE DID, HE POINTED AT NUMBER TWO AND
12 SAID, THAT'S HIM.

13 Q. OKAY. AND DID HE INDICATE THAT ON THE BACK OF
14 STATE'S FOURTEEN?

15 A. YES, SIR, HE DID.

16 Q. AND HOW DID HE INDICATE THAT?

17 A. HE INDICATED IT BY THE NUMBER TWO, THEN HIS
18 INITIALS RIGHT NEXT TO IT.

19 Q. OKAY. AND DID YOU OR DETECTIVE MARSHALL IN ANY
20 WAY INDICATE WHO TO PICK OUT OUT OF THAT
21 PHOTOGRAPHIC LINEUP?

22 A. NO, SIR.

23 Q. DID YOU TELL HIM THAT A PERSON WHO WAS INVOLVED
24 IN THE CASE WAS IN THAT PHOTOGRAPHIC LINEUP?

25 A. NO, SIR, AS A MATTER OF FACT, WE -- ON THE BACK

DIRECT - RAYMOND E. DIXSON BY SOL. BELL

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1 OF THIS FORM IT SPECIFICALLY STATES THAT THE
2 SUBJECT THAT THEY, "YOU SHOULD NOT CONCLUDE OR
3 GUESS THAT THE PHOTOGRAPHS CONTAIN A PICTURE OF
4 THE PERSONS WHO COMMITTED THE CRIME, YOU ARE NOT
5 OBLIGATED TO IDENTIFY ANYONE." IT'S JUST AS
6 IMPORTANT, BASICALLY IT'S SAYING THAT EVEN THOUGH
7 THEY ARE BEING SHOWN PICTURES, THAT PERSON MAY
8 NOT BE IN THERE, BUT THEY NEED TO LOOK AT THEM TO
9 FIND OUT IF HE IS OR IS NOT.

10 Q. OKAY. AND THEN, YOU SAID YOU SHOWED IT TO
11 ANTHONY FOLK ---

12 A. YES, SIR.

13 Q. --- AFTER THAT?

14 A. YES, SIR.

15 Q. WAS HE ABLE TO PICK ANYBODY OUT OF THAT LINEUP?

16 A. NO, SIR. HE SAID HE WASN'T POSITIVE AND HE JUST
17 WASN'T SURE.

18 Q. OKAY. DID YOU SHOW THIS LINEUP, STATE'S
19 FOURTEEN, TO ANYBODY ELSE AFTER THAT?

20 A. YES, SIR, ON THE FOURTEENTH DAY OF AUGUST, MR.
21 TRAVIS NORTH WAS BROUGHT UP TO THE SHERIFF'S
22 OFFICE. HE WAS BROUGHT UP THERE BY HIS BROTHER,
23 RYAN NORTH, AND HE WAS BROUGHT IN AND IT WAS
24 ABOUT TWELVE:FIFTY-FIVE P.M., HE WAS SHOWN THE
25 LINEUP, AS WELL.

DIRECT - RAYMOND E. DIXSON BY SOL. BELL

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1 Q. OKAY. AND WAS HE SHOWN THE LINEUP AS IT IS NOW?

2 A. HE WAS SHOWN THIS LINEUP AS IT IS NOW. WE HAD
3 CHANGED PICTURE NUMBER TWO AND PICTURE NUMBER ONE
4 ON THE OFF CHANCE -- WE TELL EVERYBODY NOT TO
5 DISCUSS THIS CASE WITH ANYBODY. WE TELL EVERYBODY
6 NOT TO DISCUSS THE FACT THAT THEY HAD VIEWED A
7 LINEUP OR WHO THEY INDICATED OR ANYTHING ELSE. ON
8 THE OFF CHANCE THAT THEY HAD DISCUSSED THIS, WE
9 DECIDED TO CHANGE THE POSITION OF THE PICTURES SO
10 THAT WE KNEW THAT IF HE PICKED SOMEBODY IT SHOULD
11 BE THE EXACT, YOU KNOW, IT SHOULD BE THE RIGHT
12 PERSON.

13 Q. YOU JUST DIDN'T WANT TO, MAYBE HIS BROTHER TOLD
14 HIM WHAT NUMBER HE HAD PICKED?

15 A. RIGHT. WE DIDN'T WANT TO RUN THE RISK THAT HE HAD
16 TOLD HIM, YEAH, JUST GO IN THERE AND PICK NUMBER
17 TWO, BECAUSE THAT'S WHO IT IS. SO, JUST ---

18 Q. ALRIGHT. AND WHICH PICTURE DID -- WAS TRAVIS
19 NORTH ABLE TO PICK OUT A PICTURE FROM THAT
20 LINEUP, STATE'S FOURTEEN?

21 A. YES, SIR, HE PICKED PHOTOGRAPH NUMBER ONE, WHICH
22 IS A PICTURE OF MR. STEVEN CHRISTOPHER BRISCOE.
23 HE INDICATED THAT BY THE NUMBER, ONE, AND HIS
24 INITIALS.

25 Q. OKAY. DID YOU OR DETECTIVE MARSHALL IN ANY WAY

DIRECT - RAYMOND E. DIXSON BY SOL. BELL

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1 TELL HIM WHICH PICTURE TO PICK?

2 A. NO, SIR.

3 Q. DID YOU INDICATE THAT A PERSON INVOLVED IN THIS
4 CASE WAS IN THAT LINEUP?

5 A. NO, SIR.

6 Q. DID YOU SAY ANYTHING TO HIM?

7 A. PRIOR TO SHOWING HIM THE PICTURES WE READ THE
8 BACK OF THIS, THE BACK OF THE FOLDER THAT WE READ
9 TO EVERYBODY.

10 Q. DID YOU SAY ANYTHING ABOUT SWITCHING PICTURES
11 AROUND?

12 A. YES, SIR, I DID. WE DID TELL HIM THAT THE
13 PHOTOGRAPHS THAT HIS BROTHER LOOKED AT -- I'M
14 SORRY, WE TOLD HIM THAT THE LINEUP HAD BEEN
15 CHANGED, HAD BEEN -- THE PICTURES HAD BEEN MOVED.
16 WE DIDN'T INDICATE TO HIM IN ANY WAY AS TO HOW
17 THEY WERE MOVED, WE JUST SAY, THE PICTURES HAVE
18 BEEN MOVED.

19 Q. NOW, AFTER DOING THIS I THINK YOU STATED ANOTHER
20 PLACE YOU WENT TO IN THIS INVESTIGATION WAS
21 DANVILLE, VIRGINIA, IS THAT CORRECT?

22 A. YES, SIR.

23 Q. WHEN DID YOU GO THERE?

24 A. MYSELF AND DETECTIVE VAN DORAN WENT TO DANVILLE -
25 - I APOLOGIZE -- WE WENT TO DANVILLE ON THE

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1 SIXTEENTH OF AUGUST.

2 Q. OKAY, HOW LONG DID YOU AND DETECTIVE -- WHAT
3 DETECTIVE WAS IT?

4 A. VAN DORAN.

5 Q. DETECTIVE, NOW LIEUTENANT VAN DORAN?

6 A. YES, SIR.

7 Q. HOW LONG DID YOU AND DETECTIVE VAN DORAN STAY IN
8 DANVILLE?

9 A. I THINK IT WAS APPROXIMATELY -- WE ARRIVED IN
10 DANVILLE ON THE SIXTEENTH OF AUGUST, WE DEPARTED
11 DANVILLE AT, ON THE EIGHTEENTH OF AUGUST.

12 Q. OKAY. AND WHEN YOU WENT THERE WAS DETECTIVE VAN
13 DORAN, NOW LIEUTENANT VAN DORAN, WHERE DID Y'ALL
14 GO IN DANVILLE, I MEAN, FIRST OF ALL WHEN YOU GOT
15 THERE WHERE DID YOU GO?

16 A. TO THE DANVILLE POLICE DEPARTMENT.

17 Q. AND AFTER THAT WHERE DID YOU GO?

18 A. WE MET UP WITH A DETECTIVE CHANEY, WHO WAS A
19 MEMBER OF THE DANVILLE POLICE DEPARTMENT. ONCE
20 WE LEFT -- ONCE WE MET UP WITH HIM WE WENT OVER
21 TO AN APARTMENT THAT WAS LISTED ON A REPORT --
22 I'M SORRY, YEAH, WE WENT OVER THE APARTMENT
23 COMPLEX WHERE A REPORT WAS FILED, I DON'T
24 REMEMBER THE EXACT DATE, I BELIEVE DETECTIVE
25 CHANEY WOULD HAVE TO GIVE THAT TO YOU, ---

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1 Q. OKAY. YOU WENT OVER TO AN APARTMENT?

2 A. RIGHT.

3 Q. OKAY. AFTER THAT WHERE DID YOU GO?

4 A. WE WENT OVER TO LOCATE THE OWNER OF THE APARTMENT
5 COMPLEX BECAUSE WE DIDN'T GET AN ANSWER AT THE
6 DOOR. THE OWNER OF THE APARTMENT COMPLEX ADVISED
7 US ---

8 Q. OKAY. NOT WHAT THEY SAID, BUT YOU WERE ABLE TO
9 LOCATE THE OWNER OF THE APARTMENT COMPLEX?

10 A. YES, SIR.

11 Q. AFTER DOING THAT WHAT DID YOU DO?

12 A. WE WENT BACK TO THE, THE DANVILLE NARCOTICS METRO
13 OFFICE.

14 Q. OKAY. DID YOU LOCATE STEVEN BRISCOE WHILE YOU
15 WERE THERE WITH DETECTIVE VAN DORAN, AT SOME
16 POINT?

17 A. YES, SIR, WE DID.

18 Q. WHERE DID YOU LOCATE HIM AT?

19 A. WE LOCATED HIM AT, AT HIS GIRL FRIEND'S
20 RESIDENCE, I BELIEVE HIS GIRL FRIEND'S RESIDENCE
21 -- AND I ACTUALLY DON'T HAVE IT LISTED ON HERE,
22 IT WAS A DIFFERENT ADDRESS THAN THE [REDACTED]
23 AVENUE, WHICH WAS THE APARTMENT.

24 Q. OKAY. AND BASICALLY, WHEN YOU WERE IN DANVILLE,
25 YOU WERE WITH DETECTIVE VAN DORAN, WHERE EVER HE

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1 WENT IN DANVILLE, IS THAT CORRECT?

2 A. YES, SIR.

3 Q. AND YOU TOOK SOME PHOTOGRAPHS OF A VEHICLE WHEN
4 YOU WERE THERE?

5 A. YES, SIR.

6 Q. OR -- AND DETECTIVE VAN DORAN DID?

7 A. YES, SIR.

8 Q. OKAY. AND I JUST WANT TO SHOW YOU WHAT'S BEEN
9 MARKED STATE'S EIGHT, NINE AND TEN, AND ASK YOU
10 IF THAT'S THE VEHICLE THAT WAS PHOTOGRAPHED?

11 A. YES, SIR, THAT DOES APPEAR TO BE THE PICTURES WE
12 TOOK.

13 SOLICITOR BELL: THANK YOU,
14 DETECTIVE DIXSON, PLEASE ANSWER ANY QUESTIONS MR.
15 KEARSE MAY HAVE.

16 THE COURT: YOU MAY PROCEED.

17 MR. KEARSE: MAY IT PLEASE THE
18 COURT, YOUR HONOR.

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 - RAYMOND E. DIXSON BY MR. KEARSE

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CROSS-EXAMINATION OF RAYMOND E. DIXSON

BY MR. KEARSE:

Q. DETECTIVE DIXSON, THIS PHOTOGRAPHIC LINEUP, AND
YOU HAVE YOUR NOTES, IT DID NOT OCCUR AT THE TIME
YOU ARRESTED JASSON TURNER, ISN'T THAT CORRECT?

A. I'M SORRY?

Q. ISN'T IT TRUE, YOU GUYS ARRESTED JASSON TURNER ON
OR ABOUT JULY OF TWO THOUSAND THREE?

A. YES, SIR.

Q. ALRIGHT, AND ISN'T IT TRUE THAT THIS PHOTOGRAPHIC
LINEUP YOU GUYS DID WAS IN AUGUST OF TWO THOUSAND
FOUR?

A. YES, SIR.

Q. ALRIGHT. ISN'T IT ALSO TRUE, IN DESCRIBING THESE
SUPPOSED ASSAILANTS NOBODY MENTIONED ANY CLOTHING
OR ANYTHING OF THAT NATURE?

A. I WOULD HAVE TO GO BACK THROUGH THE STATEMENTS, I
DON'T RECALL.

MR. KEARSE: I BEG THE COURT'S
INDULGENCE, YOUR HONOR.

THE COURT: UH HUH.

SOLICITOR BELL: YOUR HONOR, I'M
GOING TO OBJECT TO HEARSAY.

MR. KEARSE: YOUR HONOR, I HAVEN'T
ASKED HIM THE QUESTION.

1 THE COURT: LET HIM ASK HIS
2 QUESTION.

3 SOLICITOR BELL: OKAY.

4 Q. DETECTIVE, PLEASE LOOK AT THESE.

5 A. DO YOU WANT ME TO READ ALL OF THESE?

6 Q. OKAY. I MEAN, HOWEVER MANY YOU NEED. MY
7 QUESTION IS -- LET ME ASK THIS QUESTION FIRST.
8 WHEN YOU PUT TOGETHER A LINEUP YOU CONSIDER THE
9 RELIABILITY OF THE DESCRIPTIONS GIVEN TO YOU BY
10 THE ALLEGED WITNESSES, ISN'T THAT CORRECT?

11 A. YES, SIR.

12 Q. AND THAT WOULD BE WHETHER THEY HAVE THE ABILITY
13 TO SEE THAT PARTICULAR INDIVIDUAL AT THE TIME, IS
14 THAT CORRECT?

15 A. IN FORMULATING A LINEUP OR IN THEIR
16 IDENTIFICATION?

17 Q. RIGHT, WHAT I'M SAYING, WHEN YOU PUT TOGETHER A
18 LINEUP YOU CONSIDER HOW RELIABLE THE INITIAL
19 DESCRIPTION GIVEN BY A WITNESS IS, ISN'T THAT
20 CORRECT?

21 A. FOR THE MOST PART, YES, SIR.

22 Q. RIGHT. AND IN CONSIDERING THE RELIABILITY OF THE
23 INITIAL DESCRIPTION YOU CONSIDER THINGS LIKE,
24 COULD THEY IDENTIFY CLOTHING, COLOR OF CLOTHING,
25 SHOES, SHIRTS, THINGS OF THAT NATURE?

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1 A. I NEVER PUT CLOTHING IN THE LINEUP.

2 Q. NO.

3 COURT REPORTER: SIR, I DIDN'T
4 HEAR WHAT YOU SAID.

5 A. I'M SORRY, I SAID, I DON'T EVER PUT CLOTHING IN A
6 LINEUP, IT'S JUST ---

7 Q. NO, MY QUESTION, DETECTIVE DIXSON, IS, WHEN YOU
8 CONSIDER THE RELIABILITY OF AN INITIAL
9 DESCRIPTION, THE FIRST DESCRIPTION BY A WITNESS,
10 YOU CONSIDER WHETHER OR NOT THEY CAN IDENTIFY
11 THINGS LIKE CLOTHING, SHOES, SHIRTS, THINGS OF
12 THAT NATURE?

13 A. IF PRACTICAL.

14 Q. ALRIGHT. DO YOU ALSO CONSIDER THE LIGHTING OF THE
15 AREA, CORRECT, IN RELIABILITY OF THE INITIAL
16 DESCRIPTION?

17 A. YES, SIR, THAT COULD COME INTO PLAY.

18 COURT REPORTER: I'M SORRY, YES,
19 SIR, WHAT?

20 A. YES, SIR, THAT COULD COME INTO PLAY.

21 Q. ALRIGHT. NOW, BASED ON THOSE THINGS, ISN'T IT
22 TRUE THAT THE INITIAL DESCRIPTION GIVEN BY TRAVIS
23 NORTH, MARK -- RYAN NORTH, I'M SORRY, JERMAINE
24 CUSACK, ANTHONY FOLK DID NOT INCLUDE ANYTHING
25 ABOUT CLOTHES AT ALL?

1 SOLICITOR BELL: YOUR HONOR, I'M
2 GOING TO OBJECT, HE'S ASKING ON HEARSAY.

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: YOU MAY PROCEED, THE
8 OBJECTION IS OVERRULED.

9 A. I DON'T HAVE A STATEMENT FROM MR. RYAN NORTH, I
10 DO HAVE MR. TRAVIS NORTH'S STATEMENT, AND YOU
11 ASKED ME ABOUT WHO ELSE?

12 Q. TRAVIS NORTH, ANTHONY FOLK, AND RYAN NORTH, ---

13 A. OKAY.

14 Q. --- ALONG WITH JERMAINE CUSACK?

15 A. WELL, TRAVIS NORTH, I KNOW, STATES THAT HE
16 OBSERVED THESE TWO INDIVIDUALS COME UP EARLIER
17 THAT EVENING, I BELIEVE.

18 Q. WELL, MY QUESTION WAS, IN THE INITIAL DESCRIPTION
19 OF THESE ALLEGED ASSAILANTS, ISN'T IT TRUE THAT
20 NONE OF THESE GENTLEMEN DEPICTED CLOTHING, PANTS,
21 SHIRTS, SHOES, ANYTHING OF THAT NATURE?

22 A. NOT AS FAR AS I CAN TELL.

23 MR. KEARSE: I BEG THE COURT'S
24 INDULGENCE.

25 THE COURT: UH HUH.

CROSS - RAYMOND E. DIXSON BY MR. KEARSE

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1 MR. KEARSE: MARK THIS AS
2 DEFENDANT'S -- JUST FOR IDENTIFICATION.

3 COURT REPORTER: DEFENDANT'S NINE
4 FOR ID.

5 (Defendant's Exhibit Nine,
6 Statement of Ryan North,
7 marked for identification.)

8 Q. I'M GOING TO HAND YOU WHAT'S BEEN MARKED AS
9 DEFENDANT'S NINE, THIS IS A STATEMENT OF RYAN
10 NORTH, I'M GOING TO GIVE YOU A CHANCE TO REVIEW
11 THIS BEFORE YOU RE-ANSWER THAT QUESTION, AS TO
12 RYAN NORTH?

13 A. YES, SIR.

14 Q. OKAY. AND INCLUDING RYAN NORTH, NO ONE MADE ANY
15 STATEMENT ABOUT CLOTHING, SHOES, SHIRTS, NOTHING?

16 SOLICITOR BELL: YOUR HONOR, I'M
17 GOING TO OBJECT AGAIN TO HEARSAY?

18 THE COURT: OVERRULED, I'M GOING
19 TO GIVE HIM SOME LATITUDE, BUT YOU NEED TO MOVE ALONG,
20 MR. KEARSE.

21 MR. KEARSE: THANK YOU, YOUR
22 HONOR.

23 THE COURT: UH HUH.

24 A. NO, SIR, NOT ACCORDING TO THESE STATEMENTS.

25 Q. ALRIGHT. NOW, WHEN YOU PUT THIS LINEUP TOGETHER

CROSS - RAYMOND E. DIXSON BY MR. KEARSE

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1 YOU USED THE DRIVER'S LICENSE, OR A DRIVER'S
2 LICENSE PHOTO OF MR. BRISCOE, DID YOU NOT?

3 A. YES, SIR, I DID.

4 Q. ALRIGHT.

5 MR. KEARSE: PLEASE MARK THIS FOR
6 ID.

7 COURT REPORTER: DEFENDANT'S TEN.
8 (Defendant's Exhibit Ten,
9 marked and filed.)

10 Q. I HAND YOU WHAT'S BEEN MARKED AS DEFENDANT'S
11 NUMBER TEN.

12 A. YES, SIR.

13 Q. THAT'S A FAIR AND ACCURATE DEPICTION OF THAT
14 PHOTOGRAPH YOU USED?

15 A. YES SIR, IT'S FAIR.

16 Q. ALRIGHT. IN THAT PARTICULAR PHOTOGRAPH MR.
17 BRISCOE HAS A SHIRT WITH A COLLAR ON IT, DOES HE
18 NOT?

19 A. YES, SIR.

20 Q. ALRIGHT. AND THE FIVE OTHER PHOTOGRAPHS THAT YOU
21 USED IN YOUR PHOTOGRAPHIC LINEUP, THOSE WERE
22 PULLED FROM JAIL HOUSE PHOTOS, IS THAT CORRECT?

23 A. YES, SIR.

24 Q. MUG SHOTS?

25 A. YES, SIR.

CROSS - RAYMOND E. DIXSON BY MR. KEARSE

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1 Q. ALRIGHT. AND IN EACH OF THOSE FIVE PHOTOGRAPHS
2 NO INDIVIDUAL HAS A COLLARED SHIRT?

3 A. NO, SIR, BUT TO COMBAT, I -- IT'S IN BLACK AND
4 WHITE, AND IT'S -- FOR THE MOST PART IT'S CUT OFF
5 AT THE NECK, SO YOU CAN'T, YOU CAN BARELY SEE IT.

6 COURT REPORTER: AND FOR THE MOST
7 PART WHAT?

8 A. IT'S -- THE PICTURE IS AT THE NECK, IT STOPS AT
9 THE NECK, FROM THE NECK UP, AS BEST AS I COULD
10 DO, FITTING THE ENTIRE FACE INTO THE PICTURE.

11 Q. OKAY. NOW, YOU -- I'M GOING TO HAND YOU WHAT'S
12 MARKED AS STATE'S EXHIBIT FOURTEEN, THAT IS THE
13 LINEUP, CORRECT?

14 A. YES, SIR, IT IS.

15 Q. ALRIGHT. AND MR. BRISCOE IS NUMBER ONE?

16 A. YES, SIR.

17 Q. ALRIGHT. CAN YOU SEE HOW HIS COLLAR CAN STILL BE
18 DEPICTED IN THAT PARTICULAR PHOTOGRAPH?

19 A. YES, SIR, BUT AS WELL AS HIS COLLAR, YOU ALSO
20 HAVE A T-SHIRT SHOWING ON THIS INDIVIDUAL. THAT
21 INDIVIDUAL IS PARTIALLY PULLED UP, SO YOU CAN'T
22 TELL IF HE'S GOT A SHIRT ON OR IF IT'S JUST THE
23 PICTURE.

24 Q. ALRIGHT, BUT THEY -- NONE OF -- NO OTHER
25 PHOTOGRAPH DEPICTS ANY COLLAR OR EXTENSION FROM

1 THE SHIRT, IS THAT CORRECT?

2 A. CORRECT.

3 Q. ALRIGHT. OKAY, AND THIS WOULD BE MR. BRISCOE AT
4 THAT TIME?

5 A. YES, SIR.

6 Q. ALRIGHT. AND THIS IS A YEAR AND ALMOST A MONTH
7 AFTER THE INCIDENT?

8 A. YES, SIR, THAT SOUNDS ABOUT RIGHT.

9 Q. ALRIGHT. AND EACH OF THESE DEFENDANTS HAD NOT HAD
10 ANY PREVIOUS RELATIONSHIP, OTHER THAN JASSON
11 TURNER, WITH THIS PARTICULAR INDIVIDUAL, IS THAT
12 CORRECT?

13 A. OTHER THAN JASSON TURNER, FROM MY UNDERSTANDING
14 THAT'S CORRECT.

15 Q. ALRIGHT. AND THIS PARTICULAR PHOTOGRAPHIC LINEUP
16 WAS FIRST SHOWN TO JASSON TURNER, WAS IT NOT?

17 A. YES, SIR.

18 Q. OKAY. NOW, -- AND LET'S TALK ABOUT THAT
19 PARTICULAR LINEUP. YOU SAID WHEN YOU WALKED IN
20 THE ROOM WHERE JASSON WAS SITTING AND BEING
21 QUESTIONED, YOU HAD A PHOTOGRAPH OUT IN PLAIN
22 VIEW, YOU SAID YOU HAD IT WITH OTHER PHOTOGRAPHS,
23 BUT CLEARLY, YOU HAD A PHOTOGRAPH OUT IN PLAIN
24 VIEW?

25 A. YES, SIR.

CROSS - RAYMOND E. DIXSON BY MR. KEARSE

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1 Q. AND THAT PHOTOGRAPH YOU HAD IN PLAIN VIEW WAS THE
2 SINGLE PHOTOGRAPH OF MR. BRISCOE, WAS IT NOT?

3 A. IT WAS A SINGLE PHOTOGRAPH, BUT IT WAS NOT THAT
4 ONE.

5 Q. ALRIGHT. IT WAS NOT ---

6 A. IT WAS NOT HIS DMV PICTURE, NO, SIR, ---

7 Q. IT WASN'T?

8 A. --- I'M SORRY, IT WAS HIS DMV PICTURE, BUT IT DID
9 NOT HAVE HIS NAME, IT WAS JUST A COPIED PICTURE -
10 - AND INDIVIDUAL COPIED PICTURE OF MR. BRISCOE.

11 Q. IT WAS A PICTURE WITHOUT THE NAME ON THE PICTURE?

12 A. CORRECT, YES, SIR.

13 Q. RIGHT. BUT IT WAS THE EXACT SAME PHOTOGRAPH?

14 A. YES, SIR.

15 Q. ALRIGHT. IT WAS JUST A SINGLE PHOTO IN AND OF,
16 JUST BY ITSELF, RIGHT? IF WE BIFURCATE IT, IT
17 WOULD BE THIS RIGHT HERE, CORRECT?

18 A. I CAN'T REMEMBER IF THE OTHER PHOTOGRAPHS WERE
19 BELOW IT, OR IF IT WAS JUST THAT, SO I'M GOING TO
20 HAVE TO TELL YOU THAT AT LEAST THAT PICTURE WAS,
21 WAS OUT IN PLAIN SIGHT, YES, SIR.

22 Q. ALRIGHT. AND THEN AFTER HE SAW THIS PICTURE AND
23 HE ACKNOWLEDGED, YEAH, I SEE YOU'VE GOT A PICTURE
24 OF HIM, YOU PROCEEDED TO SHOW HIM THIS LINEUP
25 ANYWAY, ISN'T THAT CORRECT?

CROSS - RAYMOND E. DIXSON BY MR. KEARSE

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1 A. YES, SIR, I REALIZED MY MISTAKE, AND I JUST -- I
2 FIGURED I JUST NEED TO SHOW HIM THE LINEUP JUST
3 TO ---

4 Q. ALRIGHT, NOW AT THE TIME WHEN YOU SHOWED HIM THIS
5 LINEUP MR. BRISCOE WAS NUMBER TWO, ISN'T THAT
6 CORRECT?

7 A. YES, SIR.

8 Q. ALRIGHT. AND THAT WOULD HAVE BEEN ABOUT TWO DAYS
9 BEFORE YOU SHOWED IT TO RYAN NORTH, IS THAT
10 RIGHT?

11 A. ON THE -- ON THE PHOTOGRAPHIC LINEUP THAT I
12 SHOWED MR. JASSON TURNER, ON THE BOTTOM OF THAT
13 IS THE DATE OF WHEN I SHOWED IT TO HIM. I
14 BELIEVE IT WAS ON THE -- IT WAS EITHER THE TENTH
15 OR ELEVENTH THAT IT WAS SHOWN TO HIM, SO IT WOULD
16 HAVE BEEN WITHIN ONE TO TWO DAYS.

17 MR. KEARSE: I BEG THE COURT'S
18 INDULGENCE.

19 THE COURT: UH HUH.

20 Q. AND THEN, THAT DAY OR TWO AFTER, MR. NORTH COMES
21 INTO THE STATION, IS THAT RIGHT?

22 A. YES, SIR.

23 Q. ALRIGHT. AND YOU SHOW HIM THE EXACT SAME
24 PHOTOGRAPHIC LINEUP, DO YOU NOT?

25 A. AS I SHOWED MR. TURNER, YES, SIR.

CROSS - RAYMOND E. DIXSON BY MR. KEARSE

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- 1 Q. ALRIGHT. WHICH WOULD BE THIS LINEUP, ONLY WITH
2 MR. BRISCOE STILL REMAINING AS NUMBER TWO?
- 3 A. YES, SIR.
- 4 Q. BUT ON THAT DAY ANTHONY FOLK AND TRAVIS NORTH DID
5 NOT COME WITH RYAN NORTH, CORRECT?
- 6 A. YES, SIR, ANTHONY FOLK DID.
- 7 Q. ALRIGHT. ARE YOU CERTAIN ABOUT THAT, DETECTIVE
8 DIXSON, DO YOU NEED TO REFER TO YOUR NOTES? OH,
9 YOU'RE CORRECT, I'M SORRY, IT WAS THAT SAME DAY,
10 ANTHONY FOLK CAME WITH HIM.
- 11 A. YES, SIR.
- 12 Q. ALRIGHT, AND YOU SHOWED IT TO ANTHONY AND HE
13 COULDN'T PICK ANYBODY OUT?
- 14 A. YES, SIR, THAT'S CORRECT.
- 15 Q. ALRIGHT, AND THIS IS IN TWO THOUSAND FOUR?
- 16 A. YES, SIR.
- 17 Q. ALRIGHT. AND THEN, TWO DAYS LATER IS WHEN TRAVIS
18 BRINGS RYAN NORTH?
- 19 A. RYAN BRINGS TRAVIS, YES, SIR.
- 20 Q. ALRIGHT, AND THIS IS AUGUST FOURTEEN, TWO
21 THOUSAND FOUR?
- 22 A. YES, SIR.
- 23 Q. ALRIGHT. AND ON THAT DAY YOU SHOW HIM THE EXACT
24 SAME LINEUP, EXCEPT YOU'VE CHANGED IT AROUND AS
25 DEMONSTRATED TODAY, CORRECT?

1 A. YES, SIR.

2 Q. ALRIGHT. NOW, PRIOR TO SHOWING HIM THAT, AND
3 PRIOR TO HIM MAKING A SELECTION, YOU GUYS TELL
4 HIM, WE WANT YOU TO KNOW WE CHANGED IT AROUND TO
5 AVERT ANY FUTURE PROBLEMS?

6 A. YES, SIR.

7 Q. ALRIGHT. DETECTIVE DIXSON, DON'T YOU SEE HOW
8 THAT COULD POSSIBLY ALERT TRAVIS NORTH THAT IT'S
9 DEFINITELY NOT NUMBER TWO?

10 A. IN ALL HONESTY, SIR, I WAS TRYING TO GET HIM TO
11 MAKE SURE HE LOOKED AT THE PHOTOGRAPHS AND HE WAS
12 POSITIVE ABOUT HIS IDENTIFICATION.

13 Q. ALRIGHT. BUT MY QUESTION IS, YOU SAID YOU GUYS
14 DID THIS BECAUSE YOU WANTED TO AVERT ANY
15 CONTAMINATION THAT COULD HAVE OCCURRED DURING THE
16 CAR RIDE OR THE DISCUSSIONS ---

17 A. CORRECT.

18 Q. --- BETWEEN TRAVIS AND RYAN?

19 A. CORRECT.

20 Q. ALRIGHT. BUT DON'T YOU SEE HOW, WHEN YOU TELL
21 HIM, WE WANT YOU TO KNOW WE CHANGED IT AROUND,
22 YOU ARE ACTUALLY INDICATING TO HIM THAT IT'S
23 DEFINITELY NOT NUMBER TWO?

24 A. IT'S AT LEAST TELLING HIM IT MAY NOT BE NUMBER
25 TWO.

CROSS - RAYMOND E. DIXSON BY MR. KEARSE

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1 Q. ALRIGHT.

2 A. WHICH IS GOING TO MAKE -- FORCE HIM TO STUDY THE
3 PHOTOGRAPHS, I'M SURE.

4 Q. AND THIS IS THE EXACT SAME LINEUP THAT YOU SHOWED
5 TRAVIS, CORRECT?

6 A. THAT IS THE ---

7 Q. I MEAN, RYAN, CORRECT?

8 A. WITH THE EXCEPTION OF THE PICTURE LOCATIONS, YES,
9 SIR.

10 Q. RIGHT. AND WHEN RYAN PICKS MR. BRISCOE OUT AS
11 NUMBER TWO AND SAYS IT'S HIM, YOU ACKNOWLEDGE TO
12 HIM, YEAH, THAT'S THE RIGHT GUY?

13 A. NOT USUALLY. IF I DID I WAS -- USUALLY WE JUST
14 TELL THEM, OKAY, THANK YOU, AND THAT'S IT.

15 Q. SO, Y'ALL DIDN'T SAY ANYTHING, YOU GOT THE GUY,
16 OKAY, THAT'S DEFINITELY HIM?

17 A. TO BE HONEST WITH YOU, IF I REMEMBER CORRECTLY,
18 WE DIDN'T HAVE TO, BECAUSE HE SAID, THAT'S HIM,
19 I'M POSITIVE. AND I SAID, ARE YOU ABSOLUTELY
20 POSITIVE? AND HE SAID, A HUNDRED PER CENT, THAT'S
21 HIM.

22 Q. ALRIGHT.

23 A. SO, I, I DON'T BELIEVE THAT WE ACTUALLY HAD TO
24 ACKNOWLEDGE ANYTHING, ALTHOUGH IF WE DID, THEN
25 IT'S NOT -- AND I DON'T KNOW IF I HAVE IT IN MY

1 NOTES OR NOT. IT WOULD BE UNCOMMON FOR MYSELF TO
2 DO THAT, I USUALLY DON'T.

3 Q. ALRIGHT, BUT YOU SEE HOW THAT COULD ACTUALLY
4 ALERT TRAVIS NORTH ONCE AGAIN THAT THIS
5 PHOTOGRAPHIC LINEUP YOU'RE GOING TO SHOW HIM IS
6 DEFINITELY GOING TO HAVE THE GUY YOU WANT TO SAY
7 YOU HAVE?

8 A. SIR, WE DO EVERYTHING WE CAN TO TRY AND PREVENT
9 IT, BUT ---

10 Q. NOW, YOU GUYS ALSO DID A PHOTOGRAPHIC LINEUP OF
11 JASSON TURNER, CORRECT?

12 A. I DID NOT, BUT THE, THE DETECTIVE MARSHALL AND
13 NOW LIEUTENANT VAN DORAN DID.

14 Q. YOU'RE FAMILIAR WITH IT?

15 A. YES, SIR, I'M FAMILIAR WITH IT.

16 Q. ALRIGHT. AND AT THAT TIME WHEN YOU PUT TOGETHER
17 THAT LINEUP YOU GUYS USED ALL DRIVER'S LICENSES?

18 A. I BELIEVE THEY GOT THAT FROM CALIFORNIA, I DON'T
19 -- I CAN'T ANSWER TO THAT EXACTLY.

20 Q. BUT MY QUESTION IS, DO YOU KNOW WHETHER OR NOT
21 THEY -- THEY DID NOT USE JAIL HOUSE PHOTOS IN
22 THAT LINEUP WITH JASSON TURNER?

23 A. NO, SIR.

24 Q. THEY USED ALL DRIVERS' LICENSES, CORRECT?

25 A. AS FAR AS I'M AWARE OF, YES, SIR, THAT'S TRUE.

CROSS - RAYMOND E. DIXSON BY MR. KEARSE

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1 Q. OKAY. AND YOU SAID YOU WERE NOT A PART AND
2 PARCEL OF THE LINEUP PROCESS WITH TRAVIS NORTH OR
3 -- I'M SORRY, AS TO JASSON TURNER, THE ID BY
4 TRAVIS NORTH OR ANTHONY FOLK?

5 A. I BELIEVE THAT WAS -- IT'S BEEN A COUPLE OF
6 YEARS, I BELIEVE THAT WAS ALL LIEUTENANT MARSHALL
7 AND LIEUTENANT VAN DORAN.

8 Q. OKAY. DID YOU CIRCULATE A PHOTOGRAPH AMONG
9 TRAVIS NORTH AND/OR ANTHONY FOLK OF AN
10 AUTOMOBILE?

11 A. I DON'T BELIEVE I WAS PART OF THAT EITHER.

12 Q. YOU ARE AWARE OF THAT HAPPENING IN THE CASE,
13 CORRECT?

14 A. I'D HAVE TO REFER BACK TO LIEUTENANT MARSHALL,
15 BECAUSE I DON'T RECALL ANY OF THAT.

16 Q. ALRIGHT, SO YOU DON'T KNOW WHO PASSED OUT THE
17 PHOTOGRAPH?

18 A. I DON'T EVEN THINK I EVER SAW A PHOTOGRAPH OF
19 ANOTHER CAR.

20 Q. ALRIGHT.

21 A. I DON'T BELIEVE I DID, I DON'T REMEMBER.

22 Q. IN AUGUST YOU WENT OUT TO CALIFORNIA, CORRECT?

23 A. YES, SIR.

24 Q. AND WHEN YOU WENT OUT TO CALIFORNIA, YOU WENT OUT
25 THERE FOR THE PURPOSE OF ARRESTING JASSON TURNER?

1 A. IF I REMEMBER CORRECTLY, THE WARRANT WAS DONE
2 EITHER AFTER WE HAD LEFT -- IT MAY HAVE BEEN DONE
3 BEFORE WE HAD LEFT, BUT WE WERE GOING OUT THERE
4 TO GET INFORMATION AND QUITE POSSIBLY ARREST HIM,
5 YES, SIR.

6 Q. AND, BUT Y'ALL EXECUTED A WARRANT OUT IN
7 CALIFORNIA?

8 A. YES, SIR, IT WAS EXECUTED IN CALIFORNIA.

9 Q. ALRIGHT. AND YOU WERE PART OF THAT PROCESS?

10 A. YES, SIR.

11 Q. AND WHEN YOU GOT THERE YOU EXECUTED A WARRANT AT
12 SHANA SWAZY'S RESIDENCE, OR MADE AN ATTEMPT TO DO
13 SO?

14 A. I BELIEVE WE WENT TO -- I'D HAVE TO REFER BACK TO
15 LIEUTENANT MARSHALL'S NOTES, BUT I BELIEVE WE
16 WENT TO SHANA SWAZY'S RESIDENCE, AND HE TURNED
17 HIMSELF IN TO THE L.A.P.D. SOMETIME AFTER THAT.

18 Q. LATER ONE, HE WAS NOT -- HE WASN'T -- HE WAS NOT
19 TURNING HIMSELF IN AT FIRST, CORRECT?

20 A. I DON'T EVEN KNOW IF HE KNEW WERE THERE FOR A
21 COUPLE OF DAYS.

22 Q. YOU DON'T RECALL GOING TO MS. SWAZY'S MOTHER'S
23 HOUSE LOOKING FOR HIM, OR MS. SWAZY'S ---

24 A. I BELIEVE WE DID, YEAH, WE WENT TO A COUPLE OF
25 DIFFERENT RESIDENCES..

CROSS - RAYMOND E. DIXSON BY MR. KEARSE

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1 Q. ALRIGHT. BUT IT'S PRETTY CERTAIN, HE GOT THE
2 WORD THAT THERE WAS WARRANT OUT FOR HIS ARREST?

3 A. I WOULD -- YES, SIR, I WOULD HOPE SO.

4 Q. DO YOU RECALL MS. SWAZY GETTING HERSELF AN
5 ATTORNEY?

6 A. I'M SORRY, I'D HAVE TO REFER BACK TO LIEUTENANT
7 MARSHALL'S NOTES. SHE MAY HAVE, I DON'T
8 REMEMBER.

9 Q. ALRIGHT. DO YOU RECALL THE FACT THAT JEFF HILL
10 WAS ALSO OUT IN CALIFORNIA?

11 A. IF JEFF HILL IS THE GENTLEMAN THAT WE TALKED TO,
12 I DON'T REMEMBER HIS NAME, BUT WE DID TALK TO A
13 GENTLEMAN AT L.A.P.D.

14 MR. KEARSE: I BEG THE COURT'S
15 INDULGENCE, YOUR HONOR.

16 THE COURT: UH-HUH.

17 Q. ALRIGHT, IF YOU WILL LOOK AT -- I DON'T KNOW IF
18 YOU HAVE HIS NOTES, YOU SAID THAT YOU WENT OUT
19 THERE BUT IT WAS LIEUTENANT MARSHALL WHO DICTATED
20 THE NOTES?

21 A. YES, SIR.

22 Q. ALRIGHT. YOU DON'T REMEMBER THE CONVERSATIONS
23 YOU HAD AUGUST FOURTEEN, TWO THOUSAND AND THREE,
24 WITH MR. HILL?

25 A. DO I REMEMBER THE CONVERSATION? NO, SIR, I'M

1 SORRY, I DON'T REMEMBER.

2 Q. YOU DON'T REMEMBER TALKING TO HIM?

3 A. I REMEMBER SPEAKING TO A GENTLEMAN OUT THERE, TO
4 A SUBJECT OUT THERE. IF HIS NAME WAS JEFF HILL,
5 THEN IF THAT'S WHAT NOTED IN DETECTIVE MARSHALL'S
6 NOTES, THEN THAT'S WHO IT WAS, I DON'T REMEMBER
7 THE GENTLEMAN'S NAME.

8 Q. ALRIGHT. YOU ARE AWARE, AND YOU WERE AWARE THAT
9 JEFF HILL WAS ONE OF THE INDIVIDUALS ASSOCIATED
10 WITH PATRICK JONES AND RYAN NORTH?

11 A. THE NAME JEFF HILL DOES SOUND FAMILIAR, PATRICK
12 JONES ---

13 Q. ALRIGHT. DO YOU RECALL ---

14 A. --- SOUNDS FAMILIAR.

15 Q. --- DO YOU RECALL HIM ALSO BEING THE BOY FRIEND
16 OF JASSON TURNER'S GIRL FRIEND'S SISTER?

17 A. I'M SORRY, TRY THAT AGAIN? HE IS THE GIRL
18 FRIEND'S -- HE WAS JASSON TURNER'S ---

19 Q. HE DATED -- HE AND JASSON TURNER DATED TWO
20 SISTERS.

21 A. YES, SIR.

22 Q. OUT IN CALIFORNIA?

23 A. IF THAT WAS JEFF HILL, YES, SIR.

24 MR. KEARSE: I BEG THE COURT'S
25 INDULGENCE.

CROSS - RAYMOND E. DIXSON BY MR. KEARSE

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1 THE COURT: UH HUH.

2 MR. KEARSE: THAT'S ALL I HAVE.

3 THE COURT: ANY REDIRECT OF THE
4 WITNESS?

5 SOLICITOR BELL: NOTHING, YOUR
6 HONOR.

7 THE COURT: ANY EXCEPTION TO THE
8 WITNESS BEING EXCUSED, FROM THE STATE?

9 SOLICITOR BELL: NONE FROM THE
10 STATE.

11 THE COURT: FROM THE DEFENSE?

12 MR. KEARSE: YOUR HONOR, I ASK
13 THAT HE BE SUBJECT TO RECALL.

14 THE COURT: OKAY. SIR, YOU'RE
15 EXCUSED SUBJECT TO RECALL.

16 WITNESS: THANK YOU.

17 THE COURT: YOU'RE WELCOME.

18 MR. FOREMAN, AND LADIES AND
19 GENTLEMEN, I'M GOING TO TAKE ADVANTAGE OF THIS BREAK
20 IN TESTIMONY AND TAKE OUR LUNCH RECESS. WE WILL BREAK
21 UNTIL TWO:O'CLOCK. DURING THE BREAK PLEASE DO NOT
22 DISCUSS THE CASE AMONG YOURSELVES OR WITH ANYONE ELSE.
23 PLEASE DO NOT WATCH, READ OR LISTEN TO ANY MEDIA
24 REPORTS ABOUT THIS CASE OR DO ANY TYPE OF INDEPENDENT
25 RESEARCH. PLEASE LEAVE YOUR NOTE PADS IN YOUR SEATS

1 AND RETURN DIRECTLY TO YOUR JURY ROOM AND WE WILL
2 RESUME THE TRIAL OF THE CASE.

3 ENJOY YOUR LUNCH.

4 (Whereupon, the jury leaves
5 the courtroom.)

6 THE COURT: OKAY. MR. HARRISON
7 BELL, HOW MANY MORE WITNESSES DO YOU ANTICIPATE
8 CALLING FROM YOUR LIST. I HAVE A BALANCE, I THINK, OF
9 EIGHT WITNESSES -- SEVEN, ACTUALLY. DO YOU PLAN TO
10 CALL ALL SEVEN OF THEM?

11 SOLICITOR BELL: NO, I THINK IT'S
12 DOWN TO TWO.

13 THE COURT: OH, REALLY. OKAY,
14 THAT'S GOOD. AND WHO WILL YOU BE CALLING?

15 SOLICITOR BELL: DETECTIVE WILLIAM
16 CHANEY AND MARK KELLY.

17 THE COURT: SO, YOU WILL NOT BE
18 CALLING SERGEANT TILTON?

19 SOLICITOR BELL: NOT IN MY CASE IN
20 CHIEF.

21 THE COURT: OKAY. ALICE DURR?

22 SOLICITOR BELL: NO.

23 THE COURT: WHAT ABOUT CHRIS
24 SCARBOROUGH?

25 SOLICITOR BELL: NO, HE WAS AN

1 ALTERNATE TO KAREN CROUCH. AND ALICE DURR WAS A CHAIN
2 WITNESS ON THE BULLETS THAT WERE PUT INTO EVIDENCE.

3 COURT REPORTER: WHAT WAS THE NAME
4 OF THE LAST ONE?

5 SOLICITOR BELL: SCARBOROUGH,
6 CHRIS SCARBOROUGH.

7 THE COURT: AND JOHNNY COBBS?

8 SOLICITOR BELL: NO.

9 THE COURT: AND STEVE DERRICK, OF
10 SLED?

11 SOLICITOR BELL: NO, WE GOT AROUND
12 HIM, AS WELL.

13 THE COURT: OKAY. HOW LENGTHY DO
14 YOU ANTICIPATE THOSE WITNESSES BEING?

15 SOLICITOR BELL: I DON'T
16 ANTICIPATE EITHER ONE OF THEM BEING TERRIBLY LENGTHY,
17 BUT ---

18 THE COURT: I'M JUST ASKING FOR
19 SCHEDULING PURPOSES, I'M NOT TRYING TO BOX YOU IN, I
20 JUST NEED TO KNOW SO I KNOW HOW TO PLAN THE REST OF
21 THE DAY.

22 SOLICITOR BELL: ON MY SIDE,
23 DETECTIVE CHANEY WOULD BE SOMEWHERE FIFTEEN TO THIRTY
24 MINUTES AT THE MOST, AND MARK KELLY IS NOT GOING TO BE
25 VERY LONG AT ALL, FIVE OR TEN MINUTES, IF THAT LONG.

1 THE COURT: MR. KEARSE, DO YOU
2 HAVE YOUR WITNESSES HERE READY TO PROCEED?

3 MR. KEARSE: YES, I DO, YOUR
4 HONOR.

5 THE COURT: OKAY.

6 MR. KEARSE: I HAVE THOSE WHO ARE
7 NOT SUBJECT TO RECALL, OTHER THAN THE OFFICERS, ARE
8 HERE.

9 THE COURT: OH, I'M TALKING ABOUT
10 THE MAIN ALIBI WITNESSES.

11 MR. KEARSE: OH, YES, YES, MA'AM..

12 THE COURT: THAT'S MS. COLLINS
13 SELLARS, MS. COLES, MR. NEWCOMB AND MR. GREGG?

14 MR. KEARSE: THE ONES WE'RE GOING
15 TO USE, THEY'RE HERE, YOUR HONOR, READY TO GO.

16 THE COURT: OKAY. ALRIGHT, ENJOY
17 YOUR LUNCH, SEE YOU AT TWO.

18 MR. KEARSE: YOU SAY YOU'RE NOT
19 CALLING THIS GUY HERE?

20 SOLICITOR BELL: NOT IN MY CASE IN
21 CHIEF.

22 (Recess)

23 THE COURT: IS THE STATE READY TO
24 PROCEED?

25 SOLICITOR BELL: THE STATE'S

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: OKAY. PLEASE -- I
7 GUESS THEY WENT TO GET THE DEFENDANT. AND I EXPLAINED
8 TO THE JURY WHY WE WERE DELAYED, I TOLD THEM THAT WE
9 NEEDED SOME ADDITIONAL TIME TO DO SOME THINGS, AND I
10 ALLOWED THEM TO GO OUTSIDE AND TAKE A WALK WHILE WE
11 WERE WAITING.

12 (Whereupon, the defendant
13 enters the courtroom.)

14 THE COURT: ALRIGHT, PLEASE BRING
15 IN THE JURY.

16 (Whereupon, the following
17 takes place in the
18 presence of the jury.)

19 THE COURT: MR. FOREMAN, AND
20 LADIES AND GENTLEMEN, WE APPRECIATE YOUR PATIENCE, I
21 HOPE THAT YOU ALL ENJOYED YOUR LUNCH AND RECESS, AND
22 AGAIN, WE APPRECIATE YOU INDULGING US SO THAT WE CAN
23 BE PREPARED FOR THIS AFTERNOON'S TESTIMONY.

24 MR. BELL, YOU MAY PROCEED WHEN
25 YOU'RE READY.

1 SOLICITOR BELL: THANK YOU, YOUR
2 HONOR, THE STATE WOULD CALL WILLIAM CHANEY TO THE
3 STAND.

4 CLERK: PLACE YOUR LEFT HAND ON
5 THE BIBLE AND RAISE YOUR RIGHT HAND. STATE YOUR FULL
6 NAME FOR THE RECORD, PLEASE.

7 WITNESS: WILLIAM CHANEY, WILLIAM
8 HENRY CHANEY.
9 (Whereupon, the witness,
10 WILLIAM HENRY CHANEY,
11 is duly sworn.)

12 CLERK: HAVE A SEAT.

13 THE COURT: YOU MAY PROCEED WHEN
14 YOU'RE READY.

15 SOLICITOR BELL: THANK YOU.

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 - WILLIAM H. CHANEY BY SOL. BELL

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DIRECT EXAMINATION OF WILLIAM H. CHANEY

BY SOLICITOR BELL:

Q. WOULD YOU STATE YOUR NAME AGAIN, PLEASE, FOR THE
RECORD?

A. WILLIAM HENRY CHANEY.

Q. WHERE ARE YOU FROM?

A. DANVILLE, VIRGINIA.

Q. AND WHAT, WHAT'S YOUR OCCUPATION IN DANVILLE,
VIRGINIA?

A. I'M A POLICE OFFICER, INVESTIGATOR FOR THE CITY
OF DANVILLE POLICE DEPARTMENT.

Q. AND HOW LONG HAVE YOU BEEN WORKING WITH THE CITY
OF DANVILLE POLICE DEPARTMENT?

A. NINE YEARS.

Q. AND HOW LONG YOU BEEN AN INVESTIGATOR WITH THE
CITY OF DANVILLE POLICE DEPARTMENT?

A. TWO YEARS.

Q. DETECTIVE CHANEY, I WANT TO ASK YOU, HAVE YOU HAD
CONTACT WITH THE DEFENDANT, STEVEN BRISCOE, IN
THE PAST?

A. YES, SIR, I HAVE.

Q. DO YOU RECALL HAVING CONTACT WITH HIM IN TWO
THOUSAND THREE?

A. YES, SIR, I DO.

Q. DO YOU RECALL THE SPECIFIC DATE?

DIRECT - WILLIAM H. CHANEY BY SOL. BELL

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1 A. YES, SIR, JANUARY SEVENTH, TWO THOUSAND AND
2 THREE.

3 Q. AND WHY DID YOU HAVE CONTACT WITH STEVEN BRISCOE?

4 A. I TOOK A -- WHEN I WAS ON PATROL I TOOK AN
5 INCIDENT REPORT WHERE HE HAD ACCIDENTALLY
6 DISCHARGED A GLOCK TEN MILLIMETER HAND GUN. HE
7 HAD IT IN HIS BED, HE DISCHARGED IT, IT WENT
8 THROUGH THE WALL INTO A NEIGHBORING APARTMENT'S
9 WALL, INTO THE KITCHEN AREA, IN TO A CLOSET, AND
10 I WENT OVER AND TOOK THE INCIDENT REPORT.

11 Q. OKAY. AND DID YOU SEE THE GUN?

12 A. YES, SIR, I DID.

13 Q. DID YOU HANDLE IT?

14 A. YES, SIR, I DID.

15 Q. DID YOU SEE HIM WITH THE GUN?

16 A. YES, SIR, I DID.

17 Q. DID YOU TAKE ANY INFORMATION FROM THE GUN?

18 A. YES, SIR, I RAN THE SERIAL GUN TO MAKE SURE IT
19 WAS NOT STOLEN.

20 Q. DO YOU HAVE THE SERIAL NUMBER, DO YOU RECALL THE
21 SERIAL NUMBER?

22 A. YES, SIR, I DO.

23 Q. WHAT WAS THE SERIAL NUMBER?

24 A. THE SERIAL NUMBER IS C, AS IN CHARLIE, L, AS IN
25 LINCOLN, X, AS IN X-RAY, SEVEN SIX THREE.

DIRECT - WILLIAM H. CHANEY BY SOL. BELL

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1 Q. OKAY. DID YOU DO ANYTHING WITH THE GUN AFTER
2 THAT?

3 A. NOT WITH THE GUN, NO, SIR, I JUST RAN THE SERIAL
4 NUMBER TO MAKE SURE IT WAS NOT STOLEN, AND GAVE
5 IT BACK TO HIM.

6 Q. OKAY. DID YOU GET THE SHELL OR ANYTHING OUT OF
7 THE WALL?

8 A. I LOOKED FOR THE BULLET THAT WENT THROUGH THE
9 WALL BUT I COULDN'T FIND IT.

10 Q. OKAY. NOW, DETECTIVE CHANEY, LET ME ASK YOU
11 THIS, DID YOU HAVE ANY CONTACT AFTER THIS
12 INCIDENT WITH DETECTIVES FROM SOUTH CAROLINA?

13 A. YES, SIR.

14 Q. DO YOU RECALL WHEN THAT WAS?

15 A. AUGUST SEVENTEENTH, TWO THOUSAND FOUR.

16 Q. AND DO YOU RECALL WHO THE DETECTIVES WERE?

17 A. IT WAS DETECTIVE DIXSON AND LIEUTENANT VAN DORAN.

18 Q. OKAY. AND THEY CAME UP AT THAT TIME INQUIRING
19 ABOUT STEVEN BRISCOE AT THAT TIME?

20 A. THAT'S CORRECT.

21 Q. AND WERE YOU WITH THEM WHEN THEY WERE IN
22 DANVILLE, VIRGINIA?

23 A. THAT'S CORRECT.

24 Q. OKAY. AND I THINK Y'ALL DID GO BACK TO THAT
25 PARTICULAR APARTMENT THAT YOU TOOK THE REPORT AT,

DIRECT - WILLIAM H. CHANEY BY SOL. BELL

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1 IS THAT CORRECT?

2 A. YES, SIR.

3 Q. AND TALKED WITH THE RESIDENT AT THAT APARTMENT?

4 A. WE TALKED TO MS. HENDERSON, YES, SIR.

5 Q. DID YOU RECOVER A BULLET AT THAT TIME?

6 A. NO, SIR.

7 Q. DO YOU KNOW IF THERE WAS ONE TO RECOVER?

8 A. NO, SIR.

9 Q. OKAY. AND I BELIEVE YOU ALSO WENT TO MR.
10 BRISCOE'S APARTMENT, IS THAT CORRECT?

11 A. THAT'S CORRECT.

12 Q. AND, ALONG WITH DETECTIVES VAN DORAN AND DIXSON,
13 IS THAT CORRECT?

14 A. YES, SIR, WELL, ACTUALLY, HE DIDN'T LIVE IN THE
15 SAME LOCATION ON THIS INCIDENT, HE HAD MOVED UP
16 THE STREET.

17 Q. OKAY. BUT YOU WENT TO THAT NEW ADDRESS?

18 A. YES, SIR.

19 Q. OKAY. AND I THINK HE WAS ARRESTED AT THAT TIME?

20 A. THAT'S CORRECT.

21 Q. OKAY. AND DID YOU GO TO A GUN SHOP WITH THEM?

22 A. I SURE DID, CARTER'S GUN SHOP.

23 Q. AND WHERE IS THAT LOCATED?

24 A. IT'S ON FERRY ROAD.

25 Q. IN DANVILLE?

DIRECT - WILLIAM H. CHANEY BY SOL. BELL

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1 A. IT'S ACTUALLY JUST OUTSIDE THE CITY LIMITS, IN
2 THE COUNTY, PENNSYLVANIA COUNTY.

3 Q. OKAY. AND LET ME ASK YOU THIS, WHILE YOU WERE
4 WITH DETECTIVES DIXSON AND VAN DORAN IN DANVILLE,
5 DID Y'ALL EVER RECOVER A TEN MILLIMETER GLOCK?

6 A. NO, SIR.

7 Q. IN CONTACT WITH STEVEN BRISCOE OR ANYTHING, OR
8 ANY OF THE FAMILY?

9 A. NO, SIR.

10 Q. OKAY. NOW, DETECTIVE CHANEY, YOU'RE FROM
11 DANVILLE, VIRGINIA?

12 A. THAT'S CORRECT.

13 Q. ARE YOU FAMILIAR WITH THE AREA?

14 A. VERY.

15 Q. DETECTIVE CHANEY, LET ME SHOW YOU THIS ITEM AND
16 ASK IF YOU CAN IDENTIFY THAT?

17 A. THIS IS A, IT'S A MAP, IT RUNS FROM
18 CHARLOTTESVILLE TO DANVILLE.

19 Q. DOES THAT MAP ACCURATELY REFLECT THE DANVILLE
20 AREA AS WELL AS OTHER AREAS?

21 A. YES, SIR.

22 Q. DOES IT ACCURATELY REFLECT THE COMMUNITIES THAT
23 ARE LOCATED AROUND DANVILLE?

24 A. YES, SIR.

25 Q. DOES IT ACCURATELY REFLECT THE ROADS AND STREETS

DIRECT - WILLIAM H. CHANEY BY SOL. BELL

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1 AND HIGHWAYS THAT ARE AROUND DANVILLE?

2 A. YES, SIR.

3 Q. AND YOU ARE FAMILIAR WITH THE AREAS AROUND
4 DANVILLE?

5 A. THAT'S CORRECT.

6 SOLICITOR BELL: YOUR HONOR, WE'D
7 OFFER THIS AS A STATE'S EXHIBIT.

8 THE COURT: ANY OBJECTION?

9 MR. KEARSE: NONE, YOUR HONOR.

10 THE COURT: MARKED AND ADMITTED
11 WITHOUT OBJECTION.

12 COURT REPORTER: STATE'S TWENTY-
13 FOUR.

14 (State's Exhibit Twenty-four
15 marked and filed.)

16 Q. DETECTIVE CHANEY, LET ME SHOW YOU WHAT'S BEEN
17 MARKED AS STATE'S TWENTY-FOUR, AND ASK YOU IF YOU
18 WOULD LOOK TO THE DANVILLE, AND I HAVE THIS
19 HIGHLIGHTER, IF YOU WOULD JUST, WITH THE
20 HIGHLIGHTER, IF YOU WOULD JUST HIGHLIGHT
21 DANVILLE?

22 A. (Witness marks on State's Exhibit Twenty-four.)

23 Q. IS THERE A TOWN CALLED GREYNA ANYWHERE NEAR
24 DANVILLE?

25 A. YES, SIR, IT'S ABOUT TWENTY-ONE MILES NORTH OF

DIRECT - WILLIAM H. CHANEY BY SOL. BELL

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1 DANVILLE.

2 Q. OKAY, COULD YOU HIGHLIGHT THAT ON THAT MAP,
3 PLEASE?

4 A. (Witness marks on State's Exhibit Twenty-four.)

5 Q. THANK YOU. AND JUST FOR CLARITY SAKE, LET ME ASK
6 YOU THIS, BACK ON JANUARY SEVENTH, TWO THOUSAND
7 THREE, DO YOU SEE THE PERSON THAT YOU SAW WITH
8 THE GLOCK TEN MILLIMETER IN DANVILLE, VIRGINIA,
9 IN THE COURTROOM TODAY?

10 A. YES, THE DEFENDANT, STEVEN BRISCOE.

11 SOLICITOR BELL: THANK YOU,
12 DETECTIVE CHANEY, PLEASE ANSWER ANY QUESTIONS THAT MR.
13 KEARSE HAS FOR YOU.

14 THE COURT: MR. KEARSE, YOU MAY
15 PROCEED.

16 MR. KEARSE: MAY IT PLEASE THE
17 COURT, YOUR HONOR.

18 THE COURT: UH HUH.

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 - WILLIAM H. CHANEY BY MR. KEARSE

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CROSS-EXAMINATION OF WILLIAM H. CHANEY

BY MR. KEARSE:

Q. YOU SAID THIS WAS JANUARY, TWO THOUSAND THREE,
CORRECT?

A. YES, SIR.

Q. YOU RAN A SERIAL NUMBER ON THAT GUN?

A. THAT'S CORRECT.

Q. THE, WHEN YOU RAN THE SERIAL NUMBER IT DIVULGED
THE OWNER OF THE GUN, DID IT NOT?

A. NO, SIR, I RAN IT TO MAKE SURE IT WAS NOT STOLEN,
THEY JUST ADVISED THAT IT WAS NOT STOLEN.

Q. SO, YOU NEVER REALIZED WHO ACTUALLY OWNED THE
GUN?

A. NOT AT THAT TIME, NO, SIR.

Q. ALRIGHT. WHEN YOU CAME OVER TO THE HOUSE MR.
BRISCOE DIDN'T TRY TO HIDE THE GUN FROM YOU OR
ANYTHING OF THAT NATURE?

A. NO, SIR.

Q. ALRIGHT, HE WAS OPEN, SHOWED IT TO YOU, AND
ADMITTED THAT HE HAD IT AND IT HAD ACCIDENTALLY
DISCHARGED, CORRECT?

A. YES, SIR.

Q. DO YOU RECALL HIM TELLING YOU THAT HE WAS
CLEANING THAT GUN FOR HIS MOM WHEN IT WENT OFF?

A. NO, SIR.

CROSS - WILLIAM H. CHANEY BY MR. KEARSE

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1 Q. YOU DON'T RECALL THAT?

2 A. HE SAID HE WAS ASLEEP AND HAD IT UNDER HIS
3 PILLOW.

4 Q. DO YOU RECALL HIM TELLING YOU IT WAS HIS MOTHER'S
5 GUN?

6 A. NO, SIR..

7 Q. AND THIS WAS WITHOUT INCIDENT, I MEAN, THIS
8 WASN'T A PART OF ANY KIND OF VIOLENCE OR NOTHING
9 LIKE THAT, CORRECT?

10 A. YES, JUST AN ACCIDENTAL DISCHARGE.

11 Q. RIGHT. AND HE DIDN'T GET CHARGED WITH ANY KIND
12 OF CRIME, AND YOU DIDN'T SUSPECT THAT ANY KIND OF
13 CRIMINAL ACTIVITY WAS GOING ON, IS THAT CORRECT?

14 A. THAT'S CORRECT.

15 Q. ALRIGHT. AND YOU SAY DANVILLE IS ABOUT TWENTY
16 MILES OR SO, BUT IT'S ACTUALLY ABOUT THIRTY
17 MILES, IS IT NOT, OUTSIDE OF ---

18 A. NO, SIR, IT'S NOT THAT FAR.

19 Q. IT'S A SEPARATE AND DISTINCT TOWN FROM -- I MEAN,
20 GRETNA IS A SEPARATE AND DISTINCT TOWN FROM
21 DANVILLE, IS IT NOT?

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

23 Q. AND THERE ARE ACTUALLY PARTS OF DANVILLE WHICH
24 MAY BE FORTY-FIVE TO FIFTY MINUTES AWAY FROM
25 GRETNA, IS THAT CORRECT?

CROSS - WILLIAM H. CHANEY BY MR. KEARSE

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1 A. I WOULDN'T THINK IT WOULD TAKE THAT LONG, I MEAN,
2 IT'S ABOUT TEN MINUTES FROM CHATTHAM, AND
3 CHATTHAM IS ONLY FIFTEEN MINUTES FROM NELMA.

4 Q. BUT IT, THERE ARE ACTUALLY PARTS, IT'S
5 CONCEIVABLE THERE ARE PARTS OF DANVILLE THAT ARE
6 UP ACTUALLY UP TO FIFTY MINUTES AWAY FROM GRETNÀ,
7 IS THAT CORRECT?

8 A. YES, I BELIEVE THIS IS POSSIBLE, YES, SIR.

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

11 THE COURT: ANY REDIRECT?

12 SOLICITOR BELL: NOTHING FURTHER,
13 YOUR HONOR.

14 THE COURT: ANY OBJECTION TO THE
15 WITNESS BEING EXCUSED?

16 SOLICITOR BELL: YOUR HONOR, I
17 MIGHT LIKE TO KEEP HIM AROUND.

18 THE COURT: OKAY, SIR, YOU'RE
19 EXCUSED SUBJECT TO BEING RECALLED. YOU MAY STEP DOWN.

20 YOU MAY CALL YOUR NEXT WITNESS.

21 SOLICITOR BELL: THE STATE WOULD
22 CALL MARK KELLY.

23 (Whereupon, the witness
24 enters the courtroom.)

25 CLERK: PUT YOUR LEFT HAND ON THE

1 BIBLE AND RAISE YOUR RIGHT HAND AND STATE YOUR FULL
2 NAME FOR THE RECORD.

3 WITNESS: MARK CHARLES KELLY.

4 (Whereupon, the witness,
5 MARK CHARLES KELLY,
6 is duly sworn.)

7 CLERK: HAVE A SEAT.

8 THE COURT: YOU MAY 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.)

DIRECT - MARK C. KELLY BY SOL. BELL

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DIRECT EXAMINATION OF MARK C. KELLY

BY SOLICITOR BELL:

Q. WOULD YOU STATE YOUR NAME AGAIN, PLEASE, FOR THE
RECORD?

A. MARK KELLY.

Q. WHERE ARE YOU EMPLOYED?

A. WITH THE BUREAU OF ALCOHOL, TOBACCO, FIREARMS AND
EXPLOSIVES IN THE CHARLESTON, SOUTH CAROLINA,
FIELD OFFICE.

Q. HOW LONG HAVE YOU BEEN WITH THE BUREAU -- THAT'S
THE BUREAU OF ATF, I MEAN, IT'S COMMONLY KNOWN?

A. YES. I'VE BEEN WITH ATF FOR FIFTEEN YEARS.

Q. OKAY. AND WHAT ARE YOUR DUTIES WITH ATF?

A. AS A SPECIAL AGENT I INVESTIGATE VIOLATIONS OF
THE FEDERAL FIREARMS LAWS, PRIMARILY. WE ALSO
HAVE OTHER DUTIES, BUT I FOCUS MOST OF MY TIME ON
FEDERAL FIREARMS LAWS.

Q. OKAY. AND AS PART OF THE FEDERAL FIREARMS LAWS
ABOUT INTERSTATE TRAFFICKING IN FIREARMS?

A. YES. I ALSO SPECIALIZE AND TESTIFY AS AN EXPERT
WITNESS IN FEDERAL COURT AS TO THE INTERSTATE
COMMERCE ASPECT OF FIREARMS IN THE FIREARMS
INDUSTRY, AND HOW ATF REGULATES THE FIREARMS
INDUSTRY IN THE UNITED STATES.

Q. OKAY. AND YOU SAID YOU'VE BEEN QUALIFIED, WHERE

DIRECT - MARK C. KELLY BY SOL. BELL

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1 HAVE YOU BEEN QUALIFIED TO TESTIFY AS AN EXPERT
2 IN FEDERAL FIREARMS?

3 A. I HAVE TESTIFIED AS AN EXPERT IN FIREARMS AND THE
4 INTERSTATE COMMERCE ELEMENTS OF FIREARMS IN
5 FEDERAL COURT IN THE JUDICIAL DISTRICT OF SOUTH
6 CAROLINA, IN CHARLESTON, FLORENCE, COLUMBIA AND
7 AIKEN, AND GREENVILLE?

8 Q. HOW MANY TIMES, APPROXIMATELY?

9 A. I'VE TESTIFIED AS AN EXPERT WITNESS APPROXIMATELY
10 THIRTY-FIVE TIMES.

11 Q. OKAY.

12 SOLICITOR BELL: AND YOUR HONOR,
13 AT THIS TIME I WOULD OFFER HIM AS AN EXPERT IN THE
14 INTERSTATE COMMERCE OF FIREARMS.

15 THE COURT: ANY QUESTIONS OR
16 EXCEPTIONS?

17 MR. KEARSE: NONE, YOUR HONOR.

18 THE COURT: SO ADMITTED.

19 Q. AGENT KELLY, AS PART OF THAT DOES ATF, THE BUREAU
20 OF ALCOHOL, TOBACCO AND FIREARMS DO SOME TYPE OF
21 TRACING OF FIREARMS?

22 A. ONE OF THE CAPABILITIES OF THE ATF IS TO TRACE A
23 FIREARM TO ITS POINT OF ORIGINAL RETAIL SALE. AND
24 THE WAY ATF DOES THAT IS, THE FEDERAL FIREARMS
25 LAWS REQUIRE THAT FEDERAL FIREARMS LICENSEES,

DIRECT - MARK C. KELLY BY SOL. BELL

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1 THOSE ARE PEOPLE THAT ARE LICENSED BY ATF TO DEAL
2 IN FIREARMS, ARE REQUIRED TO MAINTAIN RECORDS OF
3 THEIR SALES. THE ORIGINAL RETAIL PURCHASE OF A
4 FIREARM IS RECORDED ON AN ATF FORM FORTY-FOUR
5 SEVENTY-THREE, WHICH IS THE NUMBER OF THE FORM
6 THAT THE PURCHASER FILLS OUT. AND THAT IS
7 MAINTAINED BY THE DEALER IN HIS RECORDS UNTIL HE
8 GOES OUT OF BUSINESS, OR UP TO TWENTY YEARS,
9 WHICHEVER COMES FIRST. ATF DOES NOT HAVE A DATA
10 BASE OF EVERYBODY IN THE UNITED STATES THAT OWNS
11 GUNS, WE DO NOT KNOW WHO OWNS FIREARMS, THE ONLY
12 WAY A TRACE CAN BE COMPLETED IS BY THE SUBMISSION
13 OF A REQUEST TO TRACE A FIREARM BY A LAW
14 ENFORCEMENT AGENCY TO THE TRACING CENTER, AND THE
15 TRACING CENTER CONTACTS THE MANUFACTURER, THE
16 WHOLESALE AND THE RETAILER TO FIND OUT WHO THE
17 FIREARM WAS SOLD TO IN ITS FIRST ORIGINAL RETAIL
18 SALE.

19 Q. AND A PART OF ATF'S BUSINESS, I GUESS, EVEN
20 THOUGH IT IS A GOVERNMENT AGENCY, IS TO KEEP UP
21 WITH FIREARM SALES AS BEST THEY CAN IN THE UNITED
22 STATES?

23 A. YES, WE MAINTAIN, WE INSPECT THE LICENSEES TO
24 MAKE SURE THEY'RE COMPLYING WITH THE LAW AND
25 KEEPING THE RECORDS, AND WE LOOK INTO THOSE

DIRECT - MARK C. KELLY BY SOL. BELL

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1 RECORDS, ASK THE DEALERS TO LOOK AT THOSE RECORDS
2 TO COMPLETE THE TRACE OF A RECOVERED CRIME GUN,
3 ANY GUN THAT'S RECOVERED IN A CRIME WE JUST REFER
4 TO AS A CRIME GUN.

5 Q. OKAY. AND THAT'S PART OF THE BUREAU OF ALCOHOL,
6 TOBACCO AND FIREARMS' BUSINESS, IS TO ALSO TRACE
7 THEM IF NECESSARY, IS THAT CORRECT?

8 A. YES, THAT'S THE -- BASICALLY, THE SOLE FUNCTION
9 OF THE NATIONAL TRACING CENTER, WHICH IS LOCATED
10 IN MARTINSBURG, WEST VIRGINIA, IS TO COMPLETE
11 TRACES OF CRIME GUNS FOR STATE, LOCAL AND FEDERAL
12 LAW ENFORCEMENT.

13 Q. LET ME SHOW YOU THIS TWO PAGE DOCUMENT AND ASK IF
14 YOU CAN IDENTIFY IT?

15 A. THIS IS A COPY OF A FIREARMS TRACE SUMMARY, WHICH
16 IS A REPORT, AND IT'S GENERATED BY THE NATIONAL
17 TRACING CENTER IN RESPONSE TO A REQUEST FOR A
18 TRACE FROM LOCAL LAW ENFORCEMENT, AND IT IS A
19 TRACE THAT WAS COMPLETED TO THE POINT OF THE
20 ORIGINAL RETAIL SALE OF THE FIREARM.

21 Q. OKAY. AND IS THAT THE REPORT THAT ATF ROUTINELY
22 PRODUCES?

23 A. YES.

24 Q. OKAY. AND IS IT TO A SPECIFIC SERIAL NUMBER OF A
25 FIREARM?

DIRECT - MARK C. KELLY BY SOL. BELL

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1 A. YES, THE FIREARM THAT WAS REQUESTED TO BE TRACED
2 WAS A GLOCK MODEL TWENTY-NINE TEN MILLIMETER
3 SEMI-AUTOMATIC PISTOL WITH SERIAL C-L-X SEVEN SIX
4 THREE, U.S.

5 Q. OKAY.

6 SOLICITOR BELL: YOUR HONOR, WE'D
7 OFFER THIS INTO EVIDENCE.

8 THE COURT: ANY OBJECTION?

9 MR. KEARSE: NO OBJECTION, YOUR
10 HONOR.

11 THE COURT: MARKED AND ADMITTED
12 WITHOUT OBJECTION.

13 COURT REPORTER: STATE'S TWENTY-
14 FIVE.

15 (State's Exhibit Twenty-five
16 marked and filed.)

17 SOLICITOR BELL: THANK YOU.

18 Q. LET ME HAND YOU WHAT'S BEEN MARKED AS STATE'S
19 TWENTY-FIVE NOW, AND ASK IF YOU CAN REFER TO IT,
20 AND CAN YOU TRACE THE WEAPON FROM ITS
21 MANUFACTURER TO ITS SALE?

22 A. YES, THIS REQUEST FOR A TRACE WAS SUBMITTED, THE
23 REQUEST DATE IS AUGUST TWENTY-THREE, TWO THOUSAND
24 FOUR, BY RAYMOND DIXSON, OF THE DORCHESTER COUNTY
25 SHERIFF'S OFFICE. IT WAS FOR THE -- THE REQUEST

DIRECT - MARK C. KELLY BY SOL. BELL

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1 FOR THE TRACE WAS THE GLOCK THAT I JUST
2 DESCRIBED. THE TRACE ON THE SECOND PAGE SHOWS
3 THE -- WHERE THE FIREARM TRAVELED, FROM THE
4 IMPORTER, GLOCK, INCORPORATED, IN SMYRNA, GEORGE,
5 WHICH IMPORTED IT FROM AUSTRIA, AND THEN SENT IT
6 TO A WHOLESALER CALLED CAMFOUR, INCORPORATED, IN
7 WESTFIELD, MASSACHUSETTS. THEN THE FIREARM WAS
8 SHIPPED TO A RETAIL DEALER CALLED CARTER'S GUNS
9 AND AMMO IN DANVILLE, VIRGINIA. AT THAT POINT
10 THAT RETAIL DEALER SOLD THE FIREARM TO A HELEN
11 COLES, OF DANVILLE, VIRGINIA, ON JANUARY
12 THIRTIETH, TWO THOUSAND ONE.

13 SOLICITOR BELL: THANK YOU, AGENT
14 KELLY, PLEASE ANSWER ANY QUESTIONS MR. KEARSE HAS FOR
15 YOU.

16 THE COURT: YOU MAY PROCEED.

17 MR. KEARSE: THANK YOU, YOUR
18 HONOR.

19 THE COURT: YOU'RE WELCOME.

20 MR. KEARSE: MAY IT PLEASE THE
21 COURT.

22 THE COURT: YES, SIR.

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

CROSS - MARK C. KELLY BY MR. KEARSE

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CROSS-EXAMINATION OF MARK C. KELLY

BY MR. KEARSE:

Q. AGENT, ALL THAT DEMONSTRATES IS THAT THIS GUN, AS
PREVIOUSLY TESTIFIED BY THE PRIOR WITNESS, WAS
OWNED BY HELEN COLES, OR HELEN BRISCOE, IS THAT
CORRECT?

A. IT ONLY SHOWS THAT SHE WAS THE ORIGINAL RETAIL
PURCHASER OF THE FIREARM IN TWO THOUSAND AND ONE.

MR. KEARSE: NOTHING FURTHER, YOUR
HONOR.

THE COURT: ANY REDIRECT?

SOLICITOR BELL: JUST ONE
QUESTION.

(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.)

REDIRECT - MARK C. KELLY BY SOL. BELL

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REDIRECT EXAMINATION OF MARK C. KELLY

BY SOLICITOR BELL:

Q. AND THE TRACE ENDS WITH HER, THERE IS NOTHING
FURTHER AFTER HER?

A. THAT'S CORRECT.

SOLICITOR BELL: THANK YOU, AGENT
KELLY.

THE COURT: ANYTHING FURTHER?

MR. KEARSE: NOTHING FURTHER, YOUR
HONOR.

THE COURT: ANY OBJECTION TO THE
WITNESS BEING EXCUSED?

SOLICITOR BELL: NONE FROM THE
STATE, YOUR HONOR.

THE COURT: MR. KEARSE?

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

THE COURT: SIR, YOU'RE EXCUSED,
THANK YOU.

YOU MAY CALL YOUR NEXT WITNESS.

SOLICITOR BELL: YOUR HONOR, MAY
WE APPROACH?

THE COURT: YOU MAY.

(Whereupon, a bench conference
is held out of the hearing of

1 the jury and the court reporter.)

2 SOLICITOR BELL: YOUR HONOR, WE
3 WOULD MARK THIS MAP OF THE LOWER PART OF SOUTH
4 CAROLINA, I BELIEVE IT'S ENTERED IN AS EVIDENCE, BY
5 STIPULATION.

6 THE COURT: THAT IS CORRECT.
7 MARKED AND ADMITTED WITHOUT OBJECTION. CORRECT, MR.
8 KEARSE?

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

11 COURT REPORTER: STATE'S EXHIBIT
12 TWENTY-SIX.

13 (State's Exhibit Twenty-six
14 marked and filed.)

15 MR. KEARSE: YOUR HONOR, WE WOULD
16 MARK AT THIS TIME THIS MAP QUEST STATEMENT OF THE
17 DISTANCE BETWEEN GRETNA AND DANVILLE.

18 THE COURT: AND THAT'S MARKED AND
19 ADMITTED WITHOUT OBJECTION, IS THAT CORRECT, MR. BELL?
20 MR. BELL?

21 SOLICITOR BELL: EXCUSE ME, I'M
22 SORRY.

23 THE COURT: THAT'S ALRIGHT. PLEASE
24 LOOK AT THE EXHIBIT THAT MR. KEARSE IS SEEKING TO
25 INTRODUCE. IS THAT MARKED AND ADMITTED WITHOUT

1 OBJECTION?

2 SOLICITOR BELL: YES, I'LL

3 STIPULATE TO THAT.

4 THE COURT: OKAY. MARKED AND

5 ADMITTED WITHOUT OBJECTION.

6 SOLICITOR BELL: YOUR HONOR, WE'D

7 LIKE TO ---

8 COURT REPORTER: WAIT A MINUTE.

9 DEFENDANT'S ELEVEN.

10 (Defendant's Exhibit Eleven

11 marked and filed.)

12 COURT REPORTER: OKAY.

13 SOLICITOR BELL: YOUR HONOR, IT'S

14 MY UNDERSTANDING -- I WAS CHECKING WITH THE COURT

15 REPORTER, -- THAT ALL THE EXHIBITS EXCEPT FOR STATE'S

16 TWENTY-THREE FOR IDENTIFICATION, HAVE BEEN ENTERED

17 INTO EVIDENCE. WE WOULD ENTER THOSE OUTSIDE OF

18 STATE'S TWENTY-THREE IF I HAVEN'T ENTERED THEM, BUT

19 I'VE CHECKED AND I BELIEVE EVERYTHING OTHER THAN

20 STATE'S TWENTY-THREE IS ENTERED INTO EVIDENCE AT THIS

21 TIME.

22 COURT REPORTER: THIS IS A STATE'S

23 EXHIBIT?

24 THE COURT: LET'S DEAL WITH THAT

25 OUTSIDE THE JURY'S PRESENCE. I'LL PRESERVE THAT FOR

1 YOU.

2 DO YOU HAVE ANY FURTHER WITNESSES?

3 SOLICITOR BELL: NO, YOUR HONOR,
4 THE STATE WOULD REST AT THAT TIME, PENDING THAT.

5 THE COURT: WE'LL CHECK IT.

6 MR. FOREMAN, AND LADIES AND
7 GENTLEMEN, THE STATE HAS RESTED THEIR CASE. AT THIS
8 TIME THERE ARE SOME MATTERS OF LAW THAT I NEED TO TAKE
9 UP WITH THE ATTORNEYS, IT SHOULD TAKE ABOUT TEN
10 MINUTES. DURING THIS BREAK PLEASE DO NOT DISCUSS THE
11 CASE. IF YOU NEED ANYTHING PLEASE LET THE BAILIFFS
12 KNOW, AND PLEASE LEAVE YOUR NOTE PADS IN YOUR SEATS.
13 THANK YOU.

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

17 THE COURT: ARE THERE ANY MOTIONS
18 -- WELL, ACTUALLY, LET'S DEAL WITH THE EVIDENTIARY
19 ISSUE FIRST. HAVE ALL OF THE -- I NEED Y'ALL TO GO
20 THROUGH THOSE EXHIBITS AND MAKE SURE MR. BELL IS
21 CORRECT.

22 SOLICITOR BELL: YES, THIS IS
23 TWENTY-THREE, IT HAS NOT BEEN PUT IN.

24 THE COURT: WHAT IS TWENTY-THREE?

25 SOLICITOR BELL: IT WAS THE

1 PURCHASE RECORD FROM THE CARTER'S GUN STORE.

2 THE COURT: OKAY, YOU MARKED IT
3 FOR ID ONLY BECAUSE YOU PLANNED TO QUESTION THE
4 PURCHASER ABOUT IT?

5 SOLICITOR BELL: I MAY, THAT'S
6 CORRECT.

7 COURT REPORTER: MR. KEARSE THIS
8 DMV FROM CALIFORNIA, THAT'S IN, RIGHT?

9 MR. KEARSE: YEAH, THAT IS IN.

10 COURT REPORTER: OKAY. I DIDN'T
11 CHECK IT, SO ---

12 SOLICITOR BELL: BUT ALL THE OTHER
13 STATE'S EXHIBITS ARE IN?

14 COURT REPORTER: YES. IF Y'ALL
15 WOULD LIKE TO LOOK AT THIS. AND ALSO, THIS IS THE
16 SECOND PAGE. THIS IS THE ONE THAT'S NOT IN.

17 SOLICITOR BELL: TWENTY-THREE.
18 YOUR HONOR, WE CHECKED WITH THE
19 COURT REPORTER, AND ALL THE STATE'S EXHIBITS EXCEPT
20 FOR STATE'S TWENTY-THREE HAVE BEEN ENTERED INTO
21 EVIDENCE, AND THAT WOULD BE THE STATE'S INTENT, I
22 BELIEVE.

23 THE COURT: MR. KEARSE, IS THAT
24 CORRECT?

25 MR. KEARSE: THAT'S CORRECT, YOUR

1 HONOR.

2 THE COURT: ALRIGHT, NOW, ARE
3 THERE ANY MOTIONS?

4 MR. KEARSE: YOUR HONOR, I WOULD
5 MOVE THE COURT TO DIRECT A VERDICT IN FAVOR OF THE
6 DEFENDANT AT THIS TIME, I DON'T BELIEVE THE STATE HAS
7 MET THE THRESHOLD AS FAR AS A MOTION FOR A DIRECTED
8 VERDICT, THAT THEY HAVE FAILED TO PROVE THEIR CASE IN
9 CHIEF SUCH THAT THE COURT CAN DISMISS THIS CASE AT
10 THIS TIME, YOUR HONOR.

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

13 SOLICITOR BELL: YOUR HONOR, MY
14 RESPONSE IS, IF I REMEMBER THE CASE LAW, IT'S BEEN
15 EXTREMELY NUMEROUS, THE COURT HAS TO CONSIDER THE
16 EXISTENCE OF ANY EVIDENCE TENDING TO PROVE THE GUILT,
17 AND NOT THE WEIGHT. I THINK THE STATE HAS SHOWN BY
18 IDENTIFICATION AND OTHER EVIDENCE THAT -- HAS MADE A
19 CASE OUT THAT THE DEFENDANT IS THE PERSON THAT
20 COMMITTED THE CRIME, AND THAT'S STATED IN THE
21 INDICTMENT, AND THEREFORE, THE DIRECTED VERDICT MOTION
22 SHOULD BE DENIED.

23 THE COURT: ANYTHING FURTHER, MR.
24 KEARSE?

25 MR. KEARSE: THAT'S ALL, YOUR

1 HONOR.

2 THE COURT: IN CONSIDERING A
3 MOTION FOR A DIRECTED VERDICT THE COURT MUST DETERMINE
4 WHETHER THERE IS ANY DIRECT EVIDENCE OR ANY
5 SUBSTANTIAL CIRCUMSTANTIAL EVIDENCE WHICH REASONABLY
6 TENDS TO PROVE THE GUILT OF THE ACCUSED, OR FROM WHICH
7 HIS GUILT MAY BE FAIRLY AND LOGICALLY DEDUCED. THAT
8 IS PURSUANT TO STATE VERSUS HARRY, AND ITS PROGENY, AS
9 WELL AS STATE VERSUS MOUZON.

10 IT IS APPARENT FROM THIS RECORD,
11 AND I'M NOT GOING TO GO THROUGH ALL OF THE EVIDENCE
12 THAT'S BEEN PRESENTED, BUT THERE ARE AT LEAST, AT A
13 MINIMUM, TWO EYE WITNESSES TO THE EVENT WHO HAVE
14 INDICATED THAT THEY SAW THE DEFENDANT DISCHARGE A
15 WEAPON, ALTHOUGH ONE SAYS HE DIDN'T DIRECTLY SEE IT,
16 HE SAW THE GUN AND HE TURNED HIS HEAD AND HE HEARD THE
17 GUN, WHICH, CERTAINLY, THAT'S SUBSTANTIAL
18 CIRCUMSTANTIAL EVIDENCE, AS WELL AS DIRECT EVIDENCE,
19 AND THAT OF THE OTHER WITNESS WHO INDICATES THAT HE
20 WAS AN EYE WITNESS TO THE EVENT, AS WELL AS THE OTHER
21 SUBSTANTIAL CIRCUMSTANTIAL EVIDENCE THAT HAS BEEN
22 PRESENTED.

23 THERE IS CERTAINLY SUFFICIENT
24 DIRECT, AS WELL AS SUBSTANTIAL CIRCUMSTANTIAL EVIDENCE
25 WHICH REASONABLY TENDS TO PROVE THE GUILT OF THE

1 ACCUSED, OR FROM WHICH HIS GUILT MAY BE FAIRLY AND
2 LOGICALLY DEDUCED. THEREFOR, THE MOTION IS DENIED.

3 MR. KEARSE: THANK YOU, YOUR
4 HONOR.

5 THE COURT: YOU'RE WELCOME.

6 IS THERE ANYTHING FURTHER FOR THE
7 RECORD BEFORE WE PROCEED?

8 SOLICITOR BELL: NOTHING FROM THE
9 STATE.

10 MR. KEARSE: YOUR HONOR, IF THE
11 COURT WANTS TO EXAMINE THE DEFENDANT, ---

12 THE COURT: YOU KNOW, THIS WOULD
13 BE A GOOD TIME TO DO THAT, ALTHOUGH -- AND THEN I'LL
14 GIVE HIM TIME TO THINK ABOUT IT, BECAUSE I WOULD
15 IMAGINE YOU DON'T PLAN TO CALL HIM TODAY, DO YOU?

16 MR. KEARSE: I DON'T KNOW HOW LONG
17 WE'RE GOING TODAY.

18 THE COURT: HOW MANY OTHER
19 WITNESSES DO YOU HAVE?

20 MR. KEARSE: AT THIS TIME, YOUR
21 HONOR, I ONLY HAVE TWO OTHER WITNESSES.

22 THE COURT: AND THEY ARE?

23 MR. KEARSE: THAT WOULD BE BILLY
24 GRAVES AND HELEN BRISCOE.

25 THE COURT: DO YOU PLAN TO CALL

1 THE OTHER WITNESSES YOU HAVE LISTED ON YOUR ALIBI
2 LIST?

3 MR. KEARSE: NO, I DON'T, YOUR
4 HONOR.

5 THE COURT: DID YOU SAY HELEN
6 COLES?

7 MR. KEARSE: WELL, IT'S BRISCOE
8 COLES, YOUR HONOR.

9 THE COURT: I JUST WANTED TO MAKE
10 SURE, BECAUSE I HAD A VERNELL COLLINS SELLARS, AND I
11 JUST WANTED TO MAKE SURE I WAS NOT GETTING THEM
12 CONFUSED.

13 MR. BRISCOE, WOULD YOU STAND AND
14 RAISE YOUR HAND TO BE SWORN.

15 (Whereupon, the witness,
16 STEVEN CHRISTOPHER BRISCOE,
17 is duly sworn.)

18 THE COURT: YOU CAN PUT YOUR RIGHT
19 HAND DOWN.

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.)

EXAM, IN CAMERA - STEVEN C. BRISCOE BY THE COURT

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EXAMINATION, IN CAMERA, OF STEVEN C. BRISCOE

BY THE COURT:

Q. SIR, STATE YOUR FULL NAME FOR THE RECORD.

A. STEVEN CHRISTOPHER BRISCOE.

Q. MR. BRISCOE, AT THIS TIME I'M GOING TO TELL YOU, OR I'M GOING TO EXPLAIN TO YOU CERTAIN OF YOUR RIGHTS. IF YOU DO NOT UNDERSTAND ANYTHING THAT I SAY PLEASE LET ME KNOW. IF YOU WANT ME TO EXPLAIN ANYTHING IN MORE DETAIL, PLEASE LET ME KNOW. DO YOU UNDERSTAND?

A. YES, MA'AM, I DO.

Q. WE HAVE NOW REACHED THE STAGE OF THE TRIAL WHERE YOU MAY PRESENT YOUR DEFENSE. YOU HAVE THE RIGHT TO CLAIM THE PROTECTIONS GIVEN TO YOU BY THE FIFTH AMENDMENT TO THE CONSTITUTION OF THE UNITED STATES. THIS AMENDMENT STATES, IN PART, THAT "NO PERSON SHALL BE COMPELLED IN ANY CRIMINAL CASE TO BE A WITNESS AGAINST HIMSELF." THIS MEANS THAT YOU CANNOT BE REQUIRED TO TESTIFY IN THIS CASE. YOU HAVE THE RIGHT TO TESTIFY ON YOUR OWN BEHALF; HOWEVER, NO ONE CAN MAKE YOU TESTIFY. THIS IS A PERSONAL RIGHT AND NO ONE CAN WAIVE THIS RIGHT EXCEPT YOU. IF YOU DECIDE TO TESTIFY YOU WILL BE SUBJECT TO THE SAME RULES THAT GOVERN OTHER WITNESSES, AND YOU MAY BE EXAMINED AND CROSS-

EXAM, IN CAMERA - STEVEN C. BRISCOE BY THE COURT

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1 EXAMINED ON ANY RELEVANT ISSUE IN THIS CASE. IN
2 ADDITION, IF YOU HAVE ANY CONVICTIONS INVOLVING
3 DISHONESTY OR FALSE STATEMENT, OR FOR CRIMES
4 PUNISHABLE BY IMPRISONMENT FOR MORE THAN ONE
5 YEAR, AND THIS COURT DETERMINES THAT THE
6 PROBATIVE VALUE OF ADMITTING THIS EVIDENCE
7 OUTWEIGHS ITS PREJUDICIAL EFFECT TO YOU, THE
8 SOLICITOR WILL BE ABLE TO INTRODUCE YOUR RECORD
9 TO ATTACK YOUR CREDIBILITY. IF YOU DECIDE TO
10 TESTIFY, THIS DECISION ON YOUR PART MUST BE MADE
11 FREELY, VOLUNTARILY, AND INTELLIGENTLY, WITH
12 KNOWLEDGE OF THE PROTECTIONS GIVEN TO YOU BY THE
13 FIFTH AMENDMENT, AND THE CONSEQUENCES OF YOUR
14 DECISION TO TESTIFY. IF YOU DECIDE NOT TO
15 TESTIFY I WILL INSTRUCT THE JURY THAT THEY CANNOT
16 GIVE THE FACT THAT YOU DID NOT TESTIFY ANY
17 CONSIDERATION WHATSOEVER, AND THAT THERE IS TO BE
18 ABSOLUTELY NO PREJUDICE TO YOU BECAUSE YOU DID
19 NOT TESTIFY. IT IS LEFT ENTIRELY UP TO YOU
20 WHETHER OR NOT TO TESTIFY. YOU MAY TALK TO YOUR
21 ATTORNEY, YOUR FAMILY, AND FRIENDS, OR ANYONE
22 ELSE, BUT THE FINAL DECISION IS LEFT ENTIRELY UP
23 TO YOU.

24 THE COURT: WOULD THERE BE ANY
25 RECORD THAT THE STATE WOULD BE SEEKING TO INTRODUCE,

EXAM, IN CAMERA - STEVEN C. BRISCOE BY THE COURT

678

1 REGARDING MR. BRISCOE'S CREDIBILITY?

2 SOLICITOR BELL: YOUR HONOR, I'M
3 NOT AWARE OF ANY.

4 THE COURT: OKAY.

5 Q. DO YOU UNDERSTAND THE RIGHTS THAT I'VE JUST
6 EXPLAINED TO YOU?

7 A. YES, MA'AM, I DO.

8 Q. DO YOU HAVE ANY QUESTIONS ABOUT WHAT I'VE JUST
9 EXPLAINED TO YOU?

10 A. NO, MA'AM, I DO NOT.

11 Q. HAVE YOU DISCUSSED WITH YOUR LAWYER WHETHER YOU
12 SHOULD OR SHOULD NOT TESTIFY?

13 A. YES, MA'AM, I HAVE.

14 Q. DO YOU WISH TO SPEAK WITH HIM ANY FURTHER AT THIS
15 TIME?

16 A. NO, MA'AM, I DO NOT.

17 Q. SIR, DO YOU WISH TO TESTIFY?

18 A. I DO.

19 THE COURT: OKAY. YOU MAY BE
20 SEATED, SIR.

21 MR. KEARSE, ARE YOU READY TO
22 PROCEED?

23 MR. KEARSE: YES, I AM, YOUR
24 HONOR.

25 THE COURT: ALRIGHT. PLEASE BRING

1 IN THE JURY.

2 (Whereupon, the following
3 takes place in the
4 presence of the jury.)

5 THE COURT: MR. FOREMAN, AND
6 LADIES AND GENTLEMEN, WE APPRECIATE YOUR PATIENCE,
7 WE'LL NOW RESUME WITH THE TRIAL OF THE CASE.

8 MR. KEARSE, YOU MAY PROCEED.

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

11 THE COURT: YES, SIR.

12 MR. KEARSE: THE DEFENSE WOULD
13 CALL BILLY GRAVES TO THE STAND.

14 (Whereupon, the witness
15 enters the courtroom.)

16 CLERK: PLEASE COME STAND RIGHT
17 HERE, RAISE YOUR RIGHT HAND AND PLACE YOUR LEFT HAND
18 ON THE BIBLE, AND GIVE US YOUR FULL NAME.

19 WITNESS: BILLY JEAN GRAVES.

20 (Whereupon, the witness,
21 BILLY JEAN GRAVES,
22 is duly sworn.)

23 CLERK: COME AROUND AND HAVE A
24 SEAT RIGHT HERE.

25 THE COURT: YOU MAY PROCEED.

DIRECT - BILLY JEAN GRAVES BY MR. KEARSE

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DIRECT EXAMINATION OF BILLY JEAN GRAVES

BY MR. KEARSE:

Q. MS. GRAVES, COULD YOU STATE YOUR NAME FOR THE COURT AND THE RECORD, PLEASE?

A. BILLY JEAN GRAVES.

Q. OKAY. AND WHERE DO YOU RESIDE?

A. DANVILLE, VIRGINIA.

Q. AND IS THAT WHERE YOU ARE ORIGINALLY FROM?

A. YES.

Q. WERE YOU LIVING IN DANVILLE, VIRGINIA, IN JULY OF TWO THOUSAND THREE?

A. YES.

Q. ALRIGHT. DO YOU KNOW THE ACCUSED, STEVEN BRISCOE?

A. YES.

Q. WHAT'S YOUR RELATIONSHIP TO HIM?

A. MY DAUGHTER'S FATHER.

Q. OKAY. AND HOW LONG HAVE THE TWO YOU KNOWN EACH OTHER?

A. A LITTLE OVER THREE YEARS.

Q. ALRIGHT. WERE YOU INVOLVED IN A RELATIONSHIP WITH HIM IN JULY OF TWO THOUSAND THREE?

A. YES, I WAS.

Q. ALRIGHT. AND WHAT WAS THE NATURE OF THAT RELATIONSHIP?

DIRECT - BILLY JEAN GRAVES BY MR. KEARSE

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1 A. WE LIVED TOGETHER.

2 Q. ALRIGHT. DID THE TWO OF YOU HAVE ANY CHILDREN?

3 A. YES, ONE.

4 Q. ALRIGHT. AND WHAT'S YOUR CHILD'S NAME?

5 A. NYJAH SADE BRISCOE.

6 COURT REPORTER: SPELL THAT,
7 PLEASE.

8 A. N-Y-J-A-H, S-A-D-E, BRISCOE.

9 Q. AND WHEN WAS SHE BORN?

10 A. [REDACTED] [REDACTED]

11 Q. SO, HOW OLD IS NYJAH?

12 A. SHE'LL BE TWO [REDACTED] OF THIS
13 YEAR.

14 Q. OKAY. WERE YOU PREGNANT WITH HER AT THE TIME IN
15 JULY, TWO THOUSAND AND THREE?

16 A. YES, I WAS.

17 Q. AND HOW MANY MONTHS PREGNANT WERE YOU AT THAT
18 TIME?

19 A. I HAD HER IN NOVEMBER, SO I'D SAY ABOUT, MAYBE,
20 WHAT IS IT, FOUR OR FIVE, FIVE MONTHS.

21 Q. NOW, DO YOU HAVE ANY CRIMINAL RECORD?

22 A. NO, I DON'T.

23 Q. ALRIGHT. ARE YOU PRESENTLY EMPLOYED?

24 A. YES, I AM.

25 Q. AND WHERE DO YOU WORK?

DIRECT - BILLY JEAN GRAVES BY MR. KEARSE

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1 A. I'M A NURSING ASSISTANT, I DO HOME HEALTH, WITH
2 COMMONWEALTH HOME HEALTH IN DANVILLE.

3 Q. AND YOU ARE PRESENTLY LIVING IN DANVILLE NOW?

4 A. YES.

5 Q. AND WHAT'S YOUR ADDRESS?

6 A. [REDACTED], DANVILLE,
7 VIRGINIA.

8 Q. OKAY. AND WHERE DID YOU LIVE IN TWO THOUSAND
9 THREE, PRIOR TO JULY OF TWO THOUSAND THREE?

10 A. [REDACTED] AVENUE IN DANVILLE, AS WELL.

11 Q. IS THAT ALSO WHERE YOU LIVED IN JANUARY OF TWO
12 THOUSAND AND THREE?

13 A. YES.

14 Q. DO YOU RECALL AN INCIDENT OCCURRING AT THE HOUSE
15 INVOLVING A HAND GUN?

16 A. YES.

17 Q. ALRIGHT. AND CAN YOU TELL THIS JURY WHAT YOUR
18 RECOLLECTION OF THAT INCIDENT IS?

19 A. I WAS LAYING IN THE LIVING ROOM, AND STEVEN WOKE
20 ME AND TOLD ME THAT THE GUN HAD WENT OFF, AND HE
21 WAS VERY FRANTIC. AND THE POLICE WERE CALLED,
22 AND THEY CAME AND THAT'S ABOUT IT.

23 Q. OKAY. NOW, WHOSE GUN WAS THAT THAT HE WAS
24 CLEANING, ARE YOU ---

25 A. HIS MOTHER'S.

DIRECT - BILLY JEAN GRAVES BY MR. KEARSE

683

1 Q. HIS MOTHER'S?

2 A. YES.

3 Q. DO YOU REMEMBER HOW LONG HE HAD THE GUN, OR WHEN
4 HE GOT IT?

5 A. NO, I DON'T REMEMBER.

6 Q. AND WHAT DID HE DO WITH THE GUN AFTER IT
7 DISCHARGED?

8 A. I TOLD HIM I DIDN'T WANT IT THERE ANYMORE, SO AS
9 FAR AS I KNOW, IT WASN'T THERE ANYMORE.

10 Q. ALRIGHT. DID YOU SEE IT IN HIS POSSESSION AT
11 ANYTIME AFTER THAT?

12 A. NO.

13 Q. ALRIGHT. AND THAT WAS JANUARY OF TWO THOUSAND
14 THREE?

15 A. YES.

16 Q. ALRIGHT. NOW, YOU ARE FAMILIAR WITH A GUY BY THE
17 NAME OF SMOKE, ARE YOU NOT?

18 A. YES.

19 Q. AND THAT'S JASSON TURNER?

20 A. YES.

21 Q. AND HOW MANY TIMES HAVE YOU SEEN HIM BEFORE JULY,
22 TWO THOUSAND THREE?

23 A. ONCE.

24 Q. AND WHEN DID YOU SEE HIM?

25 A. LATE APRIL, EARLY MAY.

DIRECT - BILLY JEAN GRAVES BY MR. KEARSE

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1 Q. OKAY. AND WHEN WAS -- EARLY MAY OF WHAT?

2 A. TWO THOUSAND AND THREE.

3 Q. ALRIGHT. AND WHAT WAS THE NATURE OF HIM -- WHERE
4 DID YOU SEE HIM?

5 A. HE CAME WITH STEVEN TO MY HOUSE, AND THEN HE JUST
6 LEFT, HE JUST ENTERED, STEVEN INTRODUCED ME TO
7 HIM, AND ---

8 Q. ALRIGHT. HOW LONG DID HE STAY AT YOUR HOUSE?

9 A. HE JUST CAME FOR AN HOUR OR SO HE INTRODUCED ME
10 TO HIM AND SAID THAT WAS HIS FRIEND OR SOMETHING,
11 AND THAT'S IT.

12 Q. ALRIGHT. DID HE EVER SPEND THE NIGHT?

13 A. NO.

14 Q. ALRIGHT. DID YOU EVER SEE HIM IN DANVILLE WITH
15 STEVEN SINCE ---

16 A. NO.

17 Q. --- MAY OF TWO THOUSAND AND THREE?

18 A. NO.

19 Q. ALRIGHT.

20 MR. KEARSE: PLEASE MARK THIS FOR
21 IDENTIFICATION.

22 COURT REPORTER: DEFENDANT'S
23 TWELVE, ID.

24 (Defendant's Exhibit Twelve,
25 Statement of Billy Jean Graves,

DIRECT - BILLY JEAN GRAVES BY MR. KEARSE

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1 marked for identification.)

2 MR. KEARSE: THANK YOU.

3 Q. DO YOU RECALL INTERVIEWING WITH THE, SOME
4 DETECTIVES IN AUGUST OF TWO THOUSAND FOUR?

5 A. YES.

6 Q. OKAY. YOU GAVE THEM A WRITTEN STATEMENT DID YOU
7 NOT?

8 A. YES.

9 Q. I'M GOING TO HAND YOU WHAT'S BEEN MARKED AS
10 DEFENDANT'S TWELVE FOR IDENTIFICATION PURPOSES.
11 IS THAT A FAIR AND ACCURATE REFLECTION OF YOUR
12 STATEMENT?

13 A. YES.

14 Q. ALRIGHT. IN THAT STATEMENT YOU TOLD THE DETECTIVE
15 THAT YOU HAD SEEN SMOKE IN DANVILLE, AND HE WAS
16 AT YOUR RESIDENCE THE EARLY PART OF THE SUMMER?

17 A. RIGHT.

18 Q. ALRIGHT. DID HE ASK YOU SPECIFICALLY WHAT DAY YOU
19 SAW HIM IN THE SUMMER?

20 A. NO, HIS FIRST QUESTION WAS, WHEN DID HE COME, AND
21 I TOLD HIM LATE APRIL, EARLY MAY. AND THEN, LATER
22 HE ASKED ME HAD I EVER KNOWN HIM TO COME BACK,
23 AND THAT'S IT.

24 Q. OKAY. NOW, HE ALSO QUESTIONED YOU ABOUT STEVEN
25 HAVING A GUN, IS THAT CORRECT?

DIRECT - BILLY JEAN GRAVES BY MR. KEARSE

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1 A. YES.

2 Q. ALRIGHT. AND YOU TOLD HIM, YES, YOU HAD SEEN HIM
3 WITH A GUN?

4 A. RIGHT.

5 Q. ALRIGHT. THAT GUN YOU'RE TALKING ABOUT, IS THAT
6 HIS MOTHER'S GUN ---

7 A. YES.

8 Q. --- THAT YOU WERE REFERRING TO?

9 A. UH HUH.

10 Q. AND YOU SAY THAT THAT WAS BACK IN JANUARY OF TWO
11 THOUSAND AND THREE?

12 A. RIGHT.

13 Q. ALRIGHT. DID YOU SEE HIM IN POSSESSION OF THAT
14 GUN IN MAY OF TWO THOUSAND THREE, OR JUNE OF TWO
15 THOUSAND THREE?

16 A. NO.

17 Q. ALRIGHT. NOW, HE ALSO ASKED YOU AS TO WHETHER OR
18 NOT STEVE AND SMOKE, ALSO KNOWN AS JASSON TURNER,
19 WENT OUT OF TOWN, IS THAT CORRECT?

20 A. UH HUH.

21 Q. AND YOU TOLD HIM YOU DID NOT KNOW?

22 A. UH HUH.

23 Q. ALRIGHT. DID HE SAY SPECIFICALLY WHAT TIME
24 PERIOD HE WAS TALKING ABOUT?

25 A. NO. HE JUST ---

DIRECT - BILLY JEAN GRAVES BY MR. KEARSE

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1 Q. ALRIGHT.

2 A. --- ASKED ME WHEN HE CAME.

3 Q. ALRIGHT. WHEN YOU SAID, I DON'T KNOW, WHAT DID
4 YOU INTEND?

5 A. I WAS TALKING ABOUT WHAT HE ASKED ME BEFORE, WHEN
6 DID HE COME. I DIDN'T KNOW IF HE HAD WENT OUT OF
7 TOWN WITH HIM WHEN HE CAME IN EARLY MAY.

8 Q. ALRIGHT. NOW, DID HE ASK YOU SPECIFICALLY AS TO
9 WHETHER OR NOT STEVE AND JASSON TURNER WENT OUT
10 OF TOWN IN JULY OF TWO THOUSAND THREE?

11 A. NO.

12 Q. DID THEY, IN FACT, GO OUT OF TOWN TOGETHER IN
13 JULY OF TWO THOUSAND AND THREE?

14 A. NO, NOT THAT I KNOW OF.

15 Q. AND YOU SAY, NOT THAT YOU KNOW OF, ARE YOU
16 CERTAIN OR ARE YOU UNCERTAIN?

17 A. I'M CERTAIN. IF I -- IF STEVEN WOULD HAVE TOOK
18 THAT LONG A TRIP I WOULD HAVE KNOWN.

19 Q. OKAY. BECAUSE THE TWO OF YOU WERE LIVING
20 TOGETHER?

21 A. YES, AND I WAS PREGNANT WITH MY DAUGHTER AT THE
22 TIME.

23 Q. ALRIGHT. AND WHAT DID THAT DO, AS FAR AS HE WAS
24 CONCERNED, YOU SAY YOU WERE PREGNANT, WHAT'S THE
25 SIGNIFICANCE OF THAT?

DIRECT - BILLY JEAN GRAVES BY MR. KEARSE

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1 A. HE DIDN'T LEAVE MY SIDE.

2 Q. ALRIGHT. NOW, DO YOU RECALL WHAT YOU GUYS WERE
3 DOING ON JULY THIRD OF TWO THOUSAND THREE?

4 A. YES. WELL, I REMEMBER, I DEFINITELY REMEMBER THE
5 FOURTH, BECAUSE WE ALWAYS COOKED OUT ON A GRILL,
6 BUT I REMEMBER THAT DAY, AND HE HAD WENT OUT WITH
7 HIS FRIENDS, AND THEN HE WAS BACK HOME, I'D SAY,
8 I KNOW IT WAS BEFORE TWO. SO, AND THEN ON THE
9 FOURTH OF JULY ---

10 Q. NOW, WHEN YOU SAY, TWO, ARE YOU TALKING TWO P.M.
11 OR TWO A.M.?

12 A. TWO A.M.

13 Q. OKAY. AND THAT WOULD BE TWO A.M., OF WHAT, OF
14 JULY ---

15 A. THAT WOULD HAVE BEEN OF FOUR, I MEAN, OF FOUR.

16 Q. JULY FOUR?

17 A. UH HUH.

18 Q. OKAY. ALRIGHT, AND HE CAME HOME AND WHAT
19 HAPPENED?

20 A. HE WENT TO SLEEP, AND HE HAD TO GET UP AT
21 SIX:THIRTY TO GO PICK HIS AUNT UP FROM WORK,
22 BECAUSE SHE GETS OFF AT SEVEN.

23 Q. ALRIGHT. AND WHAT WAS HIS AUNT'S NAME?

24 A. VERNELL.

25 Q. ALRIGHT.

DIRECT - BILLY JEAN GRAVES BY MR. KEARSE

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1 A. I'M NOT SURE OF HER LAST NAME.

2 Q. DO YOU RECALL WHERE SHE LIVED?

3 A. SHE LIVED WITH HIS MOTHER IN DANVILLE.

4 Q. ALRIGHT. AND WHAT IS STEVE'S MOTHER'S NAME?

5 A. HELEN COLES.

6 Q. SO, WHEN YOU SAID, DO YOU KNOW IF STEVEN AND
7 SMOKE LEFT -- WHEN THEY ASKED YOU, DO YOU KNOW IF
8 STEVEN AND SMOKE LEFT TOWN LAST SUMMER, YOU WERE
9 REFERRING TO THE TIME PERIOD WHEN HE WAS ACTUALLY
10 -- WHEN SMOKE WAS ACTUALLY THERE?

11 A. YES.

12 Q. ALRIGHT. NOW, STEVE ALSO OWNED A SHOT GUN, IS
13 THAT RIGHT?

14 A. YES.

15 Q. AND YOU DIVULGED THAT TO THE OFFICER?

16 A. UH HUH.

17 Q. ALRIGHT. MS. GRAVES, ARE YOU FABRICATING THIS
18 STORY IN AN ATTEMPT TO ASSIST ---

19 A. NO.

20 Q. --- STEVE IN ANY WAY?

21 A. NO.

22 Q. IS THIS YOUR WAY OF DOING ANY AND EVERYTHING YOU
23 CAN POSSIBLY DO TO MAKE SURE THAT HE'S NOT
24 CONVICTED?

25 A. NO. I'M JUST TELLING THE TRUTH.

DIRECT - BILLY JEAN GRAVES BY MR. KEARSE

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1 Q. ALRIGHT.

2 MR. KEARSE: YOUR HONOR, I DON'T
3 HAVE ANYTHING FURTHER.

4 THE COURT: ANY QUESTIONS FOR THE
5 WITNESS?

6 SOLICITOR BELL: YES, YOUR HONOR.

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 - BILLY JEAN GRAVES BY SOL. BELL

691

CROSS-EXAMINATION OF BILLY JEAN GRAVES

BY SOLICITOR BELL;

Q. MS. GRAVES, YOU HAD A RELATIONSHIP -- YOU HAVE A
RELATIONSHIP WITH STEVE, IS THAT CORRECT?

A. YES.

Q. YOU LOVE HIM, DON'T YOU?

A. YES, I DO.

Q. AND YOU DON'T WANT TO SEE HIM GO TO JAIL, DO YOU?

A. NO ONE EVER WANTS TO SEE THEIR LOVED ONES GO TO
JAIL.

Q. AND YOU HAVE A CHILD BY HIM, IS THAT CORRECT?

A. YES, I DO.

Q. OKAY. AND DO YOU -- DID YOU BACK THEN, OR AT
ANYTIME KNOW HIS BUSINESS ONE HUNDRED PER CENT?

A. WHAT DO YOU MEAN? I DON'T UNDERSTAND.

Q. DID YOU KNOW WHERE HE WAS EVERY MINUTE OF EVERY
DAY?

A. YEAH, I MEAN, WE WERE IN A RELATIONSHIP, WE LIVED
TOGETHER, SO ---

Q. BACK IN TWO THOUSAND AND THREE YOU KNEW WHERE HE
WAS EVERY MINUTE OF EVERY DAY?

A. I DON'T THINK WE KNOW WHERE EVERYONE IS EVERY
MINUTE OF EVERY DAY, BUT STEVEN KNEW I WAS
PREGNANT AND, I MEAN, WE JUST, WE'VE ALWAYS BEEN
CLOSE, SO, ---

CROSS - BILLY JEAN GRAVES BY SOL. BELL

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1 Q. AND SINCE THEN, I MEAN, UP TO THE TIME WHEN HE
2 WAS ARRESTED IN AUGUST OF TWO THOUSAND AND FOUR,
3 DID YOU KNOW WHERE HE WAS EVERY DAY, EVERY MINUTE
4 OF EVERY DAY?

5 A. NOT EVERY MINUTE.

6 Q. DID YOU KNOW WHO HE ASSOCIATED WITH WHEN HE WAS
7 NOT WITH YOU?

8 A. YEAH, THE MAJORITY.

9 Q. WHO DID HE ASSOCIATE WITH?

10 A. HE DIDN'T HAVE MUCH FRIENDS, BECAUSE HE DOESN'T
11 HAVE A LOT OF FAMILY THERE.

12 Q. OKAY. DO YOU KNOW IF HE SAW OTHER WOMEN?

13 A. I MEAN, I DON'T THINK SO, IT COULD HAVE BEEN
14 POSSIBLE.

15 Q. IT COULD BE POSSIBLE. DO YOU KNOW IF HE HAS ANY
16 OTHER CHILDREN?

17 A. YES, HE HAS TWO OTHER KIDS.

18 Q. AND WHO ARE THEY BY?

19 A. WOMEN THAT HE WAS WITH BEFORE ME.

20 Q. OKAY. WERE THERE ANY CHILDREN THAT YOU KNOW OF
21 THAT HE MAY HAVE HAD SINCE HE WAS WITH YOU?

22 A. NO.

23 Q. ARE YOU SURE ABOUT THAT?

24 A. I BELIEVE I'M SURE.

25 Q. OKAY. AND DO YOU KNOW ALL OF HIS ASSOCIATES, OR

CROSS - BILLY JEAN GRAVES BY SOL. BELL

693

1 WHO HE HANGS OUT WITH UP THERE?

2 A. YEAH.

3 Q. DO YOU KNOW A FELLOW THAT GOES BY JAY, OR JAY
4 BOY?

5 A. I DON'T KNOW HIM, KNOW HIM, I'VE HEARD OF HIM.

6 Q. DO YOU KNOW A FELLOW NAMED AUSTIN?

7 A. YES.

8 Q. THAT'S A GOOD FRIEND OF HIS, ISN'T IT?

9 A. UH HUH.

10 Q. DO YOU KNOW SOMEBODY NAMED LUCKY?

11 A. NO.

12 Q. SOME GIRL NAMED LUCKY?

13 A. NO.

14 Q. OKAY. SO, IF HE KNEW THESE PEOPLE AND YOU DIDN'T
15 KNOW THEM, I MEAN, YOU KNOW, HE MIGHT HAVE
16 INTRODUCED YOU TO JASSON, SMOKE, ONCE OR TWICE,
17 BUT YOU DON'T KNOW HOW MUCH HE ASSOCIATED WITH
18 HIM, IS THAT CORRECT?

19 A. WELL, I WOULD ASSUME HE WOULD TELL ME. I MEAN, I
20 KNOW AUSTIN, AND THAT'S THE ONLY PERSON I'VE EVER
21 KNOWN HIM TO HANG AROUND.

22 Q. OKAY. BUT YOU DON'T KNOW EVERYBODY THAT HE MIGHT
23 HAVE HUNG AROUND WITH?

24 A. I DON'T KNOW EVERYBODY HE KNOWS, BUT THE
25 MAJORITY, THAT WAS IT.

1 Q. I MEAN, WERE YOU WITH HIM WHEREVER HE WENT TO?

2 A. NO, I WASN'T WITH HIM EVERYWHERE HE WENT TO.

3 Q. OKAY. NOW, SINCE HE'S BEEN IN JAIL HAVE YOU
4 TALKED TO HIM A LOT?

5 A. UH HUH.

6 Q. A LOT OF TIMES ON THE PHONE?

7 A. YES.

8 Q. DO YOU RECALL ALL THE TIMES THAT YOU'VE TALKED
9 WITH HIM?

10 A. NOT EVERY TIME.

11 Q. AND I THINK, HAVE YOU CORRESPONDED BY MAIL?

12 A. YES.

13 Q. AND YOU'VE TALKED ABOUT THE CASE AND ALL, IS THAT
14 CORRECT?

15 A. YEAH.

16 Q. OKAY. HAS HE TALKED ABOUT WHAT HE WAS DOING BACK
17 ON JULY THIRD, TWO THOUSAND AND THREE?

18 A. WHAT DO YOU MEAN?

19 Q. YOU KNOW, DID HE SUGGEST WHAT HE MAY HAVE BEEN
20 DOING BACK THEN?

21 A. WHAT DO YOU MEAN, SUGGEST?

22 Q. TALKED TO YOU ABOUT IT?

23 A. I MEAN, OF COURSE, WE TALKED ABOUT IT, WHEN HE
24 WAS ARRESTED, AND HE, YOU KNOW, TOLD ME THAT, I
25 RECALLED THE DAY, AND THE FOURTH ESPECIALLY

CROSS - BILLY JEAN GRAVES BY SOL. BELL

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1 BECAUSE IT WAS A HOLIDAY, SO ---

2 Q. AND YOU SAID SOMETHING ABOUT, HE WENT TO PICK UP
3 HIS AUNT THE NEXT MORNING, ---

4 A. RIGHT.

5 Q. --- IS THAT CORRECT?

6 A. UH HUH.

7 Q. AND DID YOU EVER TALK TO HIM ABOUT HIS AUNT --
8 I'M SURE YOU TALKED TO HIM ABOUT HIS AUNT HAVING
9 LIVED THERE AT THAT TIME, IS THAT CORRECT?

10 A. YES, WITH HIS MOTHER.

11 Q. DID YOU EVER TALK TO HIM ABOUT HER AND HIS MOTHER
12 WALKING A DOG AND SEEING A CAR?

13 A. WHAT DO YOU MEAN, WALKING A DOG AND SEEING A CAR?

14 Q. WALKING A DOG AND SEEING HER CAR STILL PARKED AT
15 HER RESIDENCE?

16 A. WHAT DO YOU MEAN? I'M NOT UNDERSTANDING WHAT
17 YOU'RE SAYING.

18 Q. I'M JUST ASKING YOU, DID YOU EVER TALK TO HIM
19 ABOUT THAT?

20 A. WELL, I'M NOT UNDERSTANDING WHAT YOU'RE SAYING,
21 DID I EVER TALK TO HIM ABOUT WALKING A DOG?

22 Q. NO, ABOUT HIS ---

23 A. HIS MOTHER AND HIS AUNT?

24 Q. --- HIS MOTHER WALKING A DOG WITH HIS AUNT, WHO
25 WOULD HAVE SEEN HER CAR STILL AT THE RESIDENCE ON

CROSS - BILLY JEAN GRAVES BY SOL. BELL

696

1 THE NIGHT OF JULY THIRD?

2 A. NO, I MEAN, ---

3 Q. I MEAN, COULD YOU HAVE HAD THAT CONVERSATION AND
4 FORGOTTEN ABOUT IT?

5 A. I MEAN, HE COULD HAVE TOLD ME THAT THAT'S WHAT
6 HIS AUNT AND HIS MOTHER DID, BUT ---

7 Q. BUT YOU DON'T SPECIFICALLY REMEMBER THAT
8 CONVERSATION?

9 A. NO.

10 Q. OKAY.

11 SOLICITOR BELL: THANK YOU, MS.
12 GRAVES, I DON'T HAVE ANYTHING FURTHER.

13 THE COURT: ANY REDIRECT?

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

16 THE COURT: ANY OBJECTION TO THE
17 WITNESS BEING EXCUSED?

18 SOLICITOR BELL: NONE, YOUR HONOR.

19 MR. KEARSE: NONE, YOUR HONOR.

20 THE COURT: MA'AM, YOU MAY STEP
21 DOWN.

22 WITNESS: THANK YOU.

23 THE COURT: YOU MAY CALL YOUR NEXT
24 WITNESS.

25 MR. KEARSE: MAY IT PLEASE THE

1 COURT, YOUR HONOR, THE DEFENSE WOULD CALL MS. HELEN
2 BRISCOE COLES.

3 (Whereupon, the witness
4 enters the courtroom.)

5 CLERK: COME STAND RIGHT HERE,
6 RAISE YOUR RIGHT, AND PLACE YOUR LEFT HAND ON THE
7 BIBLE, AND GIVE US YOUR FULL NAME.

8 WITNESS: HELEN LAVERNE BRISCOE
9 COLES.

10 (Whereupon, the witness,
11 HELEN LAVERNE BRISCOE COLES,
12 is duly sworn.)

13 CLERK: PLEASE COME AROUND AND
14 HAVE A SEAT.

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 - HELEN L.B.COLES BY MR. KEARSE

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DIRECT EXAMINATION OF HELEN L.B.COLES

BY MS. KEARSE:

Q. MS. COLES, CAN YOU STATE YOUR FULL NAME FOR THE COURT'S RECORD, PLEASE.

A. HELEN LAVERNE BRISCOE COLES.

Q. OKAY. AND WHERE DO YOU PRESENTLY RESIDE?

A. NINE ELEVEN SPRINGFIELD ROAD, DANVILLE, VIRGINIA.

Q. AND HOW LONG HAVE YOU LIVED IN DANVILLE, VIRGINIA?

A. SEVEN, MAYBE EIGHT YEARS.

Q. WERE YOU LIVING IN DANVILLE, VIRGINIA, IN TWO THOUSAND THREE?

A. YES, I WAS.

Q. ALRIGHT. AND WHAT WAS YOUR ADDRESS AT THAT TIME?

A. [REDACTED]
DANVILLE, VIRGINIA.

Q. DO YOU, DID YOU HAVE ANYONE LIVING WITH YOU AT THE TIME?

A. MY SISTER.

Q. AND WHAT'S YOUR SISTER'S NAME?

A. VERNELL SELLARS.

Q. WERE YOU STAYING IN THIS APARTMENT IN JULY OF TWO THOUSAND AND THREE?

A. YES, I WAS.

Q. WAS YOUR SISTER STAYING IN THAT APARTMENT WITH

DIRECT - HELEN L.B.COLES BY MR. KEARSE

699

1 YOU?

2 A. YES, SHE WAS.

3 Q. AND WHERE DID YOUR SON LIVE DURING THAT TIME?

4 A. IN DANVILLE.

5 Q. ARE YOU PRESENTLY EMPLOYED?

6 A. YES, I AM.

7 Q. AND WHERE DO YOU WORK?

8 A. ANNIE PENN HOSPITAL IN REIDSVILLE, NORTH
9 CAROLINA.

10 Q. AND HOW FAR IS THAT FROM DANVILLE?

11 A. EIGHTEEN, NINETEEN MILES.

12 Q. OKAY. AND HOW LONG HAVE YOU BEEN AT THE
13 HOSPITAL?

14 A. THREE YEARS OCTOBER FIFTEENTH, JUST PAST.

15 Q. ALRIGHT. AND WHAT KIND OF WORK DO YOU DO THERE?

16 A. I'M A NURSING SECRETARY.

17 Q. ALRIGHT. DO YOU HAVE A CRIMINAL RECORD?

18 A. NO, I DO NOT.

19 Q. ALRIGHT. NOW, DO YOU RECALL PURCHASING A TEN
20 MILLIMETER GLOCK?

21 A. YES, I DID.

22 Q. ALRIGHT, AND WHEN DID YOU BUY THAT GUN?

23 A. I'M NOT EXACTLY SURE ABOUT THE DATE, BUT I KNOW I
24 DID PURCHASE IT.

25 Q. I'M GOING TO HAND YOU WHAT'S MARKED AS STATE'S

DIRECT - HELEN L.B.COLES BY MR. KEARSE

700

1 EXHIBIT TWENTY-THREE FOR ID, I WANT YOU TO TAKE A
2 LOOK AT THAT FOR ME, PLEASE?

3 A. AND I DON'T HAVE MY GLASSES, SO ---

4 Q. HAVE YOU LEFT YOUR GLASSES IN ---

5 A. I LEFT THEM AT THE HOTEL, BUT I CAN SEE IT,
6 THAT'S MY WRITING.

7 Q. ALRIGHT. IS THAT, AND IT APPEARS TO BE AN
8 APPLICATION FOR A HAND GUN?

9 A. YES.

10 Q. IS THAT YOUR SIGNATURE?

11 A. YES, IT IS.

12 Q. ALRIGHT. AND WHERE DID YOU PURCHASE THAT GUN?

13 A. CARTER'S, CARTER'S GUN STORE, SHOP, STORE, I KNOW
14 IT'S CARTER'S, I'M NOT SURE ABOUT THE END OF IT.

15 Q. AND WHERE IS CARTER'S LOCATED?

16 A. IT'S IN DANVILLE, VIRGINIA.

17 Q. ALRIGHT. AND WHY DID YOU PURCHASE THAT GUN?

18 A. AT THAT PARTICULAR TIME I WAS WORKING THIRD SHIFT
19 AT NIGHT AND GOING BACK AND FORTH. I DID NOT WANT
20 TO BE ON THE HIGHWAY WITH JUST NOTHING TO PROTECT
21 MYSELF.

22 Q. ALRIGHT. DID YOU BUY THAT GUN FOR STEVE?

23 A. ABSOLUTELY NOT.

24 Q. ALRIGHT. AND YOU SAY THAT WAS FOR YOUR OWN
25 PROTECTION?

DIRECT - HELEN L.B.COLES BY MR. KEARSE

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1 A. YES, IT WAS.

2 MR. KEARSE: YOUR HONOR, AT THIS
3 TIME I'D LIKE TO ENTER THIS INTO EVIDENCE AS ---

4 THE COURT: ANY OBJECTION?

5 SOLICITOR BELL: NONE, YOUR HONOR,
6 I MEAN, I WOULD ENTER IT SINCE IT'S MARKED STATE'S, I
7 HAVE NO OBJECTION.

8 THE COURT: MARKED AND ENTERED
9 WITHOUT OBJECTION.

10 COURT REPORTER: SO, IT WOULD
11 STILL BE STATE'S?

12 THE COURT: EITHER WAY, OR YOU CAN
13 GIVE IT A DEFENSE NUMBER, IT'S UP TO YOU, HOWEVER YOU
14 WANT TO HANDLE IT.

15 MR. KEARSE: YOUR HONOR, WE'LL
16 KEEP THAT STATE'S TWENTY-THREE.

17 THE COURT: THAT'S FINE.

18 MR. KEARSE: THAT'S FINE BY ME.

19 THE COURT: MARKED, THEN, AS
20 STATE'S TWENTY-THREE WITHOUT OBJECTION.

21 COURT REPORTER: STATE'S TWENTY-
22 THREE.

23 (State's Exhibit Twenty-three
24 marked and filed.)

25 MR. KEARSE: THANK YOU.

DIRECT - HELEN L.B.COLES BY MR. KEARSE

702

1 Q. NOW, MS. COLES, DID YOU EVER TURN OVER POSSESSION
2 OF THIS GUN TO STEVE?

3 A. AT ONE PARTICULAR TIME, YES, I DID.

4 Q. AND WHEN WAS THAT?

5 A. IN JANUARY, TWO THOUSAND THREE, I ASKED HIM TO
6 CLEAN IT FOR ME.

7 Q. ALRIGHT. DID SOMETHING HAPPEN WHILE HE WAS
8 CLEANING THAT GUN?

9 A. YES, HE DID NOT, HE WASN'T AWARE THAT THERE WAS A
10 BULLET IN THE CHAMBER, AND IT ACCIDENTALLY
11 DISLODGED.

12 Q. ALRIGHT. AND WHAT HAPPENED AFTER THAT INCIDENT -
13 - WAS THAT IN JANUARY, TWO THOUSAND THREE?

14 A. YES.

15 Q. ALRIGHT. AND WHAT HAPPENED AFTER THAT?

16 A. I TOLD HIM TO BRING IT TO ME IMMEDIATELY, AND
17 THEN I CALLED HIM BACK, AND I SAID, NEVER MIND,
18 I'LL COME AND GET IT NOW.

19 Q. OKAY. AND DID YOU GO AND PICK IT UP THEN?

20 A. YES, I DID.

21 Q. ALRIGHT. AND WHAT DID YOU DO WITH THE GUN WHEN
22 YOU GOT IT?

23 A. I GAVE IT TO A FRIEND OF MINE.

24 Q. ALRIGHT.

25 A. DO YOU WANT ME TO TELL YOU WHY?

DIRECT - HELEN L.B.COLES BY MR. KEARSE

703

1 Q. YOU GAVE IT TO A FRIEND OF YOURS?

2 A. YES, I DID.

3 Q. AND WHO WAS YOUR FRIEND AT THE TIME?

4 A. HIS NAME IS JAMES WILSON.

5 Q. ALRIGHT. AND WHY DID YOU GIVE IT TO YOUR FRIEND?

6 A. I HAD BEEN IN A CAR ACCIDENT PREVIOUSLY, MY CAR
7 WAS TOTALED, I GOT BEHIND IN SOME MEDICAL BILLS,
8 OTHER BILLS, AND I GAVE IT TO HIM AS COLLATERAL
9 TO BORROW SOME MONEY FROM HIM.

10 Q. ALRIGHT, NOW, JAMES WILSON WASN'T JUST A FRIEND
11 OF YOURS, IS THAT CORRECT?

12 A. NO, HE WAS A LITTLE MORE THAN A FRIEND.

13 Q. Y'ALL HAD A ROMANTIC RELATIONSHIP?

14 A. YES, YES, WE DID.

15 Q. ALRIGHT. HAVE YOU BEEN ABLE TO GET THE GUN BACK
16 FROM MR. WILSON?

17 A. NO, I HAVE NOT. UNFORTUNATELY, I FOUND OUT HE WAS
18 MARRIED, AND I DON'T KNOW WHERE HE IS.

19 Q. ALRIGHT. HAVE YOU TRIED TO GET IN CONTACT WITH
20 HIM?

21 A. ON NUMEROUS OCCASIONS.

22 Q. AND THOSE, AND THAT HAS FAILED?

23 A. I CANNOT FIND HIM ANYWHERE, I DON'T KNOW WHERE HE
24 IS.

25 Q. ALRIGHT. AND ABOUT WHAT TIME PERIOD WAS THIS WHEN

DIRECT - HELEN L.B.COLES BY MR. KEARSE

704

1 YOU GAVE HIM THE GUN?

2 A. I, I'M THINKING IT WAS, LIKE, THE FIRST OF MARCH,
3 THE FIRST WEEK IN MARCH. I KNOW IT WAS IN MARCH,
4 I'M NOT EXACTLY SURE OF THE DATE.

5 Q. AND WHAT YEAR WOULD THAT BE?

6 A. TWO THOUSAND AND THREE.

7 Q. AND WHEN WAS IT WHEN YOU FOUND OUT THAT MR.
8 WILSON -- I KNOW YOU DON'T LIKE TALKING ABOUT
9 THIS, BUT WHEN WAS IT THAT YOU FOUND OUT MR.
10 WILSON WAS MARRIED?

11 A. AFTER HE HAD HAD IT MAYBE A MONTH, A MONTH AND A
12 HALF.

13 Q. DO YOU KNOW WHETHER OR NOT HE HAS HAD ANY CONTACT
14 WITH STEVE?

15 A. NOT TO MY KNOWLEDGE, AN ABSOLUTE NO.

16 Q. NOW, YOU OWN AN AUTOMOBILE, IS THAT CORRECT?

17 A. YES, I DO.

18 Q. WHAT KIND OF CAR IS IT?

19 A. IT'S A TWO THOUSAND ONE PONTIAC GRAND AM.

20 Q. AND WHAT COLOR IS THAT CAR?

21 A. GOLD -- WELL, SOME PEOPLE SAY TAN, SOME PEOPLE
22 SAY GOLD.

23 Q. DID YOU OWN THAT CAR IN TWO THOUSAND AND THREE?

24 A. YES, I DID.

25 Q. OKAY. NOW, LET ME ASK YOU THIS QUESTION, YOU HAD

DIRECT - HELEN L.B.COLES BY MR. KEARSE

705

1 A PLATE IN THAT CAR, IS THAT CORRECT?

2 A. YES, I DO.

3 Q. I'M GOING TO SHOW YOU WHAT'S MARKED AS STATE'S
4 EXHIBIT TEN. DO YOU RECOGNIZE THAT?

5 A. YES, IT BELONGS TO ME.

6 Q. IS THAT A PICTURE OF THE INTERIOR OF YOUR CAR?

7 A. YES, IT IS.

8 Q. ALRIGHT, AND THERE IS A LITTLE NAME, A SMALL
9 LICENSE PLATE HANGING IN THE ---

10 A. YES.

11 Q. IS THAT, HELEN, IS THAT YOUR NAME, REPRESENTING
12 YOUR NAME?

13 A. YES, IT IS.

14 Q. DID YOU PUT IT THERE?

15 A. YES, I DID.

16 Q. WAS THAT THERE IN JULY OF TWO THOUSAND AND THREE?

17 A. IT HAS BEEN THERE EVER SINCE I'VE OWNED THE CAR,
18 AND I PURCHASED THE CAR IN TWO THOUSAND AND ONE.

19 Q. NOW, JULY THIRD, TWO THOUSAND AND THREE, DID YOU
20 ALLOW STEVE TO BORROW YOUR CAR?

21 A. NO.

22 Q. ALRIGHT. ARE YOU SAYING THIS SIMPLY BECAUSE
23 YOU'RE TRYING TO KEEP HIM FROM BEING CONVICTED
24 TODAY?

25 A. NO. HE, WHEN HE WAS MUCH YOUNGER HE HAD SOME

DIRECT - HELEN L.B.COLES BY MR. KEARSE

706

1 TROUBLE WITH A CAR, AND HE DON'T LIKE TO TAKE
2 CARE OF STUFF, SO NO, HE DON'T DRIVE MY CAR,
3 PERIOD.

4 Q. OKAY. NOW, YOU RECALL WHERE YOU WERE JULY THIRD,
5 TWO THOUSAND THREE, IS THAT CORRECT?

6 A. YES, I DO.

7 Q. AND WHERE WAS THAT?

8 A. FOR THE LAST SEVEN YEARS I'VE ALWAYS GONE TO A
9 STATE FAIR IN ROANOKE, VIRGINIA, THAT'S ABOUT
10 SEVENTY-THREE MILES FROM DANVILLE, AND THAT'S
11 WHERE I WAS IN MY CAR.

12 Q. ALRIGHT, AND WHAT'S THE NAME OF THAT FAIR?

13 A. SALEM STATE FAIR.

14 Q. AND IS IT TRADITIONAL FOR THAT FAIR TO BE AROUND
15 THE FOURTH OF JULY?

16 A. IT ALWAYS COMES TO SALEM, IT'S EITHER THE FIRST
17 OR THE SECOND, AND IT RUNS UNTIL THE TENTH OR THE
18 ELEVENTH OF JULY.

19 Q. ALRIGHT, AND THERE IS SOMETHING SPECIAL ABOUT THE
20 THIRD OF JULY, IS IT NOT?

21 A. ABSOLUTELY.

22 Q. WHAT HAPPENS ON THE THIRD AT THE SALEM FAIR?

23 A. TWELVE:O-FIVE MIDNIGHT THEY HAVE A SPECTACULAR
24 FIREWORK DISPLAY.

25 Q. OKAY. AND THAT'S THE PURPOSE OF YOU -- YOU ENJOY

DIRECT - HELEN L.B.COLES BY MR. KEARSE

707

1 GOING DOWN THERE?

2 A. THAT'S WHY I'VE GONE FOR THE LAST SEVEN YEARS,
3 BECAUSE I REALLY ENJOY THAT.

4 Q. ALRIGHT. AND IS THAT -- YOU SAY THAT'S WHERE YOU
5 WERE JULY THIRD, TWO THOUSAND THREE?

6 A. YES.

7 Q. ALRIGHT. AND YOU DROVE YOUR VEHICLE?

8 A. YES, I DID.

9 Q. ARE YOU CERTAIN ABOUT THAT?

10 A. I AM ABSOLUTELY SURE I DROVE MY OWN CAR.

11 Q. ALRIGHT. AND WHEN DID YOU GET BACK FROM THE STATE
12 FAIR?

13 A. TWO:THIRTY, A QUARTER TO THREE IN THE MORNING.

14 Q. OKAY. THAT WOULD BE THE NEXT DAY?

15 A. YES.

16 Q. SO, THAT WOULD HAVE BEEN THE FOURTH OF JULY?

17 A. YES, IT WOULD HAVE BEEN.

18 Q. ALRIGHT. NOW, YOU SAID, DURING THIS TIME DID YOUR
19 SISTER LIVE WITH YOU?

20 A. YES, SHE DID.

21 Q. ALRIGHT. DID SHE HAVE HER OWN TRANSPORTATION?

22 A. YES, SHE DID.

23 Q. ALRIGHT. WOULD STEVE DRIVE HER CAR?

24 A. FROM TIME TO TIME SHE WOULD LET HIM USE IT, YES.

25 Q. ALRIGHT. DID YOUR SISTER HAVE A JOB?

DIRECT - HELEN L.B.COLES BY MR. KEARSE

708

1 A. YES, SHE DID.

2 Q. WHERE DOES SHE WORK?

3 A. SHE WORKED AT PINEY FORREST HEALTH CARE CENTER,
4 THAT'S ABOUT FOUR MILES FROM WHERE I LIVE.

5 Q. WAS IT A CUSTOMARY PRACTICE FOR STEVE TO DRIVE
6 HER TO WORK?

7 A. YES, IT WAS, SHE WORKED FROM ELEVEN TO SEVEN AT
8 NIGHT, AND IF HE HAD SOMETHING THAT HE WANTED TO
9 DO SHE WOULD ALLOW HIM TO TAKE HER TO WORK AS
10 LONG AS -- SHE WAS ADAMANT ABOUT HIM BEING THERE
11 THE NEXT MORNING AT SEVEN O'CLOCK TO PICK HIM UP
12 -- PICK HER UP.

13 Q. ALRIGHT. ARE YOU FAIRLY CERTAIN THESE WERE HER
14 WORK HOURS ON JULY THIRD?

15 A. SHE, FROM THE TIME SHE LIVED WITH ME, UNTIL THE
16 TIME SHE LEFT, SHE WORKED THE ELEVEN TO SEVEN
17 SHIFT. YES, I AM SURE.

18 Q. ALRIGHT. AND WHEN DID SHE LEAVE YOUR RESIDENCE?

19 A. JANUARY, TWO THOUSAND FOUR, SHE WENT BACK TO
20 WASHINGTON, D.C.

21 Q. ALRIGHT. IS SHE PRESENTLY IN D.C. NOW?

22 A. YES, SHE IS, SHE'S INCAPACITATED, SHE'S IN A
23 HOSPITAL RIGHT NOW, THAT'S WHY SHE'S NOT HERE.

24 Q. WHAT IS HER SITUATION, WHAT'S THE SITUATION WITH
25 YOUR SISTER?

DIRECT - HELEN L.B.COLES BY MR. KEARSE

709

1 A. THE COUNSELLORS ARE SAYING THAT SHE'S ---

2 Q. YOU CAN'T TESTIFY TO WHAT SOMEBODY SAID.

3 A. OKAY. SHE'S ---

4 Q. WHAT DO YOU KNOW ABOUT?

5 A. --- SUFFERING FROM DEPRESSION.

6 Q. WHAT KIND OF CAR -- DID YOUR SISTER OWN A GRAND
7 AM, DID SHE OWN A GRAND AM DURING THAT TIME?

8 A. NO.

9 Q. WHAT KIND OF CAR DID SHE OWN?

10 A. SHE OWNED A FOUR DOOR RED NINETY-SEVEN, NINETY-
11 SIX CAVALIER.

12 Q. AND SHE OWNED THAT IN JULY OF TWO THOUSAND THREE?

13 A. YES, SHE DID.

14 Q. ALRIGHT. DO YOU KNOW AN INDIVIDUAL BY THE NAME
15 OF JASSON TURNER?

16 A. NOT BY THAT NAME, NO.

17 Q. ALRIGHT. WHAT NAME DO YOU KNOW HIM BY?

18 A. I'VE HEARD HIM CALLED SMOKE, FOLK, SOMETHING
19 WEIRD.

20 Q. OKAY. HAVE YOU EVER MET HIM?

21 A. BRIEFLY, YES, I HAVE.

22 Q. OKAY. AND DESCRIBE THAT ENCOUNTER, PLEASE.

23 A. I USED TO LET MY SON CLEAN MY TIRES, BECAUSE I
24 HATE PUTTING ALL MY OIL ON TIRES, THE BLACK STUFF
25 GETS ALL UNDER YOUR FINGERNAILS, AND HE WOULD

DIRECT - HELEN L.B.COLES BY MR. KEARSE

710

1 COME BY AND HOLLER AT STEVE -- STEVE, WHOSE CAR
2 IS THIS? MY MOM'S CAR. HEY, HOW YOU DOING? AS
3 SIMPLE AS THAT.

4 Q. ALRIGHT. OKAY, WAS THIS PRIOR TO JULY OF TWO
5 THOUSAND THREE?

6 A. YES.

7 Q. DID YOU SEE SMOKE IN OR AROUND DANVILLE,
8 VIRGINIA, BEFORE YOU LEFT FOR THE SALEM STATE
9 FAIR?

10 A. NO, I DID NOT.

11 Q. WHEN YOU LEFT FOR THE FAIR DO YOU KNOW WHERE
12 STEVE WAS?

13 A. NO, I DON'T.

14 Q. DID HE TELL YOU AT ANYTIME AROUND THIS TIME THAT
15 HE WAS GOING TO SOUTH CAROLINA?

16 A. NO.

17 Q. ALRIGHT. AND YOU SAY HE DEFINITELY DID NOT DRIVE
18 YOUR CAR?

19 A. NO, HE DID NOT.

20 Q. DID YOU HAVE THAT SMALL IDENTIFICATION TAG IN
21 YOUR CAR THE TIME?

22 A. IT HAS BEEN IN MY CAR SINCE I PURCHASED THE CAR
23 IN TWO THOUSAND AND ONE.

24 Q. ALRIGHT. AND IT WAS THERE HANGING IN THAT MANNER
25 WHENEVER SMOKE CAME BY?

DIRECT - HELEN L.B.COLES BY MR. KEARSE

711

1 A. YES, IT WAS.

2 Q. ALRIGHT. AND DID YOU HAVE VIRGINIA TAGS ON YOUR
3 CAR AT THAT TIME?

4 A. ALWAYS, BECAUSE I LIVE IN THE STATE OF VIRGINIA.

5 Q. ALRIGHT.

6 MR. KEARSE: YOUR HONOR, I DON'T
7 HAVE ANYTHING FURTHER.

8 THE COURT: MR. BELL.

9 SOLICITOR BELL: THANK YOU.

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.)

CROSS - HELEN L.B.COLES BY SOL. BELL

712

CROSS-EXAMINATION OF HELEN L.B.COLES

BY SOLICITOR BELL:

Q. MS. COLES, YOU'RE ADAMANT THAT YOU WERE IN SALEM,
VIRGINIA, ON THE NIGHT OF JULY THIRD, JULY
FOURTH, TWO THOUSAND AND THREE, IS THAT CORRECT?

A. YES, I AM.

Q. AND YOU'RE ADAMANT THAT YOU GAVE THE TEN
MILLIMETER PISTOL TO SOME FELLOW NAMED JAMES
WILLIAMS, IS THAT CORRECT?

A. YES, I AM. WILSON, JAMES WILSON.

Q. I'M SORRY, JAMES WILSON. AND YOU'RE ADAMANT THAT
STEVE NEVER USED YOUR CAR?

A. NO, HE DID NOT.

Q. YOU'RE JUST ADAMANT?

A. YES.

Q. OKAY. DO YOU RECALL WHEN YOUR SON WAS ARRESTED
IN AUGUST OF TWO THOUSAND AND FOUR?

A. YES, I DO.

Q. I BELIEVE THE DATE WAS AUGUST SEVENTEENTH OF TWO
THOUSAND FOUR, OR ABOUT THAT TIME PERIOD?

A. YES.

Q. DO YOU RECALL SOME DETECTIVES COMING FROM SOUTH
CAROLINA AND SPEAKING WITH YOU?

A. YES, I DO.

Q. DO YOU RECALL IN PARTICULAR DETECTIVE VAN DORAN

CROSS - HELEN L.B.COLES BY SOL. BELL

713

1 SPEAKING WITH YOU?

2 A. IF I HAD TO TELL YOU HIS NAME, NO, I COULD NOT DO
3 IT, BUT I DO REMEMBER THEM BEING THERE, BUT I
4 DON'T REMEMBER ANYBODY'S NAME. EXCUSE ME.

5 Q. DO YOU REMEMBER DETECTIVE VAN DORAN ASKING YOU
6 ABOUT A GUN, ABOUT YOUR GUN?

7 A. YES.

8 Q. DO YOU RECALL WHAT YOU TOLD HIM ABOUT YOUR GUN?

9 A. I HAD ONE THAT WAS STOLEN OUT OF A MAZDA THAT WAS
10 WRECKED, YES, I DO.

11 Q. HE WAS ASKING YOU ABOUT A GUN THAT YOU OWNED, IS
12 THAT CORRECT?

13 A. YES, YES.

14 Q. AND YOU SAID IT HAD BEEN STOLEN SOME YEARS
15 BEFORE?

16 A. YES.

17 Q. IS THAT CORRECT?

18 A. YES.

19 Q. IS THAT WHAT YOU TOLD THEM THAT DAY?

20 A. YES.

21 Q. YOU DON'T DENY THAT?

22 A. NO, I DON'T.

23 Q. AND NOW YOU'RE TELLING US YOU GAVE A GUN TO MR.
24 WILSON?

25 A. WE'RE TALKING ABOUT TWO DIFFERENT GUNS HERE.

CROSS - HELEN L.B.COLES BY SOL. BELL

714

1 Q. AND THEY WERE TALKING ABOUT ONE GUN AT THAT
2 POINT, AND HE WAS ASKING YOU ABOUT A GUN THAT YOU
3 OWN?

4 A. THE ONE HE ASKED ME ABOUT I GAVE HIM THE CORRECT
5 ANSWER, YES, I DID.

6 Q. BUT YOU DIDN'T TELL HIM AT THAT TIME THAT YOU
7 GAVE IT TO JAMES WILSON, DID YOU?

8 A. BECAUSE THAT'S NOT WHAT HE ASKED ME, HE ASKED ME
9 DID I OWN ONE, I SAID, YES, THAT WAS STOLEN OUT
10 OF MY CAR.

11 Q. HE ASKED YOU DID YOU OWN A GUN, IS THAT CORRECT?

12 A. YES, HE DID.

13 Q. AND THE GUN THAT YOU TOLD HIM ABOUT, YOU SAID WAS
14 STOLEN OUT OF THE CAR?

15 A. YES.

16 Q. DID YOU TELL HIM YOU OWNED TWO GUNS?

17 A. NO, BECAUSE THAT'S NOT WHAT HE ASKED ME.

18 Q. WELL, WHAT DID HE ASK YOU?

19 A. DID I HAVE A GUN THAT WAS TAKEN, AND I SAID, YES,
20 I DID.

21 Q. HE DIDN'T ASK YOU IF YOU KNEW ABOUT A GUN?

22 A. NO -- YES, HE DID -- YES, HE DID, I'M SORRY,
23 YES, HE DID.

24 Q. AND YOU SAID IT WAS STOLEN?

25 A. ONE WAS STOLEN OUT MY MAZDA.

CROSS - HELEN L.B.COLES BY SOL. BELL

715

1 Q. ONE WAS STOLEN?

2 A. YES, THAT'S EXACTLY WHAT I SAID TO HIM.

3 Q. OKAY. DID YOU ALSO REMEMBER TELLING THAT
4 DETECTIVE THAT STEVE USED YOUR CAR ALL THE TIME?

5 A. NO, I DO NOT REMEMBER TELLING HIM THAT.

6 Q. YOU DON'T REMEMBER THAT?

7 A. NO, I DO NOT.

8 Q. YOU JUST SAID, HE USED IT ALL THE TIME, EXCEPT
9 YOU WOULD KNOW IF HE TOOK IT OUT OF TOWN OR NOT.

10 A. HE ASKED ME HAD HE EVER USED MY CAR, I SAID, YES,
11 IN DANVILLE, TO MAKE ERRANDS.

12 Q. YOU SAID, HE USES IT ALL OF THE TIME, ISN'T THAT
13 WHAT YOU SAID?

14 A. NO, I DID NOT SAY ALL THE TIME.

15 Q. AND YOU WOULD KNOW IF HE TOOK IT OUT OF TOWN, IS
16 WHAT YOU SAID?

17 A. YES, I WOULD DEFINITELY KNOW THAT.

18 Q. NOW, MS. COLES, YOU'VE BEEN DOWN HERE THIS WEEK,
19 IS THAT CORRECT?

20 A. I GOT HERE TUESDAY.

21 Q. TUESDAY. DRIVING THAT CAR?

22 A. YES.

23 Q. OKAY. AND YOU'RE HIS MOTHER?

24 A. YES, I AM.

25 Q. YOU DON'T WANT TO SEE HIM GO TO JAIL?

CROSS - HELEN L.B.COLES BY SOL. BELL

716

1 A. I'M TELLING THE TRUTH.

2 Q. YOU DON'T WANT TO SEE HIM GO TO JAIL?

3 A. I'M TELLING THE TRUTH.

4 Q. THAT'S NOT MY QUESTION.

5 A. I'M TELLING THE TRUTH.

6 Q. YOU DON'T WANT TO SEE HIM GO TO JAIL?

7 THE COURT: MA'AM, ---

8 A. NOT FOR SOMETHING HE DID NOT DO, NO, ABSOLUTELY
9 NOT.

10 Q. YOU'VE GOT HIS BACK, DON'T YOU?

11 A. I'M TELLING YOU THE TRUTH.

12 SOLICITOR BELL: THANK YOU, MA'AM.

13 THE COURT: ANY REDIRECT?

14 MR. KEARSE: YES.

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.)

REDIRECT - HELEN L.B.COLES BY MR. KEARSE

717

REDIRECT EXAMINATION OF HELEN L.B. COLES

BY MR. KEARSE:

Q. MS. COLES, YOU SAID YOU HAD -- WE'RE TALKING TWO
SEPARATE HAND GUNS, IS THAT RIGHT?

A. YES.

Q. AND AT THE TIME IT WAS TWO THOUSAND FOUR WHEN
THESE DETECTIVES CAME AND TALKED TO YOU, CORRECT?

A. YES.

Q. AND THE GUN YOU OWNED AT THAT TIME WAS A SEPARATE
AND DISTINCT HAND GUN WHICH THEY'RE TALKING ABOUT
TODAY, IS THAT RIGHT?

A. YES, YES.

Q. ALRIGHT. AND THE GUN YOU OWN TODAY, THE GUN
THEY'RE TALKING ABOUT TODAY, YOU GAVE TO MR.
WILSON?

A. YES, I DID.

Q. AND YOUR OTHER GUN WAS ALSO A HAND GUN?

A. YES, IT WAS.

Q. AND YOU TOLD THEM THAT'S THE GUN YOU OWNED AT THE
TIME, AND IT WAS STOLEN?

A. OUT OF THE MAZDA, BECAUSE THE CAR WAS HIT IN THE
BACK, IT BROKE THE TRUNK, EVERYTHING IN THE TRUNK
WAS TAKEN, EVERYTHING IN THE FRONT OF THE CAR WAS
TAKEN.

Q. OKAY. SO, WE'RE TALKING ABOUT TWO SEPARATE ---

REDIRECT - HELEN L.B.COLES BY MR. KEARSE

718

1 A. YES, WE ARE, YES, WE ARE.

2 MR. KEARSE: YOUR HONOR, I DON'T
3 HAVE ANYTHING FURTHER.

4 THE COURT: ANYTHING FURTHER?

5 SOLICITOR BELL: NOTHING FROM THE
6 STATE.

7 THE COURT: MA'AM, YOU MAY STEP
8 DOWN.

9 MR. KEARSE, YOU MAY PROCEED.

10 MR. KEARSE: YOUR HONOR, AT THIS
11 TIME I WOULD CALL THE DEFENDANT, STEVEN BRISCOE, TO
12 THE STAND.

13 CLERK: SIR, IF YOU WOULD COME TO
14 THE WITNESS STAND AND BE SWORN. RAISE YOUR RIGHT AND
15 PUT YOUR LEFT HAND ON THE BIBLE AND GIVE US YOUR FULL
16 NAME.

17 WITNESS: STEVEN CHRISTOPHER
18 BRISCOE.

19 (Whereupon, the witness,
20 STEVEN CHRISTOPHER BRISCOE,
21 is duly sworn.)

22 CLERK: OKAY, COME AROUND AND HAVE
23 A SEAT.

24 (See Volume Three for continuation
25 of this 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

STEVEN C. BRISCOE,

DEFENDANT

)
) VOLUME THREE OF THREE
) TRANSCRIPT OF RECORD

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

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 Two of this Transcript)

2 THE COURT: YOU MAY PROCEED WHEN
3 YOU'RE READY, MR. KEARSE.

4 MR. KEARSE: THANK YOU.

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 - STEVEN C. BRISCOE BY MR. KEARSE

722

DIRECT EXAMINATION OF STEVEN C. BRISCOE

BY MR. KEARSE:

Q. STEVE, CAN YOU STATE YOUR FULL NAME FOR THE COURT'S RECORD, PLEASE?

A. STEVEN CHRISTOPHER BRISCOE.

Q. AND YOU ARE THE DEFENDANT IN THIS CASE?

A. I AM, UNFORTUNATELY.

Q. ALRIGHT. NOW, PRIOR TO AUGUST SEVENTEENTH, TWO THOUSAND FOUR, WHERE DID YOU RESIDE?

A. PRIOR TO AUGUST THE FOURTEENTH, TWO THOUSAND FOUR?

Q. TWO THOUSAND FOUR, PRIOR TO YOUR ARREST, WHERE DID YOU LIVE?

A. WELL, MY MOM LIVED ON NINE ONE ONE SPRINGFIELD ROAD, I HAD A ROOM THERE, AND MY GIRL FRIEND, MY DAUGHTER'S MOTHER LIVED AT [REDACTED] AVENUE.

Q. ALRIGHT. WERE YOU -- AND YOU LIVED AT [REDACTED] AVENUE AT THE TIME YOU GOT PICKED UP, IS THAT CORRECT?

A. WELL, I MEAN, YOU KNOW, ---

Q. BACK AND FORTH?

A. --- BACK -- YES, SIR, BACK AND FORTH, YOU KNOW, FOR THE MOST PART.

Q. ALRIGHT.

DIRECT - STEVEN C. BRISCOE BY MR. KEARSE

723

1 A. THE MAJORITY OF THE TIME I WOULD SLEEP AT [REDACTED]
2 AVENUE, THOUGH, BUT YOU KNOW, I WENT TO MY MOM'S
3 OCCASIONALLY, YOU KNOW, ON A REGULAR BASIS,
4 ACTUALLY.

5 Q. AND DID YOU MOM LIVE WITH SOMEBODY?

6 A. NO. AT THE TIME MY AUNT.

7 Q. IN TWO THOUSAND AND FOUR SHE WAS NOT LIVING WITH
8 YOUR AUNT?

9 A. IN TWO -- NO, IN TWO THOUSAND FOUR MY AUNT WAS
10 GONE.

11 Q. ALRIGHT. IN TWO THOUSAND THREE, EXCUSE ME, --
12 YOU'RE NERVOUS, AREN'T YOU?

13 A. I AM.

14 Q. ALRIGHT.

15 A. MY LIFE IS ON THE LINE HERE.

16 Q. JULY, TWO THOUSAND THREE, DID YOUR AUNT LIVE WITH
17 SOMEBODY?

18 A. IN TWO THOUSAND THREE MY AUNT LIVED WITH MY
19 MOTHER.

20 Q. OKAY. AND WHO DID SHE LIVE WITH?

21 A. WHO DID WHO LIVE WITH?

22 Q. I MEAN, I'M SORRY, AND DID YOU EVER TAKE HER TO
23 WORK?

24 A. ABSOLUTELY.

25 Q. ALRIGHT. NOW, ON JULY OF TWO THOUSAND AND THREE,

DIRECT - STEVEN C. BRISCOE BY MR. KEARSE

724

1 DID YOU TAKE YOUR AUNT TO WORK?

2 A. JULY OF TWO THOUSAND THREE, YES, SIR.

3 Q. JULY THIRD, I'M SORRY, TWO THOUSAND THREE?

4 A. YES, SIR.

5 Q. ALRIGHT. AND WHERE DID SHE WORK?

6 A. PINEY FORREST HEALTH CARE CENTER.

7 Q. AND WHERE IS THAT LOCATED?

8 A. ABOUT FIFTEEN MINUTES AWAY FROM -- WELL,
9 ACTUALLY, ABOUT TEN MINUTE AWAY FROM WHERE MY MOM
10 LIVED.

11 Q. ALRIGHT. AND WHOSE CAR DID YOU USE?

12 A. HER CAR. THAT'S THE REASON I TOOK HER TO WORK,
13 SO THAT I COULD USE HER CAR.

14 Q. ALRIGHT. AND WHAT KIND OF CAR DID SHE DRIVE?

15 A. SHE HAS A FOUR DOOR, A RED FOUR DOOR CAVALIER, IF
16 I'M NOT MISTAKEN, DODGE MAKES IT. IT'S MADE BY
17 DODGE.

18 Q. IS THAT THE CAR YOU DROVE ON JULY OF TWO THOUSAND
19 THREE?

20 A. THAT'S CORRECT SIR.

21 Q. AND WHAT TIME DID YOU DROP HER OFF AT WORK?

22 A. WELL, HER SCHEDULE WAS FROM ELEVEN O'CLOCK AT
23 NIGHT UNTIL SEVEN O'CLOCK IN THE MORNING. SO, IT
24 WAS, USUALLY, WHEN I DID HOLD HER CAR AT NIGHT
25 TIME WHILE SHE WAS WORKING, WE WOULD LEAVE ABOUT

DIRECT - STEVEN C. BRISCOE BY MR. KEARSE

725

1 A QUARTER TO ELEVEN, TEN:THIRTY OR A QUARTER TO
2 ELEVEN, EXCUSE ME.

3 Q. ALRIGHT. AND WHAT TIME WOULD YOU HAVE TO PICK HER
4 UP?

5 A. BY SEVEN IN THE MORNING, I WOULD GET THERE ABOUT
6 A QUARTER 'TIL, AND JUST SNOOZE UNTIL SHE CAME
7 OUT. SHE USUALLY WOKE ME UP ---

8 Q. ALRIGHT.

9 A. --- WHILE I WAS WAITING, THE CAR WOULD BE PARKED
10 IN THE PARKING LOT.

11 Q. NOW, JULY THIRD, TWO THOUSAND THREE, WHERE DID
12 YOU SPEND THE NIGHT?

13 A. JULY THE THIRD, TWO THOUSAND THREE, AT BILLY'S
14 HOUSE.

15 Q. ALRIGHT.

16 A. WITH BILLY.

17 COURT REPORTER: WHOSE HOUSE?

18 A. BILLY GRAVES, BILLY JEAN GRAVES, MY DAUGHTER'S
19 MOTHER.

20 Q. AND WHAT TIME WOULD YOU HAVE GOTTEN OVER TO HER
21 HOUSE?

22 A. I CAN SAY EXACTLY SURE, TO BE EXACTLY SURE WHAT
23 TIME I GOT THERE, BUT I KNOW IT WAS BEFORE TWO
24 A.M., FOR THE SIMPLE FACT THAT BILLY AND I OFTEN
25 HAD ARGUMENTS ABOUT ME COMING IN LATE, AND WE

DIRECT - STEVEN C. BRISCOE BY MR. KEARSE

726

1 MADE A DEAL WITH EACH OTHER THAT, I PROMISED, YOU
2 KNOW, TO BE IN THE HOUSE BEFORE TWO. AND THE WAY
3 THAT SHE WOULD MONITOR WHETHER I WAS IN THE HOUSE
4 ACTUALLY BEFORE TWO OR NOT WAS, SHE WOULD SET THE
5 TIMER ON THE TELEVISION FOR TWO O'CLOCK A.M. AND
6 IF I CAME IN THAT THAT T.V. WAS OFF I KNOW I HAD
7 AN ARGUMENT ON MY HANDS.

8 Q. ALRIGHT.

9 A. SO, THAT'S HOW I KNOW IT WAS BEFORE, BECAUSE WE
10 DIDN'T HAVE AN ARGUMENT, WE ACTUALLY HAD A GREAT
11 DAY THE NEXT DAY, WE COOKED OUT, WE GRILLED, WE
12 HAD A GREAT DAY.

13 Q. ALRIGHT, NOW, PRIOR TO GOING TO PICK YOUR AUNT
14 UP, WHAT DID YOU DO?

15 A. PRIOR TO GOING TO PICK MY AUNT UP ON THE NIGHT --

16 -

17 Q. ON JULY THIRD, TWO THOUSAND THREE?

18 A. JUST HUNG OUT AROUND THE NEIGHBORHOOD THAT MY MOM
19 LIVES IN.

20 Q. OKAY. WAS THERE ANYTHING SPECIAL GOING ON THE
21 NEXT DAY ON THE FOURTH OF JULY?

22 A. YES, SIR, SOME FRIENDS OF MINE, JUST SPECIAL,
23 YEAH, SOME FRIENDS OF MINE WERE GETTING TOGETHER
24 AND COOKING OUT, GRILLING, BARBECUING, IT WAS THE
25 FOURTH OF JULY, YOU KNOW.

DIRECT - STEVEN C. BRISCOE BY MR. KEARSE

727

1 Q. AND WHAT DID YOU DO IN PREPARATION FOR, FOR THAT
2 COOKOUT -- DID YOU GO ANYWHERE FOR THAT COOKOUT?

3 A. GO ANYWHERE FOR THE COOKOUT?

4 Q. RIGHT, ON JULY THIRD, TWO THOUSAND THREE?

5 A. WELL, I WENT TO THE MALL THAT, THAT NIGHT, THE
6 NIGHT BEFORE THE COOKOUT, JUST TO GET AN OUTFIT
7 FOR THE COOKOUT.

8 Q. OKAY. AND WHAT DID YOU DO, WHAT TIME DID YOU GET
9 TO THE MALL?

10 A. IT WAS RIGHT BEFORE CLOSING, I MEAN, I WAS, I WAS
11 RUSHING TO GET THERE, AND WHEN I WAS COMING OUT
12 IT WAS, THE MALL WAS CLOSING, THE SECURITY GUARDS
13 WERE USHERING PEOPLE OUT OF THE MALL AT THAT
14 TIME.

15 Q. AND ABOUT WHAT TIME -- I'M SORRY, WHAT'S THE NAME
16 OF THAT MALL?

17 A. PIEDMONT MALL.

18 Q. AND WHERE IS THAT LOCATED?

19 A. IN DANVILLE, VIRGINIA.

20 Q. ALRIGHT. NOW, THERE'S A TOWN AROUND DANVILLE BY
21 THE NAME OF GRETN, IS THAT CORRECT?

22 A. THAT'S CORRECT.

23 Q. AND HOW FAR WOULD YOU SAY THAT GRETN IS FROM
24 DANVILLE?

25 A. ABOUT THIRTY-FIVE, FORTY MINUTES.

1 Q. ALRIGHT. IS IT A -- IT'S A SEPARATE AND DISTINCT
2 TOWN, CORRECT?

3 A. ABSOLUTELY.

4 Q. SO, IT'S NOT LIKE A SUBURB, OR ANYTHING IN THAT
5 NATURE?

6 A. THAT'S CORRECT.

7 Q. ALRIGHT. NOW, YOU KNOW JASSON TURNER, DO YOU
8 NOT?

9 A. I DO.

10 Q. HOW DO YOU KNOW JASSON TURNER?

11 A. WELL, I'VE KNOWN JASSON FOR YEARS, SINCE THE
12 EARLY NINETIES. I'M A MUSICIAN, I COMPOSE MUSIC.
13 I'M NOT A RAPPER, I COMPOSE MUSIC, I DO NOTHING
14 WHATSOEVER VOCALLY WITH MUSIC. I CREATE THE
15 ACTUAL MUSICAL PART OF THE MUSIC. I MET JASSON IN
16 A STUDIO. HE ALSO, HE WAS A RAPPER AND HE, HE
17 TAUGHT ME A LOT ABOUT MUSIC, AS FAR AS BASE
18 LINES, DRUMS, AND SO FORTH. I'VE KNOWN HIM FOR
19 QUITE A WHILE, SINCE THE EARLY NINETIES WHEN I
20 MET HIM.

21 Q. OKAY. NOW, YOU DO YOU RECALL, YOU HAD A
22 PHOTOGRAPH IN BILLY'S APARTMENT OF YOU AND
23 JASSON, IS THAT CORRECT?

24 A. YES, ---

25 Q. ALRIGHT.

DIRECT - STEVEN C. BRISCOE BY MR. KEARSE

729

1 A. --- AN OLD PHOTOGRAPH, A BUNCH OF PHOTOGRAPHS. IT
2 WASN'T JUST ONE, IT WAS, I HAD PHOTOGRAPHS FROM
3 YEARS. I ALSO WORKED AS A PUBLICIST IN NEW YORK
4 FOR ABOUT FOUR YEARS FOR A COMPANY CALLED DOUBLE
5 EXPOSURE AND I HAD HUNDREDS OF PICTURES, HUNDREDS
6 OF PICTURES, LITERALLY, OF DIFFERENT ENTERTAINERS
7 AND PEOPLE THAT I HAVE WORKED WITH OVER THE YEARS
8 AND SO FORTH. AND YES, THAT PICTURE WAS AMONGST
9 THE PHOTOS THAT I HAD.

10 Q. ALRIGHT, NOW, I'M GOING TO HAND YOU WHAT'S MARKED
11 AS EXHIBIT TWELVE.

12 A. ABSOLUTELY.

13 Q. ALRIGHT, YOU RECALL THAT PHOTOGRAPH, RIGHT?

14 A. I DO, I DO. THIS PARTICULAR PICTURE WAS TAKEN AT
15 A SHOW THAT HE WAS DOING AT A PLACE CALLED -- A
16 PLACE IN DOWNTOWN BROOKLYN. I CAN'T EXACTLY
17 REMEMBER THE NAME OF THE PLACE, I THINK IT WAS
18 TICK TACK, OR SOMETHING LIKE THAT, BUT AT THE
19 TIME JASSON AND I -- WE'VE ACTUALLY BEEN IN TWO
20 GROUPS TOGETHER, WE'VE BEEN IN TWO DIFFERENT
21 BANDS TOGETHER. AND AT THE TIME, JASSON AND I
22 AND ANOTHER BAND MEMBER, WE WERE STAYING WITH OUR
23 MANAGER, MICHAEL SHEPHERD, AT [REDACTED]
24 [REDACTED] IN BROOKLYN, NEW YORK, AND THIS
25 WAS -- THIS PICTURE WAS TAKEN AT A, ON A NIGHT

DIRECT - STEVEN C. BRISCOE BY MR. KEARSE

730

1 THAT HE HAD, ACTUALLY HAD A SHOW WITH THIS VENUE,
2 AND I WENT THERE IN SUPPORT OF THE, OF HIS SHOW.

3 Q. AND WHAT YEAR WAS THAT?

4 A. WOW, MAN, THIS WAS MAYBE ABOUT NINETY-FIVE,
5 NINETY-FOUR.

6 Q. OKAY. SO YOU'D KNOWN HIM FOR QUITE SOME TIME?

7 A. YES, ABSOLUTELY.

8 Q. ALRIGHT. HAS HE EVER HELPED YOU, I MEAN, HAS HE
9 EVER ASKED YOU FOR MONEY OR ANYTHING OF THAT
10 NATURE?

11 A. YES, SIR.

12 Q. ALRIGHT. HAVE YOU ---

13 A. QUITE A FEW TIMES.

14 Q. --- HAVE YOU EVER GIVEN HIM MONEY?

15 A. I HAVE, WHEN I COULD, WHEN I HAD IT TO GIVE HIM.
16 I MEAN, I ALWAYS KNEW THAT HE -- HE NEVER PAID
17 BACK, SO IF I DIDN'T HAVE IT TO GIVE HIM AND NOT
18 LOOK FOR IT BACK I TOLD HIM I DIDN'T HAVE IT.

19 Q. ALRIGHT.

20 A. IF I DID, I GAVE IT TO HIM, AT LEAST TRIED TO
21 GIVE HIM SOMETHING, IF I COULD.

22 Q. NOW, IN TWO THOUSAND AND THREE JASSON CAME TO
23 DANVILLE, OR TO VIRGINIA, IS THAT CORRECT?

24 A. IN TWO THOUSAND THREE, YES, I DID SEE HIM IN
25 DANVILLE.

DIRECT - STEVEN C. BRISCOE BY MR. KEARSE

731

1 Q. OKAY. AND WHEN DID HE COME?

2 A. WHEN DID HE COME?

3 Q. CORRECT.

4 A. THE EARLY PART OF THE SUMMER, AROUND MAY,
5 SOMETIME AROUND MAY IN TWO THOUSAND AND THREE.

6 Q. AND HOW LONG DID HE STAY?

7 A. A COUPLE OF, A COUPLE OF HOURS, ---

8 Q. ALRIGHT.

9 A. --- AND WE HUNG OUT, WE HAD SOME BEERS,
10 REMINISCED.

11 Q. WERE YOU LIVING WITH BILLY, OR STAYING BACK AND
12 FORTH WITH BILLY AT THAT TIME?

13 A. I WAS.

14 Q. ALRIGHT. WAS BILLY AROUND WHEN HE SHOWED UP?

15 A. I WENT TO BILLY'S HOUSE TO -- ACTUALLY, I WENT
16 FOR SOMETHING ELSE, I CAN'T REMEMBER EXACTLY WHAT
17 IT WAS I WENT TO THE HOUSE FOR, BUT YES, HE WAS
18 WITH ME AND I DID INTRODUCE HIM TO BILLY AS AN
19 OLD FRIEND, AN OLD ACQUAINTANCE THAT WAS IN TOWN.
20 ACTUALLY, WHAT HAPPENED WAS, HE -- IN FACT, THIS
21 WAS SOMETIME IN EARLY, IN THE EARLY PART OF THE
22 SUMMER, BUT MY BIRTHDAY IS IN FEBRUARY, ON
23 FEBRUARY THE [REDACTED] AND I WENT HOME FOR
24 MY BIRTHDAY THAT YEAR TO SEE MY SON, AND I SAW
25 HIM ON MY OLD BLOCK IN MY OLD NEIGHBORHOOD. AND

DIRECT - STEVEN C. BRISCOE BY MR. KEARSE

732

1 I HADN'T SEEN HIM ACTUALLY, AT THAT POINT IT HAD
2 BEEN YEARS SINCE I HAD SEEN HIM LAST. SO, YOU
3 KNOW, WE SPOKE, AND WE HUNG OUT FOR A LITTLE
4 WHILE. AND HE KNOWS MY SON -- EXCUSE ME, AND HE
5 WAS ACTUALLY AT MY SON'S FIRST BIRTHDAY PARTY, MY
6 SON'S CHRISTENING, THIS WAS ALL IN -- MY SON IS
7 NINE YEARS OLD NOW, BUT THIS ALL WAS ABOUT AT THE
8 SAME TIME THAT WE LIVED TOGETHER AT [REDACTED]
9 [REDACTED] WITH OUR MANAGER, MICHAEL
10 SHEPHERD. SO, THERE WERE A LOT OF TIMES THAT THE
11 FOUR OF US IN THE HOUSE, WE DID CERTAIN DIFFERENT
12 THINGS TOGETHER. ANYWAY, I SAW HIM, AND WE HUNG
13 OUT FOR A WHILE IN BROOKLYN, AND HE LET ME KNOW
14 THAT HE WAS WORKING WITH VARIOUS DIFFERENT GROUPS
15 IN CALIFORNIA AND UP AND DOWN THE VARIOUS STATES
16 OF THE EAST COAST. AND HE SAID THAT HE WAS
17 WORKING WITH A GROUP IN VIRGINIA, AND HE TOLD ME
18 WHERE.

19 COURT REPORTER: WAIT A MINUTE,
20 JUST WAIT UNTIL THE TRAIN GOES BY.

21 A. AND HE TOLD ME WHERE SPECIFICALLY IN VIRGINIA
22 THAT HE WAS WORKING WITH THIS GROUP. AND I TOLD
23 HIM THAT THAT WASN'T TOO FAR AWAY FROM WHERE I
24 WAS LOCATED NOW. AND AT THAT TIME, RATHER. AND,
25 YOU KNOW, HE SAID THAT THE NEXT TIME THAT HE WAS

DIRECT - STEVEN C. BRISCOE BY MR. KEARSE

733

1 IN THE VICINITY THAT HE WOULD LOOK ME UP.

2 Q. ALRIGHT. NOW, YOU SAID HE LEFT -- IN TWO THOUSAND
3 AND THREE, HE LEFT VIRGINIA ABOUT WHEN WAS IT, OR
4 HE LEFT DANVILLE, OR YOU DIDN'T SEE HIM ABOUT
5 WHEN, YOU SAID MAY OF TWO THOUSAND THREE?

6 A. ON THE TIME THAT HE DID LOOK ME UP THAT I DID SEE
7 HIM, IT WAS SOME -- YEAH.

8 Q. ALRIGHT. DID YOU HAVE ANY CONVERSATIONS WITH HIM
9 AFTER THAT?

10 A. NO, ABSOLUTELY NOT.

11 Q. ALRIGHT. DID YOU SEE MR. TURNER IN JULY OF TWO
12 THOUSAND THREE?

13 A. ABSOLUTELY NOT.

14 Q. ALRIGHT. DID HE CALL YOU ABOUT GOING TO SOUTH
15 CAROLINA?

16 A. ABSOLUTELY NOT.

17 Q. ALRIGHT. DID YOU GO TO SOUTH CAROLINA WITH HIM?

18 A. I DON'T KNOW ANYONE IN SOUTH CAROLINA, I WOULDN'T
19 HAVE ANY REASON TO GO TO SOUTH CAROLINA ---

20 Q. ALRIGHT.

21 A. --- WHATSOEVER. I KNOW NO ONE HERE. I KNOW PEOPLE
22 HERE NOW BECAUSE I'VE BEEN HERE FOR THE LAST
23 SIXTEEN MONTHS.

24 Q. ALRIGHT. HAVE YOU EVER MET RYAN NORTH, TRAVIS
25 NORTH, JERMAINE CUSACK, ANTHONY FOLK?

DIRECT - STEVEN C. BRISCOE BY MR. KEARSE

734

1 A. I KNOW NONE OF THOSE PEOPLE, ABSOLUTELY NOT.

2 Q. ALRIGHT. DID YOU DRIVE JASSON DOWN HERE IN YOUR
3 MOM'S CAR TO MEET THESE GUYS?

4 A. ABSOLUTELY NOT.

5 Q. ALRIGHT.

6 A. THAT'S FALSE, TOTALLY FALSE.

7 Q. ALRIGHT. NOW, YOU DON'T DENY THAT IN JANUARY,
8 TWO THOUSAND THREE, YOU WERE IN POSSESSION OF A
9 TEN MILLIMETER HAND GUN?

10 A. THAT IS CORRECT, I WAS.

11 Q. AND CAN YOU DESCRIBE TO THIS JURY WHAT HAPPENED?

12 A. RUSHING, JUST RUSHING, ACCIDENTALLY MISFIRED IT.
13 MY MOM IS REAL PERSISTENT, WHEN SHE ASKS YOU TO
14 DO SOMETHING SHE WANTS IT DONE RIGHT THEN, YOU
15 KNOW, THAT'S JUST THE WAY SHE IS. I LEARNED TO
16 LIVE WITH IT, IT'S MY MOM.

17 Q. AND WHEN DID SHE GIVE YOU THE GUN?

18 A. SHE GAVE ME THE GUN THE SAME NIGHT THAT IT WAS
19 MISFIRED.

20 Q. AND WHAT DID SHE ASK YOU TO DO?

21 A. TO CLEAN IT FOR HER. SHE SAID SOMETHING ABOUT,
22 SHE WAS GOING TO BE USING IT FOR COLLATERAL OF
23 SOME TYPE, OR SOMETHING LIKE THAT.

24 Q. ALRIGHT. DID THE POLICE COME OVER ---

25 A. YES, THEY DID.

DIRECT - STEVEN C. BRISCOE BY MR. KEARSE

735

1 Q. ALRIGHT, WAS IT ---

2 A. --- AFTER THE GUN WAS MISFIRED, ABSOLUTELY.

3 Q. WAS IT AN OFFICER THAT TESTIFIED TODAY?

4 A. YES, ALONG WITH, I THINK, TWO OTHER OFFICERS.

5 Q. ALRIGHT. DID YOU AT ANY TIME TELL HIM THAT YOU
6 WERE SLEEPING WITH THE GUN UNDER THE PILLOW AND
7 IT WENT OFF?

8 A. ABSOLUTELY NOT. AND THAT'S NOWHERE IN HIS NOTES,
9 IN THE INFORMATION THAT WE HAVE.

10 Q. ALRIGHT, JUST, MY QUESTION IS, DID YOU ---

11 A. ABSOLUTELY NOT.

12 Q. --- TELL HIM?

13 A. NO, SIR, ABSOLUTELY NOT. THAT'S THE FIRST TIME
14 I'VE HEARD THAT IS TODAY, WHEN HE TESTIFIED, WHEN
15 HE WAS UP HERE.

16 Q. AFTER THE GUN DISCHARGED, WHAT HAPPENED?

17 A. I MEAN, NATURALLY, I PANICKED, I WANTED TO MAKE
18 SURE THAT THE PEOPLE NEXT DOOR WERE ALRIGHT.

19 Q. ALRIGHT, DID YOU -- WHERE DID YOU -- DID YOU GIVE
20 THE GUN BACK TO YOUR MOM?

21 A. YES.

22 Q. AND WHEN DID YOU GIVE IT BACK TO HER?

23 A. THE SAME NIGHT, SHE CAME AND GOT IT.

24 Q. ALRIGHT. AND YOU JUST HANDED IT OVER TO HER?

25 A. I JUST GAVE IT TO HER.

DIRECT - STEVEN C. BRISCOE BY MR. KEARSE

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1 Q. DO YOU KNOW WHAT HAPPENED WITH THAT GUN AFTER YOU
2 GAVE IT TO HER?

3 A. I HAVE NO IDEA, ABSOLUTELY NOT. I HAD A SHOT GUN,
4 AND I THINK I HAD A THREE EIGHTY AT THE TIME.

5 Q. DID ---

6 A. MY PERSONAL GUNS. I DIDN'T HAVE ANYTHING TO DO
7 WITH MY MOTHER'S.

8 Q. DO YOU KNOW MR. WILSON?

9 A. MR. WILSON?

10 Q. RIGHT.

11 A. I KNOW OF HIM, I DON'T KNOW HIM. I KNOW THAT HE
12 WAS A FRIEND OF MY MOTHER'S, BUT I DON'T KNOW
13 HIM, LIKE, ---

14 A. DID YOU EVER GET THAT HAND GUN BACK FROM HIM?

15 A. ABSOLUTELY NOT. I MEAN, I NEVER HAD ANY CONTACT
16 WITH HIM. AS FAR AS I KNOW HE WAS A TRUCK DRIVER.
17 I WOULD SEE HIM ON SPECIAL OCCASIONS. CHRISTMAS
18 HE WOULD BE OVER AT MY MOM'S, YOU KNOW,
19 THANKSGIVING, STUFF LIKE THAT, AND I WOULD SEE
20 HIM, BUT I MEAN, IT WAS JUST REAL CASUAL, HE WAS
21 A FRIEND OF MY MOM'S, AND YOU KNOW, THAT'S IT.

22 Q. ALRIGHT, NOW, HOW WOULD, OR WHY WOULD JASSON
23 TURNER SAY YOU HAD A TEN MILLIMETER HAND GUN,
24 WHY, OUT OF THE ALL THE GUNS IN THE WORLD, WOULD
25 HE SAY A TEN MILLIMETER HAND GUN?

DIRECT - STEVEN C. BRISCOE BY MR. KEARSE

737

1 SOLICITOR BELL: OBJECTION, YOUR
2 HONOR, HE'S ASKING FOR SPECULATION.

3 MR. KEARSE: I'LL REPHRASE THE
4 QUESTION, YOUR HONOR.

5 Q. DID JASSON EVER SEE YOU WITH A TEN MILLIMETER
6 HAND GUN?

7 A. ABSOLUTELY NOT, NEVER.

8 Q. DID YOU EVER SEE JASSON WITH A TEN MILLIMETER
9 HAND GUN?

10 A. I DID. ACTUALLY, WHEN, WHEN HE VISITED DANVILLE
11 THE TIME THAT I SPOKE ABOUT PREVIOUSLY, I WAS AT
12 MY MOTHER'S HOUSE, AND I WAS PUTTING ALMOND OIL
13 ON HER TIRES, AND HE HAD A GUN ON HIM. AND I SAW
14 THE GUN, HE SHOWED ME THE GUN, YOU KNOW, IT WAS
15 LIKE HE WAS FIXING HIS PANTS, OR WHATEVER, HE HAD
16 IT TUCKED INSIDE HIS PANTS UNDER HIS SHIRT. AND,
17 LIKE, YOU KNOW, YOU'VE GOT A GUN, WHAT ARE YOU
18 DOING WITH A GUN, MAN, YOU KNOW.

19 Q. WHAT DID YOU TELL HIM IN RESPONSE TO SEEING THAT
20 HAND GUN IN HIS HAND?

21 A. NO, HE DIDN'T HAVE IT IN HIS HAND, HE WAS FIXING
22 HIS PANTS, HE HAD IT IN HIS WAIST, AND I ASKED
23 HIM WHAT WAS HE DOING WITH A GUN, BECAUSE I HAD
24 NEVER KNOWN HIM TO CARRY GUNS BEFORE.

25 Q. ALRIGHT. DID HE TELL YOU THE CALIBRE OF THE GUN?

DIRECT - STEVEN C. BRISCOE BY MR. KEARSE

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1 A. HE DID. I SAW THE GUN, I MEAN, ---

2 Q. ALRIGHT.

3 A. --- AFTER HE WAS FIXING HIS PANTS, OR WHATEVER,
4 HE -- YOU KNOW, I TOLD HIM, WHAT ARE YOU DOING
5 WITH THAT, LET ME SEE THAT, YOU KNOW. AND WHEN I
6 LOOKED AT THE GUN, I TOLD HIM, MY MOTHER HAD A
7 GUN EXACTLY LIKE THIS, AND ---

8 Q. OKAY. YOU TOLD HIM THAT?

9 A. I TOLD HIM THAT MY MOTHER HAD A GUN EXACTLY LIKE
10 THAT, BUT HE NEVER SAW THE GUN, HE NEVER SAW MY
11 MOTHER'S GUN.

12 Q. AND WHEN WAS THAT?

13 A. THAT WAS WHEN HE CAME TO VISIT, WHEN HE CAME TO
14 DANVILLE THAT TIME.

15 Q. ALRIGHT. AND YOU SAY YOU DIDN'T SEE HIM ANYMORE
16 AFTER THAT?

17 A. ABSOLUTELY NOT. AFTER HE LEFT HE WAS GOING, AS
18 FAR AS I KNOW, HE TOLD ME THAT HE WAS WORKING
19 WITH SOME GROUP IN GRETN, WORKING ON AN ALBUM
20 WITH THEM. LIKE I SAID, HE'S A MUSICIAN,
21 PRODUCER, COMPOSER, ARRANGER, HE'S MUSICALLY
22 INCLINED, AND HE SAID HE DEALT WITH VARIOUS --
23 WHICH I KNOW IS TRUE, HE DOES, HE DEALS WITH
24 VARIOUS DIFFERENT PEOPLE. I KNOW HE'S WORKED WITH
25 THE WOO TEN CLAN, RAP ARTISTS, METHOD MAN, HE'S

DIRECT - STEVEN C. BRISCOE BY MR. KEARSE

739

1 WORKED WITH SEVERAL DIFFERENT BIG NAMES, YOU
2 KNOW. HE WAS TRYING TO MAKE A NAME FOR HIMSELF,
3 AND HE WAS IN THE AREA, IN GRETNA.

4 Q. DID HE EVER OFFER TO TAKE YOU, OR HELP YOU CHANGE
5 YOUR GAME?

6 A. CHANGE MY GAME?

7 Q. RIGHT.

8 A. I DON'T UNDERSTAND.

9 Q. DID HE EVER SAY, WELL, I NEED TO HELP YOU CHANGE,
10 CHANGE YOUR GAME, OR -- AS HE STATED?

11 A. OH, IN HIS TESTIMONY, ABSOLUTELY NOT. WE NEVER
12 HAD ANY CONVERSATION EVEN REMOTELY CLOSE TO
13 ANYTHING LIKE THAT.

14 Q. AND WHEN I SAY THAT, I'M SAYING, DID HE MAKE THAT
15 OFFER SPECIFICALLY TO YOU IN JULY OF TWO THOUSAND
16 THREE?

17 A. NO. WE NEVER SPOKE OF ANYTHING LIKE THAT
18 WHATSOEVER, NEVER.

19 Q. NOW, I'M GOING TO HAND TO YOU ---

20 MR. KEARSE: I BEG THE COURT'S
21 INDULGENCE.

22 THE COURT: UH HUH.

23 COURT REPORTER: ID OR -- ID?

24 MR. KEARSE: ID.

25 COURT REPORTER: DEFENDANT'S

DIRECT - STEVEN C. BRISCOE BY MR. KEARSE

740

1 THIRTEEN, ID.

2 (Defendant's Exhibit Thirteen,
3 Driver's License of Defendant,
4 marked for identification.)

5 Q. I'M GOING TO HAND YOU WHAT'S BEEN MARKED AS
6 DEFENDANT'S THIRTEEN, DO YOU RECOGNIZE THAT?

7 A. MY DRIVER'S LICENSE, YES, SIR.

8 Q. ALRIGHT, AND THAT'S A PHOTOSTATIC COPY OF WHAT'S
9 UP ON THE BIG SCREEN?

10 A. THAT'S CORRECT, SIR.

11 Q. AND HOW TALL ARE YOU?

12 A. FIVE FEET, NINE. - I'M FIVE FEET NINE INCHES.

13 Q. AND HOW TALL -- YOU KNOW MR. TURNER, HOW TALL IS
14 HE?

15 A. HE'S SHORTER THAN ME, VISIBLY, SIGNIFICANTLY. I
16 MEAN, IF YOU LOOK AT THE PICTURE THAT YOU GAVE ME
17 A FEW MINUTES AGO, YOU CAN SEE WHERE -- THAT
18 WE'RE IN THE PICTURE TOGETHER, YOU CAN SEE WHERE
19 I'M STOOPING DOWN AND MY KNEES ARE BENT, TRYING
20 TO EQUAL OUR HEIGHT FOR THE PICTURE. EVEN IN THE
21 PICTURE I'M VISIBLY TALLER THAN HIM.

22 MR. KEARSE: YOUR HONOR, I'M GOING
23 TO MOVE THIS INTO EVIDENCE AT THIS TIME, IF THERE'S NO
24 OBJECTION.

25 SOLICITOR BELL: NO OBJECTION.

DIRECT - STEVEN C. BRISCOE BY MR. KEARSE

741

1 THE COURT: MARKED AND ADMITTED
2 WITHOUT OBJECTION.

3 COURT REPORTER: DEFENDANT'S
4 THIRTEEN.

5 (Defendant's Exhibit Thirteen
6 marked and filed.)

7 Q. NOW, HAVE YOU EVER MET LANESHA GREEN OR ---

8 A. I DON'T KNOW ANY OF THOSE PEOPLE.

9 Q. ALRIGHT.

10 A. HOW WOULD I KNOW THEM? I'VE NEVER BEEN TO SOUTH
11 CAROLINA PREVIOUS TO MY ARREST. I WAS
12 EXTRADITED, I DIDN'T EVEN KNOW THE EXTRADITION
13 PROCEDURE PROPERLY, OR I WOULD HAVE TRIED TO
14 FIGHT IT FROM VIRGINIA.

15 Q. NOW, LET ME ASK YOU THIS QUESTION, DID -- AFTER
16 JULY OF -- JULY THIRD, TWO THOUSAND THREE, DID
17 JASSON COME BACK TO STAY WITH YOU IN DANVILLE?

18 A. HE DIDN'T STAY WITH ME WHEN HE DID COME. HE NEVER
19 STAYED, NO, HE DID NOT. HE NEVER STAYED WITH ME,
20 HE JUST, WE HUNG OUT FOR A COUPLE OF HOURS WHEN
21 HE WAS THERE, THAT'S IT. WHEN WE STAYED TOGETHER
22 WE LIVED IN BROOKLYN AND THAT WAS YEARS, YEARS
23 BEFORE HE EVER KNEW ANYTHING ABOUT VIRGINIA.

24 Q. NOW, MR. BRISCOE, IF YOU KNEW JASSON SINCE
25 NINETEEN NINETY-FOUR, WHY IN THE WORLD WOULD HE

DIRECT - STEVEN C. BRISCOE BY MR. KEARSE

742

1 TRY TO IMPLICATE YOU IN A MURDER CASE?

2 A. WELL, ---

3 SOLICITOR BELL: OBJECTION, YOUR
4 HONOR, HE'S ASKING FOR SPECULATION.

5 THE COURT: I'M GOING TO GIVE HIM
6 SOME LATITUDE.

7 MR. KEARSE: THANK YOU, YOUR
8 HONOR.

9 THE COURT: OVERRULED.

10 A. I CAN'T SAY FOR SURE, OTHER THAN FROM WHAT I'VE
11 LEARNED SINCE I'VE BEEN HERE IN SOUTH CAROLINA,
12 THE LAW IS, HANDS OF ONE IS HANDS OF ALL, SO, I
13 MEAN, FROM WHAT I'VE BEEN TOLD, HE WAS CUT A DEAL
14 TO ESCAPE BEING PROSECUTED FOR THIS CHARGE THAT
15 HE SAID HE ---

16 Q. WELL, I'M ASKING YOU, I MEAN, DID YOU DO ANYTHING
17 TO HIM?

18 A. I MEAN, I DIDN'T DO ANYTHING TO HIM. WHEN WE
19 WERE LIVING TOGETHER AT THE TIME THAT WE WERE
20 LIVING TOGETHER, WHICH I MENTIONED PREVIOUSLY, AT
21 [REDACTED] WITH MIKE
22 SHEPHERD, OUR MANAGE, AND ANOTHER GUY FROM OUT,
23 THAT WAS IN THE BAND WITH US, EVAN CUMMINGS, HE
24 ACCUSED ME OF SLEEPING WITH HIS GIRL FRIEND, YOU
25 KNOW. I NATURALLY DENIED IT AND ASKED THAT WE

DIRECT - STEVEN C. BRISCOE BY MR. KEARSE

743

1 CONFRONT HER TOGETHER. AND WE WENT TO HER, AND
2 WHEN, IN FRONT OF ME SHE SAID THAT SHE NEVER TOLD
3 HIM THAT.

4 Q. OKAY. BUT YOU READILY ADMIT, HE DIDN'T CALL YOU
5 AFTER HE GOT ARRESTED, ADMITTEDLY?

6 A. NO, I HAVEN'T HEARD ANYTHING FROM HIM SINCE THE
7 DAY I SAW HIM IN VIRGINIA.

8 Q. AND HE DIDN'T ASK YOU FOR ANY MONEY AFTER HE GOT
9 ARRESTED?

10 A. ABSOLUTELY NOT. I MEAN, I HAVE A -- HOW COULD HE
11 ASK ME FOR MONEY, FOR WHAT?

12 Q. ALRIGHT. AND YOU HAD NO CONTACT WITH HIM SINCE
13 THE DAY HE LEFT ---

14 A. ABSOLUTELY NOT.

15 Q. --- VIRGINIA IN MAY?

16 A. ABSOLUTELY NOT, WHATSOEVER.

17 Q. OR DANVILLE. SO, WHAT WOULD -- I MEAN, WHAT DID
18 YOU DO TO THIS MAN TO TRY TO IMPLICATE YOU IN A
19 MURDER?

20 A. I CAN'T, I CAN'T TELL YOU WHY, I GUESS HE JUST
21 NEEDED AN ESCAPE GOAT. I DON'T KNOW, HE WAS IN
22 VIRGINIA, ACCORDING TO THE, HIS CELL PHONE
23 RECORDS HE WAS IN GRETN, VIRGINIA, SO I GUESS
24 THEY KNEW THAT HE WAS IN VIRGINIA BEFORE HE WENT
25 TO SOUTH CAROLINA IN THE CASE. SO, I GUESS MAYBE

DIRECT - STEVEN C. BRISCOE BY MR. KEARSE

744

1 -- I KNOW THAT IN THE MUSIC INDUSTRY, THAT A LOT
2 OF TIMES PEOPLE GO BY STAGE NAMES AND PERFORMANCE
3 NAMES. SO, PERHAPS THE PEOPLE THAT HE WAS IN
4 VIRGINIA WITH, MAYBE HE DIDN'T KNOW THEIR
5 GOVERNMENT NAME. BUT HE KNEW MINE, AND HE KNEW I
6 WAS IN VIRGINIA. I REALLY CAN'T TELL YOU THAT,
7 BUT, I MEAN, THERE WAS SOME ANIMOSITY, YOU KNOW,
8 TOWARDS ME IN THE PAST WHEN WE LIVED TOGETHER
9 THAT I THOUGHT HAD BEEN PUT BEHIND US BOTH. AS
10 FAR AS I WAS CONCERNED, IT HAD BEEN ANYWAY. AND
11 ANOTHER INSTANCE, EVENTUALLY HE WAS ASKED TO
12 LEAVE THE PLACE THAT WE LIVED TOGETHER BECAUSE HE
13 DIDN'T WANT TO PARTICIPATE ON THE BILLS, AND EVAN
14 AND MYSELF WERE NOT ASKED TO LEAVE BECAUSE WE
15 ALWAYS PAID OUR SHARE, WE SPLIT EVERYTHING AS FAR
16 AS THE BILLS WERE CONCERNED. I MEAN, HE LIVED
17 THERE FOR ALMOST A YEAR WITHOUT PAYING ANY BILLS.
18 HE WAS HAVING A HARD TIME, HE SAID THAT HIS
19 PARENTS MOVED OUT OF NEW YORK SO HE HAD NOWHERE
20 TO GO. AND ---

21 Q. BUT YOU DO REALIZE THAT THIS MAKES ABSOLUTELY,
22 POSITIVELY NO SENSE, YOU DO REALIZE HIM ACCUSING
23 YOU MAKES NO SENSE?

24 A. NO. IT MAKES NO SENSE TO ME, EITHER, IT MAKES
25 ABSOLUTELY NO SENSE TO ME. IS THAT WHAT YOU'RE

DIRECT - STEVEN C. BRISCOE BY MR. KEARSE

745

1 INSINUATING?

2 Q. AND SO, YOUR ANSWER IS THAT YOU DON'T HAVE ANY
3 REASON WHY HE WOULD BE MOTIVATED TO DO THIS TO
4 YOU?

5 A. A SCAPE GOAT, OLD ANIMOSITY FROM HAVING TO LEAVE
6 THE PLACE. AFTER HE LEFT THE HOUSE ON TWO SIXTY-
7 ONE BAMBRIDGE, THAT'S WHEN HE WENT TO LIVE WITH
8 THE GIRL, BARBARA, AND AFTER HE LEFT THE HOUSE IS
9 WHEN THE INCIDENT HAPPENED AS FAR AS HER -- HIM
10 ACCUSING ME OF MESSING AROUND WITH HER. AND
11 ANOTHER THING THAT HAPPENED, WHEN -- AS HE WAS
12 LEAVING, AS MIKE ASKED HIM TO LEAVE, THEY GOT
13 INTO A PHYSICAL CONFRONTATION, AND I REMEMBER
14 GRABBING JASSON, AND WHEN I GRABBED JASSON, MIKE
15 HIT HIM. BUT I WASN'T GRABBING HIM TO, TO, LIKE,
16 HELP MIKE FIGHT HIM, I GRABBED HIM, LIKE, TO
17 BREAK UP THE FIGHT, TO KEEP THEM FROM FIGHTING,
18 AND MIKE SUCKER PUNCHED HIM, YOU KNOW. AND HE PUT
19 WORD IN THE NEIGHBORHOOD THAT, LIKE, YOU KNOW, I
20 HELPED MIKE HIT HIM, OR I HELD HIM WHEN MIKE HIT
21 HIM, JUST ANIMOSITY, MAN, THAT I THOUGHT WAS ALL
22 BEHIND US, YOU KNOW. AND I DON'T KNOW, I GUESS
23 HE NEEDED A SCAPE GOAT.

24 Q. YOU HAVE NO ANSWER?

25 A. THAT'S MY ANSWER, I MEAN, ME AND THIS GUY, YOU

DIRECT - STEVEN C. BRISCOE BY MR. KEARSE

746

1 KNOW, WE WEREN'T ON THE BEST OF TERMS, I THOUGHT,
2 LIKE I SAID, I THOUGHT WE HAD PUT IT BEHIND US.

3 Q. ALRIGHT. AND IT'S YOUR TESTIMONY THAT YOU NEVER
4 CAME DOWN HERE IN JULY?

5 A. ABSOLUTELY NOT. ABSOLUTELY NOT. THERE'S NO, I
6 HAD NO REASON TO COME HERE, NO REASON TO BE HERE
7 WHATSOEVER, ---

8 Q. ALRIGHT.

9 A. --- NO REASON, I DON'T KNOW ANYONE HERE.

10 Q. WHERE DOES YOUR MOTHER ---

11 COURT REPORTER: WHAT WAS YOUR
12 QUESTION?

13 Q. I'M SORRY. WHERE DOES YOUR MOTHER GO EVERY YEAR
14 AROUND THE HOLIDAY OF THE FOURTH?

15 A. TO THE FIREWORKS DISPLAY, I'M NOT EXACTLY SURE
16 WHERE IT IS. SHE'S ALWAYS TALKING ABOUT IT,
17 THOUGH, SOMEWHERE, I DON'T KNOW, MY MOM, SHE
18 LIKES STUFF LIKE THAT, YOU KNOW.

19 Q. ALRIGHT. DO YOU HAVE ANY CRIMINAL RECORD, MR.
20 BRISCOE?

21 A. ABSOLUTELY NOT.

22 Q. AND HOW OLD ARE YOU?

23 A. I'M THIRTY-THREE YEARS OLD, I SPENT MY THIRTY-
24 THIRD BIRTHDAY HERE, UNFORTUNATELY, BECAUSE OF
25 THIS SITUATION THAT I'M PRESENTLY DEALING WITH.

DIRECT - STEVEN C. BRISCOE BY MR. KEARSE

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1 Q. AND WHEN WAS YOUR CHILD BORN?

2 A. MY DAUGHTER?

3 Q. YES.

4 A. [REDACTED]

5 Q. AND YOU HAVE NOT SEEN HER SINCE?

6 A. I MEAN, WELL, SHE COMES TO VISIT. I HAVEN'T
7 GOTTEN TO TOUCH HER. I CAN SEE HER BUT IT'S, I
8 TALK TO HER THROUGH A PHONE, THROUGH A PLASTIC
9 GLASS IN FRONT OF US, SHE'S ON ONE SIDE, I'M ON
10 THE OTHER. WE TALK ON THE PHONE. SHE'S, I MEAN,
11 I MISS EVERYTHING SIGNIFICANT ABOUT, YOU KNOW,
12 HER EARLY CHILDHOOD, HER FIRST STEPS, HER TEETH,
13 YOU KNOW, JUST -- I GUESS I DO SEE HER, I SEE
14 HER, ---

15 Q. WELL, MY QUESTION IS ---

16 A. --- BUT IT'S RESTRICTED.

17 Q. --- DID YOU FIRE AND KILL MARK COOK?

18 A. ABSOLUTELY NOT. THIS MAN COULD WALK UP TO ME AND
19 SMACK ME IN THE FACE, I WOULD NOT KNOW WHO HE IS.
20 I'VE NEVER SEEN ANY OF THESE PEOPLE DEALING WITH
21 THIS CASE EVER IN MY LIFE EXCEPT FOR JASSON
22 TURNER.

23 Q. ALRIGHT. DID YOU JUMP UP, DID YOU FIRE AT HIM
24 BECAUSE HE WAS RUNNING PAST THE TABLE TRYING TO
25 TAKE SOMETHING FROM YOU?

DIRECT - STEVEN C. BRISCOE BY MR. KEARSE

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1 A. I WAS NEVER THERE TO BE ABLE TO DO THAT, I WAS
2 NEVER THERE, I WAS NEVER THERE.

3 Q. ALRIGHT. SO, YOUR ANSWER IS NO?

4 A. ABSOLUTELY NOT, NO.

5 MR. KEARSE: YOUR HONOR, I DON'T
6 HAVE ANYTHING FURTHER.

7 THE COURT: MR. BELL.

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

CROSS - STEVEN C. BRISCOE BY SOL. BELL

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CROSS-EXAMINATION OF STEVEN C. BRISCOE

BY SOLICITOR BELL:

Q. IT WAS CONVENIENT, MR. BRISCOE, THAT YOU SAW, YOU SAY YOU SAW JASSON TURNER WITH A TEN MILLIMETER GUN, IS THAT CORRECT?

A. IT'S THE TRUTH, THAT'S THE TRUTH, I DID.

Q. YOU'VE GOT TO PUT A TEN MILLIMETER GUN IN HIS HAND, ISN'T THAT THE TRUTH?

A. WELL, I'M JUST TELLING THE TRUTH, I'M SAYING WHAT I SAW.

Q. BUT YOU HAD ACCESS TO A TEN MILLIMETER PISTOL, ISN'T THAT TRUE?

A. ACCESS TO IT?

Q. YES.

A. MY MOTHER OWNED A TEN MILLIMETER, MY MOTHER OWNED A NINE MILLIMETER, A TEN MILLIMETER. I THINK SHE HAS A TWENTY-TWO DERRINGER, OR SOMETHING LIKE THAT, A LITTLE SMALL LITTLE GUN.

Q. AND YOU HAD ACTUAL POSSESSION OF A TEN MILLIMETER, ISN'T THAT TRUE?

A. I NEVER HAD ACTUAL -- I NEVER HAD POSSESSION WHATSOEVER OF A TEN MILLIMETER, EVER.

Q. WHAT ABOUT THE ONE THAT FIRED THROUGH THE APARTMENT, YOU HAD POSSESSION OF A TEN MILLIMETER THEN, ISN'T THAT TRUE?

CROSS - STEVEN C. BRISCOE BY SOL. BELL

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1 A. WELL, I WAS CLEANING IT FOR HER, I MEAN, IT WAS
2 IN MY POSSESSION TEMPORARILY FOR THAT PURPOSE,
3 BUT I ---

4 Q. BUT IT WAS IN YOUR POSSESSION.

5 A. AT THAT TIME FOR THAT PURPOSE, BUT BEFORE THAT OR
6 AFTER THAT, NO.

7 Q. OKAY.

8 A. I HAVE MY OWN, MY OWN FIREARMS, I HAVE NO REASON
9 TO HAVE HERS, TO NEED HERS, I HAVE MY OWN.

10 Q. NOW, DOES BILLY KNOW ALL YOUR BUSINESS, MR.
11 BRISCOE?

12 A. DOES SHE KNOW ALL MY BUSINESS?

13 Q. YEAH.

14 A. AS FAR AS, WHAT DO YOU MEAN?

15 Q. IS SHE WITH YOU TWENTY-FOUR HOURS, SEVEN DAYS A
16 WEEK?

17 A. NO, SHE ISN'T WITH ME TWENTY-FOUR HOURS, SEVEN
18 DAYS A WEEK, NO, SHE'S NOT.

19 Q. DOES SHE KNOW YOUR ASSOCIATES, WHO YOU HANG OUT
20 WITH?

21 A. SHE KNOWS THE MAJORITY OF THE PEOPLE THAT I KNOW
22 IN THE VIRGINIA AREA, SHE'S NEVER BEEN BROOKLYN
23 OR TO WASHINGTON ---

24 Q. NO, I'M TALKING ABOUT ---

25 A. --- WHERE THE MAJORITY OF MY FAMILY ARE.

CROSS - STEVEN C. BRISCOE BY SOL. BELL

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1 Q. I'M TALKING ABOUT DANVILLE, DOES SHE KNOW WHO YOU
2 HANG OUT WITH THERE?

3 A. I DON'T HAVE ANY FAMILY THERE IN DANVILLE, BESIDE
4 OF MY MOTHER, BUT THE MAJORITY OF THE PEOPLE THAT
5 I KNOW IN DANVILLE, YES, SHE KNOWS THEM.

6 Q. OKAY. DO YOU HAVE ANY OTHER GIRL FRIENDS AROUND
7 IN DANVILLE?

8 A. NO, I DON'T HAVE ANY OTHER GIRL FRIENDS IN
9 DANVILLE.

10 Q. DO YOU HAVE ANOTHER BABY IN DANVILLE?

11 A. YES, I DO, YES, I DO.

12 Q. AND THAT'S BEEN SINCE YOU'VE BEEN SEEING BILLY
13 GRAVES, IS THAT CORRECT?

14 A. THAT'S NOT CORRECT, THAT'S INCORRECT. I HAVE
15 DAUGHTER, SHE SHALL BE SEVENTEEN, SHE'LL BE
16 SEVENTEEN ON THE [REDACTED] IN [REDACTED]
17 [REDACTED] MY BIRTHDAY IS ON THE [REDACTED]
18 [REDACTED] HERS IS ON THE [REDACTED]. HER NAME
19 IS SABER WATKINS.

20 Q. WHO IS JENNIFER POLLARD?

21 A. JENNIFER POLLARD?

22 Q. YES, ISN'T THAT AN ACQUAINTANCE OF YOURS?

23 A. NO, NO, SHE IS NOT AN ACQUAINTANCE OF MINE. I
24 KNOW OF HER, BUT SHE'S NOT AN ACQUAINTANCE OF
25 MINE.

1 Q. YOU DIDN'T TALK TO HER MANY TIMES ON THE PHONE
2 WHILE YOU'VE BEEN DOWN HERE IN SOUTH CAROLINA?

3 A. NO, THAT'S NOT TRUE.

4 Q. THAT'S NOT TRUE? SOME GIRL NAME JEN?

5 A. NO, I HAVE NOT TALKED TO JENNIFER POLLARD MANY
6 TIMES SINCE I'VE BEEN HERE IN SOUTH CAROLINA.

7 Q. YOU HAVEN'T TALKED WITH HER BACK IN, SAY,
8 SEPTEMBER OF TWO THOUSAND FOUR, JUST AFTER YOU
9 WERE BROUGHT DOWN HERE?

10 A. NO. THAT'S NOT TRUE.

11 Q. SHE WASN'T CARRYING YOUR CHILD?

12 A. NO, THAT'S ABSOLUTELY NOT TRUE. THAT'S A RUMOR
13 THAT WAS STARTED IN DANVILLE BY SOME PEOPLE THAT
14 I KNEW TO GET AT BILLY, TO GET UNDER BILLY'S
15 SKIN, THAT'S NOT TRUE. AND THERE IS NO PROOF OF
16 THAT WHATSOEVER. AND WHEN SHE WAS CONFRONTED
17 ABOUT IT SHE DENIED IT.

18 Q. OKAY.

19 A. I KNOW OF HER, BUT WE WERE NOT, WE WERE NEVER ON
20 THAT LEVEL, INTIMATELY, EVER, AT ALL.

21 Q. OKAY. YOU NEVER TALKED TO HER ABOUT FINDING FIVE
22 CREDIBLE WITNESSES FOR YOUR ALIBI ON VARIOUS
23 OCCASIONS?

24 A. ABSOLUTELY NOT. THAT'S NOT TRUE, ABSOLUTELY NOT.

25 Q. OKAY. WHILE YOU'VE BEEN DOWN HERE IN THE

CROSS - STEVEN C. BRISCOE BY SOL. BELL

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1 DORCHESTER COUNTY JAIL?

2 A. NO, ABSOLUTELY NOT. I'VE NEVER SPOKEN TO HER
3 ABOUT ANYTHING LIKE THAT.

4 Q. OKAY. AND YOU DON'T KNOW RYAN NORTH, CORRECT?

5 A. I'VE NEVER SEEN RYAN NORTH A DAY IN MY LIFE
6 BEFORE THE DAY HE TESTIFIED HERE.

7 Q. TRAVIS NORTH?

8 A. HOW WOULD I KNOW THEM? NO, ABSOLUTELY NOT,
9 TRAVIS NORTH, NEITHER JERMAINE CUSACK, NONE OF
10 THE PEOPLE INVOLVED IN THIS CASE ASIDE OF JASSON
11 TURNER.

12 SOLICITOR BELL: THANK YOU, MR.
13 BRISCOE.

14 THE COURT: ANY REDIRECT?

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

17 THE COURT: SIR, YOU MAY STEP
18 DOWN.

19 MR. KEARSE: YOUR HONOR, CAN WE
20 APPROACH?

21 THE COURT: UH HUH.

22 (Whereupon, a bench conference
23 is held out of the hearing of
24 the jury and the court reporter.)

25 THE COURT: MR. FOREMAN, AND

1 LADIES AND GENTLEMEN, WE'RE GOING TO TAKE A LITTLE
2 SHORT BREAK SO THAT I CAN SEE HOW WE WILL BE
3 PROCEEDING THE REST OF THE AFTERNOON. DURING THE
4 BREAK PLEASE DO NOT DISCUSS THE CASE, PLEASE LEAVE
5 YOUR NOTES IN YOUR SEATS, AND IF YOU NEED ANYTHING,
6 PLEASE LET THE BAILIFFS KNOW.

7 (Whereupon, the following
8 takes place out of the
9 presence of the jury.)

10 (Recess)

11 THE COURT: PLEASE BRING IN THE
12 JURY.

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

16 THE COURT: MR. FOREMAN, AND
17 LADIES AND GENTLEMEN, WE'RE GOING TO CONCLUDE THE
18 TESTIMONY FOR TODAY SO THAT YOU ALL CAN GO ON HOME,
19 AND WE ANTICIPATE THAT WE WILL CONCLUDE ON THE TRIAL
20 ON TOMORROW. I DON'T KNOW WHETHER WE WILL HAVE CLOSING
21 ARGUMENTS AND CHARGE TOMORROW, IT JUST DEPENDS ON HOW
22 LONG IT TAKES US TO COMPLETE THE REMAINING WITNESSES,
23 SO I DON'T WANT TO MAKE ANY GUARANTEES TO YOU.

24 DURING THE BREAK, PLEASE DO NOT
25 DISCUSS THIS CASE AMONG YOURSELVES OR WITH ANYONE

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1 ELSE. PLEASE DO NOT WATCH ANYTHING, READ, OR LISTEN TO
2 ANYTHING THAT CAN BE IN THE MEDIA. THAT INCLUDES
3 ANYTHING ON THE RADIO, NEWSPAPER, TELEVISION OR ON THE
4 INTERNET. AND PLEASE, WHEN YOU RETURN TO THE COURT
5 HOUSE IN THE MORNING, PLEASE RETURN DIRECTLY TO YOUR
6 JURY ROOM, AND PLEASE DON'T HAVE ANY CONTACT WITH
7 ANYONE IN OR ABOUT THE COURT HOUSE.

8 WE WILL RESUME THE TRIAL AT
9 NINE:THIRTY IN THE MORNING. I HOPE YOU ALL HAVE A
10 GOOD EVENING, AND WE'LL SEE YOU IN THE MORNING.

11 IF YOU WOULD LEAVE YOUR NOTE PADS
12 ON THE LEDGE WE'LL MAKE SURE THEY'RE SECURED DURING
13 THE RECESS.

14 (Whereupon, the jury leaves
15 the courtroom for the day.)

16 THE COURT: ALRIGHT, HAVE A GOOD
17 EVENING, AND WE'LL BE IN RECESS UNTIL NINE:THIRTY IN
18 THE MORNING.

19 (Recess)

20 DATE:
21 NOVEMBER 3, 2005.

22 THE COURT: IS THE STATE READY TO
23 PROCEED?

24 SOLICITOR BELL: THE STATE'S
25 READY.

1 THE COURT: IS THE DEFENSE READY
2 TO PROCEED?

3 MR. KEARSE: NOT QUITE, YOUR
4 HONOR.

5 THE COURT: OKAY.

6 MR. KEARSE: OKAY, WE'RE READY
7 NOW, YOUR HONOR.

8 THE COURT: PLEASE BRING IN THE
9 JURY.

10 WHO IS YOUR FIRST WITNESS? MR.
11 KEARSE, WHO IS YOUR NEXT WITNESS?

12 MR. KEARSE: ANTHONY FOLK.

13 THE COURT: OKAY. AND WHO -- DO
14 YOU HAVE THE PERSONS LINED UP THAT'S AFTER THAT?

15 MR. KEARSE: THERE'S ONLY ONE
16 PERSON WHO'S NOT HERE, YOUR HONOR. THEY SAID, ONCE
17 THEY CONTACT HIM, IT WILL TAKE THIRTY MINUTES FOR HIM
18 TO GET HERE.

19 THE COURT: WELL, HE SHOULD, THAT
20 SHOULDN'T BE AN ISSUE, THEN.

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

24 THE COURT: OKAY, WE'VE GOT
25 EVERYBODY SEATED. LADIES AND GENTLEMEN, I HOPE YOU

1 HAD A GOOD EVENING. WE WILL NOW RESUME WITH THE
2 TRIAL.

3 MR. KEARSE, YOU MAY PROCEED.

4 MR. KEARSE: MAY IT PLEASE THE
5 COURT, YOUR HONOR, THE DEFENSE WOULD CALL ANTHONY D.
6 FOLK TO THE STAND.

7 THE COURT: SIR, IF YOU WOULD COME
8 TO THE WITNESS STAND, THE CLERK MAY SWEAR YOU.

9 CLERK: RAISE YOUR RIGHT HAND AND
10 PLACE YOUR LEFT HAND ON THE BIBLE, AND GIVE US YOUR
11 FULL NAME.

12 WITNESS: ANTHONY D. FOLK.
13 (Whereupon, the witness,
14 ANTHONY D. FOLK,
15 is duly sworn.)

16 THE COURT: PLEASE COME AROUND AND
17 HAVE A SEAT.

18 THE COURT: YOU MAY PROCEED, MR.
19 KEARSE.

20 MR. KEARSE: MAY IT PLEASE THE
21 COURT, YOUR HONOR.

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.)

DIRECT - ANTHONY D. FOLK BY MR. KEARSE

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DIRECT EXAMINATION OF ANTHONY D. FOLK

BY MR. KEARSE:

Q. MR. FOLK, YOUR NAME IS ANTHONY D. FOLK?

A. YES, IT IS.

Q. ALRIGHT, AND THE D STANDS FOR?

A. DESANDA.

Q. ALRIGHT, AND YOU GO BY THE NAME OF DEE DEE
SOMETIME, IS THAT CORRECT?

A. CORRECT.

Q. ALRIGHT, AND YOU HAVE TESTIFIED EARLIER IN THIS
TRIAL, IS THAT RIGHT?

A. THAT'S RIGHT.

Q. ALRIGHT. DO YOU RECALL YOU AND I TALKED ABOUT A
STATEMENT YOU GAVE, DEFENDANT'S EXHIBIT NUMBER
FOUR?

A. I REMEMBER THAT.

Q. ALRIGHT. AND YOU GAVE A WRITTEN STATEMENT TO LAW
ENFORCEMENT ON JULY THE EIGHTH, TWO THOUSAND AND
THREE?

A. YES.

Q. NOW, IN THAT STATEMENT YOU -- OR DURING THAT
INTERVIEW YOU WERE ASKED TO IDENTIFY THE
ASSAILANT IN THIS MATTER, IS THAT CORRECT?

A. CORRECT.

Q. ALRIGHT. AND IN YOUR IDENTIFICATION AND INCLUDED

DIRECT - ANTHONY D. FOLK BY MR. KEARSE

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1 IN THAT STATEMENT -- OR NOT INCLUDED IN THAT
2 STATEMENT, IS THERE ANY DETAIL OF ANY CLOTHES HE
3 MIGHT HAVE BEEN WEARING?

4 A. NO.

5 Q. ALRIGHT. SO, YOU COULD NOT DIFFERENTIATE BETWEEN
6 WHETHER HE WAS WEARING SHORTS OR LONG PANTS AT
7 THE TIME?

8 A. NO, I COULDN'T.

9 Q. ALRIGHT. AND YOU COULD NOT DIFFERENTIATE WHETHER
10 HE WAS WEARING JEANS OR KHAKIS AT THE TIME?

11 A. NO, SIR.

12 Q. AND NEITHER DID YOU SAY WHETHER HE HAD ON A T-
13 SHIRT ---

14 SOLICITOR BELL: YOUR HONOR, I'M
15 GOING TO OBJECT TO LEADING.

16 THE COURT: SUSTAINED, LEADING,
17 YOU MAY REPHRASE.

18 Q. ALRIGHT. DID YOU SAY WHETHER OR NOT HE HAD A T-
19 SHIRT ON?

20 SOLICITOR BELL: YOUR HONOR, I
21 OBJECT AGAIN, HE'S LEADING.

22 THE COURT: SUSTAINED, LEADING.

23 Q. YOU COULDN'T IDENTIFY HIS CLOTHES AT ALL, IS THAT
24 CORRECT?

25 A. NOT SPECIFICALLY.

DIRECT - ANTHONY D. FOLK BY MR. KEARSE

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1 Q. ALRIGHT. NOW DO YOU RECALL ONE OF THE OFFICERS
2 SHOWING YOU A PHOTOGRAPH OF A CAR?

3 A. YES.

4 Q. ALRIGHT. DO YOU RECALL THAT CAR BEING A ---

5 MR. KEARSE: MARK THIS AS FOURTEEN
6 FOR ID.

7 COURT REPORTER: DEFENDANT'S
8 FOURTEEN, ID.

9 (Defendant's Exhibit Fourteen,
10 Photograph of automobile,
11 marked for identification.)

12 MR. KEARSE: THANK YOU.

13 Q. I'M GOING TO HAND YOU WHAT'S MARKED AS
14 DEFENDANT'S EXHIBIT NUMBER FOURTEEN. MR. FOLK,
15 DOES THAT APPEAR TO BE A SIMILAR MAKE AND MODEL
16 OF THE CAR YOU WERE SHOWN?

17 A. NO, IT ISN'T, IT WAS A GRAND AM. THIS LOOKS LIKE
18 A GRAND PRIX.

19 Q. ARE YOU CERTAIN IT WAS A GRAND AM?

20 A. POSITIVE.

21 Q. OKAY. YOU -- WHEN YOU WERE SHOWN THIS PHOTOGRAPH
22 DO YOU RECALL WHICH OFFICERS SHOWED IT TO YOU?

23 A. YES, I DO.

24 Q. AND WHO WERE THOSE OFFICERS?

25 A. OFFICER TERRY VAN DORAN AND OFFICER TOM MARSHALL.

DIRECT - ANTHONY D. FOLK BY MR. KEARSE

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1 Q. ALRIGHT.

2 COURT REPORTER: WHO WAS THE LAST
3 OFFICER?

4 A. TOM MARSHALL.

5 Q. DO YOU RECALL WHAT COLOR YOU TOLD THEM THAT THE
6 CAR WAS?

7 A. I TOLD THEM I THOUGHT IT WAS BEIGE.

8 Q. YOU DON'T RECALL TELLING THEM THAT YOU THOUGHT IT
9 WAS GRAY?

10 A. NO.

11 Q. YOU DON'T RECALL TELLING THEM THAT IT WAS NOT
12 ONLY GRAY -- IT WAS GRAY, BUT IT WAS JUST A
13 LITTLE SMALLER?

14 A. NO.

15 Q. ALRIGHT. THAT INTERVIEW TOOK PLACE ON OR ABOUT
16 JULY OF TWO THOUSAND AND THREE, DID IT NOT?

17 A. YES, IT DID.

18 Q. AND YOU SAID THAT INTERVIEW WAS WITH DETECTIVE
19 VAN DORAN AND DETECTIVE MARSHALL, IS THAT
20 CORRECT?

21 A. I'M PRETTY SURE IT WAS, YES, SIR.

22 Q. ALRIGHT, DO YOU RECALL THEM SHOWING YOU A -- ON
23 OR ABOUT AUGUST SIXTH, TWO THOUSAND AND THREE,
24 SHOWING YOU A PHOTO LINEUP INCLUDING JASSON
25 TURNER?

DIRECT - ANTHONY D. FOLK BY MR. KEARSE

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1 A. I REMEMBER THE PHOTO LINEUP, BUT I DON'T KNOW
2 NOBODY'S NAME.

3 Q. OKAY. I'M GOING TO HAND YOU WHAT'S MARKED AS
4 STATE'S EXHIBIT THIRTEEN. DO YOU RECALL THAT
5 LINEUP?

6 A. NOT REALLY.

7 Q. OKAY. AND YOU SAY YOUR NAME IS ANTHONY D. FOLK,
8 IS THAT CORRECT?

9 A. CORRECT.

10 Q. ALRIGHT, I'M GOING TO SHOW YOU THE BACK OF WHAT'S
11 MARKED AS STATE'S EXHIBIT THIRTEEN, DOES THAT
12 APPEAR TO BE YOUR SIGNATURE?

13 A. THAT'S IT.

14 Q. ALRIGHT. AND WHO WERE THE OFFICERS WHO SHOWED
15 YOU THIS PARTICULAR LINEUP?

16 A. AGAIN, I THINK IT WAS OFFICER VAN DORAN AND
17 OFFICER DIXSON.

18 Q. AND YOU HAVE NOW KNOWN THIS GENTLEMAN TO BE KNOWN
19 AS JASSON TURNER, OTHERWISE KNOWN AS SMOKE, IS
20 THAT CORRECT?

21 A. I DON'T KNOW HIM AT ALL.

22 Q. ALRIGHT. NOW, DO YOU RECALL WHO YOU IDENTIFIED
23 AS THE DRIVER IN THAT LINEUP?

24 A. THE GUY WHO HAD THE BRAIDS, OR DRED LOCKS, OR
25 WHATEVER.

DIRECT - ANTHONY D. FOLK BY MR. KEARSE

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1 Q. OKAY. AND WAS THAT NOT THIS MAN HERE, JASSON
2 TURNER?

3 A. I HAVE NO IDEA.

4 Q. ALRIGHT. YOU DON'T RECALL?

5 A. I DON'T RECALL.

6 Q. BUT THAT ALL TOOK PLACE IN THAT INTERVIEW WITH
7 LIEUTENANT VAN DORAN AND LIEUTENANT MARSHALL, IS
8 THAT CORRECT?

9 A. CORRECT.

10 Q. ALRIGHT, I'M GOING TO ONCE AGAIN HAND YOU WHAT IS
11 MARKED AS DEFENDANT'S EXHIBIT NUMBER FOUR, WHICH
12 IS YOUR STATEMENT. OKAY?

13 A. UH HUH.

14 Q. AND I WANT YOU TO REVIEW THAT, AT THE VERY TOP OF
15 PAGE NUMBER FOUR.

16 A. (Witness examines document.)

17 Q. IN THAT STATEMENT, IF YOU CAN, I KNOW IT'S FAIRLY
18 LIGHT PRINT, CAN YOU READ THAT FIRST LINE YOU
19 TOLD THE POLICE OFFICERS THAT DAY?

20 A. THE FIRST LINE?

21 Q. CORRECT, ON PAGE FOUR.

22 A. IN THIS PAGE FOUR, THE ONE THAT YOU GAVE ME RIGHT
23 HERE?

24 COURT REPORTER: I'M SORRY. REPEAT
25 WHAT YOU SAID?

DIRECT - ANTHONY D. FOLK BY MR. KEARSE

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1 Q. YES, SIR, PAGE FOUR OF DEFENDANT'S EXHIBIT ---

2 THE COURT: SHE NEEDS -- BEFORE
3 THAT, SHE NEEDS FOR HIM TO REPEAT HIS PREVIOUS
4 RESPONSE.

5 A. OH. IN THIS PAGE FOUR THAT YOU HANDED ME RIGHT
6 HERE?

7 Q. CORRECT. YEAH, THAT WOULD BE PAGE FOUR.

8 A. OKAY. OKAY, NOW AGAIN, WHAT DO YOU WANT ME TO
9 READ?

10 Q. I'LL READ IT OFF TO YOU AND YOU CAN CORRECT ME IF
11 I'M WRONG, OKAY?

12 SOLICITOR BELL: YOUR HONOR, I'D
13 ASK THAT HE READ IT. THIS IS DIRECT, HE WOULD BE
14 LEADING.

15 THE COURT: UH HUH.

16 Q. PAGE -- I WANT YOU TO READ LINE ONE, ALRIGHT?

17 A. UH HUH.

18 Q. AND I WANT YOU TO READ LINE TWO AFTER THAT. OKAY?

19 A. THE FIRST TWO LINES?

20 Q. THAT'S CORRECT.

21 A. OKAY. "I THEN GOT IN THE CAR AND I ASKED WHAT
22 HAPPENED. TRAVIS'S RESPONSE WAS, I THINK SOMEONE
23 GOT SHOT."

24 Q. OKAY. AND WHEN YOU WROTE, TRAVIS, THE PERSON YOU
25 WERE TALKING ABOUT WAS TRAVIS NORTH, IS THAT

DIRECT - ANTHONY D. FOLK BY MR. KEARSE

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1 CORRECT?

2 A. CORRECT.

3 Q. ALRIGHT. AND THE PERSON YOU DIRECTED YOUR
4 QUESTION TO WAS TRAVIS NORTH?

5 A. CORRECT.

6 Q. ALRIGHT. ALRIGHT, NOW, I WANT YOU TO READ RIGHT
7 WHERE IT STARTS, THIS IS ONCE AGAIN DEFENDANT'S
8 EXHIBIT FOUR, PAGE FOUR, ALRIGHT, AND I WANT YOU
9 TO START READING FROM WHERE IT SAYS, WE, OKAY?

10 A. "WE NEVER STOP UNTIL WE GOT TO MY RESIDENCE AT
11 SIXTY-TWO THIRTY-FIVE SUNRISE ROAD. I THEN GOT
12 OUT AND WENT INTO MY HOUSE."

13 Q. CAN YOU FINISH THAT FOR ME?

14 A. OH, OKAY. "I'M THINKING TRAVIS WENT HOME ON BENT
15 GATE LANE. I COULD NOT ---

16 COURT REPORTER: WHAT? I'M
17 THINKING TRAVIS WENT HOME?

18 A. YEAH. LET'S SEE, "I'M THINKING TRAVIS WENT HOME
19 ON BENT GATE LANE. I COULD NOT BE A HUNDRED PER
20 CENT SURE, BUT I'M EIGHTY-FIVE PER CENT SURE HE
21 DID. AFTER SOME TIME HAD PASSED, THE EXACT TIME
22 FRAME I'M NOT SURE OF, I RECEIVED A PHONE CALL
23 FROM RYAN ASKING ME WHAT HAD HAPPENED, AND WAS
24 TRAVIS ALRIGHT. MY RESPONSE WAS, I DON'T KNOW
25 WHAT HAPPENED, ALL I HEARD WAS SOME SHOTS BEING

DIRECT - ANTHONY D. FOLK BY MR. KEARSE

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1 FIRED, AND I RAN, BUT YOUR BROTHER IS ALRIGHT."

2 Q. OKAY. AND THAT'S THE CONCLUSION OF THE STATEMENT
3 YOU GAVE -- DOES THAT CONCLUDE THE STATEMENT YOU
4 GAVE?

5 A. YES, IT IS. THE LAST PART OF IT IS, "THAT'S ALL
6 I HAVE, THAT'S ALL I KNOW AND SEEN ON THAT NIGHT.
7 I WISH THERE WAS MORE I COULD OFFER THE
8 DORCHESTER COUNTY SHERIFF'S OFFICE, BUT THIS IS
9 ALL I KNOW."

10 Q. ALRIGHT. AND YOU GAVE THIS STATEMENT ON JULY
11 EIGHTH, TWO THOUSAND THREE, IS THAT CORRECT?

12 A. CORRECT.

13 MR. KEARSE: YOUR HONOR, I DON'T
14 HAVE ANYTHING FURTHER AT THIS TIME.

15 THE COURT: MR. BELL?

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.)

CROSS - ANTHONY D. FOLK BY SOL. BELL

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1 CROSS-EXAMINATION OF ANTHONY D. FOLK

2 BY SOLICITOR BELL:

3 Q. MR. FOLK, I THINK YOU PREVIOUSLY TESTIFIED THAT
4 THAT PORTION YOU JUST READ DIDN'T HAPPEN THAT
5 WAY, IS THAT CORRECT?

6 A. THE ONLY PART THAT DIDN'T HAPPEN LIKE THAT WAS
7 THE PART THAT WE WENT HOME, WHICH IN REALITY, WE
8 WENT BACK TO THE TRUCK ---

9 COURT REPORTER: WHICH WHAT?
10 REPEAT WHAT YOU SAID, PLEASE.

11 A. OKAY. THE ONLY PART THAT WASN'T ACTUALLY AS IT
12 HAPPENED WAS THE PART WHERE TRAVIS TOOK ME HOME.
13 RATHER, THE TRUTH WAS THAT WE, AS I SAID EARLIER
14 IS, WE WENT BACK TO THE TRUCK STOP, THEN TURNED
15 BACK AROUND TO PICK RYAN UP.

16 Q. WHY THE DIFFERENCE?

17 A. I WAS JUST SCARED, AND DIDN'T WANT TO GET
18 INVOLVED.

19 Q. OKAY.

20 SOLICITOR BELL: THANK YOU, MR.
21 FOLK.

22 A. OKAY.

23 THE COURT: ANY REDIRECT?

24 MR. KEARSE: NONE, YOUR HONOR.

25 THE COURT: ANY OBJECTIONS TO THE

1 WITNESS BEING EXCUSED?

2 SOLICITOR BELL: NO OBJECTION,
3 YOUR HONOR.

4 MR. KEARSE: NONE FROM THE
5 DEFENSE.

6 THE COURT: SIR, YOU'RE EXCUSED.
7 THANK YOU.

8 YOU MAY CALL YOUR NEXT WITNESS.

9 MR. KEARSE: MAY IT PLEASE THE
10 COURT, YOUR HONOR, WE WOULD CALL TRAVIS NORTH TO THE
11 STAND.

12 (Whereupon, the witness
13 enters the courtroom.)

14 CLERK: COME OVER HERE, PLACE YOUR
15 LEFT HAND ON THE BIBLE AND RAISE YOUR RIGHT HAND.

16 (Whereupon, the witness,
17 TRAVIS SENTEL NORTH,
18 is duly sworn.)

19 CLERK: COME AROUND AND HAVE A
20 SEAT.

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

DIRECT - TRAVIS S. NORTH BY MR. KEARSE

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DIRECT EXAMINATION OF TRAVIS S. NORTH

BY MR. KEARSE:

Q. MR. NORTH, CAN YOU STATE YOUR FULL NAME FOR THE
COURT'S RECORD, PLEASE?

A. TRAVIS SENTEL NORTH.

Q. NOW, YOU HAVE PREVIOUSLY TESTIFIED IN THIS
MATTER, HAVE YOU NOT?

A. YES.

Q. AND YOU'VE TESTIFIED AS A WITNESS FOR THE STATE,
IS THAT CORRECT?

A. YES.

MR. KEARSE: YOUR HONOR, AT THIS
TIME I'D LIKE TO BE ABLE TO TREAT MR. NORTH AS A
HOSTILE WITNESS.

THE COURT: ANY OBJECTION?

SOLICITOR BELL: YOUR HONOR,
THEY'VE GOT TO SHOW SOME REASON.

THE COURT: PLEASE APPROACH.
(Whereupon, a bench conference
is held out of the hearing of
the jury and the court reporter.)

THE COURT: YOU MAY PROCEED.
OBJECTION IS OVERRULED. MR. KEARSE, YOU MAY PROCEED
WHEN YOU ARE READY.

Q. TRAVIS, YOU GAVE A WRITTEN STATEMENT IN THIS

DIRECT - TRAVIS S. NORTH BY MR. KEARSE

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1 CASE, DID YOU NOT?

2 A. YES.

3 MR. KEARSE: I BEG THE COURT'S
4 INDULGENCE.

5 THE COURT: UH HUH.

6 Q. I'M GOING TO HAND YOU WHAT'S BEEN MARKED AS
7 DEFENDANT'S EXHIBIT FIVE. I WANT YOU TO TAKE YOUR
8 TIME AND LOOK OVER THAT.

9 A. (Witness examines document.)

10 Q. DOES THAT APPEAR TO BE THE WRITTEN STATEMENT THAT
11 YOU GAVE IN THIS MATTER?

12 A. YES.

13 Q. AND THE SAME ONE YOU PREVIOUSLY TESTIFIED TO?

14 A. YES.

15 Q. ALRIGHT. NOW, IN THAT STATEMENT YOU IDENTIFIED,
16 OR YOU GAVE AN IDENTIFICATION OF THE SUPPOSED, OR
17 ALLEGED ASSAILANTS IN THIS CASE, IS THAT CORRECT?

18 A. YES.

19 Q. ALRIGHT. AND IN THAT STATEMENT YOU DID NOT MAKE
20 ANY IDENTIFICATION AS TO ANY CLOTHES THESE
21 PERSONS MIGHT HAVE BEEN WEARING, ISN'T THAT
22 CORRECT?

23 A. NO.

24 Q. ALRIGHT. AND NEITHER DID YOU -- AND WHEN I SAY,
25 CLOTHES, YOU DIDN'T MENTION WHAT KIND OF SHOES,

DIRECT - TRAVIS S. NORTH BY MR. KEARSE

771

1 WHETHER THEY HAD TENNIS SHOES OR BOOTS ON, IS
2 THAT CORRECT?

3 A. NO.

4 Q. AND YOU DIDN'T SAY WHETHER HE HAD SHORTS OR LONG
5 PANTS ON, IS THAT CORRECT?

6 A. NO.

7 Q. AND YOU DIDN'T SAY WHETHER OR NOT HE HAD ON JEANS
8 OR KHAKI PANTS, IS THAT CORRECT?

9 A. RIGHT.

10 Q. AND NEITHER COULD YOU, AND NEITHER DID YOU SAY
11 WHETHER HE HAD ON A T-SHIRT OR A TANK TOP?

12 A. RIGHT.

13 Q. OR A JACKET OR A HAT OR ANYTHING OF THAT NATURE,
14 IS THAT RIGHT?

15 A. RIGHT.

16 Q. ALRIGHT. NOW, DO YOU RECALL HAVING AN INTERVIEW
17 WITH THE LAW ENFORCEMENT?

18 A. YES.

19 Q. ALRIGHT. DO YOU RECALL THEM ASKING YOU ABOUT THE
20 CAR?

21 A. YES.

22 Q. ALRIGHT. AND WHEN YOU DID THAT INTERVIEW WHO DID
23 YOU INTERVIEW WITH?

24 A. DETECTIVE MARSHALL.

25 Q. ALRIGHT. AND IN THAT INTERVIEW WITH DETECTIVE

DIRECT - TRAVIS S. NORTH BY MR. KEARSE

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1 MARSHALL YOU TOLD HIM THAT THIS CAR WAS GRAY, DID
2 YOU NOT?

3 A. NO, I DID NOT TELL HIM THAT.

4 Q. ALRIGHT, THAT INTERVIEW TOOK PLACE IN ABOUT --
5 WELL, IT ACTUALLY TOOK PLACE AUGUST SIXTH, TWO
6 THOUSAND AND THREE, THAT WAS WITH DETECTIVE
7 MARSHALL, IS THAT CORRECT?

8 A. RIGHT.

9 Q. WAS DETECTIVE VAN DORAN A PART OF THAT INTERVIEW?

10 A. YES.

11 Q. AND YOU DON'T RECALL TELLING THEM IN THAT
12 INTERVIEW AT ABOUT NINE:THIRTY-FOUR THAT THE CAR
13 YOU SAW WAS GRAY IN COLOR?

14 A. NO, I DID NOT TELL THEM THAT.

15 Q. NOW, IN THAT INTERVIEW THEY ALSO SHOWED YOU A
16 PHOTO LINEUP, DID THEY NOT?

17 A. YES.

18 Q. I'M GOING TO HAND YOU WHAT'S MARKED AS STATE'S
19 EXHIBIT THIRTEEN. DO YOU RECALL SEEING THIS
20 LINEUP?

21 A. YES.

22 Q. ALRIGHT. AND THAT'S THE LINEUP THEY SHOWED YOU
23 AUGUST, I BELIEVE IT WAS SIXTH, TWO THOUSAND
24 THREE, IS IT NOT?

25 A. RIGHT.

DIRECT - TRAVIS S. NORTH BY MR. KEARSE

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1 Q. OKAY. AND IN THAT LINEUP, OR DURING THAT TIME
2 YOU WERE ABLE TO PICK OUT MR. JASSON TURNER, WERE
3 YOU NOT?

4 A. RIGHT.

5 Q. ALRIGHT. AND THAT'S THE INDIVIDUAL KNOWN AS
6 SMOKE?

7 A. RIGHT.

8 Q. ALRIGHT. DO YOU RECALL AT THAT TIME TELLING THEM
9 ON AUGUST SIXTH, TWO THOUSAND THREE, WHEN YOU
10 PICKED HIM OUT, THAT HE WAS THE DRIVER OF THE
11 CAR?

12 A. NO, I DID NOT TELL THEM THAT.

13 Q. ALRIGHT. AND YOU SAY THAT INTERVIEW TOOK PLACE
14 WITH DETECTIVE MARSHALL AND DETECTIVE VAN DORAN?

15 A. YES.

16 Q. DO YOU RECALL GETTING IN THE CAR WITH ANTHONY
17 FOLK?

18 A. WE WERE ALREADY IN THE CAR.

19 Q. WELL, I'M SAYING, AFTER THE INCIDENT, I'M SORRY,
20 DO YOU RECALL DRIVING THE CAR AND ANTHONY -- THEN
21 PICKING UP ---

22 A. YES.

23 Q. --- ANTHONY FOLK? ALRIGHT, DO YOU RECALL THE
24 CONVERSATION YOU HAD WITH MR. FOLK?

25 A. I JUST, I TOLD HIM THAT RYAN, HE WAS ASKING ME

DIRECT - TRAVIS S. NORTH BY MR. KEARSE

774

1 ABOUT RYAN, AND I TOLD HIM, RYAN MADE IT OUT THE
2 HOUSE, AND THAT THE GUY SHOT THE OTHER GUY.

3 Q. ALRIGHT. YOU DON'T RECALL JUST TELLING HIM, I
4 DON'T KNOW, I THINK SOMEBODY GOT SHOT?

5 A. NO, I TOLD HIM THE FACT TRUTH.

6 Q. SO, IT'S YOUR TESTIMONY THAT YOU TOLD HIM
7 SOMETHING DIFFERENT THAN THAT?

8 A. I KNOW I TOLD HIM THAT THE GUY SHOT THE GUY, I
9 DON'T REMEMBER TELLING HIM THAT SOMEBODY GOT
10 SHOT.

11 Q. ALRIGHT. AND DO YOU RECALL THE TWO OF YOU
12 DRIVING STRAIGHT HOME?

13 A. NO, WE DIDN'T.

14 Q. ALRIGHT. Y'ALL DIDN'T. WHAT DID YOU DO?

15 A. WE WENT DOWN FIFTEEN A PIECE, AND HE ASKED -- HE
16 TOLD ME TO GO BACK AND GET RYAN, AND I TOLD HIM,
17 NO, I WAS GOING HOME. HE SAID, MAN, YOU NEED TO
18 GO BACK AND GET YOUR BROTHER. AND THAT'S WHEN I
19 BEGAN TO PULL OVER, AND TURNED AROUND.

20 Q. OKAY. IT'S YOUR TESTIMONY THAT YOU PICKED YOUR
21 BROTHER UP OFF THE STREET?

22 A. RIGHT.

23 Q. YOU DON'T RECALL YOUR BROTHER CALLING YOU, ASKING
24 YOU WHAT HAPPENED?

25 A. NO. WE NEVER -- I DIDN'T ASK HIM.

DIRECT - TRAVIS S. NORTH BY MR. KEARSE

775

1 Q. THE NEXT DAY OR THE MORNING, OR THE NIGHT AFTER
2 THE INCIDENT?

3 A. NO.

4 Q. ALRIGHT. DO YOU RECALL TELLING YOUR BROTHER THAT
5 WHOMEVER SHOT THIS MAN STOOD OVER HIM AND FIRED
6 THREE OR FOUR MORE SHOTS?

7 A. NO, I DIDN'T.

8 Q. YOU DID NOT TELL YOUR BROTHER THAT?

9 A. NO.

10 Q. ALRIGHT.

11 MR. KEARSE: THIS IS DEFENDANT'S -

12 --

13 COURT REPORTER: FOR ID?

14 MR. KEARSE: YES, MA'AM.

15 COURT REPORTER: DEFENDANT'S

16 FIFTEEN, ID.

17 (Defendant's Exhibit Fifteen,

18 Diagram,

19 marked for identification.)

20 MR. KEARSE: THANK YOU.

21 Q. NOW, THE, THE PHOTO LINEUP OR THE THINGS YOU
22 TALKED ABOUT IN TERMS OF WHETHER OR NOT MR.
23 TURNER COULD HAVE BEEN THE DRIVER, THAT OCCURRED
24 IN A SEPARATE INTERVIEW, THEN, FROM YOUR
25 STATEMENT, ISN'T THAT CORRECT?

DIRECT - TRAVIS S. NORTH BY MR. KEARSE

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1 A. COULD YOU REPEAT THAT?

2 Q. ALRIGHT, LET ME ASK YOU THIS, YOU INTERVIEWED
3 WITH DETECTIVES ON AUGUST SIXTH, TWO THOUSAND
4 THREE, CORRECT?

5 A. RIGHT.

6 Q. YOU GAVE YOUR STATEMENT ON OR ABOUT JULY EIGHTH,
7 I BELIEVE, OR NINTH OF TWO THOUSAND THREE, IS
8 THAT RIGHT?

9 A. RIGHT.

10 Q. ALRIGHT. SO, WHEN YOU PICKED OUT THE -- MR.
11 TURNER, THAT CONVERSATION YOU HAD WITH THE
12 DETECTIVES WAS NOT INCLUDED IN YOUR WRITTEN
13 STATEMENT, THAT'S AFTER YOU GAVE THE WRITTEN
14 STATEMENT, IS THAT CORRECT?

15 A. RIGHT.

16 Q. ALRIGHT, NOW, I WANT TO HAND YOU WHAT'S MARKED AS
17 DEFENDANT'S EXHIBIT FIFTEEN. DO YOU REMEMBER
18 THAT DOCUMENT?

19 A. YES.

20 Q. ALRIGHT. THAT'S A DIAGRAM YOU DREW FOR THE
21 DETECTIVES, IS IT NOT?

22 A. RIGHT.

23 Q. ALRIGHT, DID YOU DRAW IT DURING THAT INTERVIEW?

24 A. I THINK IT WAS, I DON'T REMEMBER, BUT I KNOW I
25 DREW IT.

DIRECT - TRAVIS S. NORTH BY MR. KEARSE

777

1 Q. YOU DON'T REMEMBER WHEN BUT YOU KNOW YOU DREW IT
2 DURING AN INTERVIEW WITH THE DETECTIVES?

3 A. RIGHT.

4 Q. ALRIGHT, AND IN THIS DIAGRAM, YOU DIAGRAMED, OR
5 YOU DREW -- YOU DREW WHAT YOU DEPICTED TO BE THE
6 SCENE AT THE TIME OF THE SHOOTING, DID YOU NOT?

7 A. RIGHT.

8 Q. ALRIGHT. AND YOU SHOWED YOURSELF AS BEING NUMBER
9 ONE, IS THAT CORRECT?

10 A. RIGHT.

11 Q. ALRIGHT. AND YOU SAID THAT THE TWO INDIVIDUALS
12 WHO SUPPOSEDLY WAS AT THE TABLE WERE NUMBERS FIVE
13 AND FOUR, CORRECT?

14 A. RIGHT.

15 Q. AND ACCORDING TO THIS, THE DECEDENT, NUMBER
16 SEVEN, RAN PAST THE TABLE, IS THAT CORRECT?

17 A. NO, HE DIDN'T RUN PAST THE TABLE.

18 Q. ARE YOU SAYING HE WALKED PAST THE TABLE AND
19 GRABBED STUFF OFF THE TABLE?

20 A. NO, THE TABLE WASN'T THAT FAR AWAY FROM THE DOOR,
21 IT WAS A LITTLE BIT CLOSER. WHEN HE WALKED IN THE
22 DOOR HE TOOK MAYBE ONE OR TWO STEPS AND SNATCHED
23 THE STUFF OFF THE TABLE.

24 Q. ALRIGHT. AND TURNED TO RUN OUT OF THE DOOR?

25 A. RIGHT.

DIRECT - TRAVIS S. NORTH BY MR. KEARSE

778

1 Q. AND THEN, ACCORDING TO YOU, THE PERSON WHO WAS
2 ALLEGEDLY AT THE TABLE JUMPED UP AND STARTED
3 SHOOTING AT HIM AS HE RAN TOWARDS THE DOOR, IS
4 THAT CORRECT?

5 A. RIGHT.

6 Q. ALRIGHT. SO, HE'S RUNNING TO GET OUT OF THE
7 DOOR, THE GUY IMMEDIATELY JUMPS UP AND STARTS
8 SHOOTING, CORRECT?

9 A. RIGHT.

10 Q. ALRIGHT. AND THIS GUY WHO SUPPOSEDLY WAS
11 SHOOTING AT MR. COOK WOULD HAVE BEEN RIGHT BEHIND
12 HIM AS HE RAN TOWARDS THE DOOR?

13 A. RIGHT.

14 Q. OKAY.

15 MR. KEARSE: I BEG THE COURT'S
16 INDULGENCE, YOUR HONOR.

17 THE COURT: UH HUH.

18 Q. NOW, IN YOUR STATEMENT YOU STATED THAT -- THE ONE
19 YOU GAVE IN JULY, THAT YOU WERE IN THE KITCHEN
20 POURING LIQUOR, DID YOU NOT, ---

21 A. RIGHT.

22 Q. ---WHEN THIS THING HAPPENED?

23 A. RIGHT.

24 Q. ALRIGHT. AND IN YOUR STATEMENT YOU SAID THAT WHEN
25 YOU HEARD THE SHOTS YOU'RE STILL BEING IN THE

DIRECT - TRAVIS S. NORTH BY MR. KEARSE

779

1 KITCHEN AND TRYING TO POUR YOUR LIQUOR, YOU
2 IMMEDIATELY RAN OUT THE BACK DOOR?

3 A. RIGHT, THAT WAS ON THE FIRST STATEMENT WHICH I
4 WAS NERVOUS, BECAUSE YOU KNOW, I DIDN'T KNOW THE
5 GUYS AND I DIDN'T KNOW WHETHER THEY HAD CAUGHT
6 THEM OR NOT.

7 Q. ALRIGHT. AND YOU SAID, ONCE YOU RAN OUT OF THE
8 BACK DOOR YOU IMMEDIATELY RAN INTO THE WOODS, IS
9 THAT CORRECT?

10 A. RIGHT.

11 Q. ALRIGHT. AND THAT'S WHAT YOU TOLD THE POLICE ---

12 A. THE FIRST TIME.

13 Q. --- JULY EIGHT, TWO THOUSAND AND THREE, RIGHT
14 AFTER THIS THING HAPPENED, RIGHT?

15 A. RIGHT.

16 Q. AND YOU SAID YOU DIDN'T SEE ANYTHING AT ALL ---

17 A. RIGHT.

18 Q. --- UNTIL YOU CAME BACK AND SAID, WITH ANOTHER
19 STORY, SAYING THAT THE GUY WAS RUNNING TOWARDS
20 THE DOOR, YOU SAW HIM GET SHOT FROM THE REAR,
21 CORRECT?

22 A. RIGHT.

23 Q. ALRIGHT.

24 MR. KEARSE: YOUR HONOR, I DON'T
25 HAVE ANYTHING FURTHER.

1 THE COURT: ANY QUESTIONS FOR THE
2 WITNESS?

3 SOLICITOR BELL: YES, 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.)

CROSS - TRAVIS S. NORTH BY SOL. BELL

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CROSS-EXAMINATION OF TRAVIS S. NORTH

BY SOLICITOR BELL;

Q. LET ME FIRST SHOW YOU WHAT HE JUST MARKED AS
STATE'S FIFTEEN, AND HAVE YOU LOOK AT IT AGAIN.
THAT'S WHAT YOU WROTE, AND THEN DREW?

A. RIGHT.

Q. OKAY. WHAT DOES THIS SAY DOWN AT THE VERY BOTTOM
OF THE DIAGRAM, THERE'S SOME WRITING, WHAT DOES
THAT SAY?

A. "LOCATION OF PEOPLE JUST BEFORE SHOTS WERE
FIRED."

Q. OKAY. AND NUMBER ONE IS WHO?

A. ME.

Q. NUMBER SEVEN IS WHO?

A. THE GUY THAT GOT SHOT.

Q. AND WHAT ARE THE NUMBERS AT THE ROUND -- IS THAT
THE TABLE, THE ROUND ---

A. RIGHT.

Q. --- WHAT ARE THE NUMBERS THERE?

A. FIVE AND SIX.

Q. OKAY. AND THEN, TWO AND THREE, IS THAT CORRECT?

A. RIGHT.

Q. OKAY. ALRIGHT. SO, WHERE WAS THE MAN THAT GOT
SHOT RIGHT BEFORE THE SHOOTING STARTED?

A. COMING THROUGH THE DOOR.

CROSS - TRAVIS S. NORTH BY SOL. BELL

782

1 Q. COMING TO THE DOOR?

2 A. HE CAME THROUGH THE DOOR, THE TABLE WAS ABOUT
3 RIGHT HERE, AND HE SNATCHED IT AND TURNED TO RUN
4 BACK TO THE DOOR. THAT'S WHEN HE JUMPED UP AND
5 STARTED SHOOTING, LIKE, DOWN THE HALLWAY.

6 Q. OKAY. LET ME JUST PUT IT UP THERE. OKAY. LET ME
7 SEE IF I CAN FOCUS IT. SO, THAT IS NUMBER SEVEN?

8 A. RIGHT.

9 Q. ABOUT THERE, AND NUMBER ONE IS RIGHT THERE?

10 A. RIGHT.

11 Q. AND FIVE AND SIX ARE THESE TWO?

12 A. RIGHT.

13 Q. OKAY. AND SO, HE WAS RIGHT IN FRONT OF THE DOOR
14 BEFORE THE SHOOTING?

15 A. RIGHT.

16 Q. IS THIS DEPICTING AFTER OR BEFORE HE SNATCHED THE
17 STUFF OFF THE TABLE?

18 A. BEFORE.

19 Q. BEFORE?

20 A. RIGHT.

21 Q. SO, HE CAME IN THE DOOR, AND WHEN YOU COME IN THE
22 DOOR DO YOU GO STRAIGHT INTO THE ROOM?

23 A. NO, YOU TAKE, LIKE, A LEFT.

24 Q. OKAY.

25 A. AND THEN, IT'S A LITTLE, AS SOON AS YOU TAKE A

CROSS - TRAVIS S. NORTH BY SOL. BELL

783

1 LEFT YOU TAKE A RIGHT.

2 Q. OKAY.

3 A. IT'S A BIG ROOM.

4 Q. OKAY. SO, HE HAD TO COME IN AND GO LIKE THIS?

5 A. THE OTHER WAY.

6 Q. OKAY. THE OTHER WAY. AND SO, THIS IS AS --
7 RIGHT BEFORE HE GOES AND SNATCHES THE DRUGS, IS
8 THAT RIGHT?

9 A. RIGHT.

10 Q. ALRIGHT. WHEN THAT HAPPENS, YOU ARE RIGHT HERE.
11 HE GOES BY YOU?

12 A. RIGHT. HE SWUNG AROUND ME.

13 Q. OKAY. AND DID YOU STAY THERE?

14 A. YES, SIR.

15 Q. OKAY. AND HE SNATCHES THE DRUGS, WHAT HAPPENS?

16 A. HE SPENT BACK AROUND ME, AND AS HE SPENT BACK
17 AROUND ME THE GUY JUMPED UP FROM THE TABLE. AT
18 THAT TIME I WAS FACING THE GUNMAN, AND THE GUY
19 THAT GOT SHOT, LIKE, SWUNG AROUND ME AND WENT TO
20 RUN BEHIND ME TO THE DOOR, AND THE GUY JUMPED UP
21 AND START -- HE WAS -- THE GUNMAN WAS STANDING
22 ABOUT FIVE FEET IN FRONT OF ME TO THE LEFT. AND
23 THE GUY THAT SNATCHED THE STUFF WENT TO RUN DOWN
24 THE HALLWAY TO THE DOOR, AND THAT'S WHEN HE
25 STARTED FIRING SHOTS.

CROSS - TRAVIS S. NORTH BY SOL. BELL

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1 Q. WHERE -- CAN YOU POINT OUT WHERE THE GUNMAN WENT
2 TO?

3 A. WHEN HE FIRED, HE WENT ABOUT RIGHT THERE.

4 Q. NEAR -- THERE'S A WINDOW THERE?

5 A. RIGHT.

6 Q. OKAY. AND LET ME SHOW YOU WHAT'S BEEN MARKED
7 STATE'S FIVE AND ASK IF THAT SHOWS THAT ROOM?

8 A. THE ROOM THAT THEY WERE IN?

9 Q. IS THAT THE TABLE, I MEAN, DOES THAT SHOW THE
10 ROOM?

11 A. NO, SIR.

12 Q. IT DOESN'T? OKAY. THANK YOU. NOW, YOU WERE
13 ASKED WHETHER YOU LOOKED AT CLOTHES OR ANYTHING,
14 IS THAT CORRECT?

15 A. RIGHT.

16 Q. WHEN YOU WERE IN THAT ROOM AND THAT GUN CAME OUT,
17 WHAT WERE YOU FOCUSING ON?

18 A. I WAS IN SHOCK.

19 Q. WHAT WERE YOU LOOKING AT?

20 A. THE GUNMAN.

21 Q. WHY WERE YOU LOOKING AT THE GUNMAN?

22 A. I MEAN, IT HAPPENED SO FAST, AS SOON AS HE
23 SNATCHED AND WENT TO SWING AROUND ME, WHEN I WAS
24 TURNING AROUND TO SEE WHAT HAPPENED, ALL I SEE
25 WAS THE GUY, LIKE, SLIDE FROM THE TABLE AND

CROSS - TRAVIS S. NORTH BY SOL. BELL

785

1 STARTED FIRING SHOTS.

2 Q. THE FIRED THOSE SHOTS, DO YOU SEE HIM IN THE
3 COURTROOM TODAY?

4 A. YES, SIR.

5 Q. COULD YOU POINT HIM OUT?

6 A. (Witness points toward defendant.)

7 SOLICITOR BELL: THANK YOU.

8 THE COURT: ANY REDIRECT?

9 MR. KEARSE: YES, MA'AM.

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.)

REDIRECT - TRAVIS S. NORTH BY MR. KEARSE

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REDIRECT EXAMINATION OF TRAVIS S. NORTH

BY MR. KEARSE:

Q. MR. NORTH, IS YOUR TESTIMONY THAT THIS GUY IS
RUNNING TOWARDS THE DOOR WHEN HE GETS -- THE
DECEDENT IS RUNNING TOWARDS THE DOOR WHEN HE GETS
SHOT, CORRECT?

A. NO, HE RAN -- OH, YES, HE WAS RUNNING TO THE DOOR
WHEN HE GOT SHOT.

Q. ALRIGHT. AND THAT THE GUNMAN JUMPED UP
IMMEDIATELY AND STARTED SHOOTING HIM AS HE WAS
RUNNING TOWARDS THE DOOR?

A. RIGHT.

Q. ALRIGHT. AND HE WAS BEHIND THE DECEDENT?

A. RIGHT.

Q. ALRIGHT. AND YOU GUYS MET THESE GUYS AT YOUR
BROTHER'S HOUSE, IS THAT CORRECT?

A. NO, AT CIRCLE-C TRUCK STOP.

Q. OKAY. SO, YOU SAW THEM AT THE TRUCK STOP FIRST?

A. RIGHT.

Q. AND THEN, YOU SAT IN THE CAR, ACCORDING TO YOUR
STATEMENT, YOU SAT IN THE CAR WHILE THEY GOT OUT
OF THE CAR AND WENT INTO THE HOUSE, CORRECT?

A. RIGHT.

Q. ALRIGHT. SO, YOU SAW THEM GO INTO THE HOUSE?

A. RIGHT.

REDIRECT - TRAVIS S. NORTH BY MR. KEARSE

787

1 Q. AND THEN YOU WENT IN THE HOUSE ABOUT, WAS IT
2 THIRTY MINUTES AFTER THAT?

3 A. RIGHT.

4 Q. ACCORDING TO YOUR STATEMENT?

5 A. RIGHT.

6 Q. AND YOU SAW THEM WHILE THEY WERE IN THE HOUSE,
7 CORRECT?

8 A. RIGHT.

9 Q. SO, YOU HAD AMPLE OPPORTUNITY TO SEE THESE GUYS
10 BEFORE THIS THING HAPPENED, ISN'T THAT CORRECT?

11 A. RIGHT.

12 Q. AND YOU COULD NOT DEPICT CLOTHES, WHETHER HE HAD
13 ON SHORTS OR PANTS OR KHAKIS OR JEANS?

14 A. I DON'T REMEMBER.

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

17 THE COURT: ANY OBJECTION TO THE
18 WITNESS BEING EXCUSED?

19 SOLICITOR BELL: NO, YOUR HONOR.

20 THE COURT: MR. KEARSE?

21 MR. KEARSE: NONE, YOUR HONOR.

22 THE COURT: THE WITNESS IS
23 EXCUSED. SIR, YOU HAVE A GOOD DAY.

24 PLEASE CALL YOUR NEXT WITNESS.

25 MR. KEARSE: YOUR HONOR, CAN WE

1 APPROACH?

2 THE COURT: YES.

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

6 MR. KEARSE: I CALL LIEUTENANT VAN
7 DORAN TO THE STAND.

8 THE COURT: DID WE HAVE TO GET HIM
9 OUT, FROM OUT THERE?

10 MR. KEARSE: YES, MA'AM.

11 THE COURT: OKAY.

12 (Whereupon, the witness
13 enters the courtroom.)

14 CLERK: PLACE YOUR LEFT HAND ON
15 THE BIBLE, RAISE YOUR RIGHT HAND, AND GIVE US YOUR
16 FULL NAME.

17 WITNESS: TERRANCE A. VAN DORAN.

18 (Whereupon, the witness,
19 TERRANCE A. VAN DORAN,
20 is duly sworn.)

21 CLERK: COME AROUND AND HAVE A
22 SEAT.

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

DIRECT - TERRANCE A. VAN DORAN BY MR. KEARSE

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DIRECT EXAMINATION OF TERRANCE A. VAN DORAN

BY MR. KEARSE:

Q. LIEUTENANT VAN DORAN, CAN YOU STATE YOUR FULL
NAME FOR THE COURT'S RECORD, PLEASE.

A. YES. TERRANCE A. VAN DORAN, V-A-N D-O-R-A-N.

Q. ALRIGHT. AND YOU ARE PRESENTLY AN EMPLOYEE WITH
DORCHESTER COUNTY SHERIFF'S OFFICE?

A. YES, SIR.

Q. ALRIGHT. WHAT'S YOUR POSITION?

A. I'M A LIEUTENANT IN REGION THREE.

Q. OKAY. WHICH INCLUDES INVESTIGATION OF HOMICIDES?

A. NO, SIR, I LEFT THE DETECTIVE DIVISION ABOUT
THREE MONTHS AGO.

Q. OKAY. IN TWO THOUSAND AND THREE YOU WERE AN
INVESTIGATOR OF SOME SORT, IS THAT CORRECT?

A. THAT'S CORRECT, SIR.

Q. ALRIGHT. AND YOU DID INVESTIGATION IN THIS
PARTICULAR CASE, IS THAT RIGHT?

A. YES, SIR.

Q. ALRIGHT. AND YOU HAVE PREVIOUSLY TESTIFIED FOR
THE STATE IN THIS CASE, IS THAT CORRECT?

A. YES, SIR.

MR. KEARSE: YOUR HONOR, AT THIS
TIME I WOULD LIKE TO ASK FOR PERMISSION TO LEAD THIS
WITNESS.

DIRECT - TERRANCE A. VAN DORAN BY MR. KEARSE

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1 THE COURT: ANY EXCEPTION?

2 SOLICITOR BELL: NO, YOUR HONOR.

3 THE COURT: GRANTED. YOU MAY
4 PROCEED.

5 Q. NOW, AS A PART OF THIS INVESTIGATION, YOU HAD THE
6 OPPORTUNITY TO SPEAK WITH BOTH ANTHONY DEE DEE
7 FOLK AND TRAVIS NORTH, DID YOU NOT?

8 A. YES, SIR.

9 Q. ALRIGHT. DO YOU RECALL SHOWING AN AUTOMOBILE TO
10 TRAVIS NORTH?

11 A. YES, SIR.

12 MR. KEARSE: MARK THIS FOR ID.

13 CLERK: DEFENDANT'S SIXTEEN, ID.

14 (Defendant's Exhibit Sixteen,
15 DMV receipt for 2001 Pontiac Grand Prix,
16 marked for identification.)

17 Q. I WANT TO HAND YOU A DOCUMENT, WHAT'S BEEN MARKED
18 DEFENDANT'S SIXTEEN FOR IDENTIFICATION PURPOSES.

19 A. YES, SIR.

20 Q. WHAT IS THAT, AND CAN YOU EXPLAIN TO THE JURY THE
21 SIGNIFICANCE OF THAT DOCUMENT, DETECTIVE -- I'M
22 SORRY, LIEUTENANT VAN DORAN?

23 A. DURING THE COURSE OF THE INVESTIGATION ONE OF THE
24 CELL PHONE NUMBERS THAT WAS OBTAINED CAME BACK TO
25 AN AREA IN, I BELIEVE, GRETN, VIRGINIA, WHICH IS

DIRECT - TERRANCE A. VAN DORAN BY MR. KEARSE

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1 NEAR DANVILLE. AND I PHONED UP TO THAT AREA AND
2 ASKED IF THEY COULD DETERMINE WHAT THAT PHONE
3 NUMBER WAS, AND IF THEY COULD GO BY THAT LOCATION
4 AND SEE WHAT THEY COULD TELL ME ABOUT IT.

5 Q. OKAY.

6 A. IN THE PROCESS OF THAT, THEY PARKED, NOT AT THE
7 RESIDENCE THAT THEY LOOKED AT FOR US, BUT JUST
8 MAYBE A COUPLE OF HOUSES DOWN THERE WAS A VEHICLE
9 THAT WAS SIMILAR TO THE ONE THAT WE MAY HAVE BEEN
10 LOOKING FOR, AND THE DETECTIVE PROVIDED THIS
11 INFORMATION TO US.

12 Q. OKAY. AND THAT IS A COPY OF WHAT IN REFERENCE TO
13 THAT VEHICLE?

14 A. IT'S A COPY OF A -- BASICALLY A TEMPORARY
15 REGISTRATION OR BILL OF SALE FOR THE VEHICLE.
16 THERE WAS NO -- THERE WAS NO LICENSE PLATE AT THE
17 TIME OTHER THAN A TEMPORARY TAG.

18 Q. ALRIGHT, AND HOW DID YOU OBTAIN THAT TEMPORARY
19 LICENSE FROM THAT?

20 A. BY CONTACTING THE NORTH CAROLINA DMV AND
21 OBTAINING IT.

22 Q. OKAY. AND WHAT KIND OF VEHICLE WAS THAT -- WHAT
23 KIND OF VEHICLE WAS IT?

24 A. IT WAS AN 'O-ONE PONTIAC GRAND PRIX.

25 Q. OKAY. AND WHAT COLOR WAS THAT GRAND PRIX?

DIRECT - TERRANCE A. VAN DORAN BY MR. KEARSE

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1 A. SILVER.

2 Q. ALRIGHT.

3 A. TO THE BEST OF MY RECOLLECTION.

4 Q. DID YOU NOT OBTAIN A PHOTOGRAPH OF IT?

5 A. THERE WAS A PHOTOGRAPH OBTAINED, YES, SIR.

6 Q. ALRIGHT. I'M GOING TO SHOW YOU WHAT'S MARKED AS
7 DEFENDANT'S EXHIBIT FOURTEEN.

8 A. YES, SIR.

9 Q. DOES THAT APPEAR TO BE A LIGHT MODEL, NOT IN
10 COLOR, BUT A LIGHT MODEL IN REFERENCE TO THE CAR
11 IN THE PHOTOGRAPH YOU OBTAINED AT THAT TIME?

12 A. THE VEHICLE MAY BE SIMILAR, THE HUB CAPS OR THE
13 WHEELS ARE NOT THE SAME, AS I RECALL.

14 Q. RIGHT. BUT IT'S THE SAME MAKE AND MODEL CAR, IS
15 IT NOT?

16 A. IT APPEARS TO BE.

17 Q. RIGHT.

18 A. I MEAN, I CAN'T SAY FOR SURE, BUT ---

19 Q. RIGHT.

20 A. --- IT APPEARS TO BE.

21 Q. AND THAT WOULD BE A GRAND PRIX, IS THAT CORRECT?

22 A. I CAN'T TELL, LOOKING AT THIS PHOTOGRAPH.

23 Q. ALRIGHT. NOW, YOU TOOK THE PHOTOGRAPH OF THAT,
24 YOU SAY, SILVER GRAND PRIX, AND YOU SHOWED IT TO
25 ANTHONY FOLK, DID YOU NOT?

DIRECT - TERRANCE A. VAN DORAN BY MR. KEARSE

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1 A. THAT'S CORRECT.

2 Q. RIGHT. AND YOU DID THAT ON OR ABOUT, I THINK IT
3 WAS AUGUST SIXTH, TWO THOUSAND THREE, IS THAT
4 CORRECT?

5 A. THAT SOUNDS ABOUT RIGHT, I'D HAVE TO SEE MY NOTES
6 TO KNOW FOR SURE.

7 Q. DO YOU HAVE A COPY OF YOUR NOTES?

8 A. NOT WITH ME, NO, SIR.

9 Q. I'M GOING TO HAND YOU A -- LIEUTENANT VAN DORAN,
10 I'M GOING TO HAND YOU ABOUT EIGHT TO TEN PAGES, I
11 WANT YOU TO GO THROUGH THOSE FOR ME.

12 A. WHAT DATE DID YOU REFER TO, SIR?

13 Q. I SAID, AUGUST, BUT I THINK IT'S JULY TWENTY-
14 FIRST, TWO THOUSAND AND THREE. ALRIGHT, I
15 BELIEVE IF YOU LOOK AT THE EIGHTH PAGE OF YOUR
16 NOTES, THE THIRD PARAGRAPH, IT TALKS ABOUT THIS
17 PARTICULAR INCIDENT, DOES IT NOT, THIS INTERVIEW
18 WITH ANTHONY FOLK?

19 A. YES, SIR.

20 Q. ALRIGHT. YOU SHOWED ANTHONY FOLK A PHOTOGRAPH OF
21 THAT CAR, DID YOU NOT?

22 A. YES, SIR.

23 Q. ALRIGHT. HE INDICATED THAT DEPICTED THE CAR,
24 SAME COLOR, ONLY SMALLER, DID HE NOT?

25 A. DO YOU WANT ME TO READ FROM MY NOTES? I'LL ---

DIRECT - TERRANCE A. VAN DORAN BY MR. KEARSE

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1 Q. RIGHT, YEAH, WELL, YOU CAN.

2 A. --- SAY WHAT I WROTE AT THE TIME. "I TAKE THE
3 PHOTOS TO ANTHONY FOLK AND SHOW HIM THE
4 PHOTOGRAPHS. ANTHONY AT FIRST STATES THAT IT
5 COULD BE THE VEHICLE, AND THEN STATES THE FRONT
6 END IS THE SAME, AND THEN SAYS THAT THE VEHICLE
7 WE'RE LOOKING FOR IS SMALLER. ANTHONY THEN
8 STATES HE BELIEVES THE VEHICLE WE'RE LOOKING FOR
9 IS A GRAND AM."

10 Q. ALRIGHT. DID HE NOT SAY, OR IDENTIFY THAT THE --
11 THE CAR WAS THE SAME COLOR, ONLY SMALLER?

12 A. WHAT I PUT IN MY NOTES IS, "AT FIRST STATES, IT
13 COULD BE THE VEHICLE, AND THEN STATES THE FRONT
14 END IS THE SAME, AND THEN SAYS THAT THE VEHICLE
15 WE'RE LOOKING FOR IS SMALLER." THERE'S NO
16 REFERENCE TO COLOR.

17 Q. NOW, I WANT YOU TO REFER TO AUGUST SIXTH, TWO
18 THOUSAND THREE. DO YOU HAVE THOSE NOTES WITH YOU?

19 A. NO, SIR, THEY'RE NOT IN THIS. THESE NOTES STOP
20 ON TWENTY-THREE JULY.

21 Q. YOU GUYS SHOWED ANTHONY FOLK A PHOTO LINEUP, DID
22 YOU NOT?

23 A. I KNOW HE WAS SHOWED A PHOTO LINEUP, YES, SIR.

24 Q. WERE YOU IN THERE, AND DID YOU PARTAKE OF THAT
25 INTERVIEW WITH DETECTIVE MARSHALL WHEN HE WAS

DIRECT - TERRANCE A. VAN DORAN BY MR. KEARSE

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1 SHOWN THAT LINEUP?

2 A. I MAY HAVE, I DON'T REMEMBER SPECIFICALLY WITHOUT
3 SEEING MY NOTES.

4 Q. YOU GUYS KEEP THESE NOTES IN THE ORDINARY COURSE
5 OF THE SHERIFF'S OFFICE BUSINESS, IS THAT
6 CORRECT?

7 A. YES, SIR, WHOEVER IS THE PRIMARY AND WHOEVER IS
8 DOING WHAT IS TASKED TO BE DONE WOULD MAKE NOTES,
9 OR SHOULD MAKE NOTES ON WHAT WAS DONE.

10 Q. OKAY. AND Y'ALL ALL KEEP IT IN THE SAME CASE
11 FILE?

12 A. YES.

13 Q. AND YOU REFER TO IT AS YOU GO ALONG, IS THAT
14 CORRECT?

15 A. YES, SIR.

16 Q. ALRIGHT. AND IF YOU'LL REFER TO AUGUST SIXTH, TWO
17 THOUSAND AND THREE, DO YOU RECALL THAT INTERVIEW
18 WITH MR. FOLK?

19 A. YES, SIR.

20 Q. OKAY. YOU GUYS SHOWED HIM WHAT'S BEEN MARKED AS
21 STATE'S EXHIBIT THIRTEEN, AS A PHOTO LINEUP, DID
22 YOU NOT?

23 A. YES, SIR.

24 Q. AND AT THAT TIME HE PICKED OUT AND WAS ABLE TO
25 IDENTIFY MR. JASSON TURNER, OTHERWISE KNOWN AS

1 SMOKE, IS THAT CORRECT?

2 A. YES, SIR.

3 Q. ALRIGHT.

4 A. YEAH, I'M SORRY, WITHOUT SEEING THE PHOTO LINEUP,
5 WE DID SO MANY, IT'S GOOD TO SEE THE PHOTO LINEUP
6 TO SEE WHICH ONE YOU'RE REFERRING TO.

7 Q. AND CAN YOU READ YOUR NOTATION FROM -- OR THE
8 NOTATION THAT WAS MADE FROM AUGUST SIXTH, TWO
9 THOUSAND THREE, AT NINE:FORTY-FOUR, IT'S THAT
10 SECOND PARAGRAPH ON PAGE TWELVE?

11 A. YES, SIR. LIEUTENANT MARSHALL ACTUALLY MADE THESE
12 NOTES, BUT IT READS, "AFTER SEEING TRAVIS, I.O.
13 AND DETECTIVE VAN DORAN THEN WENT TO ANTHONY
14 FOLK'S HOUSE AND LET HIM SEE THE PHOTO LINEUP,
15 AND HE, TOO, PICKED THE SUBJECT, JASSON TURNER,
16 AND HE SAID THAT HE WAS DRIVING THE CAR, AND HE
17 SAW HIM GO INTO THE HOUSE WHERE THE VICTIM WAS
18 MURDERED."

19 Q. OKAY. AND HE SAID THAT THIS MAN, JASSON TURNER,
20 WAS THE DRIVER OF THE VEHICLE IN QUESTION,
21 CORRECT?

22 A. THAT'S WHAT HE SAID, YES, SIR.

23 Q. ALRIGHT. AND WHEN YOU SAID, "I.O.", I.O. JUST
24 MEANS INVESTIGATING OFFICER?

25 A. INVESTIGATING OFFICER, YES, SIR.

DIRECT - TERRANCE A. VAN DORAN BY MR. KEARSE

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1 Q. DO YOU RECALL SPEAKING TO TRAVIS NORTH IN THIS
2 CASE?

3 A. YES, SIR.

4 Q. AND YOU GUYS INTERVIEWED TRAVIS NORTH ON OR
5 ABOUT, I BELIEVE IT WAS JULY EIGHTH, TWO THOUSAND
6 AND THREE?

7 A. THAT'S CORRECT, SIR.

8 Q. DO YOU HAVE THE NOTES FROM THAT PARTICULAR
9 INTERVIEW, LIEUTENANT VAN DORAN?

10 A. IT'S ACTUALLY THE NINTH, SIR, WHEN I ACTUALLY
11 SPOKE WITH HIM.

12 Q. IT'S JULY NINTH?

13 A. YES, SIR.

14 Q. I'M GOING TO HAND YOU A COPY OF YOUR NOTE, IF
15 YOU'D GO TO THE BOTTOM OF THAT PAGE, YOU CAN
16 REFER TO IT.

17 A. ALRIGHT, SIR.

18 Q. ALRIGHT, ON THAT PARTICULAR DAY, IF YOU LOOK AT
19 PAGE SIX, JULY EIGHT, TWO THOUSAND THREE, YOU
20 GUYS INTERVIEWED TRAVIS NORTH, CORRECT?

21 A. HE WAS INTERVIEWED, YES, SIR.

22 Q. ALRIGHT. HE INDICATES THAT A GRAND AM HE SAW
23 COULD HAVE BEEN GRAY IN COLOR, DOES HE NOT?

24 A. YES, SIR.

25 Q. ALRIGHT. YOU GUYS ALSO INTERVIEWED MR. NORTH ON

DIRECT - TERRANCE A. VAN DORAN BY MR. KEARSE

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1 OR ABOUT AUGUST SIXTH, TWO THOUSAND AND THREE,
2 DID YOU NOT?

3 A. TRAVIS NORTH?

4 Q. CORRECT. YOU AND DETECTIVE MARSHALL, I BELIEVE,
5 DROVE OUT TO HIS HOUSE TO SHOW HIM THE PHOTO
6 LINEUP?

7 A. YES, SIR.

8 Q. ALRIGHT.

9 A. YEAH, I REMEMBER, IT'S NOT IN THESE NOTES BUT I
10 REMEMBER DOING IT.

11 Q. ALRIGHT. AND HE, TOO, WAS SHOWN ---

12 A. YES, I HAVE THAT.

13 Q. --- HE WAS SHOWN THE SAME STATE'S EXHIBIT
14 THIRTEEN, IS THAT CORRECT?

15 A. YES, SIR.

16 Q. AND HE ALSO, JUST LIKE ANTHONY FOLK, PICKED OUT
17 JASSON TURNER?

18 A. THE NOTES REFLECT, "TRAVIS ALSO SAID THAT THE
19 SUBJECT THAT HE PICKED OUT WAS THE ONE THAT DROVE
20 THE CAR."

21 Q. RIGHT. AND HE SAID THAT JASSON TURNER WAS THE ONE
22 THAT DROVE THE CAR?

23 A. YES, SIR.

24 Q. ALRIGHT. AND THAT WAS AUGUST SIXTH, TWO THOUSAND
25 THREE, CORRECT?

DIRECT - TERRANCE A. VAN DORAN BY MR. KEARSE

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1 A. THAT'S CORRECT, SIR.

2 MR. KEARSE: YOUR HONOR, I DON'T
3 HAVE ANYTHING FURTHER.

4 THE COURT: ANY QUESTIONS FOR THE
5 WITNESS?

6 SOLICITOR BELL: YES.

7 THE COURT: YOU MAY PROCEED.

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

CROSS - TERRANCE A. VAN DORAN BY SOL. BELL

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CROSS-EXAMINATION OF TERRANCE A. VAN DORAN

BY SOLICITOR BELL:

Q. DETECTIVE VAN DORAN, GOING BACK TO WHAT, WHEN YOU WENT OUT TO RYAN NORTH'S HOUSE, AND HE SAID SOMETHING ABOUT, DID HE SAY, COULD HAVE BEEN GRAY?

A. YES, SIR.

Q. HE DIDN'T SAY IT WAS GRAY, HE SAID IT COULD HAVE BEEN?

A. THAT'S CORRECT.

Q. AND THAT IMPLIES IT COULD HAVE BEEN SOMETHING ELSE?

A. YES, SIR.

Q. NOW, LET ME SHOW YOU WHAT'S BEEN MARKED AS DEFENDANT'S EXHIBIT SIXTEEN FOR ID, AND THAT'S THE TITLE TO A VEHICLE YOU WERE LOOKING AT?

A. YES, SIR.

Q. SOMETHING ABOUT A VEHICLE IN GRETN, VIRGINIA?

A. THAT'S CORRECT.

Q. AND WHAT KIND OF VEHICLE IS IT?

A. IT'S A GRAND PRIX, PONTIAC ---

Q. GO AHEAD.

A. IT'S JUST AN 'O-ONE PONTIAC GRAND PRIX.

Q. OKAY. AND DOES IT SAY SOMETHING ABOUT A DATE OF SALE ON THERE?

CROSS - TERRANCE A. VAN DORAN BY SOL. BELL

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1 A. YES, SIR, IT SAYS IT WAS SOLD ON JULY THE THIRD,
2 TWO THOUSAND AND THREE.

3 Q. AND WHAT DOES THIS -- WHAT DOES THIS SAY AT THE
4 TOP, WHAT IS THIS PARTICULAR DOCUMENT?

5 A. IT'S A THIRTY DAY TEMPORARY MARKER RECEIPT, WHICH
6 WOULD BE BASICALLY A TEMPORARY TAG.

7 Q. FROM WHAT STATE?

8 A. FROM NORTH CAROLINA, NORTH CAROLINA DIVISION OF
9 MOTOR VEHICLES.

10 Q. OKAY. THANK YOU.

11 SOLICITOR BELL: I HAVE NOTHING
12 FURTHER.

13 THE COURT: ANYTHING FURTHER?

14 MR. KEARSE: JUST BRIEFLY.

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.)

REDIRECT - TERRANCE A. VAN DORAN BY MR. KEARSE

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REDIRECT EXAMINATION OF TERRANCE A. VAN DORAN

BY MR. KEARSE:

Q. DETECTIVE VAN DORAN, YOU GUYS, WHEN YOU
INTERVIEWED ANTHONY FOLK, CLEARLY HE SAID THE CAR
WAS SILVER OR GRAY, DID HE NOT?

A. HE INFERRED THAT IT COULD HAVE BEEN, YES, SIR.

Q. ALRIGHT. AND YOU, IN THIS INTERVIEW, -- THAT
PARTICULAR INTERVIEW TOOK PLACE ON JULY TWENTY-
FIRST, TWO THOUSAND THREE?

A. I'VE GOT IT. WELL, ---

Q. HERE YOU GO. ALRIGHT, ON THAT DAY YOU INFORMED
DETECTIVE MARSHALL YOU HAD FOUND A NUMBER AND IT
HAD COME BACK TO SOMEONE IN VIRGINIA, AND YOU
SPOKE TO WALLACE, HE SAID THE NUMBER CAME BACK TO
AN ADDRESS OF A KNOWN DRUG HOUSE, CORRECT?

A. THAT'S CORRECT.

Q. THAT'S YOUR NOTATION. AND YOU SAID THAT A
SUBJECT, THERE WAS SOME INFORMATION THAT LED YOU
TO A SUBJECT BY THE NAME OF SMOKE, CORRECT?

A. THAT'S CORRECT.

Q. AND A DETECTIVE, I IMAGINE ONE IN VIRGINIA, IS
THE ONE WHO SENT YOU THE PICTURE OF THE SILVER OR
GRAY GRAND AM?

A. THAT'S CORRECT.

Q. ALRIGHT, AND YOU SHOWED THOSE TO ANTHONY?

REDIRECT - TERRANCE A. VAN DORAN BY MR. KEARSE

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1 A. YES, SIR.

2 Q. AND HE SAID THE CAR WAS THE SAME COLOR BUT IT WAS
3 SMALLER, THAT'S YOUR NOTATION ---

4 A. HE DID.

5 Q. --- CORRECT?

6 A. THIS IS DETECTIVE MARSHALL'S NOTES, BUT YES, SIR.

7 Q. ALRIGHT. JULY TWENTY-FIRST, TWO THOUSAND THREE?

8 A. YES, SIR.

9 Q. ALRIGHT.

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

12 THE COURT: ANY OBJECTION TO THE
13 WITNESS BEING EXCUSED?

14 SOLICITOR BELL: NO, YOUR HONOR.

15 THE COURT: MR. KEARSE?

16 MR. KEARSE: NONE FROM THE
17 DEFENSE, YOUR HONOR.

18 THE COURT: SIR, YOU'RE EXCUSED.

19 MR. KEARSE, YOU MAY PROCEED.

20 MR. KEARSE: YOUR HONOR, CAN WE
21 APPROACH?

22 THE COURT: YES.

23 (Whereupon, a bench conference
24 is held out of the hearing of
25 the jury and the court reporter.)

1 MR. KEARSE: MAY IT PLEASE THE
2 COURT, YOUR HONOR, THE DEFENSE WOULD CALL RYAN NORTH
3 TO THE STAND.

4 (Whereupon, the witness
5 enters the courtroom.)

6 THE COURT: MR. NORTH, IF YOU
7 WOULD COME TO THE WITNESS STAND.

8 CLERK: RAISE YOUR RIGHT HAND AND
9 PUT YOUR LEFT HAND ON THE BIBLE, AND GIVE US YOUR FULL
10 NAME.

11 WITNESS: RYAN SPENCER NORTH.

12 (Whereupon, the witness,
13 RYAN SPENCER NORTH,
14 is duly sworn.)

15 CLERK: COME AROUND AND HAVE A
16 SEAT.

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

DIRECT - RYAN S. NORTH BY MR. KEARSE

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DIRECT EXAMINATION OF RYAN S. NORTH

BY MR. KEARSE:

Q. MR. NORTH, CAN YOU STATE YOUR FULL NAME FOR THE COURT'S RECORD, PLEASE.

A. RYAN SPENCER NORTH.

Q. AND YOU HAVE TESTIFIED PREVIOUSLY IN THIS CASE, HAVE YOU NOT?

A. YES, SIR.

Q. AND WHEN YOU TESTIFIED, YOU TESTIFIED AS A WITNESS FOR THE DEFENSE, DID YOU NOT?

A. FOR THE PROSECUTION.

Q. FOR THE STATE, I'M SORRY.

A. YES, SIR.

MR. KEARSE: YOUR HONOR, AT THIS TIME I'D LIKE PERMISSION TO ASK TO LEAD.

THE COURT: ANY OBJECTION?

SOLICITOR BELL: NO, YOUR HONOR.

THE COURT: YOU MAY PROCEED.

MR. KEARSE: ALRIGHT. I BEG THE COURT'S INDULGENCE, YOUR HONOR.

THE COURT: UH HUH.

Q. MR. NORTH, YOU GAVE A STATEMENT TO LAW ENFORCEMENT IN THIS CASE, DID YOU NOT?

A. YES SIR.

Q. ALRIGHT. AND THAT STATEMENT WAS GIVEN ON OR ABOUT

DIRECT - RYAN S. NORTH BY MR. KEARSE

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1 -- YOU GAVE A COUPLE, BUT YOU GAVE A FORMER ONE
2 ON OR ABOUT JULY TENTH, TWO THOUSAND THREE, DID
3 YOU NOT?

4 A. I DON'T REMEMBER THE EXACT DATE, BUT I KNOW I
5 GAVE A COUPLE OF THEM.

6 Q. DO YOU RECALL TALKING TO A TIM E. STEVENSON, OF
7 THE DORCHESTER COUNTY SHERIFF'S OFFICE?

8 A. YES, SIR.

9 Q. ALRIGHT. I'M GOING TO HAND YOU WHAT'S MARKED AS
10 DEFENDANT'S NINE, I WANT YOU TO TAKE THE TIME TO
11 LOOK THROUGH THAT.

12 A. (Witness examines document.) YES, SIR.

13 Q. ALRIGHT, YOU'VE SEEN THAT BEFORE, I MEAN, YOU'VE
14 GONE THROUGH IT, HAVE YOU NOT?

15 A. THE STATEMENT?

16 Q. YEAH.

17 A. AT THE TIME I WROTE IT.

18 Q. ALRIGHT. AND THAT'S A COPY OF YOUR STATEMENT TO
19 THE INVESTIGATOR FOR DORCHESTER COUNTY SHERIFF'S
20 OFFICE, CORRECT?

21 A. YES, SIR.

22 Q. ALRIGHT. NOW, IN THAT STATEMENT DO YOU RECALL
23 TELLING HIM THAT EVERY CALL YOU MADE WAS DIRECTLY
24 TO SMOKE, WAS IT NOT, JASSON TURNER?

25 A. YES, SIR.

DIRECT - RYAN S. NORTH BY MR. KEARSE

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1 Q. ALRIGHT. AND IN ADDITION TO THAT, YOU ALSO SAID
2 THAT JERMAINE AND JASSON TALKED, THEMSELVES,
3 CORRECT?

4 A. YES, SIR, IT WAS CONVERSATION BETWEEN THEM.

5 Q. ALRIGHT. AND YOU ALSO SAID THAT JASSON SMOKE
6 TURNER NEGOTIATED DIRECTLY WITH JERMAINE,
7 HIMSELF, IN YOUR STATEMENT, DID YOU NOT?

8 A. I'VE GOT THAT IN THE STATEMENT, YES, SIR.

9 Q. ALRIGHT. AND YOU SAID SOMETHING ABOUT, THEY WERE
10 GOING TO SET THIS THING UP FOR WEDNESDAY, BUT
11 THEN, IT WAS JASSON AND JERMAINE DIRECTLY WHO SET
12 IT FOR THE NEXT DAY, THURSDAY, IS THAT CORRECT?

13 A. YES, SIR.

14 Q. ALRIGHT.

15 A. THAT'S WHAT'S IN THE STATEMENT.

16 Q. ALRIGHT. NOW, YOU REMEMBER TELLING THE OFFICER
17 ON THAT DAY THAT JASSON WAS DRIVING A GRAY
18 PONTIAC GRAND AM?

19 A. DO I REMEMBER TELLING HIM?

20 Q. RIGHT.

21 A. I DON'T REMEMBER, BUT IT'S IN MY STATEMENT.

22 Q. THAT IS IN YOUR STATEMENT, IS IT NOT?

23 A. YES, SIR.

24 Q. ALRIGHT. AND YOU SAID THAT THIS PERSON HE
25 ALLEGEDLY HAD WITH HIM WAS A GUY NAMED BENJY, DID

DIRECT - RYAN S. NORTH BY MR. KEARSE

808

1 YOU NOT?

2 A. YES, SIR.

3 Q. ALRIGHT. DO YOU RECALL WHEN YOU MET YOUR BROTHER
4 ON THE STREET THAT NIGHT, AFTER THE INCIDENT?

5 A. YES, SIR.

6 Q. ALRIGHT. AND DO YOU RECALL ASKING HIM WHAT
7 HAPPENED?

8 A. YES, SIR.

9 Q. ALRIGHT. DO YOU RECALL THE CONVERSATION WHERE
10 YOU CONVEYED WHAT YOU SAID YOUR BROTHER SAID TO
11 THE DETECTIVES?

12 A. YES, SIR.

13 Q. ALRIGHT. YOU TOLD THEM WHAT YOUR BROTHER, HOW HE
14 DEPICTED, ALLEGEDLY THIS THING HAPPENING, DID YOU
15 NOT?

16 A. YES, SIR.

17 Q. ALRIGHT. AND THAT WAS IN AN INTERVIEW YOU HAD
18 WITH THE DETECTIVES, WAS IT NOT?

19 A. I TOLD THEM WHAT HE TOLD ME ABOUT THE SHOOTING,
20 JUST THE EVENTS OF THE SHOOTING.

21 Q. OKAY. NOW, YOU ALSO SAW A PHOTO LINEUP OF JASSON
22 TURNER, DID YOU NOT?

23 A. YES, SIR.

24 Q. ALRIGHT. AND THAT WAS DONE ON OR ABOUT AUGUST
25 SEVEN, TWO THOUSAND THREE, I MEAN, YOU MAY NOT

DIRECT - RYAN S. NORTH BY MR. KEARSE

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1 RECALL THE EXACT DATES, BUT YOU DID AN INTERVIEW
2 IN AUGUST OF TWO THOUSAND AND THREE, DID YOU NOT?

3 A. I DID AN INTERVIEW.

4 Q. ALRIGHT. DO YOU RECALL -- AND THE PERSON YOU
5 POINTED TO IS IN STATE'S EXHIBIT NUMBER THIRTEEN?

6 A. YES, SIR, YOU'RE POINTING AT HIM.

7 Q. ALRIGHT. NOW, YOU POINTED HIM OUT AND SAID,
8 THAT'S JASSON SMOKE TURNER CORRECT?

9 A. YES, SIR.

10 Q. ALRIGHT. AND AT THAT TIME YOU HAD YOUR LAWYER
11 WITH YOU?

12 A. YES, SIR.

13 Q. ALRIGHT. AND YOU, YOU TOLD THE DETECTIVES AT
14 THAT TIME, WHEN YOU POINTED HIM OUT AND SAID,
15 YEAH, THAT'S SMOKE, HE HAD A GUN, DID YOU NOT?

16 A. I DON'T REMEMBER, I COULD HAVE SAID IT, IF IT'S
17 IN THE STATEMENT.

18 Q. AND WHO WERE THE OTHER DETECTIVES THAT WERE
19 PRESENT IN THAT INTERVIEW?

20 A. I REMEMBER MR. TOM MARSHALL, AND I BELIEVE MR.
21 VAN DORAN WAS THERE.

22 Q. ALRIGHT. YOUR TESTIMONY IS THAT YOU MET THESE
23 GUYS AT A TRUCK STOP?

24 A. YES, SIR.

25 Q. ALRIGHT. AND YOU'RE SAYING THEY NEVER CAME TO

DIRECT - RYAN S. NORTH BY MR. KEARSE

810

1 YOUR HOUSE?

2 A. NO, SIR.

3 Q. CORRECT? YOU'RE SAYING THAT YOU NEVER GOT IN THE
4 CAR WITH THEM?

5 A. SMOKE WAS TO MY HOUSE PREVIOUSLY.

6 Q. SMOKE HAD BEEN TO YOUR HOUSE ABOUT, AT LEAST
7 THREE TIMES, IS THAT RIGHT?

8 A. I WOULD -- YEAH, SOMEWHERE AROUND THAT NUMBER, NO
9 MORE THAN THREE TIMES.

10 Q. ALONG WITH PATRICK JONES AND JEFF HILL?

11 A. THAT'S RIGHT.

12 Q. ALRIGHT. BUT YOUR TESTIMONY IS THAT ON JULY
13 THIRD, TWO THOUSAND THREE, THESE GUYS DID NOT
14 COME TO YOUR TRAILER?

15 A. NO, SIR, NOT FROM MY RECOLLECTION.

16 Q. AND IT'S YOUR TESTIMONY THAT YOU NEVER GOT IN THE
17 CAR AND RODE WITH THEM?

18 A. NO, SIR, I DON'T THINK I RODE WITH THEM, I MIGHT
19 HAVE SAT IN THE CAR WHEN WE GOT TO THE HOUSE,
20 LOOKING AT THE DRUGS.

21 Q. ALRIGHT. NOW, IN YOUR STATEMENT, WHEN YOU
22 IDENTIFIED THE ALLEGED ASSAILANTS, OR THESE TWO
23 GUYS, CORRECT?

24 A. YES, SIR, I IDENTIFIED BOTH OF THEM.

25 Q. ALRIGHT. AND YOU NEVER INDICATED THAT, WHAT KIND

DIRECT - RYAN S. NORTH BY MR. KEARSE

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1 OF CLOTHES THEY HAD ON?

2 A. NO, SIR.

3 Q. AND YOU NEVER INDICATED WHAT KIND OF SHOES THEY
4 HAD ON?

5 A. NO, SIR.

6 Q. YOU NEVER SAID THEY HAD ON SHORTS OR LONG PANTS,
7 CORRECT?

8 A. NO, SIR.

9 Q. JEANS A KHAKI'S, CORRECT?

10 A. NO, SIR.

11 Q. T-SHIRT OR TANK TOP?

12 A. NO, SIR.

13 Q. ALRIGHT. IN ADDITION TO THAT, YOU NEVER INDICATED
14 WHETHER THEY WERE WEARING A HAT, OR ANYTHING OF
15 THAT NATURE?

16 A. WELL, I KNOW HE WASN'T WEARING A HAT, THE
17 DEFENDANT, BECAUSE HE WAS BALD HEADED, I REMEMBER
18 HIM ---

19 Q. BUT YOU DID NOT -- YOU DID NOT SET OUT ANYTHING
20 ABOUT CLOTHING IN YOUR STATEMENT ON JULY EIGHT,
21 TWO THOUSAND AND THREE, RIGHT?

22 A. NO, SIR.

23 Q. ALRIGHT. IN ADDITION, IN YOUR STATEMENT, AND IN
24 ANY INTERVIEWS WITH THESE DETECTIVES YOU NEVER
25 SAID ANYTHING ABOUT THIS CAR HAVING A VIRGINIA

DIRECT - RYAN S. NORTH BY MR. KEARSE

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1 TAG, DID YOU NOT?

2 A. I REMEMBER SAYING IT WAS AN OUT OF TOWN PLATE,
3 BECAUSE I REMEMBERED THEY HAD A PLATE ON THE
4 FRONT AND THE BACK, AND I KNOW SOUTH CAROLINA
5 DOESN'T REQUIRE THAT.

6 Q. IS THAT IN YOUR STATEMENT, MR. NORTH?

7 A. I DIDN'T READ THE ENTIRE STATEMENT. NO, IT'S NOT
8 IN THIS STATEMENT. I GAVE SEVERAL STATEMENTS.

9 Q. IN ADDITION, YOU NEVER SAID ANYTHING ABOUT ANY
10 DISTINGUISHING FEATURE IN THIS CAR THAT ALLEGEDLY
11 WAS USED IN THIS CRIME?

12 A. NO, SIR, EXCEPT THAT I BELIEVED IT WAS PONTIAC.

13 Q. ALRIGHT. AND YOU SAID YOU MIGHT HAVE EVEN SAT IN
14 IT, EVEN THOUGH YOU DIDN'T RIDE IN IT, YOU MIGHT
15 HAVE SAT IN IT DURING THE NEGOTIATION OF THE
16 DRUGS?

17 A. WELL, I DID DESCRIBE IT AS HAVING A WING TIP.

18 COURT REPORTER: AS HAVING WHAT?

19 A. A WING ON THE TRUNK, I GUESS THEY CALL IT A WING
20 TIP.

21 MR. KEARSE: I BEG THE COURT'S
22 INDULGENCE.

23 THE COURT: UH HUH.

24 Q. NOW, THIS STATEMENT ABOUT THIS CAR HAVING A WING
25 TIP, THAT'S NOT IN ANY WRITTEN STATEMENT YOU GAVE

DIRECT - RYAN S. NORTH BY MR. KEARSE

813

1 TO LAW ENFORCEMENT, IS IT?

2 A. THIS IS THE ONLY STATEMENT THAT I'VE SEEN THAT I
3 GAVE. I KNOW I GAVE A LOT OF ORAL STATEMENTS, WE
4 DID A LOT OF CONVERSATION TALKS, AND WE HAD
5 NUMEROUS CONVERSATIONS WHENEVER WE WAS TRYING TO
6 APPREHEND THESE GUYS -- WELL, WHEN THEY WAS
7 TRYING TO APPREHEND THEM IN THE BEGINNING.

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

10 THE COURT: ANY QUESTIONS FOR THE
11 WITNESS?

12 SOLICITOR BELL: YES, YOUR HONOR.

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

CROSS - RYAN S. NORTH BY SOL. BELL

814

CROSS-EXAMINATION OF RYAN S. NORTH

BY SOLICITOR BELL;

Q. MR. NORTH, AS BEST YOU CAN, I WANT YOU TO THINK
BACK TO JULY THIRD, TWO THOUSAND THREE.

A. YES, SIR.

Q. YOU WEREN'T WORRIED ABOUT WHAT PEOPLE WERE
WEARING THAT NIGHT, WERE YOU?

A. NO, SIR, WE WAS GETTING HIGH, GOING TO MAKE SOME
MONEY. THEY DIDN'T HAVE NOTHING OUT OF THE
ORDINARY.

Q. YOU WERE GOING TO ---

A. JERMAINE'S HOUSE.

Q. --- PARTICIPATE IN THE DRUG DEAL, IS THAT RIGHT?

A. THAT'S RIGHT, AND GET HIGH AT THE TIME.

Q. YOU WEREN'T EXPECTING ANYBODY TO GET SHOT THAT
NIGHT, WERE YOU?

A. I SURE WAS NOT.

Q. SO, YOU WERE KIND OF JUST, YOU SAW THE PEOPLE, --

A. YEAH, IT WAS JUST A JOYFUL NIGHT, IT WAS A PARTY
NIGHT, MONEY WAS GOING TO BE OUT ON THE THIRD OF
THE MONTH, IT WAS FOURTH OF JULY WEEKEND, I WAS
JUST ANXIOUS TO GET IT OVER WITH, TO GET MY PART
OF THE DRUGS, GET BACK, GET MY MONEY AND BE DONE
WITH IT.

Q. AND THE PERSON THAT YOU SAW SHOT -- OR WITH THE

CROSS - RYAN S. NORTH BY SOL. BELL

815

1 GUN, I DON'T THINK YOU ACTUALLY SAW THE SHOOTING,
2 IS THAT CORRECT?

3 A. I DIDN'T ACTUALLY SEE THE SHOOTING, BUT I KNOW
4 WHO SHOT HIM.

5 Q. YOU SAW A PERSON PULL A GUN, THOUGH?

6 A. YES, SIR.

7 Q. DO YOU SEE HIM IN THE COURTROOM?

8 A. THAT DEFENDANT RIGHT THERE SHOT THAT BOY.

9 Q. NO DOUBT ABOUT IT?

10 A. NO DOUBT IN MY MIND.

11 Q. NOW, I BELIEVE THE OTHER DAY, TUESDAY IS WHEN YOU
12 TESTIFIED, IS THAT CORRECT?

13 A. YES, SIR.

14 Q. YOU SAID SOMETHING ABOUT, YOU SAW THAT CAR HERE?

15 A. YES, SIR, THE CAR WAS OUT IN THE PARKING LOT, AND
16 NOBODY DIDN'T TELL ME WHEN I LOOKED, WHEN I
17 PULLED UP IN THE PARKING LOT I LOOKED, IT WAS
18 MAYBE A HUNDRED FEET AWAY, AND I LOOKED, AND I
19 SAID, THAT'S THE CAR. I SAID, THAT CAR IS HERE.

20 Q. AND YOU IDENTIFIED THE PICTURES OF THE CAR, TOO,
21 IS THAT CORRECT?

22 A. YES, SIR.

23 Q. THAT'S IN EVIDENCE?

24 A. THAT'S CORRECT.

25 Q. NO DOUBT ABOUT THAT THAT'S THE CAR?

CROSS - RYAN S. NORTH BY SOL. BELL

816

1 A. NO DOUBT, THAT'S THE CAR.

2 Q. EVEN THOUGH YOU SAID IT MAY HAVE GRAY BACK THEN?

3 A. YES, SIR, I DIDN'T HAVE MY GLASSES THAT NIGHT,
4 AND THE CAR, IF YOU LOOK AT IT, EVEN IN THE
5 PICTURES, YOU KNOW, IT'S A TAN CAR, BUT THE MOON
6 LIGHT HITTING IT, LATE AT NIGHT, IT'S NOT A BIG
7 DISTINGUISHING, IT'S NOT LIKE I SAID PINK FROM
8 GREEN, OR BLACK FROM WHITE.

9 SOLICITOR BELL: THANK YOU, MR.

10 NORTH.

11 THE COURT: ANYTHING FURTHER?

12 MR. KEARSE: YES, YOUR HONOR.

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

REDIRECT - RYAN S. NORTH BY MR. KEARSE

817

REDIRECT EXAMINATION OF RYAN S. NORTH

BY MR. KEARSE:

Q. MR. NORTH, IS THERE ANYTHING IN YOUR STATEMENT
THAT SAYS MR. BRISCOE WAS BALD?

A. WAS WHAT?

Q. THAT THE ASSAILANT WHO CAME IN THE HOUSE WAS
BALD?

A. WAS BALD?

Q. YES.

A. I DON'T KNOW IF IT'S IN THE STATEMENT BUT I TOLD
THEM THAT NUMEROUS TIMES, THAT HE WAS EITHER BALD
OR JUST HAD STUBS. I PICKED HIM OUT OF THE
LINEUP, I ONLY SAW HIM ONCE, THAT WAS THE NIGHT
OF THE SHOOTING. HE SHOT THAT BOY.

Q. BUT IT'S NOT -- IT'S NOT IN YOUR STATEMENT OF
JULY EIGHTH, TWO THOUSAND AND THREE, CORRECT?

A. NOT IN THIS STATEMENT, IF THIS IS THE ONE YOU'RE
REFERRING TO.

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

THE COURT: ANY OBJECTION TO THE
WITNESS BEING EXCUSED?

SOLICITOR BELL: NO OBJECTION,
YOUR HONOR.

MR. KEARSE: NONE, YOUR HONOR.

1 THE COURT: SIR, YOU'RE EXCUSED.

2 WITNESS: THANK YOU.

3 THE COURT: MR. KEARSE, YOU MAY
4 PROCEED.

5 MR. KEARSE: YOUR HONOR, MAY WE
6 TAKE A SHORT BREAK.

7 THE COURT: YES.

8 MR. FOREMAN, AND LADIES AND
9 GENTLEMEN, WE'RE GOING TO TAKE A SHORT RECESS. DURING
10 THE RECESS PLEASE DO NOT DISCUSS THE CASE.. PLEASE
11 LEAVE YOUR NOTE PADS IN YOUR SEATS, AND PLEASE LET THE
12 BAILIFFS KNOW IF YOU NEED ANYTHING.

13 (Whereupon, the following
14 takes place out of the
15 presence of the jury.)

16 THE COURT: HOLD FOR ON JUST A
17 MINUTE.

18 MR. KEARSE: I NEED JUST ABOUT
19 FIVE MINUTES, MAYBE TEN.

20 THE COURT: OKAY. WE'LL BE AT
21 EASE FOR TEN MINUTES.

22 MR. KEARSE: THANK YOU, YOUR
23 HONOR.

24 (Recess)

25 THE COURT: IS THE STATE READY TO

1 PROCEED?

2 SOLICITOR BELL: THE STATE'S
3 READY, YOUR HONOR.

4 THE COURT: IS THE DEFENSE READY
5 TO PROCEED?

6 MR. KEARSE: READY, YOUR HONOR.

7 THE COURT: OKAY, PLEASE BRING IN
8 THE JURY.

9 (Whereupon, the following
10 takes place in the
11 presence of the jury.)

12 THE COURT: MR. FOREMAN, AND
13 LADIES AND GENTLEMEN, I HOPE THAT YOU ENJOYED YOUR
14 BREAK, WE'LL NOW RESUME WITH THE TRIAL.

15 MR. KEARSE, YOU MAY PROCEED.

16 MR. KEARSE: MAY IT PLEASE THE
17 COURT, YOUR HONOR, THE DEFENSE WOULD CALL LIEUTENANT
18 MARSHALL TO THE STAND.

19 THE COURT: SIR, IF YOU WOULD COME
20 TO THE WITNESS STAND AND BE SWORN.

21 CLERK: PLACE YOUR LEFT HAND ON
22 THE BIBLE AND RAISE YOUR RIGHT HAND, AND GIVE US YOUR
23 FULL NAME.

24 WITNESS: THOMAS MILES MARSHALL.

25 (Whereupon, the witness,

1 THOMAS MILES MARSHALL,
2 is duly sworn.)

3 CLERK: THANK YOU, HAVE A SEAT.

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 - THOMAS M. MARSHALL BY MR. KEARSE

821

DIRECT EXAMINATION OF THOMAS M. MARSHALL

BY MR. KEARSE:

Q. LIEUTENANT MARSHALL, CAN YOU STATE YOUR FULL NAME
FOR THE COURT'S RECORD?

A. THOMAS MILES MARSHALL.

Q. AND YOU ARE PRESENTLY EMPLOYED BY THE DORCHESTER
COUNTY SHERIFF'S OFFICE, IS THAT CORRECT?

A. THAT'S CORRECT.

Q. AND YOU PREVIOUSLY TESTIFIED IN THIS CASE AS A
STATE'S WITNESS, IS THAT CORRECT?

A. THAT'S CORRECT.

MR. KEARSE: I WOULD REQUEST
PERMISSION TO LEAD, YOUR HONOR.

THE COURT: ANY EXCEPTIONS?

SOLICITOR BELL: NO OBJECTION,
YOUR HONOR.

THE COURT: YOU MAY PROCEED.

Q. DO YOU RECALL INTERVIEWING WITH TRAVIS NORTH
EXTENSIVELY OVER THE COURSE OF THIS
INVESTIGATION?

A. THAT'S CORRECT.

Q. ALRIGHT. DO YOU RECALL THE DIAGRAM THAT HE
PROVIDED FOR YOU AND DETECTIVE VAN DORAN, WHICH
IS DEFENDANT'S EXHIBIT FIFTEEN?

A. THAT WAS THE ONE I TOLD YOU THAT I WASN'T PRESENT

DIRECT - THOMAS M. MARSHALL BY MR. KEARSE

822

1 ON THAT ONE. DETECTIVE VAN DORAN DID THAT ONE.

2 Q. OKAY. BUT IT WAS MADE A PART OF YOUR CASE FILE?

3 A. THAT'S CORRECT. BUT I WAS NOT PRESENT -- I'M JUST
4 TELLING YOU I WAS NOT PRESENT WHEN THAT WAS
5 DRAWN.

6 Q. NOW, THE -- YOU WOULD SAY SUMMERVILLE IS ABOUT
7 HOW FAR FROM ST. GEORGE?

8 A. I USUALLY ROUND IT OFF TO ABOUT THIRTY MILES,
9 THIRTY MINUTES, SO, THIRTY MILES.

10 Q. YOU WOULD AGREE THAT IT TAKES ABOUT FORTY MINUTES
11 TO GET FROM ST. GEORGE TO SUMMERVILLE?

12 A. I'D SAY IT TAKES -- IT TAKES ME APPROXIMATELY
13 THIRTY MINUTES TO GET UP HERE. THAT'S WHAT I
14 ALWAYS ALLOW MYSELF, IS ABOUT THIRTY MINUTES,
15 WHEN I TELL SOMEBODY.

16 MR. KEARSE: COULD YOU MARK THIS?

17 COURT REPORTER: DEFENDANT'S
18 SEVENTEEN, ID.

19 (Defendant's Exhibit Seventeen,
20 Map-quest from Summerville to St. George,
21 marked for identification.)

22 COURT REPORTER: YOUR HONOR, I
23 HAVE MARKED ---

24 Q. YOU ARE FAMILIAR WITH MAP QUEST, ARE YOU NOT?

25 A. YEAH, I'VE USED IT A FEW TIMES ON THE COMPUTER.

DIRECT - THOMAS M. MARSHALL BY MR. KEARSE

823

1 Q. ALRIGHT, I'M GOING TO SHOW YOU WHAT'S MARKED AS
2 DEFENDANT'S SEVENTEEN, CAN YOU IDENTIFY THAT FOR
3 ME?

4 A. WELL, THAT APPEARS THAT SOMEBODY DOWN LOADED, OR
5 GOT THIS PRINTED OFF THE COMPUTER, AND IT SAYS,
6 TOTAL ESTIMATED TIME BETWEEN SUMMERVILLE AND ST.
7 GEORGE, AND IT GIVES THE DISTANCE, IT TELLS YOU
8 HOW -- STARTING POINTS AND WHERE YOU END UP AT.

9 Q. ALRIGHT. AND IT DEPICTS THAT IT TAKES ABOUT FORTY
10 MINUTES, ON AVERAGE, TO GET FROM SUMMERVILLE TO
11 ST. GEORGE, IS THAT CORRECT?

12 A. YEAH, FROM WHEREVER THEY'RE STARTING THIS, AND IT
13 SOUNDS LIKE THEY'RE STARTING IT AT NORTHEAST ON
14 U.S. SEVENTEEN ALTERNATE, SOUTH CAROLINA ONE
15 SIXTY-FIVE, SOUTH MAIN STREET, SO IT SOUNDS LIKE
16 THEY'RE GOING ALL THE WAY AROUND THEIR THUMB JUST
17 TO GET THAT ONE START THERE, BUT YEAH.

18 MR. KEARSE: OKAY. AT THIS TIME
19 I'D LIKE TO MOVE DEFENDANT'S SEVENTEEN INTO EVIDENCE.

20 THE COURT: ANY OBJECTION?

21 SOLICITOR BELL: NO OBJECTION.

22 THE COURT: MARKED AND ADMITTED
23 WITHOUT OBJECTION.

24 COURT REPORTER: DEFENDANT'S
25 SEVENTEEN.

DIRECT - THOMAS M. MARSHALL BY MR. KEARSE

824

1 (Defendant's Exhibit Seventeen
2 marked and filed.)

3 MR. KEARSE: YOUR HONOR, I DON'T
4 HAVE ANYTHING FURTHER.

5 THE COURT: ANY QUESTIONS, MR.
6 BELL?

7 SOLICITOR BELL: NONE, YOUR HONOR.

8 THE COURT: SIR, YOU MAY STEP
9 DOWN. I ASSUME THERE'S NO OBJECTION TO THE WITNESS
10 BEING EXCUSED?

11 MR. KEARSE: NONE, YOUR HONOR.

12 SOLICITOR BELL: NONE FROM THE
13 STATE.

14 THE COURT: ANYTHING FURTHER, MR.
15 KEARSE?

16 MR. KEARSE: NOTHING FURTHER, YOUR
17 HONOR, THAT WOULD BE THE DEFENDANT'S CASE.

18 THE COURT: DEFENDANT RESTS.

19 LADIES AND GENTLEMEN, THE DEFENSE
20 HAS NOW RESTED, THERE ARE CERTAIN MATTERS OF LAW I
21 NEED TO TAKE UP WITH THE ATTORNEYS. IT WILL BE VERY
22 BRIEF, I ANTICIPATE THAT IT WILL TAKE LESS THAN FIVE
23 MINUTES. AFTER THAT I WILL DETERMINE HOW WE WILL BE
24 PROCEEDING. THE STATE MAY WELL HAVE SOME REBUTTAL
25 WITNESSES. IF THEY DO NOT HAVE REBUTTAL WITNESSES,

1 WHICH I HAVE NOT BEEN ABLE TO ANTICIPATE YET AT THIS
2 POINT, I'M STILL GOING TO ASCERTAIN HOW WE WILL BE
3 PROCEEDING. I ANTICIPATE, HOWEVER, THAT WE MAY WELL
4 HAVE CLOSING ARGUMENT AND CHARGE, I MAY ORDER LUNCH IN
5 FOR YOU TODAY, I'M NOT CERTAIN, I'M GOING TO MAKE THAT
6 DECISION AFTER WE TAKE THIS BREAK.

7 DURING THE BREAK PLEASE HAVE NO
8 DISCUSSION ABOUT THE CASE, AND IF YOU NEED ANYTHING
9 LET THE BAILIFFS KNOW, AND PLEASE LEAVE YOUR NOTE PADS
10 IN YOUR SEATS.

11 (Whereupon, the following
12 takes place out of the
13 presence of the jury.)

14 THE COURT: ALRIGHT, ANY MOTIONS?

15 MR. KEARSE: YES, YOUR HONOR, THE
16 DEFENSE WOULD RENEW ITS MOTION FOR A DIRECTED VERDICT,
17 BASED ON OUR PREVIOUS ARGUMENT. WE BELIEVE THE STATE
18 HAS FAILED TO PROVE ITS CASE, AND AT THIS TIME WE
19 BELIEVE THAT WE ARE ENTITLED TO A DIRECTED VERDICT.

20 THE COURT: ANY RESPONSE, MR.
21 BELL?

22 SOLICITOR BELL: YES, YOUR HONOR.
23 WE RENEW OUR ARGUMENT AS WELL. WE BELIEVE THE STATE
24 HAS MET ITS BURDEN IN THIS CASE, AND THAT THE DIRECTED
25 VERDICT MOTION SHOULD BE DENIED.

1 THE COURT: AFTER HEARING THE
2 TESTIMONY AND EVIDENCE FROM THE STATE AS WELL AS FROM
3 THE DEFENSE, I BELIEVE THERE IS SUFFICIENT EVIDENCE
4 FOR THE JURY TO HAVE THIS CASE. THEREFORE, THE COURT
5 WOULD DENY THE MOTION.

6 MR. KEARSE: THANK YOU, YOUR
7 HONOR.

8 THE COURT: ALRIGHT, IS THERE
9 ANYTHING ELSE, ANY FURTHER MOTIONS THAT WE NEED TO
10 TAKE UP?

11 MR. KEARSE: NONE FROM THE
12 DEFENSE.

13 THE COURT: ANY FROM THE STATE?

14 SOLICITOR BELL: NONE REGARDING
15 THE CLOSING OF THE DEFENDANT'S CASE.

16 THE COURT: ALRIGHT, NOW, DOES THE
17 STATE HAVE ANY REBUTTAL WITNESSES?

18 SOLICITOR BELL: YOUR HONOR, WE
19 MAY. WHAT I WOULD ANTICIPATE THAT WE DO IS, NUMBER
20 ONE, DURING THE CROSS-EXAMINATION OF THE DEFENDANT'S
21 MOTHER YESTERDAY SHE WAS INQUIRED ABOUT TALKING TO
22 DETECTIVE VAN DORAN ABOUT A GUN THAT HE HAD ASKED HER
23 ABOUT, AND SHE STATED THAT SHE WAS TALKING ABOUT
24 ANOTHER GUN. AND THERE WERE TWO DIFFERENT GUNS, AS I
25 RECALL, AND SHE JUST -- SHE SAID SHE WAS ASKED ABOUT A

1 GUN THAT WAS TAKEN AS SHE RECALLED, AND I ASKED HER IF
2 SHE RECALLED TALKING TO DETECTIVE VAN DORAN ON A
3 CERTAIN DATE. AUGUST SEVENTEENTH, TWO THOUSAND FOUR,
4 AND SHE SEEMED TO REMEMBER THAT, AND SHE STATED THAT.
5 WE HAVE THE RECORDING THAT I WILL PUT IN THROUGH
6 DETECTIVE VAN DORAN WHERE SHE TALKS ABOUT THIS ONE GUN
7 THAT SHE PURCHASED, THAT SHE PURCHASED AT A GUN SHOP,
8 CARTER'S GUN SHOP, AND THAT'S ALL SHE TALKED ABOUT.
9 AND I WILL DO THAT TO REBUT HER STATEMENT, TO IMPEACH
10 HER STATEMENT FROM WHAT SHE TOLD DURING CROSS-
11 EXAMINATION, WHICH I THINK IS PROPER IMPEACHMENT.

12 THE COURT: MR. KEARSE?

13 MR. KEARSE: I WOULD OBJECT, YOUR
14 HONOR, I HAVEN'T BEEN MADE AWARE OF THIS TAPE OR THE
15 RECORDING, OR THE EXISTENCE OF A RECORDING, AND I
16 HAVEN'T HAD A CHANCE TO HEAR IT.

17 THE COURT: WELL, THE CURE IS TO
18 GIVE YOU THE OPPORTUNITY TO HEAR IT, NOT TO EXCLUDE
19 IT, IF THAT'S THE BASIS OF YOUR OBJECTION. BECAUSE ON
20 REBUTTAL THEY DON'T HAVE TO GIVE IT TO YOU, DO THEY,
21 UNLESS IT'S EXCULPATORY IN NATURE?

22 MR. KEARSE: YOUR HONOR, I CAN'T
23 TELL WHETHER IT'S EXCULPATORY OR NOT, I MEAN, UNTIL I
24 HEAR IT.

25 THE COURT: I MEAN, BUT THE CURE

1 IS TO LET YOU HEAR IT, CORRECT? HOW LENGTHY A TAPE IS
2 IT?

3 SOLICITOR BELL: THE TOTAL LENGTH
4 OF THE TAPE, THE ACTUAL CONVERSATION PART RUNS
5 APPROXIMATELY -- THE TOTAL SIDE, THE TOTAL RECORDING
6 IS TWENTY-EIGHT MINUTES, BUT THE CONVERSATION IS
7 AROUND, I WANT TO SAY SIXTEEN MINUTES, BUT I WAS ONLY
8 GOING TO PLAY THOSE PARTS PERTAINING TO THE GUN WHICH
9 WILL WORK OUT TO PROBABLY ABOUT ---

10 THE COURT: DID SHE EVER REALLY
11 DENY THAT SHE BOUGHT A GUN FROM CARTER'S GUN SHOP?

12 SOLICITOR BELL: SHE, WHAT SHE ---

13 MR. KEARSE: NO, SHE DID NOT DENY
14 IT. I THINK ---

15 SOLICITOR BELL: SHE DID NOT DENY
16 OWNING THIS GUN, BUT THEN SHE SAID SHE HAD ANOTHER GUN
17 PRIOR TO THIS. SHE WAS TALKING ABOUT TWO DIFFERENT
18 GUNS. AND SHE SAID, OH, THAT'S THE ONE THAT WAS TAKEN
19 THAT I HAD, THAT I LOST. YOU KNOW, SHE CAME HERE AND
20 TOLD THE STORY OF GIVING THE GUN TO SOME FELLOW

21 THE COURT: YEAH, THAT'S -- SEE, I
22 DIDN'T HEAR IT THAT WAY, I HEARD HER SAYING, BASICALLY
23 -- I HEARD HER TESTIMONY AS BEING INCONSISTENT IN
24 GENERAL, AND REFERRING TO THIS SAME GUN, AND TELLING
25 HIM IT HAD BEEN STOLEN, AND THEN NOW TELLING A STORY

1 THAT SHE GAVE IT TO SOMEBODY AS COLLATERAL.

2 SOLICITOR BELL: RIGHT, BUT SHE --

3 -

4 THE COURT: AND MAYBE I
5 MISUNDERSTOOD WHAT SHE WAS SAYING.

6 SOLICITOR BELL: WELL, SHE SAID,
7 WHEN SHE WAS TALKING TO DETECTIVE VAN DORAN THAT SHE
8 WAS TALKING ABOUT ANOTHER GUN, SHE WAS TALKING ABOUT
9 TWO DIFFERENT GUNS YESTERDAY.

10 THE COURT: IS THAT, IN FACT, WHAT
11 SHE SAID? I MIGHT HAVE TO GO BACK AND HEAR THAT
12 TESTIMONY.

13 SOLICITOR BELL: THAT'S WHAT I
14 RECALL, YOUR HONOR.

15 THE COURT: OKAY. BUT YOUR
16 OBJECTION GOES TO THE FACT THAT YOU HAVE NEVER HAD
17 PRIVY TO THE TAPE?

18 MR. KEARSE: WELL, I HADN'T HEARD
19 IT, YOUR HONOR, AS TO THE TAPE, I THINK IT'S
20 CUMULATIVE, I THINK THE JURY CAN WEIGH IT, I THINK
21 HE'S GOING TO GET OFF INTO A SIDE ISSUE WHICH REALLY
22 ISN'T THE SUBJECT OF THIS TRIAL, IN TERMS OF --
23 BECAUSE SHE SAYS THAT SHE GAVE -- SHE ADMITTED SHE
24 GAVE TWO INCONSISTENT STATEMENTS. YOUR HONOR, HE CAN
25 SAY THAT, DETECTIVE VAN DORAN CAN GET UP THERE AND

1 TESTIFY THAT SHE TOLD HIM SHE LOST THE GUN IN THE CAR,
2 BUT ---

3 THE COURT: YEAH, BUT IT'S A
4 LITTLE DIFFERENT THEN HEARING HER SAY IT ---

5 MR. KEARSE: RIGHT.

6 THE COURT: --- ON A TAPE. THAT'S
7 TOTALLY DIFFERENT.

8 SOLICITOR BELL: I DON'T THINK SHE
9 -- SHE, AS I RECALL, SHE SAID, ONE GUN I GAVE TO THIS
10 FRIEND WHO LOST IT, WAS HER STORY YESTERDAY ABOUT WHAT
11 HAPPENED TO THE TEN MILLIMETER GUN THAT SHE PURCHASED.
12 AND THEN, I ASKED HER, DID YOU TALK TO DETECTIVE VAN
13 DORAN, ---

14 THE COURT: UH HUH.

15 SOLICITOR BELL: --- AND SHE SAID,
16 YES. AND I SAID, WELL, YOU TOLD HIM SOMETHING ABOUT A
17 GUN BEING STOLEN OUT OF YOUR CAR.

18 THE COURT: UH HUH.

19 SOLICITOR BELL: AND I THINK HER
20 WORDS WERE, "WELL, THAT WAS ANOTHER GUN I HAD BEFORE
21 THAT. AND HE ASKED -- AND HE ONLY ASKED ABOUT A GUN
22 THAT WAS TAKEN" WAS HER RESPONSE TO THAT. AND WHAT
23 THE TAPE WOULD SHOW IS THAT THEY TALKED ABOUT ONE GUN
24 THAT WAS STOLEN -- I'M JUST TALKING ABOUT -- SHE'S
25 GIVING TWO DIFFERENT STORIES ABOUT HOW THIS GUN HAS

1 DISAPPEARED. AND THEY ASKED HER, IS THIS THE GUN --
2 WHERE DID YOU PURCHASE THE GUN? AND SHE FINALLY ---

3 THE COURT: I'M GOING TO THINK
4 ABOUT THAT, BECAUSE I MEAN, THAT ALREADY CAME ACROSS
5 IN HER TESTIMONY, SHE'S GIVEN INCONSISTENT STATEMENTS.

6 SOLICITOR BELL: ALRIGHT.

7 THE COURT: YOU KNOW, I'M GOING TO
8 THINK ABOUT THAT. WHO IS YOUR OTHER WITNESS?

9 SOLICITOR BELL: YOUR HONOR, THE
10 OTHER TESTIMONY I WOULD GIVE IS AN INDIVIDUAL THAT
11 WORKS AT THE JAIL. HE'S IN CHARGE OF THEIR TELEPHONE
12 SYSTEM WHERE THEY RECORD ALL TELEPHONE CALLS THAT COME
13 OUT OF THE JAIL, THE INMATES ARE WARNED. MR. ---

14 THE COURT: WHAT DOES IT PURPORT
15 TO SHOW?

16 SOLICITOR BELL: YOUR HONOR, ON
17 CROSS-EXAMINATION YESTERDAY, MR. BRISCOE, I ASKED HIM
18 IF HE KNEW SOMEBODY NAMED JEN, IF HE HAD HAD A CHILD,
19 OR WAS THERE A WOMAN NAME JEN WHO WAS PREGNANT. HE
20 EMPHATICALLY DENIED IT, SAYING THAT IT WAS A VICIOUS
21 RUMOR THAT PEOPLE MADE UP ON HIM. AND THEN, I ASKED
22 HIM SOMETHING ABOUT, IF HE ASKED HER TO GET FIVE
23 CREDIBLE WITNESSES, OR SOMETHING LIKE THAT, I THINK IS
24 WHAT I ALSO ASKED. I WOULD PURPORT TO PLAY TWO TAPED
25 CALLS FROM WHAT I WOULD SAY WAS MR. BRISCOE AND

1 SOMEBODY NAME JEN, WHERE HE TALKS TO HER AND THEY TALK
2 ABOUT THE BABY BEING HIS, WHICH I THINK GOES TO THE
3 HEART OF HIS CREDIBILITY.

4 THE COURT: MR. KEARSE.

5 MR. KEARSE: THIS CONVERSATION,
6 I'D LIKE TO HEAR THE TAPE BEFORE I MAKE THE ARGUMENT.
7 IF IT JUST SAYS, YEAH, IT'S HIS BABY ---

8 THE COURT: YEAH, BUT IS IT ON CD?

9 SOLICITOR BELL: YES, MA'AM.

10 THE COURT: LET'S LISTEN TO IT.

11 SOLICITOR BELL: THEY'RE ALL ON
12 CD.

13 MR. KEARSE: IT STILL COULD NOT BE
14 HIS BABY.

15 THE COURT: IT DOESN'T MATTER, IT
16 GOES TO HIS CREDIBILITY.

17 MR. KEARSE: WELL, I UNDERSTAND,
18 YOUR HONOR.

19 THE COURT: HE WAS ASKED A DIRECT
20 QUESTION.

21 MR. KEARSE: I'M LESS CONCERNED
22 ABOUT THAT THAN ---

23 THE COURT: THE TRUTH OF IT, IT
24 REALLY ISN'T MY CONCERN, THE TRUTH -- THE ISSUE IS
25 WHETHER IT IS ADMISSIBLE IN THE FORM OF REBUTTAL

1 TESTIMONY REGARDING HIS CREDIBILITY. I ASSUME THAT'S
2 WHERE THEY WERE GOING WHEN THEY ASKED HIM THOSE
3 QUESTIONS.

4 MR. KEARSE: I DID, TOO, YOUR
5 HONOR, IT DOESN'T SURPRISE ME.

6 THE COURT: UH HUH. BECAUSE THIS
7 IS A CREDIBILITY CASE, SO ---
8 (Whereupon, a portion of CD tape
9 Number One is played to the Court.)

10 THE COURT: THAT WOULD BE THE
11 EXTENT OF THAT CONVERSATION, YOUR HONOR.

12 THE COURT: IS THAT THE ENTIRE
13 CONVERSATION?

14 SOLICITOR BELL: NO, HE GOES ON
15 FOR ANOTHER FIVE OR SIX MINUTES.

16 THE COURT: ABOUT WHAT? I WANT TO
17 HEAR THE REST OF IT.

18 SOLICITOR BELL: OKAY.
19 (Whereupon, another portion of CD
20 tape Number One is played to
21 the Court.)

22 THE COURT: OKAY. AND THEN, WHAT -
23 - THERE'S ANOTHER CONVERSATION YOU INTEND TO ---

24 SOLICITOR BELL: YES.
25 (Whereupon, a portion of CD Tape

1 No. 2 is played to the Court.)

2 THE COURT: NOW, WHAT PORTION OF
3 THAT WOULD YOU BE SEEKING TO ADMIT?

4 SOLICITOR BELL: THE FIRST
5 PORTION, WHERE IT TALKS ABOUT THE FIVE CREDIBLE
6 WITNESSES, TO THAT POINT.

7 THE COURT: OKAY. MR. KEARSE, DO
8 YOU HAVE ANY EXCEPTIONS?

9 MR. KEARSE: I TAKE EXCEPTION,
10 YOUR HONOR, AND SAY HE SHOULD PLAY ALL OF IT.

11 THE COURT: ALL OF IT ISN'T
12 RELEVANT ON REBUTTAL, IS IT?

13 MR. KEARSE: WELL, NOT TO HIS
14 REBUTTAL, OF COURSE NOT. HE DON'T WANT TO PLAY STUFF
15 WHERE IT IS NOT FAVORABLE TO THE STATE.

16 SOLICITOR BELL: I'LL PLAY IT,
17 I'LL PLAY IT ALL, I'LL PLAY BOTH, ALL OF BOTH
18 CONVERSATIONS.

19 MR. KEARSE: THAT'S FINE.

20 THE COURT: ALRIGHT.

21 SOLICITOR BELL: I HAVE NO PROBLEM
22 WITH THAT.

23 THE COURT: NOW, WHAT OTHER
24 REBUTTAL TESTIMONY DO YOU PURPORT TO ---

25 SOLICITOR BELL: THE ONLY OTHER

1 WITNESS I WOULD PURPORT IS WHEN THE PERSON FROM THE
2 JAIL WOULD TELL WHICH NUMBER, THE TELEPHONE NUMBER
3 THAT GOES TO -- I WOULD JUST HAVE THE DETECTIVE FROM
4 DANVILLE VERIFY THAT THAT'S AN AREA CODE FROM
5 DANVILLE.

6 THE COURT: Y'ALL CAN STIPULATE TO
7 THAT, CAN'T YOU?

8 MR. KEARSE: YEAH, I'LL STIPULATE
9 TO THAT.

10 SOLICITOR BELL: FOUR THREE FOUR
11 AREA CODE IS DANVILLE. OKAY.

12 THE COURT: CAN'T Y'ALL STIPULATE
13 TO THAT?

14 SOLICITOR BELL: THAT'S FINE, I
15 MEAN, I WAS JUST DOING -- HAVING HIM FOR THAT PURPOSE.
16 AND THEN, I WOULD HAVE ONE MORE -- I MEAN, DEPENDING
17 ON YOUR RULING ON MY FIRST PART OF IT, AND THAT WOULD
18 BE MY REBUTTAL.

19 THE COURT: UH HUH. OKAY, I STILL
20 NEED TO THINK ABOUT THAT ONE. WHY DON'T WE PROCEED
21 WITH THE TAPE RECORDINGS, I'VE ALREADY HAD THE CLERK
22 ORDER THE JURY LUNCH, I ANTICIPATE THAT WHEN LUNCH
23 GETS HERE WE WILL BREAK, AND I WILL HAVE THEM EAT, AND
24 THEN WE WILL RESUME AFTER THEY ARE THROUGH EATING, AND
25 THEN WE'LL HAVE CHARGE CONFERENCE AND CLOSING

1 ARGUMENTS.

2 MR. KEARSE: WE'RE GOING TO LISTEN
3 TO THE TAPES, THEN LUNCH, YOUR HONOR, OR ---

4 THE COURT: WE'RE GOING TO LISTEN
5 TO THE TAPES, I'M GOING TO THINK ABOUT WHETHER I'M
6 GOING TO LET DETECTIVE VAN DORAN TESTIFY ANY FURTHER
7 ABOUT A TAPE IN REBUTTAL. AND BY THEN, I HAD SENT
8 TEAL TO ORDER THEIR LUNCH AT TWELVE, SHE SAID IT WILL
9 TAKE ABOUT THIRTY MINUTES. SO, I'M THINK BY TWELVE
10 FORTY-FIVE THEIR LUNCH WILL BE HERE.

11 MR. KEARSE: NOW, WAS THIS A
12 CONSENSUAL RECORDING, OR I MEAN, DID SHE HAVE
13 KNOWLEDGE HE WAS TAPING HER?

14 SOLICITOR BELL: YOUR HONOR,
15 THERE'S A THING ON THERE THAT SAYS, THIS CONVERSATION
16 MAY BE TAPED. IT SAYS IT AT THE BEGINNING OF BOTH
17 CONVERSATIONS.

18 MR. KEARSE: NO, I'M TALKING ABOUT
19 THE TAPE THAT DETECTIVE VAN DORAN IS, YOU'RE TRYING TO
20 PUT IN THROUGH VAN DORAN.

21 SOLICITOR BELL: I DON'T KNOW, I
22 DON'T KNOW IF SHE KNEW ABOUT IT OR NOT, I MEAN, ONE
23 PERSON CAN TESTIFY THAT THAT'S WHAT IT ACCURATELY AND
24 FAIRLY REPRESENTS, IF HE HAS IT.

25 THE COURT: WELL, IT'S A DEEPER

1 ISSUE. YOU CAN'T TAPE SOMEBODY WITHOUT THEIR
2 KNOWLEDGE, THAT'S A VIOLATION OF THE FEDERAL WIRE TAP
3 ACT.

4 MR. KEARSE: RIGHT.

5 SOLICITOR BELL: BUT THAT'S ON A
6 PHONE, THOUGH.

7 THE COURT: ON THE TELEPHONE.

8 SOLICITOR BELL: THAT'S ON A
9 PHONE.

10 THE COURT: YES.

11 SOLICITOR BELL: THIS WAS IN
12 PERSON.

13 THE COURT: YEAH, BUT YOU CAN'T
14 SECRETLY TAPE SOMEBODY, THE POLICE CAN'T SECRETLY TAPE
15 SOMEBODY WITHOUT LETTING THEM KNOW THEY'RE BEING
16 TAPED.

17 MR. KEARSE: YOU CAN'T TAPE
18 SOMEBODY AND THEN SUBMIT IT IN COURT.

19 THE COURT: THAT'S JUST A
20 FUNDAMENTAL ---

21 SOLICITOR BELL: I MEAN, I DON'T -
22 - I CAN'T ---

23 THE COURT: THAT WOULD BE
24 EXTREMELY TROUBLING TO ME. SO, MAYBE YOU NEED TO
25 ASCERTAIN THOSE ANSWERS SO YOU CAN GIVE ME THOSE ---

1 MR. KEARSE: IS IT ON THE TAPE
2 WHERE SHE CONSENTS?

3 SOLICITOR BELL: I DON'T KNOW, I
4 DON'T KNOW THAT IT'S NOT.

5 THE COURT: BUT THE FACT THAT, YOU
6 KNOW, EVEN IF IT WERE -- THIS IS TRULY AND ASIDE, BUT
7 EVEN IF IT WERE A TELEPHONE CONVERSATION AND SHE
8 WASN'T AWARE SHE WAS BEING TAPED, IT STILL COULD BE
9 OFFERED FOR IMPEACHMENT. THERE'S A FAMILY COURT CASE
10 ON POINT. BUT NEVERTHELESS, I MEAN, IT STILL WOULD BE
11 TROUBLING TO ME.

12 SOLICITOR BELL: I DON'T KNOW
13 THAT, I DON'T KNOW THAT HE SAID, YOU'RE BEING TAPED.

14 THE COURT: BUT IT WAS IN PERSON.
15 I WOULD IMAGINE THAT THE TAPE RECORDED WOULD HAVE HAD
16 TO HAVE BEEN VISIBLE, WOULDN'T IT?

17 MR. KEARSE: NOT NECESSARILY, YOUR
18 HONOR, HE COULD HAVE IT IN HIS POCKET.

19 THE COURT: WELL, I DON'T KNOW,
20 WE'RE SPECULATING. I'M GOING TO -- HE'S RIGHT THERE,
21 HE CAN TELL US WHAT HAPPENED.

22 SOLICITOR BELL: EXCUSE ME, YOUR
23 HONOR?

24 THE COURT: I SAID, HE'S SITTING
25 RIGHT -- WELL, NO, VAN DORAN'S OUTSIDE?

1 BAILIFF: YOU WANT ME TO GET HIM?

2 THE COURT: YES, COULD, YOU,

3 PLEASE?

4 (Whereupon, Detective Van Doran

5 enters the courtroom.)

6 THE COURT: YOU CAN ASK HIM.

7 (Whereupon, Solicitor Bell

8 and Detective Van Doran

9 confer off the record.)

10 SOLICITOR BELL: NO, YOUR HONOR.

11 THE COURT: SHE DID NOT KNOW?

12 SOLICITOR BELL: NO.

13 THE COURT: WHERE WAS THE TAPE

14 RECORDER?

15 SOLICITOR BELL: IT WAS IN HIS

16 SHIRT POCKET.

17 MR. KEARSE: YOUR HONOR, I

18 STRONGLY OBJECT TO THAT. THAT'S ---

19 THE COURT: YEAH, I'M GOING TO

20 HAVE TO SAY GRACE ON THAT FOR A LITTLE WHILE.

21 SIR, YOU MAY STAND BACK IN THE

22 HALLWAY, THANK YOU.

23 MR. KEARSE: I THOUGHT THE WIRE

24 TAPING ACT WAS EXPANDED TO INCLUDE THAT, YOUR HONOR.

25 THE COURT: YOU KNOW, I'M NOT

1 SURE, I'M NOT A FEDERAL LAW SCHOLAR.

2 SOLICITOR BELL: THAT'S NOT WIRE
3 TAPPING.

4 MR. KEARSE: I THINK THE ACT WAS
5 EXPANDED TO INCLUDE IT. I CAN'T SAY VERBATIM, BUT IT -

6 --

7 THE COURT: I DON'T KNOW WHETHER -

8 -

9 MR. KEARSE: --- IT CERTAINLY IS
10 TROUBLING. I THINK IT IS AN INVASION, YOUR HONOR,
11 ESPECIALLY WHEN YOU'VE GOT STATE ACTION THROUGH A LAW
12 ENFORCEMENT OFFICER AND HE'S GOING AROUND TAPING
13 PEOPLE WITHOUT THEIR KNOWLEDGE.

14 SOLICITOR BELL: BUT SHE'S NOT A
15 DEFENDANT, YOUR HONOR, AND THAT'S JUST ---

16 MR. KEARSE: SHE'S STILL GOT
17 CONSTITUTIONAL RIGHTS.

18 SOLICITOR BELL: SHE HAS A
19 CONSTITUTIONAL RIGHT NOT TO INCRIMINATE HERSELF.

20 THE COURT: THAT'S CORRECT. I
21 WOULD IMAGINE AT SOME POINT SHE STILL WAS POSSIBLY A
22 SUSPECT, BUT THAT'S NEITHER HERE NOR THERE. I'M STILL
23 GOING TO THINK ABOUT IT A LITTLE BIT.

24 ALRIGHT, IS THERE ANYTHING ELSE WE
25 NEED TO DEAL WITH PRIOR TO MOVING AHEAD?

1 SOLICITOR BELL: NOT THAT I'M
2 AWARE OF, YOUR HONOR.

3 MR. KEARSE: NOTHING FROM THE
4 DEFENSE, YOUR HONOR.

5 THE COURT: ALRIGHT. BRING THE
6 JURY IN FOR ME.

7 MR. KEARSE: YOUR HONOR, WHAT ARE
8 YOU GOING TO CHARGE?

9 THE COURT: WE'RE GOING TO HAVE A
10 CHARGE CONFERENCE.

11 MR. KEARSE: OKAY.
12 (Whereupon, the following
13 takes place in the
14 presence of the jury.)

15 THE COURT: MR. FOREMAN AND LADIES
16 AND GENTLEMEN, WE APPRECIATE YOU INDULGING US DURING
17 THE BREAK. WHAT WE ARE GOING TO DO IS, THERE IS SOME
18 REBUTTAL TESTIMONY THAT THE STATE HAS TO PRESENT. I
19 ANTICIPATE THAT WE WILL PRESENT THAT TESTIMONY. WE'RE
20 GOING TO BREAK, HOWEVER, I'VE HAD THE CLERK ORDER YOUR
21 LUNCH, AND AS SOON AS THAT ARRIVES WE'RE GOING TO
22 BREAK, AND THEN YOU'RE GOING TO THE OPPORTUNITY TO EAT
23 YOUR LUNCH AND TO MAYBE WALK AROUND FOR ANY OF THOSE
24 OF YOU WHO WANT TO WALK AROUND OUTSIDE, OR MAYBE WANT
25 TO SMOKE. WE WILL THEN RESUME THE TRIAL OF THE CASE,

1 AND AT THAT TIME I ANTICIPATE THAT WE WILL HAVE
2 CLOSING ARGUMENTS AND THE COURT'S CHARGE ON THE LAW,
3 AFTER WHICH YOU WILL BE ALLOWED TO DELIBERATE.

4 OKAY, IF YOU WOULD GIVE THE
5 PARTIES YOUR ATTENTION.

6 MR. BELL, YOU MAY PROCEED.

7 SOLICITOR BELL: THANK YOU, YOUR
8 HONOR, THE STATE WOULD CALL SERGEANT BRUCE TILTON TO
9 THE STAND.

10 CLERK: JUST STAND RIGHT HERE,
11 PLEASE. RAISE YOUR RIGHT HAND AND PLACE YOUR LEFT HAND
12 ON THE BIBLE AND GIVE US YOUR FULL NAME.

13 WITNESS: BRUCE IRA TILTON.

14 (Whereupon, the witness,
15 BRUCE IRA TILTON,
16 is duly sworn.)

17 CLERK: OKAY, COME AROUND AND HAVE
18 A SEAT.

19 THE COURT: YOU MAY PROCEED.

20 SOLICITOR BELL: THANK YOU, YOUR
21 HONOR.

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.)

DIRECT - BRUCE IRA TILTON BY SOL. BELL

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DIRECT EXAMINATION OF BRUCE IRA TILTON

BY SOLICITOR BELL:

Q. COULD YOU STATE YOUR NAME AGAIN, PLEASE, FOR THE
RECORD?

A. BRUCE IRA TILTON.

Q. AND WHERE ARE YOU EMPLOYED?

A. DORCHESTER COUNTY SHERIFF'S OFFICE.

Q. AND IN WHAT CAPACITY WITH THE DORCHESTER COUNTY
SHERIFF'S OFFICE?

A. THE DETENTION CENTER.

Q. AND WHAT ARE YOUR DUTIES AT THE DETENTION CENTER?

A. WELL, PRESENTLY I'M WORKING IN THE COMPUTER
DEPARTMENT FOR THE SHERIFF'S DEPARTMENT.

Q. OKAY. AND ARE YOU FAMILIAR WITH THE -- IS THERE
A TELEPHONE SYSTEM IN THE, IN YOUR JAIL?

A. CORRECT.

Q. AND CAN YOU EXPLAIN A LITTLE BIT ABOUT THE
TELEPHONE SYSTEM?

A. WELL, THE TELEPHONE SYSTEM WE'VE GOT NOW IS, ALL
THE PHONE CALLS ARE RECORDED.

Q. OKAY. WHAT PHONE CALLS?

A. ANY PHONE CALLS THAT THE INMATES WILL USE,
THEY'VE GOT CERTAIN PHONES THAT THEY'VE GOT
ACCESS TO, JUST THE INMATE PHONES.

Q. OKAY. AND HOW DO THEY, HOW ARE THEY ABLE TO

DIRECT - BRUCE IRA TILTON BY SOL. BELL

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1 CALL?

2 A. WE, WHEN THEY FIRST GET BOOKED IN WE GIVE THEM A
3 PIN NUMBER, AND THAT'S THE NUMBER THAT THEY ARE
4 SUPPOSED TO MAKE THEIR PHONE CALLS WITH.

5 Q. OKAY. AND ARE THEY AWARE THAT THE PHONE CALLS ARE
6 BEING RECORDED?

7 A. THERE IS A MESSAGE ON THE, WHEN THEY MAKE THE
8 PHONE CALL THAT THEY MAY BE RECORDED.

9 Q. IS THAT IN EVERY CALL?

10 A. IN EVERY CALL.

11 Q. AND DO YOU HAVE THE CAPABILITY OF MAKING TAPES OR
12 RECORDS OF THESE PHONE CALLS?

13 A. YES, I DO.

14 Q. OKAY. AND WERE YOU ASKED TO MAKE SOME COPIES OF
15 PHONE CALLS IN RELATION TO A STEVEN BRISCOE?

16 A. YES, I WAS.

17 Q. AND DID HE HAVE A PIN NUMBER?

18 A. YES, HE DID.

19 Q. OKAY. WERE YOU ASKED TO RUN IT BY PIN NUMBER?

20 A. I WAS ASKED TO RUN IT BY PIN NUMBER, AND THEN
21 ALSO BY AREA CODE.

22 Q. OKAY. NOW, AS TO RUNNING IT BY PIN NUMBER, YOU
23 MADE SEVERAL RECORDINGS, IS THAT CORRECT?

24 A. CORRECT.

25 Q. OKAY. AND THEY ARE, THEY ARE CORRELATED TO

DIRECT - BRUCE IRA TILTON BY SOL. BELL

845

1 STEVEN BRISCOE'S PIN NUMBER, IS THAT CORRECT?

2 A. CORRECT.

3 Q. WHILE HE WAS AT THE, IN THE JAIL HERE IN
4 DORCHESTER COUNTY?

5 A. CORRECT.

6 Q. OKAY. LET ME DIRECT YOUR ATTENTION TO A CALL, I
7 THINK THERE'S, IT WOULD REFERENCE YOUR DISK TWO,
8 CALL NUMBER FOUR.

9 A. YES.

10 Q. DO YOU HAVE THAT?

11 A. YES, I DO.

12 Q. WHAT DATE DID THAT OCCUR?

13 A. THAT WAS ON AUGUST THE THIRTIETH, TWO THOUSAND
14 FOUR.

15 Q. OKAY. AND WHAT NUMBER WAS THAT TO?

16 A. FOUR THREE FOUR, SEVEN NINE NINE, FOUR THREE NINE
17 ZERO.

18 Q. OKAY. AND I ALSO WANT TO DIRECT YOUR ATTENTION
19 TO A DISK SIX.

20 A. OKAY.

21 Q. AND CALL NUMBER SEVEN.

22 A. OKAY.

23 Q. WHAT DATE WAS THAT?

24 A. IT WAS SEPTEMBER THE TENTH, TWO THOUSAND FOUR.

25 Q. OKAY. AND WHAT NUMBER WAS THAT?

DIRECT - BRUCE IRA TILTON BY SOL. BELL

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1 A. FOUR THREE FOUR, SEVEN NINE NINE, FOUR THREE NINE
2 ZERO.

3 Q. THAT'S THE SAME NUMBER?

4 A. CORRECT.

5 Q. OKAY. AND YOU MADE A RECORDING OF THOSE
6 PARTICULAR, THOSE EXACT PHONE CALLS?

7 A. YES, I DID.

8 Q. AND THEY WERE ON THESE DISKS -- LET ME SHOW YOU
9 THESE DISKS.

10 A. YES, THOSE ARE THEM.

11 Q. OKAY.

12 SOLICITOR BELL: YOU'RE HONOR,
13 WE'D OFFER THESE INTO EVIDENCE.

14 MR. KEARSE: YOUR HONOR, I OBJECT,
15 AND WOULD LIKE TO APPROACH.

16 THE COURT: PLEASE APPROACH.

17 (Whereupon, a bench conference
18 is held out of the hearing of
19 the jury and the court reporter.)

20 MR. KEARSE: I WITHDRAW THAT, YOUR
21 HONOR.

22 THE COURT: MARKED AND ADMITTED
23 WITHOUT OBJECTION. THANK YOU. YOU MAY PROCEED.

24 SOLICITOR BELL: OKAY. YOUR
25 HONOR, BEFORE -- CAN WE MARK THESE AFTER WE PLAY THEM?

DIRECT - BRUCE IRA TILTON BY SOL. BELL

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1 JUST, THEY MIGHT INTERFERE WITH THE PLAYING OF THE
2 DISK.

3 THE COURT: CERTAINLY.

4 SOLICITOR BELL: I'LL JUST LET YOU
5 MAKE A NOTATION.

6 COURT REPORTER: OKAY. EXCUSE ME.
7 HOLD ON. WHAT IS THIS B-R ---

8 SOLICITOR BELL: BRISCOE.

9 COURT REPORTER: OH, OKAY. NUMBER
10 SIX AND NUMBER TWO. OKAY, I'LL DO IT LATER.

11 MR. KEARSE: MAY IT PLEASE THE
12 COURT, YOUR HONOR.

13 THE COURT: YES.

14 MR. KEARSE: IT'S MY
15 UNDERSTANDING, WE'RE TALKING ABOUT FOUR AND SIX, IS
16 THAT CORRECT?

17 SOLICITOR BELL: TWO AND SIX.

18 MR. KEARSE: TWO AND SIX. WE HAVE
19 NO OBJECTION TO IT, I'M SORRY, I THOUGHT HE WAS
20 PUTTING THE WHOLE CD IN THERE.

21 THE COURT: OH, OKAY.

22 MR. KEARSE: TWO AND SIX, NO
23 OBJECTION.

24 SOLICITOR BELL: WELL, I'M PUTTING
25 THOSE CD'S IN THERE, YOUR HONOR. WHAT -- CAN WE

DIRECT - BRUCE IRA TILTON BY SOL. BELL

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1 APPROACH?

2 THE COURT: YES.

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

6 MR. KEARSE: IF YOU SAY A TRACK,
7 HE'S SAYING CD'S, IF HE'S SAYING TRACK TWO AND SIX, WE
8 HAVE NO OBJECTION.

9 THE COURT: WELL, I HAVE TO PUT
10 THE CD'S IN TO GET TO THE TRACK.

11 YOUR HONOR, WE'D LIKE TO PLAY
12 FIRST THE FIRST CALL, WHICH WAS FROM DISK TWO, CALL
13 NUMBER FOUR.

14 THE COURT: YOU MAY PROCEED.

15 (Whereupon, Disk Number Two,
16 Call Number four,
17 is played to the jury.)

18 SOLICITOR BELL: AND NOW THE NEXT
19 TRACK, YOUR HONOR. THIS IS TRACK NUMBER, TRACK SEVEN
20 OF DISK SIX.

21 (Whereupon, Disk Number Six,
22 Call Number Seven,
23 is played to the jury.)

24 SOLICITOR BELL: THANK YOU,
25 SERGEANT TILTON.

DIRECT - BRUCE IRA TILTON BY SOL. BELL

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1

THE COURT: ANY CROSS FOR THE

2

WITNESS?

3

MR. KEARSE: MAY IT PLEASE THE

4

COURT.

5

SOLICITOR BELL: MARK THIS.

6

MR. KEARSE: CAN YOU ---

7

COURT REPORTER: JUST ONE MINUTE.

8

MR. KEARSE: I'M SORRY.

9

(State's Exhibit Twenty-seven,

10

Disk Number Two and Disk Number Six,

11

marked and filed - later redacted

12

and portions played to jury are

13

recorded on another Disk and

14

substituted as State's Twenty-seven)

15

COURT REPORTER: OKAY.

16

(NOTE: Blank lines on this page do not indicate any

17

part of record has been omitted. Headers on testimony

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pages and hard page breaks between testimony are now

19

required by the Court. See next ensuing page for

20

sequential continuation of record.)

CROSS - BRUCE IRA TILTON BY MR. KEARSE

850

CROSS-EXAMINATION OF BRUCE IRA TILTON

BY MR. KEARSE:

Q. CAN YOU CONFIRM THE DATE OF THESE PHONE CALLS?

A. IT'S JUST PART OF THE PRINTOUT THAT I'VE GOT.

Q. AND THAT DATE IS WHEN?

A. PARDON ME?

Q. THAT DATE IS WHEN?

A. THE FIRST ONE OR ---

Q. THE FIRST ONE, THE FIRST ONE, YOU CAN JUST ---

A. THE FIRST RECORDING WAS DONE ON AUGUST THIRTIETH
OF TWO THOUSAND AND FOUR.

Q. AND THE SECOND ONE?

A. WAS DONE ON SEPTEMBER TENTH, TWO THOUSAND FOUR.

Q. AND BOTH CALLS WERE MADE TO DANVILLE, VIRGINIA,
IS THAT CORRECT?

A. CORRECT.

MR. KEARSE: NOTHING FURTHER, YOUR
HONOR.

SOLICITOR BELL: NOTHING FURTHER.

THE COURT: ANY OBJECTION TO THE
WITNESS BEING EXCUSED.

SOLICITOR BELL: NONE, YOUR HONOR.

THE COURT: MR. KEARSE?

MR. KEARSE: NONE, YOUR HONOR.

THE COURT: SIR, YOU'RE EXCUSED.

1 THANK YOU.

2 MR. FOREMAN, AND LADIES AND
3 GENTLEMEN, I ANTICIPATE THAT YOUR LUNCH WILL BE HERE
4 IN LESS THAN FIVE MINUTES, SO WE'RE GOING TO GO AHEAD
5 AND BREAK SO I CAN GET YOU SITUATED WITH YOUR
6 REFRESHMENTS, AND IF ANY OF YOU WANT TO STRETCH YOUR
7 LEGS AND TAKE A LITTLE WALK OUTSIDE BEFORE YOUR LUNCH
8 ARRIVES YOU WILL HAVE THE OPPORTUNITY TO DO THAT.

9 DURING THIS BREAK PLEASE DO NOT
10 HAVE ANY DISCUSSION ABOUT THE CASE. PLEASE LEAVE YOUR
11 NOTE PADS IN YOUR SEATS, AND I HOPE YOU ENJOY YOUR
12 LUNCH.

13 (Whereupon, the following
14 takes place out of the
15 presence of the jury.)

16 THE COURT: DO YOU HAVE THE TAPE
17 THAT YOU WANTED TO PLAY REGARDING MS. COLES?

18 SOLICITOR BELL: YES, YOUR HONOR.
19 YOUR HONOR, AS JUST A HOUSE KEEPING MATTER, I THINK
20 WAS GOING TO PUT THOSE TWO TRACKS ON ONE CD.

21 THE COURT: THAT'S PERFECT, IF YOU
22 COULD REDACT THOSE AND LIMIT IT TO THOSE TWO
23 CONVERSATIONS, AND THEN THAT WILL BE THE CD THAT WE
24 ADMIT IN PLACE OF THOSE OTHER TWO.

25 SOLICITOR BELL: DO YOU WANT TO

1 LISTEN TO THE WHOLE THING?

2 THE COURT: WHAT PORTIONS WOULD
3 YOU BE SEEKING TO ADMIT?

4 SOLICITOR BELL: I HAVE FOUR --
5 ABOUT SIX MINUTES TOTAL, IT'S FOUR SNIPPETS DEALING
6 WITH THE GUN.

7 THE COURT: HAVE YOU ALREADY
8 REDACTED THEM FROM THE ENTIRE TAPE?

9 SOLICITOR BELL: I HAVE NOT
10 REDACTED THEM, WHAT -- IT'S ON A CD.

11 THE COURT: CAN YOU PLAY THEM FOR
12 ME WITHOUT PLAYING THROUGH THE WHOLE THING?

13 SOLICITOR BELL: I THINK I CAN, I
14 CAN FAST FORWARD TO THE PARTS, BECAUSE WE'VE MARKED
15 THEM.

16 THE COURT: OKAY.

17 (Whereupon, a portion of a CD
18 concerning guns is played
19 to the court.)

20 THE COURT: THAT WAS KIND OF AN
21 INTRO, YOUR HONOR, JUST WHERE HE FIRST GETS WITH THE
22 MOTHER.

23 (Whereupon, another portion of
24 CD concerning guns is played
25 to the court.)

1 THE COURT: I'M SORRY, I CAN'T
2 HEAR THAT PART. I NEED YOU TO START THAT WHOLE CLIP
3 OVER AGAIN, AND TURN IT UP.

4 SOLICITOR BELL: JUST THAT ONE
5 CLIP?

6 THE COURT: YES, JUST THAT ONE
7 CLIP.

8 (Whereupon, portion of Cd is played
9 again to the court.)

10 SOLICITOR BELL: THAT'S IT, YOUR
11 HONOR.

12 THE COURT: OKAY. I'LL HEAR ANY
13 ARGUMENT REGARDING ANY OBJECTIONS.

14 MR. KEARSE: YOUR HONOR, I FIND IT
15 REAL TROUBLESOME THAT ON THE DAY THEY TELL THIS LADY
16 HER SON'S BEEN ARRESTED FOR MURDER THEY ARE
17 SURREPTITIOUSLY TAPING HER, BUT I DON'T HAVE ANY
18 OBJECTION TO THAT TAPE. I'M NOT GOING TO -- I JUST
19 WANT TO PUT THAT ON THE RECORD, ABOUT THE PROCEDURE
20 THEY USED, BUT I DON'T HAVE ANY OBJECTION TO THAT, TO
21 THAT PORTION OF THE TAPE, IF THAT'S WHAT THEY'RE GOING
22 TO PLAY.

23 THE COURT: OKAY. THAT RESOLVES
24 IT THEN. I WAS GOING TO NOTE FOR THE RECORD THAT WHAT
25 THE COURT'S INQUIRY WOULD HAVE BEEN REGARDING THE TAPE

1 -- SHE WAS NOT A SUSPECT, SO I DON'T THINK ANY OF THE
2 MIRANDA WARNINGS WOULD HAVE ARISEN. I AM A LITTLE
3 TROUBLED THAT SURREPTITIOUSLY SHE WAS TAPED ALSO.

4 WHAT I NEED TO DETERMINE IS, IF IT
5 WAS TRULY IMPEACHMENT, AND ALSO TO DETERMINE IF IT WAS
6 CUMULATIVE. HOW IT WAS RECORDED I'M NOT CERTAIN WOULD
7 NECESSARILY WOULD HAVE BEEN AN ISSUE THE COURT WOULD
8 HAVE CONSIDERED, EXCEPT AS IT WOULD RELATE TO -- I
9 THINK THE ISSUES THAT WOULD HAVE COME INTO PLAY WITH
10 THAT MAY HAVE BEEN WEIGHT ISSUES. AND CLEARLY, JUST
11 SO THE RECORD IS CLEAR, THIS WAS NOT A TELEPHONE
12 CONVERSATION, AS I UNDERSTAND IT, THE OFFICER, AFTER
13 CONSULTATION WITH MR. BELL, MR. BELL ADVISED THAT HE
14 HAD, I WOULD ASSUME, A VOICE ACTIVATED RECORDER IN THE
15 POCKET OF HIS SHIRT WHICH RECORDED THESE PROCEEDINGS.
16 SO, THERE REALLY ARE NO WIRE TAP ISSUES. BUT AS I
17 INDICATED EARLIER, THERE'S A SOUTH CAROLINA CASE ON
18 POINT THAT SAYS, EVEN IF YOU TAPE SOMEONE AND THEY'RE
19 NOT AWARE OF IT, IT'S ALLOWABLE FOR IMPEACHMENT
20 PURPOSES, AND IF THE FEDERAL GOVERNMENT WANTS TO
21 PROSECUTE YOU THAT'S UP TO THEM. BUT AS FAR AS
22 IMPEACHMENT IT WOULD HAVE BEEN ADMISSIBLE.

23 BUT NEVERTHELESS, THE ISSUE IS
24 MOOT BECAUSE MR. KEARSE HAS WITHDRAWN HIS OBJECTION.

25 I'LL TELL YOU WHAT WE'RE GOING TO

1 DO, ---

2 MR. KEARSE: YOUR HONOR, COULD I
3 HAVE THE NAME OF THAT CASE?

4 THE COURT: IT'S A FAMILY COURT
5 CASE, AND TO BE HONEST WITH YOU, I DON'T REMEMBER, I
6 JUST REMEMBER FROM MY FAMILY COURT DAYS THAT, YOU
7 KNOW, A LOT OF PEOPLE.

8 MR. KEARSE: OKAY. I REMEMBER THE
9 WIRE TAPPING WAS BIG FAMILY COURT ISSUE.

10 THE COURT: YEAH, A LOT OF PEOPLE
11 TAPE EACH OTHER ---

12 MR. KEARSE: CORRECT.

13 THE COURT: --- IN FAMILY COURT,
14 AND THERE IS A SUPREME COURT CASE, I BELIEVE IT'S A
15 SUPREME COURT CASE, AND I DON'T WANT TO MIS-SPEAK WHAT
16 THE CAPTION IS, BUT IT BASICALLY SAYS THAT EVEN IF YOU
17 TAPE SOMEONE WITHOUT THEIR KNOWLEDGE, IT IS ONLY
18 ADMISSIBLE FOR IMPEACHMENT PURPOSES. HOWEVER, IT DOES
19 NOT MEAN YOU CANNOT GET PROSECUTED FEDERALLY, BECAUSE
20 I BELIEVE IN THIS CASE THAT PERSON DID GET ---

21 MR. KEARSE: I BELIEVE THE LAWYER
22 GOT PROSECUTED.

23 THE COURT: YES. AND SOMEBODY GOT
24 PROSECUTED UNDER THE FEDERAL WIRE TAP ACT. AND OUR
25 SUPREME COURT, OR COURT OF APPEALS BASICALLY SAID THAT

1 REALLY IS NOT A CONCERN, IF THEY WANT TO PROSECUTE
2 THEM, BUT FOR IMPEACHMENT PURPOSES IT WAS ADMISSIBLE.

3 NOW, WHAT WE'RE GOING TO DO IS,
4 I'M GOING TO GO AHEAD AND DO THE CHARGE CONFERENCE
5 BEFORE WE BREAK FOR LUNCH SO THAT YOU ALL CAN HAVE A
6 MEANINGFUL OPPORTUNITY TO EAT. THE JURY'S FOOD IS
7 ALREADY HERE AND THEY ARE ALREADY EATING. I DON'T
8 KNOW IF THE CLERK ORDERED ENOUGH TO AVAIL EVERYONE
9 ELSE OF SOMETHING TO EAT SO THAT YOU ALL WILL NOT HAVE
10 TO GO OUT. THEY WENT TO KENTUCKY FRIED, SO I ASSUME
11 IT'S NOT GOING TO TAKE THE JURY THAT LONG. YEAH, HE
12 GOT -- THEY GOT ENOUGH FOR THE LAWYERS, Y'ALL SHOULD
13 THANK THE SWEET BAILIFFS AND THE CLERK STAFF, BECAUSE
14 THEY ARE KIND, THEY ARE FAR MORE KIND THAN LOTS OF
15 PLACES.

16 IN REGARDS TO THE REQUESTS THAT
17 YOU'VE SUBMITTED, MR. KEARSE, I'M GOING TO WAIT AND
18 ADDRESS THOSE AFTER I GO OVER MY ENTIRE CHARGE. I
19 THINK THAT YOU WILL FIND THAT THE SUBJECT MATTER THAT
20 YOU HAVE REQUESTED ON MANY OF THOSE IS ALREADY COVERED
21 IN THE COURT'S GENERAL CHARGE. AND THEN WHAT I
22 ANTICIPATE WE WILL DO IS, WE WILL EAT, PLAY THE TAPE,
23 AND THEN HAVE CLOSING ARGUMENTS AND CHARGE.

24 I WOULD DENY ANY REQUEST FOR ANY
25 LESSER INCLUDED OFFENSES, AS THE FACTS IN THIS CASE

1 WOULD NOT SUPPORT THAT.

2 MR. KEARSE: NONE, YOUR HONOR,
3 I'VE DISCUSSED THAT WITH MY CLIENT, AND WE ARE NOT
4 ASKING FOR A CHARGE ON A LESSER INCLUDED. I WOULD LIKE
5 FOR THAT TO BE PLACED ON THE RECORD, THAT I HAD THAT
6 DISCUSSION WITH HIM, YOUR HONOR.

7 THE COURT: THE RECORD REFLECT
8 THAT YOU HAD THAT DISCUSSION WITH HIM, AND THAT HE
9 FREELY AND VOLUNTARILY WAIVED THAT AFTER CONSULTATION
10 WITH YOU.

11 OKAY. ALRIGHT, I WILL GIVE THE
12 JURY A GENERAL CHARGE ON THEIR FUNCTION AND MY
13 FUNCTION, HOW THEY ARE TO BE THE FACT FINDERS IN THIS
14 CASE, AND HOW THEY ARE TO JUDGE WITNESS CREDIBILITY
15 AND BELIEVABILITY. I WILL GIVE THEM A CHARGE ON
16 EXPERT WITNESS TESTIMONY. I WILL GIVE THEM A CHARGE ON
17 IDENTIFICATION TESTIMONY. AND I WILL ALSO GIVE THEM A
18 CHARGE REGARDING THE PRIOR RECORD OF A WITNESS. I'LL
19 GIVE THEM A VERY GENERAL CHARGE FROM STATE VERSUS
20 GRIPPON ON DIRECT AND CIRCUMSTANTIAL EVIDENCE. I WILL
21 CHARGE THEM THAT THE ARREST AND THE INDICTMENT ARE NOT
22 EVIDENCE. I WILL CHARGE THEM ON THE PRESUMPTION OF
23 INNOCENCE. I'LL CHARGE VICTOR VERSUS NEBRASKA ON
24 REASONABLE DOUBT. I WILL THEN CHARGE THE ELEMENTS OF
25 MURDER, WHICH WILL GIVE A FULL DEFINITION OF THE

1 ELEMENTS, AS WELL AS THE DEFINITION OF MALICE
2 AFORETHOUGHT, AND EXPRESS AND INFERRED MALICE. I'LL
3 THEN CHARGE ALIBI, AND THEN GIVE THEM THE INSTRUCTION
4 REGARDING THE FORM OF THE VERDICT, AND THEIR VERDICT,
5 THAT IT MUST BE UNANIMOUS, ETCETERA.

6 SOLICITOR BELL: YOUR HONOR,
7 YOU'RE GOING TO CHARGE EXPERT WITNESS, I THINK WE HAD
8 ONE EXPERT WITNESS.

9 THE COURT: I DID SAY EXPERT
10 WITNESS.

11 SOLICITOR BELL: OKAY, I'M SORRY,
12 I DIDN'T HEAR THAT.

13 THE COURT: THAT'S ALRIGHT, IT'S
14 BEEN A LONG MORNING.

15 AND FOR MR. KEARSE'S BENEFIT I'M
16 GOING TO GO AHEAD AND TELL HIM WHAT THE ALIBI CHARGE
17 SAYS. IT SAYS, "THE DEFENDANT HAS RAISE THE DEFENSE
18 OF ALIBI. IN ORDER TO ESTABLISH AN ALIBI IT MUST BE
19 SHOWN THAT THE DEFENDANT WAS AT ANOTHER SPECIFIED
20 PLACE AT THE TIME THAT THE CRIME WAS COMMITTED, AND
21 THAT IT WAS, THEREFORE, IMPOSSIBLE FOR THE DEFENDANT
22 TO HAVE BEEN AT THE SCENE OF THE CRIME. MERE DENIAL
23 OF PRESENCE AT THE SCENE OF A CRIME DOES NOT
24 CONSTITUTE AN ALIBI. THERE IS NO BURDEN ON THE
25 DEFENDANT TO PROVE AN ALIBI, THE BURDEN IS ON THE

1 STATE TO PROVE BEYOND A REASONABLE DOUBT THAT THE
2 DEFENDANT WAS ACTUALLY PRESENT AT THE SCENE OF THE
3 CRIME, ACTUALLY PARTICIPATE IN IT, AND WAS NOT
4 SOMEWHERE ELSE. IN OTHER WORDS, THE STATE HAS THE
5 BURDEN OF DISPROVING THE DEFENDANT'S ALIBI DEFENSE."

6 NOW, AS REGARDS MR. KEARSE'S
7 REQUESTS TO CHARGE, SOME OF THEM ARE NUMBERED AND SOME
8 ARE NOT, SO I WILL TELL YOU, I'M GOING TO PUT SOME
9 NUMBERS ON THEM MYSELF, AND I'M PROBABLY GOING TO TRY
10 TO GO IN THE ORDER OF THOSE THAT ALREADY NUMBERED, AND
11 THEN FILL IN FROM THAT POINT.

12 MR. KEARSE: I APOLOGIZE ABOUT
13 THAT, YOUR HONOR.

14 THE COURT: THAT'S ALRIGHT, BEEN
15 THERE, DONE THAT.

16 ALRIGHT, HE HAS A REQUEST MARKED
17 NUMBER ONE, WHICH IS GENERAL BASIC CHARGE, I THINK
18 THAT IS ALREADY ENCOMPASSED IN THE COURT'S GENERAL
19 CHARGE, AS WELL AS HIS NUMBERED FIVE WHICH IS
20 PRESUMPTION OF INNOCENCE, AND NUMBER -- THAT'S ALREADY
21 ENCOMPASSED IN THE COURT'S GENERAL CHARGE. HIS REQUEST
22 NUMBERED SEVEN WHICH IS REASONABLE DOUBT, THAT IS FROM
23 MANNING AND I DO NOT CHARGE MANNING, I CHARGE VICTOR
24 VERSUS NEBRASKA, I JUST THINK IT'S SIMPLER AND EASIER,
25 A LITTLE MORE CUT AND DRIED AND EASIER FOR THE JURY TO

1 UNDERSTAND. NUMBER EIGHT, WHICH IS DIRECT AND
2 CIRCUMSTANTIAL EVIDENCE, WHICH IS HIS NUMBERED EIGHT I
3 THINK IS ENCOMPASSED IN --MANNING IS -- GRIPPON
4 RATHER, I APOLOGIZE, IS WHAT THE SUPREME COURT HAS
5 INDICATED IS APPROPRIATE. MY CHARGE IS VERY SIMPLE, IT
6 JUST SAYS THAT THERE ARE TWO TYPES OF EVIDENCE, DIRECT
7 AND CIRCUMSTANTIAL, THERE'S NO DIFFERENCE BETWEEN
8 THEM, ONE IS A DIRECT PROOF AND ONE YOU CAN BASICALLY
9 YOU CAN INFER FROM THE CIRCUMSTANCES. AND IT'S SHORT,
10 IT'S NOT EVEN, I DON'T THINK IT'S EVEN TWO PARAGRAPHS,
11 BUT IT'S VERY -- I THINK IT'S A LOT SIMPLER -- IT
12 SIMPLY SAYS, "THERE ARE TWO TYPES OF EVIDENCE WHICH
13 ARE GENERALLY PRESENTED DURING A TRIAL, DIRECT
14 EVIDENCE AND CIRCUMSTANTIAL EVIDENCE. DIRECT EVIDENCE
15 IS THE TESTIMONY OF A PERSON WHO ASSERTS OR CLAIMS TO
16 HAVE ACTUAL KNOWLEDGE OF A FACT SUCH AS AN EYE
17 WITNESS. CIRCUMSTANTIAL EVIDENCE IS PROOF OF A CHAIN
18 OF FACTS AND CIRCUMSTANCES INDICATING THE EXISTENCE OF
19 A FACT. THE LAW MAKES ABSOLUTELY NO DISTINCTION
20 BETWEEN THE WEIGHT OR VALUE TO BE GIVEN TO EITHER
21 DIRECT OR CIRCUMSTANTIAL EVIDENCE, NOR IS A GREATER
22 DEGREE OF CERTAINTY REQUIRED OF CIRCUMSTANTIAL
23 EVIDENCE THAN OF DIRECT EVIDENCE. YOU SHOULD WEIGH ALL
24 OF THE EVIDENCE IN THE CASE. AFTER WEIGHING ALL OF THE
25 EVIDENCE, IF YOU ARE NOT CONVINCED OF THE GUILT OF THE

1 DEFENDANT BEYOND A REASONABLE DOUBT YOU MUST FIND THE
2 DEFENDANT NOT GUILTY. CONVERSELY, IF YOU ARE CONVINCED
3 OF THE GUILT OF THE DEFENDANT BEYOND A REASONABLE
4 DOUBT THEN YOU MUST FIND HIM GUILTY."

5 I AM GOING TO MARK YOUR GENERAL
6 DEFINITION OF MURDER AS NUMBER TWO, I THINK THAT IS
7 ALREADY ENCOMPASSED IN THE COURT'S GENERAL CHARGE.
8 NUMBER THREE, WHICH IS DEFINITION OF MALICE IS ALREADY
9 ENCOMPASSED IN THE COURT'S GENERAL CHARGE, AS WELL AS
10 NUMBER FOUR, TIME OF MALICE, IS ALREADY ENCOMPASSED IN
11 THE COURT'S GENERAL CHARGE. NUMBER SIX, WHICH IS
12 MALICE, BURDEN OF PROOF, I THINK IS ALREADY
13 ENCOMPASSED IN THE COURT'S GENERAL CHARGE, AND YOUR
14 NUMBER NINE, WHICH IS ALIBI, IS ENCOMPASSED IN THE
15 COURT'S GENERAL CHARGE. NUMBER TEN, WHICH IS
16 CAUSATION, IS ENCOMPASSED IN THE COURT'S GENERAL
17 CHARGE, AS WELL AS NUMBER ELEVEN, WHICH IS MALICE,
18 BURDEN OF PROOF, WHICH I THINK ACTUALLY IS CUMULATIVE.
19 AND THEN, I THINK YOU GAVE ME TWO COPIES OF CAUSATION
20 -- I THINK ALL OF THESE ARE CUMULATIVE AND THEY ARE
21 ENCOMPASSED IN THE COURT'S -- I THINK THE COURT'S
22 GENERAL CHARGE IS AN APPROPRIATE STATEMENT OF THE LAW.
23 I'LL MARK THOSE AS TWELVE AND THIRTEEN. AND I WILL
24 ALL OF YOUR REQUESTS MARKED AS COURT'S EXHIBITS, MR.
25 KEARSE.

1 MR. KEARSE: THANK YOU, YOUR
2 HONOR.

3 THE COURT: IS THERE ANY EXCEPTION
4 TO THE COURT'S CHARGE AS PROPOSED, FROM THE STATE?

5 SOLICITOR BELL: NOTHING FROM THE
6 STATE, YOUR HONOR.

7 THE COURT: FROM THE DEFENSE?

8 MR. KEARSE: YOUR HONOR, WITH --
9 MAY IT PLEASE THE COURT, AS TO YOUR HONOR'S CHARGE ON
10 DIRECT VERSUS CIRCUMSTANTIAL, THE DEFENSE WOULD ASK
11 THAT PAGE TWO OF THE -- AND I CAN'T REMEMBER WHICH
12 NUMBER YOU GAVE OF OUR CHARGE, STARTING WITH THE
13 SECOND PARAGRAPH, BE INCLUDED IN THAT CHARGE, YOUR
14 HONOR. IF IT IS NOT WE WILL TAKE EXCEPTION.

15 THE COURT: I THINK MY CHARGE IS
16 APPROPRIATE, IT IS TAKEN DIRECTLY FROM STATE VERSUS
17 GRIPPON, AND THE SUPREME COURT HAS SAID THAT THAT IS
18 AN APPROPRIATE CHARGE ON DIRECT AND CIRCUMSTANTIAL
19 EVIDENCE, AND THAT ---

20 MR. KEARSE: THANK YOU.

21 THE COURT: --- THAT IS WHAT WE
22 SHOULD RELY ON IN CHARGING THAT.

23 MR. KEARSE: ALRIGHT. WELL, I'D
24 JUST LIKE THE RECORD TO REFLECT THAT WE TAKE EXCEPTION
25 TO THAT.

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1 THE COURT: CERTAINLY, IT'S NOTED.

2 MR. KEARSE: BUT THANK YOU, YOUR
3 HONOR.

4 THE COURT: AND THE COURT WOULD
5 ALSO NOTE -- I'M NOT CERTAIN WHERE EXACTLY THE
6 LANGUAGE COMES FROM EXCEPT IT SAYS, IN THE INTEREST OF
7 SENTENCE, STATE VERSUS ATKINS AND STATE VERSUS
8 LITTLEJOHN, AND IT COMES FROM IRVIN'S REQUEST TO
9 CHARGE, BUT I PERCEIVE PAGE TWO AS BEING FAIRLY --
10 MORE COMPLICATED THAN IT HAS TO BE. AND I THINK IT
11 WOULD HAVE A TENDENCY TO MISLEAD THE JURY AND TO CAUSE
12 CONFUSION, VERSUS THE ONE THAT I'M USING, IT'S DIRECT
13 AND IT'S CLEAR.

14 IS THERE ANYTHING FROM THE STATE?
15 SOLICITOR BELL: NOTHING FROM THE
16 STATE, YOUR HONOR.

17 COURT REPORTER: JUDGE, IF YOU'RE
18 READY FOR ME TO MARK THOSE REQUESTS AS COURT'S ---

19 THE COURT: YEAH, I'M GOING TO
20 GIVE THEM TO YOU IN JUST A SECOND, AS SOON AS MR.
21 KEARSE TELLS ME -- DO YOU HAVE ANY OTHER EXCEPTIONS,
22 MR. KEARSE?

23 MR. KEARSE: NO, YOUR HONOR.

24 THE COURT: OKAY. THEY'LL BE
25 MARKED AS ONE EXHIBIT.

1 COURT REPORTER: COURT'S FIVE.

2 THE COURT: THANK YOU.

3 (Court's Exhibit Five
4 marked and filed.)

5 THE COURT: ALRIGHT, IS THERE
6 ANYTHING ELSE WE NEED TO TAKE UP BEFORE WE TAKE A
7 LITTLE BREAK FOR LUNCH?

8 SOLICITOR BELL: NOT THAT I'M
9 AWARE OF FROM THE STATE, YOUR HONOR.

10 THE COURT: FROM THE DEFENSE?

11 MR. KEARSE: NOTHING FROM THE
12 DEFENSE, YOUR HONOR. YOUR HONOR, DO WE HAVE A COPY OF
13 YOUR CHARGES, OR ARE YOU JUST ---

14 THE COURT: I'LL BE HONEST WITH
15 YOU, I REALLY WOULD NOT HAVE A PROBLEM WITH YOU HAVING
16 IT, BUT THE PROBLEM IS, IT'S NOT THE MOST WORK
17 PRODUCT, AND IT IS NOT SOMETHING THAT I WOULD WANT
18 FLOATING, AND SOME THINGS I REMEMBER STRICTLY FROM MY
19 MEMORY.

20 MR. KEARSE: ALRIGHT.

21 THE COURT: AND I WOULDN'T WANT
22 YOU TO BE READING ALONG AND I SAY SOMETHING THE WAY
23 I'M USED TO SAYING IT.

24 MR. KEARSE: WELL, I JUST WANTED
25 TO REVIEW IT BEFORE CLOSING.

1 THE COURT: BUT IF YOU GO TO THE
2 SOUTH CAROLINA COURT'S WEB SITE THEY HAVE ALL OF OUR
3 CHARGES ON LINE.

4 MR. KEARSE: THANK YOU.

5 THE COURT: IT'S SCCOURT'S, DOT,
6 ORG.

7 MR. KEARSE: YOUR HONOR, ---

8 THE COURT: OKAY.

9 MR. KEARSE: --- THE ONLY THING I
10 WOULD ASK, YOUR HONOR, IS THAT THE VERDICT READ, IF
11 IT'S GOING TO SAY, GUILTY OF MURDER, IT READS, NOT
12 GUILTY OF MURDER. I KNOW THAT MAY SOUND STRANGE, BUT I
13 WOULD ---

14 THE COURT: DO YOU HAVE ANY
15 EXCEPTION?

16 SOLICITOR BELL: NO.

17 THE COURT: OKAY. WHEN MY CLERK
18 COMES UPSTAIRS I WILL LET HER NOTE THAT.

19 ALRIGHT, WE'LL BE AT EASE FOR A
20 FEW MOMENTS.

21 (Recess)

22 (State's Twenty-seven- two disks,
23 are redacted and only portions that
24 were played to jury are copied to a
25 third disk and substituted as

1 State's Twenty-seven.)

2 THE COURT: ALRIGHT, IS THE STATE
3 READY TO PROCEED?

4 SOLICITOR BELL: YES, YOUR HONOR,
5 I'M JUST, LIKE, JUST KIND OF A HOUSE KEEPING THING.

6 THE COURT: SURE.

7 SOLICITOR BELL: I'VE PUT IN THE
8 REDACTED COPY OF THE PREVIOUS TWO CONVERSATIONS THAT
9 WE PUBLISHED TO THE JURY THAT'S IN EVIDENCE.

10 THE COURT: YES.

11 SOLICITOR BELL: AND WHAT I WOULD
12 PROPOSE TO DO ON THE OTHER ONE IS, I'VE MADE A TAPE OF
13 THE EXCERPTS I'M GOING TO USE ---

14 THE COURT: OKAY.

15 SOLICITOR BELL: --- AND I WOULD
16 PUT THAT INTO EVIDENCE, AND I WOULD OFFER TO PUT THE
17 ENTIRE CD OF THAT AS A COURT'S EXHIBIT, JUST TO HAVE
18 THE ENTIRE CD AS A RECORD.

19 THE COURT: OKAY. ANY EXCEPTIONS,
20 MR. KEARSE?

21 MR. KEARSE: YOUR HONOR, AS LONG
22 AS IT'S A COURT'S EXHIBIT, THAT'S FINE.

23 SOLICITOR BELL: YEAH, A COURT'S
24 EXHIBIT.

25 THE COURT: YES.

1 SOLICITOR BELL: THE JURY WOULD
2 JUST HAVE THE TAPE THAT'S BEEN REDACTED.

3 THE COURT: OKAY.

4 MR. KEARSE: AND THAT'S TRACKS --
5 I KEEP FORGETTING.

6 SOLICITOR BELL: WELL, NO, NO,
7 THIS IS THE, THE, LIEUTENANT VAN DORAN AND HIS MOTHER.

8 MR. KEARSE: OH, OKAY.

9 SOLICITOR BELL: THERE'S NO TRACKS
10 TO IT, IT'S JUST THE REDACTED SNIPPETS.

11 THE COURT: THE PORTIONS THAT HE
12 PLAYED IN COURT, THEY JUST PUT THEM ON ONE TAPE.

13 MR. KEARSE: ALRIGHT. AND THE CD
14 HAS ALREADY BEEN REDACTED?

15 SOLICITOR BELL: THE CD CONTAINS
16 THE ENTIRE CONVERSATION.

17 THE COURT: NO, HE'S TALKING ABOUT
18 TWO DIFFERENT THINGS. YOU'RE TALKING ABOUT ---

19 SOLICITOR BELL: OH, YEAH, THE
20 OTHER ONE IS JUST THE TWO CONVERSATIONS PLAYED IN
21 COURT.

22 MR. KEARSE: ALRIGHT.

23 SOLICITOR BELL: THE TWO TELEPHONE
24 CONVERSATIONS PLAYED IN COURT.

25 MR. KEARSE: ALRIGHT.

1 SOLICITOR BELL: THAT'S WHAT WE'VE
2 MARKED WITH THE COURT REPORTER.

3 COURT REPORTER: AND THEY WERE
4 NUMBERS TWO AND SIX, BUT THE COURT'S NUMBER IS FIVE.
5 I'M GOING TO PUT THIS AS COURT'S FIVE.

6 SOLICITOR BELL: NO, THAT WOULD BE
7 -- NO, THAT WOULD BE A STATE'S EXHIBIT, I'M SORRY.

8 COURT REPORTER: I'M CONFUSED.

9 THE COURT: I THINK YOU'RE
10 CONFUSING THE COURT REPORTER.

11 COURT REPORTER: THAT'S NOT HARD
12 TO DO.

13 SOLICITOR BELL: NO, WHAT I WAS
14 DOING WAS, THE CD OF THE TWO CONVERSATIONS IS A
15 STATE'S EXHIBIT.

16 THE COURT: THAT'S CORRECT.

17 SOLICITOR BELL: AND I'VE LABELED
18 THAT. I WAS DOING TWO THINGS AT ONCE, I GUESS.

19 COURT REPORTER: RIGHT, I DID
20 THAT.

21 SOLICITOR BELL: OKAY. AND THEN,
22 THIS CD THAT WE'VE GOT TO PLAY, I'M GOING TO PUT AS A
23 COURT'S EXHIBIT, AND THE TAPE AS THE STATE'S EXHIBIT.

24 COURT REPORTER: RIGHT.

25 THE COURT: CORRECT. WHY DON'T

1 YOU GO AHEAD AND GIVE HER THE TAPE SO THAT THAT CAN BE
2 MARKED, AND THEN HAVE THE COURT'S EXHIBIT PUT ON THE
3 OUTSIDE OF THE CONTAINER.

4 SOLICITOR BELL: WOULD YOU LIKE TO
5 HAVE THE ENTIRE CD'S THAT WE REDACTED ON THE TELEPHONE
6 CONVERSATIONS MADE COURT'S EXHIBITS AS WELL?

7 THE COURT: IT'S UP TO YOU ALL, IF
8 YOU'D LIKE TO.

9 SOLICITOR BELL: I'LL DO IT, JUST
10 FOR THE RECORD.

11 THE COURT: THAT'S FINE.

12 COURT REPORTER: ALRIGHT, WHICH IS
13 THIS?

14 SOLICITOR BELL: THESE ARE TWO
15 COURT'S EXHIBITS, THESE ARE THE ENTIRE DISKS FROM THE
16 TELEPHONE CONVERSATIONS.

17 COURT REPORTER: OKAY, THEY WILL
18 BE FIVE. CAN I PUT BOTH OF THEM IN THE SAME ---

19 SOLICITOR BELL: YOU CAN TRY.

20 THE COURT: WELL, HE'S GETTING
21 READY TO USE ONE OF THEM.

22 SOLICITOR BELL: NO, I'M NOT USING
23 THESE. THESE ARE THE TELEPHONE CONVERSATIONS, THE
24 JAIL TELEPHONE CONVERSATIONS.

25 THE COURT: OH, OKAY.

1 SOLICITOR BELL: I THINK IT WILL
2 FIT.

3 COURT REPORTER: OKAY, THAT'S
4 COURT'S SIX.

5 (Court's Exhibit Six
6 Originally State's Twenty-seven,
7 marked and filed.)

8 THE COURT: ALRIGHT. Y'ALL WERE
9 CONFUSING ME JUST NOW.

10 SOLICITOR BELL: I APOLOGIZE, YOUR
11 HONOR.

12 THE COURT: THAT'S ALRIGHT.

13 SOLICITOR BELL: I'M JUST TRYING
14 TO GET A GOOD RECORD.

15 THE COURT: I UNDERSTAND.

16 SOLICITOR BELL: AND WE'LL MARK
17 THE CD FOR THE COURT'S EXHIBIT ON THE TAPED
18 CONVERSATION, AFTER WE PLAY IT. A COURT'S EXHIBIT.

19 COURT REPORTER: OKAY.

20 THE COURT: ALRIGHT. HAVE YOU ALL
21 REVIEWED THE VERDICT FORM?

22 SOLICITOR BELL: YES, YOUR HONOR,
23 THE STATE HAS.

24 THE COURT: AND DEFENSE?

25 MR. KEARSE: THE DEFENSE HAS, YOUR

1 HONOR.

2 THE COURT: ALRIGHT. IS THERE ANY
3 EXCEPTION TO THE FORM OF THE VERDICT?

4 SOLICITOR BELL: NONE FROM THE
5 STATE.

6 MR. KEARSE: NONE FROM THE
7 DEFENSE, YOUR HONOR.

8 THE COURT: ALRIGHT. NOW, IS THERE
9 ANYTHING ELSE WE NEED TO TAKE UP PRIOR TO -- AND YOU
10 ALL UNDERSTAND MY PROCEDURE AS TO STAPLE THE VERDICT
11 FORMS TO THE INSIDE OF THE INDICTMENT, AND THAT WILL
12 GO IN AS ONE DOCUMENT TO THE JURY.

13 MR. KEARSE: YES, MA'AM.

14 SOLICITOR BELL: YES, MA'AM.

15 THE COURT: IS THERE ANY
16 EXCEPTION?

17 SOLICITOR BELL: NONE FROM THE
18 STATE, YOUR HONOR.

19 THE COURT: ANY FROM THE DEFENSE?

20 MR. KEARSE: NONE FROM THE
21 DEFENSE, YOUR HONOR.

22 THE COURT: THANK YOU.

23 ALRIGHT, PLEASE BRING IN THE JURY.

24 (Whereupon, the following
25 takes place in the

1 presence of the jury.)

2 THE COURT: LADIES AND GENTLEMEN,
3 I HOPE THAT YOU ENJOYED YOUR LUNCH, WE'LL NOW RESUME
4 WITH THE TRIAL.

5 MR. BELL, YOU MAY PROCEED.

6 SOLICITOR BELL: THANK YOU, YOUR
7 HONOR, THE STATE WOULD RECALL LIEUTENANT VAN DORAN.

8 THE COURT: LIEUTENANT VAN DORAN,
9 IF YOU WILL COME TO THE WITNESS STAND, I'LL REMIND
10 YOU, YOU'VE ALREADY BEEN SWORN.

11 WITNESS: YES, MA'AM.

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.)

DIRECT - TERRANCE A. VAN DORAN BY SOL. BELL

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DIRECT EXAMINATION OF TERRANCE A. VAN DORAN

BY SOLICITOR BELL:

Q. LIEUTENANT VAN DORAN, YOU HAVE TESTIFIED THAT YOU
WERE INVOLVED IN THE INVESTIGATION OF THIS CASE?

A. YES, SIR.

Q. AND AS A RESULT OF THAT YOU WENT TO DANVILLE,
VIRGINIA?

A. I DID, SIR.

Q. DO YOU RECALL WHEN THAT WAS?

A. YES, SIR, IT WAS THE SUMMER OF TWO THOUSAND AND
FOUR, I BELIEVE AUGUST.

Q. OKAY. AND WHEN YOU WERE IN DANVILLE, VIRGINIA,
DID YOU HAVE AN OCCASION TO TALK TO HELEN COLES?

A. I DID, SIR.

Q. AND DO YOU RECALL WHEN THAT WAS?

A. IT WAS THE DAY AFTER THE DEFENDANT WAS ARRESTED.

Q. OKAY. AND YOU TALKED ABOUT MANY THINGS IN THE
CONVERSATION, BUT DID YOU TALK ABOUT A WEAPON,
SEVERAL INSTANCES ABOUT A WEAPON?

A. YES, SIR. LET ME CORRECT MY STATEMENT. IT WAS
ACTUALLY THE NIGHT AFTER HE WAS ARRESTED, BUT
YES, SIR, I DID SPEAK TO HER ABOUT A WEAPON.

Q. YOU ASKED HER SOME QUESTIONS, IS THAT RIGHT?

A. YES, SIR.

Q. AND YOU WENT UP TO HER AND INTRODUCED YOURSELF

DIRECT - TERRANCE A. VAN DORAN BY SOL. BELL

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1 AND THEN ASKED HER QUESTIONS, AND SOME
2 SPECIFICALLY ABOUT A WEAPON, IS THAT CORRECT?

3 A. I DID, SIR.

4 Q. HAVE YOU -- WAS THAT RECORDED?

5 A. IT WAS, SIR.

6 Q. AND HAVE YOU REVIEWED THAT RECORDING?

7 A. I HAVE, SIR.

8 Q. DOES IT ACCURATELY REFLECT THE CONVERSATION THAT
9 WENT ON BETWEEN YOU AND MS. COLES BACK IN AUGUST
10 OF TWO THOUSAND AND FOUR?

11 A. YES, SIR, IT DOES.

12 SOLICITOR BELL: YOUR HONOR, WE
13 WOULD LIKE TO PLAY PARTS OF THAT CONVERSATION AT THIS
14 TIME.

15 THE COURT: YOU MAY PROCEED.

16 (Whereupon, State's Exhibit Twenty-eight
17 is played to the jury.)

18 Q. LIEUTENANT VAN DORAN, THAT'S A PART OF THE
19 CONVERSATION YOU HAD?

20 A. YES, SIR.

21 SOLICITOR BELL: YOUR HONOR, WE'D
22 OFFER THE TAPE OF THOSE CONVERSATIONS INTO EVIDENCE AS
23 A STATE'S EXHIBIT.

24 MR. KEARSE: NO OBJECTION, YOUR
25 HONOR.

DIRECT - TERRANCE A. VAN DORAN BY SOL. BELL

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1 THE COURT: WITHOUT OBJECTION,
2 MARKED AND ADMITTED.

3 COURT REPORTER: STATE'S TWENTY-
4 EIGHT.

5 (State's Exhibit Twenty-eight
6 marked and filed.)

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

9 SOLICITOR BELL: THANK YOU,
10 LIEUTENANT VAN DORAN, PLEASE ANSWER ANY QUESTIONS MR.
11 KEARSE HAS FOR YOU.

12 THE COURT: ANY QUESTIONS, MR.
13 KEARSE?

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 - TERRANCE A. VAN DORAN BY MR. KEARSE

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CROSS-EXAMINATION OF TERRANCE A. VAN DORAN

BY MR. KEARSE:

Q. LIEUTENANT VAN DORAN, WHEN YOU WENT TO TALK TO
MS. BRISCOE, THIS WAS RIGHT AT THE TIME STEVE HAD
BEEN ARRESTED, CORRECT?

A. IT WAS A FEW HOURS AFTERWARDS, YES, SIR.

Q. ALRIGHT. AND OBVIOUSLY, AS THE TAPE DEMONSTRATES,
THIS WAS THE FIRST TIME SHE HAD BEEN INFORMED OF
THAT FACT, IS IT NOT?

A. I CAN'T SAY FOR ABSOLUTE, BUT IT APPEARED THAT
WAY, YES, SIR.

Q. RIGHT. BECAUSE YOU, YOURSELF, SAID, I KNOW THIS
IS A LOT FOR YOU TO TAKE IN RIGHT NOW.

A. ABSOLUTELY.

Q. ALRIGHT. AND YOU WERE THERE, AND I IMAGINE OTHER
OFFICERS WERE WITH YOU AT THE TIME?

A. YES, SIR.

Q. AND YOU HADN'T CALLED HER AND TOLD HER YOU WERE
YOU WERE COMING BY OR NOTHING LIKE THAT?

A. NO, SIR.

Q. YOU GUYS JUST SHOWED UP, CORRECT?

A. YES, SIR, THAT'S CORRECT.

Q. ALRIGHT, AND I BELIEVE AT THAT TIME BILLY GRAVES
WAS ALSO PRESENT, IS THAT CORRECT?

A. SHE ARRIVED ABOUT THE SAME TIME WE GOT THERE,

CROSS - TERRANCE A. VAN DORAN BY MR. KEARSE

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1 YES, SIR.

2 Q. ALRIGHT. AND MS. -- DO YOU RECALL MS. COLES BEING
3 THERE ALONG WITH HER SISTER IN THAT APARTMENT
4 WHEN YOU GOT THERE?

5 A. NO, SIR, I DON'T REMEMBER HER SISTER BEING THERE
6 UNLESS SHE LEFT RIGHT WHEN WE GOT THERE.

7 Q. YOU CAN'T REMEMBER THE IDENTITY OF THE THIRD
8 PERSON SHE'S GOING TO TELL TO GET THINGS AND TO
9 DO STUFF FOR HER?

10 A. THERE WAS A MALE SUBJECT THERE, AND I ONLY KNOW
11 HIS NICK NAME.

12 Q. BUT YOU DON'T RECALL HER SISTER BEING THERE?

13 A. NO.

14 Q. ALRIGHT, NOW, WHEN YOU ASKED HER, AS THE TAPE
15 SHOWS, YOU ASKED HER, HAND GUN, YOU SAID, HAND
16 GUN, CAN I ASK YOU ABOUT YOUR HAND GUN, DID YOU
17 NOT?

18 A. A HAND GUN, YES, SIR.

19 Q. RIGHT, A HAND GUN. AND YOU DIDN'T SAY ANYTHING
20 SPECIFIC ABOUT CALIBRE OR NOTHING LIKE THAT, IS
21 THAT CORRECT?

22 A. THAT IS CORRECT, SIR.

23 Q. ALRIGHT. AND IN THAT CONVERSATION, AND DURING
24 THAT CONVERSATION YOU SHOWED YOUR DEPARTMENT
25 ISSUED HAND GUN, CORRECT?

1 A. I DID, SIR.

2 Q. WHICH IS, IN FACT, A GLOCK, IS IT NOT?

3 A. THAT IS CORRECT, SIR.

4 Q. I BELIEVE IT'S A GLOCK FORTY, IS IT NOT?

5 A. I CARRY A GLOCK FORTY, YES, SIR.

6 Q. ALRIGHT. FORTY BEING THE CALIBRE OF THE GUN?

7 A. THAT'S CORRECT, SIR.

8 Q. AND SHE SPECIFICALLY SAID THAT -- BECAUSE YOU
9 ALSO ASKED HER A SMITH AND WESSON?

10 A. YES, SIR.

11 Q. AND SHE SAID SHE'S FAMILIAR WITH THAT BUT SHE
12 COULDN'T REALLY SAY ONE THING OR ANOTHER,
13 SOMEBODY SHE KNEW HAD PURCHASED ONE, IS THAT
14 CORRECT?

15 A. YES, SIR.

16 Q. ALRIGHT. SHE SPECIFICALLY SAID TO YOU THAT, NO,
17 THAT DOES NOT APPEAR TO BE THE GUN, CORRECT?

18 A. SHE SAID THAT SHE DIDN'T RECOGNIZE THE TYPE THAT
19 I WAS WEARING, YES, SIR.

20 Q. RIGHT. AND SHE SAID IT DIDN'T LOOK LIKE THAT, OR
21 IT WASN'T THAT LARGE, OR WHATEVER?

22 A. YES, SIR.

23 Q. THERE REALLY ISN'T THAT BIG OF A DIFFERENCE
24 BETWEEN A GLOCK FORTY AND A TEN MILLIMETER,
25 CORRECT?

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1 A. YOU WOULD -- UNLESS YOU KNEW YOU PROBABLY
2 WOULDN'T KNOW, THAT'S CORRECT.

3 Q. ALRIGHT. SO, THEN SHE TOLD YOU ABOUT THE GUN
4 THAT SHE LOST IN HER CAR, IS THAT CORRECT?

5 A. THAT'S CORRECT, SIR.

6 Q. AND IT'S CONCEIVABLE, SINCE SHE SAID, NO, IT
7 DOESN'T LOOK LIKE THAT GLOCK YOU SHOWED HER, SHE
8 WAS TALKING ABOUT ANOTHER HAND GUN, CORRECT?

9 A. THAT WAS NOT MY UNDERSTANDING, SIR.

10 Q. ALRIGHT. NOW, YOU -- AND SHE WAS CONSISTENT, I
11 MEAN, SHE TOLD YOU, I GOT IN A CAR ACCIDENT, I
12 GOT HIT FROM THE REAR AND SO ON?

13 A. ABSOLUTELY, YES, SIR.

14 Q. NOW, YOU TAPED RECORDED THIS CONVERSATION,
15 CORRECT?

16 A. YES, SIR.

17 Q. AND YOU HAD A VOICE ACTIVATED TAPE RECORDER?

18 A. IT WAS NOT MY RECORDER, I BORROWED IT FROM THE
19 DANVILLE DETECTIVES, IT WAS A MINI RECORDER, A
20 DIGITAL TYPE.

21 Q. AND IT WAS VOICE ACTIVATED, WAS IT NOT?

22 A. IT HAD TO BE TURNED ON, IT WAS JUST LEFT ON, I
23 DON'T KNOW IF IT WAS VOICE ACTIVATED OR NOT.

24 Q. WHETHER IT WAS VOICE ACTIVATED OR NOT, YOU MADE
25 SURE IT WAS TURNED ON BEFORE YOU WALKED INTO THAT

1 APARTMENT?

2 A. YES, SIR.

3 Q. ALRIGHT. AND YOU TOOK THAT TAPE RECORDER, AND YOU
4 STUCK IT DOWN IN YOUR POCKET, DID YOU NOT?

5 A. I PUT IT IN MY FRONT SHIRT POCKET, YES, SIR.

6 Q. RIGHT. AND YOU CLOSED IT OVER OR ---

7 A. NO, SIR, IT WAS EXPOSED.

8 Q. ALRIGHT. THAT'S YOUR TESTIMONY NOW, IT WAS
9 EXPOSED?

10 A. THE TOP OF IT WAS RIGHT THERE, YES, SIR.

11 Q. BUT YOU DID NOT INFORM THIS WOMAN WHEN YOU
12 QUESTIONED HER THAT YOU WERE TAPING HER?

13 A. NO, SIR.

14 Q. ALRIGHT. SO, AND YOU ASKED HER THESE QUESTIONS
15 UNBEKNOWNST TO HER THAT SHE WAS BEING RECORDED,
16 CORRECT?

17 A. THAT'S CORRECT, SIR.

18 Q. AND WHEN YOU ASKED HER THESE QUESTIONS, YOU ASKED
19 HER LEADING QUESTIONS, DID YOU NOT?

20 A. I ASKED HER QUESTIONS THAT I FELT I NEEDED TO
21 KNOW ABOUT, YES, SIR.

22 Q. ALRIGHT, I MEAN, THEY WERE SUGGESTIVE IN NATURE,
23 WERE THEY NOT?

24 A. I ASKED HER QUESTIONS THAT SHE COULD HAVE
25 ANSWERED ANY WAY SHE WANTED.

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1 Q. YOU MENTIONED, OR YOU HAD OTHER OFFICERS WITH
2 YOU, CORRECT?

3 A. THERE WERE OTHER OFFICERS WITH ME, YES, SIR.

4 Q. ALRIGHT. AND IT WAS ONE OF YOU GUYS WHO MENTIONED
5 CARTER'S, WAS IT NOT?

6 A. IT WAS ONE OF THE DANVILLE DETECTIVES, YES, SIR.

7 Q. RIGHT. BECAUSE SHE COULD NOT REMEMBER WHERE SHE
8 PURCHASED THAT PARTICULAR HAND GUN, IS THAT
9 CORRECT?

10 A. SHE MADE A REFERENCE TO A STREET DURING THE
11 CONVERSATION WHICH BASICALLY KEYED ONE OF THE
12 DANVILLE DETECTIVES TO THINK HE KNEW WHICH GUN
13 SHOP SHE WAS REFERRING TO.

14 Q. BUT THERE WAS THE MENTION OF SEVERAL GUN SHOPS,
15 RAYMOND'S, PERRY'S, OR WHATEVER, CORRECT?

16 A. YES, SIR.

17 Q. ALRIGHT. AND THAT WAS ALL MENTIONED BY YOU GUYS,
18 IS THAT CORRECT?

19 A. THAT'S CORRECT, SIR.

20 Q. ALRIGHT. AND YOU TOLD HER, WHEN YOU WENT IN THERE
21 AND YOU ANNOUNCED TO HER WHAT SITUATION HER SON
22 WAS IN, IT WAS THE FIRST TIME SHE HAD HEARD, THAT
23 YOU KNOW OF, HE WAS BEING CHARGED FOR MURDER,
24 CORRECT?

25 A. IT APPEARED THAT WAY.

1 Q. ALRIGHT.

2 MR. KEARSE: YOUR HONOR, I DON'T
3 HAVE ANYTHING FURTHER.

4 THE COURT: ANY REDIRECT?

5 SOLICITOR BELL: NOTHING FURTHER,
6 YOUR HONOR.

7 THE COURT: SIR, YOU MAY STEP
8 DOWN.

9 WITNESS: THANK YOU, MA'AM.

10 SOLICITOR BELL: THAT WOULD BE THE
11 STATE'S REBUTTAL, YOUR HONOR.

12 THE COURT: MR. FOREMAN, LADIES
13 AND GENTLEMEN, WE HAVE REACHED THE STATE OF TRIAL
14 WHERE NOW WE WILL HEAR CLOSING ARGUMENTS AND THE
15 COURT'S CHARGE ON THE LAW. YOU WILL FIRST BE
16 ADDRESSED BY THE STATE AND THEN YOU WILL HEAR FROM MR.
17 KEARSE, AND YOU WILL THEN AGAIN HEAR FROM THE STATE.
18 THE EVIDENTIARY RULES PROVIDE THAT THE PARTY THAT HAS
19 THE BURDEN OF PROOF GETS TO HAVE THE LAST SAY, SO TO
20 SPEAK, SO THE STATE GETS TO OPEN AND CLOSE, BECAUSE
21 THEY HAVE THE BURDEN OF PROOF IN THIS MATTER. PLEASE
22 GIVE THEM YOUR UNDIVIDED ATTENTION.

23 MR. BELL, WHEN YOU'RE READY YOU
24 MAY PROCEED.

25 SOLICITOR BELL: THANK YOU, YOUR

1 HONOR, ---

2 THE COURT: YOU'RE WELCOME.

3 SOLICITOR BELL: --- MAY IT PLEASE
4 THE COURT.

5 MR. KEARSE.

6 CLOSING ARGUMENT BY MR. BELL

7 MR. FOREMAN, AND LADIES AND
8 GENTLEMEN OF THE JURY, FIRST OF ALL, BEFORE I GET
9 STARTED I WOULD LIKE TO TAKE THIS TIME TO THANK YOU
10 ALL FOR BEING HERE THIS WEEK. THIS HAS BEEN A LONG
11 TRIAL, THIS HAS BEEN KIND OF A LONG WEEK, I KNOW THIS
12 HAS BEEN AN INCONVENIENCE TO YOU. I HOPE YOU
13 UNDERSTAND YOUR IMPORTANCE, HOWEVER. I WILL TELL YOU
14 THIS, AND I HOPE YOU HAVE LEARNED THIS FROM YOUR
15 EXPERIENCE THIS WEEK THAT WITHOUT YOU WE WOULD HAVE NO
16 CRIMINAL JUSTICE SYSTEM IN THE UNITED STATES, BECAUSE
17 YOU ARE THE BASIS OF THE CRIMINAL JUSTICE SYSTEM IN
18 THE UNITED STATES. AND WITHOUT YOUR WILLING
19 PARTICIPATION AS YOU HAVE DONE THIS WEEK, WE WOULD BE
20 AT A STAND STILL WITH OUR CRIMINAL JUSTICE SYSTEM IN
21 THE UNITED STATES, BUT FOR YOU GOODS CITIZENS WHO HAVE
22 COME HERE OUT OF YOUR TIME FROM YOUR HOMES, YOUR
23 FAMILIES, YOUR JOBS, TO TAKE TIME OUT AND SERVE ON A
24 JURY, TO LISTEN TO DISPUTES WITH YOUR FELLOW CITIZENS.
25 I HOPE YOU'VE UNDERSTOOD HOW IMPORTANT YOU ARE. I

1 THANK YOU FOR THAT BECAUSE I UNDERSTAND HOW IMPORTANT
2 YOU ARE. AND I HOPE YOU'VE LEARNED SOMETHING THIS
3 WEEK. I HOPE YOU'VE LEARNED SOMETHING ABOUT OUR
4 CRIMINAL JUSTICE SYSTEM, ABOUT THE REAL CRIMINAL
5 JUSTICE SYSTEM, NOT THE T.V. CRIMINAL JUSTICE SYSTEM,
6 THE REAL CRIMINAL JUSTICE SYSTEM IN SOUTH CAROLINA,
7 AND IN OUR UNITED STATES. AND AGAIN, ON BEHALF OF THE
8 STATE OF SOUTH CAROLINA AND THE COOK FAMILY, I JUST
9 THANK YOU FOR YOUR PARTICIPATION.

10 NOW, AT THIS TIME, LADIES AND
11 GENTLEMEN, I'M UP HERE TO DISCUSS JUST THE LAW WITH
12 YOU, THE LAW THAT'S INVOLVED IN THIS CASE. ONCE I
13 FINISH THAT I'LL SIT DOWN AND MR. KEARSE WILL ARGUE
14 THE EVIDENCE FROM HIS PERSPECTIVE, AND HE WILL SIT
15 DOWN, AND THEN I WILL HAVE A CHANCE TO COME UP AND
16 ARGUE IT FROM THE STATE'S PERSPECTIVE, THE OVERVIEW OF
17 THE EVIDENCE. BUT AS YOU KNOW, LADIES AND GENTLEMEN,
18 AS YOU'VE HEARD, THE STATE OF SOUTH CAROLINA THAT I
19 REPRESENT HAS THE BURDEN OF PROOF. WE HAVE THE BURDEN
20 OF PROOF IN EVERY CRIMINAL CASE, AND I WILLINGLY AND
21 GLADLY ACCEPT THAT BURDEN OF PROOF. THAT'S WHAT OUR
22 CRIMINAL JUSTICE SYSTEM IS ABOUT. EVERY CITIZEN IN
23 THIS, IN THE UNITED STATES IS INNOCENT UNTIL PROVEN
24 GUILTY, AND IT'S UP TO THE STATE TO PROVE A PERSON
25 GUILTY BEYOND ALL REASONABLE DOUBT.

1 NOW, AS I TOLD YOU IN MY OPENING,
2 THERE ARE TWO JUDGES IN THIS COURTROOM, THERE IS THE
3 JUDGE OF THE LAW, JUDGE JEFFERSON, AND AS I TOLD YOU
4 BACK ON MONDAY, YOU TOOK AN OATH THAT SAYS YOU WILL
5 FOLLOW THE LAW THAT SHE GIVES YOU. AND SHE WILL GIVE
6 YOU THAT LAW AS SOON AS WE FINISH TALKING TO YOU. AND
7 YOU MUST FOLLOW THAT LAW THAT SHE HAS GIVEN TO YOU,
8 YOU MUST FOLLOW IT AND APPLY IT TO THE FACTS THAT YOU
9 HAVE DECIDED UPON AT THE END OF THIS TRIAL.

10 YOU ARE THE JUDGES OF THE FACTS,
11 AND NOBODY CAN TELL YOU HOW TO FIND THOSE FACTS.
12 YOU'VE SAT HERE AND LISTENED TO TESTIMONY, THREE DAYS
13 OF TESTIMONY, FOUR DAYS OF TESTIMONY, YOU'VE SEEN
14 NUMEROUS EXHIBITS, YOU TAKE THAT BACK THERE AND YOU
15 DECIDE THE FACTS. AND YOU DECIDE THE FACTS AND APPLY
16 THE LAW AND YOU REACH A VERDICT. A VERDICT SIMPLE
17 MEANS, TO SPEAK THE TRUTH, AND THAT'S WHAT WE'RE HERE
18 SEEKING, LADIES AND GENTLEMEN.

19 NOW, AS I STATED EARLIER, THE
20 STATE MUST PROVE A PERSON GUILTY BEYOND ALL REASONABLE
21 DOUBT. AND I WANT TO TELL YOU, LADIES AND GENTLEMEN,
22 ALL REASONABLE DOUBT DOES NOT MEAN BEYOND EVERY DOUBT.
23 IT DOES NOT MEAN BEYOND A HUNDRED PER CENT OF THE
24 DOUBT, IT MEANS BEYOND ALL REASONABLE DOUBT. AS I
25 BELIEVE YOU WILL BE CHARGED IN THIS CASE AT THE END BY

1 JUDGE JEFFERSON, SHE WILL TELL YOU THAT, AND THE LAW
2 WILL TELL YOU THAT THERE ARE VERY FEW CERTAINTIES IN
3 LIFE. I CAN'T ONLY THINK OF ONE CERTAINTY IN LIFE, AND
4 UNFORTUNATELY, THAT'S DEATH. THE REST OF IT, NOTHING
5 IS TERRIBLY CERTAIN, IT'S FAIRLY CERTAIN BUT IT'S NOT
6 A HUNDRED PER CENT SOMETHING'S GOING TO HAPPEN.
7 THINGS CHANGE. AND WE HAVE NO CERTAINTIES AS HUMANS,
8 WE CERTAINLY HAVE NO CERTAINTIES AS HUMANS. THAT'S
9 WHY THE, OUR LAW REQUIRES THE STATE TO PROVE A PERSON
10 GUILTY BEYOND ALL REASONABLE DOUBT. AND THAT'S NOT
11 BEYOND THE SHADOW OF A DOUBT, THAT'S NOT BEYOND ALL
12 DOUBT, BUT IT'S BEYOND A REASONABLE DOUBT. AND
13 EVIDENCE BEYOND A REASONABLE DOUBT IS EVIDENCE THAT
14 LEAVES YOU FIRMLY CONVINCED OF THE GUILT OF THE
15 PERSON. AND THAT'S WHAT THE STANDARD IS. AND I BELIEVE
16 THAT'S THE STANDARD THAT YOU WILL BE CHARGED.

17 NOW, LADIES AND GENTLEMEN, YOU'LL
18 ALSO HEAR ABOUT DIFFERENT TYPES OF EVIDENCE THAT YOU
19 CAN HEAR. AND THERE ARE BASICALLY TWO DIFFERENT TYPES
20 OF EVIDENCE, THERE IS DIRECT EVIDENCE. DIRECT
21 EVIDENCE IS, I SAW HIM SHOOT HIM. THAT IS DIRECT
22 EVIDENCE.

23 THEN THERE IS CIRCUMSTANTIAL
24 EVIDENCE, AND I'M SURE Y'ALL HAVE HEARD ABOUT
25 CIRCUMSTANTIAL EVIDENCE. WELL, WHAT'S CIRCUMSTANTIAL

1 EVIDENCE ARE A FACT OR A GROUP OF FACTS TAKEN TOGETHER
2 THAT CAN LEAD YOU TO INFER ANOTHER FACT HAPPENED. FOR
3 EXAMPLE, LET'S SAY YOU'RE IN THE COURT HOUSE AND
4 YOU'RE IN A ROOM WITH NO WINDOWS, AND YOU'RE GOING TO
5 LEAVE. YOU CAME TO THAT ROOM THAT MORNING, IT WAS
6 SUNNY OUTSIDE, NOT A CLOUD IN THE SKY. YOU LEAVE, AND
7 AS YOU'RE GOING OUT, IT'S KIND OF DARKISH. THE SUN'S
8 STILL UP BUT IT'S KIND OF DARKISH. YOU SEE SOMEBODY
9 COME IN AND THEY'RE DAMP. YOU GO OUTSIDE, YOU SEE THE
10 SIDEWALK'S DAMP, AND YOU SEE WATER ON THE CARS, YOU
11 SEE WATER IN THE TREES. CIRCUMSTANTIAL EVIDENCE SAYS
12 TO YOU, IT HAS RAINED. EVEN THOUGH YOU DID NOT SEE IT
13 ACTUALLY RAIN, YOU CAN TAKE THOSE FACTS THAT YOU HAVE
14 SEEN AND INFER THE FACT THAT IT HAS RAINED. THAT'S
15 WHAT CIRCUMSTANTIAL EVIDENCE IS, IT'S JUST TAKING A
16 GROUP OF FACTS AND INFERRING ANOTHER FACT FROM THOSE.

17 NOW, LADIES AND GENTLEMEN, ALSO
18 YOU'VE BEEN TOLD, AND AS I TOLD YOU IN THE BEGINNING,
19 THE DEFENDANT, STEVEN BRISCOE, HAS BEEN CHARGED WITH
20 MURDER IN THE STATE OF SOUTH CAROLINA.

21 MURDER IN THE STATE OF SOUTH
22 CAROLINA I BELIEVE IS DEFINED AS THE UNLAWFUL KILLING
23 OF ANOTHER WITH MALICE AFORETHOUGHT, EITHER EXPRESSED
24 OR IMPLIED.

25 NOW, MALICE AFORETHOUGHT MEANS

1 THAT THE MALICE MUST HAVE EXISTED AT ANYTIME BEFORE
2 THE PERSON WAS KILLED. IT CAN BE FROM A NANO-SECOND, A
3 MICRO-SECOND BEFORE TO A YEAR BEFORE. IT CAN EXIST IN
4 AN INSTANT. IT CAN JUST COME UP LIKE THAT AND EXIST,
5 BUT IT MUST EXIST BEFORE. MALICE MEANS SEVERAL
6 THINGS, IT MEANS ILL WILL OR HATRED. I THINK I TALKED
7 TO YOU ABOUT THAT EARLIER. IT MEANS WILLING TO DO
8 MISCHIEF, A MISCHIEVOUS HEART, AND STUFF LIKE THAT,
9 BUT WHAT IT MEANS IS, SOME TYPE OF ILL WILL OR HATRED,
10 THAT YOU INTEND TO DO SOME TYPE OF VIOLENT INJURY TO
11 SOMEBODY, THAT YOU INTEND TO DO THAT. AND EXPRESSED
12 OR IMPLIED DOES NOT MEAN TWO DIFFERENT TYPES OF
13 MALICE, IT JUST -- THERE'S JUST DIFFERENT WAYS YOU CAN
14 FIND MALICE, SUCH AS EXPRESSED MALICE MEANS, I'M GOING
15 TO KILL YOU. YOU SAY, I'M GOING TO KILL YOU, THAT'S
16 EXPRESSED MALICE. IMPLIED MALICE IS, YOU CAN IMPLY
17 FROM THE FACTS, THAT IS, I THINK IN THE STATE OF SOUTH
18 CAROLINA IF SOMEBODY USES A DEADLY WEAPON YOU CAN
19 INFER FROM THAT THAT MALICE EXISTED, THAT THEY MEANT
20 TO DO HARM OR KILL SOMEBODY, THAT'S WHAT MALICE IS.
21 IT'S JUST DIFFERENT WAYS MALICE CAN BE EXPRESSED OR BE
22 FOUND.

23 NOW, LADIES AND GENTLEMEN, THAT'S
24 GENERALLY THE LAW THAT EXISTS IN THIS CASE THAT I'M
25 AWARE ON THE SIDE OF THE STATE. I'M GOING TO SIT DOWN

1 NOW, MR. KEARSE IS GOING TO GET UP AND ADDRESS YOU
2 ABOUT HIS VERSION OF THE FACTS, HOW HE SEES THE FACTS,
3 AND THEN HE'LL SIT DOWN AND I'LL HAVE A CHANCE TO
4 ADDRESS YOU. SO, AT THIS TIME I THANK YOU AND I WILL
5 TALK TO YOU LATER.

6 THE COURT: MR. KEARSE.

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

9 CLOSING ARGUMENT BY MR. KEARSE

10 GOOD AFTERNOON. I DECIDED THIS
11 AFTERNOON THAT I WAS GOING TO -- OR I'M GOING TO
12 ASSIST JASSON TURNER, THE RAPPER, WITH THE MAKING OF
13 HIS NEXT RECORD, OR HIS NEXT ALBUM, AS WE CALL IT, I
14 KNOW THEY CALL THEM CD'S NOW. BUT WE'RE GOING TO NAME
15 THIS RECORD, OR THIS ALBUM THE GREAT ESCAPE. AND
16 ESSENTIALLY, LET ME TELL YOU WHY AND WHAT'S THE THEME
17 OF THIS CD, SUPPOSEDLY. JASSON TURNER IS A DRUG
18 DEALER, IT'S BEEN ADMITTED. HE HANGS OUT WITH OTHER
19 DRUG DEALERS. HE, PATRICK JONES, JEFF HILL, RYAN
20 NORTH, JERMAINE CUSACK, THEY ARE DRUG DEALERS,
21 CRIMINALS. AND PART OF BEING A CRIMINAL ONE IS
22 COMMISSION OF THE CRIME, ITSELF. BUT THEN THERE'S
23 ANOTHER PART THAT REALLY ISN'T DISCUSSED A LOT, AND
24 THAT'S HAVING THE ABILITY TO AVOID PUNISHMENT FOR THE
25 CRIME. AND ESSENTIALLY, THE TWO GO HAND IN HAND. YOU

1 MUST HAVE AN ABILITY TO AVOID PUNISHMENT FOR THE CRIME
2 IF YOU'RE GOING TO BE A SUCCESSFUL CRIMINAL AND -- OR
3 A DRUG DEALER. AND THAT'S WHAT THESE GUYS HAVE. HE
4 TESTIFIED THAT AUGUST, TWO THOUSAND FOUR, HE WAS
5 GETTING READY TO BE TRIED FOR MURDER, JASSON TURNER.
6 AND HE, AS HE TESTIFIED, RELIGIOUSLY STUDIED WHAT HE
7 CALLED HIS DISCOVERY, AND THAT'S THE EVIDENCE IN HIS
8 CASE, BECAUSE HE KNEW, JUST LIKE ANY GOOD SONG, HE WAS
9 GOING TO HAVE TO COMPOSE A GOOD STORY, BECAUSE THAT'S
10 WHAT RAPPERS DO, THEY TELL A STORY. AND TO AVOID
11 PUNISHMENT HE CAME UP WITH A TERRIFIC STORY. AND THAT
12 IS, OF COURSE, IT'S VERY SIMPLISTIC, BUT IT'S STILL
13 EFFECTIVE, I DIDN'T DO IT, IT WAS SOMEBODY ELSE. IT
14 WAS BENJY, SO CALLED, BENJY, THE UNKNOWN VARIABLE.

15 UNFORTUNATELY FOR STEVEN BRISCOE,
16 HE ONLY KNEW JASSON TURNER. YOU SEE, JASSON'S FIRST
17 HIT IS THE TWO LIVES OF JASSON TURNER. AND WHEN I SAY
18 THE TWO LIVES OF JASSON TURNER, BECAUSE I BELIEVE
19 JASSON ESSENTIALLY IS BEING HONEST ABOUT HIS
20 VOCATIONS, AND THAT IS, ONE, HE IS A RAPPER, HE
21 PROBABLY IS A RAPPER, HE PROBABLY IS A TALENTED GUY,
22 HE PROBABLY CAN PERFORM, HE PROBABLY CAN DO ALL THOSE
23 THINGS. HE PROBABLY ASSISTED STEVE WITH HIS MUSIC OR
24 WHATEVER. BUT THAT'S JUST ONE OF HIS VOCATIONS.

25 UNFORTUNATELY FOR STEVEN

1 BRISCOE, HE WAS NOT FAMILIAR WITH HIS SECOND VOCATION,
2 WHICH WE SUBMIT IS HIS PRIMARY VOCATION, AND THAT IS
3 THE DRUG DEALER JASSON TURNER. AND THE DRUG DEALER
4 JASSON TURNER IS THE GUY WHO CAME DOWN TO SOUTH
5 CAROLINA REGULARLY. YOU SAW HIM ON THE STAND, YOU
6 HEARD HIS TESTIMONY, HE SAID HE HAD ONLY BEEN TO SOUTH
7 CAROLINA, AT LEAST RYAN NORTH'S RESIDENCE TWO TIMES,
8 ONE TIME BEFORE, AND THEN A SECOND TIME ON THE NIGHT
9 OF THIS INCIDENT. BUT THEN THAT WAS NOT THE TRUTH. HE
10 HAD BEEN THERE AT LEAST THREE OR FOUR TIMES, MAYBE
11 MORE. I SUBMIT TO YOU IT WAS QUITE MORE THAN THAT.
12 HE, JEFF HILL, AND PATRICK JONES HAD DRIVEN DOWN THERE
13 REGULARLY, WERE DEALING DRUGS, I SUBMIT TO YOU,
14 REGULARLY. THESE GUYS KNOW EACH OTHER. AND THIS,
15 UNFORTUNATELY FOR STEVEN BRISCOE, IS THE SECOND LIFE
16 HE DOESN'T KNOW ABOUT. IF YOU LISTENED, AND YOU
17 OBSERVED STEVEN'S TESTIMONY, ESSENTIALLY, STEVEN WAS
18 CAUGHT UP IN THE RAP LIFE OF JASSON TURNER, SOMEWHAT
19 ENAMORED WITH IT. I'M A MUSICIAN AND I MAKE BEATS. HE
20 CAN RAP, HE WAS GOOD, HE PRODUCES. STEVEN THINKS THIS
21 GUY IS IN SOUTH CAROLINA MAKING MUSIC, IN CALIFORNIA
22 MAKING MUSIC, AND HE PROBABLY IS REPRESENTING THAT.
23 OH, WE KNOW HE'S PRODUCING SOMETHING, BUT IT AIN'T
24 MUSIC. HE'S PRODUCING, DISTRIBUTING DRUGS, JASSON
25 TURNER. MAKE NO MISTAKE, HE ADMITTED ON THAT STAND.

1 BUT IT WAS ALSO STRANGE HOW HE
2 TALKS ABOUT THIS ALLEGED DEAL HE SET UP TO ASSIST MR.
3 BRISCOE SO ELABORATELY, HE'S VERY GUARDED ABOUT WHAT
4 SUPPOSEDLY HE WAS SUPPOSED TO BE DOING THAT NIGHT. HE
5 HAS TO JUSTIFY WHY HE WOULD HAVE TO COME WITH MR.
6 BRISCOE, BUT HE'S NOT GOING TO CONFESS, HE JUST SAID,
7 I'VE GOT TO TAKE CARE OF PERSONAL BUSINESS. WELL,
8 WHAT PERSONAL BUSINESS? OH, IT'S BUSINESS THAT'S
9 PERSONAL. THIS IS HOW THESE GUYS OPERATE. AND
10 UNFORTUNATELY FOR STEVEN, HE WASN'T FAMILIAR WITH THAT
11 SECOND LIFE, NOT AT ALL.

12 WELL, LET'S TALK ABOUT THAT, THIS
13 ALLEGED TRIP THAT MR. TURNER ALLEGEDLY NEGOTIATES
14 BECAUSE HE NEEDED A RIDE TO SOUTH CAROLINA. WHY? WHY
15 WOULD HE NEED A RIDE TO SOUTH CAROLINA? WHY? I SAY,
16 WHY, BECAUSE WE KNOW THAT WHEN THEY DID AN ID OF
17 JASSON-TURNER, HE DOESN'T NEED A RIDE TO SOUTH
18 CAROLINA, HE'S CAPABLE OF DRIVING HIMSELF. HOW DO WE
19 KNOW THAT? HE HAS A VALID DRIVERS LICENSE. HE DOESN'T
20 NEED ANYBODY TO CHAUFFEUR HIM AROUND, HE HAS THE
21 ABILITY TO DRIVE HIMSELF. IF HE HAD PERSONAL BUSINESS
22 HERE THAT HE WANTED TO TAKE CARE OF AND IT WAS SO
23 IMPORTANT, HE COULD HAVE JUST RENTED A CAR. IT WASN'T
24 LIKE HE COULDN'T AFFORD TO DO IT, BECAUSE WE KNOW ONE
25 THING, HE GOT TO VIRGINIA SOMEHOW BY HIMSELF, HE GOT

1 OUT TO CALIFORNIA BY HIMSELF. IF HE CAN AFFORD TO GET
2 OUT TO LOS ANGELES, CALIFORNIA, HE CAN AFFORD TO GET
3 TO SOUTH CAROLINA. HE CAN TRAVEL ABOUT BY HIMSELF.
4 SO, WE KNOW THERE WAS NO NECESSITY OF HIM TO DEPEND ON
5 SOMEBODY ELSE. AND WHO'S TO SAY HE DID NOT RENT A
6 CAR? WHO'S TO SAY IT WASN'T A GRAND AM, WHO'S TO SAY
7 IT WASN'T A GRAND PRIX? BECAUSE THE EVIDENCE THAT
8 CAME OFF OF THAT STAND, EVEN THOUGH THE INITIAL STORY
9 WAS, YEAH, I SAID THE CAR WAS GOLD, I IDENTIFIED THE
10 CAR AS BEING GOLD, IT'S A GOLD GRAND AM, WE KNOW
11 THAT'S NOT THE TRUTH. WITNESS AFTER WITNESS AFTER
12 WITNESS, WHEN CONFRONTED WITH THE TRUTH OF WHAT THEY
13 SAID LESS THAN TWO MONTHS, EVEN IN THE SPAN OF A FEW
14 DAYS AFTER THIS OCCURRED, SAID GRAY. IN FACT, ANTHONY
15 FOLK WAS SHOWN A GRAND PRIX, AND HE SAID TWO THINGS,
16 WELL, YEAH, IT MAY BE SMALLER, BUT THAT'S THE CAR,
17 SAME COLOR. BUT DID HE SAY THAT TODAY FOR YOU? NO.
18 HE'S COY ABOUT IT, HE'S GUARDED. THAT'S IMPORTANT.
19 THIS IS A TEST OF THE EVIDENCE, THEY'VE GOT TO PROVE
20 THIS CASE BEYOND A SHADOW OF THE DOUBT, A SHADOW OF
21 THE DOUBT.

22 SOLICITOR BELL: I OBJECT, YOUR
23 HONOR, HE'S MISQUOTING THE LAW.

24 MR. KEARSE: REASONABLE DOUBT.

25 THE COURT: THAT'S SUSTAINED, WITH

1 THE CORRECTION.

2 MR. KEARSE: THEY'VE GOT TO MEET
3 THAT BURDEN, THEY'VE GOT TO MEET THE BURDEN. THEY
4 HAVEN'T MET THAT BURDEN. AND THIS IS JUST AS TO THE
5 CAR. WE'RE NOT TALKING ABOUT ALL THE OTHER STUFF THAT
6 WAS SAID.

7 WELL, LET'S EXAMINE OUR SECOND
8 TOOL. WE'RE GOING TO CALL THAT PLANNING OF THE
9 CRIMINAL ENTERPRISE. PLANNING OF THE CRIMINAL
10 ENTERPRISE. NOW, IF MR. BRISCOE NEEDS TO SELL DRUGS,
11 AND HE'S GOT A QUANTITY OF DRUGS IN AN AMOUNT OF FOUR
12 TO NINE OUNCES HIMSELF, WHY WOULD HE NEED SOMEBODY
13 ELSE TO DEVISE A SCHEME TO SELL IT? WHY? IF HE IS
14 ABLE TO OBTAIN THAT HIMSELF WHAT WOULD HE NEED JASSON
15 FOR? JASSON'S STORY -- AND REMEMBER, THESE GUYS WILL
16 ALWAYS ABSOLVE THEMSELVES FROM LIABILITY. IT'S, I WAS
17 SETTING IT UP FOR HIM, WE WERE DRIVING DOWN SO HE
18 COULD MAKE THIS SALE, I WASN'T GOING TO GET ANYTHING
19 OUT OF IT. INTERESTING. EVERY CALL, EVERY CALL MADE
20 EXCLUDED STEVEN BRISCOE. EVERY NEGOTIATION EXCLUDED
21 STEVEN BRISCOE, EVERYTHING. JASSON'S CALLING RYAN AND
22 JASSON'S CALLING JERMAINE. THESE GUYS ARE NEGOTIATING
23 WITH EACH OTHER. WHERE IS STEVEN BRISCOE IN THIS
24 PICTURE? WHY, IF STEVEN IS TRYING TO MAKE THIS SALE,
25 IS IT NOT AT LEAST GETTING ON THE PHONE TALKING TO

1 THESE GUYS, IF HE'S GOING TO MAKE ALL THE PROFIT? THE
2 STORY DOES NOT HOLD UP, IT DOES NOT HOLD UP, IT
3 DOESN'T MEET THE TEST.

4 THEN, WE'RE GOING TO TALK ABOUT
5 WHEN THEY GET HERE, ALLEGEDLY, TO SOUTH CAROLINA.
6 REMEMBER, REASONABLE DOUBT, THESE STORIES HAVE TO BE
7 LOGICAL. THESE GUYS ARE INGENIOUS, BUT THE STORY ISN'T
8 CREDIBLE. AND TEST IT, JASSON TURNER SAID WHAT? WE
9 LEAVE DANVILLE, VIRGINIA, DRIVE DOWN TO SOUTH
10 CAROLINA, WE GO STRAIGHT TO RYAN NORTH'S HOUSE AND
11 MEET RYAN NORTH AT THE HOUSE. WE GO UP TO THE PORCH,
12 RYAN MEETS US AT THE PORCH AND SHOWS US, AND BEGINS TO
13 TALK A LITTLE BIT, AND THEN HE SHOWS US A GUN THAT HE
14 TRIES TO SELL TO US. THEN HE SAYS, AND THIS IS THE
15 TESTIMONY, THAT RYAN GETS IN THE CAR WITH THEM AND
16 THEY DRIVE DOWN TO JERMAINE CUSACK'S AND LANESHA
17 GREEN'S RESIDENCE, ALLEGEDLY. TEST THIS EVIDENCE.
18 AND WHAT DOES RYAN NORTH COME BACK AND SAY? I MEAN,
19 IF THIS IS THE TRUTH, THEY NEVER CAME TO MY HOUSE.
20 WHAT DOES TRAVIS NORTH SAY? THEY NEVER CAME TO RYAN'S
21 HOUSE. WHAT DOES ANTHONY FOLK SAY? THEY NEVER CAME TO
22 RYAN'S HOUSE. WHAT DOES RYAN SAY? I NEVER GOT IN THE
23 CAR AND RODE WITH THEM. TODAY HE SAYS, WELL, MAYBE I
24 MIGHT HAVE GOT IN THE CAR AT THE TIME WE WERE
25 NEGOTIATING THE DRUGS. TEST THIS EVIDENCE, THIS IS

1 IMPORTANT, EXTREMELY IMPORTANT. IF IT'S THE TRUTH, WHY
2 NOT SAY THE SAME THING? THAT TESTS THAT EVIDENCE.

3 AND SUPPOSEDLY, THEY GET TO THIS
4 HOUSE, TRAVIS STAYS IN THE CAR -- WELL, LET'S GO BACK
5 TO THE TRUCK STOP FOR A SECOND, LET'S PRESUME THEY DO
6 MEET AT A TRUCK STOP. WE SUBMIT THIS STORY ISN'T TRUE
7 AT ALL, BUT LET'S PRESUME THEY DO MEET AT A TRUCK
8 STOP. WOULD NOT THEY BE ABLE TO COMPLETELY IDENTIFY
9 THIS CAR, THE TAG, THE COLOR, THE NUMBER OF DOORS,
10 THE FACT THAT THE CAR HAS A VERY SIGNIFICANT DETAIL
11 ABOUT IT? CLEAR AS DAY. NOW, THEY'VE GOT THIS
12 TREMENDOUS MEMORY WHERE THEY CAN, ONE YEAR AND A MONTH
13 LATER PICK SOMEBODY OUT OF A LINEUP IMMEDIATELY, BUT
14 THEY CAN'T REMEMBER THAT TAG IN THE WINDOW. IT'S NOT
15 THE TRUTH. IT'S NOT THE TRUTH. THEY'RE GOOD, BUT
16 THEY'RE NOT GREAT. BUT JASSON FIGURES THIS ALBUM'S
17 GOING TO SELL, AND HE'S SELLING IT TO YOU, AND RYAN
18 NORTH IS SELLING IT TO YOU, AND TRAVIS NORTH IS
19 SELLING IT TO YOU, AND THEY FIGURE YOU'RE GOING TO BUY
20 IT.

21 NOW, LET'S TALK ABOUT DISCUSSION
22 AT THIS HOUSE. THEY SAY THAT WHEN THIS THING HAPPENED
23 THE TWO ALLEGED ASSAILANTS ARE SITTING AT THE TABLE,
24 THAT UNFORTUNATELY, THE DECEDENT, WHO -- AND LET ME
25 BE CLEAR, WE ARE VERY APOLOGETIC ABOUT HIS DEATH, VERY

1 APOLOGETIC ABOUT IT, AND MY HEART GOES OUT TO THIS
2 FAMILY, MOST DEFINITELY. BUT YOU HAVE TO TEST THIS
3 EVIDENCE, YOU HAVE TO TEST THIS EVIDENCE, BECAUSE THIS
4 EVIDENCE WOULD NOT WITHSTAND THAT TEST. THEY SAY THAT
5 THE DECEDENT RUNS, OR WALKS, OR WHATEVER YOU WANT TO
6 SAY, TO THE TABLE, GRABS DRUGS AND MONEY, AND RUNS
7 TOWARDS THE DOOR. AND ALMOST INSTINCTIVELY, OR
8 IMMEDIATELY, ALLEGEDLY, MR. BRISCOE JUMPS UP, PULLS
9 OUT A GUN FROM BEHIND, AND FIRES, THEREBY CAUSING THE
10 DEATH OF THE DECEDENT.

11 WELL, LET'S TALK ABOUT OUR NEXT
12 HIT. WE'RE GOING TO CALL THAT BODY POSITION. THIS
13 WAS THE FORENSIC PATHOLOGIST WHO TESTIFIED FOR THE
14 STATE, OUT OF NEWBERRY. HE'S TESTIFIED, I BELIEVE HE
15 SAID, IN OVER SEVEN HUNDRED CASES, AN EXPERT,
16 QUALIFIED IN THE FIELD OF FORENSICS. HE SAYS, AD HE
17 DEPICTS THE SHOTS THAT WERE FIRED. HE SAID, YOU CAN'T
18 SAY WHAT POSITION THE DECEASED WAS IN AT THE TIME, BUT
19 YOU CAN, BASED ON HIS ANALYSIS, FIGURE OUT THE
20 POSITION OF THE SHOOTER. VERY KEY, BECAUSE THIS IS
21 THE EVIDENCE THAT IS CREDIBLE. AND HE SAID WHAT? THAT
22 THE PERSON WHO SHOT THE DECEDENT HAD TO BE ON THE
23 RIGHT SIDE, HAD TO BE ON THE RIGHT SIDE. HE DIDN'T SAY
24 HE MAY BE, HE SAID, HAD TO BE ON THE RIGHT SIDE. AND
25 HE ALSO SAID WHEN QUESTIONED THAT THAT SHOOTER COULD

1 NOT BE BEHIND THE DECEDENT. AND WHAT IS THE STORY
2 THAT HAS BEEN GIVEN TO YOU BY MR. CUSACK, BY MR.
3 NORTH, TRAVIS NORTH, RYAN NORTH, JASSON TURNER? THEY
4 SAY THIS MAN RAN, RAN TOWARDS THE DOOR AND WAS SHOT
5 FROM THE REAR. THAT'S THE SET UP. THAT'S THE SET UP.
6 NOW, THERE'S BEEN SOME BACK AND FORTH AND SOME
7 ATTEMPTS TO KIND OF, LIKE, REHABILITATE THAT, BUT
8 THAT'S WHAT THEY SAID, WHICH IS WHAT? INCONSISTENT
9 WITH THE PATHOLOGIST. WE KNOW THAT NO ONE RUNS THIS
10 WAY. WHEN YOU OPEN THE DOOR, YOU REACH. AND WE ALSO
11 KNOW, ALSO, BECAUSE LIEUTENANT ASBELL TESTIFIED, NO
12 DOOR HANDLE. SO, WHY WOULD HE REACH WHEN HE HAS TO
13 OPEN? TEST THIS EVIDENCE.

14 WE ALSO KNOW SOMETHING ELSE FROM
15 LIEUTENANT ASBELL'S TESTIMONY. LIKE I SAY, YOU HAVE
16 TO TEST THESE GUYS. I MEAN, THEY'RE ALL GOOD, BUT
17 THEY'RE NOT GREAT. THE DECEDENT, WHEN FOUND IN THE
18 HOUSE, WAS FOUND, NOT IN FRONT OF THE DOOR, BUT
19 POSITIONED IN ANOTHER ROOM THAT WAS DEPICTED BY
20 STATE'S WITNESS LANESHA GREEN. THAT'S DEFENDANT'S
21 THREE, THAT THIS IS THE TABLE -- AND THIS IS HER, THE
22 OWNER OF THE RESIDENCE, THIS IS HER DEPICTION -- THIS
23 IS THE ENTRANCE, THIS IS THE DECEDENT, WHO WAS FOUND
24 LYING FACE UP ON THE FLOOR NEXT TO A MATTRESS. IN
25 ADDITION, THERE WAS A BULLET HOLE FOUND RIGHT ABOVE,

1 ONE FOOT FROM THE FLOOR. FROM WHERE? FROM WHOM? FROM
2 WHAT? THERE'S NO TESTIMONY THAT THE DECEDENT WAS
3 FOLLOWED INTO THAT ROOM. IN ADDITION, WHEN THEY FOUND
4 THE DECEDENT THEY FOUND WHAT? CIGARETTE ASHES ON HIS
5 PALM, HIS RIGHT PALM. THEY FOUND WHAT? A CIGARETTE
6 BETWEEN HIS FINGERS. NOW, I ASK YOU, IF THIS MAN,
7 ALBEIT -- AND I MEAN NO DISRESPECT TO THE DECEDENT, HE
8 IS SOMEWHAT INTOXICATED. AND HE PLANS, EVEN IN THAT
9 STATE, THAT HE'S GOING TO GRAB, AND BE SUCCESSFUL IN
10 GRABBING DRUGS AND MONEY. IS HE GOING TO DO IT WITH A
11 CIGARETTE BETWEEN HIS FINGERS? IS HE GOING TO RUN WITH
12 A CIGARETTE? HE'S GOING TO BE SUCCESSFUL IN GRABBING
13 THE DRUGS AND THE MONEY? HE'S GOING TO BE SUCCESSFUL
14 IN OPENING THE DOOR WITH THE CIGARETTE BETWEEN HIS
15 FINGERS? EVEN IF, AND WE KNOW IT DID NOT, THE DOOR
16 HAD A KNOB, HE'S GOING TO OPEN THE DOOR WITH A
17 CIGARETTE BETWEEN HIS FINGERS? YOU MUST PAY CLOSE
18 ATTENTION. IF YOU DO NOT FULLY PAY CLOSE ATTENTION
19 YOU WILL BE SNOWED, BECAUSE AS I SAID, YOU'VE GOT TO
20 BE ABLE TO DO TWO THINGS WHEN YOU'RE A CRIMINAL: ONE,
21 YOU'VE GOT TO BE ABLE TO DO THE CRIME AND BE
22 SUCCESSFUL; TWO, YOU HAVE TO BE ABLE TO AVOID THE
23 PUNITIVE MEASURES, ONE RIGHT AFTER THE OTHER, RIGHT
24 AFTER THE OTHER.

25 RYAN NORTH EVEN SAID, YES, I'M

1 FACING -- I'VE GOT, NOT FACING, I HAVE FOURTEEN YEARS
2 FEDERAL TIME. BUT HE DOESN'T EXPECT TO DO ONE DAY,
3 BECAUSE ALL HE HAS TO DO IS WHAT? PROVIDE TESTIMONY IN
4 DIFFERENT CASES. AND HE CAN GET OUT OF IT, BECAUSE HE
5 CAN GET -- AS HE ACKNOWLEDGED, AND THE SAD THING IS,
6 HE ALMOST BRAGGED ABOUT IT, AS IF IT WAS LIKE HE HAD
7 GOTTEN A PHD OR SOMETHING. I CAN TESTIFY, I CAN TURN
8 PEOPLE IN, I'LL TURN IN WHOMEVER I HAVE TO TURN IN.
9 HE'S WALKING AROUND. THIS MAN IS NOT IN PRISON. AND
10 HE'S HERE TODAY. AND IN HIS TESTIMONY TODAY, HE SAID,
11 WHAT? HE DOESN'T EXPECT TO GET ANY TIME AT ALL,
12 NOTHING.

13 NOW, JASSON DOESN'T EVEN HAVE TO
14 WORRY ABOUT THAT, BECAUSE JASSON TURNER IS ALREADY A
15 FREE MAN. HE'S GOTTEN HIS FOUR YEARS PROBATION AND
16 HE'S GONE. AND HE SAT ON THAT STAND AND GOT INDIGNANT
17 BECAUSE HE HAD TO SPEND A WHOLE YEAR. HERE HE IS
18 SELLING DRUGS ON A REGULAR BASIS, SOLD DRUGS THAT
19 NIGHT. HE DENIES BEING INVOLVED IN THIS MURDER, BUT AT
20 MINIMAL, HE ADMITS, I'M SELLING DRUGS. BUT HE'S MAD,
21 I HAD TO SPEND A WHOLE YEAR IN JAIL, AND I GOT UPSET
22 BECAUSE NOBODY WAS SENDING ME MONEY, NOBODY WAS
23 GETTING ME OUT, NOBODY WAS COMING TO MY RESCUE. SO,
24 WHAT DID HE DO? I REALIZED WHEN I GOT READY FOR TRIAL
25 THAT THIS THING WAS SERIOUS, AND I HAD TO DO

1 SOMETHING, SO I HAD TO GIVE SOMEBODY UP.

2 NOW, LET'S TALK ABOUT CLEANING OF
3 THE CRIME SCENE. CLEANING OF THE CRIME SCENE. WHO
4 CLEANED THAT CRIME SCENE? LANESHA GREEN, JERMAINE
5 CUSACK, JOHNNY COBBS WE KNOW, MAYBE SOME CUSACK
6 SISTERS, AS RYAN NORTH TESTIFIED. MAYBE IT WAS THREE,
7 MAYBE IT WAS FIVE. WELL, I SUBMIT TO YOU, IF YOU'RE
8 NOT INVOLVED AND YOU FEAR NO REPRISAL BECAUSE YOU HAD
9 NOTHING TO DO WITH SOMETHING, WHY ARE YOU CLEANING THE
10 CRIME SCENE? WHO GOES INTO A HOUSE AFTER HEARING FIVE
11 GUN SHOTS, AFTER SEEING PEOPLE FLEE IN ALL DIFFERENT
12 DIRECTIONS, AND STRAIGHTENS UP A TABLE? WHO DOES
13 THAT? AND IN ADDITION, MS. GREEN, WHO SAYS SHE WAS SO
14 AFRAID, THAT'S WHY SHE DIDN'T WANT TO GO BACK TO THE
15 HOUSE, SHE WAS IN FEAR BECAUSE SHE DIDN'T KNOW IF THE
16 SHOOTER WAS STILL HERE, OR SHE, HERSELF, COULD BE THE
17 SUBJECT OF SOMETHING. BUT THAT DIDN'T STOP HER FROM
18 GOING TO THE HOUSE RIGHT AFTER THE INCIDENT, AND
19 CLEANING IT UP. SO, SHE THINKS THE SHOOTER IS STILL
20 THERE, SHE GOES IMMEDIATELY AFTER THIS THING AND
21 CLEANS THIS HOUSE UP WITH JERMAINE AND JOHNNY. IS SHE
22 SCARED THEN? BUT SHE'S SO SCARED, AFTER THEY DRIVE OFF
23 TO BRANCHVILLE, AND THEN ON TO ORANGEBURG, THAT SHE
24 CAN'T COME BACK TO THE HOUSE, BECAUSE THAT PERSON MAY
25 STILL BE THERE. DON'T BUY THIS RECORD. IT AIN'T

1 WORTH LISTENING TO.

2 AND WE ALSO KNOW, BASED ON
3 LIEUTENANT ASBELL, HE SAID, AN EXPERIENCED OFFICER OF
4 THE DORCHESTER COUNTY SHERIFF'S OFFICE, WHEN HE WALKED
5 INTO THAT CRIME SCENE, IMMEDIATELY HE COULD TELL, HIS
6 PHRASE, IT HAD BEEN POLICED. IMMEDIATELY. THEY HAD
7 CLEANED IT UP. NOW, IF THEY TOOK VERY SMALL ITEMS OF
8 INSIGNIFICANCE, THEN WHAT DO THEY NEED A BIG DUFFLE
9 BAG, A PLASTIC BAG, A TOTE BAG FOR? NOBODY KNOWS WHAT
10 WAS IN THOSE BAGS, NOBODY KNOWS WHERE THOSE BAGS ARE.
11 NOBODY KNOWS WHERE THEY WENT TO ORANGEBURG, NOBODY
12 KNOWS WHO THEY WENT TO SEE, NOBODY BUT THEM. NEVER
13 FOLLOWED UP.

14 AFTER THE CRIME IS OVER, LET'S RAP
15 ABOUT, AFTER THE CRIME IS OVER, WHAT DO YOU DO AFTER
16 YOU HAVE COMMITTED A HOMICIDE, AFTER -- OR PARTAKEN IN
17 ONE, AND DEALING OF DRUGS, AFTER YOU HAVE CLEANED THE
18 CRIME SCENE, AND THE POLICE HAVE SWARMED OVER THE
19 HOUSE, AFTER YOU HAVE TAKEN AND DITCHED THE EVIDENCE
20 UP IN ORANGEBURG, OR BRANCHVILLE, OR THE VILLA
21 APARTMENTS, OR OAKWOOD APARTMENTS, OR WHERE EVER
22 YOU'VE DONE IT, OR WHATEVER YOU'VE DONE, WHAT DO YOU
23 DO? YOU'VE GOT TO GET BACK TOGETHER AND YOU HAVE TO
24 PLAN HOW YOU GET OUT OF IT. IMMEDIATELY, RYAN NORTH
25 CALLS JASSON CUSACK -- JERMAINE CUSACK, I'M SORRY,

1 IMMEDIATELY. THEY PLAN IT. WE'VE GOT TO COVER THIS
2 THING UP. WE'VE GOT TO COME UP WITH A STORY. WE'VE GOT
3 TO COME UP WITH SOMEBODY WHO DID IT. WE'VE GOT TO MAKE
4 SURE WE DON'T GET CONVICTED, WE DON'T GET CAUGHT, WE
5 DON'T DO ANY TIME. WE'VE GOT TO DEVELOP THIS THING.
6 AND THEY DO THAT. THEY DO THAT. THEY SAY THIS WAS
7 BENJY, A LIGHT SKINNED GUY, SAME HEIGHT AS JASSON
8 TURNER. WELL, WE KNOW THAT JASSON TURNER IS FIVE-
9 FOUR, STEVEN BRISCOE IS FIVE-NINE, FIVE INCHES
10 DIFFERENCE. YOU HAVE THEIR DRIVER'S LICENSES IN
11 EVIDENCE. YOU CAN LOOK AT THEM.

12 RYAN NORTH, TRAVIS NORTH SAY THIS
13 GUY WAS BALD, AT LEAST NOW THEIR TESTIMONY, HE WAS
14 BALD AND HE WAS LIGHT SKINNED. OF COURSE, RYAN NORTH
15 DIDN'T SAY THAT WHEN HE GAVE THAT STATEMENT, BUT
16 THAT'S WHAT HE'S SAYING NOW. AND THAT'S SUPPOSED TO
17 BE RELIABLE. YET, NONE OF THE -- LANESHA GREEN,
18 JERMAINE CUSACK, JOHNNY COBBS, ANTHONY FOLK, RYAN
19 NORTH, TRAVIS NORTH CAN SAY WHETHER THIS GUY'S GOT A
20 T-SHIRT ON OR A TANK TOP, OR A JACKET, WHETHER HE'S
21 WEARING SHORTS OR BLUE JEANS OR KHAKI PANTS, WHETHER
22 HE'S GOT TENNIS SHOES ON OR HE'S GOT BOOTS, NONE OF
23 THAT. THEY NEVER SAID ANY OF THAT, THEY'RE NOT SAYING
24 IT NOW, THEY CAN'T SAY IT NOW. LANESHA GREEN SAYS
25 THAT THIS GUY HAD CORN ROWS. TEST THIS EVIDENCE.

1 THIS BENJY WHO SUPPOSEDLY IS MR. BRISCOE, TEST THE
2 EVIDENCE.

3 LET'S TALK ABOUT A HOTLY DISPUTED
4 MATTER, VERY IMPORTANT TO MAKE THIS ALBUM SELL -- THE
5 CAR, THE CAR. THERE WERE TIRE TRACKS, THERE WERE
6 MOLDS MADE. WHEN I OPENED ON MONDAY I TOLD YOU THERE
7 WERE TIRE MOLDS, BECAUSE THERE WERE TIRE TREADS LEFT AT
8 THE SCENE. NOT ONE HAS BEEN MATCHED UP TO THIS CAR,
9 NOT ONE. THAT'S RELIABLE. WHEN I OPENED I TOLD YOU
10 THAT THERE WAS NO BLOOD EVIDENCE. I TOLD YOU THAT
11 THERE WAS NO DNA LINK BETWEEN THIS CAR AND CRIME
12 SCENE. I TOLD YOU THAT. AND WHAT DID YOU HEAR?
13 NOTHING, NOTHING.

14 FIVE SHOTS FIRED, BLOOD SPLATTERED
15 OVER THE DOOR, BENJY, WHO'S SUPPOSEDLY AKA IS STEVEN
16 BRISCOE, GOES THROUGH THE FRONT DOOR, WALKS THROUGH
17 THE AREA WHERE THE FIVE SHOTS ARE FIRED. HE WOULD
18 HAVE TO GO THROUGH THE BLOOD. HERE'S THE DOOR, THE
19 FLOOR, NOTHING. THERE'S BEEN NO TESTIMONY THAT THIS
20 MAN HAD RUBBER GLOVES ON, A RUBBER SUIT, ANYTHING. WHY
21 IS THERE NO TRACE OF BLOOD OR DNA TO THE CAR, WHY?
22 YOU COUPLE THIS WITH THE LACK OF AN IDENTIFICATION OF
23 THAT CAR, IT DOES NOT MEET REASONABLE DOUBT. IT DOES
24 NOT MEET REASONABLE DOUBT. THEY TOOK THE DNA, THEY
25 TOOK THE BLOOD SAMPLES, YOU HEARD THAT TESTIMONY,

1 STATE'S WITNESSES.

2 JUST AS EQUALLY IMPORTANT, IF
3 YOU'RE GOING TO BUY THIS, YOU'VE GOT TO BUY THE GUN.
4 NOW, THIS IS PROBABLY THE MOST, ALONG WITH THAT CAR,
5 HOTLY CONTESTED MATTER, THIS GUN. MS. BRISCOE OWNED A
6 TEN MILLIMETER GLOCK. THE GUN WAS SEEN IN STEVE'S
7 PRESENCE JANUARY, TWO THOUSAND THREE. THEREFORE, WE
8 CAN TAKE THIS LEAP OF FAITH THAT THIS GUN WAS USED IN
9 THIS CRIME. NO, YOU CAN'T, BECAUSE IT IS A LEAP OF
10 FAITH. AND YOU KNOW WHY? THE FORENSICS EXPERT I
11 BELIEVE IS MR. PAAVEL, IF I'M PRONOUNCING IT
12 CORRECTLY, SAID, HIMSELF, THE FIVE BULLET FRAGMENTS
13 THAT WERE FOUND IN THE DECEDENT COULD BE TRACED AT
14 LEAST TO FIVE DIFFERENT BRANDS OF HAND GUNS, SMITH AND
15 WESSON FORTY, IMI, HMK, KAHR ARMS, AND A GLOCK. OF
16 THOSE FIVE BRANDS IT COULD BE A TEN MILLIMETER AND/OR
17 A FORTY CALIBRE HAND GUN. AND THOSE WERE JUST THE
18 HAND GUNS IN THEIR IBIS DATA SYSTEM AND THE ONES THAT
19 HE KNEW ABOUT. THAT DOESN'T EXCLUDE THE ONES NOT IN
20 THE DATA BASE NOR THE ONES THAT HE DOESN'T KNOW ABOUT.

21 NOW, THEY SAY THAT THERE WAS A TEN
22 MILLIMETER CALIBRE SHELL CASING FOUND ON, ONE ON THE
23 FLOOR. WHY ONE IF FIVE SHOTS WERE FIRED? THAT MAKES
24 NO SENSE. AND MR. PAAVEL SAYS, IF I'M PRONOUNCING IT
25 CORRECTLY, HE SAYS HE CANNOT SAY WHEN THAT CASING WAS

1 SPENT, OR HAD BEEN FIRED. HE CANNOT SAY THAT THAT
2 CASING HELD THOSE BULLETS. HE CAN SAY THAT IT COULD,
3 BUT HE CANNOT SAY THAT IT DID. HE CAN'T SAY WHEN, HE
4 CAN'T SAY THAT WAS, THAT CAME FROM THOSE BULLETS. OF
5 THE FIVE BRANDS, HE SAID A GLOCK COULD BE USED. NOW,
6 FOLLOW ME ON THIS, OF A GLOCK, THERE ARE THREE TYPES
7 OF GLOCKS AS HE TESTIFIED. SO, IT COULD HAVE BEEN IN
8 THE TEN MILLIMETER FAMILY. IT COULD HAVE BEEN A GLOCK
9 TWENTY-NINE, IT COULD HAVE BEEN A GLOCK TWENTY, IT
10 COULD HAVE BEEN A GLOCK TWENTY-C. HE SAID, HIMSELF,
11 WHEN ASKED BY THE PROSECUTION, THAT THE BREACH FACE
12 MARKING ON THAT SHELL CASING COULD HAVE BEEN CREATED
13 BY ALL THREE OF THOSE HAND GUNS. TEST THIS EVIDENCE.
14 ADDITIONALLY, HE SAID, GLOCK BARRELS ARE
15 INTERCHANGEABLE AMONGST -- A TEN MILLIMETER BARREL CAN
16 GO TO ANOTHER TEN MILLIMETER BARREL GLOCK, PLUS,
17 THEY'RE INTERCHANGEABLE AMONGST DIFFERENT CALIBRE HAND
18 GUNS. NOW, EVERYBODY MIGHT NOT BE A GUN ENTHUSIAST OR
19 UNDERSTAND GUNS, BUT THERE IS A DIFFERENCE. CALIBRE
20 IS, THAT'S WHAT'S TESTIFIED, DIFFERENT CALIBERS, A
21 FORTY IS DIFFERENT FROM A TEN, A THREE FIFTY-SEVEN IS
22 DIFFERENT FROM A FORTY OR A TEN, WHICH MEANS WHAT?
23 CONCEIVABLY, BASED ON THE EXPERT'S TESTIMONY, THAT
24 GLOCK BARREL -- BECAUSE GLOCKS ARE, YOU CAN
25 DISASSEMBLE THEM, YOU CAN TAKE THAT BARREL OUT OF THAT

1 TEN MILLIMETER AND PUT IT IN A DIFFERENT CALIBRE GLOCK
2 AND IT'S STILL FUNCTIONAL. THIS IS THE EXPERT'S
3 TESTIMONY.

4 THERE'S NO WAY TO DETERMINE WHAT
5 GUN WAS FIRED. AND EVEN IF WE TALK ABOUT A GUN, STEVE
6 SAYS, WHEN HE SAW JASSON HE HAD A TEN MILLIMETER GLOCK
7 LIKE HIS MOTHER. NOW, THE STATE IS GOING TO SAY, YOU
8 SHOULDN'T BELIEVE THAT, IT'S SELF-SERVING, BUT ISN'T
9 WHAT JASSON IS SAYING SELF-SERVING? ISN'T WHAT RYAN
10 NORTH IS SAYING SELF-SERVING? ISN'T WHAT TRAVIS NORTH
11 IS SAYING SELF-SERVING? WHY ARE YOU GOING TO BELIEVE
12 JASSON AND NOT STEVE?

13 IN ADDITION, LET'S GO FURTHER, DID
14 NOT JASSON DENY HAVING A GUN? BUT WE KNOW, RYAN NORTH
15 SAYS, AFTER HAVING TO BE BROUGHT TO THE TRUTH, SO TO
16 SPEAK, IF ANY OF THEM CAN TELL THE TRUTH, THAT WHEN HE
17 SAW JASSON TURNER HE HAD A GUN. IN THAT PHOTO LINEUP,
18 WHEN HE PICKED HIM OUT, THAT'S JASSON TURNER, KNOWN AS
19 SMOKE, HE HAD A GUN. WHY COULD THAT GUN NOT BE A TEN
20 MILLIMETER? IT'S A VERY POPULAR HAND GUN, MORE THAN
21 ONE GLOCK IN THE WORLD.

22 WELL, LET'S TALK ABOUT RYAN NORTH.
23 WE KNOW HE HAD A GUN. JASSON TURNER SAYS, IN WHATEVER
24 VERSION OF THE TRUTH, IF THEY ARE CAPABLE OF TELLING
25 THE TRUTH, THAT WHEN HE SAW RYAN, IMMEDIATELY, THE

1 FIRST THING RYAN DID WAS TRY TO SELL HIM A GUN, NOT
2 JUST AT THE TRAILER, BUT HE SAYS, HE BRANDISHES THAT
3 GUN AGAIN AT THE RESIDENCE. WHY COULD HE NOT HAVE A
4 GUN? WHO'S TO SAY IT WASN'T A TEN MILLIMETER OR
5 FORTH? WHO'S TO SAY IT WASN'T A GLOCK WITH A SMITH
6 AND WESSON CARTRIDGE?

7 JERMAINE CUSACK, A DRUG -- A
8 CAREER, NO DOUBT, DRUG DEALER WHO HAS BEEN CONVICTED
9 OF UNLAWFUL POSSESSION OF A WEAPON, HE HAS NO GUN. DO
10 YOU BELIEVE THIS? A MAN REGULARLY SELLING DRUGS OUT
11 OF A REGULARLY USED CRACK HOUSE DOESN'T HAVE A GUN IN
12 THE HOUSE? IT'S NOT BELIEVABLE. THIS RECORD AIN'T
13 WORTH BUYING. IT'S NOT WORTH YOU BUYING IT. AS WAS
14 SAID BY STEVE BRISCOE, HIS LIFE IS ON THE LINE.

15 LET'S TALK ABOUT,-- AND WE'RE
16 CLOSE TO BEING FINISHED WITH THIS GRAND PRODUCTION --
17 IDENTIFICATION. THIS IS VERY IMPORTANT, JUST LIKE
18 EVERYTHING, BUT IT IS VERY IMPORTANT. BUT IT GOES TO
19 SHOW YOU THE GENUINENESS OF THESE GUYS, WHEN YOU
20 COUPLE IT WITH LAW ENFORCEMENT THAT'S MAYBE JUST NOT
21 DILIGENT ENOUGH TO GO PAST ITS SEARCH FOR THE TRUTH.
22 THEY -- LAW ENFORCEMENT HAS A VERY HARD JOB, I
23 ACKNOWLEDGE THAT. IT'S TIRING, IT'S HARD WORK. AND
24 SOMETIMES YOU CAN JUST TAKE THE EASY ROUTE SOMETIMES,
25 BECAUSE IT IS TEDIOUS, HARD AND LONG. BUT THESE GUYS,

1 WE KNOW, WHEN YOU LOOK AT THIS IDENTIFICATION, JASSON
2 TURNER ALREADY KNEW STEVE, HE KNEW HIM. WELL, YOU
3 SAY, WHY WOULD HE PICK HIM OUT? AND I ASKED STEVE, I
4 SAID, STEVE -- AND YOU HEARD THE TESTIMONY, THIS MAKES
5 ABSOLUTELY NO SENSE, IF THIS IS YOUR FRIEND, WHY WOULD
6 HE IMPLICATE YOU? WELL, THEY'RE NOT REALLY FRIENDS.
7 STEVE BELIEVED THEY WERE FRIENDS, BUT JASSON KNOWS
8 THEY'RE NOT FRIENDS, BECAUSE JASSON HAS TWO LIVES.
9 JASSON'S FRIENDS ARE JEFF HILL, PATRICK JONES, RYAN
10 NORTH, JERMAINE CUSACK, THE SAME GUYS HE RUNS AND
11 SELLS DRUGS WITH, THE SAME GUYS HE'S OUT IN CALIFORNIA
12 WITH.

13 JASSON TURNER, AUGUST TENTH OR
14 ELEVENTH, IDS STEVEN BRISCOE. HE SITS DOWN, DETECTIVE
15 DIXSON WALKS IN, HAS HIS PICTURE OUT ALREADY, -- AND
16 PLEASE STAY WITH ME ON THIS. THIS IS A REDACTED -- I
17 SAID, BIFURCATED YESTERDAY BUT WHAT I MEANT TO SAY WAS
18 REDACTED -- THIS IS A REDACTED COPY OF WHAT HE HAS
19 OUT. A SINGLE PHOTO. JASSON KNOWS STEVEN, I MEAN,
20 THAT'S NOT CONTESTED. IMMEDIATELY, HE SAYS, YEAH,
21 THAT'S HIM, YOU'VE GOT HIM. WELL, WHAT'S SIGNIFICANT
22 ABOUT THAT? STATE'S EXHIBIT FOURTEEN HAS THE EXACT
23 SAME PHOTO IN IT, THE EXACT SAME PHOTO. AND WHAT DOES
24 DETECTIVE DIXSON DO? IT'S ALREADY CONTAMINATED. HE
25 TAKES THE PHOTO LINEUP, EVEN AFTER THAT, AND HE STILL

1 SHOWS IT TO MR. TURNER. AND AT THAT TIME MR. BRISCOE
2 IS NUMBER TWO, NOT NUMBER ONE. WHY IS THAT
3 SIGNIFICANT? I'LL TELL YOU WHY, BECAUSE THE NEXT DAY
4 OR TWO HERE COMES JASSON'S FRIEND, CONFEDERATE IN THE
5 DRUG BUSINESS, RYAN NORTH. AND THEY SAY THAT WE'RE
6 JUST ASSOCIATES, WE'RE -- NO, NO, NO, DON'T GIVE ME
7 THAT. AND RYAN NORTH IS SHOWN, WHAT? THE EXACT SAME
8 CONTAMINATED LINEUP. AND GUESS WHAT? STEVEN BRISCOE
9 IS STILL NUMBER TWO. YOU THINK THESE GUYS DON'T
10 COMMUNICATE? IF YOU'RE GOING TO PLAN SOMETHING YOU'VE
11 GOT TO HAVE COMMUNICATION. DO YOU THINK THEY'RE GOING
12 TO ADMIT TO IT? DON'T BUY THAT. AND IMMEDIATELY, AND
13 THIS IS WHERE YOU TEST THE EVIDENCE, THIS IS AUGUST OF
14 TWO THOUSAND FOUR. THIS THING HAPPENED IN JULY OF TWO
15 THOUSAND AND THREE, THIS IS A WHOLE YEAR AND A MONTH
16 AFTERWARDS. RYAN NORTH'S TESTIMONY IS, HE HAD NEVER
17 SEEN THIS MAN DAY IN HIS LIFE BEFORE. HE HAS ONLY
18 SEEN HIM A FEW HOURS ON JULY THIRD. HIS TESTIMONY IS
19 HE DID NOT RIDE IN THE CAR WITH HIM SO HE DIDN'T SEE
20 HIM THEN. HE HAS ONLY SEEN HIM FOR A BRIEF PERIOD OF
21 TIME IN A HOUSE IN WHICH A VERY DRAMATIC EVENT OCCURS.
22 BUT YET, WITHOUT ANY HESITATION, HE SAYS, YEAH, THAT'S
23 HIM.

24 AND WHAT ELSE IS VERY DIFFERENT
25 ABOUT THIS PHOTO? THEY SAY, ACCORDING TO THEM, THAT

1 MR. BRISCOE HAD A BALD HEAD AT THE TIME. ONE TIME,
2 HE'S SEEN HIM ONE TIME IN HIS LIFE, FOR A VERY BRIEF
3 PERIOD OF TIME, DURING A VERY DRAMATIC EVENT, AND HE
4 SUPPOSEDLY HAD A BALD HEAD. BUT WITHOUT HESITATION, HE
5 COULD POINT THIS MAN OUT, AND HE HAS A FULL SET OF
6 HAIR. TEST THIS EVIDENCE.

7 SO, THEN, WHAT'S NEXT? WE GO GET
8 TRAVIS NORTH. THREE PEOPLE SAY IT WAS MR. BRISCOE, OR
9 IDENTIFY HIM. WHAT DO THREE PEOPLE SAY, BECAUSE
10 THAT'S THE IDENTIFICATION? YOU LOOK AT THE THREE
11 PEOPLE, JASSON TURNER, RYAN NORTH, AND BROTHER, TRAVIS
12 NORTH. RYAN NORTH BRINGS HIS BROTHER TO THE ID A DAY
13 OR TWO AFTERWARDS, I BELIEVE IT WAS AUGUST FOURTEEN,
14 TWO THOUSAND FOUR. DO YOU THINK THEY AIN'T TALKING IN
15 THAT CAR? HE BRINGS HIM TO THE ID. TRAVIS NORTH GOES
16 IN TO IDENTIFY, READY TO PICK NUMBER TWO, BUT GUESS
17 WHAT? THE PHOTOS HAVE BEEN SWITCHED AROUND. BUT WHAT
18 DOES DETECTIVE DIXSON DO BEFORE HE GETS READY TO POINT
19 TO NUMBER TWO? HE TELLS HIM, HOLD UP, I WANT YOU TO
20 KNOW, WE'VE CHANGED THIS THING AROUND, JUST TO AVERT
21 ANY FUTURE PROBLEMS. NOW, IF THAT IS NOT EXCLUDING,
22 OR SAYING, IT AIN'T NUMBER TWO, THEN WHAT IS? SO, HE
23 DOES WHAT? AND IT'S NOT THAT HARD, BECAUSE LOOK AT
24 WHERE THIS THING IS POSITIONED. IT'S NOT LIKE THEY
25 TOOK HIM FROM HERE AND PUT HIM DOWN THERE. THEY

1 CHANGE HIM AND PUT HIM RIGHT NEXT TO NUMBER TWO. HOW
2 HARD CAN IT BE? AND WE ALSO -- IF YOU THINK ABOUT THE
3 INGENIOUS OF THE CRIMINAL MIND, DO YOU REALLY BELIEVE
4 THEY DIDN'T PICK UP ON THE FACT THAT THIS HAD A
5 COLLAR, AND NOBODY ELSE HAD ONE? NOW, THEY'RE GOING
6 TO SAY, THAT'S NOT SIGNIFICANT, IT'S ALL WHITE. LOOK
7 AT THAT. AFTER ALL, WE KNOW JASSON TURNER ALREADY
8 KNEW IT WAS A COLLAR IN THE PHOTO, HE SAW THE WHOLE
9 PHOTO. DO YOU THINK THEY DON'T TALK AND PLAN? THE
10 MAN SAID, I STUDIED DILIGENTLY, I STUDIED MY STUFF FOR
11 A WHOLE YEAR. LIKE I TOLD YOU, THIS IS A CASE OF THE
12 INGENIOUS MIND, THE INGENIOUS CRIMINAL MIND, THE
13 ABILITY TO AVOID.

14 NOW, MR. BRISCOE DOESN'T HAVE TO
15 PROVE ANYTHING. THE LAW DOESN'T REQUIRE HIM TO PROVE
16 ANYTHING. BUT HE PUT UP AN ALIBI. AND IN THAT ALIBI
17 THEY TOLD YOU, HE WAS NOT HERE. HIS MOM SAID SHE TOOK
18 THE CAR TO THE FAIR IN ROANOKE, VIRGINIA, SHE KNOWS IT
19 BECAUSE IT WAS JULY THIRDS. SHE GOES ALL THE TIME TO
20 SEE THE FIREWORKS SHOW. DOES HE HAVE A CRIMINAL
21 RECORD LIKE THE PROSECUTION WITNESSES? NO. SHE TOLD
22 YOU, SHE MADE A MISTAKE ABOUT THE GUN INITIALLY WHEN
23 SHE TOLD THEM, SHE DID NOT REALIZE WHICH GUN THEY WERE
24 TALKING ABOUT. THEY PLAYED THE TAPE, YOU HEARD IT.
25 THEY QUESTIONED -- LIEUTENANT VAN DORAN QUESTIONED

1 THIS WOMAN ABOUT A HAND GUN. HE WASN'T SPECIFIC, A
2 HAND GUN YOU OWN, JUST LIKE SHE SAID, ON THE DAY SHE
3 FINDS OUT HER SON HAS BEEN ARRESTED FOR A MURDER IN
4 SOUTH CAROLINA. AND WHEN HE'S QUESTIONING HER HE IS
5 SECRETLY TAPING HER. YOU DIDN'T HEAR HIM TELL HER, I
6 WANT YOU TO KNOW I'M TAPING THIS CONVERSATION. PLUS,
7 HE ASKS HER SUGGESTIVE QUESTIONS, AND THE STORY STAYED
8 THE SAME. THEN, HE SHOWED HER A GLOCK, FORTY CALIBRE.
9 AND WHAT DOES SHE SAY? NO, IT DIDN'T LOOK LIKE THAT.
10 TEST THIS EVIDENCE. AND HE, HIMSELF, ADMITS, BECAUSE
11 IT'S THE TRUTH, YOU CAN'T TELL THE DIFFERENCE BETWEEN
12 TEN MILLIMETER AND GLOCK FORTY. SHE WAS TALKING ABOUT
13 A TOTALLY DIFFERENT HAND GUN, AND SHE SAYS, ON THE
14 STAND, THE EXACT SAME THING SHE SAYS ON THAT TAPE,
15 ABOUT THAT HAND GUN. AND SHE CAME HERE TODAY AND TOLD
16 YOU, WELL, YOU WERE TALKING ABOUT -- AND I REMEMBER
17 IT, BECAUSE THIS CASE HAS BEEN PENDING, SO SHE FINDS
18 OUT IT'S HER TEN MILLIMETER, AND SHE SAYS, NO, THAT'S
19 THE ONE I GAVE TO MY BOY FRIEND AT THE TIME. AND HE
20 LENT ME SOME MONEY, AND I FOUND OUT HE WAS MARRIED.
21 SHE DID NOT WAVER, SHE WITHSTOOD THE TEST.

22 THEY TELL YOU STEVEN COULDN'T HAVE
23 GONE. HE TOOK HIS AUNT TO WORK, WHO WAS LIVING WITH
24 HER AT THE TIME. HE GOT HOME OVER AT BILLY'S HOUSE
25 ABOUT, BEFORE TWO. HOW IS HE GOING TO LEAVE AND COME

1 TO VIRGINIA, I MEAN, SOUTH CAROLINA? HE GOES AND
2 PICKS HER BACK UP AT SEVEN, IN A TOTALLY DIFFERENT
3 VEHICLE. TEST THIS EVIDENCE.

4 IN ADDITION, IF YOU BELIEVE THIS
5 STORY, YOU WOULD HAVE TO BELIEVE THAT THESE TWO GUYS,
6 AFTER A HOMICIDE, DROVE DOWN TO CHARLESTON, AND SOUGHT
7 OTHER INDIVIDUALS. WHERE ARE THEY? DID THEY TESTIFY?
8 DID THEY ID MR. BRISCOE, THESE GUYS DOWN IN
9 CHARLESTON? DID THEY GET ON THE STAND AND SAY, YEAH,
10 I REMEMBER, HE CAME DOWN THERE AND WE DID THIS,
11 BECAUSE TURNER HAD SOME PERSONAL BUSINESS? TEST THE
12 EVIDENCE.

13 YOU HAVE WHAT'S STATE'S EXHIBIT
14 ELEVEN, SHANA SWAZY, JASSON TURNER'S GIRL FRIEND, THE
15 CELL PHONE JASSON TURNER WAS USING. EVERY CALL, EVERY
16 CALL, CALL ORIGINATION, GRETNA, VIRGINIA, GRETNA,
17 VIRGINIA, GRETNA, VIRGINIA, GRETNA, VIRGINIA, GRETNA,
18 VIRGINIA. IF THEY LEFT FROM DANVILLE, WHY IS EVERY
19 CALL FROM GRETNA, VIRGINIA? SEVEN THREE EIGHT TWENTY-
20 SEVEN. AND THEY HAVE CALLS TO COLUMBIA. COLUMBIA,
21 ORANGEBURG, BLUFFTON, BLUFFTON, BLUFFTON, NORTH
22 WALTERBORO, BLUFFTON. HE AIN'T SAID NOTHING ABOUT
23 GOING TO COLUMBIA. NOW, FROM BLUFFTON THESE CALLS GO,
24 AND THEY ORIGINATE DOWN TO CHARLESTON. BUT GUESS WHAT?
25 SEVEN O FOUR, TWO EIGHTEEN. LAST PAGE, OR SECOND TO

1 LAST PAGE, YOU WILL HAVE THIS WHEN YOU DELIBERATE,
2 GUESS WHERE MR. TURNER IS CALLING FROM? TWO:EIGHTEEN
3 A.M., ORANGEBURG, SOUTH CAROLINA. DON'T FALL FOR THIS
4 OKEY DOKE. THE TRUTH COMES OUT. AND THE NEXT CALL IS
5 FROM WHERE, IS IT FROM DANVILLE, VIRGINIA? GRETNA.
6 AND GUESS WHERE HE'S CALLING WHEN HE'S IN ORANGEBURG -
7 - OR BACK IN GRETNA? LOS ANGELES. AND WHERE WAS HE
8 FOUND? LOS ANGELES. AND WHO WAS HE WITH? JEFF HILL
9 IN LOS ANGELES. AND WE HEARD HOW THEY WERE
10 IMPLICATED. WAS ANYBODY ELSE'S CAR SEARCHED? WAS
11 ANYBODY ELSE'S RESIDENCE SEARCHED? WAS ANYBODY ELSE
12 SEARCHED? JERMAINE CUSACK, TRAVIS NORTH, RYAN NORTH,
13 ANTHONY FOLK, JASSON TURNER, WAS THE ORANGEBURG
14 RESIDENCE SEARCHED? WAS THE BLACK HONDA SEARCHED? WAS
15 THE GOLD CHRYSLER SEARCHED? WAS LANESHA GREEN'S CHEVY
16 CAVALIER SEARCHED? IN GENIUS.

17 NOW, YOU HEARD A LOT BACK AND
18 FORTH ABOUT GRETNA AND DANVILLE. AND THERE'S A REASON
19 WHY, BECAUSE -- AND YOU WILL HAVE THIS BACK WHEN YOU
20 DELIBERATE -- EXCUSE ME, I'M SORRY. HE SAID, WELL,
21 GRETNA, DANVILLE THERE'S GOING TO BE ARGUING, THEY'RE
22 BASICALLY THE SAME THING. NO, THEY'RE NOT, TWO
23 SEPARATE DISTINCT TOWNS. YOU HEARD ALLEGEDLY,
24 DANVILLE TO GRETNA IS TWENTY-ONE MILES. NO, IT'S NOT.
25 HE SAID, OKAY, IT'S THIRTY SOMETHING, THAT'S NOT A BIG

1 DEAL. WELL, YES, IT IS. THAT'S A BIG DEAL. STEVE'S
2 IN DANVILLE, STEVE IS NOT IN GRETN. WHY IS IT A BIG
3 DEAL? NOT THE SAME TOWN, IT'S NOT A SUBURB. LET ME
4 TELL YOU WHY, LOOK AT THAT, SUMMERVILLE TO ST.
5 GEORGE, TWENTY-SEVEN MILES. IS ST. GEORGE AND
6 SUMMERVILLE THE SAME TOWNS? YOU'VE GOT TO TEST THIS,
7 YOU'VE GOT TO TEST THE EVIDENCE THEY'VE GIVEN. THESE
8 GUYS, THEY MAKE IT EASY FOR THEM, ESPECIALLY IF YOU
9 DON'T HAVE PHYSICAL EVIDENCE. THEY WILL GIVE YOU
10 WHATEVER YOU WANT. SERVE IT UP ON A PLATTER FOR YOU SO
11 YOU CAN GET A CONVICTION, BECAUSE, WHAT? IT MAKES US
12 FEEL SAFE. WE FEEL LIKE WE'VE STAMPED OUT CRIME.
13 WE'VE GOTTEN THIS DANGEROUS OUT OF THE COMMUNITY.
14 THESE PEOPLE ARE RIGHT BACK IN YOUR COMMUNITY.
15 FEBRUARY TWENTY-FOURTH, TWO THOUSAND FOUR, RYAN NORTH
16 IS STILL SELLING DRUGS IN YOUR COMMUNITY. DON'T BUY
17 THIS, BECAUSE IT DOES NOT MEET THE STANDARD.

18 LIKE I SAID, MR. BRISCOE DOESN'T
19 HAVE TO PROVE NOTHING, HE'S NOT REQUIRED TO UNDER THE
20 LAW. THEY'RE REQUIRED TO PROVE HIM GUILTY BEYOND A
21 REASONABLE DOUBT, BY EACH AND EVERY ELEMENT OF THE
22 OFFENSE, EACH ELEMENT. IF ONE ELEMENT FAILS HE AIN'T
23 GUILTY. THEY'VE GOT TO PROVE ID OF THE CAR, ID OF THE
24 GUN, METHOD OF DEATH, THAT HE WAS THE PERPETRATOR,
25 BEYOND A REASONABLE DOUBT. IF IT DOESN'T MEET THAT

1 STANDARD, YOUR VERDICT IS MANDATED TO BE NOT GUILTY,
2 MANDATED BY THE LAW. THEY CAN'T SAY IT COULD HAVE
3 HAPPENED. ANYTHING COULD HAVE HAPPENED, BUT THAT'S NOT
4 THE STANDARD. BEYOND A REASONABLE DOUBT.

5 I WANT TO THANK YOU FOR YOUR
6 ATTENTION, I WANT TO THANK YOU FOR GIVING MR. BRISCOE
7 THE OPPORTUNITY TO PRESENT HIS CASE, FOR YOUR SERVICE
8 TO HIM AND TO THIS COMMUNITY, AND TO THE PROSECUTION.
9 IT'S A GREAT DUTY THAT YOU DO FOR YOUR COMMUNITY. AND
10 CERTAINLY, WE ARE SURE YOU'RE NOT GOING TO BUY THIS
11 MESS, BECAUSE IT AIN'T WORTH BUYING, THIS ALBUM, CD,
12 WHATEVER THEY CALL IT NOW, THIS STORY IS NOT WORTH
13 PUTTING IN YOUR COLLECTION. BECAUSE THIS MAN, AS HE
14 SAID ON THAT TAPE, HE'S INNOCENT. NOW, WHETHER HE'S
15 GOT SOME BABY OR NOT, WHATEVER, THIS AIN'T NO
16 PATERNITY SUIT, THIS IS ABOUT A MURDER. IT DOESN'T
17 MEET THE STANDARD, BECAUSE HE IS INNOCENT, HE'S
18 DEFINITELY - THEY DEFINITELY HAVE NOT MET THEIR
19 BURDEN, NOT EVEN CLOSE.

20 THANK YOU.

21 THE COURT: MR. FOREMAN, AND
22 LADIES AND GENTLEMEN, YOU ALL HAVE BEEN SITTING ABOUT
23 AN HOUR AND FIFTEEN MINUTES, I'M GOING TO GIVE YOU A
24 VERY BRIEF RECESS TO ALLOW YOU TO STRETCH YOUR LIMBS
25 AND TO USE THE REST ROOM IF YOU NEED TO. AS SOON AS

1 YOU HAVE COMPLETED THAT PROCESS, PLEASE KNOCK ON THE
2 DOOR AND LET THE BAILIFFS KNOW, AND AT THAT TIME WE
3 WILL IMMEDIATELY RESUME CLOSING ARGUMENTS, AND THEN
4 THE COURT'S CHARGE ON THE LAW.

5 DURING THIS BREAK YOU ARE STRICTLY
6 ADMONISHED TO HAVE ABSOLUTELY NO DISCUSSION ABOUT ANY
7 MATTER THAT YOU HAVE HEARD DURING THE COURSE OF THESE
8 ARGUMENTS.

9 PLEASE LEAVE YOUR NOTE PADS IN
10 YOUR SEATS, AND WE APPRECIATE YOUR PATIENCE.

11 (Whereupon, the following
12 takes place out of the
13 presence of the jury.)

14 THE COURT: I WOULD IMAGINE THE
15 BREAK WILL BE LESS THAN FIVE MINUTES, SO IF YOU WILL
16 STICK CLOSE SO THAT AS SOON AS THEY KNOCK WE WILL BE
17 ABLE TO RESUME TESTIMONY.

18 (Recess)

19 THE COURT: BRING THE JURY BACK
20 IN.

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

24 THE COURT: OKAY, MR. BELL, YOU
25 MAY PROCEED.

1 SOLICITOR BELL: THANK YOU, YOUR
2 HONOR, MAY IT PLEASE THE COURT.

3 FINAL CLOSING ARGUMENT BY SOLICITOR BELL

4 MR. FOREMAN, AND LADIES AND
5 GENTLEMEN OF THE JURY, AT THIS TIME I WOULD ALSO LIKE
6 TO THANK YOU FOR BEING ATTENTIVE. I KNOW THIS HAS BEEN
7 A LONG TRIAL, BUT I NOTICED YOU ALL HAVE PAID
8 ATTENTION, TAKING NOTES, AND I APPRECIATE YOU PAYING
9 ATTENTION. THIS IS AN IMPORTANT CASE. IT'S IMPORTANT,
10 OF COURSE FOR MR. BRISCOE, BUT IT'S ALSO IMPORTANT FOR
11 THE STATE OF SOUTH CAROLINA. WE'RE HERE TO DO JUSTICE
12 OVER THE MURDER OF A MAN IN DORCHESTER COUNTY, AND
13 THAT'S AN IMPORTANT DAY FOR EVERYBODY IN THIS
14 COURTROOM.

15 LADIES AND GENTLEMEN, YOU'VE HEARD
16 A TERRIBLE STORY IN THIS CASE. YOU'VE HEARD A STORY
17 ABOUT DRUGS, AND KIND OF THE, THE VALUE OF HUMAN LIFE.
18 APPARENTLY, ITS VALUE WAS AN OUNCE OF DRUGS, JUST
19 SNATCHING AN OUNCE OF DRUGS AND YOU GET SHOT TO DEATH
20 OVER IT. AND MARK COOK WAS THAT PERSON. HE MADE A
21 GRAVE MISTAKE, HE SNATCHED DRUGS AND THEN WAS SHOT
22 DOWN IN COLD BLOOD, MALICIOUSLY, FOR NOTHING MORE THAN
23 SNATCHING SOME STUFF OF A TABLE. HE DIDN'T EVEN
24 BLINK, THE PERSON THAT SHOT HIM, DIDN'T EVEN THINK
25 ABOUT IT, JUST CAME UP WITH THAT INTENT AND FIRED, NOT

1 ONE ROUND, NOT TWO, BUT WE KNOW AT LEAST FIVE INTO
2 MARK COOK. AND THAT'S NOT AN INTENT TO INJURE, THAT'S
3 NOT AN INTENT TO STOP HIM, THAT IS A MALICIOUS INTENT
4 TO KILL MARK COOK FOR WHAT HE DID.

5 NOW, LADIES AND GENTLEMEN, WHAT,
6 WHAT DO WE KNOW ABOUT THIS CASE? WE KNOW THAT THIS
7 OCCURRED AT [REDACTED] ROAD, IN THIS
8 HOUSE. IT'S NOT A CHURCH, IT'S NOT A FAMILY CENTER,
9 IT'S A HOUSE WHERE DRUGS HAD BEEN BOUGHT AND SOLD. AND
10 THE PEOPLE THERE ARE GOING TO BE PEOPLE THAT ARE
11 INVOLVED IN SELLING DRUGS AND BUYING DRUGS. THEY'RE
12 NOT GOING TO BE CHOIR BOYS AND CHOIR GIRLS. SO, ANY
13 WITNESSES TO A SHOOTING IN THIS CASE ARE GOING TO HAVE
14 SOME TAINT TO THEM, THEY'RE GOING TO HAVE SOME BAGGAGE
15 TO THEM. AND THE STATE DOESN'T MAKE ITS WITNESSES, WE
16 JUST FIND THEM. AND IN THIS CASE THEY ARE PEOPLE THAT
17 HAVE SOLD DRUGS, BOUGHT DRUGS IN THE PAST. I CAN'T
18 CHANGE THAT, BUT THAT'S THE WAY OF LIFE WHEN YOU DEAL
19 WITH DRUGS AT A DRUG HOUSE.

20 WE KNOW THAT HE WAS SHOT FIVE
21 TIMES. DR. SEXTON TOLD YOU, YOU HAVE FIVE BULLETS THAT
22 WERE TAKEN FROM HIS BODY. WE KNOW THAT HE BLED A LOT
23 IN ONE OF THOSE ROOMS INSIDE, I THINK DR. SEXTON, IF I
24 REMEMBER CORRECTLY FROM WHAT HE SAID, AND YOU GO BY
25 WHAT HE SAID, NOT BY WHAT I SAY, BECAUSE I MIGHT NOT

1 REMEMBER QUITE AS WELL AS I USED TO, BUT HE HAD THREE
2 PINTS OF BLOOD INSIDE OF HIM. SO, APPARENTLY, HE
3 DIDN'T BLEED A WHOLE LOT OUT OF HIS BODY, BECAUSE THE
4 PHOTOGRAPHS, AS I'LL SHOW YOU, DIDN'T SHOW A WHOLE LOT
5 OF BLOOD IN THAT HOUSE.

6 WE SHOWED, WE KNOW THAT HE WAS
7 SHOT -- I'M SORRY, THAT'S THE INTERIOR OF THE HOUSE.
8 WE KNOW THAT HE WAS SHOT NEAR THE DOOR, BECAUSE THERE
9 WAS BLOOD SPATTER NEAR THE DOOR, RIGHT HERE.
10 DETECTIVE ASBELL CAME UP AND SAID IT WAS BLOOD
11 SPATTER, HIGH VELOCITY BLOOD SPATTER FROM A SHOT, FROM
12 A GUN SHOT, AND THAT'S RIGHT THERE BY THE DOOR. WE
13 KNOW HE WAS AT THE DOOR. AND WE KNOW HE WAS SHOT ON
14 HIS RIGHT SIDE FROM DR. SEXTON. WE KNOW THAT HE HAD
15 HIS HAND UP, LIKE THIS. YOU REMEMBER, DR. SEXTON'S
16 HAND, BECAUSE THE BULLET CAME THROUGH THERE, AND IT
17 WOULD INDICATE HIS HAND WAS UP NEAR HIS BODY.

18 NOW, LADIES AND GENTLEMEN, I WILL
19 TELL YOU THIS, HE CERTAINLY WASN'T SHOT OVER CARRYING
20 A CIGARETTE IN HIS HAND. I MEAN, IF HE -- THAT'S EVEN
21 WORSE, IF HE WAS JUST CARRYING A CIGARETTE IN HIS HAND
22 AND SOMEBODY SHOT HIM FIVE TIMES, THAT'S WAY COLD
23 BLOOD. WE KNOW HE WASN'T SHOT OVER A CIGARETTE. HE
24 WAS CARRYING SOMETHING UP HERE, HE WAS CARRYING
25 SOMETHING. AND WE KNOW, WE KNOW THAT THERE IS NO KNOB

1 ON THE DOOR, BUT DID MARK COOK KNOW? APPARENTLY NOT,
2 BECAUSE HE DIDN'T MAKE IT OUT THE DOOR. I'LL TELL YOU
3 WHAT HAPPENED -- CAN YOU GO BACK TO THAT OTHER
4 PICTURE? FROM LIEUTENANT ASBELL, WHEN YOU GO IN, AS
5 HE TESTIFIED, WHEN YOU GO IN THAT FRONT DOOR, THERE IS
6 A WALL HERE, AND TO THE LEFT IS WHAT HE SAW, OR WHAT
7 HE TOOK A PICTURE OF, WHERE THE TABLE IS, WHERE THE
8 BULLET WAS FOUND, AND TO THE RIGHT WAS A BEDROOM WHERE
9 MARK COOK WAS FOUND.

10 NOW, IT WASN'T A STRAIGHT ENTRANCE
11 INTO THIS ROOM. SO, SOMEBODY COMING UP WOULD HAVE TO
12 COME AROUND A BIT TO GET TO HIM AT THE DOOR. AND WE
13 KNOW HE WAS AT THE DOOR BECAUSE THAT'S WHERE THE BLOOD
14 WAS HIT. AND THEY WANT TO TALK ABOUT, OH, WELL, HE
15 WASN'T SHOT IN THE BACK SO HE MUST NOT HAVE COME
16 BEHIND HIM. WELL, LADIES AND GENTLEMEN, YOU'RE KIND OF
17 TALKING SEMANTICS THERE. I MEAN, BEHIND ME IS, YOU'RE
18 NOT COMING FROM IN FRONT OR IN THE SIDE, YOU'RE COMING
19 AFTER HIM, YOU'RE FOLLOWING HIM. REGARDLESS, HE HAD TO
20 GO TO THE SIDE AND SHOOT. AND ONE OF THOSE BULLETS
21 ENDED UP IN THAT BEDROOM WHERE HIS BODY, ON THE
22 STRAIGHT LINE OF WHERE THEY WOULD HAVE HAD TO SHOOT.

23 AND THERE'S BLOOD DROPS. YOU
24 REMEMBER, BLOOD DRIPS HE TALKED ABOUT, STATE'S FOUR,
25 BLOOD DRIPS ON THE FLOOR BY THE DOOR. DO YOU SEE

1 FOOTPRINTS -- LOOK AT IT, LOOK AT IT BACK IN THE JURY
2 ROOM, THERE ARE NO FOOT PRINTS IN HIS BLOOD. AND THERE
3 WERE AT LEAST SEVEN OR EIGHT PEOPLE THERE AT THE TIME,
4 THERE WAS EMS IN THERE, WE KNOW EMS WAS THERE, FROM
5 THE LEADS ON THE BODY, WE KNOW POLICE WERE IN THERE.
6 NO FOOTPRINTS THROUGH THAT BLOOD. AND I'LL TELL YOU,
7 THAT WILL BE IMPORTANT IN A LITTLE BIT, WHEN I GET TO
8 IT. BUT WE KNOW THAT HIS BODY WAS SHOT, IT CAME FROM
9 HIS RIGHT SIDE, SO, HE'S GOING FOR THE DOOR WITH
10 SOMETHING HERE, AND THERE IS THE GUN COMING THROUGH
11 THAT, FROM THIS WAY, TOWARDS THE DOOR.

12 WHERE WAS THAT BULLET SHELL, WHERE
13 WAS THAT TEN MILLIMETER SHELL FOUND? IT WAS FOUND OVER
14 NEAR THE CURTAIN ON A STRAIGHT LINE FROM THIS ROOM
15 THROUGH WHERE THE FRONT DOOR IS, TO WHERE THE BODY WAS
16 FOUND. LOOK AT THE PICTURE WHERE THE TEN MILLIMETER
17 CARTRIDGE WAS FOUND, RIGHT HERE BY THE WINDOW. HE
18 CAME AROUND, HE CAME AROUND BEHIND HIM, BECAUSE HE'S
19 FOLLOWING HIM TO THE DOOR. THAT'S, THERE'S NOTHING
20 WRONG, I MEAN, THAT'S NOT MISCONSTRUING ANY EVIDENCE,
21 THAT'S NOT LYING.

22 WE ALSO KNOW THAT THERE WERE TEN
23 PEOPLE, BY MY COUNT, EITHER IN OR AROUND THE HOUSE AT
24 ONE POINT IN THE EVENING. WE KNOW MARK COOK WAS THERE,
25 WE KNOW LANESHA GREEN WAS THERE, WE KNOW THAT JERMAINE

1 CUSACK WAS THERE, WE KNOW THAT JOHNNY COBBS WAS THERE,
2 WE KNOW THAT CLAY-C WAS OUTSIDE, WE KNOW THAT RYAN
3 NORTH, TRAVIS NORTH AND ANTHONY FOLK CAME, AND THEN
4 TWO FELLOWS FROM VIRGINIA CAME. TEN PEOPLE WERE THERE
5 THAT NIGHT.

6 THE POLICE GET A CALL NEAR
7 MIDNIGHT ON JULY THIRD, TWO THOUSAND THREE, SHOTS
8 FIRED. DEPUTY PETREY TELLS YOU HE GOES UP TO THE
9 HOUSE, LOOKS AROUND, THERE'S A DEAD BODY, AND THAT'S
10 WHERE THE INVESTIGATION STARTS. IT STARTS FROM THAT
11 POINT.

12 THE FIRST PERSON THEY'RE ABLE TO
13 GET TO WAS LANESHA GREEN SEVERAL HOURS LATER, AND SHE
14 STARTS TELLING THEM WHAT HAPPENED. NOW, I WILL TELL
15 YOU AT THIS POINT, AND YOU THINK ABOUT THIS, LADIES
16 AND GENTLEMEN, IN ALL OF THESE PEOPLE'S STATEMENTS,
17 THERE WAS A MURDER THAT HAPPENED THAT NIGHT, A MAN WAS
18 SHOT FIVE TIMES. AND LET'S KIND OF GO BACK TO GET IN
19 CONTEXT IN THIS NIGHT. THERE WERE PEOPLE THERE COMING
20 TO SELL DRUGS AND BUY DRUGS. NOW, THEY'RE NOT GOING
21 THERE, THEY'RE NOT COMING FROM VIRGINIA, OR THEY'RE
22 NOT COMING FROM SMOAKS OR WILLIAMS THINKING, WOW
23 SOMEBODY'S GOING TO BE SHOT TONIGHT SO I'VE GOT TO
24 MAKE SURE I KNOW WHAT THAT CAR LOOKS LIKE, I'VE GOT TO
25 KNOW EVERY DETAIL OF THE CAR, I'VE GOT TO KNOW WHAT

1 EVERYBODY LOOKS LIKE, WHAT EVERYBODY IS WEARING, JUST
2 IN CASE SOMEBODY IS GOING TO GET SHOT TONIGHT. THAT
3 DIDN'T HAPPEN. RYAN NORTH TOLD YOU, WE WERE GOOD
4 TIMES, WE WERE GOING TO DO THAT, YOU KNOW, EVERYBODY
5 WAS OKAY, EVERYBODY WAS DRINKING A LITTLE, SMOKING A
6 LITTLE WEED, YOU KNOW, WE WERE JUST HAVING FUN, AND IT
7 WAS JULY THIRD, GOING ON JULY FOURTH NIGHT. THEY'RE
8 NOT WORRIED ABOUT SOMEBODY GETTING SHOT AND WORRIED
9 ABOUT LOOKING AT WHAT THEY'RE WEARING, EXACTLY WHAT
10 THEY LOOKED LIKE, BECAUSE THIS THING HAPPENED -- WOW,
11 BOOM, BOOM, BOOM, BOOM, BECAUSE EVERYBODY -- THAT'S
12 UNCONTROVERTED. BOOM, BOOM, BOOM, BOOM, HE'S DEAD.
13 SO, THAT'S WHERE THE EVIDENCE DEVELOPED.

14 IT STARTED WITH LANESHA, SHE
15 TALKED ABOUT WHAT HAPPENED. WELL, YOU'VE GOT TO
16 REMEMBER HER, SHE WAS BACK AND FORTH ALL NIGHT, AT
17 LEAST TWO, MAYBE THREE TIMES, GETTING MONEY FOR
18 JERMAINE CUSACK. SHE SAW A CAR IN THE DRIVEWAY, SHE
19 TESTIFIED THE OTHER DAY, IT WAS A GOLD GRAND AM,
20 VIRGINIA PLATES. SHE WASN'T CALLED BACK TO ASK
21 WHETHER IT WAS SILVER OR NOT, OR WHATEVER, SHE
22 TESTIFIED HERE WHAT THAT CAR WAS. SHE TESTIFIED THAT
23 WHEN SHE CAME BACK LATER PEOPLE WERE RUNNING, CARS
24 WERE LEAVING. JOHNNY COBBS GOT HER CAR, SHE WENT UP
25 THERE, JERMAINE WAS BACK THERE, SHE WAS WORRIED ABOUT

1 JERMAINE, AND THEY STARTED, THEY WERE TAKING STUFF
2 OUT. YES, THEY WERE TAKING STUFF OUT. WE KNOW STUFF
3 HAD TO BE TAKEN OUT, BUT THEY WEREN'T THE ONLY ONES
4 THAT TOOK STUFF OUT. I'LL GET TO THAT A LITTLE LATER.

5 FROM LANESHA THEY FOUND RYAN NORTH
6 AND JERMAINE CUSACK. RYAN WAS HESITANT. EVERYBODY
7 WAS SCARED, SOME OF THEM WERE SCARED. THEY DIDN'T
8 KNOW IF THESE PEOPLE WERE STILL AROUND. THEY HAD
9 KILLED ONE, THEY CERTAINLY COULD KILL AGAIN. THEY
10 DIDN'T KNOW THAT.

11 RYAN NORTH AND JERMAINE CUSACK,
12 RYAN WOULDN'T COME IN IMMEDIATELY, THE POLICE ARRESTED
13 HIM. AND THEY ARRESTED JERMAINE FOR THE SAME THING.
14 NOW, IT WAS SAID, WELL, APPARENTLY, JERMAINE MUST HAVE
15 CALLED RYAN SO THEY COULD GET THEIR STORY STRAIGHT.
16 AND RYAN AND JERMAINE MUST HAVE TALKED ON THE PHONE,
17 THEY MAY HAVE TALKED ON THE PHONE. I THINK RYAN
18 TESTIFIED HE WAS TRYING TO FIND OUT WHAT WENT ON. BUT
19 IT'S BEEN INTIMATED THAT THEY GOT THEIR STORY
20 STRAIGHT, THEY GOT THEIR STORY STRAIGHT. WELL, DID
21 JERMAINE CUSACK TESTIFY TO EXACTLY WHAT RYAN NORTH
22 TESTIFIED TO? JERMAINE CUSACK DIDN'T WANT TO BE HERE,
23 YOU COULD TELL THAT. AND HE SAID THEY WERE OUT THERE
24 TO DEAL DRUGS, AND HE WAS IN THE KITCHEN DOING
25 SOMETHING, AND THEN SHOTS WERE FIRED AND HE RAN, AND

1 HE DIDN'T WANT TO BE HERE. AND WE BROUGHT HIM HERE
2 BECAUSE IF WE DIDN'T BRING HIM HERE WE'D BE BEAT OVER
3 THE HEAD WITH, WHY DIDN'T THEY BRING JERMAINE CUSACK
4 HERE? WHY DIDN'T THEY BRING HIM AND PUT HIM ON THE
5 WITNESS STAND? WHAT'S HE HIDING? WELL, WE HAD TO
6 BRING HIM HERE, AND HE DIDN'T WANT TO BE HERE. BUT HE
7 CERTAINLY DIDN'T TESTIFY TO THE SAME THING THAT RYAN
8 NORTH DID, -- YOAH -- THEY GOT THEIR STORIES STRAIGHT,
9 LADIES AND GENTLEMEN, THEY GOT THEIR STORIES STRAIGHT.

10 BUT WE GET TO RYAN, WE GET TO RYAN
11 NORTH, AND RYAN STARTS TELLING WHAT HAPPENED. HE TALKS
12 ABOUT WHAT HAPPENED THAT NIGHT, AND ABOUT BEING IN THE
13 ROOM, SEEING THE FELLOW. HE TALKS ABOUT THE FELLOWS,
14 ONE WITH THE CORN ROWS OR THE BRAIDS, AND ONE GUY
15 THAT'S BALD HEADED. HE TALKS ABOUT A GRAND AM, AND
16 HE'S GOT A PHONE NUMBER, HE'S GOT A PHONE NUMBER AND
17 HE'S TALKED TO A FELLOW NAMED SMOKE. AND REMEMBER,
18 THESE TWO FELLOWS FROM VIRGINIA ARE THE ONES THAT
19 INTRODUCE THEMSELVES. WELL, RYAN KNEW SMOKE FROM ONE
20 OR TWO OR THREE PAST MEETINGS. BUT THE OTHER GUY WAS
21 JUST INTRODUCED AS BENJY, FROM THEM, THAT CAME FROM
22 THEM, NOT RYAN. RYAN DIDN'T KNOW THE FELLOW FROM
23 ADAM. HE WAS JUST INTRODUCED BY SOME NAME. HE COULD
24 HAVE BEEN TOM, HE COULD HAVE BEEN SOME OTHER NAME, BUT
25 HE WAS JUST INTRODUCED AS BENJY, IS ALL HE WAS

1 INTRODUCTION AS.

2 THEY TOOK THAT NUMBER AND THEY RAN
3 WITH IT. BUT THEY ALSO LOOKED AT OTHER STUFF, BECAUSE
4 RYAN DID SAY THAT HE MET SMOKE THROUGH JEFF. AND THEY
5 ALSO HAD RYAN, AND THEY KNEW THIS OTHER FELLOW, PEA
6 JONES. AND THIS IS THE POLICE DOING THIS, THEY'RE
7 GOING AFTER THESE LEADS. THEY WENT TO JEFF HILL, THEY
8 TALKED TO HIM OUT IN CALIFORNIA EVENTUALLY, HE DIDN'T
9 TELL THEM A THING. I MEAN, WHAT CAN THE POLICE DO,
10 THEN? THERE'S NO OTHER EVIDENCE LINKING JEFF HILL TO
11 THIS CRIME.

12 THEY TRIED TO GO TO PEA JONES,
13 THEY WENT UP TO THE COLUMBIA, HE WAS ARRESTED FOR
14 SOMETHING ELSE, HE WOULDN'T TALK. THERE'S NO OTHER
15 EVIDENCE IN HERE LINKING PEA JONES TO THIS CRIME.
16 NONE OF THE WITNESSES PUT THESE PEOPLE THERE, NOBODY
17 HAS IDENTIFIED THEM AS HAVING BEEN ANYWHERE NEAR [REDACTED]
18 [REDACTED] ROAD ON THAT NIGHT.

19 THERE WERE ALSO LITTLE BITS AND
20 PIECES ABOUT GRETN, VIRGINIA, AND ALL THAT. AND THOSE
21 DIDN'T PAN OUT. THEY WERE JUST PEOPLE SAYING, OH, I
22 HEARD THIS, AND I HEARD THAT, WHICH IN THESE CASES ARE
23 A DIME A DOZEN.

24 BUT THE MAIN THING IS, THEY GOT
25 THIS PHONE NUMBER, THEY GOT THE RECORDS, STATE'S

1 ELEVEN, AND THEY FOUND -- IT WENT BACK TO THIS GIRL IN
2 LOS ANGELES. AND THEY FOUND JASSON TURNER. THEY GOT
3 HIS PICTURE, THEY TOOK THE PICTURE, THEY TOOK THE
4 LINEUP, AND YOU HAVE THE LINEUP, THEY TOOK THE LINEUP
5 TO RYAN NORTH, THEY TOOK THE LINEUP TO TRAVIS NORTH,
6 THEY TOOK THE LINEUP TO ANTHONY FOLK, THEY ALL
7 IDENTIFIED THAT PERSON. BUT EVERYBODY HAD SAID TO THIS
8 POINT THAT THE PERSON WITH THE CORN ROWS, WHO IS
9 SMOKE, WAS NOT THE SHOOTER. AND TO THIS POINT SMOKE IS
10 NOT THE SHOOTER, BUT THAT'S THE ONLY PERSON THEY'VE
11 GOTTEN A LEAD ON. SO, THEY BRING HIM BACK TO SOUTH
12 CAROLINA AND THEY CHARGE HIM WITH MURDER, BECAUSE HE'S
13 -- THEY CAN PUT HIM IN SOUTH CAROLINA THROUGH HIS
14 PHONE RECORDS.

15 AND LET'S TALK ABOUT THE PHONE
16 RECORDS FOR A LITTLE BIT. A BIG DEAL IS MADE, AND
17 THEY'RE IMPORTANT, BECAUSE WITHOUT THESE PHONE RECORDS
18 PRETTY MUCH TWO PEOPLE, ONE PERSON WOULD HAVE GOTTEN
19 AWAY WITH MURDER. THESE PHONE RECORDS LED US TO
20 SMOKE, TO JASSON TURNER. AND YOU CAN LOOK AT THIS, YOU
21 CAN FOLLOW IT. YOU GO TO PAGE -- LET ME GET THE RIGHT
22 PAGE -- YOU CAN GO TO PAGE SIX OF NINE, IF YOU LOOK AT
23 THE TOP, AND YOU CAN FOLLOW. YOU CAN SEE THE PHONE
24 RECORDS, THE PHONE CALLS, YOU CAN LOOK THROUGH ALL
25 THIS THING. YOU CAN GO BACK TO JUNE TWENTY-SEVENTH AND

1 SEE A CALL TO FIVE SIX TWO, EIGHT FOUR SIX FIVE, RYAN
2 NORTH TESTIFIED THAT WAS HIS NUMBER. THERE'S ANOTHER
3 ON JUNE TWENTY-NINE, THEN SEVEN-TWO, ON JULY SECOND,
4 THESE ARE ALL IN TWO THOUSAND THREE. THEN ON JULY
5 THIRD THERE'S A FLURRY OF ACTIVITY. THREE P.M.,
6 FOUR:SEVENTEEN P.M., FROM GRETNA TO WILLIAMS, AND
7 THESE PHONE CALLS ARE TO RYAN NORTH'S NUMBER.

8 AND LET ME TELL YOU ABOUT GRETNA,
9 VIRGINIA. YES, IT'S NEAR DANVILLE, IT'S THIRTY MILES
10 FROM DANVILLE. SUMMERVILLE IS THIRTY MILES FROM ST.
11 GEORGE. BUT I ALSO WANT TO TELL YOU ABOUT THE RECORDS.
12 IF YOU LOOK ON THESE RECORDS IT SAYS, CALL
13 ORIGINATION. AND YOU CAN LOOK, THESE RECORDS ARE IN
14 EVIDENCE, AND THERE'S A LITTLE STAR BY THEM, AND THE
15 STAR SAYS, "DESIGNATES THE LOCATION, CITY AND STATE OF
16 THE CALL TOWER, OR SWITCHING CENTER WHICH PROCESSED
17 THE CALL." IT DOESN'T MEAN THE CALL CAME FROM GRETNA,
18 VIRGINIA, IT MEANS THE CELL TOWER, OR THE SWITCHING
19 CENTER WAS IN OR NEAR GRETNA, VIRGINIA, JUST AS WE
20 KNOW WHEN THEY CAME TO SOUTH CAROLINA THEY WERE IN THE
21 WILLIAMS-SMOAKS-GROVER AREA. AND HERE'S A MAP,
22 STATE'S TWENTY-SIX. AND WHEN HE'S CALLING, WHEY
23 THEY'RE GETTING CLOSE, YOU CAN LOOK ON THE RECORD,
24 WHEN THEY'RE GETTING CLOSE, AT NINE:THIRTY-FOUR I
25 THINK IT IS, NINE:THIRTY-NINE, THERE'S A CALL

1 ORIGINATING FROM BLUFFTON THAT'S CALLING WILLIAMS,
2 THAT'S CALLING RYAN NORTH'S NUMBER. THEN AGAIN, AT
3 NINE:FORTY-ONE, BLUFFTON. IT SWITCHES TO NORTH
4 WALTERBORO AT NINE:FORTY-NINE, NINE:FIFTY, BLUFFTON,
5 NINE:FIFTY-ONE, BLUFFTON, ELEVEN:TWENTY-FOUR,
6 BLUFFTON. THESE GUYS WEREN'T ANYWHERE NEAR BLUFFTON.
7 LOOK AT THE MAP, BLUFFTON IS DOWN NEAR HILTON HEAD,
8 THAT'S PROBABLY FIFTY MILES AWAY, BUT IT'S HITTING THE
9 TOWER AT BLUFFTON. SO, THAT'S WHY THIS MAP'S
10 IMPORTANT TO GO WITH THIS MAP. THAT'S THE CELL TOWER
11 IT'S HITTING, IT DOESN'T MEAN THE CALLS ORIGINATING
12 FROM THAT PARTICULAR TOWN OR CITY, IT'S WHERE THE CELL
13 PHONE IS HITTING. GRETNIA IS NEAR DANVILLE, GRETNIA IS
14 CLOSER THAN SMOAKS IS CLOSER TO BLUFFTON. IT'S WELL
15 WITHIN THE CALL RANGE.

16 NOW, LADIES AND GENTLEMEN, WHEN WE
17 GOT WITH JASSON TURNER HE WAS CHARGED WITH MURDER. AND
18 LIEUTENANT MARSHALL GOT UP HERE AND TESTIFIED, YES,
19 WHEN PUSH CAME TO SHOVE, WHEN IT CAME TIME, WHEN THE
20 MURDER ON JASSON TURNER CAME HE WAS GIVEN THE
21 SHOOTER'S NAME, BECAUSE WHAT DID LIEUTENANT MARSHALL
22 SAY? WE DIDN'T HAVE -- OUR EVIDENCE INDICATED THAT HE
23 WAS NOT THE SHOOTER, AND WE DIDN'T HAVE THE SHOOTER.
24 THAT'S A YEAR AFTER THIS HAPPENED. THIS IS AUGUST OF
25 TWO THOUSAND FOUR. ALL THE LEADS HAD PANNED OUT AND

1 THERE WAS NO SHOOTER TO BE HAD. AND JASSON TURNER
2 PROVIDED THE NAME, STEVEN BRISCOE. FROM THE NAME THE
3 POLICE GOT A PICTURE OF STEVEN BRISCOE. THEY VERIFIED
4 THE IDENTITY OF STEVEN BRISCOE WITH JASSON TURNER.
5 JASSON TURNER KNOWS STEVEN BRISCOE, NO DOUBT ABOUT IT.
6 THERE IS A PICTURE, WE PUT IT INTO EVIDENCE, THAT WE
7 FOUND IN STEVEN BRISCOE'S HOUSE -- IF I CAN FIND IT
8 HERE REAL QUICK -- IT'S HERE, I WON'T BELABOR THE
9 POINT, BUT WITH THOSE TWO TOGETHER. THAT'S IMPORTANT,
10 THAT'S JUST INDEPENDENT EVIDENCE THAT THESE GUYS KNEW
11 EACH OTHER. THAT WAS FOUND IN AUGUST OF TWO THOUSAND
12 AND FOUR. THEY KNEW EACH OTHER.

13 SO, WE TOOK THAT PICTURE, AND
14 DOING THE BEST POLICE WORK THAT CAN BE DONE, THESE
15 GUYS CAME UP WITH A PHOTO LINEUP. THEY HAD A PICTURE
16 -- THE ONLY PICTURE THEY HAD OF STEVEN BRISCOE, THEY
17 GOT SOME OTHER PEOPLE, AND THEY WENT AND THEY SHOWED
18 IT TO RYAN NORTH. THERE'S NO EVIDENCE THAT RYAN AND
19 JASSON EVER TALKED. I'M SURE IT WOULD HAVE BEEN
20 BROUGHT IN IF THERE WAS. THIS IS THIS BIG CONSPIRACY
21 THEORY. THERE'S NO CONSPIRACY HERE, LADIES AND
22 GENTLEMEN, RYAN NORTH COULD CARE LESS ABOUT JASSON
23 TURNER NOW. AND EMPHATICALLY POINTS OUT, THAT'S THE
24 MAN I SAW. AND HE WAS HERE IN COURT TWICE, TUESDAY
25 MORNING AND TODAY, WITHOUT HESITATION, THAT'S THE MAN

1 THAT SHOT MARK COOK. AND ISN'T IT INTERESTING THAT IF
2 THE CONSPIRACY THEORY IS TO BE BELIEVED, WELL,
3 WOULDN'T -- IF RYAN NORTH WAS GOING TO BRING TRAVIS
4 NORTH IN ON IT, WOULDN'T THEY HAVE BROUGHT ANTHONY
5 FOLK IN ON IT, TOO? WOULDN'T THEY HAVE TOLD HIM WHICH
6 PICTURE TO PICK? IF RYAN KNEW WHICH PICTURE TO PICK,
7 THEY RODE OVER TOGETHER, WOULDN'T RYAN HAVE TOLD
8 ANTHONY, HEY YOU NEED TO PICK THE PICTURE THAT
9 JERMAINE TOLD ME TO PICK. BUT GUESS WHAT, LADIES AND
10 GENTLEMEN, HONESTLY, ANTHONY COULDN'T PICK ONE OUT.
11 WHY? BECAUSE HE WAS OUTSIDE ALL NIGHT. HE DIDN'T SEE
12 HIM AT THE TRUCK STOP, HE WAS DOING SOMETHING ELSE.
13 AND HE ONLY SAW HIM BRIEFLY WHEN THEY WERE AT THE
14 HOUSE. HE SAW THE CAR.

15 AND THEN THEY BROUGHT TRAVIS UP
16 HERE. THEY BROUGHT TRAVIS UP HERE, TWO DAYS LATER. HIS
17 BROTHER BROUGHT HIM, THAT'S HOW HE GETS AROUND,
18 NOTHING WRONG WITH THAT. BUT THE POLICE, JUST TO MAKE
19 SURE IT WAS FAIR, JUST TO MAKE SURE IT WAS FAIR, THEY
20 DIDN'T WANT TO HAVE THAT, THE PICTURE THAT RYAN PICKED
21 OUT IN THE SAME POSITION, JUST IN CASE, JUST IN CASE
22 THEY MAY TALK. SO, THEY TOLD THEM THEY SWITCHED IT
23 AROUND. IT DOESN'T MEAN THEY ACTUALLY SWITCHED IT
24 AROUND, EVEN THOUGH THEY DID. AND HE PICKED OUT
25 PICTURE NUMBER ONE, WHEN THEY SWITCHED THE POSITIONS.

1 NO PROBLEM WHATSOEVER. AND HE IDENTIFIED HIM MONDAY,
2 I BELIEVE IT WAS, IT MAY HAVE BEEN TUESDAY --
3 ACTUALLY, IT WAS TUESDAY, AND AGAIN THIS MORNING.
4 TUESDAY, HE DIDN'T WANT TO LOOK OVER THERE, HE WAS
5 SCARED OF THE MAN.

6 BUT THAT'S CORROBORATION. WE'VE
7 GOT TWO OTHER PEOPLE THAT WERE AT THE HOUSE, WHO SAW
8 WHAT HAPPENED. RYAN SAW THE PERSON PULL THE GUN, AND
9 TRAVIS SAT THERE AND STARING DOWN THE BARREL OF THAT
10 GUN. DON'T YOU REMEMBER, TRAVIS WAS GOING, NO, DON'T
11 SHOOT ME.

12 WELL, WHAT HAPPENS AFTER THAT? WE
13 GO INTO PROOF ABOUT CLEANING UP. HE SAID, YEAH, HE PUT
14 THE GUN AWAY AND HE BENT OVER AND STARTED PICKING
15 STUFF UP. THE SHOOTER WAS PICKING STUFF UP, TOO, HE
16 WAS CLEANING. HE WAS CLEANING THE SCENE.

17 BUT THEN WE START INVESTIGATING
18 SOME MORE, LADIES AND GENTLEMEN. LET'S GO TO THIS, LET
19 ME SHOW YOU WHERE WE'RE AT AT THIS POINT. THIS IS THE
20 EVIDENCE WE HAVE ON STEVEN BRISCOE, BUT THE FIRST PART
21 IS WHAT WE KNEW BEFORE WE EVEN KNEW WHO STEVEN BRISCOE
22 WAS. LANESHA HAS DESCRIBED THE GRAND AM WITH VIRGINIA
23 PLATES, TAN I BELIEVE IT WAS. RYAN NORTH IDENTIFIED
24 THE GRAND AM, BEIGE. HE MAY HAVE SAID GRAY IN ONE OF
25 HIS STATEMENTS. YOU LOOK AT THIS PICTURE FROM BEHIND.

1 IF YOU CAN SAY THERE'S A DIFFERENCE BETWEEN GRAY OR
2 TAN IN THAT PICTURE, AND THIS IS THE SAME CAR, IF YOU
3 CAN TELL THE DIFFERENCE -- AND REMEMBER, ALL OF THIS
4 HAPPENED AT NIGHT, SO THERE'S NOTHING WRONG WITH THIS
5 PICTURE BEING TAKEN AT NIGHT, IT JUST SO HAPPENED
6 THAT'S THE WAY IT HAPPENED. BUT THAT LOOKS GRAY, I
7 DON'T KNOW IF YOU CAN TELL THE DIFFERENCE BETWEEN GRAY
8 AND TAN IN THAT PICTURE. AND REMEMBER, EVERYBODY IS
9 SAYING GRAND AM, THEY ARE SPECIFIC ABOUT THE MAKE AND
10 MODEL OF THIS CAR. TRAVIS NORTH DESCRIBES IT, THREE
11 PEOPLE DESCRIBE IT, AND THEY ALL SAID VIRGINIA PLATES
12 OR OUT OF STATE PLATES. THEY'RE SPECIFIC ABOUT THIS.
13 ANTHONY FOLK, THE SAME ONE. HE GOT UP HERE THIS
14 MORNING, THEY WERE TRYING TO TRAP HIM, THEY WERE
15 SAYING, HERE IS A PICTURE THE POLICE SHOWED YOU, IT'S
16 LIKE IT, ISN'T IT? AND WHAT DID HE SAY? THAT'S A
17 GRAND PRIX, WHAT I SAW WAS A GRAND AM, EMPHATIC ABOUT
18 IT. EVERYBODY KNOWS IT'S A GRAND AM.

19 AND THEN WE HAVE THE TEN
20 MILLIMETER SHELL. THIS IS BEFORE WE KNOW ANYTHING
21 ABOUT STEVEN BRISCOE, THAT WAS FOUND ON THE GROUND.
22 AND VELLO PAAVEL GOT UP HERE AND HE SAID, THAT TEN
23 MILLIMETER SHELL CAN ONLY BE FIRED BY ONE TYPE OF GUN
24 THAT I KNOW, A TEN MILLIMETER GLOCK, BE A TWENTY-NINE,
25 BE IT A WHATEVER THE DIFFERENT -- I'M NOT INTO GUNS,

1 SO -- TWENTY-NINE OR A THIRTY-C, OR WHATEVER. BUT
2 IT'S A TEN MILLIMETER, IT CAN ONLY BE FIRED BY A TEN
3 MILLIMETER GLOCK. THE ONLY ONE THAT I KNOW, FROM A
4 MAN WITH, I THINK IT WAS EIGHTEEN YEARS EXPERIENCE IN
5 FIREARMS. HE SAYS THESE SHELL CASINGS, HE WAS SAYING
6 THEY COULD HAVE BEEN FIRED BY THOSE FIVE DIFFERENT
7 TYPES OF GUNS, BUT HE ALSO SAID THIS WOULD COME OUT OF
8 A TEN MILLIMETER CARTRIDGE. THIS WOULD COME OUT OF
9 THIS. THAT TIES THESE TWO, AND TIES THIS TO MARK
10 COOK. UNFORTUNATELY, THEY POLICED THE BRASS, AS
11 LIEUTENANT ASBELL SAID. AS I SAID, THE BULLETS FROM
12 THE BODY ARE CONSISTENT WITH THAT TEN MILLIMETER
13 CARTRIDGE. UNFORTUNATELY, WE DON'T HAVE THE GUN TO
14 SHOW IT.

15 BUT THEN WHAT HAPPENS? AND WE
16 KNOW THAT TWO PEOPLE CAME FROM VIRGINIA, WE KNOW THAT
17 THEY CAME FROM VIRGINIA. HE NAMES -- SMOKE NAMES
18 BRISCOE AS THE SHOOTER. RYAN NORTH IDS BRISCOE,
19 TRAVIS NORTH IDS BRISCOE, IN COURT, AND IN THE LINEUP.
20 JASSON TURNER DESCRIBES THAT BRISCOE'S MOTHER HAS A
21 GRAND AM. THE POLICE GO TO VIRGINIA, AND GUESS WHAT
22 THEY FIND? A GOLD GRAND AM WITH VIRGINIA PLATES. AND
23 BY THE WAY, IF YOU REMEMBER, RYAN NORTH TESTIFIED
24 TUESDAY MORNING, AND NOBODY ASKED HIM THIS. WE ASKED
25 HIM ABOUT THE GRAND AM, HE SAID, OH, YEAH, IT'S

1 OUTSIDE TODAY. GUESS WHO WAS HERE THAT DAY? HIS
2 MOTHER, WITH HER CAR. HE IDENTIFIED THAT CAR AGAIN,
3 SAYING, THAT'S THE CAR.

4 BRISCOE HAS A TEN MILLIMETER GLOCK
5 IN HIS POSSESSION SIX MONTHS BEFORE THE MURDER IN
6 DANVILLE, VIRGINIA. DETECTIVE CHANEY, I LOOKED AT IT,
7 HERE'S THE SERIAL NUMBER. THE SERIAL NUMBER MATCHES A
8 GLOCK THAT WAS BOUGHT BY HIS MOTHER IN TWO THOUSAND
9 ONE. HE HAS A TEN MILLIMETER GLOCK. HIS MOTHER
10 PURCHASED THE PISTOL. AND ONCE HE WAS -- AS I SAID,
11 ONCE BRISCOE WAS IDENTIFIED EVERYTHING FELL INTO
12 PLACE.

13 NOW, LET'S TALK ABOUT THE
14 STATEMENTS YOU'VE HEARD FROM THE STATE'S WITNESSES.
15 THEY GAVE SEVERAL VERSIONS OF STATEMENTS, THAT CAN'T
16 BE DENIED. BUT JUST REMEMBER, LADIES AND GENTLEMEN,
17 THE SIMPLE REASON THEY DIDN'T TELL EVERYTHING THAT
18 HAPPENED IS BASICALLY, FROM BASIC HUMAN TENDENCIES,
19 THINK ABOUT IT. TWO OF OUR GREATEST DRIVING FORCES OF
20 HUMANS IS SELF-PRESERVATION AND SELF-DEFENSE. THAT
21 IS, THINK ABOUT IT, WITH YOU, YOUR CHILDREN OR YOUR
22 FAMILY, OR ANYBODY, IF YOU BROKE A LAMP, OR YOUR CHILD
23 BROKE A LAMP, AND YOU COME IN THERE AND SAY, WHO DID
24 THIS? THE CHILD BROKE IT. WHO DID IT? IT WASN'T ME.
25 THE FIRST THING, IT WASN'T ME. BUT THEN, ONCE YOU

1 SHOW THEM PROOF, AND SHOW THEM WHAT'S THE EXISTENCE OF
2 FACTS, THEY HAVE TO KIND OF, YEAH, I GUESS I DID IT,
3 BUT BOBBY PUSHED ME. HE'S STILL TRYING TO MITIGATE
4 THINGS. THAT'S JUST BASIC HUMAN EMOTIONS. AND THAT'S
5 WHAT EVERYBODY WAS DOING, THEY WERE SCARED. SOMEBODY
6 HAD GOTTEN SHOT, AND THEY ARE DEALING DRUGS. THAT'S
7 WHAT HAPPENED.

8 BUT HERE'S THE INTERESTING PART,
9 WHAT THE DEFENSE WANTS YOU TO BELIEVE IS THAT JASSON
10 TURNER, RYAN NORTH, TRAVIS NORTH, ANTHONY FOLK,
11 EVERYBODY, JERMAINE CUSACK ALL GOT TOGETHER, TALKED
12 THIS THING OVER, AND MADE UP THE STORY TO FRAME STEVEN
13 BRISCOE. WELL, THE DEFENSE CAN'T HAVE ITS CAKE AND
14 CAN'T EAT IT AT THE SAME TIME. THE STORIES ARE
15 DIFFERENT. JASSON TURNER'S RENDITION OF THE FACTS ARE
16 DIFFERENT FROM RYAN NORTH'S, SLIGHTLY DIFFERENT FROM
17 TRAVIS NORTH'S, SLIGHTLY DIFFERENT FROM ANTHONY FOLK'S
18 AND LANESHA GREEN'S, NUMBER ONE, FROM THE SIMPLE FACT
19 IS THAT WE, AS HUMANS, ALL PERCEIVE THINGS
20 DIFFERENTLY. WE REMEMBER THINGS DIFFERENTLY. I
21 CHALLENGE YOU, WHEN YOU GO BACK TO YOUR JURY ROOM AND
22 DELIBERATE, EACH OF YOU WILL REMEMBER THINGS A LITTLE
23 DIFFERENT AND HAVE TO MAKE SURE THAT WHAT WAS DONE IS
24 RIGHT. THAT'S JUST, THAT'S BASIC HUMAN NATURE. BUT THE
25 FLIP SIDE OF THAT, LADIES AND GENTLEMEN IS, IF THEIR

1 STORIES HAD BEEN EXACTLY THE SAME DOWN THE LINE,
2 AGREED ON EVERY POINT, THEN THEY GOT TOGETHER AND MADE
3 UP THE STORY. AND YOU DON'T HAVE THIS IN THIS, THE
4 STORIES ARE DIFFERENT. JASSON SAYS HE WENT TO SMOAKS,
5 WENT TO RYAN NORTH'S HOUSE. RYAN, TRAVIS AND ANTHONY
6 SAY, NO, THEY MET AT THE CIRCLE-C. BUT DON'T YOU
7 REMEMBER, THOUGH, JASSON SAYS THEY WENT TO THE CIRCLE-
8 C. HE MIGHT NOT BE REMEMBERING CORRECTLY, I DON'T
9 KNOW. HE MIGHT BE LYING, I DON'T KNOW. BUT DON'T YOU
10 THINK IF, IF THEY WERE GETTING TOGETHER TO SET UP
11 STEVEN BRISCOE, IF JASSON TURNER WANTED TO SET UP HIS
12 BUDDY, THEY WOULD HAVE GOTTEN THIS TIGHT, AIR TIGHT.
13 YOU KNOW, YOU CAN'T SAY THEY DIFFERENTIATE, ON ONE
14 HAND, AND THEN SAY, THEY MADE UP SOMETHING, ON THE
15 OTHER HAND, WHEN THEY DON'T REALLY -- THEY DON'T MATCH
16 UP WELL. THEY MATCH UP ENOUGH, THE BASIC LINE OF WHAT
17 HAPPENED IS CURRENT THROUGH THE STORY. BUT THEY CAME
18 IN TRIED TO TELL THE TRUTH AS BEST THEY REMEMBERED IT.
19 YOU GOT TO SEE EVERYBODY ON THE STAND, AND HOW THEY
20 REACTED. BECAUSE I GUARANTEE YOU, --

21 YOU KNOW, THE INTERESTING PART IN
22 THIS WHOLE THING, TO ME, IS ANTHONY FOLK. IF HE'S, IF
23 RYAN NORTH IS GETTING TOGETHER WITH HIS BROTHER TO
24 MAKE UP SOMETHING WITH JASSON TURNER, THEY CERTAINLY
25 WOULD HAVE BROUGHT ANTHONY FOLK ALONG, TOGETHER,

1 BECAUSE HE WAS WITH THEM EVERYWHERE, WHEN IT HAPPENED
2 THAT NIGHT, WHEN THEY WERE GOING TO THE POLICE STATION
3 TO LOOK AT LINEUPS, THEY WERE TOGETHER. DON'T YOU
4 THINK THEY WOULD HAVE GOTTEN THEIR STORIES STRAIGHT?
5 OR ARE THEY JUST TELLING THE TRUTH? AND I'LL TELL
6 YOU, LADIES AND GENTLEMEN, THEY'RE JUST TELLING THE
7 TRUTH AS BEST THEY CAN, WITH THEIR SELF-PRESERVATION
8 MODES GOING ON, WITH THEIR BEING SCARED OF WHAT
9 HAPPENED THAT NIGHT. YOU HEARD TRAVIS, I THINK TRAVIS
10 SAID, YEAH, I TOLD THEM THAT BECAUSE I WAS SCARED, I
11 DIDN'T WANT TO TALK TO THEM BECAUSE I WAS SCARED, I
12 HEARD THAT THEY WERE STILL AROUND. AND THERE'S
13 NOTHING WRONG WITH THAT. BUT WHEN THEY'RE FACED WITH
14 MORE FACTS THEY TELL MORE OF THE STORY.

15 WHEN DID THEY HAVE A CHANCE TO GET
16 TOGETHER AND COME UP WITH THIS STORY? WHEN? HOW?
17 TURNER WAS NEVER IN JAIL AS FAR AS, ACCORDING TO RYAN
18 NORTH AT THE SAME TIME, HE NEVER SAW JASSON TURNER IN
19 JAIL. HE WAS EVEN KEPT APART FROM JERMAINE CUSACK BACK
20 WHEN THEY WERE FIRST ARRESTED. HOW DID THEY GET THEIR
21 STORIES STRAIGHT? TRAVIS WASN'T CHARGED WITH
22 ANYTHING, HE WAS NEVER IN JAIL. HOW DID HE GET HIS
23 STORY STRAIGHT AT THAT TIME? AND AGAIN, WHY DIDN'T
24 THEY BRING ANTHONY ON BOARD, WHY DIDN'T HE TELL THEM
25 WHAT HAPPENED? AND GUESS WHAT, THEY DIDN'T BRING

1 LANESHA IN. SHE IDENTIFIED THE CAR, THAT SAME CAR,
2 WITHOUT A DOUBT.

3 LADIES AND GENTLEMEN, LET'S LOOK
4 AT THE POLICE SIDE OF THIS STORY, WITH THE
5 INVESTIGATION. I'D SAY THE POLICE DID A COMMENDABLE
6 JOB IN THIS. THEY WENT AFTER EVERY LEAD, THEY FOUND
7 SOMEBODY, WHO GAVE THEM SOMEBODY ELSE, AND THEY WENT
8 TO FIND THEM. THEY WENT OUT TO L.A., THEY WENT TO
9 VIRGINIA, THEY WENT TO COLUMBIA, THEY WENT EVERYWHERE
10 ON THIS. AND THEY CHECKED OUT THE LEADS, THEY CHECKED
11 OUT THESE NAMES. AND WHEN THEY DEAD-ENDED, THEY CAME
12 BACK AND THEY WENT ON. WHEN IT STOPPED, IT STOPPED. IT
13 WENT COLD WHEN THEY HAD JASSON TURNER. AND I WANT TO
14 TELL YOU, WITHOUT JASSON TURNER, WE WOULDN'T HAVE A
15 SHOOTER. IT'S AS SIMPLE AS THAT, LADIES AND GENTLEMEN,
16 REGARDLESS OF WHAT DEAL HE GOT. HE SPENT A YEAR IN
17 JAIL, HE'S ON PROBATION, BUT WITHOUT THAT THERE
18 WOULDN'T BE A SHOOTER. IT'S THAT SIMPLE.

19 THEY SQUEEZED AS MUCH EVIDENCE AS
20 THEY COULD OUT OF THE HOUSE. BUT IT HAD BEEN CLEANED
21 UP, FROM TWO PEOPLE, AS I SAID, FROM THE SHOOTER, WHO
22 POLICED HIS BRASS, EXCEPT HE MISSED ONE, AND THEN FROM
23 JERMAINE CUSACK, JOHNNY COBBS AND LANESHA GREEN,
24 BECAUSE THEY PROBABLY DIDN'T WANT THEM TO FIND DRUGS
25 IN THE HOUSE, IT'S AS SIMPLE AS THAT.

1 BUT WHAT DID THEY FIND? AS I TOLD
2 YOU, THEY FOUND THE DROPS, THEY FOUND THE BLOOD
3 SPATTER ON THE DOOR, THE BLOOD DRIPS ON THE FLOOR.
4 THEY DIDN'T FIND ANY FOOTPRINTS THROUGH IT. THEY WENT
5 OUT AND TRIED TO FIND TIRE TRACKS IN TWO THOUSAND
6 THREE, LADIES AND GENTLEMEN. THEY WERE ASKED -- THEY
7 TOOK ALL THE FINGERPRINTS THEY COULD. THEY FOUND MARK
8 COOK'S FINGERPRINTS, THEY FOUND LANESHA GREEN'S
9 FINGERPRINTS, AND THEY FOUND JOHNNY COBBS'
10 FINGERPRINTS.

11 AND ONE THING, GOING BACK ABOUT
12 JOHNNY COBBS IS, YOU'RE PROBABLY ASKING, WHERE IS
13 JOHNNY COBBS? WELL, AS THE POLICE SAID, WE WENT TO
14 TALK TO HIM, HE WOULDN'T TALK TO US, HE HAD NOTHING TO
15 SAY. THEY TALKED TO CLAY SINGLETARY, I THINK SOMEBODY
16 ASKED ABOUT THAT. HE SAID HE WAS JUST ACROSS THE
17 STREET, EVEN THOUGH EVERYBODY SAYS HE WAS THERE.
18 WHAT'S HE GOING TO SAY? SO, THAT'S ACCOUNTING FOR
19 EVERYBODY IN THE HOUSE. EVERYBODY THAT WAS THERE HAS
20 BEEN ACCOUNTED FOR.

21 BUT TO GO BACK, AND THEN DON'T YOU
22 REMEMBER, LIEUTENANT ASBELL SAID, WELL, WE FOUND
23 TWENTY OR TWENTY-EIGHT PRINTS THAT WE JUST COULDN'T
24 MAKE OUT. AND HE SAID, YOU KNOW, JUST BECAUSE I'VE
25 BEEN SITTING IN THAT CHAIR, I HAVEN'T TOUCHED

1 ANYTHING, BUT I'VE BEEN THERE, BUT I'M NOT GOING TO
2 LEAVE ANY PRINTS BECAUSE I HAVEN'T TOUCHED ANYTHING UP
3 THERE. IT DOESN'T MEAN NOBODY WAS THERE JUST BECAUSE
4 THEIR FINGERPRINTS AREN'T THERE. A FINGERPRINT JUST
5 SHOWS WHO WAS THERE, IT DOESN'T SHOW WHO WASN'T THERE.
6 OR, IT ALSO SHOWS WHO YOU CAN PUT THERE, AND NOT
7 EVERYBODY LEAVES FINGERPRINTS.

8 SHOE PRINTS, WE TALKED -- SOMEBODY
9 TALKED ABOUT SHOE PRINTS, WHAT SHOES TO COMPARE WITH.
10 NOBODY WAS FOUND, FIRST FOR A MONTH, AND THEN MR.
11 BRISCOE WASN'T FOUND FOR OVER A YEAR. HIS SHOES ARE
12 GONE, JUST LIKE THE GUN.

13 TIRE TRACKS, HE TALKED ABOUT TIRE
14 TRACKS, WHY DIDN'T THEY COMPARE TIRE TRACKS? WELL, WE
15 HAD TIRE TRACKS, YES, WE DID, YES, THE POLICE DID,
16 YES, WE DID. BUT REMEMBER, WE DIDN'T GET TO THAT CAR
17 UNTIL A YEAR AND A MONTH LATER. I MEAN, WE DON'T KNOW
18 IF THE TIRES HAVE BEEN CHANGED, WE DON'T KNOW WHAT'S
19 HAPPENED TO THOSE TIRES, ARE THEY SAME TIRES, IF THREE
20 ARE STILL GOOD, OR ONE, WE DON'T KNOW ANYTHING ABOUT
21 THOSE TIRES. WE HAVE NO WAY OF KNOWING THAT. SO, HOW
22 DO YOU CHECK IT RELIABLY? BECAUSE IF THEY COME BACK
23 AND DON'T MATCH, WELL, THEY'LL SAY, THEY DON'T MATCH
24 SO THERE'S NO WAY THEY CAN BE HERE. BUT WE HAVE NO WAY
25 OF KNOWING WHETHER THOSE TIRES HAVE BEEN CHANGED OR

1 NOT.

2 GSR KITS. HE KEPT ASKING ABOUT
3 GSR KIT, DID YOU DO A GSR, THE GUN RESIDUE KIT? WELL,
4 THE ONLY PERSON THAT WAS IN THE HOUSE WHEN THE POLICE
5 GOT THERE, THEY DID A GSR, OR A GUN RESIDUE KIT ON,
6 THAT WAS MARK COOK, THE DEAD PERSON. EVERYBODY ELSE
7 HAD GONE. THE FIRST ONE THAT CAME BACK WAS, LIKE, FIVE
8 OR SIX HOURS LATER, LANESHA GREEN. AND WHAT DID
9 LIEUTENANT ASBELL SAY? SLED WILL NOT ACCEPT A GSR KIT
10 IF TAKEN MORE THAN FOUR TO SIX HOURS AFTER A GUN IS
11 FIRED. SO, THEY DIDN'T GET TO ANYBODY ELSE UNTIL WELL
12 AFTER THAT WINDOW. SO, YOU CAN'T DO THAT.

13 SO, LADIES AND GENTLEMEN, THEY GOT
14 ALL THE -- THEY SQUEEZED ALL THE PHYSICAL EVIDENCE OUT
15 OF THIS. AND THAT'S THE STATE'S CASE. MARK COOK WAS
16 KILLED, TWO GUYS FROM VIRGINIA CAME DOWN, ONE OF THEM
17 SHOT HIM FIVE TIMES, ONE WAS IDENTIFIED EARLY BY PHONE
18 RECORDS, HE SAYS, I WAS WITH STEVEN BRISCOE. STEVEN
19 BRISCOE WAS IDENTIFIED BY TWO OTHER PEOPLE AT THE
20 HOUSE, HAVING NOTHING TO DO WITH JASSON TURNER, ONE OF
21 THEM ONLY MET HIM TWO OR THREE TIMES. AND GUESS WHAT,
22 WHEN THEY STARTED LOOKING AT STEVEN BRISCOE THEY FIND
23 A GRAND AM THAT'S BEEN DESCRIBED TO THEM, A GOLD GRAND
24 AM THAT MATCHES THE DESCRIPTION, A TAN, BEIGE, GRAYISH
25 GRAND AM WITH VIRGINIA PLATES AT HIS MOTHER'S HOUSE.

1 AND WE HAVE A TEN MILLIMETER PISTOL IN HIS HAND SIX
2 MONTHS BEFORE, MATCHING THE TEN MILLIMETER SHELL. THE
3 STATE DIDN'T MAKE THAT UP, THAT'S HOW IT WAS FOUND.
4 THAT IS THE EVIDENCE.

5 NOW, THE DEFENSE SAYS, WELL,
6 COULDN'T JASSON TURNER HAVE DRIVEN HIMSELF? WELL,
7 SURE, HE COULD HAVE. BUT APPARENTLY, SOMEBODY WANTED
8 TO MAKE SOME MONEY. DRUG DEALERS ARE GREEDY. THEY HAD
9 AN OPPORTUNITY TO MAKE A SALE IN SOUTH CAROLINA. COME
10 ON DOWN, I'LL DRIVE YOU, YOU CAN GO TO THESE OTHER
11 PLACES, I'LL MAKE SOME MONEY. STEVEN BRISCOE.

12 YOU KNOW, AREN'T CONSPIRACY
13 THEORIES GREAT? A LOT OF PEOPLE MAKE A LOT OF MONEY
14 OFF OF CONSPIRACY THEORIES, THEY'RE STILL MAKING MONEY
15 OFF OF THE KILLING OF PRESIDENT KENNEDY. BUT, YOU
16 KNOW, THEY'RE USUALLY WRONG, BECAUSE THE SIMPLEST
17 EXPLANATION IS USUALLY THE CORRECT EXPLANATION, WHICH
18 IS THIS ONE, STEVEN BRISCOE KILLED MARK COOK.

19 CLEANING THE SCENE. AS I SAID,
20 THERE WERE TWO PEOPLE CLEANING THE SCENE, THERE WERE
21 LANESHA GREEN, JOHNNY COBBS, JERMAINE CUSACK, AND THEN
22 STEVEN BRISCOE. DON'T YOU REMEMBER, JUSTIN -- JASSON
23 TURNER, I'M SORRY, HE SAID, I WENT OUTSIDE AND HE WAS
24 IN THERE FOR A COUPLE OF MINUTES. HE HAD TO PICK UP
25 HIS DRUGS, HE HAD TO PICK UP HIS BRASS, MAKE SURE THE

1 GUN WAS GONE, SO HE COULD GET OUT OF THERE.

2 WHAT ELSE DID THE DEFENSE SAY? OH,
3 THEY WERE ELUDING. OH, WELL, THEY STOPPED IN
4 CHARLESTON, THEY STOPPED IN ORANGEBURG, JUST BECAUSE
5 OF THE PHONE CALLS. WELL, LADIES AND GENTLEMEN, THEY
6 DID GO TO CHARLESTON, JASSON TURNER ADMITS THEY WENT
7 TO CHARLESTON, HE HAD SOME BUSINESS. HIS BUSINESS IS
8 SELLING MARIJUANA. AND IN ORDER TO GET FROM CHARLESTON
9 BACK TO VIRGINIA, HOW DO YOU HAVE TO GO? YOU GO
10 THROUGH ORANGEBURG, YOU HAVE TO GO THROUGH COLUMBIA,
11 YOU'RE MAKING CALLS. THE CELL PHONE'S IN ORANGEBURG
12 PICKING UP. THEY'RE TRYING TO SAY, OH, THEY STOPPED
13 AND TALKED TO THEIR DRUG DEALING BUDDIES IN
14 ORANGEBURG. THAT'S LUDICROUS, HE'S MAKING CALLS ON
15 THE WAY BACK. IF YOU TRACE THEM DOWN, VIRGINIA,
16 COLUMBIA, ORANGEBURG, BLUFFTON, CHARLESTON,
17 ORANGEBURG, VIRGINIA. THEY LEFT ABOUT THREE OR FOUR
18 ON JULY THIRD, THEY WERE BACK THE NEXT MORNING, JULY
19 FOURTH, AT SIX:FORTY-FOUR A.M., BY THE PHONE CALLS.
20 LOOK AT THOSE PHONE CALLS.

21 THIS WASN'T SOME GRAND PRODUCTION
22 BY JASSON TURNER, THIS WAS AN UNFORTUNATE MURDER BY
23 STEVEN BRISCOE. JASSON TURNER WAS, HE WAS IN PART OF
24 IT, HE'S BEEN CHARGED, HE'S BEEN CONVICTED FOR HIS
25 PART OF IT, BECAUSE JUSTICE DEMANDS THAT WE HAVE THE

1 SHOOTER. AND WE HAVE THE SHOOTER, STEVEN BRISCOE.

2 HE DOESN'T HAVE TO PROVE ANYTHING,
3 THAT'S CORRECT, THE JUDGE WILL CHARGE YOU THAT. BUT
4 HE BROUGHT AN ALIBI. HE BROUGHT HIS GIRL FRIEND, THE
5 MOTHER OF HIS DAUGHTER, OH, I WAS WITH HIM. WELL,
6 SHE'S GOING TO SAY ANYTHING TO MAKE SURE HE DOESN'T GO
7 TO JAIL. IT'S AS SIMPLE AS THAT.

8 HIS MOTHER CAME UP HERE, OH, I HAD
9 THE CAR, I WENT TO THE FAIR THAT NIGHT. STEVEN NEVER
10 USES THAT CAR, I'M ADAMANT ABOUT THAT. OH, AND I GAVE
11 THE GUN, I GAVE THAT TEN MILLIMETER -- THAT SHE
12 BOUGHT, YOU HAVE THE PAPERWORK, THAT SHE BOUGHT IN TWO
13 THOUSAND AND ONE, AT CARTER'S GUN SHOP IN DANVILLE,
14 VIRGINIA, A TEN MILLIMETER GLOCK, THE SAME ONE THAT
15 STEVE HAD ON JANUARY SEVENTH, TWO THOUSAND THREE --
16 OH, I GAVE IT TO MY PARAMOUR, OR MY LOVER, OR
17 WHATEVER, AND THEN HE TOOK IT OFF AND LEFT, AND I
18 DON'T KNOW WHERE HE IS. OKAY, WELL, ON CROSS-
19 EXAMINATION, DID YOU TALK TO DETECTIVE VAN DORAN WHEN
20 HE WAS IN VIRGINIA? YEAH. WELL, DIDN'T YOU TELL HIM
21 THAT YOU LOST THE GUN, THAT IT HAD BEEN STOLEN OUT OF
22 YOUR CAR? OH, OH, THAT'S A DIFFERENT GUN, THAT'S A GUN
23 I HAD BEFORE I HAD THIS ONE. OH, OH, SHE'S CAUGHT.
24 THAT'S A DIFFERENT GUN, I HAD A DIFFERENT GUN, AND IT
25 GOT STOLEN, AND THEN I BOUGHT THIS TEN MILLIMETER, AND

1 THEN I GAVE IT AWAY. WELL, IT'S NOT WHAT SHE TOLD
2 DETECTIVE VAN DORAN IN VIRGINIA. THE GUN THAT HE ASKED
3 HER, THE GUN YOU PURCHASED, AND SHE SAID, SHE AGREED,
4 CARTER'S GUN STORE, THAT WE HAVE THE RECEIPT FOR, WAS
5 LOST, BECAUSE THEY COULDN'T HAVE THAT GUN. THEY
6 COULDN'T GET THAT GUN, THEY COULDN'T HAVE THAT GUN
7 AROUND. THAT GUN'S BEEN GOTTEN RID OF, BECAUSE IT'S
8 THE ONLY THING THAT WOULD TIE HIM, THEY THINK, THAT
9 WOULD TIE HIM TO THE CRIME. TWO DIFFERENT STORIES
10 ABOUT THAT. THEY HAD TO DO SOMETHING TO GET RID OF
11 THAT GUN. IT'S EITHER STOLEN FROM THE CAR OR I GAVE IT
12 TO MY BOY FRIEND WHO IS NOW GONE OFF SOMEWHERE AND WE
13 CAN'T FIND HIM. BUT LADIES AND GENTLEMEN, THAT TEN
14 MILLIMETER SHELL AT [REDACTED] ROAD TIES THAT TEN
15 MILLIMETER TO THAT CRIME, WITH THE OTHER EVIDENCE.

16 AND THEN THE DEFENDANT GOT UP, AND
17 HE STARTED TELLING, OH YES, I KNEW JASSON TURNER. WE
18 WERE IN BROOKLYN, WE WERE IN NEW YORK, WE WERE DOING
19 RAP. AND OH, THIS, HE MUST HAVE SET ME UP. THIS IS
20 JUST SOMETHING HE STARTED TO SET ME UP BECAUSE I WAS
21 THE ONLY PERSON HE COULD SET UP. OKAY. SO, I SIMPLY
22 ASKED HIM, SOMETHING ABOUT, DO YOU KNOW A GIRL NAME
23 JEN THAT YOU HAD, SOMETHING ABOUT A CHILD, AND A GIRL
24 NAMED JENNIFER POLLARD, OR KNOWN AS JEN, WHO WAS
25 PREGNANT BACK THEN? AND WHAT WAS HIS ANSWER? HIS

1 ANSWER WASN'T NO, HIS ANSWER WASN'T, YES. AND, YOU
2 KNOW, FRANKLY, THE STATE DOESN'T CARE WHO HE'S
3 FATHERED CHILDREN BY, WE'RE NOT WORRIED ABOUT THAT,
4 BUT HIS ANSWER WAS INTERESTING, HIS ANSWER WAS, THAT
5 IS A VICIOUS LIE STARTED BY SOMEBODY IN DANVILLE TO
6 DRIVE A DISTANCE BETWEEN ME AND BILLY. IT WASN'T
7 JUST, YES OR NO. SOMEBODY IS SETTING HIM UP, SOMEBODY
8 IN DANVILLE IS SETTING HIM UP OVER THAT. BUT GUESS
9 WHAT, LADIES AND GENTLEMEN, YOU HEARD THE CONVERSATION
10 FROM THE JAIL, HE'S TALKING TO SOMEBODY NAMED JEN. AND
11 YOU CAN LISTEN TO IT. AND WHAT IS IT? SHE'S PREGNANT,
12 IT'S HIS BABY. THAT'S THE TRUTH. HE LIED TO YOU,
13 LADIES AND GENTLEMEN. WHAT ELSE DID HE LIE ABOUT? IF
14 THEY'RE SETTING HIM UP OVER -- IF HE'S TELLING YOU
15 THEY'RE SETTING HIM UP OVER A PREGNANCY IN DANVILLE,
16 IS HE LYING TO YOU ABOUT THEM TRYING TO SET HIM UP
17 OVER THIS MURDER? THINK ABOUT IT, LADIES AND
18 GENTLEMEN. I MEAN, LIKE I SAID, HE DIDN'T JUST SAY,
19 NO, AND DENY IT, HE SAID A STATEMENT, IT'S A VICIOUS
20 LIE THAT SOMEBODY IS SETTING ME UP. THINK ABOUT THAT,
21 LADIES AND GENTLEMEN.

22 THE BOTTOM LINE OF THIS CASE, THE
23 BOTTOM LINE OF THIS CASE, LADIES AND GENTLEMEN, MARK
24 COOK WAS KILLED BY FIVE GUN SHOT WOUNDS MALICIOUSLY
25 FOR ONLY SNATCHING SOME DRUGS, HIS STUPIDITY,

1 UNFORTUNATELY. YES, HE HAD A CIGARETTE IN HIS HAND,
2 BUT YOU CAN SNATCH STUFF WITH A CIGARETTE IN YOUR
3 HAND, THERE'S NOTHING WRONG WITH THAT. PEOPLE DRINK
4 DRINKS WITH CIGARETTES IN THEIR HAND. PEOPLE DO ALL
5 KINDS OF THINGS WITH CIGARETTES IN THEIR HAND, THAT'S
6 NEITHER HERE NOR THERE. HE WASN'T SHOT OVER THAT
7 CIGARETTE. APPARENTLY, DRUGS ARE MORE IMPORTANT TO
8 SOME PEOPLE THAN A HUMAN BEING'S LIFE, THAT'S STEVEN
9 BRISCOE. THEY DIDN'T HAVE TO SHOOT HIM, THEY COULD
10 HAVE GONE AND BEATEN HIM UP FOR DOING THAT, AND TAKEN,
11 AND SNATCHED THE DRUGS BACK FROM HIM. BUT NO, THEY HAD
12 TO SHOOT HIM FIVE TIMES.

13 THE PERSON THAT SHOT MARK COOK HAD
14 ACCESS TO A GOLD, TAN OR BEIGE GRAND AM WITH VIRGINIA
15 PLATES. THE PERSON THAT SHOT MARK COOK HAD ACCESS TO A
16 TEN MILLIMETER GLOCK. THE PERSON THAT SHOT MARK COOK
17 CAME FROM VIRGINIA, ID'D BY TURNER, ID'D BY RYAN
18 NORTH, ID'D BY TRAVIS NORTH, AND THAT PERSON IS STEVEN
19 BRISCOE. AND IT'S NOT COINCIDENCE THAT ALL THOSE --
20 THAT'S CORROBORATION, LADIES AND GENTLEMEN. IT'S NOT
21 COINCIDENCE THAT STEVEN BRISCOE HAD A TEN MILLIMETER,
22 WITH A GOLD GRAND AM WITH VIRGINIA PLATES, THAT'S NOT
23 COINCIDENCE, THAT'S CORROBORATION OF JASSON TURNER'S
24 STORY, RYAN NORTH'S STORY, AND TRAVIS NORTH'S STORY.

25 LADIES AND GENTLEMEN, THE STATE

1 HAS PROVEN STEVEN BRISCOE GUILTY OF MURDER, GUILTY OF
2 THE MURDER OF MARK COOK, HE SHOT HIM FIVE TIMES FOR NO
3 REASON. DO JUSTICE FOR THIS CASE, LADIES AND
4 GENTLEMEN, DO JUSTICE FOR MARK COOK AND HIS FAMILY,
5 FIND STEVEN BRISCOE GUILTY OF MURDER.

6 THANK YOU.

7 THE COURT: LADIES AND GENTLEMEN,
8 I'M GOING TO ASK YOU TO STAND AND STRETCH A LITTLE BIT
9 SO YOU CAN GET YOUR CIRCULATION GOING A LITTLE. DOES
10 ANYBODY NEED TO GO TO THE REST ROOM? OKAY. YEAH, GET
11 YOUR BLOOD FLOWING. YOU CAN SIT WHENEVER YOU FEEL
12 COMFORTABLE.

13 CHARGE BY THE COURT

14 DURING THIS TRIAL, LADIES AND
15 GENTLEMEN, YOU AND I HAVE CERTAIN DUTIES TO PERFORM.
16 AS THE TRIAL JUDGE IT IS MY RESPONSIBILITY TO PRESIDE
17 OVER THE TRIAL OF THIS CASE, AND I ALSO HAVE THE DUTY
18 TO RULE UPON OR PASS UPON THE ADMISSIBILITY OF THE
19 EVIDENCE THAT HAS BEEN OFFERED DURING THE COURSE OF
20 THIS TRIAL. YOU ARE TO CONSIDER ONLY THE COMPETENT
21 EVIDENCE BEFORE YOU, AND YOU ARE TO DISREGARD AND
22 DISABUSE FROM YOUR MIND ANY TESTIMONY ORDERED STRICKEN
23 FROM THE RECORD IN THIS CASE DURING THE PROGRESS OF
24 THIS TRIAL IF THERE HAS BEEN ANY. YOU ARE TO
25 CONSIDER ONLY THE TESTIMONY WHICH HAS BEEN PRESENTED

1 FROM THE WITNESS STAND, TOGETHER WITH ANY EXHIBITS
2 WHICH HAVE BEEN MADE A PART OF THE RECORD IN THIS
3 CASE, AND ANY STIPULATIONS OF COUNSEL MADE INTO THE
4 RECORD.

5 I HAVE THE ADDITIONAL DUTY TO
6 CHARGE YOU ON THE LAW APPLICABLE TO THIS CASE. AND AS
7 I THE PRESIDING JUDGE I AM THE SOLE JUDGE OF THE LAW
8 OF THIS CASE, AND IT IS YOUR DUTY AS JURORS TO ACCEPT
9 THE LAW AND APPLY THE LAW AS I NOW STATE IT TO YOU.
10 IF YOU HAVE A PRECONCEIVED IDEA AS TO WHAT THE LAW IS,
11 OR WHAT YOU THINK THE LAW SHOULD BE IN A CASE, OR IN
12 THIS CASE, AND IT SHOULD NOT AGREE WITH WHAT I NOW
13 TELL YOU THE LAW IS, YOU ARE OBLIGATED UNDER THE OATH
14 WHICH YOU HAVE TAKEN TO ABANDON THIS PRECONCEPTION ON
15 YOUR PART, BECAUSE YOU ARE SWORN TO ACCEPT THE LAW AND
16 APPLY THE LAW PRECISELY AS I NOW STATE IT TO YOU.

17 IN EVERY CASE TRIED IN THIS COURT
18 BEFORE A JURY, THE JURY BECOMES THE SOLE AND EXCLUSIVE
19 JUDGE OF THE FACTS IN THE CASE. YOU, THE JURY, ARE THE
20 JUDGE OF THE FACTS IN THIS CASE. THIS COURT IS THE
21 JUDGE OF THE LAW. THE CONSTITUTION OF OUR STATE HAS
22 DECLARED JUDGE SHALL NOT INTIMATE, STATE, COMMENT
23 UPON, OR MAKE ANY STATEMENT TO A TRIAL JURY ABOUT THE
24 FACTS IN A CASE. SINCE YOU, THE JURY, ARE THE JUDGES
25 OF THE FACTS CASE YOU ARE NOT INFER ANYTHING FROM WHAT

1 I HAVE SAID DURING THE PROGRESS OF THIS TRIAL IN
2 RULING UPON THE ADMISSIBILITY OF EVIDENCE OR
3 OTHERWISE, OR ANYTHING THAT I NOW SAY DURING THE
4 COURSE OF THIS INSTRUCTION TO YOU THAT I HAVE ANY
5 OPINION ABOUT THE FACTS IN THIS CASE. THE LAW DOES
6 NOT PERMIT ME TO HAVE AN OPINION ABOUT THE FACTS, THIS
7 IS A MATTER SOLELY FOR YOU, THE JURY, TO DETERMINE.

8 AS JURORS, THEN, IT IS YOUR DUTY,
9 AS I HAVE INSTRUCTED YOU, TO DETERMINE THE EFFECT, THE
10 VALUE, THE WEIGHT AND THE TRUTH OF THE EVIDENCE
11 PRESENTED DURING THIS TRIAL. NECESSARILY, YOU MUST
12 ASSESS THE CREDIBILITY OF WITNESSES WHO HAVE TESTIFIED
13 IN THIS CASE. CREDIBILITY IS SIMPLY A LEGALISTIC TERM
14 WHICH MEANS BELIEVABILITY. IT BECOMES YOUR DUTY AS
15 JURORS TO ANALYZE AND TO EVALUATE THE EVIDENCE AND
16 DETERMINE THAT EVIDENCE WHICH CONVINCES OF YOU OF ITS
17 TRUTH. I INSTRUCT YOU THAT IN DETERMINING THE QUESTION
18 OF THE CREDIBILITY, OR BELIEVABILITY OF WITNESSES WHO
19 HAVE TESTIFIED IN THIS CASE YOU MAY BELIEVE ONE
20 WITNESS AS AGAINST SEVERAL WITNESSES, OR SEVERAL
21 WITNESSES AS AGAINST ONE WITNESS. YOU MAY BELIEVE A
22 PART OF THE TESTIMONY OF A WITNESS AND REJECT THE
23 REMAINING PART OF THE TESTIMONY OF THAT SAME WITNESS.

24 IF YOU HAVE A GOOD AND SOUND
25 REASON, YOU MAY BELIEVE THE TESTIMONY OF A WITNESS IN

1 ITS ENTIRETY, OR REJECT THE TESTIMONY OF A WITNESS IN
2 ITS ENTIRETY.

3 YOU MAY CONSIDER WHETHER ANY
4 WITNESS HAS EXHIBITED TO YOU ANY INTEREST, ANY BIAS,
5 ANY MOTIVE OR PREJUDICE IN THIS CASE.

6 YOU MAY CONSIDER THE Demeanor OF A
7 WITNESS, THAT IS THE APPEARANCE AND MANNER OF THE
8 WITNESS FROM THE WITNESS STAND. YOU CAN BELIEVE AS
9 MUCH OR AS LITTLE OF EACH WITNESS'S TESTIMONY AS YOU
10 THINK IS PROPER. YOU MAY BELIEVE THE TESTIMONY OF A
11 SINGLE WITNESS AGAINST THAT OF MANY WITNESSES, OR JUST
12 THE OPPOSITE.

13 OF COURSE, YOU DO NOT DETERMINE
14 THE TRUTH MERELY BY COUNTING THE NUMBER OF WITNESSES
15 PRESENTED BY EACH SIDE. THROUGHOUT THIS PROCESS YOU
16 HAVE BUT ONE OBJECT, TO SEEK THE TRUTH REGARDLESS OF
17 ITS SOURCE.

18 THE RULES OF EVIDENCE ORDINARILY
19 DO NOT PERMIT WITNESSES TO TESTIFY TO OPINIONS OR
20 CONCLUSIONS. AN EXCEPTION TO THIS RULE EXISTS FOR
21 WITNESSES WE CALL EXPERT WITNESSES. A WITNESS WHO BY
22 EDUCATION AND EXPERIENCE HAS BECOME AN EXPERT IN SOME
23 ART, SCIENCE, PROFESSION OR CALLING MAY STATE AN
24 OPINION AS TO RELEVANT AND MATERIAL MATTERS IN WHICH
25 THE WITNESS CLAIMS TO BE AN EXPERT, AND MAY ALSO STATE

1 THE REASONS FOR THAT OPINION. YOU SHOULD CONSIDER ANY
2 EXPERT OPINION RECEIVED IN EVIDENCE IN THIS CASE LIKE
3 ANY OTHER EVIDENCE. GIVE IT THE WEIGHT YOU THINK IT
4 DESERVES. IF YOU DECIDE THAT THE OPINION OF AN EXPERT
5 WITNESS IS NOT BASED ON SUFFICIENT EDUCATION AND
6 EXPERIENCE, OR IF YOU CONCLUDE THAT THE REASONS GIVEN
7 IN SUPPORT OF THE OPINION ARE NOT FOUND, OR THAT THE
8 OPINION IS OUTWEIGHED BY OTHER EVIDENCE, YOU MAY
9 DISREGARD THE OPINION ENTIRELY. AN EXPERT WITNESS'S
10 TESTIMONY IS TO BE GIVEN NO GREATER WEIGHT THAN THAT
11 OF OTHER WITNESSES SIMPLY BECAUSE THE WITNESS IS AN
12 EXPERT. FURTHER, YOU ARE NOT REQUIRED TO ACCEPT AN
13 EXPERT'S OPINION EVEN THOUGH IT IS NOT CONTRADICTED.

14 I FURTHER CHARGE YOU THAT AN ISSUE
15 IN THIS CASE IS THE IDENTIFICATION OF THE DEFENDANT AS
16 THE PERSON WHO COMMITTED THE CRIME CHARGED. THE STATE
17 HAS THE BURDEN OF PROVING IDENTITY BEYOND A REASONABLE
18 DOUBT. YOU MUST BE SATISFIED BEYOND A REASONABLE DOUBT
19 OF THE ACCURACY OF THE IDENTIFICATION OF THE DEFENDANT
20 BEFORE YOU MAY CONVICT THE DEFENDANT. IDENTIFICATION
21 TESTIMONY IS AN EXPRESSION OF BELIEF, OR IMPRESSION BY
22 A WITNESS. YOU MUST DETERMINE THE ACCURACY OF THE
23 IDENTIFICATION OF THE DEFENDANT. YOU MUST CONSIDER THE
24 BELIEVABILITY OF EACH IDENTIFICATION WITNESS IN THE
25 SAME MANNER, IN THE SAME WAY AS ANY OTHER WITNESS. YOU

1 MAY CONSIDER WHETHER THE WITNESS HAD AN ADEQUATE
2 OPPORTUNITY TO OBSERVE THE OFFENDER AT THE TIME OF THE
3 OFFENSE. THIS WILL BE AFFECTED BY THINGS LIKE HOW
4 LONG OR SHORT A TIME WAS AVAILABLE, HOW FAR OR CLOSE
5 THE WITNESS WAS, THE LIGHTING CONDITIONS, AND WHETHER
6 THE WITNESS HAD THE CHANCE TO SEE OR KNOW THE PERSON
7 IN THE PAST. ONCE AGAIN I INSTRUCT YOU, THE BURDEN OF
8 PROOF ON THE STATE EXTENDS TO EVERY ELEMENT OF THE
9 CRIME CHARGED, AND THIS SPECIFICALLY INCLUDES THE
10 BURDEN OF PROVING BEYOND A REASONABLE DOUBT THE
11 IDENTITY OF THE DEFENDANT AS THE PERSON WHO COMMITTED
12 THE CRIME. IF AFTER EXAMINING THE TESTIMONY YOU HAVE A
13 REASONABLE DOUBT AS TO THE ACCURACY OF THE
14 IDENTIFICATION YOU MUST FIND THE DEFENDANT NOT GUILTY.

15 I FURTHER CHARGE YOU THAT A PERSON
16 WHO HAS A PAST CRIMINAL RECORD IS COMPETENT TO TESTIFY
17 DURING A TRIAL. A PAST RECORD DOES NOT AFFECT THE
18 ABILITY OF THAT WITNESS TO TESTIFY. THE PAST RECORD
19 MAY ONLY CONSIDERED BY YOU, IF AT ALL, IN DETERMINING
20 THE WITNESS'S BELIEVABILITY. REMEMBER, YOU ARE THE
21 SOLE JUDGES OF THE FACTS IN THIS CASE, AND OF THE
22 BELIEVABILITY OF ANY AND ALL OF THE WITNESSES.

23 I CHARGE YOU THAT THERE ARE TWO
24 TYPES OF EVIDENCE WHICH ARE GENERALLY PRESENTED DURING
25 A TRIAL, DIRECT EVIDENCE AND CIRCUMSTANTIAL EVIDENCE.

1 DIRECT EVIDENCE IS THE TESTIMONY OF A PERSON WHO
2 ASSERTS, OR CLAIMS TO HAVE ACTUAL KNOWLEDGE OF A FACT,
3 SUCH AS AN EYE WITNESSES. CIRCUMSTANTIAL EVIDENCE IS
4 PROOF OF A CHAIN OF FACTS AND CIRCUMSTANCES INDICATING
5 THE EXISTENCE OF A FACT. THE LAW MAKES ABSOLUTELY NO
6 DISTINCTION BETWEEN THE WEIGHT OR VALUE TO BE GIVEN TO
7 EITHER DIRECT OR CIRCUMSTANTIAL EVIDENCE, NOR IS A
8 GREATER DEGREE OF CERTAINTY REQUIRED OF CIRCUMSTANTIAL
9 EVIDENCE THAN OF DIRECT EVIDENCE. YOU SHOULD WEIGH
10 ALL OF THE EVIDENCE IN THE CASE. AFTER WEIGHING ALL OF
11 THE EVIDENCE IF YOU ARE NOT CONVINCED OF THE DEFENDANT
12 BEYOND A REASONABLE DOUBT YOU MUST FIND THE DEFENDANT
13 NOT GUILTY. CONVERSELY, IF YOU ARE CONVINCED OF THE
14 DEFENDANT BEYOND A REASONABLE DOUBT, THEN YOU MUST
15 FIND HIM GUILTY.

16 I INSTRUCT YOU THAT THE FACT THAT
17 THE DEFENDANT WAS ARRESTED, CHARGED AND INDICTED IN
18 THIS CASE IS NOT EVIDENCE IN THIS CASE, AND CANNOT BE
19 CONSIDERED BY YOU AS EVIDENCE OF GUILT IN THIS CASE,
20 NOR DOES IT CREATE ANY PRESUMPTION OR INFERENCE OF
21 GUILT. THIS DOCUMENTATION IS SIMPLY THE FORMAL
22 WRITTEN INSTRUCTION WHICH CONTAINS THE CHARGE OR
23 CHARGES MADE AGAINST A DEFENDANT. IT SERVES AS THE
24 FORMAL DOCUMENT BY WHICH THIS CASE IS PROCESSED OR
25 BROUGHT INTO THIS COURT.

1 THE DEFENDANT HAS PLED NOT GUILTY
2 TO THE INDICTMENT, AND THAT PLEA CASTS THE BURDEN ON
3 THE STATE TO PROVE THE DEFENDANT GUILTY, BECAUSE A
4 PERSON CHARGED WITH COMMITTING A CRIMINAL OFFENSE IN
5 SOUTH CAROLINA IS NEVER REQUIRED TO PROVE HIMSELF
6 INNOCENT.

7 I CHARGE YOU, MR. FOREMAN, AND
8 LADIES AND GENTLEMEN, THAT IT IS A CARDINAL AND
9 IMPORTANT RULE OF THE LAW OF EVIDENCE THAT A DEFENDANT
10 IN A CRIMINAL TRIAL, NO MATTER WHAT THE SERIOUSNESS OF
11 THE CHARGE MADE AGAINST HIM MAY BE, WILL ALWAYS BE
12 PRESUMED TO BE INNOCENT OF THE CRIME FOR WHICH HE IS
13 INDICTED UNLESS HIS GUILT HAS BEEN PROVEN BY EVIDENCE
14 SATISFYING YOU OF THAT GUILT BEYOND A REASONABLE
15 DOUBT. THIS PRESUMPTION OF INNOCENCE DOES NOT CEASE
16 WHEN YOU RETIRE TO DELIBERATE, BUT IT ACCOMPANIES THE
17 DEFENDANT FROM THE TIME OF HIS APPEARANCE, THROUGHOUT
18 THE TRIAL, UNTIL YOU REACH A VERDICT OF GUILTY BASED
19 UPON EVIDENCE SATISFYING YOU OF THAT GUILT BEYOND A
20 REASONABLE DOUBT. OUR SUPREME COURT HAS SAID THAT THE
21 PRESUMPTION OF INNOCENCE IS LIKE A ROBE OF
22 RIGHTEOUSNESS PLACED ABOUT THE SHOULDERS OF THE
23 DEFENDANT, AND IT REMAINS WITH HIM AND ASSIGNS HIM TO
24 THAT CLASS, THE INNOCENT, UNTIL THAT PRESUMPTIVE ROBE
25 OF RIGHTEOUSNESS HAS BEEN STRIPPED FROM HIS PERSON BY

1 EVIDENCE SATISFYING YOU OF THAT GUILT BEYOND A
2 REASONABLE DOUBT.

3 MR. FOREMAN, AND LADIES AND
4 GENTLEMEN, THE PRESUMPTION OF INNOCENCE IS NOT MERE
5 LEGAL THEORY, IT IS NOT JUST A LEGAL PHRASE, IT IS A
6 SUBSTANTIAL RIGHT TO WHICH EVERY DEFENDANT IS ENTITLED
7 UNLESS YOU, THE JURY, ARE SATISFIED FROM THE EVIDENCE
8 OF HIS GUILT BEYOND A REASONABLE DOUBT.

9 YOU MAY ASK, WHAT IS A REASONABLE
10 DOUBT IN THE LAW? THE STATE HAS THE BURDEN OF PROVING
11 THE DEFENDANT GUILTY BEYOND A REASONABLE DOUBT. SOME
12 OF YOU MAY HAVE SERVED AS JURORS IN CIVIL CASES WHERE
13 YOU WERE TOLD THAT IT IS ONLY NECESSARY TO PROVE THAT
14 A FACT IS MORE LIKELY TRUE THAN NOT TRUE. IN CRIMINAL
15 CASES THE STATE'S PROOF MUST BE MORE POWERFUL THAN
16 THAT. IT MUST BE BEYOND A REASONABLE DOUBT.

17 PROOF BEYOND A REASONABLE DOUBT IS
18 PROOF THAT LEAVES YOU FIRMLY CONVINCED OF THE
19 DEFENDANT'S GUILT. THERE ARE VERY FEW THINGS IN THIS
20 WORLD THAT WE KNOW WITH ABSOLUTE CERTAINTY, AND IN
21 CRIMINAL CASES THE LAW DOES NOT REQUIRE PROOF THAT
22 OVERCOMES EVERY POSSIBLE DOUBT. IF, BASED ON YOUR
23 CONSIDER OF THE EVIDENCE, YOU ARE FIRMLY CONVINCED
24 THAT THE DEFENDANT IS GUILTY OF THE CRIME CHARGED YOU
25 MUST FIND HIM GUILTY. IF, ON THE OTHER HAND, YOU

1 THINK THERE IS A REAL POSSIBILITY THAT HE IS NOT
2 GUILTY, YOU MUST GIVE HIM THE BENEFIT OF THE DOUBT AND
3 FIND HIM NOT GUILTY.

4 THE DEFENDANT IS CHARGED WITH
5 MURDER. THE STATE MUST PROVE BEYOND A REASONABLE
6 DOUBT THAT THE DEFENDANT KILLED ANOTHER PERSON WITH
7 MALICE AFORETHOUGHT.

8 MALICE IS HATRED, ILL WILL, OR
9 HOSTILITY TOWARDS ANOTHER PERSON. IT IS THE
10 INTENTIONAL DOING OF A WRONGFUL ACT WITHOUT JUST CAUSE
11 OR EXCUSE, AND WITH AN INTENT TO INFLICT AN INJURY, OR
12 UNDER CIRCUMSTANCES THAT THE LAW WILL INFER AN EVIL
13 INTENT.

14 MALICE AFORETHOUGHT DOES NOT
15 REQUIRE THAT MALICE EXIST FOR ANY PARTICULAR TIME
16 BEFORE THE ACT IS COMMITTED, BUT MALICE MUST EXIST IN
17 THE MIND OF THE DEFENDANT JUST BEFORE AND AT THE TIME
18 THE ACT IS COMMITTED. THEREFORE, THERE MUST BE A
19 COMBINATION OF THE PREVIOUS EVIL INTENT AND THE ACT.

20 MALICE AFORETHOUGHT MAY BE
21 EXPRESSED OR INFERRED. THESE TERMS, EXPRESSED AND
22 INFERRED, DO NOT MEAN DIFFERENT TYPES OF MALICE BUT
23 MERELY THE MANNER IN WHICH MALICE MAY BE SHOWN TO
24 EXIST, THAT IS EITHER BY DIRECT EVIDENCE OR BY
25 INFERENCE FROM THE FACTS AND CIRCUMSTANCES WHICH ARE

1 PROVED.

2 EXPRESSED MALICE IS SHOWN WHEN A
3 PERSON SPEAKS WORDS WHICH EXPRESS HATRED OR ILL WILL
4 FOR ANOTHER, OR WHEN THE PERSON PREPARED BEFOREHAND TO
5 DO THE ACT WHICH WAS LATER ACCOMPLISHED. FOR EXAMPLE,
6 LYING IN WAIT FOR A PERSON, OR ANY OTHER ACTS OF
7 PREPARATION GOING TO SHOW THAT THE DEED WAS WITHIN
8 THE DEFENDANT'S MIND WOULD BE EXPRESSED MALICE.

9 MALICE MAY BE INFERRED FROM
10 CONDUCT SHOWING A TOTAL DISREGARD FOR HUMAN LIFE.
11 INFERRED MALICE MAY ALSO ARISE WHEN THE DEED IS DONE
12 WITH A DEADLY WEAPON. A DEADLY WEAPON IS ANY ARTICLE,
13 INSTRUMENT OR SUBSTANCE WHICH IS LIKELY TO CAUSE DEATH
14 OR GREAT BODILY HARM. WHETHER AN INSTRUMENT HAS BEEN
15 USED AS A DEADLY WEAPON DEPENDS ON THE FACTS AND
16 CIRCUMSTANCES OF EACH CASE. THE FOLLOWING ARE
17 EXAMPLES OF INSTRUMENTS WHICH MAY BE DEADLY WEAPONS:
18 A PISTOL, A SHOT GUN, A RIFLE, A DIRK, A DAGGER, A
19 KNIFE, A SLING SHOT, METAL KNUCKLES, A RAZOR,
20 GASOLINE, A FIRE BOMB OR MOLITOFF COCKTAIL, AND
21 LIGHTER FLUID. A GUN MAY BE A DEADLY WEAPON EVEN IF
22 IT IS NOT OPERATING.

23 THE DEFENDANT HAS RAISED THE
24 DEFENSE OF ALIBI. IN ORDER TO ESTABLISH AN ALIBI IT
25 MUST BE SHOWN THAT THE DEFENDANT WAS AT ANOTHER

1 SPECIFIED PLACE AT THE TIME THE CRIME WAS COMMITTED,
2 AND THAT IT WAS, THEREFORE, IMPOSSIBLE FOR THE
3 DEFENDANT TO HAVE BEEN AT THE SCENE OF THE CRIME.
4 MERE DENIAL OF PRESENCE AT THE SCENE OF A CRIME DOES
5 NOT CONSTITUTE AN ALIBI. THERE IS NO BURDEN ON THE
6 DEFENDANT TO PROVE AN ALIBI, THE BURDEN IS ON THE
7 STATE TO PROVE BEYOND A REASONABLE DOUBT THAT THE
8 DEFENDANT WAS ACTUALLY PRESENT AT THE SCENE OF THE
9 CRIME, ACTUALLY PARTICIPATED IN IT, AND WAS NOT
10 SOMEWHERE ELSE. IN OTHER WORDS, THE STATE HAS THE
11 BURDEN OF DISPROVING THE DEFENDANT'S ALIBI DEFENSE.

12 MR. FOREMAN, AND LADIES AND
13 GENTLEMEN, THERE ARE TWO POSSIBLE VERDICTS WHICH YOU
14 MAY FIND IN THIS CASE. THERE IS NO SIGNIFICANCE
15 WHATSOEVER TO THE ORDER IN WHICH I LIST THEM, IT IS
16 SIMPLY THAT ONE MUST BE STATED FIRST. AND I WILL READ
17 THAT TO YOU AND IT WILL GO INTO THE JURY ROOM WITH
18 YOU.

19 LADIES AND GENTLEMEN, YOUR VERDICT
20 MUST BE A UNANIMOUS ONE. AND THE OPTIONS FOR THE
21 VERDICT ARE AS FOLLOWS: AS TO INDICTMENT NUMBER 2004-
22 GS-18-1100, WE, THE JURY, BY UNANIMOUS CONSENT, FIND
23 THE DEFENDANT GUILTY OF MURDER, OR NOT GUILTY OF
24 MURDER. AGAIN, THERE IS NO SIGNIFICANCE WHATSOEVER TO
25 THE ORDER IN WHICH I'VE STATED THESE POSSIBLE

1 VERDICTS, AND AGAIN, YOUR VERDICT MUST BE A UNANIMOUS
2 ONE.

3 MR. FOREMAN, WHEN THE JURY AGREES
4 ON THE VERDICT YOU WILL WRITE THE FORM OF THE VERDICT,
5 AND YOU WILL ALSO SIGN THE INDICTMENT, BUT WE WILL
6 SHOW YOU HOW TO DO THAT AT THE CONCLUSION OF THE
7 JURY'S DELIBERATIONS. IT WILL ALSO BE YOUR
8 RESPONSIBILITY TO KNOCK ON THE DOOR AND ADVISE THE
9 COURT WHEN THE JURY HAS COMPLETED ITS DELIBERATIONS,
10 AND AT THAT TIME WE WILL RECEIVE YOU BACK INTO THE
11 COURTROOM.

12 ALSO, IF THE JURY HAS ANY
13 QUESTIONS, IT WILL BE YOUR RESPONSIBILITY TO WRITE
14 THOSE QUESTIONS OUT AND PRESENT THEM TO THE BAILIFF SO
15 THAT THEY CAN BE PRESENTED TO THE COURT. I WILL TELL
16 YOU ALL AT THE FRONT END OF THIS PROCESS, IF YOU HAVE
17 ANY QUESTIONS, IF WE DO NOT ANSWER IMMEDIATELY PLEASE
18 DO NOT THINK WE'VE IGNORED YOUR QUESTION, THERE'S A
19 PROCEDURE THAT WE MUST FOLLOW IN THE ANSWERING OF
20 QUESTIONS, SO IF THERE IS A DELAY IT SIMPLY MEANS WE
21 ARE FOLLOWING THAT PROCEDURE.

22 I AM GOING TO ASK THAT YOU RETURN
23 TO YOUR JURY ROOM, BUT I'M INSTRUCTING YOU NOT TO
24 BEGIN YOUR DELIBERATIONS BECAUSE THERE ARE MATTERS OF
25 LAW THAT I HAVE TO TAKE UP WITH THE ATTORNEYS WHICH

1 MAY REQUIRE ADDITIONAL INSTRUCTION, OR MAY REQUIRE ME
2 TO CLARIFY AN INSTRUCTION. HOWEVER, IF THERE IS NO
3 FURTHER INSTRUCTION WE WILL SEND IN THE EVIDENCE, WE
4 WILL SEND BACK YOUR NOTE PADS, AND WE WILL DISMISS THE
5 ALTERNATES AT THAT TIME, AND THEN YOU WILL BE ABLE TO
6 BEGIN YOUR DELIBERATIONS.

7 THANK YOU, YOU MAY BE EXCUSED TO
8 YOUR JURY ROOM. AND LEAVE YOUR PADS IN YOUR SEATS FOR
9 ME.

10 (Whereupon, the jury
11 retires to the jury room.
12 and the following
13 takes place out of the
14 presence of the jury.)

15 THE COURT: ARE THERE ANY
16 EXCEPTIONS FROM THE STATE?

17 SOLICITOR BELL: NONE FROM THE
18 STATE, YOUR HONOR.

19 THE COURT: FROM THE DEFENSE?

20 MR. KEARSE: YOUR HONOR, I WOULD
21 JUST RENEW MY EXCEPTION AS TO THE CHARGE ON
22 CIRCUMSTANTIAL EVIDENCE.

23 THE COURT: OKAY. IT IS NOTED FOR
24 THE RECORD.

25 ALRIGHT, HAVE Y'ALL GONE THROUGH

1 THE EVIDENCE TO MAKE SURE IT IS IN PLACE AND IN ORDER?

2 SOLICITOR BELL: YES, YOUR HONOR.

3 THE COURT: ALRIGHT, TAKE IN THE
4 INDICTMENT AND EXHIBITS TO THE JURY, AND TELL THEM
5 THEY MAY BEGIN THEIR DELIBERATIONS. AND SEND OUT THE
6 ALTERNATES.

7 (Whereupon, the jury begins
8 deliberations at 5:27 p.m.
9 and the alternate jurors
10 return to the jury room.)

11 THE COURT: ALRIGHT, GENTLEMEN, IT
12 LOOKS LIKE WE WILL NOT NEED YOU SO WE CAN EXCUSE YOU
13 AS JURORS AT THIS TIME. I KNOW THE STATE, AS WELL AS
14 MR. KEARSE AND HIS CLIENT APPRECIATE HOW DILIGENT YOU
15 ALL HAVE BEEN. YOU ARE WELCOME TO STAY WITH US AND
16 SEE HOW JURY DELIBERATIONS CONCLUDE, OR YOU ARE ALSO
17 WELCOMED TO LEAVE AND GO HOME IF YOU'D LIKE.

18 YOU ARE WELCOME TO DISCUSS THIS
19 CASE IF YOU WOULD LIKE, BUT I WOULD ASK THAT YOU DO
20 THAT AFTER THE JURY HAS CONCLUDED ITS DELIBERATIONS.
21 BY THE SAME TOKEN, IF YOU DON'T WANT TO TALK ABOUT IT,
22 YOU DON'T HAVE TO. AND IF SOMEONE SHOULD PERSIST IN
23 TRYING TO TALK TO YOU, PLEASE TRY TO GET THEIR NAME
24 FOR US AND REPORT THAT TO THE CLERK SO THAT I CAN TAKE
25 APPROPRIATE ACTION TO MAKE SURE THAT YOUR PRIVACY IS

1 PROTECTED.

2 I ASSUME WE WILL MAIL YOUR CHECKS
3 AND YOUR WORK EXCUSES TO YOU UNLESS YOU NEED THEM NOW.
4 WE CAN GET YOU WORK EXCUSE, I CAN'T GET YOU A CHECK,
5 BUT I CAN GET YOU A WORK EXCUSE. BUT THOSE WILL BE
6 MAILED OUT TO YOU.

7 AGAIN, IF YOU'D LIKE TO STAY WITH
8 US, YOU'RE WELCOME TO, BUT IF YOU'D LIKE TO GO HOME
9 YOU'RE WELCOME TO. AND I WOULD NOT BEGRUDGE YOU A
10 MOMENT IF YOU'D LIKE TO GO HOME AND BE WITH YOUR
11 FAMILIES. WE APPRECIATE YOU. YOU'RE EXCUSED. THANK
12 YOU.

13 WE'LL BE AT EASE IN THIS CASE
14 UNTIL WE HEAR FROM THE JURY.

15 (Recess)

16 (Whereupon, a note is sent
17 in from the jury at 7:55 P.M.)

18 THE COURT: WE HAVE A NOTE FROM
19 THE JURY, BUT I DON'T UNDERSTAND EXACTLY WHAT THEY
20 WANT. PLEASE BRING THE FOREMAN IN.

21 (Whereupon, Jury Foreman enters
22 the courtroom.)

23 THE COURT: OKAY. WE HAVE A NOTE
24 FROM THE JURY, IT INDICATES, "WE WOULD LIKE TO SEE
25 TRAVIS NORTH'S TESTIMONY, ALL THREE." AND SIR, I WAS

1 A LITTLE CONFUSED AS TO WHAT YOU MEANT, AND IF COULD
2 TELL US EXACTLY WHAT THE MEANT BY THIS NOTE, WHEN IT
3 SAYS, "ALL THREE." DOES THAT MEAN YOU WANT TO HEAR
4 EVERY HE TESTIFIED, OR YOU WANT TO HEAR MORE THAN
5 TRAVIS NORTH'S TESTIMONY?

6 JURY FOREMAN: NO, BECAUSE THEY
7 SAID HE GAVE MORE THAN ONE TESTIMONY IN HIS STATEMENT.
8 WE JUST WANT TO SEE THE STATEMENT THAT HE GAVE.

9 THE COURT: OH, I SEE. THAT'S A
10 WHOLE DIFFERENT QUESTION. OKAY. I'LL BE ABLE TO
11 RESPOND TO THAT MOMENTARILY. YOU CAN GO ON BACK IN
12 THE JURY ROOM.

13 JURY FOREMAN: OKAY.

14 THE COURT: THANK YOU.

15 (Whereupon, the jury foreman
16 retires to the jury room.)

17 THE COURT: OKAY, THAT'S A WHOLE
18 DIFFERENT ISSUE. WHAT THEY'RE INDICATING THEY WANT TO
19 SEE IS THE STATEMENTS THAT HE GAVE TO THE POLICE,
20 WHICH OF COURSE, ARE INADMISSIBLE. AND NORMALLY, I
21 HAVE A TYPEWRITTEN RESPONSE THAT SAYS SOMETHING LIKE,
22 AS THE JUDGE OF THE LAW -- OR I THINK WHAT IT SAYS IS,
23 THERE ARE CERTAIN RULES THAT WE OBEY IN THE
24 PRESENTATION OF EVIDENCE. ALL OF THE EVIDENCE THAT
25 YOU ARE ALLOWED TO SEE IS IN THE JURY ROOM WITH YOU,

1 YOU CANNOT, YOU SHOULD NOT DRAW ANY INFERENCES FROM
2 THIS INSTRUCTION OR ANY INFERENCES FROM THE FACT THAT
3 YOU ARE NOT ABLE TO VIEW THIS EVIDENCE, AND YOU CAN
4 ONLY BASE YOUR DECISION ON WHAT IS BEFORE YOU, IN
5 TERMS OF THE EVIDENCE. IF YOU NEED TO REHEAR ANY
6 TESTIMONY WE WILL BE GLAD TO REPLAY IT FOR YOU.

7 IS THERE ANY EXCEPTION TO ME
8 BRINGING THEM OUT AND INSTRUCTING THEM? BECAUSE I
9 DIDN'T BRING THOSE WITH ME I LEFT THEM IN CHARLESTON
10 NEAT AND TYPED UP. I LEFT IT. OR I CAN SIT AT THIS
11 COMPUTER AND TYPE IT OUT AND Y'ALL BOTH CAN LOOK AT
12 IT, AND WE CAN SEND THAT BACK WITH THE NOTE.

13 SOLICITOR BELL: I THINK IT WOULD
14 JUST BE EASIER TO TELL THEM.

15 MR. KEARSE: I DON'T TAKE
16 EXCEPTION TO THAT, YOUR HONOR, I THINK AT THIS POINT
17 YOU CAN JUST TELL THEM.

18 THE COURT: THAT WHAT THEY HAVE IS
19 WHAT THEY'RE ABLE TO SEE. THEY'RE NOT TO DRAW ANY
20 INFERENCES FROM THIS ADDITIONAL INSTRUCTION OR THIS
21 RESPONSE.

22 MR. KEARSE: RIGHT, AND THAT IF
23 THEY NEED TO REHEAR TESTIMONY, AS LONG AS THEY'RE
24 INSTRUCTED AS TO THAT.

25 THE COURT: YEAH, I'M GOING TO

1 INSTRUCT THAT.

2 MR. KEARSE: I HATE TO HAVE TO
3 HAVE TO ---

4 THE COURT: I KNOW, WELL, IT
5 DOESN'T MATTER TO ME, I MEAN, THAT'S WHY I'M HERE. IF
6 THEY NEED TO REHEAR TESTIMONY, THOUGH, I'M GOING TO
7 BRING THEM BACK IN THE MORNING TO DO IT, BECAUSE EACH
8 SEGMENT OF THAT TESTIMONY IS FAIRLY LENGTHY, AND I
9 JUST THINK IT WOULD BE ASKING A LOT OF THEM AT THIS
10 POINT IN TERMS OF THEIR MENTAL ACUITY, TO BE ABLE TO
11 EVEN DIGEST IT. SO, I THINK IT WOULD BE BETTER FOR
12 THEM TO COME BACK IN THE MORNING LISTEN TO IT IF
13 THAT'S WHAT THEY WANT. BUT I'M GOING TO LET THEM KNOW
14 THAT, AND THEN I'LL TELL THEM TO LET THE FOREPERSON
15 KNOW IF THAT'S WHAT THEY WANT TO DO, AND THEN WE'LL BE
16 GLAD TO ACCOMMODATE THEM. BUT I'LL TELL THEM THAT IF
17 THEY WANT TO LISTEN TO TESTIMONY WE'LL HAVE TO DO IT
18 IN THE MORNING.

19 MR. KEARSE: THAT'S FINE.

20 THE COURT: IS THAT ACCEPTABLE TO
21 EVERYONE?

22 SOLICITOR BELL: THAT'S ACCEPTABLE
23 TO ME, YOUR HONOR.

24 THE COURT: IF YOU COULD BRING IN
25 THE JURY FOR ME, THANK YOU, SIR.

1 (Whereupon, the following
2 takes place in the
3 presence of the jury.)

4 THE COURT: LADIES AND GENTLEMEN,
5 I'VE RECEIVED YOUR NOTE, WHICH IS, "WE WOULD LIKE TO
6 SEE TRAVIS NORTH TESTIMONY, ALL THREE." SIGNED BY THE
7 FOREPERSON.

8 I HAD HIM COME OUT AND EXPLAIN TO
9 ME WHAT YOU ALL MEANT BY THE NOTE. HE INDICATED WHAT
10 YOU WANTED TO SEE WERE THE THREE SEPARATE STATEMENTS
11 REFERRED TO IN MR. NORTH'S TESTIMONY.

12 I WOULD GIVE YOU THE FOLLOWING
13 ADDITIONAL INSTRUCTION AND RESPONSE TO THAT REQUEST.

14 ADDITIONAL INSTRUCTIONS BY THE COURT

15 THERE ARE CERTAIN RULES OF
16 EVIDENCE THAT WE MUST OBEY IN THE PRESENTATION OF
17 EVIDENCE, AND IT INSURES THAT YOU HAVE THE MOST
18 RELIABLE EVIDENCE AVAILABLE. AS A RESULT OF THOSE
19 RULES, YOU HAVE ALL OF THE EVIDENCE WITH YOU IN THE
20 JURY ROOM THAT UNDER THE RULES YOU ARE ABLE TO REVIEW.

21 YOU ARE NOT TO DRAW ANY INFERENCE
22 FROM THIS ADDITIONAL INSTRUCTION. HOWEVER, IF YOU
23 WOULD LIKE TO REHEAR ANY TESTIMONY WE WILL BE GLAD TO
24 REPLAY IT FOR YOU, ALL YOU HAVE TO DO IS LET US KNOW
25 THAT. YOU CAN SPEAK WITH THE FOREPERSON AND LET HIM

1 KNOW IF THAT IS YOUR DESIRE. HOWEVER, I WILL ADVISE
2 YOU THAT IF YOU WOULD LIKE TO REHEAR HIS TESTIMONY WE
3 WILL PROBABLY DO THAT IN THE MORNING AND START FRESH
4 SO THAT YOU ALL CAN GET SOME REST. AND THAT SHOULD IN
5 NO WAY AFFECT YOUR DECISION AS TO WHETHER OR WHETHER
6 NOT -- WHETHER YOU WANT TO REHEAR TESTIMONY OR DO NOT
7 WANT TO REHEAR TESTIMONY. I JUST TELL YOU THAT SO
8 THAT YOU WILL NOT THINK THAT WE'RE GOING TO HOLD YOU
9 HOSTAGE HERE ALL NIGHT. SO, I JUST WANTED YOU TO KNOW
10 THAT.

11 WITH THAT ADDITIONAL INSTRUCTION
12 YOU ARE WELCOME TO RETURN TO YOUR JURY ROOM, AND IF
13 YOU DESIRE TO REHEAR ANY TESTIMONY PLEASE LET US KNOW.
14 (Whereupon, the jury
15 retires to the jury room
16 to continue deliberations.)

17 THE COURT: ARE THERE ANY
18 EXCEPTIONS TO THE COURT'S ADDITIONAL CHARGE?

19 SOLICITOR BELL: NONE FROM THE
20 STATE.

21 MR. KEARSE: NONE FROM THE
22 DEFENSE.

23 THE COURT: AND WE'LL HAVE THE
24 NOTE MARKED AS A COURT'S EXHIBIT.

25 COURT REPORTER: AND IT WILL BE

1 COURT'S EIGHT.

2 (Court's Exhibit Eight
3 marked and filed.)

4 THE COURT: AND WE'LL SEE WHAT
5 THEIR RESPONSE IS, AND WE'LL GO FROM THERE. OKAY, IF
6 YOU'D GET THE FOREMAN FOR ME, PLEASE.

7 (Whereupon, the jury foreman
8 enters the courtroom at 9:22)

9 THE COURT: WE BROUGHT YOU OUT
10 BECAUSE I WANTED TO -- YOU CAN INQUIRE OF THE JURY FOR
11 US AS TO WHETHER THEY WANT TO CONTINUE TO DELIBERATE
12 TONIGHT OR IF THEY WANT TO CONCLUDE FOR THIS EVENING
13 AND CONTINUE DELIBERATIONS IN THE MORNING.

14 JURY FOREMAN: OKAY.

15 THE COURT: SO, IF YOU WOULD
16 INQUIRE OF THEM FOR ME, AND THEN WHEN YOU'RE DONE
17 TALKING TO THEM ABOUT IT, KNOCK ON THE DOOR SO THAT
18 THE BAILIFF CAN BRING YOU BACK OUT AND YOU CAN LET ME
19 KNOW WHAT YOU WANT TO DO.

20 JURY FOREMAN: YES, MA'AM.

21 THE COURT: OKAY.

22 (Whereupon, the jury foreman
23 retires to the jury room.)

24 THE COURT: WHEN DID I ASK HIM,
25 ABOUT NINE:FIFTEEN, NINE:TWENTY?

1 SOLICITOR BELL: IT'S NINE FORTY-
2 THREE NOW, JUDGE.

3 COURT REPORTER: NINE:TWENTY-TWO.

4 THE COURT: NINE:TWENTY-TWO. I
5 THINK THAT'S -- AND IT'S NINE:FORTY-THREE NOW. THEY
6 SHOULD HAVE HAD SUFFICIENT TIME TO DISCUSS IT.
7 (Whereupon, the jury foreman
8 enters the courtroom at 9:45 P.M.)

9 THE COURT: SIR, HOW ARE YOU?
10 HAVE YOU ALL DECIDED WHETHER YOU WANT TO CONTINUE TO
11 DELIBERATE OR WHETHER YOU'D LIKE TO GO HOME?

12 JURY FOREMAN: WE HAVE ONE JUROR
13 TO DECIDE, HE WANTS TO TAKE A LITTLE MORE TIME.

14 THE COURT: OKAY. SO Y'ALL ARE
15 GOING TO ACCOMMODATE HIM?

16 JURY FOREMAN: YES, MA'AM.

17 THE COURT: NOT A PROBLEM.

18 JURY FOREMAN: OKAY.

19 THE COURT: JUST LET US KNOW.

20 JURY FOREMAN: THANK YO.

21 THE COURT: OKAY.

22 (Whereupon, the jury foreman
23 retires to the jury room, and
24 thereafter returns to the
25 courtroom at 10:10 P.M.)

1 THE COURT: YES, SIR?

2 JURY FOREMAN: THE JURY FEELS LIKE
3 THEY NEED MORE TIME, AND THEY'RE WILLING TO COME BACK
4 TOMORROW.

5 THE COURT: OKAY, THAT'S WHAT
6 WE'LL DO THEN.

7 JURY FOREMAN: OKAY, BUT ---

8 THE COURT: BUT, WHAT WERE YOU
9 GOING TO SAY?

10 JURY FOREMAN: THEY STILL FEEL
11 THAT THEY WANT TO SEE THAT GUY'S -- THE STATEMENT FROM
12 TRAVIS.

13 THE COURT: THEY MEAN THE
14 STATEMENT THAT WAS USED WHEN HE WAS BEING CROSS-
15 EXAMINED?

16 JURY FOREMAN: YES, MA'AM.

17 THE COURT: OKAY. I'LL EXPLAIN IN
18 THE MORNING THAT THEY WILL NOT BE ABLE TO SEE THAT.

19 JURY FOREMAN: OKAY.

20 THE COURT: THAT'S NOT IN
21 EVIDENCE.

22 JURY FOREMAN: OKAY.

23 THE COURT: ALRIGHT, WE WILL --
24 YOU CAN HAVE A SEAT, AND WE'LL BRING EVERYONE ELSE
25 OUT, AND THEN I'LL DISMISS Y'ALL FOR THE EVENING. BUT

1 THEY CAN RE-LISTEN TO THE TESTIMONY IF THEY WOULD
2 LIKE, AND WE CAN REPLAY THAT FOR YOU ALL. IF Y'ALL
3 WANT TO RE-LISTEN TO HIS TESTIMONY WE CAN REPLAY THAT
4 FOR YOU.

5 JURY FOREMAN: WELL, IT WASN'T A
6 PART OF HIS TESTIMONY, FROM THE NOTES THAT WERE TAKEN.

7 THE COURT: THAT WAS -- IF IT'S
8 ANYTHING THAT'S INCLUDED IN HIS TESTIMONY, WE CAN
9 REPLAY HIS ENTIRE TESTIMONY FOR YOU.

10 JURY FOREMAN: IT HAS TO BE PLAYED
11 IN THE COURTROOM?

12 THE COURT: YES, SIR.

13 JURY FOREMAN: OKAY.

14 THE COURT: BUT WE CAN REPLAY THAT
15 FOR YOU IF YOU'D LIKE. AND YOU ALL CAN DISCUSS THAT
16 IN THE MORNING IF YOU WANT TO AND LET US KNOW IF YOU
17 WANT TO RE-LISTEN TO IT.

18 JURY FOREMAN: OKAY.

19 (Whereupon, the jury
20 enters the courtroom.)

21 THE COURT: MR. FOREMAN, AND
22 LADIES AND GENTLEMEN, I'VE BEEN ADVISED THAT YOU ALL
23 WOULD LIKE TO GO ON HOME FOR THE EVENING AND RESUME
24 YOUR DELIBERATIONS IN THE MORNING. I WILL ACCOMMODATE
25 YOU AND ALLOW THAT.

1 DURING THIS BREAK YOU ARE STRICTLY
2 INSTRUCTED THAT YOU ARE NOT TO HAVE ANY DISCUSSION
3 ABOUT THIS CASE WITH ANYONE. PLEASE DO NOT READ, WATCH
4 OR LISTEN TO ANY MEDIA ACCOUNTS ABOUT THE CASE. IT IS
5 EVEN MORE VITAL THAT YOU ABIDE BY THOSE INSTRUCTIONS,
6 BECAUSE YOU ARE STILL DELIBERATING, AND IT IS
7 ESSENTIAL THAT THE INTEGRITY OF THAT DELIBERATION
8 PROCESS BE MAINTAINED AND PROTECTED.

9 WHEN YOU RETURN TO THE COURT HOUSE
10 IN THE MORNING PLEASE RETURN DIRECTLY TO YOUR JURY
11 ROOM, AND PLEASE DON'T HAVE ANY CONTACT WITH ANYONE IN
12 OR ABOUT THE COURT HOUSE. AGAIN, IT IS EVEN MORE VITAL
13 THAT YOU FOLLOW THAT INSTRUCTION SINCE YOU HAVE BEGUN
14 YOUR DELIBERATIONS. I WOULD HATE FOR SOMEONE OBSERVING
15 A CONVERSATION FROM A DISTANCE TO MISCONSTRUE IT AND
16 THINK THAT SOMETHING ELSE IS BEING SAID THAT HAS NOT
17 BEEN SAID.

18 YOU ALL WILL RESUME YOUR
19 DELIBERATIONS AT NINE:THIRTY, AND AGAIN, WHEN EVERYONE
20 HAS ARRIVED THE BAILIFF WILL ALLOW YOU THEN TO BEGIN
21 YOUR DELIBERATIONS.

22 I HOPE Y'ALL HAVE A GOOD EVENING.
23 IF ANYONE FEELS THAT THEY NEED TO BE ESCORTED TO THEIR
24 CAR, PLEASE LET US KNOW AND WE WILL MAKE SURE WE HAVE
25 A DEPUTY DO THAT.

1 YOU ARE EXCUSED. THANK YOU.

2 (Whereupon, the jury leaves
3 the courtroom for the day.)

4 THE COURT: ARE THERE ANY
5 EXCEPTIONS TO THE ADDITIONAL INSTRUCTION THAT I GAVE
6 THE FOREPERSON?

7 SOLICITOR BELL: NONE FROM THE
8 STATE.

9 MR. KEARSE: NONE FROM THE
10 DEFENSE, YOUR HONOR.

11 THE COURT: OKAY, WHAT WE WILL DO
12 IS, WE WILL -- THE JURY WILL RESUME THEIR
13 DELIBERATIONS AT NINE:THIRTY, AND UNLESS YOU ALL HAVE
14 SOMETHING ELSE WE NEED TO TAKE UP WE WILL BE IN
15 RECESS.

16 MR. KEARSE: YOUR HONOR, I'D JUST
17 ASK THAT, BASED ON SOME OF THE FOREMAN'S STATEMENTS,
18 THAT BEFORE THEY DELIBERATE, IF YOU CAN TELL THEM
19 ABOUT, THEY CAN HEAR THE TESTIMONY IF THEY'D LIKE TO.

20 THE COURT: ACTUALLY, WHAT I'M
21 GOING TO DO IS, I'M GOING TO HAVE MY SECRETARY SEND ME
22 THAT FULL WRITTEN RESPONSE THAT I GENERALLY USE, AND I
23 HAVE TWO OR THREE OF THEM, AND I WILL LET YOU ALL
24 PICK, AND I WILL ATTACH THAT TO THEIR NOTE, THEIR
25 ORIGINAL NOTE AND SEND THAT BACK IN SO THAT THEY ARE

1 REALLY CLEAR AS TO WHAT I'M SAYING. AND THAT'S WHY I
2 REINFORCED TO HIM AGAIN THAT IF THERE'S ANY TESTIMONY
3 THEY WANT TO REHEAR, TO LET ME KNOW IN THE MORNING.
4 AND HE ASKED IF THEY WOULD HAVE TO HEAR IT HERE IN THE
5 COURTROOM AND I INDICATED TO HIM THAT THEY WOULD HAVE
6 TO.

7 OKAY.

8 MR. KEARSE: ALRIGHT.

9 SOLICITOR BELL: OKAY.

10 THE COURT: ALRIGHT, GUYS, SEE YOU
11 ALL IN THE MORNING.

12 SOLICITOR BELL: THANK YOU.

13 (Recess for the day.)

14 DATE:

15 NOVEMBER 4, 2005

16 THE COURT: IS THE STATE READY TO
17 PROCEED?

18 SOLICITOR BELL: THE STATE'S
19 READY, YOUR HONOR.

20 THE COURT: IS THE DEFENSE READY
21 TO PROCEED?

22 MR. KEARSE: THE DEFENSE IS READY,
23 YOUR HONOR.

24 THE COURT: OKAY. I UNDERSTAND THE
25 JURY HAS REACHED A VERDICT. THERE ARE SOME COMMENTS

1 THAT I WOULD LIKE TO MAKE, HOWEVER, BEFORE THE JURY IS
2 BROUGHT IN.

3 I KNOW THAT THIS IS A VERY
4 EMOTIONAL TOPIC, IT DEALS WITH THE LOSS OF LIFE OF
5 ONE GENTLEMAN AS WELL AS THE LIFE OF THIS DEFENDANT.
6 AND I KNOW THAT EMOTIONS RUN HIGH, AND I KNOW THAT
7 HUMAN EMOTIONS ESPECIALLY, IS AN INTANGIBLE THING AND
8 IT'S OFTEN HARD FOR PEOPLE TO CONTROL. BUT I SAY
9 THIS IN ALL EARNESTNESS, AND I HOPE THAT EVERYONE
10 INVOLVED LISTENS VERY CAREFULLY. REGARDLESS OF WHAT
11 THIS VERDICT IS, WHETHER IT BE GUILTY OR NOT GUILTY,
12 I DO NOT EXPECT ANY OUTBURSTS IN THIS COURTROOM, I
13 EXPECT THE DECORUM OF THIS COURTROOM TO BE MAINTAINED
14 AT ALL TIMES. ANYONE WHO CANNOT ABIDE BY THOSE RULES
15 I HAVE INSTRUCTED SECURITY TO REMOVE THEM
16 IMMEDIATELY.

17 SO, WITH THAT IN MIND WE WILL NOW
18 RECEIVE THE JURY.

19 (Whereupon, the jury returns
20 with a verdict at 10:50 a.m.)

21 THE COURT: WE'LL EXPLAIN TO YOU
22 HOW TO FILL OUT THE INDICTMENT ONCE WE PUBLISH THE
23 VERDICT.

24 MADAM CLERK, IF YOU WOULD PUBLISH
25 THE VERDICT.

VERDICT OF THE JURY

CLERK: IN INDICTMENT NUMBER 2004-GS-18-1100, THE STATE VERSUS STEVEN CHRISTOPHER BRISCOE, WE, THE JURY, BY UNANIMOUS CONSENT FIND THE DEFENDANT GUILTY OF MURDER. SIGNED BY FOREMAN REMUS NOWELL.

THE COURT: ARE THERE ANY REQUESTS TO POLL THE JURY FROM THE STATE?

SOLICITOR BELL: NONE FROM THE STATE, YOUR HONOR.

THE COURT: FROM THE DEFENSE?

MR. KEARSE: THE DEFENSE WOULD ASK THAT THE JURY BE POLLED, YOUR HONOR.

THE COURT: MADAM CLERK, IF YOU WOULD POLL THE JURY.

CLERK: AS I CALL YOUR NAME, WOULD YOU PLEASE STAND. FREDERICK MIXSON. WAS THIS YOUR VERDICT AND IS IT STILL YOUR VERDICT?

JUROR MIXSON: YES, MA'AM.

CLERK: THANK YOU.

DAVID FELLERS, WAS THIS YOUR VERDICT, AND IS IT STILL YOUR VERDICT?

JUROR FELLERS: YES, MA'AM.

CLERK: CHRIS DONNELLY, WAS THIS YOUR VERDICT AND IS IT STILL YOUR VERDICT?

1 JUROR DONNELLY: YES, MA'AM.

2 CLERK: WILLARD COOPER, WAS THIS
3 YOUR VERDICT AND IS IT STILL YOUR VERDICT?

4 JUROR COOPER: YES, MA'AM.

5 CLERK: JOHN HARPER, WAS THIS YOUR
6 VERDICT, AND IS IT STILL YOUR VERDICT?

7 JUROR HARPER: YES, MA'AM.

8 CLERK: EDWARD SIMPSON, WAS THIS
9 YOUR VERDICT AND IS IT STILL YOUR VERDICT?

10 JUROR SIMPSON: YES, MA'AM.

11 CLERK: KENNETH UTHE, WAS THIS
12 YOUR VERDICT AND IS IT STILL YOUR VERDICT?

13 JUROR UTHE: YES.

14 CLERK: CARMEN JUDY, WAS THIS YOUR
15 VERDICT, AND IS IT STILL YOUR VERDICT?

16 JUROR JUDY: YES.

17 CLERK: JAMES TERRY, WAS THIS YOUR
18 VERDICT, AND IS IT STILL YOUR VERDICT?

19 JUROR TERRY: YES, MA'AM.

20 CLERK: JEANETTE GREGG, WAS THIS
21 YOUR VERDICT, AND IS IT STILL YOUR VERDICT?

22 JUROR GREGG: YES.

23 CLERK: BENJAMIN EMANUELSON, WAS
24 THIS YOUR VERDICT AND IS IT STILL YOUR VERDICT?

25 JUROR EMANUELSON: YES, MA'AM.

1 CLERK: AND REMUS NOWEL, WAS THIS
2 YOUR VERDICT AND IS IT STILL YOUR VERDICT?

3 JUROR NOWEL: YES, MA'AM.

4 CLERK: THANK YOU.

5 THE COURT: MR. FOREMAN, AND
6 LADIES AND GENTLEMEN, ON BEHALF OF THE STATE AS WELL
7 AS THE DEFENSE, WE THANK YOU FOR YOUR TIME AND YOUR
8 ATTENTION TO THIS CASE. I THINK YOU'VE HEARD US SAY
9 OVER AND OVER THIS WEEK THAT OUR SYSTEM IS VERY
10 UNIQUE, IT IS THE ONLY SYSTEM WHERE TWELVE CITIZENS
11 LISTEN TO A MATTER AND DETERMINE THE MERITS OF THAT,
12 AND RESOLVE THAT CASE ON BEHALF OF THE PARTIES
13 INVOLVED. WITHOUT YOUR TIME AND YOUR SACRIFICE WE
14 WOULD NOT HAVE BEEN ABLE TO PERFORM THIS VITAL
15 FUNCTION. YOUR CHECKS AS WELL AS YOUR WORK EXCUSES
16 WILL BE MAILED OUT TO YOU I BELIEVE ON THIS AFTERNOON.
17 IF YOU NEED ANY WORK EXCUSES PRIOR TO THAT TIME PLEASE
18 LET US KNOW AND WE WILL BE GLAD TO PROVIDE THOSE FOR
19 YOU BEFORE YOU LEAVE TODAY.

20 WE WILL IMMEDIATELY HAVE POST
21 TRIAL MOTIONS AND THE DEFENDANT'S SENTENCING. IF ANY
22 OF YOU DESIRE TO REMAIN FOR THAT YOU CERTAIN ARE
23 WELCOME TO DO SO, AND ONCE YOU'RE EXCUSED, IF YOU
24 WOULD LET US KNOW SO THAT THE DEPUTIES CAN ESCORT YOU
25 TO THE GALLERY FOR THAT PURPOSE.

1 YOU ARE WELCOME TO DISCUSS THIS
2 CASE, BY THE SAME TOKEN, YOU DO NOT HAVE TO DISCUSS IT
3 IF YOU DO NOT WANT TO. IF SOMEONE SHOULD PERSIST IN
4 TRYING TO SPEAK WITH YOU PLEASE TRY TO GET THEIR NAME
5 AND REPORT THAT TO THE CLERK'S STAFF SO THAT THE COURT
6 CAN TAKE APPROPRIATE ACTION TO PROTECT YOUR PRIVACY.

7 WITH THE THANKS OF THE COURT,
8 YOU'RE EXCUSED.

9 WE'LL BE AT EASE FOR A MOMENT, AND
10 I'LL HEAR POST TRIAL MOTIONS AND THEN SENTENCING.

11 (Recess)

12 THE COURT: ALRIGHT. ARE THERE ANY
13 MOTIONS?

14 MR. KEARSE: YOUR HONOR, MAY IT
15 PLEASE THE COURT, THE FIRST MOTION WE WOULD MAKE IS A
16 MOTION FOR THE COURT TO GRANT JUDGEMENT IN FAVOR OF
17 THE DEFENDANT, NOTWITHSTANDING THE VERDICT OF THE
18 JURY. WE THINK THE JURY'S VERDICT IS MANIFESTLY
19 UNSUPPORTED BY THE EVIDENCE, YOUR HONOR, PRESENTED IN
20 THIS CASE.

21 THE COURT: MR. BELL, WOULD YOU
22 LIKE TO RESPOND TO THE MOTION?

23 SOLICITOR BELL: YOUR HONOR, I
24 THINK THERE WAS SUFFICIENT EVIDENCE TO FIND THE
25 VERDICT OF GUILTY IN THIS CASE.

1 THE COURT: ANYTHING FURTHER, MR.
2 KEARSE?

3 MR. KEARSE: MAY IT PLEASE THE
4 COURT, YOUR HONOR, THE SECOND MOTION WOULD BE FOR THE
5 COURT TO GRANT MR. BRISCOE A NEW TRIAL IN THE MATTER.
6 THAT MOTION IS MADE SPECIFICALLY, BUT NOT INCLUSIVE OF
7 THE LACK OF, THE LACK OF THE STATE PROVIDING THE
8 DEFENDANT WITH POSSIBLE BRADY MATERIAL WHICH MAY HAVE
9 BEEN EXCULPATORY, THAT BRADY MATERIAL BEING THE
10 COMPLETE TAPE OF HIS MOTHER THAT WAS SUBMITTED
11 PARTIALLY -- OR A PARTIAL OF WHICH WAS SUBMITTED, AND
12 ALSO A COMPLETE COPY OF ALL PHONE RECORDS AS WAS
13 REQUESTED BY OUR BRADY MOTION, WHICH QUITE POSSIBLY
14 COULD HAVE BEEN, AND PROBABLY WAS EXCULPATORY FOR THE
15 DEFENDANT. WE MAKE THAT PURSUANT TO BRADY, YOUR HONOR,
16 AND WE WOULD INCLUDE ANY OTHER LAW AS PROVIDED BY THE
17 STATE, OR THE LAWS OF THE UNITED STATES, THE STATE
18 CONSTITUTION OF SOUTH CAROLINA, AND THE CONSTITUTION
19 OF THE UNITED STATES, YOUR HONOR.

20 THE COURT: MR. BELL.

21 SOLICITOR BELL: YOUR HONOR, THESE
22 MOTIONS WERE NOT BROUGHT UP ANYTIME DURING THE TRIAL,
23 I THINK IT'S A LITTLE LATE FOR THEM. HOWEVER, I MEAN,
24 THERE'S NO BRADY MATERIAL IN ANY OF THE MATTERS THAT
25 HE TALKS ABOUT, THERE'S NOTHING EXCULPATORY IN ANY OF

1 THE MATTERS. THE PHONE RECORDS WERE TOTALLY THE
2 DEFENDANT'S OWN CONVERSATIONS, SO THEY'RE SELF-SERVING
3 CONVERSATIONS. AND AS TO THE MOTHER WHO TESTIFIED,
4 IT'S HER CONVERSATION ON THE TAPE SO I DON'T THINK ANY
5 OF THAT IS IN VIOLATION OF BRADY. THEREFORE, EVEN IF
6 HE DID MAKE THE MOTION I DON'T THINK IT'S ENOUGH TO
7 GRANT A NEW TRIAL. THE EVIDENCE WAS SUFFICIENT FOR A
8 JURY TO FIND THEIR VERDICT OF GUILTY.

9 MR. KEARSE: FOR THE RECORD, YOUR
10 HONOR, OUR BRADY -- MY BRADY MOTION WAS, AND
11 REQUEST UNDER BRADY WAS FILED AND SERVED ON THE
12 SOLICITOR, IT'S PART OF THE COURT'S RECORD WITH THE
13 CLERK'S FILING ON IT.

14 IN ADDITION, PRIOR TO THE
15 COMMENCEMENT OF THE TRIAL THERE WAS A FULL FRAMED
16 DISCUSSION OF WHETHER OR NOT ANY AND ALL EVIDENCE HAD
17 BEEN -- DISCOVERY MATERIAL HAD BEEN PROVIDED TO THE
18 DEFENSE. I THINK IT'S BEEN PROPERLY PRESERVED.

19 THE COURT: ANY FURTHER MOTIONS?

20 MR. KEARSE: NOTHING FURTHER FROM
21 THE DEFENSE, YOUR HONOR.

22 THE COURT: THE COURT, REGARDING
23 THE FIRST MOTION, IT IS DENIED. THIS WAS A
24 CREDIBILITY CASE, IT REALLY CAME DOWN TO WHO THE JURY
25 BELIEVED AS THE FINDERS OF THE FACTS, AND WHOSE

1 TESTIMONY THEY GAVE CREDIBILITY AND WEIGHT. THE STATE
2 PRESENTED WHAT PURPORTED TO BE TWO EYE WITNESSES
3 REGARDING THIS INCIDENT, BOTH OF WHOM HAD CRIMINAL
4 RECORDS, AND WHO ADMITTEDLY WERE INVOLVED IN DRUG
5 TRADE, AND WERE INVOLVED IN THIS INCIDENT AS WILLING
6 PARTICIPANTS IN A DRUG DEAL THAT APPARENTLY WENT WRONG
7 WHEN THE VICTIM IN THIS CASE WENT TO SNATCH DRUGS FROM
8 THE TABLE DURING THE COURSE OF THE TRANSACTION. THEY
9 BOTH REPORT THAT THE DEFENDANT IN THIS CASE THEN BEGAN
10 TO OPEN FIRE ON THE VICTIM, WHO WAS SUBSEQUENTLY
11 KILLED AS A RESULT OF THE GUN SHOTS.

12 THERE WERE ALSO OTHER WITNESSES
13 WHO TESTIFIED TO SUBSTANTIAL CIRCUMSTANTIAL EVIDENCE
14 IN THIS MATTER REGARDING PLACING THE GUN -- A GUN
15 SIMILAR TO THAT WHICH COULD HAVE BEEN USED IN THIS
16 INCIDENT IN THE POSSESSION OF THE DEFENDANT. AND
17 AGAIN, AS I INDICATED, THIS WAS A CREDIBILITY CASE, IT
18 CAME DOWN TO WHO THE JURY BELIEVED, AND THERE WAS
19 CERTAINLY ENOUGH DIRECT, AS WELL AS SUBSTANTIAL
20 CIRCUMSTANTIAL EVIDENCE UNDER THESE CIRCUMSTANCES FOR
21 THEM TO HAVE WEIGHED THE EVIDENCE AS THE FACT FINDERS
22 AND TO HAVE COME TO THEIR DECISION. THEREFORE, THAT
23 MOTION IS DENIED.

24 AS REGARDS THE MOTION FOR A NEW
25 TRIAL BASED ON THE BRADY, ANY BRADY VIOLATIONS, THE

1 COURT WOULD FIND THAT THERE WERE NO BRADY VIOLATIONS,
2 AT LEAST NOT THAT HAVE COME TO MY ATTENTION AT THIS
3 POINT. ANY MATERIAL THAT WAS NOT PROVIDED TO THE
4 DEFENSE WAS PROVIDED TO THEM IN ADVANCE OF ANY
5 TESTIMONY. THEY WERE GIVEN A FULL OPPORTUNITY TO
6 REVIEW THE EVIDENCE, AND NO ADDITIONAL TIME WAS
7 REQUESTED TO CURE, FOR LACK OF A BETTER WORD, THE FACT
8 THAT THESE ITEMS WERE NOT TURNED OVER. AND I AM NOT
9 CERTAIN -- ACTUALLY, EVERYTHING THAT WE'RE TALKING
10 ABOUT, TO SOME EXTENT, TO SOME GREAT EXTENT, INURED TO
11 THE BENEFIT OF THE DEFENDANT, BUT MOST OF IT REALLY
12 WENT TO HIS CREDIBILITY, AND IT WAS NOT EXCULPATORY IN
13 ITS NATURE. SO, I'M NOT CERTAIN THERE WAS ANY
14 VIOLATION, THAT, OF COURSE, BEING THE CONVERSATION
15 REGARDING HIS MOTHER'S CREDIBILITY THAT TOOK PLACE
16 WITH THE OFFICER WHO WAS INVESTIGATING THIS INCIDENT,
17 AS WELL AS HIS PHONE RECORDS, ALL OF WHICH WERE
18 PROVIDED IN REBUTTAL, AND I'M NOT CERTAIN THAT IT WAS
19 NECESSARY THAT THE STATE TURN THAT OVER IN ANY EVENT.
20 AND THE OTHER INFORMATION I BELIEVE REGARDING THE
21 PHONE RECORDS, THOSE WERE PROVIDED WHEN THE TRIAL
22 BEGAN, AND CERTAINLY, THE COURT STOOD READY TO GIVE
23 DEFENSE COUNSEL ADDITIONAL TIME TO REVIEW THOSE OR TO
24 DO ANYTHING ELSE THEY FELT NECESSARY TO DEAL WITH
25 THAT, AS WELL AS -- I THINK THE ONLY OTHER THING WE

1 DEALT WITH WERE THE TAPES, AND I GAVE YOU -- YOU HEARD
2 THEM AT THE SAME TIME I DID, AND I GAVE YOU A FULL
3 OPPORTUNITY TO LISTEN TO THOSE TAPES. I DON'T THINK
4 THERE WAS ANY BASIS FOR THE COURT TO EXCLUDE THAT
5 MATERIAL. THEREFORE, BASED ON PREVAILING CASE LAW
6 THERE REALLY IS NO BASIS FOR A NEW TRIAL IN THIS
7 MATTER, AND THE COURT WOULD DENY THAT MOTION ALSO.

8 MR. KEARSE: THANK YOU, YOUR
9 HONOR.

10 THE COURT: YOU'RE WELCOME.
11 IS THERE ANYTHING FURTHER BEFORE
12 WE PROCEED WITH SENTENCING?

13 SOLICITOR BELL: NOTHING FROM THE
14 STATE.

15 THE COURT: ANYTHING FROM THE
16 DEFENSE?

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

19 THE COURT: OKAY. DO YOU THINK
20 YOUR CLIENT'S MOTHER WISHES TO BE PRESENT FOR
21 SENTENCING?

22 MR. KEARSE: YOUR HONOR, I DON'T
23 KNOW, I'M GOING TO HAVE TO ASK HER, AND I WOULD ASK
24 FOR A SHORT BRIEF PERIOD OF TIME TO ---

25 THE COURT: I'LL GIVE YOU THAT.

1 (Recess)

2 THE COURT: ARE WE READY TO
3 PROCEED?

4 SOLICITOR BELL: THE STATE'S
5 READY, YOUR HONOR.

6 THE COURT: IS DEFENSE READY?

7 MR. KEARSE: THE DEFENSE IS READY,
8 YOUR HONOR.

9 THE COURT: OKAY. ALRIGHT, YOU
10 MAY PROCEED, MR. BELL.

11 SOLICITOR BELL: YOUR HONOR, AS
12 STATED BEFORE, I DON'T BELIEVE HE HAS ANY PRIOR
13 CRIMINAL RECORD. I'VE INQUIRED OF THE VICTIM'S FAMILY,
14 THEY'VE BEEN HERE ALL WEEK, AND I BELIEVE HIS WIFE
15 WOULD LIKE TO ADDRESS THE COURT.

16 THE COURT: CERTAINLY, I'LL BE
17 GLAD TO HEAR FROM HER. CAN YOU TELL ME THE AGE OF THE
18 VICTIM?

19 SOLICITOR BELL: HE WAS THIRTY
20 YEARS OLD.

21 THE COURT: YES, MA'AM, I'LL BE
22 GLAD TO HEAR FROM YOU. IF YOU COULD TELL US YOUR NAME
23 FOR THE RECORD.

24 WIFE OF VICTIM: MY NAME IS RUBY
25 A. WHEEL.

1 THE COURT: I'M SORRY, SAY THAT
2 ONE MORE TIME?

3 WIFE OF VICTIM: RUBY A. WHEELER.

4 THE COURT: OKAY, YES, MA'AM.

5 WIFE OF VICTIM: AND I JUST WANT
6 TO SAY, I'M PRETTY MUCH FOR MY KIDS, I HAVE A THIRTEEN
7 YEAR OLD SON AND A FIFTEEN YEAR OLD DAUGHTER WHOSE
8 LIVES HAVE CHANGED SINCE JULY THIRD, O-THREE. THEY
9 CAN'T SLEEP AT NIGHT BECAUSE OF THIS. THAT'S JUST WHAT
10 I WANT TO SAY, THAT HE DIDN'T HAVE TO KILL HIM. HE
11 WASN'T WORTH IT, NOBODY'S LIFE DESERVES TO BE TAKEN BY
12 THE HANDS OF ANOTHER MAN OR WOMAN. ONLY GOD HAS THAT
13 POWER. AND I PRAYED AND I ASKED GOD, IF HE'S GUILTY
14 LET HIM BE FOUND GUILTY, IF HE'S INNOCENT, LET HIM GO,
15 BECAUSE NO MAN DESERVES TO SERVE TIME FOR SOMETHING
16 THAT HE DIDN'T DO. AND IN MY HEART I FEEL THAT HE DID
17 IT. AND I ALSO WANT TO SAY THAT I FORGIVE HIM,
18 BECAUSE WE HAVE TO FORGIVE, AND I FORGIVE HIM, FOR ME
19 AND MY CHILDREN. THANK YOU.

20 THE COURT: YOU'RE WELCOME, MA'AM,
21 THE COURT APPRECIATES YOUR CANDOR, AND THE GENEROSITY
22 OF YOUR SPIRIT.

23 ALRIGHT, ANYTHING FURTHER, MR.
24 HARRISON BELL?

25 SOLICITOR BELL: YOUR HONOR, ALL

1 I'D SAY IS, I THINK ALSO THE FAMILY -- I'M ASSUMING,
2 HAVING TALKED WITH THEM A LITTLE BIT, THAT THEY'RE
3 JUST GLAD THIS IS FINALLY OVER, THAT THEY'VE GOTTEN
4 CLOSURE TO THIS, AND THIS ENDS A SAD CHAPTER IN THEIR
5 LIVES. AND THAT WOULD BE IT FROM THE STATE.

6 THE COURT: OKAY. DOES THE STATE
7 TAKE ANY POSITION ON THE SENTENCE?

8 SOLICITOR BELL: YOUR HONOR, THE
9 ONLY THINK I COULD SAY IS, I'VE STUDIED THIS, THIS WAS
10 A SENSELESS KILLING, IT DIDN'T HAVE TO BE. I MEAN, FOR
11 WHATEVER THIS WAS, IT WAS SENSELESS. I MEAN, THEY
12 COULD HAVE, YOU KNOW, THEY COULD HAVE JUMPED HIM AND
13 BEATEN HIM UP, OR WHAT HAVE YOU, I DON'T KNOW, BUT
14 KILLING FOR A LITTLE BIT OF DRUGS JUST AIN'T WORTH IT,
15 AND WE THINK THIS IS VERY SERIOUS, AND THE COURT
16 SHOULD SENTENCE HIM APPROPRIATELY, BASED ON THE
17 SENSELESSNESS OF THIS KILLING.

18 THE COURT: OKAY. MR. KEARSE.

19 MR. KEARSE: MAY IT PLEASE THE
20 COURT, YOUR HONOR.

21 IT HAS ALREADY BEEN BROUGHT TO THE
22 COURT'S ATTENTION THAT THE DEFENDANT HAS NO CRIMINAL
23 RECORD.

24 THE COURT: I'M LISTENING, MR.
25 KEARSE, GO AHEAD.

1 MR. KEARSE: HE'S THIRTY-THREE
2 YEARS OLD, HE HAS THREE CHILDREN, THE YOUNGEST OF
3 WHICH IS, I BELIEVE, TWO, THREE AT THE MOST. HE WAS
4 ARRESTED IN TWO THOUSAND AND FOUR, WHICH MEANS HE HAS
5 SPENT VERY LITTLE TIME WITH HIS YOUNGEST DAUGHTER,
6 YOUR HONOR. AND ESSENTIALLY, ALL OF HIS YOUNGEST'S
7 DAUGHTER'S EXPERIENCE WITH HER FATHER HAS BEEN THROUGH
8 A CELL OR A GLASS WINDOW WHEN THE MOTHER, BILLY
9 GRAVES, WHO TESTIFIED IN THIS CASE, IS CAPABLE OF
10 BRINGING HER DOWN.

11 I HAVE, OF COURSE, AND THE COURT
12 ACKNOWLEDGES THE PRESENCE OF HIS MOTHER IN THE
13 COURTROOM. I WOULD LIKE FOR HER TO ADDRESS THE COURT,
14 YOUR HONOR. I UNDERSTAND THIS IS GOING TO BE TRYING.
15 BE PATIENT WITH HER, YOUR HONOR, IT'S BEEN A LOT FROM
16 THE TIME THOSE POLICE STEPPED INTO HER APARTMENT IN
17 AUGUST OF TWO THOUSAND FOUR UNTIL NOW, THIS HAS BEEN A
18 HEAVY BURDEN ON HER HEART, ---

19 THE COURT: UH HUH, I WOULD
20 IMAGINE.

21 MR. KEARSE: --- AND I JUST WOULD
22 LIKE THE COURT TO EXERCISE PATIENCE WITH HER AS SHE
23 ADDRESSES YOU.

24 THE COURT: CERTAINLY, I'LL BE
25 GLAD TO HEAR FROM HER.

1 MOTHER OF DEFENDANT: I'M SORRY
2 SOMEONE HAD TO DIE. I AM SO SORRY, I CAN NEVER UNDO
3 THIS LADY'S PAIN. I CAN'T. NOBODY KNOWS WHAT IT'S LIKE
4 FOR ME, EITHER. NOBODY WILL EVER MAKE ME BELIEVE HE
5 TOOK ANOTHER PERSON'S LIFE, NOBODY. THAT'S THE ONLY
6 CHILD I HAVE, THE ONLY ONE. FROM A LITTLE BOY HE'S
7 BEEN SPECIAL, AND I BEG YOU JUST TO SHOW HIM MERCY,
8 PLEASE. HE'S NEVER EVEN BEEN IN TROUBLE WITH THE LAW
9 BEFORE, NEVER. PLEASE, SHOW HIM MERCY, PLEASE.

10 THE COURT: MR. KEARSE, IS THERE
11 ANYTHING FURTHER?

12 MR. KEARSE: YOUR HONOR, I'M GOING
13 TO ASK THAT THE DEFENDANT ADDRESS THE COURT.

14 THE COURT: CERTAINLY, I'LL BE
15 GLAD TO HEAR FROM YOU. SIR, IS THERE ANYTHING YOU'D
16 LIKE TO STATE FOR THE RECORD ON YOUR OWN BEHALF?

17 DEFENDANT: I WOULD LIKE TO SPEAK.

18 THE COURT: CERTAINLY, I'LL BE
19 GLAD TO HEAR FROM YOU.

20 DEFENDANT: I DON'T KNOW WHAT
21 HAPPENED. I'M VERY SORRY THIS HAPPENED. I WAS -- THIS
22 WOMAN, THESE PEOPLE, I WISH THEIR FAMILY HAD NOT
23 GOTTEN HURT, I WISH HE HAD NOT EVEN BEEN WHEREVER HE
24 WAS ON THE NIGHT THAT THIS OCCURRED, BECAUSE I WASN'T
25 THE ONE THAT DID IT. AND IF HE WASN'T THERE I WOULDN'T

1 BE HERE RIGHT NOW. AND I KNOW THAT THE REASON, IN MY
2 HEART, I KNOW THAT THE JURY CAME TO THE CONCLUSION
3 THAT THEY CAME TO BECAUSE I -- I DID NOT WANT TO SAY
4 THAT I HAD BEEN WITH THAT WOMAN AND HURT BILLY. I LOVE
5 BILLY AND NIGEL, THEY'RE ALL I'VE GOT, AND MY MAMA,
6 THAT'S ALL I'VE GOT IN THIS WORLD, THAT'S ALL I'VE
7 GOT. WE ALWAYS BEEN TOGETHER, EVERYTHING, WE ALWAYS
8 BEEN CLOSE, WE ALWAYS BEEN TIGHT. ALL MY LIFE I BEEN
9 THROUGH DIFFERENT CHANGES AND SITUATIONS WITH WOMEN,
10 AND I, I LEFT MY CHILD TO PURSUE MY MUSIC, AND I MEET
11 THIS WOMAN AND WE FALL IN LOVE, AND WE HAVE A BABY,
12 AND I WAS JUST BEING A MAN, I MEAN. IT WASN'T FAIR
13 WHAT HE DID, IT DIDN'T HAVE NOTHING TO DO WITH MY
14 CASE, NOTHING AT ALL, HE KNEW THAT. IT DIDN'T HAVE
15 NOTHING TO DO WITH MY CASE. AS GOD IS MY WITNESS, IT
16 HAD NOTHING TO DO WITH MY CASE, IT WAS A BELOW THE
17 BELT SHOT, IT WAS A CHEAP BLOW WHAT HE DID, IT DIDN'T
18 HAVE NOTHING TO DO WITH MY CASE. MR. COOK, ME AND MR.
19 COOK PROBABLY WOULD HAVE BEEN THE BEST OF FRIENDS, I
20 GET ALONG WITH EVERYBODY, I DON'T HAVE ENEMIES, I
21 DON'T HAVE ENEMIES. I DON'T KNOW WHAT TO SAY, I DON'T
22 KNOW WHAT TO SAY, I DON'T KNOW WHAT TO SAY, I DON'T
23 KNOW WHAT TO DO. I'VE BEEN HERE FOR SIXTEEN MONTHS
24 EVERY DAY, I TRY TO READ ON THIS CASE AND GO OVER THE
25 FACTS, AND WHEN THE LIGHTS GO OUT AT ELEVEN O'CLOCK I

1 SIT ON THE TOILET WITH THE LITTLE LIGHT THAT COMES
2 FROM THE STREET LIGHT OUTSIDE OF THAT WINDOW COMES
3 THROUGH THE LITTLE WINDOW ABOUT THIS BIG, TRYING TO
4 READY WITH THAT LITTLE LIGHT IN THE DARK, UNTIL THE
5 LIGHT COMES ON IN THE MORNING, TRYING TO GO OVER THIS
6 CASE AND LEARN WHAT I COULD TO HELP DEFEND MYSELF,
7 BECAUSE I KNOW THAT I DID NOT HURT THIS MAN. AND I
8 WILL NEVER FORGIVE MYSELF FOR NOT JUST SAYING, YES
9 WHEN MR. BELL ASKED ME ABOUT THAT WOMAN, BECAUSE IN MY
10 HEART I KNOW THAT THAT'S WHAT MADE THE JURY NOT
11 BELIEVE ME. I WILL NEVER FORGIVE MYSELF FOR THAT. BUT
12 I COULD NEVER TELL YOU, MAN, THAT I CANNOT FORGIVE
13 MYSELF FOR HARMING ANY OF YOU PEOPLE, YOUR FAMILY
14 MEMBER, BECAUSE I'M NOT THE ONE THAT DID THAT TO YOUR
15 FAMILY MEMBER, NO.

16 THE COURT: DON'T ADDRESS THEM
17 DIRECTLY, PLEASE. AND MA'AM, PLEASE DON'T ADDRESS
18 HIM. THANK YOU.

19 MR. KEARSE: YOUR HONOR, IF I CAN
20 I WOULD ---

21 THE COURT: CERTAINLY.

22 MR. KEARSE: --- I WOULD LIKE TO
23 ADDRESS THE COURT BEFORE YOU SENTENCE MR. BRISCOE.

24 JULY THIRD, TWO THOUSAND THREE,
25 ESSENTIALLY, WHAT HAS HAPPENED IS, TWO MOTHERS HAVE

1 LOST THEIR SONS, AND I WANT TO ONCE AGAIN TAKE THE
2 TIME TO APOLOGIZE TO THE COOK FAMILY, I DON'T KNOW
3 SPECIFICALLY YOUR RELATIONSHIP TO HIM, THIS CERTAINLY
4 HAS NOT BEEN ANYTHING BETWEEN ME AND YOU AS HIS FAMILY
5 MEMBERS. AND I'M SORRY THAT YOU HAVE LOST A HUSBAND,
6 AND YOUR CHILDREN HAVE LOST A FATHER, AND I'M SORRY
7 YOU HAVE LOST A SON, BUT ESSENTIALLY, MS. BRISCOE
8 COLES HAS NOW ALSO LOST HER SON.

9 YOUR HONOR, I WOULD ASK, AND I'M
10 SURE YOUR HONOR KNOWS THE SENTENCING RANGE ON THIS
11 PARTICULAR CHARGE. TAKING THE FACTS AS FOUND BY THE
12 JURY, I WOULD IMAGINE THEY SEE THAT MR. BRISCOE
13 CARRIED OUT THIS OFFENSE, BUT IF YOU LISTENED TO THE
14 TESTIMONY AND YOU GIVE CREDIBILITY TO HOW THIS THING
15 WAS PAINTED, CERTAINLY, IT WOULD MINIMIZE, I WOULD
16 SAY, AND OUT OF NO DISRESPECT TO THE DECEDENT, SOME OF
17 THE MALICE THAT IS INCLUDED IN THE OFFENSE, IN THAT
18 THE STATE'S VERSION TO A CERTAIN EXTENT WOULD BE THAT
19 THESE INDIVIDUALS BLOCKED OFF THE DOOR, THAT THEY WERE
20 MENTIONED ABOUT, OR A PERCEPTION THAT THERE MAY HAVE
21 BEEN SOME HARM TO BE BROUGHT TO THE DEFENDANT, AND TO
22 MR. TURNER AT THE TIME. CERTAINLY, THE FACTS DON'T
23 RISE TO A LEVEL WHERE IT WOULD HAVE ALLOWED FOR THERE
24 TO BE A SITUATION OF VOLUNTARY MANSLAUGHTER, BUT IT
25 CERTAINLY PROVIDES SOME TYPE OF MITIGATION AS TO WHY

1 THE DEFENDANT MAY HAVE REACTED AS, UNDER THE FACT
2 SCENARIO PROVIDED BY THE STATE, OUT OF FEAR, OUT OF
3 REPRISAL, BECAUSE IT WAS MADE MENTION THAT THIS WAS
4 SENSELESS, AND IT WAS ALL SENSELESS, THE WHOLE THING
5 FROM THE TIME THEY STARTED SETTING UP A DRUG BUY AND
6 USING DRUGS AND ALCOHOL IN A CRACK HOUSE, TO THE TIME
7 THIS GENTLEMAN DIED, THE ENTIRE EVENT WAS SENSELESS,
8 BUT NOT IN THE SENSE THAT I THINK MR. BRISCOE WAS A
9 COLD HEARTED, BRUTAL KILLER, AS SUCH, BUT JUST THAT
10 UNFORTUNATELY THE EVENTS LED TO A SITUATION WHERE
11 MAYBE THERE WAS SOME PERCEPTION THAT MORE WOULD OCCUR
12 THAN JUST THE SNATCHING OF DRUGS AND MONEY, BECAUSE OF
13 THE NUMBERS AND THE SIZE OF THE INDIVIDUALS. AND WE
14 ALL KNOW THAT WHEREVER THERE ARE DRUGS THERE ARE GUNS
15 INVOLVED. AND ESSENTIALLY, IT'S BELIEVABLE, EVERYBODY
16 IN THE ROOM COULD HAVE HAD A GUN. THAT BEING THE
17 CASE, YOUR HONOR, I WOULD ASK THAT THIS COURT SEE FIT,
18 IN VIEW OF THE FACT THAT THIS MAN HAS GONE THIRTY-
19 THREE YEARS WITHOUT ANY CRIME, YOUR HONOR, OF VIOLENCE
20 OR ANYTHING OF ANY NATURE, TO SENTENCE HIM TO THE
21 MINIMUM, WHICH IS THE THIRTY YEAR MANDATORY MINIMUM
22 FOR THIS PARTICULAR CRIME, UNDER THESE PARTICULAR
23 FACTS AND IN VIEW OF HIS CRIMINAL HISTORY, YOUR HONOR.

24 THANK YOU.

25 THE COURT: ANYTHING FURTHER FROM

1 THE STATE?

2 SOLICITOR BELL: NO, YOUR HONOR.

3 THE COURT: THE'S COURT'S GOING TO
4 TAKE A VERY BRIEF RECESS. WE'LL BE AT EASE FOR ABOUT
5 THREE MINUTES, AFTER WHICH I WILL CONCLUDE THE BALANCE
6 OF THIS HEARING.

7 (Recess)

8 THE COURT: OF ALL OF THE CIRCUIT
9 JUDGE'S RESPONSIBILITIES, SENTENCING IS PROBABLY THE
10 MOST DIFFICULT ONE THAT A JUDGE ENCOUNTERS, AND I
11 THINK SOMETIMES PEOPLE THINK THAT THIS PART OF THE JOB
12 IS VERY GLAMOROUS. AND IT IS NOT, IT IS PROBABLY, AS
13 I'VE INDICATED, ONE OF THE MOST DIFFICULT THINGS THAT
14 I HAVE TO DO, PROBABLY ON A DAILY BASIS. AND IT IS
15 BECAUSE IT INVOLVES A LOT OF INTANGIBLE THINGS, AS
16 I'VE REFERRED TO EARLIER WHEN WE WERE BEGINNING TO
17 PREPARE FOR THE JURY'S VERDICT, IT INVOLVES PEOPLE'S
18 LIVES, AND THE EFFECTS, THE RESIDUAL EFFECTS OF
19 PEOPLE'S ACTIONS. AND IT IS ALWAYS EXTREMELY
20 DIFFICULT. I HAVE A VERY WISE MENTOR, HIS NAME IS
21 RICHARD FIELDS, AND I WAS HIS LAW CLERK MUCH LIKE
22 SUMMER IS MY LAW CLERK, AND HE AND I HAVE DEVELOPED A
23 VERY CLOSE RELATIONSHIP. AS A MATTER OF FACT, I NOW
24 HOLD THE SEAT THAT HE ONCE HELD AS A JUDGE, AND I
25 LEARNED A LOT WHEN I WAS WITH HIM. I LISTENED VERY

1 CAREFULLY, AND I SAT AT HIS FEET MANY DAYS TO LISTEN
2 NOT ONLY ABOUT THE LAW BUT ABOUT HIS THEORIES ABOUT
3 LIFE, BECAUSE THE LAW IS MORE THAN THE BLACK AND WHITE
4 LETTER OF THE LAW, IT INVOLVES A WHOLE LOT MORE THAN
5 THAT. AND I OFTEN HEARD HIM SAY DURING SENTENCINGS,
6 AND I WAS MUCH YOUNGER, I WAS ABOUT TWENTY-FOUR YEARS
7 OLD AT THE TIME, AND I USED TO THINK -- I FELT, I
8 THOUGHT I UNDERSTOOD WHAT HE MEANT, BUT NOW THAT I
9 HAVE A LOT MORE AGE, FORTUNATELY, OR UNFORTUNATELY,
10 AND A POINT A REFERENCE, BECAUSE OF MATURITY AND
11 HAVING LIVED A LITTLE IN THIS LIFE, I'VE LEARNED THAT
12 WHEN I WAS YOUNGER I THOUGHT LIFE WAS A VERY BLACK AND
13 WHITE THING. FOR ME, IT WAS EITHER BLACK OR IT WAS
14 WHITE, THERE WAS NO IN BETWEEN, I JUST THOUGHT THAT
15 FINITELY, I THOUGHT THAT THINGS ARE JUST THAT EASY.
16 AND AS I'VE GOTTEN OLDER I'VE RECOGNIZED THAT LIFE
17 ISN'T SO BLACK AND WHITE, AND IT ISN'T ALWAYS SO CLEAR
18 CUT. AS MUCH AS WE WOULD GET A MUCH BETTER SENSE OF
19 PEACE IN KNOWING THAT IT IS, IT JUST ISN'T ALL THE
20 TIME. BUT HE USED TO OFTEN SAY, AND I USED TO REFLECT
21 ON IT NOW THAT I'VE GOTTEN OLDER, AND NOW THAT I DO
22 THE SAME JOB THAT HE DID, IT NOW MAKES SO MUCH MORE
23 SENSE TO ME, BECAUSE I HAVE A POINT OF REFERENCE, HE
24 WOULD OFTEN SAY, DEAR, IN THIS LIFE YOU HAVE TO
25 RECOGNIZE FOLK WHO ARE TRULY WICKED, AND PEOPLE WHO

1 TRULY MISGUIDED, BECAUSE THERE'S A BIG CHASM IN
2 BETWEEN. THERE ARE PEOPLE THAT DO THINGS BECAUSE
3 THEIR HEART IS JUST EVIL, AND THERE IS NO REDEMPTION
4 IN THEM. AND IF GIVEN THE OPPORTUNITY THEY WOULD DO
5 IT ALL OVER AGAIN THE SAME WAY THEY DID IT THE FIRST
6 TIME. AND THERE ARE FOLK WHO ARE TRULY MISGUIDED, WHO
7 MAKE VERY, VERY BAD DECISIONS BECAUSE OF A MYRIAD OF
8 REASONS, SOMETIMES THE WAY THEY WOULD SOCIALIZE,
9 SOMETIMES THE THINGS THAT HAVE HAPPENED TO THEM IN
10 THEIR CHILDHOOD, SOMETIMES SIMPLY BECAUSE THEY HAVE NO
11 COMMON SENSE AND ARE EASILY LED, AND MAKE VERY BAD
12 DECISIONS IN VERY SHORT SPANS OF TIME WITH NO
13 OPPORTUNITY FOR REFLECTION, BECAUSE HAD THEY BEEN
14 GIVEN AN OPPORTUNITY FOR SOME REFLECTION, THEY
15 PROBABLY WOULD HAVE MADE VERY, VERY DIFFERENT CHOICES.

16 THIS SITUATION IS UNFORTUNATE FOR
17 MANY REASONS. FIRST AND FOREMOST, IT IS UNFORTUNATE
18 BECAUSE THIS VICTIM'S FAMILY HAS LOST A FATHER,
19 THEY'VE LOST A HUSBAND, THEY'VE LOST A SON, AND A
20 COUSIN. AND BASED ON WHAT I'VE HEARD DURING THE
21 COURSE OF THIS TRIAL, OF COURSE, I HAVE NOT BEEN ABLE
22 TO GAIN MUCH INSIGHT INTO HIS PERSONALITY, I KNOW THAT
23 HE WAS IN A CRACK HOUSE, IN ALL LIKELIHOOD HE HAD AN
24 ADDICTION OF SOME TYPE. BUT THAT DOES NOT MEAN THAT HE
25 WAS A BAD PERSON, IT SIMPLY MEANS THAT HE HAD AN