

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Appeal from Greenville County
D. Garrison Hill, Circuit Court Judge

RECEIVED
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S.C. Supreme Court

JONATHAN M. CAMPBELL,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2014-001428

APPENDIX

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STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE

IN THE COURT OF GENERAL SESSIONS

STATE OF SOUTH CAROLINA,)
)
 PLAINTIFF,)
)
 -VS-)
)
 JONATHAN M. CAMPBELL,)
)
 DEFENDANT.)
 _____)

2006-GS-23-328 & 329

TRANSCRIPT OF RECORD

JANUARY 12 -14, 2010
GREENVILLE, SOUTH CAROLINA

BEFORE:

THE HONORABLE EDWARD W. MILLER

APPEARANCES:

ATTORNEY FOR PLAINTIFF:

WILLIAM J. WESTON, ASSISTANT SOLICITOR
JONATHAN M. GREGORY, ASSISTANT SOLICITOR

ATTORNEY FOR DEFENDANT:

JOHN P. ABDALLA, ESQUIRE
BRIAN P. JOHNSON, ESQUIRE

SUSAN W. HUDGINS
CIRCUIT COURT REPORTER

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Voir Dire

Case No.: 2016-GS-23-328+329

Date: January 12-14, 2010

Plaintiff/State: State

Defendant: Jonathan Campbell

Court Reporter: Susan Hudgins

Judge: Edward Miller

Court/County: Greenville

Attorney: Jeff Weston

Jon Gregory

Attorney: John Abdalla

Brian Johnson

Juror #	Name	Race	Sex	Court	Strikes		Accept
					Plaintiff	Defendant	
224	Jeffrey Spicher	W	M			X	
168	Joshua Morgan	B	F			X	
136	George Koutsicoukis	W	M				✓
55	Judy Cronin	W	F				✓
35	Violet Burnside	B	F				✓
72	Eric Edwards	W	M				✓
145	Dianne Laftin	W	F				✓
30	Davis Brown	W	M		X		
218	Reiner Weingartner	W	M			X	
142	Jeffrey Laws	W	M				✓
132	Jessica Kemp	W	F				✓
25	Anthony Branco	W	M		X		
178	Rebecca Olsen	W	F		X		
10	Jodd Almqvist	W	M				✓
261	Anna Sedenberg	W	F				✓
149	Dashanguise Mangle	B	F			X	

*For the Court column, please indicate who made the motion to strike the juror "for cause" with a "C" for Court, "P" for Plaintiff, or "D" for Defense.

Voir Dire

Case No.: 2006-GS-23-328 + 329

Date: January 12-14, 2010

Plaintiff/State: State

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Brian Johnson

Juror #	Name	Race	Sex	Strikes			Accept
				Court	Plaintiff	Defendant	
85	David Fittrell	W	M			X	
63	April Nedecker-Brang	W	F				✓
118	Kimberley Honeycutt	W	F				✓
18	Rhonda Batson	W	F			X	
15	Daniel Ballard	W	M		X		
143	David Lee	W	M		X		
23	Nakita Bowie (not present)						
183	Pamela Page	W	F			X	
152	Harold Martin	W	M				✓
269	Martin Jodd	B	M				✓
21	Perry Birkner	W	M				✓

*For the Court column, please indicate who made the motion to strike the juror "for cause" with a "C" for Court, "P" for Plaintiff, or "D" for Defense.

MICHAEL McNAMARA - DIRECT EXAMINATION BY MR. WESTON

7

1 TUESDAY, JANUARY 12, 2010:

2 (WHEREUPON STATE'S EXHIBITS 1 - 11 WERE MARKED FOR
3 IDENTIFICATION)

4 (WHEREUPON COURT COMMENCED AT 3:07 PM)

5 THE COURT: IS THERE A -- ANY MOTIONS WE CAN TAKE CARE
6 OF BEFORE THE JURY COMES UP?

7 MR. WESTON: YES, YOUR HONOR. WE HAVE A NEIL VERSUS
8 BIGGERS HEARING INVOLVING ONE OF THE WITNESSES.

9 THE COURT: LET'S DO IT.

10 (PAUSE)

11 THE COURT: YOU READY?

12 MR. WESTON: YES, SIR, YOUR HONOR. YOUR HONOR, THE
13 STATE WOULD CALL OFFICER MIKE McNAMARA.

14 THE COURT: OKAY.

15 MICHAEL McNAMARA, BEING
16 DULY SWORN TESTIFIED AS FOLLOWS:

17 THE COURT: ALL RIGHT. COME ON AROUND AND STATE YOUR
18 NAME.

19 MR. McNAMARA: MICHAEL McNAMARA.

20 DIRECT EXAMINATION BY MR. WESTON:

21 Q. OFFICER McNAMARA, WITH WHOM ARE YOU EMPLOYED?

22 A. WITH THE GREENVILLE COUNTY SHERIFF'S OFFICE, SIR.

23 Q. AND APPROXIMATELY HOW LONG HAVE YOU BEEN WITH THEM?

24 A. ABOUT FOURTEEN AND A HALF YEARS NOW, SIR.

25 Q. AND JUST TO SORT OF GET IT OUT OF -- WHAT IS YOUR

MICHAEL McNAMARA - DIRECT EXAMINATION BY MR. WESTON

8

1 TITLE?

2 A. I'M A SERGEANT IN THE CRIMINAL INVESTIGATIONS DIVISION
3 RIGHT NOW.

4 Q. ALL RIGHT. AND JUST TO SORT OF GET IT OUT OF THE WAY,
5 YOU DIDN'T HAVE ANY DIRECT INVOLVEMENT IN THIS CASE, DID
6 YOU, SIR?

7 A. NO, SIR.

8 Q. HOW DID YOU COME -- YOU ENDED UP DOING THE PHOTO LINE-
9 UP FOR MS. THERESA FORD, IS THAT CORRECT?

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

11 Q. TELL THE COURT BRIEFLY HOW YOU CAME TO DO THAT.

12 A. I WAS AT THE OFFICE AT THE TIME IN JUNE, I BELIEVE, THE
13 21ST OF 2005, AND I RECEIVED A CALL FROM INVESTIGATOR PAUL
14 SILVAGGIO. HE TOLD ME THAT HE WAS EN ROUTE, I BELIEVE, TO
15 ALABAMA FOR THIS CASE AND ASKED MY HELP, SAID HE NEEDED A
16 LINE-UP OR TWO CREATED, AND IF I WOULD MEET WITH THIS YOUNG
17 LADY AND SHOW THE LINE-UPS TO HER. AND I TOLD HIM I WOULD
18 DO THAT.

19 Q. AND HOW DID YOU CONTACT MS. FORD? DID SHE COME IN TO
20 SEE YOU, OR DID YOU GO SEE HER OR HOW DID THAT WORK?

21 A. APPARENTLY INVESTIGATOR SILVAGGIO HAD SPOKEN TO HER
22 BECAUSE SHE WAS EN ROUTE TO THE LAW ENFORCEMENT CENTER
23 ALREADY. I DID NOT HAVE TO CALL OR CONTACT HER. SHE WAS
24 PREPARED TO MEET ME THERE ALREADY.

25 Q. DO YOU REMEMBER THE MEETING WITH HER GENERALLY?

MICHAEL McNAMARA - DIRECT EXAMINATION BY MR. WESTON

9

1 A. YES, SIR.

2 Q. ALL RIGHT. AND WHERE DID THE MEETING TAKE PLACE?

3 A. UP IN THE CID OFFICE IN THE VERY BACK WHERE THE
4 HOMICIDE UNIT IS LOCATED.

5 Q. WAS ANYBODY PRESENT OTHER THAN YOU AND SHE?

6 A. AT SOME POINT SINCE THERE ARE LIKE SIX INVESTIGATORS
7 THAT WORK BACK THERE, THERE MAY HAVE BEEN AN INVESTIGATOR OR
8 TWO BACK AND FORTH. IT'S NOT A PRIVATE OFFICE. IT HOUSES
9 ALL THE UNITS. SO THERE MAY HAVE BEEN A FEW OTHER PEOPLE
10 BACK AND FORTH AS WE DID THAT.

11 Q. ALL RIGHT. AND DO YOU REMEMBER HOW -- WAS SHE -- DID
12 SHE APPEAR TO BE SOBER, AND COHERENT AND IN CONTROL OF HER
13 FACILITIES, OF HER FACULTIES AT THAT TIME?

14 A. YES, SIR. I HAD SOME CONVERSATION WITH HER CERTAINLY
15 WHEN SHE FIRST ARRIVED, INTRODUCED MYSELF, MADE SURE SHE WAS
16 COMFORTABLE AND ASKED WHETHER SHE NEEDED ANYTHING. AND IN
17 THE COURSE OF THAT CONVERSATION HER ANSWERS WERE RESPONSIVE
18 TO ANY QUESTIONS THAT I ASKED. AND SHE -- WE HAD A NORMAL
19 CONVERSATION SUCH AS YOU AND I ARE HAVING RIGHT NOW.

20 Q. ALL RIGHT. AND DID SHE DESCRIBE TO YOU OR WERE YOU
21 ADVISED BY INVESTIGATOR SILVAGGIO WHAT HER RELATIONSHIP,
22 WITH THE PHOTO ID, WITH THE PERSON OR POSSIBLE PERSON IN THE
23 PHOTO ID WAS, HOW SHE CAME TO MEET THEM OR WHAT THEIR
24 RELATIONSHIP TO THIS CASE WAS OR ANYTHING?

25 A. YES, SIR, I WAS.

MICHAEL McNAMARA - DIRECT EXAMINATION BY MR. WESTON

10

1 Q. AND WHAT WERE YOU TOLD GENERALLY?

2 A. I WAS TOLD BY INVESTIGATOR SILVAGGIO THAT APPARENTLY
3 HER AND HER BOYFRIEND, MR. PROCTOR, HAD MET UP WITH SOME
4 INDIVIDUALS ONE EVENING AND HAD GIVEN THESE INDIVIDUALS A
5 RIDE.

6 Q. OKAY. AND ---

7 A. AND THAT WAS WHO THE FOLKS WERE.

8 Q. --- WAS IT YOUR UNDERSTANDING THAT THIS WAS THE
9 EVENING BEFORE HIS DISAPPEARANCE?

10 A. THAT'S CORRECT, SIR.

11 Q. ALL RIGHT. AND NOW HOW DID YOU COME TO GET THE SIX
12 PICTURES THAT YOU -- WELL, LET ME -- EXCUSE ME. I
13 APOLOGIZE. YOU SHOWED HER TWO SEPARATE PHOTO LINE-UPS, IS
14 THAT CORRECT?

15 A. YES, SIR, I DID.

16 Q. AND THOSE PHOTO LINE-UPS WERE TO INCLUDE A PICTURE OF
17 JONATHAN CAMPBELL IN ONE AND MR. CARL SOUTHERLAND IN THE
18 OTHER, IS THAT CORRECT?

19 A. YES, SIR.

20 Q. AND YOU SHOWED HER TWO SEPARATE LINE-UPS AND ONE IN
21 EACH OF THE SEPARATE LINE-UPS?

22 A. THAT'S RIGHT.

23 Q. HOW DID YOU COME TO GET THEIR NAMES AND THEIR PICTURES?

24 A. I GOT THEIR NAMES FROM INVESTIGATOR SILVAGGIO. AND
25 THEN ONCE I GOT THEIR NAMES, I ACCESSED THE RECORD SYSTEM

MICHAEL McNAMARA - DIRECT EXAMINATION BY MR. WESTON

11

1 DOWNSTAIRS AT THE LAW ENFORCEMENT CENTER, AND I WAS ABLE TO
2 PRODUCE PICTURES OF THEM.

3 Q. AND ---

4 MR. ABDALLA: JUDGE, WE'LL STIPULATE TO THE FACT THAT
5 MY CLIENT WAS IN THE VEHICLE. IS THAT WHAT YOU'RE ---

6 MR. WESTON: NO. THIS IS -- WE'RE GOING TO -- MS. FORD
7 IS GOING TO IDENTIFY HIS CLIENT AS ONE OF THE PEOPLE THAT
8 WAS WITH -- THAT THEY GAVE A RIDE TO THAT KNEW HER DECEASED
9 BOYFRIEND, MR. PROCTOR, THAT ASKED HIM FOR CRACK COCAINE AND
10 THE PLAINTIFF GET -- SEEMED TO GET -- PLANNED TO GET WITH
11 HIM LATER THAT EVENING. IF THEY WANT TO STIPULATE TO ALL OF
12 THAT AND LET HER TESTIFY TO THAT WITHOUT OBJECTING TO HER
13 IDENTIFYING HIM IN COURT, THEN WE DON'T HAVE ANY PROBLEM.

14 MR. ABDALLA: NO PROBLEM.

15 THE COURT: YOU HAVE NO PROBLEM WITH RELIABILITY OF THE
16 PHOTO LINE-UP?

17 MR. ABDALLA: I'D JUST RATHER HER STIPULATE TO THE FACT
18 THAT SHE SAW HIM THERE. HIS STATEMENT IS NOT INCONSISTENT
19 WITH THAT, JUDGE.

20 MR. WESTON: I DON'T THINK HE ANSWERED YOUR QUESTION,
21 JUDGE. I JUST WANT TO MAKE SURE WE ---

22 THE COURT: YEAH. THIS GOES TO IDENTIFICATION.

23 MR. ABDALLA: RIGHT.

24 THE COURT: SO YOU'RE NOT GOING TO CONTEST
25 IDENTIFICATION?

MICHAEL McNAMARA - DIRECT EXAMINATION BY MR. WESTON

12

1 MR. ABDALLA: I'M NOT GOING TO CONTEST THE
2 IDENTIFICATION OF MY CLIENT HAVING BEEN WITH JERMAINE
3 PROCTOR AND CARL SOUTHERLAND ON THE NIGHT IN QUESTION.

4 THE COURT: BY?

5 MR. CAMPBELL: BY -- THAT HIS GIRLFRIEND ---

6 MR. ABDALLA: BY HIS GIRLFRIEND.

7 MR. WESTON: THAT'S FINE WITH ME THEN, YOUR HONOR.

8 THE COURT: OKAY.

9 MR. WESTON: YOUR HONOR, WE'D ASK THAT THIS WITNESS BE
10 EXCUSED.

11 THE COURT: ALL RIGHT.

12 (WHEREUPON MR. WESTON AND MR. ABDALLA WERE CONSULTING
13 OFF THE RECORD)

14 THE COURT: OKAY. YOU READY FOR THE JURY OR ANYTHING
15 ELSE?

16 MR. WESTON: NOTHING FURTHER FROM THE STATE AT THIS
17 TIME, YOUR HONOR.

18 MR. ABDALLA: JUDGE, WE HAVE A MOTION. I HAVE A MOTION
19 REGARDING THE INTERSTATE AGREEMENT ON DETAINERS. MY CLIENT
20 WAS PICKED UP IN ALABAMA BACK IN 2005, ARRESTED. AND AT
21 THAT TIME THE CO-DEFENDANT, CARL SOUTHERLAND, HAD WAIVED HIS
22 DETAINER, HAD WAIVED EXTRADITION.

23 MY CLIENT CONTESTED EXTRADITION. HE WAS SUPPOSED TO
24 HAVE AN EXTRADITION HEARING IN ALABAMA. HE WAS MISTAKENLY
25 BROUGHT STRAIGHT TO SOUTH CAROLINA, NEVER HAVING WAIVED

1 EXTRADITION.

2 OUT CONTENTION IS THE REMEDY IS THAT IT HAS TO BE
3 DISMISSED BECAUSE IT WASN'T TRIED WITHIN A HUNDRED AND
4 TWENTY DAYS, AND WE HAVE NEVER ASKED FOR A CONTINUANCE OVER
5 THE LAST FOUR AND A HALF YEARS THAT MY CLIENT'S BEEN IN
6 JAIL.

7 THE COURT: WELL, YOU CLAIM THAT'S THE REMEDY. DO YOU
8 HAVE AUTHORITY TO THAT EFFECT?

9 MR. ABDALLA: YES, I DO, YOUR HONOR. 17-11-10, ARTICLE
10 III. IT SAYS IF TRIAL IS NOT HAD ON ANY INDICTMENT,
11 INFORMATION OR COMPLAINT CONTEMPLATED HEREBY PRIOR TO THE
12 RETURN OF THE PRISONER TO THE ORIGINAL PLACE OF
13 IMPRISONMENT, SUCH INDICTMENT, INFORMATION OR COMPLAINT
14 SHALL NOT BE OF ANY FURTHER FORCE OR EFFECT, AND THE COURT
15 SHALL ENTER AN ORDER DISMISSING THE SAME WITH PREJUDICE. I
16 ALSO HAVE A LETTER FILED FROM THE OFFICER WHO UNDERSTOOD
17 THAT HIS EXTRADITION WAS BEING CONTESTED.

18 THE COURT: YOU SAID 17-11-10?

19 MR. ABDALLA: YES, SIR.

20 (PAUSE)

21 THE COURT: HOW DOES ARTICLE III APPLY IN THIS MATTER?

22 MR. ABDALLA: YOUR HONOR, MY CLIENT WAS ARRESTED IN
23 ALABAMA. AND ACCORDING TO THE INTERSTATE AGREEMENT HE'S
24 SUPPOSED TO BE GIVEN AN EXTRADITION HEARING IF HE CONTESTS
25 EXTRADITION TO SOUTH CAROLINA.

JONATHAN CAMPBELL - DIRECT EXAMINATION BY MR. ABDALLA

14

1 HE CONTESTED EXTRADITION TO SOUTH CAROLINA AND WAS
2 BROUGHT TO SOUTH CAROLINA IN SPITE OF THAT. THERE WAS NOT A
3 -- THERE SHOULD BE NO JURISDICTION IN THIS STATE DUE TO THAT
4 FACT. HE WAS NOT BROUGHT HERE ACCORDING TO ---

5 THE COURT: ARTICLE III INVOLVES A PERSON IN A FOREIGN
6 STATE WHO IS ENTERED UPON A TERM OF IMPRISONMENT IN A PENAL
7 OR A CORRECTIONAL INSTITUTION. THAT'S SOMEBODY UNDER
8 SENTENCE IN ANOTHER STATE. ANYTHING ELSE YOU WANT TO TELL
9 ME?

10 MR. ABDALLA: IF I COULD HAVE ONE MOMENT, JUDGE.

11 (PAUSE)

12 MR. ABDALLA: JUDGE, I SAID ARTICLE III. IT SEEMS TO
13 ME -- I HATE TO KEEP SKIPPING AROUND, ARTICLE IV SEEMS MORE
14 ON POINT.

15 (PAUSE)

16 THE COURT: YOU GOT ANYTHING ELSE?

17 MR. ABDALLA: NO, YOUR HONOR.

18 THE COURT: WELL, I DON'T THINK IT APPLIES. YOU HAVE
19 ANY EVIDENCE YOU WANT TO PRESENT?

20 MR. ABDALLA: I'D LIKE TO PUT MY CLIENT ON THE STAND TO
21 TESTIFY TO THE FACTS.

22 THE COURT: ALL RIGHT. YOU CAN PUT HIM UP.

23 MR. ABDALLA: OKAY. MR. CAMPBELL, PLEASE TAKE THE
24 STAND.

25 JONATHAN CAMPBELL, BEING

JONATHAN CAMPBELL - DIRECT EXAMINATION BY MR. ABDALLA

15

1 DULY SWORN TESTIFIED AS FOLLOWS:

2 DIRECT EXAMINATION BY MR. ABDALLA:

3 Q. MR. CAMPBELL, STATE YOUR NAME FOR THE RECORD, PLEASE.

4 A. JONATHAN CAMPBELL.

5 Q. AND WHEN WERE YOU ARRESTED ON THESE CHARGES?

6 A. THE ---

7 Q. APPROXIMATELY?

8 A. ABOUT THE 21ST OF JULY? JUNE?

9 Q. JUNE.

10 A. JUNE. YEAH, IT WAS TWO DAYS AFTER FATHER'S DAY.

11 Q. I'M SORRY?

12 A. IT WAS TWO DAYS AFTER FATHER'S DAY. THAT WAS JUNE,
13 WASN'T IT?

14 Q. IN JUNE OF 2005?

15 A. YES, SIR.

16 Q. AND AT THAT TIME DID YOU HAVE AN ATTORNEY IN ALABAMA?
17 WERE YOU ARRESTED IN ALABAMA?

18 A. YES, SIR.

19 Q. AND DID YOU HAVE AN ATTORNEY?

20 A. YES, SIR.

21 Q. AND WHO WAS SHE?

22 A. JENNIFER CLARK.

23 Q. JENNIFER CLARK. AND AT THAT TIME DID YOU HAVE HER
24 CONTEST JURISDICTION?

25 A. YES, SIR.

JONATHAN CAMPBELL - DIRECT EXAMINATION BY MR. ABDALLA

16

1 Q. DID SHE TAKE IT TO A JUDGE TO YOUR KNOWLEDGE?

2 A. YES, SIR.

3 Q. AND DID THE JUDGE MAKE A RULING IN THIS MATTER?

4 A. YES, SIR. HE GRANTED ME AN EXTRADITION HEARING.

5 Q. GRANTED YOU AN EXTRADITION HEARING. AND DID YOU HAVE
6 AN EXTRADITION HEARING?

7 A. NO, SIR.

8 Q. CAN YOU TELL THE COURT WHAT HAPPENED INSTEAD OF THE
9 EXTRADITION HEARING AND HOW THAT PLAYED OUT?

10 A. WHEN HURRICANE KATRINA HIT, GREENVILLE COUNTY HAD SENT
11 SOME RELIEF HELP DOWN TO NEW ORLEANS. AND ON THEIR WAY BACK
12 THEY STOPPED BY AND GOT ME.

13 AND I THOUGHT I WAS GOING TO MONTGOMERY, ALABAMA FOR
14 THE HEARING. AND ONCE WE PASSED THE EXIT I ASKED HIM, I
15 SAID, ARE Y'ALL NOT GOING TO TAKE ME TO MONTGOMERY FOR THE
16 HEARING? HE SAID, NO, WE'RE GOING ALL THE WAY TO SOUTH
17 CAROLINA.

18 I SAID, WELL, I'M SUPPOSED TO HAVE A HEARING. THE
19 JUDGE GRANTED ME A HEARING. HE SAID, WELL, WE GOT THIS
20 WAIVER HERE. I SAID, THE JUDGE OVERRULED THAT WAIVER. HE
21 SAID, WELL, SOMEBODY ELSE HAS TO ANSWER FOR THAT. HE SAID,
22 WE'RE NOT TURNING AROUND. WE'VE BEEN GONE FOR TWO WEEKS.

23 Q. I HAVE NOTHING FURTHER OTHER THAN TO SAY YOU'VE NEVER
24 HAD A HEARING IN THAT?

25 A. NO, SIR.

JONATHAN CAMPBELL - CROSS EXAMINATION BY MR. WESTON

17

1 Q. ANSWER ANY QUESTIONS THE STATE HAS.

2 CROSS EXAMINATION BY MR. WESTON:

3 Q. MR. CAMPBELL, YOU DON'T HAVE ANY PERSONAL KNOWLEDGE OF
4 WHAT HAPPENED BETWEEN MS. CLARK, YOUR ATTORNEY, AND THE
5 PROSECUTORS THERE AND THE COURT, DO YOU? YOU WERE NEVER
6 PRIVY TO ANY CONVERSATIONS, NO TELEPHONE CALLS OR ANYTHING
7 LIKE THAT AS TO WHAT HAPPENED AND WHY THESE OFFICERS ENDED
8 UP WITH A WAIVER TO BRING YOU BACK TO GREENVILLE?

9 A. YES, SIR, I WAS IN THE COURTROOM WHEN THE JUDGE
10 OVERRULED THAT WAIVER.

11 Q. OKAY. AND WAS -- WHY DID THE JUDGE OVERRULE THE
12 WAIVER?

13 A. BECAUSE IT WASN'T PRESENTED CORRECTLY.

14 Q. AND YOU DON'T KNOW WHETHER THE ORDER THAT YOU HAD, THE
15 ORDER THESE OFFICERS HAD WAS THAT SAME ORDER OR ANOTHER
16 ORDER, DO YOU?

17 A. WELL, THERE WAS ONLY ONE EVER SIGNED.

18 Q. HOW WOULD YOU KNOW, SIR, IF YOU'RE IN DETENTION? YOU
19 WOULDN'T KNOW, WOULD YOU, SIR?

20 A. WELL, I HAVE TO SIGN IT, DON'T I?

21 Q. NO, I'M NOT -- I DIDN'T SAY WAIVER, I SAID ORDER. YOU
22 WOULDN'T KNOW, WOULD YOU, SIR?

23 A. I DON'T UNDERSTAND YOUR QUESTION.

24 Q. YOU WOULDN'T KNOW IF ANOTHER ORDER WAS SIGNED OR NOT,
25 WOULD YOU, SIR? AND I'M NOT TRYING TO BE FUNNY OR SMART.

JONATHAN CAMPBELL - REDIRECT EXAMINATION BY MR. ABDALLA

18

1 I'M JUST SAYING, SINCE YOU'RE IN DETENTION AND YOU DON'T
2 KNOW WHETHER THE ORDER THAT THESE OFFICERS HAD WHO BROUGHT
3 YOU BACK HERE WAS THAT SAME ORDER OR ANOTHER ORDER OR
4 WHETHER IT WAS A WAIVER OR AN ORDER?

5 A. IS THE WAIVER AN ORDER?

6 Q. YOU WOULDN'T KNOW WHERE THEY GOT THAT PIECE OF PAPER
7 FROM?

8 A. NO, I WOULDN'T.

9 Q. AND YOU HAVE NO FIRSTHAND KNOWLEDGE OF THAT?

10 A. NO.

11 Q. DO YOU HAVE ANY OTHER EVIDENCE OF HOW THAT CAME ABOUT
12 OTHER THAN WHAT YOU JUST SAID?

13 A. NO.

14 Q. THANK YOU, SIR.

15 A. YES, SIR.

16 **REDIRECT EXAMINATION BY MR. ABDALLA:**

17 Q. LET ME ASK YOU A FOLLOW-UP ON THAT. YOU SAID THAT THE
18 JUDGE OVERRULED THE EXTRADITION AND HE GRANTED YOU A
19 HEARING, CORRECT?

20 A. YES, SIR.

21 Q. AND YOU SAID YOU NEVER HAD A HEARING ON THE
22 EXTRADITION?

23 A. NO, SIR.

24 Q. ALL RIGHT.

25 MR. ABDALLA: I HAVE NO FURTHER QUESTIONS FOR THIS

JONATHAN CAMPBELL - REDIRECT EXAMINATION BY MR. ABDALLA

19

1 WITNESS.

2 THE COURT: DO YOU HAVE ANY DOCUMENTATION THAT
3 SUBSTANTIATES WHAT YOU'RE SAYING?

4 A. NO, SIR.

5 THE COURT: WHO BROUGHT YOU BACK?

6 A. TWO OFFICERS, TWO GREENVILLE COUNTY OFFICERS THAT WERE
7 COMING BACK FROM NEW ORLEANS.

8 THE COURT: ALL RIGHT. DO YOU HAVE ANYTHING FROM YOUR
9 LAWYER DOWN THERE IN ALABAMA? YOU GOT ANYTHING?

10 A. NO, SIR. WELL, I MEAN, I COULDN'T ---

11 MR. ABDALLA: I SPOKE TO ---

12 THE COURT: WAIT A MINUTE.

13 MR. ABDALLA: OH, I'M SORRY. I THOUGHT YOU WERE
14 TALKING ---

15 A. ONCE THEY PICKED ME UP I CAME BACK HERE, AND I COULDN'T
16 GET IN TOUCH BACK WITH HER. I DON'T HAVE -- SHE DON'T, I
17 MEAN, THE PAYTELL SYSTEM IN THE GREENVILLE COUNTY DOESN'T
18 ACCEPT THE CALLS. MY MOTHER'S TRIED TO GET IN TOUCH WITH
19 HER.

20 THE COURT: OKAY. SO YOU HAVE NOTHING?

21 A. NO, SIR.

22 THE COURT: OKAY. ALL RIGHT. YOU CAN STEP DOWN.

23 MR. ABDALLA: I'D LIKE TO CALL PAUL SILVAGGIO TO THE
24 STAND, PLEASE.

25 THE COURT: OKAY. COME ON AROUND.

PAUL SILVAGGIO - DIRECT EXAMINATION BY MR. ABDALLA

20

1 PAUL SILVAGGIO, BEING

2 DULY SWORN TESTIFIED AS FOLLOWS:

3 DIRECT EXAMINATION BY MR. ABDALLA:

4 Q. MR. SILVAGGIO, WHEN DID YOU BECOME INVOLVED IN THIS
5 CASE?

6 A. JUNE 21ST, 2005.

7 Q. AND DO YOU REMEMBER -- DO YOU HAVE ANY IDEA WHEN MY
8 CLIENT WAS BROUGHT TO GREENVILLE?

9 A. NO, I DO NOT.

10 Q. DID YOU -- ARE YOU AWARE -- DO YOU REMEMBER THE FACT
11 THAT HE WAS CONTESTING EXTRADITION?

12 A. I WASN'T AWARE OF THAT. I WAS AWARE THAT HE HAD
13 REQUESTED LEGAL COUNSEL IN ALABAMA PRIOR TO OUR ARRIVAL
14 THERE. AND, THEREFORE, WE HAD NO CONTACT WITH HIM.

15 Q. DO YOU NOT RECALL HAVING SENT A LETTER ABOUT HIM
16 CONTESTING EXTRADITION, A MEMO?

17 A. I'D LIKE TO SEE IT, IF I MAY.

18 MR. ABDALLA: I GUESS I NEED THIS MARKED AS A COURT
19 EXHIBIT, YOUR HONOR, 'CAUSE I DON'T WANT IT TO BE AN EXHIBIT
20 FOR THE ---

21 THE COURT: OKAY.

22 (WHEREUPON COURT EXHIBIT 1 WAS MARKED)

23 Q. I'M HANDING YOU COURT EXHIBIT NUMBER 1 FOR
24 IDENTIFICATION. DO YOU RECOGNIZE THIS MEMO?

25 (PAUSE)

PAUL SILVAGGIO - DIRECT EXAMINATION BY MR. ABDALLA

21

1 A. OKAY.

2 Q. OKAY. COULD YOU READ WHAT THE DATE IS ON THAT LETTER?

3 A. THE DATE IS JULY 13TH, 2005.

4 Q. AND WHO IS IT FROM?

5 A. IT'S FROM MYSELF TO OUR VICTIM ADVOCATE'S OFFICE AND TO

6 THE VICTIM ADVOCATE'S OFFICE THROUGH THE GOVERNOR'S OFFICE

7 IN COLUMBIA.

8 Q. MAY I SEE IT FOR A MOMENT? AND MY POINT I HAVE -- WHAT

9 I HAVE -- WOULD YOU START RIGHT THERE AND READ THE

10 REMAINDER?

11 A. SURE. NOT WHY I SENT THE LETTER, BUT YOU JUST WANT THE

12 PART THAT YOU HIGHLIGHTED, RIGHT?

13 Q. YES, SIR.

14 A. NOT ALL OF IT?

15 Q. AND IF THEY WANT TO BRING IN THE REST, THEY'RE FREE TO.

16 I JUST WANT -- THAT'S THE RELEVANT PART TO ME.

17 A. OKAY, SIR. DEFENDANT, CARL SOUTHERLAND, HAS WAIVED

18 EXTRADITION TO SOUTH CAROLINA TO FACE THE CHARGE FOR MURDER

19 AND IS CURRENTLY IN THE GREENVILLE COUNTY DETENTION CENTER.

20 DEFENDANT, JONATHAN CAMPBELL, IS FIGHTING EXTRADITION

21 IN THE STATE OF ALABAMA, YET DOCUMENTS ARE IN PLACE AND/OR

22 BEING PREPARED BY THE STATE OF ALABAMA THROUGH A GOVERNOR'S

23 WARRANT TO BRING HIM BACK TO SOUTH CAROLINA TO ALSO FACE THE

24 CHARGE OF MURDER.

25 Q. DO YOU HAVE A GOVERNOR'S WARRANT?

PAUL SILVAGGIO - DIRECT EXAMINATION BY MR. ABDALLA

22

1 A. THAT IS NOT -- MAY I EXPLAIN THE DYNAMIC OF ---

2 Q. SURE.

3 A. OKAY. ONCE WE, IN THE HOMICIDE UNIT, ONCE WE SECURE
4 WARRANTS FOR A PERSON'S ARREST, AND THEY'RE IN ANOTHER
5 STATE, THOSE WARRANTS ARE FORWARDED DOWN TO OUR EXTRADITION
6 UNIT, WHICH IS THROUGH THE JUDICIAL SUPPORT SERVICES THROUGH
7 THE GREENVILLE COUNTY SHERIFF'S OFFICE. THEY COORDINATE ALL
8 THAT EFFORT. THEY COORDINATE ALL TO AND INCLUDING BRINGING
9 THE INDIVIDUAL BACK.

10 Q. SO THAT WOULDN'T BE YOU?

11 A. NO, SIR.

12 Q. ALL RIGHT.

13 MR. ABDALLA: I HAVE NOTHING FURTHER, YOUR HONOR. OF
14 COURSE, ANSWER ANY QUESTIONS MR. WESTON HAS.

15 MR. WESTON: NO QUESTIONS, YOUR HONOR.

16 THE COURT: ARE YOU FAMILIAR WITH ANY OF THIS?

17 A. NOT THE EXTRADITION PROCESS OTHER THAN KNOWING THAT HE
18 WAS FIGHTING EXTRADITION. AND MY LETTER WAS TO THE VICTIM
19 ADVOCATE'S OFFICE SO THAT THEY WOULD BE AWARE OF THE
20 SITUATION TO PROVIDE BENEFITS TO THE VICTIM'S FAMILY. RON
21 BISHOP ---

22 THE COURT: WELL, DO YOU HAVE ANY EVIDENCE THAT THE
23 ARREST IN ALABAMA WAS UNLAWFUL?

24 MR. ABDALLA: YOUR HONOR, HE WAS ARRESTED ON THE CHARGE
25 OF -- WAS THE DRIVER FOR FLEEING FROM THE OFFICERS AND THAT

PAUL SILVAGGIO - DIRECT EXAMINATION BY MR. ABDALLA

23

1 THE CHARGES IN ALABAMA WERE DISMISSED BASED ON THE
2 INVESTIGATION I'VE DONE.

3 THE COURT: WELL, WHAT DO YOU HAVE TO SHOW, I MEAN, ---

4 MR. ABDALLA: I'VE ---

5 THE COURT: --- YOU'VE MADE A JURISDICTIONAL ARGUMENT
6 TO DISMISS THIS CASE.

7 MR. ABDALLA: YES, YOUR HONOR.

8 THE COURT: BUT ALL I'VE -- THERE'S NOTHING HERE.

9 MR. ABDALLA: BUT, JUDGE, I BELIEVE IT'S THE BURDEN OF
10 THE STATE, AND I GUESS I MAY BE WRONG, TO PROVE THAT THEY
11 HAVE HIM HERE LEGALLY. I CAN'T FIND ANYTHING THAT SHOWS HE
12 WAS EVER LEGALLY BROUGHT HERE.

13 THERE'S A WAIVER OF EXTRADITION FROM CARL SOUTHERLAND,
14 BUT THERE'S NOTHING IN THE FILE ON JONATHAN CAMPBELL. AND
15 THERE'S NO EVIDENCE THAT HE WAS LEGALLY BROUGHT HERE OTHER
16 THAN FACTUALLY BROUGHT HERE, IN FACT, BROUGHT HERE. BUT I
17 DON'T -- OUR CONTENTION IS ---

18 THE COURT: WELL, WHAT WERE THE GROUNDS FOR HIS
19 CONTESTING EXTRADITION IN ALABAMA?

20 MR. ABDALLA: HE WANTED TO HAVE AN EXTRADITION HEARING,
21 YOUR HONOR.

22 THE COURT: DOES HE EVEN KNOW?

23 MR. ABDALLA: I SPOKE TO HIS ATTORNEY WHO SAID HE WAS
24 NEVER GIVEN A HEARING. AND HIS ATTORNEY ---

25 THE COURT: OKAY. BUT MY POINT NOW IS WHAT WERE THE

PAUL SILVAGGIO - DIRECT EXAMINATION BY MR. ABDALLA

24

1 GROUND FOR HIS FIGHTING EXTRADITION IN ALABAMA?

2 MR. ABDALLA: I DON'T KNOW.

3 THE COURT: WELL, TALK TO HIM. ANYTHING ELSE FROM ---

4 MR. ABDALLA: OH, NOTHING FROM MR. SILVAGGIO.

5 THE COURT: MR. SILVAGGIO NOW. YOU MAY STEP DOWN.

6 A. THANK YOU, YOUR HONOR.

7 (PAUSE)

8 MR. ABDALLA: YOUR HONOR, HE TELLS ME IT WAS FROM THE
9 ADVICE OF HIS ATTORNEY TO CONTEST IT. AND THEY WERE GOING
10 TO HAVE THE HEARING, AND THE HEARING WAS NEVER HAD.

11 THE COURT: MR. ABDALLA, YOU BRING THIS MOTION. IT'S
12 CLEARLY A SURPRISE TO THE STATE. YOU'VE GOT TO MAKE SOME
13 KIND OF SHOWING.

14 MR. ABDALLA: WELL, YOUR HONOR, THE ONLY INFORMATION I
15 KNOW IS THAT THE -- HIS ATTORNEY SAID THAT SINCE HE SAID HE
16 DIDN'T DO THIS, THIS CRIME, THAT HE SHOULD FORCE THEM ---

17 THE COURT: WELL, THE INNOCENCE OR GUILT IS NOT THE
18 ISSUE ON EXTRADITION. SO WAS HE LAWFULLY ARRESTED IN
19 ALABAMA?

20 MR. ABDALLA: I CAN'T SPEAK TO THAT, JUDGE. I'M SORRY.

21 THE COURT: 'CAUSE THERE WAS A LAWFULLY ISSUED WARRANT
22 SENT FROM SOUTH CAROLINA TO ALABAMA TO HOLD HIM. AND AT
23 THAT POINT HE WANTS TO CONTEST EXTRADITION. AM I RIGHT?

24 MR. ABDALLA: YES, YOUR HONOR.

25 THE COURT: WELL, THAT'S HIS BURDEN. NOW I DON'T KNOW

1 THE MECHANICS OF WHAT HAPPENED AFTER THAT. AND THE STATE
2 HAD NO NOTICE. WAS THIS A WRITTEN -- A FILED MOTION?

3 MR. ABDALLA: NO, YOUR HONOR.

4 THE COURT: WELL, THEY CAN'T BE HELD -- THEIR FEET
5 CAN'T BE HELD TO THE FIRE. BUT YOU -- IT'S A JURISDICTIONAL
6 QUESTION. SO IT'S NEVER WAIVED. OKAY. ANYTHING ELSE?

7 MR. ABDALLA: NO, YOUR HONOR.

8 THE COURT: OKAY. LET'S GET THE JURY UP HERE AND PICK
9 A JURY.

10 AND LET -- ON THAT ISSUE, ABSENT THE PRESENTATION OF
11 ANY OTHER EVIDENCE TO THE CONTRARY, I DON'T SEE WHERE
12 EXTRADITION TO THIS STATE VIOLATES DUE PROCESS OR HAS
13 VIOLATED HIS FUNDAMENTAL RIGHTS. THE CRIME THAT HE'S
14 CHARGED WITH CARRIES MORE THAN A YEAR.

15 AND I HAVEN'T HEARD ANYTHING THAT SAYS THAT THE ARREST
16 DOWN THERE VIOLATED HIS CONSTITUTIONAL RIGHTS. I DON'T
17 THINK, BASED ON WHAT I'VE BEEN TOLD, WHICH IS VERY LIMITED,
18 THAT HE WOULD HAVE A VIABLE, SUPPORTABLE ARGUMENT AGAINST
19 EXTRADITION. OKAY.

20 (PAUSE)

21 MR. WESTON: YOUR HONOR, WE HAVE GOT ABOUT THREE OR
22 FOUR PIECES OF EVIDENCE, ONE OF WHICH IS THE KNIFE INVOLVED
23 AND ABOUT TWO OR THREE OTHER PIECES THAT ARE COMING FROM
24 P&E. OFFICER FORTNER BROUGHT THE ITEMS UP HERE FROM P&E.

25 THE COURT: OKAY.

1 MR. WESTON: HE'D LIKE TO -- DAR SHAW IS GOING TO
2 TESTIFY HE IMPOUNDED -- PUT THE ITEMS IN P&E. HE IS HERE
3 NOW. WE WOULD LIKE TO RELEASE OFFICER FORTNER SO HE DOES
4 NOT HAVE TO STAY HERE UNTIL LATE THIS AFTERNOON OR TOMORROW
5 JUST TO SAY I BROUGHT THE EVIDENCE -- THE ITEMS FROM P&E.

6 WE ARE PREPARED TO LET MR. ABDALLA TAKE A LOOK AT THE
7 ITEMS IF HE'D LIKE. BUT OFFICER -- WE'D JUST LIKE TO
8 RELEASE OFFICER FORTNER IF WE COULD. THAT'S ALL.

9 THE COURT: THEY WANT TO KNOW IF YOU'LL STIPULATE TO
10 THAT MUCH OF THE CHAIN.

11 MR. ABDALLA: AND I'D PROBABLY STIPULATE. LET ME JUST
12 HAVE MY CLIENT SEE THE EVIDENCE, IF I MAY. I LOOKED AT THE
13 EVIDENCE EARLIER, JUDGE, BUT ...

14 THE COURT: OKAY. I'LL BE ---

15 MR. WESTON: JUDGE, MY UNDERSTANDING ---

16 THE COURT: --- RIGHT BACK. HUH?

17 MR. WESTON: I WAS GOING TO SAY MY UNDERSTANDING IS
18 THAT MR. ABDALLA HAS INDICATED OFF THE RECORD THAT AT THIS
19 POINT HE AND HIS CLIENT HAVE NO OBJECTIONS TO US RELEASING
20 OFFICER FORTNER FROM THE CHAIN.

21 THE COURT: OKAY. IS THAT CORRECT?

22 MR. ABDALLA: THAT'S CORRECT. THE ONLY THING I'M
23 CONTESTING, YOUR HONOR, IS THE LINE-UP BECAUSE I'M ALREADY
24 STIPULATING THAT MY CLIENT WAS IN THE VEHICLE WHEN THIS
25 HAPPENED. SO I SEE NO POINT IN HAVING ---

1 THE COURT: IN THE LINE-UP?

2 MR. ABDALLA: THE LINE-UP, JUDGE.

3 MR. WESTON: SHE PICKED HIM OUT OF A PHOTO LINE-UP,
4 YOUR HONOR. AND WE ANTICIPATE SHE'S GOING TO PICK HIM OUT
5 IN COURT.

6 THE COURT: OH, THIS IS A DIFFERENT PHOTO LINE-UP?

7 MR. ABDALLA: I DON'T KNOW, BUT ---

8 MR. WESTON: THIS IS THE ONE --

9 MR. ABDALLA: --- MY POINT ---

10 MR. WESTON: NO, SIR. THIS IS THE ONE HE JUST
11 STIPULATED TO.

12 MR. ABDALLA: I WAS STIPULATING TO THE IDENTIFICATION.
13 I WASN'T AWARE I WAS STIPULATING TO THE LINE-UP. I SAW NO
14 POINT IN BRINGING THE LINE-UP IN IF WE'RE SAYING, YES, IT'S
15 HIM.

16 MR. WESTON: YOUR HONOR, OUR PURPOSE IS FOR THE JURY TO
17 HAVE A PICTURE OF THE DEFENDANT BACK THERE WITH THEM WHEN
18 THEY'RE DELIBERATING. MY UNDERSTANDING WAS HE STIPULATED TO
19 THAT. AND ---

20 THE COURT: THAT'S WHAT I UNDERSTOOD AS WELL. IF
21 THAT'S NOT TRUE YOU'D BETTER SPEAK UP NOW.

22 MR. ABDALLA: THAT WASN'T WHAT I INTENDED, ---

23 THE COURT: GET McNAMARA ---

24 MR. ABDALLA: --- BUT I DON'T WANT TO MAKE THEM HAVE TO
25 CALL THE OFFICER BACK BECAUSE THEN I'M LOOKING LIKE I'M

1 GOING BACK ON MY WORD. THAT'S NOT WHAT I WAS DOING. I
2 DIDN'T UNDERSTAND THEY CARED ABOUT THE LINE-UP COMING IN.

3 I WAS -- WHAT I SAID ON THE RECORD, I BELIEVE, WAS
4 WE'RE STIPULATING TO THE FACT THAT MY CLIENT IS THE ONE WHO
5 WAS IN THE CAR WHEN THIS HAPPENED. AND I DIDN'T REALIZE
6 THEY WANTED A PICTURE OF HIM FROM BACK THEN WITH ALL THESE
7 OTHER PEOPLE IN IT.

8 MR. WESTON: YOUR HONOR, THE STATE'S POSITION IS THAT
9 THIS LINE-UP MORE CLOSELY DEPICTS THE WAY THE DEFENDANT
10 LOOKED AT THAT TIME ---

11 THE COURT: OKAY. AND I, YOU KNOW, IF YOU'VE GOT TO
12 BRING McNAMARA BACK, WE'LL BRING HIM BACK. I'LL BE RIGHT
13 BACK.

14 MR. ABDALLA: NO, WE'RE NOT GOING TO ARGUE WITH IT,
15 JUDGE.

16 THE COURT: OKAY.

17 (WHEREUPON COURT WAS IN RECESS AT 3:39 PM)

18 (WHEREUPON COURT RESUMED AT 3:44 PM)

19 (WHEREUPON THE JURY PANEL ENTERED THE COURTROOM AT 3:44
20 PM)

21 THE COURT: OKAY. LADIES AND GENTLEMEN, WELCOME UP TO
22 COURTROOM 4. THANK YOU ALL FOR YOUR PATIENCE. WE'VE HAD A
23 NUMBER OF MATTERS THAT WE HAD TO TAKE CARE OF. AND WE
24 FINISHED UP THE OTHER TRIAL JUST BEFORE THIS ONE STARTED.
25 SO IT'S BEEN SORT OF A BUSY DAY.

1 I WANT TO TELL YOU THAT WE ARE ABOUT TO START ANOTHER
2 CASE. AND LET ME INTRODUCE THIS CASE TO YOU. IT IS THE
3 STATE VERSUS JONATHAN MILLARD CAMPBELL. THE FIRST
4 INDICTMENT IS 06-328. IT IS FOR MURDER.

5 IT ALLEGES THAT JONATHAN MILLARD CAMPBELL DID IN
6 GREENVILLE COUNTY ON OR ABOUT JUNE 19, 2005 UNLAWFULLY AND
7 WITH MALICE AFORETHOUGHT KILL JERMAINE PROCTOR BY MEANS OF
8 STABBING THE VICTIM REPEATEDLY IN THE ABDOMEN AND CHEST AND
9 THAT JERMAINE PROCTOR DIED AS A PROXIMATE RESULT THEREOF.

10 THE NEXT INDICTMENT IS THE STATE VERSUS JONATHAN
11 MILLARD CAMPBELL, 06-329. IT IS FOR POSSESSION OF A WEAPON
12 DURING THE COMMISSION OF A CRIME.

13 IT ALLEGES THAT JONATHAN MILLARD CAMPBELL DID IN
14 GREENVILLE COUNTY ON OR ABOUT THE 19TH DAY OF JUNE, 2005,
15 POSSESS OR VISIBLY DISPLAY A KNIFE DURING THE COMMISSION OR
16 ATTEMPTED COMMISSION OF A VIOLENT CRIME, THAT IS MURDER.

17 NOW I WANT TO TELL YOU, LADIES AND GENTLEMEN, TO THESE
18 CHARGES MR. CAMPBELL HAS PLED NOT GUILTY. AND AS SUCH THAT
19 ENTITLES HIM TO CERTAIN RIGHTS THAT BELONG TO ALL CITIZENS,
20 AND THAT IS THAT EVERY PERSON WHO IS CHARGED WITH A CRIME IN
21 THIS COUNTRY IS PRESUMED INNOCENT UNLESS AND UNTIL THE
22 CHARGING BODY, THAT IS THE STATE IN THIS CASE, CAN PROVE HIM
23 GUILTY, HIM OR HER, GUILTY BEYOND ANY REASONABLE DOUBT OF
24 EACH AND EVERY ELEMENT OF EACH OFFENSE THAT THAT PERSON IS
25 CHARGED WITH.

1 THE OTHER THING I WOULD REMIND YOU OF AT THIS TIME IS
2 THAT THESE DOCUMENTS THAT I HAVE READ TO YOU, THE
3 INDICTMENTS, ARE EXACTLY WHAT THEY LOOK LIKE, THEY ARE
4 PIECES OF PAPER. THEY ARE NOT EVIDENCE.

5 AND YOU SHOULD MAKE NO PRESUMPTION AND TAKE NO
6 INFERENCE FROM ANY OF THESE -- ANY OF THE ALLEGATIONS
7 CONTAINED IN THESE DOCUMENTS WITH RESPECT TO GUILT OR
8 INNOCENCE IN THIS CASE. THAT CAN ONLY BE DETERMINED BY THE
9 PRESENTATION OF EVIDENCE IN THIS COURTROOM. SO DO NOT TAKE
10 -- MAKE ANY INFERENCE OR PRESUMPTION FROM THESE INDICTMENTS
11 WITH RESPECT TO THE GUILT OR INNOCENCE OF MR. CAMPBELL.

12 NOW I'M GOING TO IN JUST A SECOND QUALIFY YOU ALL TO
13 SERVE IN THIS PARTICULAR CASE, BUT BEFORE I DO THAT I'M
14 GOING TO ASK THE ATTORNEYS TO STAND AND INTRODUCE
15 THEMSELVES. MR. WESTON.

16 MR. WESTON: THANK YOU, YOUR HONOR. MAY IT PLEASE THE
17 COURT? MY NAME IS JEFF WESTON AND ALONG WITH MY CO-COUNSEL,
18 JON GREGORY, WE'LL BE THE PROSECUTORS FOR THE 13TH CIRCUIT
19 SOLICITOR'S OFFICE. ALSO SEATED IS MS. LINSEY KICKLIGHTER,
20 OUR INVESTIGATOR.

21 THE COURT: ALL RIGHT. THANK YOU. MR. ABDALLA.

22 MR. ABDALLA: MY NAME IS JOHN ABDALLA. AND I ALONG
23 WITH CO-COUNSEL, BRIAN JOHNSON, WILL BE DEFENDING MR.
24 CAMPBELL IN THIS MATTER. AND TRACY BURKETT WILL BE
25 ASSISTING US FROM THE PUBLIC DEFENDER'S OFFICE.

1 **THE COURT:** ALL RIGHT. WOULD YOU ASK MR. CAMPBELL --
2 INTRODUCE MR. CAMPBELL AS WELL, IF YOU WOULD.

3 **MR. ABDALLA:** I'M SORRY. MR. CAMPBELL. THIS IS
4 JONATHAN CAMPBELL. STAND UP AND FACE THE JURY.

5 **THE COURT:** ALL RIGHT. THANK YOU VERY MUCH. ALL
6 RIGHT. LADIES AND GENTLEMEN, IS THERE ANY MEMBER OF THE
7 JURY PANEL WHO'S RELATED BY BLOOD OR MARRIAGE OR HAVE A
8 BUSINESS, PERSONAL OR SOCIAL RELATIONSHIP WITH ANY OF THE
9 ATTORNEYS INVOLVED IN THIS MATTER OR ANY MEMBER OF THEIR
10 OFFICE? IF SO, PLEASE STAND.

11 (NO RESPONSE)

12 **THE COURT:** IS THERE ANY MEMBER OF THE JURY PANEL WHO
13 IS RELATED BY BLOOD OR MARRIAGE OR HAVE A BUSINESS, PERSONAL
14 OR SOCIAL RELATIONSHIP WITH EITHER MR. JONATHAN MILLARD
15 CAMPBELL, THE DEFENDANT IN THIS CASE, OR WITH MR. JERMAINE
16 PROCTOR, THE VICTIM, ALLEGED VICTIM? IF SO, PLEASE STAND.

17 (NO RESPONSE)

18 **THE COURT:** OKAY. IS THERE ANY MEMBER OF THE JURY
19 PANEL WHO HAS ANY KNOWLEDGE ABOUT THE EVENTS THAT ARE
20 ALLEGED IN THESE INDICTMENTS? IF SO, PLEASE STAND.

21 (NO RESPONSE)

22 **THE COURT:** NOW I'M GOING TO READ A LIST OF POTENTIAL
23 WITNESSES IN THIS CASE. PLEASE LISTEN BECAUSE I'M GOING TO
24 WANT TO KNOW THE SAME THING. THERESA FORD, ROXIE SAXON,
25 LORENZO MATTHEWS, DAR SHAW, DR. WARD, PAUL SILVAGGIO,

1 SERGEANT MIKE McNAMARA, MIKE FORTNER, CARL SOUTHERLAND,
2 OFFICER COOPER WITH THE GREENVILLE COUNTY DETENTION CENTER,
3 OFFICER KRUPA WITH THE GREENVILLE COUNTY DETENTION CENTER,
4 MS. TRACY BURKETT.

5 IS THERE ANY MEMBER OF THE JURY PANEL WHO IS RELATED BY
6 BLOOD OR MARRIAGE OR WHO HAS A BUSINESS, PERSONAL OR SOCIAL
7 RELATIONSHIP WITH ANY OF THESE POTENTIAL WITNESSES? IF SO,
8 PLEASE STAND.

9 (NO RESPONSE)

10 THE COURT: IS THERE ANY MEMBER OF THE JURY PANEL OR
11 ANY FAMILY MEMBER OR A CLOSE PERSONAL FRIEND WHO HAS EVER
12 BEEN THE VICTIM OF OR CHARGED WITH THIS TYPE OF OFFENSE? IF
13 SO, PLEASE STAND.

14 (NO RESPONSE)

15 THE COURT: IS THERE ANY MEMBER OF THE JURY PANEL WHO
16 IS AWARE OF ANY BIAS OR PREJUDICE TOWARDS EITHER THE STATE
17 OR THE DEFENDANT? IF SO, PLEASE STAND.

18 (NO RESPONSE)

19 THE COURT: IS THERE ANY MEMBER OF THE JURY PANEL WHO
20 IS A MEMBER OF OR A CONTRIBUTOR TO A GROUP WHOSE PRIMARY
21 CONCERN IS THE PROMOTION OF LAW ENFORCEMENT OR VICTIM'S
22 RIGHTS, FOR EXAMPLE, MADD, SADD OR CAV? IF SO, PLEASE
23 STAND.

24 (NO RESPONSE)

25 THE COURT: IS THERE ANY MEMBER OF THE JURY PANEL WHO

1 KNOWS OF ANY REASON WHATSOEVER WHY YOU SHOULD NOT SERVE IN
2 THIS CASE WITH PARTICULAR EMPHASIS ON YOUR ABILITY TO BE
3 FAIR AND IMPARTIAL TO BOTH THE STATE AND THE DEFENSE? IF
4 YOU CAN'T DO THAT, PLEASE STAND.

5 (NO RESPONSE)

6 THE COURT: OKAY. LET'S STRIKE THE JURY. TEN AND
7 FIVE. FIVE AND TEN.

8 MADAME CLERK: PLEASE STAND AS I CALL YOUR NAME.
9 NUMBER 224, JEFFREY SPICHER.

10 MR. SPICHER: SPICHER.

11 MADAME CLERK: SPICHER. PLEASE REMAIN STANDING. WHAT
12 SAYS THE STATE?

13 MR. SPICHER: I'M SORRY?

14 MADAME CLERK: JUST REMAIN STANDING.

15 MR. WESTON: PRESENT THE JUROR, PLEASE.

16 MADAME CLERK: WHAT SAYS THE DEFENSE?

17 MR. ABDALLA: PLEASE EXCUSE THE JUROR FROM SERVICE IN
18 THIS CASE.

19 MADAME CLERK: THANK YOU. YOU MAY HAVE A SEAT. YOU'RE
20 EXCUSED FROM THIS TRIAL. NUMBER 168, TASHUA MORGAN.

21 MR. WESTON: I'M SORRY. WHAT WAS THE NUMBER AGAIN?

22 MADAME CLERK: 168.

23 MR. WESTON: THANK YOU.

24 MADAME CLERK: WHAT SAYS THE STATE?

25 MR. WESTON: PRESENT THE JUROR, PLEASE.

1 MADAME CLERK: WHAT SAYS THE DEFENSE?

2 MR. ABDALLA: EXCUSE THE JUROR, PLEASE, ---

3 MADAME CLERK: THANK YOU. YOU'RE EXCUSED ---

4 MR. ABDALLA: --- FROM SERVICE IN THIS CASE.

5 MADAME CLERK: 136, GEORGE KOUTSIOUKIS. WHAT SAYS THE
6 STATE?

7 MR. WESTON: PRESENT THE JUROR, PLEASE.

8 MADAME CLERK: WHAT SAYS THE DEFENSE?

9 MR. ABDALLA: PLEASE SEAT THE JUROR.

10 MADAME CLERK: PLEASE HAVE A SEAT IN THE JURY BOX.

11 NUMBER 55, JUDY CRONIN. WHAT SAYS THE STATE?

12 MR. WESTON: PRESENT THE JUROR, PLEASE.

13 MADAME CLERK: WHAT SAYS THE DEFENSE?

14 MR. ABDALLA: PLEASE SEAT THE JUROR.

15 MADAME CLERK: PLEASE HAVE A SEAT IN THE JURY BOX. 35,

16 VIOLET BURNSIDE. WHAT SAYS THE STATE?

17 MR. WESTON: PRESENT THE JUROR, PLEASE.

18 MADAME CLERK: WHAT SAYS THE DEFENSE?

19 MR. ABDALLA: PLEASE SEAT THE JUROR.

20 MADAME CLERK: PLEASE HAVE A SEAT IN THE JURY BOX. 72,

21 ERIC EDWARDS. WHAT SAYS THE STATE?

22 MR. WESTON: PRESENT THE JUROR, PLEASE.

23 MADAME CLERK: WHAT SAYS THE DEFENSE?

24 MR. ABDALLA: PLEASE SEAT THE JUROR.

25 MADAME CLERK: PLEASE HAVE A SEAT IN THE JURY BOX.

1 145, DIANNE LOFTIN. WHAT SAYS THE STATE?
2 MR. WESTON: PRESENT THE JUROR, PLEASE.
3 MADAME CLERK: WHAT SAYS THE DEFENSE?
4 MR. ABDALLA: PLEASE SEAT THE JUROR.
5 MADAME CLERK: PLEASE HAVE A SEAT IN THE JURY BOX. 30,
6 TRAVIS BROWN. WHAT SAYS THE STATE?
7 MR. WESTON: EXCUSE MR. BROWN FROM THIS JURY, PLEASE.
8 MADAME CLERK: THANK YOU. YOU'RE EXCUSED FROM THIS
9 CASE. 248, REINER WEINGARTNER. WHAT SAYS THE STATE?
10 MR. WESTON: PRESENT THIS JUROR.
11 MADAME CLERK: WHAT SAYS THE DEFENSE?
12 MR. ABDALLA: EXCUSE THE JUROR FROM SERVICE IN THIS
13 CASE, PLEASE.
14 MADAME CLERK: YOU'RE EXCUSED FROM THIS CASE. 142,
15 JEFFREY LAWS. WHAT SAYS THE STATE?
16 MR. WESTON: PRESENT THE JUROR, PLEASE.
17 MADAME CLERK: WHAT SAYS THE DEFENSE?
18 MR. ABDALLA: PLEASE SEAT THE JUROR.
19 MADAME CLERK: PLEASE HAVE A SEAT IN THE JURY BOX.
20 132, JESSICA KEMP. WHAT SAYS THE STATE?
21 MR. WESTON: PRESENT THE JUROR, PLEASE.
22 MADAME CLERK: WHAT SAYS THE DEFENSE?
23 MR. ABDALLA: PLEASE SEAT THE JUROR.
24 MADAME CLERK: PLEASE HAVE A SEAT IN THE JURY BOX. 25,
25 ANTHONY BRANCO.

1 MR. BRANCO: MAY I MAKE A COMMENT, PLEASE?

2 THE COURT: NO, SIR. IF YOU WOULD, COME AROUND UP
3 HERE.

4 (WHEREUPON A BENCH CONFERENCE WAS HELD ON THE RECORD
5 WITH MR. BRANCO, JUROR 25)

6 MR. BRANCO: I WORK FOR A COMPANY WITH THE SAME LAST
7 NAME AS THE DEFENDANT. AND I DON'T KNOW IF THAT WOULD MAKE
8 A CONFLICT OF INTEREST. I DOUBT THEY'RE RELATED. IN FACT,
9 IT'S JUST THE LAST NAME.

10 THE COURT: CAMPBELL IS NOT -- THAT'S NOT A PROBLEM.
11 YOU DON'T KNOW HIM?

12 MR. BRANCO: OKAY. NO.

13 THE COURT: OKAY. THANK YOU.

14 (WHEREUPON THE BENCH CONFERENCE WAS ENDED)

15 MADAME CLERK: WHAT SAYS THE STATE?

16 MR. WESTON: EXCUSE THE JUROR FROM THIS CASE, PLEASE.

17 MADAME CLERK: THANK YOU. YOU'RE EXCUSED FROM THIS
18 CASE. 178, REBECCA OLSEN. WHAT SAYS THE STATE?

19 MR. WESTON: EXCUSE THE JUROR FROM THIS CASE, PLEASE.

20 MADAME CLERK: THANK YOU. YOU'RE EXCUSED FROM THIS
21 CASE. NUMBER 10, TODD ALMQUIST. WHAT SAYS THE STATE?

22 MR. WESTON: PRESENT THE JUROR, PLEASE.

23 MADAME CLERK: WHAT SAYS THE DEFENSE?

24 MR. ABDALLA: PLEASE SEAT THE JUROR.

25 MADAME CLERK: PLEASE HAVE A SEAT IN THE JURY BOX.

1 261, ANNA GEDENBERG. WHAT SAYS THE STATE?
2 MR. ABDALLA: WHAT NUMBER DID YOU SAY?
3 MADAME CLERK: 261.
4 MR. WESTON: PRESENT THE JUROR, PLEASE.
5 MADAME CLERK: WHAT SAYS THE DEFENSE?
6 MR. ABDALLA: PLEASE SEAT THE JUROR.
7 MADAME CLERK: PLEASE HAVE A SEAT IN THE JURY BOX.
8 149, DASHANQUISE MANGLE.
9 MS. MANGLE: DASHANQUISE.
10 MADAME CLERK: DASHANQUISE MANGLE. WHAT SAYS THE
11 STATE?
12 MR. WESTON: PRESENT THE JUROR, PLEASE.
13 MADAME CLERK: WHAT SAYS THE DEFENSE?
14 MR. ABDALLA: EXCUSE THE JUROR FROM THIS CASE, PLEASE.
15 MADAME CLERK: THANK YOU. YOU'RE EXCUSED FROM THIS
16 CASE. 85, DAVID FUTRELL. WHAT SAYS THE STATE?
17 MR. WESTON: PRESENT THE JUROR, PLEASE.
18 MADAME CLERK: WHAT SAYS THE DEFENSE?
19 MR. ABDALLA: EXCUSE THE JUROR FROM SERVICE ON THIS
20 CASE.
21 MADAME CLERK: THANK YOU. YOU'RE EXCUSED FROM THIS
22 CASE. NUMBER 63, APRIL DEDECKER. WHAT SAYS THE STATE?
23 MR. WESTON: PRESENT THE JUROR, PLEASE.
24 MADAME CLERK: WHAT SAYS THE DEFENSE?
25 MR. ABDALLA: PLEASE SEAT THE JUROR.

1 MADAME CLERK: PLEASE HAVE A SEAT IN THE JURY BOX.

2 118, KIMBERLEY HONEYCUTT. WHAT SAYS THE STATE?

3 MR. WESTON: PRESENT THE JUROR, PLEASE.

4 MADAME CLERK: WHAT SAYS THE DEFENSE?

5 MR. ABDALLA: PLEASE SEAT THE JUROR.

6 MADAME CLERK: PLEASE HAVE A SEAT IN THE JURY BOX. 18,

7 RHONDA BATSON. WHAT SAYS THE STATE?

8 MR. WESTON: PRESENT THE JUROR, PLEASE.

9 MADAME CLERK: WHAT SAYS THE DEFENSE?

10 MR. ABDALLA: PLEASE EXCUSE THE JUROR FROM SERVICE IN
11 THIS CASE.

12 MADAME CLERK: YOU'RE EXCUSED FROM THIS CASE. NUMBER
13 15, DANIEL BALLARD. WHAT SAYS THE STATE?

14 MR. WESTON: EXCUSE MR. BALLARD FROM THIS JURY, PLEASE.

15 MADAME CLERK: YOU'RE EXCUSED FROM THIS CASE. NUMBER
16 143, DAVID LEE. WHAT SAYS THE STATE?

17 MR. WESTON: EXCUSE THIS JUROR FROM THIS CASE, PLEASE.

18 MADAME CLERK: THANK YOU. YOU'RE EXCUSED FROM THIS
19 CASE. 23, NAKITA BOUIE.

20 (WHEREUPON THE JUROR WAS NOT PRESENT)

21 THE COURT: I THINK THAT'S THE LADY WITH THE CHILDREN
22 PROBLEM.

23 MADAME CLERK: 183, PAMELA PAGE. WHAT SAYS THE STATE?

24 MR. WESTON: PRESENT THE JUROR, PLEASE.

25 MADAME CLERK: WHAT SAYS THE DEFENSE?

1 MR. ABDALLA: PLEASE EXCUSE THE JUROR FROM SERVICE IN
2 THIS CASE.

3 MADAME CLERK: THANK YOU. YOU'RE EXCUSED FROM THIS
4 CASE. 152, HAROLD MARTIN. WHAT SAYS THE STATE?

5 MR. WESTON: PRESENT THE JUROR, PLEASE.

6 MADAME CLERK: WHAT SAYS THE DEFENSE?

7 MR. ABDALLA: PLEASE SEAT THE JUROR.

8 MADAME CLERK: PLEASE HAVE A SEAT IN THE JURY BOX.

9 THE COURT: ONE OR TWO ALTERNATES?

10 MR. WESTON: YOUR HONOR, I PERSONALLY BELIEVE ONE WOULD
11 BE ENOUGH, BUT ...

12 MR. ABDALLA: I WAS THINKING TWO SINCE WE'RE PROBABLY
13 GOING TO GO A COUPLE OF DAYS, BUT WHATEVER ---

14 THE COURT: LET'S GET TWO. LET'S GET TWO. SO IT'S TWO
15 AND FOUR.

16 MADAME CLERK: NUMBER 269, MARTIN TODD. WHAT SAYS THE
17 STATE? NUMBER 269.

18 MR. WESTON: PRESENT THE JUROR, PLEASE.

19 MADAME CLERK: WHAT SAYS THE DEFENSE?

20 MR. ABDALLA: PLEASE SEAT THE JUROR.

21 MADAME CLERK: PLEASE HAVE A SEAT IN THE JURY BOX.

22 NUMBER 21, PERRY BIRKNER. WHAT SAYS THE STATE?

23 MR. WESTON: PRESENT THE JUROR, PLEASE.

24 MADAME CLERK: WHAT SAYS THE DEFENSE?

25 MR. ABDALLA: SEAT THE JUROR, PLEASE.

1 MADAME CLERK: PLEASE HAVE A SEAT IN THE JURY BOX.

2 THE COURT: ALL RIGHT. ANY OBJECTION OR EXCEPTION TO
3 THE JURY AS EMPANELED?

4 MR. WESTON: NOTHING FROM THE STATE, YOUR HONOR.

5 MR. ABDALLA: NOTHING FROM THE DEFENSE, YOUR HONOR.

6 THE COURT: OKAY. ALL RIGHT. TWO GROUPS HERE. I'M
7 NOT GOING TO ASK FOR A SHOW OF HANDS ABOUT WHO THINKS THEY
8 WON THE LOTTERY, BUT I'M GOING TO TELL YOU WHO I THINK WON.
9 AND I THINK IT'S THIS GROUP.

10 THEY HAVE A -- I TELL THIS TO EVERY -- EVERY TIME A
11 JURY IS SELECTED, THIS IS A GREAT PRIVILEGE. IT'S A GREAT
12 RESPONSIBILITY. AND IT'S PART OF OUR DUTY AS CITIZENS TO
13 SERVE AS JURORS. AND I THINK THAT IT IS A -- QUITE OFTEN A
14 DIFFICULT EXPERIENCE, BUT IT'S ALWAYS IN THE LONG RUN
15 REWARDING BECAUSE YOU ARE PARTICIPATING IN THE DAY TO DAY
16 OPERATION OF OUR JUSTICE SYSTEM. AND WE JUST COULDN'T GO ON
17 WITHOUT YOU.

18 SO TO THE REMAINDER -- REMAINING MEMBERS OF THE JURY
19 POOL, I WISH I COULD TELL YOU YOU DIDN'T HAVE TO CALL BACK
20 AFTER SIX, BUT WE WANT YOU TO CALL BACK AFTER SIX. I'LL
21 TELL YOU, IT'S UNLIKELY THAT YOU'LL HAVE TO COME IN -- WELL,
22 I SHOULDN'T SAY THAT IN FRONT OF THEM. CALL BACK AFTER SIX.
23 THANK YOU. Y'ALL ARE EXCUSED. CALL BACK AFTER SIX.

24 (WHEREUPON THE REMAINING JURORS EXITED THE COURTROOM)

25 THE COURT: OKAY. LADIES AND GENTLEMEN, I'M SINCERE

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1 WHEN I SAY I THINK THAT YOU ALL ARE THE WINNERS. IT'S NOT A
2 PROMISE THAT IT'S GOING TO BE LIGHT ENTERTAINMENT, BUT IT'S
3 GOING TO BE REWARDING. AND IT MAY BE TAXING AND DIFFICULT,
4 BUT I SWEAR I THINK IN THE LONG RUN YOU CAN LOOK BACK WITH
5 PRIDE ON YOUR PUBLIC SERVICE.

6 BUT I DO WANT TO TELL YOU THAT WE HAVE A DISPUTE ABOUT
7 THE FACTS IN THIS CASE. AND IT'S A DISPUTE THAT CAN'T BE
8 RESOLVED ANY OTHER WAY THAN TO ASK A JURY OF CITIZENS TO
9 COME UP HERE AND LISTEN TO THE FACTS AND JUDGE THOSE FACTS
10 AND DETERMINE WHAT YOU BELIEVE TO BE TRUE AND WHAT YOU
11 DETERMINE -- WHO YOU DETERMINE TO BE BELIEVABLE AND TO
12 RESOLVE THAT DISPUTE CONCERNING THESE FACTS. THAT'S WHAT
13 WE'RE GOING TO ASK YOU TO DO.

14 I WOULD REMIND YOU AGAIN THAT THE INDICTMENTS THAT I
15 HAVE READ TO YOU ARE NOT EVIDENCE. THEY'RE JUST FORMAL
16 DOCUMENTS THAT ALLOW THE CASE TO WIND THROUGH THE SYSTEM AND
17 ARRIVE TODAY IN COURT FOR DISPOSITION. SO DON'T MAKE ANY
18 INFERENCE OR TAKE ANY PRESUMPTION FROM THE FACT THAT AN
19 INDICTMENT IS ISSUED WITH RESPECT TO THE OUTCOME IN THIS
20 CASE.

21 AND I WOULD ALSO REMIND YOU THAT SOME OF THE
22 FOUNDATIONAL BUILDING BLOCKS OF OUR JUSTICE SYSTEM, WHICH
23 MAKES US THE FREEST COUNTRY IN THE WORLD, ARE THAT EVERY
24 PERSON WHO IS CHARGED WITH A CRIME IS PRESUMED INNOCENT
25 UNLESS AND UNTIL THE ACCUSING BODY CAN PROVE THEM GUILTY

1 BEYOND ANY REASONABLE DOUBT OF EACH AND EVERY ELEMENT OF
2 EACH OFFENSE THAT THEY'RE CHARGED WITH.

3 SO THEY ARE PRESUMED INNOCENT. THE BURDEN OF PROOF IS
4 ALWAYS ON THE STATE. AND THAT BURDEN OF PROOF IS BEYOND A
5 REASONABLE DOUBT. AND I'LL GO INTO THAT IN MORE DEPTH LATER
6 IN THE CASE.

7 IF YOU -- I LIKE TO GIVE EVERYBODY SORT OF A ROAD MAP
8 ABOUT WHERE WE ARE IN THE TRIAL. IT'S NOT A VERY DETAILED
9 ROAD MAP, BUT IT'LL LET YOU KNOW PROCEDURALLY WHERE WE ARE.

10 THE FIRST PART OF THE TRIAL WILL BE IN JUST A FEW
11 MINUTES WHEN THE ATTORNEYS MAKE THEIR OPENING STATEMENTS TO
12 YOU. THEY'RE NOT ARGUMENTATIVE STATEMENTS, THAT THEY'RE
13 GOING TO INTRODUCE THEIR CASE TO YOU.

14 THE SECOND PART OF THE TRIAL IS THE MEAT AND POTATOES
15 OF THE CASE. AND THAT IS THE PRESENTATION OF THE TESTIMONY
16 AND THE EVIDENCE IN THE CASE.

17 THE THIRD PART OF THE TRIAL WILL BE THE CLOSING
18 ARGUMENTS TO YOU MADE BY THE ATTORNEYS WHEN THEY ADVOCATE
19 THEIR POSITION AND URGE YOU TO RESOLVE THE DISPUTE IN THEIR
20 FAVOR.

21 THE FOURTH PART OF THE TRIAL WILL BE WHEN I GIVE YOU
22 THE CHARGE ON THE LAW, WHEN I TELL YOU WHAT THE LAW IS AS IT
23 APPLIES TO THIS CASE.

24 AND THEN THE FIFTH PART OF THE CASE WILL BE WHEN YOU
25 ALL RETIRE TO OUR JURY ROOM TO RESOLVE THE DISPUTE, WHEN YOU

1 ENTER INTO YOUR DELIBERATIONS.

2 SO THEY'RE NOT OF EQUAL LENGTH. OF COURSE, AS YOU
3 WOULD EXPECT, THE SECOND PART OF THE TRIAL, THE PRESENTATION
4 OF THE TESTIMONY AND THE EVIDENCE IS GENERALLY THE LONGEST
5 ONE, BUT AT LEAST YOU'LL KNOW SORT OF WHAT TO EXPECT NEXT.

6 I'LL ASK YOU TO DO A LOT OF THINGS PROBABLY THROUGHOUT
7 THE COURSE OF THE TRIAL, BUT THERE ARE THREE MAIN THINGS
8 THAT I ASK YOU TO DO AND TO KEEP IN MIND THROUGHOUT THE
9 COURSE OF THE PROCEEDINGS.

10 AND THAT IS, THE FIRST THING, IS TO KEEP AN OPEN MIND.
11 WE GO THROUGH ALL THE RIGAMAROW OF ASKING YOU QUESTIONS AND
12 QUALIFYING YOU TO ENSURE THAT THE JURY THAT SITS IN EVERY
13 CASE IS FAIR AND IMPARTIAL, THAT THEY DON'T COME IN WITH
14 THEIR MIND MADE UP ABOUT HOW THE CASE SHOULD BE RESOLVED.

15 SO KEEP AN OPEN MIND THROUGHOUT THE COURSE OF THE
16 PROCEEDINGS. IT'S REAL EASY TO HEAR WHAT YOU HEAR FIRST AND
17 BELIEVE THAT'S IT. AND THEN ALL OF A SUDDEN YOU FIND OUT
18 LATER ON YOU HEAR SOMETHING ELSE AND IT CHANGES YOUR MIND.
19 JUST BE PREPARED FOR THAT. AND LISTEN WITH AN OPEN MIND TO
20 EVERYTHING.

21 THE SECOND THING I ASK YOU TO DO IS TO PAY ATTENTION
22 THROUGHOUT THE COURSE OF THE PROCEEDINGS, WHICH COULD AT
23 TIMES BE DIFFICULT OR TRYING. BUT I WANT TO TELL YOU, AND
24 I'M -- I USE MYSELF AS AN EXAMPLE, AND THIS IS LIKE TRUE
25 CONFESSIONS, MY MIND WILL WANDER. AND IT'S HUMAN NATURE.

1 AND SO I URGE YOU TO BE AWARE OF THAT DURING THE COURSE
2 OF THE TRIAL BECAUSE IF YOU DO DAYDREAM OR LET YOUR MIND
3 DRIFT OFF, WHEN YOU'RE BACK IN DELIBERATIONS IT MAY BE THAT
4 WHEN YOU DRIFTED OFF A CRUCIAL PIECE OF EVIDENCE WAS
5 INTRODUCED OR TESTIMONY. AND YOU WOULD BE AT A DISADVANTAGE
6 IF YOU HAD NOT PAID ATTENTION. SO I ASK YOU TO PAY
7 ATTENTION.

8 FINALLY I ASK YOU NOT TO TALK ABOUT THIS CASE WITH
9 ANYONE UNTIL YOU'RE FREED UP TO DELIBERATE AT THE END. THAT
10 MEANS DON'T TALK ABOUT IT WHEN YOU'RE GOING BACK AND FORTH
11 TO THE COURTROOM WITH THE BAILIFFS. YOU CAN TALK ABOUT
12 OTHER THINGS, BUT NOT ABOUT THE CASE.

13 YOU DON'T -- WHEN WE BREAK, AND I KNOW THIS CASE IS
14 GOING TO GO INTO TOMORROW, DON'T TALK ABOUT IT TONIGHT WHEN
15 YOU GO HOME. AND I KNOW THE TEMPTATION IS GOING TO BE GREAT
16 TO DO THAT. PEOPLE ARE GOING TO HEAR, WHOA, YOU'RE ON A
17 JURY. TELL ME ABOUT IT. WHAT'S GOING ON. WHAT DID YOU DO
18 TODAY? WHAT'S UP? DON'T DO THAT.

19 DON'T TALK ABOUT IT IF YOU SEE SOMEONE ON THE STREET.
20 AND I TELL YOU THAT BECAUSE EVEN AN INNOCENT COMMENT FROM
21 SOMEONE WHO YOU LOVE AND TRUST OR SOMEONE WHO YOU DON'T LIKE
22 CAN HAVE AN IMPACT ON YOUR MIND-FRAME WITH RESPECT TO THIS
23 CASE.

24 AND THAT WOULD NOT BE FAIR TO THE PARTIES INVOLVED IN
25 THIS CASE. THAT WOULD NOT BE FAIR TO YOUR FELLOW JURORS.

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1 AND IT WOULD NOT BE FAIR TO YOURSELF IF YOU WERE TO DO THAT,
2 TO ALLOW SOMEONE WHO IS NOT MAKING THE SACRIFICES THAT YOU
3 ARE MAKING TO HAVE AN IMPACT ON THE OUTCOME OF THIS CASE.
4 SO DON'T TALK ABOUT IT.

5 AND THAT ALSO INCLUDES NOT DOING ANY INDEPENDENT
6 RESEARCH. DON'T LOOK IN A BOOK. DON'T GO VISIT THE SCENE.
7 DO NOT GET ON THE INTERNET. IT'S SO EASY TO DO THAT, BUT
8 DON'T DO IT.

9 EVERYTHING YOU NEED TO HEAR THAT WILL HELP YOU RESOLVE
10 THIS DISPUTE YOU'LL HEAR IN THIS COURTROOM SUBJECT TO
11 CONSTITUTIONAL PROTECTIONS AND SCRUTINY. SO PLEASE ABIDE BY
12 THOSE THINGS.

13 AND I FINALLY WANT TO TELL YOU THAT YOU ARE THE SOLE
14 JUDGES OF THE FACTS IN THIS CASE AND IN EVERY CASE. YOU ARE
15 THE PEOPLE WHO WILL DETERMINE WHAT TO BELIEVE AND WHAT NOT
16 TO BELIEVE, THE CREDIBILITY OF THE WITNESSES.

17 AND A TRIAL JUDGE IS NOT ALLOWED TO HAVE AN OPINION
18 ABOUT THE FACTS OF THE CASE. SO DON'T THINK BY ANYTHING I
19 SAY OR DO THROUGHOUT THE PROCEEDINGS THAT I HAVE AN OPINION.
20 I DO NOT, AND THE LAW DOES NOT ALLOW IT.

21 THAT SAME LAW MAKES ME THE SOLE JUDGE OF THE LAW. SO
22 IF YOU HAVE AN IDEA ABOUT WHAT YOU THINK THE LAW SHOULD BE
23 AND IT DISAGREES WITH WHAT I TELL YOU THE LAW IS, THEN YOU
24 WILL SWEAR AN OATH IN JUST A SECOND TO SET ASIDE YOUR VIEW
25 AND APPLY THE LAW PRECISELY AS I STATE IT TO YOU.

1 NOW I'M GOING TO ASK Y'ALL TO STAND UP IN JUST A
2 SECOND, TAKE AN OATH. AND THEN I'M GOING TO ASK YOU TO
3 RETIRE TO YOUR JURY ROOM FOR JUST A SHORT PERIOD. I'M GOING
4 TO ASK YOU TO DO THE FIRST -- WELL, SORT OF A WARM-UP FOR
5 THE WHOLE CASE.

6 WE NEED A FOREPERSON. AND I ALWAYS ASK A JURY TO SEE
7 IF THEY CAN SELECT A FOREPERSON WHO WOULD BE THE MODERATOR
8 OF THE DISCUSSIONS AT THE END OF THE CASE AND THE
9 SPOKESPERSON FOR THE JURY IF THAT BECOMES NECESSARY IN THE
10 COURTROOM. IF YOU CAN'T DO IT, THAT'S FINE. I CAN -- I CAN
11 DO THAT FOR YOU. BUT I ALWAYS LIKE TO GIVE Y'ALL THE
12 OPPORTUNITY TO DO THAT.

13 ALL RIGHT, AT THIS TIME I'LL ASK YOU TO STAND TO
14 ADMINISTER THE OATH.

15 MADAME CLERK: PLEASE RAISE YOUR RIGHT HAND. THE
16 CORRECT RESPONSE TO THE OATH IS I WILL. YOU SHALL WELL AND
17 TRULY TRY THE CASE, 2006-GS-23-0328, THE STATE VERSUS
18 JONATHAN CAMPBELL, INDICTED FOR MURDER, INDICTMENT 2006-GS-
19 23-0329, INDICTED FOR POSSESSION OF A WEAPON DURING A
20 VIOLENT CRIME AND A TRUE VERDICT RENDERED ACCORDING TO THE
21 LAW AND THE EVIDENCE SO HELP YOU GOD. I WILL?

22 THE JURY: I WILL.

23 THE COURT: OKAY. I'LL LET Y'ALL GO BACK SO YOU CAN
24 ELECT A FOREPERSON. AND WE'LL BE BACK WITH YOU IN A SHORT,
25 VERY SHORT PERIOD OF TIME. THANK YOU.

1 (WHEREUPON THE JURY EXITED THE COURTROOM AT 4:22 PM)

2 THE COURT: OKAY. LET'S GET THE LOGISTICS KIND OF
3 SETTLED IN. WHAT ARE WE LOOKING AT?

4 MR. WESTON: YOUR HONOR, WE ANTICIPATE CALLING MS.
5 THERESA FORD FIRST, MS. THERESA FORD FIRST WHO I ANTICIPATE
6 WILL BE PROBABLY THIRTY TO FORTY-FIVE MINUTES. AND THE
7 FOLLOWING TWO WITNESSES, MS. SAXON AND OFFICER MATTHEWS, WE
8 THINK, WILL BE RELATIVELY BRIEF. I ANTICIPATE WE SHOULD BE
9 ABLE TO GET -- WE COULD POSSIBLY GET ALL THREE OF THOSE DONE
10 TODAY, BUT DEFINITELY MS. FORD.

11 THE COURT: ALL RIGHT. WELL, THAT SORT OF DEPENDS ON
12 JUST HOW SHORT YOUR OPENING STATEMENTS ARE.

13 MR. WESTON: MINE WILL BE LESS THAN FIVE MINUTES, YOUR
14 HONOR.

15 THE COURT: OKAY. WHAT'S GOOD FOR THE GOOSE IS GOOD
16 FOR THE GANDER, RIGHT?

17 MR. JOHNSON: (AFFIRMATIVE NOD).

18 THE COURT: DEFENSE AGREES WITH ME. OKAY.

19 MR. WESTON: YOUR HONOR, IF I COULD HAVE TWO MINUTES
20 JUST TO USE ---

21 THE COURT: YEAH, ALL RIGHT. YEAH, GO AHEAD. WE'LL
22 JUST BE AT EASE FOR TWO MINUTES.

23 MR. WESTON: THANK YOU, SIR.

24 (WHEREUPON COURT WAS IN RECESS AT 4:24 PM)

25 (WHEREUPON THE COURT TOOK A GUILTY PLEA IN A DIFFERENT

OPENING STATEMENTS - MR. WESTON

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1 CASE)

2 (WHEREUPON COURT RESUMED AT 4:41 PM)

3 THE COURT: THE FOREPERSON IS JESSICA KEMP.

4 (WHEREUPON COURT'S EXHIBIT 2 WAS MARKED)

5 THE COURT: ALL RIGHT. I DON'T KNOW HOW MUCH WE'LL GET
6 DONE, BUT WE'LL DO WHAT WE CAN. ALL RIGHT.

7 (WHEREUPON THE JURY ENTERED THE COURTROOM AT 4:43 PM)

8 THE COURT: ALL RIGHT. MS. KEMP, THANK YOU FOR
9 AGREEING TO SERVE. APPRECIATE THAT. I'LL TURN IT OVER TO
10 THE ATTORNEYS FOR THEIR BRIEF OPENING STATEMENTS. MR.
11 WESTON.

12 MR. WESTON: THANK YOU, YOUR HONOR. MAY IT PLEASE THE
13 COURT? LADIES AND GENTLEMEN, AS I TOLD YOU PREVIOUSLY, MY
14 NAME'S JEFF WESTON. AND ALONG WITH MY CO-COUNSEL, JON
15 GREGORY, WE'RE PROSECUTORS IN THE 13TH CIRCUIT SOLICITOR'S
16 OFFICE. AND IT'S OUR RESPONSIBILITY TO PRESENT THE EVIDENCE
17 IN THE CASE AGAINST MR. CAMPBELL TO YOU THIS MORNING.

18 I'D LIKE TO USE MY OPENING STATEMENT TO BRIEFLY GO OVER
19 THE FACTS. NUMBER ONE, TELL YOU WHAT THIS CASE IS ABOUT.
20 NUMBER TWO, TELL YOU WHAT WE'RE REQUIRED AND WHAT WE INTEND
21 TO PROVE. AND NUMBER THREE, TELL YOU HOW WE'RE GOING TO
22 PROVE IT.

23 TO BEGIN WITH THIS IS A CASE ABOUT A MURDER COMMITTED
24 IN A DRUG FUELED RAGE. WE'RE REQUIRED TO PROVE THAT THIS
25 DEFENDANT, JONATHAN CAMPBELL, ON THE NIGHT OF JUNE 19TH,

OPENING STATEMENTS - MR. WESTON

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1 2005, EXCUSE ME, ON THE MORNING OF JUNE 19TH, 2005, THE
2 BEGINNING OF FATHER'S DAY, WITH MALICE AFORETHOUGHT, TOOK
3 THE LIFE FROM MR. JERMAINE PROCTOR BY STABBING HIM WITH A
4 KNIFE EIGHTEEN TIMES.

5 WE ARE ALSO REQUIRED TO PROVE THAT THIS DEFENDANT, JON
6 CAMPBELL, IS GUILTY OF POSSESSION OF A WEAPON DURING THE
7 COMMISSION OF A VIOLENT CRIME. THAT PART IS EASY FOR ME.

8 THE LAW PROVIDES THAT IF A PERSON IS IN POSSESSION OF A
9 DANGEROUS WEAPON WHILE HE OR SHE COMMITS A VIOLENT CRIME,
10 THEN THAT IS A SEPARATE OFFENSE ALTOGETHER. THE JUDGE WILL
11 DEFINE WHAT A WEAPON IS IN THIS CASE UNDER THAT STATUTE.
12 AND A KNIFE WILL BE ONE OF THE THINGS THAT HE DEFINES.

13 SO IF YOU FIND THAT THIS DEFENDANT COMMITTED MURDER,
14 THEN HE'S ALSO GUILTY OF POSSESSION OF A WEAPON DURING THE
15 COMMISSION OF A VIOLENT CRIME. IT'S AS SIMPLE AS THAT FOR
16 THAT PART.

17 NOW SPECIFICALLY WHAT WE WILL PROVE IN THIS CASE
18 HAPPENED IS THAT ON THE MORNING OF JUNE 19TH JERMAINE
19 PROCTOR, WHO KNEW BOTH THIS DEFENDANT AND A CO-DEFENDANT,
20 GATHERED WITH THEM ABOUT TWO OR 3:00 IN THE MORNING OVER
21 NEAR CLEVELAND PARK HERE IN GREENVILLE FOR EITHER THE
22 PURPOSE OF SELLING THEM A SMALL AMOUNT OF CRACK COCAINE OR
23 THE POSSIBILITY OF THEIR COMMITTING BURGLARIES ON HIS BEHALF
24 AND HIM GIVING THEM CRACK COCAINE IN EXCHANGE FOR THOSE
25 EFFORTS, THEM PROVIDING HIM WITH THE BOOTY, HIM GIVING THEM

OPENING STATEMENTS - MR. WESTON

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1 CRACK COCAINE IN EXCHANGE FOR THE BURGLARIES.

2 AND AN ARGUMENT ENSUED. JERMAINE PROCTOR WAS SEATED IN
3 THE DRIVER'S SEAT OF HIS JEEP. JONATHAN CAMPBELL WAS SEATED
4 IN THE FRONT PASSENGER'S SEAT. THE CO-DEFENDANT IN THIS
5 CASE, CARL SOUTHERLAND, IS SEATED IN THE BACK SEAT.

6 AT SOME POINT AN ARGUMENT ERUPTS BETWEEN THESE
7 CONFEDERATES. JONATHAN CAMPBELL BRANDISHES A KNIFE, CLIMBS
8 OVER TO THE DRIVER'S SIDE AND STABS JERMAINE PROCTOR
9 EIGHTEEN TIMES.

10 CARL SOUTHERLAND IS NOT WITHOUT FAULT IN THIS. HE HELD
11 MR. PROCTOR WHEN THE STRUGGLE BEGAN TO ERUPT. AND HE HELD
12 HIM WHILE HE WAS BEING STABBED.

13 THE TESTIMONY, THE EVIDENCE WILL FURTHER SHOW THAT AT
14 THE CONCLUSION OF THIS HORRENDOUS ACT THE TWO OF THEM TOOK
15 MR. PROCTOR'S BODY, MOVED IT TO THE BACK SEAT OF HIS CAR.
16 THEY THEN COMMANDEERED HIS JEEP. THEY WENT FIRST AND TOOK
17 MONEY OUT OF HIS POCKET UP NEAR TRAVELERS REST AND BOUGHT
18 MORE CRACK.

19 THE EVIDENCE WILL FURTHER SHOW THAT THIS MAN, JONATHAN
20 CAMPBELL, THEN CALLED HIS MOTHER AS SOMEBODY WHO'S DONE
21 SOMETHING LIKE THIS PROBABLY WOULD DO. THE FIRST PERSON WE
22 CALL IS OUR MAMA AND SAY, MAMA, I'M IN TROUBLE. THE
23 EVIDENCE IS GOING TO SHOW THAT HE TOLD HIS MOTHER, MAMA, I
24 JUST KILLED A MAN.

25 AT THAT POINT THE TWO OF THEM, MR. CAMPBELL AND HIS

OPENING STATEMENTS - MR. WESTON

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1 CONFEDERATE, MR. SOUTHERLAND, WENT WEST, FOR LACK OF A
2 BETTER WAY OF DESCRIBING IT. THEY HEADED OUT OF GREENVILLE
3 COUNTY, THROUGH ATLANTA.

4 THEY ENDED UP ON TUESDAY AFTERNOON WITH THE BODY STILL
5 IN THE BACKSEAT WHERE THEY WERE RIDING ALONG IN ALABAMA NEAR
6 MOBILE ON THE HIGHWAY. AND THEY GET PULLED OR THEY GET --
7 THEY GET ACCOSTED BY LAW ENFORCEMENT THERE FOR A TRAFFIC
8 VIOLATION.

9 THEY TAKE LAW ENFORCEMENT ON A HIGH SPEED CHASE. THEY
10 END UP WRECKING THE JEEP, THE VICTIM'S JEEP, ONCE AGAIN,
11 I'LL REMIND YOU. AND THEY ARE ARRESTED. THOSE ARE THE
12 FACTS.

13 AND THIS IS HOW WE'RE GOING TO PROVE IT. FIRST YOU'RE
14 GOING TO HEAR FROM MS. THERESA FORD, THE GIRLFRIEND AND THE
15 LIVE-IN GIRLFRIEND OF JERMAINE PROCTOR, THE VICTIM. SHE'S
16 GOING TO TELL YOU HOW THE AFTERNOON THAT THIS HAPPENED --
17 AFTERNOON OF THE MURDER, THE NEXT FOLLOWING EARLY MORNING
18 HOURS, SHE IS WITH THE VICTIM, THAT THEY RAN INTO THIS
19 DEFENDANT AND THE CO-DEFENDANT OVER NEAR CITY HEIGHTS
20 APARTMENTS, THAT THIS DEFENDANT WAS THE LEADER OR THE MORE
21 TALKATIVE WITH THE VICTIM, THAT THEY WANTED -- THEY OFFERED
22 TO BUY CRACK FROM HIM. HE REFUSED TO SELL IT OR HE DIDN'T
23 HAVE ANY. THEY AGREED THEN TO GET TOGETHER LATER THAT
24 NIGHT.

25 YOU'RE GOING TO NEXT HEAR FROM THE DEFENDANT'S MOTHER.

OPENING STATEMENTS - MR. WESTON

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1 AND SHE'S GOING TO TELL YOU ABOUT THE PHONE CALL SHE
2 RECEIVED AT ABOUT 9:00 THE NEXT MORNING AS SHE WAS GETTING
3 READY TO GO TO CHURCH FROM HER SON.

4 AND SHE'S GOING TO TELL YOU HE TOLD HER, MOM, I JUST
5 KILLED A MAN. SHE'S GOING TO TELL YOU THAT SHE TOLD HIM, AS
6 MOST MOTHERS WOULD, YOU SHOULD GO CALL THE POLICE, TURN
7 YOURSELF IN. AND AS MOST PEOPLE WHO COMMIT THIS KIND OF
8 CRIME, HE DID NOT HEED HER ADVICE AND GOT ON THE ROAD AND
9 LEFT TOWN AS I TOLD YOU.

10 YOU'RE GOING TO HEAR FROM A LAW ENFORCEMENT OFFICIAL IN
11 ALABAMA WHO GOT IN BEHIND HIM ON A HIGH SPEED CHASE, AND HOW
12 THEY WERE -- HOW THE CHASE STARTED, HOW IT ENSUED, AND HOW
13 THEY WERE SUBSEQUENTLY -- HOW THE CAR WAS WRECKED AND HOW
14 THEY ARRESTED HIM.

15 YOU'RE GOING TO HEAR FROM DAR SHAW AND PAUL SILVAGGIO.
16 PAUL SILVAGGIO WAS THE LEAD INVESTIGATOR HERE IN GREENVILLE
17 ASSIGNED TO THE CASE. DAR SHAW WAS THE FORENSICS TECHNICIAN
18 WHO GATHERED, PHOTOGRAPHED, AND DOCUMENTED AND THEN GATHERED
19 EVIDENCE.

20 THEY'RE GOING TO TELL YOU HOW THEY WENT TO ALABAMA WITH
21 DR. MICHAEL WARD, A FORENSIC PATHOLOGIST HERE IN GREENVILLE,
22 WHO BASICALLY PERFORMED THE AUTOPSY. THEY'RE GOING TO TELL
23 YOU ABOUT THE EVIDENCE THAT THEY SAW AND THE EVIDENCE THAT
24 WAS COLLECTED. AND THEY'RE GOING TO TELL YOU ABOUT WHAT
25 THEY DID WITH THAT EVIDENCE.

OPENING STATEMENTS - MR. WESTON

53

1 DR. WARD, AS I TOLD YOU, IS A FORENSIC PATHOLOGIST.
2 AND HE'S GOING TO TELL YOU THAT IN EFFECT THIS MAN DIED FROM
3 EIGHTEEN STAB WOUNDS, PERIOD.

4 FINALLY YOU'RE GOING TO HEAR FROM MR. CARL, I'M SORRY,
5 CARL SOUTHERLAND. MR. SOUTHERLAND, AS I SAID, IS THE CO-
6 DEFENDANT. AND HE'S GOING TO TELL YOU WHAT HAPPENED IN THE
7 CAR THAT NIGHT, HOW THE ARGUMENT STARTED AND HOW JERMAINE
8 PROCTOR ENDED UP LOSING HIS LIFE AND HOW THIS DEFENDANT IS
9 THE ONE THAT TOOK IT.

10 THERE'S GOING TO BE SOME QUESTION AS TO ACTUALLY WHO
11 KILLED JERMAINE PROCTOR, WHETHER IT WAS MR. SOUTHERLAND OR
12 THIS MAN. BUT ULTIMATELY YOU DON'T EVEN HAVE TO DECIDE
13 THAT, LADIES AND GENTLEMEN, BECAUSE ONE OF THE THINGS HIS
14 HONOR WILL INSTRUCT YOU AT THE END OF THIS TRIAL IS THAT THE
15 HAND OF ONE IS THE HAND OF ALL.

16 THEY WENT INTO THIS VENTURE TOGETHER. THEY GOT WITH
17 JERMAINE PROCTOR TOGETHER. THEY GOT INTO AN ARGUMENT WITH
18 HIM TOGETHER. THEY KILLED HIM TOGETHER. THEY LEFT WITH HIS
19 BODY AND RODE WEST TOGETHER.

20 AT THE CONCLUSION OF THIS CASE I'M GOING TO COME BACK
21 TO YOU AND ASK YOU FOR A VERDICT OF GUILTY OF MURDER AGAINST
22 THIS DEFENDANT AND GUILTY OF POSSESSION OF A WEAPON DURING
23 THE COMMISSION OF A VIOLENT CRIME AGAINST THIS DEFENDANT
24 BECAUSE THAT'S WHAT HE IS. THANK YOU.

25 THE COURT: ALL RIGHT.

OPENING STATEMENTS - MR. JOHNSON

54

1 MR. JOHNSON: THANK YOU, YOUR HONOR, SOLICITOR. LADIES
2 AND GENTLEMEN OF THE JURY, MY NAME IS BRIAN JOHNSON. I'M
3 HERE ON BEHALF OF MY CO-COUNSEL, JOHN ABDALLA, AND, OF
4 COURSE, MY CLIENT, JONATHAN CAMPBELL, IN ORDER TO GIVE YOU
5 OUR OPENING STATEMENT.

6 LIKE THE SOLICITOR, I'LL BE BRIEF, BUT I'D JUST LIKE
7 FOR YOU TO REMEMBER TO KEEP THREE THINGS IN MIND GOING
8 FORWARD. THE FIRST THING AND PROBABLY THE MOST IMPORTANT
9 THING IS WE'RE ABSOLUTELY SAYING THAT OUR CLIENT, JONATHAN
10 CAMPBELL, DID NOT -- DID NOT KILL JERMAINE PROCTOR. WE ARE
11 INSTEAD ASSERTING THAT THE OTHER GUY THAT THE SOLICITOR HAS
12 MENTIONED, CARL SOUTHERLAND, COMMITTED THIS MURDER.

13 NOW I WON'T GET ARGUMENTATIVE HERE. THAT'S SOMETHING
14 THAT MR. ABDALLA WILL BE ABLE TO DO IN FRONT OF YOU AT THE
15 END OF THE CASE, BUT I JUST WANTED TO MAKE THAT CLEAR GOING
16 FORWARD.

17 THE SECOND THING THAT I'D LIKE TO CONVEY TO YOU IS THAT
18 WE BELIEVE THAT THIS CASE WILL COME DOWN TO MR. CAMPBELL'S
19 STORY VERSUS MR. SOUTHERLAND'S STORY. WHICHEVER ONE OF
20 THESE STORIES THAT THESE TWO WILL TELL WILL COUNT HOW YOU
21 WILL, AT THE END OF THIS CASE, CAST YOUR VERDICT.

22 THE THIRD THING I'D LIKE FOR YOU TO KEEP IN MIND IS
23 THAT YOU ALL HAVE THE INNATE ABILITY INSIDE OF YOU, WHAT I
24 LIKE TO CALL YOUR LIE DETECTOR. I KNOW A LOT OF PEOPLE WHO
25 THINK A LIE DETECTOR AS IS TESTED IS HOOKED UP -- BEING

OPENING STATEMENTS - MR. JOHNSON

55

1 HOOKED UP TO THIS MACHINE AND THOSE SQUIGGLY LINES COMES,
2 THROUGH AND THAT TELLS HOW THEY'RE LYING OR NOT LYING OR
3 TELLING THE TRUTH THAT IS. BUT WE ALL HAVE THIS INNATE
4 ABILITY.

5 FOR EXAMPLE, SOME OF YOU HAVE KIDS, SOME OF YOU DO
6 BUSINESS DEALINGS, AND WE ALL HAVE THIS GOING ON AT ALL
7 TIMES. AS MANY TIMES AS ANYBODY COMES IN FRONT OF US AND
8 SPEAKS WE ALL -- WE ALL -- WE'RE ALWAYS ASSESSING WHETHER
9 WHAT THEY'RE TELLING US IS THE TRUTH.

10 ANOTHER THING THAT YOU'RE ALSO ABLE TO INSTANTLY ASSESS
11 IS WHAT THEIR MOTIVE'S BEHIND IT. LIKE IF YOU HAVE A
12 SALESMAN COME BEFORE YOU AT THE STORE TELLING YOU ABOUT A
13 TREADMILL, YOU ALSO KNOW HE HAS A MOTIVE TO TRY TO SELL IT.
14 HE'S TRYING TO MAKE COMMISSION, TRYING TO MAKE MONEY.

15 SO WE JUST ASK YOU TO KEEP THIS -- THESE ABILITIES YOU
16 HAVE IN MIND. YOU'RE NOT REQUIRED TO CHECK THOSE AT THE
17 DOOR. AND THE JUDGE DID NOT INSTRUCT YOU TO DO THAT. IT'S
18 ALMOST LIKE COMMON SENSE.

19 WE BELIEVE THAT IF YOU USE THOSE TOOLS THAT YOU WILL BE
20 ABLE TO SEE THAT OUR CLIENT, JONATHAN CAMPBELL, IS NOT
21 GUILTY OF THE UNLAWFUL KILLING OF JERMAINE PROCTOR, BUT
22 RATHER CARL SOUTHERLAND IS THE ONE WHO IS GUILTY OF THIS
23 MURDER. THANKS.

24 THE COURT: ALL RIGHT. CALL YOUR WITNESS.

25 MR. WESTON: THANK YOU, YOUR HONOR. THE STATE WOULD

THERESA FORD - DIRECT EXAMINATION BY MR. WESTON

56

1 CALL MS. THERESA FORD TO THE STAND, PLEASE.

2 THERESA FORD, BEING DULY

3 SWORN TESTIFIED AS FOLLOWS:

4 DIRECT EXAMINATION BY MR. WESTON:

5 Q. MS. FORD, ARE YOU NERVOUS?

6 A. YES.

7 Q. AND THAT'S UNDERSTANDABLE. I'M GOING TO NEED YOU TO

8 SPEAK A LITTLE BIT LOUDER SO THAT THE JURORS WAY DOWN ON

9 THIS END CAN HEAR YOU, OKAY?

10 A. YES.

11 Q. ALL RIGHT. WOULD YOU STATE YOUR FULL NAME FOR THE

12 RECORD, PLEASE?

13 A. THERESA KAMEISHA FORD.

14 Q. AND HOW OLD ARE YOU, MS. FORD?

15 A. I'M THIRTY-FOUR.

16 Q. WHERE DO YOU LIVE?

17 A. [REDACTED] [REDACTED] [REDACTED] GREENVILLE, SOUTH

18 CAROLINA.

19 Q. ARE YOU EMPLOYED?

20 A. YES, I AM.

21 Q. WHERE DO YOU WORK?

22 A. WINDSOR HOUSE OF GREENVILLE.

23 Q. AND WHAT IS THAT?

24 A. IT'S ASSISTED LIVING.

25 Q. AND DO YOU TAKE CARE OF SENIOR CITIZENS BASICALLY?

THERESA FORD - DIRECT EXAMINATION BY MR. WESTON

57

- 1 A. YES, I DO.
- 2 Q. ALL RIGHT. ABOUT HOW LONG HAVE YOU BEEN DOING THAT?
- 3 A. THREE AND A HALF YEARS.
- 4 Q. ALL RIGHT. DO YOU HAVE ANY KIDS?
- 5 A. NO.
- 6 Q. ALL RIGHT. ARE YOU A LIFE LONG RESIDENT OF GREENVILLE?
- 7 A. YES.
- 8 Q. OKAY. NOW LET'S TALK ABOUT FIRST YOUR RELATIONSHIP
- 9 WITH MR. PROCTOR. HOW DID YOU COME TO KNOW JERMAINE
- 10 PROCTOR?
- 11 A. THROUGH MY BEST FRIEND, THROUGH VALERIE NEALS.
- 12 Q. AND ABOUT HOW LONG AGO -- WELL, LET'S START AT THE BACK
- 13 END. MR. PROCTOR DIED IN 19 -- IN 2005, IS THAT CORRECT?
- 14 A. YES.
- 15 Q. PRIOR TO THAT TIME HOW LONG HAD YOU KNOWN MR. PROCTOR?
- 16 A. ABOUT THREE YEARS.
- 17 Q. ALL RIGHT. NOW AT THE TIME OF HIS DEATH WERE YOU AND
- 18 HE LIVING TOGETHER?
- 19 A. YES.
- 20 Q. WHERE DID Y'ALL LIVE?
- 21 A.
- 22 Q. WHAT PART OF WHITE HORSE IS THAT? IS THAT DOWN NEAR 85
- 23 OR IS IT DOWN IN THE BEREA AREA?
- 24 A. THAT WAS THE WAL-MART AREA.
- 25 Q. DOWN NEAR WAL-MART WHERE 183 GOES ACROSS DOWN IN THAT

THERESA FORD - DIRECT EXAMINATION BY MR. WESTON

58

1 AREA?

2 A. YES.

3 Q. OKAY. AND I THINK YOU INDICATED YOU DIDN'T -- Y'ALL

4 DIDN'T HAVE ANY KIDS TOGETHER, IS THAT CORRECT?

5 A. NO.

6 Q. ALL RIGHT. NOW HOW LONG DID YOU AND HE LIVE TOGETHER,

7 YOU SAID?

8 A. TWO AND A HALF YEARS.

9 Q. ALL RIGHT. NOW DURING THE TWO AND A HALF YEARS --

10 DURING THAT TWO AND A HALF YEARS DID MR. PROCTOR WORK?

11 A. YES.

12 Q. WHERE DID HE WORK?

13 A. HE WORKED AT MANPOWER. THEN HE HAD GOT A JOB AT

14 McDONALD'S.

15 Q. AT THE TIME OF HIS DEATH IN JUNE OF 2005 WAS HE

16 WORKING?

17 A. YES.

18 Q. WHERE WAS HE WORKING AT THAT TIME? AT McDONALD'S?

19 A. McDONALD'S ON PELHAM ROAD.

20 Q. ALL RIGHT. NOW DO YOU KNOW WHETHER MR. PROCTOR EVER

21 GOT INVOLVED WITH THE USE OR SALE OF CRACK COCAINE?

22 A. SOMETIMES. HE WAS NOT NO DRUG DEALER.

23 Q. WHAT WOULD YOU DESCRIBE -- HOW WOULD YOU DESCRIBE --

24 DID HE USE DRUGS?

25 A. NO, HE DID NOT.

THERESA FORD - DIRECT EXAMINATION BY MR. WESTON

59

1 Q. ALL RIGHT. HOW WOULD YOU DESCRIBE HIS INVOLVEMENT WITH
2 CRACK? YOU SAID HE'S NOT A DRUG DEALER. TELL THE JURY HOW
3 WOULD YOU DESCRIBE IT SINCE YOU LIVED WITH HIM AND YOU KIND
4 OF KNEW HIM.

5 A. WHEN HIS PAYCHECK WAS SHORT HE'D -- HE'LL LIKE GO GET
6 SOME CRACK, BUT WE -- I DID NOT APPROVE OF IT. SO HE
7 STOPPED SELLING. AND HE JUST STARTED GETTING MORE HOURS AT
8 McDONALD'S.

9 Q. ALL RIGHT. NOW DID HE -- DID YOU TOLERATE HIM BRINGING
10 DRUGS INTO THE HOUSE?

11 A. NO.

12 Q. ALL RIGHT. AND SO DID HE DO ANY DRUG DEALING AROUND
13 YOU?

14 A. NO.

15 Q. ALL RIGHT. WHY NOT?

16 A. BECAUSE I DIDN'T ALLOW IT.

17 Q. ALL RIGHT. BUT YOU KNEW THAT HE PROBABLY -- HE DID
18 THAT FROM TIME TO TIME TO TRY TO MAKE ENDS MEET OR WHATEVER
19 AS YOU CALLED IT?

20 A. YES.

21 Q. ALL RIGHT. NOW DID Y'ALL HAVE A VEHICLE?

22 A. YES.

23 Q. WOULD YOU DESCRIBE IT FOR THE JURY? WHAT KIND WAS IT?

24 A. IT WAS A JEEP -- JEEP CHEROKEE.

25 Q. AND WHAT COLOR WAS IT?

THERESA FORD - DIRECT EXAMINATION BY MR. WESTON

60

1 A. GRAY.

2 Q. ALL RIGHT. AND DID IT HAVE -- WHAT KIND AND WHAT COLOR
3 WAS THE INTERIOR?

4 A. IT WAS LEATHER. IT WAS GRAY -- GRAY LEATHER.

5 Q. ALL RIGHT. NOW HOW WAS THE JEEP TITLED? WAS IT IN
6 YOUR NAME, HIS NAME OR BOTH NAMES?

7 A. IT WAS IN BOTH NAMES.

8 Q. OKAY. TELL THE JURY HOW THE JEEP WAS PURCHASED.

9 A. I HAD GOT A WORKERMAN COMP. I GOT HURT AT WORK. AND I
10 CAME INTO A WORKMAN COMP.

11 Q. YOU HAD A WORKERS' COMP SETTLEMENT?

12 A. YES.

13 Q. NOW DID YOU PAY CASH FOR THE JEEP?

14 A. YES, I DID.

15 Q. AND DID YOU PAY THE ENTIRE PURCHASE PRICE FOR THE JEEP?

16 A. YES.

17 Q. ALL RIGHT. DO YOU HAVE A DRIVER'S LICENSE?

18 A. YES, I DO.

19 Q. DID YOU DRIVE THE JEEP FROM TIME TO TIME?

20 A. YES.

21 Q. SO BOTH -- AND DID HE HAVE A DRIVER'S LICENSE?

22 A. YES.

23 Q. AND SO BOTH OF YOU DROVE IT FROM TIME TO TIME?

24 A. YES.

25 Q. ALL RIGHT. NOW AND JUST -- AND THIS MAY -- THIS WILL

THERESA FORD - DIRECT EXAMINATION BY MR. WESTON

61

1 BECOME A LITTLE BIT MORE RELEVANT LATER, BUT COULD YOU
2 DESCRIBE IF THERE WERE ANY BUMPER STICKERS OR ANY KINDS OF
3 STICKERS ON THE BACK OF THE JEEP?

4 A. YES. IT WAS A 98.1 STICKER ON THE DRIVER'S SIDE.

5 Q. WAS THAT LIKE A HOT 98.1 RADIO STATION?

6 A. YES.

7 Q. ALL RIGHT. AND THAT WAS ON THE BACK OF THE JEEP?

8 A. YES.

9 Q. ALL RIGHT. AND DID THE JEEP COME -- WAS THE JEEP
10 EQUIPPED WITH A CD PLAYER?

11 A. YES, IT WAS.

12 Q. DID IT HAVE SPEAKERS ON THE DASH AND IN THE DOORS AND
13 WHAT HAVE YOU?

14 A. YES.

15 Q. OKAY. NOW -- EXCUSE ME ONE SECOND.

16 (PAUSE)

17 Q. I APOLOGIZE FOR THE INTERRUPTION. AT THE TIME -- AND
18 MOST OF MY QUESTIONS ARE GOING TO DEAL WITH YOUR
19 RELATIONSHIP AND YOUR CIRCUMSTANCE WITH JERMAINE AT THE TIME
20 HE DIED IN JUNE OF 2005, OKAY?

21 A. OKAY.

22 Q. AROUND THAT TIME DID YOU OWN A GUN?

23 A. NO.

24 Q. AS FAR AS YOU KNOW DID JERMAINE OWN A GUN?

25 A. NO.

THERESA FORD - DIRECT EXAMINATION BY MR. WESTON

62

1 Q. AS FAR AS YOU KNOW WERE THERE ANY GUNS IN THE HOUSE?

2 A. NO.

3 Q. WHY WAS THAT?

4 A. I DIDN'T ALLOW NO GUNS IN MY HOUSE.

5 Q. ALL RIGHT. PEOPLE OFTEN HAVE GUNS IN THEIR CARS, IN
6 THE GLOVE COMPARTMENT, IN THE TRUNK. AS FAR AS YOU KNOW
7 WERE THERE ANY GUNS IN THE GLOVE COMPARTMENT OR IN THE TRUNK
8 OF YOUR CAR?

9 A. NO, IT WAS NOT.

10 Q. OKAY. AND YOU CAN'T SPEAK FOR WHAT JERMAINE DID WHEN
11 HE WASN'T WITH YOU, BUT AS FAR AS YOU KNOW THERE WERE NO
12 WEAPONS EITHER IN YOUR HOME THAT YOU OWNED OR THAT JERMAINE
13 OWNED?

14 A. NO, IT WAS NOT.

15 Q. AND AS FAR AS YOU KNOW THERE WERE NO WEAPONS IN THE
16 CAR, THAT WERE ROUTINELY KEPT IN THE CAR?

17 A. NO.

18 Q. ALL RIGHT. ALL RIGHT. LET'S TALK ABOUT JUNE THE 5TH,
19 I MEAN, I'M SORRY, JUNE THE 19TH OF 2005. ALL RIGHT. DO
20 YOU REMEMBER THAT DATE?

21 A. YES.

22 Q. THAT WOULD HAVE BEEN THE LAST DAY YOU SAW JERMAINE
23 ALIVE, IS THAT CORRECT?

24 A. YES.

25 Q. AND THIS WAS A SATURDAY?

THERESA FORD - DIRECT EXAMINATION BY MR. WESTON

63

1 A. SATURDAY MORNING.

2 Q. ALL RIGHT. DID YOU SPEND MOST OF THE DAY WITH
3 JERMAINE?

4 A. YES, I DID.

5 Q. TELL THE JURY IN GENERAL WHAT Y'ALL WERE DOING THAT
6 MORNING. YOU DON'T NEED TO GO INTO A LOT OF DETAIL. JUST
7 KIND OF DESCRIBE THE MORNING AND THE EARLY AFTERNOON.

8 A. HE HAD PICKED ME UP FROM WORK AT 9:00. WE WENT TO THE
9 JOCKEY LOT FOR ABOUT AN HOUR AND A HALF. AND THEN WE LEFT
10 THE JOCKEY LOT. WE WENT TO HARDEE'S ON WHITE HORSE ROAD.

11 THEN WE -- AFTER THAT WE WENT TO CITY HEIGHTS. HE WAS
12 -- WE WENT -- RODE THROUGH CITY HEIGHTS OUT THERE TALKING TO
13 SOME OF HIS FRIENDS. AND THAT'S WHEN THE TWO GENTLEMEN
14 WALKED UP AND ASKED DID THEY WANT TO BUY SOME SPEAKERS --
15 DID HE WANT TO BUY SOME SPEAKERS.

16 Q. OKAY. LET ME HOLD YOU RIGHT THERE. NOW I SAID
17 SATURDAY THE 19TH. WOULD THAT HAVE BEEN THE 18TH?

18 A. YES.

19 Q. THAT SATURDAY? OKAY. AND THE SUNDAY IS THE 19TH, ---

20 A. YES.

21 Q. --- IS THAT CORRECT? NOW WAS THIS THE DAY BEFORE
22 FATHER'S DAY?

23 A. YES.

24 Q. ALL RIGHT. NOW Y'ALL WENT TO CITY HEIGHTS. WAS IT
25 BECAUSE YOU WANTED TO GO THERE OR DID JERMAINE WANT TO GO

THERESA FORD - DIRECT EXAMINATION BY MR. WESTON

64

1 THERE?

2 A. HE WANTED TO GO SEE SOME OF HIS FRIENDS.

3 Q. ALL RIGHT. SO Y'ALL WERE DRIVING -- AND I THINK THEY
4 CALL CITY HEIGHTS BOULDER CREEK NOW, IS THAT CORRECT?

5 A. YES.

6 Q. ALL RIGHT. AND THIS IS OFF OF POINSETT HIGHWAY?

7 A. YES.

8 Q. ALL RIGHT. AND THE BACK-END OF IT IS OFF NORTH
9 PLEASANTBURG DRIVE?

10 A. YES.

11 Q. OKAY. AND Y'ALL WERE IN THE JEEP?

12 A. YES.

13 Q. AND WHO'S DRIVING?

14 A. JERMAINE.

15 Q. ALL RIGHT. NOW AND YOU AND HE WERE GETTING ALONG THAT
16 DAY? THERE WAS NO PROBLEMS -- HE WASN'T MAD AT YOU AND YOU
17 WEREN'T MAD AT HIM?

18 A. NO.

19 Q. OKAY. NOW WHEN YOU GOT TO CITY HEIGHTS TELL THE JURY
20 HOW YOU CAME UPON -- HOW YOU CAME IN CONTACT WITH THESE TWO
21 MEN THAT YOU JUST REFERRED TO.

22 A. THEY WAS SELLING SOME SPEAKERS. AND THEY HAD ASKED
23 JERMAINE DID HE WANT TO BUY THE SPEAKERS. AND HE TOLD THEM
24 NO.

25 Q. WHERE WERE Y'ALL WHEN YOU SAW THESE TWO MEN?

THERESA FORD - DIRECT EXAMINATION BY MR. WESTON

65

- 1 A. WE WAS AT THE BOTTOM OF CITY HEIGHTS.
- 2 Q. WHEN YOU SAY THE BOTTOM, YOU MEAN THE BACK-END?
- 3 A. YES.
- 4 Q. ALL RIGHT. AND WERE Y'ALL PARKED OR DID Y'ALL SEE THEM
- 5 AND STOP OR HOW DID Y'ALL COME TOGETHER WITH THEM?
- 6 A. WE WAS PARKED. AND I WAS SITTING IN THE CAR WITH THE
- 7 WINDOWS DOWN. AND JERMAINE WAS STANDING OUTSIDE TALKING TO
- 8 SOME OF HIS FRIEND GUYS.
- 9 Q. ALL RIGHT. AND THESE TWO MEN JUST WALKED UP?
- 10 A. YES.
- 11 Q. AND DID YOU EVER SEE EITHER ONE OF THEM BEFORE THAT
- 12 DAY?
- 13 A. NO, I HAVE NOT.
- 14 Q. ALL RIGHT. WHEN THEY CAME UP DID THEY SPEAK TO YOU AT
- 15 ALL?
- 16 A. NO, THEY DID NOT.
- 17 Q. DID THEY SPEAK -- HOW FAR WAS JERMAINE FROM THE CAR BY
- 18 THE WAY? LET'S ASSUME YOU'RE SITTING IN THE PASSENGER'S
- 19 SEAT RIGHT THERE AND THE DRIVER'S SEAT IS ON THIS SIDE.
- 20 A. UM-HUM (AFFIRMATIVE).
- 21 Q. AND Y'ALL, I ASSUME, ARE IN A PARKING SPACE?
- 22 A. YES.
- 23 Q. ALL RIGHT. HOW FAR WAS -- WERE THESE MEN AND JERMAINE
- 24 FROM YOU?
- 25 A. ABOUT RIGHT HERE. I CAN HEAR THEIR WHOLE CONVERSATION.

THERESA FORD - DIRECT EXAMINATION BY MR. WESTON

66

- 1 Q. THEY WERE OUTSIDE ON THE PASSENGER'S SIDE?
- 2 A. THEY WAS ON THE DRIVER'S SIDE.
- 3 Q. ON THE DRIVER'S SIDE?
- 4 A. YES.
- 5 Q. AND THEY WERE STANDING SOMEWHERE NEAR THE DRIVER'S
- 6 DOOR?
- 7 A. YES.
- 8 Q. ALL RIGHT. WHEN THEY CAME UP DID THEY ASK -- DID THEY
- 9 SPEAK TO HIM BY NAME?
- 10 A. THEY CALLED HIM J.
- 11 Q. OKAY. AND SO YOU -- WAS IT YOUR THINKING THAT HE KNEW
- 12 THEM?
- 13 A. YES.
- 14 Q. DID HE RESPOND TO THEM LIKE HE KNEW THEM?
- 15 A. HE JUST ASKED WHAT WAS UP.
- 16 Q. LIKE WHAT'S UP?
- 17 A. YEAH.
- 18 Q. OKAY. AND WERE BOTH OF THEM CARRYING SPEAKERS?
- 19 A. JUST ONE OF THEM.
- 20 Q. ALL RIGHT. I WANT YOU TO DESCRIBE THE MEN FOR THE JURY
- 21 IF YOU COULD, PLEASE. START -- AND JUST DO THEM ONE AT A
- 22 TIME.
- 23 A. OKAY. THE TALL ONE -- ONE OF THEM WAS TALL, HAD LONG
- 24 HAIR AND A LONG BEARD.
- 25 Q. WAS HE STOCKY, SLIM, ---

THERESA FORD - DIRECT EXAMINATION BY MR. WESTON

67

- 1 A. SKINNY.
- 2 Q. --- SKINNY?
- 3 A. SKINNY.
- 4 Q. I'M SORRY?
- 5 A. SKINNY.
- 6 Q. OKAY. AND WHAT ABOUT THE OTHER GENTLEMAN?
- 7 A. THE OTHER ONE WAS SKINNY, WASN'T -- HE DIDN'T HAVE NO
- 8 BEARD, LOOKED DIRTY LOOKING.
- 9 Q. DID THE TALL ONE LOOK OLDER THAN THE OTHER ONE?
- 10 A. YES.
- 11 Q. ALL RIGHT. ALL RIGHT. SO THEY ASKED JERMAINE IF HE
- 12 WANTED TO BUY SOME SPEAKERS?
- 13 A. YES.
- 14 Q. OKAY. TELL THE JURY THE REST OF THE CONVERSATION AS
- 15 YOU REMEMBER IT.
- 16 A. AND JERMAINE TOLD THEM, NO, HE DIDN'T NEED NO MORE
- 17 SPEAKERS.
- 18 Q. AND WHICH ONE OF THEM, BY THE WAY, ASKED HIM DID HE
- 19 WANT TO BUY SOME SPEAKERS? WAS IT THE TALL ONE OR THE
- 20 YOUNGER ONE?
- 21 A. IT WAS THE SHORT ONE, THE YOUNG ONE.
- 22 Q. ALL RIGHT. AND DID THEY HAVE ANY FURTHER CONVERSATION
- 23 WITH JERMAINE?
- 24 A. NO, NOT AT THAT TIME.
- 25 Q. ALL RIGHT. SO DID THEY JUST WALK AWAY OR DID Y'ALL GET

THERESA FORD - DIRECT EXAMINATION BY MR. WESTON

68

- 1 IN THE CAR AND DRIVE AWAY?
- 2 A. WE GOT -- WE GOT IN THE CAR AND JERMAINE DROVE OFF.
- 3 Q. ALL RIGHT. AND WHERE DID Y'ALL GO FROM THERE?
- 4 A. WE WENT TO THE TOP OF CITY HEIGHTS.
- 5 Q. YOU MEAN IN ANOTHER COURTYARD ---
- 6 A. YES.
- 7 Q. --- CLOSER TO THE FRONT?
- 8 A. YES.
- 9 Q. ALL RIGHT. DID YOU HAVE AN OCCASION TO SEE THESE TWO
- 10 MEN AGAIN?
- 11 A. YES.
- 12 Q. UNDER WHAT CIRCUMSTANCES? PLEASE TELL THE JURY.
- 13 A. THEY HAD WALKED BACK UP TO THE TOP OF CITY HEIGHTS, WAS
- 14 ASKING JERMAINE AGAIN TO BUY THE SPEAKERS. JERMAINE TOLD
- 15 THEM, NO, HE DID NOT NEED THOSE SPEAKERS.
- 16 Q. DID THEY ASK JERMAINE ABOUT ANYTHING ELSE?
- 17 A. YES. THEY ASKED FOR A RIDE.
- 18 Q. ALL RIGHT. DID THEY ASK JERMAINE ANYTHING ABOUT DRUGS?
- 19 A. YES. THEY ASKED ---
- 20 Q. EXCUSE ME A SECOND. THEY DID ASK ABOUT DRUGS?
- 21 A. YES.
- 22 Q. TELL THE JURY WHAT THEY -- WHO ASKED HIM FIRST? WHICH
- 23 OF THE TWO?
- 24 A. THE SHORT ONE.
- 25 Q. ALL RIGHT. NOT THE TALL, SKINNY ONE?

THERESA FORD - DIRECT EXAMINATION BY MR. WESTON

69

- 1 A. NO.
- 2 Q. ALL RIGHT. AND WHAT DID HE SAY EXACTLY AS BEST YOU CAN
- 3 REMEMBER?
- 4 A. JERMAINE SAID HE DID NOT HAVE ---
- 5 Q. NO, NO, LET'S BACK UP. WHAT DID THE SHORTER OF THE TWO
- 6 MEN SAY TO JERMAINE ABOUT DRUGS?
- 7 A. HE ASKED HIM DID HE HAVE ANY CRACK COCAINE ON HIM.
- 8 Q. AND WHAT DID JERMAINE SAY?
- 9 A. HE DID NOT HAVE NO CRACK COCAINE.
- 10 Q. OKAY. DID THEY ASK HIM MORE THAN ONCE?
- 11 A. THEY ASKED HIM TWICE.
- 12 Q. OKAY. AND NOW AT THIS POINT WHEN Y'ALL SEE THEM AGAIN
- 13 IS JERMAINE ALSO OUTSIDE THE CAR AGAIN THIS TIME?
- 14 A. YES.
- 15 Q. AND HE'S TALKING TO THEM OUTSIDE THE CAR?
- 16 A. YES.
- 17 Q. IS IT POSSIBLE YOU DIDN'T HEAR EVERYTHING THEY SAID
- 18 THIS TIME?
- 19 A. YES.
- 20 Q. OKAY. DID THEY HAVE LIKE SOME FURTHER CONVERSATION?
- 21 A. YES.
- 22 Q. OKAY. AND DID JERMAINE END UP BUYING THE SPEAKERS FROM
- 23 THEM?
- 24 A. NO.
- 25 Q. DESCRIBE THE SPEAKERS, BY THE WAY, TO THE JURY. WERE

THERESA FORD - DIRECT EXAMINATION BY MR. WESTON

70

1 THEY -- JUST SHOW THEM ABOUT WHAT SIZE IT WAS.

2 A. ABOUT LIKE THIS SIZE RIGHT HERE. AND GOT THE LOOKS --

3 YOU HAVE TO CARRY THEM UP UNDER THE BOTTOM.

4 Q. OKAY. AND SO THEY WAS -- THEY HAD SOME FURTHER

5 CONVERSATION THAT YOU DIDN'T HEAR?

6 A. YES.

7 Q. ALL RIGHT. NOW HOW DID Y'ALL -- DID Y'ALL LEAVE THEM

8 AT THAT POINT?

9 A. NO.

10 Q. WHAT HAPPENED?

11 A. THE SHORT GENTLEMAN ASKED ME -- ASKED JERMAINE COULD HE

12 GET A RIDE.

13 Q. AND WHAT DID JERMAINE SAY?

14 A. HE TOLD THEM, HE SAID, YES, I'LL GIVE Y'ALL A RIDE.

15 Q. NOW JUST FROM A PERSONAL STANDPOINT, WERE YOU HAPPY

16 ABOUT THAT?

17 A. NO.

18 Q. WOULD YOU HAVE GIVEN THEM A RIDE?

19 A. NO.

20 Q. WHY NOT?

21 A. 'CAUSE, I MEAN, I DIDN'T REALLY -- DIDN'T KNOW THEM

22 LIKE THAT.

23 Q. OKAY. AND WHEN THEY GOT IN THE CAR DID THEY GET INTO

24 THE BACKSEAT?

25 A. YES.

THERESA FORD - DIRECT EXAMINATION BY MR. WESTON

71

1 Q. ALL RIGHT. AND WHERE DID HE GIVE THEM A RIDE TO?

2 A. TO THE BI-LO ON PLEASANTBURG.

3 Q. ALL RIGHT. NOW AS Y'ALL WERE GOING TO THE BI-LO DID

4 JERMAINE HAVE ANY CONVERSATION WITH THEM ABOUT WHAT THEY HAD

5 BEEN DOING?

6 A. THE GENTLEMAN WITH NO BEARD, THE SHORT GENTLEMAN SAID

7 THAT THEY HAD BROKE INTO THIS RADIO STORE THE NIGHT BEFORE.

8 AND THAT'S WHERE HE GOT THE SPEAKERS FROM.

9 Q. NOW AS Y'ALL WERE RIDING DOWN PLEASANTBURG DRIVE HEADED

10 TOWARD -- NOW THIS IS THE BI-LO WITH THE PLAY IT AGAIN

11 SPORTS IN THE SAME SHOPPING CENTER?

12 A. YES.

13 Q. RIGHT ACROSS FROM -- NEAR SHRINER'S HOSPITAL AND STUFF?

14 A. YES.

15 Q. THE OLD SHRINER'S HOSPITAL?

16 A. YES.

17 Q. OKAY. AND DID THEY GIVE YOU ANY INDICATION OF WHAT

18 STORE THEY WERE TALKING ABOUT AS Y'ALL WERE RIDING? NOT

19 YOU, BUT DID THEY GIVE Y'ALL ANY INDICATION?

20 A. YES.

21 Q. TELL THE JURY HOW THAT CAME ABOUT.

22 A. HE HAD POINTED OUT -- HE TOLD JERMAINE, HE SAID, THERE

23 GO THE STORE THAT I HAD -- WE HAD BROKE INTO THE NIGHT

24 BEFORE.

25 Q. NOW WHEN YOU SAY HE, WHO ARE YOU TALKING ABOUT? WHICH

THERESA FORD - DIRECT EXAMINATION BY MR. WESTON

72

- 1 OF THE TWO?
- 2 A. THE SHORT ONE WITH NO BEARD.
- 3 Q. ALL RIGHT. AND DID HE -- HE POINTED TO A STORE?
- 4 A. YES.
- 5 Q. DID HE TELL YOU HOW THEY GOT -- DID HE SAY -- DID HE
- 6 SAY HOW THE TWO OF THEM HAD GOTTEN IN?
- 7 A. YES.
- 8 Q. TELL THE JURY WHAT HE -- HOW HE SAID THEY GAINED ENTRY
- 9 INTO THIS BUSINESS.
- 10 A. THEY SAID THEY GOT -- BROKE INTO IT ON THE SIDE WINDOW.
- 11 Q. AND AS Y'ALL PASSED THE STORE DID THEY POINT TO THE
- 12 STORE?
- 13 A. YES.
- 14 Q. AND DID YOU SEE THE STORE THEY WERE POINTING TO?
- 15 A. YES.
- 16 Q. DESCRIBE WHAT WAS HAPPENING AT THAT STORE WHEN Y'ALL --
- 17 WHEN YOU LOOKED AT IT.
- 18 A. IT WAS -- I GUESS THE CO-WORKERS WAS OUT THERE BOARDING
- 19 THE WINDOW UP WHERE THEY HAD BROKE INTO IT.
- 20 Q. AND WAS IT A SIDE WINDOW JUST LIKE THEY DESCRIBED?
- 21 A. IT WAS A SIDE WINDOW JUST LIKE THEY DESCRIBED.
- 22 Q. AND SO Y'ALL MOVE ON PASS -- YOU TOOK THEM UP THERE --
- 23 JERMAINE TOOK THEM UP TO THE BI-LO, IS THAT CORRECT?
- 24 A. YES.
- 25 Q. NOW WHEN THEY GOT IN THE CAR DID JERMAINE SAY ANYTHING

THERESA FORD - DIRECT EXAMINATION BY MR. WESTON

73

- 1 ABOUT SEEING THEM AGAIN?
- 2 A. HE JUST TOLD THEM HE'LL SEE THEM LATER.
- 3 Q. OKAY. AND DID THEY SAY ANYTHING TO HIM?
- 4 A. THEY JUST SAID THEY'LL HOLLER BACK AT HIM.
- 5 Q. OKAY. AND YOU DIDN'T KNOW WHAT THAT MEANT?
- 6 A. NO.
- 7 Q. OKAY. AND THAT WAS THE LAST TIME YOU SAW THEM?
- 8 A. THAT'S THE LAST TIME I SAW THEM.
- 9 Q. ALL RIGHT. NOW WOULD YOU DESCRIBE -- WHEN THEY GOT IN
- 10 THE CAR DID YOU NOTICE ANYTHING ABOUT THE MEN?
- 11 A. YES. THEY WAS DIRTY.
- 12 Q. OKAY.
- 13 A. ONE OF THEM WAS REAL DIRTY.
- 14 Q. AND HOW DID THEY SMELL? AND I DON'T MEAN TO BE GROSS,
- 15 BUT DID YOU NOTICE ANYTHING ABOUT THE WAY THEY SMELLED?
- 16 A. YES. ONE OF THEM -- ONE OF THEM SMELLED REAL BAD.
- 17 Q. LIKE THEY HADN'T BATHED IN A WHILE?
- 18 A. YES.
- 19 Q. OKAY. NOW AFTER Y'ALL LEAVE AND YOU DROP THEM OFF AT
- 20 THE BI-LO, WHERE DID Y'ALL GO FROM THERE?
- 21 A. WE WENT HOME.
- 22 Q. DID JERMAINE DISCUSS WITH YOU ABOUT GETTING WITH THEM
- 23 AGAIN OR WAS THERE ANYMORE DISCUSSION ABOUT THESE TWO MEN
- 24 AFTER Y'ALL LEFT?
- 25 A. NO.

THERESA FORD - DIRECT EXAMINATION BY MR. WESTON

74

- 1 Q. ALL RIGHT. NOW THE NEXT TIME Y'ALL LEFT WAS WHEN
2 JERMAINE TOOK YOU TO WORK?
3 A. YES.
4 Q. ALL RIGHT. NOW WHAT TIME -- WERE YOU WORKING AT THE
5 PLACE THAT YOU'RE WORKING AT NOW BACK IN 2005?
6 A. NO.
7 Q. WHERE WERE YOU WORKING THEN?
8 A. I WAS WORKING AT STERLING HOUSE OF GREENVILLE OFF OF
9 BRUSHY CREEK ROAD.
10 Q. ALL RIGHT. OVER NEAR TAYLORS?
11 A. YES.
12 Q. OKAY. AND WHAT WERE YOUR HOURS AT THAT TIME, ON THAT
13 PARTICULAR NIGHT?
14 A. FROM ELEVEN TO NINE.
15 Q. SO YOU GO IN AT 11:00 AT NIGHT AND YOU GET OFF AT 9:00
16 THE NEXT MORNING?
17 A. YES.
18 Q. OKAY. AND DID JERMAINE TAKE YOU TO WORK THAT NIGHT?
19 A. YES, HE DID.
20 Q. AND HE TOOK YOU THERE A LITTLE BIT BEFORE ELEVEN OR
21 SOMETHING?
22 A. YES.
23 Q. NOW -- AND DID JERMAINE TELL YOU ABOUT WHERE HE WAS
24 GOING WHEN HE LEFT YOU?
25 A. NO.

THERESA FORD - DIRECT EXAMINATION BY MR. WESTON

75

1 Q. ALL RIGHT. AND SO WHEN HE -- AND WHEN HE DROPPED YOU
2 OFF TELL THE JURY WHAT HE DID AND WHAT HE TOLD YOU.

3 A. HE TOLD ME, HE SAID THAT HE WAS GOING TO TAKE A LITTLE
4 NAP OUT THERE IN THE PARKING LOT. HE SAID, WILL YOU,
5 PLEASE, COME BACK OUT HERE AT 12:00 AND WAKE ME UP?

6 Q. DID THAT SEEM ODD TO YOU?

7 A. NOT AT FIRST BECAUSE HE HAD DONE THIS ONE TIME BEFORE.

8 Q. ALL RIGHT. AND AT ABOUT 12:00 SO DID YOU GO WAKE HIM
9 UP?

10 A. YES.

11 Q. NOW HE IS IN THE PARKING LOT OF THE BUSINESS YOU WORK
12 IN, ---

13 A. YES.

14 Q. --- IS THAT CORRECT? OKAY. AND WHEN YOU WOKE HIM UP
15 AT 12:00, THEN WHAT HAPPENED?

16 A. HE TOLD ME TO GIVE HIM FIVE MORE MINUTES.

17 Q. SO YOU WENT BACK IN AND LET HIM SLEEP FOR FIVE MORE
18 MINUTES?

19 A. YES.

20 Q. AND THEN YOU CAME BACK OUT AND WOKE HIM UP?

21 A. YES.

22 Q. AND THIS TIME WHAT DID HE DO?

23 A. HE TOLD ME THAT HE'LL SEE ME LATER. AND HE ASKED ME
24 WHAT TIME I GET OFF WORK. I TOLD HIM 9:00. AND HE SAID
25 HE'D BE THERE TO PICK ME UP.

THERESA FORD - DIRECT EXAMINATION BY MR. WESTON

76

1 Q. AT 9:00 THE NEXT MORNING?

2 A. THAT SUNDAY MORNING.

3 Q. OKAY. AND SO HE LEFT AT THAT POINT?

4 A. YES.

5 Q. NOW WHAT DID YOU -- WAS THERE ANY REASON HE COULDN'T
6 HAVE JUST GONE HOME AND GONE TO BED AT 11:00 WHEN HE FIRST
7 DROPPED YOU OFF?

8 A. BECAUSE ON -- LIKE ON SATURDAYS HE LIKED TO GO OUT
9 SOMETIMES. HE LIKED TO GO TO THE CLUB SOMETIMES.

10 Q. SO YOU KNEW HE WAS GOING SOMEWHERE OTHER THAN HOME WHEN
11 HE LEFT?

12 A. YES.

13 Q. BUT YOU HAD NO IDEA WHERE?

14 A. I DID NOT KNOW WHERE.

15 Q. ALL RIGHT. NOW WAS THAT THE LAST TIME YOU SAW JERMAINE
16 ALIVE?

17 A. YES.

18 Q. ALL RIGHT. TELL THE JURY WHAT HAPPENED ON SUNDAY
19 MORNING AT 9:00 OR A QUARTER TO NINE OR SO WHEN YOU CAME OUT
20 AND READY TO GO HOME.

21 A. SUNDAY MORNING I WAS WAITING AND WAITING. I HAVEN'T
22 HEARD FROM HIM. SO I CALL HIS MOTHER AND ASK HER WAS --
23 HAVE SHE TALKED TO JERMAINE? SHE TOLD ME, NO. AND HIS
24 STEP-FATHER WENT OVER THERE TO SEE WAS HE AT HOME AT THE
25 HOUSE. AND HE WAS NOT THERE.

THERESA FORD - DIRECT EXAMINATION BY MR. WESTON

77

1 Q. WERE YOU ABLE TO LOCATE HIM OR FIND OUT WHERE HIS
2 WHEREABOUTS WERE OR HAD BEEN AT ALL?

3 A. NO.

4 Q. ALL RIGHT. SO HOW DID YOU GET HOME?

5 A. A CO-WORKER.

6 Q. OKAY. AND WHEN YOU GOT HOME WHEN WAS THE NEXT THING
7 YOU HEARD -- I ASSUME Y'ALL STARTED, YOU AND HIS FAMILY,
8 STARTED TO TRY TO LOCATE HIM?

9 A. YES.

10 Q. OVER THE NEXT AFTERNOON AND THE NEXT DAY OR SO?

11 A. YES.

12 Q. AND WERE Y'ALL SUCCESSFUL?

13 A. NO.

14 Q. HOW DID YOU NEXT -- WHAT DID YOU NEXT HEAR ABOUT WHAT
15 HAD HAPPENED -- WHEN DID YOU FIRST HEAR ABOUT WHAT HAD
16 HAPPENED TO JERMAINE?

17 A. HIS MOTHER HAD CAME AND PICKED ME UP THAT TUESDAY
18 MORNING. SHE SAID WE WAS GOING TO GO LOOK FOR JERMAINE AND
19 SEE COULD WE FIND HIM. WE THOUGHT HE WAS JUST SOMEWHERE
20 PLAYING AROUND. AND WE DIDN'T FIND HIM OR NOTHING. SO WE
21 WENT BACK TO HIS MOTHER'S HOUSE. AND IT WAS A RECORDING ON
22 THE PHONE.

23 Q. AND WHO WAS THE RECORDING BY? DON'T SAY WHAT THEY
24 SAID, BUT WHO WAS THE RECORDING FROM? FROM WHAT -- WAS IT
25 FROM A LAW ENFORCEMENT AGENCY?

THERESA FORD - DIRECT EXAMINATION BY MR. WESTON

78

1 A. YES.

2 Q. AND -- OKAY. AS A RESULT OF THAT DID Y'ALL, YOU AND
3 HIS MOTHER, GO DOWN TO THE LAW ENFORCEMENT CENTER AT SOME
4 POINT?

5 A. YES.

6 Q. IS THIS WHEN YOU LEARNED THAT JERMAINE HAD BEEN KILLED?

7 A. YES.

8 Q. OKAY. ALL RIGHT. NOW AT SOME POINT -- DID JERMAINE
9 HAVE ANY -- DID JERMAINE HAVE ANY TIES WITH ALABAMA AS FAR
10 AS YOU KNEW?

11 A. NO, HE DID NOT.

12 Q. OKAY. AT SOME POINT YOU WERE -- YOU WENT BACK DOWN TO
13 THE LAW ENFORCEMENT CENTER OVER THE NEXT COUPLE OF WEEKS AND
14 MET WITH INVESTIGATOR McNAMARA, IS THAT CORRECT?

15 A. YES.

16 Q. AND DID HE -- WERE YOU GOING THERE TO GIVE A STATEMENT?

17 A. YES.

18 Q. AND DID YOU GIVE A STATEMENT?

19 A. YES.

20 Q. AND DID YOU SAY PRETTY MUCH WHAT YOU TOLD US?

21 A. YES.

22 Q. OKAY. AND AT THAT TIME DID HE SHOW YOU A PHOTO LINE-
23 UP?

24 A. YES, HE DID.

25 Q. ALL RIGHT. I'M GOING TO ASK YOU TO -- WE'RE GOING TO

THERESA FORD - DIRECT EXAMINATION BY MR. WESTON

79

1 TALK A LITTLE BIT ABOUT THAT. AND I WANT YOU TO TELL THE
2 JURY HOW THAT WAS SET UP. WERE Y'ALL AT AN OFFICE?

3 A. YES, WE WAS.

4 Q. OKAY. WAS THERE ANYBODY ELSE THERE OTHER THAN YOU AND
5 THE INVESTIGATOR?

6 A. JUST ME AND THE INVESTIGATORS.

7 Q. ALL RIGHT. AND WAS IT YOUR UNDERSTANDING YOU WERE
8 THERE TO TRY TO IDENTIFY THE TWO MEN YOU SEEN HIM WITH
9 EARLIER THAT AFTERNOON THE NIGHT HE DISAPPEARED?

10 A. YES.

11 Q. NOW HAD YOU SEEN THOSE MEN SINCE THEN, BY THE WAY?

12 A. NO, I HAVE NOT.

13 Q. AND I THINK YOU'VE ALREADY TESTIFIED YOU HAD NEVER SEEN
14 THEM BEFORE THAT?

15 A. NO, I HAVE NOT.

16 Q. ON THE DAY YOU SAW THEM, THE TWO TIMES IN THE TWO
17 DIFFERENT COURTS, DID YOU HAVE -- WAS IT LIGHT OUTSIDE?

18 A. YES, IT WAS.

19 Q. DID YOU HAVE A -- AND WERE YOU PRETTY CLOSE TO THEM?

20 A. YES.

21 Q. DID YOU HAVE AN AMPLE OPPORTUNITY TO GET A GOOD LOOK AT
22 BOTH OF THOSE MEN?

23 A. YES.

24 Q. NOW INVESTIGATOR McNAMARA SHOWED YOU TWO ARRAYS OF SIX
25 PERSON PHOTO LINE-UPS, IS THAT CORRECT?

THERESA FORD - DIRECT EXAMINATION BY MR. WESTON

80

1 A. YES.

2 Q. AND WERE YOU ABLE TO -- WELL, WHEN HE SHOWED THEM TO
3 YOU DID HE TELL YOU THAT THE TWO MEN WERE DEFINITELY IN
4 THESE PICTURES OR THEY MIGHT OR MIGHT NOT BE IN THE
5 PICTURES?

6 A. HE SAID THEY MIGHT BE IN HERE AND THEY MIGHT NOT.

7 Q. DID HE SUGGEST TO YOU IN ANY WAY WHICH PICTURE YOU
8 SHOULD PICK, IF ANY OF THEM?

9 A. NO, HE DID NOT.

10 Q. HE JUST LAID THEM OUT IN FRONT OF YOU?

11 A. YES, LAID THEM OUT IN FRONT OF ME.

12 Q. DID HE DO IT ONE PICTURE -- ONE PERSON -- ONE AND THEN
13 THE OTHER OR DID HE PUT THEM BOTH TOGETHER? WAS IT ONE AT A
14 TIME?

15 A. HE DID SIX PICTURES ALL AT ONE TIME.

16 Q. OKAY. THEN HE DID THE OTHER SIX PICTURES?

17 A. YES, HE DID.

18 Q. SO HE DID THEM ONE AT A TIME?

19 A. YES.

20 Q. THE LINE-UPS ONE AT A TIME?

21 A. YES.

22 Q. OKAY. NOW WHEN HE SHOWED YOU THE FIRST LINE-UP WERE
23 YOU ABLE TO IDENTIFY EITHER OF THE TWO MEN THAT YOU HAD SEEN
24 WITH JERMAINE EARLIER THAT -- ON THAT SATURDAY AFTERNOON?

25 A. YES, I WAS.

THERESA FORD - DIRECT EXAMINATION BY MR. WESTON

81

1 Q. WHEN YOU FIRST LOOKED AT THE SIX PICTURES DID YOU LOOK
2 AT ALL SIX OF THEM?

3 A. YES.

4 Q. WAS THERE -- WERE YOU ABLE TO IDENTIFY THE PERSON THAT
5 WAS -- ONE OF THE PEOPLE THAT WAS WITH HIM WITHOUT
6 HESITATION?

7 A. YES.

8 Q. ALL RIGHT. AND LET ME SHOW YOU WHAT'S BEEN MARKED AS
9 STATE'S EXHIBIT 2 FOR IDENTIFICATION AND ASK YOU DO YOU
10 RECOGNIZE THE WRITING ON THE BACK OF IT?

11 A. YES.

12 Q. IS THAT YOUR HANDWRITING?

13 A. YES, IT IS.

14 Q. AND, LET'S SEE, IS THAT YOUR SIGNATURE?

15 A. YES, IT IS.

16 Q. ALL RIGHT. AND WHAT'S THE DATE ON THAT?

17 A. 6/21/05.

18 Q. AND IS -- AND I'M GOING TO TURN IT OVER TO THE FRONT.
19 AND THERE'S SOME WRITING ON ONE OF THE PICTURES. WHICH
20 PICTURE HAS SOME WRITING ON IT? DON'T SHOW IT YET, JUST
21 TELL ME.

22 A. THE ONE WITH -- THE BOTTOM ONE.

23 Q. THE BOTTOM LEFT -- THE BOTTOM LEFT OR RIGHT?

24 A. THE RIGHT.

25 Q. ALL RIGHT. AND IS THAT THE PERSON THAT YOU PICKED OUT

THERESA FORD - DIRECT EXAMINATION BY MR. WESTON

82

1 WITH INVESTIGATOR McNAMARA?

2 A. YES, IT IS.

3 Q. AND IS THAT THE PERSON THAT YOU SAW WITH JERMAINE ON
4 THE AFTERNOON THAT HE -- BEFORE HE DISAPPEARED?

5 A. YES, IT IS.

6 Q. AND WAS THAT THE TALL, SKINNY ONE WITH THE BEARD OR WAS
7 IT THE SHORTER ONE WITHOUT A BEARD?

8 A. THE SHORTER ONE WITHOUT THE BEARD.

9 Q. IS THAT THE ONE THAT DID MOST OF THE TALKING AND DEALT
10 DIRECTLY WITH JERMAINE?

11 A. YES, IT IS.

12 Q. SPEAKING OF WHICH, LET ME BACK UP A MINUTE. DID THE
13 OTHER GUY WITH THE BEARD, THE TALL, SKINNY ONE, DID HE SAY
14 MUCH OF ANYTHING AT ALL?

15 A. NO, HE DID NOT.

16 Q. OKAY. SO JERMAINE DEALT PRIMARILY WITH THE PERSON IN
17 THIS PICTURE?

18 A. YES.

19 Q. ALL RIGHT. AND YOU PUT YOUR INITIALS ON -- OR YOU
20 SIGNED THIS PICTURE, IS THAT CORRECT?

21 A. YES, I DID.

22 Q. AND LET ME SHOW IT TO YOU RIGHT NOW AND ASK YOU IS THIS
23 THE PICTURE THAT YOU PICKED OUT WITH INVESTIGATOR McNAMARA
24 ON JUNE THE 21ST OF 2005?

25 A. YES, IT IS.

THERESA FORD - DIRECT EXAMINATION BY MR. WESTON

83

1 Q. AND DOES THIS PICTURE REPRESENT THE PERSON, THE BOTTOM
2 RIGHT PICTURE, REPRESENT THE PERSON THAT YOU SAW WITH
3 JERMAINE THAT AFTERNOON BEFORE HE DIED?

4 A. YES, IT IS.

5 Q. IS THIS THE PERSON THAT ASKED JERMAINE COULD HE -- DID
6 HE HAVE ANY CRACK?

7 A. YES.

8 Q. ALL RIGHT.

9 MR. WESTON: YOUR HONOR, THE STATE WOULD INTRODUCE THIS
10 AS STATE'S EXHIBIT 1.

11 MR. ABDALLA: NO OBJECTION.

12 THE COURT: ALL RIGHT. WITHOUT OBJECTION.

13 MR. WESTON: STATE'S EXHIBIT 2. I'M SORRY, YOUR HONOR.

14 (WHEREUPON STATE'S EXHIBIT 2 WAS ADMITTED INTO
15 EVIDENCE)

16 Q. DID INVESTIGATOR McNAMARA TELL YOU WHO THAT PERSON WAS?

17 A. NO, HE DID NOT.

18 Q. OKAY. NOW HE SHOWED YOU ANOTHER PICTURE, IS THAT --
19 ANOTHER PHOTO LINE-UP, IS THAT CORRECT?

20 A. YES.

21 Q. AND THAT PHOTO LINE-UP INVOLVES THE OTHER PERSON, IS
22 THAT CORRECT?

23 A. YES.

24 Q. WERE YOU ABLE TO PICK THE OTHER PERSON OUT?

25 A. NO.

THERESA FORD - DIRECT EXAMINATION BY MR. WESTON

84

1 Q. OKAY. ALL RIGHT. LET ME SHOW YOU ONE MORE PICTURE,
2 WHAT HAS BEEN MARKED STATE'S EXHIBIT 1 FOR IDENTIFICATION.
3 NOW YOU DON'T NEED TO LOOK AT IT TOO LONG. I'LL JUST ASK
4 YOU DO YOU RECOGNIZE THIS?

5 A. YES.

6 Q. WHO IS THIS?

7 A. THAT'S JERMAINE PROCTOR.

8 Q. ALL RIGHT.

9 MR. WESTON: YOUR HONOR, THE STATE WOULD INTRODUCE THIS
10 -- OFFER THIS AS STATE'S EXHIBIT NUMBER 1.

11 THE COURT: ALL RIGHT. ANY OBJECTION?

12 MR. ABDALLA: NO.

13 (WHEREUPON STATE'S EXHIBIT 1 WAS ADMITTED INTO
14 EVIDENCE)

15 Q. NOW THIS IS ABOUT HOW JERMAINE LOOKED AROUND -- THIS
16 WAS TAKEN AROUND THE TIME HE DIED? NOT NECESSARILY THAT DAY
17 OR THAT MONTH, BUT AROUND THE TIME HE DIED?

18 A. YES.

19 Q. OKAY. NOW DID JERMAINE, AS FAR AS YOU KNOW, HAVE ANY
20 PLANS TO LEAVE GREENVILLE?

21 A. NO.

22 Q. OKAY. HE WOULD HAVE PROBABLY TOLD YOU?

23 A. YES.

24 Q. GIVEN THAT Y'ALL WERE LIVING TOGETHER AND ALL?

25 A. YES.

THERESA FORD - CROSS EXAMINATION BY MR. ABDALLA

85

1 Q. OKAY. AND DID HE KNOW HE WAS SUPPOSED TO PICK YOU UP
2 AT 9:00 THE NEXT MORNING?

3 A. YES.

4 Q. DID JERMAINE SEEM FRIENDLY WITH THESE TWO MEN, LIKE
5 THEY KNEW EACH OTHER?

6 A. HE ACTED LIKE HE KNEW THEM.

7 Q. OKAY.

8 MR. WESTON: YOUR HONOR, IF I COULD HAVE A MOMENT?

9 THE COURT: ALL RIGHT.

10 (PAUSE)

11 MR. WESTON: YOUR HONOR, THAT'S ALL I HAVE OF THIS
12 WITNESS.

13 THE COURT: ALL RIGHT. CROSS.

14 MR. ABDALLA: THANK YOU.

15 **CROSS EXAMINATION BY MR. ABDALLA:**

16 Q. MS. FORD, DO YOU REMEMBER WHEN THE GUYS POINTED OUT THE
17 STORE THEY HAD BROKEN INTO TO JERMAINE, HIM SAYING, YOU
18 SHOULD HAVE TOLD ME ABOUT THIS BEFORE, WE COULD HAVE LOADED
19 UP THE TRUCK? LET ME KNOW WHEN YOU DO IT AGAIN, WE CAN LOAD
20 UP THE JEEP. YOU DON'T REMEMBER THAT?

21 A. NO.

22 Q. DO YOU REMEMBER JERMAINE ASKING HOW HE COULD GET HIS
23 CELL PHONE TURNED ON?

24 A. NO, I DO NOT.

25 Q. YOU DON'T REMEMBER THEM SAYING -- MY CLIENT SAYING HE

THERESA FORD - CROSS EXAMINATION BY MR. ABDALLA

86

1 COULD GET IT TURNED ON FOR ME? YOU DON'T RECALL THAT?

2 A. NO, I DO NOT.

3 Q. COULD YOU READ THIS PARAGRAPH RIGHT HERE I'M POINTING

4 TO? YOUR STATEMENT, THE HIGHLIGHTED PART.

5 A. WHICH ONE?

6 Q. RIGHT HERE, MA'AM. IS THIS YOUR STATEMENT?

7 A. YES, IT IS.

8 Q. OKAY. RIGHT HERE.

9 A. WHEN WE GET -- WHEN WE WENT BACK TO DROP THEM OFF
10 JERMAINE ASKED THEM HOW THEY CAN GET A CELL PHONE TURNED ON,
11 BACK ON. AND HE TOLD THEM THROUGH SOME CHECKS.

12 Q. WOULD YOU FINISH READING IT, THE HIGHLIGHTED PART?
13 SOME CHECKS ...

14 A. AND HE COULD CALL AND GET IT DONE OVER THE PHONE.

15 Q. YOU DON'T RECALL THAT?

16 A. NO, I DO NOT.

17 Q. BUT THAT'S YOUR STATEMENT, CORRECT?

18 A. YES.

19 Q. AND YOU SAID JERMAINE HAD SOME KIND OF RELATIONSHIP
20 WITH THEM AND THAT HE HAS SOLD CRACK BEFORE, BUT NOT USED
21 IT, CORRECT?

22 A. HE NEVER USED NO CRACK.

23 Q. THAT'S WHAT I JUST SAID. HE SOLD CRACK, BUT DIDN'T USE
24 IT.

25 A. HE WAS NOT NO DRUG DEALER.

THERESA FORD - CROSS EXAMINATION BY MR. ABDALLA

87

1 Q. HE WASN'T? DID HE NOT HAVE A RECORD FOR SELLING CRACK?

2 A. I DON'T KNOW ABOUT THAT, BUT HE WAS NOT NO DRUG DEALER.

3 Q. WHAT WAS THAT YOU WERE REFERRING TO WHEN YOU SAID

4 SOMETHING ABOUT HIM HAVING CRACK? SOMETHING ABOUT HIS

5 INCOME. MAYBE I MISUNDERSTOOD.

6 A. HE ASKED JERMAINE DID HE HAVE ANY DRUGS FOR SALE. AND

7 JERMAINE TOLD HIM, NO.

8 Q. NO. I'M REFERRING TO WHEN MR. WESTON WAS QUESTIONING

9 YOU EARLIER. I THOUGHT YOU SAID YOU DIDN'T ALLOW DRUGS IN

10 THE HOUSE. AND CORRECT ME IF I'M WRONG. I THOUGHT YOU THEN

11 SAID WHEN HE COULDN'T GET ENOUGH HOURS HE SOLD CRACK, BUT

12 THAT HE DIDN'T USE IT. AM I WRONG?

13 A. THAT'S BEFORE HIS HOURS PICKED UP BEFORE HE WENT AND

14 STARTED ASKING FOR SOME MORE HOURS.

15 Q. SO HE WAS A CRACK DEALER AT SOME POINT?

16 A. HE WAS NOT NO BIG TIME DRUG DEALER, SIR.

17 Q. I DIDN'T SAY THAT. I JUST SAID HE HAS SOLD CRACK

18 BEFORE, ---

19 A. YES.

20 Q. --- CORRECT? AND YOU'RE NOT AWARE OF HIM HAVING A

21 RECORD FOR CRACK COCAINE OR ---

22 A. HE ALREADY DONE HIS TIME FOR THAT, SIR.

23 Q. HE DID HIS TIME FOR ---

24 A. YES. HE DID EIGHT YEARS FOR THAT.

25 Q. OKAY. I HAVE NO FURTHER QUESTIONS. THANK YOU.

1 THE COURT: ANY REDIRECT?

2 MR. WESTON: NOTHING ON REDIRECT, YOUR HONOR. WE WOULD
3 ASK THE WITNESS BE ALLOWED TO BE EXCUSED IF SHE WOULD LIKE
4 TO LEAVE.

5 MR. ABDALLA: NO OBJECTION.

6 THE COURT: ALL RIGHT. YES, MA'AM, YOU CAN STEP DOWN.
7 YOU'RE RELEASED FROM SUBPOENA.

8 ALL RIGHT. MADAME FORELADY, LADIES AND GENTLEMEN OF
9 THE JURY, IT'S 5:25. AND IT'S PROBABLY A GOOD TIME TO BREAK
10 OFF UNLESS Y'ALL JUST WANT TO STAY LATE. WE'LL STOP. WE'RE
11 GOING TO BREAK FOR THE DAY.

12 I'M GOING TO ASK YOU TO BE BACK IN YOUR JURY ROOM AT
13 9:30. PLEASE REMEMBER WHAT I TOLD YOU. DON'T TALK ABOUT
14 THE CASE. AND REMEMBER WHY. Y'ALL HAVE A NICE NIGHT.
15 WE'LL SEE YOU TOMORROW MORNING.

16 (WHEREUPON THE JURY EXITED THE COURTROOM AT 5:23 PM)

17 THE COURT: 9:30. ALL RIGHT. ANYTHING BEFORE WE
18 BREAK?

19 MR. ABDALLA: NOTHING FROM THE DEFENSE, YOUR HONOR.

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

21 THE COURT: ALL RIGHT. SEE Y'ALL IN THE MORNING.

22 MR. WESTON: WHAT TIME, JUDGE? I'M SORRY.

23 MR. ABDALLA: 9:30.

24 MR. JOHNSON: 9:30.

25 THE COURT: THIRD TIME'S A CHARM, 9:30.

1 MR. WESTON: YES, SIR.

2 (WHEREUPON COURT WAS IN RECESS AT 5:24 PM)

1 WEDNESDAY, JANUARY 13, 2010:

2 (WHEREUPON COURT RESUMED AT 9:44 AM)

3 THE COURT: THANK YOU. PLEASE BE SEATED. ALL RIGHT.
4 THE FIRST THING I WANT TO DO IS LAY TO REST THIS ISSUE ABOUT
5 EXTRADITION.

6 FIRST OF ALL, I WANT TO SAY THAT NOTHING WAS PRESENTED
7 TO THE COURT. I HAVE NO COPY OF THE GOVERNOR'S WARRANT,
8 ANYTHING FROM ALABAMA.

9 AND I WANT TO SAY THAT THERE HAS BEEN NO CONTEST OF THE
10 LEGALITY OF THE ISSUANCE OF THE -- OUR ARREST WARRANT OR
11 PROBABLE CAUSE DETERMINATION, NO ALLEGATION PRESENTED TO
12 SHOW THAT THE ISSUANCE OF THE WARRANT, THE GOVERNOR'S
13 WARRANT, WAS ARBITRARY OR CAPRICIOUS.

14 ADDITIONALLY, EVEN IF THERE WAS A VIOLATION OF
15 ALABAMA'S EXTRADITION STATUTES, WHICH WE HAVE EXAMINED, I'LL
16 COMPLIMENT MY LAW CLERK ON HER WORK. GETTING IT 15 --
17 ALABAMA CODE OF LAWS, 15-9-33, ANY COMPLAINT THAT THE
18 DEFENDANT MIGHT HAVE WOULD BE REGISTERED WITH ALABAMA.

19 THERE'S BEEN NO SHOWING THAT SOUTH CAROLINA DID
20 ANYTHING IMPROPER. AND I CAN'T BELIEVE THAT THE OFFICERS
21 WHO PICKED THE DEFENDANT UP IN ALABAMA BROKE HIM OUT OF
22 JAIL. SO IF THERE'S ANY FAULT IN THE EXTRADITION PROCESS,
23 IT WOULD BE IN ALABAMA.

24 AND EVEN ALABAMA LAW PRESUMES -- AND I WOULD SAY THIS,
25 OUR STATUTES HAVE A HIGHER STANDARD TO EXPORT A DEFENDANT

1 THAN DOES ALABAMA. AND THERE JUST HASN'T BEEN ANY SHOWING
2 WHATSOEVER THAT THERE'S BEEN, FIRST OF ALL, A VIOLATION.

3 AND SECOND OF ALL, THAT THERE'S NO PREJUDICE TO THE
4 DEFENDANT. HE IS HERE IN SOUTH CAROLINA. WE HAVE
5 JURISDICTION OF HIM. AND THERE'S BEEN NO SHOWING THAT HIS
6 CONSTITUTIONAL RIGHTS HAVE BEEN VIOLATED OR BREACHED IN ANY
7 FASHION. OKAY. Y'ALL READY TO GO?

8 MR. WESTON: YES, SIR, YOUR HONOR. WE HAVE ONE MATTER.
9 THIS MAY SAVE US A LITTLE TIME. WE ARE PLANNING TO CALL
10 INVESTIGATOR MIKE McNAMARA, WHO, AS YOU KNOW, DID THE --
11 BEGAN THE PHOTO LINE-UP HERE.

12 WE WANT TO CALL HIM TO TESTIFY THAT THE PERSON DEPICTED
13 IN THE LOWER RIGHT HAND CORNER, PHOTO NUMBER 6 OF THE ID
14 PACK, WAS, IN FACT, JONATHAN CAMPBELL 'CAUSE THE VICTIM
15 COULD NOT SAY THAT, EXCUSE ME, THE VICTIM'S GIRLFRIEND
16 COULDN'T SAY THAT. SHE DIDN'T KNOW WHO THE PICTURE BELONGED
17 TO AT THE TIME.

18 BUT AS I UNDERSTAND IT MR. ABDALLA WOULD STIPULATE AND
19 THE COURT CAN ADVISE THE JURY THAT THE PERSON DEPICTED IN
20 PICTURE NUMBER 6 THAT'S ALREADY BEEN PUT INTO EVIDENCE IS
21 THE DEFENDANT, JONATHAN CAMPBELL. AND THAT'S ALL HE WOULD
22 TESTIFY TO.

23 MR. ABDALLA: AND I HAVE STIPULATED TO THAT.

24 THE COURT: OKAY.

25 MR. ABDALLA: AND THAT'S WHAT I THOUGHT I STIPULATED TO

1 YESTERDAY.

2 THE COURT: OKAY. WHEN DO YOU WANT ME TO DO THAT?
3 WHEN THEY COME IN?

4 MR. WESTON: THAT'D BE FINE, YOUR HONOR.

5 THE COURT: WHAT'S THE EXHIBIT NUMBER? AND WHICH ONE
6 IS IT?

7 MR. WESTON: LOWER RIGHT, YOUR HONOR, I THINK IS THE
8 ONE THAT SHE'S GOT HER NAME ON. I THINK IT SAYS THERESA ---

9 THE COURT: YEAH, OKAY. ALL RIGHT. YOU READY FOR THE
10 JURY?

11 MR. WESTON: YES, SIR, YOUR HONOR. THE STATE'S READY
12 TO PROCEED.

13 THE COURT: OKAY. McNAMARA'S DISAPPOINTED HE DOESN'T
14 GET TO TESTIFY AGAIN. ALL RIGHT.

15 MR. ABDALLA: McNAMARA'S GETTING TO SIT WITH HIS BUDDY,
16 SILVAGGIO. HE'S HAPPY.

17 (WHEREUPON THE JURY ENTERED THE COURTROOM AT 9:49 AM)

18 THE COURT: ALL RIGHT. LADIES AND GENTLEMEN, WELCOME
19 BACK. AND I HOPE Y'ALL HAD A PLEASANT EVENING. AND I HAVE
20 NOTHING TO REPORT ABOUT DISCUSSING THE -- I KNOW YOU ALL
21 DIDN'T TALK ABOUT THE CASE WITH ANYBODY. SO THANK YOU VERY
22 MUCH FOR THAT.

23 ONE THING I WANT TO TELL YOU. I THINK I TOLD YOU IN MY
24 OPENING COMMENTS, BUT I CAN NEVER REMEMBER, THERE ARE
25 GENERALLY THREE WAYS THAT EVIDENCE IS INTRODUCED IN COURT.

ROXIE SAXON - DIRECT EXAMINATION BY MR. WESTON

93

1 THE FIRST AND MOST COMMON WAY WOULD BE BY WAY OF VERBAL
2 TESTIMONY. THE SECOND WAY WOULD BE BY WAY OF INTRODUCTION
3 OF TANGIBLE OBJECTS, PHOTOGRAPHS. AND THE THIRD WAY IS BY
4 WAY OF STIPULATION OF THE PARTIES.

5 NOW THIS IS THE PICTURE OF -- THIS IS STATE'S EXHIBIT
6 NUMBER 2. THIS HAS BEEN -- THIS IS A TANGIBLE OBJECT. BUT
7 THE PARTIES HAVE STIPULATED TO ANOTHER FACT. AND YOU -- A
8 STIPULATION MEANS THAT YOU ARE TO ACCEPT IT AS BEING TRUE.
9 AND THAT IS THAT THE GENTLEMAN IN THE LOWER RIGHT PICTURE IS
10 STIPULATED AND AGREED THAT THAT IS, IN FACT, MR. JONATHAN
11 MILLARD CAMPBELL, OKAY?

12 SO YOU CAN ACCEPT THE FACT THAT THAT IS TRUE. AND IT'S
13 THE LOWER RIGHT; WHEN YOU'RE LOOKING AT THE PICTURE, LOWER
14 RIGHT PHOTOGRAPH. AND IT ALSO HAS WRITTEN OVER IT THE NAME,
15 THERESA. AND I BELIEVE IT'S SPELLED T-H-E-R-E-S-A. OKAY?
16 GREAT. ALL RIGHT. GO AHEAD. CALL YOUR NEXT WITNESS.

17 MR. WESTON: THANK YOU, YOUR HONOR. THE STATE WOULD
18 CALL MS. ROXIE SAXON, PLEASE.

19 ROXIE SAXON, BEING DULY
20 SWORN TESTIFIED AS FOLLOWS:

21 **DIRECT EXAMINATION BY MR. WESTON:**

22 Q. MS. SAXON, LET ME BEGIN BY SAYING I KNOW THIS IS NOT
23 EASY FOR YOU. AND I'M GOING TO TRY TO BE AS SENSITIVE AND
24 GET TO THE POINT AS QUICKLY AS I CAN, ALL RIGHT? AND CAN
25 YOU JUST SPEAK AS LOUD AS YOU CAN SO THAT THIS LAST JUROR --

ROXIE SAXON - DIRECT EXAMINATION BY MR. WESTON

94

1 THESE JURORS DOWN HERE CAN HEAR YOU?

2 A. YES, SIR.

3 Q. MS. SAXON, WHERE DO YOU LIVE?

4 A. AT [REDACTED] IN TRAVELERS REST, SOUTH
5 CAROLINA.

6 Q. AND YOU ARE THE MOTHER OF JONATHAN CAMPBELL, IS THAT
7 CORRECT?

8 A. YES, I AM.

9 Q. AND LET ME JUST KIND OF GET THIS OUT OF THE WAY. YOU
10 DO NOT PERSONALLY KNOW ANYTHING ABOUT ANY OF THE EVENTS
11 SURROUNDING THE INCIDENT THAT BRINGS US HERE TODAY, DO YOU?

12 A. I WAS NOT THERE, NO, SIR.

13 Q. OKAY. NOW ON THE MORNING OF JUNE THE 20TH -- WELL, LET
14 ME BACK UP BEFORE I GET TO THAT. YOU SPOKE WITH YOUR SON ON
15 THE MORNING OF JUNE THE 20TH, IS THAT CORRECT? FATHER'S
16 DAY?

17 A. FATHER'S DAY, YES, SIR.

18 Q. 2005?

19 A. YES, SIR.

20 Q. AND WAS IT ABOUT 9:00 IN THE MORNING?

21 A. I BELIEVE SO, YES, SIR.

22 Q. NOW PRIOR TO THAT CONVERSATION WITH YOUR SON HOW LONG
23 HAD IT BEEN SINCE YOU HAD SPOKEN TO HIM OR SEEN HIM? JUST
24 BALLPARK?

25 A. MAYBE FOUR OR FIVE WEEKS.

ROXIE SAXON - DIRECT EXAMINATION BY MR. WESTON

95

- 1 Q. HE DID NOT LIVE WITH YOU AT THE TIME?
- 2 A. UP UNTIL ABOUT FIVE WEEKS BEFORE THAT HE DID.
- 3 Q. AND WHAT -- I'M NOT GOING TO ASK YOU WHY HE WAS NO
- 4 LONGER LIVING -- NOW HE CALLED YOU ABOUT 9:00 THAT MORNING,
- 5 IS THAT CORRECT?
- 6 A. YES, SIR.
- 7 Q. AND YOU WEREN'T EXPECTING HIS CALL?
- 8 A. NO, SIR.
- 9 Q. ALL RIGHT. I THINK YOU SAID YOU WERE GETTING READY TO
- 10 GO TO CHURCH, I BELIEVE?
- 11 A. YES, SIR.
- 12 Q. OKAY. DURING THE CONVERSATION DID HE RELATE TO YOU
- 13 GENERALLY THE EVENTS THAT HAD OCCURRED THE NIGHT BEFORE THAT
- 14 HE WAS INVOLVED WITH?
- 15 A. YES, SIR.
- 16 Q. ALL RIGHT. DID HE INDICATE TO YOU THAT SOMEBODY HAD
- 17 PICKED HIM AND A GUY NAMED GREG UP?
- 18 A. YES, SIR.
- 19 Q. NOW DO YOU KNOW AT THIS POINT WHO GREG IS?
- 20 A. NOW?
- 21 Q. YES, MA'AM.
- 22 A. YES, SIR, I DO.
- 23 Q. WHO DO YOU THINK HE WAS REFERRING TO WHEN HE SAID GREG?
- 24 A. MR. CARL SOUTHERLAND.
- 25 Q. OKAY. AND DID HE INDICATE TO YOU THAT HE AND GREG OR

ROXIE SAXON - DIRECT EXAMINATION BY MR. WESTON

96

- 1 CARL SOUTHERLAND WERE TOGETHER THE NIGHT BEFORE HE GOT
2 PICKED UP BY SOMEONE?
- 3 A. YES, SIR.
- 4 Q. ALL RIGHT. AND DID HE INDICATE TO YOU THAT THE PERSON
5 TRIED TO ROB THEM?
- 6 A. YES, SIR.
- 7 Q. AND HE, IN FACT, SAID THAT THEY PULLED ON -- HE PULLED
8 A GUN ON THEM AND DEMANDED THEIR MONEY, IS THAT CORRECT?
- 9 A. YES, SIR.
- 10 Q. SOMETHING LIKE THAT?
- 11 A. YES, SIR.
- 12 Q. OKAY. DID HE INDICATE TO YOU WHETHER OR NOT HE
13 STRUGGLED WITH THE PERSON OVER THE GUN?
- 14 A. YES, SIR, HE DID.
- 15 Q. DID HE SAY HE STRUGGLED WITH THE PERSON OVER THE GUN OR
16 ---
- 17 A. YES, SIR, HE DID.
- 18 Q. --- GREGORY OR CARL SOUTHERLAND DID?
- 19 A. HE SAID THAT HE PULLED A GUN, AND WE STRUGGLED AND THE
20 GUN WENT OFF.
- 21 Q. ALL RIGHT. AND AT SOME POINT -- AND HE SAID THAT THE
22 GUY GOT SHOT?
- 23 A. YES, SIR.
- 24 Q. ALL RIGHT. AT SOME -- DID HE SAY THAT THE GUY PICKED
25 UP A HAMMER OR SOMETHING AND STRUCK HIM?

ROXIE SAXON - DIRECT EXAMINATION BY MR. WESTON

97

- 1 A. YES, SIR.
- 2 Q. AND HE WAS TALKING ABOUT HIMSELF?
- 3 A. YES, SIR.
- 4 Q. YOUR SON WAS STRUCK BY ---
- 5 A. WITH A HAMMER.
- 6 Q. --- WAS INDICATING HE WAS STRUCK BY A HAMMER?
- 7 A. YES, SIR.
- 8 Q. ALL RIGHT. AND I THINK YOU SAID HE HAD BEEN STRUCK IN
- 9 THE HEAD WITH THIS HAMMER?
- 10 A. YES, SIR, I BELIEVE THAT'S CORRECT.
- 11 Q. ALL RIGHT. DID HE, IN FACT, SAY TO YOU, AND I'M --
- 12 WELL, YOU GAVE A STATEMENT TO THE POLICE, IS THAT CORRECT,
- 13 SOMETIME LATER?
- 14 A. I DID.
- 15 Q. THAT RECOUNTED THE CONVERSATION WE'RE TALKING ABOUT
- 16 NOW?
- 17 A. YES, SIR.
- 18 Q. ALL RIGHT. DID HE SAY, IN FACT, AND I'M QUOTING, I
- 19 JUST SHOT HIM, MAMA? OR IS THAT -- DID YOU, IN FACT, TELL
- 20 THE POLICE THAT, THAT THAT'S WHAT HE SAID A COUPLE OF DAYS
- 21 AFTER THIS HAPPENED?
- 22 A. THAT'S A PART OF MY STATEMENT. I DON'T REMEMBER THAT,
- 23 BUT THAT IS A PART OF MY STATEMENT.
- 24 Q. AND YOU DON'T NEED ME TO SHOW IT TO YOU, YOU ---
- 25 A. YES, SIR, I SAW IT.

ROXIE SAXON - DIRECT EXAMINATION BY MR. WESTON

98

1 Q. --- AGREED TO THAT?

2 A. YES, SIR.

3 Q. OKAY. DID YOU ADVISE HIM -- WHAT DID YOU ADVISE HIM TO
4 DO?

5 A. I TOLD HIM TO GO TO THE NEAREST POLICE STATION.

6 Q. AND DID HE SAY HE WOULD OR WOULDN'T?

7 A. HE SAID HE COULDN'T.

8 Q. DID HE SAY WHY?

9 A. HE SAID HE COULDN'T.

10 Q. DID HE SAY WHY HE COULDN'T?

11 A. HE SAID, YOU KNOW THAT THEY'LL PUT US BACK IN -- PUT ME
12 BACK IN JAIL.

13 Q. OKAY. DID HE -- WAS HE VERY UPSET WHEN HE CALLED YOU?

14 A. YES, SIR, HE WAS.

15 Q. SORT OF FRANTIC?

16 A. YES, SIR.

17 Q. OKAY. NOW I WANT TO ASK YOU A FEW QUESTIONS ABOUT WHAT
18 HE DIDN'T SAY. DURING THE -- THERE WERE TWO CONVERSATIONS,
19 RIGHT? HE CALLED ONCE AND THEN HE CALLED BACK ABOUT ---

20 A. YES, SIR.

21 Q. --- A COUPLE OF MINUTES LATER?

22 A. YES, SIR.

23 Q. ALL RIGHT. AND JUST SORT OF CONTINUED THE
24 CONVERSATION?

25 A. YES, SIR.

ROXIE SAXON - DIRECT EXAMINATION BY MR. WESTON

99

- 1 Q. NOW IN EITHER OF THE TWO CONVERSATIONS DID HE SAY
2 ANYWHERE AT ANY TIME THAT THE MAN THAT HAD DIED WAS STABBED?
3 DID HE MENTION THAT AT ALL?
- 4 A. NO, SIR.
- 5 Q. OKAY. DID HE SAY THAT HE'D SEEN THE MAN EARLIER THAT
6 DAY?
- 7 A. NO, SIR.
- 8 Q. DID HE SAY THAT HE HAD POSSIBLY GOTTEN DRUGS FROM THIS
9 MAN EITHER EARLIER THAT DAY OR MANY TIMES BEFORE THAT?
- 10 A. NO, SIR, NOT AT THAT TIME.
- 11 Q. DID HE TELL -- HE DIDN'T TELL YOU WHEN THIS HAD
12 HAPPENED, DID HE, EXCEPT IT WAS SOMETIME THE NIGHT BEFORE?
- 13 A. YES, SIR.
- 14 Q. OKAY. DID HE TELL YOU THAT THEY WERE NOW -- HE WAS --
15 THAT THEY WERE NOW DRIVING THE MAN'S CAR?
- 16 A. I'M NOT SURE ABOUT THAT.
- 17 Q. OKAY. DID HE TELL YOU WHEN -- HE SAID HE WOULDN'T TURN
18 -- HE COULDN'T TURN HIMSELF IN. DID HE SAY WHERE HE WAS
19 PLANNING TO GO OR WHAT HE WAS PLANNING TO DO?
- 20 A. NO, SIR, HE DID NOT.
- 21 Q. ALL RIGHT. IN EITHER ONE OF THE TWO CALLS, MA'AM, DID
22 HE SAY THAT THE OTHER GUY, GREG, THAT WE NOW KNOW IS CARL
23 SOUTHERLAND, DID ANYTHING TO HARM THE MAN?
- 24 A. NO, SIR, NOT AT THAT TIME.
- 25 Q. OKAY. DID HE EVER SAY TO YOU DURING EITHER OF THOSE

ROXIE SAXON - DIRECT EXAMINATION BY MR. WESTON

100

1 CONVERSATIONS THAT GREG, CARL SOUTHERLAND, WAS THE MAN WHO
2 SHOT OR STABBED THIS MAN?

3 A. NO, SIR, HE DID NOT.

4 Q. IN FACT, HE SAID, AND I QUOTE, I JUST SHOT HIM, MAMA,
5 DIDN'T HE?

6 A. HE TOLD ME THAT THEY STRUGGLED OVER THE GUN AND THE GUN
7 WENT OFF.

8 Q. BUT YOU DON'T REMEMBER HIM TELLING YOU SPECIFICALLY
9 AFTER THAT, I JUST SHOT HIM, MAMA?

10 A. I UNDERSTAND THAT IT'S IN THE STATEMENT.

11 Q. AND IF IT'S IN THE ---

12 A. AND HE ---

13 Q. --- STATEMENT, THAT'S WHAT YOU TOLD THE OFFICER?

14 A. HE MAY -- YES, SIR. THAT'S EXACTLY WHAT I TOLD THE
15 OFFICER IF IT ---

16 Q. AND I DON'T MEAN TO SUGGEST THAT YOU'RE NOT TELLING THE
17 TRUTH. I ---

18 A. YES, SIR.

19 Q. --- KNOW IT'S BEEN FOUR YEARS AGO.

20 A. IT'S BEEN FOUR AND A HALF YEARS, YES, SIR.

21 Q. OKAY. SO WHAT DID YOU DO AFTER THE CONVERSATIONS?

22 A. I CALLED MY PASTOR. MY PASTOR AT THE TIME WAS RANDALL
23 ATKINS. AND -- BECAUSE I WANTED TO GET A TELEPHONE NUMBER
24 FROM HIM.

25 Q. AND SO YOU SPOKE WITH YOUR PASTOR AT SOME POINT AFTER

ROXIE SAXON - CROSS EXAMINATION BY MR. ABDALLA

101

1 THAT?

2 A. I DID.

3 Q. OKAY. AND DID YOU CONTACT LAW ENFORCEMENT?

4 A. YES, SIR. I CONTACTED TOMMY LEE.

5 Q. OKAY. AND AT SOME POINT, AS WE'VE ALREADY SORT OF
6 ALLUDED TO, YOU GAVE -- YOU CAME IN AND GAVE A STATEMENT
7 SORT OF RECOUNTING WHAT WE'VE JUST TALKED ABOUT THIS
8 MORNING, IS THAT CORRECT?

9 A. NO, SIR. THEY CAME TO MY HOUSE.

10 Q. OH, I'M SORRY. MS. SAXON, AS I SAID, I KNOW THIS IS
11 UNCOMFORTABLE FOR YOU. BELIEVE ME, IT'S UNCOMFORTABLE FOR
12 ME AS WELL. LET ME JUST ASK YOU THIS AND GET THIS OUT OF
13 THE WAY. AND I KNOW WHAT THE ANSWER IS. YOU LOVE YOUR SON,
14 DON'T YOU?

15 A. VERY MUCH.

16 Q. UNCONDITIONALLY?

17 A. UNCONDITIONALLY.

18 Q. EVEN SO, IS IT YOUR SWORN TESTIMONY TODAY THAT YOUR SON
19 TOLD YOU THAT HE STRUGGLED WITH THE MAN WITH THE GUN AND
20 THAT HE KILLED HIM?

21 A. YES, SIR, AT THAT TIME.

22 Q. THANK YOU SO MUCH, MA'AM.

23 THE COURT: CROSS.

24 CROSS EXAMINATION BY MR. ABDALLA:

25 Q. MS. SAXON, YOU SAID AT THAT TIME WHEN YOU SPOKE TO YOUR

ROXIE SAXON - CROSS EXAMINATION BY MR. ABDALLA

102

1 SON -- I WANT TO GO OVER A FEW THINGS. WHEN JONATHAN CALLED
2 YOU ON THE MORNING, FATHER'S DAY MORNING?

3 A. YES, SIR.

4 Q. AND HE TOLD YOU ABOUT THE FIGHT AND ABOUT THE GUN. AND
5 HE REFERRED TO A MAN NAMED GREG. WHY DID HE CALL HIM GREG,
6 DO YOU KNOW?

7 A. I KNOW THAT WHEN -- WHEN HE WAS ON THE PHONE WITH ME
8 THAT THE MAN WHO I THOUGHT WAS GREG WAS STANDING THERE WITH
9 HIM.

10 Q. AND WHAT DOES THAT MEAN TO YOU?

11 A. WELL, JONATHAN TOLD ME LATER THAT GREG WAS STANDING OR
12 THAT CARL WAS STANDING THERE THREATENING HIM, THAT HE COULD
13 NOT SAY HIS NAME OR TELL THE TRUTH ABOUT THE SITUATION.

14 Q. AND WHY IS THAT?

15 A. BECAUSE CARL WAS THE ONE THAT KILLED THE MAN AND THAT
16 HE HAD THREATENED JONATHAN AND ALSO TOLD JONATHAN THAT HE
17 WOULD -- THE NEXT TIME -- IF HE LEFT HIM THAT THE NEXT TIME
18 HE SAW HIM HE WOULD BE ON MY DOORSTEPS.

19 Q. AND WHAT WOULD THAT MEAN, BEING ON YOUR DOORSTEP?

20 A. THAT HE WOULD KILL ME.

21 Q. WHY WOULD JONATHAN BELIEVE THAT?

22 A. JONATHAN SAYS IT WAS BECAUSE OF WHAT HE HAD JUST SEEN
23 HIM DO TO THE OTHER MAN. AND HE WAS VERY SCARED AND VERY --
24 HE BELIEVED HIM BECAUSE OF WHAT HE HAD JUST SEEN HIM DO.

25 Q. SO HE'S TRYING ---

ROXIE SAXON - CROSS EXAMINATION BY MR. ABDALLA

103

- 1 A. HE KNEW HE WAS CAPABLE. HE KNEW HE WAS CAPABLE BECAUSE
2 HE HAD JUST SEEN HIM KILL ANOTHER MAN.
- 3 Q. DID HE TELL YOU THAT?
- 4 A. YES, SIR, HE DID, LATER ON.
- 5 Q. WHEN HE GOT BACK?
- 6 A. WHEN HE GOT BACK TO GREENVILLE.
- 7 Q. AND HOW -- ARE WE GOING BACK TO JULY OF 2005?
- 8 A. I BELIEVE IT WAS SEPTEMBER WHEN HE GOT BACK HERE.
- 9 Q. WHENEVER HE GOT BACK IS THAT WHEN HE TOLD YOU?
- 10 A. WHEN HE GOT BACK TO GREENVILLE.
- 11 Q. AND WHAT DID HE TELL YOU?
- 12 A. HE TOLD ME THAT -- WELL, HE -- HE HAD TOLD ME THAT WHAT
13 HE HAD TOLD ME BEFORE WAS NOT THE TRUTH.
- 14 Q. AND WHY DID HE TELL YOU HE DIDN'T TELL THE TRUTH?
- 15 A. HE SAID THAT HE WAS SCARED. HE SAID THAT HE HAD JUST
16 SEEN CARL KILL A MAN, AND THAT IT WAS VERY VIOLENT, AND THAT
17 HE HAD NEVER SEEN NOTHING LIKE THAT IN HIS LIFE, AND THAT HE
18 KNEW SINCE HE SAW WHAT THE MAN WAS CAPABLE OF, AND HE WAS
19 SCARED. AND HE TOLD ME THAT CARL HAD JUST STABBED THE MAN,
20 THAT THERE REALLY WASN'T A GUN INVOLVED AT ALL.
- 21 Q. THAT'S WHAT I WAS GOING TO ASK YOU. WAS THERE ANY GUN?
- 22 A. NO, SIR.
- 23 Q. DID JONATHAN TELL YOU WHAT HIS PART WAS, IF ANY? DID
24 HE SAY HE HAD ANYTHING TO DO WITH KILLING THE MAN?
- 25 A. NOT WITH KILLING THE MAN, NO, SIR. HE DIDN'T -- HE

ROXIE SAXON - CROSS EXAMINATION BY MR. ABDALLA

104

- 1 SAID THAT HE DID NOT -- HE DID NOT KILL THE MAN.
- 2 Q. DID HE HOLD THE MAN?
- 3 A. NO, SIR, HE DID NOT.
- 4 Q. HE CALLED YOU LATER ON FROM TEXAS, NOT TEXAS, FROM ---
- 5 A. ALABAMA.
- 6 Q. ALABAMA.
- 7 A. YES, SIR.
- 8 Q. DO YOU REMEMBER THAT CONVERSATION AT ALL?
- 9 A. I REMEMBER PORTIONS OF IT, YES, SIR.
- 10 Q. AND WHERE WAS HE CALLING FROM AT THAT TIME?
- 11 A. HE WAS CALLING ME FROM THE JAIL IN MOBILE, I BELIEVE IT
- 12 WAS.
- 13 Q. AND AT THAT TIME WHAT DID HE SAY? DO YOU REMEMBER?
- 14 A. HE WAS JUST TALKING. HE SAID, HEY, MAMA. AND HE SAID,
- 15 I'M IN SOME TROUBLE. I'M IN ALABAMA AND I'M IN SOME
- 16 TROUBLE. AND I SAID, JONATHAN, DO YOU NOT REMEMBER CALLING
- 17 ME SUNDAY MORNING? AND HE SAID SOMETHING TO THE EFFECT OF,
- 18 YEAH. AND I SAID, DO YOU REMEMBER WHAT YOU TOLD ME, SON?
- 19 AND HE SAID, WELL, IT WASN'T EXACTLY LIKE THAT.
- 20 AND JUST THE WAY HE WAS -- HE WAS TALKING LIKE HE -- IN
- 21 LIKE A GUARDED MANNER. AND I SAID, IS THERE SOMEBODY THERE
- 22 WITH YOU? AND HE SAID, YES, MA'AM.
- 23 Q. OKAY.
- 24 A. AND I SAID, WELL, THEN YOU DON'T NEED TO SAY ANYTHING
- 25 ELSE.

ROXIE SAXON - CROSS EXAMINATION BY MR. ABDALLA

105

1 Q. AND THEN WHEN HE CAME HOME HE TOLD YOU WHAT YOU BELIEVE
2 NOW TO BE THE TRUTH?

3 A. YES, SIR, I DO. YES, SIR. I BELIEVE WHAT HE TOLD ME,
4 THAT HE WAS DOING DRUGS, AND THAT, YOU KNOW, THAT THE BOY
5 WAS KILLED, BUT THAT CARL KILLED HIM, AND THAT HE WANTED TO
6 LEAVE HIM, HE WANTED TO GET AWAY FROM HIM, AND THAT CARL
7 THREATENED HIM, AND THAT CARL THREATENED ME. AND ---

8 Q. IS THAT WHY HE NEVER LEFT FOR THE TWO DAYS 'CAUSE THE
9 JURY'S GOING TO HAVE A HARD TIME UNDERSTANDING HOW ANYBODY
10 -- BECAUSE ---

11 MR. WESTON: YOUR HONOR, I'M GOING TO OBJECT.

12 THE COURT: I'LL SUSTAIN THAT.

13 MR. WESTON: ALL RIGHT. THANK YOU, YOUR HONOR.

14 Q. I HAVE A HARD TIME UNDERSTANDING ---

15 MR. WESTON: OBJECTION, YOUR HONOR.

16 THE COURT: YEAH.

17 MR. WESTON: I THINK HE HAS TO ---

18 THE COURT: JUST ASK QUESTIONS.

19 MR. ABDALLA: ALL RIGHT.

20 Q. WHY WOULD JONATHAN RIDE AROUND WITH A DEAD MAN THAT HE
21 DIDN'T KILL ---

22 MR. WESTON: OBJECTION, YOUR HONOR. SHE HAS -- NO WAY
23 SHE COULD KNOW THAT.

24 THE COURT: SUSTAINED.

25 Q. BASED ON WHAT HE TOLD YOU?

ROXIE SAXON - CROSS EXAMINATION BY MR. ABDALLA

106

1 THE COURT: NO.

2 MR. WESTON: OBJECTION, YOUR HONOR.

3 THE COURT: WAIT. THAT'S SPECULATIVE. SUSTAINED.

4 Q. I'LL ASK YOU THIS. DID HE SAY IN ANY WAY WHY HE
5 STAYED?

6 A. YES, SIR, HE DID. HE TOLD ME THAT HE WAS SCARED OF THE
7 MAN. I BELIEVE HE'S STILL SCARED OF THE MAN. I KNOW HE WAS
8 SCARED OF THE MAN WHEN HE GOT BACK TO GREENVILLE. HE ASKED
9 FOR A SEPARATION, NOT TO BE IN THE SAME PART OF THE JAIL
10 WITH HIM, WHICH THEY GAVE HIM. I BELIEVE HIM.

11 MR. WESTON: YOUR HONOR, I'M -- I HATE TO CUT HER OFF,
12 BUT I'M GOING TO OBJECT THAT SHE'S ---

13 MR. ABDALLA: I ---

14 MR. WESTON: --- ANSWERED THE QUESTION.

15 THE COURT: WAIT A MINUTE. ONE AT A TIME. WHAT'S YOUR
16 OBJECTION?

17 MR. WESTON: I HATE TO CUT HER OFF, YOUR HONOR, BUT I
18 THINK SHE'S ANSWERED THE QUESTION. SHE'S KIND OF -- JUST
19 KIND OF GIVING HER OPINION NOW ABOUT OTHER MATTERS.

20 THE COURT: OKAY. WELL, SHE'S -- SHE'S DONE. ALL
21 RIGHT. GO AHEAD. ANYTHING ELSE?

22 MR. ABDALLA: ONE MOMENT, PLEASE.

23 (PAUSE)

24 MR. ABDALLA: I HAVE NO FURTHER QUESTIONS. THANK YOU.

25 THE COURT: ALL RIGHT. ANY REDIRECT?

ROXIE SAXON - REDIRECT EXAMINATION BY MR. WESTON

107

1 MR. WESTON: JUST A FEW, YOUR HONOR.

2 REDIRECT EXAMINATION BY MR. WESTON:

3 Q. MS. SAXON, I GOT A LITTLE BIT CONFUSED, BUT I THINK
4 I'VE GOT AN UNDERSTANDING OF IT. BUT I WANT TO MAKE SURE
5 WE'RE ALL ON THE SAME PAGE. LET'S GET THE ORDER OF THESE
6 CONVERSATIONS STRAIGHT FIRST. ON THE MORNING OF JUNE THE
7 19TH HE CALLED YOU TWICE OVER THE PHONE?

8 A. YES, SIR.

9 Q. AND ONCE HE IS ARRESTED IN ALABAMA A COUPLE OF DAYS
10 LATER HE CALLS YOU FROM THERE?

11 A. YES, SIR.

12 Q. AND THEN SUBSEQUENTLY WHEN HE COMES BACK TO GREENVILLE
13 YOU VISIT HIM AT THE DETENTION CENTER AND HE TELLS YOU A
14 DIFFERENT STORY?

15 A. YES, SIR.

16 Q. OKAY. SO THE CONVERSATION IN ALABAMA WHEN HE'S IN
17 DETENTION -- AND AS YOU SAID, YOU MAY HAVE THOUGHT SOMEBODY
18 MAY HAVE BEEN STANDING BY HIM, A GUARD OR SOMETHING OR WAS
19 BEING RECORDED?

20 A. (AFFIRMATIVE NOD).

21 Q. HE DIDN'T INDICATE TO YOU AT THAT TIME WHETHER -- LET
22 ME MAKE SURE WHAT YOU SAID. THAT HE CALLED YOU BACK AND HE
23 DIDN'T SEEM TO REMEMBER THE CALL FROM TWO NIGHTS BEFORE
24 THAT, ISN'T THAT CORRECT? YOU ASKED HIM, DO YOU REMEMBER
25 TALKING TO ME SUNDAY NIGHT?

ROXIE SAXON - REDIRECT EXAMINATION BY MR. WESTON

108

- 1 A. AND HE SAID, UH, SORT OF A ...
- 2 Q. AND YOU SAID, DO YOU REMEMBER WHAT ---
- 3 A. WHAT YOU TOLD ME, ---
- 4 Q. --- YOU TOLD ME?
- 5 A. --- YES, SIR.
- 6 Q. AND TELL THE JURY WHAT HE SAID AGAIN.
- 7 A. IT WASN'T QUITE THAT WAY.
- 8 Q. AND YOU KNOW NOW IT WASN'T QUITE THAT WAY BECAUSE THE
- 9 PERSON WAS STABBED.
- 10 A. YES, SIR.
- 11 Q. AND THAT THERE WAS NO GUN.
- 12 A. YES, SIR.
- 13 Q. BUT HE, AT THAT TIME, IS IN JAIL?
- 14 A. YES, SIR.
- 15 Q. PRESUMPTIVELY CARL SOUTHERLAND IS NOT STANDING BESIDE
- 16 HIM.
- 17 MR. ABDALLA: OBJECTION, YOUR HONOR, BECAUSE ---
- 18 THE COURT: YEAH. THAT'S A CALL FOR SPECULATION.
- 19 MR. WESTON: ALL RIGHT.
- 20 Q. YOU DON'T KNOW WHETHER MR. SOUTHERLAND WAS STANDING BY
- 21 HIM, DO YOU?
- 22 A. NO, SIR.
- 23 Q. AND WHEN YOU SAID IS SOMEBODY THERE TO HIM, YOU WERE
- 24 TALKING ABOUT A GUARD OR SOMETHING, WEREN'T YOU?
- 25 MR. ABDALLA: AGAIN, YOUR HONOR, CALLING FOR

ROXIE SAXON - REDIRECT EXAMINATION BY MR. WESTON

109

1 SPECULATION.

2 MR. WESTON: I WAS ---

3 THE COURT: WAIT A MINUTE.

4 MR. WESTON: --- ASKING WHAT SHE WAS TALKING ABOUT. I
5 ASKED THE QUESTION, YOUR HONOR, ---

6 THE COURT: WELL, YOU'RE ASKING WHAT HER STATE OF MIND
7 WAS?

8 MR. WESTON: EXACTLY.

9 THE COURT: OKAY. YOU CAN ANSWER THAT.

10 Q. WHEN YOU SAID TO HIM, JONATHAN, IS SOMEBODY THERE, YOU
11 WERE TALKING ABOUT A GUARD OR A LAW ENFORCEMENT OFFICIAL?

12 A. I HAD NO IDEA WHO IT WAS. I -- BY THE WAY HE -- BY THE
13 TONE OF HIS VOICE I KNEW SOMEBODY WAS. I DIDN'T KNOW IF IT
14 WAS THE OTHER GUY OR IF IT WAS A LAW ENFORCEMENT -- I DIDN'T
15 KNOW WHO IT WAS.

16 Q. WELL, LET'S ---

17 A. I JUST KNEW THERE WAS SOMEBODY -- I FELT LIKE THERE
18 WAS.

19 Q. WELL, IF CARL SOUTHERLAND WAS NOT STANDING BY HIM HE
20 WOULD HAVE NO REASON THEN NOT TO TELL YOU THE TRUTH IN THAT
21 CONVERSATION, WOULD HE, MA'AM? ASSUMING HE WASN'T STANDING
22 BY HIM. AND I'M NOT -- I KNOW YOU DON'T KNOW. BUT ASSUMING
23 HE WASN'T, HE WOULD HAVE NO REASON DURING THAT CONVERSATION
24 NOT TO SCREAM OUT, MAMA, I DIDN'T DO IT. I LIED BEFORE.
25 CARL DID IT. HE NEVER DID THAT, DID HE, MA'AM?

ROXIE SAXON - REDIRECT EXAMINATION BY MR. WESTON

110

1 MR. ABDALLA: OBJECTION, YOUR HONOR. ONCE AGAIN, HE'S
2 CALLING FOR SPECULATION.

3 THE COURT: I'LL SUSTAIN THAT.

4 Q. HE NEVER TOLD YOU DURING THAT CONVERSATION THAT HE
5 DIDN'T DO IT, DID HE, MA'AM?

6 A. NOT DURING THAT CONVERSATION.

7 Q. HE JUST SAID IT WASN'T QUITE THE WAY I ORIGINALLY TOLD
8 YOU TWO NIGHTS AGO?

9 A. YES, SIR.

10 Q. AND YOU KNOW NOW IT WASN'T QUITE THE WAY HE TOLD YOU
11 TWO NIGHTS AGO?

12 A. YES, SIR.

13 Q. OKAY. AND HE WAS IN JAIL WHEN HE TOLD YOU ABOUT IT?

14 A. YES, SIR.

15 Q. OKAY. NOW YOU TALKED TO HIM WHEN HE GOT HOME?

16 A. YES, SIR.

17 Q. AND HE TOLD YOU THAT CARL SOUTHERLAND IS THE ONE WHO
18 ACTUALLY KILLED JEROME [SIC] PROCTOR AT THAT TIME?

19 A. YES, SIR.

20 Q. AND THAT WAS THE FIRST TIME HE TOLD YOU THAT?

21 A. YES, SIR.

22 Q. AND HOW LONG AFTER HE -- THIS FIRST CONVERSATION WAS
23 THAT? A COUPLE OF WEEKS, COUPLE OF MONTHS? I'M NOT TRYING
24 TO BE FUNNY, I JUST DON'T KNOW.

25 A. LET ME BACK UP. I DON'T KNOW THAT THAT WAS THE FIRST

ROXIE SAXON - REDIRECT EXAMINATION BY MR. WESTON

111

1 TIME HE TOLD ME THAT. THAT WAS THE FIRST TIME HE WENT INTO
2 DETAIL. I HAD SEVERAL ---

3 Q. WHEN WAS THE FIRST TIME HE TOLD YOU THAT, MA'AM?

4 A. I HAD -- I DON'T -- I HAD SEVERAL CONVERSATIONS WITH
5 HIM FROM ALABAMA. WHILE HE WAS ---

6 Q. IN JAIL?

7 A. WHILE HE WAS IN ALABAMA, IF I'M -- I'M NOT SURE.

8 Q. DIDN'T YOU TELL HIM ---

9 A. THAT WAS THE FIRST TIME THAT ---

10 Q. I'M SORRY.

11 A. THAT WAS THE FIRST TIME -- WHEN HE GOT TO GREENVILLE
12 WAS THE FIRST TIME THAT HE TOLD ME DETAILS OF WHAT HAPPENED.

13 Q. BUT IN THE CONVERSATION, THE SECOND CONVERSATION YOU
14 HAD WITH HIM ABOUT THIS IS WHEN HE'S IN JAIL IN ALABAMA?

15 A. YES, SIR.

16 Q. AND YOU ASKED HIM IS SOMEBODY THERE WITH YOU?

17 A. YES, SIR.

18 Q. DIDN'T YOU NEXT TELL HIM, WELL, DON'T SAY ANYTHING
19 ELSE?

20 A. YES, SIR.

21 Q. SO ANY OTHER CONVERSATIONS YOU HAD WITH HIM IN ALABAMA
22 WHILE HE'S IN JAIL, WOULDN'T THAT SAME RULE OF NOT SAYING
23 ANYTHING TO HURT YOUR CASE APPLY? WOULDN'T YOU NOT WANT HIM
24 TO TALK ABOUT IT?

25 A. YES, SIR.

ROXIE SAXON - REDIRECT EXAMINATION BY MR. WESTON

112

1 MR. ABDALLA: YOUR HONOR.

2 A. AND ---

3 MR. ABDALLA: OBJECTION, YOUR HONOR, BECAUSE IT'S
4 CALLING FOR SOME SPECULATION. ONE, HE WAS JUST ARRESTED
5 WHEN HE MADE THE CALL, WHICH COULD HAVE BEEN FROM A POLICE
6 PHONE. SECOND, ---

7 THE COURT: WELL, IT'S ---

8 MR. ABDALLA: --- WE DON'T ---

9 THE COURT: WAIT A MINUTE. IT'S NOT RELEVANT WHAT SHE
10 THINKS HE SHOULD HAVE DONE.

11 MR. WESTON: YOUR HONOR, SHE JUST TESTIFIED THAT -- I'M
12 TRYING TO GET TO THE POINT THAT HE FIRST TOLD HER THIS NEW
13 VERSION AFTER HE GOT BACK TO GREENVILLE. SHE'S ---

14 THE COURT: I UNDERSTAND THAT.

15 MR. WESTON: --- SAYING IT MAY NOT HAVE BEEN.

16 THE COURT: OKAY.

17 MR. WESTON: SO I'M TRYING TO GET TO WHEN IT COULD HAVE
18 BEEN.

19 THE COURT: WELL, HER STATE OF MIND ABOUT WHAT SHE
20 THINKS IS IMPORTANT, WHEN HE TOLD IT IS NOT IMPORTANT IN
21 THIS CASE. IT'S NOT RELEVANT.

22 MR. WESTON: I UNDERSTAND, SIR. I THINK ---

23 THE COURT: OKAY.

24 MR. WESTON: --- YOU MISUNDERSTOOD ME. I DIDN'T ASK
25 HER WHEN SHE ---

ROXIE SAXON - REDIRECT EXAMINATION BY MR. WESTON

113

1 THE COURT: ALL RIGHT. WELL, GO AHEAD. ASK THE
2 QUESTION.

3 Q. WHEN DO YOU REMEMBER HIM FIRST TELLING YOU THIS STORY,
4 THIS STORY THAT GREG OR, I'M SORRY, MR. SOUTHERLAND KILLED
5 THE MAN? WHEN WAS THE FIRST TIME YOU CAN REMEMBER HIM
6 TELLING YOU THAT?

7 A. THE DETAILS OF THE STORY WAS WHEN HE GOT BACK TO
8 GREENVILLE, YES, SIR.

9 Q. OKAY. AND THAT WAS WHAT I -- THAT WAS WHAT I THOUGHT.
10 OKAY. AND ABOUT HOW LONG AFTER THE FIRST CONVERSATION ON
11 SUNDAY NIGHT WAS THAT? AND I KNOW YOU DON'T REMEMBER
12 EXACTLY. IT MIGHT HAVE BEEN A COUPLE OF WEEKS OR A COUPLE
13 OF MONTHS. JUST GIVE US SOME IDEA.

14 A. THAT HE GOT BACK TO GREENVILLE?

15 Q. THE FIRST TIME YOU TALKED TO HIM 'CAUSE I'M SURE YOU
16 DIDN'T SEE HIM WHEN HE FIRST GOT HERE. BUT WAS IT A COUPLE
17 OF WEEKS AFTER THE INCIDENT, AFTER THE FIRST CALL THAT
18 NIGHT? OKAY. HE CALLED YOU ON SUNDAY NIGHT, SUNDAY
19 MORNING?

20 A. YES, SIR.

21 Q. HOW LONG AFTER THAT DID YOU FIRST SEE HIM IN
22 GREENVILLE?

23 A. I BELIEVE IT WAS SOMETIME IN SEPTEMBER.

24 Q. AND THIS HAPPENED IN JUNE?

25 A. YES, SIR.

ROXIE SAXON - REDIRECT EXAMINATION BY MR. WESTON

114

1 Q. SO A MONTH -- JULY, AUGUST, SEPTEMBER. THREE MONTHS

2 LATER HE FIRST TELLS YOU THAT SOMEBODY ELSE DID IT, IS THAT

3 CORRECT?

4 A. NO, SIR.

5 Q. OKAY. NOW I'M ---

6 A. THAT'S THE ---

7 Q. --- CONFUSED AGAIN.

8 A. YES, SIR. I CONFUSED YOU, I GUESS. THAT IS NOT THE

9 FIRST TIME THAT HE TOLD ME THAT HE DID NOT KILL THE MAN.

10 THAT'S THE FIRST TIME THAT HE GAVE ME THE DETAILS OF WHAT

11 HAPPENED. HE TOLD ME SEVERAL TIMES OVER THE PHONE THAT,

12 MAMA, I DIDN'T KILL HIM.

13 Q. SO YOU HAVE ---

14 A. WHILE HE WAS IN ALABAMA.

15 Q. YOU HAD MORE PHONE CONVERSATIONS WITH HIM FROM ALABAMA

16 THAT -- WELL, AFTER YOU HAD TOLD HIM, DON'T SAY ANYTHING

17 ELSE, WHEN HE OPENED UP AND TALKED TO YOU ABOUT WHAT

18 HAPPENED?

19 A. NO, SIR. NO, SIR. HE DID NOT OPEN UP AND TALK TO ME

20 ABOUT WHAT HAPPENED. WE WOULD BE TALKING AND JUST I WOULD

21 SAY SOMETHING. AND HE WOULD SAY, MAMA, I DIDN'T KILL THAT

22 MAN. I PROMISE YOU, I DIDN'T KILL THAT MAN. HE TOLD ME

23 THAT ON SEVERAL OCCASIONS JUST IN GENERAL CONVERSATION, NOT

24 TALKING ABOUT THE CASE OR, I THINK ONE TIME WAS WHEN HE TOLD

25 ME THAT THEY HAD APPOINTED HIM A LAWYER DOWN THERE.

ROXIE SAXON - REDIRECT EXAMINATION BY MR. WESTON

115

- 1 Q. OKAY. SO -- BUT THE FIRST TIME HE TOLD YOU A NEW STORY
2 OF DETAILS ABOUT WHAT HAPPENED THAT INVOLVED SOMEONE ELSE
3 ACTUALLY KILLING THE MAN ---
- 4 A. YES, SIR.
- 5 Q. --- WAS IN SEPTEMBER?
- 6 A. YES, SIR.
- 7 Q. SOME THREE MONTHS AFTER THE INCIDENT?
- 8 A. YES, SIR.
- 9 Q. OKAY. ALL RIGHT. I JUST HAVE ONE OTHER QUESTION OR A
10 GROUP OF QUESTIONS. ONE ISSUE THAT I'M STILL -- I'M KIND OF
11 CONFUSED ABOUT. HE TOLD YOU LATER IN SEPTEMBER THE DETAILS?
- 12 A. YES, SIR.
- 13 Q. AND HE TOLD YOU AT THAT TIME FOR THE FIRST TIME WHY HE
14 CALLED YOU THAT SUNDAY MORNING AND SAID WHAT HE SAID?
- 15 A. YES, SIR.
- 16 Q. AND WHAT IS IT HE SAID -- SAID IN SEPTEMBER AS TO WHY
17 HE CALLED YOU AND TOLD YOU HE KILLED A MAN? WHAT WAS HIS
18 REASON THAT HE TOLD YOU?
- 19 A. THAT -- WHY HE WANTED TO CALL ME?
- 20 Q. WELL, NO, WHY HE CALLED YOU AND TOLD YOU THAT?
- 21 A. BECAUSE THEY HAD -- CARL HAD TOLD HIM THEY HAD TO HAVE
22 SOME MONEY.
- 23 Q. NO, MA'AM. I'M ASKING YOU -- IN SEPTEMBER HE TOLD YOU
24 WHY HE LIED TO YOU THE FIRST TIME.
- 25 A. YES, SIR.

ROXIE SAXON - REDIRECT EXAMINATION BY MR. WESTON

116

1 Q. AND WHY DID YOU SAY HE LIED TO YOU THE FIRST TIME AND
2 CALLED YOU UP ON THE PHONE AND SAID, MAMA, I KILLED A MAN?
3 WHY DID HE SAY HE DID THAT?

4 A. BECAUSE HE WAS SCARED OF CARL SOUTHERLAND.

5 Q. OKAY. I UNDERSTAND WHY HE WOULD LIE, BUT THAT DOESN'T
6 ANSWER -- DID HE TELL YOU WHY HE STOPPED, PICKED UP A PHONE,
7 CALLED YOU AND SAID, MAMA, I KILLED A MAN? DID HE SUGGEST
8 THAT MR. SOUTHERLAND MADE HIM CALL YOU AND TELL YOU THAT?

9 MR. ABDALLA: YOUR HONOR, THAT WAS ANSWERED ALREADY.

10 MR. WESTON: NO, SIR, IT WAS NOT ---

11 THE COURT: WELL, I'LL ALLOW HER TO ANSWER IT. GO
12 AHEAD.

13 Q. DID HE TELL YOU MR. SOUTHERLAND MADE HIM CALL YOU UNDER
14 THREAT OF DEATH AND TELL HIS MOTHER THAT HE KILLED A MAN?

15 A. NO, SIR. HE TOLD ME THAT MR. SOUTHERLAND TOLD HIM THEY
16 HAD TO HAVE MONEY, AND THAT HE HAD BEEN CASHING BAD CHECKS
17 TO GET MONEY, AND THAT THERE WAS NOT A CHECK PLACE OPEN THAT
18 SUNDAY, AND THAT HE TOLD CARL THAT HE COULD CALL HIS MAMA
19 AND IF HE WOULD TALK TO ME THAT MAYBE I WOULD GIVE HIM SOME
20 MONEY.

21 AND THEN WHEN HE GOT ON THE PHONE WITH ME, INSTEAD OF
22 JUST ASKING FOR MONEY HE WAS UPSET AND WANTED TO TALK TO ME.
23 AND THEN CARL WAS STANDING THERE WITH HIM AND TOLD HIM THAT
24 IF HE CALLED HIS NAME OR IF HE SAID ANYTHING THAT HE HAD A
25 SCREWDRIVER OR SOMETHING THAT HE HAD UP TO JONATHAN'S

ROXIE SAXON - REDIRECT EXAMINATION BY MR. WESTON

117

1 ABDOMEN, AND THAT HE WAS GOING TO KILL HIM AND THEN HE WOULD
2 COME AND KILL ME.

3 Q. OKAY. SO CARL IS STANDING RIGHT NEXT TO HIM?

4 A. YES, SIR.

5 Q. AND THIS IS WHAT HE TOLD YOU?

6 A. YES, SIR.

7 Q. AND CARL ---

8 A. NO, SIR. I HEARD CARL'S VOICE.

9 Q. OKAY. NOW YOU HEARD CARL'S -- WHAT DID YOU HEAR CARL
10 SAY, MA'AM?

11 A. I DON'T REMEMBER EXACTLY WHAT HE SAID. I REMEMBER
12 JONATHAN SAYING, YEAH, MAN, YEAH.

13 Q. BUT YOU DIDN'T HEAR CARL SOUTHERLAND THREATEN TO KILL
14 HIM?

15 A. NO, SIR.

16 Q. AND THE ORIGINAL INTENT OF THE CALL WAS JUST TO GET
17 SOME MONEY?

18 A. YES, SIR.

19 Q. AND SO ALL OF A SUDDEN YOUR SON DEVIATES FROM THAT PLAN
20 IN THE CONVERSATION WITH CARL SOUTHERLAND STANDING BESIDE
21 HIM AND STARTS TALKING ABOUT THE CRIME?

22 A. YES, SIR.

23 Q. AND WITHOUT YOU HEARING ANY OF THIS, CARL SOUTHERLAND
24 THREATENS TO KILL HIM IF HE DOES NOT, NUMBER ONE, NOT NAME
25 HIM, AND NUMBER TWO, SAY YOU KILLED HIM. AND YOU DIDN'T

ROXIE SAXON - REDIRECT EXAMINATION BY MR. WESTON

118

1 HEAR ANY OF THAT?

2 A. NO, SIR.

3 Q. AND THAT ALL HAPPENED JUST LIKE THAT IN THE PHONE

4 CONVERSATION? IS THAT WHAT YOU'RE TELLING US, MA'AM, THAT

5 YOUR SON TOLD YOU? IS THAT THE STORY HE TOLD YOU, MA'AM?

6 A. NO, SIR, NOT THAT THEY JUST -- NOT THAT IT HAPPENED

7 RIGHT THEN. THEY ---

8 Q. EXCUSE ME, MA'AM. BUT YOU JUST ---

9 THE COURT: LET HER FINISH ---

10 MR. WESTON: I'M SORRY, YOUR HONOR. I APOLOGIZE.

11 A. NO, SIR. WHEN HE TOLD ME WHY HE TOLD ME THAT, HE TOLD

12 ME THAT WHEN THEY WERE DRIVING TOWARDS TRAVELERS REST, WHICH

13 IS WHERE I LIVE, THAT THAT WAS THE STORY THAT THEY MADE UP.

14 Q. BUT, MA'AM, YOU JUST TESTIFIED THE REASON HE CALLED YOU

15 WAS TO GET MONEY. ISN'T THAT WHAT YOU JUST SAID?

16 A. YES, SIR.

17 Q. AND CARL SOUTHERLAND WAS OKAY WITH THAT 'CAUSE HE

18 WANTED MONEY TOO, WOULDN'T YOU THINK?

19 A. YES, SIR.

20 Q. SO YOUR SON GETS ON THE PHONE WITH YOU AND ALL OF A

21 SUDDEN HE STARTS TALKING ABOUT THE INCIDENT AND THE KILLING.

22 AND IS IT YOUR TESTIMONY, UNDER OATH, MA'AM, THAT YOUR SON

23 TOLD YOU THAT CARL SOUTHERLAND IMMEDIATELY GOT A SCREWDRIVER

24 OR SOMETHING AND THREATENED TO KILL HIM AND MADE HIM SAY,

25 CALL ME GREG AND SAY YOU DID IT, JUST THAT QUICKLY, AND YOU

ROXIE SAXON - RECROSS EXAMINATION BY MR. ABDALLA

119

1 DIDN'T HEAR ANY OF THAT IN THE PHONE CONVERSATION IF HE'S
2 STANDING RIGHT NEXT TO HIM, MA'AM? IS THAT WHAT YOU'RE
3 TELLING THIS JURY YOUR SON SAID? IS THAT THE STORY HE TOLD
4 YOU TO TELL, MA'AM?

5 MR. ABDALLA: YOUR HONOR, I OBJECT. HE'S ---

6 A. THAT'S NOT EXACTLY ---

7 THE COURT: THAT'S A COMPOUND ---

8 A. --- WHAT I SAID.

9 THE COURT: WAIT A MINUTE, MA'AM. COMPOUND QUESTION.
10 ASK HER ONE QUESTION AT A TIME.

11 Q. IS THAT -- AND I APOLOGIZE. THIS WILL BE MY LAST
12 QUESTION. IS THAT THE STORY YOUR SON TOLD YOU?

13 A. WHEN HE GOT BACK TO GREENVILLE THAT'S THE STORY MY SON
14 TOLD ME.

15 Q. THREE MONTHS LATER? YES, MA'AM? THREE MONTHS LATER?

16 A. YES, SIR.

17 Q. THANK YOU, MA'AM. AND I'M SORRY. BUT THANK YOU,
18 MA'AM. THAT'S ALL I HAVE.

19 THE COURT: ALL RIGHT. ANY RECROSS?

20 MR. ABDALLA: YES, YOUR HONOR, JUST BRIEFLY. I JUST
21 HAVE A COUPLE OF THINGS I DIDN'T ASK HER.

22 RECROSS EXAMINATION BY MR. ABDALLA:

23 Q. THIS WON'T TAKE LONG, MS. SAXON. I JUST HAVE TO ASK
24 YOU A COUPLE OF QUESTIONS 'CAUSE I WANT TO MAKE SURE THE
25 JURY UNDERSTANDS WHAT YOU REALLY INTENDED BY YOUR REMARKS.

ROXIE SAXON - RECROSS EXAMINATION BY MR. ABDALLA

120

- 1 THE COURT: JUST ASK QUESTIONS.
- 2 MR. ABDALLA: YES, SIR.
- 3 Q. WHEN YOUR SON CALLED YOU, JONATHAN CALLED YOU THAT
- 4 NIGHT, YOU SAID THAT HE REFERRED TO A MAN NAMED GREG,
- 5 CORRECT?
- 6 A. YES, SIR.
- 7 Q. NOW HE LATER TELLS YOU THE REASON, IS THAT WHAT YOU
- 8 TESTIFIED?
- 9 A. YES, SIR.
- 10 Q. THAT HE CALLED HIM GREG?
- 11 A. YES, SIR.
- 12 Q. HE CALLED YOU FOR MONEY?
- 13 A. YES, SIR.
- 14 Q. DID HE GET THE MONEY?
- 15 A. NO, SIR.
- 16 Q. WHY NOT?
- 17 A. HE NEVER GOT AROUND TO -- TO TELLING ME THAT'S WHAT HE
- 18 NEEDED.
- 19 Q. OKAY.
- 20 A. AND BECAUSE I -- I GOT SO HYSTERICAL ON THE PHONE.
- 21 THAT WAS ONE OF THE REASONS THAT WE HUNG UP THE FIRST TIME.
- 22 BECAUSE WHEN I GOT UPSET AND HE WAS ALREADY UPSET, AND THEN
- 23 HE CALLED ME BACK. AND WE TRIED TO CALM DOWN. AND THEN WE
- 24 JUST COULDN'T.
- 25 Q. NOW I KNOW JONATHAN IS YOUR SON.

LORENZO MATTHEWS - DIRECT EXAMINATION BY MR. GREGORY

121

1 A. YES, SIR.

2 Q. IT APPEARS YOU HAVE A CLOSE RELATIONSHIP.

3 A. YES, SIR.

4 Q. DOES HE ALWAYS CALL YOU WHENEVER HE IS IN TROUBLE OR
5 WHENEVER HE WANTS SOMETHING?

6 A. YES, SIR.

7 Q. IN SPITE OF YOUR CLOSE RELATIONSHIP WOULD YOU TELL
8 ANYTHING TO THE COURT THAT WASN'T TRUE?

9 A. NO, SIR. I WOULD NEVER LIE FOR HIM OR ANYBODY ELSE FOR
10 THAT MATTER. I LOVE MY SON. MY HEART BREAKS FOR HIM. AND
11 IT ALSO BREAKS FOR THIS FAMILY AND ESPECIALLY THIS MOTHER
12 BECAUSE HER SON DIDN'T DESERVE TO DIE EITHER. BUT I TRULY,
13 TRULY, TRULY BELIEVE THAT MY SON DID NOT KILL HIM.

14 Q. THANK YOU. I HAVE NO FURTHER QUESTIONS.

15 THE COURT: ALL RIGHT.

16 MR. WESTON: NOTHING FURTHER FROM THE STATE FOR THIS
17 WITNESS, YOUR HONOR.

18 THE COURT: THANK YOU, MA'AM. YOU CAN STAND DOWN.

19 THANK YOU. OKAY.

20 MR. GREGORY: YOUR HONOR, THE STATE CALLS OFFICER
21 MATTHEWS.

22 LORENZO MATTHEWS, BEING
23 DULY SWORN TESTIFIED AS FOLLOWS:

24 DIRECT EXAMINATION BY MR. GREGORY:

25 Q. OFFICER MATTHEWS, WHERE ARE YOU EMPLOYED?

LORENZO MATTHEWS - DIRECT EXAMINATION BY MR. GREGORY

122

1 A. THE CITY OF MOBILE, ALABAMA.

2 Q. AND WHAT IS YOUR CURRENT POSITION IN MOBILE, ALABAMA?

3 A. POLICE OFFICER ASSIGNED TO THE JAGUAR DETAIL.

4 Q. WHAT IS THE JAGUAR DETAIL?

5 A. IT'S A STREET LEVEL MINI TASK FORCE INTERDICTION THAT
6 DEALS WITH STREET LEVEL DRUG ENFORCEMENT.

7 Q. HOW LONG HAVE YOU BEEN EMPLOYED BY THE MOBILE POLICE
8 DEPARTMENT?

9 A. TEN YEARS.

10 Q. HAVE YOU BEEN EMPLOYED ANYWHERE ELSE IN LAW
11 ENFORCEMENT?

12 A. NO, SIR.

13 Q. WHAT KIND OF EDUCATION AND TRAINING HAVE YOU RECEIVED
14 IN BECOMING A POLICE OFFICER?

15 A. I HAVE ACADEMY TRAINING, SCHOOLING WITH NARCOTICS AND
16 WEAPONS -- BASIC WEAPONS TRAINING.

17 Q. DO YOU RECEIVE ANY ONGOING TRAINING?

18 A. EXCUSE ME? I'M SORRY.

19 Q. DO YOU RECEIVE ANY ONGOING TRAINING AS A POLICE
20 OFFICER?

21 A. YES, SIR.

22 Q. WHAT KIND OF ONGOING TRAINING HAVE YOU RECEIVED?

23 A. BASICALLY IN TRAINING NOW AS JUST A -- FURTHER
24 NARCOTICS, RECOGNIZING STREET LEVEL NARCOTICS.

25 Q. WERE YOU WORKING IN YOUR CURRENT CAPACITY BACK ON JUNE

LORENZO MATTHEWS - DIRECT EXAMINATION BY MR. GREGORY

123

1 21ST OF 2005?

2 A. I WAS.

3 Q. DO YOU REMEMBER THAT DAY?

4 A. YES, SIR.

5 Q. DO YOU REMEMBER WHAT DAY OF THE WEEK THAT WAS?

6 A. I THINK IT WAS A TUESDAY.

7 Q. WERE YOU WORKING ALONE THAT DAY?

8 A. NO, SIR.

9 Q. WHO WERE YOU WORKING WITH?

10 A. MY PARTNER, JUSTIN FARMER.

11 Q. DID YOU HAVE AN OPPORTUNITY TO BECOME INVOLVED IN THIS
12 CASE?

13 A. YES, SIR.

14 Q. TELL US WHERE YOU WERE WHEN YOU FIRST BECAME INVOLVED
15 IN THE CASE.

16 A. MY PARTNER AND I WAS ON THE INTERSTATE, 65 BOUND,
17 BETWEEN HIGHWAY 45 AND US HIGHWAY 98 WHERE A MOTORIST HAD
18 SPILLED SOME STEEL BEAMS OUT OF A UTILITY TRAILER. SO WE --
19 TRAFFIC WAS AT A STAND-STILL. AND WE WAS ASSISTING THE
20 MOTORIST, LOADING THOSE BEAMS BACK ONTO HIS TRAILER.

21 Q. WHEN YOU SAID TRAFFIC WAS AT A STAND-STILL, WHAT WERE
22 YOU DOING? DID YOU BLOCK THE TRAFFIC?

23 A. TRAFFIC WAS ALREADY STOPPED BECAUSE THE BEAMS HAD THREE
24 -- BOTH -- ALL THREE LANES OF TRAFFIC STOPPED.

25 Q. ALL RIGHT. AND AS YOU WERE HELPING THE MOTORIST WHAT

LORENZO MATTHEWS - DIRECT EXAMINATION BY MR. GREGORY

124

1 DID YOU SEE?

2 A. I OBSERVED AN SUV COME AT A HIGH RATE OF SPEED DOWN THE
3 EMERGENCY LANE, FOLLOWED BY TWO OR THREE POLICE CARS.

4 Q. DO YOU KNOW WHAT JURISDICTION THE POLICE CARS ---

5 A. I NOTICED TWO OF THEM FROM SARALAND.

6 Q. AND WHERE IS SARALAND TO ...

7 A. IT'S IN ALABAMA. IT'S ABOUT MAYBE THREE OR FOUR MILES
8 FROM WHERE WE WERE.

9 Q. AFTER THE JEEP PASSED -- YOU SAID IT WAS A JEEP, IS
10 THAT CORRECT?

11 A. JEEP CHEROKEE, YES, SIR.

12 Q. DO YOU KNOW WHAT COLOR IT WAS?

13 A. I BELIEVE IT WAS SILVER.

14 Q. AFTER THE JEEP PASSED WHAT DID YOU DO?

15 A. THE JEEP ALMOST SIDE-SWIPED OUR VEHICLE THAT WAS ON THE
16 OUTSIDE NEAR THE EMERGENCY LANE AND MYSELF AND MY PARTNER
17 THAT WAS THERE STANDING HELPING THE MOTORIST WITH THE BEAMS.
18 AND WE IMMEDIATELY JUMPED INTO OUR VEHICLE AND JUMPED IN THE
19 CHASE WITH SARALAND. WE WERE PROBABLY ABOUT THE THIRD OR
20 FOURTH VEHICLE BACK.

21 AND AT THAT TIME WE WAS ADVISING THE RADIO, OUR
22 DISPATCH, I'M SORRY, OF WHAT WAS GOING ON, DID SARALAND HAVE
23 SOMETHING THAT CAME BACK? AND THEY NEVER CAME BACK TO
24 DISPATCH WHAT WAS GOING ON.

25 Q. HOW LONG WERE YOU INVOLVED IN THIS CHASE?

LORENZO MATTHEWS - DIRECT EXAMINATION BY MR. GREGORY

125

- 1 A. NO MORE THAN FIVE MINUTES.
- 2 Q. AND WHAT HAPPENED TO END THE CHASE?
- 3 A. WE OBSERVED THE VEHICLE -- THE DRIVER LOST CONTROL OF
- 4 THE VEHICLE. THE VEHICLE FLIPPED ON THE DRIVER'S SIDE. AND
- 5 AT THAT TIME WE ASSISTED SARALAND SECURING TWO WHITE MALE
- 6 SUBJECTS THAT CAME OUT OF THE VEHICLE WITH THEIR HANDS UP.
- 7 Q. I'M GOING TO SHOW YOU WHAT'S BEEN MARKED AS STATE'S
- 8 EXHIBIT NUMBER 4. JUST TAKE A LOOK AT THAT. DO YOU
- 9 RECOGNIZE THAT?
- 10 A. YES, SIR.
- 11 Q. HOW DO YOU RECOGNIZE THAT?
- 12 A. IT'S A TAPE YOU SHOWED OF THE CHASE, THE PURSUIT.
- 13 Q. HAVE YOU SEEN IT BEFORE TODAY?
- 14 A. YES, SIR.
- 15 Q. AND HOW DO YOU KNOW THAT'S THE TAPE THAT YOU SAW BEFORE
- 16 TODAY ---
- 17 A. IT SHOULD HAVE MY INITIALS ON IT. YES, SIR.
- 18 Q. ARE YOU PERSONALLY IN THAT TAPE?
- 19 A. EXCUSE ME?
- 20 Q. ARE YOU PERSONALLY IN THAT TAPE? IF WE WERE TO SHOW IT
- 21 WOULD YOU BE IN IT?
- 22 A. YES, SIR.
- 23 Q. DOES IT FAIRLY AND ACCURATELY REPRESENT THE CHASE THAT
- 24 HAPPENED THAT DAY?
- 25 A. YES, SIR.

LORENZO MATTHEWS - DIRECT EXAMINATION BY MR. GREGORY

126

1 MR. GREGORY: YOUR HONOR, AT THIS TIME WE SEEK TO
2 INTRODUCE STATE'S EXHIBIT 4 INTO EVIDENCE.

3 MR. ABDALLA: NO OBJECTION.

4 THE COURT: OKAY. WITHOUT OBJECTION.

5 (WHEREUPON STATE'S EXHIBIT 4 WAS ADMITTED INTO
6 EVIDENCE)

7 MR. GREGORY: PERMISSION TO PUBLISH IT TO THE JURY,
8 YOUR HONOR.

9 THE COURT: YES, SIR. YOU NEED THE OFFICER TO STAND
10 DOWN TO ---

11 MR. GREGORY: I WILL AS SOON AS I GET CUED UP, YOUR
12 HONOR.

13 THE COURT: OKAY. ALL RIGHT.

14 Q. OFFICER, IF YOU DON'T MIND ---

15 THE COURT: YEAH, YOU CAN STAND DOWN. LET ME JUST
16 REMIND Y'ALL NOT TO TALK WHILE THE TAPE IS RUNNING. SO IF
17 YOU NEED TO ASK HIM A QUESTION, STOP THE TAPE. AND ALSO
18 KEEP YOUR VOICES UP SO THE JURY AND THE COURT REPORTER CAN
19 HEAR YOU.

20 (WHEREUPON THE VIDEO WAS PLAYED FOR THE JURY WITH
21 INTERMITTENT QUESTIONS AND ANSWERS)

22 Q. ALL RIGHT. OFFICER MATTHEWS, CAN YOU PLEASE EXPLAIN
23 THE SCENE AS IT IS RIGHT NOW?

24 A. THIS IS THE MOTORIST WE ASSISTED WITH THE BEAMS HERE.

25 AND WE SHOULD BE SOMEWHERE RIGHT HERE. OUR VEHICLE, POLICE

LORENZO MATTHEWS - DIRECT EXAMINATION BY MR. GREGORY

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1 VEHICLE SHOULD BE RIGHT HERE IN THIS LANE HERE.

2 THE COURT: OKAY. AND I WANT TO MAKE SURE. CAN

3 EVERYBODY SEE?

4 THE JURY: (AFFIRMATIVE NODS).

5 THE COURT: OKAY. ALL RIGHT. PLEASE SIGNAL IF YOU

6 CAN'T SEE OR CAN'T HEAR, OKAY?

7 A. THIS SHOULD BE THE VEHICLE HERE AS WE WERE ASSISTING
8 THE MOTORIST HERE. MY POLICE VEHICLE SHOULD BE IN THIS
9 OUTSIDE LANE NEAR THE EMERGENCY LANE RIGHT HERE. AT THIS
10 POINT IN TIME THIS IS WHERE -- THIS IS THE VEHICLE HERE.

11 Q. ONE SECOND. I'M SORRY, GO AHEAD.

12 A. THIS IS THE CHEROKEE HERE, BARELY MISSED OUR VEHICLE.
13 THAT'S THE SARALAND POLICE THAT WAS CHASING THEM. AT THIS
14 POINT IN TIME THIS IS WHERE WE GET IN THE CHASE BEHIND
15 SARALAND POLICE DEPARTMENT.

16 Q. AND THIS VIDEO IS FROM THE PERSPECTIVE OF WHAT ---

17 A. SARALAND POLICE DEPARTMENT.

18 Q. OKAY. AND WHERE ARE YOU IN RELATIONSHIP TO THIS CAR?

19 A. ABOUT THE THIRD VEHICLE BEHIND SARALAND.

20 Q. SO YOU'RE SEEING EVERYTHING IN FRONT OF THEM PLUS THE
21 SARALAND ---

22 A. YES, SIR.

23 Q. OKAY.

24 A. THIS IS CONTINUING 65 SOUTHBOUND.

25 Q. OKAY.

LORENZO MATTHEWS - DIRECT EXAMINATION BY MR. GREGORY

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1 A. THIS IS THE VEHICLE HERE, THE CHEROKEE, IN THE
2 EMERGENCY LANE THAT ALMOST SWIPED US. AND ONE OF THE CREWS
3 OF SARALAND, HE ALMOST HIT PARALLEL NEXT TO THEM BEFORE HE
4 WRECKED OUT.

5 THIS IS WHERE THE DRIVER LOSES CONTROL AND THE VEHICLE
6 FLIPS ON THE DRIVER'S SIDE. THIS IS ONE OF THE SUBJECTS
7 THAT COME OUT. I CAN'T IDENTIFY HIM.

8 THIS IS MYSELF. AND THIS IS MY PARTNER. WE COME AND
9 ASSIST SARALAND PD. THAT'S THE FIRST POLICE OFFICER OUT OF
10 THE CAR ASSISTING AND SECURING THE SUBJECTS.

11 THIS IS ONE OF THE SUBJECTS WE GET OUT FIRST. I DON'T
12 KNOW WHICH SUBJECT IT WAS, BUT I HELPED SARALAND SECURE HIM.
13 THAT'S THE SECOND SUBJECT COMING OUT. AT THAT TIME THE
14 SUBJECT SHOULD BE IN CUSTODY, THE SECOND SUBJECT THAT IS
15 REMOVED FROM THE VEHICLE.

16 AT THIS POINT IN TIME THERE'S A THIRD SUBJECT
17 UNIDENTIFIED THAT WE SEE, OBSERVE. IT APPEARED TO BE A
18 BLACK MALE SUBJECT.

19 Q. AND I'LL ASK YOU A QUESTION ABOUT THAT LATER ---

20 A. OKAY.

21 Q. --- AFTER THE VIDEO IS OFF.

22 A. AT THIS POINT IN TIME BOTH SUBJECTS ARE IN CUSTODY AT
23 THIS TIME. THIS IS ONE OF THE SUBJECTS THAT THEY REMOVE
24 FROM THE VEHICLE.

25 Q. AND ARE YOU FAMILIAR WITH WHO THAT SUBJECT IS?

LORENZO MATTHEWS - DIRECT EXAMINATION BY MR. GREGORY

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1 A. I AM NOT.

2 Q. OKAY. DID YOU SPEAK WITH ---

3 A. NO, I DID NOT. IT'S AT THIS TIME WHEN THEY NOTICED
4 THEY HAD A THIRD SUBJECT THAT APPEARED TO BE UNCONSCIOUS,
5 THAT WASN'T MOVING. JUST SO YOU'LL KNOW, THERE'S THREE
6 LOCAL AGENCIES THAT WAS INVOLVED IN THIS. THE PRICHARD
7 OFFICERS ARE HERE, SARALAND AND MOBILE WERE OUT THERE.

8 Q. AND YOU SAID PRICHARD. WHERE IS PRICHARD?

9 A. PRICHARD IS JUST NORTH OF WHERE WE WAS STANDING BETWEEN
10 -- IN BETWEEN PRICHARD, I'M SORRY, BETWEEN MOBILE AND
11 CHICKASAW.

12 Q. CAN YOU EXPLAIN TO THE JURY WHY THE SOUND WENT OFF
13 THERE?

14 A. I THINK THE OFFICER TURNED HIS MIKE OFF.

15 Q. OKAY. THE PERSON THEY PUT ON THE STRETCHER, WHO IS
16 THAT?

17 A. THAT'S THE SECOND SUBJECT. THEY TRANSPORTED HIM TO THE
18 HOSPITAL. FOR WHAT INJURIES HE SUFFERED, I DO NOT KNOW.
19 FROM THE WRECK, I ASSUME.

20 Q. WHEN YOU SAY THE SECOND SUBJECT, YOU MEAN THE FIRST
21 PERSON THAT CAME OUT OF THE CAR OR THE SECOND PERSON THAT
22 CAME OUT OF THE CAR?

23 A. THIS IS THE FIRST PERSON THAT CAME OUT OF THE CAR.

24 Q. NOW ARE YOU IN THIS ---

25 A. YES. THIS IS ME. THIS IS MY PARTNER. WE'RE SECURING

LORENZO MATTHEWS - DIRECT EXAMINATION BY MR. GREGORY

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1 THE SCENE.

2 Q. OKAY. I'LL GET YOU TO TAKE THE STAND, OFFICER

3 MATTHEWS. THANK YOU. OFFICER MATTHEWS, YOU SAID THERE WAS

4 A THIRD PERSON IN THE CAR?

5 A. YES, SIR.

6 Q. DID YOU HAPPEN TO SEE THAT THIRD PERSON?

7 A. I COULD SEE HIM FROM THE WAIST DOWN TO HIS FEET.

8 Q. CAN YOU DESCRIBE TO ME WHAT YOU SAW?

9 A. HE WAS WAIST -- APPEARED TO BE A BLACK MALE SUBJECT
10 FACE DOWN WEARING SHORT JEANS. AND WHAT I CAN OBSERVE, YOU
11 CAN SEE THE SKIN DETERIORATING, LIKE IT'S PULLING AWAY FROM
12 THE SKIN.

13 Q. OKAY.

14 A. AND THERE WAS A SMELL, A FOUL SMELL ABOUT HIM.

15 Q. AND DID YOU SPEAK TO EITHER OF THE INDIVIDUALS THAT
16 CAME OUT OF THE CAR?

17 A. NO, SIR.

18 Q. AND WERE YOU ABLE TO DETERMINE WHO WAS DRIVING THAT
19 JEEP AT THE TIME?

20 A. NO, SIR.

21 Q. PLEASE ANSWER ANY QUESTIONS THAT MR. ABDALLA HAS FOR
22 YOU.

23 THE COURT: CAN EVERYBODY SEE?

24 THE JURY: (AFFIRMATIVE NODS).

25 MR. JOHNSON: CAN EVERYBODY SEE OKAY?

LORENZO MATTHEWS - CROSS EXAMINATION BY MR. JOHNSON

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1 CROSS EXAMINATION BY MR. JOHNSON:

2 (WHEREUPON THE VIDEO WAS PLAYED FOR THE JURY WITH
3 INTERMITTENT QUESTIONS AND ANSWERS)

4 Q. ALL RIGHT. OFFICER, THE FIRST THING I WANT TO TALK
5 ABOUT IS THE WAY THE CAR IS LAYING. IF I'M CORRECT IT WOULD
6 BE LAYING SO THAT THE DRIVER'S SIDE WINDOW IS AGAINST THE
7 GROUND, ISN'T THAT RIGHT?

8 A. YES, SIR.

9 Q. SO THE PASSENGER'S SIDE -- THE PASSENGER'S SIDE, THAT'S
10 FACE UP. SO WOULD IT BE SAFE TO SAY THAT THE PASSENGER HAD
11 REASON TO BE THE FIRST PERSON OUT OF THE CAR?

12 A. I CANNOT SAY THAT.

13 Q. YOU CAN'T SAY?

14 A. NO, SIR.

15 Q. BUT THE WAY IT'S LAYING, THE WAY IT'S LAYING ON THE
16 DOOR, IF THERE WAS SOMEBODY IN THE PASSENGER'S SEAT THEY
17 WOULD LIKELY, ONCE THE CAR IS LAID, THEY WOULD LIKELY BE ON
18 TOP OF THE DRIVER, ISN'T THAT RIGHT?

19 A. I CANNOT SAY.

20 Q. YOU CAN'T SPECULATE ---

21 THE COURT: OFFICER, CAN I GET YOU TO SPEAK UP JUST A
22 LITTLE BIT.

23 A. I CANNOT SAY.

24 Q. YOU CANNOT SAY?

25 A. NO, SIR.

LORENZO MATTHEWS - CROSS EXAMINATION BY MR. JOHNSON

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1 Q. ALL RIGHT. THERE'S THE STRETCHER. THE SUBJECT THAT
2 GOT ON THE STRETCHER, DO YOU KNOW WHERE THEY WERE GOING?

3 A. I THINK THEY WAS GOING TO THE HOSPITAL.

4 Q. GOING TO THE HOSPITAL?

5 A. YES, SIR.

6 Q. OKAY. NOW THAT'S -- ONCE AGAIN, THAT'S THE ---

7 MADAME COURT REPORTER: JUDGE, THEY NEED TO TURN IT
8 OFF.

9 THE COURT: MR. JOHNSON, WHEN YOU ARE GOING TO -- STOP
10 IT.

11 MR. JOHNSON: I UNDERSTAND, JUDGE. I APOLOGIZE.

12 Q. IN ANY CASE, YOU KNOW, BEFORE I JUST STOPPED IT THERE,
13 BEFORE THAT THEY WERE KIND OF WEAVING IN AND OUT OF LANES
14 AND OUT OF TRAFFIC. IS THAT THE WAY IT WAS?

15 A. WELL, ACCORDING TO THE VIDEO THAT'S ---

16 Q. ACCORDING TO THE VIDEO THAT'S THE WAY ---

17 A. YES, SIR.

18 Q. OKAY. NOW THAT'S ABOUT WHERE IT LOST CONTROL, RIGHT?

19 A. NO, SIR.

20 Q. THAT'S NOT ABOUT -- OKAY.

21 A. A FEW FEET UP.

22 Q. ABOUT A FEW FEET -- OKAY. BUT A FEW FEET UP -- ABOUT
23 LOST CONTROL?

24 A. YES, SIR.

25 Q. AND WHERE WERE YOU -- YOU WEREN'T -- YOU'RE NOT THE CAR

LORENZO MATTHEWS - CROSS EXAMINATION BY MR. JOHNSON

133

1 TAPING THE VIDEO, ISN'T THAT RIGHT?

2 A. YES, SIR.

3 Q. YOU'RE A COUPLE OF CARS BACK. SO YOU CAN SEE
4 EVERYTHING THAT'S GOING ON AHEAD OF YOU?

5 A. YES, SIR.

6 Q. NOW AT ANY POINT DID THAT POLICE CAR -- DID IT BUMP THE
7 CAR OVER?

8 A. NO, SIR.

9 Q. SO IT DIDN'T EVEN TOUCH THE CAR?

10 A. NO, SIR.

11 Q. OKAY. IN ANY CASE, NOW YOU JUST TESTIFIED, NO POLICE
12 CAR BUMPED THE CAR OFF THE ROAD.

13 A. (AFFIRMATIVE NOD).

14 Q. BUT IN ANY CASE, IT HAD JUST GOT FINISHED -- AS THE
15 VIDEO WAS SHOWING HE WAS WEAIVING THROUGH TRAFFIC, RIGHT?

16 A. YES, SIR.

17 Q. AND AT THAT POINT WHEN THERE WAS NO TRAFFIC AHEAD HE
18 LOST CONTROL?

19 A. YES, SIR.

20 Q. ALL RIGHT. AND THAT'S THE FIRST SUBJECT THAT GETS OUT
21 OF THE CAR?

22 A. YES, SIR.

23 Q. NOW YOU TESTIFIED EARLIER YOU DON'T KNOW WHETHER THAT'S
24 THE PASSENGER OR THE DRIVER?

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

LORENZO MATTHEWS - CROSS EXAMINATION BY MR. JOHNSON

134

1 Q. OKAY. BUT THAT'S THE FIRST PERSON THAT GOT OUT OF THE
2 CAR?

3 A. ACCORDING TO THE VIDEO, YES, SIR.

4 Q. OKAY. NOW LET ME ASK YOU ANOTHER QUESTION. WAS THAT
5 ALSO THE PERSON YOU TOOK TO THE HOSPITAL?

6 A. I DID NOT TAKE ANYBODY TO THE HOSPITAL.

7 Q. WELL, THAT'S ALSO THE PERSON THAT THEY TOOK TO THE
8 HOSPITAL ON THE STRETCHER?

9 A. IF THAT WAS THE FIRST SUBJECT OUT OF THIS VEHICLE, YES,
10 IT IS.

11 Q. OKAY. WELL, THAT WAS THE FIRST SUBJECT OUT OF THE
12 VEHICLE. NOW THAT'S NOW THE SECOND SUBJECT COMING OUT OF
13 THE VEHICLE, CORRECT?

14 A. YES, SIR.

15 Q. OKAY. NOW AT THIS POINT THE FIRST SUBJECT IS STILL
16 OVER HERE ON THE GROUND, CORRECT?

17 A. YES, SIR.

18 Q. ALL RIGHT. NOW THIS IS THE SECOND SUBJECT?

19 A. YES, SIR.

20 Q. ALL RIGHT. AND THAT'S THE GUY THAT GOT OUT OF THE CAR
21 SECOND?

22 A. YES, SIR.

23 Q. ALL RIGHT.

24 MR. JOHNSON: ONE SECOND, PLEASE, YOUR HONOR.

25 (PAUSE)

LORENZO MATTHEWS - CROSS EXAMINATION BY MR. JOHNSON

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1 Q. OFFICER MATTHEWS, ---

2 THE COURT: HANG ON ONE SECOND. LET HIM MOVE THE TV.

3 OKAY.

4 Q. OFFICER MATTHEWS, DO YOU HAVE ACCESS OR DID YOU SEE ANY
5 OF THE POLICE REPORTS OR ANYTHING FOR THIS MATTER?

6 A. NO, SIR, ONLY THE STATEMENT I WRIT [SIC].

7 Q. ONLY THE STATEMENT YOU WROTE?

8 A. YES, SIR.

9 Q. YOU DIDN'T LATER FIND OUT WHAT WERE THE NAMES OF THE
10 FIRST AND SECOND SUBJECT?

11 A. NO, SIR.

12 Q. OKAY. YOU JUST SAW THE VIDEO, ISN'T THAT RIGHT?

13 A. YES, SIR.

14 Q. COULD YOU DESCRIBE, SAY FOR INSTANCE, A CHARACTERISTIC
15 OF THE FIRST -- THE FIRST SUBJECT, DID HE HAVE BLACK HAIR?

16 A. APPEARED TO HAVE BLACK HAIR ACCORDING TO THE VIDEO.

17 Q. THE SECOND SUBJECT, DID HE HAVE -- WHAT TYPE OF HAIR
18 DID HE HAVE?

19 A. APPEARED TO HAVE LONG GRAYISH HAIR.

20 Q. LONG GRAYISH HAIR?

21 A. YES, SIR.

22 Q. SO THE SECOND INDIVIDUAL WOULD HAVE BEEN THE OLDER
23 INDIVIDUAL?

24 A. ACCORDING TO THE VIDEO, YES, SIR.

25 Q. OKAY. DO YOU KNOW IF THE PERSON WAS ON THE STRETCHER

LORENZO MATTHEWS - CROSS EXAMINATION BY MR. JOHNSON

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1 -- I'LL ASK YOU A SPECIFIC QUESTION. DO YOU KNOW IF THE
2 PERSON, THE FIRST SUBJECT, THE PERSON ON THE STRETCHER, DO
3 YOU KNOW IF IT WAS MY CLIENT, JONATHAN CAMPBELL?

4 A. NO, SIR, I DO NOT.

5 Q. YOU DO NOT KNOW?

6 A. NO, SIR.

7 Q. BUT THE FIRST SUBJECT WAS THE ONE WITH THE BLACK HAIR?

8 A. YES, SIR.

9 Q. AND THE SECOND SUBJECT WAS THE ONE WITH THE GRAY HAIR?

10 A. YES, SIR.

11 Q. OKAY. AT THIS TIME I HAVE NOTHING FURTHER.

12 MR. GREGORY: NO REDIRECT, YOUR HONOR.

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

14 A. THANK YOU.

15 MR. GREGORY: YOUR HONOR, WE WOULD ASK THAT HE BE

16 RELEASED FROM HIS SUBPOENA.

17 THE COURT: LET HIM GO HOME TO ALABAMA?

18 MR. ABDALLA: LET HIM GO.

19 THE COURT: THANK YOU FOR COMING, OFFICER. APPRECIATE
20 IT VERY MUCH.

21 MR. GREGORY: THE STATE CALLS SERGEANT DAR SHAW.

22 THE COURT: WELL, I TELL YOU WHAT, WE'VE BEEN -- LET'S
23 TAKE A MORNING BREAK. TAKE ABOUT TEN MINUTES, FIFTEEN
24 MINUTES. AND DON'T TALK ABOUT THE CASE. THANK YOU.

25 (WHEREUPON THE JURY EXITED THE COURTROOM AT 10:47 AM)

DAR SHAW - DIRECT EXAMINATION BY MR. GREGORY

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1 THE COURT: OKAY.

2 (WHEREUPON COURT WAS IN RECESS AT 10:47 AM)

3 (WHEREUPON COURT RESUMED AT 11:03 AM)

4 THE COURT: ALL RIGHT. YOU READY? EVERYBODY READY?

5 MR. GREGORY: YES, YOUR HONOR.

6 THE COURT: OKAY.

7 (WHEREUPON THE JURY ENTERED THE COURTROOM AT 11:06 AM)

8 THE COURT: OKAY. CALL YOUR NEXT WITNESS.

9 MR. GREGORY: THE STATE CALLS SERGEANT DAR SHAW.

10 DAR SHAW, BEING DULY

11 SWORN TESTIFIED AS FOLLOWS:

12 DIRECT EXAMINATION BY MR. GREGORY:

13 Q. SERGEANT SHAW, WHERE ARE YOU EMPLOYED?

14 A. THE GREENVILLE COUNTY FORENSIC DIVISION.

15 Q. AND WHAT IS YOUR POSITION THERE?

16 A. I'M A SERGEANT.

17 Q. HOW LONG HAVE YOU HELD THAT POSITION THERE?

18 A. FOR TEN YEARS. I'VE BEEN WITH THE DEPARTMENT FOR

19 ELEVEN YEARS.

20 Q. HAVE YOU HELD ANY OTHER LAW ENFORCEMENT JOBS BEFORE

21 COMING TO GREENVILLE?

22 A. YES, SIR. I WAS WITH ANOTHER AGENCY FOR TWENTY-ONE

23 YEARS, FOURTEEN YEARS AS AN INVESTIGATOR AND SEVEN YEARS AS

24 A PATROL OFFICER.

25 Q. NOW AS A SERGEANT WHAT ARE YOUR DUTIES AND

DAR SHAW - DIRECT EXAMINATION BY MR. GREGORY

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1 RESPONSIBILITIES?

2 A. PART OF MY RESPONSIBILITIES IS TO OVERSEE OUR OFFICE,
3 OVERSEE REPORTS THAT THE OTHER TECHNICIANS DO. I'M ALSO A
4 WORKING SUPERVISOR. SO I GO OUT AND ANSWER CALLS AS DOES
5 OTHER -- AS THE OTHER TECHNICIANS DO.

6 Q. AS A FORENSIC TECHNICIAN WHAT DO YOU DO IF YOU ARE
7 INVOLVED IN A CRIME SCENE?

8 A. TYPICALLY WHAT WE'RE GOING TO DO IS WE RESPOND TO THE
9 SCENE, FIND OUT WHAT INFORMATION WE HAVE AS FAR AS THE TYPE
10 OF CRIME THAT'S BEEN COMMITTED. WE THEN -- A LOT OF TIMES
11 WE'LL DO PHOTOGRAPHS. WE TAKE FINGERPRINTS, COLLECT
12 EVIDENCE AND SUBMIT REPORTS FOR COURT PURPOSES.

13 Q. WHAT KIND OF TRAINING AND EDUCATION HAVE YOU RECEIVED
14 TO BECOME A FORENSIC TECHNICIAN?

15 A. I WAS HIRED BECAUSE OF MY EXPERIENCE PRIOR TO. IT'S
16 ON-THE-JOB TRAINING. I'VE BEEN TO NUMEROUS HOMICIDE
17 INVESTIGATION SCHOOLS, SCHOOLS DEALING WITH THE COLLECTION
18 AND PRESERVATION OF EVIDENCE. AND IT'S BASICALLY THEN
19 EITHER THROUGH SCHOOLING OR ON-THE-JOB TRAINING.

20 Q. HOW MANY HOMICIDE INVESTIGATIONS HAVE YOU BEEN INVOLVED
21 IN?

22 A. SINCE I'VE BEEN WITH GREENVILLE COUNTY, MAYBE FIFTY.

23 Q. DID YOU HAVE AN OPPORTUNITY TO BECOME INVOLVED WITH
24 THIS CASE?

25 A. YES, SIR, I DID.

DAR SHAW - DIRECT EXAMINATION BY MR. GREGORY

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1 Q. CAN YOU TELL THE JURY HOW YOU BECAME INVOLVED?

2 A. I WAS CONTACTED BY PAUL SILVAGGIO, WHO IS THE
3 INVESTIGATOR FOR THE SHERIFF'S OFFICE. HE ASKED ME IF I
4 WANTED TO MAKE A TRIP TO MOBILE, ALABAMA, STATED THAT THERE
5 WAS -- A BODY HAD BEEN FOUND IN A VEHICLE AFTER A VEHICLE
6 CHASE.

7 AND HE ALSO STATED THAT WE'RE GOING TO HAVE DR. WARD
8 COME DOWN TO MEET US THERE. I WENT WITH PAUL SILVAGGIO. WE
9 DROVE TO MOBILE, SPENT THE NIGHT AND THEN BEGAN
10 INVESTIGATION THE NEXT MORNING.

11 Q. WHAT DAY DID YOU DRIVE TO MOBILE?

12 A. JUNE 21ST.

13 Q. DO YOU REMEMBER WHAT DAY OF THE WEEK THAT WAS?

14 A. NO, SIR, I DON'T.

15 Q. THAT'S FINE. YOU SAID YOU STARTED THE INVESTIGATION
16 THE NEXT DAY?

17 A. THAT'S CORRECT.

18 Q. JUNE 22ND, 2005?

19 A. THAT'S CORRECT.

20 Q. WHERE DID YOU GO ON JUNE 22ND, 2005?

21 A. I WENT TO A MEDICAL EXAMINER'S OFFICE.

22 Q. AND FOR WHAT PURPOSE?

23 A. THERE WAS AN AUTOPSY THAT WAS GOING TO BE CONDUCTED ON
24 THE VICTIM THAT WAS FOUND IN HIS VEHICLE.

25 Q. WERE YOU AT THE AUTOPSY?

DAR SHAW - DIRECT EXAMINATION BY MR. GREGORY

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1 A. YES, SIR, I WAS.

2 Q. AND WHAT WAS YOUR RESPONSIBILITY THERE AT THE AUTOPSY?

3 A. TO TAKE PHOTOGRAPHS, COLLECT EVIDENCE AND ALSO TO
4 ATTEMPT TO CONFIRM HIS IDENTITY.

5 Q. AND WERE YOU ABLE TO CONFIRM HIS IDENTITY?

6 A. YES, SIR, I WAS.

7 Q. AND WHO WAS -- WHAT WAS HIS NAME?

8 A. JERMAINE PROCTOR.

9 Q. AFTER THE AUTOPSY WHAT DID YOU DO?

10 A. ACROSS THE STREET FROM THE MEDICAL EXAMINER'S OFFICE
11 THERE WAS AN ENCLOSED AREA, A FENCED IN AREA. I WAS
12 ESCORTED TO THIS AREA. THE OFFICERS UNLOCKED THE GATE. AND
13 INSIDE WAS A '95 JEEP GRAND CHEROKEE THAT WAS THE VICTIM'S
14 VEHICLE, IDENTIFIED AS THE VICTIM'S VEHICLE.

15 Q. AND YOU SAID IT WAS IN AN ENCLOSED AREA?

16 A. THAT'S CORRECT, YES.

17 Q. LOCKED?

18 A. YES, SIR.

19 Q. THAT WAS ON, I ASSUME, WAS ON POLICE CUSTODY PROPERTY?

20 A. I WOULD ASSUME SO, YES, SIR.

21 Q. WHAT DID YOU DO WITH THE VEHICLE ONCE YOU GOT THERE?

22 A. I VIDEO TAPED THE OUTSIDE OF THE VEHICLE AND THEN VIDEO
23 TAPED THE INTERIOR OF THE VEHICLE. ONCE I WAS COMPLETED
24 WITH THE VIDEO TAPING, THEN I WENT THROUGH AND BEGAN
25 COLLECTING EVIDENCE FROM THE INSIDE OF THE VEHICLE.

DAR SHAW - DIRECT EXAMINATION BY MR. GREGORY

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1 Q. CAN YOU DESCRIBE THE CONDITION OF THE JEEP GRAND
2 CHEROKEE ON THE OUTSIDE?

3 A. THERE WAS DAMAGE. I BELIEVE THE BACK WINDOW MIGHT HAVE
4 BEEN BROKEN OUT. THERE WAS SOME DAMAGE TO THE LEFT REAR, I
5 BELIEVE. AND THE INTERIOR WAS IN DISARRAY.

6 Q. OKAY. DESCRIBE DISARRAY FOR THE JURY.

7 A. THERE WERE ITEMS SCATTERED ON THE FRONT FLOORBOARD, ON
8 THE REAR COMPARTMENT. THERE WERE ITEMS, PAPER ITEMS,
9 CLOTHES, EVEN BACK IN THE CARGO AREA. IN THE VERY BACK
10 THERE WERE -- IT LOOKS LIKE EVERYTHING WAS JUST DISHEVELED.
11 THERE WAS NOTHING REALLY IN PLACE.

12 Q. SERGEANT SHAW, I'M GOING TO SHOW YOU WHAT'S BEEN MARKED
13 AS STATE'S EXHIBIT NUMBER 5. DO YOU RECOGNIZE THAT?

14 A. I RECOGNIZE MY INITIALS AND THE DATE OF 1/12/2010.
15 IT'S A VIDEO, OR A DVD OR CD.

16 Q. AND HAVE YOU LOOKED AT IT BEFORE COURT TODAY?

17 A. YES, SIR, I DID.

18 Q. AND IS THAT THE VIDEO THAT YOU TOOK THAT DAY?

19 A. THIS IS A COPY OF -- I DID MINE ON 8 MILLIMETER, BUT IT
20 HAS BEEN TRANSFERRED ONTO THIS CD.

21 Q. AND DOES THAT FAIRLY AND ACCURATELY REPRESENT THE
22 TRUCK, I MEAN, JEEP THAT DAY ---

23 A. YES, SIR. I VIEWED THE ENTIRETY OF THIS. AND IT WAS
24 THE SAME AS I HAD RECORDED IT.

25 MR. GREGORY: YOUR HONOR, AT THIS TIME WE SEEK TO

DAR SHAW - DIRECT EXAMINATION BY MR. GREGORY

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1 INTRODUCE STATE'S EXHIBIT NUMBER 5 INTO EVIDENCE.

2 THE COURT: ANY OBJECTION?

3 MR. ABDALLA: NO OBJECTION, YOUR HONOR.

4 THE COURT: OKAY.

5 (WHEREUPON STATE'S EXHIBIT 5 WAS ADMITTED INTO
6 EVIDENCE)

7 MR. GREGORY: PERMISSION TO PUBLISH IT TO THE JURY?

8 THE COURT: YEP.

9 Q. ALL RIGHT. SERGEANT SHAW, IF YOU DON'T MIND STEPPING
10 DOWN AND JUST EXPLAIN THE SCENE TO THE JURY, PLEASE.

11 (WHEREUPON THE DVD WAS SHOWN TO THE JURY WITH
12 INTERMITTENT QUESTIONS AND ANSWERS)

13 A. AGAIN, THIS IS AN ENCLOSED AREA, FENCE ON THREE SIDES.
14 THERE WAS A BUILDING ON THE BACK SIDE AT THE STORAGE. TWO
15 DOUBLE GATES THAT CAME CLOSED THAT WERE PAD-LOCKED. ONCE
16 THOSE DOORS WERE OPEN I STOOD AT THE FRONT OF THE VEHICLE
17 AND BEGAN VIDEO TAPING THE EXTERIOR OF THE VEHICLE.

18 Q. IS THERE ANY TALKING IN THE VIDEO, ANY NOISE AT ALL?

19 A. NO, SIR. WE DUBBED THE RECORDER. SO THERE IS NO
20 CONVERSATION.

21 Q. OKAY. IS THERE ANYTHING PARTICULAR THAT YOU'RE LOOKING
22 FOR WHEN YOU'RE MAKING THIS VIDEO ABOUT THE VEHICLE?

23 A. IT'S BASICALLY TO DOCUMENT ANY DAMAGE, TO DOCUMENT THAT
24 THIS IS THE PROPER VEHICLE THAT WE'RE SUPPOSED TO -- THAT
25 I'M SUPPOSED TO BE COLLECTING EVIDENCE FROM. ALSO PERHAPS

DAR SHAW - DIRECT EXAMINATION BY MR. GREGORY

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1 BEING ANYTHING OF EVIDENTIARY VALUE ON THE OUTSIDE OF THE
2 VEHICLE, I'LL DOCUMENT IT.

3 Q. YOU SAID YOU WERE LOOKING FOR ANYTHING OF EVIDENTIARY
4 VALUE ON THE EXTERIOR OF THE VEHICLE. DID YOU FIND
5 ANYTHING?

6 A. NO, SIR. OTHER THAN THE DAMAGE, THERE MAY HAVE BEEN
7 SOME BLOOD ON THE OUTSIDE OF ONE OF THE DOORS. BUT I DON'T
8 RECALL WHICH DOOR IT WAS.

9 Q. SERGEANT SHAW, THE ROOF IS A LITTLE HARD TO SEE. CAN
10 YOU EXPLAIN WHAT WE'RE LOOKING AT THERE, PLEASE?

11 A. THIS IS -- WHAT I DID IS I PUT THE CAMERA UP TO TRY TO
12 FOCUS ON THE LINER ON THE INTERIOR OF THE VEHICLE. THERE
13 WAS WHAT APPEARED TO BE SMEARED BLOOD ALL OVER THE DRIVER'S
14 -- OF THE DRIVER'S COMPARTMENT THAT EXTENDED BACK TO THE
15 REAR SEAT AREA BEHIND THE DRIVER'S SEAT. I WAS JUST SHOWING
16 THE AREA OF SUSPECTED BLOOD ON THE LINER.

17 Q. OKAY. YOU CAN TAKE YOUR SEAT. SERGEANT SHAW, AFTER
18 YOU TOOK THE VIDEO WHAT DID YOU DO NEXT?

19 A. I THEN WENT INTO -- BACK INTO THE INTERIOR AND BEGAN
20 LOOKING FOR AN IDENTIFYING, POSSIBLE EVIDENCE FOR
21 COLLECTION.

22 Q. OKAY.

23 MR. ABDALLA: WE HAVE NO OBJECTION TO THE ADMISSION OF
24 THESE ITEMS.

25 THE COURT: IDENTIFY THEM FOR THE RECORD.

DAR SHAW - DIRECT EXAMINATION BY MR. GREGORY

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1 Q. SERGEANT SHAW, COULD YOU TAKE A LOOK AT THAT?

2 MR. GREGORY: IT'S EXHIBITS 5 THROUGH 9. EXCUSE ME, 5
3 THROUGH 10.

4 THE COURT: IT SHOULD BE ...

5 MR. GREGORY: 6 THROUGH 10. I APOLOGIZE.

6 (WHEREUPON STATE'S EXHIBITS 6 THROUGH 10 WERE ADMITTED
7 INTO EVIDENCE).

8 Q. DO YOU RECOGNIZE ---

9 A. YES, SIR. THESE ARE PHOTOGRAPHS THAT I TOOK.

10 Q. YOU TOOK THEM?

11 A. YES, SIR.

12 Q. DO THEY FAIRLY AND ACCURATELY REPRESENT THE CONDITION
13 OF THE CAR AT THAT TIME?

14 A. YES, THEY DO.

15 MR. GREGORY: YOUR HONOR, AT THIS TIME THE STATE WOULD
16 SEEK TO INTRODUCE EXHIBITS 6 THROUGH 10.

17 THE COURT: ALL RIGHT. HE'S ALREADY SAID NO OBJECTION.

18 MR. GREGORY: PERMISSION TO PUBLISH THEM TO THE JURY?

19 THE COURT: UM-HUM (AFFIRMATIVE).

20 Q. ALL RIGHT. SERGEANT SHAW, I'M GOING TO SHOW YOU
21 STATE'S EXHIBIT NUMBER 6. WOULD YOU, PLEASE, EXPLAIN IT TO
22 THE JURY WHAT WE'RE LOOKING AT HERE?

23 A. THIS IS -- IT'S JUST AN OVERALL PHOTOGRAPH OF THE BACK
24 OF THE VEHICLE SHOWING THE SOUTH CAROLINA TAG.

25 Q. THIS IS STATE'S EXHIBIT NUMBER 7. LET'S SEE IF I CAN

DAR SHAW - DIRECT EXAMINATION BY MR. GREGORY

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1 CLARIFY THIS A LITTLE BIT. CAN YOU TELL THE JURY WHERE YOU
2 FOUND THIS?

3 A. THIS WAS IN THE REAR CARGO AREA AT THE VERY BACK OF THE
4 VEHICLE. I HAD PLACED IT UP ON TOP OF THE HEADREST SO THAT
5 I COULD PHOTOGRAPH IT. IT'S A SOCIAL SECURITY CARD WITH THE
6 NAME JERMAINE PROCTOR ON IT.

7 Q. STATE'S EXHIBIT NUMBER 8, CAN YOU TELL THE JURY WHAT
8 THIS IS?

9 A. IT'S A PAWN SHEET FROM PAWN CENTRAL WHERE SOME ITEMS
10 HAD BEEN PAWNED.

11 Q. AND CAN YOU TELL WHO PAWNED THE ITEMS? LET ME SEE IF I
12 CAN CLEAR IT UP A LITTLE BETTER.

13 A. CARL SOUTHERLAND.

14 Q. THIS IS STATE'S EXHIBIT NUMBER 9. WHAT ARE WE LOOKING
15 AT HERE?

16 A. THIS IS A PHOTOGRAPH OF A STEAK KNIFE THAT AFTER
17 CLEARING SOME ITEMS FROM THE -- THAT WERE ON THE FLOOR,
18 SCATTERED ON THE FLOOR, CLOTHING ITEMS, THIS KNIFE WAS
19 OBSERVED JUST -- WITH THE BLADE JUST BARELY UNDER THE BACK
20 EDGE OF THE DRIVER'S SEAT. THAT'S THE SAME PHOTOGRAPH, ONLY
21 JUST TAKEN A LITTLE CLOSER.

22 Q. I'M GOING TO TAKE YOU BACK TO THE PAWN TICKET JUST
23 BRIEFLY 'CAUSE I'VE GOT A COUPLE OF MORE QUESTIONS FOR YOU.
24 LET ME SEE IF I CAN ZOOM IN A LITTLE MORE. CAN YOU TELL
25 WHEN THESE ITEMS WERE PAWNED? I KNOW IT'S KIND OF TOUGH TO

DAR SHAW - DIRECT EXAMINATION BY MR. GREGORY

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1 SEE IT.

2 A. FROM THIS ANGLE, IT LOOKS TO BE THE -- I THINK IT WAS
3 JUNE ---

4 Q. WOULD IT HELP YOU IF I JUST ---

5 A. IF I ---

6 Q. --- BROUGHT THIS TO YOU?

7 A. --- I COULD, PLEASE.

8 Q. OKAY. I APOLOGIZE.

9 A. IT WAS DATED JUNE 20TH, 2005.

10 Q. AND CAN YOU TELL THE JURY WHAT WAS PAWNED?

11 A. A WEED-WACKER, LAWN AND GARDEN WEEDEATER. IT HAS THE
12 MODEL NUMBER, SERIAL NUMBER AND A TWO WHEELED GAS POWER
13 TRIMMER.

14 Q. OKAY. WHEN YOU WERE PROCESSING THE CAR DID YOU COLLECT
15 ANY ITEMS?

16 A. YES, SIR. I COLLECTED SEVERAL ITEMS.

17 Q. APPROXIMATELY HOW MANY ITEMS DID YOU COLLECT? JUST A
18 BALLPARK FIGURE.

19 A. IN THE AREA OF 22, 25, SOMEWHERE IN THERE.

20 Q. SO IT'S SAFE TO SAY YOU DIDN'T COLLECT EVERYTHING THAT
21 WAS IN THE CAR?

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

23 Q. ALL RIGHT. AFTER YOU COLLECTED THE ITEMS IN THE CAR
24 WHAT DID YOU DO WITH THOSE ITEMS?

25 A. THEY WERE PACKAGED, PUT INTO INDIVIDUAL PAPER BAGS,

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1 PLACED INTO A LARGER PAPER BAG AND THEN PUT INTO THE --
2 ACTUALLY WHEN I WAS DONE PROCESSING THE VEHICLE ALL THE
3 EVIDENCE WAS PLACED IN THE SECURED ROOM AT THE MORGUE AT THE
4 -- WHERE THE AUTOPSY HAD BEEN PERFORMED, THE MEDICAL
5 EXAMINER'S OFFICE.

6 Q. AND YOU SAY THAT WAS A SECURED ROOM?

7 A. THAT'S CORRECT.

8 Q. OKAY. WHEN DID YOU PICK THE ITEMS UP FROM THE MEDICAL
9 EXAMINER'S OFFICE?

10 A. THE 23RD, WHICH WOULD HAVE BEEN THE FOLLOWING MORNING.
11 PAUL SILVAGGIO AND MYSELF WENT BACK TO THE MORGUE, PICKED
12 THE ITEMS UP AND THEN TRANSPORTED THE EVIDENCE BACK TO
13 GREENVILLE COUNTY.

14 Q. ONCE YOU BROUGHT THE ITEMS BACK TO GREENVILLE COUNTY
15 WHAT DID YOU DO WITH THEM?

16 A. THEY -- BECAUSE THERE WERE SOME CLOTHING ITEMS THAT
17 WERE PUTREFIED, HAD ODOR TO THEM, I PLACED THOSE INTO A
18 CABINET, IT'S A DRYING CABINET, IN A SECURED TRAILER. AND
19 THEN WHICH THE ITEMS WERE LATER PACKAGED AND PLACED INTO
20 PROPERTY AND EVIDENCE.

21 Q. WHERE IS PROPERTY AND EVIDENCE?

22 A. AT THE LAW ENFORCEMENT CENTER.

23 Q. AND IS THAT A SECURE LOCATION?

24 A. YES, SIR, IT IS.

25 Q. LET ME SHOW YOU WHAT'S BEEN MARKED AS STATE'S EXHIBIT

DAR SHAW - DIRECT EXAMINATION BY MR. GREGORY

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1 NUMBER 11, IF YOU'LL TAKE A LOOK AT THAT FOR ME.

2 A. YES, SIR.

3 Q. DO YOU RECOGNIZE IT?

4 A. I DO.

5 Q. HOW DO YOU RECOGNIZE IT?

6 A. THIS STEAK KNIFE THAT I HAD COLLECTED FROM THE INTERIOR
7 OF THE VEHICLE, IT HAS THE TIME OF COLLECTION AS WELL AS MY
8 INITIALS THAT ARE ON THE OUTSIDE OF THE BAG, WHICH I PLACED
9 THERE.

10 Q. AND DID YOU PLACE THE KNIFE IN THAT CONTAINER?

11 A. YES, SIR, I DID.

12 MR. GREGORY: YOUR HONOR, AT THIS TIME WE'D SEEK TO
13 INTRODUCE STATE'S ---

14 MR. ABDALLA: WITHOUT OBJECTION, YOUR HONOR.

15 THE COURT: NO OBJECTION.

16 (WHEREUPON STATE'S EXHIBIT 11 WAS ADMITTED INTO
17 EVIDENCE)

18 Q. JUST A FEW QUESTIONS BACK TO THE CAR. WHEN YOU
19 PROCESSED THE CAR CAN YOU EXPLAIN WHAT YOU DO WHEN YOU
20 PROCESS IT FOR FINGERPRINTS, ---

21 A. AS FAR AS ---

22 Q. --- DNA?

23 A. AS FAR AS -- WELL, WITH THE TERM PROCESS INCLUDES NOT
24 ONLY FINGERPRINTS, BUT IT ALSO INCLUDES THE COLLECTION OF
25 EVIDENCE AND TAKING PHOTOGRAPHS. SO THAT'S ALL INCLUSIVE AS

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1 TO WHEN WE USE THE TERM PROCESS.

2 MR. GREGORY: YOUR HONOR, I BEG THE COURT'S INDULGENCE
3 FOR ONE MINUTE.

4 THE COURT: OKAY.

5 Q. SERGEANT SHAW, AFTER YOU BROUGHT THE KNIFE BACK TO
6 GREENVILLE WHERE YOU PUT IT IN PROPERTY AND EVIDENCE DID YOU
7 TEST THE KNIFE AT ALL?

8 A. NO, SIR.

9 Q. I'M SORRY. FOR FINGERPRINTS?

10 A. NO, SIR, I DIDN'T.

11 Q. WHY DID YOU NOT TEST IT FOR FINGERPRINTS?

12 A. I EXAMINED THE KNIFE. THE HANDLE IS SUCH A TEXTURE
13 THAT YOU COULD NOT GET AN IDENTIFIABLE PRINT FROM THE HARD
14 PLASTIC TEXTURE BECAUSE OF THE GROOVES. I USED A MAGNIFIER
15 AND LIGHT, EXAMINED THE BLADE LOOKING FOR ANY RIDGE DETAIL.
16 I FOUND NONE. DUE TO SEEING -- HAVING SUSPECTED BLOOD ON
17 THE BLADE AS WELL AS ON THE HANDLE ITSELF, I FELT IT MORE
18 BENEFICIAL FOR DNA ANALYSIS RATHER THAN POSSIBLY DISRUPTING
19 IT WITH PUTTING POWDER ON IT.

20 Q. WHEN YOU SAY RIDGE DETAIL, WHAT DOES THAT MEAN?

21 A. IF ANYBODY -- WHEN YOU LOOK AT YOUR FINGERS THERE'S
22 RIDGE DETAIL, WHICH ARE THE GROOVES, THE RAISED PORTION OF
23 YOUR FINGER. WHEN THE OILS ARE TRANSFERRED FROM YOUR FINGER
24 ONTO AN OBJECT, LIKE A GLASS, WHAT YOU SEE IS EITHER A FULL
25 FINGERPRINT, COULD BE A PARTIAL FINGERPRINT, BUT YOU'RE

DAR SHAW - CROSS EXAMINATION BY MR. ABDALLA

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1 GOING TO SEE LINES. AND THEY HAVE TO BE IDENTIFYING
2 CHARACTERISTICS IN THOSE LINES OR IN THOSE RIDGES IN ABLE TO
3 -- TO IDENTIFY ANYBODY.

4 Q. AND YOU DIDN'T SEE ANY RIDGE DETAIL ON THE HANDLE OF
5 THE KNIFE?

6 A. NO, SIR, I DID NOT.

7 Q. IF YOU WERE GOING TO TRY AND TEST FOR FINGERPRINTS WHAT
8 KIND OF CONTAMINATION WOULD THAT HAVE -- WOULD THAT BRING
9 ABOUT FOR THE OTHER -- THE BLOOD ON THE KNIFE?

10 A. FROM WHAT I UNDERSTAND, FUMING IT WOULD PROBABLY NOT
11 HAMPER IT. A CONCERN MIGHT BE -- IN OUR PROCESSING ROOM WE
12 USE THE SAME BRUSH FOR ALL EVIDENCE. WE USE THE SAME POWDER
13 FOR ANY EVIDENCE. AND I DON'T KNOW IF IT COULD TRANSFER
14 POSSIBLY DNA FROM THE BRUSH OR FROM THE POWDER ONTO THE --
15 ONTO THE ITEM.

16 Q. PLEASE ANSWER ANY QUESTIONS THE DEFENSE HAS FOR YOU.

17 CROSS EXAMINATION BY MR. ABDALLA:

18 Q. DETECTIVE SHAW, YOU RECOVERED SEVERAL ITEMS FROM THE
19 JEEP, CORRECT?

20 A. YES, SIR, I DID.

21 Q. AND THAT INCLUDED A KNIFE?

22 A. THAT'S CORRECT.

23 Q. DID YOU COLLECT A SCREWDRIVER?

24 A. NO, SIR, NOT FROM THE -- NOT FROM THE VEHICLE, I DON'T
25 BELIEVE...

DAR SHAW - CROSS EXAMINATION BY MR. ABDALLA

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1 Q. WHERE DID YOU COLLECT THE SCREWDRIVER?

2 A. THERE WAS -- I BELIEVE THERE WAS A SCREWDRIVER IN A
3 BLOODY SHEET THAT WAS IN THE BODY BAG WHERE THE VICTIM WAS
4 ---

5 Q. OKAY. SO ---

6 A. --- WAS FOUND.

7 Q. SO IT WAS INITIALLY IN THE JEEP FROM WHAT YOU COULD
8 BEST TELL, BUT YOU FOUND IT IN THE BODY BAG?

9 A. IT WAS IN THE BODY BAG ALONG WITH SOME OTHER ITEMS,
10 YES, SIR.

11 Q. AND DID YOU TEST THE SCREWDRIVER FOR DNA OR FOR
12 FINGERPRINTS?

13 A. NO, SIR, I DID NOT.

14 Q. YOU DID FIND, HOWEVER, A FINGERPRINT OF CARL
15 SOUTHERLAND ON THE JEEP, ISN'T THAT CORRECT?

16 A. I SENT LATENTS UP, BUT TO TELL YOU, I DON'T KNOW WHERE,
17 WHOSE PRINTS OR WHERE THOSE PRINTS WERE FOUND. THAT WOULD
18 -- THAT WOULD HAVE TO BE -- THE EXAMINER WOULD HAVE TO
19 PROVIDE THAT INFORMATION. I DON'T RECALL WHERE THE PRINTS
20 WERE FOUND.

21 Q. IS THIS NOT YOUR REPORT?

22 A. NO, SIR, IT'S NOT. THAT'S THE LATENT EXAMINER'S
23 REPORT.

24 Q. YOU FURNISHED -- LATENT PRINTS WERE FURNISHED BY SHAW
25 AND THEY WERE GIVEN TO WHOM?

DAR SHAW - CROSS EXAMINATION BY MR. ABDALLA

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1 A. THEY WERE SENT UP TO OUR LATENT DIVISION. AND CAPTAIN
2 KELLETT IS THE ONE WHO DID THIS REPORT. SO SHE DID THE
3 EXAMINATION AND IDENTIFIED PRINTS.

4 Q. OF?

5 A. THIS SAYS CARL HERSHEL SOUTHERLAND.

6 Q. THANK YOU. YOU SAID YOU DIDN'T CHECK THE KNIFE FOR
7 PRINTS, CORRECT?

8 A. THAT'S CORRECT, SIR.

9 Q. BUT THERE WAS A POSSIBILITY YOU COULD HAVE GOTTEN
10 PRINTS OFF OF THAT, IS THAT NOT CORRECT?

11 A. NOT -- WITH MY EXAMINATION OF IT, I COULD NOT.

12 Q. HOW ABOUT DNA?

13 A. POSSIBLY, YES, SIR.

14 Q. WAS THAT DONE?

15 A. I DID NOT DO IT. I PUT THE KNIFE INTO PROPERTY AND
16 EVIDENCE. I DON'T KNOW WHAT ACTIONS WERE TAKEN. THAT HAS
17 TO BE DONE BY THE INVESTIGATING OFFICER.

18 Q. OKAY. THANK YOU VERY MUCH FOR YOUR COURTESY. I HAVE
19 NO FURTHER QUESTIONS.

20 THE COURT: ANY REDIRECT?

21 MR. GREGORY: NO REDIRECT, YOUR HONOR.

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

23 MR. GREGORY: YOUR HONOR, WE'D ASK THAT HE BE RELEASED
24 FROM HIS SUBPOENA.

25 MR. ABDALLA: WITHOUT OBJECTION.

MICHAEL WARD, M.D. - DIRECT EXAMINATION BY MR. GREGORY

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1 THE COURT: OKAY.

2 MR. GREGORY: THE STATE CALLS DR. WARD.

3 MICHAEL WARD, M.D., BEING

4 DULY SWORN TESTIFIED AS FOLLOWS:

5 DIRECT EXAMINATION BY MR. GREGORY:

6 Q. DR. WARD, WHAT IS YOUR OCCUPATION?

7 A. I'M A FORENSIC PATHOLOGIST.

8 Q. AND WHERE ARE YOU CURRENTLY EMPLOYED?

9 A. I'M EMPLOYED BY PATHOLOGY ASSOCIATES OF GREENVILLE AS A
10 FORENSIC PATHOLOGIST AND BY THE COUNTY OF GREENVILLE AS THE
11 CHIEF MEDICAL EXAMINER.

12 Q. COULD YOU PLEASE DETAIL YOUR EDUCATIONAL BACKGROUND?

13 A. I RECEIVED MY BACHELOR'S DEGREE IN BIOLOGY FROM THE
14 UNIVERSITY OF ALABAMA. MY MASTER'S DEGREE IS IN FORENSIC
15 SCIENCE FROM THE UNIVERSITY OF ALABAMA IN BIRMINGHAM. I
16 RECEIVED MY MEDICAL DEGREE FROM THE UNIVERSITY OF SOUTH
17 ALABAMA IN MOBILE. I DID A FOUR YEAR ANATOMIC PATHOLOGY
18 RESIDENCY AT THE MEDICAL UNIVERSITY OF SOUTH CAROLINA IN
19 CHARLESTON AND A ONE YEAR FELLOWSHIP IN FORENSIC PATHOLOGY
20 AT THE UNIVERSITY OF NEW MEXICO IN ALBUQUERQUE.

21 Q. WHAT CERTIFICATIONS AND LICENSES DO YOU CURRENTLY HOLD?

22 A. I'M BOARD CERTIFIED BY THE AMERICAN BOARD OF PATHOLOGY
23 IN BOTH ANATOMIC AND FORENSIC PATHOLOGY. AND I'M LICENSED
24 TO PRACTICE MEDICINE IN THE STATES OF SOUTH CAROLINA AND NEW
25 MEXICO.

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1 Q. WHAT IS FORENSIC -- FORENSIC PATHOLOGY?

2 A. PATHOLOGY IS THE STUDY OF DISEASE AND HOW THAT DISEASE
3 AFFECTS MAN. FORENSIC PATHOLOGY TAKES THAT ONE STEP
4 FURTHER. NOT ONLY DO WE DEAL WITH DISEASE PROCESSES, BUT
5 DISEASE PROCESSES, TRAUMA AND HOW PERSONS DIE, SO THE
6 DETERMINATION OF CAUSE AND MANNER OF DEATH, AND THEN THE
7 PRESENTATION OF THAT INFORMATION IN THE JUDICIAL PROCESS.

8 Q. AND YOU KIND OF TOUCHED ON IT. WHAT DOES A FORENSIC
9 PATHOLOGIST DO?

10 A. BASICALLY WE PERFORM DEATH INVESTIGATIONS, GENERALLY
11 AUTOPSIES TO DETERMINE HOW AND WHY PEOPLE DIE.

12 Q. AND WHAT ARE YOUR RESPONSIBILITIES AS A CHIEF MEDICAL
13 EXAMINER?

14 A. MY RESPONSIBILITIES ARE TO ADMINISTER THE OFFICE AND TO
15 INVESTIGATE DEATHS THAT OCCUR IN THE 13TH JUDICIAL DISTRICT,
16 WHICH INCLUDES GREENVILLE AND PICKENS COUNTY TO DETERMINE
17 CAUSE AND MANNER OF DEATH.

18 Q. HOW LONG HAVE YOU WORKED AS A MEDICAL EXAMINER?

19 A. ALMOST FIFTEEN YEARS.

20 Q. WOULD YOU, PLEASE, DESCRIBE YOUR PRIOR WORK EXPERIENCE
21 AS A MEDICAL EXAMINER TO THE COURT?

22 A. PRIOR TO COMING TO GREENVILLE, SOUTH CAROLINA I WAS AN
23 ASSOCIATE MEDICAL EXAMINER WITH THE OFFICE OF THE MEDICAL
24 INVESTIGATOR FOR THE STATE OF NEW MEXICO FOR TWO AND ONE
25 HALF YEARS.

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1 Q. DR. WARD, WHAT IS AN AUTOPSY?

2 A. AN AUTOPSY IS A DETAILED PHYSICAL EXAMINATION PERFORMED
3 ON A PERSON AFTER THEY DIE. THIS INCLUDES AN EXTERNAL
4 EXAMINATION TO, ONE, DETERMINE WHO THAT PERSON IS AND TO
5 DETERMINE IF THERE ARE ANY INJURIES THAT ARE PRESENT ON THE
6 OUTSIDE OF THE BODY.

7 THEN THE INTERNAL EXAMINATION OF THE AUTOPSY INCLUDES
8 LOOKING AT THE BODY CAVITIES, THE VISCERAL ORGANS, AGAIN, TO
9 DETERMINE IF THERE'S ANY NATURAL DISEASE AND WHAT INJURIES
10 MAY HAVE BEEN ALSO INFLECTED ON THE INTERNAL ORGANS OF THE
11 BODY.

12 Q. DURING THE COURSE OF YOUR CAREER AS A MEDICAL EXAMINER
13 HOW MANY AUTOPSIES HAVE YOU PERFORMED?

14 A. WELL OVER TWO THOUSAND.

15 Q. HAVE YOU EVER TESTIFIED IN COURT TO THE FINDINGS OF AN
16 AUTOPSY BEFORE?

17 A. YES, I HAVE.

18 Q. HOW MANY TIMES HAVE YOU TESTIFIED IN COURT?

19 A. AT LEAST A HUNDRED TIMES.

20 Q. HOW MANY TIMES HAVE YOU TESTIFIED IN CRIMINAL COURT?

21 A. MOST OF THOSE, WELL OVER A HUNDRED TIMES.

22 Q. HAVE YOU EVER BEEN QUALIFIED AS AN EXPERT IN COURT?

23 A. YES, I HAVE.

24 Q. IN WHAT AREA HAVE YOU BEEN QUALIFIED AN EXPERT IN?

25 A. I'VE BEEN QUALIFIED AS AN EXPERT IN ANATOMIC AND

MICHAEL WARD, M.D. - DIRECT EXAMINATION BY MR. GREGORY

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1 FORENSIC PATHOLOGY.

2 Q. AND HOW MANY TIMES HAVE YOU BEEN QUALIFIED AS AN
3 EXPERT?

4 A. AT LEAST A HUNDRED TIMES.

5 MR. GREGORY: YOUR HONOR, AT THIS TIME THE STATE WOULD
6 OFFER DR. WARD AS AN EXPERT IN THE FIELD OF ANATOMIC AND
7 FORENSIC PATHOLOGY.

8 THE COURT: ANY VOIR DIRE?

9 MR. ABDALLA: NO, YOUR HONOR. WITHOUT OBJECTION.

10 THE COURT: ALL RIGHT. I WILL QUALIFY HIM.

11 MR. GREGORY: THANK YOU, YOUR HONOR.

12 Q. DR. WARD, WERE YOU ASKED TO PERFORM AN AUTOPSY IN THIS
13 CASE?

14 A. YES, I WAS.

15 Q. AND WHERE DID YOU PERFORM THAT AUTOPSY?

16 A. THE AUTOPSY WAS PERFORMED AT THE MEDICAL EXAMINER'S
17 AUTOPSY FACILITY ON THE CAMPUS OF THE UNIVERSITY OF SOUTH
18 ALABAMA IN MOBILE, ALABAMA.

19 Q. DO YOU REMEMBER WHAT DAY THAT WAS?

20 A. THE AUTOPSY WAS ON JUNE 22ND, 2005.

21 Q. WHO WAS PRESENT FOR THE AUTOPSY?

22 A. IT WAS SERGEANT DAR SHAW OF THE GREENVILLE COUNTY
23 CRIMINAL JUSTICE SUPPORT DEPARTMENT, DETECTIVE PAUL
24 SILVAGGIO FROM THE GREENVILLE COUNTY SHERIFF'S DEPARTMENT
25 AND AUTOPSY TECHNICIAN, STEPHON McCUVEY, WHO IS AN EMPLOYEE

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1 OF THE MEDICAL EXAMINER'S OFFICE IN MOBILE.

2 Q. WHAT WERE THE PHYSICAL DIMENSIONS OF THE BODY THAT YOU
3 PERFORMED THE AUTOPSY ON?

4 A. MR. PROCTOR WAS SIXTY-FOUR INCHES OR FIVE FEET FOUR
5 INCHES IN LENGTH AND WEIGHED APPROXIMATELY ONE HUNDRED AND
6 SIXTY POUNDS.

7 Q. YOU SAID THAT PART OF THE AUTOPSY IS THE EXTERNAL
8 EXAMINATION. COULD YOU, PLEASE, DESCRIBE WHAT YOU SAW ON
9 THE EXTERNAL EXAMINATION OF MR. PROCTOR?

10 A. MR. PROCTOR WAS IN A MODERATE STATE OF DECOMPOSITION.
11 HE HAD BEEN DEAD FOR SEVERAL DAYS AND WAS BEGINNING TO SHOW
12 THE CHANGES THAT OCCUR POST-MORTEM. THE BODY WAS BEGINNING
13 TO TURN DUSKY GREEN TO BLACK. THE SKIN WAS SLIPPING. THERE
14 WAS GAS PRODUCTION. AND SO THE BODY APPEARED SOMEWHAT
15 BLOATED AND FOUL SMELLING. THERE WERE MULTIPLE TATTOOS
16 PRESENT ON THE BODY AS WELL AS MULTIPLE PUNCTURE WOUNDS
17 CONSISTENT WITH STAB WOUNDS.

18 Q. WHAT INJURIES DID YOU DISCOVER AS PART OF THE AUTOPSY?

19 A. THERE WERE EIGHTEEN SEPARATE AND DISTINCT STAB WOUNDS.

20 Q. DID YOU PREPARE A DIAGRAM TO AID YOU IN THE AUTOPSY
21 PROCESS?

22 A. YES, I DID.

23 Q. WOULD THIS DIAGRAM ASSIST YOU TODAY IN THE EVIDENCE?

24 A. IT WOULD.

25 Q. OKAY. IS THIS TO SCALE?

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1 A. ROUGHLY, YES.

2 Q. OKAY. DID YOU BRING THAT TO COURT WITH YOU TODAY?

3 A. I DID.

4 (WHEREUPON STATE'S EXHIBITS 12 AND 13 WERE MARKED FOR
5 IDENTIFICATION)

6 Q. ARE THESE DIAGRAMS A FAIR AND ACCURATE REPRESENTATION?

7 A. YES, THEY ARE.

8 MR. GREGORY: YOUR HONOR, AT THIS TIME THE STATE WOULD
9 SEEK TO INTRODUCE EXHIBITS 12 AND 13 INTO EVIDENCE.

10 MR. ABDALLA: WITHOUT OBJECTION.

11 THE COURT: OKAY.

12 (WHEREUPON STATE'S EXHIBITS 12 AND 13 WERE ADMITTED
13 INTO EVIDENCE)

14 MR. GREGORY: PERMISSION TO PUBLISH THEM TO THE JURY,
15 YOUR HONOR.

16 THE COURT: ALL RIGHT.

17 Q. DR. WARD, CAN YOU, PLEASE, DESCRIBE TO THE JURY WHAT
18 WE'RE LOOKING AT?

19 A. MAY I STEP DOWN, SIR?

20 THE COURT: YES, SIR, YOU MAY. JUST, PLEASE, KEEP YOUR
21 VOICE UP.

22 Q. DR. WARD, I HAVE A LASER POINTER. I MEANT TO HAND IT
23 TO YOU.

24 A. THANK YOU. THIS IS A DIAGRAM OF FOUR VIEWS OF THE HEAD
25 REPRESENTING THE HEAD OF MR. PROCTOR. THERE ARE FOUR

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1 SEPARATE STAB WOUNDS. THESE STAB WOUNDS HAVE BEEN NUMBERED,
2 BUT THEY WERE ARBITRARILY NUMBERED GENERALLY AS WE
3 DISCOVERED THEM OR FROM TOP TO BOTTOM. THEY DO -- THEY ARE
4 NOT MEANT TO INDICATE WHAT WE FELT WERE ORDER OF OCCURRENCE.

5 THE FIRST STAB WOUND VISIBLE ARE LABELED HERE AS STAB
6 WOUND NUMBER 18. AND THEN THERE ARE THREE SEPARATE STAB
7 WOUNDS, 13, 14 AND 15. NUMBER 18 IS PRESENT ON THE RIGHT
8 FRONTAL SCALP. IT PENETRATES INTO THE SCALP TISSUE AND
9 IMPACTS THE BONE, BUT DOES NOT PENETRATE THROUGH THE BONE.
10 AND THERE WAS NO VISIBLE TRAUMA TO THE UNDERLYING BRAIN.

11 STAB WOUNDS NUMBER 13, 14 AND 15 PENETRATED TO THE
12 SUBCUTANEOUS TISSUES OR THE FATTY TISSUE BENEATH THE SKIN
13 AND INTO THE UNDERLYING MUSCLE, BUT DO NOT ENTER INTO THE
14 ORAL CAVITY AND DID NOT TRAUMATIZE UNDERLYING GREAT VESSELS
15 OF THE NECK. SO THESE WOULD BE DESCRIBED AS SUPERFICIAL
16 STAB WOUNDS.

17 THERE'S -- I'M SORRY. STAB WOUND NUMBER 12 IS PRESENT
18 ON THE BRIDGE OF THE NOSE. AGAIN, IS A SUPERFICIAL STAB
19 WOUND. GOES IN THROUGH THE SKIN AND INTO THE UNDERLYING
20 SUBCUTANEOUS TISSUES, BUT DOES NOT PENETRATE TO VITAL
21 ORGANS.

22 THIS IS A DIAGRAM REPRESENTING THE FRONT AND THE BACK
23 PORTIONS OF MR. PROCTOR. AGAIN SHOWING MULTIPLE STAB WOUNDS
24 PRESENT TO THE NECK, CHEST, ABDOMEN AND RIGHT THIGH.

25 STAB WOUND NUMBER 16 HERE PENETRATES INTO THE

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1 SUBCUTANEOUS TISSUES AND THE MUSCLE OF THE RIGHT NECK,
2 PENETRATES FOR APPROXIMATELY TWO INCHES, BUT AGAIN, DOES NOT
3 ENTER INTO THE UNDERLYING RIGHT CHEST CAVITY AND DOES NOT
4 TRAUMATIZE ANY GREAT VESSELS OF THE NECK.

5 STAB WOUND NUMBER 2 HERE IN THE MIDDLE OF THE LEFT
6 PORTION OF THE CHEST IS A DEEP STAB WOUND OF THE CHEST,
7 WHICH WENT THROUGH THE SKIN, THE UNDERLYING CHEST WALL AND
8 INTO THE LEFT VENTRICLE OF THE HEART. THERE WAS TWO HUNDRED
9 MILLILITERS OF BLOOD WITHIN THE SAC SURROUNDING THE HEART AS
10 WELL AS TWO HUNDRED MILLILITERS OF BLOOD PRESENT WITHIN THE
11 LEFT CHEST CAVITY. THIS WOUND HAD A DEPTH OF APPROXIMATELY
12 3.5 INCHES.

13 STAB WOUND NUMBER 3 HERE RIGHT AT THE LEVEL OF THE
14 UMBILICUS OR THE BELLY BUTTON, PENETRATED INTO THE SKIN,
15 THROUGH THE SKIN OF THE ABDOMINAL WALL, THROUGH THE
16 MUSCULATURE OF THE WALL AND INTO MULTIPLE LOOPS OF SMALL
17 INTESTINE AND INTO THE SOFT TISSUES ADJACENT TO THE AORTA,
18 BUT DID NOT TRAUMATIZE THE AORTA, WHICH IS THE GREAT VESSEL
19 THAT CARRIES THE BLOOD TO THE BODY, BUT WAS -- THERE WAS
20 HEMORRHAGE ADJACENT TO THE AORTA. AGAIN, THIS WOUND
21 PENETRATED FOR APPROXIMATELY 3.5 INCHES.

22 STAB WOUND NUMBER 4, WHICH IS THIS ONE HERE, AGAIN,
23 PENETRATES THROUGH THE SKIN AND MUSCLE OF THE WALL OF THE
24 ABDOMEN INTO MULTIPLE -- INTO THE UNDERLYING PERITONEAL
25 SPACE, AND AGAIN, PENETRATES FOR APPROXIMATELY 3 INCHES.

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1 AND STAB WOUND NUMBER 8 HERE GOES THROUGH THE SKIN AND
2 MUSCULATURE OF THE LEFT PORTION OF THE ABDOMEN AND
3 PENETRATES AND TRAUMATIZES THE UNDERLYING LEFT KIDNEY.

4 SO THE SIGNIFICANT STAB WOUNDS WERE NUMBER 2, WHICH
5 PENETRATED THE HEART, NUMBER 3, WHICH PENETRATED MULTIPLE
6 LOOPS OF SMALL INTESTINE, NUMBER 4, WHICH PENETRATED INTO
7 THE PERITONEAL CAVITY, AND NUMBER 8, WHICH PENETRATED INTO
8 THE LEFT KIDNEY.

9 THE REMAINING STAB WOUNDS, 1, 5, 6, 7, 9, 10 AND 11 ARE
10 SUPERFICIAL STAB WOUNDS. EVEN IF THEY GO THROUGH OR INTO OR
11 THROUGH THE ABDOMINAL WALL THEY DO NOT PENETRATE UNDERLYING
12 VISCERAL ORGANS AND HAD A LENGTH OF LESS THAN 2 -- OF
13 APPROXIMATELY 2 INCHES.

14 THE LAST STAB WOUND IS STAB WOUND NUMBER 7, WHICH, I
15 BELIEVE, IS ACTUALLY NUMBER 17, I BELIEVE, WHICH IS TO THE
16 RIGHT ANTERIOR THIGH, WHICH PENETRATES ONLY INTO THE
17 SUBCUTANEOUS TISSUES AND THE MUSCULATURE OF THE RIGHT THIGH.
18 IT DOES NOT TRAUMATIZE ANY UNDERLYING VESSELS.

19 SO THERE WERE 18 SEPARATE AND DISTINCT STAB WOUNDS OF
20 THE BODY. STAB WOUNDS ARE WOUNDS THAT ARE CREATED BY A
21 SHARP OBJECT AND ARE DEEPER THAN THEY ARE LONG. AND WE
22 CONTRAST THOSE TO INCISED WOUNDS OR CUTS, WHICH TEND TO BE
23 LONGER THAN THEY ARE DEEP.

24 AND I SAY THAT BECAUSE ON THE LEFT HAND THERE ARE TWO
25 SEPARATE INCISED WOUNDS OR CUTS. ONE TO THE BASE OF THE

MICHAEL WARD, M.D. - DIRECT EXAMINATION BY MR. GREGORY

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1 LEFT FIFTH FINGER AND ONE TO THE MID PORTION OF THE LEFT
2 RING FINGER. AND THOSE WERE THE INJURIES TO MR. PROCTOR.

3 Q. THANK YOU. YOU TESTIFIED AS TO THE KNIFE WOUNDS, THE
4 WOUNDS ON HIS FACE. WERE THERE ANY OTHER TRAUMA TO MR.
5 PROCTOR'S HEAD?

6 A. THERE WAS NOT.

7 Q. WERE YOU ABLE TO FORM AN OPINION BASED ON A REASONABLE
8 DEGREE OF MEDICAL CERTAINTY AS TO MR. PROCTOR'S CAUSE OF
9 DEATH?

10 A. YES, I WAS.

11 Q. AND WHAT IS THAT OPINION?

12 A. MR. PROCTOR DIED AS THE RESULT OF MULTIPLE STAB WOUNDS
13 OF THE CHEST AND ABDOMEN.

14 Q. I'M GOING TO SHOW YOU WHAT'S BEEN MARKED AS STATE'S
15 EXHIBIT NUMBER 11. JUST TAKE A LOOK AT THAT.

16 A. OKAY.

17 Q. BASED ON YOUR EXAMINATION OF MR. PROCTOR'S BODY WOULD
18 YOU BE ABLE TO FORM AN OPINION AS TO WHETHER OR NOT A KNIFE
19 SIMILAR TO THIS OR THIS KNIFE WAS USED CAUSING THOSE STAB
20 WOUNDS?

21 A. THERE WERE NO DISTINCT CHARACTERISTICS ABOUT THESE STAB
22 WOUNDS WITH THE EXCEPTION THAT AT LEAST SOME OF THE STAB
23 WOUNDS DEMONSTRATED ONE SHARP MARGIN OR ONE CUTTING EDGE AND
24 ONE BLUNT MARGIN OR ONE EDGE OF A KNIFE THAT DID NOT -- WAS
25 NOT SHARP, WHICH WOULD REPRESENT A STANDARD KNIFE WITH ONE

MICHAEL WARD, M.D. - CROSS EXAMINATION BY MR. ABDALLA

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1 CUTTING EDGE AND ONE BLUNT EDGE. OTHER THAN THAT THERE WERE
2 NO DISTINCT CHARACTERISTICS. SO GIVEN THAT, YES, IT IS
3 POSSIBLE THAT THIS KNIFE OR A KNIFE SIMILAR TO THIS WOULD
4 HAVE CAUSED THESE STAB WOUNDS.

5 Q. YOU SAID THAT FOR SOME OF THE INJURIES THAT A BLUNT
6 SHARP EDGE AND ONE BLUNT EDGE, WOULD THAT RULE OUT ANYTHING
7 ELSE SUCH AS A SCREWDRIVER?

8 A. THESE WOUNDS WERE NOT CREATED BY A SCREWDRIVER. THAT'S
9 CORRECT.

10 Q. PLEASE ANSWER ANY QUESTIONS THAT DEFENSE HAS FOR YOU.

11 CROSS EXAMINATION BY MR. ABDALLA:

12 Q. HEY, DR. WARD. DID YOU SEE ANY INDICATION WHERE THE
13 DECEDENT WAS STRUCK WITH A HAMMER?

14 A. NO, SIR, I DID NOT.

15 Q. AND YOU RULED OUT THE POSSIBILITY OF A SCREWDRIVER AND
16 JUST BEING A KNIFE, IS THAT CORRECT?

17 A. THAT'S CORRECT.

18 Q. AND YOU SAID THE DECEDENT WAS STRUCK SEVERAL TIMES WITH
19 A KNIFE, APPROXIMATELY EIGHTEEN TIMES?

20 A. THAT'S CORRECT.

21 Q. AND THERE WERE APPROXIMATELY FOUR WOUNDS THAT WERE
22 FATAL WOUNDS, IS THAT CORRECT?

23 A. THERE ARE FOUR WOUNDS WHICH ARE POTENTIALLY FATAL.

24 CERTAINLY THE STAB WOUND TO THE HEART WAS MOST LIKELY THE
25 FATAL ONE.

MICHAEL WARD, M.D. - REDIRECT EXAMINATION BY MR. GREGORY

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1 Q. ONE MOMENT, PLEASE.

2 (PAUSE)

3 Q. I HAVE NO FURTHER QUESTIONS. THANK YOU.

4 MR. GREGORY: I HAVE ONE QUESTION, YOUR HONOR.

5 **REDIRECT EXAMINATION BY MR. GREGORY:**

6 Q. DR. WARD, I ASKED YOU WHAT THE CAUSE OF DEATH WAS.

7 WERE YOU ABLE TO DETERMINE WHAT THE MANNER OF DEATH WAS?

8 A. YES, I WAS.

9 Q. AND WHAT WAS THAT?

10 A. THE MANNER OF DEATH WOULD BE HOMICIDE.

11 MR. GREGORY: I HAVE NO FURTHER QUESTIONS, YOUR HONOR.

12 THE COURT: ANYTHING?

13 MR. ABDALLA: NO, YOUR HONOR.

14 THE COURT: ALL RIGHT. THANK YOU, DR. WARD.

15 A. THANK YOU.

16 THE COURT: CAN WE EXCUSE HIM FROM SUBPOENA?

17 MR. ABDALLA: YES, SIR.

18 MR. GREGORY: YES, PLEASE, YOUR HONOR.

19 THE COURT: OKAY. THANK YOU, SIR.

20 A. THANK YOU.

21 MR. WESTON: YOUR HONOR, MAY WE APPROACH?

22 THE COURT: UH-HUH (AFFIRMATIVE).

23 (WHEREUPON A BENCH CONFERENCE WAS HELD OFF THE RECORD

24 IN THE PRESENCE OF THE JURY, BUT OUT OF THEIR HEARING)

25 THE COURT: OKAY.

PAUL SILVAGGIO - DIRECT EXAMINATION BY MR. WESTON

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1 MR. WESTON: YOUR HONOR, THE STATE WOULD CALL MR. PAUL
2 SILVAGGIO.

3 PAUL SILVAGGIO, BEING
4 DULY SWORN TESTIFIED AS FOLLOWS:

5 DIRECT EXAMINATION BY MR. WESTON:

6 Q. MR. SILVAGGIO, WHERE DO YOU LIVE?

7 A. I LIVE WITHIN GREENVILLE COUNTY?

8 A. AND ARE YOU MARRIED?

9 A. YES, I AM.

10 Q. HAVE ANY KIDS?

11 A. YES, I DO.

12 Q. HOW OLD ARE THEY AND WHAT ARE THE SEXES?

13 A. EXCUSE ME?

14 Q. WHAT SEX AND AGE ARE THEY?

15 A. I HAVE TWO DAUGHTERS, ONE IN COLLEGE, ONE IN ELEMENTARY
16 SCHOOL AND A SON WHO IS IN HIGH SCHOOL.

17 Q. ALL RIGHT. AND ARE YOU PRESENTLY EMPLOYED?

18 A. YES, I AM.

19 Q. COULD YOU TELL THE JURY WHERE YOU WORK AND WHAT YOU DO?

20 A. I AM A LICENSED PRIVATE INVESTIGATOR WITH ANTHONY
21 PRIOETTA AND ASSOCIATES INVESTIGATIONS, INC. HERE IN
22 GREENVILLE, SOUTH CAROLINA.

23 Q. HOW LONG HAVE YOU BEEN IN THAT POSITION?

24 A. SINCE DECEMBER THE 1ST, 2009.

25 Q. ALL RIGHT. AND YOU RECENTLY RETIRED FROM THE SHERIFF'S

PAUL SILVAGGIO - DIRECT EXAMINATION BY MR. WESTON

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1 OFFICE, IS THAT CORRECT?

2 A. YES, I DID. NOVEMBER 3RD OF 2009 I RETIRED FROM THE
3 GREENVILLE COUNTY SHERIFF'S OFFICE.

4 Q. HOW LONG WERE YOU WITH THE SHERIFF'S OFFICE?

5 A. I WAS WITH THE SHERIFF'S OFFICE FOR TWENTY-TWO AND A
6 HALF YEARS PRIOR TO RETIREMENT.

7 Q. AND WHAT RANK DID YOU RETIRE -- AT WHICH RANK DID YOU
8 RETIRE?

9 A. I WAS RETIRED -- I RETIRED AS SERGEANT OVER THE
10 HOMICIDE UNIT, SUPERVISOR OVER THE HOMICIDE UNIT.

11 Q. AND HOW LONG HAD YOU BEEN IN THE HOMICIDE UNIT
12 APPROXIMATELY?

13 A. I WAS WITHIN THE HOMICIDE UNIT FOR PROBABLY THE LAST
14 FOURTEEN, FIFTEEN YEARS OF MY CAREER.

15 Q. AND DID YOU -- HAVE YOU OVER THE LAST FOURTEEN, FIFTEEN
16 YEARS OF YOUR CAREER, HAVE YOU JUST INVESTIGATED HOMICIDES
17 HERE IN GREENVILLE COUNTY?

18 A. NO. I'VE INVESTIGATED HOMICIDES NOT ONLY IN GREENVILLE
19 COUNTY, BUT THROUGHOUT THE STATE AND THROUGHOUT THE SOUTH
20 EAST CONDUCTING AGENCY ASSISTS.

21 Q. AS A RESULT OF CALLS FROM OTHER AGENCIES WOULD YOU COME
22 AND ASSIST WITH THEIR INVESTIGATION?

23 A. THAT IS CORRECT.

24 Q. ALL RIGHT. AND ABOUT HOW MANY HOMICIDES HAVE YOU
25 INVESTIGATED IF YOU HAD TO JUST KIND OF BALLPARK?

PAUL SILVAGGIO - DIRECT EXAMINATION BY MR. WESTON

167

1 A. BALLPARK FIGURE IN APPROXIMATELY FOURTEEN YEARS WITHIN
2 THE UNIT, OVER TWO HUNDRED HOMICIDES.

3 Q. AND LET ME TAKE YOU BACK TO JUNE 21ST OF 2005. WERE
4 YOU IN THE HOMICIDE DIVISION AT THAT TIME HERE IN
5 GREENVILLE?

6 A. YES, I WAS, SIR.

7 Q. AND WERE YOU ASSIGNED TO INVESTIGATE THE JERMAINE
8 PROCTOR SLAYING?

9 A. YES, I WAS.

10 Q. ALL RIGHT. WILL YOU TELL THE JURY ABOUT WHAT WAS THE
11 INITIAL INFORMATION YOU RECEIVED, HOW YOU GET A CASE AND
12 WHAT YOUR FIRST STEPS ARE?

13 A. YES. IN THIS PARTICULAR SITUATION I WAS IN THE OFFICE
14 AT 4 MCGEE STREET RIGHT DOWN HERE JUST OFF 385. AND I WAS
15 IN MY OFFICE IN THE HOMICIDE UNIT WHERE I RECEIVED A
16 TELEPHONE CALL FROM A DETECTIVE IN THE STATE OF ALABAMA.

17 DURING THE COURSE OF OUR CONVERSATION THE DETECTIVE
18 EXPLAINED TO ME THE SITUATION OF A POLICE PURSUIT AND THAT
19 UPON THE COLLISION OF THE VEHICLE THAT THEY WERE CHASING
20 THEY ARRESTED TWO INDIVIDUALS OUT OF THE VEHICLE AND FOUND A
21 BODY OF A DECEASED INDIVIDUAL IN THE BACKSEAT OF THE
22 VEHICLE.

23 AT THAT POINT THEY BRIEFED ME ON THE VEHICLE, WHO THEY
24 FOUND THROUGH THE DEPARTMENT OF MOTOR VEHICLES THAT THE
25 VEHICLE WAS REGISTERED TO, WHICH I VERIFIED WAS TO JERMAINE

PAUL SILVAGGIO - DIRECT EXAMINATION BY MR. WESTON

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1 -- A JERMAINE PROCTOR, A RESIDENT OF GREENVILLE COUNTY,
2 SOUTH CAROLINA. ALSO THEY IDENTIFIED THE TWO INDIVIDUALS
3 THAT WERE ARRESTED FROM THE VEHICLE, WHICH I ALSO IDENTIFIED
4 THEM AS BEING FREQUENTERS AND/OR RESIDENTS OF GREENVILLE
5 COUNTY, SOUTH CAROLINA.

6 Q. DID THEY GIVE YOU THEIR NAMES?

7 A. YES, THEY DID.

8 Q. WHAT WERE THEIR NAMES?

9 A. JONATHAN CAMPBELL AND CARL SOUTHERLAND.

10 Q. ALL RIGHT.

11 A. AT THAT POINT THEY INDICATED TO ME THAT IT WAS EVIDENT
12 TO THEM THAT THEY WERE PRESENT WITH A HOMICIDE VICTIM, AT
13 THAT POINT WHO THEY BELIEVED WAS JERMAINE PROCTOR, BUT IT
14 WAS A PRELIMINARY IDENTIFICATION, NOT A DEFINITE SINCE THERE
15 WAS NOT LATENT PROCESSING, THERE WERE STAGES OF
16 DECOMPOSITION OF THE BODY. SO THE FACIAL RECOGNITION COULD
17 NOT BE -- COULD NOT TAKE PLACE.

18 AT THAT POINT I ADVISED THEM THAT WE WOULD BE EN ROUTE
19 TO THE LOCATION IN MOBILE, ALABAMA. THERE WAS A LOT OF
20 COORDINATING THAT TOOK PLACE AT THAT POINT WITH THE AGENCY
21 THAT I WAS WITH COORDINATING ALL THE WAY THROUGH MY
22 SUPERVISORY CHANNELS, MY CHAIN OF COMMAND AND BRIEFING THE
23 FRONT OFFICE COMMAND ON THE SITUATION AND ALSO COORDINATING
24 THE INVESTIGATIVE EFFORT TO MAKE SURE THAT I GATHERED A
25 TEAM.

PAUL SILVAGGIO - DIRECT EXAMINATION BY MR. WESTON

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1 AS A LEAD INVESTIGATOR IT WAS MY RESPONSIBILITY TO
2 GATHER A TEAM OF INVESTIGATORS TO INTERVIEW FAMILY, FRIENDS
3 AND WORK THE INVESTIGATION ON THE GREENVILLE, SOUTH CAROLINA
4 END WHILE I COORDINATED THE FORENSIC EFFORT, THE MEDICAL
5 EXAMINER EFFORT AND THE CORONER EFFORT ALONG WITH MY OWN
6 ACCOMMODATIONS I NEEDED TO MAKE WITH MY FAMILY FOR US TO
7 TRAVEL TO THE STATE OF ALABAMA.

8 Q. AND DID YOU TRAVEL TO THE STATE OF ALABAMA?

9 A.. YES, I DID.

10 Q. WHEN DID YOU GO?

11 A. I TRAVELED TO THE STATE OF ALABAMA ARRIVING ON OR ABOUT
12 JUNE THE 22ND OF 2005 WITH SERGEANT DAR SHAW, WHO I'VE
13 WORKED MANY, MANY CASES WITH AND WANTED HIM TO ACCOMPANY ME
14 THERE FROM THE FORENSIC DIVISION.

15 Q. ALL RIGHT. AND Y'ALL WENT TO MOBILE OR NEAR MOBILE,
16 ALABAMA, IS THAT CORRECT?

17 A. YES, WE DID, SIR.

18 Q. ALL RIGHT. AND DID ANYONE ELSE COME DOWN THERE FROM
19 GREENVILLE?

20 A. YES. ONE OF THE ---

21 Q. PART OF THE TEAM?

22 A. YES. PART OF THE TEAM, DR. MICHAEL WARD, WHO JUST
23 TESTIFIED, CHIEF FORENSIC PATHOLOGIST AND MEDICAL EXAMINER
24 FOR GREENVILLE COUNTY. I COORDINATED WITH HIM THROUGH CHIEF
25 DEPUTY CORONER, MIKE ELLIS, OF THE GREENVILLE COUNTY

PAUL SILVAGGIO - DIRECT EXAMINATION BY MR. WESTON

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1 CORONER'S OFFICE AND ARRANGED FOR HIM TO TRAVEL TO ALABAMA
2 AND MEET US THERE.

3 AS DR. WARD IS THE FORENSIC PATHOLOGIST, I ARRANGED FOR
4 HIM TO HAVE A FLIGHT TO THE STATE OF ALABAMA WHILE SERGEANT
5 SHAW AND I DROVE AND WOULD LATER MEET WITH DR. WARD THE NEXT
6 MORNING.

7 Q. ALL RIGHT. NOW THIS IS THE MORNING OF THE 23RD?

8 A. YES, SIR.

9 Q. AND THE NEXT MORNING WHEN Y'ALL MET WITH DR. WARD WAS
10 THIS FOR PURPOSES OF OBSERVING THE AUTOPSY?

11 A. YES, IT WAS, SIR.

12 Q. AND WERE YOU PRESENT FOR THE AUTOPSY THAT DR. WARD JUST
13 TESTIFIED THAT HE CONDUCTED?

14 A. YES, I WAS.

15 Q. AND WAS FORENSIC INVESTIGATOR SHAW THERE AS WELL?

16 A. YES, HE WAS.

17 Q. ALL RIGHT. AND WHAT DID Y'ALL DO AFTER THE AUTOPSY?

18 A. AFTER THE AUTOPSY IT WAS IMPERATIVE THAT WE MAKE
19 IDENTIFICATION OF THE VICTIM IN THIS CASE AS DR. WARD AT THE
20 AUTOPSY RULED THAT HE DIED OF MULTIPLE STAB WOUNDS AND GAVE
21 ME THE MANNER OF DEATH THERE IN ALABAMA AS BEING A HOMICIDE.

22 Q. NOW WHAT DOES HOMICIDE MEAN?

23 A. HOMICIDE IS THE KILLING OR TAKING OF ONE'S LIFE BY
24 ANOTHER.

25 Q. ALL RIGHT. AND AFTER THE AUTOPSY AND YOU COORDINATED

PAUL SILVAGGIO - DIRECT EXAMINATION BY MR. WESTON

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1 THAT, THE RESULTS OF THAT, WHAT DID Y'ALL DO NEXT?

2 A. AT THAT POINT I REQUESTED FROM SERGEANT SHAW THAT HE DO
3 HIS BEST BASED ON THE CONDITION OF THE BODY, TO OBTAIN
4 FINGERPRINTS FROM THE BODY IN THE RESPECT OF TAKING THE
5 VICTIM'S PRINTS FROM HIS FINGERS. SERGEANT SHAW WAS ABLE TO
6 ACCOMPLISH THAT, INDICATED TO ME THAT HE HAD SUFFICIENT
7 RIDGE DETAIL TO IDENTIFY THIS INDIVIDUAL, THIS VICTIM.

8 AT THAT POINT I CALLED BACK TO GREENVILLE COUNTY LAW
9 ENFORCEMENT CENTER WHERE I HAD THE LATENT SECTION RECORDS
10 DIVISION FAX TO ME A LEGIBLE COPY OF THE KNOWN FINGERPRINTS
11 OF JERMAINE PROCTOR.

12 AT THAT POINT, ONCE WE RECEIVED THAT, THE KNOWN CARD,
13 FINGERPRINT CARD OF JERMAINE PROCTOR FROM HERE, SERGEANT
14 SHAW REVIEWED THE PRINTS LIFTED FROM THE VICTIM ALONG WITH
15 THAT FROM THE CAR AND MADE A POSITIVE MATCH THAT THE VICTIM
16 WAS POSITIVELY IDENTIFIED AS JERMAINE PROCTOR.

17 Q. AND THIS IDENTIFICATION, I ASSUME, WAS SUPPORTED BY THE
18 -- VERIFIED BY THE REGISTRATION OF THE CAR AND THE ITEMS,
19 CERTAIN ITEMS FOUND IN THE CAR?

20 A. YES, SIR.

21 Q. AND THERE HAS BEEN NOTHING THAT Y'ALL HAVE -- THAT YOUR
22 INVESTIGATION'S UNCOVERED THAT'S INCONSISTENT WITH THAT
23 FINDING AT ALL, IS IT?

24 A. THAT'S CORRECT. IT IS THE BODY OF JERMAINE PROCTOR.

25 Q. ALL RIGHT. NOW DID YOU COORDINATE WITH LOCAL

PAUL SILVAGGIO - DIRECT EXAMINATION BY MR. WESTON

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1 AUTHORITIES THE COLLECTION OF EVIDENCE AND THE COMPILATION
2 OF EVIDENCE?

3 A. YES, WE DID.

4 Q. ALL RIGHT.

5 A. I -- WE HAD A MEETING WITH DETECTIVES FROM THE LOCAL
6 LAW ENFORCEMENT AGENCY THERE ALONG WITH DR. REDDICK OF THE
7 MEDICAL EXAMINER'S OFFICE IN THE STATE OF ALABAMA AND HIS
8 INVESTIGATOR TO HAVE SEARCH WARRANTS DRAWN UP FOR US TO
9 PROCESS THE VEHICLE THAT WAS USED IN THIS CASE, WHICH TURNED
10 OUT TO BE A JEEP CHEROKEE AS YOU HAVE SEEN HERE TODAY.

11 Q. AND DID YOU DIRECT THE PROCESS OF ISSUING -- WELL, LET
12 ME GO BACK. I'M SORRY. DID YOU COORDINATE THE
13 TRANSPORTATION OF THE EVIDENCE THAT WAS COLLECTED BACK TO
14 GREENVILLE? AND I'M GOING TO GO A LITTLE BIT AHEAD AND I'M
15 GOING TO COME BACK.

16 A. YES, I DID, SIR.

17 Q. TELL THE JURY WHAT THAT PROCESS ENTAILED LOGISTICALLY.

18 A. WHAT WE NEED TO DO IS SERGEANT SHAW WAS THE SOLE
19 COLLECTOR OF THE EVIDENCE. AND HE PACKAGED THE EVIDENCE
20 THERE IN THE STATE OF ALABAMA AND THEN TRANSPORTED IT BACK
21 IN MY CAR.

22 MY TRUNK IS EQUIPPED -- IT'S A POLICE CROWN VICTORIA,
23 UNMARKED CROWN VICTORIA VEHICLE THAT HAS TWO LOCKING
24 MECHANISMS IN IT FOR THE PURPOSE OF TRANSPORTING EVIDENCE
25 OUT OF STATE AND BACK INTO THE STATE. ONE IS THE STANDARD

PAUL SILVAGGIO - DIRECT EXAMINATION BY MR. WESTON

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1 LOCKING MECHANISM THAT WE ALL HAVE ON OUR VEHICLES WITH A
2 KEY IN THE CENTER OF THE TRUNK LID. AND ANOTHER IS A LARGE
3 THICK TOWING TYPE CHAIN ATTACHED TO THE TOP LEDGE OF THE
4 TRUNK LID AND THE BODY OF THE VEHICLE, AND BRING THE VEHICLE
5 DOWN -- THE LID DOWN ABOUT TWO INCHES AND THEN SLIDE A LOCK,
6 A TAMPER PROOF LOCK INTO THERE AND AFFIX THAT, AND THEN SLAM
7 THE TRUNK DOWN.

8 Q. AND DID YOU DO THAT IN THIS CASE ---

9 A. YES, I ---

10 Q. --- WITH THE EVIDENCE?

11 A. YES, I DID.

12 Q. IT HAD BEEN PLACED IN THE TRUNK?

13 A. IT WAS PLACED IN THE TRUNK AND SECURED AT THAT POINT TO
14 TRANSPORT BACK TO GREENVILLE.

15 Q. AND WHEN DID Y'ALL COME BACK? I KNOW I'M GETTING A
16 LITTLE BIT AHEAD, BUT LET ME JUST ASK WHEN DID YOU RETURN TO
17 GREENVILLE?

18 A. THE EVIDENCE WAS SECURED IN THE STATE OF ALABAMA WITH
19 THE MEDICAL EXAMINER'S OFFICE. AND THEN UPON THE DAY OF US
20 COMING BACK TO GREENVILLE, SOUTH CAROLINA WE LOADED THE
21 EVIDENCE UP INTO MY VEHICLE. BECAUSE OF THE -- THERE WAS AN
22 ODOR FACTOR THAT WE COULD NOT NEUTRALIZE, AND WE DID NOT
23 WANT TO CONTAMINATE THE EVIDENCE, SO WE DID OUR BEST TO TRY
24 TO NEUTRALIZE THE OUTSIDE PACKAGING OF THAT EVIDENCE AND PUT
25 IT IN THE TRUNK AND THEN DRIVE IT STRAIGHT BACK TO

PAUL SILVAGGIO - DIRECT EXAMINATION BY MR. WESTON

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1 GREENVILLE, SOUTH CAROLINA WHERE IT WAS PLACED IN FORENSIC'S
2 DRYING ROOM.

3 Q. ALL RIGHT. AND ONCE THE EVIDENCE WAS BACK HERE, I
4 ASSUME, MR. SHAW HANDLED THE PLACING IT IN THE DRYING ROOM
5 AND HE BECAME THE CUSTODIAN AT THAT POINT?

6 A. HE WAS EXCLUSIVELY, YES. IT NEVER LEFT THE CUSTODY OF
7 SERGEANT SHAW.

8 Q. AND I DON'T WANT YOU TO NECESSARILY GO INTO ANY DETAILS
9 ABOUT WHO YOU TALKED TO OR WHATEVER, BUT WOULD YOU OVERSEE
10 THE ISSUING AND PROCESSING OF ARREST WARRANTS AGAINST MR.
11 SOUTHERLAND AND MR. CAMPBELL?

12 A. I OVERSAW THAT PROCESS. I COMMUNICATED BACK INTO
13 GREENVILLE THAT I NEEDED AN INDIVIDUAL IN THE UNIT THAT I
14 WAS ASSIGNED TO ISSUE -- TO APPLY FOR AND GIVE APPLICATION
15 TO A GREENVILLE COUNTY HONORABLE MAGISTRATE FOR THE ISSUANCE
16 OF MURDER WARRANTS FOR BOTH OF THEM.

17 Q. NOW AT THIS POINT YOU'RE TWO OR THREE DAYS INTO THE
18 INVESTIGATION, I THINK?

19 A. YES, SIR.

20 Q. NOW -- AND THERESA FORD'S NAME HAS COME UP AS THE
21 GIRLFRIEND OF THE DECEASED, IS THAT CORRECT?

22 A. YES, THAT'S CORRECT.

23 Q. DID YOU ASSIGN THE TAKING OF A STATEMENT FROM MS. FORD
24 AND HER VIEWING A PHOTO LINE-UP TO ANOTHER INVESTIGATOR?

25 A. YES, I DID.

PAUL SILVAGGIO - DIRECT EXAMINATION BY MR. WESTON

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1 Q. AND WHO WOULD THAT HAVE BEEN?

2 A. I ASSIGNED IT TO MICHAEL McNAMARA, WHO IS -- AT THAT
3 TIME WAS AN INVESTIGATOR IN THE UNIT, IS NOW ONE OF THE
4 SUPERVISORS AT THE SHERIFF'S OFFICE. I ASSIGNED HIM TO
5 INTERVIEW THE GIRLFRIEND, MS. FORD.

6 Q. NOW ONCE YOU RETURNED TO GREENVILLE BASICALLY YOUR JOB
7 IS JUST TO SORT OF TIE UP LOOSE ENDS AND DO THE PAPERWORK?

8 A. IT IS, SIR. YES.

9 Q. ALL RIGHT. NOW LET'S TALK ABOUT THE KNIFE THAT'S BEEN
10 INTRODUCED INTO EVIDENCE. DID YOU -- AND I'D LIKE TO HAND
11 IT UP TO YOU. YOU'VE SEEN IT BEFORE?

12 A. YES, I HAVE.

13 Q. AND DID YOU SEE IT WHEN YOU WERE IN ALABAMA AND WERE
14 OVERSEEING THE INVESTIGATION BY MR. SHAW?

15 A. YES, I WAS. AND I DID.

16 Q. AND YOU WERE PRESENT -- WERE YOU PRESENT WHEN HE
17 PROCESSED THE CAR?

18 A. YES, I WAS.

19 Q. DID YOU SEE THAT THERE WAS BLOOD ON THE KNIFE?

20 A. I SAW THAT THERE WAS SUSPECTED BLOOD ON THE KNIFE, YES.

21 Q. ALL RIGHT. NOW DID -- THERE WERE SOME QUESTIONS ASKED
22 OF MR. SHAW WITH REGARD TO THE FINGERPRINTING OF THE KNIFE.
23 THAT IS NOT YOUR AREA, IS IT?

24 A. IT IS NOT MY AREA AS TO -- IF I MAY ---

25 Q. YES, YOU MAY.

PAUL SILVAGGIO - DIRECT EXAMINATION BY MR. WESTON

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1 A. --- EXPLAIN? GREENVILLE COUNTY IS VERY FORTUNATE TO
2 HAVE A VERY COMPETENT FORENSIC DIVISION. THEY'RE A SEPARATE
3 ENTITY FROM THE SHERIFF'S OFFICE, FROM THE CITY POLICE
4 DEPARTMENT. AND THEY'RE VERY COMPETENT. AND THAT EXPLAINS
5 WHY I REQUESTED THE RESPONSE OF SERGEANT SHAW TO GO TO
6 ALABAMA WITH ME. THEY HAVE A TEAM OF PEOPLE THAT THAT'S
7 WHAT THEY DO FOR A LIVING. AND THEY'RE VERY, VERY GOOD AT
8 IT.

9 I LEAVE A LOT OF THOSE DETERMINATIONS UP TO THE
10 FORENSIC PERSONNEL AS TO HOW WE WANT TO HANDLE A SPECIFIC
11 PIECE OF EVIDENCE IN THE PROCESSING STAGES. WITH THEIR
12 EXPERIENCE AND WITH MY EXPERIENCE WE KIND OF CAME TOGETHER
13 AND DETERMINED THAT SINCE THERE WAS NO RIDGE DETAIL
14 IDENTIFIED THAT IT WOULD BE BEST TO WEIGH -- PUT THE GREATER
15 WEIGHT ON DNA ANALYSIS AS OPPOSED TO FORENSIC LATENT
16 EXAMINATION WHERE THAT DNA MAY BE DESTROYED. SO I OPTED FOR
17 THE GREATER.

18 Q. EXCUSE ME. I'M SORRY. NOW AT THIS POINT DO YOU KNOW
19 EXACTLY WHERE THE INVESTIGATION IS HEADED? YOU'VE GOT
20 SUSPECTS, BUT DO YOU KNOW EXACTLY WHERE THE INVESTIGATION IS
21 HEADED AS TO EXACTLY HOW THIS HAPPENED YET OR IS THAT STILL
22 BEING DETERMINED? AND WHEN I SAY INVESTIGATION, I MEAN
23 WHERE THE -- WHAT CONCLUSIONS YOU WERE GOING TO REACH. HAD
24 YOU REACHED CONCLUSIONS, ULTIMATE CONCLUSIONS YET?

25 A. DIDN'T NECESSARILY REACH CONCLUSIONS. WHAT WE DID WAS

PAUL SILVAGGIO - DIRECT EXAMINATION BY MR. WESTON

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1 BASED ON INFORMATION WE RECEIVED IN THE STATE OF ALABAMA
2 ALONG WITH THE COOPERATION OF LAW ENFORCEMENT THERE AND
3 INTERVIEWS THAT WERE CONDUCTED IN THE STATE OF ALABAMA BY
4 THE LAW ENFORCEMENT AUTHORITIES IN THE STATE AND
5 COMMUNICATING BACK WITH THE INVESTIGATORS I HAD ASSIGNED TO
6 THE CASE HERE TO ASSIST ON THIS END, WE MADE SOME
7 DETERMINATIONS AT THAT POINT.

8 Q. AND JUST SO I CAN -- THAT WE CAN MAKE SURE THE JURY
9 UNDERSTANDS IT, AND I UNDERSTAND, WE'VE GOT A KNIFE WITH
10 BLOOD ON THE BLADE AND A PLASTIC HANDLE THAT COULD OR COULD
11 NOT BE AVAILABLE FOR LATENT FINGERPRINT.

12 A. YES, SIR.

13 Q. AND MR. SHAW'S TESTIFIED HE MADE THE DECISION NOT TO
14 FINGERPRINT, BUT TO CONCENTRATE ON THE DNA ON THE BLOOD. DO
15 YOU KNOW WHAT WOULD HAVE HAPPENED HAD YOU TRIED TO
16 FINGERPRINT -- TRIED TO PROCESS THE KNIFE FOR FINGERPRINTS,
17 WHAT POSSIBLY COULD HAPPEN?

18 MR. ABDALLA: OBJECTION, YOUR HONOR. I DON'T KNOW IF
19 HE'S BEEN QUALIFIED AS A WITNESS WITH REGARD TO PRINTS OR
20 DNA.

21 THE COURT: ASK THE QUESTION AGAIN.

22 MR. WESTON: I ASKED HIM DO YOU KNOW WHAT COULD
23 POSSIBLY HAVE HAPPENED HAD THEY TRIED TO PROCESS THE HANDLE
24 END OF THE KNIFE TO WHAT COULD HAVE POSSIBLY HAPPENED TO THE
25 DNA AND THE BLOOD? AND I'D JUST BASE IT ON HIS EXPERIENCE,

PAUL SILVAGGIO - DIRECT EXAMINATION BY MR. WESTON

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1 YOUR HONOR, AS AN INVESTIGATOR.

2 MR. ABDALLA: I DON'T BELIEVE HE'S COMPETENT TO ANSWER
3 THAT, YOUR HONOR.

4 THE COURT: YEAH, I'M GOING TO HAVE TO SUSTAIN THAT
5 OBJECTION.

6 MR. WESTON: ALL RIGHT.

7 Q. SO THE -- ULTIMATELY THERE WAS NO FINGERPRINT, LATENT
8 FINGERPRINT IDENTIFICATION DONE ON THE KNIFE, IS THAT
9 CORRECT?

10 A. NO, THERE WAS NOT.

11 Q. AND THAT WAS MR. SHAW'S DECISION?

12 A. THAT'S CORRECT.

13 Q. DID YOU CONCUR WITH THAT DECISION?

14 A. YES, I DID.

15 Q. DID YOU HAVE THE AUTHORITY TO OVERRULE HIM AS THE TEAM
16 LEADER?

17 A. ABSOLUTELY, YES.

18 Q. BUT YOU DIDN'T?

19 A. NO, I DID NOT.

20 Q. OKAY. NOW ULTIMATELY THE KNIFE WAS NEVER -- THERE WERE
21 NEVER ANY DNA TEST RESULTS ON THE BLOOD ON THE BLADE OF THE
22 KNIFE, IS THAT CORRECT? AND WE'RE TALKING MONTHS DOWN THE
23 ROAD, BUT I WANT TO GO AHEAD AND GET IT IN AND RESOLVE THAT
24 ISSUE. IS THAT CORRECT?

25 MR. ABDALLA: YOUR HONOR, HE'S LEADING THE WITNESS JUST

PAUL SILVAGGIO - DIRECT EXAMINATION BY MR. WESTON

179

1 FOR ---

2 MR. WESTON: I'LL REPHRASE, YOUR HONOR.

3 Q. ULTIMATELY WERE THERE EVER ANY CONCLUSIVE DNA TESTING
4 DONE ON THE KNIFE BLADE TO MATCH TO THE VICTIM OR ANYBODY?

5 A. WE DO NOT HAVE A MATCH TO THE BLOOD THAT WAS FOUND ON
6 THE KNIFE.

7 Q. ALL RIGHT. AND TELL THE JURY WHY NOT.

8 A. WELL, AT AUTOPSY IN THE STATE OF ALABAMA, WHICH IS VERY
9 COMMON ON ANY DEATH THAT WE WORK, YOU OBTAIN A BLOOD SPOT OF
10 THE PERSON THAT'S BEING AUTOPSIED. AND IT'S MERELY JUST A
11 DROP OF BLOOD THAT'S SUFFICIENT FOR THE LAB ---

12 MR. ABDALLA: OBJECTION, YOUR HONOR, FROM A -- I DON'T
13 KNOW HOW -- WHERE HE'S GOING WITH THIS EXACTLY, BUT IT
14 DOESN'T SOUND LIKE HE -- IT SOUNDS SOMEWHAT LIKE EXPERT
15 TESTIMONY AS TO ---

16 THE COURT: HE'S NOT -- HE HASN'T RENDERED AN OPINION.
17 HE'S JUST TALKING ABOUT WHAT HE KNOWS IN HIS EXPERIENCE AS A
18 HOMICIDE INVESTIGATOR. SO ...

19 MR. ABDALLA: WELL, AS I SAID, I DIDN'T KNOW WHERE HE
20 WAS GOING WITH IT, YOUR HONOR.

21 THE COURT: WELL, WAIT. OKAY. OVERRULED. GO AHEAD.

22 Q. TELL THE JURY WHAT YOU OBSERVED IN THIS CASE WITH
23 REGARD TO THE DROP OF BLOOD YOU WERE JUST TALKING ABOUT.

24 A. THE DROP OF BLOOD, THE DROPLET OF BLOOD IS PLACED ON A
25 STERILE GAUZE AT AUTOPSY. IT'S SEALED AND WAS TRANSPORTED

PAUL SILVAGGIO - DIRECT EXAMINATION BY MR. WESTON

180

1 BACK TO GREENVILLE. AT THAT TIME I SENT THAT KNOWN BLOOD
2 SPOT OF JERMAINE PROCTOR ALONG WITH THE KNIFE TO THE SOUTH
3 CAROLINA LAW ENFORCEMENT DIVISION IN COLUMBIA WHERE THEY
4 CONDUCT ALL OF OUR DNA ANALYSIS ON OUR EVIDENCE. THEY DO
5 THE FORENSIC DNA ANALYSIS.

6 THEY REPORTED BACK TO ME THAT THE BLOOD SPOT THAT WAS
7 TAKEN, EXTRACTED FROM THE BODY OF MR. PROCTOR IN MY
8 PRESENCE, ---

9 MR. ABDALLA: OBJECTION, YOUR HONOR. I'D LIKE TO
10 APPROACH, PLEASE.

11 THE COURT: OKAY. COME ON UP.

12 (WHEREUPON A BENCH CONFERENCE WAS HELD OFF THE RECORD
13 IN THE PRESENCE OF THE JURY, BUT OUT OF THEIR HEARING)

14 Q. MR. SILVAGGIO, TELL THE JURY WHAT THE PEOPLE AT SLED
15 TOLD YOU ABOUT THE BLOOD SPOT.

16 A. THE BLOOD SPOT WAS DECOMPOSED AND DID NOT PROVIDE ANY
17 DNA PROFILE TO CONDUCT A MATCH TO ANY EVIDENCE I SENT
18 SUBSEQUENT TO IT.

19 Q. NOW TIME-WISE THIS IS MONTHS LATER?

20 A. IT IS, YES.

21 Q. WAS THERE ANY WAY TO GET THE BODY BACK AT THAT POINT TO
22 GET HAIR OR ANYTHING ELSE?

23 A. NO. AND -- NO. HIS -- THE BLOOD SPOT'S PRESERVED.

24 ONCE WE RECEIVE IT AT AUTOPSY FROM THE BODY, THAT BLOOD

25 SPOT'S PRESERVED. SO THERE WAS NO OTHER ALTERNATIVE AS IT

PAUL SILVAGGIO - DIRECT EXAMINATION BY MR. WESTON

181

1 PERTAINED TO THE BODY OF JERMAINE PROCTOR TO TRY TO GET ANY
2 ADDITIONAL EVIDENCE AS WE MAY CUSTOMARILY LIKE BONE MARROW
3 OR THINGS OF THAT NATURE.

4 Q. DID YOU EVEN CONSIDER CALLING THIS VICTIM'S FAMILY AND
5 ASKING THEM COULD YOU EXHUME THE BODY AFTER WHAT HIS BODY
6 HAD ALREADY BEEN THROUGH?

7 A. I WOULD NOT ---

8 Q. DID YOU ---

9 A. --- NOT DO THAT.

10 Q. --- EVEN THINK ABOUT DOING THAT?

11 A. I WOULD NOT, NO.

12 Q. IS THERE ANY SET OF CIRCUMSTANCES WHERE YOU WOULD HAVE
13 DONE THAT?

14 A. IF I HAD DIFFERENT CIRCUMSTANCES, POSSIBLY, BUT UNDER
15 THIS CASE AND UNDER THE INFORMATION ---

16 MR. ABDALLA: OBJECTION, YOUR HONOR. I ---

17 THE COURT: YEAH, THIS IS NOT RELEVANT.

18 MR. WESTON: I'LL MOVE ON, YOUR HONOR.

19 Q. WERE BOTH THE DEFENDANTS EXAMINED WITHOUT THEIR CLOTHES
20 IN ALABAMA TO DETERMINE IF THEY HAD ANY CUTS?

21 A. YES.

22 Q. WHAT WERE THE RESULTS OF THAT EXAMINATION?

23 A. NO CUTS, NO EXTERIOR INJURIES OBSERVED ON THEIR BODIES.

24 Q. DID -- WERE THERE ANY OTHER POSSIBLE BLOOD MATCHING
25 SUSPECTS INVOLVED OR THAT CAME TO LIGHT IN YOUR

PAUL SILVAGGIO - DIRECT EXAMINATION BY MR. WESTON

182

1 INVESTIGATION OTHER THAN THE VICTIM IN THE CAR WITH THE
2 KNIFE AND THE BLOOD WERE FOUND?

3 A. NO, THERE WERE NOT. OUTSIDE OF THOSE THREE
4 INDIVIDUALS, THE TWO DEFENDANTS AND THE VICTIM, NO.

5 Q. SUBSEQUENTLY DID MR. SOUTHERLAND IDENTIFY THE KNIFE AS
6 THE MURDER WEAPON?

7 A. YES.

8 Q. AS THE MURDER WEAPON THAT KILLED JERMAINE PROCTOR?

9 A. YES, SIR.

10 Q. DID THAT SATISFY YOU THAT THE BLOOD ON THE KNIFE WAS
11 JERMAINE PROCTOR'S?

12 A. YES.

13 Q. LET'S TALK ABOUT GUNS FOR A MOMENT, JUST BRIEFLY. YOU
14 WERE AWARE THAT THE DEFENDANT, MR. CAMPBELL'S MOTHER, HAD
15 GIVEN A STATEMENT CONCERNING WHAT SHE HAD BEEN TOLD BY HER
16 SON HAPPENED?

17 A. YES, SIR.

18 Q. AND WHAT DID SHE INDICATE -- WELL, IT'S ALREADY --
19 SHE'S ALREADY TESTIFIED SHE INDICATED IT WAS A GUNSHOT
20 SITUATION?

21 A. YES, SIR.

22 Q. SO DID YOU INVESTIGATE THE POSSIBILITY THAT THERE WAS A
23 GUN INVOLVED IN THIS CASE IN SOME FORM OR FASHION?

24 A. YES. DID A -- ACTUALLY INVESTIGATED SORT OF A TWO FOLD
25 WHILE IN THE STATE OF ALABAMA. ONE, CONSULTING WITH DR.

PAUL SILVAGGIO - DIRECT EXAMINATION BY MR. WESTON

183

1 MICHAEL WARD AS TO ANY GUNSHOT WOUNDS OBSERVED ON THE BODY,
2 WHICH HE REPORTED THE BODY WAS ABSENT OF ANY GUNSHOT WOUNDS,
3 WAS NOT SHOT.

4 AND ALSO THE INSPECTION AND THE PROCESSING OF THE
5 VEHICLE BELONGING TO JERMAINE PROCTOR BY SERGEANT SHAW, I
6 CONSULTED WITH HIM, AND THERE WERE NO GUNSHOT WOUNDS, I'M
7 SORRY, GUNSHOT HOLES, EVIDENCE FOUND INSIDE THE VEHICLE.

8 Q. NO CASINGS OR ANYTHING LIKE THAT?

9 A. NO, THERE WERE NOT.

10 Q. ALL RIGHT. FINALLY, LET'S TALK ABOUT CHARGES AGAINST
11 THE DEFENDANT. BOTH DEFENDANTS WERE CHARGED WITH MURDER, IS
12 THAT CORRECT?

13 A. YES, SIR.

14 Q. WAS THAT AT YOUR DIRECTION?

15 A. YES, SIR.

16 Q. AND WHY WERE BOTH DEFENDANTS CHARGED WITH MURDER? WHY
17 DID YOU CHARGE BOTH DEFENDANTS WITH MURDER?

18 A. BASED ON THE TOTALITY OF WHAT I HAD IN GREENVILLE THAT
19 I'VE GOT THE VICTIM WAS LAST SEEN IN GREENVILLE COUNTY, HE
20 WAS LAST SEEN WITH THESE INDIVIDUALS, THERE WAS A SERIES OF
21 EVENTS THAT TOOK PLACE PRIOR TO THE DISAPPEARANCE OF THE
22 VICTIM, AND OF MR. JONATHAN CAMPBELL BY VIRTUE OF HIS MOTHER
23 REPORTING IT TO THE POLICE, THE INTERVIEW WITH THE
24 GIRLFRIEND, COMPOUNDED WITH THE VEHICLE LEAVING -- GOING
25 THROUGH AT LEAST TWO STATES, ACTIVITY BETWEEN THOSE STATES

PAUL SILVAGGIO - CROSS EXAMINATION BY MR. ABDALLA

184

1 WITH PAWN SHOPS, FUELING, THINGS OF THAT NATURE THAT WOULD
2 NEED TO BE DONE, THE STAGE OF THE BODY BEING IN THE
3 BACKSEAT, THE DECEASED BODY BEING IN THE BACKSEAT FOR THE
4 COUPLE DAY PERIOD OF TIME, THE PRESENCE OF THE KNIFE OR A
5 KNIFE THAT WE LATER TESTED, AND THE -- THERE WAS NO
6 REASONABLE -- WE COULD NOT FIND A GUN, NOR ANY EVIDENCE THAT
7 A GUN WAS USED, THAT THESE PEOPLE, ALL THREE, TRAVELED
8 TOGETHER FROM THE STATE OF SOUTH CAROLINA, GREENVILLE
9 COUNTY, TO AND THROUGH TWO STATES TO WHERE THEY WERE
10 INVOLVED IN A VEHICLE PURSUIT AND TRAVELED WITH A DECEASED
11 BODY IN THE VEHICLE FOR THOSE HOT SUMMER DAYS IN A
12 DECOMPOSED STATE WHILE TRAVELING WITH HIM.

13 THEY ALLEGEDLY, YOU KNOW, MAY HAVE GOT RID OF A GUN AS
14 THEY REPORTED TO ME EARLIER IN THE ONSET OF THIS, BUT THEY
15 KEPT THE BODY, BUT DIDN'T KEEP THE GUN. AND SO WITH ALL
16 THAT TOGETHER THEY WERE TOGETHER AND THEY BOTH WORKED THE
17 DESIGN, IF YOU WILL, OF THE KILLING AND THE TRANSPORTING
18 AWAY OF THE BODY OF JERMAINE PROCTOR IN THE HOMICIDE.

19 Q. THANK YOU VERY MUCH, MR. SILVAGGIO. ANSWER ANY
20 QUESTIONS COUNSEL MIGHT HAVE FOR YOU.

21 A. YES, SIR.

22 MR. ABDALLA: ONE MOMENT, PLEASE.

23 (PAUSE)

24 CROSS EXAMINATION BY MR. ABDALLA:

25 Q. DETECTIVE SILVAGGIO, WHEN YOU WENT DOWN TO ALABAMA YOU

PAUL SILVAGGIO - CROSS EXAMINATION BY MR. ABDALLA

185

1 SAW BOTH DEFENDANTS, CORRECT? MR. SOUTHERLAND AND MR.

2 CAMPBELL? YOU SAID YOU CHECKED THEIR BODY BEFORE. IS THAT

3 NOT RIGHT?

4 A. THEIR BODIES WERE CHECKED.

5 Q. ALL RIGHT. SO YOU DIDN'T HAVE FIRSTHAND KNOWLEDGE?

6 A. I HAVE FIRSTHAND KNOWLEDGE ON ONE. AND THE DETECTIVES

7 DID CONDUCT AN INSPECTION OF THE BODY OF THE OTHER.

8 MR. ABDALLA: ONE MOMENT.

9 A. THROUGH PHOTOGRAPHS.

10 (PAUSE)

11 Q. WHEN YOU WERE TALKING ABOUT NO MARKS, DO YOU NOT RECALL

12 CARL HAVING A BITE MARK ON HIS LEFT ARM?

13 A. I DON'T RECALL THAT.

14 Q. AND YOU HAVE NO REPORT OF THAT?

15 A. CARL SOUTHERLAND ---

16 Q. YES.

17 A. --- HAVING A BITE MARK? I DON'T RECALL THAT.

18 Q. AND DO YOU RECALL A MARK ON MR. CAMPBELL'S THUMB?

19 A. I DON'T RECALL THAT.

20 Q. DID YOU SEE ANY OF THE SUPERFICIAL WOUNDS HE HAD?

21 A. NO. AND THAT WOULD HAVE BEEN THE BASIS OF OUR

22 INSPECTION. THAT'S WHY, WHICH MAY SOUND LUDICROUS, BUT WHY

23 I HAVE PEOPLE PHOTOGRAPHED, DEFENDANTS PHOTOGRAPHED CLOTHED

24 AND UNCLOTHED, THREE HUNDRED AND SIXTY DEGREES OF THEIR BODY

25 TO PICK UP ON ANY INJURIES THAT MAY COME UP LATER. AND I DO

PAUL SILVAGGIO - CROSS EXAMINATION BY MR. ABDALLA

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1 NOT RECALL ANY ON EITHER OF THEIR BODIES.

2 Q. SPEAKING OF CLOTHES, DID YOU SEE THE CLOTHES THAT CARL
3 SOUTHERLAND HAD?

4 A. WE SECURED THE CLOTHING. SERGEANT SHAW SECURED THE
5 CLOTHING FROM BOTH DEFENDANTS.

6 Q. AND AS BOTH HAD BLOOD, DID YOU NOT -- DID YOU NOT FIND
7 THAT CARL SOUTHERLAND'S CLOTHES WERE SOAKED IN BLOOD?

8 A. WE FOUND THAT THERE WERE SUSPECTED TRACES OF BLOOD ON
9 BOTH.

10 Q. AND YOU DIDN'T FIND THAT CARL SOUTHERLAND'S HAD MUCH
11 MORE BLOOD?

12 A. I'M NOT QUALIFIED TO GAGE HOW MUCH THE QUANTITY OF
13 BLOOD ON ONE SET OF CLOTHING VERSUS THE OTHER AS TO
14 QUANTITY. I'M NOT QUALIFIED TO SAY THAT.

15 Q. WELL, AS THE INVESTIGATIVE OFFICER YOU WERE QUALIFIED
16 TO ANSWER QUESTIONS ABOUT DNA IT SEEMS. SO ---

17 MR. WESTON: OBJECTION, YOUR HONOR.

18 THE COURT: YEAH, THAT'S ARGUMENT. OKAY.

19 Q. YOU DIDN'T OBSERVE MORE BLOOD ON HIS CLOTHES THAN YOU
20 DID ON JONATHAN'S? WHAT APPEARED TO BE MORE BLOOD?

21 A. TO QUANTITATE HOW MUCH IS ON ONE OR THE OTHER, I'M NOT
22 QUALIFIED TO SAY.

23 Q. BUT YOU'RE NOT QUALIFIED, I WOULD ASSUME TO ANSWER THE
24 QUESTION -- WELL, LET ME ASK IF YOU KNOW WAS THE KNIFE
25 AND/OR A SCREWDRIVER CHECKED FOR DNA, NOT ONLY FOR BLOOD,

PAUL SILVAGGIO - CROSS EXAMINATION BY MR. ABDALLA

187

1 FOR ANY DNA TO MATCH TO THE TWO DEFENDANTS IN THE CASE?

2 A. YES, IT WAS.

3 Q. IT WAS?

4 A. YES, IT WAS.

5 Q. IS THERE A REPORT TO THAT EFFECT?

6 A. YES, THERE IS.

7 MR. ABDALLA: I'VE NEVER SEEN THIS REPORT, YOUR HONOR.

8 MR. WESTON: YOUR HONOR, MAY WE APPROACH?

9 THE COURT: YEAH, COME UP.

10 (WHEREUPON THE ATTORNEYS WERE CONSULTING OFF THE RECORD
11 IN THE PRESENCE OF THE JURY)

12 THE COURT: HEY.

13 (WHEREUPON A BENCH CONFERENCE WAS HELD OFF THE RECORD
14 IN THE PRESENCE OF THE JURY, BUT OUT OF THEIR HEARING)

15 THE COURT: MR. WESTON, COME BACK FOR A SECOND.

16 MR. WESTON: SORRY, YOUR HONOR.

17 (WHEREUPON THE BENCH CONFERENCE WAS CONTINUED)

18 THE COURT: ALL RIGHT. MADAME FORELADY, LADIES AND
19 GENTLEMEN OF THE JURY, I NEED TO DISCUSS A LEGAL ISSUE WITH
20 THE ATTORNEYS. AND SO I'M GOING TO EXCUSE YOU TO YOUR ROOM.
21 DON'T DISCUSS THE CASE YET.

22 AND I'M NOT SURE HOW LONG IT'S GOING TO TAKE. SO I MAY
23 CUT YOU LOOSE FOR LUNCH BEFORE I BRING YOU BACK. AND IF I
24 DO THAT, I'M NOT GOING TO COME BACK AND TELL YOU. IF YOU
25 ARE CUT LOOSE FOR LUNCH, REMEMBER NOT TO TALK ABOUT THE CASE

PAUL SILVAGGIO - VOIR DIRE BY MR. ABDALLA

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1 WITH ANYBODY. DON'T DO ANY INDEPENDENT RESEARCH. AND I'LL
2 LET YOU KNOW WHETHER OR NOT YOU'RE COMING BACK HERE OR
3 YOU'RE GOING OUT INTO A BEAUTIFUL FIFTY DEGREE WEATHER WE'RE
4 HAVING TODAY. ALL RIGHT. THANK YOU.

5 (WHEREUPON THE JURY EXITED THE COURTROOM AT 12:37 PM)

6 THE COURT: ALL RIGHT, MR. ABDALLA, YOU'RE DRIVING THIS
7 BUS.

8 VOIR DIRE BY MR. ABDALLA:

9 Q. DETECTIVE SILVAGGIO, I WAS ASKING YOU ABOUT DNA
10 TESTING. AND ---

11 THE COURT: YOU'RE GOING TO HAVE TO DO IT THROUGH
12 EXAMINATION.

13 MR. ABDALLA: I'M SORRY?

14 THE COURT: YOU ARE CONCERNED ABOUT HE SAYS THAT A
15 REPORT WAS MADE THAT YOU HAVEN'T RECEIVED, IS THAT RIGHT?

16 MR. ABDALLA: THAT I COULDN'T FIND. AGAIN, I'M NOT
17 GOING TO ACCUSE HIM OF NOT HANDING IT TO ME. I JUST ---

18 THE COURT: WHAT HAVE YOU GOT?

19 A. LET ME HAND IT UP TO YOU, SIR.

20 THE COURT: YEAH, I'LL TAKE A LOOK AT IT. THANK YOU.

21 (PAUSE)

22 THE COURT: OKAY. HERE YOU GO.

23 MR. WESTON: YOUR HONOR, IF I COULD JUST -- IF HE COULD

24 OR MR. ABDALLA PUBLISH THE DATE OF THE REPORT AND HOW IT'S

25 HEADED SO I CAN -- WE'RE TRYING TO -- TRYING TO FIND IT.

PAUL SILVAGGIO - VOIR DIRE BY MR. ABDALLA

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1 AND WE DON'T KNOW WHAT WE'RE LOOKING FOR.

2 THE COURT: WELL, THERE IT IS. Y'ALL TAKE A LOOK AT
3 IT.

4 (PAUSE)

5 MR. WESTON: YOUR HONOR, WE ARE NOT ABLE TO LOCATE A
6 DISCOVERY LETTER AFTER AUGUST OF -- AUGUST, I THINK, 2ND OF
7 '06. SO THE ONLY ONES WE HAVE IN OUR -- WITH US RIGHT NOW
8 ARE THE BEFORE THAT. WE'VE GOT ALL OF THESE LETTERS ON THE
9 COMPUTER, HOWEVER, IN OUR OFFICE. WE SHOULD BE ABLE TO
10 BRING UP WHETHER ANOTHER DISCOVERY LETTER WAS SENT AFTER
11 THAT. IF NOT AND WE CAN'T FIND IT, THEN THIS WAS NOT SENT
12 TO HIM BECAUSE WE DON'T HAVE A COPY OF ANYTHING AFTER AUGUST
13 THE 2ND WHEN THIS REPORT WAS PUBLISHED.

14 MR. ABDALLA: AND AGAIN, JUDGE, I'M NOT ACCUSING THEM
15 OF ANYTHING. I COULD HAVE MISPLACED IT JUST AS EASILY. I
16 JUST ---

17 THE COURT: WELL, WE -- YOU MEAN YET.

18 MR. WESTON: AND I'M NOT SURE, YOUR HONOR, ---

19 THE COURT: WHAT IF YOU FIND OUT THEY DON'T -- THEY
20 HAVEN'T SENT IT TO YOU? THEN ARE YOU GOING TO ACCUSE HIM?

21 MR. ABDALLA: I WOULDN'T ACCUSE HIM OF ANYTHING
22 MALICIOUS.

23 MR. WESTON: YOUR HONOR, I'M NOT SURE WHAT THE REPORT
24 SAYS OF THE ---

25 MR. ABDALLA: I'M NOT EITHER. I NEED A LITTLE MORE

PAUL SILVAGGIO - VOIR DIRE BY MR. ABDALLA

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1 TIME. THIS -- I'M NOT SMART ENOUGH TO ANALYZE THIS THIS
2 QUICKLY TO BE QUITE HONEST.

3 THE COURT: LET'S -- RENEE, CAN YOU BURN A COPY? THAT
4 BELONGS TO MR. SILVAGGIO. YOU WANT A COPY, JEFF?

5 MR. WESTON: YES, SIR, YOUR HONOR. THANK YOU.

6 THE COURT: ALL RIGHT.

7 (PAUSE)

8 THE COURT: I'VE BEEN LED TO UNDERSTAND THAT THE STATE
9 HAS A COPY OF IT.

10 MR. WESTON: YES, SIR, YOUR HONOR, WE DO. AND I JUST
11 FOUND IT. AND I AM, YOUR HONOR, I AM -- AND I DON'T WANT TO
12 ---

13 THE COURT: I DON'T WANT YOU TO SAY ANYTHING YET.
14 WE'RE GOING TO BREAK FOR LUNCH. I WANT TO GET Y'ALL TO BE
15 BACK HERE BY 2:15. I'M GOING TO GET THE JURY BACK AT 2:30.
16 Y'ALL BE -- MR. SILVAGGIO, IF YOU COULD BE BACK AT 2:15 AS
17 WELL.

18 A. YES, YOUR HONOR.

19 THE COURT: AND BE PREPARED TO GO FORWARD AT THAT TIME.
20 LET'S GIVE THAT BACK TO THE OFFICER.

21 MR. WESTON: YES, SIR, YOUR HONOR.

22 THE COURT: AND, MR. SILVAGGIO, YOU, OF COURSE, ARE --
23 I GUESS I CAN LET YOU STEP DOWN FROM THE WITNESS STAND.
24 DON'T DISCUSS YOUR TESTIMONY WITH ANYBODY.

25 A. THANK YOU, SIR.

PAUL SILVAGGIO - VOIR DIRE BY MR. ABDALLA

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1 THE COURT: ALL RIGHT. ANYTHING ELSE BEFORE WE BREAK?

2 MR. WESTON: NOTHING FURTHER FROM THE STATE, YOUR
3 HONOR.

4 MR. ABDALLA: NOTHING FROM THE DEFENSE.

5 THE COURT: WOULD YOU TELL THE JURY TO GO AND BE BACK
6 AT 2:30. AND TELL THEM WE HAVE SOME ISSUES THAT WE'RE
7 DEALING WITH, AND WE'LL TRY TO START AS QUICKLY AS WE CAN.
8 LET ME TALK WITH THE LAWYERS UP HERE FOR A MINUTE.

9 (WHEREUPON A BENCH CONFERENCE WAS HELD OFF THE RECORD)

10 (WHEREUPON COURT WAS IN RECESS AT 12:44 PM)

11 (WHEREUPON COURT RESUMED AT 3:02 PM)

12 THE COURT: OKAY. ARE WE READY TO GO?

13 MR. ABDALLA: YES, YOUR HONOR. MAY I PUT A MOTION ON
14 THE RECORD?

15 THE COURT: YEAH, MAKE YOUR MOTION.

16 MR. ABDALLA: YOUR HONOR, I'D LIKE TO MAKE A MOTION TO
17 -- FOR A MISTRIAL BASED ON THE FACT THAT WE DIDN'T HAVE
18 THESE DNA RESULTS.

19 THE COURT: WELL, WHY WOULD I MISTRY THE CASE?

20 MR. ABDALLA: BECAUSE HAD WE HAD THE DNA RESULTS WE
21 COULD HAVE DONE SOME FURTHER TESTING AND MADE CONCLUSIONS SO
22 THE JURY WOULD HAVE HAD SOME INFORMATION TO CONSIDER WHETHER
23 IT WOULD HAVE ---

24 THE COURT: WELL, LET ME JUST SAY THIS.

25 MR. ABDALLA: YES, SIR.

PAUL SILVAGGIO - VOIR DIRE BY MR. ABDALLA

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1 THE COURT: YOU WANT ME TO MAKE A MISTRIAL BASED ON
2 SOME DOCUMENT THAT IS NOT IN EVIDENCE IN THE CASE. SO
3 THERE'S ---

4 MR. ABDALLA: WELL, LET ME HAVE THOSE DOCUMENTS PLACED
5 INTO EVIDENCE.

6 THE COURT: YOU KNOW WHAT HE'S TALKING ABOUT, MR.
7 WESTON?

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

9 THE COURT: OKAY. PUT THIS IN AS A COURT'S EXHIBIT.
10 OR DO YOU WANT TO PUT IT IN AS A DEFENSE EXHIBIT?

11 MR. ABDALLA: COURT EXHIBIT AT THIS POINT.

12 VOIR DIRE BY MR. ABDALLA CONTINUED:

13 Q. MR. SILVAGGIO, DO YOU RECOGNIZE THIS DOCUMENT?

14 THE COURT: WELL, LET HER MARK THE THING, ---

15 MR. ABDALLA: OH, I'M SORRY.

16 THE COURT: --- PLEASE.

17 (WHEREUPON COURT'S EXHIBIT 3 WAS MARKED)

18 Q. INVESTIGATOR SILVAGGIO, DO YOU RECOGNIZE THIS REPORT?

19 A. YES, I DO, SIR.

20 Q. AND WHAT IS IT?

21 A. IT'S A DNA ANALYSIS REPORT FROM THE SOUTH CAROLINA LAW
22 ENFORCEMENT DIVISION FORENSIC SERVICE LABORATORY.

23 Q. AND WHAT'S THE DATE ON THAT REPORT?

24 A. THE DATE OF THE REPORT IS JULY 21ST, 2008.

25 Q. THANK YOU. AND I'M GOING TO HAND ANOTHER REPORT TO

PAUL SILVAGGIO - VOIR DIRE BY MR. ABDALLA

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1 YOU. AND I'LL HAVE IT MARKED AS COURT EXHIBIT NUMBER 4, I
2 WOULD IMAGINE.

3 (WHEREUPON COURT'S EXHIBIT 4 WAS MARKED)

4 THE COURT: DID YOU SAY 2008?

5 A. 2008, YES, SIR.

6 MR. ABDALLA: I WENT IN REVERSE ORDER, JUDGE. I HAD
7 THAT ONE FIRST. THAT'S THE SECOND ONE.

8 Q. NOW I'M HANDING YOU ANOTHER DOCUMENT. WOULD YOU
9 IDENTIFY THAT FOR THE COURT, PLEASE? IT'S MARKED COURT
10 EXHIBIT NUMBER 4.

11 A. YES, I RECOGNIZE THIS.

12 Q. OKAY. AND WHAT IS THAT?

13 A. IT'S A REPORT FROM THE SOUTH CAROLINA LAW ENFORCEMENT
14 DIVISION FORENSIC SERVICES LABORATORY DNA AND ANALYSIS
15 DEPARTMENT DATED AUGUST THE 2ND, 2006.

16 Q. AND ARE THESE BOTH -- ARE BOTH THESE REPORTS ON YOUR
17 INITIATION?

18 A. YES, THEY ARE.

19 Q. AND ARE THEY INVOLVING THE CASE THAT WE'RE IN TRIAL ON
20 TODAY, STATE VERSUS JONATHAN CAMPBELL?

21 A. THAT'S CORRECT, YES.

22 MR. ABDALLA: YOUR HONOR, AT THIS TIME I'D LIKE THESE
23 MOVED INTO EVIDENCE AS COURT'S EXHIBITS. I HAD THEM MARKED
24 FOR IDENTIFICATION.

25 THE COURT: WELL, I THOUGHT WE'D ALREADY DONE THAT.

PAUL SILVAGGIO - VOIR DIRE BY MR. ABDALLA

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1 MR. ABDALLA: ALL RIGHT.

2 THE COURT: BOTH OF THEM OR JUST ONE?

3 MR. ABDALLA: BOTH, 3 AND 4, FOR THE COURT'S ---

4 THE COURT: OKAY. ALL RIGHT.

5 MR. ABDALLA: FOR THE COURT'S KNOWLEDGE, NOT FOR THE
6 JURY. NOT FOR PUBLICATION TO THE JURY.

7 THE COURT: OKAY.

8 MR. ABDALLA: AND AT THIS TIME I'D LIKE TO MAKE A
9 MOTION THAT THESE REPORTS ARE THE REPORTS THAT WE DIDN'T
10 RECEIVE. AND BASED ON THAT I'M MOVING FOR A MISTRIAL,
11 JUDGE.

12 THE COURT: WHY WOULD I, I MEAN, I DON'T HAVE ANY BASIS
13 TO DO THAT. WHY WOULD I DO THAT?

14 MR. ABDALLA: YOUR HONOR, ALL INFORMATION ---

15 THE COURT: DID YOU FILE A RULE 5 DISCOVERY MOTION?

16 MR. ABDALLA: I FILED THE RULE 5 AND BRADY, YES, YOUR
17 HONOR.

18 THE COURT: WELL, ARE THEY PART OF THE RECORD? ARE
19 THEY FILED COPIES OR DID YOU JUST SEND THEM OVER TO THE
20 SOLICITOR'S OFFICE?

21 MR. ABDALLA: THEY'RE FILED COPIES, YOUR HONOR.

22 THE COURT: OKAY. ALL RIGHT. AND WHY UNDER RULE 5
23 SHOULD THIS HAVE BEEN DISCLOSED?

24 MR. ABDALLA: UNDER RULE 5 I BELIEVE ANY REPORT SHOULD
25 BE TURNED OVER, BUT I HAVE TO LOOK AT THE RULE, JUDGE,

PAUL SILVAGGIO - VOIR DIRE BY MR. ABDALLA

195

1 'CAUSE ...

2 (PAUSE)

3 THE COURT: 5 (A) (1) (D) .

4 MR. ABDALLA: I SHOULD HAVE JUST LOOKED AT MY DISCOVERY
5 MOTION.

6 THE COURT: ALL RIGHT. MR. WESTON.

7 MR. WESTON: YOUR HONOR, THE LAST, AS I REMEMBER, THE
8 LAST THREE LINES OF THE RULE INDICATE THAT THOSE ITEMS ARE
9 NOT DISCOVERABLE UNLESS THEY ARE MATERIAL TO THE DEFENSE,
10 SOMEWHAT AKIN TO A BRADY SITUATION. AND COUNSEL HAS NOT
11 ALLEGED ANYTHING ALONG THAT LINE YET. OR UNLESS THEY ARE TO
12 BE PRESENTED IN OUR CASE IN CHIEF, WHICH WE DO NOT PLAN TO
13 DO. AND SO WE DON'T THINK OF THIS AS A RULE 5 VIOLATION,
14 YOUR HONOR.

15 THE COURT: OKAY. HOW ABOUT THAT? HE DIDN'T BRING
16 THEM OUT ON DIRECT. YOU BROUGHT IT OUT ON CROSS.

17 MR. ABDALLA: WELL, FIRST OF ALL, ANY RECORD THAT IS
18 EITHER INCULPATORY OR EXCULPATORY IS SOMETHING THAT'S
19 SUPPOSED TO BE TURNED OVER TO THE DEFENSE.

20 THE COURT: WHERE ARE YOU READING THAT?

21 (PAUSE)

22 THE COURT: WELL, LET'S GET BEYOND THAT, OKAY?

23 MR. ABDALLA: JUDGE, I'M SORRY. ON RULE 5 (1) (D) .

24 THE COURT: 5 (A) (1) (D) ?

25 MR. ABDALLA: (B) (1) (D) . NO, WHAT IS THAT? (1) (D) ,

PAUL SILVAGGIO - VOIR DIRE BY MR. ABDALLA

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1 (A) (1) (D) .

2 THE COURT: (A) (1) (D) . OKAY.

3 MR. ABDALLA: BASICALLY ANY RECORDS UNDER THEIR CONTROL
4 WHICH ARE MATERIAL TO THE PREPARATION OF THE DEFENSE OR
5 INTENDED TO BE USED FOR THE PROSECUTION. SO THAT COULD BE
6 USED FOR PREPARATION FOR THE DEFENSE. OUR POSITION IS
7 ANYTHING THAT CAN GO TOWARD ...

8 THE COURT: WELL, THEY DIDN'T USE IT IN THEIR CASE IN
9 CHIEF. SO YOU'VE GOT TO SHOW WHY IT'S MATERIAL FOR THE
10 PREPARATION OF YOUR DEFENSE.

11 MR. ABDALLA: BECAUSE I COULD HAVE POTENTIALLY EXCLUDED
12 MY CLIENT IF THEY HAD TAKEN A SWAB FROM HIM ---

13 THE COURT: WELL, EXPLAIN THAT, WILL YOU, PLEASE?

14 MR. ABDALLA: YES, JUDGE.

15 THE COURT: FOR THE RECORD. I'M NOT -- I DON'T WANT
16 ---

17 MR. ABDALLA: I UNDERSTAND. HAD THE INVESTIGATORS
18 TAKEN A SWAB FROM MY CLIENT AND MATCHED THAT UP IN THE DNA
19 WITH THE KNIFE HANDLE MY CLIENT MAY HAVE BEEN EXCLUDED AT
20 WHICH POINT I COULD HAVE SAID TO THE JURY, MY CLIENT --
21 THERE'S NOTHING THAT CONNECTS MY CLIENT TO THIS KNIFE. HE'S
22 BEEN EXCLUDED AS A POSSIBLE SUSPECT IN THE OBJECTIVE
23 EVIDENCE.

24 THE COURT: NO.

25 MR. ABDALLA: AND I DON'T HAVE THAT OPPORTUNITY NOW

PAUL SILVAGGIO - VOIR DIRE BY MR. ABDALLA

197

1 BECAUSE THAT TEST WASN'T PERFORMED.

2 THE COURT: WELL, THIS IS AN ACCOMPLICE LIABILITY CASE
3 FROM WHAT'S BEEN SAID IN THE OPENING STATEMENT OF THE
4 PROSECUTION. SO THAT DOESN'T ABSOLVE HIM OF ...

5 MR. ABDALLA: WELL, JUDGE, THAT FACT HASN'T BEEN
6 REACHED YET. THAT'S -- ASIDE FROM THE FACT THAT IT'S A JURY
7 ISSUE ---

8 THE COURT: YOU'RE RIGHT.

9 MR. ABDALLA: I DO HAVE LAW AT THE PROPER TIME TO
10 PRESENT WHY WE HAVE SOMETHING TO REFUTE THAT. I DON'T KNOW
11 IF YOU WANT ME TO GO FORWARD WITH THAT RIGHT NOW, BUT I DO
12 ---

13 THE COURT: OKAY. I DON'T KNOW WHAT YOUR, I MEAN, I
14 THINK IT'S, AT THIS POINT, PREMATURE ---

15 MR. ABDALLA: OKAY.

16 THE COURT: --- FOR YOU TO MAKE THAT MOTION. I'M NOT
17 GOING TO GRANT THE MISTRIAL AT THIS POINT.

18 MR. ABDALLA: YES, YOUR HONOR. BUT FOR THE PURPOSES OF
19 THE REMAINDER OF THE TRIAL ---

20 THE COURT: I'M NOT FINISHED YET. THE BRADY ISSUE --
21 MR. SILVAGGIO, WHAT ARE THE RESULTS OF THOSE TESTS? WHAT DO
22 THEY SAY?

23 A. IT DID NOT MATCH.

24 THE COURT: DID NOT MATCH WHAT? WHAT DID NOT MATCH
25 WITH WHO?

PAUL SILVAGGIO - VOIR DIRE BY MR. ABDALLA

198

1 A. THE VERBIAGE, IF I MAY REFLECT ON IT, IS THE -- THE DNA
2 PROFILE DEVELOPED FROM ITEMS 1.1.4, 7.1, 7.28.1, WHAT
3 THEY'RE -- WHAT THEY'RE SAYING IN THE REPORT IS IS DEVELOPED
4 FROM ITEM 2.1 IS FROM AN UNIDENTIFIED MALE INDIVIDUAL. THIS
5 DNA PROFILE HAS BEEN ENTERED INTO CODIS FOR COMPARISON
6 PURPOSES. THERE WERE NO RESULTS TO THAT.

7 THE DNA PROFILES DEVELOPED FROM OTHER MIXTURES, THE
8 MAJOR CONTRIBUTOR TO THESE MIXTURES, IT'S THE SAME, IS THE
9 UNKNOWN MALE INDIVIDUAL AS IS IN THE ITEMS IN THE FIRST
10 PARAGRAPH.

11 THE COURT: OKAY.

12 A. AND THE PARTIAL DNA PROFILE DEVELOPED FROM ITEM 2.1,
13 THE MINOR CONTRIBUTOR TO THESE MIXTURES IS TOO WEAK FOR A
14 RELIABLE INTERPRETATION.

15 THE DNA PROFILE DEVELOPED FROM ITEM 2.2, AND ITEM 2.2
16 IS CUTTING FROM T-SHIRT OF CAMPBELL, IS FROM A SECOND
17 UNKNOWN MALE INDIVIDUAL. THIS DNA PROFILE HAS BEEN ENTERED
18 INTO CODIS FOR COMPARISON PURPOSES. NO RESULTS ON THAT,
19 SIR. AND NO HUMAN DNA WAS DETECTED IN THE BLOOD SPOT SAMPLE
20 FROM THE VICTIM. SO THERE ARE NO ---

21 THE COURT: SO WE KNOW THERE ARE TWO DIFFERENT BLOOD
22 TYPES?

23 A. YES, SIR, A MAJOR CONTRIBUTOR AND A MINOR CONTRIBUTOR.

24 THE COURT: OKAY. AND THAT CAME OFF OF CAMPBELL'S T-
25 SHIRT?

PAUL SILVAGGIO - VOIR DIRE BY MR. ABDALLA

199

1 A. YES, SIR. NO, I TAKE THAT, I'M SORRY, ON THE ONE FROM
2 CAMPBELL'S T-SHIRT IS FROM A SECOND UNKNOWN MALE INDIVIDUAL.

3 THE COURT: OKAY. SO IT'S NOT -- THEY'RE NOT BOTH ---

4 A. RIGHT.

5 THE COURT: CAMPBELL'S T-SHIRT HAS ONE SET OF DNA
6 THAT'S DIFFERENT FROM THE DNA THAT WAS TAKEN OFF ALL THE
7 OTHER OBJECTS. AND THEN THEY BELONG TO WHO?

8 A. 2.1, 2.2 AND 2.3 IS CUTTINGS FROM CAMPBELL'S ---

9 THE COURT: OKAY.

10 A. --- SHIRT.

11 THE COURT: ALL RIGHT.

12 A. ONLY 2.1 AND 2.2 THE LAB INDICATES BLOOD INDICATED.

13 THE COURT: YEP.

14 A. 2.1 REFERS TO PARTIAL DNA PROFILE DEVELOPED FROM 2.1.
15 THE MINOR CONTRIBUTOR TO THESE MIXTURES IS TOO WEAK TO
16 INTERPRET. AND THEN THE 2.2, WHICH IS ANOTHER CUTTING FROM
17 CAMPBELL'S SHIRT IS FROM A SECOND UNKNOWN MALE INDIVIDUAL,
18 NONE OF WHICH MATCHES THE CO-DEFENDANT, OF COURSE, THE
19 VICTIM, NOR -- WELL, WE DID HAVE A SAMPLE.

20 THE COURT: BUT THERE'S NO -- THERE IS NO SAMPLE FROM
21 CAMPBELL?

22 A. NO.

23 THE COURT: AND THE VICTIM'S SAMPLE WAS TOO DECOMPOSED
24 TO RENDER ANY DNA, IS THAT RIGHT?

25 A. THAT'S CORRECT, SIR.

PAUL SILVAGGIO - VOIR DIRE BY MR. ABDALLA

200

1 THE COURT: SO ALL WE KNOW IS THAT WE HAVE -- WAS THERE
2 ANY OTHER BLOOD FOUND ON -- WHAT I'M TRYING TO DETERMINE IS
3 THE BLOOD THAT WAS FOUND ON ALL THIS DIFFERENT STUFF, WAS IT
4 ALL -- CAME FROM THE SAME INDIVIDUAL AND HE IS UNKNOWN?
5 DOES THAT MAKE SENSE?

6 A. IT'S SAYING THAT -- IT'S SAYING THAT ALL OF THE ITEMS,
7 THE MAJOR CONTRIBUTOR TO THESE MIXTURES IS FROM THE SAME
8 UNKNOWN MALE INDIVIDUAL AND THAT THE PARTIAL DNA PROFILE
9 DEVELOPED FROM 2.1, THE MINOR CONTRIBUTOR TO THESE MIXTURES
10 IS TOO WEAK. SO THE MAJOR CONTRIBUTOR FOR ALL OF THIS IS
11 FROM THE SAME PERSON.

12 THE COURT: OKAY. AND THE MINOR CONTRIBUTOR IS SOMEONE
13 DIFFERENT?

14 A. DIFFERENT, BUT IT'S UNRELIABLE. IT'S NOT RELIABLE TO
15 INTERPRET BY THE LAB.

16 THE COURT: BUT I GUESS WHAT I'M ASKING IS CAN THEY BE
17 SURE IT'S NOT THE SAME BLOOD AS THE MAJOR CONTRIBUTOR? IS
18 THAT NOT -- THAT'S NOT RENDERED IN THERE, RIGHT?

19 A. IT SAYS IT'S -- AND I QUOTE, "THE MINOR CONTRIBUTOR TO
20 THESE MIXTURES IS TOO WEAK FOR RELIABLE INTERPRETATION."

21 THE COURT: SO IT COULD BE THE SAME BLOOD?

22 A. I'M NOT SURE ON THAT, SIR.

23 THE COURT: Y'ALL HAVE ANY QUESTIONS YOU WANT TO ASK
24 HIM? I MEAN, YOU DON'T HAVE TO, BUT I JUST WANTED TO GIVE
25 YOU THE OPPORTUNITY.

PAUL SILVAGGIO - VOIR DIRE BY MR. ABDALLA

201

1 MR. ABDALLA: ONE MOMENT, YOUR HONOR.

2 (PAUSE)

3 MR. ABDALLA: A COUPLE OF THINGS COME TO MIND.

4 MR. WESTON: YOUR HONOR, I DON'T HAVE ANY QUESTIONS. I

5 JUST -- I'M TRYING TO FRAME THIS. I'M CONFUSED. THERE IS

6 NO ALLEGATION ---

7 THE COURT: LET'S FINISH WITH THE COLLECTION OF THE

8 EVIDENCE BEFORE WE START -- LET ME SEE WHAT HE WANTS TO ASK,

9 AND THEN YOU CAN TELL ME WHATEVER IT IS YOU WANT TO TELL ME.

10 MR. ABDALLA: WHAT I'M CURIOUS ABOUT, YOUR HONOR, AND

11 IT WOULD ACTUALLY HAVE TO GO TO MR. SILVAGGIO EVENTUALLY ---

12 THE COURT: WELL, ASK HIM THE QUESTIONS. I CAN'T

13 ANSWER THE QUESTION.

14 MR. ABDALLA: ALL RIGHT.

15 VOIR DIRE BY MR. ABDALLA CONTINUED:

16 Q. MR. SILVAGGIO, ON THE ISSUE OF THE CODIS YOU WERE

17 TALKING ABOUT ...

18 A. YES, SIR.

19 Q. DO YOU KNOW IF MY CLIENT IS IN CODIS OR WAS AT THAT

20 TIME?

21 A. I CAN -- I CAN LOOK AND SEE IF HE'S IN CODIS. IF

22 YOU'LL GIVE ME JUST A MOMENT I COULD ---

23 Q. IT'S UP TO THE COURT TO ---

24 THE COURT: WHO ELSE DO YOU WANT HIM TO LOOK AND SEE

25 WHO'S IN CODIS?

PAUL SILVAGGIO - VOIR DIRE BY MR. ABDALLA

202

1 MR. ABDALLA: THAT'S ALL.

2 THE COURT: YOU WANT TO SEE -- FOR ME, LOOK AND SEE IF
3 THE VICTIM'S IN THERE AND LOOK AND SEE IF THE OTHER GUY'S IN
4 THERE.

5 A. I CHECKED ON THE VICTIM AT THE ONSET OF THE
6 INVESTIGATION. HE WAS NOT, ---

7 THE COURT: OKAY.

8 A. --- BASED ON THEIR REPLY OF THE ---

9 THE COURT: OKAY.

10 (PAUSE)

11 A. I HAVE YOUR ANSWER, MR. ABDALLA.

12 Q. YES, SIR. YES, MR. SILVAGGIO.

13 A. ACCORDING TO YOUR CLIENT, JONATHAN CAMPBELL'S CRIMINAL
14 HISTORY UNDER FBI NUMBER 695994M, AS IN MIKE, A, AS IN
15 APPLE, 3, IT DOES NOT INDICATE THAT THEY HAVE A DNA SAMPLE
16 FROM HIM ON FILE.

17 Q. OKAY.

18 A. IN CODIS. AND GENERALLY SPEAKING, IF THEY WERE ON
19 CODIS IT WOULD SHOW UP ON HIS CRIMINAL HISTORY. IT WOULD
20 SAY DNA AND A "Y" NEXT TO IT TO INDICATE TO ME AS A FORMER
21 LAW ENFORCEMENT OFFICER THAT IT WAS ON FILE. HIS DOES NOT.

22 THE COURT: ALL RIGHT. WHAT OTHER POINT DO YOU WANT TO
23 MAKE?

24 MR. ABDALLA: WELL, YOUR HONOR, I GUESS BASED ON THE
25 FACT THAT IT'S TAKEN ALL THIS -- THIS JUST SEEMS LIKE

PAUL SILVAGGIO - VOIR DIRE BY MR. ABDALLA

203

1 SOMETHING THAT'S RIPE FOR EXPERT TESTIMONY, WHICH WE WERE
2 NOT PREPARED TO GO FORWARD WITH. IT SEEMS TO PUT A CLOUD
3 OVER WHETHER THIS EVIDENCE COULD HAVE HELPED OR HURT MY
4 CLIENT, BUT IT'S NOT AVAILABLE. AND FOR THAT REASON I
5 BELIEVE IT SHOULD BE -- A MISTRIAL SHOULD BE GRANTED.

6 THE COURT: WELL, CERTAINLY IF IT HURTS YOUR CLIENT --
7 HOW WOULD IT HELP YOUR CLIENT?

8 MR. ABDALLA: IT WOULD HURT MY CLIENT ---

9 THE COURT: I DON'T WANT TO KNOW ABOUT HOW IT WOULD
10 HURT HIM.

11 MR. ABDALLA: OH, I THOUGHT YOU JUST SAID THAT.

12 THE COURT: NO. HOW WOULD IT HELP HIM?

13 MR. ABDALLA: IF HE'S EXCLUDED, AS I SAID, I COULD
14 ARGUE TO THE JURY THAT MY CLIENT HAS BEEN EXCLUDED ON DNA,
15 NOT JUST HE WASN'T FOUND TO BE PART, BUT THAT HE'S BEEN
16 EXCLUDED. AND I CAN'T MAKE THAT ARGUMENT, JUDGE, AS TO THE
17 WEAPON.

18 THE COURT: BUT YOU AT THE SAME TIME -- WELL, IT'S
19 PREMATURE BECAUSE IF THIS IS ACCOMPLICE LIABILITY AS IT'S
20 BEEN ALLEGED, THEN THAT ARGUMENT HAS NO WEIGHT. WHAT DID
21 YOU WANT TO SAY, MR. WESTON?

22 MR. WESTON: YOUR HONOR, AS I WAS GOING TO SAY, I'M
23 STILL CONFUSED BY COUNSEL'S ARGUMENT OF PREJUDICE. HE KEEPS
24 SAYING IT COULD POSSIBLY EXCLUDE HIS CLIENT. WE'VE NEVER
25 SUGGESTED AND WE DON'T MIND A CURATIVE INSTRUCTION TO THE

PAUL SILVAGGIO - VOIR DIRE BY MR. ABDALLA

204

1 JURY THAT NONE OF THE BLOOD FOUND BELONGS TO THE DEFENDANT.
2 THERE'S NO ALLEGATION THAT IT'S HIS BLOOD. THIS WAS NOT
3 DONE -- THIS WAS DONE TO DETERMINE IF THIS WAS THE VICTIM'S
4 BLOOD.

5 SO IN TERMS OF IT EXCLUDING HIS CLIENT, WE WILL HAPPILY
6 SAY TO THE JURY NONE OF THE BLOOD IS HIS. THAT'S WHY WE
7 WEREN'T USING IT, JUDGE. WE'RE NOT TRYING TO SAY THIS IS
8 HIS BLOOD. I DON'T UNDERSTAND WHAT HE'S SAYING ABOUT HE
9 COULD EXCLUDE HIS CLIENT.

10 THE COURT: OKAY. WELL, I'VE GOT YOU. AND THAT'S A
11 POINT WELL MADE.

12 MR. ABDALLA: BUT, YOUR HONOR, OF COURSE ---

13 THE COURT: MR. ABDALLA'S CROSS EXAMINATION, WHICH
14 RENDERED A NEGATIVE RESPONSE ABOUT HIS CLIENT HAVING SOME
15 INJURY TO HIS THUMB, I DON'T KNOW WHAT THAT IS. AND IF THAT
16 DEVELOPS, THAT MAY HAVE SOME IMPACT ON IT. AND SOME BITE
17 MARK TO THE OTHER GUY, BUT I DON'T KNOW IF THERE WAS BLOOD.
18 BUT THAT'S -- IT'S ALL PREMATURE. I'LL CERTAINLY TAKE IT
19 UNDER ADVISEMENT AND HAVE TO DEAL WITH IT AT A LATER TIME.
20 ANYTHING ELSE BEFORE WE BRING THIS JURY BACK?

21 MR. ABDALLA: WELL, ---

22 THE COURT: HOW DO YOU WANT TO HANDLE THESE DNA
23 REPORTS? YOU'VE GOT THEM. IF YOU WANT TO CROSS EXAMINE
24 HIM, THEY DIDN'T EXAMINE HIM. THEY DIDN'T USE IT IN THEIR
25 CASE IN CHIEF.

PAUL SILVAGGIO - VOIR DIRE BY MR. ABDALLA

205

1 MR. ABDALLA: I'D RATHER, SINCE WE WERE NEVER GIVEN
2 THOSE REPORTS, THAT ALL BE EXCLUDED FOR NOW, BUT IT DOESN'T
3 PREVENT ME FROM MENTIONING THAT THERE ISN'T A DNA THAT
4 INCLUDES MY CLIENT.

5 THE COURT: WELL, THERE'S NOT.

6 MR. ABDALLA: RIGHT.

7 MR. WESTON: AS I SAID, WE DIDN'T PUT IN ANY DNA
8 EVIDENCE. AND WE WILL ---

9 THE COURT: THEY NEVER -- WELL, WAIT A MINUTE. THEY
10 NEVER TESTED YOUR CLIENT TO SEE IF IT WAS HIS DNA.

11 MR. ABDALLA: BUT I DIDN'T WANT THE -- ANY OF THE
12 RESULTS TALKED ABOUT AT ALL IN THAT REPORT. THAT'S THE --
13 SINCE THE REPORT WAS NEVER GIVEN US.

14 MR. WESTON: WE DIDN'T ON DIRECT, YOUR HONOR.

15 MR. ABDALLA: ALL RIGHT. WELL, I DIDN'T KNOW WHERE
16 THEY WERE GOING TO GO WITH IT.

17 MR. WESTON: I'D FINISHED MY DIRECT, YOUR HONOR. HE
18 WAS CROSS ---

19 THE COURT: YEAH, IT WAS HIS CROSS. OKAY. ANYTHING
20 ELSE BEFORE WE BRING THE JURY BACK? THEY'VE BEEN WAITING A
21 WHILE NOW.

22 MR. WESTON: NOTHING FROM THE STATE, YOUR HONOR.

23 MR. ABDALLA: NOTHING FROM THE DEFENSE.

24 THE COURT: ALL RIGHT.

25 (WHEREUPON THE JURY ENTERED THE COURTROOM AT 3:24 PM)

PAUL SILVAGGIO - CROSS EXAMINATION BY MR. ABDALLA

206

1 (WHEREUPON THE ATTORNEYS WERE CONSULTING OFF THE RECORD
2 IN THE PRESENCE OF THE JURY)

3 THE COURT: HOLD IT DOWN. LADIES AND GENTLEMEN,
4 WELCOME BACK. THANK YOU FOR YOUR PATIENCE. I'M SORRY THAT
5 WE HAD TO LEAVE YOU BACK THERE FOR SO LONG, BUT THIS WAS A
6 MATTER THAT TOOK LONGER THAN I HAD ANTICIPATED. SO IF
7 YOU'RE GOING TO BE UPSET WITH ANYONE, PLEASE BE UPSET WITH
8 ME. I JUST MISJUDGED HOW MUCH TIME IT WOULD TAKE.

9 SO -- BUT IT'S AN IMPORTANT ISSUE AND IT'S -- WE HAD TO
10 ADDRESS IT. SO THANK YOU VERY MUCH. HOPE Y'ALL HAD A
11 PLEASANT LUNCH. AND NOW WE'RE READY TO RESUME. ALL RIGHT,
12 MR. ABDALLA.

13 MR. ABDALLA: THANK YOU.

14 CROSS EXAMINATION BY MR. ABDALLA CONTINUED:

15 Q. WHEN YOU WERE DOWN -- YOU WENT TO ALABAMA, RIGHT?

16 A. YES, SIR.

17 Q. TO PICK UP MY CLIENT AND MR. SOUTHERLAND, CORRECT?

18 A. TO PICK UP YOUR CLIENT AND MR. SOUTHERLAND, NO, I DID
19 NOT.

20 Q. NO. YOU WENT DOWN THERE, I'M SORRY, TO INVESTIGATE THE
21 CRIME INVOLVING MY CLIENT AND CARL SOUTHERLAND, CORRECT?

22 A. THAT IS CORRECT, SIR. YES.

23 Q. WHILE YOU WERE DOWN THERE YOU TOOK SOME PICTURES,
24 CORRECT?

25 A. PICTURES WERE TAKEN, YES, SIR.

PAUL SILVAGGIO - CROSS EXAMINATION BY MR. ABDALLA

207

1 Q. AT YOUR LEAD, YOUR COMMAND, WHATEVER, CORRECT? YOU
2 WERE INVOLVED ---

3 A. RIGHT. THAT'S CORRECT, YES.

4 Q. AND ONE OF THE THINGS YOU GOT TO OBSERVE, I BELIEVE,
5 WAS THE CONDITION OF MY CLIENT'S BODY, CORRECT?

6 A. YES, SIR.

7 Q. AND I HAD ASKED YOU, DO YOU RECALL WHETHER HE HAD A
8 BITE MARK ON HIS THUMB?

9 A. CORRECT.

10 Q. DO YOU REMEMBER THAT?

11 A. I REMEMBER YOU ASKING ME THAT, YES, SIR.

12 Q. DID HE HAVE -- DO YOU RECALL HIM HAVING ONE?

13 A. I DON'T RECALL ANYTHING THAT STOOD OUT TO ME IN THE
14 PICTURES THAT WOULD HAVE RAISED A FLAG TO ME ON THAT DAY.

15 Q. I'D LIKE TO SHOW YOU ---

16 MR. ABDALLA: WELL, LET ME GET THIS MARKED AS
17 DEFENDANT'S EXHIBIT NUMBER 1 FOR IDENTIFICATION PURPOSES
18 ONLY.

19 (WHEREUPON DEFENDANT'S EXHIBIT 1 WAS MARKED FOR
20 IDENTIFICATION)

21 Q. WOULD YOU BE ABLE TO IDENTIFY THIS PICTURE AS JONATHAN
22 CAMPBELL BASED ON YOUR KNOWLEDGE OF THAT SET OF PICTURES OR
23 NOT?

24 A. I CAN'T TELL WHO THIS PERSON IS. I ---

25 Q. ALL RIGHT.

PAUL SILVAGGIO - CROSS EXAMINATION BY MR. ABDALLA

208

1 A. I JUST KNOW IT'S A WHITE MALE WITH A LEFT ARM.

2 MR. ABDALLA: I'D LIKE TO HAVE THIS MARKED AS DEFENSE
3 EXHIBIT NUMBER 2 FOR IDENTIFICATION, PLEASE.

4 (WHEREUPON DEFENDANT'S EXHIBIT 2 WAS MARKED FOR
5 IDENTIFICATION)

6 Q. DO YOU RECOGNIZE MY CLIENT IN DEFENSE EXHIBIT NUMBER 2
7 FOR IDENTIFICATION?

8 A. YES, I DO. THAT'S YOUR CLIENT AT THE TIME.

9 Q. AND CAN YOU TELL -- IS IT REASONABLE TO SEE THAT
10 THEY'RE BOTH THE SAME PERSON?

11 A. YES, IT IS, SIR.

12 Q. ALL RIGHT. DO YOU SEE THE BITE MARK OR WHAT APPEARS TO
13 POSSIBLY BE A BITE MARK ON HIS THUMB?

14 A. I SEE A MARK ON HIS THUMB. I THINK IT'S -- I DON'T
15 INTERPRET THAT TO BE A BITE MARK BASED ON THE DESIGN, BUT I
16 WOULDN'T -- I WOULD JUST BE SPECULATING ON THAT. I ---

17 Q. I UNDERSTAND.

18 A. IF YOU WANT MY -- I DON'T THINK SO, NO.

19 Q. THAT'S FINE.

20 A. I DON'T THINK IT IS.

21 Q. YOU DON'T THINK IT IS?

22 A. I DON'T, BUT IT'S VERY FRESH. IT'S VERY FRESH. AND I
23 GOT OUT WITH HIM THREE DAYS AFTER THE FACT. ONE DAY AFTER
24 THE WRECK. SO I'D SAY THAT THAT'S A VERY FRESH INJURY.

25 Q. THE MARKINGS LOOK FRESH?

PAUL SILVAGGIO - CROSS EXAMINATION BY MR. ABDALLA

209

1 A. VERY FRESH.

2 Q. OKAY.

3 A. A HEALING FRESH.

4 Q. BASED ON YOUR INVESTIGATION OF THE CASE ARE YOU AWARE
5 OF THE CHASE THAT TOOK PLACE IN ALABAMA?

6 A. YES, I AM, SIR.

7 Q. AND ARE YOU AWARE THAT CARL WAS DRIVING THE CAR?

8 A. I'M AWARE THAT IN VIEWING THE INFORMATION THAT I
9 RECEIVED FROM THE ALABAMA AUTHORITIES THROUGH DOCUMENTATION
10 AND SUCH, THAT, YES, CARL SOUTHERLAND WAS DRIVING THE
11 VEHICLE ACCORDING TO REPORTS.

12 Q. ARE YOU AWARE OF WHAT CAUSED THE CAR TO CRASH?

13 A. I SAW THE PURSUIT. I WOULD -- HAVING BEEN IN PURSUITS
14 BEFORE I WOULD SAY THAT BASED ON THE DRIVING AND SUCH AS
15 THAT, THAT WOULD BE A STIMULATING EFFECT TO FLIP A VEHICLE.

16 Q. THANK YOU, DETECTIVE. I HAVE NO FURTHER QUESTIONS.

17 A. THANK YOU, SIR.

18 THE COURT: REDIRECT. HUH?

19 MR. WESTON: NO REDIRECT, YOUR HONOR.

20 THE COURT: ALL RIGHT. THANK YOU, SIR. YOU CAN STEP
21 DOWN.

22 A. THANK YOU, YOUR HONOR.

23 MR. WESTON: EXCUSE ME, YOUR HONOR. I WAS -- WE WOULD
24 ASK THAT MR. SILVAGGIO BE ALLOWED TO BE EXCUSED FROM HIS
25 SUBPOENA.

CARL SOUTHERLAND - DIRECT EXAMINATION BY MR. WESTON

210

1 MR. ABDALLA: NO OBJECTION.

2 THE COURT: OKAY. WE KNOW HOW TO FIND HIM.

3 MR. ABDALLA: YOU KNOW WHAT, LET'S JUST KEEP HIM ON
4 PHONE ALERT IN CASE ---

5 THE COURT: OKAY. WELL, PLEASE BE AVAILABLE.

6 MR. WESTON: YOUR HONOR, THE STATE WOULD CALL MR. CARL
7 SOUTHERLAND.

8 CARL H. SOUTHERLAND,

9 BEING DULY SWORN TESTIFIED AS FOLLOWS:

10 DIRECT EXAMINATION BY MR. WESTON:

11 Q. MR. SOUTHERLAND, ---

12 A. YES, SIR.

13 Q. --- YOU KNOW WHY YOU'RE HERE TODAY?

14 A. YES, SIR.

15 Q. ALL RIGHT. YOU WERE CHARGED WITH MURDER IN THE DEATH
16 OF JEROME [SIC] PROCTOR, IS THAT CORRECT?

17 A. YES, SIR.

18 Q. JERMAINE PROCTOR, I'M SORRY.

19 A. YES, SIR.

20 Q. AND IS IT TRUE THAT YOU'VE ALREADY PLED GUILTY TO THE
21 OFFENSE OF VOLUNTARY MANSLAUGHTER AS PART OF A PLEA
22 AGREEMENT?

23 A. YES, SIR, I HAVE.

24 Q. AND WOULD YOU TELL THE JURY WHAT THE TERMS OF THAT
25 AGREEMENT ARE?

CARL SOUTHERLAND - DIRECT EXAMINATION BY MR. WESTON

211

- 1 A. THAT I ONLY TELL THE TRUTH AND NOTHING BUT THE TRUTH.
- 2 Q. AND IN EXCHANGE FOR THAT?
- 3 A. JUST VOLUNTARY MANSLAUGHTER. THERE'S NO ---
- 4 Q. AS OPPOSED TO MURDER?
- 5 A. YES.
- 6 Q. HAVE YOU BEEN PROMISED ANYTHING ELSE?
- 7 A. NO, SIR.
- 8 Q. ALL RIGHT. YOUR NAME IS CARL HERSHEL SOUTHERLAND, IS
- 9 THAT CORRECT?
- 10 A. YES, SIR, IT IS.
- 11 Q. AND HOW OLD ARE YOU, MR. SOUTHERLAND?
- 12 A. I'LL BE FIFTY-THREE THE 20TH OF NEXT MONTH.
- 13 Q. ALL RIGHT. COULD YOU PUSH THE -- MOVE A LITTLE BIT
- 14 CLOSER -- PULL THE MICROPHONE A LITTLE BIT CLOSER TO YOU?
- 15 I'M HAVING A HARD TIME HEARING YOU DOWN HERE. THANK YOU,
- 16 SIR.
- 17 A. YES, SIR.
- 18 Q. I'M SORRY. YOU WERE SAYING HOW OLD YOU WERE.
- 19 A. I'LL BE FIFTY-THREE THE 20TH OF NEXT MONTH.
- 20 Q. ARE YOU IN GOOD HEALTH?
- 21 A. FAIRLY GOOD.
- 22 Q. OKAY. AND WHERE WERE YOU LIVING BEFORE YOU WERE
- 23 ARRESTED?
- 24 A. I LIVED IN MARIETTA, SOUTH CAROLINA.
- 25 Q. ALL RIGHT. AND WERE YOU WORKING BEFORE? AND LET ME

CARL SOUTHERLAND - DIRECT EXAMINATION BY MR. WESTON

212

1 JUST DEAL WITH BEFORE THIS INCIDENT. AND I'M TALKING ABOUT
2 THE DAYS AND WEEKS BEFORE ---

3 A. YES, SIR.

4 Q. --- BEFORE JUNE 19TH AND 20TH OF 2005. ALL RIGHT. WERE
5 YOU WORKING AROUND THAT TIME?

6 A. NO, SIR. I'D BEEN OUT OF WORK PROBABLY FOR ABOUT TWO
7 AND A HALF, THREE MONTHS.

8 Q. ALL RIGHT. AND YOU WERE LIVING IN MARIETTA AT THE
9 TIME?

10 A. YES, SIR.

11 Q. ALL RIGHT. AND ARE YOU MARRIED?

12 A. I WAS, BUT I'M NO LONGER MARRIED.

13 Q. ALL RIGHT, SIR. NOW YOU KNOW JONATHAN CAMPBELL?

14 A. YES, SIR.

15 Q. TELL THE JURY, AND WE'RE GOING TO START ONCE AGAIN WITH
16 JUNE 19TH AND 20TH OF 2005, ABOUT HOW LONG PRIOR TO THE
17 INCIDENT DATE HAD YOU KNOWN JONATHAN CAMPBELL.

18 A. POSSIBLY AROUND THREE AND A HALF TO FOUR WEEKS.

19 Q. HOW DID YOU COME TO KNOW HIM?

20 A. THROUGH A MUTUAL FRIEND.

21 Q. AND WHY -- JONATHAN CAMPBELL'S A LOT YOUNGER THAN YOU,
22 ISN'T THAT CORRECT?

23 A. YES, SIR.

24 Q. HOW DID Y'ALL COME TO BE FRIENDS GIVEN THE AGE
25 DIFFERENCE?

CARL SOUTHERLAND - DIRECT EXAMINATION BY MR. WESTON

213

1 A. THROUGH CRACK COCAINE. WE ---

2 Q. TELL THE JURY ---

3 A. --- WERE BOTH ADDICTS.

4 Q. --- WHAT YOU MEAN BY THAT.

5 A. WELL, WE WORKED TOGETHER TO HUSTLE UP AND PANHANDLE OR
6 WHATEVER WE HAD TO DO TO GET SOME -- GET HIGH THROUGH OUR
7 ADDICTION.

8 Q. AND SO THE PAST THREE WEEKS OR SO PRIOR TO JUNE 19TH OF
9 2005 YOU HAD BEEN GETTING HIGH WITH JONATHAN CAMPBELL?

10 A. YES, SIR.

11 Q. ABOUT HOW REGULARLY?

12 A. EVERY DAY.

13 Q. ALL RIGHT. AND AT ANY POINT DID Y'ALL STAY AT THE
14 SALVATION ARMY TOGETHER?

15 A. NO, SIR. WE NEVER STAYED AT THE SALVATION ARMY.

16 Q. DID YOU EVER STAY AT THE SALVATION ARMY?

17 A. NO, SIR.

18 Q. OKAY. ALL RIGHT. LET'S TALK ABOUT -- WE'RE TALKING
19 ABOUT HERE SATURDAY NIGHT AND SUNDAY MORNING, FATHER'S DAY.

20 A. YES, SIR.

21 Q. AND THEN MONDAY AND TUESDAY THEREAFTER, OKAY?

22 A. YES.

23 Q. NOW SUNDAY -- SATURDAY IS THE 19TH. WERE YOU WITH
24 JONATHAN CAMPBELL ON SATURDAY, JUNE THE 19TH OVER AT THE
25 CITY HEIGHTS HERE IN GREENVILLE?

CARL SOUTHERLAND - DIRECT EXAMINATION BY MR. WESTON

214

- 1 A. YES, SIR.
- 2 Q. AND WHY WERE Y'ALL TOGETHER?
- 3 A. WE HAD BOOSTED A -- BOOSTED SOME SPEAKERS. AND WE WERE
- 4 TRYING TO SELL THEM TO GET SOME DRUGS.
- 5 Q. AND WHEN YOU SAY BOOSTED SOME SPEAKERS, YOU MEAN STEAL?
- 6 A. YES, SIR.
- 7 Q. OKAY. AND DID YOU SEE JERMAINE PROCTOR ON SATURDAY --
- 8 ON THE AFTERNOON OF SATURDAY, JUNE THE 19TH, 2005?
- 9 A. YES, SIR. WE HAD SEEN HIM EARLIER THAT MORNING AFTER
- 10 WE GOT THE SPEAKERS. WE HAD TRIED TO SELL THEM TO HIM FOR
- 11 SOME DRUGS.
- 12 Q. WHERE DID YOU SEE HIM AT EARLIER THAT MORNING?
- 13 A. IN THE HEIGHTS.
- 14 Q. AND BY THAT YOU MEAN CITY HEIGHTS?
- 15 A. YES, SIR.
- 16 Q. APARTMENTS?
- 17 A. YES, SIR.
- 18 Q. AND DID HE OFFER TO SELL YOU SOME DRUGS FOR THE
- 19 SPEAKERS AT THAT TIME?
- 20 A. NO, SIR. HE HAD NONE WITH HIM AT THAT TIME. HE HAD
- 21 HIS -- I BELIEVE HE HAD HIS GIRLFRIEND AND THE CHILD WITH
- 22 HIM AT THE TIME.
- 23 Q. DID HE TALK OPENLY IN FRONT OF HER ABOUT THE DRUGS AND
- 24 STUFF WITH Y'ALL?
- 25 A. NO, SIR. HE -- JONATHAN ASKED HIM DID HE HAVE ANY.

CARL SOUTHERLAND - DIRECT EXAMINATION BY MR. WESTON

215

1 AND HE SAID, NO. AND THAT WAS IT FOR THE TIME.

2 Q. ALL RIGHT. WAS THAT THE FIRST TIME YOU'D SEEN JERMAINE
3 PROCTOR?

4 A. I HAD MET HIM A COUPLE OF TIMES PRIOR.

5 Q. ALL RIGHT. AND THIS WAS -- WAS THIS BEFORE YOU MET
6 JONATHAN CAMPBELL OR SINCE YOU HAD MET JONATHAN CAMPBELL?

7 A. IT WAS AFTER I'D MET JONATHAN.

8 Q. HOW DID YOU COME TO MEET JERMAINE PROCTOR A COUPLE OF
9 TIMES BEFORE THAT SATURDAY?

10 A. THROUGH JONATHAN.

11 Q. WHEN YOU SAY THROUGH JONATHAN, WHAT DO YOU MEAN?

12 A. I WAS WITH HIM WHEN WE WENT TO BUY DRUGS FROM JERMAINE.

13 Q. SO JONATHAN KNEW JERMAINE BEFORE YOU DID?

14 A. YES, SIR.

15 Q. ALL RIGHT. AND HOW MANY TIMES HAD Y'ALL BOUGHT DRUGS
16 FROM JERMAINE PROCTOR PRIOR TO JUNE? YOU SAID A COUPLE OF
17 TIMES?

18 A. IT'S SEVERAL TIMES.

19 Q. ALL RIGHT. ABOUT HOW MUCH DRUGS WOULD Y'ALL BUY WHEN
20 YOU'D GO SEE HIM JUST SO WE'D HAVE SOME IDEA WHAT WE'RE
21 DOING HERE?

22 A. ROUGHLY A COUPLE OF ROCKS AT A TIME.

23 Q. ALL RIGHT. AND HOW WOULD Y'ALL GET THE MONEY TO BUY
24 THESE ROCKS?

25 A. WE WERE PANHANDLING, STEALING.

CARL SOUTHERLAND - DIRECT EXAMINATION BY MR. WESTON

216

- 1 Q. WHEN YOU SAY WE, WHO DO YOU MEAN?
- 2 A. JONATHAN AND MYSELF.
- 3 Q. ALL RIGHT. AND -- OKAY. SO NOW WE'RE ON SATURDAY
- 4 AFTERNOON. YOU'D SEEN MR. PROCTOR AND YOU ASKED HIM ABOUT
- 5 -- WHO ASKED HIM ABOUT BUYING SOME -- GETTING SOME ROCKS
- 6 FROM HIM? WAS IT YOU OR WAS IT MR. CAMPBELL?
- 7 A. IT WAS MR. CAMPBELL.
- 8 Q. ALL RIGHT. AND DID MR. PROCTOR KNOW HIM BETTER THAN
- 9 YOU?
- 10 A. YES, SIR.
- 11 Q. OKAY. SO WHEN Y'ALL DEALT WITH HIM WHO DEALT WITH HIM
- 12 PRIMARILY? WOULD IT BE YOU OR WOULD IT BE MR. PROCTOR?
- 13 A. IT WAS ---
- 14 Q. CAMPBELL, I'M SORRY.
- 15 A. IT WAS MR. CAMPBELL.
- 16 Q. ALL RIGHT. AND SO YOU MET -- YOU TALKED TO HIM THE
- 17 FIRST TIME AND HE WAS WITH HIS GIRLFRIEND AND POSSIBLY A
- 18 CHILD. WHEN DID YOU SEE HIM AGAIN?
- 19 A. WE SEEN HIM LATER ON. HIS GIRLFRIEND WAS WITH HIM
- 20 AGAIN. AND WE ASKED HIM ---
- 21 Q. EXCUSE ME, I'M SORRY. WHERE WERE YOU AT?
- 22 A. WE WERE STILL IN CITY HEIGHTS.
- 23 Q. WERE Y'ALL IN ANOTHER COURT?
- 24 A. YES, SIR.
- 25 Q. OKAY.

CARL SOUTHERLAND - DIRECT EXAMINATION BY MR. WESTON

217

1 A. AND WE ASKED HIM IF HE WOULD GIVE US A RIDE TO THE BI-
2 LO SUPERMARKET.

3 Q. AND ---

4 A. AND ---

5 Q. --- DID HE GIVE YOU A RIDE?

6 A. YES, SIR. THEY GAVE US A RIDE TO THE BI-LO. AND WE
7 SHOWED HIM WHERE WE HAD BOOSTED THE SPEAKERS FROM. AND THEY
8 DROPPED US OFF AT THE BI-LO. AND THEN WE DIDN'T SEE HIM
9 AGAIN UNTIL WE WENT BACK TO CITY HEIGHTS.

10 Q. ALL RIGHT. SO YOU SAW HIM AGAIN AFTER THAT? YOU SAW
11 -- DID YOU SEE HIM AND HIS GIRLFRIEND AGAIN AFTER THAT?

12 A. NO, SIR, JUST JERMAINE.

13 Q. ALL RIGHT. WHEN Y'ALL LEFT JERMAINE -- WHEN HE DROPPED
14 YOU OFF AT THE BI-LO, EXCUSE ME, PRIOR TO DROPPING YOU OFF
15 AT THE BI-LO, WHEN Y'ALL WERE IN CITY HEIGHTS THE SECOND
16 TIME TALKING TO HIM ---

17 A. YES, SIR.

18 Q. --- WAS THERE ANY CONVERSATION ABOUT GETTING TOGETHER
19 LATER ON THAT EVENING?

20 A. YES, SIR. HE SAID THAT HE DIDN'T HAVE ANY BECAUSE HIS
21 GIRLFRIEND WOULDN'T LET HIM. HE SAID HE HAD NO DRUGS, BUT
22 THAT IF WE WOULD GET WITH HIM BETWEEN 11:30 TO 12:30 THAT
23 NIGHT THAT WE COULD GO OUT AND PULL A COUPLE OF B&Es AND HE
24 WOULD GIVE US A HALF A SPOON A PIECE.

25 Q. TELL THE JURY WHAT A B&E IS.

CARL SOUTHERLAND - DIRECT EXAMINATION BY MR. WESTON

218

- 1 A. A B&E IS A BREAKING AND ENTERING.
- 2 Q. ALL RIGHT. AND WHERE WERE Y'ALL SUPPOSED TO MEET HIM
- 3 THAT NIGHT?
- 4 A. IN FRONT OF HIS APARTMENT AT CITY HEIGHTS.
- 5 Q. ALL RIGHT. AND AS FAR AS YOU -- HAD YOU EVER BEEN IN
- 6 HIS APARTMENT?
- 7 A. NO, SIR.
- 8 Q. AND AS FAR AS YOU KNEW HE LIVED IN AN APARTMENT IN CITY
- 9 HEIGHTS?
- 10 A. YES, SIR.
- 11 Q. OKAY. AND SO HE DROPPED YOU OFF AT THE BI-LO. WHAT
- 12 WAS YOUR UNDERSTANDING AS TO WHEN Y'ALL WOULD SEE HIM AGAIN?
- 13 A. WE JUST RUN IN TO HIM AGAIN IN CITY HEIGHTS. AND THEN
- 14 WE SPOKE ABOUT THE BREAKING AND ENTERINGS. AND THEN THE
- 15 THIRD TIME WE MET HIM WAS IN CITY HEIGHTS.
- 16 Q. NOW WHEN Y'ALL LEFT HIM THE SECOND TIME WAS JONATHAN
- 17 CAMPBELL A PART OF THE AGREEMENT TO MEET WITH HIM LATER ON
- 18 THAT NIGHT?
- 19 A. YES, SIR.
- 20 Q. AND WHEN YOU SAID DO SOME B&Es OR BREAKING AND ENTERING
- 21 INTO SOME PLACES IN EXCHANGE FOR SOME CRACK COCAINE WERE THE
- 22 THREE OF Y'ALL GOING TO BREAK INTO A BUILDING?
- 23 A. NO, SIR, JUST JONATHAN AND MYSELF.
- 24 Q. AND SO Y'ALL'S APPROACH TO HIM WAS A TANDEM? THE TWO
- 25 OF YOU WERE GOING TO DO SOMETHING IN EXCHANGE FOR GETTING

CARL SOUTHERLAND - DIRECT EXAMINATION BY MR. WESTON

219

1 DRUGS FROM MR. PROCTOR, IS THAT CORRECT?

2 A. YES, SIR.

3 Q. ALL RIGHT. SO THAT NIGHT WERE Y'ALL IN CITY HEIGHTS
4 WAITING TO MEET WITH HIM?

5 A. YES, SIR, WE WERE.

6 Q. DID HE SHOW UP?

7 A. YES, SIR.

8 Q. WAS IT AROUND MIDNIGHT OR A LITTLE AFTER?

9 A. YES, SIR, IT WAS.

10 Q. AND WAS HE -- WHAT WAS HE DRIVING?

11 A. HE WAS DRIVING A JEEP WAGONER.

12 Q. ALL RIGHT. AND -- SO WHEN HE PULLED UP TELL THE JURY
13 WHAT HAPPENED NEXT.

14 A. WE WALKED OUT. IT HAD BEEN RAINING A LITTLE BIT. IT
15 WAS A LITTLE MISTY RAIN. WE WALKED OUT. AND HE SAID HE
16 REALLY DIDN'T WANT TO DO IT BECAUSE IT WAS RAINING, BUT ---

17 Q. EXCUSE ME, I'M SORRY. WHO SAID HE REALLY DIDN'T WANT
18 TO DO IT?

19 A. WELL, JERMAINE SAID THAT, YOU KNOW, HE'D LIKE TO WAIT
20 BECAUSE IT WAS RAINING AT THAT TIME. BUT WE TALKED HIM, YOU
21 KNOW, INTO GOING AHEAD. SO WE WENT ON.

22 Q. ALL RIGHT. SO WHERE DID Y'ALL GO?

23 A. THE FIRST PLACE WE WENT WAS ON OLD BUNCOMBE ROAD BEHIND
24 THE McDONALD'S ON OLD BUNCOMBE ROAD, THE SMALL STRIP MALL
25 RIGHT THERE.

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220

1 Q. IS THAT UP GOING NEAR -- GOING TOWARD FURMAN?

2 A. YES, SIR.

3 Q. ALL RIGHT. AND DID Y'ALL LOOK AT A PLACE?

4 A. YES, SIR. WE LOOKED AT A SMALL STORE THERE, BUT IT HAD
5 TOO MUCH SECURITY.

6 Q. NOW WHO'S SEATED WHERE IN THE CAR? IS JERMAINE
7 DRIVING?

8 A. YES, SIR. JERMAINE'S DRIVING. MR. CAMPBELL IS SITTING
9 IN THE PASSENGER'S SEAT. AND I'M SITTING IN THE MIDDLE OF
10 THE BACKSEAT.

11 Q. ALL RIGHT. AND SO YOU DECIDED NOT TO ROB THAT PLACE?

12 A. YES, SIR.

13 Q. WHERE DID YOU GO FROM THERE?

14 A. WE LEFT THERE AND WENT TO CLEVELAND PARK.

15 Q. ALL RIGHT. AND BEFORE WE TALK ABOUT WHAT YOU DID IN
16 CLEVELAND PARK, LET'S BACK UP A LITTLE BIT. WHEN Y'ALL GOT
17 WITH HIM THAT NIGHT DID HE HAVE ANY CRACK THEN?

18 A. YES, SIR. HE GAVE US BETWEEN THREE AND FOUR ROCKS.

19 Q. ALL RIGHT. NOW THAT WAS NOT THE PAYMENT -- WAS THAT
20 THE PAYMENT FOR THE BREAK-INS?

21 A. NO. SEE, THAT WAS JUST GIVING IT TO US SO THAT WE
22 COULD -- HE SAID SO THAT WE COULD GET OUR COURAGE UP TO DO
23 WHAT WE NEEDED TO DO.

24 Q. DID Y'ALL SMOKE THE CRACK IN THE CAR?

25 A. NO, SIR. HE TOLD US NOT TO SMOKE IN THE CAR.

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221

1 Q. DID HE TELL YOU WHY?

2 A. YES, SIR. HE DIDN'T WANT IT AROUND HIS FAMILY.

3 Q. ALL RIGHT. AND SO AS Y'ALL RIDE AROUND HOW DID Y'ALL
4 END UP SMOKING -- DID Y'ALL SMOKE THE CRACK?

5 A. YES, SIR, WE DID.

6 Q. HOW DID Y'ALL ACCOMPLISH THAT? DID YOU STOP OR WHAT
7 HAPPENED?

8 A. JERMAINE WOULD STOP, AND WE WOULD WALK UP TO CHECK THE
9 STORES THAT WE WERE GOING TO BREAK INTO. AND WE WOULD SMOKE
10 DURING THE PROCESS OF WALKING TO THE STORES AND WALKING
11 BACK.

12 Q. AND SO NOW YOU'RE -- YOU'VE BEEN TO A PLACE OR TWO.
13 NOW YOU'RE OVER NEAR CLEVELAND PARK, IS THAT CORRECT?

14 A. YES, SIR.

15 Q. TELL THE JURY WHAT HAPPENED WHEN Y'ALL GOT OVER NEAR
16 CLEVELAND PARK. WERE Y'ALL RIDING AND STOPPING? JUST TELL
17 THEM WHAT HAPPENED FROM THE TIME YOU STOPPED THE CAR TO --
18 FROM THEN ON.

19 A. WELL, WE -- WE GOT OVER THERE, AND HE PULLED OVER ON
20 THE SIDE OF A ROAD IN A LITTLE DRIVEWAY TYPE THING. AND
21 THERE WASN'T A HOUSE THERE. IT WAS JUST A LITTLE PULL-OFF.
22 AND WE WALKED UP AND CHECKED OUT -- I DON'T KNOW THE NAME OF
23 THE ROAD UP BEHIND IT, BUT THERE WAS A SMALL ELECTRONIC
24 STORE UP THERE. AND IT HAD DOGS INSIDE OF IT AND
25 EVERYTHING, BUT WE WALKED UP AND CHECKED IT. AND WE SMOKED

CARL SOUTHERLAND - DIRECT EXAMINATION BY MR. WESTON

222

1 THE LAST OF THE CRACK.

2 Q. AND WHEN YOU SAY WE, YOU MEAN YOU ---

3 A. JONATHAN AND I.

4 Q. --- AND JONATHAN CAMPBELL?

5 A. YES, SIR.

6 Q. DID Y'ALL SMOKE PRETTY MUCH EQUAL AMOUNTS?

7 A. YES, SIR.

8 Q. IS THAT PRETTY MUCH HOW IT WORKS WITH PEOPLE THAT SMOKE
9 CRACK? IF I'VE GOT TWO ROCKS, IF YOU'VE GOT TWO ROCKS, I'M
10 GOING TO GET ONE AND YOU GET ONE?

11 A. USUALLY, UNLESS SOMEBODY WANTS TO GET STINGY.

12 Q. I'M SORRY?

13 A. USUALLY, UNLESS SOMEONE GETS STINGY.

14 Q. OKAY. SO YOU SMOKED THE LAST OF THE CRACK AS YOU WERE
15 COMING BACK TO THE CAR. THEN WHAT HAPPENED?

16 A. WELL, WE GOT BACK IN THE CAR AND JERMAINE BACKED OUT OF
17 THE PARKING SPACE WHERE WE WERE PARKED AT ON THE LITTLE CUL-
18 DE-SAC TYPE THING.

19 Q. OKAY. WHERE IS EVERYBODY SEATED THIS TIME?

20 A. JONATHAN IS BACK IN THE FRONT SEAT. AND I'M STILL
21 SITTING IN THE BACKSEAT.

22 Q. ALL RIGHT. THEN WHAT HAPPENED AS HE BACKED OUT?

23 A. WE BACKED OUT AND WE STARTED DOWN. AND HE SAID, WELL,
24 WHAT'S WRONG? HOW COME YOU'RE NOT -- AND WE TOLD HIM, YOU
25 KNOW, SECURITY, WE JUST WASN'T GOING TO DO IT.

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223

1 Q. WHEN YOU SAY WE TOLD HIM, WERE BOTH YOU AND MR.

2 CAMPBELL CHANGING YOUR MINDS?

3 A. YES, SIR.

4 Q. NOT JUST YOU?

5 A. RIGHT.

6 Q. AND SO THEN WHAT HAPPENED?

7 A. SO THERE WAS A LITTLE BIT OF AN ARGUMENT STARTED. AND

8 ---

9 Q. IS THIS WHILE HE'S DRIVING OR WAS HE STOPPED?

10 A. WE WERE STOPPED.

11 Q. OKAY.

12 A. AND HE HAD PUT THE VEHICLE IN PARK. WE WERE SITTING IN

13 THE MIDDLE OF THE ROAD. AND I THOUGHT HE WAS FIXING TO HIT

14 JONATHAN, IS WHAT I THOUGHT. AND I REACHED UP AND I GRABBED

15 HIS SHOULDERS AND HELD HIM BACK.

16 Q. LET ME STOP YOU RIGHT THERE BEFORE WE GET INTO THE --

17 GET INTO THE ACTUAL ALTERCATION. TELL ME WHAT WAS BEING

18 SAID BY YOU, JONATHAN AND JERMAINE AT THE BEGINNING OF THIS

19 ARGUMENT. WHAT IS HE SAYING AND WHAT ARE Y'ALL SAYING?

20 A. WELL, HE WAS JUST WANTING TO KNOW WHY WE WASN'T GOING

21 TO HIT IT. AND WE WAS TELLING HIM, YOU KNOW, WE'RE NOT

22 GOING TO BECAUSE THE SECURITY DOGS, THE ELECTRONIC SECURITY,

23 SURVEILLANCE AND ALL THIS. AND HE WAS GETTING A LITTLE MORE

24 UPSET BECAUSE WE'D MADE THE PROMISE AND HE HAD GAVE US THE

25 COCAINE TO SMOKE AND THE CRACK TO SMOKE BEFORE WE DID IT.

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224

1 Q. OKAY. SO WAS THERE CURSING?

2 A. THERE WAS A LITTLE.

3 Q. ALL RIGHT. SO YOU SAID YOU GRABBED HIM 'CAUSE YOU
4 THOUGHT -- YOU GRABBED JERMAINE FROM BEHIND, GRABBED HIS
5 SHOULDERS FROM BEHIND IN THE BACKSEAT BECAUSE YOU THOUGHT HE
6 WAS GOING TO HIT JONATHAN, YOU SAID?

7 A. YES, SIR.

8 Q. TELL THE JURY WHAT HAPPENED NEXT.

9 A. WELL, AS I GRABBED HIM BY HIS SHOULDERS TO HOLD HIM
10 BACK, JONATHAN STABBED HIM. HE HIT HIM THREE -- THREE,
11 SEVERAL TIMES IN THE CHEST AREA, UPPER CHEST AREA.

12 Q. ALL RIGHT.

13 A. BUT THAT'S ALL HE SHOULD -- HE SHOULDN'T HAVE DONE
14 ANYTHING BECAUSE JERMAINE WAS THROUGH. HE COULDN'T ---

15 Q. TELL ME ---

16 A. HE COULDN'T DO ANYTHING.

17 Q. --- WHAT YOU MEAN WHEN YOU SAY JERMAINE WAS THROUGH.

18 A. HE WASN'T FIGHTING BACK. HE WASN'T DOING ANYTHING. HE
19 JUST FELL OVER.

20 Q. AFTER THE FIRST THREE OR FOUR BLOWS?

21 A. YES, SIR. AND IT WAS LIKE WHEN HE GOT DOWN, JONATHAN'S
22 CRAWLING UP ON TOP OF HIM AND PUT HIS FEET UP AGAINST THE
23 STEERING COLUMN AND UP ON THE DASH. AND IT BROKE THE WHOLE
24 DASH COVER OFF THE DASH. AND IT BENT THE STEERING -- THE
25 KEY IN THE IGNITION SO BAD THAT IT WOULDN'T COME OUT. BUT

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225

1 YOU COULD CUT IT OFF AND START IT, BUT YOU COULDN'T PULL THE
2 KEYS OUT ANYMORE.

3 Q. OKAY. AND YOU FOUND THAT OUT LATER?

4 A. YES, SIR.

5 Q. ALL RIGHT. SO NOW WHERE DID JONATHAN GET THIS KNIFE
6 FROM?

7 A. HE KEPT IT IN THE BACK OF HIS PANTS.

8 Q. ALL RIGHT.

9 A. IN HIS BELT.

10 Q. AND YOU HAD SEEN HIM CARRY THAT BEFORE?

11 A. YES, SIR.

12 Q. IS JONATHAN SAYING ANYTHING AS HE'S STABBING HIM?

13 A. HE JUST, YOU KNOW, GOING CRAZY.

14 Q. SO THEN WHAT HAPPENED?

15 A. SO AFTER -- WELL, I GOT OUT OF THE BACKSEAT ON THE
16 PASSENGER'S SIDE, AND I WALKED AROUND. AND I OPENED THE
17 DRIVER'S DOOR AND I TRIED TO GRAB -- WELL, JONATHAN WAS ON
18 TOP OF HIM, LIKE I SAY. AND I GRABBED JONATHAN TO TRY TO
19 PULL HIM OFF OF HIM. AND HE SLAMMED HIS LEFT ELBOW UP INTO
20 MY SHOULDER AND KNOCKED ME OFF. AND THEN HE FINISHED WHAT
21 HE WAS DOING.

22 Q. WHICH WAS WHAT?

23 A. WHICH WAS KILLING MR. PROCTOR.

24 Q. ALL RIGHT. SO -- EXCUSE ME ONE SECOND. SO DID YOU
25 HAVE ANY IDEA JONATHAN WAS GOING TO ACTUALLY STAB HIM BEFORE

CARL SOUTHERLAND - DIRECT EXAMINATION BY MR. WESTON

226

1 IT HAPPENED?

2 A. WELL, I MEAN, HE HAD SORT OF HAD AN ALTERCATION WITH
3 HIM EARLIER, ABOUT A WEEK, WEEK AND A HALF EARLIER 'CAUSE
4 MR. PROCTOR DIDN'T HAVE ANY DOPE ON HIM. AND HE SAID IT, HE
5 JUST SAID, WELL, I'M GOING TO KILL HIM, YOU KNOW. BUT I
6 THOUGHT IT WAS JUST DRUGS TALKING, YOU KNOW. HE AIN'T GOT
7 NO DOPE, WELL, I OUGHT TO KILL HIM OR SOMETHING, YOU KNOW,
8 LIKE THAT ---

9 Q. WHO SAID THIS?

10 A. JONATHAN.

11 Q. AND WHO WAS HE TALKING ABOUT?

12 A. JERMAINE.

13 Q. ALL RIGHT. LET ME SHOW YOU WHAT'S BEEN MARKED AS
14 STATE'S -- WHAT'S BEEN ENTERED INTO EVIDENCE AS STATE'S
15 EXHIBIT -- STATE'S EXHIBIT 11 AND ASK YOU DO YOU RECOGNIZE
16 THAT?

17 A. YES, SIR.

18 Q. WHAT IS THAT?

19 A. THAT LOOKS JUST LIKE THE KNIFE THAT JONATHAN HAD.

20 Q. ALL RIGHT. AND THIS LOOKS LIKE THE KNIFE HE'D BEEN
21 CARRYING FOR SOME DAYS BEFORE THAT?

22 A. YES, SIR.

23 Q. DOES IT LOOK LIKE THE KNIFE THAT HE USED TO STAB
24 JERMAINE PROCTOR EIGHTEEN TIMES?

25 A. YES, SIR.

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- 1 Q. NOW YOU SAID YOU WERE HOLDING HIS SHOULDERS.
- 2 A. YES, SIR.
- 3 Q. INITIALLY BECAUSE YOU SAID YOU THOUGHT HE WAS GOING TO
- 4 HIT HIM?
- 5 A. YES, SIR.
- 6 Q. ONCE JONATHAN STARTED STABBING HIM DID YOU LET HIM GO?
- 7 A. YES, SIR, I DID.
- 8 Q. ALL RIGHT. WERE YOU HOLDING HIS SHOULDERS THE FIRST
- 9 TIME HE STABBED HIM?
- 10 A. YES, SIR, I HAD HIS SHOULDERS. AND JONATHAN JUST COME
- 11 IN AND STABBED HIM.
- 12 Q. ALL RIGHT. AND SO YOU ACKNOWLEDGE YOU PARTICIPATED IN
- 13 THIS?
- 14 A. YES, SIR.
- 15 Q. ALL RIGHT. WAS MR. PROCTOR ARMED AS FAR AS YOU KNEW?
- 16 A. NO, SIR.
- 17 Q. WITH A WEAPON?
- 18 A. NO, SIR.
- 19 Q. ALL RIGHT. HAD HE THREATENED TO KILL EITHER ONE OF
- 20 Y'ALL?
- 21 A. NO, SIR.
- 22 Q. HE WAS JUST -- THERE WAS JUST Y'ALL -- THE THREE OF
- 23 Y'ALL WERE JUST ARGUING?
- 24 A. WELL, THE TWO WAS JUST ARGUING BECAUSE I SAID NOTHING.
- 25 I WAS JUST SITTING IN THE BACKSEAT. AND THEY WERE ARGUING

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228

1 ABOUT, WELL, YOU KNOW, Y'ALL THIS AND Y'ALL THAT. AND --

2 Q. BUT YOU HAD BEEN -- YOU AND MR. CAMPBELL -- DID YOU AND
3 MR. CAMPBELL JOINTLY OR ONE OF YOU GETTING ON BOARD WITH
4 WHAT THE OTHER ONE WAS SAYING AGREED THAT Y'ALL WEREN'T
5 GOING TO DO THIS PRIOR TO THE ARGUMENT?

6 A. YES, SIR.

7 Q. ALL RIGHT. SO Y'ALL BOTH BACKED OUT OF THE DEAL?

8 A. YES, SIR.

9 Q. AND Y'ALL BOTH HAD SMOKED HIS CRACK?

10 A. YES, SIR.

11 Q. OKAY. ALL RIGHT. ONCE YOU GO AROUND -- YOU'RE GOING
12 AROUND TO THE FRONT OF THE CAR NOW?

13 A. YES, SIR.

14 Q. AND MR. CAMPBELL, YOU SAID, DROPPED YOU BACK? I THINK
15 HE HIT YOU WITH HIS ELBOW SOMEWHERE IN THE CHEST ---

16 A. YES, SIR. HE HIT ME IN THE SHOULDER ---

17 Q. TELL THE JURY WHAT HAPPENS NEXT.

18 A. WELL, AFTER SEVERAL MOMENTS, YOU KNOW, I WENT BACK
19 AGAINST THE DOOR BECAUSE AT THE TIME I ONLY WEIGHED ABOUT A
20 HUNDRED AND FIFTEEN POUNDS WHERE I'D BEEN ON THAT -- BEEN ON
21 A CRACK BINGE. I HADN'T BEEN EATING OR ANYTHING. SO I'D
22 LOST A LOT OF WEIGHT.

23 SO I WALKED BACK AROUND. AND JONATHAN CRAWLED OFF OF
24 HIM. AND HE SAID, LET'S GET HIM IN THE BACKSEAT. SO I
25 HELPED HIM PULL HIM BETWEEN THE SEATS INTO THE BACKSEAT.

CARL SOUTHERLAND - DIRECT EXAMINATION BY MR. WESTON

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- 1 AND THEN JONATHAN JUMPED BEHIND THE WHEEL AND WE TOOK OFF.
- 2 Q. NOW ABOUT WHAT TIME OF THE MORNING IS THIS?
- 3 A. IT'S ROUGHLY -- PROBABLY AROUND THREE, 3:30.
- 4 Q. ALL RIGHT. SO JONATHAN WAS DRIVING WHEN Y'ALL
- 5 COMMANDEERED HIS CAR?
- 6 A. YES, SIR.
- 7 Q. AND WERE YOU IN THE FRONT SEAT, PASSENGER'S SEAT?
- 8 A. YES, SIR.
- 9 Q. NOW COULD YOU HAVE JUST WALKED AWAY AT THAT POINT?
- 10 A. YES, SIR, I COULD HAVE.
- 11 Q. WHY DIDN'T YOU?
- 12 A. I REALLY DON'T KNOW, SIR.
- 13 Q. WERE YOU HIGH?
- 14 A. YES, SIR.
- 15 Q. OKAY. SO JONATHAN'S DRIVING, YOU'RE IN THE FRONT SEAT.
- 16 HAVE Y'ALL DETERMINED WHAT MR. PROCTOR'S MEDICAL CONDITION
- 17 IS AT THAT TIME?
- 18 A. NO.
- 19 Q. IF HE WAS DEAD, SEVERELY INJURED, UNCONSCIOUS?
- 20 A. HE LOOKED LIKE HE WAS DEAD TO ME.
- 21 Q. OKAY. DID YOU THINK TO GET SOME MEDICAL HELP FOR HIM?
- 22 A. NO, SIR. I DIDN'T THINK OF THAT.
- 23 Q. DID MR. CAMPBELL SAY ANYTHING ABOUT GETTING MEDICAL
- 24 HELP FOR HIM?
- 25 A. NO, SIR. HE WAS JUST -- IN OTHER WORDS, HE WAS JUST

CARL SOUTHERLAND - DIRECT EXAMINATION BY MR. WESTON

230

- 1 WANTING TO GET THE HELL OUT OF THERE.
- 2 Q. ALL RIGHT. SO Y'ALL GOT, AS YOU SAY, THE HELL OUT OF
- 3 THERE.
- 4 A. YES, SIR.
- 5 Q. AND WHERE DID Y'ALL GO?
- 6 A. WE WAS RIDING AROUND. AND WE WOUND UP IN TRAVELERS
- 7 REST. AND JONATHAN KNEW SOMEONE THAT LIVED IN A SMALL
- 8 TRAILER PARK UP IN TRAVELERS REST. SO WE WENT UP AND WE
- 9 TOOK A COUPLE OF SPEAKERS OUT OF MR. PROCTOR'S CAR AND
- 10 TRADED IT FOR CRACK COCAINE AND LEFT THERE AND WENT ABOUT
- 11 THREE BLOCKS AWAY TO A GAS STATION. AND JONATHAN CALLED HIS
- 12 MOTHER.
- 13 Q. EXCUSE ME. LET ME MAKE SURE I'M FOLLOWING YOU. AFTER
- 14 Y'ALL KILLED MR. PROCTOR, ---
- 15 A. YES, SIR.
- 16 Q. --- THE FIRST THING Y'ALL DID WAS GO AND BUY CRACK?
- 17 A. NO, SIR. WE WAS JUST RIDING AROUND.
- 18 Q. BUT PRIOR TO CALLING HIS MOTHER Y'ALL WENT AND BOUGHT
- 19 CRACK?
- 20 A. YES, SIR.
- 21 Q. AND DID YOU SMOKE IT?
- 22 A. YES, SIR.
- 23 Q. BEFORE HE CALLED HIS MOTHER?
- 24 A. YES, SIR.
- 25 Q. OKAY. WHERE -- OKAY. YOU TRADED SPEAKERS FOR THE

CARL SOUTHERLAND - DIRECT EXAMINATION BY MR. WESTON

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1 CRACK. DID Y'ALL HAVE ANY MONEY?

2 A. NO, SIR.

3 Q. OKAY. NOW WHEN JONATHAN CALLED HIS MOTHER, WHERE WERE
4 Y'ALL AT?

5 A. WE WERE ON A -- IN A GAS STATION ON HIGHWAY 25 GOING
6 THROUGH TRAVELERS REST.

7 Q. ALL RIGHT. AND Y'ALL DIDN'T HAVE ANY MONEY TO EVEN PAY
8 FOR THE PAY PHONE?

9 A. NO, SIR. I BELIEVE HE MADE A COLLECT CALL.

10 Q. OKAY. AND, I ASSUME, THAT SERVICE STATION WAS CLOSED?

11 A. YES, SIR.

12 Q. OKAY. NOW AT THIS POINT THE SUN HAS COME UP?

13 A. YES, SIR.

14 Q. WHERE -- WHEN YOU CAME TO THIS SERVICE STATION AND
15 JONATHAN -- DID HE SAY HE WAS GOING TO CALL HIS MOTHER?

16 A. YES, SIR.

17 Q. ALL RIGHT. DID HE GET OUT OF THE CAR OR DID HE JUST
18 KIND OF PULL UP NEXT TO THE PHONE AND KIND OF JUST REACH OUT
19 OF THE FRONT WINDOW?

20 A. HE PULLED UP PROBABLY FROM HERE TO THE DESK THERE FROM
21 THE TELEPHONE. HE GOT OUT AND WALKED OVER TO THE PHONE AND
22 CALLED HIS MOTHER.

23 Q. WERE YOU STANDING NEXT TO HIM?

24 A. NO, SIR. I WAS SITTING IN THE PASSENGER'S SEAT OF THE
25 JEEP.

CARL SOUTHERLAND - DIRECT EXAMINATION BY MR. WESTON

232

1 Q. DID YOU EVER GET OUT OF THE CAR DURING THAT TIME WHEN
2 HE WAS TALKING TO HIS MOTHER?

3 A. NO, SIR.

4 Q. WERE YOU ABLE TO HEAR WHAT HE WAS SAYING ON THE
5 TELEPHONE? WERE YOU CLOSE ENOUGH TO HEAR WHAT HE WAS SAYING
6 GENERALLY?

7 A. YES, SIR, I WAS.

8 Q. DO YOU REMEMBER WHAT HE SAID -- DID HE REACH HIS
9 MOTHER?

10 A. YES, SIR, HE DID.

11 Q. DO YOU REMEMBER WHAT HE SAID TO HIS MOTHER DURING THE
12 CONVERSATION?

13 A. HE TOLD HIS MOTHER, HE SAID, MOM, I KILLED A MAN LAST
14 NIGHT, AND I'D DO IT AGAIN.

15 Q. DID HE TELL HIS MOTHER HOW HE KILLED HIM?

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

17 Q. ALL RIGHT. WAS HE UPSET?

18 A. HE SEEMED TO BE A LITTLE UPSET.

19 Q. ALL RIGHT. AND BACKING UP A BIT TO THE POINT WHERE
20 Y'ALL ARE -- Y'ALL HAD GOTTEN SOME MORE CRACK AND BEFORE HE
21 CALLED HIS MOTHER.

22 A. YES, SIR.

23 Q. WERE YOU AND HIM STILL PRETTY MUCH ON THE SAME PAGE OR
24 WERE Y'ALL AT ODDS WITH EACH OTHER?

25 A. IT WAS -- I WAS JUST SO CONFUSED ABOUT WHAT WAS GOING

CARL SOUTHERLAND - DIRECT EXAMINATION BY MR. WESTON

233

1 ON AND MY MIND WAS RUNNING IN A THOUSAND DIFFERENT
2 DIRECTIONS.

3 Q. DID YOU AND HE HAVE ANY ARGUMENTS BEFORE HE CALLED HIS
4 MOTHER?

5 A. NO, SIR.

6 Q. DID YOU MAKE ANY THREATS AGAINST HIM BEFORE HE CALLED
7 HIS MOTHER?

8 A. NO, SIR, I DID NOT.

9 Q. YOU DIDN'T THREATEN HIM TO STAB HIM WITH A SCREWDRIVER?

10 A. NO, SIR.

11 Q. DID YOU HAVE A SCREWDRIVER?

12 A. NO, SIR, I DID NOT.

13 Q. OKAY. HAD Y'ALL EXPLORED MR. PROCTOR'S CAR YET TO SEE
14 WHAT ALL WAS INSIDE THERE?

15 A. NO, SIR, NOT AT THAT TIME.

16 Q. OKAY. AND ONCE MR. CAMPBELL FINISHED TALKING TO HIS
17 MOTHER, THEN WHAT DID Y'ALL DO?

18 A. RIGHT AFTER HE GOT OFF THE PHONE AND WE RODE BY WHERE
19 HIS MOTHER LIVES, AND THEN HE SAID, WE GOT TO GET OUT OF THE
20 STATE, WE'RE GOING TO FLORIDA. SO WE START -- WE HIT 85.
21 AND THE NEXT THING I KNOW WE'RE IN ATLANTA, GEORGIA.

22 Q. ALL RIGHT. NOW LET'S BACK UP AND BRING IT BACK TO
23 GREENVILLE A LITTLE BIT. THIS MURDER OCCURRED IN GREENVILLE
24 COUNTY, IS THAT CORRECT?

25 A. YES, SIR.

CARL SOUTHERLAND - DIRECT EXAMINATION BY MR. WESTON

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- 1 Q. OKAY. AND DID -- WHEN HE WAS GOING TO CALL HIS MOTHER
2 DID HE TELL YOU -- DID MR. CAMPBELL TELL YOU WHY HE WAS
3 CALLING HIS MOTHER?
- 4 A. HE JUST SAID HE HAD TO CALL HIS MOTHER.
- 5 Q. DID YOU ASK HIM TO ASK FOR SOME MONEY FROM HIS MOTHER?
- 6 A. NO, SIR, I DID NOT.
- 7 Q. DID HE TELL YOU HE WAS GOING TO TRY TO GET SOME MONEY
8 FROM HIS MOTHER?
- 9 A. NO, SIR.
- 10 Q. DURING THE CONVERSATION THAT YOU HEARD WITH HIM AND HIS
11 MOTHER DID YOU HEAR HIM AT ANY POINT ASK FOR ANY MONEY?
- 12 A. NO, SIR.
- 13 Q. OKAY. SO NOW Y'ALL ARE DRIVING TOWARD ATLANTA?
- 14 A. YES, SIR.
- 15 Q. DO YOU HAVE ANY MONEY?
- 16 A. NO, SIR.
- 17 Q. ALL RIGHT. NOW YOU -- I DON'T KNOW HOW MUCH GAS MR.
18 PROCTOR HAD IN HIS CAR OR WHAT THE CIRCUMSTANCES WAS, BUT
19 HOW DID Y'ALL GET MORE MONEY AND WHEN DID YOU GET MORE
20 MONEY?
- 21 A. WELL, AS WE WAS RIDING TOWARDS ATLANTA WE PULLED OFF AT
22 AN EXIT. AND THERE WAS A COUPLE OF GUYS CUTTING GRASS
23 AROUND A, YOU KNOW, A SHUT DOWN GAS STATION. WELL, WE
24 STOPPED AND STARTED TALKING TO THEM. AND THEY SAID, LOOK,
25 SAID IF YOU'LL CUT THE GRASS, WE'LL PAY YOU. SO ---

CARL SOUTHERLAND - DIRECT EXAMINATION BY MR. WESTON

235

- 1 Q. HOW MUCH DID THEY GIVE YOU?
- 2 A. THEY GIVE US TWENTY DOLLARS.
- 3 Q. ALL RIGHT. AND WHERE WAS JERMAINE PROCTOR'S BODY AT
- 4 THIS POINT?
- 5 A. IT WAS STILL IN THE BACKSEAT.
- 6 Q. DID Y'ALL COVER IT UP WITH A SHEET OR SOMETHING?
- 7 A. YES, SIR.
- 8 Q. ALL RIGHT. BEFORE WE GET INTO ATLANTA LET'S MAKE SURE
- 9 I UNDERSTAND -- I NEED TO ASK YOU ABOUT WHETHER OR NOT --
- 10 DID Y'ALL HAVE ANY DISCUSSION AS TO WHY YOU WERE KEEPING
- 11 THIS BODY IN THE BACK OF THE CAR, YOU AND MR. CAMPBELL?
- 12 A. NO, SIR.
- 13 Q. Y'ALL DROVE FROM HERE TO ATLANTA, ABOUT A TWO, TWO AND
- 14 A HALF HOUR RIDE.
- 15 A. YES, SIR.
- 16 Q. AND Y'ALL NEVER HAD -- Y'ALL NEVER TALKED ABOUT THE
- 17 FACT THAT THERE WAS A DEAD BODY IN THE BACKSEAT?
- 18 A. NO, SIR.
- 19 Q. WHAT DID YOU THINK Y'ALL WERE GOING TO DO WITH THIS
- 20 BODY?
- 21 A. I REALLY DIDN'T KNOW.
- 22 Q. AND YOU THOUGHT Y'ALL WERE HEADED FOR FLORIDA?
- 23 A. YES, SIR.
- 24 Q. WHY FLORIDA? DID MR. CAMPBELL SAY?
- 25 A. HE SAID THAT HE KNEW SOME PEOPLE DOWN IN FLORIDA HE

CARL SOUTHERLAND - DIRECT EXAMINATION BY MR. WESTON

236

1 COULD SELL THE JEEP TO.

2 Q. ALL RIGHT. SO YOU GET IN OR TO AROUND ATLANTA NOW.

3 AND THIS IS NOW SUNDAY MORNING, SUNDAY AFTERNOON?

4 A. YES, SIR.

5 Q. AND WHAT DID Y'ALL DO WHEN YOU GOT IN OR AROUND

6 ATLANTA?

7 A. WE WAS SITTING AROUND. AND JON HAD BEEN WRITING A FEW

8 BAD CHECKS. SO WE WENT INTO A MOVIE RENTAL CENTER THING.

9 AND HE WENT IN AND BOUGHT SOME SECOND -- SECOND RUN MOVIES

10 AND STUFF. WE WENT THROUGH ONE OF THE HOODS UP THERE THAT

11 HE KNEW ABOUT, AND WE TRADED IT ALL FOR CRACK AND GOT SOME

12 GAS.

13 Q. HAD YOU EVER BEEN TO THAT PART OF ATLANTA BEFORE?

14 A. NO, SIR. I'VE NEVER BEEN TO ATLANTA BEFORE.

15 Q. ALL RIGHT. AS Y'ALL ARE -- WHEN YOU STOP AT THE MOVIE

16 RENTAL PLACE, WHERE IS MR. PROCTOR'S BODY?

17 A. IT'S STILL IN THE BACKSEAT.

18 Q. WHEN YOU GOT TO THESE AREAS OF ATLANTA WHERE Y'ALL

19 BOUGHT CRACK, WHERE IS MR. PROCTOR'S BODY?

20 A. IT'S STILL IN THE BACK.

21 Q. DID YOU -- WHEN YOU WENT -- WHEN YOU STOPPED TO BUY --

22 WHEN YOU STOPPED TO GET THE MOVIES YOU SAID MR. CAMPBELL

23 WENT IN AND TRADED FOR THE MOVIES OR GOT THE MOVIES.

24 A. YES, SIR.

25 Q. NOW AT THAT POINT WAS THERE ANYTHING KEEPING YOU FROM

CARL SOUTHERLAND - DIRECT EXAMINATION BY MR. WESTON

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- 1 GETTING OUT OF THE CAR AND GOING TO THE NEAREST LAW
2 ENFORCEMENT AGENCY, OR THE NEIGHBOR'S HOUSE OR SOMEWHERE TO
3 CALL 911?
4 A. NO, SIR, JUST STUPIDITY AND FEAR.
5 Q. WHAT WERE YOU AFRAID OF, SIR?
6 A. I JUST DIDN'T KNOW WHAT WAS GOING TO HAPPEN, SIR.
7 Q. WERE YOU AFRAID THAT MR. CAMPBELL WAS GOING TO KILL YOU
8 OR SOMETHING LIKE THAT?
9 A. NO, I DIDN'T KNOW. HE'D ALREADY KILLED ONE MAN.
10 Q. OKAY. BUT HE DIDN'T THREATEN TO KILL YOU IF YOU LEFT
11 HIM, DID HE?
12 A. NO, SIR.
13 Q. OKAY. AND YOU STAYED WITH HIM UNDER THOSE
14 CIRCUMSTANCES AND TRAVELED WITH HIM VOLUNTARILY, IS THAT
15 CORRECT?
16 A. YES, SIR.
17 Q. WHEN HE WENT IN TO BUY THE CRACK, DID YOU GO WITH HIM?
18 A. NO, SIR. I STAYED IN THE JEEP.
19 Q. AND AT THAT TIME YOU HAD THE OPPORTUNITY TO LEAVE AND
20 GET AWAY FROM HIM AND THE CIRCUMSTANCE IF YOU WANTED TO,
21 DIDN'T YOU?
22 A. YES, SIR.
23 Q. BUT YOU CHOSE NOT TO?
24 A. AS I SAID, I WAS STILL, YOU KNOW, I HAD A LITTLE FEAR
25 AND STUPIDITY.

CARL SOUTHERLAND - DIRECT EXAMINATION BY MR. WESTON

238

1 Q. ALL RIGHT. NOW YOU GET -- YOU'VE GOTTEN MORE CRACK IN
2 ATLANTA NOW. WHAT HAPPENS NEXT?

3 A. WE JUST STARTED TRAVELING AND WOUND UP IN ALABAMA.

4 Q. SO THIS IS SATURDAY NIGHT NOW? I'M SORRY, THIS IS
5 SUNDAY NIGHT, MONDAY MORNING OR WHAT?

6 A. IT WAS AROUND MONDAY MORNING.

7 Q. OKAY. IT'S MONDAY MORNING, YOU'RE IN ALABAMA. DID YOU
8 MAKE ANY STOPS IN ALABAMA?

9 A. YES. WE WENT TO A COUPLE OF PLACES AND STOLE A COUPLE
10 OF THINGS AND TOOK THEM AND PAWNED THEM.

11 Q. DID YOU STEAL LIKE A WEED-EATER OR SOMETHING ALONG
12 THOSE LINES?

13 A. YES, SIR. IT WAS A GASOLINE POWERED WEED-EATER.

14 Q. ALL RIGHT. AND DID YOU GO IN AND PAWN THEM?

15 A. YES, SIR.

16 Q. ALL RIGHT. AND THIS IS IN ALABAMA, IS THAT CORRECT?

17 A. YES, SIR.

18 Q. NOW WHEN YOU GOT THAT MONEY, WHAT DID YOU DO WITH THE
19 MONEY?

20 A. PUT A LITTLE GAS IN AND GOT SOME CRACK COCAINE.

21 Q. ALL RIGHT. HOW DID YOU KNOW WHERE TO GET CRACK FROM IN
22 ALABAMA?

23 A. JUST RIDING THROUGH THE HOODS.

24 Q. AND WHERE IS MR. PROCTOR'S BODY DURING ALL THIS TIME?

25 A. IT'S UNDERNEATH THE BACKSEAT.

CARL SOUTHERLAND - DIRECT EXAMINATION BY MR. WESTON

239

1 Q. Y'ALL HAD MOVED IT FROM ON THE BACKSEAT TO UNDERNEATH
2 IT OR WHAT?

3 A. NO, SIR. I HAD -- I HAD PASSED OUT IN THE FRONT SEAT.
4 AND WHEN I -- WE HAD STOPPED TO GET SOME SLEEP. AND I WAS
5 JUST SO TIRED THAT I PASSED OUT. AND WHEN I WOKE UP
6 JONATHAN HAD ALREADY PUT IT UNDER THE BACKSEAT.

7 Q. ALL RIGHT. NOW AT THIS POINT, THIS IS TEN OR 11:00 ON
8 MONDAY MORNING?

9 A. ROUGHLY, YES, SIR.

10 Q. ALL RIGHT. AND LET'S JUST -- LET'S GET THE DRIVING
11 STRAIGHT. WHEN YOU FIRST LEFT GREENVILLE, WHO'S DRIVING?

12 A. JONATHAN.

13 Q. AND WHEN DID HE TRANSFER THE DRIVING TO YOU?

14 A. THE LAST -- THE MORNING OF THE CHASE THAT WE GOT
15 ARRESTED.

16 Q. WHEN YOU WERE ALREADY IN ALABAMA?

17 A. YES, SIR.

18 Q. AND SO HOW LONG HAD YOU BEEN DRIVING WHEN THE CHASE
19 OCCURRED? AND WE'RE GOING TO TALK ABOUT THE CHASE, BUT HOW
20 LONG HAD YOU BEEN DRIVING WHEN THE CHASE OCCURRED?

21 A. POSSIBLY FORTY-FIVE MINUTES TO AN HOUR.

22 Q. DID Y'ALL MEET UP WITH ANYBODY THAT GAVE Y'ALL ANY HELP
23 FROM A FOOD STANDPOINT?

24 A. YES, SIR. THE NIGHT BEFORE WE HAD RUN INTO A YOUNG
25 LADY, WHO WAS A VERY CHRISTIAN YOUNG LADY. AND WE COME OFF

CARL SOUTHERLAND - DIRECT EXAMINATION BY MR. WESTON

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1 WITH A HARD LUCK STORY THAT WE'D BEEN ROBBED IN A REST AREA.

2 SO SHE FILLED THE JEEP UP WITH GAS AND GAVE US APPROXIMATELY

3 TEN TO TWELVE DOLLARS WORTH OF FOOD.

4 Q. MOSTLY CAN GOODS?

5 A. YES, SIR.

6 Q. OKAY. AND SO YOU HAD BEEN DRIVING ABOUT FORTY TO

7 FORTY-FIVE MINUTES WHEN THE CHASE OCCURRED. NOW LET'S TALK

8 ABOUT THE CHASE. TELL THE JURY WHAT HAPPENED.

9 A. WE ---

10 Q. HOW IT STARTED AND WHAT HAPPENED.

11 A. WE WERE IN A SLOW LANE JUST GOING UP THE INTERSTATE.

12 AND I BELIEVE IT'S INTERSTATE 10. AND THE SPEED LIMIT HAD

13 DROPPED DOWN TO FORTY MILES AN HOUR. WELL, I'D DROPPED DOWN

14 A LITTLE LESS THAN FORTY. AND AN OFFICER THOUGHT -- LOOKED

15 AND SEEN US AND THOUGHT THAT IT WAS SUSPICIOUS. SO HE FELL

16 IN BEHIND US. AND I PANICKED AND HAMMERED DOWN.

17 Q. YOU SPED UP?

18 A. YES, SIR.

19 Q. AND TELL THE JURY WHAT HAPPENED, HOW IT PROCEEDED AND

20 HOW IT ENDED.

21 A. I WAS JUST TRYING TO ESCAPE FROM HIM AND MADE IT

22 PROBABLY ABOUT SIX OR EIGHT MILES ON UP THE ROAD. AND I WAS

23 GOING TO TRY TO CUT ACROSS THE MEDIAN TO GO UP ON ANOTHER

24 ROAD TO GET AWAY. AND WHEN I TURNED, THE JEEP OVERTURNED.

25 Q. ALL RIGHT. AND Y'ALL WERE APPREHENDED?

CARL SOUTHERLAND - DIRECT EXAMINATION BY MR. WESTON

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- 1 A. YES, SIR.
- 2 Q. ALL RIGHT. AND SUBSEQUENTLY ARRESTED, SUBSEQUENTLY
- 3 BROUGHT BACK TO GREENVILLE, IS THAT CORRECT?
- 4 A. YES, SIR.
- 5 Q. ALL RIGHT. WHEN YOU WERE IN MOBILE, IN JAIL IN
- 6 ALABAMA, DID YOU GIVE A STATEMENT?
- 7 A. YES, SIR, I DID.
- 8 Q. AND DID YOU TELL THE POLICE -- IT WAS A PRETTY LONG,
- 9 LENGTHY, DETAILED VIDEO TAPED STATEMENT, IS THAT CORRECT?
- 10 A. YES, SIR.
- 11 Q. DID YOU TELL THE POLICE THE SAME THING YOU'RE TELLING
- 12 THESE LADIES AND GENTLEMEN OF THE JURY TODAY?
- 13 A. NO, SIR.
- 14 Q. WAS IT BASICALLY THE SAME STORY SURROUNDING THE DEATH?
- 15 A. YES, SIR.
- 16 Q. WHAT WAS DIFFERENT?
- 17 A. WELL, THE ONLY DIFFERENCE WAS THERE WAS NO -- NO
- 18 HAMMER, AND THERE WAS NO GUN, AND NO ONE HAD MADE ANY
- 19 THREATS.
- 20 Q. IN FACT, YOU TOLD THE POLICE ORIGINALLY THAT JERMAINE
- 21 PULLED THE GUN ON Y'ALL?
- 22 A. YES, SIR.
- 23 Q. AND DID THAT HAPPEN?
- 24 A. NO, SIR.
- 25 Q. WHY WOULD YOU TELL THE POLICE THAT?

CARL SOUTHERLAND - DIRECT EXAMINATION BY MR. WESTON

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1 A. TO, I GUESS, TO TRY TO PUT IT IN A BETTER LIGHT, TO ---

2 Q. NOW ---

3 A. --- NOT LOOK SO BAD.

4 Q. NOW WHEN YOU TOLD THE POLICE THAT STORY IN ALABAMA, WHO
5 DID YOU TELL THEM KILLED JERMAINE?

6 A. JONATHAN.

7 Q. THAT HASN'T CHANGED?

8 A. NO, SIR.

9 Q. OKAY. WHY DIDN'T Y'ALL JUST STOP AND PUT THE BODY IN A
10 CHAIR, LIKE IN A REST STOP OR SOMETHING, OR AT A TABLE OR
11 SOMEWHERE? WHY DID Y'ALL CONTINUE TO RIDE WITH THE BODY?

12 A. I REALLY DON'T KNOW, SIR, UNLESS -- TO ME -- I NEVER
13 THOUGHT 'CAUSE I WAS JUST THINKING ABOUT GETTING HIGH.

14 Q. AND DURING THE WHOLE TIME FROM THE MOMENT Y'ALL LEFT
15 GREENVILLE TO THE TIME YOU WERE APPREHENDED IN ALABAMA,
16 ALMOST TWO DAYS LATER, IS IT YOUR TESTIMONY THAT YOU AND MR.
17 CAMPBELL NEVER TALKED ABOUT WHAT Y'ALL WERE GOING TO DO WITH
18 THIS BODY?

19 A. YES, SIR.

20 Q. WELL, ONCE YOU GET TO ATLANTA, IN ORDER TO GET TO
21 ALABAMA YOU'RE KIND OF TURNING TO THE RIGHT A LITTLE BIT AS
22 OPPOSED TO GOING ON SOUTH TO FLORIDA?

23 A. YES, SIR.

24 Q. YOU THOUGHT -- YOU TESTIFIED THAT YOU THOUGHT Y'ALL^A
25 WERE GOING TO FLORIDA.

CARL SOUTHERLAND - DIRECT EXAMINATION BY MR. WESTON

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1 A. YES, SIR.

2 Q. WHAT HAPPENED WHEN YOU MADE THAT RIGHT TOWARD -- GOING
3 WEST AS OPPOSED TO SOUTH? WAS THERE SOME DISCUSSION BETWEEN
4 YOU AND MR. CAMPBELL ABOUT WHERE YOU'RE GOING NOW?

5 A. I ASKED HIM WHY WE WASN'T GOING TO FLORIDA. AND HE
6 SAID, WELL, LET'S JUST TAKE IT ON TO TEXAS. WE CAN GO TO
7 MEXICO FROM THERE.

8 Q. AND IT WAS Y'ALL'S PLAN TO PANHANDLE, AND HOP, SKIP AND
9 BEG, AND BORROW, AND STEAL, AND PAWN YOUR WAY -- ALL THE WAY
10 TO MEXICO?

11 A. YES, SIR.

12 Q. WITH MR. PROCTOR'S BODY IN THE BACKSEAT?

13 A. YES, SIR.

14 MR. WESTON: YOUR HONOR, IF I MAY HAVE A MOMENT?

15 THE COURT: ALL RIGHT.

16 (PAUSE)

17 MR. WESTON: YOUR HONOR, THAT'S ALL I HAVE FOR THIS
18 WITNESS.

19 MR. ABDALLA: COULD WE APPROACH?

20 (WHEREUPON A BENCH CONFERENCE WAS HELD OFF THE RECORD
21 IN THE PRESENCE OF THE JURY, BUT OUT OF THEIR HEARING)

22 THE COURT: ALL RIGHT. MADAME FORELADY, LADIES AND
23 GENTLEMEN OF THE JURY, WE'RE GOING TO -- WE'LL TAKE AN
24 AFTERNOON BREAK BECAUSE THE CROSS EXAMINATION MAY BE
25 LENGTHY. SO WE'LL BE BACK WITH YOU IN TEN MINUTES OR SO,

1 TEN OR FIFTEEN MINUTES. THANK YOU. DON'T TALK ABOUT THE
2 CASE.

3 (WHEREUPON THE JURY EXITED THE COURTROOM AT 4:09 PM)

4 MR. ABDALLA: ARE WE EXCUSED, JUDGE?

5 THE COURT: YEAH, WE'LL BE AT EASE FOR ABOUT FIFTEEN
6 MINUTES.

7 (WHEREUPON COURT WAS IN RECESS AT 4:09 PM)

8 (WHEREUPON COURT RESUMED AT 4:29 PM)

9 THE COURT: ALL RIGHT. LET'S GET THEM. WHAT? NOW LET
10 ME TELL YOU, MR. ABDALLA, WHEN YOU WANT TO APPROACH THE
11 BENCH, YOU DON'T ASK MR. WESTON IF YOU CAN APPROACH.

12 MR. WESTON: NO, SIR, YOUR HONOR, THIS WAS ME. I'M
13 SORRY.

14 THE COURT: NO, I'M TALKING ABOUT BEFORE WE BROKE.

15 MR. WESTON: OH.

16 THE COURT: WHAT? WHAT DO Y'ALL WANT? COME UP HERE.

17 MR. ABDALLA: WE JUST WANTED ---

18 MR. WESTON: WE'VE GOT CONVICTIONS LISTED, YOUR HONOR.
19 AND WE JUST WANTED TO MAKE SURE WE'RE ON THE SAME PAGE AS TO
20 WHICH CONVICTIONS COME IN. THEY'RE NOT THAT LONG. WE JUST
21 WANTED TO MAKE SURE WE'RE ALL ---

22 MR. ABDALLA: AND THE OTHER MATTER I HAVE, JUDGE, IS I
23 DON'T KNOW WHEN THE COURT PLANNED ON BREAKING. THIS IS
24 GOING TO TAKE QUITE A LONG TIME, MAYBE AN HOUR AND A HALF,
25 MAYBE TWO HOURS. I DIDN'T KNOW WHETHER WE WANTED TO SAVE

1 CROSS FOR TOMORROW. IT DOESN'T MATTER TO ME, JUDGE. I'M
2 READY TO GO ANY WAY YOU WANTED TO DO IT. BUT I JUST WANTED
3 TO SAY THIS MAY TAKE A WHILE.

4 THE COURT: WE'LL BREAK WHEN WE NEED TO BREAK. WHAT
5 ARE YOUR CONVICTIONS?

6 MR. WESTON: WE'VE GOT 2004 FOR A FAILURE TO STOP,
7 DRIVING UNDER SUSPENSION, ---

8 THE COURT: ARE THERE ANY THAT YOU DISAGREE WITH?

9 MR. WESTON: FROM 2004 FORWARD, NO, SIR, YOUR HONOR.

10 THE COURT: OKAY. WELL, TELL ME WHAT YOU DISAGREE
11 WITH. WHAT ARE THE CONVICTIONS YOU DISAGREE WITH?

12 MR. WESTON: THE DRIVING UNDER SUSPENSION -- WELL, NONE
13 OF THEM, YOUR HONOR, BUT THERE ARE SOME GOING BACK FROM --
14 AFTER -- BEFORE 2004 THERE'S A '92 ON BACKWARDS. WE WOULD
15 TAKE THE POSITION THAT THOSE WOULD NOT BE APPROPRIATE.

16 THE COURT: WHEN DID HE GET RELEASED?

17 MR. WESTON: THE '91 WAS A DRIVING UNDER THE INFLUENCE.
18 AND '92 WAS A DRIVING UNDER SUSPENSION, ALTHOUGH HE'S GOT AN
19 '84 ARMED ROBBERY. I'M NOT SURE WHEN HE GOT RELEASED FROM
20 THE '84 ---

21 THE COURT: WELL, HE GOT OUT IN TIME TO HAVE A DUI IN
22 '92.

23 MR. SOUTHERLAND: I WAS OUT IN 1990, SIR.

24 MR. WESTON: HE SAID EARLY 1990 SOMETHING, YOUR HONOR,
25 WHICH WOULD STILL BE ---

1 MR. ABDALLA: THE ONLY THING ---

2 MR. WESTON: WE WOULD SAY ABOUT ALMOST TWENTY YEARS
3 AGO.

4 MR. ABDALLA: YEAH, IT IS A LONG TIME AGO, JUDGE, BUT
5 THE ARMED ROBBERY IS SOMETHING THAT WAS DISCUSSED IN HIS
6 STATEMENT WITH THE ALABAMA POLICE. AND HE'S TALKING ABOUT
7 THE FACT THAT HE WOULDN'T DO ANYTHING. AND THE OFFICER
8 ESSENTIALLY CROSSES HIM ON IT AND SAYS, WELL, YOU DID AN
9 ARMED ROBBERY. AND HE OFFERED SOME EXCUSE FOR THAT.

10 SO I THINK THAT'S RELEVANT TO HIS PROPENSITY TO HAVE
11 COMMITTED THIS CRIME VERSUS MY CLIENT. AND HE'S ALREADY
12 PLED. SO HE'S NOT ---

13 MR. WESTON: YOUR HONOR, WE WOULD OBJECT. I UNDERSTAND
14 HOW ---

15 THE COURT: WELL, HOW UNDER THE RULES DO YOU GET INTO
16 THAT?

17 MR. ABDALLA: I GET INTO IT AS HIS MOTIVE FOR NOT
18 TELLING THE TRUTH, HE HAS BIAS AND HE'S SAYING HE'S NOT THE
19 PERSON THAT ---

20 THE COURT: DO YOU HAVE -- CAN YOU CITE A RULE THAT
21 WOULD ALLOW YOU TO GO BACK THAT FAR?

22 MR. ABDALLA: YOUR HONOR, HE MADE A STATEMENT IN HIS --
23 THAT HE WOULD NEVER DO ANYTHING TO HURT ANYBODY. AND THE
24 OFFICER SAID -- HE WOULD NEVER DO ANYTHING LIKE THAT. AND
25 THE OFFICER SAID, WELL, HOW ABOUT THE ARMED ROBBERY? YOU

1 DID THAT. TO WHICH HE SAID, WELL, I WAS JUST ---

2 THE COURT: WELL, I DON'T KNOW WHAT HE'S GOING TO SAY
3 TODAY.

4 MR. ABDALLA: I UNDERSTAND THAT, BUT I INTEND ON
5 CROSSING HIM ON HIS PRIOR STATEMENT, JUDGE. AND I DIDN'T
6 WANT TO OPEN UP SOMETHING AND HAVE IT BEING INAPPROPRIATE.

7 MR. WESTON: YOUR HONOR, I THINK WE'D HAVE TO GET INTO
8 THE DETAILS OF THE ARMED ROBBERY AS TO WHAT HE DID. HIS
9 POSITION MIGHT BE THAT I DIDN'T HURT ANYBODY.

10 THE COURT: I'M NOT INCLINED TO GO INTO THAT. I MEAN,
11 YOU -- 609(B), TEN YEARS.

12 MR. ABDALLA: BUT HE OPENED UP CHARACTER IN THAT -- I
13 REALIZE WE DON'T KNOW HOW HE'S GOING TO TESTIFY TODAY,
14 JUDGE. MY QUESTION IS THIS, IF WE WERE TO PLAY THE VIDEO OF
15 HIS STATEMENT, CONFESSION, WHATEVER YOU WANT TO CALL IT.

16 THE COURT: HOW YOU GOING TO DO THAT?

17 MR. ABDALLA: HE'S HERE, AND ASK HIM IF HE DIDN'T GIVE
18 THIS STATEMENT.

19 MR. WESTON: HE'S GOING TO HAVE TO EDIT IT A WHOLE
20 BUNCH, YOUR HONOR, BEFORE WE WOULD AGREE ---

21 THE COURT: HOW ARE YOU JUST GOING TO PLAY HIS
22 STATEMENT?

23 MR. ABDALLA: HE GAVE THE STATEMENT -- WELL, I COULD
24 JUST USE IT FROM THE TRANSCRIPT, BUT ...

25 THE COURT: WELL, HOW ARE YOU GOING TO -- HOW COULD YOU

CARL SOUTHERLAND - CROSS EXAMINATION BY MR. ABDALLA

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1 PUT THE TRANSCRIPT INTO EVIDENCE?

2 MR. ABDALLA: NOT PUT IT INTO EVIDENCE, ---

3 THE COURT: WELL, THAT'S WHAT YOU'RE TALKING ABOUT
4 DOING.

5 MR. ABDALLA: WELL, PRIOR INCONSISTENT STATEMENT,
6 JUDGE.

7 THE COURT: IF YOU'RE JUST TALKING ABOUT IMPEACHING
8 HIM, YOU DON'T KNOW WHAT YOU CAN -- YOU CAN IMPEACH HIM WITH
9 A PRIOR INCONSISTENT STATEMENT.

10 MR. ABDALLA: YES, YOUR HONOR.

11 THE COURT: BUT YOU'RE NOT ALLOWED -- I'M NOT GOING TO
12 ALLOW IMPEACHMENT STANDING ON ITS OWN BY A CRIME COMMITTED
13 IN 1984.

14 MR. ABDALLA: ALL RIGHT.

15 THE COURT: AND FROM WHICH HE WAS RELEASED ALMOST
16 TWENTY YEARS AGO, EIGHTEEN YEARS AGO. OKAY.

17 (WHEREUPON THE JURY ENTERED THE COURTROOM AT 4:34 PM)

18 THE COURT: ALL RIGHT. CROSS EXAMINATION.

19 CROSS EXAMINATION BY MR. ABDALLA:

20 Q. MR. SOUTHERLAND, ---

21 A. YES, SIR.

22 Q. --- YOU JUST TOLD THE JURY A STORY ABOUT HOW THE EVENTS
23 OF JULY OF 2005 WENT DOWN, CORRECT? JUNE, ---

24 A. YES.

25 Q. --- 2005? YOU SAID YOU HELD MR. PROCTOR WHILE JONATHAN

CARL SOUTHERLAND - CROSS EXAMINATION BY MR. ABDALLA

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1 STABBED HIM, CORRECT?

2 A. YES, SIR.

3 Q. AND YOU SAID YOU JUST RODE ALL AROUND FOR THE NEXT
4 COUPLE OF DAYS.

5 A. YES, SIR.

6 Q. WITHOUT DOING ANYTHING. I'M NOT QUITE CLEAR ON HOW
7 THIS EXACTLY HAPPENED.

8 MR. ABDALLA: JUDGE, WHAT I'D LIKE TO DO IS HAVE HIM
9 DEMONSTRATE HOW THIS OCCURRED, HOW THE KILLER DID THIS.
10 WHAT I WAS GOING TO DO IS HAVE BRIAN AND MYSELF SIT DOWN.

11 THE COURT: FINE. THAT'S FINE. GO AHEAD. GET IT
12 ARRANGED.

13 (WHEREUPON THE WITNESS STEPPED DOWN FROM THE WITNESS
14 STAND AND DEMONSTRATED, USING CHAIRS, BEFORE THE JURY)

15 Q. ALL RIGHT. YOU STATED THAT MR. PROCTOR'S IN THE FRONT
16 SEAT, ---

17 A. YES, SIR.

18 Q. --- DRIVING, CORRECT?

19 A. CORRECT.

20 Q. AND YOU SAID MR. CAMPBELL'S IN THE PASSENGER'S SEAT?

21 A. CORRECT.

22 Q. AND THEN YOU'RE IN THE BACK SEAT BEHIND THE DRIVER,
23 CORRECT?

24 A. YES, SIR.

25 Q. AND I'D LIKE YOU TO COME OVER HERE AND DEMONSTRATE HOW

CARL SOUTHERLAND - CROSS EXAMINATION BY MR. ABDALLA

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- 1 THE KILLER PROCEEDED.
- 2 A. COULD YOU FACE ME, PLEASE, SIR?
- 3 MR. JOHNSON: YES, SIR.
- 4 THE COURT: SPEAK UP.
- 5 A. THEY WERE FACING ONE ANOTHER.
- 6 Q. WAIT A MINUTE NOW, THE SEATS THOUGH ARE THIS WAY. SO
- 7 YOU CAN'T TURN THE SEAT. YOU'RE IN A CAR, CORRECT?
- 8 A. YES, SIR, BUT THEY WERE BUCKET SEATS.
- 9 Q. OKAY.
- 10 A. JONATHAN AND JERMAINE WERE FACING ONE ANOTHER.
- 11 Q. MAKE SURE THE JURY CAN HEAR WHAT YOU'RE SAYING.
- 12 A. JONATHAN AND JERMAINE WERE FACING ONE ANOTHER.
- 13 JERMAINE LOOKED AS IF HE WAS GOING TO HIT JONATHAN. HE WAS
- 14 TURNED MORE OR LESS, I'LL SHOW YOU WITH MYSELF, MORE OR LESS
- 15 THIS WAY.
- 16 I REACHED ACROSS THE STREET ---
- 17 Q. WELL, DO IT. DON'T TALK ABOUT IT, DO IT.
- 18 MR. WESTON: EXCUSE ME, YOUR HONOR. I DON'T KNOW IF HE
- 19 CAN DO IT THE WAY HE'S ---
- 20 A. I CAN'T.
- 21 MR. WESTON: --- RESTRAINED.
- 22 A. I CAN'T, YOUR HONOR, WITH THE RESTRAINTS.
- 23 Q. WELL, JUST DO IT AS BEST YOU CAN. REACH ACROSS ---
- 24 THE COURT: HE'S NOT ABLE TO. HE'S GOT A BELLY CHAIN
- 25 ON.

CARL SOUTHERLAND - CROSS EXAMINATION BY MR. ABDALLA

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- 1 A. I GRABBED HIM HERE AND HERE. AND I PULLED HIM THIS WAY
2 INTO THE SEAT.
- 3 Q. LIKE THIS?
- 4 A. CORRECT. BUT HE -- I REACHED UP AND OVER THE SEAT.
- 5 Q. OKAY.
- 6 A. HE WAS STILL FACING JONATHAN.
- 7 Q. AND YOU'RE SITTING BACK HERE WHERE I AM?
- 8 A. YES, SIR. JONATHAN IS ON HIS KNEE ON THE PASSENGER'S
9 SEAT FACING JERMAINE. HE COMES OUT OF THE BACK OF HIS PANTS
10 AND STABS HIM IN THE SHOULDER.
- 11 Q. HE STABS HIM IN THE SHOULDER?
- 12 A. YES, SIR.
- 13 Q. WHICH SHOULDER?
- 14 A. IN THIS PART, THE SHOULDER AND THE UPPER CHEST.
- 15 Q. AND YOU'RE HOLDING ONTO HIM?
- 16 A. AND I LET GO AFTER HE HIT HIM THE THIRD TIME OR THE
17 FOURTH TIME. IT WAS SEVERAL TIMES, BUT I LET GO. AND MR.
18 PROCTOR FELL OVER OVER THE CONSOLE BETWEEN THE SEATS.
19 JONATHAN CRAWLED UP ON THE TOP OF HIM WITH HIS FEET AGAINST
20 THE DASH OF THE VEHICLE.
- 21 Q. OKAY. I'LL DO -- SO YOU'RE -- I'M OVER HIM LIKE THIS?
- 22 A. NO, SIR. MR. PROCTOR IS LAYING FLAT THIS WAY BETWEEN
23 THE SEATS. HE'S FALLEN ---
- 24 Q. WAIT, HE WAS ATTACHED FROM THIS WAY, BUT HE FELL -- HE
25 TWISTED AROUND?

CARL SOUTHERLAND - CROSS EXAMINATION BY MR. ABDALLA

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1 A. HE'S FELL THROUGH THE SEATS BECAUSE WHEN HE WENT
2 THROUGH THE SEATS HIS BODY SWITCHED AROUND. JONATHAN CRAWLS
3 UP ON TOP OF HIM, PUTS HIS FEET HERE.

4 Q. WHERE THE STEERING WHEEL IS?

5 A. YES, SIR, AND ON THE DASH. HE ONLY HAD MAYBE THREE AND
6 A HALF TO FOUR FOOT FROM THE DASH TO THERE. HE WAS ON TOP
7 OF HIM, LEFT ARM DOWN AND STABBING HIM.

8 I GOT OUT OF THE BACKSEAT ON THE PASSENGER'S SIDE, COME
9 AROUND THE VEHICLE. JONATHAN WAS UP ON TOP OF HIM. I
10 REACHED TO GRAB JONATHAN TO PULL HIM OFF. HE THROWS HIS
11 LEFT ARM AROUND AND HITS ME IN THE SHOULDER AND SHOVES ME
12 BACK AGAINST THE DOOR.

13 Q. NOW AT THIS POINT IS HE LIKE THIS? I DIDN'T REALIZE
14 ---

15 A. MR. PROCTOR -- THE SEAT IS HERE, MR. PROCTOR ---

16 MADAME COURT REPORTER: I'M SORRY, I CAN'T ---

17 THE COURT: SPEAK UP.

18 MR. ABDALLA: I'M SORRY.

19 MADAME COURT REPORTER: DON'T TALK AT THE SAME TIME.

20 A. THIS WAY. HIS HEAD -- IF I WAS STILL SITTING IN THE
21 BACKSEAT, HIS HEAD WOULD HAVE BEEN JUST ABOUT IN MY LAP.

22 Q. ALL RIGHT. AND MR. CAMPBELL WAS ON TOP OF HIM?

23 A. ON TOP OF HIM AT AN ANGLE BETWEEN THE SEAT AND THE
24 DASH.

25 Q. UM-HUM (AFFIRMATIVE).

CARL SOUTHERLAND - CROSS EXAMINATION BY MR. ABDALLA

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1 A. THAT'S HOW HE GOT HIS FEET UP ON THE IGNITION SWITCH
2 AND EVERYTHING ON THE SIDE OF THE STEERING COLUMN.

3 Q. HE'S A CONTORTIONIST.

4 A. NO, SIR, HE'S ---

5 MR. WESTON: YOUR HONOR, I'M GOING TO OBJECT TO THE
6 COMMENTS.

7 THE COURT: YEAH, NO -- DON'T EDITORIALIZE.

8 Q. WHEN HE IS ON TOP OF HIM, YOU SAID HE HIT YOU WITH HIS
9 LEFT ...

10 A. HE ROLLED OVER AND SLUNG HIS LEFT ARM BECAUSE HE STILL
11 HAD THE KNIFE IN HIS RIGHT HAND.

12 Q. SO I'M LIKE THIS, I'M GOING TO GO AROUND LIKE THAT?

13 A. YES, SIR.

14 Q. AND WHERE DID HE HIT YOU?

15 A. RIGHT HERE.

16 Q. AND ---

17 A. AND PUSHED ME BACK.

18 Q. PUSHED YOU BACK. THEN WHAT HAPPENED?

19 A. AND I JUST BACKED OFF.

20 Q. AND THEN WHERE DID HE GO?

21 A. HE WAS MORE OR LESS THROUGH. HE HIT HIM A COUPLE OF
22 MORE TIMES WITH THE KNIFE AND HE WAS THROUGH.

23 Q. HOW MANY MORE TIMES?

24 A. I COULDN'T SAY, SIR. I'M NOT; YOU KNOW, I MEAN, THAT
25 WAS FOUR AND A HALF YEARS AGO.

CARL SOUTHERLAND - CROSS EXAMINATION BY MR. ABDALLA

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1 Q. OKAY.

2 (WHEREUPON THE WITNESS RETURNED TO THE WITNESS STAND)

3 (PAUSE)

4 Q. YOU REMEMBER GIVING A STATEMENT TO THE ALABAMA
5 AUTHORITIES AFTER YOU WERE ARRESTED?

6 A. YES, SIR.

7 Q. YOUR STORY WAS A LITTLE BIT DIFFERENT, WASN'T IT?

8 A. YES, SIR, IT WAS.

9 (PAUSE)

10 Q. YOUR STATEMENT RIGHT HERE -- NOW YOU SHOWED ME BEHIND
11 -- YOURSELF AS BEHIND THE DRIVER?

12 A. YES, SIR.

13 Q. OKAY. AND THIS STATEMENT RIGHT HERE, PAGE 6 OF YOUR
14 STATEMENT, IT SAYS -- WOULD YOU READ THIS, THIS ONE HERE?

15 A. I WAS IN THE FRONT PASSENGER'S SEAT. AND WHERE ARE YOU
16 SITTING? I'M IN THE RIGHT REAR PASSENGER'S SEAT. I WAS AT
17 THAT TIME, YES, SIR, UNTIL I SAW THAT MR. -- JERMAINE LOOKED
18 AS IF HE WAS GOING TO JUMP -- TO HIT JON.

19 Q. BUT YOU NEVER IN YOUR STATEMENT TO THEM SAID YOU WERE
20 IN THE LEFT REAR PASSENGER SEAT, ISN'T THAT CORRECT?

21 A. YOUR HONOR, MAY I SAY SOMETHING, SIR?

22 THE COURT: JUST ANSWER THE QUESTION.

23 A. YES, SIR.

24 Q. IS THAT CORRECT?

25 A. YES, SIR.

CARL SOUTHERLAND - CROSS EXAMINATION BY MR. ABDALLA

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1 Q. WOULD YOU READ RIGHT HERE? YOU SAID ---

2 MR. WESTON: YOUR HONOR, I'M GOING TO OBJECT TO HIM
3 ASKING HIM TO READ HIS PRIOR STATEMENT. IT'S NOT
4 INCONSISTENT YET. AND HE HAS NOT ---

5 THE COURT: OKAY.

6 MR. WESTON: --- DENIED MAKING THE STATEMENT.

7 THE COURT: I UNDERSTAND. IF YOU'RE GOING TO IMPEACH
8 HIM WITH THE STATEMENT, DO IT PROPERLY, MR. ABDALLA.

9 Q. DO YOU REMEMBER A BIT AGO TESTIFYING AND SAYING THERE
10 WAS NO GUN?

11 A. YES, SIR.

12 Q. ALL RIGHT. RIGHT HERE YOU'RE ASKED A QUESTION. AND
13 YOU SAID YOU GOT IN AN ARGUMENT.

14 MR. WESTON: OBJECTION, YOUR HONOR. HE'S READING THE
15 STATEMENT INTO THE RECORD.

16 MR. ABDALLA: I DIDN'T -- I DIDN'T READ THE STATEMENT.

17 MR. WESTON: YOU SAID -- YOU SAID ---

18 THE COURT: OKAY. JUST -- OKAY. IMPEACH HIM PROPERLY.
19 SHOW HIM ---

20 MR. ABDALLA: ALL RIGHT.

21 Q. ISN'T IT A FACT THAT YOU -- YOU SAID IN ALABAMA THAT
22 JERMAINE PULLED A GUN ON JON?

23 A. YES, SIR, I DID SAY THAT.

24 Q. AND HOW DID YOU DESCRIBE THAT GUN?

25 A. A .32 AUTOMATIC, BLUE STEEL.

CARL SOUTHERLAND - CROSS EXAMINATION BY MR. ABDALLA

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- 1 Q. AND WHERE DID HE SAY HE PUT IT? WHERE DID YOU SAY HE
2 PUT IT?
- 3 A. IT WAS THROWN AWAY.
- 4 Q. PARDON ME?
- 5 A. I SAID THAT IT HAD BEEN THROWN AWAY.
- 6 Q. DID YOU NOT SAY HE POINTED IT AT JON?
- 7 A. OH, YES, SIR, I DID. I MISUNDERSTOOD YOUR QUESTION.
- 8 Q. THAT'S OKAY. BUT THERE WAS NEVER A GUN?
- 9 A. NO, SIR, THERE NEVER WAS.
- 10 Q. SO YOU WEREN'T TELLING THE TRUTH WHEN YOU SAID THAT?
- 11 A. NO, SIR, I WASN'T.
- 12 Q. YOU ALSO SAID THERE WAS NO HAMMER, IS THAT CORRECT?
- 13 A. YES, SIR, I DID.
- 14 Q. BUT WHEN YOU WERE IN ALABAMA, ISN'T IT TRUE, YOU
15 MENTIONED THERE WAS A HAMMER?
- 16 A. YES, SIR, I DID.
- 17 Q. AND DID YOU SAY HE HIT HIM IN THE HEAD?
- 18 A. YES, SIR, I DID.
- 19 Q. IN THE HEAD WITH A HAMMER?
- 20 A. YES, SIR.
- 21 Q. HE BEING JONATHAN. YOU SAID HE HIT JERMAINE IN THE
22 HEAD WITH A HAMMER, CORRECT?
- 23 A. YES, SIR, I DID.
- 24 Q. HOW MANY TIMES DID YOU SAY HE HIT HIM?
- 25 A. I CAN'T REMEMBER, SIR.

CARL SOUTHERLAND - CROSS EXAMINATION BY MR. ABDALLA

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- 1 Q. APPROXIMATELY RIGHT THERE WHAT DO YOU SAY?
- 2 A. TWENTY-FIVE TO THIRTY TIMES.
- 3 Q. TWENTY-FIVE TO THIRTY TIMES. WAS THAT TRUE?
- 4 A. NO, SIR. THERE WAS NO HAMMER.
- 5 Q. AND YOU WERE TALKING ABOUT JERMAINE CRAWLING THROUGH
- 6 THE CONSOLE ESSENTIALLY OR FALLING, CORRECT?
- 7 A. YES, SIR.
- 8 Q. MR. PROCTOR'S THERE, AND YOU SAID JONATHAN WAS IN THE
- 9 PASSENGER'S SEAT, CORRECT?
- 10 A. UM-HUM (AFFIRMATIVE).
- 11 Q. AND YOU SAID YOU WERE TRYING TO PULL JONATHAN OFF,
- 12 RIGHT?
- 13 A. UM-HUM (AFFIRMATIVE).
- 14 Q. AND YOU NEVER MENTIONED ANYTHING -- AND THE DOORS WERE
- 15 ALL CLOSED, CORRECT?
- 16 A. AT THE TIME, YES, SIR.
- 17 Q. ALL RIGHT. YOU'RE THE ONLY ONE THAT OPENED THE DOOR,
- 18 ACCORDING TO YOUR TESTIMONY, CORRECT?
- 19 A. YES, SIR.
- 20 Q. BUT OVER HERE YOU SAY, RIGHT HERE, IF YOU'D READ THAT.
- 21 MR. WESTON: OBJECTION, YOUR HONOR, IMPROPER
- 22 IMPEACHMENT.
- 23 THE COURT: MR. ABDALLA, ASK HIM A QUESTION.
- 24 Q. ISN'T IT A FACT THAT YOU SAID THE DOOR WAS CLOSED?
- 25 THAT YOU'RE THE ONE WHO OPENED THE DOOR?

CARL SOUTHERLAND - CROSS EXAMINATION BY MR. ABDALLA

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1 A. YES, SIR. I OPENED THE FRONT DOOR.

2 Q. AND IN THE PREVIOUS STATEMENT IS IT NOT A FACT THAT YOU
3 SAID THE FRONT DOOR WAS OPEN?

4 A. I MAY HAVE. YES, SIR.

5 Q. WOULD YOU READ THAT SENTENCE RIGHT THERE?

6 THE COURT: HE JUST ADMITTED THAT HE SAID IT.

7 MR. ABDALLA: ALL RIGHT.

8 Q. AND YOU SAID JERMAINE OPENED THE DOOR, DIDN'T YOU?

9 A. NOT TO MY KNOWLEDGE. I CAN'T REMEMBER, SIR. THAT WAS
10 FOUR AND A HALF YEARS AGO.

11 Q. ALL RIGHT. WELL, WOULD YOU READ THAT? WHICH DOOR?

12 A. THE DRIVER'S DOOR.

13 Q. AND WHAT WAS THE QUESTION ASKED YOU?

14 A. WHO DID IT?

15 Q. AND YOU SAID -- AND YOU SAID WHAT?

16 A. JERMAINE DID IT.

17 Q. AND YOU SAID JERMAINE WAS OUT OF IT AFTER THE THIRD OR
18 FOURTH BLAST OF THE KNIFE, IS THAT NOT CORRECT?

19 A. TO THE BEST OF MY KNOWLEDGE, YES, SIR.

20 Q. AND THAT WAS IT. AND JONATHAN, YOU SAID, CAME BACK ON
21 HIM AFTER HE WAS ALREADY OUT OF IT, CORRECT?

22 A. UM-HUM (AFFIRMATIVE).

23 Q. AND HE NEVER MOVED AGAIN, CORRECT?

24 A. YES, SIR.

25 Q. AND WHAT DID YOU SAY HERE?

CARL SOUTHERLAND - CROSS EXAMINATION BY MR. ABDALLA

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1 MR. WESTON: OBJECTION, YOUR HONOR, IMPROPER
2 IMPEACHMENT.

3 Q. DID YOU NOT SAY, I GUESS HE CAME TO AND TRIED TO GET
4 OUT?

5 A. THE QUESTION AGAIN, SIR. I DIDN'T HEAR YOU.

6 Q. WHEN YOU WERE QUESTIONED PREVIOUSLY DO YOU NOT RECALL
7 GIVING A STATEMENT SAYING THAT THE WAY JERMAINE GOT THE DOOR
8 OPEN IS HE PROBABLY CAME TO AFTER YOU HAD SAID HE WAS OUT
9 AND OPENED THE DOOR?

10 A. I MAY HAVE SAID THAT, SIR.

11 Q. YOU MAY HAVE SAID THAT?

12 A. I MEAN, I HAD TO HAVE SAID IT BECAUSE IT'S ON THE
13 PAPER.

14 Q. HOW DID JERMAINE GET IN THE BACKSEAT?

15 A. JON AND I PUT HIM IN THE BACKSEAT.

16 Q. AND THEN WHO -- A BIT AGO YOU WERE TESTIFYING ABOUT
17 GOING TO TRAVELERS REST, CORRECT?

18 A. UM-HUM (AFFIRMATIVE).

19 Q. YOU TESTIFIED THAT JONATHAN KILLED JERMAINE, YOU GUYS
20 PUT HIM IN THE BACKSEAT, YOU WENT UP TO TRAVELERS REST, YOU
21 RODE AROUND A WHILE AND THEN YOU LEFT GREENVILLE, CORRECT?

22 A. YES, SIR.

23 Q. AND YOU COULDN'T EXPLAIN WHY YOU STAYED IN THE CAR,
24 RIGHT?

25 A. JUST STUPIDITY, AND IGNORANCE AND A LITTLE FEAR.

CARL SOUTHERLAND - CROSS EXAMINATION BY MR. ABDALLA

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- 1 MR. ABDALLA: ONE MOMENT, PLEASE.
- 2 (PAUSE)
- 3 Q. WHEN YOU WERE IN TEXAS WHO WAS DRIVING?
- 4 A. WE NEVER MADE IT TO TEXAS, SIR.
- 5 Q. I'M SORRY, ALABAMA.
- 6 A. WHEN WE GOT ARRESTED I WAS DRIVING.
- 7 Q. AND YOU WERE HEADED TO TEXAS THOUGH, CORRECT?
- 8 A. YES, SIR.
- 9 Q. AND WHY DID YOU WANT TO GO TO TEXAS?
- 10 A. TO GET TO MEXICO.
- 11 Q. DID YOU KNOW SOME PEOPLE IN TEXAS?
- 12 A. NO, SIR. I DON'T KNOW ANYONE IN TEXAS.
- 13 Q. YOU DIDN'T TELL JON YOU KNEW SOMEBODY IN ---
- 14 A. NO, SIR.
- 15 Q. --- TEXAS? DID YOU TELL JON YOU KNEW ANYBODY IN
- 16 LOUISIANA?
- 17 A. NO, SIR.
- 18 Q. HOW LONG WOULD YOU SAY YOU'VE KNOWN JON?
- 19 A. PROBABLY ABOUT -- ABOUT THREE AND A HALF TO FOUR WEEKS.
- 20 Q. AND HOW LONG HAVE YOU KNOWN JERMAINE?
- 21 A. MAYBE A WEEK, WEEK AND A HALF, TWO WEEKS.
- 22 Q. WHEN YOU WERE IN ALABAMA GIVING THESE STATEMENTS TO THE
- 23 POLICE OFFICERS YOU ALSO SAID THAT JERMAINE WAS FIGHTING
- 24 WITH JON, BUT THAT'S NOT WHAT YOU SAID TODAY, CORRECT?
- 25 A. CORRECT.

CARL SOUTHERLAND - CROSS EXAMINATION BY MR. ABDALLA

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1 Q. AS A MATTER OF FACT, DIDN'T YOU TELL THEM THAT HE WAS
2 UNCONSCIOUS BUT THEN YOU LATER SAID HE CAME TO?

3 A. I CAN'T REMEMBER EVERYTHING I SAID BACK THEN, SIR.

4 Q. BUT IT WASN'T TRUE?

5 A. I CAN'T REMEMBER. AS I SAID, SIR, I CAN'T REMEMBER
6 FOUR AND A HALF YEARS, EVERYTHING I SAID.

7 Q. YOU DON'T KNOW WHICH STORY YOU TOLD THEN, IS THAT
8 CORRECT?

9 A. I HAVEN'T READ MY STATEMENT SINCE I'VE GOT IT. SO I
10 REALLY DON'T KNOW EXACTLY EVERYTHING I DID TELL.

11 Q. BUT YOU DIDN'T ACCEPT ANY RESPONSIBILITY WHEN YOU WERE
12 IN ALABAMA, ISN'T THAT CORRECT?

13 A. NO, SIR.

14 Q. THAT'S NOT CORRECT?

15 A. I SAID NO, SIR, I DIDN'T.

16 Q. ALL RIGHT. AS A MATTER OF FACT WHEN YOU GAVE THIS
17 STATEMENT IN ALABAMA YOU NEVER ADMITTED THAT YOU TOOK ANY
18 PART IN THE KILLING?

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

20 Q. BUT NOW TODAY YOU'RE TAKING SOME PART IN THE KILLING BY
21 ADMITTING THAT YOU HELD ---

22 A. YES, SIR.

23 Q. --- JERMAINE? AND ALL THE WHILE YOU'RE RIDING AROUND
24 AND YOU SAID NOBODY THREATENED YOU, AND YET YOU STAYED IN
25 THE VEHICLE. AND IT'S YOUR TESTIMONY THAT YOU JUST NEVER

CARL SOUTHERLAND - CROSS EXAMINATION BY MR. ABDALLA

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1 CHOSE TO LEAVE AND YOU DON'T KNOW WHY.

2 A. BECAUSE OF DRUGS AND STUPIDITY, SIR.

3 Q. YOU REALIZE THE STATEMENT THAT YOU GAVE EARLIER DOESN'T
4 MAKE ANY SENSE, IS THAT TRUE?

5 A. MADE SENSE TO ME BECAUSE IT WAS THE TRUTH.

6 Q. IT MADE SENSE TO YOU. WHAT ABOUT WHEN YOU WERE TALKING
7 ABOUT JERMAINE HAS A GUN AND YOU PUSHED IT UP -- YOU PUSHED
8 HIS ARM UP?

9 A. AS I SAID, SIR, THAT WAS A LIE. THERE WAS NO GUN.

10 Q. CORRECT. AND THE OFFICER SAID IF YOU'D PUSHED IT UP IT
11 WOULD HAVE GONE OFF.

12 (PAUSE)

13 A. NOT NECESSARILY. IF THERE'D BEEN A GUN AND ITS SAFETY
14 HAD BEEN, IT WOULDN'T HAVE WENT OFF.

15 Q. BUT DIDN'T YOU SAY HE PUT THE GUN UP TO HIM?

16 A. YES, SIR, I DID.

17 Q. DID YOU THINK THE SAFETY WAS ON?

18 A. SIR, THERE WAS NO GUN.

19 Q. OKAY. WELL, YOU WERE GIVING AN ALTERNATE ANSWER. DO
20 YOU REMEMBER HAVING A CONVERSATION AT THE JAIL WITH A FELLOW
21 NAMED DAVID YEARTA?

22 A. I DON'T KNOW THAT NAME, SIR.

23 Q. SOMEBODY IN THE JAIL WITH YOU? DO YOU NOT RECALL
24 TELLING DAVID THAT YOU, IN FACT, KILLED JERMAINE PROCTOR AND
25 THAT JON DIDN'T?

CARL SOUTHERLAND - CROSS EXAMINATION BY MR. ABDALLA

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1 A. NO, SIR.

2 Q. YOU HAVE NO RECOLLECTION OF THAT?

3 A. 'CAUSE THERE'S ONE THING THAT I DIDN'T DO, I DID NOT
4 BREAK CLIENT/ATTORNEY CONFIDENTIALITY, PERIOD. I TOLD NO
5 ONE ANYTHING ABOUT MY CASE.

6 Q. WELL THE PRIVILEGE IS WITH YOU. YOU CAN DO WHATEVER
7 YOU WANT, BUT THE ATTORNEY IS THE ONE WHO CAN'T SAY
8 ANYTHING.

9 A. IT STILL DOESN'T MATTER, SIR. IT'S NOBODY'S BUSINESS
10 ABOUT MY CASE.

11 Q. SO YOU'RE SAYING THAT YOU'VE NEVER TALKED TO HIM ABOUT
12 YOUR CASE AND ABOUT YOUR ---

13 A. NO, SIR, ---

14 Q. --- HAVING KILLED A MAN?

15 A. --- I DIDN'T. I DON'T EVEN KNOW WHO YOU'RE TALKING
16 ABOUT TO BE HONEST WITH YOU.

17 Q. DAVID YEARTA.

18 A. I'VE NEVER HEARD THE NAME.

19 Q. DID JON SAY ANYTHING AFTER THIS INCIDENT?

20 A. NO, SIR.

21 Q. IN YOUR STATEMENT TO THE ALABAMA POLICE DIDN'T YOU SAY
22 HE JUST KEPT SAYING, CRACK, CRACK, CRACK, CRACK?

23 A. NO, SIR. I ASKED HIM ONCE HOW COME HE KILLED HIM. AND
24 INSTEAD OF TALKING LIKE A DUCK HE SAID, CRACK, CRACK, CRACK
25 LIKE A DUCK WOULD SAY QUACK.

CARL SOUTHERLAND - CROSS EXAMINATION BY MR. ABDALLA

264

1 Q. AND THAT'S STILL YOUR TESTIMONY TODAY?

2 A. YES, SIR, IT SURE IS.

3 Q. MR. SOUTHERLAND, DIDN'T YOU LIVE IN TEXAS AT ONE TIME?

4 A. NO, SIR.

5 Q. NEVER LIVED ---

6 A. I WAS IN THE MILITARY AT ONE TIME AT FORT HOOD. I WAS
7 THERE IN FORT HOOD FOR ABOUT SIX MONTHS, AND I WENT TO
8 PRISON.

9 Q. YOU GAVE YOUR STATEMENT BACK IN 2004 AND 2005 AND NOW
10 YOU'RE TESTIFYING TO A DIFFERENT SET OF FACTS TODAY TO THIS
11 JURY, ISN'T THAT CORRECT?

12 A. YES, SIR.

13 Q. AND YOU WERE JUST GIVEN A DEAL TO PLEAD TO VOLUNTARY
14 MANSLAUGHTER, ISN'T THAT CORRECT?

15 A. YES, SIR, I WAS, BUT I'M -- THAT'S JUST -- THAT COULD
16 BE A DEATH PENALTY TO ME. I'M FIFTY-THREE YEARS OLD. I CAN
17 GET THIRTY YEARS. I COULD DIE IN PRISON.

18 Q. I UNDERSTAND. I'M ASKING YOU ---

19 MR. WESTON: EXCUSE ME. OBJECTION, YOUR HONOR. HE
20 NEEDS TO LET HIM FINISH ANSWERING THE QUESTION BEFORE HE
21 STARTS ---

22 THE COURT: ALL RIGHT. LET HIM FINISH ANSWERING. AND
23 THEN YOU CAN ASK YOUR NEXT QUESTION.

24 A. I MEAN, I'M FIFTY-THREE YEARS OLD. I DON'T -- I MAY
25 NEVER SEE ANOTHER DAY. MY MOTHER DIED WHEN SHE WAS FIFTY.

CARL SOUTHERLAND - CROSS EXAMINATION BY MR. ABDALLA

265

- 1 MY DAD DIED WHEN HE WAS SIXTY-TWO.
- 2 Q. BUT YOU ACCEPTED A DEAL, CORRECT?
- 3 A. YES, SIR.
- 4 Q. AND THEY DISMISSED THE WEAPONS CHARGE TOO, CORRECT?
- 5 A. I ---
- 6 Q. YOU ONLY PLED TO ONE INDICTMENT.
- 7 A. I BELIEVE SO, YES, SIR.
- 8 Q. AND IF YOU WERE CONVICTED OF MURDER YOU COULD GET LIFE,
- 9 CORRECT?
- 10 A. YES, SIR.
- 11 Q. SO YOU TOOK THE DEAL?
- 12 A. YES, SIR.
- 13 Q. AND YOU COINCIDENTALLY ARE TESTIFYING ALMOST TOTALLY
- 14 DIFFERENT TODAY TO THE FACTS AS THEY HAPPENED AS YOU DID IN
- 15 2005 TO THE AUTHORITIES IN TEXAS, ISN'T THAT A FACT?
- 16 A. NO, SIR, I WAS NEVER IN TEXAS IN ---
- 17 Q. I KEEP SAYING ---
- 18 A. --- 2005, SIR.
- 19 Q. --- TEXAS. I'M SORRY. IN ALABAMA.
- 20 A. AS I SAID, SIR, I CAN'T REMEMBER EVERYTHING I SAID FOUR
- 21 AND A HALF YEARS AGO.
- 22 Q. BUT YOU READ SOME OF THOSE THINGS IN ---
- 23 A. YES, SIR.
- 24 Q. --- THERE. AND IS THAT WHAT YOU SAID?
- 25 A. YES, SIR.

CARL SOUTHERLAND - CROSS EXAMINATION BY MR. ABDALLA

266

1 Q. SO IT SEEMS A BIT CONVENIENT YOU ALL OF A SUDDEN HAVE A
2 DIFFERENT STORY AFTER YOU GET A DEAL?

3 A. NO, SIR, IT DOESN'T.

4 Q. IT DOESN'T?

5 A. NO, SIR.

6 Q. OKAY. YOU WERE IN JAIL FOR FAILURE TO STOP FOR THE
7 POLICE, WEREN'T YOU?

8 A. YES, SIR.

9 Q. AS A MATTER OF FACT, WHEN YOU FAILED TO STOP IN ALABAMA
10 AS YOU'RE SPEEDING DOWN THE HIGHWAY AND JONATHAN PULLED THE
11 WHEEL AND IT KNOCKED IT OFF THE ROAD, CORRECT?

12 A. NO, SIR.

13 MR. WESTON: OBJECTION, YOUR HONOR.

14 THE COURT: WHAT'S THE BASIS OF YOUR OBJECTION?

15 MR. WESTON: YOUR HONOR, HE'S INTRODUCING FACTS THAT
16 ARE NOT IN EVIDENCE. THERE'S NO EVIDENCE ABOUT ANYBODY
17 PULLING A WHEEL AND KNOCKING IT OFF THE ROAD. HE IS
18 BASICALLY TESTIFYING.

19 THE COURT: WELL, OVERRULED. GO AHEAD, ASK YOUR
20 QUESTIONS. IT'S CROSS EXAMINATION. BUT LET'S MOVE ALONG.

21 Q. IS THAT CORRECT?

22 A. NO, SIR, IT'S NOT.

23 Q. OKAY.

24 A. AND IF I MAY ---

25 THE COURT: NO, SIR, YOU CAN'T VOLUNTEER THINGS, OKAY?

CARL SOUTHERLAND - CROSS EXAMINATION BY MR. ABDALLA

267

- 1 A. YES, SIR.
- 2 THE COURT: YOU HAVE TO ANSWER QUESTIONS.
- 3 A. YES, SIR.
- 4 Q. AND YOU HAD A COCAINE CHARGE RECENTLY TOO, CORRECT,
- 5 SEVERAL YEARS BACK?
- 6 A. SEVERAL YEARS AGO, YES, SIR.
- 7 Q. IN 2004?
- 8 A. UM-HUM (AFFIRMATIVE). SIMPLE POSSESSION.
- 9 Q. CORRECT. YOU SAID YOU FIRST REALIZED THAT JERMAINE WAS
- 10 DEAD ON SUNDAY NIGHT, ISN'T THAT CORRECT?
- 11 A. YES, SIR, AFTER HE WAS IN THE BACKSEAT.
- 12 Q. BUT HE WAS IN THE BACKSEAT SINCE SATURDAY NIGHT, EARLY
- 13 SUNDAY MORNING, CORRECT?
- 14 A. SIR, AS I TESTIFIED EARLIER, HE LOOKED AS IF HE WAS
- 15 DEAD WHEN WE PUT HIM IN THE BACKSEAT THAT NIGHT.
- 16 Q. AND YOU NEVER PREVIOUSLY TESTIFIED UNTIL TODAY THAT IN
- 17 THE CONVERSATION JONATHAN HAD WITH HIS MOTHER THAT HE'D
- 18 KILLED A MAN AND HE'D KILL HIM AGAIN. TODAY WAS THE FIRST
- 19 TIME YOU SAID THAT.
- 20 A. NO, SIR. THAT'S EXACTLY WHAT I TOLD THE OFFICERS IN
- 21 ALABAMA ALSO. I CAN REMEMBER THAT. IF I'M NOT MISTAKEN.
- 22 Q. AND THE OTHER THING WAS YOU SAID THAT HE -- THAT
- 23 JONATHAN TALKED ABOUT KILLING JERMAINE BEFORE TODAY, TODAY
- 24 YOU SAID THAT, BEFORE THE DATE OF THE INCIDENT?
- 25 A. NO, SIR. IT WAS ALSO MENTIONED IN ALABAMA BECAUSE I

CARL SOUTHERLAND - CROSS EXAMINATION BY MR. ABDALLA

268

1 TOLD THE OFFICERS IN ALABAMA THAT HE HAD ALSO MADE A THREAT
2 AGAINST A DRUG DEALER THAT LIVES ON LAURENS ROAD NAMED
3 FRANKIE, THAT HE HAD THREATENED TO ROB AND KILL.

4 Q. REALLY?

5 A. YES, SIR.

6 Q. AND YOU TALKED -- YOU SAID THAT WHEN YOU WERE IN
7 ALABAMA YOU TOLD THE OFFICER YOU WERE TALKING ABOUT KILLING
8 SOME DUDE NAMED FREDDIE, ISN'T THAT A FACT?

9 A. FRANKIE OR FREDDIE. I CAN'T REMEMBER THE NAME, SIR.

10 Q. BUT IN THE TESTIMONY TODAY YOU SAID HE HAD TALKED ABOUT
11 KILLING JERMAINE PRIOR TO ---

12 A. HE HAD.

13 Q. DID YOU GUYS EVER TALK ABOUT GETTING RID OF THE BODY?

14 A. NOT TO MY KNOWLEDGE.

15 Q. DO YOU REMEMBER TALKING TO THE ALABAMA AUTHORITIES AND
16 SAYING THAT JONATHAN WANTED TO THROW THE BODY OUT?

17 A. SIR, AS I SAID, I CAN'T REMEMBER EVERYTHING I SAID THEN
18 BECAUSE AT -- AT THE TIME THAT I MADE THE STATEMENT I WAS
19 ALSO UNDER THE INFLUENCE OF CRACK COCAINE. I STILL HAD IT
20 RUNNING THROUGH MY SYSTEM.

21 Q. I'D LIKE YOU TO READ THIS TO REFRESH YOUR MEMORY, IF I
22 COULD, RIGHT THERE JUST -- NO, READ THAT TO THE JURY, I'M
23 SORRY.

24 A. I JUST TOLD ---

25 MR. WESTON: OBJECTION, YOUR HONOR.

CARL SOUTHERLAND - CROSS EXAMINATION BY MR. ABDALLA

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1 THE COURT: WAIT A MINUTE. WAIT A MINUTE. IF YOU WANT
2 TO IMPEACH HIM, ---

3 MR. ABDALLA: YES, YOUR HONOR.

4 THE COURT: --- IMPEACH HIM.

5 Q. DO YOU REMEMBER SAYING THAT JONATHAN WANTED TO THROW
6 THE BODY AWAY AND THE RESPONSE YOU GAVE?

7 A. I MUST HAVE SAID IT, BUT I DON'T REMEMBER SAYING IT,
8 SIR.

9 Q. DID YOU NOT SAY YOU JUST DON'T THROW SOMEBODY OUT LIKE
10 THAT? YOU NEED TO SHOW SOME KIND OF RESPECT?

11 A. I MAY HAVE SAID IT. I HAD TO HAVE SAID IT, BUT I DON'T
12 REMEMBER SAYING IT.

13 Q. HE PROBABLY HAD A WIFE AND CHILDREN? AND MAYBE PUTTING
14 HIM OUT ON THE HIGHWAY SOMEWHERE, DO YOU REMEMBER SAYING
15 THAT?

16 A. NO, SIR. AS I JUST SAID, I HAD TO HAVE SAID IT, BUT I
17 DON'T REMEMBER SAYING IT.

18 Q. YOU SEEM TO HAVE FORGOTTEN A LOT OF FACTS. AND I KNOW
19 IT WAS FOUR AND A HALF YEARS AGO.

20 A. WELL, FOUR AND A HALF YEARS AGO, SIR, I TOLD A LOT OF
21 LIES.

22 Q. YES, YOU DID.

23 (PAUSE)

24 Q. DID YOU EVER -- DO YOU REMEMBER TELLING JON THAT YOU
25 WERE A MEMBER OF THE ARYAN NATION?

CARL SOUTHERLAND - CROSS EXAMINATION BY MR. ABDALLA

270

1 A. NO, SIR.

2 Q. WHAT DO YOU HAVE TATTOOED ON YOUR HAND THERE?

3 A. THAT IS A FOUR LEAF CLOVER, SIR. THAT IS NOT A
4 SHAMROCK.

5 Q. OH, OKAY. AND WHAT ABOUT THE FOUR LETTERS THERE,
6 WHAT'S THAT ---

7 A. FOUR LETTERS, THAT'S HATE.

8 Q. HATE?

9 A. YES, SIR.

10 Q. DO YOU HAVE SATAN ON YOUR SHOULDER?

11 A. YES, SIR, I DO.

12 Q. YOU DO?

13 A. YES, SIR. I HAVE SIXTY-SIX TATTOOS IN ALL.

14 (PAUSE)

15 Q. MR. SOUTHERLAND, WHEN YOU GAVE YOUR STATEMENT FOUR
16 YEARS AGO TO THE ALABAMA AUTHORITIES YOU SWORE AT THAT TIME
17 THAT THAT WAS THE TRUTH, THE WHOLE TRUTH AND NOTHING BUT THE
18 TRUTH, RIGHT?

19 A. YES, SIR, I ---

20 MR. WESTON: OBJECTION, YOUR HONOR. HE'S
21 MISCHARACTERIZING THE STATEMENT. THERE'S NO SWEARING IN
22 THAT STATEMENT, AND HE KNOWS THAT.

23 THE COURT: WELL, HE JUST ANSWERED THAT HE DID, MR.
24 WESTON. THAT'S ALL RIGHT.

25 Q. DID YOU SWEAR TO TELL THE TRUTH?

CARL SOUTHERLAND - REDIRECT EXAMINATION BY MR. WESTON

271

1 A. HE JUST TOLD ME TO MAKE A STATEMENT. THEY DIDN'T SAY
2 ANYTHING ABOUT SWEARING, AND I DIDN'T SWEAR ON THE BIBLE.

3 Q. SO YOU DIDN'T -- SO YOU DIDN'T INTEND TO TELL THE
4 TRUTH?

5 A. AT THE TIME, SIR, I WAS SCARED. I WAS UPSET. I WAS
6 UNDER THE INFLUENCE OF NARCOTIC DRUGS. AND I WAS TRYING TO
7 PUT THE BEST LIGHT ON EVERYTHING THAT I COULD.

8 Q. BEST LIGHT?

9 A. AND IF IT MEANT TELLING A LIE AT THAT TIME, THEN, SIR,
10 I DID IT. YES, SIR.

11 Q. SO YOU ---

12 A. BUT RIGHT NOW I'M -- I'M ACCEPTING MY RESPONSIBILITY,
13 SIR.

14 Q. YOU HAVE?

15 A. YES, SIR, I HAVE.

16 Q. AND YOU'VE ACCEPTED A DEAL TO TELL THE TRUTH AND PUT IT
17 IN THE BEST LIGHT FOR YOURSELF, CORRECT?

18 A. NO, SIR. I'VE ONLY MADE THE DEAL TO TELL THE TRUTH AND
19 NOTHING BUT THE TRUTH.

20 MR. ABDALLA: NO FURTHER QUESTIONS.

21 MR. WESTON: JUST ONE QUESTION ON REDIRECT, YOUR HONOR,
22 IF I MAY.

23 THE COURT: ALL RIGHT.

24 **REDIRECT EXAMINATION BY MR. WESTON:**

25 Q. MR. ABDALLA SAID TODAY YOU'RE TESTIFYING TOTALLY

CARL SOUTHERLAND - REDIRECT EXAMINATION BY MR. WESTON

272

1 DIFFERENT THAN YOU DID IN 2005 IN ALABAMA. IS THAT TRUE?

2 ARE YOU CHANGING YOUR WHOLE STORY?

3 A. NO, SIR.

4 Q. WHAT DID YOU CHANGE TODAY?

5 A. THE ONLY THING I REALLY CHANGED THAT WAS A LIE, SIR,

6 WAS THE HAMMER, THE GUN, THE THREAT TO KILL JON AND THE

7 BODY.

8 Q. IN 2005 WHO DID YOU TELL THE ALABAMA AUTHORITIES KILLED

9 JERMAINE PROCTOR?

10 A. JON CAMPBELL.

11 Q. AND TODAY WHO ARE YOU TELLING THIS COURT, UNDER OATH,

12 KILLED JERMAINE PROCTOR?

13 A. JON CAMPBELL.

14 Q. HAS THAT CHANGED AT ANY POINT SINCE YOU WERE FIRST

15 ARRESTED?

16 A. NO, SIR, IT HAS NOT.

17 Q. THANK YOU, SIR.

18 THE COURT: ALL RIGHT. YOU CAN STEP DOWN. THANK YOU.

19 LET ME TALK TO THE LAWYERS UP HERE FOR A MINUTE.

20 (WHEREUPON A BENCH CONFERENCE WAS HELD OFF THE RECORD

21 IN THE PRESENCE OF THE JURY, BUT OUT OF THEIR HEARING)

22 MR. WESTON: YOUR HONOR, THE STATE RESTS AT THIS TIME.

23 THE COURT: OKAY. ALL RIGHT. MADAME FORELADY AND

24 LADIES AND GENTLEMEN OF THE JURY, WE'RE AT A GOOD STOPPING

25 POINT FOR THE EVENING. AND IT'S A PRETTY GOOD TIME TO STOP.

1 SO WE'LL EXCUSE Y'ALL FOR TONIGHT.

2 AND PLEASE REMEMBER WHAT I TOLD YOU YESTERDAY, NOT TO
3 TALK ABOUT THE CASE. AND WE ALL KNOW AND I KNOW THAT AS YOU
4 LEARN MORE ABOUT IT THE TEMPTATION BECOMES GREATER TO TALK
5 ABOUT IT, TO TRY AND FIND THINGS, MAYBE GO LOOK ON THE
6 INTERNET OR SOMETHING. DON'T DO IT, OKAY?

7 IF YOU PROTECT THE RIGHTS OF THE PARTIES HERE TODAY,
8 YOU PROTECT THE RIGHTS OF EVERY CITIZEN. SO LET'S DO IT
9 THAT WAY. OKAY? SEE Y'ALL BE IN THE MORNING ABOUT 9:30!
10 THANK YOU VERY MUCH.

11 (WHEREUPON THE JURY EXITED THE COURTROOM AT 5:14 PM)

12 THE COURT: ALL RIGHT. ANY MOTIONS?

13 MR. ABDALLA: COULD I HOLD THEM OFF UNTIL THE MORNING?
14 NOT THAT THEY'D BE LENGTHY, BUT ...

15 THE COURT: ALL RIGHT. ARE YOU -- WELL, LET'S DO THIS
16 NOW. MR. CAMPBELL, WOULD YOU RAISE YOUR RIGHT HAND FOR ME?
17 YOU SWEAR TO TELL THE TRUTH?

18 MR. CAMPBELL: YES, SIR.

19 THE COURT: ALL RIGHT. PUT YOUR HAND DOWN. I WANT TO
20 JUST TALK TO YOU ABOUT YOUR RIGHT TO TESTIFY. YOU HAVE AN
21 ABSOLUTE RIGHT TO TESTIFY IN YOUR OWN DEFENSE, OKAY?

22 MR. CAMPBELL: YES, SIR.

23 THE COURT: CAN Y'ALL HOLD IT DOWN WHILE I'M TALKING TO
24 THE DEFENDANT, PLEASE?

25 MR. WESTON: I APOLOGIZE, YOUR HONOR.

1 THE COURT: YOU HAVE AN ABSOLUTE RIGHT TO TESTIFY,
2 OKAY? AND YOU ALSO HAVE AN ABSOLUTE RIGHT TO NOT TESTIFY.
3 AND IF YOU DECIDE NOT TO TESTIFY I WILL INSTRUCT THE JURY,
4 AND I GIVE A STRONG INSTRUCTION, THAT THEY'RE NOT TO
5 CONSIDER THAT, OKAY? IT CANNOT BE HELD AGAINST YOU.

6 YOU CAN PRESENT A DEFENSE OR NOT PRESENT A DEFENSE.
7 IT'S ENTIRELY UP TO YOU. THE BURDEN ALWAYS REMAINS ON THE
8 STATE. DO YOU UNDERSTAND ALL THOSE RIGHTS?

9 MR. CAMPBELL: YES, SIR.

10 THE COURT: ALL RIGHT. AND I'M NOT GOING TO MAKE YOU
11 TELL ME NOW OR ASK YOU TO TELL ME NOW WHETHER OR NOT YOU'RE
12 GOING TO TESTIFY. BUT THERE ARE STRATEGIC DECISIONS THAT
13 YOU HAVE TO ENTERTAIN AS WELL WITH YOUR ATTORNEYS ABOUT
14 WHETHER OR NOT YOU TESTIFY AND PRESENT EVIDENCE OR DON'T
15 TESTIFY, OKAY?

16 MR. CAMPBELL: YES, SIR.

17 THE COURT: BUT IF YOU DO TESTIFY YOU'RE SUBJECT TO
18 FULL CROSS EXAMINATION BY THE STATE. IF YOU DO TESTIFY, I
19 DON'T KNOW IF YOU HAVE A PRIOR CRIMINAL HISTORY, BUT THEY
20 MAY BE ABLE TO IMPEACH YOUR CREDIBILITY WITH PRIOR
21 CONVICTIONS. BUT THOSE ARE ALL THINGS THAT YOU CAN TALK TO
22 YOUR ATTORNEYS ABOUT. AND YOU NEED TO DO THAT TO MAKE A
23 DETERMINATION ABOUT HOW TO PRESENT YOUR DEFENSE, OKAY?

24 MR. CAMPBELL: YES, SIR.

25 THE COURT: BECAUSE WE'LL EXPECT YOU TO BE READY TO DO

1 THAT IN THE MORNING UNLESS YOUR ATTORNEY'S READY TO TELL ME
2 NOW. HAVE Y'ALL MADE A DECISION?

3 MR. ABDALLA: I'M NOT SURE, BUT THERE'S A GOOD CHANCE
4 HE'LL TESTIFY, JUDGE.

5 THE COURT: OKAY. ALL RIGHT. WE'LL SEE YOU IN THE
6 MORNING THEN.

7 MR. ABDALLA: 9:30, JUDGE?

8 THE COURT: YES, SIR.

9 (WHEREUPON COURT WAS IN RECESS AT 5:18 PM)

1 THURSDAY, JANUARY 14, 2010:

2 (WHEREUPON COURT RESUMED IN THIS CASE AT 10:15 AM)

3 THE COURT: ALL RIGHT. MR. ABDALLA, HAVE YOU HAD A
4 CHANCE TO MEET AND DISCUSS WITH YOUR CLIENT WHAT HE INTENDS
5 TO DO?

6 MR. ABDALLA: I HAVE, YOUR HONOR. AND HE'S DECIDED TO
7 TESTIFY.

8 THE COURT: ALL RIGHT. MR. CAMPBELL, WOULD YOU STAND
9 UP FOR ME? YOU REMEMBER EVERYTHING I TOLD YOU YESTERDAY?

10 MR. CAMPBELL: YES, SIR.

11 THE COURT: ALL RIGHT. AND HAVE YOU HAD ENOUGH TIME TO
12 MEET WITH YOUR ATTORNEYS TO DECIDE HOW YOU WANT TO PROCEED?

13 MR. CAMPBELL: YES, SIR.

14 THE COURT: ALL RIGHT. TELL ME IN YOUR OWN WORDS HOW
15 IT IS YOU WANT TO PROCEED.

16 MR. CAMPBELL: I WANT TO TAKE THE STAND AND TESTIFY.

17 THE COURT: OKAY. AND YOU'VE DISCUSSED ALL THE VARIOUS
18 RAMIFICATIONS OF THAT?

19 MR. CAMPBELL: YES, SIR.

20 THE COURT: OKAY. ALL RIGHT. THANK YOU. ANYTHING
21 ELSE BEFORE WE START?

22 MR. ABDALLA: A COUPLE OF THINGS, JUDGE. OF COURSE, I
23 WANT TO MAKE MY MOTION FOR A DIRECTED VERDICT ---

24 THE COURT: OKAY.

25 MR. ABDALLA: --- BASED ON THE INABILITY OF THE STATE

1 TO PRESENT EVIDENCE AND ALSO RENEWING MY OBJECTION ABOUT THE
2 INDICTMENT AND THE EXTRADITION MATTER JUST TO KEEP THAT ON
3 THE RECORD, YOUR HONOR. I JUST HAVE TO KEEP IT ALIVE.

4 THE COURT: THAT ISSUE HAS BEEN PUT TO BED. YOU DIDN'T
5 PRESENT ANYTHING TO THIS COURT FOR ITS CONSIDERATION. AND
6 I'M NOT GOING TO GO THROUGH IT AGAIN.

7 MR. ABDALLA: I UNDERSTAND, YOUR HONOR.

8 THE COURT: THERE IS NO VIOLATION. I MEAN, AT THE
9 MINIMUM YOU'VE GOT TO SHOW SOME SORT OF CAPRICIOUS ACTIVITY
10 ON THE PART OF THE GOVERNOR'S OFFICE IN THE ISSUANCE OF THE
11 WARRANT OR THAT THERE IS NO PROBABLE CAUSE FOR A WARRANT TO
12 ISSUE. AND THERE HAS BEEN NOTHING PRESENTED TO SHOW EITHER
13 ONE OF THOSE THINGS.

14 MR. ABDALLA: OF COURSE, ---

15 THE COURT: OR ANY OTHER REASON TO DISMISS THIS MURDER
16 CASE BASED ON A -- THE FAILURE OF THE STATE OF ALABAMA,
17 WHICH I DON'T EVEN KNOW IF THAT'S CORRECT OR NOT. THERE'S
18 NOTHING IN THE RECORD TO GIVE HIM AN EXTRADITION HEARING.

19 MR. ABDALLA: YES, YOUR HONOR.

20 THE COURT: WITH RESPECT TO THE ABILITY TO PRESENT
21 EVIDENCE, THEY PUT A BUNCH OF EVIDENCE IN. AND I FIND THAT
22 IT IS SUFFICIENT TO SURVIVE A DIRECTED VERDICT MOTION. AND
23 WHAT WAS THE OTHER PART OF YOUR MOTION?

24 MR. ABDALLA: JUST FOR THE RECORD, JUDGE, I WAS JUST
25 TRYING TO EXPLAIN THAT THE DEFENSE'S POSITION IS THAT IT'S

1 THE BURDEN OF THE STATE TO PRODUCE A GOVERNOR'S WARRANT,
2 WHICH WASN'T PRODUCED. THAT'S ---

3 THE COURT: NO, YOU'RE THE MOVING PARTY. YOU FILED --
4 YOU ORALLY FILED THE MOTION, AND YOU HAVEN'T PUT FORTH EVEN
5 A PRIMA FACIE SHOWING. SO THIS IS NOT LIKE A JACKSON V.
6 DENNO MATTER.

7 MR. ABDALLA: THE OTHER ISSUE WE HAVE, JUDGE, IS I PLAN
8 TO CALL TRACY BURKETT TO THE STAND AND ASK HER IF SHE'S THE
9 INVESTIGATOR -- SOLICITOR -- WITH THE PUBLIC DEFENDER
10 OFFICE.

11 THE COURT: IT WOULD BE IMPORTANT FOR US TO KNOW
12 WHETHER OR NOT SHE'S THE INVESTIGATOR. WHAT? WHAT DO YOU
13 PLAN TO ASK HER? YOU DON'T HAVE TO TELL ME THAT. I JUST
14 PRESUME IT'S RELEVANT AND COMPETENT.

15 MR. ABDALLA: IT'S RELEVANT, BUT I THOUGHT WE'D GET
16 THIS OUT OF THE WAY BEFORE THE JURY GETS HERE. I EXPLAINED
17 TO MR. WESTON WHAT I WAS PLANNING ON DOING.

18 A FELLOW NAMED DAVID YEARTA GAVE A STATEMENT TO TRACY
19 JULY 7TH OF 2007, I BELIEVE IT WAS. IT'S IN WRITING. AND
20 SHE'S THE NOTARY. SHE'S THE ONE WHO INTERVIEWED HIM.

21 AT THAT TIME HE TOLD HER THAT CARL TOLD HIM THAT HE, IN
22 FACT, HAD KILLED THE DECEDENT, MR. JERMAINE PROCTOR. I'M
23 OFFERING IT AS IMPEACHMENT.

24 THE WITNESS IS UNAVAILABLE. THE EVIDENCE WE HAVE IS
25 THAT HE DIED OCTOBER 31ST OF 2008. AND EITHER THROUGH THE

1 UNAVAILABILITY OF THE WITNESS OR JUST THE FACT THAT WE'RE
2 OFFERING AN IMPEACHMENT, I WOULD ASK THAT ---

3 THE COURT: WELL, YOU CAN'T OFFER BLATANT HEARSAY AS
4 IMPEACHMENT, BUT THE DEAD MAN RULE ...

5 MR. ABDALLA: JUDGE, IT'S NOT BEING OFFERED TO CONVICT
6 THE PERSON WHO'S ALREADY PLED GUILTY. SO I'D OFFER IT AS
7 ---

8 THE COURT: WELL, IF THAT WAS THE CASE THEN YOU COULD
9 HAVE ANYBODY SAY THAT HE TALKED TO SOMEBODY AND THEY SAID HE
10 WAS LYING. THAT DOESN'T -- IT DOESN'T WORK LIKE THAT. BUT
11 ---

12 MR. ABDALLA: WELL, YOUR HONOR, HE GAVE A SWORN
13 STATEMENT. I SAY SWORN.

14 THE COURT: HE'S DEAD. THAT CHANGES THINGS. ALL
15 RIGHT.

16 MR. ABDALLA: AND UNDER RULE 804 I BELIEVE THE
17 UNAVAILABILITY OF THE WITNESS, THAT TRACY DID SPEAK TO HIM
18 AND SHE'D BE ALLOWED TO AT LEAST SAY HE, IN FACT, SAID THAT
19 WITHOUT GOING THROUGH THE STATEMENT PIECE BY PIECE.

20 THE COURT: ALL RIGHT. WHAT DO YOU WANT TO TELL ME,
21 MR. WESTON?

22 MR. WESTON: YOUR HONOR, THE STATE IS OPPOSED TO IT.
23 IT'S DOUBLE HEARSAY. AND ---

24 THE COURT: WELL, IT'S A STATEMENT OF A, I MEAN, HE'S A
25 PARTY TO THIS ACTION. HE'S A CO-DEFENDANT.

1 MR. WESTON: SO, YOUR HONOR, BUT IT'S DOUBLE HEARSAY.
2 AND IT'S, I MEAN, SHE'S TESTIFYING AS TO WHAT HE TOLD HER AS
3 TO WHAT SOMEONE ELSE TOLD HER. HE CAN'T -- THEY CAN'T --
4 THE FACT THAT HE'S DEAD MAKES HIM UNAVAILABLE, ---

5 THE COURT: UM-HUM (AFFIRMATIVE).

6 MR. WESTON: --- BUT THAT DOESN'T MEAN THAT EVERYTHING
7 THAT HE SAID BEFORE HE DIED CAN COME IN. IT'S STILL
8 HEARSAY.

9 THE COURT: YEAH, BUT THAT'S WHAT RULE 804 IS ABOUT,
10 EXCEPTIONS TO THE HEARSAY RULE. IT'S HEARSAY. THERE'S NO
11 QUESTION ABOUT IT.

12 MR. WESTON: BUT IT DENIES ME THE OPPORTUNITY TO
13 CONFRONT HIM, YOUR HONOR. AND AS YOU SAID, ANYBODY COULD
14 SAY ANYTHING. AND IF THEY CAN'T BE LOCATED TO COME TO COURT
15 THAT COULD JUST COME IN.

16 AND, YOUR HONOR, THE BASIS OF THE HEARSAY RULE IS TO
17 PROVIDE SOME SORT OF RELIABILITY OF THE TESTIMONY. THERE'S
18 NO BASIS FOR ANY DETERMINATION THAT THIS TESTIMONY IS
19 RELIABLE AT ALL.

20 THE COURT: ALL RIGHT. WELL, WHAT WE'LL DO IS PUT HER
21 UP, PROFFER HER TESTIMONY RIGHT NOW. AND YOU CAN -- I'M NOT
22 GOING TO MAKE A RULING AT THIS TIME. YOU CAN PUT HIM UP
23 FIRST. WE'RE GOING TO DO A LITTLE LOOKING ---

24 MR. ABDALLA: I WAS ACTUALLY GOING TO PUT HER UP FIRST,
25 JUDGE.

TRACY BURKETT - DIRECT EXAMINATION BY MR. ABDALLA

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1 THE COURT: WELL, ---

2 MR. ABDALLA: OKAY.

3 THE COURT: --- AT THIS POINT I'M NOT GOING TO ALLOW
4 YOU TO DO IT UNTIL I ---

5 MR. ABDALLA: WELL, I'LL ---

6 THE COURT: --- GET A CHANCE TO LOOK INTO IT.

7 MR. ABDALLA: I'LL DO IT THAT WAY THEN. THANK YOU.

8 ALL RIGHT. I'D CALL TRACY ---

9 THE COURT: COME ON AROUND.

10 TRACY BURKETT, BEING DULY

11 SWORN TESTIFIES AS FOLLOWS:

12 MR. WESTON: YOUR HONOR, JUST FOR -- COULD WE GET A
13 COPY OF THE STATEMENT FROM ---

14 MR. ABDALLA: YEAH, I'M SORRY.

15 MR. WESTON: I'VE NEVER SEEN THIS STATEMENT. AND I'M
16 NOT SUGGESTING HE SHOULD GIVE IT TO ME ---

17 MR. ABDALLA: AND I ACTUALLY WENT TO GIVE IT TO YOU
18 RIGHT BEFOREHAND, AND I FORGOT.

19 DIRECT EXAMINATION BY MR. ABDALLA:

20 Q. MS. BURKETT, WOULD YOU PLEASE STATE YOUR NAME FOR THE
21 RECORD?

22 A. TRACY BURKETT.

23 Q. AND WHERE DO YOU WORK?

24 A. THE PUBLIC DEFENDER'S OFFICE.

25 Q. AND WITH YOUR WORK WITH THE PUBLIC DEFENDER'S OFFICE

TRACY BURKETT - DIRECT EXAMINATION BY MR. ABDALLA

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1 HAVE YOU HAD CAUSE TO MEET WITH JONATHAN CAMPBELL, THE
2 DEFENDANT IN THIS CASE?

3 A. YES, I HAVE.

4 Q. AND WHEN DID YOU FIRST MEET WITH HIM?

5 A. I WOULD SAY LATE 2005.

6 Q. 2005. AND DURING YOUR COURSE OF THE INVESTIGATION WERE
7 YOU EVER CONTACTED OR DID YOU EVER HAVE CAUSE TO INTERVIEW
8 AN INMATE NAMED DAVID YEARTA?

9 A. YES.

10 Q. CAN YOU TELL THE COURT HOW THAT OCCURRED?

11 A. HE CALLED THE OFFICE ASKING TO SPEAK WITH YOU. YOU
12 WERE NOT IN. SO I RECEIVED THE PHONE CALL. HE TOLD ME THAT
13 HE HAD INFORMATION THAT HE THOUGHT WOULD HELP OUR CLIENT AND
14 ASKED IF I WOULD COME AND SPEAK WITH HIM.

15 I HAD CHECKED TO SEE IF HE WAS REPRESENTED. HE WAS
16 UNDER SENTENCE. SO I WENT DOWN AND TALKED TO HIM. HE TOLD
17 ME WHAT HE HAD HEARD FROM JON, I'M SORRY, FROM CARL. AND I
18 ASKED HIM IF HE WOULD GIVE A WRITTEN STATEMENT. I WENT BACK
19 TWO DAYS ---

20 Q. WHEN HE SAID HE HAD HEARD FROM CARL, DID HE SAY HE
21 SPOKE DIRECTLY TO CARL?

22 A. HE TOLD ME THAT THEY WERE NOT IN THE SAME CELL, BUT
23 THEY WERE IN THE YARD TOGETHER AND THAT HE HAD ASKED HIM FOR
24 HELP, IF HE COULD HELP HIM WITH THE CASE.

25 Q. HE BEING WHO?

TRACY BURKETT - DIRECT EXAMINATION BY MR. ABDALLA

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1 A. THAT CARL HAD ASKED DAVID IF HE THOUGHT THAT HE COULD
2 HELP HIM SOMEHOW WITH THE CASE, THAT HE TOLD HIM WHAT HAD
3 HAPPENED.

4 Q. AND WHAT DID HE SAY, GENERALLY? I DON'T NEED THE
5 SPECIFIC STUFF. WHAT DID DAVID SAY CARL SAID?

6 A. HE TOLD HIM THAT HE HAD GIVEN A STATEMENT SAYING THAT
7 JONATHAN HAD KILLED THIS MAN, AND THAT HE WANTED TO KNOW IF
8 THERE WAS A WAY HE COULD TAKE IT BACK.

9 Q. AND WHAT DID HE THEN SAY?

10 A. HE TOLD HIM THAT HE WOULD LOOK INTO IT. AND HE CALLED
11 ME AND ASKED ME TO COME DOWN THERE AND TALK TO HIM. HE TOLD
12 ME EVERYTHING THAT CARL HAD TOLD HIM WHAT HAD HAPPENED ABOUT
13 THAT DAY.

14 Q. AND WHAT DID CARL SAY?

15 A. CARL SAID THAT ---

16 Q. I MEAN CARL SAID THROUGH DAVID. I'M SORRY.

17 A. CARL HAD TOLD DAVID THAT THEY HAD WENT TO BREAK INTO
18 THIS PLACE, THAT WHEN JONATHAN BACKED OUT OF IT HE HIT
19 JONATHAN IN THE BACK OF THE HEAD WITH A HAMMER. AND THAT
20 WHEN HE DID THAT, JONATHAN ASSUMED THAT MR. PROCTOR HAD DONE
21 IT.

22 Q. WELL, CUT -- I GUESS I WANT TO GET A LITTLE CLOSER TO
23 WHO DID THE STABBING OR WHATEVER.

24 A. CARL SAID THAT HE DIDN'T.

25 Q. WHO ---

TRACY BURKETT - CROSS EXAMINATION BY MR. WESTON

284

- 1 A. CARL TOLD DAVID THAT HE'S THE ONE THAT DONE IT.
2 Q. AND WHAT DID HE SAY ABOUT JONATHAN'S ROLE?
3 A. THAT JONATHAN WAS TRYING TO GET AWAY.
4 Q. DID HE SAY JONATHAN HAD ANYTHING TO DO WITH IT AT ALL?
5 A. NO.
6 Q. ALL RIGHT.
7 MR. ABDALLA: I HAVE NO FURTHER QUESTIONS AT THIS TIME.
8 THE COURT: OKAY. CROSS.

9 CROSS EXAMINATION BY MR. WESTON:

- 10 Q. YOU SAID HE CALLED Y'ALL OUT OF THE BLUE?
11 A. YES.
12 Q. BUT YOU DON'T KNOW WHY -- WHAT PROMPTED THIS CALL?
13 A. NO.
14 Q. DID HE SAY WHEN THE STATEMENT WAS GIVEN BY MR.
15 SOUTHERLAND TO HIM?
16 A. HE JUST SAID IT WAS RIGHT BEFORE HE WAS TRANSFERRED
17 OVER FROM THE CELL HE WAS IN WITH -- AROUND WITH CARL OVER
18 TO THE OTHER PART OF THE JAIL.
19 Q. WHEN DID HE CALL YOU?
20 A. IT WAS PROBABLY ABOUT -- MAYBE THE 15TH OF JUNE.
21 Q. OF '07?
22 A. OF '07.
23 Q. ALL RIGHT. LOOK AT THE FIRST LINE OF THE STATEMENT.
24 COULD YOU READ THE FIRST LINE?
25 A. I TALKED TO CARL SOUTHERLAND LAST YEAR ABOUT ---

TRACY BURKETT - CROSS EXAMINATION BY MR. WESTON

285

1 Q. STOP RIGHT THERE. SO HE SAID THAT IT WAS TOLD TO HIM A
2 YEAR BEFORE, SOMETIME LAST YEAR?

3 A. OKAY.

4 Q. BUT HE DOESN'T SAY WHEN LAST YEAR?

5 A. NO.

6 Q. SO HE'S TELLING YOU ABOUT A STATEMENT THAT OCCURRED A
7 YEAR BEFORE THAT?

8 A. YES.

9 Q. HE DON'T SAY WHERE THIS STATEMENT TOOK PLACE?

10 A. NO.

11 Q. HE DOESN'T SAY WHETHER ANYBODY ELSE WAS PRESENT?

12 A. NO.

13 Q. HE DIDN'T -- DOES HE TELL YOU WHAT PROMPTED MR.

14 SOUTHERLAND TO TELL HIM THIS, GIVE THIS REVELATION TO HIM?

15 A. IN THIS STATEMENT, NO.

16 Q. OKAY. SO YOU DON'T HAVE ANY INFORMATION CONCERNING THE
17 CIRCUMSTANCES SURROUNDING THE GIVING OF THIS STATEMENT, HE
18 JUST GENERALLY SAYS I TALKED TO HIM SOMETIME LAST YEAR AND
19 HE TOLD ME THESE THINGS?

20 A. JUST FROM WHAT HE HAD TOLD ME. HE DIDN'T WRITE IT IN
21 THE STATEMENT, JUST WHAT HE HAD TOLD ME THAT HE WAS DOING
22 SOME RESEARCH IN LAW BOOKS THAT WERE THERE AND THAT CARL
23 THOUGHT THAT HE COULD HELP HIM BECAUSE HE HAD BEEN DOING A
24 LOT OF RESEARCH IN LAW BOOKS AND VARIOUS THINGS HELPING
25 VARIOUS PEOPLE IN THE JAIL.

TRACY BURKETT - REDIRECT EXAMINATION BY MR. ABDALLA

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1 Q. BUT ONCE AGAIN HE DIDN'T SAY WHEN CARL MADE THIS
2 STATEMENT TO HIM OR WHERE?

3 A. NO.

4 Q. OKAY. AND IT WAS DEFINITELY SOMETIME A YEAR BEFORE?

5 A. YES.

6 Q. OKAY.

7 MR. WESTON: NOTHING FURTHER, YOUR HONOR.

8 THE COURT: ANYTHING ELSE?

9 REDIRECT EXAMINATION BY MR. ABDALLA:

10 Q. WHAT'S THE DATE OF THIS STATEMENT YOU TOOK?

11 A. JUNE THE 22ND, 2007.

12 Q. AND YOU INTERVIEWED HIM WHERE?

13 A. AT THE DETENTION CENTER.

14 Q. ALL RIGHT. AND DID HE SIGN THAT STATEMENT?

15 A. YES, HE DID.

16 Q. ALL RIGHT.

17 MR. ABDALLA: I'D OFFER IT INTO EVIDENCE AS A COURT
18 EXHIBIT.

19 THE COURT: MAKE IT A COURT EXHIBIT.

20 (WHEREUPON COURT'S EXHIBIT 5 WAS MARKED)

21 MR. ABDALLA: ANY OBJECTION TO IT COMING IN AS A COURT
22 EXHIBIT?

23 THE COURT: IT'S COMING IN AS A COURT EXHIBIT PURSUANT
24 TO THE PROFFER.

25 MR. ABDALLA: I DON'T HAVE ANY FURTHER QUESTIONS.

TRACY BURKETT - REDIRECT EXAMINATION BY MR. ABDALLA

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1 THE COURT: YOU CAN STEP DOWN. THANK YOU, TRACY. MR.

2 ABDALLA, ---

3 MR. ABDALLA: YES, YOUR HONOR.

4 THE COURT: --- I'M NOT GOING TO ALLOW IT. IT DOESN'T
5 FIT UNDER THE RULE. AND IF THE TABLES WERE TURNED AND THE
6 STATE WANTED TO PUT SOMETHING IN LIKE THAT, YOU THINK IT
7 WOULD BE ALLOWED? NO, SIR. AND THE RULES DO NOT
8 DISTINGUISH WITH RESPECT TO THE ADMISSION OF TESTIMONY
9 BETWEEN DEFENDANT AND STATE. SO IT'S NOT ALLOWED. YOU'RE
10 PROTECTED IF I'M WRONG.

11 MR. ABDALLA: I UNDERSTAND. I JUST WANT IT ON THE
12 RECORD ---

13 THE COURT: OKAY. ALL RIGHT.

14 MR. ABDALLA: --- THAT I BELIEVE THE DIFFERENCE IS THAT
15 MR. SOUTHERLAND ISN'T BEING TRIED FOR ANYTHING. BUT I GUESS
16 YOU'VE ANSWERED THAT. AND I JUST WANTED THAT TO BE CLEAR.

17 THE COURT: NO, HE'S NOT. HE'S ALREADY PLED GUILTY.

18 MR. ABDALLA: RIGHT. SO ---

19 THE COURT: OKAY.

20 MR. ABDALLA: --- THERE'S NO PREJUDICE TO HIM IS WHAT
21 MY ARGUMENT WAS, JUDGE.

22 THE COURT: IT DOESN'T HAVE ANYTHING TO DO WITH
23 PREJUDICE TO SOUTHERLAND, NOTHING. IT'S GOT TO DO WITH --
24 IF YOU LOOK AT 804, THE ONLY -- 804(B)(1) IS THE ONLY
25 POSSIBLE WAY THAT IT COULD COME IN. AND THIS DOES NOT

1 QUALIFY AS A DEPOSITION. ALL RIGHT. WE READY?

2 MR. ABDALLA: WELL, BEFORE, YOU KNOW, I SHOULD HAVE
3 DONE THIS WHILE TRACY WAS UP. THE ONLY OTHER THING I
4 PLANNED TO DO IS HAVE HER UP THERE TO TESTIFY TO THE WEIGHT
5 OF MR. SOUTHERLAND, WHO TESTIFIED THAT HE WAS A HUNDRED AND
6 FIFTEEN WHEN HE CAME. SHE HAS THE JAIL CARD SAYING HE WAS A
7 HUNDRED AND FIFTY-EIGHT WHEN HE CAME IN.

8 THE COURT: WELL, YOU CAN DO THAT. I DON'T ---

9 MR. ABDALLA: I DIDN'T -- I DON'T WANT ANYBODY TO BE
10 SURPRISED AND HAVE IT BLOW UP. I WANTED ---

11 MR. WESTON: WELL, WE WOULD BE, YOUR HONOR. HE DIDN'T
12 TELL US, BUT THAT'S FINE.

13 THE COURT: WELL, HE DOESN'T HAVE TO TELL YOU THAT,
14 DOES HE? IT'S IMPEACHMENT OF YOUR WITNESS. HE DOESN'T HAVE
15 TO ---

16 MR. ABDALLA: THAT'S IT, JUDGE.

17 THE COURT: --- TELL YOU THAT. OKAY. ALL RIGHT. YOU
18 READY?

19 MR. ABDALLA: YES.

20 THE COURT: READY?

21 MR. WESTON: YES, SIR, YOUR HONOR.

22 THE COURT: OKAY. LET'S GO.

23 MR. WESTON: YOUR HONOR, COULD WE BE HEARD BEFORE WE
24 BRING THE JURY IN?

25 THE COURT: YEAH, WHAT IS IT?

1 MR. WESTON: SHE'S TESTIFYING FROM A DOCUMENT, YOUR
2 HONOR. I THOUGHT SHE WAS TESTIFYING FROM A PERSONAL
3 KNOWLEDGE. THAT'S HEARSAY.

4 THE COURT: ALL RIGHT. I'LL SEND THE SHERIFF DOWN TO
5 GET THE CUSTODIAN OF RECORDS AT THE LEC. I MEAN, IF THAT'S
6 WHAT YOU WANT TO REQUIRE. HE'S ENTITLED TO THAT. AND ---

7 MR. WESTON: AND, YOUR HONOR, WE'RE READY TO PROCEED IF
8 YOU WANT TO DO THAT, THAT'S FINE. BUT WE'RE NOT GOING TO --
9 WE'RE NOT GOING TO STIPULATE TO IT AND LET HIM SORT OF PLAY
10 HALF WAY AROUND THE RULES.

11 THE COURT: WELL, IF YOU'RE GOING TO OBJECT ---

12 MR. WESTON: I MEAN, HE'S HAD FOUR YEARS TO GET READY.

13 THE COURT: IF YOU'RE GOING TO OBJECT TO IT ...

14 MR. WESTON: I AM, YOUR HONOR.

15 THE COURT: OKAY. CAN I GET YOU ALL TO -- WELL, I'LL
16 GET TRACY TO GO TELL THEM THAT I -- WOULD YOU -- WHOEVER THE
17 CUSTODIAN OF THE RECORDS IS DOWN THERE, BRING IT ON UP AND
18 BRING THAT CARD. AND TELL THEM I ORDERED IT. AND WITHIN,
19 YOU KNOW, ASAP. OKAY.

20 (WHEREUPON THE JURY ENTERED THE COURTROOM AT 10:31 AM)

21 THE COURT: ALL RIGHT. Y'ALL REALLY GET MAD AT ME NOW.
22 I WANT TO THANK YOU AGAIN FOR YOUR PATIENCE. AND ACTUALLY
23 YOU MIGHT BE VERY IMPATIENT. I DON'T KNOW. I DON'T BLAME
24 YOU IF YOU ARE. I APOLOGIZE FOR MAKING YOU WAIT BACK THERE.

25 WE HAD ANOTHER MATTER THAT I HANDLED AND SOME ISSUES IN

JONATHAN CAMPBELL - DIRECT EXAMINATION BY MR. ABDALLA

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1 THIS CASE THAT I THINK WILL PROBABLY SHORTEN THE TRIAL. SO
2 WE'RE READY TO PROCEED. BUT IF YOU'RE ANGRY AT ANYBODY,
3 IT'S MY FAULT. SO PLEASE BE ANGRY AT ME. THANK YOU. ALL
4 RIGHT, MR. ABDALLA.

5 MR. ABDALLA: THANK YOU, JUDGE.

6 (PAUSE)

7 THE COURT: MR. ABDALLA.

8 MR. ABDALLA: DEFENSE CALLS MR. CAMPBELL TO THE STAND.

9 JONATHAN M. CAMPBELL,

10 BEING DULY SWORN TESTIFIED AS FOLLOWS:

11 DIRECT EXAMINATION BY MR. ABDALLA:

12 Q. MORNING. PLEASE ---

13 A. GOOD MORNING.

14 Q. --- STATE YOUR NAME FOR THE RECORD, MR. CAMPBELL.

15 A. JONATHAN MILLARD CAMPBELL.

16 Q. SPEAK A LITTLE LOUDER OR PULL UP TO THE MICROPHONE.

17 A. JONATHAN MILLARD CAMPBELL.

18 Q. ALL RIGHT. AND HOW OLD ARE YOU, MR. CAMPBELL?

19 A. THIRTY-SIX.

20 Q. AND LET ME ASK YOU THIS, ARE YOU AT ALL NERVOUS TODAY?

21 A. EXTREMELY.

22 Q. ALL RIGHT. LET ME ASK YOU A LITTLE BIT ABOUT YOURSELF.

23 YOU GREW UP IN GREENVILLE?

24 A. YES, SIR, MOSTLY MAULDIN.

25 Q. YOU NEED TO GET A LITTLE LOUDER.

JONATHAN CAMPBELL - DIRECT EXAMINATION BY MR. ABDALLA

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- 1 A. MOSTLY MAULDIN, BUT GREENVILLE.
- 2 Q. AND THEN HOW LONG HAVE YOU LIVED IN GREENVILLE?
- 3 A. SINCE I WAS ABOUT TEN, ELEVEN YEARS OLD.
- 4 Q. ALL RIGHT. AND WHO DID YOU LIVE WITH?
- 5 A. MY MOTHER AND MY STEP-FATHER.
- 6 Q. AND WHAT KIND OF RELATIONSHIP DO YOU HAVE WITH YOUR
- 7 MOTHER AND STEP-FATHER?
- 8 A. A GREAT ONE. I LOVE THEM BOTH, AND THEY LOVE ME. AND
- 9 THEY HAVE ALWAYS ---
- 10 Q. YOU HAVE TO SPEAK UP.
- 11 A. THEY'VE ALWAYS LOOKED OUT AND TOOK CARE OF ME. I HAVE
- 12 A GREAT RELATIONSHIP WITH THEM.
- 13 Q. AND WHERE DID YOU GO TO SCHOOL?
- 14 A. MAULDIN HIGH.
- 15 Q. AND WHAT DID YOU DO AFTER HIGH SCHOOL?
- 16 A. I WENT TO ONE YEAR AT GREENVILLE TECH FOR COMPUTER
- 17 TECHNOLOGY. AND THEN I MOVED OUT TO COLORADO, BRECKENRIDGE,
- 18 COLORADO.
- 19 Q. AND WHAT DID YOU DO OUT IN COLORADO? DID YOU WORK OUT
- 20 THERE?
- 21 A. YES. I WORKED AT A RESTAURANT, AND I PAINTED AND
- 22 THAT'S ABOUT IT AS FAR AS WORK.
- 23 Q. ROUGHLY HOW OLD WERE YOU WHEN YOU WERE IN COLORADO?
- 24 A. TWENTY MAYBE.
- 25 Q. OKAY. HOW LONG WERE YOU OUT THERE?

JONATHAN CAMPBELL - DIRECT EXAMINATION BY MR. ABDALLA

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1 A. ABOUT A YEAR AND A HALF, MAYBE TWO, YOU KNOW, ABOUT
2 RIGHT IN THERE.

3 Q. OKAY. AGAIN, YOU HAVE TO KEEP REMEMBERING TO SPEAK UP.
4 AND DID YOU HAVE FAMILY OUT THERE OR ANYTHING?

5 A. NO, SIR. ME AND A FRIEND JUST MOVED OUT THERE TO GO
6 ROCK CLIMBING, AND SKIING, AND SNOW SHOEING AND STUFF LIKE
7 THAT.

8 Q. SO YOU LIKE SKIING AND ROCK CLIMBING?

9 A. YES, SIR.

10 Q. AND THEN WHERE DID YOU GO AFTER COLORADO?

11 A. I MOVED BACK HOME.

12 Q. WHY DID YOU COME BACK TO GREENVILLE?

13 A. MY MOTHER WAS SICK.

14 Q. I'M SORRY?

15 A. MY MOTHER WAS SICK.

16 Q. YOUR MOTHER WAS SICK?

17 A. YEAH.

18 Q. WHAT HAPPENED?

19 A. SHE HAD CANCER. SHE HAD IT PREVIOUSLY, BUT SHE GOT --
20 SHE GOT WELL. BUT SHE GOT SICK AGAIN.

21 Q. SO YOU THOUGHT YOU NEEDED TO COME HOME BECAUSE SHE WAS
22 SICK?

23 A. YES, SIR.

24 Q. AND DID YOU STAY HOME THEN OR WHAT?

25 A. YES, SIR, FOR A COUPLE OF YEARS. AND THEN MY BROTHER

JONATHAN CAMPBELL - DIRECT EXAMINATION BY MR. ABDALLA

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1 GRADUATED AND SHE WAS OKAY. AND WE MOVED BACK. ME AND MY
2 BROTHER WENT BACK OUT THERE.

3 Q. ALL RIGHT. WHEN YOU MOVED BACK -- SO DID YOUR MOTHER'S
4 CANCER CLEAR UP? IS THAT ---

5 A. YES, SIR. SHE HAD -- IT STARTED OUT IN HER BREASTS.
6 AND IT WAS -- IT MASTESIZED [SIC] -- SHE HAD IT FOR ABOUT
7 TWENTY YEARS. AND IT TRAVELED ALL OVER HER BODY.

8 Q. THANK GOD SHE SURVIVED IT.

9 A. UM-HUM (AFFIRMATIVE).

10 Q. SO YOU SAID YOU WENT BACK OUT TO COLORADO A COUPLE OF
11 YEARS LATER, IS THAT CORRECT?

12 A. YES, SIR.

13 Q. AND WHAT DID YOU DO WHEN YOU WERE IN COLORADO THE
14 SECOND TIME?

15 A. THE SAME THING. MY BROTHER HAD NEVER BEEN OUT THERE.
16 AND I TOLD HIM HOW FUN IT WAS AND EXCITING AND EVERYTHING.
17 AND HE WANTED TO GO. AND SINCE HE GRADUATED, I -- I TOOK
18 HIM.

19 Q. AND HOW LONG DID YOU STAY THERE?

20 A. ABOUT A YEAR, A LITTLE OVER MAYBE.

21 Q. AND WHEN DID YOU COME BACK?

22 A. ABOUT A YEAR AND A HALF AFTER THAT ON A CHRISTMAS, I
23 THINK IT WAS.

24 Q. AND WHAT DID YOU -- WHAT DID YOU DO WHEN YOU CAME BACK
25 TO GREENVILLE, I ASSUME?

JONATHAN CAMPBELL - DIRECT EXAMINATION BY MR. ABDALLA

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- 1 A. YES. I WENT BACK TO WORK. AND I MET MY FUTURE WIFE.
2 AND WE DATED AND STUFF LIKE THAT AND JUST WAS LIVING.
3 Q. SPEAK UP. YOU MET YOUR FUTURE WIFE AND YOU DATED.
4 A. YEAH. AND JUST WORKED AND LIVED.
5 Q. DO YOU HAVE ANY CHILDREN?
6 A. YES, SIR. I HAVE TWO.
7 Q. TWO?
8 A. YES, SIR.
9 Q. AND WHAT -- HOW OLD ARE THEY?
10 A. THEY'RE TEN AND EIGHT.
11 Q. ARE THEY BOYS, GIRLS?
12 A. BOYS.
13 Q. AND WITH WHOM DO THEY LIVE WITH?
14 A. THEIR MOTHER.
15 Q. AND WHAT HAPPENED? ARE YOU AND YOUR WIFE STILL
16 MARRIED?
17 A. NO, SIR.
18 Q. WHAT HAPPENED?
19 A. I HAD -- I HAD STARTED A LITTLE CONSTRUCTION COMPANY.
20 AND I BOUGHT -- I'VE HAD -- I'VE DONE SOME DRUGS ON AND OFF
21 EVER SINCE I WAS ABOUT SIXTEEN OR SEVENTEEN. AND I HAD BEEN
22 CLEAN FOR A NUMBER OF YEARS. AND I HAD MARRIED, AND I HAD
23 MY FIRST SON. AND I STARTED A CONSTRUCTION COMPANY BUILDING
24 RESTAURANTS AND CUSTOM LOG HOMES UP IN LAKE LURE, NORTH
25 CAROLINA.

JONATHAN CAMPBELL - DIRECT EXAMINATION BY MR. ABDALLA

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1 Q. YOU HAD A -- YOUR CONSTRUCTION COMPANY HAD SOMETHING TO
2 DO WITH THOSE HOMES?

3 A. YES.

4 Q. WHAT DID YOU DO?

5 A. I BUILT THEM FROM GROUND UP.

6 Q. UP AT LAKE LURE?

7 A. YES, SIR.

8 Q. WHAT ELSE WAS IT YOU WERE SAYING? I INTERRUPTED YOU.

9 A. I BUILT CUSTOM LOG HOMES AND THINGS. AND -- AND IN THE
10 CONSTRUCTION BUSINESS A LOT OF PEOPLE DO DRUGS. AND I HAD
11 BEEN CLEAN FOR A LONG, LONG TIME.

12 I HAD AN ACCIDENT. AND I HAVE A BONE DISEASE ANYWAY, A
13 DEGENERATIVE BONE DISEASE. AND IT'S MOSTLY LOCATED IN MY
14 SPINE. WHILE I WAS SETTING SOME TRUSSES ON AN APPLEBEES
15 RESTAURANT, AND ONE OF MY WORKERS LET THE CRANE HOOK GO AND
16 DIDN'T YELL OUT A WARNING. AND I'M IN THE MIDDLE OF A
17 BUILDING AND THE CRANE HOOK HIT ME IN THE BACK AND
18 DISLOCATED ONE OF MY VERTEBRAS.

19 AND I DIDN'T GO TO THE DOCTOR BECAUSE IT WAS MY OWN
20 COMPANY. I DIDN'T WANT THE INSURANCE TO RAISE UP AND
21 EVERYTHING. SO I TRIED TO DEAL WITH IT, BUT IT GOT TO WHERE
22 I COULDN'T BEND OVER AND GET BACK UP.

23 AND I WENT TO A DOCTOR. AND THE DOCTOR SAID I COULD
24 EITHER HAVE DISC SURGERY OR I COULD MASK IT OR WHATEVER.
25 AND AT THAT TIME I HAD SO MUCH GOING ON THAT I DIDN'T HAVE

JONATHAN CAMPBELL - DIRECT EXAMINATION BY MR. ABDALLA

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1 TIME TO STOP FOR SURGERY. AND I WAS YOUNG, YOU KNOW. I
2 THOUGHT, YOU KNOW, I CAN MUSCLE THROUGH THIS.

3 SO HE SENT ME TO A PAIN SPECIALIST. AND HE PUT ME ON
4 OXYCONTIN. AND IT WORKED FINE FOR ABOUT A YEAR. I TOOK IT
5 LIKE I WAS SUPPOSED TO AND EVERYTHING, BUT THEN IT GOT TO
6 WHERE IT WASN'T WORKING. AND I STARTED TAKING MORE AND
7 MORE.

8 AND I WENT BACK TO THE DOCTOR AND HE PUT ME ON MORE.
9 AND THEN ABOUT A YEAR AFTER THAT IT WAS CAUSING PROBLEMS
10 'CAUSE I WAS RUNNING OUT EARLY. YOU KNOW, I WAS ---

11 Q. NOW ABOUT WHAT YEAR IS THIS? DO YOU HAVE ANY IDEA?

12 A. LORD, I WAS MAYBE TWENTY-FIVE.

13 Q. OH, SO WE'RE BACK IN THE 90'S, I GUESS?

14 A. YES, SIR.

15 Q. ALL RIGHT.

16 A. LET'S SEE. I'M BAD WITH DATES AND STUFF LIKE THAT.

17 Q. THAT'S ALL RIGHT. JUST TELL THE JURY AS BEST ---

18 A. SOMETHING LIKE -- YEAH, ---

19 Q. --- YOU CAN RECALL.

20 A. --- YEAH. 'CAUSE I, YOU KNOW, BEEN IN HERE SO LONG,
21 YOU KNOW. ANYWAY, IT WAS AROUND THAT AGE. AND I STARTED
22 ABUSING IT AND TAKING MORE AND MORE. AND IT WAS CAUSING
23 PROBLEMS WITH MY WIFE AND I.

24 AND I RAN OUT ONE TIME EARLY. AND I STARTED GOING
25 THROUGH WITHDRAWALS. AND I STARTED -- ONE OF THE GUYS AT

JONATHAN CAMPBELL - DIRECT EXAMINATION BY MR. ABDALLA

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1 WORK NOTICED ---

2 MR. WESTON: YOUR HONOR, I'M GOING TO OBJECT. HE ASKED
3 THE QUESTION FOUR OR FIVE MINUTES AGO WAS WHY ARE YOU NO
4 LONGER MARRIED? AND HE HAS RAMBLED NOW FOR ABOUT ---

5 THE COURT: WELL, ---

6 MR. WESTON: --- TEN YEARS.

7 THE COURT: ALL RIGHT. DON'T JUST GIVE A NARRATIVE,
8 ASK QUESTIONS.

9 Q. YOU SAID YOU GOT INVOLVED WITH DRUGS. AND ---

10 A. YES, SIR.

11 Q. --- WHAT HAPPENED BETWEEN YOU AND YOUR WIFE THEN?

12 A. WE HAD A -- WE STARTED ARGUING AND HAD A FALLING OUT.
13 SHE WASN'T GOING TO PUT UP WITH DRUGS, YEAH.

14 Q. AND YOUR MOTHER DOESN'T PUT UP WITH DRUGS EITHER, DOES
15 SHE?

16 A. NO, SIR.

17 Q. AS A MATTER OF FACT, AT THE TIME OF THIS INCIDENT, THE
18 TIME RIGHT AROUND THE INCIDENT WERE YOU LIVING AT HOME?

19 A. YES, SIR. I HAD MOVED FROM MY -- OUT FROM MY WIFE.
20 AND I'D GOTTEN -- I HAD MOVED -- EVENTUALLY, YES, I MOVED
21 BACK WITH MY MOTHER.

22 Q. OKAY. WITH YOUR MOTHER. WERE YOU EVER FORCED TO MOVE
23 OUT FROM YOUR MOTHER'S?

24 A. YES, SIR.

25 Q. WHY IS THAT?

JONATHAN CAMPBELL - DIRECT EXAMINATION BY MR. ABDALLA

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1 A. ABOUT A WEEK BEFORE I MOVED OUT I STARTED DOING CRYSTAL
2 METH WITH SOME GUYS AT WORK. AND SHE TOLD ME I COULDN'T
3 STAY THERE AND DO DRUGS. AND I WAS HIGH AT THE TIME. AND I
4 -- I MOVED UP TO THE MOTEL IN TRAVELERS REST.

5 Q. ALL RIGHT. HOLD ON ONE MINUTE, PLEASE.

6 (PAUSE)

7 Q. MR. CAMPBELL, YOU'VE ADMITTED THAT YOU'VE BEEN IN
8 TROUBLE BEFORE, CORRECT?

9 A. YES, SIR.

10 Q. AS A MATTER OF FACT IN 2001 ISN'T IT A FACT THAT YOU
11 WERE CONVICTED OF COCAINE USE?

12 A. YES, SIR.

13 Q. DISTRIBUTION? AND AGAIN IN 2003 FOR ATTEMPT TO
14 DISTRIBUTE A CONTROLLED SUBSTANCE?

15 A. 2003? I GUESS SO.

16 Q. DO YOU HAVE A DRUG RECORD?

17 A. YES, SIR.

18 Q. HOW ABOUT -- WELL, DO THOSE DATES -- SOUNDED ALL RIGHT,
19 2001 AND 2003?

20 A. THE CONTROLLED SUBSTANCE, I'VE NEVER ---

21 Q. COCAINE?

22 A. MAYBE 'CAUSE I PLED -- THEY -- I WAS CHARGED WITH ONE
23 CRIME AND THEN A FEW YEARS LATER THEY DROPPED IT DOWN TO
24 SOMETHING. AND I PLED GUILTY TO IT.

25 Q. ALL RIGHT. AND WERE YOU CHARGED RIGHT BEFORE THIS

JONATHAN CAMPBELL - DIRECT EXAMINATION BY MR. ABDALLA

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1 INCIDENT WITH SEVERAL FRAUDULENT CHECKS?

2 A. YES, SIR.

3 Q. AND THEN IN NORTH CAROLINA IN 2002 DO YOU HAVE A
4 BREAKING AND ENTERING AND LARCENY?

5 A. IN NORTH CAROLINA? YES, SIR. THAT'S THE DAY I HAD AN
6 ARGUMENT WITH MY WIFE. I WENT NEXT DOOR TO MY NEIGHBOR'S
7 HOUSE, A FRIEND OF MINE, AND I WENT IN THE BACK DOOR. AND
8 THEY CHARGED ME WITH LARCENY BECAUSE I TOOK HIS PHONE
9 OUTSIDE. BUT THEY DIDN'T WANT TO PRESS CHARGES. I DON'T
10 REMEMBER WHAT ---

11 Q. BUT YOU HAVE THAT RECORD, CORRECT?

12 A. YES. YES, SIR, I HAVE A RECORD.

13 Q. SO YOU'VE BEEN ESSENTIALLY SENT OUT OF YOUR MOTHER'S
14 HOME FOLLOWING THE BREAK-UP OF YOUR MARRIAGE, RIGHT?

15 A. YES.

16 Q. YOU'RE NOW DOING DRUGS?

17 A. YES.

18 Q. AND I WANT YOU TO TELL THE JURY HOW YOU GOT INVOLVED
19 WITH CARL SOUTHERLAND AND JERMAINE PROCTOR.

20 A. OKAY. I HAD MOVED FROM THE HOTEL IN TRAVELERS REST TO
21 THE -- A HOTEL DOWN BY CITY HEIGHTS OFF OF POINSETT, I
22 BELIEVE, IS THE ROAD. AND WHILE I WAS THERE THIS GIRL THAT
23 I HAD MET AT ONE OF THE DRUG HOUSES IN TRAVELERS REST SAW
24 ME.

25 AND SHE HAD CARL WITH HIM -- WITH HER. AND THEY CAME

JONATHAN CAMPBELL - DIRECT EXAMINATION BY MR. ABDALLA

300

1 -- I INVITED THEM IN, THEY SAID HEY AND ALL THIS STUFF. AND
2 I INVITED THEM IN, AND I GOT THEM HIGH. AND THEY STAYED
3 WITH ME ABOUT A DAY.

4 AND THEN SHE LEFT. SHE ASKED IF SHE COULD LEAVE CARL
5 THERE, THAT SHE WOULD COME BACK AND GET HIM IN AN HOUR. AND
6 I SAID, SURE. AND SHE NEVER CAME BACK. AND ---

7 Q. OKAY. APPROXIMATELY HOW LONG AGO, HOW LONG BEFORE THIS
8 INCIDENT ARE WE TALKING?

9 A. ABOUT SEVEN DAYS.

10 Q. SEVEN DAYS?

11 A. YES, SIR.

12 Q. SO YOU KNEW CARL -- DID YOU KNOW CARL BEFORE THAT?

13 A. NO, SIR.

14 Q. SO YOU'VE KNOWN HIM FOR ROUGHLY A WEEK BEFORE THE
15 INCIDENT? IS THAT WHAT YOU'RE SAYING?

16 A. YES. AT THE MOST, YEAH, ABOUT A WEEK. EIGHT DAYS,
17 SOMEWHERE AROUND IN THERE. NOT LONG.

18 Q. SO EIGHT DAYS?

19 A. YES, SIR. AND SHE NEVER CAME BACK. WELL, WHEN YOU'RE
20 GETTING HIGH, TIME JUST FLIES, YOU KNOW. AND THAT DAY LED
21 INTO THE NEXT DAY. AND THEN THAT -- IT LED INTO THAT NIGHT.
22 AND I ---

23 MR. WESTON: YOUR HONOR, OBJECTION. HE'S ANSWERED THE
24 QUESTION HOW LONG HAS HE KNOWN CARL SOUTHERLAND. AND THE
25 OTHER QUESTION WAS HOW LONG HAS HE KNOWN JERMAINE PROCTOR.

JONATHAN CAMPBELL - DIRECT EXAMINATION BY MR. ABDALLA

301

1 HE'S NOT ADDRESSED THAT. HE'S JUST RAMBLING AND TESTIFYING
2 ABOUT A CHRONOLOGY NOW.

3 THE COURT: WELL, I'M GOING TO OVERRULE YOUR OBJECTION.
4 GO AHEAD.

5 Q. TELL THE -- TELL THE STORY OF HOW YOU GOT FROM THERE TO
6 MEETING JERMAINE PROCTOR.

7 A. HOW I GOT FROM THERE TO ---

8 Q. WELL, MAYBE YOU HAVE TO BACK UP. WHEN DID YOU MEET
9 JERMAINE PROCTOR?

10 A. JUST A COUPLE OF DAYS BEFORE THIS INCIDENT HAPPENED. I
11 MET HIM DOWN IN CITY HEIGHTS.

12 Q. ALL RIGHT. NOW TELL THE JURY ABOUT THAT. I'M SORRY
13 FOR INTERRUPTING YOUR TRAIN, BUT -- NOW LET ME GO BACK
14 AGAIN. YOU SAID CARL WAS STILL WITH YOU. DID HE LEAVE AT
15 ALL BEFORE YOU MET JERMAINE?

16 A. NO. NO, HE HAD NOT LEFT.

17 Q. THE WHOLE TIME?

18 A. THE WHOLE TIME.

19 Q. ALL RIGHT.

20 A. YEAH. HE TOLD ME THAT HE HAD BEEN ON THE STREETS FOR A
21 COUPLE OF MONTHS AND ASKED ME IF HE COULD STAY WITH ME.

22 Q. ALL RIGHT. AND YOU JUST TOOK HIM IN?

23 A. YEAH, I DID 'CAUSE I FELT SORRY FOR HIM. I MEAN, I
24 COULD UNDERSTAND WHERE HE WAS COMING FROM. I WAS ON DRUGS
25 TOO. AND HE TOLD ME THAT HE HAD BEEN OUT OF WORK FOR A

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302

1 COUPLE OF MONTHS, THAT HIM AND HIS WIFE HAD SPLIT UP AND
2 HE'D BEEN ON THE STREET. AND, YOU KNOW, I -- I FELT, YOU
3 KNOW, I LET HIM STAY.

4 Q. ALL RIGHT. AND AGAIN, SPEAK UP BECAUSE YOU ARE
5 SPEAKING DOWN. NOW TELL THE JURY ABOUT MEETING JERMAINE
6 PROCTOR.

7 A. I MET JERMAINE DOWN IN CITY HEIGHTS ONE DAY. CARL AND
8 I WENT DOWN THERE TO GET SOME DRUGS. AND HE WAS IN HIS JEEP
9 CHEROKEE. AND HE HAD SEEN ME COME DOWN THERE A COUPLE OF
10 TIMES BEFORE. AND HE CALLED ME OVER. AND HE SAID, HEY, WHY
11 DON'T YOU SPEND SOME OF THAT MONEY WITH ME?

12 AND I DID. I BOUGHT A COUPLE OF -- ABOUT FORTY DOLLARS
13 WORTH OF CRACK FROM HIM. AND I WENT BACK AND SMOKED IT.
14 AND I COME BACK THAT NIGHT AND BOUGHT SOME MORE FROM HIM.
15 AND -- AND THAT'S HOW I MET HIM.

16 Q. ALL RIGHT. APPROXIMATELY HOW LONG BEFORE THE INCIDENT
17 WAS THAT?

18 A. ABOUT -- ABOUT THREE DAYS.

19 Q. ALL RIGHT. NOW WE'RE COMING UP TO THE SATURDAY BEFORE
20 FATHER'S DAY, CORRECT?

21 A. YES, SIR.

22 Q. TELL THE JURY WHAT HAPPENED ON THAT EVENING OR THAT
23 DAY, HOWEVER YOUR DAY STARTS.

24 A. OKAY. CARL AND I HAD BEEN WALKING DOWN THE ROAD THAT
25 THE OLD SHRINER HOSPITAL IS ON.

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303

1 Q. 291 OR RUTHERFORD ROAD?

2 A. WHERE SUNSHINE BICYCLE SHOP IS.

3 Q. IT'S ON THE CORNER OF 291 AND RUTHERFORD?

4 A. YEAH. WELL, THAT ROAD -- WE WERE WALKING DOWN THAT

5 ROAD. WE WERE GOING DOWN TO WADE HAMPTON BECAUSE I HAD BEEN

6 CASHING BAD CHECKS, PERSONAL ---

7 Q. SO THAT WOULD BE GOING DOWN 291, I WOULD IMAGINE?

8 A. YES. I'D BEEN CASHING PERSONAL CHECKS ALL AROUND THAT

9 AREA THAT WE WERE IN. SO WE WERE GOING TO GO TO ANOTHER

10 AREA, AND I WAS GOING TO CASH SOME CHECKS FOR SOME MONEY.

11 AND WE WERE WALKING DOWN THAT ROAD. AND WE PASSED

12 SUNSHINE BICYCLE SHOP. AND RIGHT BESIDE THAT OFF IN THROUGH

13 THE DISTANCE, OFF INTO THE CUT THERE'S A -- WAS A

14 AUDIO/VIDEO STORE. AND THERE WAS NOBODY THERE.

15 AND YOU COULD SEE THAT THEY HAD SOME SPEAKERS AND SOME

16 STEREO STUFF ---

17 Q. APPROXIMATELY WHAT TIME ARE WE TALKING? DAYTIME,

18 NIGHTTIME?

19 A. DAYTIME. I BELIEVE IT WAS PRETTY EARLY IN -- IN THE

20 MORNING TOWARDS -- YEAH, IN THE MORNING TIME. YEAH, IT WAS

21 -- AS A MATTER OF FACT IT WAS RIGHT IN THE MORNING 'CAUSE

22 THE -- JUST OPENED UP. AND THAT'S ---

23 Q. TALK SLOWER AND ---

24 A. I'M SORRY.

25 Q. LET'S BACK UP. YOU'RE WALKING DOWN 291 PLEASANTBURG

JONATHAN CAMPBELL - DIRECT EXAMINATION BY MR. ABDALLA

304

1 DRIVE, WHATEVER, AND YOU GO BY SUNSHINE BICYCLE SHOP AND

2 THEN YOU SAID YOU CAME TO AN AUDIO STORE?

3 A. YES. AND IT WAS ---

4 Q. LOUDER AND SLOWER.

5 A. IT WAS THE FIRST THING IN THE MORNING BECAUSE NOBODY

6 WAS THERE. IT WASN'T EVEN OPEN YET. AND THAT'S WHY HE

7 SAID, HEY, LET'S HIT THIS.

8 Q. LET'S HIT THIS?

9 A. YEAH.

10 Q. OKAY.

11 A. AND HE PICKED UP A FOUR BY FOUR BY ABOUT FOUR FOOT

12 PIECE OF WOOD AND THREW IT THROUGH THE WINDOW AND THEN TOOK

13 A -- A CRATE -- A PALLET, THAT'S WHAT IT WAS, AND LEANED IT

14 UP AGAINST THE WALL, CLIMBED UP IT AND GRABBED SOME STUFF

15 OUT OF THERE, TWO SPEAKERS AND A RADIO AND HANDED THEM TO

16 ME.

17 AND WE JUST STARTED WALKING BACK DOWN THE ROAD TOWARD

18 CITY HEIGHTS. AND ---

19 Q. THERE WAS NO ALARM GOING OFF OR ANYTHING?

20 A. NO, SIR. AND WE GOT BACK DOWN TO CITY HEIGHTS. AND

21 ---

22 Q. CITY HEIGHTS IS GOING THE OTHER WAY BACK PAST THE BI-

23 LO?

24 A. YES, SIR.

25 Q. ALL RIGHT.

JONATHAN CAMPBELL - DIRECT EXAMINATION BY MR. ABDALLA

305

1 A. AND WE GOT BACK DOWN TO CITY HEIGHTS. I -- I CAN'T
2 REMEMBER IF I RAN IN TO JERMAINE FIRST AND ASKED HIM ABOUT
3 THE -- IF HE WANTED TO BUY THE SPEAKERS. I KNOW I SOLD THE
4 SPEAKERS AND THE RADIO DOWN THERE TO SOMEBODY.

5 AND I CAN'T RECALL IF -- IF I EVER ASKED JERMAINE TO
6 BUY THEM OR NOT. BUT I KNOW HE HAD ASKED ME, WHAT WAS THAT?
7 AND I HAD TOLD HIM WHAT WE HAD DONE. AND ---

8 Q. OKAY. WELL, THAT'S ALL RIGHT IF YOU DON'T REMEMBER.
9 THE FACT IS YOU HAD A CONTACT WITH HIM.

10 A. YES.

11 Q. ALL RIGHT. WHAT HAPPENED AFTER THAT?

12 A. WE ASKED HIM FOR A RIDE. AND HE SAID, YEAH, HE'D GIVE
13 US A RIDE. AND ---

14 Q. WAS ANYONE IN THE CAR WITH HIM?

15 A. YES, HIS GIRLFRIEND.

16 Q. ALL RIGHT.

17 A. AND ---

18 Q. AND WHERE DID HE PICK YOU UP APPROXIMATELY?

19 A. AT CITY -- JUST DOWN -- I DON'T KNOW WHAT AREA IT WAS
20 IN CITY HEIGHTS, BUT IN CITY HEIGHTS.

21 Q. IN CITY HEIGHTS?

22 A. YEAH.

23 Q. AND WHAT WAS THE CONVERSATION YOU HAD WITH HIM?

24 A. WE TOLD HIM -- I TOLD HIM ABOUT THE BURGLARY THAT, YOU
25 KNOW, WE HAD STOLE THE STEREO EQUIPMENT AND STUFF. AND HE

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306

1 SAID -- I SAID IT WAS RIGHT OVER HERE. AND HE SAID -- WE
2 DROVE BY IT. AND WE POINTED TO IT AND SAID THAT'S -- THAT'S
3 WHERE IT IS. AND THEY WERE OVER THERE BOARDING IT UP AND
4 STUFF AND LOOKING INTO IT. AND ---

5 Q. THEM BEING THE POLICE, THE OWNERS?

6 A. YES, THE POLICE. I ASSUME, THE OWNERS TOO. BUT -- AND
7 HE SAID, DAMN, IF I WOULD HAVE HAD THIS -- HAD THE TRUCK, --
8 IF Y'ALL WOULD HAVE TOLD ME, I WOULD HAVE HAD THE TRUCK, WE
9 COULD HAVE LOADED THE WHOLE THING UP. AND ---

10 Q. THAT WAS JERMAINE SAYING THIS?

11 A. YES, SIR.

12 Q. AND IS CARL STILL WITH YOU?

13 A. YES, SIR.

14 Q. WHERE ARE YOU GUYS SITTING?

15 A. IN THE BACKSEAT. AND WE WENT DOWN THE ROAD, TURNED
16 AROUND AND CAME BACK. AND HE'D DROPPED US OFF AT, I THINK
17 IT'S A BI-LO THERE.

18 Q. THE BI-LO AT THE CORNER OF RUTHERFORD, ACROSS FROM THE
19 SHRINER'S HOSPITAL?

20 A. YES. YES. I THINK IT'S A BI-LO, OR INGLES OR
21 SOMETHING LIKE THAT.

22 Q. OH, THAT'S A DIFFERENT ONE. ARE YOU TALKING -- I'M NOT
23 SURE WHICH ONE YOU'RE REFERRING TO.

24 A. I DON'T KNOW THE NAME OF THE ROAD. SO -- BUT HE
25 DROPPED US OFF. AND I ASKED HIM -- I ASKED HIM -- HE ASKED

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307

1 ME, HE SAID, IF Y'ALL PLAN ON DOING ANYTHING ELSE, LET ME
2 KNOW. AND HE SAID -- I SAID, OKAY. AND THEN HE LET US OUT.

3 I ASKED HIM THEN IF HE HAD ANY CRACK. HE SAID, NO.
4 AND I MIGHT HAVE ASKED HIM A COUPLE OF TIMES, I DON'T KNOW,
5 BUT WE GOT OUT. AND WE WERE ACTUALLY GOING TO THE BI-LO TO
6 SEE IF I COULD CASH A CHECK OR SOMETHING, THEN GO BACK DOWN
7 AND GET SOME MORE DOPE.

8 Q. ALL RIGHT. AND AT THAT TIME DID YOU HAVE ANY WAY OF
9 CONTACTING CARL -- JERMAINE?

10 A. NO.

11 Q. ALL RIGHT.

12 MR. ABDALLA: ONE MOMENT, PLEASE, YOUR HONOR.

13 (PAUSE)

14 Q. NOW IS THIS THE MIDDLE OF THE DAY OR IS THIS STILL IN
15 THE MORNING?

16 A. IT'S THE MORNING.

17 Q. ALL RIGHT. WHAT HAPPENS AFTER THAT?

18 A. OH, WE GO -- WE GO TO THE STORE. AND I TRIED TO BUY
19 SOME BEER AND CIGARETTES. AND THEY WOULDN'T TAKE THE CHECK
20 'CAUSE I'D ALREADY BEEN THERE BEFORE. AND WE WENT BACK DOWN
21 TO CITY HEIGHTS. AND I RAN IN TO MR. PROCTOR AGAIN.

22 AND HE ASKED ME ABOUT PAYING HIS TELEPHONE BILL 'CAUSE
23 HE KNEW I'D BEEN CASHING CHECKS 'CAUSE I HAD DONE IT FOR A
24 FEW PEOPLE DOWN IN THAT AREA. AND EVERYBODY WAS TALKING
25 ABOUT, YOU KNOW, JON'S CASHING CHECKS AND THEY SAY HE'S

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308

1 BUYING THIS.

2 I HAD BOUGHT COMPUTER STUFF FOR PEOPLE AND JUST ALL
3 KIND OF STUFF. AND SO HE SAID, WELL, HOW ABOUT YOU BUYING
4 -- PAYING FOR MY TELEPHONE, AND I'LL GIVE YOU SOME DOPE.
5 AND I SAID, YEAH, THAT'S FINE WITH ME. AND WE TRIED TO CALL
6 IT IN OVER THE PHONE, THE CHECK NUMBER AND EVERYTHING, BUT
7 THEY WOULDN'T DO IT.

8 AND HE SAYS -- HE SAYS, WELL, I KNOW A PLACE THAT WE
9 CAN GO TONIGHT AND HIT THAT'S GOT SOME AUDIO AND VIDEO STUFF
10 IN IT. AND HE WANTED SOME FLIP-DOWN DVD SCREENS FOR HIS
11 JEEP. AND HE SAID THEY'RE WORTH, I THINK, EIGHT HUNDRED TO
12 TWELVE HUNDRED DOLLARS A PIECE.

13 HE SAID, I'LL GIVE Y'ALL A COUPLE OF OUNCES OF DOPE OR
14 -- AND A LITTLE MONEY FOR IT IF Y'ALL WANT TO DO IT. HE
15 SAID, IT'S JUST A SMASH AND GRAB, YOU KNOW, IT'LL BE REAL
16 QUICK. IT WON'T BE NO PROBLEM. AND I SAID -- I SAID, YEAH,
17 I GUESS WE COULD. I GUESS ---

18 Q. YOU'VE GOT TO SPEAK UP. AND YOU'RE STARTING TO MUMBLE.

19 A. YES, SIR. I SAID, I GUESS -- SURE, I GUESS WE CAN.
20 AND HE TOLD US TO MEET HIM BACK THERE LATER ON, THAT HE HAD
21 TO GO TO WORK AND HE WOULD MEET US BACK THERE LATER. AND I
22 SAID, OKAY.

23 Q. AND WHAT DID YOU DO THEN? YOU AND CARL?

24 A. WE WENT AND PANHANDLED A LITTLE BIT AND GOT SOME MONEY,
25 AND SMOKED A LITTLE BIT THROUGHOUT THE DAY. AND LATER ON

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309

1 THAT NIGHT WE WENT -- WE WERE DEALING WITH THESE TWO GIRLS
2 AT THE APARTMENT THAT WERE SELLING US A LOT OF -- A LOT OF
3 DOPE.

4 AND WE WENT BACK TO THEIR PLACE AND GOT SOME DOPE, WENT
5 OUT BACK AND SMOKED IT AND WENT BACK INTO OUR APARTMENT.
6 AND I KEPT LOOKING OUT OUR WINDOW TO SEE IF JERMAINE WAS
7 COMING. AND I LOOKED OUT ONE TIME AND HE WAS THERE. AND I
8 TOLD CARL, I SAID, LET'S GO AND DO THIS.

9 Q. NOW WHAT TIME IS THIS? DO YOU HAVE ANY IDEA?

10 A. MAYBE SOMEWHERE AROUND TWELVE, MAYBE A LITTLE AFTER.

11 Q. AND THIS IS WHERE JERMAINE COMES BACK AND PICKS YOU UP.
12 AND WHERE DO YOU GO EXACTLY?

13 A. WHERE DID WE GO?

14 Q. YEAH.

15 A. WE WENT TO A FEW PLACES. BUT I WAS AT THIS GIRL'S
16 HOUSE WHEN I SEEN JERMAINE. AND I SEEN JERMAINE OUTSIDE. I
17 SAID, COME ON, CARL, LET'S GO DO THIS. AND HE SAID -- HE
18 ASKED THE GIRLS IN THERE IF THEY HAD A HAMMER. AND THEY
19 OPENED THE DRAWER, THEY GAVE HIM A HAMMER TO BUST THE GLASS
20 OUT WITH AT THE STORE.

21 AND WE WENT UP -- WE GOT IN THE TRUCK OR CARL GOT IN
22 THE TRUCK. AND ---

23 Q. THE TRUCK MEANING THE JEEP?

24 A. THE JEEP, YES.

25 Q. ALL RIGHT.

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310

1 A. AND IT WAS MISTING -- IT HAD RAINED EARLIER THAT DAY.

2 AND IT WAS MISTING, I MEAN, IT WAS VERY LIGHT MIST. AND

3 JERMAINE SAID, COME HERE. AND HE TOOK ME AROUND TO THE BACK

4 OF THE TRUCK AND HE SAID, LISTEN, HE SAID, I'M GOING TO GIVE

5 YOU THESE CRACKS. HE SAID, I'VE GOT SIX CRACKS.

6 Q. NOW YOU'RE IN THE BACK OF THE VAN WITH JERMAINE AND

7 WHERE'S CARL?

8 A. CARL'S IN THE BACKSEAT, ---

9 Q. ALL RIGHT.

10 A. --- THE DRIVER'S SIDE BACKSEAT.

11 Q. CAN CARL HEAR YOU AT THIS POINT?

12 A. NO. NO, HE'S IN THE CAR.

13 Q. ALL RIGHT.

14 A. AND JERMAINE PULLED ME AROUND TO THE BACK. AND HE

15 SAID, LISTEN, I'M GOING TO GO AHEAD AND GIVE YOU THIS CRACK.

16 HE SAID, I'VE GOT SIX CRACKS FOR YOU. AND HE SAID, AND THIS

17 -- THIS IS -- THIS HAS GOT TO LAST YOU, HE SAID, 'CAUSE THIS

18 IS ALL I HAVE.

19 HE SAYS, I'VE BEEN -- I'VE DONE A BIG BID FOR CRACK.

20 HE SAID, AND I'M OUT ON BOND NOW FOR A CRACK CHARGE, I

21 CANNOT AFFORD TO GET IN ANYMORE TROUBLE FOR CRACK. HE SAID,

22 SO IF WE GET BUSTED TONIGHT FOR ANY REASON, HE SAID, YOU'VE

23 GOT TO TAKE THIS CRACK CHARGE. HE SAID, SO THIS IS YOURS.

24 AND I SAID, OKAY.

25 AND HE SAID, MAKE IT LAST 'CAUSE THAT'S ALL I HAVE.

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311

1 AND I SAID, OKAY. AND HE SAID, ALL RIGHT, LET'S GO DO THIS.

2 AND WE GOT IN THE CAR.

3 Q. AND WHAT HAPPENED AFTER THAT?

4 A. HE WANTED TO GO AND LOOK AROUND AT A FEW PLACES. HE
5 WANTED TO SCOPE IT OUT. AND WE DROVE AROUND. AND I ASKED
6 HIM IF I COULD SMOKE. AND HE SAID, NO. HE SAID, NOT IN MY
7 CAR. AND SO ONCE WE GO TO A CERTAIN AREA TO LOOK AT A
8 BUILDING OR A STORE CARL AND I WOULD GET OUT AND WE'D SMOKE
9 REAL QUICK. AND WE'D LOOK AT THE AREA, YOU KNOW, LOOK AT
10 THE BUILDING. AND WE'D GET BACK ---

11 Q. SO JERMAINE WOULD NEVER GET HIGH WITH YOU?

12 A. NO. NO, HE NEVER GOT HIGH.

13 Q. WHY WOULD YOU HAVE TO SMOKE MORE THAN ONE TIME DURING
14 THE COURSE OF THE EVENING?

15 A. BECAUSE THE -- WHEN YOU'RE GETTING HIGH YOU HAVE A
16 PENTACLE WHERE YOU GET REALLY HIGH AND THEN YOU COME DOWN.
17 AND IT ONLY LASTS ABOUT TWENTY TO THIRTY MINUTES, YOU KNOW.
18 SO THEN YOU WANT TO GO BACK UP. AND, YOU KNOW.

19 Q. RIGHT.

20 A. AND SO WE WOULD DRIVE -- WE DROVE AROUND. WE DROVE TO
21 TRAVELERS REST AND TOOK OUT -- LOOKED AT A COUPLE OF SPOTS.
22 AND THEN WE DROVE DOWN BESIDE THE SHRINER'S HOSPITAL AND OUT
23 TOWARD WADE HAMPTON AND CHECKED OUT A RIM -- TIRE AND RIM
24 PLACE AND OUT ON WADE HAMPTON. I THINK THAT'S THE TAYLORS,
25 GREER AREA, SOMEWHERE AROUND THERE. AND THERE WAS A JEWELRY

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312

1 STORE DOWN THERE AND A PAWN SHOP.

2 AND WE MADE A BIG CIRCLE EVEN OVER TO WHITE HORSE ROAD
3 AND THEN BACK OVER TO -- DOWN THE STREET HERE TO MASTER
4 ELECTRONICS WHERE ZORBA'S LOUNGE IS. AND THAT'S THE SPOT
5 THAT HE WANTED TO HIT.

6 Q. AT THE CORNER OF WASHINGTON AND STONE AVENUE?

7 A. YES, SIR.

8 Q. LAURENS ROAD?

9 A. I THINK.

10 Q. AND DID YOU PULL IN THAT PARKING LOT THERE, THAT BIG
11 PARKING LOT? IS THAT WHERE WE'RE TALKING?

12 A. NO, SIR. WE PULLED IN BEHIND IT. WE PULLED IN BEHIND
13 -- THERE'S A ROAD THAT RUNS DOWN BEHIND THE PLACE. AND
14 THERE'S A LITTLE DRIVEWAY, I GUESS, IS WHAT YOU'D CALL IT
15 ---

16 Q. RIGHT.

17 A. --- THERE. HE PULLED UP IN THERE. AND HE SAID, ---

18 Q. IS THIS UP WHERE IT USED TO BE BULLOCKS, THAT SIDE?

19 A. I DON'T KNOW WHAT ---

20 Q. OFF LAURENS ROAD?

21 A. YES, IT'S UP LAURENS ROAD. I DON'T KNOW WHAT USED TO
22 BE ON THE BACK SIDE OF THAT. I DON'T KNOW.

23 Q. IN OTHER WORDS, ACROSS THE STREET FROM THE SPINX IS
24 ZORBA'S ---

25 A. YEAH. AND MASTER ELECTRONICS IS RIGHT THERE ON THE

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313

1 END, YEAH. AND THERE'S A NEIGHBORHOOD BESIDE IT. THAT'S --

2 IT'S A NEIGHBORHOOD ROAD BEHIND THERE.

3 Q. ALL RIGHT.

4 A. OKAY. AND CLEVELAND PARK'S ON BACK. OKAY. AND -- AND

5 WE GOT OUT. AND WE WENT BETWEEN -- THERE'S A HOUSE BESIDE

6 -- THE MASTER ELECTRONICS IS ON THE END OF THE -- ON THE END

7 OF THE STORE FRONTS THERE. AND BETWEEN MASTER ELECTRONICS

8 AND THAT STORE IS A LITTLE ALLEY KIND OF. AND IT LOOKS LIKE

9 A FOOT PATH WHERE PEOPLE CUT THROUGH TO GO TO THE STORE OR

10 WHEREVER THEY'RE GOING.

11 AND WE WERE STANDING THERE, AND WE GOT HIGH. AND WHILE

12 WE'RE STANDING THERE GETTING HIGH A GUY WALKS UP AND SCARES

13 THE CRAP OUT OF ME.

14 Q. NOW YOU'RE NOWHERE NEAR THE CAR AT THIS TIME, RIGHT?

15 A. NO.

16 Q. ALL RIGHT.

17 A. JERMAINE'S ACROSS THE STREET AT THE SPINX ACTUALLY.

18 Q. OKAY.

19 A. YEAH, WATCHING. AND -- AND THIS IS ABOUT, I GUESS,

20 IT'S PROBABLY 5:30 MAYBE IN THE MORNING. IT'S PRETTY EARLY.

21 I MEAN, IT'S ABOUT TO GET LIGHT. IT WAS -- WELL, IT WAS ON

22 FATHER'S DAY.

23 Q. IT WAS CLOSE TO DAWN IS WHAT ---

24 A. YEAH, IT WAS HOT. IT WAS SUMMERTIME, YEAH. AND I

25 THINK IT WAS GETTING -- IT WAS ABOUT TO GET LIGHT. AND THIS

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314

1 MAN COMES WALKING UP THROUGH THERE, AND HE SCARES ME.

2 Q. YOU HAVE TO BE CAREFUL TO SPEAK SLOWLY, OKAY?

3 A. OKAY. THIS MAN CAME WALKING UP THROUGH THERE AND HE
4 SCARED ME. AND HE WAS LIKE, HO, HO, HO, Y'ALL GO AHEAD AND
5 DO WHAT YOU'RE DOING, HE SAID, BUT BE CAREFUL 'CAUSE PEOPLE
6 USE THIS PATH. AND I SAID, ALL RIGHT, APPRECIATE IT. AND
7 HE WENT ON. HE WENT ACROSS THE STREET TOO TO THE SPINX
8 STATION.

9 AND I GOT TO LOOKING AROUND AND THERE'S PEOPLE OVER
10 THERE AT THE SPINX STATION AND JERMAINE'S OVER THERE AND
11 THIS GUY JUST COME WALKING UP. AND I WAS LIKE, LISTEN, MAN,
12 THIS IS NOT A GOOD IDEA. I SAID, WE WAITED TOO LATE. I
13 SAID, PEOPLE ARE MOVING ABOUT. OKAY.

14 Q. A LITTLE BIT LOUDER AND SLOWER. THIS IS YOUR ONLY
15 CHANCE TO EVER ADDRESS THE COURT.

16 A. OKAY. YES, SIR. AND PEOPLE ARE MOVING ABOUT. AND I
17 SAID, LISTEN, THIS IS NOT A GOOD IDEA RIGHT NOW. I SAID, I
18 DON'T WANT TO GO TO JAIL FOR BURGLARIZING THIS PLACE. I
19 SAID, I CAN -- WE CAN JUST GO CASH A CHECK IN A LITTLE
20 WHILE, YOU KNOW, WHEN THINGS OPEN UP. AND HE SAID, ALL
21 RIGHT.

22 SO WE WENT BACK TO -- GO BACK TO AROUND THE STORE. AND
23 JERMAINE SAW US WALKING BACK. SO HE PULLS AROUND AND MEETS
24 US. AND WE GOT IN THE CAR.

25 Q. ALL RIGHT. NOW WHERE APPROXIMATELY WAS THIS? WAS THIS

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315

1 ON WASHINGTON OR ON LAURENS? OR WAS IT BACK BEHIND ---

2 A. IT'S THE -- IT'S NOT ON EITHER ONE. IT'S THE ROAD
3 RIGHT BEHIND ---

4 Q. OH, ---

5 A. --- THE STORE. YEAH, YEAH. THERE'S HOUSES ON THAT
6 SIDE.

7 Q. RIGHT. OKAY.

8 A. OKAY. AND WE GET IN THERE AND HE SAID, WHAT'S THE
9 PROBLEM? I SAID, I SAID, MAN, IT JUST AIN'T NO GOOD. I
10 SAID, THERE'S TOO MANY PEOPLE ABOUT. WE WAITED TOO LONG.
11 AND HE SAYS, ALL RIGHT. AND AT THAT TIME WE WERE ON THAT
12 ROAD YOU PULL DOWN AND WE TOOK -- CLEVELAND PARK'S RIGHT
13 THERE. AND WE TOOK A LEFT AND THEN A QUICK RIGHT GOING DOWN
14 ON THE LEFT HAND SIDE OF CLEVELAND PARK.

15 WELL, THERE'S A -- ON THE LEFT HAND SIDE THERE'S A CUL-
16 DE-SAC. WE PULLED UP IN THE CUL-DE-SAC AND COME DOWN AND
17 STOPPED AND PARKED. AND HE ---

18 Q. WHY DID YOU STOP THERE?

19 A. JUST 'CAUSE WHAT WE WERE GOING TO DO. IT WAS DARK AND
20 THERE WAS NOBODY AROUND RIGHT THERE. AND WE JUST STOPPED TO
21 TALK AND SEE WHAT -- TALKING ABOUT WHAT WE WERE GOING TO DO.

22 AND HE SAYS, WELL, WHAT ARE WE GOING TO DO, MAN? WHAT
23 ARE WE GOING TO DO ABOUT THIS? AND I SAID, I SAID, WE CAN
24 COME BACK AND DO IT LATER. AND I SAID, I'VE GOT TO GO HOME.
25 I SAID, IT'S FATHER'S DAY. I WANT TO GO SEE MY DAD. I WANT

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1 TO TRY TO SEE MY KIDS.

2 I SAID, AND MY MOTHER'S NOT GOING TO LET ME STAY THERE.

3 I SAID, I LOOK LIKE CRAP. AND SO -- AND SHE KNOWS I'M DOING

4 DRUGS. I SAID, SHE'S NOT GOING TO LET ME STAY THERE. I

5 SAID, SO I'LL -- AFTER I GET -- TRY TO GET ALL THIS DONE

6 I'LL GO CASH A CHECK OR SOMETHING, AND I'LL MEET BACK UP

7 WITH YOU LATER ON.

8 I'LL EITHER PAY YOU FOR THE DOPE THAT I GOT OR -- AND

9 HE WAS ONLY GOING TO CHARGE ME FORTY DOLLARS FOR THE DOPE

10 ANYWAY. IT WAS A ONE POINT FIVE IS WHAT THEY CALL IT. AND

11 IT WAS ONLY FORTY ---

12 Q. WAS THE DOPE ALREADY USED AT THIS POINT?

13 A. NO. NO. I HAD GIVEN CARL TWO, AND I KEPT FOUR.

14 Q. ALL RIGHT.

15 A. YEAH. AND I TOLD HIM I WOULD EITHER CASH A CHECK AND

16 WE'D SETTLE UP LATER OR I WOULD COME BACK AND WE WOULD DO

17 THE JOB, ONE OF THE TWO. AND HE SAID, OKAY. HE SAID -- HE

18 SAID, WHATEVER, MAN. HE SAID, WHAT ARE YOU GOING TO DO?

19 WHERE DO YOU WANT ME TO DROP YOU? I SAID, WELL, HELL, I'LL

20 GET OUT RIGHT HERE.

21 YOU KNOW, I WAS GOING TO GO ACROSS THE STREET TO THE --

22 WELL, I HAD ABOUT A BLOCK TO WALK. BUT I WAS GOING TO GO TO

23 THE SPINX STATION AND TRY TO CASH A CHECK.

24 AND I STARTED TO REACH UP AND GRAB FOR THE DOOR ---

25 Q. WELL, I FORGOT TO ASK YOU SOMETHING. TELL ME WHERE

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1 EVERYBODY'S SITTING. TELL THE COURT WHERE EVERYBODY'S
2 SITTING AND THE JURY.

3 A. JERMAINE IS IN THE DRIVER'S SEAT. CARL IS IN THE
4 BACKSEAT BEHIND JERMAINE. AND I'M IN THE FRONT PASSENGER'S
5 SEAT.

6 Q. ALL RIGHT.

7 A. OKAY. AND BEFORE I -- BEFORE I GET INTO THIS, BECAUSE
8 THIS IS -- THIS IS WHERE THE MURDER HAPPENED. AND I WANTED
9 -- I WANTED TO JUST TELL Y'ALL -- I WANT Y'ALL TO PICTURE
10 ---

11 MR. WESTON: OBJECTION ---

12 THE COURT: NO, YOU CANNOT VOLUNTEER -- THIS IS NOT THE
13 TIME FOR YOU TO GIVE A NARRATIVE. ANSWER QUESTIONS.

14 A. OKAY. ALL RIGHT.

15 Q. DON'T DO THAT. NOW YOU'RE SITTING DOWN IN THE SEAT AND
16 YOU SAID, I'M GOING TO LEAVE, YOU WANT TO GO CASH A CHECK?

17 A. YES.

18 Q. JUST TELL THE STORY, ---

19 A. OKAY.

20 Q. --- AND TELL IT IN SHORT PIECES. AND YOU DON'T SPEAK
21 -- YOU DON'T PERSONALIZE ---

22 A. OKAY. ALL RIGHT. I TOLD HIM I'D GET OUT RIGHT HERE.

23 AND I WENT TO REACH FOR THE DOOR, THE DOOR HANDLE, AND CARL

24 HIT ME IN THE BACK OF THE HEAD WITH A HAMMER. I ALMOST WENT

25 OUT INSTANTLY. I FELL INTO THE DASH. AND I DIDN'T KNOW

JONATHAN CAMPBELL - DIRECT EXAMINATION BY MR. ABDALLA

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1 CARL HAD HIT ME AT THE TIME, OKAY?

2 Q. WHO DID YOU THINK HIT YOU?

3 A. I THOUGHT IT WAS JERMAINE. AND I HIT THE DASH, AND I
4 PUT MY ARM UP. I PUT MY ARM UP INSTINCTIVELY. AND WHEN I
5 DID I LOOKED -- I LOOKED LIKE THAT. AND JERMAINE IS LEANING
6 IN TOWARDS ME. SO I WENT TO GRAB HIM AROUND ---

7 Q. WHY DID YOU GRAB HIM?

8 A. SIR?

9 Q. WHY DID YOU GRAB JERMAINE?

10 A. BECAUSE I THOUGHT HE'D JUST HIT ME.

11 Q. ALL RIGHT.

12 A. AND I WENT TO GRAB HIM. AND WHEN I DID I PUT MY ARM --
13 I ALMOST HAD HIM, YOU KNOW, I PUT MY ARM AROUND HIS NECK.
14 AND HE REACHED AND HE BIT ME ON THE THUMB.

15 Q. HE BIT YOU? HOLD ON.

16 A. YES, SIR.

17 Q. ONE MOMENT.

18 (PAUSE)

19 Q. WHICH THUMB WAS IT?

20 A. MY LEFT THUMB.

21 Q. YOUR LEFT THUMB?

22 A. YES, SIR.

23 Q. I'M GOING TO SHOW YOU WHAT'S BEEN MARKED AS DEFENSE
24 EXHIBIT NUMBER 1 FOR IDENTIFICATION. DO YOU SEE THE BITE
25 MARK ON HERE?

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1 A. YES, SIR.

2 Q. AND WHERE IS IT?

3 A. ON MY THUMB.

4 Q. ALL RIGHT.

5 MR. ABDALLA: I'D LIKE TO MOVE THIS INTO EVIDENCE. I
6 BELIEVE I'VE SHOWN THIS BEFORE, DEFENSE EXHIBIT NUMBER 1.

7 MR. WESTON: NO OBJECTION, YOUR HONOR.

8 THE COURT: OKAY.

9 (WHEREUPON DEFENDANT'S EXHIBIT 1 WAS ADMITTED INTO
10 EVIDENCE)

11 MR. ABDALLA: PERMISSION TO PUBLISH IT TO THE JURY,
12 YOUR HONOR?

13 THE COURT: YEP.

14 MR. ABDALLA: I'M NOT TOO SAVVY ON THE AUDIO VISUALS.
15 (PAUSE)

16 MR. ABDALLA: SINCE I DON'T KNOW HOW TO USE THE
17 OVERHEAD, I'LL PUBLISH THIS TO THE JURY IN A MINUTE.

18 THE COURT: WE DON'T NEED A COMMENT. JUST ...

19 Q. ALL RIGHT. YOU SAID YOU GRABBED JERMAINE AND HE BIT
20 YOUR THUMB?

21 A. YES, SIR.

22 Q. AND THEN WHAT HAPPENED?

23 A. HE'S GOT MY THUMB. HIS HEAD'S TURNED TO THE SIDE AND
24 HE'S GOT MY THUMB. SO I PUT -- I LEANED OVER AND I PUT MY
25 HAND ON HIS MOUTH. AND I WAS LIKE, MAN, LET ME GO. AND

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1 CARL GETS OUT OF THE BACKSEAT, OPENS JERMAINE'S DOOR AND
2 STABS HIM IN HIS LEG. AND ---

3 Q. CARL STABBED JERMAINE?

4 A. YES, SIR. AND HE'S GOT -- HE'S GOT THE KNIFE IN HIS
5 LEFT HAND. AND HE STABS HIM IN HIS LEG. AND JERMAINE LET
6 ME GO. AND I BACKED OVER TO THE DOOR. AND THEN HE -- HE
7 STABBED HIM IN THE GUT. AND THEN HE STABBED HIM AGAIN. AND
8 I WAS LIKE, OH, SHIT. AND I REACHED OVER TO GRAB THE DOOR
9 ---

10 Q. TALK LOUDER.

11 A. I SAID, OH, SHIT. AND I REACHED OVER AND I GRABBED --
12 I GRABBED FOR THE DOOR HANDLE. AND THIS IS THE FIRST TIME
13 I'VE BEEN IN THIS CAR. AND I GRABBED FOR THE DOOR HANDLE
14 AND IT POPPED OUT OF MY HAND. AND IT WAS LOCKED. THE DOOR
15 WOULDN'T OPEN. SO I'M FUMBLING AROUND ---

16 Q. FIRST TIME YOU'RE IN THE CAR OR FIRST TIME YOU'RE IN
17 THE FRONT SEAT?

18 A. FIRST TIME I WAS IN THE CAR AND THE FRONT SEAT.

19 Q. I THOUGHT YOU SAID YOU WERE RIDING AROUND IN THE
20 BACKSEAT YESTERDAY.

21 A. SIR?

22 Q. I THOUGHT YOU WERE IN THAT CAR YESTERDAY RIDING IN THE
23 BACKSEAT.

24 A. OH, YES, SIR. YEAH, I WAS IN -- THE FIRST TIME I WAS
25 IN THE FRONT SEAT. AND I'M PULLING FOR THE DOOR, AND IT

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1 KEEPS POPPING OUT OF MY HAND. IT WON'T OPEN. AND I'M
2 FUMBLING AROUND LOOKING FOR THE LOCK. AND I HIT THE WINDOW.
3 AND IT WENT DOWN A LITTLE BIT. AND I CAN'T FIND THE LOCK.

4 WELL, JERMAINE'S TRYING TO COME OVER TO MY SEAT. I
5 MEAN, THERE'S ONLY LIKE ---

6 Q. WHY IS HE TRYING TO COME OVER TO YOUR SEAT?

7 A. BECAUSE CARL WAS STABBING HIM IN THE DRIVER'S SEAT.
8 AND, YOU KNOW, THERE'S ONLY THAT MUCH SPACE. AND BETWEEN
9 THE TWO SEATS IS A CONSOLE. AND SO I GOT MY ARM UP. AND
10 HE'S UP AGAINST MY ARM, THIS SIDE OF HIS SHOULDER. HE'S GOT
11 HIS HAND ON THE STEERING WHEEL AND HE'S PUSHING OVER THIS
12 WAY.

13 WELL, I GOT MY ARM UP. AND I'M TRYING TO -- STILL
14 TRYING TO FIND THE DAMN LOCK. EXCUSE MY LANGUAGE. I'M
15 STILL TRYING TO FIND THE LOCK, AND I CAN'T. WELL, HE'S
16 REALLY PUSHING NOW, YOU KNOW, WITH ALL HE'S GOT. SO I CAN'T
17 EVEN MESS WITH THE LOCK.

18 AND I PUT MY HANDS ON HIS BACK. AND I WAS TRYING TO
19 HOLD HIM -- I TRIED TO HOLD HIM OFF OF ME. AND I LOOKED --
20 I LOOKED IN THE BACK AND -- BETWEEN THE SEATS. AND CARL'S
21 DOOR'S OPEN. AND ---

22 Q. I CAN'T UNDERSTAND WHAT YOU'RE SAYING RIGHT NOW.

23 (PAUSE)

24 Q. YOU CAN TAKE A MINUTE TO COMPOSE YOURSELF.

25 A. I LOOK OVER AND ---

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1 Q. SPEAK INTO THE MICROPHONE SO THE JURY CAN HEAR YOU AND
2 SO THE COURT CAN HEAR YOU.

3 A. I LOOK OVER AND THE BACK DOOR'S OPEN WHERE CARL JUST
4 WENT OUT. AND I -- AND THE DOOR'S OPEN. AND I GOT -- I GOT
5 JERMAINE -- ON HIS -- ON HIS BACK NOW. AND I STEPPED
6 THROUGH WITH MY -- WITH MY LEFT FOOT ---

7 Q. SO ARE YOU SAYING YOU USED JERMAINE AS LEVERAGE TO GET
8 BETWEEN THE SEATS? IS THAT ESSENTIALLY WHAT YOU'RE DOING?

9 A. NO, SIR. I'M JUST TRYING TO HOLD HIM OFF OF ME.

10 Q. OKAY.

11 A. AND I STEPPED THROUGH WITH THIS FOOT. AND I -- I WENT
12 AND GRABBED THE SEATS. AND WHEN I DID I WENT AND GOT UP
13 LIKE THIS AND WAS FIXING TO STEP THROUGH, ---

14 Q. WELL, LET'S ---

15 A. --- AND JERMAINE HITS ME IN THE SIDE WITH HIS BACK. HE
16 JUST BRUSHED INTO ME.

17 Q. LET'S ---

18 MR. ABDALLA: I'D LIKE THE WITNESS TO COME DOWN OVER
19 THERE. AND LET'S SET UP THE CHAIRS.

20 Q. AND I'M GOING TO HAVE YOU SHOW THE JURY HOW -- HOW YOU
21 WERE GETTING AWAY OR TRYING TO GET AWAY.

22 (WHEREUPON THE WITNESS STEPPED DOWN FROM THE WITNESS
23 STAND AND DEMONSTRATED, USING CHAIRS, BEFORE THE JURY)

24 A. THAT'S FINE BECAUSE ---

25 MADAME COURT REPORTER: YOU'VE GOT TO KEEP YOUR VOICE

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1 ---

2 Q. SPEAK UP.

3 THE COURT: SPEAK UP.

4 A. THAT'S FINE BECAUSE THERE IS -- THESE HANDLES WORK

5 'CAUSE THERE'S ---

6 MR. WESTON: YOUR HONOR, I'M SORRY. I CAN'T HEAR HIM,

7 YOUR HONOR.

8 MR. ABDALLA: I'M SORRY.

9 Q. YOU'RE GOING TO HAVE TO SPEAK LOUDLY BECAUSE THERE'S NO

10 MICROPHONE HERE. ABOUT -- IS THAT HOW THE CHAIRS WERE

11 PRETTY MUCH?

12 A. YES, SIR.

13 THE COURT: SPEAK UP.

14 A. I SAID IT'S NOT MUCH OF A CONSOLE. IT'S PRETTY CLOSE.

15 THERE'S NOT MUCH ROOM IN BETWEEN THERE. OKAY. AND THERE'S

16 THE BACKSEAT.

17 Q. AND THIS IS WHERE CARL WAS SITTING?

18 A. YES. AT THE BEGINNING OF IT, YES, SIR.

19 Q. ALL RIGHT. AND -- ALL RIGHT. AND JERMAINE'S SITTING

20 THERE AND YOU'RE SITTING ---

21 A. YES, SIR. OKAY.

22 Q. SPEAK UP.

23 A. NOW DO YOU WANT ME TO GO BACK THROUGH THE WHOLE THING?

24 Q. YEAH.

25 A. OKAY. I GOT HIT IN THE BACK OF THE HEAD. AND I ALMOST

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1 PASSED OUT. AND I REACHED BACK. I LOOKED -- I HELD MY ARM
2 UP, AND I REACHED BACK. AND JERMAINE'S LEANING IN TOWARD ME
3 NOW. WHEN I DO THAT, I PUT MY ARM AROUND HIM. AND THAT'S
4 ABOUT AS FAR AS I -- THAT'S ABOUT AS FAR AS I GOT MY ARM
5 AROUND HIM. AND HE TURNED LIKE THAT, AND HE BIT ME ---

6 Q. ALL RIGHT.

7 A. --- ON THE THUMB. AND I'M TRYING TO -- TURN YOUR HEAD.
8 HE'S GOT MY THUMB IN HIS MOUTH. AND I'M LIKE, HEY, LET --
9 LET ME -- FUCKING LET ME GO, LET ME GO. AND THEN CARL GETS
10 OUT AND STABS HIM IN ---

11 Q. SO I GET OUT OVER HERE.

12 A. CARL GETS OUT. HE'S GOT THE KNIFE IN HIS LEFT HAND.

13 Q. IN THE LEFT HAND.

14 MR. WESTON: YOUR HONOR, I'M GOING TO OBJECT TO MR.
15 ABDALLA DOING A NARRATIVE HIMSELF. HE -- I DON'T THINK HE
16 CAN ---

17 THE COURT: OKAY. SUSTAINED.

18 MR. WESTON: THANK YOU, YOUR HONOR.

19 THE COURT: AND KEEP YOUR VOICE UP.

20 A. YES, SIR. OKAY. AND HE TAKES -- HE'S GOT THE KNIFE IN
21 HIS LEFT HAND. HE OPENS THE DOOR, AND HE STABS HIM IN HIS
22 LEG, THIS LEG. YES, SIR, JUST LIKE THAT. AND JERMAINE LET
23 ME GO.

24 AND I BACKED OVER TO THE DOOR. AND CARL STABBED HIM
25 TWICE IN THE GUT. AND I SAID, OH, SHIT. AND I WENT TO GRAB

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1 FOR THE LOCK. AND, I MEAN, THE DOOR HANDLE, IT POPPED OUT
2 OF MY HAND. AND IT WOULDN'T OPEN. AND I -- I WAS TRYING TO
3 -- I WAS TRYING TO FIND THE LOCK. AND I HIT THE WINDOW
4 BUTTON.

5 AND BY THAT TIME JERMAINE'S TRYING TO COME OVER INTO MY
6 SEAT. AND I GOT MY ARM UP LIKE THAT RIGHT THERE. AND THEN
7 HE'S TRYING TO COME SO HARD AND HE -- HE TURNS ON AROUND. I
8 DON'T THINK YOU CAN TURN AROUND IN THAT SEAT. BUT HE KIND
9 OF TURNS ON AROUND TOWARDS ME WITH HIS BACK TOWARDS ME.

10 AND I PUT BOTH OF MY HANDS ON HIS BACK LIKE THAT RIGHT
11 THERE. AND THEN I GOT UP AND I STEPPED THROUGH THE SEATS
12 LIKE THAT. AND I TURNED TO GRAB MYSELF THROUGH THE SEATS.
13 AND HE PUSHED -- HE PUT HIS FOOT UP ON THE COLUMN OF THE
14 CAR. AND ---

15 Q. JERMAINE?

16 A. YES. UP ON THE COLUMN OF THE CAR OF THE DRIVER'S SIDE.
17 AND HE PUSHED IN WITH ME. AND WE BOTH -- HE HIT ME RIGHT
18 HERE IN THE GUT. AND WE BOTH JUST WENT THROUGH THE SEATS
19 TOGETHER. AND I -- NOW I'M IN THE BACKSEAT. AND HE'S
20 COMING WITH ME. HE'S NOT DEAD. AND HE'S -- HE'S COMING
21 WITH ME IN THE BACKSEAT.

22 AND CARL JUST -- CARL CAME IN THE DOOR, CLIMBED UP AND
23 STABBED HIM TWICE IN THE CHEST -- HE STABBED HIM -- HIT HIM
24 TWICE IN THE CHEST, HE STABBED HIM IN THE SIDE. AND
25 JERMAINE -- I'M LIKE THIS. AND JERMAINE'S RIGHT HERE IN MY

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1 LAP. AND HE STABBED HIM -- HE STARTS STABBING HIM IN THE
2 FACE. AND THEN HE QUIT MOVING.

3 Q. AND WHAT ARE YOU DOING WHEN ALL THIS IS HAPPENING?

4 A. I'M SCREAMING AND YELLING. AND JERMAINE'S SCREAMING
5 AND YELLING, PLEASE DON'T KILL ME, I'LL GIVE YOU WHAT YOU
6 WANT. AND THAT WAS IT. HE STOPPED MOVING. AND CARL LOOKED
7 UP AT ME AND BACKED OUT.

8 Q. NOW YOU CAN GO BACK ON THE WITNESS STAND.

9 A. OKAY.

10 Q. LET ME GET EVERYTHING BACK.

11 (WHEREUPON THE WITNESS RETURNED TO THE WITNESS STAND)

12 Q. DO YOU NEED ANY WATER?

13 A. YES, PLEASE.

14 Q. I'LL GET YOU A CLEAN CUP.

15 A. APPRECIATE IT.

16 Q. THERE'S WATER THERE. I DIDN'T EVEN REALIZE. ALL
17 RIGHT. JERMAINE IS NOW PLEADING WITH CARL TO STOP, THAT
18 HE'D GIVE HIM WHAT HE WANTED TO STOP ATTACKING HIM, CORRECT?

19 A. YES, SIR. YES, SIR.

20 Q. AND YOU'RE STILL IN THE BACKSEAT WITH JERMAINE,
21 CORRECT?

22 A. YES, SIR. I'M IN THE BACKSEAT. HE'S -- I GOT -- THIS
23 LEG WAS -- THIS LEG WAS IN THE FRONT SEAT BETWEEN THE TWO --
24 BETWEEN THE DRIVER'S AND PASSENGER'S SEAT. SIR?

25 Q. ON THE CONSOLE?

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1 A. YES, SIR, LAYING ACROSS THE CONSOLE. AND HE WAS LAYING
2 ON THIS LEG.

3 Q. ALL RIGHT.

4 A. AND CARL JUST BACKS OFF OF HIM, LOOKS UP AT ME AND
5 BACKS OFF OF HIM. AND JERMAINE'S LEG IS -- ARE STILL UP
6 THERE, YOU KNOW, IN THE DRIVER'S SEAT. HE'S JUST LAYING
7 BETWEEN THE TWO FRONT SEATS ON ME.

8 AND CARL JUST GETS BACK UP THERE, TURNS AROUND, REACHES
9 OUT AND PUSHES THE BACK DRIVER'S DOOR CLOSED, CLOSES HIS
10 DOOR AND DRIVES OFF. AND I'M LIKE, HOLY -- OH, MY GOD, MAN,
11 WHAT THE HELL?

12 AND JERMAINE'S STILL ON ME, AND HE'S BLEEDING. AND I
13 PICKED HIS HEAD UP. AND I -- I GOT MY LEG OUT. AND I
14 DROPPED HIS HEAD. AND I'M SITTING IN THE BACKSEAT. AND I
15 GOT ALL THIS BLOOD ALL OVER MY HANDS NOW. AND I'M JUST
16 SITTING THERE AND I'M LOOKING LIKE WHAT THE HELL JUST
17 HAPPENED?

18 AND CARL'S YELLING SOMETHING AT ME, CUT THE -- CUT THE
19 DAMN LIGHT OFF, CUT THE DAMN LIGHT OFF. AND THE OVERHEAD
20 LIGHT'S ON IN THE BACKSEAT. AND HE SAYS, CUT THE FUCKING
21 LIGHT OFF. AND I JUST -- I LOOKED UP AND I SMASHED IT. AND
22 IT BROKE TO PIECES.

23 AND I'M SITTING BACK THERE AND I'M TRYING NOT -- I
24 DON'T KNOW -- I'VE GOT BLOOD, AND HE WAS BLEEDING REAL BAD,
25 AND I GOT BLOOD ALL OVER ---

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1 Q. SPEAK UP AND ---

2 A. HE WAS BLEEDING REAL BAD, AND I GOT BLOOD ALL OVER MY
3 HANDS. AND I'M JUST FREAKED OUT. AND I'M IN SHOCK. AND I
4 DON'T KNOW WHAT TO DO.

5 AND I SAID, WHAT IN THE HELL, MAN? AND CARL SAID, AND
6 EXCUSE MY LANGUAGE, BUT CARL SAID, HE WAS JUST A DUMB
7 NIGGER. AND -- AND I JUST LOOKED UP AT HIM. AND I'M
8 SITTING THERE TRYING TO THINK WHAT -- WHAT -- WHAT TO DO.
9 AND HE SAID, HE WAS A PIECE OF SHIT ANYWAY.

10 AND -- WELL, HE'S DRIVING. AND WE'RE OVER -- WE'RE
11 GOING OVER -- UP CHURCH'S ROAD TOWARDS THE HOSPITAL. AND WE
12 GOT TO AUGUSTA ROAD, AND WE TOOK A -- WE TOOK A LEFT. AND
13 WE WENT DOWN AUGUSTA ROAD TO MAULDIN ROAD WHERE IT GOES OVER
14 385, I GUESS 385 OR 85, ONE OF ---

15 Q. YEAH, ONE ---

16 A. --- THOSE ROADS.

17 Q. --- OF THE TWO. I CAN'T RECALL.

18 A. YEAH, TOWARDS WHERE THE SEWER PLANT IS.

19 Q. WE'RE TALKING ROUGHLY A TENTH OF A MILE FROM 291, IS
20 THAT RIGHT, THAT AREA?

21 A. TENTH OF A MILE FROM 291? YES, SIR.

22 THE COURT: MR. ABDALLA, YOU ARE TESTIFYING.

23 MR. ABDALLA: I'M SORRY.

24 A. YEAH, THERE'S A LITTLE CUT-THROUGH RIGHT THERE. I KNOW
25 WHAT -- AND WE GO OVER THE HIGHWAY AND PAST THE SEWER PLANT,

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1 PAST SOME APARTMENTS ON THE RIGHT AND THERE'S A PANTRY. AND
2 THEN RIGHT BESIDE THE PANTRY THERE'S A SPRAY AND WASH. AND
3 WE PULLED IN THERE IN ONE OF THE STALLS.

4 AND I JUMP OUT, AND I PUT SEVENTY-FIVE CENT IN THE
5 SPRAY THING. AND I GOT TO GET THIS BLOOD OFF OF ME. I TAKE
6 MY SHIRT OFF AND DROP IT. AND I SPRAY THIS -- I SPRAY HIS
7 BLOOD OFF MY ARMS.

8 AND I LOOK UP AND CARL'S GOT JERMAINE IN THE BACKSEAT.
9 AND JERMAINE IS UPSIDE DOWN. HE WENT IN THE BACKSEAT AND
10 JUST PULLED HIM THROUGH. AND HIS HEAD WENT DOWN AND HIS
11 FEET WERE UP IN THE AIR.

12 AND I SAID, WHAT THE HELL ARE YOU DOING? AND HE SAYS,
13 I'M SEARCHING HIM. I WANT TO GET HIS DOPE. I SAID, HE
14 AIN'T GOT NO DOPE. I SAID, WHAT YOU THINK WE BEEN SMOKING
15 ALL NIGHT? HE SAID, WHAT DO YOU MEAN HE AIN'T GOT NO DOPE?
16 I SAID, HE GAVE ME ALL THE DOPE HE HAD, MAN. HE SAID, HELL,
17 I DIDN'T KNOW.

18 I SAID, OH, GODDAMN, YOU'VE KILLED HIM FOR HIS DOPE AND
19 HE AIN'T GOT NOTHING. I SAID, I GOT TO GO, MAN. I CAN'T BE
20 A PART OF THIS. AND I -- I DIDN'T -- I WENT ONE WAY AND
21 THEN I STARTED BACK THE OTHER TOWARDS THE FRONT OF THE JEEP.

22 AND CARL CAME OUT WITH A HAMMER AND A SCREWDRIVER. AND
23 HE SAID, HEY, YOU AIN'T GOING NOWHERE, MAN. HE SAID, THIS
24 IS ME AND YOU. WE IN THIS TOGETHER. I SAID, NO WE AIN'T.
25 I CAN'T BE A PART OF THIS. HE SAID -- I SAID, I'M NOT -- I

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1 DIDN'T HAVE NOTHING TO DO WITH THAT. HE SAID -- HE SAID,
2 YOU WAS WITH ME, MAN. WE IN THIS TOGETHER. HE SAID, EITHER
3 YOU'RE WITH ME OR AGAINST ME. I'LL DO YOU TOO. AND ---

4 Q. WHY DIDN'T YOU RUN AT THAT TIME?

5 A. SIR?

6 Q. WHY DID YOU NOT RUN ---

7 A. I WAS SO SCARED MY LEGS WERE WOBBLING. AND I -- I -- I
8 WAS GOING TO RUN, AND I LOOKED, AND THERE WASN'T NO PLACE TO
9 RUN. THERE WAS A FENCE BEHIND THERE. THERE WAS A JOHN
10 DEERE PLACE ACROSS THE STREET. AND THERE WAS A CLOSED STORE
11 NEXT TO IT. AND ALL I COULD SEE IF I TRIED TO MOVE -- IF I
12 FELL OR IF HE HIT ME WITH THAT HAMMER OR STABBED ME, THEN I
13 WAS DONE TOO.

14 AND IT TOOK ME A MINUTE. AND HE SAID, WELL, WHAT --
15 WHAT ARE YOU GOING TO DO? AND I SAID, I'M WITH YOU. I
16 SAID, WHAT DO YOU WANT ME TO DO? AND HE SAID, YOU'RE GOING
17 TO DRIVE. AND I WENT AROUND TO THE DRIVER'S SIDE, AND I
18 CLOSED THE BACK DOOR. AND CARL CLIMBED IN THE BACK.

19 AND JERMAINE, AT THIS TIME, JERMAINE'S LOWER BODY HAS
20 -- HAS FOLDED OVER ONTO THE BACKSEAT, JUST HIS LOWER BODY.
21 AND HIS FEET ARE KIND OF HANGING OUT THE BACK DOOR. AND
22 CARL CLIMBS IN ON HIM, UP OVER HIM AND GRABS HIM BY THE BACK
23 OF THE PANTS AND BY THE SHIRT AND JUST HOISTS HIM UP AND
24 PUTS HIM ON THE BACKSEAT. AND -- WITH HIS HEAD TOWARDS THE
25 DRIVER'S SIDE AND HIS FEET TOWARDS THE PASSENGER'S SIDE.

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1 HE BACKS OUT AND FOLDS HIS LEGS UP BECAUSE HIS LEGS ARE
2 STILL HANGING OUT THE PASSENGER'S SIDE DOOR. SO HE FOLDS
3 HIS LEGS UP AND HE BACKS OUT OF THE CAR. AND BEFORE HE
4 CLOSES THE DOOR HE SAYS, UNLOCK THE DOOR TO THE PASSENGER'S
5 SIDE, THE FRONT DOOR.

6 AND THE PANEL ON THE DRIVER'S SIDE DOOR IS OFF, YOU
7 KNOW, IT'S NOT ATTACHED. IT'S HANGING DOWN BY WIRES. AND I
8 TOUCHED THE -- ALL THE BUTTONS ON IT. AND THE WHOLE -- ALL
9 THE LOCKS WENT, CHI, CHI, YOU KNOW, AND POPPED AND OPENED
10 THE PASSENGER'S SIDE DOOR. HE CLOSED HIS -- THE BACK DOOR
11 AND GOT IN. AND ---

12 Q. HE'S NOW IN THE FRONT PASSENGER'S SEAT?

13 A. YES. YES. AND HE LEANS OVER IN THE BACK AND HE GRABS
14 A SHEET THAT'S BACK THERE. AND HE THROWS IT OVER -- HE JUST
15 KIND OF TOSSES IT OVER HIM AND WE PULL OFF.

16 AND WE PULL OUT AND I'M GOING -- I'M ALREADY GOING TO
17 MY MAMA'S HOUSE, YOU KNOW. I PULL OUT AND I TURN BACK TO
18 THE RIGHT, AND I GO BACK THE WAY WE CAME, BACK TO DOWNTOWN.
19 AND -- FOR ABOUT THIRTY MINUTES OR SO ---

20 Q. NOW ---

21 A. --- I GUESS OR MAYBE ---

22 Q. --- YOU'RE ARRIVING AT YOUR MOTHER'S HOUSE AT THIS
23 TIME?

24 A. SIR?

25 Q. YOU'RE ON YOUR WAY TO YOUR MOTHER'S AT THIS ---

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1 A. YES. YEAH. WE'RE TRAVELING DOWN POINSETT OR ABOUT TO
2 POINSETT. AND -- BUT NOBODY'S SAYING ANYTHING. AND WE GET
3 DOWN TOWARDS, I GUESS, FURMAN ON -- IS THAT STILL POINSETT?

4 Q. 25.

5 A. WELL, WE GET DOWN TO FURMAN ---

6 THE COURT: WAIT A MINUTE.

7 MR. ABDALLA: I'M SORRY.

8 THE COURT: YOU CAN'T ASK QUESTIONS, AND YOU CAN'T

9 ANSWER THEM. ALL RIGHT.

10 A. OKAY. WE GET DOWN TOWARDS FURMAN AND HE SAID, WE CAN'T
11 BE RIDING AROUND WITH THIS -- IN HIS TRUCK WITH HIM IN THE
12 BACK LIKE THIS, MAN. HE SAID, WE'VE GOT TO GET THE HELL OUT
13 OF HERE. HE SAYS -- HE SAYS, WE NEED TO COME UP WITH SOME
14 MONEY AND GET OUT -- GET OUT OF HERE AND GO TO LOUISIANA.

15 HE SAYS, I KNOW A SPOT IN LOUISIANA WHERE WE CAN PUT
16 HIM AND NOBODY WILL FIND HIM. HE SAYS -- HE TOLD ME HE USED
17 TO STAY IN TEXAS AND THERE WAS AN ALLIGATOR PIT THAT WE
18 COULD THROW HIM. AND HE SAID, HE'LL BE DONE LIKE THAT.

19 AND HE SAID HE HAD ALREADY PUT ANOTHER BAG OF BONES
20 THERE, IS WHAT HE CALLED HIM. AND HE SAID, WE'LL THROW HIM
21 OVER THERE AND HE'LL BE GONE WITHIN A FEW MINUTES. HE SAID,
22 THEN WE CAN GO ON TO TEXAS. HE SAID, I'M GOING TO BURN THE
23 TRUCK AND I'M GOING TO MEXICO. HE SAID, YOU CAN DO WHAT THE
24 HELL YOU WANT TO AFTER THAT. HE SAID, NO BODY, NO TRUCK, NO
25 CASE.

JONATHAN CAMPBELL - DIRECT EXAMINATION BY MR. ABDALLA

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1 AND WE KEPT GOING. AND HE SAID -- HE SAID, WE GOT TO
2 COME UP WITH SOME MONEY. CAN YOU CASH ONE OF THOSE CHECKS?
3 I SAID, NO, MAN, I CAN'T. I SAID, THERE'S NOTHING HARDLY
4 OPEN. AND I SAID, LOOK AT ME. I SAID, I AIN'T GOT NO SHIRT
5 ON. I LOOK A MESS. NOBODY'S GOING TO CASH ONE OF MY
6 CHECKS. AND HE SAID, WE GOT TO DO SOMETHING.

7 AND I SAID, I'M ALREADY -- I'M IN TRAVELERS REST NOW.
8 AND I'M GOING ON TO MY MAMA'S HOUSE. AND I SAID, I'M ---

9 Q. WHY ARE YOU GOING TO YOUR MAMA'S HOUSE?

10 A. BECAUSE THAT'S JUST WHERE -- I JUST WANTED TO GO HOME.
11 I WANTED TO GO SEE MY MOM. AND WE GOT -- I TOLD HIM, I
12 SAID, WELL, I NEED TO GO TO MY MOM'S. I SAID, SHE'LL GIVE
13 YOU SOME MONEY.

14 AND -- AND HE SAID, I DON'T KNOW IF THAT'S A GOOD IDEA.
15 I SAID, IT'S MY MOM. I CAN TRUST HER. HE SAID -- HE SAID,
16 YOU'D BETTER NOT BE TRYING TO FUCK ME UP. I SAID, I'M NOT.
17 I SAID -- I SAID, I TRUST MY MAMA.

18 I SAID, I'LL PULL UP, YOU JUST STAY IN THE CAR. I
19 SAID, I'LL RUN IN. I'LL GET SOME CLOTHES AND SOME MONEY,
20 AND I'LL COME BACK OUT, AND WE'LL LEAVE. AND HE DIDN'T --
21 HE DIDN'T AGREE TO IT OR DIDN'T DISAGREE WITH IT. HE DIDN'T
22 SAY ANYTHING.

23 AND HE SAYS -- HE SAYS, MAN, I DON'T KNOW ABOUT THAT.
24 HE SAID, YOU'RE GOING TO FUCK ME OVER. I SAID, MAN, I'M
25 NOT. HE SAID, WELL, YOU SEE THESE -- YOU SEE THESE TATTOOS?

JONATHAN CAMPBELL - DIRECT EXAMINATION BY MR. ABDALLA

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1 EVERY ONE OF THEM MEANS SOMETHING.

2 AND I LOOK AT HIM AND HE'S GOT A SWASTIKA ON HIS ARM, A
3 BURNING FLAMES, A PENTAGRAM. AND HE'S GOT -- HE'S GOT HATE
4 ACROSS BOTH KNUCKLES. AND THE ONES HE STARTED POINTING OUT,
5 HE SAID -- HE SAID, THIS IS A SHAMROCK. HE SAID, AND THAT'S
6 THE ARYAN NATION. HE SAID, THAT'S MY PRISON FAMILY.

7 HE SAYS, I WAS IN PRISON IN TEXAS AND HERE IN SOUTH
8 CAROLINA. AND I'VE DONE WORK FOR THEM. HE SAID, AND I CAN
9 HAVE YOU TOUCHED IN ANY JAIL OR PRISON.

10 AND HE SAID, AND THIS FIRE REPRESENTS ME. AND HE HAD
11 OUTLAW WRITTEN UNDER IT. AND HE SAID -- HE SAID, THAT'S THE
12 OUTLAWS. HE SAID -- I SAID -- HE SAYS, YOU KNOW WHAT THAT
13 IS? I SAID, I'VE HEARD OF THEM. HE SAID, IT'S A GANG LIKE
14 THE HELL'S ANGELS. HE SAYS, THOSE ARE MY BROTHERS. HE
15 SAYS, THAT MEANS WITH ONE PHONE CALL I CAN HAVE YOUR FAMILY
16 TOUCHED. AND ---

17 Q. DID YOU BELIEVE HIM AT THAT TIME?

18 A. YES, SIR.

19 Q. WHY DID YOU BELIEVE HIM?

20 A. 'CAUSE I'D JUST SEEN HIM STAB THIS MAN TO DEATH.

21 AND HE SAID -- HE PULLED UP HIS SHOULDER, THE SLEEVE ON
22 HIS SHOULDER, AND HE HAD THE NEO-NAZI SS LIGHTNING BOLTS
23 WITH A SKULL ON IT. AND IT HAD SATAN TATTOOED UNDER IT.
24 AND HE SAID, THIS IS THE FUCKING SATAN. HE SAID, AND I KNOW
25 I'M GOING TO HELL. SO I DON'T REALLY GIVE A DAMN. AND HE

JONATHAN CAMPBELL - DIRECT EXAMINATION BY MR. ABDALLA

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1 SAID, YOU UNDERSTAND WHAT I'M SAYING? AND I SAID, YEAH.

2 AND ---

3 Q. WHAT DID YOU TAKE ALL THAT TO MEAN?

4 A. THAT HE WOULD HURT MY -- HURT ME OR MY FAMILY OR HE
5 COULD JUST MAKE A PHONE CALL AND HAVE SOMETHING DONE.

6 Q. SO WERE YOU AFRAID FOR YOUR MOTHER, FOR YOUR FAMILY OR
7 ---

8 A. YES, SIR. I WAS AFRAID THAT -- THAT HE COULD DO JUST
9 WHAT HE SAID. I MEAN, IF ANY OF -- IF HIS FRIENDS WERE
10 ANYTHING LIKE HIM, I DIDN'T DOUBT IT A BIT.

11 AND ABOUT THIS TIME WE'RE -- WE'RE FIXING TO PULL UP TO
12 MUSHCREEK ROAD. AND HE SAID -- HE SAID, MAN, YOU'D BETTER
13 NOT FUCK ME OVER. HE SAID -- HE SAID, I'VE BEEN ON THE
14 STREET, I'VE BEEN IN JAIL AND ON THE STREET ON AND OFF FOR A
15 LONG TIME, JON.

16 AND HE SAID, I'VE BEEN A HOBO, I'VE TRAVELED ON THE
17 TRAINS. HE SAID, I CAN JUMP ON A TRAIN AT ANY TIME FOR
18 NOTHING AND TRAVEL ACROSS THE COUNTRY AND BACK. HE SAID --
19 HE SAID, I CAN DO THAT. I CAN DISAPPEAR. HE SAID, I CAN --
20 THE NEXT TIME YOU SEE ME, HE SAID, I'LL -- EITHER ME OR MY
21 BROTHERS WILL BE ON YOUR MAMA'S DOORSTEP AND WE'LL KILL
22 THEM.

23 AND I SAID, LISTEN, MAN, YOU DON'T HAVE TO KEEP
24 THREATENING ME. I TOLD YOU I WAS WITH YOU. AND ---

25 Q. NOW BY SAYING YOU WERE WITH HIM, ARE YOU ADMITTING THAT

JONATHAN CAMPBELL - DIRECT EXAMINATION BY MR. ABDALLA

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1 YOU TOOK PART IN ANY WAY WITH THE KILLING OF JERMAINE
2 PROCTOR?

3 A. NO, SIR. NO, SIR. I WAS WITH HIM UNTIL WE GOT TO
4 TEXAS SO HE COULD GO TO MEXICO.

5 Q. ALL RIGHT.

6 A. YEAH. AND ABOUT THIS TIME WE'RE ON MUSHCREEK ROAD
7 BEFORE I GET TO MY MAMA'S PLACE. AND I PULL DOWN ---

8 Q. ARE YOU IN TRAVELERS REST NOW?

9 A. YES, SIR.

10 Q. ALL RIGHT.

11 A. I PULLED DOWN ON BOSWELL CIRCLE. AND WHEN I SEE MY
12 MAMA'S TRAILER AND HER CAR OUTSIDE -- I COULDN'T STOP 'CAUSE
13 I WAS AFRAID ---

14 Q. HOLD ON.

15 MR. WESTON: I'M SORRY, YOUR HONOR. I CAN'T
16 UNDERSTAND WHAT HE'S SAYING.

17 MR. ABDALLA: WE'RE GOING TO BACK UP.

18 THE COURT: ALL RIGHT. WE'LL GIVE HIM A SECOND TO
19 COMPOSE HIMSELF.

20 Q. YOU'RE ON MUSHCREEK ROAD?

21 A. YES, SIR. I'M OKAY.

22 Q. YOU OKAY?

23 A. YEAH.

24 Q. OKAY.

25 A. WE'RE ON MUSHCREEK ROAD AND I'M ABOUT TO TURN ON

JONATHAN CAMPBELL - DIRECT EXAMINATION BY MR. ABDALLA

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1 BOSWELL CIRCLE.

2 Q. AND REMEMBER TO SPEAK SLOWLY.

3 A. AND WHEN I TURN ON BOSWELL CIRCLE I SEE MY MAMA'S
4 TRAILER AND HER CAR. AND ---

5 Q. NOW WAIT A MINUTE. DID YOU CALL YOUR MOTHER BEFORE YOU
6 GOT THERE?

7 A. NO. THAT DIDN'T HAPPEN. AND MY NIECE ALSO LIVES
8 THERE. AND SHE WAS MY LITTLE NIECE AT THE TIME. AND I GOT
9 SCARED IF I PULLED IN HE MIGHT DO SOMETHING THERE. AND I
10 WAS GOING REAL SLOW, AND I WAS ABOUT TO PULL IN, BUT I JUST
11 -- I MASHED THE GAS, AND I WENT ON BY.

12 Q. I DIDN'T HEAR WHAT YOU SAID. YOU SAID YOU WERE ABOUT
13 TO PULL IN ---

14 A. I WAS ABOUT TO PULL IN, BUT I MASHED THE GAS AND WENT
15 ON BY.

16 Q. OH, YOU MASHED THE GAS ---

17 A. AND HE SAID, WHAT THE HELL ARE YOU DOING? AND I SAID
18 -- I SAID, I'M JUST GOING TO CALL HER. I SAID, I CAN'T JUST
19 PULL IN. I CAN'T PULL IN RIGHT NOW. I CAN'T GO DOWN THERE
20 LIKE THIS. I SAID, I'M JUST GOING TO CALL HER. AND ---

21 Q. WHY DIDN'T YOU GO DOWN THERE?

22 A. BECAUSE I WAS AFRAID HE MIGHT DO SOMETHING.

23 Q. OKAY.

24 A. AND HE SAID, WELL, PULL OVER SOMEWHERE SO WE CAN FINISH
25 SMOKING THIS DOPE. AND BEHIND MY MOTHER'S PLACE THERE WAS

JONATHAN CAMPBELL - DIRECT EXAMINATION BY MR. ABDALLA

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1 AN AREA WHERE THEY WERE BUILDING HOUSES AT A DIRT ROAD THAT
2 NOBODY LIVED YET. SO I PULLED DOWN IN THERE AND TURNED
3 AROUND FACING OUT.

4 AND WE WAS SITTING THERE AND WE'RE -- WE STARTED -- I
5 GOT HIGH, HE GOT HIGH. AND WE SIT THERE FOR ABOUT THIRTY
6 MINUTES OR SO, NOT SAYING ANYTHING, JUST -- JUST GETTING
7 HIGH.

8 AND I TOLD HIM AFTER ABOUT THIRTY OR FORTY-FIVE
9 MINUTES, I SAID, LISTEN, I GOT TO GO OR WE GOT TO GO. I GOT
10 TO GO CALL MY MOM. HE SAID, WELL, HIT IT THEN. AND THEN WE
11 PULLED OUT AND I WENT TO 414 GOING OUT TOWARDS 25.

12 Q. OKAY.

13 A. AND AS WE WERE GOING OUT TOWARD 25 HE SAID, LISTEN, HE
14 SAID -- HE SAID, YOU CALL YOUR MAMA AND ASK HER FOR SOME
15 MONEY. HE SAID, BUT DON'T TELL HER WHAT HAPPENED. HE SAID,
16 AND DON'T TELL HER MY NAME AND DON'T EVEN TELL HER I'M WITH
17 YOU. HE SAID, TELL HER YOU BEAT THE GUY UP.

18 AND -- WELL, LET ME BACK UP. LET ME BACK UP BECAUSE --
19 I TOLD HIM I WAS GOING TO CALL MY MOTHER BUT THAT MY MOTHER
20 WASN'T GOING TO GIVE ME ANY MONEY UNLESS I TOLD HER
21 SOMETHING. IT HAD TO BE A -- PRETTY MUCH DIRE STRAIT
22 SITUATION 'CAUSE SHE KNEW I WAS ON DRUGS.

23 AND HE SAID, WELL, YOU CAN'T TELL HER WHAT HAPPENED.
24 HE SAID, WHAT YOU DO IS YOU TELL HER -- DON'T TELL HER MY
25 NAME, DON'T TELL HER YOU'RE WITH ME. TELL HER THAT THIS

JONATHAN CAMPBELL - DIRECT EXAMINATION BY MR. ABDALLA

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1 DRUG DEALER YOU KNEW PICKED YOU UP AND TRIED TO ROB YOU. HE
2 PULLED OUT A GUN AND PUT IT UP TO YOU. YOU AND HIM
3 STRUGGLED FOR THE GUN, THE GUN WENT OFF AND SHOT HIM IN THE
4 GUT. I SAID, OKAY.

5 SO WE PULLED OUT. WE PULLED OUT TO 25 WHERE 14 COMES
6 INTO 25. AND ACROSS THE STREET THERE'S A LITTLE STORE
7 CALLED THE BO-NATS. AND IT'S A LITTLE COUNTRY STORE.
8 THERE'S NOTHING ---

9 Q. ARE YOU ON 25 NOW?

10 A. YES, SIR.

11 Q. ALL RIGHT.

12 A. AND THERE'S NOT ENOUGH ROOM OUT THERE FOR ANYTHING,
13 REALLY. THE PARKING LOT IS NOT REALLY A PARKING LOT. IT'S
14 JUST A -- THERE'S ENOUGH ROOM FOR A CAR ON THIS SIDE, A CAR
15 ON THAT SIDE AND A CAR IN THE FRONT OF THE STORE.

16 AND -- BUT THERE'S A TELEPHONE, A PAY TELEPHONE RIGHT
17 THERE ON THE LEFT HAND SIDE OF THE STORE. SO I PULLED UP
18 AND I PULLED UP TO THE PHONE. AND I GOT OUT AND I STARTED
19 DIALING THE NUMBER COLLECT TO MY MOTHER'S HOUSE. AND ---

20 Q. WHERE'S CARL?

21 A. HE'S IN THE TRUCK, BUT HE'S GETTING OUT. AND HE GOT
22 OUT. AND HE COMES OVER THERE AND STANDS BY THE TELEPHONE
23 WITH THAT SCREWDRIVER IN HIS HAND.

24 AND MY MOTHER PICKS UP. AND I HEAR HER ANSWER. AND
25 SHE SAID -- SHE SAID, HEY -- HEY, SON. WHAT ARE YOU DOING?

JONATHAN CAMPBELL - DIRECT EXAMINATION BY MR. ABDALLA

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1 AND I TOLD HER I WAS IN TROUBLE. I TOLD HER I'M SORRY THAT
2 I WAS CALLING HER RUINING FATHER'S DAY, BUT THAT I WAS IN
3 TROUBLE.

4 AND SHE SAID, WELL, WHAT'S WRONG? AND I SAID -- I
5 STARTED CRYING. AND I GOT REAL HYSTERICAL AND I COULDN'T
6 HARDLY TALK. AND SHE SAID, CALM DOWN AND TELL ME WHAT'S
7 WRONG. AND I SAID -- I SAID, I'M WITH A GUY.

8 AND CARL AUTOMATICALLY -- HE DOESN'T JAB ME WITH THE
9 SCREWDRIVER HARD, BUT HE POKES IT -- HE POKES IT IN MY SIDE.
10 AND I LOOK AT HIM. AND I'M TELLING MY MOTHER THAT -- I'M
11 TRYING TO TALK AND PAY ATTENTION TO HIM TOO. AND I SAID,
12 I'M WITH A GUY. AND HE'S LIKE, UH-UH. AND I SAID -- HE
13 SAID, DON'T SAY MY NAME. AND I SAID, I'M WITH A GUY NAMED
14 GREG.

15 AND MY MAMA SAID, WHERE DID YOU GET -- WHERE DID YOU
16 GET HIM OR SOMETHING LIKE THAT? AND I SAID, I MET HIM AT A
17 SALVATION ARMY. I SAID, A GUY PICKED US UP LAST NIGHT THAT
18 WE HAD BEEN BUYING DRUGS FROM. I SAID, HE TRIED TO -- HE
19 TRIED TO ROB US. I SAID, THERE WAS A STRUGGLE FOR THE GUN,
20 THE GUN WENT OFF AND SHOT HIM IN THE GUT.

21 AND SHE'S -- SHE STARTS CRYING AND GETTING HYSTERICAL
22 AND STUFF. AND SHE SAID, SON, I CAN'T -- WHAT DID YOU CALL
23 ME FOR? I CAN'T DO ANYTHING FOR YOU. YOU NEED TO CALL THE
24 POLICE. AND I SAID, I CAN'T. AND SHE SAID, JON, IF IT WAS
25 AN ACCIDENT LIKE THAT, YOU NEED TO CALL THE POLICE. AND I

JONATHAN CAMPBELL - DIRECT EXAMINATION BY MR. ABDALLA

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1 SAID, MAMA, YOU DON'T -- AND A FEW OTHER THINGS WAS SAID. I
2 DON'T REMEMBER THE WHOLE CONVERSATION 'CAUSE WE WERE BOTH
3 CRYING AND JUST HYSTERICAL.

4 AND I SAID, I CAN'T, MAMA. AND I SAID -- I SAID,
5 LISTEN, -- CARL WAS TELLING ME TO COME ON. AND I SAID,
6 LISTEN, I GOT TO GO. I SAID, I CAN'T TALK RIGHT NOW. AND
7 SHE SAID -- SHE SAID, WILL YOU CALL ME BACK? AND I SAID,
8 YES, MA'AM, I'LL CALL YOU BACK. AND SHE SAID, I LOVE -- I
9 TOLD HER I LOVED HER.

10 AND I GOT BACK -- I CAME AT THE TELEPHONE, I GOT BACK
11 IN THE CAR. AND I SAT THERE FOR A FEW MINUTES TO TRY TO
12 CALM DOWN. AND CARL TOLD ME, YOU KNOW, QUIT FREAKING OUT,
13 IT'S NOT THAT BIG A DEAL. HE SAID -- HE SAID -- HE SAID,
14 LET'S -- GET IT TOGETHER AND LET'S GO -- LET'S GO GET SOME
15 MONEY AND SOME DOPE. AND I SAID, OKAY.

16 AND WE PULLED OUT AND WE STARTED BACK IN TOWARDS
17 TRAVELERS REST ON 25. AND HE SAID, DO YOU KNOW A CRACK AREA
18 AROUND HERE OR SOMEBODY YOU CAN DEAL WITH? I SAID, YEAH.
19 HE SAID, WELL, LET'S GO SEE IF WE CAN SELL THIS SPEAKER BOX.

20 Q. HOLD ON JUST A MOMENT.

21 (PAUSE)

22 Q. NOW PICK UP WHERE YOU LEFT OFF. I'M SORRY. AFTER YOU
23 LEFT YOUR MOTHER'S AND AFTER THE TELEPHONE CALL WHAT DID YOU
24 NEXT DO?

25 A. WE STARTED TOWARDS TRAVELERS REST. AND HE ASKED ME IF

JONATHAN CAMPBELL - DIRECT EXAMINATION BY MR. ABDALLA

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1 I KNEW A CRACK AREA OR SOMEBODY I COULD DEAL WITH DOWN IN
2 TRAVELERS REST. I SAID, YES. HE SAID, WELL, LET'S GO SEE
3 IF WE CAN SELL THIS SPEAKER BOX.

4 AND I PULLED -- IT'S -- I DON'T KNOW THE ROAD THERE
5 EITHER. BUT THERE'S A TRAILER PARK DOWN THERE WHERE THIS --
6 THIS GUY STAYED, THIS YOUNG GUY STAYED THAT SOLD CRACK. AND
7 I PULLED UP IN THERE, AND THE GUY COMES OUT.

8 AND CARL PULLS OUT JERMAINE'S NECKLACE AND HIS WATCH
9 AND SAYS, SEE IF HE WANTS THIS. AND I SAID, WHERE DID YOU
10 GET THAT? HE SAID, IT'S JERMAINE'S. AND HE HANDED IT TO
11 ME.

12 AND THE GUY COME AROUND TO MY DOOR AND SAID -- AND I
13 SHOWED IT TO HIM. I SAID, DO YOU WANT -- YOU WANT TO GET
14 THIS STUFF? AND HE GRABBED IT AND HE SAYS, YEAH, MAN. HE
15 SAYS, WHAT YOU WANT FOR IT? AND I SAID, I DON'T KNOW, I GOT
16 A SPEAKER BOX TOO. YOU THINK YOU MIGHT WANT THAT? HE SAID,
17 BRING IT TO THE PORCH.

18 AND THE PORCH IS MAYBE FROM HERE TO THERE. I MEAN,
19 IT'S A TRAILER. AND IT'S A LITTLE -- LITTLE PORCH ON THE
20 CORNER. SO I GOT OUT. AND I WENT TO THE BACK OF THE CAR,
21 AND I PUT THE SPEAKER BOX ON THE PORCH.

22 AND HE SAID, WHAT DO YOU WANT FOR IT? I SAID, I NEED
23 SOME CASH AND SOME DOPE. AND HE SAID -- HE SAID, HOW MUCH
24 CASH YOU WANT? AND I SAID, TWENTY DOLLARS. HE SAID, HOW
25 MUCH DOPE YOU WANT? I SAID, I DON'T KNOW, FOUR OR FIVE

JONATHAN CAMPBELL - DIRECT EXAMINATION BY MR. ABDALLA

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1 ROCKS. AND HE SAID, I CAN -- I CAN SWING THAT. AND HE GAVE
2 IT TO ME. AND I GOT BACK IN THE TRUCK, AND WE DROVE OFF.

3 AND WE HEADED TOWARDS WHITE HORSE ROAD AND 85.

4 Q. ALL RIGHT. AND WHY WERE -- DO YOU HAVE GAS NOW?

5 A. NO.

6 Q. WHAT DID YOU DO ABOUT THE GAS SITUATION?

7 A. ONCE WE GOT ON OUT 85 THERE WAS A GAS STATION OUT THERE
8 DIDN'T HAVE HARDLY ANYBODY AROUND IT. AND HE SAID, GO AHEAD
9 AND PULL IN HERE AND LET'S GET SOME GAS WHILE NOBODY'S HERE.

10 I PULLED IN. AND HE SAID, NOW LISTEN, HE SAID, YOU GO
11 IN HERE, JUST GO IN -- JUST GET THE GAS, GO IN AND PAY FOR
12 IT. HE SAID, DON'T TRY NO STUPID STUFF. HE SAID, I MEANT
13 WHAT I SAID.

14 HE SAID, IF YOU DON'T BELIEVE ME, LOOK IN THE BACK. HE
15 SAID -- HE SAID, I MEAN WHAT I SAY, JON. AND I SAID,
16 LISTEN, I BELIEVE YOU, MAN. AND HE SAID, WELL, GET THIS
17 STUFF AND LET'S GET OUT OF HERE.

18 AND I GOT OUT AND I PUMPED ABOUT SEVENTEEN DOLLARS
19 WORTH OF GAS IN THE CAR. AND I GOT A PACK OF CIGARETTES AND
20 COME BACK IN -- COME BACK TO THE TRUCK. AND WE WENT OFF AND
21 WE HIT 85 AND WENT UP 85 TOWARDS ATLANTA.

22 Q. ALL RIGHT. AND APPROXIMATELY WHAT TIME -- IS IT STILL
23 FATHER'S DAY? IS IT STILL SUNDAY?

24 A. YES.

25 Q. DO YOU HAVE ANY IDEA WHAT TIME IT IS NOW?

JONATHAN CAMPBELL - DIRECT EXAMINATION BY MR. ABDALLA

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1 A. NO, SIR. IT'S PROBABLY, I DON'T KNOW, ABOUT MIDDAY.

2 Q. OKAY. SO IT'S STILL DEFINITELY LIGHT OUT?

3 A. OH, YEAH. YES, SIR.

4 Q. AND THIS IS DURING THE SUMMER IN JUNE, CORRECT?

5 A. YES, SIR.

6 Q. ALL RIGHT. WHERE DID YOU NEXT GO?

7 A. WE WENT TO -- TOWARDS ATLANTA. AND -- AND THE WHOLE
8 WAY WE'RE -- WE'RE NOT SAYING A LOT BECAUSE WE'RE GETTING
9 HIGH. AND, YOU KNOW, WHEN YOU'RE HIGH -- WHEN YOU'RE
10 GETTING HIGH YOU DON'T TALK, YOU KNOW, OR I DON'T AND HE
11 DIDN'T EITHER. AND SO WE DIDN'T REALLY SAY A WHOLE LOT FOR
12 THE -- ALMOST THE WHOLE RIDE TO ATLANTA. AND ONCE WE GOT TO
13 ATLANTA WE WERE RUNNING OUT OF DOPE. SO WE TRIED NOT TO GET
14 -- SMOKE SO MUCH.

15 AND WE'RE GOING THROUGH ATLANTA AND HE STARTS TELLING
16 ME ABOUT THE ARYAN NATION AND ALL THAT STUFF AND THAT HE HAD
17 DONE SOME WORK FOR THEM IN PRISON, HE HAD SHANKED A FEW
18 PEOPLE AND THIS, THAT AND THE OTHER AND WAS TELLING ME HOW
19 HE COULD GET PERMISSION TO DO SOMETHING TO SOMEBODY IN THERE
20 FROM A HIGHER OFFICIAL AND STUFF LIKE THAT AND SOME STUFF
21 ABOUT HIS HOBO LIFE, HOW HE TRAVELED ON THE TRAIL SYSTEM AND
22 STUFF LIKE THAT. AND THAT'S ABOUT IT.

23 WE GOT THROUGH ATLANTA AND GOT INTO MONTGOMERY. AND
24 THAT'S ---

25 Q. SO DID YOU NEVER STOP AND SPEND THE NIGHT FROM

JONATHAN CAMPBELL - DIRECT EXAMINATION BY MR. ABDALLA

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1 GREENVILLE TO MONTGOMERY?

2 A. NO. NO. AND WE ONLY -- WE STOPPED IN MONTGOMERY ONE
3 TIME. AND ANYWAY -- TO SLEEP. AND ONCE WE GOT TO
4 MONTGOMERY WE WERE ABOUT OUT OF GAS. AND I WENT AROUND TO A
5 COUPLE -- I WENT AROUND TO A STORE AND I BOUGHT SOME DVDs
6 AND ---

7 Q. DVDs?

8 A. YEAH. SOME VIDEOS, SOME MOVIES AND SOME GAMES, SOME
9 DVD GAMES, SOME CD GAMES. AND I WROTE A CHECK. AND THE GUY
10 LET ME WRITE IT OVER. AND I HAD THAT. AND ---

11 Q. YOU WERE IN ALABAMA AND YOU CASHED A SOUTH CAROLINA
12 CHECK?

13 A. YES.

14 Q. OKAY.

15 A. AND IT ACTUALLY WAS A NORTH CAROLINA CHECK.

16 Q. OH.

17 A. IT WAS FROM THE BANK. I HAD A CHECKING ACCOUNT IN
18 SOUTH CAROLINA, BUT THEY HADN'T SENT ME MY CHECKS YET WITH
19 THE NEW ADDRESS ON IT FROM SOUTH CAROLINA. I STILL HAD THE
20 NORTH CAROLINA CHECKS FROM WHERE I WAS WITH MY WIFE.

21 AND WE GOT THAT MONEY. AND I STOPPED AND PUT SOME GAS
22 IN THE CAR. IT HAD ONE OF THE PAY AT THE PUMP THINGS. SO I
23 DIDN'T HAVE TO DO ANYTHING, YOU KNOW. I DIDN'T HAVE TO GO
24 IN OR ANYTHING. AND I PUT FIVE DOLLARS IN THE GAS TANK.
25 AND WE WENT AND BOUGHT SOME MORE DOPE.

JONATHAN CAMPBELL - DIRECT EXAMINATION BY MR. ABDALLA

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1 AND WE RODE AROUND MONTGOMERY TRYING TO FIND ANOTHER
2 SPOT THAT WOULD MOST LIKELY TAKE A -- A CHECK OR SOMETHING
3 LIKE THAT. AND WE CAME UPON A HOME DEPOT. AND THERE WAS A
4 BUNCH OF LAWNMOWERS AND WEED-EATERS AND STUFF OUTSIDE.

5 AND HE SAID, STOP, JUMPED OUT AND PUT ONE OF THOSE IN
6 THE BACK. SO I DID. I STOPPED AND I GRABBED A LITTLE WEED
7 OR A LITTLE WEED-EATER THING AND SOME KIND OF MOWER DEAL,
8 AND I SHOVED THEM IN THE BACK, AND I CLOSED THE DOOR, AND I
9 GOT BACK IN.

10 AND WE WENT AROUND TO A PAWN SHOP. AND CARL TOOK THE
11 KEYS OUT OF THE CAR. I KNOW THAT IT WAS SAID THAT THE KEY
12 WAS BENT AND ALL THAT STUFF, BUT THE CAR -- WE TOOK THE KEYS
13 OUT OF THE -- CARL TOOK THE KEYS OUT OF THE CAR.

14 Q. WAIT A MINUTE.

15 (PAUSE)

16 MR. ABDALLA: I'D LIKE TO HAVE THIS MARKED DEFENSE
17 EXHIBIT FOR IDENTIFICATION.

18 (WHEREUPON DEFENDANT'S EXHIBIT 3 WAS MARKED FOR
19 IDENTIFICATION)

20 Q. JON, I'M GOING TO SHOW YOU DEFENSE EXHIBIT NUMBER 3 FOR
21 IDENTIFICATION PURPOSES. CAN YOU IDENTIFY THAT FOR THE
22 COURT?

23 A. YES, SIR. THAT'S THE KEY AND COLUMN OF JERMAINE
24 PROCTOR'S JEEP.

25 Q. ALL RIGHT.

JONATHAN CAMPBELL - DIRECT EXAMINATION BY MR. ABDALLA

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1 A. AND THE KEY IS NOT BENT.

2 Q. AND WHAT NOW?

3 A. THE KEY IS NOT BENT.

4 MR. ABDALLA: AT THIS TIME I'D LIKE TO OFFER THIS INTO
5 EVIDENCE.

6 MR. WESTON: NO OBJECTION, YOUR HONOR.

7 THE COURT: ALL RIGHT. WITHOUT OBJECTION.

8 (WHEREUPON DEFENDANT'S EXHIBIT 3 WAS ADMITTED INTO
9 EVIDENCE)

10 MR. ABDALLA: THANK YOU. WE'LL PUBLISH IT TO THE JURY
11 LATER.

12 Q. YOU SAID CARL TOOK THE KEYS OUT OF THE CAR WHEN HE GOT
13 OUT?

14 A. YES. HE TOOK THE KEYS OUT OF THE CAR. AND THE PAWN
15 SHOP IS -- THE WHOLE THING IS GLASS. THE WHOLE FRONT'S
16 GLASS. SO HE CAN SEE ME. BUT HE TOOK THE KEYS OUT. AND HE
17 WENT TO THE BACK, AND HE GOT THE STUFF OUT, AND HE WENT
18 INSIDE.

19 AND I GOT OUT -- I GOT OUT OF THE CAR AND SAT ON THE
20 SIDEWALK. I DIDN'T WANT TO BE IN THERE, YOU KNOW, WITH
21 JERMAINE. AND HE COME BACK OUT WITH ABOUT EIGHTY DOLLARS, I
22 BELIEVE IT WAS. MAYBE -- IT MIGHT HAVE BEEN A LITTLE LESS.
23 I CAN'T REALLY REMEMBER. IT MIGHT HAVE BEEN SIXTY.

24 ANYWAY, HE CAME OUT WITH SOME MONEY. AND HE SAID,
25 LET'S GO FIND A SPOT TO GET SOME DOPE. AND WE RODE AROUND

JONATHAN CAMPBELL - DIRECT EXAMINATION BY MR. ABDALLA

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1 FOREVER LOOKING FOR A SPOT TO BUY SOME DOPE. AND WE FINALLY
2 FOUND A SPOT, AND GOT SOME DOPE AND WENT ON OUR WAY.

3 AND BY THAT TIME WE WERE ABOUT OUT OF GAS AGAIN. AND
4 ---

5 Q. WAS THERE ANY CONVERSATION GOING ON BETWEEN THE TWO OF
6 YOU?

7 A. NOT REALLY. JUST TALKING -- NOT REALLY. NOT REALLY
8 NOTHING AT ALL 'CAUSE WE'RE GETTING HIGH, YOU KNOW.

9 Q. YOU'RE NOT FEELING ANY REMORSE FOR WHAT JUST HAPPENED?

10 A. YES, SIR. I WAS SCARED TO DEATH.

11 Q. WERE YOU SCARED FOR YOURSELF ---

12 A. I WAS SCARED FOR MYSELF. I WAS SCARED FOR MY FAMILY.

13 Q. WEREN'T YOU AT ALL CONCERNED ABOUT MR. PROCTOR?

14 A. YES, I WAS. BUT WHAT WAS I SUPPOSED TO DO? I DIDN'T
15 KNOW WHAT TO DO ABOUT IT.

16 Q. YOU DIDN'T GO TO THE POLICE?

17 A. NO, SIR. I COULDN'T. IF I -- HE TOLD ME HE COULD
18 MAKE A PHONE CALL AND GET HIS FAMILY OR HIS BROTHERS TO
19 TOUCH MY FAMILY OR GET ME IN JAIL. I WAS AFRAID FOR HIM TO
20 GET OUT OF MY SIGHT JUST AS MUCH AS HE DIDN'T WANT ME
21 LEAVING. AND ---

22 Q. SO YOU DEFINITELY WERE LOOKING TO SAVE YOURSELF AND
23 YOUR FAMILY.

24 A. YES, SIR. AND WE'RE JUST DRIVING AROUND AND WE'RE
25 ABOUT OUT OF GAS. AND I'M TRYING TO THINK, WELL, HOW ARE WE

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1 GOING TO GET SOME MORE MONEY? AND WE'RE KIND OF LOST NOW.

2 AND THIS LADY PULLS UP IN ANOTHER JEEP CHEROKEE BESIDE
3 US, AND SHE WAVES. AND I LOOKED OVER AT HER, AND I ASKED
4 HER FOR DIRECTIONS. I SAID, WHERE'S THE NEAREST GAS
5 STATION? I SAID -- SHE SAID, ABOUT A COUPLE OF BLOCKS UP
6 THE STREET.

7 I SAID, LISTEN, I DON'T KNOW IF I CAN MAKE IT THERE. I
8 AM ALMOST OUT OF GAS. I SAID, WILL THEY TAKE A CHECK? I
9 DON'T HAVE ANY CASH. AND SHE SAID, I'M NOT SURE. SHE SAID,
10 JUST FOLLOW ME. AND SO WE TOOK OFF AND WE FOLLOWED HER.
11 AND WE GOT UP THERE. AND I WENT INSIDE AND THE MAN SAID HE
12 WOULDN'T TAKE -- WOULDN'T TAKE CASH [SIC]. AND THE GIRL
13 SAID, GO AHEAD AND FILL ---

14 Q. WOULDN'T TAKE CASH?

15 A. I MEAN, WOULDN'T TAKE A CHECK.

16 Q. OKAY.

17 A. AND THE -- THE GIRL SAID -- SHE SAID, GO AHEAD AND FILL
18 YOUR JEEP UP. AND I SAID ---

19 Q. SAY WHAT NOW?

20 A. SHE SAID, GO AHEAD AND FILL THE JEEP UP.

21 Q. AND YOU DON'T KNOW THIS WOMAN?

22 A. I DON'T KNOW HER.

23 Q. ABOUT HOW OLD OF A WOMAN WAS SHE? DO YOU HAVE ANY
24 IDEA?

25 A. MAYBE TWENTY-EIGHT. SHE'S A YOUNG WOMAN.

JONATHAN CAMPBELL - DIRECT EXAMINATION BY MR. ABDALLA

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1 Q. ALL RIGHT.

2 A. AND SHE SAID, GO AHEAD AND FILL THE JEEP UP. AND SHE
3 SAID, IS THERE ANYTHING ELSE YOU NEED? I SAID, A PACK OF
4 CIGARETTES. AND SHE GOT ME A PACK OF CIGARETTES.

5 AND SHE -- SHE WALKED OUTSIDE WITH ME. AND I'M PUMPING
6 THE GAS IN THE CAR. AND SHE SAYS -- SHE SAYS, YOU LOOK BAD.
7 SHE SAYS, WHAT ARE YOU ON? AND I SAID, NOTHING. SHE SAID
8 -- SHE SAID, YOU'RE ON SOMETHING. SHE SAID, I'VE BEEN IN
9 THE SAME SITUATION BEFORE. AND SHE SAID, I HOPE YOU MAKE IT
10 THROUGH THIS. AND I SAID, THANK YOU.

11 AND SHE -- SHE TOLD ME TO COME OVER TO HER TRUCK, AND
12 SHE GAVE US SOME FOOD AND STUFF. AND SHE GAVE ME A HUG.
13 AND SHE SAID -- SHE SAID, NOW YOU TAKE CARE OF YOURSELF.
14 AND I SAID, OKAY. AND SHE DROVE OFF. AND WE GOT BACK IN
15 THE CAR AND WE LEFT.

16 Q. AND THIS WAS IN MONTGOMERY OR THEREABOUTS?

17 A. YES, IN MONTGOMERY.

18 Q. ALL RIGHT. AND WHAT'S THE NEXT THING THAT HAPPENED?

19 A. WE'RE -- WE GET BACK ON THE ROAD, ON THE HIGHWAY, 65 OR
20 WHATEVER THE ROAD IS. AND WE'RE GOING ON DOWN TO TEXAS.
21 AND JERMAINE -- JERMAINE'S IN THE BACKSEAT. AND WE'RE
22 SMOKING.

23 AND EVERY TIME I COME DOWN, I'M LOOKING IN THE BACK,
24 AND I'M LIKE, YOU KNOW, GOD, THIS IS -- THIS IS INSANE, MAN.
25 AND HE'S LIKE, CALM DOWN. THERE'S NOTHING BACK THERE. HE'S

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1 A BAG OF BONES WITH NO SOUL. HE SAID, THERE'S NOTHING BACK
2 THERE. HE SAID, QUIT WORRYING ABOUT IT.

3 AND SO I JUST CONTINUE GETTING HIGH. AND IT'S ABOUT --
4 I'M SO TIRED NOW THAT I'M -- THE CRACK'S NOT KEEPING ME UP
5 AND I'M ABOUT TO FALL ASLEEP AT THE WHEEL. AND I SAID,
6 LISTEN, EITHER YOU'VE GOT TO DRIVE OR WE'VE GOT TO STOP AND
7 I GOT TO SLEEP. AND HE SAID, PULL OVER, I CAN DRIVE. I CAN
8 HANDLE IT ON THE HIGHWAY.

9 AND SO I PULLED OVER. AND HE GOT IN THE DRIVER'S SEAT,
10 AND I STARTED -- AND HE STARTED DRIVING. AND I SAT THERE A
11 MINUTE AND EVENTUALLY I FELL ASLEEP. AND I DON'T KNOW HOW
12 LONG LATER IT WAS, BUT I WOKE UP.

13 AND WHEN I WOKE UP THERE'S -- WE'RE BEHIND A TRACTOR
14 TRAILER. AND, I MEAN, IT WAS -- IT WAS JUST A -- MAYBE A
15 MINUTE OR TWO, AND THERE'S A COP, AND HE'S IN THE MEDIAN.
16 WELL, WE DIDN'T KNOW IT, BUT THERE'S A WRECK ON DOWN THE
17 ROAD AND THE COPS ARE MONITORING TRAFFIC BACK DOWN FROM THE
18 ACCIDENT.

19 WELL, THERE'S A COP RIGHT THERE. AND HE HITS THE
20 BRAKES. AND ---

21 Q. HE MEANING CARL?

22 A. CARL. AND HE HITS THE BRAKES AND MADE THE CAR BEHIND
23 US HIT THE BRAKES, WHICH MADE THE CAR BEHIND THAT HIT THE
24 BRAKES. AND THE COP PULLS OUT. AND HE PULLS UP TO IT, AND
25 HE PULLS IN BEHIND US.

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1 AND I SAID, MAN, IT'S OVER WITH, DUDE. I SAID, YOU GO
2 AHEAD AND PULL OVER. AND HE SAID, YOU DON'T PULL OVER UNTIL
3 THE BLUE LIGHTS TURN ON. AND THE COP WENT -- WAS GOING TO
4 COME OUT FROM AROUND US AND WAS GOING TO LEAVE.

5 WELL, CARL TRIES TO TAKE THE EXIT AND RAN UP ON THE
6 MEDIAN KIND OF. AND THE COP JUST DONE A U-TURN IN THE
7 MEDIAN THERE AND COME -- AND WE'RE AT THE STOP SIGN NOW AND
8 HE'S COMING UP -- HE SHOOTS ACROSS THE LANE AND COMES UP
9 BEHIND US. AND CARL JUST PUNCHES IT AND JUMPS THE MEDIAN
10 AND GOES BACK DOWN ON THE OTHER EXIT RAMP AND GOES ON THE
11 HIGHWAY.

12 AND I SAID, LISTEN, MAN, PULL OVER. I SAID, IT'S OVER
13 WITH. HE SAID, MAN, I'M NOT -- HE SAID, I'M NOT STOPPING.
14 I SAID, WELL, PULL OVER AND SLOW DOWN ENOUGH AND LET ME JUMP
15 OUT. AND HE SAID, HELL, NO, WE IN THIS TOGETHER. AND HE
16 KEPT DRIVING.

17 AND WE RAN UP INTO TRAFFIC WHERE TRAFFIC WAS BACKED UP.
18 AND HE GOT ON THE SHOULDER OF THE ROAD, AND WE PASSED ALL
19 THE TRAFFIC. AND NOW THERE'S A COUPLE OF COP CARS BEHIND
20 US.

21 AND WE GOT UP TO WHERE THERE'S AN AMBULANCE, A FIRE
22 TRUCK AND SOME OTHER TRAFFIC UP THERE, SOME OTHER OFFICERS
23 AND STUFF. AND HE WENT THROUGH THEM, AND WE KEPT GOING.

24 AND ON DOWN THE ROAD A LITTLE MORE WAYS THE TRUCK
25 STARTED BACKFIRING, GOING POW, POW, POW. AND I WAS LIKE,

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1 DUDE, PULL THE DAMN THING OVER, THEY'RE GOING TO THINK WE'RE
2 SHOOTING AT THEM. HE SAID -- AND THEY'RE GOING TO SHOOT US.

3 HE SAID, THEY GOING TO HAVE TO. I SAID, NO THE HELL
4 THEY'RE NOT. AND I REACHED OVER, AND I GRABBED THE WHEEL
5 AND JERKED IT TO THE RIGHT. AND THE TRUCK TOOK A HARD RIGHT
6 AND RAN UP ON THE MEDIAN, HIT A FENCE AND FLIPPED OVER TO
7 THE SIDE.

8 Q. SO YOU'RE THE ONE THAT GRABBED THE WHEEL AND CAUSED THE
9 ACCIDENT?

10 A. YES.

11 Q. AND WHY DID YOU DO THAT?

12 A. 'CAUSE I WANTED IT TO STOP. I WANTED TO GET OUT OF THE
13 CAR. AND WHEN WE FLIPPED OVER, I AUTOMATICALLY JUMPED UP
14 OUT OF THE CAR, AND I PUT MY HANDS UP. AND THEN I REALLY
15 DON'T REMEMBER MUCH AFTER THAT. I DON'T KNOW WHAT HAPPENED,
16 BUT I WOKE UP IN THE -- IN THE BACK OF AN AMBULANCE. AND
17 THEY SAID I HAD JUST HAD A SEIZURE OR SOMETHING AND I WAS
18 BLEEDING FROM THE NOSE.

19 AND THERE WAS AN OFFICER THERE WITH ME. I WENT TO THE
20 HOSPITAL. AND THEY PUT ME ON THE MEDICAL -- THEY'LL EXAMINE
21 EVERYTHING. AND THE OFFICER TOOK ME BACK TO SOME JAIL
22 SOMEWHERE, SOME -- SOME SMALL LITTLE JAIL, PUT ME IN A CELL.

23 Q. OKAY.

24 MR. ABDALLA: LET ME HAVE A MOMENT, PLEASE. CAN I HAVE
25 A FEW MINUTES, JUDGE?

JONATHAN CAMPBELL - DIRECT EXAMINATION BY MR. ABDALLA

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1 THE COURT: YEAH. I TELL YOU -- ARE YOU ABOUT TO
2 FINISH YOUR EXAMINATION?

3 MR. ABDALLA: WELL, ---

4 THE COURT: YES OR NO?

5 MR. ABDALLA: I'M NOT SURE.

6 THE COURT: YOU DON'T KNOW -- ALL RIGHT. LET'S TAKE A
7 SHORT BREAK, LADIES AND GENTLEMEN, OKAY.

8 (WHEREUPON THE JURY EXITED THE COURTROOM AT 11:49 AM)

9 THE COURT: OKAY, MR. CAMPBELL, YOU CAN STAND DOWN.
10 DON'T DISCUSS YOUR TESTIMONY WITH ANYBODY. WE'LL TAKE A TEN
11 OR FIFTEEN MINUTE BREAK.

12 (WHEREUPON COURT WAS IN RECESS AT 11:50 AM)

13 (WHEREUPON COURT RESUMED AT 12:12 PM)

14 THE COURT: ALL RIGHT. WE READY TO RESUME?

15 MR. ABDALLA: YES, SIR, YOUR HONOR.

16 MR. WESTON: YES, SIR, YOUR HONOR.

17 MR. ABDALLA: YOUR HONOR, I DON'T HAVE THIS FIRSTHAND,
18 BUT TRACY WAS TELLING ME THAT SOME COMMENTS WERE MADE TO MY
19 CLIENT'S FAMILY.

20 MS. BURKETT: NO.

21 MR. ABDALLA: AM I WRONG?

22 (WHEREUPON MR. ABDALLA WAS CONFERRING WITH TRACY
23 BURKETT)

24 MR. ABDALLA: I HAVE SERGEANT LEWIS HERE, BUT I FIGURED
25 FOR SCHEDULING PURPOSES I DIDN'T WANT TO LET HER GO YET, BUT

JONATHAN CAMPBELL - DIRECT EXAMINATION BY MR. ABDALLA

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1 I DIDN'T KNOW THAT WE'D FINISH BEFORE LUNCH AND GET TO HER.

2 THE COURT: I DON'T KNOW, MR. ABDALLA. I DON'T KNOW.

3 MR. ABDALLA: WELL, I WAS GOING TO ASK IF WE CAN

4 INQUIRE APPROXIMATELY HOW LONG THE CROSS EXAMINATION WOULD

5 BE.

6 MR. WESTON: I ANTICIPATE, YOUR HONOR, IT'S GOING TO BE

7 FIFTEEN TO THIRTY MINUTES.

8 THE COURT: OKAY.

9 MR. ABDALLA: WE'RE READY TO GO. THANK YOU.

10 THE COURT: HOLD THEM FOR JUST A SECOND AND LET THESE

11 PEOPLE GET IN HERE. ARE YOU DONE WITH YOUR EXAMINATION?

12 MR. ABDALLA: NO. I WAS GOING TO ---

13 THE COURT: OKAY.

14 MR. ABDALLA: I HAVE ONE ---

15 THE COURT: ALL RIGHT.

16 MR. ABDALLA: --- MORE THING.

17 THE COURT: I WAS JUST ASKING. ALL RIGHT. LET'S BRING

18 THE JURY. TAKE A SEAT.

19 (WHEREUPON THE JURY ENTERED THE COURTROOM AT 12:14 PM)

20 THE COURT: ALL RIGHT, MR. ABDALLA.

21 MR. ABDALLA: THANK YOU, YOUR HONOR.

22 DIRECT EXAMINATION BY MR. ABDALLA CONTINUED:

23 Q. MR. CAMPBELL, I BELIEVE WHERE WE LEFT OFF, YOU WERE

24 JUST DISCUSSING THE FACT THAT YOU HAD A SEIZURE OR SOMETHING

25 AFTER THE WRECK, IS THAT CORRECT?

JONATHAN CAMPBELL - DIRECT EXAMINATION BY MR. ABDALLA

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- 1 A. YES, SIR. AND THEY HAD TOOK ME TO THE HOSPITAL TO DO
2 AN EXAMINATION AND EVERYTHING. AND THEY TOOK ME BACK TO
3 SOME JAIL, SOME SMALL ---
- 4 Q. AND WHERE ---
- 5 A. --- JAIL.
- 6 Q. --- WERE YOU AT THIS TIME?
- 7 A. I DON'T REALLY KNOW. I GUESS I WAS IN MOBILE.
- 8 Q. ALL RIGHT. DID YOU MAKE ANY TELEPHONE CALLS WHEN YOU
9 WERE IN MOBILE?
- 10 A. YES. YES, I DID. I CALLED MY MOTHER.
- 11 Q. ALL RIGHT. DO YOU REMEMBER -- AND IF YOU DON'T
12 REMEMBER EVERYTHING JUST SAY -- TELL THE JURY WHAT YOU
13 REMEMBER.
- 14 A. I DON'T REMEMBER EVERYTHING. BUT I REMEMBER I CALLED
15 HER AND SHE SAID ---
- 16 MR. WESTON: OBJECTION, YOUR HONOR.
- 17 MR. ABDALLA: YOUR HONOR, SHE'S ALREADY TESTIFIED TO
18 IT.
- 19 THE COURT: SUSTAINED. GO AHEAD.
- 20 A. I CALLED HER. AND SHE SAID ---
- 21 MR. WESTON: OBJECTION, ---
- 22 THE COURT: NO, NO. YOU CAN'T SAY WHAT SHE SAID.
- 23 MR. ABDALLA: YOU CAN ONLY SAY ---
- 24 A. OH, I DIDN'T UNDERSTAND. GO AHEAD.
- 25 THE COURT: YOU CAN JUST TALK ABOUT YOUR -- WHAT YOU

JONATHAN CAMPBELL - DIRECT EXAMINATION BY MR. ABDALLA

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1 SAID AND THE CONVERSATION, OKAY?

2 A. OKAY.

3 Q. WHAT DID YOU SAY TO HER?

4 A. I TOLD HER THAT I WAS -- I HAD GOTTEN ARRESTED, THAT --
5 ON MY WAY TO TEXAS. AND I REALLY DON'T REMEMBER. I REALLY
6 DON'T -- CAN'T RECALL.

7 Q. DO YOU REMEMBER IF YOU SAID ANYTHING TO THE EFFECT THAT
8 ---

9 MR. WESTON: OBJECTION, YOUR HONOR.

10 THE COURT: SUSTAINED.

11 MR. ABDALLA: ONE MOMENT, PLEASE.

12 (PAUSE)

13 MR. ABDALLA: JUDGE, AT THIS TIME WE WANT TO ADMIT A
14 TAPE INTO EVIDENCE OF THE CONVERSATION BETWEEN MR. CAMPBELL
15 AND HIS MOTHER FROM MOBILE TO REFRESH HIS -- WELL, TO HAVE
16 HIM COMMENT ABOUT THE ---

17 THE COURT: MADAME FORELADY, LADIES AND GENTLEMEN OF
18 THE JURY, I'M GOING TO ASK Y'ALL TO STEP BACK TO YOUR JURY
19 ROOM. PLEASE DON'T DISCUSS THE CASE.

20 (WHEREUPON THE JURY EXITED THE COURTROOM AT 12:18 PM)

21 THE COURT: WHY DID YOU WAIT TIL NOW TO BRING THIS UP?

22 MR. ABDALLA: JUDGE, IT'S THE END OF HIS TESTIMONY.

23 THE COURT: ABOUT A TAPE OF A CONVERSATION THAT
24 CONTAINS HEARSAY.

25 MR. ABDALLA: WELL, ---

JONATHAN CAMPBELL - DIRECT EXAMINATION BY MR. ABDALLA

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1 THE COURT: WHAT'S YOUR POSITION? I DON'T KNOW
2 ANYTHING ABOUT THE TAPE, WHO MADE IT, WHERE IT'S FROM. TELL
3 US ABOUT IT.

4 MR. ABDALLA: I WILL. THE TAPE IS FROM SARALAND,
5 ALABAMA. IT'S A CONVERSATION BETWEEN MY CLIENT AND HIS
6 MOTHER. HIS MOTHER ALREADY TESTIFIED TO IT. AND I WANTED
7 TO PLAY IT FOR THE JURY BECAUSE IT HAS HIS COMMENTS TO HIS
8 MOTHER AND WHAT HE SAID AT THAT TIME BECAUSE THAT'S BEEN
9 TESTIFIED TO BY HIS MOM.

10 AND I THINK IT ---

11 THE COURT: WHO TAPED IT?

12 MR. ABDALLA: I'M SORRY?

13 THE COURT: WHO TAPED IT? WHERE DOES THE TAPE COME
14 FROM?

15 MR. ABDALLA: IT COMES FROM ALABAMA. ON THE TAPE, OF
16 COURSE, IT SAYS INVESTIGATOR PAUL SILVAGGIO, BUT ALL I KNOW
17 IS IT CAME FROM THE PROSECUTION. BUT I CAN'T SAY WHO
18 ACTUALLY MADE THE TAPE, SOMEBODY IN ALABAMA. BUT HE COULD
19 ATTEST TO THE FACT THAT THAT'S HIS VOICE AND HIS MOTHER'S
20 VOICE.

21 THE COURT: MR. WESTON.

22 MR. WESTON: YOUR HONOR, THE STATE'S FIRST POSITION
23 WOULD BE THAT THE STATEMENTS OF HIS MOTHER ARE HEARSAY.
24 THEY COULDN'T COME IN THROUGH THIS DEFENDANT, AND THEY
25 SHOULDN'T BE ABLE TO COME IN THROUGH THE TAPE.

JONATHAN CAMPBELL - DIRECT EXAMINATION BY MR. ABDALLA

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1 THE DISTINCTION BETWEEN WHAT HIS MOTHER TESTIFIED TO
2 AND THIS SITUATION IS THIS, NUMBER ONE, HIS MOTHER DIDN'T
3 TESTIFY VERBATIM. AND SHE ONLY TESTIFIED CONCERNING
4 STATEMENTS THAT HE MADE AS A DEFENDANT, WHICH ARE ADMISSIBLE
5 ON EXCEPTION TO THE HEARSAY RULE.

6 IT DOES NOT APPLY BY -- IT DOES NOT -- IT DOES NOT
7 APPLY INVERSELY THAT HIS -- THAT HER STATEMENTS CAN COME IN
8 'CAUSE THEY'RE NOT AN EXCEPTION. SHE IS NOT THE DEFENDANT.

9 MR. ABDALLA: JUDGE, HER STATEMENTS AREN'T BEING
10 OFFERED FOR THE TRUTH OF THE MATTER.

11 THE COURT: WELL, WHAT ARE YOU OFFERING IT FOR? TO
12 REFRESH HIS MEMORY? THIS IS NOT HIS NOTES FROM WHAT HE DID.
13 WHAT ARE YOU OFFERING THIS TAPE FOR?

14 MR. ABDALLA: BECAUSE ON THE TAPE HE TELLS THE JURY --
15 WAIT, I'M SORRY. HE TELLS -- HE MAKES SOME COMMENTS TO HIS
16 MOTHER THAT I WOULD LIKE THE JURY TO HEAR THAT HE DOESN'T
17 RECALL. BUT IT IS IN ESSENCE LIKE REFRESHING HIS MEMORY.

18 HIS MOTHER ALREADY TESTIFIED TO IT. SHE'S ALREADY SAID
19 THAT HE MADE THE COMMENT, THAT IT'S NOT LIKE I SAID. AND
20 THAT CONFIRMS THAT IT'S ON THE -- IT CONFIRMS THE MOTHER'S
21 CONVERSATION, THAT IF THE JURY WERE TO BELIEVE THAT THE
22 MOTHER MADE THAT UP, THE TAPE IS OBJECTIVE EVIDENCE THAT SHE
23 DIDN'T MAKE IT UP, THAT THAT IS WHAT HE, IN FACT, SAID.
24 WHETHER HE SAYS IT -- EVEN IF HE SAID IT HERE, IT'S STILL
25 OBJECTIVE EVIDENCE THAT CONFIRMS WHAT HE SAID.

JONATHAN CAMPBELL - DIRECT EXAMINATION BY MR. ABDALLA

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1 MR. WESTON: YOUR HONOR, WE WOULD OPPOSE THE PLAYING OF
2 THE TAPE IN FRONT OF THE JURY. YOUR HONOR, BASICALLY WHAT
3 THE STATE'S POSITION WOULD BE, OF THE EFFECT THAT THIS IS,
4 THIS IS JUST GIVING THE DEFENDANT AN OPPORTUNITY TO LET THE
5 JURY HEAR HIM TELLING SOMEONE ELSE AT ANOTHER TIME, I DIDN'T
6 DO THIS. AND THAT'S BASICALLY -- IT'S JUST BOLSTERING HIS
7 TESTIMONY, YOUR HONOR.

8 AND THERE'S ALSO THE ISSUE OF RELEVANCE, YOUR HONOR.
9 THERE'S NOTHING IN THE TAPE, AS I UNDERSTAND IT, THAT
10 RELATES TO WHERE HE SPECIFICALLY DESCRIBES WHAT HAPPENED
11 SURROUNDING THE MURDER. AS I REMEMBER, THERE'S NOTHING IN
12 THERE THAT TALKS ABOUT THE SPECIFICS OF THE MURDER.

13 THE COURT: WELL, I NEED TO HEAR THE TAPE. SO MAKE A
14 PROFFER BY PLAYING THE TAPE. BUT WHEN I ASK YOU IF THERE'S
15 ANYTHING ELSE WHEN THE JURY IS OUT, DON'T TELL ME THERE'S
16 NOT WHEN THERE IS.

17 MR. ABDALLA: YES, YOUR HONOR. I MENTIONED IT TO MR.
18 WESTON, NOT THINKING THERE'D BE AN OBJECTION, I SAID ---

19 THE COURT: HE IS NOT ---

20 MR. ABDALLA: NO, I ---

21 THE COURT: HE IS NOT THE OPERATIVE PERSON HERE. HE IS
22 NOT RUNNING THE COURT. PLAY IT.

23 (PAUSE)

24 MR. ABDALLA: JUDGE, WHAT -- WE'RE GOING TO -- I'LL
25 JUST WITHDRAW THIS. IT'S JUST GOING TO TAKE TOO LONG.

JONATHAN CAMPBELL - DIRECT EXAMINATION BY MR. ABDALLA

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1 WE'LL WITHDRAW. DEFENSE WILL WITHDRAW ITS REQUEST TO PLAY
2 THE TAPE, AND I'LL WRAP IT UP.

3 THE COURT: ALL RIGHT. ANYTHING ELSE?

4 MR. ABDALLA: I NEED TO FINISH QUESTIONING HIM. THAT'S
5 ALL.

6 THE COURT: ALL RIGHT. LET'S BRING THE JURY.

7 (WHEREUPON THE JURY ENTERED THE COURTROOM AT 12:26 PM)

8 THE COURT: OKAY.

9 MR. ABDALLA: OKAY, THANK YOU.

10 DIRECT EXAMINATION BY MR. ABDALLA CONTINUED:

11 Q. YOU SAID YOU MADE A CALL?

12 A. YES, SIR.

13 Q. AND YOU CALLED YOUR MOTHER?

14 A. YES, SIR.

15 Q. AND YOU SPOKE TO HER FROM ALABAMA, CORRECT?

16 A. YES, SIR.

17 Q. AND AFTER THE CALL -- HOW LONG WAS IT BEFORE YOU
18 RETURNED TO GREENVILLE?

19 A. ABOUT THREE MONTHS.

20 Q. ALL RIGHT. NOW, MR. CAMPBELL, YOU RELAYED QUITE A
21 DETAILED STORY TO THE JURY ---

22 A. YES, SIR.

23 Q. --- AND THE COURT. YOU STARTED AT THE BEGINNING OF
24 YOUR LIFE PRETTY MUCH, BUT ESPECIALLY THE INCIDENT, THE
25 INCIDENT IN GREAT DETAIL.

JONATHAN CAMPBELL - DIRECT EXAMINATION BY MR. ABDALLA

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1 A. YES, SIR.

2 Q. YOU TALKED ABOUT HOW THE MAN WAS KILLED. DO YOU
3 REALIZE CARL -- YOU WERE IN HERE WHEN CARL SAID YOU WERE THE
4 ONE WHO DID THE STABBING?

5 A. YES, SIR.

6 Q. AND YOU'RE TELLING THE COURT NOW THAT CARL WAS THE ONE
7 WHO STABBED HIM?

8 A. YES, SIR.

9 Q. NOW IS IT YOUR TESTIMONY THAT YOU HAD ABSOLUTELY
10 NOTHING TO DO WITH THE ACTUAL KILLING ---

11 A. ABSOLUTELY NOTHING TO DO WITH THE KILLING.

12 Q. AND YOU'RE NOT SAYING THIS JUST TO SAVE YOURSELF?

13 A. NO, SIR.

14 Q. HOW COULD ANYONE UNDERSTAND HOW YOU COULD RIDE AROUND
15 FOR TWO DAYS?

16 MR. WESTON: OBJECTION, YOUR HONOR.

17 THE COURT: YEAH.

18 MR. ABDALLA: ALL RIGHT.

19 THE COURT: HE DOESN'T KNOW THAT.

20 Q. HOW DO YOU RIDE AROUND FOR TWO DAYS WITH A DEAD BODY IN
21 THE CAR?

22 A. AFTER WHAT I HAD JUST SEEN AND HIM BEING AFFILIATED
23 WITH THOSE GROUPS AND THREATENING MY FAMILY, I DIDN'T WANT
24 THE SAME THING TO HAPPEN TO THEM OR ME.

25 Q. AND YOU WANT THE JURY TO BELIEVE THAT YOU HAD NOTHING

JONATHAN CAMPBELL - CROSS EXAMINATION BY MR. WESTON

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1 TO DO WITH THE KILLING?

2 A. ABSOLUTELY I HAD NOTHING TO DO WITH THE KILLING.

3 Q. THE OTHER QUESTION IS WHY DO YOU REMEMBER THE DETAILS
4 SO?

5 A. I CAN'T FORGET THEM. IT'S JUST BURNED INTO MY MEMORY.

6 I LAY DOWN OVER AT THAT JAIL EVERY NIGHT AND I PRAY FOR GOD
7 TO TAKE THAT OUT OF MY HEAD. AND EVERY NIGHT IT'S STILL
8 THERE, EVERY DAY. I'LL NEVER FORGET IT.

9 Q. DO YOU FEEL REMORSEFUL ABOUT THIS?

10 A. YES, SIR, I DO. NOT ABOUT THE KILLING, BUT ABOUT BEING
11 THERE AFTERWARDS, I DID, BUT I DIDN'T THINK I HAD ANY OTHER
12 CHOICE.

13 Q. I HAVE NO FURTHER QUESTIONS. ANSWER ANY QUESTIONS MR.
14 WESTON ---

15 THE COURT: ALL RIGHT. CROSS EXAM.

16 MR. WESTON: MAY IT PLEASE THE COURT?

17 CROSS EXAMINATION BY MR. WESTON:

18 Q. MR. CAMPBELL, LET'S GO BACK -- LET'S BEGIN AND TRY TO
19 DO A LITTLE FILLER HERE BECAUSE THERE'S SOME THINGS THAT I
20 THINK YOU LEFT OUT OR THAT I'M INTERESTED IN IN YOUR STORY
21 THAT WERE NOT ASKED ABOUT. DO YOU REMEMBER TELLING YOUR
22 MOTHER YOU WERE LIVING AT THE SALVATION ARMY AT THE TIME
23 WHEN YOU MADE THAT PHONE CALL TO HER THAT NIGHT?

24 A. NOT LIVING AT THE SALVATION ARMY. NO, I DON'T RECALL
25 THAT.

JONATHAN CAMPBELL - CROSS EXAMINATION BY MR. WESTON

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1 Q. YOU DON'T REMEMBER TELLING HER THAT?

2 A. NO, SIR.

3 Q. YOU EARLIER TESTIFIED THAT'S WHERE YOU TOLD ---

4 A. YES, SIR, I DID.

5 Q. --- HER YOU LIVED. SO THAT WAS A LIE?

6 A. NO, SIR. IF SHE SAID THAT -- I SAID I DON'T RECALL IT.

7 IF SHE SAID THAT'S WHAT I SAID, THEN THAT'S WHAT I SAID.

8 Q. WERE YOU LIVING AT THE SALVATION ARMY THAT NIGHT WHEN

9 YOU CALLED YOUR MOTHER?

10 A. NO, I WAS NOT.

11 Q. SO YOU LIED TO HER?

12 A. YES, I DID.

13 MR. ABDALLA: YOUR HONOR, HE'S BADGERING THE WITNESS.

14 OBJECTION. HE SAID HE DIDN'T RECALL. AND HE'S CALLING HIM

15 A LIAR. THERE'S A DIFFERENCE.

16 MR. WESTON: HE JUST TESTIFIED, YOUR HONOR, ---

17 THE COURT: OKAY. OVERRULED. GO AHEAD.

18 MR. WESTON: THANK YOU, YOUR HONOR.

19 Q. AND YOU SAID YOU WERE UNEMPLOYED AT THE TIME THIS

20 HAPPENED.

21 A. YES.

22 Q. HOW LONG HAD YOU BEEN OUT OF WORK?

23 A. ABOUT FIVE WEEKS WHEN I LEFT MY MOTHER'S HOUSE. WELL,

24 AFTER A WEEK AFTER THAT 'CAUSE I LOST MY JOB AFTER A WEEK

25 AFTER I MOVED OUT.

JONATHAN CAMPBELL - CROSS EXAMINATION BY MR. WESTON

365

- 1 Q. WHY DID YOU LOSE YOUR JOB?
- 2 A. I QUIT GOING TO WORK.
- 3 Q. WHY DID YOU QUIT GOING TO WORK?
- 4 A. BECAUSE I WAS SMOKING CRACK.
- 5 Q. LET'S GET IT STRAIGHT THAT YOU'RE A CRACK ADDICT,
- 6 AREN'T YOU?
- 7 A. YES, I AM.
- 8 Q. OR YOU WERE AT THAT TIME.
- 9 A. I WAS AT THAT TIME, YES, SIR.
- 10 Q. OKAY. YOU'RE NOT -- 'CAUSE YOU SAID, I USED DRUGS FROM
- 11 -- ON AND OFF. AT THAT ---
- 12 A. ON AND OFF ---
- 13 Q. --- TIME ---
- 14 A. --- SINCE I ---
- 15 Q. --- YOU WERE A CRACK ADDICT.
- 16 A. --- I WAS SEVENTEEN, ---
- 17 THE COURT: WAIT, WAIT, ---
- 18 A. --- YES, SIR.
- 19 THE COURT: --- WAIT A MINUTE. LET ME ---
- 20 MR. WESTON: I'M SORRY, YOUR HONOR.
- 21 THE COURT: WAIT A MINUTE. I'LL TELL BOTH OF YOU THAT
- 22 WE'RE TAKING DOWN EVERY WORD THAT'S SAID. SO ONE PERSON
- 23 SPEAKS AT A TIME, OKAY? GO AHEAD.
- 24 Q. SO AT THE TIME OF THE DEATH OF THIS INDIVIDUAL, MR.
- 25 PROCTOR, ---

JONATHAN CAMPBELL - CROSS EXAMINATION BY MR. WESTON

366

- 1 A. YES, SIR.
- 2 Q. --- YOU WERE A CRACK ADDICT?
- 3 A. YES, I WAS.
- 4 Q. AND PRETTY MUCH LIVING ON THE STREET, HOTELS, THINGS
- 5 LIKE THAT?
- 6 A. YES.
- 7 Q. ALL RIGHT. AND YOU SAID YOU'D ONLY KNOWN CARL
- 8 SOUTHERLAND FOR ABOUT HOW LONG?
- 9 A. ABOUT EIGHT DAYS, ABOUT RIGHT IN THERE. ABOUT EIGHT
- 10 DAYS.
- 11 Q. AND HE WAS PRETTY MUCH A CRACK ADDICT TOO?
- 12 A. YES.
- 13 Q. AND HE WAS PRETTY MUCH LIVING ON THE STREET WORSE THAN
- 14 YOU?
- 15 A. YES.
- 16 Q. HIS CONDITION WAS MUCH WORSE THAN YOURS?
- 17 A. YES, IT WAS.
- 18 Q. IN FACT, YOU TOOK HIM IN?
- 19 A. YES, I DID.
- 20 Q. FOR EIGHT DAYS?
- 21 A. YES, SIR.
- 22 Q. HE WAS DEPENDENT UPON YOU?
- 23 A. YES, SIR.
- 24 Q. HE HAD -- DID HE WORK AT ANY TIME DURING THAT EIGHT DAY
- 25 PERIOD?

JONATHAN CAMPBELL - CROSS EXAMINATION BY MR. WESTON

367

1 A. NO, SIR.

2 Q. DID HE GENERATE ANY INCOME DURING THAT EIGHT DAY
3 PERIOD?

4 A. NO, SIR, NOT THAT I CAN RECALL.

5 Q. SO HIS LODGING AND SUSTENANCE, FOOD, AND WATER, AND
6 BATHING, THAT KIND OF THING WAS DEPENDENT UPON YOUR GOOD --
7 GOOD WILL DURING THAT EIGHT DAYS?

8 A. YES, SIR.

9 Q. OKAY. AND YOU SAID YOU'D ONLY -- YOU'D KNOWN JERMAINE
10 PROCTOR HOW LONG?

11 A. ABOUT THREE OR FOUR DAYS.

12 Q. BUT YOU SAID YOU'D BOUGHT CRACK FROM HIM A FEW TIMES?

13 A. YES, SIR.

14 Q. AND CARL SOUTHERLAND HAD NO MONEY DURING THAT EIGHT
15 DAYS. YOU JUST SAID THAT.

16 A. YEAH, NO MONEY.

17 Q. SO EVERY TIME Y'ALL BOUGHT CRACK FROM JERMAINE PROCTOR
18 YOU PAID FOR IT?

19 A. YES, SIR.

20 Q. AND ONCE AGAIN, CARL SOUTHERLAND IS DEPENDENT UPON YOU
21 ---

22 A. YES, HE IS.

23 Q. --- FOR THAT?

24 A. HE IS.

25 Q. OKAY. HOW MUCH CRACK WERE YOU BUYING AT A TIME?

JONATHAN CAMPBELL - CROSS EXAMINATION BY MR. WESTON

368

1 A. WELL, DIFFERENT AMOUNTS. I CASHED A COUPLE OF CHECKS
2 FOR TWO HUNDRED DOLLARS. SOMEONE I BOUGHT A COMPUTER SYSTEM
3 FOR ABOUT THREE HUNDRED. I BOUGHT SOME SHOES FOR SOME
4 PEOPLE. I BOUGHT FOOD. THERE'S DIFFERENT AMOUNTS.

5 Q. LET'S MAKE SURE WE'RE CLEAR ON THIS 'CAUSE YOU SAID I
6 CASHED A COUPLE OF CHECKS ABOUT TEN TIMES NOW DURING THIS
7 WHOLE THING. YOU WERE WRITING FRAUDULENT CHECKS.

8 A. MY PERSONAL CHECKS, YES.

9 Q. BUT THEY WERE FRAUDULENT CHECKS. YOU HAD NO MONEY ---

10 MR. ABDALLA: YOUR HONOR, ---

11 Q. --- IN THE BANK.

12 A. YES, ---

13 MR. ABDALLA: OBJECTION, ---

14 A. --- THAT'S CORRECT.

15 MR. ABDALLA: --- YOUR HONOR. THAT WAS ALREADY
16 TESTIFIED TO.

17 THE COURT: OVERRULED. GO AHEAD.

18 Q. YOU HAD NO MONEY IN THE BANK. YES ---

19 A. YES.

20 Q. --- OR NO?

21 A. YES. I WAS DRAWING OFF THE OVERDRAFT. YES.

22 Q. IS THAT A YES, I HAD NO MONEY IN THE BANK?

23 A. YES, SIR, IT IS.

24 Q. ALL RIGHT. SO YOU WERE BASICALLY CHEATING THE BANK AND
25 THESE MERCHANTS?

JONATHAN CAMPBELL - CROSS EXAMINATION BY MR. WESTON

369

- 1 A. YES, SIR, I WAS.
- 2 Q. TWO OR THREE TIMES A DAY. EVERY TIME YOU WOULD NEED TO
- 3 DO SOMETHING YOU WOULD JUST GO WRITE A FRAUDULENT CHECK AND
- 4 CHEAT SOMEBODY.
- 5 A. YES, SIR.
- 6 Q. AND THAT WAS OKAY WITH YOU?
- 7 A. NO, SIR.
- 8 Q. WHY DID YOU DO IT?
- 9 A. BECAUSE I WAS ON DRUGS AT THE TIME.
- 10 Q. YOU WERE A CRACK ADDICT ---
- 11 A. YES, SIR.
- 12 Q. --- IS WHY YOU DID IT?
- 13 A. YES, SIR.
- 14 Q. OKAY. AND YOU HADN'T SEEN YOUR MOTHER IN ABOUT FIVE
- 15 WEEKS BEFORE -- OR SEEN OR TALKED TO HER IN ABOUT FIVE WEEKS
- 16 BEFORE YOU CALLED HER THAT NIGHT, IS THAT CORRECT?
- 17 A. YES, SIR.
- 18 Q. AND YOU HADN'T BEEN HOME IN ABOUT FIVE WEEKS.
- 19 A. YES, SIR.
- 20 Q. HOW LONG BEFORE THIS HAD YOU LOST YOUR JOB? JUST
- 21 BALLPARK. AND BEFORE THE INCIDENT IN QUESTION, I MEAN, ---
- 22 A. ABOUT -- ABOUT FIVE TO SIX WEEKS. HOWEVER LONG IT HAD
- 23 BEEN SINCE I LEFT. IT WAS A COUPLE -- ABOUT A WEEK AFTER I
- 24 LEFT MY HOUSE I LOST MY JOB.
- 25 Q. I'VE HAD A CHECK RETURNED IN MY LIFE FROM THE BANK.

JONATHAN CAMPBELL - CROSS EXAMINATION BY MR. WESTON

370

1 YOU ---

2 MR. ABDALLA: OBJECTION.

3 THE COURT: YEAH, SUSTAINED.

4 MR. WESTON: I APOLOGIZE, YOUR HONOR.

5 Q. YOU'RE TALKING ---

6 A. I KNOW ---

7 Q. --- FIVE ---

8 A. --- WHAT YOU'RE GOING TO SAY. GO AHEAD AND ASK IT.

9 Q. LET ME FINISH, PLEASE, MY QUESTION. AND THEN YOU CAN
10 ANSWER.

11 A. OKAY.

12 Q. YOU'RE TALKING FIVE WEEKS OF NO INCOME.

13 A. YES.

14 Q. DID THE BANK JUST LET YOU DO THAT FOR FIVE WEEKS? HOW
15 DID YOU SUPPORT YOURSELF?

16 A. FOR ABOUT TWO WEEKS THE BANK DID THAT. AND THE REASON
17 NOBODY -- WHEN THEY'D RUN THE CHECK THROUGH THE INSTANT SCAN
18 -- I HAD CALLED THE BANK BECAUSE I DIDN'T WANT MY WIFE
19 KNOWING HOW MUCH MONEY I HAD IN THE FUNDS. SO I PUT A BLOCK
20 ON ANYBODY GETTING ANY INFORMATION OFF MY BANK. SO WHEN
21 THAT CODE CAME BACK THEY WOULD WONDER WHAT IS THIS? AND
22 THEY ASKED ME A FEW TIMES, WE DON'T UNDERSTAND THIS CODE,
23 BUT WE'RE GOING TO GO AHEAD AND GIVE IT BECAUSE YOU HAVE A
24 CHECKING ACCOUNT. SO THEY WOULD CASH MY CHECK.

25 Q. SO YOU SUPPORTED YOURSELF FOR FIVE WEEKS BY WRITING

JONATHAN CAMPBELL - CROSS EXAMINATION BY MR. WESTON

371

1 FRAUDULENT CHECKS? THAT'S ALL?

2 A. NO. I PANHANDLED, I BUMMED AND I WROTE FRAUDULENT
3 CHECKS, YEAH.

4 Q. AND YOU BROKE IN PLACES?

5 A. AND I BROKE IN ONE PLACE, YES.

6 Q. THAT ONE TIME THE NIGHT BEFORE WAS THE FIRST TIME YOU'D
7 BROKE INTO ---

8 A. THE FIRST TIME I HAD BROKE INTO -- ON THAT FIVE WEEK
9 PERIOD, YES.

10 Q. BUT YOU'D BROKE IN PLACES BEFORE THAT?

11 MR. ABDALLA: OBJECTION, YOUR HONOR.

12 A. WELL, I ---

13 THE COURT: WAIT -- WAIT A MINUTE.

14 MR. ABDALLA: YOUR HONOR, ---

15 A. NO ---

16 THE COURT: WAIT.

17 A. OH, SORRY.

18 THE COURT: I'M GOING TO SUSTAIN THAT.

19 MR. WESTON: ALL RIGHT, SIR.

20 THE COURT: BE CAREFUL WHAT YOU DO WITH THAT.

21 MR. WESTON: YES, SIR.

22 Q. WELL, LET'S TALK ABOUT -- YOU WERE THIRTY -- YOU'RE
23 THIRTY-SIX YEARS OLD NOW?

24 A. YES, SIR.

25 Q. SO YOU WERE THIRTY-ONE AT THE TIME?

JONATHAN CAMPBELL - CROSS EXAMINATION BY MR. WESTON

372

- 1 A. YES, SIR.
- 2 Q. YOU'RE A GROWN MAN?
- 3 A. YES, SIR.
- 4 Q. ALL RIGHT. YOU'RE NOT SOME TEENAGER WHO'S UNDER THE
- 5 INFLUENCE OF SOME SPIN GOLLOCK (PHONETICS)?
- 6 A. NO, SIR.
- 7 Q. OKAY. AND YOU WERE -- WERE YOU -- YOU WERE NOT
- 8 RESPONSIBLE FOR EVERYTHING YOU DID DURING THIS WHOLE ORDEAL?
- 9 A. YES, I AM.
- 10 Q. YOU ADMIT THAT?
- 11 A. YES.
- 12 Q. OKAY. NOW MS. FORD TESTIFIED THAT, JUST AS YOU DID,
- 13 THAT Y'ALL CAME -- SHE SAW Y'ALL THAT AFTERNOON WITH THE
- 14 SPEAKERS OR WHATEVER. ISN'T IT TRUE THAT YOU WERE THE ONE
- 15 WHO ASKED JERMAINE FOR CRACK THAT AFTERNOON?
- 16 A. YES, IT IS.
- 17 Q. ISN'T IT TRUE THAT YOU WERE THE ONE WHO OFFERED TO SELL
- 18 THE -- TRADE THE SPEAKERS FOR CRACK WITH JERMAINE THAT
- 19 AFTERNOON?
- 20 A. I DON'T RECALL ASKING JERMAINE IF HE WANTED TO BUY THE
- 21 SPEAKERS. I HAD ALREADY SOLD THE SPEAKERS, I BELIEVE. AND
- 22 I JUST TOLD HIM THAT I HAD SOLD SOME SPEAKERS AND WE HAD
- 23 BROKE INTO A PLACE. SO I DON'T THINK THAT I ...
- 24 Q. AND EVEN IN YOUR TESTIMONY TODAY YOU NEVER TOLD THIS
- 25 JURY THAT DURING THAT WHOLE CONVERSATION AND RIDING WITH

JONATHAN CAMPBELL - CROSS EXAMINATION BY MR. WESTON

373

1 JERMAINE THAT CARL SOUTHERLAND REALLY SAID ANYTHING? YOU
2 DID ALL THE TALKING, DIDN'T YOU?

3 A. YES. YES, I DID.

4 Q. YOU EXPLAINED THE BREAK-IN?

5 A. YES.

6 Q. AND YOU TALKED TO HIM LATER ABOUT GETTING TOGETHER THAT
7 NIGHT.

8 A. YES.

9 Q. NOT CARL SOUTHERLAND.

10 A. NOT CARL SOUTHERLAND.

11 Q. SO THIS WAS YOUR IDEA.

12 A. THIS WAS MY IDEA?

13 Q. YEAH, THIS AGREEMENT WAS YOUR AGREEMENT. CARL

14 SOUTHERLAND JUST WENT ALONG WITH IT. YOU THE ONE THAT SET
15 IT UP, DIDN'T YOU? DIDN'T YOU JUST SAY THAT?

16 A. I DIDN'T SET IT UP. JERMAINE ASKED ME TO DO IT. YES,
17 I -- ME AND JERMAINE DISCUSSED IT.

18 Q. AS BETWEEN THE TWO OF YOU?

19 A. YES, ME AND JERMAINE.

20 Q. YOU WERE THE LEAD PERSON?

21 A. YES, I WAS.

22 Q. AND YOU WERE THE LEAD PERSON, I THINK YOU'VE ALREADY
23 ADMITTED, IN TERMS OF BUYING CRACK BECAUSE HE HAD NO MONEY.

24 A. YES.

25 Q. HE WAS KIND OF JUST WITH YOU.

JONATHAN CAMPBELL - CROSS EXAMINATION BY MR. WESTON

374

1 A. THAT'S EXACTLY RIGHT.

2 Q. HE WAS DEPENDING ON YOU.

3 A. YES, SIR, HE WAS.

4 Q. AND WHEN YOU GOT -- LATER THAT NIGHT WHEN YOU GOT TO --

5 WHEN THIS ALL HAPPENED, YOU WERE THE ONE THAT TOLD CARL --

6 TOLD JERMAINE PROCTOR THAT YOU WANTED TO BACK OUT OF THE

7 DEAL, NOT CARL SOUTHERLAND.

8 A. YES.

9 Q. ISN'T THAT WHAT YOU JUST SAID?

10 A. YES.

11 Q. SO YOU'RE THE ONE THAT STARTED ARGUING WITH JERMAINE.

12 A. THERE WAS NO ARGUMENT.

13 Q. THAT'S RIGHT, HE WAS OKAY WITH THAT.

14 A. NO, HE WASN'T OKAY WITH IT, BUT THERE WAS NO ARGUMENT.

15 Q. LET'S TALK ABOUT THAT A MINUTE. JERMAINE PROCTOR,

16 ACCORDING TO YOU, IS A STREET LEVEL DRUG DEALER.

17 A. YES.

18 Q. YOU AND MR. SOUTHERLAND, ON THE OTHER HAND, ARE CRACK

19 HEADS.

20 A. YES.

21 Q. WOULD YOU AGREE CRACK HEADS ARE NOTORIOUSLY UNRELIABLE?

22 A. YES.

23 Q. BUT YOU'RE TELLING THIS JURY THAT THE DRUG DEALER FIRST

24 GAVE Y'ALL HIS CRACK TO HOLD, THE CRACK HEADS?

25 A. YES.

JONATHAN CAMPBELL - CROSS EXAMINATION BY MR. WESTON

375

- 1 Q. THAT'S WHAT YOU'RE TELLING THIS JURY?
- 2 A. THAT'S EXACTLY WHAT I'M TELLING THE JURY.
- 3 Q. HE THEN ALLOWED Y'ALL TO SMOKE THE CRACK OUTSIDE OF HIS
- 4 PRESENCE.
- 5 A. YES, SIR.
- 6 Q. HE THEN ALLOWED Y'ALL TO BACK OUT OF YOUR END OF THE
- 7 DEAL.
- 8 A. YES, HE DID.
- 9 Q. AND HE THEN, ACCORDING TO YOU, BUT I WROTE -- I WROTE
- 10 DOWN WORD FOR WORD YOU SAID, HE THEN SAID -- OFFERED TO DROP
- 11 US OFF ANYWHERE WE WANTED TO GO?
- 12 A. NO, SIR, HE DIDN'T. HE SAID, WHERE DO YOU WANT ME TO
- 13 DROP YOU?
- 14 Q. HE AGREED TO TAKE YOU WHEREVER YOU WANTED TO GO AFTER
- 15 YOU HAD SMOKED HIS CRACK, BACKED OUT OF THE DEAL, AND THEN
- 16 HE SAID I'LL GIVE YOU A RIDE HOME? IS THAT WHAT YOU'RE
- 17 TELLING THIS JURY, SIR? IS THAT WHAT ---
- 18 A. IF THAT'S HOW YOU WANT TO INTERPRET IT, YES.
- 19 Q. THAT'S WHAT -- I MEAN, IT'S EITHER IT IS OR IT ISN'T.
- 20 A. WELL, HE -- YES. HE TOLD ME HE WOULD DROP ME
- 21 SOMEWHERE. WHERE DO I -- WHERE DO I WANT HIM TO DROP ME? I
- 22 SAID, ---
- 23 Q. AND HE'S ---
- 24 A. --- RIGHT HERE.
- 25 Q. --- THE DRUG DEALER?

JONATHAN CAMPBELL - CROSS EXAMINATION BY MR. WESTON

376

1 A. YES, HE IS.

2 Q. AND Y'ALL ARE CRACK HEADS?

3 A. YES, SIR.

4 Q. AND THAT'S THE WAY THIS PLAYED OUT?

5 A. YES, SIR.

6 Q. ALL RIGHT. YOU HAD ONLY BOUGHT CRACK FROM HIM TWO OR
7 THREE TIMES IS WHAT YOU SAID, RIGHT?

8 A. YES, SIR, ABOUT TWO OR THREE TIMES, MAYBE FOUR, FIVE,
9 SOMETHING LIKE THAT.

10 Q. AND YOU SAID YOU DIDN'T KNOW HIM THAT WAY?

11 A. I DIDN'T.

12 Q. BUT ONCE AGAIN HE GAVE YOU SIX ROCKS OF CRACK ON
13 CREDIT.

14 A. WELL, I -- WHEN YOU SMOKE -- WHEN YOU SPEND DRUG --
15 MONEY WITH A DRUG DEALER, AND I SPENT A GOOD BIT WITH HIM.
16 PLUS I TRIED TO PAY HIS CHECKS. PLUS HE KNEW THE AMOUNT OF
17 MONEY I WAS COMING DOWN AND SPENDING. YEAH, HE DID THAT.

18 Q. EXCUSE ME, SIR. YOU JUST SAID YOU BOUGHT CRACK FROM
19 HIM TWO OR THREE TIMES.

20 A. YES.

21 Q. AND YOU SAID ABOUT FORTY DOLLARS. THAT'S A HUNDRED AND
22 TWENTY DOLLARS. THAT'S NOT A GOOD BIT OF MONEY, SIR.

23 A. WELL, I'M CONSISTENT. I WAS CONSISTENT FOR THOSE FEW
24 WEEKS THAT I WAS DOWN THERE. THAT HAPPENS.

25 Q. SO BECAUSE YOU HAD PAID HIM THREE TIMES WHEN HE FIRST

JONATHAN CAMPBELL - CROSS EXAMINATION BY MR. WESTON

377

- 1 GIVES IT TO YOU, ---
- 2 A. YES.
- 3 Q. --- HE THEN GAVE YOU CRACK ON CREDIT AFTER THE THIRD
- 4 TIME?
- 5 A. WELL, WE HAD -- WE HAD BROUGHT STUFF -- WE HAD BROUGHT
- 6 STUFF FROM A PREVIOUS BURGLARY. AND MY WORD TO HIM HAD BEEN
- 7 GOOD. SO HE ASSUMED THAT WE WERE GOING TO DO THAT JOB. SO,
- 8 YES, HE GIVE IT TO ME.
- 9 Q. BUT YOUR WORD WASN'T GOOD, WAS IT, SIR, 'CAUSE YOU
- 10 BACKED OUT, DIDN'T YOU?
- 11 A. 'CAUSE I BACK OUT.
- 12 Q. SO YOUR WORD MEANT NOTHING ONCE YOU GOT THE DRUGS AND
- 13 GOT THEM IN YOUR SYSTEM?
- 14 A. NO, THAT'S NOT HOW IT WENT.
- 15 Q. HOW DID IT GO THEN?
- 16 A. I BACKED OUT UNTIL A LATER DATE 'CAUSE IT WASN'T A GOOD
- 17 TIME.
- 18 Q. SO YOU POSTPONED THE BURGLARY. AND HE -- THE CRACK
- 19 DEALER SAID, OKAY, LET ME TAKE Y'ALL WHERE YOU WANT TO GO?
- 20 A. YES, SIR.
- 21 Q. THAT'S YOUR STORY?
- 22 A. THAT'S WHAT HAPPENED.
- 23 Q. ALL RIGHT. LET'S TALK ABOUT THIS HAMMER. YOU'RE
- 24 SITTING IN THE FRONT SEAT.
- 25 A. YES, SIR.

JONATHAN CAMPBELL - CROSS EXAMINATION BY MR. WESTON

378

1 Q. JERMAINE PROCTOR IS IN THE DRIVER'S SEAT.

2 A. YES, SIR.

3 Q. YOUR FRIEND, CARL, IS BEHIND YOU IN THE BACKSEAT. THE
4 CIRCUMSTANCE IS SUCH THAT Y'ALL HAD JUST BACKED OUT OF THE
5 BURGLARY.

6 A. YES, SIR.

7 Q. Y'ALL HAD SMOKED CRACK TOGETHER.

8 A. YES, SIR.

9 Q. AND YOU HAD GIVEN MR. SOUTHERLAND CRACK ROCKS.

10 A. YES, SIR.

11 Q. Y'ALL WOULD HAVE NOT HAD ANY ARGUMENT.

12 A. NO.

13 Q. AND Y'ALL HAD BACKED OUT OF THE DEAL AND THE DEALER'S
14 GETTING READY TO DRIVE Y'ALL SOMEWHERE.

15 A. YES.

16 Q. AND ALL OF A SUDDEN, FOR NO REASON, CARL HITS YOU IN
17 THE HEAD WITH A HAMMER. IS THAT WHAT YOU'RE TELLING THIS
18 JURY?

19 A. THAT'S EXACTLY WHAT I'M TELLING THE JURY.

20 Q. YOU SMILE WHEN YOU SAY IT. YOU THINK IT'S FUNNY?

21 A. NO, SIR, BUT YOU'RE IMPLYING THAT I'M LYING.

22 Q. YES, SIR, I AM.

23 A. AND I'M NOT. AND YOU ASKED ME A QUESTION, AND I
24 ANSWERED IT.

25 Q. BUT IT'S NOT FUNNY, IS IT, SIR?

JONATHAN CAMPBELL - CROSS EXAMINATION BY MR. WESTON

379

- 1 A. NO, SIR, IT'S NOT.
- 2 Q. OKAY. SO CARL HIT YOU IN THE HEAD WITH A HAMMER, YOUR
- 3 FRIEND?
- 4 A. NOT MY FRIEND.
- 5 Q. YOU THOUGHT HE WAS YOUR FRIEND ---
- 6 A. SOMEONE I ---
- 7 Q. --- AT THE TIME.
- 8 A. --- KNEWED, YES.
- 9 Q. HE HAD BEEN -- YOU HAD BEEN SUPPORTING HIM FOR EIGHT
- 10 DAYS.
- 11 A. EXACTLY.
- 12 Q. YOU HAD BEEN BUYING HIS CRACK.
- 13 A. YES, SIR.
- 14 Q. BUYING HIS FOOD.
- 15 A. YES, SIR.
- 16 Q. GIVING HIM A PLACE TO STAY.
- 17 A. YES, SIR.
- 18 Q. YOU WERE RESPONSIBLE FOR HIS SUBSISTENCE FOR EIGHT
- 19 DAYS. YOU DIDN'T THINK HE WAS YOUR FRIEND?
- 20 A. NO, SIR. HE WASN'T A FRIEND. HE WAS JUST SOMEBODY
- 21 THAT I WAS SMOKING CRACK WITH AT THE TIME.
- 22 Q. LET'S MOVE ON. SO HE HIT YOU IN THE HEAD WITH A
- 23 HAMMER?
- 24 A. YES, SIR.
- 25 Q. WHY DID YOU THINK JERMAINE HIT YOU IN THE BACK OF THE

JONATHAN CAMPBELL - CROSS EXAMINATION BY MR. WESTON

380

- 1 HEAD WITH A HAMMER AND HE'S SITTING NEXT TO YOU?
- 2 A. WELL, AT THE TIME I DIDN'T KNOW IT WAS THE HAMMER THAT
- 3 HIT ME.
- 4 Q. WELL, HE -- BUT YOU ---
- 5 A. BUT I KNEW SOMETHING -- YES, I FOUND OUT LATER. I KNEW
- 6 SOMETHING HAD HIT ME.
- 7 Q. WHY DID YOU THINK JERMAINE HIT YOU WITH SOMETHING IN
- 8 THE BACK OF THE HEAD IF HE'S SITTING NEXT TO YOU? WERE YOU
- 9 ASLEEP?
- 10 A. NO, SIR.
- 11 Q. WERE YOUR EYES OPEN?
- 12 A. IT WAS THE LEFT BACK, RIGHT HERE.
- 13 Q. SO NOW IT'S THE LEFT BACK?
- 14 A. WELL, I POINTED TO IT WHEN I SAID IT.
- 15 Q. SO WHY DO YOU THINK JERMAINE WOULD HAVE DONE THAT? WHY
- 16 DID YOU THINK THAT?
- 17 A. BECAUSE CARL IS IN THE BACK. AND LIKE YOU SAID, CARL
- 18 HAD BEEN DEPENDENT ON ME. SO I DIDN'T THINK CARL WOULD DO
- 19 THAT.
- 20 Q. BUT JERMAINE WASN'T MAD AT YOU. YOU JUST SAID HE'D
- 21 JUST VOLUNTEERED TO TAKE YOU WHERE YOU WANTED TO GO.
- 22 A. RIGHT.
- 23 Q. SO WHY DO YOU THINK HE WOULD DO THAT?
- 24 A. WELL, WHEN I TURNED AROUND HE WAS LEANED IN TOWARDS ME.
- 25 Q. DID HE HAVE A HAMMER?

JONATHAN CAMPBELL - CROSS EXAMINATION BY MR. WESTON

381

- 1 A. NOT THAT I KNOW OF.
- 2 Q. DID HE HAVE ANYTHING IN HIS HAND THAT WOULD HAVE CAUSED
- 3 THAT KIND OF A BLOW TO YOUR HEAD?
- 4 A. NOT THAT I SAW AT THE TIME.
- 5 Q. SO WHY DID YOU GO TO GRABBING HIM THEN?
- 6 A. BECAUSE IT WAS INSTINCT. AND I JUST GRABBED HIM. HE
- 7 WAS LEANING IN TOWARDS ME. AND SOMEBODY HAD JUST CLUBBED ME
- 8 IN THE HEAD WITH A HAMMER.
- 9 Q. WHY DID YOU ---
- 10 A. OR SOME ---
- 11 Q. --- NOT SAY, ---
- 12 A. --- OBJECT.
- 13 Q. --- HEY, WHO HIT ME? YOU GOT TWO PEOPLE IN THE CAR.
- 14 YOU'RE HIT IN THE BACK LEFT ---
- 15 A. SOMEBODY JUST ---
- 16 Q. --- HEAD ---
- 17 A. --- CLUBBED ME WITH A HAMMER.
- 18 THE COURT: WAIT A MINUTE. JUST ONE ---
- 19 Q. LET ME ---
- 20 THE COURT: --- AT A TIME.
- 21 Q. --- FINISH MY QUESTION. YOU WERE STRUCK IN THE BACK
- 22 LEFT OF YOUR HEAD. YOU LOOK AT JERMAINE, HE DOES NOT HAVE
- 23 ANYTHING IN HIS HAND. YOU JUST SAID THAT.
- 24 A. I DIDN'T LOOK AT HIS HANDS. I DIDN'T NOTICE ANYTHING
- 25 AT THE TIME. HE WAS LEANED IN TOWARDS ME.

JONATHAN CAMPBELL - CROSS EXAMINATION BY MR. WESTON

382

- 1 Q. THE LIGHT WAS ON IN THE CAR.
- 2 A. YES.
- 3 Q. YOU COULD SEE EVERYTHING. IT'S A CAR.
- 4 A. IT HAPPENED IN A SPLIT SECOND. I DIDN'T SAY, HEY, DO
- 5 YOU HAVE ANYTHING IN YOUR HANDS? THE MAN WAS LEANING
- 6 TOWARDS ME, AND I TRIED TO GRAB HIM.
- 7 Q. SO YOU GRABBED HIM?
- 8 A. I TRIED TO, YES.
- 9 Q. NO, YOU SAID YOU DID UNDER DIRECT.
- 10 A. I SAID I WENT TO GRAB HIM AND HE BIT ME. SO HE HAD ME
- 11 IN HIS MOUTH. I DIDN'T GRAB HIM.
- 12 Q. SO Y'ALL ARE NOW STRUGGLING?
- 13 A. YES.
- 14 Q. ALL RIGHT. AND YOU ARE MAD AT HIM 'CAUSE YOU THOUGHT
- 15 HE HIT YOU IN THE HEAD WITH A HAMMER OR SOMETHING. AREN'T
- 16 YOU?
- 17 A. MAD? I DON'T -- I'M IN SHOCK. IF SOMEBODY -- HE JUST
- 18 HIT ME. EVERYTHING'S A LITTLE FUZZY. SO I DON'T KNOW MAD.
- 19 Q. WHY DID YOU REACH FOR HIM?
- 20 A. BECAUSE I THOUGHT HE HIT ME.
- 21 Q. TO DO WHAT? WHY DID YOU REACH FOR HIM THOUGH? TO DO
- 22 WHAT?
- 23 A. TO -- IT WAS INSTINCT TO GRAB. I DON'T KNOW WHY. I
- 24 DIDN'T THINK AT THE TIME. I JUST DID IT.
- 25 Q. AND YOU -- BUT YOU WEREN'T MAD?

JONATHAN CAMPBELL - CROSS EXAMINATION BY MR. WESTON

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- 1 A. I GUESS YOU COULD SAY I WAS MAD SOME ---
- 2 Q. OKAY. SO YOU ---
- 3 A. YES.
- 4 Q. --- WERE STRUGGLING WITH HIM AND YOU'RE MAD.
- 5 A. YES, SIR.
- 6 Q. ALL RIGHT. AND WHILE YOU DO THAT, UNDER YOUR VERSION,
- 7 AND WE'RE TALKING ABOUT YOUR VERSION RIGHT NOW, ---
- 8 A. RIGHT.
- 9 Q. --- OKAY?
- 10 A. YES, SIR.
- 11 Q. UNDER YOUR VERSION, WHILE YOU ARE STRUGGLING WITH HIM
- 12 AND YOU ARE MAD, ---
- 13 A. OKAY.
- 14 Q. --- CARL SOUTHERLAND GETS OUT AND WALKS AROUND THE CAR,
- 15 OPENS UP THE DOOR, ISN'T THAT WHAT YOU SAID?
- 16 A. NO, SIR, I DIDN'T.
- 17 Q. WELL, TELL THE JURY WHAT HAPPENED.
- 18 A. I SAID HE GOT OUT OF THE DRIVER'S SIDE BACKSEAT AND
- 19 OPENED THE DRIVER'S SIDE FRONT DOOR.
- 20 Q. ALL RIGHT. MY BAD. I'M SORRY. CARL SOUTHERLAND GETS
- 21 OUT OF THE DRIVER'S SIDE BACKSEAT, YOU ARE NOW STRUGGLING
- 22 WITH JERMAINE.
- 23 A. YES.
- 24 Q. MAD.
- 25 A. YES, SIR.

JONATHAN CAMPBELL - CROSS EXAMINATION BY MR. WESTON

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- 1 Q. HE GETS OUT, OPENS THE DRIVER'S DOOR AND STARTS
2 STABBING HIM WITH HIS LEFT HAND.
- 3 A. WITH THE LEFT HAND. YES, SIR.
- 4 Q. WHILE YOU ARE STRUGGLING WITH HIM.
- 5 A. YES, SIR. HE STABS HIM IN THE LEG WHILE I WAS ---
- 6 Q. WHILE YOU WERE ---
- 7 A. --- STRUGGLING ---
- 8 Q. --- STRUGGLING WITH HIM, ---
- 9 A. YES.
- 10 Q. --- YES OR NO?
- 11 A. YES, SIR.
- 12 Q. AND YOU WERE MAD AT THE TIME HE STABBED HIM.
- 13 A. YES, SIR.
- 14 Q. AT JERMAINE.
- 15 A. YES, SIR.
- 16 Q. SO JERMAINE PROCTOR WAS KILLED, THE BEGINNINGS OF HIS
17 DEATH, THE FIRST STABBINGS WERE DONE WHILE YOU WERE
18 STRUGGLING WITH HIM AND WHILE YOU WERE MAD AT HIM, IS THAT
19 NOT TRUE? YES ---
- 20 A. YES, ---
- 21 Q. --- OR NO?
- 22 A. YES, SIR.
- 23 Q. BUT YOU DIDN'T PARTICIPATE IN THIS IS WHAT YOU'RE
24 TELLING THE JURY. YOU HAD NO RESPONSIBILITY?
- 25 A. NOT IN THE MURDER, I DON'T.

JONATHAN CAMPBELL - CROSS EXAMINATION BY MR. WESTON

385

1 Q. BUT THE STABBING IS WHAT KILLED HIM. HOW ARE YOU NOT
2 RESPONSIBLE?

3 A. I DIDN'T STAB HIM.

4 Q. BUT YOU WERE HOLDING HIM, AND FIGHTING WITH HIM AND YOU
5 WERE MAD AT HIM.

6 A. BECAUSE I THOUGHT HE HIT ME WITH A HAMMER.

7 Q. IT DOESN'T MATTER WHAT YOU THOUGHT. YOU WERE MAD AT
8 HIM AND YOU WERE HOLDING HIM WHILE THE OTHER GUY STABBED ---

9 MR. ABDALLA: OBJECTION, YOUR HONOR. HE'S JUST ---

10 THE COURT: TONE IT DOWN JUST A LITTLE BIT, MR. WESTON.

11 Q. YOU WERE HOLDING HIM, STRUGGLING WITH HIM, ---

12 A. I WAS NOT ---

13 Q. LET ME FINISH ---

14 THE COURT: WAIT.

15 Q. --- MY QUESTION, PLEASE, SIR. YOU WEREN'T HOLDING HIM?
16 NOW YOU'RE SAYING YOU WEREN'T HOLDING HIM?

17 A. I TOLD YOU HE -- HE HAD BIT MY HAND.

18 Q. BUT YOU SAID YOU GRABBED HIM AFTER THAT AND STRUGGLED
19 WITH HIM. YOU JUST SAID ---

20 A. NO, I DID NOT SAY I GRABBED HIM AFTER THAT. I SAID I
21 -- WHEN HE STABBED HIM IN THE LEG HE LET ME GO AND I MOVED
22 TO THE DOOR.

23 Q. SO NOW YOUR STORY IS YOU WERE NOT STRUGGLING WITH HIM
24 WHEN HE FIRST GOT STABBED?

25 A. I DIDN'T SAY THAT EITHER.

JONATHAN CAMPBELL - CROSS EXAMINATION BY MR. WESTON

386

1 Q. WELL, LET'S ---

2 A. YOU SAID AFTER THAT.

3 Q. TELL THE JURY WHAT HAPPENED FROM THE TIME SOMETHING HIT
4 YOU IN THE HEAD.

5 A. OKAY. I'M IN THE -- I'M IN THE PASSENGER'S SEAT,
6 JERMAINE'S IN THE DRIVER'S SEAT AND CARL'S BEHIND ME.

7 JERMAINE HAD ASKED ME, WHERE DO YOU WANT ME TO DROP YOU?

8 Q. NO, SIR. I WANT TO START AT THE TIME HE HIT YOU IN THE
9 HEAD. WE KNOW ALL THE REST OF THAT.

10 A. OKAY. HE HIT ME IN THE BACK OF THE HEAD RIGHT HERE ON
11 THIS SIDE.

12 Q. BUT YOU KNOW NOW HE DIDN'T DO IT?

13 A. NOW I DO, YEAH.

14 Q. OKAY.

15 A. AND I WENT OUT AND I PUT MY ARM UP. AND WHEN I LOOKED
16 UP, WHEN I TURNED AROUND JERMAINE'S LEANING IN TOWARDS ME
17 FROM THE PASSENGER'S, I MEAN, FROM THE DRIVER'S SEAT.

18 AND I WENT TO GRAB HIM. AND WHEN I DID HE REACHED OVER
19 AND HE BIT MY THUMB. AND HE'S TURNED TO THE SIDE. SO I HAD
20 MY HAND RIGHT HERE ON THE SIDE OF HIS FACE. AND I SAID,
21 MAN, ---

22 Q. EXCUSE ME. LET'S STOP RIGHT HERE. TO DO WHAT? WHY
23 YOU GOT YOUR HAND ON THE SIDE OF HIS FACE?

24 A. TO ---

25 Q. WERE YOU TRYING TO PAD HIS CHEEK?

JONATHAN CAMPBELL - CROSS EXAMINATION BY MR. WESTON

387

1 A. NO, SIR. I WAS TRYING TO -- MAKE HIM LET GO OF MY
2 HAND, MY THUMB.

3 Q. SO YOU WERE PUSHING HIM?

4 A. YES, SIR. I WAS PUSHING DOWN ON HIS CHIN.

5 Q. OKAY. AND THEN WHAT?

6 A. AND THEN CARL GOT OUT OF THE BACK AND OPENED THE
7 DRIVER'S DOOR AND STABBED HIM IN THE -- IN THE LEG.

8 Q. SO AT THE TIME CARL GOT OUT AND CAME TO THE FRONT, WHAT
9 ARE YOU DOING THEN? BEFORE HE STABBED HIM WHAT WERE YOU
10 DOING?

11 A. I GOT MY HAND ON JERMAINE'S CHIN TRYING TO MAKE HIM LET
12 GO OF MY THUMB.

13 Q. AND HE'S GOT -- HE'S GOT YOUR OTHER HAND IN HIS MOUTH?

14 A. YES, SIR.

15 Q. AND YOU'RE PUSHING AS HARD AS YOU CAN TO GET HIM OFF OF
16 YOU?

17 A. YES, SIR.

18 Q. YOU DON'T CALL THAT STRUGGLING WITH HIM?

19 A. OKAY. YES, SIR.

20 Q. SO YOU WERE STRUGGLING WITH HIM?

21 A. WHEN HE STABBED HIM IN THE LEG, YES, SIR.

22 Q. AND YOU WERE MAD AT HIM 'CAUSE YOU THOUGHT HE HIT YOU
23 IN THE HEAD WITH A HAMMER?

24 A. YES, SIR.

25 Q. AND YOU WERE DOING THAT AT THE TIME ---

JONATHAN CAMPBELL - CROSS EXAMINATION BY MR. WESTON

388

- 1 A. CAN I SAY SOMETHING?
- 2 Q. --- HE WAS KILLED?
- 3 A. YES. CAN I SAY SOMETHING ELSE? YOU ---
- 4 Q. NO, SIR.
- 5 A. --- KEEP SAYING ---
- 6 Q. I NEED YOU TO ANSWER ---
- 7 THE COURT: YOU CAN'T VOLUNTEER.
- 8 Q. --- MY QUESTIONS. YOU SAID CARL -- CARL CLIMBED IN AND
- 9 STABBED HIM TO DEATH?
- 10 A. YES, SIR.
- 11 Q. WHILE HE WAS STRUGGLING WITH YOU? AT LEAST AT THE
- 12 OUTSET, AT THE BEGINNING.
- 13 A. YES, SIR, WHEN HE STABBED HIM IN THE LEG.
- 14 Q. THEN CARL TOLD YOU TO CUT THE LIGHTS OFF.
- 15 A. WHEN I WAS IN THE BACKSEAT, YES.
- 16 Q. WHY DID HE TELL YOU TO DO THAT, YOU RECKON?
- 17 A. 'CAUSE THE LIGHT WAS ON.
- 18 Q. I KNOW IT WAS ON. I'M SORRY. I DON'T MEAN -- THE
- 19 REASON HE WANTED YOU TO CUT IT OFF WAS BECAUSE IT WAS ON,
- 20 BUT WHY DID HE WANT -- WHY DID HE WANT IT OFF, DO YOU THINK?
- 21 A. BECAUSE IT WAS LIGHT INSIDE THE VEHICLE.
- 22 Q. AND SO PEOPLE COULD SEE WHAT WAS GOING -- THE DEAD BODY
- 23 AND WHAT WAS GOING ON IN THERE.
- 24 A. YES, I ---
- 25 Q. AND Y'ALL DIDN'T WANT THAT, DID YOU?

JONATHAN CAMPBELL - CROSS EXAMINATION BY MR. WESTON

389

1 A. HE DIDN'T WANT THAT. I DIDN'T HAVE ANYTHING TO DO WITH
2 THAT AT THE TIME. I WAS ---

3 Q. OF COURSE YOU DID. YOU ---

4 A. I WAS IN ---

5 Q. --- CUT IT OFF.

6 A. --- SHOCK.

7 THE COURT: WAIT A MINUTE. LET HIM ANSWER THE
8 QUESTIONS.

9 MR. WESTON: SORRY, YOUR HONOR.

10 A. I WAS IN THE BACK, AND I HAD BLOOD ON ME, AND I WAS --
11 I WAS IN SHOCK AND I WAS ...

12 Q. DON'T NEED TO KNOW ALL THAT.

13 A. OKAY.

14 Q. JUST NEED TO KNOW WHY Y'ALL TURNED THE LIGHT OFF.

15 A. I DON'T KNOW. YOU'D HAVE TO ASK CARL THAT 'CAUSE HE
16 TOLD ME TO ---

17 Q. NO, SIR, I'M ASKING YOU.

18 A. WELL, -- BUT I TURNED THE LIGHT OFF BECAUSE CARL
19 SCREAMED, CUT THE FUCKING LIGHT OFF. AND I HIT IT.

20 Q. AND THE -- AND YOU SAID 'CAUSE IT WAS LIGHT OUT -- IT
21 WAS LIGHT INSIDE.

22 A. YES, SIR.

23 Q. AND YOU KNOW THAT BECAUSE Y'ALL DIDN'T WANT -- HE
24 DIDN'T WANT PEOPLE TO SEE WHAT WAS GOING ON IN THERE.

25 A. I COULD -- YES, SIR.

JONATHAN CAMPBELL - CROSS EXAMINATION BY MR. WESTON

390

1 Q. AND YOU WENT ALONG BY NOT ONLY TURNING IT OFF, YOU
2 SMASHED IT.

3 A. I DID.

4 Q. TO COVER UP THE CRIME, EVEN THOUGH HE SUGGESTED IT.

5 A. YOU'D HAVE TO ASK HIM THAT.

6 Q. NO, SIR, I'M TALKING ABOUT WHAT YOU DID.

7 A. I DID IT BECAUSE HE TOLD ME AND SCREAMED AT ME TO CUT
8 THE LIGHT OFF.

9 Q. IF HE TOLD YOU TO JUMP OFF A BRIDGE WOULD YOU HAVE DONE
10 THAT?

11 A. MAYBE AT THAT TIME.

12 Q. BUT YOU -- YOU'RE THE ONE THAT TURNED OFF THE LIGHT AT
13 HIS INSTRUCTION?

14 A. YES, SIR.

15 Q. OKAY. WELL, LET'S TALK ABOUT THE CAR WASH. YOU WENT
16 TO THE SPRAYING CAR WASH. YOU PAID FOR THE CLEANING, YOU
17 SAID?

18 A. YES, SIR.

19 Q. WHERE DID YOU GET THE MONEY? YOU DIDN'T HAVE NO MONEY
20 TWO MINUTES AGO, BEFORE THIS HAPPENED WHEN Y'ALL WERE
21 RIDING, YOU HAD NO MONEY. YOU HAD TO WRITE A CHECK TO DO
22 ANYTHING. NOW YOU GOT MONEY FOR A CAR WASH. WHERE DID YOU
23 GET ---

24 A. I HAD SOME CHANGE.

25 Q. YOU STOLE IT FROM JERMAINE PROCTOR OR HIS CAR, DIDN'T

JONATHAN CAMPBELL - CROSS EXAMINATION BY MR. WESTON

391

1 YOU?

2 A. NO, SIR.

3 Q. WHERE DID YOU GET IT FROM THEN?

4 A. FROM SOME OF THE CHECKS THAT I WAS CASHING, JUST SOME
5 CHANGE FROM THE STUFF THAT I HAD BEEN DOING.

6 Q. SO YOU'RE SAYING THESE STORES NOT ONLY LET YOU WRITE
7 CHECKS, THEY WOULD LET YOU WRITE OVER CHECKS?

8 A. YES, SIR.

9 Q. IF YOU'RE BUYING SOMETHING FOR FOURTEEN DOLLARS AND
10 EIGHTY-THREE CENTS THEY WOULD LET YOU WRITE A TWENTY DOLLAR
11 CHECK AND GIVE YOU MONEY TOO?

12 A. YES, SIR.

13 Q. SO YOU HAD SOME CHANGE?

14 A. YES, SIR.

15 Q. HOW MUCH -- LET'S GET THAT OUT OF THE WAY RIGHT NOW.
16 AT THE TIME Y'ALL KILLED HIM ABOUT HOW MUCH MONEY DID YOU
17 HAVE?

18 A. Y'ALL DIDN'T KILL HIM. AND I HAD ABOUT, I DON'T KNOW,
19 A LITTLE OVER A DOLLAR MAYBE.

20 Q. IN CHANGE?

21 A. YES, SIR.

22 Q. AND YOU USED THAT TO WASH THE CAR AS OPPOSED TO GAS, OR
23 FOOD OR SOMETHING?

24 A. I DIDN'T WASH ANYTHING ABOUT THE CAR. I WASHED THE
25 BLOOD OFF MY HANDS.

JONATHAN CAMPBELL - CROSS EXAMINATION BY MR. WESTON

392

1 Q. OKAY. AND YOU HAD TO GET OUT OF THE CAR TO DO THAT.

2 A. YES, SIR.

3 Q. WHERE'S CARL?

4 A. IN THE FRONT SEAT.

5 Q. WELL, HOW DO YOU NOT RUN AWAY? HE CAN'T OUTRUN YOU.

6 WE'VE SEEN HIM. THE JURY HAS SEEN HIM. WHY DIDN'T YOU NOT

7 JUST RUN WHEN THERE'S NO WAY THAT THIS MAN CAN OUTRUN YOU?

8 A. BECAUSE I WAS SO SCARED MY LEGS WERE WOBBLING.

9 Q. BUT WAIT A MINUTE, DIDN'T YOU SAY YOU DROVE?

10 A. AFTER THAT I DID.

11 Q. SO YOUR LEGS CLEARED UP ONCE Y'ALL LEFT THE CAR WASH?

12 A. NO, SIR. THEY WERE, I MEAN, I WAS DRIVING. I WASN'T

13 STANDING ON THEM.

14 Q. SO YOUR LEGS ARE OKAY TO DRIVE, BUT NOT OKAY TO RUN

15 AWAY FROM A FIFTY-FOUR -- FIFTY-ONE YEAR OLD MAN?

16 A. YES, SIR.

17 Q. ALL RIGHT. BUT YOU DID DRIVE WHEN Y'ALL LEFT THE CAR

18 WASH?

19 A. YES, SIR, I DID.

20 Q. AND Y'ALL WERE OVER ON MAULDIN ROAD, WHICH IS ON --

21 SOUTHERN GREENVILLE?

22 A. YES, SIR.

23 Q. YOU WENT ALL THE WAY UP BY FURMAN TO TRAVELERS REST?

24 A. YES, SIR.

25 Q. AND YOU SAID THE HANDY MART NEXT TO THAT CAR WASH, AND

JONATHAN CAMPBELL - CROSS EXAMINATION BY MR. WESTON

393

- 1 I KNOW WHERE YOU'RE TALKING ABOUT, WAS CLOSED 'CAUSE IT'S --
2 BY THE WAY, WHAT TIME IS THIS? WHEN Y'ALL DID THE KILLING
3 OR WHEN MR. PROCTOR WAS KILLED, WHAT TIME WAS IT?
4 A. I DON'T KNOW, 5:30 MAYBE, 5:30 OR SIX, SOMEWHERE AROUND
5 IN THERE.
6 Q. OKAY. AND SO YOU DROVE FROM SOUTHERN GREENVILLE TO
7 TRAVELERS REST?
8 A. YES, SIR.
9 Q. HANDY MART NEXT TO Y'ALL AND THE CAR WASH IS CLOSED?
10 A. YES, SIR.
11 Q. IS IT YOUR TESTIMONY Y'ALL DIDN'T PASS ANY STORES THAT
12 WERE OPEN BETWEEN SOUTH GREENVILLE AND TRAVELERS REST THAT
13 YOU COULD HAVE STOPPED AT?
14 A. NO, SIR. THERE WAS A FEW STORES OPEN.
15 Q. THERE WAS CARS THAT Y'ALL PASSED?
16 A. YES.
17 Q. THERE WAS AMPLE OPPORTUNITY FOR YOU TO STOP THIS JEEP,
18 THROW IT IN PARK AND JUST GET OUT AND RUN?
19 A. YES.
20 Q. BUT YOU DIDN'T?
21 A. NO, SIR.
22 Q. SO YOU GET TO TRAVELERS REST. LET'S TALK ABOUT THAT A
23 MINUTE. YOU GO ON TO SEE YOUR MOTHER.
24 A. YES, SIR.
25 Q. NOW YOUR MOTHER SAID YOU CALLED ABOUT 9:00.

JONATHAN CAMPBELL - CROSS EXAMINATION BY MR. WESTON

394

1 A. YES.

2 Q. SHE WAS -- YOU ASKED HER -- SHE SAID YOU ASKED HER --
3 IN FACT, I ASKED HER BECAUSE THAT WAS WHAT SHE SAID, YOU
4 WERE -- SHE WAS GETTING READY TO GO TO CHURCH.

5 A. YES.

6 Q. SO 5:30 IN THE MORNING HE'S DEAD. AT 6:30, 7:30, 8:30,
7 NINE, THREE AND A HALF HOURS. YOU SAID Y'ALL JUST WENT TO
8 THE CAR WASH.

9 A. WENT TO THE CAR WASH.

10 Q. WHERE ELSE DID YOU GO IN THAT THREE AND A HALF HOURS?

11 A. WE -- I DROVE BACK TO TRAVELERS REST. AND THEN I TOLD
12 YOU WE PULLED DOWN AND SMOKED CRACK DOWN BEHIND MY MOTHER'S
13 HOUSE ON A DIRT ROAD WHERE THEY'RE BUILDING HOUSES.

14 Q. IS THIS JERMAINE'S CRACK?

15 A. YES.

16 Q. NOW YOU SAID HE ONLY GAVE YOU SIX ROCKS.

17 A. RIGHT.

18 Q. IS IT YOUR TESTIMONY THAT HE GIVES YOU SIX ROCKS TO
19 HOLD?

20 A. YES, SIR.

21 Q. BEFORE HE WAS KILLED Y'ALL SMOKED ONCE OR TWICE, YOU
22 SAID.

23 A. YES. I HAD GIVEN CARL TWO ROCKS, AND I KEPT FOUR.

24 Q. AND BUT YOU SMOKED ONCE OR TWICE. YOU STOPPED -- YOU
25 SAID YOU HAD TO STOP PLACES.

JONATHAN CAMPBELL - CROSS EXAMINATION BY MR. WESTON

395

- 1 A. YES, SIR.
- 2 Q. Y'ALL HAD TO GET OUT OF THE CAR ---
- 3 A. YES, SIR.
- 4 Q. --- BECAUSE HE DIDN'T WANT YOU SMOKING IN HIS CAR.
- 5 A. YES.
- 6 Q. ONCE OR TWICE, YOU SAID.
- 7 A. YES, SIR.
- 8 Q. THEN AFTER YOU KILLED HIM YOU SAID Y'ALL SMOKED AGAIN.
- 9 A. YES.
- 10 Q. YOU ONLY CAN HAVE -- HOW MANY ROCKS -- IS THIS LIKE THE
- 11 -- YOUR POCKET OF PLENTY OR SOMETHING? YOU ONLY GOT SIX
- 12 ROCKS.
- 13 A. NO, SIR. YOU SMOKE THREE OR FOUR TIMES OFF OF ONE
- 14 ROCK.
- 15 Q. AS OPPOSED TO SMOKING MORE THAN ONE ROCK LIKE MOST
- 16 CRACK HEADS DO?
- 17 A. EXCUSE ME?
- 18 MR. ABDALLA: OBJECTION, YOUR HONOR. HE DOESN'T KNOW.
- 19 I DON'T BELIEVE THE PROSECUTOR CAN TESTIFY.
- 20 THE COURT: YEAH, YOU CAN'T.
- 21 MR. WESTON: I'LL WITHDRAW THE QUESTION, YOUR HONOR.
- 22 Q. BUT Y'ALL ARE STILL SMOKING CRACK?
- 23 A. YES, SIR.
- 24 Q. NOW YOU GO AND BUY MORE CRACK BEFORE YOU CALL YOUR
- 25 MOTHER?

JONATHAN CAMPBELL - CROSS EXAMINATION BY MR. WESTON

396

1 A. NO, SIR, I DIDN'T.

2 Q. OR Y'ALL DID?

3 A. NO, SIR, WE DIDN'T.

4 Q. SO WHAT DID YOU DO FOR THREE AND A HALF HOURS?

5 A. SMOKED.

6 Q. YOU ONLY GOT AT MOST ONE OR TWO MORE ROCKS LEFT. FOR

7 THREE AND A HALF HOURS?

8 A. FROM CLEVELAND PARK OVER TO MAULDIN ROAD, WE DROVE

9 THERE. I DON'T KNOW HOW MUCH TIME THAT TAKES. AND THEN

10 FROM THERE TO TRAVELERS REST, WAY DOWN IN TRAVELERS REST TO

11 MY MOTHER'S HOUSE. I DON'T KNOW, IT TAKES ABOUT A FORTY-

12 FIVE MINUTE DRIVE FROM THE JAIL TO GET DOWN TO MY MOTHER'S

13 HOUSE. AND THEN I WENT BEHIND MY MOTHER'S HOUSE TO A DIRT

14 ROAD DOWN THERE AND WE SMOKED FOR A LITTLE WHILE DOWN THERE.

15 Q. YOU ONLY GOT ONE OR TWO MORE ROCKS LEFT. SO HOW LONG

16 DOES IT TAKE TO DO THAT? COME ON.

17 A. WELL, IT TOOK A LITTLE WHILE. IT TAKES ABOUT THIRTY

18 MINUTES A BLAST.

19 Q. OKAY. FORGET THE TIME. IT'S 9:00 NOW.

20 A. YES, SIR.

21 Q. YOU CALLED YOUR MOTHER.

22 A. YES, SIR.

23 Q. AND YOU MADE UP THIS STORY.

24 A. YES, SIR.

25 Q. AND IN THIS STORY YOU ADMITTED OR YOU TOLD YOUR MOTHER

JONATHAN CAMPBELL - CROSS EXAMINATION BY MR. WESTON

397

1 THAT YOU KILLED A MAN.

2 A. NO, SIR, I DIDN'T.

3 Q. YOU HEARD YOUR MOTHER'S TESTIMONY, DIDN'T YOU?

4 A. YES, I DID.

5 Q. YOU HEARD HER VERY SPECIFICALLY SAY, 'CAUSE I ASKED HER

6 THREE OR FOUR TIMES, DID HE SAY I KILLED A MAN? AND SHE

7 SAID -- SHE RELUCTANTLY, 'CAUSE IT'S YOUR MOTHER, SHE SAID,

8 YEAH, HE SAID IT. YOU HEARD HER SAY THAT. YOU DIDN'T TELL

9 HER THAT?

10 A. SHE INFERRED THAT FROM WHEN I SAID, MAMA, I SHOT HIM.

11 Q. YOU TOLD YOUR MOTHER -- OKAY. YOU TOLD YOUR MOTHER YOU

12 SHOT A MAN?

13 A. YES.

14 Q. DO YOU HATE YOUR MOTHER THAT MUCH?

15 A. NO, I DON'T.

16 Q. WHY WOULD YOU DO THAT TO HER?

17 A. BECAUSE IT'S MY MOTHER, AND I TRUST HER. AND I WANTED

18 HER TO KNOW I WAS IN TROUBLE.

19 Q. BUT NO, NO, NO, NO, NO, NO, NO, NO, NO. WHY WOULD

20 YOU TELL YOUR MOTHER YOU SHOT SOMEBODY IF YOU DIDN'T, SIR?

21 WHY WOULD YOU LAY THAT ON HER HEART?

22 A. BECAUSE THE MAN HAD JUST STABBED JERMAINE PROCTOR TO

23 DEATH WAS STANDING NEXT TO ME. AND THAT'S THE STORY HE TOLD

24 ME TO TELL, AND I DID.

25 Q. WITH A SCREWDRIVER IN YOUR GUT?

JONATHAN CAMPBELL - CROSS EXAMINATION BY MR. WESTON

398

1 A. WELL, HE POKED ME WITH IT, YES.

2 Q. YOU COULDN'T PUSH HIM AWAY AND RUN AWAY? A FIFTY-ONE
3 YEAR OLD MAN?

4 A. NO, SIR.

5 Q. YOU WOULD RATHER TELL YOUR MOTHER THAT YOU KILLED
6 SOMEBODY ---

7 A. I DIDN'T TELL MY MOTHER I KILLED ANYBODY.

8 Q. DO I NEED TO CALL YOUR MOTHER BACK TO THE STAND AND
9 HAVE HER TELL US THAT YOU TOLD HER YOU KILLED HIM?

10 THE COURT: WAIT A MINUTE. DON'T ---

11 A. IF YOU WANT.

12 THE COURT: --- PIT -- NO, SIR, PIT ONE WITNESS AGAINST
13 THE OTHER.

14 MR. WESTON: I'LL MOVE ON, YOUR HONOR.

15 Q. SO HE'S STANDING THERE HOLDING A SCREWDRIVER, ---

16 A. YES, SIR.

17 Q. --- AND HE'S MAKING YOU CHANGE HIS NAME AND CHANGE THE
18 FACTS?

19 A. WELL, I WASN'T EVEN SUPPOSED TO SAY HIS NAME OR THAT HE
20 WAS WITH ME. BUT I WAS HYSTERICAL AND I FORGOT. AND -- AND
21 HE'S STANDING THERE AND SAYING, NO. AND THEN HE SAID, DON'T
22 TELL HER MY NAME. AND I BELIEVE MY MOTHER SAID THAT TOO,
23 THAT SHE HEARD HIM.

24 Q. SO THIS IS NOW AT THIS POINT AKIN TO A KIDNAPPING? YOU
25 ARE NOW A KIDNAPPEE?

JONATHAN CAMPBELL - CROSS EXAMINATION BY MR. WESTON

399

1 A. EXACTLY.

2 Q. OKAY. BUT YOU COULDN'T HAVE -- HE'S JUST GOT A
3 SCREWDRIVER. YOU COULDN'T HAVE PUSHED HIM AWAY AND MOVED
4 AWAY FROM THE KIDNAPPER?

5 A. HE'S GOT A SCREWDRIVER, HE'S GOT THE FACT THAT HE JUST
6 KILLED A MAN AND HE'S GOT -- IN THE ARYAN BROTHERHOOD AND
7 THE OUTLAWS. AND HE SAID THAT HE COULD MAKE A PHONE CALL
8 AND HAVE SOMETHING DONE TO MY FAMILY.

9 Q. LET'S TALK ABOUT THAT. THIS MAN -- AND I'M NOT GOING
10 TO WANT YOU TO GO BACK AND REPEAT ALL THE VULGAR THINGS HE
11 SAID TO YOU DURING THAT PERIOD BECAUSE I THINK EVERYBODY
12 HEARD IT AND EVERYBODY WAS ---

13 THE COURT: OKAY. GO AHEAD, ASK A QUESTION.

14 Q. EIGHT DAYS HE LIVES WITH YOU AS A POOR, HOMELESS CRACK
15 ADDICT WITH NO JOB OR INCOME, NO CHANGE OF CLOTHING EVEN.
16 AND ALL OF A SUDDEN HE BECOMES SOMEONE WHO'S A NEGATIVE
17 SUPER HERO, NOW HE IS THE KING OF THE ARYAN NATIONS, AND YOU
18 BELIEVE THAT?

19 A. I DIDN'T SAY HE WAS A KING. I WAS -- I WAS A -- I WAS
20 A BUSINESS OWNER, BUT AT THAT TIME I WAS A POOR, HOMELESS
21 CRACK HEAD MYSELF.

22 Q. SIR, JUST ANSWER MY QUESTION. DID YOU BELIEVE THAT
23 THIS POOR, HOMELESS CRACK ADDICT THAT LIVED WITH YOU FOR --
24 OFF OF YOU THAT HE COULD NOT EVEN SUPPORT HIMSELF FOR EIGHT
25 DAYS, ALL OF A SUDDEN YOU BELIEVE BECAUSE HE SAID IT THAT HE

JONATHAN CAMPBELL - CROSS EXAMINATION BY MR. WESTON

400

- 1 HAD THE AUTHORITY AND THE ABILITY TO HAVE PEOPLE KILLED WITH
2 A PHONE CALL?
- 3 A. YES, SIR.
- 4 Q. WHY WOULD YOU BELIEVE THAT, SIR?
- 5 A. BECAUSE I'D JUST ---
- 6 Q. HE COULDN'T AFFORD A PHONE CALL.
- 7 A. I'D JUST SAW HIM STAB JERMAINE PROCTOR TO DEATH ---
- 8 Q. BUT HE HAD NO MONEY, DID HE?
- 9 A. NO, SIR, HE DIDN'T.
- 10 Q. HE COULDN'T -- HE DIDN'T EVEN HAVE A PHONE, DID IT?
- 11 A. NO, SIR, HE DIDN'T.
- 12 Q. AND BUT THIS MAN HAS THE ABILITY JUST TO MAKE A CALL
13 AND HAVE PEOPLE KILLED AND YOU BELIEVED THAT?
- 14 A. YES, SIR, ---
- 15 Q. THAT'S THE ---
- 16 A. --- I DID.
- 17 Q. --- STORY YOU'RE TELLING THIS JURY?
- 18 A. YES, I DID. I DIDN'T KNOW HIS BACKGROUND.
- 19 Q. ONCE AGAIN, NOT YOUR FAULT?
- 20 A. NO, THE KILLING IS NOT MY FAULT.
- 21 Q. THIS AIN'T YOUR FAULT EITHER THAT YOU BELIEVED THIS
22 STORY?
- 23 A. IT IS MY FAULT THAT I BELIEVED HIM BECAUSE I SEEN WHAT
24 HE COULD DO. SO, YES, I BELIEVED EVERYTHING HE SAID.
- 25 Q. ALL RIGHT. LET'S DO -- AND I'M JUST ABOUT DONE, SIR.

JONATHAN CAMPBELL - CROSS EXAMINATION BY MR. WESTON

401

1 I WANT TO MAKE SURE I'M CLEAR ON WHAT YOU DID AND WHAT YOU
2 DIDN'T DO.

3 A. YES, SIR.

4 Q. LET'S TALK ABOUT WHAT YOU DIDN'T DO.

5 A. OKAY.

6 Q. YOU DIDN'T SAY NO TO OFFER TO BURGLARIZE SOMEWHERE?

7 A. NO, SIR, I DIDN'T.

8 Q. YOU DIDN'T SAY NO TO THE CRACK HE OFFERED YOU?

9 A. WHO?

10 Q. JERMAINE.

11 A. JERMAINE. NO. NO, SIR.

12 Q. YOU DIDN'T SAY NO TO GOING AHEAD AND DOING WHAT YOU
13 PROMISED JERMAINE YOU WOULD DO ONCE YOU SMOKED HIS CRACK,
14 DOING THE DEAL?

15 A. I HAD NOT SMOKED ALL HIS CRACK, BUT, NO, I DIDN'T.

16 Q. YOU DIDN'T TRY TO STOP -- TAKE THAT -- I'M SORRY. YOU
17 DIDN'T TRY TO STOP CARL FROM STABBING JERMAINE UNDER YOUR
18 STORY?

19 A. NO, SIR, I DIDN'T.

20 Q. YOU DIDN'T TRY TO HELP JERMAINE?

21 A. NO, SIR, I DIDN'T.

22 Q. YOU DIDN'T TRY TO GO GET HELP?

23 A. NO, SIR, I DIDN'T.

24 Q. YOU DIDN'T GET OUT OF THE CAR AFTER THE KILLING AND TRY
25 TO GO GET HELP OR RUN AWAY YOURSELF?

JONATHAN CAMPBELL - CROSS EXAMINATION BY MR. WESTON

402

- 1 A. NO.
- 2 Q. YOU DIDN'T GET OUT OF THE CAR AT ANY POINT UNTIL THE
- 3 POLICE PULLED YOU OUT OF THE CAR IN ALABAMA AS WE SAW ON
- 4 THAT VIDEO?
- 5 A. I GOT OUT OF THE CAR A FEW TIMES.
- 6 Q. BUT YOU DIDN'T TRY TO GET AWAY?
- 7 A. NO, SIR, I DIDN'T.
- 8 Q. YOU DIDN'T CALL EMS?
- 9 A. NO, SIR.
- 10 Q. YOU DIDN'T CALL THE POLICE?
- 11 A. NO, SIR.
- 12 Q. YOU DIDN'T TELL YOUR MOTHER WHERE SHE COULD COME AND
- 13 GET YOU OR CALL THE POLICE TO COME AND GET YOU WHEN YOU
- 14 TALKED TO HER ON THE PHONE?
- 15 A. NO, SIR, I COULDN'T.
- 16 Q. YOU DIDN'T GET ANY HELP ON REPORTING THE CRIME TO ANY
- 17 GREENVILLE AUTHORITIES?
- 18 A. NO, SIR.
- 19 Q. YOU DIDN'T REPORT THE CRIME TO ANY GEORGIA AUTHORITIES?
- 20 A. NO, SIR.
- 21 Q. YOU DIDN'T REPORT THE CRIME TO ANY ALABAMA AUTHORITIES?
- 22 A. NO, SIR.
- 23 Q. YOU DIDN'T DO ANYTHING?
- 24 A. I DID NOT.
- 25 Q. BUT YOU'RE NOT RESPONSIBLE?

JONATHAN CAMPBELL - REDIRECT EXAMINATION BY MR. ABDALLA

403

1 A. NOT FOR THE MURDER, NO.

2 Q. BUT YOU WERE HOLDING HIM AND YOU WERE MAD AT HIM AT THE
3 TIME HE WAS STABBED. YOU ADMIT THAT.

4 A. I TOLD YOU I WAS MAD, BUT IT WAS MORE OF AN INSTINCT, A
5 FEAR RESPONSE THAT I'D JUST BEEN CLUBBED IN THE HEAD.

6 Q. I DIDN'T ASK YOU WHY. YOU WERE HOLDING HIM AND
7 STRUGGLING WITH HIM AND MAD AT THE TIME HE WAS GETTING
8 STABBED, YES OR NO?

9 A. NO, SIR. I REALLY WASN'T MAD, IT WAS MORE OF A FEAR
10 INSTINCT THAT I'D JUST BEEN CLUBBED IN THE HEAD.

11 Q. SO TEN MINUTES AGO WHEN I ASKED YOU AND YOU SAID, YES,
12 I WAS MAD, THAT WAS A LIE?

13 A. WELL, YOU'RE LOUD AND BOISTEROUS, AND I'M A LITTLE
14 NERVOUS. SO I CAN'T -- YOU UNDERSTAND?

15 MR. WESTON: I'M DONE, YOUR HONOR.

16 A. I TRIED ---

17 THE COURT: ALL RIGHT.

18 A. --- TO EXPLAIN IT TO YOU.

19 THE COURT: ANY REDIRECT?

20 MR. ABDALLA: YES, YOUR HONOR.

21 REDIRECT EXAMINATION BY MR. ABDALLA:

22 Q. MR. CAMPBELL, I KNOW THAT THERE WAS A STRUGGLE IN THE
23 CAR. AND I WANT YOU TO TELL THE JURY ABOUT WHEN YOU WERE
24 HIT IN THE HEAD AND WHAT YOU THOUGHT. AND I KNOW WE'VE BEEN
25 THROUGH THIS, BUT THE SPIN HAS BEEN CHANGED AND I WANT YOUR

JONATHAN CAMPBELL - REDIRECT EXAMINATION BY MR. ABDALLA

404

1 WORD ---

2 (WHEREUPON MR. WESTON STOOD UP TO OBJECT)

3 THE COURT: DON'T TESTIFY. DON'T ---

4 MR. ABDALLA: ALL RIGHT.

5 THE COURT: --- TESTIFY.

6 MR. ABDALLA: SORRY, JUDGE.

7 MR. WESTON: YOUR HONOR, I'M GOING TO OBJECT. THIS IS
8 NOT NEW MATTER THAT I BROUGHT OUT -- THAT WAS BROUGHT OUT ON
9 CROSS EXAMINATION ---

10 THE COURT: YES, YOU BROUGHT IT OUT. I'M GOING TO
11 ALLOW IT. GO AHEAD.

12 Q. WHAT EXACTLY HAPPENED WHEN YOU WERE HIT IN THE HEAD?
13 HOW DID THAT GO DOWN?

14 A. I WAS HIT IN THE BACK OF THE HEAD. AND I -- I FELL
15 TOWARDS THE DASH. AND I PUT MY ARM UP TO BLOW -- TO DEFLECT
16 ANYMORE BLOWS. AND WHEN I TURNED AROUND JERMAINE WAS
17 LEANING IN TOWARDS ME.

18 Q. SO WHAT DID YOU THINK AT THAT TIME WHEN HE WAS LEANING
19 IN TOWARDS YOU?

20 A. I THOUGHT THAT JERMAINE HAD HIT ME.

21 Q. OKAY. YOU THOUGHT THAT. AND SO YOU DID WHAT?

22 A. I WENT TO GRAB HIM.

23 THE COURT: WELL, WE'RE NOT GOING TO GO THROUGH THE
24 WHOLE TESTIMONY AGAIN. IF YOU WANT TO GO TO -- YOUR
25 QUESTION WAS ABOUT HIS STATE OF MIND WHEN THAT ---

JONATHAN CAMPBELL - REDIRECT EXAMINATION BY MR. ABDALLA

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1 MR. ABDALLA: THAT'S RIGHT.

2 THE COURT: --- HAPPENED. AND THAT'S WHAT YOU CAN
3 ADDRESS. DO NOT GO THROUGH THE WHOLE ...

4 MR. ABDALLA: WELL, -- I APOLOGIZE.

5 THE COURT: DO NOT DO IT.

6 MR. ABDALLA: I WON'T.

7 Q. WHERE I'M GOING WITH THIS IS, WITH YOUR ACTIONS, ---

8 MR. WESTON: OBJECTION, YOUR HONOR.

9 THE COURT: DO NOT CHARACTERIZE WHERE YOU'RE GOING.
10 ASK QUESTIONS.

11 Q. WHAT WAS YOUR STATE OF MIND WHEN YOU THOUGHT YOU WERE
12 HIT AND YOU SAID YOU PUT YOUR ARM UP?

13 A. I WAS SCARED. I WAS ACTING DEFENSIVELY.

14 Q. WELL, WHEN YOU WERE HOLDING HIM AT ANY TIME WERE YOU
15 HOLDING HIM, OR WHATEVER IT WAS WHEN YOU WERE BIT, WAS THAT
16 AN ATTEMPT TO KEEP HIM PINNED WHILE HE WAS BEING STABBED?

17 A. ABSOLUTELY NOT.

18 Q. WERE YOU IN ANY KIND OF CONSPIRACY TO KILL ---

19 MR. WESTON: OBJECTION, YOUR HONOR. THAT IS NEW
20 MATTER.

21 MR. ABDALLA: WELL, YOUR HONOR, THAT'S IN RESPONSE TO
22 THE ---

23 THE COURT: WELL, I'M GOING TO ALLOW IT OVER YOUR
24 OBJECTION.

25 Q. WERE YOU IN ANY KIND OF CONSPIRACY WITH MR. SOUTHERLAND

JONATHAN CAMPBELL - REDIRECT EXAMINATION BY MR. ABDALLA

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1 TO KILL ---

2 A. ABSOLUTELY NOT.

3 Q. WAS THERE ANY KIND OF AGREEMENT WHATSOEVER TO EVER DO
4 ANY ---

5 A. NO, SIR. THERE WAS NEVER ANY KIND OF -- ANY OF THAT
6 GOING ON.

7 MR. ABDALLA: I HAVE NO FURTHER QUESTIONS.

8 MR. WESTON: NO REDIRECT, YOUR HONOR.

9 THE COURT: OKAY. ALL RIGHT. YOU MAY STAND DOWN, SIR.
10 ALL RIGHT. MADAME FORELADY, LADIES AND GENTLEMEN OF THE
11 JURY, -- WELL, JUST A MINUTE. LET ME TALK -- LET ME TALK TO
12 THE LAWYERS. COME UP HERE.

13 (WHEREUPON A BENCH CONFERENCE WAS HELD OFF THE RECORD
14 IN THE PRESENCE OF THE JURY, BUT OUT OF THEIR HEARING)

15 (WHEREUPON THE BENCH CONFERENCE HAD ENDED)

16 MR. ABDALLA: JUDGE, WE ---

17 THE COURT: JUST COME UP HERE. COME UP HERE.

18 (WHEREUPON A BENCH CONFERENCE WAS HELD OFF THE RECORD
19 IN THE PRESENCE OF THE JURY, BUT OUT OF THEIR HEARING)

20 (WHEREUPON THE BENCH CONFERENCE HAD ENDED)

21 THE COURT: ALL RIGHT. MADAME FORELADY, LADIES AND
22 GENTLEMEN OF THE JURY, I WANT TO TELL YOU THAT THE PARTIES
23 HAVE ENTERED INTO A STIPULATION. AND THIS IS WITH RESPECT
24 TO MR. CARL HERSHEL SOUTHERLAND, WHO TESTIFIED YESTERDAY,
25 WHO WAS BOOKED INTO THE GREENVILLE COUNTY LAW ENFORCEMENT

1 CENTER ON JULY 7TH OF 2005 AT 5:09 PM. HIS WEIGHT AT THE
2 TIME HE WAS BOOKED IN WAS ONE HUNDRED AND FIFTY-SIX POUNDS.
3 THE PARTIES HAVE AGREED THAT THAT FACT IS BEYOND DISPUTE AND
4 SHOULD BE BELIEVED BY THE JURY. NOW ANYTHING ELSE FROM THE
5 DEFENSE?

6 MR. ABDALLA: NOTHING FROM THE DEFENSE, YOUR HONOR.

7 THE COURT: DO YOU HAVE ANY OTHER TESTIMONY OR EVIDENCE
8 TO PRESENT?

9 MR. ABDALLA: LET ME JUST HAVE A CONVERSATION FOR ONE
10 SECOND.

11 (PAUSE)

12 MR. ABDALLA: NOTHING FURTHER, YOUR HONOR.

13 THE COURT: ALL RIGHT. AND?

14 MR. ABDALLA: THE DEFENSE RESTS.

15 THE COURT: ALL RIGHT. LADIES AND GENTLEMEN, WE ARE
16 GOING TO BREAK FOR LUNCH. AND I'D ASK YOU TO BE BACK, LET'S
17 JUST SAY AT 2:15. AND IS THAT ENOUGH TIME? A LITTLE OVER
18 AN HOUR.

19 AND PLEASE REMEMBER NOT TO TALK ABOUT THIS CASE. VERY
20 SOON IT'S GOING TO BE YOUR CASE TO DECIDE. YOU'LL BE ABLE
21 TO TALK ABOUT IT AS MUCH AS YOU'D LIKE. BUT UNTIL THEN,
22 HONOR YOUR OATH AND FOLLOW THE LAW AS I'VE GIVEN IT TO YOU.
23 HAVE A PLEASANT LUNCH. WE'LL SEE YOU AT 2:15. THANK YOU.

24 (WHEREUPON THE JURY EXITED THE COURTROOM AT 1:06 PM)

25 THE COURT: ALL RIGHT. IS THE STATE GOING TO HAVE ANY

1 REPLY?

2 MR. WESTON: NO, SIR, YOUR HONOR.

3 THE COURT: OKAY. LET'S TALK ABOUT JURY CHARGES. ARE
4 THERE ANY REQUESTS TO CHARGE?

5 MR. WESTON: YOUR HONOR, THE STATE WOULD NOT HAVE ANY
6 SPECIFIC REQUESTS. I THINK THE USUAL REQUESTS ARE
7 APPROPRIATE. WE'D JUST WANT TO MAKE SURE THAT THE COURT
8 WOULD CONSIDER THE HAND OF ONE, THE HAND OF ALL CHARGE.

9 THE COURT: OKAY. I CERTAINLY THINK THAT'S
10 APPROPRIATE.

11 MR. ABDALLA: YOUR HONOR, OF COURSE, WE OPPOSE THAT.

12 THE COURT: ON WHAT GROUNDS?

13 MR. ABDALLA: ON THE GROUND THAT STATE V. PETERSON, A
14 DEFENDANT IS NOT RESPONSIBLE FOR A MURDER COMMITTED BY A CO-
15 CONSPIRATOR UNLESS THAT OFFENSE WAS THE NATURAL OR CREDIBLE
16 CONSEQUENCE OF AGREED UPON PLAN.

17 THE COURT: WELL, MR. ABDALLA, ---

18 MR. ABDALLA: YES, YOUR HONOR.

19 THE COURT: --- THE LAW WITH RESPECT TO JURY CHARGES IS
20 IF THERE IS ANY EVIDENCE IN THE RECORD TO SUPPORT A JURY
21 CHARGE AND A PARTY REQUESTS IT, I MUST GIVE IT. AND I
22 OVERRULE YOUR OBJECTION BECAUSE MR. SOUTHERLAND TESTIFIED
23 THAT THIS WAS A HAND OF ONE VERSUS HAND OF ALL SITUATION.
24 OKAY?

25 MR. ABDALLA: YES, SIR.

1 THE COURT: ALL RIGHT. ANY OTHER REQUESTS TO CHARGE?

2 MR. ABDALLA: YES, YOUR HONOR. I'D LIKE YOU TO CHARGE
3 ACCESSORY AFTER THE FACT OF MURDER.

4 MR. WESTON: YOUR HONOR, THE STATE IS OPPOSED TO THAT
5 CHARGE. EVEN UNDER THE DEFENDANT'S OWN TESTIMONY HE WAS
6 HOLDING THE VICTIM AND WAS MAD AT HIM AT THE TIME THE
7 STABBING OCCURRED.

8 HE WAS WITH THE DEFENDANT, ASSUMING HIS VERSION OF THE
9 FACTS, HE WAS WITH THE PERPETRATOR PRIOR TO GETTING WITH THE
10 VICTIM. HE WAS WITH THE PERPETRATOR WHEN A DEAL WAS STRUCK
11 BETWEEN THE PERPETRATOR AND THE TWO OF THEM, NOT JUST
12 INDIVIDUALLY, BUT THE TWO OF THEM WERE GOING TO BREAK IN
13 TOGETHER.

14 THEY SMOKED -- THE VICTIM GAVE THEM CRACK JOINTLY THAT
15 THEY SMOKED. THE DEAL BREAKER THAT THEY DECIDED NOT TO DO
16 THIS WAS MADE BY BOTH OF THEM ACCORDING TO HIS TESTIMONY AND
17 MR. SOUTHERLAND'S TESTIMONY, THAT THEY BOTH BACKED OUT OF
18 THE DEAL.

19 AND AS I SAID PREVIOUSLY, THE ALTERCATION THAT RESULTED
20 IN THE VICTIM'S DEATH, BASED ON HIS OWN TESTIMONY, PUTS HIM
21 AS A PRINCIPAL IN HOLDING THE VICTIM WITH A -- WITH MALICE
22 AT THE TIME HE WAS KILLED AND, OF COURSE, EVERYTHING THAT
23 HAPPENED THEREAFTER IN TERMS OF THE -- HIS ACTS OF
24 CONTINUING TO HIDE THE CRIME.

25 MR. ABDALLA: YOUR HONOR?

1 THE COURT: YEAH, WHAT DO YOU WANT ---

2 MR. ABDALLA: OF COURSE, I SEE IT TOTALLY DIFFERENTLY.

3 THE FACT IS MY CLIENT TESTIFIED THAT HE, IN FACT, GRABBED
4 THE VICTIM, BUT IT WASN'T DONE WITH MALICE, IT WAS A
5 RESPONSE. HE SAID IT WAS JUST A NATURAL RESPONSE. THERE
6 WAS NO INTENT TO HOLD HIM.

7 AND CARL SOUTHERLAND CAME AROUND UNBEKNOWNST TO HIM.
8 AS SOON AS HE DID HE LET GO OF HIM AND WAS TRYING TO GET
9 OUT. HE WAS TRYING TO GET FREE HIMSELF. SO HIS TESTIMONY
10 WAS THEY WERE BOTH UNDER SIEGE.

11 AND OUR CONTENTION IS THAT YOU CAN'T BE HELD TO A
12 CONSPIRACY WHERE YOU'RE NOT INTENDING TO GET -- BECOME PART
13 OF THE CONSPIRACY.

14 THE COURT: WELL, I THINK THAT -- I THINK HIS TESTIMONY
15 -- ON CROSS EXAMINATION YOU ELICITED WHAT YOU WANTED TO
16 ELICIT, BUT THERE'S ALSO EVIDENCE THERE THAT I THINK WOULD
17 REQUIRE ACCESSORY AFTER THE FACT.

18 MR. WESTON: YES, SIR, YOUR HONOR.

19 THE COURT: ANY OTHER REQUESTS TO CHARGE?

20 MR. ABDALLA: MERE PRESENCE, OF COURSE. I GUESS THAT'S
21 AUTOMATIC, BUT ...

22 THE COURT: IT'S NOT AUTOMATIC.

23 MR. ABDALLA: WELL, I THOUGHT MAYBE WITH THE HAND OF
24 ONE. BUT ANYWAY, I'M ASKING FOR MERE PRESENCE, YOUR HONOR.

25 THE COURT: ALL RIGHT. ANYTHING ELSE?

1 MR. WESTON: NOTHING FROM THE STATE, YOUR HONOR.

2 MR. ABDALLA: NOTHING FROM THE DEFENSE, YOUR HONOR.

3 THE COURT: WHAT ABOUT -- IS THERE ANY REASON TO CHARGE
4 CIRCUMSTANTIAL EVIDENCE?

5 MR. WESTON: I DON'T BELIEVE SO, YOUR HONOR.

6 MR. ABDALLA: WAIT ONE MOMENT, YOUR HONOR. IF I MAY
7 HAVE ONE SECOND.

8 THE COURT: YOU WANT ANYTHING ON AN EXPERT WITNESS? DO
9 YOU NEED THAT?

10 MR. WESTON: NO, SIR, YOUR HONOR.

11 THE COURT: YOU CAN HAVE IT IF YOU WANT IT. YOU WANT
12 SOMETHING ON EXPERT WITNESS? DR. WARD TESTIFIED.

13 MR. WESTON: I DON'T BELIEVE IT'LL BE NECESSARY, YOUR
14 HONOR.

15 THE COURT: OKAY. ALL RIGHT. I'M GOING TO CHARGE
16 DUTIES OF THE JUDGE AND JURY, ARREST AND INDICTMENT ARE NOT
17 EVIDENCE, CREDIBILITY OF THE WITNESSES, PRESUMPTION OF
18 INNOCENCE, REASONABLE DOUBT, VOLUNTARY INTOXICATION NOT A
19 DEFENSE, HAND OF ONE'S THE HAND OF ALL, PRIOR RECORD OF THE
20 DEFENDANT LIMITED FOR IMPEACHMENT ONLY, ...

21 MR. ABDALLA: JUDGE, I FORGOT TO ASK FOR MANSLAUGHTER.
22 I'M SORRY. THERE'S DEFINITELY EVIDENCE IN THE RECORD ABOUT
23 MANSLAUGHTER.

24 THE COURT: WHAT'S THAT?

25 MR. WESTON: PARDON ME. VOLUNTARY OR INVOLUNTARY?

1 MR. ABDALLA: VOLUNTARY, I'M SORRY. YOU KNOW, JUDGE, I
2 THINK BOTH VOLUNTARY AND INVOLUNTARY COULD COME IN BECAUSE
3 THE TESTIMONY OF CARL MORE SUPPORTS VOLUNTARY, BUT THE
4 TESTIMONY OF MY CLIENT WOULD ALSO SUPPORT INVOLUNTARY, THEY
5 DIDN'T INTEND THAT TO OCCUR.

6 IF MR. WESTON IS SAYING THAT MY CLIENT WAS HOLDING HIM,
7 I THINK IT'S FOR THE JURY TO DETERMINE WHETHER HE WAS
8 HOLDING HIM INTENTIONALLY AND EXPECTING HIM TO BE KILLED,
9 THE VICTIM. SO I'M NOT SURE HE'S NOT ENTITLED TO A CHARGE
10 OF INVOLUNTARY. I'M ASKING THE COURT TO ...

11 MR. WESTON: THE STATE IS OPPOSED, YOUR HONOR. I DON'T
12 SEE ANY SET OF CIRCUMSTANCES OR INFERENCES WHERE ---

13 THE COURT: HOW DO YOU FIGURE INVOLUNTARY MANSLAUGHTER?

14 MR. ABDALLA: SOMETHING UNFORESEEABLE. I DON'T BELIEVE
15 IT WAS FORESEEABLE. IT WASN'T INTENDED BY MY CLIENT IN ANY
16 WAY, SHAPE OR FORM ACCORDING TO HIS TESTIMONY. JUDGE, I'M
17 ---

18 THE COURT: BUT YOUR CLIENT'S TESTIMONY IS HE DIDN'T --
19 HE DIDN'T HAVE ANYTHING TO DO WITH IT.

20 MR. ABDALLA: RIGHT. BUT THE SPIN MR. -- WITH ALL DUE
21 RESPECT, MR. WESTON PUT ON IT WAS THAT HE'S GRABBING MR.
22 PROCTOR AND HOLDING HIM. AND THEN IT'S UP TO THE JURY TO
23 DECIDE WHETHER THAT WAS AN INTENTIONAL ACT, INTENTIONAL AS
24 IN INTENDING MORE HARM TO COME TO HIM ---

25 THE COURT: WELL, ---

1 MR. ABDALLA: --- FROM THE KILLING.

2 THE COURT: --- WITH ALL DUE RESPECT TO MR. WESTON,
3 WHAT HIS QUESTIONS ARE IS NOT EVIDENCE. YOUR CLIENT DENIED
4 THAT. WHAT DO YOU THINK ABOUT VOLUNTARY?

5 MR. WESTON: YOUR HONOR, THE STATE IS OPPOSED TO A
6 VOLUNTARY MANSLAUGHTER CHARGE.

7 THE COURT: WELL, IS THERE EVIDENCE IN THE RECORD THAT
8 MIGHT SUPPORT A VOLUNTARY MANSLAUGHTER CONVICTION?

9 MR. WESTON: YOUR HONOR, I DON'T KNOW -- I DON'T SEE
10 SUFFICIENT LEGAL PROVOCATION, YOUR HONOR. AN INFERENCE OF
11 SUFFICIENT LEGAL PROVOCATION.

12 MR. ABDALLA: YOUR HONOR, BOTH -- OH, I'M SORRY. MAY I
13 SPEAK, JUDGE?

14 THE COURT: YEAH.

15 MR. ABDALLA: OH. I THINK THE JURY COULD TAKE FROM THE
16 FACTS THAT MY CLIENT THOUGHT HE WAS HIT IN THE HEAD BY MR.
17 PROCTOR, AND THAT WOULD HAVE BEEN SUFFICIENT LEGAL
18 PROVOCATION SINCE, AGAIN, THE WAY MR. WESTON APPEARS TO HAVE
19 TRIED TO GET MY CLIENT TO GO WAS THAT YOU WERE HIT,
20 THEREFORE, YOU HELD HIM. THAT IS SUFFICIENT LEGAL
21 PROVOCATION. I THINK IT'S -- IT JUST REQUIRES SOME
22 TESTIMONY, SOME EVIDENCE. AND I BELIEVE THERE IS SOME
23 EVIDENCE, JUDGE.

24 THE COURT: ALL RIGHT. WELL, THINK ABOUT IT OVER
25 LUNCH. ANYTHING ELSE?

1 MR. WESTON: NOTHING FROM THE STATE, YOUR HONOR.

2 MR. ABDALLA: NOTHING FROM THE DEFENSE, YOUR HONOR.

3 THE COURT: ALL RIGHT. SEE YOU AT 2:15.

4 (WHEREUPON COURT WAS IN RECESS AT 1:16 PM)

5 (WHEREUPON COURT RESUMED AT 2:24 PM)

6 THE COURT: ALL RIGHT. WHAT'S THE MATTER YOU WANTED TO
7 BRING UP?

8 MR. WESTON: YOUR HONOR, DURING LUNCH WE DID SOME
9 RESEARCH. AND IT IS THE STATE'S POSITION THAT ---

10 THE COURT: THERE IS NO ACCESSORY AFTER THE FACT, ---

11 MR. WESTON: EXACTLY.

12 THE COURT: --- NOT A LESSER INCLUDED OF MURDER.

13 MR. WESTON: EXACTLY, YOUR HONOR.

14 THE COURT: THAT WILL NOT BE CHARGED.

15 MR. ABDALLA: JUDGE, I WOULD ASK THAT YOU CHARGE THE
16 JURY WITH THE ELEMENTS OF ACCESSORY AFTER THE FACT AS A --
17 SO THEY CAN -- SINCE THERE ARE FACTS IN EVIDENCE ABOUT THAT
18 SO THEY COULD KNOW WHAT THE FACTS ARE THAT WOULD REQUIRE
19 PROOF OF ACCESSORY AFTER THE FACT. AND ---

20 THE COURT: WHAT?

21 MR. ABDALLA: --- I'M LOOKING FOR MY CASE I HAD.

22 THE COURT: I'M SORRY. I DON'T UNDERSTAND THAT.

23 MR. ABDALLA: JUDGE, I'M -- WHEN YOU SAID YOU WERE

24 CHARGING ACCESSORY AFTER -- I DON'T KNOW WHAT I DID WITH MY
25 CASE ---

1 THE COURT: NO, I AM NOT CHARGING ACCESSORY AFTER.

2 MR. ABDALLA: I UNDERSTAND THAT. EARLIER WHEN YOU SAID
3 YOU WERE, I LOST SIGHT OF THE OTHER CASE, THE ALTERNATIVE.

4 (PAUSE)

5 MR. ABDALLA: AND STATE VERSUS FULLER FROM 2001, 552 SE
6 2D 282. IT SAYS WHEN THE DEFENDANT HAS NOT BEEN INDICTED AS
7 AN ACCESSORY IT IS PROPER TO CHARGE THE JURY ON A DIFFERENCE
8 BETWEEN ACCESSORY AND PRINCIPAL WHEN THE EVIDENCE POINTS TO
9 THE EXCLUSIONARY OFFENSE WHICH DICTATES THAT DIFFERENT PROOF
10 IS REQUIRED AS TO EACH ELEMENT.

11 THE COURT: WHERE ARE YOU READING IN THE CASE?

12 MR. ABDALLA: I'M ON PAGE -- IT'S THE THIRD PAGE OF MY
13 DOCUMENT. ACTUALLY PAGE 4. BUT IT'S -- UNDER THE
14 DISCUSSION, JUDGE.

15 THE COURT: UH-HUH (AFFIRMATIVE).

16 MR. ABDALLA: AND I WOULD ASK FOR THAT LANGUAGE.

17 MR. WESTON: YOUR HONOR, I'VE NOT SEEN THE CASE. AND
18 COUNSEL DID NOT PROVIDE ME WITH A COPY. SO I DON'T KNOW --
19 TO DISTINGUISH.

20 (PAUSE)

21 MR. WESTON: YOUR HONOR, THE STATE WOULD BE OPPOSED.

22 IF YOU GO FURTHER DOWN WHERE THEY CITE STATE V. GATES IT
23 SPECIFICALLY SAYS IN THAT CASE THE COURT RULED THE DEFENDANT
24 WHO DROVE THE GETAWAY CAR BUT DID NOT ENTER THE CONVENIENCE
25 STORE DURING THE ROBBERY WAS NOT ENTITLED TO ACCESSORY AFTER

1 THE FACT CHARGE.

2 THE COURT NOTED THERE IS A FACTUAL DISTINCTION BETWEEN
3 A CRIME WHEN THE DEFENDANT WAS PHYSICALLY UNABLE TO
4 PARTICIPATE AND ONE WHERE THE DEFENDANT ACTED AS THE GETAWAY
5 CAR. THIS IS NOT A CASE WHERE THE DEFENDANT IS NOT
6 PHYSICALLY UNABLE TO HAVE PARTICIPATED IN THIS CRIME. AND I
7 THINK IT DISTINGUISHES ...

8 MR. ABDALLA: JUDGE, ---

9 MR. WESTON: ALL THE EVIDENCE POINTS TO THE FACT THAT
10 HE WAS PHYSICALLY ABLE TO PARTICIPATE IN THIS CRIME. AND
11 THAT'S THE DISTINCTION, YOUR HONOR, THAT THE COURT MAKES IN
12 THAT CASE.

13 MR. ABDALLA: I THOUGHT THE PROSECUTOR JUST READ THAT
14 THEY WOULDN'T CHARGE ACCESSORY AFTER. I'M ASKING THAT THE
15 JURY BE INSTRUCTED AS TO THE DIFFERENCE, WHAT THE ELEMENTS
16 ARE.

17 MR. WESTON: NO, WHAT I'M SAYING, YOUR HONOR, IS THAT
18 CASE THAT HE CITED SUPPORTS IN CERTAIN CIRCUMSTANCES THAT
19 THE COURT CHARGE THE DIFFERENCE EXCEPT FOR THE CIRCUMSTANCE
20 WHERE THE -- ONLY IN CIRCUMSTANCES WHERE THE DEFENDANT --
21 WHERE THE DEFENDANT IN QUESTION IS PHYSICALLY UNABLE TO HAVE
22 DONE BOTH. IN THIS CASE IT COULD BE EITHER. SO THIS CASE
23 IS DISTINGUISHABLE FROM THAT, I THINK, YOUR HONOR.

24 (PAUSE)

25 THE COURT: WELL, I'M NOT CHARGING IT. I DON'T READ

1 YOUR STATE V. FULLER TO SUPPORT YOUR POSITION.

2 MR. ABDALLA: THE NEXT THING I'D ASK, JUDGE, IS FOR THE
3 STATE TO PUT ON THE RECORD WHAT THEIR THEORY IS AS TO THE
4 HAND OF ONE BECAUSE DEFENSE DOESN'T UNDERSTAND THE
5 CONSPIRACY THEY'RE ALLEGING IN THE HAND OF ONE.

6 MR. WESTON: I'M NOT SURE -- IS HE -- ARE YOU -- IS HE
7 ASKING ME, JUDGE, TO TELL HIM WHAT I'M GOING TO SAY IN MY
8 CLOSING ARGUMENT?

9 MR. ABDALLA: NO, NOT WHAT HE'S SAYING IN HIS CLOSING
10 ARGUMENTS. JUDGE, IN THE HAND OF ONE -- THERE ARE SEVERAL
11 THINGS GOING ON HERE. I DON'T KNOW WHETHER THE PROSECUTOR'S
12 THEORY OF THE CASE IS THAT IT'S THE HAND OF ONE, HAND OF ALL
13 BECAUSE CARL, ACCORDING TO THEIR TESTIMONY, HELD THE
14 DEFENDANT AND THEY HAVE JONATHAN STABBING HIM. IS THAT THE
15 HAND OF ONE? IS IT BECAUSE JONATHAN'S TESTIMONY IS THAT
16 CARL STABBED HIM AND HE'S MERELY IN THE CAR?

17 I DON'T KNOW WHAT THE CONSPIRACY IS. BECAUSE A
18 CONSPIRACY, AND I HOPE THE COURT IS GOING TO CHARGE, AND I
19 WOULD ASK, IS ---

20 THE COURT: CHARGE WHAT? CONSPIRACY?

21 MR. ABDALLA: WELL, IN THE CONSPIRACY THEY'RE ALLEGING
22 THE ONE -- THE HAND OF ONE. THERE'S AN EVOLVING CONSPIRACY
23 THAT HAS TO COME OUT OF THAT, AS A BASIS FOR IT. BUT I'LL
24 LET THE PROSECUTOR SPEAK FOR THAT SINCE I CAN'T SPEAK FOR
25 THEM.

1 MR. WESTON: YOUR HONOR, MY POSITION IS THAT I WILL BE
2 ARGUING EVERY REASONABLE AND RELEVANT INFERENCE THAT COMES
3 FROM THE EVIDENCE RELATED TO THE CRIME. THAT'S PRETTY MUCH
4 ---

5 THE COURT: LET ME READ YOU MY CHARGE ON THE HAND OF
6 ONE.

7 MR. ABDALLA: YES, SIR.

8 THE COURT: IF A CRIME IS COMMITTED BY TWO OR MORE
9 PEOPLE WHO ARE ACTING TOGETHER IN COMMITTING A CRIME, THE
10 ACT OF ONE IS THE ACT OF ALL. A PERSON WHO JOINS WITH
11 ANOTHER TO ACCOMPLISH AN ILLEGAL PURPOSE IS CRIMINALLY
12 RESPONSIBLE FOR EVERYTHING DONE BY THE OTHER PERSON WHICH
13 OCCURS AS A NATURAL CONSEQUENCE OF THE ACTS DONE IN CARRYING
14 OUT THE COMMON PLAN AND PURPOSE.

15 FOR EXAMPLE; TWO PEOPLE CAN BE GUILTY OF KILLING
16 ANOTHER PERSON WHEN ONLY ONE OF THE TWO HAD A GUN, THERE WAS
17 ONLY ONE BULLET AND ONLY ONE OF THE TWO FIRED THE SHOT THAT
18 CAUSED THE DEATH. IF TWO OR MORE PEOPLE ARE TOGETHER ACTING
19 TOGETHER, ASSISTING EACH OTHER IN COMMITTING THE OFFENSE,
20 THE ACT OF ONE IS THE ACT OF ALL OR AS IT IS SOMETIMES SAID,
21 THE HAND OF ONE IS THE HAND OF ALL.

22 AND IT GOES ON, BUT THAT'S ENOUGH TO TELL YOU WHAT THE
23 CHARGE IS. I'M GOING TO CHARGE THAT. I'M NOT GOING TO
24 REQUIRE HIM TO EXPLAIN ANYTHING. I FOUND THAT THERE IS
25 EVIDENCE IN THE RECORD WHICH SUPPORTS THAT CHARGE. IS THERE

1 ANYTHING ELSE?

2 MR. WESTON: NOTHING FROM THE STATE, YOUR HONOR.

3 MR. ABDALLA: NOTHING FROM THE DEFENSE, YOUR HONOR.

4 THE COURT: OKAY. LET'S GO.

5 MR. WESTON: EXCUSE ME, YOUR HONOR. YOU DIDN'T TELL US

6 WHETHER YOU WERE GOING TO CHARGE VOLUNTARY OR NOT.

7 THE COURT: YEAH, I'M GOING TO CHARGE VOLUNTARY.

8 MR. WESTON: ALL RIGHT, SIR.

9 MR. ABDALLA: OH, ...

10 THE COURT: WHAT?

11 MR. ABDALLA: I'M GOING TO RENEW MY ARGUMENT FOR THE

12 INVOLUNTARY BECAUSE IT'S STILL NOT ---

13 THE COURT: TELL THEM TO WAIT.

14 MR. ABDALLA: DEFENSE ---

15 THE COURT: I MEAN, I SHOULD HAVE KNOWN BETTER.

16 MR. ABDALLA: IT'S STILL THE DEFENSE'S CONTENTION THAT

17 ACCORDING TO ONE OF THE THEORIES IT SEEMS TO BE PRESENTED

18 FROM THE TESTIMONY WAS THAT IF MY CLIENT GRABBED THE PERSON

19 IN WHAT WOULD BE CONSIDERED AN ACCIDENTAL OR A SELF-DEFENSE

20 MODE, THAT THE KILLING THAT TOOK PLACE AFTERWARD WAS NOT

21 FORESEEABLE AND FALLS MORE INTO THE LINE OF ACCIDENT, THAT

22 WOULD BE SOME TESTIMONY, SOME EVIDENCE OF INVOLUNTARY

23 MANSLAUGHTER.

24 ACCORDING TO THEM, IF HE'S TRYING TO MAKE IT THE HAND

25 OF ONE IS THE HAND OF ALL, IT ALSO SEEMS TO BE FAIR THAT IF

1 HE INADVERTENTLY, A REACTION -- IN A REACTIONARY WAY,
2 ACCORDING TO HIS TESTIMONY, GRABBED THE DEFENDANT OR TRIED
3 TO FEND HIM OFF AND THEN CARL CAME AROUND. IT WAS TOTALLY
4 UNFORESEEABLE BY MY CLIENT. THE JURY COULD BELIEVE THAT.
5 AND THAT COULD BE AN INVOLUNTARY MANSLAUGHTER.

6 THE COURT: THEN HE WOULD BE NOT GUILTY.

7 MR. WESTON: EXACTLY.

8 MR. ABDALLA: HE COULD BE NOT GUILTY OR ---

9 THE COURT: I'M NOT CHARGING IT.

10 MR. ABDALLA: YES, SIR.

11 MR. WESTON: YOUR HONOR, DO WE HAVE ANY TIME LIMITS ON

12 ---

13 THE COURT: HUH?

14 MR. WESTON: TIME LIMITS ON THE CLOSING ARGUMENTS?

15 THE COURT: I COULDN'T HEAR YOU.

16 MR. WESTON: I'M SORRY. DO WE HAVE ANY TIME LIMITS ON
17 THE CLOSING -- I DON'T ANTICIPATE BEING THAT LONG. I JUST
18 WANTED TO MAKE SURE THAT IF YOU WERE ---

19 THE COURT: YEAH. HOW LONG DO YOU ANTICIPATE YOU'RE
20 GOING TO TALK?

21 MR. WESTON: YOUR HONOR, JUST A MATTER OF MAYBE TEN,
22 FIFTEEN TO TWENTY MINUTES AT THE MOST.

23 THE COURT: OKAY.

24 MR. ABDALLA: SAME HERE, JUDGE. I'M ---

25 THE COURT: OKAY.

CLOSING ARGUMENTS - MR. ABDALLA

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1 MR. ABDALLA: --- PRETTY SHORT.

2 THE COURT: I'LL START TAPPING MY PEN IF YOU'RE GOING
3 TOO LONG. OKAY.

4 (WHEREUPON THE JURY ENTERED THE COURTROOM AT 2:36 PM)

5 THE COURT: ALL RIGHT. MADAME FORELADY AND LADIES AND
6 GENTLEMEN OF THE JURY, IF YOU REMEMBER WHEN I MADE MY
7 OPENING COMMENTS TO YOU I DIVIDED A TRIAL INTO FIVE PARTS.
8 AND I WANT YOU TO KNOW THAT WE HAVE FINISHED THE FIRST PART,
9 WHICH WAS OPENING STATEMENTS. AND WE HAVE FINISHED THE
10 SECOND PART, WHICH IS THE PRESENTATION OF THE TESTIMONY AND
11 THE EVIDENCE. SO ALL OF THE EVIDENCE THAT IS GOING TO BE
12 PRESENTED IN THIS CASE IS NOW BEFORE YOU.

13 WE'RE NOW GOING TO MOVE TO THE THIRD PART OF THE TRIAL,
14 WHICH IS THE CLOSING ARGUMENTS OF THE ATTORNEYS. Y'ALL HAVE
15 PAID GREAT ATTENTION THROUGHOUT THE COURSE OF THE TRIAL.
16 AND I ASK YOU TO CONTINUE TO DO THAT DURING THE ARGUMENTS OF
17 THE ATTORNEYS. THANK YOU VERY MUCH. ALL RIGHT.

18 MR. ABDALLA: THANK YOU, YOUR HONOR. LADIES AND
19 GENTLEMEN OF THE JURY, MY NAME'S JOHN ABDALLA. THIS IS THE
20 LAST TIME YOU'LL HEAR FROM ME. AND I WANT TO BEGIN BY JUST
21 SAYING IF MY DEMEANOR HAS UPSET ANYBODY BY THE WAY I ACT IN
22 COURT, PLEASE DON'T HOLD IT AGAINST MY CLIENT.

23 BUT WE'RE HERE ON A VERY IMPORTANT MATTER. AND SO
24 SOMETIMES I TEND TO TAKE A WHILE TO GET POINTS ACROSS, TEND
25 TO BE A BIT SLOW. BUT PLEASE UNDERSTAND, I AM STRUGGLING

CLOSING ARGUMENTS - MR. ABDALLA

422

1 FOR HIS FREEDOM.

2 YOU'VE HEARD ALL THE EVIDENCE. NOW THERE'S NOTHING
3 ELSE THAT I OR MR. WESTON CAN SAY THAT'S GOING TO ADD TO THE
4 EVIDENCE. AND WE ARE HERE TO INSTRUCT THE JURY AS IT WERE
5 OR TELL THE JURY WHAT WE THINK THE EVIDENCE SHOWS. BUT
6 YOU'RE THE ONLY ONES WHO WILL MAKE A DECISION ON WHAT THE
7 EVIDENCE SHOWS.

8 THE JUDGE IS GOING TO GIVE YOU THE LAW IN THE CASE
9 AFTER THE CLOSING ARGUMENTS. YOU'LL TAKE THE LAW AND THE
10 FACTS AND COMBINE THEM TO COME UP WITH A VERDICT OF GUILTY
11 OR NOT GUILTY.

12 A COUPLE OF THINGS I WANT TO TALK ABOUT ARE THE FACT
13 THAT YOU HEARD FROM CARL SOUTHERLAND -- AND LET ME BACK UP
14 ONE MOMENT. THIS TRIAL COMES DOWN TO ESSENTIALLY TWO
15 PEOPLE. YOU'RE EITHER GOING TO BELIEVE ALL OR PART OF WHAT
16 CARL SOUTHERLAND SAID OR YOU'LL BELIEVE ALL OR PART OF WHAT
17 JONATHAN CAMPBELL SAID. OBVIOUSLY MY HOPE IS THAT YOU'LL
18 AGREE WITH WHAT JONATHAN CAMPBELL SAID BECAUSE OUR POSITION
19 IS JONATHAN TOLD THE TRUTH.

20 CARL, AS YOU KNOW, WAS OFFERED A DEAL TO PLEAD TO
21 MANSLAUGHTER, WHICH HE DID. HE HASN'T BEEN SENTENCED YET
22 BECAUSE HE TESTIFIED AS A PART OF THAT DEAL. HE SAID HE
23 WASN'T GIVEN ANY SPECIFIC DEAL. IT CARRIES UP TO THIRTY
24 YEARS, THAT'S ALL HE KNOWS. MY CLIENT IS STILL FACING
25 THIRTY YEARS TO LIFE ON A MURDER CHARGE.

CLOSING ARGUMENTS - MR. ABDALLA

423

1 THE STATE HAS BEEN ALLEGING A COUPLE OF THINGS. THE
2 STATE HAS ALLEGED THAT MY CLIENT IS GUILTY OF A MURDER
3 BECAUSE IT WAS FORESEEABLE THAT CARL -- THAT CARL WOULD HAVE
4 KILLED JERMAINE WHILE THEY WERE IN THE CAR.

5 IF YOU BELIEVE THE THEORY THAT THEY'RE PRESENTING, THE
6 HAND OF ONE IS THE HAND OF ALL, A VERY LEGITIMATE LEGAL
7 THEORY, WHICH YOU WILL BE CHARGED WITH BY THE JUDGE, YOU
8 HAVE TO FIND THAT THESE PEOPLE, SOUTHERLAND, JERMAINE
9 PROCTOR AND MY CLIENT, JONATHAN CAMPBELL, WERE TOGETHER TO
10 DO SOMETHING ILLEGAL AND THAT THE KILLING OF JERMAINE
11 PROCTOR WAS A NATURAL FORESEEABLE CONSEQUENCE OF THAT
12 ACTION.

13 GENERALLY ONE THINKS OF A NATURAL CONSEQUENCE OF A
14 KILLING IN THE COURSE OF A CONSPIRACY, IT TAKES PLACE WHERE
15 SOMEBODY ROBS SOMEBODY, AND THERE'S TWO PEOPLE TAKING PART
16 IN IT, ONE PERSON MAY BE THE LOOK-OUT, THE OTHER ONE GOES IN
17 AND DOES THE ROBBERY AND THEY'RE BOTH RESPONSIBLE IF THEY
18 HAVE A TASK AGREEMENT, A CLEAR AGREEMENT.

19 YOU'VE HEARD THE TESTIMONY FROM BOTH OF THEM. THERE
20 WAS NEVER AN AGREEMENT BY, ACCORDING TO EITHER WHO'VE
21 TESTIFIED, TO KILL JERMAINE PROCTOR. THE FACT THAT THEY
22 WERE AGREEING TO GO BREAK IN SOMEWHERE AT SOME FUTURE POINT
23 DOES NOT MAKE THIS CONSPIRACY SOMETHING THAT'S AN ONGOING
24 THING WHERE THE DEATH OF JERMAINE CAMPBELL, I MEAN, I'M
25 SORRY, THE DEATH OF JERMAINE PROCTOR IS A NATURAL AND

CLOSING ARGUMENTS - MR. ABDALLA

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1 FORESEEABLE CONSEQUENCE.

2 THE FIRST WITNESS THAT THE STATE PUT UP THAT WAS
3 RELEVANT TO OUR CASE WAS MS. SAXON. MS. SAXON IS MY CLIENT,
4 JONATHAN CAMPBELL'S MOTHER. SHE TESTIFIED ABOUT HER -- HOW
5 HER SON CALLED HER, THE FACT THAT JONATHAN DIDN'T TELL THE
6 TRUTH AT THAT TIME. AND, OF COURSE, WE'RE ASKING YOU, THE
7 JURY, TO ACCEPT HER STORY ABOUT THE CALL, AND THE FACT THAT
8 HE WAS FED THAT STORY AND TOLD HIS MOTHER THAT STORY.

9 ANOTHER CONFLICTED -- OTHER THAN THAT THE TIME HE TOLD
10 HIS MOTHER THAT STORY HE NEVER SAID THAT HAPPENED AGAIN, BUT
11 HE ADMITTED THAT THAT WASN'T WHAT HAPPENED. YOU HEARD HIS
12 MOTHER TESTIFY THAT HE CALLED FROM ALABAMA AND SAID IT
13 WASN'T LIKE THAT.

14 HIS MOTHER TESTIFIED THAT ESSENTIALLY HE WAS AFRAID TO
15 SPEAK. HE WAS ON THE TELEPHONE IN JAIL WITH THE POLICE
16 DEPARTMENT AT THAT POINT. AND SHE SAID, IS THERE SOMEBODY
17 THERE? AND HE SAID, YES. AND SHE SAID, I UNDERSTAND. THIS
18 IS A MOTHER AND A SON COMMUNICATING. THIS IS NOT A LIE TO
19 AN AUTHORITY. JONATHAN THEN GAVE HIS STATEMENT TO AN
20 AUTHORITY. CARL SOUTHERLAND DIDN'T.

21 CARL SOUTHERLAND IN ALABAMA GAVE AN EXTENSIVE STATEMENT
22 TO WHERE HE SAID JONATHAN KILLED JERMAINE AND SAID HE HAD
23 ABSOLUTELY NOTHING TO DO WITH IT. CARL'S DEMEANOR WAS
24 AWFULLY CALM. YOU SAW HIM ON THE STAND. AND YOU'LL MAKE A
25 JUDGMENT AS TO HOW TRUTHFUL HE WAS.

CLOSING ARGUMENTS - MR. ABDALLA

425

1 CARL TESTIFIED ABOUT THE FACT THAT JONATHAN JUMPED IN
2 THE FRONT SEAT OR, I MEAN, OVER TO THE DRIVER'S SEAT AND WAS
3 SOMEHOW STABBING JERMAINE AND HAD HIS BODY OVER JERMAINE'S
4 AND WAS KICKING OUT THE DASH. IF YOU THINK ABOUT THE
5 COMPARTMENT OF A CAR AND YOU THINK ABOUT A MAN DRIVING A CAR
6 THAT'S APPROXIMATELY FIVE FOOT FOUR, AND YOU THINK ABOUT THE
7 FACT THAT CARL HAD HIS -- JONATHAN ON TOP OF HIM WITH HIS
8 FEET UP ON THE DASHBOARD, IT'S LIKE A LOT OF OTHER CARL
9 STORIES, IT DOESN'T MAKE SENSE.

10 YOU AS THE JURY HAVE A REALLY HARD BURDEN HERE. AND I
11 RECOGNIZE THAT. YOU HAVE TWO CLIENTS -- WE HAVE TWO
12 CLIENTS, TWO WITNESSES TELLING TWO TOTALLY DIFFERENT
13 STORIES. AND IT'S UP TO YOU TO DETERMINE WHICH ONE'S
14 TELLING THE TRUTH.

15 AND ONE OF THE WAYS YOU CAN TRY TO LOOK AT IT IS WHICH
16 STORY MAKES THE MOST SENSE, WHICH ONE MAKES LOGICAL SENSE?
17 WE KNOW THAT CARL MADE A STATEMENT SAYING HE HAD NO
18 INVOLVEMENT. WE KNOW HE SAID THAT HE HELD ONTO JERMAINE
19 WHILE JONATHAN KILLED HIM.

20 WE KNOW THAT CARL SAID -- PLUS THEY BOTH HAD SAID IT
21 WAS A HAMMER. BUT CARL SAID THAT JERMAINE WAS HIT TWENTY-
22 FIVE TO THIRTY TIMES WITH A HAMMER. YOU GET TAPPED ONE TIME
23 WITH A HAMMER AND MAYBE IT WOULDN'T SHOW UP, BUT YOU'RE NOT
24 GOING TO GET HIT TWENTY-FIVE TO THIRTY TIMES. SO THAT TOO
25 WAS AN ABSOLUTE LIE. AND THAT WAS THE STORY HE TOLD UNTIL

CLOSING ARGUMENTS - MR. ABDALLA

426

1 HE GOT HIS DEAL.

2 HE GETS HIS DEAL AND ALL OF A SUDDEN HE'S WILLING TO
3 TAKE THE PLEA TO MANSLAUGHTER. AND HE'S WILLING TO TESTIFY
4 FOR THE STATE. AND HE'S WILLING TO NOW SAY THAT I HELD HIM
5 WHILE JONATHAN STABBED HIM. AND THE STATE WANTS YOU TO FIND
6 JONATHAN GUILTY OF MURDER AND, OF COURSE, CARL GUILTY OF --
7 HE'S ALREADY GUILTY OF MANSLAUGHTER.

8 ONE OF THE PROBLEMS -- ANOTHER PROBLEM WITH CARL'S
9 STORY IS THE FACT THAT HE AT NO TIME GAVE A LOGICAL BASIS
10 FOR IT. AND NEITHER STORY HAS A REALLY LOGICAL BASIS. HE'S
11 VERY COOL, VERY CALM, VERY COLD IN HIS ENTIRE DEMEANOR. AND
12 YOU COULD LOOK TO THAT AS WHETHER YOU FIND HIM BELIEVABLE OR
13 NOT, THE FACT THAT HE SAID HE DIDN'T RECALL HIMSELF FOUR AND
14 A HALF YEARS AGO.

15 NOW WHAT'S THE DIFFERENCE WITH THE WAY JONATHAN
16 TESTIFIED? JONATHAN TESTIFIED FROM THE TIME IT HAPPENED TIL
17 THE TIME THE UGLY INCIDENT WAS OVER -- AND IT IS AN UGLY
18 INCIDENT. I'M STANDING IN FRONT OF YOU ASKING YOU TO FIND
19 MY CLIENT NOT GUILTY. AND WE ALL UNDERSTAND THIS IS AN UGLY
20 EPISODE.

21 AS THE PROSECUTOR POINTED OUT, HE MADE A GREAT CASE FOR
22 ACCESSORY AFTER THE FACT. HE WAS GUILTY OF RUNNING. HE WAS
23 GUILTY OF STAYING WITH CARL AND HIDING THE BODY. HE WAS
24 GUILTY OF COMMITTING CRIMES INCLUDING HIM SMOKING DOPE,
25 CASHING CHECKS. HE WAS GUILTY OF EVERYTHING AFTER IT.

CLOSING ARGUMENTS - MR. ABDALLA

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1 LADIES AND GENTLEMEN, THAT'S ACCESSORY AFTER THE FACT, IF
2 YOU BELIEVE JONATHAN, THAT HE DIDN'T HAVE A HAND IN KILLING
3 JERMAINE.

4 NOW THE PROSECUTOR TRIED TO MAKE A BIG DEAL OUT OF THE
5 FACT THAT JONATHAN REACHED HIS ARM AROUND AND GRABBED HIM.
6 AND HE WAS TRYING TO SAY IT WAS MALICIOUS. NOW JONATHAN
7 TESTIFIED THAT HE THOUGHT CARL, I'M SORRY, HE THOUGHT
8 JERMAINE HIT HIM IN THE BACK OF THE HEAD WITH WHAT HE
9 THOUGHT WAS A HAMMER, SOMETHING BLUNT.

10 AND HE SAID HE LOOKED DOWN AND CARL WAS COMING TOWARD
11 HIM. AND AT THAT POINT CARL SADLY ISN'T HERE TO TESTIFY TO
12 WHAT HAPPENED. MAYBE HE'D ALREADY BEEN HIT AT THAT TIME BY
13 CARL. WE DON'T KNOW. BUT FOR SOME REASON HE COMES OVER
14 TOWARD JONATHAN.

15 JONATHAN PUTS UP HIS ARM. AS YOU PROBABLY SAW IN THE
16 PICTURE, HE GOT BIT. THERE WAS A MARK CONSISTENT WITH A
17 BITE ON JONATHAN'S HAND. I DON'T HAVE AN EXPERT TO TESTIFY
18 TO WHETHER THAT'S ACTUALLY A BITE MARK, BUT THE POINT IS
19 IT'S CONSISTENT WITH WHAT JONATHAN SAID.

20 CARL APPARENTLY GOES CRAZY OR GETS IN SOME TYPE OF --
21 ANGRY OR WHATEVER. I WAS GOING TO SAY IN A FIT OF ANGER,
22 BUT HE'S SO CALM IT'S HARD TO IMAGINE HOW HE EVER GETS ABOVE
23 A FLAT DEMEANOR. BUT HE CAME FROM THE BACKSEAT AND HE
24 STARTED STABBING JERMAINE.

25 AND THE LOGIC -- THE LOGIC OF THAT STORY MAKES A LOT

CLOSING ARGUMENTS - MR. ABDALLA

428

1 MORE SENSE. ASIDE FROM THE FACT THAT CARL AT ONE TIME HAD
2 HIMSELF IN THE RIGHT REAR PASSENGER'S SEAT, THEN LATER SAID,
3 NO, HE WAS IN THE LEFT REAR PASSENGER'S SEAT. HE HAD A
4 BUNCH OF DIFFERENT VARIATIONS. THE ONLY THING THAT IS
5 CONSISTENT IS HE SAID THAT JONATHAN WAS THE ONE THAT DID THE
6 STABBING. HE'S CONSISTENT THERE.

7 BUT JONATHAN TOLD THESE UGLY GRUESOME DETAILS ABOUT HOW
8 CARL WAS STABBING JERMAINE REPEATEDLY. AND IT WASN'T A SHOW
9 OF CHARACTER BY JONATHAN. DON'T GET ME WRONG. HE DIDN'T
10 SHOW GREAT CHARACTER. BUT PLEASE DON'T MISUNDERSTAND OR
11 MISINTERPRET NOT HAVING CHARACTER WITH BEING GUILTY OF
12 MURDER OR MANSLAUGHTER. PLEASE.

13 I DON'T THINK HE ACTED LIKE HE WAS PROUD OF HAVING DONE
14 THE THINGS HE DID. HE ADMITTED EVERYTHING HE HAD DONE IN
15 HIS LIFE WHEN HE WAS ON THAT STAND. HE TALKED ABOUT HOW HE
16 LEFT HOME, WENT TO COLORADO, GOT IN TROUBLE, THEN HE CAME
17 BACK TO GREENVILLE, USED DRUGS, HIS OWN MOTHER PUT HIM OUT
18 BECAUSE SHE DIDN'T LIKE TO SEE HIM USING DRUGS, HIS MARRIAGE
19 FELL APART.

20 HE'S ADMITTED TO NOT BEING A STELLAR CITIZEN. HE'S
21 ADMITTED TO HAVING COMMITTED A BURGLARY UP IN NORTH
22 CAROLINA. HE'S ADMITTED TO HAVING COMMITTED A COUPLE OF
23 DRUG OFFENSES IN SOUTH CAROLINA AND SEVERAL FRAUDULENT
24 CHECKS.

25 LADIES AND GENTLEMEN, THERE'S A LOT OF DIFFERENCE

CLOSING ARGUMENTS - MR. ABDALLA

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1 BETWEEN SOMEBODY COMMITTING A BURGLARY AND WRITING A BAD
2 CHECK AND SOMEBODY WHO COLDLY STABS SOMEBODY. YOU SAW THE
3 Demeanor OF CARL SOUTHERLAND ON THIS STAND.

4 IT'S HARD TO IMAGINE HOW ANYBODY COULD BE SO
5 INTIMIDATED AS TO NOT DO THE RIGHT THING OVER A TWO AND A
6 HALF DAY PERIOD. IT'S VERY DIFFICULT TO IMAGINE THAT. AND
7 THAT'S WHAT OUR JOB IS TODAY IS TO TRY AND GET YOU TO
8 UNDERSTAND WHAT MUST HAVE BEEN GOING ON.

9 IF WHAT JONATHAN SAID IS ALL TRUE YOU HAVE A GUY WHO
10 MADE THREATS TO YOU, YOU HAVE A GUY WHO ADMITTED ON THE
11 STAND THERE HAS A TATTOO OF SATAN, HAS HATE WRITTEN ACROSS
12 HIS FINGERS. PLUS CARL TESTIFIED THAT HE HAD THE SWASTIKA
13 ON HIM. HE THREATENED HIM SAYING HE WAS A MEMBER OF AN
14 ARYAN NATION.

15 THIS IS A GUY WHO IS A LITTLE MORE OF A DRIFTER TYPE
16 PERSON, TOUGHER GUY. THIS IS A GUY WHO IS MORE BELIEVABLE,
17 COULD COLDLY MURDER SOMEBODY, BUT HE PLED TO MANSLAUGHTER.
18 THIS IS A GUY WHO IS BELIEVABLE THAT COULD CONVINCE SOMEBODY
19 THAT IF YOU LEAVE HERE YOU'D BETTER WATCH OUT FOR YOUR
20 FAMILY AND FOR YOURSELF.

21 SOME PEOPLE CAN BE THAT INTIMIDATED. AGAIN, IT WASN'T
22 A GREAT SHOW OF CHARACTER BY JONATHAN. NOTHING IS EVER
23 GOING TO BRING BACK MR. PROCTOR. THAT'S A HORRIBLE SIN THAT
24 WAS COMMITTED FOUR AND A HALF YEARS AGO. OUR POSITION IS
25 THAT WAS COMMITTED BY CARL SOUTHERLAND ALONE.

CLOSING ARGUMENTS - MR. ABDALLA

430

1 HOLDING UP YOUR HAND IN THE DEFENSE OR WHERE YOU'RE
2 EVEN HOLDING SOMEBODY BECAUSE YOU'RE IN A DEFENSIVE POSTURE
3 AS SELF-DEFENSE IS NOT TANTAMOUNT TO I'M HOLDING THEM,
4 THEREFORE, I'M PART OF A CONSPIRACY TO KILL HIM. YOU HAVE
5 TO HAVE SOME CRIMINAL INTENT.

6 IT HAS TO BE A FORESEEABLE AND NATURALLY -- AND NATURAL
7 RESULT OF AN ACTION OF WHAT WAS GOING ON. THERE'S NOTHING
8 NATURAL OR NOTHING FORESEEABLE ABOUT A COLD BLOODED MURDER
9 WHEN YOU'RE IN THIS SITUATION THOSE FELLOWS WERE IN THAT
10 NIGHT OR EARLY THAT MORNING, I SHOULD SAY.

11 I KNOW THAT THE -- IT WAS SUGGESTED THAT BECAUSE CARL'S
12 MOTHER, I'M SORRY, JONATHAN'S MOTHER IS HIS MOTHER, SHE
13 OBVIOUSLY LOVES HIM, THAT SHE MAY NOT TELL THE WHOLE TRUTH.
14 THAT'S FOR YOU TO DECIDE, TO DETERMINE.

15 SHE TOOK THE STAND AND SHE TOLD THE STORY. SHE TOLD
16 THE POLICE THAT SHE TOLD WHAT HAPPENED. SHE TALKED ABOUT
17 THE CALL FROM TEXAS. I KEEP SAYING TEXAS, FROM ALABAMA.
18 THEY WERE HEADED FOR TEXAS. NEVER GOT TO TEXAS. AND THE
19 FACT THAT HER SON TOLD HER THAT IT WASN'T QUITE LIKE I SAID.

20 YES, HE WAITED UNTIL HE GOT BACK TO GREENVILLE, BUT HE
21 DIDN'T TELL THE AUTHORITIES A LIE. CARL TOLD SEVERAL LIES.
22 WE KNOW THAT. IT'S A MATTER OF RECORD. HE WAS EITHER LYING
23 THEN OR HE WAS LYING ON THE STAND WHEN HE TOOK THE STAND.
24 OR, YOU KNOW WHAT, MAYBE HE WAS LYING ALL THREE TIMES.

25 JONATHAN TESTIFIED ABOUT THE FACT THAT HE WAS

CLOSING ARGUMENTS - MR. ABDALLA

431

1 INTIMIDATED BECAUSE ASIDE FROM THOSE THREATS HE WAS HOLDING
2 A SCREWDRIVER. AND THAT WAS SOMETHING THAT WAS FOUND IN
3 EVIDENCE. YOU SAW IT FROM THE PICTURES THAT WERE SHOWN. I
4 HOPE YOU SAW THE EVIDENCE. IT WAS A SCREWDRIVER AND THERE
5 WAS A KNIFE. SO WE KNOW THOSE TWO THINGS EXIST.

6 SADLY THERE'S NO OBJECTIVE EVIDENCE. THERE'S NOTHING
7 THAT LINKS ANYBODY TO THEM OR EXCLUDES THEM. WE CAN'T SAY
8 -- THE STATE CAN'T SAY THERE'S DNA EVIDENCE ON ANY OF THE
9 INSTRUMENTS THAT CONNECT MY CLIENT TO THOSE TOOLS BECAUSE
10 THEY DIDN'T TAKE ANY EVIDENCE AS FAR AS I KNOW. SO,
11 THEREFORE, YOU'RE LEFT WITH JUST OPINION TESTIMONY, WITH THE
12 TESTIMONY FROM THE STAND, WITH THE TWO MEN WHO WERE INVOLVED
13 IN THE INCIDENT THAT OCCURRED IN JUNE OF 2005.

14 CARL ALSO SAID THAT HE COULDN'T HAVE DONE THIS BECAUSE
15 HE WAS DOWN TO A HUNDRED AND FIFTEEN POUNDS WHEN HE CAME
16 BACK. DO YOU REMEMBER THAT? WELL, WE DISCOVERED WHEN HE
17 CAME TO GREENVILLE HE WAS A HUNDRED AND FIFTY-SIX POUNDS.

18 YOU CAN SAY, WELL, THAT'S JUST A LITTLE THING. THE
19 POINT IS THE MAN HAS AN INABILITY TO TELL THE TRUTH SO IT
20 SEEMS. YOU HAVE TO LOOK AT THAT AND SEE WHY WOULD SOMEBODY
21 LIE ABOUT THOSE FACTS.

22 AND SPEAKING OF WHICH, WHEN MR. CAMPBELL WAS ON THE
23 STAND AND THE PROSECUTOR WAS GOING AFTER HIM AND ACCUSES HIM
24 OF LYING. NOW I CAN'T MAKE A DETERMINATION OF WHO'S TELLING
25 THE TRUTH BECAUSE I DON'T HAVE AN -- AN ABILITY TO KNOW

CLOSING ARGUMENTS - MR. ABDALLA

432

1 WHO'S TELLING THE TRUTH ANY BETTER THAN ANYBODY ELSE.
2 YOU HAVE TO INTENTIONALLY MISSTATE SOMETHING TO STATE A
3 LIE. THE FACT THAT MR. CAMPBELL MISUNDERSTOOD SOMETHING
4 DOES NOT NECESSARILY MAKE IT A LIE. THE FACT THAT HE
5 GRABBED JERMAINE ONE WAY VERSUS ANOTHER DOES NOT MAKE IT A
6 LIE. THAT'S ALL FOR YOU TO DETERMINE.

7 THE ONE THING I WILL SAY IS THIS, MR. SOUTHERLAND WAS
8 ON THE STAND FOR QUITE A WHILE. AND HE REGULARLY SAID -- HE
9 WAS CHALLENGED ABOUT HIS TESTIMONY, IF YOU REMEMBER. HIS
10 STORY ABOUT THE CAR, ABOUT WHAT WENT ON IN THE CAR WHEN HE
11 ACTED OUT SEEMED TO MAKE NO LOGICAL SENSE WHATSOEVER. FOR
12 IT TO HAVE HAPPENED FOR THE VARIOUS WAYS HE EXPLAINED IT
13 MADE NO SENSE.

14 WHEN I CROSS EXAMINED HIM ON THE AUTHORITIES FROM
15 ALABAMA CROSS EXAMINING HIM HE THEN SAID, WELL, I DON'T
16 REMEMBER WHAT I SAID BACK THEN. YOU KNOW WHY HE DOESN'T
17 REMEMBER WHAT HE SAID? THERE'S AN OLD AXIOM, THE TRUTH
18 NEVER CHANGES. THE TRUTH FLOWS.

19 JONATHAN TOLD THAT STORY FROM A TO Z. AND IT WAS
20 NATURAL. AND HE DENIED ALL ALONG, YOU COULD SAY IT WAS JUST
21 TO SAVE HIS BUTT, DENIED ALL ALONG THAT HE HAD ANYTHING TO
22 DO WITH THE KILLING OF JERMAINE PROCTOR.

23 MR. SOUTHERLAND, WHEN HE WAS UP THERE, WITH NO EMOTION
24 WHATSOEVER JUST, NO, I DIDN'T DO IT. HE DID IT. I TOLD HIM
25 TO STOP. NO EMOTION. IT DIDN'T APPEAR TO BOTHER CARL

CLOSING ARGUMENTS - MR. ABDALLA

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1 SOUTHERLAND AT ALL. IT APPEARED TO HAVE BOTHERED JONATHAN
2 CAMPBELL QUITE A BIT.

3 AGAIN, I UNDERSTAND HE DIDN'T SHOW A LOT OF CHARACTER
4 BY LOOKING AFTER HIS BUTT, AND IF YOU WANT TO SAY LOOKING
5 AFTER THE TAIL OF HIS FRIEND. BUT I WILL SAY THIS, A LOT OF
6 US WILL LOOK OUT FOR THE SAFETY OF OUR FAMILIES EVEN IF IT
7 DOES NOT REWARD US A COURAGE AWARD. IT'S ONE THING TO LOOK
8 OUT FOR YOURSELF, BUT TO LOOK OUT -- TO NOT LOOK OUT FOR
9 YOUR FAMILY, THAT'D BE THE TOUGHEST THING.

10 WHETHER THAT WAS REALISTIC, I CAN'T SAY. BUT AGAIN,
11 YOU HAVE A MAN WITH THOSE TATTOOS, WITH THAT HISTORY WHO
12 LOOKS LIKE A DRIFTER, PUT THAT ALL TOGETHER AND YOU FOUND
13 HIM WITH THE CASE.

14 WHAT I HOPE YOU DON'T DO, I HOPE EACH AND EVERY ONE OF
15 YOU -- AND I TRUST YOU'RE GOING TO DO AN HONEST AND GREAT
16 JOB. BUT I REALLY HOPE YOU STICK TO YOUR CONVICTIONS. IF
17 YOU THINK THAT HE'S NOT GUILTY OF THIS, THIS 'ISN'T MAJORITY
18 RULE, STICK TO YOUR CONVICTIONS.

19 I FEAR THAT WITH THE HAND OF ONE YOU COULD THINK, WELL,
20 YOU KNOW, THEY WERE DOING SOMETHING ILLEGAL, THEREFORE, THEY
21 SAID THE HAND OF ONE IS THE HAND OF ALL, AND THEY WERE
22 INVOLVED WITH SOME ILLEGAL STUFF. PLEASE APPLY THE RULE
23 THAT IT HAS TO BE NATURAL CONSEQUENCE, IT HAS TO BE
24 FORESEEABLE. JONATHAN HAS TO HAVE SOME INTENT TO DO THAT.

25 THEY WERE NEVER CONSPIRING, NEITHER ONE OF THEM -- AS A

CLOSING ARGUMENTS - MR. ABDALLA

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1 MATTER OF FACT BOTH OF THEM TESTIFIED TO THE CONTRARY.
2 THERE WAS NEVER A PLAN TO KILL OR TO HARM MR. PROCTOR. SO
3 THAT TAKES THAT OUT OF THE DEAL. HE WASN'T THE PRIMARY
4 VICTIM.

5 THE ONLY VICTIM AS IT WERE WAS SOME BREAK-IN THAT WAS
6 GOING TO OCCUR AT SOME LATER DATE. BUT THERE WAS NOBODY
7 THAT WAS ANGRY ABOUT THAT. SO THERE WASN'T A NATURAL FIGHT
8 THAT RESULTED. WHAT WENT ON IN THE HEAD OF CARL SOUTHERLAND
9 IS SOMETHING MOST OF US WILL NEVER KNOW. AND I IMAGINE I
10 WOULD NEVER WANT TO KNOW. BUT SOMETHING WENT WRONG THERE.

11 JONATHAN CAMPBELL DID NOT COMMIT THIS ACT. HE'S GUILTY
12 OF ACCESSORY AFTER THE FACT OF MURDER. THAT'S A DIFFERENT
13 CHARGE. I CAN'T DO ANYTHING ABOUT THAT. BUT HE'S NOT
14 GUILTY OF THE MURDER BY ANY THEORY, BY HAND OF ONE, BY
15 CONSPIRACY. IT IS NOT A NATURAL CONSEQUENCE OF WHAT
16 HAPPENED.

17 IF YOU THINK ABOUT THE TESTIMONY AND YOU THINK ABOUT
18 WHO STAYED STEADY WITH THEIR TESTIMONY AND JUST WENT FULL
19 SPEED AHEAD, IT'S JONATHAN CAMPBELL. IF YOU THINK ABOUT THE
20 PERSON WHO CHANGED THEIR TESTIMONY REPEATEDLY AND DIDN'T
21 REMEMBER, IT WAS CARL SOUTHERLAND.

22 AND IF YOU REMEMBER, ONE OF THE REASONS JONATHAN
23 REMEMBERED IT SO WELL, WHAT WAS IT? THAT'S BURNED IN MY
24 BRAIN. I DON'T REMEMBER HIS WORDS. I'LL NEVER FORGET THAT.
25 I WISH I COULD. YOU CAN'T MAKE UP STUFF LIKE THIS. THIS IS

CLOSING ARGUMENTS - MR. WESTON

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1 A NIGHTMARE THAT HE'LL NEVER ESCAPE. PLEASE FIND HIM NOT
2 GUILTY. THANK YOU VERY MUCH.

3 THE COURT: ALL RIGHT. MR. WESTON.

4 MR. WESTON: THANK YOU, YOUR HONOR. MAY IT PLEASE THE
5 COURT?

6 THE COURT: YES, SIR.

7 MR. WESTON: LADIES AND GENTLEMEN, LET ME BEGIN. I'M
8 GOING TO TRY TO GET THIS DONE TO BEGIN WITH. AND I DON'T
9 WANT TO BELABOR IT. BUT I WANT TO SAY AT THE OUTSET, AND
10 I'M NOT GOING TO GO BACK THROUGH THIS AGAIN.

11 WE'RE TALKING ABOUT A ROBBERY, POSSIBLE ROBBERY, CRACK
12 HEADS, CRACK DEALERS AND ALL THIS STUFF. BUT I'M GOING TO
13 JUST SAY AT THE BEGINNING, JERMAINE PROCTOR WAS A HUMAN
14 BEING WHO DID NOT DESERVE TO DIE AND HAVE HIS BODY TREATED
15 LIKE THIS.

16 PLEASE DO NOT LET THE FACT THAT HE WAS INVOLVED WITH
17 THAT MAN AND MR. SOUTHERLAND OR THAT HE OCCASIONALLY SOLD
18 CRACK COCAINE IN ANY WAY GIVE YOU THE UNDERSTANDING, THE
19 FEELING, LIFT ANY GUILT YOU MIGHT HAVE FOR HOLDING THAT MAN
20 AND MR. SOUTHERLAND RESPONSIBLE FOR HIS DEATH.

21 AS I SAID, I WANTED TO JUST SAY THAT AND GET IT OUT OF
22 THE WAY. I'M NOT GOING TO MENTION THAT AGAIN. IT IS WHAT
23 IT IS. AND HE WAS WHO HE WAS. AND HE DEALT WITH WHO HE
24 DEALT WITH.

25 YOU'VE HEARD ALL THE EVIDENCE. AND IN A FEW MOMENTS

CLOSING ARGUMENTS - MR. WESTON

436

1 THE CASE IS GOING TO BE YOURS TO DECIDE. AT THE CONCLUSION
2 OF MY REMARKS JUDGE MILLER WILL GIVE YOU THE LAW TO BE
3 APPLIED TO THIS CASE.

4 AND IT'S FORTUNATE FOR Y'ALL THAT HE DOES BECAUSE I
5 JUST LISTENED TO MR. ABDALLA'S VERSION OF THE LAW, AND I
6 DISAGREE WITH IT. I'M SURE HE'S GOING TO DISAGREE WITH WHAT
7 I TELL YOU THE LAW IS. BUT FORTUNATE FOR Y'ALL, HE'S GOING
8 TO TELL YOU, YOU DON'T TAKE THE LAW FROM US, AND WHAT WE SAY
9 IS NOT EVIDENCE.

10 I WAS JUST LISTENING TO MR. ABDALLA'S RECOLLECTION OF
11 WHAT WAS SAID ON THIS WITNESS STAND, AND I THOUGHT I WAS IN
12 A DIFFERENT TRIAL. BUT I'M SURE HE WOULD THINK THE SAME
13 ABOUT WHAT I SAY AND HOW I REMEMBERED THINGS 'CAUSE YOU
14 REMEMBER THINGS TO FIT YOUR OWN SET OF VERSION OF WHAT YOU
15 THINK THE FACTS ARE. BUT FORTUNATELY YOU TAKE THE LAW FROM
16 THE JUDGE AND THE FACTS FROM THE EVIDENCE PRESENTED, NOT THE
17 LAWYERS. THANK GOODNESS.

18 HIS HONOR IS GOING TO TELL YOU THE LAW, AS I SAID. BUT
19 I'D LIKE TO JUST TELL YOU, JUST SORT OF TO REEMPHASIZE TO
20 KIND OF POINT OUT TWO OR THREE THINGS THAT I THINK HE'S
21 GOING TO TELL YOU. AND I WOULD ASK THAT YOU GIVE SPECIAL
22 ATTENTION TO IT.

23 NUMBER ONE, HE'S GOING TO TALK ABOUT THE BURDEN OF
24 PROOF. THE STATE, AS I TOLD YOU AT THE OUTSET, WE ARE
25 REQUIRED AND INTEND TO PROVE THAT THIS DEFENDANT, JONATHAN

CLOSING ARGUMENTS - MR. WESTON

437

1 CAMPBELL, KILLED JERMAINE PROCTOR WITH MALICE AFORETHOUGHT.

2 HE'S GOING TO TELL YOU ABOUT JUDGING THE CHARACTER OF

3 WITNESSES, THAT YOU CAN BELIEVE SOME OF WHAT -- OF A

4 WITNESS' TESTIMONY OR ALL OF A WITNESS' TESTIMONY OR ONE

5 WITNESS OVER ANOTHER.

6 HE'S GOING TO TELL YOU AS MR. ABDALLA SAID ABOUT THE

7 HAND OF ONE IS THE HAND OF ALL. HE'S GOING TO TELL YOU

8 ABOUT PRESUMPTIONS AND BURDENS AND WHAT HAVE YOU. AND AS I

9 SAID, YOU TAKE THE EVIDENCE FROM HIM, NOT FROM ME.

10 HE'S GOING TO DEFINE -- HE'S GOING TO DEFINE REASONABLE

11 DOUBT, BEYOND A REASONABLE DOUBT. AND HE'S GOING TO DEFINE

12 MALICE AFORETHOUGHT, WHAT MALICE IS IN THE DEFINITION OF

13 MURDER UNDER OUR LAW.

14 HE'S GOING TO TALK TO YOU AND YOU TAKE THE DEFINITION

15 OF REASONABLE DOUBT THAT HE GIVES YOU. BUT I WOULD POINT

16 OUT TO YOU THAT HE'S NOT -- HE'S GOING TO TELL YOU SOMETHING

17 ALONG THE LINES OF REASONABLE DOUBT IS NOT ABSOLUTE

18 CERTAINTY. IT IS A DOUBT THAT YOU CAN ASSIGN REASON. A

19 DOUBT THAT WOULD CAUSE A REASONABLE PERSON, SECURELY FIRM IN

20 THEIR CONVICTIONS, TO HESITATE TO ACT. IT'S NOT A FANCIFUL

21 OR WHIMSICAL KIND OF DOUBT OR JUST ANY POSSIBLE DOUBT, IT IS

22 A REASONABLE DOUBT.

23 WE THINK THAT THE EVIDENCE BEYOND A REASONABLE DOUBT IN

24 THIS CASE, AND I'M GOING TO GO IN TO APPLY IT IN JUST A

25 MOMENT, WE THINK IT CLEARLY SHOWS IN THIS CASE THAT MAN IS

CLOSING ARGUMENTS - MR. WESTON

438

1 GUILTY OF MURDER.

2 HE'S GOING TO DEFINE MALICE AFORETHOUGHT. HE'S GOING
3 TO TELL YOU SOMETHING ALONG THE LINES THAT MALICE
4 AFORETHOUGHT IS A EVIL HEART, EVIL INTENTION, A PERSON -- A
5 HEART THAT IS BENT ON DOING WRONG. MALICE IS BASICALLY
6 DOING SOMETHING THAT AIN'T RIGHT, JUST MEANNESS, IN MY
7 OPINION. IT'S JUST MEANNESS, JUST BEING MEAN.

8 LIKE WHEN THE DEFENDANT SAID IN ANSWER TO HIS OWN
9 LAWYER'S QUESTION, DO YOU HAVE ANY REMORSE ABOUT THE
10 KILLING? NOT ABOUT THE KILLING, ABOUT ME AND MY FAMILY.
11 THAT SHOWS Y'ALL MALICE. HE COULD CARE LESS ABOUT JERMAINE
12 PROCTOR. THAT'S WHAT HE SAID IN ANSWER TO HIS LAWYER'S
13 QUESTION. DO YOU HAVE ANY REMORSE ABOUT THE KILLING? NOT
14 ABOUT THE KILLING, ABOUT ME AND MY FAMILY MAYBE. THAT IS
15 MALICE, LADIES AND GENTLEMEN. THAT IS EVIDENCE OF MALICE
16 'CAUSE HE COULD CARE LESS.

17 YOU SAW HOW HE WAS SMILING. AS MR. ABDALLA SAID, CARL
18 SOUTHERLAND WAS PRETTY STOIC, HE'S OLDER, PROBABLY BEEN
19 THROUGH THE RINGER A LOT MORE THAN MR. CAMPBELL. AND I
20 DON'T THINK THAT DETERMINES WHETHER PEOPLE ARE BELIEVABLE OR
21 NOT. I'M NOT GOING TO EVEN ADDRESS THAT, WHETHER HE WAS
22 STOIC, WHETHER HE WAS LITTLE MORE EMOTIONAL.

23 DID YOU SEE HOW HE WAS SMILING AS HE SAID, NOT ABOUT
24 THE KILLING? GOT NO REMORSE ABOUT THAT. TALKED ABOUT -- HE
25 THREW IN HOW MR. SOUTHERLAND SAID ALL THESE RACIST THINGS.

CLOSING ARGUMENTS - MR. WESTON

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1 OF COURSE, HE DIDN'T KNOW MR. SOUTHERLAND WAS A RACIST,
2 ARYAN NATION, ARYAN BROTHERHOOD, ALL THAT UNTIL THEN. AND
3 THEN HE STARTED -- KIND OF JUST TOOK OFF -- ALL OF A SUDDEN
4 HE JUST BECOMES THIS BAD GUY, SUPER HERO VILLAIN. HE DIDN'T
5 KNOW THAT, YET HE LIVED WITH HIM? THAT'S WHAT HE WANTS
6 Y'ALL TO BELIEVE?

7 I COULD GO THROUGH -- AND WHEN I HAD MR. SOUTHERLAND ON
8 THE STAND, I MEAN, MR. CAMPBELL ON THE STAND I WENT THROUGH
9 A LITANY OF THINGS OF WHAT YOU DIDN'T DO AT THE END OF MY
10 CROSS EXAMINATION. AND I COULD GO THROUGH EACH ONE OF THOSE
11 AND EMPHASIZE -- Y'ALL KNOW WHAT HAPPENED. AND I'M NOT
12 GOING TO DO THAT JUST TO TRY TO EVOKE EMOTION FROM YOU OR
13 MAKE YOU FEEL BAD ABOUT EVEN MR. CAMPBELL BECAUSE MR.
14 SOUTHERLAND AND MR. CAMPBELL ARE NOT NICE GUYS, EITHER ONE
15 OF THEM.

16 BUT, LADIES AND GENTLEMEN, THIS CASE HAS NOTHING TO DO
17 WITH WHAT HAPPENED DURING THAT BURGLARY THEY COMMITTED THE
18 NIGHT BEFORE WHERE THEY GOT THOSE SPEAKERS OR THE RIDE THEY
19 MADE WITH MS. FORD WHERE THEY PLANNED TO GET TOGETHER THAT
20 NIGHT.

21 IT HAS ABSOLUTELY NOTHING TO DO WITH WHAT HAPPENED
22 AFTER THEY LEFT CLEVELAND PARK AFTER THE MURDER AND WENT TO
23 TRAVELERS REST, AND THEN WENT TO GEORGIA, AND THEN WENT TO
24 ALABAMA OR WHETHER THEY WERE GOING TO LOUISIANA, OR TEXAS,
25 OR MEXICO OR TEN BUCK TWO. IT HAS NOTHING TO DO, WHEN IT

CLOSING ARGUMENTS - MR. WESTON

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1 COMES DOWN TO IT, WITH ANY OF THAT.

2 THEY BOTH ACTED BADLY. AFTER THE MURDER THEY BOTH
3 ACTED BADLY. AND WE WOULD -- EVERYONE WOULD AGREE THAT EACH
4 ONE OF THEM AFTER THE MURDER IS RESPONSIBLE FOR BOTH OF
5 THEIR ACTIONS THEREAFTER. NO ONE IS MORE RESPONSIBLE THAN
6 OTHER -- THAN THE OTHER. NO ONE IS ANY WORSE THAN THE
7 OTHER. THEY'RE BOTH BAD, HEINOUS, BUT THEY'RE EQUALLY
8 RESPONSIBLE FOR WHAT HAPPENED BEFORE AND AFTER.

9 MR. ABDALLA WOULD HAVE YOU BELIEVE THAT THEY ARE NOT
10 EQUALLY RESPONSIBLE FOR THAT TEN SECONDS AROUND THE TIME
11 JERMAINE PROCTOR WAS KILLED, AND THAT THEY WERE IN TWO
12 DIFFERENT DIMENSIONS OR SOMETHING 'CAUSE THAT'S WHAT THIS
13 CASE COMES DOWN TO.

14 ALL THE OTHER STUFF THAT I COULD TELL YOU ABOUT, ALL
15 THE OTHER STUFF THAT I COULD TRY TO INFLAME YOU WITH ABOUT
16 HOW THERE'S A BODY THAT'S DECOMPOSING IN THE BACK SEAT FOR
17 TWO DAYS AND IT'S A HUNDRED DEGREES IN ALABAMA IN JUNE, I'M
18 NOT GOING TO GET INTO THAT. I'M NOT GOING TO DO THAT TO
19 Y'ALL. I'M NOT GOING TO DO THAT TO MR. CAMPBELL'S FAMILY OR
20 THE VICTIM'S FAMILY BECAUSE IT'S NOT -- IT'S NOT RELEVANT,
21 NOT DIRECTLY.

22 THE ONLY THING THAT MATTERS IS WHAT HAPPENED IN THAT
23 CAR IN THAT TEN OR FIFTEEN SECONDS WHEN MR. PROCTOR WAS
24 KILLED. THAT'S THE ONLY THING Y'ALL NEED TO CONSIDER
25 BECAUSE IF YOU THINK ABOUT IT, THEIR STORIES ARE ALMOST

CLOSING ARGUMENTS - MR. WESTON

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1 EXACTLY THE SAME.

2 THEY TOLD YOU ALMOST THE EXACT SAME STORY LEADING UP TO
3 THE DEATH, INCLUDING WHERE EVERYBODY WAS SITTING IN THE CAR,
4 WHERE THEY WERE, WHAT THEY HAD DONE, HOW THEY ENDED UP
5 GETTING THERE. THEN THEY TOLD YOU ALMOST THE EXACT SAME
6 STORY ABOUT WHAT HAPPENED AFTER THEY LEFT CLEVELAND PARK.
7 THERE WAS SOME MINOR DIFFERENCES, BUT GENERALLY IT'S THE
8 SAME STORY.

9 MR. CAMPBELL ADMITS THAT HE AND MR. SOUTHERLAND MET UP
10 WITH MR. PROCTOR EARLIER THAT DAY TRYING TO GET SOME CRACK
11 FROM HIM. HE DIDN'T HAVE ANY. THEY ALL AGREED TO MEET THAT
12 NIGHT TO LOOK FOR SOME PLACES THAT THEY COULD BURGLARIZE,
13 THE TWO OF THEM, SO THAT MR. CAMPBELL COULD GIVE THEM, I
14 MEAN, MR. PROCTOR COULD GIVE THEM CRACK AS A GROUP FOR
15 BURGLARIZING PLACES FOR HIM. THEY BOTH SAID THAT.

16 THEY BOTH SAID THAT THEY RODE AROUND GREENVILLE LOOKING
17 FOR PLACES AND THEY ULTIMATELY DID NOT FIND A PLACE TO BREAK
18 IN. NOW THEY VARIED ON WHERE THEY WENT, BUT THEY BASICALLY
19 SAID THE SAME THING.

20 THEY BOTH AGREED THAT ULTIMATELY THEY DECIDED, NOT MR.
21 PROCTOR, THAT THEY WEREN'T GOING TO DO IT. FOR WHATEVER
22 REASON THEY BACKED OUT AFTER THEY HAD FINISHED SMOKING HIS
23 CRACK. THEY BOTH AGREED THAT THAT LOCATION NEAR CLEVELAND
24 PARK WAS WHERE MR. PROCTOR WAS KILLED, ON THAT DARK STREET.

25 THE ONLY DIFFERENCE IN THEIR TESTIMONY, THE ONLY THING

CLOSING ARGUMENTS - MR. WESTON

442

1 YOU'VE GOT TO REALLY FIGURE OUT IS WHAT HAPPENED IN THAT TEN
2 SECONDS. THAT'S WHAT THIS CASE IS ALL ABOUT. THAT'S ALL
3 THAT REALLY MATTERS. THE REST OF THIS STUFF IS JUST FLUFF.
4 IT'S JUST GORY DETAILS. THAT'S ALL THAT OTHER -- REST OF
5 THIS IS, WHICH IS WHY THE CREDIBILITY OF WITNESSES BECOMES
6 SO IMPORTANT.

7 AS I TOLD YOU AT THE OUTSET, THERE ARE TWO WAYS YOU CAN
8 FIND THIS MAN GUILTY. ONE, YOU CAN FIND FROM THE EVIDENCE
9 THAT HE'S THE PERSON THAT STABBED JERMAINE PROCTOR EIGHTEEN
10 TIMES. AND IF HE IS, AND IF YOU FIND THAT, THEN IT'S
11 SIMPLE, HE'S GUILTY OF MURDER, AND WE'RE DONE.

12 AND AS I SAID, I SAID THIS AT THE OUTSET AND I'M GOING
13 TO ADDRESS IT RIGHT QUICK AND KIND OF LEAVE IT ALONE. HE IS
14 ALSO GUILTY OF POSSESSION OF A WEAPON DURING THE COMMISSION
15 OF A VIOLENT CRIME, THE SECOND CHARGE, BECAUSE HE HAS A
16 WEAPON, A KNIFE. AND MURDER WILL BE DEFINED BY JUDGE MILLER
17 AS A VIOLENT CRIME. SO IF YOU FIND HIM GUILTY OF MURDER,
18 HE'S GUILTY OF POSSESSION OF WEAPON -- OF A WEAPON DURING
19 THE COMMISSION OF A VIOLENT CRIME. THAT'S ALL I'M GOING TO
20 SAY ABOUT THAT.

21 BUT THE SECOND WAY YOU CAN FIND HIM GUILTY IS UNDER THE
22 THEORY THAT WE TALKED -- I MENTIONED AT THE OUTSET AND THE
23 JUDGE WILL CHARGE YOU, THE HAND OF ONE IS THE HAND OF ALL,
24 WHICH BRINGS US BACK TO THAT TEN SECONDS OF WHAT HAPPENED IN
25 THAT CAR.

CLOSING ARGUMENTS - MR. WESTON

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1 I WAS CONCERNED THAT MR. CAMPBELL WOULD GET ON THAT
2 WITNESS STAND AND TELL YOU THAT HE WAS SITTING IN THE
3 BACKSEAT AND THAT HE HAD NOTHING TO DO WITH THIS, AND THAT
4 THEY STARTED ARGUING, AND THAT THERE WAS THIS ARGUMENT AND A
5 STABBING AND HE WAS JUST SITTING THERE GOING, OH, MY GOD, HE
6 KILLED JERMAINE. AND THEN HE HELPED HIM MOVE THE BODY AND
7 THEN HE JUST HELPED OUT. AS MR. ABDALLA SAID, THEN HE
8 BECOMES THE ACCESSORY AFTER THE FACT.

9 BUT HE DIDN'T TELL YOU THAT. HE BASICALLY WALKED RIGHT
10 INTO TELLING YOU HE'S GUILTY UNDER THE HAND OF ONE IS THE
11 HAND OF ALL. AND THAT'S IF YOU BELIEVE HIS COCAMAMY STORY.

12 LET'S THINK ABOUT THAT FOR A MOMENT 'CAUSE YOU WON'T
13 LEAVE YOUR COMMON SENSE HOME WHEN YOU COME AND SERVE ON A
14 JURY. YOU BRING ALL YOUR DAILY EXPERIENCES OF YOUR DAILY
15 LIFE, ALL THE STUFF YOU SEE ON TV, ALL THE STUFF YOU READ IN
16 THE PAPER, ALL THE STUFF YOU SEE AS YOU ARE -- AS YOU'RE
17 GOING THROUGH LIFE, ALL THE PEOPLE YOU COME IN CONTACT WITH
18 IN YOUR EXPERIENCES.

19 LET'S START WITH THIS WHOLE WORST CRACK DEALER IN THE
20 WORLD SCENARIO HE SET UP. AND WE ALL HAVE PEOPLE EITHER IN
21 OUR EXTENDED FAMILIES, OR IN OUR NEIGHBORHOODS OR PEOPLE
22 THAT HAVE WORKED WITH US THAT HAVE RUN INTO PROBLEMS WITH
23 CRACK OR METHAMPHETAMINE. WE KNOW ABOUT THOSE PEOPLE.

24 HAVE YOU EVER HEARD OF A CRACK ADDICT THAT COULD SMOKE
25 ONE CRACK ROCK AND SAY, I'M NOT GOING TO SMOKE ANOTHER ONE

CLOSING ARGUMENTS - MR. WESTON

444

1 FOR THE NEXT TWO HOURS? THAT'S CRAZY. CRACK ADDICTS CAN'T
2 KEEP CRACK, THEY'RE ADDICTS. ADDICTION MEANS IF I'VE GOT
3 MORE, I'M GOING TO DO IT.

4 MR. ABDALLA: OBJECTION, YOUR HONOR. HE'S TESTIFYING
5 TO SOMETHING THAT HAS NOT BEEN IN THE RECORD ABOUT CRACK
6 ADDICTS AND HOW ---

7 THE COURT: GO AHEAD.

8 MR. WESTON: THANK YOU, YOUR HONOR. CRACK ADDICTS
9 CAN'T KEEP CRACK, THEY'RE ADDICTS. BUT THIS MAN WOULD HAVE
10 YOU BELIEVE THAT HE WAS -- THAT THE CRACK DEALER, AND I'M
11 GOING TO COME BACK TO THAT PART TOO 'CAUSE THAT'S EVEN
12 CRAZIER, THE CRACK DEALER GAVE THEM CRACK AT LIKE 12:00 --
13 12:00 AT NIGHT, 1:00 IN THE MORNING. AT EIGHT OR 9:00 THE
14 NEXT MORNING THEY STILL GOT THOSE SIX ROCKS OF CRACK? AND
15 THEY'RE STILL SMOKING FROM THAT CRACK OF SIX OR EIGHT ROCKS
16 AFTER HE'S DEAD? AND HE WOULD HAVE YOU BELIEVE THAT. HE
17 WOULD HAVE YOU BELIEVE THAT.

18 NEXT LET'S TALK ABOUT MR. PROCTOR AS A CRACK DEALER.
19 WORST CRACK DEALER IN THE WORLD. WHAT SELF-RESPECTING CRACK
20 DEALER GIVES THE CRACK ADDICTS THE ROCKS BEFORE HE GETS
21 PAID? THESE ARE ADDICTS.

22 AND THEY'VE ADMITTED, HE ADMITTED THAT, MR. SOUTHERLAND
23 ADMITTED THAT MR. PROCTOR DIDN'T SMOKE. HE WAS SMART ENOUGH
24 TO KNOW NOT TO GET HIGH ON HIS SUPPLY. BUT HE WASN'T SMART
25 ENOUGH TO KNOW THAT IF I GIVE THESE CRACK ADDICT ROCKS,

CLOSING ARGUMENTS - MR. WESTON

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1 THEY'RE GOING TO SMOKE IT ALL AND THEN THEY MIGHT NOT DO
2 WHAT THEY'RE SUPPOSED TO DO? WHAT SELF-RESPECTING CRACK
3 DEALER DOES THAT? DOES HE THINK WE STUPID? DOES HE THINK
4 THAT EVERYBODY ELSE IN THIS WORLD WAS BORN AT NIGHT? AND
5 THEY MIGHT HAVE BEEN, BUT NOT LAST NIGHT. WE KNOW BETTER
6 THAN THAT.

7 SO THEY GIVE -- THE CRACK DEALER GIVES HIM THE ROCKS TO
8 HOLD. THE CRACK DEALER THEN LETS THEM START SMOKING THE
9 ROCKS AS THEY RIDE AROUND GREENVILLE. THEN THEY BACK OUT OF
10 THE DEAL. SURPRISE. CRACK ADDICTS AIN'T RESPONSIBLE.
11 THEY'RE IRRESPONSIBLE PEOPLE.

12 THE CRACK DEALER DOESN'T GET PAID. OFFERS TO PROVIDE
13 TAXI SERVICE HOME. HE TOLD YOU, HE SAID HE'D DROP US OFF
14 ANYWHERE WE WANTED TO GO. AFTER THEY'D SMOKED HIS CRACK,
15 AFTER THEY SAID, SORRY, WE'RE NOT GOING TO DO WHAT WE TOLD
16 YOU WE WOULD DO, BUT WE DONE SMOKED UP YOUR CRACK.

17 AND BY THE WAY, HE SAID THEY HAD MORE CRACK. THEY
18 NEVER SAID MR. PROCTOR SAID, WELL HEY, GIVE ME MY CRACK
19 BACK. GIVE ME THOSE OTHER TWO OR THREE ROCKS YOU GOT. KIND
20 OF LEFT THAT OUT, DIDN'T HE? YOU KNOW WHY? BECAUSE IT'S
21 HARD TO REMEMBER A LIE.

22 MY MAMA USED TO TELL ME WHEN I WAS A CHILD, IT'S EASY
23 TO REMEMBER THE TRUTH BECAUSE THE TRUTH IS ALWAYS THE TRUTH,
24 SON. YOU CAN REMEMBER NEXT WEEK, NEXT MONTH, TWO YEARS
25 LATER. BUT WHEN YOU TELL A LIE, YOU'VE GOT TO REMEMBER THE

CLOSING ARGUMENTS - MR. WESTON

446

1 LIE YOU TOLD. AND THAT'S WHAT WE'VE GOT HERE FROM THIS MAN.

2 HE LEFT OUT ABOUT WHAT HAPPENED TO THOSE OTHER ROCKS.

3 THEY STILL HAD IT. HE SAID MR. CAMPBELL [SIC] GAVE HIM

4 ABOUT SIX OR EIGHT ROCKS. HE SAID THEY SMOKED ABOUT TWO OR

5 FOUR. SO HE'S GOT TWO OR FOUR ROCKS. THE CRACK DEALER

6 FORGOT ABOUT THAT AND SAID I'M GOING TO GIVE Y'ALL A RIDE

7 HOME, AND NOT EVEN ASK FOR MY OTHER CRACK BACK? HE WANTS

8 YOU TO BELIEVE THAT. THAT'S COCAMAMY.

9 THEN OUT OF THE BLUE HIS BOY -- AND I SAY HIS BOY

10 BECAUSE IT'S IN A COLLOQUIAL, HE'S MY FRIEND, SENSE, AND HIS

11 BOY BECAUSE, HE'S TAKING CARE OF HIM, SENSE. HE HAS BEEN

12 TAKING CARE OF JERMAINE PROCTOR FOR EIGHT, I MEAN, EXCUSE

13 ME, CARL SOUTHERLAND FOR EIGHT DAYS.

14 ALL OF A SUDDEN FOR NO REASON CARL SOUTHERLAND HITS HIM

15 WITH A HAMMER IN THE BACK OF THE HEAD. THEY HAD SMOKED THE

16 MAN'S CRACK. THEY'VE GOT A LITTLE BIT MORE LEFT. HE'S

17 GETTING READY TO TAKE THEM HOME.

18 DID HE EVER EXPLAIN TO YOU WHY? DID HE EVER TESTIFY --

19 AFTER ALL THIS HAPPENS AND THEY'VE BEEN IN THE CAR NOW FOR

20 TWO MORE DAYS TOGETHER, JUST HIM AND CARL, DOES HE EVER SAY,

21 HEY CARL, BY THE WAY, WHY THE HELL DID YOU HIT ME IN THE

22 HEAD? DID HE EVER SAY -- EXPLAIN WHAT HAPPENED? 'CAUSE

23 IT'S A LIE ---

24 MR. ABDALLA: OBJECTION, YOUR HONOR. HE'S COMMENTING

25 ON MY CLIENT'S ...

CLOSING ARGUMENTS - MR. WESTON

447

1 THE COURT: WHAT?

2 MR. ABDALLA: HE'S SHIFTING THE BURDEN TO MY CLIENT.

3 THE COURT: DON'T SHIFT THE BURDEN. I DIDN'T HEAR IT,
4 BUT DON'T SHIFT THE BURDEN.

5 MR. ABDALLA: WELL, WHEN HE SAID THAT HE WAS REQUIRED
6 TO ASK ---

7 THE COURT: OKAY. OKAY.

8 MR. WESTON: EXCUSE ME, YOUR HONOR, I DID NOT SAY HE
9 WAS REQUIRED ---

10 THE COURT: ALL RIGHT.

11 MR. WESTON: --- TO DO ANYTHING.

12 THE COURT: GO AHEAD.

13 MR. WESTON: THANK YOU, YOUR HONOR. I TOLD -- I ASKED
14 HIM A NUMBER OF QUESTIONS ABOUT WHAT HE DIDN'T DO. LET ME
15 PUT THIS IN SOME CONTEXT.

16 ONE OF THE THINGS I FORGOT TO ASK HIM WAS WHY DIDN'T
17 YOU ASK CARL SOUTHERLAND, WHY THE HELL DID YOU HIT ME IN THE
18 HEAD? WE WAS FRIENDS. I FORGOT TO ASK HIM THAT.

19 I FORGOT TO ASK HIM WHY DIDN'T YOU ASK CARL SOUTHERLAND
20 OVER THE NEXT TWO DAYS, WHY DID YOU COME AROUND THERE AND
21 KILL JERMAINE? FOR NO REASON, JUST OUT OF THE BLUE THIS
22 HAPPENS. CARL SOUTHERLAND HITS HIM IN THE HEAD AND THEN
23 GETS OUT, COMES AROUND AND KILLS JERMAINE. HE NEVER
24 EXPLAINED WHY THOSE THINGS HAPPENED. THEY JUST HAPPENED.

25 NOW HE HAPPENED TO BE -- JERMAINE IS THE ONE THAT HIT

CLOSING ARGUMENTS - MR. WESTON

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1 HIM IN THE HEAD. NOW HE SAID THE LIGHT IN THE CAR IS ON,
2 THE DORM LIGHT IS ON. IT'S A CAR. IT'S COMPACT. HOW DOES
3 HE NOT KNOW THAT JERMAINE DIDN'T HIT HIM IN THE HEAD? HE'S
4 SITTING RIGHT NEXT TO HIM.

5 AND HE SAID HE THOUGHT IT WAS A HAMMER. IF IT'S NOT
6 ENOUGH TO KNOCK HIM UNCONSCIOUS DON'T YOU LOOK TO SEE IF
7 HE'S GOT A HAMMER? AND IF YOU SEE HE DOESN'T HAVE ANY
8 HAMMER OR ANY INSTRUMENT IN HIS HAND TO HIT YOU, DON'T YOU
9 THINK, WELL, MAYBE IT CAME FROM BACK HERE? YOU DON'T
10 INSTINCTIVELY JUST GRAB HIM. IT MAKES NO SENSE, LADIES AND
11 GENTLEMEN. YOU KNOW WHY? 'CAUSE IT'S A LIE. IT IS A LIE.

12 BUT EVEN IF IT'S THE TRUTH, HE, AS I SAID, WALKED
13 HIMSELF INTO THIS SITUATION. I DIDN'T KNOW WHAT HE WAS
14 GOING TO SAY. BUT HE BASICALLY HAS TOLD Y'ALL HE'S GUILTY
15 BECAUSE HE DID NOT HAVE A PLAN WITH CARL SOUTHERLAND TO KILL
16 JERMAINE, ACCORDING TO HIM.

17 BUT AT THE TIME JERMAINE PROCTOR WAS STABBED, AT THAT
18 MOMENT HE ADMITTED HE WAS STRUGGLING WITH JERMAINE PROCTOR,
19 HE WAS HOLDING HIM BASICALLY. SO JERMAINE PROCTOR COULD NOT
20 FIGHT OFF CARL SOUTHERLAND. AND HE WAS MAD AT JERMAINE
21 PROCTOR. THAT'S WHAT HE SAID, NOT ME, NOT HIS LAWYER.

22 AND I DON'T CARE WHAT KIND OF SPIN HIS LAWYER PUTS ON
23 IT. HE SAID, I WAS MAD 'CAUSE I THOUGHT JERMAINE HAD HIT ME
24 WITH A HAMMER. THAT'S HIS OUT, LADIES AND GENTLEMEN. I
25 THOUGHT JERMAINE HAD HIT ME WITH A HAMMER. SO I'M NOT

CLOSING ARGUMENTS - MR. WESTON

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1 GUILTY OF HELPING TO MURDER HIM EVEN THOUGH I ADMIT I WAS
2 HOLDING HIM AND I WAS MAD AT HIM AT THE TIME HE WAS STABBED.
3 THAT'S HIS VERSION. SO EVEN IF YOU BELIEVE HIS VERSION,
4 LADIES AND GENTLEMEN, THAT COCAMAMY STORY OF HIS, HE IS
5 GUILTY AS SIN.

6 CARL SOUTHERLAND HAS TAKEN HIS RESPONSIBILITY. HE CUT
7 A DEAL, NO QUESTION. AND I BELIEVE HE IS JUST AS GUILTY OF
8 MURDER AS THAT MAN. BUT WHEN YOU LAY IT OUT AND YOU TRY TO
9 GET CONVICTIONS AGAINST BAD PEOPLE, SOMETIMES YOU HAVE TO DO
10 BUSINESS WITH BAD PEOPLE.

11 AND THE REASON WE'RE HERE TODAY IS BECAUSE CARL
12 SOUTHERLAND WAS GIVEN A DEAL. HE PLED GUILTY TO VOLUNTARY
13 MANSLAUGHTER IN EXCHANGE FOR HIS TESTIMONY. AND WE AS
14 PROSECUTORS HAVE TO MAKE A DECISION WHO WE THOUGHT WAS MORE
15 RESPONSIBLE. NOT THAT THE OTHER ONE WASN'T, BUT WHO'S MORE
16 RESPONSIBLE.

17 ULTIMATELY I'M GOING TO LEAVE YOU WITH THIS ONE THING.
18 AND IF YOU DISAGREE WITH ME, I UNDERSTAND. BUT I CAN'T
19 IMAGINE THIS BEING ANY OTHER WAY. WHAT SELF-RESPECTING MAN
20 TELLS HIS MOTHER THAT HE KILLED SOMEBODY WHEN HE DIDN'T,
21 THEN PUTS THAT ON HIS MOTHER'S HEART AND LETS IT STAY THERE
22 FOR THREE MONTHS?

23 IF A MAN -- IF TWO MEN COMMIT A CRIME AND ONE OF THEM
24 ACTUALLY DOES THE KILLING, ESPECIALLY UNDER THE FACTS THAT
25 HE DID, IS THERE ANY WAY THAT THAT OTHER MAN IS GOING TO

CLOSING ARGUMENTS - MR. WESTON

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1 CALL HIS MOTHER UP AND SAY, MAMA, I JUST KILLED A MAN? IS
2 THERE ANY WAY THAT THAT'S GOING TO HAPPEN?

3 AND ONCE AGAIN, AS I SAID, THE PROBLEM WITH LYING IS
4 YOU HAVE TO REMEMBER THE LIE. AND WHEN HE TOLD THE STORY
5 ABOUT -- LET ME TRY TO MAKE SURE I TELL IT RIGHT. THAT HE
6 WAS ON THE PHONE WITH HIS MOTHER TRYING TO GET MONEY FIRST.
7 NOW ALL OF A SUDDEN CARL SOUTHERLAND FLIPS AND BECOMES SUPER
8 NAZI, SUPER RADICAL, SUPER RACIST. AND HE, THE MAN WHO HAD
9 NO MEANS TO EVEN SUPPORT HIMSELF, NOW CAN MAKE A PHONE CALL
10 AND KILL HIS MOTHER AND HIM AND EVERYBODY AND TO THE POINT
11 WHERE HE'S AFRAID, SO AFRAID THAT HE TELLS HIS MOTHER HE
12 KILLED A MAN?

13 AND JUST BEFORE I GOT UP HERE MY TRIAL PARTNER, JON,
14 REMINDED ME OF SOMETHING. AND IT'S VERY IMPORTANT. IF YOU
15 THINK ABOUT IT, IT'S GOING TO MAKE SO MUCH SENSE TO YOU.
16 AND IT'LL SHOW YOU THAT THIS MAN IS LYING.

17 HE HAD JUST, ACCORDING TO HIS STORY, CARL SOUTHERLAND
18 HAD JUST KILLED JERMAINE PROCTOR WITH A KNIFE THAT HE HAD,
19 CARL SOUTHERLAND HAD, ACCORDING TO HIM. HE STABBED HIM
20 EIGHTEEN TIMES ACCORDING TO DR. WARD. AND HE DOESN'T
21 DISPUTE THAT.

22 WHY ON GOD'S EARTH WOULD CARL SOUTHERLAND THEN GET UP
23 NEXT TO HIM WITH A SCREWDRIVER? HE'S GOT A KNIFE. HE JUST
24 KILLED THE MAN WITH A KNIFE. WHY YOU RECKON HE WOULD TELL
25 HIS MOTHER HE'S STANDING HERE WITH A SCREWDRIVER HOLDING IT

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1 UP AGAINST ME? HE WOULD HAVE SAID HE WOULD HAVE USED A
2 KNIFE.

3 THE REASON HE SAID SCREWDRIVER IS BECAUSE HE WAS MAKING
4 IT UP AS HE WENT ALONG, LADIES AND GENTLEMEN. JUST THINK
5 ABOUT IT. DOES THAT MAKE ANY SENSE? AND SCREWDRIVERS CAN
6 BE DANGEROUS INSTRUMENTS, BUT IT AIN'T SO DANGEROUS FROM A
7 FIFTY-ONE YEAR OLD MAN IF YOU'RE A THIRTY-ONE YEAR OLD
8 HEALTHY MAN BY HIM, THAT YOU'RE GOING TO GO TELL YOUR MAMA
9 YOU KILLED SOMEBODY, YOU ARE SO AFRAID OF HIM.

10 LADIES AND GENTLEMEN, THE STORY IS BOGUS. THE STORY IS
11 INSULTING. FIND JONATHAN CAMPBELL GUILTY OF THE CRIME HE
12 COMMITTED, MURDER.

13 HE KILLED JERMAINE PROCTOR, OR ACCORDING TO HIS OWN
14 VERSION, HE HELD HIM WHILE CARL SOUTHERLAND KILLED HIM. AND
15 UNDER THE HAND OF ONE IS THE HAND OF ALL, EITHER WAY HE'S
16 GUILTY 'CAUSE THIS AIN'T ABOUT BODIES IN CARS FOR TWO DAYS.
17 THIS AIN'T ABOUT BURGLARIES.

18 THIS IS ABOUT TWO CRACK HEADS WHO ROBBED A DRUG DEALER,
19 AND TOOK HIS MONEY, AND TOOK HIS CAR AND FAILED TO EVEN DO
20 ANYTHING DECENT WITH HIS BODY. THAT'S ALL THIS IS ABOUT.
21 TWO CRACK HEADS ROBBING A DRUG DEALER AND STEALING HIS
22 MONEY. THAT'S ALL THIS IS. DON'T LET ONE OF THE CRACK
23 HEADS GO, PLEASE. THANK YOU.

24 THE COURT: ALL RIGHT. LADIES AND GENTLEMEN OF THE
25 JURY, DURING THIS TRIAL YOU AND I HAVE CERTAIN DUTIES TO

CHARGE OF THE COURT

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1 PERFORM. AND AS THE TRIAL JUDGE IT IS MY RESPONSIBILITY TO
2 PRESIDE OVER THE TRIAL OF THE CASE AND TO RULE ON THE
3 ADMISSIBILITY OF THE EVIDENCE THAT IS OFFERED DURING THE
4 TRIAL.

5 IT IS ALSO MY DUTY TO CHARGE YOU THE LAW APPLICABLE TO
6 THE CASE. AND IT IS YOUR DUTY AS JURORS TO ACCEPT AND APPLY
7 THE LAW AS I NOW STATE IT TO YOU. IF YOU THINK YOU HAVE ANY
8 IDEA AS TO WHAT THE LAW IS OR WHAT THE LAW OUGHT TO BE, AND
9 IT DOES NOT AGREE WITH WHAT I NOW TELL YOU THE LAW IS, YOU
10 MUST SET ASIDE YOUR OWN THOUGHTS AND APPLY THE LAW PRECISELY
11 AS I STATE IT TO YOU.

12 I WOULD ALSO REMIND YOU THAT IN EVERY CASE TRIED IN
13 THIS COURT BEFORE A JURY, THE JURY IS THE SOLE AND EXCLUSIVE
14 JUDGE OF THE FACTS. AND A TRIAL JUDGE CANNOT COMMENT ON OR
15 MAKE ANY STATEMENT ABOUT THE FACTS IN A CASE. SO PLEASE DO
16 NOT THINK BY ANYTHING THAT I HAVE SAID OR DONE THROUGHOUT
17 THE COURSE OF THE TRIAL THAT I HAVE AN OPINION ABOUT THE
18 FACTS. THE LAW DOES NOT ALLOW IT. AND I DO NOT HAVE SUCH
19 AN OPINION.

20 I WOULD INSTRUCT YOU, AGAIN, THAT THE FACT THAT THE
21 DEFENDANT WAS ARRESTED, CHARGED AND INDICTED IN THIS CASE IS
22 NOT EVIDENCE OF GUILT. NOR DOES IT CREATE ANY PRESUMPTION
23 OR INFERENCE OF GUILT. THESE DOCUMENTS ARE SIMPLY THE
24 FORMAL WRITTEN INSTRUMENTS WHICH CONTAIN THE CHARGE MADE
25 AGAINST A DEFENDANT. AND THEY SERVE AS THE FORMAL DOCUMENTS

CHARGE OF THE COURT

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1 BY WHICH THE CASE IS PROCESSED AND BROUGHT INTO THIS COURT.

2 NOW NECESSARILY YOUR JOB AS JURORS -- IN YOUR JOB AS
3 JURORS YOU MUST DETERMINE THE CREDIBILITY OR BELIEVABILITY
4 OF THE WITNESSES WHO HAVE TESTIFIED. AND IT BECOMES YOUR
5 DUTY AS JURORS TO EVALUATE THE EVIDENCE AND DETERMINE WHICH
6 EVIDENCE CONVINCES YOU IT IS TRUE.

7 AND IN DETERMINING THE BELIEVABILITY OF A WITNESS -- OF
8 THE WITNESSES YOU MAY BELIEVE ONE WITNESS OVER SEVERAL OR
9 SEVERAL OVER ONE. YOU MAY BELIEVE A PART OF THE TESTIMONY
10 OF A WITNESS AND REJECT THE REMAINING PART. YOU MAY BELIEVE
11 THE TESTIMONY OF A WITNESS IN ITS ENTIRETY OR REJECT THAT
12 SAME TESTIMONY IN ITS ENTIRETY.

13 YOU MAY CONSIDER WHETHER THE WITNESS HAS AN INTEREST IN
14 THE OUTCOME OF THE TRIAL, WHETHER THE WITNESS IS PREJUDICED
15 TOWARDS EITHER THE STATE OR THE DEFENDANT, THE OPPORTUNITY
16 FOR THE WITNESS TO HAVE SEEN THE MATTERS AND THINGS ABOUT
17 WHICH THAT WITNESS HAS TESTIFIED AND THE WAY THE WITNESS
18 ACTS ON THE WITNESS STAND OR WHAT WE CALL A WITNESS'
19 DEMEANOR.

20 NOW THE DEFENDANT HAS PLED NOT GUILTY TO THESE
21 INDICTMENTS. AND THAT PLEA PUTS THE BURDEN ON THE STATE TO
22 PROVE THE DEFENDANT GUILTY. A PERSON CHARGED WITH
23 COMMITTING A CRIMINAL OFFENSE IN SOUTH CAROLINA IS NEVER
24 REQUIRED TO PROVE THEMSELVES INNOCENT. AND I CHARGE YOU
25 THAT IT IS A CARDINAL AND AN IMPORTANT RULE OF THE LAW THAT

CHARGE OF THE COURT

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1 A DEFENDANT IN A CRIMINAL TRIAL WILL ALWAYS BE PRESUMED TO
2 BE INNOCENT OF THE CRIME FOR WHICH AN INDICTMENT HAS ISSUED
3 UNLESS AND UNTIL GUILT HAS BEEN PROVEN BY EVIDENCE
4 SATISFYING YOU OF GUILT BEYOND A REASONABLE DOUBT.

5 NOW A REASONABLE DOUBT IS THE KIND OF DOUBT WHICH WOULD
6 CAUSE A REASONABLE PERSON TO HESITATE TO ACT. AND
7 REASONABLE DOUBT MAY ARISE FROM THE EVIDENCE WHICH IS IN A
8 CASE OR FROM THE LACK OR ABSENCE OF EVIDENCE IN A CASE. AND
9 YOU, THE JURY, MUST DETERMINE WHETHER OR NOT REASONABLE
10 DOUBT EXISTS AS TO THE GUILT OF THE DEFENDANT.

11 THE STATE HAS THE BURDEN OF PROVING EACH AND EVERY
12 ELEMENT OF A CRIME BEYOND A REASONABLE DOUBT. AND ANY
13 REASONABLE DOUBT THAT YOU MAY HAVE IN YOUR DELIBERATIONS
14 SHOULD BE RESOLVED IN FAVOR OF THE DEFENDANT.

15 I WOULD FURTHER TELL YOU THAT VOLUNTARY INTOXICATION IS
16 NOT A DEFENSE TO A CRIME. AND A PERSON WHO VOLUNTARILY
17 BECOMES INTOXICATED IS JUST AS RESPONSIBLE FOR THE ACTS
18 COMMITTED WHILE INTOXICATED AS WHEN THE PERSON IS NOT
19 INTOXICATED.

20 YOU HAVE ALSO HEARD EVIDENCE THAT THE DEFENDANT HAS
21 BEEN CONVICTED OF A CRIME OR COMMITTED A BAD ACT, NOT THE
22 SUBJECT OF THE CONVICTION, OTHER THAN THE ONE FOR WHICH HE
23 IS NOW ON TRIAL. THIS EVIDENCE MAY BE CONSIDERED BY YOU, IF
24 YOU CONCLUDE IT IS TRUE, ONLY IN DECIDING WHETHER OR NOT THE
25 DEFENDANT'S TESTIMONY IS BELIEVABLE, AND FOR NO OTHER

CHARGE OF THE COURT

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1 PURPOSE. YOU MUST NOT CONSIDER THE DEFENDANT'S PRIOR RECORD
2 AS ANY EVIDENCE OF THE DEFENDANT'S GUILT OF THE CHARGES THAT
3 WE ARE TRYING TODAY.

4 I WOULD ALSO TELL YOU THAT WE HAVE TWO SEPARATE
5 INDICTMENTS THAT HAVE ISSUED IN THIS CASE. ONE IS FOR
6 MURDER AND ONE IS FOR POSSESSION OF A WEAPON DURING THE
7 COMMISSION OF A VIOLENT OFFENSE. EACH CASE MUST BE PROVEN
8 BEYOND A REASONABLE DOUBT.

9 AND EACH CASE STANDS ON ITS OWN, STANDS OR FALLS ON ITS
10 OWN MERITS. AND YOU MUST NOT CONSIDER THE -- YOU MUST
11 CONSIDER EACH ON ITS OWN WITHOUT ALLOWING ONE TO SPILL OVER
12 INTO THE OTHER. SO THEY EACH, YOU MUST -- IF YOU'RE GOING
13 TO CONVICT ON ONE INDICTMENT, IT MUST BE BEYOND A REASONABLE
14 DOUBT OF EACH AND EVERY ELEMENT. AND YOU MUST DO THAT ON
15 EACH INDICTMENT.

16 NOW IF A CRIME IS COMMITTED BY TWO OR MORE PEOPLE WHO
17 ARE ACTING TOGETHER IN COMMITTING A CRIME, THE ACT OF ONE IS
18 THE ACT OF ALL. A PERSON WHO JOINS WITH ANOTHER TO
19 ACCOMPLISH AN ILLEGAL PURPOSE IS CRIMINALLY RESPONSIBLE FOR
20 EVERYTHING DONE BY THE OTHER PERSON WHICH OCCURS AS A
21 NATURAL CONSEQUENCE OF THE ACTS DONE IN CARRYING OUT THE
22 COMMON PLAN AND PURPOSE.

23 FOR EXAMPLE; TWO PEOPLE CAN BE GUILTY OF KILLING
24 ANOTHER PERSON WHEN ONLY ONE OF THE TWO HAD A GUN, THERE WAS
25 ONLY ONE BULLET AND ONLY ONE OF THE TWO FIRED THE SHOT THAT

CHARGE OF THE COURT

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1 CAUSED THE DEATH. IF TWO OR MORE PEOPLE ARE TOGETHER,
2 ACTING TOGETHER, ASSISTING EACH OTHER IN COMMITTING THE
3 OFFENSE, THE ACT OF ONE IS THE ACT OF ALL OR AS IT IS
4 SOMETIMES SAID, THE HAND OF ONE IS THE HAND OF ALL.

5 NOW MERE KNOWLEDGE THAT ANOTHER PERSON IS GOING TO
6 COMMIT A CRIME, EVEN IF THE DEFENDANT IS PRESENT WHEN THE
7 CRIME IS COMMITTED, IS NOT SUFFICIENT TO CONVICT THE
8 DEFENDANT AS A PRINCIPAL. GUILT AS A PRINCIPAL IS SHOWN BY
9 ACTUAL OR CONSTRUCTIVE PRESENCE AT THE SCENE AS A RESULT OF
10 A PRIOR ARRANGEMENT.

11 THEREFORE, A FINDING OF A PRIOR ARRANGED PLAN OR COMMON
12 SCHEME IS NECESSARY FOR A FINDING OF GUILT AS A PRINCIPAL.
13 AND THE STATE MUST PROVE BEYOND A REASONABLE DOUBT BY
14 COMPETENT EVIDENCE THE THEORY THAT THE HAND OF ONE IS THE
15 HAND OF ALL. I WOULD ALSO TELL YOU THAT A PRINCIPAL, TO
16 DEFINE THIS, IN A CRIME IS ONE WHO EITHER ACTUALLY COMMITS
17 THE CRIME OR WHO IS PRESENT, AIDING, ABETTING OR ASSISTING
18 IN THE CRIME IN COMMITTING THE CRIME.

19 WHEN A PERSON DOES AN ACT IN THE PRESENCE OF AND WITH
20 THE ASSISTANCE OF ANOTHER, THE ACT IS DONE BY BOTH. WHERE
21 TWO OR MORE ACTING WITH A COMMON PLAN OR INTENT ARE PRESENT
22 AT THE COMMISSION OF A CRIME, IT DOES NOT MATTER WHO
23 ACTUALLY COMMITS THE CRIME, ALL ARE GUILTY. THE HAND OF ONE
24 IS THE HAND OF ALL.

25 PRESENT AT THE COMMISSION OF A CRIME MEANS TO BE

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1 SUFFICIENTLY NEAR TO AID, AND ABET AND ASSIST IN THE
2 COMMISSION OF THE CRIME. HOWEVER, MERE PRESENCE AT THE
3 SCENE OF A CRIME IS NOT SUFFICIENT TO CONVICT ONE AS A
4 PRINCIPAL ON THE THEORY OF AIDING AND ABETTING.

5 INTENT IS ALSO A NECESSARY ELEMENT, FOR THERE MUST HAVE
6 BEEN A COMMON DESIGN OR INTENT TO COMMIT THE CRIME AND THE
7 CRIME MUST HAVE BEEN COMMITTED PURSUANT THERETO WITH THE
8 PERSON AIDING AND ABETTING BY SOME OVERT ACT. INTENT MEANS
9 INTENDING THE RESULT WHICH ACTUALLY OCCURS, NOT ACCIDENTALLY
10 OR INVOLUNTARILY..

11 AN INTENT MAY BE SHOWN BY ACTS AND CONDUCT OF THE
12 DEFENDANT AND OTHER CIRCUMSTANCES FROM WHICH YOU MAY
13 NATURALLY AND REASONABLY INFER INTENT. AND THE STATE MUST
14 PROVE THESE ELEMENTS BEYOND A REASONABLE DOUBT.

15 NOW THE DEFENDANT IS CHARGED WITH MURDER. THE STATE
16 MUST PROVE BEYOND A REASONABLE DOUBT THAT THE DEFENDANT
17 KILLED ANOTHER PERSON WITH MALICE AFORETHOUGHT. MALICE IS
18 HATRED, ILL WILL OR HOSTILITY TOWARDS ANOTHER PERSON. IT IS
19 THE INTENTIONAL DOING OF A WRONGFUL ACT WITHOUT JUST CAUSE
20 OR EXCUSE AND WITH AN INTENT TO INFLECT AN INJURY OR UNDER
21 CIRCUMSTANCES THAT THE LAW WILL INFER AN EVIL INTENT.

22 AND MALICE AFORETHOUGHT DOES NOT REQUIRE THAT MALICE
23 EXISTS FOR ANY PARTICULAR LENGTH OF TIME BEFORE THE ACT IS
24 COMMITTED, BUT MALICE MUST EXIST IN THE MIND OF THE
25 DEFENDANT JUST BEFORE AND AT THE TIME THE ACT IS COMMITTED.

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1 THEREFORE, THERE MUST BE A COMBINATION OF THE PREVIOUS EVIL
2 INTENT AND THE ACT.

3 AND MALICE AFORETHOUGHT MAY BE EITHER EXPRESS OR
4 INFERRED. AND THESE TERMS EXPRESS AND INFERRED DO NOT MEAN
5 DIFFERENT KINDS OF MALICE, BUT MERELY THE MANNER IN WHICH
6 MALICE MAY BE SHOWN TO EXIST. THAT IS EITHER BY DIRECT
7 EVIDENCE OR BY INFERENCE FROM THE FACTS AND CIRCUMSTANCES
8 WHICH ARE PROVED.

9 EXPRESS MALICE IS SHOWN WHEN A PERSON SPEAKS WORDS
10 WHICH EXPRESS HATRED OR ILL WILL FOR ANOTHER OR WHEN THE
11 PERSON PREPARED BEFOREHAND TO DO THE ACT WHICH WAS LATER
12 ACCOMPLISHED. AND MALICE MAY BE INFERRED FROM CONDUCT
13 SHOWING A TOTAL DISREGARD FOR HUMAN LIFE.

14 INFERRED MALICE MAY ALSO ARISE WHEN THE DEED IS DONE
15 WITH A DEADLY WEAPON. AND A DEADLY WEAPON IS ANY ARTICLE,
16 INSTRUMENT OR SUBSTANCE WHICH IS LIKELY TO CAUSE DEATH OR
17 GREAT BODILY HARM. AND WHETHER AN INSTRUMENT HAS BEEN USED
18 AS A DEADLY WEAPON DEPENDS ON THE FACTS AND CIRCUMSTANCES OF
19 EACH CASE.

20 NOW IF YOU FIND THAT THE STATE HAS FAILED TO PROVE
21 BEYOND A REASONABLE DOUBT THAT THE DEFENDANT COMMITTED
22 MURDER, YOU MAY CONSIDER WHETHER THE STATE HAS PROVED BEYOND
23 A REASONABLE DOUBT THAT THE DEFENDANT COMMITTED VOLUNTARY
24 MANSLAUGHTER. TO PROVE VOLUNTARY MANSLAUGHTER THE STATE
25 MUST PROVE BEYOND A REASONABLE DOUBT THAT THE DEFENDANT TOOK

CHARGE OF THE COURT

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1 THE LIFE OF ANOTHER IN THE SUDDEN HEAT OF PASSION BASED ON
2 SUFFICIENT LEGAL PROVOCATION.

3 AND BOTH HEAT OF PASSION AND SUFFICIENT LEGAL
4 PROVOCATION MUST BE PRESENT AT THE TIME OF THE KILLING TO
5 CONSTITUTE VOLUNTARY MANSLAUGHTER. SUDDEN HEAT OF PASSION
6 MAY FOR A TIME AFFECT A PERSON'S SELF CONTROL AND
7 TEMPORARILY DISTURB A PERSON'S REASON.

8 A SUDDEN HEAT OF PASSION MUST BE THE TYPE THAT WOULD
9 MAKE AN ORDINARY PERSON UNABLE TO COOLY REFLECT ON HIS
10 ACTIONS AND WOULD PRODUCE AN UNCONTROLLABLE IMPULSE TO DO
11 VIOLENCE. SUFFICIENT LEGAL PROVOCATION MUST BE THE TYPE
12 THAT WOULD MAKE A PERSON OF ORDINARY REASON AND CAUTION
13 BECOME ENRAGED AND TO LOSE CONTROL TEMPORARILY. A
14 PROVOCATION NEEDED FOR VOLUNTARY MANSLAUGHTER MUST COME FROM
15 SOME ACT OF OR RELATED TO THE VICTIM.

16 NOW THE DEFENDANT IS ALSO CHARGED WITH POSSESSION OF A
17 WEAPON DURING THE COMMISSION OF OR ATTEMPT TO COMMIT A
18 VIOLENT CRIME. AND THE STATE MUST PROVE BEYOND A REASONABLE
19 DOUBT THAT THE DEFENDANT, IN THIS CASE, VISIBLY DISPLAYED A
20 KNIFE DURING THE COMMISSION OF A VIOLENT CRIME. AND A KNIFE
21 MEANS AN INSTRUMENT OR A TOOL WITH A SHARP CUTTING BLADE
22 WHETHER OR NOT FASTENED TO A HANDLE WHICH CAN BE USED TO
23 INFLECT A CUT, SLASH OR WOUND.

24 AND IN ORDER TO FIND THE DEFENDANT GUILTY OF POSSESSION
25 OF A WEAPON DURING THE COMMISSION OF A VIOLENT CRIME YOU

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1 MUST FIRST FIND THE DEFENDANT GUILTY OF EITHER COMMITTING A
2 VIOLENT CRIME OR ATTEMPTING TO COMMIT A VIOLENT CRIME. AND
3 I WOULD TELL YOU THAT MURDER AND VOLUNTARY MANSLAUGHTER ARE
4 VIOLENT CRIMES.

5 NOW, MADAME FORELADY, THERE ARE -- I'VE PREPARED A
6 VERDICT FORM WHICH WE'RE GOING TO SEND BACK INTO THE JURY
7 ROOM WITH YOU. AND I HOPE THAT IT IS SELF-EXPLANATORY.

8 YOU -- THERE ARE TWO INDICTMENTS. AND THEY ARE BOTH TO
9 BE CONSIDERED SEPARATELY. AND THEY BOTH MUST STAND OR FALL
10 ON THEIR OWN MERITS. I WANT TO TELL YOU THAT FOR EACH
11 INDICTMENT YOU MUST FIND A VERDICT OF EITHER GUILTY OR NOT
12 GUILTY.

13 AND I TELL YOU THAT WITH RESPECT TO THE CRIME OF
14 MURDER, IF YOU FIND NOT GUILTY, THEN YOU MUST CONSIDER THE
15 CRIME OF VOLUNTARY MANSLAUGHTER AND RENDER A DECISION EITHER
16 GUILTY OR NOT GUILTY ON THAT CHARGE. IF YOU FIND GUILTY OF
17 MURDER YOU DO NOT NEED TO CONSIDER VOLUNTARY MANSLAUGHTER.

18 AS TO THE CHARGE OF POSSESSION OF A WEAPON DURING THE
19 COMMISSION OF A VIOLENT CRIME, YOU MUST -- BEFORE YOU CAN
20 CONSIDER THAT OFFENSE YOU HAVE TO FIND THE DEFENDANT GUILTY
21 OF EITHER MURDER OR VOLUNTARY MANSLAUGHTER. IF YOU FIND HIM
22 NOT GUILTY ON EITHER ONE OF THOSE, THEN YOU MUST FIND NOT
23 GUILTY ON THE OTHER ONE, ON THE POSSESSION OF A WEAPON
24 DURING THE COMMISSION OF A VIOLENT CRIME.

25 I WANT TO TELL YOU THAT ALL TWELVE OF YOU MUST AGREE ON

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1 YOUR VERDICT. IT MUST BE UNANIMOUS. AND YOUR VERDICT
2 CANNOT BE BASED ON SYMPATHY, PASSION, PREJUDICE, EMOTION OR
3 ANY OTHER CONSIDERATION WHICH IS NOT IN EVIDENCE IN THIS
4 CASE. REMEMBER, YOU HAVE NO FRIENDS TO REWARD AND YOU HAVE
5 NO ENEMIES TO PUNISH.

6 NOW, MADAME FORELADY, WHEN YOU'VE REACHED A UNANIMOUS
7 VERDICT ON ALL CHARGES, SIGNAL TO THE BAILIFFS, WE'LL
8 RECEIVE YOU BACK INTO THE COURTROOM TO TAKE THE VERDICT. I
9 WANT TO ASK YOU -- I'M GOING TO EXCUSE YOU IN JUST A MOMENT.
10 I'M GOING TO ASK YOU NOT TO BEGIN YOUR DELIBERATIONS JUST
11 YET. AND -- I NEED TO GO OVER MY CHARGE ON THE LAW WITH THE
12 ATTORNEYS TO DETERMINE WHETHER OR NOT I HAVE MISSTATED
13 ANYTHING OR I HAVE OMITTED ANYTHING.

14 WHEN THE VERDICT FORM COMES BACK TO THE JURY ROOM WITH
15 THE EVIDENCE, THEN YOU MAY BEGIN YOUR DELIBERATIONS. AT
16 THIS TIME I'LL EXCUSE YOU ALL, EVERYONE EXCEPT MR. TODD AND
17 MR. BIRKNER TO THE JURY ROOM.

18 (WHEREUPON THE JURY EXITED THE COURTROOM AT 3:38 PM)

19 THE COURT: OTHER THAN PREVIOUSLY STATED OBJECTIONS TO
20 THE CHARGE ARE THERE ANY EXCEPTIONS OR OBJECTIONS TO THE
21 CHARGE?

22 MR. WESTON: YES, YOUR HONOR. THIS MAY NOT BE A
23 PROBLEM. ON THE POSSESSION OF A WEAPON DURING A VIOLENT
24 CRIME, I HAPPENED TO BE LISTENING TO THAT ONE, ---

25 MR. ABDALLA: YEAH, ME TOO.

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1 MR. WESTON: --- YOU DID FINE UP UNTIL THE LAST THING
2 YOU SAID WAS IF YOU FIND THE DEFENDANT GUILTY -- NOT GUILTY
3 OF EITHER ---

4 MR. ABDALLA: EITHER, THAT'S RIGHT.

5 MR. WESTON: --- MURDER OR VOLUNTARY MANSLAUGHTER, YOU
6 MUST FIND AS OPPOSED TO BOTH. IF YOU FIND HIM NOT GUILTY OF
7 BOTH, YOU MUST FIND ---

8 THE COURT: OKAY.

9 MR. WESTON: AND IT'S NOT THAT BIG A DEAL BECAUSE
10 EVERYTHING WAS FINE UP UNTIL THAT POINT, YOUR HONOR.

11 THE COURT: ALL RIGHT.

12 MR. WESTON: AND I ---

13 THE COURT: OKAY. ANY OTHER EXCEPTIONS OR OBJECTIONS?

14 MR. ABDALLA: THE ONLY EXCEPTION I HAVE ISN'T TO THE
15 CHARGES OTHER THAN THE PREVIOUSLY -- THOSE PREVIOUSLY STATED
16 WAS JUST THAT I WOULD ASK FOR A MISTRIAL BASED ON THE BURDEN
17 SHIFTING THAT I ALLEGED AGAINST THE STATE.

18 THE COURT: DENIED. ALL RIGHT. MR. TODD AND MR.
19 BIRKNER, YOU ALL ARE JUST AS QUALIFIED AS THOSE TWELVE FOLKS
20 I SENT BACK IN THERE. YOU'VE MADE THE EXACT SAME
21 SACRIFICES. YOU'VE DONE EVERYTHING REQUIRED OF YOU AND
22 ASKED OF YOU. AND I WISH I COULD LET YOU GO BACK AND
23 DELIBERATE, BUT I'M NOT ALLOWED TO. THE LAW ONLY ALLOWS
24 TWELVE.

25 SO I AM, AT THIS TIME, DISMISSING YOU FROM YOUR SERVICE

CHARGE OF THE COURT

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1 AS JURORS. I'LL TELL YOU THIS, YOU ARE FREE TO LEAVE, YOU
2 ARE FREE TO STAY, YOU'RE FREE TO TALK ABOUT THE CASE,
3 WHATEVER YOU WANT TO DO BECAUSE YOU'RE DONE FOR THE WEEK.
4 YOU'RE DONE FOR THE YEAR. AND NOW YOU CAN EXEMPT OUT FOR
5 THREE YEARS.

6 BUT YOU ALL CAN TALK ABOUT THE CASE IF YOU WANT TO OR
7 NOT TALK ABOUT IT. IF SOMEONE COMES AND TALKS TO YOU AND
8 YOU DON'T WANT TO TALK ABOUT IT, JUST TELL THEM THAT. IF
9 THEY PERSIST, JUST GET THEIR NAME AND COME TO US AND TELL
10 US, THE CLERK, A BAILIFF, OR A SHERIFF'S DEPUTY, AND WE WILL
11 FIX THAT PROBLEM BECAUSE WE'RE NOT GOING TO HAVE ANYBODY BE
12 HARASSED OR BOTHERED BECAUSE OF YOUR SERVICE.

13 BUT I THANK YOU VERY, VERY MUCH FOR YOUR SERVICE AND
14 HARD WORK THIS WEEK. SO Y'ALL ARE FREE, WHATEVER YOU'D LIKE
15 TO DO.

16 I NEED TO BRING THE JURY BACK IN. THAT WAS WHEN I WAS
17 DISCUSSING THE VERDICT FORM? MUST HAVE BEEN.

18 MR. ABDALLA: YEAH, I THINK WHAT HAPPENED WAS, IF I
19 RECALL, ---

20 THE COURT: OKAY. I GOT IT.

21 MR. ABDALLA: --- YOU STATED IT PROPERLY THE FIRST
22 TIME. THEN WHEN YOU WENT THROUGH AT THE END YOU SAID ---

23 THE COURT: ALL RIGHT. I GOT IT. THANK YOU.

24 MR. ABDALLA: JUST AT THE END. 'CAUSE EARLIER YOU SAID

25 ---

CHARGE OF THE COURT

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1 THE COURT: THAT'S ALL RIGHT. I'VE GOT IT.

2 (WHEREUPON THE JURY ENTERED THE COURTROOM AT 3:42 PM)

3 THE COURT: THANK Y'ALL FOR COMING BACK. I APOLOGIZE
4 FOR MAKING YOU COME BACK. YOU KNOW, IT'S OFTENTIMES HARD TO
5 SWALLOW WHEN YOU MAKE A MISTAKE, BUT I'M SO USED TO IT, IT
6 DOESN'T BOTHER ME ANYMORE.

7 BOTH ATTORNEYS POINTED OUT TO ME THAT WHEN I WAS
8 TALKING TO YOU ABOUT THE VERDICT FORM I SAID -- AND IT'S
9 WITH RESPECT TO THE POSSESSION OF A WEAPON DURING THE
10 COMMISSION OF A CRIME, VIOLENT CRIME, THAT I SAID IF YOU
11 FIND THE DEFENDANT NOT GUILTY OF EITHER ONE, THEN YOU MUST
12 FIND HIM NOT GUILTY.

13 I SHOULD HAVE SAID IF YOU FIND THE DEFENDANT NOT GUILTY
14 OF BOTH MURDER AND VOLUNTARY MANSLAUGHTER, THEN YOU MUST
15 FIND THE DEFENDANT NOT GUILTY OF POSSESSION OF A WEAPON
16 DURING THE COMMISSION OF A VIOLENT CRIME. OKAY?

17 I MADE THAT MISTAKE. I HOPE I DIDN'T CONFUSE YOU. IF
18 IT'S NOT CLEAR, Y'ALL TALK ABOUT IT AND LET ME KNOW, AND
19 I'LL TRY AND CLEAR IT UP FOR YOU. BUT THANK YOU VERY MUCH.
20 YOU CAN NOW RETURN TO THE JURY ROOM. I THINK WE'LL PROBABLY
21 BE SENDING IN THE VERDICT FORM.

22 (WHEREUPON THE JURY EXITED THE COURTROOM AT 3:43 PM)

23 THE COURT: ALL RIGHT. ANY EXCEPTION OR OBJECTION TO
24 THE RECHARGE?

25 MR. WESTON: NOTHING FROM THE STATE, YOUR HONOR.

RECHARGE OF THE COURT

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1 MR. ABDALLA: NOTHING FROM THE DEFENSE, YOUR HONOR.

2 THE COURT: ALL RIGHT. I WOULD LIKE YOU ALL TO GO
3 THROUGH THE EVIDENCE WITH MADAME COURT REPORTER AND MAKE
4 SURE IT'S ALL TOGETHER. AND THEN SEND IT ON BACK.

5 (PAUSE)

6 (WHEREUPON THE EXHIBITS WERE AGREED UPON BY THE
7 ATTORNEYS)

8 (WHEREUPON THE JURY BEGAN DELIBERATING AT 3:45 PM)

9 (WHEREUPON COURT WAS IN RECESS AT 3:45 PM)

10 (WHEREUPON COURT RESUMED AT 5:06 PM)

11 THE COURT: ALL RIGHT. WE HAVE A QUESTION. IT SAYS
12 COULD YOU PLEASE DEFINE REASONABLE DOUBT? COULD YOU EXPLAIN
13 THE HAND OF ONE? SO I WOULD BRING THEM BACK AND RECHARGE
14 THEM ON THOSE TWO PRINCIPALS OF LAW. OKAY?

15 MR. WESTON: YES, SIR.

16 THE COURT: LET'S BRING THEM BACK.

17 (WHEREUPON THE JURY ENTERED THE COURTROOM AT 5:08 PM)

18 THE COURT: OKAY. I HAVE YOUR QUESTION. AND WHAT I
19 WILL DO IS RECHARGE YOU ON THOSE TWO PRINCIPALS OF LAW.

20 REASONABLE DOUBT IS THE KIND OF DOUBT WHICH WOULD CAUSE
21 A REASONABLE PERSON TO HESITATE TO ACT. REASONABLE DOUBT
22 MAY ARISE FROM THE EVIDENCE WHICH IS IN THE CASE OR FROM THE
23 LACK OR ABSENCE OF EVIDENCE IN THE CASE. AND THE JURY MUST
24 DETERMINE WHETHER OR NOT REASONABLE DOUBT EXISTS AS TO THE
25 GUILT OF THIS DEFENDANT.

RECHARGE OF THE COURT

466

1 THE STATE HAS THE BURDEN OF PROVING EACH AND EVERY
2 ELEMENT OF A CRIME BEYOND A REASONABLE DOUBT. AND ANY
3 REASONABLE DOUBT THAT YOU MAY HAVE IN YOUR DELIBERATIONS
4 SHOULD BE RESOLVED IN FAVOR OF THE DEFENDANT.

5 WITH RESPECT TO THE HAND OF ONE, IF A CRIME IS
6 COMMITTED BY TWO OR MORE PEOPLE WHO ARE ACTING TOGETHER IN
7 COMMITTING A CRIME, THE ACT OF ONE IS THE ACT OF ALL. A
8 PERSON WHO JOINS WITH ANOTHER TO ACCOMPLISH AN ILLEGAL
9 PURPOSE IS CRIMINALLY RESPONSIBLE FOR EVERYTHING DONE BY THE
10 OTHER PERSON WHICH OCCURS AS A NATURAL CONSEQUENCE OF THE
11 ACTS DONE IN CARRYING OUT THE COMMON PLAN AND PURPOSE.

12 FOR EXAMPLE; TWO PEOPLE CAN BE GUILTY OF KILLING
13 ANOTHER PERSON WHEN ONLY ONE OF THE TWO HAD A GUN, THERE WAS
14 ONLY ONE BULLET AND ONLY ONE OF THE TWO FIRED THE SHOT THAT
15 CAUSED THE DEATH. IF TWO OR MORE PEOPLE ARE TOGETHER ACTING
16 TOGETHER, ASSISTING EACH OTHER IN COMMITTING THE OFFENSE,
17 THE ACT OF ONE IS THE ACT OF ALL OR AS IT IS SOMETIMES SAID,
18 THE HAND OF ONE IS THE HAND OF ALL.

19 NOW MERE KNOWLEDGE THAT ANOTHER PERSON IS GOING TO
20 COMMIT A CRIME EVEN IF THE DEFENDANT IS PRESENT WHEN THE
21 CRIME IS COMMITTED IS NOT SUFFICIENT TO CONVICT A DEFENDANT
22 AS A PRINCIPAL. GUILT AS A PRINCIPAL IS SHOWN BY ACTUAL OR
23 CONSTRUCTIVE PRESENCE AT THE SCENE AS A RESULT OF PRIOR
24 ARRANGEMENT.

25 THEREFORE, A FINDING OF A PRIOR ARRANGED PLAN OR COMMON

RECHARGE OF THE COURT

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1 SCHEME IS NECESSARY FOR A FINDING OF GUILT AS A PRINCIPAL.
2 THE STATE MUST PROVE BEYOND A REASONABLE DOUBT BY COMPETENT
3 EVIDENCE THE THEORY OF THE HAND OF ONE IS THE HAND OF ALL.

4 A PRINCIPAL IN A CRIME IS ONE WHO EITHER ACTUALLY
5 COMMITS THE CRIME OR WHO'S PRESENT, AIDING, ABETTING OR
6 ASSISTING IN COMMITTING THE CRIME. WHEN A PERSON DOES AN
7 ACT IN THE PRESENCE OF AND WITH THE ASSISTANCE OF ANOTHER,
8 THE ACT IS DONE BY BOTH. WHERE TWO OR MORE ACTING WITH A
9 COMMON PLAN OR INTENT ARE PRESENT AT THE COMMISSION OF A
10 CRIME IT DOES NOT MATTER WHO ACTUALLY COMMITS THE CRIME, ALL
11 ARE GUILTY. THE HAND OF ONE IS THE HAND OF ALL.

12 PRESENT AT THE COMMISSION OF A CRIME MEANS TO BE
13 SUFFICIENTLY NEAR TO AID AND ABET, AND ASSIST IN THE
14 COMMISSION OF THE CRIME. HOWEVER, MERE PRESENCE AT THE
15 SCENE OF A CRIME IS NOT SUFFICIENT TO CONVICT ONE AS A
16 PRINCIPAL ON THE THEORY OF AIDING AND ABETTING.

17 INTENT IS ALSO A NECESSARY ELEMENT, FOR THERE MUST HAVE
18 BEEN A COMMON DESIGN OR INTENT TO COMMIT THE CRIME. AND THE
19 CRIME MUST HAVE BEEN COMMITTED PURSUANT THERETO WITH THE
20 PERSON AIDING AND ABETTING BY SOME OVERT ACT. INTENT MEANS
21 INTENDING THE RESULT WHICH ACTUALLY OCCURS, NOT ACCIDENTALLY
22 OR INVOLUNTARILY. INTENT MAY BE SHOWN BY ACTS AND CONDUCT
23 OF THE DEFENDANT AND OTHER CIRCUMSTANCES FROM WHICH YOU MAY
24 NATURALLY AND REASONABLY INFER INTENT. AND THE STATE MUST
25 PROVE THESE ELEMENTS BEYOND A REASONABLE DOUBT.

RECHARGE OF THE COURT

468

1 DOES THAT SATISFY YOU? IF IT DOES NOT, LET US KNOW,
2 WE'LL SEE WHAT WE CAN DO. OKAY. THANK YOU VERY MUCH.

3 (WHEREUPON THE JURY EXITED THE COURTROOM AT 5:13 PM)

4 THE COURT: EXCEPTIONS OR OBJECTIONS?

5 MR. WESTON: NONE FROM THE STATE, YOUR HONOR.

6 MR. ABDALLA: NONE FROM THE DEFENSE.

7 THE COURT: OKAY. BE AT EASE.

8 (WHEREUPON COURT'S EXHIBIT 6 WAS MARKED)

9 (WHEREUPON COURT WAS IN RECESS AT 5:13 PM)

10 (WHEREUPON COURT RESUMED AT 7:36 PM)

11 THE COURT: ALL RIGHT. WE'VE GOT QUESTIONS FROM THE
12 JURY ROOM. CAN WE HAVE A COPY OF THE HAND OF ONE RULE
13 WITHOUT HAVING TO APPEAR IN THE COURTROOM? THE SECOND ONE
14 IS CAN WE HAVE A WRITTEN COPY OF THE LAW THAT WAS READ
15 ALOUD? ANY COMMENTS?

16 MR. WESTON: AS TO THE FIRST ONE, YOUR HONOR, I DON'T
17 CARE IF YOU GIVE THEM A COPY OF THE CHARGE. I DON'T KNOW IF
18 YOU'D WANT TO GIVE THEM A COPY OF ALL THE CHARGES, BUT I
19 HAVE NO OBJECTION.

20 THE COURT: ANYTHING FROM THE DEFENSE?

21 MR. ABDALLA: I'M SORRY TO ASK YOU TO REPEAT IT. THEY
22 WANT A COPY OF BOTH ---

23 THE COURT: THEY WANT A COPY OF THE CHARGE.

24 MR. ABDALLA: OF BOTH CHARGES 'CAUSE ...

25 THE COURT: I'M NOT GOING TO GIVE THEM A COPY OF ONE

1 PART OF THE CHARGE. I'M GOING TO GIVE THEM THE WHOLE
2 CHARGE.

3 MR. ABDALLA: I UNDERSTAND.

4 THE COURT: WELL, I'M GOING TO HAVE TO GO BACK BECAUSE
5 I DIDN'T READ EVERYTHING THAT'S ON MY CHARGE. I'LL HAVE TO
6 CUT AND PASTE A LITTLE BIT. AND I'M GOING TO PRINT IT OUT.

7 I'LL MAKE TWO COPIES, ONE AS A COURT'S EXHIBIT OR MAYBE
8 WE SHOULD KEEP THE ONE THEY LOOK AT AS A COURT'S EXHIBIT.
9 BUT I'LL MAKE TWO COPIES. Y'ALL CAN LOOK AT IT AND MAKE
10 SURE IT'S WHAT I ...

11 MR. WESTON: YES, SIR.

12 THE COURT: AND THEN Y'ALL JUST HANG TIGHT FOR A
13 MINUTE.

14 (WHEREUPON COURT'S EXHIBIT 7 WAS MARKED)

15 (WHEREUPON COURT WAS IN RECESS AT 7:38 PM)

16 (WHEREUPON COURT RESUMED AT 7:58 PM)

17 THE COURT: AS A COURTESY I'LL SHOW IT TO YOU, BUT
18 THAT'S MY CHARGE.

19 (PAUSE)

20 MR. WESTON: YOUR HONOR, THERE'S NO OBJECTION FROM THE
21 STATE.

22 THE COURT: OKAY.

23 MR. ABDALLA: JUDGE, MY CONCERN IS THAT -- A COUPLE OF
24 THINGS. I WORRY ABOUT A DISPROPORTIONATE EFFECT OF ONE OF
25 THE JURORS WHO'S MORE EDUCATED INTERPRETING FOR THE OTHER

1 JURORS BY HAVING A WRITTEN COPY.

2 AND I ALSO REMEMBER A CASE THAT I WAS INVOLVED WITH
3 WITH CHARLIE HENDERSON WHERE I NO LONGER REMEMBER -- I KNOW
4 THE SEARCH WARRANT WAS PART OF THE PROBLEM, THE OTHER WAS
5 SENDING THE STATUTE BACK. AND ---

6 THE COURT: I'M NOT SENDING THE STATUTE BACK. THIS IS
7 A COPY OF MY CHARGE. IT'S AN ACCEPTED PRACTICE STATEWIDE.
8 AND I'M GOING TO DO IT. I PROVIDED IT TO YOU SO YOU COULD
9 MAKE SURE YOU -- IF YOU SEE -- IF YOU SAW ANY OBJECTION --
10 ANYTHING THAT I READ TO THEM THAT'S NOT INCLUDED IN THE
11 WRITTEN CHARGE. BUT I CAN PROMISE YOU THAT IT IS.

12 MR. ABDALLA: NO, ---

13 THE COURT: I BROUGHT IT OUT TO SHOW YOU SO YOU'D HAVE
14 AN OPPORTUNITY TO LOOK AT IT.

15 MR. ABDALLA: THANK YOU, JUDGE. THE CHARGE IS FINE. I
16 JUST OBJECT TO A WRITTEN COPY GOING TO THE JURY FOR THE
17 RECORD. THAT'S ALL.

18 THE COURT: OKAY. SEND BOTH COPIES BACK TO THE JURY.
19 AND I'LL TELL YOU WHAT, LET'S MARK THEM AS A COURT'S EXHIBIT
20 BEFORE THEY GO SO THAT THE PANEL KNOWS ...

21 (PAUSE)

22 THE COURT: WE'LL MARK THEM AS EXHIBITS WHEN THEY COME
23 BACK. ALL RIGHT. WE'LL BE AT EASE.

24 (WHEREUPON COURT WAS IN RECESS AT 8:01 PM)

25 (WHEREUPON COURT RESUMED AT 9:24 PM)

VERDICT OF THE JURY

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1 (WHEREUPON COURT'S EXHIBITS 8 AND 9 WERE MARKED)

2 THE COURT: ALL RIGHT. I UNDERSTAND WE DO HAVE A
3 VERDICT. BEFORE WE TALK ABOUT THAT, ON THE CHARGES THAT
4 CAME BACK, I WANT TO PUT THIS ON THE RECORD, THAT ARE NOW
5 COURT'S EXHIBITS, THERE WERE CERTAIN PASSAGES THAT WERE
6 UNDERLINED OR MARKED. THOSE WERE MADE BY THE JURY. AND
7 THEY'RE IN THE RECORD.

8 I WANT TO SAY THIS, EVERYONE'S BEEN VERY WELL BEHAVED
9 THROUGHOUT THE COURSE OF THIS TRIAL, BUT THIS IS OBVIOUSLY
10 AN EMOTIONAL TRIAL. AND NO ONE KNOWS WHAT THE VERDICT'S
11 GOING TO BE. BUT I ASK YOU AND I INSTRUCT YOU TO HAVE NO
12 OUTBURSTS ONCE THE VERDICT IS READ. SAVE THAT FOR PRIVACY,
13 THE PRIVACY OF YOUR OWN HOME. OKAY.

14 (WHEREUPON THE JURY ENTERED THE COURTROOM AT 9:26 PM)

15 THE COURT: ALL RIGHT. MADAME FORELADY, I UNDERSTAND
16 YOU'VE REACHED A VERDICT?

17 MADAME FORELADY: YES, WE HAVE.

18 THE COURT: ALL RIGHT. WOULD YOU, PLEASE, HAND THAT TO
19 THE BAILIFF FOR ME. ALL RIGHT. MADAME CLERK, WOULD YOU,
20 PLEASE, PUBLISH THE VERDICT.

21 MADAME CLERK: IN THE STATE VERSUS JONATHAN CAMPBELL,
22 CASE NUMBERS 2006-GS-23-0328 AND 2006-GS-23-0329, AS TO THE
23 CHARGE OF MURDER, WE, THE JURY, FIND THE DEFENDANT GUILTY.
24 AS TO THE CHARGE OF POSSESSION OF A WEAPON DURING THE
25 COMMISSION OF A VIOLENT CRIME, WE, THE JURY, FIND THE

VERDICT OF THE JURY

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1 DEFENDANT GUILTY. IF THIS IS YOUR VERDICT, SO SAY YOU ALL.

2 THE COURT: PLEASE SIGNIFY BY RAISING YOUR RIGHT HAND
3 IF THAT'S YOUR VERDICT.

4 (WHEREUPON ALL JURORS RAISED THEIR RIGHT HAND)

5 THE COURT: ALL RIGHT. LET THE RECORD REFLECT THAT ALL
6 TWELVE JURORS HAVE RAISED THEIR RIGHT HAND. ANYTHING
7 FURTHER FROM THE JURY?

8 MR. WESTON: NOTHING FROM THE STATE, YOUR HONOR.

9 MR. ABDALLA: NOTHING FROM DEFENSE.

10 THE COURT: ALL RIGHT. MADAME FORELADY, LADIES AND
11 GENTLEMEN OF THE JURY, I WANT TO THANK YOU ALL FOR YOUR
12 SERVICE. YOU'RE AS HARD WORKING A JURY AS I'VE EVER HAD.

13 AND I HOPE I DIDN'T MAKE MYSELF OUT TO BE A LIAR WHEN I
14 TOLD YOU AT THE BEGINNING OF THE WEEK YOU'D LOOK BACK ON
15 THIS EXPERIENCE AND FEEL A SENSE OF PRIDE AND REWARD FOR THE
16 HARD WORK YOU'VE DONE. AND IF IT DOESN'T COME TO YOU
17 IMMEDIATELY, I HOPE THAT IT WILL OVER TIME.

18 I'M HAPPY TO TELL YOU THAT YOU'RE FINISHED FOR THE WEEK
19 AT 9:30 ON THURSDAY NIGHT. AND I'M SORRY THAT WE DON'T PAY
20 OVERTIME FOR YOUR HARD WORK. BUT YOU ALL ARE FREE TO GO.

21 AND LET ME TELL YOU THIS, THAT YOU ARE TOTALLY FREE TO
22 DISCUSS THE MATTER NOW WITH ANYONE YOU WOULD LIKE TO. AND
23 YOU'RE ALSO FREE TO REFUSE TO DISCUSS IT.

24 AND IF SOMEONE, I DON'T THINK THIS WILL HAPPEN, BUT IF
25 SOMEONE APPROACHES YOU AND WANTS TO TALK TO YOU AND YOU

VERDICT OF THE JURY

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1 DON'T WANT TO TALK ABOUT IT, AND THEY PERSIST, THEN JUST, IF
2 YOU CAN, FIND OUT WHO IT IS AND LET US KNOW HERE AT THE
3 COURTHOUSE, EITHER THE CLERK'S OFFICE OR THE SHERIFF'S
4 OFFICE, AND WE WILL FIX THAT PROBLEM 'CAUSE WE'RE NOT GOING
5 TO HAVE ANYBODY FEEL HARASSED OR INTIMIDATED FOR YOUR HARD
6 WORK UP HERE ON THE JURY.

7 SO WITH THAT YOU'RE WELCOME TO GO OR STAY, WHATEVER
8 YOU'D LIKE TO DO. BUT THANK YOU VERY MUCH FOR YOUR SERVICE.
9 AND I KNOW -- WE HAVE LETTERS FOR YOUR EMPLOYERS THAT WE
10 WILL DISTRIBUTE TO YOU IN THE JURY ROOM. THANK YOU VERY
11 MUCH.

12 (WHEREUPON THE JURY EXITED THE COURTROOM AT 9:29 PM)

13 THE COURT: ALL RIGHT. COME ON AROUND. I DO WANT TO
14 TELL YOU, MR. CAMPBELL, THAT YOU, OF COURSE, HAVE A RIGHT TO
15 APPEAL THIS. AND I KNOW YOUR ATTORNEYS, IF THEY HAVEN'T
16 ALREADY, THEY WILL TELL YOU ABOUT THAT, BUT YOU HAVE TEN
17 DAYS TO FILE A NOTICE OF INTENT TO APPEAL.

18 AND IF YOU DECIDE YOU WANT TO APPEAL IT, YOU SHOULD LET
19 YOUR ATTORNEYS KNOW BEFORE THAT BECAUSE THERE'S WORK
20 INVOLVED. AND THEY HAVE TO GET THE WORK DONE BY TEN DAYS.
21 ALL RIGHT.

22 BEFORE WE GO ANY FURTHER ARE THERE ANY MOTIONS YOU WANT
23 TO MAKE?

24 MR. ABDALLA: A MOTION FOR A NEW TRIAL, JUDGE, BUT, NO.

25 THE COURT: OKAY. WELL, YOU ARE MAKING THAT MOTION?

SENTENCE OF THE COURT

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1 MR. ABDALLA: YEAH, I'M MAKING THAT MOTION.

2 THE COURT: ALL RIGHT. WELL, I'M GOING TO DENY YOUR
3 MOTION. ALL RIGHT. ANYTHING YOU WANT TO TELL ME?

4 MR. ABDALLA: THE ONLY THING I'D LIKE TO TELL YOU,
5 JUDGE, IS I REALIZE EVERYBODY HEARD THE TESTIMONY. AND I
6 CAN'T SAY THEY DIDN'T BELIEVE MY CLIENT, THEY DIDN'T BELIEVE
7 THAT HE WASN'T INNOCENT UNDER HAND OF ONE, HAND OF ALL, IT
8 SO APPEARS. I DON'T KNOW WHAT THEIR THEORY WAS.

9 THE COURT HEARD THE TESTIMONY. I WOULD ASK THAT IT BE
10 TAKEN INTO CONSIDERATION AND HOPE THAT HE SOUNDED BELIEVABLE
11 AND AT LEAST GIVE HIM A MINIMAL SENTENCE INSTEAD OF A
12 MAXIMUM SENTENCE ON THAT CHARGE, ESPECIALLY -- AND I KNOW HE
13 WAS OFFERED A DEAL. HE DIDN'T FEEL LIKE HE WAS GUILTY.

14 CO-DEFENDANT CAN'T GET MORE THAN THIRTY YEARS AND WILL
15 HAVE -- IT WON'T BE DAY FOR DAY. MY CLIENT IS LOOKING AT,
16 OF COURSE, DAY FOR DAY, THIRTY YEARS TO LIFE. AND I'D ASK
17 THAT HE GET THIRTY YEARS, JUDGE.

18 THE COURT: ALL RIGHT. YES, MR. WESTON.

19 MR. WESTON: YOUR HONOR, I'M ADVISED THAT TWO
20 REPRESENTATIVES OF THE VICTIM'S FAMILY WOULD LIKE TO BRIEFLY
21 BE HEARD ---

22 THE COURT: SURE.

23 MR. WESTON: --- AT THE APPROPRIATE TIME.

24 THE COURT: RIGHT NOW IS FINE.

25 MS. NEELY: YOUR HONOR, MY NAME IS CYNTHIA PROCTOR

SENTENCE OF THE COURT

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1 NEELY. I'M JERMAINE'S MOTHER. IT'S KIND OF HARD FOR ME.
2 BUT I JUST WANT TO LET EVERYBODY KNOW THAT MY SON WAS A VERY
3 LOVING, GENTLE, KIND, RESPECTABLE PERSON. THAT'S THE WAY I
4 TAUGHT HIM TO BE, TO LOVE EVERYBODY.

5 NO MATTER WHAT THE FEELINGS WERE, THEY ALL MEANT
6 SOMETHING TO JERMAINE FROM EVERYBODY. JERMAINE WAS THE TYPE
7 OF PERSON WHO WOULD GIVE HIS LAST WHETHER IT MEANT BEING HIS
8 LAST, HE WOULD GIVE YOU HIS LAST.

9 ON THIS DAY IT'S HARD TO PUT IN WORDS THE HURT, THE
10 PAIN, THE UNJUST ME AS HIS MOTHER, FAMILY AND FRIENDS, ARE
11 FEELING. I CAN FIND IN MY HEART TO FORGIVE, BUT I'LL NEVER
12 FORGET, YOUR HONOR.

13 NOT ONE TIME DID I SEE HIM, YOUR HONOR, TURN AROUND AND
14 SAY, WE'RE SORRY, FORGIVE US. AND THAT HURTS SO BAD. THEY
15 NEVER SAID, FORGIVE US, WE'RE SORRY, NOTHING, THEY NEVER
16 DID. AND THAT HURT TOO. IT HURTS.

17 MY SON WAS A GOOD SON. HE WAS A GOOD SON. HE DIDN'T
18 DESERVE THIS. BY GIVING THEM THE MAXIMUM, DO WHATEVER THE
19 COURT ALLOWS.

20 NO ONE SHOULD BE ABLE TO RIDE AROUND -- NOBODY RIDE
21 AROUND WITH MY SON'S BODY IN THE CAR LIKE HE WAS SOME KIND
22 OF ANIMAL. THAT WAS HORRIBLE. IT'D TAKE A DEMON TO DO
23 SOMETHING LIKE THAT, DEMON SPIRITED.

24 I'D JUST ASK AGAIN, YOUR HONOR, WHATEVER, JUST HAVE
25 CONSIDERATION FOR MY SON, MY FAMILY AND FRIENDS. THIS, I'VE

SENTENCE OF THE COURT

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1 BEEN CARRYING AROUND FOR FOUR YEARS AND A HALF, BUT I'M
2 STILL GOING TO CARRY IT FOREVER.

3 MY SON MEANT SOMETHING TO US ALL. AND HE WILL TIL THE
4 DAY I DIE. HE'S GOING TO ALWAYS MEAN SOMETHING TO ME 'CAUSE
5 HE WAS SOMEBODY THAT I TRULY LOVED. AND I LOVE AND MISS MY
6 SON. I MISS MY SON BAD. I TRULY MISS MY SON, YOUR HONOR.

7 I MISS THE PHONE CALLS WHEN HE SAID, MAMA, I LOVE YOU.
8 AFTER EVERY TIME HE TALKED TO ME HE SAID, I LOVE YOU, MAMA.
9 I MISS THOSE TIMES. I TRULY MISS MY SON. I WANT YOU TO
10 KNOW, JONATHAN, I MISS MY SON. THANK YOU, YOUR HONOR.

11 THE COURT: THANK YOU VERY MUCH, MA'AM.

12 MS. HUGHES: YOUR HONOR, WITH ALL THAT BEING SAID, I'M
13 SHERRIE. I'M JERMAINE'S SISTER. THERE WAS THREE OF US.
14 JERMAINE IS DECEASED. MY BROTHER, HE HAD TO GO BACK TO IRAQ
15 TODAY. IT'S HARD FOR US DEALING WITH THAT TOO.

16 BUT IN ALL DUE RESPECT, JERMAINE WAS A GOOD PERSON. HE
17 WAS OVERPROTECTIVE. HE WAS A COMEDIAN. HE WAS REAL SWEET.
18 HE WAS A REAL SWEET PERSON.

19 MY CHILDREN, I THINK, BEEN GOING THROUGH THIS ALL THIS
20 WEEK, YOU KNOW, SOME OTHER THINGS THEY DON'T UNDERSTAND.
21 BUT THEY JUST KNOW UNCLE JERMAINE. MY FAMILY, YOU KNOW,
22 JERMAINE -- JERMAINE, HE WAS JUST OUTGOING. HE WAS JUST
23 TRUSTWORTHY.

24 HE DIDN'T DESERVE -- HE DID NOT DESERVE TO BE KILLED IN
25 THE MANNER THAT HE WAS KILLED IN AND THEN DISRESPECTED THE

SENTENCE OF THE COURT

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1 WAY HE WAS RODE AROUND.

2 AND IT -- I DON'T KNOW WHICH ONE WAS THE WORST. I
3 MEAN, THE KILLING, YES. BUT THEN TO TAKE US THROUGH THIS,
4 YOUR HONOR, WORDS CAN'T EXPLAIN. I MEAN, IT'S JUST -- IT
5 REALLY IS HARD. IT REALLY IS.

6 AND THE MAXIMUM, I MEAN, THE DIFFERENCE IS THIS YOUNG
7 MAN RIGHT HERE HAS A CHANCE TO SEE HIS FAMILY. WE WON'T GET
8 THAT CHANCE WITH JERMAINE. WE CAN'T CALL JERMAINE.

9 HE CALLED ME HIS BABY GIRL. HE WAS VERY OVERPROTECTIVE
10 OF ME AND HIS FAMILY, YOUR HONOR. WE CAN'T GET THAT BACK.
11 WE CAN'T GET THAT BACK.

12 I HAVE THREE GIRLS AND ONE SON. JERMAINE WASN'T HERE
13 WHEN I HAD MY SON, BUT HE'S ALWAYS TEASED ME, YOU NEED TO
14 NAME ONE OF THOSE KIDS AFTER ME. EVERYBODY WAS ALWAYS USED
15 TO ME HAVING GIRLS, AND I DID HAVE A SON. HE HAS MY
16 BROTHER'S NAME. I GAVE HIM MY BROTHER'S NAME.

17 THAT'S WHAT I -- WE CAN HOLD ONTO THAT AND PICTURES,
18 THE MEMORIES, BUT WE CAN'T TALK TO JERMAINE. WE CAN'T GET
19 THAT BACK. AND IT'S HARD. IT REALLY IS.

20 I JUST WANT TO GO HOME AND HUG MY CHILDREN AND LET THEM
21 KNOW. MY DAUGHTER, SHE'S IN SCHOOL NOW AND SHE'S -- STUFF
22 LIKE THIS TO KEEP FROM HAPPENING.

23 BUT IT IS, IT'S HARD. IT HAS TAKEN A TOLL ON ALL OF
24 US. I GET UP IN THE MORNING, YOUR HONOR, AND IT'S SO HARD.
25 IT'S HARD TO SEE HER HURT. MY FATHER'S HURT, MY CHILDREN --

SENTENCE OF THE COURT

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1 'CAUSE HE LOVED CHILDREN. IT IS -- IT'S HARD. IT REALLY
2 IS. IT REALLY IS.

3 THE COURT: ALL RIGHT. THANK YOU.

4 MS. HUGHES: AND I'M ASKING YOU THE MAXIMUM, YOUR
5 HONOR. I THINK THEY DESERVE IT. THEY REALLY DO.

6 THE COURT: ALL RIGHT. THANK YOU, MA'AM.

7 MS. NEELY: THANK YOU, YOUR HONOR.

8 THE COURT: YES, MA'AM. ALL RIGHT.

9 MR. ABDALLA: YOU KNOW, JUDGE, THE ONLY THING I WANTED
10 TO SAY IS THAT MR. WESTON HAD GIVEN ME A LETTER A COUPLE OF
11 DAYS BEFORE THE TRIAL THAT WAS WRITTEN BY MY CLIENT TO MS.
12 ENLOW, ANOTHER MEMBER -- I DON'T KNOW WHO MS. ENLOW IS. I
13 THINK SHE WAS A FRIEND OF THE DECEDENT, THE VICTIM.

14 AND MY CLIENT WROTE A LETTER AND ESSENTIALLY SAID THE
15 SAME THINGS HE DID FROM THE STAND, SAYING THAT HE'S VERY
16 SORRY ABOUT WHAT HAPPENED AND THAT HE WAS LOOKING FORWARD TO
17 GOING TO COURT SO THAT HE COULD -- THIS LETTER WAS WRITTEN
18 ABOUT SIX OR SEVEN MONTHS AGO. IT WAS JULY OF LAST YEAR.
19 AND THAT HE DIDN'T DO IT AND HE APOLOGIZED TO HER AND KNEW
20 SHE HURT. SO I JUST HATE IT FOR MY CLIENT TO BE -- JONATHAN
21 TO BE PAINTED AS A COLD, CARELESS, SOMEBODY WHO DIDN'T CARE
22 AT ALL.

23 AND I UNDERSTAND THE JURY'S ALREADY SPOKEN, BUT I FELT
24 THE NEED TO AT LEAST SAY THAT HE DID WRITE THAT LETTER AND
25 HE HAS EXPRESSED REMORSE TO ME. AND I'M SORRY TO THE

SENTENCE OF THE COURT

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1 FAMILY. BECAUSE I DON'T THINK JONATHAN EVER SAID ANYTHING
2 IN ANY OF HIS TESTIMONY IN ANY WAY INDICATED THAT HE DIDN'T
3 RESPECT JERMAINE.

4 AND AGAIN, I CAN'T ARGUE WITH THE JURY'S VERDICT, BUT I
5 DIDN'T WANT THE FUEL TO THE FIRE BEING ADDED. I FELT LIKE
6 HE -- HE DIDN'T KILL HIM, BUT, OF COURSE, LEGALLY HE KILLED
7 HIM ACCORDING TO THE JURY. SO I'M KIND OF IN A BOX THERE.

8 THE COURT: ANYTHING YOU WANT TO SAY?

9 MR. CAMPBELL: YES, SIR. I AM SORRY TO THE FAMILY.
10 AND I KNOW HE WAS SOMEBODY'S SON AND SOMEBODY'S BROTHER AND
11 SOMEBODY'S FATHER. AND I AM SORRY THAT HE'S TAKEN AWAY FROM
12 Y'ALL.

13 BUT Y'ALL DID HEAR THE TESTIMONY TODAY, AND I DIDN'T
14 KILL YOUR SON. AND I'M SORRY. I'M SORRY FOR THE PART I DID
15 PLAY IN IT. AND I HOPE Y'ALL CAN FORGIVE ME FOR THAT.

16 THE COURT: ANYTHING ELSE?

17 MR. WESTON: NOTHING FROM THE STATE, YOUR HONOR.

18 THE COURT: WELL, TO MR. PROCTOR'S FAMILY I WANT TO SAY
19 THANK YOU FOR COMING. AND I APPRECIATE YOUR COMMENTS.

20 AND I AM TROUBLED PERHAPS BY THE DISCREPANCY IN WHAT
21 WILL BE SENTENCES. THE JURY HAS SPOKEN. AND IT'S NOT THAT
22 -- WELL, THEY HAVE SPOKEN. AND I'M GOING TO TRY -- I'VE
23 TRIED TO CRAFT A SENTENCE THAT I THINK IS APPROPRIATE UNDER
24 THE CIRCUMSTANCES.

25 AND WHILE IT'S NOT LIFE, IT IS AN EXTREMELY LONG

SENTENCE OF THE COURT

480

1 SENTENCE. AND THAT IS -- I'M GOING TO GIVE HIM FORTY-FIVE
2 YEARS AND FIVE YEARS ON THE WEAPONS CHARGE. YOU WILL BE IN
3 YOUR EIGHTIES WHEN YOU'RE RELEASED. GOOD LUCK.

4 AND I WOULD JUST TELL YOU THAT I'VE TAKEN INTO
5 CONSIDERATION THE POTENTIAL SENTENCE THE CO-DEFENDANT WOULD
6 GET AND THE AGE HE WILL BE WHEN HE IS RELEASED WHEN I
7 IMPOSED THIS SENTENCE. SO I HOPE THAT MAKES SOME SENSE.
8 THANK YOU VERY MUCH.

9 MR. WESTON: THANK YOU, JUDGE.

10 THE COURT: I'D ASK EVERYONE TO REMAIN WHILE THE
11 VICTIM'S FAMILY, IF THEY SO DESIRE, WILL HAVE THE
12 OPPORTUNITY TO LEAVE THE COURTHOUSE.

13 (WHEREUPON COURT WAS IN RECESS AT 9:42 PM)

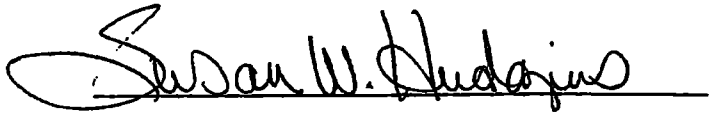
14 (END OF REQUESTED TRANSCRIPT OF RECORD)

1 CERTIFICATE OF REPORTER

2 I, THE UNDERSIGNED, SUSAN W. HUDGINS, OFFICIAL COURT
3 REPORTER FOR THE THIRTEENTH JUDICIAL CIRCUIT OF THE STATE OF
4 SOUTH CAROLINA, DO HEREBY CERTIFY THAT THE FOREGOING IS A
5 TRUE, ACCURATE, AND COMPLETE TRANSCRIPT OF RECORD OF ALL THE
6 PROCEEDINGS HAD AND EVIDENCE INTRODUCED IN THE TRIAL/HEARING
7 OF THE CAPTIONED CASE, RELATIVE TO APPEAL, IN THE CIRCUIT
8 COURT FOR GREENVILLE COUNTY, SOUTH CAROLINA, ON THE 12TH -
9 14TH DAY OF JANUARY 2010.

10 I DO FURTHER CERTIFY THAT I AM NEITHER OF KIN, COUNSEL,
11 NOR INTEREST TO ANY PARTY HERETO.

12 MAY 7, 2010

13 
14

15 CIRCUIT COURT REPORTER

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Greenville County

Edward W. Miller, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

JONATHAN M. CAMPBELL,

APPELLANT

FINAL BRIEF OF APPELLANT

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STATEMENT OF ISSUE ON APPEAL

The trial judge committed reversible error by refusing to instruct the jury on accessory after the fact of murder, as Campbell's testimony – that Southerland killed Proctor and that he had only assisted him in attempting to escape to Mexico – supported a charge on the lesser-related offense.

STATEMENT OF THE CASE

On January 12 through 14, 2010, Jonathan M. Campbell stood trial in Greenville County, before Judge Edward W. Miller and a jury, on indictments charging him with murder and possession of a knife during the commission of a violent crime. Campbell, his associate Carl Southerland and the victim, Jermaine Proctor, were in a vehicle belonging to Proctor when he was stabbed to death. Proctor's decomposing corpse was discovered in the backseat when Campbell and Southerland were arrested in Alabama a couple of days later. Southerland pleaded guilty to voluntary manslaughter and testified that Campbell had murdered Proctor. Campbell testified that Southerland had stabbed Proctor. In addition to murder, the judge instructed the jury on voluntary manslaughter. The jury found Campbell guilty as charged and the judge sentenced him to imprisonment for forty-five years.

ARGUMENT

The trial judge committed reversible error by refusing to instruct the jury on accessory after the fact of murder, as Campbell's testimony – that Southerland killed Proctor and that he had only assisted him in attempting to escape to Mexico – supported a charge on the lesser-related offense.

Jonathan Campbell and Carl Southerland were both crackheads eking out a marginal existence committing petty crimes to support their habit. Jermaine Proctor was a crack dealer. According to both Campbell and Southerland, Proctor offered them crack to assist in burglarizing an electronics store. R.73, ll. 18-24; R.146, l. 14 – R.147, l. 17.

That night, Proctor drove them to the store, but guard dogs on the premises (Southerland's account) or the presence of other people in the area (Campbell's version) thwarted their plan. R.77, l. 15 – R.79, l. 3; R.151, l. 23 – R.153, l. 24. At this point, Southerland and Campbell's testimonies diverged. According to Southerland, Campbell went "crazy" and stabbed Proctor to death. R.79, l. 6 – R.81, l. 23. Campbell, on the other hand, testified that Southerland murdered Proctor. R.155, l. 25 – R.165, l. 7. He had only stayed with Southerland (and Proctor's decaying corpse) on the two-day trip to Alabama, Campbell continued, because Southerland had threatened to kill him and his family if he did not assist Southerland in escaping to Mexico. R.165, l. 3 – R.175, l. 4.

At the charge conference, defense counsel requested accessory after the fact of murder. R.246, ll. 1-3. Although the judge agreed there was evidence supporting accessory after the fact, he ultimately refused the instruction because it was not a lesser-included offense of murder. R.247, ll. 14-17; R.251, l. 10 – R.254, l. 1. Counsel objected to its omission from the judge's final instruction. R.258, l. 24 – R.269, l. 17.

The crime of accessory after the fact contains the following elements: (1) the felony has been completed, (2) the accused has knowledge the principal committed the felony and (3) the accused harbors or assists the principal felon. *State v. Fuller*, 346 S.C. 477, 552 S.E.2d 282 (2001). Accessory after the fact is not a lesser-included offense of murder. *State v. Roof*, 298 S.C. 351, 380 S.E.2d 828 (1989).

In *State v. Gentry*, 363 S.C. 93, 610 S.E.2d 494, 498 (2005), the Supreme Court addressed “the confusion that has arisen in past jurisprudence between the sufficiency of the indictment and the subject-matter jurisdiction of the trial court.” The defendant in *Gentry* had been convicted of accessory before the fact and claimed on appeal that the trial court did not have subject-matter jurisdiction because the indictment failed to allege an essential element of the offense. The Supreme Court affirmed, reducing the indictment to “a notice document,” and distinguishing subject-matter jurisdiction as “the power of a court to hear and determine cases of the general class to which the proceedings in question belong.” 610 S.E.2d at 498 and 500. In other words, after *Gentry*, a trial court has subject-matter jurisdiction to convict a defendant of any offense supported by the evidence of which the defendant has – or waives – notice.

In Campbell’s case, notice was not an issue, as he was the party requesting a charge on the lesser-related offense of accessory after the fact. The judge himself recognized that Campbell’s testimony would have supported a verdict on accessory.

Since there was evidence of accessory after the fact and Campbell requested a charge on this lesser-related offense to murder, the jury should have been instructed accordingly. The judge incorrectly believed that he could not instruct the jury on accessory

because it was not a lesser-included offense of the crime charged. As the foregoing analysis demonstrates, this was error.

For this reason, the Court of Appeals should reverse Jonathan M. Campbell's conviction for murder and remand for a new trial.

Respectfully submitted,

for *Robt L. Savitz, III*
Joseph L. Savitz, III
Senior Appellate Defender

ATTORNEY FOR APPELLANT

This 19th day of April, 2011.

CERTIFICATE OF COUNSEL

The undersigned certifies that this Final Brief of Appellant complies with Rule 211(b), SCACR, and the August 13, 2007, order from the South Carolina Supreme Court entitled "Interim Guidance Regarding Personal Data Identifiers and Other Sensitive Information in Appellate Court Filings."

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STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Greenville County

Edward W. Miller, Circuit Court Judge

THE STATE,

RESPONDENT,

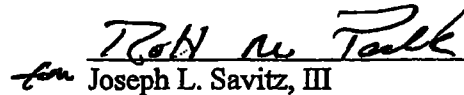
V.

JONATHAN M. CAMPBELL,

APPELLANT

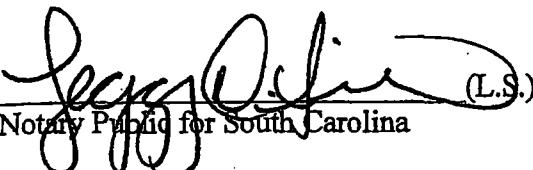
CERTIFICATE OF SERVICE

The undersigned attorney hereby certifies that a true copy of the Final Brief of Appellant in the above referenced case has been served upon Donald J. Zelenka, Esquire, at Rembert Dennis Building, Room 519, 1000 Assembly Street, Columbia, SC 29201, this 19th day of April, 2011.


Joseph L. Savitz, III
Senior Appellate Defender

ATTORNEY FOR APPELLANT

SUBSCRIBED AND SWORN TO before me
this 19th day of April, 2011.

 (L.S.)
Notary Public for South Carolina

My Commission Expires: December 4, 2017.

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

APPEAL FROM GREENVILLE COUNTY

The Honorable Edward Miller, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

JONATHAN MILLARD CAMPBELL,

APPELLANT.

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APPELLANT'S STATEMENT OF ISSUE ON APPEAL

The trial judge committed reversible error by refusing to instruct the jury on accessory after the fact of murder, as Campbell's testimony – that Southerland killed Proctor and that he had only assisted him in attempting to escape to Mexico – supported a charge on the lesser-related offense.

RESPONDENT'S STATEMENT OF ISSUE ON APPEAL

Whether the trial court erred in denying Campbell's request for a jury instruction on accessory after the fact of murder when the argument raised on appeal is not preserved for appellate review, the trial court correctly denied the request based upon the argument raised by Campbell at trial, and the argument on appeal is without merit?

STATEMENT OF THE CASE

On January 12-14, 2010, Appellant Jonathan Millard Campbell ("Campbell") was tried by a jury for the murder of Jermaine Proctor ("Proctor") and possession of a weapon during the commission of a violent crime. Appellant was tried in the Greenville County Court of General Sessions before the Honorable Edward M. Miller, Circuit Court Judge. John P. Abdalla, Esquire and Brian P. Johnson, Esquire represented Appellant. The State was represented by William J. Weston, Esquire, and Jonathan M. Gregory, Esquire, Assistant Solicitors for the Thirteenth Judicial Circuit. On January 14, 2010, Appellant was convicted of murder and possession of a weapon during the commission of a violent crime. (R. pp. 278-79). He was sentenced to a period of confinement of forty-five years on the murder conviction, and five years on the possession of a weapon during the commission of a violent crime. (R. pp. 280-81). Before this Court is Appellant's direct appeal. He requests this Court reverse his convictions and order a new trial. The State respectfully requests this Court deny Appellant's appeal and affirm his convictions.

STATEMENT OF FACTS

In the early morning of June 19, 2005, Appellant Jonathan Campbell ("Campbell") and Carl Southerland ("Southerland") stabbed and killed Jermaine Proctor ("Proctor") inside Proctor's Jeep Cherokee. Proctor was stabbed eighteen times. (R. p. 59). He died as the result of multiple stab wounds to the chest and abdomen.¹ (R. p. 64).

The first meeting

On the morning of June 18, 2005, Proctor and his girlfriend Theresa Ford went to visit some of Proctor's friends at an apartment complex in Greenville. (R. pp. 2-4, 6, 7). In the parking lot of the complex, two men (Campbell and Southerland) approached and asked Proctor if he wanted to buy some speakers. (R. pp. 7, 10, 70, see R. pp. 25, 144). Proctor declined. (R. pp. 7, 10). Later that day, and in another area of the apartment complex, Campbell and Southerland approached Proctor a second time. (R. p. 11). Ford testified the two men asked Proctor if he wanted to buy the speakers. (R. p. 11). Proctor again declined. (R. p. 11). Then, Campbell asked Proctor if he had any drugs or crack cocaine on him. (R. pp. 11, 12). Proctor said he did not have any crack. (R. p. 12). Ford noted the three continued with a conversation that she did not completely hear. (R. p. 13).

When Proctor and Ford started to leave, Campbell asked if they could get a ride. (R. pp. 13, 73, 144). Proctor agreed to give the two a ride. (R. pp. 13,

¹ Four wounds were potentially fatal: one to the heart, one that went into multiple loops of small intestine; one to the peritoneal cavity; and one that penetrated the left kidney. (R. pp. 63, 65). The pathologist testified the stab wound to the heart was most likely the fatal wound. (R. p. 65).