

STATE OF SOUTH CAROLINA
In the Supreme Court

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas
L. Casey Manning, Circuit Court Judge

Appellate Case No. 2011-187273
Lower Court Case No. 2007-CP-40-4259

DUSHUN STATEN, #282328,

PETITIONER,

v.

STATE OF SOUTH CAROLINA,

RESPONDENT.

**APPENDIX
TO
PETITION FOR WRIT OF CERTIORARI**

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1 A YES, SIR.

2 Q DID YOU DEVELOP A FRIENDSHIP?

3 MR. STRICKLER: NO, THAT'S STILL LEADING. "WHAT
4 WAS THE NATURE OF YOUR RELATIONSHIP" IS NOT LEADING.

5 THE COURT: WELL, UNTIL WE GET INTO THE IMPORTANT
6 TESTIMONY WE MAY MUDDLE ON THROUGH THIS.

7 MR. GASSER: YES, SIR, YOUR HONOR. I UNDERSTAND
8 THE RULES TOO.

9 Q YOU WERE A FRIEND WITH PHILLIP LEE?

10 A YES, SIR.

11 Q I WANT TO DRAW YOUR ATTENTION BACK TO JANUARY OF
12 2001. WHERE DID YOU SPEND THE HOLIDAYS, THE BREAK, THE
13 HOLIDAY SEASON AND THE SEMESTER BREAK, END OF DECEMBER,
14 BEGINNING OF JANUARY?

15 A MARYLAND AND NEW JERSEY.

16 Q OKAY. WHAT PART OF MARYLAND?

17 A CLING (PHONETIC).

18 Q WHEN DID YOU COME BACK TO COLLEGE, TO BENEDICT
19 COLLEGE -- SHOWING YOU STATE'S EXHIBIT THIRTY-FOUR -- DO
20 YOU REMEMBER?

21 A YES, SIR. JANUARY 7TH.

22 Q THE 7TH?

23 A YES.

24 Q DO YOU RECOGNIZE THE DEFENDANTS DUSHUN AND LUCIUS
25 STATEN?

1 A YES, SIR.

2 Q WHEN DID YOU FIRST SEE DUSHUN AND LUCIUS STATEN?

3 A THAT MONDAY.

4 Q MONDAY THE 8TH?

5 A THE 8TH.

6 Q AND WHERE DID YOU SEE THEM?

7 A AT THE PARKING LOT AT THE TOP RIGHT-HAND CORNER,

8 WHEN YOU TURN IN.

9 Q NOW DID YOU RECOGNIZE THEM AS STUDENTS?

10 A NO, SIR.

11 Q SO HOW WAS IT THAT YOU CAME TO -- I MEAN, WAS THAT

12 SOMETHING -- WHEN YOU FIRST SAW THEM, WAS THAT SOMETHING

13 THAT WAS NOTICEABLE TO YOU?

14 A YES, SIR. I'D NEVER SEEN THEM BEFORE.

15 Q AND WHERE EXACTLY DID YOU SEE THEM AGAIN?

16 A AT THE TOP RIGHT-HAND, IN THE CORNER OF THE PARKING

17 LOT.

18 Q WHAT PARKING LOT?

19 A HASKILL DORMITORY PARKING LOT.

20 Q AND WHO DID YOU SEE THEM WITH?

21 A LAMAR PERDUE.

22 Q LAMAR PERDUE?

23 A YES.

24 Q DO YOU KNOW A GENTLEMAN BY THE NAME OF PHILLIP

25 MANNY PERDUE?

- 1 A YES, SIR.
- 2 Q WHAT RELATIONSHIP ARE THEY?
- 3 A I BELIEVE THEY WERE COUSINS, SIR.
- 4 Q THAT WAS YOUR BELIEF?
- 5 A YES, SIR.
- 6 Q WHEN YOU SAW THEM THAT MONDAY IN THE PARKING LOT OF
- 7 HASKILL DORM, IS THAT THE ONLY TIME YOU SAW THEM THAT
- 8 WEEK?
- 9 A NO, SIR.
- 10 Q AND ABOUT HOW MANY OTHER DAYS THAT WEEK, LEADING UP
- 11 TO JANUARY THE 15TH, THE FOLLOWING MONDAY, DID YOU SEE
- 12 THEM?
- 13 A EVERYDAY.
- 14 Q EVERYDAY ---
- 15 A WHEN ---
- 16 Q WAS IT DURING THE AFTERNOON OR EVENING OR BOTH?
- 17 A BOTH.
- 18 Q AND WHEN YOU WOULD SEE DUSHUN STATEN AND LUCIUS
- 19 STATEN, WHERE WOULD YOU SEE THEM?
- 20 A IN THE PARKING LOT.
- 21 Q THE SAME PARKING LOT?
- 22 A THE SAME PARKING LOT.
- 23 Q AND THAT DORM IS WHAT?
- 24 A IS HASKILL DORMITORY.
- 25 Q WERE THEY EVER IN A CAR OR AROUND A CAR OR CARS?

1 A YES, SIR.

2 Q WHAT TYPE OF CARS?

3 A THE GREEN GALANT AND THE WHITE HATCHBACK TWO-DOOR
4 CAR.

5 Q I'M SHOWING YOU STATE'S EXHIBIT NUMBER FORTY, TONY.
6 DO YOU RECOGNIZE THE PHOTOGRAPHS DEPICTED IN STATE'S
7 EXHIBIT FORTY?

8 A YES, SIR.

9 Q AND WHAT DO THESE PHOTOGRAPHS DEPICT?

10 A THE GREEN GALANT AND THE WHITE TWO-DOOR HATCHBACK
11 CAR.

12 Q DO THEY APPEAR TO BE THE CARS THAT YOU SAW THEM
13 HANGING OUT IN?

14 A YES, SIR.

15 Q WHEN I SAY "THEY," WHEN YOU SAW LUCIUS AND DUSHUN
16 STATEN, WERE THEY ALWAYS BY THEMSELVES?

17 A MOST OF THE TIME, SIR.

18 Q BUT AT OTHER TIMES WHAT?

19 A IT WAS LIKE MAYBE TWO OR ONE PERSON WITH THEM.

20 Q I WANT TO DRAW YOUR ATTENTION TO THAT FRIDAY NIGHT,
21 THAT JANUARY THE 12TH OF 2001. DID YOU HAVE AN
22 OPPORTUNITY TO SEE DUSHUN AND LUCIUS STATEN THAT DAY?

23 A YES, SIR.

24 Q WHERE DID YOU SEE THEM?

25 A IN THE PARKING LOT.

- 1 Q DO YOU RECOGNIZE THIS COAT, THIS YELLOW COAT?
- 2 A YES, SIR.
- 3 Q STATE'S EXHIBIT SEVENTEEN, THIS AVERIX YELLOW COAT?
- 4 A YES, SIR.
- 5 Q AND HOW DO YOU RECOGNIZE THIS, TONY?
- 6 A DUSHUN WORE THAT.
- 7 Q WHEN DID HE WEAR IT?
- 8 A HE WORE IT AT LEAST THREE TIMES, SIR.
- 9 Q DID YOU SEE, WHEN YOU SAW DUSHUN STATEN THE
- 10 DEFENDANT, OR LUCIUS STATEN THE DEFENDANT, ON THAT
- 11 MONDAY, TUESDAY, WEDNESDAY, THURSDAY, THE 8TH, 9TH, 10TH,
- 12 11TH, DID YOU EVER SEE ANYONE ELSE IN THE PARKING LOT
- 13 AREA THEY WERE HANGING WITH WEARING A YELLOW AVERIX
- 14 JACKET?
- 15 A NO, SIR.
- 16 Q OR ANY COLOR SIMILAR TO THE YELLOW AVERIX JACKET?
- 17 A NO, SIR.
- 18 Q THAT FRIDAY THE 12TH, YOU INDICATE YOU SAW THEM
- 19 DURING THE DAY; IS THAT CORRECT?
- 20 A YES, SIR.
- 21 Q DID YOU SEE THEM AGAIN LATER ON?
- 22 A LATER ON THAT NIGHT, SIR.
- 23 Q AND WHERE DID YOU SEE THEM, TONY?
- 24 A IN THE PARKING LOT OF HASKILL DORMITORY.
- 25 Q THE SAME PARKING LOT?

1 A THE SAME PARKING LOT.

2 Q DID YOU EVER SEE DUSHUN STATEN AND LUCIUS STATEN
3 OUTSIDE OF THE PARKING LOT OF THE HASKILL DORM?

4 A NO, SIR.

5 Q WERE THEY THE ONLY TWO THERE AT THAT TIME, THAT
6 NIGHT YOU SAW THEM, FRIDAY NIGHT, AT THE HASKILL STREET
7 DORM?

8 A NO, SIR.

9 Q WHO ELSE WAS WITH THEM? DO YOU REMEMBER?

10 A IT WAS SOME GUY THAT ATTENDED BENEDICT. I SEEN HIM
11 BEFORE. HE WAS STANDING UP NEAR THEM, NEAR HIS CAR, SIR.

12 Q WAS ANYBODY WEARING ANY KIND OF COLORS? DO YOU
13 KNOW WHAT I MEAN BY THAT?

14 A RED BANDANNA.

15 MR. GASSER: FOR DEMONSTRATIVE PURPOSES STATE'S
16 EXHIBIT THIRTY-EIGHT.

17 Q IS THIS WHAT YOU'RE TALKING ABOUT?

18 A YES, SIR.

19 Q WHO HAD ON A RED BANDANNA?

20 A DUSHUN.

21 Q DO YOU RECOGNIZE STATE'S EXHIBIT THIRTY?

22 A YES, SIR.

23 Q WAS PHILLIP WEARING A BLUE BANDANNA?

24 A YES.

25 Q TELL US WHAT HAPPENED. TELL THE JURY WHAT HAPPENED

1 THAT FRIDAY NIGHT, TONY.

2 A WELL, AS PHILLIP WAS AT THE TOP OF THE HILL, I WAS
3 DOWN THERE AT THE BOTTOM CURRENTLY DEALING WITH OTHER
4 FRIENDS. THEN I WALKED UP TO THE TOP OF THE HILL BECAUSE
5 I HEARD PEOPLE LIKE, YOU KNOW, LOUD AND ARGUING. SO WHEN
6 I WALKED TO THE TOP OF THE HILL, DUSHUN ASKED PHILLIP,
7 "WHAT THAT BLUE BE ABOUT?" AND THEN HE TOLD HIM. AND
8 THEN PHIL ASKED DUSHUN "WHAT THAT RED BE ABOUT?" AND
9 THEN HE SAID, "49 BRIM." AND THEN ---

10 Q 49 BRIM?

11 A YES.

12 AND THEN HE WAS LIKE -- HE REPHRASED IT AND SAID
13 "49 BULLETS."

14 THEN PHIL SAID, "NEVER HEARD OF IT," TURNED AROUND.

15 SO DUSHUN, HE WAS UPSET BECAUSE HE NEVER HEARD OF
16 HIS SET (PHONETIC) OR WHATEVER. THEN THEY CONTINUED TO
17 ARGUE. AND THAT WAS IT.

18 Q SO WHEN YOU INITIALLY SAW THE ARGUMENT GOING ON
19 BETWEEN WHO? PHILLIP AND WHO?

20 A DUSHUN.

21 Q AND WHAT WAS DUSHUN TALKING ABOUT? WHO DID HE SAY
22 THAT HE WAS REPRESENTING?

23 A 49 BRIM.

24 Q NOW WHEN PHILLIP TURNED -- YOU SAID PHILLIP TURNED
25 HIS BACK, IS THAT WHAT YOU SAID?

- 1 A YES.
- 2 Q HOW DID YOU OBSERVE DUSHUN? WHAT DID DUSHUN DO
- 3 WHEN PHILLIP TURNED HIS BACK ON HIM?
- 4 A HE GOT MAD. HE WAS UPSET BECAUSE HE NEVER HEARD OF
- 5 HIS SET, SO HE STARTED ARGUING SOME MORE.
- 6 Q HE WAS UPSET BECAUSE OF WHAT?
- 7 A HE NEVER HEARD OF WHAT HE CLAIMED.
- 8 Q NOW WAS IT JUST AN ARGUMENT BETWEEN DUSHUN AND
- 9 PHILLIP?
- 10 A AT THE TIME.
- 11 Q THEN WHAT HAPPENED, TONY?
- 12 A THEN HE CONTINUED TO ARGUE. AND THEN PHILLIP SAID,
- 13 "I NEVER HEARD OF IT." THEN LUCIUS JUMPED IN THE
- 14 ARGUMENT.
- 15 Q LUCIUS STATEN?
- 16 A YES.
- 17 Q AND THEN WHO DID LUCIUS JUMP IN THE ARGUMENT WITH?
- 18 WHO WAS HE ARGUING WITH?
- 19 A HE WAS ARGUING WITH HIS BROTHER AT PHILLIP.
- 20 Q WHAT YOU MEAN BY THAT?
- 21 A HE WAS ARGUING WITH HIS BROTHER AT PHILLIP, LIKE
- 22 HELPING HIS BROTHER ARGUE DOWN PHILLIP LEE.
- 23 Q THAT WAS FRIDAY NIGHT?
- 24 A YES, SIR.
- 25 Q DO YOU REMEMBER OFFICER BOYD EVENTUALLY COME ON THE

1 SCENE, RACHEL BOYD?

2 A YES, SIR.

3 Q WERE THINGS BROKEN UP?

4 A YES.

5 Q NO PUNCHES WERE THROWN, NOBODY WAS HURT?

6 A NO. THEY GOT IN THE CAR. AND THEN WHEN THEY WERE
7 LEAVING, THE CAR STOPPED AGAIN. HE WAS LIKE -- LUCIUS
8 GOT OUT OF THE CAR AND SAID, "I'M GOING TO START
9 REMEMBERING FACES." AND HE GOT OUT OF THE CAR AND LOOKED
10 AROUND, LOOKED AT EVERYBODY, THEN GOT BACK IN THE CAR AND
11 THEY RODE OFF.

12 Q WHAT CAR WAS THAT THAT NIGHT?

13 A IT WAS THE GALANT.

14 Q NOW ON SATURDAY, DID YOU HAPPEN TO SEE THEM
15 SATURDAY?

16 A YES, SIR.

17 Q WHERE?

18 A IN THE PARKING LOT, EARLIER THAT DAY WHEN I WENT TO
19 BREAKFAST.

20 Q AND WHO DID YOU SEE?

21 A DUSHUN AND LUCIUS.

22 Q I WANT TO DRAW YOUR ATTENTION TO THE MONDAY
23 EVENING, JANUARY THE 15TH, WHERE DID YOU GO AND WITH WHOM
24 ON THAT DAY, SINCE IT WAS A HOLIDAY?

25 A ME, ASWAD, MY FRIEND TEE, AND PHIL, WE WENT TO

1 CLEMSON FOR SOME BUSINESS.

2 Q DID SOMEBODY PICK UP SOMETHING?

3 A YES. TEE HAD TO GO PICK UP TUITION MONEY FROM HIS
4 PARENTS.

5 Q AND HOW DID Y'ALL GET TO CLEMSON?

6 A TEE DROVE, AND ASWAD, HE FOLLOWED US.

7 Q WHAT TIME APPROXIMATELY DID Y'ALL ARRIVE BACK AT
8 BENEDICT COLLEGE?

9 A BETWEEN NINE -- EIGHT-THIRTY, NINE.

10 Q WERE YOU LOOKING AT A WATCH?

11 A NO, SIR.

12 Q DO YOU EVEN KNOW EXACTLY THE TIME PHILLIP WAS
13 KILLED?

14 A NO, SIR.

15 Q SO WHAT DO YOU DO WHEN YOU GET BACK TO CAMPUS?

16 A BEFORE WE WENT BACK WE WENT TO THE CHINESE STORE TO
17 PICK UP A PHONE CARD. THEN WE ARRIVED BACK TO THE
18 HASKILL DORMITORY TO SPEAK TO THE REST OF OUR FRIENDS
19 'CAUSE WE'D BEEN GONE ALL DAY. AND PHILLIP WANTED TO GO
20 GET A HAIRCUT.

21 Q SO WHAT DID YOU DO?

22 A I STOOD OUTSIDE.

23 Q OUTSIDE WHERE?

24 A OUTSIDE OF HASKILL DORMITORY, THE FRONT, AND I WAS
25 TALKING TO THE REST OF MY FRIENDS WHILE HE WENT TO GO GET

1 A HAIRCUT.

2 Q AND THEN WHAT HAPPENED?

3 A AS HE FINISHED HIS HAIRCUT, HE CAME OUTSIDE, AND
4 ME, HIM AND WILENA McARTHUR, WE STARTED WALKING TO OUR
5 DORMS.

6 Q WILENA McARTHUR, THAT'S A FEMALE?

7 A YES. YES.

8 Q NOW WHEN YOU FIRST ARRIVED TO THE HASKILL DORM
9 BEFORE PHIL WENT UP TO GET HIS HAIRCUT AND YOU WERE
10 HANGING OUT, DID YOU NOTICE ANYBODY IN THE PARKING LOT
11 THAT WERE NOT STUDENTS?

12 A YES. I GLANCED OVER THE PARKING LOT.

13 Q AND WHO DID YOU SEE?

14 A I SEEN THE GREEN GALANT WITH LIKE FOUR OR FIVE GUYS
15 AROUND IT.

16 Q DID YOU RECOGNIZE ANYONE AT THAT POINT?

17 A NO.

18 Q WERE YOU PAYING MUCH ATTENTION AT THAT POINT?

19 A NO.

20 Q YOU INDICATED WHEN PHILLIP WAS FINISHED, YOU,
21 PHILLIP AND WILENA STARTED TO GO SOMEWHERE; IS THAT
22 CORRECT?

23 A WE WAS WALKING BACK TO OUR DORMS.

24 Q WHAT HAPPENED WHEN YOU STARTED WALKING BACK TO YOUR
25 DORM?

1 A WELL, WHEN WE STARTED WALKING BACK, WE STARTED
2 WALKING UP THE HILL. THEN WHEN WE WALKED PAST THE GREEN
3 GALANT WITH THE GUYS SITTING ON THE FRONT OF THE HOOD,
4 ONE OF THEM SAID, "WHAT THAT BLUE BE ABOUT? YOU CAN'T
5 WEAR THAT AROUND HERE."

6 PHILLIP PROCEEDED TO SAY, "HOW YOU GOING TO TELL ME
7 WHAT I CAN WEAR ON MY CAMPUS? I GO HERE."

8 AND HE SAID, "BECAUSE WE EAT (PHONETIC) THAT."

9 AND THEN HE WAS LIKE, "YO, YOU CANNOT TELL ME WHAT
10 I CAN WEAR WHEN I'M GOING TO SCHOOL HERE."

11 THAT WENT ON FOR LIKE AT LEAST FIVE MINUTES BEFORE
12 LUCIUS PULLED UP. HE JUMPED OUT OF THE WHITE CAR IN THE
13 PASSENGER SEAT. THEN HE CAME UP AND ASKED WHAT WAS THE
14 PROBLEM.

15 THEN PHIL PROCEEDED, HE WAS LIKE, "YOUR MEN TRYING
16 TO TELL ME WHAT I CAN AND CAN'T WEAR AROUND HERE."

17 THEN LUCIUS SAID, "OH, YOU COMING BACK AROUND HERE
18 WITH THIS AGAIN? COME ON, YOU KNOW YOU CAN'T WEAR THAT
19 AROUND HERE."

20 THEN PHILLIP SAID, "HOW YOU GOING TO TELL ME WHAT I
21 CAN WEAR OR WHATEVER? THIS IS MY SCHOOL, I GO HERE."

22 THEN LUCIUS SAY, "YOU MIGHT WANT TO SHUT UP NOW.
23 YOU MIGHT WANT TO SHUT YOUR MOUTH."

24 Q SO WHEN YOU WERE FIRST WALKING -- WHAT PART -- WHAT
25 WERE YOU EXACTLY -- WHAT WERE YOU PHYSICALLY WALKING ON?

1 WAS IT THE GRASS?

2 A NO. WE WAS WALKING ON THE CONCRETE, THE SIDEWALK.

3 Q NOW ONCE THESE WORDS STARTED BEING EXCHANGED, WHERE
4 DID WILENA GO?

5 A WILENA, SHE WALKED UP A LITTLE BIT, BUT THEN SHE
6 WENT BACK.

7 Q AND THEN WHERE DID SHE GO? DO YOU KNOW?

8 A SHE WENT BACK INTO THE DORM.

9 Q WHEN YOU AND PHILLIP WERE WALKING AND THESE WORDS
10 STARTED BEING EXCHANGED, WHO STARTED THE VERBAL EXCHANGE?

11 A THE GUY THAT WAS SITTING ON THE CAR.

12 Q DO YOU KNOW WHO THAT WAS?

13 A NO, SIR.

14 Q AND AS PHILLIP STOPPED, DID YOU AT THAT TIME BEGIN
15 TO RECOGNIZE SOMEBODY THAT WAS THERE?

16 A YES.

17 Q WHO WAS THAT?

18 A DUSHUN.

19 Q AND DID YOU RECOGNIZE WHAT DUSHUN WAS WEARING?

20 A YES.

21 Q WHAT WAS THAT?

22 A THE YELLOW AVERIX JACKET.

23 Q I SHOW YOU WHAT'S MARKED STATE'S EXHIBIT SEVENTEEN
24 AGAIN.

25 A YES, SIR.

1 Q IS THIS THE SAME JACKET HE WAS WEARING?

2 A YES, SIR.

3 Q HAVE YOU PROVIDED STATEMENTS? DID YOU PROVIDE
4 STATEMENTS TO LAW ENFORCEMENT BACK DURING THE -- RIGHT
5 AFTER THE INCIDENT OCCURRED?

6 A YES, SIR.

7 Q TO INVESTIGATOR KARL KENLEY, BEHIND INVESTIGATOR
8 MEAD?

9 A YES, SIR.

10 Q AND INVESTIGATOR MEAD?

11 A YES, SIR.

12 Q HAVE YOU ALWAYS MAINTAINED HE WAS WEARING THIS?

13 A YES, SIR.

14 Q THIS IS BEFORE LUCIUS WAS THERE; IS THAT CORRECT?

15 A YES, SIR.

16 Q WHAT WAS DUSHUN AND SOME OF THE OTHER GUYS -- WHAT
17 ELSE WERE THEY WEARING, FROM A COLOR PERSPECTIVE?

18 A THEY WERE WEARING THE RED BANDANNAS ON THEY NECK,
19 ON THEY HEAD, AROUND THEY WRISTS.

20 Q NOW WHEN YOU SAY "THEY," HOW MANY OF THE GROUP WITH
21 DUSHUN?

22 A IT WAS APPROXIMATELY FIVE. BEFORE LUCIUS CAME IT
23 WAS FIVE.

24 Q BUT LUCIUS WASN'T WEARING ANY RED; IS THAT CORRECT?

25 A THAT'S CORRECT.

- 1 Q BUT DUSHUN AND ALL THE OTHER GUYS WERE?
- 2 A YES.
- 3 Q I SHOW YOU WHAT'S BEEN MARKED STATE'S EXHIBIT
- 4 THIRTY-EIGHT. IS THIS WHAT YOU'RE TALKING ABOUT?
- 5 A YES, SIR.
- 6 Q AND WHERE WOULD THEY BE WEARING THIS?
- 7 A AROUND THEY NECK, THEY ---
- 8 Q THEIR NECK?
- 9 A YES. AROUND THEY HEAD.
- 10 Q ON THEIR HEAD?
- 11 A YES. LIKE FOLDED UP AROUND THEY HEAD, AND ON THEY
- 12 WRISTS.
- 13 Q AROUND THEIR WRISTS?
- 14 A YES.
- 15 Q AND AT THAT TIME DID PHIL, WAS HE WEARING HIS BLUE?
- 16 A NO. HE HAD A BLUE FITTED HAT ON WITH A "G" ON IT,
- 17 AND HE HAD THAT IN HIS BACK POCKET.
- 18 Q HIS BACK POCKET?
- 19 A YES, SIR.
- 20 Q OKAY. WHEN LUCIUS COMES ON THE SCENE, WHO THEN
- 21 KIND OF TAKES OVER THE ARGUMENT?
- 22 A LUCIUS.
- 23 Q AND WHAT DOES LUCIUS SAY ABOUT PHILLIP WEARING A
- 24 BLUE BANDANNA?
- 25 A HE SAID, "COME ON NOW, YOU KNOW YOU CAN'T WEAR THAT

1 AROUND HERE ANYMORE."

2 Q WHO SAYS THAT?

3 A LUCIUS.

4 Q AND HE SAYS THAT TO WHO?

5 A PHIL.

6 Q WHAT WAS THE LIGHTING LIKE OUT THERE, TONY, WHEN
7 YOU WERE STANDING THERE ON THE SIDEWALK?

8 A IT WAS WELL LIT. IT WAS LIKE FIVE, FIVE LIGHT
9 POLES, I MEAN, IT WAS LIKE A LIGHT POLE EVERY FIVE --
10 FIVE FEET.

11 Q HOW CLOSE DID YOU GET TO DUSHUN WEARING THAT YELLOW
12 JACKET? HOW CLOSE DID YOU GET TO HIM?

13 A NOT CLOSE.

14 Q HOW CLOSE?

15 A HE WAS STANDING LIKE AT THE LEFT SIDE OF THE BACK
16 -- BACK SEAT OF THE CAR, LIKE NEAR THE DOOR.

17 Q AND YOU WERE STANDING, WHERE WERE YOU STANDING?

18 A I WAS STANDING LIKE RIGHT NEXT TO PHIL.

19 Q SO POSITION ME, POSITION ME AS FAR AS YOU STANDING
20 ON THE SIDEWALK AND THEN THE PARKING LOT THERE WHERE THE
21 CAR IS PARKED?

22 A LIKE TAKE A STEP BACK. RIGHT THERE.

23 Q OKAY. ANYBODY STANDING BETWEEN YOU AND DUSHUN
24 STATEN?

25 A YES. I WAS -- IT WAS LIKE HE WAS STANDING AT THE

1 BACK ON THE LEFT SIDE OF THE CAR, AND THEN THE OTHER GUYS
2 WERE SITTING ON THE HOOD, THEN IT WAS ME, THEN IT WAS
3 PHIL.

4 Q AND WHEN IT WAS JUST -- THE FIRST, WHEN THIS ORAL
5 CONFRONTATION OCCURRED, WAS IT JUST YOU AND PHIL?
6 AMONGST YOUR FRIENDS, I MEAN.

7 A YES.

8 Q BEFORE LUCIUS GOT THERE, IT WAS DUSHUN AND SEVERAL
9 OTHER PEOPLE; CORRECT?

10 A YES.

11 Q DID YOU HAVE ANY PROBLEM OBSERVING DUSHUN STATEN
12 AND PHILLIP ARGUING BACK AND FORTH?

13 A NO.

14 Q DID YOU OBSERVE THAT?

15 A NO.

16 Q YOU DIDN'T OBSERVE THAT? DID YOU SEE ANY OF THAT?

17 A NO.

18 Q WELL WHERE WERE ---

19 A IT WAS JUST THE REGULAR GUY THAT WAS SITTING ON THE
20 HOOD.

21 HE REALLY DIDN'T SAY NOTHING; HE WAS SITTING BACK
22 BY THE CAR.

23 Q DUSHUN WAS?

24 A YES.

25 Q OKAY. BUT DID YOU RECOGNIZE HIM?

1 A YES.

2 Q BECAUSE YOU'D SEEN HIM HOW MANY TIMES, DO YOU
3 THINK, BEFORE, THAT WHOLE WEEK?

4 A THE WHOLE WEEK.

5 Q HOW MANY TIMES DO YOU THINK, IF YOU COULD ESTIMATE?

6 A ESTIMATE LIKE TWENTY.

7 Q NOW WHEN LUCIUS CAME UP ON THE SCENE, HOW CLOSE DID
8 HE GET?

9 A HE GOT PRETTY CLOSE.

10 Q HOW CLOSE? STOP ME.

11 A RIGHT THERE. HE CAME ONTO THE GRASS.

12 Q I'M GOING TO PULL YOU DOWN IN A SECOND BUT I'VE
13 JUST GOT A COUPLE QUESTIONS WHILE YOU'RE SITTING THERE.

14 NOW ONCE YOU AND PHILLIP WERE UP THERE BY YOURSELF
15 AND THIS ARGUING CONTINUED, DID SOME OF YOUR OTHER
16 FRIENDS COME UP?

17 A YES, SIR.

18 Q DO YOU KNOW RASHON LOGGINS?

19 A YES, SIR.

20 Q NOW HOW LONG DID THIS CONFRONTATION TAKE PLACE
21 BEFORE ANY SHOTS WERE FIRED?

22 A TEN TO FIFTEEN MINUTES, SIR.

23 Q WELL, TELL US, OF YOU AND YOUR FRIENDS, WAS PHILLIP
24 THE ONLY ONE DOING THE TALKING OR WERE SOME OTHER PEOPLE
25 KIND OF DOING THE TALKING TOO, OF YOUR FRIENDS?

1 A OF -- OF -- NO, JUST HIM. WE WAS TELLING PHIL TO
2 COME ON.

3 Q AND OF THE PEOPLE, THE FIVE PEOPLE I BELIEVE YOU
4 INDICATED, AND THEN WITH LUCIUS THAT WOULD HAVE BEEN SIX
5 ---

6 A LIKE THREE OF THEM BESIDES LUCIUS SAID SOMETHING.

7 Q AND DURING THAT TEN-MINUTE PERIOD OF TIME WERE
8 WORDS BEING EXCHANGED BACK AND FORTH?

9 A YES, SIR.

10 Q AND CAN YOU DEVELOP THAT? WHAT YOU MEAN? LET THE
11 JURY UNDERSTAND WHAT KIND OF WORDS WERE BEING EXCHANGED
12 BACK AND FORTH?

13 A IT WAS LIKE, THEY WERE ARGUING LIKE, AND POINTING
14 FINGERS, YOU KNOW, LIKE READY TO FIGHT ALMOST.

15 Q WAS ANY PROFANITY USED?

16 A YES, SIR.

17 Q ON BOTH SIDES?

18 A YES, SIR.

19 Q AS THE ARGUMENT STARTS TO UNWIND, TELL US, PLEASE,
20 WHAT HAPPENS? WHAT DOES LUCIUS DO? WHAT DOES DUSHUN DO?
21 WHAT DO YOU SEE THEM DO?

22 A AS THE ARGUMENT STARTED TO UNWIND ONE OF THE GUYS
23 SAID, "COME ON, LET'S GO, LET'S GO." SO DUSHUN WENTS TO
24 THE BACK SEAT OF THE CAR. AND THEN AFTER HE COME OUT OF
25 THE BACK SEAT, HE GOES BEHIND THE LITTLE GUY WITH THE

1 BLACK NORTHFACE JACKET ON.

2 Q OKAY. AND WHEN YOU SAW DUSHUN STATEN GO TO THE
3 BACK OF THE CAR, WHEN YOU SAY "BACK," WHICH BACK?

4 A THE LEFT SIDE.

5 Q I'M SHOWING YOU STATE'S EXHIBIT NUMBER FORTY.

6 A THIS SIDE (INDICATING).

7 Q OKAY. THE DRIVER'S SIDE DOOR OR THE PASSENGER SIDE
8 DOOR?

9 A PASSENGER.

10 Q OKAY. YOU WOULD HAVE BEEN IN FRONT OF THE CAR?

11 A YES, SIR.

12 Q AND WHEN YOU SEE HIM WALK BACK HERE, TELL THIS JURY
13 WHAT YOU SEE DUSHUN STATEN GET OUT OF THE BACK SEAT OF
14 THAT GREEN GALANT.

15 A A SILVER REVOLVER.

16 Q A SILVER REVOLVER?

17 A WITH A RED BANDANNA AROUND THE GRIP.

18 Q AND HOW DID YOU KNOW IT WAS A REVOLVER?

19 A I MEAN, YOU COULD TELL FROM LIKE WATCHING MOVIES OR
20 JUST KNOWING GUNS.

21 Q DID YOU HAVE ANY DIFFICULTY, STANDING WHERE YOU
22 WERE, SEEING THAT THAT WAS IN FACT A REVOLVER THAT HE GOT
23 OUT OF THE CAR? DID YOU HAVE ANY DIFFICULTY SEEING THAT
24 WITH THE LIGHTING?

25 A NO, SIR.

1 Q YOU SAID IT HAD A RED BANDANNA WRAPPED AROUND IT;
2 HOW?

3 MR. TAYLOR: OBJECTION TO THE LEADING, YOUR HONOR.

4 Q I THOUGHT YOU SAID IT DID HAVE A RED BANDANNA
5 WRAPPED AROUND?

6 A YES, SIR.

7 Q HOW WAS IT WRAPPED AROUND IT?

8 A IT WAS TIED AROUND THE GRIP.

9 Q NOW WHEN YOU SAW DUSHUN STATEN TAKE THIS PISTOL OUT
10 OF THE BACK OF THE CAR, WHAT WAS HE WEARING STILL?

11 A THE YELLOW AVERIX JACKET.

12 Q THIS (INDICATING)?

13 A YES, SIR.

14 Q WHEN YOU OBSERVED THAT, TONY, I WANT YOU TO TELL
15 THIS JURY HOW MANY OTHER PEOPLE SITTING AROUND THAT GREEN
16 GALANT, ON THE DRIVER'S SIDE, PASSENGER'S SIDE, OR
17 ANYWHERE AROUND THE GREEN GALANT, TELL THEM HOW MANY
18 OTHER PEOPLE WERE WEARING A YELLOW AVERIX JACKET?

19 A NO ONE. EVERYONE WAS WEARING DARK COLORS.

20 Q WELL, THAT WAS MY NEXT QUESTION. HOW MANY PEOPLE
21 WERE WEARING LIGHT COLORS OR BRIGHT COLORS, SUCH AS
22 YELLOW?

23 A NO ONE BESIDES HIM.

24 Q WHAT DID YOU SEE DUSHUN STATEN DO WITH THAT SILVER
25 REVOLVER?

1 A HE HANDED IT TO THE SHOOTER BEHIND HIS BACK.

2 Q AND THE SHOOTER WAS WEARING WHAT?

3 A A BLACK AND RED NORTHFACE JACKET.

4 Q AND WHEN DUSHUN STATEN HANDED THIS PISTOL TO THE
5 SHOOTER, DID YOU SAY HE WAS WEARING A BLACK AND RED
6 NORTHFACE JACKET?

7 A YES, SIR.

8 Q WHAT, IF ANYTHING, DID YOU SEE LUCIUS STATEN DO?

9 A HE WAS LIKE, "ALL RIGHT, WE ABOUT TO GO, WE ABOUT
10 TO GO." AND THEN WHEN HE WAS LEAVING TO GET IN THE CAR,
11 HE TURNED AND NODDED HIS HEAD AT THE SHOOTER.

12 Q WHO DID THAT?

13 A LUCIUS.

14 Q THEN WHAT HAPPENS?

15 A THE SHOOTER HELD THE WEAPON UP SIDEWAYS AND SHOT
16 TWICE.

17 Q WHAT DID YOU DO?

18 A WELL, WHEN HE SHOT THE FIRST TIME, I WAS -- I WAS
19 STUNNED AND I COULDN'T MOVE. AND THEN WHEN THE SECOND
20 SHOT DROP -- I MEAN, WHEN THE SECOND SHOT SHOT, I FELL TO
21 THE GROUND.

22 Q TONY, I WANT YOU TO BRIEFLY STEP ON DOWN HERE.

23 (THE WITNESS NOW LEAVES THE WITNESS STAND.)

24 I WANT YOU TO USE THIS POINTER. STAND OVER THERE
25 AND YOU NEED TO SPEAK UP LOUD ENOUGH SO THE COURT

1 REPORTER CAN HEAR YOU.

2 I'M SHOWING YOU STATE'S EXHIBIT THIRTY-ONE, TONY.

3 DO YOU RECOGNIZE THIS DIAGRAM?

4 A YES, SIR.

5 Q OKAY. AND WHAT'S THIS BUILDING?

6 A HASKILL DORMITORY.

7 Q I'M NOT GOING TO GET YOU TO GO OVER ALL OF YOUR
8 TESTIMONY BUT AT THE POINT IN TIME WHEN YOU AND PHILLIP
9 START WALKING BACK TOWARDS THIS DORM, SHOW ON STATE'S
10 EXHIBIT THIRTY-ONE WHAT ROUTE YOU WERE TAKING?

11 A WE WAS TAKING THIS ROUTE RIGHT HERE, STRAIGHT UP
12 THE SIDEWALK.

13 Q OKAY. AND WHICH DIRECTION WERE YOU GOING?

14 A WE WAS GOING TOWARDS THE CAMPUS.

15 Q TOWARDS ME?

16 A YES.

17 Q AND DO YOU RECOGNIZE THE AIR CONDITIONING UNIT AND
18 LIGHT POLE RIGHT HERE?

19 A YES, SIR.

20 Q NOW WHERE ON STATE'S EXHIBIT THIRTY-ONE WAS THE
21 GREEN GALANT PARKED?

22 A RIGHT HERE, THE THIRD PARKING SPOT.

23 Q AND WHAT'S THAT RIGHT THERE?

24 A LIGHT POLE.

25 Q WHAT'S THAT RIGHT THERE?

1 A ANOTHER LIGHT POLE.

2 Q WHAT'S THAT RIGHT THERE?

3 A A LIGHT POLE.

4 Q WHAT ARE THESE OVER HERE?

5 A FOG LIGHTS.

6 Q I'M SHOWING YOU STATE'S EXHIBIT -- OR DEFENSE

7 EXHIBIT NUMBER TWO. DO YOU RECOGNIZE THIS PHOTOGRAPH?

8 A YES, SIR.

9 Q WHAT IS THIS A PHOTOGRAPH OF?

10 A IT'S THE SIDEWALK GOING -- LEAVING TOWARDS THE GATE

11 RIGHT HERE TO GO TO THE REST OF THE CAMPUS, AND THE AIR

12 VENTILATION IN FRONT OF THE LAMP, THE LIGHT POLE.

13 Q HOW CLOSE WERE YOU TO PHILLIP LEE WHEN HE WENT DOWN

14 AFTER BEING SHOT?

15 A LIKE THIS CLOSE. I WAS STANDING BEHIND HIM AND HE

16 WAS STANDING IN FRONT OF ME.

17 Q NOW DO YOU SEE WHERE THE BLOOD IS RIGHT THERE?

18 A YES.

19 Q WHAT'S THAT RIGHT THERE?

20 A A LIGHT POLE.

21 Q NOW IS THIS JUST ANOTHER PICTURE OF THE SAME OF A

22 DIFFERENT ANGLE?

23 A YES.

24 Q DO YOU SEE THE LIGHT POLE IN THAT PICTURE?

25 A YES, SIR.

1 Q NOW WHEN YOU REFER TO LUCIUS COMING UP ON THE GRASS
2 AND THE CAR BEING PARKED, POINT OUT TO THE JURY WHERE
3 YOU'RE TALKING ABOUT?

4 A THIS IS THE GRASSY AREA RIGHT HERE. THE CAR WAS
5 PARKED RIGHT THERE, AND THIS IS THE GRASSY AREA.

6 Q BUT YOU DON'T HAVE ANY EXPERTISE IN PHOTOGRAPHY, DO
7 YOU, TONY?

8 A NO, SIR.

9 Q SO BUT WHEN YOU WERE LOOKING OUT OVER INTO THIS
10 PARKING LOT AREA WHERE THE CAR WAS, DID YOU HAVE ANY
11 PROBLEM SEEING?

12 A NO, SIR.

13 Q AND WHERE WAS THE GREEN GALANT, USING THIS
14 PHOTOGRAPH?

15 A DOWN HERE.

16 (THE WITNESS NOW RETURNS TO THE WITNESS STAND.)

17 Q JUST SO I'M SURE, LET ME ASK YOU THIS, THE SHOOTER,
18 THE PERSON YOU SAW SHOOT, HOW DID YOU DESCRIBE THE
19 CLOTHING HE WAS WEARING?

20 A HE HAD A BLACK AND RED NORTHFACE JACKET ON WITH
21 SOME DARK COLORS ---

22 Q WHEN YOU SAY "NORTHFACE," EXPLAIN TO THE JURY WHAT
23 YOU MEAN BY THAT, "NORTHFACE JACKET"?

24 A A NORTHFACE JACKET IS LIKE A TYPE OF JACKET THEY
25 SELL IN COMMON AREAS LIKE NEW YORK, NEW JERSEY, VIRGINIA.

- 1 Q AND WHERE IS THE PATCH?
- 2 A IT'S ALWAYS ON THE LEFT SIDE.
- 3 Q DID YOU SEE THAT PATCH ON THE LEFT SIDE OF THE
- 4 BLACK NORTHFACE THAT NIGHT THAT THE SHOOTER WAS WEARING?
- 5 A YES, IN WHITE.
- 6 Q IT WAS A WHITE PATCH?
- 7 A YES, SIR.
- 8 Q AND DO YOU REMEMBER WHAT KIND OF HAIRSTYLE HE HAD?
- 9 A HE HAD BRAIDS.
- 10 Q NOW YOU SAID DUSHUN, DO YOU REMEMBER WHAT KIND OF
- 11 HAIRSTYLE HE HAD THAT NIGHT?
- 12 A HE HAD BRAIDS AS WELL.
- 13 Q AND YOU SAID HE WAS WEARING WHAT JACKET?
- 14 A THE YELLOW AVERIX.
- 15 Q LUCIUS, DO YOU REMEMBER WHAT HE HAD ON THAT NIGHT?
- 16 A YES. HE HAD ON A BROWN AND GOLD LIKE SWEAT SUIT
- 17 WITH A BLUE, A DARK COLORED NAVY HAT.
- 18 Q I'M SORRY, I COULDN'T HEAR.
- 19 A LIKE A DARK BLUE NAVY HAT -- I MEAN, YANKEE HAT.
- 20 Q WHEN YOU SAY "YANKEE," DO YOU MEAN LIKE THE
- 21 BASEBALL TEAM THE NEW YORK YANKEES?
- 22 A YES.
- 23 Q OKAY. NOW I WANT TO GET TO SOME PHOTO LINEUPS THAT
- 24 YOU WERE SHOWN BUT THESE ARE IN EVIDENCE, STATE'S EXHIBIT
- 25 THIRTY-SIX, DO YOU RECOGNIZE THE PICTURE?

1 A YES, SIR.

2 Q OKAY. HAD YOU SEEN MO SANDERS ON CAMPUS BEFORE?

3 A NO, SIR.

4 Q YOU'D NEVER SEEN HIM BEFORE THAT MONDAY NIGHT?

5 A NO, SIR.

6 Q DID YOU SEE HIM THAT NIGHT THOUGH?

7 A YES, SIR.

8 Q AND WHAT WAS HIS ROLE IN THIS?

9 A HE DIDN'T SAY ANYTHING AT ALL, SIR.

10 Q WAS HE WEARING ANY KIND OF YELLOW JACKET?

11 A NO, SIR.

12 Q OR A BLACK NORTHFACE?

13 A NO, SIR.

14 Q AND OF COURSE YOU WOULDN'T DESCRIBE THAT HAIRSTYLE

15 ON MO SANDERS -- OR WOULD YOU DESCRIBE THAT AS BRAIDS?

16 A NO, SIR.

17 Q HOW WOULD YOU DESCRIBE THAT HAIRSTYLE?

18 A A MINI-AFRO.

19 Q MINI-AFRO?

20 A YES, SIR.

21 Q NOW YOU IDENTIFIED ANOTHER INDIVIDUAL OUT THERE,

22 DID YOU NOT?

23 A YES, SIR.

24 Q SHAKEEM WILSON?

25 A YES.

1 Q WAS HE WEARING A BLACK NORTHFACE OR A YELLOW
2 AVERIX?
3 A NO, SIR.
4 Q DO YOU REMEMBER WHAT HE WAS WEARING?
5 A HE HAD A PLAID SHIRT ON WITH SOME BLACK JEANS.
6 Q WAS DUSHUN THE SHOOTER?
7 A NO, SIR.
8 Q WAS LUCIUS THE SHOOTER?
9 A NO, SIR.
10 Q WAS SHAKEEM THE SHOOTER?
11 A NO, SIR.
12 Q WAS MO THE SHOOTER?
13 A NO, SIR.
14 Q HAD YOU EVER SEEN THE SHOOTER BEFORE?
15 A NO, SIR.
16 Q DO YOU EVEN KNOW WHO THE SHOOTER IS AS YOU SIT HERE
17 AND TESTIFY BEFORE THE JURY?
18 A NO, SIR.
19 Q AFTER THE SHOOTING WHERE DID YOU SEE THE PEOPLE GO?
20 A THEY JUMPED IN THE CAR.
21 Q WHICH CAR?
22 A THE GREEN GALANT.
23 Q WHERE DID DUSHUN GO?
24 A HE JUMPED IN THE BACK SEAT.
25 Q OF WHAT CAR?

1 A THE GREEN GALANT.

2 Q WHERE DID LUCIUS GO?

3 A IN THE PASSENGER SEAT OF THE GREEN GALANT.

4 Q WHERE DID THE SHOOTER GO?

5 A I GUESS HE WAS IN THE CAR AS WELL, SIR.

6 Q AND SHAKEEM?

7 A HE WAS DRIVING.

8 Q NOW WERE YOU AWARE THAT MR. SANDERS WAS CAUGHT

9 RUNNING FROM THE SCENE LATER ON?

10 A YES, SIR.

11 Q DID YOU STAY AND TRY AND HELP OUT PHIL?

12 A YES, SIR.

13 Q SO YOU SAW HIM WHERE HE WAS SHOT?

14 A YES, SIR.

15 Q NOW WERE YOU PRESENT THEN WHEN THE EMERGENCY

16 MEDICAL SERVICE, THE POLICE, ALL STARTED COMING, SECURING

17 THE SCENE, THAT SORT OF THING?

18 A YES, SIR.

19 Q A FEW MORE QUESTIONS.

20 WHERE DID YOU GO -- WHEN PHIL WAS TAKEN TO THE

21 HOSPITAL, WHERE DID YOU GO?

22 A TO THE HOSPITAL.

23 Q TO SEE THE CONDITION OF YOUR FRIEND?

24 A YES, SIR.

25 Q OKAY. AND EVENTUALLY DID YOU FIND OUT THAT HE ---

1 A PRONOUNCED ---

2 Q --- ACTUALLY WAS DEAD?

3 A YES.

4 Q WHERE DID YOU SPEND THE NIGHT THAT NIGHT?

5 A I SPENT THE NIGHT IN LO'S ROOM.

6 Q IN LO'S ROOM?

7 A YES.

8 Q WHO CAME AND GOT YOU THE NEXT DAY?

9 A MY MOTHER.

10 Q AND WHERE DID YOUR MOTHER TAKE YOU?

11 A SHE TOOK ME TO THE PUBLIC SAFETY OFFICE.

12 Q SO WHOSE IDEA WAS IT TO TAKE YOU TO THE PUBLIC

13 SAFETY OFFICE?

14 A HERS.

15 Q YOUR MOM'S?

16 A YES.

17 Q AND DID YOU MEET WITH INVESTIGATOR KENLEY THEN?

18 A YES, SIR.

19 Q THAT WAS ON JANUARY 16TH; IS THAT CORRECT?

20 A THE NEXT DAY.

21 Q AND THEN WHERE DID YOU GO?

22 A I WENT HOME, AFTER I HAD SPOKEN TO OFFICER KENLEY.

23 Q YOU WENT HOME. AND WHERE WAS HOME?

24 A IN HOPE MILLS, NORTH CAROLINA.

25 Q WITH YOUR MOTHER?

1 A YES.

2 Q DID YOU COME BACK TO BENEDICT COLLEGE SHORTLY
3 THEREAFTER?

4 A YES.

5 Q AND THE PURPOSE FOR DOING THAT WAS TO GO WHERE?

6 A GO TO THE FUNERAL IN NEW JERSEY.

7 Q AND WHEN YOU RETURNED FROM COLUMBIA (SIC), DID YOU
8 GET IN CONTACT WITH INVESTIGATOR KENLEY AGAIN?

9 A YES, SIR.

10 Q AND TELL ME WHERE DID INVESTIGATOR KENLEY TAKE YOU
11 ON JANUARY 24TH?

12 A HE TOOK ME TO THE COLUMBIA POLICE DEPARTMENT.

13 Q AND DID YOU PROVIDE -- DID YOU MEET WITH
14 INVESTIGATOR MEAD?

15 A YES, SIR.

16 Q DID YOU PROVIDE HIM A WRITTEN STATEMENT?

17 A YES, SIR.

18 Q WERE YOU SHOWN SOME PHOTOGRAPHIC LINEUPS?

19 A YES, SIR.

20 Q TONY, ON JANUARY THE 24TH, SOME NINE DAYS AFTER
21 THIS INCIDENT, DID INVESTIGATOR MEAD HAVE AN OPPORTUNITY
22 TO SHOW YOU STATE'S EXHIBIT NUMBER NINE IN EVIDENCE?

23 A YES, SIR.

24 Q WERE YOU ABLE TO IDENTIFY ANYONE IN THAT LINEUP?

25 A YES, SIR.

1 Q WHO WAS THAT?

2 A NUMBER FIVE, LUCIUS.

3 Q LUCIUS STATEN?

4 A YES, SIR.

5 Q AND IS HE IN THE COURTROOM HERE TODAY?

6 A YES, SIR.

7 Q FOR THE RECORD WOULD YOU IDENTIFY HIM FOR THE JURY?

8 A RIGHT THERE IN THE BLUE WITH THE BLACK TIE.

9 Q ON THE SAME DAY, JANUARY 24TH, DID INVESTIGATOR

10 MEAD SHOW YOU STATE'S EXHIBIT NUMBER TEN?

11 A YES, SIR.

12 Q WERE YOU ABLE TO IDENTIFY ANYBODY?

13 A YES, SIR.

14 Q WHO WAS THAT?

15 A NUMBER SIX.

16 Q NUMBER SIX?

17 A YES.

18 Q DO YOU NOW KNOW WHO IT TO BE?

19 A MAURICE.

20 Q THE SAME PERSON THAT IS DEPICTED IN STATE'S EXHIBIT

21 THIRTY-SIX?

22 A YES, SIR.

23 Q LET ME SHOW YOU STATE'S EXHIBIT NUMBER ELEVEN IN

24 EVIDENCE. WERE YOU ABLE TO EVER IDENTIFY ANYBODY?

25 A YES, SIR.

- 1 Q ON JANUARY 24TH, 2001?
- 2 A YES, SIR.
- 3 Q WHO DID YOU IDENTIFY?
- 4 A NUMBER TWO, DUSHUN.
- 5 Q DUSHUN STATEN?
- 6 A YES, SIR.
- 7 Q OKAY. IS THIS THE SAME DUSHUN STATEN THAT YOU
- 8 INDICATED TO THE JURY THE ONE THAT HANDED THE GUN?
- 9 A YES, SIR.
- 10 Q WOULD YOU IDENTIFY SO THE COURT REPORTER HAS -- FOR
- 11 THE RECORD, WHO HANDED THE SHOOTER THE GUN?
- 12 A DUSHUN.
- 13 Q THIS GENTLEMAN RIGHT HERE (INDICATING)?
- 14 A YES, SIR.
- 15 Q STATE'S EXHIBIT TWELVE, WERE YOU SHOWN THIS BY
- 16 INVESTIGATOR MEAD?
- 17 A YES, SIR.
- 18 Q WERE YOU ABLE TO IDENTIFY ANYONE?
- 19 A YES, SIR. NUMBER ONE.
- 20 Q NUMBER ONE. YOU NOW KNOW HIM TO BE WHO?
- 21 A KAREEM.
- 22 Q KAREEM OR ...?
- 23 A SHAKEEM.
- 24 Q SHAKEEM, OKAY. YOU DIDN'T KNOW THIS GUY BEFORE,
- 25 DID YOU?

1 A NO, SIR.

2 Q AND DID INVESTIGATOR MEAD HAVE YOU MEMORIALIZE IN
3 SOME FORM INDICATING THAT YOU HAD IDENTIFIED THE FOUR
4 PEOPLE THAT YOU'VE JUST INDICATED IN THE LINEUP?

5 A YES, SIR.

6 Q DO YOU RECOGNIZE YOUR SIGNATURES ON STATE'S
7 EXHIBITS NINETEEN, TWENTY, TWENTY-ONE AND TWENTY-TWO?
8 TAKE A LOOK AT THOSE, EACH ONE OF THOSE.

9 (PAUSE.)

10 A YES, SIR.

11 MR. GASSER: YOUR HONOR, WE'D MOVE NINETEEN,
12 TWENTY, TWENTY-ONE, TWENTY-TWO AND STATE'S EXHIBIT TWELVE
13 INTO EVIDENCE.

14 MR. STRICKLER: AS TO STATE'S TWENTY, YOUR HONOR, I
15 WILL OBJECT BECAUSE IT'S HEARSAY.

16 MR. TAYLOR: YOUR HONOR, I OBJECT TO NINETEEN,
17 TWENTY, TWENTY-ONE, TWENTY-TWO, ALL HEARSAY AFFIDAVITS,
18 AS WE DISCUSSED EARLIER.

19 THE COURT: OKAY.

20 (STATE'S EXHIBIT NUMBER TWELVE, AND
21 STATE'S EXHIBIT NUMBER NINETEEN, AND
22 STATE'S EXHIBIT NUMBER TWENTY, AND
23 STATE'S EXHIBIT NUMBER TWENTY-ONE, AND
24 STATE'S EXHIBIT NUMBER TWENTY-TWO, ARE NOW REMARKED
25 AND ENTERED INTO EVIDENCE OVER OBJECTIONS.)

1 Q AT ANY TIME, WHEN INVESTIGATOR MEAD SHOWED YOU ANY
2 OF THOSE LINEUPS, DID HE OR ANYONE IN HIS PRESENCE
3 SUGGEST TO YOU TO PICK OUT ANY OF THOSE PEOPLE?

4 A NO, SIR.

5 Q DID YOU KNOW ANY INFORMATION ABOUT ANY OF THE
6 MULTIPLE CONTAINED IN ALL THOSE LINEUPS?

7 A NO, SIR. HE JUST SAID, "DO YOU RECOGNIZE ANYONE
8 OUT OF THESE PHOTOS?"

9 Q DID YOU HAVE ANY PROBLEM IDENTIFYING THE PEOPLE
10 THAT YOU IDENTIFIED?

11 A NO, SIR.

12 Q YOU HAVE NEVER BEEN ABLE TO IDENTIFY IN ANY LINEUPS
13 WHO THE SHOOTER IS; IS THAT CORRECT?

14 A YES, SIR.

15 Q THAT ENTIRE DAY, WHEN YOU OR PHIL, SINCE YOU WERE
16 WITH HIM THE WHOLE DAY, WERE YOU DRINKING OR USING ANY
17 TYPE OF DRUGS, ANYTHING?

18 A NO, SIR.

19 Q SO YOU WEREN'T USING ANY TYPE OF DRUGS OR DRINKING

20 ---

21 A NO, SIR.

22 Q --- THAT WOULD AFFECT YOUR ABILITY TO SEE OR HEAR
23 ANYTHING?

24 A NO, SIR.

25 Q PHILLIP WASN'T EITHER?

1 A NO, SIR. HE NEVER DRUNK OR SMOKED.

2 Q THE LAST SERIES OF QUESTIONS. JUST SO THE RECORD
3 IS CLEAR, WHO STARTED THE ARGUMENT WHEN YOU AND PHILLIP
4 WERE WALKING UP?

5 A THE GUY THAT WAS SITTING ON THE GREEN GALANT.

6 Q WHO JUMPED IN?

7 A LUCIUS.

8 MR. TAYLOR: OBJECTION, YOUR HONOR. ALL THIS HAS
9 BEEN ASKED AND ANSWERED.

10 THE COURT: YEAH, IT'S ASKED AND ANSWERED.

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

12 (PAUSE.)

13 THANK YOU, YOUR HONOR, FOR THE TIME.

14 THANK YOU, TONY, FOR YOUR TESTIFYING.

15 THE COURT: DO YOU ALL WANT TO START THE CROSS
16 TOMORROW?

17 MR. TAYLOR: THAT WILL BE FINE, YOUR HONOR.

18 MR. STRICKLER: SUITS ME JUST FINE.

19 THE COURT: ALL RIGHT, LADIES AND GENTLEMEN, WE'RE
20 GOING TO BREAK FOR THE DAY. I WANTED TO FINISH THIS
21 WITNESS BUT HE TOOK A LITTLE BIT LONGER THAN I THOUGHT,
22 SO WE'RE GOING TO BREAK FOR TODAY, LET YOU GO HOME.

23 REMEMBER, DON'T DISCUSS THE CASE WITH ANYBODY, AND
24 THAT INCLUDES YOUR HUSBAND AND WIFE. MY WIFE HAS BEEN
25 SITTING IN THE COURTROOM TODAY SO WHEN I GET HOME SHE'LL

1 GIVE ME HER OPINIONS ABOUT WHAT SHE THOUGHT SHE HEARD.
2 SHE'S BEEN DOING THAT FOR A LONG TIME.

3 BUT ANYWAY, THE T.V. CAMERAS HAVE BEEN HERE TODAY
4 AND THERE MIGHT BE SOME T.V. COVERAGE TONIGHT, I DON'T
5 KNOW. DON'T WATCH THAT. YOU'RE GOING TO HEAR EVERYTHING
6 YOU HEAR FROM THE WITNESS STAND SO DON'T BE WATCHING T.V.
7 AND DON'T BE READING ABOUT IT IN THE PAPER.

8 BE BACK AT 9:30 TOMORROW AND WE'LL START AGAIN.
9 AND WE'RE MOVING PRETTY FAST NOW SO WE SHOULD ---

10 YOU SHOULD FINISH TOMORROW.

11 **MR. GASSER:** YES, SIR. WE GOT ---

12 ONE MOMENT, CAN I APPROACH WHILE THE JURY IS STILL
13 HERE?

14 **THE COURT:** UH-HUH (INDICATES AN AFFIRMATIVE
15 RESPONSE).

16 (A BENCH CONFERENCE IS HAD AT THIS TIME IN THE
17 PRESENCE OF THE JURY AND THE COURT REPORTER, BUT OUT OF
18 THE HEARING OF THE JURY AND THE COURT REPORTER.)

19 **THE COURT:** LET ME TELL YOU ONE THING. WE STARTED
20 ALLOWING CAMERAS IN THE COURTROOM ABOUT 1992 OR
21 SOMETHING, BUT AT NO TIME ARE THE CAMERAS EVER ALLOWED TO
22 SHOW ANY JUROR. SO NONE OF YOU HAVE BEEN FILMED, YOUR
23 PRIVACY HAS BEEN MAINTAINED. AND THAT'S ONE OF OUR RULES
24 AND ALL THE T.V. STATIONS AND EVERYBODY ELSE MAINTAINS
25 THAT RULE BECAUSE THEY KNOW IF THEY DIDN'T, WE WOULDN'T

1 LET THEM IN HERE AGAIN. SO YOU WON'T BE ON T.V. TONIGHT
2 SO THAT'S WHY YOU DON'T NEED TO WATCH.

3 SO HAVE A GOOD EVENING AND I'LL SEE YOU TOMORROW
4 MORNING.

5 (JURY OUT AT 5:15 P.M.)

6 **THE COURT:** OKAY, YOU CAN COME DOWN, MR. KENNEDY.

7 (THE WITNESS NOW LEAVES THE WITNESS STAND.)

8 **MR. TAYLOR:** YOUR HONOR, CAN WE HAVE THE SAME
9 ADMONISHMENT TO THE WITNESS AND TO EVERYONE THAT THEY'RE
10 NOT TO SPEAK WITH THIS WITNESS? HE'S BEEN SWORN AND HE
11 IS STILL UNDER OATH AND STILL TESTIFYING.

12 **THE COURT:** YEAH, MR. KENNEDY, DO YOU UNDERSTAND
13 THAT?

14 **MR. KENNEDY:** YES, SIR.

15 **THE COURT:** YOU CAN'T DISCUSS YOUR TESTIMONY WITH
16 ANYBODY.

17 AND ALL YOU GUYS DON'T GET TOGETHER AND HASH IT
18 OVER TONIGHT SO ...

19 SEE YOU ALL IN THE MORNING AT 9:30.

20 **MR. GASSER:** THANK YOU, YOUR HONOR.

21 WEDNESDAY, FEBRUARY 27, 2002:

22 **THE BAILIFF:** COURT COME TO ORDER, ALL RISE,
23 PLEASE.

24 **THE COURT:** THANK YOU. PLEASE BE SEATED.

25 (THE WITNESS, ANTHONY "TONY" ZACHARY KENNEDY, NOW

1 RETURNS TO THE WITNESS STAND.)

2 ALL RIGHT, YOU ALL READY TO BRING THE JURY IN?

3 MR. TAYLOR: WELL, WE'VE GOT TO HAVE THE
4 DEFENDANTS.

5 THE COURT: WELL, WE'VE GOT TO HAVE CLIENTS.
6 WE'RE MISSING THE ...

7 THIS IS PROBABLY A CRUCIAL STAGE; RIGHT?

8 MR. TAYLOR: YEAH, I THINK SO.

9 (DEFENDANTS DUSHUN AND LUCIUS STATEN NOW ENTER THE
10 COURTROOM.)

11 THE COURT: ALL RIGHT, LET'S BRING THE JURY IN.

12 (JURY IN AT 9:48 A.M.)

13 THE BAILIFF: THE JURY IS PRESENT, YOUR HONOR.

14 THE COURT: THANK YOU.

15 GOOD MORNING EVERYBODY.

16 ALL RIGHT, MR. STRICKLER.

17 MR. STRICKLER: THANK YOU, YOUR HONOR. MAY IT
18 PLEASE THE COURT.

19 CROSS-EXAMINATION BY MR. STRICKLER:

20 Q GOOD MORNING, MR. KENNEDY.

21 A GOOD MORNING.

22 Q YOU ARE FROM NEW JERSEY; IS THAT CORRECT?

23 A YES.

24 Q AND YOU STARTED SCHOOL AT BENEDICT IN AUGUST OF ---

25 A 2000.

- 1 Q --- 2000; RIGHT?
- 2 A YES.
- 3 Q THAT'S WHEN YOU GOT TO KNOW PHILLIP LEE?
- 4 A YES.
- 5 Q CORRECT? OKAY. NOW IT'S TRUE ALSO THAT YOU ARE
- 6 MR. LEE'S COUSIN; CORRECT?
- 7 A YES.
- 8 Q OKAY. I DIDN'T HEAR THAT ON DIRECT BUT THAT IS
- 9 CORRECT; RIGHT?
- 10 A (NO RESPONSE.)
- 11 Q SO BUT WHILE YOU ARE HIS COUSIN, YOU DIDN'T REALLY
- 12 HAVE ANY CONTACT WITH HIM PRIOR TO GETTING YOUR SCHOOLING
- 13 AT BENEDICT; RIGHT?
- 14 A NO.
- 15 Q IF I REMEMBER YOUR TESTIMONY CORRECTLY FROM
- 16 YESTERDAY, YOU TALKED ABOUT AN INCIDENT ON FRIDAY
- 17 PRECEDING MR. LEE'S DEATH?
- 18 A YES.
- 19 Q IS THAT CORRECT? AND THEN YOU TALKED ABOUT THE
- 20 INCIDENT ON MONDAY; IS THAT RIGHT?
- 21 A YES.
- 22 Q OKAY. SO THOSE WERE THE TWO INCIDENTS; CORRECT?
- 23 A YES.
- 24 Q AND SUBSEQUENT TO MR. LEE'S DEATH YOU HAD AN
- 25 OPPORTUNITY ON JANUARY 16TH TO SPEAK WITH INVESTIGATOR

1 KENLEY WITH THE BENEDICT PUBLIC SAFETY DEPARTMENT; IS
2 THAT CORRECT?

3 A YES.

4 Q AND YOU GAVE HIM A STATEMENT AT THAT POINT; RIGHT?

5 A YES.

6 Q THEN I UNDERSTAND THAT YOU WENT TO THE FUNERAL FOR
7 MR. LEE THAT WAS HELD UP NORTH; RIGHT?

8 A YES.

9 Q AND ROUGHLY, IF YOU REMEMBER, WHEN WAS IT THAT YOU
10 WENT UP FOR THAT?

11 A THAT SUNDAY.

12 Q THAT SUNDAY. SO IT WOULD BE THE 21ST THEN?

13 A YES.

14 Q BECAUSE MONDAY WAS THE 15TH?

15 A YES.

16 Q SO THAT WOULD BE THE 21ST.

17 AND THEN SUBSEQUENT TO RETURNING FROM THE FUNERAL,
18 ON THE 24TH OF JANUARY YOU HAD AN OPPORTUNITY TO SPEAK
19 WITH MITCH WILKERSON WITH THE CITY OF COLUMBIA POLICE
20 DEPARTMENT AND GIVE HIM A WRITTEN STATEMENT; CORRECT?

21 A YES.

22 Q OKAY. NOW PRIOR TO TESTIFYING HERE YESTERDAY, HAD
23 YOU HAD AN OPPORTUNITY TO REVIEW THE STATEMENTS YOU GAVE
24 OVER A YEAR AGO?

25 A YES.

1 Q BOTH OF THEM?

2 A YES.

3 Q OKAY. AND IN ADDITION TO YOU TESTIFYING BEFORE THE
4 JURY YESTERDAY, YOU TESTIFIED AT A HEARING WITH JUST THE
5 JUDGE AND THE LAWYERS HERE MONDAY AFTERNOON; RIGHT?

6 A YES.

7 Q OKAY. AND YOU WERE PRESENT WHEN SOME OTHER
8 INDIVIDUALS TESTIFIED DURING THAT HEARING; RIGHT?

9 A YES.

10 Q OKAY. AND IN REVIEWING BOTH OF THE STATEMENTS --
11 FIRST OF ALL, ABOUT THE INCIDENT YOU SAY YOU SAW ON
12 FRIDAY, OKAY?

13 A UH-HUH (INDICATES AN AFFIRMATIVE RESPONSE).

14 Q IN YOUR STATEMENTS THERE IS NO REFERENCE TO HEARING
15 SOMEONE SAYING IN RESPONSE TO WHAT THEY HAD READ ABOUT,
16 49 -- WAS IT BRIM, THE FIRST?

17 A YES.

18 Q AND THEN 49 BULLET?

19 A YES.

20 Q OKAY. NOW IN NEITHER OF YOUR STATEMENTS DO YOU
21 REFERENCE THAT STATEMENT BEING MADE; CORRECT?

22 A RIGHT.

23 Q OKAY. AND JUST SO WE'RE STRAIGHT, THAT STATEMENT
24 WAS MADE BY WHOM?

25 A DUSHUN.

1 Q DUSHUN. OKAY. ON THAT FRIDAY?

2 A ON THAT FRIDAY.

3 Q OKAY. IN NEITHER OF YOUR STATEMENTS IS THERE ANY
4 REFERENCE MADE TO THAT STATEMENT BEING MADE BY DUSHUN;
5 CORRECT?

6 A RIGHT.

7 Q OKAY. NOW WHEN YOU WERE HERE ON MONDAY YOU DID
8 HEAR ALONZO SHULER TESTIFY TO HAVING HEARD THAT; CORRECT?

9 A YES.

10 Q OKAY. ACTUALLY, WHAT YOU HEARD ALONZO SHULER
11 TESTIFY TO, TO STATING ON MONDAY AFTERNOON FOR THE JUDGE,
12 WAS STATING THAT IT WAS 59 BRIM, 59 BULLETS, NOT 49;
13 CORRECT?

14 A THAT'S CORRECT.

15 Q OKAY. SO YOU DON'T REMEMBER IT AS BEING 59, YOU
16 REMEMBER IT AS BEING 49?

17 A CORRECT.

18 Q OKAY. NOW IN TALKING WITH MR. KENLEY AND IN
19 TALKING WITH MR. WILKERSON WITH THE CITY OF COLUMBIA
20 POLICE DEPARTMENT, THE FOCUS OF YOUR DISCUSSIONS WAS ON
21 THE INCIDENT ON THAT MONDAY WHEN MR. LEE WAS KILLED;
22 CORRECT?

23 A YES.

24 Q AND THAT'S THE MAIN THING YOU ALL TALKED ABOUT;
25 RIGHT?

1 A YES.

2 Q OKAY. NOW AGAIN REFERENCING YOUR EARLIER
3 STATEMENTS, WRITTEN STATEMENTS TO THE POLICE, YOU SPEAK
4 ABOUT HAVING SEEN DUSHUN AND LUCIUS EARLIER IN THE WEEK,
5 BEFORE MONDAY; RIGHT?

6 A YES.

7 Q OKAY. IT'S ALSO TRUE, HOWEVER, THAT NOWHERE IN
8 THOSE STATEMENTS DO YOU MENTION ANY PRIOR ARGUMENT
9 BETWEEN DUSHUN AND LUCIUS AND MR. LEE; RIGHT?

10 A RIGHT.

11 Q YOU TALK ABOUT THEM HAVING BEEN AROUND CAMPUS
12 EARLIER BUT YOU DON'T MENTION SPECIFICALLY THE INCIDENT
13 YOU TESTIFIED TO THAT YOU SAY HAPPENED ON FRIDAY;
14 CORRECT?

15 A THEY NEVER ASKED ME THAT.

16 Q OKAY. WELL, I UNDERSTAND. AND I GRANT YOU THAT
17 THE FOCUS OF THOSE STATEMENTS WAS THE INCIDENT ON MONDAY;
18 CORRECT?

19 A CORRECT.

20 Q OKAY. BUT IT IS ALSO TRUE, AND WHETHER IT WAS
21 ASKED OF YOU OR NOT, YOU MADE NO MENTION OF HAVING
22 OBSERVED PRIOR CONFRONTATIONS ON THAT FRIDAY BETWEEN
23 FOLKS; RIGHT?

24 A RIGHT.

25 Q OKAY. YOU DO SAY OR YOU DID TESTIFY THAT ON THAT

1 FRIDAY YOU HAD SEEN THEM, THERE WAS A GUY NEAR THEM WHO
2 WENT TO BENEDICT; IS THAT CORRECT?

3 A YES.

4 Q OKAY. DO YOU KNOW WHO THAT WAS?

5 A NO. I'D SEEN HIM BEFORE.

6 Q YOU'D SEEN HIM BEFORE?

7 A YES.

8 Q NOW YOU ALSO REMEMBER, IN RELATION TO THE FRIDAY
9 INCIDENT YOU TESTIFIED ABOUT, THAT AS THEY WERE LEAVING,
10 LUCIUS SAID SOMETHING LIKE "I'M GOING TO REMEMBER FACES,
11 GOING TO START TO REMEMBER FACES"?

12 A YES.

13 Q NOW THAT'S NOT CONTAINED IN THESE WRITTEN
14 STATEMENTS; CORRECT?

15 A CORRECT.

16 Q YOU HAVE BEEN IN COURT THIS ENTIRE WEEK AND YOU
17 HAVE HEARD SOMEONE ELSE TESTIFY TO THAT EFFECT; CORRECT?

18 A NO.

19 Q NO?

20 A NO.

21 Q YOU HAVEN'T HEARD ANYONE ELSE TESTIFY, OKAY.

22 BUT THAT'S YOUR MEMORY NOW OF WHAT YOU SAW ON
23 FRIDAY?

24 A EVERYTHING.

25 Q I'M SORRY?

- 1 A EVERYTHING, THE WHOLE ENCOUNTER FROM FRIDAY TO WHEN
2 HE DIE.
- 3 Q OKAY. YOU WOULD AGREE WITH ME, I TAKE IT, THAT AS
4 FAR AS THE ARGUMENT ON FRIDAY IS CONCERNED, IS IT GOT
5 STARTED BETWEEN DUSHUN AND PHILLIP LEE; CORRECT?
- 6 A YES.
- 7 Q AND IT GOES FOR AWHILE WITH DUSHUN AND PHILLIP LEE
8 AND THEN LUCIUS GETS INVOLVED; CORRECT?
- 9 A YES.
- 10 Q AND THEN HOW DOES THE ARGUMENT END?
- 11 A THAT'S WHEN THE PUBLIC SAFETY CAME.
- 12 Q WHEN PUBLIC SAFETY CAME.
13 IT CALMED DOWN SOME BEFORE PUBLIC SAFETY ARRIVED?
- 14 A SOMEWHAT, BUT THE ARGUMENT STILL WENT ON.
- 15 Q STILL WENT ON.
16 AND THEN PUBLIC SAFETY WAS THERE; LUCIUS AND DUSHUN
17 GET IN THE CAR AND LEAVE?
- 18 A CORRECT.
- 19 Q OKAY. NOW IT IS TRUE -- WELL -- WERE YOU PRESENT
20 FOR THE ENTIRE CONFRONTATION BETWEEN THESE FOLKS ON
21 FRIDAY OR DID YOU COME UP AFTER IT ALREADY STARTED?
- 22 A I CAME UP.
- 23 Q YOU CAME UP AFTER IT STARTED?
- 24 A YES.
- 25 Q OKAY. AT THE POINT YOU CAME UP IT WAS STILL DUSHUN

1 AND PHILLIP LEE; RIGHT?

2 A YES.

3 Q WHEN YOU CAME UP ON FRIDAY, WERE ANY OTHER FOLKS
4 COMING UP TOO, OTHER STUDENTS OF BENEDICT?

5 A I'M NOT SURE. I WASN'T PAYING ATTENTION TO ANYONE
6 ELSE.

7 Q AND THIS WAS ALSO IN THE PARKING LOT; CORRECT?

8 A YES.

9 Q NOT IN THE EXACT AREA WHERE THE INCIDENT ON MONDAY
10 WAS?

11 A FIFTEEN FEET UP.

12 Q ABOUT FIFTEEN FEET UP?

13 A ABOUT FIFTEEN FEET UP.

14 Q OKAY. AND BY UP, THAT IS TOWARDS ---

15 A TOWARDS THE CAFETERIA.

16 Q TOWARDS THE CAFETERIA, OKAY.

17 AND HOW LONG DID THIS ARGUMENT GO ON, ROUGHLY?

18 A AROUND TWENTY MINUTES.

19 Q ABOUT TWENTY MINUTES. I MEAN, YOU DON'T KNOW WHAT
20 TIME IT IS; RIGHT?

21 A NO.

22 Q BUT THAT'S YOUR ESTIMATE ON HOW LONG IT TOOK?

23 A YES.

24 Q AND HOW LONG THROUGH THE ARGUMENT -- AND WE'RE

25 TALKING ABOUT FRIDAY AGAIN, HOW LONG THROUGH THE ARGUMENT

1 WAS IT BEFORE LUCIUS STATEN GOT INVOLVED? HALFWAY
2 THROUGH? A THIRD OF THE WAY THROUGH?

3 A THIRD OF THE WAY.

4 Q THIRD OF THE WAY THROUGH?

5 A YES.

6 Q AGAIN, IT'S A ROUGH ESTIMATE I UNDERSTAND; RIGHT?

7 A YES.

8 Q NOW ON THAT MONDAY YOU WENT TO CLEMSON, AS I
9 UNDERSTAND?

10 A YES.

11 Q AND YOU TRAVELED WITH WHOM?

12 A TEE, ASWAD, AND PHILLIP.

13 Q AND PHIL LEE?

14 A YES.

15 Q OKAY. SO YOU ALL WENT TO CLEMSON. AND YOU TOOK
16 TWO CARS?

17 A YES.

18 Q OKAY. AND WHO WAS IN THE CAR THAT YOU WERE IN ON
19 THE WAY TO CLEMSON?

20 A TEE, ME AND PHIL.

21 Q TEE, YOU AND PHIL?

22 A YES.

23 Q AND WERE YOU ALL IN THE CAR ALSO WHEN YOU ALL CAME
24 BACK?

25 A YES.

1 Q SO BASICALLY YOU SPENT THE WHOLE DAY ON MONDAY WITH
2 PHILLIP LEE; CORRECT?

3 A YES.

4 Q OKAY. WHEN YOU GOT BACK, IF I UNDERSTAND WHAT
5 YOU'VE SAID, WHEN YOU GOT BACK AND WERE GETTING OUT OF
6 THE CAR, THAT'S WHEN YOU FIRST ENCOUNTERED DUSHUN?

7 A I OBSERVED THAT HE WAS THERE.

8 Q OKAY.

9 A I REALLY DIDN'T SEE HIM BUT I JUST SEEN THE GREEN
10 GALANT AND PEOPLE SITTING OVER THERE.

11 Q OKAY. SO THE GREEN GALANT WAS ALREADY THERE ---

12 A YES.

13 Q --- WHEN YOU ALL GOT BACK.

14 YOU GOT BACK ROUGHLY WHEN?

15 A LIKE NINE.

16 Q SOMETIME RIGHT AROUND NINE?

17 A YES.

18 Q OKAY. AND AS YOU'RE PASSING THE CAR, THE GREEN
19 GALANT, THAT'S WHEN COMMENTS ARE MADE?

20 A NO.

21 Q NO?

22 A WHEN PHIL WENT TO GO GET A HAIRCUT.

23 Q OKAY.

24 A I STOOD OUTSIDE TALKING TO FRIENDS.

25 Q YOU STOOD OUTSIDE HASKILL?

- 1 A YES.
- 2 Q OKAY. YOU STOOD OUTSIDE HASKILL?
- 3 A AND THEN HE CAME BACK. THEN WE PROCEEDED TO WALK
- 4 BY A DORM AND THAT'S WHEN THE COMMENTS WAS MADE.
- 5 Q OKAY. AND YOUR DORM IS LOCATED WHERE, THE DORM YOU
- 6 WERE IN AT THAT POINT IN TIME?
- 7 A THE FRONT END OF CAMPUS.
- 8 Q SORRY?
- 9 A THE FRONT OF THE CAMPUS.
- 10 Q THE FRONT OF THE CAMPUS?
- 11 A YES.
- 12 Q I SHOW YOU WHAT'S MARKED STATE'S THIRTY-FIVE; CAN
- 13 YOU SEE THAT FROM THERE?
- 14 A YES.
- 15 Q OKAY. THIS IS HASKILL?
- 16 A YES.
- 17 Q OKAY. AND YOUR DORM IS TO THE FRONT OF THE CAMPUS,
- 18 THAT WOULD BE IN WHAT DIRECTION? THIS DIRECTION?
- 19 A YES.
- 20 Q THAT WOULD BE IN THIS AREA HERE? OR FURTHER UP
- 21 THIS BLOCK HERE?
- 22 A RIGHT THERE.
- 23 Q RIGHT HERE?
- 24 A RIGHT WHEN YOU GO THROUGH THE FRONT GATES, YOU MAKE
- 25 A RIGHT.

1 Q OKAY. SO IT'S ON YOUR WAY BACK TO THAT DORM THAT
2 THERE IS AN ENCOUNTER; RIGHT?

3 A YES.

4 Q AND AT THAT POINT IN TIME IT'S JUST YOU AND MR. LEE
5 ARE WALKING BACK TO THE DORM?

6 A ME, MR. LEE AND WILENA McARTHUR.

7 Q AND WHEN YOU WERE WALKING BACK, WHERE DOES THE
8 COMMENT COME FROM?

9 A FROM THE GREEN GALANT.

10 Q OKAY. WERE THERE ANY PEOPLE -- I'M GOING TO SHOW
11 YOU RIGHT HERE, WHAT'S MARKED STATE'S THIRTY-ONE, AS I
12 UNDERSTAND IT, YOU'RE WALKING DOWN THIS DIRECTION
13 (INDICATING)?

14 A YES.

15 Q IS THAT CORRECT? AND THE GALANT IS PARKED WHERE?

16 A THIRD SPACE, BEFORE THE HANDICAP SPOT.

17 Q RIGHT THERE?

18 A YES.

19 Q OKAY. AND THE PEOPLE THAT THE COMMENT CAME FROM,
20 WERE THEY AT THE GALANT? WERE THEY ON THE SIDEWALK?
21 WHERE EXACTLY?

22 A SITTING ON THE GALANT.

23 Q SITTING ON THE GALANT?

24 A YES.

25 Q OKAY. AND ROUGHLY HOW MANY PEOPLE WERE THERE?

1 A FIVE.

2 Q ABOUT FIVE?

3 A YES.

4 Q EXACTLY FIVE OR ABOUT FIVE?

5 A ABOUT FIVE.

6 Q ABOUT FIVE, OKAY.

7 AND DID YOU KNOW THE NAMES OF THESE PEOPLE AT THAT
8 POINT IN TIME?

9 A NO.

10 Q HAVE YOU SINCE LEARNED THE NAMES OF SOME OF THE
11 PEOPLE?

12 A YES.

13 Q AND WHO WAS THAT?

14 A SHAKEEM, DUSHUN, MAURICE; THAT'S IT.

15 Q SO THE THREE NAMES YOU KNOW ARE SHAKEEM, DUSHUN AND
16 MAURICE?

17 A YES.

18 Q WAS THE FELLOW IN THE BLACK NORTHFACE JACKET THERE
19 AT THAT TIME?

20 A YES.

21 Q OKAY. YOU DON'T KNOW HIS NAME; RIGHT?

22 A NO.

23 Q HAVE NEVER BEEN ABLE TO EVEN IDENTIFY HIM, IF I
24 REMEMBER YOUR TESTIMONY. IS THAT CORRECT?

25 A YOU'RE CORRECT.

1 Q THERE MAY HAVE BEEN ONE OTHER PERSON THERE, COUPLE
2 OTHER PEOPLE THERE?

3 A JUST STANDING OFF, NOT SAYING ANYTHING.

4 Q OKAY. AND YOU WEREN'T PRESENT WHEN THE GREEN
5 GALANT ARRIVED ON CAMPUS?

6 A NO, WE WASN'T THERE.

7 Q BY THE TIME YOU GOT BACK FROM CLEMSON, IT WAS
8 ALREADY THERE?

9 A YES.

10 Q ALL RIGHT. YOU DIDN'T TAKE ANY PARTICULAR NOTICE
11 OF WHO WAS AT THE GALANT OR EVEN WHETHER ANYONE WAS AT
12 THE GALANT AS YOU ARRIVED ON CAMPUS?

13 A NO.

14 Q IT WASN'T UNTIL YOU LEFT FROM MR. LEE GETTING A
15 HAIRCUT THAT THERE WAS ANY CONTACT WITH THEM?

16 A I JUST OBSERVED THE PARKING LOT AND SAW THE GALANT
17 OVER THERE AND PEOPLE SITTING ON IT.

18 Q WHAT YOU DO KNOW IS THAT AT THAT POINT IN TIME WHO
19 WASN'T AT THE GALANT WAS LUCIUS STATEN; CORRECT?

20 A HE WASN'T THERE.

21 Q YOU DID NOT SEE HIM AT THAT POINT IN TIME?

22 A NO.

23 Q AND HOW DID THE INCIDENT START ON MONDAY, A COMMENT
24 FROM SOMEONE IN THE GALANT?

25 A YES.

- 1 Q OKAY. AT THAT POINT IN TIME, AS I UNDERSTAND IT,
2 EVERYONE WAS STILL AT THE GALANT. THERE WAS NO ONE UP ON
3 THE SIDEWALK?
- 4 A YES.
- 5 Q ARE YOU EVEN SURE WHO MADE THE COMMENT FROM THE
6 GALANT?
- 7 A NO.
- 8 Q Y'ALL WERE JUST WALKING; RIGHT?
- 9 A WE WAS JUST WALKING.
- 10 Q AND THEN SOMEONE SAYS SOMETHING?
- 11 A YES.
- 12 Q ALL RIGHT. AND THEN WHAT, MR. LEE RESPONDS?
- 13 A YES.
- 14 Q OKAY. AND THEN SOMEONE OVER THERE RESPONDS?
- 15 A YES. IT WENT BACK AND FORTH.
- 16 Q BACK AND FORTH. THE FOLKS AT THE GALANT MOVE AWAY
17 FROM THE GALANT, TOWARDS MR. LEE?
- 18 A NO, THEY JUST SAT THERE.
- 19 Q THEY JUST SAT THERE. SO IT'S JUST MR. LEE AND YOU,
20 WHAT, SOMEWHERE IN THIS AREA HERE?
- 21 A YES.
- 22 Q AND THE FOLKS IN THE GALANT SOMEWHERE IN THAT AREA
23 THERE?
- 24 A YES.
- 25 Q OKAY. WAS ANY OTHER CARS AROUND AT THAT POINT IN

1 TIME?

2 A THERE WAS CARS AROUND BUT I DIDN'T PAY ATTENTION TO
3 NONE OF THOSE.

4 Q AND IT WAS JUST VERBAL BACK AND FORTH?

5 A BACK AND FORTH.

6 Q PEOPLE VISITING EACH OTHER BACK AND FORTH?

7 A YES.

8 Q ALL RIGHT. OKAY. AND YOU COULD SEE THE PEOPLE AT
9 THE GALANT; RIGHT?

10 A YES.

11 Q COULD YOU SEE WHAT THEY WERE WEARING?

12 A YES.

13 Q AND YOU'VE DESCRIBED, I BELIEVE, ALREADY WHAT SOME
14 OF THEM WERE WEARING?

15 A YES.

16 Q ALL RIGHT. NOW AS THIS BACK AND FORTH HAPPENED,
17 PEOPLE JUST SAYING STUFF BACK AND FORTH TO EACH OTHER,
18 DID OTHER STUDENTS FROM BENEDICT BEGIN TO ARRIVE?

19 A THEY BEGAN TO ARRIVE?

20 Q JUST COME ON UP AND SEE WHAT WAS GOING ON?

21 A YES.

22 Q OKAY. NOW WHILE THIS IS GOING ON, YOU WERE
23 STANDING WITH MR. LEE; IS THAT CORRECT?

24 A EXACTLY.

25 Q OKAY. NOW AND HE IS, I THINK, FACING THE PARKING

1 LOT?

2 A YES.

3 Q TALKING WITH WHOEVER IS TALKING TO HIM; RIGHT?

4 A YES.

5 Q OKAY. AND SO HE'S FACING THE PARKING LOT. AND YOU
6 ARE LOCATED WHERE IN RELATION TO HIM AT THAT POINT IN
7 TIME?

8 A A LITTLE BIT AHEAD OF HIM BUT LIKE FACING TOWARDS
9 HIM, BUT WHERE I COULD SEE THEM AS WELL.

10 Q SO YOU WERE ACTUALLY FACING TOWARDS MR. LEE?

11 A LIKE COUNTER -- COUNTER-SIDEWAYS.

12 Q OKAY. IF MR. LEE IS STANDING HERE, ARE YOU ON HIS
13 RIGHT-HAND SIDE FACING HIM OR LEFT-HAND?

14 A I WAS FACING HIM ON HIS LEFT.

15 Q ON HIS LEFT. SO IF HE WERE HERE, YOU SAY YOU'RE
16 STANDING KIND OF LIKE THIS (INDICATING)?

17 A COUNTER THIS WAY.

18 Q OKAY. IF YOU SEE HIM, YOU'VE GOT TO SEE THE FOLKS
19 OVER THERE ALSO?

20 A YES.

21 Q OKAY. AND YOU ARE HOW CLOSE TO HIM AT THAT POINT?

22 A VERY CLOSE.

23 Q VERY CLOSE?

24 A YES.

25 Q NOT MAKING PHYSICAL CONTACT WITH HIM BUT WITHIN A

1 FOOT OR TWO OF HIM?

2 A I COULD REACH OUT AND TOUCH HIM.

3 Q YOU COULD REACH OUT AND TOUCH HIM?

4 A YES.

5 Q THIS CLOSE, FAIR TO SAY?

6 A YES.

7 Q OKAY. AND FROM START TO FINISH, FROM THE BEGINNING
8 OF THE ARGUMENT TO THE POINT IN TIME THAT MR. LEE WAS
9 SHOT, ROUGHLY BEGAN -- AND I UNDERSTAND, YOU KNOW, YOU
10 DON'T HAVE A WATCH ON YOU OR YOU'RE NOT CHECKING THE TIME
11 -- ROUGHLY HOW LONG DID IT TAKE?

12 A START TO FINISH LIKE TWENTY MINUTES.

13 Q MAYBE TWENTY MINUTES?

14 A YES.

15 Q THAT'S AN ESTIMATE?

16 A YES.

17 Q COULD BE A LITTLE LESS, COULD BE A LITTLE MORE?

18 A COULD BE A LITTLE MORE.

19 Q OKAY. AND THE ARGUMENT WHEN IT STARTED WAS BETWEEN
20 MR. LEE AND WHO?

21 A WHEN IT STARTS?

22 Q UH-HUH (INDICATES AN AFFIRMATIVE RESPONSE).

23 A WHOEVER WAS SITTING ON THE CAR.

24 Q OKAY. AND IF I UNDERSTAND YOU CORRECTLY, AT SOME
25 POINT IN TIME LUCIUS STATEN ARRIVES ON THE SCENE?

1 A EXACTLY.

2 Q OKAY. IN THIS ROUGHLY TWENTY MINUTES THAT YOU'VE
3 TESTIFIED THAT THE ARGUMENT WENT ON, WHEN IN TIME DID HE
4 ARRIVE? HALF-WAY THROUGH IT, ROUGHLY?

5 A YES.

6 Q SO ROUGHLY PEOPLE HAD BEEN ARGUING BACK AND FORTH
7 FOR ROUGHLY TEN MINUTES BY THE TIME ---

8 A YES.

9 Q --- LUCIUS SHOWS UP?

10 A WHEN HE ARRIVES.

11 Q OKAY. AND HE ARRIVES ON THE SCENE; HE DOESN'T GET
12 OUT OF THE CAR THAT'S ALREADY THERE; RIGHT?

13 A NO.

14 Q HE ARRIVES ON THE SCENE IN ANOTHER CAR AND GETS OUT
15 OF THE PASSENGER SEAT IN THAT CAR; IS THAT RIGHT?

16 A YES.

17 Q OKAY. AND THE ARGUMENT IS ALREADY GOING ON AT THAT
18 POINT IN TIME?

19 A YES.

20 Q I BELIEVE YOU INDICATED TO -- WELL, YOU INDICATED
21 TO MR. GASSER THAT THERE WAS PROFANITY BEING USED AND
22 FINGERS BEING POINTED AND THIS AND THAT. WAS THAT GOING
23 ON?

24 A YES.

25 Q OKAY. AND THAT'S GOING ON ON BOTH SIDES; RIGHT?

1 A YES.

2 Q NOW AT THIS POINT IN TIME, BY THE TIME LUCIUS
3 ARRIVES, ARE THERE OTHER PEOPLE FROM BENEDICT AROUND AT
4 THAT POINT IN TIME?

5 A YES.

6 Q OKAY. OTHER FRIENDS OF MR. LEE?

7 A YES.

8 Q MAYBE SOME OTHER PEOPLE JUST CURIOUS, COME DOWN AND
9 SEE WHAT'S GOING ON?

10 A POSSIBLY.

11 Q POSSIBLY. YOUR ATTENTION WAS NOT DIRECTED BEHIND
12 YOU SO MUCH AS IN FRONT OF YOU; RIGHT?

13 A EXACTLY.

14 Q OKAY. NOW WHILE THIS IS GOING ON FOR THIS TWENTY
15 MINUTES, YOU'VE GOT MR. LEE ARGUING, OTHER PEOPLE
16 ARGUING. WERE YOU STANDING IN THE SAME POSITION RELATIVE
17 TO MR. LEE THE ENTIRE TIME OR DID YOU MOVE AROUND SOME?

18 A IT WAS A MATTER OF BODY MOTION. HE MOVED MORE THAN
19 I DID.

20 Q HE MOVED MORE THAN YOU DID?

21 A YES. I WAS TRYING TO TELL HIM TO COME ON, LIKE
22 PULLING ON HIS ARM ---

23 MR. TAYLOR: YOUR HONOR, COULD I ASK THE WITNESS TO
24 PLEASE SPEAK UP. I CAN BARELY HEAR HIM.

25 THE COURT: YEAH, COULD YOU SPEAK UP A LITTLE BIT,

1 MAYBE GET A LITTLE CLOSER TO THAT MICROPHONE.

2 Q I'M SORRY.

3 YOU WERE PULLING, TRYING TO GET HIM TO LEAVE,
4 PULLING ON HIS ARM?

5 A YES.

6 Q OKAY. AND HE WAS GETTING FAIRLY ANIMATED IN THE
7 ARGUMENT HE WAS HAVING WITH THESE GUYS; RIGHT?

8 A YES.

9 Q OKAY. AT THIS POINT IN TIME ROUGHLY HOW MANY
10 PEOPLE HAD CONGREGATED THAT WERE FRIENDS OF MR. LEE,
11 BENEDICT STUDENTS?

12 A IT WAS LIKE FIVE OF US, FIVE OR SIX.

13 Q ABOUT FIVE OR SIX OF YOU?

14 A YES.

15 Q AND THE REST OF THESE FOLKS, OR THE OTHER PEOPLE IN
16 THIS FIVE OR SIX, WHERE WERE THEY? BEHIND MR. LEE?

17 A THEY WERE AROUND US.

18 Q AROUND YOU?

19 A YES.

20 Q NOT BETWEEN YOU AND THE PEOPLE THAT MR. LEE WAS
21 ARGUING WITH, BUT JUST IN THE GENERAL AREA THAT Y'ALL
22 WERE STANDING; IS THAT CORRECT?

23 A YES.

24 Q OKAY. AND IT'S MY UNDERSTANDING THAT NONE OF THOSE
25 FOLKS PARTICIPATED IN THE ARGUMENT; RIGHT?

1 A EXACTLY.

2 Q IT WAS ALWAYS JUST MR. LEE AND THESE FOLKS AT THE
3 CAR; RIGHT?

4 A YES.

5 Q AND ABOUT HALF-WAY THROUGH THIS TIME THIS CAR COMES
6 UP AND IT'S A -- WHAT DID YOU SAY IT -- A WHITE CAR?

7 A YES.

8 Q OKAY. AND LUCIUS GETS OUT OF THE PASSENGER SEAT.
9 HE COMES --- WELL, FIRST OF ALL, LOOKING AT AGAIN STATE'S
10 THIRTY-ONE, IF THE GALANT IS HERE -- AND AT THIS POINT IN
11 TIME WHERE IS MR. LEE STANDING DURING THEIR ARGUMENT,
12 RIGHT HERE OR OVER HERE? DO YOU REMEMBER?

13 A BETWEEN -- RIGHT THERE.

14 Q SOMEWHERE IN THIS AREA RIGHT HERE?

15 A YES.

16 Q AND HE'S MOVING AROUND WHILE IT'S GOING ON; RIGHT?

17 A YES.

18 Q OKAY. AND THE GALANT IS PARKED HERE. WHERE IS THE
19 WHITE CAR?

20 A IT PULLS UP, THEN KEEP GOING.

21 Q IT PULLS UP; NEVER PARKS?

22 A NEVER PARKS.

23 Q IT PULLS UP AND STOPS, HOWEVER?

24 A IT PULLS UP AND STOPS BEHIND THE GREEN GALANT AND
25 HE GETS OUT.

1 Q OKAY.

2 A AND THE CAR JUST KEEP GOING THROUGH THE GATE.

3 Q OKAY. DID THE CAR COME FROM THIS DIRECTION?

4 A YES.

5 Q OKAY. STOPS, LUCIUS GETS OUT OF THE PASSENGER

6 SIDE, THAT WOULD BE ON THE FAR SIDE OF THE CAR; RIGHT?

7 A YES.

8 Q OKAY. AND THE CAR PULLS OFF; RIGHT?

9 A YES.

10 Q NOW WHERE THE CAR GOES WHEN IT PULLS OFF, YOU'RE

11 NOT PAYING ATTENTION TO; RIGHT?

12 A NO.

13 Q OKAY. SO YOU CAN'T TESTIFY AS TO WHERE THE CAR MAY

14 OR MAY NOT HAVE GONE AT THAT POINT IN TIME; RIGHT?

15 A EXACTLY.

16 Q I MEAN YOUR FOCUS IS NATURALLY ON WHAT'S GOING ON

17 RIGHT IN FRONT OF YOU?

18 A YES.

19 Q YOU KNOW THAT IT PULLS OFF FROM RIGHT IN FRONT OF

20 YOU; RIGHT?

21 A YES.

22 Q AFTER THAT WHO CARES WHERE THE WHITE WENT; RIGHT?

23 A EXACTLY.

24 Q ALL RIGHT. LUCIUS GETS OUT, HE WALKS UP. AND HE

25 WALKS UP, AS I UNDERSTAND IT, INTO THIS ---

1 A THE GRASSY AREA.

2 Q --- THE GRASSY AREA?

3 A YES.

4 Q NOW PRIOR TO THAT TIME, HAD ANYONE BEEN IN THAT
5 GRASSY AREA?

6 A NO.

7 Q NO. NOT THE GUY IN THE BLACK JACKET?

8 A NO.

9 Q NO, OKAY. AND HIS FIRST REACTION IS, "WHAT'S GOING
10 ON HERE"; RIGHT?

11 A YES.

12 Q AT THIS POINT IN TIME PHILLIP LEE IS AGITATED;
13 RIGHT?

14 A YES.

15 Q AND HE TELLS -- AND THEN PHILLIP LEE AND LUCIUS GET
16 INTO AN ARGUMENT; RIGHT?

17 A YES.

18 Q NOW HE IS IN THE GRASSY AREA, AS I UNDERSTAND YOUR
19 TESTIMONY HE WAS PERHAPS THIS FAR AWAY (INDICATING)?

20 A YES.

21 Q ABOUT TEN FEET, WAS IT?

22 A YES.

23 Q SO HE GETS NOT TO THE FAR EDGE -- OR THE CLOSEST
24 EDGE OF THE GRASSY AREA, HE WAS AT THE CLOSE-TO-THE-CURB
25 EDGE OF THE GRASSY AREA?

1 A HE'S IN THE MIDDLE OF THE GRASS.

2 Q MIDDLE OF THE GRASS, OKAY.

3 REFERENCE TO DEFENSE TWO, HE'S SOMEWHERE IN THIS
4 KIND OF AREA IN THE GRASS?

5 A YES.

6 Q AND HE'S NOW ARGUING WITH MR. LEE; RIGHT?

7 A YES.

8 Q AND MR. LEE IS ARGUING WITH HIM?

9 A YES.

10 Q NOW YOU KNOW WHAT LUCIUS STATEN WAS WEARING THAT
11 NIGHT; RIGHT?

12 A YES.

13 Q AND WHAT WAS THAT?

14 A A BROWN AND GOLD JUMP SUIT, LIKE THE SWEATER WITH
15 THE SWEATPANTS TO MATCH.

16 Q OKAY. ANYTHING ELSE?

17 A A BLUE YANKEE CAP.

18 Q BLUE YANKEE CAP?

19 A YES.

20 Q ARE YOU SURE IT WAS BLUE? MAYBE BLACK? OR COULD
21 YOU TELL?

22 A THEY COME IN BLUE, IT WAS A DARK COLOR BLUE.

23 Q OKAY. RED FLAGS?

24 A NO.

25 Q RED BANDANNAS?

1 A NO.

2 Q AT THAT POINT IN TIME THE ARGUMENT HAD ALREADY --
3 OR THE ARGUMENT WAS OVER RED FLAGS AND BLUE FLAGS?

4 A YES.

5 Q PEOPLE DISRESPECTING EACH OTHER; RIGHT?

6 A YES.

7 Q ON BOTH SIDES; RIGHT?

8 A YES.

9 Q IF I UNDERSTAND, IF I UNDERSTAND THAT, THE SEAL
10 GUARD (PHONETIC), IN ESSENCE?

11 A YES.

12 Q ALL RIGHT. OKAY. NOW BY THE TIME LUCIUS ARRIVES,
13 WHO ELSE WERE YOU CONSCIOUS OF BEING AROUND THERE FROM
14 BENEDICT? SPECIFIC NAMES?

15 A LIKE IT WAS MY FRIENDS THAT WAS AROUND US?

16 Q RIGHT. UH-HUH (INDICATES AN AFFIRMATIVE RESPONSE).
17 I MEAN, ORIGINALLY WHAT INITIALLY WAS JUST YOU AND MR.
18 LEE ---

19 A YES.

20 Q --- AND THEN OVER TIME OTHER PEOPLE STARTED COMING
21 ON THE SCENE; RIGHT?

22 A YES.

23 Q DO YOU REMEMBER WHO ELSE WAS THERE BY THE TIME
24 LUCIUS ARRIVED?

25 A JEAN DABADY -- JEAN DABADY ---

1 Q DABADY?

2 A --- RASHON LOGGINS; THAT'S ALL I CAN RECALL RIGHT
3 NOW.

4 Q OKAY. THERE WERE OTHER PEOPLE THERE, YOU JUST
5 DON'T RECALL ---

6 A YES.

7 Q --- WHO THEY WERE; RIGHT? ALL RIGHT.

8 NOW DURING YOUR TESTIMONY ON DIRECT I BELIEVE YOU
9 INDICATED THAT THIS ARGUMENT HAD LASTED ABOUT TEN OR
10 FIFTEEN MINUTES ---

11 A YES.

12 Q --- BEFORE THE SHOTS HAPPENED?

13 A YES.

14 Q NOW ON CROSS YOU'VE SAID "TWENTY."

15 A YOU SAID "THE WHOLE, THE WHOLE EVENT."

16 Q OKAY. AND AT THE POINT IN TIME THAT LUCIUS
17 ARRIVES, STARTS TALKING WITH PHIL, AND THEY START
18 ARGUING, HE'S ON -- IN THE MIDDLE OF THE GRASSY AREA;
19 PHIL'S ON THE SIDEWALK. WHERE ARE THE OTHER PEOPLE IN
20 THE CAR?

21 A STILL STANDING THERE ON THE SIDE OF THE CAR OR
22 SITTING ON THE HOOD.

23 Q OKAY. AND PHILLIP LEE AND LUCIUS, THEY ARGUE FOR
24 ROUGHLY TEN MINUTES OR SO?

25 A NO.

1 Q NO?

2 A ROUGHLY FIVE.

3 Q ROUGHLY FIVE?

4 A YES.

5 Q OKAY. SO THE ARGUMENT BETWEEN MR. LEE AND LUCIUS

6 IS ROUGHLY FIVE MINUTES IN LENGTH?

7 A YES.

8 Q AND THAT ARGUMENT TOO, JUST AS THE ARGUMENT BEFORE

9 LUCIUS ARRIVED, THAT ARGUMENT TOO JUST HEATED. THAT'S

10 YOUR TESTIMONY; RIGHT?

11 A YES.

12 Q ON BOTH SIDES?

13 A YES.

14 Q OKAY. AND THEN SOMEONE SAYS, "LET'S GO"?

15 A YES.

16 Q "WE GOTTA GO; TIME TO GO," WORDS TO THAT EFFECT?

17 A YES.

18 Q ALL RIGHT. AND THAT SOMEONE WAS WHOM?

19 A I'M NOT SURE.

20 Q COULD HAVE BEEN?

21 A COULD HAVE BEEN ANYONE.

22 Q COULD HAVE BEEN LUCIUS?

23 A NO. HE DIDN'T SAY THAT.

24 Q HE DIDN'T SAY THAT?

25 A NO.

- 1 Q THAT'S YOUR TESTIMONY?
- 2 A YES.
- 3 Q WHAT HE DID SAY IS, "YEAH, WE'RE FIXIN' TO GO"?
- 4 A YES.
- 5 Q "WE'RE FIXIN' TO GO"?
- 6 A YES.
- 7 Q ALL RIGHT. THAT'S AS HE'S STANDING THERE ARGUING
- 8 WITH MR. LEE?
- 9 A YES.
- 10 Q NOW HE'S STEADY ARGUING WITH MR. LEE; RIGHT?
- 11 A UH-HUH (INDICATES AN AFFIRMATIVE RESPONSE).
- 12 Q NOW DURING THIS COURSE OF TIME THE OTHER PEOPLE
- 13 THAT WERE ORIGINALLY THERE AT THE GALANT, THEY'RE STILL
- 14 BACK AT THE GALANT?
- 15 A YES.
- 16 Q OKAY. AND I TAKE IT FROM YOUR TESTIMONY THAT
- 17 DURING THIS COURSE OF TIME, WHILE MR. LEE IS ARGUING WITH
- 18 LUCIUS, THAT'S WHEN YOU SEE, I GUESS, OUT OF THE CORNER
- 19 OF YOUR EYE DUSHUN STATEN GO TO THE GALANT; IS THAT
- 20 RIGHT?
- 21 A I SEEN, I DIDN'T SEE OUT OF THE CORNER OF MY EYE, I
- 22 SEEN HIM.
- 23 Q OKAY. THAT'S FINE. THAT'S WHEN SAW HIM?
- 24 A YES.
- 25 Q OKAY. SO THE GALANT IS HERE, LUCIUS IS SOMEWHERE

1 IN THE MIDDLE OF THE ---

2 A NO. BACK UP. YES.

3 Q ABOUT HERE?

4 A YES.

5 Q OKAY. AND MR. LEE IS IN THE SIDEWALK THERE?

6 A YES.

7 Q OKAY. AND THE GALANT IS HERE?

8 A YES.

9 Q AND WHAT PART OF THE GALANT DID YOU SEE DUSHUN GO

10 TO?

11 A THE LEFT BACK DOOR, PASSENGER SIDE.

12 Q OKAY. SO THAT'S THE PASSENGER SIDE?

13 A YES.

14 Q BACK DOOR?

15 A YES.

16 Q OKAY. AND THAT'S WHEN YOU SAW WHAT YOU SAY YOU

17 SAW?

18 A YES.

19 Q OKAY. AND AFTER HE GOT THAT YOU SAY HE PASSED THE

20 GUN TO THIS GUY IN THE BLACK NORTHFACE JACKET?

21 A HE WENT BEHIND HIS BACK.

22 Q PASSED IT TO HIM BEHIND HIS BACK?

23 A YES.

24 Q AND THAT'S BACK BY THE GALANT; RIGHT?

25 A YES. BY THE FRONT.

- 1 Q BY THE FRONT OF THE GALANT?
- 2 A YES. ON THE LEFT SIDE.
- 3 Q ALL RIGHT. AND LUCIUS IS ARGUING WITH MR. LEE?
- 4 A YES.
- 5 Q ALL RIGHT. AND HE'S SAYING -- SOMEONE SAYS, "LET'S
- 6 GO." AND LUCIUS SAYS, "YEAH, WE'RE 'BOUT TO GO, WE'RE
- 7 'BOUT TO GO," AND THEN WHAT, TURNS TO GO?
- 8 A YES.
- 9 Q ALL RIGHT. AS HE TURNS TO GO, YOU SEE HIM WALKING
- 10 AND THEN YOU SAY YOU SEE HIM NOD AT THE GUY?
- 11 A NO, THERE WASN'T THAT MUCH OF TURNING AND WALKING.
- 12 HE JUST TURNED, NOD ---
- 13 Q OKAY.
- 14 A --- THEN THEY GOT IN THE CAR.
- 15 Q TURN, NOD, AND GOT IN THE CAR?
- 16 A YES.
- 17 Q ALL RIGHT. AND THE GUY IN THE NORTHFACE HELD THE
- 18 GUN OUT, FIRED TWO TIMES?
- 19 A HELD THE REVOLVER UP SIDEWAYS, FIRED TWICE.
- 20 Q THAT'S SIDEWAYS; RIGHT?
- 21 A YES.
- 22 Q OKAY. NOW AS I UNDERSTAND YOU, DURING THIS
- 23 ARGUMENT OR DURING THIS PERIOD OF TIME, LUCIUS WAS
- 24 ARGUING WITH PHILLIP LEE?
- 25 A YES.

1 Q LUCIUS IS STANDING IN THE GRASS ARGUING WITH
2 PHILLIP LEE?
3 A YES.
4 Q THERE'S PEOPLE BACK BY THE CAR BEHIND HIM; RIGHT?
5 A YES.
6 Q THAT YOU SEE DOING WHAT YOU SAY YOU SAW THEM DO?
7 A YES.
8 Q ALL RIGHT. AND PHIL LEE HAD THE GUN IN THIS
9 FASHION (INDICATING)?
10 A PHIL LEE DOESN'T HAVE THE GUN.
11 Q EXCUSE ME, I'M SORRY. I APOLOGIZE.
12 THE GUY IN THE BLACK NORTHFACE HAD THE GUN?
13 A YES.
14 Q I DID NOT MEAN MR. LEE.
15 LUCIUS TURNS AND NODS AT THE GUY; RIGHT?
16 A YES.
17 Q OKAY. AND WALKS TO THE CAR?
18 A YES.
19 Q ALL RIGHT. YOU DON'T KNOW WHAT THAT NOD MEANT;
20 CORRECT?
21 A CORRECT.
22 Q COULD BE "YOU GET IN THE CAR TOO"; RIGHT?
23 A YES.
24 Q OKAY. YOU HAVE NO KNOWLEDGE WHAT THAT NOD MEANT;
25 CORRECT?

- 1 A CORRECT.
- 2 Q OKAY. YOU HAVE NO KNOWLEDGE AS TO HOW WELL LUCIUS
3 STATEN KNEW THIS GUY IN THE BLACK NORTHFACE JACKET;
4 RIGHT?
- 5 A CORRECT.
- 6 Q HE IS NOT A FELLOW THAT YOU HAD SEEN AROUND THERE
7 ON SOME OTHER OCCASIONS; RIGHT?
- 8 A THAT'S THE FIRST TIME I SEEN HIM.
- 9 Q OKAY. SO WHAT YOU CAN TESTIFY TO IS LUCIUS STOPPED
10 ARGUING, TURNS, NODS AT THE GUY, AND WALKS TO HIS CAR?
- 11 A YES.
- 12 Q ALL RIGHT. WHAT YOU CAN TESTIFY TO IS THAT THE GUY
13 IN THE BLACK JACKET WHO ENDS UP WITH THE GUN WAS THERE
14 BEFORE LUCIUS STATEN EVER ARRIVED ON THE SCENE; RIGHT?
- 15 A THAT'S CORRECT.
- 16 Q OKAY. WHAT YOU CAN'T TESTIFY TO IS ANY KNOWLEDGE
17 OF ANY CONTACT BETWEEN THOSE TWO PRIOR TO THAT NIGHT YOU
18 SAW THEM; RIGHT?
- 19 A THAT IS CORRECT.
- 20 Q ALL RIGHT. WHAT YOU CAN TESTIFY TO IS THAT THE
21 ARGUMENT ON THIS OCCASION, AS I UNDERSTAND THE ARGUMENT
22 ON THE OCCASION ON FRIDAY, DID NOT START BETWEEN LUCIUS
23 STATEN AND PHILLIP LEE. IT STARTED BETWEEN DUSHUN STATEN
24 AND PHILLIP LEE?
- 25 A THE FRIDAY NIGHT, YES.

1 Q ON FRIDAY, OKAY. AND ON MONDAY NIGHT IT CERTAINLY
2 DIDN'T START BETWEEN LUCIUS STATEN AND PHILLIP LEE?

3 A THAT'S CORRECT.

4 Q IT STARTED BETWEEN SOMEONE IN THAT GROUP AT THE
5 GALANT AND PHILLIP LEE; CORRECT?

6 A YES.

7 Q AND YOU KNOW THAT LUCIUS STATEN WASN'T IN THAT
8 GROUP AT THE GALANT; CORRECT?

9 A YES.

10 Q AND YOU KNOW THAT WHEN LUCIUS STATEN ENDED THE
11 ARGUMENT, WHAT?

12 A YOU MEAN ABOUT THE GUN?

13 Q ABOUT THE GUN. ABOUT THE GUN. HE THEN TURNS TO
14 GO?

15 A YES.

16 Q AND YOU KNOW THAT LUCIUS STATEN NEVER HAD A PISTOL
17 IN HIS HAND. YOU CERTAINLY NEVER SAW HIM; RIGHT?

18 A EXACTLY.

19 Q OKAY. NEITHER A REVOLVER, NOR ANY KIND OF SEMI-
20 AUTOMATIC PISTOL; RIGHT?

21 A NOTHING.

22 Q AND YOU KNOW THAT LUCIUS STATEN DID NOT FIRE THE
23 SHOT THAT KILLED PHILLIP LEE; RIGHT?

24 A YES.

25 Q AND YOU KNOW LUCIUS STATEN DIDN'T FIRE A GUN, YOU

1 DID NOT SEE HIM FIRE A GUN THAT EVENING; CORRECT?

2 A CORRECT.

3 Q THOSE ARE THINGS YOU KNOW?

4 A (THERE IS NO RESPONSE.)

5 MR. STRICKLER: BEG THE COURT'S INDULGENCE.

6 (PAUSE.)

7 Q MR. KENNEDY, DO YOU HAVE ANY BROTHERS?

8 A NO.

9 Q NO. SO YOU'RE NOT ACQUAINTED WITH -- WELL, YOU
10 DON'T HAVE ANY BROTHERS.

11 THANK YOU, MR. KENNEDY.

12 MR. TAYLOR: MAY IT PLEASE THE COURT?

13 THE COURT: ALL RIGHT, MR. TAYLOR.

14 CROSS-EXAMINATION BY MR. TAYLOR:

15 Q GOOD MORNING, MR. KENNEDY.

16 A GOOD MORNING.

17 Q I WANT TO TRY TO GET STRAIGHT ON SOMETHING THAT I'M
18 NOT REALLY CLEAR ON. ON MONDAY NIGHT, THE 15TH ---

19 A YES.

20 Q --- WHEN PHILLIP WAS SHOT, WERE YOU WITH PHILLIP AT
21 THE TIME THAT THE ARGUMENT BEGAN BETWEEN HIM AND SOMEONE?

22 A YES.

23 Q YOU WERE WITH HIM AT THAT TIME?

24 A YES, I WAS.

25 Q YOU GAVE A STATEMENT ON THE 24TH OF JANUARY, 2001,

1 TO OFFICER WILKERSON; IS THAT CORRECT?

2 A YES.

3 Q AND IS IT NOT TRUE THAT YOU TOLD HIM THAT THERE
4 WERE FIVE GUYS SITTING ON A GREEN GALANT?

5 A YES.

6 Q AND THAT PHIL HAD WALKED BY WITH A BLUE BANDANNA IN
7 HIS BACK POCKET?

8 A YES.

9 Q NOT ON HIS HEAD?

10 A NO. HE HAD A BLUE HAT ON HIS HEAD.

11 Q SO YOU SAID THE BANDANNA WAS IN HIS BACK POCKET?

12 A YES.

13 Q AND ---

14 MR. GASSER: YOUR HONOR, I HATE TO INTERRUPT BUT DO
15 NOT THE RULES ALLOW THAT THE LAWYER IS GOING TO BE
16 REFERRING TO A DOCUMENT, DO NOT THE RULES ALLOW THE
17 WITNESS TO BE ABLE TO REFER TO THE SAME DOCUMENT?

18 THE COURT: YEAH.

19 WHY DON'T YOU GIVE HIM A COPY SO HE CAN ---

20 MR. TAYLOR: I DON'T ---

21 MR. GASSER: I'VE GOT THE ORIGINAL RIGHT HERE.

22 MR. TAYLOR: VERY GOOD.

23 MR. GASSER: ARE YOU GOING TO BE REFERRING TO THE
24 BENEDICT COLLEGE STATEMENT TOO?

25 MR. TAYLOR: I MAY, SO YOU MAY HAND THAT TO HIM.

1 MR. KENNEDY: THANK YOU.

2 MR. GASSER: YOU'RE WELCOME.

3 Q ON THE FIRST PAGE OF THAT STATEMENT, FURTHER YOU
4 SAY "A GUY WITH THEM"; DO YOU SEE THAT?

5 A YES.

6 Q I AM ASSUMING THAT YOU ARE SAYING BY THAT A GUY
7 WITH THEM, "THEM" MEANING THE GUYS ON THE GREEN GALANT?

8 A EXACTLY.

9 Q ALL RIGHT. "WEARING A BLACK RAIN JACKET WITH A
10 ROYAL BLUE SHIRT AND BLUE JEANS TOLD PHIL 'YOU CAN'T WEAR
11 THAT AROUND HERE' "?

12 A YES.

13 Q THAT CERTAINLY WAS NOT DUSHUN STATEN, WAS IT?

14 A NO, IT WASN'T.

15 Q NOW WHEN YOU GAVE THE STATEMENT ON THE 24TH OF
16 JANUARY, IS IT TRUE THAT YOU TALKED WITH OFFICER
17 WILKERSON ABOUT STATEMENTS THAT OTHER PEOPLE HAD GIVEN?

18 A NO.

19 Q THERE WAS NO DISCUSSION BETWEEN YOU ABOUT THIS GUY
20 SAID THIS AND THIS GUY SAID THAT?

21 A NO.

22 Q ALL RIGHT. WERE YOU SHOWN EVIDENCE, ANY EVIDENCE
23 AT ALL? WERE YOU SHOWN THE JACKET, FOR EXAMPLE?

24 A NO.

25 Q NOW IN THE STATEMENT THAT YOU GAVE TO INVESTIGATOR

1 KENLEY ON THE 16TH OF JANUARY, YOU MAKE REFERENCE TO
2 "SEVEN GUYS GETTING OUT OF THE OTHER CAR"; IS THAT
3 CORRECT?

4 A WHAT PAGE IS THIS?

5 Q THE FIRST PAGE. THAT'S ON THIS STATEMENT THAT YOU
6 GAVE TO THE BENEDICT POLICE OFFICER. DO YOU SEE THE
7 DOCUMENT I'M HOLDING?

8 A YES.

9 Q DO YOU HAVE THAT ONE?

10 A YES. IT SAYS, "SAW ONE OF THE SEVEN GUYS."

11 Q SO YOU'RE SAYING THERE WERE SEVEN GUYS NOW? YOUR
12 TESTIMONY NOW IS ---

13 A WHEN LUCIUS ARRIVED, IT WAS SEVEN.

14 Q HE ARRIVED WITH SEVEN GUYS?

15 A NO.

16 Q OKAY.

17 A THIS SAYS, "ONE OF THE SEVEN." IT DOESN'T SAY
18 SEVEN GUYS GOT OUT OF THE CAR, IT SAYS, "ONE OF THE
19 SEVEN."

20 Q YOU SAID "ONE OF THE SEVEN GUYS GOT OUT OF ANOTHER
21 CAR"?

22 A SO WHEN ONE OF THE SEVEN CAME, THEN THAT MADE
23 SEVEN. IT WAS ONE THAT GOT OUT OF THE CAR. THERE WAS
24 SIX THERE, ONE GOT OUT OF THE CAR, MAKES SEVEN.

25 Q WELL, WHAT HAPPENED TO THE OTHERS IN THE CAR?

1 A IT WAS ONE PERSON GOT OUT OF THE CAR, CAME OVER TO
2 THE GREEN GALANT, WHICH WAS LUCIUS, WHICH MADE IT SEVEN
3 PEOPLE. NO SEVEN GUYS GOT OUT OF THE CAR.

4 HE GOT OUT OF THE CAR, THE CAR DROVE AWAY.

5 Q SO YOUR TESTIMONY IS THAT YOU COUNTED SEVEN PEOPLE
6 IN THE SMALL WHITE CAR?

7 A BETWEEN FIVE -- NO, I DID NOT SAY THAT.

8 Q WELL, LOOK AT YOUR STATEMENT NOW.

9 A IT SAYS, "SO ONE OF THE SEVEN GUYS GOT OUT OF
10 ANOTHER CAR AND ASKED 'WHAT WAS THE PROBLEM,' " WHICH WAS
11 LUCIUS GOT OUT OF A WHITE CAR, CAME OVER TO THE GREEN
12 GALANT WHERE OTHER PEOPLE WERE SITTING AND ASKED, "WHAT
13 WAS THE PROBLEM?"

14 Q OKAY. YOU SAID YESTERDAY THAT DUSHUN HAD ON A
15 YELLOW BUT EVERYBODY ELSE WAS WEARING DARK COLORS?

16 A YES.

17 Q CORRECT?

18 A YES.

19 Q AND IN THE IDENTIFICATION LINEUP YOU IDENTIFIED ONE
20 MAURICE SANDERS; IS THAT CORRECT?

21 A YES.

22 Q AND SO YOUR TESTIMONY YESTERDAY WOULD MEAN THAT
23 MAURICE SANDERS WAS WEARING DARK COLORS?

24 A RED IS DARK.

25 Q REDDISH DARK?

1 A YES.

2 Q DO YOU RECALL WHETHER OR NOT HE MIGHT HAVE BEEN
3 WEARING A BLACK AND RED RACING JACKET?

4 A NO.

5 Q COULD HAVE BEEN?

6 A HE COULD HAVE BEEN.

7 Q BUT HE WAS NOT WEARING A WHITE SHIRT?

8 A NO, HE WASN'T.

9 Q OKAY. YOU ALSO TESTIFIED THAT WHOEVER FIRED THE
10 WEAPON HAD A BANDANNA WRAPPED AROUND THE PISTOL, OF THE
11 GRIP OF THE PISTOL; CORRECT?

12 A YES.

13 Q BEFORE AND AT THE TIME THAT THE WEAPON WAS FIRED;
14 CORRECT?

15 A YES.

16 Q DID PHIL ALWAYS CARRY HIS RED (SIC) BANDANNA IN HIS
17 BACK POCKET?

18 A BLUE BANDANNA? YES.

19 Q BLUE, I'M SORRY, YES.

20 A YES.

21 Q ALWAYS CARRIED IT IN HIS BLACK POCKET -- IN HIS
22 BACK POCKET?

23 A NO.

24 Q YES OR NO?

25 A HE HAD IT SOMETIMES IN HIS BACK POCKET, SOMETIME HE

1 HAD IT ON HIS HAND.

2 Q ON HIS HAND?

3 A YES.

4 Q OKAY. THOSE ARE THE TWO PLACES THAT HE WORE IT?

5 A YES.

6 Q OKAY. YESTERDAY I BELIEVE YOU TESTIFIED THAT
7 DUSHUN STATEN HAD A BANDANNA AROUND -- I'M SORRY. ON THE
8 FIRST DAY THAT YOU TESTIFIED AND THE JURY WAS NOT HERE
9 THAT DUSHUN STATEN HAD A RED BANDANNA AROUND A WRIST ---

10 A YES.

11 Q --- AND ONE AROUND HIS ARM?

12 A NO. I NEVER SAID THAT. I SAID AROUND HIS ---

13 Q THAT WAS NOT YOU WHO SAID THAT?

14 A NO, IT WASN'T.

15 Q OKAY. THE SHOOTER HAD A NEW YORK YANKEE BASEBALL
16 HAT?

17 A NO. LUCIUS HAD A NEW YORK YANKEE'S BASEBALL HAT.

18 Q AND YOU DIDN'T TESTIFY THE OTHER DAY THAT THE
19 SHOOTER HAD A NEW YORK YANKEE BASEBALL CAP?

20 A NO, I DIDN'T. I SAID HE HAD BRAIDS IN HIS HAIR. I
21 WOULDN'T SEE THE BRAIDS IF HE HAD A HAT ON.

22 Q YOU DID NOT KNOW WHO THE SHOOTER WAS; THAT'S YOUR
23 TESTIMONY?

24 A THAT'S CORRECT.

25 Q YOU DIDN'T KNOW ANY OF THESE PEOPLE WELL AT ALL; IS

1 THAT RIGHT?

2 A THAT'S CORRECT.

3 Q YOU DON'T KNOW WHAT THE RELATIONSHIP WAS BETWEEN
4 THEM FREQUENTLY AND HONESTLY AT ALL, DO YOU?

5 A NO.

6 Q THANK YOU.

7 THE COURT: ANY REDIRECT?

8 MR. GASSER: JUST A FEW QUESTIONS, YOUR HONOR.

9 BEG THE COURT'S INDULGENCE.

10 (PAUSE.)

11 REDIRECT EXAMINATION BY MR. GASSER:

12 Q JUST A FEW QUESTIONS, TONY. LET ME ASK YOU THIS.
13 YOU INDICATED THAT YOU WERE PHILLIP LEE'S COUSIN; DO YOU
14 REMEMBER THAT?

15 A YES.

16 Q ARE YOU RELATED TO HIM BY BLOOD?

17 A NO.

18 Q TONY, IS IT COMMON OR UNCOMMON, PARTICULARLY IN THE
19 AFRICAN-AMERICAN COMMUNITY, PARTICULARLY UP NORTH, FOR
20 PEOPLE THAT ARE CLOSE, IF THEIR MOTHERS ARE CLOSE OR IF
21 YOUNG MEN ARE CLOSE, TO REFER TO THEMSELVES AS "COUSINS"?
22 IS THAT COMMON?

23 A YES.

24 Q IS THAT WHAT YOU MEAN WHEN YOU SAY YOU WERE COUSINS
25 WITH PHILLIP?

1 A YES.

2 Q MR. TAYLOR WAS ASKING YOU SEVERAL QUESTIONS ABOUT
3 YOUR STATEMENTS TO BENEDICT COLLEGE AND TO THE COLUMBIA
4 POLICE DEPARTMENT REGARDING WHAT PEOPLE WERE WEARING,
5 PARTICULARLY WHAT PHILLIP WAS WEARING. REMEMBER HIM
6 ASKING YOU QUESTIONS ABOUT YOUR TESTIMONY AS IT RELATED
7 TO WHAT YOU SAID IN YOUR STATEMENTS AS TO WHO WAS WEARING
8 WHAT?

9 A YES.

10 Q OKAY. DO YOU HAVE YOUR STATEMENTS WITH YOU?

11 A YES.

12 Q LOOK ON PAGE TWO OF YOUR COLUMBIA POLICE DEPARTMENT
13 STATEMENT THAT WAS GIVEN ON JANUARY THE 24TH, 2001, ABOUT
14 FIVE OR SIX LINES UP FROM THE BOTTOM?

15 A YES.

16 Q WHEN YOU DESCRIBED THE GENTLEMAN IN THE BRAIDS THAT
17 YOU LATER IDENTIFIED AS DUSHUN STATEN GOING TO THE CAR
18 AND GETTING THE GUN, DID YOU PUT IN YOUR STATEMENT WHAT
19 HE WAS WEARING?

20 MR. TAYLOR: MAY IT PLEASE THE COURT, THAT QUESTION
21 WAS ASKED AND ANSWERED YESTERDAY.

22 MR. GASSER: BUT IT'S IN RESPONSE; HE WAS ASKING
23 QUESTIONS ---

24 THE COURT: IT'S IN RESPONSE TO YOURS.

25 MR. GASSER: THANK YOU, YOUR HONOR.

1 A YES. IT SAYS HE WAS IN A YELLOW AVERIX JACKET AND
2 A SWEATER.

3 Q SO YOU PUT DUSHUN WEARING THE YELLOW AVERIX JACKET
4 IN YOUR STATEMENT NINE DAYS AFTER THE INCIDENT?

5 A YES.

6 Q AND EVEN THE DAY AFTER YOUR INCIDENT, WHEN MR.
7 TAYLOR WAS REFERRING TO YOUR BENEDICT COLLEGE STATEMENT,
8 LAST PAGE, LAST SENTENCE?

9 A "AVERIX WEAR, WITH THE YELLOW AVERIX LEATHER
10 JACKET."

11 Q THE GUY THAT HANDED THE SHOOTER THE GUN?

12 A YES.

13 Q NOW MR. STRICKLER WAS ASKING YOU, WHEN HE WAS
14 CROSS-EXAMINING YOU, CERTAIN THINGS THAT WEREN'T IN YOUR
15 STATEMENT; DO YOU REMEMBER THAT LINE OF QUESTIONING?

16 A YES.

17 Q OKAY. WHEN YOU TESTIFIED ON DIRECT THAT ON THAT
18 FRIDAY INCIDENT, WHEN LUCIUS -- WHEN THEY WERE LEAVING
19 AND LUCIUS GOT OUT OF THE CAR, LOOKED AROUND AND SAID,
20 "I'M GOING TO START REMEMBERING FACES," DO YOU REMEMBER
21 MR. STRICKLER -- YOU TESTIFIED THAT ON DIRECT; DO YOU
22 REMEMBER THAT?

23 A YES.

24 Q MR. STRICKLER ASKED YOU ABOUT THAT ON CROSS?

25 A YES.

1 Q AND THAT'S NOT IN YOUR STATEMENTS; CORRECT?

2 A THAT'S CORRECT.

3 Q MR. STRICKLER ALSO ASKED YOU, DID HE NOT, THAT --
4 AND YOU TESTIFIED BOTH ON DIRECT AND CROSS THAT LUCIUS
5 STATEN NEVER WORE ANY RED BANDANNAS; DO YOU REMEMBER THAT
6 LINE OF QUESTIONING?

7 A THAT'S CORRECT.

8 Q THE FACT THAT HE NEVER WORE ANY RED BANDANNAS,
9 THAT'S NOT IN ANY OF YOUR STATEMENTS, IS IT?

10 A NO.

11 Q IS IT STILL THE TRUTH?

12 A YES.

13 Q LASTLY, WHEN MR. STRICKLER WAS ENDING HIS CROSS,
14 WAS ASKING YOU ABOUT OBSERVING HIS CLIENT LUCIUS TURN,
15 WALK BACK TOWARD THE CAR AND NOD AT THE SHOOTER?

16 A YES.

17 Q WHEN YOU SAW LUCIUS STATEN NOD AT THE SHOOTER, DID
18 YOU HAVE ANY TROUBLE SEEING THAT SHOOTER WITH THAT SILVER
19 REVOLVER WITH THAT RED BANDANNA AROUND THE HANDLE?

20 A NO.

21 MR. GASSER: THAT'S ALL I HAVE, YOUR HONOR.

22 THE COURT: ALL RIGHT, YOU CAN COME DOWN.

23 (THE WITNESS IS NOW EXCUSED FROM THE WITNESS
24 STAND.)

25 HOW LONG IS YOUR NEXT WITNESS GOING TO BE? AWHILE?

1 **MR. GASSER:** IT WILL BE THE LAST OF OUR LENGTHY
2 WITNESSES.

3 **THE COURT:** OKAY. WHY DON'T WE TAKE A LITTLE
4 MORNING BREAK AND LET YOU GET A LITTLE REFRESHMENTS, THEN
5 WE'LL COME BACK IN ABOUT FIFTEEN MINUTES AND CONTINUE ON.

6 **THE BAILIFF:** EVERYONE REMAIN SEATED UNTIL THE JURY
7 LEAVES, PLEASE.

8 (JURY OUT AT 10:45 A.M.)

9 **THE COURT:** ALL RIGHT, LET'S COME BACK AT ELEVEN
10 O'CLOCK AND WE'LL ...

11 YOU'VE GOT ONE MORE EYEWITNESS; RIGHT?

12 **MR. STRICKLER:** JOHNNY?

13 **THE COURT:** YOU'VE GOT ONE?

14 **MR. GASSER:** YES, SIR.

15 **THE COURT:** HOW MANY HAVE YOU GOT AFTER THAT?

16 **MR. GASSER:** THOSE CAR WITNESSES, LOOKS LIKE SIX OR
17 SEVEN OF THEM, YOUR HONOR.

18 CAN WE APPROACH FOR A SECOND.

19 (A BENCH CONFERENCE IS HAD AT THIS TIME IN THE
20 PRESENCE OF THE COURT REPORTER, BUT OUT OF THE HEARING OF
21 THE COURT REPORTER.)

22 (COURT IS NOW IN RECESS.)

23 **THE BAILIFF:** COURT COME TO ORDER, ALL RISE,
24 PLEASE.

25 **THE COURT:** THANK YOU. PLEASE BE SEATED.

1 OH, WE NEED SOME DEFENDANTS.

2 (DEFENDANTS DUSHUN AND LUCIUS STATEN NOW ENTER THE

3 COURTROOM.)

4 THE COURT: ALL RIGHT, IS EVERYBODY READY TO GO?

5 MR. GASSER: THE STATE IS READY.

6 THE COURT: ALL RIGHT, BRING THE JURY IN PLEASE,

7 SIR.

8 THE BAILIFF: YES, SIR.

9 (JURY IN AT 11:06 A.M.)

10 THE BAILIFF: THE JURY IS PRESENT, YOUR HONOR.

11 THE COURT: THANK YOU.

12 ALL RIGHT, MR. GASSER OR MR. HOOD, CALL YOUR NEXT .

13 WITNESS.

14 MR. GASSER: THE STATE WOULD CALL PHILLIP MANNY

15 PERDUE.

16 THE BAILIFF: PLACE YOUR LEFT HAND ON THE BIBLE,

17 RAISE YOUR RIGHT, AND FACT THE CLERK, PLEASE.

18 (PHILLIP MANNY PERDUE, HAVING

19 FIRST BEEN DULY SWORN, TESTIFIED AS FOLLOWS:)

20 THE CLERK: PLEASE HAVE A SEAT HERE AND STATE YOUR

21 FULL NAME FOR THE RECORD.

22 MR. PERDUE: PHILLIP MANNY PERDUE.

23 DIRECT EXAMINATION BY MR. GASSER:

24 Q MR. PERDUE, HOW OLD ARE YOU, SIR?

25 A TWENTY-FIVE (25).

- 1 Q OKAY. NOW YOU GO BY MANNY; RIGHT?
- 2 A YES.
- 3 Q AND, MANNY, WHERE WERE YOU BORN AND RAISED?
- 4 A PHILADELPHIA, PENNSYLVANIA.
- 5 Q ALL RIGHT. AND WHERE DO YOU CURRENTLY GO TO
- 6 SCHOOL?
- 7 A OXFORD, PENNSYLVANIA.
- 8 Q AND THE UNIVERSITY YOU GO TO IS?
- 9 A LINCOLN UNIVERSITY.
- 10 Q WHAT ARE YOU MAJORING IN AT LINCOLN UNIVERSITY?
- 11 A CRIMINAL JUSTICE.
- 12 Q AND DO YOU RUN TRACK ---
- 13 A YES.
- 14 Q --- FOR LINCOLN UNIVERSITY, AS WELL?
- 15 A YES.
- 16 Q NOW AT ONE TIME DID YOU ATTEND BENEDICT COLLEGE?
- 17 A YES.
- 18 Q AND TELL US, MANNY, WHEN DID YOU ATTEND BENEDICT
- 19 COLLEGE?
- 20 A FROM '96 THROUGH 2000.
- 21 Q NOW IN JANUARY OF 2001 WERE YOU THERE WHEN THIS
- 22 INCIDENT OCCURRED?
- 23 A YES.
- 24 Q ON JANUARY THE 15TH, JANUARY THE 15TH, 2001, DID
- 25 YOU PLAN ON BEING A STUDENT THROUGH THE REST OF THE

1 SPRING SEMESTER AT BENEDICT COLLEGE? WAS THAT YOUR
2 INITIAL PLANS?

3 A YES.

4 Q WHEN DID YOU COME BACK -- OR LET ME ASK YOU THIS,
5 WHERE DID YOU SPENT THE BREAK, THE HOLIDAY BREAK? WHEN
6 YOU LEFT IN DECEMBER, WHERE DID YOU SPEND THE HOLIDAY
7 BREAK?

8 A IN PHILADELPHIA, HOME.

9 Q WHEN DID YOU COME BACK TO -- SHOWING YOU STATE'S
10 EXHIBIT THIRTY-FOUR -- WHEN DID YOU COME BACK? WHAT DAY
11 DID YOU COME BACK TO BENEDICT COLLEGE?

12 A MONDAY, JANUARY 8TH.

13 Q ON THE 8TH?

14 A YES.

15 Q OKAY. AND YOU WERE REGISTERED TO ATTEND CLASSES;
16 CORRECT?

17 A YES.

18 Q AND YOU DIDN'T END UP GOING TO SCHOOL THAT
19 SEMESTER, DID YOU?

20 A NO.

21 Q OKAY. I'LL GET TO THAT.

22 DO YOU KNOW THE DEFENDANT DUSHUN STATEN?

23 A YES.

24 Q DO YOU KNOW THE DEFENDANT LUCIUS STATEN?

25 A YES.

1 Q YOU KNEW LUCIUS AS A NICKNAME; RIGHT?

2 A YES.

3 Q WHAT WAS HIS NICKNAME?

4 A JAH.

5 Q JAH, J-A-H?

6 A YEAH.

7 Q AND WHEN YOU GOT BACK, WHEN YOU GOT BACK TO CAMPUS
8 ON JANUARY THE 8TH, STARTING ON THAT MONDAY WHEN YOU GOT
9 BACK AND THEN OR THAT TUESDAY, DID YOU HAVE AN
10 OPPORTUNITY TO SEE DUSHUN AND LUCIUS STATEN ON BENEDICT
11 COLLEGE'S CAMPUS?

12 A YES.

13 Q AND WHEN YOU WOULD SEE THEM ON CAMPUS, WHERE WOULD
14 YOU SEE THEM?

15 A OUT IN THE PARKING LOT.

16 Q WHAT PARKING LOT, MANNY?

17 A HASKILL.

18 Q WOULD YOU SEE THEM DURING THE DAY OR NIGHT OR BOTH?

19 A BRIEFLY IN THE DAY BUT MOSTLY AT NIGHT.

20 Q AND WHEN YOU WOULD SEE EITHER LUCIUS OR DUSHUN,
21 WOULD THEY JUST BE BY THEMSELVES OR WOULD THERE BE SOME
22 OTHER PEOPLE AS WELL?

23 A THEY WERE WITH A COUSIN.

24 Q A COUSIN OF THEIRS?

25 A RIGHT.

1 Q DO YOU KNOW SHAKEEM WILSON? DO YOU EVEN KNOW WHO
2 THAT IS?

3 A NO.

4 Q BUT YOU KNEW THEY WERE WITH A COUSIN?

5 A YES.

6 Q IF THEY WERE WITHIN A CAR, IF YOU SAW THEM AROUND A
7 CAR OR ARRIVING OR LEAVING IN A CAR, DO YOU REMEMBER WHAT
8 THE CARS LOOKED LIKE?

9 A A WHITE, A WHITE HATCHBACK, AND THEN A GREEN, A
10 GREEN CAR.

11 Q I SHOW YOU WHAT'S BEEN MARKED STATE'S EXHIBIT
12 NUMBER FORTY. DO YOU RECOGNIZE THE VEHICLES IN THIS
13 PHOTO DIAGRAM?

14 A YES.

15 Q HOW DO YOU RECOGNIZE THOSE CARS?

16 A I SEEN THIS, THE WHITE CAR HERE BEFORE, AND I SEEN
17 THE GREEN ONE LATER IN THE WEEK.

18 Q NOW WOULD YOU, YOURSELF, EVER HAVE CONVERSATIONS
19 WITH DUSHUN OR WITH, AS YOU KNOW, JAH, LUCIUS?

20 A I SPOKE TO THEM BEFORE.

21 Q AND YOU'VE GOT A COUSIN, DON'T YOU?

22 A YES.

23 Q AND YOUR COUSIN'S NAME IS WHO?

24 A MAR, LAMAR PERDUE.

25 Q OKAY. AND WAS YOUR COUSIN, LAMAR PERDUE, FRIENDS

1 WITH THESE TWO GENTLEMEN?

2 A YES.

3 Q IS THAT HOW YOU GOT TO KNOW OR AT LEAST SPEAK WITH
4 THESE TWO GENTLEMEN, WHENEVER YOU SAW THEM WITH MAR?

5 A YES.

6 Q AND YOU KNOW THE VICTIM PHILLIP LEE, DO YOU NOT?
7 DO YOU THE VICTIM PHILLIP LEE?

8 A YES.

9 Q HE WAS A CRIMINAL JUSTICE MAJOR AS WELL?

10 A YES, HE WAS.

11 Q WERE YOU A CRIMINAL JUSTICE MAJOR AT BENEDICT?

12 A YES, I WAS.

13 Q AT SOME POINT IN TIME THAT FIRST WEEK, TOWARDS THE
14 WEEKEND OF THE 12TH AND 13TH, DID SOME SORT OF ANIMOSITY
15 OCCUR ---

16 A YES.

17 Q --- BETWEEN PHILLIP OR SOME PEOPLE AT BENEDICT
18 COLLEGE AND THE DEFENDANTS?

19 A YES.

20 Q AND LET ME SHOW YOU WHAT'S BEEN MARKED STATE'S
21 EXHIBIT NUMBER THIRTY-THREE. IT'S BEEN PREVIOUSLY
22 IDENTIFIED AS A BLUE BANDANNA TAKEN FROM THE CRIME SCENE
23 NEAR PHILLIP LEE. WOULD YOU EVER SEE PHILLIP WEAR THIS?

24 A YES.

25 Q I SHOW YOU WHAT'S BEEN MARKED STATE'S EXHIBIT

1 THIRTY-EIGHT, MARKED FOR I.D. ONLY. WOULD YOU EVER SEE
2 PEOPLE WEARING RED BANDANNAS ON CAMPUS IN THE HASKILL
3 STREET DORM THERE THAT WEEK?
4 A YES.
5 Q DID THE DEFENDANT DUSHUN STATEN? DID YOU EVER SEE
6 HIM WEAR ONE OF THESE?
7 A YES.
8 Q HIS COUSIN?
9 A YES.
10 Q IS THAT WHAT THE ANIMOSITY BEGAN OVER?
11 A YES.
12 Q COLORS, "FLAGS," I THINK IS WHAT YOU CALLED THEM?
13 A UH-HUH (INDICATES AN AFFIRMATIVE RESPONSE).
14 Q IS "FLAGS" ANOTHER TERM FOR BANDANNAS?
15 A YES.
16 Q PHILLIP (SIC), WERE YOU PRESENT ON CAMPUS ON FRIDAY
17 NIGHT, JANUARY THE 12TH, IN THE HASKILL STREET DORM WHEN
18 AN INCIDENT OCCURRED? WERE YOU THERE?
19 A YES, I WAS.
20 Q DID YOU SEE THAT?
21 A YES, I WAS.
22 Q OKAY. WAS PHILLIP LEE THERE?
23 A YES, HE WAS.
24 Q WHO ELSE? WHAT WAS THE -- THE WORDS THAT WERE
25 EXCHANGED, WHO WAS IT BETWEEN?

1 A JAH'S LITTLE BROTHER AND PHIL AND MYSELF AND A
2 COUPLE OTHER PEOPLE.

3 Q I'M NOT GOING TO GO INTO THAT.

4 LET ME ASK YOU THIS, MANNY, WHEN DID YOU GET INTO
5 TOWN FROM PHILADELPHIA? WHEN DID YOU FLY IN?

6 A LAST NIGHT.

7 Q OKAY. SO YOU HAVEN'T BEEN HERE THROUGHOUT ANY OF
8 THE TESTIMONY, MONDAY IN FRONT OF THE JUDGE, OR
9 YESTERDAY; CORRECT?

10 A NO.

11 Q I'M NOT GOING TO GET INTO EXACTLY THE SPECIFICS OF
12 THAT FRIDAY, BUT WAS IT EVENTUALLY, THE WORDS THAT WERE
13 EXCHANGED BETWEEN YOU AND PHIL AND YOUR FRIENDS AND
14 DUSHUN, WAS IT RESOLVED? I MEAN, DID -- NOBODY CAME TO
15 BLOWS, IF YOU WILL ---

16 A NO.

17 Q --- NOBODY FOUGHT; CORRECT?

18 A NO.

19 Q OKAY. WAS LUCIUS OR JAH, WAS HE THERE?

20 A YES.

21 Q I WANT TO DRAW YOUR ATTENTION TO MONDAY, JANUARY
22 THE 15TH, SPECIFICALLY APPROXIMATELY EIGHTY-THIRTY, NINE
23 O'CLOCK. WHERE WERE YOU DURING -- BEFORE ANYONE --
24 BEFORE PHILLIP WAS SHOT, CAN YOU TELL THE JURY WHERE WERE
25 YOU AND WHAT YOU WERE DOING?

1 A I WAS STANDING AT THE ENTRANCE OF HASKILL, SLAP-
2 BOXING WITH A FRIEND.

3 Q I SHOW YOU WHAT'S BEEN MARKED AS STATE'S EXHIBIT
4 NUMBER THIRTY-ONE. WOULD YOU POINT OUT TO THE JURY WHERE
5 YOU WERE SLAP-BOXING WITH THIS FRIEND OF YOURS? SLAP-
6 BOXING, THAT'S PLAYING AROUND?

7 A YES.

8 Q OKAY.

9 A RIGHT HERE (INDICATING).

10 Q AND WHO WAS YOUR FRIEND?

11 A ASWAD.

12 Q NOW WAS HE A STUDENT AT BENEDICT COLLEGE AT THAT
13 TIME?

14 A NO.

15 Q HE WAS A STUDENT WHERE?

16 A AT U.S.C.

17 Q HAD HE EVER BEEN A STUDENT AT BENEDICT?

18 A YES.

19 Q DID YOU SEE PHIL COME OUT OF HASKILL DORM AT SOME
20 POINT IN TIME?

21 A HE ARRIVED IN A CAR WITH SWAD (SIC).

22 Q DO YOU KNOW WHAT HE WENT TO DO? DO YOU HAVE ANY
23 IDEA?

24 A HE WAS AT CLEMSON FOR THE DAY.

25 Q OKAY. BUT THEN DO YOU KNOW WHAT HAPPENED WHEN HE

1 WENT IN THE DORM ROOM? OR DID YOU FOLLOW HIM IN THERE?

2 OR DID YOU JUST KIND OF HANG OUT?

3 A NO, I STAYED OUTSIDE.

4 Q NOW EVENTUALLY -- EVENTUALLY DID YOU SEE PHIL LEAVE
5 HASKILL DORM?

6 A YES. HE WAS STANDING OUT FRONT WITH US FOR A
7 LITTLE BIT BEFORE HE LEFT.

8 Q IN THIS AREA RIGHT HERE?

9 A YES.

10 Q OKAY. IN FACT DID SOMEBODY OFFER HIM TO DO
11 SOMETHING FOR HIM?

12 A SWAD ASKED HIM IF HE WANTED A RIDE TO HIS DORM.

13 Q BECAUSE PHIL'S DORM WAS WHERE?

14 A AT THE FRONT OF CAMPUS.

15 Q DID HE DECLINE?

16 A YES.

17 Q NOW TELL US WHAT HAPPENED AFTER THAT?

18 A PHIL STARTED TO WALK AWAY, SWAD ASKED HIM IF HE
19 WANTED A RIDE, AND HE DECLINED. BUT SWAD DIDN'T KNOW
20 THAT PHIL HAD PROBLEMS EARLIER WITH THE GUYS THAT WERE AT
21 THE OTHER END OF THE PARKING LOT.

22 SO HIM AND TONY PROCEEDED TO WALK UP TO THE ACTION
23 END OF THE PARKING LOT, TOWARDS THE CAFETERIA, AND THEN
24 WE HEARD AN ARGUMENT.

25 Q NOW COULD YOU ESTIMATE THE NUMBER OF PEOPLE THAT

1 WERE HANGING OUT, THE NUMBER OF STUDENTS THAT WERE
2 HANGING OUT IN THIS AREA OF THE HASKILL STREET DORM
3 DURING THAT TIME PERIOD? DO YOU EVEN KNOW HOW MANY?

4 A ABOUT THIRTY, MAYBE A LITTLE MORE.

5 Q WAS IT COMMON? WAS THAT A COMMON AREA FOR STUDENTS
6 TO HANG OUT AND SOCIALIZE?

7 A YEAH.

8 Q NOW EVENTUALLY -- EVENTUALLY, MANNY, WHERE DID YOU
9 END UP GOING?

10 A UP TO WHERE THEY WERE ARGUING AT.

11 Q OKAY. AND SHOWING YOU AGAIN STATE'S EXHIBIT NUMBER
12 THIRTY-ONE, WHERE WAS THAT?

13 A AROUND ABOUT RIGHT HERE (INDICATING).

14 Q NOW WHO DID YOU GO UP THERE WITH?

15 A NO ONE. I RAN UP THERE MYSELF.

16 Q NOW WHEN YOU STAYED THAT -- WHEN YOU -- THE WHOLE
17 TIME PERIOD THAT YOU WERE DOWN -- THE WHOLE TIME PERIOD
18 THAT YOU WERE DOWN ---

19 THANK YOU.

20 --- THE WHOLE TIME PERIOD THAT YOU WERE DOWN BY THE
21 HASKILL STREET DORM, YOU MIGHT HAVE HEARD SOME STUFF
22 GOING ON, BUT YOU DIDN'T REALLY SEE ANYTHING UP THERE,
23 WHEN YOU WERE DOWN AT THE HASKILL STREET DORM; CORRECT?

24 A NO.

25 Q NOW BY THE TIME YOU'D GOT UP TO WHERE PHIL WAS, WHO

1 WAS THERE? WHO DID YOU RECOGNIZE AS BEING THERE?

2 A JAH AND HIS BROTHER.

3 Q SO BY THE TIME YOU GOT UP THERE JAH OR LUCIUS HAD
4 ALREADY ARRIVED; IS THAT CORRECT?

5 A YEAH. HE WAS THERE.

6 Q WHAT WAS JAH WEARING? DO YOU REMEMBER?

7 A I BELIEVE IT WAS A DARK HOODIE.

8 Q A DARK HOODIE?

9 A UH-HUH (INDICATES AN AFFIRMATIVE RESPONSE). WITH
10 SOME TYPE OF WRITING ON IT.

11 Q WHAT WAS DUSHUN WEARING?

12 A A YELLOW JACKET.

13 Q A YELLOW JACKET?

14 A UH-HUH (INDICATES AN AFFIRMATIVE RESPONSE).

15 Q DO YOU KNOW THE BRAND NAME? YOU HAVE NO IDEA OR DO
16 YOU?

17 A I DON'T KNOW.

18 Q OKAY. THIS COLOR YELLOW (INDICATING)?

19 A UH-HUH (INDICATES AN AFFIRMATIVE RESPONSE).

20 Q AND DO YOU REMEMBER SEEING A GUY WEARING A BLACK
21 JACKET?

22 A YES.

23 Q DO YOU KNOW WHAT MANUFACTURER IT WAS OR YOU DIDN'T
24 PAY ANY ATTENTION TO THAT?

25 A NO.

1 Q HAD YOU EVER SEEN THAT PERSON BEFORE?

2 A NO.

3 Q THEN WHEN YOU GOT UP THERE, WHO WAS ARGUING WITH

4 WHOM?

5 A PHIL AND JAH'S LITTLE BROTHER.

6 Q HOW CLOSE DID YOU GET TO PHIL?

7 A I WAS CLOSE, I MADE A SCHEDULE (PHONETIC) FOR HIM.

8 Q OKAY. BUT PHYSICALLY HOW CLOSE DID YOU GET TO HIM?

9 AND THERE WERE SOME OTHER PEOPLE THERE, WEREN'T THERE?

10 YOU MENTIONED TONY KENNEDY?

11 A YES.

12 Q OKAY. SO WAS IT A GROUP OF YOU JUST KIND OF

13 STANDING AROUND?

14 A YES.

15 Q AND YOU MENTIONED TO THE JURY THAT YOU WERE NEAR

16 THAT LIGHT POLE. DID YOU HAVE ANY PROBLEM SEEING PEOPLE

17 AT THAT TIME?

18 A NO. NO.

19 Q DID YOU HAVE ANY PROBLEM RECOGNIZING LUCIUS OR JAH,

20 OR DUSHUN AT THAT TIME?

21 A NO.

22 Q YOU HAD SEEN THEM BEFORE; RIGHT?

23 A UH-HUH (INDICATES AN AFFIRMATIVE RESPONSE).

24 Q WITH YOUR COUSIN?

25 A YEAH.

1 Q OKAY. MANNY, I WANT YOU TO TELL US, PLEASE, WHAT
2 DID YOU OBSERVE AND WHAT DID YOU HEAR AS THE ARGUMENT WAS
3 UNWINDING? TELL US, PLEASE, WHAT YOU OBSERVED AND WHAT
4 YOU SAW AND WHAT YOU HEARD?

5 A PHIL WAS ARGUING. AND TONY WAS ALMOST RIGHT
6 IMMEDIATELY NEXT TO HIM AND HE WAS THERE ARGUING. WE
7 HEARD THAT. I RAN UP THERE. EVERYBODY THAT HUNG WITH US
8 RAN UP THERE. ONE OF THE PEOPLE IN OUR GROUP SAID, "F.
9 DUMB."

10 WE TURNED AROUND AND HE SAID -- "JAH," WHEN I SAY
11 "HE," SAID "GET THE HAMMER."

12 HIS LITTLE BROTHER RUNS TO THE CAR AND GET IT, GAVE
13 IT TO THE KID WITH THE BLACK JACKET.

14 I'M WALKING WITH MY BACK TURNED BUT I'M LOOKING
15 OVER MY SHOULDER. HEAR TWO SHOTS, TURN AROUND, PHIL'S ON
16 THE GROUND. I RUN TO THE WINDOW, BANG ON THE WINDOW TO
17 GET LO AND EVERYBODY ELSE TO COME OUT THEIR ROOM. AND BY
18 THE TIME EVERYBODY CAME OUT THEIR ROOM IT JUST WAS --
19 EVERYTHING ELSE FROM THERE WAS CHAOS.

20 Q CHAOS?

21 A UH-HUH (INDICATES AN AFFIRMATIVE RESPONSE).

22 Q NOW, MANNY, I WANT YOU BRIEFLY TO COME ON DOWN
23 HERE. JUST STEP ON DOWN.

24 (THE WITNESS NOW LEAVES THE WITNESS STAND.)

25 OKAY, WALK ON OVER HERE. I WANT YOU TO STAND RIGHT

1 HERE, WHERE I'M STANDING, RIGHT HERE; OKAY? SO THE JURY
2 CAN SEE.

3 IF YOU NEED TO USE A POINTER, USE THE POINTER.

4 LET ME MOVE THIS CLOSER HERE.

5 OKAY, REMEMBER THAT THERE'S TWO JURORS BACK THERE,
6 OKAY? THEY NEED TO SEE. AND MR. STRICKLER NEEDS TO
7 SEE, AS WELL, OKAY?

8 YOU PREVIOUSLY SAID YOU RECOGNIZED STATE'S EXHIBIT
9 THIRTY-ONE?

10 A YEAH.

11 Q OKAY. AGAIN, USING THE POINTER, WOULD YOU POINT TO
12 WHERE YOU RAN UP TO?

13 A OVER HERE, AND RAN UP TO ABOUT RIGHT HERE, IN THIS
14 AREA.

15 Q I'M SHOWING YOU DEFENSE EXHIBIT TWO, DO YOU
16 RECOGNIZE THIS MIDDLE PHOTOGRAPH?

17 A YES.

18 Q DO YOU SEE WHERE THE BLOOD IS?

19 A YEAH.

20 Q OKAY. AND WHAT IS THIS RIGHT HERE?

21 A ONE OF THE LIGHT POLES.

22 Q OKAY. AND THIS AREA RIGHT HERE, DO YOU RECOGNIZE
23 THAT?

24 A YES.

25 Q WHAT IS THAT THERE?

1 A TWO PARKING SPACES NEAR THE LIGHT POLE.

2 Q OKAY. POINT OUT TO THE JURY WHAT CAR DID YOU SEE?
3 WHEN THIS ARGUMENT WAS GOING ON, WHEN YOU SAW THESE
4 INDIVIDUALS, WHAT CAR DID YOU SEE?

5 A THE GREEN CAR.

6 Q AND JUST POINT OUT IN GENERAL WHERE YOU SAW IT?

7 A HERE.

8 Q AND WHERE WAS PHIL STANDING?

9 A ABOUT RIGHT HERE.

10 Q AND WHERE ON THIS DIAGRAM, HOW FAR UP ON THE -- HOW
11 FAR UP DID YOU GO? DID YOU PASS THE INTERSECTION WHERE
12 THE ---

13 A OH, YES. YES. OKAY, RIGHT IN THERE.

14 Q NOW YOU INDICATED TO THE JURY THAT YOU SAID YOU
15 TURNED, BUT NOW WHAT DO YOU MEAN BY THAT? WHERE WERE YOU
16 FACING BEFORE YOU TURNED? SHOW WHERE YOU WERE FACING
17 BEFORE YOU TURNED?

18 A THAT DIRECTION.

19 Q OKAY. SO WHEN YOU TURNED, YOU TURNED BACK TOWARDS
20 WHICH DIRECTION?

21 A THIS DIRECTION, I TURNED BACK TOWARD THIS WAY.

22 Q WELL, IF YOU WERE FACING THE DIRECTION OF THE GREEN
23 GALANT ---

24 A YES.

25 Q --- OKAY, AND THE DEFENDANTS, OKAY, DID YOU TURN TO

1 YOUR LEFT TO GO BACK TO THE HASKILL DORM OR DID YOU TURN
2 ALL THE WAY TO YOUR RIGHT TO GO BACK?
3 A NO, I TURNED TO MY LEFT.
4 Q OKAY. SO YOU TURNED TO YOUR LEFT, THIS WAY; RIGHT?
5 A UH-HUH (INDICATES AN AFFIRMATIVE RESPONSE).
6 Q BUT WHERE DID YOUR HEAD AND YOUR EYES GO?
7 A I KEPT LOOKING OVER MY RIGHT SHOULDER.
8 Q OKAY. SO YOU TURNED LIKE THIS; WHY DID YOU TURN
9 THAT WAY?
10 A JUST TO WATCH MY BACK, JUST TO SEE WHAT'S GOING ON
11 STILL.
12 Q SO WHEN YOU WERE LOOKING BACK, DID YOU HAVE ANY
13 DIFFICULTY SEEING THE GREEN GALANT AND JAH, OR LUCIUS, OR
14 DUSHUN? DID YOU HAVE ANY TROUBLE SEEING THEM?
15 A NO.
16 Q ALL RIGHT. OR ANY OF THE OTHER PEOPLE THAT WERE
17 THERE WITH THEM?
18 A NO.
19 Q YOU INDICATED YOU HEARD WHO YOU KNEW AS JAH, WHICH
20 YOU HAVE IDENTIFIED IN COURT AS LUCIUS, AND YOU'RE
21 TURNING YOUR BACK LIKE THIS AND YOU WERE LOOKING AT HIM,
22 WHAT DID YOU HEAR JAH SAY?
23 A SAY, "GET THE HAMMER."
24 Q "GET THE HAMMER." NOW HAVE YOU EVER HEARD THE
25 PHRASE "HAMMER" USED BEFORE?

1 A YEAH.

2 Q AND WHAT DO YOU UNDERSTAND HAMMER TO BE?

3 A THE GUN.

4 Q SO WHEN YOU HEARD JAH, LUCIUS, SAY "GET THE
5 HAMMER," WHAT DO YOU SEE DUSHUN DO?

6 A HE EITHER REACHED THROUGH THE WINDOW OR HE OPENED
7 THE DOOR.

8 Q YOU CAN'T REMEMBER?

9 A I DON'T EXACTLY REMEMBER.

10 Q DO YOU EVEN KNOW WHAT KIND OF GUN IT WAS?

11 A IT WAS CHROME, LIKE BRIGHT.

12 Q NOW WHEN YOU'RE LOOKING THAT WAY AND YOU SEE DUSHUN
13 GET THE CHROME GUN, WHAT DO YOU SEE HIM DO WITH IT?

14 A HE HANDED IT TO THE KID WITH THE BLACK JACKET.

15 Q NOW WHAT DID YOU DO THEN?

16 A OH, THAT'S WHEN I RAN TO THE WINDOW. I STARTED TO
17 RUN. ONCE I SAW IT, I STARTED TO RUN.

18 Q SO YOU SEE THE GUN AND YOU SEE IT HANDED TO
19 SOMEBODY, WHAT DO YOU THINK IS GETTING READY TO HAPPEN?

20 A SOMEBODY IS GOING TO GET SHOT.

21 Q SO WHAT DO YOU DO?

22 A I STARTED TO RUN TOWARDS MY WINDOW.

23 Q AND WHAT DID YOU HEAR?

24 A TWO SHOTS.

25 (THE WITNESS NOW RETURNS TO THE WITNESS STAND.)

1 Q NOW, MANNY, WHEN YOU WERE DOWN BY THE HASKILL DORM,
2 YOU HAD FIRST INDICATED BEFORE YOU WENT UP THERE YOU
3 HEARD AN ARGUMENT GOING ON; IS THAT WHAT YOU SAID?

4 A YES.

5 Q SO THERE WERE A LOT OF VOICES?

6 A YES.

7 Q WAS IT SOFT VOICES, LIKE I'M TALKING TO YOU RIGHT
8 NOW?

9 A NO.

10 Q AND WHEN YOU RAN UP AND WERE STANDING THERE, AND
11 TONY WAS THERE AND PHIL WAS THERE, AND THE TWO DEFENDANTS
12 AND THE OTHER PEOPLE WITH THE DEFENDANTS, WAS THERE MORE
13 THAN ONE PERSON TALKING AT THE SAME TIME?

14 A YES.

15 Q LIKE IN THIS COURTROOM, THE LAWYERS ASK THE
16 QUESTION, THE WITNESS RESPONDS, ONE PERSON IS TALKING AT
17 THE SAME TIME; CORRECT? IN OTHER WORDS, NO ONE IS
18 TALKING WHEN I ASK YOU THAT QUESTION BUT ME; RIGHT?

19 A NO, IT WAS MORE THAN ONE PERSON.

20 Q I'M TALKING ABOUT RIGHT HERE. WHEN I'M ASKING YOU
21 A QUESTION, I'M THE ONLY ONE TALKING; RIGHT?

22 A RIGHT.

23 Q WHEN YOU'RE RESPONDING, YOU'RE THE ONLY ONE
24 TALKING; RIGHT?

25 A RIGHT.

1 Q WHEN YOU WERE UP THERE WAS IT JUST ONE OR TWO
2 PEOPLE TALKING?

3 A NO. IT WAS A LOT OF ARGUMENTS.

4 Q I'M JUST TRYING TO GET THE ATMOSPHERE, OKAY?

5 A UH-HUH (INDICATES AN AFFIRMATIVE RESPONSE).

6 Q JUST A FEW MORE QUESTIONS, MANNY. AFTER THE SHOTS
7 WERE FIRED, DID YOU SEE WHERE JAH OR DUSHUN OR ANY OF
8 THEIR FRIENDS THAT WERE WITH THEM, DID YOU SEE HOW THEY
9 LEFT OR WHAT HAPPENED?

10 A I THINK THEY ALL JUMPED IN THE GREEN CAR.

11 Q YOUR CONCERN WAS WHERE AT THAT TIME?

12 A GETTING TO THE ROOM AS FAST AS POSSIBLE, TO GET
13 EVERYBODY TO COME OUTSIDE.

14 Q NOW EVENTUALLY, MANNY, DID YOU GO TO NEW JERSEY?

15 A YES.

16 Q I BELIEVE YOU INDICATED YOU WENT TO THE VIEWING,
17 YOU DIDN'T GO TO THE FUNERAL; CORRECT?

18 A RIGHT.

19 Q AFTER THE VIEWING OR AFTER THE FUNERAL, DID YOU
20 EVER COME BACK TO COLUMBIA? DID YOU COME BACK THAT MONTH
21 IN JANUARY?

22 A NO.

23 Q FEBRUARY?

24 A NO.

25 Q MARCH?

1 A NO.

2 Q YOU DIDN'T GO TO SCHOOL THERE THAT SEMESTER, DID
3 YOU?

4 A NO.

5 Q IN FACT, BEFORE YOU ARRIVED BACK HERE INTO
6 COLUMBIA, SOUTH CAROLINA, LAST NIGHT FROM PHILLY, FROM
7 THE TIME YOU LEFT COLUMBIA TO GO TO NEW JERSEY SOMETIME
8 THE END OF JANUARY, 2001, TILL FEBRUARY 26TH, 2002, HOW
9 MANY TIMES HAD YOU BEEN BACK TO COLUMBIA?

10 A ONCE.

11 Q AND WHEN WAS THAT?

12 A THAT SUMMER.

13 Q THE SUMMER OF 2001?

14 A YES.

15 Q AND YOU CAME BACK HERE TO DO WHAT?

16 A GET MY TRANSCRIPTS.

17 Q SINCE YOU LEFT COLUMBIA IN JANUARY OF 2001, MANNY,
18 HAVE YOU HAD ANY COMMUNICATION WHATSOEVER WITH TONY
19 KENNEDY?

20 A NO.

21 Q HAVE YOU TALKED TO HIM?

22 A NO.

23 Q SEEN HIM?

24 A NO.

25 Q SINCE YOU GOT IN LAST NIGHT AND CAME UP TO THE

1 COURTROOM, BEFORE YOU TESTIFIED TODAY, WHERE WERE YOU?

2 A SECLUDED, BY MYSELF.

3 Q UP IN THE SOLICITOR'S OFFICE?

4 A YES.

5 Q SO SINCE JANUARY THAT THIS HAPPENED, NO
6 COMMUNICATION WITH TONY KENNEDY?

7 A NO.

8 Q ANY COMMUNICATION WITH RASHON LOGGINS?

9 A NO.

10 Q ANY COMMUNICATION WITH ANDREW BRITT?

11 A NONE.

12 Q WERE YOU IN THE COURTROOM WHEN ANY OF THOSE THREE
13 PEOPLE TESTIFIED MONDAY OR TUESDAY?

14 A NO.

15 Q HAS ANYONE TOLD YOU WHAT THEY SAID?

16 A NO.

17 Q ANY IDEA WHAT ANY WITNESS HAS TOLD THE POLICE OR
18 THIS JURY? ANY IDEA?

19 A NONE.

20 MR. GASSER: BEG THE COURT'S INDULGENCE.

21 (PAUSE.)

22 THAT'S ALL I HAVE, YOUR HONOR. THANK YOU.

23 THE COURT: ALL RIGHT, MR. STRICKLER.

24 MR. STRICKLER: THANK YOU, SIR.

25 CROSS-EXAMINATION BY MR. STRICKLER:

- 1 Q GOOD MORNING, MR. PERDUE.
- 2 A MORNING.
- 3 Q LET'S SEE, HOW WELL DID YOU KNOW PHILLIP LEE, SIR?
- 4 A I SPENT ALMOST EVERYDAY WITH HIM.
- 5 Q YOU SPENT ALMOST EVERYDAY WITH HIM; CORRECT?
- 6 A YES.
- 7 Q OKAY. AND THAT'S FROM WHAT TIME TO JANUARY 15TH,
- 8 WHEN HE WAS SHOT AND KILLED? FROM ---
- 9 A WE'RE PRETTY GOOD ---
- 10 Q --- Y'ALL STARTED TO SCHOOL IN THAT FALL?
- 11 A YEAH, THAT PREVIOUS SEMESTER.
- 12 Q OKAY. YOU SPENT ALMOST EVERYDAY WITH HIM DURING
- 13 SEPTEMBER OF 2000; RIGHT?
- 14 A YES.
- 15 Q OCTOBER OF 2000?
- 16 A (THE WITNESS NODS HIS HEAD UP AND DOWN, INDICATING
- 17 AN AFFIRMATIVE RESPONSE.)
- 18 Q NOVEMBER OF 2000?
- 19 A YES.
- 20 Q EXCEPT FOR THROUGH THE BREAK, I GUESS, DECEMBER OF
- 21 2000?
- 22 A YES.
- 23 Q AND THEN WHEN YOU GET BACK FROM THE BREAK IN
- 24 JANUARY OF 2001, UP TO THE TIME HE WAS KILLED; RIGHT?
- 25 A EXACTLY.

1 Q IT WOULD BE FAIR TO SAY, SIR, THAT MR. LEE WAS A
2 FRIEND OF YOURS; CORRECT?

3 A YES.

4 Q OKAY. WOULD IT BE STRETCHING THE TRUTH, SIR, TO
5 TERM MR. LEE A CLOSE FRIEND OF YOURS?

6 A WE WERE CLOSE ENOUGH.

7 Q CLOSE ENOUGH, OKAY. SO HE WAS A FRIEND OF YOURS
8 AND CLOSE ENOUGH, AS FAR AS FRIENDS GO; RIGHT?

9 A CLOSE ENOUGH FOR ME TO MAKE HIS CLASS AND DISCUSS
10 IT.

11 Q AND IT WOULD BE FAIR TO SAY ALSO, SIR, THAT THE
12 DEATH OF MR. LEE WAS AN UPSETTING EVENT FOR YOU; CORRECT?

13 A IT DEFINITELY WAS.

14 Q AND IT WOULD BE FAIR ALSO TO SAY, SIR, THAT YOU
15 WOULD WANT TO GO AHEAD AND BRING THE RESPONSIBLE PARTIES
16 TO JUSTICE; CORRECT?

17 A YES.

18 Q IT WOULD BE FAIR ALSO TO SAY, MR. PERDUE, THAT YOU
19 HAD THE OPPORTUNITY TO SPEAK WITH INVESTIGATOR KENLEY
20 RIGHT OVER THERE ON JANUARY 16TH, 2001, THE DAY AFTER
21 THIS INCIDENT; CORRECT, SIR?

22 A YES.

23 Q ALL RIGHT. AND YOU ALSO HAD THE OPPORTUNITY TO
24 SPEAK WITH THE SAME MR. KENLEY ON JANUARY 18TH, 2001?

25 A YES.

- 1 Q THREE DAYS AFTER THIS INCIDENT; CORRECT?
- 2 A UH-HUH (INDICATES AN AFFIRMATIVE RESPONSE).
- 3 Q AND ON EACH OF THOSE OCCASIONS, SIR, YOU GAVE MR.
- 4 KENLEY A WRITTEN STATEMENT, ONE ON THE 16TH AND ONE ON
- 5 THE 18TH OF JANUARY, 2001; CORRECT?
- 6 A YES.
- 7 Q NOW SUBSEQUENT TO GIVING THOSE STATEMENTS, HAVE YOU
- 8 HAD AN OPPORTUNITY TO GO AHEAD AND REVIEW THEM?
- 9 A BRIEFLY.
- 10 Q BRIEFLY? I WANT TO ASK YOU SOME QUESTIONS ABOUT
- 11 THEM, MR. PERDUE, SO LET ME GIVE YOU AN OPPORTUNITY TO
- 12 REVIEW THEM AT WHATEVER LENGTH YOU SHOULD NEED, SIR.
- 13 OKAY?
- 14 A UH-HUH (INDICATES AN AFFIRMATIVE RESPONSE).
- 15 Q ONE, AND TWO. IF YOU'D LIKE TO TAKE A LOOK AT
- 16 THOSE. AND I ASK YOU IF YOU RECOGNIZE THOSE, FIRST, THE
- 17 ONE DATED ON THE 16TH, AND SECOND, THE ONE DATED THE
- 18 18TH, SIR?
- 19 A THIS IS MY HANDWRITING.
- 20 Q THAT'S YOUR HANDWRITING?
- 21 A YES, IT IS.
- 22 Q OKAY. BOTH OF THEM?
- 23 A YES, IT IS.
- 24 Q OKAY. ARE YOU FAMILIAR WITH THE CONTENTS OF THEM?
- 25 A YES.

1 Q OKAY. AND WOULD YOU PASS THOSE BACK TO ME, SIR?
2 IN THESE STATEMENTS, SPECIFICALLY AS TO THE
3 INCIDENT ON JANUARY THE 15TH, THE NIGHT MR. LEE WAS
4 KILLED, IN EACH OF THESE STATEMENTS YOU DESCRIBED THE
5 INCIDENT; CORRECT?

6 A YES.

7 Q YES. IN EACH OF THESE STATEMENTS YOU USED THE TERM
8 "JAH" IN REFERENCE TO LUCIUS STATEN; CORRECT?

9 A UH-HUH (INDICATES AN AFFIRMATIVE RESPONSE).

10 Q OKAY. AND THAT'S THE NAME YOU KNEW HIM BY; RIGHT?

11 A YES.

12 Q OKAY. SO ON JANUARY 16TH AND JANUARY 18TH, YOU
13 UNDERSTOOD WHO JAH WAS; CORRECT?

14 A RIGHT.

15 Q REFERENCING YOUR STATEMENT OF JANUARY 16TH ---

16 A UH-HUH (INDICATES AN AFFIRMATIVE RESPONSE).

17 Q --- THE DAY AFTER THIS INCIDENT, SIR, LET ME ASK
18 YOU IF THIS IS WHAT YOUR STATEMENT WAS.

19 "UP TILL LAST NIGHT --- AND I'M JUST GOING TO DEAL
20 WITH THE EVENING OF THE 15TH ---

21 A UH-HUH (INDICATES AN AFFIRMATIVE RESPONSE).

22 Q --- WHEN MR. LEE WAS KILLED; ALL RIGHT, SIR?

23 A OKAY.

24 Q "UP TILL LAST NIGHT PHIL WAS WALKING HOME ---
25 WHAT'S THE NAME OF THE DORM, HIS DORM, BARKOTES?

1 A BAKOTES.

2 Q BAKOTES; IT'S PROBABLY HERE.

3 --- "BAKOTES HALL WHEN WE HEARD ARGUING. WE ALL
4 WENT UP THERE TO SEE WHAT WAS GOING ON. WE ALL WAS ABOUT
5 TO FIGHT THEM. ONE OF MY BOYS SAID --- WHAT DID HE SAY?

6 A HIS EXACT WORDS?

7 Q HIS EXACT WORDS, SIR. I'M NOT GOING TO SAY THEM.
8 WHAT DO YOU SAY? IT'S OKAY FOR YOU TO SAY THEM.

9 A HE SAID, "SOMETHING LEES, LET'S GET OUT OF THIS."

10 Q OKAY. THAT'S WHAT YOUR STATEMENT REFLECTS, "LET'S
11 GO."

12 "WE TURNED AROUND, STARTED WALKING AWAY, I HEARD
13 TWO SHOTS, LOOKED BACK, I SAW PHIL FALLING TO THE GROUND.
14 I STARTED RUNNING AND CALLED 5400." IS THAT CAMPUS
15 SECURITY?

16 A UH-HUH (INDICATES AN AFFIRMATIVE RESPONSE).

17 Q OKAY. "I HAD MY CORDLESS PHONE. I RAN TO LoLo'S
18 WINDOW, I SAID, 'LO, THEY SHOT PHIL.' ONCE EVERYONE CAME
19 OUT, SINCE IT WAS OVER, THE BOYS LEFT IN THE CAR. IT WAS
20 FOLLOWED."

21 I STARTED AT THAT POINT ON THAT PAGE.

22 A RIGHT.

23 Q WOULD YOU AGREE I PUBLISHED TO THE JURY THE ENTIRE
24 STATEMENT THAT YOU GAVE RELATING TO THE EVENTS ON JANUARY
25 15TH, 2001, WHEN MR. LEE WAS SHOT, STARTING AT THE TIME

- 1 Y'ALL WERE OUTSIDE, OKAY?
- 2 A UH-HUH (INDICATES AN AFFIRMATIVE RESPONSE).
- 3 Q OKAY. YOU REACHED TO THAT PARKING LOT, PUT THE
- 4 ARROW WHERE WE STARTED, OKAY?
- 5 A YES.
- 6 Q DID I MIS-STATE ANYTHING IN YOUR STATEMENT AS I
- 7 PUBLISHED THAT TO THE JURY?
- 8 A NO.
- 9 Q OKAY. JANUARY 16TH, 2001.
- 10 NOW REFERENCE YOUR STATEMENT ON JANUARY 18, SIR.
- 11 "ABOUT NINE P.M., JANUARY 15TH, MONDAY, PHIL SAID 'I'M
- 12 GOING TO BACK TO MY ROOM.' SWAD ASKED IF HE WANTED A
- 13 RIDE"; RIGHT?
- 14 A RIGHT.
- 15 Q I HEARD YOU TESTIFY TO THAT.
- 16 "PHIL SAID 'NO, I'M WALKING BY THEM GUYS ---
- 17 A UH-HUH (INDICATES AN AFFIRMATIVE RESPONSE).
- 18 Q --- TALKING ABOUT THE PEOPLE AT THE GALANT?
- 19 A RIGHT.
- 20 Q I CAN'T READ THAT. BEGINNING ON THE SECOND LINE ON
- 21 THIS STATEMENT, IT'S YOUR HANDWRITING. "HE ...
- 22 A "HE DAPPED EVERYBODY."
- 23 Q "DAPPED EVERYBODY," WHAT'S THAT?
- 24 A IT MEANS SHOOK EVERYBODY'S HAND.
- 25 Q SHOOK EVERYBODY'S HAND. OKAY.

- 1 "HE DAPPED EVERYBODY UP AND STARTED WALKING AWAY."
2 NOW THIS IS WHEN Y'ALL WERE BY HASKILL DORM; RIGHT?
3 A YEAH.
4 Q ALL RIGHT. "AFTER THAT, WE HEARD HIM ARGUING. BY
5 THE TIME WE ALL RAN UP THERE THINGS WERE ABOUT TO FIGHT.
6 ONE OF MY BOYS SAID --- SAME THING YOU JUST TESTIFIED TO
7 FROM YOUR STATEMENT ON THE 16TH; CORRECT?
8 A YES.
9 Q THAT SAME STATEMENT?
10 A UH-HUH (INDICATES AN AFFIRMATIVE RESPONSE).
11 Q "WE ALL TURNED AROUND AND WERE WALKING AWAY. I
12 HEARD TWO SHOTS. BY THE TIME I LOOKED BACK, PHIL WAS ON
13 THE GROUND. I RAN TO GET LoLo AND MY BOYS CALLED 5400
14 AND I DIALED 9-1-1. THEN EVERYTHING GOT CRAZY."
15 A UH-HUH (INDICATES AN AFFIRMATIVE RESPONSE).
16 Q NOW YOU WILL AGREE ONCE AGAIN, STARTING WHERE I PUT
17 THAT ARROW, AND WE STARTED TALKING ABOUT THE INCIDENT ON
18 THE 15TH, THEN WHAT I PUBLISHED HERE, WERE THE WORDS YOU
19 WROTE ON JANUARY 18TH, 2001?
20 A YES.
21 Q ALL RIGHT, SIR, YOU WOULD ALSO THEN AGREE THAT
22 NOWHERE IN YOUR STATEMENT ON THE 15TH IS THERE ANY
23 REFERENCE TO JAH MAKING THE -- MAKING THE STATEMENT "GET
24 THE HAMMER"; CORRECT?
25 A YES.

1 Q ALL RIGHT. AND YOU WOULD ALSO AGREE, SIR, THAT
2 NOWHERE IN YOUR STATEMENT OF JANUARY 18TH, 2001, THREE
3 DAYS AFTER THIS INCIDENT, WAS THERE ANY REFERENCE TO A
4 FELLOW NAMED JAH, WHO YOU SPOKE ABOUT IN THAT STATEMENT

5 ---

6 A UH-HUH (INDICATES AN AFFIRMATIVE RESPONSE).

7 Q --- MAKING A STATEMENT TO ANYONE ELSE, QUOTE, GET
8 THE HAMMER.

9 A UH-HUH (INDICATES AN AFFIRMATIVE RESPONSE).

10 Q OKAY. NOW YOU TALKED ABOUT IN THOSE STATEMENTS
11 EVENTS OVER THE PERIOD OF TIME SINCE YOU GOT BACK TO
12 SCHOOL ON BREAK; RIGHT?

13 A UH-HUH (INDICATES AN AFFIRMATIVE RESPONSE).

14 Q YOU TALKED ABOUT JAH AND THE BROTHER; RIGHT?

15 A UH-HUH (INDICATES AN AFFIRMATIVE RESPONSE).

16 Q YOU HAD OPPORTUNITIES TO SEE HIM AND HIS BROTHER
17 OVER THE COURSE OF THAT ROUGHLY A WEEK; RIGHT?

18 A UH-HUH (INDICATES AN AFFIRMATIVE RESPONSE).

19 Q YOU SAW THEM THE NIGHT PHILLIP LEE WAS KILLED;
20 RIGHT?

21 A (THE WITNESS NODS HIS HEAD UP AND DOWN, INDICATING
22 AN AFFIRMATIVE RESPONSE.)

23 Q PHILLIP LEE WAS A CLOSE FRIEND OF YOURS; CORRECT?

24 A (THE WITNESS NODS HIS HEAD UP AND DOWN, INDICATING
25 AN AFFIRMATIVE RESPONSE.)

1 Q YOU TALKED WITH THE POLICE THE DAY AFTER HE WAS
2 KILLED AND TALKED WITH THEM ABOUT THE SEQUENCE OF EVENTS
3 LEADING UP TO THIS NIGHT; RIGHT?

4 A UH-HUH (INDICATES AN AFFIRMATIVE RESPONSE) .

5 Q YOU TALKED WITH THE POLICE THREE DAYS AFTER THIS
6 KILLING, AGAIN TALKED ABOUT THE SEQUENCE OF EVENTS
7 LEADING UP TO THE NIGHT; CORRECT?

8 A (THE WITNESS NODS HIS HEAD UP AND DOWN, INDICATING
9 AN AFFIRMATIVE RESPONSE.)

10 Q YOU TALKED WITH THE POLICE ON THE 16TH ABOUT WHAT
11 HAPPENED THAT NIGHT; CORRECT?

12 A UH-HUH (INDICATES AN AFFIRMATIVE RESPONSE) .

13 Q AND YOU TALKED WITH THE POLICE ON THE 18TH ABOUT
14 WHAT HAPPENED THAT NIGHT; CORRECT?

15 A UH-HUH (INDICATES AN AFFIRMATIVE RESPONSE) .

16 Q OKAY. AND ON BOTH THE 15TH AND THE 18TH YOU
17 INDICATED THAT YOU TURNED AWAY AND YOU HEARD TWO SHOTS;
18 CORRECT?

19 A UH-HUH (INDICATES AN AFFIRMATIVE RESPONSE) .

20 Q AND NEITHER ON THE 15TH NOR THE 18TH DID YOU SAY
21 ANYTHING ABOUT LUCIUS STATEN SAYING TO ANYONE "GO GET THE
22 HAMMER"; CORRECT?

23 A UH-HUH (INDICATES AN AFFIRMATIVE RESPONSE) .

24 Q AND IN NEITHER OF THE STATEMENTS, SIR, DID YOU SAY
25 YOU SAW ANYONE GET A GUN; CORRECT?

1 A NO.

2 Q THAT'S NOT CORRECT?

3 A NO, THAT IS CORRECT.

4 Q THAT IS CORRECT. YES, SIR.

5 AND IN NEITHER OF THOSE STATEMENTS DID YOU IDENTIFY
6 WHAT TYPE OF GUN IT WAS; CORRECT?

7 A THAT IS CORRECT.

8 Q OKAY. AND IN NEITHER OF THOSE STATEMENTS DID YOU
9 INDICATE YOU HAD EVER WITNESSED ANYTHING REGARDING THE
10 SHOTS BEING FIRED; CORRECT?

11 A THAT IS CORRECT.

12 Q AND LET'S SEE, THIS IS NOW FEBRUARY 27TH OF 2002

13 ---

14 A UH-HUH (INDICATES AN AFFIRMATIVE RESPONSE).

15 Q --- AND THAT'S YOUR TESTIMONY HERE TODAY?

16 A I NEVER SAID I SAW THE SHOTS. I STILL SAY I HEARD
17 THEM.

18 Q YES, SIR. I UNDERSTAND WHAT YOU SAID TODAY. THANK
19 YOU VERY MUCH.

20 THE COURT: ALL RIGHT, MR. TAYLOR.

21 MR. TAYLOR: THANK YOU VERY MUCH.

22 CROSS-EXAMINATION BY MR. TAYLOR:

23 Q MR. PERDUE, WHEN YOU TALKED TO THE POLICE OFFICER
24 INVESTIGATOR KENLEY, YOU KNEW THAT WHAT HE WAS TALKING TO
25 YOU ABOUT UNDOUBTEDLY WAS A VERY SERIOUS CRIME, DID YOU

1 NOT?

2 A YES.

3 Q YOU KNEW DUSHUN STATEN AND LUCIUS STATEN BECAUSE IN
4 FACT THEY HAD BEEN IN YOUR ROOM WITH YOU AND YOUR BROTHER
5 ON SEVERAL OCCASIONS; IS THAT NOT TRUE?

6 A NO. THAT'S NOT TRUE.

7 Q YOU DENY THAT?

8 A YES, I DO.

9 Q DO YOU DENY THAT YOU HAD EVER BEEN IN ANY ROOM AT
10 BENEDICT COLLEGE WITH LUCIUS AND, OR DUSHUN STATEN?

11 A I HAVE WALKED INTO A ROOM AND THEY WAS THERE WITH
12 MY COUSINS.

13 Q YOUR COUSINS? WHICH COUSINS?

14 A MY COUSIN LAMAR.

15 Q YOUR COUSIN LAMAR?

16 A YES.

17 Q HE IS -- IS HE YOUR BLOOD COUSIN?

18 A YES, HE IS.

19 Q ALL RIGHT. AND SO YOU -- WHAT HAPPENED WHEN YOU
20 WALKED IN THERE? DID Y'ALL JUST CHEW THE FAT, TALK, GET
21 TO KNOW EACH OTHER?

22 A NO. HE CONVERSATED WITH HIS FRIENDS.

23 Q WITH HIS FRIENDS. AND YOU WERE PRESENT?

24 A YES.

25 Q AND WHEN YOU TALKED TO INVESTIGATOR KENLEY ON THE

1 16TH AND ON THE 18TH, IMMEDIATELY AFTER THIS SHOOTING,
2 YOU DID NOT TELL HIM THAT DUSHUN STATEN HAD A THING TO DO
3 WITH IT, DID YOU?

4 A THE FOCUS WASN'T ON ME AT THAT POINT. IT WAS ON MY
5 COUSIN.

6 Q YOU DIDN'T TELL HIM A THING ABOUT DUSHUN STATEN
7 BEING PRESENT ON THE NIGHT OF MONDAY THE 15TH, 2001; IS
8 THAT CORRECT?

9 A (THERE IS NO RESPONSE.)

10 Q IS THAT -- IT'S A SIMPLE QUESTION ---

11 A I -- I -- I DID TELL HIM.

12 Q --- IS IT YES OR NO?

13 A IT'S IN MY STATEMENT. I SAID, "JAH AND HIS BROTHER
14 WERE IN THE PARKING LOT ARGUING WITH TONY AND PHIL, AND
15 WE WENT UP THERE." SO I DID TELL HIM HE WAS THERE.

16 Q BUT YOU DIDN'T TELL HIM ANYTHING ABOUT WHAT YOU NOW
17 SAY IS THAT HE GOT THE WEAPON; RIGHT?

18 A YEAH. WELL, AT THE TIME THEY WERE STILL OUT THERE
19 AND JAH HAD MY CELL PHONE NUMBER BECAUSE MY COUSIN USED
20 TO CALL HIM ON MY CELL PHONE.

21 Q MY QUESTION IS SIMPLE, MR. PERDUE. PLEASE LISTEN
22 TO IT CAREFULLY.

23 YOU DID NOT SAY ANYTHING TO INVESTIGATOR KENLEY
24 ABOUT WHAT YOU NOW ALLEGE HAPPENED WITH RESPECT TO DUSHUN
25 GETTING THE GUN OUT OF THE CAR; ISN'T THAT CORRECT?

- 1 A THAT IS CORRECT.
- 2 Q IS THIS THE FIRST TIME YOU TOLD INVESTIGATOR
- 3 KENLEY, HERE IN THIS COURTROOM TODAY?
- 4 A YES, IT IS.
- 5 Q YOU KNEW HE WAS INVESTIGATING A HOMICIDE, A MURDER;
- 6 IS THAT RIGHT?
- 7 A YES. YES, IT WAS.
- 8 Q YOU CLAIM THAT YOU HEARD TESTIFIED SOMEBODY SAID
- 9 "GET THE HAMMER"; RIGHT? THAT'S WHAT YOU CLAIM TODAY?
- 10 A YES.
- 11 Q BUT YOU DIDN'T TELL INVESTIGATOR KENLEY THAT THAT
- 12 NIGHT, OR THE NEXT DAY, THE NEXT -- TWO DAYS LATER, WHEN
- 13 HE INTERVIEWED YOU; IS THAT CORRECT?
- 14 A THAT IS CORRECT.
- 15 Q HAMMER IS ALSO SOMETIMES CALLED A "PIECE," ISN'T
- 16 IT?
- 17 A YES.
- 18 Q VERY FREQUENTLY?
- 19 A NOT -- NOT -- NOT NOW.
- 20 Q PARDON ME?
- 21 A NOT AT THIS POINT.
- 22 Q BUT IT IS, IT'S A WORD USED FOR A GUN OR A WEAPON?
- 23 A YES, IT IS.
- 24 Q THAT'S RIGHT?
- 25 A YES, IT IS.

1 Q AND YOU'VE HEARD IT USED IN THAT CONTEXT BEFORE?

2 A NEVER.

3 Q NEVER? THEN HOW DO YOU KNOW IT?

4 A IT'S JUST EBONIX (PHONETIC).

5 Q EBONIX?

6 A PEACE, HAMMER, BURNER.

7 Q SO PEACE AND HAMMER ARE EQUAL TO YOU; RIGHT?

8 A YES.

9 Q THEY ARE THE SAME THING?

10 A YES.

11 Q GUNS?

12 A YES.

13 Q DO YOU KNOW MO SANDERS? MAURICE SANDERS?

14 A NO.

15 Q DO YOU KNOW LIMEL SIMS?

16 A NO.

17 Q DO YOU REMEMBER SEEING A SMALLER GUY OUT THERE WITH
18 BUCK TEETH, CROOKED, AND KIND OF BUCK TEETH THAT NIGHT?

19 A I REMEMBER JAH AND HIS BROTHER AND THEIR COUSIN.

20 Q NOW THOSE ARE THE ONLY ONES YOU REMEMBER BEING
21 THERE?

22 A DARK SKINNED KID WITH THE BLACK JACKET I NEVER SAW
23 BEFORE. IT WAS ABOUT FOUR OR FIVE OF THEM UP THERE.

24 THREE OF THEM I DEFINITELY KNEW BECAUSE I SEEN THEM

25 BEFORE ON A REGULAR BASIS, JAH, HIS LITTLE BROTHER, AND

1 THEIR COUSIN. THAT DARK SKINNED GUY WITH THE BLACK COAT
2 I NEVER SAW BEFORE THAT NIGHT.

3 Q WHAT ABOUT THE OTHER ONES.

4 A NEVER -- REALLY DIDN'T FOCUS ON ANYBODY ELSE.

5 Q OKAY. THANK YOU, MR. PERDUE.

6 MR. GASSER: VERY BRIEFLY, YOUR HONOR.

7 REDIRECT EXAMINATION BY MR. GASSER:

8 Q MANNY ---

9 A YES.

10 Q --- HAVE YOU EVER SEEN ANYBODY GET SHOT BEFORE?

11 A NEVER.

12 Q YOUR FRIEND PHILLIP LEE HAD A BULLET IN THE BACK OF
13 HIS HEAD; IS THAT CORRECT?

14 A EXACTLY.

15 Q YOU SAW THAT?

16 A YES.

17 Q YOU SAW HIS BODY LYING THERE?

18 MR. STRICKLER: I WOULD OBJECT TO THE LEADING.

19 Q DID YOU SEE HIS BODY LYING THERE?

20 A YES, I DID.

21 Q WERE YOU SCARED?

22 A YES, I WERE.

23 Q DO YOU REMEMBER IN, I BELIEVE, AT THE END OF THIS
24 TESTIMONY, WHEN THESE TWO LAWYERS WERE VIGOROUSLY ASKING
25 YOU QUESTIONS, I BELIEVE ONE OF YOUR RESPONSES WAS, "JAH

1 WAS STILL OUT THERE," HE HAD YOUR CELL PHONE NUMBER; DO
2 YOU REMEMBER THAT RESPONSE?

3 A YES.

4 MR. TAYLOR: OBJECTION TO THE LEADING AGAIN, YOUR
5 HONOR.

6 THE COURT: HE IS NOT LEADING THE WITNESS. HE'S
7 SIMPLY RETELLING THE TESTIMONY.

8 Q THEY WEREN'T APPREHENDED AT THE SCENE, WERE THEY?

9 A NO.

10 Q WHEN YOU MADE THE DECISION NEVER TO RETURN BACK TO
11 BENEDICT COLLEGE, EVEN THOUGH YOU WERE ENROLLED AND HAD
12 PAID YOUR TUITION, DID YOU CONSULT WITH YOUR FATHER ABOUT
13 THAT?

14 A YES, I DID.

15 Q AND AFTER SEEING YOUR FRIEND SHOT IN THE BACK OF
16 THE HEAD AND MADE YOUR DECISION WITH YOUR FATHER NOT TO
17 COME BACK AND RETURN TO COLUMBIA, WHY DID YOU AGREE TO
18 COME BACK HERE AND TESTIFY?

19 A BECAUSE MY FATHER AND MY COACH AT MY COLLEGE SAID
20 IF I HAD ANY INFORMATION IT WAS THE RIGHT THING TO DO.
21 OTHER THAN THAT, I WOULDN'T OF CAME.

22 MR. GASSER: THAT'S ALL I'VE GOT, YOUR HONOR.

23 THE COURT: ALL RIGHT, YOU CAN COME DOWN.

24 (THE WITNESS IS NOW EXCUSED FROM THE WITNESS
25 STAND.)

1 CALL YOUR NEXT WITNESS.

2 MR. HOOD: MAY IT PLEASE THE COURT, YOUR HONOR, THE
3 STATE CALLS LARRY MASON.

4 (LARRY WAYNE MASON, HAVING FIRST
5 BEEN DULY SWORN, TESTIFIED AS FOLLOWS:)

6 THE CLERK: PLEASE HAVE A SEAT THERE AND STATE YOUR
7 FULL NAME FOR THE RECORD.

8 MR.MASON: MY NAME IS LARRY WAYNE MASON.

9 DIRECT EXAMINATION BY MR. HOOD:

10 Q GOOD MORNING, MR. MASON.

11 A GOOD MORNING.

12 Q WOULD YOU PLEASE TELL US WHERE YOU WORK?

13 A I'M A LICENSED PRIVATE DETECTIVE HERE IN SOUTH
14 CAROLINA.

15 Q AND HOW LONG HAVE YOU BEEN A PRIVATE DETECTIVE OR
16 IS THAT ALSO KNOWN AS A PRIVATE INVESTIGATOR?

17 A YES.

18 Q HOW MANY YEARS HAVE YOU BEEN A PRIVATE
19 INVESTIGATOR?

20 A EIGHTEEN (18).

21 Q AND DO YOU HAVE TO GO THROUGH ANY QUALIFICATIONS TO
22 BE A PRIVATE INVESTIGATOR IN SOUTH CAROLINA?

23 A NO, SIR. BUT I HAVE A LAW ENFORCEMENT BACKGROUND.

24 Q AND CAN YOU PLEASE TELL THE JURY A LITTLE BIT ABOUT
25 YOUR BACKGROUND BEFORE YOU BECAME A PRIVATE INVESTIGATOR?

1 A YES. I RETIRED FROM THE ARMY IN 1984 AND I WAS A
2 U.S. ARMY CRIMINAL INVESTIGATOR, WHICH IS A SPECIAL AGENT
3 IN THE U.S. ARMY C.I.D.

4 Q NOW LET'S GO BACK TO THE NIGHT OF JANUARY THE 15TH
5 OF 2001. COULD YOU TELL US WHAT YOU WERE DOING ON THE
6 NIGHT OF JANUARY 15TH, 2001?

7 A I WAS VISITING A FRIEND ON HARRISON ROAD IN NORTH
8 COLUMBIA AND I LEFT THE FRIEND'S HOUSE AND WAS HEADED
9 TOWARD TWO NOTCH ROAD. AND AS I APPROACHED THE
10 INTERSECTION OF TWO NOTCH AND HARRISON ROAD, I HAD A
11 GREEN LIGHT. AND AS I WAS GETTING READY TO TURN RIGHT, A
12 CAR PASSED IN FRONT OF ME ON THE RED LIGHT AND I FOLLOWED
13 THE VEHICLE OUT NORTH.

14 Q JUST ONE MOMENT, SIR.

15 (PAUSE.)

16 MR. MASON, CAN YOU RECOGNIZE THIS DOCUMENT?

17 A I RECOGNIZE IT AS A MAP OF COLUMBIA, YES.

18 Q AND WOULD THIS AID AND ASSIST YOU IN YOUR TESTIMONY
19 IN FRONT OF THE JURY HERE TODAY?

20 A YES.

21 MR. HOOD: AT THIS TIME, YOUR HONOR, WE WOULD MOVE
22 THIS INTO EVIDENCE.

23 THE COURT: ANY OBJECTION?

24 MR. TAYLOR: NO OBJECTION.

25 MR. STRICKLER: NO, SIR.

1 (STATE'S EXHIBIT NUMBER FORTY-TWO, A MAP OF
2 COLUMBIA, SOUTH CAROLINA, IS NOW MARKED AND ENTERED INTO
3 EVIDENCE WITHOUT OBJECTION.)

4 Q MR. MASON, ARE YOU FAMILIAR WITH THE COLUMBIA AREA?

5 A YES, I AM.

6 Q IF YOU COULD STEP DOWN FROM THE WITNESS STAND FOR
7 JUST A MOMENT, SIR.

8 (THE WITNESS NOW LEAVES THE WITNESS STAND.)

9 AND IF YOU'LL STAND ON THIS SIDE SO THE COURT
10 REPORTER CAN HEAR YOU. AND WE HAVE TO MAKE SURE ALL THE
11 JURORS CAN SEE.

12 NOW USING THIS POINTER, CAN YOU SHOW US
13 APPROXIMATELY WHERE BENEDICT COLLEGE IS LOCATED ON THIS
14 MAP?

15 A RIGHT HERE.

16 Q AND CAN YOU SHOW US WHERE HARRISON ROAD IS?

17 A HARRISON ROAD IS HERE.

18 Q AND CAN YOU PLEASE GO THROUGH THE EVENTS ONE MORE
19 TIME OF WHAT YOU EXACTLY SAW?

20 A I WAS TRAVELLING ON HARRISON GOING THIS DIRECTION
21 TOWARD TWO NOTCH AND GETTING READY TO TURN RIGHT ONTO TWO
22 NOTCH. AND AS I WAS TURNING RIGHT ON THE GREEN LIGHT,
23 THERE WAS A CAR CAME ACROSS IN FRONT OF ME. AND I
24 NOTICED THAT THE PERSON IN THE CAR WAS ACTING A LITTLE
25 STRANGE, AND THAT THERE WAS THREE PEOPLE IN THE CAR, AND

1 I BEGAN TO TAKE NOTE OF IT AND FOLLOWED THE CAR ON DOWN
2 TO APPROXIMATELY DECKER BOULEVARD, WHICH IS IN NORTHEAST
3 COLUMBIA.

4 Q OKAY. CAN YOU DESCRIBE THE CAR THAT YOU FOLLOWED
5 THAT NIGHT FOR THE JURY?

6 A YES, SIR. IT WAS A GREEN MITSUBISHI GALANT.

7 Q AND AS HAVING AN INVESTIGATOR BACKGROUND AND
8 ACTUALLY BEING A PRIVATE INVESTIGATOR, WAS THERE ANYTHING
9 ABOUT THE CAR THAT YOU TOOK NOTICE OF?

10 A I NOTICED IT DID NOT HAVE A LICENSE PLATE. IT HAD
11 A PAPER TAG.

12 Q AND LET ME SHOW YOU -- AND WE WERE JUST REFERRING
13 TO STATE'S EXHIBIT NUMBER FORTY-TWO. LET ME SHOW YOU
14 WHAT'S BEEN MARKED STATE'S EXHIBIT NUMBER FORTY. DO YOU
15 RECOGNIZE THE VEHICLE THAT YOU SAW ON TWO NOTCH THAT
16 NIGHT?

17 A IT WOULD BE THIS VEHICLE, THIS GREEN MITSUBISHI
18 GALANT.

19 Q THANK YOU. YOU MAY SIT DOWN, RETURN TO YOUR SEAT.

20 (THE WITNESS NOW RETURNS TO THE WITNESS STAND.)

21 AS A RESULT OF NOTICING THIS VEHICLE TRAVELING DOWN
22 TWO NOTCH ROAD, WHAT DID YOU THEN DO, MR. MASON?

23 A I CALLED THE POLICE DEPARTMENT AND INFORMED THEM
24 THAT THERE WAS A SUSPICIOUS VEHICLE TRAVELING ON TWO
25 NOTCH ROAD AND PRETTY MUCH GAVE THEM A DESCRIPTION OF

1 WHAT WAS GOING ON.

2 Q AND DID YOU TALK TO INVESTIGATOR CARL KENLEY WITH
3 THE BENEDICT COLLEGE POLICE DEPARTMENT AND DESCRIBE THESE
4 EVENTS?

5 A I BELIEVE I DID SOMETIME LATER; I'M NOT SURE.

6 MR. HOOD: BEG THE COURT'S INDULGENCE, YOUR HONOR.

7 (PAUSE.)

8 THANK YOU, NOTHING FURTHER, YOUR HONOR.

9 THE COURT: ALL RIGHT, MR. STRICKLER.

10 MR. STRICKLER: BEG THE COURT'S INDULGENCE ONE
11 MOMENT, SIR.

12 (PAUSE.)

13 CROSS-EXAMINATION BY MR. STRICKLER:

14 Q ALL RIGHT, MR. MASON, YOU WERE ON WHAT ROAD, YOU
15 SAID?

16 A HARRISON ROAD.

17 Q HARRISON ROAD. AND THIS CAR, THIS GREEN GALANT,
18 WHAT, PULLED IN FRONT OF YOU?

19 A IT WENT THROUGH THE RED LIGHT ---

20 Q WENT THROUGH THE RED LIGHT.

21 A --- AT THE INTERSECTION.

22 Q HOW MANY PEOPLE WERE IN IT?

23 A I NOTICED THREE.

24 Q AND YOU FOLLOWED IT FOR APPROXIMATELY HOW LONG?

25 A I WOULD SAY NOT MORE THAN FIVE OR SIX MINUTES.

1 Q AND THEN YOU CONTACTED THE CITY OF COLUMBIA POLICE
2 DEPARTMENT?

3 A I'M NOT SURE IF I CONTACTED RICHLAND COUNTY OR THE
4 CITY OF COLUMBIA.

5 Q OKAY. EITHER?

6 A I PROBABLY CONTACTED RICHLAND COUNTY.

7 Q THAT'S FINE. WHAT, YOU DRIVE HOME AND THEN CALLED
8 THE COUNTY OR CALLED FROM YOUR CAR OR WHAT?

9 A NO. I HAVE A CELL PHONE IN THE CAR AND I USED THE
10 CELL PHONE.

11 Q CALLED THEM ON THE CELL PHONE. AND THEN YOU LATER
12 SPOKE WITH INVESTIGATOR KENLEY WITH BENEDICT COLLEGE
13 POLICE?

14 A I DON'T REMEMBER HIS NAME BUT I DID SPEAK TO
15 SOMEBODY ABOUT IT.

16 Q YOU SPOKE WITH SOMEONE WITH BENEDICT COLLEGE?

17 A I'M ASSUMING HE WAS WITH BENEDICT COLLEGE.

18 Q AND WAS THIS CONVERSATION CONDUCTED FACE TO FACE OR
19 OVER THE TELEPHONE?

20 A IT WAS OVER THE TELEPHONE.

21 Q SO THIS PERSON WITH WHATEVER INSTITUTION HE WAS
22 WITH CALLED YOU ON THE PHONE AND SPOKE WITH YOU?

23 A THAT'S CORRECT.

24 Q I'M SORRY, THIS IS HARRISON ROAD?

25 A THAT IS CORRECT.

- 1 Q YOU'RE HEADING TOWARDS TWO NOTCH?
- 2 A THAT'S CORRECT.
- 3 Q THE CAR WENT THROUGH THE STOPLIGHT AT TWO NOTCH?
- 4 A RIGHT.
- 5 Q RIGHT. AND YOU GOT BEHIND IT AND FOLLOWED IT TO
- 6 WHERE, DECKER?
- 7 A TO DECKER BOULEVARD.
- 8 Q ABOUT THEN?
- 9 A AND I TURNED RIGHT ON DECKER AND THE CAR WENT
- 10 STRAIGHT.
- 11 Q THE CAR WENT STRAIGHT. OKAY. AND WHEN WAS THIS?
- 12 A IT WAS APPROXIMATELY NINE-THIRTY AT NIGHT ON
- 13 JANUARY THE 15TH.
- 14 Q AND YOU CALLED EITHER THE CITY BUT MOST PROBABLY
- 15 THE SHERIFF'S DEPARTMENT REGARDING ---
- 16 A MORE THAN LIKELY. IT WAS IN THE COUNTY SO I
- 17 PROBABLY CALLED THE SHERIFF'S DEPARTMENT.
- 18 Q OKAY. ALL RIGHT, THANK YOU, MR. MASON.
- 19 THE COURT: MR. TAYLOR, HAVE YOU GOT ANY QUESTIONS?
- 20 MR. TAYLOR: YES, PLEASE, SIR, JUST A COUPLE.
- 21 CROSS-EXAMINATION BY MR. TAYLOR:
- 22 Q MR. MASON, YOU SAY IT WAS ABOUT NINE-THIRTY THAT
- 23 NIGHT?
- 24 A YES, SIR.
- 25 Q PERHAPS CLOSER TO TEN?

1 A IT WAS BETWEEN NINE-THIRTY AND TEN BUT I KNOW IT
2 WASN'T BEFORE NINE-THIRTY.

3 Q YOU DID NOT, OF COURSE, TALK TO ANYBODY IN THAT
4 CAR; CORRECT?

5 A NO, DID NOT.

6 Q YOU CAN'T IDENTIFY ANYONE WHO WAS IN THIS GREEN
7 GALANT THAT YOU SAW; IS THAT CORRECT?

8 A ONLY BY DESCRIPTION.

9 Q I'M SORRY, YOU CAN?

10 A ONLY BY DESCRIPTION.

11 Q BY DESCRIPTION ONLY. BUT YOU CANNOT IDENTIFY
12 ANYONE?

13 A RIGHT.

14 Q IT WAS DARK; RIGHT?

15 A YES.

16 Q YOU CERTAINLY DIDN'T HAVE ANY REGISTRATION NUMBER
17 OFF OF THE AUTOMOBILE OR ANYTHING OF THAT SORT; IS THAT
18 CORRECT?

19 A NO, SIR.

20 Q HOW MANY GREEN MITSUBISHI GALANTS DO YOU SUPPOSE
21 ARE IN THE MIDLANDS OF SOUTH CAROLINA?

22 A I WOULDN'T HAVE ANY IDEA BUT I'M SURE THERE'S A
23 NUMBER OF THEM.

24 Q PROBABLY A LOT OF THEM, DO YOU THINK?

25 A COULD BE.

1 Q WELL THEN HOW IS IT, SIR, THAT YOU'RE ABLE TO TELL
2 THIS JURY UNDER OATH, AS YOU DID A FEW MOMENTS AGO, THAT
3 THAT'S THE CAR YOU SAW?

4 A WELL, THAT'S THE CAR I SAW OR ONE SIMILAR TO THAT
5 ONE.

6 Q OR ONE SIMILAR TO THAT ONE?

7 A RIGHT.

8 Q THERE IS A DIFFERENCE, ISN'T THERE?

9 A YES, THERE IS.

10 Q YES, SIR.

11 THANK YOU, THAT'S ALL I HAVE.

12 MR. HOOD: NOTHING, YOUR HONOR.

13 THE COURT: ALL RIGHT, YOU CAN DOWN AND YOU'RE FREE
14 TO GO.

15 (THE WITNESS IS NOW EXCUSED FROM THE WITNESS
16 STAND.)

17 CALL YOUR NEXT WITNESS.

18 MR. HOOD: MAY IT PLEASE THE COURT, THE STATE CALLS
19 KERRY APPELATE.

20 THE BAILIFF: RIGHT HERE, SIR. PLACE YOUR LEFT
21 HAND ON THE BIBLE AND RAISE YOUR RIGHT HAND AND FACE THE
22 CLERK.

23 (KERRY GRANT APPELATE, HAVING
24 FIRST BEEN DULY SWORN, TESTIFIED AS FOLLOWS:)

25 THE CLERK: PLEASE HAVE A SEAT UP THERE, SIR, AND

1 STATE YOUR FULL NAME FOR THE RECORD.

2 MR. APPELATE: KERRY GRANT APPELATE.

3 DIRECT EXAMINATION BY MR. HOOD:

4 Q GOOD AFTERNOON, MR. APPELATE. WOULD YOU PLEASE
5 TELL THE JURY WHERE YOU WORK?

6 A TEMP AIR CONTROL SERVICE OUT BETWEEN IRMO AND
7 BALLENTINE.

8 Q AND WHAT STREET IS TEMPERATURE CONTROL SERVICE ON?

9 A FARMING CREEK DRIVE.

10 Q AND THE EXACT ADDRESS?

11 A 1020.

12 Q I SHOW YOU WHAT'S BEEN MARKED -- DO YOU RECOGNIZE
13 WHAT'S BEEN MARKED AS STATE'S EXHIBIT NUMBER FORTY-TWO?

14 A YES, I DO.

15 Q AND CAN YOU POINT OUT FARMING CREEK ROAD FOR THE
16 JURY?

17 A (THE WITNESS COMPLIES.)

18 Q MR. APPELATE, ABOUT WHAT TIME OF THE MORNING DO
19 YOU USUALLY GET TO WORK?

20 A NORMALLY RIGHT AROUND SEVEN.

21 Q AND WHAT DO YOU ACTUALLY DO AT TEMPERATURE CONTROL
22 SERVICES?

23 A I'M THE SERVICE MANAGER.

24 Q AND ON THE MORNING OF JANUARY THE 17TH, 2001, DID
25 YOU COME TO WORK AS NORMAL?

1 A YES, I DID.

2 Q AND WHAT WAS OUT OF THE ORDINARY?

3 A THERE WAS A CAR PARKED IN OUR DRIVEWAY, NOSED INTO
4 THE WOODS, WALKING ABOUT HALF OF IT.

5 Q AND WHY DID THIS CAR DRAW ATTENTION TO YOU?

6 A WELL, THERE'S NOTHING EVER PARKED OUT THERE. AND
7 IT WAS A -- THAT'S IT, IT WAS JUST PARKED IN OUR
8 DRIVEWAY. OUR DRIVEWAY IS ABOUT A THOUSAND FEET LONG
9 MAYBE.

10 Q CAN YOU DESCRIBE THE AREA SURROUNDING FARMING CREEK
11 ROAD? IS IT RURAL? METRO?

12 A RURAL. WOODS ON ONE SIDE OF OUR DRIVEWAY AND THE
13 RAILROAD TRACKS ON THE OTHER SIDE.

14 Q WOULD YOU SAY IT'S KIND OF OUT IN THE COUNTRY?

15 A YES.

16 Q NOW UPON FINDING THIS CAR ON THE MORNING OF JANUARY
17 17TH, 2001, WHAT DID YOU DO? WHO DID YOU CONTACT?

18 A WELL, I -- AFTER EIGHT -- I WAITED UNTIL THE
19 OFFICER MANAGER GOT IN, AND THEN WE CALLED RICHLAND
20 COUNTY.

21 Q AND DID OFFICERS RESPOND FROM THE RICHLAND COUNTY
22 SHERIFF'S DEPARTMENT?

23 A ONE DID, YES.

24 Q AND WHAT DID THE OFFICER OR THE DEPUTY THAT
25 RESPONDED FROM RICHLAND COUNTY SHERIFF'S DEPARTMENT --

1 BACK THAT UP JUST ONE SECOND.

2 CAN YOU DESCRIBE THE CAR THAT YOU SAW OUT THERE
3 THAT MORNING?

4 A IT WAS A GALANT, MITSUBISHI GALANT, GREEN, BLUISH-
5 GREEN TO ME.

6 Q REFERRING TO STATE'S EXHIBIT NUMBER FORTY, IS THE
7 CAR IN THIS PICTURE SIMILAR TO THE CAR THAT YOU SAW OUT
8 THERE THAT DAY?

9 A YES, IT IS.

10 Q AND AS A RESULT OF WHAT THE DEPUTY TOLD YOU -- AND
11 YOU CAN'T SAY WHAT THE DEPUTY TOLD YOU -- DID YOU IN FACT
12 HAVE THE CAR TOWED THAT DAY?

13 A NO, WE DIDN'T.

14 Q DID YOU HAVE THE CAR TOWED THE NEXT DAY?

15 A WE NEVER HAD THE CAR TOWED.

16 Q LATER ON THAT DAY, MR. APPELATE, DID YOU HAVE A
17 CHANCE, AS YOU PROBABLY USUALLY DO AT WORK, READ THE
18 NEWSPAPER?

19 A YES, WE DID.

20 Q AND UPON READING THE NEWSPAPER, NOT SAYING WHAT YOU
21 READ IN THE NEWSPAPER, CAN YOU TELL THE JURY WHAT YOU DID
22 THE NEXT DAY, ON JANUARY THE 18TH, 2001?

23 A WOULD YOU REPEAT THAT?

24 Q AFTER YOU READ THE NEWSPAPER AT WORK, WHAT DID YOU
25 DO THE NEXT DAY?

1 A WELL, WE CALLED BACK TO RICHLAND COUNTY BECAUSE WE
2 READ IN THE PAPER THAT THE VEHICLE -- OR WE READ IN THE
3 PAPER ABOUT A VEHICLE, A MITSUBISHI GALANT, BASICALLY THE
4 SAME COLOR, WAS BEING LOOKED FOR IN RELATION TO WHAT
5 HAPPENED AT BENEDICT COLLEGE. AND WE CALLED THEM BACK
6 AND WE TOLD THEM THAT -- I CALLED THEM BACK AND TOLD THAT
7 POSSIBLY THIS WAS THE VEHICLE, THE SAME MAKE, THE SAME
8 COLOR, AND HAD A PAPER TAG ON IT.

9 Q THE NEXT DAY DID ANOTHER DEPUTY FROM THE RICHLAND
10 COUNTY SHERIFF'S DEPARTMENT COME OUT TO 1020 FARMING
11 CREEK ROAD?

12 A YES.

13 Q AND DID EVENTUALLY OFFICERS FROM THE COLUMBIA
14 POLICE DEPARTMENT COME OUT TO FARMING CREEK ROAD?

15 A YES.

16 Q DO YOU REMEMBER THE PAPER TAG THAT WAS ON THE CAR,
17 MR. APPELGATE?

18 A I REMEMBER WHAT IT SAID.

19 Q WHAT DID IT SAY?

20 A "A. AND K." IT WAS A USED CAR DEALER DOWN ON MAIN,
21 I BELIEVE.

22 Q DO YOU RECOGNIZE WHAT'S BEEN MARKED AS STATE'S
23 EXHIBIT NUMBER FORTY-ONE?

24 A YES.

25 Q AND IS STATE'S EXHIBIT NUMBER FORTY-ONE WHAT WAS ON

1 THE BACK OF THE GREEN GALANT PARKED IN FRONT OF YOUR
2 BUSINESS ON FARMING CREEK ROAD?

3 A WELL, THAT'S THE -- THAT'S WHAT IT LOOKED LIKE.

4 Q IS IT SIMILAR TO THE ONE THAT WAS PARKED, THIS WHAT
5 IT LOOKED LIKE?

6 A YES.

7 MR. HOOD: BEG THE COURT'S INDULGENCE, YOUR HONOR.

8 (PAUSE.)

9 Q THANK YOU, MR. APPELATE. NO FURTHER QUESTIONS.

10 A OKAY.

11 THE COURT: ALL RIGHT, MR. STRICKLER.

12 MR. STRICKLER: JUST A COUPLE THINGS.

13 CROSS-EXAMINATION BY MR. STRICKLER:

14 Q MR. APPELATE, GOOD MORNING.

15 A MORNING.

16 Q EXCUSE ME, GOOD AFTERNOON.

17 YOU FIRST NOTICED THE CAR WHEN YOU CAME TO WORK THE
18 MORNING OF THE 17TH; IS THAT CORRECT?

19 A I -- THE DAY THAT WE CALLED, I COULDN'T TELL YOU
20 THE DATE, THE MORNING THAT WE CALLED RICHLAND COUNTY.

21 Q OKAY. AND RICHLAND COUNTY CAME OUT. AND THEN YOU
22 CALLED THEM AGAIN THE NEXT DAY AND THEN THEY CAME OUT AND
23 TOWED THE CAR?

24 A NO. ACTUALLY WE CALLED THEM AGAIN THE SAME DAY
25 ABOUT THE ARTICLE IN THE PAPER. THE NEXT MORNING AN

1 OFFICER CAME BACK OUT AGAIN.

2 Q OKAY. OKAY. SO YOU CALLED THEM, SOMEONE CAME OUT;
3 RIGHT?

4 A YES.

5 Q THEN YOU CALLED AGAIN LATER ON THAT DAY, AFTER
6 SEEING SOMETHING IN THE PAPER; RIGHT?

7 A RIGHT.

8 Q AND IT WAS THE NEXT MORNING WHEN THE SHERIFF'S
9 DEPARTMENT ---

10 A THE OFFICER ---

11 Q --- CAME BACK OUT?

12 A YES.

13 Q OKAY.

14 A HE MADE SOME CALLS FROM OUR OFFICE.

15 Q AND IT WAS THAT NEXT DAY THAT CAR ENDED UP BEING
16 TOWED FROM THE PROPERTY; CORRECT? THE SAME ---

17 A I WASN'T THERE WHEN THE CAR WAS TOWED.

18 Q OKAY. THAT'S FINE.

19 SO MY QUESTION IS, WHEN YOU FIRST NOTICED IT, OKAY,
20 WHAT TIME OF DAY WAS THAT? WHAT TIME WERE YOU GETTING TO
21 WORK AT?

22 A SEVEN IN THE MORNING.

23 Q SEVEN A.M.

24 AND HAD YOU WORKED THE DAY BEFORE THAT?

25 A YES.

1 Q AND WHAT TIME DO YOU GET OFF WORK?

2 A WHEN MY DAY IS DONE. I DON'T HAVE ANY SET HOURS.

3 Q DO YOU HAVE ANY IDEA WHAT TIME YOU GOT OFF WORK THE
4 DAY BEFORE THAT?

5 A BEFORE IT GOT DARK.

6 Q BEFORE IT GOT DARK.

7 A USUALLY THIS TIME OF -- IN THE COLD TIME OF THE
8 YEAR, I'M THERE TILL SIX OR SEVEN.

9 Q OKAY. AND WHEN YOU GOT OFF WORK THAT DAY BEFORE --
10 EXCUSE ME. WHEN YOU GOT OFF WORK THAT DAY BEFORE, YOU
11 DID NOT NOTICE THE CAR; CORRECT?

12 A CORRECT.

13 Q WOULDN'T YOU THINK YOU WOULD HAVE NOTICED IT WHEN
14 YOU LEFT?

15 A YOU COULDN'T MISS IT.

16 Q OKAY. GOOD ENOUGH.

17 SO THAT CAR ARRIVED SOMETIME BETWEEN THE TIME THAT
18 YOU GOT OFF WORK THE DAY BEFORE YOU FIRST CONTACTED THE
19 POLICE, AND SEVEN O'CLOCK THE MORNING WHEN YOU CAME IN;
20 RIGHT?

21 A YES.

22 Q THANK YOU.

23 THE COURT: MR. TAYLOR.

24 CROSS-EXAMINATION BY MR. TAYLOR:

25 Q MR. APPELATE, JUST A COUPLE OF QUESTIONS. DO YOU

1 KNOW JIM McNAUGHTON?

2 A YES, I DO.

3 Q WHO IS MR. McNAUGHTON?

4 A HE OWNS THE COMPANY I WORK FOR.

5 Q ALL RIGHT. AND DO THEY HAVE ANY KIND OF RELIGIOUS
6 SERVICES THERE WHERE YOU WORK?

7 A YES, THEY DO.

8 Q AND WHAT DAY OF THE WEEK ARE THOSE HELD?

9 A I DON'T KNOW. I CAN'T ANSWER THAT.

10 Q YOU DO NOT KNOW?

11 A NO.

12 Q YOU DON'T KNOW WHAT DAY THEY WERE HELD BACK THEN?

13 A NO.

14 Q ALL RIGHT. WELL IF THIS INCIDENT OCCURRED ON
15 MONDAY THE 15TH, WOULD THAT HELP YOU AT ALL TO FIGURE OUT
16 WHAT DAY IT WAS THAT YOU FIRST SAW THE CAR?

17 A NO.

18 Q OKAY. WELL, THANK YOU FOR COMING.

19 THE COURT: ANYTHING ELSE, MR. HOOD.

20 MR. HOOD: NO, SIR, YOUR HONOR.

21 THE COURT: ALL RIGHT, THANK YOU VERY MUCH. YOU'RE
22 FREE TO GO.

23 (THE WITNESS IS NOW EXCUSED FROM THE WITNESS
24 STAND.)

25 CALL YOUR NEXT WITNESS.

1 MR. HOOD: THE STATE CALLS KEVIN PATE.

2 (KEVIN LYONS PATE, HAVING FIRST
3 BEEN DULY SWORN, TESTIFIED AS FOLLOWS:)

4 THE CLERK: PLEASE HAVE A SEAT HERE, STATE YOUR
5 FULL NAME FOR THE RECORD.

6 MR. PATE: MY NAME IS KEVIN LYONS PATE.

7 DIRECT EXAMINATION BY MR. HOOD:

8 Q DEPUTY PATE, GOOD AFTERNOON.

9 A AFTERNOON.

10 Q COULD YOU PLEASE TELL THE JURY WHERE YOU ARE
11 CURRENTLY EMPLOYED?

12 A RICHLAND COUNTY SHERIFF'S DEPARTMENT.

13 Q AND HOW LONG HAVE YOU BEEN WITH THE RICHLAND COUNTY
14 SHERIFF'S DEPARTMENT?

15 A A LITTLE OVER THREE YEARS.

16 Q AND HOW MANY YEARS OF TOTAL LAW ENFORCEMENT
17 EXPERIENCE DO YOU HAVE?

18 A A LITTLE OVER FIVE.

19 Q ON THE MORNING OF JANUARY 17TH, 2001 ---

20 BEFORE WE GET TO THAT, COULD YOU PLEASE TELL THE
21 JURY WHAT YOUR CURRENT DUTIES AND RESPONSIBILITIES ARE AT
22 THE RICHLAND COUNTY SHERIFF'S DEPARTMENT?

23 A I WORK AS A PATROL OFFICER, MASTER DEPUTY, I'M
24 SUPERVISOR IN REGION FOUR AREA IN RICHLAND COUNTY
25 JURISDICTION.

1 Q AND CAN YOU TELL US THE GENERAL IDEA OF WHERE THE
2 REGION FOUR AREA ENCOMPASSES?

3 A IT RUNS ALL THE WAY FROM RIVER DRIVE, RIGHT AT THE
4 CITY LIMITS OF RIVER DRIVE, ALL THE WAY TO THE NEWBERRY
5 AND LEXINGTON COUNTY LINES.

6 Q A PRETTY BIG AREA?

7 A YEAH. ALL THE WAY TO BROAD RIVER, IT GOES ALL THE
8 WAY OUT TO NEWBERRY COUNTY.

9 Q AND WOULD YOU TELL US WHAT YOUR DUTIES AND
10 RESPONSIBILITIES WERE ON JANUARY -- IN JANUARY OF 2001?

11 A ROAD DEPUTY, WORKING THE ROAD, ANSWERING CALLS FOR
12 SERVICE.

13 Q SO IF SOMEONE CALLED THE SHERIFF'S DEPARTMENT AND
14 SAID "THERE'S AN INCIDENT GOING ON," OR "I HAVE SOMETHING
15 TO REPORT," AND IT REQUIRES A DEPUTY TO BE SENT OUT TO
16 THE SCENE TO DEAL WITH THAT PERSON, ARE YOU THE TYPE OF
17 PERSON THAT WOULD HAVE BEEN SENT?

18 A I WOULD BE.

19 Q OKAY. DO YOU RECOGNIZE WHAT'S MARKED AS STATE'S
20 EXHIBIT NUMBER FORTY-TWO?

21 A LOOKS LIKE A DESCRIPTION OF -- IT'S PART OF OUR
22 JURISDICTION, AND IT'S COLUMBIA AREA, INCLUDING THE IRMO
23 AREA, AND BALLENTINE.

24 Q ON THE MORNING OF JANUARY 17TH, 2001, DID YOU GET A
25 CALL FROM DISPATCH TO GO TO FARMING CREEK ROAD?

1 A I DID.

2 Q OKAY. AND CAN YOU TELL THE JURY WHERE FARMING
3 CREEK ROAD IS?

4 A IT'S RIGHT HERE, OFF OF BROAD RIVER ROAD.

5 Q HOW CLOSE IS IT TO BALLENTINE?

6 A PROBABLY A MILE-AND-A-HALF, IF THAT.

7 Q FROM BALLENTINE?

8 A YEAH, IT'S NOT FAR AT ALL FROM BALLENTINE.

9 Q CAN YOU DESCRIBE THE GENERAL AREA OF FARMING CREEK
10 ROAD? WHAT'S THE SURROUNDING AREA LIKE?

11 A THE SURROUNDING AREA IS VERY RURAL. I MEAN,
12 THERE'S SOME HOUSES ON FARMING CREEK ROAD BUT IT'S A LOT
13 OF WOODED AREAS. IT'S NOT A BUSINESS TYPE AREA, REALLY.

14 Q NOW WHEN YOU RESPONDED TO 1020 FARMING CREEK ROAD,
15 WHO DID YOU MEET?

16 A WHEN I FIRST ARRIVED AT THAT LOCATION I WENT AHEAD
17 AND MADE CONTACT WITH THE VEHICLE THAT WAS IN QUESTION
18 BECAUSE I'D RECEIVED A CALL ABOUT A SUSPICIOUS VEHICLE.

19 Q OKAY. CAN YOU DESCRIBE THAT VEHICLE TO THE JURY?

20 A YEAH, IT WAS A GREEN COLOR MITSUBISHI.

21 Q DO YOU KNOW THE MAKE OF THE CAR?

22 A I BELIEVE IT WAS A GALANT.

23 Q I'M SHOWING YOU WHAT'S BEEN MARKED AS STATE'S
24 EXHIBIT NUMBER FORTY. IS THE CAR IN THE PICTURE SIMILAR
25 TO THE CAR THAT WAS ON 1020 FARMING CREEK ROAD?

1 A IT IS.

2 Q DID YOU NOTICE ANYTHING ABOUT THIS VEHICLE?

3 A I NOTICED THE ODD WAY THAT IT WAS PARKED IN THE
4 DRIVE. IT WAS LIKE SOMEBODY WENT HEAD-ON INTO THE --
5 ALMOST LIKE THEY STARTED INTO THE DRIVEWAY, AND THEN THEY
6 WENT OFF TO THE LEFT, TOWARDS THE WOOD LINE. IT WAS
7 POINTING INTO THE WOOD LINE.

8 Q AND DID YOU NOTICE THE TAG ON THIS VEHICLE?

9 A IT WAS A PAPER TAG.

10 Q CAN YOU DESCRIBE THE PAPER TAG?

11 A WHITE PAPER TAG WITH RED WRITING ON IT.

12 Q DO YOU KNOW WHAT IT SAID?

13 A IT HAD AN AUTO DEALERSHIP ON IT.

14 Q LET ME SHOW YOU WHAT'S BEEN MARKED AS STATE'S
15 NUMBER FORTY-ONE -- STATE'S EXHIBIT NUMBER FORTY-ONE. DO
16 YOU RECOGNIZE THIS TAG?

17 A THAT IS SIMILAR TO THE TAG THAT WAS ON THE VEHICLE.

18 Q OKAY. AND THIS TAG SAYS OF COURSE ---

19 A "A. AND K. AUTO SALES."

20 Q --- "A. AND K. AUTO TAG."

21 THAT DAY DID YOU ATTEMPT TO TOW THE VEHICLE?

22 A NO, I DIDN'T. BECAUSE WHEN I RAN THE V.I.N.,
23 BECAUSE THERE WAS NO SOUTH CAROLINA REGISTRATION ON THE
24 VEHICLE, THE V.I.N. CAME BACK CLEAR, AND MEANING THAT IT
25 WASN'T -- THE VEHICLE WAS CLEAR, IT WASN'T STOLEN, AND

1 THE VEHICLE WAS CURRENTLY PARKED ON PRIVATE PROPERTY.
2 AND OUR POLICY IS THAT WE DO NOT TOW OFF OF PRIVATE
3 PROPERTY.

4 Q SO ON THE MORNING OF JANUARY 17TH, 2001, WHEN YOU
5 RESPONDED TO 1020 FARMING CREEK ROAD, WAS THE CAR
6 REPORTED STOLEN OR WAS IT NOT?

7 A IT WAS NOT.

8 Q SO THEREFORE, SINCE THE CAR WAS NOT REPORTED STOLEN
9 AND WAS ON PRIVATE PROPERTY, IS THE SHERIFF'S DEPARTMENT
10 ALLOWED TO TOW THAT VEHICLE?

11 A NO, WE DO NOT.

12 Q WHAT ARE YOU ALLOWED TO DO?

13 A WE ARE ALLOWED TO ADVISE THE OWNER OF THE PROPERTY
14 WHAT STEPS OR MEASURES THEY CAN TAKE IF THEY WANT TO
15 REMOVE THE VEHICLE FROM THEIR PROPERTY.

16 Q DID YOU REMOVE ANYTHING FROM THE VEHICLE THAT DAY?

17 A I DID.

18 Q AND WHAT DID YOU REMOVE?

19 A I TOOK THE PAPER TAG OFF THE VEHICLE.

20 Q AND WHAT DID YOU DO WITH THE PAPER TAG?

21 A PUT THE PAPER TAG IN THE BACK OF MY CAR, IN MY
22 TRUNK.

23 Q AND DID THE PAPER TAG STAY WITH YOU THE ENTIRE
24 TIME?

25 A IT WAS IN THE BACK OF MY TRUNK, IN MY CAR.

1 Q DOES ANYONE ELSE HAVE ACCESS TO THE TRUNK OF YOUR
2 CAR?

3 A THEY DO NOT.

4 Q WILL YOU TELL THE JURY WHY YOU TOOK THE PAPER TAG?

5 A I TOOK THE PAPER TAG OFF THE CAR BECAUSE SOMETIMES
6 WHEN YOU HAVE VEHICLES THAT ARE ABANDONED, UNSCRUPULOUS
7 PERSONS MIGHT COME ALONG AND REMOVE THAT TAG AND PLACE IT
8 ON THEIR CAR. IF THEIR CAR IS NOT REGISTERED OR IF
9 THERE'S SOMETHING WRONG WITH THEIR CAR, THEY'LL PUT IT ON
10 THE BACK OF THEIR CAR. BECAUSE IT'S HARD TO CHECK WITH A
11 PAPER TAG TO SEE IF I COULD -- YOU KNOW, WHEN THE VEHICLE
12 WAS PURCHASED, IF IT'S INSURED, OR THINGS OF THAT NATURE.

13 Q DEPUTY PATE, DID YOU DO A REPORT ON THIS INCIDENT?

14 A NO, I DID NOT.

15 Q AND WHY NOT?

16 A THERE WAS NO CAUSE TO. THE VEHICLE WAS NOT AT THAT
17 TIME REPORTED TO BE STOLEN. AND I ADVISED THE OWNER OR
18 THE EMPLOYEE OF THE BUSINESS WHAT STEPS THEY COULD TAKE
19 TO REMOVE THE CAR FROM THE PROPERTY. THERE'S NO NEED FOR
20 A REPORT AT THAT POINT IN TIME.

21 Q THANK YOU. EVENTUALLY DID AN INVESTIGATOR WITH THE
22 COLUMBIA POLICE DEPARTMENT COME TO VISIT YOU AT THE
23 REGION FOUR HEADQUARTERS?

24 A THE NEXT DAY.

25 Q AND DID YOU KNOW WHO THAT DEPUTY WAS?

1 A IT WAS AN OFFICER, IT WAS AN INVESTIGATOR.

2 Q INVESTIGATOR?

3 A WITH THE COLUMBIA POLICE DEPARTMENT.

4 Q AND AT THAT TIME DID THAT INVESTIGATOR TAKE THE TAG
5 FROM YOU?

6 A HE DID.

7 Q OKAY.

8 NO FURTHER QUESTIONS, YOUR HONOR.

9 THE COURT: ALL RIGHT, MR. STRICKLER, ANY
10 QUESTIONS?

11 MR. STRICKLER: NO, SIR, NO QUESTIONS. THANK YOU,
12 SIR.

13 THE COURT: MR. TAYLOR?

14 MR. TAYLOR: YES.

15 CROSS-EXAMINATION BY MR. TAYLOR:

16 Q DEPUTY TATE, THE MORNING THAT YOU ---

17 A PATE. P-A-T-E.

18 Q PATE?

19 A PATE. YES, SIR. IT'S OFTEN, I GET THAT OFTEN,
20 QUITE A BIT.

21 Q ALL RIGHT, I'M SORRY.

22 A THAT'S QUITE ALL RIGHT.

23 Q THIS WAS THE MORNING OF JANUARY THE 17TH?

24 A YES, SIR.

25 Q IS THAT CORRECT?

1 A YES, SIR.

2 Q NOT THE 16TH, BUT THE 17TH?

3 A THE MORNING THAT I RESPONDED WAS THE MORNING THAT
4 THE BUSINESS OWNER ON FARMING CREEK ROAD CALLED IN
5 REFERENCE TO A SUSPICIOUS VEHICLE FACED IN ON THEIR
6 PROPERTY IN THEIR DRIVEWAY AREA.

7 Q ALL RIGHT, IT WAS ON THE 17TH OF JANUARY?

8 A I BELIEVE THAT'S CORRECT.

9 Q THANK YOU, SIR. THAT'S ALL.

10 THE COURT: ALL RIGHT. YOU CAN COME DOWN.

11 (THE WITNESS IS NOW EXCUSED FROM THE WITNESS
12 STAND.)

13 MR. HOOD: YOUR HONOR, THE STATE CALLS INVESTIGATOR
14 J.P. SMITH.

15 (JOE PHILLIP SMITH, HAVING FIRST
16 BEEN DULY SWORN, TESTIFIED AS FOLLOWS:)

17 THE CLERK: PLEASE HAVE A SEAT AND STATE YOUR FULL
18 NAME FOR THE RECORD.

19 MR. SMITH: I'M JOE PHILLIP SMITH.

20 DIRECT EXAMINATION BY MR. HOOD:

21 Q INVESTIGATOR SMITH, GOOD AFTERNOON.

22 A GOOD AFTERNOON.

23 Q WOULD YOU PLEASE TELL US WHERE YOU ARE CURRENTLY
24 EMPLOYED?

25 A COLUMBIA POLICE DEPARTMENT.

1 Q HOW LONG HAVE YOU BEEN WITH THE COLUMBIA POLICE
2 DEPARTMENT?

3 A THIS JUNE IT WILL BE NINETEEN YEARS.

4 Q WHAT ARE YOUR CURRENT DUTIES WITH THE COLUMBIA
5 POLICE DEPARTMENT?

6 A I'M CURRENTLY ASSIGNED TO THE INVESTIGATION
7 DIVISION FOR THE MAJOR CRIME UNIT.

8 Q NOW THE MAJOR CRIME UNIT, TELL US A LITTLE BIT
9 ABOUT THE MAJOR CRIME UNIT AT THE COLUMBIA POLICE
10 DEPARTMENT, HOW IS IT DIVIDED?

11 A THE UNIT IS DIVIDED INTO TWO TEAMS. THERE'S FOUR
12 INVESTIGATORS ON EACH TEAM WITH TWO SERGEANTS. WE HANDLE
13 ALL THE VIOLENT CRIMES AGAINST PERSONS: ROBBERIES,
14 SEXUAL ASSAULTS, HOMICIDES, ANY TYPE OF DEATH CALL WE
15 WILL RESPOND TO IT.

16 Q BACK IN JANUARY OF 2001, WERE YOU A MAJOR CRIMES
17 INVESTIGATOR?

18 A YES, I WAS.

19 Q AND WERE YOU AWARE OF THE EVENTS THAT OCCURRED ON
20 JANUARY THE 15TH, 2001, AT BENEDICT COLLEGE?

21 A YES, I WAS.

22 Q AND HOW DID YOU BECOME INVOLVED IN THE
23 INVESTIGATION?

24 A THE DAY THAT I WENT TO WORK ON THE 16TH MY
25 SUPERIORS CAME TO ME AND ASKED ME TO MAKE CONTACT WITH

1 BENEDICT, JUST TO SEE IF THEY NEEDED ANY ASSISTANCE ON
2 THEIR INVESTIGATION.

3 Q AND AS A RESULT OF THAT CONTACT, WHAT WAS THE FIRST
4 THING YOU ACTUALLY DID INVOLVING THIS INVESTIGATION?

5 A I WENT AND MET WITH SERGEANT KENLEY AT BENEDICT.

6 Q AND BASED ON YOUR MEETING WITH SERGEANT KENLEY,
7 WHAT ENDED UP HAPPENING?

8 A HE BRIEFED ME ON WHAT HE HAD. AS A RESULT I WENT
9 TO ONE OF THE BUSINESSES IN OUR JURISDICTION.

10 Q AND THE BUSINESS, WHAT BUSINESS WAS THAT?

11 A IT WAS THE A. AND K. AUTO SALES.

12 Q AND WHY DID YOU GO TO A. AND K.?

13 A FROM THE INFORMATION I RECEIVED FROM SERGEANT
14 KENLEY, I WENT TO TRY TO FIND THE OWNERSHIP OF A SPECIFIC
15 VEHICLE THAT HE HAD BRIEFED ME ABOUT.

16 Q AND WHAT TYPE OF VEHICLE WAS THAT?

17 A THAT WAS A MITSUBISHI GALANT.

18 Q AND DO YOU KNOW THE COLOR?

19 A IT WAS A GREEN COLOR.

20 Q DID YOU ACTUALLY MEET WITH THE PEOPLE AT A. AND K.?

21 A YES. I MET WITH ONE OF THE, IF I'M NOT MISTAKEN,
22 ONE OF THE MANAGERS OR ONE OF THE OWNERS OF A. AND K.

23 Q AND DID THE INDIVIDUALS FROM A. AND K., DID THEY
24 GIVE YOU PAPER WORK CONCERNING THAT VEHICLE?

25 A YES. IT SEEMS TO ME HE GAVE ME LIKE A BILL OF SALE

1 TO THAT VEHICLE.

2 Q NOW WHAT WAS THE NEXT STEP THAT YOU TOOK IN THE
3 INVESTIGATION OF THE CAR, THE INVESTIGATION OF THIS
4 CRIME?

5 A I REFERRED THE INFORMATION BACK TO SERGEANT KENLEY
6 WITH BENEDICT.

7 Q AND A COUPLE DAYS LATER DID YOU HAVE A CHANCE TO
8 BECOME INVOLVED WITH THE CAR BEING OUT ON FARMING CREEK
9 ROAD?

10 A YES, SIR. I WAS WORKING AND OUR DISPATCHERS CALLED
11 ME, I WAS ONE OF THE ON-DUTY INVESTIGATORS, AND THEY
12 STATED THAT THE RICHLAND COUNTY DEPUTY WAS OUT WITH THE
13 VEHICLE THAT WAS FITTING THE DESCRIPTION FROM THE
14 BENEDICT INCIDENT.

15 Q DID YOU GO OUT TO THAT INCIDENT LOCATION?

16 A YES. I WENT OUT THERE.

17 Q AND WHAT DID YOU FIND WHEN YOU CAME UPON THAT
18 SCENE?

19 A I MET WITH THE DEPUTY OUT THERE. AND WHEN I GOT
20 THERE IT WAS A GREEN MITSUBISHI GALANT PARKED OFF THE
21 DIRT ROAD, FACING TOWARDS THE WOODS, LIKE IT WAS GOING
22 INTO THE WOODS.

23 Q DID THIS CAR MEET THE DESCRIPTION OF THE CAR THAT
24 Y'ALL HAD INVOLVED IN THIS BENEDICT COLLEGE HOMICIDE?

25 A YES, IT DID.

1 Q LET ME SHOW YOU WHAT'S BEEN MARKED AS STATE'S
2 EXHIBIT NUMBER FORTY. IS THE GREEN GALANT IN THIS
3 PICTURE SIMILAR TO THE CAR THAT YOU SAW OUT THERE ON
4 FARMING CREEK ROAD?

5 A YES, IT IS.

6 Q AS A RESULT OF FINDING THE CAR ON FARMING CREEK
7 ROAD, WHAT DID YOU DECIDE TO DO?

8 A I DECIDED TO HAVE THE CAR TOWED.

9 Q OKAY. AND DID YOU IN FACT OR DID SOMEONE UNDER
10 YOUR CONTROL FILL OUT A TOW REPORT?

11 A YES.

12 Q FOR THIS VEHICLE?

13 A YES.

14 Q AND DO YOU HAVE A COPY OF THAT?

15 A I THINK I DO. YES, I HAVE A COPY OF IT.

16 Q DO YOU RECOGNIZE THIS TOW REPORT, INVESTIGATOR
17 SMITH?

18 A YES, I DO.

19 MR. HOOD: AT THIS TIME, YOUR HONOR, WE'D HAVE THIS
20 MOVED INTO EVIDENCE.

21 MR. STRICKLER: WITHOUT OBJECTION FROM LUCIUS
22 STATEN.

23 MR. TAYLOR: WITHOUT OBJECTION FROM DUSHUN STATEN,
24 YOUR HONOR.

25 (STATE'S EXHIBIT NUMBER FORTY-THREE, TOW REPORT ON

1 THE MITSUBISHI GALANT, IS NOW MARKED AND ENTERED INTO
2 EVIDENCE WITHOUT OBJECTION.)

3 Q INVESTIGATOR SMITH, UPON TOWING THIS VEHICLE, OR
4 WHEN YOU HAVE ANY VEHICLE TOWED, IS THERE CERTAIN
5 INFORMATION THAT IS CRUCIAL TO TOWING A VEHICLE?

6 A YES. WE WOULD NOTATE THE COLOR, THE V.I.N., IF
7 THERE'S A TAG ON THE VEHICLE, AND ALSO IF THERE ARE ANY
8 DAMAGES ON THE VEHICLE.

9 Q OKAY. AND YOU NOTE THE MAKE OF THIS VEHICLE FROM
10 THE REPORT?

11 A THIS WOULD HAVE BEEN A '94 MITSUBISHI GALANT.

12 Q DO YOU ALSO TAKE DOWN THE VIN NUMBER?

13 A YES, WE DO.

14 Q WHY DO YOU TAKE THIS DOWN?

15 A FOR THE DOCUMENTATION SO WE'LL KNOW WHICH CAR WAS
16 TOWED WHERE.

17 Q REFERRING TO STATE'S EXHIBIT NUMBER FORTY-THREE,
18 CAN YOU PLEASE READ THE VIN NUMBER ON THE 1994 GREEN
19 MITSUBISHI GALANT YOU TOWED THAT DAY?

20 A IT WAS 4 - A, AS IN ADAM - 3 - A, AS IN ADAM - AND
21 J, JOHN - 5 - 6 - G, GEORGE - 1 - R, ROBERT - E, EDWARD -
22 0 - 1 - 7 - 4 - 9 - 9.

23 Q CAN YOU LOOK AT STATE'S EXHIBIT NUMBER FORTY-THREE
24 AND TELL US WHAT TAG NUMBER WAS ON THAT VEHICLE?

25 A THERE WAS NO TAG.

1 Q AS A RESULT OF A CONVERSATION YOU HAD WITH DEPUTY
2 SWICEGOOD, HOW WAS THE TAG RECEIVED? OR HOW DID YOU
3 OBTAIN THE TAG?

4 A I HAD TO GO MEET WITH ANOTHER DEPUTY AT RICHLAND
5 COUNTY REGION FOUR HEADQUARTERS.

6 Q AND DO YOU KNOW THAT DEPUTY'S NAME?

7 A IT WAS DEPUTY PATEN -- PATON.

8 Q AND DID YOU AT THAT TIME RECEIVE STATE'S EXHIBIT
9 NUMBER FORTY-ONE FROM DEPUTY PATEN ---

10 A YES, I DID.

11 Q --- OR DEPUTY PATE?

12 A YES, I DID.

13 Q AND WHAT DID YOU DO WITH STATE'S EXHIBIT NUMBER
14 FORTY-ONE?

15 A I BROUGHT IT BACK INTO HEADQUARTERS.

16 Q DID YOU TURN IT OVER TO THE LEAD INVESTIGATOR IN
17 THE CASE?

18 A YES, I DID.

19 Q AND CAN YOU TELL US THE DATE, ON WHAT DATE THIS CAR
20 WAS TOWED?

21 A THIS CAR WAS TOWED ON THE 19TH.

22 Q REFERRING TO YOUR NOTES, CAN YOU TELL US WHAT DAY
23 THE CAR WAS TOWED ON?

24 A THE DATE IT WAS ACTUALLY TOWED ON WAS THE 18TH.
25 THAT'S THE DATE THAT I WENT OUT THERE.

1 Q AND AT THIS TIME WAS THIS VEHICLE REPORTED STOLEN?

2 A NO, IT WAS NOT.

3 Q AND IS THIS THE TAG YOU TOOK FROM DEPUTY PATEN
4 (SIC), INVESTIGATOR SMITH?

5 A YES, IT IS.

6 Q AND THE TAG THAT YOU TURNED OVER TO INVESTIGATOR
7 MEAD?

8 A YES, IT IS.

9 MR. HOOD: AT THIS TIME, YOUR HONOR, WE'D MOVE THIS
10 INTO EVIDENCE.

11 MR. STRICKLER: WITHOUT OBJECTION.

12 MR. TAYLOR: NO OBJECTION.

13 (STATE'S EXHIBIT NUMBER FORTY-ONE IS NOW REMARKED
14 AND ENTERED INTO EVIDENCE WITHOUT OBJECTION.)

15 MR. HOOD: NOTHING FURTHER, YOUR HONOR.

16 THE COURT: ALL RIGHT, MR. STRICKLER.

17 MR. STRICKLER: GOOD AFTERNOON, MR. SMITH.

18 DEPUTY SMITH: GOOD AFTERNOON, SIR.

19 MR. STRICKLER: WHEN WAS THE LAST TIME I HAD NO
20 QUESTIONS FOR DEPUTY SMITH?

21 DEPUTY SMITH: THAT'S A RARE EVENT.

22 MR. STRICKLER: NO QUESTIONS TODAY.

23 THE COURT: ALL RIGHT, MR. TAYLOR.

24 MR. TAYLOR: I HAVE NO QUESTIONS.

25 THANK YOU, MR. SMITH.

1 **MR. GASSER:** YOUR HONOR, MAY WE APPROACH?

2 **MR. HOOD:** CAN HE COME DOWN?

3 **THE COURT:** YEAH, HE CAN COME DOWN.

4 YOU'RE FREE TO GO.

5 (THE WITNESS IS NOW EXCUSED FROM THE WITNESS
6 STAND.)

7 (A BENCH CONFERENCE IS HAD AT THIS TIME IN THE
8 PRESENCE OF THE JURY AND THE COURT REPORTER, BUT OUT OF
9 THE HEARING OF THE JURY AND THE COURT REPORTER.)

10 **THE COURT:** ALL RIGHT, LADIES AND GENTLEMEN OF THE
11 JURY, INSTEAD OF WAITING UNTIL ONE WE'RE GOING TO BREAK
12 FOR LUNCH NOW. AND WE'RE GOING TO COME BACK AT TWO
13 O'CLOCK, NOT TWO-THIRTY BUT TWO O'CLOCK. WE'LL START AT
14 TWO O'CLOCK AND WE'RE GOING TO GO UNTIL ABOUT FIVE, FIVE-
15 FIFTEEN. THAT SHOULD ---

16 **THE BAILIFF:** EVERYONE REMAINED SEATED.

17 **THE COURT:** EVERYBODY BE QUIET NOW.

18 --- THAT'S GOING TO FINISH THE STATE'S CASE. SO GO
19 TO LUNCH, COME BACK AT TWO O'CLOCK AND WE'LL GET STARTED
20 AT THAT TIME AND FINISH THE STATE'S CASE.

21 REMEMBER, DON'T DISCUSS THE CASE WITH ANYBODY,
22 DON'T LET ANYBODY DISCUSS IT WITH YOU.

23 (JURY OUT AT 12:32 P.M.)

24 ALL RIGHT, MR. TAYLOR, I BELIEVE YOU HAD SOMETHING
25 YOU WANTED ...

1 MR. TAYLOR: COULD YOU GIVE ME JUST A MOMENT, YOUR
2 HONOR? MAYBE I CAN AVOID THIS.

3 THE COURT: OKAY.

4 (PAUSE.)

5 MR. TAYLOR: YOUR HONOR, LET ME TELL YOU WHAT THE
6 PROBLEM IS AND MAYBE IT'S SOMETHING TO START THINKING
7 ABOUT.

8 I SUBPOENAED A WITNESS, CHRISTOPHER SIMS. SHORTLY
9 AFTER I SUBPOENAED HIM I RECEIVED IN MY OFFICE A LETTER
10 FROM A FAMILY NURSE PRACTITIONER ON MEDICAL LETTERHEAD
11 SAYING THAT HE HAS RENAL DISEASE AND HE'S ON DIALYSIS
12 THREE TIMES A WEEK, MONDAY, WEDNESDAY AND FRIDAY.

13 NOT KNOWING HOW THE COURSE OF THIS CASE MIGHT GO, I
14 ASKED HIM TO COME YESTERDAY AND WE'LL SEE WHERE WE ARE
15 AND HE AGREED TO DO THAT.

16 WE RECEIVED A PHONE CALL YESTERDAY MORNING SAYING
17 THAT HE WAS HOSPITALIZED AS A RESULT OF CHEST PAINS, NOT
18 ANYTHING TO DO WITH HIS KIDNEY PROBLEMS OR WHAT HAVE YOU.

19 NOW WE MAY NEED TO TRY TO GET HIS TESTIMONY SOMEHOW
20 SOMEWAY. IF HE REMAINS IN THE HOSPITAL, I MAY BE ASKING
21 YOUR HONOR TO ALLOW US TO VIDEO TAPE HIS DEPOSITION OR
22 HIS TESTIMONY, WITH THE SOLICITOR PRESENT, OF COURSE, IF
23 THE DOCTORS SAY THAT THAT IS PERMISSIBLE.

24 HE DOES HAVE SOMETHING THAT DOES CONTRIBUTE TO THE
25 CASE. I DON'T KNOW HOW MUCH. AS YOU CAN TELL, WITH THIS

1 CASE NOBODY KNOWS HOW MUCH GOES WITH THIS JURY.

2 MR. GASSER: YOUR HONOR, HE GOT CHRISTOPHER SIMS'
3 NAME THROUGH A DOCUMENT I PROVIDED HIM, IT'S HIS
4 STATEMENT WHICH WE READ -- WHICH I READ INDICATING THAT
5 HE DIDN'T SEE ANYTHING. HE WAS WAY UP ON THE PARKING
6 LOT.

7 I GOT THE SAME LETTER FROM THIS RENAL NURSE; TALKED
8 WITH MR. SIMS TO MAKE SURE. AS YOU WELL KNOW, SOMETIMES
9 PEOPLE DON'T WANT TO GET INVOLVED. TO MAKE SURE, I
10 INTERVIEWED MR. SIMS OVER THE PHONE AND HE INDICATED
11 THAT, AGAIN, HE DOESN'T KNOW ANYTHING ABOUT ANYTHING.

12 SO I'M NOT SAYING HE MAY HAVE TOLD THE DEFENSE
13 SOMETHING DIFFERENT, BUT HE TOLD THE POLICE BASICALLY HE
14 DOESN'T -- HE DIDN'T SEE ANYTHING. HE'S TOLD US THAT HE
15 HADN'T SEEN ANYTHING.

16 MR. TAYLOR: WELL, HE ---

17 MR. GASSER: I MEAN, IF HE WANTS TO ---

18 THE COURT: WELL, LET ME ASK YOU THIS.

19 MR. GASSER: I MEAN, I'LL BE WILLING TO STIPULATE
20 TO SOMETHING.

21 THE COURT: WHAT YOU MIGHT WANT TO DO, IF YOU
22 CHOOSE TO DO SO, YOU COULD DISCUSS WHAT YOU THINK MR.
23 SIMS IS GOING TO SAY WITH MR. GASSER. HE MAY JUST AGREE
24 TO JUST STIPULATE TO THAT.

25 MR. TAYLOR: WELL, WE MAY AGREE TO JUST PUT HIS

1 STATEMENTS INTO THE RECORD. HE DID GIVE WRITTEN
2 STATEMENTS.

3 THE COURT: WELL THEN TALK TO MR. GASSER.

4 MR. TAYLOR: ALL RIGHT, SIR.

5 THE COURT: SEE YOU ALL BACK AT TWO O'CLOCK.

6 MR. TAYLOR: THANK YOU.

7 THE COURT: WE'LL FIGURE OUT WHAT OTHER KIND OF
8 PROBLEMS.

9 (COURT IS NOW IN RECESS.)

10 THE BAILIFF: COURT COME TO ORDER, ALL RISE,
11 PLEASE.

12 THE COURT: THANK YOU. PLEASE BE SEATED.

13 ALL RIGHT, YOU ALL READY TO GO?

14 MR. GASSER: STATE'S READY.

15 MR. HOOD: YES, SIR, YOUR HONOR.

16 THE COURT: ALL RIGHT, BRING THE JURY IN, PLEASE,
17 SIR.

18 (JURY IN AT 2:04 P.M.)

19 THE BAILIFF: THE JURY IS PRESENT, YOUR HONOR.

20 THE COURT: THANK YOU.

21 ALL RIGHT, MR. GASSER, MR. HOOD, CALL YOUR NEXT
22 WITNESS.

23 MR. HOOD: THANK YOU, YOUR HONOR. MAY IT PLEASE
24 THE COURT, THE STATE CALLS SHAWN SWICEGOOD.

25 THE BAILIFF: PLACE YOUR LEFT HAND ON THE BIBLE AND

1 RAISE YOUR RIGHT HAND AND FACE THE CLERK.

2 (SHAWN SWICEGOOD, HAVING FIRST
3 BEEN DULY SWORN, TESTIFIED AS FOLLOWS:)

4 THE CLERK: OKAY, HAVE A SEAT HERE, SIR, AND STATE
5 YOUR FULL NAME FOR THE RECORD.

6 MR. SWICEGOOD: MY NAME IS SHAWN SWICEGOOD.

7 DIRECT EXAMINATION BY MR. HOOD:

8 Q DEPUTY SWICEGOOD, WHERE ARE YOU CURRENTLY EMPLOYED?

9 A RICHLAND COUNTY SHERIFF'S DEPARTMENT.

10 Q AND HOW LONG HAVE YOU BEEN WITH THE RICHLAND COUNTY
11 SHERIFF'S DEPARTMENT?

12 A OVER THREE YEARS.

13 Q AND WHAT ARE YOUR CURRENT DUTIES AND
14 RESPONSIBILITIES AT THE RICHLAND COUNTY SHERIFF'S
15 DEPARTMENT?

16 A I WORK OUT OF REGION FOUR, WHICH CONSISTS OF THE
17 BROAD RIVER ROAD AREA, DISPATCH TO CALLS, PATROL, BASIC
18 TO THE POLICE FORCE.

19 Q I WANT TO TAKE YOU BACK TO JANUARY OF 2001. WERE
20 YOU DISPATCHED TO A CALL AT 1020 FARMING CREEK ROAD?

21 A YES, SIR, I WAS.

22 Q COULD YOU TELL US THE DATE YOU WERE DISPATCHED?

23 A ACCORDING TO MY REPORT IT WAS ON THE 18TH OF THAT
24 MONTH, JANUARY.

25 Q AND ABOUT WHAT TIME IN THE MORNING?

1 A NINE O'CLOCK IN THE MORNING.

2 Q AND WHO IS THE PERSON THAT ACTUALLY MADE THE CALL
3 OR WHAT POLICE OFFICERS COMMONLY CALL "THE COMPLAINT"?

4 A MR. APPLGATE, KERRY APPLGATE, THAT OWNED THE
5 BUSINESS THERE.

6 Q DO YOU KNOW WHAT KIND OF BUSINESS THAT WAS?

7 A I DON'T REMEMBER RIGHT OFFHAND WHAT IT WAS. IT'S
8 BEEN ...

9 Q COULD YOU TELL US WHAT YOU FOUND ONCE YOU CAME TO
10 THE SCENE?

11 A PARKED ON A -- MR. APPLGATE'S BUSINESS IS ON A
12 DIRT ROAD, A LITTLE DIRT ROAD, AND THERE WAS A GREEN
13 MITSUBISHI GALANT PARKED ON THE DIRT ROAD. IT LOOKED
14 LIKE IT HAD BEEN ABANDONED, HALF IN THE WOOD LINE AND
15 HALF ON HIS, YOU KNOW, DIRT ROAD.

16 Q NOW BEFORE YOU RESPONDED TO THAT SCENE, DID YOU
17 KNOW WHAT WAS GOING ON WITH THE BENEDICT COLLEGE STUDENT?

18 A JUST WHAT I'D READ IN THE NEWSPAPER THAT MORNING,
19 YOU KNOW, THE STATE NEWSPAPER.

20 Q AND AS A RESULT OF WHAT YOU READ, WERE YOU ON SOME
21 FORM OF NOTICE ABOUT A GREEN GALANT?

22 A YES, SIR. BECAUSE THE NEWSPAPER PUT OUT A BOLO,
23 YOU KNOW, ON THAT CAR.

24 Q LET ME SHOW YOU WHAT'S BEEN MARKED AS STATE'S
25 EXHIBIT NUMBER FORTY. DO YOU RECOGNIZE ANY OF THESE

1 PICTURES?

2 A YES, SIR, I DO.

3 Q AND CAN YOU TELL US WHICH ONES YOU RECOGNIZE?

4 A THE GREEN GALANT.

5 Q IS THAT THE GREEN GALANT THAT WAS OUT THERE THAT
6 DAY ON 1020 FARMING CREEK ROAD?

7 A YES, SIR.

8 Q DID THIS CAR HAVE ANY TAGS ON IT AT THAT TIME?

9 A NO, SIR, IT DIDN'T.

10 Q DO YOU KNOW WHERE THOSE TAGS WERE?

11 A ANOTHER DEPUTY HAD TAKEN THE PAPER TAG OFF THE DAY
12 BEFORE.

13 Q AND AT THAT TIME, SINCE YOU KNOW THIS TO BE A CAR
14 THAT COULD POSSIBLY BE INVOLVED IN A HOMICIDE ON BENEDICT
15 COLLEGE CAMPUS, DID YOU CONTACT THE CITY OF COLUMBIA
16 POLICE DEPARTMENT?

17 A YES, SIR, I DID, ONE OF THEIR INVESTIGATORS.

18 Q AND DID THE INVESTIGATOR ACTUALLY COME OUT AND THE
19 CAR WAS ACTUALLY TOWED?

20 A YES, SIR. WE HAD IT TOWED BACK TO THEIR COMPOUND,
21 THE CITY OF COLUMBIA COMPOUND.

22 Q AND AGAIN, THE DATE THAT ALL OF THIS OCCURRED ON?

23 A ON THE 18TH.

24 Q AND DID YOU TAKE A REPORT ON THIS DATE, SIR?

25 A YES, I DID, FOR ASSISTING OTHER AGENCIES' REPORT,

1 JUST STATING THAT, YOU KNOW, WE HAD BEEN DISPATCHED TO
2 THAT AREA TO PICK UP THE CAR, AND I NOTIFIED THE
3 INVESTIGATOR WHO HAD SEIZED IT THIS MIGHT BE A POSSIBLE
4 CAR THAT THEY WERE LOOKING FOR.

5 Q AND DID YOU WRITE DOWN THE VIN NUMBER OF CAR THAT
6 DAY THAT YOU FOUND?

7 A YES, SIR, I DID. IT WAS A 1994 MITSUBISHI GALANT.

8 Q AND COULD YOU TELL US THE VIN NUMBER, PLEASE?

9 A ON MY REPORT I WROTE DOWN "4 - A - 3 - A - J - 5 -
10 6 - G - 1 - R - E - 0 - 1 - 7 - 4 - 9 - 9.

11 Q 0 - 1, THE LAST ---

12 A YEAH. 0 - 1 - 7 - 4 - 9 - 9.

13 Q AND THIS IS THE CAR THAT WAS ACTUALLY OUT THERE
14 THAT DAY?

15 A YES, SIR.

16 MR. HOOD: BEG THE COURT'S INDULGENCE, YOUR HONOR.
17 NOTHING FURTHER, YOUR HONOR.

18 THE COURT: ANY QUESTIONS, MR. STRICKLER?

19 MR. STRICKLER: HAVE NONE, YOUR HONOR.

20 THE COURT: ANY QUESTIONS, MR. TAYLOR?

21 MR. TAYLOR: NO QUESTIONS.

22 THE COURT: ALL RIGHT, YOU CAN COME DOWN.

23 (THE WITNESS IS NOW EXCUSED FROM THE WITNESS
24 STAND.)

25 CALL YOUR NEXT WITNESS.

1 MR. HOOD: THANK YOU, YOUR HONOR, THE STATE CALLS
2 AMANDA FALLOW.

3 (AMANDA FALLOW, HAVING FIRST
4 BEEN DULY SWORN, TESTIFIED AS FOLLOWS:)

5 THE CLERK: PLEASE HAVE A SEAT HERE AND STATE YOUR
6 FULL NAME FOR THE RECORD.

7 MS. FALLOW: MY NAME IS AMANDA FALLOW.

8 DIRECT EXAMINATION BY MR. HOOD:

9 Q HI, MS. FALLOW. GOOD AFTERNOON.

10 A HI.

11 Q HAVE YOU EVER TESTIFIED BEFORE?

12 A NO.

13 Q ARE YOU A LITTLE NERVOUS?

14 A YEAH. THIS IS MY FIRST TIME.

15 Q OKAY. LET ME ASK YOU THIS. WHERE DO YOU CURRENTLY
16 LIVE?

17 A I LIVE IN IRMO.

18 Q IN IRMO. AND WHERE DO YOU WORK?

19 A I WORK AT A. AND K. AUTO SALES.

20 Q AND CAN YOU TELL US WHERE A. AND K. AUTO SALES IS?

21 A 2404 MAIN STREET; DOWNTOWN.

22 Q NOW IS THAT ON THE MAIN STREET CLOSE TO WHERE THE
23 COURTHOUSE IS OR A LITTLE FURTHER UP THAT STREET?

24 A IT'S A LITTLE FURTHER UP THE STREET.

25 Q WHAT DO YOU DO AT A. AND K. AUTO SALES?

- 1 A I'M THE BOOKKEEPER.
- 2 Q SO ALL THE RECORDS OF CARS THAT ARE SOLD AND BOUGHT
- 3 AND WHATNOT FROM A. AND K., IS THAT WHAT YOU KEEP?
- 4 A THAT'S WHAT I DO.
- 5 Q OKAY. AND DO YOU KEEP DOCUMENTS IN THE NORMAL
- 6 COURSE OF BUSINESS BASED ON AUTO SALES?
- 7 A YES.
- 8 Q IN FACT ARE YOU REQUIRED BY LAW TO KEEP CERTAIN
- 9 DOCUMENTS BASED ON CARS BEING SOLD?
- 10 A YES.
- 11 Q LET ME SHOW YOU THIS DOCUMENT. DO YOU RECOGNIZE
- 12 THIS DOCUMENT?
- 13 A YES. THAT'S OUR BILL OF SALE.
- 14 Q BOTH COPIES?
- 15 A UH-HUH (INDICATES AN AFFIRMATIVE RESPONSE).
- 16 MR. STRICKLER: WITHOUT OBJECTION.
- 17 MR. TAYLOR: NO OBJECTION.
- 18 Q AND IS THIS A COPY OF THE BILL OF SALE FOR A 1994
- 19 MITSUBISHI GREEN GALANT?
- 20 A UH-HUH (INDICATES AN AFFIRMATIVE RESPONSE).
- 21 Q THAT WAS GENERATED BY YOUR OFFICE?
- 22 A YES, SIR.
- 23 Q AND IS THIS KEPT IN THE NORMAL COURSE OF BUSINESS
- 24 WITH THE RECORDS AT A. AND K. AUTO SALES?
- 25 A YES, IT IS.

1 MR. HOOD: AT THIS TIME, YOUR HONOR, WE'D PUT THIS
2 INTO EVIDENCE.

3 THE COURT: OKAY.

4 (STATE'S EXHIBIT NUMBER FORTY-FOUR, THE BILL OF
5 SALE FOR THE 1994 MITSUBISHI GREEN GALANT, IS NOW MARKED
6 AND ENTERED INTO EVIDENCE WITHOUT OBJECTION.)

7 Q AMANDA, CAN YOU TELL US A LITTLE BIT ABOUT SOME OF
8 THE INFORMATION ON THIS STATE'S EXHIBIT NUMBER FORTY-
9 FOUR? COULD YOU TELL THE JURY WHO THE PURCHASER OF THE
10 VEHICLE IS?

11 A THE PURCHASER IS LUCIUS STATEN.

12 Q AND CAN YOU TELL US WHAT KIND OF A CAR WAS
13 PURCHASED?

14 A IT WAS A 1994 MITSUBISHI GALANT, GREEN, FOUR-DOOR.

15 Q AND THE DATE THAT THE CAR WAS PURCHASED?

16 A IT WAS PURCHASED ON 10/25 OF 1999.

17 Q OKAY. AND DO YOU RECORD THE VIN NUMBER OF THE CARS
18 THAT ARE PURCHASED?

19 A YES, WE DO.

20 Q OKAY. WOULD YOU READ THAT VIN NUMBER OFF OF
21 STATE'S EXHIBIT NUMBER FORTY-FOUR?

22 A IT'S 4 - A - 3 - A - J - 5 - 6 ---

23 WAIT A MINUTE, I CAN'T MAKE THAT OUT.

24 --- ALL RIGHT, 5 - 6 - G - 1 - R - E - 0 - 1 - 7 -
25 4 - 9 - 9.

1 Q IS THAT THE VIN NUMBER OF THE CAR THAT WAS
2 PURCHASED BACK IN 1999 BY ONE MR. LUCIUS STATEN?

3 A YES, IT IS.

4 Q THANK YOU.

5 A UH-HUH (INDICATES AN AFFIRMATIVE RESPONSE).

6 MR. HOOD: NOTHING FURTHER, YOUR HONOR.

7 THE COURT: ANY QUESTIONS, MR. STRICKLER?

8 MR. STRICKLER: I DON'T HAVE ANY QUESTIONS.

9 MR. TAYLOR: NO QUESTIONS, THANK YOU.

10 (THE WITNESS IS NOW EXCUSED FROM THE WITNESS
11 STAND.)

12 THE COURT: ALL RIGHT. CALL YOUR NEXT WITNESS.

13 MR. HOOD: YOUR HONOR, THE STATE CALLS AMMAR ABASS.

14 (AMMAR ABASS, HAVING FIRST BEEN
15 DULY SWORN, TESTIFIED AS FOLLOWS:)

16 THE CLERK: PLEASE HAVE A SEAT HERE, SIR, AND STATE
17 YOUR FULL NAME FOR THE RECORD.

18 MR. ABASS: AMMAR ABASS.

19 DIRECT EXAMINATION BY MR. HOOD:

20 Q GOOD AFTERNOON, MR. ABASS.

21 A HEY, HOW YOU DOING?

22 Q FINE. HOW ARE YOU?

23 A FINE.

24 Q COULD YOU TELL US, TELL THE JURY, WHAT YOUR
25 OCCUPATION IS?

1 A I'M THE OWNER OF A. AND K. AUTO SALES ON 2404 MAIN
2 STREET.

3 Q THAT WAS MY NEXT QUESTION TO YOU.

4 HAVE YOU BEEN THE SOLE OWNER OF A. AND K. AUTO
5 SALES?

6 A YES, SIR.

7 Q AS THE SOLE OWNER OF A. AND K. AUTO SALES, DO YOU
8 HAVE A PART IN THE TRANSACTIONS OF THE CARS THAT TAKE
9 PLACE ON YOUR LOT?

10 A A LOT OF IT.

11 Q OKAY. LET ME SHOW YOU WHAT'S BEEN MARKED AS
12 STATE'S EXHIBIT NUMBER FORTY-FOUR. DO YOU RECOGNIZE THIS
13 DOCUMENT?

14 A YES.

15 Q AND IS THIS A DOCUMENT FOR A BILL OF SALE FOR A
16 1994 GREEN MITSUBISHI GALANT?

17 A THAT'S RIGHT.

18 Q AND WHO DOES IT SAY THE PURCHASER OF THE AUTO
19 VEHICLE IS?

20 A LUCIUS STATEN.

21 Q AND DO YOU KNOW MR. STATEN?

22 A UH-HUH (INDICATES AN AFFIRMATIVE RESPONSE).

23 Q AND WHY DO YOU KNOW MR. STATEN?

24 A TALKED TO HIM THE DAY HE CAME ON THE LOT AND WAS
25 LOOKING AT A CAR, AND I TALKED TO HIM SEVERAL TIMES AFTER

1 THAT. HE CAME BY THE LOT ONCE OR TWICE AFTER HE
2 PURCHASED THE CAR.

3 Q DO YOU REMEMBER LUCIUS STATEN?

4 A UH-HUH (INDICATES AN AFFIRMATIVE RESPONSE),

5 Q DO YOU HAVE ANY PROBLEM IDENTIFYING MR. STATEN?

6 A NO.

7 Q WOULD YOU PLEASE IDENTIFY LUCIUS STATEN FOR THE
8 JURY?

9 A THE GENTLEMAN WITH THE BEARD, ON THE LEFT-HAND
10 SIDE.

11 Q THANK YOU, MR. ABASS.

12 NOTHING FURTHER, YOUR HONOR.

13 THE COURT: ANY QUESTIONS?

14 MR. STRICKLER: NOTHING FROM ME.

15 MR. TAYLOR: NO QUESTIONS.

16 THE COURT: ALL RIGHT, YOU CAN COME DOWN.

17 (THE WITNESS IS NOW EXCUSED FROM THE WITNESS
18 STAND.)

19 CALL YOUR NEXT WITNESS.

20 MR. HOOD: THANK YOU, YOUR HONOR. THE STATE CALLS
21 DEPUTY BRYAN DOWDY.

22 (BRYAN E. DOWDY, HAVING FIRST
23 BEEN DULY SWORN, TESTIFIED AS FOLLOWS:)

24 THE CLERK: PLEASE HAVE A SEAT AND STATE YOUR FULL
25 NAME FOR THE RECORD.

1 DEPUTY DOWDY: I'M BRYAN E. DOWDY.

2 DIRECT EXAMINATION BY MR. HOOD:

3 Q GOOD AFTERNOON, DEPUTY DOWDY.

4 A THANK YOU.

5 Q WHERE ARE YOU CURRENTLY EMPLOYED?

6 A RICHLAND COUNTY SHERIFF'S DEPARTMENT.

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

8 DEPARTMENT?

9 A FIVE-AND-A-HALF YEARS NOW.

10 Q AND WHAT ARE YOUR CURRENT DUTIES AND

11 RESPONSIBILITIES?

12 A MY CURRENT DUTIES ARE WITH THE TRAFFIC SAFETY UNIT.

13 WE TAKE CARE OF ALL TRAFFIC COMPLAINTS AND TRAFFIC

14 PROBLEMS IN THE COUNTY.

15 Q WHAT WERE YOUR DUTIES AND RESPONSIBILITIES BACK IN

16 JANUARY OF 2001?

17 A I WORKED REGION FOUR, WHICH IS BROAD RIVER ROAD,

18 DOING ROUTINE POLICE CALLS, CHECKING PROPERTY?

19 Q ON THE DATE OF JANUARY THE 19TH, 2001, DID YOU

20 RECEIVE A CALL, A DISPATCH CALL TO GO TO CROSSROADS

21 APARTMENTS OFF OF ZIMALCREST DRIVE?

22 A YES, SIR, I DID. I WAS DISPATCHED TO 716

23 ZIMALCREST DRIVE, APARTMENT 1308.

24 Q AND WHAT TIME WERE YOU ACTUALLY DISPATCHED TO THAT

25 SCENE?

1 A 16:45 HOURS, WHICH IS 4:45 IN THE AFTERNOON.

2 Q OKAY. 16:45 IS JUST MILITARY TIME ---

3 A YES.

4 Q --- THAT THE POLICE USE BUT THE COMMON A.M., P.M.

5 TIME ---

6 A THAT'S 4:45.

7 Q P.M.?

8 A P.M.

9 Q OKAY. AND EXACTLY WHERE WERE YOU DISPATCHED TO?

10 A APARTMENT 1308.

11 Q AT 716 ZIMALCREST DRIVE?

12 A 716 ZIMALCREST, CROSSROADS APARTMENTS.

13 Q OKAY. LET ME SHOW YOU WHAT'S BEEN MARKED AS

14 STATE'S EXHIBIT NUMBER FORTY-TWO. DO YOU RECOGNIZE THIS

15 DOCUMENT?

16 A YEAH. SHOWS A MAP OF CROSSROADS APARTMENTS,

17 ZIMALCREST, SHOWS I-20, AND HITS OVER TO TWO NOTCH ROAD

18 AREA.

19 Q WOULD YOU SHOW THE JURY WHERE ZIMALCREST APARTMENTS

20 IS -- OR ZIMALCREST DRIVE AND WHERE CROSSROADS APARTMENTS

21 ARE LOCATED ON THIS MAP?

22 A RIGHT OVER HERE, BY THE ARROW.

23 Q NOW YOU'RE BEING DISPATCHED TO THIS SCENE, DEPUTY

24 SWICEGOOD -- I MEAN, DEPUTY DOWDY, EXCUSE ME, DID YOU

25 HAVE A CHANCE TO HAVE A CONVERSATION WITH DEPUTY

1 SWICEGOOD?

2 A YES, SIR, I DID.

3 Q OKAY. AND AS A RESULT OF THIS CONVERSATION, DID
4 YOU KNOW THAT THIS CAR HAD ALREADY BEEN SEIZED BY THE
5 COLUMBIA POLICE DEPARTMENT?

6 A HE ADVISED ME THAT THE CAR WAS RECOVERED AND
7 BASICALLY JUST LET ME KNOW WHAT THE SITUATION WAS WITH
8 THE CAR.

9 Q OKAY. AND THEN AS A RESULT OF THAT, WHAT DID YOU
10 DO?

11 A I BELIEVE I GOT IN TOUCH WITH DISPATCH AND OF
12 COURSE DISPATCH HEARD WHAT WAS GOING ON AND THEY
13 CONTACTED THE CITY OF COLUMBIA, WHICH GOT IN TOUCH WITH
14 THEIR INVESTIGATION UNIT.

15 Q AND DID AN INVESTIGATOR FROM THE CITY OF COLUMBIA
16 ACTUALLY MEET YOU AT CROSSROADS APARTMENTS?

17 A THAT'S CORRECT. IT WOULD BE INVESTIGATOR WILKERSON
18 FROM THE CITY OF COLUMBIA POLICE DEPARTMENT.

19 Q IS THAT MITCH WILKERSON?

20 A YES.

21 Q OKAY. AS A RESULT OF THIS, DID YOU IN FACT GO TO
22 CROSSROADS APARTMENTS WITH INVESTIGATOR WILKERSON?

23 A YES, SIR.

24 Q OKAY. AND UPON COMING TO CROSSROADS APARTMENTS AND
25 THE SPECIFIC APARTMENT IN QUESTION, WHO DID YOU

1 ENCOUNTER?

2 A MR. LUCIUS STATEN.

3 Q OKAY. CAN YOU IDENTIFY MR. STATEN FOR US TODAY?

4 A YES, SIR. FAR LEFT, BLUE SHIRT, WITH A BEARD.

5 Q OKAY. CAN YOU TELL US WHAT MR. STATEN TOLD YOU ON
6 JANUARY THE 19TH AT 4:45 IN THE AFTERNOON?

7 A HE TOLD ME THAT BASICALLY SOMEBODY TOOK HIS VEHICLE
8 AND, WHAT WE WOULD SAY IN OUR REPORT, "UNKNOWN PERSONS."
9 HE SAID IT WAS TAKEN ON JANUARY 15TH OF 2001,
10 APPROXIMATELY SEVEN O'CLOCK IN THE EVENING, 19:00 HOURS
11 IS WHAT THE REPORT SAYS.

12 HE STATED TO ME THAT HE HAD A SPARE KEY IN A
13 MAGNETIC BOX UNDER THE WHEEL WELL. ALSO THAT HE AND HIS
14 MOTHER WERE THE ONLY ONES THAT HAD KEYS TO THE VEHICLE.
15 ALSO UPON FURTHER INVESTIGATION HE STATED THAT HE HAD
16 HEARD THAT A SIMILAR VEHICLE WAS INVOLVED IN A HOMICIDE
17 AND HE MENTIONED THAT HE THOUGHT THE VEHICLE WAS POSSIBLY
18 REPOSSESSED.

19 Q OKAY. THEN LET'S GO OVER THIS SLOWLY.

20 THIS IS THE NIGHT OF JANUARY 21, 2001. THAT'S
21 STATE'S EXHIBIT NUMBER THIRTY-FOUR. DO YOU RECOGNIZE
22 THIS TO BE A MAP (SIC) OF JANUARY, 2001?

23 A YES, I DO.

24 Q OKAY. IS JANUARY THE 19TH THE DAY THAT YOU WERE
25 DISPATCHED ---

- 1 A JANUARY 19TH IS CORRECT. THAT WOULD BE A FRIDAY.
- 2 Q OKAY. AND WHAT WAS THE DATE THAT THE COMPLAINT,
- 3 LUCIUS STATEN SAID IS THE DATE THAT THE VEHICLE WAS
- 4 STOLEN?
- 5 A JANUARY 15TH, WHICH WAS A MONDAY.
- 6 Q AND AT WHAT TIME?
- 7 A AT SEVEN O'CLOCK IT WAS TAKEN.
- 8 Q AND DEPUTY DOWDY, AS A PART OF THIS REPORT, DID YOU
- 9 RECORD THE INFORMATION OF THE VEHICLE THAT HE HAD
- 10 REPORTED STOLEN?
- 11 A YES, SIR, I DID.
- 12 Q AND COULD YOU PLEASE RELATE THAT TO US?
- 13 A THE 1994 MITSUBISHI GALANT, A FOUR-DOOR, GREEN IN
- 14 COLOR.
- 15 Q DOES IT SAY ---
- 16 A THERE WAS AN A. AND K. MOTORS PAPER TAG ON THE
- 17 VEHICLE, I WAS TOLD.
- 18 Q AND WERE YOU GIVEN A VIN NUMBER?
- 19 A YES, I WAS.
- 20 Q AND WOULD YOU PLEASE READ THAT TO US?
- 21 A 4 - A - 3 - A - J - 5 - 6 - G - 1 - R - E - O - 1 -
- 22 7 - 4 - 9 - 9.
- 23 Q WHO TOLD YOU THIS VEHICLE WAS STOLEN?
- 24 A MR. LUCIUS STATEN.
- 25 MR. HOOD: NOTHING FURTHER, YOUR HONOR.

1 THE COURT: MR. STRICKLER?

2 MR. STRICKLER: NO, SIR.

3 MR. TAYLOR: NO QUESTIONS.

4 THE COURT: ALL RIGHT, YOU CAN COME ON DOWN.

5 (THE WITNESS IS NOW EXCUSED FROM THE WITNESS
6 STAND.)

7 CALL YOUR NEXT WITNESS.

8 MR. GASSER: THE STATE WOULD CALL DR. CLAY NICHOLS.

9

10

11 --- END OF VOLUME NUMBER TWO OF FOUR. ---

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1 (DR. CLAY ALAN NICHOLS, HAVING
2 FIRST BEEN DULY SWORN, TESTIFIED AS FOLLOWS:)

3 THE CLERK: PLEASE HAVE A SEAT AND STATE YOUR FULL
4 NAME FOR THE RECORD, SPELLING YOU LAST.

5 DR. NICHOLS: CLAY ALAN NICHOLS, N-I-C-H-O-L-S.

6 DIRECT EXAMINATION BY MR. GASSER:

7 Q HELLO, SIR, WHERE ARE YOU EMPLOYED?

8 A RICHLAND MEMORIAL HOSPITAL.

9 Q AND WHAT ARE YOUR DUTIES AND RESPONSIBILITIES AT
10 RICHLAND MEMORIAL?

11 A I PERFORM AUTOPSIES AND SPECIFICALLY I ALSO PROVIDE
12 FORENSIC AUTOPSY SERVICES TO RICHLAND COUNTY.

13 Q YOU ARE A FORENSIC PATHOLOGIST?

14 A YES, I AM.

15 MR. GASSER: YOUR HONOR, WE -- WE ARE PREPARED TO GO
16 INTO A SERIES OF QUESTIONS TO QUALIFY HIM AS AN EXPERT IN
17 THE AREA OF FORENSIC PATHOLOGY---

18 THE COURT: DO Y'ALL HAVE ANY OBJECTION TO HIM BEING
19 QUALIFIED IN THE AREA OF FORENSIC PATHOLOGY.

20 MR. STRICKLER: I HAVE NO VOIR DIRE FOR HIM IN
21 FORENSIC PATHOLOGY.

22 THE COURT: OKAY.

23 MR. TAYLOR: NOR HAVE I.

24 THE COURT: ALL RIGHT. WE'LL QUALIFY HIM AS AN
25 EXPERT IN FORENSIC PATHOLOGY.

1 MR. GASSER: OKAY. THANK YOU, YOUR HONOR.

2 Q DR. NICHOLS, WOULD YOU PLEASE EXPLAIN TO THE JURY --
3 YOU PREVIOUSLY INDICATED THAT YOU ARE A FORENSIC
4 PATHOLOGIST. WOULD YOU PLEASE FIRST EXPLAIN TO THE JURY
5 WHAT PATHOLOGY IS AND THEN EXPLAIN TO THEM WHAT FORENSIC
6 PATHOLOGY IS?

7 A OKAY. PATHOLOGY IS A MEDICAL BRANCH OF SCIENCE THAT
8 DEALS WITH THE LABORATORY DIAGNOSIS OF DISEASE. RATHER
9 THAN SEEING PATIENTS, AS OUR PRACTICE WE LOOK AT PARTS OF
10 PATIENTS SUCH AS ANYTIME PARTS OF TISSUES ARE REMOVED AT
11 SURGERY AND SENT TO THE LABORATORY WHERE A PATHOLOGIST
12 LOOKS AT THE TISSUE EITHER WITH HIS EYES AND/OR WITH A
13 MICROSCOPE LOOKING FOR THE PRESENCE OR ABSENCE OF DISEASE.

14 ANOTHER THING THAT A PATHOLOGIST DOES IS THE
15 PERFORMANCE OF AN AUTOPSY WHICH IS THE DISSECTION OF A
16 PERSON IN ORDER TO COME UP WITH A CAUSE OF DEATH.
17 FORENSIC PATHOLOGY IS A SPECIALIZED FIELD OF PATHOLOGY
18 THAT DEALS WITH DOING AUTOPSIES ON PEOPLE WHO DIE OF
19 SUSPICIOUS OR UNNATURAL DEATHS.

20 Q WHAT YEAR DID YOU GRADUATE FROM MEDICAL SCHOOL?

21 A 1985.

22 Q AND HOW LONG HAVE YOU BEEN BOARD CERTIFIED IN FORENSIC
23 PATHOLOGY?

24 A TWELVE YEARS.

25 Q AND YOU'VE BEEN CONDUCTING FORENSIC AUTOPSIES ON

1 HOMICIDE VICTIMS FOR THAT ENTIRE TWELVE YEAR PERIOD?

2 A YES.

3 Q YOU HAVE -- DID YOU PERFORM THE AUTOPSY -- EXCUSE ME,
4 ON PHILLIP LEE, JUNIOR?

5 A YES, I DID.

6 Q AND THAT AUTOPSY WAS DONE ON WHAT DAY?

7 A JANUARY 16TH, 2001 AT APPROXIMATELY 11:30 A.M.

8 Q WHAT DO YOU -- IN GENERAL, WOULD YOU EXPLAIN VERY
9 BRIEFLY WHAT IS IT -- WHEN A VICTIM OF A HOMICIDE COMES
10 INTO THE MORGUE AT RICHLAND MEMORIAL HOSPITAL, IN GENERAL
11 WHAT DOES AN AUTOPSY CONSIST OF?

12 A FIRST OFF, IT CONSISTS OF AN EXTERNAL EXAMINATION
13 WHERE WE LOOK AT THE BODY FROM HEAD TO TOE, FRONT AND
14 BACK, LOOKING FOR ANY SORT OF INDICATION OF VIOLENCE OR
15 OTHER THING THAT MAY HAVE CONTRIBUTED TO THE PERSON'S
16 DEATH.

17 FOLLOWING THAT, A COMPLETE DISSECTION IS PERFORMED
18 WHERE ALL THE ORGANS ARE REMOVED ONE BY ONE, WEIGHED,
19 DISSECTED FURTHER, ONCE AGAIN LOOKING FOR THE PRESENCE OR
20 ABSENCE OF DISEASE. AND FOLLOWING THAT, ANY SORT OF
21 FOREIGN BODIES SUCH AS BULLETS ARE ALSO REMOVED AND
22 TRANSFERRED AS EVIDENCE.

23 Q SO WHEN YOU BEGAN THE AUTOPSY OF PHILLIP LEE, JUNIOR,
24 WERE YOU PROVIDED AT LEAST SOME SORT OF GENERAL BACKGROUND
25 AS TO WHAT HAD OCCURRED THE EVENING BEFORE?

1 A YES, I WAS.

2 Q HE IN FACT WAS PRONOUNCED DEAD AT RICHLAND MEMORIAL
3 HOSPITAL THE NIGHT BEFORE; CORRECT?

4 A THAT IS CORRECT.

5 Q STARTING WITH THE -- YOUR EXTERNAL EXAMINATION, PLEASE
6 TELL US WHAT YOU FOUND EXTERNALLY.

7 A AS FAR AS THE GENERAL HABITAT OF THE PERSON, HE
8 APPEARED TO BE TWENTY YEARS OLD. HIS HEIGHT WAS SEVENTY-
9 FIVE INCHES AND THE WEIGHT IS ESTIMATED AT APPROXIMATELY
10 TWO HUNDRED AND FIFTY POUNDS.

11 SPECIFICALLY THERE WAS A GUNSHOT WOUND TO THE BACK OF
12 THE HEAD NEAR THE JUNCTION OF THE NECK AND THE BASE OF THE
13 SKULL RIGHT HERE (INDICATING).

14 Q WELL LET'S -- JUST STEP DOWN---

15 A OKAY.

16 Q IF YOU COULD STAND AND JUST GO AHEAD AND USE THE BACK
17 OF MY HEAD IF THAT'S---

18 A IT WAS RIGHT ABOUT THERE (INDICATING). AND
19 SPECIFICALLY THAT IS LOCATED AT 5.5 INCHES FROM THE TOP OF
20 THE HEAD AND RIGHT AT THE MIDLINE. I'M SORRY; RIGHT ABOUT
21 HERE (INDICATING).

22 THE WOUND WAS SOMEWHAT ELLIPTICAL MEASURING 0.25 BY
23 0.3 INCH. AN IRREGULAR CONTUSION OR BRUISE SURROUNDS THE
24 WOUND AND MEASURES 0.3 INCH AT THE TWELVE O'CLOCK
25 POSITION, 0.5 INCH AT THE THREE O'CLOCK POSITION, 0.2 INCH

1 AT THE SIX O'CLOCK POSITION AND 0.25 INCH AT THE NINE
2 O'CLOCK POSITION.

3 THERE'S A SUGGESTION OF SOOT WITHIN THE WOUND TRACT.
4 A DISTINCT MUZZLE IMPRINT IS NOT IDENTIFIED. THE BULLET
5 WAS FOUND TO ENTER TO SKULL THROUGH THE RIGHT POSTERIOR
6 FOSSA WHICH IS THE BOTTOM PART OF THE SKULL BACK HERE
7 (INDICATING) AND IT SUBSEQUENTLY FRAGMENTS. SOME OF THE
8 FRAGMENTS REMAIN AT THE BASE OF THE SKULL, THE OTHERS WENT
9 THROUGH THE HEAD AND THROUGH THE BRAIN SUBSTANCE,
10 ULTIMATELY COMING TO REST OUTSIDE THE SKULL BUT TRAPPED BY
11 THE SKIN OF THE SCALP.

12 SO SOME OF THE BULLET FRAGMENTS REMAINED AT THE BASE
13 OF THE SKULL AS INDICATED ON MR. GASSER. PART OF THE
14 FRAGMENTS WENT THROUGH THE BRAIN, SUBSEQUENTLY FRACTURE
15 AND EXIT THE SKULL HERE (INDICATING) AND ONCE AGAIN WAS
16 TRAPPED UNDERNEATH THE SKIN.

17 THE RECOVERED FRAGMENTS CONSIST OF A LEAD CORE AND
18 SEPARATED COPPER JACKET. AND IN ADDITION TO THAT, THERE
19 WERE SOME MINOR BRUISES TO THE FACE AND HEAD;
20 SPECIFICALLY, THERE WAS A 0.6 INCH RED-BROWN CONTUSION
21 OVER THE RIGHT EYEBROW OVER THE FOREHEAD APPROXIMATELY
22 HERE (INDICATING). THERE WAS AN ADDITIONAL 2.5 BY 1.0
23 INCH RED-BROWN CONTUSION ON THE RIGHT TOP OF THE HEAD
24 APPROXIMATELY HERE (INDICATING) AND THERE WAS ALSO 0.8
25 INCH RED-BROWN CONTUSION ON THE UPPER FOREHEAD NEAR THE

1 MID-LINE APPROXIMATELY HERE (INDICATING) AND THOSE WERE
2 MINOR INJURIES.

3 Q AND WHEN YOU'RE SAYING -- WHEN -- LET'S -- I'M GONNA
4 TAKE IT FROM BACKWARDS WHERE YOU JUST ENDED---

5 A OKAY.

6 Q ---AND ASK A COUPLE OF QUESTIONS FROM WHERE YOU BEGAN.
7 THOSE INJURIES THAT YOU JUST DESCRIBED TO THE JURY, WERE
8 THEY EXTERNAL, I MEAN ON THE SCALP OR SKIN?

9 A THEY WERE EXTERNAL AND OFTEN CONSISTENT WITH SOMEBODY
10 FALLING DOWN AFTER THEY WERE SHOT OR DIED.

11 Q WELL, THAT WAS MY NEXT QUESTION. HYPOTHETICALLY
12 SPEAKING, AND PHILLIP WAS A PRETTY LARGE -- LARGE YONG
13 MAN. WAS HE SIX FOOT THREE, TWO FIFTY, I BELIEVE?

14 A THEREABOUTS, YES.

15 Q OKAY. THE WOUND THAT HE SUFFERED, THE GUNSHOT WOUND
16 TO THE BACK OF THE HEAD AND THE ACCOMPANYING DAMAGE TO HIS
17 BRAIN, WOULD HE HAVE -- WOULD HE HAVE JUST DROPPED?

18 A YES, HE WOULD HAVE.

19 Q AND IF HE WAS ON A SIDEWALK OR CEMENT AND HE FELL
20 FORWARD, WOULD YOU EXPECT TO SEE THE TYPE OF WOUNDS
21 EXTERNALLY AROUND HIS HEAD THAT YOU JUST DESCRIBED IN --
22 ON A PERSON---

23 A YES, I WOULD.

24 Q NOW WHEN YOU DESCRIBED THE WOUND AS -- AS -- IN YOUR
25 MEDICAL TERMS AS SOMEWHAT ELLIPTICAL AND IRREGULAR

1 CONTUSIONS SURROUND THE WOUND, WHAT DO YOU MEAN BY THAT IN
2 LAYMAN'S TERMS?

3 A WHAT I MEAN IS THAT THE WOUND WAS OVAL SHAPE RATHER
4 THAN ROUND AND THEN THERE WAS AN ADDITIONAL CONTUSION OR
5 BRUISE AROUND IT WHICH WAS MINOR IN NATURE BUT OFTEN IT
6 INDICATES THAT THERE WAS AN INTERVENING OBJECT. AND IT'S
7 NOT UNCOMMON FOR YOUNGER INDIVIDUALS TO WEAR HATS OR OTHER
8 THINGS OF THAT NATURE. AND IT'S QUITE CONSISTENT WITH THE
9 BULLET GOING THROUGH AN OBJECT SUCH AS THAT BEFORE IT
10 ACTUALLY ENTERED INTO THE BRAIN OF MR. LEE.

11 Q AND WHEN YOU TALK ABOUT A DISTINCT MUZZLE IMPRINT IS
12 NOT IDENTIFIABLE, WHY WOULD YOU PUT LANGUAGE LIKE THAT IN
13 A HOMICIDE AUTOPSY?

14 A BECAUSE THAT WOULD INDICATE TO ME THAT THE GUN WAS
15 PRESSED DIRECTLY UP AGAINST THE SKIN WHEN THE TRIGGER WAS
16 PULLED. I DID NOT SEE EVIDENCE OF THAT.

17 Q YOU DIDN'T SEE EVIDENCE OF THAT?

18 A NO, I DID NOT.

19 Q ARE YOU FAMILIAR WITH THE TERMS STIPPLING OR POWDER
20 BURNS, THOSE TYPE TERMS?

21 A YES, I AM.

22 Q WHAT DO THOSE TERMS MEAN FORENSICALLY?

23 A STIPPLING INDICATES THAT THERE -- FIRST OFF, WHEN A
24 GUN IF FIRED, MORE COMES OUT OF THE BARREL THAN JUST THE
25 BULLET. OFTENTIMES, ANY SORT OF RUST, ANY SORT OF FOREIGN

1 MATERIAL THAT'S ALSO IN THE BARREL WILL ALSO COME OUT.
2 BUT ALSO AS A RESULT OF THE CARTRIDGE FIRING, ANY UNDER --
3 ANY UNBURNED GUNPOWDER WILL ALSO COME OUT.

4 IF THE GUN IS HELD CLOSE ENOUGH, ALL THAT MATERIAL
5 WILL ACTUALLY ENTER INTO THE WOUND TRACT AND YOU DON'T SEE
6 THAT EXTERNALLY. AS YOU BACK UP THROUGH THERE FURTHER, THE
7 BULLET WILL ENTER BUT THE LIGHTER PARTICLES OF UNBURNED
8 GUNPOWDER WILL BE DEPOSITED ROUGHLY IN A RING SHAPED
9 FASHION AROUND THE WOUND. I DID NOT SEE ANY EVIDENCE OF
10 THAT IN THIS PARTICULAR CASE.

11 Q SO YOU FOUND NO POWDER STIPPLING OR RESI -- OR ANY
12 STIPPLING OR POWDER BURNS IN THIS CASE?

13 A THAT'S CORRECT.

14 Q SO IF ONE WERE TO FIRE A WEAPON INTO THE BACK OF --
15 SAY YOU WERE THE VICTIM IN THIS CASE AND I WAS THE PERSON
16 FIRING THE WEAPON AND WAS FIRING THE WEAPON AND HIT -- THE
17 SHOOTER FIRED THE WEAPON AND HIT PHILLIP LEE AT A
18 DISTANCE, SUCH AS WHERE WE ARE HERE, WHERE I AM HERE,
19 WOULD YOU EXPECT TO FIND ANY TYPE OF STIPPLING OR POWDER
20 BURNS AT A DISTANCE SUCH AS THIS USING A STANDARD HANDGUN?

21 A NO, NOT AT ALL. USUALLY THE STIPPLING TENDS TO
22 DISSIPATE AT APPROXIMATELY EIGHTEEN TO TWO FEET DEPENDING
23 ON THE TYPE OF WEAPON AND THE TYPE OF AMMUNITION USED IT
24 COULD BE EVEN CLOSER. BUT USUALLY YOU DON'T SEE IT AFTER
25 TWO FEET.

1 Q AND YOU SAW NO EVIDENCE THAT THE GUN WAS NEAR PHILLIP
2 LEE'S HEAD; IS THAT CORRECT?

3 A THAT IS CORRECT.

4 Q JUST A COUPLE MORE QUESTIONS, DR. NICHOLS. BLOOD WAS
5 DRAWN FOR TOXICOLOGICAL PURPOSES, WAS IT NOT?

6 A YES, IT WAS.

7 Q AND DID YOU RECEIVE A FINAL RESULT FROM SLED ON THE
8 TOXICOLOGY REPORT?

9 A YES, I DID.

10 Q AND WAS THERE ANY EVIDENCE OF ANY ALCOHOL OR DRUGS IN
11 HIS SYSTEM?

12 A NO, NONE WHATSOEVER.

13 Q AND WHEN THE BODY -- WHEN PHILLIP LEE'S BODY CAME INTO
14 THE MORGUE AND I'LL SHOW YOU THIS PICTURE JUST TO -- IF
15 YOU NEED TO SEE THE PICTURE TO REFRESH YOUR MEMORY.

16 A YES, OKAY.

17 Q I'LL JUST LET COUNSEL KNOW WHAT PICTURE I SHOWED.

18 (PAUSE.)

19 Q IN YOUR EXPERIENCE AS A FORENSIC PATHOLOGIST OF TWELVE
20 YEARS, WHEN A VICTIM OF A HOMICIDE, PARTICULARLY A GUNSHOT
21 WOUND -- A GUNSHOT WOUND COMES INTO THE MORGUE, WHAT
22 NORMALLY IS WRAPPED AROUND THEIR HANDS?

23 A OFTENTIMES BROWN PAPER BAGS.

24 Q OKAY. AND NOW YOU DON'T DO THAT; CORRECT?

25 A NO---

- 1 Q UNLESS YOU'RE AT THE SCENE, DO---
- 2 A NO, I DO NOT DO THAT.
- 3 Q OKAY AND YOU DIDN'T GO TO THE SCENE IN THIS CASE?
- 4 A NO, I DID NOT.
- 5 Q BUT WHEN -- WHEN YOU UNZIPPED THE BODY BAG AND BEGAN
- 6 TO LOOK EXTERNALLY AT THE BODY OF PHILLIP LEE, WERE HIS
- 7 HANDS -- WERE BROWN -- WERE THEY BROWN PAPER BAGGED?
- 8 A YES.
- 9 Q AND IN FACT WHO HAD TO REMOVE THE BAGS?
- 10 A USUALLY I DID.
- 11 Q AND DO YOU KNOW WHY DO LAW ENFORCEMENT, BODY REMOVAL
- 12 SERVICES, IN YOUR EXPERIENCE AS AN EXPERT IN FORENSIC
- 13 PATHOLOGY, PUT THE BROWN PAPER BAGS AROUND HOMICIDE
- 14 VICTIMS' HANDS?
- 15 A IT PROTECTS THE HANDS SO THEY DON'T COME IN CONTACT
- 16 WITH WATER OR OTHER SUBSTANCES THAT MAY CONTAMINATE THE
- 17 HANDS. SPECIFICALLY WHAT -- WHAT WE LOOK FOR IS WHAT'S
- 18 CALLED GUN PRIMER RESIDUE OR GUNSHOT RESIDUE, LOOKING FOR
- 19 THE PRESENCE OF TRACE METALS THAT MIGHT HAVE COME FROM THE
- 20 FIRING OF A GUN.
- 21 Q AND WERE YOU PRESENT WHEN A -- WHEN A POLICE OFFICER,
- 22 COLUMBIA POLICE DEPARTMENT OFFICER POTASH CAME AND DID A
- 23 GUNSHOT RESIDUE TEST ON PHILLIP LEE?
- 24 A YES, I WAS.
- 25 Q AND, AGAIN, WITH TWELVE YEARS EXPERIENCE, YOU'RE

1 FAMILIAR WITH OFFICERS DOING GUNSHOT RESIDUE TESTS, ARE
2 YOU NOT?

3 A YES, I AM.

4 Q THE OFFICER HIMSELF DOES THE TEST?

5 A USUALLY. IN THIS CASE HE DID, YES.

6 Q AND AFTER THE OFFICER WAS FINISHED WITH THE TEST, DID
7 YOU STILL HAVE AN OPPORTUNITY TO PERFORM AN EXAMINATION ON
8 PHILLIP'S HANDS?

9 A YES.

10 Q DID YOU NOTICE ANYTHING ON THE BACK OR FRONT OF HIS
11 HANDS, ANYTHING CONSISTENT WITH HIM BEING IN, YOU KNOW, A
12 RECENT FIGHT WHICH MIGHT CAUSE ABRASIONS OR ANYTHING ON
13 HIS HANDS?

14 A NO, THOSE ARE CALLED DEFENSIVE INJURIES AND THERE WAS
15 NO INDICATION OF DEFENSIVE INJURIES.

16 Q FOR THE RECORD, DR. NICHOLS, THE PROXIMATE CAUSE OF
17 PHILLIP LEE'S DEATH?

18 A HE DIED AS A DIRECT RESULT OF WHAT'S CALLED CEREBRAL
19 LACERATION DUE TO THE GUNSHOT WOUND IN THE HEAD WHICH
20 MEANS THAT HIS BRAIN WAS TORN BY THE RESULT OF THE BULLET
21 AND BULLET FRAGMENTS GOING THROUGH HIS BRAIN.

22 MR. GASSER: THAT'S ALL I HAVE, YOUR HONOR. THANK
23 YOU.

24 THE COURT: MR. STRICKLER.

25 CROSS-EXAMINATION BY MR. STRICKLER:

1 Q GOOD AFTERNOON, DOCTOR.

2 A GOOD AFTERNOON.

3 Q LAST THINGS FIRST, THE HANDS ON MR. LEE WERE BAGGED
4 AND THAT, YOU'VE TESTIFIED, WAS TO BE DONE SO THAT YOU
5 COULD CHECK FOR GUN PRIMER RESIDUE. THEY'RE BAGGED IN
6 GENERAL IN HOMICIDE CASES TO PROTECT THE HANDS FOR ANY ONE
7 OF A NUMBER OF POSSIBLE EVIDENTIARY THINGS WHICH MAY OR
8 MAY NOT BE PRESENT?

9 A YES.

10 Q I MEAN YOU DID IN THIS PARTICULAR CASE OR SOMEONE AT
11 YOUR DIRECTION DID NAIL SCRAPINGS FOR EXAMPLE? AND THAT'S
12 A STANDARD THING DONE; CORRECT?

13 A YES, IT IS.

14 Q I MEAN IT'S -- YOU DON'T KNOW THE EXACT CIRCUMSTANCES
15 OF THE INCIDENTS AROUND THE DEATH AT THE TIME OR DON'T
16 NECESSARILY KNOW THAT. SO OFTEN IN HOMICIDE CASES THERE
17 MAY BE SKIN FRAGMENTS, FOR EXAMPLE, OF AN ASSAILANT
18 TRAPPED UNDER THE NAILS OF A VICTIM?

19 A IT'S POSSIBLE, YES.

20 Q IT'S POSSIBLE. YOU SCRAPE THE NAILS, PRESERVE THAT
21 SORT OF THING, DO DNA TESTING AND THIS AND THAT ON IT
22 LATER ON; RIGHT?

23 A YES, SIR.

24 Q AND THAT WAS DONE IN THIS CASE.

25 A YES, SIR.

1 Q THAT'S A STANDARD PROCEDURE IN THESE MATTERS; CORRECT?

2 A YES, SIR.

3 Q SO THE BAGGING OF THE HANDS IS NOT JUST TO CHECK FOR
4 GUN PRIMER RESIDUE, IT'S TO PRESERVE ANY POSSIBLE EVIDENCE
5 WHICH MAY BE PRESENT ON THE HANDS OF A VICTIM IN A CASE
6 LIKE THIS?

7 A IN GENERAL YES, BUT THE MAIN REASON YOU USUALLY BAG
8 THE HANDS IS REALLY FOR GUN PRIMER RESIDUE IN A CASE LIKE
9 THIS.

10 Q IN A CASE LIKE THIS?

11 A YES, SIR.

12 Q NOW, YOU TESTIFIED REGARDING THE LACK OF STIPPLING IN
13 THIS CASE. MY UNDERSTANDING IS THAT -- THAT STIPPLING
14 DISSIPATES, CONTINGENT ON THE KIND OF FIREARM USED,
15 CONTINGENT ON THE LOAD, THE AMOUNT OF EXPLOSIVE THAT'S
16 USED TO FIRE THE BULLET IN THE CASE, DISSIPATES EIGHTEEN
17 INCHES TO TWO FEET GENERALLY?

18 A IN GENERAL, YES, SIR.

19 Q SO WHAT YOU CAN TELL US BASED ON YOUR OBSERVATIONS OF
20 MR. LEE'S BODY, IS THAT THE GUNSHOT, DUE TO THE LACK OF
21 POWDER BURNING OR STIPPLING, IF YOU WILL, DUE TO THE
22 APPEARANCE OF THE WOUND, WAS THAT THE SHOT CAME FROM
23 SOMEPLACE FURTHER AWAY THAN EIGHTEEN INCHES TO TWO FEET?

24 A THAT IS CORRECT.

25 Q BUT YOU CAN'T SAY IT CAME FROM TEN FEET AWAY?

1 A NO.

2 Q YOU CAN'T SAY IT CAME FROM FIVE FEET AWAY?

3 A NO, SIR.

4 Q YOU CAN'T SAY IT CAME FROM A HUNDRED FEET AWAY?

5 A THAT IS CORRECT.

6 Q OKAY. BUT YOU CAN SAY IT CAME FROM SOMEWHERE GREATER
7 THAN EIGHTEEN INCHES TO TWO FEET?

8 A YES, SIR.

9 Q OKAY. ALL RIGHT. AND, OF COURSE, OBVIOUSLY YOUR WORK
10 IN FORENSIC PATHOLOGY DOES NOT TELL US ANYTHING ABOUT THE
11 CIRCUMSTANCES SURROUNDING MR. LEE'S DEATH BEYOND THE FACT
12 THAT IT WAS FROM A GUNSHOT WOUND MORE THAN A COUPLE OF
13 FEET AWAY?

14 A YES, SIR, IN GENERAL.

15 Q IN GENERAL. YOU CAN'T TELL US WHAT TRANSPIRED
16 IMMEDIATELY BEFORE THE FATAL SHOT WAS FIRED, OBVIOUSLY?

17 A YES, SIR. BUT ONCE AGAIN, THERE WAS NO INDICATION OF
18 A BEATING OR ASSAULT LIKE A DEFENSIVE WOUND.

19 Q NO DEFENSIVE WOUNDS. NOTHING TO INDICATE THAT THERE
20 WAS ANY OTHER FORM OF ASSAULT?

21 A THAT'S TRUE.

22 Q OKAY.

23 MR. STRICKLER: THANK YOU.

24 THE COURT: MR. TAYLOR, YOU GOT ANY QUESTIONS?

25 MR. TAYLOR: NO, THANK YOU.

1 **THE COURT:** ALL RIGHT. YOU CAN COME DOWN, DOCTOR
2 AND YOU'RE FREE TO GO.

3 **DR. NICHOLS:** THANK YOU, YOUR HONOR.

4 (THE WITNESS NOW LEAVES THE WITNESS STAND.)

5 **THE COURT:** CALL YOUR NEXT WITNESS.

6 **MR. GASSER:** THE STATE CALLS INVESTIGATOR KARL
7 KENLEY.

8 **(INVESTIGATOR KARL KENLEY, HAVING**
9 FIRST BEEN DULY SWORN, TESTIFIED AS FOLLOWS:)

10 **THE CLERK:** PLEASE HAVE A SEAT AND STATE YOUR FULL
11 NAME FOR THE RECORD.

12 **INVESTIGATOR KENLEY:** KARL KENLEY

13 **DIRECT EXAMINATION BY MR. GASSER:**

14 Q INVESTIGATOR KENLEY, WHERE ARE YOU CURRENTLY
15 EMPLOYED, SIR?

16 A CURRENTLY I'M A POLICE OFFICER AT THE CITY OF CAYCE
17 POLICE DEPARTMENT.

18 Q HOW LONG HAVE YOU BEEN WITH THE CITY OF CAYCE?

19 A APPROXIMATELY ABOUT SEVEN MONTHS.

20 Q SEVEN MONTHS?

21 A SEVEN MONTHS.

22 Q PRIOR TO YOUR EMPLOYMENT WITH THE CITY OF CAYCE
23 POLICE DEPARTMENT, WHERE WERE YOU EMPLOYED?

24 A I WAS AN INVESTIGATOR WITH THE BENEDICT DEPARTMENT OF
25 PUBLIC SAFETY.

1 Q HOW LONG WERE YOU AN INVESTIGATOR WITH THE BENEDICT
2 DEPARTMENT OF PUBLIC SAFETY?

3 A ABOUT TWO AND A HALF YEARS.

4 Q I WANT TO DRAW YOUR ATTENTION BACK TO MONDAY EVENING,
5 JANUARY THE 15TH. HOW WERE YOU CALLED INTO THIS CASE?

6 A I WAS PAGED AT APPROXIMATELY 9:30 P.M. BY PAGER. IT
7 WAS A 911 PAGE FROM OUR DISPATCH. I RETURNED THE CALL AND
8 WAS INFORMED THAT WE HAD HAD A SHOOTING AT HASKILL STREET
9 DORM.

10 Q SO YOU WERE AT HOME?

11 A YES, SIR.

12 Q AND DID YOU EVENTUALLY RESPOND TO THE SCENE?

13 A YES, SIR.

14 Q AND WHAT TIME DID YOU ARRIVE?

15 A APPROXIMATELY 10:00.

16 Q AND WOULD YOU DESCRIBE -- WELL, LET ME ASK YOU THIS.
17 DID YOU GO STRAIGHT TO THE DORMITORY OR DID YOU GO TO THE
18 DEPARTMENT OF SAFETY OFFICE ON CAMPUS?

19 A I WENT STRAIGHT TO THE SCENE AT HASKILL STREET.

20 Q IF YOU NEED TO USE THIS POINTER, YOU NEED TO BRING IT
21 DOWN HERE.

22 A OKAY.

23 Q I'M SHOWING YOU STATE'S EXHIBIT 31. WHEN YOU GOT TO
24 THE PARKING LOT THAT EVENING, CAN YOU DESCRIBE TO THE JURY
25 THE LIGHTING, AS YOU RECALL?

1 A WELL, I ACTUALLY CAME IN THIS DIRECTION (INDICATING).
2 THIS (INDICATING), OF COURSE, IS THE DORMITORY. I CAME
3 THIS DIRECTION (INDICATING), PARKED ABOUT RIGHT HERE
4 (INDICATING). LIGHTING WAS FINE BECAUSE I NOTICED THAT
5 SOME OF THE MAJOR CRIME INVESTIGATORS FROM COLUMBIA, I
6 KNEW SOME OF THOSE GUYS AND I KNEW THAT THEY WERE STANDING
7 IN THE PARKING LOT HERE. I ALSO RECOGNIZED MY CHIEF AT
8 THAT TIME, CHIEF CONSTANCE (PHONETICALLY), WAS STANDING ON
9 THE SIDEWALK HERE AND SOME OF THE STUDENTS THAT I HAD COME
10 IN CONTACT WITH JUST BY WORKING THERE, I SAW SOME OF THEM.

11 SO I COULD SEE EVERYTHING PLAIN, RECOGNIZE FACES.

12 Q AND WHERE ARE THE LIGHTS IN THAT PARKING LOT?

13 A THERE ARE LIGHTS ALL ALONG HERE (INDICATING). THESE
14 ARE LIGHT POLES (INDICATING). THIS PARKING LOT BACK HERE
15 (INDICATING) WHICH BELONGS TO ALLEN UNIVERSITY BUT THIS IS
16 ALSO A LARGE PARKING LOT. THERE ARE STREET LIGHTS BACK
17 HERE (INDICATING) ALSO. SO THE WHOLE PARKING LOT IS LIT
18 UP.

19 Q AND THEN -- IS THERE A MAJOR HOSPITAL SHORTLY---

20 A YES, SIR. PROVIDENCE HOSPITAL, UH-HUH. (INDICATES AN
21 AFFIRMATIVE RESPONSE).

22 Q AND IS THERE A BANKING -- BANKING INSTITUTION ALSO
23 CLOSE BY?

24 A AND A KFC ALSO IS ALL IN THIS PARKING LOT WHERE THE
25 LIGHTS ARE (INDICATING).

1 Q AND OF COURSE THE MAJOR ROAD THAT'S COMING THIS WAY
2 (INDICATING) IS WHAT?

3 A IT'S TAYLOR STREET.

4 Q OKAY. AND THE MAJOR ROAD THAT IT HOOKS UP WITH CLOSE
5 BY IS WHAT ROAD?

6 A TWO NOTCH ROAD.

7 Q NOW, ONE OF THE THINGS -- WAS PHILLIP LEE ACTUALLY
8 THERE WHEN YOU ARRIVED OR HE'D ALREADY BEEN TRANSPORTED?

9 A NO, SIR, HE HAD ALREADY BEEN TRANSPORTED TO THE
10 HOSPITAL.

11 Q AND SO WHO -- WHOSE RESPONSIBILITY WAS IT TO CONTACT
12 RICHLAND MEMORIAL TO DETERMINE THE -- THE STATUS OF
13 PHILLIP LEE?

14 A IT WAS MY RESPONSIBILITY.

15 Q IS THAT WHEN YOU FOUND OUT HE WAS DECEASED?

16 A YES, SIR. I LEARNED THAT HE WAS PRONOUNCED DEAD AT
17 APPROXIMATELY 21:34, APPROXIMATELY 9:30.

18 Q DID YOU HAVE CONTACT WITH MAURICE SANDERS THAT -- THAT
19 EVENING?

20 A YES, SIR. WHEN I LEFT THE SCENE I WAS -- WELL, AT THE
21 SCENE I WAS ADVISED BY DIRECTOR CONSTANCE, CHIEF
22 CONSTANCE, THAT WE DID HAVE ONE PERSON, A WITNESS AND
23 ANOTHER PERSON, A SUSPECT, IN OUR CUSTODY. AND AT THE
24 TIME THAT I WAS AT THE SCENE, HE HAD BEEN TRANSPORTED TO
25 COLUMBIA POLICE DEPARTMENT BUT RETURNED HIM BACK TO OUR

1 HEADQUARTERS SO THAT I COULD SPEAK WITH HIM.

2 Q AND ARE YOU FAMILIAR WITH OFFICER ODELL SUMTER THAT
3 TESTIFIED YESTERDAY BEFORE THE JURY?

4 A YES, SIR.

5 Q SO WHEN YOU CAME INTO CONTACT WITH -- I'M GONNA SHOW
6 YOU STATE'S EXHIBIT 36. WHEN YOU CAME INTO CONTACT WITH
7 MAURICE SANDERS, YOU RECOGNIZE THAT PICTURE, DON'T YOU?

8 A YES, SIR.

9 Q WHO HAD POSSESSION OF MAURICE SANDERS?

10 A CORPORAL SUMTER HAD POSSESSION OF HIM.

11 Q HAD HE ALREADY BEEN TO THE COLUMBIA POLICE DEPARTMENT
12 SO THERE COULD BE GUNSHOT RESIDUE TESTS ON MR. SANDERS?

13 A YES, SIR.

14 Q YOU DIDN'T WITNESS THAT?

15 A I DID NOT.

16 Q THESE PICTURES OF MR. SANDERS AND OF THE TWO BANDANAS
17 AND THE RED YANKEE'S CAP, WHERE WERE THEY ACTUALLY TAKEN?

18 A THEY WERE TAKEN IN MY OFFICE AND THOSE ITEMS ARE
19 ACTUALLY LAYING ON MY DESK.

20 Q THAT MONDAY EVENING, JANUARY 15TH?

21 A YES, SIR.

22 Q NOW, WITHOUT SAYING WHAT WAS ACTUALLY SAID BY ANY OF
23 THE WITNESSES, DID YOU BEGIN YOUR PRELIMINARY INTERVIEWS
24 WITH -- WITH -- WITH POTENTIAL WITNESSES IN THIS CASE THE
25 NEXT DAY, JANUARY THE 16TH?

1 A YES, SIR.

2 Q AND THAT NEXT DAY, THE 16TH, DID YOU HAVE FIRST NAMES
3 OF ANY OF THE -- OTHER THAN MO SANDERS, FIRST AND LAST,
4 DID YOU HAVE THE FIRST NAMES OF ANYBODY, POTENTIAL
5 SUSPECTS?

6 A NO, SIR, NOT THE FIRST DAY.

7 Q OKAY. THE SECOND DAY, ON JANUARY THE 16TH, DID YOU?

8 A YES, SIR, I DID.

9 Q AND FIRST NAMES BEING?

10 A DUSHUN AND LUCIUS.

11 Q DUSHUN AND LUCIUS?

12 A YES, SIR.

13 Q OKAY. DIDN'T HAVE THE LAST NAMES THOUGH; IS THAT
14 CORRECT?

15 A NO, SIR, I DID NOT.

16 Q NOW AFTER -- AFTER THE INITIAL INTERVIEWS THAT YOU
17 PREVIOUSLY DESCRIBED ON THE 16TH, DID YOU MAKE A PHONE
18 CALL TO A PARTICULAR INVESTIGATOR AT THE COLUMBIA POLICE
19 DEPARTMENT?

20 A YES, SIR, I DID.

21 Q AND WHAT WAS THAT -- WHAT INVESTIGATOR?

22 A THAT WAS INVESTIGATOR J. P. SMITH WITH THE COLUMBIA
23 POLICE DEPARTMENT.

24 Q AND WHAT DID YOU REQUEST ON THE -- JANUARY THE 16TH,
25 WHAT DID YOU REQUEST OF INVESTIGATOR J. P. SMITH? WHERE

1 DID YOU ASK HIM TO GO?

2 A I ASKED INVESTIGATOR SMITH TO GO DOWN TO A & K AUTO
3 SALES BECAUSE IN ONE OF MY PREVIOUS INTERVIEWS I HAD
4 LEARNED THAT ONE OF THE VEHICLES THAT NIGHT HAD A A & K
5 AUTO SALES TAG ON IT. AND I WANTED HIM TO BASICALLY GO
6 DOWN THERE AND SEE IF HE COULD TRACK DOWN THAT TAG AND
7 POSSIBLY WHO IT BELONGED TO.

8 Q AND WHEN -- J. P. SMITH WAS THE INVESTIGATOR THAT
9 TESTIFIED BEFORE THE LUNCH BREAK; CORRECT?

10 A YES, SIR.

11 Q DID HE THEN LATER THAT SAME DAY PROVIDE YOU WITH THE
12 INFORMATION THAT A & K MOTORS PROVIDED HIM THAT WAS
13 PROVIDED TO THE JURY EARLIER THIS MORNING?

14 A YES, SIR, HE SURE DID. YES.

15 Q SO YOU HAD A FIRST NAME LUCIUS; CORRECT?

16 A RIGHT.

17 Q AND THEN YOU GOT THE INFORMATION FROM J. P. SMITH FROM
18 A & K MOTORS?

19 A YES, SIR.

20 Q SO THEN -- NOW YOU KNOW A LAST NAME?

21 A YES, SIR.

22 Q AND THAT LAST NAME WAS WHAT?

23 A STATEN.

24 Q OKAY. ARMED WITH THE INFORMATION NOW WITH LUCIUS
25 STATEN AND THE FACT THAT HE HAD PURCHASED OR LEASED A

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1 GREEN MITSUBISHI GALANT FROM A & K MOTORS, DID YOU ON THE
2 17TH HAVE A MEETING WITH YOUR CHIEF, CHIEF CONSTANCE?

3 A YES, SIR, I DID.

4 Q JANUARY. AND WAS THERE A DECISION MADE FROM THE
5 PRESIDENT HIMSELF, PRESIDENT SWINTON OF BENEDICT COLLEGE
6 AND CHIEF CONSTANCE, WAS THERE A DECISION MADE TO -- TO
7 IDENTIFY, I GUESS, THE AGENCY THAT WAS GONNA BE THE LEAD
8 IN THE HOMICIDE INVESTIGATION?

9 A YES, SIR, THERE WAS.

10 Q AND THAT DECISION WAS TO ALLOW WHO TO BE THE LEAD
11 INVESTIGATIVE AGENCY?

12 A THE COLUMBIA POLICE DEPARTMENT.

13 Q AND WERE YOU -- DID YOU STAY ON THE CASE AS THE
14 LIAISON WITH BENEDICT COLLEGE?

15 A YES, SIR, I DID.

16 Q SO ON THE 17TH OF JANUARY, WHAT DID YOU DO WITH --
17 WITH THE MATERIAL THAT YOU HAD BEEN ABLE TO GATHER ON THE
18 15TH AND 16TH AND THE 17TH, WHERE DID YOU GO AND WHO DID YOU
19 MEET WITH?

20 A I WENT TO THE COLUMBIA POLICE DEPARTMENT THEN TO MEET
21 WITH INVESTIGATOR MEAD AND APPROXIMATELY FOUR OTHER
22 MEMBERS OF THE MAJOR CRIMES UNIT BASICALLY TO BRIEF THEM
23 ON INFORMATION THAT I HAD THUS FAR AND GAVE INVESTIGATOR
24 MEAD A COMPLETE COPY OF MY CASE FILE.

25 Q NOW ON JANUARY THE 18TH, YOU PREVIOUSLY DESCRIBED YOUR

1 INVOLVEMENT WITH J. P. SMITH AND A & K MOTORS ON THE 16TH.

2 A YES, SIR.

3 Q AND THEN THE MEETING ON THE 17TH; CORRECT?

4 A YES, SIR.

5 Q ON THE 18TH OF JANUARY, DID YOU RECEIVE A PHONE CALL
6 FROM SOMEBODY AT THE RICHLAND COUNTY SHERIFF'S DEPARTMENT?

7 A YES, SIR, I DID.

8 Q AND WHO WAS THAT PERSON?

9 A THAT WAS CAPTAIN STEWART WITH THE RICHLAND COUNTY
10 SHERIFF'S DEPARTMENT.

11 Q OKAY. NOW, AS A RESULT OF THAT PHONE CALL FROM
12 CAPTAIN STEWART, DID YOU CONTACT SOMEBODY AT THE COLUMBIA
13 POLICE DEPARTMENT?

14 A YES, SIR, INVESTIGATOR PAUL MEAD.

15 Q AND WHAT DID YOU INFORM INVESTIGATOR MEAD OR ASK OF
16 HIM TO DO?

17 A I INFORMED HIM THAT I HAD RECEIVED A CALL FROM CAPTAIN
18 STEWART SAYING THERE HAD BEEN A GREEN GALANT FOUND AT 1020
19 FARMING CREEK ROAD AND ASKED IF HE -- WELL, BASICALLY
20 TELLING HIM THAT IT WAS PROBABLY THE VEHICLE WE WERE
21 LOOKING FOR AND IF HE COULD SEND SOMEONE OUT TO SECURE
22 THAT VEHICLE.

23 Q WHEN YOU RECEIVED THE INFORMATION FROM A & K MOTORS
24 FROM J. P. SMITH OF THE CITY OF COLUMBIA ON THE 16TH, DID
25 THE INFORMATION INCLUDE THE VIN NUMBER ON THE GREEN GALANT

1 THAT LUCIUS STATEN HAD LEASED?

2 A YES, SIR, IT DID.

3 Q AND WHEN YOU GO THE PHONE CALL FROM CAPTAIN STEWART OF
4 THE RICHLAND COUNTY SHERIFF'S DEPARTMENT CONCERNING THE
5 GREEN GALANT FOUND -- THAT THE SHERIFF'S DEPARTMENT FOUND
6 ON FARMING CREEK ROAD ON THE 18TH, DID HE GIVE YOU THE VIN
7 NUMBER?

8 A YES, SIR. HE ACTUALLY HAD GAVE ME THE LAST FOUR. HE
9 SAID, I JUST WANT TO CONFIRM THAT THIS IS THE CAR YOU'RE
10 LOOKING FOR AND THE LAST FOUR ARE 7499---

11 Q SO IT WAS A MATCH?

12 A YES, SIR.

13 Q THE LAST SERIES OF QUESTIONS, INVESTIGATOR KENLEY. AS

14 A -- AS A POLICE INVESTIGATOR, ARE YOU FAMILIAR WITH
15 GUNSHOT RESIDUE TEST KITS?

16 A YES, SIR.

17 Q OKAY. I WANT TO SHOW YOU FIRST OF ALL WHAT'S BEEN
18 MARKED STATE'S EXHIBIT NUMBER THIRTY-NINE AND I WANT TO
19 SHOW YOU ANOTHER KIT THAT HAS NOT BEEN MARKED YET. IN
20 FACT LET ME JUST GO AHEAD, FOR I.D. PURPOSES, GET THIS
21 MARKED FOR I.D.. ANY OBJECTION?

22 MR. TAYLOR: THAT'S ON LEE?

23 MR. GASSER: YEAH.

24 MR. TAYLOR: NOT FOR IDEA.

25 COURT REPORTER: STATE'S FORTY-FIVE FOR

1 IDENTIFICATION.

2 (STATE'S EXHIBIT NUMBER FORTY-FIVE, GUNSHOT RESIDUE
3 KIT, IS NOW MARKED FOR IDENTIFICATION WITHOUT OBJECTION.)

4 Q ON JANUARY THE 17TH OF 2001, DID YOU HAVE AN
5 OPPORTUNITY TO MEET WITH AN OFFICER PHIL YOUNG WITH THE
6 COLUMBIA POLICE DEPARTMENT?

7 A YES, SIR, I DID.

8 Q AND DID YOU OBTAIN STATE'S EXHIBIT THIRTY-NINE AND
9 STATE'S EXHIBIT -- MARKED FOR I.D. AND STATE'S EXHIBIT
10 FORTY-FIVE MARKED FOR I.D.?

11 A YES, SIR, I DID.

12 Q DID YOU OBTAIN THOSE TWO ITEMS FROM HIM?

13 A YES, SIR.

14 Q OKAY. AND WHAT CONDITION WERE THEY IN?

15 A THEY WERE SEALED WITH -- AS THEY ARE NOW, THERE WERE
16 SEALED IN THIS CONDITION?

17 Q DID YOU EVER UNSEAL THEM?

18 A NO, SIR.

19 Q WERE THEY LABELED TOO WITH THE NAMES?

20 A YES, SIR.

21 Q THE NAMES BEING WHOM?

22 A THAT NAME IS MAURICE SANDERS -- THE OTHER NAME IS
23 MAURICE SANDERS.

24 Q MAURICE SANDERS AND WHO'S THE OTHER ONE?

25 A (NO RESPONSE.)

1 Q THE NAME ON THAT ONE?

2 A PHILLIP LEE, JUNIOR

3 Q AND THE NAME ON THIS ONE?

4 A MAURICE SANDERS.

5 Q AND ON JANUARY THE 20 -- JANUARY THE 22ND, 2001, WHERE
6 DID YOU TAKE THESE TWO ITEMS BACK TO?

7 A THE COLUMBIA POLICE DEPARTMENT.

8 Q OKAY. AND WERE THEY SEALED WHEN YOU -- WHEN YOU TOOK
9 THEM BACK TO THE COLUMBIA POLICE DEPARTMENT?

10 A YES, SIR, THEY WERE STILL SEALED.

11 Q AND HAD THE SEAL EVER BEEN BROKEN THE ENTIRE TIME
12 THAT YOU -- YOU WERE IN CUSTODY OF THEM?

13 A NO, SIR.

14 Q NOW, THE -- AND I APOLOGIZE IF I MISSPOKE,
15 INVESTIGATOR KENLEY, BUT I BELIEVE THE GUNSHOT RESIDUE
16 TEST THAT YOU GOT FROM MO SANDERS ON THE 17TH WAS FROM
17 PHIL YOUNG; IS THAT CORRECT?

18 A YES, SIR.

19 Q AND YOU'RE FAMILIAR WITH OFFICER JIM POTASH OF THE
20 COLUMBIA POLICE DEPARTMENT?

21 A YES, SIR.

22 Q IS THAT WHO YOU OBTAINED PHILLIP LEE'S GUNSHOT RESIDUE
23 TEST FROM?

24 A YES, SIR.

25 Q BUT BOTH ON THE 17TH?

1 A YES, SIR.

2 MR. GASSER: THAT'S ALL I HAVE, YOUR HONOR.

3 THE COURT: ALL RIGHT, MR. STRICKLER.

4 MR. STRICKLER: MAY IT PLEASE THE COURT, SIR.

5 CROSS-EXAMINATION BY MR. STRICKLER:

6 Q GOOD AFTERNOON.

7 A GOOD AFTERNOON.

8 Q SO AS I UNDERSTAND IT, IT WAS ON THE 17TH THAT THE
9 CITY OF COLUMBIA POLICE DEPARTMENT WAS NAMED AS THE LEAD
10 INVESTIGATIVE AGENCY IN THIS CASE---

11 A YES---

12 Q ---IS THAT CORRECT?

13 A YES, SIR.

14 Q SO FROM THE EVENING OF THE 15TH TO WHENEVER IT WAS ON
15 THE 17TH THAT THAT DECISION WAS MADE, BENEDICT POLICE
16 DEPARTMENT WAS THE LEAD AGENCY---

17 A YES, SIR.

18 Q ---RIGHT?

19 A YES, SIR.

20 Q OKAY. AND YOU WERE THE INVESTIGATOR ASSIGNED TO
21 HANDLE THE INVESTIGATION---

22 A YES, SIR.

23 Q ---BEFORE THAT; CORRECT?

24 A YES, SIR.

25 Q OKAY. AND IN THAT CAPACITY, DID YOU HAVE OCCASION

1 TO INTERVIEW INDIVIDUALS REGARDING THIS CASE?

2 A YES, SIR, I DID.

3 Q AND CAN YOU TELL US, PLEASE, WHAT INTER -- WHAT
4 INDIVIDUALS YOU INTERVIEWED IN RELATION TO THIS MATTER?

5 A TOTALLY?

6 Q WHAT INDIVIDUALS DID YOU INTERVIEW WHO GAVE YOU
7 STATEMENTS?

8 A LAMAR PERDUE WHICH WAS THE NIGHT OF THE INCIDENT.

9 Q I'M SORRY. LAMAR PERDUE, HE GAVE YOU A STATEMENT THE
10 NIGHT---

11 A THE NIGHT OF THE INCIDENT.

12 Q ---OF THE INCIDENT? AND THAT WOULD BE JANUARY THE
13 15TH---

14 A YES, SIR.

15 Q OKAY.

16 A MAURICE SANDERS, ALSO THE NIGHT OF THE INCIDENT.

17 Q OKAY.

18 A ON THE 16TH, WILENA MCARTHUR.

19 Q OKAY.

20 A ALSO ON THE 16TH, CHRISTOPHER SIMS.

21 Q OKAY.

22 A ALSO ON THE 16TH, JACQUELINE DAVIS.

23 Q OKAY.

24 A ALSO ON THE 16TH, ANTHONY KENNEDY.

25 Q OKAY.

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1 A ON THE 16TH, MANNY PERDUE.

2 Q OKAY.

3 A ON THE 18TH, MANNY PERDUE. BACK ON THE 16TH, ASWAD
4 SALAAM.

5 Q OKAY.

6 A ON THE 18TH, JEAN DABADY. AND THAT'S ALL.

7 Q THOSE ARE ALL THE PEOPLE THAT YOU GOT WRITTEN
8 STATEMENTS FROM?

9 A YES, SIR.

10 Q YOU MAY HAVE SPOKEN TO SOME OTHER PEOPLE. I'M SURE
11 YOU DID SPEAK WITH A NUMBER OF OTHER PEOPLE.

12 A YES, SIR.

13 Q BUT THOSE PEOPLE YOU ACTUALLY REDUCED TO WRITTEN
14 STATEMENTS---

15 A YES, SIR.

16 Q STATEMENTS TO WRITING?

17 A YES, SIR.

18 MR. GASSER: YOUR HONOR, JUST FOR THE RECORD, I JUST
19 WANT THE RECORD TO REFLECT THAT ALL THE STATEMENTS WERE
20 TURNED OVER TO THE BOTH DEFENSE COUNSELS PURSUANT TO
21 DISCOVERY.

22 MR. STRICKLER: THAT'S CORRECT, SIR.

23 Q AND I TAKE IT WHEN YOU'RE CONDUCTING AN INVESTIGATION
24 YOU'RE INTERESTED IN FINDING OUT THE FACTS AND
25 CIRCUMSTANCES SURROUNDING IT---

- 1 A THAT'S CORRECT.
- 2 Q ---CORRECT? YOU'RE INTERESTED IN LEARNING WHAT
- 3 HAPPENED; RIGHT?
- 4 A THAT'S CORRECT.
- 5 Q AND WHO DID WHAT TO WHOM WHEN---
- 6 A YES, SIR.
- 7 Q ---RIGHT?
- 8 A YES, SIR.
- 9 Q OKAY. AND THAT IN TAKING STATEMENTS FROM PEOPLE
- 10 YOU'RE -- ONE OF THE THINGS CERTAINLY YOU'RE INTERESTED IN
- 11 IS ANYTHING THEY CAN PROVIDE AS FAR AS ANSWERS REGARDING
- 12 WHO DID WHAT TO WHOM WHEN?
- 13 A YES, SIR.
- 14 Q OKAY. AND IN TAKING STATEMENTS FROM PEOPLE -- WE'RE
- 15 TALKING NON-SUSPECTS HERE, WITNESSES TO AN INCIDENT, OKAY?
- 16 A RIGHT.
- 17 Q IN TAKING STATEMENTS FROM A WITNESS TO AN INCIDENT,
- 18 YOU DON'T TRY TO SUGGEST ANY ANSWERS TO THEM; CORRECT?
- 19 A CORRECT.
- 20 Q YOU WANT THEIR IMPRESSIONS AND THE INFORMATION THAT
- 21 THEY CAN GIVE YOU; CORRECT?
- 22 A THAT'S CORRECT.
- 23 Q YOU ENCOURAGE THEM TO BE, ONE, COMPLETELY TRUTHFUL AND
- 24 TWO, PROVIDE YOU WITH AS MUCH INFORMATION AS POSSIBLE;
- 25 CORRECT?

1 A THAT'S CORRECT.

2 Q AND THAT YOU CAN'T HAVE TOO MUCH INFORMATION ABOUT AN
3 INCIDENT; CORRECT?

4 A THAT'S CORRECT.

5 Q YOU NEVER KNOW WHAT LITTLE PIECE OF INFORMATION WILL
6 LEAD TO SOMETHING ELSE THAT IS SIGNIFICANT; CORRECT?

7 A THAT'S CORRECT.

8 Q OKAY. SO, IN TALKING OH, FOR EXAMPLE, WITH MANNY
9 PERDUE. YOU ENCOURAGED HIM TO BE TRUTHFUL WITH YOU. YOU
10 ENCOURAGED HIM TO PROVIDE AS MUCH INFORMATION AS POSSIBLE;
11 CORRECT?

12 A THAT'S CORRECT.

13 Q AND YOU WOULD AGREE WITH ME THAT IN YOUR CONVERSATIONS
14 ON THE 16TH AND ON THE 18TH WITH MANNY PERDUE, HE DID NOT
15 INDICATE HE HAD HEARD -- THE PERSON HE REFERS TO IN HIS
16 STATEMENTS AS JA, HE DID NOT HEAR HIM INDICATE IN THOSE
17 STATEMENTS THAT JAH HAD SAID TO SOMEONE, "GO GET THE
18 HAMMER"?

19 A THAT'S CORRECT.

20 Q IN NEITHER OF THOSE STATEMENTS DID HE MENTION THAT;
21 CORRECT?

22 A THAT'S CORRECT.

23 Q YOU WEREN'T RUSHING HIM TO GET THROUGH THE STATEMENTS

24 ---

25 A NO, SIR.

1 Q ---CORRECT?

2 (PAUSE.)

3 Q JUST A COUPLE OF OTHER THINGS. YOU INDICATED WHEN
4 REFERENCING STATE'S EXHIBIT THIRTY-ONE, YOU TALKED ABOUT
5 THERE BEING SOME OTHER -- ALLEN UNIVERSITY AND SOME OTHER
6 BUSINESSES IN THIS AREA; RIGHT?

7 A RIGHT.

8 Q OKAY. AND I'M JUST TRYING TO GET ORIENTED MYSELF A
9 LITTLE BIT. SO, IF YOU WILL, NOW I'M GONNA GO TO STATE'S
10 THIRTY-FIVE WHICH IS A SOMEWHAT BROADER VIEW. YOU CAN
11 ORIENT YOURSELF TO HASKILL STREET DORM, TAYLOR STREET,
12 LAUREL AND HARDEN---

13 A OKAY.

14 Q ---OKAY. YOU INDICATED THAT THERE WAS -- THAT ALLEN
15 UNIVERSITY WAS IN THE AREA ALSO? WHERE WOULD BE -- WHERE
16 WOULD ALLEN BE LOCATED?

17 A THIS IS HASKILL STREET DORM (INDICATING)---

18 Q RIGHT.

19 A ---ALLEN STREET -- ALLEN UNIVERSITY IS BASICALLY
20 SITTING RIGHT HERE (INDICATING). THE BACK OF IT IS
21 SITTING RIGHT HERE (INDICATING).

22 Q THE BACK OF IT SITTING RIGHT THERE (INDICATING)?

23 A RIGHT.

24 Q OKAY. TAYLOR STREET BECOMES FOREST DRIVE. LET ME
25 SEE, YOU INDICATED THAT THERE WAS A BANK. WHAT KIND OF --

1 WHAT KIND OF BANK---

2 A I THINK IT WAS A BANK OF AMERICA---

3 Q BANK OF AMERICA. WOULD THAT BE LOCATED RIGHT THERE
4 (INDICATING)---

5 A YES, SIR.

6 Q ---IT'S LABELED BANK. THAT'S PRETTY MUCH THE CORRECT
7 LOCATION---

8 A YES, SIR.

9 Q OKAY. AND THEN THERE IS A -- LET'S SEE, THIS IS TWO
10 NOTCH WHICH TURNS INTO MILLWOOD RIGHT THERE (INDICATING)
11 AND THIS IS TAYLOR TURNING INTO FOREST DRIVE (INDICATING).
12 THIS CORNER RIGHT HERE (INDICATING), THERE'S A CHURCH'S
13 CHICKEN RIGHT THERE (INDICATING)---

14 A YES, SIR.

15 Q ---CORRECT? IS THERE ANOTHER -- IS THERE ANOTHER
16 FRIED CHICKEN PLACE AROUND THERE SOMEWHERE?

17 A KFC.

18 Q KFC?

19 A IS OVER HERE (INDICATING) NEXT -- RIGHT NEXT TO THE
20 BANK.

21 Q RIGHT NEXT TO THE BANK. SO YOU'VE GOT A KFC THERE
22 (INDICATING), YOU'VE GOT A CHURCH'S THERE (INDICATING),
23 YOU'VE GOT A BANK THERE (INDICATING), YOU'VE GOT ALLEN
24 UNIVERSITY THERE (INDICATING).

25 (PAUSE.)

1 Q AND JUST A COUPLE MORE THINGS. OF THE INDIVIDUALS --
2 YOU RAN OFF A LIST OF PEOPLE THAT YOU TOOK STATEMENTS
3 FROM.

4 IF YOU CAN -- LET'S SEE, LAMAR PERDUE. WAS IT YOUR
5 UNDERSTANDING HE WAS A WITNESS TO THE INCIDENT ON THE
6 15TH?

7 A YES, SIR.

8 Q OKAY. MR. SANDERS WAS. HOW ABOUT MS. McARTHUR?

9 A NO, SHE WAS THERE BUT SHE DIDN'T WITNESS ANYTHING.

10 Q DIDN'T SEE IT. OKAY. MR. SIMS, DIDN'T REALLY SEE
11 ANYTHING?

12 A DIDN'T REALLY SEE ANYTHING ACCORDING TO THE STATEMENT.

13 Q DAVIS?

14 A NO, HE DIDN'T SEE ANYTHING.

15 Q MR. KENNEDY, WE'VE HEARD FROM?

16 A RIGHT.

17 Q MANNY PERDUE, TWICE. MR. SALAAM?

18 A HE WAS THERE.

19 Q HE WAS THERE. AND MR. DABNEY (SIC), HE WAS THERE?

20 A I'M SORRY?

21 Q WAS MR. DABNEY (SIC) THERE?

22 A DABADY.

23 Q DABADY, I'M SORRY.

24 A YEAH, HE WAS THERE.

25 Q OKAY. VERY GOOD.

1 MR. STRICKLER: THANK YOU VERY MUCH.

2 THE COURT: MR. TAYLOR?

3 MR. TAYLOR: NO QUESTIONS, THANK YOU.

4 THE COURT: ALL RIGHT. YOU CAN COME DOWN.

5 (THE WITNESS NOW LEAVES THE WITNESS STAND.)

6 THE COURT: CALL YOUR NEXT WITNESS.

7 MR. GASSER: THE STATE WOULD CALL INVESTIGATOR MEAD.

8 (PAUL JAMES MEAD, HAVING FIRST
9 BEEN DULY SWORN, TESTIFIED AS FOLLOWS:)

10 THE CLERK: PLEASE HAVE A SEAT. STATE YOUR FULL
11 NAME FOR THE RECORD.

12 MR. MEAD: PAUL JAMES MEAD.

13 MR. GASSER: BEG THE COURT'S INDULGENCE FOR A MOMENT.

14 (PAUSE.)

15 DIRECT EXAMINATION BY MR. GASSER:

16 Q INVESTIGATOR MEAD, WHERE ARE YOU EMPLOYED, SIR?

17 A THE CITY OF COLUMBIA POLICE DEPARTMENT.

18 Q AND HOW LONG HAVE YOU BEEN WITH THE CITY OF COLUMBIA?

19 A A LITTLE OVER SIXTEEN YEARS.

20 Q WHAT ARE YOUR CURRENT DUTIES AND RESPONSIBILITIES WITH
21 THE CITY OF COLUMBIA?

22 A I'M ASSIGNED TO THE INVESTIGATION DIVISION, THE MAJOR
23 CRIMES UNIT.

24 Q HOW LONG HAVE YOU BEEN WITH THE MAJOR CRIMES UNIT?

25 A I'VE BEEN THERE ABOUT -- ALMOST EIGHT YEARS NOW.

1 Q AND WHEN YOU SAY MAJOR CRIMES UNIT, WHAT CRIMES DO
2 THOSE ENTAIL AS FAR AS YOUR TEAM OF INVESTIGATORS?

3 A WE DO MOSTLY VIOLENT CRIMES AGAINST PERSONS, CRIMES
4 SUCH AS ARMED ROBBERIES, SEXUAL ASSAULTS, HOMICIDES,
5 AGGRAVATED ASSAULTS.

6 Q I WANT TO DRAW YOUR ATTENTION BACK TO JANUARY 15TH OF
7 2001. DID YOU HAVE AN OPPORTUNITY, AS A COLUMBIA POLICE
8 INVESTIGATOR, TO ACTUALLY GET CALLED OUT TO THE SCENE THAT
9 EVENING?

10 A YES, SIR, I DID.

11 Q OKAY. BUT THE CASE WASN'T OFFICIALLY TURNED OVER TO
12 YOU UNTIL THE 17TH, JANUARY 17TH; IS THAT CORRECT?

13 A THAT'S CORRECT.

14 Q BUT WOULD IT BE -- IS THE BENEDICT COLLEGE CAMPUS
15 ACTUALLY IN THE CITY OF COLUMBIA?

16 A YES, IT IS, SIR.

17 Q WHEN YOU -- WHEN YOU ARRIVED AT THE SCENE, JUST
18 BRIEFLY, WHERE DID YOU -- WHERE DID YOU GO WHEN YOU GOT TO
19 STATE'S -- REFERRING TO STATE'S EXHIBIT THIRTY-ONE, WHERE
20 DID YOU GO WHEN YOU FIRST GOT TO THE SCENE?

21 A WHEN I CAME IN, I CAME IN WAVERLY STREET. I CAME
22 THROUGH THE AREA HERE AND WALKED THROUGH HERE
23 (INDICATING). AND THE INCIDENT LOCATION WAS HERE
24 (INDICATING). WE MET WITH SOME OF BENEDICT COLLEGE -- THE
25 POLICE CHIEF AND AN OFFICER AND WE WERE APPROXIMATELY HERE

1 (INDICATING) DURING MOST OF THE TIME.

2 Q WAS THE SCENE ROPED OFF?

3 A YES, IT WAS, SIR.

4 Q WERE YOU ALLOWING GERI STEEDLY AND HER CREW TO DO
5 THEIR BUSINESS?

6 A YES, THEY WERE ALREADY PROCESSING THE SCENE WHEN I GOT
7 THERE.

8 Q OKAY. DESCRIBE THE LIGHTING IN THE PARKING LOT FOR
9 US, PLEASE.

10 A THAT PARTICULAR PARKING LOT IS VERY WELL LIT AND
11 THERE'S LIGHTS ACROSS THE SIDEWALK FROM THE DORM ITSELF
12 GOING UP TOWARDS THE OTHER END OF THE PARKING LOT. THERE
13 WAS STREET LIGHTS TOWARDS THE END OF THE PARKING LOT AND
14 BEHIND US AS WELL AS A NUMBER OF LIGHTING FROM THE
15 BUSINESSES. THERE'S A CONVENIENCE STORE AND A COUPLE OF
16 OTHER BUSINESSES THAT ARE ON THE BACK SIDE OF THE PARKING
17 LOT.

18 Q NOW, AS YOU PREVIOUSLY INDICATED, ON JANUARY THE 17TH,
19 DID YOU BECOME ONE OF THE CHIEF INVESTIGATORS ASSIGNED
20 THIS PARTICULAR CASE?

21 A YES, SIR, I DID.

22 Q AND DID A MEETING TAKE PLACE BETWEEN YOU AND SOME OF
23 YOUR TEAM MEMBERS AT CPD WITH KARL KENLEY?

24 A YES, SIR.

25 Q AND WHERE DID THAT MEETING TAKE PLACE?

1 A COLUMBIA POLICE DEPARTMENT.

2 Q SO ON WEDNESDAY, JANUARY THE 17TH, DID YOU RECEIVE
3 WHATEVER INFORMATION AND DOCUMENTATION INVESTIGATOR KENLEY
4 HAD IN HIS FILE?

5 A YES, I DID.

6 Q AND WERE YOU ABLE TO REVIEW IT THAT DAY, THE 17TH?

7 A YES, I DID.

8 Q DID YOU FAMILIARIZE YOURSELF THEN WITH THIS GREEN
9 MITSUBISHI GALANT WITH AN A & K PAPER TAG, WITH THAT
10 ASPECT OR THAT LEAD IN THE CASE?

11 A YES, SIR, I DID.

12 Q WERE YOU ABLE TO MEET WITH J. P. SMITH AND RECEIVE HIS
13 INFORMATION BOTH ORALLY FROM HIM AS WELL AS THE DOCUMENTS
14 HE GOT FROM A & K MOTORS?

15 A YES, I DID.

16 Q NOW ON JANUARY THE 18TH, THEN THE NEXT DAY, ON
17 THURSDAY, JANUARY THE 18TH, WHO WAS IT THAT NOTIFIED YOU
18 CONCERNING THE SHERIFF'S DEPARTMENT LOCATING THIS GREEN
19 GALANT OUT ON FARMING CREEK ROAD?

20 A SERGEANT KENLEY OF BENEDICT PUBLIC SAFETY.

21 Q WHEN SERGEANT KENLEY PROVIDED YOU WITH THAT
22 INFORMATION, WHAT DID YOU DO?

23 A I CONTACTED INVESTIGATOR J. P. SMITH WITH THE COLUMBIA
24 POLICE DEPARTMENT. HE WAS WORKING AT THE TIME AND HE
25 AGREED TO GO OUT TO FARMING CREEK ROAD AND TAKE POSSESSION

1 OF THE VEHICLE.

2 Q IN FACT, DID YOU ASK HIM TO HAVE IT TOWED?

3 A YES, I DID.

4 Q AND WHERE WAS IT TOWED TO?

5 A THE COLUMBIA POLICE DEPARTMENT HEADQUARTERS.

6 Q WAS A SEARCH WARRANT OBTAINED FOR THAT VEHICLE?

7 A IT WAS.

8 Q AND WHEN I SAY A SEARCH WARRANT, YOU ACTUALLY HAVE TO
9 GO TO A NEUTRAL AND DETACHED ADMINSTERIAL (PHONETICALLY)
10 RECORDER OR A MAGISTRATE TO OBTAIN A -- A ORDER -- A COURT
11 ORDER?

12 A YES, I DID.

13 Q BECAUSE INVESTIGATORS, YOU CAN'T WRITE OUT A COURT
14 ORDER AND JUST GO SERVE IT YOURSELF, CAN YOU?

15 A THAT'S CORRECT, SIR.

16 Q SO DID YOU -- DID YOU EXECUTE THE SEARCH WARRANT AND
17 HAVE THE I.D. LAB SEARCH THE GREEN GALANT?

18 A I DID.

19 Q WAS ANYTHING OF EVIDENTIARY VALUE FOUND INSIDE THE
20 CAR?

21 A NO, THERE WAS NOT.

22 Q NOW THEN ON JANUARY THE 18TH, DID YOU BEGIN
23 INTERVIEWING SOME OF THE PROSPECTIVE WITNESSES IN THIS
24 CASE ON THAT DAY, JANUARY THE 18TH?

25 A YES, SIR, I DID.

1 Q AND DID THOSE INTERVIEWS CONTINUE BASICALLY THROUGHOUT
2 THE MONTH OF JANUARY?

3 A YES, THEY DID.

4 Q YOU ALSO ON OCCASION, STARTING ON JANUARY THE 18TH,
5 HAD OPPORTUNITIES TO SHOW A SERIES OF PHOTOGRAPH LINEUPS
6 TO CERTAIN WITNESSES IN THIS CASE?

7 A I DID.

8 Q TAKE STATEMENTS?

9 A I DID, SIR.

10 Q NOW, BEFORE WE GET TO THOSE PHOTO LINEUPS, LET ME JUMP
11 AHEAD TO JANUARY THE 23RD, WHICH I BELIEVE -- THE INCIDENT
12 TAKES PLACE ON THE 15TH; CORRECT?

13 A THAT'S CORRECT, SIR.

14 Q YOU OFFICIALLY GET THE CASE ON THE 17TH?

15 A THAT'S CORRECT.

16 Q OKAY. ON THE 23RD -- WELL, ACTUALLY ON THE 22ND, ON
17 JANUARY THE 22ND, WERE YOU ABLE TO OBTAIN A SEARCH WARRANT
18 FOR A PARTICULAR LOCATION?

19 A I DID.

20 Q OKAY. NOW, ON THE -- ON THE -- YOU INDICATED THAT ON
21 THE 18TH YOU STARTED TAKING STATEMENTS FROM WITNESSES;
22 CORRECT?

23 A YES, SIR,

24 Q AND WHEN -- WHEN SERGEANT KENLEY PROVIDED YOU THE
25 BENEDICT COLLEGE FILE AND MET WITH YOU ON THE 17TH, AS

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1 SERGEANT KENLY PREVIOUSLY TESTIFIED, WERE YOU THEN MADE
2 AWARE THAT LUCIUS STATEN WAS A SUSPECT?

3 A THAT'S CORRECT, SIR.

4 Q AND YOU HAD THE A & K PAPER TAGS INFORMATION; RIGHT?

5 A I DID.

6 Q OKAY. AFTER TAKING SOME STATEMENTS ON THE 18TH AND
7 THEN SHOWING SOME PHOTO LINEUPS ON THE 18TH, ON JANUARY
8 THE 22ND DID YOU OBTAIN A WARRANT FOR SOMEBODY?

9 A I DID, SIR.

10 Q WHO DID YOU OBTAIN -- DID YOU GO TO AN ADMINISTERIAL
11 RECORDER OR A MAGISTRATE TO GET THAT WARRANT?

12 A THE WARRANT I OBTAINED THROUGH THE ADMINISTERIAL
13 RECORDER AT THE CITY OF COLUMBIA.

14 Q OKAY. AND THAT WARRANT WAS AGAINST WHOM?

15 A LUCIUS STATEN.

16 Q NOW, DID YOU HAVE A PHOTOGRAPH OF LUCIUS STATEN ON THE
17 18TH?

18 A I DID.

19 Q TO BE ABLE TO PUT IN A PHOTO LINEUP?

20 A I DID, SIR.

21 Q DID YOU HAVE A PHOTOGRAPH OF MO SANDERS ON JANUARY THE
22 18TH TO BE ABLE TO PUT INTO A PHOTO LINEUP?

23 A I DID.

24 Q BUT DID YOU HAVE A PHOTOGRAPH OF DUSHUN STATEN ON THE
25 18TH, 19TH, 20TH, 21ST, 22ND? DID YOU EVEN HAVE A PHOTOGRAPH

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1 OF HIM?

2 A I DID NOT HAVE A PHOTOGRAPH.

3 Q OR OF SHAKEEM WILSON?

4 A NO, SIR, I DIDN'T

5 Q OR OF LIMEL SIMS?

6 A NO, I DID NOT.

7 Q IF YOU'VE GOT A STATEMENT FROM WITNESSES INDICATING
8 THEY SAW SOMETHING, THEY SAW AN EVENT, IN ORDER TO GET --
9 IF THEY DON'T -- IF YOU DON'T HAVE INFORMATION THAT THEY
10 HAVE KNOWN THE PERSON FOR A LENGTHY PERIOD OF TIME, DO YOU
11 HAVE TO GET SOME -- HAVE SOME SORT OF IDENTIFICATION
12 PROCEDURE TO MAKE SURE YOU'VE GOT THE RIGHT NAME WITH --
13 THE RIGHT FACE WITH THE RIGHT PERSON?

14 A THAT'S CORRECT, SIR.

15 Q OKAY. SO IF YOU HAVE A PHOTOGRAPH OF LUCIUS STATEN ON
16 THE 18TH AND YOU STARTED TAKING SOME STATEMENTS FROM
17 WITNESSES, WERE YOU ABLE TO OBTAIN AN IDENTIFICATION OF
18 LUCIUS STATEN FROM YOUR WITNESSES THEREFORE TO GET THE
19 ARREST WARRANT?

20 A THAT'S CORRECT. THAT'S WHAT I DID.

21 Q BUT YOU DIDN'T HAVE AN ARREST WARRANT ON DUSHUN STATEN
22 YET; IS THAT CORRECT?

23 A THAT'S CORRECT

24 Q BUT HAD YOU BEEN ABLE TO DO ANY KIND OF PHOTO LINEUPS
25 OR ANY IDENTIFICATION PROCEDURE ON DUSHUN STATEN?

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1 A NO, I HAD NOT.

2 Q AND THE REASON BEING IS BECAUSE YOU DIDN'T HAVE WHAT?

3 A I DIDN'T HAVE A PICTURE AT THE TIME.

4 Q OKAY.

5 A SO, YOU TALKED ABOUT GETTING -- YOU GOT -- YOU
6 OBTAINED AN ARREST WARRANT FOR LUCIUS STATEN FOR MURDER;
7 IS THAT CORRECT?

8 A THAT'S CORRECT.

9 Q WHAT ELSE -- WHAT OTHER LEGAL DOCUMENT DID YOU OBTAIN
10 ON THE 22ND? WELL LET ME CHECK. HOLD ON A SECOND.

11 (PAUSE.)

12 Q YEAH, ON JANUARY THE 22ND, WHAT OTHER LEGAL DOCUMENT
13 DID YOU OBTAIN, THIS TIME FROM A MAGISTRATE?

14 A I OBTAINED A SEARCH WARRANT FOR APARTMENT 1308 AT 716
15 ZIMALCREST ROAD.

16 Q I WANT TO SHOW YOU THIS DOCUMENT AND ASK YOU IF YOU
17 RECOGNIZE IT.

18 A YES, THAT'S THE SEARCH WARRANT I GOT AND IT'S SIGNED
19 BY THE MAGISTRATE.

20 Q JUDGE WOMBLE?

21 A THAT'S CORRECT, SIR.

22 Q AND WHO'S THE AFFIANT ON THE SEARCH WARRANT? WHO IS
23 SUBMITTING THE INFORMATION UNDER OATH TO JUDGE WOMBLE?

24 A THAT WAS ME. I DID IT.

25 MR. GASSER: PLEASE MARK THIS FOR IDENTIFICATION

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1 PURPOSES ONLY, YOUR HONOR, JUST FOR THE RECORD.

2 MR. TAYLOR: CAN'T OBJECT FOR I.D..

3 COURT REPORTER: STATE'S FORTY-SIX FOR
4 IDENTIFICATION.

5 (STATE'S EXHIBIT NUMBER FORTY-SIX, SEARCH WARRANT, IS
6 NOW MARKED FOR IDENTIFICATION WITHOUT OBJECTION.)

7 Q NOW BETWEEN THE EIGHTEENTH OF JANUARY AND THE TIME YOU
8 WENT TO GET -- THE 22ND, DID YOU HAVE TO DO SOME
9 INVESTIGATIVE WORK TO FIND OUT THE APARTMENTS WHERE LUCIUS
10 STATEN AND HIS BROTHER WERE -- WAS LIVING?

11 A YES, WE DID.

12 Q THAT TOOK A COUPLE OF DAYS OF LEG WORK?

13 A IT DID.

14 Q NOW THE ARREST WARRANT AGAINST MR. LUCIUS STATEN AND
15 THE SEARCH WARRANT THAT YOU JUST DESCRIBED THAT YOU
16 OBTAINED ON JANUARY THE 22ND, WHEN DID YOU GO EXECUTE
17 THOSE TWO LEGAL DOCUMENTS?

18 A THEY WERE EXECUTED ON JANUARY THE 23RD OF 2001.

19 Q AND YOU WENT WHERE?

20 A TO 715 ZIMALCREST ROAD, APARTMENT 1303.

21 Q AND THOSE APARTMENTS ARE COMMONLY REFERRED TO AS?

22 A CROSSROADS APARTMENTS.

23 Q NOW, YOU INDICATED YOU'VE BEEN A POLICE OFFICER FOR
24 NINETEEN YEARS?

25 A SIXTEEN YEARS.

1 Q SIXTEEN YEARS. WHAT TRAINING DO YOU HAVE -- WHAT
2 TRAINING HAVE YOU HAD TO UNDERGO, FIRST INITIALLY AS A
3 POLICE OFFICER AND THEN SUBSEQUENT TRAINING?

4 A I'VE HAD THE SOUTH CAROLINA CRIMINAL JUSTICE ACADEMY.
5 IT WAS APPROXIMATELY EIGHT WEEKS OUT THERE. WE HAVE
6 EXTENSIVE TRAINING, ESPECIALLY THE FIRST YEAR WHEN YOU
7 JOIN THE POLICE FORCE, WHEN YOU RIDE WITH OTHER OFFICERS.
8 FROM THERE WE'VE HAD -- I'VE HAD SPECIALIZED TRAINING IN
9 INVESTIGATIONS, AS WELL AS ONGOING ANNUAL TRAINING.

10 Q DID YOUR TRAINING -- DOES YOUR TRAINING INCLUDE, FOR
11 INSTANCE, INTERVIEW TECHNIQUES OR METHODS?

12 A YES, SIR, IT DID.

13 Q DOES IT INCLUDE SAFE PROCEDURES AND PRACTICAL
14 PROCEDURES FOR EXECUTING A SEARCH WARRANT OR AN ARREST
15 WARRANT ON SUSPECTS?

16 A YES, I'VE HAD THAT TRAINING.

17 Q IS THERE A DIFFERENT TYPE OF PROCEDURE USED IF YOU'RE
18 GOING TO SERVE A SHOPLIFTING WARRANT ON SOMEBODY OR IF
19 YOU'RE GOING TO SERVE A BAD CHECK WARRANT ON SOMEBODY AS
20 OPPOSED TO GOING TO SERVE A MURDER WARRANT ON SOMEBODY?

21 A YES, SIR.

22 Q OKAY. WHEN YOU'RE GOING TO EXECUTE A SEARCH WARRANT
23 AT A LOCATION WHERE A MURDER SUSPECT MAY BE, ARE YOU
24 TRAINED TO TAKE SPECIAL SAFETY PRECAUTIONS?

25 A WE ARE.

1 Q DID YOU ENTERTAIN THOSE SAFETY PRECAUTIONS IN THIS
2 CASE ON JANUARY THE 23RD OF 2001?

3 A YES, SIR, WE DID.

4 Q SO WAS IT YOU, YOURSELF AND MAYBE ANOTHER PARTNER,
5 THAT GOES THEN TO SERVE A SEARCH WARRANT AND ARREST
6 WARRANT ON A MURDER SUSPECT?

7 A NO, THERE WERE SEVERAL OFFICERS THAT WERE THERE TO
8 SERVE THE WARRANT.

9 Q WAS THAT UNIQUE TO THIS SITUATION OR IS THAT THE WAY
10 YOU'VE DONE IT IN YOUR ENTIRE SIXTEEN YEARS AS A POLICE
11 OFFICER?

12 A THAT'S COMMON PRACTICE, SIR.

13 Q SO WHAT DID YOU DO WHEN YOU WENT TO EXECUTE THE SEARCH
14 WARRANT?

15 A WHEN WE GOT TO THE APARTMENT, WE KNOCKED ON THE
16 APARTMENT DOOR, KNOCKED ON IT AGAIN. AT THAT POINT WE
17 MADE FORCED ENTRY INTO THE APARTMENT. SOME OF THE
18 OFFICERS WENT INSIDE, ANNOUNCED OURSELVES AS POLICE
19 OFFICERS. WE HAD UNIFORMED POLICE OFFICERS WITH US AS
20 WELL AS INVESTIGATIVE PERSONNEL.

21 THERE WAS AN INDIVIDUAL -- ONCE YOU WENT IN THE DOOR
22 THERE WAS AN INDIVIDUAL RIGHT THERE IN THE LIVING ROOM
23 AREA. THEY WERE PLACED ON THE GROUND FOR PROTECTION FOR
24 OURSELVES AS WELL AS ANYONE ELSE INSIDE THE APARTMENT.
25 EVERYONE ELSE WAS BROUGHT INTO THE LIVING AREA. THEY WERE

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1 ALL PLACED ON THE GROUND. THEY WERE ALL PATTED DOWN FOR
2 ANY KIND OF WEAPONS, AS A SAFE PROCEDURE FOR OURSELVES AS
3 WELL AS EVERYONE THAT MAY BE IN THE APARTMENT.

4 Q AND DID YOU OPERATE -- THAT PROCEDURE THAT YOU JUST
5 DESCRIBED TO THE JURY, ARE YOU TRAINED IN THAT PROCEDURE
6 AT THE CRIMINAL JUSTICE ACADEMY?

7 A YES, SIR.

8 Q AND DID YOU DEVIATE FROM THE PROCEDURE THAT YOU'RE
9 TRAINED WITH AT THE CRIMINAL JUSTICE ACADEMY? IN THIS
10 CASE, DID YOU DEVIATE FROM THAT POLICY AND THAT PROCEDURE
11 FROM OTHER CASES SIMILAR WHERE YOU'VE HAD TO EXECUTE
12 SEARCH WARRANTS AND MURDER WARRANTS AT THE SAME LOCATION?

13 A NO, SIR, WE DID NOT.

14 Q YOU MADE -- YOU MADE THE COMMENT THAT IT'S NOT ONLY
15 FOR THE OFFICER'S SAFETY BUT FOR THE OCCUPANTS. WAS THAT
16 YOUR TESTIMONY?

17 A YES, SIR.

18 Q AND WHY IS THAT?

19 A THE TYPE OF WARRANT THAT WE WERE DOING, AS SERIOUS AS
20 IT WAS, WE DIDN'T KNOW WHO MIGHT BE INSIDE THE APARTMENT,
21 HOW MANY PEOPLE MIGHT BE INSIDE THE APARTMENT. AND WE
22 ROUTINELY DO THIS JUST TO MAKE SURE THAT SOMEBODY DOESN'T
23 ATTEMPT TO GET A WEAPON WERE SOMEBODY MIGHT GET -- WOULD
24 GET INJURED, BE IT US OR SOMEBODY ELSE INSIDE THE
25 APARTMENT.

1 Q AND OF COURSE THE -- THE WEAPON USED TO KILL PHILLIP
2 LEE, ON JANUARY THE 23RD HAD NOT BEEN RECOVERED; IS THAT
3 CORRECT?

4 A NO, IT HAD NOT.

5 Q IN FACT, AS YOU SIT ON THAT WITNESS---

6 MR. STRICKLER: ABOUT THIS TIME WE NEED TO STOP
7 LEADING, I OBJECT TO LEADING.

8 THE COURT: YEAH, LET HIM TESTIFY.

9 Q AS YOU SIT IN THE WITNESS STAND, HAS THE WEAPON EVER
10 BEEN FOUND THAT KILLED PHILLIP LEE?

11 A NO, IT HAS NOT.

12 Q NOW WHO WAS INSIDE THE RESIDENCE WHEN YOU EFFECTED
13 ENTRY?

14 A LUCIUS STATEN, DUSHUN STATEN, SHAKEEM WILSON AND A
15 TALIA COLE.

16 Q WAS THAT A FEMALE?

17 A YES, IT IS.

18 Q NOW ONCE YOU WERE ABLE TO SECURE THE OCCUPANTS -- AND
19 OF COURSE, DID YOU FIND A GUN?

20 A NO, THERE WAS NO WEAPON.

21 Q WHEN THAT WAS DONE, DID YOU THEN GO AHEAD AND SEARCH
22 THE APARTMENT?

23 A YES, WE DID.

24 Q AND DID YOU SEARCH A VEHICLE OUTSIDE THE APARTMENT?

25 A WE DID.

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1 Q SOME OF THE ITEMS THAT WERE TAKEN -- I SHOW YOU WHAT'S
2 BEEN MARKED STATE'S EXHIBIT NUMBER SEVENTEEN FOR I.D.. DO
3 YOU RECOGNIZE THIS JACKET, INVESTIGATOR MEAD?

4 A YES, I DO.

5 Q AND WHERE DID YOU FIND THIS JACKET?

6 A IT WAS LOCATED IN A BOX THAT WAS IN THE -- KIND OF
7 BETWEEN THE KITCHEN AND LIVING ROOM AREAS OF THE APARTMENT
8 WE SEARCHED.

9 Q DESCRIBE -- WHEN YOU SAY A BOX, WAS THERE ONLY ONE BOX
10 OR ONE BAG?

11 A NO. THERE WAS NUMEROUS BOXES AND BAGS AS IF SOMEBODY
12 HAD PACKED EITHER TO MOVE OR WAS MOVING IN. AND THAT WAS
13 IN ONE OF THOSE.

14 Q INSIDE THE RESIDENCE WAS WHOM AGAIN, I'M SORRY?

15 A LUCIUS STATEN, DUSHUN STATEN, SHAKEEM WILSON AND A
16 TALIA COLE?

17 Q SO DUSHUN WAS IN THE RESIDENCE -- THE APARTMENT THAT
18 YOU GOT STATE'S EXHIBIT SEVENTEEN FROM?

19 A YES, HE WAS.

20 Q NOW I NOTICE ON YOUR RETURN, YOU LISTED SEVERAL --
21 WHEN I SAY RETURN, IS THAT ONE OF THE PAGES -- ON ALL
22 SEARCH WARRANTS DOES IT HAVE A QUOTE "RETURN"? IS THAT
23 ROUTINE TO ALL SEARCH WARRANTS?

24 A THAT'S CORRECT, SIR.

25 Q OKAY. SO ANYTHING THAT -- THAT A LAW ENFORCEMENT

1 OFFICER IN ANY SEARCH TAKES FROM EITHER A CAR OR A
2 BUILDING, A HOUSE, AN APARTMENT, IF YOU TAKE SOMETHING,
3 SEIZE SOMETHING, DO YOU HAVE TO INCLUDE THAT ON THE RETURN
4 IN THE SEARCH WARRANT?

5 A THAT'S CORRECT. IT'S LISTED ON THERE.

6 Q DID YOU DO THAT IN THIS CASE?

7 A I DID, SIR.

8 Q WHEN YOU OBTAIN PHOTOGRAPHS OR IDENTIFIABLE DOCUMENTS
9 SUCH AS DRIVER'S LICENSE OR LETTERS, MAIL AND THAT SORT OF
10 THING, WHY IS IT THAT LAW ENFORCEMENT MIGHT COLLECT THAT
11 WHEN THEY'RE EXECUTING A SEARCH WARRANT?

12 A DEPENDING ON THE CIRCUMSTANCES, WE MAY BE LOOKING FOR
13 PICTURES OF INDIVIDUALS THAT ARE INVOLVED IN A PARTICULAR
14 CRIME. WE MAY BE LOOKING FOR ASSOCIATES THAT ARE
15 INVOLVED. WE MIGHT BE LOOKING FOR THE NAMES OF PEOPLE
16 EITHER THERE IN THE APARTMENT, FRIENDS OF THE PEOPLE THAT
17 STAY IN THE APARTMENT.

18 Q DOES IT ALSO INCLUDE LOOKING FOR IDENTIFIABLE
19 DOCUMENTS TO SEE IF THOSE PEOPLE IN FACT LIVE IN THAT
20 APARTMENT, IF THERE'S MAIL COMING THERE OR...

21 A SURE.

22 Q OKAY.

23 (PAUSE.)

24 Q DO YOU RECOGNIZE THIS ?

25 A YES, SIR.

1 Q WHAT IS THIS?

2 A IT'S A BLACK YANKEE'S BASEBALL TYPE CAP.

3 Q AND WHERE DID YOU FIND THIS?

4 A IN THE APARTMENT.

5 Q DO YOU RECOGNIZE THESE SHOES?

6 A YES, SIR.

7 Q WHAT ARE THEY?

8 A THEY'RE GRAY AND RED TIMBERLANDS, TIMBERLAND TYPE
9 BOOTS.

10 Q NOW WHY WOULD YOU TAKE ITEMS SUCH AS THESE?

11 A THE DESCRIPTIONS THAT I WAS GIVEN FROM SOME OF THE
12 WITNESSES, THEY DESCRIBED CERTAIN ITEMS OF CLOTHING AND WE
13 WERE LOOKING FOR THOSE TYPE OF ITEMS WHEN WE DID THE
14 SEARCH WARRANT.

15 Q INCLUDING STATE'S EXHIBIT SEVENTEEN FOR I.D.?

16 A THAT'S CORRECT, SIR.

17 MR. GASSER: WE WOULD MOVE SEVENTEEN FOR I.D. INTO
18 EVIDENCE AND THE SHOES AND THE HAT SEPARATELY INTO
19 EVIDENCE.

20 THE COURT: WITHOUT OBJECTION?

21 MR. TAYLOR: NO OBJECTION.

22 COURT REPORTER: STATE'S FORTY-SEVEN IN EVIDENCE.
23 STATE'S FORTY-EIGHT IN EVIDENCE. STATE'S SEVENTEEN IN
24 EVIDENCE.

25 (STATE'S EXHIBIT NUMBER FORTY-SEVEN, BLACK HAT; AND,

1 STATE'S EXHIBIT NUMBER FORTY-EIGHT, RED AND GRAY
2 BOOTS; AND,

3 STATE'S EXHIBIT NUMBER SEVENTEEN, YELLOW JACKET,
4 HAVING PREVIOUSLY BEEN MARKED FOR IDENTIFICATION, ARE NOW
5 ENTERED INTO EVIDENCE WITHOUT OBJECTION.)

6 Q THE SEARCH WARRANT THAT YOU GOT FROM JUDGE WOMBLE, DID
7 IT INCLUDE ANY VEHICLES?

8 A IT DID, SIR.

9 Q AND WAS THERE A VEHICLE CONNECTED OR ASSOCIATED WITH
10 THE APARTMENT?

11 A THERE WAS.

12 Q NOW THIS WAS ON JANUARY THE 23RD; CORRECT?

13 A YES, SIR.

14 Q THE GREEN MITSUBISHI GALANT HAD ALREADY BEEN SEIZED
15 AND TOWED AND SEARCHED; CORRECT?

16 A THAT'S CORRECT. WE HAD POSSESSION---

17 Q THESE PHOTOGRAPHS ON STATE'S EXHIBIT FORTY THAT THE
18 JURY HAS SEEN, THESE THREE PHOTOGRAPHS, WHAT IS THAT A
19 PHOTOGRAPH OF?

20 A THE WHITE DAEWOO THAT WAS PARKED OUTSIDE THE APARTMENT
21 AT CROSSROADS APARTMENTS.

22 Q WAS THAT -- WHAT IS THAT RIGHT THERE?

23 A THAT IS CROSSROADS APARTMENTS.

24 Q AND THESE -- SO THESE PHOTOGRAPHS OF A WHITE CAR THAT
25 ALL THE WITNESSES HAVE BEEN POINTING OUT TO, THESE

1 PHOTOGRAPHS WERE TAKEN WHEN?

2 A ON THE 23RD OF JANUARY, THAT MORNING WE DID THE SEARCH
3 WARRANT.

4 Q RIGHT OUTSIDE WHAT APARTMENT?

5 A 1308, IT WAS PARKED JUST OUTSIDE THE APARTMENTS.

6 Q AND IT WAS REGISTERED TO WHOM?

7 A I BELIEVE IT'S -- IT'S---

8 Q WHAT DID YOU SAY THE GIRL THAT WAS IN THE APARTMENT'S
9 NAME WAS?

10 A TALIA COLE.

11 Q IS THAT WHO THE CAR WAS REGISTERED TO WHEN YOU RAN THE
12 PLATES?

13 A I DON'T REMEMBER IF IT WAS HER OR ONE OF HER RELATIVES
14 WAS THE REGISTERED OWNER.

15 Q AND DID YOU SEARCH THE INSIDE? WAS A SEARCH DONE ON
16 THE INSIDE OF THAT CAR?

17 A YES, IT WAS, SIR.

18 Q OF THE WHITE CAR, I'M REFERRING TO?

19 A THAT IS CORRECT.

20 Q DO YOU SEE THESE?

21 A YES, SIR.

22 Q WHAT ARE THESE?

23 A THEY'RE IGNITION KEYS TO A MITSUBISHI VEHICLE.

24 Q AND SO THE -- AN IGNITION KEY TO A MITSUBISHI VEHICLE
25 ON JANUARY THE 23RD WAS FOUND, SHOWING YOU STATE'S EXHIBIT

1 FORTY, IN WHAT VEHICLE?

2 A IN THE WHITE DAEWOO.

3 MR. GASSER: GO AHEAD AND MOVE THIS INTO EVIDENCE AS
4 WELL.

5 COURT REPORTER: STATE'S FORTY-NINE IN EVIDENCE.

6 (STATE'S EXHIBIT NUMBER FORTY-NINE, CAR KEYS, HAVING
7 BEEN PREVIOUSLY MARKED FOR IDENTIFICATION, IS NOW ENTERED
8 INTO EVIDENCE WITHOUT OBJECTION.)

9 Q NOW, NOT INCLUDED IN THE RETURN ON THE SEARCH WARRANT
10 BUT ON PAGE -- I WANT TO DRAW YOUR ATTENTION TO PAGE EIGHT
11 OF YOUR CASE NOTES. AND DID YOU TAKE CASE NOTES
12 THROUGHOUT THIS INVESTIGATION?

13 A YES, SIR, I DID.

14 Q ON PAGE EIGHT OF YOUR CASE NOTES, DID YOU MAKE
15 REFERENCE TO THE EXECUTION OF THIS SEARCH WARRANT ON
16 JANUARY THE 23RD?

17 A I DID.

18 Q WHAT ELSE WAS FOUND -- DID YOU WRITE DOWN IN YOUR CASE
19 NOTES ON JANUARY THE 23RD, 2001, WHAT ELSE YOU FOUND IN
20 THE WHITE DAEU -- OR DAEWOO?

21 A A MAP THAT WAS FOLDED WITH THE -- SO THAT YOU COULD
22 SEE THE ROADS FARMING CREEK ROAD ON IT.

23 Q NOW DID YOU YOURSELF SEE THAT MAP?

24 A NO, I DID NOT.

25 Q OKAY. BUT AS A RESULT OF THIS INVESTIGATION, JOHN --

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1 WE HAVE ANOTHER WITNESS COMING FOR THAT PURPOSE. AS A
2 RESULT OF YOUR INVESTIGATION, DID YOU PUT THAT IN YOUR
3 CASE NOTES?

4 A I DID.

5 Q AND WAS THE ARREST WARRANT FOR MURDER SERVED ON LUCIUS
6 STATEN AT THAT TIME?

7 A YES, IT WAS.

8 Q AND WHERE WAS HE TRANSPORTED?

9 A POLICE HEADQUARTERS.

10 Q AND WHAT INQUIRY DID YOU MAKE OF DUSHUN STATEN AND
11 SHAKEEM WILSON?

12 A WE REQUESTED THAT BOTH OF THEM COME WITH US TO POLICE
13 HEADQUARTERS.

14 Q AND DID BOTH OF THEM AGREE TO GO TO THE COLUMBIA
15 POLICE DEPARTMENT?

16 A THEY DID.

17 Q AND WERE THEY TRANSPORTED TO THE COLUMBIA POLICE
18 DEPARTMENT?

19 A YES, THEY WERE.

20 Q IN A CPD VEHICLE?

21 A YES.

22 Q WERE ALL THREE OF THESE INDIVIDUALS SEPARATED ONCE YOU
23 GOT DOWN TO THE COLUMBIA POLICE DEPARTMENT?

24 A THEY WERE, SIR.

25 Q IS THAT A COMMON PRACTICE TO DO THAT?

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1 A YES, SIR, IT IS.

2 Q DID YOU WANT TO CONDUCT INTERVIEWS OF THE INDIVIDUALS
3 SEPARATELY AND INDEPENDENTLY?

4 A I DID.

5 (PAUSE.)

6 Q INVESTIGATOR MEAD, WHAT TIME WAS IT APPROXIMATELY YOU
7 EXECUTED THE SEARCH WARRANT?

8 A IT WAS APPROXIMATELY 7:00 IN THE MORNING.

9 Q I'M SORRY, 7:00 IN THE MORNING?

10 A YES, SIR.

11 Q NOW DID YOU HAVE AN OPPORTUNITY THEN LATER ON THAT
12 MORNING AT THE COLUMBIA POLICE DEPARTMENT TO CONDUCT AN
13 INTERVIEW OF THE DEFENDANT DUSHUN STATEN?

14 A YES, I DID.

15 (PAUSE.)

16 MR. GASSER: BEG THE COURT'S INDULGENCE ONE MOMENT.

17 A SIGNIFICANT NUMBER OF PIECES OF EVIDENCE HERE.

18 (PAUSE.)

19 THE COURT: WOULD THIS BE A GOOD TIME TO TAKE A
20 LITTLE BREAK, MR. GASSER?

21 MR. GASSER: THAT WOULD BE GOOD, LET ME SET UP THE
22 EVIDENCE.

23 THE COURT: OKAY. WHY DON'T WE TAKE A LITTLE
24 AFTERNOON BREAK NOW. GO TO YOUR JURY ROOM. PLEASE DON'T
25 DISCUSS THE CASE. WE'LL GIVE YOU SOME REFRESHMENTS.

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1 WE'LL COME BACK IN ABOUT FIFTEEN MINUTES.

2 (JURY OUT AT 3:25 P.M.)

3 THE COURT: ALL RIGHT, YOU CAN COME DOWN,
4 INVESTIGATOR.

5 (THE WITNESS NOW LEAVES THE WITNESS STAND.)

6 THE COURT: ALL RIGHT. LET'S COME BACK IN ABOUT
7 FIFTEEN MINUTES.

8 MR. TAYLOR: YOUR HONOR, BEFORE WE GO. BEFORE THE
9 JURY IS BROUGHT BACK, YOU MIGHT WANT ME TO PUT MY
10 OBJECTION ON THE RECORD. HE'S GOING TO THE STATEMENTS,
11 YOU RECALL, THAT I OBJECTED TO ON MIRANDA.

12 THE COURT: OH, OKAY.

13 MR. TAYLOR: CAN WE TAKE THAT BACK BEFORE THE JURY
14 COMES BACK? THANK YOU.

15 (COURT IS IN RECESS.)

16 THE BAILIFF: ALL RISE, PLEASE.

17 THE COURT: THANK YOU. PLEASE BE SEATED.

18 (PAUSE.)

19 THE COURT: ALL RIGHT. I BELIEVE MR. TAYLOR HAS AN
20 OBJECTION TO PUT ON THE RECORD PRIOR TO THE SERIES OF
21 QUESTIONS ABOUT TO BE ASKED BY MR. GASSER.

22 MR. TAYLOR: YOUR HONOR, THIS IS THE SAME OBJECTION
23 THAT I HAD IN THE JACKSON VERSUS DENNO HEARING EARLIER
24 THIS WEEK ON MONDAY OF THIS WEEK REGARDING THE MIRANDA
25 WARNINGS NOT BEING GIVEN TO MY CLIENT. I DON'T THINK I

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1 NEED TO RESTATE IT. THE COURT HAS---

2 THE COURT: YEAH, YOU STATED IT FULLY. AND---

3 MR. TAYLOR: ---TAKING EXTENSIVE---

4 THE COURT: ---YOU'RE PROTECTED FOR THE PURPOSE OF
5 THIS TRIAL FROM THAT OBJECTION TO THE STATEMENTS COMING
6 IN.

7 MR. GASSER: I'LL STIPULATE THAT HE'S PROTECTED
8 WITHOUT HAVING TO RESTATE HIS -- I WOULD STIPULATE FOR THE
9 RECORD THAT HE -- THAT MR. TAYLOR IS PROTECTED AND DUSHUN
10 STATEN'S RIGHTS ARE PROTECTED AND DOES NOT HAVE TO MAKE AN
11 OBJECTION IN FRONT OF THE RECORD DURING ANY PART OF THE
12 ORAL OR WRITTEN STATEMENTS THAT COME OUT.

13 THE COURT: ALL RIGHT.

14 MR. TAYLOR: THANK YOU.

15 THE COURT: OKAY. READY TO BRING THE JURY IN?

16 MR. GASSER: THE STATE'S READY.

17 THE COURT: LET'S BRING THE JURY IN, PLEASE.

18 (JURY IN AT 3:45 P.M.)

19 THE BAILIFF: THE JURY'S PRESENT, YOUR HONOR.

20 (THE WITNESS RETURNS TO THE WITNESS STAND.)

21 THE COURT: ALL RIGHT, MR. GASSER.

22 MR. GASSER: THANK YOU, YOUR HONOR.

23 DIRECT EXAMINATION CONTINUES BY MR. GASSER:

24 Q INVESTIGATOR MEAD, I BELIEVE WE WERE AT THE STAGE
25 PRIOR TO OUR BREAK THAT LUCIUS STATEN WAS TAKEN TO THE

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1 COLUMBIA POLICE DEPARTMENT AND SO WAS SHAKEEM WILSON AND
2 DUSHUN STATEN WERE ALSO TAKEN TO THE COLUMBIA -- OR
3 VOLUNTEERED TO GO TO COLUMBIA POLICE DEPARTMENT; IS THAT
4 CORRECT?

5 A THAT'S CORRECT, SIR.

6 Q DID YOU HAVE AN OPPORTUNITY AT 8:39 IN THE MORNING TO
7 CONDUCT AN INTERVIEW WITH THE DEFENDANT, DUSHUN STATEN?

8 A I DID.

9 Q WHERE DID THAT INTERVIEW TAKE PLACE?

10 A SECOND FLOOR OF COLUMBIA POLICE DEPARTMENT?

11 Q OKAY. WHO WAS INVOLVED IN THE INTERVIEW?

12 A I WAS.

13 Q AND WHO ELSE?

14 A MR. STATEN.

15 Q SO IT WAS JUST THE TWO OF YOU?

16 A YES, IT WAS.

17 Q NOW WAS HE IN CUSTODY? WAS DUSHUN STATEN IN CUSTODY
18 AT THAT TIME?

19 A NO, SIR, HE WAS NOT.

20 Q WAS LUCIUS STATEN IN CUSTODY AT THAT TIME?

21 A YES, HE WAS.

22 Q NOW DESPITE THE FACT THAT DUSHUN STATEN WAS NOT IN
23 CUSTODY, YOU HAD NOT ARRESTED HIM FOR ANYTHING, DID YOU GO
24 AHEAD AND ADVISE HIM OF HIS CONSTITUTIONAL RIGHTS ANYWAY?

25 A YES, I DID.

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1 Q AND WHY WOULD YOU DO THAT? IF HE WASN'T IN CUSTODY,
2 WHY WOULD YOU ADVISE HIM OF HIS CONSTITUTIONAL RIGHTS?

3 A JUST AS A PRECAUTION, A SAFEGUARD, ADVISE HIM WHAT HIS
4 RIGHTS WERE.

5 Q I SHOW YOU WHAT'S BEEN MARKED STATE'S EXHIBIT FOUR FOR
6 IDENTIFICATION PURPOSES. DO YOU RECOGNIZE THAT DOCUMENT?

7 A YES, I DO.

8 Q WHAT IS THAT DOCUMENT -- WHAT IS THAT DOCUMENT?

9 A IT'S AN ADVICE OF RIGHTS FORM, A FORM THAT WE USE EACH
10 AND EVERY TIME WE ADVISE SOMEBODY OF THEIR RIGHTS.

11 Q AND DID YOU ADVISE DUSHUN STATEN OF HIS CONSTITUTIONAL
12 RIGHTS AT -- BEGINNING AT 8:39 IN THE MORNING ON JANUARY
13 23RD, 2001 AT THE COLUMBIA POLICE DEPARTMENT?

14 A YES, I DID.

15 Q WOULD YOU PUBLISH OR READ TO THE JURY, USING STATE'S
16 EXHIBIT NUMBER FOUR FOR I.D. -- WE'LL LET ME JUST ASK YOU
17 THIS. IS THAT THE ORIGINAL DOCUMENT?

18 A YES, IT IS, SIR.

19 MR. GASSER: I'M GONNA GO AHEAD AND MOVE THIS INTO
20 EVIDENCE AT THIS TIME, YOUR HONOR.

21 MR. TAYLOR: SAME OBJECTION, YOUR HONOR.

22 THE COURT: OKAY. YOU'RE PROTECTED.

23 COURT REPORTER: STATE'S FOUR IN EVIDENCE.

24 (STATE'S EXHIBIT NUMBER FOUR, UNSIGNED ADVICE OF
25 RIGHTS, HAVING BEEN PREVIOUSLY MARKED FOR IDENTIFICATION,

1 IS NOW ENTERED INTO EVIDENCE WITHOUT OBJECTION.)

2 Q WOULD YOU GO AHEAD AND READ TO THE JURY, THE SAME WAY
3 YOU READ TO DUSHUN STATEN, WHAT HIS CONSTITUTIONAL RIGHTS
4 WERE?

5 A YES. (READING) BEFORE I ASK YOU ANY QUESTIONS, YOU
6 MUST UNDERSTAND YOUR RIGHTS. YOU HAVE THE RIGHT TO REMAIN
7 SILENT. ANYTHING YOU SAY CAN BE USED AGAINST YOU IN
8 COURT. YOU HAVE THE RIGHT TO TALK TO A LAWYER FOR ADVICE
9 BEFORE WE ASK YOU ANY QUESTIONS AND TO HAVE HIM WITH YOU
10 DURING QUESTIONING. IF YOU CANNOT AFFORD A LAWYER, ONE
11 WILL BE APPOINTED FOR YOU BEFORE ANY QUESTIONING, IF YOU
12 WISH. IF YOU DECIDE TO ANSWER QUESTIONS NOW WITHOUT A
13 LAWYER PRESENT, YOU STILL HAVE THE RIGHT TO STOP ANSWERING
14 AT ANY TIME. YOU ALSO HAVE THE RIGHT TO STOP ANSWERING AT
15 ANY TIME UNTIL YOU TALK TO A LAWYER.

16 I THEN ADVISED HIM THAT THE NEXT SECTION DEALS WITH
17 THE WAIVER OF THOSE RIGHTS. (READING) I HAVE READ THIS
18 SEC -- THIS STATEMENT OF MY RIGHTS AND I UNDERSTAND WHAT
19 MY RIGHTS ARE. I'M WILLING TO MAKE A STATEMENT AND ANSWER
20 QUESTIONS. I DO NOT WANT A LAWYER AT THIS TIME. I
21 UNDERSTAND AND KNOW WHAT I'M DOING. NO PROMISES OR
22 THREATS HAVE BEEN MADE TO ME. NO PRESSURE OR COERCION OF
23 ANY KIND HAS BEEN USED AGAINST ME.

24 AT THAT POINT I ASKED HIM IF HE UNDERSTOOD EACH AND
25 EVERY ONE OF THOSE RIGHTS. HE STATED HE DID. I HAD ASKED

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1 HIM HOW MUCH EDUCATION THAT HE HAD HAD. HE TOLD ME THAT
2 HE HAD GOT A GED FROM TAFT HIGH SCHOOL IN COLUMBUS,
3 GEORGIA.

4 THE COURT: HOLD ON ONE -- MR. GASSER, ONE OF THE
5 JURORS IS MISSING THEIR GLASSES. THE BAILIFF'S GOING TO
6 FIND THEM. ARE THEY IN THE JURY ROOM?

7 THE BAILIFF: YES, SIR. SHE'LL NEED TO COME IN AND
8 GET THEM. I DON'T KNOW WHICH BAG IS HERS.

9 THE COURT: OKAY.

10 (JUROR EXITS THE COURTROOM WITH BAILIFF.)

11 (JUROR RETURNS TO THE COURTROOM.)

12 Q OKAY. INVESTIGATOR MEAD, YOU INDICATED THAT YOU ASKED
13 HIM HIS EDUCATIONAL BACKGROUND; IS THAT CORRECT?

14 A I DID, SIR.

15 Q AND HE HAD A GED AND HE ATTENDED TAFT HIGH SCHOOL?

16 A THAT'S CORRECT.

17 Q NOW, AFTER HE INDICATED TO YOU THAT HE WAS WILLING TO
18 COOPERATE AND WILLING TO -- OR HE UNDERSTAND HIS RIGHTS
19 AND WAS WILLING TO TALK TO YOU, DID YOU HAVE HIM SIGN THE
20 DOCUMENT TO INDICATE THAT HE WAS WAIVING HIS RIGHTS?

21 A I WROTE DOWN THAT HE HAD A GED AND THAT HE ATTENDED
22 TAFT HIGH SCHOOL IN COLUMBUS, GEORGIA. I THEN ASKED HIM
23 IF HE WOULD SIGN THE FORM. HE STATED HE DID NOT WANT TO
24 SIGN THE FORM BUT HE AGREED TO TALK TO ME AND COOPERATE
25 FULLY.

1 Q AND OF COURSE HE HAD THE RIGHT NOT TO SIGN IT; IS THAT
2 CORRECT?

3 A YES, SIR.

4 Q DID YOU DOCUMENT THAT YOU GAVE HIM AN OPPORTUNITY AND
5 HE DECLINED?

6 A YES, I PLACE IT ON THE FORM.

7 Q AND WHOSE SIGNATURE IS IT INDICATING -- ON STATE'S
8 EXHIBIT FOUR NOW IN EVIDENCE, WHO MEMORIALIZED THE
9 DOCUMENT TO MAKE -- TO INDICATE THAT THESE RIGHTS WERE IN
10 FACT READ TO MR. DUSHUN STATEN AND HE WAIVED HIS RIGHTS?

11 A I SIGNED THE FORM AND DATE -- AND PUT THE TIME DOWN.

12 Q AND THAT WAS WHAT TIME?

13 A 8:41 A.M.

14 Q NOW, WHEN YOU WERE QUESTIONING HIM OR AT ANY TIME
15 DURING YOUR QUESTIONING OF HIM OR DURING THE ADVICE OF
16 RIGHTS PROCESS, DID YOU OR ANYONE IN YOUR PRESENCE PROMISE
17 DUSHUN STATEN ANYTHING IN RETURN FOR COOPERATING OR FOR
18 ANSWERING YOUR QUESTIONS?

19 A NO.

20 Q DID YOU OR DID ANYONE IN YOUR PRESENCE THREATEN MR.
21 STATEN IN ANY WAY?

22 A NO, WE DID NOT.

23 Q IN YOUR EXPERIENCE AS A POLICE OFFICER OR EVEN EVERY
24 DAY LIFE, HAVE YOU ENCOUNTERED INDIVIDUALS THAT HAVE BEEN
25 UNDER THE INFLUENCE OF ALCOHOL OR DRUGS OR A COMBINATION

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1 OF THE TWO?

2 A YES, SIR, I HAVE.

3 Q AS A POLICE OFFICER, PROBABLY MANY TIMES?

4 A YES, SIR.

5 Q DID MR. DUSHUN STATEN APPEAR TO BE UNDER THE INFLUENCE
6 OF ANY ALCOHOL OR DRUGS IN ANY MANNER?

7 A NO, SIR.

8 Q DID YOU HAVE ANY DIFFICULTY UNDERSTANDING MR. DUSHUN
9 STATEN WHEN YOU WERE WITH HIM, BOTH AT THE APARTMENT AND
10 THEN AT THE POLICE DEPARTMENT?

11 A NO, SIR, NONE AT ALL.

12 Q DID HE APPEAR TO UNDERSTAND WHO YOU WERE, WHAT YOUR
13 ROLE WAS?

14 A YES, SIR.

15 Q IN FACT, WHO AGREED TO COME TO THE POLICE DEPARTMENT?

16 A HE DID.

17 Q AND DID YOU BEGIN TO THEN ASK MR. STATEN CERTAIN
18 QUESTIONS ABOUT THE EVENTS OF MONDAY, JANUARY THE 15TH,
19 2001, WHEN PHILLIP LEE WAS SHOT AND KILLED?

20 A YES, I DID.

21 Q DID YOU RECORD THIS CONVERSATION IN ANY MANNER, SAY
22 AUDIO TAPE?

23 A NO, SIR, I DID NOT.

24 Q VIDEO TAPE?

25 A NO, SIR.

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1 Q DID YOU LATER ON HAVE -- AND I'LL GET TO THIS. DID
2 YOU HAVE AN OPPORTUNITY TO TALK -- CONDUCT AN INTERVIEW
3 WITH LUCIUS STATEN AS WELL?

4 A I DID.

5 Q WAS THAT RECORDED BY AUDIO TAPE OR VIDEO TAPE?

6 A NO, SIR, IT WAS NOT.

7 Q ANY OF THE WITNESSES THAT YOU TOOK THE -- HOWEVER MANY
8 NUMBER OF WITNESSES, MORE OR LESS THAN TWELVE IN THIS
9 CASE, DO YOU THINK?

10 A PROBABLY MORE.

11 Q OKAY. ANY OF THE WITNESSES THAT YOU TOOK THE
12 STATEMENTS FROM IN THIS CASE, WERE ANY AUDIO OR VIDEO TAPE
13 TAKEN FROM ANY OF THOSE WITNESSES?

14 A NO, SIR, IT WAS NOT.

15 Q IN YOUR SIXTEEN YEARS AS A POLICE OFFICER---

16 A THAT'S CORRECT.

17 Q ---NINE YEARS AS A MAJOR CRIMES INVESTIGATOR---

18 A ABOUT EIGHT YEARS.

19 Q OKAY. CAN YOU ESTIMATE THE NUMBER OF INTERVIEWS OF
20 SUSPECTS AND/OR WITNESSES ON MAJOR CRIMES THAT YOU'VE
21 CONDUCTED, CAN YOU EVEN ESTIMATE THAT NUMBER?

22 A NO, SIR. IT WOULD BE HUNDREDS.

23 Q MAYBE THOUSANDS?

24 A MAYBE.

25 Q OR OVER A THOUSAND?

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- 1 A PROBABLY SO.
- 2 Q HAVE YOU EVER USED AN AUDIO TAPE OR A VIDEO TAPE ON
- 3 ANY WITNESS OR ANY SUSPECT IN ANY INTERVIEW?
- 4 A NO, SIR, I HAVE NOT.
- 5 Q OKAY. SO DID YOU DEVIATE FROM THE COLUMBIA POLICE
- 6 DEPARTMENT -- CHIEF AUSTIN AT THAT TIME, CHIEF AUSTIN'S
- 7 POLICY AT THAT TIME, DID YOU DEVIATE IN ANY MANNER WHEN
- 8 YOU WERE INTERVIEWING DUSHUN STATEN OR LUCIUS STATEN?
- 9 A NO, I DID NOT.
- 10 Q AND CHIEF AUSTIN SETS THE POLICY OF THE CHIEF AT THAT
- 11 TIME; IS THAT CORRECT?
- 12 A THAT'S CORRECT.
- 13 Q AND WERE YOU ABLE TO TAKE NOTES OR SUBSEQUENTLY -- THE
- 14 CONTENT OF THE CONVERSATION, WERE YOU ABLE TO RECORD,
- 15 MEMORIALIZE WHAT DUSHUN STATEN WAS TELLING YOU AND WHAT
- 16 YOU WERE ASKING HIM IN YOUR CASE NOTES?
- 17 A I DID.
- 18 Q AND I SHOW YOU WHAT'S BEEN MARKED STATE'S EXHIBIT
- 19 NUMBER SEVEN FOR I.D.. DO YOU RECOGNIZE THOSE THREE
- 20 PAGES?
- 21 A YES, SIR, THREE PAGES OF MY CASE NOTES.
- 22 Q IT'S YOUR HANDWRITING?
- 23 A THAT IS.
- 24 Q OKAY. NOW THESE WORDS -- OR WHOSE WORDS ARE THESE?
- 25 A THE WORDS THAT ARE ON THE PAPER ARE WHAT MR. STATEN

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1 TOLD ME.

2 Q ARE THERE PORTIONS WHERE YOU WERE ASKING HIM CERTAIN
3 QUESTIONS?

4 A THERE ARE.

5 Q SO THE QUESTIONS ARE WHOSE WORDS?

6 A THOSE ARE MINE.

7 Q AND THE RESPONSES OR THE ANSWER ARE WHOSE WORDS?

8 A DUSHUN STATEN.

9 Q OKAY. I WANT YOU TO TELL ME, USING THE STATE'S
10 EXHIBIT FOR I.D. SO THAT WE'RE ACCURATE, I WANT YOU TO --
11 AFTER AGREED TO TALK AND COOPERATE FULLY, GO AHEAD AND
12 PUBLISH TO THE JURY THE EXTENT OF YOUR CONVERSATION WITH
13 DUSHUN STATEN AFTER YOU ADVISED HIM OF HIS RIGHTS ON
14 JANUARY THE 23RD OF 2001.

15 A (READING) DUSHUN STATES THAT HIS NAME IS SHAWN TATEN
16 (PHONETICALLY) AND AT FIRST DENIES BEING LUCIUS STATEN'S
17 BROTHER. ASKED DUSHUN WHAT HE KNEW ABOUT THE SHOOTING AT
18 BENEDICT COLLEGE AND HE SAID NOTHING. ASKED IF HE WAS
19 THERE AND HE STATED, NO. WHEN TOLD THE WITNESSES STATED
20 HIM AND HIS BROTHER WERE THERE, DUSHUN ADMITTED TO BEING
21 THERE BUT SAID THAT HE WAS ON THE OTHER SIDE OF THE
22 PARKING LOT TALKING TO A GIRL BUT DIDN'T REMEMBER HER
23 NAME.

24 I ASKED WHO ELSE WAS OUT THERE AND DUSHUN STATED HE
25 DIDN'T KNOW ANYONE ELSE OUT THERE. DUSHUN WAS TOLD THAT

STATE OF SOUTH CAROLINA VERSUS
DUSHUN STATEN, 2002-GS-40-1148 AND 786;
LUCIUS STATEN, 2002-GS-40-1149 AND 783.

1 SEVERAL WITNESSES STATED THAT HE WAS INVOLVED IN THE
2 ARGUMENT WITH THE MAN WHO GOT SHOT BUT HE DENIED BEING
3 INVOLVED IN THE ARGUMENT. DUSHUN STATEN ADMITS TO BEING
4 LUCIUS STATEN'S BROTHER, THE SAME FATHER, BUT DIFFERENT
5 MOTHERS. DUSHUN STATES THAT GERALDINE STATEN STAYS AT
6 2211 REED STREET AND MONEKA GOVAN STAYS ON LOVELL
7 (PHONETICALLY) STREET IN ORANGEBURG. DUSHUN STATEN STATES
8 THAT HE IS AFRAID FOR HIS FAMILY AND THAT'S WHY HE HASN'T
9 -- HASN'T BEEN COOPERATING.

10 ASKED DUSHUN WHO WAS THE PERSON -- WHO THE PERSON IS
11 THAT SHOT PHILLIP LEE. DUSHUN STATES THAT HE ONLY KNOWS
12 HIM AS MO. DUSHUN STATED THAT MO WAS THERE WITH A GUY
13 KNOWN TO HIM AS MEL AND A GUY NAMED KAREEM. DUSHUN STATED
14 THAT HE HAS NO IDEA WHERE THEY LIVE OR THEIR LAST NAMES.

15 SHOWED DUSHUN A LINEUP OF MAURICE SANDERS. HE I.D.'S
16 HIM AS THE SHOOTER. DUSHUN STATED THAT HE DIDN'T ACTUALLY
17 SEE HIM SHOOT BUT AFTER THE SHOTS HE TURNED BACK AROUND
18 AND SAW THE GUN IN MAURICE'S HAND.

19 TOLD DUSHN THAT SEVERAL WITNESSES ARE SAYING THAT THE
20 MAN IN THE BLACK NORTHFACE BLACK JACKET DID THE SHOOTING.
21 DUSHUN STATED THAT THE GUY IN THE BLACK JACKET WAS MEL.
22 DUSHUN STATED THAT IF HE COULD CALL HIS GIRLFRIEND, TISHA
23 DAVIS AT 957-9522 HE MIGHT BE ABLE TO GET MEL'S NAME
24 BECAUSE TISHA KNOWS SOMEONE WHO MIGHT KNOW HIM.

25 DUSHUN CALLS TISHA DAVIS AND STATES MEL'S FULL NAME IS

STATE OF SOUTH CAROLINA VERSUS
DUSHUN STATEN, 2002-GS-40-1148 AND 786;
LUCIUS STATEN, 2002-GS-40-1149 AND 783.

1 LIMEL SIMS. ASKED DUSHUN WHO TISHA WAS CALLING TO FIND
2 THIS INFORMATION. DUSHUN STATED THAT IT WAS A GIRLFRIEND
3 OR EX-GIRLFRIEND OF LIMEL'S BY THE NAME OF MICHELLE BUFF.

4 Q NOW, THAT WAS THE EXTENT OF YOUR ORAL STATEMENT WITH
5 DUSHUN STATEN ON JANUARY THE 23RD; IS THAT CORRECT?

6 A THAT'S CORRECT.

7 Q NOW WHEN YOU WENT -- WERE INTERVIEWING HIM, YOU
8 PUBLISHED TO THE JURY THAT AT TIMES YOU WOULD SAY THAT
9 WITNESSES STATED. I BELIEVE AT ONE TIME YOU INDICATED HE
10 DENIED EVEN BEING THERE AND YOU SAID THE WITNESSES STATED
11 HE WAS THERE. DO YOU REMEMBER THAT?

12 A I DO.

13 Q DID YOU EVER TAKE ANY OF YOUR WRITTEN -- OF YOUR WIT
14 -- DID YOU EVER GO INTO SPECIFICS WITH WHAT ANY OF THE
15 WRITTEN STATEMENT THAT YOU HAD OR THAT KARL KENLEY HAD
16 PROVIDED YOU? DID YOU ACTUALLY SIT DOWN AND GO OVER THE
17 SPECIFICS WITH HIM OR WAS IT GENERAL LIKE YOU DESCRIBED TO
18 THE JURY?

19 A IT WAS GENERAL. I DIDN'T HAVE ANY OF THAT IN THERE
20 WHEN WE WERE TALKING.

21 Q THE FACT THAT MO SANDERS WAS STOPPED BY THE BENEDICT
22 COLLEGE POLICE ON THE 15TH?

23 A THAT'S CORRECT.

24 Q WAS THAT PUBLICIZED, HIS NAME? WAS THAT PUBLICIZED IN
25 THE MEDIA IN THE COLUMBIA MARKET?

1 A YES, IT WAS.

2 Q OKAY. AND THEN OF COURSE YOU SHOW UP ON THE 23RD
3 GOING INTO THE APARTMENT, FORCING YOUR WAY IN, ARMED WITH
4 A SEARCH WARRANT, SEARCHING FOR EVIDENCE AND ARRESTING
5 LUCIUS STATEN FOR MURDER; IS THAT CORRECT?

6 A THAT'S CORRECT.

7 Q AND THEN LATER ON IN A STATEMENT DUSHUN STATEN SAYS
8 THAT MO SANDERS IS THE ONE THAT SHOT PHILLIP LEE?

9 A THAT'S CORRECT.

10 Q AND I BELIEVE -- WHEN HE INDICATED TO YOU THAT HIS
11 NAME WAS SHAWN TATEN. DO YOU KNOW OF ANYBODY BY THE NAME
12 OF SHAWN TATEN?

13 A NO, SIR, I DO NOT.

14 Q WHEN HE DENIED BEING LUCIUS STATEN'S BROTHER, WHEN DID
15 HE COME AROUND AND FINALLY ADMIT THAT HE WAS LUCIUS
16 STATEN'S BROTHER?

17 A LATER ON IN OUR DISCUSSIONS HE FINALLY ADMITTED THAT
18 HE WAS HIS BROTHER.

19 Q AND OF COURSE HE DIDN'T ADMIT THAT HE WAS EVEN PRESENT
20 AT THE SCENE UNTIL YOU HAD TO DO WHAT?

21 A I TOLD HIM THAT WITNESSES HAD PUT HIM OUT THERE. THAT
22 PEOPLE HAD SAID HE WAS THERE.

23 Q AND ONCE HE PLACES HIMSELF AT THE SCENE AFTER YOU TOLD
24 HIM WITNESSES PUT HIM OUT THERE, HE TELLS YOU THAT HE
25 REALLY HAD NOTHING TO DO WITH THIS; CORRECT?

STATE OF SOUTH CAROLINA VERSUS
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LUCIUS STATEN, 2002-GS-40-1149 AND 783.

1 A HE SAID HE WAS NOT INVOLVED IN AN ARGUMENT WITH THE
2 MAN THAT GOT SHOT.

3 Q AND YOU WROTE THAT DOWN?

4 A I DID.

5 Q KEPT FOR A SUBSEQUENT JURY WHICH HAPPENS TO BE THIS
6 ONE?

7 A THAT'S CORRECT, SIR.

8 Q THERE'S NO QUESTION THAT HE INDICATES TO YOU, EVEN
9 HELPS YOU FIND THE LAST NAME, THAT LIMEL SIMS WAS THE
10 INDIVIDUAL IN THE BLACK NORTHFACE JACKET; CORRECT?

11 A THAT'S CORRECT. HE GETS THE NAME. HE MAKES A PHONE
12 CALL AND GETS THE NAME FOR ME.

13 Q BLACK NORTHFACE JACKET AND LIMEL SIMS ALSO HAS BRAIDS;
14 CORRECT?

15 A HE DOES.

16 Q YOU THEN OBTAINED A -- DID YOU ASK HIM IF HE WANTED TO
17 PUT ANYTHING IN WRITING?

18 A I DID.

19 Q AND DID YOU OBTAIN A WRITTEN STATEMENT FROM HIM?

20 A YES, I DID.

21 (PAUSE.)

22 Q DO YOU HAVE A COPY OF -- DO YOU HAVE THE ACTUAL
23 ORIGINAL WRITTEN STATEMENT?

24 A YES, SIR, I HAVE THE ORIGINAL.

25 MR. TAYLOR: SAME OBJECTION AS FAR AS THE STATEMENT,

1 YOUR HONOR.

2 THE COURT: OKAY.

3 MR. GASSER: YOUR HONOR, WE WOULD MOVE THIS STATEMENT
4 INTO EVIDENCE, HIS WRITTEN STATEMENT.

5 COURT REPORTER: STATE'S EXHIBIT FIFTY.

6 MR. TAYLOR: OVER MY OBJECTION.

7 THE COURT: IN EVIDENCE OVER THE OBJECTION OF MR.
8 TAYLOR.

9 (STATE'S EXHIBIT NUMBER FIFTY, WRITTEN STATEMENT OF
10 DUSHUN STATEN, IS NOW ENTERED INTO EVIDENCE.)

11 Q IS THIS ON A STANDARD COLUMBIA POLICE DEPARTMENT
12 STATEMENT FORM?

13 A YES, IT IS.

14 Q AND, AGAIN, WERE -- WERE YOU THE ONLY WITNESS TO THIS
15 WRITTEN STATEMENT?

16 A I WAS.

17 Q NOW, WHO'S ACTUALLY WRITING THIS DOWN?

18 A I WROTE THE STATEMENT.

19 Q SO WHEREVER IT HAS "Q", WHOSE WORDS ARE THOSE

20 A THOSE ARE MINE.

21 Q WHEREVER IT HAS "A", WHOSE RESPONSES ARE THOSE?

22 A DUSHUN STATEN'S.

23 Q AND DOES DUSHUN STATEN PUBLISH -- OR SIGN THIS
24 DOCUMENT AS HIS STATEMENT ON ALL FIVE PAGES?

25 A HE DOES.

STATE OF SOUTH CAROLINA VERSUS
DUSHUN STATEN, 2002-GS-40-1148 AND 786;
LUCIUS STATEN, 2002-GS-40-1149 AND 783.

1 Q AND DO YOU SIGN IT AND NOTARIZE IT AS WELL?

2 A I DID.

3 Q NOW, WHEN YOU WERE NOTARIZING THIS, ARE YOU SAYING --
4 AS THE INVESTIGATOR ARE YOU SAYING THAT WHAT'S CONTAINED
5 IN THERE IS TRUE OR ARE YOU SAYING THAT HE -- THAT
6 DUSHEN'S STATEMENT IS SAYING THIS IS THE TRUTH?

7 A I ASKED MR. STATEN IF HE SWEARS OR AFFIRMS THAT THE
8 INFORMATION HE'S PROVIDED IN THAT STATEMENT IS THE TRUTH.

9 Q THAT'S WHAT A NOTARY DOES?

10 A THAT'S CORRECT.

11 Q YOU'RE NOT CLAIMING THIS IS THE TRUTH?

12 A NO, SIR.

13 MR. GASSER: YOUR HONOR, MAY I PUBLISH IT TO THE JURY
14 NOW THAT IT'S IN EVIDENCE?

15 THE COURT: HOW LONG IS IT?

16 MR. GASSER: NOT VERY LONG.

17 IT'S A STATEMENT OF DUSHUN STATEN, A WRITTEN STATEMENT
18 ACTUALLY TAKEN 10:13 A.M., ONE JUSTICE SQUARE.

19 (READING) WHAT TIME DID YOU GET TO BENEDICT COLLEGE
20 THAT NIGHT OF THE SHOOTING?

21 BETWEEN 4 AND 5 P.M.

22 WHO ELSE WAS THERE WITH YOU?

23 TASHA, SHAKEEM, LUCIUS AND PELO (PHONETICALLY).

24 HOW DID YOU GET TO BENEDICT COLLEGE?

25 I WAS DROPPED OFF BY MICHELLE.

1 WHAT'S MICHELLE'S LAST NAME AND ADDRESS?
2 KNOW -- DON'T KNOW -- KNOW OFF HAND. SHE LIVES IN
3 LEXINGTON. SHE USED TO STRIP AT A CLUB ON TWO NOTCH,
4 PURPLE SOMETHING. SHE'S HALF CAUCASIAN, HALF KOREAN.
5 WHAT DOES SHE DRIVE?
6 A NEON, NAVY BLUE, REAL DARK.
7 HOW DID LUCIUS GET TO BENEDICT?
8 A BLACK CONTOUR DRIVEN BY PELO.
9 DO YOU KNOW PELO'S REAL NAME?
10 NO, HE'S A STUDENT AT BENEDICT.
11 WHAT DOES PELO LOOK LIKE?
12 LIGHT SKINNED, SLIM, TALL 6-1, 6-2, EARLY 20'S, NO
13 FACIAL HAIR, LOW-CUT HAIR.
14 WHAT NAME DOES EVERYONE CALL YOU?
15 DUSHUN.
16 ANYTHING ELSE?
17 I HAVE A RAPPING NAME, SARGE.
18 DID YOU SEE THE MAN WHO SHOT PHILLIP LEE?
19 YES, I DID.
20 DID YOU KNOW HIS NAME?
21 NOT HIS FULL NAME, JUST MO OR MAURICE.
22 DESCRIBE MAURICE.
23 DARK BROWN, LARGE EYES, SHORT HAIR, 5-9, 5-10, 170,
24 POSSIBLE JUST A LITTLE FACIAL HAIR, EARLY 20'S, COLORFUL
25 NASCAR LIKE JACKET, DENIM PANTS, RED BOOTS, RED HAT AND A

STATE OF SOUTH CAROLINA VERSUS
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LUCIUS STATEN, 2002-GS-40-1149 AND 783.

1 BUNCH OF RED SCARVES.
2 WAS ANYONE ELSE WITH MAURICE?
3 YES, MEL AND KAREEM.
4 DESCRIBE MEL.
5 LIGHT SKINNED, BRAIDS, 6 FEET, SOME FACIAL HAIR,
6 CONNECTING SIDE-BURNS TO CHIN AND MUSTACHE, EARLY 20'S,
7 ALL IN ONE JUMPSUIT, BLACK BOOTS, RED SCARVES, SOLID RED.
8 DESCRIBE KAREEM.
9 SHORT, DARK SKIN, BUCK-TEETH, SHORT HAIRCUT, DENIM
10 PANTS, RED SWEATER... (PAUSE.) RED SWEATER WITH WRITING,
11 RED SCARVES, EARLY 20'S, 5-7 TO 5-8.
12 DID THEY HAVE ANY CARS?
13 I'M NOT SURE.
14 WHO WAS DRIVING LUCIUS'S GREEN GALANT?
15 SHAKEEM.
16 WHO LEFT IN THE GALANT AFTER THE SHOOTING?
17 SHAKEEM.
18 ANYONE ELSE?
19 NO.
20 WHERE DID YOU GO AFTER THE SHOOTING?
21 I RAN TO MY MOTHER'S BUILDING AT 2211 REED STREET.
22 HOW DID YOU GET TO CROSSROADS?
23 CHARISE GLIVENS, THE PARK APARTMENTS BY HOOTERS.
24 WHERE DID LUCIUS GO AFTER THE SHOOTING?
25 HE GOT TO CROSSROADS MOMENTS AFTER I DID.

STATE OF SOUTH CAROLINA VERSUS
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LUCIUS STATEN, 2002-GS-40-1149 AND 783.

1 WHEN DID SHAKEEM GET TO CROSSROADS?
2 SEVERAL MINUTES LATER.
3 WHAT DID SHAKEEM DO WITH THE GALANT?
4 I DON'T KNOW.
5 WHO IS MAURICE'S GIRLFRIEND.
6 TASHA. STAYS IN DORM WHERE SHOOTING OCCURRED. THEY
7 SAID THEY HAD A CHILD BY MAURICE.
8 WHAT WAS THE ARGUMENT BETWEEN MAURICE, LUCIUS AND
9 PHILLIP LEE ABOUT?
10 MAURICE AND PHILLIP LEE WERE ARGUING AND LUCIUS TRIED
11 TO BREAK IT UP. LUCIUS SAID, "YOU BOTH NEED TO SHUT-UP."
12
13 WHAT WAS LUCIUS WEARING?
14 ORANGE BLUE SWEATER, BLUE JEANS, BEIGE BOOTS.
15 HOW MANY SHOTS WERE FIRED?
16 TWO.
17 DID YOU HAVE A GUN?
18 NO, SIR.
19 Q SO THIS IS WHAT HE PUTS IN WRITING AS TO WHAT
20 HAPPENED; IS THAT CORRECT?
21 A YES, SIR.
22 Q WHY DIDN'T YOU IN YOUR -- IN ANY OF YOUR ORAL NOTES OR
23 ANY OF THE WRITTEN STATEMENT, WHY DIDN'T YOU JUST WRITE IN
24 THERE THAT HE ADMITTED TO WEARING THIS YELLOW JACKET AND
25 HANDING THE PISTOL OVER? WHY DIDN'T YOU JUST PUT THAT IN

STATE OF SOUTH CAROLINA VERSUS
DUSHUN STATEN, 2002-GS-40-1148 AND 786;
LUCIUS STATEN, 2002-GS-40-1149 AND 783.

1 THERE?

2 A THAT'S NOT WHAT HE SAID.

3 Q OKAY. SO YOU JUST PUT IN WHAT HE SAID; IS THAT
4 CORRECT?

5 A YES, SIR.

6 Q HE INDICATED THAT LUCIUS GOT TO BENEDICT COLLEGE IN A
7 BLACK CONTOUR DRIVEN BY PELO; IS THAT CORRECT?

8 A YES, SIR.

9 Q WERE YOU ABLE TO DEVELOP ANY INFORMATION ABOUT A BLACK
10 CONTOUR BEING INVOLVED IN THIS CASE AT ALL?

11 A NO, NOT BEING INVOLVED IN THIS.

12 Q NOW THERE'S NO QUESTION ON PAGE FOUR THAT THE GREEN
13 GALANT, HE INDICATES THAT HIS COUSIN SHAKEEM WILSON WHO
14 WAS AT THE POLICE STATION AT THE SAME TIME; CORRECT?

15 A THAT'S CORRECT.

16 Q WHEN YOU WERE TAKING THAT STATEMENT. THAT THIS GREEN
17 GALANT, THE DEFENDANT ADMITS---

18 MR. STRICKLER: I'LL OBJECT TO THE LEADING, YOUR
19 HONOR.

20 Q DOES HE -- DOES HE PLACE THIS GREEN GALANT AT THE
21 SCENE AT APPROXIMATELY 9:00?

22 A YES, HE DOES.

23 Q ARE YOU AWARE -- OR DID YOU BECOME AWARE OF BEFORE YOU
24 WERE EVEN INTERVIEWING HIM THAT LUCIUS STATEN -- DID YOU
25 KNOW THAT LUCIUS STATEN HAD CALLED THE SHERIFF'S

STATE OF SOUTH CAROLINA VERSUS
DUSHUN STATEN, 2002-GS-40-1148 AND 786;
LUCIUS STATEN, 2002-GS-40-1149 AND 783.

1 DEPARTMENT AND FILED A MISSING -- THAT THE CAR WAS STOLEN?

2 A YES, I---

3 Q DID YOU KNOW THAT?

4 A ---KNEW THAT.

5 Q AND DID YOU HAVE A COPY OF THE RICHLAND COUNTY
6 SHERIFF'S DEPARTMENT REPORT SHOWING WHERE LUCIUS STATEN
7 WAS SAYING IT WAS STOLEN AT 7:00 ON THE 15TH, TWO HOURS
8 BEFORE THIS INCIDENT?

9 A YES, SIR, I DID.

10 Q NOW, TWO DAYS LATER, ON THE 25TH OF JANUARY, DID YOU
11 HAVE AN OPPORTUNITY TO MEET WITH DUSHUN STATEN AGAIN AT
12 THE COLUMBIA POLICE DEPARTMENT?

13 A I DID, SIR.

14 Q AND THE PURPOSE OF THAT MEETING WAS WHAT?

15 A TO SHOW HIM A LINEUP.

16 Q I SHOW YOU WHAT'S BEEN MARKED STATE'S EXHIBIT NUMBER
17 FIVE FOR I.D.. DO YOU RECOGNIZE THIS LINEUP?

18 A I DO, SIR.

19 Q AND IS THIS THE LINEUP YOU SHOWED DUSHUN STATEN ON
20 JANUARY THE 25TH AT THE COLUMBIA POLICE DEPARTMENT?

21 A IT IS.

22 Q OKAY. AND WHEN YOU SHOWED DUSHUN STATEN THIS LINEUP,
23 WAS HE ABLE TO IDENTIFY ANYBODY?

24 A YES, PHOTOGRAPH NUMBER FOUR OF LIMEL SIMS.

25 Q AND IS THAT THE ACTUAL PICTURE OF LIMEL SIMS WHO'S

STATE OF SOUTH CAROLINA VERSUS
DUSHUN STATEN, 2002-GS-40-1148 AND 786;
LUCIUS STATEN, 2002-GS-40-1149 AND 783.

1 WANTED FOR MURDER RIGHT NOW?

2 A IT IS.

3 Q IN THIS CASE?

4 A IT IS.

5 Q I SHOW YOU WHAT'S MARKED STATE'S EXHIBIT NUMBER SIX
6 FOR I.D.. DID YOU -- LIKE ALL THE OTHER WITNESSES, DID
7 YOU GET DUSHUN STATEN TO MEMORIALIZE THAT HE PICKED OUT
8 LIMEL SIMS, PICTURE NUMBER FOUR?

9 A I DID, SIR.

10 MR. GASSER: YOUR HONOR, WE WOULD MOVE BOTH OF THESE
11 DOCUMENTS INTO EVIDENCE AT THIS TIME.

12 MR. TAYLOR: SAME OBJECTIONS, YOUR HONOR, AS BEFORE
13 STATED.

14 THE COURT: AS TO THE AFFIDAVIT BUT NOT THE PICTURE;
15 RIGHT?

16 MR. TAYLOR: THAT'S CORRECT. NOT THE LINEUP BUT TO
17 THE AFFIDAVIT.

18 THE COURT: SAME RULING.

19 COURT REPORTER: STATE'S FIVE IN EVIDENCE. STATE'S
20 SIX IN EVIDENCE.

21 (STATE'S EXHIBIT NUMBER FIVE, PHOTO LINEUP "F"; AND,

22 STATE'S EXHIBIT NUMBER SIX, AFFIDAVIT OF DUSHUN STATEN
23 ON LINEUP "F", HAVING BEEN PREVIOUSLY MARKED FOR
24 IDENTIFICATION, ARE NOW ENTERED INTO EVIDENCE WITHOUT
25 OBJECTION.)

STATE OF SOUTH CAROLINA VERSUS
DUSHUN STATEN, 2002-GS-40-1148 AND 786;
LUCIUS STATEN, 2002-GS-40-1149 AND 783.

1 Q NOW, DID YOU ALSO HAVE AN OPPORTUNITY -- ON THE 23RD,
2 AFTER YOU INTERVIEWED DUSHUN STATEN, DID YOU HAVE AN
3 OPPORTUNITY TO INTERVIEW LUCIUS STATEN?

4 A I DID.

5 Q AND I SHOW YOU WHAT'S BEEN MARKED STATE'S EXHIBIT
6 NUMBER ONE FOR I.D.. DO YOU RECOGNIZE THAT DOCUMENT?

7 A I DO, SIR

8 Q WHAT IS THAT DOCUMENT?

9 A IT'S ALSO AN ADVICE OF RIGHTS FORM THAT I COMPLETED
10 BEFORE I TALKED TO LUCIUS STATEN.

11 Q IS IT THE SAME ADVICE OF -- SAME TYPE OF ADVICE OF
12 RIGHTS FORM THAT YOU USED ON LUCIUS STATEN THAT YOU HAD
13 PREVIOUSLY USED WITH DUSHUN THAT YOU'VE DESCRIBED TO THE
14 JURY?

15 A IT'S THE EXACT SAME FORM.

16 Q AND -- AND THAT'S THE ORIGINAL; CORRECT.

17 A IT IS, SIR.

18 MR. GASSER: WE WOULD GO AHEAD AND MOVE THIS INTO
19 EVIDENCE AT THIS TIME, YOUR HONOR.

20 MR. STRICKLER: NO OBJECTION.

21 COURT REPORTER: STATE'S ONE IN EVIDENCE.

22 (STATE'S EXHIBIT NUMBER ONE, ADVICE OF RIGHTS OF
23 LUCIUS STATEN, HAVING BEEN PREVIOUSLY MARKED FOR
24 IDENTIFICATION, IS NOW ENTERED INTO EVIDENCE WITHOUT
25 OBJECTION.)

1 Q WHERE -- WHERE WAS IT THAT YOU MET WITH LUCIUS STATEN?

2 A 2ND FLOOR OF THE COLUMBIA POLICE DEPARTMENT IN AN
3 INTERVIEW ROOM.

4 Q WAS ANYONE PRESENT WITH YOU AT THAT TIME?

5 A NO, SIR.

6 Q WHAT TIME DID YOU MEET WITH HIM AND BEGIN HIS ADVICE
7 OF RIGHTS?

8 A 11:05 A.M.

9 Q AND WOULD YOU PUBLISH TO THE JURY EXACTLY HOW YOU READ
10 TO LUCIUS STATEN WHAT HIS CONSTITUTIONAL RIGHTS WERE AT
11 11:05 A.M. ON JANUARY 23RD, 2001.

12 A ALL RIGHT. (READING) BEFORE WE ASK YOU ANY
13 QUESTIONS, YOU MUST UNDERSTAND YOUR RIGHTS. YOU HAVE THE
14 RIGHT TO REMAIN SILENT. ANYTHING YOU SAY CAN BE USED
15 AGAINST YOU IN COURT. YOU HAVE THE RIGHT TO TALK TO A
16 LAWYER FOR ADVICE BEFORE WE ASK YOU ANY QUESTIONS AND TO
17 HAVE HIM WITH YOU DURING QUESTIONING. IF YOU CANNOT
18 AFFORD A LAWYER, ONE WILL BE APPOINTED FOR YOU BEFORE ANY
19 QUESTIONING, IF YOU WISH. YOU STILL HAVE THE RIGHT -- IF
20 YOU DECIDE -- EXCUSE ME -- IF YOU DECIDE TO ANSWER
21 QUESTIONS NOW WITHOUT A LAWYER PRESENT, YOU STILL HAVE THE
22 RIGHT TO STOP ANSWERING AT ANY TIME. YOU ALSO HAVE THE
23 RIGHT TO STOP ANSWERING AT ANY TIME UNTIL YOU TALK TO A
24 LAWYER.

25 I THEN EXPLAINED THE NEXT SECTION DEALS WITH THE

STATE OF SOUTH CAROLINA VERSUS
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LUCIUS STATEN, 2002-GS-40-1149 AND 783.

1 WAIVER OF THOSE RIGHTS. (READING) I HAVE READ THIS
2 STATEMENT OF MY RIGHTS AND I UNDERSTAND WHAT MY RIGHTS
3 ARE. I'M WILLING TO MAKE A STATEMENT AND ANSWER
4 QUESTIONS. I DO NOT WANT A LAWYER AT THIS TIME. I
5 UNDERSTAND AND KNOW WHAT I'M DOING. NO PROMISES OR
6 THREATS HAVE BEEN MADE TO ME. NO PRESSURE OR COERCION OF
7 ANY KIND HAS BEEN USED AGAINST ME.

8 AT THAT POINT I ASKED HIM IF HE UNDERSTANDS EACH AND
9 EVERY ONE OF THE RIGHTS. HE STATED HE DID. I HAD ASKED
10 HIM HOW MUCH EDUCATION THAT HE HAD HAD. HE STATED THE
11 12TH GRADE AND TWO YEARS OF COLLEGE AT MONROE COLLEGE IN
12 NEW YORK.

13 AT THAT POINT I ASKED HIM IF HE WOULD SIGN THE ADVICE
14 OF RIGHTS FORM AND HE DID SO.

15 Q NOW, DID -- DID -- DID LUCIUS STATEN, DURING THE TIME
16 PERIOD THAT YOU SPENT WITH HIM FIRST, WHEN YOU ACTUALLY
17 ARRESTED HIM THAT MORNING AT HIS APARTMENT, CROSSROADS
18 APARTMENTS, AND THEN WHEN YOU WERE MEETING WITH HIM AND
19 GOING OVER HIS RIGHTS AT 11:00 IN THE MORN -- OR 11:05 IN
20 THE MORNING, DID HE APPEAR TO BE UNDER THE INFLUENCE OF
21 ALCOHOL OR DRUGS IN ANY MANNER?

22 A NO, SIR, HE DID NOT.

23 Q DID YOU HAVE ANY DIFFICULTY UNDERSTANDING HIM DURING
24 THE CONVERSATION?

25 A NO, SIR, I DID NOT.

STATE OF SOUTH CAROLINA VERSUS
DUSHUN STATEN, 2002-GS-40-1148 AND 786;
LUCIUS STATEN, 2002-GS-40-1149 AND 783.

1 Q DID HE APPEAR TO UNDERSTAND WHAT -- IN YOUR OPINION,
2 WHAT -- WHAT YOU WERE DISCUSSING WITH HIM?

3 A YES, SIR, HE DID.

4 Q DID YOU OR DID ANYONE IN YOUR PRESENCE THREATEN LUCIUS
5 STATEN IN ANY MANNER?

6 A NO, I DID NOT.

7 Q DID YOU OR DID ANYONE IN YOUR PRESENCE MAKE ANY
8 PROMISES TO LUCIUS STATEN IN EXCHANGE FOR HIS TALKING WITH
9 YOU?

10 A NO, SIR.

11 Q AND YOU INDICATED HE WAS IN FACT WILLING TO TALK TO
12 YOU; IS THAT CORRECT?

13 A YES, SIR.

14 Q NOW, DO YOU -- DID YOU AGAIN HAVE AN INTERVIEW WITH
15 HIM FIRST ORALLY?

16 A I DID, SIR.

17 Q AND DID YOU MEMORIALIZE THE -- THAT INTERVIEW?

18 A I DID.

19 Q AND IS THAT -- WHEN I SHOW YOU STATE'S EXHIBIT NUMBER
20 EIGHT FOR I.D., DO YOU RECOGNIZE STATE'S EXHIBIT NUMBER
21 EIGHT FOR I.D.?

22 A YES, SIR. THAT'S THREE PAGES OF MY CASE NOTES.

23 Q AND THOSE ARE A COPY OF YOUR ACTUAL CASE NOTES;
24 CORRECT?

25 A YES, IT IS.

STATE OF SOUTH CAROLINA VERSUS
DUSHUN STATEN, 2002-GS-40-1148 AND 786;
LUCIUS STATEN, 2002-GS-40-1149 AND 783.

1 Q AND, AGAIN, WHOSE -- WHOSE -- WHENEVER THERE'S ANY
2 QUESTIONS BEING ASKED, WHOSE WORDS ARE THOSE?

3 A THE QUESTIONS ARE MINE.

4 Q AND THE RESPONSES, WHOSE WORDS?

5 A LUCIUS STATEN'S.

6 Q OKAY. STARTING ON THE BOTTOM OF PAGE ELEVEN, YOUR
7 CASE NOTES, WHERE IT SAYS, ADVISED LUCIUS STATEN OF HIS
8 RIGHTS AND HE WAIVED SAME, GO AHEAD AND PUBLISH TO THE
9 JURY WHAT LUCIUS STATEN TOLD YOU THAT MORNING ON JANUARY
10 THE 23RD, 2001.

11 A STATEN SAID THAT, BEFORE I EVEN ASKED HIM A QUESTION,
12 HE WASN'T AT BENEDICT COLLEGE AND HE COULD PROVE IT.
13 STATEN SAID THAT HE WAS AT CIRCUIT CITY ACROSS FROM
14 COLUMBIA MALL WITH A GUY NAMED BRANDON WHO WORKS IN CAR
15 STEREO'S AND DRIVES A BLACK FORD CONTOUR. STATEN SAID HE
16 WAS THERE AT THE TIME OF THE -- STATEN SAID HE WAS THERE
17 AT THE TIME OF THE SHOOTING AND COULD BE ON AND WOULD BE
18 ON -- SHOULD BE ON THEIR SECURITY CAMERA.

19 ADVISED STATEN THAT HIS BROTHER AND SEVERAL OTHER
20 WITNESSES PUT HIM AT BENEDICT AT THE TIME OF THE SHOOTING.
21 ALSO ADVISED HIM THAT I KNEW ABOUT THE PREVIOUS
22 ALTERCATION WITH PHILLIP LEE THE PREVIOUS WEEK.

23 LUCIUS STATEN ADMITTED THAT HE WAS THERE AT THE TIME
24 OF THE SHOOTING BUT THAT HE HAD JUST ARRIVED AND WAS
25 TRYING TO BREAK THE ARGUMENT UP. LUCIUS STATED THAT HE

1 DIDN'T HAVE A PREVIOUS ARGUMENT WITH THE VICTIM BUT DID
2 HAVE ONE WITH LO, ALONZO SHULER, OVER A GIRL FROM BENEDICT
3 THAT HE HAD HAD SEX WITH. STATEN SAID HE SQUARED WITH LO
4 AND WAS TRYING TO BE THE PEACEMAKER.

5 I ASKED ABOUT THE OTHER PEOPLE OUT THERE BESIDES HIM,
6 HIS BROTHER AND SHAKEEM AND STATEN SAID HE DIDN'T KNOW THE
7 OTHER GUYS EXCEPT BY MO AND MEL.

8 STATEN SAID HE HAD ONLY MET THEM ONE OTHER TIME. HE
9 SAID HE WAS INTRODUCED TO THEM BY HIS BROTHER AT THE MALL.
10 LUCIUS STATEN DENIED KNOWING ANYTHING ELSE ABOUT THEM AND
11 SAID HE DID NOT KNOW WHO DID THE SHOOTINGS BECAUSE HE HAD
12 TURNED TO WALK AWAY WHEN HE HEARD THE SHOTS AND THEN HE
13 RAN. STATEN SAID HE RAN TO THE BANK OF AMERICA AND GAVE A
14 GUY \$20.00 TO TAKE HIM HOME. STATEN COULD NOT PROVIDE ANY
15 INFORMATION ON THE MAN WHO TOOK HIM HOME.

16 LUCIUS STATEN WAS THEN SHOWN TO THE RESTROOM. HE
17 SPOTTED A WANTED FLYER ON MAURICE SANDERS. STATEN SAID,
18 THAT'S MO.

19 Q OKAY. AND THAT STOPS THERE; RIGHT?

20 A YES, SIR.

21 Q NOW, WHEN YOU WERE INTERVIEWING DUSHUN AND LUCIUS, DID
22 YOU CONDUCT THOSE INTERVIEWS SEPARATELY?

23 A I DID.

24 Q WHEN YOU FIRST -- WHEN YOU FIRST STARTED TALKING WITH
25 LUCIUS AND HE INDICATED THAT HE WASN'T EVEN THERE AND HE

1 COULD PROVE IT, WHAT DID IT TAKE FOR YOU TO TELL HIM
2 BEFORE HE ADMITTED HE WAS THERE AT THE SCENE?

3 A THAT HIS BROTHER HAD ALREADY TOLD ME HE WAS THERE AT
4 THE SCENE.

5 Q AND THEN HE ADMITTED HE WAS THERE AT THE SCENE?

6 A YES, HE DID.

7 Q AS A PEACEMAKER?

8 A THAT'S CORRECT.

9 Q AND BOTH THESE INDIVIDUALS INDICATED THAT THEY RAN
10 AWAY FROM THE SCENE; IS THAT CORRECT?

11 A THEY BOTH STATED THAT, YES.

12 Q DIDN'T GET IN THE GALANT?

13 A NO, SIR.

14 Q NOW TWO DAYS LATER -- TWO DAYS LATER ON THE 25TH, DID
15 YOU ALSO HAVE AN OPPORTUNITY TO SHOW A DIFFERENT PHOTO
16 LINEUP TO LUCIUS STATEN THAN YOU HAD SHOWN HIS BROTHER
17 THAT SAME DAY ON JANUARY THE 25TH?

18 A I DID.

19 Q IN FACT, I -- YOU ACTUALLY MET WITH LUCIUS STATEN AT
20 10:00 IN THE MORNING. YOU HAD HIM BROUGHT TO CPD AT 10:00
21 IN THE MORNING ON THE 25TH?

22 A I DID.

23 Q AND THE LINEUP THAT YOU PREVIOUSLY TESTIFIED TO THE
24 JURY WHERE YOU SHOWED DUSHUN'S STATEMENT, WHEN HE PICKED
25 OUT LIMEL SIMS, THAT WAS SEVEN HOURS LATER; CORRECT?

STATE OF SOUTH CAROLINA VERSUS
DUSHUN STATEN, 2002-GS-40-1148 AND 786;
LUCIUS STATEN, 2002-GS-40-1149 AND 783.

- 1 A RIGHT---
- 2 Q 5:00---
- 3 A ---ABOUT 5:00 IN THE EVENING.
- 4 Q OKAY. WELL, AT 10:00 IN THE MORNING -- I SHOW YOU
- 5 WHAT'S BEEN MARKED STATE'S EXHIBIT NUMBER TWO FOR I.D..
- 6 DO YOU RECOGNIZE THAT PHOTO SPREAD?
- 7 A I DO.
- 8 Q AND DID YOU HAVE AN OPPORTUNITY TO SHOW STATE'S
- 9 EXHIBIT NUMBER TWO FOR I.D., AT 10:00 IN THE MORNING ON
- 10 JANUARY THE 25TH, AT THE COLUMBIA POLICE DEPARTMENT, TO
- 11 THE DEFENDANT, LUSHUN (SIC) STATEN?
- 12 A YES, I DID.
- 13 Q AND WAS HE ABLE TO IDENTIFY ANYBODY?
- 14 A YES, HE IDENTIFIED PHOTO NUMBER TWO OF LIMEL SIMS.
- 15 Q DID YOU HAVE -- LIKE ALL THE OTHER INDIVIDUALS THAT
- 16 YOU SHOW PHOTO LINEUPS TO, DID YOU HAVE HIM MEMORIALIZE
- 17 THAT HE WAS IDENTIFYING SOMEONE IN THIS MURDER CASE?
- 18 A I DID.
- 19 Q AND IS THAT STATE'S EXHIBIT NUMBER THREE---
- 20 A IT IS, SIR,
- 21 Q ---FOR I.D.?
- 22 A CORRECT.
- 23 Q WHOSE SIGNATURE'S ON THAT DOCUMENT?
- 24 A LUCIUS STATEN.
- 25 Q AND WHO ELSE'S?

1 A MINE.

2 Q NOW, AT 10:00 IN THE MORNING, YOU INDICATED SHOWING
3 LUCIUS STATEN STATE'S EXHIBIT NUMBER TWO FOR I.D.. WHY
4 SEVEN HOURS LATER DID YOU SHOW WHERE LIMEL -- IS THAT
5 LIMEL SIMS, PHOTO NUMBER TWO?

6 A IT IS.

7 Q WHY DID YOU SHOW, SEVEN HOURS LATER, DUSHEN STATEN
8 STATE'S EXHIBIT FIVE THAT'S NOW IN EVIDENCE, A PHOTO
9 SPREAD THAT INCLUDES LIMEL SIMS AS WELL?

10 A BETWEEN THE TIME OF 10:00 AND 5:00 I HAVE OBTAINED A
11 BETTER PHOTOGRAPH AND MADE UP ANOTHER LINEUP, A SEPARATE
12 LINEUP, OF THE SAME INDIVIDUAL BUT IT WAS USING A BETTER
13 PHOTOGRAPH.

14 Q AND TO INSURE ACCURACY, DID YOU -- WHEN YOU -- WHEN
15 YOU -- WHEN YOU SHOWED LUCIUS STATEN AT 10:00 IN THE
16 MORNING ON JANUARY THE 25TH, STATE'S EXHIBIT TWO AND HE
17 IDENTIFIED LIMEL SIMS AS PICTURE TWO; IS THAT CORRECT?

18 A THAT'S CORRECT.

19 Q DID YOU SHUFFLE THE PICTURES AROUND IN CASE THERE WAS
20 ANY COMMUNICATION BETWEEN THE TWO OF THEM?

21 A WE PUT LIMEL SIMS' AS PHOTOGRAPH NUMBER FOUR.

22 MR. GASSER: YOUR HONOR, WE WOULD MOVE STATE'S
23 EXHIBIT NUMBER TWO AND NUMBER THREE INTO EVIDENCE AT THIS
24 TIME THAT ARE MARKED FOR I.D..

25 MR. STRICKLER: NO OBJECTION TO TWO. OBJECTION TO

1 THE HEARSAY NATURE OF THE AFFIDAVIT.

2 THE COURT: OKAY.

3 MR. TAYLOR: JOIN THAT OBJECTION.

4 THE COURT: ALL RIGHT. SAME RULING.

5 COURT REPORTER: STATE'S TWO IN EVIDENCE. STATE'S
6 THREE IN EVIDENCE.

7 (STATE'S EXHIBIT NUMBER TWO, PHOTO LINEUP "E"; AND,
8 STATE'S EXHIBIT NUMBER THREE, AFFIDAVIT OF LUCIUS
9 STATEN ON LINEUP "E", HAVING BEEN PREVIOUSLY MARKED FOR
10 IDENTIFICATION, ARE NOW ENTERED INTO EVIDENCE WITHOUT
11 OBJECTION.)

12 Q NOW, INVESTIGATOR MEAD, ON JANUARY THE 18TH, THREE
13 DAYS AFTER THIS INCIDENT, DID YOU HAVE AN OPPORTUNITY TO
14 MEET WITH RASHON LOGGINS AT THE COLUMBIA POLICE
15 DEPARTMENT?

16 A I DID, SIR.

17 Q I SHOW YOU WHAT'S BEEN MARKED STATE'S EXHIBIT NUMBER
18 NINE IN EVIDENCE. DID YOU HAVE AN OPPORTUNITY TO SHOW
19 RASHON LOGGINS THAT PHOTO SPREAD?

20 A I DID, SIR.

21 Q AND IN YOUR PRESENCE DID HE IDENTIFY SOMEONE?

22 A HE DID.

23 Q AND WHO WAS THAT?

24 A PHOTOGRAPH NUMBER FIVE OF LUCIUS STATEN.

25 Q OF LUCIUS STATEN?

STATE OF SOUTH CAROLINA VERSUS
DUSHUN STATEN, 2002-GS-40-1148 AND 786;
LUCIUS STATEN, 2002-GS-40-1149 AND 783.

1 A THAT'S CORRECT.

2 Q DID YOU OR ANYONE IN YOUR PRESENCE SUGGEST ANYTHING TO
3 RASHON LOGGINS WHEN YOU SHOWED HIM THIS PHOTO SPREAD?

4 A NO, I DID NOT.

5 Q AND YOU ALSO HAD AN OPPORTUNITY AT THAT TIME -- YOU
6 INDICATED YOU HAD A PHOTOGRAPH OF MO SANDERS AS WELL ON
7 THE 18TH OF JANUARY; CORRECT?

8 A I DID.

9 Q I SHOW YOU STATE'S EXHIBIT TEN IN EVIDENCE. DID YOU
10 HAVE AN OPPORTUNITY TO SHOW RASHON LOGGINS THAT DOC --
11 THAT PHOTO SPREAD AS WELL ON JANUARY THE 18TH?

12 A I DID.

13 Q AND DID HE IDENTIFY ANYONE?

14 A YES, PHOTOGRAPH NUMBER SIX OF MAURICE SANDERS.

15 Q AND DID ANYONE SUGGEST ANYTHING TO HIM AT THAT TIME?

16 A NO, SIR.

17 Q I BELIEVE NO AFFIDAVIT -- YOU DID NOT HAVE HIM SIGN
18 ANY KIND OF AFFIDAVIT AT THAT TIME; IS THAT CORRECT?

19 A I DID NOT.

20 Q WAS THERE ANY REASON FOR THAT?

21 A OVERSIGHT ON MY PART.

22 Q AND YOU FREELY ADMIT THAT?

23 A YES, SIR.

24 Q EVERYONE MAKES MISTAKES. THEN STAYING WITH RASHON
25 LOGGINS, ON JANUARY THE 26TH, DID YOU HAVE AN OPPORTUNITY

STATE OF SOUTH CAROLINA VERSUS
DUSHUN STATEN, 2002-GS-40-1148 AND 786;
LUCIUS STATEN, 2002-GS-40-1149 AND 783.

1 -- I'M SHOWING YOU STATE'S EXHIBIT NUMBER ELEVEN. ON
2 JANUARY THE 26TH AT CPD, DID YOU MEET WITH RASHON LOGGINS
3 AGAIN?

4 A I DID, SIR.

5 Q DID YOU SHOW HIM STATE'S EXHIBIT NUMBER ELEVEN?

6 A I DID.

7 Q A PHOTO SPREAD?

8 A I DID, SIR.

9 Q AND WAS HE ABLE TO IDENTIFY ANYBODY?

10 A THE PHOTOGRAPH NUMBER TWO OF DUSHUN STATEN.

11 Q WHEN YOU MET WITH RASHON LOGGINS ON JANUARY THE 18TH
12 AND SHOWED HIM A PHOTO SPREAD OF TWELVE PICTURES WHEN HE
13 IDENTIFIED LUCIUS, AND SIX PICTURES WHEN HE IDENTIFIED
14 MAURICE, DID YOU HAVE A PHOTOGRAPH OF DUSHUN AT THAT TIME?

15 A NO, I DID NOT.

16 Q IN BETWEEN JANUARY THE 18TH AND JANUARY THE 26TH, WHEN
17 YOU SHOWED RASHON LOGGINS STATE'S EXHIBIT ELEVEN, WERE YOU
18 ABLE TO OBTAIN A PHOTOGRAPH OF DUSHUN STATEN AT THAT TIME?

19 A I DID.

20 Q IN FACT HE WAS ARRESTED AT THAT TIME, WAS HE NOT?

21 A YES, HE WAS.

22 Q AND THAT PICTURE NUMBER TWO IS DUSHUN STATEN, IS IT
23 NOT?

24 A IT IS.

25 Q NOW, AT THAT TIME, SHOWING YOU STATE'S EXHIBIT NUMBER

STATE OF SOUTH CAROLINA VERSUS
DUSHUN STATEN, 2002-GS-40-1148 AND 786;
LUCIUS STATEN, 2002-GS-40-1149 AND 783.

1 TWENTY-NINE THAT'S IN EVIDENCE, DID YOU HAVE RASHON
2 LOGGINS MEMORALIZE THAT HE PICKED OUT ON JANUARY THE 26TH,
3 THE DEFENDANT DUSHUN STATEN FROM THAT PHOTO SPREAD?

4 A I DID.

5 Q ON JANUARY THE 24TH, DID YOU HAVE AN OPPORTUNITY TO
6 MEET WITH ANTHONY KENNEDY?

7 A YES, I DID, SIR.

8 Q DID YOU HAVE AN OPPORTUNITY TO SHOW ANTHONY KENNEDY
9 STATE'S EXHIBIT NUMBER NINE?

10 A I DID.

11 Q AND WHEN YOU SHOWED ANTHONY KENNEDY STATE'S EXHIBIT
12 NUMBER NINE, DID HE LOOK AT ALL TWELVE PICTURES?

13 A HE DID.

14 Q AND WAS HE ABLE TO IDENTIFY ANYONE INVOLVED IN THIS
15 CASE?

16 A YES, SIR, PHOTOGRAPH NUMBER FIVE, LUCIUS STATEN.

17 Q THERE'S NO QUESTION? IS PHOTOGRAPH NUMBER FIVE THE
18 DEFENDANT, LUCIUS STATEN?

19 A THAT'S CORRECT.

20 Q NOW, DURING ALL OF THESE PHOTOGRAPHIC LINEUPS THAT THE
21 JURY HAS HEARD ABOUT NOW FOR THE LAST TWO DAYS, DID YOU
22 EVER CONDUCT A PHOTO LINEUP WITH MORE THAN ONE WITNESS AT

23 A TIME?

24 A NO, SIR.

25 Q HAVE YOU EVER DONE THAT?

STATE OF SOUTH CAROLINA VERSUS
DUSHUN STATEN, 2002-GS-40-1148 AND 786;
LUCIUS STATEN, 2002-GS-40-1149 AND 783.

1 A NO, SIR.

2 Q ON THAT SAME DAY, DID YOU ACTUALLY SHOW FOUR PHOTO
3 LINEUPS TO TONY KENNEY ON JANUARY THE 24TH?

4 A I DID, SIR.

5 Q SHOWING YOU STATE'S EXHIBIT TEN, DID YOU SHOW HIM THIS
6 LINEUP?

7 A I DID.

8 Q WAS HE ABLE TO IDENTIFY ANYBODY?

9 A PHOTOGRAPH NUMBER SIX OF MAURICE SANDERS.

10 Q AS BEING INVOLVED OR BEING THERE; IS THAT CORRECT?

11 A BEING THERE, YES, SIR.

12 Q STATE'S EXHIBIT NUMBER ELEVEN, PHOTO SPREAD, WAS HE
13 ABLE TO IDENTIFY -- TONY KENNEDY ABLE TO IDENTIFY ANYBODY?

14 A YES, PHOTOGRAPH NUMBER TWO OF DUSHUN STATEN.

15 Q THE SAME MEETING ON JANUARY 24TH WITH TONY KENNEDY?

16 A THAT'S CORRECT.

17 Q AND PHOTO SPREAD NUMBER TWELVE, WAS TONY KENNEDY ABLE
18 TO IDENTIFY ANYBODY?

19 A YES, PHOTOGRAPH NUMBER ONE OF SHAKEEM WILSON.

20 Q AND IS PHOTOGRAPH -- I MEAN, YOU MET SHAKEEM WILSON
21 DURING THE SEARCH WARRANT AND DURING OTHER TIMES; CORRECT?

22 A I HAVE.

23 Q IS PHOTOGRAPH NUMBER ONE A PICTURE OF THE COUSIN OF
24 THE TWO DEFENDANTS, SHAKEEM WILSON?

25 A IT IS.

STATE OF SOUTH CAROLINA VERSUS
DUSHUN STATEN, 2002-GS-40-1148 AND 786;
LUCIUS STATEN, 2002-GS-40-1149 AND 783.

1 Q DID YOU HAVE ANTHONY KENNEDY -- SHOWING YOU STATE'S
2 EXHIBIT TWENTY, NINETEEN, TWENTY-ONE, TWENTY-TWO, DID YOU
3 HAVE ANTHONY KENNEDY ON JANUARY THE 24TH, 2001,
4 MEMORIALIZE THAT HE IDENTIFIED LUCIUS STATEN, MAURICE
5 SANDERS, DUSHUN STATEN AND SHAKEEM WILSON AS BEING
6 INVOLVED IN THIS HOMICIDE?

7 A I DID, SIR.

8 Q AND THOSE ARE THESE DOCUMENTS?

9 A THEY ARE.

10 Q LASTLY, CONSIDERING THOSE PHOTO SPREADS, DID YOU HAVE
11 AN OPPORTUNITY OF JANUARY THE 26TH TO MEET WITH RASHON
12 LOGGINS?

13 A I DID SIR.

14 Q I'M SORRY, ON THE 26TH WE AREN'T TALKING ABOUT RASHON
15 -- WITH ANDREW BRITT?

16 A YES, SIR, ABOUT 9:15 IN THE MORNING.

17 Q DID YOU HAVE AN OPPORTUNITY TO SHOW ANDREW BRITT
18 STATE'S EXHIBIT NUMBER ELEVEN?

19 A I DID.

20 Q WAS HE ABLE TO IDENTIFY ANYONE?

21 A YES, PHOTOGRAPH NUMBER TWO OF LUCIUS -- OR DUSHUN
22 STATEN.

23 Q AND DID YOU SHOW HIM -- WELL, I SHOW YOU WHAT'S BEEN
24 MARKED STATE'S EXHIBIT NUMBER TWENTY-EIGHT. DO YOU
25 RECOGNIZE THIS PHOTO SPREAD?

STATE OF SOUTH CAROLINA VERSUS
DUSHUN STATEN, 2002-GS-40-1148 AND 786;
LUCIUS STATEN, 2002-GS-40-1149 AND 783.

- 1 A I DO.
- 2 Q AND DID YOU SHOW THIS TO MR. BRITT ON THE 26TH?
- 3 A I DID.
- 4 Q AND WAS HE ABLE TO IDENTIFY ANYONE?
- 5 A YES, PHOTOGRAPH NUMBER THREE OF LUCIUS STATEN.
- 6 Q OKAY. NOW, IS THIS A DIFFERENT PHOTO SPREAD OF LUCIUS
- 7 STATEN AND THE FIRST ONE THAT YOU WERE SHOWING A LOT OF
- 8 THE WITNESSES?
- 9 A YES, SIR, IT IS.
- 10 Q STATE'S EXHIBIT NUMBER NINE?
- 11 A YES, IT IS.
- 12 Q SO LUCIUS IS IN WHAT PICTURE IN STATE'S EXHIBIT NUMBER
- 13 NINE?
- 14 A NUMBER FIVE.
- 15 Q AND LUCIUS IS IN WHAT PICTURE IN STATE'S EXHIBIT
- 16 NUMBER TWENTY-EIGHT?
- 17 A PHOTOGRAPH NUMBER THREE.
- 18 Q SO WHEN YOU SHOWED ANDREW BRITT STATE'S EXHIBIT
- 19 TWENTY-EIGHT DID HE IDENTIFY LUCIUS STATEN?
- 20 A YES, HE DID.
- 21 Q AND DID YOU HAVE ANDREW BRITT ON THE 26TH OF JANUARY,
- 22 WHEN YOU SHOWED HIM THE PHOTO SPREAD AND HE IDENTIFIED
- 23 DUSHUN STATEN IN THE PHOTO SPREAD AND IDENTIFIED LUCIUS
- 24 STATEN -- I SHOW YOU WHAT'S BEEN MARKED STATE'S EXHIBIT
- 25 TWENTY-NINE AND THIRTY. DID YOU HAVE HIM MEMORIALIZE THAT

1 HE WAS PICKING OUT THOSE TWO DEFENDANTS AS BEING INVOLVED
2 IN THIS HOMICIDE?

3 A I DID, SIR.

4 Q AT ANY TIME, INVESTIGATOR MEAD, THROUGHOUT THE PHOTO
5 SPREADS, OF THE WITNESSES THAT HAVE TESTIFIED BEFORE THIS
6 JURY, DID YOU OR DID ANYONE IN YOUR PRESENCE SUGGEST IN
7 ANY WAY, SHAPE OR FORM OR ANY MANNER WHO TO IDENTIFY?

8 A NO, SIR.

9 Q OTHER THAN THE PHOTOGRAPHS AND THE PHOTO SPREADS, WAS
10 THERE ANY -- ANY OTHER IDENTIFIABLE FEATURES ON THE PHOTO
11 SPREAD SUCH AS HEIGHT, WEIGHT, NAMES, DATE OF BIRTHS,
12 ADDRESSES, ANY OF THAT?

13 A NO, SIR, NOTHING AT ALL.

14 Q ARE THEY IN THE SAME CONDITION WHEN YOU SHOWED THE
15 LINEUPS TO ALL OF THE WITNESSES, AS THEY ARE TODAY IN THE
16 COURTROOM AND AS THEY WILL BE BACK IN THE JURY ROOM?

17 A THEY ARE.

18 Q JUST A FEW MORE QUESTIONS.

19 (PAUSE.)

20 Q YOU PREVIOUSLY INDICATED TO THE JURY THAT -- HAD THE
21 GUN EVER BEEN FOUND, I BELIEVE YOU ANSWERED -- YOU
22 ANSWERED THAT QUESTION; IS THAT CORRECT?

23 A I DID, SIR.

24 Q WAS THE BENEDICT COLLEGE CAMPUS AROUND THE AREA
25 SEARCHED?

- 1 A YES, IT WAS.
- 2 Q THE TWO CARS IN QUESTION, GREEN GALANT AND THE WHITE
- 3 CAR?
- 4 A THEY WERE.
- 5 Q THE APARTMENT?
- 6 A IT WAS.
- 7 Q NEVER RECOVERED THE GUN?
- 8 A NO, SIR.
- 9 Q DO YOU HAVE ANY IDEA WHERE THE PARTIES -- OTHER THAN
- 10 MO SANDERS WHO WAS STOPPED AT THE SCENE, DO YOU HAVE ANY
- 11 IDEA WHERE ANY OF THESE PARTIES WENT ON JANUARY THE 15TH
- 12 AFTER THIS INCIDENT? DO YOU HAVE ANY WAY OF KNOWING THAT?
- 13 A NO, SIR, I HAVE NO IDEA.
- 14 Q OR WHERE THEY WERE ON THE 16TH OR 17TH?
- 15 A NO, SIR.
- 16 Q THE 18TH AND 19TH?
- 17 A NO, SIR.
- 18 Q THE 20TH AND 21ST?
- 19 A NO, SIR.
- 20 Q THE 22ND?
- 21 A NO, SIR.
- 22 Q YOU HOOKED UP WITH THEM ON THE 23RD; CORRECT?
- 23 A THAT'S CORRECT.
- 24 Q AND THEY WERE ARRESTED THAT DAY?
- 25 A THAT'S CORRECT. LUCIUS STATEN WAS.

- 1 Q ON THE 23RD -- OF COURSE, DUSHUN STATEN WAS ARRESTED
2 AND CHARGED WITH MURDER THAT DAY AS WELL, WAS HE NOT?
3 A YES, HE WAS, AFTERWARDS.
4 Q IS IT PART OF THE ORDINARY COURSE OF BUSINESS TO BOOK
5 -- TO BOOK INDIVIDUALS CHARGED WITH ANY CRIME?
6 A YES, SIR.
7 Q I SHOW YOU THESE TWO DOCUMENTS. DO YOU RECOGNIZE
8 THOSE TWO DOCUMENTS?
9 A YES, THEY'RE COPIES OF A BOOKING REPORT FOR THE
10 COLUMBIA POLICE DEPARTMENT.
11 Q AND JUST THE GENERAL BACKGROUND INFORMATION, DID YOU
12 HAVE TO ASK CERTAIN QUESTIONS OF THE -- OF -- OF PEOPLE
13 BEING BOOKED ABOUT BACKGROUND INFORMATION INCLUDING
14 ADDRESSES?
15 A I DO.
16 Q AND LUCIUS AND DUSHUN STATEN STATED WHEN THEY WERE
17 BOOKED ON JANUARY THE 23RD, THEY BOTH INDICATED THEIR
18 ADDRESS WAS WHAT?
19 A 716 ZIMALCREST, APARTMENT 1308.
20 Q AND THAT CAME FROM THE DEFENDANTS; IS THAT CORRECT?
21 A IT DID.
22 Q THE SAME APARTMENT WHERE THIS WAS FOUND?
23 A YES, SIR.
24 Q AND THESE PHOTOGRAPHS WERE TAKEN?
25 A YES, SIR.

STATE OF SOUTH CAROLINA VERSUS
DUSHUN STATEN, 2002-GS-40-1148 AND 786;
LUCIUS STATEN, 2002-GS-40-1149 AND 783.

1 Q THE GUNSHOT RESIDUE KITS, ONCE SERGEANT KENLEY -- I'M
2 SHOWING YOU STATE'S EXHIBIT THIRTY-NINE, STATE'S EXHIBIT
3 FORTY-FIVE, DO YOU RECOGNIZE THOSE OFFICIAL COLUMBIA
4 POLICE DEPARTMENT STAMPS?

5 A I DO.

6 Q OKAY. ONCE THEY WERE ENTERED ON JAN -- ON JANUARY THE
7 26TH, 2001, DID THEY STAY AT THE COLUMBIA POLICE
8 DEPARTMENT?

9 A THEY DID.

10 Q I SHOW THIS DOCUMENT TO JUST -- IT MIGHT REFRESH YOUR
11 MEMORY. I SHOW YOU THIS DOCUMENT. IN JANUARY OF THIS
12 YEAR DID YOU DIRECT SOMEBODY FROM THE COLUMBIA POLICE
13 DEPARTMENT TO TRANSPORT THESE ITEMS TO THE SOUTH CAROLINA
14 LAW ENFORCEMENT DIVISION?

15 A I DID.

16 Q AND WHO WAS THAT?

17 A OFFICER PHIL YOUNG.

18 Q AND WHEN DID YOU ASK HIM TO DO THAT?

19 A IT WAS ON THE 9TH OF JANUARY.

20 Q OF THIS YEAR?

21 A YES, SIR.

22 Q THE PURPOSE THAT YOU WANTED -- WHAT DID YOU WANT DONE
23 WITH THOSE -- WITH THOSE ITEMS?

24 A TO HAVE THE STATE LAW ENFORCEMENT DIVISION EXAMINE THE
25 GUNSHOT RESIDUE KITS TO DETERMINE IF THERE WAS GUNSHOT

1 POWDER ON EITHER MAURICE SANDERS OR THE VICTIM, PHILLIP
2 LEE.

3 Q LAST QUESTION.

4 (PAUSE.)

5 MR. GASSER: YOUR HONOR, WE'D LIKE TO MARK A DOCUMENT
6 FOR EVIDENCE, PLEASE.

7 MR. STRICKLER: WITHOUT OBJECTION FROM LUCIUS STATEN.

8 MR. TAYLOR: OR MR. DUSHUN STATEN.

9 THE COURT: OKAY.

10 COURT REPORTER: STATE'S FIFTY-ONE IN EVIDENCE.

11 (STATE'S EXHIBIT NUMBER FIFTY-ONE, AUTOMOBILE
12 REGISTRATION OF GREEN GALANT, IS NOW ENTERED INTO EVIDENCE
13 WITHOUT OBJECTION.)

14 Q ARE YOU FAMILIAR WITH THE SOUTH CAROLINA DEPARTMENT OF
15 VEHICLE CERTIFICATE OF -- APPLICATION FOR CERTIFICATE OF
16 TITLE AND REGISTRATION AS WELL VEHICLE REGISTRATION
17 DOCUMENTS, ARE YOU NOT, AS A POLICE OFFICER?

18 A I AM, SIR.

19 Q AND DO YOU RECOGNIZE THAT DOCUMENT IN EVIDENCE?

20 A YES, SIR.

21 Q WHO -- THIS GREEN MITSUBISHI GALANT, STATE'S EXHIBIT
22 FORTY, IS THIS THE GREEN GALANT BELONGING TO LUCIUS
23 STATEN?

24 A YES, IT IS.

25 Q THE VIN NUMBER ON THIS CAR THAT'S IN THIS PHOTOGRAPH

STATE OF SOUTH CAROLINA VERSUS
DUSHUN STATEN, 2002-GS-40-1148 AND 786;
LUCIUS STATEN, 2002-GS-40-1149 AND 783.

1 MATCHES UP TO THE DOCUMENTS IN YOUR HAND?

2 A YES, SIR.

3 Q AND THAT CAR IN STATE'S EXHIBIT FORTY IS REGISTERED TO
4 LUCIUS STATEN; CORRECT?

5 A YES, IT WAS.

6 Q THE VIN NUMBERS FOR THE DEPARTMENT OF MOTOR VEHICLES
7 MATCH UP, ALL OF THE VIN NUMBERS THAT HAS BEEN WRITTEN UP
8 AND TESTIFIED TO BY ALL OF THE WITNESSES BEFORE THIS JURY
9 EARLIER TODAY BEFORE YOUR TESTIMONY?

10 A IT DOES, SIR.

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

12 THE COURT: YOU'VE GOT SOME OTHER STUFF THAT HASN'T
13 BEEN MOVED IN YET?

14 MR. GASSER: WE'VE GOT THE WITNESS HERE TO MOVE THOSE
15 INTO EVIDENCE LATER.

16 THE COURT: I MEAN NOT JUST THOSE TWO. ARE OTHER...

17 (PAUSE.)

18 THE COURT: ARE ALL THE PHOTO LINEUPS IN?

19 MR. GASSER: I BELIEVE SO. WE'LL CHECK BEFORE WE
20 REST.

21 (PAUSE.)

22 Q AND SO THE RECORD'S COMPLETE, INVESTIGATOR MEAD, ALL
23 THIS TIME DURING YOUR TESTIMONY YOU'VE BEEN REFERRING TO
24 DUSHUN STATEN. WOULD YOU IDENTIFY HIM IN THE COURTROOM,
25 PLEASE?

1 A THE GENTLEMAN IN THE LIGHT BLUE SHIRT ON THE END OF
2 THE TABLE.

3 Q AND WHEN YOU'VE BEEN REFERRING TO THE JURY AS LUCIUS
4 STATEN, WOULD YOU IDENTIFY HIM FOR THE RECORD, PLEASE?

5 A THE GENTLEMAN ON THE OTHER END IN THE DARK BLUE SHIRT.

6 MR. GASSER: THANK YOU. THAT'S ALL I HAVE, YOUR
7 HONOR.

8 THE COURT: ALL RIGHT, MR. STRICKLER.

9 MR. STRICKLER: MAY WE APPROACH BRIEFLY, YOUR HONOR.

10 THE COURT: UH-HUH. (INDICATES AN AFFIRMATIVE
11 RESPONSE.)

12 (A BENCH CONFERENCE IS HAD AT THIS TIME IN THE
13 PRESENCE OF THE JURY AND THE COURT REPORTER, BUT OUT OF
14 THE HEARING OF THE JURY AND THE COURT REPORTER) .

15 MR. STRICKLER: MAY IT PLEASE THE COURT, YOUR
16 HONOR.

17 CROSS-EXAMINATION BY MR. STRICKLER:

18 Q GOOD AFTERNOON, INVESTIGATOR.

19 A HOW YOU DOING, SIR?

20 Q LET'S SEE, YOU WENT TO THE SCENE IN THIS CASE ON THE
21 15TH; RIGHT?

22 A YES, SIR, I DID.

23 Q JANUARY THE 15TH, 2001. DID YOU ACTUALLY BEGIN
24 CONDUCTING YOUR INVESTIGATION AT THAT POINT IN TIME?

25 A NO, SIR, I DID NOT.

1 Q CPD WERE PRESENT AND EVIDENTLY ASSISTED IN
2 PROCESSING THE SCENE AT THAT POINT, COLLECTING ANY
3 POTENTIAL EVIDENCE; RIGHT?

4 A YES, SIR, THEY DID.

5 Q DOCUMENTING THE LOCATIONS OF EVIDENCE. THAT'S
6 REFLECTED IN SOME OF THESE EXHIBITS THAT ARE ALREADY IN
7 EVIDENCE HERE.

8 BUT AS FAR AS GETTING THE INVESTIGATION OF THE CASE,
9 CPD DIDN'T TAKE THAT OVER UNTIL THE 17TH; IS THAT CORRECT?

10 A YES, SIR, THE EVENING OF THE 17TH.

11 Q THE EVENING OF THE 17TH. AND YOU'RE AN INVESTIGATOR
12 IN THE CITY'S MAJOR CRIME UNIT, THAT'S WHAT YOU'VE
13 TESTIFIED TO; CORRECT?

14 A YES, SIR.

15 Q AND YOU WERE ASSIGNED AS THE LEAD INVESTIGATOR IN
16 THIS PARTICULAR CASE; CORRECT?

17 A YES, SIR, I WAS.

18 Q AND WE'VE HEARD TESTIMONY -- WELL, ACTUALLY DIDN'T
19 HEAR ANY TESTIMONY FROM HIM, J. P. SMITH, HE'S ALSO WITH
20 MAJOR CRIMES; RIGHT?

21 A YES, SIR.

22 Q WE'VE HEARD REFERENCE TO MITCH WILKERSON WHO'S WITH
23 MAJOR CRIMES; RIGHT?

24 A YES, SIR.

25 Q THERE ARE A NUMBER OF INVESTIGATORS ASSIGNED TO THE

1 MAJOR CRIMES UNIT AT CPD, ANY ONE -- ANY NUMBER OF WHOM
2 MAY ACTUALLY WORK ON A PARTICULAR CASE; RIGHT?

3 A YES, SIR.

4 Q OKAY. ON A PARTICULAR MAJOR CRIME INVESTIGATION,
5 YOU GET A LEADING INVESTIGATOR ASSIGNED; RIGHT?

6 A YES, SIR.

7 Q OKAY. AND AS THE LEAD INVESTIGATOR ON A CASE, YOU
8 ARE RESPONSIBLE FOR CONDUCTING THE INVESTIGATION,
9 PERSONALLY CONDUCTING ASPECTS OF THE INVESTIGATION; RIGHT?

10 A THAT'S CORRECT, SIR

11 Q IF THERE ARE OTHER INVESTIGATORS ASSIGNED, YOU ARE
12 RESPONSIBLE FOR COORDINATING THEIR EFFORTS IN CONDUCTING
13 THEIR PORTIONS OF THE INVESTIGATION; RIGHT?

14 A THAT'S CORRECT, SIR.

15 Q OKAY. SO YOU DO AN INVESTIGATION YOURSELF ON A
16 CASE. IF THERE ARE ADDITIONAL INVESTIGATORS INVOLVED, YOU
17 HELP COORDINATE THEIR INVESTIGATION. YOU SERVE, IF YOU
18 WILL, AS A CENTRAL CLEARINGHOUSE FOR ALL THE INFORMATION
19 THAT'S BEING DEVELOPED; RIGHT?

20 A YES, SIR.

21 Q SO THE LEFT HAND KNOWS WHAT THE RIGHT HAND'S DOING;
22 RIGHT?

23 A HOPEFULLY, SIR.

24 Q AND SOMEONE'S GOT THE BIG PICTURE RATHER THAN A
25 BUNCH OF PIECES OF LITTLE PICTURES; RIGHT?

STATE OF SOUTH CAROLINA VERSUS
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LUCIUS STATEN, 2002-GS-40-1149 AND 783.

1 A YES, SIR.

2 Q AND THEN IN ADDITION TO INVESTIGATORS ASSIGNED TO A
3 CASE, THERE MAY OR MAY NOT BE UNIFORMED POLICE OFFICERS
4 INVOLVED IN THE INVESTIGATION OF THE CASE AND YOU'D HAVE
5 TO COORDINATE THE INFORMATION THAT THEY RECEIVE. WE'VE
6 HEARD INPUT FROM THE SHERIFF'S DEPARTMENT IN THIS CASE AND
7 CPD HAVING THE GALANT TOWED AND ALL THIS.

8 ALL THAT INFORMATION FILTERS THROUGH YOU EVENTUALLY;
9 RIGHT?

10 A YES, SIR, IT DOES.

11 Q NOW, LATE IN MR. GASSER'S QUESTIONING YOU, HE
12 INDICATED THAT YOU DIDN'T KNOW WHERE ANYWHERE WAS FROM THE
13 15TH THROUGH THE 23RD WHEN YOU EXECUTED THE WARRANT. BUT
14 INDEED YOU KNEW ON JANUARY 19TH THAT LUCIUS STATEN WAS AT
15 THE SAME ADDRESS YOU FOUND HIM AT ON THE 23RD; RIGHT?

16 A WE KNEW WHERE THE STOLEN CAR REPORT WAS TAKEN FROM.

17 Q RIGHT. AND YOU KNEW THAT MR. STATEN WAS THERE
18 HIMSELF BECAUSE MITCH WILKERSON, WHO'S A MAJOR CRIMES
19 INVESTIGATOR, ACCOMPANIED THE OFFICER OUT TO TAKE THE
20 REPORT; RIGHT?

21 A YES, SIR.

22 Q OKAY. SO ON JANUARY THE 19TH, INDEED, RATHER THAN
23 NOT KNOWING WHERE ANYONE WAS, LUCIUS STATEN WAS RIGHT
24 WHERE HE WAS SUPPOSED TO BE AT HIS HOME ADDRESS; RIGHT?

25 A WE KNEW HE WAS THERE ON THE 19TH, YES, SIR.

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1 Q YOU KNEW HE WAS THERE ON THE 19TH. OKAY.

2 AND YOU TESTIFIED THAT THE -- THESE GUN PRIMER
3 RESIDUE KITS HERE, MARKED FORTY-FIVE FOR I.D. AND --
4 EXCUSE ME, THIRTY-NINE FOR I.D., THAT THESE REMAINED IN
5 THE CITY OF COLUMBIA EVIDENCE ROOM FROM THE TIME THEY WERE
6 COLLECTED ON JANUARY THE 26TH, 2000 THROUGH JANUARY 9TH,
7 2002; IS THAT CORRECT?

8 A THAT'S CORRECT, SIR.

9 Q OKAY. NOW, YOU ARE NOT AN EMPLOYEE OF THE CITY OF
10 COLUMBIA EVIDENCE ROOM, ARE YOU? THAT'S NOT -- THAT'S NOT
11 PART OF YOUR JOB; RIGHT?

12 A NO, SIR, IT'S NOT.

13 Q THERE IS A -- I MIGHT NOT USE THE RIGHT TERM BUT
14 THERE'S AN EVIDENCE CUSTODIAN THAT IS RESPONSIBLE FOR
15 CONTROLLING THE FLOW OF EVIDENCE THROUGH THAT ROOM;
16 CORRECT?

17 A YES, SEVERAL OF THEM.

18 Q SEVERAL OF THEM. OKAY. AND THEY HAVE A PROCEDURE
19 FOR DOCUMENTING WHEN EVIDENCE IS BOOKED INTO THE ROOM,
20 WHETHER OR NOT IT IS TAKEN OUT AT ANY PARTICULAR PERIOD OF
21 TIME; CORRECT---

22 A THAT'S---

23 Q ---THEY -- I'M SORRY. THEY SIGN IT IN AND THEY SIGN
24 IT OUT; RIGHT?

25 A YES, SIR.

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DUSHUN STATEN, 2002-GS-40-1148 AND 786;
LUCIUS STATEN, 2002-GS-40-1149 AND 783.

1 Q AND YOU ARE NOT THAT PERSON; RIGHT?

2 A NO, SIR, I'M NOT.

3 Q OKAY. YOUR RESPONSIBILITIES ARE THAT OF A MAJOR
4 CRIMES INVESTIGATOR; RIGHT?

5 A YES, SIR.

6 Q YOUR RESPONSIBILITIES ARE NOT THAT OF A CUSTODIAN OF
7 EVIDENCE IN THIS CASE; CORRECT.

8 A THAT'S CORRECT.

9 Q ALL RIGHT. THANK YOU.

10 (PAUSE.)

11 Q AS THE LEAD INVESTIGATOR IN THIS CASE, YOU'VE HEARD
12 THE TESTIMONY OF INVESTIGATOR KENLEY WHO ENDS UP TURNING
13 OVER EVERYTHING HE HAS TO YOU AT THE TIME CPD TAKES OVER
14 THE INVESTIGATION; RIGHT?

15 A YES, SIR, HE DID.

16 Q WHATEVER INVESTIGATIVE NOTES HE TOOK, HE TURNED
17 THOSE OVER; RIGHT?

18 A YES, SIR.

19 Q HE TOOK INVESTIGATIVE NOTES JUST AS YOU'VE TESTIFIED
20 ABOUT THE INVESTIGATIVE NOTES YOU TAKE; RIGHT?

21 A YES, SIR.

22 Q OKAY. WHATEVER WRITTEN STATEMENTS HE TOOK FROM
23 INDIVIDUALS, HE TURNED THOSE OVER TO YOU ALSO; RIGHT?

24 A HE DID.

25 Q AND CERTAINLY ONE OF THE FIRST THINGS YOU DID IN

1 THIS MATTER WAS WITH YOU ALL THE INFORMATION THAT HE HAD
2 PROVIDED YOU HELPED YOU GET UP TO SPEED RIGHT AWAY; RIGHT?

3 A YES, SIR, IT DID.

4 Q HE INTERVIEWED A NUMBER OF INDIVIDUALS BETWEEN THE
5 15TH AND THE 17TH AND ACTUALLY INTERVIEWED SOME MORE AFTER
6 THAT POINT IN TIME; RIGHT?

7 A I BELIEVE HE DID.

8 Q AND WHEN THOSE PEOPLE WERE INTERVIEWED AFTER THAT
9 POINT IN TIME BY HIM, HE FORWARDED THAT INFORMATION TO YOU
10 ALSO; RIGHT?

11 A THAT'S CORRECT, SIR.

12 Q AND AS SOON AS YOU RECEIVED THAT, YOU REVIEWED THAT;
13 RIGHT?

14 A YES, SIR.

15 Q OKAY. AND YOU ARE FAMILIAR WITH THE INFORMATION
16 PROVIDED BY THE VARIOUS PEOPLE INTERVIEWED IN THIS CASE?

17 A I AM FAMILIAR WITH IT, YES, SIR.

18 Q AND YOU ARE -- LET ME ASK YOU THIS. WHEN DID MANNY
19 PERDUE CONTACT YOU AND TELL YOU ABOUT MR. LUCIUS STATEN
20 SAYING -- TELLING SOMEONE TO, "GO GET THE HAMMER"? WHEN
21 DID HE CONTACT YOU?

22 A HE DID NOT, SIR.

23 Q WHEN WERE YOU CONTACTED BY MR. KENLEY IN REFERENCE
24 TO MR. PERDUE CONTACTING HIM AND PROVIDING THAT
25 INFORMATION?

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LUCIUS STATEN, 2002-GS-40-1149 AND 783.

1 A I WAS NOT TOLD THAT.

2 Q AND YOU NEVER SAT DOWN WITH MR. PERDUE AND TOOK AN
3 ADDITIONAL STATEMENT FROM HIM REFLECTING THAT THOSE WORDS
4 WERE SAID; CORRECT?

5 A CORRECT, SIR.

6 Q OKAY. AND INDEED, HEARING THE WORDS ATTRIBUTED TO
7 LUCIUS STATEN, "GET THE HAMMER", FROM MANNY PERDUE, IS THE
8 ONLY TIME YOU'VE HEARD THOSE WORDS ATTRIBUTED TO HIM IN
9 THIS CASE; CORRECT?

10 A THAT'S CORRECT, SIR.

11 Q AND MY UNDERSTANDING IS FROM YOUR TESTIMONY THAT IT
12 IS CHIEF AUSTIN'S -- OR WAS CHIEF AUSTIN'S POLICY, THE
13 POLICY OF THE CITY OF COLUMBIA POLICE DEPARTMENT NOT TO
14 VIDEO TAPE OR AUDIO TAPE ANY INTERVIEWS OR INTERROGATIONS;
15 CORRECT?

16 A THAT IS THE POLICY THAT WE'VE GONE BY SINCE I'VE
17 BEEN IN THERE.

18 Q OKAY. NOW, THAT IS A PART OF -- Y'ALL HAVE A SET OF
19 POLICIES AND PROCEDURES?

20 A WE DO, SIR.

21 Q OKAY. THAT IS SET FORTH IN THAT POLICIES AND
22 PROCEDURES?

23 A I CAN'T TELL YOU IF IT IS OR NOT, SIR.

24 Q WELL, YOU JUST TESTIFIED ON THE RECORD THAT WAS
25 POLICIES.

1 A SINCE I'VE BEEN IN MAJOR CRIMES, WE -- NOBODY HAS
2 EVER VIDEO OR AUDIO RECORDED AN INTERVIEW.

3 Q OKAY. THAT'S MY UNDERSTANDING. THERE'S A
4 DIFFERENCE BETWEEN THAT BEING WHAT'S NEVER DONE AND THAT
5 BEING OFFICIAL POLICY OF THE CITY OF COLUMBIA POLICE
6 DEPARTMENT.

7 A THAT'S MY UNDERSTANDING. I DON'T HAVE A POLICY TO
8 SAY -- THAT'S SAYS THAT.

9 Q OKAY. YOU ARE UNAWARE OF ANY WRITTEN FORMAL POLICY
10 OF CPD THAT FORBIDS VIDEO TAPING OR AUDIO TAPING OF
11 STATEMENTS; CORRECT?

12 A I DON'T KNOW IF THERE'S ONE OR NOT, SIR.

13 Q OKAY. IF YOU DON'T KNOW IF THERE'S ONE THEN YOU'RE
14 UNAWARE OF ONE; CORRECT?

15 A YES, SIR.

16 Q OKAY. HOWEVER YOU DO TESTIFY, AS WOULD ANY
17 INVESTIGATOR, MAJOR CRIMES INVESTIGATOR, I'M SURE THEY'RE
18 NEVER AWARE OF ONE HAVING BEEN AUDIO TAPED OR VIDEO TAPED;
19 RIGHT?

20 A THAT'S CORERCT, SIR.

21 Q NONE OF THE INVESTIGATORS DOWN THERE DO IT; RIGHT?

22 A NO, SIR.

23 Q J. P. SMITH DOESN'T DO IT. TOMMY THOMAS DOESN'T DO
24 IT. MITCH WILKERSON DOESN'T DO IT. Y'ALL JUST DON'T DO
25 THAT; RIGHT?

1 A THAT'S CORRECT.

2 Q AND IT'S NOT AN OFFICIAL POLICY, CAN'T REFERENCE ONE
3 IN WRITING, IT'S CERTAINLY THE POLICY THAT ALL THE
4 INVESTIGATORS FOLLOW; RIGHT?

5 A THAT'S CORRECT. IT'S WHAT WE'VE DONE.

6 Q THAT'S FINE. NOW, YOU -- EXCUSE ME, JUST ONE
7 MOMENT, SIR.

8 YOU TESTIFIED YOU CONDUCTED OR WAS PRESENT WHEN THE
9 SEARCH OF THE ADDRESS ON ZIMALCREST WAS CONDUCTED ON
10 JANUARY 23RD; RIGHT?

11 A YES, SIR, I WAS.

12 Q ALL RIGHT. AND A NUMBER OF OFFICERS PARTICIPATED IN
13 THAT SEARCH, THE EXECUTION OF THAT SEARCH WARRANT AND THE
14 CONCURRENT ARREST OF LUCIUS STATEN; RIGHT?

15 A YES, SIR.

16 Q AND MR. GASSER WENT OVER AT SOME LENGTH WITH YOU THE
17 FACT THAT YOU'VE BEEN TRAINED IN DOING THEM AND THAT
18 THERE'S A DIFFERENCE IN THE WAY YOU CONDUCT SEARCHES FOR
19 AN ARREST WHEN YOU'RE TALKING ABOUT A MURDER AND WHEN
20 YOU'RE TALKING ABOUT A SHOPLIFTING OR SOMETHING LIKE THAT;
21 RIGHT?

22 A THAT'S CORRECT, SIR.

23 Q AND LET'S SEE, INVESTIGATOR BURNS WAS PRESENT AT
24 THAT POINT IN TIME?

25 A SHE WAS, SIR.

1 Q INVESTIGATOR BURNS, SHE'S -- IS SHE IN MAJOR CRIME
2 STILL---

3 A SHE IS.

4 Q OKAY. AND GRAY, THAT'S JODY (PHONETICALLY) GRAY?

5 A THAT'S CORRECT.

6 Q HE'S IN MAJOR CRIME STILL OR IS HE...

7 A HE IS.

8 Q AND VINSON -- MARK VINSON, HE WAS THERE; RIGHT?

9 A HE WAS, SIR.

10 Q HE'S IN MAJOR CRIMES?

11 A HE IS.

12 Q OKAY. SERGEANT WILKERSON; RIGHT?

13 A (SHOOK HEAD AFFIRMATIVELY.)

14 Q AND THEN AN INDIVIDUAL FROM THE SHERIFF'S
15 DEPARTMENT, DEPUTY WHITE. THESE ARE ALL LISTED ON THE
16 RETURN OF THE SEARCH; RIGHT?

17 A THAT'S CORRECT, SIR.

18 Q WERE THERE ADDITIONAL PEOPLE BEYOND THOSE LISTED ON
19 THE RETURN WHO WERE PRESENT?

20 A THERE WAS OFFICERS THAT SHOWED UP FOR TRANSPORTATION
21 PURPOSES FROM THE CITY OF COLUMBIA POLICE DEPARTMENT.

22 Q AND I BELIEVE MR. GASSER TESTIFIED ABOUT THE WAY
23 ENTRY WAS FORCED AND ONE OF THE THEORIES, OF COURSE, IS
24 FOR EVERYONE'S SAFETY, YOURS AND THE PEOPLE THERE, THAT
25 YOU ARRIVE WITH OVERWHELMING FORCE SO THAT IT'S VERY

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LUCIUS STATEN, 2002-GS-40-1149 AND 783.

1 OBVIOUS THAT IF THERE'S GOING TO BE ANY RESISTANCE,
2 RESISTANCE WILL BE QUELLED; RIGHT?

3 A THAT'S ONE OF THE REASONS FOR IT, YES, SIR.

4 Q ONE OF THE REASONS FOR IT. AND YOU ENTERED AND YOU
5 ARRESTED LUCIUS AND YOU PUT THE OTHER PEOPLE -- YOU
6 TESTIFIED ABOUT THE CUFFS.

7 A UH-HUH. (INDICATES AN AFFIRMATIVE RESPONSE.)

8 Q YOU DIDN'T GET RESISTANCE FROM LUCIUS WHEN YOU
9 ARRESTED HIM; RIGHT?

10 A NO, SIR, I DID NOT.

11 Q OKAY. HE DIDN'T FIGHT YOU?

12 A NO, SIR.

13 Q DIDN'T FIGHT ANY OF THE OTHER DEPUTIES OR ANY OF THE
14 OTHER OFFICERS THERE; RIGHT?

15 A NO, SIR, HE DIDN'T.

16 Q OKAY. YOU CUFFED HIM; RIGHT?

17 A YES, SIR.

18 Q STANDARD PROCEDURE---

19 A IT IS, SIR.

20 Q ---WHEN YOU'RE ARRESTED. AND HE WOULD HAVE BEEN
21 TRANSPORTED TO CPD IN THE BACK OF A MARKED PATROL UNIT;
22 CORRECT?

23 A I BELIEVE HE WAS, SIR.

24 Q OKAY. WOULD THAT BE A UNIT THAT HAD A CAGE IN IT
25 SEPARATING THE BACK FROM THE FRONT; RIGHT?

- 1 A THAT'S CORRECT.
- 2 Q OKAY. THE DOORS IN THE BACK WOULD HAVE BEEN LOCKED
- 3 AND THE PERSON IN THE BACK CAN'T UNLOCK THEM; RIGHT?
- 4 A THAT'S CORRECT.
- 5 Q AND HE'S CUFFED BEHIND HIS BACK, NOT IN FRONT OF
- 6 HIM; RIGHT?
- 7 A I BELIEVE SO.
- 8 Q THOSE ARE ALL REALLY STANDARD PROCEDURES IN THE
- 9 ARREST OF ANYONE; RIGHT?
- 10 A THAT'S CORRECT.
- 11 Q AND YOU DON'T PUT SOMEONE YOU ARREST IN THE FRONT
- 12 SEAT WITH THE OFFICER?
- 13 A THAT'S CORRECT.
- 14 Q AND THEY'RE TRANSPORTED IN THE VEHICLE WHERE THE
- 15 PERSON IN THE BACK CAN'T GET TO THE OFFICER; RIGHT?
- 16 A CORRECT.
- 17 Q BUT THERE WAS NOTHING IN THIS PARTICULAR CASE TO
- 18 INDICATE ANY DANGER FROM LUCIUS STATEN TO ANY OF THE
- 19 OFFICERS THAT SHOWED UP AN EFFECTUATED THE ARREST? HE
- 20 DIDN'T DEMONSTRATE ANY DANGER TO Y'ALL?
- 21 A OH, NO, SIR.
- 22 Q DIDN'T EXHIBIT ANYTHING?
- 23 A NO, SIR.
- 24 Q YOU TREATED HIM AS YOU WOULD ANYONE ELSE YOU WERE
- 25 ARRESTING IN THIS SITUATION; RIGHT?

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1 A THAT'S CORRECT.

2 Q OKAY. YOU WENT BY THE BOOK AS FAR AS AN ARREST
3 WOULD BE?

4 A YES, SIR.

5 Q AND YOU SEARCHED THE PLACE AND YOU'VE RELATED SOME
6 OF THE THINGS YOU RECOVERED FROM THE SEARCH OF THE HOUSE.
7 YOU RELATED THAT THE GUN'S NEVER BEEN FOUND. AND YOUR
8 RECORDS DON'T REFLECT FINDING ANY WEAPON IN THE HOUSE THAT
9 YOU FELT NECESSARY TO RECORD ON THE SEARCH WARRANT? NO
10 WEAPONS ASSOCIATED WITH THIS CASE; RIGHT?

11 A NO, SIR.

12 (PAUSE.)

13 Q OKAY. AND YOU SEARCHED -- INDEPENDENT OF THE SEARCH
14 OF THE HOUSE, YOU SEARCHED THE GREEN GALANT -- THE GREEN
15 GALANT WAS SEARCHED PURSUANT TO A SEARCH WARRANT AND
16 NOTHING WAS RECOVERED FROM THERE; RIGHT?

17 A THAT'S CORRECT, SIR.

18 Q OKAY. NOW YOU'VE INTRODUCED -- OR THE STATE'S
19 INTRODUCED A COUPLE OF PIECES OF EVIDENCE FROM THE SEARCH
20 OF THE HOUSE. THERE WAS A PAIR OF BOOTS, STATE'S FORTY-
21 EIGHTH?

22 A YES, SIR.

23 Q WHOSE ARE THOSE?

24 A I'M NOT SURE, SIR.

25 Q OKAY. YOU TOOK THOSE FROM THE HOUSE?

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LUCIUS STATEN, 2002-GS-40-1149 AND 783.

- 1 A THAT'S CORRECT.
- 2 Q OKAY. AND THERE'S THIS BALL CAP HERE MARKED STATE'S
- 3 FORTY-SEVEN; CORRECT?
- 4 A THAT'S CORRECT.
- 5 Q YOU DISCOVERED IN THE HOUSE. WHOSE IS THIS?
- 6 A I DON'T KNOW, SIR.
- 7 Q OKAY. ALL YOU CAN TESTIFY TO IS THAT THEY WERE
- 8 RECOVERED WHEN YOU EXECUTED THE SEARCH WARRANT AT
- 9 ZIMALCREST ON THE 23RD OF JANUARY OF LAST YEAR; CORRECT?
- 10 A THAT'S CORRECT.
- 11 Q OKAY. NOW, YOU'VE INDICATED THAT YOU -- IN YOUR
- 12 DIRECT EXAMINATION BY MR. GASSER, THAT YOU WERE -- YOU HAD
- 13 BEEN TRAINED, NOT ONLY IN, YOU KNOW, PROCEDURES TO USE IN
- 14 EXECUTING SEARCH WARRANTS, BUT ALSO THE PROCEDURES TO
- 15 EMPLOY IN INTERVIEWING INDIVIDUALS; RIGHT?
- 16 A I HAVE.
- 17 Q OKAY. AND INTERVIEWING INDIVIDUALS CAN BE TERMED IN
- 18 ANOTHER FASHION AND IT'S OFTEN REFERRED TO AS
- 19 INTERROGATING INDIVIDUALS; CORRECT?
- 20 A IT HAS BEEN.
- 21 Q OKAY. ONE MIGHT INTERVIEW WITNESSES AND ONE
- 22 INTERROGATES SUSPECTS; RIGHT?
- 23 A NOT ALWAYS.
- 24 Q NOT ALWAYS. OKAY. AND YOU'VE BEEN TRAINED IN
- 25 CONDUCTING INTERVIEWS BY YOURSELF OR IN CONJUNCTION WITH

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LUCIUS STATEN, 2002-GS-40-1149 AND 783.

1 ANOTHER OFFICER OR INVESTIGATOR; CORRECT?

2 A I DIDN'T UNDERSTAND, SIR.

3 Q WELL, YOU CAN CONDUCT AN INTERVIEW AS A SINGLE
4 INDIVIDUAL, ONE ON ONE WITH A PERSON; RIGHT?

5 A CORRECT.

6 Q YOU CAN HAVE MORE THAN ONE OFFICER INVOLVED IN THE
7 INTERVIEW---

8 A YOU COULD, SIR.

9 Q YOU CAN ROTATE OFFICERS COMING IN AND OUT DURING THE
10 INTERVIEW OF AN INDIVIDUAL; CORRECT?

11 A YES, SIR.

12 Q YOU CAN HAVE ONE OFFICER TAKE ONE APPROACH TO
13 INTERVIEWING AN INDIVIDUAL AND STEP OUT AND HAVE ANOTHER
14 OFFICER COME IN AND HE TAKE ANOTHER APPROACH WITH AN
15 INDIVIDUAL; RIGHT?

16 A YES, SIR.

17 Q YOU CAN DELIBERATELY FEED -- AND I'M NOT SAYING
18 THERE'S ANYTHING WRONG WITH THIS. YOU CAN DELIBERATELY
19 FEED FALSE INFORMATION TO AN INDIVIDUAL TO SEE IF YOU CAN
20 GET A RESPONSE FROM HIM; RIGHT?

21 A YES, YOU CAN.

22 Q THAT'S AN INTERVIEW OR INTERROGATION TECHNIQUE;
23 RIGHT?

24 A YES, SIR.

25 Q ALL RIGHT. THERE ARE LOTS OF WAYS YOU CAN GO ABOUT

- 1 IT; RIGHT?
- 2 A THAT'S CORRECT.
- 3 Q OKAY. ON THE 23RD, WHEN YOU INTERVIEWED LUCIUS,
- 4 THAT INTERVIEW WAS CONDUCTED AT ONE JUSTICE SQUARE, THE
- 5 NEW COLUMBIA POLICE DEPARTMENT; CORRECT?
- 6 A IT WAS, SIR.
- 7 Q OKAY. YOU HAVE INTERVIEW ROOMS IN THE
- 8 INVESTIGATIONS AREA AT CPD?
- 9 A WE DO.
- 10 Q OKAY. IN ADDITION YOU HAVE AN OFFICE YOURSELF, I
- 11 GUESS, IN THE INVESTIGATIONS UNIT; RIGHT?
- 12 A I DO, SIR.
- 13 Q OKAY. THE INTERVIEW IN THIS PARTICULAR CASE WITH --
- 14 WITH LUCIUS WAS CONDUCTED WHERE?
- 15 A IN AN INTERVIEW ROOM.
- 16 Q INTERVIEW ROOM. THAT ROOM CONTAINS TABLES AND A
- 17 NUMBER OF CHAIRS, I TAKE IT?
- 18 A THERE'S A DESK, SEVERAL CHAIRS AND THERE'S A COUPLE
- 19 OF FILE CABINETS, I BELIEVE.
- 20 Q OKAY. HAS A DOOR IN THE ROOM?
- 21 A IT DOES.
- 22 Q OKAY. THAT DOOR CAN BE OPEN OR SHUT; CORRECT?
- 23 A THAT'S CORRECT.
- 24 Q OKAY. NOW, WHEN YOU INTERVIEWED LUCIUS STATEN, HE
- 25 WAS IN THE ROOM WITH YOU; RIGHT?

1 A YES, SIR.

2 Q WHEN YOU INTERVIEWED HIM. AND HE WAS HANDCUFFED AND
3 HE HAD ONE HAND IN THE CUFF AND THE OTHER PART OF THE
4 HANDCUFF WAS CUFFED TO A CHAIR; IS THAT CORRECT?

5 A IT WAS.

6 Q OKAY. THAT TOO IS PRETTY MUCH POLICY AS FAR AS
7 INTERVIEWING NOT SOMEONE JUST GIVING A STATEMENT BUT A
8 SUSPECT IN A CASE; RIGHT?

9 A THAT'S CORRECT.

10 Q THAT'S FOR YOUR SAFETY, IF NOTHING ELSE; RIGHT?

11 A YES, SIR.

12 Q OKAY. NOW, SO YOU GOT HIM HANDCUFFED TO A CHAIR IN
13 THE ROOM. WHICH HAND WAS HANDCUFFED TO A CHAIR?

14 A I WOULD ASK HIM WHETHER HE WAS RIGHT -- WHETHER HE
15 WAS RIGHT OR LEFT HANDED. WHICHEVER ONE HE INDICATED, I
16 WOULD HANDCUFF THE OTHER.

17 Q OKAY. SO WHICH HAND WAS HANDCUFFED TO THE CHAIR?

18 A SIR, I DON'T KNOW.

19 Q DON'T REMEMBER WHICH HAND WAS HANDCUFFED TO THE
20 CHAIR.

21 (PAUSE.)

22 Q AND YOU REVIEWED WITH MR. STATEN WHAT'S MARKED AS
23 STATE'S EXHIBIT ONE, THIS ADVICE OF RIGHTS AND WAIVER OF
24 RIGHTS; RIGHT?

25 A YES, I DID, SIR.

- 1 Q OKAY. AND THAT BEGAN AT 11:05 IN THE MORNING AND
2 ENDED AT 11:08 IN THE MORNING; RIGHT?
- 3 A THAT'S CORRECT, SIR.
- 4 Q OKAY. HOW LONG -- THE SEARCH WARRANT WAS EXECUTED
5 ON THE 23RD, I BELIEVE YOU INDICATED AT ABOUT 7:00 IN THE
6 MORNING, THAT'S WHEN THE SEARCH BEGAN?
- 7 A YES, SIR.
- 8 Q AND ABOUT 7:00 IN THE MORNING WOULD HAVE BEEN THE
9 TIME WHEN LUCIUS WAS ARRESTED BECAUSE THAT WAS DONE RIGHT
10 AS THE SEARCH BEGAN; RIGHT?
- 11 A YES, SIR.
- 12 Q OKAY. SO WHERE WAS LUCIUS STATEN BETWEEN 7 IN THE
13 MORNING AND 11:05 IN THE MORNING?
- 14 A HE WAS AT THE APARTMENT FOR A PERIOD OF TIME.
- 15 Q HOW LONG?
- 16 A I'M NOT SURE, SIR.
- 17 Q OKAY.
- 18 A LONG ENOUGH FOR US TO CONDUCT THE SEARCH, I BELIEVE.
- 19 Q ARE YOU SURE?
- 20 A NO, SIR. HE MAY HAVE BEEN TRANSPORTED PRIOR TO US
21 COMPLETING THE SEARCH.
- 22 Q OKAY. ALL RIGHT. AND SO AT SOME POINT AND TIME HE
23 LEFT THE APARTMENT. WHERE DID HE GO THEN?
- 24 A POLICE HEADQUARTERS.
- 25 Q WHERE IN PARTICULAR AT POLICE HEADQUARTERS?

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LUCIUS STATEN, 2002-GS-40-1149 AND 783.

1 A SECOND FLOOR OF POLICE HEADQUARTERS INTO AN
2 INTERROGATION ROOM.

3 Q SO HE WAS TAKEN STRAIGHT FROM THE APARTMENT TO THE
4 INTERROGATION ROOM WHERE YOU TALKED WITH HIM?

5 A THAT'S CORRECT, SIR. WELL, I DIDN'T TALK TO HIM YET
6 BUT THAT'S WHERE HE WAS AT?

7 Q I'M SORRY?

8 A I SAID I HAD NOT TALKED TO HIM YET BUT THAT'S WHERE
9 HE WAS TAKEN TO.

10 Q OKAY. SO YOU'RE -- YOU DON'T KNOW AT WHAT POINT IN
11 TIME HE ARRIVED AT THE INTERROGATION ROOM?

12 A NO, SIR, I'M NOT SURE.

13 Q HE WAS THERE WHEN YOU GOT THERE AT 11:05 IN THE
14 MORNING?

15 A YES, SIR, HE WAS THERE.

16 Q HE WAS ALREADY THERE. WAS HE ALREADY HANDCUFFED TO
17 THE CHAIR?

18 A I DON'T BELIEVE SO. I BELIEVE I DID THAT WHEN I
19 WENT IN THE ROOM TO INTERVIEW HIM.

20 Q WAS THERE ANOTHER OFFICER PRESENT IN THE ROOM WITH
21 HIM AT THAT TIME KEEPING HIM IN CUSTODY?

22 A I BELIEVE THE DOOR WAS CLOSED AND HE WAS IN THE
23 ROOM. THERE WAS UNIFORMED PERSONNEL ON THE SAME FLOOR
24 OUTSIDE WHERE THEY WERE LOCATED.

25 Q YOU ADVISED HIM OF HIS RIGHTS. YOU TALKED WITH HIM

1 ABOUT HIS EDUCATIONAL LEVELS TO MAKE SURE HE'S GONNA BE
2 ABLE TO UNDERSTAND THE QUESTIONS THAT YOU'RE ASKING HIM;
3 RIGHT?

4 A AND THAT HE ALSO UNDERSTOOD WHAT I HAD READ TO HIM.

5 Q RIGHT. OKAY. AND HE WAS ADVISED THE ADVICE OF
6 RIGHTS AND THAT'S AT 11:08; RIGHT?

7 A YES, SIR.

8 Q ABOUT THREE MINUTES LATER. NOW, LET ME PASS YOU
9 WHAT'S MARKED STATE'S EIGHT FOR IDENTIFICATION WHICH IS,
10 IF I UNDERSTAND IT CORRECTLY, COPIES OF YOUR CASE NOTES,
11 THAT PORTION THAT RELATES TO THE CONVERSATION YOU HAD WITH
12 LUCIUS; RIGHT?

13 A YES, SIR.

14 Q OKAY. NOW, THESE NOTES ARE NOT ACTUALLY THE NOTES
15 THAT YOU TOOK CONTEMPORANEOUSLY WITH TALKING WITH LUCIUS;
16 RIGHT?

17 A NO, SIR.

18 Q YOU ACTUALLY MADE SOME NOTES ON A NOTEPAD AS YOU
19 WERE TALKING WITH HIM; CORRECT?

20 A VERY FEW SHORT LITTLE NOTES.

21 Q OKAY. AND THEN AT SOME POINT AFTER YOU FINISHED
22 TALKING WITH HIM, YOU TOOK THOSE AND TRANSCRIBED THOSE
23 INTO YOUR CASE PER SE, IS THAT FAIR TO SAY?

24 A THAT'S CORRECT, SIR.

25 Q AND THAT WAS HOW LONG AFTER YOU FINISHED SPEAKING TO

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LUCIUS STATEN, 2002-GS-40-1149 AND 783.

1 HIM?

2 A WITHIN AN HOUR AFTER SPEAKING WITH HIM AND DUSHUN.

3 Q AND YOU SPOKE -- AND MY UNDERSTANDING WAS THAT YOU
4 HAD SPOKEN WITH DUSHUN FIRST AND THEN WITH LUCIUS, AM I
5 CORRECT?

6 A THAT'S CORRECT, SIR.

7 Q OKAY. SO -- AND DUSHUN WOULD NOT HAVE BEEN
8 CERTAINLY IN THAT SAME INTERROGATION ROOM AS LUCIUS WAS
9 IN; RIGHT?

10 A HE WAS NOT. HE WAS IN A CONFERENCE ROOM.

11 Q THAT WOULD BE -- Y'ALL JUST DON'T DO THAT. I MEAN,
12 YOU INTERVIEW OR INTERROGATE SUSPECTS IN A CASE
13 SEPARATELY; RIGHT?

14 A YES, SIR.

15 Q YOU WANT TO HEAR WHAT THEY HAVE TO SAY, NOT WHAT
16 SOMEONE ELSE -- WHAT THEY PICK UP FROM SOMEONE ELSE;
17 RIGHT?

18 A CORRECT.

19 Q OKAY. SO YOU INTERROGATED DUSHUN FIRST AND THEN YOU
20 SPOKE WITH LUCIUS. AND YOU STARTED SPEAKING WITH HIM
21 AFTER YOU FINISHED THE ADVICE OF RIGHTS WHICH WAS 11:08
22 AND YOU FINISHED SPEAKING TO HIM AT ABOUT 11:58; CORRECT?

23 A THAT'S CORRECT.

24 Q OKAY. SO YOU SPENT ROUGHLY FIFTY MINUTES THAT
25 MORNING SPEAKING WITH LUCIUS; RIGHT?

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- 1 A CORRECT.
- 2 Q OKAY. AND THEN AT SOME POINT IN TIME WITHIN ROUGHLY
3 AN HOUR OF 11:58, CALL THAT 12:00, BY ROUGHLY 1:00 YOU HAD
4 TRANSCRIBED YOUR ROUGH NOTES INTO WHAT YOU RELATED TO THE
5 JURY HERE TODAY?
- 6 A YES, SIR.
- 7 Q OKAY. NOW, WHAT QUESTIONS DID YOU ASK LUCIUS?
- 8 A I ASKED HIM THE QUESTIONS LISTED HERE.
- 9 Q LET'S SEE. ADVISED HIM OF HIS RIGHTS. HE WAIVED
10 SAME. SAID BEFORE I EVEN ASKED HIM THE QUESTION, HE
11 WASN'T AT BENEDICT, HE COULD PROVE IT. SAID HE WAS AT
12 CIRCUIT CITY ACROSS FROM COLUMBIA MALL WITH A GUY NAMED
13 BRANDON, WORKS WITH CAR STEREOS, DRIVES A BLACK FORD
14 CONTOUR. SAID HE WAS THERE AT THE TIME OF THE SHOOTING
15 AND IT SHOULD BE IN THE SECURITY CAMERAS; RIGHT?
- 16 A CORRECT.
- 17 Q THERE IS NOT A QUESTION FROM ME YET. YOU ADVISED
18 HIM THAT HIS BROTHER AND SEVERAL OTHER WITNESSES PUT HIM
19 AT BENEDICT AT THE TIME OF THE SHOOTING. ADVISED HIM THAT
20 YOU KNEW ABOUT THE PREVIOUS ALTERCATIONS WITH MR. LEE THE
21 PREVIOUS WEEK; RIGHT?
- 22 A I DID.
- 23 Q ALL RIGHT. SO YOU HAVE HIM RIGHT OFF THE BAT
24 SAYING, I WASN'T THERE, I WAS WITH BRANDON WHO WORKS AT
25 CIRCUIT CITY OR AT CIRCUIT CITY, GOT A BLACK FORD CONTOUR;

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1 RIGHT?

2 AND THEN SO YOU CALLED HIS ATTENTION TO THE FACT
3 WELL, WE PUT YOU AT THE SCENE; RIGHT?

4 A CORRECT.

5 Q OKAY. SO THAT'S INFORMATION PROVIDED BY YOU. SO
6 NEXT YOU SAY HE ADMITTED HE WAS THERE. SO THAT'S NOT THE
7 RESPONSE TO A QUESTION FROM HIM? THAT'S JUST A STATEMENT
8 ON HIS PART; RIGHT?

9 A I'D ASKED HIM -- AFTER I TOLD HIM THAT PEOPLE HAD
10 PLACED HIM THERE AT THE SCENE, I ASKED HIM IF HE WAS THERE
11 AND THEN HE CONTINUED ON AND STATED THAT HE WAS.

12 Q OKAY. SO YOUR FIRST QUESTION YOU HAVE AFTER YOU
13 INFORMED HIM THAT PEOPLE PLACED HIM AT THE SCENE WAS ASK
14 HIM IF WAS THERE.

15 AND THEN HE THEN TOLD YOU THAT HE WAS THERE AT THE
16 TIME OF THE SHOOTING, HE'D JUST ARRIVED AND WAS TRYING TO
17 BREAK THE ARGUMENT UP. HE DIDN'T HAVE ANY PREVIOUS
18 ARGUMENT WITH THE VICTIM. HE DID HAVE ONE WITH A GUY
19 NAMED LO, HE WAS ALONZO SHULER, OVER A GIRL FROM DOWN IN
20 AIKEN THAT HE HAD SEX WITH. SAID HE SQUARED EVERYTHING
21 WITH LO AND WAS TRYING TO BE THE PEACEMAKER. AND THAT WAS
22 IN REFERENCE -- HE WAS TRYING TO BE THE PEACEMAKER WAS IN
23 REFERENCE TO WHAT HE SAID HE WAS TRYING TO DO THE NIGHT OF
24 THE 15TH; RIGHT?

25 A THAT'S CORRECT.

1 Q ALL RIGHT. ASKED ABOUT THE OTHER PEOPLE OUT THERE
2 BESIDE HIM AS WELL AS SHAKEEM AND SAID, I DON'T KNOW THE
3 OTHERS GUYS EXCEPT BY MO AND MEL; RIGHT?

4 A THAT'S CORRECT.

5 Q OKAY. ONLY MET THEM ONE OTHER TIME. INTRODUCED TO
6 BY HIS BROTHER AT THE MALL. NOT KNOWING ANYTHING ELSE
7 ABOUT THEM. SAID HE DIDN'T KNOW WHO -- SAID HE DIDN'T
8 KNOW WHO DID THE SHOOTING BECAUSE HE HAD TURNED TO WALK
9 AWAY AND HE HEARD THE SHOTS AND THEN HE RAN; RIGHT?

10 A CORRECT.

11 Q AND JUST SO WE'RE CLEAR AGAIN, I KNOW IT'S BEEN GONE
12 THROUGH ONCE, THERE IS SOMEWHERE -- AND I'M NOT GONNA DIG
13 THROUGH THESE AFFIDAVITS. THERE IS SOMEWHERE IN HERE AN
14 AFFIDAVIT WHERE -- THAT REPORTS TO BE -- LUCIOUS STATEN
15 IDENTIFIED LIMEL SIMS AS THE PERSON WHO COMMITTED THE
16 CRIME OF MURDER. THIS IS THE ONE BUT THAT WAS THE
17 LANGUAGE OF IT; RIGHT?

18 A HE IDENTIFIED LIMEL SIMS FROM A PHOTOGRAPHIC LINEUP.

19 Q OKAY. AND HE IDENTIFIED HIM AS BEING ONE OF THE
20 PEOPLE WHO WAS PRESENT THERE THAT NIGHT; CORRECT?

21 A HE DID.

22 Q OKAY. HE NEVER TOLD YOU THAT LIMEL SIMS COMMITTED
23 THE MURDER; CORRECT?

24 A THAT'S CORRECT.

25 Q HE NEVER TOLD YOU THAT MAURICE SANDERS COMMITTED THE

1 MURDER; CORRECT?

2 A CORRECT.

3 Q HE TOLD YOU THAT HE TURNED HIS BACK AND HE DID NOT
4 SEE WHO FIRED THE SHOTS; RIGHT?

5 A THAT'S CORRECT, SIR.

6 Q THAT'S REFLECTED IN YOUR NOTES---

7 A IT IS.

8 Q ---RIGHT? OKAY. SO THERE'S NO CONFUSION. I MEAN
9 SOME OF THESE THINGS SAY RATHER THAN -- THE PERSON WHO
10 COMMITTED THE CRIME OF MURDER IS SCRATCHED OUT AND IT SAYS
11 THE PERSON WAS PRESENT AT THE MURDER. ALL RIGHT. SO
12 ACTUALLY WHAT -- WHAT IS CORRECT AS FAR AS ANY
13 IDENTIFICATION MADE BY LUCIUS STATEN, IS HIS
14 IDENTIFICATION IS SOMEONE WHO IS -- IS OF SOMEONE WHO WAS
15 PRESENT AT THE MURDER; CORRECT?

16 A THAT IS CORRECT, SIR.

17 Q OKAY. ALL RIGHT. EVEN THOUGH THAT IS NOT WRITTEN
18 ON THE AFFIDAVITS THERE, THAT IS WHAT HE DID. HE
19 IDENTIFIED A PERSON OR PERSONS WHO WERE PRESENT AT THAT
20 TIME; RIGHT?

21 A THAT'S CORRECT.

22 Q NOW, YOU INDICATED THAT -- ON DIRECT THAT YOU DIDN'T
23 KNOW -- LET ME SEE HERE -- WELL, SO WE HADN'T GOTTEN
24 THROUGH IT. NOT KNOWING ANYTHING ELSE ABOUT THEM. DIDN'T
25 KNOW WHO DID THE SHOOTING. TURNED AND WALKED AWAY. SAID

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1 HE THEN RAN TO THE BANK OF AMERICA. GAVE A GUY \$20.00 TO
2 TAKE HIM HOME. COULDN'T PROVIDE -- OKAY.

3 UP TO THAT POINT THE ONLY QUESTION THAT YOU ASKED
4 HIM IS, WAS HE -- WAS HE THERE?

5 A NO, I ALSO ASKED HIM WHO ELSE WAS OUT THERE.

6 Q WHEN DID YOU ASK HIM THAT? WHERE DURING THE COURSE
7 OF THIS DID YOU ASK HIM WHO ELSE WAS THERE?

8 MR. GASSER: YOUR HONOR, MAY WE APPROACH.

9 A I ASKED ABOUT THE OTHER PEOPLE.

10 (A BENCH CONFERENCE IS HAD AT THIS TIME IN THE
11 PRESENCE OF THE JURY AND THE COURT REPORTER, BUT OUT OF
12 THE HEARING OF THE JURY AND THE COURT REPORTER.)

13 MR. GASSER: THANK YOU, YOUR HONOR.

14 Q I'M JUST TRYING TO FIGURE OUT, MR. MEAD, WHERE IN
15 THE COURSE OF THIS STATEMENT YOU ASKED LUCIUS A QUESTION.
16 SO FAR I'VE GOTTEN FROM YOU AFTER HE INITIALLY SAYS HE
17 WASN'T THERE AND YOU -- YOU GAVE HIM THE LOW DOWN YOU KNEW
18 HE WAS, OKAY. AND THEN YOU SAID YOU ASKED HIM IF HE WAS
19 THERE. AND THEN HE BEGINS TELLING YOU THESE THINGS.

20 SO WHAT'S THE NEXT QUESTION YOU ASKED HIM DURING
21 THIS PROCESS?

22 A I ASKED HIM ABOUT OTHER PEOPLE OUT THERE BESIDES
23 HIMSELF AND SHAKEEM. HE TOLD ME HE DIDN'T KNOW THE OTHER
24 GUYS EXCEPT BY MO AND MEL.

25 Q OKAY. SO WHEN WE GET TO THE -- IT'S JUST IT'S NOT

1 REFLECTED IN YOUR NOTES, IS IT, THAT YOU ASKED A QUESTION
2 AT THAT POINT IN TIME?

3 A YES, SIR. IT SAYS, ASKED ABOUT THE OTHER PEOPLE OUT
4 THERE BESIDES HIM, HIS BROTHER AND SHAKEEM.

5 Q OKAY.

6 A STATEN SAID HE DIDN'T KNOW THE OTHER GUYS EXCEPT BY
7 MO AND MEL.

8 Q OKAY. SO YOU ASKED HIM THAT QUESTION. ASKED ABOUT
9 OTHER PEOPLE. OKAY, THAT'S QUESTION NUMBER TWO FROM YOU.
10 OKAY.

11 AND WHEN'S THE NEXT QUESTION YOU ASKED REGARDING THE
12 INCIDENT AND HIS PARTICIPATION?

13 A I DON'T HAVE IT WRITTEN DOWN HERE.

14 Q THIS IS NOT -- ONE, THESE ARE YOUR NOTES. BUT EVEN
15 IF WE TURN TO YOUR SHORTER NOTES THAT WERE TAKEN AS YOU
16 WERE GOING, THIS IS NOT A VERBATIM TRANSCRIPT OF WHAT HE
17 SAID TO YOU; RIGHT?

18 A NO, SIR, IT'S NOT.

19 Q OKAY. IT'S YOUR SUMMARY OR CAPSULIZATION OF WHAT
20 HE'S TELLING YOU; RIGHT?

21 A CORRECT.

22 Q OKAY. DO YOU HAVE YOUR HAND WRITTEN NOTES?

23 A I MAY HAVE THEM, SIR.

24 Q YOU KNOW, THE ONES YOU TOOK AT THE TIME? LET ME
25 SHOW YOU WHAT I THINK IS THE RELEVANT PAGES.

1 A YES, SIR.

2 Q JUST TAKE A LOOK AT THE NEXT PAGE -- THE NOTES YOU
3 TOOK DURING YOUR CONVERSATION WITH HIM ON THE 23RD.
4 THAT'S REFLECTED THERE; RIGHT?

5 A THEY ARE.

6 Q OKAY. NOW, AS TO -- GET YOU TO HOLD ON TO THAT.
7 THOSE ARE THE ONES THAT YOU WERE ACTUALLY TAKING AS YOU
8 WERE TALKING; RIGHT?

9 A YES, SIR.

10 Q THOSE NOTES REFLECT HE INITIALLY SAID HE WASN'T
11 THERE; RIGHT?

12 A IT DOES.

13 Q AND THE FACT OF WHERE HE WAS AT THAT TIME, SAYS HE
14 WAS; RIGHT?

15 A IT DOES.

16 Q OKAY. AND GOING RIGHT THROUGH THEM, THEY REFLECT
17 THAT YOU TOLD HIM OTHER PEOPLE HAD PUT HIM THERE; RIGHT?

18 A NO, SIR.

19 Q NO, OKAY. DO THEY REFLECT HIS SEQUENCE OF EVENTS
20 RELATIVE TO THE EVENING OF THE 15TH AS YOU'VE RELATED THEM
21 IN THE CASE NOTES; CORRECT? TAKE A LOOK THROUGH.

22 (PAUSE.)

23 A IT JUST SAYS THAT HE WAS -- HE DROVE UP AS THE
24 ARGUMENT BEGAN AND TRIED TO BE THE PEACEMAKER.

25 Q OKAY. LET ME HAVE THAT BACK, IF I COULD, PLEASE.

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1 (PAUSE.)

2 Q WASN'T THERE, CAN PROVE IT. THAT'S REFLECTED IN
3 YOUR CASE NOTES; RIGHT?

4 A IT IS.

5 Q AT CIRCUIT CITY ACROSS FROM COLUMBIA MALL WITH
6 BRANDON. THAT'S REFLECTED THERE IN YOUR CASE NOTES---

7 A IT IS.

8 Q WORKS IN CAR STEREOS, THAT REFERENCES BRANDON'S
9 WORK; RIGHT?

10 A THAT'S CORRECT, SIR.

11 Q AND DRIVES BLACK FORD CONTOUR, THAT'S REFLECTED IN
12 YOUR CASE NOTES; RIGHT?

13 A IT IS.

14 Q AND YOU DON'T HAVE THE PART ABOUT YOU INFORMING HIM
15 THAT OTHER PEOPLE PUT HIM THERE; RIGHT?

16 A I HAVE IT IN MY CASE NOTES. IT MAY NOT BE THERE IN
17 THOSE NOTES THERE, SIR.

18 Q THAT'S WHEN IT GOES INTO YOUR CASE NOTES, SOME OF
19 IT'S REFLECTED IN THE NOTES THAT YOU ACTUALLY TOOK WHILE
20 YOU TALKED WITH THE PERSON?

21 A CORRECT.

22 Q AND SOME OF THIS YOU'RE DOING FROM MEMORY?

23 A THAT'S CORRECT.

24 Q WITHIN ABOUT AN HOUR OF FINISHING TALKING WITH HIM?

25 A YES, SIR.

1 Q THERE'S -- DOESN'T KNOW THE GUYS EXCEPT BY MO OR
2 MEL. INTRODUCED AT THE MALL BY HIS BROTHER. THIS IS IN
3 YOUR ROUGH NOTES AND THAT'S REFLECTED IN THE CASE NOTES.
4 THE CASE NOTES THAT YOU TESTIFIED FROM AS FAR AS THIS
5 ALLEGED ORAL STATEMENT ON THE PART OF LUCIUS -- INTRODUCED
6 HIS BROTHER -- BY HIS BROTHER AT THE MALL.

7 YOUR CASE NOTES SAY STATEN SAID HE HAD ONLY MET THEM
8 ONE OTHER TIME. HE SAID HE WAS INTRODUCED TO THEM BY HIS
9 BROTHER AT THE MALL. THAT'S REFLECTED IN THE CASE NOTES
10 THAT YOU TESTIFIED TO THE JURY ABOUT; RIGHT?

11 A YES, IT IS, SIR.

12 Q NOW, THE ROUGH NOTES THAT YOU TAKE REFERENCE -- IT'S
13 DOWN AT THE BOTTOM THERE. REFERENCE HAVING MET THEM AT
14 THE MALL; CORRECT?

15 A YES, SIR.

16 Q OKAY. THERE'S NO REFERENCE IN THOSE ROUGH NOTES
17 THAT HE HAD ONLY MET THEM THAT ONE TIME?

18 A NO, THERE'S NOT.

19 Q THAT'S NOT, OKAY. SO, THAT -- THE INCLUSION OF THAT
20 STATEMENT IN THE CASE NOTES THAT YOU PUBLISHED TO THIS
21 JURY, THAT'S BASED ON YOUR MEMORY AT THAT POINT IN TIME

22 ---

23 A IT IS.

24 Q ---RIGHT? OKAY. WHAT WAS THE TENOR OF THE
25 CONVERSATION BETWEEN YOU AND MR. STATEN? DID YOU HAVE A

1 NICE CHAT ON JANUARY THE 23RD?

2 A SOMETIMES IT WAS VERY CORDIAL, SOMETIMES HE GOT
3 UPSET.

4 Q SOMETIMES DID YOU GET UPSET?

5 A NOT REALLY, SIR.

6 Q SOMETIMES YOU EMPLOYED POLICE TECHNIQUES ACTING LIKE
7 YOU WERE UPSET? I MEAN, THAT'S THE TECHNIQUE; RIGHT?

8 A THERE WAS NO NEED TO DO THAT.

9 Q THERE WAS NO NEED TO DO THAT. NEVER RAISED YOUR
10 VOICE TO HIM?

11 A NOT THAT I REMEMBER, SIR, NO.

12 Q NOW, LUCIUS TOLD YOU INITIALLY THAT HE WAS OUT AT
13 THE MALL WITH THIS GUY BRANDON AND WASN'T THERE. THEN HE
14 CHANGES IT AND SAYS HE SHOWED BACK UP AS IT WAS ALREADY
15 GOING ON; RIGHT?

16 A HE DID, SIR.

17 Q OKAY. WHICH JIVES WITH INFORMATION THAT YOU EITHER
18 HAD OR DEVELOPED VERY SHORTLY THEREAFTER; CORRECT?

19 A THAT'S CORRECT.

20 Q JIVES WITH INFORMATION PROVIDED IN THIS COURT TODAY;
21 CORRECT?

22 A CORRECT.

23 Q OKAY. SO HIS STATEMENT TO YOU AT FIRST WAS HE'S AT
24 THE -- HE'S AT THE CIRCUIT CITY WITH BRANDON AND THEN --
25 ACTUALLY, OKAY -- I AM THERE. I COME BACK, IT'S GOING ON.

1 I COME BACK WITH BRANDON IN A BLACK FORD CONTOUR.

2 A THAT'S WHAT HE SAID, SIR.

3 Q OKAY. NOW, WHEN DID YOU GO TO CIRCUIT CITY TO SEE
4 WHETHER LUCIUS STATEN WAS OUT THERE WITH BRANDON McCANTS
5 WHILE THIS FIGHT WAS GETTING STARTED? WHEN'D YOU GO CHECK
6 THE SECURITY CAMERAS OUT THERE?

7 A I DIDN'T. I DIDN'T NEED TO. HE'D ALREADY ADMITTED
8 THAT HE WAS THERE WHEN THE FIGHT WAS GOING ON.

9 Q NOT WHEN THE FIGHT STARTED.

10 A HE SAID HE DROVE UP AS THE FIGHT WAS GOING ON.

11 Q RIGHT. OKAY. WHEN DID YOU TRACK DOWN BRANDON
12 McCANTS, PELO OR -- PELO, A STUDENT AT BENEDICT AND TALK
13 WITH HIM AND SEE WHETHER HE VERIFIES WHAT LUCIUS HAD TO
14 SAY ABOUT IT?

15 A MR. McCANTS CAME TO ME SOMETIME IN MARCH, I GUESS.

16 Q MARCH 22ND, 2001?

17 A YES, SIR.

18 Q OKAY. AND, OF COURSE, THIS IS NOT A VERBATIM --
19 VERBATIM RENDERING OF WHAT HE HAD TO SAY. IT IS YOUR
20 RECAPITULATION OF WHAT HE HAD TO SAY BASED ON NOTES THAT
21 YOU WERE TAKING DOWN AS IT WAS GOING ON; RIGHT?

22 A THAT AND WHAT I REMEMBERED BEING SAID DURING THE
23 INTERVIEW.

24 Q AND AUGMENTED BY WHAT YOU REMEMBER BEING SAID.

25 WOULD YOU OR WOULD YOU NOT AGREE WITH THE PROPOSITION THAT

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1 HUMAN MEMORY IS A FALLIBLE THING?

2 A YES, SIR.

3 Q OKAY. WOULD YOU OR WOULD YOU NOT AGREE WITH THE
4 PROPOSITION THAT MURDER IS THE MOST SERIOUS OFFENSE YOU
5 CAN IMAGINE?

6 A YES, SIR.

7 THE COURT: ALL RIGHT. MR. TAYLOR.

8 (PAUSE.)

9 THE COURT: LET US FINISH THIS WITNESS AND THEN
10 WE'LL BREAK FOR THE DAY. I DON'T WANNA BE HERE FRIDAY
11 NIGHT, DO Y'ALL.

12 CROSS-EXAMINATION BY MR. TAYLOR:

13 Q OFFICER MEAD, ON THE 23RD OF JANUARY, 2001, YOU AND
14 SOME SIX OR SEVEN OTHER POLICE OFFICERS WENT TO EXECUTE
15 THIS SEARCH WARRANT AT ZIMALCREST; IS THAT CORRECT?

16 A YES, SIR.

17 Q AND IT IS TRUE YOU HAD STATED TODAY AND PREVIOUSLY
18 THAT YOU KNOCK ON THE DOOR AND THEN YOU KICK THE DOOR IN;
19 CORRECT?

20 A THAT'S CORRECT, SIR.

21 Q AND YOU HAVE NO WARRANT FOR THE ARREST OF DUSHUN
22 STATEN AT THAT TIME---

23 A NO, I DID NOT.

24 Q ---IS THAT CORRECT? IS THAT CORRECT?

25 A IT IS.

1 Q YOU HAVE NO ARREST WARRANT FROM SHAKEEM WILSON AT
2 THAT TIME; IS THAT CORRECT?

3 A THAT'S CORRECT.

4 Q NOW, YOU SAID IN YOUR DIRECT EXAMINATION THAT DUSHUN
5 STATEN AND SHAKEEM WILSON AGREED TO COME DOWN VOLUNTARILY
6 TO HEADQUARTERS AND TALK WITH Y'ALL; CORRECT?

7 A I DID.

8 Q THE FACT OF THE MATTER IS, IS IT NOT, THAT WHEN YOU
9 WENT THROUGH THAT DOOR, KICKED IT OPEN, THAT SOME POLICE
10 OFFICER OR OFFICERS KNOCKED DUSHUN STATEN TO THE GROUND
11 AND HANDCUFFED HIM WITH HIS HANDS BEHIND HIS BACK?

12 A DID THAT HAPPEN?

13 Q YES.

14 A I'M SURE IT DID, SIR.

15 Q AND THE SAME THING WAS DONE TO SHAKEEM WILSON?

16 A HE WAS ALSO PUT ON THE FLOOR, HANDCUFFED AND
17 SEARCHED.

18 Q RIGHT. AND THEN YOUR TESTIMONY IS THAT THEY
19 ACCEPTED YOUR POLITE INVITATION TO COME DOWN TO THE
20 COLUMBIA POLICE DEPARTMENT AND BE INTERVIEWED; IS THAT
21 CORRECT?

22 A THEY DID, SIR.

23 Q BUT IN FACT THEY WERE PUT IN A COLUMBIA POLICE
24 DEPARTMENT VEHICLE IN HANDCUFFS AND TAKEN DOWN TO THE
25 COLUMBIA POLICE DEPARTMENT; ISN'T THAT CORRECT?

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1 A THEY WERE TRANSPORTED IN A UNIFORMED CAR.

2 Q YOU HAVE A WARRANT, YOU SAID, LOOKING FOR CERTAIN
3 ITEMS; IS THAT CORRECT?

4 A I DID.

5 Q THOSE ITEMS WERE LISTED OUT WITH SOME PARTICULARITY;
6 IS THAT CORRECT?

7 A THEY WERE, SIR.

8 Q ONE OF THOSE WAS A PAIR OF BLACK TIMBERLAND BOOTS
9 WITH RED SHOESTRINGS; IS THAT CORRECT?

10 A IT'S ON THE WARRANT, YES, SIR.

11 Q I PRESUME, TELL ME IF I'M WRONG, SIR, THAT YOU HAVE
12 THAT ON THERE BECAUSE YOU HAD INFORMATION THAT SOMEBODY
13 INVOLVED IN THIS HAD SUCH A PAIR OF SHOES; IS THAT
14 CORRECT?

15 A THAT'S CORRECT, SIR.

16 Q OKAY. BUT YOU DID NOT FIND THOSE SHOES; IS THAT
17 CORRECT?

18 A THE BLACK TIMBERLANDS WITH THE RED LACES, NO, SIR.

19 Q ALL RIGHT. DID YOU HAVE OCCASION TO INTERVIEW
20 ALONZO SHULER VERY EARLY ON IN YOUR INVESTIGATION OF THIS
21 CASE?

22 A I DID, SIR.

23 Q AS A MATTER OF FACT, IS IT NOT TRUE THAT ALONZO
24 SHULER WAS THE FIRST WITNESS OUT AT BENEDICT COLLEGE THAT
25 YOU INTERVIEWED?

1 A YES, IT IS.

2 Q AND, LET'S SEE, YOU INTERVIEWED HIM ON THE 18TH OF
3 JANUARY; IS THAT CORRECT?

4 A I DID, SIR.

5 Q AND DID YOU PROBE WHETHER OR NOT ALONZO SHULER HAD
6 ANY BONES TO PICK WITH LUCIUS OR DUSHUN STATEN?

7 MR. GASSER: OBJECTION. I DON'T UNDERSTAND THE
8 QUESTION OR THE RELEVANCY.

9 MR. TAYLOR: I'LL REPHRASE IT.

10 Q DID YOU INQUIRE OF ALONZO SHULER WHETHER HE HAD ANY
11 REASON TO BE ANGRY WITH LUCIUS STATEN OR DUSHUN STATEN?

12 MR. GASSER: YOUR HONOR, I OBJECT TO THIS LINE OF
13 QUESTIONING.

14 THE COURT: WHAT IS THE RELEVANCE IN ALL THIS?

15 MR. GASSER: I OBJECT ON THE HEARSAY. I MEAN, WE
16 CAN'T...

17 MR. TAYLOR: YOUR HONOR, YOU WANT ME TO STATE WHAT
18 THE RELEVANCE IS.

19 THE COURT: NO, I WANT YOU TO COME UP HERE AND
20 STATE IT TO ME.

21 MR. TAYLOR: ALL RIGHT.

22 (A BENCH CONFERENCE IS HAD AT THIS TIME IN THE
23 PRESENCE OF THE JURY AND THE COURT REPORTER, BUT OUT OF
24 THE HEARING OF THE JURY AND THE COURT REPORTER.)

25 MR. GASSER: THANK YOU.

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1 Q DID YOU ESTABLISH WHETHER OR NOT ALONZO SHULER WAS
2 PRESENT AT BENEDICT COLLEGE ON THE NIGHT OF THE 15TH OF
3 JANUARY, 2001?

4 A I DID, SIR.

5 (PAUSE.)

6 Q I WANT TO SHOW YOU WHAT HAS BEEN MARKED AS STATE'S
7 EXHIBIT SIX. DO YOU RECOGNIZE WHAT THAT DOCUMENT IS?

8 A YES, SIR, I DO.

9 Q THAT IS A DOCUMENT THAT SAYS, DOES IT NOT, THAT
10 DUSHUN STATEN PICKED LIMEL SIMS OUT OF A LINEUP AS THE
11 MALE PERSON, BLACK, WHO COMMITTED THE CRIME OF MURDER.
12 THAT'S WHAT THE FORM IN ITS ENTIRETY SAYS, DOES IT NOT?

13 A THAT'S WHAT THE FORMS SAYS, SIR.

14 Q ALL RIGHT. BUT WHAT -- HOW DO YOU TAKE -- HOW DO
15 YOU GET THESE FORMS DONE? HOW DO YOU GET THEM FILLED OUT?
16 WHAT DO YOU DO?

17 A I DON'T UNDERSTAND WHAT YOU'RE SAYING, SIR.

18 Q WELL, ARE YOU SAYING THAT HE SAID LIMEL SIMS
19 COMMITTED MURDER?

20 A NO, SIR.

21 Q WELL, WHAT -- YOU -- YOU SIGNED THIS; CORRECT? YOU
22 NOTARIZED IT?

23 A I DID.

24 Q OKAY. AND WHAT IS THE ALLEGED PURPOSE OF THIS?

25 A THAT FORM IS TO SHOW THAT MR. STATEN IDENTIFIED A

1 PHOTOGRAPH FROM A PHOTOGRAPHIC LINEUP, THE PHOTO BEING OF
2 LIMEL SIMS AND IT'S RELATION TO A MURDER THAT OCCURRED AT
3 BENEDICT COLLEGE, THAT ADDRESS AT HASKILL STREET.

4 Q AND IT DOESN'T SAY THAT HE WAS JUST MERELY PRESENT

5 ---

6 A NO, IT DOESN'T SAY THAT.

7 Q IT SAYS HE COMMITTED THE CRIME OF MURDER?

8 A THAT'S WHAT THE FORM SAYS BUT IT'S A GENERIC FORM
9 THAT I FILL OUT. BUT THAT'S NOT WHAT HE SWORE TO. HE
10 SIMPLY IDENTIFIED MR. SIMS.

11 Q SO THAT'S THE WAY YOU ALWAYS DO IT? YOU JUST FILL
12 IT OUT LIKE THAT? IF IT'S A MURDER CASE YOU JUST PUT
13 MURDER ON THERE AND SAY HE COMMITTED MURDER AND HAVE THE
14 GUY SIGN A SHEET SAYING, I IDENTIFIED HIM FROM A LINEUP?
15 IS THAT THE WAY YOU DO IT?

16 A THAT IS NORMALLY THE WAY IT'S DONE, YES, SIR.

17 Q NOW YOU SAID THAT DUSHUN WAS NOT FULLY TRUTHFUL WITH
18 YOU WHEN HE FIRST STARTED TO TALK WITH THEM; CORRECT?

19 A THAT'S CORRECT, SIR.

20 Q AND HE TOLD YOU, AS THIS INTERROGATION OR INTERVIEW,
21 WHATEVER YOU WANT TO CALL IT, PROGRESSED HOWEVER, THAT HE
22 WAS AFRAID FOR HIS FAMILY AND THAT'S WHY HE HAD NOT BEEN
23 FORTHCOMING WITH YOU; IS THAT RIGHT?

24 A HE DID SAY THAT.

25 Q AND YOU SAID A COUPLE OF TIMES, DID YOU NOT, THAT

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1 DUSHUN STATEN BECAME FULLY COOPERATIVE WITH YOU?

2 A I DON'T KNOW IF HE WAS FULLY COOPERATIVE. HE WAS
3 COOPERATING.

4 Q WELL, ON PAGE NINE OF YOUR NOTES -- DO YOU STILL
5 HAVE THOSE?

6 A I DO, SIR.

7 Q LET'S SEE. THE THIRD LINE YOU'RE TALKING TO DUSHUN,
8 THERE'S NO QUESTION ABOUT THAT IS THERE?

9 A THAT'S CORRECT, SIR.

10 Q AND IT SAYS, "AGREED TO TALK AND COOPERATE FULLY".

11 A THAT'S WHEN I ADVISED HIM OF HIS---

12 Q IS THAT CORRECT?

13 A --- RIGHTS. YES, SIR.

14 Q NOW -- AND -- AND THEN LATER ON IN HERE WHEN YOU
15 CONFRONTED HIM ABOUT BEING OUT THERE, HE ADMITTED THAT HE
16 WAS THERE; RIGHT?

17 A HE DID.

18 Q AND HIS BROTHER WAS THERE; RIGHT?

19 A HE DID.

20 Q ALL RIGHT. AND HE SAID THAT THERE WERE TWO OTHER
21 PEOPLE THERE, SEVERAL OTHER PEOPLE THERE REALLY, DIDN'T
22 HE?

23 A HE DID.

24 Q AND THERE WAS A MEL -- HE CALLED HIM MEL, I BELIEVE,
25 DID HE NOT?

STATE OF SOUTH CAROLINA VERSUS
DUSHUN STATEN, 2002-GS-40-1148 AND 786;
LUCIUS STATEN, 2002-GS-40-1149 AND 783.

- 1 A HE DID, SIR.
- 2 Q NOT LIMEL BUT MEL?
- 3 A THAT'S CORRECT?
- 4 Q IS THAT CORRECT? AND HE WAS COOPERATIVE TO THE
- 5 POINT OF GOING TO THE PHONE AND CALLING HIS GIRLFRIEND AND
- 6 GETTING LIMEL'S LAST NAME FOR YOU; CORRECT?
- 7 A HE DID, SIR.
- 8 Q UNTIL THAT TIME YOU DIDN'T KNOW WHO LIMEL SIMS WAS;
- 9 IS THAT RIGHT?
- 10 A THAT'S CORRECT.
- 11 Q AND HE TOLD YOU AS THE INTERVIEW OR INTERROGATION
- 12 PROGRESSED THAT IN FACT ONE MAURICE SANDERS HAD SHOT AND
- 13 KILLED PHILLIP LEE, THAT'S WHAT HE TOLD YOU; RIGHT?
- 14 A HE DID SAY THAT, YES, SIR.
- 15 Q OKAY. AND HE TOLD YOU THAT HE KNEW MAURICE SANDERS
- 16 BY THE NAME OF MO, THAT'S WHAT THEY CALL HIM; RIGHT?
- 17 A YES, SIR.
- 18 Q AND HE TOLD YOU THAT MO AND MEL WERE TWO PEOPLE THAT
- 19 HE'D MET BUT DIDN'T KNOW REAL WELL; IS THAT RIGHT?
- 20 A HE DID.
- 21 Q DID YOU EVER ESTABLISH HOW LONG DUSHUN STATEN HAD
- 22 BEEN IN SOUTH CAROLINA?
- 23 A NO, SIR, I DID NOT.
- 24 Q YOU NEVER ASKED HIM?
- 25 A NO, I DON'T BELIEVE I DID, SIR.

STATE OF SOUTH CAROLINA VERSUS
DUSHUN STATEN, 2002-GS-40-1148 AND 786;
LUCIUS STATEN, 2002-GS-40-1149 AND 783.

1 Q NOBODY EVER TOLD YOU WHILE YOU WERE INVESTIGATING
2 THIS CASE THAT ANYBODY EVER TOLD DUSHUN STATEN OR ANYBODY
3 ELSE TO GET A QUOTE HAMMER, IS THAT A CORRECT STATEMENT?

4 A THAT'S CORRECT, SIR.

5 Q AND NOBODY EVER TOLD YOU THAT DUSHUN IN FACT GOT A
6 QUOTE "HAMMER"; IS THAT CORRECT?

7 A NO, ONE OF THE WITNESSES DID SAY THAT HE WENT TO THE
8 VEHICLE AND GOT A GUN.

9 Q BUT DIDN'T SAY A HAMMER?

10 A NO, SIR.

11 Q NOBODY EVER SAID HAMMER; IS THAT RIGHT?

12 A NO, SIR.

13 Q NOW, ARE YOU FAMILIAR WITH THE COLLOQUIAL, I GUESS,
14 TERM THAT YOU MIGHT USE CALLED A PIECE?

15 A I'VE HEARD THAT, YES, SIR.

16 Q AND WHAT DOES THAT REFER TO?

17 A IT CAN REFER TO A GUN.

18 Q OFTEN REFERS TO A GUN---

19 A IT DOES.

20 Q ---IS THAT CORRECT?

21 A YES, SIR.

22 Q DUSHUN DID NOT GIVE YOU ANY RESISTANCE, DID HE?

23 A NO, SIR.

24 Q AFTER YOU DID THE LINEUPS AND -- WELL, LET ME BACK
25 UP A SECOND AND WITHDRAW THAT.

STATE OF SOUTH CAROLINA VERSUS
DUSHUN STATEN, 2002-GS-40-1148 AND 786;
LUCIUS STATEN, 2002-GS-40-1149 AND 783.

1 YOU DID LEARN THAT, IN FACT, MAURICE SANDERS HAD
2 BEEN DETAINED THAT NIGHT, THE NIGHT OF THE SHOOTING, AT
3 LEAST FOR A PERIOD OF TIME; IS THAT CORRECT?

4 A YES, SIR, I KNEW THAT.

5 Q ALL RIGHT. AND YOU ALSO KNEW THAT HE HAD LEFT THE
6 STATE OF SOUTH CAROLINA; IS THAT CORRECT?

7 A I FOUND OUT THAT HE HAD, YES, SIR.

8 Q ALL RIGHT. AND YOUR DEPARTMENT WENT ABOUT THE
9 BUSINESS OF TRYING TO GET HIM BACK; IS THAT CORRECT?

10 A WE WERE TRYING TO LOCATE HIM, YES, SIR.

11 Q ALL RIGHT. AND WERE YOU GETTING SOME INFORMATION
12 THROUGHOUT THESE INITIAL STAGES OF YOUR INVESTIGATION FROM
13 LATISHA DAVIS?

14 A WE WERE.

15 Q AND DID ONE OF THOSE HAVE ANYTHING TO DO WITH
16 FINDING OUT WHERE MAURICE SANDERS WAS?

17 A YES, SIR, IT DID.

18 Q AND DID SANDERS THEN COME BACK?

19 A HE DID.

20 Q AND DID YOU ARREST HIM?

21 A HE TURNED HIMSELF IN. HE WAS ARRESTED.

22 Q AND HE'S IN JAIL NOW?

23 A YES, SIR.

24 Q IS THAT CORRECT?

25 A YES, HE IS.

--
STATE OF SOUTH CAROLINA VERSUS
DUSHUN STATEN, 2002-GS-40-1148 AND 786;
LUCIUS STATEN, 2002-GS-40-1149 AND 783.

1 Q SHAKEEM WILSON IS ALSO IN JAIL RIGHT NOW CHARGED
2 WITH MURDER; IS THAT CORRECT?

3 A YES, I BELIEVE HE IS CHARGED.

4 Q IS HE ALSO CHARGED WITH LYNCHING?

5 A I'M NOT SURE IF HE WAS INDICTED FOR LYNCHING OR NOT,
6 SIR.

7 Q NOW, DID YOU INTERVIEW A MICHELLE BUFF?

8 A I DID, SIR.

9 Q YOU SAID YOU INTERVIEWED ALONZO SHULER?

10 A I DID.

11 Q YOU EVENTUALLY INTERVIEWED BRANDON McCANTS; IS THAT
12 CORRECT?

13 A I DID, SIR.

14 Q WHEN YOU GOT TO THE POINT WHERE YOU'RE AT THE POLICE
15 STATION AND MY CLIENT IS IN THERE WITH YOU, YOU DIDN'T
16 ADVISE HIM OF HIS MIRANDA RIGHTS, DID YOU?

17 A YES, I DID, SIR.

18 Q HE DID NOT SIGN THE FORM, THE MIRANDA RIGHTS FORM;
19 IS THAT CORRECT?

20 A THAT'S CORRECT.

21 Q NOW, THE MAP -- THIS MAP THAT SUPPOSEDLY WAS FOUND
22 IN THE DAEWOO AUTOMOBILE AND SUPPOSEDLY TURNED TO WHERE
23 YOU CAN SEE, IS IT FARMING CREEK ROAD?

24 A THAT'S CORRECT, SIR.

25 Q WHAT HAPPENED TO THAT MAP?

- 1 A I DON'T KNOW, SIR.
- 2 Q Y'ALL CAN'T FIND IT?
- 3 A I DON'T HAVE IT, SIR.
- 4 Q DID YOU EVER SEE IT?
- 5 A NO, SIR, I DID NOT.
- 6 Q YOUR DEPARTMENT TOOK POSSESSION OF ALL OF THE
- 7 EVIDENCE THAT WAS GATHERED AS A RESULT OF THIS SEARCH ON
- 8 JANUARY 23RD, DID YOU NOT?
- 9 A I DID, SIR.
- 10 Q AND THERE WAS NO TIME AFTER JANUARY THE 23RD WHEN
- 11 YOU TRANSFERRED ANY OF THIS EVIDENCE BACK TO THE BENEDICT
- 12 COLLEGE POLICE DEPARTMENT, WAS THERE?
- 13 A NO, SIR.
- 14 Q YOU HAVE AN EVIDENCE ROOM AT THE COLUMBIA POLICE
- 15 DEPARTMENT; IS THAT CORRECT?
- 16 A I DO.
- 17 Q AND YOU HAVE SOMEONE TO LOG ALL OF THESE THINGS INTO
- 18 EVIDENCE, DON'T YOU?
- 19 A I DO, SIR.
- 20 Q WELL WAS THIS ALLEGED MAP EVER LOGGED INTO EVIDENCE?
- 21 A AS FAR AS I KNOW, IT WAS NOT.
- 22 Q JUST DISAPPEARED?
- 23 A NO, SIR, I DON'T BELIEVE IT WAS COLLECTED AT THE
- 24 TIME WE DID THE SEARCH WARRANT.
- 25 Q YOU DON'T BELIEVE OR YOU DON'T KNOW OR DO YOU -- DO

1 YOU HAVE A STORY TO TELL US ABOUT THAT?

2 A I DO NOT KNOW IF IT WAS COLLECTED, SIR.

3 Q WOULDN'T THAT HAVE SEEMED TO HAVE BEEN A RATHER
4 IMPORTANT PIECE OF EVIDENCE WITH WHAT LIMITED KNOWLEDGE
5 YOU HAD AT THAT TIME?

6 A I WOULD HAVE LIKED TO HAVE HAD THE MAP, YES, SIR.

7 Q AND YOU SAID THAT MANNY PERDUE NEVER CONTACTED YOU
8 ABOUT THIS CASE?

9 A MANNY PERDUE?

10 Q YEAH.

11 A YEAH, I BELIEVE HE CAME TO POLICE HEADQUARTERS AT
12 ONE TIME.

13 Q THE FELLOW WHO WAS HERE THIS MORNING WHO TESTIFIED?

14 A YES, SIR.

15 Q ALL RIGHT. AND DO YOU RECALL WHEN THAT WAS?

16 A IT WAS ON THE 19TH OF JANUARY, 2001, ABOUT 3:00 IN
17 THE AFTERNOON.

18 Q AND, WELL, HE'D ALREADY BEEN INTERVIEWED BY
19 INVESTIGATOR KENLEY; IS THAT CORRECT?

20 A HE HAD, SIR.

21 Q AND YOU, OF COURSE, WERE COORDINATING WITH KENLEY.
22 HE STILL WAS THE LIAISON; IS THAT RIGHT?

23 A THAT'S CORRECT, SIR.

24 Q AND MANNY PERDUE NEVER SAID A SINGLE WORD TO YOU TO
25 THE EFFECT THAT JAH TOLD DUSHUN TO GET A HAMMER AND THAT

1 DUSHUN DID THAT?

2 A HE DID NOT SAY THAT TO ME.

3 Q YOU WERE LOOKING FOR EVIDENCE, WERE YOU NOT THOUGH,
4 OF WHO THE GUNMAN WAS?

5 A I WAS.

6 Q AND DO YOU -- ARE YOU CERTAIN IN YOUR MIND THAT MR.
7 PERDUE KNEW THAT YOU WERE DOING A HOMICIDE INVESTIGATION,
8 A MURDER INVESTIGATION?

9 A I'M -- I MEAN, I DON'T KNOW WHAT WAS IN HIS MIND,
10 SIR. I'M SURE HE DID. HE'D BEEN TALKED TO SEVERAL TIMES.

11 Q WELL, YOU ASKED HIM SPECIFIC QUESTIONS, DIDN'T YOU?

12 A I DIDN'T INTERVIEW HIM WHEN HE CAME TO---

13 Q YOU DIDN'T INTERVIEW HIM?

14 A NO, I DID NOT.

15 Q YOU DON'T HAVE A STATEMENT FROM HIM?

16 A NO, SIR.

17 Q DID ANYBODY AT THE DEPARTMENT TAKE STATEMENTS FROM
18 HIM?

19 A I DON'T BELIEVE SO. I BELIEVE SERGEANT WILKERSON
20 TALKED TO HIM.

21 Q BUT YOU WERE BEING KEPT ABREAST OF ALL MAJOR
22 DEVELOPMENTS BY ALL OFFICERS WORKING ON THIS CASE AND YOU
23 LIKEWISE WERE KEEPING THOSE OFFICERS ABREAST; IS THAT
24 CORRECT?

25 A THAT'S CORRECT, SIR.

STATE OF SOUTH CAROLINA VERSUS
DUSHUN STATEN, 2002-GS-40-1148 AND 786;
LUCIUS STATEN, 2002-GS-40-1149 AND 783.

1 Q THAT IS THE WAY YOU DO A HOMICIDE INVESTIGATION; IS
2 THAT RIGHT?

3 A YES, SIR.

4 Q AND YOU DID NOT FIND ANY RED BANDANAS IN THE
5 ZIMALCREST APARTMENT; IS THAT CORRECT?

6 A I'M NOT SURE. I BELIEVE WE FOUND SOME BANDANAS. I
7 DON'T KNOW IF THERE WAS A RED ONE IN THERE OR NOT.

8 (PAUSE.)

9 THE COURT: DOES SOMEBODY HAVE A COPY OF THE
10 RETURN?

11 MR. MEAD: I HAVE IT, SIR.

12 A YES, THERE WAS A RED BANDANA LOCATED AT THE
13 APARTMENT.

14 Q ONE RED BANDANA? WHERE IS THAT ON THE RETURN?

15 A ABOUT THE FIFTH LINE DOWN THAT SAYS, TIMBERLAND
16 BOOTS, GRAY -- I'M SORRY. I'M SORRY, I WAS WRONG. THERE
17 WAS NOT ONE FOUND.

18 Q RIGHT. OKAY. YOU HAVE THE RETURN THERE?

19 A I HAVE A COPY OF IT, SIR.

20 Q IS THAT RIGHT?

21 A (NO RESPONSE.)

22 THE COURT: HE'S TESTIFIED TO IT.

23 MR. GASSER: YOUR HONOR, WE'LL STIPULATE TO THE
24 FACT THAT THEY DIDN'T FIND A RED BANDANA. I MEAN, I'LL
25 STIPULATE AS A MATTER OF LAW---

1 THE COURT: NO RED BANDANA.

2 Q BUT Y'ALL TOOK A LOT OF STUFF; RIGHT?

3 A YES, SIR.

4 Q BOXES AND BOXES AND BAGS AND BAGS OF STUFF; RIGHT?

5 A TOOK SEVERAL BAGS WORTH OF ITEMS.

6 Q YOU CERTAINLY ARE FAMILIAR WITH COLUMBIA, AREN'T

7 YOU?

8 A I AM, SIR.

9 Q WHAT HAS BEEN MARKED AS STATE'S EXHIBIT NUMBER

10 THIRTY-FIVE IS A DIAGRAM OF THE GENERAL AREA AROUND

11 BENEDICT COLLEGE AND HASKILL DORM, DO YOU AGREE?

12 A IT IS, SIR.

13 Q AND YOU WILL NOTICE THAT ALONG HASKILL STREET THERE

14 ARE SOME BLACK INK BLACK -- BLOCKS DRAWN IN HERE IN

15 VARIOUS PLACES?

16 A YES, SIR.

17 Q THOSE REPRESENT HOUSES; IS THAT RIGHT?

18 A THEY DO.

19 Q THERE ARE HOUSES ALSO ALL ALONG LAUREL STREET; IS

20 THAT CORRECT?

21 A THERE ARE.

22 Q AND EVEN THOUGH NOT SHOWN ON THIS MAP, THERE

23 ACTUALLY ARE HOUSES ON UP HEIDT STREET TO RICHLAND STREET

24 ON BOTH SIDES; IS THAT CORRECT?

25 A I BELIEVE ON ONE SIDE THERE'S HOUSES.

STATE OF SOUTH CAROLINA VERSUS
DUSHUN STATEN, 2002-GS-40-1148 AND 786;
LUCIUS STATEN, 2002-GS-40-1149 AND 783.

1 Q DO YOU KNOW WHICH SIDE?

2 A I BELIEVE IT'S THIS SIDE OVER HERE. I BELIEVE THIS
3 IS A VACANT LOT.

4 Q ALL RIGHT. YOU THINK IT'S ON THE WAVERLY STREET
5 SIDE?

6 A I DO, SIR.

7 Q OKAY. AND THEN THERE ARE HOUSES OVER HERE ON
8 RICHLAND STREET HERE?

9 A THERE USED TO BE. I CAN'T REMEMBER IF THEY'RE STILL
10 THERE OR NOT.

11 Q ALL RIGHT. BUT THEY WERE THERE THEN?

12 A I'M NOT SURE, SIR.

13 Q OKAY. WHERE IS THE CHURCH'S FRIED CHICKEN ON HERE?

14 A IT'S GOING TO BE OVER HERE, SIR (INDICATING).

15 Q RIGHT HERE (INDICATING). AND WHERE IS THE KENTUCKY
16 FRIED CHICKEN?

17 THE COURT: MR. TAYLOR, ARE YOU GOING SOMEWHERE
18 WITH THIS?

19 MR. TAYLOR: YES I AM, YOUR HONOR.

20 THE COURT: I HOPE SO BECAUSE MY FAVORITE WORD IS
21 FOCUS AND WE'RE STARTING TO GET UNFOCUSED.

22 MR. TAYLOR: NO, YOUR HONOR, THIS---

23 THE COURT: AND IT'S STARTING TO GET DARK AND
24 PRETTY SOON I'M GONNA HAVE TO GET DEPUTIES TO ESCORT ALL
25 THE JURORS TO THEIR CARS. SO IF YOU'VE GOT A PLACE TO GO,

1 LET'S GET THERE.

2 MR. TAYLOR: PLEASE BEAR WITH ME FOR JUST A FEW
3 MOMENTS. THIS IS GOING SOMEWHERE.

4 Q KENTUCKY FRIED CHICKEN?

5 A WOULD BE LOCATED ABOUT HERE, I GUESS, SIR
6 (INDICATING).

7 Q ALL RIGHT. AND THERE'S A BANK RIGHT THERE---

8 A THERE IS A BANK---

9 Q ---BY KENTUCKY FRIED CHICKEN; IS THAT RIGHT?

10 A THERE IS, SIR.

11 Q OKAY.

12 (PAUSE.)

13 MR. TAYLOR: OFFICER MEAD, THANK YOU.

14 MR. MEAD: YES, SIR.

15 MR. GASSER: YOUR HONOR, I KNOW THE HOUR IS LATE, I
16 KNOW THE JURY IS TIRED. I WILL BE BRIEF.

17 JUST A FEW FOLLOW-UP QUESTIONS, OFFICER MEAD.

18 MR. STRICKLER: MAY WE APPROACH?

19 (A BENCH CONFERENCE IS HAD AT THIS TIME IN THE
20 PRESENCE OF THE JURY AND THE COURT REPORTER, BUT OUT OF
21 THE HEARING OF THE JURY AND THE COURT REPORTER.)

22 THE COURT: ALL RIGHT, LADIES AND GENTLEMEN. WE'RE
23 GONNA BREAK FOR TODAY AND LET YOU GO HOME. IT'S GETTING
24 LATE.

25 NOW HERE'S WHAT WE'RE GONNA DO TOMORROW MORNING.

STATE OF SOUTH CAROLINA VERSUS
DUSHUN STATEN, 2002-GS-40-1148 AND 786;
LUCIUS STATEN, 2002-GS-40-1149 AND 783.

1 WE'RE GONNA START AT 9:00 IN THE MORNING BECAUSE I WANT TO
2 FINISH THIS TRIAL TOMORROW EXCEPT FOR MAYBE CLOSING
3 ARGUMENTS AND CHARGE. I WANT TO GET ALL THE EVIDENCE IN
4 TOMORROW. SO WE'RE GONNA START AT 9:00.

5 THERE IS A CHANCE THAT WE MAY GET A VAN AND TAKE YOU
6 OUT TO THE SCENE TO LET YOU LOOK AT THE SCENE. IF WE DO
7 THAT, WE'LL PROBABLY DO THAT FIRST THING IN THE MORNING.
8 SO YOU MIGHT WANT TO WEAR A WARM COAT. AND IF WE DO THAT,
9 I WILL TELL Y'ALL ABOUT IT TOMORROW MORNING.

10 BUT BE HERE PROMPTLY AT 9:00 AND WE'LL TELL YOU WHAT
11 WE'RE GONNA DO THEN.

12 HAVE A NICE EVENING. DON'T WATCH TELEVISION. DON'T
13 READ NEWSPAPERS AND DON'T TALK TO ANYBODY ABOUT THE CASE.

14 (JURY OUT AT 5:50 P.M.)

15 MR. TAYLOR: YOUR HONOR, MAY I APPROACH, PLEASE?

16 THE COURT: YOU CAN COME ON DOWN, OFFICER MEAD.

17 (THE WITNESS NOW LEAVES THE WITNESS STAND.)

18 (PAUSE.)

19 THE COURT: OKAY. SO Y'ALL WERE ABOUT TO GET INTO
20 A DISCUSSION HERE ABOUT WHAT MR. STRICKLER HAD DONE OR NOT
21 DONE.

22 MR. GASSER: YOUR HONOR, THE FACT OF THE MATTER IS
23 IS THAT MR. STRICKLER KEPT ASKING THIS WITNESS, YOU KNOW,
24 WHAT QUESTIONS DID YOU ASK AND -- AND HE ATTACKED A
25 WITNESS AS FAR AS WHAT HIS PROCEDURE WAS FOR TAKING DOWN A

1 LITTLE BIT OF NOTES AND THEN GOING BACK AND THEN FILLING
2 OUT CASE NOTES, AND MEMORY LAPSES AND THE HUMAN MEMORY AND
3 MURDERS AND IMPORTANT CASE, ALL OF THE INFERENCE OF TRYING
4 TO ATTACK THE PROCEDURE THAT WAS USED BY THIS WITNESS;
5 WHEN IN FACT, THE QUESTION AND ANSWER FORMAT THAT COMES
6 AFTER THE ORAL STATEMENT WAS ATTEMPTED TO BE DONE WITH
7 THIS WITNESS JUST LIKE IT WAS DONE WITH -- WITH LUCIUS
8 STATEN, JUST LIKE IT WAS DONE WITH DUSHUN STATEN.

9 AND SO ALL I WANT TO DO IS BE ABLE TO ASK THIS
10 WITNESS, DID YOU ATTEMPT TO PUT IT -- MR. STRICKLER ASKED
11 YOU THAT ALL YOU HAVE IS YOUR LITTLE CASE NOTES, YOUR
12 HANDWRITTEN NOTES AND THEN YOUR -- AND THEN YOUR FORMAL
13 CASE NOTES AND YOUR MEMORY IS SUBJECT TO BEING WRONG AND
14 MURDER IS AN IMPORTANT CASE, DID YOU ATTEMPT TO PUT IT IN
15 A FORMAL QUESTION AND ANSWER FORM LIKE YOU DID WITH DUSHUN
16 STATEN. AND HIS ANSWER'S GONNA BE, YES, I DID. AND
17 LUCIUS STATEN, DID HE AGREE TO DO THAT? AND HE SAID, NO,
18 DID HE HAVE THE RIGHT TO DO THAT? YEAH, HE DID.

19 NOW, THE INFERENCE THAT MR. STRICKLER -- HE'S
20 ATTACKING THIS MAN'S CREDIBILITY AND HIS PROCEDURE. AND
21 HOW DOES THAT NOT OPEN THE DOOR IF HE'S ATTACKED HIS
22 PROCEDURE?

23 THE COURT: WELL, SEE, THAT'S HIS -- HIS JOB TO
24 ATTACK THE CREDIBILITY OF THE -- EVERY WITNESS AGAINST
25 HIM.

STATE OF SOUTH CAROLINA VERSUS
DUSHUN STATEN, 2002-GS-40-1148 AND 786;
LUCIUS STATEN, 2002-GS-40-1149 AND 783.

1 **MR. GASSER:** NO QUESTION ABOUT THAT.

2 **THE COURT:** NOW, I WOULDN'T HAVE A PROBLEM WITH YOU
3 ASKING THE QUESTION, DID YOU -- DID YOU ATTEMPT TO PUT
4 THIS IN QUESTION/ANSWER FORM, AS LONG AS YOU DON'T PREFACE
5 IT BY EVERYTHING YOU SAID JUST THEN.

6 **MR. GASSER:** BUT -- BUT IT MAKES IT LOOK I'M COMING
7 BACK -- I MEAN HE WAS INSTRUCTED BY ME NOT TO TALK ABOUT
8 THAT. I DIDN'T ASK HIM THE QUESTIONS BECAUSE THE LAW
9 DIDN'T ALLOW ME. AND I WAS HOPING, BECAUSE I THOUGHT MR.
10 STRICKLER OPENED THE DOOR, BUT HE'S A GOOD INVESTIGATOR,
11 HE WASN'T GOING TO DO ANYTHING UNLESS THE COURT OR I
12 INSTRUCTED HIM TO, TO SAY, WELL, I ATTEMPTED TO PUT IT IN
13 QUESTION/ANSWER FORM, MR. STRICKLER. I KNOW HE WANTED TO
14 BUT I HAD INSTRUCTED HIM NOT TO.

15 BUT, I MEAN, NOW IT MAKES IT LOOK LIKE ME COMING IN
16 FROM BEHIND---

17 **THE COURT:** IF WE START THAT THEN WE'D HAVE A DOYLE
18 VIOLATION, WOULDN'T WE?

19 **MR. STRICKLER:** WELL -- BUT ENTIRELY BEYOND THAT,
20 THERE IS -- YOU KNOW, TAKING A STATEMENT DOES NOT MEAN
21 IT'S IN QUESTION AND ANSWER FORM. TAKING THE STATEMENT --
22 THE WRITTEN STATEMENT COULD BE HAVING HIM WRITE IT DOWN.
23 THAT'S ONE FORM OF TAKING A STATEMENT. TAKING A STATEMENT
24 IN QUESTION/ANSWER FORM IS NOT THE ONLY WAY TO TAKE A
25 STATEMENT.

1 MR. GASSER: IT'S THE WAY HE WAS -- I'M SORRY.

2 MR. STRICKLER: IT'S NOT THE ONLY WAY TO TAKE A
3 STATEMENT.

4 MR. GASSER: IT'S THE WAY HE WAS GOING TO TAKE THE
5 STATEMENT JUST LIKE HE DID WITH DUSHUN AND HE DECLINED. I
6 MEAN, HE -- MR. STRICKLER MUST HAVE SPENT TWENTY-FIVE
7 MINUTES AT LEAST---

8 THE COURT: THAT'S HIS JOB. HIS JOB IS TO---

9 MR. GASSER: I UNDERSTAND THAT.

10 THE COURT: ---CONVINCE THE JURY THAT THE OFFICER
11 DIDN'T REMEMBER EVERYTHING RIGHT. I MEAN---

12 MR. GASSER: I UNDERSTAND THAT THAT'S HIS JOB. HE
13 DID A GOOD JOB. MY POINT IS, YOUR HONOR, IS THAT WE HAVE
14 THEN THE RIGHT -- IT'S A CHESS GAME. WE HAVE THEN THE
15 RIGHT TO THEN EXPLAIN TO THE JURY THAT HE ATTEMPTED TO PUT
16 IT IN QUESTION/ANSWER FORM. I DON'T LIKE THE FACT THAT --
17 THAT I EVEN HAVE TO DO THAT COMING THIRD BECAUSE IT MAKES
18 IT LOOK LIKE -- THEY'RE WONDERING WHY -- WHY DIDN'T
19 INVESTIGATOR MEAD JUST SAY THAT WHEN MR. GASSER HAD HIM ON
20 DIRECT EXAMINATION.

21 SO WHAT IS -- HOW IS IT THAT -- HOW IS MR. STATEN'S
22 RIGHTS BEING VIOLATED IF THE INVESTIGATOR'S ALLOWED TO
23 TESTIFY THAT HE ATTEMPTED TO PUT IT IN QUESTION AND ANSWER
24 FORM AND MR. STATEN DID NOT WANT TO PUT IT IN QUESTION AND
25 ANSWER FORM?

STATE OF SOUTH CAROLINA VERSUS
DUSHUN STATEN, 2002-GS-40-1148 AND 786;
LUCIUS STATEN, 2002-GS-40-1149 AND 783.

1 THE COURT: HOW ABOUT HE DIDN'T WANT TO GIVE A
2 WRITTEN STATEMENT?

3 MR. STRICKLER: WHICH IS WHAT THE NOTES REFLECT.

4 THE COURT: HE DIDN'T WANT TO GIVE A WRITTEN
5 STATEMENT.

6 MR. GASSER: WHICH I STOPPED HIM ON, IF YOU
7 REMEMBER, DURING DIRECT.

8 MR. STRICKLER: I UNDERSTAND THAT.

9 THE COURT: YOU THINK THAT WOULD BE OFFENSIVE TO
10 DOYLE TO SAY HE WOULDN'T GIVE A WRITTEN STATEMENT?

11 (PAUSE.)

12 MR. STRICKLER: MY OWN POINT IS I DON'T...

13 (PAUSE.)

14 MR. GASSER: LET ME TRY -- I'VE HAD A FEW MOMENTS.
15 LET ME TRY TO STATE MY POSITION A LITTLE BIT MORE CLEARLY
16 AND DISTINCTLY. AND I APOLOGIZE, YOUR HONOR.

17 THE JURY HAS HEARD AND THEY WILL HAVE BACK IN THEIR
18 -- THEIR JURY ROOM STATE'S EXHIBIT FIFTY, A WRITTEN "Q AND
19 A" STATEMENT OF DUSHUN STATEN. THEN THEY HAVE BACK THERE
20 THEIR MEMORY OF MR. STRICKLER ASKING THIS INVESTIGATOR, SO
21 ALL WE HAVE IS YOUR LITTLE HAND WRITTEN JOTTED DOWN NOTES
22 AND THEN YOUR CASE NOTES. AND ALL WE HAVE IS YOUR MEMORY
23 AND MEMORIES ARE FAULTY AND MURDER IS AN IMPORTANT CASE.

24 NOW LOGIC DICTATES THAT ONE IF NOT ALL TWELVE OF
25 THEM WILL WONDER, WELL, MY GOD, WHY DIDN'T THEY PUT IT

STATE OF SOUTH CAROLINA VERSUS
DUSHUN STATEN, 2002-GS-40-1148 AND 786;
LUCIUS STATEN, 2002-GS-40-1149 AND 783.

1 DOWN IN QUESTION AND ANSWER FORM LIKE THEY DID WITH DUSHUN
2 STATEN IN STATE'S EXHIBIT FIFTY. ANY LOGICAL PERSON WOULD
3 ASK THAT QUESTION. I SUBMIT ALL TWELVE OF THEM ARE
4 LOGICAL.

5 MY POINT IS I THINK HE'S OPENED THE DOOR BY SAYING,
6 ALL WE HAVE IS YOUR LITTLE HANDWRITTEN NOTES AND ALL WE
7 HAVE IS YOUR CASE NOTES AND ALL WE HAVE IS YOUR MEMORY AND
8 YOUR MEMORY IS FAULTY AND MURDER IS IMPORTANT. I THINK
9 THE JURY IS ENTITLED TO KNOW THAT THIS INVESTIGATOR
10 ATTEMPTED TO PUT IT IN A WRITTEN FORM WHICH WOULD HAVE
11 BEEN JUST LIKE THIS, "Q AND A".

12 THAT'S ALL I'M ASKING. I THINK HE CLEARLY OPENED
13 THE DOOR TO ALLOW THAT EXPLANATION BY THE CONTEXT OF HIS
14 QUESTIONS, ALL WE HAVE IS.

15 MR. STRICKLER: YOU KNOW, THE STATE OPENS THE DOOR
16 TO THE ENTIRE DEAL BY NOT VIDEO TAPING AND NOT AUDIO
17 TAPING SO WE DON'T HAVE ANY OF THESE QUESTIONS---

18 THE COURT: WELL, IF ANY CRIMINAL DEFENSE LAWYER
19 EVER THINKS THAT POLICE OFFICERS AT LAW ENFORCEMENT
20 AGENCIES ARE GONNA VIDEO TAPE AND AUDIO TAPE EVERYTHING
21 THEY DO, FORGET IT. IT AIN'T NEVER GONNA HAPPEN.

22 MR. STRICKLER: AND I AGREE.

23 THE COURT: WE CAN'T EVEN GET VIDEO CAMERAS IN
24 POLICE CARS FOR DUI'S.

25 MR. STRICKLER: AND THIS AIN'T A DUI.

1 **THE COURT:** I KNOW. I'M JUST SAYING, YOU KNOW...

2 **MR. GASSER:** OF COURSE, I REMEMBER THE ONE TIME
3 THEY VIDEO TAPED -- THE COUNTY VIDEO TAPED BECAUSE THE
4 DEFENDANTS WERE HISPANIC, I THINK IT WAS -- I DON'T KNOW
5 WHETHER IT WAS MR. STRICKLER OR NOT, IT WAS A MURDER CASE.
6 BOY, THEY JUST JUMPED IN, WE DON'T KNOW WHAT YOU SAID
7 BEFORE THEY CUT THAT VIDEO TAPE ON. WE DON'T KNOW WHAT
8 YOU SAID AFTER HE CUT THAT VIDEO TAPE OFF.

9 SO THEY'VE GOT AN ARGUMENT EVERY WAY WHICH -- EVERY
10 WAY YOU CAN.

11 **THE COURT:** WELL, EVERYBODY'S GOT A JOB TO DO.
12 I'LL THINK ABOUT IT OVERNIGHT. I WOULD SUGGEST THIS, I
13 WOULD SUGGEST THAT -- WELL, ONE THING IT'S GONNA BE ABOUT
14 TWENTY DEGREES IN THE MORNING. SO WE WANT TO RUN THEM OUT
15 THERE AT 9 OR WE WANT TO RUN THEM OUT A LITTLE BIT LATER?

16 **MR. TAYLOR:** I VOTE LATER, IF ANYBODY'S WAITING FOR
17 THE VOTES.

18 **MR. STRICKLER:** AND I VOTE THAT THE COURT NOTES
19 THAT I TAKE AN EXCEPTION TO THE DECISION TO TAKE THEM TO
20 THE SCENE. I WOULD SUBMIT THAT IT'S COMPLETELY
21 UNNECESSARY GIVEN THE MOUNTAIN OF EVIDENCE THE STATE HAS
22 INTRODUCED REGARDING THE COMPOSITION OF THE SCENE.

23 **THE COURT:** OKAY. WELL, I'LL DECIDE TONIGHT WHILE
24 I'M DOING SOMETHING ELSE. BUT WE'RE GONNA NEED TO HAVE A
25 VAN READY. WE PROBABLY OUGHT TO TAKE THEM AFTER THE STATE

1 FINISHES THEIR CASE. IT COULD BE WARMER THEN. I THINK IT
2 WOULD KIND OF BE CRUEL AND UNUSUAL TO TAKE THEM OUT THERE
3 WHEN IT'S TWENTY DEGREES.

4 MR. GASSER: THAT WOULD BE FINE. WE CAN DO IT WHEN
5 WE FINISH THE CASE AND THAT GIVES THEM TIME THAT THEY COME
6 BACK. BUT I STILL -- JUST FOR THE RECORD, I NEVER DID PUT
7 IT ON THE RECORD, THE STATE MOVES PURSUANT TO THE MOTION
8 THAT WAS FILED---

9 THE COURT: 14-7-1320. I'VE GOT YOUR MOTION.

10 MR. GASSER: ---IN THE CLERK OF COURT'S OFFICE. AND
11 THE CASE BEING THAT I -- I.D. IS CRITICAL IN THIS CASE AND
12 THERE'S NO WAY IN THE WORLD THAT THE TESTIMONY AND THE
13 EXHIBITS CAN CLEARLY SHOW THAT THIS IS BETWEEN WHERE THE
14 SHOOT -- THE BODY DROPPED, THE SIDEWALK, THE GRASS AND THE
15 PARKING LOT. NOTHING -- THERE'S NO SUBSTITUTE FOR THE
16 ACTUAL SCENE.

17 THE COURT: I AGREE WITH YOU AND I'M GONNA ALLOW
18 IT.

19 MR. TAYLOR: YOUR HONOR---

20 THE COURT: YOU HAVE TO MAKE THE ARRANGEMENTS.

21 MR. TAYLOR: NOT TO INTERRUPT YOU, I'M SORRY. BUT
22 I DON'T THINK THAT MY OBJECTION TO THAT'S ON THE RECORD
23 ---

24 THE COURT: YOU OBJECT -- YOU OBJECT TOO; RIGHT?

25 MR. TAYLOR: YES, SIR, I DO OBJECT TOO.

STATE OF SOUTH CAROLINA VERSUS
DUSHUN STATEN, 2002-GS-40-1148 AND 786;
LUCIUS STATEN, 2002-GS-40-1149 AND 783.

1 **THE COURT:** OKAY.

2 **MR. TAYLOR:** MY COMMENT A MOMENT AGO WAS NOT A
3 WAIVER OF THAT OBJECTION. IT'S JUST THAT IF YOU'RE GONNA
4 ALLOW THEM OUT, I VOTE FOR LATER INSTEAD OF EARLIER.

5 **THE COURT:** OKAY.

6 **MR. TAYLOR:** I DON'T WANT TO FREEZE EITHER.

7 **THE COURT:** NOW, HERE'S WHAT THE JURY'S VIEW
8 INVOLVES. WE'LL HAVE -- SOMEBODY WILL SWEAR -- THE PERSON
9 WHO DRIVES THEM OUT THERE WILL BE SWORN IN, SWORN NOT TO
10 TALK TO THEM. I'M GONNA TELL THE JURY THEY CAN'T TALK TO
11 EACH OTHER. THEY'RE SIMPLY GONNA BE ABLE TO GO OUT THERE
12 AND LOOK AT THE SCENE AND COME BACK. THEY CAN'T TALK
13 WHILE THEY'RE OUT THERE.

14 IT'S NOT REALLY EVIDENCE IN THE CASE. IT'S JUST
15 SOMETHING WE'RE GIVING THEM SO THEY WILL UNDERSTAND THE
16 EVIDENCE. AND THEY CAN'T ASK ANY QUESTIONS. THEY CAN'T
17 TALK WITH EACH OTHER. THEY'LL LOOK, COME BACK, SIT BACK
18 IN THE JURY BOX AND WE'LL CONTINUE ON.

19 **MR. GASSER:** CORRECT AND I'D HAVE INVESTIGATOR
20 HENLEY, NOT IN THE VAN, BUT IN A CAR, DRIVE THE VAN OUT
21 THERE SO THE COUNTY SHERIFF'S DEPARTMENT KNOWS WHICH
22 PARKING LOT WE'RE TALKING ABOUT.

23 **THE COURT:** OKAY.

24 **MR. GASSER:** SO THEY'RE NOT IN LIKE SOME OTHER
25 PARKING LOT.

STATE OF SOUTH CAROLINA VERSUS
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LUCIUS STATEN, 2002-GS-40-1149 AND 783.

1 **THE COURT:** ALL RIGHT. LET'S BE BACK AT 9:00 IN
2 THE MORNING, NOT 9:30, 9:00.

3 **MR. GASSER:** THANK YOU, YOUR HONOR.

4 **THE COURT:** SO WE CAN GET THIS CASE OUT AND Y'ALL
5 HAVE ALL Y'ALL'S WITNESSES READY SO HOPEFULLY WE CAN GET
6 THROUGH THEM ALL TOMORROW.

7 **MR. TAYLOR:** JUDGE, THEY'VE BEEN NOTIFIED SO...

8 **THE COURT:** MAYBE ARGUE AND CHARGE ON FRIDAY.

9 (COURT IS IN RECESS.)

10 **THURSDAY, FEBRUARY 28, 2002:**

11 **THE BAILIFF:** COURT COME TO ORDER. ALL RISE,
12 PLEASE.

13 **THE COURT:** THANK YOU, PLEASE BE SEATED.

14 ALL RIGHT, READY TO GO?

15 **MR. GASSER:** BEG THE COURT'S INDULGENCE ONE MOMENT,
16 PLEASE.

17 (PAUSE.)

18 **MR. GASSER:** YOUR HONOR, JUST BEFORE YOU MAKE YOUR
19 FINAL RULING, THE POINT I WAS TRYING TO MAKE WITH MR.
20 STRICKLER'S -- AND MR. STRICKLER, WHEN HE -- WHEN HE USES
21 THE PHRASE, ALL WE HAVE IS -- THAT PHRASE, ALL WE HAVE IS
22 YOUR SHORTHAND NOTES, ALL WE HAVE IS YOUR CASE NOTES AND
23 ALL WE HAVE IS YOUR MEMORY AS TO THE CONVERSATION. IT'S
24 THE STATE'S POSITION BY PHRASING IT THAT WAY, A JURY,
25 PARTICULARLY IN THIS WHEN THEY SAW A WRITTEN STATEMENT

STATE OF SOUTH CAROLINA VERSUS
DUSHUN STATEN, 2002-GS-40-1148 AND 786;
LUCIUS STATEN, 2002-GS-40-1149 AND 783.

1 FROM DUSHUN STATEN, THE JURY IS LEFT TO WONDER, WELL WHY
2 DIDN'T THEY PUT IT DOWN IN QUESTION AND ANSWER FORM WITH
3 DUSHUN (SIC) STATEN BECAUSE OF MR. STRICKLER'S
4 PHRASEOLOGY. AND OF COURSE, I'M CONCERNED ABOUT WHAT HE'S
5 GONNA SAY IN THE -- IN HIS CLOSING ARGUMENT.

6 IN STATE VERSUS DUNLAP, WHICH WAS FILED JULY 2ND,
7 2001, OPINION 3365, IN THE COURT OF APPEALS, A CASE OUT OF
8 YORK COUNTY, THE ISSUE DEALT WITH THE DEFENSE -- WHEN A
9 PARTY INTRODUCES EVIDENCE ABOUT A PARTICULAR MATTER, THE
10 OTHER PARTY IS ENTITLED TO EXPLAIN IT OR REBUT IT EVEN IF
11 THE LATTER EVIDENCE WOULD HAVE BEEN INCOMPETENT OR
12 IRRELEVANT HAD IT BEEN OFFERED INITIALLY.

13 AND THEN IT CITES STATE VERSUS STROMAN WHERE ONE
14 PARTY INTRODUCES EVIDENCE AS TO A PARTICULAR FACT OR A
15 TRANSACTION, THE OTHER PARTY IS ENTITLED TO INTRODUCE
16 EVIDENCE IN EXPLANATION OR REBUTTAL THEREOF EVEN THOUGH
17 THE LATTER EVIDENCE WOULD BE INCOMPETENT OR IRRELEVANT HAD
18 IT BEEN OFFERED INITIALLY. A PARTY CANNOT COMPLAIN OF
19 PREJUDICE FROM THE ADMISSION OF EVIDENCE IF HE OPENED THE
20 DOOR TO THIS ADMISSION.

21 AND I DON'T THINK -- I DON'T THINK IT MATTERS
22 WHETHER OR NOT -- I DON'T THINK IT MATTERS WHETHER OR NOT
23 IT'S A CONSTITUTIONAL QUESTION OR NOT. I DON'T HAVE -- I
24 DON'T -- I KNOW THERE'S A CLOSING ARGUMENT CASE YEARS AGO.
25 THE UNITED STATES SUPREME COURT WHERE, IN CLOSING

STATE OF SOUTH CAROLINA VERSUS
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LUCIUS STATEN, 2002-GS-40-1149 AND 783.

1 ARGUMENT, DEFENSE COUNSEL STOOD UP AND ARGUED HOW HIS
2 CLIENT HADN'T HAD AN OPPORTUNITY TO TELL HIS SIDE OF THE
3 STORY. AND THE JUDGE ALLOWED THE PROSECUTOR; RIGHTFULLY
4 SO, TO TELL -- TO GET UP IN HIS CLOSING ARGUMENT AND TELL
5 THE JURY THAT HE HAD AN ABSOLUTE RIGHT TO TAKE THE WITNESS
6 STAND AND HE CHOSE NOT TO. AND THE UNITED STATES SUPREME
7 COURT UPHELD THAT -- UPHELD THAT CONVICTION.

8 SO I DON'T THINK -- THERE'S NO CASE LAW THAT
9 INDICATES -- AND I THINK THEIR LOGIC BEHIND IS THAT A
10 DEFENSE ATTORNEY CAN'T -- CAN'T OPEN THE DOOR TO SOMETHING
11 THAT BENEFITS HIS CLIENT AND THE STATE NOT BE ABLE TO
12 REBUT, WHETHER IT'S A CONSTITUTIONAL ISSUE OR NOT A
13 CONSTITUTIONAL WITNESS.

14 AND ALL I'M CONCERNED ABOUT -- ALL WE WOULD LIKE TO
15 DO IS -- SO IT'S IN THE JURY'S MIND, I WOULD EVEN
16 UNDERSTAND WITH LIMITED -- IF YOU'D LIMIT ME NOT TO EVEN
17 ADDRESS IT MY CLOSING ARGUMENT. BUT I THINK THE JURY HAS
18 A RIGHT TO KNOW THAT THAT IS NOT -- YOU KNOW, THAT THIS
19 WITNESS AND THE STATE SHOULDN'T BE --SHOULDN'T BE
20 NEGATIVELY LOOKED AT WHEN THIS WITNESS DID ATTEMPT TO GET
21 A WRITTEN STATEMENT IN QUESTION AND ANSWER FORM. AND AS
22 HIS RIGHT, HE CHOSE -- THE DEFENDANT CHOSE NOT TO DO THAT
23 FORMAT.

24 I MEAN, I WOULD EVEN USE THE -- THE LANGUAGE AS
25 POSSIBLE THAT HE MADE A CHOICE NOT TO DO THAT FORMAT. THE

STATE OF SOUTH CAROLINA VERSUS
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LUCIUS STATEN, 2002-GS-40-1149 AND 783.

1 JURY ALREADY KNOWS THAT -- THAT DUSHUN STATEN CHOSE NOT TO
2 SIGN THE WAIVER FORM AND THAT WAS BROUGHT OUT THAT HE HAD
3 A RIGHT NOT TO SIGN THE WAIVER FORM.

4 AND I DON'T -- I DON'T -- I JUST -- PARTICULARLY
5 SINCE THE WAY MR. STRICKLER SO VERY COMPETENTLY CROSS
6 EXAMINED INVESTIGATOR MEAD, I JUST FEEL THAT IN SOME WAY
7 WE NEED TO -- AT LEAST BE ABLE TO ADDRESS IT IN SOME WAY.
8 I UNDERSTAND IF YOU LIMIT HOW MUCH WE CAN GET INTO IT AND
9 EVEN A LIMIT ON CLOSE. BUT I THINK THERE'S A FAIRNESS
10 ISSUE, ONCE HE PHRASES IT THE WAY HE DID, ALL WE HAVE IS,
11 ALL WE HAVE IS.

12 THE COURT: WANT TO ADD ANYTHING?

13 MR. STRICKLER: YOUR HONOR, THE ONLY THING I -- I
14 WOULD LIKE TO ADD IS, OF COURSE IS -- I'M TELLING THE
15 SOLICITOR RIGHT NOW, I'M NOT GOING TO ARGUE HE DIDN'T HAVE
16 OPPORTUNITY TO TELL HIS STORY. I WILL NOT ARGUE THAT.
17 I'LL TELL YOU THAT. I'M NOT GOING TO ARGUE THAT HE DIDN'T
18 HAVE AN OPPORTUNITY TO TELL HIS STORY.

19 I'M GOING TO ARGUE THAT HE TALKED AND WHAT WE HAVE
20 TO REFLECT WHAT HE HAD TO SAY IS WHAT THE INVESTIGATOR
21 RECORDED. THAT'S MY ARGUMENT. AND COULD WE HAVE
22 SOMETHING, YOU KNOW, AND WHAT WE DON'T HAVE IS A VIDEO
23 TAPE, IS AN AUDIO TAPE, TO REFLECT THE FACT -- THE FACTS
24 AND CIRCUMSTANCES, Demeanor OF THE PARTIES, ETCETERA,
25 ETCETERA, DURING THE COURSE OF THE TIME THAT MR. MEAD

STATE OF SOUTH CAROLINA VERSUS
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LUCIUS STATEN, 2002-GS-40-1149 AND 783.

1 RECORDED WHAT LUCIUS HAD TO SAY AT THAT TIME ABOUT THE
2 EVENTS. AND THAT'S WHAT WE DO HAVE.

3 MR. GASSER: BUT BY ARGUING THAT IT'S ASSUMED THAT
4 HE IS GETTING THE DOUBLE BENEFIT. HE'S GETTING THE DOUBLE
5 BENEFIT OF HIS CLIENT EXERCISED HIS CONSTITUTIONAL RIGHT
6 AND THEN -- AND THEN -- THAT'S THE FIRST BENEFIT WHICH HE
7 HAS A RIGHT TO DO. THEN HE'S GETTING A DOUBLE BENEFIT.
8 HE'S BENEFITING FROM THAT FACT BY ATTACKING THE STATE THAT
9 WE DON'T HAVE A WRITTEN STATEMENT. HE'S NOT SAYING THAT
10 BUT CLEARLY THAT'S THE INFERENCE, WE DON'T HAVE A WRITTEN
11 STATEMENT.

12 MR. STRICKLER: THAT'S NOT THE INFERENCE AT ALL.
13 WE DON'T HAVE VIDEO TAPES OR AUDIO TAPES. IT'S NOT GOING
14 TO BE AN INFERENCE. IT'S GOING TO BE DIRECTLY STATED.
15 THERE'S NOTHING INFERENTIAL ABOUT IT.

16 MR. GASSER: HE'S -- HE'S GETTING A DOUBLE BENEFIT.
17 THEY'RE TRYING TO PUT SOMETHING DOWN IN WRITING AND HE
18 EXERCISED HIS CONSTITUTIONAL AMENDMENT (SIC) AND NOW IT'S
19 BEING USED AGAINST THE STATE THAT ALL WE HAVE IS HIS NOTES
20 WHEN HE ATTEMPTED TO PUT IT IN WRITING. THAT'S A DOUBLE
21 BENEFIT.

22 THE COURT: ALL RIGHT, LET'S DO THIS BECAUSE I WANT
23 TO GET MOVING WITH THIS TRIAL. I'M GONNA THINK ABOUT THIS
24 THING. AND IF I DECIDE THAT MR. GASSER IS RIGHT, THEN MR.
25 GASSER CAN RECALL INVESTIGATOR MEAD IN REBUTTAL TO

1 ESTABLISH THAT I TRIED TO GET A WRITTEN STATEMENT. RIGHT
2 NOW I THINK IT VIOLATES DOYLE. BUT GIVE ME SOME TIME TO
3 RESEARCH THIS WHILE Y'ALL MOVE FORWARD.

4 ALL RIGHT, Y'ALL READY TO BRING THEM IN?

5 MR. GASSER: THE STATE'S READY.

6 MR. STRICKLER: YES, SIR.

7 THE COURT: ALL RIGHT. BRING IN THE JURY, PLEASE.

8 (JURY IN AT 9:50 A.M.)

9 THE BAILIFF: THE JURY'S PRESENT, YOUR HONOR.

10 THE COURT: GOOD MORNING, EVERYBODY.

11 THE JURY: GOOD MORNING.

12 THE COURT: MR. BROWN, LET ME TELL YOU THAT THE
13 DEFENDANTS DO NOT HAVE A SISTER NAMED JACQUELINE, SO
14 THAT'S NOT A PROBLEM.

15 (THE WITNESS RETURNS TO THE WITNESS STAND.)

16 THE COURT: ALL RIGHT, MR. GASSER.

17 MR. GASSER: THANK YOU, YOUR HONOR.

18 REDIRECT EXAMINATION BY MR. GASSER:

19 Q OFFICER MEAD, I JUST HAVE A FEW -- A FEW QUESTIONS,
20 FOLLOW-UP QUESTIONS.

21 MR. STRICKLER WAS ASKING YOU THE LOCATION OF WHERE
22 YOU CONDUCTED YOUR INTERVIEW OF LUCIUS STATEN BUT AS WELL
23 DUSHUN STATEN. BEFORE YOU ACTUALLY INTERVIEWED LUCIUS
24 STATEN, WHILE YOU WERE INTERVIEWING DUSHUN STATEN, WAS HE
25 EVER KEPT IN A CELL WITH BARS?

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LUCIUS STATEN, 2002-GS-40-1149 AND 783.

1 A NO, SIR.

2 Q OKAY. WAS HE IN A ROOM RIGHT NEXT TO YOUR OFFICE?

3 A YES, HE WAS.

4 Q SO HE WAS NEVER IN A CELL?

5 A THAT'S CORRECT.

6 Q THE PURPOSE OF THE PHOTO LINEUP AFFIDAVIT, WOULD YOU
7 AGAIN EXPLAIN THAT BRIEFLY TO THE JURY SINCE I KNOW IT WAS
8 LATE YESTERDAY AFTERNOON WHEN MR. TAYLOR WAS ASKING YOU
9 ABOUT IT AND WE WERE ALL TIRED. BUT WOULD YOU GO AHEAD
10 AND EXPLAIN THE PURPOSE IN ANY INVESTIGATION OF A PHOTO
11 LINEUP AFFIDAVIT FOR THE JURY, BRIEFLY PLEASE.

12 A THE AFFIDAVIT'S USED TO JUST DOCUMENT THAT THE
13 PERSON LOOKED AT THE LINEUP, DID IN FACT SELECT A CERTAIN
14 PHOTOGRAPH AND THIS DOCUMENT HERE IT STATES THAT THEY
15 SELECTED THAT PHOTOGRAPH IN REFERENCE TO THE CASE THAT I
16 WAS WORKING ON, A MURDER CASE AT BENEDICT COLLEGE.

17 Q WHEN MR. STRICKLER WAS ASKING YOU WHY YOU DIDN'T GO
18 TO CIRCUIT CITY AND LOOK AT SOME VIDEO TAPES, DO REMEMBER
19 THAT LINE OF QUESTIONING?

20 A YES, SIR.

21 Q AND WHAT WAS YOUR RESPONSE -- I MEAN, WHY -- DID YOU
22 NEED TO GO TO CIRCUIT CITY?

23 A NO, SIR. MR. STATEN HAD ALREADY ADMITTED THAT HE
24 WAS NOT AT CIRCUIT CITY AT THE TIME THIS OCCURRED. THAT
25 HE HAD IN FACT BEEN AT BENEDICT COLLEGE WHEN THE SHOOTING

1 OCCURRED.

2 Q AND THIS MR. McCANTS, I BELIEVE YOU INDICATED HE
3 CAME FORWARD HOW MANY MONTHS AFTER THE INCIDENT, THEIR
4 FRIEND MR. McCANTS?

5 A IT WOULD HAVE BEEN A LITTLE OVER TWO MONTHS AFTER
6 THE INCIDENT.

7 Q AND TWO MONTHS AFTER BOTH LUCIUS AND DUSHUN STATEN
8 WERE ARRESTED AND INCARCERATED ON THESE CHARGES?

9 A THAT'S CORRECT.

10 Q DID -- AS FAR AS THE CHIEF INVESTIGATING OFFICER IN
11 THIS CASE, BASED ON THE INFORMATION THAT YOU HAD RECEIVED,
12 OF COURSE THE TESTIMONY YOU'VE SEEN SITTING IN THIS
13 COURTROOM AS WELL AS THIS JURY, DID IT MATTER TO YOU AS AN
14 INVESTIGATOR WHETHER LUCIUS STATEN WAS AT CIRCUIT CITY OR
15 McDONALD'S OR K-MART OR AT THE MOVIES BEFORE HE GOT TO
16 BENEDICT COLLEGE?

17 A NO, SIR, IT DIDN'T MATTER.

18 Q NOW, WHEN YOU WERE CONDUCTING THESE INTERVIEWS,
19 INVESTIGATOR MEAD, DID YOU WRITE DOWN EVERYTHING THAT
20 DUSHUN STATEN TOLD YOU?

21 A NO, SIR.

22 Q WHEN IT CAME TO RELATIVE -- OBVIOUSLY, HE MIGHT HAVE
23 BEEN TELLING YOU ABOUT THE BACKGROUND ON SOME PEOPLE.
24 WHEN IT CAME TO RELATIVE TO THE INCIDENT IN QUESTION, TO
25 THAT -- LEADING UP TO THE INCIDENT, ANY INCIDENCES BEFORE

STATE OF SOUTH CAROLINA VERSUS
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LUCIUS STATEN, 2002-GS-40-1149 AND 783.

1 REGARDING PHILLIP LEE OR BENEDICT COLLEGE, AFTER THE FACT,
2 THE FACTS RELEVANT TO THE SITUATION AT HAND WHICH WE ARE
3 HERE FOR, DID YOU WRITE EVERYTHING DOWN?

4 A YES, SIR. THOSE ARE IN MY CASE NOTES.

5 Q IF IT APPEARED TO HELP DUSHUN STATEN, DID YOU WRITE
6 IT DOWN?

7 A YES, I DID.

8 Q IF IT APPEARED TO HURT HIM, BASED ON THE EVIDENCE
9 THAT YOU KNOW, DID YOU WRITE IT DOWN?

10 A I DID.

11 Q SAME WITH LUCIUS STATEN, IF IT APPEARED TO HELP HIM
12 ---

13 MR. STRICKLER: I OBJECT. WHAT DID YOU WRITE DOWN
14 IS NOT LEADING. THE REST IS LEADING.

15 MR. GASSER: NO, SIR, YOUR HONOR, THAT IS NOT. I'M
16 NOT LEADING -- I'M NOT LEADING THE QUESTION. I'M ASKING
17 AN OPEN-ENDED QUESTION, AN OPEN-ENDED QUESTION. IT'S NOT
18 A LEADING QUESTION. A LEADING QUESTION SUGGESTS THE
19 ANSWER.

20 THE COURT: WHAT WAS THE QUESTION?

21 MR. GASSER: WHEN LUCIUS STATEN WOULD TELL YOU
22 THINGS THAT APPEARED TO HELP YOU, DID YOU WRITE IT DOWN?

23 THE COURT: THAT QUESTION'S OKAY.

24 MR. GASSER: THANK YOU.

25 Q DID YOU WRITE IT DOWN?

STATE OF SOUTH CAROLINA VERSUS
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LUCIUS STATEN, 2002-GS-40-1149 AND 783.

1 A YES, I DID.

2 Q AND WHEN HE GAVE YOU -- PROVIDED YOU INFORMATION
3 THAT CONFORMED TO CERTAIN FACTS AND INFORMATION THAT
4 APPEARED TO NOT HELP HIM, DID YOU WRITE THAT DOWN?

5 A I DID.

6 MR. STRICKLER: I'LL OBJECT TO THAT. SAME BASIS,
7 YOUR HONOR. IN ADDITION BEING SELF-SERVING.

8 Q THE POINT I'M TRYING TO MAKE, INVESTIGATOR MEAD, DID
9 YOU PICK AND CHOOSE WHAT YOU WROTE DOWN?

10 A NO, SIR. I WROTE DOWN JUST WHAT MR. STATEN --
11 DUSHUN AND LUCIUS SAID.

12 Q DO YOU REMEMBER WHEN MR. TAYLOR SPECIFICALLY ASKED
13 YOU THIS QUESTION, YOU DIDN'T ADVISE DUSHUN STATEN OF HIS
14 CONSTITUTIONAL RIGHTS OR MIRANDA WARNINGS. DO YOU
15 REMEMBER WHEN HE ASKED YOU THAT QUESTION?

16 A YES, SIR, I DO.

17 Q AND WHAT WAS YOUR RESPONSE?

18 A THAT I DID IN FACT ADVISE HIM OF HIS RIGHTS.

19 Q YOU UNDERSTAND YOU'RE UNDER OATH?

20 A I DO, SIR.

21 Q YOU UNDERSTAND THE PENALTIES FOR PERJURY?

22 A I DO.

23 Q THE MAP, YOU INDICATED THAT YOU -- YOU NEVER SAW THE
24 MAP; IS THAT CORRECT?

25 A THAT'S CORRECT, SIR.

STATE OF SOUTH CAROLINA VERSUS
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LUCIUS STATEN, 2002-GS-40-1149 AND 783.

- 1 Q ARE YOU FAMILIAR WITH INVESTIGATOR VINSON SEATED IN
2 THE BACK THE COURTROOM?
- 3 A I AM, SIR.
- 4 Q WAS HE -- WAS HE ON THE SEARCH WARRANT---
- 5 A HE WAS.
- 6 Q ---ON JANUARY THE 23RD AT THE APARTMENT?
- 7 A YES, SIR, HE WAS.
- 8 Q ANY INFORMATION THAT HE TOLD YOU ABOUT, DID YOU
9 WRITE IN YOUR CASE NOTES?
- 10 A I DID:
- 11 Q SEVERAL WEEKS AGO DID YOU HAVE AN OPPORTUNITY TO
12 MEET WITH MR. TAYLOR AND GO OVER THE EVIDENCE AT CPD?
- 13 A I DID, SIR.
- 14 Q WAS MR. STRICKLER THERE? DID YOU EVER GO OVER THE
15 EVIDENCE WITH MR. STRICKLER?
- 16 A NO, SIR, I DID NOT.
- 17 Q DID YOU INFORM MR. TAYLOR AT THAT TIME THAT THE MAP
18 EITHER WASN'T COLLECTED OR IT HAS BEEN MISPLACED BY THE
19 COLUMBIA POLICE DEPARTMENT?
- 20 A I DID, SIR.
- 21 Q LAST COUPLE OF QUESTIONS. I BELIEVE IN RESPONSE TO
22 MR. TAYLOR YOU INDICATED THAT MAURICE SANDERS HAD FLED THE
23 STATE BEFORE HIS ARREST, AFTER HE WAS RELEASED THAT NIGHT?
- 24 A HE DID, SIR.
- 25 Q AND DO YOU KNOW FROM YOUR OWN KNOWLEDGE, WHETHER OR

STATE OF SOUTH CAROLINA VERSUS
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LUCIUS STATEN, 2002-GS-40-1149 AND 783.

1 NOT LIMEL SIMS ALSO FLED THE STATE?

2 A I HAD INFORMATION HE DID.

3 Q OKAY. YOU INDICATED THAT MO SANDERS TURNED HIMSELF
4 IN?

5 A HE DID.

6 Q DID HIS MOTHER HELP Y'ALL LOCATE HIM?

7 A SHE DID.

8 Q AND WHEN MR. TAYLOR WAS ASKING YOU ABOUT THE OTHER
9 CHARGES OF THE TWO IN CUSTODY, CO-DEFENDANTS, I SHOW YOU
10 THESE DOCUMENTS SEE AND IF IT WILL REFRESH YOUR MEMORY.

11 (PAUSE.)

12 Q SHAKEEM WILSON HAS BEEN INDICTED FOR WHAT?

13 A ACCESSORY AFTER THE FACT AND LYNCHING FIRST DEGREE.

14 Q MAURICE SANDERS HAS BEEN INDICATED FOR WHAT?

15 A ACCESSORY AFTER THE FACT AND LYNCHING FIRST DEGREE.

16 MR. GASSER: THAT'S ALL I HAVE, YOUR HONOR.

17 THE COURT: YOU CAN COME DOWN.

18 (THE WITNESS NOW LEAVES THE WITNESS STAND.)

19 THE COURT: CALL YOUR NEXT WITNESS.

20 MR. GASSER: THE STATE CALLS INVESTIGATOR MARK
21 VINSON.

22 (MARK VINSON, HAVING FIRST BEEN DULY
23 SWORN, TESTIFIED AS FOLLOWS:)

24 THE CLERK: PLEASE HAVE A SEAT. STATE YOUR FULL
25 NAME FOR THE RECORD.

- 1 MR. VINSON: MARK WILLIAM VINSON.
- 2 DIRECT EXAMINATION BY MR. GASSER:
- 3 Q INVESTIGATOR VINSON, WHERE ARE YOU EMPLOYED, SIR?
- 4 A COLUMBIA POLICE DEPARTMENT.
- 5 Q AND WHAT ARE DUTIES AND RESPONSIBILITIES AT THE
- 6 COLUMBIA POLICE DEPARTMENT?
- 7 A I'M AN INVESTIGATOR IN THE MAJOR CRIMES UNIT?
- 8 Q HOW LONG HAVE YOU BEEN WITH CPD?
- 9 A TWENTY-TWO YEARS.
- 10 Q DID YOU -- ARE YOU ON THE SAME MAJOR CRIMES TEAM AS
- 11 INVESTIGATOR PAUL MEAD?
- 12 A YES, SIR, I AM.
- 13 Q AND YOUR SUPERVISOR IS WHOM?
- 14 A SERGEANT MITCH WILKERSON.
- 15 Q DID YOU HAVE AN OCCASION TO BE PART OF THE TEAM --
- 16 THE ENTRY TEAM AT THE SEARCH WARRANT AT CROSSHILLS
- 17 APARTMENTS ON JANUARY 23RD, 2001?
- 18 A YES, SIR.
- 19 Q DID YOU ASSIST IN THE SEARCH OF THAT APARTMENT AND
- 20 THE VEHICLE OUTSIDE THE APARTMENT?
- 21 A YES, SIR, I DID.
- 22 Q PARTICULARLY THE VEHICLE, DID YOU HAVE AN
- 23 OPPORTUNITY -- LET ME SHOW YOU WHAT'S BEEN MARKED STATE'S
- 24 EXHIBIT NUMBER FORTY. DO YOU RECOGNIZE THAT VEHICLE?
- 25 A YES, SIR, THAT WAS THE WHITE DAEWOO THAT WAS PARKED

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LUCIUS STATEN, 2002-GS-40-1149 AND 783.

1 OUTSIDE OF THE APARTMENT THAT WAS ALSO SEARCHED?

2 Q AND DID YOU -- YOU INDICATED YOU PARTICIPATED IN THE
3 SEARCH OF THAT VEHICLE?

4 A YES, SIR.

5 Q DID YOU OBSERVE A MAP IN THE CAR?

6 A YES, SIR, I DID.

7 Q NOW, INVESTIGATOR VINSON, SEVERAL WEEKS -- AFTER IT
8 WAS DISCOVERED SEVERAL WEEKS AGO THAT THIS MAP WAS NOT
9 COLLECTED OR WAS MISPLACED BY THE COLUMBIA POLICE
10 DEPARTMENT, AT MY DIRECTION DID YOU GO TO A STORE HERE IN
11 COLUMBIA?

12 A YES, SIR, I DID.

13 Q WHAT FOR?

14 A TO LOCATE A SIMILAR TYPE MAP.

15 MR. GASSER: YOUR HONOR, I'D LIKE TO MARK THIS FOR
16 I.D. FOR DEMONSTRATIVE PURPOSES ONLY.

17 THE COURT: OKAY.

18 MR. STRICKLER: THIS WOULD BE OVER THE OBJECTION OF
19 THE DEFENDANT LUCIUS STATEN.

20 THE COURT: OKAY.

21 MR. TAYLOR: AND DUSHUN STATEN. I TAKE IT YOU'RE
22 MARKING FOR I.D. AT THE PRESENT MOMENT ONLY.

23 THE COURT: THAT'S ALL.

24 COURT REPORTER: STATE'S FIFTY-TWO FOR
25 IDENTIFICATION.

1 (STATE'S EXHIBIT NUMBER FIFTY-TWO, MAP OF CITY OF
2 COLUMBIA, IS NOW MARKED FOR IDENTIFICATION.)

3 Q STATE'S FIFTY-TWO FOR IDENTIFICATION, WHAT IS THAT?
4 FOR IDENTIFICATION PURPOSES, WHAT IS THAT?

5 A THIS IS A MAP OF THE CITY OF COLUMBIA AND THE
6 SURROUNDING AREA.

7 Q OKAY. AND WHEN YOU OBSERVED THE MAP IN THE WHITE
8 CAR ON JANUARY THE 23RD, HOW -- WHAT CONDITION WAS IT IN
9 AS FAR AS FOLDING -- FOLDING CONDITION?

10 A IT WAS FOLDED IN A SIMILAR CONDITION TO THIS TO A
11 CERTAIN SECTION OF THE MAP.

12 Q OKAY. AND LET ME SHOW YOU WHAT'S BEEN MARKED
13 STATE'S EXHIBIT NUMBER FORTY-TWO. DO YOU RECOGNIZE THIS
14 SECTION OF STATE'S EXHIBIT FORTY-TWO?

15 A YES, THAT SECTION UP THERE WOULD BE THE SECTION
16 WHERE THE MAP WAS FOLDED UP INTO.

17 Q THAT WAS ON JANUARY THE 23RD?

18 A YES, SIR.

19 Q NOW, INVESTIGATOR VINSON, DID YOU SEE THAT WITH YOUR
20 OWN EYES?

21 A YES, SIR.

22 Q AND AFTER SEEING THAT WITH YOUR OWN EYES, DID YOU
23 COLLECT IT?

24 A NO, SIR, I DID NOT.

25 Q WHO DID YOU PROVIDE THAT INFORMATION TO YOU?

1 A INVESTIGATOR MEAD AND THE CRIME TEAM UNIT.

2 Q DID YOU DO ANY CASE REPORT IN THIS CASE?

3 A NO, SIR, I DID NOT.

4 Q IS THAT -- IS THAT -- WHO WAS THE LEAD INVESTIGATOR?

5 A INVESTIGATOR MEAD.

6 Q DID YOU MAKE SURE HE PUT IT IN HIS CASE NOTES?

7 A YES, SIR.

8 MR. GASSER: THAT'S ALL I HAVE, YOUR HONOR.

9 THE COURT: ANY QUESTIONS, MR. STRICKLER?

10 MR. STRICKLER: YES, SIR.

11 CROSS-EXAMINATION BY MR. STRICKLER:

12 Q GOOD MORNING, MR. VINSON.

13 A GOOD MORNING.

14 Q YOU PARTICIPATED IN THE SEARCH AT ZIMALCREST ON THE

15 23RD OF JANUARY, 2001; CORRECT?

16 A YES.

17 Q OKAY. AS PART OF THAT SEARCH, DID THE WARRANT

18 AUTHORIZE A SEARCH OF THE APARTMENT ITSELF AND VEHICLES

19 ASSOCIATED WITH THE APARTMENT; RIGHT?

20 A YES, SIR.

21 Q OKAY. SO PURSUANT TO THAT WARRANT YOU SEARCHED THE

22 CAR THAT YOU TESTIFIED ABOUT?

23 A YES, SIR.

24 Q OKAY. AND YOU'VE BEEN A POLICE OFFICER FOR HOW

25 LONG, SIR?

- 1 A TWENTY-TWO YEARS.
- 2 Q TWENTY-TWO YEARS. AND YOU HAVE BEEN AN INVESTIGATOR
- 3 FOR HOW LONG?
- 4 A FOURTEEN YEARS.
- 5 Q START OUT AS A LINE OFFICER AND THEN---
- 6 A YES, SIR.
- 7 Q ---WORK YOUR WAY THERE? OKAY. AND FOR HOW LONG
- 8 HAVE YOU BEEN AN INVESTIGATOR IN THE MAJOR CRIMES?
- 9 A ALMOST ALL OF THE FOURTEEN YEARS EXCEPT FOR A FEW
- 10 MONTHS.
- 11 Q AND I ASK YOU THAT BECAUSE THERE ARE INVESTIGATORS
- 12 IN DIFFERENT UNITS OTHER THAN MAJOR CRIMES; RIGHT?
- 13 A YES, SIR.
- 14 Q YOU HAVE INVESTIGATORS ASSIGNED TO OTHER ASPECTS OF
- 15 CRIMINAL INVESTIGATION. SO THAT'S FOURTEEN YEARS IN MAJOR
- 16 CRIMES.
- 17 NOW, ON JANUARY 23RD, WHEN THE SEARCH WAS CONDUCTED,
- 18 THE GALANT HAD ALREADY BEEN SEIZED BY THE CITY OF COLUMBIA
- 19 POLICE DEPARTMENT?
- 20 A YES, SIR.
- 21 Q CORRECT?
- 22 A YES, SIR.
- 23 Q HAD BEEN TOWED; RIGHT?
- 24 A YES, SIR.
- 25 Q INDEED THERE WAS A SEARCH CONDUCTED ON THAT CAR

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1 PURSUANT TO WARRANT ALSO; CORRECT?

2 A YES, SIR.

3 Q SO AT THAT POINT IN TIME THE GALANT AND WHERE IT WAS
4 FOUND WAS KNOWN TO THE CITY OF COLUMBIA POLICE DEPARTMENT?

5 A YES, SIR.

6 Q OKAY. AND YOU LOCATED A MAP IN THE WHITE CAR WHICH
7 YOU TESTIFIED WAS FOLDED TO THE SAME AREA THE GALANT WAS
8 FOUND IN---

9 A CORRECT.

10 Q ---RIGHT? AND YOU DIDN'T ELECT TO GO AHEAD AND TAKE
11 THAT INTO CUSTODY?

12 A CORRECT.

13 Q YOU DIDN'T HAVE SOMEONE WITH IDENTIFICATION GO AHEAD
14 AND DOCUMENT THE FACT THAT THAT MAP WAS LOCATED IN THE
15 WHITE CAR BY DOING SOMETHING LIKE TAKE A PICTURE OF IT---

16 A I -- I INFORMED THEM OF IT. I DIDN'T FOLLOW-UP TO
17 SEE THAT IT WAS -- INSURE THAT IT WAS DONE.

18 Q OKAY. WAS I.D. ALONG DURING THE SEARCH?

19 A YES, SIR, TO THE BEST OF MY KNOWLEDGE.

20 Q OKAY. I MEAN THAT'S COMMON PRACTICE ISN'T IT---

21 A YES, SIR.

22 Q ---WHEN YOU'RE DOING A SEARCH OF A SCENE WHERE YOU
23 ANTICIPATE FINDING OR HOPE TO FIND EVIDENCE LINKED TO A
24 CRIME---

25 A YES, SIR.

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1 Q ---IT IS COMMON PRACTICE TO HAVE I.D. ALONG WITH YOU
2 SO THAT THEY CAN DO JUST WHAT I ASKED ABOUT, DOCUMENT THE
3 EVIDENCE IN PLACE AS IT'S FOUND?

4 A RIGHT.

5 Q CORRECT? OKAY. YOU INFORMED MR. MEAD OF IT AS YOU
6 TESTIFIED; RIGHT?

7 A YES, SIR.

8 Q NOW, THERE'S SOMETHING MARKED. I FORGOT THE I.D.
9 NUMBER OF THIS MAP YOU WENT AND GOT. IS THAT PRECISELY
10 THE SAME BRAND, SAME YEAR MAP THAT YOU OBSERVED IN THE
11 WHITE CAR? YOU CAN'T SAY, CAN YOU?

12 A I CAN'T SAY, NO, SIR.

13 Q YOU HAVE NO IDEA; RIGHT?

14 A I MEAN, IT'S A SIMILAR TYPE OF FOLDING MAP.

15 Q WHAT YOU'RE RELYING ON AS FAR AS YOUR DESCRIPTION OF
16 THE MAP AND THE WAY IT APPEARED HERE WHEN YOU SAW IT IS
17 YOUR MEMORY OF EVENTS FROM THIRTEEN MONTHS AGO; CORRECT?

18 A RIGHT AND INVESTIGATOR MEAD'S NOTES.

19 Q I'M TALKING ABOUT MEMORY AS FAR AS SEEING, THROUGH
20 MEMORY AS FAR AS PRECISELY HOW IT WAS FOLDED AND WHAT TYPE
21 OF MAP IT WAS AND LIKE THAT.

22 A RIGHT.

23 Q THAT'S ONLY REFLECTED IN YOUR MEMORY FROM THIRTEEN
24 MONTHS AGO?

25 A YES, SIR.

1 MR. STRICKLER: THANK YOU VERY MUCH, SIR.

2 MR. TAYLOR: NO QUESTIONS.

3 THE COURT: ALL RIGHT. CALL YOUR NEXT WITNESS.

4 (THE WITNESS NOW LEAVES THE WITNESS STAND.)

5 MR. HOOD: INVESTIGATOR JIM POTASH.

6 (JAMES ALEXANDER POTASH, HAVING FIRST
7 BEEN DULY SWORN, TESTIFIED AS FOLLOWS:)

8 THE CLERK: PLEASE HAVE A SEAT HERE, SIR AND STATE
9 YOUR FULL NAME FOR THE RECORD.

10 MR. POTASH: JAMES ALEXANDER POTASH.

11 DIRECT EXAMINATION BY MR. HOOD:

12 Q GOOD MORNING, INVESTIGATOR.

13 A GOOD MORNING.

14 Q PLEASE TELL THE JURY WHERE YOU'RE CURRENTLY
15 EMPLOYED.

16 A FOR THE COLUMBIA POLICE DEPARTMENT.

17 Q AND WHAT ARE YOUR CURRENT DUTIES AND
18 RESPONSIBILITIES AT THE COLUMBIA POLICE DEPARTMENT?

19 A I'M A CRIME SCENE INVESTIGATOR.

20 Q AND HOW LONG HAVE YOU WORKED AT THE COLUMBIA POLICE
21 DEPARTMENT?

22 A TWENTY-TWO YEARS.

23 Q ARE YOU FAMILIAR WITH WHAT'S KNOWN AS A GUNSHOT
24 RESIDUE KIT?

25 A YES, I AM.

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LUCIUS STATEN, 2002-GS-40-1149 AND 783.

1 Q AND CAN YOU TELL THE JURY THE PURPOSE OF A GUNSHOT
2 RESIDUE KIT?

3 A A GUNSHOT RESIDUE KIT IS A SPECIFIC KIT THAT
4 COLLECTS METALS, GUNPOWDER RESIDUES AND ANY OTHER TRACE
5 METALS THAT WOULD COME FROM SOMEBODY FIRING A WEAPON OF
6 ANY SORT, GUNPOWDERS.

7 Q NOW, BACK IN JANUARY OF 2001, DID YOU HAVE A CHANCE
8 TO GET INVOLVED IN A CASE INVOLVING A SHOOTING AT BENEDICT
9 COLLEGE?

10 A YES, I DID.

11 Q AND HOW DID YOU BECOME INVOLVED IN THAT CASE?

12 A I WAS REQUESTED TO THE RICHLAND MEMORIAL HOSPITAL
13 MORGUE. AT THAT TIME I WAS INVOLVED IN THE CASE IN THE
14 REQUEST FOR GUNSHOT RESIDUE TEST AND FOR PHOTOGRAPHS.

15 Q AND DID YOU AT THAT TIME TAKE A GUNSHOT RESIDUE TEST
16 ON THE VICTIM OF THIS CASE, PHILLIP LEE?

17 A YES, I DID.

18 Q WHEN YOU WERE IN THE MORGUE AREA, WERE THE VICTIM'S
19 HANDS BAGGED?

20 A YES. I WOULD NOT PERFORM A TEST ON SOMEONE WHO WAS
21 DECEASED OR EVEN SOMEONE WHO WAS TRANSPORTED TO THE
22 HOSPITAL WITHOUT BAGS ON THEIR HANDS.

23 Q AND WHAT'S THE PURPOSE OF HAVING BAGS ON THE HAND,
24 INVESTIGATOR?

25 A THAT'S TO KEEP AWAY ANY POSSIBILITIES OF TRANSFER OF

1 OTHER METALS OR ANYTHING ELSE. IT JUST BASICALLY KEEPS
2 THE HANDS CLEAN.

3 Q LET ME SHOW YOU WHAT'S BEEN MARKED AS STATE'S
4 EXHIBIT FORTY-FIVE FOR I.D. DO YOU RECOGNIZE THIS?

5 A YES, I DO.

6 Q AND WHAT DO YOU RECOGNIZE THIS TO BE?

7 A THIS IS THE -- FIRST OF ALL, IT'S THE OUTSIDE
8 COVERING OF A TAMPER-PROOF BAG THAT I HAVE PUT ALL THE
9 INFORMATION THAT I HAD ABOUT THE CASE ON THE FACE OF THE
10 BAG.

11 Q AND IS YOUR NAME ACTUALLY ON THAT BAG?

12 A YES, IT IS.

13 Q AS THE PERSON WHO PERFORMED THE GUNSHOT RESIDUE KIT?

14 A IT SHOWS IT AS RECOVERED BY IN THAT LINE THERE.

15 Q AND AT -- AT THE TIME AFTER THIS WAS TAKEN, THE
16 GUNSHOT RESIDUE KIT, CAN EXPLAIN TO THE JURY ACTUALLY WHAT
17 YOU PHYSICALLY DO TO THE HANDS OF A PERSON WHEN YOU'RE
18 DOING -- PERFORMING A GUNSHOT RESIDUE KIT?

19 A IN ANY KIND OF TEST LIKE THAT, THE FIRST THING THAT
20 YOU WOULD DO IS PUT ON GLOVES MAKING SURE THAT I'M NOT
21 GOING TO TRANSFER ANYTHING WITHIN THE TEST ITSELF. IT
22 COMES WITH A SMALL LITTLE VILE OF A LIQUID AND COTTON
23 SWABS. AND THEN LITTLE STICKY -- BASICALLY IT'S STICKY
24 TAPE THAT'S PLACED ON A NICE LITTLE ROUND HANDLE PART.
25 YOU JUST PICK UP THE TRACE METALS AND GUN POWDERS FROM

1 THERE. SO THERE'S TWO DIFFERENT TYPE OF TESTS. ONE IS
2 A LIQUID TEST THAT PICKS UP TRACE METALS AND OTHER
3 EVIDENCE LIKE THAT AND THEN THE OTHER ONE IS THE STICKY
4 PART FOR HEAVIER METALS.

5 Q CAN YOU SHOW THE JURY EXACTLY WHERE, USING YOUR OWN
6 HAND -- IF YOU NEED TO STAND UP, THAT'S FINE, HOW YOU OR
7 WHERE YOU SWABBED THE HANDS OF PHILLIP LEE.

8 A FIRST OF ALL YOU SWAB THE HAND AREA. YOU DO -- IF
9 SOMEONE HAS HANDLED A FIREARM, BASICALLY A REVOLVER OR A
10 PISTOL, YOU'RE GOING TO DO TWO SEPARATE TYPE OF TESTS.

11 THE FIRST TEST IS GOING TO BE, ONE IT'S GONNA BE THE
12 OUTSIDE. SO IF A FIREARM IS FIRED, GUNPOWDER RESIDUES AND
13 METALS WOULD COME BACK ON THE OUTSIDE OF THE HAND ITSELF.
14 IN HOLDING A WEAPON LIKE THIS, IF YOU CAN IMAGINE HAVING A
15 GUN STICKING OUT OF THE HAND, SO YOU WOULD HAVE TRACE
16 METALS ON THIS SIDE. SO YOU WOULD DO ONE TEST ON THAT.

17 THEN THE SECOND PART IS THE INSIDE HAND ITSELF. SO
18 THERE ARE TWO SEPARATE TESTS ON EACH HAND THAT ARE DONE TO
19 DIFFERENTIATE TRACE METALS OR POWDERS OR ANYTHING LIKE
20 THAT THAT WOULD COME FROM THE INSIDE AND OUTSIDE OF THE
21 HAND.

22 Q AND DID YOU PERFORM THE TEST ON BOTH OF PHILLIP
23 LEE'S HANDS?

24 A YES.

25 Q AND DID YOU PLACE THE SWABS, AS YOU REFERRED TO THEM

1 EARLIER, INSIDE THIS CONTAINER?

2 A YES, I DID.

3 Q AND WAS THIS CONTAINER SEALED AT THAT TIME?

4 A WHAT I DO IS I SEAL THE CONTAINERS NOT AS A
5 NECESSITY BUT SOMETHING THAT I PRACTICE. I BAG IT IN A
6 TAMPER PROOF BAG TO KEEP ANY QUESTIONS OUT IF ANYTHING'S
7 BEEN TAMPERED WITH FROM THE TEST ITSELF.

8 Q AND WHEN YOU FINISHED WITH THIS KIT, WAS IT THEN
9 SIGNED AND SEALED?

10 A I SEAL IT AND ALL THE PAPERWORK IS PLACED INSIDE.

11 Q AND AT THAT TIME DID YOU HAVE THE OPPORTUNITY TO
12 TURN THIS KIT OVER TO SOMEONE?

13 A IT GOES TO OUR PROPERTY ROOM.

14 Q IN THIS CASE, DID YOU ACTUALLY TURN THIS KIT OVER TO
15 INVESTIGATOR KARL KENLEY WITH THE BENEDICT COLLEGE POLICE
16 DEPARTMENT?

17 A YES.

18 Q AND WHEN YOU TURNED IT OVER TO INVESTIGATOR KENLEY,
19 WAS THE KIT SEALED AND IN THE SAME CONDITION AS WHEN YOU
20 TOOK THE TEST?

21 A YES.

22 MR. HOOD: NOTHING FURTHER, YOUR HONOR.

23 THE COURT: ALL RIGHT, MR. STRICKLER.

24 MR. STRICKLER: BEG THE COURT'S INDULGENCE ONE
25 MOMENT.

1 (PAUSE.)

2 MR. STRICKLER: I HAVE NO QUESTIONS, YOUR HONOR.

3 THE COURT: ALL RIGHT, MR. TAYLOR?

4 MR. TAYLOR: NO QUESTIONS.

5 THE COURT: ALL RIGHT. YOU CAN COME DOWN.

6 (THE WITNESS NOW LEAVES THE WITNESS STAND.)

7 THE COURT: CALL YOU NEXT WITNESS.

8 MR. GASSER: THE STATE CALLS AGENT JOE POWELL.

9 (JOSEPH D. POWELL, HAVING FIRST BEEN

10 DULY SWORN, TESTIFIED AS FOLLOWS:)

11 (PAUSE.)

12 MR. STRICKLER: YOUR HONOR, MAY WE APPROACH?

13 (A BENCH CONFERENCE IS HAD AT THIS TIME IN THE
14 PRESENCE OF THE JURY AND THE COURT REPORTER, BUT OUT OF
15 THE HEARING OF THE JURY AND THE COURT REPORTER.)

16 MR. STRICKLER: THANK YOU, YOUR HONOR. IF IT
17 PLEASE THE COURT, I WOULD JUST LIKE THE RECORD REFLECT
18 THAT I OBJECT TO THIS TESTIMONY BASED ON THE CHAIN OF
19 EVIDENCE.

20 THE COURT: ALL RIGHT.

21 MR. TAYLOR: SAME OBJECTION, YOUR HONOR.

22 THE COURT: ALL RIGHT. OBJECTION OVERRULED.

23 MR. POWELL: MY NAME IS JOSEPH D. POWELL, P-O-W-E-
24 L-L.

25 DIRECT EXAMINATION BY MR. GASSER:

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LUCIUS STATEN, 2002-GS-40-1149 AND 783.

1 Q AGENT POWELL, WHERE ARE YOU EMPLOYED, SIR?

2 A I'M EMPLOYED AT THE SOUTH CAROLINA LAW ENFORCEMENT
3 DIVISION COMMONLY KNOWN AS SLED.

4 Q AND WHAT DO YOU DO AT SLED?

5 A I AM A SUPERVISOR OF THE TRACE EVIDENCE SECTION
6 WHERE I AM RESPONSIBLE FOR THE TRAINING AND ALSO
7 MANAGERIAL ASPECTS OF TRACE EVIDENCE, ALONG WITH ANALYSIS
8 OF VARIOUS TYPES OF EVIDENCE WHICH IS SENT INTO OUR
9 LABORATORY.

10 THIS ANALYSIS WOULD INCLUDE HAIRS, FIBERS, PAINTS,
11 EXPLOSIVES, GUNSHOT RESIDUE, GUNPOWDER RESIDUE AND OTHER
12 TYPES OF MISCELLANEOUS TESTS WHICH MAY NOT HAVE A SPECIFIC
13 FORENSIC TITLE SUCH AS PLASTICS, WOODS AND THINGS LIKE
14 THAT.

15 Q WHAT'S YOUR CURRENT RANK AT SLED?

16 A I'M CURRENTLY RANKED A LIEUTENANT.

17 Q AND WHO IS THE SUPERVISOR OVER THE TRACE LABORATORY?

18 A I AM.

19 Q OKAY. HOW LONG HAVE YOU BEEN THE SUPERVISOR OVER
20 THE TRACE LAB?

21 A SIX YEARS.

22 Q WOULD YOU BRIEFLY STATE FOR US, PLEASE, YOUR
23 EDUCATIONAL BACKGROUND AFTER HIGH SCHOOL?

24 A YES. I RECEIVED MY BACHELOR OF SCIENCE OF DEGREE IN
25 CHEMISTRY FROM THE UNIVERSITY OF SOUTHERN MISSISSIPPI. I

1 ALSO DURING THAT PERIOD OF TIME ATTAINED A MINOR IN
2 MATHEMATICS AS WELL AS IN COMPUTER SCIENCE.

3 AFTER LEAVING THE UNIVERSITY OF SOUTHERN
4 MISSISSIPPI, I WENT -- I CAME TO SOUTH CAROLINA AND BECAME
5 EMPLOYED AT SLED.

6 INITIALLY I WENT THROUGH AN IN-HOUSE TRAINING
7 PROGRAM IN THE AREAS OF BOTH DRUG ANALYSIS AS WELL AS
8 TRACE EVIDENCE. OVER THE PAST TWENTY YEARS, I HAVE
9 ATTENDED NUMEROUS SCHOOLS AROUND THE COUNTRY SPECIALIZING
10 IN SPECIFIC ASPECTS OF TRACE SUCH AS INSTRUMENTATION,
11 CERTAIN TYPES OF ANALYSIS, THINGS ALONG THOSE LINES.

12 AS WELL AS THAT, I'VE ATTENDED AND BEEN ASKED TO BE
13 GUEST LECTURER AT VARIOUS TYPES OF SYMPOSIUMS TO DISCUSS
14 THE RAMIFICATIONS OF ISSUES INVOLVING TRACE EVIDENCE.

15 Q IN ALL OF YOUR YEARS AS A TRACE EVIDENCE EXAMINER,
16 COULD YOU ESTIMATE THE NUMBER OF GUNSHOT RESIDUE --
17 GUNSHOT RESIDUE KITS YOU HAD THE OPPORTUNITY TO PERFORM
18 ANALYSIS OF?

19 A I HAVE PERFORMED OVER THE LAST TWENTY YEARS
20 THOUSANDS UPON THOUSANDS OF TESTS. ORIGINALLY WHEN I
21 BECAME AT SLED THE TEST WAS NOT REALLY BEING IMPL -- USED
22 AND SO I WAS ACTUALLY ASKED TO IMPLEMENT THIS AT SLED TO
23 DO THE RESEARCH AND DEVELOPMENT. AND SO I'VE BEEN
24 INVOLVED WITH IT SINCE THE BEGINNING TWENTY YEARS AGO.

25 Q HAVE YOU BEEN QUALIFIED IN THE COURTS IN SOUTH

1 CAROLINA AS AN EXPERT IN THE AREA OF TRACE EVIDENCE
2 INCLUDING GUNSHOT RESIDUE ANALYSIS?

3 A YES, SIR, I HAVE.

4 Q APPROXIMATELY HOW MANY TIMES?

5 A I'VE BEEN QUALIFIED IN COURT OVERALL OVER SIX
6 HUNDRED TIMES. SPECIFICALLY IN THE AREA OF GUNSHOT
7 RESIDUE, APPROXIMATELY TWO HUNDRED AND SEVENTY TIMES.

8 MR. GASSER: YOUR HONOR, WE WOULD MOVE TO QUALIFY
9 HIM AS AN EXPERT IN THE AREA OF TRACE EVIDENCE,
10 PARTICULARLY THE AREA OF GUNSHOT RESIDUE ANALYSIS.

11 THE COURT: ANY VOIR DIRE?

12 MR. STRICKLER: I HAVE NO VOIR DIRE FOR LIEUTENANT
13 POWELL.

14 MR. TAYLOR: NONE.

15 THE COURT: ALL RIGHT. WE'LL QUALIFY HIM AS AN
16 EXPERT IN THE FIELD OF GUNSHOT RESIDUE.

17 MR. GASSER: THANK YOU, YOUR HONOR.

18 Q I SHOW YOU WHAT'S BEEN MARKED STATE'S EXHIBIT NUMBER
19 THIRTY-NINE AND STATE'S EXHIBIT NUMBER FORTY-FIVE. DO YOU
20 RECOGNIZE THOSE ITEMS?

21 A YES, SIR. STATE'S EXHIBIT THIRTY-NINE IS A
22 CARDBOARD BOX WHICH BEARS MY INITIALS ON THE COVER.
23 STATE'S EXHIBIT FORTY-FIVE IS ALSO A PLASTIC CONTAINER
24 WHICH BEARS MY INITIALS.

25 BOTH THESE KITS ARE WHAT'S CALLED GUNSHOT RESIDUE

1 KITS. THESE ARE THE KITS WHICH ARE USED OR APPLIED TO A
2 PERSON'S HANDS TO SEE IF THEY HAVE BEEN AROUND A WEAPON OR
3 HAVE FIRED A WEAPON.

4 Q NOW, WHEN DID -- WHEN DID SLED RECEIVE THESE KITS?

5 A THESE KITS WERE ORIGINALLY SUBMITTED TO THE
6 LABORATORY ON JANUARY THE 9TH OF THIS YEAR.

7 Q WHAT IS SLED'S POLICY AS FAR AS RECEIVING GUNSHOT
8 RESIDUE KITS AS FAR AS THE IDEA OF SEALED CONTAINERS? DO
9 YOU KNOW WHAT I'M TALKING ABOUT?

10 A YES, SIR. OUR POLICY, AND IT'S ALSO THE ONE THAT I
11 STRICTLY ADHERE TO, IS THAT WHEN I RECEIVE A PIECE OF
12 EVIDENCE THE VERY FIRST THING I LOOK FOR IS TO SEE IF THE
13 EVIDENCE TAPE, WHICH IN THIS CASE IS RED, IS INTACT,
14 MEANING IT HAS NOT BEEN DAMAGED OR DESTROYED.

15 IF I HAVE A CASE WHERE IT HAS BEEN DAMAGED OR
16 OPENED, I WILL STOP IMMEDIATELY AND WILL GO NO FURTHER
17 UNTIL WE DETERMINE WHAT'S GOING ON, WHAT HAPPENED. IF WE
18 FIND THERE'S SOME TAMPERING, WE'LL DO AN ISSUE STATEMENT
19 AS TO THE FACT IT'S BEEN TAMPERED WITH AND NO ANALYSIS
20 WILL BE PERFORMED.

21 Q NOW THESE TWO KITS THAT YOU RECEIVED FROM -- ONE
22 LABELED THE GUNSHOT RESIDUE KIT FROM MAURICE SANDERS, THE
23 OTHER THE GUNSHOT RESIDUE KIT FROM PHILLIP LEE, JUNIOR,
24 WHEN YOU RECEIVED THEM, WOULD YOU PLEASE TELL THE JURY
25 WHAT CONDITION THEY WERE IN FROM A SEALED PERSPECTIVE?

1 A THEY WERE SEALED. THEY WERE IN PROPER CONDITION.
2 THERE WAS NO EVIDENCE OF ANY KIND OF TAMPERING OR
3 ALTERATION OF ANY TYPE.

4 Q AND WERE THEY IN FACT LABELED MAURICE SANDERS AND
5 PHILLIP LEE, JUNIOR?

6 A YES, SIR, THEY WERE.

7 Q NOW, TELL US THEN, ONCE YOU RECEIVED THE KITS, THE
8 TWO KITS THAT YOU'VE JUST IDENTIFIED, WOULD YOU EXPLAIN
9 FOR THE JURY HOW YOU GO ABOUT CONDUCTING YOUR ANALYSIS IN
10 THE LABORATORY ON A GUNSHOT RESIDUE KIT?

11 A YES, SIR. THE FIRST THING AFTER CHECKING THE KITS
12 TO SEE IF THEY'RE IN GOOD SHAPE, NOT BEEN TAMPERED WITH,
13 WE'LL OPEN THEM UP AND THEN DO AN INVENTORY INSIDE TO SEE
14 IF WE HAVE ALL THE COMPONENTS. WHAT WE'RE LOOKING FOR ARE
15 SAMPLINGS FROM THE RIGHT PALM, RIGHT BACK, LEFT PALM AND
16 LEFT BACK. THESE ARE THE FOUR MAJOR AREAS OF THE HAND.

17 ONCE OPENING UP THE KIT AND FINDING THESE MATERIALS,
18 WE WILL THEN RUN SEVERAL TYPES OF ANALYSIS ON THE SAMPLES
19 INSIDE. THERE ARE TWO TYPES OF SAMPLING MECHANISMS IN
20 THIS KIT. ONE IS CALLED A LIFT. IT'S A PIECE OF ALUMINUM
21 WHICH HAS GOT A FLAT SURFACE ON IT AND A STICKY ADHESIVE
22 SORT OF LIKE REGULAR SCOTCH TAPE. THE PURPOSE OF IT IS TO
23 ACTUALLY APPLY IT TO THE SURFACE OF THE SKIN PICKING UP
24 ANY DEBRIS OR MATERIALS THAT MAY BE FOUND ON THE SURFACE
25 OF THE SKIN.

1 WE THEN FOLLOW-UP WITH A SECOND TEST WHICH IS A SET
2 OF COTTON SWABS WHICH WE WET WITH A DILUTED ACID SOLUTION
3 AND ACTUALLY MOP UP ANY RESIDUAL OR REMAINING MATERIAL
4 THAT'S FOUND ON THE HANDS.

5 WE FOLLOW THIS PROCEDURE FOR EACH AREA OF THE HANDS.
6 WE RAN ANALYSIS OF THE SAMPLES SUBMITTED AND ONCE WE HAD
7 RAN THE ANALYSIS, WE LOOKED AT THE RESULTS, RENDERED A
8 CONCLUSION AND ISSUED A REPORT.

9 Q WHAT INSTRUMENTS DO YOU USE?

10 A WE HAVE SEVERAL INSTRUMENTS THAT WE USE IN THIS
11 CASE. ONE INSTRUMENT ALLOWS US TO BE ABLE TO LOOK AT ALL
12 THE VARIOUS TYPES OF INORGANIC MATERIALS THAT CAN BE
13 FOUND. THE NAME OF IT OR ACRONYM IS I.C.P.M.S. THE NAME
14 IS INDUCTIVELY COUPLED PLASMA MASS SPECTROMETER. IT
15 ALLOWS US TO BE ABLE TO LOOK AT EVERYTHING THAT CAN BE
16 FOUND ON THE HANDS.

17 THE SECOND INSTRUMENT IS AN ELECTRON MICROSCOPE
18 WHICH LETS US ACTUALLY LOOK FOR THE ACTUAL PARTICLES. IF
19 WE CAN FIND A SMOKE PARTICLE, AND EVERY TIME YOU DISCHARGE
20 A WEAPON THERE ARE BILLIONS AND BILLIONS OF THESE
21 PARTICLES PRODUCED, WE JUST NEED TO FIND TWO SMOKE
22 PARTICLES WHICH ARE ROUND AND HAVE THE RIGHT CHEMICAL
23 MAKEUP TO SAY THAT SOMEONE HAS BEEN AROUND OR FIRED A
24 WEAPON.

25 Q AND DID YOU USE THOSE TWO INSTRUMENTS YOU JUST

1 DESCRIBED TO THE JURY IN BOTH THESE KIT EXAMINATIONS?

2 A YES, SIR, I DID.

3 Q ALL RIGHT. FOR EXPLANATION PURPOSES, WHEN A -- FOR
4 OUR PURPOSE, A REVOLVER -- LET'S START OFF WITH A SEMI --
5 OR EITHER A SEMI-AUTOMATIC OR A REVOLVER, WHEN A GUN IS
6 FIRED, OTHER THAN THE BULLET OBVIOUSLY COMING OUT THE
7 BARREL OF THE GUN, FOR YOUR PURPOSE AND YOUR ANALYSIS,
8 WOULD YOU EXPLAIN TO THE JURY WHAT ELSE IS COMING OUT OF
9 THE BARREL OF THE GUN?

10 A YES, SIR. WHEN A WEAPON IS DISCHARGED, THE HAMMER
11 WILL STRIKE THE BACK OF THE BULLET AND WILL CAUSE THE
12 MATERIAL WHICH IS LINING THE BACK OF THE BULLET, IT'S
13 CALLED THE GUN PRIMER -- IT'S A VERY SHOCK SENSITIVE
14 MATERIAL AND IS INITIATED BASICALLY BY THE IMPACT OF THE
15 HAMMER. ONCE IT BEGINS TO BURN, IT IN TURN BEGINS TO
16 START THE GUNPOWDER TO BURN. THESE TWO MATERIALS IN
17 COMBINATION WILL CREATE ENOUGH PRESSURE TO FORCE A BULLET
18 DOWN THE BARREL. AS IT -- ONCE A BULLET LEAVES THE
19 BARREL, THERE WILL ALSO THEN BECOME THE RESIDUE OF THIS
20 BURNING PROCESS WILL COME OUT OF THIS WEAPON AND WILL COME
21 OUT SUCH AS A -- THE MATERIAL WILL STOP ALMOST IMMEDIATELY
22 ONCE IT STRIKES THE AIR. IT FORMS A CLOUD. THIS CLOUD
23 WILL ENVELOP AROUND THE WEAPON AND THE PERSON HOLDING THE
24 WEAPON.

25 NOW THERE ARE SEVERAL WAYS TO GET THIS MATERIAL ON

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1 YOU. IF YOU FIRE A WEAPON, IF YOU COME AROUND, IF YOU'RE
2 IN FRONT OF THE WEAPON, IT CAN -- YOU CAN GET THIS
3 MATERIAL ON YOU JUST BY BEING IN FRONT OF THE WEAPON. SO
4 THERE ARE SEVERAL MECHANISMS WHICH CAN BE FOUND TO HAVE
5 THIS MATERIAL DEPOSITED ON YOU.

6 YOU MAY ALSO PICK THIS UP IF YOU PICK UP A WEAPON,
7 IF IT'S DIRTY AND ALREADY HAD BEEN PREVIOUSLY FIRED, YOU
8 CAN PICK IT UP AND GET IT IN THE PALMS OF YOUR HANDS.

9 Q SO, HYPOTHETICALLY SPEAKING, AT TIMES IN YOUR JOB AS
10 A TRACE ANALYST, HAVE YOU SEEN CASES WHERE SAY A VICTIM OF
11 A HOMICIDE'S -- IN THE DEFENSIVE POSTURE, HANDS CAME UP
12 CLOSE TO THE END OF A BARREL OF A GUN, COULD THERE LIKELY
13 BE RESIDUE ON THE PALMS OF A CRIME VICTIM'S HANDS IF THEIR
14 HANDS ARE CLOSE TO THE BARREL OF A GUN WHEN IT'S FIRED?

15 A ABSOLUTELY. IF YOU PUT YOUR HANDS WITHIN A FEW FEET
16 OF THE FRONT OF A WEAPON, YOU WILL GET MATERIAL. AND THE
17 CLOSER YOU ARE TO THAT WEAPON, THE MORE MATERIAL WILL BE
18 DEPOSITED, TO THE POINT WHERE YOU CAN SEE IT VISUALLY WITH
19 THE NAKED EYE. IT'S A BLACK SOOTY MATERIAL THAT YOU WILL
20 SEE ON THE HANDS.

21 Q NOW, ALSO HYPOTHETICALLY SPEAKING, IF ONE WERE TO
22 PICK UP A GUN AND IN THIS CASE HYPO -- IN THIS
23 HYPOTHETICAL, SAY IT'S A REVOLVER AND I'LL GET YOU TO
24 EXPLAIN WHY THAT'S -- WHY THAT MAY BE IMPORTANT. YOU PICK
25 UP A REVOLVER AND YOU FIRE THE GUN. IS THE GAS THAT YOU

1 DESCRIBED TO THE JURY AND THE PARTICLES ONLY COMING OUT OF
2 THE BARREL OF THE GUN OR WHERE ELSE MIGHT THEY COME OUT OF
3 WHEN YOU'RE USING A REVOLVER?

4 A IN THE CASE OF A REVOLVER, THERE ARE THREE PRINCIPAL
5 AREAS WHERE YOU CAN HAVE MATERIALS COME OUT. THE MAJORITY
6 OF IT, NINETY, NINETY-FIVE PERCENT, WILL COME OUT THE END
7 OF THE BARREL. BUT YOU WILL ALSO HAVE A CERTAIN AMOUNT
8 WILL COME OUT WHAT IS CALLED THE CYLINDER GAP. ON A
9 REVOLVER, BETWEEN THE BARREL AND THE CYLINDER, THERE'S A
10 SMALL GAP. YOU'D HAVE TO HAVE THIS GAP SO THE CYLINDER
11 CAN ACTUALLY REVOLVE WHEN YOU PULL THE TRIGGER.

12 WHEN YOU SHOT A WEAPON, THERE IS MATERIAL WHICH ARE
13 FORCED OUT THIS GAP AND SO IT WILL COME OUT THE SIDE.
14 THERE IS ALSO A VERY SMALL AMOUNT THAT CAN ESCAPE AROUND
15 THE TRIGGER ITSELF. THE TRIGGER ITSELF IS A SPRING
16 MECHANISM AND THERE ARE CERTAIN GAPS AND THIS MATERIAL CAN
17 BE FORCED OUT.

18 SO THERE'S THREE AREAS PRIMARILY YOU CAN GET FROM A
19 REVOLVER.

20 Q THE LAST HYPOTHETICAL BEFORE I GET TO YOUR RESULTS,
21 IF ONE WERE TO FIRE A GUN AND -- FIRE A GUN AND SIT IT
22 DOWN ON A TABLE OR FIRE A GUN AND HAND IT TO SOMEBODY, AND
23 THE HANDING -- THE PERSON GRABS THE GUN AND HANDLES THE
24 GUN FOR A PERIOD OF TIME, EVEN THOUGH THAT PERSON DIDN'T
25 FIRE THE GUN, IF A GUNSHOT RESIDUE TEST IS CONDUCTED,

1 COULD YOU FIND GUNSHOT POWDER OR RESIDUE ON THAT PERSON'S
2 HANDS EVEN THOUGH THEY DIDN'T FIRE THE GUN?

3 A ABSOLUTELY. THE MATERIAL WILL COAT ANY OBJECT WHICH
4 IT IS NEAR. IF YOU PICK IT UP LATER, THEN YOUR HANDS WILL
5 NOW BECOME CONTAMINATED. THINK OF IT MUCH LIKE FLOUR. IF
6 YOU HAVE FLOUR DISPERSED, YOU PICK UP SOMETHING WITH FLOUR
7 ON IT, IMMEDIATELY THAT FLOUR IS ON YOUR HANDS. THIS
8 MATERIAL ACTS JUST THE SAME WAY.

9 Q NOW, WILL YOU PLEASE TELL US THE RESULTS, FIRST OF
10 ALL OF YOUR ANALYSIS YOU PERFORMED ON THE GUNSHOT RESIDUE
11 KIT OF MAURICE SANDERS?

12 A YES, SIR. THE ITEM THAT WAS SUBMITTED WAS ONE
13 GUNSHOT RESIDUE KIT FROM LABORUS (PHONETICALLY) MAURICE
14 SANDERS. WE FOUND NO GUNSHOT RESIDUE ON ANY OF THE FOUR
15 AREAS OF HIS HANDS.

16 Q AS A RESULT OF THE GUNSHOT RESIDUE KIT ON PHILLIP
17 LEE, JUNIOR?

18 A THE SAME RESULTS. NO GUNSHOT RESIDUE WAS FOUND ON
19 ANY OF THE AREAS SAMPLED.

20 Q CAN YOU EXPLAIN AS AN EXPERT IN THE AREA OF TRACE
21 ANALYSIS WHAT THAT TELLS YOU?

22 A WHAT THAT TELLS ME, EXCLUDING EXTENUATING
23 CIRCUMSTANCES, IS THEY HAVE NOT EITHER FIRED A WEAPON OR
24 BEEN AROUND A WEAPON. NOW, I SAY EXTENUATING
25 CIRCUMSTANCES FROM THE POINT OF VIEW IF SOMEONE WASHING

1 THEIR HANDS, THIS MATERIAL CAN BE REMOVED. AND SO THE
2 RESULTS FOR SOMEONE WASHING THEIR HAND AS WELL AS NEVER
3 FIRING A WEAPON WOULD BE THE SAME. BUT ABSENT OF THAT
4 FACT, THERE'S NO INDICATION THEY FIRED A WEAPON OR BEEN
5 AROUND A FIRED WEAPON.

6 MR. GASSER: THAT'S ALL WE HAVE FOR THIS WITNESS,
7 YOUR HONOR. THANK YOU, AGENT.

8 THE COURT: ALL RIGHT, MR. STRICKLER.

9 MR. STRICKLER: JUST A COUPLE OF THINGS, BRIEFLY.

10 CROSS-EXAMINATION BY MR. STRICKLER:

11 Q GOOD MORNING, MR. POWELL.

12 A GOOD MORNING, SIR.

13 Q HOW ARE YOU DOING?

14 A JUST FINE, SIR.

15 Q JUST A COUPLE OF THINGS. MY UNDERSTANDING IS THAT
16 IN DOING THESE TESTS YOU WERE LOOKING FOR THE PRESENCE OF
17 CERTAIN MATERIALS THAT ARE ASSOCIATED WITH THE DISCHARGE
18 OF A FIREARM; IS THAT CORRECT?

19 A YES, SIR, THAT IS CORRECT.

20 Q AND IN PARTICULAR, PARTICULARLY YOU'RE LOOKING FOR
21 THE PRESENCE OF WHAT?

22 A THERE ARE THREE PRINCIPAL ELEMENTS THAT WE'RE
23 LOOKING FOR, BARIUM, ANTIMONY AND LEAD. THESE ARE THE
24 THREE PRINCIPAL ELEMENTS. THERE ARE OTHER ELEMENTS THAT
25 WE ALSO LOOK FOR WHICH WE'LL FIND IN SOME CASES. BUT

1 THOSE THREE ARE THE ONES THAT WE FIND IN ALMOST ALL CASES.

2 Q BARIUM AND LEAD I - WHAT IS AN TOMONY?

3 A AN TOMONY IS AN ELEMENT WHICH IS USED IN BASICALLY
4 TWO DIFFERENT AREAS. ONE IS IN THE AREA OF A FIRE
5 RETARDANT. IF YOU HAVE A LEATHER JACKET AND THEY HAVE
6 ACTUALLY APPLIED SOME TYPE OF MATERIAL TO KEEP IT FROM
7 BURNING, IT'S AN AN TOMONY MATERIAL, AN TOMONY SOLUTION THAT
8 THEY APPLY TO THE JACKET.

9 THE OTHER IS THAT IF YOU TAKE THE AN TOMONY AND YOU
10 MIX IT TOGETHER WITH ONE OTHER MATERIAL WHICH IS JUST AN
11 OXIDE, IT WILL SIT DOWN HERE AND BECOME EXPLOSIVE. AND
12 THIS IS WHAT THEY USE IN BULLETS. SO YOU USE IT AS PART
13 OF THE MATERIAL TO BE ABLE TO START THE EXPLOSION INSIDE
14 OF A BULLET.

15 Q OKAY. NOW, DO THESE MATERIALS ALSO OCCUR NATURALLY?

16 A YES, SIR, THEY DO.

17 Q OKAY. AND IN ARRIVING AT A CONCLUSION -- LET ME ASK
18 YOU THIS. DO YOU HAVE A THRESHOLD LIMIT THAT YOU NEED TO
19 FIND FOR THESE MATERIALS IN ORDER TO GO AHEAD AND SAY,
20 YES, THIS IS ASSOCIATED WITH THE FIRING OF A GUN?

21 A YES, SIR. WE ACTUALLY HAVE TWO THRESHOLDS.

22 Q OKAY. WHAT WOULD THOSE BE?

23 A THE FIRST THRESHOLD IS WHERE WE ACTUALLY TAKE A
24 CONTROL FROM SOME AREA AWAY FROM THE HANDS TO SEE IF THIS
25 PERSON UNDER NORMAL ACTIVITY HAS BECOME EXPOSED TO THESE

1 MATERIALS. IN THE WORLD OF BARIUM, ANTIMONY AND LEAD,
2 BARIUM IS THE MOST COMMON MATERIAL. YOU CAN FIND IT IN
3 MANY DIFFERENT TYPES OF COMMERCIAL PRODUCTS. LEAD IS
4 BECOMING VERY RARE. IT HAS ACTUALLY BEEN OUTLAWED FOR USE
5 FOR MOST APPLICATIONS. SO IT IS UNUSUAL TO FIND LEAD AND
6 ANTIMONY IS THE RAREST. IT IS VERY RARE TO BE ABLE TO
7 FIND.

8 WHAT WE'RE LOOKING FOR IS TO SEE WHAT WE NORMALLY
9 FIND ON THE PERSON'S BODY. AND WE SUBTRACT THOSE VALUES
10 OUT OF OUR ANALYSIS, THEY ARE SUBTRACTED OUT. WE THEN
11 HAVE SET A LEVEL OR THRESHOLD OF A CERTAIN AMOUNT OF THESE
12 MATERIALS THAT WE MUST HAVE TO CONSIDER IT TO BE
13 CONSISTENT WITH GUNSHOT RESIDUE.

14 IF WE DO MEET THAT THRESHOLD, WE THEN HAVE ANOTHER
15 TEST THAT WE CAN DO TO LOOK FOR PARTICLES, ACTUAL PHYSICAL
16 PARTICLES TO GIVE US CONFIRMATION THAT THIS IS GUNSHOT
17 RESIDUE.

18 Q THAT SECOND TEST, THAT WOULD BE ONE YOU USE THE
19 ELECTRONIC MICROSCOPE---

20 A THAT IS ABSOLUTELY CORRECT. WE ARE ACTUALLY LOOKING
21 FOR THE INDIVIDUAL SMOKE PARTICLES.

22 Q OKAY. IF I -- IF I UNDERSTOOD YOU CORRECTLY, FIRST
23 YOU ESTABLISH WHAT WOULD BE A NORMAL LEVEL IN AN AREA AWAY
24 FROM THE HANDS WHEREVER YOU'RE TESTING JUST FROM CASUAL
25 ASSOCIATION THAT THAT PERSON MIGHT HAVE PICKED UP?

1 A YES, SIR, THAT IS CORRECT. SOME PLACE WHICH WOULD
2 BE NOT EXPOSED BUT SOMETHING UNDERNEATH THE CLOTHES. FOR
3 EXAMPLE, WE LIKE TO -- BEHIND THE CALF AREA OR MAYBE
4 SOMEPLACE AWAY FROM THE HANDS, SOMEPLACE ON THE BODY AWAY
5 FROM THE HANDS.

6 Q BUT MY UNDERSTANDING IS THEN THAT YOU WOULD DO THAT,
7 YOU WOULD ESTABLISH THAT THRESHOLD RIGHT THERE ON AN
8 INDIVIDUAL BASIS BECAUSE DIFFERENT PEOPLE HAVE, IN THEIR
9 LIFE, JUST THEIR ORDINARY EXPERIENCES, NATURAL CONTACT
10 WITH DIFFERENT VARYING AMOUNTS OF THESE THREE ELEMENTS; IS
11 THAT CORRECT?

12 A YES, SIR, THAT IS CORRECT.

13 Q SO MY UNDERSTANDING IS, OF COURSE, THAT WHAT YOU HAD
14 TO TEST IN THIS CASE WAS JUST WHAT YOU TESTIFIED TO, THE
15 TEST SAMPLES TAKEN FROM THE VARIOUS PARTS ON THE HANDS OF
16 THESE INDIVIDUALS; CORRECT?

17 A YES, WE HAD -- IN ONE KIT WE ACTUALLY HAVE BOTH THE
18 -- WELL I MENTIONED ABOUT THE CONTROL SAMPLE TAKEN. IN
19 THE OTHER ONE WE ONLY HAD THE LIFTS. THE OTHER -- THE
20 FIRST PART OF THE KIT WAS NOT PERFORMED SO IT WAS ONLY
21 JUST THE LIFT -- THE SMOKE PARTICLES ONLY.

22 Q OKAY. AND WHICH HAD JUST THE CONTROL AND WHICH --
23 OR WHICH HAD THE CONTROL?

24 A THE VICTIM KIT THAT WAS PERFORMED ONLY HAD THE TEST
25 FOR THE SMOKE.

1 Q OKAY.

2 A THE SUSPECT KIT WAS -- HAD BOTH SWABS AS WELL AS THE
3 SMOKE OR THE LIFTS.

4 Q OKAY. SO THE SUSPECT KIT, THAT WOULD BE THE KIT ON
5 MR. SANDERS?

6 A YES, SIR, THAT IS CORRECT.

7 Q OKAY. THAT HAD SOMETHING TAKEN FROM SOME OTHER PART
8 OF THIS BODY OTHER THAN THE HANDS?

9 A YES, SIR. THAT WOULD HAVE HAD A SAMPLE TAKEN FROM
10 -- THERE WAS A CONTROL SAMPLE TAKEN -- I CAN'T TELL YOU
11 WHERE IT'S TAKEN FROM BUT IT THERE WAS AS CONTROL TAKEN.

12 Q LABELED CONTROL SAMPLE?

13 A YES, SIR.

14 Q AND YOU INDICATED THERE WAS NO GUNSHOT RESIDUE IN
15 ANY OF THE FOUR AREAS AS FAR AS EITHER OF THESE
16 INDIVIDUALS ARE CONCERNED. DOES THAT STATEMENT MEAN THAT
17 NONE -- NEITHER OF THESE INDIVIDUALS SHOWED THE PRESENCE
18 OF BARIUM, LEAD OR ANTIMONY AT ALL?

19 A NO, SIR, NOW I CANNOT SAY THAT.

20 Q I DIDN'T THINK SO.

21 A I CAN SAY THAT THERE WERE NO PARTICLES THAT WERE
22 FOUND WHICH WERE CONSISTENT -- OR WHICH WOULD BE GUNSHOT
23 RESIDUE. WE TOOK IT TO THE ULTIMATE FINGERPRINT TEST
24 WHICH IS ELECTRO MICROSCOPE FOR BOTH KITS.

25 Q OKAY.

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1 A I DID NOT FIND ANY SMOKE PARTICLES WHATSOEVER.

2 Q OKAY.

3 A I DID FIND IN THE ONE THAT HAD SWABS, THERE WERE
4 SOME -- THERE WERE SOME MATERIALS THERE BUT IT WAS NOT
5 FROM GUNSHOT RESIDUE.

6 Q OKAY. I'VE JUST GOT YOUR RAW DATA HERE AND I'M
7 TRYING TO MAKE SURE OF THAT.

8 A YES, SIR.

9 MR. STRICKLER: THANK YOU VERY MUCH, LIEUTENANT.

10 THE COURT: ANY QUESTIONS, MR. TAYLOR?

11 MR. TAYLOR: YES, JUST A COUPLE.

12 CROSS-EXAMINATION BY MR. TAYLOR:

13 Q IS IT LIEUTENANT POWELL?

14 A YES, SIR.

15 Q GOOD MORNING.

16 A GOOD MORNING, SIR.

17 Q YOU SAID THAT IF A PERSON WASHES HIS OR HER HANDS
18 AFTER FIRING A WEAPON, THAT THE USE OF THESE G.S.R. KITS
19 THAT YOU HAVE IN FRONT OF YOU, YOU'RE LIKELY NOT TO DETECT
20 IF THEY FIRED A WEAPON EVEN THOUGH THEY HAD BEFORE THEY
21 WASHED THEIR HANDS; CORRECT?

22 A YES, SIR, THAT IS CORRECT. THIS MATERIAL IS
23 SOMEWHAT FRAGILE AND CAN BE EASILY REMOVED BY WASHING THE
24 HANDS OR BEING ALIVE, WITHIN SIX HOURS IT WILL NORMALLY
25 DISSIPATE FROM THE BODY. THE BODY WILL WASH IT AWAY FROM

1 NORMAL ACTIVITY.

2 Q ALL RIGHT. AND IF -- IF A PERSON IS WEARING A
3 GLOVE, FOR EXAMPLE, AND YOU TAKE A TEST, THEY MAY HAVE
4 FIRED A WEAPON AND YOU STILL NOT BE ABLE TO DETECT IT WITH
5 THESE KITS; IS THAT CORRECT?

6 A ON THE BARE SKIN, THAT IS CORRECT. WE CAN HOWEVER
7 RUN THE GLOVES AND SEE IF WE COULD FIND THE RESIDUE ON THE
8 GLOVES---

9 Q THAT'S IF YOU FIND THE GLOVES?

10 A WELL, YES, SIR, THAT IS CORRECT.

11 Q RIGHT.

12 A THE PROBLEM WITH MATERIALS OF CLOTHING THOUGH, IS
13 THAT UNLIKE THE HANDS WHICH WE HAVE A WINDOW OF SIX HOURS
14 FOR A LIVING PERSON, ON CLOTHING THE MATERIAL CAN BE THERE
15 FOR WEEKS AND MONTHS DEPENDING UPON WHAT THAT PERSON HAS
16 DONE.

17 IF I FIRE A WEAPON AND I TAKE THE GLOVES AND I SET
18 IT ASIDE AND I DON'T WASH THEM OR DO ANYTHING WITH IT, THE
19 MATERIAL WILL REMAIN THERE FOR A LONG PERIOD OF TIME.

20 Q WELL SUPPOSE THE PISTOL IS WRAPPED, THE PISTOL GRIP
21 IS WRAPPED WITH A CLOTH OF SOME TYPE. IS IT POSSIBLE THAT
22 A PERSON USING THAT TECHNIQUE WOULD ALSO SHOW UP NEGATIVE
23 ACCORDING TO YOUR TEST FOR HAVING FIRED A WEAPON?

24 A IF HIS HANDS ARE WRAPPED AROUND THE HANDS, WHATEVER
25 THE OUTSIDE MATERIAL WOULD BE GETTING THE RESIDUE. IF THE

1 GUN ITSELF IS WRAPPED AND JUST HOLDING IT, YOU'D STILL GET
2 RESIDUE ON YOUR HANDS.

3 Q BUT IF THE GUN IS WRAPPED WITH A BANDANA OR
4 SOMETHING LIKE THAT---

5 A YES, SIR.

6 Q ---AND SOMEBODY FIRES IT, THEN YOU COULD STILL GET A
7 NEGATIVE?

8 A IF THEIR HANDS ARE NOT WRAPPED. IF I UNDERSTAND
9 YOUR QUESTION CORRECTLY, YOU'RE SAYING THE GUN ITSELF IS
10 WRAPPED---

11 Q CORRECT.

12 A ---AND THEY'RE HOLDING ON THE OUTSIDE OF THAT
13 WEAPON. IT WOULD NOT AFFECT THE TEST AT ALL. STILL WHEN
14 THE RESIDUE COMES OUT THE WEAPON IT WILL STILL GET ON YOUR
15 HANDS.

16 IF, HOWEVER, YOU TOOK THE BANDANA AND YOU WRAPPED
17 YOUR HAND WITH IT AND THEN HELD ONTO TO THE WEAPON, THEN
18 THAT WOULD PREVENT MATERIAL FROM GETTING ON YOUR HANDS AND
19 SO THUS THAT WOULD GIVE YOU NEGATIVE.

20 Q OKAY. AND OF COURSE IF A PERSON PERSPIRES A LOT AND
21 WIPES THEIR HANDS ON THEIR CLOTHING OR OTHER ARTICLES,
22 THEY COULD REMOVE WHAT YOU'RE LOOKING FOR, IS THAT
23 POSSIBLE?

24 A YES, SIR. THIS MATERIAL, AS I SAID, WAS VERY
25 FRAGILE AND ACTIVITIES WILL REMOVE IT. IF YOU WIPE YOUR

1 HANDS DOWN WITH A DRY CLOTH, YOU ARE REMOVING IT. IF YOU
2 WIPE YOUR HANDS DOWN AS IF YOU WERE WASHING THEM, THEN IT
3 WILL REMOVE IT ALSO.

4 Q I WANT TO SHOW YOU WHAT'S BEEN MARKED AS THE STATE'S
5 NUMBER THIRTY-SIX WHICH IS A PHOTOGRAPH OF MR. SANDERS.
6 DO YOU SEE THE SHIRT HE HAS ON THERE?

7 A YES, SIR. YOU'VE HANDED ME A -- LOOKS LIKE A SMALL
8 PHOTOGRAPH ATTACHED TO A COPY OF THE PHOTOGRAPH LABELED
9 STATE'S EXHIBIT THIRTY-SIX. IT DEPICTS A BLACK MALE WITH
10 A -- LOOKS LIKE A SWEATSHIRT AND I'M HAVING TROUBLE
11 READING WHAT -- IT'S GOT A YELLOW WRITING ON THE FRONT OF
12 IT.

13 Q OKAY. LET ME -- THE REASON THAT I -- I WANT TO ASK
14 YOU THIS, A PERSON, IF THEY ARE WEARING A LONG SLEEVE
15 GARMENT WHEN THEY FIRE A WEAPON, CAN THE GARMENT BE
16 INSPECTED TO DETERMINE WHETHER OR NOT THAT PERSON HAS
17 FIRED A WEAPON?

18 A YES, SIR, IT CAN. AGAIN, CLOTHING AND GARMENTS LIKE
19 THAT CAN BE ANALYZED TO SEE IF THERE'S RESIDUE THERE.
20 HOWEVER, IT DOES OPEN A MUCH WIDER WINDOW. AGAIN, WHEN
21 THE LAST TIME THAT GARMENT WAS WASHED, YOU KNOW, ANYTIME
22 SOMEONE HAS SHOT IN THAT PERIOD OF TIME, COULD HAVE LEFT
23 MATERIALS ON THOSE CLOTHING, SO IT'S MUCH MORE DIFFICULT
24 TO ASSOCIATE IT WITH A SPECIFIC CRIME SCENE.

25 Q BUT IF IT'S DONE SAY WITHIN TWO AND HALF TO THREE

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1 HOURS, YOU WOULD EXPECT TO FIND SOME ON THE SLEEVE AREA,
2 WOULD YOU NOT?

3 A YES, SIR, YOU WOULD FIND IT ON THE SLEEVE AREA
4 SEVERAL DAYS AFTER IF IT'S NOT WASHED. I MEAN, IT CAN --
5 IT CAN BE RETAINED FOR AS LONG AS THAT GARMENT IS NOT
6 WASHED OR SOMETHING DONE TO IT.

7 Q AND YOU WERE NOT SENT A GUNPOWDER RESIDUE TEST THAT
8 WAS DONE ON ANY GARMENT?

9 A NO, SIR, THERE WAS NO KIT. THE ONLY TWO KITS I
10 RECEIVED WAS FROM THE ONES I PREVIOUSLY STATED.

11 Q OKAY. NOW, YOU SAID A CONTROL SAMPLE WAS TAKEN.
12 HOW DO YOU KNOW THAT?

13 A IT WAS IN THE KIT AND IT WAS LISTED AS CONTROL. AND
14 SO---

15 Q BUT YOU DON'T KNOW WHAT IT WAS?

16 A IT WAS LISTED AS CONTROL AND WE TAKE IT AS A CONTROL
17 VALUE.

18 Q BUT I MEAN YOU DON'T KNOW FROM WHAT PART OF THE BODY
19 IT WAS TAKEN?

20 A NO, SIR, I HAVE -- UNLESS IT IS SPECIFICALLY TOLD ON
21 THERE, I HAVE NO WAY OF KNOWING WHERE -- WHAT AREA OF THE
22 BODY IT COMES FROM.

23 Q ALL RIGHT, SIR. AND THE ELEMENTS THAT YOU WERE
24 LOOKING FOR WERE IN SOME QUANTITY PRESENT IN THE TEST THAT
25 YOU GOT ON MR. SANDERS?

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1 A THEY WERE AS FAR AS NON-SMOKE PARTICLES. HOWEVER,
2 THE PARTICLES WE'RE LOOKING FOR, THERE WERE NONE OF THE
3 ONES THAT WE NEED TO FIND TO SAY THAT SOMEONE HAS FIRED A
4 WEAPON OR BEEN AROUND A WEAPON.

5 Q THANK YOU VERY MUCH, LIEUTENANT POWELL.

6 A THANK YOU, SIR.

7 THE COURT: ANY REDIRECT?

8 MR. GASSER: NO, SIR.

9 THE COURT: ALL RIGHT, YOU CAN COME DOWN.

10 MR. POWELL: THANK YOU, SIR.

11 (THE WITNESS NOW LEAVES THE WITNESS STAND.)

12 MR. GASSER: BEG THE COURT'S INDULGENCE.

13 (PAUSE.)

14 MR. GASSER: YOUR HONOR, PURSUANT TO A MOTION THAT
15 I HAD FILED, OTHER THAN THE STATE'S REQUEST PURSUANT TO
16 14-7-1320 AND THE STATE VERSUS SPINKS TO ALLOW THE JURY TO
17 VIEW THE CRIME SCENE, OTHER THAN THAT THE STATE RESTS.

18 THE COURT: ALL RIGHT, SIR.

19 (PAUSE.)

20 THE COURT: ALL RIGHT. DO WE HAVE THE TWO DEPUTIES
21 HERE WHO ARE GONNA TRANSPORT THE JURORS? CAN WE GET THEM
22 IN HERE? ARE YOU GOING TOO?

23 DEPUTY: YES, SIR.

24 THE COURT: OKAY. LADIES AND GENTLEMEN OF THE
25 JURY, HERE'S WHAT WE GONNA DO. WE'RE GONNA HAVE ONE OF

1 THE DEPUTIES HERE PUT YOU IN A VAN DOWNSTAIRS AND DRIVE
2 YOU OUT TO THE SCENE OF THE CRIME. IT'S WHAT WE CALL A
3 JURY VIEW.

4 NOW WHILE YOU'RE IN THIS VAN AND WHILE YOU ARE AT
5 THE SCENE OF THE CRIME, YOU ARE NOT ALLOWED TO TALK TO
6 EACH OTHER. THAT WOULD BE DELIBERATING ON THE CASE. YOU
7 CAN'T DELIBERATE OR TALK ABOUT THIS CASE UNTIL THE CASE IS
8 OVER AND WE SEND YOU TO THE JURY ROOM.

9 WE SIMPLY WANT YOU TO GO OUT AND VIEW THE SCENE,
10 MAKE YOUR OWN MENTAL IMPRESSIONS OF WHAT YOU SEE. WE
11 THINK THAT MIGHT BE HELPFUL TO YOU IN INTERPRETING THE
12 EVIDENCE LATER WHEN YOU GO TO YOUR JURY ROOM FOR
13 DELIBERATIONS. OKAY.

14 SO THE DEPUTIES ARE NOT GONNA TALK TO YOU. YOU
15 SHOULDN'T TALK TO YOURSELVES. WHEN YOU GET OUT THERE NOW,
16 I UNDERSTAND INVESTIGATOR KENLEY IS GONNA LEAD THE WAY.
17 WHEN YOU GET OUT THERE YOU CAN GET OUT OF THE VAN AND LOOK
18 AROUND THE AREA OR YOU CAN STAY ON THE VAN, WHATEVER YOU
19 WANT TO DO.

20 BUT WHEN EVERYBODY'S SATISFIED THAT THEY'VE SEEN
21 WHAT THEY NEED TO SEE, WE'LL GET BACK ON THE VAN, WE'LL
22 BRING YOU BACK DOWN HERE AND THEN WE'LL PUT UP THE DEFENSE
23 CASE. OKAY.

24 SO NO TALKING. YOU'LL HAVE PLENTY OF TIME TO TALK
25 LATER ON. JUST MAKE YOUR OWN MENTAL IMPRESSIONS OF WHAT

1 YOU SEE.

2 ANY OBJECTION TO ANYTHING I SAID?

3 MR. STRICKLER: NO OBJECTION TO YOUR COMMENTS.

4 THE COURT: OKAY. ALL RIGHT. MR. TRUITT, DO WE
5 HAVE AN OATH TO ADMINISTER TO...

6 THE CLERK: YES, SIR.

7 THE COURT: ALL RIGHT, IF YOU'LL COME ON DOWN
8 DEPUTIES, WE'RE GONNA ADMINISTER AN OATH TO YOU. AND
9 LADIES AND GENTLEMEN OF THE JURY, WHY DON'T YOU GO TO YOUR
10 JURY ROOM AND AS SOON AS WE GET EVERYTHING STRAIGHT, WE'LL
11 COME IN AND GET YOU AND...

12 (JURY RETIRES TO VIEW THE CRIME SCENE AT 10:41 A.M.)

13 THE COURT: ALL RIGHT. YOU CAN SWEAR BOTH OF THEM
14 IN.

15 THE CLERK: RAISE YOUR RIGHT HAND.

16 DEPUTIES: (COMPLIED.)

17 THE CLERK: DO YOU AND EACH OF YOU SOLEMNLY SWEAR
18 THAT YOU WILL TAKE CHARGE OF THIS JURY WHILE THEY ARE
19 ABSENT FROM THIS COURT; YOU WILL NOT SPEAK TO THEM
20 REGARDING THIS MATTER NOR WILL YOU ALLOW ANYONE TO SPEAK
21 TO THEM REGARDING THIS MATTER, ALL THIS YOU SHALL
22 UNDERTAKE, SO HELP YOU GOD?

23 DEPUTIES: I DO.

24 THE COURT: ALL RIGHT. HOPE IT'S NOT TOO COLD OUT
25 THERE. MR. STRICKLER, I'VE FOUND A CASE WHICH I THINK

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1 MIGHT BE HELPFUL ON THIS. IT'S A U.S. SUPREME COURT CASE.
2 I'M GONNA ASK THE SOLICITOR'S OFFICE TO HAVE ONE OF THEIR
3 PARALEGALS GO MAKE US THREE COPIES OF IT.

4 (A BENCH CONFERENCE IS HAD AT THIS TIME IN THE
5 PRESENCE OF THE COURT REPORTER, BUT OUT OF THE HEARING OF
6 THE COURT REPORTER.)

7 (THE COURT IS IN RECESS.)

8 THE COURT: MR. STEWART, COULD YOU LOOK OUT IN THE
9 HALL AND SEE IF MR. STRICKLER AND MR. TAYLOR ARE OUT THERE
10 AND TELL THEM THE JURY IS BACK, PLEASE, SIR, THANK YOU?

11 (PAUSE.)

12 THE COURT: ALL RIGHT. WHY DON'T BOTH DEFENDANTS
13 STAND AND LET ME ADVISE YOU OF YOUR CONSTITUTIONAL RIGHTS.

14 I'M SURE YOUR LAWYERS HAVE DONE THIS BUT UNDER THE
15 CONSTITUTION YOU HAVE A RIGHT TO TESTIFY IN YOUR OWN CASE.
16 YOU ALSO HAVE A RIGHT NOT TO TESTIFY IN YOUR CASE. THE
17 DECISION WHETHER YOU TESTIFY OR NOT IS TOTALLY UP TO YOU,
18 AFTER YOU CONSULT WITH YOUR LAWYERS AND YOUR FAMILY
19 MEMBERS. I CAN'T TELL YOU WHAT TO DO.

20 BUT IF YOU DECIDE NOT TO TESTIFY, I WILL TELL THE
21 JURY THAT THEY CANNOT HOLD THAT AGAINST YOU BECAUSE YOU
22 ARE EXERCISING YOUR CONSTITUTIONAL RIGHT AGAINST SELF-
23 INCRIMINATION. SO TALK IT OVER WITH YOUR LAWYER, DECIDE
24 WHAT YOU'RE GONNA DO AND THE DECISION WILL BE UP TO YOU.

25 THANK YOU. IS EVERYBODY READY TO BRING THE JURY IN?

STATE OF SOUTH CAROLINA VERSUS
DUSHUN STATEN, 2002-GS-40-1148 AND 786;
LUCIUS STATEN, 2002-GS-40-1149 AND 783.

1 MR. STRICKLER: THE DEFENSE IS READY, YOUR HONOR.

2 THE COURT: ALL RIGHT. BRING THE JURY IN, PLEASE,
3 SIR.

4 (JURY IN AT 11:35 A.M.)

5 THE BAILIFF: THE JURY'S PRESENT, YOUR HONOR.

6 THE COURT: I HOPE IT WASN'T TOO COLD OUT THERE.
7 ALL RIGHT, MR. STRICKLER.

8 MR. STRICKLER: THANK YOU, YOUR HONOR. MAY IT
9 PLEASE THE COURT. THE DEFENSE CALLS BRANDON McCANTS.

10 THE COURT: I TELL YOU WHAT I'M GONNA DO. I'M
11 GONNA MARK ON THE MOTIONS HEARD THAT WE DIDN'T MAKE JUST
12 THEN AND THEN WE'LL HEAR THEM AT THE FIRST BREAK. IS THAT
13 AGREEABLE TO EVERYBODY?

14 MR. GASSER: IT'S AGREEABLE, JUDGE.

15 MR. STRICKLER: YES, SIR, THANK YOU.

16 (BRANDON DELAINE McCANTS, HAVING FIRST
17 BEEN DULY SWORN, TESTIFIED AS FOLLOWS:)

18 THE CLERK: PLEASE HAVE A SEAT THERE, SIR AND STATE
19 YOUR FULL NAME FOR THE RECORD.

20 MR. McCANTS: BRANDON DELAINE McCANTS.

21 DIRECT EXAMINATION BY MR. STRICKLER:

22 Q GOOD MORNING, MR. McCANTS.

23 A GOOD MORNING.

24 Q MAY I CALL YOU BRANDON?

25 A YES.

1 Q YOU'LL NEED TO SPEAK UP.

2 A OKAY.

3 Q OKAY. HOW OLD ARE YOU, BRANDON?

4 A TWENTY-FIVE.

5 Q TWENTY-FIVE. WHERE WERE YOU BORN?

6 A NEW YORK, NEW YORK.

7 Q OKAY. AND HOW LONG DID YOU LIVE IN NEW YORK FOR?

8 A ALL MY LIFE.

9 Q ALL YOUR LIFE? HAVE YOU HAD ANY CONTACT WITH

10 COLUMBIA, SOUTH CAROLINA?

11 A YES, I HAVE.

12 Q OKAY. WE'LL DO THAT IN JUST A MINUTE. HOW FAR HAVE

13 YOU GONE IN SCHOOL?

14 A THREE YEARS AT BENEDICT COLLEGE.

15 Q OKAY. AND ARE CURRENTLY EMPLOYED?

16 A YES, I AM.

17 Q AND FOR WHOM DO YOU WORK?

18 A CIRCUIT CITY.

19 Q AND THAT'S IN NEW YORK?

20 A NEW YORK, MANHATTAN.

21 Q IS THAT THE ONLY PLACE YOU'VE BEEN EMPLOYED WITH

22 CIRCUIT CITY?

23 A YES.

24 Q IN NEW YORK?

25 A IN NEW YORK, YES.

STATE OF SOUTH CAROLINA VERSUS
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LUCIUS STATEN, 2002-GS-40-1149 AND 783.

1 Q HAVE YOU ALSO BEEN EMPLOYED AT CIRCUIT CITY IN OTHER
2 LOCATIONS?

3 A YES, TWO NOTCH ROAD, COLUMBIA, SOUTH CAROLINA.

4 Q WILL YOU SPEAK UP JUST A LITTLE BIT? YOU MIGHT WANT
5 TO PULL THE MICROPHONE A LITTLE CLOSER TO YOU. OKAY?

6 BORN AND RAISED IN NEW YORK?

7 A YES.

8 Q OKAY. AT SOME POINT IN TIME EVIDENTLY YOU CAME TO
9 SOUTH CAROLINA AND ATTENDED BENEDICT?

10 A YES.

11 Q WHEN WAS THAT?

12 A 1994.

13 Q OKAY. AND HOW LONG DID YOU ATTEND BENEDICT FOR?

14 A '94 THROUGH '96.

15 Q OKAY. AFTER 1996, DID YOU REMAIN IN COLUMBIA OR DID
16 YOU RETURN TO NEW YORK?

17 A I REMAINED IN COLUMBIA.

18 Q OKAY. AND LET ME ASK YOU THIS, WHERE DO YOU RESIDE
19 NOW?

20 A NEW YORK, NEW YORK.

21 Q NEW YORK. AND WHEN DID YOU RETURN TO NEW YORK?

22 A JANUARY, 2002.

23 Q THIS YEAR?

24 A YES.

25 Q OKAY. AND HOW IS IT THAT YOU ARE BACK IN COLUMBIA,

1 SOUTH CAROLINA TESTIFYING IN THIS CASE? WHAT DOCUMENT---

2 A I WAS SUBPOENAED BY THE STATE OF NEW YORK.

3 Q OKAY. DID YOU HAVE TO ATTEND A HEARING---

4 A YES.

5 Q ---AT COURT IN NEW YORK?

6 A YES.

7 Q AND AT THAT HEARING THE COURT IN NEW YORK ENFORCED

8 THE SUBPOENA ISSUED IN SOUTH CAROLINA?

9 A YES.

10 Q SO THEY TOLD YOU YOU HAVE TO COME TO SOUTH CAROLINA?

11 A YES.

12 Q IN DECEMBER -- JANUARY -- OR IN DECEMBER OF 2000,

13 JANUARY OF 2001, WHAT TOWN DID YOU LIVE IN? WHAT CITY DID

14 YOU LIVE IN?

15 A COLUMBIA, SOUTH CAROLINA.

16 Q WHERE WERE YOU LIVING AT THAT POINT IN TIME?

17 A COVENANT ROAD, FOREST HILLS APARTMENTS.

18 Q I'M SORRY?

19 A FOREST HILLS APARTMENTS.

20 Q FOREST HILLS APARTMENTS. OKAY. WERE YOU LIVING

21 WITH ANYONE ELSE AT THAT POINT IN TIME?

22 A NO.

23 Q YOU WERE NOT ENROLLED AT BENEDICT?

24 A NO, I WASN'T.

25 Q DID YOU HAVE ANY CONTACT WITH BENEDICT, PHYSICALLY,

STATE OF SOUTH CAROLINA VERSUS
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LUCIUS STATEN, 2002-GS-40-1149 AND 783.

1 THE BENEDICT CAMPUS?

2 A YES.

3 Q WHAT WAS THE NATURE OF THAT CONTACT?

4 A JUST GOING TO HANG OUT ON CAMPUS.

5 Q HAVE YOU EVER HAD OCCASION TO MEET LUCIUS STATEN
6 AND/OR DUSHUN STATEN?

7 A YES.

8 Q CAN YOU TELL US, TO THE BEST OF YOUR MEMORY, WHEN
9 YOU FIRST MET THESE GENTLEMEN?

10 A THE FIRST WEEK OF JANUARY, 2001.

11 Q WAS THAT THE FIRST WEEK OF JANUARY, 2001?

12 A YES.

13 Q OKAY. WHERE DID YOU MEET THEM?

14 A ON CAMPUS, IN FRONT OF HASKILL DORM.

15 Q NOW WAS SCHOOL IN SESSION AT THAT POINT?

16 A YES, IT WAS, ACTUALLY.

17 Q YOU THINK IT WAS?

18 A YES.

19 Q OKAY. DO YOU REMEMBER JANUARY THE 15TH, 2001, THE
20 EVENING MR. LEE WAS KILLED?

21 A YES.

22 Q OKAY. NOW, DID YOU HAVE OCCASION -- BETWEEN THE
23 TIME WHEN YOU FIRST MET LUCIUS STATEN AND DUSHUN STATEN
24 AND THE EVENING WHEN MR. LEE WAS KILLED, DID YOU HAVE
25 OCCASION TO SEE THEM ON THE BENEDICT CAMPUS---

STATE OF SOUTH CAROLINA VERSUS
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LUCIUS STATEN, 2002-GS-40-1149 AND 783.

- 1 A YES.
- 2 Q ---ON ADDITIONAL OCCASIONS?
- 3 A YES.
- 4 Q LET ME ASK YOU THIS, WERE YOU ON THE BENEDICT CAMPUS
- 5 EVERY DAY DURING THAT PERIOD OF TIME?
- 6 A NO.
- 7 Q WERE YOU WORKING AT THAT POINT IN TIME?
- 8 A YES.
- 9 Q AND WHERE WERE YOU WORKING?
- 10 A CIRCUIT CITY.
- 11 Q OKAY. CAN YOU GIVE -- WERE YOU TAKING NOTES AS TO
- 12 HOW OFTEN YOU SAW LUCIUS AND DUSHUN OR HOW OFTEN YOU EVEN
- 13 WENT TO BENEDICT?
- 14 A NO.
- 15 Q OKAY. CAN YOU GIVE US AN ESTIMATE TO A -- FOR HOW
- 16 LONG -- CAN YOU GIVE US AN ESTIMATE AS TO HOW OFTEN YOU
- 17 MAY HAVE SEEN LUCIUS OR DUSHUN AT THE BENEDICT CAMPUS
- 18 BETWEEN THE TIME YOU FIRST MET THEM AND THE 15TH?
- 19 A A FEW TIMES.
- 20 Q A FEW TIMES? OKAY. YOU'RE WEREN'T TAKING NOTES?
- 21 A NO.
- 22 Q NOW, YOU ARRIVED HERE IN COURT TUESDAY AT SOME POINT
- 23 IN TIME?
- 24 A TUESDAY AFTERNOON.
- 25 Q OKAY. AND YOU'VE HEARD TESTIMONY REGARDING A PRIOR

STATE OF SOUTH CAROLINA VERSUS
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LUCIUS STATEN, 2002-GS-40-1149 AND 783.

1 INCIDENT AT BENEDICT---

2 A YES.

3 Q ---BEFORE THE 15TH? OKAY. DID YOU HAVE OCCASION TO
4 WITNESS ANY PRIOR INCIDENT AT BENEDICT BEFORE THE INCIDENT
5 ON JANUARY THE 15TH?

6 A YES.

7 Q OKAY. DO YOU KNOW PRECISELY WHAT DAY THAT INCIDENT
8 WAS ON?

9 A NO.

10 Q OKAY. YOU'VE HEARD TESTIMONY REGARDING THE INCIDENT
11 ON FRIDAY AND THE INCIDENT ON SATURDAY, COULD IT HAVE BEEN
12 ONE OR THE OTHER OF THOSE DAYS?

13 A YES.

14 Q OKAY. YOU'VE GOT NO IDEA WHICH DAY IT WAS?

15 A NO.

16 Q OKAY. CAN YOU TELL US WHAT YOU REMEMBER OF THAT
17 INCIDENT, THAT PREVIOUS INCIDENT?

18 A I REMEMBER SEEING AN ARGUMENT.

19 Q AND WHEN YOU SAW AN ARGUMENT AND THE ARGUMENT
20 INVOLVED -- FIRST OF ALL, DID YOU SEE THE ARGUMENT START?

21 A YES.

22 Q OKAY. CAN YOU TELL US, TO THE BEST OF YOUR MEMORY,
23 HOW THE ARGUMENT STARTED?

24 A IT WAS AN ARGUMENT STARTED WHEN PHIL CAME OUT OF HIS
25 DORM, HASKILL.

STATE OF SOUTH CAROLINA VERSUS
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LUCIUS STATEN, 2002-GS-40-1149 AND 783.

1 Q OKAY.

2 MR. TAYLOR: COULD I ASK THE WITNESS TO PLEASE
3 SPEAK UP JUST A LITTLE BIT AND GET CLOSER TO THE
4 MICROPHONE THERE.

5 Q KIND OF SOFT SPOKEN. THE ARGUMENT STARTED WHEN PHIL
6 CAME OUTSIDE HIS DORM, HASKILL?

7 A YES.

8 Q OKAY. CAN YOU TELL US, IF YOU REMEMBER, WHO THE
9 ARGUMENT WAS WITH INITIALLY?

10 A PHIL AND DUSHUN.

11 Q PHIL AND DUSHUN? OKAY. DO YOU REMEMBER HOW LONG
12 THE ARGUMENT'S TOTAL LENGTH LASTED?

13 A ABOUT TWENTY MINUTES.

14 Q ABOUT TWENTY MINUTES? NOW, HAVE YOU HAD AN
15 OPPORTUNITY TO SEE THIS WHAT'S MARKED STATE'S EXHIBIT
16 THIRTY-ONE?

17 A NO.

18 Q YOU'VE NEVER SEEN THIS BEFORE. LET ME ASK YOU TO
19 TAKE A LOOK AT IT AND ASK IF YOU, JUST LOOKING AT IT,
20 COULD RECOGNIZE---

21 A YES.

22 Q ---WHAT IT DEPICTS? WHAT DOES IT LOOK LIKE IT SHOWS
23 TO YOU?

24 A BENEDICT COLLEGE, PART OF THE CAMPUS.

25 Q WHAT PART OF THE CAMPUS?

- 1 A HASKILL STREET DORM.
- 2 Q OKAY. THAT WOULD BE THIS RIGHT HERE (INDICATING)?
- 3 A YES.
- 4 Q WHAT WOULD THIS AREA BE RIGHT HERE (INDICATING)?
- 5 A THE PARKING AREA.
- 6 Q OKAY. SO YOU RECOGNIZE THE GENERAL AREA---
- 7 A YES.
- 8 Q OKAY. SO YOU SAW THE ARGUMENT AND, I'M SORRY, HOW
- 9 LONG DID YOU SAY YOU THINK THAT LASTED?
- 10 A TWENTY MINUTES.
- 11 Q OKAY. AT SOME POINT IN TIME -- FIRST OF ALL, YOU
- 12 SAID IT WAS BETWEEN -- INITIALLY BETWEEN MR. LEE AND
- 13 DUSHUN?
- 14 A YES.
- 15 Q OKAY. WAS ANYONE ELSE THERE WITH DUSHUN AT THAT
- 16 POINT?
- 17 A YES.
- 18 Q AND WHO WOULD THAT BE?
- 19 A HIS BROTHER?
- 20 Q WAS THERE ANYONE ELSE OTHER THAN THE TWO OF THEM AT
- 21 THAT POINT, IF YOU REMEMBER?
- 22 A NOT THAT I CAN REMEMBER.
- 23 Q I'M SORRY?
- 24 A NOT THAT I CAN REMEMBER.
- 25 Q OKAY. NOW, AS FAR AS MR. LEE GOES, WERE THERE ANY

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- 1 OTHER PEOPLE WITH HIM? FIRST OF ALL, WHEN THE ARGUMENT
2 FIRST STARTED, WERE THERE OTHER PEOPLE WITH HIM?
- 3 A YES.
- 4 Q HAVE ANY ESTIMATE AS TO HOW MANY PEOPLE WERE WITH
5 HIM WHEN THE ARGUMENT FIRST STARTED?
- 6 A A FEW GUYS.
- 7 Q A FEW GUYS? OVER THE COURSE OF THIS FIFTEEN MINUTES
8 THAT THE ARGUMENT TOOK, DID ANY OTHER PEOPLE ARRIVE---
- 9 A YES.
- 10 Q ---ON MR. LEE'S SIDE OF THE ARGUMENT?
- 11 A YES.
- 12 Q OKAY. AND HOW DID THAT ARGUMENT END UP BEING
13 RESOLVED? WHAT HAPPENED?
- 14 A BOTH SIDES JUST LEFT.
- 15 Q BOTH SIDES JUST LEFT? OKAY. WERE YOU RIDING WITH
16 LUCIUS OR DUSHUN ON THAT DAY?
- 17 A NO, I WASN'T.
- 18 Q NO? OKAY. AND DID YOU SEE THEM LEAVE THAT DAY?
- 19 A YES, I DID.
- 20 Q OKAY. WHAT CAR WAS THERE?
- 21 A A WHITE HATCH-BACK.
- 22 Q A WHITE HATCH-BACK? OKAY. SPEAKING OF CARS, DID
23 YOU HAVE AN AUTOMOBILE AT THAT POINT IN TIME?
- 24 A YES, I DID.
- 25 Q OKAY. WHAT TYPE OF CAR WAS THAT?

STATE OF SOUTH CAROLINA VERSUS
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LUCIUS STATEN, 2002-GS-40-1149 AND 783.

1 A A 1999 BLACK FORD CONTOUR.

2 Q '99---

3 A BLACK FORD CONTOUR.

4 Q OKAY. SO, AFTER AN ARGUMENT FOR A WHILE BOTH
5 PARTIES OR BOTH SIDES JUST LEFT?

6 A YES.

7 Q THEY LEFT IN THE CAR AND THE PEOPLE THAT WERE AROUND
8 FROM BENEDICT JUST DISBURSED AND WENT ABOUT THEIR
9 BUSINESS?

10 A YES.

11 Q DID YOU HAVE OCCASION TO SEE LUCIUS STATEN ON
12 JANUARY 15TH, 2001?

13 A YES, I DID.

14 Q AND IF YOU COULD, PLEASE, WHERE DID YOU SEE HIM THAT
15 DAY INITIALLY?

16 A IN FRONT OF HASKILL DORM.

17 Q OKAY. AND ROUGHLY WHAT TIME WAS IT -- FIRST OF ALL,
18 WERE YOU---

19 A NO, I WASN'T.

20 Q ---CHECKING YOUR WATCH OR ANYTHING LIKE THAT?

21 A NO, I WASN'T.

22 Q OKAY. ROUGHLY, BEST ESTIMATE, WHAT TIME WAS IT WHEN
23 YOU FIRST SAW HIM IN FRONT OF HASKILL STREET DORM?

24 A 8:30.

25 Q ROUGH ESTIMATE?

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LUCIUS STATEN, 2002-GS-40-1149 AND 783.

- 1 A YEAH, BETWEEN 8 AND 8:30.
- 2 Q WAS ANYONE ELSE OUT THERE AT THAT POINT IN TIME WITH
- 3 LUCIUS?
- 4 A YES.
- 5 Q OKAY. AND IF YOU COULD, DO YOU KNOW WHO WAS OUT
- 6 THERE?
- 7 A HIS BROTHER.
- 8 Q HIS BROTHER?
- 9 A AND HIS COUSIN.
- 10 Q AND HIS COUSIN. HIS BROTHER WOULD BE DUSHUN?
- 11 A YES.
- 12 Q AND HIS COUSIN WOULD BE SHAKEEM WILSON?
- 13 A YES.
- 14 Q OKAY. AND WHERE WERE THEY WHEN YOU SAW THEM?
- 15 A THEY WERE PARKED IN FRONT OF HASKILL.
- 16 Q OKAY. HAD YOU JUST ARRIVED AT THAT POINT IN TIME
- 17 WHEN YOU SAW THEM?
- 18 A YES, I DID.
- 19 Q OKAY. DID YOU HAVE ANY CONTACT WITH LUCIUS STATEN
- 20 AT THAT POINT IN TIME?
- 21 A YES, I DID.
- 22 Q OKAY. TELL US ABOUT THAT. WHAT HAPPENED?
- 23 A I -- SINCE I WORK AT CIRCUIT CITY CAR AUDIO, HE -- I
- 24 WAS TELLING HIM THAT I COULD PUT A SOUND SYSTEM IN HIS
- 25 CAR---

1 Q OKAY.

2 A ---AND I WANTED HIM TO COME WITH ME TO CIRCUIT CITY
3 TO SHOW HIM SOME OF THE SOUND -- SOME OF THE SOUND SYSTEMS
4 WE HAVE AT MY JOB.

5 Q OKAY. AND SO WHAT DID Y'ALL DO?

6 A WE LEFT IN MY CAR AND WENT TO CIRCUIT CITY.

7 Q OKAY. AND YOU DROVE FROM -- LET'S SEE THIS IS
8 STATE'S EXHIBIT FORTY-TWO RIGHT HERE, A GENERAL MAP OF
9 COLUMBIA. IF YOU MARK HASKILL STREET DORM AND THEN YOU
10 DROVE TO CIRCUIT CITY. WHAT ROUTE DID YOU TAKE?

11 A WE TOOK TWO NOTCH ROAD.

12 Q TWO NOTCH ROAD? SO RIGHT HERE (INDICATING) OUT TWO
13 NOTCH TO -- PAST DECKER BOULEVARD OR RIGHT---

14 A TO COLUMBIA MALL -- COLUMBIA MALL BOULEVARD.

15 Q COLUMBIA MALL. IT'S NOT MARKED ON HERE BUT IT'S
16 RIGHT OUT HERE (INDICATING); RIGHT?

17 A RIGHT.

18 Q OKAY. AND THAT WAS IN YOUR CAR---

19 A YES.

20 Q ---THE BLACK FORD CONTOUR? DID ANYONE ELSE TRAVEL
21 WITH YOU OR WAS IT JUST YOU AND LUCIUS?

22 A JUST ME AN LUCIUS.

23 Q OKAY. AND WHEN YOU GOT TO CIRCUIT CITY OUT BY THE
24 MALL, WHAT DID Y'ALL DO.

25 A I SHOWED HIM SOME OF THE STEREO SYSTEMS IN CAR

1 AUDIO.

2 Q OKAY. AND THAT INVOLVES WALKING AROUND THE STORE
3 AND SHOWING HIM THINGS?

4 A YES.

5 Q ROUGHLY, AGAIN, ROUGHLY HOW LONG DID THAT TAKE?

6 A FIFTEEN, TWENTY MINUTES.

7 Q OKAY. ONCE YOU HAD FINISHED -- WELL, LET ME BACK UP

8 A SECOND. AT THE TIME YOU SAW HIM IN FRONT OF THE DORM
9 THERE, HASKILL STREET DORM, WERE THERE ANY STUDENTS FROM
10 BENEDICT GATHERED AROUND IN THE AREA WHERE YOU SAW HIM AND
11 DUSHUN AND SHAKEEM WILSON?

12 A NO.

13 Q OKAY. YOU GO TO CIRCUIT CITY. YOU SHOW HIM THE
14 ITEMS THAT YOU'VE TOLD US ABOUT?

15 A YES.

16 Q WHAT DID YOU DO THEN?

17 A WE LEFT CIRCUIT CITY.

18 Q OKAY. WHERE WERE YOU GOING?

19 A BACK TO HASKILL STREET DORM.

20 Q YOU WERE GONNA TAKE HIM BACK THERE?

21 A YES.

22 Q OKAY. DO YOU REMEMBER ARRIVING BACK AT HASKILL
23 STREET DORM?

24 A YES.

25 Q CAN YOU TELL US WHAT YOU SAW WHEN YOU ARRIVED BACK

1 AT HASKILL STREET DORM? FIRST OF ALL, LET ME ASK YOU, HOW
2 DID YOU -- WHAT ROUTE DID YOU TAKE TO GET TO HASKILL
3 STREET DORM?

4 A TWO NOTCH ROAD?

5 Q OKAY. AND THEN HOW DID YOU -- DID YOU GO TO THE
6 PARKING LOT OF HASKILL STREET DORM?

7 A YES, I DID.

8 Q HOW DID YOU ENTER THE PARKING LOT, OFF HASKILL
9 STREET?

10 A NO.

11 Q NO? WHAT DIRECTION DID YOU COME FROM?

12 A OFF OF---

13 Q WAVERLY STREET HERE?

14 A OFF OF WAVERLY.

15 Q OKAY. AND YOU DRIVE DOWN HERE TO THIS AREA
16 (INDICATING)?

17 A YES.

18 Q YOU UNDERSTAND WHAT THESE REPRESENT---

19 A YES.

20 Q ---PARKING PLACES, HANDICAP PARKING PLACES? WHAT
21 DID YOU DO -- AND YOU SAW WHAT?

22 A A LARGE CROWD OUTSIDE HASKILL.

23 Q A LARGE CROWD OUTSIDE. DOWN IN THIS AREA HERE?

24 A YES.

25 Q OKAY. DID YOU PARK YOUR CAR OR DID YOU DRIVE ON OR

1 WHAT DID YOU DO THEN?

2 A I PULLED UP INTO A PARKING PLACE IN FRONT OF THE

3 CROWD AND PARKED.

4 Q OKAY. DO YOU REMEMBER WHERE YOU PARKED?

5 A YES.

6 Q OKAY. IN RELATION TO THESE HANDICAPPED SPACES, YOU

7 PARKED DOWN IN THIS DIRECTION (INDICATING)?

8 A NO. TWO OVER.

9 Q TWO OVER?

10 A RIGHT, RIGHT NEXT TO THE HANDICAP.

11 Q RIGHT NEXT TO THE HANDICAP?

12 A YES.

13 Q OKAY. YOU PARKED YOUR CAR?

14 A I PARKED MY CAR THERE.

15 Q OKAY. WHAT -- NOW AT THIS POINT IN TIME YOU SAY YOU

16 SAW A CROWD. DID YOU SEE THE GALANT---

17 A YES, I DID.

18 Q OKAY. DID YOU SEE DUSHUN STATEN?

19 A YES, I DID.

20 Q WHERE WAS HE LOCATED?

21 A HE WAS STANDING IN FRONT OF MY CAR.

22 Q STANDING IN FRONT OF YOUR CAR?

23 A A LITTLE BIT OVER TO THE SIDE.

24 Q A LITTLE OVER TO THE -- A LITTLE OVER TO THE SIDE

25 OVER TOWARDS THE GALANT?

- 1 A WELL, ACTUALLY TOWARDS THE RIGHT OF MY CAR.
- 2 Q TOWARDS THE RIGHT OF YOUR CAR? SO IT WOULD BE IN
- 3 THIS DIRECTION (INDICATING)?
- 4 A RIGHT.
- 5 Q OKAY. AND DID YOU SEE ANY OTHER INDIVIDUALS WHO --
- 6 YOU SAY YOU SAW A CROWD. WERE THERE SIDES EVIDENT AS FAR
- 7 AS THE CROWD WENT?
- 8 A YES.
- 9 Q OKAY. DID YOU SEE A PART OF THE CROWD YOU
- 10 RECOGNIZED AS BENEDICT STUDENTS?
- 11 A YES.
- 12 Q AND DO YOU STILL HAVE FRIENDS AT BENEDICT?
- 13 A YES, I DO.
- 14 Q AND DID YOU SEE ANY PART OF THE CROWD THAT WERE NOT
- 15 BENEDICT STUDENTS?
- 16 A YES.
- 17 Q OKAY. HOW MANY PEOPLE DID YOU SEE IN THE PART OF
- 18 THE CROWD WHO WERE NOT BENEDICT STUDENTS?
- 19 A TWO.
- 20 Q TWO? OKAY. AND WHERE WERE THEY LOCATED?
- 21 A THEY WERE STANDING TWO TO THREE FEET TO MY RIGHT.
- 22 Q THREE FEET TO YOUR---
- 23 A RIGHT. RIGHT OVER IN THAT AREA (INDICATING).
- 24 Q RIGHT AROUND THIS AREA (INDICATING)?
- 25 A YES.

1 Q OKAY. AND WHERE WAS THE CROWD THAT WAS BENEDICT
2 STUDENTS?

3 MR. GASSER: YOUR HONOR, I'M GOING TO OBJECT. I
4 SHOULD HAVE OBJECTED BEFORE. HOW WOULD HE KNOW WHO'S A
5 BENEDICT STUDENT AND WHO'S NOT A BENEDICT STUDENT UNLESS
6 HE WORKS IN THE ADMISSIONS OFFICE.

7 MR. STRICKLER: I'LL REPHRASE.

8 Q WHERE WERE THE PEOPLE THAT YOU FELT WERE ON THE
9 OTHER SIDE OF THIS ARGUMENT, REGARDLESS OF WHETHER THEY'RE
10 BENEDICT STUDENTS OR NOT?

11 A THEY WERE NEXT TO MAY CAR.

12 Q NEXT TO YOUR CAR?

13 A PRETTY CLOSE, YEAH.

14 Q ROUGHLY HOW MANY PEOPLE -- AND YOU WEREN'T TAKING
15 NOTES AT THAT POINT IN TIME?

16 A NO.

17 Q ROUGHLY HOW MANY PEOPLE WERE IN THAT GROUP OF
18 PEOPLE?

19 A CAN YOU REPHRASE THAT? I DON'T UNDERSTAND THAT?

20 Q YEAH. YOU'VE GOT TWO SIDES.

21 A RIGHT.

22 Q HOW MANY PEOPLE WERE -- FIRST OF ALL, LET ME ASK YOU
23 THIS. LET ME GO ABOUT IT THIS WAY.

24 CAN YOU DESCRIBE -- YOU SAY YOU SAW TWO PEOPLE IN
25 ONE GROUP?

1 A RIGHT.

2 Q CAN YOU DESCRIBE THE CLOTHING YOU SAW ON THOSE TWO
3 PEOPLE?

4 A ONE HAD A RACING TYPE JACKET ON. THE OTHER ONE HAD
5 A BLACK NORTHFACE JACKET ON.

6 Q NOW, NOT THAT GROUP BUT THE OTHER GROUP OF PEOPLE,
7 ROUGHLY HOW MANY PEOPLE WERE IN THAT GROUP OF PEOPLE?

8 A THERE WAS A LOT.

9 Q A LOT?

10 A IT WAS A LOT OF PEOPLE.

11 Q FIVE?

12 A MORE THAN THAT.

13 Q TEN?

14 A MORE THAN THAT.

15 Q FIFTEEN?

16 A PROBABLY AROUND THAT NUMBER.

17 Q PROBABLY AROUND THAT NUMBER? OKAY. NOW, AND COULD
18 YOU SEE WHAT WAS GOING ON BETWEEN THESE TWO -- TWO GROUPS
19 OF PEOPLE WHEN -- WHEN YOU PULLED IN?

20 A YES.

21 Q AND WHAT WAS GOING ON?

22 A AN ARGUMENT.

23 Q AN ARGUMENT? VERBAL ARGUMENT?

24 A YES.

25 Q OKAY. YOU PULLED IN. WHAT, IF ANYTHING, DID LUCIUS

1 STATEN DO?

2 A GOT OUT OF THE PASSENGER SIDE OF MY CAR.

3 Q OKAY. WHERE DID HE GO?

4 A HE WALKED TO THE MIDDLE -- THE ARGUMENT.

5 Q THE MIDDLE WHERE THE ARGUMENT WAS?

6 A YES.

7 Q DID YOU HEAR ANYTHING THAT HE SAID?

8 A YES.

9 Q WHAT DID YOU HEAR HIM SAY?

10 A HE WANTED EVERYONE TO LEAVE, BOTH SIDES TO LEAVE.

11 Q OKAY. BETWEEN THE TIME YOU ARRIVED, OKAY, AND THE

12 TIME MR. LEE WAS SHOT---

13 A YES.

14 Q ---ROUGHLY HOW LONG A PERIOD OF TIME WAS THAT?

15 A BETWEEN FIVE AND TEN MINUTES.

16 Q AND -- OKAY. SO MR. STATEN GETS OUT OF THE CAR,

17 WALKS IN AND THE ARGUMENT CONTINUES?

18 A YES.

19 Q OKAY. DID THERE COME A TIME WHEN THE ARGUMENT BROKE

20 UP?

21 A NO.

22 Q NO?

23 A NO.

24 Q OKAY. DID THERE COME A TIME WHEN LUCIUS STATEN LEFT

25 THE ARGUING GROUP?

- 1 A YES.
- 2 Q OKAY. TELL US HOW THAT CAME ABOUT, WHAT YOU SAW.
- 3 A HE WALKED AWAY.
- 4 Q HE WALKED AWAY?
- 5 A HE PROCEEDED TO WALK AWAY.
- 6 Q DID YOU HEAR ANYTHING HE SAID AT THAT POINT IN TIME?
- 7 A HE TOLD EVERYONE TO GET IN THE CAR.
- 8 Q HE TOLD EVERYONE TO GET IN THE CAR?
- 9 A YES.
- 10 Q THAT WAS SPEAKING TO WHOM?
- 11 A HIS BROTHER AND HIS COUSIN.
- 12 Q OKAY. DID HE SAY ANYTHING TO THE PEOPLE IN THE
- 13 OTHER GROUP?
- 14 A HE TOLD THEM TO LEAVE.
- 15 Q OKAY. SO HE TOLD THAT GROUP TO LEAVE AND HE TOLD
- 16 THE PEOPLE HE KNEW---
- 17 A YES.
- 18 Q ---TO LEAVE? OKAY. DID YOU SEE WHAT HAPPENED AT
- 19 THAT POINT IN TIME?
- 20 A YES.
- 21 Q OKAY. CAN YOU TELL US WHAT YOU SAW?
- 22 A THE GENTLEMEN WITH THE RACING JACKET PULLED OUT A
- 23 GUN.
- 24 Q OKAY.
- 25 A AND SHOT TWO TIMES.

- 1 Q WHERE WERE YOU SITUATED AS FAR AS THAT GUY WAS? HOW
2 FAR?
- 3 A TWO FEET.
- 4 Q TWO FEET?
- 5 A YES.
- 6 Q WERE YOU IN YOUR CAR OR OUT OF YOUR CAR?
- 7 A OUT OF MY CAR.
- 8 Q OUT OF YOUR CAR. NOW, AT THAT POINT IN TIME, LUCIUS
9 STATEN HAS ALREADY WALKED BACK TOWARDS HIS CAR?
- 10 A YES.
- 11 Q OKAY. WHEN THOSE SHOTS WERE FIRED, WHAT WAS THE
12 REACTION FROM THE PEOPLE IN THE -- IN THE CROWD THAT WAS
13 ASSEMBLED?
- 14 A EVERYONE STARTED RUNNING.
- 15 Q OKAY. WHAT WAS YOUR REACTION?
- 16 A I FROZE.
- 17 Q YOU FROZE? WHAT WAS YOUR NEXT REACTION?
- 18 A GET IN MY CAR AND LEAVE.
- 19 Q OKAY. SO THAT'S WHAT YOU DID?
- 20 A YES.
- 21 Q OKAY. AND WHICH DIRECTION DID YOU TAKE WHEN YOU
22 LEFT?
- 23 A I DROVE OUT TOWARD WAVERLY.
- 24 Q OUT THIS DIRECTION (INDICATING)?
- 25 A YES.

1 Q OKAY. AS YOU WERE LEAVING, DID YOU HAVE AN
2 OPPORTUNITY TO SEE WHAT HAPPENED WITH THE GALANT?

3 A YES, I DID.

4 Q AND WHAT DID YOU SEE?

5 A IN MY REARVIEW I SAW THE GALANT LEAVE IN THE OTHER
6 DIRECTION.

7 Q OUT THIS WAY (INDICATING)?

8 A YES.

9 Q OKAY. DID YOU SEE WHO WAS IN THE GALANT?

10 A NO, I DIDN'T.

11 Q OKAY. AFTER THE SHOTS WERE FIRED, DID YOU SEE WHERE
12 LUCIUS OR DUSHUN STATEN WENT?

13 A NO, I DIDN'T.

14 Q OKAY. WHAT WERE YOU CONCENTRATING ON AT -- AFTER
15 YOU QUIT FREEZING YOURSELF?

16 A ME LEAVING THE SCENE.

17 Q OKAY. SO YOU LEFT THE SCENE.

18 (PAUSE.)

19 Q THAT WAS JANUARY 15TH OF 2001?

20 A YES.

21 Q HAVE YOU SEEN LUCIUS STATEN SINCE THAT DAY UNTIL THE
22 TIME YOU CAME INTO THIS COURTROOM TUESDAY---

23 A NO. NO, I HAVEN'T.

24 Q OKAY. NOW, AT SOME POINT IN TIME DID YOU HAVE
25 OCCASION TO GET IN TOUCH WITH INVESTIGATOR MEAD OF THE

1 CITY OF COLUMBIA POLICE DEPARTMENT?

2 A YES, I DID.

3 Q OKAY. WHEN DID YOU GET IN TOUCH WITH HIM?

4 A I TRIED ON TWO OCCASIONS, ACTUALLY, I LEFT MESSAGES.

5 Q I'M SORRY, YOU TRIED ON TWO OCCASIONS---

6 A TWO DIFFERENT OCCASIONS, YES.

7 Q AND LEFT MESSAGES?

8 A YES.

9 Q OKAY. DID YOU HAVE OCCASION TO TALK WITH DUSHUN'S

10 ATTORNEY ABOUT THIS?

11 A YES, HE CALLED ME AT MY JOB, MY PLACE OF EMPLOYMENT.

12 Q OKAY. AND WERE YOU DIRECTED TO TRY AGAIN?

13 A YES. HE DIRECTED ME TO TRY AGAIN INVESTIGATOR MEAD.

14 Q DID HE PROVIDE YOU WITH ANY INSTRUCTIONS?

15 A HE TOLD ME TO CALL MR. MEAD AND TELL THE TRUTH, TELL

16 EXACTLY WHAT YOU SAW THAT NIGHT.

17 Q AND WERE YOU ABLE, ON THIS THIRD OCCASION, TO GET IN

18 TOUCH WITH MR. MEAD?

19 A YES, I WAS.

20 Q OKAY. AND AT THAT POINT IN TIME, DID YOU PROVIDE A

21 WRITTEN STATEMENT?

22 A YES, I DID.

23 Q OKAY. CAN YOU TELL US WHAT THE ATMOSPHERE WAS LIKE

24 WHEN YOU PROVIDED YOUR WRITTEN STATEMENT? WHAT KIND OF

25 ATTITUDE DID YOU HAVE FROM INVESTIGATOR MEAD?

1 A VERY COLD.
2 Q VERY COLD?
3 A YEAH, WASN'T -- WASN'T REALLY TRYING TO HEAR WHAT I
4 HAD TO SAY.
5 Q NOW, THE FIRST PORTION OF THE STATEMENT'S IN YOUR
6 HAND; IS THAT CORRECT?
7 A YES.
8 Q AND THEN THERE'S A SERIES OF QUESTIONS AND ANSWERS?
9 A YES.
10 Q OKAY. DID YOU PROVIDE AS MUCH INFORMATION AS YOU
11 COULD THINK OF AT THAT POINT?
12 A YES, I DID.
13 Q NOW, DID YOU IDENTIFY A PERSON IN A RACER JACKET---
14 A YES.
15 Q ---AS THE PERSON WHO DID THE SHOOTING?
16 A YES.
17 Q AND YOU'RE IDENTIFYING THAT PERSON HERE TODAY?
18 A YES.
19 Q OKAY. AND THAT'S -- LET ME ASK, THAT'S WHAT YOU
20 TOLD MR. MEAD IN YOUR STATEMENT?
21 A YES.
22 Q DID YOU EVER HAVE OCCASION TO SEE THAT INDIVIDUAL?
23 A YES, I DID.
24 Q DID YOU KNOW THAT INDIVIDUAL'S FULL NAME AT THE TIME
25 YOU SPOKE WITH---

STATE OF SOUTH CAROLINA VERSUS
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LUCIUS STATEN, 2002-GS-40-1149 AND 783.

1 A NO, I DIDN'T.

2 Q OKAY. DID YOU HAVE OCCASION TO SEE THAT INDIVIDUAL

3 AGAIN?

4 A YES, I DID.

5 Q AND WHEN WAS THAT?

6 A BLUFF ROAD DETENTION CENTER.

7 Q AND WHEN WAS THAT?

8 A IN MAY.

9 Q MAY? YOU WERE AT THE DETENTION FOR TWO DAYS IN

10 MAY?

11 A YES, I WAS.

12 Q OKAY. AND YOU SAW THE INDIVIDUAL---

13 A YES.

14 Q ---AT THE DETENTION CENTER?

15 A YES, I DID.

16 Q AND WHAT DORM WERE YOU IN?

17 A D-DORM.

18 Q AND THAT INDIVIDUAL -- YOU NOW KNOW WHAT HIS NAME

19 IS?

20 A YES, I DO.

21 Q WHAT WAS THE NAME OF THE INDIVIDUAL YOU SAW DO THE

22 SHOOTING?

23 A MAURICE SANDERS.

24 Q OKAY.

25 (PAUSE.)

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LUCIUS STATEN, 2002-GS-40-1149 AND 783.

1 Q DID YOU SEE MAURICE SANDERS AT THE SCENE WITH ANY
2 OTHER INDIVIDUALS?

3 A YES, I DID.

4 Q WHO DID YOU SEE HIM AT THE SCENE WITH?

5 A A GENTLEMAN WITH A BLACK NORTHFACE JACKET ON.

6 Q WERE THOSE INDIVIDUALS PRESENT AT THE TIME YOU LEFT
7 WITH LUCIUS TO GO OUT TO CIRCUIT CITY?

8 A YES, THEY WERE.

9 Q THEY WERE?

10 A YES.

11 Q OKAY. WERE THEY THERE WHEN YOU FIRST PULLED UP?

12 A YES, THEY WERE.

13 Q OKAY. HAD YOU EVER SEEN THOSE INDIVIDUALS BEFORE?

14 A NO, I HADN'T.

15 MR. STRICKLER: ALL RIGHT, THANK YOU. ANSWER ANY
16 QUESTIONS THE LAWYER HAS. I'M NOT SURE OF THE SEQUENCE OF
17 EXAMINATION AT THIS POINT.

18 MR. TAYLOR: SHALL I GO NEXT?

19 THE COURT: YEAH, GO AHEAD.

20 MR. TAYLOR: THANK YOU VERY MUCH.

21 CROSS-EXAMINATION BY MR. TAYLOR:

22 Q MR. McCANTS, WHEN YOU SAW MAURICE SANDERS AGAIN,
23 THAT WAS WHEN?

24 A IN MAY.

25 Q MAY. OF COURSE OF 2001?

- 1 A YES.
- 2 Q OKAY. AND THAT WAS WHERE?
- 3 A IN THE DETENTION CENTER ON BLUFF ROAD.
- 4 Q AND WHAT WERE YOU THERE FOR?
- 5 A FOR A BOUNCED CHECK.
- 6 Q A BOUNCED CHECK. OKAY. REFERRING TO THIS DIAGRAM
- 7 AGAIN, I APOLOGIZE TO YOU BUT MY VIEW WAS PARTIALLY
- 8 OBSTRUCTED. SO I'M GONNA HAVE TO ASK YOU TO POINT ME TO
- 9 WHERE YOUR CAR WAS. I SEE THE HANDICAPPED PARKING SPACES
- 10 HERE.
- 11 A I WAS ONE OVER FROM THE HANDICAP.
- 12 Q WHICH WAY?
- 13 A TO YOUR LEFT.
- 14 Q TO MY LEFT?
- 15 A YES.
- 16 Q FACING HERE (INDICATING)?
- 17 A YES.
- 18 Q RIGHT IN HERE (INDICATING). OKAY. AND WHERE WAS
- 19 LEE, PHILLIP LEE?
- 20 A HE WAS STANDING ON THE SIDEWALK ACTUALLY A LITTLE
- 21 BIT TOWARD THE DORM.
- 22 Q OVER HERE (INDICATING)?
- 23 A YEAH, IN THAT VICINITY.
- 24 Q AND WHERE WAS DUSHUN?
- 25 A HE WAS STANDING TO THE SIDE.

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LUCIUS STATEN, 2002-GS-40-1149 AND 783.

- 1 Q TO WHAT SIDE OF WHAT?
- 2 A TO -- WELL, PRETTY MUCH IN FRONT OF THE HANDICAP
- 3 SIGN, THE LAST ONE.
- 4 Q THIS ONE HERE (INDICATING)?
- 5 A NO, OVER TO YOUR LEFT?
- 6 Q OVER HERE (INDICATING)?
- 7 A YES.
- 8 Q HOW FAR AWAY WAS HE FROM LEE?
- 9 A THREE OR FOUR FEET.
- 10 Q NOW, THESE OTHER TWO GUYS THAT YOU TALKED ABOUT,
- 11 SEEING THE ONE WITH THE BLACK NORTHFACE JACKET AND RACING
- 12 JACKET, DID THEY APPEAR TO YOU TO BE WITH DUSHUN?
- 13 A YES.
- 14 Q WAS DUSHUN ARGUING WITH ANYONE AT THAT TIME?
- 15 A NO, HE WAS JUST STANDING THERE.
- 16 Q ALL RIGHT. WHEN LUCIUS SAID, LET'S BREAK THIS THING
- 17 UP OR WHATEVER HE SAID, WAS IT YOUR IMPRESSION THAT WHAT
- 18 HE WAS TRYING TO DO IS HE WAS TRYING TO GET THIS ENTIRE
- 19 SITUATION CALMED DOWN?
- 20 A YES.
- 21 Q OVER WHATEVER THEY WERE ARGUING ABOUT?
- 22 A YES.
- 23 Q NOW -- AND WHERE WAS THE GALANT PARKED?
- 24 A TWO TO THREE SPACES OVER FROM MY CAR.
- 25 Q TO THE LEFT OR TO THE RIGHT OF YOUR CAR?

STATE OF SOUTH CAROLINA VERSUS
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LUCIUS STATEN, 2002-GS-40-1149 AND 783.

1 A TO THE LEFT. TO THE LEFT.

2 Q TO THE LEFT OF YOUR CAR. OKAY. AND DID YOU HAVE
3 CLEAR VISIBILITY OF THAT GALANT?

4 A YES.

5 Q COULD YOU SEE IT PLAINLY?

6 A YES.

7 Q DID YOU EVER SEE ANYBODY GO GET ANYTHING OUT OF THAT
8 GALANT?

9 A NO, I DIDN'T. NO.

10 Q A GUN OR ANYTHING ELSE?

11 A NO.

12 Q DID YOU EVER HEAR LUCIUS STATEN SAY ANYTHING AT ALL
13 THAT SOUNDED TO YOU LIKE IT WAS AN INSTRUCTION OR A
14 REQUEST THAT ANYBODY GET A WEAPON?

15 A NO.

16 Q AND YOU ARE CERTAIN IN YOUR MIND, ARE YOU, THAT
17 MAURICE SANDERS SHOT PHILLIP LEE?

18 A YES.

19 Q NO DOUBT?

20 A NO DOUBT.

21 MR. TAYLOR: THANK YOU, SIR.

22 THE COURT: ALL RIGHT, MR. GASSER.

23 MR. GASSER: THANK YOU, YOUR HONOR.

24 CROSS-EXAMINATION BY MR. GASSER:

25 Q MR. McCANTS, MY NAME IS JOHNNY GASSER. I WORK FOR

1 THE SOLICITOR'S OFFICE. I JUST HAVE SEVERAL THINGS I WANT
2 TO GO OVER WITH YOU. YOU AND I HAVE NEVER MET, HAVE WE,
3 MR. McCANTS?

4 A NO.

5 Q I WANT TO SHOW YOU THIS DOCUMENT AND SEE IF YOU
6 RECOGNIZE THIS, MR. McCANTS.

7 A YES, I DO.

8 Q THAT'S A FIVE PAGE WRITTEN STATEMENT THAT
9 INVESTIGATOR MEAD, THIS PERSON THAT YOU DESCRIBED AS BEING
10 COLD TOWARDS YOU, TOOK FROM YOU ON MARCH THE 22ND OF 2001;
11 CORRECT?

12 A YES, SIR.

13 Q AND YOU'VE INDICATED TO THE JURY THAT YOU FELT THAT
14 HE DIDN'T WANT MUCH TO HAVE TO HEAR WHAT YOU HAD TO SAY,
15 THAT WAS YOUR TESTIMONY, MR. McCANTS?

16 A YES, SIR.

17 Q YET HE RECORDED A FIVE PAGE WRITTEN STATEMENT FROM
18 YOU THAT CONTAINS MUCH OF THE INFORMATION THAT YOU JUST
19 PROVIDED THIS JURY; IS THAT CORRECT?

20 A YES, SIR.

21 Q AND MADE SURE THAT YOU SWORE THE TRUTH TO IT AND
22 SIGNED IT; IS THAT CORRECT?

23 A YES, SIR.

24 Q SO HE IN FACT DID LISTEN TO EVERYTHING YOU HAD TO
25 SAY AND WROTE IT DOWN; ISN'T THAT TRUE?

STATE OF SOUTH CAROLINA VERSUS
DUSHUN STATEN, 2002-GS-40-1148 AND 786;
LUCIUS STATEN, 2002-GS-40-1149 AND 783.

1 A YES, SIR.

2 Q AND YOU'RE AWARE THAT THAT STATEMENT, TO YOUR NAME
3 -- THAT'S HOW THEY GOT A COPY OF YOUR STATEMENT, ARE YOU
4 AWARE OF THAT?

5 A YES, SIR.

6 Q SO INVESTIGATOR MEAD WROTE DOWN EVERYTHING THAT YOU
7 HAD TO DEAL HIM. HE HAD YOU SIGN AND MADE SURE WHAT YOU
8 WERE TELLING THAT IT WAS THE TRUTH---

9 A YES, SIR.

10 Q NOW, ON PAGE -- ON PAGE FOUR OF YOUR STATEMENT -- I
11 WANT TO GET TO A SECTION ON PAGE FOUR. SO WHY DON'T YOU
12 TURN TO THAT.

13 THIS EVENING -- THE EVENING THAT WAS OUT HERE.
14 THERE WERE A NUMBER OF PEOPLE OUT THERE THAT MONDAY,
15 JANUARY THE 15TH, WERE THERE NOT?

16 A YES, SIR.

17 Q AND THERE WAS AN ARGUMENT GOING ON, WAS THERE NOT?

18 A YES, SIR.

19 Q AND IT WASN'T JUST ONE PERSON TALKING AT A TIME THE
20 WAY I'M TALKING TO YOU AND YOU'RE RESPONDING TO ME; ISN'T
21 THAT CORRECT?

22 A YES.

23 Q I MEAN, THERE WERE PEOPLE AND VOICES WERE RAISED AND
24 WERE TALKING AND PROFANITY WAS BEING USED; ISN'T THAT
25 TRUE?

1 A YES, SIR.

2 Q ONE PERSON MIGHT HAVE BEEN SAYING SOMETHING TO
3 ANOTHER PERSON AND ONE PERSON MAY HAVE BEEN SAYING
4 SOMETHING TO ANOTHER PERSON; ISN'T THAT CORRECT?

5 A YES, SIR.

6 Q SO DURING THIS TIME PERIOD, YOUR ATTENTION MAY HAVE
7 BEEN AT ONE SPOT, MAY HAVE BEEN AT ANOTHER SPOT; IS THAT
8 CORRECT?

9 A YES.

10 Q WHEN YOU MIGHT HAVE BEEN FOCUSING ON WHAT ONE PERSON
11 HAD TO SAY OVER HERE, YOU COULDN'T TELL WHAT ONE PERSON
12 WAS DOING OVER HERE; ISN'T THAT TRUE?

13 A YES.

14 Q SO YOU WEREN'T -- YOU WEREN'T -- YOU DIDN'T HAVE A
15 COMPLETE OVERSIGHT, STANDING ABOVE, IF YOU WILL, LOOKING
16 DOWN ON EVERYTHING THAT EVERY -- ALL THE PARTICIPANTS WERE
17 SAYING OR DOING; ISN'T THAT TRUE?

18 A YES, SIR.

19 Q OKAY. AND I BELIEVE YOU INDICATED THAT THIS -- THIS
20 SHOOTER -- YOU WERE SO CLOSE TO THIS SHOOTER, I BELIEVE,
21 THAT YOU COULD EVEN TELL WHAT TYPE OF GUN IT WAS; ISN'T
22 THAT CORRECT?

23 A YES, SIR.

24 Q OKAY. AND YOU COULD TELL THAT IT WAS A SEMI-
25 AUTOMATIC PISTOL, ISN'T THAT TRUE, NOT A REVOLVER?

- 1 A YES.
- 2 Q OKAY. AND YOU'RE AS CERTAIN -- AS YOU SIT THERE AND
3 TESTIFY IN FRONT OF THIS JURY, YOU'RE CERTAIN THAT IT WAS
4 A SEMI-AUTOMATIC PISTOL JUST AS YOU ARE CERTAIN AS IT WAS
5 MO SANDERS; CORRECT?
- 6 A YES.
- 7 (PAUSE.)
- 8 Q THE LIGHTING WAS REALLY GOOD OUT THERE THAT NIGHT,
9 WAS IT NOT, MR. McCANTS?
- 10 A YES.
- 11 Q NOW, JUST A FEW MORE -- I WANT TO GET BACK TO THE
12 BEGINNING OF YOUR TESTIMONY. YOU INDICATED THAT YOU MET
13 LUCIUS AND DUSHAN (SIC) OR DUSHUN STATEN AROUND THE FIRST
14 WEEK OF THE YEAR 2001; IS THAT CORRECT?
- 15 A THAT'S CORRECT.
- 16 Q AND YOU STARTED HANGING OUT WITH THEM WHEN THEY WERE
17 IN HASKILL STREET DORM?
- 18 A WHEN I SAW THEM, YES.
- 19 Q AND YOU WOULD HANG WITH THEM?
- 20 A YES.
- 21 Q AND THERE WERE OTHER FRIENDS OF DUSHUN'S
22 PARTICULARLY THAT YOU WOULD HANG WITH AS WELL?
- 23 A NO.
- 24 Q OKAY. THE ONLY TIME YOU EVER HANGED WITH DUSHUN OR
25 LUCIOUS IT WAS JUST THE TWO OF THEM?

STATE OF SOUTH CAROLINA VERSUS
DUSHUN STATEN, 2002-GS-40-1148 AND 786;
LUCIUS STATEN, 2002-GS-40-1149 AND 783.

1 A YES.

2 Q WHAT ABOUT SHAKEEM, THEIR COUSIN?

3 A NO.

4 Q SO YOU ONLY MET SHAKEEM THROUGH THEM?

5 A YES.

6 Q HOW MANY TIMES DID YOU MEET SHAKEEM?

7 A ONCE.

8 Q AND THE SCHOOL -- YOU WEREN'T IN BENEDICT COLLEGE AT
9 THAT TIME, IS THAT -- IS THAT WHAT YOUR TESTIMONY WAS?

10 A YES, SIR.

11 Q OKAY. AND ARE YOU TALKING ABOUT THIS FIRST WEEK IN
12 JANUARY RIGHT HERE (INDICATING); CORRECT?

13 A SOMEWHERE AROUND THERE, YES.

14 Q OKAY. SO YOU AND LUCIUS AND DUSHUN STATEN STARTED
15 HANGING OUT AT BENEDICT COLLEGE, THIS WEEK HERE OR THIS
16 WEEK HERE, THESE TWO WEEKS BEFORE PHILLIP LEE WAS KILLED;
17 IS THAT TRUE?

18 A YES.

19 Q BUT YOU INDICATE THAT YOU HAD A JOB SO YOU'RE NOT
20 SURE HOW OFTEN LUCIUS AND DUSHUN, DURING THE DAYS AND THE
21 EVENINGS, WOULD BE HANGING AT THE HASKILL STREET DORM?

22 A YES.

23 Q YOU'RE NOT SURE?

24 A RIGHT, NO.

25 Q SCHOOL DIDN'T ACTUALLY START UNTIL LATER ON THE

STATE OF SOUTH CAROLINA VERSUS
DUSHUN STATEN, 2002-GS-40-1148 AND 786;
LUCIUS STATEN, 2002-GS-40-1149 AND 783.

1 MONTH, ARE YOU AWARE OF THAT?

2 A YES.

3 Q WELL, ACTUALLY CLASSES BEGAN ON JANUARY THE 11TH---

4 A YES.

5 Q ---ACCORDING TO THIS CALENDAR---

6 A YES, SIR.

7 Q OKAY. SO WHEN YOU WERE HANGING OUT HERE, THERE WERE
8 NO CLASSES IN SCHEDULE?

9 A YES, SIR.

10 Q IN -- HAD NOT STARTED YET?

11 A YES, SIR.

12 Q YOU WERE AWARE THOUGH -- YOU BECAME AWARE OF WHAT
13 SOME OF THE ANIMOSITY THAT STARTED BREWING BEFORE PHILLIP
14 LEE WAS EVER KILLED WAS ALL ABOUT, WERE YOU NOT?

15 A NOT REALLY.

16 Q OKAY, ON PAGE ONE OF YOUR STATEMENT, IN JANUARY OF
17 2001, I MET LUCIUS AND DUSHUN AND SHAKEEM. SO YOU MET---

18 A YES.

19 Q ---SHAKEEM THE COUSIN AS WELL?

20 A YES.

21 Q BECAUSE THEY ARE FROM NEW YORK CITY, WE HAD A LOT TO
22 TALK ABOUT; IS THAT CORRECT?

23 A YES, SIR.

24 Q SO YOU BECAME FRIENDS WITH LUCIUS AND DUSHUN BECAUSE
25 Y'ALL ARE FROM THE SAME PART OF THE COUNTRY, NEW YORK

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DUSHUN STATEN, 2002-GS-40-1148 AND 786;
LUCIUS STATEN, 2002-GS-40-1149 AND 783.

1 CITY?

2 A YES, SIR.

3 Q OKAY. AND BEING AWAY FROM HOME, YOU MEET SOMEBODY
4 FROM WHERE YOU'RE ORIGINALLY FROM, AND IT'S KIND OF A
5 BOND, YOU CAN BOND WITH THEM EASIER; IS THAT CORRECT?

6 A YES, SIR.

7 Q ABOUT TWO WEEKS PRIOR TO THE SHOOTING, MR. LEE,
8 THAT'S THE VICTIM; ISN'T THAT CORRECT?

9 A YES, SIR.

10 Q AND LUCIUS AND HIS BROTHER, THAT WOULD BE DUSHUN;
11 CORRECT?

12 A YES, SIR.

13 Q WHO IS A KNOWN BLOOD; IS THAT CORRECT?

14 A YES, SIR.

15 Q OKAY. MR. LEE, THE VICTIM, LUCIUS STATEN, ONE OF
16 THE DEFENDANTS, HIS BROTHER DUSHUN STATEN, DUSHUN WAS A
17 KNOWN BLOOD, STARTED HAVING ARGUMENTS; IS THAT CORRECT?

18 A YES, SIR.

19 Q AND THAT'S PLURAL, THAT'S NOT JUST ONE ARGUMENT,
20 THAT'S ARGUMENTS; CORRECT?

21 A YES, SIR.

22 Q BECAUSE I THINK -- WAS THAT EVEN IN YOUR
23 HANDWRITING?

24 A YES, SIR.

25 Q OKAY. SO TWO WEEKS BEFORE THE INCIDENT OR BEFORE

STATE OF SOUTH CAROLINA VERSUS
DUSHUN STATEN, 2002-GS-40-1148 AND 786;
LUCIUS STATEN, 2002-GS-40-1149 AND 783.

1 THE INCIDENT EVER OCCURRED, DUSHUN STATEN AND LUCIOUS
2 STATEN WERE HAVING SEVERAL ARGUMENTS WITH PHILLIP LEE, THE
3 VICTIM IN THIS CASE; CORRECT?

4 A YES, SIR.

5 Q AND DUSHUN WAS A BLOOD, ACCORDING TO YOUR KNOWLEDGE,
6 I GUESS FROM TALKING WITH HIM; CORRECT?

7 A YES, SIR.

8 Q WOULD HE WEAR RED WHEN HE WAS ON CAMPUS?

9 A A COUPLE OF TIMES.

10 Q OKAY. WHEN I MEAN RED -- YOU KNOW WHAT I MEAN WHEN
11 I TALK ABOUT WEARING A RED FLAG?

12 A YES.

13 Q WOULD HE EVER WEAR IT AROUND HIS WRISTS?

14 A NO, SIR.

15 Q AROUND HIS NECK?

16 A NO, SIR.

17 Q ON HIS HEAD?

18 A NO, SIR.

19 Q AROUND HIS ARM?

20 A NO, SIR.

21 Q JUST IN HIS POCKET?

22 A NO, SIR.

23 Q WELL, WHERE WOULD HE WEAR IT?

24 A SHIRT OR JEANS. MIGHT HAVE BOOTS.

25 Q HAD IT TIED AROUND HIS JEANS?

1 A NO, NO BANDANA. I JUST SAW LIKE BOOTS OR...

2 Q OH, HE'D ONLY WEAR RED CLOTHING?

3 A RIGHT.

4 Q SO YOU NEVER -- THE ENTIRE TIME YOU EVER SAW HIM ON
5 BENEDICT CAMPUS, YOU NEVER SAW HIM WEARING ANY RED
6 BANDANA?

7 A NO, SIR.

8 Q AND WHENEVER YOU SAW PHILLIP LEE, WOULD YOU EVER SEE
9 HIM WITH HIS BLUE?

10 A NO, SIR.

11 Q YOU NEVER SAW PHILLIP WITH BLUE?

12 A NOT A BANDANA. I SAW BLUE CLOTHES ON HIM.

13 Q OKAY. SO YOU NEVER SAW A BLUE BANDANA ON PHILLIP
14 LEE?

15 A NO.

16 Q BUT THEY STARTED HAVING ARGUMENTS. WHAT WERE THE
17 ARGUMENTS ABOUT?

18 A I DON'T KNOW.

19 Q SO WHEN YOU TELL INVESTIGATOR MEAD---

20 THE COURT: HOLD ON. HOLD ON, ONE MINUTE. LET'S

21 SEE IF -- THERE'S SOMETHING WRONG WITH THIS MICROPHONE.

22 YOU WANT TO JUST CHECK THE WIRE ON THAT MICROPHONE AND SEE

23 IF IT'S WORKING? IT'S STARTING TO CUT OUT.

24 (A BENCH CONFERENCE IS HAD AT THIS TIME IN THE

25 PRESENCE OF THE JURY AND THE COURT REPORTER, BUT OUT OF

1 THE HEARING OF THE JURY AND THE COURT REPORTER.)

2 Q YOU HAD INDICATED, BEFORE WE HAD -- WE STOPPED YOUR
3 TESTIMONY, YOU HAD INDICATED THAT YOU KNEW, YOU HAD YOUR
4 OWN PERSONAL KNOWLEDGE, THAT THERE WAS AN ANIMOSITY, AN
5 ARGUMENT BREWING BETWEEN THE VICTIM, PHILLIP LEE, AND THE
6 TWO DEFENDANTS; IS THAT CORRECT?

7 A YES.

8 Q YOU INDICATED MR. LEE IS A KNOW CRIP THAT WOULD HANG
9 OUTSIDE WITH HIS FRIENDS FROM NEW JERSEY; IS THAT CORRECT?

10 A YES.

11 Q AND ONE DAY LUCIUS AND HIS BROTHER WERE OUTSIDE, MR.
12 LEE CAME OUTSIDE THE ROOM, STARTED DOING HIS DANCES WITH
13 HIS NEW JERSEY FRIENDS, AND DUSHUN WAS UPSET; IS THAT
14 CORRECT?

15 A YES, SIR.

16 Q SO YOU OBSERVED THAT?

17 A YES.

18 Q SO PHILLIP LEE WAS ON CAMPUS, COLLEGE HE ATTENDS,
19 AND HE DID SOMETHING THAT ANGERED THIS YOUNG MAN RIGHT
20 HERE, AND YOU OBSERVED THAT?

21 A YES, SIR.

22 Q AND THIS YOUNG MAN, DUSHUN, TOOK IT UPON HIMSELF TO
23 APPROACH PHILLIP LEE, DID HE NOT?

24 A NO, HE DIDN'T.

25 Q HE DIDN'T?

STATE OF SOUTH CAROLINA VERSUS
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LUCIUS STATEN, 2002-GS-40-1149 AND 783.

- 1 A JUST MADE A COMMENT.
- 2 Q OKAY. AND WHO DID HE MAKE THAT COMMENT TOWARDS?
- 3 A PHIL.
- 4 Q SO THAT'S WHAT I MEAN. DUSHUN STATEN WAS THE ONE
- 5 THAT STARTED SOME SORT OF CONVERSATION WITH MR. LEE; IS
- 6 THAT CORRECT?
- 7 A YES, SIR.
- 8 Q AND YOU WITNESSED THAT?
- 9 A YES.
- 10 Q DO YOU REMEMBER WHAT DAY THAT WAS?
- 11 A NO.
- 12 Q AND I BELIEVE YOU EVEN HEARD DUSHUN SAY SOMETHING
- 13 LIKE, "WE CAN SHOOT THE FIVE"?
- 14 A YES.
- 15 Q OKAY. SO WHEN DUSHUN GOT UPSET AND ANGRY AT PHILLIP
- 16 LEE, AND THEN STARTED MAKING COMMENTS TO PHILLIP LEE, YOU
- 17 HEARD DUSHUN STATEN SAY, "WE CAN SHOOT THE FIVE"?
- 18 A YES. THAT MEANS FIGHT.
- 19 Q THAT MEANS FIGHT?
- 20 A YES, SIR.
- 21 Q SO HE WANTED TO FIGHT?
- 22 A YES, FIST FIGHT.
- 23 Q DUSHUN DID?
- 24 A YES.
- 25 Q AND PHILLIP LEE SAID -- KIND OF LAUGHED IT OFF;

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1 CORRECT?

2 A YES.

3 Q HE DIDN'T WANT ANY PART OF ANY KIND OF PHYSICAL
4 CONFRONTATION?

5 A YES.

6 Q THE VICTIM IN THIS CASE?

7 A YES.

8 Q OKAY. NOW YOU TALKED ABOUT AN INCIDENT -- AND
9 YOU'RE NOT SURE WHETHER IT WAS EITHER FRIDAY NIGHT OR
10 SATURDAY NIGHT; IS THAT CORRECT?

11 A YES.

12 Q OKAY. SO IF IT WAS FRIDAY NIGHT, ANYTHING THAT
13 HAPPENED ON SATURDAY NIGHT THAT'S BEEN TESTIFIED BEFORE
14 THIS JURY, YOU HAVE NO KNOWLEDGE OF; CORRECT?

15 A YES.

16 Q IF THE INCIDENT YOU OBSERVED WAS ON A SATURDAY
17 NIGHT, ANYTHING THAT HAPPENED ON FRIDAY NIGHT THAT WAS
18 TESTIFIED BEFORE THIS JURY, YOU HAVE NO KNOWLEDGE OF?

19 A YES.

20 Q OKAY. BUT ONE OF THOSE TWO NIGHTS YOU WERE PRESENT?

21 A YES.

22 Q THE NIGHT YOU WERE PRESENT, WHEN IT ULTIMATELY WAS
23 RESOLVED, DID YOU EVER -- REMEMBER EVER SEEING A FEMALE
24 BENEDICT COLLEGE PUBLIC SAFETY OFFICER APPROACH THE SCENE?

25 A YES.

1 Q OKAY. SO WE CAN NARROW IT DOWN TO THE NIGHT -- AND
2 IF I TOLD YOU THAT WAS FRIDAY NIGHT, YOU WOULD HAVE NO
3 REASON TO DISPUTE THAT, WOULD YOU?

4 A NO.

5 Q OKAY. SO IF IT WAS THE NIGHT THAT A BENEDICT
6 COLLEGE FEMALE PUBLIC SAFETY OFFICER CAME UP, SHE CAME UP
7 WHEN THE DISPUTE, IF YOU WILL, THE ARGUMENT WAS BREAKING
8 DOWN; CORRECT?

9 A YES.

10 Q AND THE CAR THAT LUCIUS AND DUSHUN ARE DRIVING THAT
11 NIGHT WAS THE WHITE HATCH-BACK?

12 A YES, SIR.

13 Q DID YOU SEE ANYONE WEARING RED THAT NIGHT OR---

14 A NOT THAT I REMEMBER.

15 Q ---EITHER COLOR?

16 A NOT THAT I REMEMBER.

17 Q ARE YOU AWARE OF WHAT THE FIGHT -- THE ARGUMENT WAS
18 OVER?

19 A NO, I WASN'T.

20 Q SO YOU WEREN'T CLOSE ENOUGH TO HEAR WHAT THEY WERE
21 EVEN ARGUING ABOUT?

22 A NO, I WASN'T.

23 Q WERE YOU PAYING MUCH ATTENTION TO IT?

24 A I WAS JUST LOOKING BUT I WASN'T REALLY LISTENING.

25 Q SO ANY THREATENING REMARKS THAT LUCIOUS STATEN MAY

STATE OF SOUTH CAROLINA VERSUS
DUSHUN STATEN, 2002-GS-40-1148 AND 786;
LUCIUS STATEN, 2002-GS-40-1149 AND 783.

1 HAVE MADE TO PHILLIP LEE, YOU WOULDN'T HAVE OVERHEARD?

2 A RIGHT.

3 Q ANY THREATENING REMARKS DUSHUN STATEN MADE TOWARDS
4 PHILLIP LEE, YOU WOULDN'T HAVE OVERHEARD?

5 A YES.

6 (PAUSE.)

7 Q OKAY, MR. McCANTS, LET'S -- TALK TO YOU -- ASK YOU
8 JUST A FEW QUESTIONS ABOUT THAT MONDAY EVENING, JANUARY
9 15TH.

10 (PAUSE.)

11 Q I JUST -- I TRIED BOTH TIMES -- AND I TRIED -- JUST
12 I COULDN'T SEE EXACTLY, BUT WOULD YOU SHOW ME STATE'S
13 EXHIBIT THIRTY-ONE. I KNOW THE JURY SAW IT BUT I DIDN'T
14 SEE IT. SO FOR MY OWN EDUCATION, WOULD YOU POINT OUT
15 WHERE YOU INDICATED YOU PULLED UP INTO A SLOT.

16 A I PULLED UP IN THIS -- IT WAS THIS SLOT
17 (INDICATING).

18 Q OKAY. AND YOU HAD ACTUALLY BEEN ON CAMPUS PRIOR TO
19 -- PRIOR TO THE EVENTS OF THE SHOOTING, YOU'VE INDICATED
20 YOU HAD DRIVEN ONTO CAMPUS AND SEEN LUCIUS AND DUSHUN
21 STATEN AND SHAKEEM; CORRECT?

22 A YES.

23 Q OKAY. SO -- AND YOU ALSO INDICATED THAT THERE WAS
24 AN INDIVIDUAL IN A RACING TYPE JACKET WHICH YOU LATER
25 IDENTIFIED -- YOU CLAIMED WAS MO SANDERS; CORRECT?

1 A YES.

2 Q AND AN INDIVIDUAL IN A BLACK NORTHFACE JACKET THAT
3 YOU HAVE NO IDEA WHO IT IS?

4 A YES, SIR.

5 Q SO WHEN YOU FIRST ARRIVED AROUND 8 OR 8:30, THERE
6 WERE FIVE INDIVIDUALS. THOSE FIVE INDIVIDUALS WERE
7 HANGING OUT TOGETHER?

8 A YES.

9 Q AND DID YOU SEE ANY OF THEM WEARING RED BANDANAS OR
10 HAD RED BANDANAS ON?

11 A THAT I CAN REMEMBER, I THINK THE GUY WITH THE RACING
12 JACKET AND ALSO I THINK THE GUY WITH THE NORTHFACE HAD IT
13 SOMEWHERE ON THEM, I CAN'T REMEMBER WHERE.

14 Q AND YOU DIDN'T SEE -- YOU DIDN'T SEE DUSHUN STATEN
15 WEARING ANY -- ANYTHING RED?

16 A I THINK HIS BOOTS WERE, I THINK.

17 Q NOW WAS THERE ANY ARGUMENTS GOING ON WHEN YOU FIRST
18 PULLED IN?

19 A FROM CIRCUIT CITY OR...

20 Q WHEN YOU FIRST GOT THERE. NO WHEN YOU GOT THERE---

21 A NO.

22 Q ---BEFORE YOU AND LUCIUS LEFT?

23 A NOBODY---

24 Q SO THEN YOU AND LUCIUS LEAVE AND YOU COME BACK AND
25 YOU ARRIVE BACK AFTER -- AROUND -- WOULD IT BE FAIR TO SAY

STATE OF SOUTH CAROLINA VERSUS
DUSHUN STATEN, 2002-GS-40-1148 AND 786;
LUCIUS STATEN, 2002-GS-40-1149 AND 783.

1 SOMETIME BETWEEN 8:30 AND 9:00?

2 A YES.

3 Q BUT YOU WEREN'T LOOKING AT A WATCH; CORRECT?

4 A NO, I WASN'T.

5 Q WHEN YOU PULLED IN, PHILLIP LEE WAS ALREADY STANDING
6 UNDERNEATH -- NEAR THIS LAMPPOST, WAS HE NOT?

7 A YES, SIR.

8 Q AND THERE WAS AT LEAST -- WHEN YOU PULLED IN, THERE
9 WERE SEVERAL OTHER OF HIS FRIENDS AROUND HIM?

10 A YES, SIR.

11 Q AS FAR AS CLOSE TO HIM, COULD YOU -- I MEAN, COULD
12 YOU ESTIMATE THE NUMBER THAT WERE -- THAT WERE RIGHT THERE
13 KIND OF CLOSE TO HIM IN THE SAME DISTANCE THAT YOU AND I
14 ARE ABOUT RIGHT NOW?

15 A THERE WERE A FEW.

16 Q MAYBE THREE, FOUR, ALONG WITH HIM?

17 A YES.

18 Q THE OTHER PEOPLE THAT YOU DESCRIBED WERE KIND OF
19 BACK TOWARDS THE DORM AREA; IS THAT CORRECT?

20 A YES, SIR.

21 Q WERE THERE OTHER PEOPLE JUST KIND OF MILLING ABOUT
22 THE PARKING LOT?

23 A YES.

24 Q BECAUSE THAT'S KIND OF A -- WELL, IT'S A DORM ROOM
25 SO STUDENTS LIVE THERE; CORRECT?

STATE OF SOUTH CAROLINA VERSUS
DUSHUN STATEN, 2002-GS-40-1148 AND 786;
LUCIUS STATEN, 2002-GS-40-1149 AND 783.

1 A YES, SIR.

2 Q AND IT'S KIND OF A POPULAR HANGOUT?

3 A YES.

4 Q AND YOU WERE -- PEOPLE -- DO YOU HEAR PEOPLE
5 LISTENING TO MUSIC? WERE THERE PEOPLE LISTENING TO MUSIC?
6 DID YOU HEAR ANY MUSIC?

7 A NOT THAT I REMEMBER. I CAN'T REMEMBER.

8 Q KIND OF HEAR BACKGROUND CONVERSATION?

9 A YES.

10 Q PEOPLE TALKING?

11 A YES.

12 Q OKAY. AND OF COURSE WHEN YOU COME UP ON THE SCENE,
13 THERE'S ALREADY AN ARGUMENT IN PROGRESS; CORRECT?

14 A YES.

15 Q AND PHILLIP LEE'S NOT THE ONLY ONE THAT'S DOING THE
16 TALKING; IS THAT TRUE?

17 A YES.

18 Q SOME OF HIS FRIENDS ARE DOING SOME TALKING?

19 A YES.

20 Q AND -- AND THE FELLOW IN THE NORTH -- BLACK
21 NORTHFACE JACKET'S DOING SOME TALKING?

22 A WHEN I PULLED UP HE WAS JUST STANDING THERE WITH THE
23 GUY WITH THE RACING JACKET NEXT TO HIM.

24 Q SO WHEN YOU PULLED UP, THE -- SHAKEEM AND DUSHUN AND
25 THE GUY IN THE RACING JACKET AND THE GUY IN THE BLACK

- 1 NORTHFACE, THEY'RE JUST -- THEY'RE JUST STANDING THERE?
- 2 A NO, THE TWO WERE STANDING THERE.
- 3 Q WHERE WAS SHAKEEM AND DUSHUN?
- 4 A DUSHUN WAS STANDING TO MY RIGHT WHERE I PULLED UP.
- 5 HE WAS THE CLOSEST TO PHIL, I THINK.
- 6 Q AND THE GALANT, THERE'S NO QUESTION, LET'S JUST GET
- 7 THAT STRAIGHT RIGHT NOW. THIS IS ABOUT 9:00 AT NIGHT.
- 8 THERE'S NO QUESTION THAT PHILLIP -- I MEAN THAT LUCIUS
- 9 STATEN'S GREEN GALANT WAS PARKED IN THE PARKING LOT AT
- 10 BENEDICT COLLEGE AT 9:00 AT NIGHT?
- 11 A YES, SIR.
- 12 Q THERE'S NO QUESTION ABOUT THAT?
- 13 A NONE.
- 14 Q AND THAT IS HIS CAR?
- 15 A YES.
- 16 Q AND DUSHUN WAS NEAR THAT CAR?
- 17 A NO, HE WAS STANDING TOWARD WHERE THE ARGUMENT WAS
- 18 AT.
- 19 Q OKAY. SO WHERE ARE YOU SAYING THE GREEN GALANT WAS?
- 20 LET ME SHOW YOU STATE'S EXHIBIT NUMBER THIRTY-ONE, WHERE
- 21 ARE YOU CLAIMING THE GREEN GALANT WAS?
- 22 A THE GALANT WAS IN THIS VICINITY RIGHT HERE.
- 23 Q FARTHER UP TO THE LEFT?
- 24 A YES, TO MY CAR.
- 25 Q THEN LUCIUS JUMPED OUT OF THE CAR AS SOON AS YOU GOT

STATE OF SOUTH CAROLINA VERSUS
DUSHUN STATEN, 2002-GS-40-1148 AND 786;
LUCIUS STATEN, 2002-GS-40-1149 AND 783.

1 -- AS SOON AS YOU PULLED UP; IS THAT CORRECT?

2 A YEAH, SO DID I.

3 Q SO YOU -- THAT WAS ONE OF MY QUESTIONS. I DIDN'T --
4 I DON'T THINK IT WAS ASKED BUT I WANTED TO KNOW. WHEN YOU
5 PULLED UP, YOU DIDN'T SIT IN YOUR CAR FOR A WHILE?

6 A NO.

7 Q YOU GOT OUT?

8 A I GOT OUT.

9 Q OKAY. AND WHERE WAS THE FOCUS OF YOUR ATTENTION AT
10 THAT POINT?

11 A THE TWO GENTLEMEN I'D NEVER SEEN BEFORE.

12 Q SO NOW YOU'RE FOCUSING ON THEM?

13 A YES.

14 Q OKAY. SO YOU DON'T KNOW WHAT LUCIUS IS DOING AT
15 THAT POINT?

16 A WELL, HE WAS RIGHT -- HE WAS DIAGONALLY IN FRONT OF
17 ME SO I WAS -- I SAW THAT WHOLE VIEW OF WHAT I WAS FOCUSED
18 ON, THE GUY WHAT I NEVER SEEN BEFORE.

19 Q AND LUCIUS WALKED ON UP AND HE WALKED RIGHT UP INTO
20 THE ARGUMENT?

21 A YES.

22 Q OKAY. NOW IS IT YOUR TESTIMONY THAT THERE WAS
23 ABSOLUTELY NO WORDS OF ANIMOSITY? YOUR TESTIMONY IS THERE
24 WAS NO WORDS OF ANIMOSITY BETWEEN LUCIUS STATEN, YOUR
25 FRIEND FROM NEW YORK, AND PHILLIP LEE, THE VICTIM?

- 1 A NO.
- 2 Q YOU DIDN'T HEAR ANY OF THAT?
- 3 A NO.
- 4 Q THAT'S YOUR TESTIMONY?
- 5 A YES.
- 6 Q AND IT'S YOUR TESTIMONY THAT THE ENTIRE TIME YOU
- 7 WERE THERE, DUSHUN STATEN, ANOTHER FRIEND OF YOURS FROM
- 8 NEW YORK, WAS JUST KEEPING HIS MOUTH SHUT AND WAS NOT
- 9 ARGUING ANY WHATSOEVER WITH PHILLIP LEE?
- 10 A YES, BECAUSE WHEN I GOT THERE I CAUGHT THE TAIL END
- 11 OF IT AND HE WASN'T -- EVERYTHING HAPPENED IN A SPLIT
- 12 SECOND. I CAUGHT THE TAIL END. HE WAS JUST STANDING
- 13 THERE WHEN I PULLED UP.
- 14 Q AND I APOLOGIZE, I THOUGHT THAT IN RESPONSE TO MR.
- 15 STRICKLER, YOU HAD INDICATED THAT YOU GOT TO SEE ABOUT
- 16 FIVE OR TEN MINUTES OF THIS ARGUMENT?
- 17 A YES BUT THE ACTUAL -- BETWEEN THE TALKING AND THE
- 18 SHOOTING WAS A SPLIT SECOND.
- 19 Q BUT WHEN YOU PULLED UP YOU GOT TO OBSERVE -- AND I'M
- 20 NOT TRYING TO PUT WORDS IN YOUR MOUTH. ACCORDING TO YOUR
- 21 TESTIMONY WITH MR. STRICKLER, I WANT TO MAKE SURE YOUR
- 22 MEMORY IS CORRECT, YOU GOT TO OBSERVE FIVE TO TEN MINUTES
- 23 OF ARGUING BEFORE THE SHOTS WERE FIRED; CORRECT?
- 24 A RIGHT.
- 25 Q BUT IT'S YOUR TESTIMONY BEFORE THIS JURY THAT DURING

STATE OF SOUTH CAROLINA VERSUS
DUSHUN STATEN, 2002-GS-40-1148 AND 786;
LUCIUS STATEN, 2002-GS-40-1149 AND 783.

- 1 THAT WHOLE FIVE TO TEN MINUTES OF ARGUING, DUSHUN STATEN
2 WHO HAD PREVIOUSLY HAD ALL THESE ARGUMENTS WITH PHILLIP
3 LEE, WAS JUST STANDING THERE MOOT?
- 4 A YES.
- 5 Q NEVER SAID A WORD?
- 6 A NO.
- 7 Q AND HAD NOTHING TO DO WITH THIS CASE? THAT'S WHAT
8 BASICALLY YOU'RE TELLING THIS JURY? HE WAS JUST STANDING
9 THERE, JUST THE SAME WAY YOU WERE THERE; CORRECT?
- 10 A YES.
- 11 Q AND LUCIUS WAS THE PEACEMAKER. CAME UP AND BROKE
12 EVERYTHING UP AND WAS TRYING TO MAKE EVERYBODY LEAVE---
- 13 A YES.
- 14 Q ---AND NOBODY FIGHT?
- 15 A YES.
- 16 Q THEY HAD ABSOLUTELY NOTHING TO DO WITH THIS CASE AS
17 FAR AS---
- 18 A WITH THE SHOOTING.
- 19 Q ---BEING INVOLVED IN THE SHOOTING?
- 20 A YES, WITH THE SHOOTING.
- 21 Q JUST HAPPENED TO BE THERE JUST LIKE YOU?
- 22 A NO, I'M SAYING THAT THEY HAD NOTHING TO DO WITH THE
23 SHOOTING.
- 24 Q OKAY. AND ACCORDING TO YOU THEY HAD NOTHING TO DO
25 WITH EVEN ARGUING WITH THE VICTIM; CORRECT, THAT YOU SAW?

- 1 A AT THAT TIME, NO.
- 2 Q SO YOU DIDN'T SEE LUCIUS AND DUSHUN ARGUING WITH THE
- 3 VICTIM AND THEY DIDN'T PARTICIPATE IN ANY COMMANDS OR
- 4 HANDING ANY GUNS OVER TO ANYBODY; CORRECT?
- 5 A NO.
- 6 Q SO THEY WERE IN ESSENCE JUST LIKE YOU, JUST AN
- 7 OBSERVER?
- 8 A AT THAT FIVE TO TEN MINUTE SPAN, YES.
- 9 Q JUST LIKE SOME OF THE OTHER BENEDICT COLLEGE
- 10 STUDENTS THAT WERE OUT THERE, THEY WERE JUST OBSERVING?
- 11 A YES, IN THAT FIVE TO TEN MINUTE SPAN.
- 12 Q SO THEY HAD NOTHING TO HIDE?
- 13 A YES.
- 14 Q NOTHING NOT TO TELL THE TRUTH ABOUT?
- 15 MR. STRICKLER: YOUR HONOR, I WILL OBJECT TO THAT
- 16 ---
- 17 THE COURT: SUSTAINED.
- 18 MR. STRICKLER: ---CHARACTERIZE WHAT SOMEONE ELSE
- 19 ---
- 20 THE COURT: SUSTAINED.
- 21 Q THERE WAS DEFINITELY A MAN WITH A BLACK NORTHFACE
- 22 JACKET ON, NO QUESTION ABOUT THAT; ISN'T THAT TRUE?
- 23 A NO QUESTION.
- 24 Q AND YOU REMEMBER HE HAD BRAIDS?
- 25 A I WASN'T PAYING ATTENTION TO HIM. I JUST SAW THAT

1 HE HAD A JACKET ON THAT WAS SHORT.

2 Q NOW YOU WOULD AGREE WITH ME -- YOU UNDERSTAND -- YOU
3 KNOW THE JURY'S BEEN OUT TO THE CRIME SCENE EARLIER THIS
4 MORNING?

5 A YES.

6 Q YOU KNOW THAT. OKAY. NOW, IF YOUR CAR AND THE
7 GREEN GALANT -- WELL, IF THE PARKING LOT'S IN FRONT OF
8 THIS JURY RAIL. PHILLIP LEE IS STANDING RIGHT HERE;
9 CORRECT?

10 A YES.

11 Q OKAY. THE PEOPLE THAT ARE STANDING NEXT TO PHILLIP
12 LEE, BASED ON YOUR TESTIMONY THAT THE LIGHTING WAS
13 TREMENDOUS OUT THERE, YOU WOULD AGREE WITH ME THAT---

14 MR. STRICKLER: I'LL OBJECT. HE'S GONNA ASK HIM TO
15 CHARACTERIZE WHAT OPPORTUNITY THEY HAVE. I OBJECT TO
16 THAT.

17 MR. GASSER: I'M NOT GONNA ASK THAT.

18 MR. STRICKLER: ALL RIGHT.

19 Q WOULD YOU AGREE WITH ME THAT IF YOU WERE STANDING
20 LOOKING TOWARDS THE PEOPLE THAT ARE IN FRONT -- OR AROUND
21 THE GALANT, THAT A -- YOU WOULD HAVE A BETTER CHANCE TO
22 SEE THEIR FACE -- THEIR FACES THAN IF YOU'RE STANDING BACK
23 HERE?

24 A YES.

25 Q I MEAN, ISN'T IT QUITE OBVIOUS IF YOU'RE LOOKING AT

1 SOMEBODY---

2 A YES.

3 Q IN OTHER WORDS, I HAVE A BETTER CHANCE TO SEE THE
4 DEFENSE TABLE OVER HERE AND THE DEPUTIES IF I'M STARING AT
5 THEM; CORRECT?

6 A YES.

7 Q NOW THIS -- THIS GUN THAT YOU'RE -- YOU ARE, I
8 BELIEVE, AS ABSOLUTE ABOUT THE GUN BEING A SEMI-AUTOMATIC
9 AS YOU ARE THAT MO SANDERS WAS THE SHOOTER.

10 MR. TAYLOR: OBJECTION TO THE TESTIMONY BY COUNSEL
11 NOW. HE'S THROWING ALL THESE -- HE'S NOT ASKING A
12 QUESTION. HE'S THROWING IN A STATEMENT. HE'S TESTIFYING
13 NOW.

14 THE COURT: NO, HE'S NOT. HE'S ON CROSS. THAT'S
15 ALREADY BEEN TESTIFIED TO.

16 MR. GASSER: THANK YOU, YOUR HONOR.

17 Q THE SEMI-AUTOMATIC, MR. McCANTS, THAT YOU CLAIM WAS
18 THE GUN, DO YOU REMEMBER WHAT WAS WRAPPED AROUND THE
19 HANDLE OF THIS WHAT YOU CLAIM TO BE A SEMI-AUTOMATIC?

20 A SEEMED LIKE A BANDANA.

21 Q OKAY. IT WAS WRAPPED AROUND THE HANDLE OF IT?

22 A THAT'S WHAT IT LOOKED LIKE.

23 Q OKAY. AND AFTER THE SHOOTING OCCURRED, YOU HAD --
24 YOU JUMPED -- YOU GOT INTO -- WELL, YOU SAID YOU FROZE
25 FIRST; CORRECT?

1 A YES.

2 Q AND THEN YOU GOT IN YOUR CAR. YOU WEREN'T PAYING
3 ANY ATTENTION TO WHERE ANYBODY ELSE WAS GOING?

4 A WELL, THE ONLY PERSON I SAW WAS MAURICE WENT BY ME
5 AND THEN I GOT IN MY CAR.

6 Q OKAY. SO YOUR CAR IS HERE (INDICATING) AND THE
7 SHOOTING OCCURRED -- YOU'RE SAYING MAURICE RAN BY YOU HERE
8 (INDICATING)?

9 A HE WENT BY ME THAT WAY (INDICATING).

10 Q OH SO HE'S -- SO HE'S OVER HERE NOW (INDICATING)?
11 HE'S RUNNING BY YOU THIS WAY (INDICATING)?

12 A MY CAR WAS RIGHT HERE (INDICATING). WHEN THE
13 SHOOTING HAPPENED, HE RAN BY ME THAT WAY (INDICATING). HE
14 WENT -- MY CAR WAS -- I GOT IN MY CAR, HE RAN BY ME THIS
15 WAY (INDICATING) IN THAT DIRECTION AND I PULLED OUT AND
16 WENT TOWARD WAVERLY.

17 Q SO DID HE GET IN THE CAR -- WERE YOU OUTSIDE OF YOUR
18 CAR WHEN HE RAN BY YOU OR HAD YOU GOTTEN IN THE CAR WHEN
19 HE RAN BY YOU?

20 A I WAS GETTING IN MY CAR WHEN HE RAN BY ME.

21 Q AND THERE'S NO QUESTION HE WAS RUNNING?

22 A NO QUESTION.

23 Q AND YOU CLAIM HE WAS WEARING A RACING JACKET?

24 A YES.

25 Q OKAY. AND YOU HAVE NO IDEA WHERE LUCIUS OR DUSHUN

STATE OF SOUTH CAROLINA VERSUS
DUSHUN STATEN, 2002-GS-40-1148 AND 786;
LUCIUS STATEN, 2002-GS-40-1149 AND 783.

1 STATEN WENT?

2 A NO, I DIDN'T.

3 Q OKAY.

4 (PAUSE.)

5 Q JUST A FEW MORE QUESTIONS, MR. McCANTS. WHEN YOU
6 SAID IN YOUR STATEMENT ON PAGE THREE -- I'LL LET YOU GET
7 TO PAGE THREE, IN THE MIDDLE OF YOUR STATEMENT. AND
8 AGAIN, I'M NOT TRYING TO CONFUSE YOU. I JUST THOUGHT THAT
9 EARLIER IN YOUR TESTIMONY WHEN I ASKED YOU WHERE THE
10 GALANT WAS AND ABOUT DUSHUN, DUSHUN AND SHAKEEM AND SOME
11 OF THESE GUYS HANGING OUT THE GALANT, YOU HAD INDICATED
12 THEY WEREN'T HANGING OUT BY THE GALANT; CORRECT?

13 A WHAT DO YOU MEAN?

14 Q DID YOU NOT SAY BEFORE THAT DUSHUN WAS NOT STANDING
15 BY THE GALANT?

16 A WHEN?

17 Q WHEN YOU PULLED UP.

18 A YES.

19 Q OKAY. GO AHEAD AND TELL ME WHERE HE WAS STANDING
20 WHEN YOU PULLED UP.

21 A HE WAS STANDING, I'D SAY, TO THE RIGHT OF MY CAR.

22 Q WAS HE ON THE SIDEWALK OR THE GRASS?

23 A HE WAS IN BETWEEN THE SIDEWALK AND GRASS. I CAN'T
24 REALLY REMEMBER, IN BETWEEN THE SIDEWALK AND GRASS. HE
25 COULD HAVE BEEN LIKE RIGHT WHERE THE GRASS MEETS THE

1 SIDEWALK. I DON'T REMEMBER.

2 Q SO WHEN YOU PUT IN YOUR STATEMENT -- WHEN YOU PUT IN
3 YOUR STATEMENT THAT -- WHO WAS STANDING NEAR THE GALANT,
4 YOU INDICATED DUSHUN, SHAKEEM AND TWO GUYS I NEVER SAW
5 BEFORE, WAS THAT AFTER THE SHOOTING?

6 A BEFORE.

7 Q SO THEY WERE BY THE GALANT? I'M NOT TRYING TO---

8 A YES.

9 Q THEY WERE STANDING BY THE GALANT?

10 A YES.

11 (PAUSE.)

12 Q NOW, MR. McCANTS, YOU HAD BEEN A BENEDICT COLLEGE
13 STUDENT FOR ABOUT THREE YEARS, I BELIEVE; IS THAT CORRECT?

14 A YES.

15 Q AND YOU STILL HAVE SOME ALLEGIANCE TO THE COLLEGE
16 THAT YOU WENT TO FOR THREE YEARS?

17 A YES.

18 Q WHEN YOU WITNESSED THIS HUMAN BEING GET SHOT IN THE
19 BACK OF THE HEAD AND GET KILLED, THAT'S NOT SOMETHING --
20 THAT'S THE FIRST TIME IT'S EVER HAPPENED; CORRECT, THAT
21 YOU'VE SEEN SOMETHING LIKE THAT?

22 A YES.

23 Q AND THAT EVENING, WHEN YOU SAW THAT, YOU WEREN'T A
24 PARTICIPANT IN THAT, WERE YOU, MR. McCANTS?

25 A NO.

STATE OF SOUTH CAROLINA VERSUS
DUSHUN STATEN, 2002-GS-40-1148 AND 786;
LUCIUS STATEN, 2002-GS-40-1149 AND 783.

- 1 Q YOU WERE AN EYEWITNESS?
- 2 A YES.
- 3 Q OKAY. BUT YOUR FRIENDS WERE ALL OUT THERE; CORRECT?
- 4 A PEOPLE I KNEW WERE OUT THERE, YES.
- 5 Q YOUR FRIENDS FROM NEW YORK CITY?
- 6 A PEOPLE I KNEW, YES.
- 7 Q AND THEY WERE PARTICIPANTS, AT LEAST IN THE
- 8 ARGUMENT, ACCORDING TO YOU?
- 9 A YES.
- 10 Q BUT THEY DIDN'T DO ANYTHING WRONG, ACCORDING TO YOU?
- 11 A YES.
- 12 Q SO YOU'RE NOT SITTING HERE TELLING THE JURY THAT YOU
- 13 ARE ABSOLUTELY CERTAIN YOU HEARD EVERY SINGLE WORD THAT
- 14 CAME OUT OF LUCIUS STATEN'S MOUTH, ARE YOU?
- 15 A NO.
- 16 Q LUCIUS STATEN COULD HAVE SAID SOMETHING THAT YOU
- 17 JUST DIDN'T HEAR?
- 18 A YES.
- 19 Q IS THAT TRUE?
- 20 A YES.
- 21 Q WHEN YOU WERE FOCUSING ON ONE THING, LUCIUS STATEN
- 22 COULD HAVE MADE SOME SORT OF GESTURE TOWARDS SOMEONE ELSE
- 23 THAT YOU DIDN'T SEE; CORRECT?
- 24 A AT THE TIME OF THE SHOOTING, NO.
- 25 Q AND THAT COULD -- YOU COULD HAVE -- YOU WERE

1 FOCUSING ON SOMETHING ELSE, HE COULD HAVE SAID SOMETHING
2 OR DONE SOMETHING THAT YOU JUST DIDN'T SEE; ISN'T THAT
3 TRUE?

4 A YES.

5 Q WHEN YOU WERE FOCUSING ON SOME -- ON ONE OF THE
6 PERSONS OUT THERE, DUSHUN STATEN COULD HAVE DONE SOMETHING
7 OR SAID SOMETHING THAT YOU JUST DIDN'T SEE OR YOU JUST
8 DIDN'T HEAR, ISN'T THAT TRUE, MR. STATEN (SIC)?

9 A YES.

10 Q OKAY. BECAUSE EVERYONE THAT WAS OUT THERE SAW
11 CERTAIN THINGS THAT OTHER PEOPLE DIDN'T SEE, WOULD YOU
12 AGREE WITH THAT?

13 A YES.

14 Q HEARD THINGS THAT OTHER PEOPLE DIDN'T HEAR?

15 A YES.

16 Q WHEN YOU -- YOU DIDN'T GO TO THE BENEDICT COLLEGE
17 DEPARTMENT OF PUBLIC SAFETY THE NEXT DAY OR CALL UP THERE,
18 DID YOU, MR. McCANTS?

19 A NO.

20 Q OKAY. AND YOU DIDN'T THINK TO CALL THE COLUMBIA
21 POLICE DEPARTMENT THE NEXT DAY OR THE DAY AFTER?

22 A NO.

23 Q THIS CASE -- YOU WERE LIVING IN COLUMBIA. YOU
24 REMEMBER THE CASE GENERATED A TREMENDOUS AMOUNT OF MEDIA
25 PUBLICITY, DO YOU REMEMBER SEEING THAT?

1 A YES.

2 Q OKAY. AND WHEN WAS THE FIRST TIME YOU FINALLY MADE

3 THE DECISION, YOU KNOW, I THINK I'M GONNA CALL THE POLICE?

4 A MARCH.

5 Q IN MARCH?

6 A YES.

7 Q SO TWO MONTHS AFTER THE FACT, YOU MAKE THE DECISION,

8 I THINK -- I SAW SOMETHING, I'M GONNA CALL THE POLICE?

9 A YES.

10 Q NOW, IT'S YOUR TESTIMONY YOU TRIED TO GET A HOLD OF

11 INVESTIGATOR MEAD ON TWO OCCASIONS?

12 A YES.

13 Q OKAY. AND HOW DID YOU -- AND THEN YOU GOT A HOLD OF

14 DAVID TAYLOR OR DID HE GET A HOLD OF YOU?

15 A HE GOT A HOLD OF ME AT MY PLACE OF EMPLOYMENT.

16 Q OKAY. AND WHEN HE GETS A HOLD OF YOU AT YOUR PLACE

17 OF EMPLOYMENT, DID YOU CALL INVESTIGATOR MEAD AGAIN OR DID

18 YOU PHYSICALLY GO DOWN THERE?

19 A I CALLED AGAIN.

20 Q OKAY. BUT THE REST OF JANUARY WENT BY AND ALL OF

21 FEBRUARY WENT BY, WHEN YOUR FRIENDS WERE AT THE DETENTION

22 CENTER AND THEN ALL OF A SUDDEN ON MARCH THE 22ND, YOU

23 DECIDED TO COME DOWN TO THE COLUMBIA POLICE DEPARTMENT AND

24 GIVE A STATEMENT BASICALLY SAYING THEY HAD NOTHING TO DO

25 WITH IT AND MO SANDERS WAS THE SHOOTER, IS---

STATE OF SOUTH CAROLINA VERSUS
DUSHUN STATEN, 2002-GS-40-1148 AND 786;
LUCIUS STATEN, 2002-GS-40-1149 AND 783.

1 A YES.

2 MR. GASSER: BEG THE COURT'S INDULGENCE.

3 (PAUSE.)

4 MR. GASSER: THAT'S ALL I HAVE, YOUR HONOR.

5 THE COURT: ALL RIGHT, MR. STRICKLER, ANY REDIRECT?

6 MR. STRICKLER: YES, SIR.

7 REDIRECT EXAMINATION BY MR. STRICKLER:

8 Q BRANDON, JUST A FEW QUESTIONS FOR YOU, IF I
9 COULD.

10 MR. GASSER, ASKED ABOUT THE STATEMENTS THAT YOU GAVE
11 ON THE 23RD.

12 A YES.

13 Q DO YOU HAVE A COPY OF IT IN FRONT OF YOU NOW?

14 A YES.

15 Q OKAY. NOW, HE ASKED YOU ABOUT THIS INCIDENT AND YOU
16 COULDN'T REMEMBER WHAT NIGHT IT WAS ON, A FRIDAY OR A
17 SATURDAY---

18 A YES.

19 Q ---AND YOU REMEMBERED THE SECURITY OFFICER COMING UP
20 AT THAT POINT IN TIME AND MR. GASSER INDICATES THAT'S
21 FRIDAY.

22 NOW, PAGE TWO OF YOUR STATEMENT WHERE MR. GASSER IS
23 DERIVING THIS REFERENCE TO DUSHUN, HE SAID, "WE CAN SHOOT
24 THE FIVE", WHICH MEANS FIGHTING, A FIST FIGHT; IS THAT
25 CORRECT?

- 1 A YES.
- 2 Q RIGHT AFTER THAT, YOU ALSO REMEMBER REGARDING THAT
- 3 INCIDENT, THAT LUCIUS SAID HE WASN'T EVEN WORRIED;
- 4 CORRECT?
- 5 A YES.
- 6 Q AND THE HE WAS REFERRING TO PHIL LEE?
- 7 A YES.
- 8 Q OKAY. AND THAT WAS SAID AND THEN THE THING BROKE
- 9 UP?
- 10 A YES.
- 11 Q OKAY. AND AS TO THAT INCIDENT, HOW MANY PEOPLE
- 12 ASSOCIATED WITH MR. LEE WERE OUT THERE WHILE THAT INCIDENT
- 13 WAS---
- 14 A A LOT.
- 15 Q A LOT. OKAY. AND THAT WAS PEOPLE -- OTHER PEOPLE
- 16 TALKING AND---
- 17 A YES.
- 18 Q ---AND DISTRACTING AND THIS AND THAT SO THAT YOU
- 19 COULDN'T HAVE HEARD ANY THREATS THAT WERE MADE---
- 20 A YES.
- 21 Q ---BY EITHER THESE FOLKS---
- 22 A YES.
- 23 Q LIKEWISE, YOU COULDN'T HEAR ANY THREATS OR ANYTHING
- 24 ELSE BECAUSE YOU DIDN'T WRITE IT DOWN, THAT MAY HAVE BEEN
- 25 DIRECTED TO THEM; RIGHT?

STATE OF SOUTH CAROLINA VERSUS
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LUCIUS STATEN, 2002-GS-40-1149 AND 783.

1 A YES.

2 Q AND AS TO THE INCIDENT ON THE 15TH, HOW LARGE WAS
3 THE GROUP OF PEOPLE THAT THESE FELLOWS WERE ARGUING WITH
4 WHEN YOU PULLED UP?

5 A FIFTEEN -- TEN TO FIFTEEN.

6 Q ABOUT FIFTEEN. OKAY. ON PAGE TWO, AGAIN IN YOUR
7 STATEMENT, WHAT YOU DO REMEMBER ACCORDING TO YOUR
8 STATEMENT, YOU GOT OUTSIDE ON YOUR HOOD AND LUCIUS GOT OUT
9 AND WALKED IN THE MIDDLE OF THE ARGUMENT; RIGHT?

10 A YES.

11 Q AND LUCIUS TOLD LEE AND HIS FRIENDS TO LEAVE AND
12 ALSO TOLD DUSHUN AND HIS COUSIN AND THE TWO GUYS TO GET IN
13 THE CAR AND GO?

14 A YES.

15 Q REMEMBER HIM SAYING THAT?

16 A YES.

17 Q OKAY. AND HE THEN TURNED AND WALKED AWAY HIMSELF?

18 A YES.

19 Q AND IT'S AFTER THAT POINT IN TIME SHOTS WERE FIRED?

20 A YES.

21 Q YOU DIDN'T HEAR HIM SAY, "DUSHUN, GET A HAMMER"?

22 A NO.

23 Q YOU DIDN'T HEAR HIM SAY, "MISTER MAN IN THE BLACK
24 NORTHFACE, KILL PHILLIP LEE"?

25 A NO.

STATE OF SOUTH CAROLINA VERSUS
DUSHUN STATEN, 2002-GS-40-1148 AND 786;
LUCIUS STATEN, 2002-GS-40-1149 AND 783.

1 Q YOU DIDN'T HEAR HIM GIVE DIRECTIONS TO ANYONE TO DO
2 ANYTHING BUT GO?
3 A YES.
4 MR. STRICKLER: THANK YOU.
5 THE COURT: ALL RIGHT, YOU CAN COME DOWN.
6 (THE WITNESS NOW LEAVES THE WITNESS STAND.)
7 MR. TAYLOR: YOUR HONOR, MAY I?
8 THE COURT: NO. YOU'VE ALREADY HAD CROSS; CORRECT?
9 CROSS. CROSS. REDIRECT.
10 ALL RIGHT, LET'S BREAK FOR LUNCH. IT'S TWENTY
11 MINUTES TILL 2 -- I MEAN TWENTY MINUTES TO 1. WE'RE GONNA
12 COME BACK AT 2:00, SO I'M CUTTING YOU TEN MINUTES SHORT ON
13 YOUR LUNCH SO WE CAN GET THROUGH WITH TESTIMONY TODAY.
14 DON'T DISCUSS THE CASE WITH ANYBODY. PLEASE BE BACK
15 ON TIME SO WE CAN GET STARTED---
16 THE BAILIFF: QUIET. ORDER IN THE COURT.
17 THE COURT: SO WE CAN GET STARTED AND FINISH
18 TESTIMONY TODAY. SEE YOU BACK AT 2:00.
19 (JURY OUT AT 12:42 P.M.)
20 THE COURT: MR. HOOD, I DID GIVE YOU THE WRONG
21 CITE.
22 MR. HOOD: YES, SIR, YOUR HONOR. I WASN'T GONNA
23 SAY THAT.
24 THE COURT: I GAVE YOU THE WRONG CITE. IT WAS THE
25 CITE OF THE CASE RIGHT ABOVE THAT.

STATE OF SOUTH CAROLINA VERSUS
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LUCIUS STATEN, 2002-GS-40-1149 AND 783.

1 ALL RIGHT, 2:00.

2 (COURT IS IN RECESS.)

3
4
5 --- END OF VOLUME NUMBER THREE---

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STATE OF SOUTH CAROLINA VERSUS
DUSHUN STATEN, 2002-GS-40-1148 AND 786;
LUCIUS STATEN, 2002-GS-40-1149 AND 783.

1 **THE BAILIFF:** ALL RISE, PLEASE.

2 **THE COURT:** THANK YOU. PLEASE BE SEATED. READY?

3 **MR. STRICKLER:** IF WE COULD, YOUR HONOR, BEFORE THE
4 JURY COMES IN, AS YOU NOTED AND I THANK YOU FOR PUTTING
5 THAT ON THE RECORD, I WOULD ASK THE RECORD TO REFLECT THAT
6 AT THE END OF THE STATE'S CASE, FOR LUCIUS STATEN I GO
7 AHEAD AND MOVE FOR A DIRECTED VERDICT IN THIS MATTER,
8 SUBMITTING TO YOUR HONOR THAT THE EVIDENCE, WHEN TAKEN IN
9 THE LIGHT MOST FAVORABLE TO THE STATE, PARTICULARLY AS TO
10 LUCIUS STATEN, FAILS TO SUPPORT GOING FORWARD WITH THIS
11 CASE AND THAT IT DOES NOT SHOW THAT HE ACTUALLY FIRED THE
12 GUN, DOES NOT SHOW -- THERE IS A COMPLETE LACK OF EVIDENCE
13 AS TO LACK OF PARTICIPATION ON HIS PART IN THE ACT OR THAT
14 HE DIRECTED OTHERS. I WOULD SUBMIT A COMPLETE LACK OF
15 CREDIBLE EVIDENCE THAT HE DIRECTED OTHERS TO COMMIT THE
16 ACT. HE WAS NOT PRESENT AIDING AND ABETTING.

17 AND AS TO THE CHARGE OF LYNCHING, I WOULD SUBMIT
18 SIMILARLY THAT THE EVIDENCE FAILS TO SUPPORT GOING
19 FORWARD. IT FAILS TO SUPPORT THERE WAS ANY KIND OF --
20 THAT THERE WAS ANY PREMEDITATED ACTION ON HIS PLAN -- ON
21 HIS PART TO ENGAGE IN AN ACT OF MOB VIOLENCE AS DEFINED BY
22 OUR LEGISLATURE IN THIS REGARD, UNDERSTANDING AS I DO THAT
23 THE PREMEDITATION SPOKEN OF IN THE STATUTE NEED NOT HAVE
24 BEEN FORMED AT ANY PARTICULAR LENGTH OF TIME BEFORE THE
25 INCIDENT, CAN BE FORMED AT THE TIME THE INCIDENT IS

STATE OF SOUTH CAROLINA VERSUS
DUSHUN STATEN, 2002-GS-40-1148 AND 786;
LUCIUS STATEN, 2002-GS-40-1149 AND 783.

1 UNDERWAY. I WOULD SUBMIT, EVEN GIVEN THAT, AND THAT'S MY
2 UNDERSTANDING OF WHAT THE LAW IS IN THAT REGARD, THAT THE
3 EVIDENCE FAILS TO SUPPORT GOING FORWARD ON THAT.

4 SO I WOULD ASK THAT YOU DIRECT VERDICTS AS TO LUCIUS
5 STATEN -- LUCIUS STATEN AS TO EACH OF THE TWO CHARGES.

6 THE COURT: OKAY.

7 MR. TAYLOR: AND I WOULD ALSO MAKE THE SAME MOTION
8 ON BEHALF OF DUSHUN STATEN, YOUR HONOR.

9 THE COURT: ALL RIGHT. WELL, THERE IS TESTIMONY
10 AND I DON'T DEAL WITH CREDIBILITY, I SIMPLY DEAL WITH IF
11 THERE'S ANY EVIDENCE AND THERE IS EVIDENCE THAT -- FROM
12 ONE WITNESS THAT MR. LUCIUS STATEN SAID, "GET THE HAMMER".

13 AND THERE'S TESTIMONY THAT MR. DUSHUN STATEN GOT THE
14 HAMMER. BUT I DON'T DEAL WITH CREDIBILITY.

15 SO, BASED ON THAT, THE JURY HAS TO DECIDE WHETHER
16 THEY BELIEVE ANY OF THOSE WITNESSES.

17 MR. STRICKLER: YES, SIR, I JUST THANK YOU FOR
18 NOTING THAT WE PUT IT ON THE RECORD AT THIS POINT IN TIME.

19 THANK YOU. WITH THAT, WE'RE READY TO PROCEED.

20 THE COURT: ALL RIGHT. READY TO GO?

21 MR. GASSER: YES, SIR.

22 THE COURT: ALL RIGHT. BRING IN THE JURY, PLEASE,
23 SIR.

24 (JURY IN AT 2:04 P.M.)

25 THE BAILIFF: THE JURY'S PRESENT, YOUR HONOR.

STATE OF SOUTH CAROLINA VERSUS
DUSHUN STATEN, 2002-GS-40-1148 AND 786;
LUCIUS STATEN, 2002-GS-40-1149 AND 783.

1 THE COURT: THANK YOU. ALL RIGHT, MR. STRICKLER,
2 CALL YOUR NEXT WITNESS.

3 MR: STRICKLER: THANK YOU, YOUR HONOR. MAY IT
4 PLEASE THE COURT. THE DEFENSE FOR LUCIUS STATEN CALLS
5 LUCIUS STATEN.

6 (LUCIUS STATEN, HAVING FIRST BEEN DULY
7 SWORN, TESTIFIED AS FOLLOWS:)

8 THE CLERK: PLEASE HAVE A SEAT HERE AND STATE YOUR
9 FULL NAME FOR THE RECORD, PLEASE.

10 MR. STATEN: LUCIUS STATEN.

11 DIRECT EXAMINATION BY MR. STRICKLER:

12 Q LUCIUS, IS IT ALL RIGHT IF I CALL YOU LUCIUS?

13 A YES, SIR.

14 Q OKAY. DO YOU BELONG TO ANY GROUP KNOWN AS THE
15 BLOODS?

16 A NO, SIR.

17 Q HAVE YOU EVER BEEN A MEMBER OF ANY GROUP KNOWN AS
18 THE BLOODS?

19 A NO, SIR.

20 Q DO YOU WEAR RED COLORS?

21 A NO, SIR.

22 Q DID YOU SHOOT PHILLIP LEE JANUARY 15TH, 2001?

23 A NO, SIR.

24 Q DID YOU SEE WHO ACTUALLY SHOT PHILLIP LEE JANUARY,
25 2001?

STATE OF SOUTH CAROLINA VERSUS
DUSHUN STATEN, 2002-GS-40-1148 AND 786;
LUCIUS STATEN, 2002-GS-40-1149 AND 783.

- 1 A NO, SIR.
- 2 Q DID YOU HAVE A GUN JANUARY 15TH, 2001?
- 3 A NO, SIR.
- 4 Q DID YOU GIVE A GUN TO ANYONE ELSE JANUARY 15TH,
- 5 2001?
- 6 A NO, SIR.
- 7 Q DID YOU TELL, BY WORD OR ACTION, ANYONE ELSE TO
- 8 SHOOT PHILLIP LEE JANUARY 15TH OF 2001?
- 9 A NO, SIR.
- 10 Q DID YOU ON JANUARY 15TH, 2001 PLAN, IN ANY FASHION,
- 11 ANY VIOLENCE TOWARDS PHILLIP LEE?
- 12 A NO, SIR.
- 13 Q WERE YOU AWARE PRIOR TO A SHOT BEING FIRED THAT
- 14 ANYONE ELSE PLANNED VIOLENCE TOWARD PHILLIP LEE JANUARY
- 15 15TH OF 2001?
- 16 A NO, SIR.
- 17 Q HOW DO YOU FEEL ABOUT WHAT HAPPENED THAT NIGHT?
- 18 A I'M HURTING, NOT JUST FOR HIS FAMILY BUT FOR MINE AS
- 19 WELL. THEY BOTH SUFFERING RIGHT NOW.
- 20 Q DID YOU EVER TELL ANYONE TO, GET THE HAMMER ON
- 21 JANUARY 15TH, 2001?
- 22 A I DID NOT.
- 23 Q NOW, HOW DO YOU FEEL RIGHT NOW, LUCIUS?
- 24 A CONFUSED.
- 25 Q OKAY. WHY ARE FEELING CONFUSED RIGHT NOW?

STATE OF SOUTH CAROLINA VERSUS
DUSHUN STATEN, 2002-GS-40-1148 AND 786;
LUCIUS STATEN, 2002-GS-40-1149 AND 783.

1 A WELL, A LIFE WAS LOST---

2 MR. GASSER: YOUR HONOR -- YOUR HONOR, WELL, HOW HE
3 FEELS IS INAPPROPRIATE. JUST CAME DOWN WITH A CASE FROM
4 RICHLAND COUNTY. HOW HE FEELS, WE DIDN'T GET INTO
5 EVIDENCE ON HOW THESE PEOPLE FEEL.

6 THE COURT: YEAH, LET'S MOVE ON.

7 MR. STRICKLER: ALL RIGHT. THANK YOU, SIR.

8 Q HAVE YOU EVER TESTIFIED BEFORE?

9 A YES, I HAVE.

10 Q WHEN WAS THAT?

11 A '97.

12 Q WHAT SORT OF PROCEEDING DID YOU TESTIFY BEFORE THEN?

13 A BEFORE A GRAND JURY.

14 Q AND WHAT DID YOU TESTIFY ABOUT THEN?

15 A MY BEST FRIEND WAS MURDERED IN FRONT OF ME.

16 Q AND YOU WERE CALLED AS A WITNESS TO THAT?

17 A YES, I WAS.

18 Q OKAY. PROVIDED TESTIMONY TO THE GRAND JURY ABOUT
19 THAT?

20 A YES, I DID.

21 Q TESTIMONY WHICH RESULTED IN SOMEONE BEING CHARGED
22 WITH THAT CRIME?

23 A YES.

24 Q HAVE YOU EVER TESTIFIED OTHER THAN THAT?

25 A NO, SIR.

STATE OF SOUTH CAROLINA VERSUS
DUSHUN STATEN, 2002-GS-40-1148 AND 786;
LUCIUS STATEN, 2002-GS-40-1149 AND 783.

- 1 Q LUCIUS, WHERE WERE YOU BORN?
- 2 A BRONX, NEW YORK.
- 3 Q AND WHEN WAS THAT?
- 4 A MAY 26, 1976.
- 5 Q DO YOU HAVE FAMILY HERE IN COURT OTHER THAN DUSHUN?
- 6 A YES, I DO.
- 7 Q CAN YOU POINT THEM OUT, PLEASE, FOR US?
- 8 A MY SISTERS---
- 9 Q ON THE FRONT ROW THERE (INDICATING)?
- 10 A YEAH.
- 11 Q WHERE WERE YOU RAISED?
- 12 A PARTLY HERE AND PARTLY UP THERE.
- 13 Q OKAY. WHEN DID YOU GET DOWN HERE?
- 14 A WE CAME DOWN IN '88.
- 15 Q HOW LONG DID YOU STAY THEN?
- 16 A TILL THE END OF '91, BEGINNING OF '92.
- 17 Q OKAY. AND WHERE DID YOU GO THEN?
- 18 A BACK TO NEW YORK.
- 19 Q OKAY. WHAT PART OF NEW YORK?
- 20 A THE BRONX.
- 21 Q HOW FAR DID YOU GO IN SCHOOL?
- 22 A I FINISHED HIGH SCHOOL, TWO YEARS OF COLLEGE.
- 23 Q WHERE DID YOU DO TWO YEARS OF COLLEGE?
- 24 A MONROE.
- 25 Q WHERE IS THAT LOCATED?

STATE OF SOUTH CAROLINA VERSUS
DUSHUN STATEN, 2002-GS-40-1148 AND 786;
LUCIUS STATEN, 2002-GS-40-1149 AND 783.

1 A BRONX, NEW YORK.

2 Q AFTER HIGH SCHOOL, HAVE YOU EVER BEEN EMPLOYED?

3 A YES, I HAVE.

4 Q WOULD YOU TELL US PLEASE WHAT YOUR EMPLOYMENT
5 HISTORY'S BEEN?

6 A I'VE BEEN WORKING SINCE I WAS EIGHTEEN. STARTED OUT
7 DOING MESSENGER SERVICE IN MIDTOWN MANHATTAN.

8 Q WHO DID YOU WORK FOR THEN?

9 A SAY THAT AGAIN.

10 Q WHO DID YOU WORK FOR THEN?

11 A I CAN'T REMEMBER THE NAME.

12 Q OKAY.

13 A AFTER THAT---

14 Q NEXT JOB.

15 A AFTER THAT I GOT INTO SECURITIES.

16 Q OKAY. AND DID YOU WORK FOR A COMPANY DOING SECURITY
17 WORK?

18 A YES, I DID.

19 Q DO YOU REMEMBER WHO THAT WAS?

20 A YEAH, SEVERAL. I WORKED FOR ST. BONA VITCH
21 (PHONETICALLY) WHICH WAS A HOSPITAL AND CASA PER DE MESA
22 (PHONETICALLY) WHICH WAS A AIDS REHABILITATION CENTER. I
23 WORKED MT. PLEASANT COTTAGE SCHOOL WHICH IS A JUVENILE
24 DETENTION CENTER FOR ADOLESCENTS.

25 Q WHEN WAS THAT?

- 1 A IT WAS '98.
- 2 Q '98?
- 3 A YEAH.
- 4 Q THESE ARE ALL IN NEW YORK?
- 5 A YEAH.
- 6 Q DID YOU HAVE OCCASION AT SOME POINT IN TIME TO
- 7 RETURN TO SOUTH CAROLINA?
- 8 A YES, I DID.
- 9 Q WHEN WAS THAT?
- 10 A I CAME DOWN BRIEFLY IN '97.
- 11 Q BRIEFLY IN '97?
- 12 A YEAH.
- 13 Q DID YOU THEN RETURN TO NEW YORK?
- 14 A YES, I DID.
- 15 Q OKAY. AND DID YOU THEN RETURN TO SOUTH CAROLINA
- 16 AGAIN?
- 17 A IN 1999.
- 18 Q 1999? DID YOU FIND EMPLOYMENT HERE?
- 19 A YES, I DID.
- 20 Q AND WHERE WAS THAT?
- 21 A THE FIRST JOB THAT I FOUND WAS AT BURLINGTON COAT
- 22 FACTORY, DUTCH SQUARE MALL.
- 23 Q OKAY. AND THAT WAS WHEN?
- 24 A IN '99.
- 25 Q '99? DID YOU LATER FIND OTHER WORK?

- 1 A YEAH.
- 2 Q AND WHAT WAS THAT?
- 3 A I WORKED AT THE SNEAKER STORE IN COLUMBIANA MALL,
4 FINISH LINE.
- 5 Q OKAY. AND WHEN WAS THAT?
- 6 A 2000.
- 7 Q DID YOU LATER FIND OTHER WORK?
- 8 A YES.
- 9 Q AND WHERE WAS THAT?
- 10 A DEPARTMENT OF JUVENILE JUSTICE.
- 11 Q WHEN WERE YOU EMPLOYED WITH DJJ?
- 12 A THE MIDDLE OF 2000.
- 13 Q MIDDLE OF 2000?
- 14 A YEAH.
- 15 Q OKAY. AND HOW LONG DID YOU WORK THERE?
- 16 A FOR APPROXIMATELY SIX AND A HALF, SEVEN MONTHS.
- 17 Q DID YOU HAVE SOME PAPERWORK YOU NEEDED TO GET
18 STRAIGHTENED OUT BEFORE YOU COULD CONTINUE TO WORK?
- 19 A YES, SIR.
- 20 Q DID YOU GO ON ADMINISTRATIVE LEAVE?
- 21 A YES, I DID.
- 22 Q AND WHEN WAS THAT?
- 23 A NOVEMBER---
- 24 Q NOVEMBER OF 2000?
- 25 A ---IF I'M NOT MISTAKEN.

STATE OF SOUTH CAROLINA VERSUS
DUSHUN STATEN, 2002-GS-40-1148 AND 786;
LUCIUS STATEN, 2002-GS-40-1149 AND 783.

1 Q NOW, AT THAT POINT IN TIME, NOVEMBER OF 2000, WHERE
2 WERE YOU LIVING?

3 A CROSSROADS APARTMENTS.

4 Q THIS ADDRESS ON ZIMALCREST WE'VE HEARD ABOUT?

5 A YES, SIR.

6 Q WHO WERE YOU LIVING WITH IN NOVEMBER OF 2000?

7 A MY FIANCÉ.

8 Q WHAT'S HER NAME?

9 A TALIA COLE.

10 Q TALIA COLE?

11 A YES, SIR.

12 Q SHE'S THE WOMAN ON THE -- THE SEARCH WARRANT WAS
13 LEFT WITH HER, I GUESS, WHEN IT WAS SERVED. IS SHE IN
14 COURT?

15 A YES, SHE IS.

16 Q WHERE IS SHE?

17 A SITTING BETWEEN MY MOTHER AND TISHA.

18 Q OKAY. NOW, DO YOU KNOW DUSHUN STATEN?

19 A YES, I DO.

20 Q OKAY. WHAT'S HIS RELATIONSHIP TO YOU?

21 A HE'S MY YOUNGER BROTHER.

22 Q AND YOU'RE HOW OLD NOW?

23 A TWENTY-FIVE.

24 Q HOW OLD IS HE?

25 A TWENTY-THREE.

STATE OF SOUTH CAROLINA VERSUS
DUSHUN STATEN, 2002-GS-40-1148 AND 786;
LUCIUS STATEN, 2002-GS-40-1149 AND 783.

1 Q HOW BIG ARE YOU?
2 A SIX-TWO.
3 Q ABOUT HOW BIG IS HE?
4 A MAYBE SIX FEET.
5 Q HOW MUCH YOU WEIGH?
6 A ME?
7 Q UH-HUH. (INDICATES AFFIRMATIVE RESPONSE.)
8 A TWO THIRTY, TWO FORTY.
9 Q ABOUT HOW MUCH DOES HE WEIGH, GUESSTIMATE?
10 A MAYBE A HUNDRED AND FIFTY, A HUNDRED AND SIXTY.
11 Q WAS DUSHUN LIVING IN SOUTH CAROLINA IN NOVEMBER OF
12 2000?
13 A NO, HE WASN'T.
14 Q OKAY. DID THERE COME A TIME WHEN DUSHUN CAME TO
15 SOUTH CAROLINA?
16 A YES, HE DID.
17 Q DO YOU REMEMBER WHEN THAT WAS?
18 A DECEMBER 24TH.
19 Q THE DAY BEFORE CHRISTMAS?
20 A YES, SIR.
21 Q OF 2000?
22 A YES, SIR.
23 Q WHEN HE CAME TO SOUTH CAROLINA, DO YOU KNOW WHERE HE
24 STAYED?
25 A YES.

STATE OF SOUTH CAROLINA VERSUS
DUSHUN STATEN, 2002-GS-40-1148 AND 786;
LUCIUS STATEN, 2002-GS-40-1149 AND 783.

1 Q WHERE DID HE STAY?

2 A HE STAYED WITH ME AND SOME NIGHTS HE STAYED WITH MY
3 MOTHER.

4 Q SO DID HE SPEND EVERY NIGHT WITH YOU?

5 A NO, SIR.

6 Q DO YOU HAVE ANY IDEA, ROUGHLY, HOW MANY DAYS A WEEK
7 HE WOULD ACTUALLY STAY AT THE HOUSE WITH YOU?

8 A MAYBE THREE.

9 Q MAYBE THREE DAYS A WEEK? DID YOU HAVE ANY CONTACT
10 WITH BENEDICT UNIVERSITY? DID THERE COME A TIME WHEN YOU
11 HAD CONTACT WITH BENEDICT?

12 A YES, SIR.

13 Q OKAY. CAN YOU TELL US WHEN THAT WAS?

14 A MY MOTHER DOESN'T LIVE TOO FAR FROM THE CAMPUS. SO

15 ---

16 Q WHERE WAS SHE LIVING?

17 A ON REED STREET.

18 Q ON REED STREET? OKAY. REED STREET -- LET'S SEE.

19 HAVE YOU EVER SEEN THIS DIAGRAM PEOPLE BEEN REFERRING TO?

20 A YES, SIR.

21 Q HAD A CHANCE TO LOOK AT THAT? I DON'T -- I DON'T
22 BELIEVE REED'S SHOWN ON HERE.

23 A IT IS.

24 Q IT IS. OKAY. WE'VE GOT TAYLOR AND WE'VE GOT TWO
25 NOTCH.

1 A THAT'S REED RIGHT THERE (INDICATING).

2 Q REED RIGHT THERE. OKAY. SO YOUR MAMMA LIVES ON
3 REED STREET?

4 A YES, SHE DOES.

5 Q OKAY. I WAS ASKING WHEN YOU HAD CONTACT -- WHY
6 DON'T YOU JUST TELL US WHEN THAT WAS AND HOW IT CAME
7 ABOUT.

8 A UH---

9 Q CONTACT WITH BENEDICT.

10 A BRIEFLY I WOULD RIDE THROUGH AND OCCASION EX-CO-
11 WORKERS WOULD BE OUT THERE BECAUSE THEY ATTENDED THE
12 SCHOOL. SO AT TIMES I WOULD STOP IN FRONT OF THE
13 CAFETERIA, PARK MY CAR, STAND OUT WITH THEM, TALK.

14 Q WHAT TIME FRAME IS THIS IN?

15 A IT WOULD BE EARLY AFTERNOON.

16 Q OKAY. WHAT TIME -- I'M SORRY. I'M NOT BEING CLEAR.
17 WHEN IN TIME, DECEMBER, JANUARY, JUNE OF 2000? ROUGHLY,
18 WHEN WAS IT?

19 A YEAH, IT WAS -- IT WAS DURING MY EMPLOYMENT AT DJJ.

20 Q OKAY. SO DURING THE SUMMER AND THE FALL OF 2000?

21 A YEAH.

22 Q DRIVE THROUGH CAMPUS, SEE SOMEONE YOU CASUALLY KNEW,
23 STOP AND TALK?

24 A (SHOOK HEAD AFFIRMATIVELY.)

25 Q OKAY. DID YOU HAVE OCCASION TO SPEND LONGER PERIODS

- 1 OF TIME ON THE CAMPUS OF BENEDICT?
- 2 A YES, I DID.
- 3 Q WHEN DID THAT HAPPEN?
- 4 A 2001.
- 5 Q WHEN---
- 6 A JANUARY.
- 7 Q JANUARY? I'M SORRY. I DON'T MEAN TO SPEAK OVER YOU
- 8 BUT YOU'RE SOFT-SPOKEN. OKAY.
- 9 HOW DID THAT COME ABOUT?
- 10 A A MET A GENTLEMAN BY THE NAME OF LAMAR.
- 11 Q LAMAR? HAS HE GOT A LAST NAME?
- 12 A PERDUE.
- 13 Q PERDUE?
- 14 A YES, SIR.
- 15 Q IS HE SOME KIN TO MANNY PERDUE WHO TESTIFIED HERE?
- 16 A YES. HE TOLD ME HE WAS HIS BROTHER BUT LATER I
- 17 FOUND OUT IN COURT SEVERAL DAYS AGO THAT THEY JUST
- 18 COUSINS.
- 19 Q OKAY. AND YOU MET LAMAR PERDUE, STARTED BEING
- 20 AROUND BENEDICT MORE?
- 21 A YES.
- 22 Q OKAY. AT THAT POINT IN TIME WERE YOU WORKING?
- 23 A NO, SIR.
- 24 Q OKAY. YOU WERE IN THE PROCESS OF DOING WHAT?
- 25 A GOING TO NEW YORK TO GET SOME PAPERWORK STRAIGHTENED

1 OUT FOR MY EMPLOYMENT.

2 Q FROM THE PERIOD YOU JUST TALKED ABOUT, JANUARY OF
3 2001, THAT PERIOD, WERE YOU KEEPING ANY NOTES ON HOW OFTEN
4 YOU WENT TO BENEDICT?

5 A NO, SIR.

6 Q CAN YOU GIVE US AN ESTIMATE ON -- BETWEEN JANUARY
7 1ST AND THE 15TH, WHEN THIS INCIDENT HAPPENED, CAN YOU GIVE
8 US AN ESTIMATE OF HOW MANY TIMES YOU MAY HAVE BEEN AT
9 BENEDICT?

10 A ROUGHLY THREE, THREE AND A HALF DAYS A WEEK.

11 Q THREE, THREE AND A HALF DAYS A WEEK? WHEN YOU WOULD
12 GO THERE, WOULD ANYONE ELSE BE WITH YOU?

13 A MY BROTHER OCCASIONALLY.

14 Q NOW, THIS WHOLE STRING OF VIN NUMBERS TO A
15 MITSUBISHI GALANT, GREEN GALANT -- LET ME SHOW YOU WHAT'S
16 MARKED AS STATE'S EXHIBIT FORTY AND REFERENCE THESE THREE
17 PICTURES HERE. DO YOU RECOGNIZE THAT CAR?

18 A YES, SIR.

19 Q OKAY. WHAT CAR IS THAT?

20 A IT USED TO BE MINE.

21 Q USED TO BE YOURS. LET ME ASK YOU, THAT'S THE CAR
22 THAT'S BEEN TESTIFIED ABOUT; CORRECT?

23 A YES, SIR.

24 Q SOMEWHERE IN HERE -- WELL; RIGHT HERE. LET ME SHOW
25 YOU WHAT'S MARKED AS STATE'S EXHIBIT FORTY-FOUR AND ASK IF

1 YOU RECOGNIZE THAT?

2 A YES, SIR.

3 Q WHAT'S THAT?

4 A BILL OF SALE.

5 Q OKAY. WHO DOES THAT REFLECT THE GALANT BEING SOLD
6 TO?

7 A MYSELF.

8 Q OKAY.. CAN YOU TELL US WHAT THE HIS -- YOUR HISTORY
9 WITH THE GREEN GALANT WAS?

10 A MY HISTORY---

11 Q UH-HUH. (INDICATES AN AFFIRMATIVE RESPONSE.)

12 A ---PERTAINING TO?

13 Q YOU BOUGHT THE CAR?

14 A YES, SIR.

15 Q DID YOU DRIVE THE CAR ON A REGULAR BASIS?

16 A NO, SIR.

17 Q TELL US WHY.

18 A THE INSURANCE WAS TAKEN OFF OF THE CAR AND I HAD TO
19 STRAIGHTEN OUT SOME LOGISTICS WITH THE COMPANY PERTAINING
20 TO MY TAGS.

21 Q AND WITH THE COMPANY -- WHICH COMPANY ARE YOU
22 REFERRING TO?

23 A A & K AUTOMOTIVES.

24 Q OKAY. NOW, DO YOU REMEMBER WHEN YOU BOUGHT THE CAR?
25 IT'S REFLECTED ON THIS DOCUMENT---

1 A OCTOBER.

2 Q OCTOBER OF?

3 A '99.

4 Q OF '99?

5 A YES, SIR.

6 Q OKAY. IN JANUARY OF 2000 -- EXCUSE ME, JANUARY OF

7 2001, WHO WAS LIVING EITHER FULL TIME OR PART OF THE TIME

8 AT THE ADDRESS ON ZIMALCREST?

9 A MYSELF ALONG WITH TALIA AND MY COUSIN, SHAKEEM.

10 Q DUSHUN?

11 A HE JUST CAME DOWN IN DECEMBER. HE WASN'T LIVING

12 THERE. HE WAS HERE FOR THE HOLIDAYS.

13 Q AND HE WOULD BE IN AND OUT OF THE HOUSE AS YOU'VE

14 TESTIFIED---

15 A YES.

16 Q AND WHEN DID SHAKEEM MOVE IN WITH YOU?

17 A HE CAME IN ABOUT SIX, SEVEN MONTHS PRIOR TO THAT.

18 Q OKAY. AND WHERE DID HE COME FROM?

19 A GEORGIA.

20 Q AND HE WAS YOUR COUSIN?

21 A YES, SIR.

22 Q THIS IS SHAKEEM WILSON; IS THAT CORRECT?

23 A YES, IT IS.

24 Q NOW, WAS THERE ANOTHER CAR IN THE HOUSEHOLD OF

25 ZIMALCREST?

1 A YES, THERE WAS.

2 Q WHAT TYPE OF CAR WAS THAT?

3 A IT WAS A WHITE FOUR DOOR HATCH-BACK DAEWOO.

4 Q OKAY. AGAIN SHOWING YOU STATE'S FORTY, IS THAT CAR
5 REFLECTED IN THE PHOTOS IN THIS?

6 A YES, IT IS.

7 Q THESE TWO PHOTOS RIGHT HERE?

8 A YES, IT IS.

9 Q OKAY. AND WHOSE -- WHEN DID Y'ALL GET THAT CAR?

10 A TALIA'S MOTHER CAME DOWN TO VISIT AND DECIDED THAT
11 WE NEEDED ANOTHER AUTOMOBILE, SO PURCHASED THE VEHICLE FOR
12 HER.

13 Q OKAY. WHEN WAS THAT ROUGHLY?

14 A I CAN'T RECALL EXACTLY WHEN.

15 Q DO YOU REMEMBER WHAT YEAR IT WAS IN?

16 A IT WAS IN 2000.

17 Q 2000?

18 A YEAH.

19 Q OKAY. WAS THERE SOME DISPUTE BETWEEN YOU AND A & K
20 AUTO SALES ABOUT PAYMENTS ON THE GALANT?

21 A YEAH.

22 Q THAT'S THE THING YOU WERE TRYING TO STRAIGHTEN OUT?

23 A YEAH.

24 Q AS A RESULT OF THAT, DID YOU PERSONALLY CARRY
25 INSURANCE ON THAT CAR?

- 1 A NO.
- 2 Q DID ANYONE -- DID YOU USE THAT CAR ON A REGULAR
- 3 BASIS?
- 4 A NO, I DID NOT.
- 5 Q WHY NOT?
- 6 A BECAUSE IT DIDN'T HAVE INSURANCE ON IT.
- 7 Q WAS SHAKEEM WILSON EMPLOYED?
- 8 A YES, HE WAS.
- 9 Q WHERE WAS HE WORKING?
- 10 A AT LAVEKY'S.
- 11 Q USED TO BE RIGHT ON MAIN STREET---
- 12 A RIGHT ON MAIN STREET, YES, SIR.
- 13 Q WHO WOULD USE THIS CAR ON A REGULAR BASIS?
- 14 A SHAKEEM.
- 15 Q SHAKEEM. WHAT WOULD HE DO WITH IT? WHAT WAS HE
- 16 SUPPOSED TO DO WITH IT, LET ME PUT IT THAT WAY?
- 17 A IT WOULD TAKE HIM TO AND FROM WORK.
- 18 Q HE WOULD DRIVE IT TO AND FROM WORK?
- 19 A YES, SIR.
- 20 Q WHEN YOU NEEDED TO GET AROUND, WHAT CAR WOULD YOU
- 21 USE?
- 22 A TALIA'S.
- 23 Q AND THAT WOULD BE THE WHITE CAR, WHITE DAEWOO?
- 24 A YES, SIR.
- 25 Q OKAY. DID YOU HAVE AN UNDERSTANDING WITH SHAKEEN AS

- 1 TO WHAT USE HE COULD USE THE CAR FOR?
- 2 A YES, WE DID HAVE AN UNDERSTANDING.
- 3 Q AND WHAT WAS THE UNDERSTANDING?
- 4 A TO GO TO AND FROM WORK.
- 5 Q LAST COUPLE OF THINGS ON THE GALANT. ON JANUARY
- 6 15TH, 2001---
- 7 A YES, SIR.
- 8 Q DID SHAKEEM HAVE YOUR PERMISSION TO TAKE THE GALLANT
- 9 TO BENEDICT COLLEGE?
- 10 A NO, SIR.
- 11 Q OKAY. I'M GONNA COME BACK TO THIS BUT WHEN DID YOU
- 12 FIRST FIND OUT THE GALANT WAS AT BENEDICT COLLEGE, ON THAT
- 13 DATE?
- 14 A YEAH -- ON THAT DAY?
- 15 Q UH-HUH. (INDICATES AN AFFIRMATIVE RESPONSE.)
- 16 A AFTER I HAD BEEN DROPPED OFF AT THE CAMPUS ALREADY.
- 17 Q WE'LL GET BACK TO THAT. WHO DROPPED YOU OFF AND
- 18 WHAT CAR?
- 19 A I CAUGHT A RIDE FROM A GUY. HE'S DECEASED.
- 20 Q OKAY. WHO DROPPED YOU OFF AT BENEDICT?
- 21 A YES, SIR.
- 22 Q ALL RIGHT. DROPPING BACK FROM THE 15TH. YOU'VE
- 23 BEEN IN COURT ALL WEEK; CORRECT?
- 24 A YES, SIR.
- 25 Q YOU'VE HEARD THE TESTIMONY HERE ALL WEEK?

- 1 A YES, I HAVE.
- 2 Q YOU'VE HEARD TESTIMONY REGARDING SOME PRIOR
- 3 INCIDENTS AT BENEDICT?
- 4 A YES, I HAVE.
- 5 Q DO YOU REMEMBER PRIOR INCIDENTS OR INCIDENT AT
- 6 BENEDICT?
- 7 A I DO RECALL VAGUELY BUT I RECALL.
- 8 Q OKAY. WHAT CAN YOU RELATE TO US ABOUT ANY PRIOR
- 9 INCIDENTS, ANY INCIDENTS BEFORE JANUARY 15TH , AT
- 10 BENEDICT?
- 11 A THE INCIDENT THAT TOOK PLACE THAT FRIDAY.
- 12 Q PRETTY SURE IT WAS FRIDAY?
- 13 A YES, I AM.
- 14 Q AND DO YOU REMEMBER A SECURITY OFFICER COMING UP AT
- 15 THE END OF THE INCIDENT?
- 16 A YES, I DO.
- 17 Q OKAY. WHAT CAN YOU TELL US ABOUT THAT INCIDENT?
- 18 A WELL, ME AND MY BROTHER WAS OUT THERE.
- 19 Q YOU AND YOUR BROTHER, THAT'S DUSHUN?
- 20 A YES, SIR.
- 21 Q OKAY. OUT THERE BEING WHERE, THE PARKING LOT?
- 22 A YES, SIR.
- 23 Q OKAY. WHAT TIME OF DAY OR NIGHT, DO YOU REMEMBER?
- 24 A THIS WAS EVENING. IT WAS ALREADY DARK.
- 25 Q OKAY. DO YOU RECOGNIZE WHAT'S MARKED AS STATE'S

STATE OF SOUTH CAROLINA VERSUS
DUSHUN STATEN, 2002-GS-40-1148 AND 786;
LUCIUS STATEN, 2002-GS-40-1149 AND 783.

- 1 EXHIBIT THIRTY-ONE?
- 2 A YES, SIR.
- 3 Q DO YOU UNDERSTAND WHAT THAT DEPICTS, THIS DIAGRAM?
- 4 A YES, I DO.
- 5 Q FRIDAY EVENING AFTER DARK, YOU AND DUSHUN WERE IN
- 6 THE PARKING LOT?
- 7 A YES, SIR.
- 8 Q OKAY. WHAT HAPPENED?
- 9 A WELL, WE WERE SITTING ON THE HOOD OF THE CAR.
- 10 Q DO YOU REMEMBER WHERE IT WAS PARKED AT THAT
- 11 PARTICULAR EVENING?
- 12 A YES, SIR.
- 13 Q WHEREABOUTS?
- 14 A WHERE YOU HAVE THE THREE HANDICAPPED SPOTS---
- 15 Q UH-HUH. (INDICATES AN AFFIRMATIVE RESPONSE.)
- 16 A THE CAR WAS PARKED ON THE OTHER SIDE OF THAT MEDIAN.
- 17 Q ON THE OTHER SIDE OF THIS MEDIAN (INDICATING)?
- 18 A YES, SIR.
- 19 Q SO IT WAS SOMEWHERE IN ONE OF THESE SPACES
- 20 (INDICATING)?
- 21 A YEAH.
- 22 Q OKAY. THIS IS ON FRIDAY?
- 23 A YES, SIR.
- 24 Q OKAY. WHAT HAPPENED THEN?
- 25 A WE WERE SITTING ON THE CAR.

STATE OF SOUTH CAROLINA VERSUS
DUSHUN STATEN, 2002-GS-40-1148 AND 786;
LUCIUS STATEN, 2002-GS-40-1149 AND 783.

1 Q WAS ANYONE ELSE WITH YOU?

2 A THAT NIGHT, JUST ME AND MY BROTHER WAS OUT THERE.
3 BUT A COUPLE OF OTHER PEOPLE WAS OUT THERE. BRANDON
4 MCCANTS WAS OUT THERE AND OF COURSE STUDENT BODY FROM
5 BENEDICT COLLEGE WAS OUT THERE.

6 Q OKAY. WELL, TELL US WHAT HAPPENED?

7 A MY BROTHER WAS SITTING ON THE CAR. I WAS TOO. I
8 WALKED AWAY FOR A MINUTE, CAME BACK AND THAT'S WHEN
9 PHILLIP LEE CAME UP. A FEW WORDS WERE EXCHANGED.

10 Q BETWEEN WHOM?

11 A BETWEEN MY BROTHER AND MR. LEE.

12 Q AND HOW TALL IS -- HOW BIG A GUY WAS MR. LEE?

13 A SIX-THREE.

14 Q CLOSER TO YOUR SIZE THAN YOUR BROTHER'S SIZE?

15 A YES, HE WAS.

16 Q OKAY. AT THAT POINT IN TIME WAS MR. LEE BY HIMSELF
17 OR WAS THERE ANY OTHER INDIVIDUALS WITH HIM?

18 A WHEN HE -- WHEN I SAW HIM COMING UP THE HILL, I WAS
19 WALKING THE OPPOSITE WAY, THERE WAS PEOPLE WITH HIM, JUST
20 A COUPLE. AFTER THE ARGUMENT TOOK PLACE AND THEY, YOU
21 KNOW, THE ARGUMENT STARTED AND TURNED AROUND AND CAME
22 BACK, IT WAS SEVERAL MORE THERE.

23 Q OKAY. WAS THIS ARGUMENT BETWEEN DUSHUN AND MR. LEE?

24 A YEAH.

25 Q THERE WERE SOME OTHER PEOPLE WITH MR. LEE?

STATE OF SOUTH CAROLINA VERSUS
DUSHUN STATEN, 2002-GS-40-1148 AND 786;
LUCIUS STATEN, 2002-GS-40-1149 AND 783.

- 1 A YES, SIR.
- 2 Q WHY DID YOU TURN AROUND AND COME BACK?
- 3 A BECAUSE IT WAS -- MY BROTHER WAS OUTNUMBERED, YOU
- 4 KNOW. HE WAS ON THE CAR AND THERE WERE SEVERAL OF THEM
- 5 AND SEVERAL MORE WAS COMING, YOU KNOW. AND WHEN I TURNED
- 6 AROUND AND WALKED BACK OVER THERE, THE PERSON THAT I GOT
- 7 INTO THE ARGUMENT WITH WAS ALFONZO (SIC) SHULER BECAUSE HE
- 8 PROCEEDED TO TAKE HIS SHIRT OFF AS IF HE WAS GONNA JUMP ON
- 9 MY BROTHER.
- 10 Q LET ME ASK YOU THIS, DID YOU EVER HAVE AN ARGUMENT
- 11 WITH MR. LEE THAT NIGHT?
- 12 A NO, I DID NOT.
- 13 Q OKAY. NOW, MR. SHULER, CAN YOU DESCRIBE HIS
- 14 APPEARANCE FOR THE COURT?
- 15 A YEAH. HE'S MAYBE SIX-THREE.
- 16 Q UH-HUH. (INDICATES AN AFFIRMATIVE RESPONSE.)
- 17 A AND IF I'M BIG, HE'S MUCH BIGGER THAN I AM.
- 18 Q OKAY. AND HE DID WHAT?
- 19 A HE GOT LOUD, "WE CAN DO WHATEVER, HOWEVER,
- 20 WHATEVER", AND START TAKING HIS SHIRT OFF, YOU KNOW.
- 21 Q THAT WOULD INDICATE TO YOU PREPARATION FOR WHAT?
- 22 A TO EITHER ATTACK MY BROTHER OR GET READY TO SQUARE
- 23 OFF.
- 24 Q OKAY. NOW, AT THIS POINT IN TIME, ROUGHLY---
- 25 (CELL PHONE BEGINS TO RING IN THE COURTROOM.)

1 MR. STRICKLER: EXCUSE ME, YOUR HONOR.

2 THE COURT: I GUESS PEOPLE CAN'T READ SIGNS, CAN
3 THEY.

4 MR. STRICKLER: I GUESS NOT, SIR.

5 Q AT THIS POINT IN TIME, ROUGHLY HOW MANY PEOPLE WERE
6 THERE ENGAGED IN AN ARGUMENT WITH YOUR BROTHER?

7 A ANYWHERE FROM SEVEN TO TEN PEOPLE.

8 Q AND WAS JUST ONE OF THOSE PERSONS ARGUING WITH YOUR
9 BROTHER OR WERE MORE THAN ONE PERSON ARGUING---

10 A MORE THAN ONE PERSON HAD SOMETHING TO SAY, SIR.

11 Q OKAY. AND MR. SHULER STARTED TO TAKE HIS SHIRT OFF
12 AND HE'S A BIG GUY, BIGGER THAN YOU?

13 A YES, HE IS.

14 Q WHAT WAS YOUR REACTION TO THAT?

15 A I APPROACHED HIM AND ASKED HIM WHAT THE PROBLEM WAS.

16 Q YOU APPROACHED HIM AND ASKED HIM WHAT THE PROBLEM
17 WAS?

18 A YEAH.

19 Q NOW, WAS THIS RIGHT WHERE YOUR BROTHER WAS ARGUING
20 (INDICATING) OR WAS THIS OFF TO THE SIDE OR WHAT?

21 A NO, IT WAS RIGHT THERE (INDICATING).

22 Q OKAY. SO YOU APPROACHED MR. SHULER AND ASKED HIM
23 WHAT THE PROBLEM WAS?

24 A YES, I DID.

25 Q AND THEN WHAT HAPPENED?

1 A HE SAID, "WHAT YOU MEAN WHAT THE PROBLEM IS, IT CAN
2 BE WHATEVER, YOU KNOW, WHATEVER". YOU KNOW, SAYING,
3 "AIN'T NOBODY GONE DO NOTHING OUT HERE", YOU KNOW. AND HE
4 JUST KEPT ON SAYING WHAT HE WOULD DO.

5 Q RIGHT.

6 A AND I SAID, "AIN'T NOTHING GONE HAPPEN. I'M NOT
7 GONNA SIT HERE AND LET YOU HARM MY BROTHER". I SAID,
8 "FURTHERMORE, WHAT DO YOU WANT TO FIGHT HIM FOR?"

9 HE COULD NEVER ASK THE QUESTION. HE JUST TALKED
10 AROUND IT, YOU KNOW. AND AFTER HE TOOK HIS SHIRT OFF, HE
11 THREW IT OVER HIS SHOULDER.

12 I STOOD THERE AND SPOKE TO THAT BROTHER UNTIL HE
13 CALMED DOWN. AND AFTER HE CALMED DOWN, THE SECURITY CAME
14 OUT, THE SITUATION WAS DIFFUSED.

15 Q UH-HUH. (INDICATES AN AFFIRMATIVE RESPONSE.)

16 A THE BROTHER DID AS MUCH AS EXTEND HIS HAND AND
17 EMBRACE ME. AND I JUST SHAKE IT. BUT DID THIS.

18 Q AND EMBRACED EACH OTHER?

19 A YES, WE DID.

20 Q SO AS FAR AS YOU KNEW, AT THAT POINT IN TIME, YOU
21 AND ALONZO SHULER WERE STRAIGHT?

22 A YES, SIR.

23 Q THERE WASN'T A PROBLEM?

24 A NO, THERE WASN'T.

25 Q OKAY. BEYOND JUST A HAND SHAKE, THERE WAS AN

- 1 EMBRACE?
- 2 A YES, THERE WAS.
- 3 Q AND AT THAT POINT IN TIME, WHAT DID YOU DO?
- 4 A WE LEFT.
- 5 Q YOU LEFT. AND THAT WAS ON FRIDAY NIGHT?
- 6 A YES, SIR.
- 7 Q DO YOU REMEMBER ANY INCIDENT ON SATURDAY?
- 8 A NO, I DON'T.
- 9 Q AND DO YOU REMEMBER ANY INCIDENT ON SUNDAY?
- 10 A NO, I DON'T.
- 11 Q DO YOU KNOW WHETHER YOU WERE AT BENEDICT ON SATURDAY
- 12 OR SUNDAY?
- 13 A IF I WAS, IT WAS BRIEFLY.
- 14 Q OKAY. AND AS TO THE INCIDENT ON FRIDAY, DID YOU
- 15 EVER HAVE AN ARGUMENT BETWEEN YOU AND MR. LEE?
- 16 A NO, SIR.
- 17 Q DID YOU EVER THREATEN MR. LEE---
- 18 A NO, SIR.
- 19 Q AS YOU WERE LEAVING IN THE CAR, DID YOU EVER STOP
- 20 AND MAKE THREATS OR THREATENING COMMENTS TO ANYONE?
- 21 A NO, I DID NOT.
- 22 Q OKAY. THE INCIDENT ON FRIDAY, WHEN IT WAS TIME TO
- 23 LEAVE, DID YOU TELL THE PEOPLE, DUSHUN, TELL THEM IT WAS
- 24 TIME TO LEAVE?
- 25 A AFTER I EMBRACED ALFONSO (SIC), I TURNED AROUND,

1 SAID, "COME ON, WE'RE OUT". MY BROTHER GOT IN THE CAR, I
2 BACKED OUT AND WE WAS GONE. THAT WAS THE END OF IT.

3 Q WHAT CAR WAS THAT?

4 A THE WHITE CAR.

5 Q THE WHITE CAR, THE DAEWOO?

6 A YES, SIR.

7 Q NOW, TURN TO, IF WE CAN, JANUARY THE 15TH.

8 A YES, SIR.

9 Q ABOUT WHAT TIME DID YOU GET TO BENEDICT?

10 A I GOT DROPPED OFF OUT THERE MAYBE BETWEEN 4:45,
11 5:45.

12 Q OKAY. AND WHEN YOU WERE DROPPED OFF OUT THERE, DID
13 YOU SEE THE GALANT?

14 A NOT YET.

15 Q NOT YET? OKAY. WAS ANYONE ELSE OUT THERE -- WAS
16 DUSHUN OUT THERE AT THAT POINT?

17 A YES, SIR.

18 Q OKAY. SHAKEEM?

19 A NO, I DIDN'T SEE HIM YET.

20 Q OKAY. HOW ABOUT THIS FELLOW IN THE BLACK JACKET?

21 A NO, SIR.

22 Q HOW ABOUT THIS GUY, MAURICE SANDERS?

23 A NO, SIR.

24 Q SPEAKING -- LET'S STOP FOR A SECOND. AS FAR AS

25 MAURICE SANDERS AND THE GUY IN THE BLACK JACKET, HAVE YOU

1 LEARNED WHAT THE NAME OF THE GUY IN THE BLACK JACKET IS?

2 A LIMEL SIMS.

3 Q LIMEL SIMS?

4 A YES, SIR.

5 Q NOW, HAD YOU, PRIOR TO THE 15TH, MET MAURICE SANDERS
6 AND LIMEL SIMS?

7 A I MET MAURICE SANDERS BRIEFLY. HE WORKED IN
8 COLUMBIANA MALL.

9 Q OKAY. REGULAR ACQUAINTANCES OF YOURS? SPEND A LOT
10 OF TIME WITH HIM?

11 A NO.

12 Q WHEN YOU GOT THERE, TELL US WHAT HAPPENED.

13 A I STAYED OUT THERE FOR AWHILE. WALKED UP TOWARDS
14 THE OTHER PART OF THE CAMPUS BY THE CAF, CAFETERIA. A
15 LITTLE BIT OF PEOPLE WAS OUT THERE. WASN'T NOTHING REALLY
16 HAPPENING. CAME BACK IN FRONT OF HASKILL, SAT OUT THERE
17 FOR AWHILE. ENGAGED IN CONVERSATION AND EVEN -- WE CALL
18 IT FLOWING, RHYMING. SEVERAL OF THE BROTHERS OUT THERE
19 ARE MUSICALLY INCLINED AND WE WOULD GATHER IN A CIRCLE AND
20 DISPLAY OUR TALENTS TO ONE ANOTHER. WE PROCEEDED TO DO
21 THAT.

22 AFTER THAT WAS OVER, SOME TIME HAD PASSED. THAT'S
23 WHEN BRANDON McCANTS PULLED UP, YOU KNOW.

24 Q OKAY. AT THIS POINT IN TIME, HAD THE GALANT ARRIVED
25 YET?

- 1 A YES, SIR.
- 2 Q WHEN DID THAT HAPPEN, DO YOU KNOW?
- 3 A MAYBE AN HOUR AFTER I HAD BEEN THERE ALREADY.
- 4 Q OKAY. ABOUT AN HOUR AFTER YOU HAD BEEN THERE?
- 5 A YES, SIR.
- 6 Q OKAY. AND ABOUT THAT POINT IN TIME YOU SAY BRANDON
- 7 McCANTS SHOWED UP?
- 8 A YES, SIR.
- 9 Q NOW WHO WAS PRESENT -- LET ME ASK YOU THIS RATHER,
- 10 WHEN BRANDON SHOWED UP, WHERE WERE YOU AT THAT POINT IN
- 11 TIME?
- 12 A STANDING MAYBE FIVE TO TEN FEET AWAY FROM THE
- 13 GALANT.
- 14 Q OKAY. SO YOU WERE BACK DOWN BY THE GALANT BY THAT
- 15 POINT IN TIME; IS THAT RIGHT?
- 16 A YES, SIR.
- 17 Q OKAY. DO YOU REMEMBER WHERE THE GALANT WAS PARKED?
- 18 IF YOU DO, THAT'S FINE AND IF YOU DON'T...
- 19 A I KNOW IT WAS -- IT WAS NOT BELOW THE HANDICAP
- 20 PARKING SPOTS.
- 21 Q I WANT YOU TO GO AHEAD -- BECAUSE I DON'T WANT TO
- 22 POINT IT OUT FOR YOU. I WANT YOU TO GO AHEAD AND POINT IT
- 23 OUT. I'LL HOLD THIS UP AND GIVE YOU THIS POINTER AND GIVE
- 24 US YOUR BEST ESTIMATE AS TO WHERE IT WAS. IT WASN'T---
- 25 A IN THE VICINITY OF RIGHT HERE (INDICATING).

1 Q OKAY. CAN YOU REMEMBER WHICH SIDE OF THAT LITTLE
2 MEDIAN IT WAS ON?

3 A NOT EXACTLY.

4 Q BUT SOMEWHERE IN THAT AREA AROUND THE MEDIAN?

5 A YES, SIR.

6 Q OKAY. SO YOU'RE DOWN IN THAT AREA WHEN BRANDON
7 McCANTS SHOWS UP?

8 A YES, SIR.

9 Q NOW, AT THAT POINT IN TIME DO YOU HAVE ANY IDEA WHAT
10 TIME OF DAY OR NIGHT IT WAS?

11 A YES, IT WAS CLOSE TO 9, BETWEEN 8 -- 8:30 AND 9:00.

12 Q WHAT HAPPENED WHEN BRANDON SHOWED UP?

13 A HE CAME OVER. HE GREETED EVERYBODY, YOU KNOW. WE
14 EXTENDED GREETINGS TO HIM. ME AND HIM SPOKE BRIEFLY FOR A
15 MINUTE. WE WALKED TO HIS AUTOMOBILE AND I WAS IN ADMIRING
16 THE STEREO HE HAD IN HIS CAR. AND HE SAID---

17 Q OKAY. WHAT KIND OF CAR DID HE HAVE?

18 A A BLACK FORD CONTOUR.

19 Q OKAY.

20 A HE SAID THAT THEY HAD STEREOS WHERE HE WORKED THAT
21 WERE EVEN BETTER THAN THE ONE THAT HE HAD IN HIS CAR.

22 Q UH-HUH. (INDICATES AN AFFIRMATIVE RESPONSE.)

23 A I WAS IMPRESSED, YOU KNOW. I ASKED HIM, YOU KNOW,
24 WHEN WOULD HE BE AT WORK? HE SAID, "WELL, I'M OFF NOW BUT
25 I CAN TAKE YOU DOWN THERE", YOU KNOW. I LOOKED AT MY

1 WATCH, SAW THAT IT WAS ALMOST 9:00. AND I SAID, "WHAT
2 TIME DOES THE STORE CLOSE?" HE SAID, "WE GOT TIME", YOU
3 KNOW. ON TOP OF THAT, HE WAS EMPLOYED SO THEY WOULD HAVE
4 LET HIM IN, YOU KNOW.

5 ME AND HIM GOT IN THE CAR. I TOLD MY BROTHER I'D BE
6 BACK SHORTLY, YOU KNOW. HE SAID, "HURRY UP, I'M READY TO
7 LEAVE."

8 I GOT IN THE CAR, WENT WITH BRANDON.

9 Q LET ME ASK YOU THIS, WHEN Y'ALL LEFT BENEDICT, WHO
10 WAS THERE AROUND THE GALANT?

11 A MY BROTHER AND SHAKEEM.

12 Q OKAY, DUSHUN AND SHAKEEM?

13 A YES.

14 Q WAS THE PERSON YOU KNEW AS MEL THERE AT THAT POINT
15 IN TIME?

16 A NO, SIR.

17 Q WAS THE PERSON YOU KNEW AS MO OR MAURICE THERE AT
18 THAT TIME?

19 A NO, SIR.

20 Q OKAY. WERE THERE ANY CONGREGATION OF STUDENTS OR
21 OTHER PEOPLE THERE AT THAT POINT IN TIME?

22 A AS I SAID AND IMPLICATED (SIC) EARLIER, WE WERE
23 RHYMING, FLOWING TOGETHER.

24 Q RIGHT.

25 A SO THE GENTLEMEN THAT REMAINED, THERE WAS A COUPLE

1 OF THEM AND THEY STAYED AROUND THE CAR WITH MY BROTHER AND
2 MY COUSIN. BUT THE REST OF THE FELLOWS EITHER WALKED
3 FURTHER DOWN THE HILL OR WENT AND SAT ON SOMEONE ELSE'S
4 CAR.

5 Q OKAY. WAS THERE ANY KIND OF CONFRONTATION GOING ON
6 THEN?

7 A NO, THERE WASN'T.

8 Q OKAY. DID YOU LEAVE WITH BRANDON McCANTS AND WHERE
9 DID Y'ALL GO?

10 A WE WENT TO CIRCUIT CITY, HIS PLACE OF EMPLOYMENT.

11 Q OKAY. WHAT DID Y'ALL DO THERE?

12 A WE VIEWED SEVERAL CAR STEREOS, TV SCREENS THAT YOU
13 CAN PUT IN YOUR AUTOMOBILE. WE VIEWED FLOOR MODELS, WIDE
14 SCREENS, WALKED ALL THE WAY AROUND TO THE CAMCORDERS AND
15 EVERYTHING. HE INTRODUCED ME TO ONE OF THE GUYS THAT RUN
16 THAT SECTION, CAMCORDERS, YOU KNOW. WE SPOKE ABOUT SOME.

17 AFTER THAT THE DOORS WERE LOCKED TO THE STORE. THEY
18 HAD TO LET US OUT BY THE TIME WE LEFT. SO IT WAS ALMOST
19 CLOSING TIME. THE STORE WAS EMPTY. IT WAS JUST US IN
20 THERE.

21 Q WHERE DID Y'ALL GO WHEN YOU LEFT?

22 A WE GOT BACK IN THE CAR,, PROCEEDED UP TWO NOTCH,
23 HEADING BACK TOWARDS THE CAMPUS.

24 Q AND YOU ENDED UP ARRIVING ON THE BENEDICT CAMPUS?

25 A YES, SIR.

1 Q OKAY. WHAT DID YOU SEE WHEN YOU ARRIVED AT
2 BENEDICT?

3 A WELL, THE WAY THAT WE CAME IN, IT'S NOT AT THE TOP
4 OF THE HILL, IT WAS AT THE BOTTOM.

5 Q I'M GONNA SHOW YOU THIS DIAGRAM AGAIN, STATE'S
6 THIRTY-ONE. IS THIS THE TOP OF THE HILL (INDICATING)?

7 A YES, SIR.

8 Q AND THIS IS THE BOTTOM (INDICATING)?

9 A YES, SIR.

10 Q ALL RIGHT. SO Y'ALL CAME IN THIS DIRECTION?

11 A YES, WE DID.

12 Q AND WHAT DID YOU SEE WHEN YOU ARRIVED THERE AT
13 BENEDICT?

14 A WELL, WHEN WE TURNED IN, I COULDN'T SEE ANYTHING
15 BECAUSE IT'S AUTOMOBILES LINED ALL THE WAY UP.

16 Q IS THE PARKING LOT FAIRLY FULL AT THAT POINT?

17 A YES, SIR.

18 Q OKAY. GO AHEAD.

19 A SO AS WE PROCEEDED TO GO UP THE HILL, I SAW A CROWD
20 AT THE TOP. THE CLOSER WE GOT, THE MORE PEOPLE I COULD
21 VIEW, YOU KNOW. ON TOP OF THAT, BRANDON HAS TINTED
22 WINDOWS IN HIS CAR. SO I ROLLED THE WINDOW DOWN TO LOOK
23 TO SEE WHAT WAS GOING ON.

24 Q OKAY. WHERE WAS THAT CROWD?

25 A AT THE TOP OF THE HILL.

- 1 Q OKAY. WAS IT IN THE AREA NEAR WHERE THE GALANT WAS?
- 2 A YES, SIR.
- 3 Q OR WAS IT NEAR WHERE YOU HAD LAST SEEN THE GALANT?
- 4 A YES, SIR.
- 5 Q WHAT HAPPENED THEN?
- 6 A AS BRANDON PROCEEDED UP THE HILL, HE FOUND A PARKING
- 7 SPOT, FLEW IN THERE, ROLLED THE WINDOWS UP. I GOT OUT, HE
- 8 GOT OUT.
- 9 I WALKED OVER THERE TO SEE WHAT WAS GOING ON. MY
- 10 FIRST QUESTION WAS, "WHAT'S GOING ON?"
- 11 Q OKAY. WHEN YOU SAY A CROWD, GIVE AN ESTIMATE AS TO
- 12 HOW MANY PEOPLE YOU SAW THERE?
- 13 A IT WAS WELL OVER FIFTEEN PEOPLE.
- 14 Q WELL OVER FIFTEEN PEOPLE?
- 15 A YES, IT WAS.
- 16 Q WERE THEY DIVIDED UP INTO A COUPLE OF GROUPS OF
- 17 PEOPLE?
- 18 A WELL, MR. LEE WAS STANDING HERE. OKAY. HE HAD A FEW
- 19 PEOPLE VERY CLOSE TO HIM AND EVERYBODY ELSE FORMED ALMOST
- 20 A CRESCENT AROUND HIM AND EVERYBODY THAT WAS CLOSE TO HIM.
- 21 Q LET ME SHOW YOU WHAT'S MARKED AS DEFENDANT'S EXHIBIT
- 22 TWO. DO YOU RECOGNIZE WHAT AREA THIS DEPICTS?
- 23 A YES, SIR.
- 24 Q OKAY. I TELL YOU WHAT, IF YOU COULD, PLEASE, WOULD
- 25 YOU COME -- STEP DOWN FROM THE STAND IF THAT'S

1 PERMISSIBLE, YOUR HONOR.

2 THIS GENTLEMAN WILL HELP YOU OUT.

3 (THE WITNESS NOW LEAVES THE WITNESS STAND.)

4 Q JUST STAND OVER ON THIS SIDE, PLEASE, LUCIUS. TAKE
5 THIS POINTER, OKAY. AND IF YOU CAN, WHEN YOU ARRIVED --
6 YOU NEED TO SPEAK UP BECAUSE YOU DON'T HAVE A MICROPHONE
7 NOW AND THIS LADY HAS TO GET EVERYTHING DOWN.

8 WHEN YOU ARRIVED, WHERE DID YOU SEE MR. LEE,
9 ROUGHLY?

10 A IN THE MIDDLE OF THE SIDEWALK.

11 Q OKAY. IN THE MIDDLE OF THE SIDEWALK?

12 A YES, SIR.

13 Q IF YOU CAN REFERENCE THIS PICTURE UP IN THE CENTER.
14 COULD YOU -- ROUGHLY ABOUT THERE (INDICATING)?

15 A YEAH, ABOUT WHERE THE NUMBER TEN IS.

16 Q OKAY. AND WERE THERE OTHER PEOPLE WITH HIM?

17 A YES, SIR.

18 Q AND WHERE WERE THEY LOCATED?

19 A YOU HAD TWO TO THREE PEOPLE ON EACH SIDE OF HIM---

20 Q UH-HUH. (INDICATES AN AFFIRMATIVE RESPONSE.)

21 A ---WITHIN ARMS REACH OR A STEP OR TWO AWAY. AND
22 THEN STARTING ALL THE WAY BACK AROUND HIM WAS LIKE A
23 CRESCENT, ALMOST A HALF A CIRCLE AS THE CROWD FORMED
24 BEHIND HIM.

25 Q OKAY. A LITTLE FURTHER BACK FROM WHERE HE WAS?

- 1 A YEAH, TWO TO THREE FEET BEHIND.
- 2 Q OKAY. DID YOU SEE ANOTHER GROUP OF PEOPLE?
- 3 A YES, SIR.
- 4 Q AND WHERE THEY HAVE BEEN LOCATED?
- 5 A MR. LEE WAS HERE (INDICATING). THE GROUP WOULD
- 6 START AT ABOUT WHERE THE NUMBER ELEVEN IS.
- 7 Q OKAY. AND WHO WAS IN THAT GROUP?
- 8 A THAT'S WHEN I SAW MO, MAURICE SANDERS, LIMEL SIMS
- 9 AND ANOTHER LITTLE GENTLEMAN. AND PEOPLE FROM THE PARKING
- 10 LOT GATHERING AND WALKING UP.
- 11 Q OKAY. SO THERE WERE PEOPLE WALKING UP BEHIND ALSO?
- 12 A YES, SIR.
- 13 Q OKAY. AND YOU SAW MAURICE SANDERS, LIMEL SIMS AND
- 14 ANOTHER GUY BUT YOU DIDN'T KNOW THE NAME OF THE OTHER GUY?
- 15 A NO, SIR.
- 16 Q OKAY. AND WHAT WAS GOING ON, IF ANYTHING, BETWEEN
- 17 MAURICE SANDERS, LIMEL SIMS AND THIS OTHER LITTLE GUY AND
- 18 PHIL LEE AND THEN THE PEOPLE HE WAS WITH?
- 19 A THEY WERE ARGUING.
- 20 Q THEY WERE ARGUING?
- 21 A YES, SIR.
- 22 Q WHERE WAS DUSHUN AT THAT POINT?
- 23 A STANDING BACK AWAY FROM THE CROWD.
- 24 Q OKAY. WHERE WAS HE IN RELATION TO THE GALANT, IF
- 25 YOU REMEMBER?

- 1 A IF I'M NOT MISTAKEN -- WE CAN USE THIS WHITE CARD.
2 IF Y'ALL CAN SEE THE FRONT OF IT, YOU CAN SEE THAT'S THE
3 GALANT (INDICATING). HE WOULD HAVE BEEN MAYBE RIGHT HERE
4 (INDICATING).
- 5 Q OKAY. HOW ABOUT SHAKEEM? WAS SHAKEEM THERE AT THAT
6 POINT?
- 7 A YES, HE WAS.
- 8 Q WHEREABOUTS WAS HE?
- 9 A SHAKEEM WAS ON THE OPPOSITE SIDE.
- 10 Q OKAY. SO YOU GOT OUT OF THE -- THE CONTOUR AND DID
11 WHAT?
- 12 A WHEN I GOT OUT THE CONTOUR I PROCEEDED---
- 13 Q GO AHEAD.
- 14 A I PROCEEDED TO WALK UP ON TO THE SIDEWALK. WHEN I
15 GOT BETWEEN THE NUMBER ELEVEN AND THE NUMBER TEN, I ASKED
16 MR. LEE WHAT WAS GOING ON. HE DIDN'T ACKNOWLEDGE ME. HE
17 TALKED OVER ME.
- 18 Q UH-HUH. (INDICATES AN AFFIRMATIVE RESPONSE.)
- 19 A STANDING IMMEDIATELY NEXT TO HIM WAS A LITTLE SHORT
20 LIGHT SKINNED GUY WHO GOES BY THE NAME OF TONY. I ASKED
21 HIM WHAT WAS GOING ON?
- 22 Q DID YOU KNOW HIS NAME AT THAT POINT IN TIME?
- 23 A NO, I DIDN'T.
- 24 Q OKAY. YOU SAW HIM TESTIFY HERE EARLIER?
- 25 A YES, I DID.

1 Q OKAY. SO GO AHEAD. I'M SORRY TO INTERRUPT YOU.

2 A HE WAS STANDING IMMEDIATELY NEXT TO HIM. SO WHEN
3 MR. LEE DIDN'T RESPOND TO MY STATEMENT, I ASKED HIM. YOU
4 KNOW, I ASKED HIM THE SAME QUESTION, "WHAT'S GOING ON".

5 HE LOOKED AT ME. I SAID, "HERE, WHY DON'T YOU JUST
6 GET YOUR MAN", YOU KNOW. HE LOOKED AT ME AGAIN. THEN
7 THAT'S WHEN YOU HEARD OTHER PEOPLE SAYING, "IT CAN BE
8 WHATEVER, WHATEVER CAN HAPPEN".

9 Q SO OTHER PEOPLE BACK IN THE CROWD?

10 A YES.

11 Q COULD YOU ASSOCIATE THE VOICES THAT YOU HEARD WITH
12 ANY PARTICULAR PERSON AT THAT POINT?

13 A NO.

14 Q SO THIS CROWD'S GETTING INVOLVED IN THIS SCUFFLE
15 TOO?

16 A YEAH.

17 Q WHY DID YOU WALK UP THERE TO BEGIN WITH?

18 A BECAUSE WHEN I LEFT HERE, MY BROTHER WAS IN THAT
19 AREA.

20 Q UH-HUH. (INDICATES AN AFFIRMATIVE RESPONSE.)

21 A AND THERE WAS NO COMMOTION. WHEN I PULLED UP, THE
22 FIRST THING I SEEN WAS A THICK CROWD GATHERING. THE FIRST
23 THING THAT POPPED IN MY HEAD WAS SOMEBODY GOT HURT.

24 Q UH-HUH. (INDICATES AN AFFIRMATIVE RESPONSE.)

25 A AND THEN I REMEMBERED I LEFT TWO OF MY FAMILY

1 MEMBERS OUT THERE BEFORE I LEFT. MY BROTHER AND MY COUSIN
2 WAS OUT THERE.

3 SO THE FIRST THING I THOUGHT WAS THAT MAYBE THEY GOT
4 INTO AN ALTERCATION AND SOMETHING HAPPENED AND ONE OF THEM
5 WAS HURT. THAT'S WHY I GOT OUT OF THE CAR AND CAME RIGHT
6 UP INTO THE MIDDLE OF THE CROWD TO SEE WHO WAS ARGUING AND
7 WHAT WAS GOING ON.

8 Q OKAY. SO YOU ADDRESSED MR. LEE. HE IGNORED WHAT
9 YOU HAD TO SAY. WAS HE STILL ARGUING WITH THESE OTHER
10 FOLKS AT THE SAME TIME?

11 A HE WAS LITERALLY TALKING OVER ME. WHEN I ASKED HIM,
12 "WHAT'S UP, WHAT'S GOING ON", HE CONTINUED TO YELL OVER ME
13 AND THAT'S WHEN I TURNED TO TONY AND ASKED HIM WHAT WAS
14 GOING ON. AND HE JUST LOOKED AT ME AS THOUGH HE DIDN'T
15 HEAR ME.

16 YOU KNOW, I SAID, "WHY DON'T YOU GET YOUR MAN?" AND
17 HE STILL DIDN'T ACKNOWLEDGE ME.

18 Q OKAY. LET ME ASK YOU THIS, AT THIS POINT IN TIME,
19 WHERE ARE THE PEOPLE THAT YOU DESCRIBED AS LIMEL, MAURICE
20 AND THIS OTHER GUY WHO YOU DON'T KNOW? WHERE WERE THEY?

21 A STANDING BACK OVER HERE (INDICATING), BY THE ELEVEN
22 AND BEHIND THE ELEVEN.

23 Q OKAY. WERE THEY IN FRONT OF YOU OR BEHIND OF YOU AT
24 THIS POINT?

25 A BEHIND ME.

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1 Q BEHIND YOU? OKAY. SO YOU ADDRESS MR. LEE, YOU
2 ADDRESS TONY, WHAT HAPPENS THEN?

3 A NOTHING HAPPENED. THEY DIDN'T RESPOND TO WHAT I
4 SAID SO I TURNED AROUND AND WALKED AWAY.

5 Q RIGHT.

6 A OKAY. BY THE TIME I GOT OFF OF THE CURB INTO THE
7 STREET, MY BROTHER MET ME AND I ASKED HIM WHAT WAS GOING
8 ON. HE SAID HE DIDN'T KNOW. I'M WALKING THIS WAY
9 (INDICATING), MY BROTHER'S STANDING RIGHT HERE
10 (INDICATING).

11 Q JUST A SECOND. LET ME ASK YOU ONE QUESTION, DID YOU
12 SAY ANYTHING TO ANYONE AT THE SCENE? YOU'VE INDICATED
13 THAT YOU SAID, "WHY DON'T YOU GET YOUR MAN", TO TONY AND
14 YOU ADDRESSED MR. LEE. AS YOU'RE LEAVING, DID YOU SAY
15 ANYTHING TO THE THREE GUYS THAT WERE OUT THERE?

16 A NO, I TOLD SHAKEEM TO GET IN THE CAR AND MY BROTHER
17 WAS WALKING, COMING AROUND AND MET ME IN THE STREET. AND
18 WHEN HE MET ME, MY QUESTION TO HIM, "WHAT'S GOING ON?" HE
19 SAID, "I DON'T KNOW." I SAID, "YO, Y'ALL GET IN THE CAR."
20 I WASN'T GETTING IN THE CAR WITH THEM. I WAS GOING TO
21 GET IN THE CAR WITH BRANDON.

22 Q RIGHT.

23 A BUT BEFORE I COULD EVEN DO THAT, ONE SHOT RANG OUT.
24 ME AND MY BROTHER HIT THE FLOOR AT THE SAME TIME.

25 Q LET ME STOP YOU HERE FOR A SECOND. WHEN THE SHOT

1 RANG OUT, WHERE WERE YOU, IF YOU CAN POINT OUT? ROUGHLY,
2 WHERE WERE YOU?
3 A I WAS IN THE STREET ALREADY.
4 Q YOU WERE ALREADY IN THE STREET?
5 A YES, SIR.
6 Q OKAY. HOW CLOSE TO THE GALANT WERE YOU AT THAT
7 POINT IN TIME?
8 A THE GALANT WAS BEHIND ME.
9 Q OKAY.
10 A I WAS PAST IT'S TAILLIGHT.
11 Q OKAY.
12 A I WAS LITERALLY IN THE STREET.
13 Q OKAY. PAST HIS TAILLIGHT AND IT WAS PULLED FRONT
14 END INTO THE PARKING PLACE?
15 A YES, IT WAS.
16 Q OKAY. THE SHOT RINGS OUT.
17 A YES.
18 Q AND YOU ARE FACING OR WAS YOUR BACK TO WHERE THE
19 SHOT CAME FROM?
20 A MY BACK IS FACING WHERE THE SHOT CAME FROM. I'M
21 FACING WAVERLY.
22 Q YOU'RE FACING WHICH DIRECTION?
23 A WAVERLY.
24 Q WAVERLY?
25 A YES, SIR.

1 Q OKAY. YOU HEAR A SHOT RING OUT. WHERE IS DUSHUN IN
2 RELATION TO YOU?

3 A HE'S STANDING RIGHT HERE (INDICATING).

4 Q FACING YOU?

5 A NO. HE CAN LOOK OVER MY SHOULDER RIGHT PAST ME AND
6 SEE THE CROWD BEHIND ME ON THE SIDEWALK.

7 Q OKAY. OKAY. AND WHAT DID YOU SAY TO DUSHUN?

8 A I ASKED HIM WHAT WAS GOING ON?

9 Q OKAY. AND WHAT DID HE SAY?

10 A HE SAID HE DIDN'T KNOW.

11 Q OKAY.

12 A UPON HIM RESPONDING THAT WAY, I SAID, "SHA
13 (PHONETICALLY), GET IN THE CAR. I SAID, "GO GET IN THE
14 CAR", YOU KNOW. POW. WE HIT THE FLOOR.

15 Q WHAT DO YOU MEAN BY HIT THE FLOOR? Y'ALL---

16 A WE HIT THE GROUND LITERALLY, AFTER THE FIRST SHOT.

17 Q OKAY.

18 A WE GOT THIS HIGH UP WHEN WE HEARD THE SECOND SHOT
19 AND WE BOTH TORE OFF RUNNING TOWARDS WAVERLY.

20 Q HOW LONG WERE YOU DOWN ON THE -- ON THE GROUND OF
21 THE PARKING LOT BEFORE YOU STARTED TO GET UP AND THE
22 SECOND SHOT?

23 A AFTER THE FIRST SHOT WE WERE DOWN APPROXIMATELY A
24 SECOND, TWO SECONDS.

25 Q OKAY.

1 A AND THEN AS WE BEGIN TO RISE AND GET UP, WE HEARD
2 THE SECOND SHOT. WE STOOPED DOWN THIS LOW AND RAN FOR AT
3 LEAST TEN TO FIFTEEN FEET BEFORE WE STOOD COMPLETELY UP
4 AND PROCEEDED TO RUN. AND WHILE WE WERE RUNNING, YOU GOT
5 CARS BACKING OUT, PEOPLE DARTING BACK AND FORTH ACROSS THE
6 STREET. EVERYBODY WAS RUNNING. TOTAL CHAOS, EVERYBODY
7 PANICKED.

8 WE RAN OUT OF THE BOTTOM GATE, WAVERLY, RAN UP THE
9 STREET TOWARDS THE BANK ON THE CORNER, STRAIGHT ACROSS.
10 IS THAT TAYLOR STREET?

11 Q JUST A SECOND. GO AHEAD. STAND RIGHT THERE.

12 I WANT TO SHOW YOU WHAT'S MARKED AS STATE'S THIRTY-
13 FIVE. TAKE A LOOK AT THAT AND SEE IF YOU RECOGNIZE THAT
14 AND ORIENT YOURSELF TO IT. IT'S HASKILL DORM?

15 A UH-HUH. (INDICATES AN AFFIRMATIVE RESPONSE.)

16 Q WAVERLY STREET, TAYLOR, TWO NOTCH, OKAY?

17 A YES, SIR.

18 Q IF YOU CAN, SHOW US WHERE YOU RAN.

19 A WHEN WE CAME OUT OF THE PARKING LOT, WE RAN UP THE
20 STREET TOWARDS THE BANK, TOWARDS TAYLOR.

21 Q RIGHT.

22 A RAN STRAIGHT ACROSS THE STREET.

23 Q RIGHT.

24 A I DON'T KNOW IF THAT'S WAVERLY THAT RUNS STRAIGHT
25 ACROSS.

1 Q OKAY.

2 A BECAUSE THE BLOCKS ARE NOT LINED UP ONCE YOU GET TO
3 THAT CORNER. I THINK IT'S A RIM SHOP RIGHT THERE AND THEN
4 YOU HAVE A FISH FOOD PLACE RIGHT THERE, CAPTAIN D'S IF I'M
5 NOT MISTAKEN. WE RAN ALONG THE SIDE OF THAT STREET, GOT
6 TO THAT CORNER AND RAN ALL THE WAY UP. WE STOPPED RUNNING
7 WHEN WE WERE RIGHT BEHIND ONE OF THE DORMS TO ALLEN
8 UNIVERSITY.

9 Q OKAY. UP ON HARDEN STREET OR WHERE, DO YOU
10 REMEMBER? IT PROBABLY DOESN'T SHOW ON HERE.

11 A IT DOESN'T.

12 Q IT DOESN'T? OKAY. STOPPED IN FRONT OF ONE OF THOSE
13 DORMS ON ALLEN?

14 A YES, SIR, I DID.

15 Q IF YOU WOULD, RESUME THE STAND.

16 (THE WITNESS RETURNS TO THE WITNESS STAND.)

17 Q PRIOR TO THE SHOTS BEING FIRED, HAD YOU SEEN ANYONE
18 WITH A WEAPON, SPECIFICALLY A HANDGUN, AT THAT SCENE?

19 A NO, SIR.

20 Q PRIOR TO THE SHOTS BEING FIRED, DID YOU NOD TO THIS
21 GUY IN THE BLACK NORTHFACE JACKET---

22 A NO, SIR.

23 Q PRIOR TO THE SHOTS BEING FIRED, DID YOU TELL DUSHUN
24 OR ANYONE TO QUOTE "GET THE HAMMER"---

25 A NO SIR.

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- 1 (PAUSE.)
- 2 Q HAVE YOU EVER BEEN CONVICTED OF DOING ANY VIOLENCE
- 3 TO ANOTHER HUMAN BEING?
- 4 A NO, SIR.
- 5 Q HAVE YOU EVER HAD VIOLENCE DONE TO YOU?
- 6 A YES, SIR.
- 7 Q HOW MANY TIMES?
- 8 A TWICE.
- 9 Q HOW DID THOSE THINGS HAPPEN?
- 10 A TRYING TO HELP A FRIEND.
- 11 Q WHAT HAPPENED TO YOU?
- 12 A I GOT SHOT AND STABBED IN THE BACK OF MY NECK.
- 13 Q ON TWO DIFFERENT INCIDENTS?
- 14 A YES, SIR.
- 15 Q THIS WAS WHERE?
- 16 A I GOT SHOT WHEN I WAS LIVING IN NEW YORK AND STABBED
- 17 DOWN HERE.
- 18 Q YOU ARE AWARE OF WHAT VIOLENCE CAN HAPPEN TO
- 19 SOMEONE?
- 20 A YES, I CAN.
- 21 Q ALL RIGHT. YOU RAN. YOU RAN IN FRONT OF THIS DORM
- 22 AT ALLEN?
- 23 A YES, SIR.
- 24 Q WELL, WHY DIDN'T YOU JUST STICK AROUND RIGHT THERE
- 25 AT THE SCENE?

- 1 A WHY DIDN'T I?
- 2 Q UH-HUH. (INDICATES AN AFFIRMATIVE RESPONSE.)
- 3 A I DIDN'T KNOW WHAT WAS GOING ON.
- 4 Q DO YOU KNOW WHAT HAPPENED WITH THE GALANT?
- 5 A NO, SIR.
- 6 Q DID YOU GET IN THE GALANT?
- 7 A NO, SIR.
- 8 Q WHAT TYPE OF LOCKS DOES THE GALANT HAVE ON IT?
- 9 A POWER LOCKS.
- 10 Q POWER LOCKS?
- 11 A YES, SIR.
- 12 Q WHAT HAPPENS WITH THOSE, HOW THOSE WORK?
- 13 A WELL, THAT SPECIFIC CAR, I DON'T KNOW IF IT WAS A
- 14 DEFECT, BUT IF YOU GET IN THE DRIVER'S SIDE WHILE THE CAR
- 15 IS RUNNING AND CLOSE THE DOOR, ALL FOUR DOORS LOCK
- 16 IMMEDIATELY.
- 17 Q DO YOU KNOW WHETHER ANYONE GOT IN THE CAR, IN THE
- 18 GALANT?
- 19 A NO, SIR.
- 20 Q HAD YOU DIRECTED SOMEONE TO GET IN THE CAR?
- 21 A MY BROTHER AND MY COUSIN.
- 22 Q OKAY. DID YOUR BROTHER GET IN THE GALANT?
- 23 A NO, SIR.
- 24 Q OKAY. NOW, YOU RAN TO THE FRONT OF ALLEN -- OR A
- 25 DORM AT ALLEN?

1 A YES, SIR.

2 Q AND WHAT HAPPENED THEN?

3 A UPON US TURNING RIGHT THERE -- WHAT STREET IS THAT
4 THAT RUNS---

5 Q I CAN'T HELP YOU ON THAT.

6 A I DON'T KNOW THE NAME OF THE STREET BUT UPON US
7 GETTING IN THE FRONT OF THE DORM, TWO VEHICLES PULLED UP,
8 ONE A TWO DOOR TRUCK, IF I'M NOT MISTAKEN, MAYBE A '88,
9 '89 BLAZER.

10 Q RIGHT.

11 A AND A CAR BEHIND IT. THE BROTHER THAT GOT OUT OF
12 THE TRUCK, I ASKED HIM WOULD HE GIVE US A RIDE HOME AND I
13 OFFERED TO PAY HIM \$20.00. HE WAS SKEPTICAL AT FIRST. SO
14 TO CALM HIM AND TO SHOW HIM THAT I WASN'T IRATE EVEN
15 THOUGH WE WERE SWEATING, YOU KNOW, FROM RUNNING, I TOLD
16 HIM, I SAID, "IS THAT YOUR -- YOU KNOW, YOUR MAN BEHIND
17 YOU?" AND HE SAID, "YEAH." I SAID, "WELL, ASK HIM TO
18 RIDE WITH YOU, YOU KNOW, AND I'LL PAY YOU UP FRONT, YOU
19 KNOW."

20 AFTER HIS FRIEND AGREED TO RIDE WITH HIM, HE SAID,
21 "OKAY, FINE." HE PARKED HIS CAR BEHIND HIM. ME AND MY
22 BROTHER GOT IN THE BACK OF THE VEHICLE. THEY GOT IN AND I
23 PAID THE BROTHER AND HE PROCEEDED TO TAKE US ON.

24 Q OKAY. WHERE DID HE TAKE YOU?

25 A HE TOOK US TO THE GAS STATION RIGHT ACROSS FROM THE

1 IHOP ON ST. ANDREWS ROAD.

2 Q OKAY. GAS STATION RIGHT ACROSS FROM THE IHOP ON ST.
3 ANDREWS ROAD?

4 A YES, SIR.

5 Q OKAY. AT THAT POINT IN TIME, WHAT DID YOU DO?

6 A WELL, HE DROPPED US OFF AFTER EXTENDING SEVERAL
7 INVITATIONS FOR US TO ATTEND HIS CHURCH.

8 Q RIGHT.

9 A WE GOT OUT OF THE VEHICLE, THANKED HIM FOR THE RIDE,
10 WENT INTO THE STORE TO GET CHANGE FOR THE PHONE.

11 Q OKAY.

12 A GOT CHANGE FOR THE PHONE, CAME BACK OUT. MY BROTHER
13 MADE A PHONE CALL TO HAVE ONE OF HIS FEMALE FRIENDS COME
14 AND PICK US UP FROM THE GAS STATION?

15 Q DID YOU MAKE THAT CALL YOURSELF?

16 A NO, SIR.

17 Q DO YOU KNOW WHO HE WAS SUPPOSED TO HAVE CALLED?

18 A CHARISE.

19 Q OKAY. WHAT HAPPENED THEN?

20 A TEN TO FIFTEEN MINUTES AFTER THE CALL, SHE ARRIVED
21 IN A BLUE ESCORT, PICKED US UP AND TOOK HER BACK -- TOOK
22 US BACK TO HER APARTMENT.

23 Q AND WHERE WAS HER APARTMENT LOCATED, DO YOU KNOW?

24 A PARK APARTMENTS, IF I'M NOT MISTAKEN, RIGHT DOWN
25 BETWEEN KFC AND HOOTER'S OFF OF BROAD RIVER ROAD.

- 1 Q BROAD RIVER? OKAY. WHAT HAPPENED AT HER APARTMENT?
- 2 A WHEN WE GOT UPSTAIRS, HER ROOMMATE WAS ON THE
- 3 TELEPHONE. AFTER HER ROOMMATE GOT OFF THE PHONE, I MADE
- 4 SEVERAL CALLS TO GET IN CONTACT WITH TALIA TO HAVE HER
- 5 COME AND PICK US UP.
- 6 Q TALIA IS WHO?
- 7 A MY FIANCÉ.
- 8 Q DID YOU EVER GET IN TOUCH WITH TALIA?
- 9 A YES, SIR, AFTER SEVERAL TRIES.
- 10 Q HOW MANY TRIES, DO YOU KNOW?
- 11 A I TRIED THREE TO FOUR TIMES AND I WAS GETTING BUSY
- 12 SIGNALS, BUSY SIGNALS AND THEN THE PHONE FINALLY -- THE
- 13 CALL WENT THROUGH.
- 14 Q OKAY. AND DID YOU COME IN CONTACT WITH TALIA THAT
- 15 NIGHT?
- 16 A YES, I DID.
- 17 Q WAS SHE BY HERSELF OR WAS ANYONE ELSE WITH HER?
- 18 A SHE HAD SHAKEEM WITH HER.
- 19 Q SHAKEEM WAS WITH HER?
- 20 A YES, SIR.
- 21 Q OKAY. SHE PICKED YOU UP AT THE ADDRESS YOU TALKED
- 22 ABOUT?
- 23 A YES, SIR.
- 24 Q WHERE DID Y'ALL GO FROM THERE?
- 25 A FROM THERE WE WENT TO A HOTEL.