2016-000089

VOLUME I

STATE OF SOUTH CAROLINA
In the Supreme Court

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SC 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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2002;, MARCH 1, 2002
COLUMBIA, SOUTH CAROLINA

B E F O R E:

HONORABLE L. HENRY McKELLAR, JUDGE.

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ROBERT E. HOOD, ASSISTANT SOLICITOR
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COURT REPORTER

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MONDAY, FEBRUARY 25, 2002:

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

THE COURT: THANK YOU. PLEASE BE SEATED.

ALL WE'RE GOING TO DO IS PICK A JURY RIGHT NOW AND START THE MOTIONS AFTER LUNCH.

MR. TAYLOR: OKAY, THANK YOU.

THE COURT: ALL RIGHT, Y'ALL READY TO BRING A PANEL UP?

MR. STRICKLER: IF I COULD, YOUR HONOR, JUST FOR A COUPLE OF MATTERS RELATED TO THE INDICTMENT. DO YOU HAVE THE INDICTMENTS BEFORE YOU, YOUR HONOR?

THE COURT: YES.

MR. STRICKLER: AS TO LUCIUS STATEN, HE IS INDICTED IN 02-GS-40-1149 WITH THE OFFENSE -- ORIGINALLY THE OFFENSE OF MURDER. THE INDICTMENT ALLEGES THAT HE DID IN RICHLAND COUNTY ON OR ABOUT JANUARY 15TH AID AND ABET THE PRINCIPAL PARTY WHO DID FELONIOUSLY, WILLFULLY AND WITH MALICE AFORETHOUGHT KILL ONE PHILLIP LEE, JUNIOR, BY MEANS OF A GUNSHOT WOUND TO THE HEAD, AND THE VICTIM DIED AS A PROXIMATE RESULT THEREOF.

WE'VE BEEN BACK IN CHAMBERS AND MR. GASSER HAS BEEN VERY CANDID IN INDICATING THAT HE'S PROCEEDING ON A THEORY OF ACCOMPLICE LIABILITY IN THIS PARTICULAR MATTER. HE'S INDICTED HIM ON THE THEORY OF ACCOMPLICE LIABILITY

ACTUALLY ALLEGING THAT BOTH THESE GENTLEMEN, PARTICULARLY LUCIUS, IS A PRINCIPAL SECOND, AS IT WOULD BE DESCRIBED IN THE LAW. AND HE FAILS TO, I SUBMIT, IN THIS INDICTMENT ALLEGE THAT HE'S A PRINCIPAL SECOND.

IT ALLEGES THAT HE AIDED AND ABETTED THE PRINCIPAL; IT FAILS TO ALLEGE THAT HE WAS PRESENT AT THE TIME OF THE AIDING AND ABETTING. AND THAT'S A NECESSARY ELEMENT IN PROCEEDING AS AGAINST SOMEONE AS A PRINCIPAL SECOND. SO I SUBMIT THE INDICTMENT IS FATALLY DEFECTIVE IN ATTEMPTING TO ALLEGE HIS INVOLVEMENT AS THE ACCOMPLICE, AS THE PRINCIPAL SECOND, AND SHOULD BE QUASHED.

THE COURT: ALL RIGHT, MR. GASSER.

MR. GASSER: YOUR HONOR, NORMALLY WHAT WE DO, AS YOU WELL KNOW, AFTER BOTH PRACTICING LAW AND BEEN ON THE BENCH, THE NORMAL MURDER INDICTMENT FOR UNDER ACCOMPLICE LIABILITY STATES THAT JOHN DOE DID IN RICHLAND COUNTY ON OR ABOUT JANUARY 15TH, 2002, FELONIOUSLY, WILLFULLY AND WITH MALICE AFORETHOUGHT KILL ONE JOHN DOE 2, BY MEANS OF A GUNSHOT WOUND TO THE HEAD.

AND EVEN THOUGH ALL THE PARTIES KNOW THAT YOU'RE GOING FORWARD UNDER THE THEORY OF ACCOMPLICE LIABILITY BECAUSE THE LAWYERS HAVE BEEN PREPARED AND DISCUSSED IT AND GOTTEN DISCOVERY AND KNOW WHO THE -- SOMETIMES YOU'VE GOT THE TRIGGERMAN IN CUSTODY, SOMETIMES YOU DON'T, SOMETIMES YOU'RE GOING FORWARD WITH A TRIGGERMAN AND A

PRINCIPAL SECOND IN THE SAME TRIAL.

THE WHOLE PURPOSE OF AN INDICTMENT IS SIMPLY TO PUT THE DEFENDANT ON NOTICE FOR WHAT HE HAS TO DEFEND. AND THE BODY, THE LANGUAGE, IN THIS INDICTMENT IS EXACTLY THE SAME AS IT IS IN VIRTUALLY EVERY MURDER INDICTMENT IN THIS STATE, AND IT'S THE SAME AS IT IS IN EVERY ACCOMPLICE LIABILITY.

BUT I WAS EVEN MORE SPECIFIC FOR THE DEFENSE ATTORNEYS SO THAT THEY WOULD KNOW. I EVEN ADDED THE LANGUAGE OF "AIDING AND ABETTING" SO THAT THEY WOULD KNOW, THE DEFENSE LAWYERS AND THE JURY WOULD KNOW, WHEN YOU PUBLISH THIS INDICTMENT.

THE WHOLE PURPOSE OF AN INDICTMENT IS SIMPLY TO PUT THE DEFENDANT ON NOTICE. IF WE DON'T PROVE THE PRESENCE OF THE DEFENDANT'S -- OF COURSE, THE JURY THAT WE'RE GETTING READY TO SELECT WILL NEVER HAVE TO HEAR THE CASE BECAUSE YOU'LL DIRECT US A VERDICT IF WE DON'T PROVE THE PRESENCE.

I'VE NEVER SEEN THE WORD "PRESENCE" IN AN INDICTMENT IN A MURDER CASE. SO I MEAN, THE WHOLE PURPOSE IS TO PUT HIM ON NOTICE AND WE'VE PUT HIM ON NOTICE.

MR. STRICKLER: AND, YOUR HONOR, THE WHOLE PURPOSE OF AN INDICTMENT IS TO SET FORTH THOSE ELEMENTS THAT WERE PRESENTED TO THE GRAND JURY. AND THERE'S NO INFORMATION

THAT THERE'S ANY EVIDENCE PRESENTED TO THE GRAND JURY THAT HAS INDICTED MR. STATEN TO THE EFFECT THAT HE WAS PRESENT AT THE SCENE.

THE COURT: WELL, WE DON'T GO BEHIND THE GRAND JURY'S DELIBERATIONS; RIGHT?

MR. STRICKLER: I'LL GRANT YOU THAT. YES, SIR.

AND THE STATE NEED NOT HAVE ELECTED TO PROCEED AS THEY DID, AS FAR AS THE INDICTMENTS IN THIS PARTICULAR CASE GO. BUT ONCE THEY SELECT THE ROUTE THEY SELECT TO TAKE, THAT'S THE ROUTE THEY'VE SELECTED, AND THEY NEED TO SET IT FORTH APPROPRIATELY.

AND IF YOU'RE PROCEEDING ON AIDING AND ABETTING AND YOU FAIL TO ALLEGE AND YOU FAIL TO PRESENT INFORMATION TO THE GRAND JURY THAT THE PERSON WHO YOU CLAIM AIDED AND ABETTED WAS PRESENT, THEN YOU FAIL TO SET FORTH THE OFFENSE OF MURDER AGAINST SOMEONE WHOM YOU'RE PROCEEDING AGAINST AS A PRINCIPAL SECOND.

THE COURT: HOW COULD IT BE AIDING AND ABETTING IF YOU WEREN'T PRESENT?

MR. STRICKLER: ACCESSORY BEFORE THE FACT.

MR. GASSER: THAT'S NOT WHAT HE'S INDICTED FOR.

MR. STRICKLER: WELL, I UNDERSTAND THAT.

THE COURT: SO ARE THERE ANY CASES THAT DEAL WITH THAT?

MR. STRICKLER: NOT THAT I'M AWARE OF.

THE COURT: MR. TAYLOR, DO YOU JOIN IN THE MOTION?

MR. TAYLOR: I DO JOIN IN THAT MOTION, YOUR HONOR.

THE COURT: OKAY. ALL RIGHT, I'M GOING TO DENY THE MOTION TO QUASH THE INDICTMENTS.

MR. STRICKLER: THANK YOU, SIR.

AS TO THE SECOND INDICTMENT AGAINST LUCIUS STATEN, THAT WOULD BE 2002-GS-40-783, AN INDICTMENT FOR LYNCHING IN THE FIRST DEGREE. YOUR HONOR HAS THAT INDICTMENT BEFORE YOU. IT SETS FORTH THE ALLEGATION THAT MR. STATEN PARTICIPATED IN AN ACT WHICH THE STATE ALLEGES WAS LYNCHING IN THE FIRST DEGREE.

YOUR HONOR, THE PENALTY FOR THE OFFENSE OF LYNCHING IN THE FIRST DEGREE IS DEATH, UNLESS THE JURY RECOMMENDS MERCY. OKAY. I DON'T THINK WE CAN PROCEED ON THAT.

MR. GASSER: I'VE GOT "FORTY YEARS, WITHOUT EXCEEDING FORTY YEARS, OR LESS THAN FIVE YEARS."

THE COURT: LET ME CHECK MR. STRICKLER'S BOOK AND SEE WHAT HE SAYS.

MR. STRICKLER: I MAY HAVE THAT THERE MYSELF, BUT I CHECKED THE STATUTE.

THE COURT: SEE WHAT MR. STRICKLER SAYS ABOUT THIS.

MR. STRICKLER: MR. STRICKLER HAS BEEN WRONG BEFORE, YOUR HONOR.

THE COURT: "DEATH, OR FIVE TO FORTY YEARS."

MR. STRICKLER: OKAY, WELL, I WAS RIGHT.

MR. GASSER: AND, OF COURSE, WE'RE NOT PROCEEDING THIS AS A CAPITAL CASE SO WE ARE PROCEEDING TO THE BENEFIT OF THE DEFENDANTS IN THIS CASE, WHICH IS NON-CAPITAL, FIVE TO FORTY.

THERE HAS BEEN NO NOTIFICATION THAT THIS IS A DEATH PENALTY CASE.

MR. STRICKLER: AND THERE COULD BE NONE.

THE COURT: THAT'S AN INTERESTING LITTLE ARGUMENT.

MR. STRICKLER: IT SAYS, "DEATH, UNLESS THE JURY SHALL RECOMMEND MERCY." WHICH INDICATES -- AND THERE'S CASE LAW BACK UNDER THE OLD RAPE STATUTE, ACTUALLY, A FELLOW CONVICTED AND SENTENCED TO DEATH, AND THE JUDGE COMMUTED THE SENTENCE AND WENT AHEAD AND SENTENCED HIM AS FOR -- AS IF THERE HAD BEEN A RECOMMENDATION OF MERCY. AND THE SUPREME COURT OF SOUTH CAROLINA AT THAT POINT IN TIME SAID, "NO, THAT'S UP TO THE JURY. IF THE JURY DOESN'T DO IT, YOU CAN'T DO IT."

MR. GASSER: I DON'T UNDERSTAND THAT. THE SENTENCING HAS NOTHING TO DO WITH THE ELEMENTS OF THE CRIME. HE'S TALKING ABOUT SHOULD THESE DEFENDANTS BE CONVICTED OF THIS CRIME, NOT THE ELEMENTS OF THE CRIME, OR NOTIFICATION FOR INDICTMENT PURPOSES, OR PROCEEDING FORWARD WITH PRESENTATION OF EVIDENCE. HE'S TALKING ABOUT WHAT THE APPROPRIATE SENTENCE WOULD BE.

AND I'M TELLING THIS COURT THAT IT'S NOT A DEATH

PENALTY CASE. SO CLEARLY, THAT JUST BECAUSE THAT SENTENCE FOR LYNCHING FIRST, ALL OF THE OTHER SAFETY -- ALL OF THE DEATH PENALTY STATUTES AND CASE LAW IS STILL APPLICABLE, WHICH REQUIRES A NUMBER OF PROCEDURAL SAFEGUARDS, WHICH THE STATE CHOSE NOT TO SEEK BECAUSE, YOU'RE RIGHT, WE COULDN'T SEEK IT IN THIS CASE. AND THEREFORE CLEARLY, THAT ASPECT OF THE SENTENCING STRUCTURE COULD NOT APPLY.

MR. STRICKLER: WELL---

MR. GASSER: AND WE'RE STIPULATING THAT THAT COULD NOT BE THE SENTENCE. SO I DON'T UNDERSTAND, I DON'T SEE WHAT THE MOTION IS.

MR. STRICKLER: THE MOTION IS THAT, FIRST OF ALL -- FIRST OF ALL, THE STATE CAN'T STIPULATE TO IT, THEY'RE NOT GIVEN THE OPTION. THE JURY CAN STIPULATE TO IT.

THE COURT: STIPULATE TO WHAT?

MR. STRICKLER: WHAT THE PENALTY WILL BE IN THIS CASE. JUST AS THEY USED TO STIPULATE---

THE COURT: WELL, I JUST GET---

MR. STRICKLER: ---WELL, NOT STIPULATE, "FIND."

THE COURT: THEY CAN JUST GIVE THEM DEATH; RIGHT?

MR. STRICKLER: AND I SUBMIT THAT UNDER THIS STATUTE -- THE STATUTE IS CONSTITUTIONALLY IMPERMISSIBLE.

MR. GASSER: AS TO SENTENCING.

MR. STRICKLER: BUT NO ONE IS GIVEN ANY OPTIONS AS

FAR AS SENTENCING, OTHER THAN THE JURY.

MR. GASSER: IF THIS WAS A DEATH PENALTY CASE.

IN OTHER WORDS, THE DEATH PENALTY -- THE SUBSEQUENT -- OUR CASE LAW INDICATES THAT WHEN LEGISLATORS PASS SUBSEQUENT STATUTES, THAT THEY BRING PORTIONS OF THOSE STATUTES, OF PREVIOUS STATUTES, ARE OVERRIDDEN BY SUBSEQUENT STATUTES PASSED BY THE LEGISLATURE.

SUBSEQUENT TO THIS STATUTE, WHICH OUR SUPREME COURT HAS INTERPRETED THE STATUTE ALL THROUGHOUT THE '90'S, I'VE GOT 1990 CASES INTERPRETING THIS STATUTE THAT'S IN THE CASE LAW SUBSEQUENT TO THE STATUTE ITSELF.

I'M SURE THEY'VE INTERPRETED THIS STATUTE IN THE YEAR 2000/2001; I JUST DON'T HAVE THOSE CASES.

MR. STRICKLER: AND I'VE RESEARCHED IT AND I HAVE NOT FOUND THEM INTERPRETING MY QUESTION REGARDING THIS STATUTE ONCE.

THE COURT: WELL, I'LL TELL YOU WHAT WE'LL DO. WE'RE GOING TO GO FORWARD ON THE LYNCHING. IF THEY WANT TO DECIDE THAT THE STATUTE MEANS I EITHER HAVE TO GIVE DEATH OR THE JURY HAS TO RECOMMEND MERCY, AND THIS IS NOT COVERED BY THE SUBSEQUENT PASSAGE OF THE DEATH PENALTY STATUTE IN THIS STATE AFTER THE CONSTITUTION AND PARAMETER (PHONETIC) WERE REMEDIED, SO TO SPEAK, THEN THEY CAN SAY SO.

MR. STRICKLER: AND SO WE'LL PROCEED...?

THE COURT: WE'LL PROCEED ON THE LYNCHING.

MR. STRICKLER: ON THE BASIS OF WHAT BEING THE PENALTY?

THE COURT: THE PENALTY WOULD BE---

MR. STRICKLER: OF COURSE, I'M INEFFECTIVE AS FAR AS REPRESENTING MR. STATEN.

THE COURT: ---THE PENALTY WOULD BE, ACCORDING TO THE STATUTE, WOULD BE FIVE TO FORTY.

MR. STRICKLER: FIGURES. PROPOSED---

THE COURT: I DON'T BELIEVE YOU COULD CHARGE ANYBODY WITH A CAPITAL OFFENSE UNDER THIS STATUTE UNLESS YOU COMPLIED WITH THE TERMS OF THE DEATH PENALTY STATUTE.

MR. STRICKLER: WELL, I'M SURE YOU CAN'T CHARGE ANYONE WITH CAPITAL OFFENSES; THE DEATH PENALTY STATUTE ONLY REFERS TO MURDER. THAT'S THE ONLY THING IT APPLIES TO.

BUT I UNDERSTAND YOUR RULING. YOUR RULING IS, "MY MOTION IS DENIED."

THE COURT: YOUR MOTION IS DENIED. I CANNOT GIVE THE DEATH PENALTY.

MR. TAYLOR: I DO JOIN IN THAT MOTION, YOUR HONOR, FOR THE RECORD, THAT IS MR. STRICKLER'S MOTION JUST MADE AND ARGUED.

THE COURT: OKAY.

Y'ALL READY TO PICK A JURY?

MR. STRICKLER: SURE.

THE COURT: THAT WILL BE AN INTERESTING QUESTION, WON'T IT?

ALL RIGHT, LET'S BRING THE PANEL UP AND GET A JURY PICKED SO WE CAN...

SO WHAT IS THE JURY STRIKES?

MR. STRICKLER: TWENTY AND TEN.

(PAUSE.)

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

(JURY PANEL IN AT 12:35 P.M.)

THE COURT: ALL RIGHT, GOOD AFTERNOON, LADIES AND GENTLEMEN OF THE JURY. MY NAME IS HENRY McKELLAR AND I'M GOING TO BE THE TRIAL JUDGE IN THIS CASE. WE'RE GOING TO PICK A JURY FOR A CASE WE'RE GOING TO START TOMORROW MORNING.

BEFORE WE CAN PICK A JURY THOUGH I HAVE TO ASK YOU SEVERAL QUESTIONS TO MAKE SURE THAT YOU CAN BE FAIR AND IMPARTIAL JURORS IN THIS CASE. AND WHEN I SAY "BE FAIR AND IMPARTIAL," I MEAN BOTH TO THE STATE AND TO THE DEFENDANTS.

NOW WE'RE TRYING -- ACTUALLY, WE HAVE TWO DEFENDANTS IN THESE CASES AND EACH ONE OF THEM IS CHARGED WITH THE SAME CRIMINAL OFFENSE. IN MY HAND I HAVE WHAT

IS KNOWN AS INDICTMENTS. THESE INDICTMENTS HAVE BEEN RETURNED BY THE GRAND JURY OF RICHLAND COUNTY. AND THESE INDICTMENTS ARE THE MECHANISM BY WHICH CRIMINAL CASES COME TO THIS COURT FOR DISPOSITION. THESE INDICTMENTS ARE NOT ANY EVIDENCE WHATSOEVER OF THE DEFENDANTS' GUILT, THEY ARE SIMPLY THE WAY THAT WE GET CRIMINAL CASES IN CRIMINAL COURT.

UNDER OUR LAWS YOU CANNOT BE TRIED FOR A CRIMINAL OFFENSE UNLESS YOU'VE BEEN INDICTED BY A GRAND JURY. IT'S A SAFEGUARD PROVIDED IN OUR SYSTEM. BUT ANYWAY, NOW WE HAVE THESE INDICTMENTS AND WE'RE GOING TO DEAL WITH THEM.

EACH ONE OF THESE DEFENDANTS HAS PLED NOT GUILTY TO BOTH INDICTMENTS CHARGING THEM WITH TWO CRIMES. AND THAT MEANS THE STATE OF SOUTH CAROLINA HAS THE BURDEN OF PROVING THEM GUILTY BEYOND A REASONABLE DOUBT. AND WE'LL GET INTO THE LAW LATER ON IN THE TRIAL.

BUT FOR NOW LET ME TELL YOU THAT ONE DEFENDANT, LUCIUS STATEN, HE'S BEEN INDICTED FOR THE CRIME OF MURDER AND IT ALLEGES THAT HE DID AID AND ABET THE PRINCIPAL PARTY WHO DID COMMIT THE MURDER. IN OTHER WORDS, HE IS CHARGED WITH AIDING AND ABETTING THE PERSON WHO DID COMMIT THE MURDER.

ALSO MR. DUSHUN STATEN IS ALSO CHARGED WITH THE SAME CRIME OF MURDER IN THAT HE DID AID AND ABET THE

PRINCIPAL PARTY WHO DID COMMIT THE MURDER.

AND THEN BOTH OF THE DEFENDANTS ARE CHARGED WITH THE CRIME OF LYNCHING IN THE FIRST DEGREE. AND LIKE I SAID, BOTH OF THESE DEFENDANTS HAVE PLED NOT GUILTY TO THESE INDICTMENTS.

NOW THIS ARISES OUT OF A SITUATION WHICH HAPPENED BACK ON JANUARY 15TH, 2001, ON THE CAMPUS OF BENEDICT COLLEGE.

NOW DOES ANYBODY KNOW ANYTHING ABOUT THIS CASE?

JUROR: IT WAS IN THE PAPER THIS MORNING.

THE COURT: ALL RIGHT NOW, THERE WAS AN ARTICLE IN THE PAPER ABOUT THIS CASE THIS MORNING. DOES ANYBODY HAVE ANY KNOWLEDGE ABOUT THIS CASE, OTHER THAN THE ARTICLE IN THE PAPER THIS MORNING?

ALL RIGHT, WOULD YOU PLEASE STAND AND GIVE ME YOUR NAME?

MR. BRYANT: LARRY BRYANT.

THE COURT: EVERYBODY STAND AND HAVE SOME ---

YES, SIR, JUST TELL ME YOUR NAME FIRST.

MR. WASHINGTON: KELVIN WASHINGTON.

THE COURT: MR. WASHINGTON?

MR. WASHINGTON: YES.

THE COURT: OKAY. YOU HAVE OTHER KNOWLEDGE OF THIS CASE?

MR. WASHINGTON: JUST FROM NEWSPAPER ACCOUNTS.

THE COURT: JUST FROM NEWSPAPER ACCOUNTS?

MR. WASHINGTON: PRIOR TO TODAY'S PAPER.

THE COURT: OKAY, PRIOR TO TODAY, OKAY.

MR. BRYANT: SAME.

THE COURT: AND YOUR NAME IS?

MR. BRYANT: LARRY BRYANT.

THE COURT: ALL RIGHT, MR. BRYANT.

AND WHO ELSE?

MS. GOODWIN: INETTA GOODWIN.

I WAS DRIVING THE BENEDICT SHUTTLE BUS AT THAT TIME.

THE COURT: ALL RIGHT.

MS. BAKER: I WAS ON THE FACULTY FOR A SHORT TIME THERE.

THE COURT: YOUR NAME IS?

MS. BAKER: VIVIAN BAKER.

THE COURT: MS. BAKER, OKAY.

MS. FUTCH: I'VE JUST READ NEWSPAPER ARTICLES PRIOR TO TODAY.

THE COURT: ALL RIGHT. AND YOUR NAME IS?

MS. FUTCH: ANNE FUTCH.

THE COURT: WHAT?

MS. FUTCH: ANNE FUTCH.

THE COURT: OKAY.

NOW, LET ME ASK YOU ALL A QUESTION. THE FACT THAT

YOU ALL---

YES, MA'AM? ONE MORE HERE.

MS. GREGO: RHONDA GREGO. I WAS ALSO ON THE FACULTY AT BENEDICT COLLEGE AT THE TIME AND, OTHER THAN THAT, READ NEWSPAPER ACCOUNTS.

THE COURT: OKAY. NOW, HERE'S WHAT HAPPENS IF YOU SERVE ON A JURY: IF YOU SERVE ON A JURY YOU WILL HEAR TESTIMONY FROM WITNESSES AND YOU'LL SEE OTHER EVIDENCE AND YOU'LL HAVE TO BASE YOUR DECISION ON WHAT YOU HEARD IN THIS COURTROOM.

NOW ANY OF YOU WHO HAVE HAD PREVIOUS KNOWLEDGE ABOUT THIS CASE, WOULD YOU BE ABLE TO PUT THAT OUT OF YOUR MIND AND DECIDE THIS CASE BASED SOLELY ON THE EVIDENCE THAT YOU HEAR IN THIS CASE? ANYBODY HAVE A PROBLEM WITH THAT? BECAUSE THAT'S ALL THAT COUNTS, IS WHAT HAPPENS FROM THIS WITNESS STAND.

(THERE IS NO RESPONSE.)

OKAY, THANK YOU VERY MUCH.

NOW, ONE THING YOU NEED TO KNOW THROUGHOUT MY QUESTIONS IS THAT, LIKE I SAID EARLIER, EACH ONE OF THESE DEFENDANTS IS ENTITLED TO A FAIR TRIAL. THE STATE IS ALSO ENTITLED TO A FAIR TRIAL.

SOME OF THE QUESTIONS I MAY ASK YOU, YOU DON'T WANT TO ANSWER IN FRONT OF EVERYBODY IN THIS ASSEMBLED ROOM. IF THAT IS THE CASE, PLEASE RAISE YOUR HAND AND YOU CAN

COME DOWN HERE AND TALK TO ME PRIVATELY. BUT I WANT YOU TO BE FRANK, GIVE FRANK ANSWERS TO ALL MY QUESTIONS. AND IF YOU HAVE A PROBLEM WITH ANY OF THEM, YOU COME DOWN HERE AND TELL ME SO WE CAN DECIDE WHETHER OR NOT YOU CAN BE FAIR AND IMPARTIAL.

BECAUSE OUR CRIMINAL JUSTICE SYSTEM WILL NOT WORK UNLESS EVERY TRIAL HAS A FAIR AND IMPARTIAL JURY. AND IT'S WORKED FOR OVER TWO HUNDRED YEARS AND WE TRY TO DO OUR BEST TO MAKE SURE IT CONTINUES TO WORK THAT WAY.

OKAY. ALL RIGHT, MR. LUCIUS STATEN AND MR. DUSHUN STATEN, WOULD YOU ALL PLEASE STAND AND FACE THE JURY PANEL?

(THE DEFENDANTS NOW COMPLY.)

IS ANY MEMBER OF THE JURY PANEL RELATED BY BLOOD OR MARRIAGE OR A CLOSE FRIEND OR DO YOU KNOW LUCIUS STATEN OR DUSHUN STATEN?

(THERE IS NO RESPONSE.)

OKAY, THANK YOU. YOU CAN BE SEATED.

(THE DEFENDANTS NOW COMPLY.)

ALL RIGHT, MR. STRICKLER AND MR. TAYLOR, WOULD YOU PLEASE IDENTIFY YOURSELVES?

MR. STRICKLER: DOUG STRICKLER, DEPUTY PUBLIC DEFENDER.

MR. TAYLOR: AND I'M DAVID TAYLOR, PRIVATE PRACTITIONER. I REPRESENT DUSHUN STATEN.

THE COURT: ALL RIGHT, MR. GASSER, MR. HOOD.

MR. GASSER: MY NAME IS JOHNNY GASSER. I'M THE DEPUTY SOLICITOR HERE IN RICHLAND COUNTY.

MR. HOOD: MY NAME IS ROBERT HOOD. I'M AN ASSISTANT SOLICITOR HERE IN RICHLAND COUNTY.

THE COURT: ALL RIGHT, HAS ANY MEMBER OF THE JURY PANEL OR A MEMBER OF YOUR FAMILY EVER BEEN REPRESENTED BY THESE LAWYERS? OR DO ANY OF YOU KNOW ANY OF THESE LAWYERS?

(THERE IS NO RESPONSE.)

HAS ANYBODY -- ANY MEMBER OF THE JURY PANEL OR MEMBER OF YOUR FAMILY EVER BEEN REPRESENTED BY ANYBODY FROM THE PUBLIC DEFENDER'S OFFICE?

(THERE IS NO RESPONSE.)

ANY MEMBER OF THE JURY PANEL EVER BEEN REPRESENTED BY ANY MEMBER OF THE SOLICITOR'S OFFICE?

YES, MA'AM? DO YOU WANT TO STAND AND GIVE ME YOUR NAME?

MS. BROWN: MY NAME IS ELLEN BROWN. AND...

THE COURT: YOU DON'T HAVE TO TELL ME WHY. BUT YOU WERE INVOLVED WITH A CASE WITH THE SOLICITOR'S OFFICER?

MS. BROWN: NOT ME BUT MY SON.

THE COURT: YOUR SON, OKAY.

MS. BROWN: BUT IT WAS NOT IN SOUTH CAROLINA.

THE COURT: OH, SOME OTHER STATE?

MS. BROWN: YES.

THE COURT: OKAY. WOULD THAT HAVE ANY AFFECT ON YOUR ABILITY TO BE FAIR AND IMPARTIAL TO BOTH SIDES IN THIS CASE?

MS. BROWN: YES, IT WOULD AFFECT MY---

THE COURT: WHY DON'T YOU COME UP HERE A MINUTE THEN?

YOU'LL HAVE TO PARDON ME, I HAVE A COLD, I HAVE A HARD TIME TALKING.

(MS. BROWN NOW COMES FORWARD AND A BENCH CONFERENCE IS HAD AT THIS TIME IN THE PRESENCE OF THE JURY PANEL AND THE COURT REPORTER, BUT OUT OF THE HEARING OF THE JURY PANEL AND THE COURT REPORTER.)

(MS. BROWN NOW RETURNS TO THE REAR OF THE COURTROOM, HAVING BEEN EXCUSED FROM SERVICE IN THIS TRIAL.)

ALL RIGHT, HAS ANY MEMBER OF THE JURY PANEL EVER BEEN REPRESENTED BY GARFIELD STUART OR KATHERINE HUDGINS?

(THERE IS NO RESPONSE.)

ALL RIGHT, THERE ARE TWO OTHER PEOPLE WHO HAVE BEEN ARRESTED AND CHARGED IN CONNECTION WITH THIS CASE AND THAT IS SHAKEEM WILSON AND MAURICE SANDERS. DOES ANYBODY KNOW SHAKEEM WILSON OR MAURICE SANDERS, OR ARE YOU RELATED TO THEM BY MARRIAGE, BY BLOOD OR ANYTHING ELSE?

(THERE IS NO RESPONSE.)

HAS ANY MEMBER OF THE JURY PANEL OR MEMBER OF YOUR FAMILY EVER BEEN EMPLOYED BY ANY FEDERAL, STATE OR COUNTY PUBLIC DEFENDER'S OFFICE OR LAWYER OR LAW FIRM THAT REPRESENTS PERSONS CHARGED WITH CRIMINAL OFFENSES?

(THERE IS NO RESPONSE.)

HAS ANY MEMBER OF THE JURY OR A MEMBER OF YOUR FAMILY EVER BEEN ACCUSED OF EITHER A CRIME OF VIOLENCE OR A DRUG CHARGE?

THE CLERK: PLEASE STAND UP.

MS. GREGO: I HAVE A BROTHER, ERNIE CARNELL, AND HE SERVED TIME AT C.C.I. FOR DRUG-RELATED CHARGES.

THE COURT: OKAY. AND YOUR NAME IS?

MS. GREGO: RHONDA GREGO.

THE COURT: WOULD THAT AFFECT YOUR ABILITY TO BE FAIR AND IMPARTIAL IN THIS CASE?

MS. GREGO: I DON'T THINK SO.

THE COURT: OKAY.

MS. BAKER: IT WAS MY SON. HE WAS IN PRISON DOWN THERE IN RIDGE -- RIDGEFIELD-- RIDGE---

THE COURT: RIDGEVILLE? TELL ME YOUR NAME AGAIN?

MS. BAKER: VIVIAN BAKER.

THE COURT: WOULD THAT AFFECT YOUR ABILITY TO BE FAIR AND IMPARTIAL IN THIS CASE?

MS. BAKER: NO.

THE COURT: OKAY. AND THEN I BELIEVE, MS. BAKER,

YOU HAVE ALSO BEEN EMPLOYED BY BENEDICT COLLEGE; RIGHT?

MS. BAKER: YES, SIR.

THE COURT: YES, SIR.

MR. HENSLEY: BRANDON HENSLEY. MY BROTHER WENT TO -- I DON'T REMEMBER TOO WELL -- FOR DRUG REHABILITATION IN WEST VIRGINIA.

THE COURT: WOULD THAT AFFECT YOUR ABILITY TO BE FAIR AND IMPARTIAL IN THIS CASE?

MR. HENSLEY: NO, SIR.

THE COURT: ALL RIGHT. AND YOUR NAME IS?

MR. HENSLEY: BRANDON HENSLEY.

THE COURT: OKAY.

HAS ANYBODY EVER ATTENDED BENEDICT COLLEGE?

YES, MA'AM, DO YOU WANT TO STAND AND GIVE ME YOUR NAME?

MS. JONES: LINDA JONES.

THE COURT: OKAY. WOULD THAT AFFECT YOUR ABILITY TO BE FAIR AND IMPARTIAL IN THIS CASE?

MS. JONES: NO.

THE COURT: OKAY. I THINK A COUPLE OF YOU WERE EMPLOYED BY BENEDICT COLLEGE, RIGHT, MS. GREGO AND MS. BAKER? ANYBODY ELSE EMPLOYED BY BENEDICT?

(THERE IS NO RESPONSE.)

OKAY. HAS ANY MEMBER OF THE JURY PANEL OR MEMBER OF YOUR FAMILY EVER BEEN A MEMBER OR ASSOCIATED WITH A

GROUP SUCH AS THE BLOOD CRIPS, FOLK NATION, LATIN KINGS, OR PEOPLE'S NATION?

(THERE IS NO RESPONSE.)

ALL RIGHT. IF YOU HEAR TESTIMONY DURING THIS TRIAL RELATED TO GROUP ACTIVITY OR MEMBERSHIP, WOULD THAT CAUSE YOU IN ANY WAY TO BE UNABLE TO GIVE THE STATE OR THE DEFENDANTS A FAIR AND IMPARTIAL TRIAL?

(THERE IS NO RESPONSE.)

ONCE AGAIN, YOU WILL DECIDE THIS CASE BASED ON THE TESTIMONY AND EVIDENCE PRESENTED IN THIS COURTROOM AND YOU CANNOT USE ANY OF YOUR PERSONAL FEELINGS OR PERSONAL SITUATION OR ANYTHING ELSE IN REACHING YOUR VERDICT IN THIS CASE. YOU CAN'T COME IN HERE WITH A GRUDGE TO GRIND OR COME IN HERE TO REWARD ANYBODY. YOU'VE GOT TO BASE YOUR VERDICT SOLELY ON THE EVIDENCE AND, OF COURSE, THE LAW AS I WILL INSTRUCT YOU.

ALL RIGHT, IF YOU HEAR TESTIMONY DURING THIS TRIAL RELATED TO DRUG USAGE OR DISTRIBUTION, WOULD THAT IN ANY WAY CAUSE YOU TO BE UNABLE TO GIVE THE DEFENDANTS OR THE STATE A FAIR TRIAL?

(THERE IS NO RESPONSE.)

HAS ANYBODY EVER BEEN EMPLOYED BY ANY LAW ENFORCEMENT AGENCY, YOU OR A MEMBER OF YOUR FAMILY?

YES, MA'AM?

MS. WHITE: YES. MY HUSBAND IS A PROBATION OFFICER

WITH THE U.S. FEDERAL COURT.

THE COURT: AND YOUR NAME IS?

MS. WHITE: IT'S SARAH WHITE.

THE COURT: SARAH WHITE. WOULD THAT AFFECT YOUR ABILITY TO BE FAIR AND IMPARTIAL?

MS. WHITE: I DON'T THINK SO.

THE COURT: OKAY.

HAS ANYBODY EVER BEEN A CRIME---

MR. STRICKLER: YOUR HONOR, THERE'S ANOTHER ONE.

THE COURT: YES, SIR?

MR. JOHNSON: ROY JOHNSON. I WORK FOR THE NATIONAL GUARD. I HAVE DONE DRUG DUTY IN CHARLESTON ON A SHIP.

THE COURT: OKAY. WOULD THAT AFFECT YOUR ABILITY TO BE FAIR AND IMPARTIAL?

MR. JOHNSON: NO.

THE COURT: ANYBODY ELSE INVOLVED IN ANY KIND OF LAW ENFORCEMENT, F.B.I., SLED, C.I.A., N.I.S., RICHLAND COUNTY, CITY OF COLUMBIA?

YES, MA'AM, MS. BAKER?

MS. BAKER: MY STEPDAUGHTER WORKS IN -- UNDERCOVER AGENT.

THE COURT: OKAY. WOULD THAT AFFECT YOUR ABILITY TO BE FAIR AND IMPARTIAL?

MS. BAKER: NO.

THE COURT: YES, SIR?

MR. WASHINGTON: KELVIN WASHINGTON. I WAS AN AGENT WITH THE INTERNAL REVENUE SERVICE FOR 11 YEARS.

THE COURT: I BET YOU MADE A LOT OF PEOPLE MISERABLE, DIDN'T YOU?

MR. WASHINGTON: I PROBABLY DID.

THE COURT: WOULD THAT AFFECT YOUR ABILITY TO BE FAIR AND IMPARTIAL IN THIS CASE?

MR. WASHINGTON: NO, SIR.

THE COURT: THE WHOLE POINT OF ALL THESE QUESTIONS, YOU CAN'T COME IN HERE AND BE ONE-SIDED OR THE OTHER. YOU KNOW, YOU WILL TAKE AN OATH THAT YOU WILL DECIDE THIS CASE ON THE EVIDENCE AND THE LAW, AND THAT'S WHY WE ASK YOU ALL THESE QUESTIONS. AND I REALLY APPRECIATE YOUR FRANKNESS WHEN YOU ANSWER THESE.

NOW HAS ANY MEMBER OF THE JURY PANEL OR MEMBER OF YOUR FAMILY EVER BEEN A MEMBER OF OR HAVE YOU EVER BEEN A MEMBER OF THOSE GROUPS WHICH HAVE AS THEIR PRIMARY PURPOSE THE PROMOTION OF LAW ENFORCEMENT, SUCH AS MADD, CAVE, CADRE, SADD, ANY OF THOSE KIND OF ORGANIZATIONS?

MS. GREGO, ARE YOU JAMES GREGO'S DAUGHTER?

MS. GREGO: YES, BUT HE'S MY FATHER-IN-LAW.

THE COURT: FATHER-IN-LAW?

MS. GREGO: UH-HUH (INDICATES AN AFFIRMATIVE RESPONSE). ASSOCIATED WITH CAVE.

THE COURT: OKAY. THAT WOULDN'T AFFECT YOUR

ABILITY TO BE FAIR AND IMPARTIAL?

MS. GREGO: NO.

THE COURT: TELL HIM I SAID "HELLO." I HAVEN'T SEEN HIM IN YEARS.

MS. GREGO: OKAY, I WILL.

THE COURT: OKAY. HAS ANYBODY EVER TESTIFIED FOR THE STATE IN A CRIMINAL PROSECUTION?

(THERE IS NO RESPONSE.)

HAVE ANY MEMBERS OF THE JURY PANEL, HAVE YOU EVER EXPRESSED AN OPINION ABOUT THIS CASE? HAS ANYBODY EVER MADE UP THEIR MIND ABOUT WHAT HAPPENED IN THIS CASE AND WHO IS RESPONSIBLE?

(THERE IS NO RESPONSE.)

YOU'RE NOT LIKE MY WIFE. MY WIFE MAKES UP HER MIND AHEAD OF TIME ALL THE TIME. BUT YOU CAN'T DO THAT BECAUSE YOU'RE A JUROR IN THIS CASE AND YOU CAN'T MAKE UP YOUR MIND UNTIL YOU HEAR ALL THE EVIDENCE AND THE LAW. DOES EVERYBODY UNDERSTAND THAT?

(THERE IS NO RESPONSE.)

OKAY. HAS ANYBODY ELSE EXPRESSED AN OPINION TO YOU ABOUT THE CASE? ANYBODY ELSE?

(THERE IS NO RESPONSE.)

NOW, THIS IS KIND OF A BROAD QUESTION I'M GOING TO ASK YOU. DOES ANYBODY HAVE ANY PERSONAL FEELINGS ABOUT ANY PARTICULAR CRIME OR ANY PARTICULAR CRIMINAL ACTIVITY

THAT WOULD KEEP YOU FROM BEING A FAIR AND IMPARTIAL JUROR IN THIS CASE?

(THERE IS NO RESPONSE.)

LIKE I SAY, YOU DON'T HAVE ANY AXES TO GRIND, YOU DON'T HAVE ANY FAVORS OR REWARDS TO GIVE ANYBODY. YOU HAVE TO COME IN HERE AND YOU HAVE TO DECIDE THIS CASE ON THE EVIDENCE AND THE LAW.

DOES ANYBODY KNOW ANY REASON WHATSOEVER WHY YOU CAN'T BE FAIR BOTH TO THE STATE OF SOUTH CAROLINA AND TO BOTH DEFENDANTS?

(THERE IS NO RESPONSE.)

ALL RIGHT, ANYTHING ELSE FROM THE STATE?

MR. GASSER: NO, SIR, YOUR HONOR.

THE COURT: FROM THE DEFENDANTS?

MR. STRICKLER: YES, SIR. I BELIEVE WHEN YOU DEALT WITH THE QUESTION OF PUBLICITY, YOU ENDED UP ASKING MERELY THOSE PEOPLE WHO HAD SEEN SOMETHING RECENTLY.

THE COURT: OKAY.

MR. STRICKLER: I THINK THERE WERE MORE WHO HAD SEEN IT EARLY ON. IF WE COULD GET A RESPONSE TO THAT?

MR. TAYLOR: ONE OTHER THING, YOUR HONOR, COULD WE APPROACH JUST ONE MOMENT?

THE COURT: SURE.

(A BENCH CONFERENCE IS HAD AT THIS TIME IN THE PRESENCE OF THE JURY PANEL AND THE COURT REPORTER, BUT

OUT OF THE HEARING OF THE JURY PANEL AND THE COURT REPORTER.)

THE COURT: OKAY, A COUPLE MORE QUESTIONS. FIRST OF ALL, ONE OF THE FIRST QUESTIONS I ASKED YOU, "IF YOU HAD ANY KNOWLEDGE OF THIS CASE," AND SOME OF YOU STOOD UP AND GAVE ME YOUR NAME AND SAID YOU'D READ ABOUT IT IN THE PAPER THIS MORNING, AND SOME OF YOU SAID THAT YOU'D READ ABOUT IT EARLIER.

WAS THERE ANYBODY WHO HAD SOME KNOWLEDGE ABOUT THIS CASE THAT DIDN'T GIVE ME THEIR NAMES? ANYBODY ELSE READ ABOUT IT A YEAR AGO?

YES, SIR?

MR. FARMER: YES. MY NAME IS ANTHONY FARMER. MY WIFE WORKED WITH ONE OF THE DEFENDANTS. AND I DIDN'T KNOW HIM PERSONALLY, BUT, LUCIUS, AT A FORMER EMPLOYMENT OF HERS.

THE COURT: OKAY. AND YOUR NAME IS WHAT NOW?

MR. FARMER: ANTHONY FARMER.

THE COURT: WOULD THAT AFFECT YOUR ABILITY TO BE FAIR AND IMPARTIAL?

MR. FARMER: I DON'T KNOW, TO BE HONEST WITH YOU.

THE COURT: WELL, YOU'VE GOT TO TELL ME YES OR NO.

MR. FARMER: I'D LIKE TO SAY NO, BUT I DON'T KNOW, BECAUSE I KNOW WE'VE TALKED AT HOME ABOUT IT, BUT I DON'T KNOW.

THE COURT: WHAT? ABOUT THE CASE?

MR. FARMER: YEAH.

THE COURT: WELL, THE QUESTION IS WHETHER OR NOT YOU CAN, IF YOU HAD ANY KNOWLEDGE ABOUT THIS CASE, WHETHER YOU CAN PUT THAT KNOWLEDGE YOU LEARNED PRIOR TO COMING IN HERE OUT OF YOUR HEAD AND BASE YOUR DECISION---

MR. FARMER: I---

THE COURT: ---AND BASE YOUR DECISION SOLELY ON WHAT YOU HEAR IN THIS COURTROOM?

MR. FARMER: I'M GOING TO SAY NO.

THE COURT: YOU CAN'T DO THAT, ALL RIGHT. WELL, I WON'T REQUIRE YOU TO SERVE ON THIS JURY THEN.

THAT'S MR. BROWN (SIC), RIGHT?

YES, SIR?

MR. HUNTER: ANTHONY HUNTER.

THE COURT: ANTHONY HEARN?

MR. HUNTER: HUNTER.

THE COURT: HUNTER.

MR. HUNTER: JUST WHAT I'VE SEEN IN THE NEWSPAPERS RIGHT AFTER THE INCIDENT OCCURRED, AND TELEVISION.

THE COURT: OKAY. WOULD YOU BE ABLE TO PUT THAT OUT OF YOUR MIND AND BASE YOUR DECISION SOLELY ON WHAT YOU HEAR IN THE COURTROOM TODAY?

MR. HUNTER: YES, SIR.

THE COURT: ALL RIGHT, SIR.

YES, SIR?

MR. PEED: WILLIAM PEED. NEWSPAPER ACCOUNTS WHEN THE INCIDENT FIRST HAPPENED, T.V. ACCOUNTS.

THE COURT: WOULD YOU BE ABLE TO PUT THAT OUT OF YOUR MIND AND BASE YOUR DECISION ON WHAT YOU HEAR HERE IN THE COURTROOM?

MR. PEED: CERTAINLY, YOUR HONOR.

THE COURT: ALL RIGHT.

YES, SIR?

MR. JENKINS: STANLEY JENKINS. SAME AS THE PREVIOUS GENTLEMEN, NEWSPAPER ACCOUNTS.

THE COURT: AND THE SAME ANSWER ABOUT PUTTING IT OUT OF YOUR MIND AND DECIDING ON WHAT YOU HEAR IN THE COURTROOM?

MR. JENKINS: YES, SIR.

THE COURT: ALL RIGHT, SIR.

MR. McCULLOUGH: KENNETH McCULLOUGH. ESSENTIALLY THE SAME THING.

THE COURT: ALL RIGHT. AND THE SAME ANSWER, THAT YOU CAN BE FAIR?

MR. McCULLOUGH: YES, SIR.

THE COURT: ALL RIGHT.

YES, SIR?

MR. WILLIAMS: PRETTY MUCH THE SAME HERE.

THE COURT: THE SAME ANSWER, YOU CAN BE FAIR?

MR. STRICKLER: I'M SORRY, HIS NAME?

THE COURT: TELL US YOUR NAME?

MR. WILLIAMS: OH, JAMES WILLIAMS.

THE COURT: JAMES WILLIAMS.

MR. STRICKLER: THANK YOU.

THE COURT: YES, SIR?

MR. HENSLEY: BRANDON HENSLEY. WHEN I HEARD ABOUT A MURDER, I FOLLOWED IT IN THE PUBLICATIONS.

THE COURT: OKAY. AND YOU CAN PUT THAT OUT OF YOUR MIND AND BASE YOUR DECISION ON WHAT YOU HEAR IN THE COURTROOM?

MR. HENSLEY: YES, SIR.

THE COURT: ALL RIGHT.

YES, MA'AM?

MS. DeWITT: JEAN DeWITT. PREVIOUSLY ACCOUNTS; NOT TODAY'S ACCOUNT BUT PREVIOUSLY.

THE COURT: BUT YOU CAN PUT THAT OUT OF YOUR MIND AND---

MS. DeWITT: IN ALL HONESTY I CANNOT SAY THAT I CAN.

THE COURT: YOU HONESTLY SAY THAT YOU CAN'T SAY YOU CAN PUT IT OUT OF YOUR MIND?

MS. DeWITT: NO.

THE COURT: WELL, IF YOU CAN'T PUT IT OUT OF YOUR MIND THEN I'M NOT GOING TO LET YOU SIT ON THIS JURY.

YOU'LL HAVE TO BE PUT ON SOME OTHER JURY BECAUSE NOBODY GETS OUT OF JURY DUTY.

THAT'S MS. DeWITT; RIGHT? THAT'S MS. DeWITT, OKAY.

WELL, YOU KNOW, WE REALLY HAVE TO GO THROUGH ALL THESE QUESTIONS BECAUSE WE NEED TO KNOW THAT. THAT'S WHY OUR SYSTEM WORKS SO GOOD.

NOW, WHAT I'M GOING TO DO IS I'M GOING TO READ OUT A LIST OF POTENTIAL WITNESSES IN THIS CASE. THIS IS A LONG LIST AND I DON'T KNOW HOW MANY OF THEM ARE GOING TO TESTIFY. BUT THEN I'M GOING TO ASK YOU WHETHER YOU KNOW ANY OF THEM, WHETHER YOU'RE RELATED TO THEM.

ALL RIGHT, WE'VE GOT INVESTIGATOR PAUL MEAD WITH THE COLUMBIA POLICE DEPARTMENT; SERGEANT MITCH WILKERSON WITH THE COLUMBIA POLICE DEPARTMENT; INVESTIGATOR J.P. SMITH WITH THE COLUMBIA POLICE DEPARTMENT; PHIL YOUNG WITH THE COLUMBIA POLICE DEPARTMENT; INVESTIGATOR KARLOS KENLEY WITH BENEDICT COLLEGE; SERGEANT RACHEL BOYD, BENEDICT COLLEGE; DEPUTY E. DOWDY WITH THE RICHLAND COUNTY SHERIFF'S DEPARTMENT. AND THEN WE HAVE---

DOES ANYBODY KNOW ANY OF THOSE PEOPLE, THOSE LAW ENFORCEMENT TYPES?

YES, MA'AM?

MS. MAZONE: I KNOW A MS. BOYD, JUST FROM BENEDICT. I DON'T KNOW HER, JUST ONLY WORKED WITH HER.

THE COURT: ALL RIGHT, THE FACT THAT YOU KNOW HER,

WOULD THAT AFFECT YOUR ABILITY TO BE FAIR AND IMPARTIAL IN THIS CASE?

MS. MAZONE: NO.

THE COURT: OKAY. AND TELL US YOUR NAME AGAIN.

MS. MAZONE: KARLA MAZONE.

THE COURT: MS. MAZONE, OKAY.

ANYBODY ELSE?

MS. GRECO: SAME THING, MS. BOYD, JUST FROM HER BEING AT BENEDICT.

THE COURT: AND YOU WORK THERE AND SHE WORKS THERE; RIGHT?

MS. GRECO: RIGHT.

THE COURT: OKAY.

MS. GRECO: NOTHING BEYOND THAT. AND IT WOULDN'T AFFECT ME.

THE COURT: ALL RIGHT, HERE'S SOME OF THE NON-LAW ENFORCEMENT WITNESSES WHO ARE GOING TO TESTIFY. WE'RE GOING TO HAVE TALIA COLE, TISHA DAVIS, MICHELLE BUFF, ROBIN SIMS, ANTHONY KENNEDY, ASWAD SALAAM, MANNY PERDUE, PHILLIP PURDUE, WILENA McARTHUR, RASHON LOGGINS, TONY BARBER, JEAN DABADY?

MR. GASSER: DABADY.

THE COURT: DABADY. ALONZO "LoLo" SHULER, ANDREW BRITT.

DOES ANYBODY KNOW ANY OF THOSE PEOPLE?

MS. GRECO: RASHON LOGGINS WAS A STUDENT IN A FRESHMAN COMPOSITION CLASS THAT I TAUGHT, I BELIEVE IT WAS THE SPRING OF 1999 OR 1988. IT WAS AWHILE BACK.

THE COURT: PRETTY GOOD MEMORY. WOULD IT AFFECT YOUR ABILITY TO BE FAIR AND IMPARTIAL?

MS. GRECO: NO. I SAW HIM ON CAMPUS ON-AND-OFF AFTER THAT.

THE COURT: OKAY.

ALL RIGHT, WE'RE ALSO GOING TO HAVE BRANDON McCANTS; DEPUTY SWICEGOOD FROM RICHLAND COUNTY; DEPUTY PAYTON FROM RICHLAND COUNTY; DR. CLAY NICHOLS FROM PALMETTO RICHLAND MEMORIAL HOSPITAL; AGENT JOE POWELL FROM SLED; LARRY MASON; JIM POTASH FROM THE COLUMBIA POLICE DEPARTMENT; AMANDA FALLOW; OFFICER TAURUS SANDERS, COLUMBIA POLICE DEPARTMENT; INVESTIGATOR GERI STEEDLEY FROM THE COLUMBIA POLICE DEPARTMENT; INVESTIGATOR MARK VINSON FROM THE COLUMBIA POLICE DEPARTMENT; OFFICER ODELL SUMTER WITH THE BENEDICT COLLEGE POLICE DEPARTMENT; REBECCA TADLOCK; KERRY APPLEGATE; AGENT SAMUEL REIGHLEY FROM SLED; KEVIN PATE, RICHLAND COUNTY SHERIFF'S DEPARTMENT; AMMAR ABASS; LIBBY TOMMELSON, MOTOR VEHICLES; HATTIE PATTERSON; AND CHRISTOPHER SIMS; AND ROMON DAY.

ANYBODY KNOW ANY OF THOSE PEOPLE?

(THERE IS NO RESPONSE.)

MR. TAYLOR: YOUR HONOR, WOULD YOU ADD MS.

GERALDINE STACK TO THAT LIST, PLEASE?

THE COURT: GERALDINE STACK; ANYBODY KNOW GERALDINE STACK?

(THERE IS NO RESPONSE.)

OKAY, I THINK THAT'S ALL THE POTENTIAL WITNESSES IN THE CASE.

ANYBODY HAVE ANYTHING ELSE, ANY OTHER VOIR DIRE?

MR. GASSER: ONE OTHER PROSPECTIVE WITNESS, I BELIEVE, AT THE SIDE BAR WAS JEFFREY HOLLIFIELD.

THE COURT: OH, YEAH, EXCUSE ME.

JEFFREY HOLLIFIELD, ANYBODY KNOW JEFFREY HOLLIFIELD?

(THERE IS NO RESPONSE.)

MR. GASSER: THAT'S ALL THE STATE WOULD HAVE, YOUR HONOR.

THE COURT: ANYTHING ELSE FROM THE DEFENDANTS?

MR. TAYLOR: THAT'S ALL FROM THE DEFENSE KNOWN AT THIS TIME, YOUR HONOR.

THE COURT: ANYBODY WANT TO STAND UP AND SAY SOMETHING?

MS. THOMAS: I JUST WANT TO SAY THAT I WORK AT PALMETTO RICHLAND BUT I DON'T THINK I KNOW DR. NICHOLS.

THE COURT: OKAY. YOUR NAME IS?

MS. THOMAS: SUSAN THOMAS.

THE COURT: OKAY.

MR. STRICKLER: NOTHING FURTHER, YOUR HONOR.

THE COURT: ALL RIGHT, LET'S SELECT A JURY.

THE CLERK: YES, YOUR HONOR.

ALL RIGHT, LADIES AND GENTLEMEN OF THE JURY, IF I CALL OUT YOUR NAME, PLEASE COME FORWARD TO THIS MICROPHONE STANDING NEXT TO MY RIGHT. STATE YOUR NAME AND OCCUPATION AND REMAIN STANDING THERE UNTIL I GIVE YOU FURTHER INSTRUCTIONS.

IF YOU HAVE ANY PERSONAL ITEMS, BOOKS, COATS, UMBRELLAS, ETCETERA, BRING THOSE WITH YOU IF I CALL OUT YOUR NAME.

FIRST JUROR, NUMBER 274, WILLIAM PEED; 274.

(MR. WILLIAM PEED, A BLACK MALE, NOW COMES FORWARD.)

MR. PEED: WILLIAM PEED. I'M EMPLOYED WITH THE UNITED STATES POSTAL SERVICE.

THE CLERK: WHAT SAYS THE STATE?

MR. GASSER: PLEASE PRESENT MR. PEED.

THE CLERK: WHAT SAYS THE DEFENSE?

MR. STRICKLER: PLEASE SWEAR MR. PEED.

THE CLERK: SIR, PLEASE HAVE A SEAT OVER HERE IN THE JURY BOX AS DIRECTED BY THE BAILIFF.

46, GREGORY BURDEN; 46.

(MR. GREGORY BURDEN, A BLACK MALE, NOW COMES FORWARD.)

MR. BURDEN: MY NAME IS GREGORY BURDEN. I WORK AT THE VETERANS ADMINISTRATION OFFICE.

THE CLERK: WHAT SAYS THE STATE?

MR. HOOD: PLEASE PRESENT MR. BURDEN.

THE CLERK: WHAT SAYS THE DEFENSE?

MR. TAYLOR: PLEASE SWEAR MR. BURDEN.

THE CLERK: PLEASE HAVE A SEAT HERE IN THE JURY BOX, SIR.

326, DAN STEVENS; 326.

(MR. DAN STEVENS, A WHITE MALE, NOW COMES FORWARD.)

MR. STEVENS: I'M DAN STEVENS. I REPRESENT MILLS PRIDE AS A SALES REPRESENTATIVE.

THE CLERK: WHAT SAYS THE STATE?

MR. GASSER: PLEASE PRESENT MR. STEVENS.

THE CLERK: WHAT SAYS THE DEFENSE?

MR. TAYLOR: PLEASE SWEAR MR. STEVENS.

THE COURT: PLEASE HAVE A SEAT HERE IN THE JURY BOX, SIR.

153, ADDIE HARRIS; ADDIE HARRIS.

(MS. ADDIE HARRIS, A BLACK FEMALE, NOW COMES FORWARD.)

MS. HARRIS: ADDIE HARRIS, GRACE CHURCH SECRETARY.

THE CLERK: WHAT SAYS THE STATE?

MR. GASSER: PLEASE EXCUSE MS. HARRIS FROM SERVICE IN THIS CASE.

THE CLERK: PLEASE RETURN TO THE BACK OF THE COURTROOM THERE WHERE YOU SEE THAT BAILIFF.

158, MICHAEL HAYES; 158.

(MR. MICHAEL HAYES, A BLACK MALE, NOW COMES FORWARD.)

MR. HAYES: MICHAEL HAYES. I WORK AT U.P.S.

THE CLERK: WHAT SAYS THE STATE?

MR. GASSER: PLEASE PRESENT MR. HAYES.

THE CLERK: WHAT SAYS THE DEFENSE?

MR. STRICKLER: PLEASE SWEAR MR. HAYES.

THE CLERK: PLEASE HAVE A SEAT HERE IN THE JURY BOX, SIR.

134, JOANN GOLDSBOROUGH; 134.

(MS. JOANN GOLDSBOROUGH, A WHITE FEMALE, NOW COMES FORWARD.)

MS. GOLDSBOROUGH: MY NAME IS JOANN GOLDSBOROUGH AND I'M A NURSE FOR PALMETTO HOME HEALTH.

THE CLERK: WHAT SAYS THE STATE?

MR. GASSER: PLEASE PRESENT MS. GOLDSBOROUGH.

THE CLERK: WHAT SAYS THE DEFENSE?

MR. TAYLOR: PLEASE EXCUSE THIS JUROR.

THE CLERK: PLEASE RETURN TO THE BACK OF THE COURTROOM, MA'AM, WHERE YOU SEE THAT BAILIFF.

359, JAMES WILLIAMS; 359.

(MR. JAMES WILLIAMS, A BLACK MALE, NOW COMES

FORWARD.)

MR. WILLIAMS: MY NAME IS JAMES WILLIAMS. I WORK AT BLUE CROSS BLUE SHIELD.

THE CLERK: WHAT SAYS THE STATE?

MR. GASSER: PLEASE PRESENT MR. WILLIAMS.

THE CLERK: WHAT SAYS THE DEFENSE?

MR. TAYLOR: PLEASE SWEAR MR. WILLIAMS.

THE COURT: PLEASE HAVE A SEAT HERE IN THE JURY BOX, SIR.

232, KENNETH McCULLOUGH; 232.

(MR. KENNETH McCULLOUGH, A WHITE MALE, NOW COMES FORWARD.)

MR. McCULLOUGH: MY NAME IS KENNETH McCULLOUGH AND I'M EMPLOYED BY K.D.M.

THE CLERK: WHAT SAYS THE STATE?

MR. GASSER: PLEASE PRESENT MR. McCULLOUGH.

THE CLERK: WHAT SAYS THE DEFENSE?

MR. TAYLOR: PLEASE SWEAR MR. McCULLOUGH.

THE CLERK: PLEASE HAVE A SEAT HERE IN THE JURY BOX, SIR.

159, BRANDON HENSLEY; 159.

(MR. BRANDON HENSLEY, A WHITE MALE, NOW COMES FORWARD.)

MR. HENSLEY: BRANDON HENSLEY. I WORK AS A CONSULTANT. AND AS OF THIS MONTH, THIS MONTH I'LL BE

UNEMPLOYED AND IN-BETWEEN JOBS.

THE CLERK: WHAT SAYS THE STATE?

MR. GASSER: PRESENT MR. HENSLEY.

THE CLERK: WHAT SAYS THE DEFENSE?

MR. STRICKLER: PLEASE EXCUSE MR. HENSLEY FROM THE TRIAL OF THIS CASE.

THE CLERK: SIR, PLEASE RETURN TO THE BACK OF THE COURTROOM THERE WHERE YOU SEE THE BAILIFF.

152, DORIS HARRELL; 152.

(MS. DORIS HARRELL, A WHITE FEMALE, NOW COMES FORWARD.)

MS. HARRELL: DORIS HARRELL, RETIRED FROM COLUMBIA COLLEGE.

THE CLERK: WHAT SAYS THE STATE?

MR. GASSER: PLEASE PRESENT MS. HARRELL.

THE CLERK: WHAT SAYS THE DEFENSE?

MR. TAYLOR: PLEASE EXCUSE MS. HARRELL.

THE CLERK: MA'AM, PLEASE RETURN TO THE BACK OF THE COURTROOM THERE WHERE YOU SEE THE BAILIFF.

135, INETTA GOODWIN; 135.

(MS. INETTA GOODWIN, A BLACK FEMALE, NOW COMES FORWARD.)

MS. GOODWIN: INETTA GOODWIN, NATIONAL HEALTH CARE NURSING ASSISTANT.

THE CLERK: WHAT SAYS THE STATE?

MR. GASSER: BEG THE COURT'S INDULGENCE.

(PAUSE.)

PLEASE PRESENT MS. GOODWIN.

THE CLERK: WHAT SAYS THE DEFENSE?

MR. TAYLOR: PLEASE STRIKE MS. GOODWIN.

THE CLERK: MA'AM, PLEASE RETURN TO THE BACK OF THE COURTROOM THERE WHERE YOU SEE THE BAILIFF.

54, CHAMELLE CASTRO; 54.

(MS. CHAMELLE CASTRO, A BLACK FEMALE, NOW COMES FORWARD.)

MS. CASTRO: CHAMELLE CASTRO. I WORK AT A SEWING SHOP.

THE CLERK: WHAT SAYS THE STATE?

MR. GASSER: PLEASE PRESENT MS. CASTRO.

THE CLERK: WHAT SAYS THE DEFENSE?

MR. STRICKLER: PLEASE SWEAR MS. CASTRO.

THE COURT: PLEASE HAVE A SEAT THERE IN THE JURY BOX, MA'AM.

147, REBECCA GUTIERRES; 147.

(MS. REBECCA GUTIERRES, A WHITE FEMALE, NOW COMES FORWARD.)

MS. GUTIERRES: MY NAME IS REBECCA GUTIERRES. I WORK AT BOJANGLES.

THE CLERK: WHAT SAYS THE STATE?

MR. HOOD: PLEASE EXCUSE MS. GUTIERRES FROM SERVICE

IN THIS CASE.

THE CLERK: MA'AM, PLEASE RETURN TO THE BACK OF THE COURTROOM THERE WHERE YOU SEE THE BAILIFF.

97, YOLANDA ECHOLS; 97.

(MS. YOLANDA ECHOLS, A BLACK FEMALE, NOW COMES FORWARD.)

MS. ECHOLS: YOLANDA ECHOLS. I WORK AT MERITA BAKERS.

THE CLERK: WHAT SAYS THE STATE?

MR. HOOD: PLEASE EXCUSE MS. ECHOLS FROM THE SERVICE OF THIS CASE.

THE CLERK: PLEASE RETURN TO THE BACK OF THE COURTROOM, MA'AM, WHERE YOU SEE THE BAILIFF THERE.

143, RHONDA GREGO; 143.

(MS. RHONDA GREGO, A WHITE FEMALE, NOW COMES FORWARD.)

MS. GREGO: RHONDA GREGO; ASSOCIATE PROFESSOR OF ENGLISH, BENEDICT COLLEGE.

THE CLERK: WHAT SAYS THE STATE?

MR. GASSER: PLEASE PRESENT MS. GREGO.

MR. TAYLOR: PLEASE EXCUSE MS. GREGO.

THE CLERK: PLEASE RETURN TO THE BACK OF THE COURTROOM WHERE YOU SEE THE BAILIFF.

THE COURT: ANYBODY HAVING TROUBLE HEARING MR. TAYLOR?

MR. TAYLOR: I CAN SPEAK LOUDER.

THE CLERK: 180, QUEEN WESTON; 180.

(MS. QUEEN WESTON, A BLACK FEMALE, NOW COMES FORWARD.)

MS. WESTON: MY NAME IS QUEEN WESTON. I WORK AT TRIPP'S CLEANERS IN FIVE POINTS.

THE CLERK: WHAT SAYS THE STATE?

MR. GASSER: PLEASE PRESENT MS. WESTON.

THE CLERK: AND WHAT SAYS THE DEFENSE?

MR. STRICKLER: PLEASE SWEAR MS. WESTON.

THE CLERK: PLEASE HAVE A SEAT HERE IN THE JURY BOX, MA'AM.

128, TIMOTHY GAITHER (PHONETIC)?

MR. GOUTHIER: GOTHIER (PHONETIC).

THE CLERK: GOUTHIER; 128.

(MR. TIMOTHY GOUTHIER, A WHITE MALE, NOW COMES FORWARD.)

MR. GOUTHIER: TIM GOUTHIER. I WORK FOR R.B.M.G. AS A FINANCIAL ANALYST.

THE CLERK: WHAT SAYS THE STATE?

MR. GASSER: PLEASE PRESENT MR. GOUTHIER.

THE CLERK: WHAT SAYS THE DEFENSE?

MR. STRICKLER: PLEASE EXCUSE MR. GOUTHIER FROM THE TRIAL OF THIS CASE.

THE CLERK: SIR, PLEASE RETURN TO THE BACK OF THE

COURTROOM THERE WHERE YOU SEE THE BAILIFF.

52, DIAMETRIA CARSON; 52.

(MS. DIAMETRIA CARSON, A BLACK FEMALE, NOW COMES FORWARD.)

MS. CARSON: DIAMETRIA CARSON.

THE CLERK: WHAT SAYS THE STATE?

MR. HOOD: PLEASE EXCUSE MS. CARSON FROM THE SERVICE OF THIS CASE.

THE CLERK: MA'AM, PLEASE RETURN TO THE BACK OF THE COURTROOM THERE WHERE YOU SEE THE BAILIFF.

358, DOUGLAS WHITENER; 358.

(MR. DOUGLAS WHITENER, A WHITE MALE, NOW COMES FORWARD.)

MR. WHITENER: DOUGLAS WHITENER. I'M RETIRED FROM SOUTH CAROLINA ELECTRIC AND GAS.

THE CLERK: WHAT SAYS THE STATE?

MR. GASSER: PLEASE PRESENT MR. WHITENER.

THE CLERK: WHAT SAYS THE DEFENSE?

MR. TAYLOR: PLEASE SWEAR MR. WHITENER.

THE CLERK: PLEASE HAVE A SEAT HERE IN THE JURY BOX, SIR.

44, LARRY BRYANT; 44.

(MR. LARRY BRYANT, A BLACK MALE, NOW COMES FORWARD.)

MR. BRYANT: I'M LARRY BRYANT. I'M AN OVER-STAFF

MANAGER WITH SOUTHERN MANAGEMENT COMPANY.

THE CLERK: WHAT SAYS THE STATE?

MR. GASSER: PLEASE PRESENT MR. BRYANT.

THE CLERK: WHAT SAYS THE DEFENSE?

MR. TAYLOR: PLEASE SWEAR MR. BRYANT.

THE CLERK: PLEASE HAVE A SEAT HERE IN THE JURY BOX, SIR.

18, STEVEN BEARD; 18.

(MR. STEVEN BEARD, A WHITE MALE, NOW COMES FORWARD.)

MR. BEARD: I'M STEVE BEARD. I WORK FOR GRAYBAR ELECTRIC.

THE CLERK: WHAT SAYS THE STATE?

MR. GASSER: PLEASE PRESENT MR. BEARD.

THE CLERK: WHAT SAYS THE DEFENSE?

MR. TAYLOR: PLEASE SWEAR MR. BEARD.

THE CLERK: PLEASE HAVE A SEAT HERE IN THE JURY BOX, SIR.

10, EUGENIA AVIN; 10.

(MS. EUGENIA AVIN, A WHITE FEMALE, NOW COMES FORWARD.)

MS. AVIN: EUGENIA AVIN. I WORK FOR THE STATE PAPER.

THE CLERK: WHAT SAYS THE STATE?

MR. HOOD: PLEASE EXCUSE MS. AVIN FROM THE SERVICE

MANAGER WITH SOUTHERN MANAGEMENT COMPANY.

THE CLERK: WHAT SAYS THE STATE?

MR. GASSER: PLEASE PRESENT MR. BRYANT.

THE CLERK: WHAT SAYS THE DEFENSE?

MR. TAYLOR: PLEASE SWEAR MR. BRYANT.

THE CLERK: PLEASE HAVE A SEAT HERE IN THE JURY BOX, SIR.

18, STEVEN BEARD; 18.

(MR. STEVEN BEARD, A WHITE MALE, NOW COMES FORWARD.)

MR. BEARD: I'M STEVE BEARD. I WORK FOR GRAYBAR ELECTRIC.

THE CLERK: WHAT SAYS THE STATE?

MR. GASSER: PLEASE PRESENT MR. BEARD.

THE CLERK: WHAT SAYS THE DEFENSE?

MR. TAYLOR: PLEASE SWEAR MR. BEARD.

THE CLERK: PLEASE HAVE A SEAT HERE IN THE JURY BOX, SIR.

10, EUGENIA AVIN; 10.

(MS. EUGENIA AVIN, A WHITE FEMALE, NOW COMES FORWARD.)

MS. AVIN: EUGENIA AVIN. I WORK FOR THE STATE PAPER.

THE CLERK: WHAT SAYS THE STATE?

MR. HOOD: PLEASE EXCUSE MS. AVIN FROM THE SERVICE

OF THIS CASE.

THE CLERK: PLEASE RETURN TO THE BACK OF THE COURTROOM, MA'AM, WHERE YOU SEE THE BAILIFF THERE.

188, ROY JOHNSON; 188.

(MR. ROY JOHNSON, A WHITE MALE, NOW COMES FORWARD.)

MR. JOHNSON: ROY JOHNSON, SOUTH CAROLINA NATIONAL GUARD.

THE CLERK: WHAT SAYS THE STATE?

MR. GASSER: PLEASE PRESENT MR. JOHNSON.

THE CLERK: WHAT SAYS THE DEFENSE?

MR. TAYLOR: PLEASE EXCUSE MR. JOHNSON.

THE CLERK: SIR, PLEASE RETURN TO THE BACK OF THE COURTROOM THERE WHERE YOU SEE THE BAILIFF.

79, AUDREY DAVIS; 79.

(MS. AUDREY DAVIS, A BLACK FEMALE, NOW COMES FORWARD.)

MS. DAVIS: AUDREY DAVIS; SOUTH CAROLINA DEPARTMENT OF TRANSPORTATION.

THE CLERK: WHAT SAYS THE STATE?

MR. GASSER: PLEASE PRESENT MS. DAVIS.

THE CLERK: WHAT SAYS THE DEFENSE?

MR. TAYLOR: PLEASE SWEAR MS. DAVIS.

THE CLERK: PLEASE HAVE A SEAT HERE IN THE JURY BOX, MA'AM.

THE COURT: ALL RIGHT, LET'S GET A COUPLE

ALTERNATES. DO YOU THINK TWO WILL BE ENOUGH?

MR. GASSER: YES, SIR.

THE CLERK: 4, DAVID AMICK; 4.

(MR. DAVID AMICK, A WHITE MALE, NOW COMES FORWARD.)

MR. AMICK: DAVID AMICK. I WORK FOR A SALES AND MARKETING COMPANY.

THE CLERK: WHAT SAYS THE STATE?

MR. GASSER: PLEASE PRESENT MR. AMICK.

THE CLERK: WHAT SAYS THE DEFENSE?

MR. TAYLOR: PLEASE SWEAR MR. AMICK.

THE CLERK: PLEASE HAVE A SEAT HERE IN THE JURY BOX, SIR.

357, SARAH WHITE; 357.

(MS. SARAH WHITE, A WHITE FEMALE, NOW COMES FORWARD.)

MS. WHITE: I'M SARAH WHITE. I'M A PSYCHOLOGIST AND ASSISTANT DIRECTOR OF SPECIAL SERVICES FOR KERSHAW COUNTY SCHOOLS.

THE CLERK: WHAT SAYS THE STATE?

MR. GASSER: PLEASE PRESENT MS. WHITE.

THE CLERK: WHAT SAYS THE DEFENSE?

MR. TAYLOR: PLEASE EXCUSE MS. WHITE.

THE CLERK: MA'AM, PLEASE RETURN TO THE BACK OF THE COURTROOM THERE WHERE YOU SEE THE BAILIFF.

2, CHARLES ADAMS; 2.

(MR. CHARLES ADAMS, A WHITE MALE, NOW COMES FORWARD.)

MR. ADAMS: CHARLES ADAMS. I WORK FOR INTERNATIONAL PAPER.

THE CLERK: WHAT SAYS THE STATE?

MR. GASSER: PLEASE PRESENT MR. ADAMS.

THE CLERK: WHAT SAYS THE DEFENSE?

MR. TAYLOR: PLEASE SWEAR MR. ADAMS.

THE CLERK: PLEASE HAVE A SEAT HERE IN THE JURY BOX, SIR.

THE COURT: DO YOU ALL THINK TWO ALTERNATES WILL BE ENOUGH?

MR. TAYLOR: HAS THE POTENTIAL, YOUR HONOR, OF BEING A LITTLE BIT OF A LONGER TRIAL THAN USUAL.

THE COURT: LET'S GET ONE MORE JUST TO BE SAFE.

MR. TAYLOR: I WOULD FEEL MORE COMFORTABLE. THANK YOU.

THE CLERK: 167, DONALD HOPKINS; 167.

(MR. DONALD HOPKINS, A WHITE MALE, NOW COMES FORWARD.)

MR. HOPKINS: I'M DONALD HOPKINS. I WORK AT HOOP FOILS (PHONETIC).

THE CLERK: WHAT SAYS THE STATE?

MR. HOOD: PLEASE EXCUSE MR. HOPKINS FROM THE SERVICE OF THIS CASE.

THE COURT: PLEASE RETURN TO THE BACK OF THE COURTROOM, SIR, WHERE YOU SEE THE BAILIFF THERE.

121, ANNE FOOTCH?

MS. FUTCH: FUTCH.

THE CLERK: FUTCH. 121.

(MS. ANNE FUTCH, A WHITE FEMALE, NOW COMES FORWARD.)

MS. FUTCH: I'M ANNE FUTCH. I WORK WITH THE SOUTH CAROLINA DEPARTMENT OF TRANSPORTATION AS A TECHNOLOGY MANAGER.

THE CLERK: DOES THE STATE CHALLENGE FOR CAUSE?

MR. GASSER: NO. PLEASE PRESENT MS. FUTCH.

THE CLERK: WHAT SAYS THE DEFENSE?

MR. TAYLOR: PLEASE SWEAR MS. FUTCH.

THE CLERK: PLEASE HAVE A SEAT HERE IN THE JURY BOX, MA'AM.

(JURY SELECTION IS NOW COMPLETE AND THE JURY VOIR DIRE SHEETS ARE MADE A PART OF THIS RECORD AT THE CONCLUSION OF VOLUME NUMBER FOUR.)

THE COURT: OKAY, ANY MOTIONS IN REGARDS TO THE SELECTION OF THE JURY?

MR. GASSER: BEG THE COURT'S INDULGENCE, YOUR HONOR.

THE COURT: OKAY.

MR. TAYLOR: ONE THAT WE HAVE ADDRESSED WOULD BE

PUT ON THE RECORD AT THE APPROPRIATE TIME?

THE COURT: YES.

MR. TAYLOR: THANK YOU, YOUR HONOR.

THE COURT: THAT'S THE ONLY ONE; RIGHT?

MR. TAYLOR: THAT'S THE ONLY ONE THAT I KNOW OF, YES, SIR.

MR. GASSER: YOUR HONOR, AT THIS TIME WE WOULD DEFER, ALTHOUGH DEPENDING ON RESPONSE OF BOTH DEFENSE COUNSEL WE MIGHT HAVE A MOTION BUT AT THIS TIME WE WOULD DEFER.

THE COURT: HE SAID HE DOESN'T HAVE ANY.

MR. GASSER: OH, I'M SORRY.

THE COURT: EXCEPT ONE WE MENTIONED UP TO THE BENCH ABOUT A PARTICULAR JUROR.

MR. GASSER: THEN THE STATE HAS NO MOTIONS.

THE COURT: OKAY, THEY HAVE NO MOTIONS.

MR. TAYLOR: NO MOTIONS.

THE COURT: ALL RIGHT, LADIES AND GENTLEMEN, THOSE OF YOU WHO WERE NOT SELECTED TO SERVE ON THIS CASE, IF YOU GO BACK DOWN TO THE FIRST FLOOR THEY'RE GOING TO SEND YOU TO LUNCH AND GIVE YOU FURTHER INSTRUCTIONS FOR YOU DOWN THERE.

MS. SCOTT: THEY CAN GO HOME, YOUR HONOR, UNTIL NINE-THIRTY IN THE MORNING.

THE COURT: ALL RIGHT, GO HOME TILL NINE-THIRTY IN

THE MORNING. HOW 'BOUT THAT? EVEN BETTER.

(THE REMAINING JURY PANEL IS EXCUSED AT 1:32 P.M.)

WELL, WE'RE GOING TO SEND YOU HOME TOO IN JUST A MINUTE.

(PAUSE.)

WHILE THEY'RE ALL SO QUIET LET ME GO AHEAD AND TELL YOU A FEW THINGS.

NOW WHAT WE'RE GOING TO DO, WE'RE GOING TO START THIS TRIAL AT NINE-THIRTY IN THE MORNING BECAUSE WE'VE GOT SOME MATTERS WE'VE GOT TO TAKE UP THIS AFTERNOON.

SO MY NAME IS JUDGE McKELLAR SO IF YOU GET LOST THIS IS COURTROOM 2-A. WHEN I DISMISS YOU, THE BAILIFF WILL TAKE YOU TO THE JURY ROOM, WHICH IS BEHIND THIS COURTROOM. IT'S A REAL NICE SPACIOUS JURY ROOM WITH NICE WINDOWS. IT'S MUCH BETTER THAN SOME COURTHOUSES IN THIS STATE. BUT ANYWAY, THAT'S WHERE YOU'LL BE OPERATING OUT OF ALL WEEK.

AND THEN THEY'LL SHOW YOU HOW TO GET BACK OUT FRONT, AND HOW TO GET BACK IN WHEN YOU COME BACK TOMORROW MORNING.

AT NINE-THIRTY WHEN YOU COME IN WE'LL HAVE A POT OF COFFEE WAITING ON YOU TO GET YOU STARTED AND WE'LL START THE TRIAL AT THAT TIME.

NOW, HERE ARE THE RULES NOW THAT YOU'VE BEEN IMPANELED AS A JURY IN THIS CASE. YOU CANNOT DISCUSS

THIS CASE WITH ANYBODY. SOME OF YOU SAID YOU HAD SOME KNOWLEDGE OF THIS CASE BY VIRTUE OF READING NEWSPAPER ACCOUNTS OR WHATEVER. DO NOT READ NEWSPAPER ACCOUNTS. IF THERE'S SOMETHING IN THE PAPER TOMORROW MORNING ABOUT THIS CASE, DO NOT READ IT. IF THERE'S SOMETHING ON TELEVISION ABOUT THIS CASE, DON'T LISTEN TO THAT, TURN AWAY, TURN THE VOLUME DOWN.

BECAUSE YOU ARE THE ONES WHO HAVE TO DECIDE WHAT HAPPENED OUT THERE ON JANUARY THE 15TH, 2001, AND YOU HAVE TO BASE THAT DECISION ON WHAT YOU HEAR FROM THE WITNESSES ON THIS WITNESS STAND. YOU ARE GOING TO GET THE TRUE SCOOP AND YOU'RE GOING TO HAVE TO MAKE YOUR DECISION BASED ON THAT. YOU CAN'T MAKE IT BASED ON ANYTHING YOU HEARD OUTSIDE THIS COURTROOM.

AND IN CONNECTION WITH THAT I WOULD TELL YOU THAT WHEN YOU GO HOME AND YOU TALK TO YOUR HUSBAND OR WIFE, YOU CANNOT DISCUSS THIS CASE WITH THEM. LET ME TELL YOU WHY: BECAUSE IF YOU DO, THEY'RE GOING TO TELL YOU, "LET ME TELL YOU WHAT I THINK, LET ME TELL YOU WHAT I HEARD." THAT MAY INFLUENCE THE WAY YOU DECIDE THIS CASE. YOU CAN'T DO THAT. JUST TELL THEM YOU CANNOT DISCUSS THIS CASE WITH THEM UNTIL YOU'VE REACHED A VERDICT AND THE CASE IS OVER. OKAY? BECAUSE ONCE AGAIN, YOU HAVE TO MAKE UP YOUR MIND BASED ON WHAT YOU HEAR IN THE COURTROOM.

NOW, I DON'T THINK ANYBODY WILL ATTEMPT TO COME UP TO YOU AND DISCUSS THIS CASE WITH YOU. IN OTHER WORDS, I DON'T THINK ANYBODY WILL TAMPER WITH THE JURY. IF THEY DO, REFUSE TO TALK TO THEM. GET THEIR NAME, IF YOU CAN, AND I'LL DEAL WITH THEM. BUT YOU CAN'T DISCUSS THE CASE WITH ANYBODY.

AS A MATTER OF FACT, YOU SHOULDN'T DISCUSS THIS CASE AMONG YOURSELVES UNTIL I HAND YOU A VERDICT FORM AND ASK YOU TO GO DELIBERATE. THE REASON FOR THAT IS YOU NEED TO LISTEN TO ALL THE TESTIMONY AND EVIDENCE BEFORE YOU MAKE UP YOUR MIND.

SO IF YOU'LL KEEP THOSE THINGS IN MIND I'M GOING TO DISMISS YOU NOW AND HAVE YOU COME BACK AT NINE-THIRTY IN THE MORNING.

NOW REMEMBER, IF ANYBODY IS LATE, EVERYBODY ELSE HAS TO WAIT ON YOU. OKAY. I GET HERE ABOUT EIGHT O'CLOCK IN THE MORNING SO YOU'RE NOT GOING TO BE WAITING ON ME.

MR. TEED (SIC), WE'RE GOING TO MAKE YOU THE FOREMAN OF THE JURY SINCE YOU'RE SITTING IN THE FIRST SEAT. SO WHEN YOU COME BACK TOMORROW YOU SIT IN THE FIRST SEAT.

MR. PEED: THAT IS "PEED," YOUR HONOR.

THE COURT: I MEAN -- EXCUSE ME. PEED, YEAH, PEED.

EVERYBODY ELSE CAN SIT ANYWHERE YOU WANT TO, BUT THE FOREMAN HAS TO SIT IN THE FIRST CHAIR. AND THE

FOREMAN WILL BE THE ONE WHO SIGNS THE VERDICT FORM. EVERYBODY GETS ONE VOTE, EVERYBODY'S VOTE COUNTS THE SAME.

NOW THE REASON WE HAVE THREE ALTERNATES IS IF SOMETHING HAPPENS TO ONE OF OUR 12 JURORS WE'LL HAVE TO SUBSTITUTE AN ALTERNATE FOR THAT PERSON. IF WE GET THROUGH THE WHOLE WEEK, AND THIS CASE IS PROBABLY GOING TO LAST TILL THURSDAY OR FRIDAY, IF WE GET THROUGH THE WHOLE WEEK WITH THE SAME ORIGINAL 12 JURORS, THEN THE ALTERNATES WILL NOT HAVE TO DELIBERATE. BUT WE HAVE THOSE JUST IN CASE SO WE DON'T HAVE TO STOP THE TRIAL.

IF YOU'LL GO WITH THE BAILIFF NOW, HE'LL SHOW YOU WHERE THE JURY ROOM IS AND HOW TO GET BACK HERE TOMORROW MORNING. BE BACK AT NINE-THIRTY IN THE MORNING AND WE'LL START THE TRIAL AT THAT TIME. THANK YOU VERY MUCH.

(JURY OUT AT 1:35.)

ALL RIGHT, I BELIEVE MR. TAYLOR HAS A MOTION IN REGARD TO A JUROR.

MR. TAYLOR: YOUR HONOR, I BELIEVE THAT MOTION IS MOOT.

THE COURT: OH, OKAY.

ANYTHING ELSE?

ALL RIGHT. HOW MUCH TIME WILL WE NEED THIS AFTERNOON TO DO MOTIONS DO YOU RECKON?

MR. GASSER: BEG THE COURT'S INDULGENCE AND I CAN

DISCUSS IT WITH THE DEFENSE LAWYERS.

(PAUSE.)

THE COURT: DO YOU THINK A COUPLE HOURS WILL DO IT?

MR. GASSER: TWO HOURS SHOULD DO IT, YOUR HONOR.

THE COURT: DO YOU WANT TO COME BACK AT THREE O'CLOCK?

MR. GASSER: THAT WOULD BE GOOD.

THE COURT: ALL RIGHT, THREE O'CLOCK WE'LL COME BACK AND HEAR ALL THE MOTIONS.

MR. GASSER: THANK YOU.

(COURT IS NOW IN RECESS.)

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

THE COURT: THANK YOU. PLEASE BE SEATED.

MR. TAYLOR: MAY IT PLEASE THE COURT. WE'RE READY NOW.

I CALL TO THE COURT'S ATTENTION THAT DURING THE BREAK I REALIZED THAT THERE ARE TWO WITNESSES WHOSE NAMES WE DID NOT FURNISH THE COURT THIS MORNING. AS I TOLD YOU, I WAS AFRAID THAT MAY HAPPEN TO US, THE WAY WE DID. THOSE WITNESSES ARE JARRETT COPLON AND CHARISE GLIVENS.

THE COURT: CHARISE. WHAT'S THE LAST NAME?

MR. TAYLOR: GLIVENS, G-L-I-V-E-N-S.

THE COURT: OKAY.

MR. TAYLOR: THANK YOU, SIR.

THE COURT: WELL, WE'VE GOT TWO CHOICES. WE CAN ASK THE JURY IN THE MORNING, WHEN WE BRING THEM BACK IN THE ROOM, IF THEY KNOW THEM.

MR. GASSER: SUITS ME.

THE COURT: OR WE CAN NOT DO ANYTHING.

MR. GASSER: ARE THEY DEFINITIVE WITNESSES? IF THEY'RE NOT DEFINITIVE WITNESSES, THERE'S NO REASON TO...

MR. TAYLOR: WELL, I WOULD HAVE TO SAY, YES, THEY ARE DEFINITIVE WITNESSES.

MR. GASSER: OKAY, WELL THEN---

MR. TAYLOR: TO SOME OF THE THINGS THAT ARE IMPORTANT IN THIS CASE. NOT TO THE SHOOTING, ITSELF, THEY DIDN'T SEE THAT, NOT IN THAT SENSE.

THE COURT: I GUESS WE HAVE TO DEFINE "DEFINITIVE"; RIGHT?

MR. GASSER: I WOULD ASK THAT THEY BE ASKED, YOUR HONOR. WE MIGHT AS WELL GET THAT OUT OF THE WAY.

THE COURT: OKAY. WE CAN HANDLE THAT TOMORROW MORNING. YOU MIGHT REMIND ME.

ALL RIGHT.

MR. GASSER: YOUR HONOR, JUST SO YOU HAVE SOME SORT OF IDEA AS FAR AS TESTIMONY THIS AFTERNOON, WE'VE GOT THE FIRST ORDER OF BUSINESS THE STATE IS PREPARED TO PRESENT WOULD BE SOME JACKSON V. DENNO HEARINGS.

JUST SO THE COURT KNOWS, WITH REGARD TO THE

DEFENDANT LUCIUS STATEN, WE WOULD HAVE AN ADVICE OF RIGHTS FORM THAT WE WOULD MARK FOR I.D. PURPOSES. AND WE HAVE CASE NOTES FROM THE INVESTIGATOR, BECAUSE MR. STATEN, LUCIUS STATEN, DECLINED TO PUT ANYTHING IN WRITING, WHICH WAS HIS RIGHT, OBVIOUSLY. BUT WE HAVE SOME CASE NOTES THAT, I GUESS, WE COULD MARK COPIES OF PAGES 11 THROUGH 13. IF THE DEFENSE HAS ANY OBJECTION TO THE SUBSTANCE, WE ALSO HAVE -- AND THAT WOULD BE THE ONLY, THE EXTENT, OF ANY KIND OF IN-CUSTODY ORAL, ACTUAL ORAL STATEMENT, OF LUCIUS STATEN.

HE THEN, LUCIUS STATEN THEN, TWO DAYS LATER ON JANUARY THE 25TH IDENTIFIED LIMEL SIMS, WHO IS THE AT-LARGE DEFENDANT. HE'S BEEN CHARGED WITH MURDER, HE'S NEVER BEEN ARRESTED. BUT LUCIUS STATEN WAS BROUGHT BACK AND SHOWN A PHOTO LINEUP OF LIMEL SIMS AND IDENTIFIES LIMEL SIMS FROM THAT LINEUP.

WITH REGARD TO DUSHUN STATEN ALSO ON JANUARY THE 23RD, WE HAVE AN ADVICE OF RIGHTS DOCUMENT AND CASE NOTES FROM A LENGTHY ORAL INTERVIEW THAT WE INTEND ON INTRODUCING. AS WELL ON THE 25TH MR. DUSHUN STATEN IS BROUGHT SEPARATELY TO THE COURTHOUSE AND SHOWN A DIFFERENT LINEUP, IN BETWEEN THE LINEUP SHOWN LUCIUS STATEN -- POLICE WERE ABLE TO GET A BETTER OR ANOTHER PHOTOGRAPH OF LIMEL -- AND WAS SHOWN A SEPARATE, YOU KNOW, AT A SEPARATE TIME. AND DUCIUS (SIC) STATEN,

AGAIN, COOPERATED AND IDENTIFIED LIMEL SIMS AS BEING PRESENT. SO THAT, ALL OF THAT INFORMATION,. WOULD FALL UNDER THE JACKSON V. DENNO HEARING.

WE THEN HAVE SEVERAL NEAL V. BIGGERS HEARINGS. WE HAVE ONE, TWO, THREE, FOUR, FIVE, SIX, SEVEN WITNESSES PRESENT IN THE COURTROOM THAT HAD AN OPPORTUNITY TO OBSERVE THESE DEFENDANTS, MOST OF THEM MULTIPLE TIMES OVER A PERIOD OF SEVEN TO EIGHT DAYS. AND SEPARATELY, INDEPENDENTLY, DURING THE COURSE OF THE INVESTIGATION WERE SHOWN PHOTO LINEUPS AND WERE ABLE TO IDENTIFY NOT ONLY THESE DEFENDANTS BUT THE CODEFENDANTS, AS WELL.

HOWEVER, NONE OF THEM WERE ABLE TO EVER IDENTIFY THE SHOOTER BY FACE BECAUSE OF SOME OF THE CLOTHING HE WAS WEARING. BUT THEY WERE ABLE TO IDENTIFY THE SHOOTER BY CLOTHING.

BUT FOR THIS PURPOSE, NEAL V. BIGGERS, WE HAVE SEVERAL HEARINGS, ITEMS. AND I'M GOING TO TRY TO GET RIGHT TO THE HEART OF THE MATTER, AS FAR AS THEIR OPPORTUNITY TO OBSERVE THEM ON PREVIOUS DAYS AND THAT EVENING, AS WELL.

AND THEN I AM UNAWARE OF WHETHER THE DEFENSE IS MOVING TO SUPPRESS ANY EVIDENCE TAKEN FROM ANY OF THE SEARCHES INVOLVED IN THIS CASE, BUT WE WOULD BE PREPARED TO GO FORWARD IF THEY INTEND ON ATTEMPTING TO SUPPRESS ANY OF THE EVIDENCE. OTHER THAN THAT, ALL MY OTHER

MOTIONS WOULD BE BETWEEN THE LAWYERS AND THE COURT, WOULD NOT REQUIRE ANY TESTIMONY THAT HADN'T ALREADY BEEN PROVIDED BY THE WITNESSES COVERING THE JACKSON V. DENNO AND THE NEAL V. BIGGERS HEARING.

THE COURT: OKAY.

WHAT DO Y'ALL HAVE?

MR. STRICKLER: JACKSON V. DENNO AND NEAL V. BIGGERS IS PRETTY MUCH WHAT WE HAVE, TAKING THE LAST THROUGH THE SEARCH WARRANT.

THE COURT: ALL RIGHT. LET'S BEGIN.

MR. GASSER: AT THIS TIME, YOUR HONOR, THE STATE WOULD CALL INVESTIGATOR PAUL MEAD.

(**PAUL JAMES MEAD**, HAVING FIRST BEEN DULY SWORN, TESTIFIED AS FOLLOWS:)

THE CLERK: PLEASE HAVE A SEAT HERE, STATE YOUR FULL NAME FOR THE RECORD.

INVESTIGATOR MEAD: PAUL JAMES MEAD.

DIRECT EXAMINATION BY MR. GASSER (IN CAMERA):

Q INVESTIGATOR MEAD, YOU ARE EMPLOYED BY THE COLUMBIA POLICE DEPARTMENT; IS THAT CORRECT?

A YES, SIR.

Q AND WERE YOU ASSIGNED AS ONE OF THE SEVERAL INVESTIGATORS, IF NOT THE CHIEF INVESTIGATOR, FROM THE COLUMBIA POLICE DEPARTMENT, ASSIGNED TO THE HOMICIDE INVESTIGATION INVOLVING PHILLIP LEE THAT OCCURRED ON

JANUARY THE 15TH, 2001, AT BENEDICT COLLEGE?

A YES, I WAS.

Q SUBSEQUENT TO YOUR BEING ASSIGNED THIS CASE AFTER THE DEATH OF PHILLIP LEE, DID YOU HAVE AN OPPORTUNITY TO COME INTO CONTACT WITH THE DEFENDANT LUCIUS STATEN?

A YES, I DID, SIR.

Q AND WHERE DID YOU FIRST COME IN CONTACT WITH HIM?

A AT HIS APARTMENT ON ZIMALCREST.

Q ON WHAT DATE?

A I BELIEVE THAT WAS ON THE 23RD OF JANUARY.

Q DID YOU ALSO HAVE AN OPPORTUNITY TO COME INTO CONTACT WITH THE DEFENDANT BY THE NAME OF DUSHUN STATEN?

A YES, I DID.

Q NOW, YOU ACTUALLY HAD A WARRANT FOR LUCIUS STATEN'S ARREST, DID YOU NOT?

A YES, I DID, SIR.

Q HAD YOU PREVIOUSLY BEEN ABLE TO OBTAIN A PHOTOGRAPH OF LUCIUS STATEN BEFORE JANUARY THE 23RD, PLACE THAT PHOTO IN A LINEUP AND HAVE SEVERAL PEOPLE IDENTIFY HIM?

A YES, I DID.

Q YOU DID NOT, HOWEVER, HAVE A WARRANT WITH DUSHUN STATEN, DID YOU?

A NO, NOT AT THAT TIME.

Q HAD YOU A PHOTOGRAPH OF DUSHUN STATEN BEFORE THAT TIME?

A NO, I DID NOT, SIR.
Q SO HAD YOU EVER BEEN ABLE TO TRY AND GET AN IDENTIFICATION THROUGH A PHOTO LINEUP OF ANY OF WITNESSES OF DUSHUN?
A NOT AT THAT TIME.
Q WHEN YOU CAME INTO CONTACT WITH LUCIUS STATEN, DID YOU IN FACT ENFORCE THE WARRANT AND PLACE HIM UNDER ARREST?
A YES, I DID.
Q WAS HE TRANSPORTED SOMEWHERE?
A YES, HE WAS.
Q AND WHERE WAS HE TRANSPORTED?
A POLICE HEADQUARTERS.
Q HE WAS IN CUSTODY, THERE'S NO QUESTION ABOUT THAT; IS THAT CORRECT?
A THAT IS CORRECT.
Q AND DID YOU WANT TO QUESTION LUCIUS STATEN WITH REGARDS TO THE SHOOTING OF PHILLIP LEE?
A YES, I DID.
Q AND PRIOR TO QUESTIONING MR. STATEN, WHAT, IF ANYTHING, DID YOU GO OVER WITH HIM?
A I HAVE A FORM CALLED AN ADVICE OF RIGHTS FORM AND I WENT OVER THAT WITH HIM.
Q DO YOU HAVE YOUR ORIGINAL FORM WITH YOU?
A YES, I DO, SIR.

MR. GASSER: I'D LIKE TO GO AHEAD AND MARK THIS AS STATE'S EXHIBIT NUMBER ONE FOR IDENTIFICATION.

MR. STRICKLER: WITHOUT OBJECTION.

(**STATE'S EXHIBIT NUMBER ONE, ADVICE OF RIGHTS FORM PERTAINING TO LUCIUS STATEN,** IS NOW MARKED FOR IDENTIFICATION.)

Q INVESTIGATOR MEAD, I SHOW YOU WHAT'S BEEN MARKED STATE'S EXHIBIT NUMBER ONE FOR IDENTIFICATION. WHO ACTUALLY FILLED OUT THE HANDWRITING ON THAT, OTHER THAN OBVIOUSLY THE SIGNATURE OF MR. STATEN? WHO FILLED OUT THE OTHER INFORMATION ON THAT DOCUMENT?

A I DID, SIR.

Q WAS ANYONE WITH YOU WHEN YOU BEGAN TO GO OVER MR. LUCIUS STATEN'S CONSTITUTIONAL RIGHTS?

A NO, SIR.

Q AND WHAT, IF ANYTHING, DID YOU DO TO MAKE A DETERMINATION TO SATISFY YOURSELF THAT HE UNDERSTOOD THE ENGLISH LANGUAGE AND HAD ENOUGH EDUCATION TO UNDERSTAND WHERE HE WAS AND WHAT WAS ABOUT TO TRANSPIRE?

A AS I USUALLY DO, I WENT OVER THE ENTIRE FORM, READ IT TO HIM, ASKED HIM IF HE UNDERSTAND (SIC) EACH AND EVERY THING THAT WAS READ TO HIM. ALSO ASKED HIM THE EXTENT OF THE EDUCATION THAT HE HAD AND WHERE HE ATTENDED SCHOOL.

Q AND WHAT WAS HIS RESPONSE WHEN YOU ASKED HIM THE

EXTENT OF HIS EDUCATION?

A HE SAID HE HAD TWELFTH GRADE HIGH SCHOOL, TWO YEARS OF COLLEGE AT MONROE COLLEGE IN NEW YORK.

Q AND DID YOU EVEN RECORD THAT INFORMATION THAT HE PROVIDED YOU ON STATE'S EXHIBIT NUMBER ONE?

A I DID, SIR.

Q AND WHAT TIME DID YOU BEGIN THIS ADVICE OF RIGHTS PROCESS?

A IT WAS 11:05 A.M.

Q AND YOU WERE WHERE?

A AT POLICE HEADQUARTERS.

Q WOULD YOU GO AHEAD AND PUBLISH TO THE COURT EXACTLY HOW YOU PUBLISHED OR READ TO MR. LUCIUS STATEN WHAT HIS CONSTITUTIONAL RIGHTS WERE?

A YES, SIR. FIRST I ASKED, "BEFORE WE ASK YOU ANY QUESTIONS, YOU MUST UNDERSTAND YOUR RIGHTS. YOU HAVE THE RIGHT TO REMAIN SILENT. ANYTHING YOU SAY CAN BE USED AGAINST YOU IN COURT. YOU HAVE THE RIGHT TO TALK TO A LAWYER FOR ADVICE BEFORE WE ASK YOU ANY QUESTIONS AND TO HAVE HIM WITH YOU DURING QUESTIONING. IF YOU CANNOT AFFORD A LAWYER, ONE WILL BE APPOINTED FOR YOU BEFORE ANY QUESTIONING IF YOU WISH. IF YOU DECIDE TO ANSWER QUESTIONS NOW WITHOUT A LAWYER PRESENT, YOU STILL HAVE THE RIGHT TO STOP ANSWERING AT ANY TIME. YOU ALSO HAVE THE RIGHT TO STOP ANSWERING AT ANY TIME UNTIL YOU TALK TO

A LAWYER."

AND I ADVISED HIM THE NEXT SECTION DEALS WITH THE WAIVER OF THOSE RIGHTS. "I HAVE READ THIS STATEMENT OF MY RIGHTS. I UNDERSTAND WHAT MY RIGHTS ARE. I'M WILLING TO MAKE A STATEMENT AND ANSWER QUESTIONS. I DO NOT WANT A LAWYER AT THIS TIME. I UNDERSTAND AND KNOW WHAT I'M DOING. NO PROMISES OR THREATS HAVE BEEN MADE TO ME. NO PRESSURE OR COERCION OF ANY KIND HAS BEEN USED AGAINST ME."

AT THAT POINT I ASKED HIM IF HE UNDERSTOOD ALL THAT. THEN I ALSO ASKED HIM HOW MUCH EDUCATION THAT HE HAD. HE GAVE ME THAT INFORMATION, TWELFTH GRADE, TWO YEARS OF COLLEGE AT MONROE COLLEGE IN NEW YORK. AT THAT POINT I GAVE HIM AN OPPORTUNITY TO SIGN WHERE IT HAD "SIGNATURE" ON THERE.

Q AND DID HE IN FACT SIGN THIS DOCUMENT, STATE'S EXHIBIT NUMBER ONE FOR I.D., IN YOUR PRESENCE, INDICATING THAT HE UNDERSTOOD HIS RIGHTS AND HE WOULD WAIVE HIS RIGHTS?

A YES, HE DID, SIR.

Q AND WHAT DID YOU DO TO MEMORIALIZE OBSERVING HIS SIGNATURE? WHAT DID YOU DO?

A I SIGNED OVER IN THE WITNESS SECTION AND I ALSO PUT THE TIME DOWN.

Q THAT WOULD BE 11:08; IS THAT CORRECT?

A THAT'S CORRECT.

Q SO THIS ADVISING OF HIS RIGHTS PROCESS TOOK HIM APPROXIMATELY THREE MINUTES?

A TWO TO THREE MINUTES, YES, SIR.

Q NOW, INVESTIGATOR MEAD, HOW MANY YEARS OF EXPERIENCE DO YOU HAVE ON THE POLICE DEPARTMENT?

A A LITTLE OVER SIXTEEN YEARS.

Q BASED ON YOUR EXPERIENCE AS A POLICE OFFICER, AS WELL AS YOUR EXPERIENCE IN EVERYDAY LIFE, HAVE YOU HAD AN OPPORTUNITY TO COME ACROSS INDIVIDUALS THAT HAVE BEEN UNDER THE INFLUENCE OF ALCOHOL OR DRUGS OR A COMBINATION OF THE TWO?

A YES, I HAVE.

Q IN YOUR OPINION, WHEN YOU CAME INTO CONTACT WITH THE DEFENDANT LUCIUS STATEN AT HIS APARTMENT AND DURING THE TIME PERIOD AT THE COLUMBIA POLICE DEPARTMENT, DID HE EVER APPEAR TO BE UNDER THE INFLUENCE OF ALCOHOL OR DRUGS?

A NO, HE DID NOT.

Q DID HE EVER INDICATE THAT HE DIDN'T UNDERSTAND WHO YOU WERE AND WHAT INFORMATION YOU WERE PROVIDING HIM?

A NO, SIR, HE DIDN'T.

Q DID YOU OR DID ANOTHER OFFICER IN YOUR PRESENCE THREATEN LUCIUS STATEN IN ANY MEANS?

A NO, SIR.

Q WERE ANY PROMISES MADE TO LUCIUS STATEN IN EXCHANGE FOR HIM PROVIDING YOU INFORMATION?

A NO, SIR.

Q AND DID HE IN FACT, AFTER HE SIGNED HIS WAIVER OF RIGHTS, DID HE IN FACT BEGIN TO ANSWER CERTAIN QUESTIONS OF YOU?

A HE DID, SIR.

Q AND WERE YOU ABLE TO -- OR LET ME ASK YOU THIS. YOU WEREN'T AUDIO TAPING OR VIDEO TAPING THIS, WERE YOU?

A NO, SIR.

Q OKAY. AND WERE -- WHEN YOU SIT DOWN AND TALK WITH SOMEBODY AFTER YOU ADVISE HIM OF HIS RIGHTS, IN THIS CASE LUCIUS STATEN, DID YOU IMMEDIATELY START PUTTING SOMETHING IN A WRITTEN STATEMENT FORM OR DO YOU JUST START MAKING NOTES FOR LATER PURPOSES?

A I JUST STARTED MAKING NOTES, SIR.

Q AND DID YOU -- THIS COMMUNICATION THAT YOU WERE HAVING WITH LUCIUS STATEN, WERE YOU ABLE TO MEMORIALIZE THOSE IN YOUR CASE NOTES?

A YES, I DID.

Q AND I BELIEVE THOSE NOTES ARE ON PAGE 11 AND 13 IN YOUR CASE NOTES?

A THAT'S CORRECT, SIR.

MR. GASSER: AND I'LL NOTE FOR THE RECORD, YOUR HONOR, THAT THOSE DOCUMENTS HAVE BEEN PROVIDED TO BOTH

DEFENSE COUNSEL IN DISCOVERY.

Q NOW AFTER YOU WENT OVER YOUR QUESTIONING OF LUCIUS STATEN, DID YOU THEN ATTEMPT TO FURTHER MEMORIALIZE IT IN WRITTEN FORM WITH A WRITTEN STATEMENT FORM THAT THE COLUMBIA POLICE DEPARTMENT USES?

A I DID. I FILLED OUT THE TOP OF A STATEMENT FORM AND WAS GOING TO ATTEMPT TO GET A WRITTEN STATEMENT.

Q AND DID LUCIUS STATEN -- WAS HE AMENABLE TO THAT? DID HE WANT TO DO THAT?

A NO. HE DECIDED HE DIÐ NOT WANT TO PUT -- GIVE A WRITTEN STATEMENT.

Q AND DID YOU HONOR HIS WISHES AND NOT FORCE HIM TO PROVIDE SOMETHING IN WRITING?

A OH, I DID, SIR.

Q ABOUT TWO DAYS, TWO DAYS LATER WITH LUCIUS STATEN, DID YOU HAVE AN OPPORTUNITY TO MEET WITH HIM AGAIN AT THE COLUMBIA POLICE DEPARTMENT?

A I DID, SIR.

Q AND APPROXIMATELY -- WELL, WHAT WAS THE PURPOSE OF YOUR MEETING WITH HIM AT THAT TIME?

A I BROUGHT HIM UP TO THE POLICE DEPARTMENT IN ORDER TO SHOW HIM A LINEUP.

Q AND DID YOU ATTEMPT TO QUESTION HIM FURTHER IN ANY WAY, WITH REGARDS TO THE INCIDENT THAT -- THE SHOOTING DEATH OF PHILLIP LEE?

A NO, I DID NOT.
Q WHEN YOU HAD QUESTIONED HIM BEFORE, HAD HE INDICATED TO YOU THAT HE THOUGHT HE MIGHT BE ABLE TO IDENTIFY SOME OF THE OTHER PARTIES THAT WERE THERE, PARTICULARLY A PERSON BY THE NAME OF LIMEL SIMS?
A HE DID.
Q SO HE HAD INDICATED TO YOU HE THINKS HE MIGHT BE ABLE TO IDENTIFY HIM; IS THAT CORRECT?
A THAT'S CORRECT.
Q DID YOU HAVE A PHOTOGRAPH OF LIMEL SIMS ON JANUARY THE 23RD?
A NO, I DID NOT.
Q SO ONCE THE DEFENDANT ON JANUARY THE 23RD -- LUCIUS STATEN -- INDICATED TO YOU THAT HE MAY BE WILLING TO IDENTIFY LIMEL SIMS, DID YOU PRODUCE A PHOTOGRAPHIC LINEUP BETWEEN THE 23RD OF JANUARY AND THE 25TH OF JANUARY?
A I DID, SIR.
Q DO YOU HAVE PHOTO LINEUP "E" OR WHAT YOU REFER TO AS "E"?
A YES, I DO.
(PAUSE.)
Q DID YOU SHOW THIS PHOTO LINEUP AT APPROXIMATELY TEN O'CLOCK IN THE MORNING ON JANUARY THE 25TH TO THE DEFENDANT LUCIUS STATEN?

A I DID.

Q AND WHEN HE -- DID HE LOOK AT THE PHOTOGRAPHS IN YOUR PRESENCE?

A HE DID, SIR.

Q DID YOU SUGGEST FOR HIM TO PICK ANYONE OUT?

A NO, I DID NOT.

Q AND WHO DID HE IDENTIFY AS THAT BEING LIMEL SIMS?

A PHOTOGRAPH NUMBER TWO.

Q DID YOU DO ANYTHING IN ORDER TO MEMORIALIZE THE DEFENDANT LUCIUS STATEN IDENTIFYING NUMBER TWO AS THE PERSON THAT HE KNEW AS LIMEL SIMS?

A YES. I HAD HIM FILL OUT AN AFFIDAVIT FORM.

Q AND THIS DOCUMENT INDICATES THAT -- WHOSE SIGNATURE IS ON THIS AS INDICATING THEY PICKED OUT NUMBER TWO AS LIMEL SIMS FROM LINEUP "E"?

A LUCIUS STATEN.

Q AND IT WAS NOTIFIED AS BEING THE TRUTH BY WHOM?

A BY MYSELF.

MR. GASSER: YOUR HONOR, WE WOULD MARK THE PHOTO LINEUP AS STATE'S EXHIBIT TWO AND THE AFFIDAVIT AS STATE'S EXHIBIT THREE.

MR. STRICKLER: AS TO LUCIUS STATEN, NO OBJECTION.

THE COURT: I GUESS AS TO...

MR. TAYLOR: NO OBJECTION.

THE COURT: OKAY.

(**STATE'S EXHIBIT NUMBER TWO, PHOTO LINEUP "E"**; AND **STATE'S EXHIBIT NUMBER THREE, AFFIDAVIT SIGNED BY LUCIUS STATEN**, ARE NOW MARKED FOR IDENTIFICATION.)

Q NOW, WITH REGARD TO THE DEFENDANT DUSHUN STATEN, YOU INDICATED THAT ON THE 23RD OF JANUARY, WHEN YOU WENT TO THE APARTMENT, THE CROSSROADS APARTMENTS, THAT YOU HAD A WARRANT FOR LUCIUS STATEN BUT NOT FOR DUSHUN STATEN; IS THAT CORRECT?

A THAT'S CORRECT.

Q NOW, DID YOU ASK ANYTHING OF DUSHUN STATEN WHILE YOU WERE THERE AT THE APARTMENT?

A YES. WE REQUESTED THAT HE COME TO POLICE HEADQUARTERS WITH US.

Q AND WAS THERE ANOTHER RELATIVE OF LUCIUS AND DUSHUN STATEN'S THERE?

A YES. A SHAKEEM WILSON.

Q DID YOU ASK ANYTHING OF MR. SHAKEEM WILSON?

A ASKED HIM ALSO TO COME TO POLICE HEADQUARTERS.

Q AND SO DID DUSHUN, PARTICULARLY DUSHUN STATEN, DID HE AGREE TO TRAVEL TO THE COLUMBIA POLICE DEPARTMENT?

A HE DID.

Q DID HE TAKE HIS OWN VEHICLE OR WAS HE TRANSPORTED BY C.P.D.?

A HE WAS TRANSPORTED BY COLUMBIA POLICE DEPARTMENT.

Q NOW AT THAT TIME WAS HE IN CUSTODY?

A NO, SIR.

Q BUT DESPITE HIM NOT BEING IN CUSTODY, DID YOU FULLY INTEND ON QUESTIONING HIM ABOUT THE -- WHAT YOU HAD QUESTIONED HIS BROTHER ABOUT?

A YES, SIR, I DID.

Q SO DID YOU GO AHEAD, AS PART OF YOUR POLICY, GO AHEAD AND ADVISE DUSHUN STATEN OF HIS RIGHTS?

A YES, SIR, I DID.

Q NOW, DO YOU HAVE A DOCUMENT DATED JANUARY 23, '01, AT 8:39 IN THE MORNING ON TOP OF IT?

A I DO, SIR.

Q WHERE DID THIS -- LET ME GO AHEAD AND MARK THIS FOR IDENTIFICATION PURPOSES.

WELL, LET ME JUST ASK YOU THIS: DID YOU ADVISE DUSHUN STATEN OF HIS CONSTITUTIONAL RIGHTS?

A I DID.

Q AND DID YOU READ THE WAIVER, AS WELL?

A YES, I DID.

Q AND WAS HE WILLING TO TALK TO YOU?

A HE WAS.

Q WAS HE WILLING TO SIGN ANYTHING?

A NO, HE WAS NOT.

Q IS THIS THE DOCUMENT THAT YOU USED TO ADVISE HIM OF HIS RIGHTS AND HIS WAIVER?

A THAT'S CORRECT.

MR. GASSER: WE'D MARK THIS AS STATE'S EXHIBIT FOUR FOR I.D.

MR. STRICKLER: WITHOUT OBJECTION, YOUR HONOR.

(**STATE'S EXHIBIT NUMBER FOUR, ADVICE OF RIGHTS FORM PERTAINING TO DUSHUN STATEN**, IS NOW MARKED FOR IDENTIFICATION.)

Q YOU WERE ASKED TO CONDUCT IN THIS INTERVIEW OF DUSHUN STATEN BEFORE YOU INTERVIEWED DEFENDANT LUCIUS STATEN; CORRECT?

A YES, I DID.

Q AND DID YOU GO OVER THE SAME PROCESS WITH THE SAME RIGHTS WITH DUSHUN, AS YOU PREVIOUSLY TESTIFIED TO THIS JUDGE, AS YOU DID WITH LUCIUS?

A I DID.

Q AND THE SAME CONSTITUTIONAL RIGHTS?

A THAT'S CORRECT.

Q WHAT DID YOU PUT NEXT -- ON THE DOCUMENT, WHAT DID YOU DO, ACKNOWLEDGING THAT YOU HAD ACTUALLY GONE OVER THAT PARTICULAR RIGHT WITH DUSHUN?

A I JUST ON THIS ONE HERE, I JUST READ EACH ONE OF THEM AGAIN. ONCE I GOT TO THE VERY END OF IT, I ASKED THE EXTENT OF HIS EDUCATION. HE, AGAIN, GAVE ME THAT HE HAD A G.E.D. FROM TAFT HIGH SCHOOL IN COLUMBUS, GEORGIA. I THEN ASKED HIM TO SIGN THE FORM AND HE STATED HE DID NOT WANT TO SIGN THE FORM, BUT HE AGREED TO TALK AND

COOPERATE FULLY.

Q YOU INDICATED YOU MADE SURE WHAT HIS EDUCATION LEVEL WAS; CORRECT?

A THAT'S CORRECT.

Q DURING THE ENTIRE TIME PERIOD THAT YOU WERE TALKING WITH DUSHUN STATEN THAT MORNING ON THE 23RD, DID THERE EVER COME A TIME WHERE YOU COULDN'T UNDERSTAND WHAT HE WAS SAYING?

A NO, SIR.

Q DID HE APPEAR TO UNDERSTAND WHO YOU WERE AND WHAT YOU WERE QUESTIONING HIM ABOUT?

A YES, HE DID.

Q DID HE APPEAR TO BE UNDER THE INFLUENCE OF ANY ALCOHOL OR DRUGS?

A NO.

Q WERE ANY PROMISES MADE TO DUSHUN STATEN IN EXCHANGE FOR HIM COOPERATING?

A NO, SIR.

Q DID YOU OR DID ANY OFFICER THREATEN DUSHUN STATEN IN ANY WAY?

A NO.

Q SO YOU INDICATED HE WAS WILLING TO TALK TO YOU, HE JUST DIDN'T WANT TO SIGN ANYTHING INDICATING HE WAS WAIVING HIS RIGHTS; IS THAT CORRECT?

A THAT'S CORRECT, SIR.

Q AND DID YOU READ TO HIM THE EXACT SAME WAY THAT YOU'VE ALREADY PUBLISHED TO THIS COURT HOW YOU READ IT TO LUCIUS?

A I DID.

MR. GASSER: YOUR HONOR, WE WOULD JUST FOR THIS RECORD, FOR SPEED PURPOSES, NOTE THAT THIS WITNESS HAS TESTIFIED UNDER OATH THAT HE PUBLISHED THE ADVICE OF RIGHTS OR WENT OVER THE ADVICE OF RIGHTS FORM WITH DUSHUN STATEN THE SAME WAY THAT HE DID WITH LUCIUS STATEN.

THE COURT: THAT'S GOOD ENOUGH.

Q AND AGAIN, WAS THIS AUDIO TAPED OR VIDEO TAPED?

A NO, SIR, IT WAS NOT.

Q OKAY. AND AFTER GOING OVER THIS, THE QUESTIONS THAT YOU HAD FOR DUSHUN STATEN, WERE YOU ABLE TO TAKE NOTES AT THAT TIME?

A I WAS.

Q AND ARE THOSE NOTES REFLECTED IN YOUR CASE NOTES, PAGES 9 THROUGH 11?

A THEY ARE, SIR.

Q NOW AS WELL, ON THE 25TH, TWO DAYS LATER, AT FIVE O'CLOCK, SOME SEVEN HOURS AFTER YOU SHOWED STATE'S EXHIBIT NUMBER TWO FOR I.D., THE PHOTO LINEUP, TO LUCIUS STATEN, DID YOU HAVE AN OPPORTUNITY TO SHOW A DIFFERENT PHOTO LINEUP TO DUSHUN STATEN?

A YES, I DID.

Q AND AGAIN, THAT OCCURRED AT THE COLUMBIA POLICE DEPARTMENT?

A IT DID, SIR.

Q AND WHEN YOU WERE INTERVIEWING DUSHUN STATEN ON THE 23RD, DID HE INDICATE TO YOU THAT IF SHOWN A PHOTOGRAPHIC LINEUP OF LIMEL SIMS HE MIGHT BE ABLE -- HE SHOULD BE ABLE TO PICK HIM OUT?

A YES, HE DID.

Q AND INDICATED HE WAS WILLING TO DO THAT?

A HE DID.

Q AND ON THE 25TH, WHEN YOU WERE SHOWING HIM LIMEL'S PHOTO LINEUP, DID IT INCLUDE A PICTURE OF LIMEL SIMS?

A I'M SORRY?

Q ON THE 25TH, WHEN YOU WERE SHOWING HIM A SECOND PHOTO LINEUP, DID IT INCLUDE ALSO A PICTURE OF LIMEL SIMS?

A IT DID, SIR.

Q DO YOU HAVE THAT LINEUP WITH YOU?

A I DO.

Q I BELIEVE THAT'S LINEUP "F," IS IT NOT?

A YES, SIR.

Q DO YOU HAVE THE ACCOMPANYING AFFIDAVIT?

A I DO.

(PAUSE.)

MR. GASSER: WE WOULD GO AHEAD AND MARK THESE AS

STATE'S, I BELIEVE, FIVE AND SIX.

MR. TAYLOR: NO OBJECTION.

(**STATE'S EXHIBIT NUMBER FIVE, PHOTO LINEUP "F"**; AND **STATE'S EXHIBIT NUMBER SIX, AFFIDAVIT OF DUSHUN STATEN**, ARE NOW MARKED FOR IDENTIFICATION.)

Q ON THE 25TH OF JANUARY, WHEN YOU WERE SHOWING STATE'S EXHIBIT FIVE TO DUSHUN STATEN, DID YOU GIVE HIM ALL THE OPPORTUNITY IN THE WORLD TO LOOK AT THESE SIX PHOTOGRAPHS?

A I DID.

Q AND DID HE IDENTIFY THE PERSON THAT HE KNEW AS LIMEL SIMS AS BEING PRESENT AT BENEDICT COLLEGE ON JANUARY 15TH?

A YES. HE WENT DIRECTLY TO PHOTOGRAPH NUMBER FOUR.

Q AND STATE'S EXHIBIT NUMBER SIX, DID YOU HAVE HIM MEMORIALIZE THAT?

A I DID.

Q AND DUSHUN STATEN, WHEN HE PICKED LIMEL SIMS IN LINEUP "F," STATE'S EXHIBIT FIVE, IS LIMEL SIMS IN LINEUP "E," STATE'S EXHIBIT TWO, IS HE ALSO IN THE FOURTH POSITION OR IS HE IN A DIFFERENT POSITION THAN THE ONE THAT LUCIUS PICKED?

A HE'S IN A DIFFERENT ONE, POSITION NUMBER TWO.

MR. GASSER: THAT'S ALL I HAVE, YOUR HONOR, WITH REGARDS TO THAT ISSUE, WITH THE JACKSON V. DENNO.

MR. STRICKLER: PLEASE THE COURT, YOUR HONOR.

CROSS-EXAMINATION BY MR. STRICKLER:

Q GOOD AFTERNOON, OFFICER MEAD.

A HOW YOU DOING, SIR?

Q I'M FINE, THANKS.

JUST A COUPLE QUESTIONS FOR YOU. AS I UNDERSTAND IT, ON THE 23RD WHEN YOU FIRST HAD CONTACT WITH MY CLIENT, YOU HAD A WARRANT FOR HIS ARREST AT THE TIME; CORRECT?

A I DID, SIR.

Q LUCIUS STATEN. AND THAT WARRANT WAS EXECUTED AT THE ADDRESS ON ZIMALCREST?

A YES, SIR, IT WAS.

Q Y'ALL WENT TO CONDUCT A SEARCH THERE AT THAT POINT IN TIME AND ALSO EXECUTE AN ARREST WARRANT IF POSSIBLE?

A THAT'S CORRECT, SIR.

Q OKAY. HOW MANY PEOPLE WERE INVOLVED IN THE EXECUTION OF THE SEARCH AND ARREST WARRANTS?

A THERE WAS PROBABLY SEVEN OR EIGHT PEOPLE THERE.

Q A LOT OF PEOPLE OUT, I MEAN OBVIOUSLY, POLICE OFFICERS WERE THERE?

A POLICE OFFICERS, YES, SIR.

Q AND HOW MANY INDIVIDUALS WERE AT THAT ADDRESS AT THE POINT IN TIME THAT YOU EXECUTED THE SEARCH WARRANT AND SERVED THE ARREST WARRANT ON LUCIUS STATEN?

A THERE WAS FOUR INDIVIDUALS IN THE APARTMENT, SIR.
Q AND AT THAT POINT IN TIME MR. STATEN WAS HANDCUFFED; CORRECT?
A LUCIUS STATEN?
Q YEAH.
A YES, SIR.
Q AND HOW WAS HE TRANSPORTED BACK TO ONE JUSTICE SQUARE?
A I BELIEVE IT WAS A POLICE VEHICLE, MARKED POLICE VEHICLE.
Q MARKED VEHICLE. YOU WEREN'T INVOLVED IN THE TRANSPORT YOURSELF?
A NO, SIR, I WAS NOT.
Q WHAT TIME WAS THAT SEARCH WARRANT EXECUTED AND THE ARREST WARRANT SERVED ON MR. STATEN?
A IT WAS CONDUCTED ABOUT SEVEN O'CLOCK IN THE MORNING, SIR.
Q OKAY. AND AT THE TIME YOU EXECUTED THE SEARCH WARRANT YOU ALSO EFFECTED THE ARREST OF LUCIUS, FOR WHOM YOU HAD A WARRANT.

IS WARRANT PROCEDURE AT THAT TIME TO GO AHEAD AND KEEP HIM AT THE SCENE WHILE YOU CONTINUED CONDUCTING THE SEARCH, OR IS HE ARRESTED AND THEN TRANSPORTED BACK TO THE CITY POLICE DEPARTMENT?
A IT'S BEEN DONE BOTH WAYS. AND THERE'S NO

PARTICULAR---

Q ALL RIGHT, SIR.

A I BELIEVE HE WAS STILL THERE DURING THE SEARCH OF THE APARTMENT.

Q OKAY. AND -- I'M SORRY. THE DOCUMENTS AS TO LUCIUS STATEN, YOU TESTIFIED THAT STATE'S ONE FOR I.D., THAT'S THE ADVICE OF RIGHTS; CORRECT?

A YES, IT IS, SIR.

Q AND YOU INDICATED THAT THIS TOOK PLACE AS REFLECTED AT 11:05, AND THAT'S WHEN THE ADVICE BEGAN?

A THAT'S CORRECT, SIR.

Q AND COMPLETED AT 11:08, THAT'S REFLECTED ON THE BOTTOM OF THIS FORM; CORRECT?

A YES, SIR.

Q OKAY. AND YOU PROCEEDED FROM THERE TO CONDUCT AN ORAL INTERVIEW WITH MR. STATEN; CORRECT?

A I DID, SIR.

Q OKAY. AND DURING THAT INTERVIEW YOU TOOK NOTES AND THEY ARE IN EVIDENCE NOW AS---

WHAT IS IT? I CAN'T REMEMBER HERE.

A I DON'T BELIEVE THEY'RE IN.

Q MARKED? MARKED?

MR. GASSER: I HAVEN'T MARKED THAT.

MR. STRICKLER: YOU HAVEN'T MARKED THEM YET, OKAY.

Q ---WHAT YOU'VE REFERENCED AS PAGES 11, 12 AND 13 OF

YOUR CASE NOTES?

A THAT'S CORRECT, SIR.

Q OKAY. AND YOU TOOK THOSE NOTES, WHAT, AS YOU WERE INTERVIEWING MR. STATEN?

A I TOOK JUST BRIEF OUTLINE NOTES WHILE I WAS DOING THE INTERVIEW, BUT THEN I PLACED ALL THOSE NOTES INTO MY CASE NOTES AFTER SPEAKING WITH HIM.

Q AT WHAT POINT IN TIME DID YOU ACTUALLY GENERATE THE NOTES WHICH YOU'VE REFERRED TO AS PAGES 11, 12 AND 13 OF YOUR CASE NOTES?

A IT PROBABLY WOULD HAVE BEEN MAYBE AN HOUR OR SO AFTER TALKING WITH MR. STATEN.

Q SO THE NOTES THAT YOU ARE REFERRING TO, PAGES 11, 12 AND 13 OF YOUR CASE NOTES, WERE NOT MADE IN ACTUALITY CONTEMPORANEOUSLY WITH YOUR CONVERSATION WITH MR. STATEN, THEY WERE MADE SOME SHORT PERIOD OF TIME AFTERWARDS; IS THAT CORRECT?

A THAT'S CORRECT, SIR.

Q APPROPRIATE ROUGH GUESS, ABOUT AN HOUR?

A AN HOUR, YES, SIR.

Q WAS ANYONE ELSE PRESENT DURING THE INTERROGATION OF MR. STATEN?

A NO, SIR.

Q OKAY. AND THAT WAS LOCATED IN AN INTERVIEW ROOM OR IN YOUR OFFICE AT C.P.D.?

A IT'S AN INTERVIEW, RIGHT THERE AS YOU GET OFF ON THE SECOND FLOOR.

Q THE DOOR LEFT OPEN OR CLOSED WHILE THE INTERVIEW WAS BEING DONE?

A IT WAS CLOSED, SIR.

Q MR. STATEN WAS HANDCUFFED DURING THE INTERVIEW?

A YES, SIR, HE WAS.

Q HAD ONE HAND HANDCUFFED AND THE OTHER PART OF THE HANDCUFF HANDCUFFED TO THE CHAIR?

A YES, SIR.

Q IS THAT PRETTY MUCH STANDARD PROCEDURE WHILE YOU'RE INTERVIEWING SOMEONE THAT'S IN CUSTODY; CORRECT?

A THAT'S CORRECT, SIR.

Q AND YOU'VE TESTIFIED, AND IT'S REFLECTED ON THE STATE'S ONE FOR I.D., THE ADVICE OF RIGHTS TOOK PLACE AT 11:05 AND ENDED AT 11:08. HOW LONG DID THE INTERVIEW TAKE?

(THERE IS NO RESPONSE.)

FIRST OF ALL LET ME ASK YOU THIS. I'LL GET BACK TO IT.

AM I CORRECT IN DETERMINING MYSELF THAT YOUR NOTES DON'T REFLECT HOW LONG THE INTERVIEW TOOK?

A NO, SIR.

Q AND THE ROUGH NOTES YOU TOOK THAT YOU USED IN PREPARING YOUR CASE NOTES DON'T REFLECT HOW LONG THE

INTERVIEW PROCESS TOOK?

A NO, SIR, THEY DON'T.

Q OKAY. DO YOU HAVE ANY DOCUMENTS WHATSOEVER THAT REFLECT HOW LONG THE INTERVIEW PROCESS TOOK?

A NO, SIR.

Q OKAY. SO GIVEN THAT AS THE BACKGROUND, HOW LONG DID THE INTERVIEW PROCESS TAKE?

A I PROBABLY TALKED WITH HIM OFF AND ON FOR THIRTY OR FORTY MINUTES.

Q OKAY. TURNING A COUPLE DAYS LATER, YOU TESTIFIED ABOUT AN IDENTIFICATION PROCESS THAT YOU CONDUCTED WITH HIM REFLECTED IN STATE'S FOR I.D. THREE, THIS FORM WHICH WAS TO IDENTIFY LIMEL SIMS, THAT HAS HIS SIGNATURE; IS THAT CORRECT?

A YES, SIR.

Q RELATING TO AN IDENTIFICATION CONDUCTED, USING WHAT'S MARKED AS STATE'S FOR I.D. TWO, WHAT YOU MARKED AS LINEUP "E"?

A YES, SIR.

Q IS THAT CORRECT?

A THAT'S CORRECT.

Q NOW, I PASS YOU THREE FOR I.D. DURING THAT PROCESS, AND THIS WAS ON THE 25TH, DURING THE IDENTIFICATION PROCESS, I TAKE IT THAT NO FURTHER STATEMENTS WERE MADE BY LUCIUS STATEN AT THAT POINT IN

TIME; IS THAT CORRECT?

A THAT'S CORRECT, SIR.

Q I DIDN'T HEAR YOU TESTIFY TO THAT; CORRECT?

A THAT'S CORRECT.

Q OKAY. SO THE PROCESS, THE FULL PROCESS, THAT WAS INVOLVED ON THE 25TH WAS SHOWING HIM THE LINEUP AND HAVING HIM MAKE THE IDENTIFICATION OF MR. SIMS THAT YOU TESTIFIED ABOUT; IS THAT CORRECT?

A THAT'S CORRECT, SIR.

Q OKAY. NOW, AS TO STATE'S TWO -- OR STATE'S THREE, THE AFFIDAVIT, STATE'S THREE, THAT STATEMENT SAYS WHAT? THAT AFFIDAVIT SAYS WHAT?

A STATE'S THREE, SIR?

Q YES, SIR.

A IT IS AN AFFIDAVIT FOR A PHOTO LINEUP. IT STATES THAT I SHOWED MR. STATEN SIX PHOTOGRAPHS AT ONE JUSTICE SQUARE, THAT HE PICKED OUT PHOTO NUMBER TWO OF LIMEL SIMS, WHICH IS THE MALE, BLACK, WHO COMMITTED THE CRIME OF MURDER AT 2412 HASKILL AVENUE ON JANUARY 15TH OF 2001.

Q OKAY. AND THAT IT IS SIGNED "LUCIUS STATEN"; CORRECT?

A YES, IT IS, SIR.

Q NOW THAT ENTIRE PORTION THAT YOU'VE READ, THAT WAS FILLED OUT BY YOU; CORRECT?

A YES, IT WAS.

Q OKAY. NOW IN ACTUALITY IN THE STATEMENT, ORAL STATEMENT, GIVEN TO YOU ON THE 23RD, MR. STATEN DOESN'T SAY LIMEL SIMS COMMITTED THE MURDER, DOES HE?

A I DON'T BELIEVE HE DOES, SIR.

Q SAYS HE DOESN'T SEE WHO DID THE SHOOTING; CORRECT?

A THAT'S CORRECT.

Q OKAY. AND YOU DIDN'T TAKE ANY ADDITIONAL STATEMENT FROM HIM SO, I MEAN, THE AFFIDAVITS THAT YOU HAVE, HE DID NOT IDENTIFY MR. SIMS AS THE PERSON WHO COMMITTED THE MURDER. HE IDENTIFIED MR. SIMS AS THAT PICTURE FROM THE LINEUP; CORRECT?

A THAT'S CORRECT.

Q OKAY. SO WHEN THE STATEMENT, WHEN THE AFFIDAVIT, SAYS THAT HE IDENTIFIES LIMEL SIMS AS THE PERSON WHO COMMITTED THE MURDER, THAT'S NOT REALLY CORRECT; RIGHT?

A THAT'S CORRECT.

Q OKAY. THAT "SIMS IS THE PERSON WHO COMMITTED THE MURDER," THAT'S YOUR SHORTHAND TO YOURSELF THAT HE HAD MADE AN IDENTIFICATION IN ASSOCIATION WITH THIS CASE AS OPPOSED TO SOME OTHER CASE?

A THAT'S CORRECT.

Q OKAY.

BEG THE COURT'S INDULGENCE, YOUR HONOR, ONE MOMENT, PLEASE.

(PAUSE.)

MR. MEAD, THANK YOU VERY MUCH.

THE COURT: MR. TAYLOR, ANY QUESTIONS?

MR. TAYLOR: THANK YOU VERY MUCH, YOUR HONOR.

CROSS-EXAMINATION BY MR. TAYLOR (IN CAMERA):

Q GOOD AFTERNOON, MR. MEAD.

A GOOD AFTERNOON, SIR.

Q GOOD TO SEE YOU AGAIN. HOW HAVE YOU BEEN?

A JUST FINE, SIR.

Q GOOD.

ON THE MORNING OF THE 23RD OF JANUARY, 2001, YOU AND SEVERAL OF YOUR FELLOW POLICE OFFICERS KNOCKED ON THE DOOR OF THE APARTMENT ON ZIMALCREST WHERE LUCIUS STATEN LIVED AND THEN KNOCKED THE DOOR DOWN; ISN'T THAT CORRECT?

A WE DID MAKE FORCED ENTRY INTO THE APARTMENT, YES, SIR.

Q IS IT NOT ALSO TRUE, SIR, THAT WHEN YOU GOT INTO THE PREMISES, THE FIRST THING THAT YOU SAW WAS A BLACK MALE IN THE LIVING ROOM ON A SOFA?

A THERE WAS A BLACK MALE ON THE SOFA, YES, SIR.

Q AND THAT WAS DUSHUN STATEN; IS THAT CORRECT?

A SIR, I'M NOT SURE IF THAT WAS HIM ON THE SOFA OR NOT. IT MAY HAVE BEEN SHAKEEM WILSON.

Q IT WAS NOT LUCIUS STATEN, WAS IT?

A I DON'T BELIEVE SO, NO, SIR.

Q ALL RIGHT. AND THEN YOU WENT TO ANOTHER ROOM AND

IS IT NOT TRUE THAT YOU THERE FOUND SHAKEEM WILSON?
A HE WAS AT THE APARTMENT.
Q IN ANOTHER ROOM, SEPARATE AND APART FROM THE LIVING ROOM? IT WASN'T THE LIVING ROOM, WAS IT?
A I DON'T REMEMBER. THERE WAS SEVERAL OTHERS THAT WENT IN. WE BROUGHT EVERYBODY INTO THE LIVING ROOM AND I DON'T REMEMBER WHICH ROOM MR. WILSON WAS IN, WHETHER HE WAS ALSO IN THE LIVING ROOM OR IF HE WAS IN ANOTHER ROOM.
Q WELL, I WANT YOU TO THINK VERY CAREFULLY. I WANT YOU TO RECOLLECT AS CLEARLY AS YOU CAN. IS IT NOT TRUE THAT YOU OR ONE OF YOUR FELLOW POLICE OFFICERS PUT HANDCUFFS ON DUSHUN STATEN IN THAT APARTMENT?
A I BELIEVE IT WAS, YES, SIR.
Q AND IS IT NOT ALSO TRUE THAT YOU PUT HANDCUFFS ON SHAKEEM WILSON IN THAT APARTMENT?
A EITHER IN THE APARTMENT OR BEFORE HE WAS TRANSPORTED, YES, SIR.
Q AND OF COURSE YOU PUT HANDCUFFS ON LUCIUS STATEN?
A YES, WE DID.
Q IS THAT CORRECT?
A YES, SIR.
Q AND THEN AFTER YOU PUT THE HANDCUFFS ON DUSHUN STATEN YOU SAID HE WAS TRANSPORTED DOWN TO POLICE HEADQUARTERS; IS THAT CORRECT?
A HE WAS.

Q HE DIDN'T DRIVE HIS OWN VEHICLE; RIGHT?
A NO, SIR, HE DID NOT.
Q HE WASN'T ASKED TO COME DOWN AND TAKE A TAXI?
A HE WAS ASKED IF HE WOULD COME DOWN AND HE AGREED TO.
Q YOU PUT HIM IN A POLICE CAR; IS THAT CORRECT?
A I BELIEVE HE WAS TRANSPORTED IN A MARKED UNIT, YES, SIR.
Q AND HE WAS HANDCUFFED; ISN'T THAT CORRECT?
A. YES, SIR, HE WAS.
Q SO HE WAS UNDER ARREST THEN, WASN'T HE?
A NO, SIR. HE WAS HANDCUFFED, WHICH IS OUR NORMAL PRACTICE FOR ANYBODY THAT'S TAKEN IN A POLICE VEHICLE.
Q ARE YOU TESTIFYING BEFORE THIS COURT AND THIS JUDGE THAT HE WAS FREE TO LEAVE IF HE WANTED TO? HE COULD HAVE SAID "TAKE THESE CUFFS OFF OF ME, I'M GOING SOMEWHERE ELSE"? HE WAS FREE TO GO, WAS HE?
A IF HE REFUSED TO COME WITH US, HE WOULD NOT HAVE HAD TO COME WITH US, SIR.
Q BUT YOU PUT THE CUFFS ON HIM IN THE APARTMENT, BEFORE YOU EVER DECIDED TO PUT HIM IN THE CAR AND ASK HIM TO COME TO THE POLICE DEPARTMENT; ISN'T THAT WHAT YOU TESTIFIED TO?
A NO, SIR.
Q SOMEBODY DID THOUGH, DIDN'T THEY?

A THEY PUT HANDCUFFS ON HIM TO TRANSPORT HIM.
Q SHOVED HIM TO THE FLOOR AND PUT CUFFS ON HIM; ISN'T THAT WHAT HAPPENED?
A I DON'T KNOW THAT FOR A FACT, SIR.
Q SHOVED SHAKEEM WILSON TO THE FLOOR AND HANDCUFFED HIM; ISN'T THAT WHAT HAPPENED?
A I REALLY DON'T KNOW. IT WOULD NOT BE UNCOMMON FOR US IN EXECUTING A SEARCH WARRANT TO PUT EVERYBODY ON THE FLOOR AS WE ENTER THE APARTMENT.
Q AND HANDCUFF THEM?
A THEY VERY WELL MAY HAVE BEEN HANDCUFFED, I DON'T KNOW, SIR.
Q NOW THE DOCUMENT THAT HAS BEEN MARKED AS STATE'S EXHIBIT FOUR, YOU WILL AGREE WITH ME WAS NEVER SIGNED BY DUSHUN STATEN; IS THAT CORRECT?
A THAT'S CORRECT.
Q YOU STATED A FEW MOMENTS AGO IN YOUR TESTIMONY, DID YOU NOT, THAT THOUGH HE REFUSED TO SIGN THAT FORM, HE WAS FULLY COOPERATIVE WITH YOU?
A YES, SIR. HE AGREED TO BE.
Q IN YOUR INVESTIGATIVE NOTES ON PAGE TEN YOU STATED, DID YOU NOT, THAT HE WAS AFRAID FOR HIS FAMILY AND THAT HE HAD BEEN UNCOOPERATIVE WITH YOU BECAUSE OF THAT FEAR?
A THAT'S WHAT HE SAID, YES, SIR.
Q RIGHT.

IS IT NOT TRUE THAT YOU TOLD HIM THAT HE WAS JUST A WITNESS WHEN HE AT POLICE HEADQUARTERS?

A THAT HE WAS JUST A WITNESS?

Q JUST A WITNESS AND THAT YOU DID NOT THINK THAT HE WAS INVOLVED IN THIS CRIME AT ALL?

A NO, SIR.

Q YOU DID NOT TELL HIM THAT?

A NO, SIR.

Q WHAT PRECISELY DO YOU TELL THIS COURT UNDER OATH YOU SAID TO HIM, SIR?

A I ADVISED HIM OF HIS RIGHTS, TOLD HIM I WANTED TO TALK TO HIM ABOUT THE INCIDENT AT BENEDICT COLLEGE.

Q AND HE TOLD YOU HE DID NOT WANT TO SIGN THE RIGHTS FORM; RIGHT?

A THAT'S CORRECT.

Q THE FACT IS, YOU NEVER READ IT TO HIM, DID YOU?

A I READ IT TO HIM, SIR.

Q THE DOCUMENT THAT YOU SAY HE HAS SIGNED, WITH REGARD TO LIMEL SIMS AS BEING NUMBER FOUR IN THE PHOTOGRAPHIC LINEUP, MARKED AS STATE'S EXHIBIT SIX FOR IDENTIFICATION PURPOSES, SAYS THAT HE PICKED OUT LIMEL SIMS WHO COMMITTED THE CRIME OF MURDER; ISN'T THAT WHAT IT SAYS?

A THAT'S THE FORM AND THAT'S THE STANDARD WAY I FILLED IT OUT, SIR. HE IDENTIFIED MR. SIMS AS BEING

THERE AT BENEDICT COLLEGE.

Q SO HE DID NOT SAY THAT LIMEL SIMS COMMITTED A MURDER OF ANYONE?

A NO, HE DID NOT.

Q YOU SHOWED HIM A PHOTOGRAPHIC LINEUP AND YOU ASKED HIM IF HE RECOGNIZED LIMEL SIMS; IS THAT WHAT HAPPENED?

A NO, SIR. I ASKED HIM IF HE RECOGNIZED ANYBODY IN THE LINEUP; HE POINTED TO NUMBER FOUR, SAID "THAT'S MEL," OR LIMEL SIMS.

Q AND IN FACT, IS IT NOT TRUE THAT HE TOLD YOU THAT IT WAS NOT LIMEL SIMS WHO SHOT AND KILLED PHILLIP LEE, BUT THAT IT WAS A MAN, A FELLOW, HE KNEW AS "MO" OR "MAURICE"?

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

Q AND HE NEVER WAVERED FROM THAT AT ANY TIME, DID HE?

A NO, SIR.

Q NOT CHANGED IT TO THIS DAY; IS THAT CORRECT?

A NOT THAT I'M AWARE OF.

Q DID YOU SHOW HIM ANY OTHER PHOTOGRAPHIC LINEUPS?

A I'M NOT SURE IF I DID OR NOT.

(PAUSE.)

NO, SIR, I DON'T BELIEVE I DID.

Q DO YOU KNOW OF ANY STATEMENTS THAT YOU HAVE HEARD OF FROM YOUR FELLOW POLICE OFFICERS OR THAT YOU HEARD YOURSELF THAT WERE MADE BY DUSHUN STATEN BEFORE HE

ARRIVED IN YOUR OFFICE AT POLICE HEADQUARTERS?

A I'M NOT AWARE OF ANY, NO, SIR.

MR. TAYLOR: THAT'S ALL I HAVE AT THIS TIME, YOUR HONOR.

THE COURT: OKAY, REDIRECT?

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

REDIRECT EXAMINATION BY MR. GASSER (IN CAMERA):

Q GOING BACKWARDS OVER THE LAST SEVERAL QUESTIONS, ON UP TO YOUR INITIAL QUESTION BY MR. STRICKLER, JUST SO THAT THE RECORD IS CLEAR IN THE CONTEXT OF ENTERING THIS APARTMENT ON JANUARY THE 23RD.

DID YOU HAVE A COURT ORDER, A SEARCH WARRANT, SIGNED BY A NEUTRAL AND DETACHED MAGISTRATE?

A YES, I DID.

Q AND DID YOU ALSO HAVE A WARRANT CHARGING A PERSON WITH THE OFFENSE OF MURDER, KILLING, OR BEING A PART OF KILLING A HUMAN BEING?

A YES, I DID, SIR.

Q ARE YOU TRAINED AT THE CRIMINAL JUSTICE ACADEMY ON HOW TO EFFECT ENTRY ON A SEARCH WARRANT OF A RESIDENCE WHERE AN INDIVIDUAL MAY BE STAYING THAT'S WANTED FOR MURDER?

A YES, SIR, WE ARE.

Q DO YOU DEVIATE FROM THAT TRAINING IN ANY WAY WHATSOEVER?

A NO, SIR.

Q AND WHEN YOU ARE ENTERING TO SEARCH A HOME WHERE A MURDERER OR SOMEONE CHARGED WITH MURDER MAY BE PRESENT, ARE YOU TRAINED TO PROTECT YOURSELF AND OTHER PEOPLE IN THE HOME, TO GET THEM TO BE DOWN, SECURE, TO MAKE SURE THAT NOBODY HAS ANY WEAPONS ON THEM? ARE YOU TRAINED TO DO THAT?

A YES, WE ARE.

Q NOW WITH REGARDS TO THE AFFIDAVITS---

IN A SHORT TIME PERIOD SEVERAL WITNESSES ARE GOING TO BE CALLED AND YOU'RE GOING TO BE RECALLED TO DISCUSS THE PHOTO LINEUP PROCEDURES THAT WERE USED.

---BUT SHOWING YOU STATE'S EXHIBIT NUMBER SIX, THE LANGUAGE THAT MR. STRICKLER AND MR. TAYLOR KEEP REFERRING TO, THAT LANGUAGE IS THE BOILER PLATE LANGUAGE ON THE DOCUMENT; IS IT NOT?

A IT IS.

Q SO WHERE IT'S TYPED IN, THAT LANGUAGE IS ALREADY USED ON THE DOCUMENT BEFORE YOU FILL IN ANY LANGUAGE; CORRECT?

A YES, IT IS.

Q DID YOU USE ANY DIFFERENT TYPE OF PHOTO LINEUP AFFIDAVIT WHEN YOU SHOWED DUSHUN STATEN AND LUCIUS STATEN ON THE 25TH OF JANUARY, DID YOU USE ANY DIFFERENT TYPE THAN ALL OF THE OTHER WITNESSES, SEVEN, EIGHT OR NINE

WITNESSES YOU SHOWED PHOTO LINEUPS TO?

A IT'S THE SAME FORM ON EVERY ONE OF THEM.

Q AND OF COURSE DUSHUN STATEN IS CHARGED WITH MURDER; IS HE NOT?

A YES, HE IS.

Q AND LUCIUS STATEN IS CHARGED WITH MURDER; IS HE NOT?

A YES, SIR.

Q AND SHAKEEM WILSON WAS ORIGINALLY ARRESTED AND CHARGED WITH MURDER; WAS HE NOT?

A YES, HE WAS.

Q AND IS A MURDER WARRANT OUT FOR LIMEL SIMS?

A YES, SIR.

Q MR. STRICKLER ASKED YOU IF THERE WAS ANY DOCUMENTS THAT YOU MIGHT BE ABLE TO LOOK AT AND DETERMINE WHETHER OR NOT HOW LONG YOUR ORAL INTERVIEW WITH HIS CLIENT LUCIUS STATEN TOOK; DO YOU REMEMBER THAT LINE OF QUESTIONING?

A I DO, SIR.

Q AND YOU HAVE THE ADVICE OF RIGHTS FORM, STATE'S EXHIBIT TWO, INDICATING WHEN YOU SIGNED OFF ON THE ADVICE OF RIGHTS FORM; CORRECT?

A THAT'S CORRECT, SIR.

Q AND THAT WAS WHAT, 11:08?

A YES, SIR.

Q AND YOU ALREADY PREVIOUSLY TESTIFIED ON DIRECT THAT YOU ATTEMPTED TO GET A WRITTEN -- PUT THIS IN WRITTEN COLUMBIA POLICE DEPARTMENT STATEMENT FORM AND EVEN STARTED FILLING OUT THE FORM; DID YOU NOT?

A YES, SIR, I DID.

Q DO YOU HAVE YOUR ORIGINAL COPY? OR IF I SHOW YOU THIS, DO YOU RECOGNIZE THAT?

A YES, SIR.

Q THAT HAS THE TIME ON IT, DOES IT NOT?

A YES.

Q AND WHAT IS THAT TIME?

A 11:58 A.M.

Q SO DID YOU START THE PROCESS OF PUTTING LUCIUS STATEN'S STATEMENT IN WRITTEN FORM?

A YES, I DID.

Q IF YOU TAKE STATE'S EXHIBIT NUMBER TWO FOR I.D., USING THE TIME ON THAT, AND THE WRITTEN FORM, WHEN YOU STARTED TO FILL OUT THE WRITTEN FORM, APPROXIMATELY HOW MANY MINUTES DID YOU ORALLY INTERVIEW HIM BEFORE YOU TRIED TO PUT IT IN WRITING?

A APPROXIMATELY FIFTY MINUTES.

Q AND LAST, JUST SO THE RECORD IS COMPLETE, DO THESE APPEAR TO BE COPIES OF PAGES 9 THROUGH 11 OF YOUR CASE NOTES THAT YOU REFERRED TO AS WHEN YOU MEMORIALIZED WHAT DUSHUN STATEN TOLD YOU ON JANUARY 23RD?

A YES, SIR, THEY ARE.

Q AND DOES THIS APPEAR TO BE PAGES 11 THROUGH 13 IN YOUR WRITTEN CASE NOTES, COPIES, WHEN YOU MEMORIALIZED WHAT LUCIUS STATEN TOLD YOU ON JANUARY 23RD OF 2001?

A THEY ARE, SIR.

MR. GASSER: WE'D GO AHEAD AND MARK THESE, SO THE RECORD IS COMPLETE, FOR IDENTIFICATION PURPOSES, AS WELL.

MR. STRICKLER: AS TO LUCIUS STATEN, NO OBJECTION.

MR. TAYLOR: NO OBJECTION.

(STATE'S EXHIBIT NUMBER SEVEN, COPIES OF PAGES 9, 10 AND 11 OF THE COLUMBIA POLICE DEPARTMENT'S CASE SUMMARY ON DUSHUN STATEN; AND,

STATE'S EXHIBIT NUMBER EIGHT, COPIES OF PAGES 11, 12 AND 13 OF THE COLUMBIA POLICE DEPARTMENT'S CASE SUMMARY ON LUCIUS STATEN, ARE NOW MARKED FOR IDENTIFICATION.)

Q AND LAST, ALTHOUGH YOUR TESTIMONY IS THAT DUSHUN STATEN WAS ONLY HANDCUFFED BECAUSE HE WAS BEING TRANSPORTED -- DO YOU RECALL THAT TESTIMONY?

A THAT'S CORRECT.

Q ALL RIGHT. JUST FOR YOUR OWN COLUMBIA POLICE DEPARTMENT POLICY, DID YOU STILL, BEFORE YOU QUESTIONED HIM AT ALL, DID YOU STILL -- PRIMARY QUESTIONING -- ADVISE THAT YOUNG MAN -- SHOWN IN STATE'S EXHIBIT FOUR -- DID YOU ADVISE HIM OF HIS CONSTITUTIONAL RIGHTS BEFORE

YOU ATTEMPTED TO QUESTION HIM IN ANY WAY, SHAPE OR FORM, WHEN HE WAS AT THE COLUMBIA POLICE DEPARTMENT?

A YES, SIR, I DID.

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

THE COURT: ALL RIGHT, ANY OTHER WITNESSES?

MR. GASSER: NONE FROM THE STATE.

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

THE COURT: DO YOU WANT TO CALL SOME WITNESSES?

MR. TAYLOR: DUSHUN STATEN.

THE BAILIFF: PLACE YOUR LEFT HAND ON THE BIBLE AND RAISE YOUR RIGHT HAND AND BE SWORN.

(**DUSHUN NICHOLAS STATEN,** HAVING FIRST BEEN DULY SWORN, TESTIFIED AS FOLLOWS:)

THE CLERK: PLEASE HAVE A SEAT HERE AND STATE YOUR FULL NAME FOR THE RECORD.

MR. DUSHUN STATEN: DUSHUN NICHOLAS STATEN.

DIRECT EXAMINATION BY MR. TAYLOR (IN CAMERA):

Q MR. STATEN, ON THE MORNING OF JANUARY 23RD, 2001, YOU WERE TAKEN TO COLUMBIA POLICE HEADQUARTERS; IS THAT CORRECT?

A YES, SIR.

Q WHAT WERE THE CIRCUMSTANCES UNDER WHICH YOU WERE TAKEN?

A I WAS HANDCUFFED AND THEY DIDN'T ASK ME IF I WANTED

TO GO AT ALL. I WAS HANDCUFFED SO I WAS ARRESTED IMMEDIATELY.

Q WHO ELSE DID THEY TAKE?

A SHAKEEM, WHO WAS THE SECOND ONE HANDCUFFED; AND THEN MY BROTHER WAS THE THIRD ONE HANDCUFFED.

Q ALL RIGHT. DID THEY SEARCH THE APARTMENT AND SEIZE STUFF?

A YES, THEY DID.

Q ALL RIGHT. WHEN YOU GOT TO COLUMBIA POLICE HEADQUARTERS, DID YOU RUN INTO OFFICER MEAD OVER HERE (INDICATING)?

A YES, SIR.

Q DID YOU HAVE A CONVERSATION WITH HIM?

A YES, A VERY LONG ONE.

Q IN THAT CONVERSATION DID HE EVER ADVISE YOU OF YOUR RIGHT TO HAVE A LAWYER PRESENT DURING QUESTIONING?

A NO, SIR.

Q DID HE ADVISE YOU THAT YOU HAD A RIGHT TO REMAIN SILENT?

A NO, SIR.

Q DID HE ADVISE YOU THAT ANYTHING YOU SAID COULD AND WOULD BE USED AGAINST YOU IN A COURT OF LAW?

A NO, SIR.

Q DID HE ADVISE YOU THAT IF YOU COULD NOT AFFORD A LAWYER ONE WOULD BE APPOINTED FOR YOU?

A NO, SIR.

Q DID HE ADVISE YOU THAT IF YOU DECIDED TO START ANSWERING QUESTIONS AND CHANGED YOUR MIND AT ANY TIME THAT HE WOULD CEASE THE QUESTIONING?

A NO, SIR.

Q DID YOU EVER SEE THIS FORM, WHICH IS MARKED AS STATE'S EXHIBIT FOUR FOR IDENTIFICATION PURPOSES?

A NO, I DIDN'T.

Q ALL RIGHT. THANK YOU. THAT'S ALL I HAVE.

MR. GASSER: VERY BRIEFLY, YOUR HONOR.

CROSS-EXAMINATION BY MR. GASSER (IN CAMERA):

Q WHEN YOU WERE BEING INTERVIEWED BY MR. MEAD, YOUR BROTHER LUCIUS WASN'T THERE, WAS HE, MR. STATEN?

A NO.

Q BUT IT IS YOUR TESTIMONY THAT INVESTIGATOR MEAD NEVER INFORMED YOU THAT YOU HAD A RIGHT TO HAVE A LAWYER; IS THAT YOUR TESTIMONY?

A NO, SIR -- YES, SIR. HE NEVER INFORMED ME OF THAT.

Q DIDN'T GO OVER THIS ADVICE OF RIGHTS FORM, STATE'S EXHIBIT NUMBER FOUR, NEVER WENT OVER THAT FORM WITH YOU?

A NO, I NEVER SEEN IT.

Q NEVER SEEN THIS FORM BEFORE?

A JUST NOW.

Q YOU SAW A COPY OF IT BEFORE COMING INTO COURT, GOING OVER WITH YOUR LAWYER, DID YOU?

A NO.
Q NEVER WENT OVER THIS FORM? YOUR TESTIMONY IS THE FIRST TIME YOU'VE EVER SEEN THIS DOCUMENT, WHAT I'M---
A I KNOW WHAT IT MEANS. I KNOW WHAT MIRANDA RIGHTS MEAN. NO, I NEVER BEEN WORRYING ABOUT IT, NO.
Q SO YOU WERE NEVER SHOWN THIS FORM?
A NO, I WASN'T.
Q OKAY. AND DID YOU GO -- YOU'VE BEEN MADE AWARE, YOU'VE BEEN PROVIDED COPIES OF WHAT LAW ENFORCEMENT, WHAT THE POLICE, HAVE INDICATED YOU DID SAY, HAVE YOU NOT, MR. STATEN?
A MY STATEMENT?
Q YOUR STATEMENT.
A HAD IT FOR ABOUT A DAY-AND-A-HALF NOW.
Q SO YOU HAVE BEEN ABLE TO LOOK OVER SOME NOTES INDICATING SOME OF THE THINGS THAT THE POLICE ARE SAYING YOU TOLD THEM ON JANUARY THE 23RD?
A YES, I SEEN IT.
Q OKAY. ARE THEY THE TRUTH?
A NO. THE WAY HE INTERPRETED THEM WAS HIS OWN INTERPRETATION.
Q OKAY. SO WHEN YOU INDICATED TO THE POLICE EARLY ON, YOU GAVE A NAME OF SHAWN PAYTON; DO YOU DENY TELLING THE POLICE YOUR NAME WAS REALLY SHAWN PAYTON?
A NO, I DON'T.

Q SO YOU DID ADMIT THAT TO THEM?

A THAT NAME, YES.

Q OKAY. SO YOU LIED TO THEM ABOUT YOUR NAME?

MR. TAYLOR: SEE, I JUST OBJECT. THAT'S OUTSIDE THE SCOPE OF THIS HEARING.

THE COURT: YEAH, THAT'S GOING A LITTLE FAR.

Q AND YOU WERE CHARGED WITH MURDER AND LYNCHING IN THE FIRST DEGREE; IS THAT NOT CORRECT?

A I THOUGHT I WAS JUST CHARGED WITH MURDER. I GUESS YOU ALL ADDED ON ONE.

Q YOU DON'T REMEMBER STANDING UP HERE IN FRONT OF A JUDGE TWO WEEKS AGO WITH YOUR LAWYERS, AND YOUR BROTHER STANDING NEXT TO YOU AND HIS LAWYER?

A YES.

Q WHEN WE PUBLISHED THE INDICTMENTS; DO YOU REMEMBER THAT JUDGE?

A YES.

Q AND YOU INDICATED YOU WERE PLEADING NOT GUILTY TO MURDER AND LYNCHING IN THE FIRST DEGREE?

A YES, SIR.

Q AND YOU'RE CHARGED WITH THOSE TWO OFFENSES; CORRECT?

A YES, SIR.

Q AND MURDER CARRIES A PENALTY OF LIFE WITHOUT PAROLE---

MR. TAYLOR: OBJECTION, YOUR HONOR, THAT'S TOTALLY IRRELEVANT FOR THE SCOPE OF THIS HEARING.

MR. GASSER: I JUST WANT THE RECORD TO REFLECT, SINCE THIS COURT AND SOME OTHER COURT MAY BE JUDGING THE CREDIBILITY OF THIS WITNESS VERSUS THIS POLICE OFFICER (INDICATING).

Q YOU UNDERSTAND WHAT THE PENALTY CARRIES, DO YOU NOT?

A YES. YOU JUST SAID IT TO ME.

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

THE COURT: OKAY.

REDIRECT EXAMINATION BY MR. TAYLOR:

Q THE WRITTEN STATEMENT THAT YOU REFERRED TO THAT MR GASSER REFERRED TO, HOW WAS THE STATEMENT ACTUALLY DONE, THE MECHANICS OF HOW WAS IT DONE?

A HE SAT ACROSS FROM ME AT A TABLE AND HE WAS ASKING THE QUESTIONS. I'D NEVER SEEN THE PAPER, HE NEVER PUT IT IN MY HAND. AND WHEN HE ASKED ME TO SIGN IT, HE HAD THE TOP PART OF THE PAPER AND I SIGNED THE BOTTOM.

Q IS THIS IT RIGHT HERE (INDICATING)?

A YES, SIR.

MR. TAYLOR: WE'D OFFER THIS AS---

THE COURT: DO YOU WANT TO SHOW IT TO MR. GASSER?

MR. TAYLOR: ---OUR EXHIBIT FOR IDENTIFICATION.

(PAUSE.)

MR. GASSER: I'VE GOT NO OBJECTION FOR IDENTIFICATION PURPOSES AT THIS TIME.

THE COURT: OKAY.

WHAT IS THAT?

MR. TAYLOR: THAT, YOUR HONOR, IS THE WRITTEN STATEMENT THAT THE DETECTIVE GOT FROM MR. STATEN IN HIS HEADQUARTERS THAT MORNING, AT POLICE HEADQUARTERS.

THE COURT: THEY GOT A WRITTEN STATEMENT FROM HIM?

(THERE IS NO RESPONSE.)

(DEFENDANT'S EXHIBIT NUMBER ONE, COLUMBIA POLICE DEPARTMENT STATEMENT FORM SIGNED BY DUSHUN STATEN, IS NOW MARKED FOR IDENTIFICATION.)

Q TELL US NOW HOW THE STATEMENT WAS PRESENTED TO YOU FOR YOUR SIGNATURE?

A HE HELD THE TOP PART OF THE PAPER LIKE THIS (INDICATING), AND I SIGNED---

Q NOW YOU ARE -- NOW, FOR THE COURT REPORTER, YOU SAY "LIKE THIS"; YOU'RE GOING TO HAVE TO DESCRIBE THAT VERBALLY SO THAT SHE CAN GET IT ON THE RECORD.

YOU'VE GOT YOUR THUMB OVER THE TOP PART?

A AS IF HE DIDN'T WANT TO LET THE PAPERS GO. AND I WAS JUST SIGNING THE BOTTOM OF EACH ONE, FIVE SHEETS.

Q DID HE ASK YOU TO SIGN THEM?

A YES, HE DID.

Q ALL RIGHT. DID YOU FEEL LIKE YOU HAD TO SIGN THEM?

A YES, I DO. HE MADE IT SOUND LIKE I WOULDN'T LEAVE THERE UNLESS I DID THAT.

Q DID HE GIVE YOU AN OPPORTUNITY TO READ THIS STATEMENT?

A NO, HE NEVER LET IT GO OUT OF HIS HAND, NEVER GAVE A COPY EITHER.

Q DID HE EVER PUT YOU UNDER OATH?

A NO. NOR WAS I SWORN IN.

Q THANK YOU, SIR.

THAT'S ALL.

THE COURT: ANYTHING?

MR. GASSER: NO, SIR.

THE COURT: ALL RIGHT, YOU CAN COME DOWN.

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

MR. TAYLOR: MOVE TO SUPPRESS THIS STATEMENT, YOUR HONOR, ON THE GROUNDS THAT THE MIRANDA WARNINGS WERE NOT GIVEN TO MY CLIENT.

THE COURT: ANYTHING ELSE?

MR. TAYLOR: THAT'S IT.

THE COURT: ALL RIGHT. BASED ON THE PREPONDERANCE OF THE EVIDENCE I FIND THAT BOTH DEFENDANTS WERE MIRANDIZED AND ANY STATEMENT THEY GAVE WAS FREELY AND VOLUNTARILY GIVEN. THAT'S BY THE PREPONDERANCE OF THE EVIDENCE.

IF IT BECOMES A JURY ISSUE, SUCH AS THEY TAKE THE STAND AND TESTIFY, THE ISSUE CAN GO TO THE JURY AND THE JURY WILL HAVE TO FIND BEYOND A REASONABLE DOUBT.

WHAT'S NEXT, NEAL V. BIGGERS?

MR. GASSER: YES, SIR.

THE COURT: ALL RIGHT. LET'S TAKE ABOUT FIVE MINUTES AND WE'LL COME BACK AND DO NEAL, ZIP THROUGH THAT. FIVE, NOT TEN, JUST FIVE.

(COURT IS NOW IN RECESS.)

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

THE COURT: THANK YOU. PLEASE BE SEATED.

OKAY, WHAT'S NEXT?

MR. GASSER: YOUR HONOR, JUST A POINT OF CLARIFICATION, WE'VE GOT THE NEAL V. BIGGERS HEARING, WE HAVE SEVEN LAY WITNESSES AND AN INVESTIGATOR.

NOW, I'M GOING TO TRY AND LIMIT MY DIRECT EXAMINATION OF THESE WITNESSES TO THE STANDARD THAT YOU HAVE TO APPLY AS THE TRIAL JUDGE IN DETERMINING WHETHER OR NOT THEY CAN COME INTO COURT AND THEY CAN -- IN CAMERA, THEN THEY CAN MAKE AN IN-COURT IDENTIFICATION, WHICH INCLUDES THEIR PRIOR OPPORTUNITY TO SEE THE DEFENDANTS AND WHETHER OR NOT THE OUT-OF-COURT SCENES WERE SUGGESTIVE. SO I'M GOING TO GET RIGHT TO THE HEART OF THE MATTER.

WHAT I DON'T WANT TO BE USED AGAINST THE STATE, WHICH I'M NOT ACCUSING THESE LAWYERS OF DOING IT, I'M JUST SAYING I WANT TO MAKE SURE THAT -- WHAT I DON'T WANT TO HAVE HAPPEN IS -- THESE WITNESSES' TESTIMONY WILL BE DEVELOPED MUCH -- YOU KNOW, WILL BE MUCH MORE DEVELOPED IN FRONT OF THE JURY AS IT WILL BE IN FRONT OF YOU BECAUSE THE STANDARDS THAT WE HAVE TO MEET IN FRONT OF A JURY AS TO THEIR -- IS MUCH LARGER, BEYOND A REASONABLE DOUBT, WHAT THEY HAVE TO TESTIFY TO THAN AS YOU.

WHAT I DON'T WANT TO BE USED AGAINST ME IS IF THEY TESTIFY IN FRONT OF THE JURY DURING -- I'M GOING TO DEVELOP IT, TO BE MUCH MORE DEVELOPED TESTIMONY, AND I DON'T WANT IT TO BE USED AGAINST THE STATE BECAUSE WE'RE TRYING TO MOVE THESE PROCEEDINGS ALONG, THAT THEY DON'T SAY ANYTHING BEFORE YOU THAT THAT'S SOMEHOW IMPEACHABLE.

I UNDERSTAND IF THEY SAY SOMETHING DIFFERENT, BUT IF THEY DON'T -- YOU KNOW, ONE OF THESE WITNESSES MIGHT TAKE FIVE MINUTES OR TEN MINUTES FOR THE BURDEN FOR THE STATE WE'VE GOT TO MEET UNDER NEAL V. BIGGERS, BUT THEY MAY TAKE TWENTY MINUTES OR TWENTY-FIVE MINUTES ON DIRECT IN FRONT OF THE JURY.

SO I DON'T KNOW, I GUESS I WANT ON THE RECORD A POINT OF CLARIFICATION, NOT OF TAKING DEFENSE COUNSELS' WORD AT IT, UNLESS WE'RE GOING TO BE HERE ALL THE REST OF THIS AFTERNOON INTO THE EVENING, BUT ALSO TOMORROW.

BECAUSE I DON'T WANT IT TO BE HELD AGAINST ME THAT A WITNESS DOESN'T SAY SOMETHING JUST BECAUSE I DON'T ASK THE QUESTION.

THE COURT: EVERYBODY GET WHAT HE'S TALKING ABOUT?

MR. STRICKLER: YES, SIR.

THE COURT: OKAY. YOU DON'T HAVE ANY DISAGREEMENT WITH THAT, DO YOU?

MR. STRICKLER: NO. I'LL ASK AS MANY QUESTIONS AS I FEEL NECESSARY TO FULLY DEVELOP THEIR OPPORTUNITY TO OBSERVE AND ALL THE OTHER RELATIVE MATERIALS.

THE COURT: YEAH. BUT AS FAR AS BROWN, MR. TAYLOR, DO YOU UNDERSTAND WHAT HE'S SAYING?

MR. TAYLOR: I DO. YES.

THE COURT: WHAT WE'RE TRYING TO DO IS WE'RE TRYING TO GET THROUGH THIS PRETRIAL NEAL V. BIGGERS.

MR. TAYLOR: SURE.

THE COURT: AND SINCE WE HAVE SEVEN WITNESSES WE WANT TO DO THIS IN THE MOST EXPEDITIOUS MANNER POSSIBLE. HE ONLY WANTS TO PROVE WHAT HE'S GOT TO PROVE TO GET BY THE NEAL V. BIGGERS. AND YOU ALL CAN'T USE THIS AS A DISCOVERY MECHANISM AND TALK TO ALL THE WITNESSES. HE DIDN'T ADD THAT, I ADDED THAT.

MR. STRICKLER: YES, SIR. AND I UNDERSTAND WE CAN IT AT SOME POINT OF GENERALIZED DISCOVERY. WE CAN USE IT TO THE EXTENT NECESSARY TO MORE COMPLETELY THEIR

OPPORTUNITIES.

THE COURT: WELL, NEAL V. BIGGERS, YEAH. YEAH.

MR. GASSER: WITH THAT, YOUR HONOR, THE STATE WOULD CALL ALONZO "LO" SHULER.

THE BAILIFF: PLACE YOUR LEFT HAND ON THE BIBLE AND RAISE YOUR RIGHT HAND AND BE SWORN.

(**ALONZO SHULER**, HAVING FIRST BEEN DULY SWORN, TESTIFIED AS FOLLOWS:)

THE CLERK: HAVE A SEAT THERE, SIR, AND STATE YOUR FULL NAME FOR THE RECORD.

MR. SHULER: ALONZO SHULER.

DIRECT EXAMINATION BY MR. GASSER (IN CAMERA):

Q MR. SHULER, I WANT TO DRAW YOUR ATTENTION BACK TO JANUARY THE 15TH, 2001. YOU WERE A STUDENT AT BENEDICT COLLEGE?

MR. STRICKLER: OBJECTION TO THE LEADING.

MR. GASSER: THERE'S NO JURY HERE, YOUR HONOR.

THE COURT: THAT'S A NON-OFFENSIVE LEADING QUESTION. BUT WHEN WE GET INTO THE SUBSTANCE OF HIS TESTIMONY, THEN YOU SHOULDN'T ASK LEADING QUESTIONS.

MR. GASSER: I'VE PRACTICED LAY FOR 15 YEARS, I'M FULLY AWARE OF THAT. I APPRECIATE MR. STRICKLER'S CONCERN.

THE COURT: HE JUST WANTS TO MAKE SURE THAT THE WITNESS TESTIFIES AND NOT YOU.

MR. GASSER: I UNDERSTAND, YOUR HONOR.

Q YOU ARE A STUDENT AT BENEDICT COLLEGE?

A YES, SIR.

Q ON JANUARY THE 15TH OF 2001 WERE YOU A STUDENT AT BENEDICT COLLEGE?

A YES, SIR.

Q I WANT TO DRAW YOUR ATTENTION TO THESE TWO GENTLEMEN OVER HERE, MR. DUSHUN STATEN AND LUCIUS STATEN; DO YOU RECOGNIZE THOSE TWO FELLOWS?

A YES, SIR.

Q IS TODAY THE FIRST TIME YOU'VE EVER SEEN THEM?

A NO, SIR.

Q DO YOU RECALL THE EVENTS OF MONDAY EVENING, JANUARY THE 15TH, 2001?

A YES, SIR.

Q DID YOU KNOW PHILLIP LEE?

A THAT WAS MY BEST FRIEND.

Q WERE YOU PRESENT AT A PARTICULAR LOCATION WHEN HE WAS SHOT?

A YEAH. I WAS IN HASKILL STREET DORMITORY, ROOM 1-D.

Q SPECIFICALLY, WHEN HE WAS ACTUALLY SHOT, WHERE WERE YOU?

A I WAS IN MY ROOM. I WAS -- LIKE, BEFORE THE SHOOTING, BEFORE THE FIRST GUNSHOT WENT OFF, SOMEBODY, ONE OF MY FRIENDS, HAD CAME TO BANG ON THE WINDOWS, LIKE,

THEY WERE BOTHERING PHILLIP LEE. YOU KNOW WHAT I'M SAYING, THEY WERE BOTHERING PHILLIP.

SO I RAN OUT OF THE BACK OF MY DORMITORY. WHEN I WAS RUNNING DOWN THE HALLWAY I HEARD THE FIRST GUNSHOT CUT OUT, AND WHEN I OPENED THE DOOR I SEEN A SECOND GUNSHOT CUT OUT.

Q SO WAS YOUR ATTENTION DRAWN TOWARDS THE AREA WHERE PHILLIP LEE WAS AND WHERE THE GUNSHOTS WERE COMING FROM?

A YES, SIR.

Q AND DID YOU SEE ANYBODY OUT THERE THAT WERE NOT BENEDICT COLLEGE STUDENTS THAT YOU RECOGNIZE IN THIS COURTROOM HERE TODAY?

A YES, SIR, EARLIER THAT DAY.

Q AND WHO WAS THAT?

A THOSE TWO GENTLEMEN RIGHT THERE (INDICATING).

Q NOW MONDAY, JANUARY THE 15TH OF 2001, WAS THAT THE FIRST TIME YOU EVER HAD AN OPPORTUNITY TO SEE THE TWO DEFENDANTS?

A NO, SIR.

Q TELL THE COURT WHEN WAS THE FIRST TIME YOU HAD AN OPPORTUNITY TO SEE THE DEFENDANTS?

A IT WAS ABOUT PROBABLY A WEEK. THE FIRST TIME I EVER SAW WAS LIKE PROBABLY A WEEK BEFORE THAT, 'CAUSE WE HAD JUST GOT BACK TO SCHOOL. AND -- YEAH, A WEEK BEFORE THAT.

Q YOU SAID "WE HAD JUST GOT BACK TO SCHOOL"?
A YES, SIR.
Q FROM WHAT BREAK?
A CHRISTMAS, THE CHRISTMAS HOLIDAYS.
Q AND WHERE WERE -- APPROXIMATELY A WEEK BEFORE, ON JANUARY THE 8TH OR APPROXIMATELY THEREOF, WHERE DID YOU SEE LUCIUS AND DUSHUN STATEN? PHYSICALLY WHERE WERE THEY?
A IN A PARKING LOT ON HASKILL -- IN HASKILL STREET DORMITORY PARKING LOT, LIKE ON THE TOP ALMOST.
Q AND FROM THE TIME THAT FIRST DAY YOU SAW THEM IN THE HASKILL STREET PARKING LOT UNTIL THE TIME THAT YOU SAW THEM OUT THERE IN THE SAME PARKING LOT WHERE PHILLIP LEE WAS SHOT---
A YES, SIR.
Q ---DID YOU EVER HAVE OCCASION TO SEE THEM BETWEEN THOSE TWO DATES?
A YEAH, EVERYDAY.
Q DURING THE DAYLIGHT HOURS OR NIGHTTIME OR BOTH?
A FROM DAY TO NIGHT.
Q NOW, MR. SHULER, WHEN YOU FIRST SAW THEM OUT THERE IN THE PARKING LOT AROUND THE 8TH OF JANUARY AND THE SUBSEQUENT DAYS BEFORE YOUR FRIEND PHILLIP WAS KILLED, DID YOU RECOGNIZE THEM AS BEING STUDENTS OF BENEDICT COLLEGE?

A OH, I KNOW THEY WASN'T STUDENTS. YOU KNOW I MEAN, 'CAUSE THEY WERE NEW FACES. I KNOW EVERYBODY WHO GO TO BENEDICT COLLEGE. I'M A SENIOR IN COLLEGE RIGHT NOW, HAVE BEEN IN COLLEGE, SO PRETTY MUCH I KNOW EVERYBODY WHO GOES TO SCHOOL THERE.

Q DID YOU EVER SEE THEM WALKING TO CLASS OR HAVING ANY BOOKS OR ANYTHING LIKE THAT?

A NO, SIR. NO, SIR.

Q DID YOU EVER SEE ANY KIND OF VEHICLES THAT THEY HAD COME IN? WHENEVER YOU WOULD SEE THEM HANGING AROUND IN THE PARKING LOT DORM, DID YOU EVER SEE ANY VEHICLES?

A YES, SIR.

Q WHAT CARS DID YOU SEE?

A A GALANT, AND IN MY TESTIMONY -- I MEAN IN MY STATEMENT, MY READ STATEMENT, I SAID IT WAS A DAEWOO BUT IT'S NOT A DAEWOO BECAUSE IT'S -- A DAEWOO IS BIGGER THAN THE CAR THAT THEY HAD. IT WAS A WHITE CAR WITH GEORGIA TAGS.

Q WHAT WERE THE TWO COLORS OF THE CARS?

A ONE OF THEM WAS WHITE AND THE OTHER ONE WAS LIKE A FOREST GREEN.

Q AND WHEN YOU WOULD SEE THEM TOGETHER, THE TWO OF THEM, WERE THEY ALWAYS TOGETHER?

A YEAH.

Q WAS THERE ANYTIME ANYONE ELSE WAS WITH THEM?

A YEAH, THERE WAS. YEAH, THEY BROUGHT NUMEROUS PEOPLE OVER THERE. NOW, I'M NOT GOING TO SAY LIKE A WHOLE LOT OF PEOPLE, LIKE TEN TO TWENTY PEOPLE, BUT THEY BROUGHT FRIENDS WITH THEM, DIFFERENT PEOPLE. IT WAS DIFFERENT NUMBERS OF PEOPLE THERE ON DIFFERENT DAYS.

Q DID YOU KNOW A GUY BY THE NAME OF LAMAR OR MAR PERDUE?

A YEAH.

Q DID YOU EVER SEE THEM HANGING AROUND THAT GUY?

A YES, SIR.

Q AND DID HE HAVE -- DID LAMAR HAVE A COUSIN---

A YEAH.

Q ---MANNY PERDUE THAT WAS A STUDENT?

A YES, SIR. YES, SIR.

Q DID YOU EVER HAVE ANY CONVERSATIONS WITH EITHER DUSHUN OR LUCIUS STATEN?

A WHEN I FIRST SAW THEM I SPOKE TO THEM BECAUSE, YOU KNOW WHAT I'M SAYING, THAT'S JUST WHAT PEOPLE DO DOWN HERE, DOWN SOUTH.

BUT LATER ON THAT NIGHT -- THAT WAS THE FIRST DAY I SAW THEM, BUT LATER ON THAT NIGHT PHIL WAS GOING TO HIS ROOM AND THEY HAD EXCHANGED WORDS. HE GOT OUT OF THE CAR, SOMEBODY WENT AND GOT HIM OUT OF THE CAR, AND HE WAS ASKING PHIL WHY HE WAS WEARING A BLUE RAG ON HIS PANTS OR WHATEVER.

Q I'M GOING TO GET TO THAT. YOU'RE TALKING ABOUT THE FIRST TIME THAT YOU EVER ACTUALLY HAD A CONVERSATION WITH THESE GENTLEMEN; IS THAT CORRECT?
A YES, SIR.
Q DO YOU KNOW WHEN PHILLIP LEE RETURNED BACK FROM NEW JERSEY FROM CHRISTMAS BREAK?
A IT COULD HAVE BEEN AROUND -- I'M NOT SURE OF THE EXACT DATE.
Q WHO RETURNED BACK FIRST, YOU OR HIM?
A ME, BECAUSE I WAS A FOOTBALL PLAYER AND WE HAD TO REGISTER EARLY.
Q SO GETTING BACK TO THIS ONE PARTICULAR EVENING BEFORE MONDAY EVENING, JANUARY THE 15TH, DID YOU HAVE AN OPPORTUNITY TO COME UP CLOSE AND ACTUALLY CONVERSE WITH THESE GENTLEMEN, WAS PHILLIP LEE THERE?
A YES, SIR.
Q AND WAS IT DURING THE AFTERNOON OR EVENING? I'M SORRY.
A IT WAS LIKE NIGHTTIME.
Q AND WHERE DID THIS TAKE PLACE?
A LIKE PROBABLY A FEW FEET UP FROM WHERE HE GOT -- WHERE HE LAID AT ON THE LAST NIGHT HE WAS THERE.
Q WHENEVER YOU SAW THE DEFENDANTS LUCIUS STATEN AND DUSHUN STATEN ON BENEDICT COLLEGE CAMPUS, DID YOU EVER SEE THEM AWAY FROM THE HASKILL DORM PARKING LOT?

A NO, SIR.
Q SO EVERY TIME YOU SAW THEM WAS WHERE?
A IN HASKILL STREET, ON HASKILL DORMITORY.
Q AND DESCRIBE THE LIGHTING TO THE JUDGE. HOW WELL-LIT OR HOW -- DESCRIBE THE LIGHTING?
A LIKE IT WAS LIKE EVERY FIVE FEET IS LIKE A LIGHT POLE OUT THERE SO LIGHTING WAS PRETTY GOOD.
Q AND THIS TIME WHEN THERE WAS THIS CONVERSATION BETWEEN PHILLIP LEE AND THE DEFENDANTS, LUCIUS AND DUSHUN STATEN, HOW CLOSE DID YOU GET TO THE TWO DEFENDANTS?
A WE WERE CLOSE. WE WERE CLOSE.
Q WELL, USING THE DISTANCE I AM FROM YOU RIGHT NOW, I WANT YOU TO---
A CLOSER. PROBABLY THREE FEET, FOUR FEET APART.
Q RIGHT HERE (INDICATING)?
A YEAH.
Q AND DO YOU REMEMBER WHAT SPECIFIC DAY IT WAS?
A I THINK IT COULD HAVE BEEN -- I'M NOT SURE WHAT DAY IT WAS. IT COULD HAVE BEEN A -- NO, NO, NO, NO. I'M NOT SURE.
Q WAS IT THE DAY OF HIS KILLING OR SOMETIME BEFORE THAT?
A IT WAS WAY BEFORE HIS KILLING.
Q DID EITHER LUCIUS STATEN OR DUSHUN STATEN HAVE ANYTHING COVERING THEIR FACE?

A NO. THEY HAD ON RED RAGS THOUGH.
Q THEY HAD ON RED RAGS?
A NOT LUCIUS, BUT DUSHUN DID.
Q AND WHEN THIS CONVERSATION WAS TAKING PLACE -- AND I USE THE WORD CONVERSATION -- WAS IT A NICE CONVERSATION?
A NO, SIR.
Q WHAT WAS IT? TELL US WHAT IT WAS?
A OH, IT WAS SOME GANG TALK, YOU KNOW WHAT I'M SAYING. I WAS THERE BECAUSE PHILLIP LEE IS MY FRIEND SO I WAS THERE WITH HIM. BUT WHAT WAS SAID WAS -- SOMEBODY WENT TO THE CAR AND GOT HIM OUT OF THE CAR, WHICH THEY CALL HIM M. DOT (SIC) OR WHATEVER.
Q OKAY, NOW WHEN YOU SAY SOMEBODY WENT TO THE CAR AND GOT HIM OUT OF THE CAR?
A ONE OF HIS FRIENDS, ANOTHER ONE OF HIS FRIENDS, SO-CALLED FRIENDS OR WHATEVER.
Q THE COURT REPORTER HAS TO TAKE THIS DOWN. WHEN YOU SAY ABOUT "HIM, M. DOT GOT OUT OF THE CAR," WHICH ONE ARE YOU REFERRING TO?
A LUCIUS -- I MEAN DUSHUN.
Q DUSHUN, RIGHT HERE (INDICATING)?
A YEAH. UH-HUH (INDICATES AN AFFIRMATIVE RESPONSE).
Q WERE YOU MADE AWARE BEFORE JANUARY THE 15TH OR SOMETIME AFTERWARDS, DID YOU KNOW THAT THESE TWO FELLOWS

WERE BROTHERS?

A YES, SIR.

Q AND FROM A SIZE PERSPECTIVE, WHICH ONE IS THE BIGGER OR THE LARGER OF THE TWO?

A HE IS (INDICATING).

Q AND "HE" IS BEING WHOM? DO YOU KNOW HIS GOD-GIVEN NAME TO BE?

A YEAH. LUCIUS.

Q ABOUT HOW LONG DID THIS ARGUMENT, IF YOU WILL, TAKE PLACE?

MR. TAYLOR: WHAT ARGUMENT?

THE COURT: YES, REPHRASE.

MR. GASSER: I'M SORRY.

Q MAYBE THEY DIDN'T HEAR WHEN I ASK YOU WAS THIS A NICE CONVERSATION THAT WAS TAKING PLACE?

A YEAH. THE CONVERSATION LASTED FOR AWHILE. SECURITY HAD CAME UP THERE AND KIND OF MADE PEOPLE GO THEY SEPARATE WAYS.

Q HOW WOULD YOU DESCRIBE THE CONVERSATION? WHAT KIND OF A CONVERSATION WAS IT?

A IT WAS LIKE -- ACTUALLY WHAT WAS SAID, DO YOU WANT ME TO TELL YOU WHAT WAS SAID?

Q YEAH. I WANT YOU TO TELL ME WHAT THEY SAID.

A OKAY. HE SAID -- HE SAID, "WHAT THAT BLUE BE ABOUT? WHY YOU WEARING ALL THAT BLUE," YOU KNOW WHAT I'M

SAYING.

AND PHIL TOLD HIM WHY HE WAS WEARING IT, HE SAID BECAUSE IT WAS HIS. AND HE WAS LIKE "WHY ARE YOU WEARING ALL THE RED."

HE WAS LIKE "'CAUSE I REPRESENT 59 BRIM" OR WHATEVER THAT MAY BE. AND---

MR. TAYLOR: I'M SORRY, YOUR HONOR, I COULD---

THE COURT: I COULDN'T UNDERSTAND THAT EITHER.

MR. SHULER: THAT WAS WHAT WAS SAID, "59 BRIM," OR 59---

THE COURT: 59 BRIM?

MR. SHULER: YEAH. AND THEN HE WENT AHEAD AND REPHRASED IT AGAIN AND SAID "59 BULLETS."

Q AND WHO IS SAYING THIS?

A THE SHORT GUY RIGHT THERE (INDICATING), DUSHUN.

Q IN THIS CONVERSATION THAT YOU'VE DESCRIBED WAS TAKING PLACE BETWEEN WHOM? DUSHUN AND WHO ELSE?

A AND PHILLIP LEE.

Q AND YOU WERE STANDING THERE?

A YES, SIR.

Q AT THAT TIME WERE YOU UNDER THE INFLUENCE OF ANY ALCOHOL OR DRUGS AT THAT TIME?

A NO, SIR. I DON'T DO DRUGS.

Q NOW AFTER THAT INCIDENT, SOME DAYS TO YOUR TESTIMONY, BEFORE PHILLIP WAS KILLED, DID YOU CONTINUE TO

SEE THESE GENTLEMEN OUT IN THE PARKING LOT?

A YES, SIR.

Q HOW MANY DAYS? I DON'T WANT TO PUT WORDS IN YOUR MOUTH.

A IT WAS LIKE PROBABLY -- AFTER THAT DAY IT WAS PROBABLY LIKE SIX OR SEVEN DAYS AFTER -- BEFORE PHILLIP GOT KILLED.

Q NOW THE INCIDENT WHEN PHILLIP WAS SHOT, YOU SAID THAT YOU CAME OUT OF THE ROOM -- OR YOU CAME OUT OF THE BUILDING; IS THAT CORRECT?

A YES, SIR.

Q AND WHERE DID YOU SEE, FIRST OF ALL, LUCIUS STATEN?

A FROM A DISTANCE IT LOOKED LIKE HE WAS GETTING IN THE CAR. FROM A DISTANCE HE WAS GETTING IN A CAR, YES, SIR.

Q AND WHERE DID YOU SEE DUSHUN STATEN?

A HE WAS BY A WHITE CAR. HE WAS -- MATTER OF FACT, HE WAS IN A WHITE CAR ALREADY.

Q AND WHERE WAS THIS CAR IN RELATIONS TO WHERE YOUR FRIEND PHILLIP WAS?

A PROBABLY FIFTEEN FEET AWAY FROM HIM.

Q AND HOW FAR AWAY WERE YOU?

A PROBABLY LIKE A HALF OF A FOOTBALL FIELD.

Q FIFTY YARDS?

A YES, SIR.

Q OKAY. USING THE BACK OF THE COURTROOM DOORS, WERE YOUR FARTHER AWAY THAN THOSE BACK OF THOSE DOORS?
A YES, SIR, A LITTLE BIT. YES, SIR. YEAH.
Q AND WHEN YOU LOOKED OUT -- YOU JUST INDICATED TO THIS JUDGE THAT YOU SAW THESE TWO INDIVIDUALS; THEY THE SAME PEOPLE THAT YOU HAD SEEN THERE FOR SEVEN DAYS PRIOR, DAY AND NIGHT?
A YES, SIR, EVERYDAY.
Q AND YOU RECOGNIZED THOSE CARS, THAT YOU'D SEEN THOSE TWO CARS THAT YOU JUST DESCRIBED, AS WELL?
A YES, SIR.
Q NOW I WANT TO DRAW YOUR ATTENTION TO THREE DAYS AFTER PHILLIP WAS KILLED, ON JANUARY THE 18TH DID YOU HAVE AN OPPORTUNITY TO MEET WITH THIS INVESTIGATOR (INDICATING) AT THE COLUMBIA POLICE DEPARTMENT?
A YES, SIR.
Q AND WERE YOU SHOWN TWO PHOTOGRAPHIC LINEUPS?
A YES, SIR.
Q I SHOW YOU THIS LINEUP. DO YOU REMEMBER BEING SHOWN THIS LINEUP?
A YES, SIR.
Q WHO SHOWED YOU THIS LINEUP?
A OFFICER MEAD.
Q OFFICER MEAD?
A YES, SIR.

Q OKAY. AND WHEN HE SHOWED YOU THIS LINEUP, WHAT, IF ANYTHING, DID HE ASK YOU TO DO?

A HE JUST DID I KNOW ANYBODY ON THAT PICTURE WHO WAS OUT THERE THAT PARTICULAR DAY.

Q OKAY. AND WHO DID YOU IDENTIFY?

A THE OTHER GUY.

Q HOW MANY PHOTOGRAPHS ARE HERE?

A TWELVE.

Q ALL BLACK MALES?

A YES, SIR.

Q AND WHEN YOU WERE SHOWN THIS LINEUP ON JANUARY THE 18TH YOU IDENTIFIED NUMBER FIVE AS WHOM?

A LUCIUS.

Q IS HE PRESENT IN THE COURTROOM HERE TODAY?

A YES, SIR.

Q DID ANY POLICE OFFICER SUGGEST TO YOU IN ANY MANNER WHICH OF THESE 12 PEOPLE TO PICK, IF ANYONE?

A NO, SIR.

Q AND DID INVESTIGATOR MEAD ASK YOU TO MEMORIALIZE THAT IN ANY MANNER? DID YOU SIGN A DOCUMENT?

A YEAH. I VOLUNTEER MY SERVICES.

Q WHOSE SIGNATURE IS THAT ON THE BOTTOM OF THAT DOCUMENT?

A RIGHT HERE (INDICATING)?

Q THAT'S RIGHT.

A THAT'S MY SIGNATURE.
Q NOW DID HE HAVE AN OPPORTUNITY ALSO TO SHOW YOU THIS DOCUMENT?
A THAT DOCUMENT THERE.
Q OKAY. AND YOU IDENTIFIED ANOTHER BLACK MALE OUT OF HOW MANY?
A SIX.
Q AND DID HE ASK YOU TO MEMORIALIZE IDENTIFYING THAT AS WELL?
A YES, SIR.
Q NOW AFTER JANUARY THE 18TH, DID YOU GO TO PHILLIP LEE'S FUNERAL IN NEW JERSEY?
A YES, SIR.
Q AND DID BENEDICT COLLEGE ARRANGE TRANSPORTATION FOR STUDENTS THAT WANTED TO GO?
A YES, SIR.
Q SUBSEQUENT COMING BACK TO BENEDICT COLLEGE TO COLUMBIA AFTER THE FUNERAL, DID YOU HAVE AN OPPORTUNITY TO GO DOWN TO THE POLICE DEPARTMENT AND AGAIN MEET WITH INVESTIGATOR MEAD ON JANUARY THE 25TH?
A YES, SIR.
Q AND WERE YOU SHOWN TWO PHOTOGRAPHIC LINEUPS AGAIN?
A YES, SIR.
Q I SHOW YOU THIS LINEUP; DO YOU RECOGNIZE THIS?
A YES, SIR.

Q WHO SHOWED YOU THAT LINEUP ON JANUARY THE 25TH?

A OFFICER MEAD.

Q OKAY. WHEN HE SHOWED YOU THIS LINEUP, WERE YOU ABLE TO IDENTIFY ANYBODY?

A YEAH.

Q AND, AGAIN, WITH THIS LINEUP, DID ANYONE SUGGEST TO YOU WHO TO PICK?

A NO, SIR.

Q AND WHEN YOU LOOKED AT THESE SIX FACES, WHO DID YOU RECOGNIZE?

A DUSHUN.

Q AND HE'S NUMBER WHAT?

A NUMBER TWO.

Q AND IS THAT THE DEFENDANT IN THE COURTROOM THAT YOU'VE PREVIOUSLY AS DUSHUN STATEN?

A YES, SIR.

Q AND DID MEAD GET YOU TO MEMORIALIZE THAT?

A YES, SIR.

Q AND DID HE SHOW YOU A SECOND PHOTOGRAPH LINEUP ON JANUARY THE 25TH?

A YES, SIR.

Q I SHOW YOU THIS LINEUP, ASK YOU IF YOU RECOGNIZE THAT?

A YES, SIR.

Q AND WERE YOU ABLE TO IDENTIFY ANYONE ON THAT

LINEUP?

A YES, SIR.

Q OKAY. DID YOU MEMORIALIZE THAT?

A YES, SIR.

Q AND WHO DID YOU IDENTIFY?

A THAT GUY RIGHT THERE.

Q NUMBER ONE?

A YES, SIR.

Q OKAY. AND THAT'S YOUR SIGNATURE?

A YES, SIR.

Q IDENTIFYING SHAKEEM WILSON; IS THAT CORRECT?

A YES, SIR.

Q AT ANY TIME DURING ANY OF THE LINEUPS THAT WERE SHOWN TO YOU ON JANUARY THE 18TH AND JANUARY THE 25TH, DID ANY POLICE OFFICER SUGGEST TO YOU WHO TO PICK?

A NO, SIR.

Q AND YOU DIDN'T ACTUALLY SEE THE SHOOTING; IS THAT CORRECT?

A NO, SIR.

Q OKAY.

WE'D GO AHEAD AND MARK ALL THESE EXHIBITS FOR IDENTIFICATION PURPOSES ONLY, YOUR HONOR.

MR. TAYLOR: NO OBJECTION.

(STATE'S EXHIBIT NUMBER NINE, PHOTO LINEUP "A"; AND,

STATE'S EXHIBIT NUMBER TEN, PHOTO LINEUP "B"; AND,

STATE'S EXHIBIT NUMBER ELEVEN, PHOTO LINEUP "C"; AND,

STATE'S EXHIBIT NUMBER TWELVE, PHOTO LINEUP "D"; AND,

STATE'S EXHIBIT NUMBER THIRTEEN, AFFIDAVIT OF ALONZO SHULER REGARDING PHOTO LINEUP; AND,

STATE'S EXHIBIT NUMBER FOURTEEN, AFFIDAVIT OF ALONZO SHULER REGARDING PHOTO LINEUP; AND,

STATE'S EXHIBIT NUMBER FIFTEEN, AFFIDAVIT OF ALONZO SHULER REGARDING PHOTO LINEUP "C"; AND

STATE'S EXHIBIT NUMBER SIXTEEN, AFFIDAVIT OF ALONZO SHULER REGARDING PHOTO LINEUP "D," ARE NOW MARKED FOR IDENTIFICATION.)

MR. GASSER: THAT'S ALL WE HAVE AT THIS TIME, YOUR HONOR.

THE COURT: ALL RIGHT, MR. STRICKLER.

MR. STRICKLER: MAY IT PLEASE THE COURT.

CROSS-EXAMINATION BY MR. STRICKLER (IN CAMERA):

Q GOOD AFTERNOON, MR. SHULER. MY NAME IS DOUG STRICKLER AND I REPRESENT LUCIUS STATEN. JUST A FEW QUESTIONS FOR YOU, IF I COULD, PLEASE.

YOU INDICATED THAT YOU STARTED SEEING LUCIUS AND DUSHUN ABOUT A WEEK EARLIER, WHEN YOU GOT BACK ON CAMPUS FROM BREAK; IS THAT CORRECT?

A A WEEK -- YEAH, IT WAS ABOUT A WEEK BEFORE PHILLIP LEE WAS DEAD.

Q ABOUT A WEEK?

A YEAH. IT WAS PROBABLY LIKE SEVEN, EIGHT DAYS BEFORE PHILLIP LEE WAS KILLED.

Q OKAY. AND YOU ALSO SAID YOU SAW THEM THERE FROM DAY TO NIGHT? AT LEAST THAT'S THE PHRASE I HEARD.

A SOMETIMES, YES, SIR. SOMETIMES.

Q OKAY, SOMETIMES?

A YES, SIR.

Q MY QUESTION FOR YOU, SIR, IS DURING THAT ROUGHLY ONE WEEK BETWEEN THE TIME YOU GOT BACK AND THE TIME MR. LEE WAS KILLED, HOW MANY DAYS DID YOU SEE THEM THEN?

A EVERYDAY, THAT THEY WAS THERE PROBABLY FROM SEVEN TO EIGHT DAYS.

Q YOU SAW THEM EVERYDAY, YOU TESTIFIED?

A YES, SIR.

Q OKAY. AND I BELIEVE YOU TESTIFIED THAT YOU'D SEEN DUSHUN AND LUCIUS HAVING A DISCUSSION WITH MR. LEE ON ONE EARLIER OCCASION; IS THAT CORRECT?

A YES, SIR.

Q OKAY. AND I UNDERSTAND WHAT I HEARD YOU TESTIFY TO, IT WAS DUSHUN AND LEE THAT WERE GOING ROUND AND ROUND ABOUT ONE WEARING BLUE AND ANOTHER WEARING RED?

A YES, SIR.

Q IS THAT CORRECT?
A YES, SIR.
Q AND YOU'RE NOT SURE AS TO WHAT DATE THAT WAS, THAT YOU SAW THAT?
A YES, SIR.
Q OKAY. AND YOU INDICATED ALSO THAT EARLY ON IN YOUR TESTIMONY THAT YOU'D SEEN DUSHUN AND LUCIUS EARLY ON THE DAY WHEN MR. LEE WAS KILLED; CORRECT?
A YES, SIR.
Q OKAY. THAT WAS AT SOME POINT IN TIME EARLIER, THEN LEFT THE PARKING LOT, AND YOU'RE BACK IN YOUR DORM AND ALL THAT; RIGHT?
A YES, SIR.
Q DO YOU KNOW HOW MUCH EARLIER?
A PROBABLY TWO, THREE HOURS, SOMETHING LIKE THAT. IT WAS SOME HOURS.
Q NOW, WHEN YOU COME OUT OF YOUR DORM---
A YES, SIR.
Q ---AND, I MEAN, YOU HEAR THE FIRST SHOT IN THE HALLWAY, AND YOU'RE COMING OUT THE DOOR WHEN THE SECOND SHOT IS FIRED; IS THAT CORRECT?
A YES, SIR.
Q OKAY. AND I TAKE IT THAT AT THAT POINT IN TIME YOU'RE OVER FIFTY YARDS AWAY?
A I WAS JUST COMING OUT OF THE BACK OF THE DOOR, YES,

SIR.

Q OKAY. ALL RIGHT. YOU INDICATED THAT YOU WERE AROUND FIFTY YARDS AWAY, I GUESS, AT THE TIME YOU SAW PEOPLE WITH THE CARS; IS THAT CORRECT?

A WHEN I CAME OUT OF THE DOOR, ACTUALLY I SAW PHIL ON THE GROUND. SO MY ATTENTION WAS DISTRACTED, YOU KNOW WHAT I'M SAYING, MAINLY ON THAT. BUT I SEEN PEOPLE GETTING IN THE CARS, YES, SIR.

Q AT THAT POINT IN TIME COULD YOU TELL WHAT PEOPLE WERE WEARING?

A I ACTUALLY SAW THE SHOOTER, THE LAST PERSON GETTING IN THE CAR. HE HAD ON ALL BLACK.

WHEN I SAW THEM EARLIER, I SEEN HIM (INDICATING). HE HAD ON A GRAY VELOUR SWEAT SUIT, WHICH LUCIUS HAD ON A GRAY VELOUR SWEAT SUIT THAT DAY.

Q THAT'S WHEN YOU SAW HIM EARLIER THAT DAY?

A YES, SIR.

Q OKAY. YOU DIDN'T HAVE AN OPPORTUNITY TO SEE WHAT HE HAD ON AT THE POINT IN TIME YOU CAME OUT OF THE DORM; CORRECT?

A NO, SIR.

Q AND THEN I TAKE IT THAT YOU'RE COMING OUT OF THE DOOR, YOU SEE PHIL ON THE GROUND, PEOPLE GETTING IN THE CARS AND THE CARS DRIVE OFF; RIGHT?

A YES, SIR.

Q OKAY. HOW MANY OTHER PEOPLE WERE THERE OUT THERE ON THE SCENE AT THAT POINT IN TIME?

A SOME OF OUR FRIENDS THAT WERE OUTSIDE. WE USUALLY ALWAYS STAND OUT THERE. WE GO TO SCHOOL THERE, SO...

Q UH-HUH (INDICATES AN AFFIRMATIVE RESPONSE). IN FACT, ONE OF YOUR FRIENDS HAD COME TO YOUR DORM AND SAYS BASICALLY, "SOMETHING IS GETTING READY TO HAPPEN WITH PHIL, AND GET READY"?

A YEAH. YES.

Q GOING TO FIGHT OR SOMETHING LIKE THAT?

A YEAH.

Q AND WERE YOU COMING OUT BY YOURSELF WHEN YOU CAME OUT OF THE DORM, OR WERE YOU COMING OUT WITH SOME OTHER INDIVIDUALS?

A JUST ONE OTHER PERSON FOLLOWED ME AND THAT WAS ANDRE AUSTIN.

Q AND THAT WAS WHOM?

A ANDRE AUSTIN.

Q BUT THEN IN ADDITION TO YOU ALL THERE WERE SOME PEOPLE THAT WERE STILL OUTSIDE; CORRECT?

A YEAH. SOME OF OUR FRIENDS, YES, SIR.

Q ALL RIGHT, THANK YOU, SIR.

MR. TAYLOR: MAY IT PLEASE THE COURT?

CROSS-EXAMINATION BY MR. TAYLOR (IN CAMERA):

Q MR. SHULER---

A THAT'S ME.
Q ---WHEN YOU CAME OUT OF THE DORM, WAS PHILLIP LEE TO YOUR LEFT OR TO YOUR RIGHT?
A TO MY RIGHT. BECAUSE THE DOOR CAME OUT THIS WAY (INDICATING), WHEN I CAME OUT THE DOOR, AND IT WAS GOING UP THAT WAY (INDICATING), TO THE TOP OF THE HILL.
Q PARKING LOT UP THERE?
A THE PARKING LOT IS IN FRONT OF OUR DORMITORY.
Q WELL, WHERE WAS PHILLIP LEE? HE WAS NOT IN THE PARKING LOT?
A HE WAS ON THE SIDEWALK.
Q THERE'S A SIDEWALK THAT RUNS ALONG THE SIDE OR AROUND THE PARKING LOT AT HASKILL DORM?
A IN FRONT OF THE DORMITORY.
Q IN FRONT OF THE DORM?
A YES, SIR.
Q ALL RIGHT. NOW, WAS ONE OF THE LIGHTS OUT IN THE PARKING LOT THAT NIGHT?
A I'M NOT SURE. I DON'T THINK SO. I DON'T THINK IT WAS.
Q YOU SAID THAT YOU SAW TWO INDIVIDUALS NEAR TWO CARS; IS THAT WHAT I HEARD YOU SAY?
A I SEEN MORE THAN TWO INDIVIDUALS.
Q I'M SORRY?
A I SEEN MORE THAN TWO INDIVIDUALS GETTING IN CARS.

Q ALL RIGHT. HOW MANY CARS DID YOU SEE?
A THERE WAS TWO VEHICLES.
Q AND WHAT KIND OF CARS WERE THOSE?
A THERE WAS A GREEN GALANT AND A LIKE A LITTLE WHITE CAR, SOME LITTLE WHITE CAR.
Q HOW MANY GOT IN THE GREEN CAR?
A COULD HAVE BEEN THREE OR FOUR.
Q ARE YOU SAYING THAT ONE OF THESE MEN GOT IN THE GREEN CAR?
A YES, SIR.
Q WHICH ONE ARE YOU SAYING GOT IN THE GREEN CAR?
A LUCIUS WAS IN THE GREEN CAR.
Q NOW, WAS THE GREEN CAR PARKED BENEATH A LIGHT IN THE PARKING LOT?
A IT WAS LIKE, WHERE THEY WAS PARKED AT, THE LIGHT WAS PROBABLY NOT EVEN AS FAR AS THAT MAN THAT'S SITTING UP THERE (INDICATING).
Q "THAT MAN SITTING UP THERE," YOU'RE POINTING TO THE BAILIFF OVER HERE WHO IS PROBABLY WHAT? MAYBE---
A NOT EVEN THAT FAR. PROBABLY TO THAT, TO THE THIRD SEAT, PROBABLY ABOUT THE THIRD SEAT.
Q WHAT WOULD YOU SAY THAT IS? MAYBE FIFTEEN, SIXTEEN FEET?
A FIFTEEN FEET.
Q OKAY. AND YOU SAID YOU SAW DUSHUN GET IN A CAR?

A YES, SIR.
Q THE MAN THAT YOU SAID WAS DUSHUN?
A THAT'S RIGHT.
Q AND YOU COULD SEE CLEARLY, IS YOUR TESTIMONY?
A YES, SIR. BECAUSE I WAS RUNNING UP TO THE TOP OF THE HILL.
Q WHAT WAS DUSHUN WEARING?
A HE HAD -- I KNOW HE HAD ON A AVERIX JACKET THAT NIGHT. I COULD SEE HIS JACKET, IT WAS LIKE YELLOW, LIKE A YELLOWISH COLORED JACKET.
Q HAD YOU EVER SEEN HIM IN A YELLOW JACKET BEFORE?
A YES, SIR. THE NIGHT THAT HIM AND PHILLIP HAD THE FIRST CONVERSATION.
Q DID YOU EVER EXCHANGE HARSH WORDS WITH DUSHUN?
A YES, I DID.
Q WHAT WAS THAT OVER?
A OVER PHILLIP LEE. BECAUSE ALL OF THEM, ALL OF HIM AND HIS FRIENDS, THEY WERE LIKE EXCHANGING HARSH WORDS WITH PHIL. SO I WAS JUST UP THERE PROTECTING MY FRIEND.
Q DID YOU SEE ANY OTHER ARTICLES OF CLOTHING THAT YOU COULD DESCRIBE IN THAT LIGHTING THAT DUSHUN HAD ON THAT NIGHT?
A RED BANDANNAS.
Q WHERE? WHERE WERE THE BANDANNAS?
A AROUND HIS NECK, WRIST. HE HAD ON SOME---

Q DID YOU SAY WRIST, OR WRISTS, IN PLURAL?

A LIKE EVERYWHERE, THEY WERE EVERYWHERE. LIKE HE HAD A LOT OF RAGS ON.

HE HAD ON RED AND BLACK BOOTS WITH RED SHOESTRINGS.

Q RED AND BLACK BOOTS?

A YES, SIR.

Q WITH RED SHOESTRINGS?

A YES, SIR.

Q WHAT COLOR PANTS DID HE HAVE ON?

A DO YOU WANT TO KNOW HIS UNDERWEAR TOO?

Q NO, SIR. I JUST WANT YOU TO ANSWER MY QUESTION.

A OH, I DON'T KNOW, PROBABLY BLACK.

Q WHEN DID YOU HAVE THE ARGUMENT WITH DUSHUN?

A IT WASN'T JUST ME HAVING AN ARGUMENT, IT WAS HIM AND PHILLIP LEE. BUT THERE WAS A WHOLE BUNCH OF HIS OTHER FRIENDS WHO WERE LIKE ARGUING WITH HIM AGAINST PHIL SO I STEPPED IN IT TOO BECAUSE PHILLIP IS MY FRIEND. IT WAS PROBABLY LIKE THE FIRST DAY OF THE ALTERCATION. I DON'T KNOW EXACTLY WHAT DAY IT WAS.

Q HOW LONG BEFORE THE NIGHT OF THE 15TH OF JANUARY, 2001?

A PROBABLY AROUND SEVEN, EIGHT DAYS.

MR. TAYLOR: BEG THE COURT'S INDULGENCE ONE MOMENT, PLEASE.

(PAUSE.)

Q YOU DIDN'T SEE THE SHOOTER?

A SIR?

Q YOU DIDN'T SEE THE SHOOTER; CORRECT?

A I DID NOT SEE THE SHOOTER, I SAW WHAT THE SHOOTER HAD ON.

Q WHICH CAR DID HE GET IN?

A THE SHOOTER GOT IN THE WHITE CAR.

Q OKAY. HOW MANY PEOPLE TOTAL GOT IN CARS?

A I'M NOT EXACTLY SURE HOW MANY PEOPLE WERE OUT THERE BUT IT WAS PROBABLY LIKE THREE TO A CAR.

Q WOULD YOU SAY THAT THERE WERE PROBABLY THIRTY OR FORTY PEOPLE AROUND THE GENERAL VICINITY---

A NO, SIR.

Q ---BY THE TIME THE CARS LEFT?

THE COURT: AREN'T WE GETTING A LITTLE BIT BEYOND NEAL VERSUS BIGGERS?

MR. TAYLOR: WELL, I DON'T KNOW, YOUR HONOR. I'M TRYING TO FIGURE HOW MANY PEOPLE ARE THERE AND WHO HE SAW.

THE COURT: I THINK WE'RE GETTING A LITTLE BIT BEYOND NEAL VERSUS BIGGERS.

MR. TAYLOR: ALL RIGHT, SIR.

THE COURT: WE'VE GOT SIX MORE TO GO.

MR. TAYLOR: I'LL TAKE YOUR RULING, YOUR HONOR. THANK YOU.

THE COURT: ALL RIGHT, COME ON DOWN.

CALL YOUR NEXT WITNESS.

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

MR. GASSER: TONY KENNEDY.

(ANTHONY "TONY" ZACHARY KENNEDY, HAVING FIRST BEEN DULY SWORN, TESTIFIED AS FOLLOWS:)

THE CLERK: HAVE A SEAT HERE AND STATE YOUR FULL NAME FOR THE RECORD.

MR. KENNEDY: ANTHONY ZACHARY KENNEDY.

DIRECT EXAMINATION BY MR. GASSER:

Q ANTHONY, DO YOU GO BY THE NAME OF TONY?

A YES, SIR.

Q I WANT TO DRAW YOUR ATTENTION TO MONDAY, JANUARY THE 15TH OF 2001. WERE YOU PRESENT AT THE HASKILL DORM PARKING LOT WHEN PHILLIP LEE WAS SHOT AND KILLED?

A YES, SIR.

Q IN FACT, HOW CLOSE WERE YOU TO PHILLIP LEE WHEN HE WAS ACTUALLY SHOT IN THE BACK OF THE HEAD?

A STANDING RIGHT NEXT TO HIM.

Q DO YOU RECOGNIZE THE TWO FELLOWS IN THE COURTROOM HERE, DUSHUN STATEN AND LUCIUS STATEN?

A YES, SIR.

Q IS TODAY THE FIRST TIME YOU'VE EVER SEEN THEM?

A NO, SIR.

Q WERE THEY PRESENT ON JANUARY THE 15TH?
A YES, SIR.
Q IS THAT THE FIRST TIME YOU EVER SAW THEM?
A NO, SIR.
Q TELL THE COURT WHEN THE FIRST TIME, IN RELATIONS TO JANUARY THE 15TH, THAT MONDAY THAT PHILLIP LEE WAS SHOT, WHEN WAS THE FIRST TIME YOU EVER HAD AN OPPORTUNITY TO SEE LUCIUS AND DUSHUN STATEN?
A I ARRIVED AT SCHOOL ON THE FIRST DAY OF OPEN, WHICH WAS A SUNDAY, AND I SAW THEM THE NEXT DAY, THAT MONDAY.
Q THAT WAS A MONDAY, JANUARY THE 8TH?
A YES.
Q AND WHERE DID YOU SEE THEM THAT DAY?
A IN THE PARKING LOT.
Q WHAT PARKING LOT?
A HASKILL DORMITORY PARKING LOT.
Q HAD YOU EVER SEEN THEM BEFORE?
A NO, SIR.
Q OKAY. WHAT WAS IT FOR YOU, THE CAUSE FOR YOU TO SEE THEM? WHAT DID YOU SEE THEM DOING?
A THEY WAS JUST SITTING IN THE PARKING LOT AT THE TOP OF THE HILL.
Q AND YOU SAY THIS WAS DURING THE DAY?
A YES, SIR.
Q WERE THE TWO OF THEM BY THEMSELVES?

A MOST OF THE TIME, SIR.
Q DID YOU EVER SEE THEM SITTING AROUND OR ARRIVE OR LEAVE IN ANY KIND OF CARS?
A A GREEN GALANT. I SEEN A GREEN GALANT MOST OF THE TIME.
Q AND WHEN YOU WOULD SEE THEM, WOULD YOU EVER SEE THEM HAVING ANYTHING COVERING THEIR FACE?
A NO, SIR. JUST REGULAR HATS.
Q WHENEVER YOU -- GO AHEAD. I'M SORRY.
A REGULAR HATS. LIKE I SEEN DUSHUN WITH A RED BANDANNA BUT THAT WAS IT.
Q NOW THAT MONDAY JANUARY THE 8TH, DID YOU EVER HAVE AN OPPORTUNITY TO SEE THEM AFTER THAT MONDAY, BEFORE JANUARY THE 15TH, A WEEK LATER?
A YES, SIR. EVERYDAY.
Q EVERYDAY FOR SEVEN STRAIGHT DAYS?
A SEVEN STRAIGHT DAYS.
Q AND WOULD YOU SEE THEM DURING THE DAY OR AT NIGHT OR BOTH?
A BOTH.
Q WHERE WOULD YOU SEE THEM?
A IN THE HASKILL DORMITORY PARKING LOT.
Q DID YOU EVER HAVE AN OPPORTUNITY TO BE PRESENT WHEN THERE WAS SOME SORT OF DISCUSSION?
A YES, SIR.

Q WERE YOU THERE AND WERE YOU CLOSE ENOUGH TO THEM TO HAVE A DISCUSSION WITH THEM?

A I DIDN'T HAVE A DISCUSSION, I WAS THERE DURING THE DISCUSSION, SIR.

Q WITH WHO?

A PHILLIP LEE AND DUSHUN.

Q WAS THIS -- WAS---

A FRIDAY NIGHT.

Q WAS LO SHULER THERE?

A YES, SIR.

Q AND YOU SAY THIS WAS THE FRIDAY NIGHT BEFORE PHILLIP WAS KILLED?

A YES, SIR.

Q WHERE DID THAT TAKE PLACE?

A AT THE TOP OF THE HILL, NEAR THE -- WHAT IS NOW -- THEY HAVE GATES SURROUNDING OUR PARKING LOT; IT WAS AT THE TOP OF THE HILL, LIKE WHEN YOU COME IT, IT WAS ON THE LEFT.

Q HOW CLOSE WERE YOU TO LUCIUS AND DUSHUN STATEN WHEN---

MR. STRICKLER: I'LL OBJECT. HE JUST SAID HE SAW DUSHUN AND LEE THAT WAS ARGUING.

THE COURT: YEAH, HE SAID "DUSHUN."

MR. GASSER: OKAY.

Q HOW CLOSE WERE YOU TO DUSHUN?

A I WOULD BE STANDING AT THE TABLE WITH THE GENTLEMAN THAT'S SITTING THERE, RIGHT THERE (INDICATING). RIGHT THERE (INDICATING), I WAS STANDING AT THAT TABLE AND HE WOULD BE SITTING -- WELL, HE WOULD BE STANDING WHERE HE'S SITTING AT NOW.

Q SO THIS CLOSE (INDICATING)?

A YES.

Q YOU OBSERVED HIM AND THE VICTIM HAVING WORDS; IS THAT CORRECT?

A YES, SIR.

Q WAS ANYONE WITH DUSHUN?

A HIS BROTHER.

Q AND WHEN YOU SAY "HIS BROTHER," ARE YOU REFERRING TO LUCIUS STATEN?

A YES, SIR.

Q NOW THAT WAS THE FRIDAY BEFORE, THAT WOULD HAVE BEEN JANUARY THE 12TH; IS THAT CORRECT?

A YES, SIR.

Q DID YOU SEE HIM AGAIN THE NEXT DAY ON THE 13TH?

A YES, SIR.

Q ABOUT HOW LONG DID THESE WORDS THAT WERE EXCHANGED BETWEEN DUSHUN STATEN AND PHILLIP LEE, ABOUT HOW LONG DID THAT LAST?

A WELL, THE CONVERSATION, IT LASTED LIKE THIRTY TO THIRTY-FIVE MINUTES.

MR. GASSER: YOUR HONOR, I'M GOING TO MOVE ON. I DON'T BELIEVE THAT THE WORDS OF THAT CONVERSATION HAVE ANYTHING TO DO WITH NEAL V. BIGGERS SO I'M GOING TO MOVE ON.

Q WAS THERE ANYONE ELSE THERE, OTHER THAN LUCIUS AND DUSHUN STATEN, THAT WAS OBVIOUS TO YOU WERE ASSOCIATED WITH THEM? IN OTHER WORDS, NOT PEOPLE YOU RECOGNIZED FROM BENEDICT COLLEGE?

A NO, SIR.

Q DID YOU HAVE AN OPPORTUNITY TO SEE THEM THAT SATURDAY?

A YES, SIR.

Q WHERE?

A PARKING LOT, ONCE AGAIN, SIR.

Q FROM THAT MONDAY THROUGH SATURDAY, FROM JANUARY THE 8TH THROUGH JANUARY THE 13TH, WHEN YOU'VE INDICATED TO THIS COURT YOU SAW THEM EVERYDAY, WAS IT ALWAYS IN THE SAME LOCATION?

A YES, SIR.

Q AND THAT LOCATION WAS WHAT?

A THE PARKING LOT AT THE TOP, RIGHT IN THE CORNER.

Q THE EVENING IN QUESTION, WHEN PHILLIP WAS KILLED---

I'M GOING TO GO RIGHT TO THE INCIDENT.

OH, WHEN DID YOU COME INTO CONTACT WITH PHILLIP IN RELATIONS TO WHEN HE WAS KILLED? LIKE A FEW MINUTES OR

HOW LONG?

A I WAS WITH HIM THE WHOLE DAY, SIR. WE LEFT EARLY THAT DAY, ME, HIM AND TWO OTHER OF MY OTHER FRIENDS, TO GO TO MY FRIEND'S HOUSE. I WANTED TO PICK UP MONEY FOR TUITION. AND WE CAME BACK FROM CLEMSON. WE THEN ARRIVED AT HASKILL DORMITORY. PHIL WENT IN TO GET A HAIRCUT AND I WAITED OUTSIDE FOR HIM. WHEN HE CAME OUTSIDE, WE PROCEEDED TO WALK TO OUR DORM AND THAT'S WHEN THEY HAD THE LITTLE ALTERCATION.

Q SO YOU WERE WALKING WITH PHILLIP; IS THAT CORRECT?

A YES, SIR.

Q AND WHERE WERE YOU WALKING?

A WE WAS WALKING TO BAKOTES DORM, WHICH IS ON CAMPUS.

Q AND WERE YOU STILL WALKING IN THE PARKING LOT AREA OF HASKILL DORMITORY?

A WE WAS ON THE SIDEWALK, SIR.

Q AND WHAT HAPPENED? TELL THE JUDGE WHAT HAPPENED WHEN YOU CAME ACROSS THESE GENTLEMEN OVER HERE?

A WE WAS WALKING PAST AND THEN ONE OF THEM, ONE OF HIS FRIENDS OR WHATEVER, THEY SAID "WHAT THAT BLUE BE ABOUT?"

AND THEN HE WAS LIKE, "YO, COME ON, I CAN WEAR WHAT I WANT. WHAT YOU TALKING ABOUT, 'WHAT THE BLUE BE ABOUT'"?

AND THEN ONE OF HIS FRIENDS SAY "YOU CAN'T WEAR THAT AROUND HERE." THEN THEY GOT INTO A LITTLE ARGUMENT.

Q WHO DID YOU RECOGNIZE WHEN THESE WORDS STARTED BEING EXCHANGED BETWEEN PHILLIP AND THE OTHER, THE INDIVIDUAL THAT HE WAS EXCHANGING WORDS WITH? WHO DID YOU RECOGNIZE?

A DUSHUN.

Q AND WHO ELSE?

A THAT'S IT. I SEEN HIM MOST OF THE TIME SO I WOULD RECOGNIZE HIM.

Q OKAY. THAT'S THE FIRST PERSON YOU RECOGNIZED?

A YES, SIR.

Q DO YOU REMEMBER WHAT HE WAS WEARING?

A HE HAD ON THAT YELLOW AVERIX JACKET.

Q DO YOU RECOGNIZE THIS JACKET?

A YES, SIR.

MR. GASSER: YOUR HONOR, WE'D MARK THIS FOR IDENTIFICATION PURPOSES ONLY AT THIS TIME.

(**STATE'S EXHIBIT NUMBER SEVENTEEN, A YELLOW AVERIX JACKET**, IS NOW MARKED FOR IDENTIFICATION.)

Q NOW WHEN YOU SAW THE DEFENDANT DUSHUN STATEN WEARING STATE'S SEVENTEEN FOR I.D. PURPOSES THE NIGHT PHILLIP LEE WAS KILLED, WAS THAT THE FIRST TIME YOU EVER SAW DUSHUN WEARING THIS COAT?

A NO, SIR.

Q ABOUT APPROXIMATELY HOW MANY TIMES, OTHER TIMES, DID YOU SEE HIM WEARING THIS COAT?

A TWICE.

Q NOW AS YOU'VE STOOD THERE AND OBSERVED AND LISTENED TO DUSHUN STATEN AND PHILLIP LEE, DID YOU BEGIN TO RECOGNIZE OTHER PEOPLE?

A I SEEN -- I MEAN, I'VE SEEN THE OTHER PEOPLE, LIKE SITTING IN A CAR OR STANDING AROUND THE CAR WHILE HE WAS CARRYING ON A CONVERSATION.

Q NOW AS YOU WERE STANDING THERE WITH PHILLIP LEE, DID ANOTHER PERSON ARRIVE, AND IF SO, HOW?

A YES.

Q WHO WAS THAT?

A LUCIUS. HE ARRIVED IN A WHITE CAR.

Q AND WHEN HE GOT OUT OF HIS WHITE CAR, WAS THE CAR ACTUALLY IN THE PARKING LOT?

A YES, SIR.

Q DID YOU IMMEDIATELY RECOGNIZE HIM AS SOMEBODY YOU HAD SEEN EARLIER?

A YES, SIR.

Q DID YOU KNOW THEY WERE BROTHERS AT THE TIME?

A NO, SIR.

Q BUT WHENEVER YOU SAW THEM HANGING OUT, WERE THEY TOGETHER?

A YES, SIR.

Q WHAT DID DUSHUN STATEN DO WHEN HE ARRIVED AND GOT OUT OF THE WHITE CAR?

A DUSHUN DIDN'T, LUCIUS DID.

Q I'M SORRY. LUCIUS, WHEN HE ARRIVED AND GOT OUT OF THE WHITE CAR? I APOLOGIZE.

A HE GOT OUT OF THE WHITE CAR AND THEN HE WALKED UP TO WHERE EVERYBODY WAS STANDING AND HE WAS LIKE, "WHAT'S THE PROBLEM?"

AND THEN PHILLIP PROCEEDED TO TELL HIM LIKE, "YOUR MAN OVER HERE TELLING ME I CAN'T WEAR THIS."

AND THEN HE WAS LIKE, "COME ON, NOW, YOU CAN'T KEEP COMING AROUND HERE WITH THE BLUE ON."

AND THEN HE SAID, "HOW YOU GOING TO TELL ME I CAN'T WEAR THIS AND THIS IS MY SCHOOL? I CAN WEAR WHAT I WANT TO WEAR."

THEN LUCIUS PROCEEDED, HE WAS LIKE "YOU MIGHT WANT TO SHUT YOUR MOUTH RIGHT NOW. JUST SHUT UP."

Q I WANT TO SHOW YOU THIS PHOTO BOARD. DO YOU RECOGNIZE ALL THESE PHOTOGRAPHS?

A YES, SIR.

Q ARE THESE PHOTOGRAPHS OF WHERE YOUR FRIEND PHILLIP WAS KILLED?

A YES, SIR.

MR. GASSER: WE'D MARK THIS FOR IDENTIFICATION PURPOSES FOR THIS HEARING AS WELL.

MR. TAYLOR: NO OBJECTION.

(**STATE'S EXHIBIT NUMBER EIGHTEEN, POSTER OF CRIME SCENE AREA**, IS NOW MARKED FOR IDENTIFICATION.)

Q I WANT YOU TO COME ON DOWN HERE FOR A MINUTE. I WANT YOU TO SHOW SOMETHING TO THE JUDGE.

(THE WITNESS NOW LEAVES THE WITNESS STAND.)

THE COURT: IT'S OVER HERE.

Q I TELL YOU WHAT, SINCE THE MICROPHONE IS OVER HERE, WHY DON'T YOU COME STAND OVER HERE?

(THE WITNESS NOW COMPLIES.)

DO YOU RECOGNIZE THE AREA RIGHT HERE?

A YES, SIR.

Q AND WHERE WAS PHILLIP LEE WHEN HE GOT SHOT IN REFERENCE TO THAT LAMP POST RIGHT THERE?

A STANDING THIS WAY (INDICATING).

Q OKAY. BECAUSE HE WAS SHOT IN THE BACK OF THE HEAD?

A YES, SIR.

Q IS THAT ANOTHER AREA WHERE -- DO YOU RECOGNIZE THIS AREA?

A YES, SIR.

Q SHOWING THIS MIDDLE PHOTOGRAPH RIGHT HERE, IS THAT THE LAMP POST RIGHT THERE?

A YES, SIR.

Q AND WHERE, WHEN YOU DESCRIBED THE GREEN CAR OR THE GREEN GALANT AND WHERE LUCIUS AND DUSHUN STATEN WERE

RELATIVE TO THE VICTIM, WILL YOU POINT THAT OUT ON THIS PHOTOGRAPH?

A THEY WAS -- THE CAR WAS NOT -- IT WAS LIKE A LITTLE -- A LITTLE HUMP RIGHT THERE THAT PROVIDES THE OTHER PARKING SPOT, IT WAS THE THIRD PARKING SPOT DOWN.

Q SO YOU SEE THIS GRASS AREA WHERE THIS TREE IS?

A YES, SIR.

Q OKAY. WHERE WERE YOU STANDING RELATIVE TO THE SIDEWALK AND THE TREE?

A I WAS STANDING BETWEEN PHILLIP LEE AND THE REST OF THE PEOPLE, LIKE I WAS ON THIS SIDE TALKING, LIKE FACING HIM, AND HE WAS LIKE FACING BACK TOWARDS THEM.

Q AND HOW CLOSE DID DUSHUN STATEN -- THAT YOU JUST DESCRIBED WEARING THE YELLOW JACKET -- HOW CLOSE DID HE GET TO THE SIDEWALK AREA WHERE YOU AND PHILLIP LEE WERE STANDING?

A NO FURTHER THAN THE CAR.

Q THE CAR?

A YES.

Q NOW WHAT ABOUT LUCIUS, HOW FAR DID HE GET UP?

A HE CAME ONTO THE GRASS.

Q THIS GRASS AREA?

A YES.

Q HOW WOULD YOU DESCRIBE THE LIGHTING IN THIS PARKING LOT?

A IT'S PRETTY WELL LIT.

Q DOES THIS PHOTOGRAPH DEPICT LIGHTS RUNNING ALL THE WAY DOWN THE SIDEWALK?

A YES, SIR.

Q ARE THERE LIGHTS ON THE OTHER SIDE OF THE PARKING LOT?

A YES, SIR, JUST FOG LIGHTS, REGULAR STREET LIGHTS.

Q OKAY, TAKE YOUR SEAT.

(THE WITNESS NOW RETURNS TO THE WITNESS STAND.)

DID YOU ACTUALLY SEE WHAT THE PERSON WAS WEARING THAT SHOT PHILLIP?

A YES, SIR.

Q WHAT WAS HE WEARING?

A HE WAS WEARING A RED AND BLACK NORTHFACE JACKET.

Q OF COURSE, DUSHUN STATEN WASN'T A SHOOTER; CORRECT?

A NO, SIR.

Q AND LUCIUS STATEN WAS NOT THE SHOOTER; CORRECT?

A NO, SIR.

Q HAD YOU EVER SEEN THE SHOOTER BEFORE?

A NO, SIR.

Q HAD YOU EVER BEEN ABLE TO, IN ALL THE PHOTO LINEUPS THAT YOU WERE SHOWN, HAD YOU BEEN ABLE TO IDENTIFY WHO THE SHOOTER WAS?

A NO, SIR.

Q TELL THIS JUDGE WHAT YOU OBSERVED DUSHUN STATEN DO

RIGHT BEFORE PHILLIP WAS KILLED?

A HE WENT IN THE BACK OF THE CAR SEAT. LIKE HE WAS STANDING BESIDE THE CAR, AND THEN WHEN THEY WERE ARGUING, LUCIUS PROCEEDED LIKE -- HE SAID -- OKAY, ONE OF THEM SAID, "LET'S GO, LET'S GO." AND THEN HE'S LIKE, "ALL RIGHT, EVERYBODY GO, EVERYBODY GO."

DUSHUN PROCEEDED TO GO IN THE BACK OF THE -- THE BACK SEAT.

Q WHICH CAR?

A OF THE GREEN GALANT. OPENED THE LEFT PASSENGER DOOR IN THE BACK SEAT, GO IN THE BACK, AND THEN HE CAME BACK OUT AND STOOD BEHIND THE SHOOTER.

Q WHAT DID YOU SEE WAS IN HIS HAND, IF ANYTHING?

A A WEAPON.

Q WHAT KIND?

A A REVOLVER.

Q WHAT COLOR?

A SILVER. WAS A RED BANDANNA TIED AROUND THE PISTOL GRIP.

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

A HE HANDED IT TO THE SHOOTER BEHIND HIS BACK.

Q THE SHOOTER WAS WEARING WHAT?

A A BLACK AND RED NORTHFACE JACKET WITH BLACK -- BLACK PANTS, AND HE HAD A RED BANDANNA AROUND HIS WRIST

AND HE HAD A HAT.

Q A HAT?

A YES. A BLACK YANKEES' HAT.

Q AND WHAT AT THAT POINT, IF ANYTHING, DID YOU SEE LUCIUS STATEN DO?

A HE SAID, "OKAY, EVERYBODY GET BACK IN THE CAR, EVERYBODY GET BACK IN THE CAR." AND WHEN HE WAS PROCEEDING TO GET BACK IN THE CAR, HE TURNED AND LOOKED AT THE SHOOTER AND NODDED HIS HEAD.

Q AND AFTER LUCIUS STATEN TURNED AND NODDED HIS HEAD AT THE SHOOTER, WHAT DID THE SHOOTER DO?

A HE PRETENDED -- HE HELD UP THE WEAPON SIDEWAYS AND SHOT TWICE.

Q DID YOU HAVE ANY DIFFICULTY WHATSOEVER SEEING WHAT YOU JUST DESCRIBED TO THE JUDGE?

A NO, SIR.

Q TONY, I WANT TO JUMP RIGHT TO JANUARY THE 24TH, SOME NINE DAYS AFTER THE INCIDENT. DID YOU, YOURSELF, ALSO HAVE AN OPPORTUNITY TO GO TO NEW JERSEY TO THE FUNERAL?

A YES, SIR.

Q AND WHEN YOU RETURNED DID YOU HAVE AN OPPORTUNITY TO GO TO THE COLUMBIA POLICE DEPARTMENT AND MEET WITH THIS INVESTIGATOR (INDICATING)?

A YES, SIR.

Q DID HE SHOW YOU A SERIES OF PHOTOGRAPHIC LINEUPS?

A YES, SIR.

Q WAS ANYBODY ELSE PRESENT WHEN INVESTIGATOR MEAD SHOWED YOU THESE LINEUPS?

A NO, SIR.

Q OKAY, I WANT TO SHOW YOU WHAT'S MARKED STATE'S EXHIBIT NUMBER NINE FOR I.D. DO YOU REMEMBER HIM SHOWING YOU THIS LINEUP?

A YES, SIR.

Q AND WHEN HE SHOWED YOU THIS LINEUP, WHAT, IF ANYTHING, DID HE ASK YOU TO DO?

A "DO YOU RECOGNIZE ANYONE OUT OF THESE LINEUPS?"

Q AND WHO WERE YOU ABLE TO IDENTIFY?

A NUMBER FIVE.

Q NUMBER FIVE AS BEING WHO?

A LUCIUS.

MR. TAYLOR: I'M SORRY, WHAT NUMBER IS THAT AGAIN?

MR. GASSER: IT'S STATE'S EXHIBIT NUMBER NINE FOR I.D.; NUMBER FIVE.

MR. TAYLOR: THANK YOU.

Q AND SHOWING YOU THIS DOCUMENT, DID HE HAVE YOU MEMORIALIZE THAT YOU IDENTIFIED LUCIUS STATEN?

A YES, SIR.

Q DID HE SHOW YOU THIS LINEUP, STATE'S EXHIBIT NUMBER TEN?

A YES, SIR.
Q AND WERE YOU ABLE TO IDENTIFY ANYONE IN THAT LINEUP?
A YES, SIR.
Q WHO WAS THAT?
A NUMBER SIX.
Q NUMBER SIX?
A YES.
Q DID HE HAVE YOU MEMORIALIZE THAT, AS WELL?
A YES, SIR.
Q NOW WERE YOU LATER ABLE TO LEARN THAT NUMBER SIX, THE PERSON YOU IDENTIFIED AS BEING THERE, WAS MAURICE SANDERS?
A YES, SIR.
Q WERE YOU AWARE THAT THAT INDIVIDUAL WAS STOPPED ON CAMPUS?
A YES, SIR.
Q OKAY. IS THIS THE SHOOTER?
A NO, SIR.
Q HAD YOU SEEN HIM BEFORE, HADN'T YOU?
A YES, SIR.
Q WHEN DID YOU SEE MAURICE SANDERS BEFORE, THE GUY THAT WAS STOPPED?
A EARLIER, LIKE FRIDAY.
Q THAT SAME DAY, JANUARY 24TH, DID INVESTIGATOR MEAD

HAVE AN OPPORTUNITY TO SHOW YOU STATE'S EXHIBIT ELEVEN?

A YES, SIR.

Q AND WHEN YOU WENT AND LOOKED AT STATE'S EXHIBIT ELEVEN, DID ANYONE SUGGEST TO YOU TO PICK ANYBODY OUT?

A NO, SIR.

Q AND WHEN YOU LOOKED AT STATE'S EXHIBIT ELEVEN, DID YOU IDENTIFY ANYBODY?

A YES, SIR.

Q AND WHO WAS THAT?

A NUMBER TWO, DUSHUN.

Q DUSHUN STATEN?

A YES, SIR.

Q DID INVESTIGATOR MEAD HAVE YOU MEMORIALIZE THAT IN WRITING?

A YES, SIR.

Q IS THAT YOUR SIGNATURE?

A YES, SIR.

Q STATE'S EXHIBIT NUMBER TWELVE FOR I.D., WERE YOU SHOWN A FOURTH PHOTO LINEUP ON JANUARY THE 24TH AT C.P.D.?

A YES, SIR.

Q AND WHEN LOOKING AT THIS LINEUP, WERE YOU ABLE TO IDENTIFY ANYONE?

A YES, SIR.

Q AND DID YOU MEMORIALIZE THAT, AS WELL?

A YES, SIR.

Q OKAY. AND WHO WERE YOU ABLE TO IDENTIFY?

A NUMBER ONE.

MR. GASSER: YOUR HONOR, WE WOULD JUST MOVE TO MARK STATE'S EXHIBITS, THE FOUR AFFIDAVITS THAT HE HAS PREVIOUSLY TESTIFIED TO.

MR. TAYLOR: NO OBJECTION.

MR. STRICKLER: NO OBJECTION.

MR. GASSER: THANK YOU.

(STATE'S EXHIBIT NUMBER NINETEEN, AFFIDAVIT OF ANTHONY KENNEDY REGARDING PHOTO LINEUP "B"; AND,

STATE'S EXHIBIT NUMBER TWENTY, AFFIDAVIT OF ANTHONY KENNEDY REGARDING PHOTO LINEUP "A"; AND,

STATE'S EXHIBIT NUMBER TWENTY-ONE, AFFIDAVIT OF ANTHONY KENNEDY REGARDING PHOTO LINEUP "C"; AND,

STATE'S EXHIBIT NUMBER TWENTY-TWO, AFFIDAVIT OF ANTHONY KENNEDY REGARDING PHOTO LINEUP "D," ARE NOW MARKED FOR IDENTIFICATION.)

Q DURING THE TIME PERIOD, PARTICULARLY THE NIGHT OF THE SHOOTING, WERE YOU -- WHEN YOU SAID YOU WENT TO CLEMSON, DID YOU OR DID PHILLIP LEE, OR YOU SPECIFICALLY, CONSUME ANY ALCOHOL OR DRUGS THAT DAY?

A NO, SIR.

Q OKAY. SO WHEN YOU DESCRIBED TO THE JUDGE THE EVENTS THAT TRANSPIRED, WAS THERE ANYTHING THAT YOU HAD

CONSUMED THAT WOULD ALTER YOUR ABILITY TO OBSERVE, SEE OR HEAR?

A NO, SIR.

MR. GASSER: THAT'S ALL WE WOULD HAVE, YOUR HONOR.

THE COURT: ALL RIGHT, MR. STRICKLER.

MR. STRICKLER: THANK YOU. I HAVE JUST A COUPLE QUESTIONS TO ASK.

CROSS-EXAMINATION BY MR. STRICKLER (IN CAMERA):

Q AS I UNDERSTAND IT, MR. KENNEDY, YOU WERE WITNESS TO MR. LEE AND DUSHUN STATEN HAVING AN ARGUMENT ON THE FRIDAY PRECEDING THIS, THE DATE OF THE INCIDENT; IS THAT CORRECT?

A YES, SIR.

Q AND YOU WERE, I DON'T KNOW, YOU SAID "ABOUT THIS FAR AWAY FROM THEM," ROUGHLY? TEN, FIFTEEN FEET IS WHAT I WROTE DOWN; THAT'S MY GUESS.

A YES.

Q SOMETHING LIKE THAT, OKAY.

ON THE DATE OF THE INCIDENT ITSELF, IF I GOT IT STRAIGHT HERE, YOU GOT A GROUP OF PEOPLE IN THAT AREA?

A YES.

Q YOU'RE IN THAT AREA WITH MR. LEE; CORRECT?

A YES.

Q THERE IS SOME KIND OF AN ALTERCATION, DISCUSSION, ARGUMENT, WHATEVER TERM YOU WANT TO USE, GOING ON AT THAT

POINT IN TIME?
A YES.
Q OKAY. AND THAT'S BETWEEN MR. LEE AND DUSHUN AT THAT POINT?
A NO.
Q NO. BETWEEN MR. LEE AND WHO?
A WHOEVER WAS SITTING IN THE CAR; I'M NOT SURE.
Q OKAY. IF I'M STRAIGHT, AND WE'RE REFERRING TO STATE'S EIGHTEEN FOR I.D., Y'ALL ARE IN THIS AREA RIGHT HERE (INDICATING), REFLECTED IN THIS PHOTOGRAPH?
A YES.
Q AND SOME ARE SITTING ON THE CAR IN THE THIRD PARKING SPACE OUT HERE IN THE PARKING LOT; IS THAT RIGHT?
A YES.
Q OKAY. AND THAT'S THE GREEN GALANT AT THAT POINT; RIGHT?
A YES.
Q ALL RIGHT. SO THAT TALK IS GOING ON AT THAT POINT IN TIME?
A YES.
Q AND YOU'RE NOT SURE WHO WAS, WHO THAT WAS ON THE GALANT? THERE WERE A NUMBER OF PEOPLE ON THE GALANT?
A YES.
Q OR IN THE AREA OF THE GALANT?
A YES.

Q OKAY. AND THEN WHAT YOU DO KNOW IS THAT THE PEOPLE AT THE GALANT DID NOT INCLUDE LUCIUS STATEN?
A NO, IT DIDN'T.
Q BECAUSE YOUR TESTIMONY IS HE PULLED UP IN A WHITE CAR; RIGHT?
A YES, SIR.
Q HE WASN'T DRIVING THE WHITE CAR?
A NO.
Q HE ARRIVED IN A WHITE CAR?
A HE ARRIVED IN A WHITE CAR.
Q HE GETS OUT OF THE CAR, AND IF I UNDERSTAND YOUR TESTIMONY, HE ACTUALLY COMES INTO THE -- INTO THE---
A THE GRASSY AREA.
Q ---GRASSY AREA, PART-WAY INTO THE GRASSY AREA, SO HE'S KIND OF BETWEEN MR. LEE---
A AND THE OTHER PEOPLE.
Q ---AND WHOEVER HE'S ARGUING WITH?
A YES.
Q OKAY. AND HE HAD A COUPLE WORDS WITH MR. LEE HIMSELF?
A YES.
Q "WHAT'S GOING ON HERE? MAYBE, YOU KNOW, MIGHT WANT TO SHUT UP AND THIS AND THAT"?
A YES.
Q THEN HE SAYS, "WE'LL GO"?

A YES.
Q SOMEONE SAYS "WE'RE GOING," AND HE SAYS, "YEAH, WE'RE GETTING READY TO GO"?
A YES.
Q RIGHT. HE THEN TURNS TO GO?
A YES.
Q OKAY. AND THAT'S THE POINT IN TIME YOU SAY YOU NOTICE HIM NOD AT A GUY?
A YES.
Q YOU HAD NEVER SEEN HIM EXCHANGE WORDS WITH THE MAN IN THE BLACK COAT; RIGHT?
A NO.
Q YOU DON'T KNOW IF HE KNOWS THE MAN IN THE BLACK COAT FROM ADAM'S HOUSE CAT AT THAT POINT IN TIME; RIGHT?
A NO.
Q HE NODS AT HIM?
A YES.
Q RIGHT?
A YES.
Q ALL RIGHT. AND MEANWHILE, IF I UNDERSTAND YOU CORRECTLY, YOU SEE DUSHUN GET THE GUN OUT OF THE GALANT AND GIVE IT TO THE GUY IN THE BLACK NORTHFACE COAT?
A YES.
Q OKAY. BUT YOU SEE LUCIUS NOD AND WALK, AND THEN THE GUY WITH THE COAT DOES THE SHOOTING; IS THAT IT?

A YES.
Q OKAY. THE GUY IN THE COAT IS WHAT ROUGHLY, BY THE GALANT, ITSELF?
A YEAH. HE'S BY THE FRONT, THE FRONT ON THE LEFT SIDE.
Q OKAY. HOW LONG WAS LUCIUS STATEN ON THAT SCENE FOR THIS CONVERSATION BETWEEN HIM AND MR. LEE AND THEN HE TURNS AND SAYS, "WE'RE GETTING READY TO GO"?
A LIKE FIVE MINUTES.
Q FIVE MINUTES TOPS?
A YES.
Q I MEAN, YOU WEREN'T TIMING THAT?
A NO.
Q OKAY. THE ARGUMENT HAD BEEN GOING ON FOR SOME PERIOD OF TIME BEFORE HE ARRIVED ON THE SCENE?
A YES.
Q OKAY. ALL RIGHT, THANK YOU.

BEG THE COURT'S INDULGENCE ONE MOMENT.

(PAUSE.)

MR. TAYLOR: MAY IT PLEASE THE COURT?

CROSS-EXAMINATION BY MR. TAYLOR (IN CAMERA):

Q MR. KENNEDY, YOU SAID AND I QUOTE, THAT THE SHOOTER HAD ON A RED AND BLACK NORTHFACE JACKET?
A YES.
Q RED AND BLACK?

A YES.
Q IS THAT CORRECT?
A YES.
Q THANK YOU, SIR. THAT'S ALL I HAVE.
THE COURT: ALL RIGHT, ANYTHING ON REDIRECT?
MR. GASSER: NO, SIR.
THE COURT: ALL RIGHT, YOU CAN COME DOWN.
AND CALL YOUR NEXT ONE.
(THE WITNESS IS NOW EXCUSED FROM THE WITNESS STAND.)
MR. GASSER: YOUR HONOR, WE'RE GOING TO, WE'VE GOT THREE MORE WITNESSES FOR THIS PURPOSE, DEPENDING ON HOW FURTHER TESTIMONY DEVELOPS, BUT WE'VE GOT THREE MORE LAY WITNESSES FOR THIS PURPOSE.
THE COURT: OKAY.
MR. GASSER: RASHON LOGGINS.
(**RASHON ALI LOGGINS**, HAVING FIRST BEEN DULY SWORN, TESTIFIED AS FOLLOWS:)
THE CLERK: PLEASE HAVE A SEAT; STATE YOUR FULL NAME FOR THE RECORD.
MR. LOGGINS: RASHON ALI LOGGINS.
DIRECT EXAMINATION BY MR. GASSER (IN CAMERA):
Q RASHON, WERE YOU A STUDENT AT BENEDICT COLLEGE ON JANUARY THE 15TH OF 2001?
A YES, I WAS.

Q WERE YOU PRESENT WHEN PHILLIP LEE WAS SHOT?
A YES.
Q DO YOU RECOGNIZE THE TWO DEFENDANTS IN THE COURTROOM HERE TODAY, RASHON?
A YES, I DO.
Q DID YOU SEE THEM ON JANUARY THE 15TH OF 2001?
A YES, I DID.
Q IS THIS THE FIRST TIME THAT YOU'D EVER SEEN THEM?
A NOPE.
Q WHEN IS THE FIRST TIME, RELATIVE TO JANUARY THE 15TH, WHEN IS THE FIRST TIME YOU HAD AN OPPORTUNITY TO SEE LUCIUS STATEN AND DUSHUN STATEN?
A PROBABLY LIKE THE 9TH, JANUARY 9TH, OR 8TH, 10TH. A COUPLE DAYS BEFORE FRIDAY, THE FIRST INCIDENT.
Q AND WHERE DID YOU SEE THEM?
A IN THE PARKING LOT OF HASKILL DORMITORY.
Q AND WHEN YOU OBSERVED THEM, WERE THE TWO OF THEM TOGETHER?
A SOMETIMES.
Q AND WOULD YOU SEE THEM DURING THE DAY OR NIGHTTIME OR BOTH?
A BOTH.
Q DID YOU RECOGNIZE ANYONE ELSE THAT WERE WITH THEM AT ANYTIME THAT YOU SAW THEM?
A THEY HAD THEY LITTLE FRIENDS, THEY FRIENDS WITH

THEM.

Q DO YOU KNOW A DUDE NAMED LAMAR PERDUE?

A UH-HUH (INDICATES AN AFFIRMATIVE RESPONSE).

Q HAVE YOU EVER SEEN HIM WITH THEM?

A OH, YEAH. HE WAS WITH THEM TOO. HE WAS TALKING TO THEM.

Q DID YOU EVER SEE ANY WORDS EXCHANGED BETWEEN PHILLIP LEE AND EITHER ONE OF THE TWO DEFENDANTS?

A UH-HUH (INDICATES AN AFFIRMATIVE RESPONSE). THAT FRIDAY AND THAT MONDAY.

Q THAT FRIDAY, ARE YOU REFERRING TO THE SAME INCIDENT, WERE YOU PRESENT---

A I WAS PRESENT.

Q ---THAT OTHER WITNESSES HAVE TESTIFIED TO?

A UH-HUH (INDICATES AN AFFIRMATIVE RESPONSE).

Q HOW CLOSE DID YOU GET TO EITHER ONE OF THE STATEN BROTHERS?

A JUST AS CLOSE AS YOU AND THAT GENTLEMAN RIGHT THERE (INDICATING).

Q THIS CLOSE?

A UH-HUH (INDICATES AN AFFIRMATIVE RESPONSE).

Q AND THIS, THESE WORDS, I'M NOT GOING TO GO INTO RE-HASH THE WORDS THAT WERE EXCHANGED BETWEEN PHILLIP LEE AND EITHER ONE OF THESE DEFENDANTS, BUT WAS EITHER DEFENDANT WEARING A MASK, SOMETHING COVERING THE FACE, AT

THAT TIME?

A NO, SIR.

Q WHEN YOU SAW THEM THAT FRIDAY BEFORE PHILLIP LEE WAS KILLED, DID YOU RECOGNIZE THEM AS THE SAME PEOPLE YOU'VE BEEN SEEING THAT WHOLE WEEK?

A YES, I DID.

Q DID YOU HAVE WORDS WITH EITHER DUSHUN STATEN OR LUCIUS STATEN?

A A FEW WORDS.

Q WHO DID YOU HAVE WORDS WITH?

A DUSHUN.

Q DO YOU REMEMBER WHAT HE WAS WEARING THAT EVENING?

A THAT EVENING HE WAS WEARING A YELLOW AND BLUE AVERIX JACKET.

Q THIS JACKET (INDICATING).

DID YOU SEE HIM ON THE EVENING OF THE MONDAY EVENING PHILLIP WAS KILLED?

A UH-HUH (INDICATES AN AFFIRMATIVE RESPONSE).

Q DO YOU REMEMBER WHAT HE WAS WEARING THAT EVENING?

A THAT SAME JACKET.

Q DID YOU HAVE ANY TROUBLE RECOGNIZING HIM THAT EVENING?

A NO.

Q TELL US ABOUT THAT EVENING? RIGHT BEFORE THE SHOOTING HAPPENED, WHAT WERE YOU DOING, SAY, TEN OR

FIFTEEN MINUTES BEFORE THIS EVENT OCCURRED?

A A FEW MINUTES BEFORE THAT I WAS IN A ROOM. THEN I CAME OUT AFTER -- A LITTLE WHILE AFTER PHIL AND TONY HAD LEFT. I SEEN THEM UP THERE ARGUING WITH WHOEVER'S CAME UP. AND THEY WERE STILL ARGUING, WHATEVER.

AND THEN LUCIUS CAME UP, HE HAD A FEW WORDS WITH PHIL. AND THEN THEY SAY WHATEVER.

THEN PHIL WAS LIKE, "YEAH, AND JUST KILL ME."

AND THEN LUCIUS, HE SAID -- I DON'T KNOW IF HE SAID IT OR NOT, I HEARD IN THE BACKGROUND SOMEBODY SAY, "YEAH, WE'LL KILL YOU, RIGHT."

AND THEN THEY WAS LIKE THEY WAS ABOUT TO LEAVE. LUCIUS WAS LIKE "WE GOING TO GO," WHATEVER, BECAUSE HE WAS LIKE TRY TO SQUASH THE SITUATION.

SO I TURNED TO LEAVE AND I HEAR TWO SHOTS RING.

Q WERE YOU WITH PHILLIP LEE AND TONY KENNEDY WHEN THEY WERE FIRST WALKING UP?

A NO, I WASN'T WITH THEM.

Q SO WHERE WERE YOU WHEN YOU FIRST SAW PEOPLE EXCHANGING WORDS WITH TONY KENNEDY AND PHILLIP LEE?

A I WAS AT THE BOTTOM OF THE HILL.

Q AND WHEN YOU SAW THAT, YOUR TWO FRIENDS EXCHANGING WORDS WITH THESE PEOPLE, WHAT DID YOU AND SOME OF YOUR OTHER FRIENDS DO?

A WE CAME UP ON THE SCENE AND SEE WHAT WAS GOING ON.

Q HOW CLOSE WERE YOU TO PHILLIP, YOU THINK, WHEN HE WAS SHOT?

A YOU AND THAT GENTLEMAN RIGHT THERE.

Q THIS CLOSE?

A THAT CLOSE.

Q AND WHEN YOU FIRST APPROACHED, WHEN YOU FIRST CAME UP ON THE SCENE---

MR. TAYLOR: YOUR HONOR, EXCUSE ME, PLEASE. "THIS CLOSE" IS NOT GOING TO SHOW UP VERY GOOD IN THIS RECORD. COULD WE GET SOME APPROXIMATE MEASURE, PLEASE?

A FIVE FEET, THREE FEET, CLOSE ENOUGH TO SHAKE HIS HAND.

Q NOW DID ANYBODY REMAIN STATIONARY? I MEAN, WERE ALL THESE PARTIES, WERE YOU ALL FROZEN, YOUR FEET FROZEN TO THE GROUND, OR WERE YOU MOVING AROUND?

A NO. I WAS MOVING AROUND A LITTLE BIT, JUST OBSERVING THE SITUATION.

Q AND WHEN YOU FIRST CAME UP ON THE SCENE, WHO WAS THE FIRST PERSON EXCHANGING WORDS WITH PHILLIP?

A I'M NOT REALLY SURE. I CAN'T REALLY RECOLLECT WHO WAS DOING THE ARGUING WITH PHIL.

BUT DUSHUN WAS THERE, HE WAS SAYING -- HE SAID HIS FEW WORDS BUT I DON'T KNOW IF HE SAID -- HE DIDN'T SAY TOO MUCH BUT HE WAS ARGUING WITH THE OTHER GUY WITH THE BLACK, WITH THE BLACK JACKET, BUT I COULDN'T RECOGNIZE

HIS FACE. BUT THEN LUCIUS CAME UP AFTERWARDS.

Q WHEN YOU SAY "BLACK," DO YOU RECOGNIZE THE BRAND NAME?

A NORTHFACE.

Q NOW WHEN YOU SAY "BLACK NORTHFACE," IS IT JUST A SOLID COLOR BLACK OR DO NORTHFACES HAVE DIFFERENT TONES TO IT AS WELL AS THE BLACK?

A THEY HAVE DIFFERENT TONES TO THEM, BUT I RECOGNIZED BLACK.

Q OKAY. AND SO YOU'VE GOT THE GUY WITH THE BLACK NORTHFACE JACKET AND YOU'VE GOT DUSHUN; AND YOU SAY LUCIUS CAME UP; IS THAT CORRECT?

A UH-HUH (INDICATES AN AFFIRMATIVE RESPONSE).

Q SO THEN WHO STARTED HAVING WORDS WITH PHILLIP?

A LUCIUS.

Q AND WHEN YOU SAY "HE CAME UP," HOW CLOSE, IN USING THE DISTANCE I AM FROM YOU IN THIS COURTROOM, HOW CLOSE DID LUCIUS AND YOU GET?

A PROBABLY LIKE THREE FEET.

Q THREE FEET. WAS HE WEARING ANY COVERING ON HIS FACE?

A NO.

Q WAS DUSHUN WEARING ANY COVERING ON HIS FACE?

A NOPE.

Q DID YOU HAVE ANY PROBLEM RECOGNIZING THEM AS THE

SAME PEOPLE THAT YOU'D SEEN IN THE PARKING LOT THE DAYS AND EVENINGS PRECEDING?

A NO.

Q RASHON, I WANT TO DRAW YOUR ATTENTION TO JANUARY THE 26TH. DID YOU HAVE AN OPPORTUNITY -- I'M SORRY.

FIRST OF ALL, THREE DAYS AFTER THIS INCIDENT, ON JANUARY THE 18TH, DID YOU GO TO THE COLUMBIA POLICE DEPARTMENT ON JANUARY THE 18TH?

A UH-HUH (INDICATES AN AFFIRMATIVE RESPONSE).

Q DID YOU MEET WITH THAT INVESTIGATOR OUT THERE (INDICATING)?

A YES, I DID.

Q I'M SHOWING YOU WHAT'S BEEN MARKED STATE'S EXHIBIT NUMBER NINE. DO YOU REMEMBER BEING SHOWN THESE PHOTOGRAPHS?

A UH-HUH (INDICATES AN AFFIRMATIVE RESPONSE).

Q WERE YOU ABLE TO IDENTIFY ANYBODY IN THESE PHOTOGRAPHS?

A LUCIUS, NUMBER FIVE.

Q OKAY. NOW AT THAT TIME DID THE INVESTIGATOR PROVIDE YOU ANYTHING, ANY KIND OF FORM, TO SIGN AT THAT TIME?

A NO.

Q BUT YOU WERE SHOWN STATE'S EXHIBIT NUMBER NINE AND YOU RECOGNIZED NUMBER FIVE AND YOU TOLD THAT TO THE

INVESTIGATOR?

A UH-HUH (INDICATES AN AFFIRMATIVE RESPONSE).

Q OF COURSE, YOU'RE UNAWARE OF WHAT THE INVESTIGATOR MAY HAVE WRITTEN DOWN, ARE YOU? YOU DON'T KNOW WHAT HE WROTE DOWN?

A I DON'T KNOW ANYTHING.

Q AND STATE'S EXHIBIT -- DID HE SHOW YOU STATE'S EXHIBIT NUMBER TEN, AS WELL?

A UH-HUH (INDICATES AN AFFIRMATIVE RESPONSE).

Q DO YOU RECOGNIZE SOMEBODY THERE?

A MAURICE.

Q MAURICE?

A NUMBER SIX.

Q OKAY. IS THAT THE FIRST -- WELL, YOU TOLD THE INVESTIGATOR -- WAS MAURICE OUT THERE THAT NIGHT?

A YEAH, HE WAS OUT THERE. HE WAS JUST PLAYING A BACK SCENE. HE AIN'T REALLY SAY TOO MUCH, HE AIN'T SAY ANYTHING, JUST PLAYING THE BACK SCENE.

Q WHO WAS MAURICE WITH?

A HE'S WITH DUSHUN AND HIS OTHER FRIENDS, WHATEVER.

Q HE WASN'T A FRIEND OF YOURS, WAS HE?

A NAW (A NEGATIVE RESPONSE).

Q HAD YOU EVER SEEN HIM OUT THERE BEFORE?

A YEAH.

Q WAS HE WEARING A BLACK NORTHFACE?

A NAW (A NEGATIVE RESPONSE).
Q I MEAN, HE'S NOT A FRIEND OF YOURS; RIGHT?
A NAW (A NEGATIVE RESPONSE), I DON'T KNOW THE CAT.
Q NOW ON JANUARY THE 26TH---
DID YOU GO TO THE FUNERAL AS WELL?
A YES, I DID.
Q UP IN NEW JERSEY?
A UH-HUH (INDICATES AN AFFIRMATIVE RESPONSE).
Q ON JANUARY THE 26TH, DID YOU HAVE AN OPPORTUNITY TO GO BACK TO THE COLUMBIA POLICE DEPARTMENT AND MEET WITH INVESTIGATOR MEAD?
A UH-HUH (INDICATES AN AFFIRMATIVE RESPONSE).
Q I SHOW YOU THIS LINEUP, STATE'S EXHIBIT NUMBER ELEVEN. DO YOU REMEMBER HIM SHOWING YOU THAT LINEUP?
A YES, I DID.
Q AND WERE YOU ABLE TO IDENTIFY ANYONE IN THAT LINEUP?
A DUSHUN.
Q NUMBER TWO.
AT ANY TIME ON THE 18TH OF JANUARY OR JANUARY THE 26TH, WHEN YOU WERE BEING SHOWN THESE LINEUPS, DID INVESTIGATOR MEAD OR ANY OTHER POLICE OFFICER TELL YOU WHO TO PICK OR SUGGEST TO YOU WHO TO PICK?
A NO. HE JUST ASKED ME WHICH FACE DID I RECOGNIZE.
Q AND YOU HAVE BEEN UNABLE TO PICK OUT THE TRIGGERMAN

IN ANY PHOTO LINEUP; IS THAT CORRECT?

A UH-HUH (INDICATES AN AFFIRMATIVE RESPONSE).

Q ON THE 26TH, DID INVESTIGATOR MEAD, WHEN YOU IDENTIFIED DUSHUN STATEN IN STATE'S EXHIBIT NUMBER ELEVEN, DO YOU REMEMBER BEING SHOWN THIS DOCUMENT?

A YES.

Q WHOSE SIGNATURE IS THAT?

A MINE.

Q OKAY. DID YOU MEMORIALIZE IT WHEN YOU PICKED OUT DUSHUN STATEN AS NUMBER TWO?

A YES.

MR. GASSER: WE WOULD GO AHEAD AND MARK THIS FOR IDENTIFICATION.

MR. TAYLOR: NO OBJECTION.

(STATE'S EXHIBIT NUMBER TWENTY-THREE, AFFIDAVIT OF RASHON LOGGINS REGARDING LINEUP "C," IS NOW MARKED FOR IDENTIFICATION).

MR. GASSER: THAT'S ALL I HAVE, THAT'S ALL I HAVE OF THIS WITNESS.

THE COURT: ALL RIGHT, MR. STRICKLER.

MR. STRICKLER: THANK YOU, SIR.

CROSS-EXAMINATION BY MR. STRICKLER (IN CAMERA):

Q MR. LOGGINS, AS I UNDERSTAND, YOU WERE PRESENT BOTH ON FRIDAY WHEN THERE WERE WORDS EXCHANGED, AND AGAIN ON THE EVENING OF THE INCIDENT; IS THAT CORRECT?

A YES.
Q OKAY. NOW ON THAT FRIDAY, WHO WAS HAVING WORDS?
A DUSHUN WAS HAVING WORDS WITH PHIL THAT NIGHT.
Q OKAY. WAS THIS IN THE SAME GENERAL AREA?
A JUST A LITTLE -- PROBABLY FIFTEEN FEET ABOVE THE AREA HE WAS KILLED.
Q OKAY. ALL RIGHT. AND AT THE TIME YOU BECAME AWARE OF THE ARGUMENT ON THE EVENING THAT PHIL WAS KILLED, OKAY, WAS LUCIUS STATEN ALREADY THERE AT THAT POINT IN TIME?
A NO, HE WASN'T ALREADY THERE.
Q NO. OKAY.
A HE MAY WAS -- HE MAY WAS IN THE CAR BEFORE I EVEN SEEN HIM, BUT I SEEN HIM WALK UP FROM THE CAR, SO...
Q SO THE FIRST TIME YOU BECAME AWARE OF HIM WAS NOT STANDING AROUND IN THE CROWD ARGUING---
A NO, HE WASN'T STANDING AROUND.
Q ----HE WAS WALKING ONTO THE SCENE?
A HE WAS WALKING ONTO THE SCENE.
Q OKAY. AND HOW CLOSE DID HE GET TO PHILLIP LEE?
A PROBABLY LIKE A FEET AWAY. HE WAS -- HE WAS -- THEY WAS IN EACH OTHERS FACE.
Q IN EACH OTHERS FACE?
A WELL, NOT, YOU KNOW, LIKE THIS (INDICATING), BUT ENOUGH TO -- LIKE YOU AND ME OVER HERE.

Q ABOUT RIGHT HERE?
A YEAH.
Q OKAY. AND THEY WERE EXCHANGING WORDS?
A UH-HUH (INDICATES AN AFFIRMATIVE RESPONSE).
Q OKAY. AND THEN SOMEONE SAID, "YEAH, WE'RE...
A NAW (A NEGATIVE RESPONSE). PHIL WAS LIKE, FOR THE SITUATION HE WAS LIKE, "Y'ALL, YOU JUST KILL ME," SAYING AS THOUGH "Y'ALL KILL ME WITH THE SITUATION, THIS IS NONSENSE." YOU KNOW WHAT I'M SAYING?
Q RIGHT.
A THEN WHOEVER IN THE BACKGROUND SAID "WE'LL KILL YOU ALL RIGHT."

AND THEN WE WAS LIKE "YOU CAN JUST SQUASH THIS, WHATEVER, Y'ALL GO ABOUT Y'ALL'S BUSINESS," AND THEY WAS COOL WITH THAT.

Q WHO? WHO SAID THAT?
A LUCIUS.
Q LUCIUS SAID, "WE'LL SQUASH THIS AND GO ON, AND GO ON ABOUT YOUR BUSINESS"?
A YEAH. THEY WAS LIKE "WE'LL LEAVE."
Q ALL RIGHT. SO HE TURNED TO LEAVE AT THAT POINT IN TIME?
A I'M NOT SURE.
Q YOU DON'T KNOW. WHERE WERE YOU STANDING AT THAT POINT IN TIME?

A ON THE LEFT, ON THE LEFT SIDE OF PHIL.
Q OKAY. IF YOU'D BE PHIL RIGHT THERE (INDICATING) AND I'D BE LUCIUS STANDING RIGHT HERE, "WE'LL JUST SQUASH THE SITUATION," AND YOU'RE STANDING RIGHT OVER THERE (INDICATING)?
A UH-HUH (INDICATES AN AFFIRMATIVE RESPONSE).
Q AND YOU DON'T KNOW WHETHER HE TURNED OR NOT?
A 'CAUSE I'M LOOKING AT PHIL, AT THE -- MY FOCUS IS NOT JUST ON LUCIUS.
Q UH-HUH (INDICATES AN AFFIRMATIVE RESPONSE).
A SOMETHING I JUST -- MY FOCUS IS NOT JUST LOOKING AT HIM ALL DAY. I'M HERE, HERE (INDICATING), OBSERVING THE SITUATION.
Q LET ME ASK YOU THIS. YOU GOT YOU, YOU GOT PHIL, YOU GOT LUCIUS, YOU GOT THIS GUY IN THIS BLACK JACKET. IS DUSHUN OUT THERE AT THAT POINT?
A HE'S OUT THERE. BUT HE---
Q WHERE ABOUTS?
A HE'S PROBABLY LIKE I'D SAY ABOUT FIVE FEET AWAY, BY THE CAR A LITTLE BIT. HE DIDN'T SAY TOO MUCH DURING THE SITUATION.
Q ALL RIGHT. AND ROUGHLY HOW MANY PEOPLE OUT THERE IN THE PARKING LOT AND HOW MANY PEOPLE OUT THERE UP ON THE SIDEWALK?
A YOU SAYING BY US? BY THE SITUATION THAT WAS AT

HAND?

Q YEAH.

A HOW MANY PEOPLE WAS AROUND THERE?

Q HOW MANY PEOPLE IN THE GENERAL AREA?

A ME AND MY FRIENDS, THERE WAS PROBABLY LIKE SIX OF US, AND THERE WAS PROBABLY LIKE SEVEN OF THEM.

Q OKAY.

A AND IN THE PARKING LOT THERE WAS PROBABLY LIKE TWENTY PEOPLE, SOMEBODY DOING SOMETHING OVER HERE, SOMEONE DOING SOMETHING OVER HERE, SOMEBODY DOING SOMETHING OVER HERE (INDICATING).

Q OKAY. SO YOU GOT SIX, SEVEN PEOPLE ON EACH SIDE OF THIS ARGUMENT GOING ON, AND THEN YOU'VE GOT, WHAT, TWENTY PEOPLE OR SO OUT, MIGHT BE WATCHING IT, MIGHT NOT, MIGHT BE DOING SOMETHING ELSE?

A MIGHT NOT BE WATCHING.

Q OKAY.

A UH-HUH (INDICATES AN AFFIRMATIVE RESPONSE).

Q HOW LONG HAD THAT ARGUMENT GONE ON THAT YOU WITNESSED?

A THAT I WITNESSED, PROBABLY LIKE -- IT SHOULDN'T LAST BUT NO LONGER LIKE TEN MINUTES OR SO.

Q ARE YOU TALKING ABOUT TEN MINUTES WORTH OF ARGUMENT?

A UH-HUH (INDICATES AN AFFIRMATIVE RESPONSE).

Q AND IN THAT TEN-MINUTE TIME SPAN, AT WHAT POINT IN TIME DID YOU SEE LUCIUS STATEN WALK UP ONTO THE SCENE?

A LIKE THE FIFTH MINUTE, FOURTH MINUTE.

Q ABOUT HALF-WAY THROUGH IT?

A HALF-WAY THROUGH THE...

Q WHEN YOU GOT TO THAT AREA YOURSELF, WAS THE ARGUMENT ALREADY GOING ON WHEN YOU GOT THERE?

A YES.

Q ALL RIGHT, THANK YOU.

THE COURT: ALL RIGHT, MR. TAYLOR.

MR. TAYLOR: I HAVE NO QUESTIONS OF THIS WITNESS. THANK YOU, YOUR HONOR.

THE COURT: ALL RIGHT, ANY REDIRECT?

MR. GASSER: NO, SIR.

THE COURT: ALL RIGHT, YOU CAN COME DOWN.

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

AND CALL YOUR NEXT WITNESS.

MR. GASSER: THE STATE CALLS ANDREW BRITT.

(THERE IS NO RESPONSE.)

THE STATE CALLS JEAN DABADY.

THE BAILIFF: PUT YOUR LEFT HAND ON THE BIBLE AND RAISE YOUR RIGHT HAND AND BE SWORN.

(**JEAN MARCELL DABADY**, HAVING FIRST BEEN DULY SWORN, TESTIFIED AS FOLLOWS:)

THE CLERK: PLEASE HAVE A SEAT UP HERE, SIR, AND STATE YOUR FULL NAME FOR THE RECORD.

MR. DABADY: JEAN MARCELL DABADY.

DIRECT EXAMINATION BY MR. GASSER (IN CAMERA):

Q MR. DABADY, I WANT TO DRAW YOUR ATTENTION TO JANUARY THE 15TH OF 2001. WERE YOU A BENEDICT COLLEGE STUDENT AT THAT TIME?

A YES.

Q WERE YOU PRESENT ON THAT DAY WHEN PHILLIP LEE WAS SHOT AND KILLED?

A YES.

Q HOW CLOSE WERE YOU TO HIM, MR. DABADY?

A RIGHT NEXT TO HIM.

Q DO YOU RECOGNIZE THE TWO DEFENDANTS IN THE COURTROOM, DUSHUN AND LUCIUS STATEN?

A YES.

Q DID YOU SEE THEM ON THE EVENING OF JANUARY THE 15TH?

A YES.

Q IS THAT THE FIRST TIME YOU'D EVER SEEN THEM?

A NO.

Q PRIOR TO THAT MONDAY, JANUARY THE 15TH, IF YOU CAN RECALL, APPROXIMATELY WHEN WAS THE FIRST TIME YOU SAW LUCIUS AND DUSHUN STATEN?

A ABOUT TWO DAYS AFTER I GOT BACK FROM THE CHRISTMAS

BREAK.

Q DO YOU REMEMBER APPROXIMATELY WHEN YOU GOT BACK?

A NO, I WOULDN'T REMEMBER.

Q DO YOU KNOW IN GENERAL? WAS IT TWO DAYS BEFORE THE INCIDENT? A WEEK BEFORE?

A IT WAS A WEEK.

Q AND WHEN YOU GOT BACK FROM CHRISTMAS BREAK APPROXIMATELY ONE WEEK BEFORE PHILLIP WAS KILLED, YOU SAY IT WAS HOW MANY DAYS AFTER THAT YOU OBSERVED THE DEFENDANTS?

A TWO DAYS AFTER.

Q AND WHERE DID YOU SEE THEM?

A IN THE PARKING LOT OF HASKILL DORMITORY.

Q HAD YOU EVER SEEN THEM BEFORE?

A BEFORE? NO.

Q BEFORE THAT DAY?

A NO.

Q WAS IT DURING THE DAY OR EVENING THAT YOU SAW THEM?

A DAY.

Q DID YOU RECOGNIZE ANYONE THAT THEY WERE HANGING OUT WITH OR WAS IT JUST THE TWO OF THEM?

A THERE WAS JUST THE TWO OF THEM.

Q AND DID YOU SEE THEM HANGING AROUND A PARTICULAR CAR OR DID YOU SEE THEM EVER ARRIVE OR LEAVE IN A CAR?

A YEAH, A WHITE CAR.

Q A WHITE CAR?
A YEAH.
Q DID YOU EVER HAVE ANY CONVERSATIONS WITH THESE FELLOWS?
A NO.
Q WERE YOU EVER PRESENT WHEN WORDS WERE EXCHANGED BETWEEN EITHER DUSHUN AND LUCIUS STATEN AND THE VICTIM PHILLIP LEE?
A YEAH.
Q AND I'M REFERRING PRIOR TO THE EVENING HE WAS KILLED.
A YEAH, IT WAS PRIOR.
Q HOW MANY DAYS PRIOR? DO YOU REMEMBER?
A IT WAS LIKE TWO DAYS.
Q BUT YOU'RE NOT SURE?
A I'M -- I THINK -- IT WAS BEFORE THE INCIDENT HAPPENED. I THINK IT WAS LIKE TWO DAYS, I THINK.
Q WERE THERE OTHER PEOPLE, OTHER FRIENDS OF YOURS, THAT YOU REMEMBER THAT WERE THERE?
A YEAH.
Q WHO?
A LO, RASHON LOGGINS, TONY, AND KIRI LO (PHONETIC).
Q AND WHEN YOU SAY -- WHO DID YOU SEE HAVING CONVERSATION OR HAVING WORDS WITH PHILLIP LEE?
A DUSHUN.

Q THIS ONE RIGHT HERE (INDICATING)?
A THIS ONE, YEAH.
Q OKAY. AND WAS ANYONE ELSE PRESENT, ANY OF HIS FRIENDS OR ASSOCIATES PRESENT?
A I CAN'T REMEMBER. LUCIUS WAS PRESENT THOUGH.
Q LUCIUS WAS PRESENT?
A YEAH.
Q I'M NOT GOING TO GET INTO THE EXTENT, FOR THIS PURPOSE, THE EXTENT OF WHAT WAS EXACTLY SAID, BUT WHERE WERE YOU WHEN THESE WORDS WERE EXCHANGED?
A IT WAS BY LIKE THE TOP OF THE -- IT WAS AT THE TOP OF THE HILL. I WAS ON THE BOTTOM.
Q SO HOW FAR AWAY, USING, FIRST OF ALL -- WE'LL TRY AND QUANTIFY IT, BUT FIRST OF ALL USING ME, HOW FAR AWAY WERE YOU FROM PHILLIP LEE WHEN HE WAS HAVING WORDS WITH DUSHUN STATEN? I MEAN, DO I NEED TO GET CLOSER OR FURTHER AWAY THAN WHERE I AM FROM YOU?
A A LITTLE BACK, A LITTLE FURTHER BACK. LIKE RIGHT THERE.
Q OKAY. NOW IF YOU'RE STANDING WHERE YOU WERE, AND I'M PHILLIP LEE, OR IN THE GENERAL VICINITY WHERE PHILLIP LEE AND DUSHUN WERE EXCHANGING WORDS, WHERE WAS LUCIUS?
A LUCIUS WAS ON HIS RIGHT, AND DUSHUN WAS ON HIS LEFT.
Q NOW DID ANYTHING HAPPEN THAT EVENING?

A NO.
Q THEN JUMPING FORWARD TO JANUARY THE 15TH, WHERE WERE YOU, SAY, FIVE OR TEN MINUTES, FIFTEEN MINUTES, BEFORE PHILLIP WAS KILLED?
A I WAS IN BETWEEN TONY AND PHIL.
Q WHEN TONY KENNEDY AND PHIL STARTED WALKING FROM HASKILL DORM UP THE SIDEWALK TOWARDS THEIR DORM, WERE YOU WITH THE TWO OF THEM AT THAT MOMENT?
A I WAS OUTSIDE ALREADY.
Q OKAY. AND WHAT WAS IT THAT MADE YOU -- WHAT DID YOU OBSERVE THAT MADE YOU WALK UP AND APPROACH TONY AND PHIL?
A THEY HAD APPROACHED THEM AND FROM THAT -- THE USUAL DAYS WHEN I OBSERVED THEM, THEY WAS JUST LIKE FURTHER BACK IN THE PARKING LOT. THEY HAD MOVED UP CLOSER TO THE DORMITORIES THAT DAY.
Q SO WHEN YOU SAY "THEY APPROACHED THEM," WHO IS "THEY"?
A LUCIUS, DUSHUN AND SOME OTHERS, SOME MORE OF HIS FRIENDS, THEY FRIENDS.
Q SO WHAT DID YOU DO?
A I CAME UP TO OBSERVE WHAT WAS GOING ON.
Q AND HOW CLOSE DID YOU GET TO PHILLIP LEE -- STOP ME -- YOUR FRIEND PHILLIP?
A ABOUT RIGHT -- RIGHT HERE, RIGHT IN FRONT OF HERE

(INDICATING).

Q RIGHT HERE (INDICATING)?

A YEAH.

Q SO YOU WERE STANDING THERE BECAUSE OF YOUR FRIEND; RIGHT?

A YEAH.

Q HOW CLOSE DID DUSHUN STATEN GET TO Y'ALL?

A ON THAT DAY?

Q ON THAT EVENING, RIGHT BEFORE PHILLIP WAS KILLED?

A HE WAS KIND OF PLAYING LIKE THE BACK ROLE. HE WASN'T CLOSE, HE WAS KIND OF PLAYING THE CAR POSITION, RIGHT THERE.

Q DO YOU REMEMBER WHAT HE WAS WEARING?

A I THINK IT WAS A YELLOW AND BLUE AVERIX.

Q DO YOU RECOGNIZE THIS COAT?

A YEAH.

Q THAT LOOK LIKE THE COAT HE WAS WEARING?

A YEAH.

Q NOW DID THERE COME A TIME WHEN LUCIUS CAME ON THE SCENE?

A YEAH. HE'S THE ONE THAT APPROACHED PHIL.

Q SO HE GOT CLOSER?

A YEAH.

Q DID HE GET CLOSER THAN DUSHUN?

A YEAH.

Q HOW CLOSE DID HE GET TO PHIL?
A I'D SAY ABOUT LIKE FIVE, SIX FEET.
Q OKAY.
A YEAH.
Q CLOSER OR FURTHER AWAY THAN I AM FROM YOU?
A ABOUT RIGHT THERE.
Q HAVE ANY DIFFICULTY SEEING HIS FACE?
A NO.
Q DID YOU RECOGNIZE HIM AS THE SAME GUY YOU'D SEEN IN THERE BEFORE?
A YEAH.
Q WAS EITHER HE OR DUSHUN WEARING SOMETHING COVERING THEIR FACE?
A NO.
Q BUT AFTER THE SHOOTING, ON JANUARY THE 24TH, DID YOU HAVE AN OPPORTUNITY TO MEET WITH THIS INVESTIGATOR FROM THE COLUMBIA POLICE DEPARTMENT?
A YES.
Q DID HE SHOW YOU A SERIES OF PHOTOGRAPHIC LINEUPS?
A YES.
Q I SHOW YOU WHAT'S BEEN MARKED STATE'S EXHIBIT NUMBER NINE. DO YOU REMEMBER BEING SHOWN THAT PHOTO LINEUP?
A YES.
Q AND WHEN THE INVESTIGATOR SHOWED YOU THAT LINEUP,

DID YOU RECOGNIZE ANYBODY?

A NUMBER FIVE.

Q OKAY. AND YOU KNEW NUMBER FIVE AS WHO?

A LUCIUS.

Q DID YOU MEMORIALIZE THAT? DID YOU SIGN YOUR NAME TO SOMETHING INDICATING THAT YOU PICKED OUT NUMBER FIVE?

A YEAH.

Q DO YOU RECOGNIZE THAT DOCUMENT AND THAT SIGNATURE?

A YEAH.

Q IS THAT YOUR SIGNATURE?

A YEAH.

Q DID INVESTIGATOR MEAD ON THAT DAY, JANUARY 24TH, DID HE OR ANYONE ELSE AT THE POLICE DEPARTMENT SUGGEST WHO TO PICK OUT?

A NO.

Q STATE'S EXHIBIT NUMBER TEN, DO YOU REMEMBER HIM SHOWING YOU THAT SAME PHOTOGRAPHIC LINEUP THAT DAY?

A YEAH.

Q AND DO YOU RECOGNIZE THAT SIGNATURE ON THAT AFFIDAVIT?

A YES.

Q OKAY. WHO DID YOU PICK OUT? NUMBER SIX?

A YEAH.

Q AND DID YOU SEE NUMBER SIX, LATER IDENTIFIED AS MAURICE SANDERS, DID YOU SEE HIM OUT THERE THAT EVENING,

AS WELL?
A YEAH.
Q STATE'S EXHIBIT NUMBER ELEVEN, DO YOU RECOGNIZE THAT PHOTO LINEUP?
A YEAH.
Q WERE YOU SHOWN THIS BY INVESTIGATOR MEAD?
A YEAH.
Q DID YOU RECOGNIZE SOMEONE AS BEING OUT THERE THAT EVENING THAT PHILLIP WAS SHOT?
A DUSHUN.
Q NUMBER?
A TWO.
Q AND DID YOU MEMORIALIZE THAT?
A YEAH.
Q IS THAT YOUR SIGNATURE?
A YEAH.
Q DID ANYONE SUGGEST TO PICK OUT DUSHUN OR ANYONE ELSE IN THIS LINEUP?
A NO.
Q NOW WHEN YOU WERE SHOWN A FOURTH LINEUP, STATE'S EXHIBIT TWELVE, DID YOU RECOGNIZE SOMEBODY THAT WAS OUT THERE AT THE SCENE THAT EVENING, AS WELL?
A YEAH.
Q WHO DID YOU RECOGNIZE?
A (INDICATING).

Q NUMBER ONE?

A UH-HUH (INDICATES AN AFFIRMATIVE RESPONSE).

Q LATER DID YOU REALIZE HIS NAME WAS SHAKEEM WILSON?

A YEAH.

Q YOU WERE UNABLE TO PICK OUT THE TRIGGERMAN IN ANY OF THE LINEUPS; IS THAT CORRECT?

A RIGHT.

Q YOU SAW THE MAN WHO SHOT?

A I SAW WHAT HE HAD ON.

Q WELL, YOU'VE PICKED OUT FOUR PEOPLE IN THESE PHOTOGRAPHIC LINEUPS BECAUSE YOU RECOGNIZED THEIR FACES; IS THAT CORRECT?

A RIGHT.

Q NONE OF THESE FOUR WERE THE TRIGGERMAN?

A NOT THAT I'M KNOWING.

MR. GASSER: WE'D GO AHEAD AND MARK THESE FOUR AFFIDAVITS AS STATE'S EXHIBITS FOR I.D. PURPOSES, YOUR HONOR.

THE COURT: WITHOUT OBJECTION?

MR. STRICKLER: WITHOUT OBJECTION.

(STATE'S EXHIBIT NUMBER TWENTY-FOUR, AFFIDAVIT OF JEAN DABADY REGARDING PHOTO LINEUP "A"; AND

STATE'S EXHIBIT NUMBER TWENTY-FIVE, AFFIDAVIT OF JEAN DABADY REGARDING PHOTO LINEUP "B"; AND

STATE'S EXHIBIT NUMBER TWENTY-SIX, AFFIDAVIT OF

JEAN DABADY REGARDING PHOTO LINEUP "C"; AND,

STATE'S EXHIBIT NUMBER TWENTY-SEVEN, AFFIDAVIT OF JEAN DABADY REGARDING PHOTO LINEUP "D," ARE NOW MARKED FOR IDENTIFICATION.)

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

THE COURT: ALL RIGHT, MR. STRICKLER.

MR. STRICKLER: THANK YOU, SIR. JUST A COUPLE QUESTIONS.

CROSS-EXAMINATION BY MR. STRICKLER (IN CAMERA):

Q IS IT "DEBADEN (PHONETIC)?

A DABADY.

Q DABADY. I'M SORRY. I APOLOGIZE. JUST A COUPLE THINGS. I'LL TURN STRAIGHT TO THE EVENING THAT MR. LEE WAS KILLED, OKAY.

HOW LONG OR HOW MUCH OF THE ARGUMENT OUT THERE ON THE SCENE WERE YOU PRESENT FOR?

A ABOUT LIKE I SEEN THE BEGINNING TO LIKE THE END OF IT.

Q YOU SAW IT FROM BEGINNING TO END?

A YEAH.

Q AND I'M SORRY, MY MIND MUST BE WANDERING.

WHERE WERE YOU STANDING WHILE THIS ARGUMENT WAS GOING ON?

A IN BETWEEN TONY AND PHIL.

Q OKAY. SO YOU WERE STANDING BASICALLY RIGHT BESIDE

PHIL; IS THAT RIGHT?

A YEAH.

Q AND WITH WHOM WAS PHIL ARGUING?

A IT STARTED OFF WITH LUCIUS.

Q STARTED ARGUING WITH LUCIUS FIRST?

A YEAH.

Q OKAY. AND WHO DID HE ARGUE WITH?

A SOME -- SOME -- ONE OF THEY FRIENDS.

Q AND THEN WHO DID HE ARGUE WITH?

A IT WAS JUST THEM TWO AS FAR AS I CAN REMEMBER RIGHT NOW.

Q I'M SORRY.

A I SAID "IT WAS JUST THEM TWO."

Q HIM AND THE PERSON, ONE OF THEIR FRIENDS?

A YEAH.

Q WHAT WAS THAT PERSON WEARING?

A I REALLY CAN'T REMEMBER RIGHT NOW. HE HAD -- ALL I KNOW IS THAT HE HAD ON A RED FLAG, 'CAUSE THERE WAS A WHOLE BUNCH OF THEM WITH RED FLAGS ON.

Q OKAY. A WHOLE BUNCH HAD RED FLAGS ON. LUCIUS DIDN'T HAVE A RED FLAG ON; RIGHT?

A NO.

Q YOU NEVER SAW LUCIUS WITH A RED FLAG; CORRECT?

A NO.

Q OKAY. WHERE WAS LUCIUS STATEN AT THE TIME THIS GUY

IN THE BLACK COAT SHOT PHILLIP LEE?

A WHEN HE SHOT?

Q UH-HUH (INDICATES AN AFFIRMATIVE RESPONSE).

A HE WAS GOING BACK TO THE CAR.

Q LUCIUS STATEN WAS WALKING AWAY TO THE CAR?

A HE WAS GOING TOWARDS THE CAR.

Q AND DO YOU REMEMBER HIM TELLING PEOPLE "JUST BREAK IT UP AND LET'S GO"?

A NO, I DON'T REMEMBER THAT.

Q YOU DON'T REMEMBER THAT?

A NO.

Q YOU DON'T REMEMBER THOSE WORDS BUT YOU REMEMBER HIM WALK AWAY TO THE CAR?

A I DO REMEMBER HIM SAYING "LET'S BE OUT."

Q "LET'S BE OUT"?

A YEAH.

Q WHAT DOES THAT MEAN?

A LET'S GET READY TO LEAVE.

Q SAYS "LET'S BE OUT," WALKS TOWARDS THE CAR?

A YEAH, WHATEVER.

Q ALL RIGHT. HOW CLOSE IS THE DUDE IN THE BLACK JACKET WHEN HE FIRES THE SHOTS THAT HIT PHIL?

A HOW CLOSE?

Q UH-HUH (INDICATES AN AFFIRMATIVE RESPONSE). HOW CLOSE TO PHIL? AS CLOSE AS I AM TO YOU OR CLOSER?

A YOU'VE GOT TO BACK UP A LITTLE BIT. A LITTLE MORE. LIKE RIGHT THERE (INDICATING).

Q TEN YARDS AWAY, SOMETHING LIKE THAT?

A YEAH.

Q HOW LONG DID THIS ARGUMENT GO ON, THE WHOLE LENGTH OF THE THING?

A ABOUT FIVE, TEN -- TEN MINUTES.

Q TEN MINUTES?

A YEAH.

Q AND AS I UNDERSTAND IT, THE ENTIRE TIME YOU WERE THERE THE ARGUMENT WAS GOING ON; IS THAT RIGHT?

A YEAH.

Q WHEN YOU FIRST CAME UP THE ARGUMENT WAS BETWEEN MR. LEE AND LUCIUS?

A RIGHT.

Q AND THEN AT SOME POINT IT BECAME BETWEEN MR. LEE AND SOMEBODY ELSE, YOU'RE NOT SURE WHO?

A RIGHT. YEAH.

Q OKAY. AT WHAT POINT IN TIME, ABOUT, YOU SAID ROUGHLY TEN MINUTES, ABOUT WHEN DURING THAT TEN-MINUTES TIME DID THE ARGUMENT CHANGE FROM BEING BETWEEN LUCIUS AND MR. LEE AND THIS OTHER GUY AND MR. LEE? HAVE YOU GOT ANY IDEA?

A NO.

Q HAVE NO IDEA?

A NO. IT WAS LIKE THEY WAS TALKING AT THE SAME TIME OR WHATEVER.

Q OKAY. HOW MANY PEOPLE STANDING AROUND OVER THERE?

A OVER WHO.

Q ALTOGETHER. I UNDERSTAND THERE'S SOME PEOPLE OVER HERE (INDICATING) ---

A THERE WAS LIKE SIX OF US NEXT TO PHIL---

Q RIGHT.

A ---AND LIKE SEVEN OF THEM.

Q OKAY. OTHER PEOPLE OUT THERE TOO, THE ONES INVOLVED IN THIS PARTICULAR DISASTER?

A THAT WERE WITH THEM?

Q PARDON ME?

A THAT WERE WITH THEM?

Q UH-HUH (INDICATES AN AFFIRMATIVE RESPONSE).

A LIKE SEVEN.

Q SIX WITH Y'ALL; SEVEN WITH---

A SEVEN OR EIGHT WITH THEM.

Q ---PROBABLY SEVEN OR EIGHT WITH THEM?

A YEAH.

Q HOW ABOUT JUST IN OTHER AREAS OF THE PARKING LOT WITH THEM?

A I WASN'T REALLY PAYING ATTENTION TO THAT.

Q ALL RIGHT. THANK YOU, SIR.

THE COURT: MR. TAYLOR?

CROSS-EXAMINATION BY MR. TAYLOR (IN CAMERA):

Q WAS A LIGHT OUT IN THE PARKING LOT THAT NIGHT, BURNED OUT?

A WHICH ONE? THERE'S A LOT OF LIGHTS.

Q WAS THERE ANY LIGHT BURNED OUT IN THE PARKING LOT THAT NIGHT?

A NO.

Q SIR?

A NO.

Q ARE YOU ABSOLUTELY POSITIVE OF THAT?

A YEAH.

Q I WANT TO SHOW YOU WHAT'S BEEN MARKED AS STATE'S EXHIBIT EIGHTEEN AND I WANT YOU TO TAKE A LOOK AT THE CENTER PHOTOGRAPH AT THE TOP OF THIS EXHIBIT; ALL RIGHT? THIS ONE RIGHT HERE?

A YEAH.

Q DID YOU SEE A CAR ANYWHERE IN THAT VICINITY?

A RIGHT THERE, AROUND THERE SOMEWHERE.

Q ALL RIGHT. YOU WERE POINTING TO AN AREA WHERE THERE'S A YELLOW STRIP WHICH MAY BE A CRIME SCENE STRIP; IS THAT RIGHT?

A RIGHT.

Q ABOUT WHERE THAT MAN IS IN A WHITE SHIRT THERE?

A RIGHT.

Q WOULD THAT BE CORRECT?

A YEAH.
Q NOW IN THIS PHOTOGRAPH, THAT LOOKS FAIRLY DARK; WOULDN'T YOU AGREE WITH THAT?
A YEAH. BUT THERE'S A LIGHT POLE RIGHT THERE.
Q THE LIGHT POLE IS OVER HERE ON THE OPPOSITE SIDE; RIGHT?
A THAT'S THE LIGHT POLE (INDICATING).
Q RIGHT HERE?
A YES.
Q OKAY. RIGHT BY THE NUMBER "FOUR"?
A RIGHT.
Q OKAY. BUT NONETHELESS, IT STILL LOOKS DARK OVER THERE, WHERE THE MAN IS IN THE WHITE SHIRT ON THE LEFT-HAND SIDE OF THAT PHOTOGRAPH; WOULDN'T YOU AGREE WITH ME ON THAT?
A RIGHT.
Q NOW WHAT COLOR CAR DO YOU CLAIM YOU SAW OVER THERE?
A I THINK IT WAS THE GREEN GALANT.
Q YOU "THINK" IT WAS THE GREEN GALANT?
A I REALLY DIDN'T CLAIM A CAR, TO SEE A CAR THERE, BUT THERE WAS A CAR, RIGHT; THEY WAS SITTING ON.
Q I'M SORRY, DID YOU SAY YOU DIDN'T REALLY SEE A CAR?
A I SAID I DIDN'T CLAIM. YOU SAID I CLAIMED ON SEEING ONE. I DON'T GOT THAT ON SEEING ME CLAIMING TO SEE A CAR---

Q WELL, WHAT -- ARE YOU SAYING THAT YOU DID SEE A CAR?

A YEAH. THEY WERE SITTING ON THE WHITE ESCORT.

Q A WHITE CAR?

A YEAH.

Q A WHITE ESCORT?

A WHITE ESCORT.

Q OKAY. SO YOU DIDN'T SEE A GREEN GALANT THERE?

A NO. I SAW THE WHITE CAR THERE THEY WAS SITTING ON.

Q THAT'S THE ONLY ONE THAT YOU SAW?

A YEAH.

Q THANK YOU, SIR. THAT'S ALL.

A YOU'RE WELCOME.

MR. GASSER: NOTHING FURTHER.

THE COURT: ALL RIGHT, YOU CAN COME DOWN.

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

CALL YOUR NEXT.

HOW YOU DOING, CAROL? YOU DOING ALL RIGHT? ARE YOU OKAY?

COURT REPORTER: FINE, THANKS.

MR. GASSER: THE STATE CALLS ANDREW BRITT.

THE BAILIFF: PLACE YOUR LEFT HAND ON THE BIBLE, RAISE YOUR RIGHT HAND AND FACE THE JUDGE.

(**ANDREW BRITT**, HAVING FIRST BEEN

DULY SWORN, TESTIFIED AS FOLLOWS:)

THE COURT: OKAY.

MR. BRITT: ANDREW BRITT.

DIRECT EXAMINATION BY MR. GASSER:

Q MR. BRITT, WERE YOU A BENEDICT COLLEGE STUDENT IN JANUARY OF 2001?

A YES.

Q I'M GOING TO DRAW YOUR ATTENTION TO THE WEEKEND BEFORE PHILLIP LEE WAS SHOT. NOW YOU WEREN'T ACTUALLY A WITNESS TO PHILLIP GETTING SHOT; IS THAT CORRECT?

A NO.

Q WERE YOU A WITNESS TO SOME THINGS THAT OCCURRED ON THAT WEEKEND BEFORE?

A YES.

Q DO YOU REMEMBER SPECIFICALLY WHAT DAY IT WAS?

A SATURDAY.

Q SO YOU ACTUALLY SAW SOMETHING OCCUR BETWEEN PHILLIP LEE AND SOME OTHER INDIVIDUALS ON SATURDAY; CORRECT?

A YES.

Q DO YOU RECOGNIZE THE TWO DEFENDANTS IN THE COURTROOM?

A YES.

Q AND THIS EVENT THAT YOU JUST DESCRIBED TO THE JUDGE, DID THEY PARTICIPATE IN THIS EVENT WITH PHILLIP LEE A COUPLE DAYS BEFORE HE WAS SHOT?

A YES.
Q HAD YOU SEEN THESE INDIVIDUALS ON CAMPUS BEFORE THAT DAY?
A NO.
Q SO THE FIRST TIME THAT YOU EVER SAW LUCIUS AND DUSHUN STATEN WAS WHEN?
A WHICH WAS THAT SATURDAY.
Q THE SATURDAY BEFORE LUCIUS (SIC) WAS SHOT?
A EXCUSE ME?
Q THE SATURDAY BEFORE -- I MEAN -- SORRY -- THE SATURDAY BEFORE PHILLIP WAS SHOT?
A YES.
Q WAS IT DURING THE DAY OR EVENING?
A THE DAY -- THE DAY AND THE EVENING I SAW THEM.
Q YOU SAW THEM THAT DAY AND THAT EVENING?
A YES.
Q WHERE DID YOU SEE THEM, PHYSICALLY WHERE?
A PARKING LOT.
Q WHAT PARKING LOT?
A HASKILL STREET PARKING LOT.
Q AND THE FIRST TIME APPROXIMATELY WAS WHEN DURING THE DAY? APPROXIMATELY WHAT TIME?
A IT WAS AROUND -- LOT OF TIMES I'D SAY AROUND ONE-THIRTY.
Q AND WHEN YOU SAW LUCIUS AND DUSHUN STATEN, WERE

THEY BY THEMSELVES OR WERE THEY WITH OTHER PEOPLE?

A I ONLY REMEMBER THEM TWO, I DON'T REMEMBER THE OTHER PEOPLE.

Q AND THEN LATER ON THAT EVENING, APPROXIMATELY WHAT TIME WAS IT THAT YOU SAW THEM?

A AROUND NINE-THIRTY, TEN O'CLOCK.

Q AND DO YOU KNOW WHETHER THEY WERE AROUND A PARTICULAR CAR?

A YES.

Q NOW DID YOU RECOGNIZE THEM AS BEING STUDENTS?

A NO.

Q AND YOU WERE PHILLIP LEE'S ROOMMATE, WERE YOU NOT?

A YES.

Q WELL, TELL US, PLEASE, THAT EVENT THAT HAPPENED THAT SATURDAY NIGHT AND YOU AND PHILLIP LEE WERE WALKING SOMEWHERE? TELL US WHAT HAPPENED?

A WELL, THAT SATURDAY NIGHT I JUST CAME FROM GETTING A HAIRCUT FROM ALFONZO AND PHILLIP HAVING TO GO TO THE ROOM 'CAUSE HE SAID HE WANTED TO ASK SOMEBODY ABOUT A D.V.D. AND SO THE KID THEY ASKED ABOUT A D.V.D. SO HAPPENED TO BE WITH THEM THAT NIGHT. AND I GUESS THE LITTLE BROTHER, WHICH IS DUSHUN, ASKED PHIL ABOUT THE BLUE FACT THAT HE HAD ON HIS HEAD. SO PHIL TOLD HIM WHAT IT WAS ABOUT AND THEN THEY EXCHANGED WORDS.

SO WHILE THE WORDS WERE GOING I WAS NEAR THE LIGHT

POST AND I WAS WATCHING THE ARGUMENT. THEN THAT'S WHEN ALFONZO CAME OVER TO HELP PHIL ARGUING WITH DUSHUN AND, I GUESS, LUCIUS.

LUCIUS HAVING TO GO TO THE CAR; IT WAS LIKE "FORGET ABOUT IT," AND CAME BACK WHEN THEY STARTED ARGUING AGAIN. AND DUSHUN AND PHIL WERE STILL AT IT.

WHILE DUSHUN AND PHIL WERE STILL GOING AT IT, IT LOOKS LIKE DUSHUN WENT BACK TO THE CAR AS HE WAS GRABBING A WEAPON. BUT ANYWAY IT LOOKED LIKE HE WAS GRABBING A WEAPON. SO HE CAME BACK OUT AND PHIL AND LUCIUS WAS GOING AT IT.

AND THEN AS I REMEMBER, THEY DROVE OFF AROUND THREE FEET AND LUCIUS CAME OUT OF THE CAR WITH LIKE, "I'M GOING TO START REMEMBERING FACES AND I'M COMING BACK," AND THAT WAS IT.

Q NOW WHEN YOU SAW THEM AROUND THAT EVENING AND THE EVENT TRANSPIRED THAT YOU JUST DESCRIBED, DID YOU RECOGNIZE THEM AS BEING THE SAME DUDES YOU HAD SEEN AROUND LUNCHTIME THAT DAY?

A YES.

Q AND HOW WAS THAT? HOW DID YOU RECOGNIZE THEM?

A BECAUSE I REMEMBER HE HAD ON THE YELLOW, YELLOW AVERIX.

Q WHO'S "HE"?

A THE LITTLE BROTHER.

Q THE LITTLE BROTHER. STATE'S EXHIBIT SEVENTEEN?
A YES.
Q AND WERE THEY AROUND THE SAME CAR THAT YOU SAW DURING THAT LUNCH HOUR?
A YES.
Q AND BOTH DURING THE DAYTIME WITH THE NATURAL LIGHT, AS WELL AS IN THE PARKING LOT WHEN YOU WERE WALKING WITH YOUR ROOMMATE PHILLIP LEE, DID YOU HAVE ANY TROUBLE RECOGNIZING THEM AND SEEING THEIR FACES?
A NO.
Q HOW CLOSE DID YOU GET TO DUSHUN AND LUCIUS STATEN WHEN YOU AND PHILLIP WERE WALKING?
A WELL, THIS IS HOW FAR (INDICATING).
Q YOU MEAN---
A RIGHT THERE. THAT'S AROUND -- AROUND TEN FEET APART.
Q AND HOW LONG DID THIS, THESE WORDS THAT WERE EXCHANGED BETWEEN LUCIUS, DUSHUN AND YOU AND PHILLIP, ABOUT HOW LONG DID THIS TAKE PLACE?
A WELL, AROUND FIFTEEN OR THIRTY MINUTES.
Q AND LATER ON WERE YOU SHOWN A PHOTO LINEUP? I WANT TO DRAW YOUR ATTENTION TO JANUARY THE 26TH; DID YOU HAVE AN OPPORTUNITY TO GO TO THE POLICE DEPARTMENT AND MEET WITH INVESTIGATOR MEAD?
A YES.

Q YOU PREVIOUSLY INDICATED TO THE JUDGE YOU WEREN'T PRESENT IN THAT PARKING LOT WHEN PHILLIP LEE WAS KILLED, WERE YOU?

A NO.

Q ON JANUARY THE 26TH OF 2001, WHEN YOU WENT TO THE POLICE DEPARTMENT, DID INVESTIGATOR MEAD SHOW YOU STATE'S EXHIBIT NUMBER ELEVEN?

A YES.

Q WERE YOU ABLE TO IDENTIFY ANYONE?

A YES.

Q AND WHO WAS THAT?

A TWO.

Q OKAY. AND DID YOU IDENTIFY HIM AS ONE OF THE PERSONS THAT YOU AND PHILLIP LEE ENCOUNTERED ON THAT SATURDAY?

A YES.

Q DID YOU MEMORIALIZE YOUR IDENTIFICATION OF DUSHUN STATEN IN THIS DOCUMENT? DID YOU SIGN IT?

A YES.

Q I SHOW YOU THIS PHOTO LINEUP. WERE YOU SHOWN THIS PHOTO LINEUP?

A YES.

Q AND WERE YOU ABLE TO IDENTIFY ANYONE?

A THREE.

Q AND YOU IDENTIFIED HIM ON JANUARY THE 26TH?

A YES.
Q DID YOU MEMORIALIZE IDENTIFYING NUMBER THREE?
A YES.
Q AND WHO IS NUMBER THREE?
A THE BIG BROTHER.
Q IS THAT HOW YOU REFER TO THEM, AS THE BIG BROTHER AND THE LITTLE BROTHER?
A YES.
Q WHEN YOU WERE SHOWN EITHER OF THESE TWO PHOTO LINEUPS, DID INVESTIGATOR MEAD OR ANYONE SUGGEST TO YOU WHO TO PICK OUT?
A NO.

MR. GASSER: YOUR HONOR, THAT'S ALL WE WOULD HAVE OF THIS WITNESS. WE WOULD MARK THREE MORE EXHIBITS FOR IDENTIFICATION PURPOSES.

MR. STRICKLER: WITHOUT OBJECTION.

MR. TAYLOR: NO OBJECTION.

(STATE'S EXHIBIT NUMBER TWENTY-EIGHT, PHOTO LINEUP "G"; AND,

STATE'S EXHIBIT NUMBER TWENTY-NINE, AFFIDAVIT OF ANDREW BRITT RELATING TO PHOTO LINEUP "C"; AND,

STATE'S EXHIBIT NUMBER THIRTY, AFFIDAVIT OF ANDREW BRITT RELATING TO PHOTO LINEUP "G," ARE NOW MARKED FOR IDENTIFICATION.)

MR. STRICKLER: THANK YOU, YOUR HONOR. PLEASE THE

COURT.

CROSS-EXAMINATION BY MR. STRICKLER (IN CAMERA):

Q MR. BRITT?

A YES.

Q I HAVE JUST A FEW QUESTIONS FOR YOU, IF I COULD, PLEASE.

AS I UNDERSTAND IT, NOW YOU DIDN'T SEE ANYTHING HAPPEN ON THE MONDAY NIGHT WHEN MR. LEE WAS KILLED; CORRECT?

A NO, SIR.

Q WHAT YOU TESTIFIED ABOUT IS HAVING OCCASION TO MEET LUCIUS AND DUSHUN ON SATURDAY BEFORE THAT MONDAY?

A YES.

Q AND YOU SAW THEM WHAT, ON TWO OCCASIONS THAT SATURDAY OR JUST ONE?

A I SAW THEM ON TWO OCCASIONS.

Q TWO OCCASIONS. ONCE IN THE AFTERNOON AND ONCE LATER IN THE EVENING; IS THAT CORRECT?

A YES.

Q NOW, WHEN YOU FIRST SAW THEM ON THAT SATURDAY, I BELIEVE YOU WERE GOING TO GO SEE -- OR RATHER PHIL WANTED TO ASK SOMEONE ABOUT A D.V.D.?

A THAT WAS SATURDAY NIGHT HE ASKED SOMEBODY ABOUT THE D.V.D.

Q THAT WAS SATURDAY NIGHT?

A YES. WE WAS ON OUR WAY BACK TO THE ROOM.
Q OKAY. OKAY. AND THE KID HE WAS ASKING ABOUT THE D.V.D. IS A GUY NAMED PELO (PHONETIC)?
A LIKE PELO OR SOMETHING LIKE THAT.
Q PELO; BRANDON McCANTS?
A I DON'T KNOW HIS FULL NAME.
Q UH-HUH (INDICATES AN AFFIRMATIVE RESPONSE).
AND WHEN YOU SAW PELO, THAT HE WAS IN THE COMPANY OF DUSHUN AND LUCIUS?
A YES.
Q OKAY. AND THERE WERE WORDS EXCHANGED AT THAT POINT IN TIME?
A YES.
Q BETWEEN WHOM?
A BETWEEN DUSHUN AND PHILLIP.
Q OKAY, SO THIS IS ON SATURDAY YOU GOT DUSHUN AND PHIL ARGUING?
A YES. YES.
Q A PARKING LOT AGAIN---
A YES.
Q ---OR THE SIDEWALK BESIDE THE PARKING LOT?
A THIS WAS AT THE TOP OF THE PARKING LOT.
Q SAME PARKING LOT, JUST A DIFFERENT AREA OF THE PARKING LOT; RIGHT?
A YES.

Q AND AT ONE POINT IN TIME YOU SAW, IF I UNDERSTAND YOUR TESTIMONY, YOU SAW LUCIUS WALK BACK TO THE CAR LIKE "JUST FORGET ABOUT IT"?

A YES.

Q ALL RIGHT. EVIDENTLY DUSHUN AND PHIL CONTINUED TO ARGUE AT THAT POINT?

A YES.

Q AND LUCIUS CAME BACK?

A YES.

Q AND THEN LUCIUS GOT INVOLVED IN THE ARGUMENT AT THAT POINT IN TIME?

A YES.

Q WHERE WERE YOU STANDING WHILE THIS WAS GOING ON?

A I WAS STANDING WHERE THE LIGHT POST WAS, WHERE PHIL WAS KILLED.

Q HOW FAR AWAY FROM THIS ARGUMENT WERE YOU STANDING?

A I'D SAY RIGHT AROUND TEN FEET.

Q AROUND TEN FEET.

AND THEN THEY GET IN THEIR CAR AND THEY DRIVE OFF AND YOU SAY LUCIUS---

A THEY GOT IN THE CAR SO THEY DROVE OFF AROUND THREE FEET AND THE CAR STOPS. LUCIUS GOT OUT OF THE CAR AND SAID, "WE'RE GOING TO START REMEMBERING FACES." HE GOT BACK IN THE CAR AND THEY LEFT.

Q THEY WERE GOING TO START REMEMBERING FACES.

WHAT WAS DUSHUN WEARING THAT NIGHT?

A THE LITTLE ONE?

Q YEAH, THE LITTLE BROTHER.

A YELLOW JACKET.

Q A YELLOW JACKET.

AND WHAT WAS LUCIUS, THE BIG BROTHER, WEARING?

A I DON'T REMEMBER WHAT HE WAS WEARING.

Q WAS THAT THE ONLY TIME YOU -- THAT SATURDAY WAS THE ONLY TIME YOU SAW THEM?

A YEAH. I SEEN THEM THE SUNDAY AFTER THAT THOUGH.

Q FROM SATURDAY THEN YOU SAW THEM ON SUNDAY ALSO?

A YES.

Q WHERE DID YOU SEE THEM ON SUNDAY, THE PARKING LOT?

A SAME PLACE, THE PARKING LOT.

Q AND WHAT TIME OF THE DAY OR NIGHT WAS THAT?

A THIS WAS AROUND ONE -- THIS WAS AROUND TWO-THIRTY IN THE AFTERNOON.

Q OKAY. WHAT WAS DUSHUN WEARING THAT DAY?

A I DON'T RECALL WHAT HE WAS WEARING ON THAT SUNDAY.

Q YOU DON'T REMEMBER WHAT BIG BROTHER, LUCIUS, WAS WEARING THAT DAY?

A NO.

Q SO THOSE WERE THE TWO OCCASIONS YOU SAW THEM, ON SATURDAY AND ON SUNDAY; IS THAT CORRECT?

A YES.

Q ALL RIGHT, THANK YOU.

THE COURT: MR. TAYLOR?

CROSS-EXAMINATION BY MR. TAYLOR:

Q HOW LONG HAVE YOU BEEN A STUDENT AT BENEDICT?

A FOR A YEAR.

Q A YEAR. A YEAR NOW?

A NO. I TRANSFERRED.

Q YOU TRANSFERRED. HOW LONG HAD YOU BEEN A STUDENT WHEN THE SHOOTING OCCURRED?

A I BEEN THERE SINCE AUGUST, FROM AUGUST TO MAY.

Q OF 2000?

A YES.

Q OKAY. SO YOU WERE FAMILIAR WITH THE HASKILL DORM AREA, PARKING LOT AND SO FORTH?

A YES.

Q I WANT YOU TO LOOK WITH ME AT THE CENTER PHOTOGRAPH AT THE TOP OF WHAT'S BEEN MARKED AS STATE'S EXHIBIT EIGHTEEN. DO YOU SEE THE MAN IN THE WHITE SHIRT THERE TO THE LEFT IN THAT PHOTOGRAPH?

A YES.

Q AND WOULD YOU AGREE WITH ME THAT THAT'S A FAIRLY DARK AREA IN THERE?

A YES.

Q THANK YOU, SIR. THAT'S ALL I HAVE.

THE COURT: ALL RIGHT, YOU CAN COME DOWN.

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

CALL YOUR NEXT ONE.

MR. GASSER: YOUR HONOR, OUR LAST TESTIMONY OF A WITNESS, WE'LL RECALL INVESTIGATOR MEAD VERY BRIEFLY.

THE COURT: YES, HE'S STILL UNDER OATH.

DIRECT EXAMINATION BY MR. GASSER (IN CAMERA):

Q INVESTIGATOR MEAD, WERE YOU THE INVESTIGATOR THAT ACTUALLY SHOWED ALL OF THE PHOTO LINEUPS THAT HAVE BEEN MARKED FOR IDENTIFICATION TO ALONZO SHULER, ANTHONY KENNEDY, JEAN DABADY, ANDREW BRITT, AND RASHON LOGGINS?

A YES, I DID.

Q LET ME DO IT THIS WAY. I'M SHOWING YOU STATE'S EXHIBIT NUMBER NINE; DO YOU RECOGNIZE THIS PHOTO SPREAD?

A YES, I DO.

Q AND WHO IS THE TARGETED PHOTO? FOR YOUR PURPOSES WHAT PERSON WAS IN THIS PHOTO SPREAD?

A PHOTO NUMBER FIVE OF LUCIUS STATEN.

Q WHENEVER YOU SHOWED STATE'S EXHIBIT NUMBER NINE TO ANY OF THE WITNESSES THAT HAVE PREVIOUSLY TESTIFIED DURING THIS EXTENDED NEAL V. BIGGERS HEARING BEFORE JUDGE McKELLAR, DID YOU OR DID ANYONE IN YOUR PRESENCE EVER SUGGEST TO ANY OF THE WITNESSES WHO TO PICK OUT OF THIS PHOTO SPREAD?

A NO, SIR.

Q AND WERE YOU PRESENT WHEN THE WITNESSES THAT PREVIOUSLY IDENTIFIED -- THEY IDENTIFIED LUCIUS STATEN, NUMBER FIVE IN STATE'S EXHIBIT NUMBER NINE, WERE YOU PRESENT WHEN THOSE WITNESSES IN FACT HAD IDENTIFIED LUCIUS STATEN?

A YES, I WAS.

Q DID YOU HAVE THE WITNESSES THAT, WHEN YOU USED STATE'S EXHIBIT NUMBER NINE TO IDENTIFY LUCIUS STATEN, DID YOU HAVE THOSE WITNESSES MEMORIALIZE THEIR FINDINGS IN AN AFFIDAVIT FORM?

A YES, I DID, SIR.

Q SO WHEN YOU SHOWED STATE'S EXHIBIT NUMBER NINE, THE PHOTO SPREAD OF LUCIUS STATEN, TO ALONZO SHULER ON JANUARY THE 18TH, DOES STATE'S EXHIBIT NUMBER THIRTEEN INDICATE THAT HE IDENTIFIED LUCIUS STATEN?

A YES, IT DOES.

Q AND WHEN YOU SHOWED IT TO ANTHONY KENNEDY ON JANUARY THE 24TH AT C.P.D., DOES STATE'S EXHIBIT NUMBER TWENTY INDICATE HE IDENTIFIED NUMBER FIVE, LUCIUS STATEN?

A YES, HE DID.

Q AND WHEN YOU SHOWED IT TO JEAN DABADY ON JANUARY THE 24TH AT C.P.D., DOES STATE'S EXHIBIT NUMBER TWENTY-FOUR INDICATE THAT HE IN FACT HAD PICKED OUT NUMBER FIVE AS LUCIUS STATEN?

A YES, HE DID.

Q AND WHEN YOU SHOWED STATE'S EXHIBIT NUMBER TWENTY-EIGHT, THIS PHOTO SPREAD, ON JANUARY THE 26TH, WHO IS THE TARGET OF THIS PHOTO SPREAD?

A LUCIUS STATEN.

Q IS THIS A MORE JUST UP-TO-DATE PHOTOGRAPH OF HIM?

A THAT'S CORRECT.

Q WHEN YOU SHOWED THIS TO ANDREW BRITT WHO JUST TESTIFIED, DID HE IDENTIFY ANYONE IN THIS PHOTO SPREAD?

A PHOTO NUMBER THREE OF LUCIUS STATEN.

Q AND DOES STATE'S EXHIBIT NUMBER THIRTY INDICATE THAT?

A YES, IT DOES.

Q DID YOU OR DID ANYONE IN YOUR PRESENCE SUGGEST TO HIM TO PICK OUT LUCIUS STATEN IN THIS PHOTOGRAPH?

A NO, SIR.

Q STATE'S EXHIBIT NUMBER TEN, THIS PHOTOGRAPHIC LINEUP, DO YOU RECOGNIZE THAT PHOTOGRAPHIC LINEUP?

A YES, I DO, SIR.

Q AND WHO IS THE TARGET OF THAT LINEUP?

A PHOTOGRAPH NUMBER SIX OF MAURICE SANDERS.

Q AND MAURICE SANDERS WAS ACTUALLY BRIEFLY -- BRIEFLY TAKEN INTO CUSTODY THAT EVENING WITHIN A FEW MINUTES AFTER THE INCIDENT; IS THAT CORRECT?

A YES, HE WAS.

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

FOURTEEN. WHEN YOU SHOWED STATE'S EXHIBIT TEN, THE LINEUP WITH MAURICE SANDERS AS THE TARGET, TO ALONZO SHULER ON JANUARY 18TH, DID HE IDENTIFY HIM AND WAS THAT MEMORIALIZED?

A YES, HE DID.

Q AND STATE'S EXHIBIT NINETEEN, WHEN YOU SHOWED STATE'S EXHIBIT TEN, WHERE MAURICE SANDERS WAS THE TARGET, ON JANUARY 24TH TO ANTHONY KENNEDY, DID HE MEMORIALIZE IDENTIFYING MAURICE SANDERS AS BEING THERE?

A YES, HE DID.

Q AND ON JANUARY THE 24TH WHEN YOU SHOWED STATE'S EXHIBIT TEN, WITH MAURICE SANDERS AS THE TARGET, TO JEAN DABADY, DID HE PICK HIM OUT ALSO AS BEING PRESENT?

A YES, SIR, HE DID.

Q AND DID YOU SUGGEST IN ANY MANNER FOR ANY OF THOSE WITNESSES TO PICK OUT MAURICE SANDERS?

A NO, I DID NOT.

Q DO YOU RECOGNIZE STATE'S EXHIBIT NUMBER ELEVEN, THIS PHOTO SPREAD?

A I DO.

Q AND WHO IS THE TARGET OF THIS PHOTO SPREAD?

A PHOTO NUMBER TWO OF DUSHUN STATEN.

Q DID YOU SHOW THAT, STATE'S EXHIBIT ELEVEN WITH DUSHUN STATEN PHOTO INCLUDED IN THE SIX PHOTOGRAPHS, DID YOU SHOW THAT TO A NUMBER OF WITNESSES?

A I DID.
Q ON JANUARY THE 24TH, WHEN YOU SHOWED IT TO JEAN DABADY, DID HE IDENTIFY NUMBER TWO AND WAS THAT MEMORIALIZED?
A YES, HE DID, AND IT WAS.
Q AND IS THAT STATE'S EXHIBIT TWENTY-SIX?
A YES, SIR.
Q ON THE 24TH WHEN YOU SHOWED THIS TO ANTHONY KENNEDY, DID HE PICK OUT -- WHEN YOU SHOWED STATE'S EXHIBIT ELEVEN TO ANTHONY KENNEDY, DID HE PICK OUT DUSHUN STATEN?
A YES, HE DID.
Q IS THAT MEMORIALIZED IN STATE'S EXHIBIT TWENTY-ONE?
A YES, SIR.
Q ON THE 25TH, THE NEXT DAY, WHEN YOU SHOWED STATE'S EXHIBIT ELEVEN, PHOTOGRAPHS INCLUDING THAT WITH DUSHUN STATEN TO ALONZO SHULER, DID HE IDENTIFY DUSHUN STATEN?
A YES, HE DID.
Q IS THAT MEMORIALIZED IN STATE'S EXHIBIT FIFTEEN?
A YES, SIR.
Q ON THE 26TH DID YOU HAVE AN OPPORTUNITY TO SHOW STATE'S EXHIBIT ELEVEN TO BOTH RASHON LOGGINS AND ANDREW BRITT?
A I DID.
Q AND DID THEY BOTH IDENTIFY NUMBER TWO AS DUSHUN

STATEN?

A YES, THEY DID.

Q AND WITH REGARDS TO LOGGINS, STATE'S EXHIBIT TWENTY-THREE, IS THAT MEMORIALIZED?

A IT IS.

Q AND WITH REGARDS TO ANDREW BRITT, STATE'S EXHIBIT TWENTY-NINE, IS THAT MEMORIALIZED?

A YES, SIR.

Q LASTLY, STATE'S EXHIBIT NUMBER TWELVE, DO YOU RECOGNIZE THIS PHOTO SPREAD?

A I DO.

Q AND IN THAT PHOTO SPREAD WHO IS THE TARGET?

A PHOTOGRAPH NUMBER ONE OF SHAKEEM WILSON.

Q OKAY. SHAKEEM WILSON, DO YOU KNOW, YOUR INVESTIGATION, IS HE RELATED TO THE STATEN BROTHERS?

A I BELIEVE HE'S A COUSIN.

Q STATE'S EXHIBIT NUMBER TWENTY-TWO, WHEN YOU SHOWED THIS PHOTO SPREAD TO ANTHONY KENNEDY, DID HE IDENTIFY SHAKEEM WILSON?

A HE DID.

Q WAS THAT MEMORIALIZED IN STATE'S EXHIBIT TWENTY-TWO?

A IT WAS.

Q AND ON THE 24TH OF JANUARY DID YOU SHOW STATE'S EXHIBIT TWELVE TO JEAN DABADY?

A I DID.
Q DID HE IDENTIFY SHAKEEM WILSON?
A HE DID.
Q WAS THAT MEMORIALIZED IN STATE'S EXHIBIT TWENTY-SEVEN?
A YES, SIR.
Q ON JANUARY THE 25TH, WHEN YOU SHOWED STATE'S EXHIBIT NUMBER TWELVE, THE PHOTOS INCLUDING THAT OF SHAKEEM WILSON TO ALONZO SHULER, DID HE IDENTIFY SHAKEEM WILSON?
A HE DID.
Q WAS THAT MEMORIALIZED?
A YES, SIR.
Q DID YOU ATTEMPT TO SHOW ALL OF THESE WITNESSES, WHEN YOU OBTAINED COPIES OF STATE'S EXHIBIT TWO AND STATE'S EXHIBIT FIVE, TWO PHOTO SPREADS WHICH YOU PREVIOUSLY IDENTIFIED AS LIMEL SIMS BEING PRESENT, OTHER THAN THE TWO DEFENDANTS, WERE ANY OF THE WITNESSES THAT HAVE PREVIOUSLY TESTIFIED TO THIS COURT ABLE TO IDENTIFY LIMEL SIMS AS EVEN BEING PRESENT?
A NO. NOBODY WAS ABLE TO IDENTIFY HIM.
Q AND DID ANY OF THE WITNESSES THAT JUST PREVIOUSLY TESTIFIED AT THIS NEAL V. BIGGERS HEARING, DID ANY OF THE WITNESSES EVER INDICATE DURING ANY OF THESE SHOWINGS OF THESE FOUR PHOTOGRAPHIC LINEUPS, THE ONE -- OR ACTUALLY

THE FIVE, THE TWO LINEUPS WITH LUCIUS STATEN, THE ONE LINEUP WITH DUSHUN, THE LINEUP WITH MAURICE, AND THE LINEUP WITH SHAKEEM, DID ANY OF THEM EVER INDICATE THAT ANY OF THOSE FOUR PEOPLE WERE THE TRIGGERMAN?

A NO, THEY DID NOT.

Q IN FACT, DID THEY INDICATE THAT---

A THEY WERE NOT THE TRIGGER PERSON.

Q AND LAST SET OF QUESTIONS, WHEN YOU WERE SHOWING THESE PHOTO LINEUPS OVER A PERIOD OF SEVERAL DAYS, A WEEK OR MORE, DID YOU EVER SHOW A PHOTO LINEUP WITH TWO WITNESSES IN THE SAME ROOM?

A NO, SIR.

Q SO WERE ALL OF THESE PROCEDURES THAT YOU'VE JUST DESCRIBED TO THE JURY (SIC) AS WENT OVER THOROUGHLY, AT EACH TIME WAS THE WITNESS AND YOU BY YOURSELVES?

A THAT'S CORRECT.

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

THE COURT: MR. STRICKLER?

MR. STRICKLER: I DON'T HAVE ANY QUESTIONS, SIR.

THE COURT: MR. TAYLOR?

MR. TAYLOR: NO QUESTIONS.

THE COURT: ALL RIGHT, YOU CAN GO NOW.

INVESTIGATOR MEAD: THANK YOU, YOUR HONOR.

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

THE COURT: IS THAT ALL THE TESTIMONY?

MR. GASSER: THAT'S ALL WE HAVE, YOUR HONOR, WITH REGARDS TO ALL OF THE IN-COURT IDENTIFICATIONS.

THE COURT: ALL RIGHT.

BE GLAD TO HEAR FROM YOU.

(THERE IS NO RESPONSE.)

WELL, IT APPEARS THAT BASED ON THE TESTIMONY PRESENTED TODAY IT MET ALL THE -- TAKING INTO CONSIDERATION ALL OF THE FACTS OF THE NEAL V. BIGGERS, THERE'S NOTHING TO SUGGEST THAT THE LINEUPS WERE SUGGESTED, NOTHING TO INDICATE THEY WERE SUGGESTED, THAT ANYTHING WAS OUT-OF-LINE, SO WE'LL ALLOW THE IN-COURT IDENTIFICATION.

ANYTHING ELSE TODAY?

MR. GASSER: YOUR HONOR, JUST A COUPLE THINGS BRIEFLY, AND THIS IS JUST SO WE PUT OUR CONCERNS ON THE RECORD WITH REGARDS TO OPENING STATEMENTS.

THERE ARE TWO OTHER DEFENDANTS IN THIS CASE THAT HAVE BEEN ARRESTED, THAT HAVE GIVEN EITHER ORAL OR WRITTEN STATEMENTS. IT IS MY UNDERSTANDING, AND I HAVE SPOKEN WITH BOTH COUNSEL AS OFFICERS OF THE COURT FOR BOTH, MAURICE SANDERS WHO IS GARFIELD STUART, AND SHAKEEM WILSON WHO IS KATHERINE HUDGINS, THAT BOTH OF THOSE DEFENDANTS INTEND ON EXERCISING THEIR FIFTH AMENDMENT RIGHTS SHOULD EITHER THE STATE OR THE DEFENSE ANTICIPATE

OR PLAN ON CALLING THEM. BECAUSE OF THAT WE DO NOT INTEND ON CALLING ANY OF THOSE WITNESSES.

THERE ARE SEVERAL OTHER WITNESSES THAT WE HAVE PROVIDED STATEMENTS TO THE DEFENSE THAT HAVE GIVEN STATEMENTS THAT MAURICE SANDERS OR SHAKEEM WILSON HAVE TOLD THEM SOMETHING.

IT'S OUR POSITION, YOUR HONOR, UNDER WILLIE DOCTOR, SEMINAL CASE STEMMING FROM HERE IN RICHLAND COUNTY SOME FIFTEEN YEARS AGO, AND ALL OF THE CASES AFTER WILLIE DOCTOR, THAT ANY STATEMENTS MADE BY NON-TESTIFYING CODEFENDANTS ARE PER SE INADMISSIBLE. AND THEY ARE INADMISSIBLE UNLESS OR UNTIL -- AND THE BURDEN IS ON THE DEFENSE TO SHOW SOME SORT OF INDICIA OF RELIABILITY.

SO WE WOULD ASK THAT -- AGAIN, THIS IS A MOTION IN LIMINE -- AND I ANTICIPATE AT LEAST FOR PURPOSES OF OPENING STATEMENTS THAT NEITHER COUNSEL BE ALLOWED TO ARGUE BEFORE THE JURY IN OPENING STATEMENTS OR EVEN QUESTIONING THE STATE'S WITNESSES UNTIL SUCH TIME A HEARING COULD BE HELD AS TO ANY STATEMENTS MADE BY SHAKEEM WILSON OR MAURICE SANDERS, UNLESS THEY WERE MADE UNDER THE EXCITED UTTERANCE EXCEPTION THERE AT THE SCENE WHEN ALL THIS WENT DOWN.

THE COURT: OKAY.

RIGHT NOW WE'RE TALKING ABOUT OPENING STATEMENTS.

MR. STRICKLER: TALKING ABOUT OPENING STATEMENTS.

OPENING STATEMENTS I GUESS I CAN DEAL WITH. I'VE NEVER HAD A PROBLEM WITH OPENING STATEMENTS. I'M NOT EXACTLY SURE WHAT MR. GASSER IS DRIVING AT.

AS FAR AS STATEMENTS BY MR. SANDERS?

MR. GASSER: CORRECT.

MR. STRICKLER: LIKE CONFESSIONS TO OTHER PEOPLE THAT HE COMMITTED THE CRIMES?

MR. GASSER: CONFESSIONS TO THE TRIGGERMAN'S GIRLFRIEND.

MR. STRICKLER: NO.

MR. TAYLOR: NO. LET ME ADDRESS THAT, AS WELL.

THAT, I THINK, COMES BACK FULL CIRCLE TO THE THIRD PARTY GUILT ARGUMENT THAT WE HEARD A LITTLE BIT ABOUT IN CHAMBERS THIS MORNING THAT'S NEVER BEEN DEVELOPED.

THE COURT: I DON'T NORMALLY HEAR ANYTHING ABOUT THIRD PARTY GUILT.

MR. TAYLOR: THERE WAS A WRITTEN MOTION FILED AND IT WAS JUST MENTIONED VERY BRIEFLY WITH YOUR HONOR THIS MORNING.

THE COURT: YOU KNOW, I DON'T KNOW WHERE ALL THESE MOTIONS ARE GOING IN CRIMINAL CASES BUT THEY SURE DON'T COME TO ME.

MR. GASSER: WELL, THAT WAS NEXT ON MY LIST.

MR. TAYLOR: I HAVE NO IDEA. WE FILE THEM WITH THE COURT AND THEN AFTER THAT I DON'T KNOW WHERE THEY GO

EITHER.

THE COURT: WELL, THE CIVIL CASE THEY GET IT FILED. BUT A CRIMINAL CASE WE DON'T GET ANYTHING.

MR. TAYLOR: WELL, AT ANY RATE, YOUR HONOR---

THE COURT: I'M JUST MAKING LIGHT. I DON'T NEED COPIES OF THEM.

MR. TAYLOR: I UNDERSTAND.

AT ANY RATE, YOUR HONOR, IT'S OUR POSITION THAT IF A PERSON HAS MADE A STATEMENT THAT THEY COMMITTED THE CRIME THAT THE DEFENDANTS ARE CHARGED WITH AND THERE IS CORROBORATING EVIDENCE TO SUPPORT THAT STATEMENT, THEN THAT DOES COME INTO EVIDENCE.

WE HAD A 2000 CASE DECIDED BY THE SOUTH CAROLINA SUPREME COURT. THE HONORABLE JUSTICE PLEICONES WROTE THE OPINION, STATE VERSUS McDONALD, WHERE, THANK GOODNESS, THEY FINALLY CLEARED UP A QUESTION OF 803(B)(3), WHICH HAD BEEN DRIVING ME NUTS FOR SOME YEARS, TO THE EFFECT THAT THE CORROBORATION THAT'S NECESSARY FOR THE STATEMENT TO COME IN UNDER THOSE CIRCUMSTANCES IS NOT THAT THE MAN ACTUALLY COMMITTED THE CRIME, THE CORROBORATION THAT IS NECESSARY IS THE PROOF THAT HE MADE THE STATEMENT THAT HE COMMITTED THE CRIME, ALONG WITH ANY OTHER INDICIA.

WHAT WE EXPECT TO PROVE BEFORE THIS CASE IS OVER WITH IS THAT AT LEAST TWO PEOPLE SAW ONE OF THESE PEOPLE HE'S TALKING ABOUT WITH THE GUN IN HIS HAND, PULL THE

TRIGGER, AND THE VICTIM GO DOWN TO THE GROUND AND DIE.

AND HE MADE A STATEMENT FURTHER, TO HIS GIRL, A GIRL THAT HE WAS DATING, THAT HE SHOT AND KILLED THIS GUY, WHILE SHE WAS TAKING HIM TO THE BUS STATION SO HE COULD FLEE AND SO HE COULD TRY TO FIND THE MURDER WEAPON WHICH HE HAD THROWN AWAY WHILE HE WAS RUNNING FROM THE CAMPUS POLICE. ALL OF THAT IS CORROBORATION THAT WHAT THE MAN SAYS ABOUT HIS SHOOTING THIS FELLOW COMES INTO EVIDENCE. IT'S THAT SIMPLE.

MR. GASSER: NO, IT'S NOT THAT SIMPLE. IN FACT, ALL OF THE CASE LAW, ALL OF IT VIRTUALLY IS OPPOSED TO THIS COMING IN. I'VE NOT FOUND ONE CASE, OTHER THAN WHEN THE DOCTOR CASE STARTED THE STANDARD AND THEY SAID THAT THERE WAS AN ISSUE OF LIABILITY BASED ON THE CREDIBLE CORROBORATING PHYSICAL EVIDENCE.

ALL OF THE CASES, SEVERAL OF WHICH EMANATE FROM THIS COURTROOM, THE LAST BEING SHARONETTA WANNAMAKER, WHICH I CAN PROVIDE TO THE COURT, A RICHLAND COUNTY MURDER CASE TRIED BEFORE JUDGE PATTERSON.

THE MOST HIGH PROFILE CASE BEING JERRY EVANS, WHICH WAS THE HIT-AND-RUN CASE OUT ON HARDSCRABBLE ROAD, THE DEFENSE HAD THREE WITNESSES TO SAY THIS OTHER THIRD PARTY WAS DRIVING THE CAR THAT KILLED THE CHILDREN. AND THE COURT DID NOT ALLOW THAT TO COME IN BECAUSE THERE WAS NO INDEPENDENT, INDEPENDENT, CREDIBLE CORROBORATION, EVEN

THOUGH THEY HAD THREE WITNESSES TO GET UP AND SAY THAT JOHN DOE HERE, NOT JERRY EVANS, WAS DRIVING THE CAR AND ADMITTED TO DRIVING THE CAR THAT KILLED THE CHILDREN.

THIS CASE, YOUR HONOR, FIRST OF ALL, THE INTERESTING THING ABOUT THIS CASE, AS THIS COURT KNOWS, WHEN WE ARE PROCEEDING ON THE THEORY OF ACCOMPLICE LIABILITY, THE MALICE THAT THE STATE MUST PROVE IS THAT OF THE KILLER. THE KILLER, UNDER THE LAW, IS IRRELEVANT. WE JUST HAVE TO PROVE THAT WHOEVER PULLED THE TRIGGER WAS ACTING MALICIOUSLY. AND THEN WE SPECIFICALLY HAVE TO PROVE THAT THESE PEOPLE WERE AIDING AND ABETTING.

BUT THE INTERESTING THING ABOUT THIS IS THAT WHOEVER THE SHOOTER IS -- BECAUSE THE STATE IS STIPULATING THAT NEITHER ONE OF THESE GENTLEMEN WAS THE SHOOTER -- WHOEVER THE SHOOTER IS, IS NOT RELEVANT TO THEM APPLYING THE FACTS THEY HEAR IN THE LAW. WHETHER IT'S MAURICE SANDERS OR LIMEL SIMS OR SHAKEEM WILSON OR SOME OTHER PARTIES, ONE OR TWO OTHER PEOPLE THAT WE'LL NEVER EVEN BE ABLE TO FIND OUT, IT'S NOT RELEVANT FOR THE ISSUES THAT THIS JURY IS GOING TO HAVE.

THE RELEVANCE IS, IS THAT WHOEVER THE SHOOTER WAS HAD TO HAVE MALICE BEFORE THE JURY CAN FIND THESE PEOPLE GUILTY AS AIDERS AND ABETTERS. SO THAT'S THE FIRST THING THAT I THOUGHT I WOULD COME TO, THAT MY ARGUMENT IS, THAT THE IDENTITY OF THE SHOOTER IS NOT RELEVANT TO THE

CONDUCT OF WHETHER OR NOT THESE PEOPLE WERE AIDING AND ABETTING THE SHOOTER.

THE SECOND THING IS, YOUR HONOR, THIS CORROBORATION THEY TALK ABOUT, THE CORROBORATION THAT THEY'RE TALKING ABOUT IS IT'S THE STATE'S POSITION THAT LIMEL SIMS IS THE SHOOTER. THE WITNESS THEY HAVE IS THE GIRLFRIEND WHO DATED LIMEL SIMS, WHO HAS STILL INDICATED THAT SHE'S STILL IN LOVE WITH HIM.

THE GIRLFRIEND CLAIMS SOME ELEVEN DAYS AFTER THE INCIDENT, AFTER BEING ALREADY INTERVIEWED BY THE POLICE, THAT MAURICE SANDERS -- "OH, BY THE WAY, FORGOT TO TELL YOU -- ELEVEN DAYS AFTER THE INCIDENT -- "I FORGOT TO TELL YOU, MAURICE SANDERS IS THE TRIGGERMAN." AND THIS IS AFTER LIMEL SIMS, HER BOYFRIEND, HAS BEEN CHARGED WITH MURDER AND WE JUST HADN'T FOUND HIM YET.

AND THEN THE OTHER PERSON THAT THEY CLAIM CAME FORWARD TWO-AND-A-HALF MONTHS LATER AND IS THE PERSON THAT DROPPED LUCIUS OFF AT THE CRIME SCENE. SO THEY DON'T HAVE ANY INDEPENDENT, INDEPENDENT, CREDIBLE, CORROBORATING EVIDENCE THAT MAURICE SANDERS WAS THE SHOOTER.

BUT, YOUR HONOR, THERE IS PHYSICAL EVIDENCE AT THE SCENE. ALL OF THE WITNESSES SAY -- OR MOST OF THE WITNESSES SAY THAT THE SHOOTER HAD BRAIDS. MAURICE SANDERS IS STOPPED TWO OR THREE -- TWO TO THREE MINUTES

AFTER THE INCIDENT, AND A PHOTOGRAPH IS TAKEN OF HIM, WITH AN AFRO. SO THE PERSON THEY'RE TRYING TO CLAIM IS THE SHOOTER AND THEY HAVE CORROBORATING EVIDENCE IS STOPPED WITHIN SEVERAL MINUTES, THREE OR FOUR BLOCKS AWAY FROM THE SCENE, WEARING A GRAY SHIRT, NOT A BLACK OR RED NORTHFACE JACKET, AND HE DON'T HAVE BRAIDS IN HIS HAIR, HE'S WEARING AN AFRO. AND HIS HANDS ARE SWABBED AND SENT OUT TO SLED AND IT'S NEGATIVE.

SO NOT ONLY DON'T THEY HAVE INDEPENDENT CORROBORATING EVIDENCE, THEY'VE GOT THE GIRLFRIEND OF THE SHOOTER, AND THE FRIEND OF LUCIUS; THAT'S ALL THEY HAVE.

WE'VE GOT INDEPENDENT CORROBORATING EVIDENCE TO SHOW THAT HE'S NOT THE SHOOTER, AND WE'VE GOT THE ARGUMENT THAT IT DOESN'T MATTER WHO THE SHOOTER IS.

SO ALL THEY'RE TRYING TO DO IS CONFUSE THE JURY. THAT'S ALL THEY'RE TRYING TO DO, TO TRY AND PUT IT ALL ON MAURICE SANDERS WHEN THAT'S NOT EVEN A LEGITIMATE ISSUE.

AND WHEN ALL OF THE CASES, STATE VERSUS JERRY EVANS, STATE VERSUS SHARONETTA WANNAMAKER, STATE VERSUS ERIC FORNEY, AND STATE VERSUS REGINALD KINLOCK, ALL SAY THAT IT'S HEARSAY AND IN CRIMINAL CASES IT'S GOT TO BE MORE THAN JUST A STATEMENT AGAINST PENAL INTEREST, IT'S GOT TO BE INDEPENDENTLY, AND VERIFIABLY, INCREDIBLY CORROBORATED BY OTHER EVIDENCE. SO THAT'S OUR POSITION.

THE COURT: OKAY.

MR. TAYLOR: MAY IT PLEASE THE COURT. LET ME GIVE YOU THE CITE, PLEASE, ON ---

THE COURT: WHY DON'T Y'ALL DO THIS. I DON'T HAVE A LAW CLERK THIS WEEK SO IF Y'ALL WOULD MAKE ME COPIES OF THOSE CASES, OR GIVE ME THE CASES AND LET ME READ THEM.

BUT I'M IMPRESSED BY HIS ARGUMENT THAT IT'S NOT REALLY RELEVANT IN THIS CASE.

MR. TAYLOR: WELL, YOUR HONOR, NOW, FIRST OF ALL ---

THE COURT: I MEAN ---

MR. TAYLOR: --- HOW COULD IT NOT BE RELEVANT? THEY HAVE TO ESTABLISH A RELATIONSHIP BETWEEN A SHOOTER AND THESE GENTLEMEN RIGHT HERE.

THE COURT: THAT'S RIGHT.

MR. TAYLOR: THEY'VE GOT TO ESTABLISH A RELATIONSHIP.

THE COURT: THAT'S RIGHT.

MR. TAYLOR: SO NOW IT IS ABSOLUTELY RELEVANT WHO THE SHOOTER IS. THAT IS THE MOST CRITICAL QUESTION IN THE CASE. BECAUSE IF HE IS NOT ASSOCIATED WITH THEM, THEY SHOULD NOT BE HERE.

THE COURT: OKAY. WELL, I NEED FOR Y'ALL TO GIVE ME ALL THE CASES.

MR. STRICKLER: AND SPECIFICALLY AS FAR AS HIM, MY REMEMBRANCE OF MR. GASSER BACK IN CHAMBERS WAS, "THE

SHOOTER DID SO AT THE DIRECTION OF LUCIUS STATEN."

MR. GASSER: THEY'RE MISSING THE POINT. ALL I'M TRYING TO DO IS KEEP ---

MR. STRICKLER: CAN I FINISH TALKING? I DIDN'T INTERRUPT YOU ONCE.

THE COURT: WHOA, WHOA, WHOA, WHOA, WHOA. I KNOW IT'S BEEN A LONG DAY BUT TOMORROW IS TUESDAY.

MR. STRICKLER: WELL...

THE COURT: GO AHEAD.

MR. GASSER: IT'S NOT WORTH GETTING A CORONARY OVER IT.

MR. STRICKLER: I'M NOT ABOUT TO HAVE A CORONARY, I JUST -- I TRY TO PLAY BY THE RULES.

THE COURT: COME ON THERE, GUYS.

MR. STRICKLER: WHEN YOU'RE DONE TALKING, THEN I TALK.

THE COURT: THIS WON'T BE THE LAST CASE YOU'LL HAVE TOGETHER. GO AHEAD.

MR. STRICKLER: I'M SURE IT WON'T.

YOU KNOW, BACK IN CHAMBERS THE THEORY IS, IT'S DONE AT HIS DIRECTION.

THE COURT: I NEVER HEARD THAT BACK IN CHAMBERS.

MR. STRICKLER: OKAY. IN THE NEWSPAPER TODAY THE THEORY IS IT'S DONE AT HIS DIRECTION. THAT'S FROM THE PRELIMINARY HEARING AND, OR BOND HEARING.

THE COURT: I NEVER HEARD THAT IN CHAMBERS.

MR. STRICKLER: BUT AGAIN ---

THE COURT: WHEN I READ THAT ARTICLE, I JUST KIND OF BREEZED OVER IT SO I DON'T REMEMBER ANYTHING HE SAID. BECAUSE I FIGURE I CAN HEAR THE REAL STORY HERE TODAY, SO WHY SHOULD I READ SOME NEWSPAPER ACCOUNT?

MR. STRICKLER: WELL, MR. TAYLOR SAYS IT IS ESPECIALLY TRUE, AS FAR AS LUCIUS STATEN GOES, IF HE CAN'T ESTABLISH A RELATIONSHIP, YOU KNOW, WHAT'S THE CHARGE AGAINST HIM?

AND PROCEEDING ON BASIS OF A RELATIONSHIP -- AND BEYOND WHICH -- BEYOND WHICH IT BOGGLES THE MIND TO SAY IN A CASE OF MURDER THAT THE IDENTITY OF THE PERSON WHO DID THE KILLING IS IRRELEVANT.

THE COURT: WELL, I DON'T THINK HE MEANT IT IN THAT -- LIKE IT WAS A RELEVANT STANDPOINT THAT THEY'RE NOT ACCUSED OF BEING THE SHOOTER.

LET ME READ THOSE CASES.

MR. GASSER: AND I WANT TO BE VERY CLEAR, YOUR HONOR, IF THEY'VE GOT EYEWITNESSES, IF THE DEFENDANTS WANT TO GET UP ON THE WITNESS STAND OR THEY WANT TO CALL BRANDON McCANTS AND THEY WANT TO TALK ABOUT BRANDON McCANTS IN THEIR OPENING STATEMENT AND THEY WANT TO SAY THAT THERE ARE OTHER WITNESSES THAT SAY THAT THE TRIGGERMAN IS MAURICE SANDERS, THEY HAVE EVERY RIGHT TO

DO THAT. I MEAN, IT'S A VERY LIMITED MOTION IN LIMINE. THE LAW IS CRYSTAL CLEAR ---

THE COURT: LET'S DO THIS ---

MR. GASSER: I JUST DON'T WANT THEM TALKING ABOUT WHAT NON-TESTIFYING CODEFENDANTS HAVE TOLD SOMEBODY.

THE COURT: WELL, LET ME HAVE ALL OF THAT. SOMEBODY MAKE ME COPIES OF ALL THE CASES AND THEN I'LL READ THEM OVERNIGHT.

MR. TAYLOR: ALL RIGHT, SIR.

I HAVE THE LAST CASE READILY AVAILABLE AND I HAVE THREE OR FOUR CASES THAT PRECEDE THAT, THAT LED UP TO THIS. THIS IS THE LAST CASE, THE 2000 CASE.

THE COURT: LET ME BORROW THAT.

MR. TAYLOR: ALL RIGHT, SIR.

THE COURT: AND YOU'RE GOING TO GET YOUR PARALEGAL TO MAKE COPIES OF YOURS?

CAN I BORROW YOURS TOO OR...

MR. GASSER: I'LL GET COPIES TO YOU.

THE COURT: OKAY. WHY DON'T YOU GIVE THOSE TO HER NOW? I'LL GO TO MY OFFICE AND WHEN SHE GET'S BACK, I'LL BE THERE.

WHAT ELSE HAVE WE GOT?

MR. GASSER: YOUR HONOR, AS A GENERAL MOTION OF THIRD PARTY GUILT, I JUST FILED THAT MOTION BECAUSE, LIKE IN ANY CASE SIMILAR TO THIS WHERE GUNSHOTS WERE FIRED AND

THERE'S RESIDENCES NEARBY AND THE POLICE TOOK DOWN EVERY SINGLE LEAD AND CRIME STOPPERS' TIP OR WHATEVER, HOWEVER, YOU WANT TO CLASSIFY THEM AS, IS THEY SAW A YELLOW CAMARO DRIVING AWAY FROM THE SCENE, OR THEY -- THE WORD ON THE STREET IS THAT THIS DUDE MAY HAVE BEEN INVOLVED OR THAT DUDE MAY HAVE BEEN INVOLVED, I JUST HAVE A BLANKET THIRD-PARTY GUILT OBJECTION TO ANY OF THAT COMING IN THROUGH ANY OF THE WITNESSES IN THE CASE, UNLESS UNTIL AGAIN...

MR. TAYLOR: BUT WE ARE GOVERNED BY 804(B)(3) AND McDONALD, THAT'S OUR POSITION.

MR. GASSER: I DON'T KNOW WHAT THAT MEANS.

MR. TAYLOR: THAT'S THE EXCEPTION TO THE HEARSAY RULE THAT LETS IT IN.

THE COURT: THAT'S STATE V. DOCTOR; RIGHT?

MR. GASSER: I DON'T KNOW WHAT THAT MEANS. I DON'T UNDERSTAND WHAT HE'S TALKING ABOUT.

I'M MAKING A BLANKET MOTION TO BAR THIRD-PARTY GUILT. I'VE CITED ALL THE CASES; THEY'VE GOT THE MOTION. AND, AGAIN, IT'S ONE OF THESE CASES WHERE THE GENERAL, ABSOLUTE RULE IS THIRD-PARTY GUILT IS INADMISSIBLE UNLESS OR UNTIL THE DEFENSE CAN OVERCOME A SIGNIFICANT BURDEN.

NOW I AGREE AS AN OFFICER OF THE COURT THAT IF THEY WANT TO CALL EYEWITNESSES THAT SAY WHO MIGHT HAVE BEEN THERE AND WHO WASN'T THERE, THAT'S FINE. BUT ALL THIS, YOU KNOW, EXTRANEOUS CALLS COMING IN SAYING "SO AND SO

MIGHT HAVE BEEN INVOLVED; SO AND SO MIGHT HAVE BEEN INVOLVED ---

MR. STRICKLER: I'VE GOT NO INTENTION OF GETTING INTO ---

MR. GASSER: WELL, THAT'S BECAUSE THE LAW DOESN'T ALLOW HIM TO GET INTO THAT. THAT'S WHY WE WANT TO MAKE SURE.

MR. STRICKLER: JUST EITHER PENALTY, I HAVE NO INTEREST IN GETTING INTO THAT.

MR. TAYLOR: NOW ARE WE -- ARE WE HEARING THAT WHAT THE STATE WANTS IS THAT THIS EVIDENCE BE EXCLUDED TOTALLY FROM THE TRIAL OF THIS CASE OR NOT?

THE COURT: WHAT THEY WANT ---

MR. TAYLOR: IT SEEMS I'VE HEARD IT BOTH WAYS OVER HERE.

THE COURT: THAT'S WHAT THEY WANT EVENTUALLY. BUT RIGHT NOW WE'RE TALKING ABOUT OPENING STATEMENTS.

BUT I'M GOING TO READ THE CASES AND THEN WE'LL MAKE A DECISION ON OPENING STATEMENTS AND THEN WE'LL MAKE A DECISION AS TO WHETHER IT COMES IN AS EVIDENCE IN TRIAL.

MR. TAYLOR: WELL, YOUR HONOR, WE MAY HAVE TO PUT SOME WITNESSES UP IN SUPPORT OF THIS MOTION. THIS IS THE MOST CRITICAL PART OF THIS CASE.

THE COURT: WELL, IT MIGHT BE AND IT MIGHT NOT BE. BUT I'VE GOT TO READ THE CASES FIRST.

MR. TAYLOR: I UNDERSTAND.

MR. GASSER: AND I UNDERSTAND ---

MR. TAYLOR: BUT I'M ASKING YOUR HONOR TO RESERVE US THE RIGHT TO PUT WITNESSES UP IF YOU NEED TO HEAR FROM THEM.

THE COURT: I'M NOT GOING TO MAKE ANY RULING TONIGHT.

MR. TAYLOR: ALL RIGHT.

THE COURT: UNLESS YOU CAN FIGURE OUT WHAT I'M DREAMING ABOUT OR SOMETHING.

MR. GASSER: AND, YOUR HONOR, MY MOTION TO BAR THIRD-PARTY GUILT IS, IF WE HAVE EVIDENCE THAT SOMEBODY CALLED UP, SOMEBODY CALLED UP THE POLICE AND SAID, "I HEARD THAT DUSHUN AND -- LUCIUS AND DUSHUN STATEN ADMITTING THEIR ROLE AND BRAGGING ABOUT HOW THEY HELPED KILL SOME GUY," WE COULDN'T GET THAT INTO EVIDENCE. WE COULDN'T GET THAT INTO EVIDENCE, THAT'S HEARSAY.

IF THE POLICE TOOK A STATEMENT FROM SOME ANONYMOUS CALLER, WE COULDN'T GET THAT INTO -- OR SOME NAMED CALLER THAT NEVER ELSE CAME FORWARD, THEN THAT'S THE PART I'M TALKING ABOUT, THIRD-PARTY GUILT.

THERE'S ALL THIS EXTRANEOUS INFORMATION THAT WAS BEING WRITTEN DOWN BY ALL THESE OUTSIDE SOURCES, IT'S CLEARLY INADMISSIBLE AND I JUST FILED A MOTION TO KEEP IT OUT BASED ON ALL THE CASE LAW. THAT'S THE ONLY THING I'M

TALKING ABOUT. DOUG HAS ALREADY INDICATED HE UNDERSTANDS WHAT I AM TALKING ABOUT.

MR. STRICKLER: RIGHT.

MR. GASSER: AND HE'S NOT GOING TO GET INTO IT.

MR. STRICKLER: OUR ONLY DIFFERENCE OF OPINION IS WHETHER OR NOT DISCUSSION REGARDING MAURICE SANDERS AS OPPOSED TO LIMEL SIMS IS EXTRANEOUS. BEYOND THOSE TWO PEOPLE I WOULD CONSIDER ANY OTHER NAMES MENTIONED AS BEING EXTRANEOUS.

MR. GASSER: RIGHT.

MR. TAYLOR: AND SO WOULD I.

MR. STRICKLER: THOSE TWO, THOSE TWO, EVERYBODY AGREES IS INVOLVED IN SOME FASHION.

THE COURT: WELL, I TELL YOU WHAT, ONCE I GET THE CASES I CAN READ THEM. YOU KNOW.

MR. GASSER: I JUST DON'T THINK THIS IS AS DIFFICULT AS IT'S BEING -- I'M NOT SAYING THAT MAURICE SANDER'S ROLE DOES NOT COME IN. IT'S JUST A VERY NARROW MOTION IN LIMINE TO KEEP OUT ANYTHING HE OR SHAKEEM WILSON TOLD OTHER PEOPLE BASED ON THE HEARSAY OBJECTION.

MR. TAYLOR: AND THAT IS 804(B)(3).

THE COURT: STATE V. DOCTOR.

MR. TAYLOR: STATE VERSUS McDONALD.

THE COURT: AND STATE V. DOCTOR.

MR. TAYLOR: WELL, THAT WAS THE FIRST CASE. THE

COURT HAS CLARIFIED THAT NOW, YOUR HONOR.

THE COURT: WELL, I'LL TELL JUSTICE PLEICONES YOU THINK HE CLARIFIED IT.

MR. GASSER: DO YOU HAVE THE CITE ON THAT McDONALD CASE?

THE COURT: YES. IT'S 540 S.E.2nd, 464.

YOU'VE UNDERLINED THE HEADNOTE, YOU DIDN'T UNDERLINE THE SUBSTANCE OF THE CASE.

MR. TAYLOR: WELL, I'LL BE HAPPY TO DO THAT FOR YOU. IF YOU'LL TURN OVER TO ABOUT THE THIRD PAGE OF THE RIGHT-HAND COLUMN, HALF-WAY DOWN ---

THE COURT: I'M ONLY KIDDING.

MR. TAYLOR: --- THERE'S THE SUBSTANCE OF THE MEAT OF THE CASE.

THE COURT: I'M ONLY KIDDING.

ALL RIGHT, I'LL READ THAT, READ THE REST.

MR. TAYLOR: THANK YOU VERY MUCH, YOUR HONOR.

WE'LL BE BACK AT NINE-THIRTY IN THE MORNING, DID YOU SAY?

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

MR. TAYLOR: WE NEED A LITTLE BIT OF TIME TO HOOK UP SOME ELECTRICAL EQUIPMENT. CAN WE GET IN THE COURTROOM A LITTLE EARLY?

THE COURT: EIGHT-THIRTY.

MR. TAYLOR: EIGHT-THIRTY, WE CAN GET IN THE COURTROOM ITSELF BY EIGHT-THIRTY?

THE COURT: SURE. WE'RE ALL HERE.

MR. TAYLOR: GREAT.

THE COURT: AND WE PROBABLY OUGHT TO BE HERE ABOUT NINE SO WE CAN RULE ON ALL THESE MOTIONS OR TAKE UP ANYTHING ELSE WE GOT.

ATTORNEY GARFIELD STEWART: IF I MAY BE HEARD, YOUR HONOR?

I REPRESENT MAURICE SANDERS AND HE WAS ORDERED TRANSPORTED HERE TODAY, YOUR HONOR, AND I WAS SUPPOSED TO HAVE LET YOU KNOW IF HE WILL BE CALLED, HE DOES INTEND TO EXERCISE HIS PRIVILEGE AGAINST SELF-INCRIMINATION.

THE COURT: HE'S GOING TO TAKE THE KEN LAY DOCTRINE, RIGHT?

ATTORNEY GARFIELD STEWART: EXCUSE ME NOW?

THE COURT: HE'S GOING TO TAKE THE KEN LAY DOCTRINE, THE FIFTH AMENDMENT?

ATTORNEY GARFIELD STEWART: I'M NOT HEARING YOU WELL.

THE COURT: NEVER MIND. HE'S GOING TO EXERCISE HIS RIGHTS UNDER THE FIFTH AMENDMENT; RIGHT?

ATTORNEY GARFIELD STEWART: BASED ON ---

THE COURT: SO EVEN IF CALLED BY EITHER SIDE, HE'S NOT GOING TO TESTIFY; RIGHT?

ATTORNEY GARFIELD STEWART: RIGHT, YOUR HONOR.

THE COURT: ALL RIGHT.

DOES ANYBODY WANT HIM BROUGHT OVER HERE SO HE CAN BE PUT ON THE STAND?

MR. TAYLOR: YES, SIR. THE COURT HAS SIGNED AN ORDER THAT HE BE TRANSPORTED HERE.

MR. GASSER: I WOULD NOTE, YOUR HONOR, AND I CAN'T IMAGINE JUDGE FLOYD OR ANY CIRCUIT COURT JUDGE SIGNING THAT ORDER. I WOULD KNOW. WELL, I DON'T KNOW, I WON'T KNOW.

LET ME JUST SAY THIS: NEITHER ONE OF THE DEFENSE LAWYERS WERE INFORMED THAT SOME ORDER WAS BEING SIGNED BY A CIRCUIT COURT JUDGE TO TRANSPORT ONE OF THEIR CLIENTS.

THE COURT: WELL, I DIDN'T SIGN IT.

MR. GASSER: I WOULD BE HIGHLY INCENSED IF THAT WAS MY CLIENT WAS BEING TRANSPORTED AND I WASN'T INFORMED.

MR. TAYLOR: WELL, I'M SORRY THAT HE'S INCENSED BUT...

MR. GASSER: I CAN IMAGINE IF IT WAS HIS CLIENT.

MR. TAYLOR: WHEN WE WERE IN THE PROCESS OF ISSUING SUBPOENAS AND TRYING TO GET WITNESSES, WE HAD ONE IN NEW YORK THAT WE HAD TO GO THROUGH WHAT I CALL "EXTRADITION PROCEEDINGS," TO GET ONE OF THE WITNESSES WE'RE TALKING ABOUT RIGHT HERE.

AND SO I MEAN I THINK IT'S NO SURPRISE THAT ANYBODY

WHOSE CLIENT IS CHARGED IN THE SAME CRIMINAL SCENARIO THAT HIS OR HER CLIENT MAY BE SUBPOENAED OR ORDERED BY THE COURT TO APPEAR.

NOW THE CLIENT MAY TAKE THE FIFTH AMENDMENT, THE CLIENT MAY NOT TAKE THE FIFTH AMENDMENT, I DON'T KNOW.

MR. GASSER: BUT WE DO ALL THAT OUTSIDE THE PRESENCE OF THE JURY. CLEARLY THE PROCEDURE WITH CODEFENDANTS IS DOING ALL THAT OUTSIDE THE PRESENCE OF THE JURY.

ATTORNEY GARFIELD STEWART: AND YOU HAVE THAT RIGHT TO EXERCISE THE PRIVILEGE ON THAT. I MEAN, IT DOESN'T DO THE GOVERNMENT OR HIM ANY GOOD TO TRANSPORT HIM AND HAVE HIM SIT HERE FOR THE NEXT FOUR DAYS TO GET THE SAME RESULT. I MEAN, I THINK WE CAN RESOLVE THAT TODAY, OR WE COULD HAVE RESOLVED THAT FRIDAY IF SOMEONE HAD MADE A PROFESSIONAL COURTESY AND INFORMED ME THAT I CAN COME AND APPEAR BEFORE THE JUDGE AND TELL HIM THIS SO HE COULD SAVE THE JUDGE THE TIME OF SIGNING THE ORDER. I MEAN...

THE COURT: WELL, MR. TAYLOR WANTS HIM TO COME HERE BEFORE THE JURY AND TAKE THE FIFTH AMENDMENT.

BUT I THINK MR. GASSER IS RIGHT, HE'S ENTITLED TO DO THAT OUTSIDE THE PRESENCE OF THE JURY SO YOU GET NOTHING GAINED BY HIM COMING OVER HERE AND TAKING THE FIFTH.

SO SINCE HE CAN'T DO IT IN FRONT OF THE JURY, DO WE

WANT TO FORGET ABOUT BRINGING HIM OVER HERE?

MR. TAYLOR: YOUR HONOR, LET US -- HE'S HERE NOW AND HE'S GOT TO GO BACK. I WOULD ASK THE COURT TO RESERVE THE RIGHT TO CALL HIM BACK OVER HERE, IF APPROPRIATE. AND THE COURT MAY VERY WELL SEE THAT THAT'S THE APPROPRIATE THING TO DO.

THE COURT: TALK IT OVER WITH MR. STRICKLER.

RIGHT NOW HE DOESN'T HAVE TO COME BACK TOMORROW; RIGHT?

MR. TAYLOR: HE'S IN A HOLDING CELL DOWNSTAIRS, I THINK. HE'S BEEN AT THE RICHLAND COUNTY DETENTION CENTER.

THE COURT: JUST LEAVE HIM THERE UNTIL WE DECIDE WHAT ELSE TO -- HE DOESN'T NEED TO COME OVER HERE EVERYDAY.

MR. TAYLOR: ALL RIGHT, SIR. THAT'S GOOD.

THE COURT: WE NEED ROOM ON THE BUS FOR PEOPLE WHO ARE GOING TO PLEAD GUILTY. THAT'S THE GUILTY BUS.

WHAT ELSE?

MR. GASSER: NOTHING ELSE FROM THE STATE.

THE COURT: ALL RIGHT, I'LL GO OVER ALL Y'ALL'S STUFF AND SEE YOU ALL ABOUT NINE IN THE MORNING.

(COURT IS NOW RECESSED FOR THE DAY.)

<u>TUESDAY, FEBRUARY 26, 2002</u>:

THE BAILIFF: COURT COME TO ORDER. ALL RISE,

PLEASE.

THE COURT: THANK YOU. PLEASE BE SEATED.

HERE'S YOUR CASE BACK, MR. TAYLOR.

MR. TAYLOR: THANK YOU, YOUR HONOR.

THE COURT: AND I READ IT.

MR. TAYLOR: ALL RIGHT.

THE COURT: IT PRETTY MUCH SAYS THE SAME THING ALL THE OTHER CASES SAY.

SO I GUESS WE HAVE THE UNANSWERED QUESTION OF -- I GUESS Y'ALL TOLD ME THAT YOU WERE GOING TO CALL A WITNESS WHO WAS GOING TO SAY THAT MAURICE TOLD HER THAT HE DID IT?

MR. TAYLOR: THAT'S CORRECT, SIR.

THE COURT: SO WHAT OTHER CORROBORATING EVIDENCE WOULD YOU HAVE?

MR. TAYLOR: WE HAVE ANOTHER WITNESS WHO SAYS THAT HE WILL IDENTIFY MAURICE SANDERS AS THE ONE WHO DID IT BASED ON EYEWITNESS TESTIMONY.

WE EXPECT TO HAVE THREE OTHERS WHO HEARD HIM SAY THAT, YOUR HONOR.

MR. GASSER: OF COURSE, I FOUND THAT OUT TEN MINUTES AGO.

THE COURT: I JUST FOUND IT OUT NOW.

MR. GASSER: I MEAN, TEN MINUTES AGO I WAS TOLD THAT THERE WERE THREE INMATES THAT WERE IN THE LOCKUP ON

APRIL THE 2ND OF 2001 AT THE CITY OF COLUMBIA AWAITING PRELIMINARY HEARINGS WITH MAURICE SANDERS AND THESE DEFENDANTS, ALL THREE OF THESE INMATES, OF COURSE, WHICH OUR OFFICE EITHER IS CURRENTLY OR HAS ALREADY PROSECUTED. AND THEY, ACCORDING TO MR. TAYLOR, INDICATE THAT MAURICE SANDERS HAS ADMITTED OR ADMITTED TO THEM TO BEING THE TRIGGERMAN. AND I HAVE FOUND THIS OUT TEN MINUTES AGO.

SO I'VE BEEN UNABLE TO DETERMINE WHEN THE ISSUE IS THE RELIABILITY OF WHETHER OR NOT THE STATEMENTS WERE EVEN MADE, I DON'T KNOW, UNLESS MR. TAYLOR, WHO CARRIES THE BURDEN, CAN PRODUCE RECORDS TO INDICATE THAT THOSE THREE WITNESSES WERE EVEN IN THE SAME BUILDING, WHETHER THEIR PRELIMS WERE EVEN SCHEDULED AT THE SAME TIME. I MEAN, HOW DO -- IF YOU HAVE TO MAKE A DETERMINATION AS TO THE RELIABILITY AS TO WHETHER OR NOT ---

FIRST OF ALL, THE WAY I READ THESE CASES, WANNAMAKER, WHICH WAS DECIDED EVEN AFTER McDONALD, AND McDONALD, AND THEN THEM CITING ALL THE FEDERAL CASES, THEY KIND OF LEAVE IT UP TO YOU. THEY REALLY DON'T ADOPT ANY STANDARD. IF YOU'LL SEE, THEY CITE THE FEDERAL STANDARDS AND THE FOOTNOTES, AND THE COURTS HAVE MULTIPLE STANDARDS, AND THEY KIND OF JUST LEAVE IT UP TO THE TRIAL JUDGE FIGURING, YOU KNOW, IT'S A JUDGMENT CALL BASED ON THE TOTALITY OF THE CIRCUMSTANCES FOR THE TRIAL JUDGE.

THE COURT: THAT'S NOT UNUSUAL THAT WE HAVE INMATES

TESTIFYING THAT SOMEBODY ELSE SAID. THAT'S USUALLY THE PROSECUTION'S TOOL TO SAY THAT WE HAVE AN INMATE THAT SAID THE DEFENDANT ---

MR. TAYLOR: YES, IT IS. AND BOY, THEY ALWAYS LIKE TO TELL THE JURY, "YOU KNOW, WE COULDN'T HAVE A BAPTIST PREACHER BECAUSE IT HAPPENED IN JAIL," YOU KNOW. IT WORKS BOTH WAYS.

THE COURT: THAT HAPPENS MORE IN LEXINGTON COUNTY THAN IT DOES IN RICHLAND COUNTY.

MR. GASSER: I WOULD SAY THIS ---

MR. TAYLOR: IT HAPPENS ALL OVER THE STATE, BELIEVE ME. IT HAPPENS EVERYWHERE.

MR. GASSER: I HAVE NEVER, NOR WOULD I EVER -- AND WHEN I TRAIN PROSECUTORS -- EVER TO PUT AN INMATE ON THE WITNESS STAND TO TESTIFY, AN INMATE ON THE WITNESS STAND TO TESTIFY ABOUT A RELEVANT FACT, IF IT'S NOT INDEPENDENTLY CORROBORATED. AND THAT'S ALL I'M ASKING HERE. OUT OF 15 YEARS I'VE NEVER PUT AN INMATE ON THE STAND THAT WASN'T INDEPENDENTLY CORROBORATED. AND THAT'S ALL I'M ASKING HERE.

WHEN THE BURDEN CARRIER IS MR. TAYLOR'S, HE CAN'T EVEN PRODUCE TO THIS COURT THAT THOSE THREE GENTLEMEN WERE EVEN IN THE SAME BUILDING AS MAURICE SANDERS. HE CAN'T EVEN PRODUCE A DOCUMENT TO THAT EFFECT. THEY KEEP RECORDS. THAT'S NOT MY BURDEN, THAT'S HIS BURDEN.

THE COURT: WELL, LET'S JUST DON'T GO INTO IT IN OPENING STATEMENTS, OKAY?

MR. TAYLOR: THAT'S FINE.

MR. GASSER: AND THAT'S ALL I'M ASKING.

I DON'T SAY THEY DON'T EXIST.

THE COURT: BECAUSE IF ALL YOU HAVE IS THE GIRLFRIEND -- IS THAT WHAT SHE IS, A GIRLFRIEND?

MR. TAYLOR: NO, SIR. SHE'S NOT HIS GIRLFRIEND.

MR. GASSER: SHE'S THE GIRLFRIEND OF THE TRIGGER---

THE COURT: SOME GIRL ---

MR. TAYLOR: SOME GIRL.

THE COURT: --- SAID MAURICE TOLD HER, "I DID IT"?

MR. TAYLOR: THAT'S CORRECT. AND ASKED HER TO CARRY HIM TO THE BUS STATION SO THAT HE COULD FLEE, AND CARRY HIM TO LOOK FOR THE MURDER WEAPON IN THE AREA WHERE HE SAID HE THREW IT THE NIGHT HE WAS RUNNING FROM THE POLICE JUST BEFORE HE WAS ARRESTED, AND AN EYEWITNESS, TWO EYEWITNESSES, WHO SAID, "I SAW HIM SHOOT THE MAN."

MR. GASSER: "TWO EYEWITNESSES," I DON'T UNDERSTAND WHAT HE MEANS BY "TWO EYEWITNESSES."

THE COURT: IF YOU GOT TWO EYEWITNESSES WHO SAY "I SAW MAURICE SHOOT NATHANIEL (SIC)," THAT COMES IN.

MR. TAYLOR: YES, SIR. I THINK SO.

THE COURT: AND THAT WOULD GO TOWARD CORROBORATION.

MR. TAYLOR: ABSOLUTELY. THANK YOU.

THE COURT: GO TOWARD CORROBORATION.

MR. TAYLOR: I UNDERSTAND, SIR.

MR. GASSER: ONE OF THE EYEWITNESSES IS A DEFENDANT, OKAY.

MR. TAYLOR: WELL, THE JURY MAY BELIEVE THE DEFENDANT IF THEY WISH.

MR. GASSER: ONE OF THE EYEWITNESSES IS THE DEFENDANT, WHO, IF YOU WANT TO TALK ABOUT HIS CREDIBILITY, WHEN HE'S FIRST INTERVIEWED, LIES ABOUT WHETHER OR NOT HE'S BROTHERS. I MEAN, THERE'S ALL KINDS OF CREDIBILITY ISSUES.

THE COURT: AND I'M NOT HERE JUDGING CREDIBILITY, I'M JUST MAKING OBSERVATIONS.

MR. GASSER: I UNDERSTAND.

THE COURT: WITHOUT MORE, THE GIRL SAYING "MAURICE TOLD ME HE DID IT," IS NOT CORROBORATION. YOU'VE GOT TO HAVE -- BUT IF YOU'VE GOT TWO EYEWITNESSES THAT SAY "I SAW HIM DO IT," THEN WE'RE MOVING TOWARD THAT THING.

MR. TAYLOR: ALL RIGHT, SIR.

YOUR HONOR, THERE IS -- I THINK WE TALKED YESTERDAY ABOUT ASKING THE JURY IF THEY KNEW THE COUPLE OF WITNESSES THAT HAD NOT BEEN NAMED. WE NEED TO ADD TO THAT LIST THIS MORNING JIM McNAUGHTON.

THE COURT: IS HE THE ONE THE TEST IS NAMED AFTER?

MR. TAYLOR: I DON'T KNOW. I THINK IT'S SPELLED

DIFFERENTLY. HIS IS McNAUGHTON, N-A-U-G-H-T-O-N.

THE COURT: ALL RIGHT, WHO ARE THE THREE WITNESSES?

MR. TAYLOR: THERE'S JIM McNAUGHTON; THEN THERE'S STEVE ODOM; WILLIE GILMORE; AND JOHN PATRICK WOOD.

THE COURT: OKAY. I'LL ASK THEM WHEN THEY COME IN.

MR. STRICKLER: IF I COULD, YOUR HONOR, I NEED TO BRING ONE THING TO THE COURT'S ATTENTION. THE INDIVIDUAL WHO IS ONE OF THE INMATES, NAMED WILLIE GILMORE, AT THE TIME HE WAS ONE OF THE INMATES, ACTUALLY AFTER THAT POINT IN TIME, I WAS ASSIGNED TO REPRESENT HIM ON THE CHARGES HE WAS IN JAIL ON WHEN HE ALLEGEDLY OVERHEARD MR. SANDERS MAKE THE STATEMENTS. I ENDED UP ENTERING A PLEA ON MR. GILMORE BEFORE YOUR HONOR IN JANUARY ON A CHARGE OF BURGLARY FIRST REDUCED TO BURGLARY IN THE SECOND DEGREE.

NOW I INFORM THE COURT OF THIS SIMPLY BECAUSE -- AND I CAN TELL THE COURT AS AN OFFICER OF THE COURT -- I WAS NOT INVOLVED IN LOCATING MR. GILMORE AS A POTENTIAL WITNESS IN THIS CASE. THIS WAS DONE BY MR. TAYLOR. I FOUND OUT ABOUT IT, THE POTENTIAL WITNESS REGARDING MR. SANDERS, THROUGH MR. TAYLOR. I'VE NEVER HAD ANY CONVERSATION WITH HIM ABOUT THE FACTS OF THIS PARTICULAR CASE. AND SHOULD THIS TESTIMONY BE PERMITTED BY THE COURT I DON'T WANT TO BE PUT IN THE POSITION WHERE I'M A POTENTIAL -- OR I'M IMPLIED TO BE A POTENTIAL WITNESS OR INVOLVED IN HIS TESTIMONY WHATSOEVER. I DON'T KNOW IF

I'M MAKING MYSELF CLEAR IN THAT REGARD.

THE COURT: YEAH, YOU ARE. I THOUGHT THAT ---

MR. STRICKLER: IF THERE'S AN IMPLICATION THAT SOMEHOW I'VE TALKED WITH THIS MAN ABOUT POTENTIAL TESTIMONY, THEN I'M A WITNESS IN THE CASE, I WOULD WITHDRAW AS COUNSEL WITH THAT IMPLICATION.

I CAN TELL THE COURT AS AN OFFICER OF THIS COURT IT WOULD BE COMPLETELY FALSE. I'VE HAD NO DISCUSSIONS WITH MR. GILMORE REGARDING THIS MATTER WHATSOEVER.

THE COURT: I REMEMBER THAT NAME, "WILLIE GILMORE."

MR. STRICKLER: YES, SIR. IT WAS BEFORE YOU, BEFORE YOU, IT WAS A BURGLARY FIRST, POTENTIAL ELRAH (PHONETIC); WE ENDED UP ENTERING A PLEA TO BURGLARY SECOND WITH, I BELIEVE IT WAS MR. CATHCART, IF I REMEMBER CORRECTLY.

THE COURT: YEAH. YEAH. THAT'S THE GUY WHO CHANGED HIS MIND AT THE LAST MINUTE.

MR. STRICKLER: CHANGED HIS MIND AT THE VERY LAST MOMENT.

THE COURT: AND THE WITNESS WENT, "WHOOO, YEAH, OKAY."

MR. STRICKLER: YES, YOUR HONOR.

BUT I BRING THAT TO THE COURT'S ATTENTION.

THE COURT: WHAT ABOUT THAT, MR. GASSER?

MR. GASSER: I WAS LISTENING. BUT, I MEAN...

THE COURT: DO YOU HAVE A PROBLEM?

MR. GASSER: I DON'T HAVE A PROBLEM. HE CAN'T HELP WHO HE REPRESENTS AND WHAT THEY SAY OR IN OTHER WORDS AFTER-THE-FACT.

THE COURT: THEN WE DON'T HAVE A PROBLEM. YOU DON'T HAVE TO BE A WITNESS.

MR. STRICKLER: ALL RIGHT, SIR.

THE COURT: YOU'RE STILL ON THE CASE. YOU STILL GET TO GO FORWARD.

MR. STRICKLER: THANK YOU, SIR.

THE COURT: ANYTHING ELSE?

I DON'T THINK ALL THE JURY IS HERE YET BUT...

WE NEED ONE MORE.

ALL RIGHT, AS SOON AS WE GET THE OTHER JUROR I'LL COME BACK IN AND WE'LL BRING THE JURY IN AND I'LL ASK THEM ABOUT THE WITNESSES AND THEN WE'LL HAVE OPENING -- MY OPENING REMARK AND THEN WE'LL HAVE OPENING STATEMENTS.

(COURT IS NOW IN RECESS.)

THE BAILIFF: ALL RISE, PLEASE.

THE COURT: THANK YOU. PLEASE BE SEATED.

ALL RIGHT, LET'S BRING THE JURY PANEL IN.

(JURY IN AT 9:33 A.M.)

THE BAILIFF: THE JURY IS PRESENT, YOUR HONOR.

THE COURT: THANK YOU.

ALL RIGHT, BEFORE WE GET STARTED, LET ME MENTION --

I TELL YOU WHAT, LET'S SWEAR THE JURY IN FIRST, SWEAR THE PANEL IN.

THE CLERK: LADIES AND GENTLEMEN OF THE JURY, PLEASE STAND AND RAISE YOUR RIGHT HANDS TO BE SWORN. PLEASE ANSWER "I DO" OR "I WILL" AT THE END OF MY STATEMENT.

(**THE JURY** IS NOW DULY SWORN.)

THE CLERK: THANK YOU. PLEASE HAVE A SEAT.

THE COURT: ALL RIGHT, LET ME READ OUT THE NAMES OF FOUR OR MORE POTENTIAL WITNESSES IN THIS CASE AND I'M GOING TO ASK YOU IF YOU KNOW THEM OR IF YOU'RE RELATED TO THEM.

JIM McNAUGHTON, STEVE ODOM, WILLIE GILMORE, AND JOHN PATRICK WOOD. DOES ANYBODY KNOW ANY OF THOSE PEOPLE?

(THERE IS NO RESPONSE.)

OKAY.

AND, MS. FUTCH, YOU CAN KEEP YOUR APPOINTMENT ON FRIDAY AFTERNOON.

MR. TAYLOR: YOUR HONOR, THERE WERE TWO ALSO FROM YESTERDAY WE MENTIONED: CHARISE GLIVENS AND JARRETT COPELAND.

THE COURT: ALL RIGHT, CHARISE GLIVENS AND JARRETT COLAND -- COPELAND?

MR. TAYLOR: COPELAND, C-O-P-E-L-A-N-D.

THE COURT: COPELAND.

ANYBODY KNOW THEM?

(THERE IS NO RESPONSE.)

OKAY, NOBODY KNOWS THEM EITHER.

ALL RIGHT, LET ME TELL YOU HOW WE'RE GOING TO PROCEED HERE. I TOLD YOU YESTERDAY THAT THESE FOUR INDICTMENTS I HAVE, THERE'S TWO AGAINST EACH DEFENDANT, ONE OF THEM CHARGES THEM WITH MURDER AND ONE CHARGES THEM WITH LYNCHING, AND I'LL EXPLAIN THE LAW TO YOU AT THE END OF THE TRIAL.

BUT ANYWAY, THESE INDICTMENTS ARE THE MECHANISM BY WHICH THESE CASES ARE BROUGHT TO THIS COURT FOR DISPOSITION. THESE INDICTMENTS ARE NO EVIDENCE WHATSOEVER OF THE DEFENDANTS' GUILT AND YOU ARE NOT TO CONSIDER THIS WHEN YOU -- THE FACT THAT THEY'VE BEEN INDICTED, WHEN YOU DECIDE GUILT OR INNOCENCE.

NOW, THEY HAVE PLED NOT GUILTY TO EACH ONE OF THESE INDICTMENTS AND THAT PUTS THE BURDEN ON THE STATE OF SOUTH CAROLINA THROUGH THE FIFTH CIRCUIT JUDICIAL SOLICITOR'S OFFICE TO PROVE THEIR GUILT TO YOU BEYOND A REASONABLE DOUBT. AND I'LL EXPLAIN ALL THAT TO YOU AT THE END OF THE TRIAL.

NOW, LET ME EXPLAIN TO YOU HOW THE TRIAL IS GOING TO PROCEED. THE FIRST THING THAT HAPPENS WHEN I FINISH MY REMARKS IS THE ATTORNEYS WILL COME UP BEFORE YOU AND

THEY WILL MAKE WHAT IS KNOWN AS AN OPENING STATEMENT.

THE STATE GOES FIRST BECAUSE THEY HAVE THE BURDEN OF PROOF ON EVERY ISSUE IN THIS CASE. THE STATE COMES UP, THEY'LL MAKE AN OPENING STATEMENT, THEY'RE GOING TO TELL YOU WHAT THE CASE IS ALL ABOUT AND WHAT THEY THINK THE EVIDENCE WILL SHOW. THE DEFENSE COUNSEL, IF THEY CHOOSE TO DO SO, CAN ALSO MAKE AN OPENING STATEMENT.

BUT WHAT THE ATTORNEYS SAY IN THEIR OPENING STATEMENT IS NOT EVIDENCE. IT'S SIMPLY A ROAD MAP TO YOU SO YOU CAN FOLLOW THE LITTLE PIECES THAT THEY PUT TOGETHER IN THIS PUZZLE AS WE GO ALONG.

NOW, AFTER THE OPENING STATEMENTS, THE STATE GOES FIRST, WHICH MEANS THE STATE WILL CALL ALL OF ITS WITNESSES. THEY'LL CALL THEM ONE AT A TIME, THEY'LL BE EXAMINED BY THE STATE'S LAWYERS AND THEY'LL BE CROSS-EXAMINED BY DEFENSE COUNSEL. AND WE'LL GO THROUGH THIS PROCESS UNTIL EVERY WITNESS HAS TESTIFIED.

IF THE DEFENDANT CHOOSES TO CALL WITNESSES THEY WILL CALL WITNESSES. THEY DO NOT HAVE TO CALL ANY WITNESSES BECAUSE THEY DON'T HAVE TO PROVE ANYTHING. THE STATE HAS THE BURDEN OF PROVING EACH AND EVERY ISSUE IN THIS CASE. BUT IF THE DEFENDANT DECIDES TO CALL WITNESSES THEY WILL BE CALLED JUST LIKE THE STATE'S WITNESSES AND THEY'LL BE EXAMINED BY DEFENSE COUNSEL AND CROSS-EXAMINED BY THE SOLICITOR'S OFFICE.

AND AFTER EVERYBODY HAS TESTIFIED AND ALL THE OTHER EVIDENCE IS IN -- THERE MAY BE SOME EVIDENCE THAT IS NON-TESTIMONIAL, KIND OF LIKE PHOTOGRAPHS, WRITTEN DOCUMENTS, OR OTHER THINGS, ONCE ALL OF THAT IS IN, THEN THE LAWYERS COME BACK UP BEFORE YOU ONCE AGAIN AND MAKE WHAT IS KNOWN AS A CLOSING ARGUMENT. AND THAT'S WHEN THEY WILL TRY TO CONVINCE YOU TO BRING A VERDICT BACK IN THEIR FAVOR.

AND THEN I WILL TELL YOU WHAT THE LAW IS AS IT APPLIES TO THIS CASE. AND YOUR JOB WILL BE TO DECIDE ALL THE FACTUAL ISSUES IN THE CASE, IN OTHER WORDS, WHAT HAPPENED OUT THERE ON DECEMBER (SIC) THE 15TH, 2001, AND THEN APPLY THE LAW AS I GIVE IT TO YOU TO THE FACTS AS YOU FIND THEM, AND THEN YOU WILL RENDER A VERDICT. OKAY.

ONE OF THE THINGS YOU NEED TO DO IS YOU NEED TO PAY CLOSE ATTENTION TO THE TESTIMONY. NOW, WE HAVE A COURT REPORTER HERE WHO IS TAKING EVERYTHING DOWN THAT IS SAID IN THIS COURTROOM AND THAT'S FOR USE LATER ON IF THIS CASE GETS APPEALED OR WHATEVER. SHE IS NOT TYPING THIS UP FOR YOUR USE WHEN YOU GO IN THE JURY ROOM. I GET THAT NOTE ALL THE TIME FROM JURORS, "CAN WE HAVE A COPY OF THE TRANSCRIPT?" WE'RE NOT TYPING A COPY OF THE TRANSCRIPT, WE'RE SIMPLY RECORDING IT AT THIS TIME. SO IF YOU'LL PAY CLOSE ATTENTION TO THE TESTIMONY, WE'RE GOING TO MOVE THIS TRIAL ALONG.

YOUR MAIN JOB IN THIS CASE, LIKE I SAY, IS TO

DECIDE THE FACTUAL ISSUES. AND ONE OF THE THINGS YOU HAVE TO DO WHEN YOU DECIDE THE FACTUAL ISSUES IS YOU HAVE TO JUDGE THE CREDIBILITY OR THE BELIEVABILITY OF THE WITNESSES. AND THAT'S SOMETHING I CAN'T HELP YOU WITH, YOU'RE GOING TO HAVE TO DO THAT ON YOUR OWN. SO IF YOU'LL PAY CLOSE ATTENTION WE'LL GO AHEAD AND GET STARTED WITH THIS TRIAL.

ALL RIGHT, MR. GASSER.

MR. GASSER: MAY IT PLEASE THE COURT, YOUR HONOR.

LADIES AND GENTLEMEN, GOOD MORNING.

ON JANUARY THE 15TH, 2001, MONDAY EVENING, IT'S THE DAY THAT THIS COUNTRY CELEBRATED DR. MARTIN LUTHER KING'S BIRTHDAY OF LAST YEAR, PHILLIP LEE, JR., A SOPHOMORE AT BENEDICT COLLEGE, WAS WALKING FROM ONE DORM ROOM ON CAMPUS, WHERE HE HAD JUST RECEIVED A HAIRCUT FROM A FRIEND OF HIS, TO ANOTHER DORM ROOM WHERE HE RESIDED. HE NEVER MADE IT.

ON HIS WAY ON THE SIDEWALK IN THE PARKING LOT OF THE HASKILL DORMITORY ON THE CAMPUS OF BENEDICT COLLEGE, HE WAS CONFRONTED BY SEVERAL INDIVIDUALS. WORDS WERE EXCHANGED. ANOTHER INDIVIDUAL APPROACHED. AND THEN A YOUNG MAN IN A YELLOW JACKET THAT STOOD OUT FROM THE CROWD WENT TO A GREEN CAR THAT WAS PARKED IN THE PARKING LOT AND GOT A REVOLVER, HANDED IT TO ANOTHER YOUNG MAN IN A BLACK NORTHFACE COAT, AND THAT YOUNG MAN POINTED THE

GUN AND FIRED TWICE AT PHILLIP LEE. PHILLIP HAD TURNED TO GET AWAY. AND ONE OF THOSE BULLETS HIT HIM IN THE BACK OF THE HEAD AND IT PIERCED HIS BRAIN.

NOW, LADIES AND GENTLEMEN, PHILLIP WAS 20 YEARS OLD, AND HE WAS HERE IN COLUMBIA FROM NEWARK, NEW JERSEY, TO FURTHER HIS EDUCATION, AND HE DIED THAT NIGHT ON THE COLLEGE CAMPUS IN WHICH HE ATTENDED.

AND TWO OF THE MEN RESPONSIBLE FOR HIS DEATH ARE IN THE COURTROOM HERE TODAY. THEY ARE LUCIUS STATEN AND HIS BROTHER DUSHUN STATEN.

THIS CASE, LADIES AND GENTLEMEN, IS ABOUT RESPONSIBILITY AND ACCOUNTABILITY, AND I WILL REPEAT THAT TO YOU AFTER YOU'VE HEARD ALL THE EVIDENCE AND ALL THE TESTIMONY, AND I WILL AGAIN COME BACK TO THAT WHEN I DISCUSS AN IMPORTANT LEGAL PREMISE IN SOUTH CAROLINA AT THE CLOSE OF MY OPENING REMARKS.

MY NAME IS JOHNNY GASSER. I WAS INTRODUCED TO YOU YESTERDAY WHEN YOU WERE ALL SITTING BACK THERE DURING JURY SELECTION. I'M THE DEPUTY SOLICITOR HERE IN RICHLAND COUNTY. I'VE BEEN A PROSECUTOR IN RICHLAND COUNTY FOR 15 YEARS.

SEATED AT THE STATE'S TABLE IN THE MIDDLE IS ASSISTANT SOLICITOR ROBERT HOOD. HE WAS ALSO INTRODUCED TO YOU. NEXT TO HIM IS INVESTIGATOR PAUL MEAD WITH THE COLUMBIA POLICE DEPARTMENT, AND BEHIND HIM IS

INVESTIGATOR KARL KENLEY WHO WAS WITH THE BENEDICT COLLEGE DEPARTMENT OF PUBLIC SAFETY WHEN THIS INCIDENT OCCURRED AND IS NOW WITH THE CAYCE POLICE DEPARTMENT.

AND SEATED IN THE FIRST COUPLE OF ROWS BEHIND THE STATE'S TABLE IS THE MOTHER AND GRANDMOTHER AND RELATIVES OF PHILLIP LEE, WHO HAVE TRAVELED TO COLUMBIA FROM NEWARK, NEW JERSEY.

YOU'VE BEEN INTRODUCED TO THE DEFENSE ATTORNEYS AND THE DEFENDANTS, AS WELL, DURING THE JURY SELECTION PROCESS YESTERDAY.

AND JUDGE McKELLAR TALKED TO YOU ABOUT THESE INDICTMENTS, AND AS HE SAID, THE INDICTMENTS, WHICH I HOLD COPIES OF, ARE NOT EVIDENCE, LADIES AND GENTLEMEN. THEY ARE MERELY THE CHARGING PAPERS, THAT'S HOW THEY ARE REFERRED TO IN THE LAW, JUST THE VEHICLE FOR WHICH THE STATE HAS FOR BRINGING CHARGES AGAINST ANYONE IN ANY CRIMINAL CASE. AND I'M GOING TO PUBLISH THESE INDICTMENTS TO YOU.

EACH DEFENDANT, EACH DEFENDANT, LUCIUS STATEN AND DUSHUN STATEN, ARE CHARGED WITH TWO INDICTMENTS. LUCIUS STATEN IS CHARGED WITH MURDER AND LYNCHING IN THE FIRST DEGREE. DUSHUN STATEN IS CHARGED WITH MURDER AND LYNCHING IN THE FIRST DEGREE.

THE INDICTMENTS READ WITH REGARDS TO LUCIUS STATEN: "THAT LUCIUS STATEN DID IN RICHLAND COUNTY ON OR ABOUT

JANUARY 15TH, 2001, AID AND ABET THE PRINCIPAL PARTY WHO DID FELONIOUSLY, WILLFULLY, AND WITH MALICE AFORETHOUGHT KILL ONE PHILLIP LEE, JR., BY MEANS OF A GUNSHOT WOUND TO THE HEAD, AND THAT THE SAID VICTIM DIED AS A PROXIMATE RESULT THEREOF, AGAINST THE PEACE AND DIGNITY OF THE STATE AND CONTRARY TO THE STATUTE AND SUCH CASE MADE AND PROVIDED." AND IT'S SIGNED BY SOLICITOR WARREN B. GIESE.

LUCIUS STATEN IS ALSO CHARGED WITH LYNCHING IN THE FIRST DEGREE. AND IT STATES: "THAT LUCIUS STATEN DID IN RICHLAND COUNTY ON OR ABOUT THE 15TH DAY OF JANUARY, 2001, BAN TOGETHER WITH ONE OR MORE PERSONS, THUS CONSTITUTING A MOB, FOR THE PURPOSE AND INTENT OF INFLICTING VIOLENCE UPON THE BODY OF PHILLIP LEE, JR., AND THAT ONE MEMBER OF THE MOB DID SO BY INFLICTING A GUNSHOT WOUND TO THE HEAD OF PHILLIP LEE, JR., CAUSING HIS DEATH."

DUSHUN STATEN IS CHARGED WITH THE SAME TWO OFFENSES SO THE INDICTMENTS READ THE SAME, EXCEPT IT STATES "THAT DUSHUN STATEN DID IN RICHLAND COUNTY ON OR ABOUT JANUARY 15TH, 2001, AID AND ABET THE PRINCIPAL PARTY WHO DID FELONIOUSLY, WILLFULLY, AND WITH MALICE AFORETHOUGHT KILL ONE PHILLIP LEE, JR., BY MEANS OF A GUNSHOT WOUND TO THE HEAD, AND THE SAID VICTIM DIED AS A PROXIMATE CAUSE THEREOF."

AND THE LYNCHING INDICTMENT AGAINST DUSHUN STATEN

STATES THAT HE DID IN RICHLAND COUNTY ON OR ABOUT THE 15TH DAY OF JANUARY, BAN TOGETHER WITH ONE OR MORE PERSONS, THUS CONSTITUTING A MOB, FOR THE PURPOSE AND INTENT OF INFLICTING VIOLENCE UPON THE BODY OF PHILLIP LEE, JR., AND ONE MEMBER OF THE MOB DID SO BY INFLICTING A GUNSHOT WOUND TO THE HEAD OF PHILLIP LEE, JR., CAUSING HIS DEATH. NOW THESE ARE CHARGING PAPERS AND I'VE JUST READ TO YOU THE TERMS, LEGAL TERMS.

IN ESSENCE, FOR THE OFFENSE OF MURDER, WE MUST PROVE, FIRST OF ALL, THAT THE TWO DEFENDANTS IN THIS COURTROOM WERE PRESENT AT THE SCENE. THAT'S THE FIRST THING. WE MUST PLACE THEM AT THE SCENE OF THE CRIME. WE MUST PROVE THAT THEY WEREN'T JUST INNOCENT BYSTANDERS, BUT THEY WERE ACTIVE PARTICIPANTS, AIDERS AND ABETTERS.

AND WE MUST ALSO PROVE THAT ANOTHER PARTY, ANOTHER PARTY, WHOEVER THAT PARTY MIGHT BE, ANOTHER PARTY SHOT AND KILLED PHILLIP LEE, AND THAT PERSON THAT ACTUALLY PULLED THE TRIGGER HAD MALICE IN HIS HEART.

AND THEN FINALLY WE MUST PROVE THAT PHILLIP LEE DIED AS A PROXIMATE RESULT THEREOF.

SO WITH REGARDS TO THE MURDER INDICTMENTS AGAINST BOTH LUCIUS AND DUSHUN STATEN, WE MUST PROVE FOUR THINGS. THEY WERE PRESENT AT THE SCENE; THEY WERE ACTIVELY PARTICIPATING IN THE EVENTS AT THE SCENE; THAT THE TRIGGERMAN, WHOEVER THAT PERSON WAS, ACTED WITH MALICE IN

HIS HEART, COMMITTED AN EVIL ACT WHEN HE SHOT PHILLIP LEE IN THE BACK OF THE HEAD, BECAUSE NEITHER ONE OF THESE TWO DEFENDANTS WERE THE TRIGGERMAN. AND FINALLY THE FOURTH THING WE MUST PROVE IS THAT PHILLIP LEE DIED AS A RESULT THEREOF.

NOW, LADIES AND GENTLEMEN, I SUBMIT TO YOU, WHEN YOU HEAR THIS EVIDENCE, THREE OUT OF THE FOUR, THREE OUT OF THE FOUR OF THOSE ELEMENTS, WILL BE NOT IN DISPUTE, I SUBMIT TO YOU. WE WILL PROVE THAT THEY WERE PRESENT AT THE SCENE; THAT THE PERSON THAT PULLED THE TRIGGER ACTED WITH MALICE, THAT IT IS NOT A SELF-DEFENSE CASE. YOU SHOOT SOMEBODY IN THE BACK OF THE HEAD, AN UNARMED PERSON, IS AS MALICIOUS AN ACT AS POSSIBLE, AND THAT PHILLIP LEE DIED.

ONE OF THE FOUR ELEMENTS THAT'S GOING TO BE CRITICAL FOR YOUR DETERMINATION, MR. FOREMAN AND LADIES AND GENTLEMEN, IS, WERE THESE TWO DEFENDANTS ACTIVE PARTICIPANTS IN THE CONFRONTATION THAT NIGHT, OR WERE THEY JUST STANDING IN THE PARKING LOT, HAVING NOTHING TO DO WITH THIS?

LYNCHING, WE MUST PROVE FOR LYNCHING, LADIES AND GENTLEMEN, THAT LUCIUS AND DUSHUN STATEN WERE PRESENT AT THE SCENE, THAT THEY WERE WITH OR THEY WERE AMONGST A GROUP OF TWO OR MORE PEOPLE, AND THAT, I SUBMIT TO YOU, THE EVIDENCE WILL SHOW THAT THERE WERE MORE THAN TWO

PEOPLE, BUT THEY WERE PRESENT AT THE SCENE, THEY CONSTITUTED A MOB, AND THAT'S A LEGAL DEFINITION THAT THE JUDGE WILL DEFINE TO YOU, A MOB IS SIMPLY TWO OR MORE PEOPLE, BUT THEY WERE PRESENT AT THE SCENE AND THEY WERE WITH AND ACTIVELY PARTICIPATING WITH TWO OR MORE PEOPLE WITH THE INTENT TO CAUSE SOME HARM TO PHILLIP LEE, AND THAT HE WAS HARMED PHYSICALLY, IN THIS CASE DEATH, MAKING IT A FIRST DEGREE LYNCHING.

SO WITH LYNCHING WE MUST ALSO PROVE THAT THEY WERE AT THE SCENE, ACTIVE PARTICIPANTS, WITH THE INTENT TO COMMIT SOME SORT OF PHYSICAL HARM, NOT NECESSARY DEATH, JUST ANY HARM WHATSOEVER, AND THAT AS A RESULT PHILLIP LEE WAS HARMED PHYSICALLY, HE WAS KILLED, WHICH MAKES IT A FIRST DEGREE LYNCHING.

THE DISTINGUISHING FEATURE THERE, LADIES AND GENTLEMEN, IS BETWEEN -- MURDER, THE STATE MUST PROVE THAT THE TRIGGERMAN HAD MALICE. WITH LYNCHING ALL WE HAVE TO PROVE IS THAT THEY WERE THERE AND THAT THERE WAS SOME INTENT TO COMMIT SOME HARM TO PHILLIP LEE. SO THOSE ARE THE INDICTMENTS.

THE BURDEN OF PROOF IN THIS CASE, LADIES AND GENTLEMEN, AS THE JUDGE INDICATED, IS ON THE STATE OF SOUTH CAROLINA. BECAUSE IN EVERY CRIMINAL CASE IN THIS GREAT COUNTRY OF OURS, A PERSON ACCUSED OF A CRIME DOES NOT HAVE TO PROVE HIS OR HER GUILT. OUR CONSTITUTION,

THE UNITED STATES CONSTITUTION AND SOUTH CAROLINA'S CONSTITUTION, REQUIRES THAT THE BURDEN OF PROOF ALWAYS LIE WITH THE STATE, WITH THE GOVERNMENT; THAT A DEFENDANT ACCUSED OF A CRIME, IN THIS CASE THE TWO DEFENDANTS, DO NOT HAVE TO PROVE THEIR INNOCENCE. THE STATE MUST PROVE THEIR GUILT.

HOW DO WE GO ABOUT DOING THAT? THE STATE GOES ABOUT MEETING ITS BURDEN, LADIES AND GENTLEMEN, BY CALLING WITNESSES TO THIS WITNESS STAND, THAT WILL PLACE THEIR HAND ON THIS BIBLE AND WILL SWEAR OR AFFIRM TO TELL THE TRUTH. THERE WILL BE STUDENTS THAT WERE OUT THERE AT THE SCENE. THERE WILL BE A POLICE OFFICER THAT RESPONDED TO THE SCENE. THERE WILL BE FORENSIC OFFICERS. SO THERE WILL BE DIFFERENT TYPES OF WITNESSES. BUT EACH AND EVERY ONE OF THE WITNESSES WILL PUT THEIR HAND ON THAT BIBLE AND SWEAR TO TELL THE TRUTH.

WE WILL INTRODUCE DIAGRAMS AND PIECES OF EVIDENCE, SO THE EVIDENCE WILL COME FROM TWO FORMS, PHYSICAL INTRODUCTION OF EVIDENCE THAT YOU WILL SEE LATER, AS WELL AS ORAL SWORN TESTIMONY.

NOW, LADIES AND GENTLEMEN, FOR YOU TO HAVE AN UNDERSTANDING OF THE EVIDENCE AND TESTIMONY THAT YOU ARE GOING TO GET READY TO HEAR, YOU'VE GOT TO UNDERSTAND THAT THESE TWO DEFENDANTS ARE NOT THE ONLY TWO INDIVIDUALS THAT HAVE BEEN CHARGED IN THIS CRIME. THEY ARE SIMPLY

THE ONLY TWO INDIVIDUALS AT THIS TIME THAT ARE IN COURT. SO THEY ARE THE TWO INDIVIDUALS FOR WHICH YOU JURORS MUST DECIDE WHETHER THEY ARE GUILTY OR INNOCENT.

AND YOU MUST DETERMINE THEIR GUILT OR INNOCENCE SEPARATELY AND INDEPENDENTLY. THE FACT THEY ARE BEING TRIED JOINTLY DOES NOT DIMINISH THE FACT THAT UNDER THE LAW YOU MUST DECIDE WHETHER LUCIUS STATEN IS GUILTY OR NOT GUILTY OF MURDER SEPARATELY AND INDEPENDENTLY FROM WHETHER OR NOT HE'S GUILTY OF LYNCHING.

YOU MUST ALSO DECIDE WHETHER DUSHUN STATEN IS GUILTY OF MURDER SEPARATELY AND INDEPENDENTLY OF WHETHER HIS BROTHER IS, AND SEPARATELY AND INDEPENDENTLY OF WHETHER HE'S GUILTY OF LYNCHING.

SO YOU MUST TAKE EACH DEFENDANT SEPARATELY AND YOU MUST TAKE EACH CHARGE WITH EACH DEFENDANT SEPARATELY.

THERE ARE CURRENTLY FIVE MEN CHARGED: LUCIUS STATEN AND DUSHUN STATEN, WHO WERE ARRESTED AND INDICTED FOR MURDER AND LYNCHING IN THE FIRST DEGREE; SHAKEEM WILSON, WHO YOU WILL HEAR IS THEIR COUSIN, AND A FELLOW BY THE NAME OF MAURICE SANDERS, WHO WERE ARRESTED, AND THE TWO OF THESE INDIVIDUALS HAVE BEEN INDICTED FOR LYNCHING IN THE FIRST DEGREE AND ACCESSORY AFTER-THE-FACT TO MURDER. THESE TWO INDIVIDUALS' CHARGES ARE PENDING. THEIR TIME IN COURT WILL COME ANOTHER TIME, NOT BEFORE THIS JURY, BEFORE SOME OTHER JURY.

SO ALL FOUR OF THESE DEFENDANTS HAVE BEEN CHARGED BASED ON THEIR CONDUCT AND THEIR ACTIONS ON JANUARY THE 15TH, AND THEY'VE ALL BEEN ARRESTED AND INDICTED.

THIS FIFTH PERSON, LIMEL SIMS, HAS NEVER BEEN PHYSICALLY ARRESTED. HE IS, WHAT WE REFER TO, "ON THE LAM." HE'S NEVER BEEN ARRESTED. THERE IS AN OUTSTANDING MURDER WARRANT FOR LIMEL SIMS BASED ON HIS CONDUCT ON JANUARY THE 15TH. HE'S NEVER BEEN CAUGHT BY THE POLICE. HE'S STILL AT LARGE, IF YOU WILL.

SO YOU NEED TO UNDERSTAND THAT SO THAT BEFORE YOU HEAR FROM THE VERY FIRST WITNESS YOU UNDERSTAND THAT WHILE YOU'RE HEARING ALL THE TESTIMONY DEVELOP OVER THE NEXT TWO DAYS THAT THERE'S JUST NOT THESE TWO PARTIES INVOLVED WITH THIS CRIMINAL INVESTIGATION. THERE ARE THREE OTHER INDIVIDUALS THAT HAVE BEEN -- TWO ACTUALLY ARRESTED AND INDICTED, AND ONE FOR WHICH THERE IS AN ARREST WARRANT OUT THERE.

HOW DOES THE STATE GO ABOUT PROVING ITS CASE? I INDICATED TO YOU WE WILL CALL WITNESSES. AND PART OF THE PURPOSE OF AN OPENING STATEMENT, BECAUSE THE BURDEN LIES WITH THE STATE, THE STATE IS ALLOWED TO GIVE AN OPENING STATEMENT TO BRIEFLY OUTLINE THE EVIDENCE THAT IT WILL PROVE, THE FACTS AND CIRCUMSTANCES THAT IT WILL PROVE. AND I'M GOING TO BRIEFLY DO THAT RIGHT NOW.

YOU'RE GOING TO HEAR TESTIMONY, LADIES AND

GENTLEMEN, THAT THIS INCIDENT REALLY DIDN'T START ON THE EVENING OF JANUARY THE 15TH, BUT THAT A CONFRONTATION HAD OCCURRED ON THE FRIDAY NIGHT BEFORE THAT, ON JANUARY THE 12TH, BETWEEN THE VICTIM PHILLIP LEE AND THE DEFENDANTS DUSHUN AND LUCIUS STATEN. AND THERE WAS A CONFRONTATION ON THAT FRIDAY NIGHT AND WORDS WERE EXCHANGED BETWEEN THOSE PARTIES.

THERE WAS CONFRONTATION ON THAT SATURDAY NIGHT AND WORDS WERE EXCHANGED. AND BOTH THOSE CONFRONTATIONS BETWEEN THE DEFENDANTS AND THE VICTIM OCCURRED ON THE CAMPUS OF BENEDICT COLLEGE IN THE SAME PARKING LOT OF THE HASKILL DORMITORY WHERE PHILLIP WAS KILLED.

YOU WILL HEAR THAT PHILLIP AND HIS FRIENDS ARE STUDENTS AT BENEDICT COLLEGE, AND THAT THE DEFENDANTS WERE NOT. AND YOU WILL HEAR THE REASON AND THE RATIONALE BEHIND THE CONFRONTATION. YOU WILL HEAR THAT PHILLIP LEE WAS WEARING A BLUE BANDANNA, THAT HIS COLOR WAS BLUE. AND THAT DUSHUN STATEN AND SOME OF HIS FRIENDS WERE WEARING RED BANDANNAS AND THAT THEIR COLORS WERE RED.

NOW, LADIES AND GENTLEMEN, AS YOU SIT IN THIS COURTROOM, THE FACT THAT ONE YOUNG PERSON WOULD BE WEARING RED AND ONE YOUNG PERSON WOULD BE WEARING BLUE, THE FACT THAT THAT COULD SOMEHOW LEAD TO AN ARGUMENT IN WHICH A YOUNG MAN WOULD BE SHOT IN THE BACK OF THE HEAD MUST BE ABSOLUTELY FOREIGN TO YOU. BUT YOU'RE GOING TO

HEAR THE TESTIMONY AND YOU'RE GOING TO SEE IT DEVELOPED FROM THIS WITNESS STAND.

PEOPLE, PEOPLE, ARGUE AND GET IN FIGHTS OVER VARIOUS THINGS. AND IN THIS CASE, DURING THIS TIME PERIOD, THAT'S WHAT YOU WILL HEAR THE ARGUMENT WAS ABOUT, ON THE FRIDAY AND SATURDAY NIGHTS BEFORE THE INCIDENT, AND ON THE MONDAY NIGHT PHILLIP WAS KILLED.

YOU'RE GOING TO HEAR TESTIMONY ABOUT THE NIGHT PHILLIP WAS KILLED. YOU'RE GOING TO HEAR ABOUT HOW WELL LIT THE PARKING LOT WAS. YOU'RE GOING TO HEAR ABOUT WHEN PHILLIP LEE, WITH HIS COUSIN TONY KENNEDY, WAS WALKING AWAY FROM THE HASKILL DORM TO GO TO THEIR DORM ROOM, HOW DUSHUN STATEN, THE DEFENDANT, CONFRONTED THEM AGAIN, HOW DUSHUN STATEN STARTED WORDS, AND HOW THERE WAS OTHER INDIVIDUALS THERE WEARING RED BANDANNAS, AND AGAIN CONFRONTED PHILLIP LEE BECAUSE HE WAS ON HIS OWN COLLEGE CAMPUS WEARING A BLUE BANDANNA.

AND YOU WILL HEAR HOW THOSE WORDS ESCALATED. AND YOU'RE GOING TO HEAR TESTIMONY FROM TONY KENNEDY, WHO WAS STANDING RIGHT NEXT TO THE VICTIM PHILLIP LEE, WHO SAW EVERYTHING UNRAVEL, WHO WAS AS CLOSE TO THE PARTIES AS I AM TO YOU RIGHT NOW, IN THIS WELL-LIT PARKING LOT.

AND YOU WILL HEAR HIM COME INTO THIS COURTROOM AND TESTIFY THAT THE DEFENDANT WAS WEARING THIS BRIGHT YELLOW -- DEFENDANT DUSHUN STATEN WAS WEARING THIS BRIGHT YELLOW

JACKET; HOW HE STOOD OUT BECAUSE EVERYBODY ELSE WAS WEARING DARK CLOTHES. YOU WILL HEAR LATER ON HOW THAT BRIGHT YELLOW JACKET WAS FOUND IN A SEARCH WARRANT IN DUSHUN STATEN'S APARTMENT.

AND YOU WILL HEAR HOW DUSHUN STATEN WENT TO A CAR, A GREEN GALANT, THAT THEY HAD BEEN SEEN IN IT REPEATEDLY THE WEEK BEFORE, IN THAT SAME PARKING LOT. AND YOU WILL HEAR TESTIMONY HOW DUSHUN STATEN RETRIEVED A PISTOL, A SILVER REVOLVER, AND HANDED IT TO A YOUNG MAN WEARING A BLACK NORTHFACE JACKET.

AND YOU WILL HEAR TESTIMONY ABOUT LUCIUS STATEN'S INVOLVEMENT, HOW LUCIUS, HE WAS THE BIGGEST ONE OF ALL OF HIS FRIENDS THERE, A BIG GUY, SIX-TWO, TWO-THIRTY, TWO-FORTY, ALMOST AS BIG AS THE VICTIM, WHO WAS SIX-THREE, TWO-FIFTY, AND YOU WILL HEAR TESTIMONY HOW LUCIUS STATEN TOOK OVER THE ARGUMENT, HOW IT WAS HIM AND PHILLIP LEE, STANDING, CONFRONTING EACH OTHER, WORDS BEING EXCHANGED.

AND HOW AFTER HIS LITTLE BROTHER DUSHUN HANDED THE PISTOL TO THE TRIGGERMAN, HOW LUCIUS STATEN -- HOW LUCIUS STATEN, THE MAN WAS GIVING ORDERS, YOU WILL HEAR THAT TESTIMONY -- NODDED TO THE TRIGGERMAN, WHO RAISED THE GUN AND FIRED TWICE, STRIKING PHILLIP LEE IN THE BACK OF THE HEAD.

THEN YOU WILL HEAR HOW LUCIUS STATEN AND DUSHUN STATEN DIDN'T STAY, DIDN'T STAY THERE TO RENDER AID AND

ASSISTANCE TO A HUMAN BEING, BUT HOW THEY FLED WITH THE TRIGGERMAN, HOW THEY JUMPED IN THAT GREEN GALANT WITH A. AND K. PAPER TAGS, AND HOW THEY FLED THE SCENE OF THE CRIME.

AND THEN YOU'RE GOING TO HEAR TESTIMONY, LADIES AND GENTLEMEN, OF AN ATTEMPTED COVERUP. YOU'RE GOING TO HEAR THAT A BUSINESS MAN SAW A GREEN GALANT WITH A. AND K. PAPER TAGS ALL THE WAY OUT NEAR BALENTINE A COUPLE DAYS LATER, AND HOW HE HAD READ IN THE NEWSPAPER, IN THE NEWSPAPER ABOUT A GREEN GALANT BEING AT THE CRIME SCENE, AND HOW THE PARTICIPANTS FLED THE CRIME SCENE IN THE GREEN GALANT; HOW HE CONTACTED LAW ENFORCEMENT ON JANUARY 17TH AND JANUARY 18TH, JUST A COUPLE DAYS AFTERWARDS.

YOU WILL HEAR HOW THE POLICE SEIZED THAT VEHICLE WITH THE A. AND K. PAPER TAGS. YOU WILL HEAR FROM THE A. AND K. PAPER TAG PEOPLE, THE COMPANY, THAT LUCIUS STATEN -- YOU WILL SEE THE PAPERWORK, LUCIUS STATEN LEASED THE VEHICLE. THEY EVEN REMEMBER LUCIUS STATEN.

AND THEN YOU WILL HEAR THAT A COUPLE DAYS AFTER THAT HOW LUCIUS STATEN CALLED THE POLICE TO SAY THAT HIS CAR WAS STOLEN ON MONDAY NIGHT, JANUARY 15TH, TWO HOURS BEFORE THE INCIDENT. YOU WILL SEE THE TESTIMONY DEVELOPED AND UNRAVELED, HOW LUCIUS STATEN FILED A FALSE POLICE REPORT TO TRY AND THROW LAW ENFORCEMENT OFF FROM THAT GREEN GALANT, THE CAR THAT HE AND HIS BROTHER AND

THE KILLER LEFT BENEDICT COLLEGE IN. YOU WILL SEE ALL THAT TESTIMONY DEVELOPED THROUGH LAW ENFORCEMENT OFFICIALS, THROUGH PAPER TRAILS AND DOCUMENTS. YOU WILL SEE ALL THAT.

AND THEN YOU WILL SEE THAT ON JANUARY THE 23RD BOTH OF THESE DEFENDANTS WERE BROUGHT TO THE COLUMBIA POLICE DEPARTMENT. THEY WERE SEPARATED. AND YOU WILL HEAR FROM LAW ENFORCEMENT OFFICERS, FROM INVESTIGATOR PAUL MEAD, WHO'S BEEN A POLICE OFFICER FOR MANY YEARS, WHO WILL SWEAR UNDER GOD WHAT HE TELLS YOU. HE WILL TELL YOU HOW HE ADVISED THESE GENTLEMEN OF THEIR RIGHTS.

AND HE WILL TELL YOU ABOUT LUCIUS STATEN AND YOU WILL HEAR THE MIS-TRUTHS, THE UNTRUTHS, OF LUCIUS STATEN, HOW HE DENIES, FIRST, EVEN BEING ON BENEDICT COLLEGE CAMPUS, AND THEN WHEN CONFRONTED WITH EVIDENCE HOW THEN HE ADMITS HE WAS THERE. HOW HE SAYS THAT NONE OF HIS OTHER RELATIVES WERE THERE, ALTHOUGH YOU WILL SEE TESTIMONY THAT HIS OWN BROTHER AND COUSIN WERE THERE. HOW HE DENIES BEING IN ANY PRIOR ARGUMENTS WITH THE VICTIM, BUT YOU WILL HEAR A MULTIPLICITY OF WITNESSES TALK ABOUT LUCIUS STATEN CONFRONTING THE VICTIM ON THE FRIDAY AND SATURDAY NIGHT BEFORE.

AND YOU WILL HEAR TESTIMONY HOW DUSHUN STATEN ALSO DOESN'T TELL THE TRUTH TO THE POLICE; HOW HE INDICATES HE WASN'T EVEN THERE AT FIRST, UNTIL CONFRONTED WITH THE

EVIDENCE PLACING HIM THERE; HOW HE SAYS HE'S NOT EVEN LUCIUS STATEN'S BROTHER, AND THEN ADMITS HE'S HIS BROTHER; HOW HE SAYS HE WAS THERE BUT HE WAS JUST TALKING TO SOME GIRL, THAT HE WASN'T EVEN INVOLVED, WASN'T EVEN CLOSE TO WHERE IT HAPPENED, BUT THEN YOU WILL HEAR THE TESTIMONY; HOW HE INDICATES THAT NONE OF HIS OTHER RELATIVES WERE THERE, YET LUCIUS FINALLY ADMITS HE IS THERE.

SO YOU WILL SEE A PATTERN OF DECEPTION THAT THE STATE SUBMITS WILL SHOW GUILTY KNOWLEDGE AND GUILTY CONDUCT. AND THAT'S WHAT THE CASE -- THAT'S WHAT THE STATE'S CASE WILL BE.

NOW, LADIES AND GENTLEMEN, THIS IS NOT GOING TO BE A LENGTHY TRIAL. WE'RE GOING TO BE ABLE TO PUT UP OUR CASE THE REST OF TODAY AND FINISH IT TOMORROW BECAUSE ALL OF THE TESTIMONY WILL COME UNDER FIVE GENERAL CATEGORIES. FIRST, YOU'RE GOING TO HEAR FROM SOME POLICE OFFICERS PUTTING THE SCENE INTO EVIDENCE. THEN YOU'RE GOING TO HEAR ABOUT THE PRIOR CONFRONTATIONS. AND THEN YOU'RE GOING TO HEAR ABOUT THE NIGHT PHILLIP WAS KILLED. AND THEN YOU'RE GOING TO HEAR ABOUT THEM DITCHING THE CAR AND FILING THE FALSE POLICE REPORT AND LYING TO THE POLICE. AND THEN WE'RE GOING TO FINISH WITH A COUPLE OF FORENSIC WITNESSES TO CLOSE OUT THE CASE.

THE ISSUES AREN'T COMPLEX, THE FACTS REALLY AREN'T

COMPLEX. IT'S GOING TO BE A SHORT TRIAL, YOU'RE NOT GOING TO BE HERE INTO THE WEEKEND AND ALL NEXT WEEK. BUT IT'S AN IMPORTANT CASE, IT'S EXTREMELY IMPORTANT, NOT ONLY TO THE DEFENDANTS, BUT TO THE FAMILY OF PHILLIP LEE.

THE LAST THING I'M GOING TO DISCUSS WITH YOU, LADIES AND GENTLEMEN, IS THAT PRINCIPLE OF LAW. LADIES AND GENTLEMEN, THEY HAVE BEEN INDICTED FOR MURDER AS AIDERS AND ABETTERS. AND UNDER THE INHERENT ASPECT OF THE LYNCHING STATUTE THERE'S A PRINCIPLE OF LAW FOR BOTH THE LYNCHING STATUTE AND AIDING AND ABETTING WHEN ONE IS CHARGED UNDER AIDING AND ABETTING WITH MURDER. IT'S CALLED ACCOMPLICE LIABILITY.

AND, LADIES AND GENTLEMEN, EACH ONE OF YOU ABOUT TWENTY MINUTES AGO STOOD UP AND INDICATED THAT YOU WOULD APPLY THE LAW OF THE STATE OF SOUTH CAROLINA. AND WHAT THAT MEANS IS YOU WILL EVEN APPLY THE LAW THAT THE JUDGE TELLS YOU, EVEN IF YOU DISAGREE WITH IT. YOU HAVE SWORN TO APPLY THAT LAW. THAT'S WHAT EACH AND EVERYONE OF YOU HAVE DONE.

BECAUSE IN SOUTH CAROLINA WHEN TWO OR MORE PEOPLE ARE PRESENT, ACTIVELY PARTICIPATING, THE HAND OF ONE IS THE HAND OF ALL. THE ACT OF ONE PERSON IS THE ACT OF ALL. TWO OR MORE PEOPLE PRESENT AT THE SCENE AND ONLY ONE PERSON HAS A GUN AND ONLY ONE PERSON FIRES THE GUN, TWO MORE PRESENT AT THE SCENE, ACTIVELY PARTICIPATING IN

THE CRIME, UNDER SOUTH CAROLINA LAW THE HAND OF ONE PERSON IS THE HAND OF ALL AND ALL ARE GUILTY, ALL ARE GUILTY OF THE ACTS. THAT IS SOUTH CAROLINA LAW. AND THE REASON BEING, BECAUSE IN SOUTH CAROLINA WE HOLD PEOPLE RESPONSIBLE FOR THEIR CONDUCT AND THAT'S WHAT THIS CASE IS ALL ABOUT.

AND AFTER YOU'VE HEARD THE EVIDENCE AND TESTIMONY, LADIES AND GENTLEMEN, AFTER YOU'VE HEARD ALL THE EVIDENCE AND TESTIMONY, I WILL COME BACK BEFORE YOU AND I WILL ASK YOU TO HOLD LUCIUS AND DUSHUN STATEN RESPONSIBLE FOR THEIR CONDUCT AND FIND THEM GUILTY AS CHARGED. THANK YOU.

THE COURT: ALL RIGHT, MR. STRICKLER.

MR. STRICKLER: PLEASE THE COURT, SIR.

MR. FOREMAN, LADIES AND GENTLEMEN OF THE JURY, JANUARY 15TH, 2001, PHILLIP LEE WAS KILLED IN THE PARKING LOT OUTSIDE HIS DORM AT BENEDICT COLLEGE. AND THAT IS WRONG. AND WE KNOW IT'S A LARGE LOSS AT THIS MOMENT.

JANUARY 23RD, 2001, LUCIUS STATEN, WHO I REPRESENT, WAS ARRESTED AND CHARGED WITH MURDER. HE SAT IN JAIL FROM THAT DAY TO THIS. I SUBMIT TO YOU THAT THAT TOO IS WRONG, UNLESS THAT YOU FIND THAT IT IS WRONG AT THE END OF THIS TRIAL.

YOU'RE GOING TO HEAR OF PRESENCE ON THE CAMPUS OF A NUMBER OF PEOPLE OVER A PERIOD OF TIME. AND YOU'RE GOING

TO HEAR ABOUT AN INCIDENT ON THE EVENING OF THE 15TH. I'VE HEARD A LOT MENTIONED ALREADY ABOUT BEING AN ACTIVE PARTICIPANT IN THE EVENTS OF THE EVENING OF THE 15TH. LUCIUS STATEN IS CHARGED WITH MURDER SO BEING AN ACTIVE PARTICIPANT IN THE EVENT IS NOT WHAT HE'S CHARGED WITH. HE IS CHARGED WITH BEING AN ACTIVE PARTICIPANT IN THE MURDER OF PHILLIP LEE.

MURDER IS THE UNLAWFUL KILLING OF ANOTHER HUMAN BEING ACCOMPANIED BY MALICE AFORETHOUGHT. AND LUCIUS IS CHARGED WITH ASSISTING, ACTIVELY ASSISTING, NOT JUST BEING THERE, ACTIVELY ASSISTING THE PERSON WHO ACTUALLY PULLED THE TRIGGER. OKAY.

I SUBMIT TO YOU THIS IS WHAT YOU'RE GOING TO HEAR, AS FAR AS THE EVENING OF THE 15TH OF JANUARY. YOU'RE GOING TO HEAR THAT LUCIUS WAS THERE EARLIER IN THE DAY. YOU'RE GOING TO HEAR THAT HE LEFT BENEDICT, WENT SOMEPLACE ELSE ENTIRELY.

YOU'RE GOING TO HEAR THAT WHEN HE CAME BACK, OTHER PEOPLE THAT WERE THERE WHEN HE LEFT WERE ALREADY INVOLVED IN AN ARGUMENT WITH MR. LEE. YOU'RE GOING TO HEAR WHEN HE CAME BACK, HE WALKED UP, HAD WORDS WITH MR. LEE, AND TOLD EVERYONE, THE OTHER PEOPLE ARGUING WITH MR. LEE, TOLD THOSE PEOPLE TO LEAVE. HE TURNED TO LEAVE AND THIS FELLOW, A FELLOW, SHOT MR. LEE.

YOU'RE GOING TO HEAR THERE WAS AN ARGUMENT GOING ON

BEFORE LUCIUS STATEN ARRIVED BACK AT BENEDICT. YOU'RE GOING TO HEAR HIS INVOLVEMENT FOR A SHORT PERIOD OF TIME IN THE ARGUMENT, AND THEN YOU'RE GOING TO HEAR HE TOLD THE FOLKS TO LEAVE. AND YOU'RE GOING TO HEAR THAT SOMEONE SHOT MR. LEE. THAT'S WHAT YOU'RE GOING TO HEAR. THAT'S WHAT YOU'RE GOING TO HEAR.

AND THE STATE SUBMITS THAT THAT MAKES HIM AN ACTIVE PARTICIPANT, ACTIVELY INVOLVED IN MURDERING ANOTHER HUMAN BEING, WHEN THE ACTION ATTRIBUTED TO YOU IS "COME ON, LET'S GET OUT OF HERE, IT'S NO FUN." HE TURNED TO LEAVE.

I SUBMIT TO YOU THAT'S THE EVIDENCE AGAINST LUCIUS STATEN. AND I'LL SUBMIT TO YOU, BASED ON THAT EVIDENCE, THE ARRESTING AND CHARGING HIM WITH MURDER, HE'S BEEN IN JAIL FOR A YEAR, CHARGING AND INDICTING HIM FINALLY OVER A YEAR, RIGHT AT A YEAR, AFTER HIS ARREST, WITH THE MURDER AND LYNCHING. IT'S WRONG. NOW I SUBMIT TO YOU THAT'S WHAT THE EVIDENCE WILL SHOW.

I'M GOING TO ASK THAT YOU DO THIS, I ASK THAT YOU LISTEN TO ALL THE EVIDENCE. THE STATE WILL PROCEED AND PRODUCE THEIR TESTIMONY FIRST, THEN WE'LL HAVE AN OPPORTUNITY. BY "WE," I MEAN MYSELF ON BEHALF OF LUCIUS STATEN. MR. TAYLOR IS GOING TO ADDRESS YOU IN A MINUTE ON BEHALF OF DUSHUN.

I'M NOT HERE TO REPRESENT DUSHUN TODAY AND I DON'T HAVE ANYTHING TO SAY ABOUT HIS CASE. I'M HERE TO

REPRESENT LUCIUS STATEN. OKAY. I'M GOING TO CONCENTRATE ON TALKING ABOUT WHAT LUCIUS STATEN DID OR DID NOT DO. WHEN I TALK WITH YOU, THAT'S WHAT I'M GOING TO ASK YOU ALL TO FIND FOR. BECAUSE EACH INDIVIDUAL IN THIS CASE IS TO BE JUDGED INDIVIDUALLY. YOU'VE ALREADY HEARD THAT AND I'M EMPHASIZING IT.

I ASK THAT YOU LISTEN TO THE EVIDENCE FROM THE STATE'S WITNESSES, ALL THE EVIDENCE. THE EVIDENCE WILL BE THEIR RESPONSES TO QUESTIONS FROM THE PROSECUTION AND THE RESPONSES TO THE QUESTIONS FROM DEFENSE COUNSEL. OUR QUESTIONS AREN'T EVIDENCE, THEIR RESPONSES ARE, BOTH QUESTIONS FROM THE STATE AND QUESTIONS FROM THE DEFENSE.

I ASK THAT YOU NOT STOP THERE, HOWEVER. IN A CASE WHERE THERE ARE TWO SIDES, ONES GOT TO GO FIRST, ANOTHER HAS GOT TO GO SECOND, AND AS IN THIS CASE SOMEONE GOES THIRD, BECAUSE THERE ARE THREE SIDES IN THIS CASE. SO YOU CAN'T HEAR ALL THE EVIDENCE UNTIL YOU'VE HEARD FROM ALL PARTIES IN THIS CASE. OKAY. THERE'S EVIDENCE OUT THERE I DON'T THINK YOU'LL HEAR FROM THE STATE AND I SUBMIT YOU WILL HEAR FROM THE DEFENDANTS.

AGAIN, LUCIUS STATEN, AS ACTIVE PARTICIPANT, I SUBMIT TO YOU THAT THE EVIDENCE IN THIS CASE, WHEN YOU LOOK AT IT, WHEN YOU HEAR FROM THEM, IS THAT LUCIUS STATEN'S ACTIVE PARTICIPATION ON THE EVENING OF JANUARY 15TH, 2001, THE PARKING LOT AT BENEDICT COLLEGE, WAS THAT

OF AN ATTEMPTED PEACEMAKER, NOT AN AIDER AND ABETTER OF A MURDER. AND AS I TURN TO LEAVE, AS HE DID THAT NIGHT, I WILL ASK THAT YOU REMEMBER THAT.

AND WHEN I SPEAK TO YOU AGAIN I'LL ASK THAT YOU RETURN VERDICTS THAT SPEAKS THE TRUTH, A VERDICT BASED ON THE LAW IN SOUTH CAROLINA, THE RULE, LAW, THAT REQUIRES THE STATE TO PROVE GUILT BEYOND A REASONABLE DOUBT, THAT REQUIRES THE STATE TO PROVE LUCIUS STATEN WAS AN AIDER AND ABETTER OF A MURDER, AS OPPOSED TO LUCIUS STATEN AS AN INDIVIDUAL WHO WAS TRYING TO DEFUSE THE SITUATION.

AND IF IT COMES DOWN IN THIS CASE TO CONSIDERING LUCIUS STATEN AS AN AIDER AND ABETTER OF A MURDER BASED ON A NOD OF A HEAD, THEN I'M GOING TO TALK WITH YOU ALL ABOUT WHAT QUALIFIES AS PROOF BEYOND A REASONABLE DOUBT IN THIS STATE OF OURS.

I SUBMIT TO YOU NOW AND AGAIN AT THE END OF THE CASE THE VERDICT IN THIS CASE AS TO LUCIUS STATEN SHOULD BE NOT GUILTY ON BOTH CHARGES. THANK YOU.

THE COURT: ALL RIGHT, MR. TAYLOR.

MR. TAYLOR: MAY IT PLEASE THE COURT.

LADIES AND GENTLEMEN OF THE JURY, MY NAME IS DAVID TAYLOR AND I REPRESENT DUSHUN STATEN, WHO IS SEATED NEXT TO ME AT COUNSEL TABLE. I JOIN BOTH OF THE LAWYERS WHO TOLD YOU JUST MOMENTS AGO THAT WHAT THIS CASE IS ALL ABOUT IS MURDER. PHILLIP LEE WAS DEFINITELY KILLED ON

THE CAMPUS OF BENEDICT COLLEGE ON MARCH (SIC) THE 15TH, 2001. THAT IS NOT A CONTESTED ISSUE. IT'S NOT A CONTESTED FACT. IT IS, HOWEVER, VERY CONTESTED THAT MY CLIENT HAD ANYTHING WHATSOEVER TO DO WITH HIS DEATH.

MY CLIENT HAD BEEN IN THE STATE OF SOUTH CAROLINA FOR APPROXIMATELY THREE WEEKS OR SO. HE HAD COME TO VISIT WITH HIS FAMILY, WHO ARE SEATED BEHIND ME AT COUNSEL TABLE, FOR CHRISTMAS. HE HAD ARRIVED HERE ON THE 24TH OF DECEMBER FROM NEW YORK.

HIS BROTHER WAS FRIENDS WITH A BRANDON McCANTS, WHO WAS A STUDENT AT BENEDICT COLLEGE. THEY WENT OVER TO BENEDICT COLLEGE FROM TIME TO TIME BECAUSE THERE WERE GIRLS THERE. HE'S A YOUNG MAN AND THERE WERE GIRLS THERE AND THAT'S AN ATTRACTION FOR YOUNG MEN.

ON THE NIGHT OF THIS MURDER, IF IT WAS, IN FACT, A MURDER, AND THERE MAY BE SOME QUESTION ABOUT THAT, A SLIGHT QUESTION WHICH YOU WILL HAVE TO RESOLVE, BECAUSE I BELIEVE THERE MAY ARISE A VERY SERIOUS QUESTION OF WHETHER PHILLIP LEE HAD A GUN THAT NIGHT THAT NOBODY REALLY WANTS TO TALK ABOUT. BUT WHETHER HE DID OR HE DID NOT, MY CLIENT WAS SOME DISTANCE AWAY FROM PHILLIP LEE WHEN PHILLIP LEE WAS SHOT IN THE BACK OF THE HEAD.

MY CLIENT WAS SEVERAL CARS DOWN, TALKING WITH HIS FRIENDS AND SOME GIRLS AND THEY WERE LISTENING TO MUSIC ON THE RADIO OF THEIR AUTOMOBILE, WHEN HE HEARD AN

ARGUMENT GOING ON BETWEEN SOME OTHER GUYS THAT HE KNEW CASUALLY, NOT WELL, AND PHILLIP LEE AND WHAT I WILL CALL "PHILLIP LEE'S POSSE" THAT GATHERED AROUND BEHIND HIM.

AS THIS ARGUMENT HEATED, LUCIUS STATEN ARRIVED WITH BRANDON McCANTS, SAW WHAT WAS GOING ON, AND SAID, "YOU GUYS, YOU NEED TO COOL IT." MY CLIENT HEARD THAT. AND LUCIUS STATEN SAID BASICALLY, "IT'S TIME TO GET OUT, IT'S TIME TO GO. THIS IS GETTING OUT OF HAND, IT'S TIME TO GO."

THEY STARTED TO LEAVE IN A GALANT AUTOMOBILE. SHAKEEM WILSON, THEIR COUSIN, WHO IS NOW SITTING IN JAIL AND CHARGED IN THIS CASE ALSO, GOT IN THE CAR. AFTER HE HEARD THE GUNSHOTS HE WAS SO FRIGHTENED AND SCARED HE WANTED TO GET OUT OF THERE. DUSHUN STATEN AND LUCIUS STATEN, THEY COULDN'T GET IN THE CAR BECAUSE IT WAS LOCKED AND SHAKEEM WAS STOPPING FOR NOBODY. HE WAS GETTING OUT OF THERE; THERE WAS SHOOTING GOING ON.

DUSHUN STATEN AND HIS BROTHER RAN AND THEY FOUND THE FIRST AVAILABLE MEANS TO GET OUT OF THERE. THEY HAILED DOWN SOMEBODY DRIVING DOWN THE STREET AND THEY GOT OUT OF THERE.

NOW THE STATE WOULD HAVE YOU BELIEVE THAT THIS WAS A WELL-LIGHTED PARKING LOT. YOU'RE GOING TO HEAR EVIDENCE ABOUT THE LIGHTING THAT NIGHT AND YOU'LL HAVE TO MAKE YOUR OWN DECISIONS ABOUT THAT.

THIS YELLOW JACKET THAT IS MENTIONED, THIS YELLOW AVERIX JACKET THAT THE STATE CLAIMS WAS BEING WORN BY DUSHUN STATEN THAT NIGHT, IS DUSHUN STATEN'S JACKET.

THIS JACKET WAS SEIZED ON THE MORNING OF THE 23RD OF JANUARY, 2001, WHEN THE POLICE OFFICERS, WHO HAD A WARRANT FOR LUCIUS STATEN BUT NOT DUSHUN, KNOCKED ON THE DOOR, SMASHED THE DOOR IN, GRABBED DUSHUN WHO WAS SEATED ON A SOFA IN THE LIVING ROOM, THREW HIM TO THE FLOOR, HANDCUFFED HIM; WENT INTO ANOTHER ROOM, GOT SHAKEEM WILSON, THREW HIM ON THE FLOOR AND HANDCUFFED HIM; GOT LUCIUS AND HANDCUFFED HIM; AND THEN TOOK ALMOST EVERY SINGLE THING OUT OF THEIR APARTMENT THAT THEY HAD, BOXED IT UP, TOOK IT AWAY.

SEVERAL OF THE WITNESSES HAD INDEED SEEN DUSHUN STATEN WEARING THIS JACKET ON A PRIOR OCCASION. THERE IS NO QUESTION ABOUT THAT WHATSOEVER. BUT HE WAS NOT WEARING THIS JACKET ON THE NIGHT IN QUESTION.

WHAT YOU HAVE IS YOU HAVE HERE A SITUATION WHERE A TERRIBLE AND A HORRIBLE THING HAS HAPPENED. YOU HAVE A GROUP OF PEOPLE WHO ARRIVED AS IT'S HAPPENING OR IN ITS IMMEDIATE AFTERMATH, WHO SAY THEY SAW THINGS THAT THEY DIDN'T REALLY SEE. YOU'RE GOING TO HEAR A LOT OF THAT BEFORE THIS CASE IS OVER WITH.

NOW I WANT TO REMIND YOU, AS DID MR. STRICKLER, AND MR. GASSER, AS WELL, AND THE JUDGE, THAT THIS CASE IS NOT

OVER UNTIL IT'S OVER, AS YOGI BERRA WOULD SAY. IT'S NOT OVER UNTIL YOU'VE HEARD EVERYTHING THAT WE HAVE TO SAY, ALL THE EVIDENCE THAT WE HAVE TO PUT ON, BECAUSE MY CLIENT IS GOING LAST IN THIS CASE.

IT'S VERY EASY FOR YOU TO MAKE UP YOUR MINDS EARLY ON, PARTICULARLY IN THIS KIND OF CASE. SO YOU'VE GOT TO REACH DOWN INSIDE OF YOU AND SAY, "YOU KNOW WHAT I'M GOING TO DO, I'M GOING TO DO WHAT I SWORE AN OATH TO DO. I AM GOING TO LISTEN TO ALL OF THE EVIDENCE IN THIS CASE BEFORE I MAKE UP MY MIND WHO DID WHAT." THAT'S NOT TOO MUCH TO ASK OF ANYONE AND THAT'S WHAT YOU SWORE THAT YOU WOULD DO.

I SUBMIT TO YOU THAT BEFORE THIS CASE IS OVER WITH YOU'RE GOING TO HEAR SOME SURPRISES. AND THOSE SURPRISES ARE NOT GOING TO COME FROM THE STATE, MOST LIKELY. THEY'RE LIKELY GOING TO COME FROM US. AND THEY'RE GOING TO PUT THINGS IN PERSPECTIVE FOR YOU.

AND WHEN PUT IN PERSPECTIVE, THEN YOU WILL ASK YOURSELF THIS, AFTER YOU'VE GONE THROUGH THIS ENTIRE PROCESS, WELL, THE DEFENDANT STARTS OFF PRESUMED INNOCENT. THE CLOAK OF INNOCENCE IS ABOUT HIS PERSON THE ENTIRE TIME, FROM THE TIME THAT HE WAS ARRESTED, ALL THE WAY THROUGH YOUR JURY DELIBERATIONS. AND HE CANNOT BE FOUND GUILTY UNLESS EACH AND EVERYONE OF YOU, EACH AND EVERYONE OF YOU, IS TOTALLY AND ABSOLUTELY CONVINCED

BEYOND EVERY REASONABLE DOUBT THAT DUSHUN STATEN COMMITTED THE CRIMES OF MURDER AND LYNCHING. I SUBMIT TO YOU THAT ONCE YOU HAVE DONE THIS, YOU WILL SAY, WITH YOUR VERDICT OF NOT GUILTY, THAT THE STATE HAS NOT PROVED ITS CASE.

YOU KNOW, IN ENGLAND THEY HAVE THREE VERDICTS. WE HAVE TWO. IN ENGLAND THEY HAVE "NOT GUILTY," OR "GUILTY," AND THOSE ARE THE ONLY TWO HERE. THERE, THERE'S ANOTHER ONE, "NOT PROVED." BECAUSE IN THE ENGLISH SYSTEM, FROM WHICH WE HAVE DERIVED OURS, THEY UNDERSTOOD THAT IF IT IS NOT PROVED BEYOND A REASONABLE DOUBT THEN IT IS NOT GUILTY. WE SIMPLY MERGE NOT PROVED INTO NOT GUILTY.

PLEASE, WHATEVER YOU DO, DO NOT DISCUSS THIS CASE AMONG YOURSELVES OR WITH ANYONE ELSE OR READ ANY NEWSPAPER ACCOUNTS OR WATCH ANY T.V. COVERAGE OF IT, BECAUSE IF YOU DO, YOU MAY BE COMPROMISING YOUR ABILITY TO DO WHAT YOU REALLY WANT TO DO AND THAT IS THE OATH THAT YOU SWORE AND THAT IS TO DECIDE THIS CASE BASED ON THE EVIDENCE THAT COMES ONLY FROM THIS COURTROOM. THANK YOU VERY MUCH.

THE COURT: ALL RIGHT, MR. GASSER, ARE YOU READY TO GET STARTED?

MR. GASSER: THE STATE'S READY, YOUR HONOR.

THE COURT: ALL RIGHT, CALL YOUR FIRST WITNESS.

MR. HOOD: MAY IT PLEASE THE COURT, YOUR HONOR. THE STATE CALLS OFFICER TAURUS SANDERS.

(**TAURUS SANDERS**, HAVING FIRST BEEN DULY SWORN, TESTIFIED AS FOLLOWS:)

THE CLERK: PLEASE HAVE A SEAT HERE, SIR, STATE YOUR FULL NAME FOR THE RECORD.

OFFICER SANDERS: OFFICER TAURUS SANDERS.

DIRECT EXAMINATION BY MR. HOOD:

Q OFFICER SANDERS, GOOD MORNING.

A GOOD MORNING.

Q COULD YOU PLEASE TELL THE JURY WHERE YOU'RE CURRENTLY EMPLOYED?

A CITY OF COLUMBIA POLICE DEPARTMENT.

Q AND COULD YOU PLEASE TELL THEM HOW LONG YOU'VE BEEN EMPLOYED WITH THE COLUMBIA POLICE DEPARTMENT?

A FOR A TOTAL OF SIX YEARS.

Q OKAY. HOW LONG HAVE YOU BEEN IN LAW ENFORCEMENT ALTOGETHER?

A SIX YEARS.

Q SO YOU'VE BEEN THE ENTIRE TIME WITH THE COLUMBIA POLICE DEPARTMENT?

A NOT THE ENTIRE TIME, NO.

Q NOW WHAT ARE YOUR CURRENT DUTIES AND RESPONSIBILITIES WITH THE COLUMBIA POLICE DEPARTMENT?

A MY CURRENT RESPONSIBILITIES IS A RESIDENTIAL PATROL

OFFICER, CITY OF COLUMBIA.

Q AND WHAT WERE YOUR CURRENT -- WHAT WERE YOUR DUTIES AND RESPONSIBILITIES BACK ON JANUARY THE 15TH, 2001?

A I WAS A PATROL OFFICER. I WAS ASSIGNED TO A SQUAD AT THE TIME.

Q AND YOU PLEASE TELL US THE BASIC DUTIES OF WHAT YOU DO AS A PATROL OFFICER?

A RESPOND TO CALLS AS OUR PRIMARY, AS WELL AS SELF-INITIATED ACTIVITY.

Q SO IF A PERSON WERE TO CALL IN TO 9-1-1 AND SAY, "THERE'S SOMETHING GOING ON IN MY HOME," WOULD DISPATCH THEN CONTACT YOU AS THE PATROL OFFICER IN THAT AREA?

A YES.

Q OKAY. ON THE NIGHT OF JANUARY 15TH, 2001, WERE YOU WORKING IN THE CITY OF COLUMBIA?

A YES, I WAS.

Q AND DID A CALL COME OUT ABOUT SHOTS FIRED AT BENEDICT COLLEGE?

A YES, THEY DID.

Q AND DID YOU RESPOND TO THAT CALL?

A YES, I DID.

Q AND CAN YOU PLEASE TELL US WHAT YOU FOUND ONCE YOU CAME ON THE SCENE?

A WHEN I ARRIVED ON THE SCENE THERE WAS A GREAT DEAL OF PEOPLE IN THE GENERAL AREA. I SLOWLY APPROACHED WITH

MY PATROL CAR AND I SAW A SUBJECT DOWN ON THE GROUND. I EXITED THE CAR, WALKED UP, THERE WERE ABOUT FOUR OR FIVE PEOPLE KNEELING AROUND HIM. I OBSERVED HE HAD A GUNSHOT WOUND TO THE BACK OF THE HEAD.

AT THAT TIME I NOTIFIED DISPATCH TO HAVE E.M.S. STEP IT UP, A SERIOUS INJURY.

I WENT BACK TO MY CAR, GOT MY WHITE SHEET, AND COVERED HIS BODY UNTIL THE AMBULANCE GOT THERE.

Q NOW, CAN YOU PLEASE TELL US THE INCIDENT LOCATION? WHERE WAS THE INCIDENT ACTUALLY AT?

A AT THE DORMITORY OFF OF 1600 WAVERLY STREET, WAVERLY AND HASKILL.

Q IS THAT ON THE BENEDICT CAMPUS COLLEGE?

A THAT IS CORRECT.

Q OKAY. ONCE YOU RESPONDED TO THE SCENE -- LET ME ASK YOU, WHEN YOU'RE A PATROL OFFICER ON A SCENE AND YOU RESPOND TO WHERE A BODY IS FOUND SHOT IN THE BACK OF THE HEAD, IS IT YOUR DUTY TO CONDUCT ANY TYPE OF INVESTIGATION AT THAT MOMENT?

A NO. STAND BY, SECURE THE SCENE, TRY TO KEEP ALL THE WITNESSES AND PARTIES INVOLVED CONTAINED, WHICH I DID AT THAT TIME.

Q SO YOU DID ATTEMPT TO CONTROL THE SCENE, SECURE THE SCENE THAT NIGHT?

A YEAH, THAT'S RIGHT.

Q DO YOU ATTEMPT TO CONTROL THE SCENE BY TAPING OFF THE SCENE, THE COMMON POLICE TAPE THAT WE'VE SEEN.

A ONCE THE AREA IS SECURE, AS FAR AS SAFETY, YES, WE DO.

Q AND CAN YOU TELL THE JURY A LITTLE BIT ABOUT THE LIGHTING THAT NIGHT? WHEN YOU CAME UPON THE SCENE IS THAT A WELL-LIT AREA?

A THAT SPECIFIC LOCATION, YES, IT IS.

Q AND COULD YOU SAY APPROXIMATELY HOW FAR IT WAS YOU COULD SEE? DID YOU HAVE A PROBLEM SEEING PEOPLE HOW FAR AWAY?

A THIRTY FEET WOULD BE A GOOD DISTANCE. BEYOND THIRTY FEET IT WOULD BE SOMEWHAT DIFFICULT.

Q TO SEE PEOPLE?

A YES.

Q NOW, IS YOUR JOB AS THE FIRST OFFICER ON THE SCENE TO DO ANY TYPE OF FORENSIC OR I.D. INFORMATION, LOOK FOR EVIDENCE, SEARCH FOR EVIDENCE, OR ANYTHING LIKE THAT?

A NO.

Q IT'S BASICALLY LIKE -- CAN YOU JUST ONE MORE TIME -- WHAT YOUR DUTIES AND RESPONSIBILITIES ARE ONCE YOU SHOW UP?

A THE FIRST THING IS SAFETY, MAKE SURE THE SCENE IS SECURE AS FAR AS SAFETY. MAKE SURE THAT THE PERSON THAT WAS INITIALLY INVOLVED EITHER HAD A WEAPON, MAKE SURE

THEY'RE LOCATED TO MINIMIZE THE RISK OF SAFETY, FIRST FOR ME, AND THEN FOR ANYONE ELSE.

MR. HOOD: BEG THE COURT'S INDULGENCE, YOUR HONOR.

(PAUSE.)

Q AND DO YOU KNOW SERGEANT GERI STEEDLEY WITH THE COLUMBIA POLICE DEPARTMENT?

A YES.

Q AND DID SHE EVENTUALLY ARRIVE ON THE SCENE?

A YES. SHE WAS THE FIRST I.D. TECHNICIAN TO ARRIVE.

Q AND SHE IS AN I.D. TECHNICIAN WITH THE CITY OF COLUMBIA?

A YES, SHE IS.

Q THANK YOU.

NO FURTHER QUESTIONS, YOUR HONOR.

THE COURT: ANY QUESTIONS, MR. STRICKLER?

MR. STRICKLER: YES, SIR.

CROSS-EXAMINATION BY MR. STRICKLER:

Q GOOD MORNING, MR. SANDERS.

A MORNING.

Q JUST A FEW QUESTIONS, IF I COULD.

WHEN WAS IT PRECISELY THAT YOU'D ARRIVED ON THE SCENE?

A I WAS THE FIRST OFFICER ON THE SCENE, I THINK IT WAS AROUND NINE O'CLOCK WHEN THE INITIAL CALL CAME IN.

Q THE CALL CAME IN -- BY "THE CALL CAME IN," THAT

MEANS ABOUT NINE O'CLOCK WHEN YOU HEARD IT BROADCAST OVER THE RADIO?

A THAT'S CORRECT.

Q OKAY. AND AT THE TIME YOU ARRIVED ON THE SCENE, IF I UNDERSTOOD YOU CORRECTLY, YOU OBSERVED THE BODY ON THE GROUND; CORRECT?

A YES.

Q I THINK YOU SAID YOU SAW ABOUT FOUR OR FIVE PEOPLE KNEELING AROUND THE BODY; IS THAT CORRECT?

A YES.

Q OKAY. THOSE WERE NOT THE ONLY PEOPLE YOU SAW IN THE AREA NEAR THE BODY; CORRECT?

A THOSE ARE THE FOUR OR FIVE PEOPLE IN THE IMMEDIATE. EVERYBODY ELSE IS SOMEWHAT OF A DISTANCE.

Q OKAY. BY "THE IMMEDIATE AREA," YOU MEAN RIGHT NEXT TO---

A THAT'S CORRECT.

Q ---THE BODY THAT YOU SAW?

OTHER PEOPLE WERE AT A FURTHER DISTANCE BACK?

A THAT'S CORRECT.

Q THE INCIDENT HAD ATTRACTED A FAIR AMOUNT OF ATTENTION ON CAMPUS ALREADY AT THAT POINT IN TIME; RIGHT?

A YES, SIR. YES, IT DID.

Q NOT AN UNUSUAL REACTION, IN YOUR EXPERIENCE; CORRECT?

A NOT IN THOSE SITUATIONS, NO.
Q RIGHT. AGAIN, THE ESTIMATE ON THE NUMBER OF PEOPLE WHO WERE IN THE GENERAL AREA, AS OPPOSED TO THE AREA OF RIGHT ADJACENT TO THE BODY THAT YOU SAW? AND YOU KNOW, I'M ASKING FOR AN ESTIMATE, THAT'S ALL.
A MAYBE AT LEAST A HUNDRED PEOPLE. MAYBE.
MR. TAYLOR: I'M SORRY, I COULDN'T HEAR THAT, YOUR HONOR.
A MAYBE AT LEAST A HUNDRED.
Q AND BY THE "GENERAL AREA," WOULD THAT BE THE AREA OUTSIDE THE DORMITORY THERE AND THE PARKING LOT AREA?
A YES. THAT'S ---
Q THAT'S WHAT I'M REFERRING TO.
A --- THE WHOLE AREA. IT'S BEEN SO -- THE WHOLE AREA.
Q AND AT THAT POINT IN TIME YOU'RE THE FIRST OFFICER ON THE SCENE; THERE WAS NO CRIME SCENE TAPE UP, OBVIOUSLY, AT THAT POINT IN TIME; RIGHT?
A NOT AT THAT TIME, NO.
Q OKAY. AND YOU FIRST OF ALL MADE SURE THAT THERE WEREN'T ANY POSSIBILITY OF ANYONE ELSE BEING INJURED AT THAT POINT; RIGHT?
A THAT'S CORRECT.
Q EITHER YOURSELF OR ANY OTHER CIVILIAN ON THE SCENE; RIGHT.

A YES.
Q IN OTHER WORDS, NO WEAPONS AROUND AT THAT POINT THAT MIGHT BE USED; CORRECT?
A NOT TO MY KNOWLEDGE.
Q NOT TO YOUR KNOWLEDGE. AND THEN I BELIEVE YOU COVERED THE BODY WITH A CLOTH FROM YOUR CAR; IS THAT CORRECT?
A YES.
Q OKAY. AND TOLD E.M.S. OR CONTACTED DISPATCH TO GET E.M.S. TO STEP ON IT; RIGHT?
A YES.
Q OKAY. AND HOW LONG WERE YOU THERE ON YOUR OWN BEFORE THE NEXT OFFICER ARRIVED ON THE SCENE?
A PROBABLY TWO, THREE MINUTES.
Q OKAY. AND WAS THAT NEXT OFFICER OFFICER STEEDLEY WITH THE I.D. OR WAS THAT ANOTHER LINE OFFICER?
A ANOTHER LINE OFFICER ARRIVED.
Q AND WHO WAS THAT? DO YOU REMEMBER?
A I COULDN'T TELL YOU.
Q HOW LONG DID YOU STAY ON THE SCENE THAT NIGHT?
A I THINK AT LEAST A HOUR.
Q AND DURING THAT PERIOD OF TIME DID YOU PARTICIPATE IN HELPING TO EVENTUALLY BLOCK OFF THE SCENE WITH CRIME SCENE TAPE?
A THAT'S CORRECT.

Q OKAY. LET ME SHOW YOU WHAT'S MARKED AS STATE'S NUMBER EIGHTEEN FOR I.D., OKAY?

A OKAY.

Q I ASK YOU IF YOU RECOGNIZE ANYTHING THAT'S DEPICTED IN THIS SERIES OF PHOTOGRAPHS?

A YES, I RECOGNIZE.

Q WHAT DO THESE PHOTOGRAPHS DEPICT?

A THIS IS THE ONE WITH THE BLOOD SPLATTERS. THAT'S WHERE THE BODY, THE HEAD, WAS, SORT OF FACING AT THE DORM.

Q LET ME ASK YOU THIS: DO THESE PICTURES IN GENERAL DEPICT THE CRIME SCENE AT BENEDICT COLLEGE?

A YES, THEY DO.

Q OKAY. AFTER ALL THE PEOPLE THAT WERE OUT THERE HAD BEEN MOVED AWAY?

A YES. THERE'S NO ONE IN THOSE PICTURES THERE.

Q DO YOU SEE CRIME SCENE TAPE PLACED AROUND THE SCENE?

A THAT'S CORRECT.

Q OKAY. AND THAT MAY HAVE BEEN SOME OF THE TAPE YOU'RE RESPONSIBLE FOR PLACING AROUND THE SCENE?

A THAT'S CORRECT.

Q DOES IT FAIRLY AND ACCURATELY DEPICT THE SCENE AS YOU OBSERVED IT AFTER THE CROWD WAS DISPERSED ON THAT EVENING?

A YES. IT DOES.

MR. STRICKLER: WE'D MOVE THIS INTO EVIDENCE, YOUR HONOR.

THE COURT: ANY OBJECTION?

MR. HOOD: NO OBJECTION, YOUR HONOR.

COURT REPORTER: STATE'S EIGHTEEN INTO EVIDENCE.

MR. STRICKLER: THAT WOULD BE DEFENSE ONE INTO EVIDENCE, WOULDN'T IT? STATE'S I.D., DEFENSE ONE?

MR. TAYLOR: I BELIEVE, YOUR HONOR, THAT WOULD HAVE TO BE DEFENDANT LUCIUS STATEN'S NUMBER ONE BECAUSE WE'VE GOT ACTUALLY ---

MR. STRICKLER: THAT'S CORRECT.

MR. TAYLOR: --- THREE, THREE PARTIES INTRODUCING EVIDENCE.

(DEFENDANT LUCIUS STATEN'S EXHIBIT NUMBER TWO, POSTER WITH FIVE PHOTOS, FORMERLY STATE'S EXHIBIT NUMBER EIGHTEEN FOR I.D., IS NOW REMARKED AND ENTERED INTO EVIDENCE WITHOUT OBJECTION.)

MR. STRICKLER: THANK YOU, MA'AM.

Q OFFICER, I'M SORRY, I KIND OF CUT YOU OFF BECAUSE I JUST WANTED TO MAKE SURE WE KNEW WHAT WE WERE TALKING ABOUT.

COULD YOU STEP DOWN HERE, PLEASE, BRIEFLY?

(THE WITNESS NOW LEAVES THE WITNESS STAND.)

AND IF YOU COULD -- THERE'S A -- LET ME GET THIS

FOR YOU RIGHT HERE AS A MARKER OR A POINTER. AND STAND BACK SO THESE FOLKS CAN SEE, AND SPEAK UP SO THIS YOUNG LADY OVER HERE CAN TAKE DOWN WHAT YOU HAVE TO SAY.

CAN YOU DESCRIBE WHAT YOU SEE AT THE SCENE THERE, THIS SERIES OF PICTURES?

A THIS PICTURE, ALL OF THEM, HAVE THE BLOOD SPLATTERED.

Q RIGHT.

A THE BODY WAS HERE (INDICATING).

Q OKAY. AND WAS THAT THE AREA WHERE THE FOUR OR FIVE PEOPLE WERE RIGHT ADJACENT TO THE BODY WHEN YOU ARRIVED?

A YES. THEY WERE AROUND THIS AREA.

Q OKAY. ALL RIGHT. AND DOES THAT -- THAT SPOT IS REFLECTED IN THIS PICTURE, SECOND IN THE SEQUENCE, AS THAT AREA RIGHT THERE; CORRECT?

A YES.

Q AND IT'S DEPICTED IN THIS PICTURE IN THE SEQUENCE AS THAT AREA RIGHT THERE (INDICATING)?

A YES.

Q AND IN THIS ONE AS THAT AREA; CORRECT?

A YES.

Q AND AS THAT AREA; RIGHT?

A YES.

Q OKAY. AND THIS ITEM RUNNING ACROSS THE CENTER OF THIS THIRD PICTURE, THAT'S CRIME SCENE TAPE?

A YES, IT IS.
Q OKAY. AND WHEN YOU WERE THERE AND SAW FIVE PEOPLE, FOUR OR FIVE PEOPLE, IN THIS AREA RIGHT AROUND WHERE YOU SAW THE BODY?
A YES.
Q YOU SAY THERE WERE ROUGHLY A HUNDRED PEOPLE IN THE GENERAL AREA AND THAT WOULD BE -- THIS IS THE DORMITORY UP HERE?
A IT WOULD BE ON THE OTHER SIDE OF THAT TAPE THERE.
Q THEY ARE NOW ON THE OTHER SIDE OF THE TAPE. AT THE TIME YOU ARRIVED THEY WEREN'T NECESSARILY -- WELL, THERE WAS NO TAPE UP AT THAT POINT.
A THEY WERE RIGHT -- BASICALLY WHERE THEY WERE, WHERE THEY ARE NOW---
Q OKAY.
A --- IS WHERE THEY WERE.
Q JUST STANDING A LITTLE WAYS BACK FROM THE SCENE?
A YES, SIR.
Q OKAY. AND DO YOU SEE AN AREA DEPICTED OVER HERE THAT WOULD BE A PARKING LOT; CORRECT?
A THAT'S CORRECT.
Q WERE THERE PEOPLE STANDING AROUND IN THE PARKING LOT AT THAT POINT IN TIME ALSO?
A YES.
Q OKAY.

A OFF IN THE DARKNESS THERE, BEYOND THAT.
Q NOW THE DORMITORY IN THIS CENTER PICTURE IS GOING TO BE TOWARDS THE AREA WHERE THE CAMERA IS, WHERE THE PHOTOS ARE BEING TAKEN FROM?
A IT WOULD BE THE OPPOSITE DIRECTION OF THIS.
Q SO IT'S GOING TO BE BACK THIS WAY; CORRECT?
A YES.
Q OKAY. WERE THE PEOPLE STANDING DOWN FURTHER DOWN THE SIDEWALK HERE ---
A YES.
Q --- AT THE POINT IN TIME YOU ARRIVED?
A YES.
Q OKAY, SIR. ALL RIGHT. THANK YOU VERY MUCH. YOU CAN RESUME YOUR SEAT, IF YOU WOULD, PLEASE.
(THE WITNESS NOW RETURNS TO THE WITNESS STAND.)
BEG THE COURT'S INDULGENCE ONE MOMENT, SIR.
(PAUSE.)
OFFICER SANDERS, THANK YOU VERY MUCH.
THE COURT: MR. TAYLOR, DO YOU HAVE ANY QUESTIONS?
MR. TAYLOR: JUST A COUPLE, PLEASE.
CROSS-EXAMINATION BY MR. TAYLOR:
Q GOOD MORNING, OFFICER SANDERS. HOW ARE YOU THIS MORNING.
A MORNING. FINE.
Q GOOD.

YOU SAY WHEN YOU ARRIVED AT THE SCENE THAT VISIBILITY WAS ABOUT THIRTY FEET FOR THE PURPOSE OF SEEING PEOPLE?

A YES.

Q BY THAT DID YOU MEAN THE VISIBILITY WAS ABOUT THIRTY FEET IN TERMS OF DISTANCE FROM WHICH YOU COULD SEE A PERSON'S BODY?

A WHERE I WAS, NEAR THE BODY, THE LIGHTING WAS GOOD ENOUGH WHERE I COULD SEE, IDENTIFY A FACE. BEYOND THAT THE LIGHTING OUTSIDE OF THAT THIRTY FEET AREA WASN'T GOOD. BEYOND THE AIR CONDITIONING UNIT THERE'S REALLY NO LIGHT. TOWARDS THE DORM IT'S WELL-LITTED (SIC) SO THE DISTANCE WOULD INCREASE THERE. AND BACK TO THE LEFT THE DISTANCE -- I MEAN, THE LIGHTING WASN'T ALL THAT GOOD EITHER.

Q SO IS IT A FAIR STATEMENT TO CHARACTERIZE YOUR TESTIMONY AS BEING THAT ONCE YOU GOT BEYOND THE THIRTY FEET IT WOULD HAVE BEEN DIFFICULT TO IDENTIFY A PERSON'S FACE?

A IN MY OPINION, YES.

Q OKAY. AND IN THIS EXHIBIT, IN THE CENTER PHOTOGRAPH, AND I'M REFERRING AGAIN TO THE EXHIBIT NUMBER TWO, LUCIUS STATEN'S EXHIBIT NUMBER TWO, IN THE CENTER PHOTOGRAPH TOWARD THE TOP, CAN YOU SEE IT FROM WHERE YOU ARE?

A YES. I CAN.

Q DO YOU SEE THE AREA THAT I'M POINTING TO HERE WHERE THERE'S A MAN OBVIOUSLY WEARING A WHITE SHIRT?

A IT LOOKS YELLOW TO ME.

Q LOOKS YELLOW?

A YES.

Q A LIGHT-COLORED SHIRT; DO YOU AGREE WITH THAT?

A YES.

Q WOULD YOU AGREE WITH ME THAT IT WOULD BE DIFFICULT TO SEE INTO THAT AREA BECAUSE OF THE LIGHTING OR LACK OF IT?

A I CAN'T SPECIFICALLY RECALL. I THINK THE PARKING LOT IS WELL LIT. BASED ON THOSE PHOTOGRAPHS IT'S HARD TO TELL IF THAT AREA WAS WELL LITTED OR NOT.

Q WOULD YOU STEP DOWN HERE FOR JUST A MOMENT SO THESE ...

(THE WITNESS NOW LEAVES THE WITNESS STAND.)

MR. GASSER: YOUR HONOR, MAY WE APPROACH?

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

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

MR. GASSER: THANK YOU, YOUR HONOR.

Q OFFICER SANDERS, THERE WERE DARK AREAS THAT NIGHT;

RIGHT?

A YES. AROUND THE SIDE OF THE BUILDING, THE IMMEDIATE AREA.

Q ALL RIGHT. THANK YOU. THAT'S ALL I WANTED.

(THE WITNESS NOW RETURNS TO THE WITNESS STAND.)

MR. HOOD: NO REDIRECT, YOUR HONOR.

THE COURT: ALL RIGHT, YOU CAN COME DOWN.

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

CALL YOUR NEXT WITNESS.

MR. HOOD: THE STATE CALLS SERGEANT GERI STEEDLEY.

(**GERALDINE R. STEEDLEY**, HAVING FIRST BEEN DULY SWORN, TESTIFIED AS FOLLOWS:)

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

SERGEANT STEEDLEY: MY NAME IS GERALDINE R. STEEDLEY.

DIRECT EXAMINATION BY MR. HOOD:

Q SERGEANT STEEDLEY, GOOD MORNING.

A GOOD MORNING.

Q WOULD YOU PLEASE TELL THE JURY WHERE YOU ARE CURRENTLY EMPLOYED?

A CITY OF COLUMBIA POLICE DEPARTMENT, CRIME SCENE INVESTIGATIONS UNIT.

Q OKAY. AND HOW MANY YEARS HAVE YOU BEEN WITH THE

COLUMBIA POLICE DEPARTMENT?

A I'VE BEEN WITH COLUMBIA A LITTLE OVER EIGHT YEARS.

Q OKAY. HOW MANY YEARS IN LAW ENFORCEMENT EXPERIENCE DO YOU HAVE TOTAL?

A TWENTY-THREE (23) YEARS.

Q AND WOULD YOU PLEASE TELL US WHAT YOUR CURRENT DUTIES AND RESPONSIBILITIES ARE AT THE COLUMBIA POLICE DEPARTMENT?

A CURRENTLY I'M SERGEANT IN CHARGE OF THE CRIME SCENE INVESTIGATIONS UNIT.

Q AND AS A SERGEANT ARE YOU ESSENTIALLY A SUPERVISOR?

A YES, I AM.

Q AND CAN YOU TELL US APPROXIMATELY HOW MANY PEOPLE YOU SUPERVISE?

A SIX PEOPLE.

Q AND ARE ALL THOSE PEOPLE I.D. OR TECHNICAL PEOPLE?

A YES.

Q COULD YOU PLEASE TELL US WHAT THE FUNCTION OF THE I.D. UNIT OR THE I.D. TEAM IS AT THE COLUMBIA POLICE DEPARTMENT?

A OUR JOB IS TO RESPOND TO ANY CRIME SCENE OR ANY INCIDENT WHERE THERE'S BEEN A CRIME THAT'S OCCURRED, COLLECTING AND PRESERVING THE EVIDENCE, DOCUMENT WHATEVER HAS HAPPENED TO THAT SCENE, WHETHER IT BE PHOTOGRAPHS, LIFT FINGERPRINTS, COLLECT EVIDENCE, ANYTHING THAT NEEDS

TO BE DONE FORENSICLY WITH THAT LOCATION.

Q AND DID YOU OBTAIN SPECIFIC TRAINING AND EDUCATION IN THIS AREA?

A YES, I HAVE.

Q AND COULD YOU PLEASE GO TO THE JURY WITH YOUR TRAINING AND QUALIFICATIONS AS A CRIME SCENE INVESTIGATOR?

A OVER THE YEARS I'VE HAD BASIC FINGERPRINTS, ADVANCED FINGERPRINTS, I.D. TECHNICIAN SCHOOL, CRIME SCENE RECONSTRUCTION, BLOOD-SPLATTER CLASSES, EVERYTHING FROM BIO-HAZARD EVIDENCE COLLECTION, NUMEROUS OVER THE YEARS. EVERY YEAR WE HAVE TO HAVE CONTINUING EDUCATION CLASSES IN VARIOUS ASPECTS OF ANYTHING THAT HAS TO DO WITH FORENSICS.

Q WHAT PART OF THIS TRAINING CONSTITUTES TAKING PHOTOGRAPHS OF CRIME SCENES, DOING DIAGRAMS, SKETCHING AND WHATNOT LIKE THAT?

A IT'S CRIME SCENE PHOTOGRAPHY OR FORENSIC PHOTOGRAPHY.

Q OKAY. AND HAVE YOU HAD CLASSES SPECIFICALLY IN FORENSIC PHOTOGRAPHY?

A YES, I HAVE.

Q AND HOW MANY CRIME SCENES WOULD YOU SAY, OVER YOUR PAST EIGHT-YEARS-PLUS OF EXPERIENCE IN LAW ENFORCEMENT, HAVE YOU WORKED?

A SEVERAL HUNDRED, ESTIMATE.

Q AND HOW MANY OF THESE CRIME SCENES DO YOU SAY YOU'VE TAKEN PICTURES OR SOMEONE UNDER YOUR CONTROL HAS TAKEN PICTURES?

A ALL DIFFERENT TYPES OF CRIMES, I'D PROBABLY SAY THOUSANDS.

MR. HOOD: AT THIS TIME, YOUR HONOR, WE WOULD MOVE TO HAVE SERGEANT GERI STEEDLEY WITH THE COLUMBIA POLICE DEPARTMENT QUALIFIED AS AN EXPERT IN THE AREA OF CRIME SCENE INVESTIGATION.

THE COURT: ANY VOIR DIRE? ANY OBJECTION?

MR. STRICKLER: I HAVE NO VOIR DIRE, YOUR HONOR.

MR. TAYLOR: NONE, YOUR HONOR.

THE COURT: ALL RIGHT, SHE'S QUALIFIED.

AND, LADIES AND GENTLEMEN, WHAT THAT MEANS IS WHEN YOU'RE QUALIFIED AS AN EXPERT, THAT MEANS THAT THE WITNESS CAN GIVE THEIR OPINION. WE DON'T NORMALLY LET WITNESSES GIVE THEIR OPINION BUT WHEN YOU'RE QUALIFIED AS AN EXPERT YOU CAN GIVE YOUR OPINION OF SOMETHING.

OKAY, MR. HOOD.

MR. HOOD: THANK YOU, JUDGE.

Q SERGEANT STEEDLEY, LET'S GO BACK TO THE NIGHT OF JANUARY THE 15TH OF 2001. WHAT WERE YOUR DUTIES AND RESPONSIBILITIES? WERE YOU STILL ON THE I.D. TEAM AT THAT TIME?

A YES, I WAS. I WAS NOT THE SERGEANT OVER THAT UNIT AT THE TIME BUT I WAS PART OF THE I.D. UNIT.

Q DID YOU HAVE A CHANCE TO RESPOND TO A CALL AT BENEDICT COLLEGE?

A YES, I DID.

Q CAN YOU PLEASE TELL US THE NATURE OF THAT CALL?

A MYSELF AND I.D. TECH PHILLIP YOUNG RECEIVED A CALL THAT WE HAD ONE SHOT IN THE PARKING LOT AT BENEDICT COLLEGE AND SO WE RESPONDED TO THE CALL. WE WERE CALLED BY OUR DISPATCH TO IMMEDIATE RESPONSE.

Q AND THE INCIDENT LOCATION WAS EXACTLY WHERE?

A IT WAS IN THE PARKING LOT AT BENEDICT COLLEGE BETWEEN HASKILL AND WAVERLY STREETS.

Q AND IS THIS IN THE CITY OF COLUMBIA?

A YES, SIR, IT IS.

Q AND IN THE COUNTY OF RICHLAND?

A YES, IT IS.

Q OKAY. WHEN YOU CAME UPON THE SCENE, WHAT WAS THE FIRST THING THAT YOU NOTICED? WHAT DID YOU DO AS AN I.D. TECH UPON ARRIVING ON A CRIME SCENE WHERE A SHOOTING HAD OCCURRED?

A WELL THE FIRST THING, WHEN I GOT THERE, I OBSERVED THAT THE CRIME SCENE TAPE WAS ALREADY UP SO I KNEW THAT THE SCENE HAD BEEN SECURED. I CAME IN THROUGH A BACK STREET, AROUND BY THE BACK SIDE OF THE DUMPSTERS.

WHEN I GOT THERE THE VICTIM WAS STILL THERE. WE CAME AROUND, THERE WAS NOBODY IN THE SCENE AT THE TIME WHEN I GOT THERE; E.M.S. WAS COMING IN. WE HAD SOME OF THE OTHER OFFICERS THAT WAS THERE, AS I WAS SAYING THERE WAS NUMEROUS OFFICERS ON THE SCENE BY THAT TIME. THEY ESCORTED THE E.M.S. SERVICE IN AND THEY BEGAN TO REMOVE THE VICTIM AND TAKE HIM TO THE HOSPITAL. AND THEN WE BEGAN TO PROCESS THE SCENE.

Q SERGEANT STEEDLEY, DOES THIS DIAGRAM FAIRLY AND ACCURATELY REPRESENT THE HASKILL DORM AREA, ALTHOUGH IT'S NOT TO SCALE?

A YES, IT IS.

MR. HOOD: YOUR HONOR, AT THIS TIME THE STATE WOULD LIKE TO HAVE THIS MARKED FOR I.D.

MR. STRICKLER: NO OBJECTION.

MR. TAYLOR: NO OBJECTION.

THE COURT: WHY DON'T YOU JUST ASK HIM (SIC) IF HE CAN IDENTIFY IT AND THEN MARK IT FOR INTRODUCTION? CUT OUT ONE STEP.

Q CAN YOU IDENTIFY THIS DIAGRAM, SERGEANT STEEDLEY?

A YES, I CAN.

Q AND IS IT ---

A THIS IS A DIAGRAM OF THE GROUND AREA, PARKING LOT AREA, AND THE DORM AREA AT -- BETWEEN WAVERLY AND HASKILL THE NIGHT OF THE SHOOTING.

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

THE COURT: ALL RIGHT, STATE'S NUMBER?

COURT REPORTER: THIRTY-ONE.

THE COURT: THIRTY WHAT?

COURT REPORTER: THIRTY-ONE.

THE COURT: THIRTY-ONE.

(**STATE'S EXHIBIT NUMBER THIRTY-ONE, A LARGE SKETCH OF THE BENEDICT COLLEGE PARKING LOT**, IS NOW MARKED AND ENTERED INTO EVIDENCE WITHOUT OBJECTION.)

Q SERGEANT STEEDLEY, IF YOU COULD, PLEASE, STEP DOWN FROM THE WITNESS STAND?

(THE WITNESS NOW LEAVES THE WITNESS STAND.)

IF YOU'LL STAND ON THIS SIDE SO THE COURT REPORTER CAN HEAR YOU, AND THEN WE HAVE TO MAKE SURE THAT ALL THE JURORS, EVEN TO THE BACK LAST ROW, IN THE LAST CORNER, CAN SEE AND HEAR WHAT WE'RE TALKING ABOUT AT THIS POINT.

AND IF YOU CAN DESCRIBE WHERE YOU CAME IN, WHERE EVERYTHING WAS FOUND, AND HOW YOU STARTED PROCESSING THE SCENE?

A OKAY. THIS IS THE AREA I CAME IN. I CAME IN, THERE'S A DELIVERY AREA BACK HERE; THERE'S A TRASH DUMPSTER RIGHT OVER IN THIS AREA. I CAME IN THROUGH THIS DIRECTION AND PARKED MY VEHICLE BACK HERE (INDICATING).

THIS IS, I BELIEVE, IT'S A GENERATOR TYPE AIR

CONDITIONING RECEPTION HERE FOR THE DORM, AND THIS IS A LITTLE GRASSY AREA WHERE THERE'S A LIGHT POLE, AND THIS IS THE SIDEWALK RIGHT IN FRONT OF THAT POLE.

Q AND COULD YOU TELL US WHERE THE BODY WAS WHEN YOU ARRIVED ON THE SCENE?

A YES. THE BODY WAS RIGHT HERE AND ALMOST IN FRONT OF THIS (INDICATING), THE LIGHT POLE.

Q NOW WHEN YOU AS AN I.D. TECH SHOW UP ON A CRIME SCENE, IS YOUR FIRST RESPONSIBILITY TO THE VICTIM OR TO THE EVIDENCE?

A WELL NATURALLY, THE PRESERVATION OF LIFE IS MY FIRST RESPONSIBILITY, REGARDLESS. BUT AT THAT POINT E.M.S. HAD BEGUN. WHEN I HAD STARTED GETTING SOME OF MY EQUIPMENT, E.M.S. WAS HERE AND ALREADY WORKING ON THE VICTIM. IT DIDN'T TAKE THEM BUT JUST A FEW MINUTES TO GO AHEAD AND LOAD HIM UP AND ACTUALLY GET HIM OUT OF THERE. AT THAT POINT MY RESPONSIBILITY IS STRICTLY EVIDENCE.

Q AND WHEN YOU SHOW UP ON A CRIME SCENE, HOW MUCH OF THE INFORMATION ABOUT THE SCENE AND THE FACTS DO YOU ACTUALLY KNOW?

A I DON'T KNOW ANYTHING. THE ONLY INFORMATION I HAD WAS THAT WE HAD ONE SHOT.

Q NOW WHEN YOU SHOW UP, BECAUSE YOU DON'T KNOW ANYTHING, WHAT DO YOU ATTEMPT TO DO?

A WELL, ONCE I DETERMINE THAT THAT SCENE HAS BEEN

ROPED OFF AND IT'S SECURED TO MY SATISFACTION, WHICH IT WAS, THIS AREA ALL THE WAY DOWN FROM THIS SECTION, ALL THE WAY BACK UP TOWARDS THE OTHER PART OF THE WALK, THERE WAS ANOTHER LIGHT THAT WAS ACTUALLY SECURED OFF. SO THAT WAS QUITE A LARGE AREA THAT HAD BEEN SECURED. SO I WAS SATISFIED WITH THAT.

AT THAT POINT THEN I NEED TO GATHER A LITTLE BIT OF INFORMATION. I NEED TO KNOW WHETHER IT'S A GUN BEING USED OR WHETHER IT'S A KNIFE BEING USED OR WHAT TYPE OF EVIDENCE. IF WE DETERMINE IT'S A GUN BEING USED, AT THAT POINT THEN I NEED TO COLLECT ANYTHING AND PHOTOGRAPH AND DOCUMENT ANYTHING IN THIS SECTION THAT WOULD BE PERTINENT TO THIS CRIME.

Q NOW THAT NIGHT DID YOU OR OFFICERS UNDERNEATH YOUR CONTROL HAVE AN OPPORTUNITY TO NOT ONLY COLLECT EVIDENCE BUT PHOTOGRAPH THE SCENE THAT NIGHT?

A YES. OFFICER PHILLIP YOUNG IS THE ONE THAT ACTUALLY DID THE PHOTOGRAPHING AND COLLECTED THE EVIDENCE. I HELPED DO THE SEARCH AND FIND SOME OF THE ITEMS THAT HAD BEEN COLLECTED DURING THAT.

Q BEFORE WE EVEN GET TO THE PICTURES, LET'S TALK ABOUT THE LIGHTING THAT NIGHT. CAN YOU DESCRIBE THE LIGHTING THAT NIGHT?

A THE PARKING LOT ITSELF WAS WELL LIT. AS YOU CAN SEE, THERE'S A LOT OF POLE LIGHTS HERE, AND THEN THE

PARKING LOT ITSELF, IS BACK OVER TOWARDS THIS DIRECTION (INDICATING), WAS WELL LIT.

THE SECTION THAT IS GOING BACK THIS DIRECTION (INDICATING) IS DARK BECAUSE THAT'S JUST A DELIVERY AREA. THAT'S A SERVICE AREA TO WHERE TRUCKS JUST DRIVE IN. THERE'S NOT A LOT OF LIGHTING BACK IN THAT DIRECTION.

THE DIRECTION, THIS DIRECTION (INDICATING) GOING TOWARDS THE DORM ITSELF, THE ENTRANCE TO THE DORM, WAS WELL LIT. AND THE DIRECTION GOING BACK AWAY FROM IT, IT'S GOING TOWARDS TAYLOR STREET, THERE'S A LOT OF TREES IN THAT SECTION SO THAT IS NOT AS CLEARLY LIT.

BUT ALL OF THIS SECTION OVER HERE (INDICATING) I COULD SEE PERFECTLY FINE.

Q AND SERGEANT STEEDLEY, IN YOUR EXPERIENCE AS A SERGEANT OF AN I.D. UNIT, AND YOUR FORENSIC EXPERIENCE THROUGHOUT THE YEARS, WHEN SOMEONE TAKES A PICTURE OF A CRIME SCENE AND IT'S NIGHTTIME, IS A FLASH USED?

A YES.

Q DO YOU ALL HAVE SOPHISTICATED EQUIPMENT THAT CAN CONTROL LIGHTING AND WHATNOT WHEN THE PICTURE IS TAKEN?

A UNFORTUNATELY, WE HAVE PROBLEMS JUST LIKE EVERYBODY ELSE. THE FLASHES THAT WE USE IN OUR CAMERAS ARE TWENTY-FIVE-, THIRTY-DOLLAR FLASHES. IT'S A STANDARD FLASH OR AN ATTACHABLE FLASH THAT ATTACHES TO THE TOP OF THE CAMERA. AT NIGHT IT SENSES. THE CAMERA IS A LITTLE MORE

EXPENSIVE BUT THE FLASHES ARE NOT. WE GO THROUGH THEM PRETTY QUICK SO THEY WEAR OUT.

Q NOW CAN YOU EXPLAIN TO THE JURY ABOUT THE FIRST AREA THAT YOU SEE IN THE PICTURES IS VERY WELL LIT, AND THEN IT GETS DARKER AS YOU GO BACK?

A USING ANY KIND OF FLASH, IT DOESN'T MAKE ANY DIFFERENCE WHETHER YOU'RE USING A $10.00 FLASH OR YOU'RE USING A $500.00 FLASH, THE CLOSER THE AREA TO THE CAMERA IS GOING TO BE MORE WELL LIT. THE FURTHER AWAY YOU GET IT'S GOING TO BE DARK. IT DOESN'T MAKE ANY DIFFERENCE WHAT THE LIGHTING IS OUTSIDE, UNLESS YOU HAVE -- THE MORE FLASHES YOU HAVE, THE BETTER YOUR PHOTOGRAPH IS GOING TO BE.

AND IT DEPENDS ON THE TYPE FILM THAT YOU'RE USING ALSO. WE USE A STANDARD 200 A.S.A. FILM, WHICH IF YOU KNOW ANYTHING ABOUT THAT, THAT'S JUST A STANDARD OVERALL FILM THAT YOU USE DAY OR NIGHT.

Q LET ME ASK YOU THIS, SERGEANT STEEDLEY, DID YOU HAVE ANY PROBLEM SEEING THAT NIGHT IN YOUR COLLECTION OF EVIDENCE?

A I DID NOT. WHEN I DID A DETAILED SEARCH OF ITEMS ON THE GROUND, WE COULD -- AND THAT WAS SPECIFICALLY FOR SHELL CASING, THEN I USED AN INDIRECT LIGHT. I GOT A BEAM, IT'S A MILLION CANDLE WATTS FLASHLIGHT, BASICALLY, THAT I GOT OUT OF MY PATROL VEHICLE AND DID A SYSTEMATIC

SEARCH, LOOKING FOR SHELL CASINGS.

IN THE OTHER AREAS HERE (INDICATING) AND IN THE PARKING LOT SECTION HERE (INDICATING) I DIDN'T HAVE TO USE ANY LIGHTING BECAUSE I COULD SEE WHAT WAS ON THE SIDEWALK AND I COULD SEE EVERYTHING THAT WAS OVER HERE. BUT LOOKING FOR A SHINY SUBSTANCE, I WANTED TO LOOK FOR IT WITH INDIRECT LIGHT.

Q NOW AS PART OF THE EVIDENCE THAT -- PART OF YOUR DUTIES THAT NIGHT ON THE CRIME SCENE, WAS YOUR DUTY TO COLLECT THE EVIDENCE THAT WAS FOUND AT THE SCENE?

A IT WAS PART OF OUR RESPONSIBILITY.

Q OF THE I.D. TEAM?

A YES.

Q AND WAS EVIDENCE ACTUALLY COLLECTED THAT NIGHT FROM THE SCENE?

A YES, IT WAS.

Q AND DO THESE PICTURES FAIRLY AND ACCURATELY REPRESENT THAT EVIDENCE THAT WAS TAGGED THAT NIGHT, THE ITEMS THAT WERE SEIZED BY THE COLUMBIA POLICE DEPARTMENT?

A YES, THEY DO.

MR. HOOD: MR. STRICKLER, WOULD YOU ...

MY TAYLOR?

MR. TAYLOR: NO OBJECTION.

Q AND DID YOU OR SOMEONE UNDER YOUR CONTROL TAKE THESE PICTURES THAT NIGHT?

A RIGHT. OFFICER YOUNG TOOK THESE PHOTOGRAPHS.

MR. HOOD: YOUR HONOR, AT THIS TIME WE'D LIKE TO HAVE THIS MARKED FOR I.D. AND MOVED INTO EVIDENCE.

THE COURT: JUST MOVE IT INTO EVIDENCE.

MR. STRICKLER: THAT WOULD BE WITHOUT OBJECTION AS TO LUCIUS STATEN.

MR. TAYLOR: WITHOUT OBJECTION AS TO DUSHUN STATEN.

THE COURT: THAT WOULD BE WITHOUT OBJECTION AS TO EITHER PARTY. OKAY.

(**STATE'S EXHIBIT NUMBER THIRTY-TWO, A LARGE POSTER WITH SIX PHOTOGRAPHS,** IS NOW MARKED AND ENTERED INTO EVIDENCE WITHOUT OBJECTION.)

Q SERGEANT STEEDLEY, CAN YOU DESCRIBE SOME OF THE ITEMS THAT ARE IN THE SIX PICTURES ON STATE'S EXHIBIT NUMBER THIRTY-TWO FOR THE JURY?

A OKAY. THIS IS MARKED AS EVIDENCE ONE AND TWO, THIS IS A BASEBALL CAP AND A BLUE BANDANNA. THIS WAS RIGHT IN THE IMMEDIATE AREA; I BELIEVE IT'S GOING TO BE FROM THE POLE HERE, IT'S GOING TO BE BACK SOMEWHERE OUT IN THIS SECTION, RIGHT ON THE OTHER SIDE OF -- THE POLE SHOULD BE OVER HERE (INDICATING) IN THIS PHOTO.

THIS IS A BLUE PLASTIC BAGGY. THIS IS A SHIRT. THIS IS ANOTHER BLUE PLASTIC BAGGY THAT WAS ON THE SIDEWALK. THIS IS A BLUE PLASTIC BAGGY THAT WAS IN THE GRASSY AREA. AND THIS IS THE SAME.

Q NOW WHEN YOU'RE AT THIS SCENE, I MEAN, DO YOU KNOW ENOUGH ABOUT THE CASE TO KNOW TO SAY "THAT'S NOT IMPORTANT" OR "THAT IS IMPORTANT," OR DO YOU COLLECT EVERYTHING?

A WE COLLECT EVERYTHING. ANYTHING THAT WAS WITHIN THAT SCENE WE COLLECTED. BECAUSE WE DON'T HAVE ANY WAY OF KNOWING AT THAT PARTICULAR TIME WHAT'S GOING TO BE IMPORTANT AND WHAT'S NOT GOING TO BE IMPORTANT.

Q AND, SERGEANT STEEDLEY, THE BLUE BANDANNA THAT'S IN THAT PICTURE THERE, IS THIS THE SAME BLUE BANDANNA THAT WAS IN THE PICTURE?

A AS FAR AS I KNOW, IT IS.

Q AND WAS THIS BANDANNA COLLECTED THAT NIGHT BY THE COLUMBIA POLICE DEPARTMENT?

A YES.

MR. HOOD: YOUR HONOR, AT THIS TIME WE'D MOVE THIS INTO EVIDENCE.

THE COURT: ANY OBJECTION?

MR. STRICKLER: NO, SIR.

MR. TAYLOR: NO OBJECTION.

THE COURT: NO OBJECTION.

(**STATE'S EXHIBIT NUMBER THIRTY-THREE, A BLUE BANDANNA**, IS NOW MARKED AND ENTERED INTO EVIDENCE WITHOUT OBJECTION.)

Q SERGEANT STEEDLEY, IF YOU WOULD PLEASE RETURN TO

YOUR SEAT.

(THE WITNESS NOW RETURNS TO THE WITNESS STAND.)

NOW LET ME SHOW YOU ONE MORE PICTURE, SERGEANT STEEDLEY, THIS BLUE BANDANNA THAT WAS JUST MOVED INTO EVIDENCE, CAN YOU POINT OUT FOR THE JURY WHERE IT IS IN THESE PICTURES ON STATE'S EXHIBIT -- OR DEFENDANT STATEN'S EXHIBIT NUMBER TWO?

A THE BLUE BANDANNA, IT'S RIGHT HERE IN THIS PHOTO (INDICATING) AND IT'S RIGHT HERE (INDICATING) IN THIS ONE. IT'S RIGHT NEXT TO THE LIGHT POLE.

Q IS THAT ALSO RIGHT NEXT TO WHERE THE BODY OF PHILLIP LEE WAS FOUND THAT NIGHT?

A YES.

Q AND WHICH IS RIGHT UNDERNEATH THE LIGHT POLE?

A RIGHT.

Q SERGEANT STEEDLEY, DO YOU KNOW THE DIFFERENCE BETWEEN A REVOLVER AND A SEMI-AUTOMATIC PISTOL?

A YES, SIR, I DO.

Q CAN YOU EXPLAIN THE DIFFERENCE BETWEEN A REVOLVER AND A SEMI-AUTOMATIC PISTOL TO THE JURY?

A YES, SIR, I CAN.

Q PLEASE DO.

A CAN I SHOW THEM THIS (INDICATING)?

Q GO AHEAD AND JUST EXPLAIN THE DIFFERENCE, AS FAR AS -- GO EXPLAIN.

A THE DIFFERENCE BETWEEN A REVOLVER AND A SEMI-AUTOMATIC -- SOME PEOPLE CALL SEMI-AUTOMATICS "AUTOMATICS" BUT THE PROPER TERM IS A SEMI-AUTOMATIC -- A REVOLVER HAS A CYLINDER, ALMOST LIKE A WHEEL, THAT WILL TURN, IT WILL ROTATE. EVERY TIME THE TRIGGER IS PULLED IT WILL ROTATE. AND IT SITS ON A PIN. YOU TAKE THE BULLETS FOR THAT -- ACTUALLY YOU OPEN UP THE CYLINDER AND PLACE THE BULLETS INSIDE OF THE CHAMBER, ITSELF, AND CLOSE IT.

WITH A SEMI-AUTOMATIC IT IS PLACED IN A CLIP AND PUT UP INTO THE HANDLE OF THE WEAPON AND IT IS FIRED BY EITHER SPRINGS OR SOME OF THE GUYS SAY "A GAS CYLINDER SPRING."

THE DIFFERENCE IS THAT WHEN A BULLET IS FIRED FROM A REVOLVER, THE CASING STAYS INSIDE OF THE CYLINDER, WHEREAS IN A SEMI-AUTOMATIC WEAPON IT'S GOING TO BE EJECTED OUT. THE CASING IS EJECTED OUT FOR ANOTHER BULLET TO GO UP INTO THE CHAMBER.

Q SO HYPOTHETICALLY SPEAKING, IF YOU WERE TO GO TO THE FIRING RANGE THIS AFTERNOON AND FIRE A SEMI-AUTOMATIC WEAPON, WOULD THE SHELL CASING STAY IN THE WEAPON OR COME OUT?

A A SEMI-AUTOMATIC IS COMING OUT.

Q AND IF YOU WERE TO GO TO THE FIRING RANGE THIS AFTERNOON AND FIRE A REVOLVER, WOULD THE CASING STAY IN

THE SHELL CASINGS OR COME OUT?

A THEY WOULD STAY IN.

Q SO IF YOU'RE ON A CRIME SCENE AND YOU FOUND NO SHELL CASINGS, WHAT WOULD THAT LEAD YOU TO BELIEVE?

A WELL, IT WAS EXTREMELY WELL HIDDEN OR IT CAME FROM A REVOLVER.

Q SERGEANT STEEDLEY, WOULD THE USE OF A REVOLVER AID IN YOUR EXPLAINING TO THE JURY HOW THE REVOLVER WORKS AS TO WHY THE SHELL CASINGS DO NOT COME OUT?

A YES, SIR, IT WOULD.

(THE WITNESS OBTAINS A REVOLVER.)

FOR THE JURY, THIS WEAPON IS UNLOADED.

MR. HOOD: FOR THE RECORD, YOUR HONOR, THE WEAPON IS UNLOADED AND CLEARED AND WE'D LIKE TO HAVE THIS MARKED FOR I.D. PURPOSES ONLY TO USE AS DEMONSTRATIVE EVIDENCE.

THE COURT: ANY OBJECTION?

MR. TAYLOR: YOUR HONOR, WE'D BE GLAD TO STIPULATE THAT WITH THE REVOLVER NO CASING IS EJECTED, IF THAT'S THE POINT OF ALL OF THIS.

THE COURT: I THINK SHE'S PROBABLY MADE YOUR POINT. WE DON'T NEED TO PUT THE GUN IN.

MR. TAYLOR: THANK YOU.

MR. GASSER: THEY STIPULATED.

MR. HOOD: YES, SIR, YOUR HONOR.

Q NOW THAT NIGHT IN QUESTION, WHEN YOU WERE AT THE

CRIME SCENE AT BENEDICT COLLEGE, WERE ANY SHELL CASINGS ACTUALLY FOUND?

A NO, SIR, THERE WAS NOT.

Q NOW YOU TALKED A LITTLE BIT EARLIER, WHEN WE WERE TALKING ABOUT LIGHTING, ABOUT USING THAT HIGH POWERED BEAM. WHAT WERE YOU USING THAT HIGH POWERED BEAM FOR?

A I WAS LOOKING FOR THE SHELL CASINGS BECAUSE, AS I SAID, WE DIDN'T KNOW WHAT WE HAD OR WHAT TYPE OF WEAPON WAS USED AT THAT POINT. I USED A HIGH POWERED BEAM TO DO INDIRECT LIGHT, JUST LIKE LOOKING FOR MONEY. YOU'VE GOT A NICKEL OR A DIME ON THE GROUND AND IT'S DARK, YOU PUT A LIGHT ON IT, YOU'RE GOING TO HAVE A REFLECTION FROM IT. SO WE USED A HIGH-BEAM LIGHT TO DO A SYSTEMATIC GRID SEARCH, IF YOU WILL, TO TRY TO FIND THE CASINGS.

Q NOW APPROXIMATELY HOW BIG ARE NORMAL SHELL CASINGS ON AN AVERAGE FIREARM?

A ON AN AVERAGE FIREARM JUST MAYBE AN INCH-AND-A-HALF, TWO INCHES AT THE MOST.

MR. HOOD: BEG THE COURT'S INDULGENCE, YOUR HONOR.

(PAUSE.)

Q AND NOW YOUR SEARCH FOR SHELL CASINGS THAT NIGHT, TO GET BACK TO THE PICTURES, CAN YOU SHOW US, USING STATE'S EXHIBIT NUMBER THIRTY-ONE, EVERYWHERE THAT YOU LOOKED, SHOW THE JURY EVERYWHERE THAT YOU LOOKED FOR SHELL CASINGS?

A ACTUALLY I DIDN'T HAVE ANY INFORMATION AS TO WHERE THE ALTERCATION ACTUALLY STARTED. SO FROM THE AREA WHERE THE OFFICERS HAD ALREADY ROPED EVERYTHING OFF, I STARTED DOING A LINE SEARCH FROM THIS SECTION OVER HERE, ALL THE WAY DOWN TO HERE, ALL WHERE THE GRASSY SECTION IS HERE, DOWN THE SIDEWALK AREA (INDICATING).

AND THE PARKING LOT AREA, A FEW CARS THAT WERE PARKED IN THIS SECTION UP IN HERE, SO WE LOOKED UP UNDER THE CARS, INSIDE, AND TRIED TO CHECK THERE. SO BASICALLY FROM THIS SECTION DOWN TO HERE, ALL THE WAY HERE, AND BACK (INDICATING).

Q OKAY. AND CAN YOU TELL THE JURY HOW MANY SHELL CASINGS YOU FOUND THAT NIGHT ON YOUR SEARCH?

A NONE.

MR. HOOD: THANK YOU, YOUR HONOR. NO FURTHER QUESTIONS.

THE COURT: ALL RIGHT, MR. STRICKLER, HAVE YOU GOT ANY QUESTIONS?

LADIES AND GENTLEMEN OF THE JURY, AFTER WE FINISH THIS WITNESS WE'LL TAKE A LITTLE BREAK AND GIVE YOU SOME REFRESHMENTS.

CROSS-EXAMINATION BY MR. STRICKLER:

Q GOOD MORNING, SERGEANT.

A FINE, THANK YOU.

Q YOU'VE IDENTIFIED ON -- LET'S SEE HERE -- WHAT'S

MARKED AS STATE'S THIRTY-TWO A NUMBER OF ITEMS THAT YOU RECOVERED?

A YES.

Q THAT EVENING. I WAS A LITTLE WAYS AWAY. THIS MIDDLE PHOTO ON THE TOP THAT'S BEEN LABELED NUMBER FOUR, THAT IS A PIECE OF A BLUE BAGGY?

A YES. A BLUE PLASTIC BAGGY.

Q OKAY. AND NUMBER TEN IS A BLUE PLASTIC BAGGY; CORRECT?

A YES, SIR, IT'S THE SAME THING.

Q ELEVEN IS THE SAME THING?

A AND FIVE.

Q AND FIVE?

A YES, SIR.

Q OKAY. I WANTED TO MAKE SURE THAT THAT'S ACCURATE.

AND IF YOU COULD, PLEASE, USING THE DIAGRAM HERE, STATE'S THIRTY-ONE, WHERE WERE THOSE FOUR BLUE PLASTIC BAGGIES FOUND?

A OFF THE TOP OF MY HEAD, IT WAS ALL WITHIN THIS SECTION UP IN HERE (INDICATING). A COUPLE OF THEM WAS ON THE GRASSY AREA RIGHT UP HERE, ONE WAS ON THE SIDEWALK HERE, GENERALLY FROM ABOUT THIS SECTION UP THROUGH HERE. IT WASN'T REALLY A LARGE SECTION.

Q OKAY. YOU CAN HAVE A SEAT.

NOW YOU WERE NOT ACTUALLY THE I.D. PERSON WHO WAS

ASSIGNED TO WORK THIS CASE; IS THAT CORRECT?

A WELL, OFFICER YOUNG TOOK THE PRIMARY POSITION. WE DO THE PRIMARY, AND AN ASSISTANT -- IT JUST HAPPENED THAT BOTH OF US WERE ON CALL WHEN THIS HAPPENED SO I WENT OVER THERE WITH HIM. WE ACTUALLY ARRIVED AT THE SAME TIME. HE JUST CAME IN A DIFFERENT WAY THAN I DID.

Q OKAY. AND DO YOU KNOW WHETHER OFFICER -- THAT WOULD BE PHIL YOUNG?

A YES, SIR.

Q USED TO BE; RIGHT?

A YES, SIR.

Q THIS OFFICER YOUNG PREPARED A DIAGRAM OF THE SCENE THAT REFLECTED WHERE THE ITEMS WERE RECOVERED FROM?

A I BELIEVE HE DID A SKETCH BUT I'M NOT EXACTLY SURE ABOUT THE DETAILS OF IT.

Q YOU WOULD AGREE WITH ME THAT A PART OF THE JOB IN EVIDENCE COLLECTION IS TO DOCUMENT WHERE THE EVIDENCE WAS AT THE TIME IT WAS COLLECTED; CORRECT?

A YES, SIR. YES, SIR.

Q AND ONE OF THE WAYS YOU DO THIS IS BY TAKING PHOTOGRAPHS INDICATING WHERE IT WAS?

A YES, SIR.

Q ANOTHER WAY IS THROUGH THESE OTHER PHOTOGRAPHS WHICH INDICATE ---

AT LEAST IN SOME OF THEM YOU CAN SEE THE NUMBERED ITEMS?

A RIGHT.
Q --- WHICH CORRESPOND TO NUMBERING SYSTEMS USED; RIGHT?
A YES, SIR.
Q YOU DON'T HAVE DUPLICATE NUMBERS?
A NO.
Q EVERYONE OF THESE LITTLE CONES ARE -- IS A DISCREET NUMBER; RIGHT?
A YES.
Q AND AGAIN, ANOTHER WAY TO MAKE SURE THAT IT'S REFLECTED IS TO GO AHEAD AND DIAGRAM THE SCENE; RIGHT?
A YES, SIR.
Q BUT ACTUALLY WE CAN SEE, IF WE REFER TO DEFENDANT LUCIUS STATEN'S TWO, WE CAN SEE A NUMBER OF THE ITEMS THAT YOU'VE IDENTIFIED AS BAGGIES REFLECTED IN I THINK IT WAS THIS FIRST PICTURE, OKAY? AND IT REPRESENTS PARTICULARLY ---
A THIS IS A PHONE HERE. THERE WAS A TELEPHONE THAT HAD BEEN EVIDENTLY DAMAGED DURING SOME TYPE OF STRUGGLE AND THERE WERE A COUPLE OF PIECES.

SOME OF THESE OTHER MARKERS ARE THE PHONE, AND I BELIEVE THERE WAS A CORD OR SOMETHING THAT WENT WITH IT.
Q AND WE SEE WHAT'S NUMBER NINE?
A THAT'S THE SHIRT, I BELIEVE.
Q IT WOULD BE REFERENCED RIGHT HERE? THAT WOULD BE

NUMBER NINE, REFERENCED IN THIS PICTURE RIGHT HERE ---

A RIGHT.

Q --- RIGHT?

A YES, SIR.

Q AND DO WE SEE A NUMBER TWO ANYWHERE?

A YES. RIGHT THERE (INDICATING).

Q YOU CAN SEE IT THERE? YOU CAN SEE IT IN THIS PICTURE RIGHT HERE; CORRECT?

A RIGHT.

Q OKAY. AND THAT WOULD BE THIS HAT?

A RIGHT.

Q AND ONE IS RIGHT NEXT TO THAT, THAT BEING THE BANDANNA THAT YOU FOUND; IS THAT RIGHT?

A YES, SIR.

Q OKAY. NOW CAN WE LOCATE FOUR?

A THAT'S THE BOTTOM POLE.

Q THAT'S THE POLE AND THAT WOULD BE ONE OF THE BLUE BAGGIES AND THAT WOULD BE IN THIS LOCATION RIGHT HERE; CORRECT?

A RIGHT.

Q AND THEN NUMBER FIVE, THAT'S ANOTHER ONE OF THE BAGGIES; CORRECT?

A IT WAS ON THE BACK SIDE, YES.

Q THAT'S REFLECTED BACK HERE. AND YOU CAN SEE FOUR IN THIS PICTURE ALSO, RIGHT HERE ---

A RIGHT.
Q --- RIGHT?
A YES.
Q OKAY. NOW CAN YOU LOCATED TEN AND ELEVEN IN EITHER OF THESE PICTURES?
A YES, SIR. THERE'S TEN.
Q THERE'S TEN?
A AND THERE'S ELEVEN.
Q TEN IS IN THE MIDDLE OF THE SIDEWALK HERE?
A RIGHT.
Q AND ELEVEN IS RIGHT ON THIS SIDE OF THE SIDEWALK; IS THAT CORRECT?
A RIGHT.
Q OKAY. THANK YOU VERY MUCH, MA'AM.
SERGEANT, WHAT TIME DID YOU ARRIVE AT THE SCENE?
A IT WAS AROUND I BELIEVE IT WAS A LITTLE AFTER NINE, A LITTLE AFTER NINE O'CLOCK.
Q ALL RIGHT. DO YOU HAVE ANY NOTES WHICH YOU KEPT AT THE TIME?
A THE ONLY THING THAT I HAVE IS THE INCIDENT REPORT.
Q AND THAT WAS PREPARED BY MR. YOUNG?
A RIGHT.
Q WE TALKED ABOUT THAT; RIGHT?
A RIGHT.
Q OKAY. SO YOU ARRIVED A LITTLE AFTER NINE AND YOUR

BASIS FOR THAT IS THE REPORT PREPARED BY MR. YOUNG; IS THAT RIGHT?

A IT WAS SHORTLY -- IT WASN'T VERY LONG AFTER THE SHOOTING. LIKE I SAID, WE GOT THERE PRETTY QUICK.

Q OKAY.

A THAT KIND OF CALL YOU RESPOND PRETTY QUICKLY TO.

Q OKAY. AS I UNDERSTAND YOUR TESTIMONY ON DIRECT, AT THE POINT IN TIME THAT YOU ARRIVED, E.M.S. EITHER HAD NOT ARRIVED OR WAS JUST ARRIVING ON THE SCENE AT THE SAME TIME?

A I THINK THEY HAD ALREADY ARRIVED. TO MY KNOWLEDGE THEY HAD ALREADY ARRIVED. BUT BECAUSE OF THE CROWD, E.M.S. WILL NOT GO IN UNTIL A SCENE IS ACTUALLY SECURED. SO WHEN THEY GOT TO WORK -- THEY MAY HAVE BEEN COMING IN AS I WAS COMING IN, I'M NOT SURE EXACTLY ON THE TIMING OF THAT, BUT I REMEMBER SEEING THE LIGHTS IN THE BACKGROUND AS I WAS COMING ACROSS.

Q REGARDLESS OF WHERE E.M.S. WAS AT THE SITE AT THAT TIME, THEY HAD NOT ACTUALLY TRANSPORTED THE BODY FROM THE SCENE?

A NO.

Q CORRECT? OKAY.

ALL RIGHT. HOW MANY OTHER OFFICERS WERE ON THE SCENE WHEN YOU ARRIVED?

A WHEN I GOT THERE, THERE WERE PROBABLY -- PROBABLY

THREE OR FOUR OF OUR OFFICERS AND THERE WERE BENEDICT COLLEGE OFFICERS THAT WERE ALSO THERE. THEY WERE DOING CROWD CONTROL AT THAT TIME.

Q CROWD CONTROL?

A RIGHT.

Q THE CRIME SCENE TAPE REFLECTED IN A COUPLE OF THE PICTURES WAS ALREADY UP AT THE POINT IN TIME THAT YOU HAD ARRIVED?

A THE CRIME SCENE TAPE WAS UP AND THE E.M.S. PERSONNEL WENT IN AND STARTED WORKING ON THE VICTIM.

Q OKAY. AT THE TIME YOU ARRIVED WERE THERE ANY INVESTIGATORS FROM THE CITY OF COLUMBIA POLICE DEPARTMENT ON THE SCENE, TO YOUR KNOWLEDGE?

A I'M NOT QUITE SURE. I REMEMBER SEEING SOME FROM BENEDICT ---

Q BENEDICT?

A --- BUT I'M NOT QUITE SURE AT WHAT POINT. I NOTICED OURS, WE DID HAVE SEVERAL THAT WERE THERE. BUT I WASN'T REALLY CONCERNED ABOUT THEM AT THAT TIME.

Q OKAY. THEY ARRIVED AT SOME POINT; THEY WERE EITHER THERE WHEN YOU ARRIVED OR ARRIVED AT SOME POINT IN TIME WHILE YOU WERE THERE; IS THAT CORRECT?

A RIGHT.

Q OKAY.

EXCUSE ME. BEG THE COURT'S INDULGENCE ONE MOMENT,

PLEASE.

(PAUSE.)

ALL RIGHT, THANK YOU VERY MUCH.

THE COURT: ALL RIGHT, MR. TAYLOR.

MR. TAYLOR: THANK YOU VERY MUCH, YOUR HONOR. JUST A COUPLE OF QUESTIONS AND I'LL ASK THEM FROM HERE, I'M SO SHORT OF QUESTIONS.

CROSS-EXAMINATION BY MR. TAYLOR:

Q SERGEANT, DO YOU KNOW BY CHANCE A DEPUTY SNICEGOOB, S-N-I-C-E-G-O-O-B?

A I'M NOT FAMILIAR WITH THE NAME; I MAY KNOW HIM BY FACE. I KNOW OF A LOT OF THE LAW ENFORCEMENT BY FACE BUT I DON'T REALLY KNOW THEIR NAMES.

Q ALL RIGHT. DO YOU KNOW A DEPUTY PAYTON, P-A-Y-T-O-N, WITH THE RICHLAND COUNTY SHERIFF'S DEPARTMENT?

A YES, I DO.

Q OKAY. THANK YOU, MA'AM. THAT'S ALL I HAVE.

THE COURT: ANY REDIRECT?

MR. HOOD: NO, SIR, YOUR HONOR.

THE COURT: ALL RIGHT, YOU CAN COME DOWN.

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

ALL RIGHT, LADIES AND GENTLEMEN, LET'S TAKE ABOUT A FIFTEEN-MINUTE BREAK. IF YOU GO TO YOUR JURY ROOM WE'LL HAVE SOME REFRESHMENTS FOR YOU.

PLEASE DO NOT ---

THE BAILIFF: EVERYONE REMAIN SEATED.

THE COURT: --- PLEASE DO NOT DISCUSS THE CASE AMONG YOURSELVES.

(JURY OUT AT 11:12 A.M.)

THE COURT: ALL RIGHT, LET'S TAKE ABOUT FIFTEEN MINUTES AND THEN WE'LL COME BACK AND CONTINUE ON.

(COURT IS NOW IN RECESS.)

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

THE COURT: THANK YOU. PLEASE BE SEATED.

EVERYBODY READY?

MR. HOOD: YES, SIR, YOUR HONOR.

THE COURT: BRING THE JURY IN, PLEASE, SIR.

(JURY IN AT 11:33 A.M.)

THE BAILIFF: THE JURY IS PRESENT, YOUR HONOR.

THE COURT: THANK YOU.

ALL RIGHT, MR. SOLICITOR, CALL YOUR NEXT WITNESS.

MR. HOOD: THANK YOU, YOUR HONOR.

MAY IT PLEASE THE COURT, THE STATE CALLS SERGEANT RACHEL BOYD.

(**RACHEL BOYD**, HAVING FIRST BEEN DULY SWORN, TESTIFIED AS FOLLOWS:)

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

SERGEANT BOYD: MY NAME IS SERGEANT RACHEL BOYD.

DIRECT EXAMINATION BY MR. HOOD:

Q SERGEANT BOYD, GOOD MORNING.

A GOOD MORNING.

Q WHERE ARE YOU CURRENTLY EMPLOYED?

A BENEDICT COLLEGE.

Q WITH WHAT DEPARTMENT AT BENEDICT?

A CAMPUS SAFETY.

Q AND HOW LONG HAVE YOU BEEN EMPLOYED WITH THE BENEDICT COLLEGE POLICE DEPARTMENT?

A I'VE BEEN EMPLOYED WITH BENEDICT SINCE SEVEN YEARS, 1995.

Q SINCE 1995?

A YES, SIR, SEVEN YEARS.

Q AND ARE YOU ACTUALLY A GRADUATE OF BENEDICT COLLEGE?

A YES, SIR, I AM.

Q AND CAN YOU PLEASE TELL THE JURY WHAT YOUR CURRENT DUTIES AND RESPONSIBILITIES ARE WITH THE BENEDICT COLLEGE DEPARTMENT OF PUBLIC SAFETY?

A MY CURRENT DUTIES ARE TO SUPERVISE OFFICERS OF LOWER RANK THAN I DO. MY TITLE IS A SERGEANT. I INSURE THAT ALL REPORTS ARE TAKEN AND TAKEN ACCURATELY, MAKE SURE THAT ALL CALLS FROM DISPATCH IS ANSWERED IN AN APPROPRIATE MANNER.

Q AND APPROXIMATELY HOW MANY PEOPLE DO YOU ACTUALLY SUPERVISE ON A DAY-TO-DAY BASIS?

A BETWEEN FIVE AND SIX.

Q NOW HAVE YOU ALWAYS BEEN A SERGEANT WHILE YOU'VE BEEN AT BENEDICT COLLEGE POLICE DEPARTMENT?

A YES, SIR.

Q LET'S GO BACK TO THE MONTH OF JANUARY, 2001. WHAT WERE YOUR DUTIES AND RESPONSIBILITIES IN JANUARY, 2001?

A MY DUTIES WERE TO SUPERVISE OFFICERS ON A SHIFT, TO MAKE SURE THAT ALL CALLS FROM DISPATCH WERE ANSWERED IN A TIMELY FASHION, THAT IF ANY REPORT NEEDED TO BE TAKEN THEY WERE TAKEN ACCURATELY AND THAT IT WAS FILED BEFORE THE END OF DUTY.

Q LET ME SHOW YOU A MAP -- I MEAN, IT'S NOT A MAP -- A DIAGRAM OF THE MONTH OF JANUARY THAT BENEDICT COLLEGE PUBLISHES. DOES THIS LOOK FAMILIAR TO YOU?

A YES, SIR, IT DOES.

Q AND DO YOU RECOGNIZE THIS AS BEING THE SCHOOL CALENDAR FOR BENEDICT COLLEGE FOR THE MONTH OF JANUARY, 2001?

A YES, SIR.

Q AND WOULD THIS AID AND ASSIST YOU IN YOUR TESTIMONY BEFORE THIS JURY TODAY?

A YES, SIR.

MR. TAYLOR: NO OBJECTION FROM DUSHUN.

MR. HOOD: YOUR HONOR, AT THIS TIME WE'D ASK TO PUT THIS INTO EVIDENCE.

THE COURT: ALL RIGHT.

MR. STRICKLER: THAT'S WITHOUT OBJECTION.

MR. TAYLOR: WITHOUT OBJECTION.

(**STATE'S EXHIBIT NUMBER THIRTY-FOUR, BENEDICT COLLEGE CALENDAR FOR JANUARY, 2001,** IS NOW MARKED AND ENTERED INTO EVIDENCE WITHOUT OBJECTION.)

Q SERGEANT BOYD, WOULD YOU GO AHEAD AND STEP DOWN?

(THE WITNESS NOW LEAVES THE WITNESS STAND.)

DOES THE CAMPUS OF BENEDICT COLLEGE BECOME FAIRLY QUIET DURING THE CHRISTMAS BREAK?

A YES, SIR.

Q DO MOST STUDENTS GO HOME DURING THE CHRISTMAS BREAK?

A YES, SIR.

Q LET ME SHOW YOU THIS CALENDAR ---

IF YOU'LL STAND ON THIS SIDE SO MADAM COURT REPORTER CAN HEAR YOU.

--- WHAT'S MARKED AS STATE'S EXHIBIT NUMBER THIRTY-FOUR, AND CAN YOU SHOW US ON THIS CALENDAR -- THIS IS A PORTION OF THE CALENDAR OF JANUARY, 2001; IS THAT RIGHT?

A YES, SIR.

Q AND WHEN DID STUDENTS ACTUALLY START COMING BACK TO SCHOOL?

A I THINK THEY ACTUALLY STARTED COMING BACK TO SCHOOL ON THE SIXTH.

Q NOW FOR EACH INDIVIDUAL STUDENT DID IT DEPEND ON WHAT ACTIVITIES THEY WERE INVOLVED IN WHEN THEY CAME BACK TO SCHOOL?

A YES, SIR.

Q NOW JANUARY THE 15TH, DO YOU REMEMBER JANUARY THE 15TH FAIRLY WELL?

A YES, SIR, I DO.

Q AND YOU REMEMBER THAT AS THE INCIDENT DATE THAT PHILLIP LEE WAS SHOT AND KILLED ON BENEDICT COLLEGE CAMPUS?

A YES, SIR.

Q OKAY. LET'S GO BACK TO DO YOU REMEMBER -- ARE YOU FAMILIAR WITH A PRIOR INCIDENT BETWEEN PHILLIP LEE, WHEN YOU RESPONDED TO A PHONE CALL, A DISPATCH CALL? CAN YOU SHOW US WHAT NIGHT THAT INCIDENT TOOK PLACE?

A THE PRIOR INCIDENT TOOK PLACE ON JANUARY THE 12TH AT THE HASKILL STREET DORMITORY IN A PARKING LOT, THE SAME AREA WHICH PHIL LEE WAS KILLED.

I ARRIVED THERE BECAUSE OF A CIVIL DISTURBANCE. UPON GETTING THERE I NOTICED PHILLIP LEE, I KNOW HIM BECAUSE HE'S A STUDENT, I ADDRESSED HIM AND I ASKED HIM WAS EVERYTHING OKAY. HE SAID THAT IT WAS.

MR. STRICKLER: I'LL OBJECT TO HEARSAY.

THE COURT: DON'T TELL US WHAT ANYBODY ELSE SAID.

Q GO AHEAD, WITHOUT SAYING. WITHOUT SAYING WHAT MR. LEE SAID, JUST CONTINUE WITH YOUR TESTIMONY.

DID YOU SHOW UP TO A CIVIL DISTURBANCE?

A YES, SIR, I DID.

Q AND WERE THERE MANY PEOPLE INVOLVED IN THIS DISTURBANCE?

MR. STRICKLER: AND I'LL OBJECT TO THE LEADING.

Q HOW MANY PEOPLE WERE INVOLVED IN THIS DISTURBANCE?

A WHEN I GOT THERE PRETTY MUCH IT WAS OVER. I JUST APPROACHED PHILLIP LEE ABOUT THE SITUATION.

Q AND IS THERE A REASON YOU DIDN'T FILL OUT A REPORT FOR THAT INCIDENT, SERGEANT BOYD?

A YES, SIR. HE SAID THAT NOTHING HAPPENED AND HE ---

Q GO AHEAD. AS A RESULT OF WHAT MR. LEE TOLD YOU, WHAT DID YOU DO? OR WHAT DID YOU NOT DO?

A I DISPATCHED THE INDIVIDUALS THAT WAS IN THAT PARTICULAR VICINITY AWAY FROM THAT AREA.

Q NOW LET'S GO TO THE NIGHT OF JANUARY THE 15TH, 2001, AND LET ME SHOW YOU THIS MAP OF THE BENEDICT COLLEGE AREA. DO YOU RECOGNIZE THIS MAP AS THE STREETS SURROUNDING BENEDICT COLLEGE?

A YES, SIR, I DO.

Q AND ARE YOU FAMILIAR WITH THIS AREA?

A YES, SIR, I AM.

Q AND CAN YOU TELL THE JURY A LITTLE BIT ABOUT WHY YOU'RE FAMILIAR WITH THE AREA, BESIDES, YOU KNOW, BEING A POLICE OFFICER?

MR. STRICKLER: YOUR HONOR, BEG THE COURT'S INDULGENCE. IF WE COULD GET THAT -- IF SHE'S GOING TO TESTIFY ABOUT IT, I'D ASK THAT IT BE MARKED FOR IDENTIFICATION.

MR. HOOD: OH, EXCUSE ME. MY MISTAKE.

THE COURT: ANYBODY OBJECT TO THAT GOING INTO EVIDENCE?

MR. HOOD: NO.

MR. TAYLOR: NO OBJECTION.

MR. STRICKLER: NO OBJECTION.

THE COURT: ALL RIGHT, LET'S MARK IT AND PUT IT IN.

(STATE'S EXHIBIT NUMBER THIRTY-FIVE, A MAP OF THE AREA AROUND BENEDICT COLLEGE, IS NOW MARKED AND ENTERED INTO EVIDENCE WITHOUT OBJECTION.)

Q AND REFERRING TO STATE'S EXHIBIT NUMBER THIRTY-FIVE, SERGEANT BOYD, CAN YOU TELL US WHERE YOU WERE ON THE NIGHT OF JANUARY 15TH, 2001?

A YES, SIR. I WAS PARKED AT THE INTERSECTION OF OAK AND HASKILL AVENUE.

Q DO YOU MIND POINTING THIS OUT FOR THE JURY?

A NO, SIR.

(THE WITNESS NOW COMPLIES.)

Q AND REMEMBER THERE ARE JURORS IN THE VERY BACK END CORNER THAT NEED TO SEE.

A THIS IS HASKILL AVENUE, THIS IS OAK STREET. I WAS PARKED RIGHT THERE, LOOKING DOWN HASKILL AVENUE AND OAK STREET.

Q AND APPROXIMATELY WHAT TIME WAS THIS?

A ABOUT NINE O'CLOCK.

Q OKAY. AND AT APPROXIMATELY NINE O'CLOCK WHAT HAPPENED THAT DREW YOUR ATTENTION?

A I HEARD TWO GUNSHOTS FIRED IN THE AREA OF HASKILL STREET. I SAW A BLACK MALE WEARING A RED BANDANNA RUNNING DOWN HASKILL AVENUE. I TURNED ONTO HASKILL AVENUE, HE MADE A TURN AND RAN DOWN HEIDT. I MADE A U-TURN ON OAK STREET AND TOOK A RIGHT, WENT DOWN OAK STREET. I SAW THE GENTLEMAN CONTINUE TO RUN PAST OAK STREET -- CORRECTION, PAST LAUREL STREET. I CONTINUED TO DRIVE AND I MADE A RIGHT TURN HERE ON RICHLAND STREET AND THAT GENTLEMAN WAS COMING ACROSS AN OPEN FIELD, WHICH IS BENEDICT PROPERTY BETWEEN LAUREL AND RICHLAND STREET. HE WAS APPREHENDED RIGHT HERE ON RICHLAND STREET.

Q AND AT THAT TIME WHAT DID YOU DO WITH THAT INDIVIDUAL?

A HE WAS PLACED IN HANDCUFFS AND PUT INTO THE BACK OF THE PATROL UNIT.

WE THEN RECEIVED A CALL THERE WAS A -- ONE WAS DOWN

AT HASKILL DORM; I DROVE THERE. AND FROM THERE CORPORAL SUMTER PICKED THE INDIVIDUAL UP.

Q CORPORAL SUMTER, IS THAT ODELL SUMTER?

A YES, SIR, IT IS.

Q OKAY. DID YOU GIVE THE INDIVIDUAL TO CORPORAL SUMTER?

A YES, SIR, I DID.

Q OKAY. IF YOU'D HAVE A SEAT, PLEASE.

(THE WITNESS NOW RETURNS TO THE WITNESS STAND.)

SERGEANT BOYD, WAS THIS INDIVIDUAL WEARING A BLACK NORTHFACE JACKET, THE INDIVIDUAL THAT YOU STOPPED THAT NIGHT?

A I CAN'T REMEMBER, SIR.

Q ONCE YOU APPREHENDED THE INDIVIDUAL THAT NIGHT ON RICHLAND, DID THAT INDIVIDUAL EVER LEAVE YOUR SIGHT OR YOUR PRESENCE BEFORE YOU GAVE HIM OVER TO ODELL SUMTER?

A NO, SIR, HE DID NOT.

Q THANK YOU.

NOTHING FURTHER, YOUR HONOR.

THE COURT: ALL RIGHT, MR. STRICKLER.

MR. TAYLOR: YOUR HONOR, MAY WE APPROACH FOR JUST A MOMENT, PLEASE, SIR?

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

CROSS-EXAMINATION BY MR. STRICKLER:

Q GOOD MORNING, SERGEANT.

A GOOD MORNING.

Q WE'VE NEVER MET, HAVE WE?

A NO, SIR, WE HAVE NOT.

Q MY NAME IS DOUG STRICKLER; I REPRESENT LUCIUS STATEN. OKAY. JUST A COUPLE QUESTIONS.

IF I UNDERSTAND YOUR TESTIMONY CORRECTLY, YOUR FIRST INVOLVEMENT WITH THIS CASE WAS WHEN YOU HEARD THE GUNSHOTS AND SAW A FELLOW WITH A RED BANDANNA RUNNING; RIGHT?

A RIGHT.

Q OKAY. AND SO THE FIRST THING YOU DEALT WITH IN THIS CASE WAS AFTER HANDLING THAT INDIVIDUAL; RIGHT?

A RIGHT.

Q THAT'S WHAT YOU'VE DESCRIBED TO THIS JURY AND I JUST WANT TO MAKE SURE I UNDERSTAND IT MYSELF. I TRY TO PAY ATTENTION AND WRITE AT THE SAME TIME.

YOU WERE AT THE CORNER RIGHT HERE (INDICATING); IS THIS CORRECT?

A YES, SIR.

Q AS REFLECTED ON STATE'S THIRTY-FIVE. AND THIS IS THE PARKING LOT AREA; IS THAT CORRECT?

A CORRECT.

Q OKAY. YOU'RE WELL FAMILIAR WITH THE BENEDICT

COLLEGE CAMPUS; RIGHT?

A YES, SIR.

Q YOU'VE BEEN WORKING THERE HOW LONG?

A SEVEN YEARS.

Q SEVEN YEARS, OKAY.

AND ON THIS DIAGRAM I SEE THIS GOES OUT ON HEIDT STREET? IS THAT THE ONLY EXIT FROM THE PARKING LOT?

A NO, SIR, IT'S NOT.

Q NO? IS THERE ANOTHER EXIT ONTO WAVERLY?

A IT IS.

Q OKAY. SO THAT'S NOT REFLECTED ON THIS DIAGRAM; IS THAT CORRECT? I DON'T SEE ANYTHING SHOWING IT FEEDING INTO WAVERLY STREET.

A I DON'T SEE ANYTHING EITHER.

Q OKAY. BUT YOUR TESTIMONY IS THAT THERE IS ANOTHER EXIT FROM THE PARKING LOT ONTO WAVERLY STREET; IS THAT CORRECT?

A YES, SIR.

Q OKAY. AND WOULD THAT BE FROM THE REAR OF THE PARKING LOT OR FROM THIS AREA OF THE PARKING LOT?

A FROM THE REAR OF THE PARKING LOT AND ALSO AT THE REAR OF THE DORM.

Q REAR OF THE -- WHICH IS THE REAR OF THE DORM? WOULD YOU POINT OUT THAT?

A THIS IS THE DORM AND HERE'S THE EXIT RIGHT HERE

(INDICATING).

Q OKAY.

A BY THE DUMPSTERS.

Q VERY GOOD. IS THIS AREA AROUND IT FENCED, AROUND THE DORM ITSELF?

A NOW IT IS.

Q NOW IT IS. WAS IT FENCED JANUARY 2001?

A NO, SIR.

Q OKAY. SO IT WASN'T FENCED AT THAT POINT IN TIME.

ALL RIGHT, YOU'RE LOCATED HERE, YOU HEAR THE SHOTS, YOU SEE A FELLOW RUNNING. WHERE WAS HE ON HASKILL STREET WHEN YOU FIRST SAW HIM, ROUGHLY?

A HE WAS MAYBE -- HE WAS RUNNING ON LAUREL STREET COMING THIS -- CORRECTION, HASKILL, IS ABOUT ---

FROM WHERE I SAW HIM OR ---

Q UH-HUH (INDICATES AN AFFIRMATIVE RESPONSE). FROM WHERE YOU FIRST SAW HIM.

A MAYBE HALF A FOOTBALL FIELD.

Q OKAY. HE WAS ALREADY ON HASKILL STREET WHEN YOU FIRST SAW HIM; CORRECT?

A YES, SIR.

Q HE WAS RUNNING TOWARDS YOU; IS THAT CORRECT?

A YES, SIR.

Q OKAY. SO THEN YOU TURNED ONTO HASKILL STREET TO APPROACH HIM?

A YES, SIR.
Q AT THAT POINT IN TIME HE DOUBLED BACK AND HIT HEIDT STREET; IS THAT RIGHT?
A CORRECT.
Q RUNNING DOWN HEIDT STREET TO RICHLAND?
A CORRECT.
Q TAKES A RIGHT ON RICHLAND SOMEWHERE ABOUT MIDDLE OF THE BLOCK AND RICHLAND IS WHERE YOU ENDED UP APPREHENDING HIM?
A HE DIDN'T HANG A RIGHT, I DID.
Q YOU DID, OKAY.
WELL, HE GOT ON RICHLAND STREET SOMEHOW?
A YES, SIR.
Q HOW DID HE GET ON RICHLAND STREET?
A HE RAN STRAIGHT.
Q STRAIGHT, OKAY. ALL RIGHT.
NOW AT THE POINT IN TIME YOU STOPPED THIS FELLOW THAT WAS RIGHT ABOUT THAT TIME THAT YOU RECEIVED A CALL THAT THERE WAS ONE DOWN AT THE DORM?
A CORRECT.
Q OKAY. AND ONE DOWN, THAT'S A TERMINOLOGY OF THE POLICE, IT'S TALKED ABOUT A BAD SITUATION, THERE'S A PERSON INJURED AT LEAST ON THE SCENE; CORRECT?
A CORRECT.
Q OKAY. AND THAT'S A SCENE ON BENEDICT COLLEGE SO

YOUR CONCERN IS TO GO AHEAD AND MAKE SURE YOU DEAL WITH THAT; RIGHT?

A CORRECT.

Q SO YOU AT THAT POINT IN TIME YOU TURN THE PERSON THAT YOU HAD STOPPED, YOU HAD ALREADY CUFFED HIM, YOU TURNED HIM OVER TO CORPORAL SUMTER; RIGHT?

A CORRECT.

Q AND YOU PROCEEDED IMMEDIATELY TO THE HASKILL STREET DORM?

A ONCE I GOT TO HASKILL STREET DORM I TURNED HIM OVER TO SUMTER.

Q OKAY. YOU CARRIED HIM TO HASKILL STREET DORM?

A RIGHT.

Q AND QUICKLY, ONCE AGAIN REPRESENTING THIS DIAGRAM, WHAT ROUTE DID YOU TAKE BACK TO HASKILL STREET DORM? YOU'RE UP ON RICHLAND STREET; RIGHT?

A YES, SIR. I MADE A RIGHT ON WAVERLY STREET ---

Q RIGHT.

A --- AND I DROVE AND MADE A LEFT, LEFT DIRECTION, ANOTHER RIGHT ON HASKILL AVENUE, AND THEN I MADE A LEFT HERE ON HEIDT.

Q OKAY. AND THEN DID YOU PULL IN THE PARKING LOT AREA AT THAT POINT IN TIME?

A YES, SIR, I DID.

Q OKAY. AND AS PART OF YOUR DUTIES, WHEN SOMETHING

HAPPENS, WHEN AN INCIDENT OCCURS, YOU ALREADY TESTIFIED ABOUT NOT FILLING OUT AN INCIDENT REPORT OR ANYTHING ABOUT SOMETHING THE SATURDAY PRECEDING. YOU DID AN INCIDENT REPORT ON THIS INCIDENT; RIGHT?

A RIGHT.

Q OKAY. AND AN INCIDENT REPORT, THAT'S A DOCUMENT THAT'S USED TO RECORD PERTINENT INFORMATION ABOUT SOMETHING THAT'S HAPPENED; RIGHT?

A CORRECT.

Q OKAY. AND IT'S A FAIRLY UNIFORM REPORT, BENEDICT COLLEGE USES AN INCIDENT REPORT; RIGHT?

A CORRECT.

Q OTHER POLICE DEPARTMENTS, HAVE YOU SEEN INCIDENT REPORTS FROM OTHER POLICE DEPARTMENTS?

A I HAVE.

Q THEY LOOK PRETTY MUCH THE SAME AS THE ONE FROM BENEDICT COLLEGE; RIGHT?

A YES, SIR.

Q THERE ARE SET SPACES TO RECORD INFORMATION ABOUT AN EVENT; RIGHT?

A CORRECT.

Q IF YOU HAVE A SUBJECT THAT YOU'RE SUSPECTING, THERE'S A PLACE TO RECORD NAME ON THE SUBJECT; RIGHT? HEIGHT AND WEIGHT DESCRIPTION IF YOU GET ONE; CLOTHING DESCRIPTIONS; RIGHT?

A RIGHT.
Q OKAY. LIKEWISE, IF THERE'S SOMEONE INJURED, THERE'S A PLACE TO RECORD THAT? IF THERE'S A VICTIM IN THE CASE THERE'S A PLACE TO RECORD THAT; RIGHT?
A RIGHT.
Q A PLACE TO RECORD TIMES WHEN YOU ARRIVED AND TIMES YOU LEAVE, EVERYTHING THAT'S PERTINENT ABOUT THE CASE; RIGHT?
A RIGHT.
Q AND YOU DO THAT SO THAT, YOU KNOW, OVER A YEAR AFTER-THE-FACT, YOU KNOW, MEMORIES CAN FADE BUT YOU'VE GOT A RECORD THAT YOU MADE OF THESE KIND OF DETAILS THAT YOU CAN REFERENCE, IF NECESSARY; RIGHT?
A REPEAT THE QUESTION?
Q THAT'S ONE OF THE REASONS YOU DO IT, IS TO GO AHEAD AND RECORD IT, SO THAT IF YOU HAVE TO REFRESH YOUR RECOLLECTION YEARS LATER, YOU CAN DO THAT; RIGHT?
A RIGHT.
Q ANOTHER REASON IS SO THAT ANYONE ELSE THAT WAS INVOLVED IN THE INVESTIGATION THEY'VE GOT A RECORD OF PERTINENT INFORMATION THAT YOU HAD COLLECTED THAT CAN BE SHARED WITH THEM; RIGHT?
A RIGHT.
Q OKAY. NOW AND ON THIS INCIDENT REPORT YOU DID A REPORT ON WHAT YOU DESCRIBED TO THE JURY, STOPPING THIS

FELLOW RUNNING; YOU ALSO RESPONDED TO THE DORM THAT YOU'VE DESCRIBED. AND WHAT TIME IS IT THAT YOU INDICATE THAT YOU GOT TO THE SCENE YOURSELF?

I'M SORRY, DO YOU HAVE A COPY OF THE REPORT?

A I DO.

Q OKAY. IF YOU COULD, IF YOU NEED TO REFERENCE IT, PLEASE DO. BUT WHAT TIME DOES YOUR REPORT INDICATE YOU GETTING THERE?

A 9:07 P.M.

Q 9:07. AND IT INDICATES YOU GOT THE CALL "ONE DOWN" AT 9:06; RIGHT?

A CORRECT.

Q ACTUALLY IT'S WRITTEN AS 21:06 AND 21:07, BUT THAT'S MILITARY TIME; RIGHT?

A RIGHT.

Q THAT'S 9:06 P.M. AND 9:07 P.M.; RIGHT?

A RIGHT.

Q SO YOU ACTUALLY HEARD THE SHOTS SOME PERIOD OF TIME BEFORE THAT BECAUSE YOU'D BEEN INVOLVED IN THIS LITTLE CHASE WITH THIS FELLOW WITH THE RED BANDANNA; RIGHT?

A RIGHT.

Q OKAY. AND WHEN YOU GOT TO THE SCENE YOURSELF, OKAY, WAS -- OR WERE THERE ANY OFFICERS FROM YOUR AGENCY PRESENT AT THAT POINT IN TIME?

A NO, SIR.

Q TO YOUR KNOWLEDGE, NO?
A TO MY KNOWLEDGE, NO, SIR.
Q OKAY. WERE THERE ANY OFFICERS FROM THE CITY OF COLUMBIA POLICE DEPARTMENT PRESENT AT THAT TIME?
A YES, SIR.
Q OKAY. C.P.D. WAS ALREADY THERE WHEN YOU GOT THERE?
A YES, SIR.
Q OKAY. DO YOU KNOW HOW MANY OFFICERS FROM C.P.D. WERE THERE WHEN YOU GOT THERE?
A NO, SIR.
Q OKAY. WHEN YOU GOT THERE, THERE WERE A NUMBER OF PEOPLE IN THE AREA ALSO IN ADDITION TO LAW ENFORCEMENT OFFICERS; RIGHT?
A CORRECT.
Q I MEAN, IT'S THE SORT OF THING THAT WOULD ATTRACT THE ATTENTION OF KIDS ON CAMPUS AND OTHER PEOPLE ON THE CAMPUS, I ASSUME; RIGHT?
A YES, SIR.
Q OKAY. SO ONE OF YOUR CONCERNS AT THAT POINT IN TIME WOULD BE TO KEEP THE PEOPLE AWAY FROM THE AREA WHERE MR. LEE'S BODY WAS, AWAY FROM WHAT'S CALLED "CRIME SCENE AREA"; RIGHT?
A I WOULD STATE YES, SIR.
Q OKAY. OKAY. DID YOU HAVE TO PARTICIPATE IN KEEPING THE CROWD AWAY FROM THE AREA WHERE MR. LEE'S BODY

WAS?

A YES, SIR, I DID.

Q DID YOU HAVE ANY OTHER PEOPLE FROM BENEDICT, ANY OTHER OFFICERS FROM BENEDICT, ASSISTING YOU IN THAT REGARD? DO YOU REMEMBER?

A NOT THAT I REMEMBER.

Q WHEN YOU GOT THERE AT 9:07, HAD THE C.P.D. ALREADY PLACED CRIME SCENE TAPE AROUND THE INCIDENT AT THAT POINT IN TIME OR WAS THAT IN PROCESS OR WHAT? DO YOU REMEMBER?

A NO, SIR. I PLACED THE CRIME SCENE ---

Q YOU DID THE CRIME SCENE TAPE?

A --- TAPE, YES, SIR.

Q SO PRIOR TO YOUR ARRIVAL THAT AREA HAD NOT BEEN TAPED OFF; RIGHT? BECAUSE YOU'RE THE ONE THAT DID THE TAPING; RIGHT?

A RIGHT.

Q OKAY.

YOUR HONOR, BEG THE COURT'S INDULGENCE ONE MOMENT, PLEASE.

(PAUSE.)

THANK YOU VERY MUCH, SERGEANT. THAT'S ALL I HAVE.

THE COURT: ALL RIGHT, MR. TAYLOR.

MR. TAYLOR: THANK YOU VERY MUCH.

CROSS-EXAMINATION BY MR. TAYLOR:

Q SERGEANT BOYD, HOW FAR WOULD YOU SAY IT WAS THAT

YOU CHASED THE SUSPECT THAT YOU CAUGHT?

A IN DISTANCE?

Q YES.

A ABOUT A BLOCK-AND-A-HALF.

Q AND YOU SAID HE HAD ON A RED BANDANNA?

A YES, SIR.

Q WHERE WAS THIS RED BANDANNA?

A AROUND HIS HEAD.

Q AROUND HIS HEAD. WAS HE RUNNING HARD?

A HE WAS RUNNING PRETTY FAST.

Q DID HE KNOW YOU WERE AFTER HIM?

A I'M NOT SURE. WHAT DO YOU MEAN?

Q WELL, WHEN YOU ENCOUNTERED HIM TO THE POINT THAT YOU WERE ABLE TO STOP HIM, WAS HE PANTING?

A HE WAS BREATHING FAST, YES, SIR.

Q WAS HE PERSPIRING?

A I CAN'T REMEMBER.

Q DID YOU EVER SEE HIM WIPE HIS HANDS OR ANYTHING ON ANY PART OF HIS BODY OR CLOTHES?

A NOT THAT I REMEMBER, NO, SIR.

Q DID YOU TAKE ANYTHING FROM HIM?

A NO, SIR, I DIDN'T.

Q YOU SIMPLY TURNED HIM OVER TO WAS IT CORPORAL SUMTER?

A YES, SIR.

Q OKAY. IS HE STILL WITH BENEDICT?
A YES, SIR, HE IS.
Q OKAY. AND THE INDIVIDUAL WHO WAS ARRESTED, DID YOU GET HIS NAME? THIS INDIVIDUAL THAT YOU STOPPED?
A HE WASN'T ARRESTED THAT NIGHT, SIR.
Q YOU TOOK HIM INTO CUSTODY; IS THAT CORRECT?
A RIGHT. INVESTIGATIVE DETENTION, YES, SIR.
Q ALL RIGHT. AND WHO WAS THIS INDIVIDUAL?
A MARTY SANDERS.
Q IN THE AREA -- AND I HOPE YOU WILL EXCUSE ME FOR GOING OVER THIS AGAIN, BUT PLEASE UNDERSTAND THAT FROM WHERE I HAVE BEEN IT'S BEEN A LITTLE BIT DIFFICULT TO SEE ALL OF THIS, OKAY.

BUT I UNDERSTAND THAT YOU WERE HERE (INDICATING)?
A CORRECT.
Q CORRECT, OAK STREET AND HASKILL.

THE INDIVIDUAL WAS HEADED ACTUALLY DOWN HASKILL TOWARDS YOU; IS THAT CORRECT?
A YES, SIR. HE WAS RUNNING AT HEIDT STREET.
Q HEIDT STREET?
A HEIDT STREET, WHICH WAS ON HEIDT AND HASKILL, RUNNING THIS DIRECTION (INDICATING).
Q OKAY. I SEE -- WHAT ARE ALL THESE THINGS IN HERE, THESE BLACK SQUARES?
A I ASSUME THEY STAND FOR HOUSES.

Q HOUSES. AND THOSE HOUSES, THEY ARE ON HASKILL STREET NEAR ITS INTERSECTION WITH HEIDT; CORRECT?
A CORRECT.
Q AND THEY ARE ON THE OTHER SIDE OF HEIDT STREET ALONG HASKILL STREET; IS THAT CORRECT?
A REPEAT THAT? OH, YES, SIR.
Q IF YOU GO DOWN OAK STREET ALL THE WAY THROUGH HEIDT STREET, UP HASKILL, THERE ARE MORE HOUSES THERE; IS THAT CORRECT?
A CORRECT.
Q AND GOING UP HEIDT STREET IN THE DIRECTION OF RICHLAND STREET, THERE ARE MORE HOUSES THERE; IS THAT CORRECT?
A CORRECT.
Q AND THERE ARE HOUSES, ARE THERE NOT, ALL ALONG LAUREL STREET UP HERE BEFORE YOU GET UP TO RICHLAND STREET?
A CORRECT.
Q AND IN FACT, THOUGH NOT SHOWN ON THIS DIAGRAM, THERE ARE SOME HOUSES ALL AROUND IN THIS AREA OF RICHLAND STREET; IS THAT CORRECT?
A YES, SIR, ON ONE SIDE OF THE STREET.
Q ALL RIGHT. NOW DID YOU ASK THIS MAN ANYTHING AT ALL?
A NO, SIR, I DIDN'T.

Q DO YOU KNOW WHERE HE CAME FROM?

A I SAW HIM RUNNING FROM THE DIRECTION OF WHICH THE SHOT WAS FIRED, IN THAT AREA.

Q AND THE SHOTS WOULD HAVE BEEN FIRED WHERE?

A IN THE VICINITY OF HASKILL STREET DORMITORY.

Q AND THAT IS GOING TO BE IN HERE?

A NO, SIR.

Q IT'S GOING TO BE ---

A IN HERE.

Q --- IN HERE?

A RIGHT.

Q OKAY.

THANK YOU, SERGEANT BOYD. THAT'S ALL I HAVE.

THE COURT: ANY REDIRECT?

MR. HOOD: NO, SIR, YOUR HONOR.

THE COURT: ALL RIGHT, YOU CAN COME DOWN.

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

--- END OF VOLUME NUMBER ONE ---

MONDAY, FEBRUARY 25, 2002 (CONTINUED):

THE COURT: CALL YOUR NEXT WITNESS.

MR. GASSER: THE STATE CALLS OFFICER SUMTER.

(**ODELL SUMTER**, HAVING FIRST BEEN DULY SWORN, TESTIFIED AS FOLLOWS:)

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

CORPORAL SUMTER: MY NAME IS ODELL SUMTER.

DIRECT EXAMINATION BY MR. GASSER:

Q OFFICER SUMTER, SIR, TELL US WHERE YOU ARE EMPLOYED?

A I'M EMPLOYED AT BENEDICT COLLEGE CAMPUS SAFETY.

Q HOW LONG HAVE YOU BEEN WITH BENEDICT COLLEGE CAMPUS SAFETY POLICE?

A FOUR YEARS.

Q FOUR YEARS?

A YES.

Q AND TOTALLY HOW MANY YEARS IN LAW ENFORCEMENT EXPERIENCE DO YOU HAVE?

A SIXTEEN (16) YEARS.

Q YOU BEEN THROUGH THE SOUTH CAROLINA CRIMINAL JUSTICE ACADEMY?

A YES, SIR, I HAVE.

Q OFFICER SUMTER, I WANT TO DRAW YOUR ATTENTION AS WELL TO THE EVENING OF MONDAY, JANUARY THE 15TH, 2001,

WERE YOU ON DUTY THAT EVENING, SIR?

A YES, I WAS.

Q AND YOUR SHIFT THAT EVENING WAS FROM APPROXIMATELY WHAT TIME TO WHAT TIME?

A FROM 4 P.M. TO 12 P.M.

Q IS THAT COMMONLY REFERRED TO AS THE EVENING SHIFT?

A EVENING SHIFT.

Q AND ARE YOU ON FOOT OR ARE YOU IN A BENEDICT COLLEGE MARKED POLICE CAR?

A I WAS IN A PATROL CAR.

Q IS YOUR POLICY YOU RIDE WITH OTHER OFFICERS OR ARE YOU INDIVIDUAL?

A I WAS BY MYSELF.

Q TELL THIS JURY, PLEASE, HOW YOU BECAME INVOLVED IN THIS CASE, THE SHOOTING OF PHILLIP LEE?

A I WAS PATROLLING THE CAMPUS AREA OVER BY SOME OF THE DORMITORIES AND BUILDINGS ON THE MAIN CAMPUS AND I HEARD OVER THE RADIO ABOUT A SHOOTING AT HASKILL STREET DORMITORY.

I EXITED THE BACK GATE WHEN I HEARD THAT SERGEANT BOYD WAS CHASING SOMEONE DOWN HASKILL STREET. I MADE A LEFT TURN ONTO OAK STREET. BY THE TIME I GOT DOWN TO HER SHE HAD THE SUBJECT IN HANDCUFFS ALREADY.

Q ARE YOU ABLE TO COMMUNICATE WITH OTHER OFFICERS? ARE YOU ON THE SAME FREQUENCY WITH OTHER BENEDICT COLLEGE

OFFICERS?

A YES, SIR.

Q SO WHEN ONE PERSON IS SAYING SOMETHING INTO THEIR RADIO, ARE YOU ABLE TO HEAR THAT AS WELL?

A WE CAN HEAR IT.

Q I SHOW YOU WHAT'S BEEN MARKED STATE'S EXHIBIT NUMBER THIRTY-FIVE, SIR. DO YOU RECOGNIZE THIS DIAGRAM?

A YES, I DO.

Q OKAY. SO WHEN YOU FIRST BECAME INVOLVED IN THIS, GENERALLY JUST SO THE JURY HAS SOME SORT OF IDEA, YOU MENTIONED THE PHASE "MAIN CAMPUS"; WHERE IS THAT?

A WELL, I WAS OVER NEAR THE AREA OF THE TAYLOR STREET AREA, BACK IN THE AREA BACK IN THERE.

Q OKAY. SO WHEN YOU HEARD WHAT YOU JUST DESCRIBED WHERE OFFICER BOYD, SERGEANT BOYD, WAS CHASING SOMEONE, DID YOU RESPOND TO THAT DIRECTION?

A YES, I DID.

Q WERE YOU ABLE TO EVENTUALLY ENCOUNTER AND MEET UP WITH SERGEANT BOYD, WHO JUST TESTIFIED BEFORE THIS JURY?

A YES, I MET UP WITH HER.

Q AND WHERE DID YOU AND SERGEANT BOYD MEET UP?

A IT WAS DOWN BELOW THE OAK STREET DORM ON RICHLAND STREET.

Q AND WAS SHE BY HERSELF AT THAT TIME?

A NO, SHE WASN'T.

Q DID SHE HAVE A PERSON, POTENTIALLY A SUSPECT, IN HER VEHICLE?
A YES, SHE DID.
Q AND WHO DID SHE TURN THAT SUSPECT OVER TO?
A WELL, SHE DIDN'T TURN HIM TO ME IMMEDIATELY. I FOLLOWED HER BACK UP TO THE HASKILL STREET DORM WHERE THE SHOOTING TOOK PLACE AND I TRANSFERRED HIM FROM HER CAR TO MY CAR FOR SAFETY REASONS.
Q AND WHEN YOU FOLLOWED HER TO THE HASKILL STREET DORM PARKING LOT WHERE THE SHOOTING TOOK PLACE, DID YOU EVER LOSE SIGHT OF HER CAR?
A NO, I DID NOT.
Q THE PERSON WAS STILL IN HER CAR?
A HE WAS IN HER CAR.
Q SO YOU PHYSICALLY TOOK CUSTODY OF THAT PERSON, INVESTIGATIVE DETENTION, I BELIEVE SERGEANT USED?
A UH-HUH (INDICATES AN AFFIRMATIVE RESPONSE).
Q AND NOW WHERE DID YOU FIRST TRANSPORT THIS PERSON?
A FIRST I TRANSPORTED HIM FROM THE HASKILL STREET DORM OVER TO OUR OFFICE.
Q AND WERE PHOTOGRAPHS TAKEN AT THAT TIME?
A NO, IT WASN'T.
Q PARDON?
A NO, IT WAS NOT.
Q WHEN YOU FIRST TRANSPORTED HIM TO YOUR OFFICE, WERE

YOU THEN DIRECTED TO TAKE THIS PERSON SOMEWHERE ELSE?

A YES. DOWN TO THE COLUMBIA POLICE DEPARTMENT.

Q OKAY. AND THEN AFTER ---

I'M GOING TO GET TO WHAT HAPPENED AT THE COLUMBIA POLICE DEPARTMENT.

--- DID YOU EVER LEAVE THIS PERSON'S PRESENCE?

A I DID NOT.

Q STAYED WITH HIM THE WHOLE TIME?

A THE WHOLE TIME.

Q AFTER YOU WITNESSED WHAT WAS DONE WITH HIM AT THE COLUMBIA POLICE DEPARTMENT, WHERE DID YOU BRING HIM?

A I BROUGHT HIM BACK TO OUR OFFICE.

Q AND YOU'RE BACK IN YOUR OFFICE AT THE DEPARTMENT OF PUBLIC SAFETY AT BENEDICT'S CAMPUS?

A YES.

Q WAS A PHOTOGRAPH TAKEN AT THAT TIME?

A I DON'T RECALL.

Q LET ME SHOW YOU A PHOTOGRAPH, IT MIGHT REFRESH YOUR MEMORY.

(PAUSE.)

OKAY. WAS AN INVESTIGATOR WITH BENEDICT COLLEGE CAMPUS POLICE, WAS HE ALSO INVOLVED IN THE EARLY STAGES OF THIS INVESTIGATION?

A YES, HE WAS.

Q DO YOU RECOGNIZE KARL KENLEY, NOW WITH THE CAYCE

POLICE DEPARTMENT?

A YES, SIR, THAT'S HIM.

Q WAS HE AN INVESTIGATOR?

A YES, SIR.

Q AND DID YOU ENCOUNTER HIM AS WELL THIS EVENING AND DID YOU WORK HAND-IN-HAND WITH INVESTIGATOR KENLEY?

A YES, I DID.

Q THE PERSON THAT YOU TOOK CUSTODY OF FROM SERGEANT BOYD AND TRANSPORTED TO BENEDICT COLLEGE, THEN TO C.P.D., AND THEN BACK TO BENEDICT COLLEGE, YOU LATER FOUND OUT HIS NAME WAS MAURICE SANDERS; CORRECT?

A MAURICE SANDERS.

Q AND WHEN YOU TOOK CUSTODY OF HIM FROM SERGEANT BOYD, THE ENTIRE TIME HE WAS IN YOUR PRESENCE, DID HE EVER CHANGE CLOTHES?

A NO, HE DID NOT.

Q DO YOU RECOGNIZE THE CLOTHES HE WAS WEARING?

A YES, SIR, I DO.

Q DO THESE ITEMS INDICATE THE SAME EXACT CLOTHING ITEMS HE HAD IN HIS POSSESSION WHEN YOU TOOK CUSTODY FROM THE BACK SEAT OF SERGEANT BOYD'S CAR AT THE HASKILL DORM AND THE ENTIRE TIME THAT YOU WERE IN HIS PRESENCE ON THE EVENING OF JANUARY 15TH?

A YES, SIR.

MR. GASSER: WE'D MOVE THESE INTO EVIDENCE AT THIS

TIME, YOUR HONOR.

Q AND BRIEFLY, ARE THESE JUST BLOWUPS OF THE ACTUAL PHOTOGRAPHS?

THE COURT: ANY OBJECTION?

MR. TAYLOR: I NEED TO SEE THEM, YOUR HONOR.

(PAUSE.)

MR. STRICKLER: WITHOUT OBJECTION, SIR.

MR. TAYLOR: WITHOUT OBJECTION.

THE COURT: OKAY.

(**STATE'S EXHIBIT NUMBER THIRTY-SIX, PHOTOGRAPH AND PHOTOCOPY DEPICTING MAURICE SANDERS**; AND,

STATE'S EXHIBIT NUMBER THIRTY-SEVEN, PHOTOGRAPH DEPICTING BANDANNA, BASEBALL CAP, OTHER ITEMS, ARE NOW MARKED AND ENTERED INTO EVIDENCE WITHOUT OBJECTION.)

Q NOW FIRST OF ALL, THE SWEATSHIRT HE'S WEARING IS GRAY, IS IT NOT?

MR. STRICKLER: OBJECTION TO LEADING, YOUR HONOR.

MR. GASSER: THE PICTURES SPEAK FOR THEMSELVES, YOUR HONOR.

MAY I PUBLISH THIS TO THE JURY?

THE COURT: (INDICATES AFFIRMATIVELY.)

Q NOW THESE ITEMS, CAN YOU DESCRIBE STATE'S EXHIBIT THIRTY-SEVEN, WHAT EVIDENCE HE HAD IN HIS POSSESSION?

A IN HIS POSSESSION HE HAD TWO BANDANNAS, A GOLD CHAIN OR WHATEVER, HE HAD A CIGARETTE LIGHTER, AND A NEW

YORK BASEBALL CAP. I WASN'T AWARE HE HAD TWO CAPS.

Q WHERE'S THE GUN?

A THERE'S NO GUN.

Q DID HE HAVE A GUN ON HIM?

A HE DIDN'T HAVE A GUN.

Q WHERE'S THE BLACK NORTHFACE JACKET?

A THERE'S NO BLACK NORTHFACE JACKET.

Q OKAY. AND THE BANDANNAS, WHERE WERE THEY ON HIM?

A HE HAD TWO BANDANNAS, ONE TIED AROUND HIS LEFT WRIST AND ONE HIS LEFT ELBOW, AND HE HAD HIS BASEBALL CAP ON.

MR. GASSER: NOW FOR DEMONSTRATIVE PURPOSES I'D LIKE TO MARK THIS JUST SIMPLY FOR I.D. PURPOSES.

MR. TAYLOR: NO OBJECTION.

(STATE'S EXHIBIT NUMBER THIRTY-EIGHT, RED BANDANNA, IS NOW MARKED FOR IDENTIFICATION.)

Q I'M SHOWING YOU THIRTY-EIGHT. WOULD YOU DESCRIBE WHAT YOU'RE TALKING ABOUT, EACH OF THE TWO BANDANNAS, TO THE JURY? IF YOU NEED TO STAND, YOU CAN.

A THE RED BANDANNA, ONE HE HAD TIED AROUND HIS LEFT WRIST, ONE HE HAD ON HIS UPPER ARM, ALL ON HIS LEFT ARM.

Q NOW WHEN YOU TRANSPORTED MR. SANDERS TO THE COLUMBIA POLICE DEPARTMENT, WHAT WAS YOUR PURPOSE? WHAT HAPPENED AT THE COLUMBIA POLICE DEPARTMENT IN YOUR PRESENCE?

A WELL, I TRANSPORTED HIM TO THE COLUMBIA POLICE DEPARTMENT FOR A RESIDUE TEST.

Q OKAY, FOR THE RESIDUE TEST. EXPLAIN THAT, WHAT DO YOU MEAN BY THE RESIDUE TEST?

A WELL, THE RESIDUE TEST IS FOR TO FIND OUT WHETHER OR NOT A PERSON HAS FIRED A GUN RECENTLY, TO FIND OUT WHETHER OR NOT THE RESIDUE BE ON THE HAND, ON THE BACK OF THE HAND, OR ANY OF THE CLOTHING.

Q AND YOUR TRAINING AS A POLICE OFFICER OVER THE LAST 16 YEARS, THROUGH THE ACADEMY, THE CRIMINAL JUSTICE ACADEMY, THAT YOU'VE DESCRIBED TO THE JURY, AS WELL AS YOUR ON-THE-JOB TRAINING, ARE YOU FAMILIAR WITH GUNSHOT RESIDUE KITS?

A YES, SIR.

Q DO YOU HAVE TO BE FAMILIAR WITH THAT AS A LINE OFFICER OR INVESTIGATORS?

A YES.

Q AT THE COLUMBIA POLICE DEPARTMENT WERE YOU PRESENT WHEN AN OFFICER PHIL YOUNG PERFORMED A GUNSHOT RESIDUE TEST ON THE GENTLEMAN MAURICE SANDERS IN THE GRAY SWEATSHIRT AND THE RED BANDANNAS?

A YES, I WAS.

Q AND I SHOW YOU THIS ITEM. DO YOU RECOGNIZE THAT ITEM?

A YES, SIR.

Q OKAY. IS THAT A GUNSHOT RESIDUE EVIDENCE KIT?

A THAT'S A RESIDUE KIT.

MR. GASSER: WE WOULD MARK THIS FOR IDENTIFICATION PURPOSES ONLY AT THIS TIME.

MR. STRICKLER: NO OBJECTION FOR I.D.

MR. TAYLOR: NO OBJECTION FOR I.D. ONLY.

(**STATE'S EXHIBIT NUMBER THIRTY-NINE, A GUNSHOT RESIDUE TEST KIT**, IS NOW MARKED FOR IDENTIFICATION.)

Q IN STATE'S EXHIBIT NUMBER THIRTY-NINE, OFFICER SUMTER, DID PHIL YOUNG THE OFFICER ACTUALLY PERFORM THIS GUNSHOT RESIDUE TEST ON MAURICE SANDERS, THE GENTLEMAN IN YOUR PRESENCE?

A YES, HE DID.

Q WOULD YOU DESCRIBE TO THE JURY WHAT YOU SAW THIS PERSON DO TO MAURICE SANDERS' FRONT AND BACK HANDS?

A OKAY. WHAT I SAW HIM DO FIRST OF ALL, THE OFFICER PUT GLOVES, LATEX GLOVES, ON HIS HANDS, BROKE THE SEAL ON THE KIT, REMOVED IT, DABBED IT, AND DABBED THE FRONT AND THE BACK OF HIS HANDS WITH THE SUBSTANCE THAT HE HAD IN THE RESIDUE KIT.

Q AFTER YOU SAW HIM TAKE CERTAIN SWABS ON THE BACK AND FRONT OF BOTH -- WAS IT BOTH HANDS OF MAURICE SANDERS?

A BOTH HANDS.

Q WHAT DID YOU SEE HIM DO WITH THOSE SWABS?

A HE PLACED THEM IN A KIT AND PUT THEM BACK INTO THE KIT AND SEALED IT, AND SIGNED IT.

Q AND ALL THAT WAS DONE IN YOUR PRESENCE?

A IN MY PRESENCE.

Q STATE'S EXHIBIT NUMBER THIRTY-NINE MARKED FOR I.D., OF COURSE IS THAT THE GUNSHOT RESIDUE KIT OF MAURICE SANDERS?

A YES, IT'S MAURICE SANDERS'.

MR. GASSER: BEG THE COURT'S INDULGENCE.

(PAUSE.)

Q AND WAS IT SEALED IN YOUR PRESENCE?

A YES, IT WAS SEALED IN MY PRESENCE.

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

THE COURT: ALL RIGHT, MR. STRICKLER.

MR. STRICKLER: A COUPLE THINGS. THANK YOU, YOUR HONOR.

CROSS-EXAMINATION BY MR. STRICKLER:

Q OFFICER SUMTER, GOOD AFTERNOON.

A HOW ARE YOU, SIR?

Q YOU INDICATED THAT YOU WERE PATROLLING THE BENEDICT CAMPUS ON THE EVENING OF THIS INCIDENT?

A YES, I WAS.

Q AND THAT YOU HEARD OVER THE RADIO THAT THERE HAD BEEN A SHOOTING; IS THAT RIGHT?

A YES, SIR.

Q OKAY. DO YOU REMEMBER WHERE YOU WERE ON THE CAMPUS AT THE TIME YOU HEARD THIS ON THE RADIO?

A I WAS OVER IN THE AREA OF THE ALUMNI STARKS STUDENT CENTER.

Q WE CAN MAKE REFERENCE TO PAGE (SIC) 35, THIS DIAGRAM AGAIN. WHERE WAS THE ALUMNI OF STARKS STUDENT CENTER?

A THAT WOULD BE BACK IN THIS AREA (INDICATING).

Q IT'S BACK IN THIS AREA HERE?

A YES.

Q ALL RIGHT. WERE YOU PATROLLING ON WAVERLY STREET OR WERE YOU ON THE CAMPUS ITSELF?

A I WAS ON THE CAMPUS ITSELF.

Q THE CAMPUS ITSELF, OKAY. AND WHEN YOU PROCEEDED, WHAT ROUTE DID YOU TAKE, WHEN YOU ---

A I CAME DOWN WAVERLY STREET THAT GOES IN FRONT OF THE MEN'S DORM, WHICH IS THE MIDDLE DORM, THEN STUART HALL IN FRONT OF THE PRESIDENT'S HOUSE. I MADE A RIGHT TURN THAT GO OUT WHAT WE CALL ECHO 3 AREA, WHICH IS THE BACK GATE BY THE PARKING GARAGE AND SO FORTH THERE, OKAY. THAT WOULD PUT ME OUT TO OAK STREET.

Q SO YOU'RE IN THIS AREA. DID YOU TRAVEL THROUGH THE CAMPUS ITSELF ---

A YES, I DID.

Q --- TO GET OUT ON OAK STREET?

A YES, I DID.
Q OKAY. YOU NEVER WERE TRAVELLING ON THE CITY STREETS AT THAT POINT IN TIME?
A NO. AT THAT POINT I WASN'T. I WAS STILL ON CAMPUS.
Q OKAY. AND WHEREABOUTS ON OAK STREET DID YOU COME OUT?
A I CAME OUT BY THE PARKING GARAGE.
Q WHERE WOULD THAT BE LOCATED ON THE MAP?
A BY THE PRESIDENT'S HOUSE.
Q THIS IS OAK; THIS IS HASKILL?
A YEAH. WHICH IS BY THE PRESIDENT'S HOUSE. PROBABLY GO OUT HERE (INDICATING). I CAME OUT BY THE PARKING GARAGE AND MADE A LEFT TURN ONTO OAK STREET, TO GO DOWN TOWARDS OAK STREET DORM.
Q OKAY. SO THIS AREA OF BENEDICT CAMPUS, IT'S NOT REFLECTED ON THIS DIAGRAM HERE, BUT THERE ARE A NUMBER OF SMALL STREETS JUST ON THAT AREA; IS THAT RIGHT?
A YES, UH-HUH (INDICATES AN AFFIRMATIVE RESPONSE).
Q AND AS YOU WERE DOING THIS, YOU ALSO HEARD OVER THE RADIO, IF I HEARD YOUR TESTIMONY CORRECT, THAT THERE WERE A GROUP OF PEOPLE CHASING THIS FELLOW?
A NO.
Q NO, YOU DIDN'T?
A NO.

Q WELL, I HEARD YOU WRONG. I'M SORRY.

YOU HEARD ABOUT THE SHOOTING?

A HEARD THE SHOOTING ON THE RADIO.

Q OKAY. AND HOW DID YOU GET UP TO RICHLAND STREET? DID YOU GET IN BEHIND SERGEANT BOYD AND FOLLOW HER?

A NO. I WENT DOWN OAK STREET TO RICHLAND STREET.

Q UH-HUH (INDICATES AN AFFIRMATIVE RESPONSE).

A WE RUN BACK AND AGAINST EACH OTHER.

Q RIGHT.

A I GOT TO RICHLAND STREET, I MADE A RIGHT TURN ONTO RICHLAND STREET, WHERE I MET SERGEANT BOYD.

Q OKAY. THANK YOU.

THE COURT: MR. TAYLOR.

CROSS-EXAMINATION BY MR. TAYLOR:

Q IS IT CORPORAL SUMTER?

A CORPORAL SUMTER.

Q CORPORAL SUMTER. ON THIS MAP WHAT IS YOUR UNDERSTANDING AS TO THE PRECISE LOCATION THAT SERGEANT BOYD STOPPED THIS SANDERS MAN? CAN YOU JUST POINT IT OUT TO US?

A THIS AREA BACK OVER IN HERE.

Q NOW, WHEN YOU SAY, "THIS AREA BACK OVER HERE," YOU ---

A I CAME THIS WAY AND I MET WITH HER. SHE WAS ALREADY IN THE CAR AND SHE WAS MOVING.

Q ALL RIGHT, SO THAT WOULD BE ON RICHLAND STREET BETWEEN HEIDT AND OAK STREETS?
A UH-HUH (INDICATES AN AFFIRMATIVE RESPONSE).
Q IS THAT CORRECT?
A UH-HUH (INDICATES AN AFFIRMATIVE RESPONSE).
Q OKAY. AND THERE ARE NUMEROUS HOUSES ALL ALONG HERE, AS INDICATED ON THIS DIAGRAM, AND ON UP INTO HERE; ISN'T THAT CORRECT?
A THAT'S TRUE.
Q AND IN FACT THERE ARE HOUSES ALL ALONG RICHLAND STREET HERE, ON THIS SIDE OF HEIDT STREET HERE, ON THE -- THAT'S THE WAVERLY STREET SIDE OF HEIDT STREET, THERE ARE HOUSES THERE; IS THAT CORRECT?
A THAT'S TRUE.
Q ALL RIGHT, SIR. WHEN YOU GOT HIM IN THE CAR, WAS HE ALREADY CUFFED?
A YES, SIR, HE WAS.
Q YOU SAY HE WAS ALREADY CUFFED?
A ALREADY CUFFED.
Q DID YOU DO ANYTHING IN PARTICULAR TO FURTHER SECURE HIM WHILE YOU TRANSPORTED HIM?
A I PLACED HIM IN THE REAR, MY CAR ON THE BACK SEAT, AND USED MY SEAT BELT TO SECURE.
Q ALL RIGHT. NOW DID YOU ACTUALLY HAVE ANY DISCUSSION WITH HIM ON THE SCENE WHERE YOU PICKED HIM UP?

A NO, I DIDN'T.
Q DID YOU HAVE ANY DISCUSSION WITH HIM IN THE POLICE CAR ON THE WAY TO YOUR HEADQUARTERS?
A NO, I DIDN'T.
Q DID YOU HAVE ANY DISCUSSION WITH HIM ON THE WAY TO THE COLUMBIA POLICE DEPARTMENT?
A THE ONLY THING HE ASKED WAS WHERE WE WERE GOING AND WHY.
Q WHERE YOU WERE GOING AND WHY?
A RIGHT.
Q OKAY. AND WHAT DID YOU TELL HIM IN THAT REGARD?
A GOING TO THE CITY OF COLUMBIA POLICE DEPARTMENT, AND THAT WAS THE END OF THE CONVERSATION.
Q OKAY. AND WAS THERE A FIGHT ON BENEDICT COLLEGE THAT NIGHT?
A NO, SIR, THERE WASN'T.
Q THERE WAS NO FIGHT AT ALL?
A NO, SIR, THERE WASN'T.
Q DID SOMEONE TRY TO GET AT MR. SANDERS?
A YES, THEY DID.
Q TELL US ABOUT THAT. WHAT HAPPENED?
A WE HAD SOME IRATE STUDENTS TO COME OVER TO THE OFFICE.
Q YOUR OFFICE?
A YES.

Q AND IS THAT WHERE YOU WERE DETAINING MAURICE SANDERS?

A WE WERE DETAINING HIM, UH-HUH (INDICATES AN AFFIRMATIVE RESPONSE).

Q SOME IRATE STUDENTS?

A YES.

Q AND WHAT DID THEY SAY?

MR. GASSER: OBJECTION.

THE COURT: HE CAN'T TESTIFY TO WHAT THEY SAID.

MR. TAYLOR: RES GESTAE.

THE COURT: HE CAN'T TESTIFY AS TO WHAT THEY SAY.

MR. GASSER: I MEAN, I DON'T UNDERSTAND WHERE THIS IS RELEVANCY. I OBJECT TO RELEVANCY OF WHAT THIS HAS TO DO WITH ANYTHING THIS JURY HAS GOT TO SAY.

MR. TAYLOR: I'VE GOT TO MAKE A PROFFER.

THE COURT: I'LL LET YOU MAKE A PROFFER BUT IT DOESN'T COME UNDER RES GESTAE.

MR. TAYLOR: I UNDERSTAND. BUT I NEED TO MAKE A PROFFER.

THE COURT: ALL RIGHT.

MR. TAYLOR: WOULD YOU LIKE ME TO DO IT NOW OR ---

THE COURT: WELL, PROBABLY SO.

ALL RIGHT, LADIES AND GENTLEMEN, I'M GOING TO ASK YOU TO GO TO YOUR JURY ROOM FOR ABOUT FIVE MINUTES AND LET ME TAKE CARE OF A LITTLE LEGAL MATTER AND THEN I'LL

BRING YOU BACK IN.

THE BAILIFF: REMAIN SEATED.

THE COURT: YES, WHILE THE JURY IS COMING AND GOING, EVERYBODY NEEDS TO REMAIN IN THEIR SEAT SO WE DON'T HAVE TO WATCH YOU AND THE JURY.

(JURY OUT AT 12:18 P.M.)

ALL RIGHT, MR. TAYLOR.

MR. TAYLOR: THANK YOU VERY MUCH.

DIRECT EXAMINATION BY MR. TAYLOR (IN CAMERA):

Q CORPORAL SUMTER, DID SOMEONE BREAK INTO YOUR OFFICE FORCIBLY THAT NIGHT WHEN SANDERS WAS IN THERE?

A QUITE A FEW PEOPLE WALKED INTO THE OFFICE, YES.

Q QUITE A FEW?

A UH-HUH (INDICATES AN AFFIRMATIVE RESPONSE).

Q AND DID ONE OF THEM ACCUSE HIM OF BEING THE KILLER?

A YES, THEY DID.

Q AND DID THEY TRY TO ATTACK HIM?

A YES, THEY DID.

Q AND WAS IT OBVIOUS TO YOU THAT THEY HAD JUST COME FROM THE SCENE WHERE THIS OCCURRED?

A WELL, I WAS TRYING TO PROTECT HIM. SO IT WAS OBVIOUS THAT THEY APPARENTLY DID COME FROM OVER THERE.

Q ALL RIGHT. WAS THAT YOUR IMMEDIATE PRESENCE SENSE IN QUESTION, WAS THAT THEY HAD COME FROM WHERE THIS SHOOTING HAD OCCURRED OVER TO WHERE YOU HAD SANDERS?

A MY IMMEDIATE IMPRESSION WAS TO PROTECT HIM. AND AFTER WE PROTECTED HIM, WE TRIED TO GET THE CROWD OUT AND WHICH WE WERE ABLE TO DO.

Q DID YOU RECOGNIZE ANY INDIVIDUAL IN THAT CROWD?

A NO, SIR, I DIDN'T.

Q DON'T KNOW TO THIS DAY WHO ANY OF THOSE PEOPLE WERE?

A NO, SIR, I DON'T.

Q ALL RIGHT. BUT AT LEAST ONE OF THEM YOU HEARD SAY, "KILLED PHILLIP LEE"; THAT'S A CORRECT STATEMENT, ISN'T IT?

A IT'S TRUE.

MR. TAYLOR: YOUR HONOR, I OFFER THAT INTO EVIDENCE.

THE COURT: OKAY.

MR. TAYLOR: I SUBMIT THAT THAT IS ADMISSIBLE EVIDENCE WITHIN THE RES GESTAE RULE.

MR. GASSER: AND I DISAGREE. THAT'S A RELATIVE TERM. I MEAN, THEY WERE LOOKING FOR PEOPLE THAT WERE INVOLVED IN THIS EVENT INVOLVING THE DEATH OF PHILLIP LEE.

MR. TAYLOR: THAT MAY BE THE JURY'S INTERPRETATION, THE JURY MAY INTERPRET IT EXACTLY AS THE STATEMENT WAS MADE BY THE DECLARANT.

MR. GASSER: AND I DON'T GET AN OPPORTUNITY TO

CROSS-EXAMINATION THE DECLARANT. AND HE HASN'T LAID A FOUNDATION THAT THE DECLARANT -- THAT IT WAS AN EXCITED UTTERANCE, HE HASN'T LAID THAT FOUNDATION.

Q WELL, LET ME ASK YOU THIS.

MR. GASSER: OR THAT THE DECLARANT HAD AN OPPORTUNITY TO SEE.

Q WELL, THESE PEOPLE WERE VERY EXCITED, WERE THEY NOT? AND UPSET?

A THEY WERE UPSET.

Q AND THEY WERE ANGRY?

A AND THEY WERE ANGRY.

Q RIGHT. THEY WERE EXCITED, WEREN'T THEY?

A EXPLAIN THAT?

Q THEY WERE ---

THE COURT: HOLD ON A MINUTE.

WHY DON'T YOU TELL US WHAT YOU REMEMBER ABOUT THE INCIDENT?

RATHER THAN YOU TELLING ME WHAT YOU THINK, LET'S HEAR WHAT HE'S GOT TO SAY.

CORPORAL SUMTER: OKAY. MYSELF, ALONG WITH A SECURITY OFFICER, HAD SANDERS IN THE OFFICE. A GROUP OF PEOPLE CAME THROUGH THE DOOR. I STOOD UP, WALKED AROUND AND PROTECTED HIM, AND GOT THESE PEOPLE BACK OUT OF THE DOOR. I HEARD ONE OF THEM SAID SOMETHING ABOUT KILLING LEE. AND THE MAJORITY OF THEM JUST TURNED AND WALKED

BACK OUT OF THE DOOR.

Q CORPORAL SUMTER, YOU WERE ON THE TELEPHONE AT THAT TIME, WERE YOU NOT?

A YES, I WAS.

Q AND YOU DROPPED THE TELEPHONE TO THE FLOOR?

A UH-HUH (INDICATES AN AFFIRMATIVE RESPONSE).

Q DID YOU NOT?

A THAT'S TRUE.

Q AND THE CIRCUMSTANCES WERE SUCH THAT THOSE PEOPLE WHO BROKE INTO THAT OFFICE, THAT YOU THREATENED TO MACE THEM IF THEY DID NOT MOVE BACK ---

A NO, I DID NOT.

Q --- GAS THEM, IS THAT NOT ---

A I DID NOT.

Q YOU DIDN'T SAY THAT?

A NO, I DID NOT.

Q DID SOMEONE ELSE IN YOUR OFFICE SAY THAT?

A I HAD A SECURITY GUARD IN THE OFFICE WITH ME.

Q DID HE HAPPEN TO THREATEN TO GAS THOSE PEOPLE OR TO MACE THEM, IF THEY DIDN'T GET BACK?

A NO, WE DIDN'T.

Q GET OUT OF THERE?

A I DIDN'T HEAR HIM SAY IT. I DIDN'T HEAR HIM SAY IT.

BUT I DIDN'T THREATEN TO MACE ANYBODY.

Q BUT THOSE PEOPLE WERE EXCITED THOUGH, WEREN'T THEY?
A THEY WERE EXCITED.
Q THANK YOU, SIR.
MR. GASSER: MAY I HAVE AN OPPORTUNITY TO CROSS-EXAMINATION OR TO EXAMINE ---
MR. TAYLOR: OH, I HAVE NO -- I HAVE NO PROBLEMS GETTING TO THE TRUTH.
CROSS-EXAMINATION BY MR. GASSER (IN CAMERA):
Q SO ACCORDING TO WHAT YOU TESTIFIED TO, OFFICER SUMTER, THREE TIMES NOW, YOU HEARD THE PHRASE, "KILLED LEE"; CORRECT?
A I HEARD THAT PHRASE.
Q SO YOU DIDN'T HEAR THE WORDS BEFOREHAND; CORRECT?
A NO, I DIDN'T.
Q SO COULD IT EASILY HAVE BEEN THAT THEY WERE SAYING, "THAT WAS THE DUDE THAT WAS WITH THE GUY THAT KILLED LEE"? COULD IT HAVE BEEN THAT?
A COULD HAVE BEEN THAT.
Q COULD IT HAVE BEEN "HE WAS WITH THE FOLKS THAT KILLED LEE"? COULD IT HAVE BEEN THAT?
A COULD HAVE BEEN THAT.
Q COULD IT HAVE BEEN, "HE'S ONE OF THE GUYS THAT WAS WITH THE GUYS THAT KILLED LEE"? COULD IT HAVE BEEN THAT?
A COULD HAVE BEEN THAT.
Q ALL YOU HEARD WAS THE PHRASE, "KILLED LEE"?

A "KILLED LEE."

Q AND OF COURSE, THESE PEOPLE -- OR THIS PERSON THAT SAID THE PHRASE, "KILLED LEE," YOU HAVE NO IDEA HOW THEY COULD HAVE GOTTEN THAT INFORMATION, DO YOU?

A NO, SIR, I DO NOT.

Q YOU DON'T KNOW WHETHER THEY WERE IN THEIR DORM ROOMS AND THEN SOMEBODY CAME RUNNING UP AND SAID, "HEY, THERE'S A DUDE THE BENEDICT COLLEGE POLICE CAUGHT AND I THINK HE MIGHT HAVE BEEN WITH THE GUYS THAT KILLED LEE"? COULD IT HAVE BEEN THAT?

A COULD HAVE BEEN THAT.

Q YOU DON'T EVEN KNOW WHETHER THE PERSON THAT SAID THAT WAS EVEN IN THE PARKING LOT; IS THAT CORRECT?

A THAT'S TRUE.

MR. GASSER: YOUR HONOR, THIS IS FRAUGHT WITH -- THERE'S NOT ENOUGH KNOWN. THERE'S JUST NOT ENOUGH KNOWN. THERE'S THE PHRASE, "KILLED LEE." BUT THERE'S NOT ENOUGH KNOWN AS TO WHO THIS PERSON WAS, WHAT OPPORTUNITY THIS PERSON HAD TO SEE, AND THE PHRASE, ITSELF.

I MEAN FOR ALL WE KNOW, HE WAS WITH THE GUYS THAT KILLED LEE.

MR. TAYLOR: YOUR HONOR, MAY I?

THE COURT: (THE COURT INDICATES AFFIRMATIVELY.)

MR. TAYLOR: AS A MATTER OF COMMON SENSE WE ALL KNOW THAT THE ONLY INDIVIDUAL WHO WAS IN THERE BEING

CONTAINED WAS THIS MAURICE SANDERS. WE ALL KNOW THAT THESE STUDENTS WHO BARGED INTO, BROKE INTO, HOWEVER YOU WANT TO PUT IT, THE OFFICE WHERE HE WAS BEING DETAINED BY THE POLICE WERE EXCITED AND ONE OF THEM MADE A STATEMENT TO THE EFFECT THAT PHILLIP LEE HAD BEEN KILLED.

HIS FIRST TESTIMONY, I THOUGHT HE SAID THAT THIS GUY HAD KILLED HIM. WHETHER HE SAID THAT OR NOT IS NOT AS RELEVANT AS THE FACT THAT THEY GO AFTER THIS GUY. IT IS OBVIOUS AS A MATTER OF COMMON SENSE THAT THESE PEOPLE BELIEVED THAT HE IS INVOLVED IN THE MURDER OF PHILLIP LEE.

MR. GASSER: I STIPULATE TO THAT.

MR. TAYLOR: WELL THEN MAYBE WE CAN MOVE ALONG AND STIPULATE THAT ONE OF THESE STUDENTS SAID THAT.

MR. GASSER: I STIPULATE TO THE FACT THAT THE PEOPLE THAT CAME TO THE BENEDICT COLLEGE DEPARTMENT OF PUBLIC SAFETY IN THEIR MINDS THOUGHT THAT MAURICE SANDERS WAS INVOLVED SOMEHOW IN THE KILLING OF PHILLIP LEE. I WILL STIPULATE TO THAT. AND I AGREE WITH THAT.

MR. TAYLOR: EXCUSE ME JUST ONE MOMENT, PLEASE.

(PAUSE.)

YES, SIR?

THE COURT: WHAT?

MR. TAYLOR: YOU APPEAR TO BE WANTING TO ASK ME A QUESTION.

THE COURT: WELL, HE MADE AN OFFER.

MR. TAYLOR: HIS OFFER IS TO STIPULATE THAT THESE STUDENTS THOUGHT THAT THIS MAN WAS INVOLVED IN THE KILLING OF PHILLIP LEE WHEN THEY BROKE IN. THAT'S FINE.

MR. GASSER: THAT'S WHAT I WOULD STIPULATE TO.

MR. TAYLOR: AND I NEED ---

THE COURT: AND I DON'T KNOW IF HE TESTIFIED THEY BROKE IN.

MR. GASSER: THAT'S CORRECT.

THAT'S ANOTHER OF YOUR OFFERS.

THE COURT: HE SAID "THEY CAME IN."

MR. TAYLOR: DID THEY FORCE THEIR WAY IN OR WERE THEY INVITED IN?

CORPORAL SUMTER: I MEAN THEY WASN'T INVITED IN, NO.

MR. TAYLOR: DID THEY BARGE THEIR WAY IN?

CORPORAL SUMTER: THEY JUST BARGED IN.

MR. TAYLOR: THEY BARGED IN?

CORPORAL SUMTER: YEAH.

MR. TAYLOR: OKAY.

THE COURT: THEY CAME IN?

CORPORAL SUMTER: YEAH, THEY CAME IN.

MR. TAYLOR: HE SAID "BARGED."

THE COURT: I KNOW, BUT YOU KNOW, YOU'VE TRIED TO STRETCH IT TO THEY BROKE IN.

THEY HAD A RIGHT TO OPEN THE DOOR AND COME IN, RIGHT?

MR. TAYLOR: YOUR HONOR, I HAVE HIM ON CROSS-EXAMINATION.

THE COURT: WHAT?

MR. TAYLOR: I HAVE HIM ON CROSS-EXAMINATION. IF HE AGREES WITH ME THAT THEY BARGED IN ---

THE COURT: I DON'T AGREE WITH THAT THOUGH. IF YOU USE THE WORD "BARGE" AND HE'S AGREED, THAT'S YOU TESTIFIED AND NOT HIM.

THEY CAME IN. AND THEY THOUGHT THAT THIS GUY WAS INVOLVED IN THE KILLING OF LEE. THAT'S WHAT HE ALSO ---

DO YOU WANT TO TAKE THAT STIPULATION?

MR. TAYLOR: WELL I'M GOING TO TAKE THE STIPULATION, YOUR HONOR, BUT I STILL MAINTAIN THE POSITION I'M TRYING TO GET THIS OTHER EVIDENCE IN. BUT I UNDERSTAND THE COURT HAS RULED AGAINST ME AND I'M NOT GOING TO ARGUE WITH THAT.

THE COURT: WELL, I HAVEN'T RULED AGAINST YOU. IF YOU TAKE THE STIPULATION I DON'T HAVE TO RULE.

MR. TAYLOR: NO. BUT YOU'RE SAYING THAT THE WITNESS CAN'T TELL THE JURY THAT THEY BARGED IN EVEN THOUGH HE SAYS THEY BARGED IN. ALL THESE IN ANSWER TO MY QUESTION, BUT I'M GOING ON CROSS-EXAMINATION. I CAN LEAD HIM. I CAN LEAD HIM.

THE COURT: LET ME EXPLAIN SOMETHING TO YOU. I KNOW YOU HAVE THE RIGHT -- YOU DON'T HAVE A RIGHT TO LEAD, LEADING QUESTIONS ARE PERMITTED.

WHAT I'M SAYING IS, IF YOU USE THE WORDS "BARGE IN," AND HE ADOPTS IT, THAT'S NOT NECESSARILY HIS TESTIMONY. HE SAID, "THEY CAME IN." THAT'S WHY I SAID, "STOP, YOU TELL US WHAT HAPPENED."

WE'RE ARGUING ABOUT SEMANTICS HERE.

IF Y'ALL WANT TO WRITE UP A STIPULATION THAT PEOPLE CAME OVER THERE, ANGRY PEOPLE CAME OVER THERE WHILE THEY HAD MAURICE SANDERS IN CUSTODY AND SAID "THIS GUY WAS INVOLVED IN THE KILLING OF PHILLIP LEE," IT ENDS ALL THIS; RIGHT?

WELL, THERE'S A FIGHT OVER THE WORD "BARGE."

MR. TAYLOR: THAT'S FINE. WE'LL STIPULATE THAT THEY CAME IN, THEY WERE ANGRY, AND THEY ACCUSED THIS MAN OF BEING INVOLVED IN THE KILLING OF PHILLIP LEE.

THE COURT: OKAY.

MR. TAYLOR: IS THAT THE STIPULATION?

MR. GASSER: THAT'S THE STIPULATION.

MR. TAYLOR: THEN I WOULD ASK THAT THE COURT STATE THAT STIPULATION FOR THE JURY.

THE COURT: ALL RIGHT.

BRING THE JURY BACK IN.

(JURY IN AT 12:28 P.M.)

THE BAILIFF: THE JURY IS PRESENT, YOUR HONOR.

THE COURT: THANK YOU.

ALL RIGHT, LADIES AND GENTLEMEN, WHILE YOU ALL WERE OUT OF THE ROOM THE PARTIES AGREED ON A STIPULATION. THE STIPULATION WOULD BE A FACT WHICH THEY BOTH AGREE IS TRUE. AND HERE'S WHAT THE STIPULATION IS, AND YOU ARE TO CONSIDER THIS STIPULATION AS EVIDENCE IN THIS TRIAL JUST AS THOUGH SOMEBODY TESTIFIED TO IT, OKAY.

SO THEY HAVE AGREED THAT ON THE NIGHT IN QUESTION A GROUP OF ANGRY STUDENTS CAME TO THE OFFICE OF THE DEPARTMENT OF PUBLIC SAFETY ---

IS THAT THE NAME OF IT, PUBLIC SAFETY?

CORPORAL SUMTER: PUBLIC SAFETY.

THE COURT: --- CAMPUS SAFETY OR WHATEVER, THAT THEY WERE ANGRY, AND THEY ACCUSED MAURICE SANDERS OF BEING INVOLVED IN THE SHOOTING OF PHILLIP LEE. OKAY. YOU GOT THAT?

ALL RIGHT, MR. TAYLOR.

MR. TAYLOR: NO FURTHER QUESTIONS.

THE COURT: ANY REDIRECT?

MR. GASSER: NO, SIR.

THE COURT: ALL RIGHT, YOU CAN COME DOWN.

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

CALL YOUR NEXT WITNESS.

MR. GASSER: THE STATE WOULD CALL ANDREW BRITT.

(**ANDREW BRITT**, HAVING FIRST BEEN DULY SWORN, TESTIFIED AS FOLLOWS:)

THE CLERK: PLEASE HAVE A SEAT HERE AND STATE YOUR FULL NAME FOR THE RECORD.

MR. BRITT: ANDREW BRITT.

DIRECT EXAMINATION BY MR. GASSER:

Q ANDREW, DO YOU GO BY THE NAME OF "DREW"?

A YES.

Q HOW OLD ARE YOU, DREW?

A TWENTY (20).

Q AND WHERE WERE YOU BORN AND RAISED?

A NEW YORK CITY.

Q WHERE ARE YOU CURRENTLY GOING TO SCHOOL?

A NORFOLK STATE UNIVERSITY.

Q OF COURSE THAT'S IN NORFOLK, VIRGINIA?

A YES.

Q AND DID YOU AT ONE TIME ATTEND BENEDICT COLLEGE?

A YES.

Q WHEN DID YOU ATTEND BENEDICT COLLEGE?

A AUGUST OF 2000 TILL MAY OF 2001.

Q SO ONE SCHOOL YEAR; IS THAT CORRECT?

A YES.

Q WHAT YEAR ARE YOU AT NORFOLK STATE?

A SOPHOMORE.

Q OKAY. DO YOU ENGAGE IN ANY EXTRA-CURRICULAR ACTIVITIES?
A NO, SIR.
Q ARE YOU RELATED TO PHILLIP LEE?
A YES.
Q AND HOW ARE YOU RELATED?
A THAT'S MY COUSIN.
Q OF COURSE YOU'RE RELATED TO HIS MOTHER ---
A YES.
Q --- AND SOME OF HIS OTHER RELATIVES BACK HERE?
A YES.
Q I WANT TO DRAW YOUR ATTENTION TO JANUARY OF 2001 AND THE TIME PERIOD WHEN YOU AND PHILLIP RETURNED FROM CHRISTMAS BREAK BACK TO BENEDICT COLLEGE. OKAY?
A YES.
Q IN DECEMBER OF 2000 WHEN YOU WERE FINISHED WITH YOUR EXAMS, WHERE DID YOU GO TO SPEND THE HOLIDAYS?
A I STAYED AT HOME AND HE STAYED HOME, WE JUST STAYED HOME. I DIDN'T GO NOWHERE.
Q I'M TALKING ABOUT WHEN YOU -- DID YOU STAY HERE ON THE CAMPUS OF BENEDICT COLLEGE?
A OH, NO, NO. NO.
Q SO YOU LEFT COLUMBIA; IS THAT CORRECT?
A CAME BACK TO NEW YORK CITY. I WENT BACK TO NEW YORK CITY, HE WENT BACK TO JERSEY.

Q OKAY. AND WHERE IN JERSEY WAS PHILLIP FROM?
A PLAINFIELD. ORIGINALLY FROM NEWARK, LIKE MOST OF PLAINFIELD.
Q AND HOW OLD WAS PHILLIP WHEN HE DIED?
A TWENTY (20).
Q AND HOW BIG WAS PHILLIP?
A SIX-FOUR; TWO-SIXTY.
Q HOW DID YOU GET BACK TO COLUMBIA TO THE BENEDICT COLLEGE CAMPUS IN JANUARY OF 2001 TO START THE SPRING SEMESTER?
A WELL, HE MADE RESERVATIONS ON TAKING THE TRAIN. I WAS SUPPOSED TO TAKE THE BUS. SO HE CALLED ME AND I SWITCHED MY RESERVATION TO TAKING THE TRAIN. AND WE BOTH MET UP AT NEWARK AT NEWARK PENN STATION FOR THE AMTRAK TRAIN. BOTH OUR FAMILIES MET TOGETHER, WE GOT ON THE TRAIN TOGETHER.
Q AND WHEN YOU USED THE WORD "WE," ARE YOU REFERRING TO THE JURY "PHILLIP?"
A ME AND PHILLIP.
Q WHEN DID Y'ALL RETURN? SHOWING YOU STATE'S EXHIBIT THIRTY-FOUR, JUST WHAT DAY ON THE CALENDAR IN JANUARY 2001 DID YOU ...
A WE CAME BACK THURSDAY, JANUARY 11TH.
Q OKAY. WHAT DORM ROOM DID YOU STAY IN?
A BAKOTES HALL, 0-3-1-2.

Q AND WHAT DORM ROOM DID PHILLIP STAY IN?
A SAME ROOM WITH ME. WE WERE ROOMMATES.
Q I WANT TO SHOW YOU STATE'S EXHIBIT NUMBER THIRTY-FIVE, DREW. DO YOU RECOGNIZE GENERALLY THIS DIAGRAM THAT MATCHES THE BENEDICT COLLEGE AREA?
A YES.
Q DO YOU RECOGNIZE THIS BUILDING HERE IN GOLD THAT'S BEEN REFERRED TO BEFORE IN FRONT OF THE JURY AS THE HASKILL STREET DORM?
A YES.
Q OKAY. WHERE WAS YOUR DORM IN RELATIONS TO THE HASKILL STREET DORM?
A MY DORM IS BACK THIS WAY (INDICATING).
Q OKAY. YOU SAID PHILLIP HAD A ROOM IN THE SAME PLACE?
A YES.
Q NOW HAD CLASSES BEGUN YET?
A NO.
Q IN FACT CLASSES WERE STARTED TO RESUME UNTIL WHEN? DO YOU KNOW?
A I THINK THAT MONDAY, WHICH IS MARTIN LUTHER KING DAY.
Q OKAY.
A NO, THE TUESDAY AFTER THAT.
Q ALL RIGHT. SO WHAT DID Y'ALL DO ON THAT FRIDAY?

A WELL, WE CAME BACK ---

Q WHAT DID YOU DO? I'M NOT ASKING ---

A WELL, THAT FRIDAY I CAME BACK, I WENT OUT TO EAT WITH A FRIEND OF MINE, AND PHILLIP WENT TO THE DORM OF HASKILL.

Q NOW DID YOU SPEND ALL OF FRIDAY AND FRIDAY NIGHT WITH YOUR COUSIN PHILLIP LEE?

A FRIDAY NIGHT, WHEN I CAME BACK IN, WE BOTH SPENT THE NIGHT.

Q BUT DURING THE DAY, WERE YOU WITH HIM DURING THE DAY?

A NO.

Q AND ON SATURDAY, DID YOU HAVE AN OPPORTUNITY TO SPEND SOME TIME WITH PHILLIP, AS WELL?

A YEAH, YES, I DID.

Q OKAY. I WANT TO DRAW YOUR ATTENTION TO THAT SATURDAY EVENING, JULY (SIC) THE 13TH.

MR. TAYLOR: JULY, YOUR HONOR?

MR. GASSER: I'M SORRY, JANUARY THE 13TH. I APOLOGIZE.

Q ON THAT SATURDAY EVENING, WHERE WERE YOU AND PHILLIP HANGING OUT THAT EVENING?

A THE HASKILL DORMITORY.

Q OKAY. AND WHY WERE YOU THERE?

A I WAS GOING THERE TO GET A HAIRCUT, HE WAS ALSO

GETTING A HAIRCUT.

Q NOW WOULD IT BE UNUSUAL FOR YOU OR PARTICULARLY YOUR COUSIN PHILLIP TO GET HIS HAIRCUT EVERYDAY OR EVERY OTHER DAY?

A NO. HE'D GET IT ABOUT EVERY TWO WEEKS.

Q OKAY. AND ON THAT SATURDAY EVENING DID YOU AND PHILLIP, AFTER -- OR WHEN YOU WERE GOING TO THE HASKILL STREET DORM, DID YOU HAVE AN ENCOUNTER WITH SOME PEOPLE IN A PARKING LOT?

A WHILE WE WAS GOING TO HASKILL?

Q OR DID YOU HAVE AN ENCOUNTER WITH PEOPLE IN THE PARKING LOT?

A NO. NO.

Q AT ANY TIME THAT EVENING DID YOU HAVE AN ENCOUNTER WITH SOMEONE?

A YES.

Q AND WHEN WAS THAT?

A THAT WAS AROUND NINE-THIRTY THAT NIGHT.

Q THAT WAS SATURDAY NIGHT?

A SATURDAY NIGHT.

Q AND WHERE DID THIS ENCOUNTER TAKE PLACE?

A ON THE TOP OF THE HILL OF HASKILL STREET.

Q NOW, DREW, DO YOU RECOGNIZE THE DEFENDANT DUSHUN STATEN?

A YES.

Q DO YOU RECOGNIZE THE DEFENDANT LUCIUS STATEN?

A YES.

Q WHEN IS THE FIRST TIME YOU EVER CAME INTO CONTACT WITH DUSHUN AND LUCIUS STATEN?

A THAT WAS SATURDAY, SATURDAY AFTERNOON.

Q SO YOU ACTUALLY SAW THEM THAT AFTERNOON?

A YES.

Q AND WHERE DID YOU SEE THE TWO OF THEM THAT AFTERNOON?

A PARKING LOT OF HASKILL.

Q AND WHEN YOU SAY "AFTERNOON," APPROXIMATELY WHAT TIME?

A AROUND ONE-THIRTY, TWO O'CLOCK, AROUND LUNCHTIME.

Q SO IT WAS DAYLIGHT?

A YES.

Q DID YOU SEE ANYONE ELSE WITH THEM IN THE PARKING LOT?

A ONLY SAW THEM TWO.

Q DID YOU SEE ANYONE IN A CAR?

A NO.

Q SO ON SATURDAY EVENING, WHEN YOU AND YOUR COUSIN PHILLIP ENCOUNTERED THE TWO DEFENDANTS AGAIN, DID YOU RECOGNIZE THEM AS THE SAME PEOPLE YOU HAD SEEN IN THE PARKING LOT THAT AFTERNOON?

A YES.

Q WERE THEY WEARING THE SAME CLOTHES?

A YES.

Q AND TELL US WHAT HAPPENED?

A WELL, DURING THE TIME -- AFTER I FINISHED GETTING MY HAIRCUT, PHIL WAS TELLING ME HE WAS GOING UP TO ASK THE KID ABOUT A D.V.D. SO WHILE WE WAS ON OUR WAY BACK TO THE DORM, HE MET UP WITH THE KID NAMED PELO (PHONETIC) WHO HAPPENED TO BE WITH THEM THE SAME NIGHT ON TOP OF THE HILL AT HASKILL STREET.

NOW I WAS GOING TO BUY A NEW T.V. AND PHIL WAS GOING TO BUY THE D.V.D.

Q OKAY. DREW, LET ME STOP YOU HERE ONE SECOND.

HAVE YOU EVER HAD TO TESTIFY IN COURT IN A MATTER SUCH AS THIS?

A NO.

Q YOU NEED TO JUST TAKE IT EASY AND SLOW DOWN, OKAY?

A ALL RIGHT.

I WAS GOING TO BUY THE T.V. ---

Q OKAY.

A --- HE WAS GOING TO BUY THE D.V.D. AND WHEN PHIL ASKED THE KID ABOUT THE D.V.D., PHIL HAD ON A BLUE BANDANNA ON HIS HEAD. AND IT SO HAPPENED WHILE HE WAS STANDING SO CLOSE TO PELO, THE KID DUSHUN ASKED PHIL "WHAT'S THE BLUE RAG ABOUT?" AND PHIL TOLD HIM, "THIS IS WHAT I DO, THIS IS WHAT I WEAR."

AND DUSHUN WENT ON TO SAY SOMETHING ELSE THAT AGGRAVATED PHIL, SO PHIL SAID SOMETHING BACK TO HIM. AND THE BIG BROTHER JUMPED IN AND SAID, "WHAT'S GOING ON?"

SO MY FRIENDS, AS A GROUP, THAT WAS ON THE BOTTOM OF HASKILL, THEY CAME UP, AND IT WAS LIKE, "WHAT'S GOING ON?" AND ALFONZO, KNOWN AS "BIG LO," HE CAME IN TO JUMP IN, IT WAS LIKE, "PHIL, WHAT'S GOING ON?" SO PHIL WAS TELLING LO WHAT WAS GOING ON. AND I STAYED BACK AROUND TEN FEET BECAUSE I WAS GOING TO LET THEM HANDLE THAT.

AND THEY WAS GOING AT IT, BICKERING WITH EACH OTHER. THE BIG BROTHER SAID, "LEAVE MY LITTLE BROTHER ALONE."

HE -- I FORGOT WHAT HE SAID.

AND FONZ AND LUSHUN (SIC) WAS GOING AT IT, I MEAN THE BIG BROTHER, FONZ AND LUSHUN WAS GOING AT IT. PHIL AND THE LITTLE BROTHER WAS GOING AT IT.

SO IT LOOKS LIKE, FROM WHAT I SEEN, THE BIG BROTHER WENT TO THE CAR FIRST AS HE WAS GOING TO GET A WEAPON.

MR. STRICKLER: OBJECTION.

MR. TAYLOR: OBJECTION.

THE COURT: SUSTAINED.

MR. STRICKLER: AND I ASK THAT BE STRICKEN, YOUR HONOR.

THE COURT: JUST GIVE ME A MINUTE AND I'LL STRIKE IT.

LADIES AND GENTLEMEN OF THE JURY, I WANT YOU TO DISREGARD THAT LAST COMMENT OF THE WITNESS. THE WITNESS CAN TESTIFY ABOUT WHAT HE SEES, BUT NOT WHAT HE THINKS.

Q DID YOU SEE HIM GO TOWARDS THE CAR?

A YES. HE CAME BACK OUT THE CAR; THEY WAS ARGUING AGAIN.

THEN THE LITTLE BROTHER WENT BACK TO THE CAR. HE CAME BACK. SO IT LOOKS LIKE -- I DON'T KNOW WHAT HAPPENED, THEY BOTH CAME OUT THE CAR.

AND THEN PHIL SAID TO ALFONZO, "I GOT THIS. GO BACK TO THE DORM." LoLo WENT BACK TO HASKILL, BUT TOE (PHONETIC) WAS DOWN, THE DORM SITE WHERE EVERYBODY HANGS OUT AT. SO US, AS A GROUP, WE ALL STANDING THERE.

SO LO -- I MEAN PHIL AND DUSHUN WAS KEPT TALKING TO EACH OTHER. SO I GUESS -- I SAW PHIL PUT OUT HIS HANDS TO DUSHUN TO SAY, "YOU KNOW WHAT, LET'S FORGET ABOUT IT ALL." AND THEN THE BIG BROTHER SAID, "NO, LET'S NOT FORGET ABOUT IT." AND PHIL WAS LIKE, "LET'S FORGET ABOUT IT." SO I REMEMBER THEM SHAKING HANDS, THEY FORGOT ABOUT IT, LEFT IT ALONE.

THEY BOTH GOT IN THE CAR, THEY WENT OFF AROUND THREE FEET, THEN THE CAR STOPPED AND THE BIG BROTHER CAME OUT THE CAR AND SAID, "YOU KNOW WHAT, WE'RE GOING TO COME BACK. WE'RE GOING TO START REMEMBERING FACES." AND THEY LEFT AND THAT WAS IT.

Q WAS IT JUST YOU AND PHIL THAT WERE FIRST WALKING?
A YES.
Q AND WHO ACTUALLY STARTED THE CONVERSATION?
A PHIL STARTED THE CONVERSATION WITH PELO.
Q OKAY. AND THEN WHO JUMPED IN THE CONVERSATION?
A DUSHUN.
Q AND YOU INDICATED THAT PHIL -- SHOWING YOU STATE'S EXHIBIT NUMBER THIRTY-EIGHT -- THIRTY-THREE, I'M SORRY, THAT'S PREVIOUSLY BEEN DESCRIBED AS A BLUE BANDANNA FOUND AT CRIME SCENE, YOU SAID PHIL HAD ON HIS BLUE BANDANNA; IS THAT CORRECT?
A YES.
Q AND WHAT DO YOU MEAN BY "HE HAD ON HIS BLUE BANDANNA"?
A THIS IS THE WAY HE ALWAYS WEAR IT, HE HAD IT WRAPPED AROUND HIS HEAD JUST LIKE THIS (INDICATING).
Q DID YOU SEE ANY OTHER TYPES OF BANDANNAS OUT THERE AT THE SCENE?
A NO.
Q THAT NIGHT?
A JUST THAT ONE.
Q BUT WITH ANY OF THE OTHER PARTIES THAT WERE INVOLVED IN THE CONVERSATIONS YOU JUST DESCRIBED TO THE JURY?
A NOT THAT I CAN REMEMBER.

Q WHO ASKED PHIL WHAT THAT WAS ALL ABOUT, WHAT HIS BLUE BANDANNA WAS ALL ABOUT?

A THE LITTLE BROTHER.

Q AND DID HE CLAIM TO BE ANYTHING?

A HE CLAIMED TO BE A BLOOD. HE WAS THROWING UP HAND SIGNALS AND PHIL JUST RESPONDED BACK TO HIM.

Q AND WHEN YOU SAY "LITTLE BROTHER," WHICH ONE ARE YOU TALKING ABOUT?

A DUSHUN.

Q LET ME ASK YOU THIS BEFORE I BRING YOU BRIEFLY DOWN. YOU'VE ALREADY INDICATED TO THE JURY THAT YOU SAW THEM IN THAT PARKING LOT EARLIER THAT AFTERNOON AROUND ONE-THIRTY; IS THAT CORRECT?

A YES.

Q AND HOW CLOSE DID YOU GET? DID YOU SEE THEM? WHERE -- HOW CLOSE WERE YOU TO THEM?

A WELL, I WAS WALKING UP THE SIDEWALK SO THEY WAS LIKE IN THE MIDDLE OF THE PARKING LOT. SO THERE WAS TWO SETS OF CARS.

Q OKAY. I WANT YOU TO POSITION ME IN THIS COURTROOM, WHEN YOU FIRST NOTICED THESE PEOPLE. SHALL I GO FORWARDS OR BACKWARDS FROM WHERE I AM TO WHERE YOU ARE SITTING RIGHT IN THAT JURY (SIC) BOX?

A BACK.

Q TELL ME WHEN TO STOP.

(PAUSE.)

A WELL, RIGHT THERE.

Q THIS IS THE PARKING LOT AT HASKILL DORM; IS THAT CORRECT?

A YES.

Q HAD YOU EVER SEEN THESE TWO PEOPLE BEFORE?

A NO.

Q DID YOU RECOGNIZE THEM AS BENEDICT COLLEGE STUDENTS?

A NO.

Q DOES BENEDICT COLLEGE HAVE A LARGE STUDENT POPULATION?

A NO.

Q NOW BEFORE I BRING YOU DOWN, WHEN YOU INDICATED THAT THAT EVENING, WHEN YOU WERE THERE WHEN WORDS WERE EXCHANGED BETWEEN DUSHUN AND LUCIUS STATEN AND PHILLIP LEE, YOUR COUSIN, HOW CLOSE WERE YOU TO THESE TWO DEFENDANTS THEN IN THAT PARKING LOT?

A WELL, WHEN THE FIRST ARGUMENT STARTED, AROUND THREE FEET FROM DUSHUN.

Q I WANT YOU TO STOP ME WHEN I GET AS CLOSE TO YOU AS YOU AND DUSHUN WERE.

A STOP RIGHT THERE.

Q RIGHT HERE, OKAY. WAS DUSHUN WEARING A MASK COVERING HIS FACE?

A NO.

Q DID YOU HAVE ANY PROBLEMS IDENTIFYING HIS FACE OR LOOKING AT HIS FACE?

A NO.

Q DID YOU RECOGNIZE HIM AS THE PERSON YOU SAW EARLIER THAT AFTERNOON?

A YES.

Q NOW LUCIUS, HOW CLOSE DID YOU GET TO LUCIUS DURING THIS VERBAL ENCOUNTER?

A AROUND -- A LITTLE FURTHER AWAY. AROUND RIGHT THERE.

Q OKAY. NOW WERE YOU ALL FROZEN IN PLACE THE WHOLE TIME OR WERE PEOPLE MOVING AROUND?

A JUST MOVING AROUND.

Q IN FACT YOU EVEN INDICATED THEY HAD GONE TO THEIR CAR, BOTH OF THEM DID, A CAR?

A YES.

Q WHAT COLOR WAS THE CAR?

A WHITE.

Q HAVE YOU BEEN SHOWN A PHOTOGRAPH OF A WHITE CAR?

A YES.

(PAUSE.)

MR. TAYLOR: NO OBJECTION FROM DUSHUN STATEN, YOUR HONOR.

MR. STRICKLER: OR FROM LUCIUS, YOUR HONOR.

MR. GASSER: WE WOULD MOVE THIS INTO EVIDENCE AT THIS TIME.

(**STATE'S EXHIBIT NUMBER FORTY, A POSTER WITH PHOTOGRAPHS DEPICTING SIX AUTOMOBILES**, IS NOW MARKED AND ENTERED INTO EVIDENCE WITHOUT OBJECTION.)

Q DO YOU RECOGNIZE THE WHITE CAR IN THIS DIAGRAM?

A THIS ONE RIGHT HERE (INDICATING).

Q AND WHAT IS THIS CAR? THAT'S THE CAR YOU SAW WHAT?

A THE NIGHT OF THE ARGUMENT.

Q SATURDAY NIGHT?

A YES.

Q THE 13TH?

A YES.

Q AND WHO WAS GOING BACK AND FORTH INTO THAT CAR?

A DUSHUN AND LUCIUS.

Q BUT THERE'S NO QUESTION, THAT NIGHT YOU DIDN'T SEE THEM COME OUT WITH ANY WEAPON; IS THAT CORRECT?

A NO, I DIDN'T SEE THEM WITH NO WEAPONS.

Q YOU DON'T KNOW WHAT THEY WERE LOOKING FOR?

A YEAH, I DON'T KNOW.

Q OKAY, DREW, I NEED YOU TO STEP DOWN HERE JUST FOR A FEW MINUTES.

(THE WITNESS NOW LEAVES THE WITNESS STAND.)

HOW TALL ARE YOU?

A SIX-FIVE.

Q OKAY, NOW YOU'VE GOT TO UNDERSTAND, I NEED YOU TO USE THE POINTER, BECAUSE YOU REMEMBER, THERE'S A COUPLE OF JURORS WAY BACK UP THERE IN THE CORNER, OKAY.

I WANT TO SHOW YOU STATE'S EXHIBIT NUMBER THIRTY-ONE. DO YOU RECOGNIZE THIS DIAGRAM?

A YES.

Q WHAT DOES THIS DIAGRAM DEPICT TO YOU?

A THIS IS HASKILL DORM, THIS IS THE PARKING LOT, THIS IS LIKE THE AIR CONDITIONING RADIATOR.

Q YOU WEREN'T THERE ON MONDAY NIGHT, JANUARY 15TH ---

A NO.

Q --- WHEN PHILLIP WAS KILLED; IS THAT CORRECT?

A NO.

Q YOU WEREN'T A WITNESS TO THAT?

A NO.

Q SO WHAT YOU'RE DESCRIBING TO THIS JURY IS EVENTS THAT TOOK PLACE THAT SATURDAY NIGHT?

A YES.

Q OKAY. NOW WHEN YOU INDICATED TO THE JURY THAT YOU AND PHILLIP WENT TO A PARTICULAR PLACE FOR YOU TO GET YOUR HAIRCUT, WHERE WAS THAT?

A THAT WAS HASKILL DORM, RIGHT THERE (INDICATING).

Q AND WHOSE DORM DID YOU GO TO?

A ALFONZO'S.

Q IS THAT LO?

A YES.
Q HE CUTS HAIR?
A YES.
Q ALL RIGHT. WHEN YOU AND PHILLIP WERE LEAVING, JUST USE THE POINTER TO DESCRIBE ON STATE'S EXHIBIT THIRTY-ONE THE ROUTE YOU ALL STARTED TAKING?
A WELL, WE TOOK THE REGULAR ROUTE. COMING OUT THE DORM WE WENT UP THE REGULAR, REGULAR WAY, I MEAN WALKING STRAIGHT UP ON THE SIDEWALK TO THE PARKING LOT. AS WE WERE GOING STRAIGHT UP, THE KID PELO WAS AT THE TOP OF THE HASKILL PARKING LOT AND THAT'S WHERE THE ARGUMENT STARTED, RIGHT AT THE TOP.
Q WHERE WAS THE WHITE CAR THAT YOU PREVIOUSLY IDENTIFIED PARKED THAT THEY WENT TO?
A WELL, IT WAS HERE, THE WHITE CAR WAS AROUND RIGHT HERE (INDICATING).
Q SO ABOUT FIVE- OR SIX-CAR PARKING LOTS AWAY ---
A YEAH.
Q --- FROM WHERE THE ENCOUNTER.
A YES.
Q NOW HOW DID THIS EVENTUALLY -- THIS ENCOUNTER -- END?
A WELL IT ENDED WHEN PHIL SAID, "I GOT THIS TO PHIL (SIC)." ALFONZO WALKED HIS WAY BACK OVER HERE (INDICATING) AND AS THE ARGUMENT KEPT ON GOING. IT

SEEMED LIKE ALFONZO WALKED FROM BACK HERE TO AROUND RIGHT HERE (INDICATING). AND PHIL SAID, "ALL RIGHT, YOU KNOW, WHATEVER, WE GOING TO STOP TALKING." THEY SHOOK HANDS ON IT AND IT SEEMED LIKE THEY JUST KEPT ON TALKING.

SO THE LITTLE BROTHER GOT IN THE CAR, LUCIUS GOT IN THE CAR, SO THE CAR WENT UP AROUND THREE FEET TO AROUND RIGHT HERE. LUCIUS STOPPED THE CAR, CAME OUT SAYING, "YOU KNOW WHAT, I'M STARTING TO REMEMBER FACES," GOT IN THE CAR, THEY WENT BACK OUT THIS WAY (INDICATING).

Q AND WHO SAID THAT, "YEAH, I'M GOING TO START REMEMBERING FACES"?

A LUCIUS.

Q IS HE IN THE COURTROOM HERE TODAY?

A SITTING RIGHT THERE (INDICATING).

(THE WITNESS NOW RETURNS TO THE WITNESS STAND.)

Q WAS THERE ANYONE ELSE IN THE LITTLE WHITE CAR, OTHER THAN LUCIUS AND DUSHUN, WHEN THEY LEFT THE HASKILL DORM PARKING LOT THAT EVENING?

A ALL I REMEMBER IS THEM TWO.

Q AND DUSHUN THAT YOU'VE PREVIOUSLY IDENTIFIED HERE IN COURT, YOU INDICATED THAT HE WAS THE SMALLER OF THE TWO? IS THAT HOW YOU REFER TO HIM?

A YES. I JUST REFER LITTLE BROTHER, BIG BROTHER.

Q OKAY. OKAY. AND WHAT WAS HIS HAIR STYLE LIKE WHEN YOU SAW HIM THAT EVENING AS WELL?

A WELL, I REMEMBER ONE PART WAS BRAIDED AND ONE PART WAS OUT.

Q NOW DID YOU HAVE ANY WEAPON ON YOU AT THAT TIME?

A NO.

Q DID PHIL HAVE ANY WEAPON ON HIM?

A NOT AT ALL.

Q DID ANY OF BENEDICT COLLEGE STUDENTS HAVE ANY WEAPONS ON THEM?

A NO.

Q NOW THE NEXT DAY, ON SUNDAY, DID YOU HAVE AN OCCASION TO BE, HAVE A REASON TO GO, TO THE HASKILL STREET DORM THAT SUNDAY AFTERNOON?

A YES. SUNDAY MORNING.

Q SUNDAY MORNING. AND DID YOU OBSERVE ANYBODY IN THERE THAT YOU'D SEEN THAT EVENING BEFORE?

A IT WAS AROUND ELEVEN OR TWELVE O'CLOCK, I WAS GOING TO THE CHINESE STORE. AND I COME BACK THAT MORNING, I SEEN LUCIUS AND THE LITTLE BROTHER OUT THERE AGAIN.

Q OUT WHERE?

A IN FRONT OF HASKILL IN THE PARKING LOT.

Q DID YOU SEE ANY CAR?

A NOT THAT I REMEMBER.

Q DID YOU SEE ANYONE ELSE WITH THE TWO DEFENDANTS, LUCIUS AND DUSHUN?

A THAT I SEEN AROUND, THERE WAS A COUPLE OF THEM THAT

I REMEMBER THEY FACES. THERE WAS A COUPLE OF THEM.

Q DID ANYTHING HAPPEN AT THAT TIME?

A NO.

Q AND DID YOU SPEND THE WHOLE DAY WITH YOUR COUSIN PHILLIP ON SUNDAY?

A NO.

Q NOW DID YOU HOOK UP WITH PHILLIP LATER ON THAT EVENING?

A YES.

Q AND WHERE WAS THAT?

A THIS WAS INSIDE THE DORM, INSIDE THE ROOM, 312.

Q WHICH DORM?

A THE BAKOTES DORM.

Q INSIDE HIS ROOM OR YOUR ROOM?

A WE BOTH ROOM -- OUR ROOM.

Q YOU WERE ROOMMATES TOGETHER?

A YES.

Q AS WELL AS COUSINS?

A YES.

Q OKAY. AND WHO WAS IN THE ROOM? WERE YOU IN THE ROOM WHEN PHILLIP CAME IN?

A YES.

Q CAN YOU DESCRIBE PHILLIP'S DEMEANOR WHEN HE CAME WALKING IN THE ROOM THAT NIGHT?

A WELL, WHEN HE CAME IN -- PHILLIP IS VERY CALM, A

CALM PERSON. HE CAME IN VERY HYSTERICAL AND LIKE SCARED, KIND OF SCARED. SO I ASKED, I SAID, "PHIL, WHAT'S WRONG WITH YOU?" HE SAY, "NOTHING." I SAID, "PHIL, COME ON. I KNOW YOU, WHAT'S WRONG WITH YOU?" HE SAID ---

Q OKAY. HOLD ON BEFORE WHAT HE SAID, OKAY?

YOUR HONOR, WE'RE GOING UNDER THE EXCITED UTTERANCE EXCEPTION TO THE HEARSAY RULE AT THIS TIME. AND I WILL FURTHER LAY THE FOUNDATION.

YOU PREVIOUSLY INDICATED THAT BY NATURE PHILLIP IS A CALM -- HAS A CALM PRESENCE; IS THAT YOUR TESTIMONY?

MR. TAYLOR: OBJECTION. OBJECTION, YOUR HONOR.

THE COURT: Y'ALL COME UP HERE.

MR. TAYLOR: MATTER OF LAW.

THE COURT: Y'ALL COME UP HERE.

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

THE COURT: ALL RIGHT, MR. TAYLOR OBJECTS TO WHAT MR. GASSER IS GETTING READY TO ASK. ONCE YOU ASK A QUESTION, BEFORE YOU ANSWER IT, LET HIM OBJECT TO IT.

Q YOU PREVIOUSLY DESCRIBED TO THE JURY THAT THE GENERAL NATURE OR NORMAL OR ROUTINE DEMEANOR OF YOUR COUSIN PHILLIP, DO YOU REMEMBER DESCRIBING THAT TO THE JURY, CALM?

A YEAH. CALM, HUMBLE, LAID BACK KIND OF PERSON.

Q AND WHEN HE CAME INTO THE ROOM THAT EVENING, WHEN YOU HADN'T SEEN HIM EARLIER THAT DAY, THAT SUNDAY, YOU THEN DESCRIBED A DIFFERENT DEMEANOR ---

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

THE COURT: YEAH, DON'T LEAD YOUR WITNESS.

Q DID YOU DESCRIBE A DIFFERENT DEMEANOR?

A YES.

Q OKAY. WOULD YOU DESCRIBE IT AGAIN TO THE JURY, FOR THE RECORD?

A IT WAS STORM, ANGRY, STORM, ANGRY, JUST TEMPER-HIGH KIND OF PERSON WHEN HE CAME IN THE ROOM.

Q WHAT WAS HIS PHYSICAL DEMEANOR LIKE? WHAT WAS HE DOING?

A HE JUST KEPT WALKING BACK, WALKING BACK AND FORTH IN THE ROOM. JUST LIKE STARTED BANGING ON STUFF.

I WAS LIKE, "PHIL, JUST CALM DOWN. WHAT'S ALL THAT FOR?" AND HE DIDN'T WANT TO TELL ME. THEN I HAD TO GET IT OUT OF HIM, THEN HE FINALLY TOLD ME.

MR. TAYLOR: OBJECTION, YOUR HONOR.

THE COURT: DON'T TELL US WHAT HE SAID. HE HAS AN OBJECTION, OKAY.

AND YOUR OBJECTION IS?

MR. GASSER: AND I WOULD SUBMIT FOR THE RECORD THE FOUNDATION HAS BEEN FURTHER LAID.

MR. TAYLOR: OBJECTION UNDER THE HEARSAY RULE.

THE COURT: OKAY. OBJECTION OVERRULED.

Q SO WHEN YOU SAW YOUR COUSIN PHILLIP IN THIS DEMEANOR, THIS STATE THAT YOU'VE JUST DESCRIBED TO THE JURY, TELL ---

MR. TAYLOR: OBJECTION TO THE LEADING.

THE COURT: DON'T LEAD THE WITNESS.

Q TELL THE JURY WHAT HE SAID.

A HE WAS LIKE, "YOU KNOW, DREW"; I WAS LIKE, "WHAT?" "THEY JUST PULLED A FUCKING GUN ON ME." SO I SAID, "DAMN, WHO DID THAT?" AND HE WAS LIKE, "THE NIGGERS WE HAD A -- "THE NIGGERS WE HAD A ARGUMENT WITH ON SATURDAY." SO I TOOK IT AS, "YOU KNOW WHAT, FORGET IT. I DON'T THINK THEY'RE GOING TO COME BACK. JUST FORGET ABOUT IT." HE WAS LIKE, "I BET." "SO JUST FORGET ABOUT IT."

Q NOW, DREW, THE LANGUAGE THAT YOU JUST USED, DID I KEEP TELLING YOU THAT YOU HAD TO USE THE EXACT LANGUAGE?

A YES.

Q DID YOUR COUSIN EVENTUALLY CALM DOWN THAT EVENING?

A YES.

Q NOW, JUST A FEW MORE QUESTIONS, DREW. I KNOW THAT YOU'VE ALREADY INDICATED TO THE JURY THAT YOU WEREN'T PRESENT WHEN PHIL WAS KILLED.

AFTER JANUARY THE 15TH, WHEN HE WAS KILLED, DID YOU

ATTEND HIS FUNERAL UP IN NEW JERSEY?

A YES.

Q DID BENEDICT COLLEGE DO SOMETHING FOR THE STUDENTS OF BENEDICT COLLEGE THAT WANTED TO ATTEND THE FUNERAL?

A YES.

Q AND WHAT WAS THAT?

MR. STRICKLER: I'M GOING TO OBJECT TO RELEVANCE.

Q EXPLAIN WHY ---

MR. TAYLOR: I JOIN THE OBJECTION.

Q DID YOU IMMEDIATELY GO TO THE POLICE AFTER YOUR COUSIN WAS SHOT IN THE BACK OF THE HEAD AND GIVE THEM A STATEMENT, DREW?

A NO.

Q WHERE WAS YOUR CONCERN, DREW?

A WITH PHIL.

Q AND YOUR FAMILY?

A I CALLED THEM. WELL, ACTUALLY, I DIDN'T CALL THEM UNTIL LIKE A WEEK LATER.

Q DID YOU WANT TO SPEND TIME WITH YOUR FAMILY WHEN A FAMILY MEMBER WAS KILLED?

A OF COURSE.

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

MR. GASSER: I'M NOT LEADING. I'M NOT SUGGESTING AN ANSWER.

THE COURT: NOW THIS IS -- THIS IS ...

MR. GASSER: THANK YOU.

THE COURT: HE WENT TO THE FUNERAL; RIGHT?

MR. BRITT: YES, SIR.

Q YOU WENT TO THE FUNERAL AND THE FUNERAL WAS THE FOLLOWING WEEK, WAS IT NOT?

A YES.

Q DID YOU EVENTUALLY COME BACK TO BENEDICT COLLEGE?

A YES.

Q AFTER THE FUNERAL, DID YOU HAVE AN OPPORTUNITY THEN TO GO TO COLUMBIA POLICE DEPARTMENT?

A YES.

Q AND ON JANUARY THE 26TH, DID YOU MEET WITH THIS INVESTIGATOR, INVESTIGATOR PAUL MEAD, AT THE COLUMBIA POLICE DEPARTMENT?

A YES.

Q PROVIDE A WRITTEN STATEMENT?

A YES.

Q DID INVESTIGATOR MEAD SHOW YOU SOME PHOTOGRAPHIC LINEUPS?

A YES.

Q I SHOW YOU WHAT'S BEEN MARKED STATE'S EXHIBIT NUMBER ELEVEN FOR I.D. PURPOSES. DO YOU RECOGNIZE THAT LINEUP?

A YES.

Q DID INVESTIGATOR MEAD SHOW YOU THIS PHOTOGRAPHIC

LINEUP ON JANUARY THE 26TH, 2001?

A YES.

Q AND WHAT, IF ANYTHING, DID HE SAY TO YOU WHEN HE PRESENTED THESE SIX PHOTOGRAPHS TO YOU?

A HE SAID, "DO YOU RECOGNIZE ANY OF THESE PEOPLE IN THIS PICTURE?" AND I TOLD HIM, "YES." HE SAID, "POINT TO THE PICTURE." AND I SAID, "NUMBER TWO."

Q OKAY. NOW THESE ARE PICTURES OF WHAT? SIX WHAT?

A SIX CRIMINALS.

Q SIX AFRO-AMERICAN MALES?

A YES.

Q OKAY. AND ARE THERE ANY IDENTIFYING FEATURES ON THE PHOTOGRAPHS?

A JUST THE HAIR.

Q AND WHEN I SAY THAT, IS THERE ANY NAMES ON THE PHOTOGRAPHS?

A NO.

Q ANY HEIGHT AND WEIGHTS?

A NO.

Q ANY DATE OF BIRTHS?

A NO.

Q ANY IDENTIFYING FEATURES, AS FAR AS ANY OF THAT INFORMATION? ADDRESSES?

A NO.

Q OKAY. SO WHEN INVESTIGATOR MEAD SHOWED YOU THIS

PHOTOGRAPHIC LINEUP, DID HE OR DID ANYONE ELSE SUGGEST FOR YOU TO PICK ANYBODY OUT?

A NO.

Q NOW YOU PREVIOUSLY TESTIFIED TO THE JURY THE OPPORTUNITY YOU HAD TO SEE DUSHUN STATEN ON THAT SATURDAY AFTERNOON, SATURDAY EVENING AND SUNDAY AFTERNOON; CORRECT?

A YES.

Q AND WHEN YOU WERE SHOWN STATE'S EXHIBIT NUMBER ELEVEN DID YOU RECOGNIZE ONE OF THE SIX PEOPLE IN THE PHOTOGRAPHS?

A YES.

Q AND WHO WAS THAT?

A THE LITTLE BROTHER.

Q NUMBER TWO?

A NUMBER TWO.

MR. GASSER: WE'D MOVE STATE'S EXHIBIT NUMBER ELEVEN INTO EVIDENCE AT THIS TIME, YOUR HONOR.

THE COURT: ANY OBJECTION?

MR. TAYLOR: MAY I SEE IT?

(PAUSE.)

NO OBJECTION.

MR. STRICKLER: NONE FROM LUCIUS STATEN.

THE COURT: WITHOUT OBJECTION.

MR. TAYLOR: WHAT NUMBER IS THAT, MADAM COURT

REPORTER?

COURT REPORTER: NUMBER ELEVEN.

(**STATE'S EXHIBIT NUMBER ELEVEN** IS NOW REMARKED AND ENTERED INTO EVIDENCE WITHOUT OBJECTION.)

Q DID YOU, AFTER YOU IDENTIFIED NUMBER TWO, THIS PERSON THAT YOU'VE DESCRIBED DOING WHAT HE DID TO THIS JURY, ON JANUARY THE 26TH DID INVESTIGATOR MEAD HAVE YOU MEMORIALIZE ON A DOCUMENT THAT YOU IN FACT IDENTIFIED DUSHUN STATEN, NUMBER TWO IN STATE'S EXHIBIT ELEVEN?

A YES.

Q OKAY. SO WHOSE SIGNATURE IS THAT ON THE AFFIDAVIT INDICATING YOU PICKED OUT NUMBER TWO ON JANUARY 26TH, 2001?

A THAT'S MY SIGNATURE.

MR. GASSER: WE'D MOVE TWENTY-NINE INTO EVIDENCE AT THIS TIME, AS WELL.

MR. STRICKLER: I'D OBJECT TO THAT. I'D OBJECT TO THE INTRODUCTION OF AN AFFIDAVIT. IT'S NO DIFFERENT THAN A WRITTEN STATEMENT.

THE COURT: IT JUST GOES FOR THE PROGRAM.

MR. TAYLOR: CAN I SEE WHAT WE'RE TALKING ABOUT? I DON'T KNOW WHAT WE'RE TALKING ABOUT.

MR. GASSER: YOUR HONOR, HE'S SEEN IT.

THE COURT: WE SPENT ALL DAY YESTERDAY GOING THROUGH THIS.

MR. TAYLOR: WELL, I'M NOT SURE THAT IT'S THE SAME ONE.

THE COURT: WHY WERE WE HERE TILL SIX-THIRTY LAST NIGHT?

(PAUSE.)

(**STATE'S EXHIBIT NUMBER TWENTY-NINE**, IS NOW REMARKED AND ENTERED INTO EVIDENCE OVER OBJECTION.)

MR. GASSER: THANK YOU.

Q IS THE PERSON IN PHOTOGRAPH SIX, EXHIBIT ELEVEN, NUMBER TWO, IN THE COURTROOM HERE TODAY?

A YES.

Q WOULD YOU POINT HIM OUT TO THE JURY, PLEASE?

A RIGHT THERE (INDICATING).

Q THIS GENTLEMAN RIGHT HERE?

A YES.

Q AND WELL, YOU'VE BEEN USING THE TERM "LITTLE BROTHER" AND "DUSHUN," WHO ARE YOU REFERRING TO THROUGHOUT YOUR ENTIRE TESTIMONY THE LAST THIRTY-FIVE MINUTES?

A LITTLE BROTHER.

Q OKAY. AND IS HE IN THE COURTROOM HERE TODAY?

A YES.

Q THIS GENTLEMAN RIGHT HERE (INDICATING)?

A YES.

Q NOW DID INVESTIGATOR MEAD ALSO HAVE AN OPPORTUNITY

TO SHOW YOU ANOTHER SERIES OF PHOTOGRAPHS?

A YES.

Q I SHOW YOU WHAT'S BEEN MARKED STATE'S EXHIBIT NUMBER TWENTY-EIGHT. DO YOU RECOGNIZE THIS PHOTO SPREAD?

A YES.

Q DID INVESTIGATOR MEAD SHOW YOU THIS, AS WELL, THAT SAME DAY, ON JANUARY 26TH, 2001?

A YES.

Q WHAT DID HE ASK YOU, IF ANYTHING, TO DO?

A TO RECOGNIZE THE PERSON THAT WAS AT THE SCENE OF THE ARGUMENT.

Q OKAY. DOES THIS ALSO JUST HAVE SIX AFRO-AMERICANS ---

A YES.

Q --- WITH NO IDENTIFYING FEATURES ---

A YES.

Q --- AS FAR AS NAMES?

A YES.

Q AND WERE YOU ABLE TO IDENTIFY SOMEBODY?

A YES.

Q AND WHO WAS THAT?

A BIG BROTHER.

Q NUMBER THREE?

A YES.

Q I'M SHOWING YOU STATE'S EXHIBIT NUMBER THIRTY

MARKED FOR I.D. DID INVESTIGATOR MEAD ASK YOU TO MEMORIALIZE ON JANUARY 26TH, 2001, THAT YOU WERE IDENTIFYING NUMBER THREE?

A YES.

Q AS BIG BROTHER?

A YES.

Q THAT YOU NOW KNOW AS LUCIUS STATEN?

A YES.

MR. GASSER: WE'D MOVE BOTH OF THESE INTO EVIDENCE AT THIS TIME, YOUR HONOR.

MR. STRICKLER: AND AGAIN, YOUR HONOR, I OBJECT TO THE INTRODUCTION OF THE AFFIDAVITS. HE'S ALREADY TESTIFIED TO IT.

THE COURT: OKAY.

MR. STRICKLER: I OBJECT TO TRYING ---

MR. TAYLOR: I JOIN THAT OBJECTION.

THE COURT: SAME RULING.

MR. STRICKLER: THANK YOU.

MR. TAYLOR: YOUR HONOR, LET THE RECORD SHOW THAT I'VE HAD THAT OBJECTION ON BOTH OF THESE LAST TWO AFFIDAVITS.

THE COURT: OKAY. YOU'RE PROTECTED ON THE RECORD.

MR. TAYLOR: THANK YOU VERY MUCH.

(**STATE'S EXHIBIT NUMBER TWENTY-EIGHT** AND **STATE'S EXHIBIT NUMBER THIRTY**, ARE NOW REMARKED AND

ENTERED INTO EVIDENCE OVER OBJECTION.)

MR. GASSER: THANK YOU, MA'AM.

Q NOW, DREW, WHEN YOU IDENTIFIED NUMBER THREE, THE PERSON ALSO BEING INVOLVED, AS BIG BROTHER IN THE TESTIMONY YOU'VE DESCRIBED TO THE JURY, IS THAT PERSON IN THE COURTROOM HERE TODAY?

A YES.

Q AND WHERE IS HE?

A RIGHT THERE (INDICATING).

Q LUCIUS STATEN?

A YES.

MR. GASSER: BEG THE COURT'S INDULGENCE.

(PAUSE.)

THAT'S ALL, YOUR HONOR. THANK YOU.

THE COURT: ALL RIGHT, LADIES AND GENTLEMEN, LET'S BREAK FOR LUNCH. IT'S ONE O'CLOCK, LET'S COME BACK AT TWO-THIRTY.

REMEMBER DON'T DISCUSS THE CASE WITH ANYBODY, DON'T LET ANYBODY DISCUSS IT WITH YOU. DON'T LISTEN TO ANY NEWS REPORTS. I DOUBT IF THIS T.V. CAMERA IS GOING TO GET BACK IN TIME TO PUT IT ON THE NEWS.

BUT ANYWAY HAVE A NICE LUNCH, BE BACK AT TWO-THIRTY. PLEASE BE PROMPT. AND WE'LL CONTINUE ON AT THAT TIME.

JUST KEEP YOUR SEAT RIGHT THERE, MISTER.

(JURY OUT AT 1:05 P.M.)

YEAH, HE CAN COME ON DOWN.

(THE WITNESS NOW LEAVES THE WITNESS STAND.)

THE COURT: ALL RIGHT, ANYTHING WE NEED TO DO BEFORE WE BREAK FOR LUNCH?

MR. TAYLOR: YOUR HONOR, I JUST NEED TO KNOW IF ASWAD SALAAM IS IN THE COURTROOM.

VERY GOOD. THANK YOU. THAT'S ALL I NEEDED TO KNOW.

THE COURT: OKAY. SEE YOU ALL AT TWO-THIRTY.

MR. GASSER: YOUR HONOR, I'M GOING TO TELL THEM, BUT JUST SO IT'S CLEAR FOR EVERYBODY IN THE COURTROOM, COULD YOU PLEASE ON THE RECORD INSTRUCT NOT ONLY THIS WITNESS BUT ALSO EVERYONE, SO THEY UNDERSTAND, SO THEY'RE NOT DOING ANYTHING WRONG, THAT HE HASN'T BEEN CROSS-EXAMINED YET AND NOBODY CAN TALK TO HIM WHATSOEVER ABOUT HIS TESTIMONY, SO THAT EVERYBODY KNOWS ABOUT THAT?

THE COURT: YEAH. ONCE A WITNESS HAS TESTIFIED AND BEFORE HE'S CROSS-EXAMINED NOBODY CAN TALK TO HIM ABOUT HIS TESTIMONY. WE TAKE A BREAK, NOBODY CAN TALK TO HIM, OKAY?

(COURT IS NOW IN RECESS.)

THE BAILIFF: COURT COME TO ORDER, ALL RISE.

THE COURT: THANK YOU. PLEASE BE SEATED.

OKAY, MR. BRITT, YOU CAN COME ON BACK UP AND TAKE

YOUR SEAT ON THE STAND.

AND LET'S BRING THE JURY IN.

(THE WITNESS NOW RETURNS TO THE WITNESS STAND.)

(JURY IN AT 2:35 P.M.)

THE BAILIFF: THE JURY IS PRESENT, YOUR HONOR.

THE COURT: ALL RIGHT, MR. STRICKLER.

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

CROSS-EXAMINATION BY MR. STRICKLER:

Q GOOD AFTERNOON, MR. BRITT.

A GOOD AFTERNOON.

Q JUST HAVE A FEW THINGS I NEED TO GO OVER WITH YOU. YOU ARE FROM NEW YORK; CORRECT?

A YES.

Q AND MR. LEE WAS FROM NEW JERSEY; CORRECT?

A YES.

Q AND MR. LEE WAS YOUR COUSIN?

A YES.

Q RIGHT. AND MR. LEE WAS YOUR ROOMMATE?

A YES.

Q RIGHT. AT BENEDICT. AND THE INCIDENT THAT WE'RE TALKING ABOUT TOOK PLACE ON JANUARY 15TH, 2001; RIGHT?

A THE MURDER?

Q YES.

A YES.

Q THAT INCIDENT, THAT'S WHAT I'M REFERRING TO.

AND YOU RETURNED TO UP NORTH TO THE FUNERAL ON WHAT DAY?

A IT WAS AROUND THE 23RD, I GUESS.

Q ABOUT THE 23RD?

A YEAH.

Q ROUGHLY. OKAY. AND WERE BACK IN TOWN AT LEAST BY THE 26TH BECAUSE THAT'S WHEN YOU TALKED WITH MR. MEAD, RIGHT THERE, WITH THE COLUMBIA POLICE DEPARTMENT; CORRECT?

A YES.

Q AND AT WHICH POINT IN TIME YOU GAVE HIM A WRITTEN STATEMENT; CORRECT?

A YES.

Q SO FROM THE 15TH, THE DATE THAT MR. LEE WAS SHOT, TO ROUGHLY THE 23RD, YOU WERE IN COLUMBIA AND THEN YOU TRAVELED UP NORTH; CORRECT?

A YES.

Q OKAY. AND I'M NOT GOING TO HOLD YOU TO THE 23RD IF YOU WANT TO TAKE ANOTHER DATE, THAT'S ROUGHLY ABOUT THE RIGHT TIME; IS THAT CORRECT?

A YES.

Q OKAY. AND YOU'VE TESTIFIED HERE BEFORE LUNCH AS TO AN ENCOUNTER YOU WITNESSED BETWEEN MR. LEE, DUSHUN STATEN AND LUCIUS STATEN ON THE SATURDAY PRECEDING THE MONDAY

WHEN MR. LEE WAS SHOT; CORRECT?

A YES.

Q THAT WOULD BE SATURDAY THE 13TH?

A YES.

Q ALL RIGHT. AND THEN YOU TESTIFIED ABOUT SEEING DUSHUN AND LUCIUS AND A COUPLE OTHER PEOPLE ON THAT SUNDAY AFTERNOON ---

A YES.

Q --- AFTER THAT; CORRECT?

A YES.

Q AND THEN YOU TESTIFIED ABOUT A CONVERSATION YOU HAD WITH MR. LEE LATER ON, ON THAT SUNDAY?

A YES.

Q SUNDAY EVENING? I'M SORRY.

A YES, SUNDAY EVENING.

Q SUNDAY EVENING, ALL RIGHT.

NOW AS TO THAT SATURDAY, IT IS MY UNDERSTANDING AT THE TIME OF THE CONFRONTATION YOU DESCRIBED OCCURRED, YOU HAD GONE, YOU AND MR. LEE HAD GONE, TO SEE A GUY YOU KNOW AS PELO; IS THAT CORRECT? ABOUT A D.V.D.?

A WE WAS GOING UP. I WASN'T GOING TO SEE HIM.

Q OKAY. PHIL WAS GOING TO SEE HIM?

A NO, WE JUST HAPPENED TO BUMP INTO HIM.

Q YOU JUST HAPPENED TO BUMP INTO HIM?

A YES.

Q OKAY. AND DO YOU KNOW HIS REAL NAME, AS OPPOSED TO HIS NICKNAME?

A NO.

Q WOULD YOU RECOGNIZE HIM IF YOU SAW HIM?

A YEAH.

Q BRANDON McCANTS, SITTING OVER THERE SECOND FROM THE END?

A YES.

Q THAT WOULD BE HIM; RIGHT?

A YEAH.

Q OKAY. IN THE BLUE AND GREEN JACKET?

A THAT'S A BLACK AND GREEN?

Q BLACK AND GREEN ---

A YEAH.

Q --- BLUE AND GREEN. OKAY. BLACK AND GREEN. YOUR VISION IS PROBABLY BETTER THAN MINE.

THAT WOULD BE THE PERSON YOU REFERRED TO EARLIER?

A YES.

Q ALL RIGHT. NOW I NEED TO GET MYSELF ORIENTED JUST A LITTLE BIT, AND I APOLOGIZE, JUST TO MAKE SURE I UNDERSTAND WHAT YOU'RE TALKING ABOUT.

(PAUSE.)

NOW I'M GOING TO SHOW YOU WHAT'S MARKED AS STATE'S EXHIBIT THIRTY-ONE, THIS DIAGRAM OF THE AREA RIGHT AROUND HASKILL ON BENEDICT COLLEGE CAMPUS. IN YOUR TESTIMONY

YOU INDICATED THAT YOU HAD AN ENCOUNTER ON THE TOP OF HASKILL STREET. AND UNDERSTAND THIS WOULD BE THE TOP (INDICATING) OF HASKILL STREET?

A RIGHT AROUND THERE.

Q RIGHT AROUND HERE?

A YEAH.

Q OKAY. ALL RIGHT. SO WHEN YOU TALKED ABOUT THE TOP, YOU MEAN THE AREA CLOSE TO HEIDT STREET?

A YES.

Q OKAY. ALL RIGHT. AND THAT WAS THE SATURDAY; RIGHT?

A YES.

Q AND AT THAT POINT IN TIME YOU WERE THERE?

A I WAS THERE.

Q AND MR. LEE WAS THERE?

A YES.

Q DUSHUN WAS THERE?

A YES.

Q AND LUCIUS WAS THERE?

A YES.

Q MR. McCANTS WAS THERE?

A YES.

Q YOU RAN INTO HIM. IF I UNDERSTAND YOUR TESTIMONY BEFORE LUNCH, AT THE TIME THE ARGUMENT BEGAN, OTHER PEOPLE CAME UP ALSO?

A YES.
Q AND OTHER PEOPLE FROM BOTH SIDES?
A YES, FROM MY SIDE.
Q FROM YOUR SIDE?
A YES.
Q OKAY. AND WHO ELSE WOULD HAVE COME UP THERE?
A WELL, I KNOW ALFONZO.
Q I'M SORRY?
A WHAT I KNOW OF WAS A FELLOW -- THERE WAS A WHOLE GROUP OF US.
Q OKAY. BUT THE ONES YOU REMEMBER IS ALFONZO?
A TONY, ANTHONY, A KID NAMED BULL, THERE WAS A WHOLE GROUP OF US. I CAN'T REMEMBER WHO ELSE.
Q WELL, LET ME ASK YOU THIS. ROUGHLY HOW LARGE WAS THIS WHOLE GROUP OF YOU?
A I'D SAY AROUND FIFTEEN OF US.
Q ABOUT FIFTEEN OF YOU. IF I UNDERSTOOD YOUR TESTIMONY CORRECTLY BEFORE LUNCH, THE ARGUMENT STARTED BETWEEN DUSHUN STATEN, LITTLE BROTHER, AND MR. LEE ---
A YES.
Q --- IS THAT RIGHT?
A YES.
Q OKAY. AND AT SOME POINT IN TIME BIG BROTHER, LUCIUS, GOT INVOLVED IN ARGUING ALSO?
A YES.

Q IT WAS A VERBAL ARGUMENT?

A YES.

Q OKAY. THERE WERE NO BLOWS EXCHANGED?

A NO.

Q OKAY. AND AT SOME POINT IN TIME LUCIUS LEFT THE ARGUMENT AND WENT BACK TO THE CAR; RIGHT?

A YES.

Q AND THE CAR, IF I REMEMBER YOUR TESTIMONY CORRECTLY, WAS PARKED SOMEWHERE UP IN THIS AREA IN THE PARKING LOT ---

A YES.

Q --- IS THAT CORRECT?

A YES.

Q OKAY. SEVERAL PARKING PLACES UP FROM WHERE THE ACTUAL ARGUMENT WAS?

A SEVEN IS KIND OF FAR. I'D SAY AROUND ---

Q I'M SORRY, I SAID "SEVERAL," RATHER THAN SEVEN. BUT YOU SAY THREE, FOUR?

A AROUND THREE TO FOUR, FIVE.

Q THAT'S FINE. NOW DO YOU REMEMBER TESTIFYING HERE YESTERDAY, WITHOUT THIS JURY HERE, ABOUT THIS?

A YES.

Q DO YOU REMEMBER TESTIFYING THAT WHEN LUCIUS WENT TO THE CAR, HE WENT TO THE CAR LIKE "FORGET ABOUT IT"?

A YES.

Q OKAY. THEN HE CAME BACK AND DUSHUN WENT TO THE CAR; RIGHT?
A YES.
Q SO HE WENT TO THE CAR LIKE, "FORGET ABOUT IT," THE ARGUMENT WAS STILL GOING ON, HE COMES ON BACK AND DUSHUN GOES TO THE CAR; RIGHT?
A YES.
Q DUSHUN COMES ON BACK?
A YES.
Q ALL RIGHT. THEN AT SOME POINT IN TIME EVERYBODY SAYS, "LET'S FORGET ABOUT IT," THEY SHAKE HANDS?
A SOMETHING LIKE THAT.
Q SOMETHING LIKE THAT. HOW LONG DID THE ARGUMENT GO ON?
A AROUND FIFTEEN TO THIRTY MINUTES.
Q I MEAN, YOU DIDN'T HAVE A CLOCK AND YOU WEREN'T ---
A NO. BUT IT WAS A LONG TIME.
Q IT WAS A LONG TIME SO FIFTEEN TO THIRTY MINUTES IS A REASONABLE ESTIMATE ON THE TIME; CORRECT?
A YES.
Q NOW AND THE CAR YOU SAW, I BELIEVE, WAS IDENTIFIED AS THIS, REFERRING TO STATE'S EXHIBIT FORTY, THIS WHITE CAR ---
A YES.
Q --- WHICH IS DEPICTED IN STATE'S FORTY; CORRECT?

A YES.
Q NOT THIS GREEN CAR?
A NO.
Q ALL RIGHT. AND WHEN IT CAME TIME TO LEAVE, THE PERSON THAT WAS DRIVING THAT WHITE CAR WAS LUCIUS STATEN?
A YES.
Q CORRECT STATEMENT; RIGHT?
A YES.
Q AND YOU HAVE NO MEMORY AS TO WHAT ANYONE WAS WEARING, AS FAR AS LUCIUS AND DUSHUN GOES THAT NIGHT?
A I REMEMBER -- ALL I REMEMBER IS THE JACKET DUSHUN WAS WEARING.
Q OKAY. SO YOU REMEMBER THE CLOTHING DUSHUN HAD ON?
A YES.
Q THAT'S BECAUSE DUSHUN WAS DOING MOST OF THE ARGUING; RIGHT?
A YEAH, SOMETHING LIKE THAT.
Q OKAY. WHERE WERE YOU IN RELATIONSHIP TO MR. LEE WHILE THIS ARGUMENT WAS GOING ON? WERE YOU STANDING BESIDE HIM OR BEHIND HIM?
A WELL ACTUALLY, WHILE THEY ARGUED, I MOVED BACK FROM THE INCIDENT SO I WAS AROUND TEN FEET FROM THE INCIDENT.
Q ALL RIGHT. IF YOU ARE MR. LEE AND DUSHUN STANDING THERE ARGUING, ARE THEY FACE-TO-FACE WHEN THEY'RE ARGUING?

A WELL ...

Q LET ME DO IT THIS WAY. IF YOU'RE MR. LEE AND I'M DUSHUN, HOW ---

A IT WAS JUST LIKE THAT.

Q --- ABOUT LIKE THIS (INDICATING)?

A YES.

Q JUST ARGUING WITH EACH OTHER?

A YES.

Q OKAY. AND THEN YOU ARE BEHIND MR. LEE?

A I'M KIND OF LIKE TO AN ANGLE BEHIND MR. LEE, YES.

Q OFF TO ONE SIDE OR SOMETHING?

A YEAH. I JUST -- JUST KEEP GOING BACK.

Q KEEP GOING BACK; STOP?

A RIGHT THERE.

Q STOP RIGHT THERE?

A YEAH.

Q OKAY. HOW ABOUT THIS, THESE ROUGHLY FIFTEEN OTHER PEOPLE THAT ENDED UP COMING OUT TO THE ARGUMENT, WERE THEY ABOUT THAT FAR BACK OR WERE THEY ---

A NO, THEY CAME UP CLOSER.

Q THEY UP CLOSER?

A YES.

Q SO THEY WERE IN CLOSER AND YOU WERE KIND OF HANGING BACK FROM IT?

A YES.

Q OKAY. NOW YOU TESTIFIED -- WELL, LET ME ASK YOU THIS. NOW YOU TESTIFIED ON DIRECT BEFORE LUNCH THAT YOU SAW THESE, LUCIUS AND DUSHUN, IN THE PARKING LOT ON THAT SUNDAY AFTERNOON?

A YES.

Q AND YOU REMEMBER GIVING A STATEMENT TO MR. MEAD ON THE 26TH; CORRECT?

A YES.

Q DID YOU HAVE AN OPPORTUNITY TO REVIEW THIS SINCE YOU GAVE IT?

A YES.

Q OKAY. I'M GOING TO LET YOU HAVE IT IN CASE YOU NEED TO REVIEW IT ANYMORE. I'LL JUST LEAVE IT RIGHT HERE.

ISN'T IT TRUE THAT IN THIS STATEMENT YOU GAVE ON JANUARY 26TH THERE IS NO MENTION OF SEEING LUCIUS AND DUSHUN AND SOME OTHER PEOPLE IN THE PARKING LOT ON SUNDAY?

A UH-HUH (INDICATES AN AFFIRMATIVE RESPONSE).

Q THAT'S CORRECT?

A YES.

Q OKAY. SO ON JANUARY 26TH, 12 DAYS AFTER THAT SUNDAY, YOU MAKE NO MENTION OF HAVING SEEN THEM IN THE PARKING LOT?

A YES, HAVEN'T SEEN THEM.

Q CORRECT?
A YES.
Q OKAY. AND NOW, CALL IT THIRTEEN MONTHS AFTER THE INCIDENT, YOU REMEMBER HAVING SEEN THEM IN THE PARKING LOT ON THAT SUNDAY?
A YES.
Q OKAY. YOU INDICATED OTHER PEOPLE FROM BENEDICT WENT NORTH TO ATTEND THE FUNERAL?
A YES.
Q DO YOU REMEMBER WHO ELSE?
A IT WAS EVERYBODY.
Q A LOT OF PEOPLE?
A EVERYBODY I WAS WITH, THAT WAS WITH THE FAMILY OF PHIL AND US, EVERYBODY WENT.
Q EVERYBODY THAT WAS WITH THE FAMILY OF PHIL AND YOU.
WERE THESE INDIVIDUALS WHO WENT TO THE FUNERAL ALSO PEOPLE FROM THE NEW YORK-NEW JERSEY AREA MAINLY?
A YES.
Q YOU TESTIFIED ABOUT -- LET'S SEE HERE --
BEG THE COURT'S INDULGENCE, YOUR HONOR.
(PAUSE.)
YOU TESTIFIED ABOUT MAKING AN IDENTIFICATION OF LUCIUS FROM THIS EXHIBIT MARKED STATE'S EXHIBIT TWENTY-EIGHT; CORRECT?
A YES.

Q AND YOU CAN ALSO TESTIFY THAT YOU HAVE NO IDEA WHAT SOURCE WAS USED TO GET THIS PHOTOGRAPH OF LUCIUS; CORRECT?

A NO.

Q YOU DIDN'T PUT THIS LINEUP TOGETHER YOURSELF; RIGHT?

A NO.

Q YOU HAVE NO IDEA WHERE THIS PHOTOGRAPH CAME FROM?

A HUH-UH (INDICATES A NEGATIVE RESPONSE).

Q DRIVER'S LICENSE PHOTOGRAPH PROBABLY FOR ALL YOU KNOW?

A I DON'T KNOW.

Q YOU DON'T KNOW, OKAY. THAT'S NO PROBLEM.

IN THAT YOU SIGNED WHAT'S MARKED AS STATE'S EXHIBIT THIRTY ---

A YES.

Q --- OKAY, THIS AFFIDAVIT?

A YES.

Q REFLECTING THAT YOU IDENTIFIED NUMBER THREE, LUCIUS STATEN; CORRECT?

A YES.

Q OKAY. AND THIS AFFIDAVIT SAYS, "I PICKED OUT PICTURE NUMBER THREE, PARENTHESIS, LUCIUS STATEN, WHICH IS THE PERSON, MALE, BLACK, WHO COMMITTED THE CRIME OF MURDER AT 2412 HASKILL AVENUE ON JANUARY 15TH, 2001"?

A YES.
Q OKAY. AS I UNDERSTAND YOUR TESTIMONY, YOU WEREN'T PRESENT WHEN PHILLIP LEE WAS KILLED; CORRECT?
A I WASN'T. YES.
Q OKAY. SO YOU HAVE NO IDEA AS TO WHO COMMITTED THE KILLING; CORRECT?
A NO.
Q WHAT YOU DID WAS PICK OUT THAT PHOTOGRAPH AS A PERSON YOU SAW, OF THE PEOPLE YOU SAW, IN AN ARGUMENT WITH PHIL ON THAT SATURDAY PRECEDING ---
A YES.
Q --- RIGHT?
A YES.
Q YOU DIDN'T WRITE DOWN THAT YOU PICKED HIM OUT AS THE PERSON WHO COMMITTED THE CRIME OF MURDER, YOU DIDN'T WRITE THAT IN; RIGHT?
A NO.
Q THAT WAS WRITTEN IN BY MR. MEAD?
A YES.
Q TO THE BEST OF YOUR KNOWLEDGE?
A YES.
Q AND YOU KNOW FOR SURE IT WASN'T WRITTEN BY YOU?
A YES.
Q OKAY. I JUST WANT TO GET IT STRAIGHT BECAUSE THIS IS IN EVIDENCE IN THIS JURY, ALL RIGHT.

YOU DIDN'T SEE WHO SHOT PHILLIP LEE ---

A NO.

Q --- CORRECT?

A NO.

Q YOU CANNOT TESTIFY AS TO WHO KILLED PHILLIP LEE; CORRECT?

A YES.

Q THE IDENTIFICATION REFLECTED IN THIS AFFIDAVIT, REGARDLESS OF WHAT IT SAYS ON IT, THE IDENTIFICATION YOU ATTESTED TO WAS WHO WAS ONE OF THE INDIVIDUALS ---

AND I'M JUST TALKING ABOUT LUCIUS STATEN NOW, KEEP THAT IN MIND, OKAY?

--- YOUR IDENTIFICATION WAS OF ONE OF THE INDIVIDUALS THAT YOU SAW IN AN ARGUMENT WITH MR. LEE ON SATURDAY THE 13TH OF JANUARY?

A YES.

Q CORRECT? OKAY.

EXCUSE ME, I'LL BEG THE COURT'S INDULGENCE.

(PAUSE.)

MR. GASSER: YOUR HONOR, I WOULD STIPULATE THAT THE FORMS, THE AFFIDAVIT FORMS, ARE BOILER PLATE FORMS. AND THERE WAS A PHOTO LINEUP INVOLVED IN A MURDER INVESTIGATION AND THAT'S JUST BOILER PLATE FORMS, THAT WHEN HE'S SIGNING IT HE'S IDENTIFYING LUCIUS STATEN AS BEING SOMEBODY THAT WAS THERE DURING THE EVENTS THAT HE

TESTIFIED TO.

I AGREE WITH MR. STRICKLER, I DON'T WANT THERE TO BE ANY DOUBT ABOUT THAT, THAT HE WASN'T A WITNESS TO THE ACTUAL EVENT. THAT FORM IS JUST A BOILER PLATE FORM THAT INVESTIGATOR MEAD HAD EARLIER EXPLAINED. BUT I WOULD BE WILLING TO STIPULATE TO THAT AT THIS STAGE OF MR. STRICKLER'S CROSS-EXAMINATION.

THE COURT: ALL RIGHT, DOES EVERYBODY IN THE JURY UNDERSTAND THAT?

(THE JURORS INDICATE AFFIRMATIVELY.)

MR. STRICKLER: THANK YOU VERY MUCH.

THANK YOU, YOUR HONOR.

Q LASTLY -- AND I'D LIKE AGAIN TO HAVE YOU REFERENCE YOUR STATEMENT IF YOU NEED TO, IF YOU NEED TO REFRESH YOUR MEMORY ON IT -- YOU TESTIFIED ABOUT A CONVERSATION YOU'D HAD WITH MR. LEE ON THAT SUNDAY EVENING; RIGHT?

A CORRECT.

Q AND THAT IS CONTAINED IN YOUR STATEMENT?

A CORRECT. YES.

Q THAT IS CONTAINED IN YOUR STATEMENT; CORRECT?

A RIGHT.

Q YOU CAN LOOK IF YOU DON'T REMEMBER.

THE COURT: WELL, TELL HIM WHICH CONVERSATION YOU'RE TALKING ABOUT AND TELL HIM WHAT YOU'RE TALKING ABOUT SO HE CAN LOOK FOR IT.

Q THE CONVERSATION WITH MR. LEE ON SUNDAY NIGHT, SIR, IN HIS ROOM.

(PAUSE.)

A YES.

Q OKAY. WHILE YOUR TESTIMONY REGARDING HAVING SEEN LUCIUS AND DUSHUN AND SOME OTHER FOLKS IN THE PARKING LOT ON SUNDAY AFTERNOON, THAT'S NOT IN YOUR STATEMENT; RIGHT?

A UH-HUH (INDICATES AN AFFIRMATIVE RESPONSE).

Q BUT THERE IS SOMETHING, THERE IS A DESCRIPTION, IN THE STATEMENT OF THE CONVERSATION YOU HAD WITH MR. LEE ON SUNDAY NIGHT; RIGHT?

A YES.

Q OKAY. ALL RIGHT. NOW AS I UNDERSTAND IT, YOUR ENCOUNTER WITH MR. LEE, HE WAS ANGRY, PACING BACK AND FORTH, AND BANGING ON STUFF; RIGHT?

A YES.

Q AND THAT WAS OUT-OF-CHARACTER FOR HIM ---

A YES.

Q --- I THINK THAT WAS YOUR TESTIMONY. OKAY.

AND YOU MADE A COUPLE STATEMENTS AS TO WHAT HE SAID TO YOU?

A YES.

Q OKAY. "HE PULLED A FUCKING GUN ON ME," THAT BEING ONE OF THEM; RIGHT?

A YES.

Q AND THEN -- AND I'M GOING TO USE A DIFFERENT WORD -- "THE PERSON WE HAD AN ARGUMENT -- "THE PERSON WHO HAD AN ARGUMENT WITH HIM IS THE PERSON WHO PULLED THE GUN ON HIM ---

A YES.

Q --- THAT WAS IN RESPONSE TO THE QUESTION FROM YOU; RIGHT?

A YES.

Q OKAY. THE ONLY REASON I'M GOING INTO THIS IS THAT IN FACT WHAT YOU TOLD THE POLICE WAS THAT, "THE NEXT DAY I WAS IN A ROOM AND PHIL CAME AND SAID 'THE SMALL KID PULLED OUT A GUN AND ASKED HIM WHAT'S UP NOW'"; CORRECT?

A YES.

Q OKAY. SO WHEN YOU SAID "HE PULLED A GUN ON ME," AND WHEN YOU ASKED HIM, "WHO" -- THIS IS YOUR TESTIMONY ON DIRECT -- "HE PULLED A GUN ON ME," AND YOU ASKED HIM "WHO," AND HE SAID, "THE PERSON THAT WE HAD THE ARGUMENT WITH," YOU'RE REFERRING TO THE SMALL KID?

A YES.

Q WHO YOU HAD BEEN CALLING "LITTLE BROTHER"?

A YES.

Q WHO WOULD BE DUSHUN; CORRECT?

A YES.

Q YOU'RE NOT REFERRING TO LUCIUS STATEN; CORRECT?

A NO.

Q YOUR UNDERSTANDING FROM SPEAKING WITH HIM, AS YOU RELATED TO THE POLICE ON JANUARY 26TH IN THIS SWORN STATEMENT, WAS THAT MR. LEE HAD TOLD YOU THAT AT SOME POINT IN TIME ON SUNDAY THE 14TH DUSHUN PULLED A GUN ON HIM; RIGHT?

A YES.

Q IN FACT YOU GO ON TO SAY, "PHIL SAID THE SMALLER GUY OUT THERE WITH THREE OTHER GUYS"; CORRECT?

A YES.

Q AND THIS DOES NOT SAY THAT THE SMALLER GUY WAS OUT THERE WITH OTHER GUYS, ONE OF WHOM WAS BIG BROTHER?

A NO, I DIDN'T SAY THAT.

Q NO, YOU DIDN'T SAY THAT?

A HUH-UH (INDICATES A NEGATIVE RESPONSE).

Q OKAY. SO TO YOUR KNOWLEDGE, ANY CONFRONTATION MR. LEE HAD ON SUNDAY, WELL, ONE, YOUR ONLY KNOWLEDGE YOU HAVE ABOUT ANY CONVERSATION -- CONFRONTATION MR. LEE HAD ON SUNDAY WAS FROM WHAT HE SAID TO YOU; RIGHT?

A YES.

Q AND YOUR KNOWLEDGE OF WHAT HE SAID TO YOU WAS HE HAD A CONFRONTATION WITH DUSHUN STATEN?

A YES.

Q OKAY. RIGHT?

A YES.

Q ALL RIGHT. NOW DO YOU HAVE ANY BROTHERS?

A NO.
Q NO. YOU HAVE NO IDEA HOW BIG BROTHER MIGHT REACT WHEN LITTLE BROTHER IS IN AN ARGUMENT WITH SOMEONE?
A NO.
Q NO. ALL RIGHT, MR. BRITT, THANK YOU VERY MUCH.
THE COURT: ALL RIGHT, MR. TAYLOR.
MR. TAYLOR: THANK YOU VERY MUCH. MAY IT PLEASE THE COURT.
CROSS-EXAMINATION BY MR. TAYLOR:
Q MR. BRITT, WHERE WERE YOU ON FRIDAY THE 12TH OF JANUARY, 2001?
A AS I CAN REMEMBER I WAS AT ANOTHER SCHOOL.
Q YOU WERE WHERE?
A AT ANOTHER SCHOOL.
Q AT ANOTHER SCHOOL?
A YES.
Q WHAT SCHOOL WERE YOU AT?
A UNIVERSITY OF SOUTH CAROLINA.
Q AND WAS ANYONE WITH YOU FROM BENEDICT THERE?
A NO.
Q WHAT WERE YOU DOING OVER THERE?
A SEEING A FRIEND OF MINE.
Q SEEING A FRIEND OF YOURS?
A YES.
Q VISITING?

A YES.
Q YOU WERE NOT A STUDENT THERE AT THAT TIME THOUGH; RIGHT?
A STUDENT WHERE?
Q AT THE UNIVERSITY OF SOUTH CAROLINA?
A NO.
Q BUT IT'S OKAY TO VISIT A FRIEND AT ---
A YES.
Q --- WHO GOES TO SCHOOL THERE; RIGHT?
A YES.
Q OKAY. NOW DID YOU KNOW THAT ON -- DID YOU KNOW ON THE NIGHT OF THE 15TH THAT YOUR COUSIN HAD BEEN SHOT?
A I DIDN'T KNOW IT TILL AROUND -- AROUND NINE O'CLOCK.
Q AROUND WHAT TIME?
A I DIDN'T KNOW IT TILL AROUND NINE O'CLOCK.
Q NINE O'CLOCK?
A YES.
Q COULD I ASK YOU TO PLEASE SPEAK UP A LITTLE.
A I DIDN'T KNOW TILL AROUND NINE O'CLOCK.
Q ALL RIGHT. AND WHERE WERE YOU WHEN YOU FOUND THAT OUT?
A I WAS ON MY WAY TO THE CHINESE STORE.
Q TO THE CHINESE STORE?
A YES.

Q HOW WERE YOU NOTIFIED?

A WELL, A GIRL THAT I KNOW THAT GOES TO BENEDICT, SHE SAID, "DREW, YOUR COUSIN BEEN SHOT." SO I SAID, "WHAT?" AND SHE SAID, "YOUR COUSIN BEEN SHOT. GO TO HASKILL." AND I RUSHED MY WAY TO HASKILL.

Q WELL I MEAN, DID SHE CALL YOU ON A CELL PHONE?

A NO. SHE WAS IN THE RESTAURANT ORDERING FOOD.

Q SHE WAS IN THE RESTAURANT?

A YES.

Q OKAY. AND SO THEN YOU WENT BACK OVER THERE?

A YES.

Q IS THAT CORRECT? AND DID YOU KNOW THE NEXT MORNING THAT YOUR COUSIN, UNFORTUNATELY, WAS DEAD?

A YES.

Q AND YOU SAY THAT YOU SAW ALL OF THIS AND YOU HEARD ALL OF THIS ON SATURDAY, BUT YET YOU DID NOT ON THE 16TH PICK UP THE TELEPHONE, CALL BENEDICT COLLEGE POLICE DEPARTMENT, COLUMBIA POLICE DEPARTMENT, OR ANY LAW ENFORCEMENT AGENCY AT ALL? THAT'S TRUE; IS THAT RIGHT?

A YES.

Q AND ON THE 17TH YOU DID NOT PICK UP THE TELEPHONE AND YOU DID NOT CALL ANY LAW ENFORCEMENT AGENCY AT ALL AND TELL THEM ABOUT WHAT YOU SAY HAPPENED ---

A YES.

Q --- AND YOU SAW ON SATURDAY ---

A YES.
Q --- IS THAT TRUE?
A YES.
Q YOU SAID THAT YOU SAW A WHITE CAR?
A YES.
Q CORRECT?
A YES.
Q AND YOU SAID THAT IT WAS THIS CAR IN THIS PHOTOGRAPH (INDICATING); CORRECT?
A YES.
Q OVER A YEAR AGO, YOUR TESTIMONY IS THAT YOU SAW THAT CAR, THAT CAR RIGHT THERE?
A YES.
Q WHAT IS THERE SO DISTINCTIVE ABOUT THAT CAR THAT MADE IT STICK IN YOUR MEMORY?
A BECAUSE I REMEMBER HOW SMALL IT WAS.
Q IT WAS SMALL WHITE CAR?
A YES.
Q THAT'S THE ONLY THING ABOUT THE CAR THAT YOU REMEMBER ---
A YES.
Q --- CORRECT?
A YES.
Q YOU DON'T REMEMBER ANY TRIM ON THE CAR; CORRECT?
A YES.

Q YOU DON'T REMEMBER WHAT PLATE NUMBER WAS ON THE CAR?

A YES, I DON'T REMEMBER.

Q REMEMBER ANY OF THAT STUFF?

A HUH-UH (INDICATES A NEGATIVE RESPONSE).

Q OKAY. YOU WERE SHOWN THESE PHOTOGRAPHS BY LAW ENFORCEMENT PEOPLE RECENTLY; IS THAT CORRECT?

A YES.

Q NOW I MAY BE A LITTLE BIT CONFUSED SO I WANT YOU TO STRAIGHTEN ME OUT ON WHEN IT WAS THAT YOU SAID THAT THERE WERE ABOUT FIFTEEN, I THINK YOU SAID, "OF MY GUYS," REFERRING TO YOUR GUYS, "AROUND." WHAT DATE WERE YOU TALKING ABOUT?

A THE SATURDAY.

Q THE SATURDAY?

A OF THE ARGUMENT.

Q OF THE DATE THAT YOU SAY PHILLIP HAD THE BLUE BANDANNA AROUND HIS HEAD?

A YES.

Q AND HOW MANY OF THOSE OTHER FIFTEEN HAD BLUE BANDANNAS?

A NOBODY.

Q NOT A SINGLE ONE?

A NOT A SINGLE ONE.

Q AND FIFTEEN OF YOU JUST STOOD THERE AND JUST

WATCHED, OBSERVED? IS THAT YOUR TESTIMONY?

A EXACTLY. WATCHED, OBSERVED, WHAT WAS GOING ON.

Q THIS PHOTOGRAPHIC LINEUP THAT'S MARKED AS STATE'S EXHIBIT NUMBER ELEVEN FROM WHICH YOU IDENTIFIED DUSHUN STATEN ---

A YES.

Q --- YOU DON'T KNOW WHERE THAT PHOTOGRAPH WAS TAKEN, DO YOU?

A NO.

Q SO WHEN YOU TESTIFIED BEFORE THIS JURY THAT YOU WERE SHOWN PICTURES OF CRIMINALS, YOU JUST THOUGHT THAT THEY WERE CRIMINALS; IS THAT CORRECT?

A YES.

Q YOU HAD THE IMPRESSION AT THE TIME YOU WERE LOOKING AT THEM THAT THIS WAS A LINEUP OF PEOPLE WHO WERE CRIMINALS; IS THAT RIGHT?

A YES.

Q BUT YOU CERTAINLY DON'T KNOW THAT TO BE TRUE?

A NO.

Q YOU JUST ASSUMED THAT?

A YES.

Q WITH RESPECT ALSO TO THE AFFIDAVIT THAT YOU SIGNED REGARDING PICKING HIM OUT OF THE LINEUP, THAT IS DUSHUN OUT OF THE LINEUP, SIMILAR TO THE SITUATION WITH LUCIUS STATEN, WHEN YOU SIGNED IT, YOU DID NOT TELL THE POLICE

OFFICER THAT DUSHUN STATEN HAD MURDERED ANYBODY, DID YOU?

A NO.

Q BECAUSE YOU DIDN'T KNOW?

A I DIDN'T KNOW IT, YES.

Q IS THAT RIGHT?

A YES.

Q BUT IT WAS SIGNED UNDER OATH?

A EXCUSE ME?

Q WAS IT SIGNED UNDER OATH?

A I GUESS SO.

Q YOU GUESS SO? OR DO YOU KNOW SO?

THE COURT: WELL, LET HIM LOOK AT IT.

MR. TAYLOR: WELL, I CAN SHOW HIM A SIMILAR ONE.

THE COURT: NO, SHOW HIM.

(PAUSE.)

Q WAS YOURS NOTARIZED LIKE THAT?

A YES.

Q OKAY. DID SOMEONE ASK YOU "ARE YOU TELLING THE TRUTH, THE WHOLE TRUTH, AND NOTHING BUT THE TRUTH? YOU SWEAR THAT THIS AFFIDAVIT IS CORRECT?"

A YES.

Q AND YOU SAID "YES, IT IS," AND IN THERE IT SAYS DUSHUN STATEN COMMITTED THE CRIME OF MURDER?

A YES.

Q BUT YOU WEREN'T THERE MONDAY NIGHT AND DIDN'T KNOW

WHO COMMITTED THE MURDER; RIGHT?

A YES.

Q BUT YOU SIGNED IT ANYWAY BECAUSE SOMEBODY ASKED YOU TO; RIGHT?

A YES.

Q WAS PHILLIP A CRIP?

A YES.

Q HOW LONG HAD YOU KNOWN THAT?

A EXCUSE ME?

Q HOW LONG HAD YOU KNOWN THAT?

A FOR AROUND -- FOR AWHILE.

Q WELL, HOW LONG IS AWHILE?

THE COURT: WHY DON'T YOU TAKE YOUR HAND DOWN FROM YOUR MOUTH?

Q HOW LONG IS AWHILE?

A AROUND TWO YEARS.

Q TWO YEARS?

A YES.

Q I BELIEVE YOU SAID YOU'RE HIS COUSIN?

A YES.

Q DID YOU GROW UP WITH HIM?

A NO, NOT REALLY.

Q HOW HAD YOU TWO -- HAD YOU BEEN APART FOR ANY LONG PERIOD OF TIME DURING YOUR LIVES?

A YES.

Q HOW LONG WERE YOU APART?
A WELL, NOT THAT LONG. WE SEEN EACH OTHER OCCASIONALLY.
Q WELL AS OF THE DATE THAT HE WAS SHOT AND KILLED, HOW LONG HAD THE TWO OF YOU BEEN BACK TOGETHER ON A FAIRLY FREQUENT BASIS?
A I MEAN ---
Q DID YOU KNOW HIM WHEN HE WAS IN THE EIGHTH GRADE?
A NOT EXACTLY.
Q DID YOU KNOW HIM WHEN HE WAS IN THE NINTH GRADE?
A NO.
Q DID YOU KNOW HIM WHEN HE WAS IN THE TENTH GRADE?
A ELEVENTH GRADE.
Q ELEVENTH GRADE, THE FIRST TIME YOU REMEMBER ---
A YES.
Q --- ASSOCIATING CLOSELY WITH HIM WAS THE ELEVENTH GRADE?
A YES.
Q DID YOU KNOW HIM AT ALL BEFORE THE ELEVENTH GRADE?
A NO.
Q NEVER KNEW HIM AT ALL. AND AS OF THAT TIME WAS HE KNOWN TO YOU TO BE A CRIP, WHEN HE WAS IN THE ELEVENTH GRADE?
A AROUND HIS SENIOR YEAR HE TOLD ME.
Q AND YOU SAID THAT HE WAS --- ON THAT SUNDAY NIGHT

THAT YOU DID NOT GO OUT THERE; RIGHT? YOU DID NOT GO OUT THERE THAT SUNDAY NIGHT AND SEE ANYBODY; RIGHT?

A YES. YES.

Q YOU SAID THAT HE WAS VERY ANGRY?

A YES.

Q IS THAT RIGHT?

A YES.

Q VERY ANGRY?

A YES.

Q DO YOU KNOW ASWAD SALAAM?

A YES.

Q WHO IS ASWAD SALAAM?

A A FRIEND OF OURS.

Q IS HE A CLOSE FRIEND OF YOURS?

A YES.

Q WAS HE A CLOSE FRIEND OF PHILLIP'S?

A YEAH, A VERY CLOSE FRIEND.

Q VERY CLOSE TO PHILLIP? WHERE DID ASWAD GO TO SCHOOL?

A HE WENT TO BENEDICT AND THEN HE TRANSFERRED TO THE UNIVERSITY OF SOUTH CAROLINA.

Q AT THE TIME, ON THE DAY OF THE 15TH OF JANUARY, 2001, WHERE WAS ASWAD SALAAM A STUDENT?

A UNIVERSITY OF SOUTH CAROLINA.

Q MAINTAINED HIS FRIENDSHIP, HOWEVER, WITH PHILLIP;

CORRECT?

A YES.

Q DID YOU GO TO VISIT ASWAD SALAAM?

A OCCASIONALLY.

Q DID HE COME TO VISIT Y'ALL?

A OH, ALL THE TIME.

Q OKAY. AND THAT WAS PERFECTLY FINE WITH THE PEOPLE AT BENEDICT THAT HE COME TO SEE YOU ---

A YES.

Q --- WAS IT NOT?

A YES.

Q AND IT WAS PERFECTLY FINE WITH THE PEOPLE AT THE UNIVERSITY OF SOUTH CAROLINA THAT THE VISITATION WENT THE OTHER WAY?

A YES.

Q THEY HAD NO PROBLEM WITH THAT?

A YES.

Q THAT RIGHT?

A UH-HUH (INDICATES AN AFFIRMATIVE RESPONSE).

Q MATTER OF FACT, THEY DIDN'T THINK ANYTHING ABOUT IT, DID THEY?

A EXACTLY.

Q HOW LONG HAVE YOU KNOWN ALFONZO? IT IS ALFONZO OR IS IT ALONZO?

A ALFONZO, LoLo.

Q LoLo?
A I KNOW HIM AS LoLo.
Q HIS LAST NAME SHULER?
A I DON'T KNOW HIS LAST NAME.
Q BIG FOOTBALL PLAYER?
A YES.
Q WITH DREGS?
A YES.
Q IS HE IN THE COURT TODAY?
A YES.
Q WHERE IS HE?
A THE BOY RIGHT THERE IN THE BLUE SWEATER.
Q THE BLUE SWEATER HERE?
A YES.
Q HOW LONG HAVE YOU KNOWN HIM?
A I MET HIM AUGUST, 2000.
Q AUGUST, 2000. THE MAN IN THE BLUE SHIRT?
A YES.
Q DO YOU EVER WEAR BLUE BANDANNAS OR ANYTHING LIKE THAT?
A NO.
Q OR RED OR SOMETHING?
A NO, NOT AT ALL.
Q WOULD YOU SAY THAT THIS WAS A FAD?
A EXCUSE ME?

Q WOULD YOU SAY THAT THIS THING OF WEARING RED AND BLUE IS KIND OF A FAD AMONG A LOT OF COLLEGE STUDENTS AND ---

A NO.

Q --- KIDS UP NORTH AND SO FORTH?

A NO.

Q IT WAS NOT A FAD?

A NO.

Q YOU DON'T KNOW WHAT IT WAS, DO YOU?

A (THERE IS NO RESPONSE.)

Q THANK YOU. THAT'S A NO?

A YES.

Q YOU HAVE TO SPEAK OUT LOUD ---

A NO.

Q --- SO THE COURT REPORTER ---

A NO.

Q --- CAN HEAR YOU.

A NO.

Q YOU DON'T KNOW WHAT IT WAS?

A I DON'T KNOW.

Q OKAY. NEVER ASKED?

A NOPE.

Q DIDN'T CARE?

A EXACTLY, DIDN'T CARE.

Q IT DIDN'T MATTER, DID IT?

A NOPE.

Q THANK YOU, SIR.

MR. GASSER: BRIEFLY, YOUR HONOR.

REDIRECT EXAMINATION BY MR. GASSER:

Q JUST A FEW QUESTIONS, DREW, IN RESPONSE TO MR. TAYLOR'S QUESTIONING CONCERNING THE DAY AFTER YOUR COUSIN AND FRIEND AND ROOMMATE PHIL WAS SHOT IN THE BACK OF THE HEAD, YOU DIDN'T CALL THE POLICE; DO YOU REMEMBER THAT LINE OF QUESTIONING?

A YES.

Q AFTER YOU FOUND OUT FROM THIS FEMALE STUDENT THAT YOU KNEW IN THE CHINESE RESTAURANT SOMETIME MONDAY NIGHT THAT YOUR COUSIN AND YOUR FRIEND WAS MURDERED, YOUR EMOTIONAL STATE AT THAT TIME AND THE FOCUS OF YOUR ATTENTION WAS WHERE?

A TO LOOK FOR PHIL, WHERE HE'S AT.

Q I MEAN, WHAT -- DID YOU CALL HOME?

A NO. THEY RUSHED ME TO THE HOSPITAL THAT HE WAS TAKEN TO.

Q OKAY. AND THEN LATER ON THAT DAY OR EARLY THAT EVENING OF THE 15TH AND ON INTO THE 16TH, WERE YOU AMONGST FRIENDS OF PHILLIP?

A YES.

Q OKAY. DID YOU HAVE COMMUNICATION WITH PEOPLE BACK HOME?

A NOT EXACTLY BECAUSE I WAS SO -- SO EMOTIONALLY MESSED UP I DIDN'T SPEAK TO NOBODY.

Q OKAY. YOU WEREN'T THERE AT THE SCENE; RIGHT?

A NO.

Q SO DID YOU HAVE ANY IDEA WHO WAS INVOLVED IN IT AT THAT POINT IN TIME?

A YES.

Q YOU WEREN'T THERE AT THE SCENE?

A YES.

Q OKAY. YOU FOUND OUT ABOUT IT FROM -- AND DON'T SAY WHAT WAS SAID -- FROM OTHER PEOPLE, FRIENDS OF YOURS?

A YES.

Q OKAY. AND THEN EVENTUALLY, YOU INDICATED, YOU WENT BACK UP NORTH TO THE FUNERAL?

A YES.

Q AND THEN WHEN YOU CAME BACK AND THINGS STABILIZED, DID YOU GO TO THE POLICE STATION?

A I WENT TO THE INVESTIGATIONS OFFICE.

Q OKAY. DO YOU RECALL WHEN MR. STRICKLER WAS ASKING YOU ABOUT YOUR STATEMENT? DO YOU STILL HAVE A COPY OF YOUR STATEMENT?

A NOT ALL OF IT.

Q LET ME SHOW YOU. DO YOU RECOGNIZE THAT STATEMENT, DREW?

A WHICH ONE?

Q THE ONE I JUST GAVE YOU.
A YES.
Q OKAY. IS THAT A THREE-PAGE HANDWRITTEN STATEMENT?
A YES.
Q WITH YOUR SIGNATURE ON THE BOTTOM OF ALL THREE PAGES?
A YES.
Q IS THAT THE STATEMENT, ACTUALLY THE ORIGINAL STATEMENT, YOU PROVIDED TO INVESTIGATOR MEAD?
A YES.
Q ON JANUARY 26TH, 2001; IS THAT CORRECT?
A YES.
Q NOW IN GENERAL NOW, WAS MR. MEAD ASKING YOU ABOUT THE EVENTS OR ANY CONTACT YOU HAD HAD, VERBAL CONTACT, AND WHAT YOU HAD SEEN DURING THAT VERBAL COMMUNICATION OR CONTACT WITH THE DEFENDANTS IN THIS CASE?
A YES.
Q WHEN YOU INDICATED TO THE JURY THAT YOU ACTUALLY SAW THEM ON THAT SATURDAY AFTERNOON AND THEN SATURDAY EVENING AND SAW THEM AGAIN ON SUNDAY, IT'S NOT IN YOUR STATEMENT THAT YOU SAW THEM ON SUNDAY; CORRECT?
A YES, IT'S NOT ON MY STATEMENT.
Q DID ANYTHING HAPPEN ON SUNDAY WHEN YOU ---
A NO.
Q --- NO, WHEN YOU SAW THEM, DID ANYTHING HAPPEN?

A NO. NO.

Q BETWEEN YOU AND THE DEFENDANTS?

A NO.

Q BETWEEN YOU -- OR DID YOU SEE ANYTHING HAPPEN -- SEE ANYTHING HAPPEN BETWEEN THE DEFENDANTS ---

A NO.

Q --- AND PHIL?

A NO.

Q OKAY. SO NOTHING HAPPENED ON SUNDAY?

A NOTHING.

Q LASTLY, REMEMBER MR. STRICKLER -- AND I APOLOGIZE FOR NOT ASKING YOU THESE QUESTIONS ON DIRECT, BUT DO YOU REMEMBER WHEN MR. STRICKLER BROUGHT UP ON THAT SATURDAY EVENING, WHEN HE WAS GOING OVER WITH YOU WHAT HAD TRANSPIRED BETWEEN YOU AND PHILLIP AND SOME OF THE OTHER STUDENTS AT BENEDICT COLLEGE AND THE DEFENDANTS? DO YOU REMEMBER HIM ASKING YOU THOSE QUESTIONS?

A YES.

Q DO YOU REMEMBER HIM ASKING YOU IF YOU RECALL WHAT DUSHUN STATEN HAD ON?

A HE DIDN'T ASK THAT QUESTION.

Q DO YOU REMEMBER HIM ASKING YOU, "DO YOU RECALL WHAT THEY HAD ON," AND YOU INDICATED, "I REMEMBER WHAT DUSHUN ---

MR. TAYLOR: OBJECTION TO THE LEADING QUESTION NOW,

YOUR HONOR. HE'S GOING TO ANSWER IT FOR HIM.

MR. GASSER: I CAN GET THE COURT REPORTER TO PLAY IT BACK, IF YOU WANT ME TO.

MR. TAYLOR: YOUR HONOR, IF HE JUST ASKS A QUESTION, I'LL BE SATISFIED, INSTEAD OF MAKING A STATEMENT.

MR. GASSER: I'LL ASK HIM A QUESTION.

Q DID YOU REMEMBER MR. STRICKLER ASKING YOU THE QUESTION, "DO YOU RECALL -- "DO YOU REMEMBER WHAT THEY HAD ON?" AND YOU INDICATED, "I REMEMBER WHAT DUSHUN HAD ON"?

A YES.

Q WHAT DID DUSHUN HAVE ON?

A A YELLOW AVERIX LEATHER JACKET.

Q I'M SHOWING YOU STATE'S EXHIBIT SEVENTEEN. DO YOU RECOGNIZE THIS?

A YES.

Q WHAT IS THIS?

A THE JACKET DUSHUN WAS WEARING SATURDAY AND SUNDAY.

Q SATURDAY THE 13TH AND SUNDAY THE 14TH BEFORE ---

A YES.

Q --- PHILLIP WAS KILLED?

A YES.

Q AND WHEN YOU SAY "AVERIX," JUST SO THE JURY UNDERSTANDS, IS THAT A BRAND NAME?

A YES. IT'S A BRAND LEATHER.

Q AND THAT'S AN AVERIX, IS IT NOT?

A YES.

MR. GASSER: BEG THE COURT'S INDULGENCE.

(PAUSE.)

THAT'S ALL I HAVE.

THE COURT: ALL RIGHT, YOU CAN COME DOWN.

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

CALL YOUR NEXT WITNESS.

MR. GASSER: THE STATE WOULD CALL RASHON LOGGINS.

(**RASHON LOGGINS**, HAVING FIRST BEEN DULY SWORN, TESTIFIED AS FOLLOWS:)

THE CLERK: PLEASE HAVE A SEAT HERE AND STATE YOUR FULL NAME FOR THE RECORD.

MR. LOGGINS: RASHON ALI LOGGINS.

DIRECT EXAMINATION BY MR. GASSER:

Q RASHON, HOW OLD ARE YOU?

A TWENTY-ONE (21).

Q AND WHERE DO YOU CURRENTLY GO TO SCHOOL?

A BENEDICT COLLEGE.

Q WHAT YEAR ARE YOU AT BENEDICT?

A SENIOR.

Q WHAT ARE YOU MAJORING IN, RASHON?

A THERAPEUTIC RECREATION.

Q DO YOU WORK AS WELL AS GO TO SCHOOL?
A UH-HUH (INDICATES AN AFFIRMATIVE RESPONSE).
Q WHERE DO YOU WORK?
A WAL-MART SUPERCENTER.
Q AND YOU ALSO HAVE ANOTHER JOB OR ACTUALLY HAVE AN INTERNSHIP THROUGH YOUR THERAPEUTIC RECREATION DEGREE AT BENEDICT COLLEGE?
A UH-HUH (INDICATES AN AFFIRMATIVE RESPONSE).
Q AND WHERE IS THAT?
A LIFE CARE CENTER OF COLUMBIA, NURSING HOME.
Q A NURSING HOME?
A UH-HUH (INDICATES AN AFFIRMATIVE RESPONSE).
Q WHERE ARE YOU FROM, RASHON?
A NEWARK, NEW JERSEY.
Q DID YOU KNOW THE VICTIM IN THIS CASE, PHILLIP LEE?
A YES, I DID.
Q AND, RASHON, TELL US HOW YOU CAME TO KNOW PHILLIP.
A I MET HIM, I THINK IT WAS ON A SATURDAY. WE WAS AT THE PRESIDENT'S HOUSE, HE HAD A COOK-OUT. AND I TOLD MY BROTHER THAT HE LOOKED LIKE HE WAS FROM NEW JERSEY BECAUSE HE WAS WEARING A WHITE, LONG TEE SHIRT, BECAUSE THAT'S USUALLY WHAT WE -- TYPE OF CLOTHING WE WEAR. AND I INTRODUCED MYSELF TO HIM, ASK HIM WHERE HE WAS FROM. AND THEN AFTER THAT DAY WE JUST GOT ALONG SINCE.
Q NOW WHEN WAS THIS? WHEN DID YOU START SCHOOL AT

BENEDICT?

A I STARTED SCHOOL AUGUST, '98.

Q OKAY. WHEN DID YOU FIRST MEET PHILLIP?

A AUGUST, 2000.

Q OKAY. SO YOU MET HIM AT THE BEGINNING OF THE FALL SEMESTER, 2000?

A UH-HUH (INDICATES AN AFFIRMATIVE RESPONSE).

Q I WANT TO DRAW YOUR ATTENTION TO THE WEEKEND BEFORE JANUARY THE 15TH, 2001. WHEN DID YOU RETURN HOME FROM -- RETURN BACK TO BENEDICT COLLEGE FROM THE DECEMBER BREAK?

A JANUARY 4TH.

Q AND DID YOU STAY ON CAMPUS? DID YOU STAY IN A DORM ROOM ON CAMPUS OR WERE YOU OFF CAMPUS?

A I WAS ON CAMPUS.

Q WHAT DORM DID YOU STAY IN?

A HASKILL.

Q HASKILL DORM?

A UH-HUH (INDICATES AN AFFIRMATIVE RESPONSE).

Q OKAY. I WANT TO DRAW YOUR ATTENTION TO THE FRIDAY NIGHT, NOT SATURDAY NIGHT BUT THE FRIDAY NIGHT BEFORE PHILLIP LEE WAS KILLED. WERE YOU ON THE CAMPUS THAT FRIDAY NIGHT OF BENEDICT COLLEGE?

A YES.

Q OKAY. AND DID THERE COME A TIME THAT EVENING WHERE YOU OBSERVED THE DEFENDANTS, LUCIUS AND DUSHUN STATEN, ON

CAMPUS AT BENEDICT COLLEGE?

A YES.

Q AND WHERE DID YOU SEE LUCIUS AND DUSHUN STATEN?

A UP AT THE TOP OF THE HILL ARGUING WITH PHIL AND A COUPLE OF MY OTHER FRIENDS.

Q NOW WAS IT UNUSUAL FOR PHILLIP AND OTHER STUDENTS AT BENEDICT COLLEGE TO HANG OUT AT THE HASKILL DORM?

A NO, IT WASN'T UNUSUAL.

Q IS THAT A POPULAR STUDENT HANGOUT?

A UH-HUH (INDICATES AN AFFIRMATIVE RESPONSE). A LOT OF PEOPLE HANG OUT IN FRONT OF HASKILL. IT'S A PRETTY LOUD DORM THERE.

Q WHEN YOU NOTICED THE TWO DEFENDANTS, WHAT WORDS DID YOU USE WITH PHILLIP LEE? THEY WERE DOING WHAT WITH PHILLIP?

A ARGUING.

Q OKAY. WHEN YOU NOTICED THE TWO DEFENDANTS ARGUING WITH PHILLIP LEE, HAD YOU EVER SEEN THEM BEFORE?

A YES.

Q WHERE, PHYSICALLY, HAD YOU SEEN THEM BEFORE?

A IN HASKILL PARKING LOT.

Q OKAY. WHEN DID YOU START SEEING THEM IN THAT -- SHOWING YOU STATE'S EXHIBIT THIRTY-ONE, WHEN DID YOU START SEEING THEM IN THE PARKING LOT OF THE HASKILL DORM?

A PROBABLY A COUPLE DAYS AFTER I GOT BACK FROM

SCHOOL, THAT'S PROBABLY LIKE THE 9TH OR 10TH OF JANUARY, DURING THAT WEEK.

Q OKAY. SO IF YOU GOT BACK ON THE 4TH, YOU INDICATED YOU STARTED SEEING THEM WHAT DAYS OF THE WEEK IN JANUARY?

A 9TH AND 10TH, MONDAY THROUGH TUESDAY AND WEDNESDAY.

Q NOW WHEN YOU WOULD SEE LUCIUS AND DUSHUN STATEN IN THAT PARKING LOT AREA, WAS IT DURING THE DAY, OR NIGHT, OR BOTH?

A BOTH.

Q DID YOU EVER SEE THEM OUTSIDE OF THE PARKING LOT AREA OF THE HASKILL STREET DORM, OR IS THAT THE ONLY PLACE YOU SAW THEM?

A IT WAS THE ONLY PLACE I SAW THEM.

Q WOULD THERE JUST BE THE TWO OF THEM OR WOULD THEY BE HANGING WITH OTHER PEOPLE?

A SOMETIME THERE WAS JUST THEM TWO OR SOMETIME THEY WAS WITH TWO OF THEY FRIENDS OR WHATEVER.

Q DID YOU EVER SEE THEM WEARING ANYTHING, THEM AND THE PEOPLE THEY WERE WITH?

A DUSHUN'S MAINLY FRIENDS, THEY WAS WEARING MOSTLY RED BANDANNAS. I NEVER SEEN LUCIUS WITH NO RED BANDANNA BUT ---

Q NEVER SAW LUCIUS WEAR A RED BANDANNA?

A NO.

Q OKAY. I WANT TO SHOW YOU STATE'S EXHIBIT THIRTY-

EIGHT. WHEN YOU SAY YOU SAW DUSHUN AND THEN HIS FRIENDS, DOES THIS -- TURN TO YOU FOR DEMONSTRATIVE PURPOSES, MARKED FOR I.D. ONLY -- IS THIS WHAT YOU MEAN?

A UH-HUH (INDICATES AN AFFIRMATIVE RESPONSE).

Q WHERE WOULD THEY HAVE THIS?

A ON THEIR WRISTS, AROUND THEIR HEAD, ARM, WHEREVER.

Q YOU SAID YOU KNEW PHILLIP LEE; IS THAT CORRECT?

A UH-HUH (INDICATES AN AFFIRMATIVE RESPONSE).

Q SHOWING YOU STATE'S EXHIBIT THIRTY-THREE, IDENTIFIED AS A BLUE BANDANNA TAKEN FROM THE CRIME SCENE, WOULD YOU EVER SEE PHILLIP WEARING ---

A UH-HUH (INDICATES AN AFFIRMATIVE RESPONSE).

Q --- WEARING THIS?

A UH-HUH (INDICATES AN AFFIRMATIVE RESPONSE).

Q SO IT WASN'T UNUSUAL TO SEE HIM WEARING A BLUE BANDANNA?

A NO.

Q HOW MANY DAYS, STARTING ON THE 8TH OR THE 9TH, DID YOU EVER SKIP A DAY OF NOT SEEING LUCIUS AND DUSHUN STATEN IN THE PARKING LOT OF HASKILL STREET DORM?

A NO.

Q WHEN YOU FIRST SAW THEM, EITHER ON THE 8TH OR THE 9TH, DID YOU RECOGNIZE THAT THEY WEREN'T STUDENTS?

A YES, 'CAUSE I AIN'T NEVER SEEN THEM BEFORE.

Q NOW PRIOR TO THAT FRIDAY EVENING, HAD YOU EVER HAD

ANY KIND OF CONVERSATION OR BEEN UP CLOSE, MAYBE HAD ANY CONVERSATION WITH ANYBODY, OR DID YOU JUST SEE THEM HANGING OUT THERE IN THE PARKING LOT?

A I JUST SAW THEM HANGING OUT IN THE PARKING LOT.

Q WELL LET'S TALK ABOUT THAT FRIDAY NIGHT. YOU SAID YOU SAW THE TWO OF THEM GETTING IN AN ARGUMENT WITH PHIL THAT FRIDAY NIGHT; IS THAT CORRECT?

A YES.

Q NOW YOU WEREN'T THERE ON SATURDAY NIGHT WHEN ANYTHING WAS HAPPENING IN THAT PARKING LOT, WERE YOU?

A NO. I CAN'T RECOLLECT THAT.

Q OKAY. AND WHEN YOU SAY "HAVING WORDS," WHAT YOU MEAN BY THAT?

A REALLY ARGUING ABOUT THE COLORS THEY WAS WEARING, THE RED AND BLUE, AND THEY WAS GOING BACK AND FORTH ABOUT THAT.

Q AND WHO WAS DOING THE ARGUING?

A DUSHUN AND PHIL.

Q NOW I WANT TO JUMP OVER TO MONDAY EVENING. PHYSICALLY, WHERE WERE YOU PHYSICALLY WHEN PHILLIP LEE WAS SHOT AND KILLED? HOW CLOSE WERE YOU TO HIM?

A TWO -- TWO, THREE FEET.

Q AS CLOSE AS I AM TO YOU RIGHT NOW?

A UH-HUH (INDICATES AN AFFIRMATIVE RESPONSE).

Q SO YOU WERE ACTUALLY THERE, STANDING NEAR PHILLIP

WHEN HE WAS SHOT?

A UH-HUH (INDICATES AN AFFIRMATIVE RESPONSE).

Q LET'S TALK ABOUT A LITTLE BIT BEFORE HIM GETTING SHOT. WHAT DID YOU DO THAT MONDAY, MARTIN LUTHER KING DAY, THAT MONDAY WHEN YOU DIDN'T HAVE SCHOOL?

A I WAS JUST CHILLIN' AROUND HASKILL THE WHOLE DAY, MAINLY IN THE ROOM.

Q WHEN DID YOU FIRST COME INTO CONTACT WITH PHILLIP?

A HE CAME TO GET A HAIRCUT THAT DAY, THAT NIGHT, RATHER.

Q AND WHERE DID HE GO TO GET HIS HAIRCUT?

A IN MY ROOM TO GET A HAIRCUT FROM LO.

Q AND LO IS SHULER, LO SHULER?

A ALONZO, YES.

Q OKAY. WERE YOU ACTUALLY IN THE ROOM WHEN HE GOT HIS HAIRCUT?

A UH-HUH (INDICATES AN AFFIRMATIVE RESPONSE).

Q AND THEN AFTER HE GOT HIS HAIRCUT, WHAT DID YOU DO?

A I STAYED IN THE ROOM FOR AWHILE. THEN HIM AND TONY LEFT. AND THEN IT LOOKED LIKE PROBABLY LIKE A MINUTE AFTER THEY LEFT, I LEFT TO GO OUTSIDE TO HANG OUT. THEN I CAME OUT AND THEY WAS AT THE TOP OF THE HILL ARGUING WITH THOSE GUYS.

Q AND WHAT DID YOU DO WHEN YOU SAW PHILLIP ARGUING WITH -- WHEN YOU SAY "THOSE GUYS," WHO ARE YOU TALKING

ABOUT?

A DUSHUN AND HIS FRIENDS.

Q WHAT DID YOU DO WHEN YOU SAW PHILLIP ARGUING WITH DUSHUN AND HIS FRIENDS?

A I WALKED UP TO THE SCENE TO SEE WHAT WAS GOING ON.

Q IS THAT HOW YOU GOT SO CLOSE TO HIM?

A UH-HUH (INDICATES AN AFFIRMATIVE RESPONSE).

Q AND WHAT HAPPENED THEN?

A THEY CONTINUE ARGUING BACK AND FORTH ABOUT THE SITUATION THAT WAS GOING ON. AND THEN ---

Q LET ME ASK YOU SOMETHING REAL QUICK. I DON'T WANT TO INTERRUPT YOU BUT ---

A UH-HUH (INDICATES AN AFFIRMATIVE RESPONSE).

Q --- ANOTHER QUESTION I NEED TO ASK YOU BEFORE YOU CONTINUE.

WHEN YOU SAW DUSHUN AND HIS FRIENDS, WERE THEY HANGING OUT NEAR A CAR?

A UH-HUH (INDICATES AN AFFIRMATIVE RESPONSE).

Q WHAT TYPE OF CAR?

A A GALANT AND A LITTLE -- A SMALL WHITE CAR, A LITTLE WHITE CAR.

Q THE GREEN GALANT, DO YOU REMEMBER WHAT KIND OF TAGS IT HAD ON IT?

A A. AND K. TAGS.

Q I'M SHOWING YOU STATE'S EXHIBIT NUMBER FORTY IN

EVIDENCE. DO YOU RECOGNIZE THAT GREEN GALANT RIGHT THERE?

A UH-HUH (INDICATES AN AFFIRMATIVE RESPONSE).

Q IS THAT THE CAR YOU'RE TALKING ABOUT?

A UH-HUH (INDICATES AN AFFIRMATIVE RESPONSE).

Q YOU SAID IT HAD A. AND K. PAPER TAGS ON IT?

A YES.

Q DID YOU TELL THAT TO THE POLICE EARLY ON, WHEN YOU GAVE YOUR STATEMENT TOO?

A UH-HUH (INDICATES AN AFFIRMATIVE RESPONSE).

Q I WANT TO SHOW YOU THIS. DO YOU RECOGNIZE THAT?

A UH-HUH (INDICATES AN AFFIRMATIVE RESPONSE).

Q IS THAT THE TAG THAT YOU THINK YOU SAW?

A UH-HUH (INDICATES AN AFFIRMATIVE RESPONSE).

MR. GASSER: WE'D MARK THIS FOR IDENTIFICATION PURPOSES AT THIS TIME.

MR. TAYLOR: NO OBJECTION FROM DUSHUN STATEN.

MR. STRICKLER: AND CAN I SEE IT ALSO?

EXCUSE ME, YOUR HONOR. NOTHING FROM LUCIUS STATEN.

(STATE'S EXHIBIT NUMBER FORTY-ONE, A PAPER AUTOMOBILE TAG MARKED A. AND K., IS NOW MARKED FOR IDENTIFICATION WITHOUT OBJECTION.)

Q SO WHEN YOU FIRST WALKED OUTSIDE AND HEARD THE ARGUMENT, WHO WAS HANGING OUT BY THAT GREEN -- THIS GREEN GALANT WITH THIS A. AND K. PAPER TAGS ON IT? WHO WAS

HANGING OUT THERE?

A DUSHUN AND A COUPLE MORE OF HIS FRIENDS.

Q DID YOU SEE THEM WEARING ANYTHING?

A YEAH. DUSHUN WAS WEARING HIS YELLOW JACKET, AVERIX JACKET, AND HIS OTHER FRIENDS HAD ON A BLACK -- ONE OF HIS FRIENDS HAD A BLACK NORTHFACE JACKET, ONE HIS OTHER FRIENDS HAD ON SOME RED BANDANNAS WITH CAPS.

Q I WANT TO SHOW YOU WHAT'S MARKED STATE'S EXHIBIT SEVENTEEN. DO YOU RECOGNIZE THIS COAT?

A UH-HUH (INDICATES AN AFFIRMATIVE RESPONSE).

Q HOW DO YOU RECOGNIZE THIS COAT?

A THAT'S DUSHUN'S COAT.

Q WHEN YOU SAW HIM OUT THERE, IS THIS THE COAT YOU SAW HIM IN THAT NIGHT?

A UH-HUH (INDICATES AN AFFIRMATIVE RESPONSE).

Q ON MONDAY NIGHT, JANUARY THE 15TH, THE NIGHT PHILLIP WAS KILLED, IS THAT THE ONLY TIME YOU SAW DUSHUN STATEN WEARING THIS YELLOW AVERIX JACKET?

A NO.

Q ABOUT HOW MANY OTHER TIMES DID YOU SEE HIM WHEN HE WAS IN THAT PARKING LOT?

A THREE OR FOUR OTHER TIMES.

Q WEARING THIS COAT?

A UH-HUH (INDICATES AN AFFIRMATIVE RESPONSE).

Q WAS THERE ANYONE ELSE OUT THERE, OF THE PEOPLE THAT

HE WAS WITH, ANYONE ELSE OUT THERE THAT WAS WEARING BRIGHT COLORED ANYTHING?

A NO.

Q SO THE ONLY PERSON WEARING A BRIGHT COLORED COAT OR SHIRT WAS WHOM?

A DUSHUN.

Q NOW WHEN YOU WALKED UP ON PHIL, WHY DID YOU GO UP THERE?

A BECAUSE THEY WAS FRIENDS OF MINE, HAD TO GO BAIL THEM OUT IF ANYTHING WAS TO OCCUR.

Q OR STICK UP FOR YOUR FRIEND?

A BASICALLY.

Q SO YOU WALKED UP THERE?

A UH-HUH (INDICATES AN AFFIRMATIVE RESPONSE).

Q DO YOU KNOW WHERE TONY KENNEDY WAS AT THAT TIME?

A HE WAS UP THERE WITH PHIL.

Q SO WHEN YOU SAW TONY KENNEDY AND PHIL HAVING WORDS WITH DUSHUN STATEN AND FOUR OR FIVE OF HIS FRIENDS, YOU WANTED TO DO WHAT?

MR. STRICKLER: YOUR HONOR, I HAVE TO OBJECT TO THAT. I'VE HEARD "A COUPLE OF HIS FRIENDS," I HAVEN'T HEARD "FOUR OR FIVE."

MR. GASSER: I'M SORRY.

Q HOW MANY, APPROXIMATELY HOW MANY WERE THERE?

A FIVE, SIX, SEVEN.

MR. STRICKLER: AND NOW I'VE HEARD.

Q AND WHEN YOU SAW FIVE OR SIX OR SEVEN OF PEOPLE WITH DUSHUN ---

A UH-HUH (INDICATES AN AFFIRMATIVE RESPONSE).

Q --- OR TOTAL PEOPLE, HAVING WORDS WITH PHILLIP AND TONY KENNEDY, WHAT DID YOU WANT TO DO?

A WANTED TO SEE WHAT WAS GOING ON.

Q NOW WHEN YOU WALKED UP THERE, DID ANYBODY ELSE ARRIVE?

A LUCIUS ABOUT PROBABLY LIKE FIVE MINUTES AFTER I WAS UP THERE.

Q HOW DID HE GET THERE?

A I THINK HE GOT OUT OF THE WHITE -- THE WHITE CAR. HE WAS ALREADY PROBABLY SITTING IN THE CAR ALREADY. IT DIDN'T PULL UP, IT WAS ALREADY SITTING THERE.

Q WHEN YOU SAY THE "WHITE CAR," I'LL SHOW YOU WHAT'S MARKED STATE'S EXHIBIT FORTY, AGAIN, DO YOU RECOGNIZE THE PHOTOGRAPH OF THE CAR, OTHER THAN THE GREEN GALANT?

A THE LITTLE WHITE CAR.

Q OKAY. IS THAT THE CAR YOU'RE TALKING ABOUT?

A UH-HUH (INDICATES AN AFFIRMATIVE RESPONSE).

Q WHAT DID YOU SEE LUCIUS DO WHEN HE JUMPED OUT OF THAT WHITE CAR?

A HE CAME UP AND STARTED QUESTIONING WHAT WAS GOING ON ABOUT THE SITUATION.

Q NOW WHEN YOU FIRST GOT UP THERE, OF THE FOUR, FIVE, SIX, SEVEN THAT YOU MENTIONED, WHO SPECIFICALLY WAS PHILLIP ARGUING WITH?

A HE WAS ARGUING WITH THE GUY WITH THE BLACK NORTHFACE JACKET.

Q BLACK NORTHFACE JACKET?

A UH-HUH (INDICATES AN AFFIRMATIVE RESPONSE).

Q OKAY. NEITHER ONE OF THESE TWO GENTLEMEN -- SO THE RECORD IS COMPLETE -- NEITHER ONE OF THESE TWO GENTLEMEN WERE WEARING A BLACK NORTHFACE JACKET?

A NO.

Q OKAY. BECAUSE YOU'VE ALREADY DESCRIBED WHAT DUSHUN WAS WEARING?

A UH-HUH (INDICATES AN AFFIRMATIVE RESPONSE).

Q NOW WHEN LUCIUS GOT THERE, WHAT HAPPENED BETWEEN LUCIUS AND PHILLIP?

A HIM AND PHILLIP HAD WORDS TOGETHER AGAINST EACH OTHER, ARGUING, WHATEVER.

Q NOW WHAT DO YOU MEAN? EXPLAIN TO US, RASHON, "HAD WORDS, ARGUING"?

A THEY WAS BICKERING ABOUT THE SITUATION, TRYING TO RESOLVE, I GUESS TRYING TO RESOLVE THE PROBLEM. AND THEN I GUESS IT CAME TO A CONCLUSION SAYING, "Y'ALL GO ABOUT Y'ALL BUSINESS, WE'LL GO ABOUT OUR BUSINESS." AND THEN WE PROCEEDED TO DO SO.

AND PHIL STATED THAT, "Y'ALL NIGGERS KILL ME."

AND THEN SOMEBODY ON THEY SIDE I HEARD SAY, "YEAH, WE'LL KILL YOU ALL RIGHT."

AND THEN I TURNT (SIC) AROUND, TWO SHOTS RANG. AND I SCATTERED.

Q SO WHO WAS ACTUALLY -- AT THE POINT PHILLIP MADE THAT COMMENT YOU JUST DESCRIBED TO THE JURY, WHO WERE THE PEOPLE THAT WERE THERE CLOSE TO PHILLIP ARGUING WITH HIM AT THAT TIME?

A LUCIUS AND THE GUY WITH THE BLACK NORTHFACE. DUSHUN WAS THERE BUT HE WAS PLAYING A LITTLE BIT TO THE BACK.

Q OKAY. NOW I TELL YOU WHAT, WHY DON'T YOU JUST STEP DOWN JUST BRIEFLY?

(THE WITNESS NOW LEAVES THE WITNESS STAND.)

WHY DON'T YOU COME STAND OVER HERE, RASHON? HOLD ON A SECOND.

DO YOU RECOGNIZE STATE'S EXHIBIT THIRTY-ONE? WHAT IS THIS?

A HASKILL DORM.

Q OKAY, NOW YOU'RE GOING TO NEED TO SPEAK UP SO THE COURT REPORTER CAN GET YOU, OKAY? YOU NEED TO STAND OVER THERE AND USE THE POINTER BECAUSE THERE ARE SOME JURORS BACK THERE IN THE CORNER, OKAY? STEP BACK JUST A LITTLE BIT, RASHON. THANK YOU.

NOW WHEN YOU FIRST INDICATED THAT WHEN YOU CAME OUT YOU WERE KIND OF HANGING OUT BEFORE WALKING OUT. WHERE WERE YOU WHEN YOU FIRST CAME OUT OF HASKILL STREET DORM?

A I WAS HANGING OUT AROUND THIS AREA BY THE LIGHT POLE.

Q AND WHERE WAS -- SHOWING YOU STATE'S EXHIBIT -- I'M SORRY, DEFENSE EXHIBIT TWO, CAN YOU SEE THIS LIGHT POLE WITH A LOT OF ITEMS AROUND IT, THE BLOOD RIGHT THERE?

A UH-HUH (INDICATES AN AFFIRMATIVE RESPONSE).

Q OKAY. THE AIR CONDITIONING UNIT, WOULD YOU GO AHEAD AND IDENTIFY THAT ON THIRTY-ONE?

A (THE WITNESS COMPLIES.)

Q OKAY, THAT'S THE LIGHT POLE RIGHT THERE?

A UH-HUH (INDICATES AN AFFIRMATIVE RESPONSE).

Q SO WHEN YOU WALKED UP TO WHERE PHILLIP WAS, SHOW THE JURY, FIRST OF ALL ON THE DIAGRAM, STATE'S EXHIBIT THIRTY-ONE, WHERE YOU AND SOME OTHER OF YOUR FRIENDS AND TONY KENNEDY -- WHERE YOU, TONY KENNEDY AND PHILLIP WERE?

A WE WAS STANDING ON THE SIDEWALK IN THIS LITTLE GRASSY AREA.

Q OKAY. SO THAT'S ON STATE'S EXHIBIT THIRTY-ONE.

ON DEFENDANT'S EXHIBIT TWO, CHOOSING WHATEVER PHOTOGRAPH YOU WANT TO USE, GO AHEAD.

A RIGHT HERE, OR RIGHT HERE.

Q NOW DO YOU SEE THE PARKING LOT AREA RIGHT HERE?

A UH-HUH (INDICATES AN AFFIRMATIVE RESPONSE).
Q WHERE WAS THE GREEN GALANT PARKED?
A IT WAS JUST LIKE BY THE WHITE CAR.
Q OKAY. AND YOU HAVE NO IDEA WHERE THAT WHITE CAR IS NOW ---
A NO.
Q --- AFTER THE CRIME SCENE PEOPLE GOT HERE, DO YOU?
A NO.
Q OKAY. SO WHERE, WHEN YOU FIRST SAW -- WHEN YOU FIRST LOOKED UP THERE AND SAW DUSHUN STATEN HAVING WORDS WITH PHILLIP, WHERE WAS DUSHUN?
A HE WAS STANDING IN THIS AREA (INDICATING).
Q NOW WHEN YOU INDICATED THAT YOU WALKED UP THERE AND THEN LUCIUS STATEN GOT OUT OF THE CAR, SHOW THE JURY IN THIS MIDDLE PHOTOGRAPH HOW CLOSE LUCIUS STATEN CAME TO PHILLIP?
A HE WAS IN THE GRASS BY THIS TREE, LITTLE SMALL TREE.
Q SO WHEN YOU FIRST WALKED UP THERE, HOW CLOSE WERE YOU TO DUSHUN STATEN WEARING THIS YELLOW COAT? HOW CLOSE DID YOU GET TO DUSHUN?
A PROBABLY LIKE WHERE YOU'RE STANDING AT RIGHT NOW.
Q THIS CLOSE?
A UH-HUH (INDICATES AN AFFIRMATIVE RESPONSE).
Q DESCRIBE THE LIGHTING AREA TO THE JURY?

A IT WAS PRETTY LIT, BECAUSE THERE IS A LIGHT POLE RIGHT THERE, ENOUGH LIGHT RIGHT THERE, SUFFICIENT AMOUNT OF LIGHT.

Q WAS DUSHUN WEARING A MASK TO COVER HIS FACE?

A NO.

Q DID YOU HAVE ANY TROUBLE RECOGNIZING HIM FROM THE TIMES BEFORE?

A NO.

Q INCLUDING THAT FRIDAY NIGHT BEFORE?

A NO.

Q AND THEN WHEN LUCIUS CAME UP, HOW CLOSE DID YOU GET TO LUCIUS?

A HE WAS STANDING LIKE ME AND THIS GUY RIGHT HERE.

Q WAS LUCIUS WEARING A MASK ON HIS FACE?

A NO.

Q DID YOU HAVE ANY TROUBLE RECOGNIZING HIM AS THE PERSON YOU'D SEEN IN THE PARKING LOT THERE ALL WEEK BEFORE?

A NO.

(THE WITNESS NOW RETURNS TO THE WITNESS STAND.)

Q YOU HAD PREVIOUSLY DESCRIBED TO THE JURY, RASHON, THAT YOU WERE LOOKING AT PHILLIP AND HEARD HIM SAY THOSE THINGS, BECAUSE YOU SAID HE TURNED AROUND. WAS THAT YOUR TESTIMONY?

A UH-HUH (INDICATES AN AFFIRMATIVE RESPONSE).

Q OKAY. SO RIGHT WHEN THE SHOTS RANG OUT, YOUR EYESIGHT, YOUR FOCUS, WAS ON WHOM?

A WHEN THE SHOTS RANG OUT I WAS TURNING TOWARDS MY LEFT.

Q SO YOU DIDN'T SEE WHO ACTUALLY SHOT HIM?

A NO.

Q JUST A FEW MORE QUESTIONS, RASHON.

HAD YOU EVER SEEN THAT GUY WITH THE BLACK NORTHFACE JACKET BEFORE?

A NO.

Q SO ALL THE PREVIOUS WEEK, WHEN YOU PREVIOUSLY TESTIFIED TO THE JURY THAT YOU SAW PHILLIP OR THAT YOU SAW DUSHUN AND LUCIUS STATEN OUT THERE THAT PREVIOUS WEEK AND THAT FRIDAY NIGHT, YOU'D NEVER SEEN THE GUY WITH THE BLACK NORTHFACE?

A NO.

Q NOW, RASHON, AFTER THIS INCIDENT, DID YOU HAVE AN OPPORTUNITY THREE DAYS AFTER THIS INCIDENT TO GO TO THE COLUMBIA POLICE DEPARTMENT AND MEET WITH INVESTIGATOR MEAD?

A YES.

Q DID YOU PROVIDE A WRITTEN STATEMENT?

A UH-HUH (INDICATES AN AFFIRMATIVE RESPONSE).

Q DID YOU AT THAT TIME -- DID INVESTIGATOR MEAD SHOW YOU TWO PHOTO LINEUPS?

A YES.
Q OKAY, I WANT TO SHOW YOU WHAT'S MARKED STATE'S EXHIBIT NUMBER NINE FOR I.D. WERE YOU SHOWN THESE 12 PHOTOGRAPHS IN EXACTLY THE SAME FORMAT THAT THEY ARE NOW?
A YES.
Q OKAY. WERE YOU ASKED TO SEE IF YOU COULD IDENTIFY ANYBODY?
A UH-HUH (INDICATES AN AFFIRMATIVE RESPONSE).
Q AND WERE YOU ABLE TO IDENTIFY ANYBODY?
A YES, NUMBER FIVE, LUCIUS.
Q LUCIUS STATEN?
A UH-HUH (INDICATES AN AFFIRMATIVE RESPONSE).
Q NOW YOU WEREN'T ASK TO SIGN ANY KIND OF FORM ON THAT NIGHT, WERE YOU?
A NO.
Q DID ANYBODY SUGGEST TO YOU AT THAT TIME ON JANUARY THE 18TH, THREE DAYS AFTER THIS INCIDENT, WHEN YOU GAVE YOUR STATEMENT AND WERE SHOWN THIS PHOTO LINEUP, DID ANYBODY SUGGEST TO YOU TO PICK OUT ANYONE?
A NO.
Q BUT YOU RECOGNIZE NUMBER FIVE AS BEING WHOM?
A LUCIUS.
Q IS THIS THE FIRST TIME YOU EVER SAW HIM, LOOKING AT THESE PHOTOGRAPHS?
A NO.

Q AND THIS IS THE LINEUP YOU SAW?
A UH-HUH (INDICATES AN AFFIRMATIVE RESPONSE).
Q AND STATE'S EXHIBIT TEN, DO YOU REMEMBER BEING SHOWN STATE'S EXHIBIT TEN?
A UH-HUH (INDICATES AN AFFIRMATIVE RESPONSE).
Q AND DID YOU IDENTIFY ANYBODY?
A YES, NUMBER SIX.
Q OKAY, NUMBER SIX. NOW WE NOW KNOW HIS NAME TO BE MO SANDERS; RIGHT?
A UH-HUH (INDICATES AN AFFIRMATIVE RESPONSE).
Q MAURICE SANDERS?
A UH-HUH (INDICATES AN AFFIRMATIVE RESPONSE).
Q WERE YOU ASKED TO SIGN ANY FORM INDICTING THAT YOU, ON JANUARY THE 18TH, YOU PICKED OUT NUMBER SIX?
A NO.
Q WERE YOU SHOWN ---
MR. TAYLOR: THAT'S ALL RIGHT. WHAT WAS THE WITNESS'S ANSWER TO THAT QUESTION?
MR. GASSER: "NO."
MR. TAYLOR: OKAY, THANK YOU.
Q WERE YOU SHOWN -- WERE YOU, RASHON, WERE THESE THE ONLY TWO PHOTO LINEUPS YOU WERE SHOWN THAT DAY?
A UH-HUH (INDICATES AN AFFIRMATIVE RESPONSE).
Q NOW HAD YOU SEEN THIS INDIVIDUAL, NUMBER SIX, YOU SAW HIM ONCE BEFORE, HADN'T YOU?

A UH-HUH (INDICATES AN AFFIRMATIVE RESPONSE).
Q AND WHAT NIGHT DID YOU SEE MO SANDERS, NUMBER SIX?
A I SAW HIM TWICE, REALLY, FRIDAY NIGHT AND MONDAY NIGHT.
Q OKAY. SO YOU SAW HIM -- THE FRIDAY NIGHT INCIDENT I'M NOT GOING TO GET BACK INTO, BUT THE FRIDAY NIGHT INCIDENT YOU'VE PREVIOUSLY DESCRIBED TO THE JURY, HE WAS THERE IN THE PARKING LOT?
A UH-HUH (INDICATES AN AFFIRMATIVE RESPONSE).
Q WITH WHOM?
A WITH DUSHUN AND LUCIUS AND THE OTHER GUYS.
Q AND DID YOU SEE HIM OUT THERE -- WHEN YOU IDENTIFIED HIM ON JANUARY THE 18TH, DID YOU TELL INVESTIGATOR MEAD THAT HE WAS AT LEAST OUT THERE WITH DUSHUN AND LUCIUS THE NIGHT PHILLIP WAS KILLED?
A UH-HUH (INDICATES AN AFFIRMATIVE RESPONSE).
Q WAS HE THE SHOOTER?
A NO.
Q BUT YOU HAD SEEN HIM BEFORE; RIGHT?
A UH-HUH (INDICATES AN AFFIRMATIVE RESPONSE).
MR. GASSER: WE'D GO AHEAD AND MOVE NINE AND TEN INTO EVIDENCE AT THIS TIME, YOUR HONOR.
MR. STRICKLER: WITHOUT OBJECTION, YOUR HONOR.
MR. TAYLOR: NO OBJECTION.
THE COURT: ALL RIGHT, THEY'RE IN.

(**STATE'S EXHIBIT NUMBER NINE**, AND **STATE'S EXHIBIT NUMBER TEN**, ARE NOW REMARKED AND ENTERED INTO EVIDENCE WITHOUT OBJECTION.)

Q NOW YOU PREVIOUSLY DESCRIBED THE ROLES THAT LUCIUS STATEN, DUSHUN STATEN AND THE GUY IN THE BLACK NORTHFACE JACKET PLAYED THE EVENING PHIL WAS SHOT WHEN YOU WERE STANDING THERE?

A UH-HUH (INDICATES AN AFFIRMATIVE RESPONSE).

Q AND I'M NOT GOING TO ASK YOU ABOUT THAT.

WHAT KIND OF ROLE DID MAURICE SANDERS, THE GUY YOU SAW FRIDAY NIGHT AND AGAIN MONDAY NIGHT, THAT YOU IDENTIFIED, WHAT KIND OF ROLE DID HE PLAY IN THIS?

A REALLY NO ROLE. HE JUST PLAYED THE BACK SCENE, HE WAS JUST IN THE BACK, JUST WATCHING.

Q BUT WHO WAS HE WITH THOUGH? WHAT SIDE WAS HE WITH? YOUR PEOPLE OR ---

A HE WAS WITH THEY PEOPLE.

Q OKAY.

BEG THE COURT'S INDULGENCE.

(PAUSE.)

HOW MANY PEOPLE DID YOU SEE WEARING A BLACK NORTHFACE JACKET THAT NIGHT?

A ONE.

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

THE COURT: ALL RIGHT, WHY DON'T WE TAKE A LITTLE

TEN-MINUTE BREAK BEFORE WE GET CROSS-EXAMINATION BECAUSE WE'RE GETTING TOWARD THE LATE HOUR.

SO IF YOU'D GO TO YOUR JURY ROOM; PLEASE DON'T DISCUSS THE CASE AMONG YOURSELVES. WE'LL GIVE YOU SOME REFRESHMENTS AND THEN WE'LL COME BACK.

(JURY OUT AT 3:45 P.M.)

ALL RIGHT, YOU CAN COME DOWN.

(THE WITNESS NOW LEAVES THE WITNESS STAND.)

LET'S STAND DOWN FOR ABOUT TEN OR FIFTEEN MINUTES, THEN WE'LL COME BACK.

DO Y'ALL WANT TO GO TO ABOUT FIVE-THIRTY TODAY SO WE CAN GET THIS CASE OVER WITH?

(COURT IS NOW IN RECESS.)

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

THE COURT: THANK YOU. PLEASE BE SEATED.

MR. GASSER: YOUR HONOR, FOR THE RECORD I NOTE THAT I RESTED MY DIRECT EXAMINATION BUT THE CROSS-EXAMINATION HASN'T OCCURRED YET AND I FORGOT TO DO ONE THING WITH THIS DEFENDANT (SIC) AND I'D JUST LIKE TO REOPEN.

THE COURT: OKAY.

ALL RIGHT, BRING THE JURY BACK IN, PLEASE.

(JURY IN AT 4:05 P.M.)

THE BAILIFF: THE JURY IS PRESENT, YOUR HONOR.

THE COURT: THANK YOU.

ALL RIGHT, MR. GASSER.

MR. GASSER: THANK YOU, YOUR HONOR. ONE OTHER MATTER; I APOLOGIZE.

(MR. LOGGINS NOW RETURNS TO THE WITNESS STAND.)

DIRECT EXAMINATION BY MR. GASSER (CONTINUED):

Q THE LAST AREA OF QUESTIONING THAT I WAS ASKING YOU ABOUT, RASHON, IF YOU RECALL BEFORE THE BREAK, WAS WHEN YOU WERE AT THE POLICE STATION WITH INVESTIGATOR MEAD THREE DAYS AFTER THE INCIDENT ON JANUARY 18TH. REMEMBER THAT LINE OF QUESTIONING?

A UH-HUH (INDICATES AN AFFIRMATIVE RESPONSE).

Q YOU HAD ALREADY INDICATED YOU WERE SHOWN TWO PHOTO LINEUPS THEN?

A YES.

Q DID YOU ALSO ATTEND THE FUNERAL IN NEW JERSEY?

A UH-HUH (INDICATES AN AFFIRMATIVE RESPONSE).

Q WHEN YOU GOT BACK FROM NEW JERSEY AFTER THE FUNERAL, DID YOU HAVE AN OPPORTUNITY ON JANUARY THE 26TH TO GO AND SEE INVESTIGATOR MEAD AGAIN AT THE COLUMBIA POLICE DEPARTMENT?

A YES.

Q AND I SHOW YOU WHAT'S BEEN MARKED STATE'S EXHIBIT ELEVEN, ALREADY IN EVIDENCE. DID INVESTIGATOR MEAD SHOW YOU THIS GROUP OF SIX PHOTOGRAPHS?

A YES.
Q WERE YOU ABLE TO IDENTIFY ONE OF THE INDIVIDUALS THAT WAS INVOLVED IN THIS INCIDENT?
A YES.
Q AND WHO WAS THAT?
A DUSHUN.
Q AND WHAT NUMBER WAS HE?
A TWO.
Q NUMBER TWO RIGHT THERE?
A UH-HUH (INDICATES AN AFFIRMATIVE RESPONSE).
Q DOES MY FINGER POINT ON HIM?
A UH-HUH (INDICATES AN AFFIRMATIVE RESPONSE).
Q OKAY. AND IS HE IN THE COURTROOM HERE TODAY?
A YES.
Q WOULD YOU IDENTIFY HIM, PLEASE?
A THAT GENTLEMAN SITTING RIGHT THERE.
Q AND YOU PREVIOUSLY INDICATED YOU PICKED OUT LUCIUS, AS WELL; IS THAT CORRECT?
A YES.
Q AND FOR THE RECORD, IS HE IN THE COURTROOM?
A YES.
Q WOULD YOU POINT HIM OUT FOR THE JURY, PLEASE?
A TO MY LEFT.
Q AND ON THE 26TH, WHEN YOU IDENTIFIED DUSHUN -- SHOWING YOU STATE'S EXHIBIT TWENTY-THREE FOR I.D. -- AT

THAT TIME DID INVESTIGATOR MEAD GET YOU TO SIGN A DOCUMENT INDICATING THAT YOU PICKED OUT NUMBER TWO ---

A YES.

Q --- FROM THIS PHOTO LINEUP?

A YES.

MR. GASSER: YOUR HONOR, WE WOULD MOVE STATE'S EXHIBIT TWENTY-THREE INTO EVIDENCE AT THIS TIME.

MR. TAYLOR: I HAVE THE SAME OBJECTION AS BEFORE, YOUR HONOR. THAT'S THE AFFIDAVIT OF IDENTIFICATION.

THE COURT: OKAY. I THINK ALL OF THAT HAS BEEN PRETTY MUCH GONE OVER NOW.

(**STATE'S EXHIBIT NUMBER TWENTY-THREE**, IS NOW REMARKED AND ENTERED INTO EVIDENCE OVER OBJECTION.)

MR. GASSER: THANK YOU, YOUR HONOR. THAT'S ALL WE WOULD HAVE.

THE COURT: ALL RIGHT, MR. STRICKLER.

MR. STRICKLER: PLEASE THE COURT.

CROSS-EXAMINATION BY MR. STRICKLER:

Q GOOD AFTERNOON, MR. LOGGINS.

A GOOD AFTERNOON.

Q YOU'RE FROM NORTH, NEW JERSEY; IS THAT CORRECT?

A NEWARK, NEW JERSEY.

Q NEWARK, NEW JERSEY; I'M SORRY. NEWARK, NEW JERSEY. AND PHIL WAS FROM NEW JERSEY; RIGHT?

A UH-HUH (INDICATES AN AFFIRMATIVE RESPONSE).

Q AND YOU MENTIONED GETTING YOUR -- COMING INTO CONTACT WITH MR. LEE ON THAT MONDAY BECAUSE HE WAS IN YOUR ROOM GETTING HIS HAIRCUT?

A YES.

Q AND WHO WAS DOING THE HAIRCUTTING? WAS THAT ALONZO?

A ALONZO.

Q IS HE KNOWN AS LO OR LoLo?

A LoLo.

Q LoLo. AND WHERE IS LoLo?

A HE'S FROM NEWARK, NEW JERSEY, BUT HIS RESIDENCE IS IN SOUTH CAROLINA, SAINT MATTHEWS, SOUTH CAROLINA.

Q AND AS I UNDERSTAND IT, YOU HAD SOME CONTACT OR SEEN SOME CONTACT ON THE FRIDAY PRECEDING; CORRECT?

A YES.

Q AND THAT CONTACT HAD BEEN, WHAT YOU DESCRIBED, AS THE TOP OF THE HILL?

A YES.

Q REFERRING TO STATE'S THIRTY-ONE, IS THE TOP OF THE HILL TOWARDS THIS DIRECTION IN THE PARKING LOT?

A YES.

Q I WANT TO MAKE SURE I UNDERSTAND YOU CORRECTLY.

AND AT THAT POINT IN TIME, OR I GUESS OVER A PERIOD OF TIME YOU SAW DUSHUN AND FRIENDS OF DUSHUN YOU SAY THEY HAD RED BANDANNAS; IS THAT CORRECT?

A YES.
Q AND YOU ALSO SAY THAT YOU NEVER SAW LUCIUS WEARING A RED BANDANNA?
A NO.
Q OKAY. NO, YOU NEVER SAW HIM WEARING A RED BANDANNA?
A NO.
Q NOW ON MONDAY YOU'RE IN A ROOM, LoLo CUT PHIL'S HAIR?
A UH-HUH (INDICATES AN AFFIRMATIVE RESPONSE).
Q PHIL LEAVES FROM THE ROOM?
A YES.
Q AND, WHAT, A FEW MINUTES LATER YOU LEAVE?
A UH-HUH (INDICATES AN AFFIRMATIVE RESPONSE).
Q OKAY. AND IT'S AT THAT POINT IN TIME THAT WHEN YOU EXIT THE DORMITORY YOU SEE ANOTHER ARGUMENT GOING ON?
A YES.
Q OKAY. AND DID YOU GO STRAIGHT UP THERE OR DID YOU COME OUT AND HANG AROUND A LITTLE WHILE?
A I CAME OUT AND HANG AROUND FOR A MINUTE.
Q OKAY. AND I BELIEVE -- ONCE AGAIN REFERRING TO THE SAME STATE'S EXHIBIT THIRTY-ONE -- YOU COME OUT OF THE DORMITORY AND YOU'RE ROUGHLY OVER IN THIS AREA?
A YES, RIGHT IN THAT AREA.
Q JUST HANGING OUT?

A YES.
Q THIS IS WHAT TIME OF NIGHT, ROUGHLY? EIGHT-THIRTY? NINE O'CLOCK?
A EIGHT-THIRTY, NINE, NINE-THIRTY.
Q YOU THE ONLY PERSON HANGING OUT, OUT IN THAT AREA AT THIS POINT?
A NO.
Q SO IT'S A COMMON PLACE TO CONGREGATE OUTSIDE?
A YES.
Q OKAY. PEOPLE COME OUT AND SOCIALIZE AND TALK, THIS AND THAT?
A (WITNESS NODS HIS HEAD UP AND DOWN, INDICATING AN AFFIRMATIVE RESPONSE.)
Q ALL RIGHT. SO AFTER YOU'RE OUTSIDE FOR SOME PERIOD OF TIME, AND YOU WEREN'T TIMING IT, NOT CHECKING YOUR WATCH; RIGHT?
A NO.
Q YOU NOTICE DOWN THE WAY THAT THERE WAS ANOTHER ARGUMENT GOING ON; RIGHT?
A UH-HUH (INDICATES AN AFFIRMATIVE RESPONSE).
Q AND IF YOU COULD POINT ON THIS DIAGRAM ROUGHLY WHERE THAT WAS GOING ON?
A (THE WITNESS COMPLIES.)
Q RIGHT ABOUT THERE?
A UH-HUH (INDICATES AN AFFIRMATIVE RESPONSE).

Q OKAY. SO FROM WHERE YOU WERE STANDING, COULD YOU SEE PRECISELY WHO WAS INVOLVED IN THAT ARGUMENT AT THAT POINT IN TIME?

A JUST FROM WHERE I -- FROM AT THE BOTTOM OF THE HILL?

Q YEAH. IN THE AREA IN FRONT OF THE DORM WHERE YOU WERE HANGING OUT AND YOU FIRST SAW?

A YES.

Q YOU COULD?

A UH-HUH (INDICATES AN AFFIRMATIVE RESPONSE).

Q COULD YOU SEE MR. LEE? HE WAS TALL; RIGHT?

A UH-HUH (INDICATES AN AFFIRMATIVE RESPONSE).

Q KIND OF STAND OUT IN THE CROWD?

A YES.

Q ALL RIGHT. NOW HE WAS ARGUING WITH HOW MANY INDIVIDUALS AT THAT POINT?

A PROBABLY FIVE OR SIX PEOPLE.

Q ROUGHLY FIVE OR SIX?

A UH-HUH (INDICATES AN AFFIRMATIVE RESPONSE).

Q OKAY. WAS THERE ANYONE WITH MR. LEE AT THAT POINT?

A YES.

Q SO HE HAD SOME PEOPLE WITH HIM ON HIS SIDE DURING THE ARGUMENT; IS THAT RIGHT?

A YES.

Q OKAY. ROUGHLY HOW MANY PEOPLE WERE WITH HIM?

A ONLY TWO.
Q ONLY TWO AT THAT POINT?
A UH-HUH (INDICATES AN AFFIRMATIVE RESPONSE).
Q OKAY. SO AT THE POINT IN TIME WHEN YOU DECIDED YOU HAD BETTER GO DOWN THERE AND "GET HIS BACK," AS IT WERE ---
A YES.
Q --- DID I USE THE TERM CORRECTLY?
A UH-HUH (INDICATES AN AFFIRMATIVE RESPONSE).
Q ALL RIGHT. THERE WERE ABOUT TWO PEOPLE ON HIS SIDE OF THE ARGUMENT; RIGHT?
A YES.
Q AND DO YOU HAVE ANY IDEA HOW LONG THE ARGUMENT HAD BEEN GOING ON AT THAT POINT WHEN YOUR ATTENTION GOT ATTRACTED TO IT?
A ROUGHLY LIKE TEN MINUTES. IT COULDN'T HAVE LAST THAT LONG 'CAUSE I JUST CAME OUTSIDE, NO LONGER AFTER THEY CAME OUT.
Q OKAY. AND HOW LONG AFTER YOU WERE OUT WAS IT BEFORE YOU NOTICED THE ARGUMENT GOING?
A PROBABLY LIKE THREE MINUTES.
Q OKAY. AND SO VERY SHORTLY ---
A UH-HUH (INDICATES AN AFFIRMATIVE RESPONSE).
Q --- AFTER YOU GOT OUT OF THE DORM YOU NOTICED THE ARGUMENT. AND I ASSUME RIGHT AFTER YOU NOTICED IT, YOU

SAID, "WELL, THAT'S MY FRIEND, I'LL GO DOWN THERE"?

A YES.

Q AND IT DOESN'T TAKE BUT JUST FIFTEEN, TWENTY SECONDS; YOU DIDN'T RUN DOWN THERE, DID YOU?

A NO. I JUST WALKED UP.

Q WALKED UP, OKAY.

YOU GOT THERE AND AT THAT POINT IN TIME WHO OF THE PEOPLE THAT YOU TALKED ABOUT WAS ARGUING WITH MR. LEE? DO YOU KNOW?

A THE GUY IN THE BLACK NORTHFACE.

Q THE GUY IN THE BLACK JACKET?

A DUSHUN.

Q DUSHUN?

A AND PROBABLY LIKE TWO MORE OF HIS FRIENDS WAS ADD A LITTLE WORDS.

Q A COUPLE OTHER PEOPLE THERE?

A UH-HUH (INDICATES AN AFFIRMATIVE RESPONSE).

Q WAS MAURICE SANDERS THERE?

A HE WAS THERE BUT HE WAS JUST PLAYING THE BACK SCENE. HE DIDN'T SAY ANYTHING.

Q OKAY. NOW AND YOU NOTICED THE GREEN GALANT; IS THAT CORRECT?

A YES.

Q AND ONCE AGAIN REFERRING TO STATE'S THIRTY-ONE, THE ARGUMENT IS GOING ON ROUGHLY AROUND HERE (INDICATING);

RIGHT?

A YES.

Q WHERE IS THE GALANT PARKED? I'M NOT ASKING FOR AN EXACT PARKING PLACE, UNLESS YOU KNOW.

A IN THIS AREA.

Q IN THAT AREA, BETWEEN THIS MEDIAN HERE AND WHERE THE HANDICAP SPOT IS PLACED?

A YES.

Q OKAY. SO IT WAS ONE OF THOSE PARKING PLACES?

A UH-HUH (INDICATES AN AFFIRMATIVE RESPONSE).

Q AND WHEN THE ARGUMENT WAS GOING ON, AS I UNDERSTAND YOUR TESTIMONY AND PLEASE CORRECT ME IF I'M WRONG HERE, MR. LEE WAS ON THE SIDEWALK?

A UH-HUH (INDICATES AN AFFIRMATIVE RESPONSE).

Q OKAY. AND HE WAS ARGUING WITH DUSHUN?

A UH-HUH (INDICATES AN AFFIRMATIVE RESPONSE).

Q AND DUSHUN WAS IN THE GRASSY AREA THERE?

A YES.

Q BETWEEN THE SIDEWALK AND THE PARKING LOT?

A UH-HUH (INDICATES AN AFFIRMATIVE RESPONSE).

Q OKAY. AND THAT'S -- I THINK YOU REFERENCED THAT IN WHAT'S MARKED AS DEFENDANT'S TWO, THAT MR. LEE WAS STANDING ROUGHLY THERE, DUSHUN WAS STANDING OVER IN THIS AREA SOMEWHERE; IS THAT CORRECT? YOU CAN POINT OUT.

A IT'S ALMOST THIS AREA.

Q OKAY.
A AND MR. LEE WAS STANDING HERE SOMEWHERE.
Q OKAY, OKAY. SO HE WAS ON THIS SIDE OF THE SIDEWALK?
A UH-HUH (INDICATES AN AFFIRMATIVE RESPONSE).
Q GOTCHA. NOW AND THERE WERE A COUPLE THREE OTHER PEOPLE WITH DUSHUN WHILE THAT ARGUMENT WAS GOING ON; CORRECT?
A UH-HUH (INDICATES AN AFFIRMATIVE RESPONSE).
Q AND YOU'RE CLEAR THAT OF THOSE COUPLE THREE OTHER PEOPLE THAT WAS WITH DUSHUN WHEN THAT ARGUMENT WAS GOING ON ---
A UH-HUH (INDICATES AN AFFIRMATIVE RESPONSE).
Q --- LUCIUS WASN'T ONE OF THEM; RIGHT?
A HE WASN'T ONE OF THEM THEN.
Q OKAY. AND THAT ARGUMENT WENT ON FOR A FEW MINUTES?
A UH-HUH (INDICATES AN AFFIRMATIVE RESPONSE).
Q AND THEN LUCIUS SHOWED UP; RIGHT?
A YES.
Q OKAY. NOW YOU DIDN'T SEE EXACTLY WHERE LUCIUS CAME FROM WHEN HE SHOWED UP EITHER; RIGHT?
A NOT EXACTLY. HE CAME FROM BESIDE THE WHITE CAR.
Q OKAY. CAME FROM BESIDE THE WHITE CAR.
THE WHITE CAR WAS PARKED WHERE IN RELATION TO THE GREEN CAR?

A ON THE LEFT SIDE OF THE GREEN CAR, IN MY VISION. I MEAN, I'M STANDING IN FRONT, THE GREEN CAR IS ON MY RIGHT, AND THE WHITE CAR IS ON MY LEFT.

Q OKAY. THE GREEN CAR IS PARKED ROUGHLY RIGHT HERE?

A YES.

Q AND THE WHITE CAR UP HERE IN THIS DIRECTION OR BACK IN THAT DIRECTION (INDICATING)?

A BACK TOWARDS THE OTHER DIRECTION.

Q THIS WAY?

A YES.

Q OKAY. WAS THE CAR RIGHT NEXT TO IT OR IS THERE SOME SPACE BETWEEN IT AND THE GREEN CAR? OR DO YOU REMEMBER?

A MY VISION LOOKED -- LOOKED REALLY NEXT TO IT.

Q OKAY. NOW AT THE POINT IN TIME THAT YOU COME UP, I THINK YOU SAID THERE WAS THIS COUPLE PEOPLE WITH MR. LEE AT THAT POINT IN TIME?

A UH-HUH (INDICATES AN AFFIRMATIVE RESPONSE).

Q YOU COME UP; SOME OTHER FOLKS START COMING UP TOO?

A YES.

Q OKAY. AND THE ARGUMENT IS GOING ON STEADY AT THIS POINT; RIGHT?

A YES.

Q AND THIS IS A VERBAL ARGUMENT WE'RE TALKING ABOUT; RIGHT?

A UH-HUH (INDICATES AN AFFIRMATIVE RESPONSE).
Q AND IT GOES ON FOR ROUGHLY FIVE MINUTES BEFORE YOU'RE CONSCIOUS OF LUCIUS BEING THERE; RIGHT?
A UH-HUH (INDICATES AN AFFIRMATIVE RESPONSE).
Q OKAY. AND HE COMES UP FROM SOMEPLACE OUTSIDE THE ARGUMENT?
A UH-HUH (INDICATES AN AFFIRMATIVE RESPONSE).
Q OKAY. BY THIS POINT IN TIME -- AND I'M -- ROUGHLY, I MEAN, YOU AREN'T SITTING THERE COUNTING NOSES OR ANYTHING ---
A RIGHT.
Q --- ROUGHLY HOW MANY PEOPLE HAVE COME DOWN AND ARE IN THE AREA OF THE ARGUMENT?
A IN THE AREA OF THE ARGUMENT IT'S APPROXIMATELY LIKE TEN TO TWELVE PEOPLE.
Q TEN TO TWELVE PEOPLE?
A UH-HUH (INDICATES AN AFFIRMATIVE RESPONSE).
Q OKAY. AND YOU WERE STANDING NEXT TO MR. LEE?
A YES.
Q OKAY.
A ON THE LEFT SIDE ---
Q SIDE BY SIDE OR SIDE BY AND A LITTLE BACK?
A SIDE AND A LITTLE BACK.
Q SIDE AND A LITTLE BACK TO HIS LEFT SIDE?
A TO HIS LEFT SIDE.

Q OKAY. SO IF HE'S STANDING, AND HE WAS AT THIS POINT IN TIME STILL STANDING ON THE -- TOWARD THE EDGE OF THE SIDEWALK ---

A UH-HUH (INDICATES AN AFFIRMATIVE RESPONSE).

Q --- CLOSEST TO THE PARKING LOT; RIGHT?

A UH-HUH (INDICATES AN AFFIRMATIVE RESPONSE).

Q SO HE'S FACING THIS WAY ARGUING WITH SOME PEOPLE OVER HERE AND YOU'RE STANDING ROUGHLY BACK HERE (INDICATING) SOMEWHERE?

A ON THE LEFT, JUST ON THE TIP, JUST ON THE SIDE OF HIM.

Q HOW MANY FEET FROM HIM?

A PROBABLY LIKE TWO, THREE FEET.

Q COUPLE THREE FEET FROM HIM.

AND WHEN LUCIUS COMES UP, HE GETS INVOLVED IN THE ARGUMENT; RIGHT?

A YES.

Q THEN HE AND MR. LEE ARE ARGUING?

A UH-HUH (INDICATES AN AFFIRMATIVE RESPONSE).

Q AND THEN LUCIUS, IN ESSENCE, SAYS, "ENOUGH OF THIS. Y'ALL NEED TO GO AWAY. Y'ALL NEED TO GO GET IN THE CAR"?

A YES.

Q THAT'S WHAT HE SAID; RIGHT?

A YES.

Q I MEAN, IT MAY BE DISRESPECT TO MR. LEE AND Y'ALL

THAT Y'ALL NEEDED TO GO AWAY, BUT HE TURNED TO THE PEOPLE WITH HIM AND SAID, "Y'ALL NEED TO GO GET IN THE CAR"?

A YES.

Q RIGHT?

A UH-HUH (INDICATES AN AFFIRMATIVE RESPONSE).

Q TRIED TO QUASH THE SITUATION?

A YES.

Q IS THAT A FAIR CHARACTERIZATION?

A YES.

Q ALL RIGHT. AND YO, YOU GUYS, TURN TO LEAVE, AS I UNDERSTAND IT; IS THAT RIGHT?

A UH-HUH (INDICATES AN AFFIRMATIVE RESPONSE).

Q AND YOU HEAR SOME -- MR. LEE MAKES SOME KIND OF -- "Y'ALL JUST GOT TO KILL ME," AS HE'S TURNING?

A NO, HE DIDN'T SAY THAT.

Q WELL OKAY, I'M SORRY. WHAT DID HE SAY?

A HE SAID, "Y'ALL NIGGERS KILL ME."

Q OKAY. ALL RIGHT.

THE COURT: SAY THAT AGAIN?

MR. LOGGINS: "Y'ALL NIGGERS KILL ME."

Q OH, I'M SORRY. WELL, OKAY. "Y'ALL JUST NEED TO KILL ME," THAT'S HOW I'M GOING TO PHRASE IT, ALL RIGHT? I'M NOT AS COMFORTABLE USING THAT KIND OF LANGUAGE.

SO BUT HE'S SAYING THAT AS HE'S TURNING? I'M NOT TRYING TO PUT YOU ON THE SPOT OR ANYTHING LIKE THAT.

THAT'S NOT THE SUBJECT WE WERE TALKING ABOUT, OKAY.

IT'S BEING SAID AS HE'S TURNING TO LEAVE, JUST KIND OF A LAST COMMENT TO PEOPLE?

A YES.

Q OKAY. AND THEN SOME -- AND YOU'RE TURNING AT THAT POINT TOO?

A UH-HUH (INDICATES AN AFFIRMATIVE RESPONSE).

Q THEN SOMEONE SAYS, "YEAH, WE'LL KILL YOU"?

A UH-HUH (INDICATES AN AFFIRMATIVE RESPONSE).

Q YOU'VE GOT NO IDEA WHO MADE THAT COMMENT?

A NO. I DON'T KNOW WHO MADE THAT COMMENT.

Q OKAY. AT THE TIME THAT COMMENT IS MADE, YOU HADN'T SEEN A GUN; RIGHT?

A NO.

Q YOU NEVER SAW A GUN; RIGHT?

A NO.

Q OKAY. SO HE'S TURNING, HE MAKES THAT COMMENT JUST LIKE, "IT'S OVER BUT I'M GOING TO GET ONE LAST COMMENT IN." SOMEONE ON THE OTHER SIDE GETS ONE LAST COMMENT IN ALSO. AND THEN AS YOU'RE TURNING, THE SHOTS WERE FIRED; RIGHT?

A UH-HUH (INDICATES AN AFFIRMATIVE RESPONSE).

Q OKAY. AND THE LAST COMMENT YOU CAN ATTRIBUTE TO LUCIUS IS, "Y'ALL NEED TO GO. Y'ALL NEED TO GO GET IN THE CAR"; RIGHT?

A UH-HUH (INDICATES AN AFFIRMATIVE RESPONSE).
Q OKAY. YOU DIDN'T SEE WHO SHOT THE GUN?
A NO.
Q YOU NEVER SAW A GUN IN LUCIUS'S HAND?
A NO.
Q OKAY. YOU NEVER SAW HIM WEAR RED?
A NO.
Q AND YOU AGREE WITH MY CHARACTERIZATION THAT WHEN LUCIUS SAID WHAT YOU HEARD HIM SAY, "Y'ALL NEED TO GO. Y'ALL NEED TO GET IN THE CAR," HE WAS TRYING -- TO YOU -- TO QUASH THE SITUATION, JUST END IT; RIGHT?
A BASICALLY, YES.
Q THAT'S ALL I'VE GOT. THANK YOU.

THE COURT: ALL RIGHT, MR. TAYLOR.

MR. TAYLOR: THANK YOU VERY MUCH. MAY IT PLEASE THE COURT.

CROSS-EXAMINATION BY MR. TAYLOR:

Q GOOD AFTERNOON, MR. LOGGINS. HOW ARE YOU TODAY?
A ALL RIGHT.
Q GOOD.

YOU REMEMBER THAT YOU GAVE A WRITTEN STATEMENT TO A DETECTIVE IN THIS CASE?

A YES.
Q I WANT TO BE FAIR TO YOU SO I WANT YOU TO TAKE A LOOK AT THE STATEMENT RIGHT NOW, PLEASE, SIR.

(PAUSE.)

HAVE YOU READ THE STATEMENT NOW, SIR?

A YES.

Q IS THAT THE STATEMENT THAT YOU GAVE TO DETECTIVE WILKERSON OF THE COLUMBIA POLICE DEPARTMENT?

A YES.

Q ALL RIGHT. NOW IN THIS STATEMENT, IS IT NOT TRUE THAT NOWHERE DO YOU MENTION ANYTHING ABOUT ANY YELLOW AVERIX JACKET?

A NO.

Q HOWEVER, IN THIS STATEMENT YOU DESCRIBE THE BIG GUY AS WEARING A DARK BEIGE BALL CAP ---

A UH-HUH (INDICATES AN AFFIRMATIVE RESPONSE).

Q --- A TAN-COLORED SWEATER OR A SHIRT?

A YES.

Q RIGHT? YOU DESCRIBED HIM AND THEN YOU MADE SOME REFERENCE TO A GUY IN A BLACK NORTHFACE JACKET; RIGHT?

A YES.

Q BUT NOWHERE DID YOU SAY ANYTHING ABOUT A YELLOW JACKET?

A NO.

Q WELL, MAURICE SANDERS, DID YOU KNOW HIM?

A NO, I DIDN'T KNOW HIM.

Q AT THAT TIME?

A NO.

Q DID YOU COME TO KNOW HIM AT ANY TIME LATER?
A NO.
Q ALL RIGHT. I WANT TO ASK YOU DID YOU NOT YESTERDAY, WHILE ON THE WITNESS STAND OUT OF THE PRESENCE OF THE JURY, SAY THAT AS THIS ARGUMENT THAT YOU HAVE TALKED ABOUT ---
A UH-HUH (INDICATES AN AFFIRMATIVE RESPONSE).
Q --- WAS COMING TO AN END, THAT MY CLIENT DUSHUN STATEN WAS ABOUT FIVE FEET AWAY FROM THE CAR AND HE DID NOT HAVE MUCH MORE TO SAY ABOUT -- HE DIDN'T HAVE MUCH TO SAY ABOUT THE SITUATION?
A NO. YES, I SAID THAT YESTERDAY, YEAH.
Q RIGHT. BECAUSE THAT'S TRUE, ISN'T IT?
A RIGHT.
Q WHEN LUCIUS SAID "IT'S TIME FOR EVERYBODY ON BOTH SIDES TO COOL OFF," DUSHUN MOVED TOWARD THE CAR AND HE GOT AWAY FROM THE SITUATION AND HE HAD NOTHING FURTHER TO SAY?
A CORRECT.
Q THAT'S WHAT YOU SAID AND THAT'S CORRECT; RIGHT?
A RIGHT.
Q AND IN FACT, HE DID NOT DO ANYTHING ELSE THAT YOU SAW OR HEARD THAT NIGHT?
A THAT'S MY OPINION. NO. HE DIDN'T SAY ANYTHING ELSE.

Q ALL RIGHT. AND YOU SAY THAT DURING THIS TIME YOU WERE BEING VERY OBSERVANT, I BELIEVE YOU SAID THAT YOU WERE WALKING AROUND, SORT OF LOOKING THE SITUATION OVER?

A NO. I DIDN'T -- I WASN'T WALKING AROUND, LOOKING TO MY RIGHT AND LOOKING TO MY LEFT.

Q ALL RIGHT. BUT YOU'RE BEING VERY OBSERVANT OF WHAT EVERYBODY IS DOING?

A UH-HUH (INDICATES AN AFFIRMATIVE RESPONSE).

Q YOU'RE PAYING AND PARTICULAR ATTENTION; RIGHT?

A UH-HUH (INDICATES AN AFFIRMATIVE RESPONSE).

Q OKAY. AND YOU SAY YOU DID NOT SEE WHO SHOT PHILLIP LEE?

A YES.

Q NOW EXACTLY WHERE WERE YOU IN RELATION TO PHILLIP AND HOW WERE THE TWO OF YOU FACING AT THE TIME THAT YOU HEARD THE FIRST SHOT GO OFF?

A MY BACK WAS TURNED.

Q YOUR BACK WAS TURNED TO WHO?

A TO EVERYBODY. TO PHILLIP, EVERYBODY TO MY RIGHT, TO THE PARKING LOT.

Q ALL RIGHT NOW, WAS THAT BECAUSE YOU WERE ALREADY FIXING TO RUN OR WAS THAT BECAUSE YOU STILL WERE OBSERVING?

A I WAS WALK -- ABOUT TO WALK AWAY.

Q YOU WERE ABOUT TO WALK AWAY AT -- WAS THIS AFTER

LUCIUS HAD SAID, "Y'ALL JUST EVERYBODY BREAK IT UP"?

A UH-HUH (INDICATES AN AFFIRMATIVE RESPONSE).

Q OKAY. AND SO NOT HAVING SEEN WHO SHOT PHILLIP, YOU CAN'T RULE ANYONE IN OR ANYONE OUT, CAN YOU?

A NO.

Q SO YOU CAN'T RULE ---

THE COURT: NO, IF HE CAN'T RULE ANYBODY OUT, YOU CAN'T SUGGEST WHO HE SHOULD RULE IN OR RULE OUT.

MR. TAYLOR: I AGREE WITH YOUR HONOR. VERY ASTUTE OBSERVATION. THANK YOU.

Q NOW, WHO ELSE WAS NEAR PHILLIP?

A ME, TONY BARBER, TONY KENNEDY, AND JEAN DABADY, AND ASWAD SALAAM WAS ALSO THERE.

Q DO YOU REMEMBER WILENA McARTHUR BEING ANYWHERE NEAR HIM?

A YES. SHE WALKED, SHE WALKED AWAY AFTER THE CONVERSATION, THE ARGUMENT, CONTINUED. SHE WALKED AWAY.

Q WAS SHE ALREADY GONE BY THE TIME THE SHOTS RANG OUT OR DO YOU KNOW?

A I'M NOT SURE. I DIDN'T TAKE NO NOTICE OF HER ANYMORE BECAUSE SHE WALKED AWAY.

Q NOW AS WITH THESE OTHER AFFIDAVITS YOU'VE IDENTIFIED, ONE HAS BEEN MARKED INTO EVIDENCE BY THE STATE WHERE YOU PICKED OUT DUSHUN STATEN AS HAVING BEEN THERE THAT NIGHT?

A YES.

Q IT SAID THAT YOU PICKED HIM OUT AS HAVING COMMITTED THE CRIME OF MURDER.

MR. GASSER: YOUR HONOR, I WOULD STIPULATE AGAIN. I APOLOGIZE, WE SHOULD HAVE DONE THAT BEFORE, WHEN MR. TAYLOR -- I WOULD STIPULATE THE SAME STIPULATION WITH MR. STRICKLER, THAT THAT'S BOILER PLATE LANGUAGE THAT C.P.D. USES, AND THAT HIS CLIENT -- THIS PERSON NEVER IDENTIFIED HIS CLIENT, NOR HAS ANYONE EVER IDENTIFIED HIS CLIENT DUSHUN STATEN AS BEING THE SHOOTER, IF HE WANTS THAT STIPULATION.

MR. TAYLOR: WELL, I WILL TAKE THE STIPULATION.

Q BUT I DO WANT TO ASK YOU THIS: DIDN'T YOU SIGN THIS UNDER OATH?

A YES.

Q WERE YOU SWORN IN BEFORE YOU SIGNED IT?

A UH-HUH (INDICATES AN AFFIRMATIVE RESPONSE).

Q DID YOU READ IT?

A NO, I DIDN'T READ IT, I JUST SIGNED IT. THAT'S WHO I SAW.

Q YOU JUST SIGNED IT?

A I SIGNED IT 'CAUSE THAT'S THE PERSON I SAW ON THE LINEUP.

Q OKAY. YOU SAW NO GUN?

A CORRECT.

Q YOU SAW NO ONE GOING FOR A GUN?
A CORRECT.
Q BUT YOU WERE CONSTANTLY OBSERVING EVERYONE; RIGHT?
A YES.
Q AND YOU SAID THAT YOU SCATTERED WHEN THE FIRST SHOT WENT OFF?
A UH-HUH (INDICATES AN AFFIRMATIVE RESPONSE).
Q WERE YOU SCARED?
A YEAH, I WAS SCARED.
Q DID YOU CONSIDER THAT TO BE A NORMAL REACTION, TO RUN?
A YEAH.
Q PARDON MY FRENCH, RUN LIKE HELL?
A YEAH.
Q IT'S A NORMAL THING TO DO; RIGHT?
A UH-HUH (INDICATES AN AFFIRMATIVE RESPONSE).
Q THANK YOU, SIR. THAT'S ALL I HAVE.

MR. GASSER: VERY BRIEFLY, YOUR HONOR.

REDIRECT EXAMINATION BY MR. GASSER:

Q NOW, RASHON, ARE YOU TELLING THIS JURY WHAT YOU, YOURSELF, SAW AND WHAT YOU, YOURSELF, HEARD?
A YES.
Q CAN YOU SPEAK FOR WHAT ANYONE ELSE SAW OR HEARD?
A NO.
Q SO WHEN YOUR FOCUS OF ATTENTION MAY HAVE BEEN ON

PHILLIP AND LUCIUS UP THERE ON THE GRASS, IF THAT'S WHERE YOU WERE LOOKING, ANYTHING THAT WAS GOING ON BY THE CAR YOU WOULDN'T BE ABLE TO SEE; CORRECT?

A CORRECT.

Q SO WHEN YOU INDICATED THAT DUSHUN STATEN STEPPED BACK TOWARDS THE CAR ---

A UH-HUH (INDICATES AN AFFIRMATIVE RESPONSE).

Q --- AND THEN YOU STARTED TALKING -- TESTIFYING IN RESPONSE TO MR. STRICKLER ABOUT WHAT YOU OBSERVED PHILLIP AND LUCIUS, YOU DON'T KNOW WHAT DUSHUN WAS DOING OVER BY THAT CAR, DO YOU?

A CORRECT.

Q AND AS WELL, WHEN LUCIUS INDICATED, "ALL RIGHT EVERYBODY, LET'S GET IN THE CAR," AND STARTED WALKING BACK TOWARDS THE CAR, AND YOU STARTED TURNING ---

A UH-HUH (INDICATES AN AFFIRMATIVE RESPONSE).

Q --- YOU WERE TURNING IN WHAT DIRECTION, TOWARD THE DORM?

A TOWARDS THE DORM.

Q SAME DIRECTION PHILLIP WAS TURNING?

A NO, HE WAS TURNING THE OPPOSITE DIRECTION.

Q OKAY. WHICH DIRECTION WAS THAT?

A HE WAS TURNING TOWARDS HIS RIGHT.

Q OKAY. BUT YOU WERE TURNING TO LEAVE; IS THAT CORRECT?

A UH-HUH (INDICATES AN AFFIRMATIVE RESPONSE).
Q TOWARDS THE DORM?
A UH-HUH (INDICATES AN AFFIRMATIVE RESPONSE).
Q AND IF YOU'RE LOOKING THIS WAY (INDICATING), YOU HAVE NO IDEA WHAT LUCIUS STATEN MIGHT BE DOING WITH HIS EYES OR HIS HEAD TOWARDS THE CAR OR ANYBODY TOWARD THE CAR, DO YOU?
A CORRECT.
Q LAST COUPLE QUESTIONS, DO YOU REMEMBER WHEN MR. TAYLOR ASKED YOU THAT YOUR TESTIMONY WAS THAT DUSHUN MOVED BACK TOWARDS THE CAR? DO YOU REMEMBER THAT?
A UH-HUH (INDICATES AN AFFIRMATIVE RESPONSE).
Q AND I THINK HE ASKED YOU THE QUESTION, "THAT'S WHAT YOU TESTIFIED TO YESTERDAY OUTSIDE THE PRESENCE OF THE JURY?" DIDN'T HE ASK YOU THAT QUESTION?
A YES.
Q AND YOU SAID, "BECAUSE THAT'S THE TRUTH"; CORRECT?
A YES.
Q NOW YOU DIDN'T PUT THAT IN YOUR STATEMENT TO THE POLICE LAST YEAR, DID YOU?
A NO.
Q BUT IT'S STILL THE TRUTH?
A YES.
Q THE FACT THAT YOU DIDN'T PUT IN YOUR STATEMENT THAT YOU SAW DUSHUN STATEN WEARING THIS YELLOW JACKET THE

NIGHT PHILLIP LEE WAS KILLED, IS THAT STILL THE TRUTH?

A YES.

MR. GASSER: THAT'S ALL I HAVE.

THE COURT: ALL RIGHT, YOU CAN COME DOWN.

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

CALL YOUR NEXT WITNESS.

MR. GASSER: THE STATE CALLS TONY KENNEDY.

(ANTHONY "TONY" ZACHARY KENNEDY, HAVING FIRST BEEN DULY SWORN, TESTIFIED AS FOLLOWS:)

THE CLERK: PLEASE HAVE A SEAT HERE AND STATE YOUR FULL NAME FOR THE RECORD.

MR. KENNEDY: ANTHONY ZACHARY KENNEDY.

DIRECT EXAMINATION BY MR. GASSER:

Q GOOD AFTERNOON, TONY.

A GOOD AFTERNOON.

Q YOU DO GO BY TONY; IS THAT CORRECT?

A YES, SIR.

Q TELL US, TONY, HOW OLD ARE YOU?

A TWENTY (20).

Q AND WHERE DO YOU CURRENTLY GO TO SCHOOL?

A BENEDICT COLLEGE.

Q WHAT ARE YOU MAJORING IN AT BENEDICT COLLEGE?

A SPORTS MEDICINE AND COMPUTER SCIENCE.

Q DO YOU PLAY FOOTBALL FOR BENEDICT?

A NO.
Q DID YOU?
A NO.
Q AND YOU'RE FROM NEWARK, NEW JERSEY; CORRECT?
A YES, SIR.
Q OKAY. DO YOU HAVE ANY RELATIVES IN SOUTH CAROLINA?
A YES.
Q WHO'S THAT?
A MY GRANDMOTHER.
Q AND WHERE IN SOUTH CAROLINA DOES YOUR GRANDMOTHER LIVE?
A BENNETTSVILLE.
Q BENNETTSVILLE?
A YES.
Q AND YOUR MOTHER, WHERE DOES SHE LIVE?
A SHE LIVES IN NORTH CAROLINA.
Q WHEN DID YOU BEGIN ATTENDING BENEDICT COLLEGE?
A AUGUST, 2000.
Q AND SO YOU SPENT THE FALL SEMESTER THERE; IS THAT CORRECT?
A YES, SIR.
Q OF 2000?
A YES, SIR.
Q AND THEN THE SPRING SEMESTER OF 2001?
A YES, SIR.

Q SO WERE YOU A STUDENT IN JANUARY ---
A YES, SIR.
Q --- OF 2001, WHEN PHILLIP WAS KILLED?
A YES, SIR.
Q NOW LAST FALL, DID YOU TAKE LAST FALL, THE FALL OF 2001, OFF.
A YES, SIR.
Q OKAY. AND YOU TOOK THAT OFF TO DO WHAT?
A TO GO INTO THE ARMY RESERVES.
Q AND YOUR CURRENT RANK WITH THE ARMY RESERVES IS WHAT?
A E-2.
Q IN FACT, LAST FALL YOU SPENT AT FORT KNOX; IS THAT CORRECT?
A YES, SIR.
Q AND WHAT WERE YOU DOING AT FORT KNOX?
A BASIC TRAINING.
Q ARMOR?
A YES.
Q NOW IF YOU ARE AN E-2 IN THE ARMY RESERVES, DOES THAT REQUIRE YOU TO SERVE ONE WEEKEND A MONTH, I BELIEVE?
A YES, SIR.
Q TWO WEEKS A YEAR?
A YES, SIR.
Q AND YOU DO THAT WHERE? WHAT FORT?

A FORT JACKSON.

Q IN YOUR TRAINING HAVE YOU BEEN TRAINED AS AN INFANTRYMAN IN THE UNITED STATES ARMY TO RECOGNIZE CERTAIN TYPES OF WEAPONS?

A YES, SIR.

Q AND USE CERTAIN TYPES OF WEAPONS?

A YES, SIR.

Q IN DEFENSE OF YOUR COUNTRY?

A YES, SIR.

Q SO ARE YOU FAMILIAR WITH THE DIFFERENCE BETWEEN A REVOLVER AND A SEMI-AUTOMATIC HANDGUN?

A YES, SIR.

Q AND I'LL GET TO THAT.

PHILLIP LEE, WHEN DID YOU -- WHEN DID YOU GET TO KNOW PHILLIP LEE?

A END OF AUGUST.

Q AUGUST OF WHAT?

A AUGUST 29TH.

Q OF 2000, WHEN YOU FIRST GOT DOWN HERE?

A YES, SIR.

Q HE WAS FROM NEWARK, AS WELL?

A YES, SIR.

Q AND YOU DEVELOPED A FRIENDSHIP; IS THAT CORRECT?

MR. STRICKLER: I'LL OBJECT TO THE LEADING AT THIS POINT.

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