

VOLUME TWO OF THREE

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from Orangeburg County

Honorable Kristi Lea Harrington, Circuit Court Judge

RECEIVED

DEC -9 2016

S.C. SUPREME COURT

MARIO SHIVERS,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO 2016-000855

APPENDIX

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DIRECT - PATRICK TYLER BY SOL. PASCOE

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1 GO?

2 A. TO ORANGEBURG COUNTY.

3 Q. TO THE DETENTION CENTER IN ORANGEBURG?

4 A. YES, SIR.

5 Q. AND HOW LONG DID YOU STAY IN ORANGEBURG?

6 A. LIKE, THREE, TWO MONTHS.

7 Q. AND THEN THEY SHIPPED YOU TO BAMBERG?

8 A. YES, SIR.

9 Q. NOW, LET ME ASK YOU THIS, YOU TOLD THE JURY THAT
10 YOU DIDN'T EVEN HAVE A GUN DURING THE MURDER AND
11 THE ROBBERY AND BURGLARY, CORRECT?

12 A. YES, SIR.

13 Q. DO YOU HAVE AN ATTORNEY, MR. CARL GRANT?

14 A. YES, SIR.

15 Q. AND YOU UNDERSTAND, THE HAND OF ONE IS THE HAND
16 OF ALL?

17 A. YES, SIR.

18 Q. OKAY. YOU KNOW THAT YOU'RE JUST AS GUILTY AS
19 ANYONE WHO PULLED THE TRIGGER AND MURDERED?

20 A. YES, SIR.

21 Q. AND EVEN THOUGH YOU'RE JUST SIXTEEN YOU'RE
22 CHARGED WITH MURDER, BURGLARY, FIRST, AND ARMED
23 ROBBERY. WITH THOSE CHARGES, YOU KNOW, YOU'RE
24 LOOKING AT A MANDATORY SENTENCE OF THIRTY YEARS
25 TO LIFE WITHOUT PAROLE, RIGHT?

DIRECT - PATRICK TYLER BY SOL. PASCOE

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1 A. YES, SIR.

2 Q. HAVE I PROMISED YOU ANY SENTENCE FOR YOUR
3 COOPERATION?

4 A. NO, SIR.

5 Q. BUT THE ONE THING WE ARE ALLOWING YOU TO DO
6 BECAUSE OF YOUR COOPERATION BACK IN MARCH AND
7 YOUR TESTIMONY IS, WE'RE GOING TO REDUCE YOUR
8 MURDER TO VOLUNTARY MANSLAUGHTER?

9 A. YES, SIR.

10 Q. AND THAT REDUCES THE AMOUNT OF TIME YOU'RE
11 LOOKING AT FROM THIRTY YEARS TO LIFE WITHOUT
12 PAROLE TO FIFTEEN YEARS TO LIFE WITHOUT PAROLE?

13 A. YES, SIR.

14 Q. YOU UNDERSTAND THAT? SO, EVEN THOUGH YOU'RE
15 TESTIFYING TODAY YOU COULD STILL GET THIRTY
16 YEARS, ISN'T THAT RIGHT?

17 A. YES, SIR.

18 Q. YOU COULD STILL GET LIFE?

19 A. YES, SIR.

20 Q. SIXTEEN YEARS OLD. HAVE I OR ANYONE PROMISED YOU
21 WHAT SENTENCE YOU'RE GOING TO GET?

22 A. NO, SIR.

23 Q. AND YOU'VE BEEN TOLD THAT THE SENTENCE IS GOING
24 TO BE LEFT TOTALLY UP TO THE JUDGE, CORRECT?

25 A. YES, SIR.

DIRECT - PATRICK TYLER BY SOL. PASCOE

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1 Q. IS THIS THE FIRST TIME YOU'VE EVER BEEN IN
2 TROUBLE IN GENERAL SESSIONS COURT, IN ADULT
3 COURT?

4 A. YES, SIR.

5 Q. OKAY. BUT YOU DO HAVE A JUVENILE ADJUDICATION
6 FOR WHAT, PETTY LARCENY BACK IN NOVEMBER OF O-
7 NINE?

8 A. YES, SIR.

9 Q. JUST A HANDFUL MORE QUESTIONS. OKAY? I ASKED
10 YOU SOME QUESTIONS EARLIER ABOUT THE DRIVER OF
11 THE EXPLORER?

12 A. YES, SIR.

13 Q. TO THIS DAY DO YOU PERSONALLY KNOW WHO THE DRIVER
14 IS?

15 A. NO, SIR.

16 Q. DID I SHOW YOU, I GUESS IT WAS A WEEK OR TWO AGO,
17 SEVERAL PHOTOGRAPHS OF RIFLES TO SEE IF YOU COULD
18 RECOGNIZE ANY THAT WOULD LOOK LIKE THE ONES THAT
19 WERE USED DURING THE MURDER?

20 A. YES, SIR.

21 Q. AND DID YOU PICK ONE OUT?

22 A. YES, SIR.

23 Q. LET ME SHOW YOU WHAT'S BEEN MARKED AS STATE'S
24 EXHIBIT SEVENTY-FIVE, IS THAT THE ONE YOU PICKED,
25 FOR JUST IDENTIFICATION, IS THIS THE ONE THAT YOU

DIRECT - PATRICK TYLER BY SOL. PASCOE

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1 PICKED OUT AS LOOKING LIKE ONE OF THE RIFLES
2 Y'ALL USED?

3 A. YES, SIR.

4 Q. OKAY.

5 SOLICITOR PASCOE: THAT'S JUST ID.

6 (State's Exhibit Seventy-five,
7 photograph of rifle,
8 marked for identification only.)

9 Q. YOU TESTIFIED THAT WALTER HARRIS HAD A BLACK GUN?

10 A. YES, SIR.

11 Q. AND WHO DID HE LET USE IT?

12 A. RALPH.

13 (State's Exhibit Seventy-three,
14 photo of rifle,
15 marked for identification only.)

16 Q. DO YOU RECOGNIZE STATE'S EXHIBIT SEVENTY-THREE
17 FOR IDENTIFICATION?

18 A. NO, SIR.

19 Q. DOES THAT NOT LOOK LIKE ONE OF THE GUNS THAT WAS
20 USED IN THE ROBBERY?

21 A. IT'S BLACK.

22 MS. ULLMAN: OBJECTION, YOUR HONOR, HE JUST
23 ASKED IF HE RECOGNIZED IT AND HE SAID, NO, SIR, AND
24 THEN HE TOLD HIM DID THAT NOT LOOK LIKE THE GUN IN THE
25 ROBBERY. HE SAID HE DIDN'T RECOGNIZE IT.

DIRECT - PATRICK TYLER BY SOL. PASCOE

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1 THE COURT: I'M SORRY, DID HE SAY - - -

2 A. I DIDN'T THE GUN, BUT IT WAS BLACK.

3 THE COURT: WAIT, WAIT, HOLD ON ONE SECOND, DON'T
4 SAY ANYTHING ELSE, I NEED -- DID HE SAY, NO, SIR, HE
5 DID NOT RECOGNIZE IT?

6 MR. LACKEY: I DIDN'T, I WASN'T PAYING ATTENTION.

7 THE COURT: OKAY.

8 MR. PALMER: YOUR HONOR, HE DID.

9 THE COURT: OKAY. YOU SAID YOU DID NOT RECOGNIZE
10 THAT GUN?

11 A. YES, SIR.

12 THE COURT: OKAY.

13 COURT REPORTER: I WROTE, NO, SIR.

14 THE COURT: ALRIGHT. HE SAID HE DID NOT RECOGNIZE
15 IT.

16 Q. WHAT COLOR GUN DID WALTER HARRIS HAVE?

17 A. BLACK.

18 Q. OKAY. WHAT COLOR DOES THAT LOOK LIKE?

19 A. BLACK.

20 Q. OKAY. NOW, AS YOU TESTIFIED TO EARLIER, YOU
21 DIDN'T KNOW THE MODEL OF THE GUN WALTER HARRIS
22 HAD?

23 A. NO, SIR.

24 Q. BUT HE HAD A BLACK GUN?

25 A. YES, SIR.

DIRECT - PATRICK TYLER BY SOL. PASCOE

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- 1 Q. LIKE STATE'S EXHIBIT SEVENTY-THREE?
- 2 A. YES, SIR.
- 3 Q. THE ONLY BRAND YOU KNEW WAS THE NINE MILLIMETER
- 4 CHROME GUN, CORRECT?
- 5 A. YES, SIR.
- 6 Q. AND FINALLY, PATRICK, I WANT TO ASK YOU ABOUT
- 7 SOME PHONE CALLS YOU MADE ON MARCH THE TWELFTH.
- 8 WHAT WAS YOUR PHONE NUMBER BACK ON MARCH THE
- 9 TWELFTH?
- 10 A. .
- 11 Q.
- 12 A. YES, SIR.
- 13 Q. YOU TESTIFIED EARLIER THAT YOU SPOKE WITH DANNY
- 14 RYANT ON THE TELEPHONE AND THAT'S WHEN YOU
- 15 LEARNED ABOUT MARIO HAVING GUNS?
- 16 A. YES, SIR.
- 17 Q. WHO WERE YOU CALLING AT APPROXIMATELY SIX:THIRTY-
- 18 THREE AND AT SIX:FORTY P.M., AT [REDACTED] ?
- 19 A. DANNY RYANT.
- 20 Q. OKAY. AND WHAT WAS THAT CONVERSATION ABOUT?
- 21 A. ABOUT MARIO HAD GUNS.
- 22 Q. OKAY. AND THEN YOU TESTIFIED YOU TALKED TO MARIO
- 23 SHIVERS ON THE TELEPHONE?
- 24 A. YES, SIR.
- 25 Q. WHO WERE YOU TALKING TO ON YOUR TELEPHONE RECORDS

DIRECT - PATRICK TYLER BY SOL. PASCOE

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1 BETWEEN SIX -- OR EXCUSE ME -- YEAH, SIX:FORTY-
2 SIX P.M., OFF AND ON UNTIL SEVEN:TWENTY-SIX P.M.,
3 AT [REDACTED]?

4 A. MARIO SHIVERS.

5 Q. YOU TESTIFIED THAT YOU CALLED DARIUS SOMETIME
6 AFTER THE MURDER WEN YOU GOT DROPPED OFF?

7 A. YES, SIR.

8 Q. WHO DID YOU CALL AT TEN:0-TWO P.M., AT [REDACTED]?

9 A. DARIUS GARDNER.

10 Q. AND THAT WAS AFTER YOU GOT DROPPED OFF?

11 A. YES, SIR.

12 SOLICITOR PASCOE: I BEG THE COURT'S INDULGENCE.

13 THE COURT: YES, SIR, TAKE YOUR TIME.

14 Q. AND WITH REGARDS TO THE TELEPHONE RECORDS -- I
15 CAN'T FIND -- IS THAT -- WHO IS TERIQUE WILSON?

16 A. MY BROTHER.

17 Q. OKAY. AND THE PHONE YOU WERE USING, IS IT IN
18 TERIQUE'S NAME?

19 A. YES, SIR.

20 SOLICITOR PASCOE: THANK YOU, MR. TYLER, ANSWER
21 ANY QUESTIONS DEFENSE ATTORNEYS HAVE FOR YOU, OKAY?

22 THE COURT: ALRIGHT, MR. LACKEY?

23 MR. LACKEY: THANK YOU, YOUR HONOR.

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

CROSS - PATRICK TYLER BY MR. LACKEY

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CROSS-EXAMINATION OF PATRICK TYLER

BY MR. LACKEY:

Q. MR. TYLER, IT'S YOUR TESTIMONY HERE TODAY THAT, YOU I BELIEVE, MARIO SHIVERS -- IS IT SHIVERS OR SHIVERS?

A. SHIVERS.

Q. MARIO SHIVERS AND RALPH COLEMAN PLANNED THIS ROBBERY, IS THAT CORRECT?

A. YES, SIR.

Q. AND IT'S YOUR TESTIMONY HERE TODAY THAT THE GUNS WERE MARIO SHIVERS'S GUNS?

A. YES, SIR.

Q. AND IT'S YOUR TESTIMONY HERE TODAY THAT THE DRIVER AND MY CLIENT, CHRISTIAN COLEMAN, HAPPENED TO PULL UP AT SOME POINT THAT DAY?

A. YES, SIR.

Q. AND IT'S YOUR TESTIMONY HERE TODAY THAT THEY PULLED UP TO WOODBINE?

A. YES, SIR.

Q. DO YOU RECALL AFTER YOUR, AFTER YOU WERE PICKED UP BY INVESTIGATOR SHUMPERT, DO YOU RECALL MAKING A WRITTEN STATEMENT?

A. YES, SIR.

Q. NOW, WAS THAT STATEMENT TRUTHFUL?

A. YES, SIR.

CROSS - PATRICK TYLER BY MR. LACKEY

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1 MR. LACKEY: I'D LIKE TO MARK THIS AS DEFENDANT'S
2 EXHIBIT ONE.

3 COURT REPORTER: WHICH DEFENDANT'S?

4 MR. LACKEY: CHRISTIAN COLEMAN.

5 THE COURT: THE DEFENDANT CHRISTIAN COLEMAN.

6 COURT REPORTER: CHRISTIAN COLEMAN?

7 MR. LACKEY: YES, MA'AM.

8 COURT REPORTER: DO YOU WANT THESE CLIPPED
9 TOGETHER?

10 MR. LACKEY: YES, MA'AM, IF YOU'D JUST STAPLE
11 THOSE, THAT'S FINE.

12 COURT REPORTER: DEFENDANT CHRISTIAN COLEMAN
13 NUMBER ONE.

14 (Defendant Christian Coleman's Exhibit One
15 marked and filed.)

16 Q. MR. TYLER, LET ME HAND YOU WHAT'S JUST BEEN
17 MARKED DEFENDANT'S EXHIBIT ONE FOR CHRISTIAN
18 COLEMAN. DO YOU RECOGNIZE THAT?

19 A. YES, SIR.

20 Q. AND WHAT IS THAT?

21 A. THE STATEMENT I WROTE.

22 Q. DID YOU WRITE THAT IN YOUR OWN HANDWRITING?

23 A. YES, SIR.

24 Q. LET ME GET YOU TO LOOK AT FOUR LINES DOWN. ISN'T
25 IT TRUE IN YOUR STATEMENT YOU WROTE HERE THAT

CROSS - PATRICK TYLER BY MR. LACKEY

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1 SOMEONE CAME AND PICKED YOU UP FROM BROOKDALE?

2 A. YES, SIR. THAT'S THE ONLY PART I WAS UNTRUTHFUL
3 ABOUT.

4 Q. OKAY.

5 COURT REPORTER: THAT'S THE ONLY PART WHAT?

6 A. I BEEN UNTRUTHFUL ABOUT.

7 Q. LET ME GET YOU TO FLIP ON OVER TWO OTHER PAGES,
8 THAT'S BASICALLY A LIST OF QUESTIONS AND
9 ANSWERS. DO YOU SEE THAT?

10 A. YES.

11 Q. AND WHO WROTE THAT?

12 A. I DID.

13 Q. DID YOU WRITE THE QUESTIONS AND ANSWERS OR DID
14 YOU JUST WRITE THE ANSWERS?

15 A. OH, I JUST WRITE THE ANSWERS.

16 Q. OKAY. AND WHO WROTE THE QUESTIONS?

17 A. I HAVE NO IDEA. SHUMPERT, I THINK SHUMPERT.

18 Q. OKAY. THIS IS WHEN YOU WERE INTERVIEWED BY
19 INVESTIGATOR SHUMPERT?

20 A. YES.

21 Q. ALRIGHT. ALRIGHT, DO YOU RECALL TESTIFYING HERE
22 TODAY THAT, YOU TESTIFIED THAT ENTERING THE
23 APARTMENT CHRISTIAN COLEMAN HAD A GUN?

24 A. YES, SIR.

25 Q. IN THIS STATEMENT, IN THIS ANSWER YOU GAVE, WHEN

CROSS - PATRICK TYLER BY MR. LACKEY

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1 INVESTIGATOR SHUMPERT ASKED YOU WHO ALL HAD GUNS,
2 WHO DID YOU ANSWER HERE?

3 A. PETE, LITTLE M, POKE AND RALPH.

4 Q. OKAY.

5 COURT REPORTER: PETE WHAT?

6 A. LITTLE M, POKE AND RALPH.

7 Q. AND LET ME DROP IT DOWN ABOUT FIVE MORE
8 QUESTIONS, IT SAYS, WHO ALL TOOK GUNS INTO THE
9 APARTMENT?

10 A. OH, YES.

11 Q. AND WHAT WAS YOUR ANSWER THERE?

12 A. LITTLE M, POKE, PETE AND RALPH.

13 Q. SO, YOU NEVER DID SAY CHRISTIAN COLEMAN HAD A
14 GUN, DID YOU?

15 A. YES, I DID. I HAD MENTIONED IT IN ONE OF MY
16 STATEMENTS.

17 Q. OKAY. BUT YOU DIDN'T WRITE IT ON HERE, IS THAT
18 CORRECT?

19 A. NO, SIR.

20 Q. NOW, YOU MENTIONED EARLIER ALSO THAT WHEN, WHEN
21 Y'ALL WERE PLANNING THIS ROBBERY THAT WAS YOU,
22 MARIO AND RALPH?

23 A. YES, SIR.

24 Q. YOU MENTIONED THAT MY CLIENT, CHRISTIAN COLEMAN,
25 AND ANOTHER INDIVIDUAL CAME AND PICKED Y'ALL UP?

CROSS - PATRICK TYLER BY MR. LACKEY

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- 1 A. YES, SIR.
- 2 Q. AND AGAIN, DID YOU SAY THAT WAS FROM BROOKDALE OR
- 3 FROM WOODBINE?
- 4 A. WOODBINE.
- 5 Q. OKAY. SO, THEY WEREN'T SITTING AROUND TALKING
- 6 WITH Y'ALL, PLANNING THIS ROBBERY?
- 7 A. NO, SIR.
- 8 Q. AND WHEREVER THEY PICKED YOU UP FROM, THEY WERE
- 9 BOTH IN THE FRONT SEATS?
- 10 A. YES, SIR.
- 11 Q. SO, WHATEVER Y'ALL TALKED ABOUT WHEN YOU GOT IN
- 12 THE BACK SEAT, BOTH RONNIE WASHINGTON AND
- 13 CHRISTIAN COLEMAN HEARD, IS THAT CORRECT?
- 14 A. YES.
- 15 Q. AND ALL THESE GUNS THAT MARIO SHIVERS HAD, THEY
- 16 WERE IN THE BACK OF THE VEHICLE?
- 17 A. YES, SIR.
- 18 Q. THE VERY BACK?
- 19 A. YES.
- 20 Q. SO, NOT JUST IN THE BACK SEAT BUT IN THE BACK
- 21 COMPARTMENT?
- 22 A. YES, SIR.
- 23 Q. SO, POINT OUT FOR THE JURY WHERE ON THAT VEHICLE?
- 24 A. THE HATCH BACK.
- 25 Q. THE HATCH BACK. OKAY. YOU SAID THIS WHOLE DAY

CROSS - PATRICK TYLER BY MR. LACKEY

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1 YOU STARTED OFF BY SMOKING MARIJUANA?

2 A. YES, SIR.

3 Q. AND THEN YOU SMOKED MARIJUANA AGAIN WHEN YOU WERE
4 PLANNING THIS WHOLE THING WITH MARIO AND RALPH?

5 A. YES, SIR.

6 Q. DOES THAT MAKE YOUR MEMORY A LITTLE HAZY AT ALL
7 OR NOT?

8 A. NO, SIR.

9 Q. DO YOU SMOKE MARIJUANA A LOT?

10 A. YES, SIR.

11 Q. SOLICITOR PASCOE MENTIONED THAT YOU ARE CHARGED
12 WITH THE SAME CHARGES THAT THESE FIVE INDIVIDUALS
13 ARE CHARGED WITH, IS THAT CORRECT?

14 A. YES, SIR.

15 Q. HOWEVER, HE DID STATE THAT THERE'S BEEN
16 CONSIDERATION GIVEN TO YOU FOR TESTIFYING HERE
17 TODAY, IS THAT CORRECT?

18 A. IT WAS WHAT?

19 Q. CONSIDERATION GIVEN, YOUR CHARGES HAVE ACTUALLY
20 BEEN LESSENER BECAUSE YOU'RE TESTIFYING HERE
21 TODAY, IS THAT CORRECT?

22 A. YES.

23 Q. SO, ISN'T IT TRUE TO SAY THAT YOU WILL SAY
24 WHATEVER YOU CAN SAY TODAY TO GET A BETTER DEAL
25 FOR YOURSELF?

CROSS - PATRICK TYLER BY MR. LACKEY

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- 1 A. IS IT TRUE?
- 2 Q. UH-HUH.
- 3 A. NO.
- 4 Q. NO?
- 5 A. IS IT TRUE THAT WHATEVER I SAY OR - - -
- 6 Q. YES, SIR.
- 7 A. --- I COULD TELL LIES STILL. NO, IT'S NOT TRUE.
- 8 Q. SO YOU COULD TELL A LIE JUST AS EASY AS ANYTHING
- 9 ELSE?
- 10 A. NO. NO, SIR.
- 11 Q. SO, WHAT ARE YOU SAYING THEN?
- 12 A. YOU'RE SAYING, IF I TELL A LIE I STILL COULD GET
- 13 TIME DROPPED OFF? NO, SIR.
- 14 Q. OKAY. WELL, YOU SAID YOU JUST LIED ABOUT THE
- 15 BROOKDALE AND WOODBINE, DIDN'T YOU?
- 16 A. YES, SIR.
- 17 Q. OKAY. AND DO YOU KNOW THIS RONNIE WASHINGTON
- 18 FELLOW WHO WAS THE DRIVER, DO YOU KNOW HE WAS
- 19 NEVER ARRESTED?
- 20 A. WHAT DID YOU SAY?
- 21 Q. DO YOU KNOW THAT THIS SUPPOSED RONNIE WASHINGTON
- 22 FELLOW, DO YOU KNOW HE WAS NEVER ARRESTED FOR
- 23 ANYTHING?
- 24 A. NO, NO, SIR.
- 25 MR. LACKEY: I HAVE NO FURTHER QUESTIONS.

CROSS - PATRICK TYLER BY MR. LACKEY

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1 THE COURT: THANK YOU, SIR.

2 MR. WISE. AND THANK YOU FOR RAISING YOUR HAND,

3 MR. WISE.

4 MR. WISE: MAY IT PLEASE THE COURT?

5 THE COURT: YES, SIR.

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

CROSS - PATRICK TYLER BY MR. WISE

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CROSS-EXAMINATION OF PATRICK TYLER

BY MR. WISE:

Q. MR. TYLER, YOU WOULD HAVE TO AGREE THAT AS YOU
SIT THERE NOW YOU ARE IN BIG TROUBLE, RIGHT?

A. YES, SIR.

Q. AS YOU SIT THERE RIGHT NOW YOU ARE FACING LIFE
IMPRISONMENT?

A. YES, SIR.

Q. BUT MR. PASCOE HAS AGREED TO REDUCE -- TO ALLOW
YOU TO LEAD GUILTY - - -

A. YES, SIR.

Q. --- TO MANSLAUGHTER?

A. YES, SIR.

Q. AND THE PUNISHMENT FOR MANSLAUGHTER IS WHAT?

A. LIFE.

Q. DID YOU TALK ABOUT THE PUNISHMENT WITH MR.
PASCOE?

A. YES.

Q. SO, EVEN THOUGH AT THIS POINT YOU ARE GOING TO BE
ALLOWED TO PLEAD TO A REDUCED CHARGE, YOU STILL
WANT TO DO THE LEAST AMOUNT OF TIME YOU CAN DO,
IS THAT CORRECT?

A. NO.

Q. LET ME ASK IT THIS WAY, - - -

COURT REPORTER: WHAT WAS YOUR ANSWER?

CROSS - PATRICK TYLER BY MR. WISE

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1 A. NO.

2 Q. --- YOU DON'T WANT TO GO TO JAIL FOR THIRTY
3 YEARS, DO YOU?

4 A. NO, SIR.

5 Q. OKAY. WHEN THE TIMES COMES YOU WANT TO DO THE
6 LEAST AMOUNT OF TIME THAT YOU CAN?

7 A. YES, SIR.

8 Q. OKAY. ALRIGHT. NOW, YOU GOT A CALL FROM MARIO
9 AND HE TOLD YOU HE HAD A LICK, RIGHT?

10 A. YES, SIR.

11 Q. AND WHEN HE CALLED YOU AND SAID HE HAD A LICK YOU
12 KNEW EXACTLY WHAT HE WAS TALKING ABOUT?

13 A. YES, SIR.

14 Q. WHAT DID YOU KNOW THAT EXPRESSION TO MEAN?

15 A. A LICK?

16 Q. YEAH, UH-HUH.

17 A. A ROBBERY.

18 Q. A ROBBERY. SO, WHEN HE CALLED YOU AND SAID THAT
19 YOU KNEW THAT THERE WAS GOING TO BE -- YOU AND HE
20 WERE GOING TO ENGAGE IN ROBBING SOMEBODY?

21 A. NO, I CALLED HIM.

22 Q. YOU CALLED HIM, AND YOU SAID YOU HAD A LICK?

23 A. NO, I CALLED HIM AND HE TOLD ME HE HAD A LICK.

24 Q. OKAY, OKAY. DID YOU ASK HIM WHO THE VICTIM OF
25 THIS LICK WAS GOING TO BE?

CROSS - PATRICK TYLER BY MR. WISE

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1 A. NO, SIR.

2 Q. WAS IT IMPORTANT WHO THE VICTIM WAS GOING TO BE?

3 A. YES, SIR, NO, SIR, YEAH.

4 Q. NO, WOULD NOT HAVE CHANGED YOUR PARTICIPATION,
5 YOU WOULD LICK ANYBODY WHO HE HAD IN MIND TO
6 LICK, RIGHT, IT DIDN'T MATTER?

7 A. NO, SIR.

8 Q. WHEN HE SAID TO YOU HE HAD A LICK DID YOU KNOW
9 THAT THERE WERE GOING TO BE GUNS INVOLVED?

10 A. NO, SIR.

11 Q. YOU THOUGHT HE WAS GOING TO COMMIT A ROBBERY
12 WITHOUT ANY WEAPONS?

13 A. MAYBE.

14 Q. WHEN YOU, WHEN YOU TALKED TO HIM ABOUT A LICK,
15 IT'S YOUR TESTIMONY YOU THOUGHT MAYBE YOU WOULD
16 DO THIS LICK WITH YOUR BARE HANDS, JUST WALK UP
17 AND TRY TO SCARE SOMEBODY INTO GIVING UP THEIR
18 PROPERTY, IS THAT YOUR TESTIMONY?

19 A. MAYBE.

20 Q. MAYBE. OKAY. IS THAT THE WAY YOU NORMALLY
21 COMMIT LICKS?

22 A. I DON'T GO AROUND COMMITTING LICKS.

23 Q. YOU DON'T?

24 A. NO.

25 Q. BUT WHEN MARIO CALLED YOU, YOU DIDN'T HESITATE,

CROSS - PATRICK TYLER BY MR. WISE

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1 DID YOU?

2 A. YES, SIR.

3 Q. YOU WENT WITH THEM?

4 A. YES, SIR.

5 Q. YOU DIDN'T ASK WHO WAS GOING TO BE INVOLVED?

6 A. YES, SIR.

7 Q. JUST READY TO GO?

8 A. NO, SIR.

9 Q. OKAY. IT'S YOUR -- WELL, LET ME ASK YOU THIS,
10 MR. TYLER, IF YOU KNEW THAT THERE WERE GOING TO
11 BE GUNS INVOLVED, WOULD IT HAVE STOPPED YOU?

12 A. I PROBABLY WOULD HAVE THOUGHT ABOUT IT.

13 Q. OKAY. AND WHEN YOU FOUND OUT THAT THERE WERE
14 GUNS INVOLVED IT DIDN'T STOP YOU, DID IT?

15 A. NO, SIR.

16 Q. OKAY. DID YOU THINK THAT WHEN THERE WERE GOING
17 TO BE GUNS INVOLVED THAT SOMEONE WAS GOING TO BE
18 KILLED?

19 A. NO, SIR.

20 Q. AND YOU THOUGHT THAT BECAUSE YOU KNOW THAT PEOPLE
21 CAN BE ROBBED AND NOT SHOT?

22 A. YES, SIR.

23 Q. AND IT WAS NEVER YOUR INTENTION FOR SOMEBODY TO
24 GET KILLED ON THIS DAY, WAS IT?

25 A. NO, SIR.

1 Q. YOU KNOW THAT YOU CAN ROB A PERSON, EVEN WITH A
2 GUN, AND NOT KILL THEM, DON'T YOU?

3 A. YES, SIR.

4 Q. ABSOLUTELY. IT IS REALLY NOT A NORMAL, TYPICAL
5 ROBBERY, EVEN WITH GUNS, TO KILL SOMEBODY, IS IT?

6 A. NO, SIR.

7 Q. I'M SORRY?

8 A. I CAN'T ...

9 Q. I'LL REPEAT THE QUESTION. IT IS, FROM YOUR
10 EXPERIENCE, THE TYPICAL ROBBERY WITH A GUN THAT
11 THE PERSON DOES NOT GET KILLED?

12 A. WELL, I HAVE NO IDEA.

13 Q. YOU DON'T KNOW. OKAY. ALRIGHT. IS IT YOUR
14 TESTIMONY THAT YOU'VE NEVER ROBBED SOMEBODY? AND
15 REMEMBER, YOU'RE UNDER OATH.

16 A. YOU SAY, DID I EVER ROB SOMEBODY?

17 Q. THAT'S WHAT I SAID.

18 A. NO, SIR.

19 Q. NO, YOU'VE NEVER ROBBED ANYBODY. YOU, YOU'RE
20 FAMILIAR WITH THOSE CONVENIENCE STORY ROBBERIES
21 WHERE SOMEBODY WAS ROBBING THEM WITH A MOTORCYCLE
22 HELMET, YOU HEARD ABOUT THOSE?

23 A. NO, SIR.

24 Q. YOU NEVER HEARD ABOUT THEM?

25 A. NO, SIR.

CROSS - PATRICK TYLER BY MR. WISE

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1 Q. OKAY. WAS THIS THE FIRST TIME THAT YOU A MARIO
2 DECIDED TO ROB SOMEBODY?

3 A. YES, SIR.

4 Q. OKAY. THE FIRST TIME YOU AND MARIO EVER TALKED
5 ABOUT ROBBING SOMEBODY?

6 A. YES, SIR.

7 Q. SO, IT'S YOUR TESTIMONY THAT OUT OF THE BLUE
8 MARIO CALLED YOU, SAID, I WANT TO ROB SOMEBODY,
9 AND YOU SAY, OKAY?

10 A. NO. I CALLED HIM.

11 Q. I KEEP SAYING THAT. YES, YOU CALLED MARIO, AND
12 MARIO SAYS, I WANT TO ROB SOMEBODY, AND YOU SAY,
13 OKAY, LET'S DO IT?

14 A. YES.

15 Q. NO HESITATION, NO PROBLEM, WHOEVER IT IS,
16 WHEREVER IT IS, WEAPONS OR NOT, LET'S DO IT?

17 A. YES.

18 Q. OKAY. WHEN THIS THING WENT DOWN AND MR. PRINGLE
19 WAS KILLED, WAS IT A SURPRISE TO YOU?

20 A. REALLY, I DIDN'T KNOW HE WAS DEAD.

21 Q. OKAY. WHEN HE WAS SHOT WAS IT A SURPRISE TO YOU?

22 A. I AIN'T REALLY KNOW HE WAS SHOT BECAUSE I DIDN'T
23 SEEN HIM SHOT.

24 Q. YOU DIDN'T SEE HIM SHOT?

25 A. I DIDN'T SEE NO ONE GET SHOT.

CROSS - PATRICK TYLER BY MR. WISE

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1 Q. YOU DIDN'T SEE ANYONE GET SHOT?

2 A. BESIDES THE DOG.

3 Q. OKAY. THE DOG GETS SHOT, YOU'RE OUT THE DOOR,
4 THAT'S YOUR TESTIMONY?

5 A. YES, SIR.

6 Q. OKAY. AND YOU DON'T KNOW WHO HAD GUNS AND FIRED
7 AT MR. PRINGLE, THAT'S YOUR TESTIMONY?

8 A. I KNOW WHO HAD GUNS BUT I DIDN'T KNOW WHO SHOT.

9 Q. OKAY. WAS THERE, WHEN YOU AND EVERYBODY ELSE
10 WERE TALKING ABOUT THIS LICK, DID YOU EVER
11 DISCUSS KILLING THE VICTIM?

12 A. NO, SIR.

13 Q. AND YOU HAD NO REASON WHEN YOU GOT INTO THE CAR
14 TO BELIEVE SOMEBODY WAS GOING TO END UP DEAD?

15 A. NO, SIR.

16 Q. OKAY. ALRIGHT. NOW, YOU CALLED MARIO AND MARIO
17 DISCUSSED THIS WITH YOU BECAUSE YOU AND MARIO ARE
18 FRIENDS, RIGHT?

19 A. THAT'S FIRST, HE SAID HE HAD SOMETHING TO SHOW
20 ME.

21 Q. UH-HUH.

22 A. AND HE HAD A LICK. I TELL I WAS GOING TO COME DO
23 IT, I WAS GOING TO COME AND VISIT HIM.

24 Q. UH-HUH. MARIO SAYS HE HAS A LICK AND YOU ARE
25 GOING TO COME AND VISIT HIM?

CROSS - PATRICK TYLER BY MR. WISE

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- 1 A. YEAH, I WAS GOING TO COME CHILL WITH HIM BECAUSE
2 HE TOLD ME TO COME CHILL WITH HIM.
- 3 Q. AND DO THE LICK?
- 4 A. NO, WE WAS COMING -- HE TOLD ME ABOUT THE LICK
5 AND THEN HE TOLD ME TO COME CHILL WITH HIM, HE
6 HAD TO TELL ME SOMETHING, HE HAD TO SHOW ME
7 SOMETHING.
- 8 Q. OKAY. AND IS IT A FAIR STATEMENT THAT THE REASON
9 HE TALKED TO YOU ABOUT THIS LICK IS BECAUSE YOU
10 AND HE ARE FRIEND?
- 11 A. NO, SIR, I DON'T KNOW WHY HE CAME AT ME AND TALK
12 ABOUT THE LICK.
- 13 Q. OKAY. HE JUST, SOMEBODY HE JUST PICKED AND SAID,
14 HEY?
- 15 A. I GUESS I WAS JUST, BECAUSE I HAD CALLED HIM, AND
16 HE WAS, LIKE, LET'S SEE IF HE WILL DO IT, I
17 GUESS.
- 18 Q. OKAY. ALRIGHT. AND JUST SO WE'RE CLEAR, WHEN
19 YOU WENT INTO MR. PRINGLE'S APARTMENT YOU DID NOT
20 HAVE A GUN WITH YOU?
- 21 A. YES, SIR.
- 22 Q. OKAY, VERY GOOD. WHEN WALTER HARRIS WENT INTO
23 THE APARTMENT AND SAW THAT THERE WAS A GUN, WHO
24 SAID, WE NEED ANOTHER GUN?
- 25 A. MARIO.

CROSS - PATRICK TYLER BY MR. WISE

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1 Q. MARIO SHIVERS. AND AT THAT POINT DID YOU SAY,
2 WAIT A MINUTE, YOU'RE GETTING TOO MANY GUNS
3 INVOLVED, I'M LEAVING. DID YOU SAY THAT?

4 A. NO. I WAS THINKING ABOUT IT, THOUGH.

5 Q. BUT YOU DIDN'T?

6 A. YES.

7 Q. YOU THOUGHT HAVING ANOTHER GUN WAS A GOOD THING,
8 DIDN'T YOU?

9 A. NO. BASICALLY, I - - -

10 COURT REPORTER: NO, WHAT?

11 A. NO, SIR.

12 Q. WHEN THEY WENT AND -- THEY LEFT THE APARTMENT AND
13 THEY WENT TO GET ANOTHER GUN, DID YOU SAY, YOU
14 KNOW WHAT, I'M -- YOU DIDN'T SAY, I'M GOING TO
15 LEAVE, THIS IS TOO MUCH?

16 A. I DID HAD MENTIONED TO MARIO THAT I THINK WE
17 SHOULDN'T DO THIS.

18 Q. OKAY. WHEN THEY MENTIONED THAT THEY NEEDED
19 ANOTHER GUN, AT THAT POINT DID YOU THINK THAT THE
20 VICTIM OF THIS LICK WAS GOING TO BE SHOT?

21 A. NO, SIR.

22 Q. OKAY. WHY DID YOU THINK THEY NEEDED ANOTHER GUN?

23 A. THEY, NO ONE HAD NEEDED ANOTHER GUN. THEY SAID
24 THEY HAD NEEDED ANOTHER PERSON, BECAUSE WALTER
25 HARRIS SAID HE AIN'T WANT TO DO IT NO MORE.

CROSS - PATRICK TYLER BY MR. WISE

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1 Q. SO, THEY JUST NEEDED A PERSON, NOT A GUN, THAT'S
2 YOUR TESTIMONY?

3 A. YES, SIR.

4 Q. OKAY. ALRIGHT. NOW, I THINK ON DIRECT
5 EXAMINATION YOU TESTIFIED THAT THERE WERE FOUR
6 GUNS INVOLVED, TWO HAND GUNS AND TWO RIFLES?

7 A. YES, SIR.

8 Q. OKAY. AND WALTER, I THINK YOU SAID ON DIRECT
9 EXAMINATION, GAVE HIS GUN TO RALPH?

10 A. YES, SIR.

11 Q. OKAY. DO YOU REMEMBER -- WELL, YOU HAVE YOUR
12 STATEMENT IN FRONT OF YOU, IN YOUR STATEMENT DO
13 YOU REMEMBER SAYING THAT DANNY AND MARIO AND
14 CHRISTIAN AND WALTER CAME IN WITH GUNS OUT?
15 WOULD YOU LIKE FOR ME TO SHOW YOU WHERE THAT IS?

16 A. YES, SIR.

17 Q. OKAY.

18 MR. WISE: I'M SORRY, YOUR HONOR, MAY I APPROACH
19 THE WITNESS?

20 THE COURT: SURE. IF YOU'LL GIVE HIM AN
21 OPPORTUNITY TO READ IT, TOO.

22 Q. DO YOU SEE WHAT I JUST POINTED TO, DIRECTED YOUR
23 ATTENTION TO?

24 A. YES, SIR.

25 Q. OKAY. SO, IN YOUR STATEMENT THAT YOU MADE,

CROSS - PATRICK TYLER BY MR. WISE

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1 TRUTHFUL STATEMENT YOU SAID, DANNY RYANT, MARION,
2 CHRISTIAN AND PETE CAME IN WITH GUNS OUT?

3 A. YES.

4 Q. FOUR PEOPLE, FOUR GUNS, CORRECT?

5 A. YES.

6 Q. OKAY. NOW, YOU ALSO SAID WHEN YOU -- LET ME BACK
7 UP, PATRICK, WHO SAID, GO TO THE CORNER POCKET TO
8 GET DANNY RYANT?

9 A. I MENTIONED IT.

10 Q. YOU MENTIONED IT?

11 A. YEAH, BECAUSE THEY ASKED, WELL, WHERE WAS POKE.

12 Q. AND WHY DID THEY NEED POKE?

13 A. BECAUSE THEY HAD NEEDED ANOTHER PERSON.

14 Q. OKAY.

15 COURT REPORTER: ARE YOU SAYING P-O-P-E, POPE, OR
16 P-O-L-K?

17 A. P-O-K-E.

18 Q. PATRICK, AFTER THIS HAPPENED YOU SPOKE TO SOME OF
19 YOUR FRIENDS HERE, DIDN'T YOU?

20 A. I SPOKE TO MARIO.

21 Q. YOU SPOKE TO MARIO?

22 A. AND DANNY RYANT.

23 Q. AND DANNY RYANT. OKAY, VERY GOOD. AND YOU KNEW
24 THE POLICE WERE LOOKING FOR YOU, DIDN'T YOU?

25 A. NOT -- THAT DAY I TURNED MYSELF IN I KNOW THE

CROSS - PATRICK TYLER BY MR. WISE

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- 1 POLICE BEEN LOOKING FOR ME.
- 2 Q. YOU DIDN'T THINK THE POLICE WERE LOOKING FOR YOU
- 3 BEFORE THAT DAY?
- 4 A. I HAD NO IDEA.
- 5 Q. YOU THOUGHT YOU GOT AWAY, DIDN'T YOU?
- 6 A. NO, SIR.
- 7 Q. YOU THOUGHT YOU WERE GOOD ON THIS MURDER, DIDN'T
- 8 YOU?
- 9 A. NO, SIR.
- 10 Q. OKAY. SO, THEN WHEN YOU HEAR THE POLICE ARE
- 11 LOOKING FOR YOU, THAT'S WHEN YOU GO DOWN AND TALK
- 12 TO THE POLICE?
- 13 A. YES, I TURNED MYSELF IN.
- 14 Q. UH-HUH. AND MR. GRANT IS YOUR LAWYER?
- 15 A. YES, SIR.
- 16 Q. A GOOD LAWYER, RIGHT?
- 17 A. YES, SIR.
- 18 Q. HE'S GOOD, IN FACT, I WOULD GET HIM IF I WERE IN
- 19 TROUBLE. WHEN DID YOU HIRE HIM?
- 20 A. HUH?
- 21 Q. WHEN DID YOU HIRE HIM?
- 22 A. I DIDN'T HIRE HIM, MY MOTHER HIRED HIM.
- 23 Q. YOUR MOTHER HIRED HIM. WHEN DID SHE HIRE HIM?
- 24 A. I CAN'T RECALL.
- 25 Q. BEFORE OF AFTER YOU WENT TO THE POLICE?

1 A. AFTERWARDS.

2 Q. AFTERWARDS. I WANT TO TALK ABOUT YOUR
3 RELATIONSHIP WITH RALPH COLEMAN. IT'S YOUR
4 TESTIMONY THAT YOU WENT INTO THIS THING WITH
5 RALPH, YOU AND RALPH WALKED INTO THE APARTMENT
6 TOGETHER?

7 A. YES, SIR.

8 Q. OKAY. AND WHO SAID THAT, WHO DIRECTED YOU TO GO
9 IN THERE WITH RALPH?

10 A. WHO DIRECTED ME?

11 Q. YEAH, WHO'S CALLING THE SHOTS, WHO ARE THE
12 STRINGS HERE?

13 A. OH, MARIO SAY, GO IN AND BUY THE WEED, LIKE, I
14 WAS SUPPOSED TO BUY THE WEED, AND COME OUT.

15 Q. SO, IT'S MARIO'S PLAN TO DO ALL THIS?

16 A. YES, SIR.

17 Q. OKAY. ALRIGHT. AND DID YOU ASK HIM WHY HE
18 WANTED YOU AND RALPH TO DO SOMETHING TOGETHER?

19 A. RALPH, IT WAS JUST ME AT FIRST, AND RALPH JUST
20 WAS, LIKE, I'LL GO IN THERE WITH YOU.

21 Q. RALPH VOLUNTEERED TO GO IN?

22 A. YEAH, HE VOLUNTEERED.

23 Q. OKAY. OKAY, I WANT TO SHOW YOU SOMETHING ON YOUR
24 STATEMENT AGAIN. OKAY, SEE RIGHT HERE? IT
25 STARTS WITH, "EVERYBODY WAS," YOU SEE WHAT I'M

CROSS - PATRICK TYLER BY MR. WISE

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1 REFERRING TO? IN YOUR STATEMENT WHAT YOU SAY
2 WAS, EVERYBODY WAS, LIKE, YOU AND RALPH GOING
3 TOGETHER?

4 A. YES.

5 Q. OKAY, WHO IS THAT EVERYBODY? WHO IS EVERYBODY
6 THAT WAS LIKE THAT?

7 A. MARIO.

8 Q. UH-HUH.

9 A. WELL, THEY, THEY AIN'T SAY NOTHING ABOUT THAT. I
10 AIN'T KNOW, BUT I JUST WRITE THAT IN THERE, THAT
11 RALPH HAD VOLUNTEERED.

12 Q. YOU JUST WROTE THAT?

13 A. I AIN'T JUST WROTE IT, I WAS SCARED AT THE MOMENT
14 AND I WAS JUST WRITING WHAT I COULD TELL YOU.

15 Q. OKAY. YOU WERE SCARED WHEN YOU WROTE THAT,
16 RIGHT?

17 A. I WAS SCARED WHEN I WROTE THE STATEMENT.

18 Q. WHY WERE YOU SCARED?

19 A. BECAUSE I WAS TOLD NOT TO SAY NOTHING.

20 Q. OKAY. WHEN YOU WROTE THAT STATEMENT YOU KNEW YOU
21 WERE IN TROUBLE?

22 A. YES, SIR.

23 Q. OKAY. DID DETECTIVE SHUMPERT SCARE YOU? DID HE
24 SCARE YOU?

25 A. YES.

1 Q. HE DID SCARE YOU. WHY DID HE SCARE YOU?

2 A. I WAS SCARED TO TALK TO THE POLICE.

3 Q. OKAY. DID HE THREATEN YOU?

4 A. NO, SIR.

5 Q. OKAY. DID HE PULL A WEAPON ON YOU?

6 A. NO, SIR.

7 Q. SMACK YOU AROUND?

8 A. NO, SIR.

9 Q. DID HE TREAT YOU NICE?

10 A. HE TREATED ME LIKE, IT WAS HIS JOB, YOU KNOW.

11 Q. HE WAS OKAY WITH YOU?

12 A. YEAH.

13 Q. WHAT WERE YOU AFRAID OF?

14 A. TO TALK TO THE POLICE AND I WAS TOLD NOT TO SAY
15 NOTHING.

16 Q. OKAY. IT IS FAIR TO SAY THAT YOU AND RALPH WERE
17 NOT FRIENDLY, YOU AND RALPH WEREN'T FRIENDS,
18 THAT'S AN ACCURATE STATEMENT, ISN'T IT?

19 A. YEAH.

20 Q. YOU AND CHRISTIAN ARE FRIENDS?

21 A. NO, NOT REALLY. I KNOW HIM.

22 Q. YOU KNOW HIM?

23 A. YES, SIR.

24 Q. BUT THEN, IF YOU JUST KNOW CHRISTIAN AND YOU'RE
25 NOT FRIENDLY WITH HIM, YOU'RE EVEN LESS FRIENDLY

CROSS - PATRICK TYLER BY MR. WISE

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1 WITH RALPH, RIGHT?

2 A. I GUESS YOU COULD SAY.

3 Q. I'M SORRY?

4 A. I GUESS YOU COULD SAY.

5 Q. OKAY. ALRIGHT. BUT IT'S YOUR TESTIMONY THAT YOU
6 PARTICIPATED IN THIS ROBBERY WITH A GUY YOU JUST
7 DON'T KNOW MUCH ABOUT, IS THAT YOUR TESTIMONY, IS
8 THAT WHAT YOU WANT THEM TO BELIEVE?

9 A. NO.

10 Q. NO. OKAY. YOU'VE HAD SOME PROBLEMS WITH RALPH IN
11 THE PAST, HAVEN'T YOU?

12 A. NO.

13 Q. OKAY. DID THERE COME A TIME WHEN YOU AND RALPH
14 GOT INTO A FIGHT BECAUSE OF SOME, SOME WORDS THAT
15 WERE SAID BETWEEN YOU AND HIS BROTHER, ACTUALLY A
16 PHYSICAL FIGHT, YOU AND RALPH?

17 A. NO, SIR.

18 Q. THAT NEVER HAPPENED?

19 A. NO, SIR.

20 Q. OKAY. DID THERE COME A TIME WHEN YOU AND ONE OF
21 RALPH'S COUSINS HAD A CONFRONTATION AT A CLUB,
22 AND THE COUSIN AND YOU HAD THE FIGHT? DO YOU
23 KNOW WHAT I'M TALKING ABOUT, A COUSIN NAMED PUCK,
24 DOES THAT NAME RING A BELL TO YOU?

25 A. NO, SIR.

CROSS - PATRICK TYLER BY MR. WISE

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1 Q. THAT NAME DOESN'T RING A BELL. FIGHT WITH A
2 COUSIN OF RALPH'S, YOU NEVER HEARD OF IT,
3 SOMETHING LIKE THAT NEVER HAPPENED?

4 A. I CAN'T RECALL IT, IF YOU MENTION THE NIGHT CLUB
5 I PROBABLY COULD RECALL.

6 Q. OKAY. ALRIGHT. AFTER THIS ALL WENT DOWN YOU
7 DIDN'T GO TO THE POLICE, DID YOU?

8 A. NO, SIR.

9 Q. NOW, IT'S YOUR TESTIMONY YOU DON'T KNOW WHAT
10 HAPPENED BECAUSE YOU WEREN'T IN THERE, BUT LOTS
11 OF SHOTS WERE FIRED?

12 A. YES, SIR.

13 Q. AND THE FACT THAT THIS ROBBERY OCCURRED AND SHOTS
14 WERE FIRED, THAT DIDN'T TROUBLE YOU AT ALL, DID
15 IT?

16 A. YES, IT DID, BUT I WAS TOLD NOT TO SAY NOTHING.

17 Q. OKAY. AND THAT'S WHY YOU DIDN'T GO TO THE
18 POLICE?

19 A. AT FIRST, YEAH.

20 Q. OKAY. THE WHOLE SHOOTING THING SURPRISED YOU BUT
21 IT DIDN'T REALLY BOTHER YOU, DID IT? THAT'S
22 PROBABLY WHAT HAPPENS WHEN -- THAT KIND OF THING
23 CAN HAPPEN.

24 A. YES, IT BOTHERED ME.

25 Q. OKAY. AND YOU HAD A WEEK BETWEEN, A LITTLE LESS

CROSS - PATRICK TYLER BY MR. WISE

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1 THAN A WEEK BETWEEN THE TIME THIS THING HAPPENED
2 AND YOU MADE UP THAT STATEMENT, RIGHT?

3 A. YES, WHEN I WROTE THE STATEMENT.

4 Q. OKAY. ALRIGHT. WHEN EVERYBODY WAS ARRESTED AND
5 CHARGED YOU KNEW THAT IT WAS GOING TO BE
6 IMPORTANT FOR YOU TO GET IN HERE AND MAKE A DEAL,
7 DIDN'T YOU?

8 A. WHAT HAPPENED?

9 Q. OKAY. AFTER EVERYBODY IS ARRESTED AND CHARGED,
10 YOU KNEW IT WAS GOING TO BE IMPORTANT FOR YOU TO
11 BE FIRST IN LINE TO TELL YOUR STORY AND OFFER TO
12 TESTIFY TO THE, FOR THE PROSECUTION?

13 A. I AGREED TO TESTIFY BECAUSE I WROTE A STATEMENT,
14 AND TOLD THEM WHAT HAPPENED. I DID WHAT WAS
15 RIGHT.

16 Q. YOU DID WHAT WAS RIGHT?

17 A. YEAH. I TOLD THEM WHAT HAPPENED.

18 Q. YOU DID WHAT WAS RIGHT?

19 A. YEAH.

20 Q. YOU WERE INVOLVED IN A ROBBERY WHERE SOMEBODY WAS
21 KILLED?

22 A. YES, SIR.

23 Q. WHEN DID YOU GROW A CONSCIENCE?

24 A. HUH? I GREW A CONSCIENCE WHEN I WROTE THE
25 STATEMENT AND TOLD THEM WHAT HAPPENED.

CROSS - PATRICK TYLER BY MR. WISE

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1 Q. UH-HUH, THE STATEMENT THAT SAYS, FOUR GUNS AND
2 FOUR OTHER PEOPLE HAD THEM, THAT'S STATEMENT,
3 RIGHT?

4 A. YES.

5 Q. OKAY. ALRIGHT, OKAY.

6 MR. WISE: YOUR HONOR, MAY I HAVE ONE MOMENT?

7 THE COURT: YES, SIR.

8 MR. WISE: THAT'S ALL.

9 THE COURT: OKAY, THANK YOU, MR. WISE.

10 NOW, LADIES AND GENTLEMEN, I KNOW WE'RE IN THE
11 MIDDLE OF CROSS-EXAMINATION OF MR. TYLER, AND NORMALLY
12 I WOULD LIKE TO FINISH THE CROSS-EXAMINATION BEFORE WE
13 TAKE A BREAK, BUT I ALSO TOLD Y'ALL WHEN Y'ALL SIGNED
14 ON TO BE JURORS THAT WE'LL GO AN HOUR TO AN HOUR AND A
15 HALF BEFORE WE TAKE A BREAK, AND WE'VE GONE OVER AN
16 HOUR AND A HALF. SO, WHAT I'M GOING TO DO IS, I'M
17 GOING TO LET Y'ALL STEP INTO THE JURY ROOM WHILE WE
18 TAKE A SHORT BREAK. REMEMBER WHAT I'M GOING TO REPEAT
19 OVER AND OVER, YOU CANNOT TALK ABOUT THIS CASE AMONG
20 YOURSELVES. OKAY? ALRIGHT, Y'ALL ARE EXCUSED TO THE
21 JURY ROOM.

22 (Whereupon, the jury retires
23 to the jury room and the following
24 takes place out of the presence
25 of the jury.)

1 THE COURT: ALRIGHT, MR. TYLER, YOU'VE BEEN ON
2 THAT JURY STAND FOR A WHILE. WE'RE TAKING A BREAK.
3 YOU CANNOT TALK TO ANYBODY ABOUT YOUR TESTIMONY.
4 OKAY? IN OTHER WORDS, RIGHT NOW IT'S -- WE'RE GOING
5 TO PICK UP JUST AS IF WE'RE GOING ON, BUT YOU ARE
6 ALLOWED TO TAKE A BREAK. IF YOU NEED A GLASS OF
7 WATER, IF YOU NEED SOMETHING LIKE THAT WE'LL LET YOU
8 HAVE THAT. OKAY? AND IF YOU NEED TO STAND UP AND
9 STRETCH YOU'RE WELCOME TO DO THAT. OKAY?

10 WE'RE GOING TO BE IN RECESS AND THEN WHEN WE COME
11 BACK IN, MR. PALMER, HE'LL BE YOUR WITNESS. OKAY?
12 AND WE'LL BE IN RECESS FOR ABOUT FIFTEEN MINUTES.

13 (Recess)

14 (Go to Volume Two for continuation
15 of this trial.)

STATE OF SOUTH CAROLINA

COURT OF GENERAL SESSIONS

COUNTY OF ORANGEBURG

FIRST JUDICIAL CIRCUIT

STATE OF SOUTH CAROLINA)

VOLUME TWO OF THREE

versus)

TRANSCRIPT OF RECORD

DATE:

DECEMBER 10 - 17, 2010

CHRISTIAN COLEMAN,)

CASE NOS.

RALPH BERNARD COLEMAN)

2010-GS-38-802, 803, 805

WALTER LEE HARRIS,)

2010-GS-38-808, 810, 811

DANNY RYANT, JR.,)

2010-GS-38-812, 813, 814

MARIO MONTEZ SHIVERS)

2010-GS-38-817, 818, 819

2010-GS-38-822, 823, 824

DEFENDANTS)

BEFORE:

HONORABLE EDGAR DICKSON, PRESIDING JUDGE

AND A JURY.

APPEARANCES:

DAVID M. PASCOE, ESQUIRE

SOLICITOR

DONALD N. SORENSON, ESQUIRE

ASSISTANT SOLICITOR

FOR THE STATE

RICHARD LACKEY, ESQUIRE

FOR DEFENDANT CHRISTIAN COLEMAN

JILLIAN ULLMAN AND MARK WISE, ESQUIRE

FOR DEFENDANT RALPH BERNARD COLEMAN

SCOTT PALMER, ESQUIRE

FOR DEFENDANT WILLIE HARRIS

DOUGLAS MELLARD, ESQUIRE

FOR DEFENDANT DANNY RYANT, JR.

JOSHUA KOGER, ESQUIRE

FOR DEFENDANT, MARIO MONTEZ SHIVERS

HARRY A. WALKER (MRS.)

COURT REPORTER, FIRST JUDICIAL CIRCUIT

POST OFFICE BOX 127

ROWESVILLE, SOUTH CAROLINA 291331

I N D E X

(See Volume One for complete index.)

1 DATE:

2 DECEMBER 14, 2010

3 (Continued from Volume One.)

4 (The following takes place
5 out of the presence of the jury.)

6 THE COURT: SOLICITOR PASCOE, DID YOU WANT TO
7 TELL ME SOMETHING?

8 SOLICITOR PASCOE: AN ISSUE HAS BEEN BROUGHT UP
9 BY THE DEFENSE THAT IS RELEVANT BECAUSE THEY'RE
10 THINKING ABOUT WANTING TO PUT IN MORE EVIDENCE. I'M
11 GOING TO LET MS., I'M GOING TO LET JILL EXPLAIN IT.

12 THE COURT: OKAY. MS. ULLMAN.

13 MS. ULLMAN: THANK YOU, YOUR HONOR. AS YOU KNOW,
14 OBVIOUSLY, THE DEFENSE CLOSING, WHAT ORDER THE
15 CLOSINGS ARE DONE IS BASED UPON WHETHER DEFENSE PUTS
16 ANY EVIDENCE INTO, OR ANYTHING INTO THE RECORD. I
17 WOULD ARGUE TO THIS COURT THAT AS WE STAND HERE WE ARE
18 ALL SEPARATE LAWYERS REPRESENTING SEPARATE DEFENDANTS.
19 I UNDERSTAND THAT WE COLLECTIVELY POOLED A JURY, BUT
20 THAT WAS TO TRY TO KEEP OUR STRIKES AS FAIR AS
21 POSSIBLE BECAUSE BY STATUTE WE WERE REDUCED.

22 THE COURT: I UNDERSTAND. OKAY.

23 MS. ULLMAN: MY POINT IN SAYING ALL THAT IS, AT
24 THIS POINT NOBODY AT THIS TABLE HAS OFFERED ANY
25 EVIDENCE INTO THE RECORD EXCEPT FOR JOSH KOGER. HE

1 ENTERED A PIECE OF EVIDENCE, I BELIEVE IT WAS
2 SOMEBODY'S STATEMENT. THE POINT IS, HE ENTERED A
3 PIECE OF EVIDENCE, IT WAS ENTERED IN AS DEFENDANT
4 SHIVERS'S EXHIBIT ONE, I BELIEVE, AND AT THIS POINT
5 NONE OF US HAVE CHOSEN TO PUT ANY EVIDENCE IN.
6 SOLICITOR SORENSON TELLS ME THAT HE KNOWS OF SOME CASE
7 THAT SAYS IF ANY DEFENDANT IN A JOINT TRIAL PUTS IN
8 EVIDENCE THEN ALL OF THE DEFENDANTS HAVE WAIVED THEIR
9 FINAL CLOSING. OBVIOUSLY, - - -

10 THE COURT: I THINK THERE IS A CASE THAT SAYS
11 THAT.

12 MS. ULLMAN: OBVIOUSLY, WE WOULD OBJECT TO THAT.
13 I UNDERSTAND THERE IS A CASE, BUT FOR THE RECORD AND
14 FOR APPEALS WE WOULD OBJECT TO THAT. DUE PROCESS --
15 THIS IS A SEPARATE TRIAL, AND I DON'T UNDERSTAND HOW
16 JOSH KOGER ENTERING EVIDENCE INTO THE RECORD COULD
17 AFFECT MY ABILITY TO CLOSE LAST. WE HAVE NOT
18 DISCUSSED WHAT EVIDENCE I WILL BRING TO THE RECORD.
19 OBVIOUSLY, EVIDENCE HE PUTS INTO THE RECORD COULD HURT
20 MY CLIENT, COULD HELP MY CLIENT, BUT EITHER WAY, WE'RE
21 NOT SITTING HERE AS A TEAM, WE ARE SITTING HERE
22 SEPARATED EXCEPT FOR MR. WISE AND I, AND - - -

23 THE COURT: I'M GLAD TO KNOW HE KNOWS THAT.

24 MS. ULLMAN: --- HIM ENTERING EVIDENCE IS GOING
25 TO RUIN OUR CHANCES. SO, IF YOUR HONOR IS GOING TO

1 DENY MY MOTION TO ALLOW US TO HAVE FINAL CLOSE AS LONG
2 AS WE DON'T SEPARATELY ENTER OUR OWN EVIDENCE WE NEED
3 TO KNOW THAT BEFORE WE CONTINUE ON, BECAUSE THAT MAY
4 CHANGE ALL OF OUR VIEWS ON WHAT WE DO AND DON'T ENTER.

5 MR. MELLARD: AND YOUR HONOR, I'D LIKE TO JOIN
6 THIS MOTION. MR. RYANT WOULD BE OF THE OPINION HIS
7 TRIAL STRATEGY SHOULD NOT BE DICTATED BY OTHER
8 DEFENDANTS IN THIS CASE. IT SHOULD BE DICTATED BY HIS
9 OWN ATTORNEY.

10 THE COURT: AND I DO UNDERSTAND YOUR MOTION, I
11 REALLY DO.

12 MR. KOGER: JUDGE, I'D LIKE TO BE HEARD ON IT,
13 TOO.

14 THE COURT: YES, SIR. I WASN'T GETTING READY TO
15 RULE ANYWAY, BUT THANK YOU.

16 MR. KOGER: OKAY. BASICALLY, I DIDN'T CONSULT
17 WITH ANY OTHER OF THE OTHER COUNSEL AT THE TABLE WHEN
18 I SUBMITTED EVIDENCE BECAUSE I REPRESENT MR. SHIVERS,
19 AND I'M GOING TO DO WHAT'S BEST FOR MR. SHIVERS. SO,
20 I DID NOT CONSULT WITH THEM. SO, I GUESS I WOULD JOIN
21 IN WITH THEIR MOTION FOR THEM TO BE ABLE TO MAKE THAT
22 FINAL OR LAST ARGUMENT.

23 THE COURT: OKAY. BUT MR. KOGER, YOU
24 UNDERSTAND, IF I GO ALONG WITH JUST, EVEN WITH IT
25 BEING SEPARATE LIKE THAT, OKAY, AND YOU'RE DOING THAT,

1 THEN WHAT YOU'RE SAYING TO ME IS, I WOULD BE ABLE TO
2 LET THE SOLICITOR'S OFFICE CLOSE WITH REGARD TO YOUR
3 CLIENT, RIGHT?

4 MR. KOGER: RIGHT.

5 THE COURT: OKAY, SINCE YOU'VE PUT IN EVIDENCE.

6 MR. KOGER: I'LL GO FIRST.

7 THE COURT: WELL, I MEAN, YOU DON'T ACTUALLY GET
8 TO GO FIRST, BUT I MEAN - - -

9 MR. KOGER: RIGHT.

10 THE COURT: --- BUT THE SOLICITOR WOULD CLOSE
11 AFTER YOU.

12 MR. KOGER: RIGHT.

13 THE COURT: OKAY. BUT THE OTHER DEFENDANTS ARE
14 SAYING THAT WHAT'S HAPPENING IS, THEY WANT TO BE
15 ALLOWED TO CLOSE AFTER THAT. RIGHT, YEAH. OKAY.

16 MR. KOGER: FIVE SEPARATE TRIALS, YOUR HONOR.

17 THE COURT: WELL, I UNDERSTAND FIVE SEPARATE
18 TRIALS, BUT -- AND IF Y'ALL -- DO Y'ALL NEED ME TO
19 RULE ON THAT BEFORE WE GO ANY FURTHER WITH THE
20 QUESTIONING HERE TODAY?

21 MS. ULLMAN: I WOULD APPRECIATE THAT IF I'M GOING
22 TO ENTER ...

23 THE COURT: AND WHAT I NEED TO DO, I'VE GOT SOME
24 OF THAT EVIDENCE IN MY -- I MEAN, SOME OF THOSE CASES
25 IN MY OFFICE, I'VE JUST GOT TO TRY AND LOOK THEM UP,

1 AND IF ANYBODY'S GOT -- MR. SORENSON, DO YOU HAPPEN TO
2 HAVE THAT CASE?

3 SOLICITOR SORENSON: I'M LOOKING RIGHT NOW, YOUR
4 HONOR.

5 THE COURT: OKAY. IF NOT, I THINK I'VE GOT IT IN
6 MY OFFICE AND I CAN LOOK IT UP. BECAUSE WE'VE HAD
7 THAT ISSUE BEFORE. WE HAVEN'T HAD IT WITH MULTIPLE
8 DEFENDANTS, SO I NEED TO SEE WHAT WE'RE GOING TO DO
9 ABOUT THAT. SO, IT WILL TAKE ME A FEW MINUTES TO LOOK
10 THAT UP BECAUSE I NEED TO SEE.

11 SOLICITOR SORENSON: I CAN GIVE YOU THE CITES AT
12 LEAST.

13 THE COURT: ALRIGHT, SIR. HAVE YOU GOT THE
14 CITES?

15 SOLICITOR SORENSON: I BELIEVE THERE'S TWO OF
16 THEM, STATE VERSUS SMITH, 693 SOUTHEASTERN, SECOND,
17 415, - - -

18 THE COURT: DO YOU MIND, DO YOU HAVE THE SOUTH
19 CAROLINA CITE?

20 SOLICITOR SORENSON: YES, SIR, IT'S 387 SOUTH
21 CAROLINA 619.

22 THE COURT: YES, SIR.

23 SOLICITOR SORENSON: AND THAT I BELIEVE CITES A
24 STATE VERSUS CROWE, WHICH IS 258 SOUTH CAROLINA 258, I
25 THINK THAT'S RIGHT.

1 THE COURT: OKAY.

2 SOLICITOR SORENSON: BUT BASICALLY THAT DEALS
3 WITH THE LOSS OF THE RIGHT TO LAST ARGUMENT IF EITHER
4 DEFENDANT OFFERS ANY EVIDENCE, JUST BECAUSE ANOTHER
5 DEFENDANT, BUT BASICALLY THAT WOULD BE TWO SUFFICIENT
6 GROUNDS TO SEVER THE CHARGES, THE CASES.

7 THE COURT: RIGHT. OKAY. IF Y'ALL WILL BEAR
8 WITH ME FOR ABOUT ANOTHER TEN OR FIFTEEN MINUTES, I
9 JUST NEED TO PULL THE CASES, AND I WILL COME BACK AND
10 MAKE A RULING ON YOUR MOTION. OKAY? OKAY. DOES
11 ANYBODY - I'M ASSUMING EVERYBODY IS JOINING IN ON
12 THIS MOTION, IS THAT CORRECT?

13 MR. LACKEY: THAT'S CORRECT, YOUR HONOR.

14 MR. PALMER: YOUR HONOR, THAT'S CORRECT.

15 THE COURT: OKAY.

16 MR. PALMER: I JUST DIDN'T WANT TO GO THROUGH A
17 BUNCH OF ...

18 THE COURT: NO, I APPRECIATE THAT, I APPRECIATE
19 THAT. YOU DID GOOD, YOU DID GOOD BEING READY TO GET
20 STARTED. THANK YOU, SIR.

21 (Recess)

22 THE COURT: ALRIGHT, MS. ULLMAN, I KNOW YOU MADE
23 THE MOTION AND WANTED ME TO MAKE THE DETERMINATION
24 ABOUT THE ORDER OF CLOSING ARGUMENTS SO THAT -- AND I
25 KNOW THAT ALL THE OTHER DEFENDANTS JOINED IN THIS. I

1 CERTAINLY HAVE IT ON THE RECORD. AND ABOUT THE
2 UNFAIRNESS OF ONE DEFENDANT BINDING THE OTHER
3 DEFENDANTS TO HAVING TO GIVE UP THE ABILITY TO CLOSE
4 LAST WHEN ONE DEFENDANT OUT OF FIVE INTRODUCES
5 EVIDENCE.

6 MS. ULLMAN: YES, SIR.

7 THE COURT: OKAY. AND I UNDERSTAND THAT WAS
8 ALSO, EVEN IF YOU DIDN'T SAY IT, IT WAS ALSO IMPLICIT
9 FOR Y'ALL'S ARGUMENTS FOR SEVERANCE WHICH I HEARD
10 EARLIER, IS THAT CORRECT?

11 MS. ULLMAN: HONESTLY, YOUR HONOR, IT WAS NOT IN
12 MY ARGUMENT FOR SEVERANCE BECAUSE I HAD ABSOLUTELY NO
13 IDEA THAT THIS COULD HAPPEN. I ASSUMED THAT THE
14 DEFENDANT HAD A RIGHT TO CLOSE IF HE DIDN'T INTRODUCE
15 EVIDENCE, SINCE THIS IS A SEPARATE TRIAL FOR ALL FIVE
16 WHERE THE STATE HAS JOINED IT BASICALLY FOR EFFICIENCY
17 AND MONEY PURPOSES.

18 THE COURT: RIGHT.

19 MS. ULLMAN: THEY'RE THE INNOCENT PARTIES SITTING
20 HERE. THE STATE HAS THE BURDEN. THEM DOING THIS HAS
21 ALLOWED THEM TO CAUSE US TO BASICALLY WORK AS A TEAM,
22 WHICH WE SHOULD NOT HAVE TO BE FORCED TO DO. WE'VE
23 HAD TO COLLECTIVELY PULL THE JURY, WE'VE NOW BASICALLY
24 HAVE TO COLLECTIVELY DECIDE WHAT EVIDENCE IS AND ISN'T
25 COMING, BUT UNFORTUNATELY, WE DIDN'T KNOW THAT

1 PREVIOUSLY, SO MR. KOGER ENTERED EVIDENCE ON HIS
2 CLIENT'S BEHALF AS HE IS ETHICALLY SUPPOSED TO DO. HE
3 IS ETHICALLY BOUND TO REPRESENT MARIO SHIVERS, NOT ALL
4 FIVE OF THESE DEFENDANTS, AS I'M ONLY BOUND TO
5 REPRESENT RALPH COLEMAN. SO, I UNDERSTAND THAT THE
6 SOUTH CAROLINA SUPREME COURT HAS STATED THAT THIS IS
7 ALLOWED, BUT I WOULD ARGUE THAT UNDER THE UNITED
8 STATES CONSTITUTION THAT ALLOWS, THAT REQUIRES THAT A
9 DEFENDANT HAVE A FAIR AND IMPARTIAL TRIAL, HIS DAY IN
10 COURT, DUE PROCESS, I WOULD SAY THAT THE STATE BEING
11 ALLOWED TO JOIN ALL OF THIS HAS THROWN ALL OF THAT OUT
12 OF THE WINDOW AND WE ARE NOW FORCED TO WORK AS A TEAM,
13 AND WE CERTAINLY SHOULD NOT HAVE TO DO THAT.

14 THE COURT: YES, MA'AM, NO, I UNDERSTAND THAT.
15 AND I UNDERSTAND THAT EVEN THOUGH YOU DIDN'T MAKE IT
16 AS PART OF YOUR SEVERANCE MOTION, IT SHOULD GO ALONG
17 AS ANOTHER REASON FOR SEVERANCE.

18 MS. ULLMAN: YES, SIR.

19 THE COURT: OKAY. ALRIGHT. AND JUST TO CLARIFY,
20 IT WAS A COURT OF APPEALS DECISION. OKAY? THE ONE
21 I'M LOOKING AT IS STATE VERSUS SMITH, WHICH IS COURT
22 OF APPEALS.

23 MS. ULLMAN: YES, SIR.

24 THE COURT: OKAY? SO, IT HASN'T GONE UP TO THE
25 SUPREME COURT WITH REGARD TO THIS ISSUE APPARENTLY.

1 OKAY? AND I DON'T KNOW WHETHER THEY'VE ASKED FOR A
2 REHEARING ON THAT OR NOT. OKAY? BUT ACCORDING TO THE
3 STATE VERSUS SMITH CASE, ANY ONE DEFENDANT IN A
4 JOINTLY TRIED CASE CAUSES ALL OF THE DEFENDANTS BEING
5 TRIED TOGETHER TO LOSE THE RIGHT TO, YOU KNOW, TO END
6 CLOSING. THOUGH I AM, ON THE RECORD, VERY SYMPATHETIC
7 TO YOUR ARGUMENT AND TO YOUR POSITION, I'M ALSO
8 CHARGED WITH STANDING BY THE LAW AS IT IS INTERPRETED.
9 I AM GOING TO RULE THAT THE SOLICITOR IS GOING TO GET
10 THE FINAL CLOSING HERE. I AM GOING TO NOTE THE
11 OBJECTION THAT ALL OF Y'ALL HAVE TO MY RULING, EVEN
12 MR. KOGER, YOU KNOW, AS TO MY RULING SO THAT THAT IS
13 PRESERVED FOR APPEAL. I THINK Y'ALL HAVE AN
14 INTERESTING ARGUMENT, AND AT THIS STAGE IN THE
15 PROCEEDING THE ONLY THING THAT HAS BEEN INTRODUCED IS
16 WHAT -- A STATEMENT MADE BY - - -

17 MS. ULLMAN: ASHLEY PARSLEY, YOUR HONOR.

18 THE COURT: RIGHT. OKAY. BY THE DEFENDANT.
19 OKAY. ALRIGHT, SO NOW WE KNOW HOW TO -- EVERYBODY
20 KNOWS HOW TO PROCEED? OKAY, THANK YOU. ALRIGHT,
21 ANYTHING FROM THE STATE?

22 SOLICITOR SORENSON: NO, YOUR HONOR.

23 THE COURT: OKAY. ANYTHING ELSE FROM THE
24 DEFENDANTS?

25 MR. KOGER: JUDGE, - - -

1 THE COURT: YES, SIR, MR. KOGER.

2 MR. KOGER: --- I WOULD LIKE TO PUT ON THE
3 RECORD, OF COURSE, WE, YOU JUST RULED ON THIS
4 PARTICULAR ISSUE, BUT JUST TO REITERATE, NOW THAT
5 ESSENTIALLY WE WILL HAVE TO WORK ON THE TEAM WITH ANY
6 ADDITIONAL PIECES OF EVIDENCE, THAT'S GOING TO BECOME
7 HAIRY BECAUSE IT MAY COME A POINT THAT SOME OF THESE
8 DEFENDANTS' INTEREST MAY BECOME CONTRADICTORY.

9 THE COURT: ALRIGHT.

10 MR. KOGER: AND I JUST WANT TO PLACE THAT ON THE
11 RECORD.

12 THE COURT: YES, SIR. NO, I UNDERSTAND IT. I AM
13 AWARE OF THAT. THAT WAS ONE OF THE INHERENT RISKS IN
14 ME DENYING THE SEVERANCE MOTION. OKAY. SO, I'M AWARE
15 OF THAT.

16 MR. KOGER: THANK YOU.

17 THE COURT: OKAY. ALRIGHT. ANYTHING ELSE FROM
18 ANY OF THE DEFENDANTS?

19 MR. PALMER: NO, YOUR HONOR.

20 MS. ULLMAN: NO, YOUR HONOR.

21 MR. LACKEY: NO, YOUR HONOR.

22 MR. MELLARD: NO, YOUR HONOR.

23 THE COURT: OKAY. IS THE JURY READY? YOU CAN
24 BRING THE JURY BACK IN.

25 (Whereupon, the jury enters .

1 the courtroom and the following
2 takes place in the presence
3 of the jury.)

4 THE COURT: LADIES AND GENTLEMEN, WE HAD SOME
5 MORE THINGS WE NEEDED TO GO OVER BEFORE I COULD GET
6 Y'ALL BACK IN HERE. WE ARE NOW GETTING READY TO
7 CONTINUE WITH THE TESTIMONY OF MR. TYLER.

8 AND MR. TYLER, I JUST NEED TO REMIND YOU, YOU
9 ARE STILL UNDER OATH. ALRIGHT, SIR? OKAY.

10 AND NOW, YOUR WITNESS.

11 MR. PALMER: THANK YOU, YOUR HONOR, MAY IT PLEASE
12 THE COURT.

13 THE COURT: YES, SIR.

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

CROSS - PATRICK TYLER BY MR. PALMER

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CROSS-EXAMINATION OF PATRICK TYLER

BY MR. PALMER:

Q. MR. TYLER, I WANT TO ASK YOU FIRST, SIR, TO TELL
ME EXACTLY WHY YOU'RE HERE IN COURT TODAY?

A. BECAUSE I'M BEING CHARGED WITH MURDER.

Q. OKAY. THAT'S WHY YOU'RE HERE IN COURT TODAY?

A. YES, SIR, AND TO TESTIFY.

Q. YOU'RE HERE TO GET A DEAL, AREN'T YOU?

A. NO, SIR.

Q. BE HONEST. YOU KNOW THIS IS GOING TO HELP YOU?

A. NO, SIR.

Q. YOU DON'T KNOW THIS IS GOING TO HELP YOU?

A. NO, SIR, BECAUSE I'M FACING LIFE STILL.

Q. AND YOU THINK YOU'RE GOING TO GET LIFE EVEN AFTER
TESTIFYING IN COURT TODAY?

A. MAYBE.

Q. MAYBE NOT. DO YOU AGREE?

A. MAYBE NOT. MAYBE, MAYBE NOT.

Q. BUT YOU THINK THIS GOING TO HELP YOU, DON'T YOU?

A. NO, SIR.

Q. ALRIGHT. NOW, I HAVE SOME QUESTIONS ABOUT YOUR
TESTIMONY. SPECIALLY, WOULD YOU AGREE WITH THIS
STATEMENT? WHEN THIS ROBBERY WAS BEING PLANNED
YOU WERE IN ON THE PLAN?

A. YES, SIR.

CROSS - PATRICK TYLER BY MR. PALMER

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1 Q. YOU WERE THERE?

2 A. YES, SIR.

3 Q. YOU WERE THERE WITH MR. SHIVERS AND MR. RYANT?

4 A. YES, SIR.

5 Q. AND THE OTHER GUY THAT LEFT THAT'S NOT A
6 DEFENDANT, DARIUS?

7 A. YES, SIR.

8 MR. MELLARD: I'LL HAVE TO OBJECT TO THAT
9 QUESTION. I DON'T BELIEVE IT'S ACCURATE AS TO WHO WAS
10 THERE DURING THE PLANNING. I BELIEVE HE SAID MR.
11 RYANT WAS THERE DURING THE PLANNING.

12 THE COURT: THAT WAS WHAT HIS QUESTION WAS.

13 MR. MELLARD: I DON'T -- THAT'S BEEN BROUGHT OUT
14 IN HIS TESTIMONY. I THINK THAT'S NOT ACCURATE, YOUR
15 HONOR.

16 MR. PALMER: YOUR HONOR, I JUST ASKED THE
17 QUESTION.

18 THE COURT: YEAH, HE JUST ASKED THE QUESTION.
19 YOU GET TO, YOU KNOW, STILL CROSS-EXAMINE AND CLEAR
20 THAT UP. OKAY.

21 Q. AND YOU WERE IN THE VEHICLE WHEN IT FIRST WENT
22 OVER TO THE APARTMENT WHERE THIS HAPPENED?

23 A. YES, SIR.

24 Q. OKAY. AND AT SOME POINT WALTER HARRIS DIDN'T
25 WANT TO DO IT ANYMORE?

CROSS - PATRICK TYLER BY MR. PALMER

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1 A. YES, SIR.

2 Q. THAT WAS YOUR TESTIMONY, WASN'T IT?

3 A. YES, SIR.

4 Q. THAT WAS AFTER HE WENT IN THE FIRST TIME, - - -

5 A. YES, SIR.

6 Q. --- ACCORDING TO YOUR TESTIMONY, AND BOUGHT THE
7 WEED?

8 A. YES, SIR.

9 Q. AND HE CAME OUT AND SAID, I DON'T WANT TO DO THIS
10 ANYMORE?

11 A. YES, SIR.

12 Q. AND AS I UNDERSTAND YOUR TESTIMONY, AT SOME POINT
13 AFTER THAT YOU DECIDED YOU DIDN'T WANT TO DO IT
14 ANYMORE?

15 A. YES, SIR.

16 Q. AND WHEN WAS THAT?

17 A. WHEN WE WAS GOING BACK TOWARDS THE VICTIM'S HOUSE
18 THE SECOND TIME.

19 Q. ALRIGHT. AND SO, WHAT DID YOU DO TO GET YOURSELF
20 OUT OF IT?

21 A. NOTHING.

22 Q. WHAT DID YOU WANT TO DO TO GET YOURSELF OUT OF
23 IT?

24 A. LEAVE.

25 Q. WHY DIDN'T YOU LEAVE?

CROSS - PATRICK TYLER BY MR. PALMER

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1 A. I DON'T KNOW.

2 Q. WELL, NOW, I THOUGHT YOU TOLD SOME OF THESE OTHER
3 LAWYERS THAT YOU WERE SCARED?

4 A. I WAS SCARED.

5 Q. WHO WERE YOU SCARED OF?

6 A. OF THE SITUATION.

7 COURT REPORTER: I'M SORRY, I DIDN'T HEAR YO.

8 A. I WAS SCARED OF THE SITUATION THAT WAS ABOUT TO
9 OCCUR.

10 Q. YOU WERE SCARED OF THE SITUATION. I NEED AN
11 EXPLANATION ON THAT, SIR.

12 A. I WAS SCARED TO GO ROB THE VICTIM.

13 Q. ALRIGHT. YOU WEREN'T SCARED OF ANYONE IN THAT
14 TRUCK WITH YOU?

15 A. NO, SIR.

16 Q. AND NOBODY TOLD YOU THAT YOU HAD TO GO ALONG, IS
17 THAT YOUR TESTIMONY?

18 A. NO, SIR.

19 Q. THAT'S NOT YOUR TESTIMONY?

20 A. WELL, YOU SAY, NO OTHERS, YEAH, YOU'RE SAYING --
21 REPEAT WHAT YOU SAID AGAIN?

22 Q. I SAID, NOBODY TOLD YOU YOU HAD TO GO ALONG WITH
23 THIS PLAN EVEN AFTER YOU DIDN'T WANT TO?

24 A. NO, SIR, THERE WAS MARIO SHIVERS SAYING IT WAS
25 GOING TO BE STRAIGHT. THE ONLY THING YOU'RE

CROSS - PATRICK TYLER BY MR. PALMER

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1 GOING TO DO IS BUY THE WEED.

2 COURT REPORTER: HE WAS GOING TO BE WHAT?

3 A. ALRIGHT.

4 Q. IT WAS GOING TO BE ALRIGHT, AND WHAT DID YOU
5 INTERPRET THAT TO MEAN?

6 A. LIKE, I WAS GOING TO BE ALRIGHT.

7 Q. CAN YOU EXPLAIN THAT ANSWER, WHAT DO YOU MEAN BY
8 ALRIGHT?

9 A. HE SAID I WAS JUST GOING IN THERE JUST TO BUY THE
10 MARIJUANA.

11 Q. ALRIGHT. AND SO, DID YOU INTERPRET THAT TO MEAN
12 YOU WEREN'T GOING TO GET IN TROUBLE FOR THIS?

13 A. YES.

14 Q. OKAY. AND AT SOME POINT AFTER THAT, OBVIOUSLY,
15 YOU DID GET IN TROUBLE?

16 A. YES.

17 Q. AND THAT BRING US TO MY QUESTION AS TO WHY YOU'RE
18 HERE TODAY. YOU'RE TRYING TO MINIMIZE YOUR
19 TROUBLE, AREN'T YOU?

20 A. NO, SIR, I'M STILL IN THE SAME TROUBLE THEY'RE
21 IN.

22 Q. NOW, THESE GUYS, YOU'VE ALREADY TESTIFIED, SOME
23 OF THEM YOU WENT TO SCHOOL WITH, SOME OF THEM YOU
24 GREW UP WITH, SOME OF THEM YOU HUNG OUT WITH, AND
25 YOU'RE HERE TESTIFYING AGAINST THESE GUYS FOR ONE

CROSS - PATRICK TYLER BY MR. PALMER

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1 REASON, TO HELP YOU, YES OR NO?

2 A. NO, SIR.

3 Q. OKAY. ALRIGHT, SO EVEN THOUGH YOU DIDN'T WANT TO
4 GO IN THE APARTMENT, YOU WENT IN WITH WHO?

5 A. RALPH.

6 Q. WITH RALPH. YOU AND RALPH WENT IN. DID YOU OR
7 DID YOU NOT KNOW THAT HE HAD A WEAPON?

8 A. YES.

9 Q. YOU DID KNOW?

10 A. YES.

11 Q. AND YOU WENT IN THERE ANYWAY?

12 A. YES.

13 Q. YOU WENT THROUGH THE DOOR?

14 A. YES.

15 Q. WHO IS THE FIRST PERSON YOU SAW?

16 A. OLD SCHOOL.

17 Q. FIRST YOU SAW OLD SCHOOL?

18 A. YES.

19 Q. AND WHERE WAS HE IN THE APARTMENT?

20 A. HE WAS IN THE KITCHEN.

21 Q. NOW, YOU DIDN'T KNOW OLD SCHOOL, DID YOU?

22 A. NO, SIR.

23 Q. WAS THIS THE FIRST TIME YOU HAD SEEN OLD SCHOOL?

24 A. YES, SIR.

25 Q. OKAY. AND WAS HE INTRODUCED TO YOU AS OLD

CROSS - PATRICK TYLER BY MR. PALMER

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1 SCHOOL?

2 A. YES, I WAS TOLD THAT HIS NAME WAS OLD SCHOOL.

3 Q. BY WHOM?

4 A. MARIO.

5 Q. OKAY. THAT WAS BEFORE YOU ENTERED THE BUILDING?

6 A. YES, SIR.

7 Q. OKAY. SO, HIS BACK WAS TO YOU AND HE WAS WHERE,
8 OLD SCHOOL?

9 A. IN THE KITCHEN.

10 Q. HOW FAR AWAY WAS HE?

11 A. HE WAS, LIKE, BETWEEN THE LIVING ROOM AND THE
12 KITCHEN.

13 Q. AND YOU DIDN'T SEE ANYBODY ELSE?

14 A. YES, A FEMALE.

15 Q. WELL, WHO WAS THE FEMALE?

16 A. I DON'T KNOW.

17 Q. WHAT DID SHE LOOK LIKE?

18 A. KIND OF HARD TO TELL, I CAN'T RECALL.

19 Q. DID YOU SPEAK WITH THE FEMALE?

20 A. YES, I HAD BOUGHT THE WEED FROM THE FEMALE.

21 Q. OKAY. AND WHAT, WHAT WAS THE WEED -- EXCUSE ME,
22 WHAT WAS THE FEMALE DOING BESIDES SELLING YOU
23 WEED?

24 A. JUST SELLING THE WEED, THAT'S IT.

25 Q. IS THERE ANYTHING ELSE YOU REMEMBER ABOUT HER

1 THAT GAVE YOU ANY KIND OF CONCERN?

2 A. NO, SIR.

3 Q. OKAY. AND WAS IT OLD SCHOOL OR THE FEMALE THAT
4 OPENED THE DOOR?

5 A. THE FEMALE.

6 Q. ALRIGHT. AND YOU WALKED PAST HER?

7 A. YES, SIR.

8 Q. OKAY. AND NOW, SHE LET YOU IN, CORRECT?

9 A. YES, SIR. YOU COULD SAY, YES, SIR.

10 Q. ALRIGHT. SO, YOU BOUGHT THE WEED, AND HOW MUCH
11 WEED DID YOU BUY?

12 A. LIKE, A QUARTER, OR LIKE -- I CAN'T EVEN RECALL.

13 Q. IS A QUARTER A QUARTER OUNCE?

14 A. YES.

15 Q. AND THAT'S HOW MUCH MONEY IS IT WORTH?

16 A. LIKE, THIRTY DOLLARS.

17 Q. AND YOU GAVE HER THE MONEY?

18 A. YES, SIR.

19 Q. WHERE DID YOU GET THE MONEY?

20 A. HUH?

21 Q. WHERE DID YOU GET THE MONEY?

22 A. I CAN'T RECALL.

23 Q. WAS IT YOUR MONEY?

24 A. YES, SIR.

25 Q. OKAY. AND SO, UP TO NOW, UP TO THIS POINT IN

CROSS - PATRICK TYLER BY MR. PALMER

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1 YOUR TESTIMONY IT WAS YOUR JOB IN THIS WHOLE PLAN
2 TO GO IN AND BUY THE WEED?

3 A. YES, SIR.

4 Q. AND YOU KNEW MR. COLEMAN HAD A GUN?

5 A. YES, SIR.

6 Q. OKAY. AND THEN WHAT HAPPENED?

7 A. THAT'S WHEN MR. COLEMAN PULLED THE GUN OUT ON
8 HER.

9 Q. ON WHO?

10 A. THE FEMALE.

11 Q. OKAY. AND WHAT DID HE MAKE HER DO?

12 A. GET ON THE FLOOR.

13 Q. ALRIGHT. AND WHERE WAS SHE FACING WHEN SHE GOT
14 ON THE FLOOR?

15 A. FACING THE FLOOR.

16 Q. SO, WHAT WERE YOU DOING AT THIS TIME?

17 A. I WAS WALKING OUT THE DOOR.

18 Q. YOU WERE WALKING OUT THE DOOR?

19 A. YES, SIR.

20 Q. OKAY. THEN WHAT HAPPENED?

21 A. AND THEN, THAT'S WHEN EVERYBODY CAME IN WITH THE
22 GUNS.

23 Q. ALRIGHT. AND SO, DID YOU CONTINUE TO LEAVE?

24 A. OH, NO, SIR.

25 Q. YOU STAYED IN?

CROSS - PATRICK TYLER BY MR. PALMER

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- 1 A. YES, SIR.
- 2 Q. WHY DID YOU DO THAT?
- 3 A. I DON'T KNOW.
- 4 Q. YOU DON'T KNOW?
- 5 A. NO, SIR.
- 6 Q. WHAT WAS GOING THROUGH YOUR MIND?
- 7 A. I DON'T KNOW.
- 8 Q. WHAT DID YOU THINK WAS GOING TO HAPPEN?
- 9 A. I DON'T KNOW.
- 10 Q. YOU JUST STOOD THERE?
- 11 A. YES, SIR.
- 12 Q. ANYTHING IN YOUR HANDS?
- 13 A. NO, SIR.
- 14 Q. WHAT ABOUT THE WEED, WHERE WAS IT?
- 15 A. IN MY POCKET.
- 16 Q. OKAY. NOW, THIS STATEMENT YOU GAVE ON MARCH
- 17 EIGHTEENTH, DO YOU REMEMBER MAKING THAT
- 18 STATEMENT?
- 19 A. YES, SIR.
- 20 Q. WHERE WERE YOU WHEN YOU MADE IT?
- 21 A. ORANGEBURG COUNTY.
- 22 Q. OKAY. AND YOU SAID SOMETHING ABOUT MR. HARRIS,
- 23 DIDN'T YOU?
- 24 A. WHO?
- 25 Q. HARRIS, WALTER HARRIS.

CROSS - PATRICK TYLER BY MR. PALMER

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1 A. YES, SIR.

2 Q. WHAT DID YOU SAY ABOUT HIM IN YOUR STATEMENT?

3 A. I SAID THAT HE TAPED THE DUDE'S MOUTH, OLD
4 SCHOOL'S MOUTH, THE VICTIM'S MOUTH.

5 Q. OKAY. SO, YOU WERE THERE WHEN THAT HAPPENED?

6 A. YES, SIR.

7 Q. AND YOU WERE THERE WHEN THE SHOTS STARTED, IS
8 THAT YOUR TESTIMONY?

9 A. WELL, ONE OF THE SHOTS.

10 Q. ONE OF THE SHOTS?

11 A. YES, SIR.

12 Q. SO, YOU WERE ABLE TO GET OUT BEFORE ANY OTHER
13 SHOTS WERE FIRED?

14 A. YES, SIR.

15 Q. HOW MUCH TIME TOOK PLACE BETWEEN THE FIRST SHOT
16 AND THE TIME YOU LEFT THE DOOR?

17 A. LIKE THAT, REAL QUICK.

18 Q. SO, YOU MUST HAVE GOT OUT OF THERE IN A HURRY?

19 A. YES, SIR.

20 Q. AND HOW FAR AWAY FROM THE DOOR WERE YOU WHEN THE
21 OTHER SHOTS STARTED?

22 A. LIKE, I WAS JUST GETTING OFF THE STEPS.

23 Q. OKAY. SO, WHEN YOU HEARD THAT SHOT YOU WERE
24 TURNED AROUND GOING OUT THE DOOR, IS THAT WHERE
25 YOU WERE?

CROSS - PATRICK TYLER BY MR. PALMER

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- 1 A. YES, SIR.
- 2 Q. OKAY.
- 3 A. I WAS OUT.
- 4 Q. WHERE WERE YOU GOING TO GO?
- 5 A. WELL, I RAN BACK TO THE TRUCK, THE VEHICLE THAT
- 6 WE CAME IN?
- 7 Q. WHY THE TRUCK?
- 8 A. IT HAD BEEN POURING DOWN RAIN.
- 9 Q. OKAY. SO, YOU DIDN'T WANT TO GET WET?
- 10 A. WELL, - - -
- 11 Q. AT THAT POINT WAS IT YOUR INTENTION TO LEAVE?
- 12 A. YES.
- 13 Q. BUT YOU DIDN'T WANT TO GET WET SO YOU STAYED, IS
- 14 THAT RIGHT?
- 15 A. YES. BUT I DIDN'T, IT WASN'T THAT THAT I STAYED.
- 16 I DON'T KNOW WHY I STAYED.
- 17 Q. OKAY. NOW, WE TALKED ABOUT THE GUN THAT YOU SAY
- 18 WALTER HARRIS GAVE TO - - -
- 19 A. RALPH.
- 20 Q. --- AND THAT'S THE GUN THAT RALPH TOOK IN WHEN
- 21 YOU FIRST WENT IN?
- 22 A. YES.
- 23 Q. IS THAT CORRECT?
- 24 A. YES.
- 25 Q. YOU'RE SURE?

CROSS - PATRICK TYLER BY MR. PALMER

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1 A. YES.

2 Q. OKAY. SO, AT THAT POINT YOUR TESTIMONY IS, TO
3 YOUR KNOWLEDGE, WALTER LEE HARRIS DID NOT HAVE A
4 GUN?

5 A. YES. HE DIDN'T HAVE - NO, SIR, HE DIDN'T HAVE A
6 GUN.

7 Q. OKAY. NOW, ON YOUR MARCH EIGHTEENTH STATEMENT,
8 I'M GOING TO ASK YOU, I'M LOOKING ON PAGE TWO OF
9 DEFENDANT AFFIDAVIT, AND I'M JUST GOING TO POINT
10 IT OUT HERE, DO YOU REMEMBER BEING ASKED THAT
11 QUESTION? CAN YOU READ THAT, SIR?

12 A. "WHEN, ALL TOOK GUNS INTO THE HOUSE APARTMENT."

13 Q. DOES IT NOT SAY WHO ALL TOOK GUNS INTO THE
14 APARTMENT?

15 A. "LITTLE M, POKE, PETE AND RALPH."

16 Q. AND THAT'S YOUR HANDWRITING WHERE IT SAYS, A, FOR
17 ANSWER?

18 A. YES, SIR.

19 Q. OKAY. SO, IN THE STATEMENT YOU'RE SAYING,
20 LITTLE M, POKE, PETE, WHO YOU UNDERSTAND TO BE
21 WALTER HARRIS, - - -

22 A. YES.

23 Q. --- AND RALPH, YOU SPELLED IT R-A-F-F, RALPH
24 COLEMAN, CORRECT?

25 A. UH-HUH.

CROSS - PATRICK TYLER BY MR. PALMER

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1 Q. YOU'RE SAYING IN THIS STATEMENT THAT THOSE FOUR
2 HAD GUNS?

3 A. UH-HUH.

4 Q. BUT IN YOUR TESTIMONY YOU'RE SAYING, PETE DIDN'T
5 HAVE A GUN, HE GAVE IT TO RALPH?

6 A. YES, SIR.

7 Q. SO, WHICH IS CORRECT?

8 A. HE GAVE HIS GUN TO RALPH.

9 Q. OKAY. SO, NOW YOU'RE SAYING, DESPITE MAKING THE
10 STATEMENT ON MARCH EIGHTEENTH, NOW YOUR TESTIMONY
11 IS THAT PETE GAVE THE GUN TO RALPH?

12 A. I DID HAD MENTIONED THAT, THOUGH. I DID HAD
13 MENTIONED THAT PETE GAVE THE GUN TO RALPH IN THE
14 STATEMENT, IF I'M NOT MISTAKEN.

15 Q. CAN YOU POINT THAT OUT FOR ME, SIR?

16 THE COURT: CAN YOU HAND THAT TO HIM SO HE CAN
17 READ IT BETTER?

18 MR. PALMER: YES, SIR, I'M SORRY.

19 THE COURT: IT WOULD JUST BE EASIER FOR YOU TO
20 READ IT, AND GIVE HIM A CHANCE TO REVIEW IT, MR.
21 PALMER.

22 A. IT'S NOT IN THERE, SIR.

23 Q. IT'S NOT IN THERE. BUT YOU DO RECALL, YOU
24 THOUGHT IT WAS IN THERE, DIDN'T YOU?

25 A. YES, SIR.

CROSS - PATRICK TYLER BY MR. PALMER

398

1 Q. OKAY. WELL, I'M GOING TO ASK YOU ABOUT ANOTHER
2 PART OF THIS QUESTION AND ANSWER THING. NOW, I
3 UNDERSTAND FROM YOUR DIRECT TESTIMONY, WHEN THE
4 SOLICITOR WAS EXAMINING YOU, DID YOU NOT SAY THAT
5 YOU HAVE KNOWN PETE YOUR WHOLE LIFE?

6 A. YES, SIR.

7 Q. HOW HAVE YOU KNOWN HIM, DID Y'ALL GROW UP
8 TOGETHER?

9 A. WELL, BASICALLY, WE GROWED UP IN THE SAME AREA.

10 Q. OKAY. AND YOU'VE BEEN KNOWING HIM YOUR WHOLE
11 LIFE, IS THAT CORRECT?

12 A. YEAH.

13 Q. OKAY. NOW, WHEN YOU WERE ASKED IN THIS
14 STATEMENT, YOU WERE DOWN AT LAW ENFORCEMENT, THE
15 QUESTION WAS, SIR, AND I'M READING FROM THIS, "DO
16 YOU KNOW PETE'S REAL NAME?" WHAT WAS OUR ANSWER?

17 A. "NO".

18 Q. YOU'RE TELLING THIS COURT THAT EVEN THOUGH YOU
19 GREW UP WITH THIS MAN, YOU DON'T KNOW HIS REAL
20 NAME?

21 A. I DID CAME FORWARD AND SAY, TOLD, LIKE, ON MARCH
22 TWENTIETH, I CAME FORWARD AND TOLD MR. SHUMPERT
23 HIS REAL NAME.

24 COURT REPORTER: TOLD WHAT?

25 A. PETE'S REAL NAME, TOLD SHUMPERT PETE'S REAL NAME.

CROSS - PATRICK TYLER BY MR. PALMER

399

1 Q. DID YOU DO THAT IN WRITING?

2 A. I THINK SO.

3 Q. AND IS THAT, SIR, BECAUSE YOU FOUND OUT HIS REAL
4 NAME AFTER ALL THOSE YEARS, OR YOU SUDDENLY
5 REMEMBERED IT?

6 A. YEAH, I SUDDENLY REMEMBERED IT.

7 Q. OH, YOU SUDDENLY REMEMBERED IT, SO THEN YOU
8 DECIDED TO CHANGE YOUR STATEMENT TO THE POLICE,
9 IS THAT CORRECT?

10 A. I AIN'T NEVER, I NEVER DID CHANGE IT.

11 Q. WELL, YOU JUST TESTIFIED, SIR, THAT YOU DIDN'T
12 KNOW PETE'S REAL NAME, AND YOU SAID THAT IN AN
13 AFFIDAVIT. AND YOU UNDERSTAND WHAT AN AFFIDAVIT
14 IS, RIGHT?

15 A. IT'S A STATEMENT, RIGHT, YEAH.

16 Q. YOU UNDERSTAND, IT'S A SWORN STATEMENT?

17 A. YES, SIR.

18 Q. AND THIS, THIS PARTICULAR ONE WAS SIGNED BY A
19 NOTARY. DO YOU UNDERSTAND THAT?

20 A. YES, SIR.

21 Q. DO YOU UNDERSTAND WHAT THAT MEANS?

22 A. YES, SIR.

23 Q. WHAT DOES IT MEAN?

24 A. WELL, YOU JUST SAID IT, A SWORN STATEMENT.

25 Q. IT'S A SWORN STATEMENT. IT MEANS YOU'RE TELLING

CROSS - PATRICK TYLER BY MR. PALMER

400

1 THE TRUTH, RIGHT?

2 A. YES, SIR.

3 Q. SO, IN THIS SWORN STATEMENT YOU SAID YOU DIDN'T
4 KNOW PETE'S NAME, AND YOU SAID A FEW DAYS LATER,
5 YOU MADE ANOTHER STATEMENT INFORMATION DETECTIVE
6 SHUMPERT OF WHAT PETE'S REAL NAME WAS, CORRECT?
7 TELL ME IF I'M WRONG.

8 A. YES, SIR.

9 Q. OKAY. AND THE TRUTH IS THAT YOU DID KNOW WHAT
10 PETE'S REAL NAME WAS, EVEN BACK THEN, DIDN'T YOU?

11 A. YES, SIR.

12 Q. AND YOU JUST SAID NO TO PROTECT YOURSELF, RIGHT?

13 A. NOT REALLY, I WAS TOLD NOT TO SAY NOTHING.

14 Q. BY WHOM?

15 A. MARIO.

16 Q. OKAY.

17 A. AND EVERYONE ELSE.

18 Q. AND WHAT WAS YOUR UNDERSTANDING OF WHAT WOULD
19 HAPPEN IF YOU DID SAY SOMETHING?

20 A. I DON'T KNOW.

21 Q. I MEAN, WERE YOU AFRAID OF THESE GUYS?

22 A. I WAS JUST TOLD NOT TO SAY NOTHING.

23 Q. OKAY. AND NOW YOU'RE HERE IN COURT TODAY SAYING
24 LOTS OF THINGS?

25 A. YES.

1 Q. SO, WHAT CHANGED?

2 A. I'M TRYING TO DO WHAT'S RIGHT.

3 Q. DO WHAT'S RIGHT FOR YOU, CORRECT?

4 A. NO, FOR EVERYONE, MY FAMILY, THEIR FAMILY.

5 Q. HOW IS YOUR TESTIFYING GOING TO BENEFIT YOUR
6 FAMILY? I JUST, I WANT TO KNOW.

7 A. THAT'S A GOOD QUESTION. I'M DOING WHAT'S RIGHT
8 FOR THEM, WHAT THEY FEEL IS RIGHT.

9 Q. OKAY. BUT THE ANSWER, SIR, IS, THAT IT'S GOING
10 TO BENEFIT YOUR FAMILY BY LESSENING YOUR
11 PUNISHMENT, ISN'T IT?

12 A. WHAT DID YOU SAY AGAIN?

13 Q. THAT'S WHAT YOU WANT OUT OF THIS, DON'T YOU?

14 A. LESSEN MY WHAT?

15 Q. YOUR PUNISHMENT.

16 A. NO, NOT REALLY, I UNDERSTAND I'M BEING CHARGED
17 WITH THE SAME THING THEY'RE BEING CHARGED WITH,
18 AND I COULD GET LIFE JUST AS THEY COULD GET LIFE.

19 Q. BUT YOU DON'T BELIEVE YOU'LL GET LIFE, DO YOU?

20 A. MAYBE.

21 Q. OKAY. ALRIGHT. NOW, AT SOME POINT YOU TESTIFIED
22 YOU MENTIONED TO MARIO SHIVERS, QUOTE, "WE
23 SHOULDN'T DO THIS," UNQUOTE, RIGHT?

24 A. YES, SIR.

25 Q. WHAT WAS HIS RESPONSE?

CROSS - PATRICK TYLER BY MR. PALMER

402

1 A. YOU'RE GOING TO BE STRAIGHT, MAN, JUST, THE ONLY
2 THING YOU'RE DOING IS GOING TO BUY WEED.

3 Q. OKAY. AND DO YOU BELIEVE THAT THAT'S ALL THAT
4 WAS GOING TO HAPPEN?

5 A. YES, SIR.

6 Q. HAVE YOU BOUGHT WEED BEFORE?

7 A. YES, SIR.

8 Q. DID YOU FIND IT NECESSARY TO TAKE A WEAPON WITH
9 YOU?

10 A. NO, SIR.

11 Q. NO? OKAY. WHY THIS TIME YOU THOUGHT YOU NEEDED
12 ONE?

13 A. BECAUSE WE WAS GOING TO ROB THE DUDE.

14 Q. OKAY. I THOUGHT YOU JUST SAID YOU JUST THOUGHT
15 YOU WERE GOING TO GO BUY WEED?

16 A. I WAS TOLD TO GO BUY WEED, YEAH, THAT WAS THE
17 WHOLE PLAN.

18 Q. OKAY. ALRIGHT. YOU THOUGHT THAT WAS GOING TO BE
19 JUST YOUR ONLY INVOLVEMENT?

20 A. YES, SIR.

21 Q. SO, WHY DIDN'T YOU LEAVE AFTER YOU BOUGHT THE
22 WEED?

23 A. I DID LEFT.

24 Q. WELL, YOU SAID YOU STAYED.

25 A. I GOT DROPPED OFF AT WALTER HARRIS'S HOUSE, AND I

1 WENT IN MY OWN DIRECTION.

2 Q. ALRIGHT. NOW, THE SOLICITOR SHOWED YOU A HAND
3 GUN?

4 A. YES, SIR.

5 Q. YOU SAID YOU DON'T RECOGNIZE IT. THAT'S YOUR
6 TESTIMONY, RIGHT?

7 A. YES, YES, SIR.

8 Q. AND THE ONLY THING THAT YOU DO RECOGNIZE IS, IT'S
9 BLACK?

10 A. YES, SIR.

11 Q. NOW, YOU WOULD AGREE WITH ME, SIR, I MEAN, YOU'VE
12 SEEN OTHER GUNS, RIGHT?

13 A. YES, SIR.

14 Q. YOU'VE BEEN IN PAWN SHOPS AND LOOKED AT THE GUN
15 COUNTER?

16 A. YES, SIR.

17 Q. LOTS OF GUNS ARE BLACK, AREN'T THEY?

18 A. YES, SIR.

19 Q. SO, YOU CAN'T IDENTIFY THIS GUN AS THE ONE THAT
20 ANYBODY IN THIS GROUP HAD, CORRECT?

21 A. I JUST KNOW IT WAS A BLACK GUN.

22 Q. OKAY.

23 A. I CAN'T RECALL WHAT TYPE OF CALIBER IT WAS.

24 Q. AND YOUR TESTIMONY WAS, YOU DIDN'T RECOGNIZE THIS
25 GUN, YOU'RE NOT CHANGING THAT, ARE YOU?

CROSS - PATRICK TYLER BY MR. PALMER

404

1 A. OH, NO, SIR.

2 Q. OKAY. ALRIGHT. OKAY. NOW, THIS INCIDENT
3 HAPPENED, THIS, WHATEVER IT WAS, ON MARCH
4 TWELFTH, IS THAT YOUR RECOLLECTION?

5 A. YES, SIR.

6 Q. AND THE FIRST STATEMENT YOU MADE WAS ON MARCH,
7 WHAT EIGHTEENTH?

8 A. YES, SIR.

9 Q. SIX DAYS LATER?

10 A. YES, SIR.

11 Q. AFTER YOU HAD FOUND OUT THE POLICE WERE LOOKING
12 FOR YOU?

13 A. YES, SIR.

14 Q. AND SO, THAT'S WHEN YOU DECIDED TO MAKE A
15 STATEMENT?

16 A. YES, SIR.

17 Q. AND THE PURPOSE OF MAKING THE STATEMENT WAS TO
18 TRY AND GET YOURSELF OUT OF TROUBLE?

19 A. I WAS JUST TELLING THEM WHAT HAPPENED.

20 Q. OKAY. ALRIGHT. NOW, IN BETWEEN THE NIGHT THIS
21 HAPPENED AND AS YOU SIT HERE TODAY, YOU HAVE NOT
22 SPOKEN OR HEARD FROM WALTER HARRIS. IS THAT A
23 TRUE STATEMENT?

24 A. YES, THAT'S TRUE.

25 MR. PALMER: THANK YOU, SIR.

1 THE COURT: ALRIGHT, MR. MELLARD.

2 MR. MELLARD: YES, SIR.

3 THE COURT: YES, SIR, YOUR WITNESS.

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

CROSS - PATRICK TYLER BY MR. MELLARD

406

CROSS-EXAMINATION OF PATRICK TYLER

BY MR. MELLARD:

Q. IT'S MY UNDERSTANDING WHEN YOU WERE UP HERE YOU SAID YOU HAD NEVER PARTICIPATED IN A ROBBERY BEFORE?

A. NO, SIR.

Q. SO, YOU HAVE PARTICIPATED IN A ROBBERY BEFORE?

A. NEVER.

Q. YOU NEVER PARTICIPATED IN A ROBBERY BEFORE, NEVER ROBBED ANY GAS STATION, NEVER DID ANYTHING?

A. NO, SIR.

Q. OKAY. SO, YOU CONSIDER YOURSELF A LAW ABIDING CITIZEN?

A. WHAT DO YOU MEAN BY THAT?

Q. DO YOU FOLLOW THE LAW?

A. YES, SIR.

Q. YOU FOLLOW THE LAW. ALRIGHT, WELL, LET'S TALK ABOUT YOUR LAW FOLLOWING ACTIVITIES HERE. NOW, ON MARCH TWELFTH, YOU SMOKED MARIJUANA WITH DARIUS GARDNER, IS THAT CORRECT?

A. AND THAT'S FOLLOWING THE LAW, SMOKING MARIJUANA IS LEGAL?

A. YES, IT'S LEGAL IN CALIFORNIA.

Q. OKAY. AND LET'S LOOK AROUND HERE. I THINK THIS IS SOUTH CAROLINA. IS IT LEGAL HERE IN SOUTH

1 CAROLINA?

2 A. OH, NO, SIR.

3 Q. IT'S NOT LEGAL HERE IN SOUTH CAROLINA. IF IT WAS
4 LEGAL HERE IN SOUTH CAROLINA YOU WOULDN'T HAVE TO
5 GO TO PEOPLE'S PLACES AND ROB THEM, RIGHT?

6 A. TRUE.

7 Q. OKAY. SO, SMOKING MARIJUANA WITH DARIUS GARDNER,
8 NOT LEGAL. AND THEN YOU CALLED UP MARIO SHIVERS.
9 AND THE REASON YOU SAID YOU CALLED UP MARIO
10 SHIVERS IS BECAUSE YOU SAID HE HAD A GUN,
11 CORRECT?

12 A. YES, SIR.

13 Q. ALRIGHT. AND AS A LAW ABIDING CITIZEN WHAT DO
14 YOU NEED A GUN FOR?

15 A. I JUST WANTED TO SEE IT.

16 Q. YOU JUST WANTED TO SEE IT. YOU'D NEVER SEEN A
17 GUN BEFORE?

18 A. YES, I DON'T SEEN PLENTY OF GUNS, SEVERAL GUNS.

19 Q. YOU'VE SEEN PLENTY OF GUNS?

20 A. YES, SIR.

21 Q. SO, WHAT WAS IT ABOUT THIS GUN THAT YOU WERE SO
22 INTERESTED IN SEEING?

23 A. BASICALLY, HE TOLD ME TO COME OVER THERE TO SEE
24 IT.

25 Q. ALRIGHT. YOU CALLED HIM UP BECAUSE HE HAD A GUN?

CROSS - PATRICK TYLER BY MR. MELLARD

408

1 A. YEAH.

2 Q. SO, WHAT IS IT ABOUT THIS GUN THAT'S SO
3 WONDERFUL?

4 A. BUT I DIDN'T MENTION THE GUN TO HIM.

5 Q. UH-HUH.

6 A. HE MENTIONED IT TO ME.

7 Q. ALRIGHT.

8 A. BUT HE AIN'T MENTIONED IT TO ME, HE JUST TOLD ME
9 TO COME OVER HE'S GOT SOMETHING TO SHOW ME.

10 Q. OKAY. AND WHAT DID HE SHOW YOU WHEN YOU GOT
11 THERE?

12 A. GUNS.

13 Q. HE SHOWED YOU GUNS. HE SHOWED YOU THREE GUNS,
14 CORRECT?

15 A. YES, SIR.

16 Q. SKS?

17 A. YES, SIR.

18 Q. ANOTHER SKS?

19 A. YES, SIR.

20 Q. AND A NINE MILLIMETER, RIGHT?

21 A. YES, SIR.

22 Q. NOW, LET ME ASK YOU'RE SMOKING MARIJUANA WITH
23 DARIUS GARDNER, DANNY RYANT WASN'T THERE?

24 A. NO, SIR.

25 Q. OKAY. AND THEN, WHEN YOU AND MARIO WERE LOOKING

1 AT THIS GUN DANNY RYANT WASN'T THERE?

2 A. NO, SIR.

3 Q. ALRIGHT. THEN YOU SAID THAT YOU, MARIO, RALPH
4 AND DARIUS, Y'ALL SMOKED DOPE, WHICH, IF IT WAS
5 CALIFORNIA I GUESS YOU'D BE OKAY WITH IT, SINCE
6 IN SOUTH CAROLINA IT'S ILLEGAL. WHEN YOU DID
7 THAT DANNY RYANT WASN'T THERE WHEN Y'ALL WERE
8 SITTING THERE SMOKING DOPE?

9 A. NO, SIR.

10 Q. OKAY. AND THEN MARIO SHOWED YOU THE SKS AND
11 ANOTHER SKS, A NINE MILLIMETER, DANNY RYANT
12 WASN'T THERE?

13 A. NO, SIR.

14 Q. OKAY. MARIO BROUGHT UP THE TOPIC OF ROBBERY?

15 A. YES, SIR.

16 Q. HE BROUGHT IT UP AND RALPH AND YOU WERE THERE?

17 A. YES, SIR.

18 Q. AND DANNY RYANT WASN'T THERE?

19 A. NO, SIR.

20 Q. OKAY. I BELIEVE Y'ALL PLANNED TO GO ROB THIS
21 PLACE, YOU WERE SUPPOSED TO GO IN AND THEN THEY
22 WERE SUPPOSED TO COME IN AFTER YOU AND THE
23 ROBBERY WOULD OCCUR, CORRECT?

24 A. YES, SIR.

25 Q. DANNY RYANT WASN'T THERE WHEN Y'ALL WERE PLANNING

CROSS - PATRICK TYLER BY MR. MELLARD

410

1 THAT?

2 A. NO, SIR.

3 Q. ALRIGHT. THEN, I BELIEVE YOU SAID CHRIS AND HIS
4 FRIEND CAME OVER IN AN SUV?

5 A. YES, SIR.

6 Q. DANNY RYANT WASN'T THERE WHEN THAT HAPPENED?

7 A. NO, SIR.

8 Q. ALRIGHT. AND THEN YOU AND CHRIS AND PATRICK AND
9 RALPH AND MARIO AND A DRIVER, ACCORDING TO YOUR
10 TESTIMONY - - -

11 A. I AM PATRICK.

12 Q. OH, I'M SORRY. ALRIGHT, SO YOU, CHRIS, RALPH,
13 MARIO AND THE DRIVER, ALRIGHT, LET ME MAKE SURE,
14 ONE, TWO, THREE, FOUR, FIVE, CORRECT?

15 A. YES, SIR.

16 Q. ALRIGHT. TALKED ABOUT ROBBING OLD SCHOOL?

17 A. YES, SIR.

18 Q. OKAY. AND YOU SAID MARIO WAS DOING MOST OF THE
19 TALKING?

20 A. YES, SIR.

21 Q. ALRIGHT. DANNY RYANT WASN'T THERE?

22 A. NO, SIR.

23 Q. OKAY. ARE YOU BORED, DO YOU NEED TO TAKE A
24 LITTLE BREAK HERE? I SAW YOU YAWNING.

25 A. I'M SORRY.

CROSS - PATRICK TYLER BY MR. MELLARD

411

1 Q. ARE YOU OKAY? OKAY.

2 SOLICITOR SORENSON: OBJECTION, HE'S BADGERING
3 THE WITNESS, YOUR HONOR.

4 MR. MELLARD: I JUST ASKED HIM IF HE WANTS A
5 BREAK. THAT'S FINE, I'LL MOVE ON.

6 THE COURT: YES, SIR, IF YOU'LL MOVE ON. THANK
7 YOU, SIR.

8 Q. THEN YOU SAID THAT YOU WENT TO GET WALTER HARRIS?

9 A. YES, SIR.

10 Q. DANNY RYANT WASN'T THERE?

11 A. NO, SIR.

12 Q. ALRIGHT. WALTER HARRIS BROUGHT A GUN?

13 A. YES, SIR.

14 Q. DANNY RYANT WASN'T THERE?

15 A. NO, SIR.

16 Q. ALRIGHT. AND THEN YOU WENT TO OLD SCHOOL'S HOUSE
17 AND WALTER HARRIS WENT IN?

18 A. YES, SIR.

19 Q. AND DANNY RYANT WASN'T THERE?

20 A. NO, SIR.

21 Q. ALRIGHT. NOW, DANNY RYANT WASN'T PART OF THE
22 PLANNING OF THIS ROBBERY, WAS HE?

23 A. NO, SIR.

24 Q. ALRIGHT. AND DANNY RYANT DIDN'T SUPPLY ANY OF
25 THE GUNS, DID HE?

CROSS - PATRICK TYLER BY MR. MELLARD

412

1 A. NO, SIR.

2 Q. ALRIGHT. NOW, IT'S MY UNDERSTANDING YOU'RE
3 TESTIFYING YOU PICKED DANNY RYANT UP FROM THE
4 CORNER POCKET?

5 A. YES, I AIN'T PICK HIM UP, THE DRIVER PICKED HIM
6 UP.

7 Q. THE DRIVER PICKED HIM, UP, YOU WERE IN THE
8 VEHICLE WITH THE DRIVER?

9 A. I WAS JUST A PASSENGER.

10 Q. JUST A PASSENGER?

11 A. YES, SIR.

12 Q. ALRIGHT. AND IT'S MY UNDERSTANDING, AND YOU TELL
13 ME IF I'M WRONG, BUT IT TAKES ABOUT TWO MINUTES
14 TO GET FROM THE CORNER POCKET TO OLD SCHOOL'S
15 HOUSE?

16 A. YES, SIR.

17 Q. IS THAT ABOUT RIGHT? ALRIGHT. AND I BELIEVE
18 YOU'VE BEEN ASKED ABOUT WHY YOU'RE HERE TO
19 TESTIFY.

20 A. YES, SIR.

21 Q. MOST PEOPLE HAVE ASKED YOU ABOUT THAT. AND YOU
22 SAID YOU TURNED YOURSELF IN TO THE POLICE?

23 A. YES, SIR.

24 Q. OKAY. BUT WHEN YOU TURNED YOURSELF IN TO THE
25 POLICE, YOU KNEW THE POLICE WERE LOOKING FOR YOU?

CROSS - PATRICK TYLER BY MR. MELLARD

413

1 A. YEAH, THAT DAY.

2 Q. YEAH, YOU KNEW THEY WERE LOOKING FOR YOU?

3 A. YEAH, THAT'S WHY I TURNED MYSELF IN.

4 Q. RIGHT. AND YOU KNEW THEY WERE LOOKING FOR YOU
5 BECAUSE OF THIS MURDER, CORRECT?

6 A. YES, SIR.

7 Q. AND YOU'RE TELLING EVERYBODY HERE WHAT THE POLICE
8 WANT TO HEAR, ISN'T THAT CORRECT?

9 A. YES, SIR.

10 MR. MELLARD: ALRIGHT, THANK YOU.

11 THE COURT: THANK YOU, MR. MELLARD.

12 ALRIGHT, MR. KOGER.

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14 part of record has been omitted. Headers on testimony
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16 required by the Court. See next ensuing page for
17 sequential continuation of record.)

CROSS - PATRICK TYLER BY MR. KOGER

414

CROSS-EXAMINATION OF PATRICK TYLER

BY MR. KOGER:

Q. NOW, MR. TYLER, YOU GAVE THIS STATEMENT ON MARCH
-- LET ME GET THIS STRAIGHT HERE.

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

THE COURT: TAKE YOUR TIME, MR. KOGER.

Q. ON MARCH EIGHTEENTH, CORRECT?

A. YES, SIR.

Q. OKAY. AND THAT'S APPROXIMATELY, I THINK ATTORNEY
PALMER STATED, ABOUT SIX DAYS AFTER THE INCIDENT,
CORRECT?

A. YES, SIR.

Q. OKAY. NOW, WHEN IT CAME TO YOU AGREEING TO
TESTIFY FOR THE STATE IN THIS MATTER DID YOU
CONTACT THE SOLICITOR'S OFFICE, OR THE
SOLICITOR'S OFFICE CONTACTED YOU?

A. MY LAWYER CONTACTED ME.

Q. YOUR LAWYER CONTACTED YOU?

A. YES, SIR.

Q. OKAY. AND WHEN DID YOUR LAWYER CONTACT YOU ABOUT
POSSIBLY TESTIFYING FOR THE STATE?

A. LIKE, I CAN'T EVEN RECALL, SIR.

Q. EXCUSE ME?

A. I CAN'T RECALL, SIR.

CROSS - PATRICK TYLER BY MR. KOGER

415

1 Q. WAS IT THE MONTH OF MARCH?

2 A. NO, SIR.

3 Q. WAS IT THE MONTH OF APRIL?

4 A. NO, SIR.

5 Q. WAS IT MAY?

6 A. NO, SIR.

7 Q. WAS IT JUNE?

8 A. I CAN'T RECALL, SIR.

9 Q. OKAY. WAS IT DURING THE SUMMER?

10 A. I CAN'T RECALL.

11 Q. WAS IT HOT OUTSIDE?

12 SOLICITOR SORENSON: OBJECTION, ASKED AND
13 ANSWERED, HE CAN'T RECALL. I'M ALSO HESITANT BECAUSE
14 HE MIGHT BE GOING INTO COMMUNICATIONS BETWEEN HIM AND
15 HIS LAWYER, MR. GRANT. HE'S ALREADY REPEATEDLY, HE
16 CAN'T RECALL.

17 THE COURT: WELL, HE HAS ANSWERED THAT HE CANNOT
18 RECALL, AND I UNDERSTAND YOU'RE TRYING TO PIN HIM DOWN
19 TO SOME TIME, BUT HE SEEMS TO NOT RECALL, MR. KOGER,
20 SO IF YOU WILL MOVE ON, PLEASE, SIR.

21 Q. BUT YOU DID NOT CONTACT HIM IN MARCH, SOON AFTER
22 YOU TURNED YOURSELF IN?

23 A. SIR?

24 Q. YOU DID NOT CONTACT THE SOLICITOR'S OFFICE IN
25 MARCH SOON AFTER YOU TURNED YOURSELF IN, CORRECT?

CROSS - PATRICK TYLER BY MR. KOGER

416

1 A. NO, SIR.

2 Q. OKAY. NOW, HOWEVER, WHATEVER TIME FRAME THAT YOU
3 AND THE SOLICITOR'S OFFICE MADE CONTACT, WHERE
4 DID THE TWO OF Y'ALL MEET?

5 A. BAMBERG.

6 Q. I'M SORRY?

7 A. I CAN'T RECALL, SIR.

8 Q. SOME PLACE IN BAMBERG?

9 A. I CAN'T RECALL.

10 Q. YOU CAN'T RECALL. WAS IT THE DETENTION CENTER?

11 A. I KNOW I WAS LOCKED UP.

12 Q. LOCKED UP IN BAMBERG?

13 A. SOMEWHERE.

14 Q. OKAY. BECAUSE THAT'S WHERE YOU ARE BEING KEPT
15 UNTIL TRIAL, BAMBERG, SOUTH CAROLINA, CORRECT?

16 A. I BEEN TO DJJ IN COLUMBIA, ORANGEBURG AND
17 BAMBERG.

18 Q. OKAY. IS BAMBERG THE MOST RECENT DETENTION
19 CENTER YOU WERE KEPT BEFORE COMING TO COURT
20 TODAY?

21 A. YES, SIR.

22 Q. OKAY. ALRIGHT. AND DO YOU RECALL WHEN YOU WERE
23 TRANSPORTED TO BAMBERG?

24 A. OH, YES, SIR.

25 Q. OKAY. AND WHEN WERE YOU TRANSPORTED TO BAMBERG?

CROSS - PATRICK TYLER BY MR. KOGER

417

1 A. RIGHT ABOUT ONE, TWO MONTHS, LIKE TWO MONTHS.

2 Q. ABOUT TWO MONTHS AGO?

3 A. YES, SIR.

4 Q. SO, WOULD IT BE SAFE TO SAY THAT YOU WERE
5 TRANSPORTED TO BAMBERG PROBABLY IN SEPTEMBER?

6 A. YES, SIR.

7 Q. OKAY. DID YOU TALK TO THE SOLICITOR'S OFFICE
8 ABOUT TESTIFYING BEFORE THE MONTH OF SEPTEMBER?

9 A. I CAN'T RECALL.

10 Q. OKAY. YOU CAN'T RECALL. OKAY. HOW MANY TIMES
11 BETWEEN SEPTEMBER AND NOW HAVE YOU TALKED WITH
12 THE SOLICITOR'S OFFICE ABOUT TESTIFYING IN THIS
13 PARTICULAR CASE?

14 A. LIKE, THREE TIMES.

15 Q. THREE TIMES. OKAY. AND DURING THOSE
16 CONVERSATIONS THAT YOU HAD WITH THE SOLICITOR'S
17 OFFICE WHAT WAS THE CONTENT OF THOSE
18 CONVERSATIONS?

19 A. TO SEE IF I WANT TO TESTIFY, COOPERATE.

20 Q. TO SEE WHETHER YOU WOULD HAVE COOPERATED,
21 CORRECT?

22 A. YES, SIR.

23 Q. WAS THERE EVER A QUESTION WHETHER YOU WOULD
24 COOPERATE?

25 A. YES, SIR.

CROSS - PATRICK TYLER BY MR. KOGER

418

1 Q. OKAY. AND WHY DID YOU HESITATE TO COOPERATE AT
2 FIRST, JUST BASED ON WHAT YOU JUST STATED?

3 A. BECAUSE -- I DON'T KNOW.

4 Q. OKAY. SO YOU SAID THE FIRST TIME YOU MET YOU
5 WERE HESITANT ABOUT COOPERATING?

6 A. YES, SIR.

7 Q. OKAY. YOU MET A SECOND TIME, CORRECT?

8 A. YES, SIR.

9 Q. OKAY. AND WHAT WERE YOUR FEELINGS THE SECOND
10 TIME ABOUT TESTIFYING IN THIS PARTICULAR CASE?

11 A. I THINK MY MOTHER CAME UP HERE AND SHE WAS
12 TELLING ME SHE THINK I NEED TO TESTIFY, DO WHAT I
13 HAVE TO DO, AND JUST TELL YOUR PART.

14 Q. NOW, YOU SAY UP HERE, DO YOU MEAN BAMBERG OR UP
15 HERE IN ORANGEBURG?

16 A. ORANGEBURG.

17 Q. OKAY. SO, ACCORDING TO YOUR TESTIMONY THERE WAS
18 A THIRD MEETING WITH THE SOLICITOR'S OFFICE
19 WHETHER YOU SHOULD COOPERATE AND TESTIFY OR NOT,
20 CORRECT?

21 A. THAT WAS THE SECOND MEETING, I THINK.

22 Q. OKAY. BUT YOU MIGHT HAVE MET A THIRD TIME,
23 CORRECT?

24 A. MAYBE.

25 Q. MAYBE. OKAY. NOW, DURING EITHER ONE OF THESE

1 MEETINGS, THE FIRST, SECOND OR THIRD MEETING, DID
2 IT COME UP ABOUT REDUCTION IN CHARGES IN EXCHANGE
3 FOR YOUR TESTIMONY?

4 A. REDUCING MY CHARGES?

5 Q. YES.

6 A. YES.

7 Q. OKAY. AND DID THAT COME UP IN THE FIRST MEETING,
8 THE SECOND MEETING, OR THE THIRD MEETING?

9 A. THE FIRST.

10 Q. THE FIRST MEETING. OKAY. DID IT COME UP AGAIN
11 IN THE SECOND MEETING?

12 A. NO, SIR. I ALREADY KNOW WHAT THE CIRCUMSTANCES
13 WAS.

14 Q. DID IT COME UP AGAIN IN THE THIRD MEETING?

15 A. NO, SIR.

16 Q. WAS THE IDEA OF REDUCTION OF CHARGES A FACTOR IN
17 YOU TESTIFYING HERE TODAY?

18 A. NO, SIR, STILL I'M BEING CHARGED WITH THE SAME
19 THING THEY'RE BEING CHARGED WITH STILL.

20 Q. I KNOW YOU REPEATED THAT SEVERAL TIMES TO SEVERAL
21 DIFFERENT ATTORNEYS. AND I'M GOING TO ASK YOU A
22 FIFTH TIME, DO YOU HAVE AN EXPECTATION THAT YOU
23 WILL GET LESS TIME BY TESTIFYING HERE TODAY?

24 A. NO, SIR.

25 Q. WOULD YOU BE SURPRISED IF YOU GOT THE MAXIMUM

CROSS - PATRICK TYLER BY MR. KOGER

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1 AMOUNT OF TIME AFTER TESTIFYING HERE TODAY?

2 A. NO, SIR.

3 Q. WOULD YOU BE SHOCKED IF YOU GOT THE MAXIMUM
4 AMOUNT OF TIME AFTER TESTIFYING HERE TODAY?

5 A. NO, SIR.

6 Q. YOU WOULDN'T BE SHOCKED. YOU WOULDN'T BE
7 DISAPPOINTED?

8 A. NO, SIR.

9 Q. OKAY. THIS IS JUST OUT OF THE GOODNESS OF YOUR
10 HEART RIGHT HERE?

11 A. YES, SIR.

12 Q. OKAY. AND YOU ARE THE SAME PERSON THAT WAS ON
13 THE SCENE THAT PARTICULAR EVENING, CORRECT, OF
14 THE ROBBERY, OF THE MURDER, OF THE BURGLARY,
15 FIRST, CORRECT?

16 A. WHAT DO YOU MEAN, LIKE, THE SAME, DID I CHANGE
17 OVER THE PAST TIME WHEN I WAS LOCKED UP?

18 Q. NO. I'M TALKING ABOUT, YOU'RE THE SAME PERSON,
19 YOU'RE CHARGED WITH THE SAME OFFENSE ON THIS
20 INCIDENT THAT HAPPENED ON MARCH TWELFTH OF TWO
21 THOUSAND TEN, PATRICK TYLER, CORRECT?

22 A. YES, SIR.

23 Q. ALRIGHT. AND YOU WERE THE SAME PERSON THAT
24 DIDN'T LEAVE THE SCENE AND PARTICIPATED IN
25 EVERYTHING, CORRECT?

1 A. YES, SIR.

2 Q. OKAY. ALRIGHT. AND YOU'RE NOT HERE TRYING TO
3 MINIMIZE YOUR RESPONSIBILITY, BUT YOU'RE TAKING
4 RESPONSIBILITY FOR IT?

5 A. YEAH, SO I AIN'T MINIMIZING NOTHING IF I'M TAKING
6 RESPONSIBILITY OF IT.

7 Q. OKAY. NOW, AND I THINK EITHER ATTORNEY PALMER OR
8 ATTORNEY WISE WENT OVER YOUR LENGTH OF TIME THAT
9 YOU HAVE KNOWN THE CO-DEFENDANTS IN THIS
10 PARTICULAR CASE, AND I JUST WANTED TO MAKE SURE I
11 HAVE MY NOTES RIGHT. I THINK YOU STATED THAT YOU
12 HAVE KNOWN WALTER HARRIS ALL OF YOUR LIFE,
13 CORRECT?

14 A. YES, SIR.

15 Q. BECAUSE MR. HARRIS IS OLDER?

16 A. YES, SIR.

17 Q. OKAY. AND I THINK YOU TESTIFIED TO KNOWING DANNY
18 RYANT ALL OF HIS LIFE?

19 A. YES, SIR.

20 Q. OKAY. AND I THINK YOU, AND CORRECT ME IF I'M
21 WRONG NOW, WITH CHRISTIAN COLEMAN AND RALPH
22 COLEMAN, I THINK YOU TESTIFIED YOU DON'T KNOW
23 THEM SO WELL, I MEAN, TELL ME YOUR RELATIONSHIP
24 WITH THEM?

25 A. I WENT TO SCHOOL WITH CHRIST.

CROSS - PATRICK TYLER BY MR. KOGER

422

1 Q. OKAY.

2 A. AND I KNOW RALPH LIKE THIS, BEING JUST FROM BEING
3 AROUND.

4 Q. OKAY. AND I THINK YOU TESTIFIED KNOWING MARIO
5 SHIVERS FOR ONLY TWO YEARS?

6 A. YES, AROUND ABOUT TWO YEARS.

7 Q. NOW, LET ME ASK YOU A QUESTION OR TWO AND I'M
8 GOING TO SIT DOWN HERE. YOU STATED ON THE RECORD
9 THAT YOU MADE A PHONE CALL TO MR. SHIVERS ON THAT
10 PARTICULAR EVENING?

11 A. YES, SIR.

12 Q. OKAY. WHAT IS THAT NUMBER?

13 A. SIXTY-FOUR SEVENTEEN, I THINK.

14 Q. IT'S SIXTY-FOUR SEVENTEEN?

15 A. YES.

16 Q. AND WHAT'S THE FIRST THREE DIGITS?

17 A. LIKE, IF I'M NOT MISTAKEN, THREE O EIGHT OR EIGHT
18 SIX O.

19 COURT REPORTER: THREE O EIGHT WHAT?

20 A. OR EIGHT SIX O.

21 Q. IT IS YOUR TESTIMONY THAT THE PURPOSE OF YOU
22 TESTIFYING HERE TODAY IS NOT TO GAIN ANY TYPE OF
23 BENEFIT IN RELATION TO YOUR CHARGES AND YOUR
24 SENTENCE?

25 A. NO, SIR.

CROSS - PATRICK TYLER BY MR. KOGER

423

1 Q. AND THAT IF THE MAXIMUM IS IMPOSED ON ALL THREE
2 OF OUR CHARGES, THEN YOU WOULD NOT BE SHOCKED AND
3 YOU WOULD NOT BE SURPRISED?

4 A. NO, SIR.

5 Q. AND JUST A MATTER OF HOUSEKEEPING HERE, ATTORNEY
6 PALMER, -- DO YOU RECOGNIZE THAT, DEFENDANT'S
7 EXHIBIT - - -

8 A. YES, SIR.

9 Q. OKAY. AND WHAT IS THIS?

10 A. THE STATEMENT THAT I WROTE ON MARCH EIGHTEEN.

11 Q. AND THIS IS THE SAME STATEMENT THAT ATTORNEY
12 PALMER AND THE OTHER ATTORNEYS HAVE QUESTIONED
13 YOU UPON?

14 A. YES, SIR.

15 MR. KOGER: YOUR HONOR, I'D LIKE TO ENTER THIS
16 INTO EVIDENCE, YOUR HONOR.

17 THE COURT: HOW IS IT MARKED RIGHT NOW?

18 MR. KOGER: IT'S DEFENDANT'S EXHIBIT NUMBER ONE
19 FOR, FOR, IS THAT CHRISTIAN? CHRISTIAN COLEMAN.

20 THE COURT: CHRISTIAN? OKAY. ANY OBJECTION FROM
21 THE STATE?

22 SOLICITOR SORENSON: IT NEEDS TO BE DEFENSE
23 EXHIBIT NUMBER TWO FOR MARIO SHIVERS, YOUR HONOR.

24 THE COURT: YOU REPRESENT MR. SHIVERS, IS THAT
25 CORRECT?

CROSS - PATRICK TYLER BY MR. KOGER

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1 MR. KOGER: THAT'S CORRECT.

2 THE COURT: OKAY. ·YEAH, IF WE'LL MARK IT FOR
3 DEFENSE EXHIBIT NUMBER TWO FOR MARIO SHIVERS. THANK
4 YOU, SIR. WE NEED TO HAVE IT IN THAT ORDER.

5 MR. KOGER: OKAY. I HAVE NO FURTHER QUESTIONS.

6 COURT REPORTER: JUST A MOMENT.

7 (Defendant Shivers Exhibit Number Two
8 marked and filed.)

9 THE COURT: BEAR WITH HER. NOW, YOU DON'T HAVE
10 ANY OTHER QUESTIONS?

11 MR. KOGER: NO MORE QUESTIONS.

12 THE COURT: OKAY. THANK YOU, SIR.

13 ALRIGHT, ANYTHING ON REDIRECT?

14 SOLICITOR PASCOE: YES, SIR, THANK YOU, SIR.

15 THE COURT: ALRIGHT.

16 SOLICITOR PASCOE: NOT TOO MUCH. ARE YOU READY,
17 MS. HARRY DOT?

18 COURT REPORTER: YES, SIR.

19 SOLICITOR PASCOE: COULD I SEE MR. SHIVERS'S
20 NUMBER TWO?

21 COURT REPORTER: YES, SIR.

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

REDIRECT - PATRICK TYLER BY SOL. PASCOE

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REDIRECT EXAMINATION OF PATRICK TYLER

BY SOLICITOR PASCOE:

Q. JUST A HANDFUL OF QUESTIONS, MR. TYLER, OKAY?

PATRICK, DO YOU REMEMBER BEING QUESTIONED BY MR.

MELLARD ABOUT DANNY RYANT?

A. YES, SIR.

Q. AND OF ALL THE DEFENDANTS THAT WERE CLOSEST TO

YOU, WHICH ONE WERE YOU CLOSEST WITH?

A. DANNY RYANT.

Q. AND DO YOU WANT TO HAVE TO TESTIFY AGAINST HIM

TODAY?

A. NO, SIR.

Q. AND AS YOU TESTIFIED TO EARLIER, YOU'RE DOING

THIS BECAUSE IT'S THE RIGHT THING TO DO?

A. YES, SIR.

Q. AND HE WAS MOCKING YOU, CALLING YOU MR. LAW

ABIDING CITIZEN, BUT YOU TOLD - - -

MR. MELLARD: I OBJECT.

SOLICITOR PASCOE: THAT'S WHAT HE DID.

THE COURT: OKAY. LET ME HEAR, DID YOU NOT ASK
THAT?

MR. MELLARD: I WAS NOT MOCKING HIM, YOUR HONOR.

THE COURT: OKAY. WELL, YOU WERE QUESTIONING HIM
ABOUT BEING A LAW ABIDING CITIZEN.

Q. QUESTIONING YOU ABOUT BEING A LAW ABIDING

REDIRECT - PATRICK TYLER BY SOL. PASCOE

426

1 CITIZEN?

2 A. YES, SIR.

3 Q. WHO TOLD YOU ABOUT MARIO SHIVERS'S GUNS?

4 A. DANNY RYANT.

5 Q. WHO ALSO WAS INTERESTED IN THOSE GUNS?

6 A. WHO ELSE WAS INTERESTED?

7 Q. UH-HUH. LET ME ASK YOU THIS, WHAT GUN DID DANNY
8 RYANT HAVE WHEN Y'ALL WENT AND COMMITTED THE
9 ROBBERY?

10 A. THE SKS.

11 Q. THE SKS. THAT'S NOT VERY LAW ABIDING EITHER, IS
12 IT, GOING INTO SOMEBODY'S HOUSE WITH AN SKS?

13 A. NO, SIR.

14 Q. MR. LACKEY ASKED YOU A NUMBER OF QUESTIONS EARLY
15 ON ABOUT YOUR STATEMENT THAT YOU GAVE TO
16 INVESTIGATOR SHUMPERT. REMEMBER THOSE QUESTIONS?

17 A. YES, SIR.

18 Q. AND HE ASKED YOU SPECIFICALLY IN DEFENSE EXHIBIT
19 NUMBER TWO, - - -

20 COURT REPORTER: WHICH - - -

21 THE COURT: DEFENDANT SHIVERS'S NUMBER TWO,
22 RIGHT?

23 SOLICITOR PASCOE: SHIVERS NUMBER TWO, YES, SIR.

24 AND DO WE NEED, DO WE LEAVE THAT, THE NUMBER ONE OF
25 MR. LACKEY'S, DO WE LEAVE THAT ON? WE LEAVE IT ON FOR

REDIRECT - PATRICK TYLER BY SOL. PASCOE

427

1 NOW MAYBE? WE'LL JUST LEAVE IT ON FOR NOW.

2 Q. ALRIGHT, HE ASKED YOU SOME QUESTIONS - - -

3 THE COURT: WELL, THAT WAY IF IT COMES BACK ON
4 THE RECORD WHEN DECLARING THE RECORD WE'LL HAVE IT
5 IDENTIFIED BOTH WAYS FOR THE RECORD, IN THE RECORD, SO
6 WE NEED TO LEAVE THEM BOTH IN THERE. JUST LEAVE IT
7 IN AS IS, MS. HARRY DOT.

8 Q. AND HE SAID SPECIFICALLY, MR. LACKEY IN HIS
9 QUESTION, YOU NEVER SAID ANYTHING ABOUT CHRIS
10 HAVING A GUN? REMEMBER THAT?

11 A. YES, SIR.

12 Q. THAT'S NOT TRUE, IS IT?

13 A. NO, SIR.

14 Q. YOU DID SAY IN YOUR STATEMENT THAT CHRIS HAD A
15 GUN?

16 A. YES, SIR.

17 Q. IN AT LEAST TWO PLACES, DIDN'T YOU?

18 A. YES, SIR.

19 Q. AND, IN FACT, ON PAGE ONE, THAT'S IN YOUR
20 HANDWRITING, IS THIS YOUR HANDWRITING?

21 A. YES, SIR.

22 Q. AND DID YOU WRITE, "THAT'S WHEN POKE, LITTLE M,
23 AND LITTLE CHRIS AND PETE COME IN WITH GUNS"?

24 A. YES, SIR.

25 Q. SO, YOU DID SAY CHRIS HAD A GUN?

REDIRECT - PATRICK TYLER BY SOL. PASCOE

428

1 A. YES, SIR.

2 Q. AND YOU SAID IT AGAIN ON STATE'S EXHIBIT SEVENTY-
3 NINE, JUST TO REFRESH YOUR MEMORY, ON MARCH
4 TWENTY-THIRD, YOU TOLD THE POLICE THAT CHRIS HAD
5 A GUN, DIDN'T YOU?

6 A. YES, SIR.

7 Q. ON YOUR AFFIDAVIT?

8 A. YES, SIR.

9 Q. SO, IT'S NOT TRUE TO SAY, IT'S DISHONEST TO SAY
10 THAT YOU NEVER TOLD THE POLICE THAT CHRIST HAD A
11 GUN?

12 A. YES, SIR.

13 Q. YOU DID TELL THE POLICE CHRIS HAD A GUN?

14 A. YES, SIR.

15 Q. IT'S ALSO NOT TRUE, WHEN MR. WISE WAS QUESTIONING
16 YOU AND HE TRIED TO GET YOU TO SAY THAT YOU NEVER
17 SAID IN YOUR STATEMENT THAT RALPH COLEMAN NEVER
18 HAD A GUN. THAT'S NOT TRUE, IS IT?

19 A. NO, SIR.

20 Q. YOU DID TELL THE POLICE THAT RALPH HAD A GUN,
21 DIDN'T YOU?

22 A. YES, SIR.

23 Q. SO, THAT'S NOT TRUE WHEN A LAWYER GETS UP HERE
24 AND ASKS THAT, THAT'S A LIE, BECAUSE YOU SAID - -

25 -

REDIRECT - PATRICK TYLER BY SOL. PASCOE

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1 MS. ULLMAN: OBJECTION, YOUR HONOR. HE'S ASKING
2 QUESTIONS THAT -- ALL THE LAWYERS HERE ARE ASKING
3 QUESTIONS, THEY'RE NOT TESTIFYING, THEREFORE, THEY'RE
4 NOT LYING. HE ASKED A QUESTION AND PATRICK TYLER
5 ANSWERED IT.

6 SOLICITOR PASCOE: IT IS - - -

7 THE COURT: WELL, JUST WAIT A SECOND. IF YOU'LL
8 JUST ASK HIM TO CLARIFY THOSE POINTS.

9 SOLICITOR PASCOE: I WILL, YES, SIR.

10 THE COURT: OKAY. JUST DO THAT. WE DON'T NEED
11 CHARACTERIZATION.

12 Q. DID YOU SAY ON PAGE TWO IN YOUR STATEMENT THAT
13 RALPH HAD A GUN?

14 A. YES, SIR.

15 Q. NOT CORRECT TO SAY THAT YOU NEVER TOLD THE POLICE
16 THAT RALPH HAD A GUN, RIGHT?

17 A. YES, SIR.

18 Q. A LOT OF US NEED TO GET A CONSCIENCE, DON'T WE,
19 MR. PATRICK, MR. TYLER?

20 A. YES, SIR.

21 MR. PALMER: OBJECTION, YOUR HONOR. FIRST OF
22 ALL, HE'S LEADING THIS WITNESS ALL OVER THE PLACE, AND
23 IT'S HIS WITNESS. HE SHOULD -- THIS IS SUPPOSED TO BE
24 REDIRECT.

25 SOLICITOR PASCOE: I'M USING HIS STATEMENTS.

REDIRECT - PATRICK TYLER BY SOL. PASCOE

430

1 THE COURT: HE'S GOING OVER THE STATEMENTS THAT
2 WERE MADE. I'M GOING TO ALLOW IT, I WILL NOTE YOUR
3 OBJECTION TO THAT.

4 MR. PALMER: I'M JUST, YOUR HONOR, I DON'T THINK
5 THAT LAST QUESTION HAD ANYTHING TO DO WITH A
6 STATEMENT.

7 THE COURT: I UNDERSTAND. IT DOESN'T HAVE ANY
8 RELEVANCE, SO WE WILL STRIKE THAT FROM THE RECORD.
9 OKAY?

10 SOLICITOR PASCOE: THANK YOU, YOUR HONOR.

11 THE COURT: OKAY. THANK YOU, SIR.

12 Q. MR. PALMER CONTINUALLY ASKED YOU ABOUT MR.
13 HARRIS'S ROLE IN THIS ROBBERY. WHO PUT THE TAPE
14 OVER CHARLES PRINGLE'S MOUTH?

15 A. WALTER HARRIS.

16 Q. OKAY. AND FINALLY, JUST TO CLARIFY, BECAUSE YOU
17 WERE ASKED AT LEAST FIVE TIMES WHY YOU WERE
18 TESTIFYING AND ABOUT THE DEAL, ANY DEAL?

19 A. YES, SIR.

20 Q. YOU'RE CHARGED WITH BURGLARY IN THE FIRST DEGREE?

21 A. YES, SIR.

22 Q. YOU HAVE TO PLEAD GUILTY STRAIGHT UP TO BURGLARY
23 IN THE FIRST DEGREE, DON'T YOU?

24 A. YES, SIR.

25 MS. ULLMAN: OBJECTION, YOUR HONOR, WHERE IS THE

REDIRECT - PATRICK TYLER BY SOL. PASCOE

431

1 QUESTION? THAT WAS A STATEMENT.

2 Q. DON'T YOU?

3 A. YES, SIR.

4 Q. DO YOU HAVE TO PLEAD GUILTY STRAIGHT UP TO
5 BURGLARY IN THE FIRST DEGREE?

6 A. YES, SIR.

7 Q. EVEN THOUGH YOU DIDN'T HAVE A GUN?

8 A. YES, SIR.

9 Q. ARE YOU CHARGED WITH ARMED ROBBERY?

10 A. YES, SIR.

11 Q. DO YOU HAVE TO PLEAD STRAIGHT UP TO ARMED
12 ROBBERY, EVEN THOUGH YOU DIDN'T HAVE A GUN?

13 A. NO, SIR.

14 Q. AS PART, ARE YOU GOING TO PLEAD GUILTY TO ARMED
15 ROBBERY?

16 A. OH, YES, SIR.

17 Q. OKAY. NO DEALS, RIGHT, ON YOUR SENTENCE?

18 A. NO, SIR.

19 Q. THE ONLY THAT YOU ARE ALLOWED TO DO IS INSTEAD OF
20 PLEADING TO MURDER YOU'RE GOING TO PLEAD TO A
21 LESSER CHARGE OF MANSLAUGHTER, STRAIGHT UP,
22 CORRECT?

23 A. YES, SIR.

24 Q. SO, INSTEAD OF LOOKING AT THIRTY YEARS TO LIFE,
25 YOU'RE GOING TO LOOK AT FIFTEEN YEARS TO LIFE

REDIRECT - PATRICK TYLER BY SOL. PASCOE

432

1 WITHOUT PAROLE?

2 A. YES, SIR.

3 Q. HAVE THERE BEEN ANY DEALS WHATSOEVER BETWEEN ME
4 AND YOU ABOUT WHAT YOU'RE GOING TO GET?

5 A. NO, SIR.

6 Q. WHO IS GOING TO SENTENCE YOU?

7 A. THE JUDGE.

8 SOLICITOR PASCOE: I BEG THE COURT'S INDULGENCE.

9 THAT'S ALL I HAVE, THANK YOU, MR. TYLER.

10 THE COURT: YES, SIR, ALRIGHT, MR. LACKEY,

11 ANYTHING ON RECROSS?

12 MR. LACKEY: JUST BRIEFLY, YOUR HONOR.

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

RECROSS - PATRICK TYLER BY MR. LACKEY

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RECROSS-EXAMINATION OF PATRICK TYLER

BY MR. LACKEY:

Q. THIS STATEMENT SHOULD BE -- THIS STATEMENT THAT
WE'VE BEEN REFERRING TO, WHICH IS NOW - - -
THE COURT: IT'S DEFENDANT SHIVERS'S - - -

Q. DEFENDANT'S SHIVERS NUMBER TWO WHICH HAS BEEN
MOVED INTO EVIDENCE AND WHICH THE JURY WILL HAVE
TO SEE IN THE JURY ROOM AT THE CLOSE OF THIS
CASE, THE FACT IS, YOU'VE ALREADY TESTIFIED THAT
YOU LIED SEVERAL TIMES IN THIS STATEMENT, ISN'T
THAT CORRECT?

A. YES, I BEEN UNTRUTHFUL.

Q. YOU'VE BEEN UNTRUTHFUL.

A. IN SOME PARTS.

Q. THAT MEANS LIE?

A. YES.

Q. WHAT WAS THAT?

A. YES.

Q. YES. AND THE JURY WILL ALSO GET TO SEE WHEN THEY
SEE THIS THAT MIRACULOUSLY, YOU DIDN'T, YOU WERE
THE ONLY MAN THAT DIDN'T HAVE A GUN IN HIS HAND
THE WHOLE TIME?

A. YES, SIR.

Q. THAT'S WHAT YOU'RE SAYING HERE TODAY?

A. YES, SIR.

RECROSS - PATRICK TYLER BY MR. LACKEY

434

1 COURT REPORTER: WHAT'S YOUR ANSWER?

2 A. YES, SIR.

3 MR. LACKEY: THAT'S ALL I HAVE.

4 THE COURT: THANK YOU, SIR.

5 WAS IT, IT WAS YOU, MR. WISE, OR -- IT'S MR.

6 WISE, YES, SIR, I'M SORRY.

7 MR. WISE: I WOULD LIKE TO REMAIN HERE IF THAT'S
8 OKAY.

9 THE COURT: OKAY.

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

RECROSS-EXAMINATION OF PATRICK TYLERBY MR. WISE:

Q. PATRICK, JUST TWO QUESTIONS. HOW MANY GUNS WERE THERE INVOLVED?

A. FOUR.

Q. FOUR GUNS, IS THAT IT? POKE HAD A GUN, MARIO HAD A GUN, CHRIS HAD A GUN, PETE HAD A GUN, AND RALPH HAD A GUN, ISN'T THAT WHAT YOUR STATEMENT SAYS?

A. PETE DID HAVE A GUN.

Q. YEAH, PETE HAD A GUN.

A. SO THAT WAS FIVE.

Q. OKAY.

A. BUT HE GAVE HIS GUN TO SOMEONE, SO THAT MAKES FOUR.

Q. OKAY, SO YOU - - -

A. I'M JUST SAYING, HE DID HAVE A GUN IN HIS POSSESSION AT A POINT IN TIME.

Q. OKAY. SO, YOU SAY JUST -- AND YOU CAN LOOK AT YOUR STATEMENT, THAT'S NUMBER TWO, YOU WERE INSIDE AND RALPH PULLED OUT A GUN?

A. YES, SIR.

Q. THAT'S WHAT YOU SAID?

A. YES, SIR.

Q. OKAY. AND THEN, POKE, MARIO, CHRIS AND PETE CAME

RECROSS - PATRICK TYLER BY MR. WISE

436

1 IN WITH THEIR GUNS PULLED OUT, THAT'S WHAT YOU
2 SAID, RIGHT?

3 A. YES, SIR.

4 MR. WISE: OKAY, THANK YOU.

5 THE COURT: MR. PALMER.

6 MR. PALMER: BRIEFLY, BRIEFLY, YOUR HONOR.

7 THE COURT: TAKE, MR. PALMER, YOU HAVE AS MUCH
8 TIME AS YOU NEED.

9 MR. PALMER: THANK YOU.

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

RECROSS - PATRICK TYLER BY MR. PALMER

437

RECROSS-EXAMINATION OF PATRICK TYLER

BY MR. PALMER:

Q. I JUST, I WANT TO ASK YOU ABOUT A COUPLE OF
THINGS YOU SAID WHEN THE SOLICITOR JUST NOW ASKED
YOU ABOUT DUCT TAPE.

A. YES, SIR.

Q. YOUR STATEMENT HERE, SIR, IS, DOWN AT THE BOTTOM,

- - -

THE COURT: YOU'RE REFERRING TO NUMBER TWO?

MR. PALMER: I'M REFERRING TO NUMBER TWO FOR
SHIVERS - - -

THE COURT: DEFENDANT SHIVERS. OKAY. THANK YOU,
SIR.

MR. PALMER: --- THAT'S BEEN ENTERED, YOUR HONOR.

THE COURT: YES, SIR, I JUST WANTED THE JURY TO
BE AWARE.

Q. THE SECOND LINE FROM THE BOTTOM, AND I'VE GOT MY
THUMB BY IT, DO YOU REMEMBER WRITING THAT?

A. YES, SIR.

Q. AND IF I READ IT TO YOU, WILL YOU TELL ME WHETHER
OR NOT IT'S ACCURATE? YOU SAID, "PETE TAPED HIS
MOUTH AND HE WAS GOING TO TAPE HIS HANDS. BUDDY"
WHO'S BUDDY?

A. OLD SCHOOL.

Q. WHY DO YOU CALL HIM BUDDY?

RECROSS - PATRICK TYLER BY MR. PALMER

438

1 A. THAT'S JUST A SLANG.

2 Q. OKAY. "BUDDY WAS, LIKE, GET THE F" NOT TO USE
3 THE PROFANITY, "OFF OF ME AND MY MAMA, AND THEN
4 HE WAS GETTING UP. THAT'S WHEN ALL THE GUN SHOTS
5 WENT OFF."

6 A. YES, SIR.

7 Q. IS THAT WHAT YOU PUT IN YOUR STATEMENT?

8 A. YES, SIR.

9 Q. YOU ACTUALLY HEARD OLD SCHOOL SAY THAT?

10 A. YES, SIR.

11 Q. AND THAT WAS WHEN YOU WERE ON THE WAY OUT OF THE
12 DOOR?

13 A. NO, HE DIDN'T SAY THAT THEN. HE WAS, LIKE, GET
14 THE F OFF ME, THAT WAS, LIKE, WHEN WE FIRST CAME
15 IN. I WAS JUST MAKING THE LONG STORY SHORT WHEN
16 I WAS WRITING THAT.

17 Q. WELL, IN YOUR STATEMENT YOU SAY, "PETE TAPED HIS
18 MOUTH AND HE WAS GOING TO TAPE HIS HANDS. BUDDY
19 WAS, LIKE, GET THE F OFF ME."

20 A. YES, SIR.

21 Q. SO, HOW COULD HE HAVE SAID THAT AFTER PETE TAPED
22 HIS MOUTH?

23 A. LIKE YOU SEE ON THE PICTURE RIGHT THERE, OF HIS
24 MOUTH, HIS MOUTH WASN'T TAPED ALL THE WAY UP.

25 Q. SO, YOU'RE SAYING HE SAID THIS AND YOU HEARD IT

1 AFTER THE MOUTH WAS TAPED, IS THAT YOUR STORY?

2 A. THAT'S, YOU COULD SEE THE PICTURE.

3 Q. I'M ASKING YOU, SIR.

4 A. THE PICTURE, YES, SIR.

5 SOLICITOR PASCOE: YOUR HONOR, OBJECTION.

6 THAT'S NOT HIS STORY. HE SAID THAT HIS MOUTH WAS NOT
7 TAPED ALL THE WAY. HE'S TELLING THE ATTORNEY, LOOK AT
8 THE PICTURE TO FIND THE TRUTH. AND THEN HE SAYS
9 SOMETHING ELSE.

10 MR. PALMER: YOUR HONOR, I'M NOT ASKING HIM TO
11 REFER TO AN EXHIBIT, I'M ASKING HIM WHAT HE, HIS
12 TESTIMONY IS.

13 THE COURT: OKAY. I UNDERSTAND. I UNDERSTAND.
14 WHAT WAS YOUR QUESTION AGAIN?

15 MR. PALMER: MY TESTIMONY -- MY QUESTION WAS - -
16 -

17 THE COURT: NOT YOUR TESTIMONY, YOUR QUESTION.

18 MR. PALMER: MY QUESTION WAS, YOUR HONOR, WHETHER
19 OR NOT THIS MAN RECALLS, OR I CAN ASK HIM AGAIN,

20 Q. YOUR TESTIMONY IN YOUR STATEMENT IS, IS THAT MR.
21 OLD SCHOOL SAID, GET THE F OFF OF ME - - -

22 A. AND HE ALSO SAID EVERYTHING WAS OUTSIDE, TOO.
23 YES, SIR.

24 Q. WHAT?

25 A. HE WAS TELLING, WHEN EVERYONE WAS ASKING HIM

RECROSS - PATRICK TYLER BY MR. PALMER

440

1 WHERE EVERYTHING WAS AT, HE WAS SAYING, OUTSIDE,
2 WITH THE TAPE OVER HIS MOUTH, TOO.

3 Q. WHERE IS THAT IN YOUR STATEMENT?

4 COURT REPORTER: HE WAS SAYING WHAT?

5 A. IT WAS OUTSIDE.

6 COURT REPORTER: HE IS OUTSIDE?

7 A. NO, THE STUFF, WHAT WE CAME TO ROB HIM FOR, HIS
8 MONEY AND HIS DRUGS WERE OUTSIDE.

9 Q. WHERE IS THAT IN YOUR STATEMENT?

10 A. IT SHOULD BE IN THERE.

11 SOLICITOR PASCOE: YOUR HONOR, I'LL STIPULATE IN
12 HIS STATEMENT, BUT HE TESTIFIED TO IT, SO WE DON'T
13 HAVE TO WAIT A HALF HOUR.

14 THE COURT: ALRIGHT. ANYTHING ELSE, MR. PALMER?

15 MR. PALMER: NO, YOUR HONOR.

16 THE COURT: OKAY.

17 MR. MELLARD?

18 MR. MELLARD: I DON'T HAVE ANY QUESTIONS BUT I
19 MAY HAVE A MATTER OF LAW TO TAKE UP WITH THE COURT
20 AFTER MR. KOGER.

21 THE COURT: OKAY. ALRIGHT. MR. KOGER.

22 MR. KOGER: BRIEFLY, YOUR HONOR.

23 THE COURT: YES, SIR, YES, SIR.

24 MR. KOGER: MAY IT PLEASE THE COURT.

25 THE COURT: YES, SIR.

RECROSS - PATRICK TYLER BY MR. KOGER

441

RECROSS-EXAMINATION OF PATRICK TYLER

BY MR. KOGER:

Q. MR. TYLER, YOU TESTIFIED TO REDIRECT THAT YOU'RE
PLEADING GUILTY TO VOLUNTARY MANSLAUGHTER EVEN
THOUGH YOU DIDN'T HAVE A GUN?

A. YES, SIR.

Q. AND YOU TESTIFIED YOU'RE PLEADING GUILTY TO
BURGLARY, FIRST, EVEN THOUGH YOU DIDN'T HAVE A
GUN?

A. YES, SIR.

Q. AND YOU'RE PLEADING GUILTY TO ARMED ROBBERY EVEN
THOUGH YOU DIDN'T HAVE A GUN, RIGHT?

A. YES, SIR.

Q. OKAY. FROM YOUR DISCUSSIONS WITH YOUR ATTORNEY,
DO YOU HAVE TO HAVE A GUN TO BE FOUND GUILTY OF
VOLUNTARY MANSLAUGHTER, BURGLARY, FIRST, AND
ARMED ROBBERY?

A. NO, SIR.

Q. OKAY. AND YOU CAN BE CONVICTED OF THESE OFFENSES
UNDER THE HAND OF ONE, THE HAND OF ALL, CORRECT?

A. YES, SIR.

MR. KOGER: THANK YOU. NO FURTHER QUESTIONS.

THE COURT: OKAY. ALRIGHT, THANK YOU, SIR. YOU
CAN STEP DOWN, YOU'RE EXCUSED. THANK YOU, MR. TYLER,
I APPRECIATE IT.

1 ALRIGHT, I KNOW YOU'VE GOT -- I HAVEN'T
2 FORGOTTEN, MR. MELLARD, I'M NOT GOING TO LET IT GO TOO
3 FAR, OKAY? I JUST WANTED TO -- ALRIGHT, YOU DON'T
4 HAVE A SHORT WITNESS, DO YOU? PROBABLY NOT?

5 SOLICITOR SORENSON: NO, SIR.

6 THE COURT: OKAY. WHAT WE'LL DO IS, LADIES AND
7 GENTLEMEN -- OH, GO AHEAD.

8 MR. MELLARD: ARE YOU GOING TO BREAK FOR THE DAY
9 OR ...

10 THE COURT: THAT'S WHAT I'M THINKING ABOUT.

11 MR. MELLARD: MAY WE APPROACH?

12 THE COURT: SURE.

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

16 THE COURT: LADIES AND GENTLEMEN, I KNOW YOU'VE
17 HEARD MR. MELLARD SAY HE HAD A POINT OF LAW HE WANTED
18 TO TAKE UP WITH ME, AND WE'VE GOT SOME OTHER WITNESSES
19 THAT WE COULD DO OR AT LEAST GET STARTED ON, BUT SINCE
20 IT IS NEARLY FIVE O'CLOCK, WHAT I'M GOING TO DO IS,
21 I'M GOING TO GO AHEAD AND TAKE A -- WE'RE GOING TO
22 TAKE A BREAK THIS AFTERNOON, I'M GOING TO EXCUSE Y'ALL
23 AND LET Y'ALL GO HOME. Y'ALL NEED TO COME BACK HERE
24 AT NINE O'CLOCK IN THE MORNING AGAIN, REPORT BACK IN
25 THE JURY ROOM AS YOU ARE DIRECTED TO DO. I WANT TO

1 REMIND YOU AGAIN, OKAY, YOU CANNOT READ ANYTHING ABOUT
2 THIS CASE, YOU CANNOT LISTEN TO ANYTHING ABOUT THIS
3 CASE, YOU CAN'T TALK AMONG YOURSELVES AND YOU CAN'T
4 TALK TO ANYBODY ELSE ABOUT THIS CASE. DO Y'ALL
5 UNDERSTAND THAT? OKAY. ALRIGHT, Y'ALL ARE EXCUSED.
6 BE BACK IN THE JURY ROOM AT NINE O'CLOCK IN THE
7 MORNING. OKAY? THANK YOU.

8 (Whereupon, the jury leaves
9 the courtroom and the following
10 takes place out of the presence
11 of the jury.)

12 MR. MELLARD: YOUR HONOR, THIS IS A -- DURING THE
13 SOLICITOR'S EXAMINATION OF PATRICK TYLER I BELIEVE I
14 HEARD HIM SAY THAT VOLUNTARY MANSLAUGHTER CARRIES
15 FIFTEEN YEARS TO LIFE.

16 THE COURT: UH-HUH.

17 SOLICITOR PASCOE: NO, I DIDN'T SAY THAT, HE SAID
18 THAT.

19 MR. MELLARD: HE SAID IT?

20 SOLICITOR PASCOE: YEAH, I DID NOT SAY THAT.
21 WHAT I SAID WAS, WHEN YOU LOOK AT ALL YOUR CHARGES
22 YOU'RE LOOKING AT FIFTEEN TO LIFE.

23 MR. MELLARD: OKAY. THAT'S, I JUST WANTED TO
24 CLARIFY THAT.

25 THE COURT: ANYTHING ELSE?

1 MR. MELLARD: NO, SIR, I THOUGHT THEY WERE SAYING
2 THAT THAT'S WHAT THEY TOLD HIM THAT IT CARRIED. SO, I
3 JUST WANTED -- AND I THINK WHAT THEY'RE SAYING IS,
4 HE'S GROUPING ALL OF HIS CHARGES TOGETHER.

5 THE COURT: ALRIGHT. ANYTHING ELSE FROM THE
6 STATE?

7 SOLICITOR PASCOE: NO, SIR.

8 THE COURT: OKAY. ANYTHING FROM ANY OF THE
9 DEFENDANTS BEFORE WE BREAK?

10 MR. LACKEY: NO, SIR, YOUR HONOR.

11 MS. ULLMAN: NO, SIR.

12 MR. PALMER: NO, SIR.

13 MR. MELLARD: NO, SIR.

14 MR. KOGER: NO, SIR.

15 THE COURT: OKAY. WE'LL BE BACK HERE AND WE'LL
16 START TESTIMONY AT NINE. OH, I'M SORRY.

17 SOLICITOR SORENSON: YOUR HONOR, I'M SORRY, ONE
18 THING WE PROBABLY CAN TAKE UP JUST REAL BRIEFLY IS THE
19 REST OF THESE PHOTOGRAPHS THAT WE MARKED, WHETHER
20 THERE'S ANY OBJECTION TO ANY OF THEM.

21 THE COURT: YEAH, IF Y'ALL WANT TO LOOK IT OVER
22 AND POINT OUT ...

23 SOLICITOR SORENSON: I MEAN, SOME OF THEM ARE
24 ALREADY IN EVIDENCE, BUT SOME OF THEM ARE STILL JUST
25 MARKED FOR ID.

1 THE COURT: OKAY. IF YOU DON'T MIND, Y'ALL LOOK
2 THEM OVER. EVERYBODY ELSE CAN LEAVE THE COURTROOM.
3 SO IF Y'ALL WANT TO -- WE'LL HANG AROUND AND Y'ALL
4 LOOK OVER THE PHOTOGRAPHS AND TELL ME WHICH ONES YOU
5 HAVE AN OBJECTION TO, IF ANY.

6 (Whereupon, all attorneys
7 examine State's photographs.)

8 THE COURT: HAVE YOU LOOKED AT ALL OF THE PHOTOS,
9 MS. ULLMAN?

10 MS. ULLMAN: I HAVE, YOUR HONOR.

11 THE COURT: OKAY. ALRIGHT, AND DO YOU HAVE AN
12 OBJECTION TO SOME OF THEM?

13 MS. ULLMAN: I DO.

14 THE COURT: OKAY, WHICH ONES?

15 COURT REPORTER: I NEED NUMBERS.

16 MS. ULLMAN: YES, MA'AM, IF YOU'LL GIVE ME JUST
17 ONE SECOND I'LL GIVE THOSE, HE'S PUTTING THEM IN
18 ORDER.

19 THE COURT: OKAY, YOU'RE OBJECTING TO?

20 MS. ULLMAN: I'M GOING TO LIST YOU A BUNCH OF
21 NUMBERS BECAUSE MY OBJECTION IS PRETTY MUCH THE SAME
22 TO ALL OF THEM.

23 THE COURT: OKAY.

24 MS. ULLMAN: STATE'S THIRTEEN, FOURTEEN, FIFTEEN,
25 SIXTEEN, SEVENTEEN, EIGHTEEN, NINETEEN, TWENTY,

1 TWENTY-ONE, TWENTY-TWO, TWENTY-THREE, TWENTY-FOUR,
2 TWENTY-FIVE, TWENTY-SIX. BASICALLY, THIRTEEN THROUGH
3 TWENTY-SIX, INCLUSIVE. YOUR HONOR, THE BASIS OF MY
4 OBJECTION IS NUMEROUS REASONS. FIRST OFF BEING, ALL
5 OF THE PICTURES THAT I JUST LISTED HAVE, I'LL SHOW YOU
6 THIS ONE, THIS IS STATE'S TWENTY-THREE, ALL OF THESE
7 YELLOW MARKERS IN THERE THAT ARE NUMBERED, I
8 UNDERSTAND THAT THOSE MARKERS ARE SHOWING WHERE
9 BULLETS OR BULLET CASINGS OR EVIDENCE OF SOME SORT HAS
10 BEEN FOUND. MY ISSUE WITH THIS PICTURE AND ALL THE
11 OTHER ONES THAT HAVE THESE MARKERS IS, THESE MARKERS
12 DO NOTHING BUT BRING ATTENTION TO HOW MANY WERE FOUND.
13 CERTAINLY, A PERSON CAN LOOK AT THIS, AND I'LL PASS
14 THIS UP, YOUR HONOR, SO YOU CAN SEE IT, NEXT TO THESE
15 MARKERS ARE, WITH MY LACK OF KNOWLEDGE I'LL SAY,
16 COPPER APPEARING, METAL PIECES. I CERTAINLY THINK THE
17 JURY COULD SEE THOSE WITHOUT THOSE MARKERS THERE.
18 SPECIFICALLY, YOUR HONOR, IN -- EXCUSE ME -- IN
19 PICTURES FIFTEEN AND SIXTEEN WE'VE GOT THESE SAME
20 EXACT MARKERS ON THE SAME EXACT COUCH, ON THE SAME
21 EXACT THING, THAT'S CUMULATIVE. AND AGAIN, ALL OF
22 THESE PICTURES HAVE THESE YELLOW MARKERS IN THERE AND
23 I WOULD SAY THAT THEY'RE USING THESE TO EXCITE THE
24 JURY TO BRING EXTREME ATTENTION TO ALL OF THIS STUFF
25 THAT WAS IN HERE. THEY'RE GOING TO GET IN THROUGH

1 GERALD CARTER THAT THERE WERE SHELL CASINGS, BULLETS,
2 ALL OF THAT STUFF FOUND. THEY'RE IN THE PICTURES,
3 THEY DON'T NEED TO BOLSTER THE EVIDENCE WITH THESE
4 YELLOW TAGS.

5 THE OTHER ISSUE I HAVE WITH THE YELLOW TAGS, YOUR
6 HONOR, IS, THEY ARE LISTING OUT EVIDENCE.

7 THE COURT: THEY'RE WHAT?

8 MS. ULLMAN: THEY'RE LISTING, THEY'RE MARKING
9 EVIDENCE THROUGHOUT THE WHOLE APARTMENT. AND WHEN I
10 SAY, EVIDENCE, DIFFERENT THINGS, DIFFERENT PARTS OF
11 THE EVIDENCE, WHERE THE MARIJUANA WAS THAT THEY FOUND,
12 THE DUCT TAPE THAT THEY FOUND, SHELL CASINGS THAT THEY
13 FOUND, SCALES THAT THEY FOUND. NOT ALL OF THIS
14 EVIDENCE IS PROBATIVE AT ALL IN REGARDS TO WHETHER ANY
15 OF THESE CLIENTS, AND CERTAINLY, RALPH COLEMAN,
16 MURDERED, ARMED ROBBED, OR - - -

17 MR. PALMER: BURGLARIZED.

18 MS. ULLMAN: --- BURGLARIZED, THANK YOU, THIS
19 PERSON AT ALL. IT'S BASICALLY, AGAIN, JUST TO EXCITE
20 THE JURY.

21 ALSO, YOUR HONOR, I'VE BEEN GIVEN A COPY OF ALL
22 THESE PICTURES PLUS MANY, MANY, MANY MORE PICTURES.
23 IN GOING THROUGH ALL OF MY COPIES WHAT I FOUND IS, ALL
24 OF THESE PICTURES WITH THE YELLOW MARKERS, AND AGAIN,
25 THEY MADE SURE TO FIND EVERY PICTURE THAT HAS LOTS OF

1 YELLOW MARKERS TO SHOW TO THE JURY. ALL OF THESE
2 PICTURES ARE FOUND WITHOUT THESE YELLOW MARKERS. NOW,
3 THAT DOESN'T MEAN THAT THE EVIDENCE ISN'T THERE, THEY
4 HAVE THIS EXACT PICTURE WITH THE BULLET CASINGS AND
5 WHATEVER ELSE THESE YELLOW MARKERS ARE MARKING,
6 WITHOUT THOSE MARKERS THERE. SO, THEY CERTAINLY COULD
7 ENTER INTO EVIDENCE A PICTURE THAT DOESN'T HAVE
8 STATE'S EVIDENCE, I DON'T KNOW IF EVIDENCE IS THE
9 APPROPRIATE WORD, BUT STUFF CLUTTERED UP THAT THE
10 STATE ADDED IN. THIS IS CERTAINLY NOT AN ACCURATE
11 DEPICTION OF WHAT ANYBODY SAW WHEN THEY ARRIVED, IT'S
12 AN ACCURATE DEPICTION OF WHAT WAS SEEN AFTER GERALD
13 CARTER WENT THROUGH AND FOUND WHAT HE FELT WAS
14 EVIDENCE. IT CERTAINLY COULD EXCITE THE JURY, IT
15 CERTAINLY HAS A CUMULATIVE EFFECT - - -

16 THE COURT: CAN I SEE THEM ALL?

17 MS. ULLMAN: YES, SIR.

18 THE COURT: THANK YOU, MA'AM.

19 MS. ULLMAN: AND JUST TO ILLUSTRATE, EXCUSE ME,
20 TO SHOW MY REASONING BEHIND THIS, I UNDERSTAND THE
21 PURPOSE OF THE PICTURES IS TO SHOW THE BULLETS THAT
22 THEY FOUND. AND THEY CERTAINLY CAN GET THAT EVIDENCE
23 IN THROUGH GERALD CARTER AND THEY HAVE PICTURES THAT
24 WOULD SHOW THAT EVIDENCE THAT DON'T HAVE THESE YELLOW
25 MARKERS.

1 ALSO, THEY'RE TRYING TO SHOW THAT THE ROOM WAS IN
2 DISARRAY, THAT IT'S BEEN GONE THROUGH, THAT THE COUCH
3 CUSHIONS AND EVERYTHING ELSE HAD BEEN TORN UP. AND
4 YOUR HONOR, STATE'S TWELVE, STATE'S ELEVEN, STATE'S
5 TEN, STATE'S NINE, STATE'S SEVEN, ALL OF THAT EVIDENCE
6 IS SHOWN WITHOUT THESE YELLOW MARKERS. NOW, THE
7 YELLOW MARKERS DOESN'T -- WITHOUT THE YELLOW MARKERS
8 DOESN'T MEAN THAT THE EVIDENCE ISN'T THERE, IT JUST
9 MEANS THAT THE STATE'S MARKING OF THAT EVIDENCE ISN'T
10 THERE. SO, AGAIN, I WOULD SAY THAT IT'S CUMULATIVE,
11 IT COULD EXCITE THE JURY, IT DOES NOT HAVE ANY VALUE
12 AT ALL TO PROVE ANY ELEMENT OF THIS CRIME MORE OR LESS
13 LIKELY, AND THEY CAN CERTAINLY USE PICTURES THAT THEY
14 HAVEN'T, WHEN I SAY, TAMPERED WITH THE SCENE I DON'T
15 MEAN THAT IN A BAD WAY, - - -

16 THE COURT: I KNOW WHAT YOU MEAN, BUT - - -

17 MS. ULLMAN: --- BUT HAVEN'T CHANGED THE SCENE IN
18 ANY FASHION.

19 THE COURT: RIGHT.

20 MS. ULLMAN: SO, THAT WOULD BE THE BASIS FOR MY
21 OBJECTION.

22 THE COURT: OKAY. THANK YOU. ANYTHING, MR.
23 SORENSEN?

24 SOLICITOR SORENSON: IF I COULD JUST ADDRESS A
25 COUPLE OF THINGS. I WOULD POINT OUT, YOUR HONOR, AND

1 AS MS. ULLMAN INDICATED, SHE'S GOTTEN COPIES OF ALL OF
2 THESE. THEY PROBABLY TOOK, I'M GUESSING, IN EXCESS OF
3 TWO HUNDRED AND TWENTY, I GUESS ABOUT TWO HUNDRED AND
4 TWENTY-NINE PHOTOGRAPHS OF THE SCENE OUT THERE. I
5 MEAN, OBVIOUSLY, I'M NOT TRYING TO INTRODUCE TWO
6 HUNDRED AND TWENTY-NINE PHOTOGRAPHS INTO EVIDENCE.
7 I'VE ATTEMPTED TO GO THROUGH THERE AND DO MY BEST TO
8 BASICALLY SHOW ALL OF THE EVIDENCE IN AS FEW
9 PHOTOGRAPHS AS I COULD. SO, THEREFORE, YOU KNOW, I'VE
10 CHOSEN PHOTOGRAPHS THAT SHOWED A LOT OF THE EVIDENCE
11 IN THEM, TRYING TO GET DIFFERENT ANGLES TO ULTIMATELY
12 COVER, YOU KNOW, ALL OF THE SHELL CASINGS AND ALL OF
13 THE PROJECTILES THAT WERE FOUND. I CAN'T HELP IT THAT
14 MR. PRINGLE WAS SHOT TWENTY-FOUR TIMES AND THAT, YOU
15 KNOW, THERE ARE TWENTY-FOUR SHELL CASINGS AND
16 PROJECTILES FOUND WITHING A FAIRLY SMALL ROOM. I MEAN,
17 AND THEREFORE, THAT LEADS TO A WHOLE LOT OF MARKERS.
18 YOU KNOW, I JUST CAN'T SEE HOW THE PRESENCE OF THOSE
19 YELLOW MARKERS, HOW THAT SOMEHOW WOULD INFLAME A JURY.
20 I MEAN, I JUST, I DON'T THINK I'VE EVER HEARD THAT
21 BEFORE. BUT, AND ULTIMATELY, YOUR HONOR, IT'S GOING
22 TO HELP TO AID, BECAUSE I'VE ALSO GOT MARKED TO USE
23 WITH LIEUTENANT CARTER A CRIME SCENE DIAGRAM THAT HE
24 DID THAT HE THEN BASICALLY CORRELATES THOSE NUMBERED
25 MARKERS ON THE DIAGRAM HE DID. AND I THINK THAT'S NOT

1 ONLY GOING TO AID, I MEAN, IT'S NOT ONLY GOING TO AID
2 HIM IN HIS TESTIMONY, BUT I THINK IT WILL AID THE JURY
3 IN KIND OF ORIENTING, YOU KNOW, WHERE THESE ITEMS
4 WERE LOCATED AT, THE VARIOUS SHELL CASINGS AND
5 PROJECTILES.

6 THE COURT: OKAY. I SEE. OKAY.

7 SOLICITOR SORENSON: SO, I MEAN, I JUST DON'T SEE
8 HOW THOSE, YOU KNOW, AS I SAID, THERE ARE TWO HUNDRED
9 AND TWENTY-NINE PHOTOGRAPHS, I BELIEVE, THEY TOOK OUT
10 THERE AT THE SCENE THAT NIGHT, AND YOU KNOW, ...

11 THE COURT: OKAY. THANK YOU, SIR. ANYTHING ELSE
12 IN REPLY?

13 MS. ULLMAN: JUST IN RESPONSE, OUR HONOR, MY
14 BIGGEST ISSUE IS THE MARKERS BECAUSE OF THE NUMBERS. I
15 UNDERSTAND HE WAS SHOT TWENTY-FOUR TIMES AND THAT
16 CERTAINLY IS NOT MR. SORENSON'S FAULT, BUT THEY'VE GOT
17 LOTS OF THINGS MARKED, SOME THAT ARE NOT EVIDENCE AT
18 ALL INVOLVING THIS CASE, SUCH AS THE MARIJUANA THEY
19 FOUND, THE SCALES THAT THEY FOUND, THE MONEY THAT THEY
20 FOUND. AND IN SOME OF THOSE PICTURES WE'VE GOT, LIKE,
21 ITEM NUMBER FORTY-FIVE, AND IT COULD MISLEAD THE JURY
22 INTO BELIEVING THAT THERE WERE FORTY-FIVE BULLETS AND
23 FORTY-FIVE SHELL CASINGS, OR FORTY-FIVE SOMETHING BAD
24 THAT RELATES TO THESE DEFENDANTS THAT HAS NOTHING TO
25 DO WITH THEM AT ALL, BECAUSE SOME OF IT WAS

1 IRRELEVANT.

2 THE COURT: YES, MA'AM, I UNDERSTAND THAT, AND I,
3 YOU KNOW, AND I'LL NOTE YOUR OBJECTION, - - -

4 MS. ULLMAN: YES, SIR.

5 THE COURT: --- BUT I'M NOT GOING TO DISALLOW
6 THOSE PHOTOGRAPHS IN FOR THAT REASON.

7 MR. MELLARD: YOUR HONOR, - - -

8 THE COURT: YES, SIR.

9 MR. MELLARD: --- I WOULD LIKE TO BE HEARD ON
10 THIS.

11 THE COURT: OKAY.

12 MR. MELLARD: MY ARGUMENT IS PROBABLY A LITTLE
13 DIFFERENT.

14 THE COURT: WELL, I HOPE SO, SINCE I'VE ALREADY
15 RULED ON THAT ONE, I HOPE IT WILL BE A LITTLE
16 DIFFERENT.

17 MR. MELLARD: WHAT I'M ARGUING ABOUT IS THE
18 ADMISSIBILITY AT THIS TIME OF, I GUESS IT WOULD BE
19 STATE'S, WHAT WAS IT, THIRTEEN THROUGH TWENTY-SIX?

20 COURT REPORTER: WHAT?

21 MR. MELLARD: THIRTEEN THROUGH TWENTY-SIX, THAT
22 SHOW THE SHELL CASINGS.

23 THE COURT: THE SAME PICTURES, THE SAME
24 PHOTOGRAPHS?

25 MR. MELLARD: THE SAME, SAME PHOTOGRAPHS.

1 THE COURT: OKAY. YOUR TAKE ON IT IS?

2 MR. MELLARD: MY OBJECTION AT THIS TIME IS, IT
3 WOULD BE MISLEADING UNLESS THERE IS EXPLANATION FROM A
4 WITNESS AS TO WHAT THESE ARE. SO, I'M NOT CONSENTING
5 TO IT OR, THE ADMISSIBILITY UNTIL IT'S PROVEN WHAT
6 THESE THINGS ARE.

7 THE COURT: ALRIGHT, WELL, HE'S GOING TO HAVE
8 SOMEBODY COME IN AND -- THE ONLY THING YOU'RE SAYING
9 IS, YOU WANT HIM TO HAVE SOMEBODY TO COME IN AND
10 IDENTIFY WHAT FORTY-FIVE IS, WHAT TWO IS, WHAT THREE
11 IS?

12 MR. MELLARD: RIGHT.

13 SOLICITOR SORENSON: WELL, OBVIOUSLY, I MEAN,
14 I'VE GOT TO PUT, I MEAN, YOU'VE GOT TO GO IN STEPS,
15 YOU'D GOT TO HAVE THE PERSON THAT COLLECTED IT BEFORE
16 YOU CAN HAVE THE PERSON THAT TESTED IT, I MEAN - - -

17 THE COURT: RIGHT.

18 SOLICITOR SORENSON: --- THAT'S JUST A FACT OF
19 LIFE.

20 MR. MELLARD: MY UNDERSTAND IS, THOUGH, THAT
21 YOU'VE RULED THAT THEY WERE GOING TO COME IN, AND I
22 WAS JUST ...

23 THE COURT: WELL, I'VE RULED, -- WELL, I DIDN'T
24 RULE -- WELL, I RULED THAT I'M NOT DISALLOWING THEM
25 BECAUSE THEY WOULD SOMEHOW INFLAME THE JURY. THAT, I

1 DON'T SEE THAT AT ALL, I SEE IT AS MARKINGS OF
2 EVIDENCE. SO, I'M LETTING IT IN FOR THAT REASON, YOU
3 KNOW.

4 MR. MELLARD: SUBJECT TO SOMEBODY ACTUALLY
5 PUTTING THE EVIDENCE - - -

6 THE COURT: YEAH, I MEAN, HE'S STILL GOT TO GET
7 SOMEBODY TO COME IN AND IDENTIFY THEM.

8 SOLICITOR SORENSON: I MEAN, THE ACTUAL SHELL
9 CASINGS AND ALL THAT, WE PREMARKED THEM AND THEY SAID
10 THEY DIDN'T -- THEY'RE ALL IN EVIDENCE.

11 THE COURT: RIGHT.

12 SOLICITOR SORENSON: SO, I MEAN, THE ACTUAL
13 ITEMS, I DON'T SEE HOW A PHOTOGRAPH OF WHERE IT WAS
14 LOCATED, I MEAN - - -

15 THE COURT: THE ONLY THING HE'S SAYING IS, HE'S
16 NOT CONSENTING TO THE ADMISSION OF THESE PHOTOGRAPHS
17 AT THIS TIME UNTIL YOU PUT THE GUY UP.

18 MR. MELLARD: THAT'S RIGHT.

19 THE COURT: AND THEN IF HE MAKES AN OBJECTION,
20 I'LL MAKE A RULING AT THAT TIME.

21 SOLICITOR SORENSON: I'D JUST LIKE TO POINT OUT,
22 THOUGH, THAT THE ITEMS OF EVIDENCE THAT ARE DEPICTED
23 ARE ALREADY IN EVIDENCE.

24 THE COURT: AND MR. SORENSON, I UNDERSTAND THAT.
25 THEY'VE ALREADY AGREED TO THAT, BUT WE'LL JUST DEAL

1 WITH IT AT THAT TIME. OKAY?

2 ANY OBJECTION FROM ANY OF THE OTHER DEFENDANTS?

3 MR. LACKEY?

4 MR. LACKEY: NO, SIR, YOUR HONOR.

5 THE COURT: MR. PALMER?

6 MR. PALMER: NO, YOUR HONOR.

7 THE COURT: OKAY, MR. KOGER?

8 MR. KOGER: NO, YOUR HONOR.

9 THE COURT: OKAY. THANK YOU, SIR.

10 SOLICITOR SORENSON: CAN I JUST PUT ALL THE,
11 BECAUSE THERE ARE SEVERAL OTHER PHOTOGRAPHS THAT I
12 BELIEVE WERE NOT OBJECTED TO ALL.

13 THE COURT: RIGHT.

14 SOLICITOR SORENSON: SO, THAT WOULD BE STATE'S
15 EXHIBIT SEVEN - - -

16 COURT REPORTER: JUST A MOMENT, LET ME FIND
17 THOSE.

18 THE COURT: OKAY. THE ONES THAT ARE NOT OBJECTED
19 TO IF YOU WOULD GO AHEAD AND ...

20 SOLICITOR SORENSON: I'M GOING TO GO AHEAD AND
21 CROSS THE ID OFF OF THEM. THAT'S ACTUALLY -- SEVEN IS
22 ALREADY IN, I'M SORRY, BUT NINE - - -

23 COURT REPORTER: WAIT. OKAY, THAT'S IN?

24 SOLICITOR SORENSON: NINE IS IN WITHOUT
25 OBJECTION, TEN IS IN WITHOUT OBJECTION - - -

1 COURT REPORTER: ARE YOU STRIKING IT OFF FOR ME?

2 SOLICITOR SORENSON: I'M CROSSING THEM OFF,
3 YES, MA'AM, NINE, TEN, ELEVEN AND TWELVE.

4 THE COURT: SO, PHOTOGRAPHS NINE, TEN, ELEVEN AND
5 TWELVE ARE IN WITHOUT OBJECTION.

6 (State's Exhibit Nine, Ten, Eleven
7 and Twelve marked and filed.)

8 SOLICITOR SORENSON: NUMBER TWENTY-SEVEN.

9 COURT REPORTER: WAIT A MINUTE, LET ME GET TO
10 THAT. I'VE GOT IT.

11 (State's Exhibit Twenty-seven
12 marked and filed.)

13 SOLICITOR SORENSON: HAVE YOU GOT IT?

14 COURT REPORTER: YES, SIR.

15 THE COURT: MR. PASCOE LEAVES YOU TO DO THE DIRTY
16 WORK, DOESN'T HE?

17 SOLICITOR SORENSON: HE DOESN'T HANDLE EVIDENCE.
18 AND THEN, TWENTY-NINE, THIRTY AND THIRTY-ONE.

19 THE COURT: TWENTY-NINE, THIRTY AND THIRTY-ONE.

20 COURT REPORTER: OKAY.

21 SOLICITOR SORENSON: AND THEN WE'VE GOT ...

22 THE COURT: THOSE PHOTOGRAPHS ARE ALL IN WITHOUT
23 OBJECTION, IS THAT CORRECT? I'M NOT HEARING ANY
24 OBJECTION SO I'M TAKING THIS ALL AS NO OBJECTION.

25 MR. LACKEY: NO OBJECTION.

1 MS. ULLMAN: NO OBJECTION.

2 MR. PALMER: NO OBJECTION.

3 MR. MELLARD: NO OBJECTION.

4 MR. KOGER: NO OBJECTION.

5 (State's Exhibits Twenty-nine, Thirty
6 and Thirty-one marked and filed.)

7 SOLICITOR SORENSON: THIRTEEN THROUGH TWENTY-SIX
8 THAT ARE, I MEAN, - - -

9 THE COURT: THEY'RE JUST MARKED FOR ID RIGHT NOW.
10 (State's Exhibits Thirteen through Twenty-six,
11 photographs,
12 marked for identification only.)

13 SOLICITOR SORENSON: I HAVEN'T MARKED THEM YET,
14 SO I WOULD OFFER THEM SO THEY CAN OBJECT - - -

15 COURT REPORTER: NOW?

16 SOLICITOR SORENSON: NO, NO, MA'AM. SO, THEY CAN
17 PLACE THEIR OBJECTION ON THE RECORD AT THE APPROPRIATE
18 TIME.

19 THE COURT: WELL, MR. MELLARD MAY NOT OBJECT.

20 SOLICITOR SORENSON: HE MAY NOT, YES, SIR.

21 THE COURT: HE MAY NOT, HE JUST WANTS YOU TO PUT
22 UP YOUR EXPERT TO IDENTIFY THEM, OR YOUR WITNESS TO
23 IDENTIFY THEM. I BELIEVE THAT'S CORRECT. IS THAT
24 RIGHT, MR. MELLARD?

25 MR. MELLARD: YES, SIR.

1 COURT REPORTER: YOU'RE GOING TO DO THOSE LATER?

2 SOLICITOR SORENSON: YES, MA'AM.

3 COURT REPORTER: OKAY.

4 SOLICITOR SORENSON: IN FRONT OF THE JURY.

5 THE COURT: ANYTHING ELSE FROM THE STATE?

6 SOLICITOR SORENSON: I BELIEVE THAT'S ALL FOR
7 RIGHT NOW, YOUR HONOR.

8 THE COURT: OKAY. ANYTHING ELSE FROM THE
9 DEFENDANTS?

10 MR. LACKEY: NO, SIR, YOUR HONOR.

11 MS. ULLMAN: NO, YOUR HONOR.

12 MR. PALMER: NO, YOUR HONOR.

13 MR. MELLARD: NO, YOUR HONOR.

14 MR. KOGER: NO, YOUR HONOR.

15 THE COURT: ALRIGHT.

16 COURT REPORTER: JUDGE, I HAVE SOMETHING.

17 THE COURT: I DIDN'T ASK ANYTHING FROM THE COURT
18 REPORTER.

19 COURT REPORTER: SOLICITOR, I WANT YOU TO GIVE ME
20 EVERYTHING THAT YOU WANT RICH TO LOCK UP TONIGHT,
21 PLEASE.

22 THE COURT: OKAY. IF Y'ALL JUST MAKE SURE WE'VE
23 GOT EVERYTHING IN EVIDENCE, EVERYTHING SAFE. OKAY?
24 ALRIGHT, THANK Y'ALL, Y'ALL HAVE A WONDERFUL EVENING,
25 GET SOME REST, AND I'LL SEE Y'ALL AT NINE O'CLOCK IN

1 THE MORNING. OKAY? THANK YOU.

2 (Recess for the day.)

3 DATE:

4 DECEMBER 15, 2010

5 THE COURT: MS. HARRY DOT, ARE WE READY?

6 COURT REPORTER: YES, SIR.

7 THE COURT: OKAY. WHERE IS MR. PALMER? OH, MR.
8 PALMER, IT'S SO GOOD TO SEE YOU.

9 MR. PALMER: I HAVE ONE REQUEST, JUDGE.

10 THE COURT: YES, SIR.

11 MR. PALMER: DO YOU OBJECT TO ME GETTING A CUP OF
12 COFFEE REAL QUICK?

13 THE COURT: WELL, THIS IS ONLY GOING TO TAKE A
14 SECOND.

15 MR. PALMER: OKAY.

16 THE COURT: AND THEN YOU CAN GET AS MANY CUPS OF
17 COFFEE AS YOU WANT, IF THERE'S ANYTHING BACK THERE, I
18 THINK THERE MIGHT BE SOME GROWING, STALE DONUTS YOU
19 CAN HAVE.

20 OKAY. MR. RICHLAND TOLD ME THAT ONE OF THE
21 JURORS WANTED TO TALK TO ME. OKAY? THE JUROR THAT
22 WANTS TO TALK TO ME IS THE LADY THAT HAS, I THINK I
23 MENTIONED TO Y'ALL EARLIER, HAD SURGERY, AND WAS
24 HAVING A PROBLEM, AND LIKE THAT. SO, I -- BUT I DO
25 NOT KNOW WHAT SHE WANTS TO TALK TO ME ABOUT. OKAY?

1 BUT BEFORE I TALK TO HER I WANTED TO MAKE SURE Y'ALL
2 KNEW ABOUT IT. OKAY? AND I DON'T KNOW IF Y'ALL WANT
3 TO BE PRESENT, OR HOW -- DO Y'ALL JUST WANT ME TO GO
4 TALK TO HER AND THEN COME BACK OUT HERE AND TELL Y'ALL
5 WHAT'S GOING ON OR WHAT?

6 MR. PALMER: I'D BE HAPPY WITH THAT.

7 THE COURT: OKAY. IS THERE ANY PROBLEM WITH ME
8 JUST TALKING TO HER AND THEN COMING BACK OUT AND
9 REPORTING TO Y'ALL?

10 SOLICITOR SORENSON: THAT'S FINE, YOUR HONOR.

11 THE COURT: NO OBJECTION FOR ANYONE THEN?

12 MR. LACKEY: NO, SIR.

13 MS. ULLMAN: NO, OBJECTION.

14 MR. PALMER: NO OBJECTION.

15 MR. MELLARD: NO OBJECTION.

16 MR. KOGER: NO OBJECTION.

17 THE COURT: ALRIGHT. ALRIGHT, MR. PALMER, IF YOU
18 WANT TO GO AHEAD -- IF ANYBODY WANTS TO GET COFFEE, GO
19 AHEAD AND GET IT.

20 (Whereupon, the Judge leaves
21 the courtroom and then
22 returns to the courtroom.)

23 THE COURT: THE JUROR THAT WE'RE TALKING ABOUT IS
24 MS. JAMES, MS. KIA JAMES, AND SHE'S THE ONE THAT I
25 MENTIONED TO Y'ALL EARLIER HAD SURGERY, AND WE NEEDED

1 TO, YOU KNOW, PAY ATTENTION IN CASE, YOU KNOW, SHE
2 NEEDED TO TAKE FREQUENT BREAKS OR SOMETHING LIKE THAT.
3 BUT THAT'S NOT THE PROBLEM. HER PROBLEM IS THAT SHE
4 WORKS FOR THE DEPARTMENT OF COMMERCE, AND PART OF HER
5 JOBS ARE -- IS THAT CONVICTIONS?

6 LAW CLERK: COMMERCE.

7 THE COURT: IT'S COMMERCE? BUT SHE HAS TO DO IN
8 HOME VISITS WITH PEOPLE IN THAT AREA. IT IS COMMERCE.
9 AND FOR SOME REASON VISIT WITH INMATES' FAMILIES AND
10 THINGS LIKE THAT, AND SHE HAS TO DO A LOT OF IN HOME
11 INTERVIEWS. AND SHE DOESN'T HAVE ANYBODY WITH HER
12 WHEN SHE GOES FOR THE INTERVIEWS. AND IT IS IN THE
13 AREA AROUND WHERE THE PEOPLE INVOLVED IN THIS CASE
14 LIVE. AND HER CONCERN IS THAT WHEREAS SHE MIGHT NOT
15 REMEMBER THE FAMILY MEMBERS OR WHO THE WITNESSES WERE,
16 OR THINGS LIKE THAT, SHE'S CONCERNED THAT THEY WILL
17 REMEMBER HER. AND IT'S SOMETHING THAT HAS BOTHERED HER
18 ALL NIGHT, AND THAT'S JUST WHAT HER SITUATION IS RIGHT
19 NOW. I GET THE IMPRESSION FROM TALKING WITH HER THAT
20 IT IS A VERY LEGITIMATE CONCERN WITH HER, AND THAT IT
21 WILL HAVE SOME, YOU KNOW, -- THAT'S GOING TO BE
22 SOMETHING SHE'S GOING TO BE THINKING ABOUT WHILE SHE'S
23 TRYING TO MAKE A DETERMINATION AS TO WHAT TO DO IN
24 THIS CASE, WHEN THE CASE FINALLY GOES BACK TO THE
25 JURY. SO, WHAT I WANT TO KNOW FROM Y'ALL IS WHAT

1 Y'ALL, WHAT SUGGESTIONS Y'ALL HAVE.

2 MR. MELLARD: YOUR HONOR, HAS SHE EXPRESSED THESE
3 CONCERNS TO ANY OTHER MEMBERS OF THIS JURY?

4 THE COURT: I HAVE NOT ASKED HER THAT BUT I WILL
5 DOUBLE CHECK THAT. OKAY? BECAUSE THAT, THAT WOULD --
6 AND IF YOU WANT ME TO, DO Y'ALL WANT TO BRING HER OUT
7 HERE AND WE CAN ASK HER SOME QUESTIONS?

8 MR. MELLARD: YES, SIR.

9 THE COURT: OKAY. IS THAT ALRIGHT WITH Y'ALL?

10 SOLICITOR SORENSON: YEAH, I THINK AS LONG AS
11 YOU'RE THE ONE ASKING THE QUESTIONS.

12 THE COURT: YEAH, OKAY. OKAY. WOULD YOU BRING
13 HER OUT?

14 (Whereupon, Juror Kia James
15 enters the courtroom.)

16 THE COURT: OH, COME ON OUT, MS. JAMES. I'M
17 GOING TO PUT YOU ON THE WITNESS STAND. AND I'M SORRY
18 TO DO THAT BUT, MS. JAMES, WOULD YOU MIND PUTTING YOUR
19 LEFT HAND ON THE BIBLE AND RAISE YOUR RIGHT HAND,
20 PLEASE, MA'AM?

21 (Whereupon, Juror Kia James
22 is duly sworn.)

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

EXAM, IN CAMERA, JUROR KIA JAMES BY THE COURT

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EXAMINATION, IN CAMERA, OF JUROR KIA JAMES

BY THE COURT:

Q. ALRIGHT, AND MS. JAMES, WHAT I HAVE DONE IS, I
HAVE EXPRESSED YOUR CONCERNS TO THE ATTORNEYS
INVOLVED, AND I THINK I TOLD THEM CORRECTLY, AND
I WANT YOU TO CORRECT ME IF I'VE MISSED IT.

A. OH, UH-HUH.

Q. AS PART OF YOUR DUTIES, AND YOU WORK FOR THE
DEPARTMENT OF COMMERCE?

A. YES, SIR.

Q. BUT YOU DO IN HOME VISITS AND SOMETHING LIKE
INMATE VISITS?

A. YES, I DO, AT CORRECTIONAL FACILITIES.

Q. AND I FORGOT TO ASK YOU WHY YOU DO THESE VISITS?
I MEAN, I KNOW IT'S PART OF YOUR JOB BUT WHAT IS
THE - - -

A. WELL, IT'S IN CONJUNCTION WITH THE CENSUS BUREAU,
SO WE GATHER STATISTICAL DATA.

Q. OKAY. AND IT'S A PERMANENT JOB THAT YOU HAVE?

A. YES, IT IS.

Q. OKAY. AND BY DOING THESE -- AND YOU SAID YOU DO
THESE IN HOME INTERVIEWS IN THE AREA AROUND WHERE
THE WITNESSES AND THE DEFENDANTS LIVE?

A. AS A MATTER OF FACT, YOUR HONOR, EVERY STREET,
ROAD NAME THAT YOU NAMED, I'VE HAD INTERVIEWS AT

EXAM, IN CAMERA, JUROR KIA JAMES BY THE COURT

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1 THOSE PARTICULAR LOCATIONS.

2 Q. OKAY. AND YOU GO, AND NOBODY IS WITH YOU?

3 A. WE'RE NOT ALLOWED TO TAKE ANYONE WITH US.

4 Q. AND YOU DON'T HAVE ANY KIND OF PROTECTION WITH
5 YOU?

6 A. WE'RE NOT ALLOWED TO CARRY ANY PROTECTION.

7 Q. OKAY. NOW, YOU'VE EXPRESSED TO ME THAT THIS IS
8 A CONCERN OF YOURS?

9 A. YES.

10 Q. THAT THEY'RE GOING TO REMEMBER YOU, AND YOU'RE
11 NOT GOING TO REMEMBER THEM?

12 A. EXACTLY.

13 Q. I FORGOT TO ASK YOU, HAVE YOU EXPRESSED ANY OF
14 YOUR CONCERNS TO ANY MEMBER OF THE JURY BACK
15 THERE?

16 A. NO, SIR, I HAVE NOT DISCUSSED ANYTHING ABOUT
17 THIS.

18 Q. SO, YOU HAVEN'T TALKED ABOUT ANYTHING WITH
19 ANYBODY?

20 A. NOT AT ALL.

21 Q. OKAY. JUST LIKE I DIRECTED?

22 A. EXACTLY.

23 Q. OKAY. GOOD, GOOD, I'M GLAD TO SEE Y'ALL -- IT'S
24 ALWAYS NICE TO KNOW THEY'RE FOLLOWING MY --
25 EVERYBODY'S FOLLOWING MY DIRECTIONS BACK THERE.

1 BUT NOW, BECAUSE YOU ARE NOW -- I KNOW WHEN WE
2 STARTED THE CASE YOU DIDN'T HAVE ANY IDEA OTHER
3 THAN THE CHARGES WERE AGAINST THESE FIVE YOUNG
4 MEN, BUT YOU DIDN'T KNOW WHO THEY WERE, YOU
5 DIDN'T KNOW WHERE THEY LIVED, YOU DIDN'T KNOW
6 ANYTHING ABOUT THEM?

7 A. NO, SIR.

8 Q. OKAY. NOW, THE FACT THAT YOU NOW KNOW SOMETHING
9 ABOUT THEM, AND YOU KNOW WHERE THEY LIVE, DO YOU
10 THINK THAT'S GOING TO AFFECT YOUR ABILITY TO
11 RENDER A FAIR AND IMPARTIAL VERDICT WHEN YOU'RE
12 BACK THERE MAKING A DETERMINATION?

13 A. ONLY INsofar AS MY PERSONAL SAFETY IN THE FUTURE
14 IS CONCERNED, AS FAR AS MAYBE FAMILY MEMBERS, ANY
15 TYPE OF RETRIBUTION, YOU KNOW, FROM THAT ANGLE,
16 BUT AS FAR AS MAKING THE DECISIONS THAT I
17 POSSIBLY HAVE TO MAKE, NO, I WOULDN'T HAVE A
18 PROBLEM WITH THAT.

19 Q. BUT YOU'RE STILL -- SO, YOU THINK, I MEAN, SO
20 YOU THINK YOU CAN STAY ON THE JURY?

21 A. UH.

22 Q. BUT YOU'RE TELLING ME YOU'D RATHER NOT BE ON THE
23 JURY?

24 COURT REPORTER: DOES THAT MEAN, YES?

25 A. I DON'T -- LET ME ...

EXAM, IN CAMERA, JUROR KIA JAMES BY THE COURT

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1 Q. WELL, TO THIS QUESTION, DO YOU THINK YOU CAN STAY
2 ON THE JURY?

3 A. WELL, THAT'S WHAT I'M SAYING, I DIDN'T FINISH
4 HEARING YOUR QUESTION.

5 Q. YES, MA'AM. DO YOU THINK THE FACT THAT YOU'RE
6 WORRIED ABOUT ANY RETRIBUTION IN THE FUTURE OR
7 ANYTHING LIKE THAT, IS THAT GOING TO AFFECT THE
8 WAY YOU MAKE A DETERMINATION ON THIS?

9 A. NO, BUT I WILL BE SCARED IN THE FUTURE BECAUSE OF
10 WHAT I POSSIBLY MAY HAVE TO DO.

11 Q. OKAY. ALRIGHT.

12 THE COURT: ANYTHING ELSE? DO Y'ALL WANT TO
13 EXCUSE HER AND THEN WE'LL TALK ABOUT IT AND I'LL BRING
14 HER BACK OUT HERE IF WE NEED TO?

15 MR. MELLARD: YES, SIR.

16 THE COURT: OKAY. MS. JAMES, I'M GOING TO LET
17 YOU GO AND STEP BACK INTO MY OFFICE RIGHT NOW FOR JUST
18 A SECOND, IF YOU DON'T MIND.

19 (Whereupon, Juror Kia James
20 leaves the courtroom and the
21 following takes place out of
22 her presence.)

23 THE COURT: MR. MELLARD, DOES THAT - - -

24 MR. MELLARD: WELL, YOUR HONOR, I MEAN, IT'S
25 OBVIOUS THAT SHE'S ALREADY MADE UP HER MIND REGARDING

1 HOW SHE'S GOING TO VOTE IN THIS CASE. AND THE VERY
2 FACT THAT SHE'S EXPRESSING CONCERNS ABOUT RETRIBUTION
3 IS INDICATIVE THAT SHE'S ALREADY DISREGARDED YOUR
4 INSTRUCTIONS NOT TO MAKE UP HER MIND, AND HAS ALREADY
5 MADE UP HER MIND.

6 THE COURT: WELL, THAT COULD HAVE BEEN THE WAY I
7 PHRASED THE QUESTION, TOO, MORE THAN HER MAKING UP HER
8 MIND. BUT I DO APPRECIATE YOUR CONCERN ABOUT THAT.
9 BUT NOW, THE OPTION IS, IF Y'ALL ARE IN AGREEMENT AND
10 I LET HER GO, THEN THE NEXT QUESTION IS, IT LOOKS LIKE
11 THE FIRST ALTERNATE IS MR. LOVETTE. IS THAT -- SO,
12 THAT'S WHAT I'M TRYING TO FIND OUT FROM Y'ALL. DO
13 Y'ALL NEED -- WHAT'S THE STATE'S POSITION REGARDING
14 THIS?

15 SOLICITOR PASCOE: SHE'S A GOOD JUROR, I HATE TO
16 LOSE HER, BUT I'VE GOT TO BE HONEST, I - - -

17 THE COURT: I UNDERSTAND THAT, I MEAN, I THINK
18 SHE'S A GOOD JUROR, TOO, BUT I AM ALSO CONCERNED ABOUT
19 HER SITUATION.

20 SOLICITOR PASCOE: I AM, TOO. I DISAGREE WITH
21 MR. MELLARD JUST ON ONE THING. I DON'T NECESSARILY
22 THINK THAT SHE'S MADE UP HER MIND, BUT IT IS WITHOUT A
23 DOUBT, SHE, FROM HER HESITANCY AND HER ANSWERS TO
24 QUESTIONS, YOU CAN OBVIOUSLY TELL THAT SHE WOULD HAVE
25 A HARD TIME PUTTING THAT ASIDE IN TRYING TO RENDER A

1 VERDICT. SO, I WOULD AGREE WITH MR. MELLARD THAT SHE
2 PROBABLY NEEDS TO BE EXCUSED, THAT SHE DOES NEED TO BE
3 EXCUSED.

4 THE COURT: OKAY. NOW, IF SHE IS GOING TO BE
5 EXCUSED, ARE YOU, IS IT YOUR POSITION THAT MR. LOVETTE
6 IS THE NEXT PERSON?

7 SOLICITOR PASCOE: LET ME CHECK TO MAKE SURE HE'S
8 NEXT ON THE LIST, YOUR HONOR.

9 THE COURT: WAYNE P. LOVETTE.

10 SOLICITOR PASCOE: YES, SIR, HE'S THE FIRST
11 ALTERNATE.

12 THE COURT: OKAY. ALRIGHT, MR. LACKEY, WHAT'S
13 YOUR POSITION?

14 MR. LACKEY: YOUR HONOR, AT THIS TIME I WOULD
15 HAVE NO OBJECTION TO HER BEING EXCUSED.

16 THE COURT: MS. ULLMAN OR MR. WISE, WHO WANTS TO
17 RESPOND? MS. ULLMAN, YOU'VE BEEN POINTED TO BY MR.
18 WISE.

19 MS. ULLMAN: I WOULD ACTUALLY ASK YOUR HONOR TO
20 LET ALL OF US TALK FOR A MOMENT, BECAUSE WE PICKED
21 THIS JURY TOGETHER AND WE NEED TO DISCUSS IT.

22 THE COURT: I'LL BE GLAD TO LET Y'ALL TALK FOR A
23 MINUTE, AND I'LL STEP INTO THAT ROOM AND I'LL LET
24 Y'ALL TALK. OKAY?

25 MS. ULLMAN: THANK YOU.

1 (Whereupon, the Judge steps
2 out of the courtroom, after
3 which the Judge returns to
4 the courtroom.)

5 THE COURT: MS. HARRY DOT, ARE YOU READY?

6 COURT REPORTER: I'M READY.

7 THE COURT: OKAY. ALRIGHT, MS. ULLMAN, WE TOOK A
8 BREAK SO THAT Y'ALL COULD DISCUSS THIS SITUATION.

9 MS. ULLMAN: YES, SIR.

10 THE COURT: AND WHAT HAVE Y'ALL -- I'M ASSUMING,
11 SINCE SHE MENTIONED IT, YOU ARE THE LEADER OF THE
12 PACK.

13 MS. ULLMAN: WE AGREE THAT SHE SHOULD BE EXCUSED,
14 BUT WE ALSO WOULD ASK THE COURT TO BASICALLY PUT BOTH
15 OF THE ALTERNATES BACK INTO THE HOPPER TODAY AND PICK
16 -- MR. MELLARD AND MR. KOGER BOTH HAVE BEEN IN COURTS
17 WHERE THAT HAS HAPPENED WHEN AN ISSUE OF THE ALTERNATE
18 CAME UP, THERE WAS MORE OF A CHOICE THAN JUST THE
19 FIRST PERSON PICKED OUT.

20 THE COURT: AND IN THE BACK OF MY MIND, I THINK
21 THAT'S WHAT WE DO IN A CRIMINAL CASE, BUT I WAS GOING
22 TO CHECK THE LAW ON THAT. BUT WHAT IS YOUR POSITION
23 WITH THAT?

24 SOLICITOR PASCOE: NO, SIR. WE -- SINCE WE'VE
25 BEEN DOING IT, PICKING JURIES THIS WAY, THE CLERK'S

1 COME UP WITH A LIST, YOU GO BY THE NUMBER. I KNOW,
2 LIKE IN DEATH PENALTY CASES JURIES ARE DONE, I IMAGINE
3 IF THAT'S WHAT YOU DO IN A DEATH PENALTY CASE THAT'S
4 THE WAY YOU DO IT IN EVERY CASE, YOU GO BY THE NUMBER.
5 THEY'VE ALREADY COME UP WITH A NUMBER, ORDER IN WHICH
6 THEY COME IN, AND THAT'S WHAT YOU GO BY. I WOULD ADD
7 THAT EVEN BACK WHEN THEY USED TO USE THE HOPPER, WHICH
8 THEY DON'T USE ANYMORE - - -

9 THE COURT: WAIT A MINUTE. OKAY, RULE FORTY-
10 SEVEN SAYS, ALTERNATE JURORS IN THE ORDER IN WHICH
11 THEY'RE CALLED SHALL REPLACE THE JURORS WHO PRIOR TO
12 THE TIME -- AND I'LL CHECK TO SEE IF IT'S ANY
13 DIFFERENT FOR CRIMINAL. AND I APPRECIATE Y'ALL'S
14 REQUEST. I'M GOING TO GO ALONG WITH THE ORDER IN
15 WHICH THEY WERE PICKED, AND I WILL NOTE YOUR OBJECTION
16 TO THAT, NOT PUTTING THEM IN THE HOPPER. I THINK
17 THAT'S -- MR. MELLARD, AND MR. KOGER, Y'ALL WANTED ME
18 TO PUT THEM BACK IN THE HOPPER?

19 MR. KOGER: YES, YOUR HONOR, AND JUST TO NOTE FOR
20 THE COURT, YOU READ THE PARTICULAR RULE, BUT AS RECENT
21 AS AUGUST OF THIS YEAR, WHEN THEY HAD A JURY TRIAL
22 OVER IN BARNWELL, THE COURT USED A CIGAR BOX, WHEN THE
23 ISSUE CAME UP THEY PUT THEM BACK IN THE CIGAR BOX AND
24 PICKED THEM OUT IN ORDER.

25 THE COURT: AND I UNDERSTAND, WITH THE CIGAR BOX,

1 YOU KNOW. I WOULD HAVE DONE THE SAME THING. AND IT'S
2 SOMETHING IN THE BACK OF MY MIND THAT REMINDS ME OF
3 DOING THAT WITH THE CIGAR BOX SITUATION, BUT I THINK
4 WITH THE COMPUTER SITUATION I'M GOING TO GO ALONG WITH
5 THE WAY, WITH RULE FORTY-SEVEN, AND I'LL NOTE YOUR
6 OBJECTION TO ME DOING IT IN THAT MANNER. OKAY.

7 NOW, WHAT I'M GOING TO DO IS, I'M GOING TO LET
8 MS. JAMES GO, AND WE WILL MOVE MR. LOVETTE INTO HER
9 SEAT. OKAY?

10 ANYTHING ELSE BEFORE WE BRING THE JURY OUT?

11 SOLICITOR PASCOE: NO, YOUR HONOR.

12 THE COURT: ANYTHING ELSE FROM ANY OF THE
13 DEFENDANTS?

14 MR. LACKEY: NO, YOUR HONOR.

15 MS. ULLMAN: NO, SIR.

16 MR. PALMER: NO, YOUR HONOR.

17 MR. MELLARD: NO, YOUR HONOR.

18 MR. KOGER: NO, SIR.

19 THE COURT: ALRIGHT. DOES SHE NEED TO TURN OVER
20 ANYTHING TO OR -- OKAY. ALRIGHT.

21 MS. WALKER, THESE ARE MY NOTES, WHICH ARE NOT
22 VERY GOOD, BUT IF YOU'D MAKE THAT COURT'S NUMBER ONE
23 SO WE'LL REMEMBER HOW WE GOT PAST THAT HERE.

24 COURT REPORTER: YES, SIR.

25 (Court's Exhibit One

1 marked and filed.)

2 THE COURT: I'M GOING TO ADVISE THE COURT THAT
3 THE JUROR LEFT DUE TO SOME PERSONAL ISSUES. IS THAT
4 ALRIGHT WITH THE STATE?

5 SOLICITOR PASCOE: YES, SIR.

6 THE COURT: IS THAT ALRIGHT WITH THE DEFENDANTS?

7 MR. LACKEY: YES, SIR.

8 MS. ULLMAN: YES, SIR.

9 MR. PALMER: YES, SIR.

10 MR. MELLARD: YES, SIR.

11 MR. KOGER: YES, SIR.

12 THE COURT: OKAY. ANYBODY THAT WANTED TO BE IN
13 THE AUDIENCE, ARE THEY READY TO COME BACK IN? THEY
14 CAN COME ON BACK IN BEFORE I GET THE JURY IN, I DON'T
15 WANT THEM WALKING IN ONCE THE JURY GETS HERE.

16 ALRIGHT, LADIES AND GENTLEMEN, WE'RE GETTING
17 READY TO GET STARTED ON THIS TRIAL AGAIN TODAY. LET
18 ME REMIND YOU THAT THERE IS GOING TO BE NO TALKING,
19 NO PASSING OF NOTES BACK THERE. OKAY. NOBODY IS
20 GOING TO MAKE ANY NOISE, NOBODY IS GOING TO MAKE ANY
21 COMMENTS, NOBODY IS GOING TO ROLL THEIR EYES OR
22 ANYTHING LIKE THAT WHILE THE WITNESSES ARE TESTIFYING.
23 IF ANYBODY MISUNDERSTANDS OR DOES NOT BELIEVE THAT
24 THEY CAN COMPLY WITH WHAT I'VE JUST TOLD YOU, YOU WILL
25 NEED TO LEAVE NOW. OKAY. NOW, IF ANYBODY DOESN'T

1 COMPLY YOU WILL BE ESCORTED OUT OF THE COURTROOM
2 IMMEDIATELY, AND BROUGHT BACK BEFORE ME SO THAT WE CAN
3 DISCUSS THIS MATTER AT THE END OF THE DAY, BECAUSE YOU
4 HAVE NOW BEEN TOLD. EVERYBODY, I WANT TO MAKE SURE
5 THAT EVERYBODY UNDERSTANDS THAT. LET ME SEE YOU
6 SHAKING YOUR HEADS, EVERYBODY. OKAY. THANK YOU.

7 ALRIGHT, ANYTHING ELSE FROM THE DEFENDANTS BEFORE
8 I BRING THE JURY OUT?

9 MR. PALMER: NO, YOUR HONOR.

10 THE COURT: OKAY. THANK YOU.

11 ANYTHING FROM THE STATE BEFORE I BRING THE JURY
12 OUT?

13 SOLICITOR PASCOE: NO, SIR, YOUR HONOR.

14 THE COURT: OKAY. THANK YOU, IF YOU'LL GO AHEAD
15 AND BRING THE JURY OUT, PLEASE.

16 AND MS. JACKSON, IF YOU'D GET MR. LOVETTE TO SIT
17 WITH THE JURY.

18 (Whereupon, the jury enters
19 the courtroom and the following
20 takes place in the presence
21 of the jury.)

22 THE COURT: LADIES AND GENTLEMEN, I HOPE Y'ALL
23 HAD A GOOD EVENING. I WANT TO MAKE SURE THAT NOBODY
24 ON THE JURY PANEL READ ANYTHING IN THE PAPER, SAW
25 ANYTHING ON THE T.V. OR ON THE INTERNET, OR HEARD

1 ANYTHING ON THE RADIO ABOUT THIS TRIAL? IF YOU DID I
2 NEED FOR YOU TO RAISE YOUR HAND. OKAY. NOBODY IS
3 RAISING THEIR HAND. OKAY. HAS ANYBODY TRIED TO
4 CONTACT ANY OF Y'ALL TO DISCUSS THIS CASE AWAY FROM
5 THE COURTHOUSE? OKAY, IF SO, I NEED FOR YOU TO RAISE
6 YOUR HAND. OKAY, NO ONE IS RAISING THEIR HAND.

7 ALRIGHT, NOW, Y'ALL WILL NOTICE, MS. JAMES IS NOT
8 PRESENT. SHE HAD TO TALK WITH ME, SHE HAD SOME
9 PERSONAL ISSUES SO I HAD TO EXCUSE HER FROM THE JURY
10 TRIAL, AND MR. LOVETTE, THAT MEANS, CONGRATULATIONS,
11 YOU ARE NOW A MEMBER OF THE JURY PANEL. OKAY? THANK
12 YOU, SIR. I KNOW YOU'VE BEEN PAYING ATTENTION FROM
13 THE BACK ROW, AND SO, YOU ARE READY TO STEP IN AS A
14 JUROR. OKAY?

15 ALRIGHT, I THINK WE'RE READY TO BEGIN.

16 MR. PASCOE, DO YOU WANT TO CALL YOUR NEXT - - -

17 SOLICITOR SORENSON: YES, SIR.

18 THE COURT: --- OR MR. SORENSON, WHO'S - - -

19 SOLICITOR SORENSON: THAT WOULD BE ME.

20 THE COURT: OKAY. MR. SORENSON.

21 SOLICITOR SORENSON: THE STATE CALLS LIEUTENANT
22 GERALD CARTER.

23 THE COURT: OKAY.

24 CLERK: SIR, PLACE YOUR LEFT HAND ON THE BIBLE
25 AND RAISE YOUR RIGHT.

1 (Whereupon, Gerald David Carter
2 is duly sworn.)

3 CLERK: HAVE A SEAT, AND STATE YOUR FULL NAME FOR
4 THE COURT.

5 WITNESS: GERALD DAVID CARTER.

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

DIRECT - GERALD DAVID CARTER BY SOL. SORENSON

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DIRECT EXAMINATION OF GERALD DAVID CARTER

BY SOLICITOR SORENSON:

Q. LIEUTENANT CARTER, IF YOU WOULD, TELL THE JURY
WHERE YOU ARE EMPLOYED?

A. I'M EMPLOYED AT THE ORANGEBURG COUNTY SHERIFF'S
OFFICE.

Q. OKAY. AND HOW LONG HAVE YOU BEEN WITH THE
SHERIFF'S OFFICE?

A. EIGHTEEN YEARS THIS MARCH COMING.

Q. ALRIGHT. AND IF YOU WOULD, TELL THE JURY WHAT
YOUR CURRENT DUTIES ARE WITH THE SHERIFF'S
OFFICE?

A. I HOLD THE RANK OF LIEUTENANT AND I RUN CRIME
SCENE OPERATIONS FOR ORANGEBURG COUNTY SHERIFF'S
OFFICE.

Q. AND HOW LONG HAVE YOU BEEN EMPLOYED IN THAT
CAPACITY THERE?

A. APPROXIMATELY SIX YEARS.

Q. OKAY. IF YOU WOULD, TELL THE JURY JUST KIND OF
BRIEFLY YOUR TRAINING THAT YOU'VE HAD WITH
REGARDS TO OUR CURRENT DUTIES?

A. WELL, FORMAL TRAINING, I'VE HAD AROUND A THOUSAND
HOURS OF FORMAL TRAINING WHICH INCLUDES FOUR
HUNDRED HOURS OF TRAINING AT THE NATIONAL
FORENSIC ACADEMY WHICH I ATTENDED LAST SUMMER,

1 AND I GRADUATED FROM THERE. I'M A CERTIFIED
2 CRIME SCENE INVESTIGATOR, CERTIFIED THROUGH THE
3 INTERNATIONAL ASSOCIATION FOR IDENTIFICATION.
4 I'VE HAD NUMEROUS CLASSES ON RECONSTRUCTION OF
5 CRIME SCENES, BLOOD STAIN ANALYSIS, PROCESSING OF
6 CRIME SCENES AT VARIOUS COLLEGES AND SCHOOLS
7 AROUND THE COUNTRY.

8 Q. OKAY. AND DO PART OF YOUR DUTIES ALSO INVOLVE
9 NOT ONLY COLLECTING LATENT FINGERPRINTS AT CRIME
10 SCENES BUT ALSO COMPARING THEM TO KNOWN STANDARDS
11 OF PEOPLE ALSO?

12 A. YES, SIR, I'M A TRAINED PRINT EXAMINER.

13 Q. OKAY. AND HOW MANY OVER -- YOU SAID YOU HAD BEEN
14 EMPLOYED IN YOUR CURRENT CAPACITY FOR ABOUT SIX
15 YEARS, IS THAT CORRECT?

16 A. YES, SIR.

17 Q. BEFORE THAT, THE TWELVE YEARS BEFORE THAT WHAT
18 WERE YOUR DUTIES THOSE TWELVE YEARS INITIALLY
19 WITH THE SHERIFF'S OFFICE?

20 A. THE THREE, THREE AND A HALF YEARS PRIOR TO GOING
21 INTO THE CRIME SCENE UNIT I WAS A CRIMINAL
22 INVESTIGATOR FOR ORANGEBURG COUNTY. THE LAST
23 YEAR THERE I WAS IN VIOLENT CRIMES, PRIMARILY
24 ASSAULTS AND HOMICIDES. PRIOR TO GOING INTO
25 INVESTIGATIONS I WORKED PATROL, I HAD PATROL

DIRECT - GERALD DAVID CARTER BY SOL. SORENSON

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1 DUTIES FOR MY FIRST EIGHT YEARS. THE LAST FOUR
2 YEARS OF THAT I WAS IN A SUPERVISORY CAPACITY AND
3 WAS A LIEUTENANT FOR PATROL WHEN I TRANSFERRED TO
4 INVESTIGATIONS.

5 Q. AND YOUR CURRENT DUTIES NOW, I GUESS YOU
6 TYPICALLY RESPOND TO CRIME SCENES AND PROCESS
7 THEM FOR ANY EVIDENCE THAT MAY BE THERE?

8 A. YES, SIR, THAT'S MY PRIMARY RESPONSIBILITY NOW,
9 IS TO RESPOND TO AND PROCESS CRIME SCENES FOR ANY
10 EVIDENCE THAT MIGHT BE AT THE SCENE.

11 Q. DO YOU HAVE ANY IDEA OVER THE LAST SIX YEARS AS A
12 CRIME INVESTIGATOR HOW MANY CRIME SCENES YOU'VE
13 RESPONDED TO AND PROCESSED?

14 A. ACTUAL CRIME SCENES WOULD BE A COUPLE HUNDRED AT
15 LEAST. I HAVE PROCESSED EIGHTY DEATH SCENES. OF
16 THE EIGHTY, THIRTY-EIGHT WERE HOMICIDES.

17 Q. AND HAVE YOU HAD AN OPPORTUNITY TO COME AND
18 TESTIFY IN COURT BEFORE ABOUT YOUR FINDINGS OF
19 THOSE CRIME SCENES?

20 A. YES, SIR, I HAVE.

21 SOLICITOR SORENSON: YOUR HONOR, AT THIS TIME
22 WE'D OFFER LIEUTENANT CARTER AS AN EXPERT IN THE FIELD
23 OF CRIME SCENE PROCESSING.

24 THE COURT: ALRIGHT. ANYTHING FROM THE
25 DEFENDANTS?

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24 A. KINGS ROAD IS A SET OF
25 APARTMENTS. THE INCIDENT OCCURRED IN ONE OF THE

DIRECT - GERALD DAVID CARTER BY SOL. SORENSON

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1 APARTMENTS,

2 Q. I'M SHOWING YOU STATE'S EXHIBIT NUMBER SIX,
3 LIEUTENANT, DOES THAT DEPICT THE LOCATION OF
4 KINGS ROAD, THE APARTMENT THAT YOU
5 RESPONDED TO THAT NIGHT?

6 A. YES, SIR, IT DOES.

7 Q. OKAY. IF YOU WOULD, POINT OUT TO THE JURY WHERE
8 THAT APARTMENT IS LOCATED?

9 A. MAY I STEP DOWN?

10 SOLICITOR SORENSON: YOUR HONOR, CAN HE STEP
11 DOWN?

12 THE COURT: YOU MAY STEP DOWN.

13 A. THANK YOU, YOUR HONOR. THIS WOULD BE A
14 PHOTOGRAPH OF THE APARTMENT I PROCESSED THAT
15 NIGHT. THE INCIDENT ACTUALLY OCCURRED, IT'S TWO
16 DOORS, THE ONE ALL THE WAY AT THE END, THAT'S
17 AND THAT'S WHERE THE INCIDENT
18 OCCURRED.

19 COURT REPORTER: SOLICITOR, WOULD YOU TURN THAT
20 MIKE TOWARD THE JURY, PLEASE, SIR?

21 SOLICITOR SORENSON: HE'S GOING TO SIT BACK DOWN
22 IN JUST A MINUTE.

23 COURT REPORTER: BUT THIS ONE -- ALRIGHT, THANK
24 YOU.

25 Q. ALRIGHT, LIEUTENANT, NOW, IF YOU WOULD, WHEN YOU

1 GOT THERE THAT NIGHT, WOULD YOU KIND OF DESCRIBE
2 FOR THE JURY WHAT THE CONDITION OF THE SCENE WAS
3 WHEN YOU ARRIVED THAT NIGHT?

4 A. THERE WERE NUMEROUS EMERGENCY RESPONSE UNITS IN
5 THE PARKING LOT. I WAS BRIEF BY OFFICER
6 WESTBERRY AS TO, AS ONE OF THE FIRST RESPONDING
7 OFFICERS, AS TO WHAT THEY RESPONDED TO. AS I
8 ENTERED THE APARTMENT, IF YOU WOULD, THE CRIME
9 SCENE ITSELF, IT WAS DIMLY LIT, THERE WAS A BLACK
10 LIGHT IN THE CEILING FAN IN THE LIVING ROOM. AS
11 YOU GO THROUGH THE FRONT DOOR YOU GO INTO THE DEN
12 OR LIVING ROOM AREA. YOU COULD STILL SEE. THE
13 VICTIM WAS IN FRONT OF THE DOOR ACROSS THE ROOM
14 LYING FACE UP. WITH A FLASH LIGHT INITIALLY I
15 COULD SEE THERE WERE NUMEROUS SHELL CASINGS AND
16 OTHER EVIDENCE. I HAD ANOTHER INVESTIGATOR WHO
17 BASICALLY STOOD BY TO HELP ME AS MUCH AS HE
18 COULD. WE FOUND A REGULAR LIGHT BULB TO PLACE
19 INTO THE CEILING LIGHT SO WE COULD SEE BETTER.
20 THEN IT BECAME MORE APPARENT THE NUMEROUS NUMBER
21 OF SHELL CASINGS THAT WERE ON THE FLOOR AND OTHER
22 EVIDENCE THAT YOU COULD SEE READILY. AS I
23 CHECKED THE REST OF THE APARTMENT THERE WERE
24 OTHER ITEMS OF EVIDENCE IN THE KITCHEN AREA THAT
25 MAY OR MAY NOT HAVE BEEN RELATED TO THE, THE

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1 SHOOTING ITSELF BUT ITEMS THAT I NEEDED TO
2 DOCUMENT. THERE WAS A DOG IN THE KITCHEN. HE WAS
3 ATTACHED TO A CEMENT BLOCK IN THE KITCHEN AREA.
4 AS I SURVEYED THE REST OF THE RESIDENCE THERE WAS
5 A BATHROOM AREA AND TWO BEDROOM AREAS. IN
6 PARTICULAR, THE SHOOTING INCIDENT ITSELF, I
7 DIDN'T FIND ANY EVIDENCE IN THESE ROOMS, THE BATH
8 ROOM OR THE BEDROOMS THAT SEEMED TO PERTAIN TO
9 THE SHOOTING ITSELF.

10 Q. OKAY. NOW, LET ME ASK YOU, DID YOU HAVE AN
11 OPPORTUNITY TO -- HOW MANY DOORWAYS INTO THE
12 APARTMENT WERE THERE?

13 A. ACTUALLY, INTO THE APARTMENT THERE'S TWO, IT'S A
14 FRONT DOOR AND A BACK DOOR. THE FRONT DOOR
15 ENTERED INTO THE DEN OR LIVING ROOM AREA WHERE
16 THE VICTIM WAS LYING ON THE FLOOR.

17 Q. AND THEN, THE BACK DOOR?

18 A. INTO THE KITCHEN AREA.

19 Q. OKAY. AND WERE YOU ABLE TO DETERMINE WHETHER
20 THERE WAS ANY FORCED ENTRY INTO EITHER OF THOSE
21 DOORWAYS?

22 A. NO, SIR, THERE DIDN'T APPEAR TO BE ANY FORCED
23 ENTRY TO THE FRONT DOOR, AND THAT WAS THE DOOR
24 THAT I ENTERED. THE BACK DOOR WAS LOCKED AND
25 SEALED AND THERE WAS NO DAMAGE TO IT.

1 Q. ALRIGHT. NOW, WHAT -- AT THAT POINT IN TIME, AT
2 FIRST YOU KIND OF DID YOUR INITIAL WALK THROUGH
3 AND JUST, I GUESS, KIND OF EVALUATING WHAT ITEMS
4 OF EVIDENCE MAY BE IN THE HOUSE, IS THAT CORRECT?

5 A. YES, SIR.

6 Q. OKAY. WHAT, WHAT DID YOU THEN DO AFTER YOU DID
7 THAT KIND OF INITIAL WALK THROUGH, HOW DID YOU
8 THEN GO ABOUT PROCESSING THE SCENE?

9 A. ONCE I COMPLETED THE INITIAL WALK THROUGH SO I
10 COULD KIND OF SEE WHAT I WAS DEALING WITH, THEN I
11 PHOTOGRAPHED THE ENTIRE SCENE, TAKING WHAT WE
12 CALL GENERAL PHOTOS WITHOUT TOUCHING ANYTHING,
13 JUST AS I FOUND IT.

14 Q. OKAY. AND AFTER YOU TOOK THOSE KIND OF INITIAL,
15 GENERAL PHOTOGRAPHS OF THE SCENE WHAT WAS THE
16 NEXT STEP YOU TOOK?

17 A. THE NEXT STEP WOULD BE TO ACTUALLY MARK THE
18 EVIDENCE THAT I FOUND AT THAT POINT WITH PLASTIC,
19 WITH YOUR TYPICAL PLASTIC MARKERS THAT ARE
20 NUMBERED, AND I WOULD GO THROUGH AND TRY TO
21 CHRONOLOGICALLY, AS I WALKED THROUGH THE ROOM,
22 MARK THE EVIDENCE. AND ONCE IT'S ALL MARKED THEN
23 I WOULD PHOTOGRAPH EVERYTHING AGAIN.

24 Q. AND DID YOU DO THAT IN THIS CASE?

25 A. YES, SIR, I DID.

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1 Q. OKAY. AND AFTER THOSE ITEMS WERE THEN
2 PHOTOGRAPHED WITH THE YELLOW MARKERS, WHAT THEN
3 WOULD YOU HAVE DONE?

4 A. ONCE I'VE MARKED THEM, DOCUMENTED THEM, SOME
5 MEASUREMENTS WOULD BE TAKEN, BECAUSE THE SCENE
6 WOULD ALSO BE DOCUMENTED BY A SKETCH. ONCE I
7 DOCUMENTED THE SCENE AS WE FOUND IT THE NEXT STEP
8 WOULD BE COLLECTION.

9 Q. OKAY. AND THAT WAS DONE IN THIS CASE?

10 A. YES, SIR, IT WAS.

11 Q. OKAY. ALRIGHT, AND DURING ALL OF THIS WAS MR.
12 PRINGLE, WAS HE STILL ON THE SCENE, HIS BODY?

13 A. YES, SIR.

14 Q. OKAY. AND ULTIMATELY, WHEN YOU WERE DONE
15 COLLECTING ALL OF THE EVIDENCE WAS HE THEN
16 REMOVED FROM THE SCENE?

17 A. ACTUALLY, WHAT WE DID IN THIS CASE, BECAUSE IT
18 WAS SO MUCH EVIDENCE, I COLLECTED ALL OF THE
19 EVIDENCE THAT WOULD BE DISTURBED BY TRANSPORTING
20 HIS BODY. SO THERE ACTUALLY WAS SOME EVIDENCE
21 LEFT TO BE COLLECTED WHEN I INFORMED THE CORONER
22 THAT THEY COULD MOVE THE BODY AND TRANSPORT HIM.

23 Q. ALRIGHT. AND I'M GOING TO KIND OF GO AND TALK IN
24 A FEW MINUTES ABOUT THAT EVIDENCE MORE
25 SPECIFICALLY. LET ME ASK YOU THIS, DID YOU HAVE

1 AN OPPORTUNITY TO PROCESS ANY OF THE SCENE OUT
2 THERE IN THE APARTMENT LOOKING FOR ANY
3 FINGERPRINTS?

4 A. YES, SIR, I DID. BASED ON THE, WHAT I FOUND AT
5 THE SCENE, ALL, OR MOST OF THE EVIDENCE WAS IN
6 THE LIVING ROOM. I PROCESSED THE LIVING ROOM AREA
7 SPECIFICALLY THE FRONT DOOR WHERE IT APPEARED
8 EVERYBODY WHO CAME IN ENTERED OR LEFT THROUGH THE
9 FRONT DOOR FOR FINGERPRINTS.

10 Q. OKAY. AND DID YOU HAVE ANY SPECIFIC INFORMATION
11 ABOUT ANYTHING ELSE THAT SOMEBODY HAD
12 SPECIFICALLY TOUCHED INSIDE THE RESIDENCE?

13 A. NO, SIR, NOT THAT I CAN RECALL. THERE WAS -- THE
14 INFORMATION I GOT FROM INVESTIGATORS DID NOT
15 SPECIFY ANYWHERE ELSE IN THE HOUSE THAT ANY
16 SUSPECTS HAD GONE TO.

17 Q. OKAY. AND IN PROCESSING THAT FRONT DOOR AREA
18 WERE YOU ABLE TO RETRIEVE ANY USEABLE LATENT
19 PRINTS OFF OF THAT DOOR AREA?

20 A. NO, SIR, NOT IN THIS CASE.

21 Q. OKAY. AND EXPLAIN TO THE JURY, I MEAN, IS THAT,
22 I MEAN, IN YOUR EXPERIENCE, IN YOUR SIX YEARS
23 EXPERIENCE, I MEAN, IS THAT COMMON, UNCOMMON?

24 A. IT'S ACTUALLY FAIRLY COMMON. THERE'S A
25 MISCONCEPTION THAT IF YOU TOUCH SOMETHING THERE'S

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1 GOING TO BE FINGERPRINTS. THAT'S A
2 MISCONCEPTION. FINGERPRINTS ARE BASICALLY
3 IMPRESSIONS LEFT FROM RESIDUE ON YOUR FINGERS.
4 OBVIOUSLY, IF YOU'RE WEARING GLOVES YOU'RE NOT
5 GOING TO LEAVE A PRINT. IF YOU DON'T HAVE
6 SUFFICIENT RESIDUE ON YOUR FINGERS TO LEAVE AN
7 IMPRESSION IT'S NOT GOING TO LEAVE A FINGERPRINT,
8 AT LEAST NOT AN IDENTIFIABLE ONE. IF YOU HAVE
9 TOO MUCH RESIDUE OF ANY KIND, ANYTHING -- IT'S
10 AGAIN AN IDENTIFIABLE PRINT MAY NOT BE LEFT.
11 THERE'S A LOT OF REASONS WHY YOU MIGHT NOT FIND A
12 PRINT, WHICH WOULD INCLUDE WHAT I'VE JUST
13 DESCRIBED AS WELL AS THE SURFACE, THE TEXTURE, IS
14 IT ROUGH, IS IT SMOOTH, AND PRINTS, YOU KNOW, CAN
15 BE WIPED OFF, THEY'RE FRAGILE, YOU HAVE TO BE
16 CAREFUL WITH THAT KIND OF EVIDENCE. AND ONCE IT'S
17 PLACED ON AN OBJECT IT'S NOT PERMANENT, NORMALLY.

18 Q. SO, IF SOMEBODY HAD TOUCHED, LET'S SAY, A DOOR
19 HANDLE OR A DOOR KNOB AND SOMEBODY ELSE CAME
20 ALONG AFTER THEM AND TOUCHED THE DOOR KNOB WOULD
21 THAT POTENTIALLY DISTURB A PRINT?

22 A. IT IS POSSIBLE THAT SOMEBODY ELSE ENTERING OR
23 EXITING, EVEN OFFICERS WHO HAVE TO CLEAR A
24 RESIDENCE TO MAKE IT SAFE MAY INADVERTENTLY, THEY
25 COULD INADVERTENTLY, YOU KNOW, WIPE A PRINT OFF A

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1 DOOR KNOB OR SOMETHING. IT'S POSSIBLE.

2 Q. NOW, YOU HAD INDICATED THAT PART OF YOUR DUTIES
3 ALSO OUT THERE IN PROCESSING AND DOCUMENTING THE
4 CRIME SCENE WOULD HAVE BEEN TO PREPARE A KIND OF
5 A SKETCH OF THE CRIME SCENE, IS THAT CORRECT?

6 A. YES, SIR.

7 Q. AND WAS THAT DONE IN THIS CASE?

8 A. YES, SIR, IT WAS.

9 Q. I'M SHOWING YOU STATE'S EXHIBIT NUMBER THIRTY-
10 FOUR. IS THAT AN ENLARGEMENT OF ONE OF THE
11 SKETCHES THAT YOU PREPARED IN THIS CASE?

12 A. YES, SIR, THAT IS THE, THAT IS A SKETCH I
13 PREPARED.

14 Q. AND WOULD THIS AID YOU IN KIND OF EXPLAINING TO
15 THE JURY WHERE KIND OF NOT ONLY THE LAYOUT OF THE
16 APARTMENT BUT ALSO WHERE ITEMS OF EVIDENCE WERE
17 FOUND WITHIN THE APARTMENT?

18 A. YES, IT WOULD.

19 SOLICITOR SORENSON: YOUR HONOR, AT THIS TIME
20 WE'D OFFER STATE'S THIRTY-FOUR INTO EVIDENCE.

21 THE COURT: ANY OBJECTION?

22 COURT REPORTER: THIRTY-FOUR?

23 SOLICITOR SORENSON: THIRTY-FOUR.

24 THE COURT: ANY OBJECTION?

25 MR. PALMER: NONE FROM US, YOUR HONOR.

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1 MR. LACKEY: NO OBJECTION.

2 MS. ULLMAN: NO OBJECTION.

3 MR. MELLARD: NO OBJECTION.

4 MR. KOGER: NO OBJECTION.

5 THE COURT: ALRIGHT, STATE'S THIRTY-FOUR ENTERED
6 WITHOUT OBJECTION.

7 (State's Exhibit Thirty-four
8 marked and filed.)

9 Q. ALRIGHT, LIEUTENANT, BEFORE I GET YOU TO STEP
10 DOWN I WANT TO LET YOU, I'M HANDING YOU STACK THE
11 PHOTOGRAPHS TO REVIEW, STATE'S EXHIBIT NUMBERS
12 EIGHT THROUGH TWENTY-SEVEN. SOME OF THEM ARE
13 ALREADY IN EVIDENCE, BUT SOME OF THEM AREN'T. IF
14 YOU COULD JUST KIND OF FLIP THROUGH THEM REAL
15 QUICK.

16 A. YES, SIR.

17 Q. ARE THESE ALL PHOTOS, LIEUTENANT CARTER, THAT YOU
18 TOOK OUT THERE AT THE SCENE THAT NIGHT?

19 A. YES, SIR.

20 Q. AND IT WOULD ACTUALLY BE ITEMS SEVEN THROUGH
21 TWENTY-SEVEN. AND DO THEY FAIRLY AND ACCURATELY
22 DEPICT THE SCENE AS YOU FOUND IT WHEN YOU ARRIVED
23 ON THE SCENE THAT NIGHT?

24 A. YES, SIR, THEY DO.

25 Q. AND SOME OF THEM ALSO AFTER YOU THEN PLACED THE

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1 MARKERS AS YOU DESCRIBED EARLIER?

2 A. YES, SIR.

3 SOLICITOR SORENSON: YOUR HONOR, AT THIS TIME
4 WE'D OFFER -- SOME OF THESE ARE IN EVIDENCE, BUT
5 BASICALLY, WE WOULD OFFER STATE'S SEVEN THROUGH
6 TWENTY-SEVEN INTO EVIDENCE.

7 THE COURT: ALRIGHT. THANK YOU, SIR. ALRIGHT, ANY
8 OBJECTION FROM ANY OF THE DEFENDANTS?

9 MR. LACKEY: YOUR HONOR, WE HAD AN OPPORTUNITY TO
10 TAKE A LOOK AT THOSE YESTERDAY AT THE END OF THE DAY I
11 HAVE NO OBJECTION ON BEHALF OF MY CLIENT.

12 THE COURT: OKAY. AND MS. ULLMAN, I NOTE YOUR
13 OBJECTION FROM YESTERDAY THAT I RULED ON.

14 MS. ULLMAN: YES, SIR, I WAS JUST GOING TO SAY I
15 RENEW MY OBJECTION.

16 THE COURT: ALRIGHT. THAT IS SO NOTED IN THE
17 RECORD.

18 MR. PALMER: I'VE SEEN THEM, JUDGE, I'VE GOT NO
19 OBJECTION.

20 THE COURT: MR. MELLARD?

21 MR. MELLARD: NO OBJECTION.

22 THE COURT: AND MR. KOGER?

23 MR. KOGER: I'VE REVIEWED THEM, YOUR HONOR, AND I
24 HAVE NO OBJECTION.

25 THE COURT: OKAY. ALRIGHT, THEY ARE ALL INTO

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1 EVIDENCE, SEVEN THROUGH TWENTY-SEVEN.

2 SOLICITOR SORENSON: IT LOOKS LIKE THIRTEEN
3 THROUGH TWENTY-SIX ARE THE ONES THAT WERE NOT - - -

4 THE COURT: CORRECT.

5 SOLICITOR SORENSON: --- PREVIOUSLY, SO I'M GOING
6 TO CROSS THE ID OFF OF THOSE REAL QUICK.

7 THE COURT: OKAY.

8 COURT REPORTER: THIRTEEN THROUGH WHAT?

9 SOLICITOR SORENSON: TWENTY-SIX.

10 COURT REPORTER: STATES'S THIRTEEN THROUGH
11 TWENTY-SIX.

12 (State's Exhibits Thirteen through Twenty-six
13 marked and filed.)

14 THE COURT: MR. SORENSON, WHILE YOU'RE DOING
15 THAT, ARE YOU GOING TO ASK LIEUTENANT CARTER TO STEP
16 DOWN AND GO OVER THE CRIME SCENE?

17 SOLICITOR SORENSON: YES, SIR.

18 THE COURT: LADIES AND GENTLEMEN, JUST SO Y'ALL
19 UNDERSTAND, WHEN HE ASKS LIEUTENANT TO STEP DOWN, SOME
20 OF THE DEFENSE ATTORNEYS MAY MOVE OVER THERE SO THEY
21 CAN SEE WHAT'S GOING ON. THEY'RE NOT LEAVING THE
22 BUILDING OR ANYTHING LIKE THAT, THEY'RE JUST TRYING TO
23 SEE EXACTLY WHAT YOU'RE SEEING. SO, THEY MAY GET UP
24 AND MOVE IN MASS, OR MAYBE JUST ONE OR TWO, BUT I
25 WANTED Y'ALL TO BE AWARE OF THAT BEFORE IT HAPPENS.

1 OKAY? ALRIGHT.

2 Q. ALRIGHT, LIEUTENANT, BEFORE -- I'M GOING TO GET
3 YOU TO STEP DOWN IN A SECOND TO DO WHAT HIS HONOR
4 JUST TOLD THE JURY ABOUT, BUT I'M GOING TO ASK
5 YOU BEFORE WE GET TO THAT POINT THOUGH, IN YOUR
6 PROCESSING THAT APARTMENT THAT EVENING, DID YOU
7 FIND ANY DRUGS IN THE APARTMENT?

8 A. YES, SIR, WE DID.

9 Q. OKAY. AND ARE YOU AWARE OF WHERE THAT STUFF WAS
10 FOUND?

11 A. SIR?

12 Q. ARE YOU AWARE OF WHERE THOSE ITEMS WERE LOCATED?

13 A. OH, YES, SIR.

14 Q. AND TELL THE JURY, PLEASE, WHERE?

15 A. IN THE LIVING ROOM ON THE FLOOR BETWEEN A COFFEE
16 TABLE AND THE VICTIM THERE WAS A RED ZIP LOCK
17 BAG, A REALLY SMALL ONE.

18 Q. AND IS THAT IN STATE'S EXHIBIT NUMBER SEVEN - - -

19 A. YES, SIR.

20 Q. --- WHERE MY FINGER IS?

21 A. YES, SIR.

22 Q. AND WHAT DID THAT, THAT LITTLE RED BAGGIE HAVE,
23 HAVE IN IT?

24 A. IT HAD A PLANT MATERIAL WHICH APPEARED TO BE
25 MARIJUANA.

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1 Q. OKAY. ALRIGHT, AND HOW ABOUT IN THE KITCHEN
2 AREA, ANY ITEMS FOUND IN THE KITCHEN AREA?

3 A. YES, SIR, THERE WERE, THERE WAS A BAGGIE IN THE -
4 - ACTUALLY, IT WAS THE CABINETS ABOVE THE STOVE
5 AREA, ONE OF THE CABINETS HAD A BAGGIE WITH WHAT
6 APPEARED -- IT WAS PLANT MATERIAL AGAIN, AND IT
7 APPEARED TO BE MARIJUANA SEEDS. IN THE CABINET
8 DIRECTLY ABOVE THE STOVE THERE WERE SEVERAL JARS,
9 GLASS JARS THAT HAD BAGGIES WITHIN THEM THAT HELD
10 PLANT MATERIAL AGAIN THAT APPEARED TO BE
11 MARIJUANA.

12 Q. OKAY. AND HOW ABOUT, I'VE ALSO GOT NOTED, ON
13 TOP OF THE MICROWAVE?

14 A. YES, SIR, THERE WAS ANOTHER, SOME MORE PLANT
15 MATERIAL ON TOP OF THE MICROWAVE OVEN ITSELF
16 WHICH IS IN THE SAME AREA WHICH APPEARS TO BE
17 MARIJUANA.

18 SOLICITOR SORENSON: YOUR HONOR, MAY I HAVE HIM
19 STEP DOWN?

20 THE COURT: YOU MAY.

21 SOLICITOR SORENSON: THANK YOU, YOUR HONOR.

22 Q. OBVIOUSLY, LIEUTENANT, YOU NEED TO MAKE SURE YOU
23 KEEP YOUR VOICE UP NICE AND LOUD SO EVERYBODY CAN
24 HEAR YOU.

25 A. YES, SIR.

1 Q. I DON'T THINK THAT WILL BE A PROBLEM. IS THIS
2 ALRIGHT FOR YOU OR HOW DO YOU WANT TO - - -

3 A. THAT'S FINE WITH ME.

4 THE COURT: MAKE SURE EVERYBODY ON THE JURY CAN
5 SEE.

6 Q. AND I GUESS, IF I COULD GET YOU, BEFORE I START
7 GOING THROUGH THE PHOTOGRAPHS AND EVIDENCE WITH
8 YOU, IF YOU WOULD, JUST KIND OF, KIND OF ORIENT
9 THE JURY TO WHAT THEY'RE LOOKING AT AS FAR AS
10 WHERE -- YOU TESTIFIED ABOUT THERE BEING TWO
11 DOORS INTO THE APARTMENT, KIND OF WHERE THEY'RE
12 LOCATED, WHAT THE ROOMS ARE AND SO FORTH?

13 A. YES, SIR. THIS IS A SKETCH AND I PREPARED TO
14 DOCUMENT THE SCENE OF THE ENTIRE APARTMENT. THIS
15 IS THE LIVING ROOM AREA. RIGHT HERE THERE WAS AN
16 OPENING, THERE'S NO DOOR BETWEEN THE LIVING ROOM
17 AND THE KITCHEN, THERE'S JUST AN OPEN AREA RIGHT
18 HERE. THIS IS THE FRONT DOOR, IT'S IN THIS
19 CORNER OF THE APARTMENT, IT LEADS INTO THE LIVING
20 ROOM AREA. AS YOU GO INTO THE KITCHEN THERE'S
21 THE BACK DOOR. IT'S IN THE OPPOSITE CORNER IN THE
22 APARTMENT. AS YOU COME DOWN IT'S A KIND OF A
23 HALLWAY, IT'S NOT REALLY A HALL BUT IT'S AN OPEN
24 AREA WHICH LEADS TO, FROM THE LIVING ROOM LEADS
25 INTO THE BATHROOM AREA, A BEDROOM ON THIS CORNER

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1 OF THE RESIDENCE, AND THEN THERE ARE CLOSETS
2 RIGHT IN THE MIDDLE AND A SECOND BEDROOM WOULD BE
3 ON THE RIGHT SIDE AS YOU COME THROUGH. AS YOU
4 CAN SEE, WE HAVE, THE EVIDENCE IS MARKED, MOST OF
5 IT IS RIGHT HERE IN THE LIVING ROOM, A LITTLE BIT
6 IN THIS OPEN AREA BETWEEN THE BATHROOM AND THE
7 BEDROOMS.

8 Q. OKAY. NOW, YOU HAD INDICATED THAT WHEN YOU
9 ARRIVED ON THE SCENE MR. PRINGLE WAS STILL THERE?

10 A. YES, SIR.

11 Q. AND IS HE, IS THERE DOCUMENTATION IN THE DIAGRAM
12 OF WHERE HE WAS LOCATED AT WHEN YOU ARRIVED ON
13 THE SCENE?

14 A. YES, SIR. THIS IS A PROPORTIONAL REPRESENTATION
15 OF WHERE I FOUND HIM IN THE SCENE. WE HAD A
16 COUCH HERE, THERE WAS A T.V. STAND WITH A FLAT
17 SCREEN T.V. HERE, AND OF COURSE, I'VE ALREADY
18 EXPLAINED, THIS IS THE KITCHEN AREA, AND THIS IS
19 WHERE HIS BODY WAS IN RELATIONSHIP TO THE OBJECTS
20 IN THE ROOM.

21 Q. OKAY. AND I'M SHOWING YOU STATE'S EXHIBIT NUMBER
22 EIGHT, THEN, IS THAT THE CONDITION IN HOW YOU
23 FOUND HIM WHEN YOU ARRIVED ON THE SCENE THAT
24 NIGHT?

25 A. YES, SIR.

1 Q. LET ME ASK YOU, LOOKING AT THE, IN THE LIVING
2 ROOM AREA, WHAT ITEMS OF FURNITURE WERE LOCATED
3 IN THE LIVING ROOM AREA?

4 A. AS YOU COME THROUGH THE FRONT DOOR, AGAINST THIS
5 WALL, I GUESS KIND OF TO YOUR LEFT THERE WAS A
6 FULL SIZED COUCH. AS YOU COMING INTO THE FRONT
7 DOOR TO YOUR RIGHT THERE WAS A BIG SQUARE COFFEE
8 TABLE. AGAINST THE WALL THERE WAS AN END TABLE
9 IN THE CORNER, A LOVE SEAT, AND THAT WAS -- WELL,
10 OVER HERE YOU HAVE YOUR T.V. AGAIN, WHERE IT WAS
11 SITTING ON THE T.V. STAND, IT'S A FLAT SCREEN
12 T.V. ON THE TOP OF THAT, AND I BELIEVE IT WAS A
13 VCR, OR MAYBE A GAME SYSTEM OR SOMETHING INSIDE
14 THE CABINET. AND THAT WAS THE FURNISHING IN THE
15 LIVING ROOM.

16 Q. OKAY. I'M SHOWING YOU STATE'S EXHIBIT NUMBER
17 ELEVEN, DOES THAT KIND OF SHOW THOSE ITEMS?

18 A. THAT SHOWS THE LOVE SEAT, THE COFFEE TABLE AND
19 THE CORNER OF THE COUCH.

20 Q. OKAY. LET ME JUST ASK YOU, AND YOU'VE GOT THAT
21 NOTED AS AN END TABLE, AND ACTUALLY - - -

22 COURT REPORTER: I'M SORRY, I DIDN'T HEAR YOU.

23 Q. YOU'VE GOT THAT NOTED AS AN END TABLE, IS THAT
24 ACTUALLY A CHAIR THAT'S IN THE CORNER THERE?

25 A. YES, SIR, IT APPEARS TO BE. I DON'T KNOW, I'M

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1 LOOKING AT THE BACK OF MY PICTURE. I DON'T KNOW
2 IF IT'S SOMETHING BEHIND THE CHAIR, BUT WHAT YOU
3 CAN SEE IN THE PICTURE IS A CHAIR.

4 Q. OKAY. SO, IT COULD BE A LITTLE KIND OF END TABLE
5 BEHIND THAT CHAIR?

6 A. YES, SIR.

7 Q. OKAY. LET ME ASK YOU, WHEN YOU ARRIVED ON THE
8 SCENE THAT NIGHT WHAT, SPECIFICALLY WITH REGARDS
9 TO THE COUCH AND THE LOVE SEAT, WHAT WERE THE
10 CONDITION OF THOSE ITEMS?

11 A. THE CUSHIONS WERE THROWN OFF OF THEM OR UPTURNED,
12 THEY WERE, THEY HAD BEEN PULLED OFF THE COUCHES
13 AND TURNED UP.

14 Q. I'M SHOWING YOU STATE'S EXHIBIT NUMBER TEN, WHAT
15 ITEM IS THAT DEPICTED IN STATE'S EXHIBIT TEN?

16 A. THAT IS THE COUCH AS I FOUND IT WITH THE CUSHIONS
17 PULLED OFF OF IT.

18 Q. OKAY. AND DOES IT HAVE SOME OF THE SLATS
19 UNDERNEATH IT KIND OF TORN UP?

20 MS. ULLMAN: OBJECTION, YOUR HONOR, HE'S
21 TESTIFYING.

22 Q. WHAT DOES IT APPEAR TO HAVE ALSO DONE TO THE
23 SLATS ON IT?

24 A. THERE WERE SOME WOODEN SLATS APPARENTLY, IT LOOKS
25 LIKE THEY WERE UNDER THE CUSHIONS AND THEY WERE

1 BROKEN, ONE OF THEM, AT LEAST ONE OF THEM IS
2 BROKEN.

3 Q. I'M SHOWING YOU STATE'S EXHIBIT NUMBER SEVEN,
4 WHAT PIECE OF FURNITURE IS DEPICTED IN THAT?

5 A. SPECIFICALLY, THE COFFEE TABLE AND THE LOVE SEAT,
6 AND THE CUSHIONS HAVE BEEN PULLED UP ON THE LOVE
7 SEAT.

8 Q. IS THAT THE CONDITION YOU FOUND THE LOVE SEAT
9 WHEN YOU ARRIVED THERE?

10 A. YES, SIR, IT IS.

11 Q. ALRIGHT. AND SPECIFICALLY, LOOKING AT THE
12 CUSHIONS, DID YOU OBSERVE ANY DAMAGE TO THE
13 CUSHIONS?

14 A. ALL OF THE CUSHIONS HAD WHAT LOOKED TO BE LIKE
15 SLITS CUT IN THEM, POSSIBLY SOMEBODY LOOKING IN
16 THE CUSHIONS. IT COULD HAVE BEEN THAT, CUTTING
17 THE CUSHIONS OPEN TO LOOK INSIDE, BUT ALL OF THE
18 CUSHIONS WERE IN THAT CONDITION.

19 Q. ALRIGHT. LET ME START GOING AROUND HERE, YOUR
20 ITEM NUMBER ONE THAT YOU'VE GOT DOCUMENT ON
21 THERE, WHAT IS THAT ITEM?

22 A. THAT'S A PARTIAL ROLL OR A PIECE OF ROLL OF GRAY
23 DUCT TAPE, AND THAT WAS FOUND BETWEEN THE, THIS
24 IS THE FRONT DOOR, IT WAS IN THE LIVING ROOM
25 BETWEEN THE COFFEE TABLE AND THE WALL.

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1 Q. I'M SHOWING YOU STATE'S EXHIBITS NUMBERS THIRTEEN
2 AND FOURTEEN, DOES THAT SHOW ONE OF THE KIND OF
3 ORIENTING IT AND THEN ANOTHER KIND OF UP CLOSE?

4 A. YEAH. THE ONE PICTURE JUST LETS YOU SEE WHAT IT
5 IS, AND THE OTHER PICTURE DOES GIVE YOU SOME
6 ORIENTATION IN THE ROOM, HOW CLOSE IT WAS TO
7 DIFFERENT OBJECTS.

8 Q. AND DID YOU COLLECT THAT ROLL OF DUCT TAPE?

9 A. YES, SIR, I DID.

10 Q. I'M SHOWING YOU STATE'S EXHIBIT NUMBER THIRTY-
11 EIGHT, IS THAT THAT ROLL OF DUCT TAPE, IT'S KIND
12 OF STILL STICKING TO THE SIDE OF THE BAG, BUT IS
13 THAT THE ROLL OF DUCT TAPE YOU COLLECTED?

14 A. YES, SIR, IT IS.

15 Q. OKAY. IS THAT YOUR HANDWRITING AND ALL ON IT?

16 A. YES, SIR.

17 SOLICITOR SORENSON: LET ME CHECK WITH THE COURT
18 REPORTER ONE SECOND. YOU'VE GOT THIRTY-EIGHT IN THERE,
19 RIGHT?

20 COURT REPORTER: YES, SIR.

21 THE COURT: STATE'S THIRTY-EIGHT'S ALREADY BEEN
22 ADMITTED?

23 SOLICITOR SORENSON: YEAH, I THINK WE HAD MOVED A
24 WHOLE BUNCH OF THESE IN THE OTHER DAY, IT'S MY
25 UNDERSTANDING AT LEAST.

1 COURT REPORTER: I HAVE IT CHECKED OFF.

2 THE COURT: I KNOW THE DEFENSE ATTORNEYS, Y'ALL
3 ARE SITTING OVER THERE. THESE, THE ITEMS THAT HE'S
4 GOING THROUGH NOW, BEGINNING WITH NUMBER THIRTY-EIGHT,
5 Y'ALL HAVE ALREADY HAD A CHANCE TO LOOK AT THEM?

6 MR. PALMER: ON BEHALF OF MR. HARRIS, THE ANSWER
7 IS YES, YOUR HONOR, I LOOKED AT THEM LAST WEEK. SO
8 FAR THERE'S NO OBJECTION.

9 THE COURT: OKAY. ALRIGHT.

10 MS. ULLMAN: THAT'S TRUE FOR MR. RALPH COLEMAN
11 ALSO.

12 COURT REPORTER: I'M SORRY, I CANNOT HEAR YOU
13 THAT FAR AWAY.

14 THE COURT: I BELIEVE THAT'S TRUE FOR ALL OF THE
15 DEFENDANTS, IS THAT CORRECT?

16 MR. LACKEY: THAT'S CORRECT.

17 MR. MELLARD: YES, SIR.

18 MR. KOGER: YES, SIR.

19 THE COURT: OKAY. THANK YOU, APPRECIATE IT.
20 ALRIGHT.

21 (State's Exhibit Thirty-eight
22 marked and filed.)

23 SOLICITOR SORENSON: THANK YOU, YOUR HONOR.

24 THE COURT: YES, SIR.

25 Q. LET ME ASK YOU, YOU HAD TALKED EARLIER,

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1 LIEUTENANT, ABOUT FINDING IN THAT AREA, I BELIEVE
2 THE WAY YOU DESCRIBED IT THERE WERE, YOU KNOW,
3 NUMEROUS SHELL CASINGS AND OTHER EVIDENCE THAT
4 WAS FOUND IN THE LIVING ROOM AREA, IS THAT
5 CORRECT?

6 A. YES, SIR.

7 Q. DID YOU HAVE AN OPPORTUNITY SPECIFICALLY AS TO
8 INITIALLY TALKING ABOUT THE SHELL CASINGS, DID
9 YOU HAVE AN OPPORTUNITY TO DOCUMENT AND COLLECT
10 ALL OF THE SHELL CASINGS THAT YOU FOUND OUT IN
11 THE LIVING ROOM AREA?

12 A. YES, SIR.

13 Q. OKAY. AND IF YOU WOULD JUST BRIEFLY FOR THOSE OF
14 US WHO MAY NOT KNOW WHAT A SHELL CASING IS, CAN
15 YOU KIND OF DESCRIBE FOR THE JURY WHAT A SHELL
16 CASING IS FIRST?

17 A. A SHELL CASING IS A COMPONENT OR PART OF WHAT WE
18 WOULD COMMONLY CALL A BULLET.

19 COURT REPORTER: A PART OF WHAT?

20 SOLICITOR SORENSON: A BULLET.

21 A. THE CASING WOULD ACTUALLY HOLD THE GUN POWDER AND
22 THE BULLET, OR PROJECTILE, THE SOLID PIECE OF
23 THE BULLET WOULD THEN BE INSERTED INTO THE TOP OF
24 THE CASING. THE CASING WOULD ALSO CONTAIN A
25 PRIMER WHICH ONCE STRUCK BY THE HAMMER OF A -- A

1 FIRMING PIN OR A HAMMER OF A FIREARM, THE PRIMER
2 IGNITES, THE GUN POWDER IGNITES AND IT EXPELS OR
3 PROJECTS THE BULLET. THAT'S HOW IT WORKS. THE
4 CASING IS NORMALLY MADE OF ALUMINUM OR BRASS AND
5 THAT IS WHAT HOLDS THE COMPONENTS. IT'S AFTER A
6 BULLET'S BEEN FIRED ALREADY.

7 Q. OKAY. AND THEN WHAT HAPPENS AFTER YOU FIRE A GUN,
8 WHAT HAPPENS TO THAT SHELL CASING?

9 A. IF IT'S AN AUTOMATIC GUN WHICH FEEDS
10 AUTOMATICALLY, IN OTHER WORDS, ONCE YOU FIRE A
11 ROUND THE ACTION OF THE WEAPON WILL PULL THE
12 EMPTY SHELL CASING OUT AND EJECT IT OR THROW IT
13 FROM THE GUN. AND THAT'S IF YOU HAVE A WEAPON
14 THAT AUTOMATICALLY RELOADS ITSELF. IF IT'S A
15 REVOLVER THEN THE CASING WILL STAY IN THE GUN AND
16 IT HAS TO BE REMOVED MANUALLY BY THE PERSON WHO'S
17 HANDLING THE WEAPON.

18 Q. OKAY. SO, IF SOMEBODY WAS IN THAT LIVING ROOM
19 WITH A, WITH AN AUTOMATIC OR SEMI-AUTOMATIC HAND
20 GUN FIRING IT, EVERY TIME -- THEORETICALLY, EVERY
21 TIME THEY PULL THE TRIGGER NOT ONLY IS A BULLET
22 GOING TO COME OUT BUT A SHELL CASING IS GOING TO
23 GET EJECTED OUT OF THAT GUN?

24 A. YES, SIR, THEORETICALLY, AS LONG AS THE GUN IS
25 FUNCTIONING PROPERLY, WHICH IF IT'S FIRING IT

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1 SHOULD BE. EVERY TIME YOU SHOOT, EVERY TIME YO
2 FIRE THE WEAPON IT'S GOING TO KICK THE SHELL
3 CASING OUT.

4 Q. OKAY. NOW, IN COLLECTING THOSE SHELL CASINGS ARE
5 YOU ABLE TO LOOK AT A SHELL CASING AND DETERMINE
6 THE CALIBER OF THE GUN THAT FIRED THE SHELL
7 CASING?

8 A. MOST OF THE TIME, YES.

9 Q. AND IN THIS CASE WERE YOU ABLE TO, IN LOOKING AT
10 THE SHELL CASINGS YOU COLLECTED OUT THERE, WERE
11 YOU ABLE TO DO THAT?

12 A. YES, SIR.

13 Q. OKAY. HOW MANY DIFFERENT CALIBER SHELL CASINGS
14 WERE THERE LOCATED?

15 A. THERE WERE THREE -- THERE WERE SHELL CASINGS FOR
16 THREE SEPARATE CALIBER WEAPONS, A NINE MILLIMETER
17 LUGER, A FORTY CALIBER SMITH AND WESSON, AND A
18 SEVEN POINT SIX TWO BY THIRTY-NINE MILLIMETER,
19 WHICH WOULD COME FROM AN ASSAULT RIFLE.

20 Q. OKAY. AND WOULD YOU TELL ME, WHAT DOES CALIBER
21 MEAN, WHAT IS THAT?

22 A. CALIBER IS THE DIAMETER OF THE BULLET. IT
23 DESIGNATES WHAT BULLETS GO IN A PARTICULAR
24 WEAPON, AND IT'S THE SIZE OF THE BULLET, THE
25 DIAMETER.

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1 Q. AND SPECIFICALLY, I GUESS YOU SAID, NINE
2 MILLIMETER LUGER, FIRST, SHELL CASINGS, AND SO,
3 WE'LL KIND OF DEAL WITH THAT KIND OF INITIALLY,
4 DID YOU HAVE AN OPPORTUNITY THEN TO COLLECT THOSE
5 NINE MILLIMETER SHELL CASINGS?

6 A. YES, SIR, I DID.

7 Q. AND I'M SHOWING YOU WHAT'S MARKED AS STATE'S
8 EXHIBITS NUMBER THIRTY-NINE THROUGH FORTY-NINE,
9 THESE ELEVEN ITEMS, I'LL GIVE YOU A CHANCE TO --
10 THEY'RE OBVIOUSLY GOING TO HAVE DIFFERENT NUMBERS
11 THAN YOU HAVE ON THERE, UNFORTUNATELY, BUT --
12 HERE, I'LL HOLD THAT IF YOU WANT TO LOOK AT THESE
13 REAL QUICK AND JUST SEE IF THOSE ARE THE NINE
14 MILLIMETER SHELL CASINGS THAT YOU COLLECTED OUT
15 THERE AT THE SCENE?

16 A. YES, SIR, THESE WOULD BE THE NINE MILLIMETER
17 SHELL CASINGS WHICH I COLLECTED FROM THE SCENE.
18 SOLICITOR SORENSON: OKAY. AND THIS SHOULD BE
19 THIRTY-NINE THROUGH FORTY-NINE, YOUR HONOR, AND AGAIN,
20 I'M PRETTY SURE THESE HAVE ALREADY BEEN MOVED INTO
21 EVIDENCE, BUT JUST OUT OF A - - -

22 THE COURT: NO OBJECTION FROM THE DEFENDANTS, I
23 BELIEVE THEY'VE ALL BEEN MOVED INTO EVIDENCE, IS THAT
24 CORRECT?

25 DEFENSE COUNSEL: YES, SIR.

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THE COURT: OKAY. THANK YOU.

(State's Exhibits Thirty-nine through
Forty-nine marked and filed.)

Q. ALRIGHT. AND I'LL JUST PUT THESE BACK IN THE
ENVELOPE. BUT THESE ELEVEN ITEMS, THESE ELEVEN
SHELL CASINGS, IF YOU WOULD, JUST KIND OF SHOW
FOR THE JURY ON THE DIAGRAM WHERE THOSE ELEVEN
SHELL CASINGS WERE LOCATED AT? I KNOW THEY'VE
BEEN KIND OF COLOR CODED ON THERE ALSO?

A. YES, SIR. IN THE DIAGRAM THE NINE MILLIMETER
CASINGS HAVE BEEN COLOR CODED IN GREEN TO MAKE
THEM MORE VISIBLE, MAKE THEM EASIER TO SEE. ALL
OF THE NINE MILLIMETER SHELL CASINGS I FOUND AT
THE SCENE AND COLLECTED EXCEPT FOR ONE WERE
ACTUALLY LAYING -- THESE SEVEN WERE ON THE LOVE
SEAT. THEY WERE APPARENTLY PLACED IN THIS
POSITION AFTER THE CUSHIONS WERE LAID UP, WHEN
THE CUSHIONS WERE TURNED UP IT FELL ON IT, BUT
THEY WERE ALL UNDERNEATH WHAT WOULD HAVE BEEN
WHERE THE CUSHIONS WERE SITTING ON THE LOVE SEAT.
THERE WERE THREE NINE MILLIMETER CASINGS ON THE
SOUTH END, IF YOU WILL, THIS BEING THE NORTH WALL
OF THE RESIDENCE. ON THE SOUTH END OF THE LOVE
SEAT, ON THIS END THERE WERE THREE THERE, AND
THERE WAS A FINAL NINE MILLIMETER SHELL CASING

1 BESIDE THE VICTIM'S BODY.

2 Q. OKAY. I'M SHOWING YOU STATE'S EXHIBIT NUMBER
3 SIXTEEN, I WANT YOU TO HOLD THIS, DOES THAT KIND
4 OF DEPICT THOSE SHELL CASINGS ON THE LOVE SEAT
5 AND THEN THE THREE OF THEM THAT ARE RIGHT BESIDE
6 THE LOVE SEAT, THOSE MARKERS?

7 COURT REPORTER: DID YOU SAY STATE'S SIXTEEN?

8 THE COURT: YES, MA'AM, STATE'S SIXTEEN.

9 A. YES, SIR. THE YELLOW PLACARDS, THIS IS THE LOVE
10 SEAT, THESE YELLOW PLACARDS WOULD BE THE NINE
11 MILLIMETER CASINGS THAT WERE FOUND ON THE LOVE
12 SEAT, AND THEN SIXTEEN, SEVENTEEN AND EIGHTEEN ON
13 THE END OF THE LOVE SEAT, THAT'S WHERE THOSE
14 THREE WERE FOUND.

15 Q. OKAY.

16 A. ALRIGHT. AND THEN AS TO - - -

17 COURT REPORTER: I'M SORRY, YOU BOTH HAVE OUR
18 BACKS TO ME.

19 SOLICITOR SORENSON: I HAVEN'T SAID ANYTHING YET.

20 COURT REPORTER: OH, I'M SORRY.

21 Q. AS TO STATE'S EXHIBIT NUMBER SEVENTEEN, DOES THAT
22 SHOW ITEM NUMBER TEN, YOUR ITEM NUMBER TEN THAT
23 YOU REFERENCED?

24 A. YES, SIR, OBVIOUSLY, THE VICTIM'S BODY, AND
25 NUMBER TEN WAS RIGHT WHERE THAT PACKARD IS RIGHT

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1 THERE.

2 Q. OKAY. NOW, THE SECOND CALIBER SHELL CASING YOU
3 HAD REFERENCED, LIEUTENANT CARTER, WAS A FORTY
4 CALIBER, IS THAT CORRECT?

5 A. YES, SIR.

6 Q. OKAY. I'M SHOWING YOU STATE'S EXHIBITS FIFTY
7 THROUGH FIFTY-SEVEN, LET ME GET YOU TO LOOK AT
8 THOSE TO SEE IF THOSE ARE THE ITEMS, THE FORTY
9 CALIBER SHELL CASINGS YOU COLLECTED OUT THERE?

10 A. YES, SIR, THESE WOULD BE THE FORTY CALIBER SMITH
11 AND WESSON FORTY CALIBER CARTRIDGES I COLLECTED
12 ON THE SCENE.

13 Q. AND THAT WOULD BE EIGHT OF THEM THAT WERE
14 COLLECTED, IS THAT CORRECT?

15 A. I BELIEVE SO, YES, SIR.

16 SOLICITOR SORENSON: YOUR HONOR, AT THIS TIME
17 WE'D OFFER STATE'S FIFTY THROUGH FIFTY-SEVEN. AND AS
18 I SAID, I THINK THEY'VE ALREADY BEEN - - -

19 THE COURT: I BELIEVE THEY'RE IN WITHOUT
20 OBJECTION.

21 (State's Exhibits Fifty through Fifty-seven
22 marked and filed.)

23 SOLICITOR SORENSON: THANK YOU, YOUR HONOR. AND
24 YET AGAIN, THOSE, JUST KIND OF SO THE JURY CAN SEE, I
25 MEAN, THAT'S -- THE SHELL CASING THAT YOU WERE TALKING

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1 ABOUT, WHAT WOULD BE EJECTED OUT OF A SEMI-AUTOMATIC
2 OR AN AUTOMATIC WEAPON?

3 A. YES, SIR, THAT WOULD BE THE FIRED -- ONCE THE
4 BULLET'S FIRED THAT WOULD BE THE EMPTY CASING
5 EJECTED FROM THE WEAPON.

6 Q. ALRIGHT. NOW, AS TO THE FORTY CALIBERS, ARE
7 THEY, THOSE EIGHT ITEMS ALSO DEPICTED ON THE
8 DIAGRAM?

9 A. YES, SIR, THEY ARE. THEY ARE COLOR CODED IN BLUE.
10 ALL OF THE FORTY CALIBER ROUNDS WERE IN THIS
11 AREA, WHICH WOULD BE, TWO NEAR THE VICTIM'S BODY,
12 HIS HEAD AREA, TWO WERE NEARER TO THE END OF THAT
13 SAME LOVE SEAT, AND THEN THE REMAINDER OF THE
14 FORTY CALIBER CARTRIDGES WERE FOUND IN THIS OPEN
15 AREA BETWEEN THE VICTIM AND THE BATHROOM, AND ONE
16 OVER HERE BY THE BEDROOM DOOR ON THE RIGHT SIDE.

17 Q. I'M SHOWING YOU STATE'S EXHIBIT NUMBER SEVENTEEN,
18 SEE IF THAT DEPICTS SOME OF THEM IN THAT PICTURE
19 THERE?

20 A. YES, SIR. IN THIS PICTURE, SEVENTEEN, YOU HAVE
21 TWENTY-ONE, TWENTY-TWO, TWENTY-THREE AND TWENTY-
22 FIVE. TWENTY-FOUR IS NOT A FORTY CALIBER ROUND,
23 THE OTHER FOUR ARE FORTY CALIBER ROUNDS BETWEEN
24 THE VICTIM AND THE, THIS WOULD BE THE BATHROOM
25 DOOR. AND NUMBER NINETEEN IS ALSO A FORTY CALIBER

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1 ROUND WHICH WAS CLOSER TO THE END OF THE LOVE
2 SEAT.

3 Q. AND I BELIEVE THIRTY-FIVE WAS ALSO, IS THAT
4 CORRECT? IS THAT THE ONE THAT YOU, OR IS THAT
5 NOT?

6 A. YEAH, THIRTY-FIVE WAS RIGHT BY THE VICTIM'S HEAD.

7 Q. OKAY.

8 A. I DIDN'T SEE THAT ONE, YES, SIR.

9 Q. AND YOU HAD TALKED ABOUT ONE OF THEM BEING, A
10 COUPLE OF THEM NOT BEING IN THAT PICTURE. YOUR
11 MARKER NUMBER TWENTY-SIX, WHAT IS THAT ITEM?

12 A. THAT IS THE FORTY CALIBER CARTRIDGE WHICH IS BY
13 THE BEDROOM ON THE RIGHT, BY THE DOOR.

14 Q. AND THAT'S DEPICTED IN STATE'S NUMBER TWENTY?

15 A. YES, SIR.

16 Q. AND I BELIEVE ITEM, YOUR MARKER NUMBER TWENTY WAS
17 NOT IN THAT OTHER PHOTOGRAPH EITHER, IS THAT
18 CORRECT?

19 A. FIFTEEN. IT MIGHT HAVE BEEN TWENTY, I KNOW, - -

20 -

21 Q. IT'S TWENTY?

22 A. FIFTEEN -- I'M SORRY, TWENTY.

23 Q. TWENTY. AND THAT'S DEPICTED AS UP AGAINST THE
24 DOOR OTHER?

25 A. YES, SIR.

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1 Q. STATE'S EXHIBIT NUMBER EIGHTEEN, SO THAT WOULD
2 ALSO BE A FORTY CALIBER SHELL CASING?

3 A. YES, SIR.

4 Q. ALRIGHT. AND THEN I BELIEVE THE LAST CALIBER OF
5 CASING YOU INDICATED WAS WHAT?

6 A. IT WAS SEVEN POINT SIX TWO BY THIRTY-NINE
7 MILLIMETER. THE SHELL CASINGS WOULD HAVE BEEN
8 LEFT BEHIND BY ASSAULT RIFLES COMMONLY KNOWN AS
9 AN SKS OR AN AK FORTY-SEVEN TYPE ASSAULT RIFLE.

10 Q. OKAY. I'M SHOWING YOU, AND I BELIEVE YOU HAD
11 INDICATED, HOW MANY OF THEM WERE COLLECTED?

12 A. ONE, TWO -- FIVE.

13 Q. I'M SHOWING YOU STATE'S EXHIBIT - - -

14 A. I'M SORRY, I APOLOGIZE, THERE WERE -- THERE WERE
15 FIVE, YES, SIR.

16 Q. I'M SHOWING YOU STATE'S EXHIBITS FIFTY-EIGHT
17 THROUGH SIXTY-TWO, AND LET ME GET YOU TO TAKE A
18 LOOK AT THOSE.

19 A. YES, SIR, THESE WERE THE CARTRIDGE CASINGS
20 COLLECTED BY ME AT THE SCENE.

21 Q. OKAY. AND THESE, THESE ARE A LITTLE BIT BIGGER
22 SHELL CASINGS THAN THOSE OTHERS, IS THAT CORRECT?

23 A. YES, SIR, THEY'RE STILL SHELL CASINGS BUT IT'S
24 FOR A LARGER, MORE POWERFUL BULLET.

25 SOLICITOR SORENSON: AT THIS TIME, YOUR HONOR,

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1 LIKEWISE, FIFTY-EIGHT THROUGH SIXTY-TWO, I BELIEVE ARE
2 IN EVIDENCE BUT - - -

3 THE COURT: THEY WERE ADMITTED WITHOUT OBJECTION.
4 (State's Exhibits Fifty-eight through Sixty-two
5 marked and filed.)

6 Q. ALRIGHT. AND IF YOU WOULD, THOSE FIVE ITEMS,
7 KIND OF POINT OUT TO THE JURY WHERE THEY WERE
8 LOCATED AT?

9 A. YES, SIR, FOUR OF THEM WERE RELATIVELY CLOSE TO
10 EACH OTHER, AGAIN AT THE END OF THE LOVE SEAT.
11 FIFTEEN, NINETEEN AND TWENTY-FOUR GOT THIS OPEN
12 AREA HERE. TWENTY-SEVEN WAS ACTUALLY FOUND
13 BEHIND THE LOVE SEAT, A SHORT DISTANCE BACK
14 BEHIND THE LOVE SEAT, BETWEEN THE LOVE SEAT AND
15 THE WALL.

16 Q. YOU SAID FIFTEEN AND NINETEEN, AND THEY'RE
17 DEPICTED AS STATE'S EIGHTEEN, IS THAT CORRECT?

18 A. YES, SIR, YES, SIR. AGAIN, THE LOVE SEAT'S RIGHT
19 HERE. NUMBER FIFTEEN AND NUMBER NINETEEN, THAT'S
20 HOW I FOUND THEM IN THE HOUSE.

21 Q. AND YOU SAID TWENTY, WHAT NUMBER WAS THAT,
22 TWENTY-SEVEN WAS BEHIND - - -

23 COURT REPORTER: I'M SORRY.

24 Q. YOU SAID TWENTY-SEVEN WAS BEHIND THE LOVE SEAT,
25 IS THAT CORRECT?

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1 A. YES, SIR. NUMBER TWENTY-SEVEN, I PLACED IT HERE
2 AT THE, WHERE THE LOVE SEAT IS, THE LOVE SEAT BY
3 THE WALL. THE SHELL CASING IS ACTUALLY A SHORT
4 DISTANCE BEHIND THE LOVE SEAT, AND THAT WAS JUST
5 TO INDICATE FOR ME WHERE I FOUND IT AT.

6 Q. AND I BELIEVE THE OTHER ONE WAS NUMBER TWENTY-
7 FOUR, IS THAT CORRECT?

8 A. YES, SIR.

9 Q. OKAY. AND I'M SHOWING YOU STATE'S EXHIBIT NUMBER
10 SEVENTEEN, KIND OF ALMOST OUT IN THAT OPEN AREA?

11 A. YES, SIR.

12 Q. AND THEN, THE LAST, WHERE WAS THE LAST ONE, I
13 BELIEVE, THAT'S YOUR MARKER THIRTY?

14 A. THIRTY, YES, SIR. NUMBER THIRTY WAS NEXT TO THE
15 VICTIM'S RIGHT SIDE, NEAR HIS THIGH, THIGH AREA.

16 Q. I'M SHOWING YOU STATE'S EXHIBIT NUMBER TWENTY-
17 TWO, YOU CAN ACTUALLY SEE IT IN THE PICTURE, IS
18 THAT CORRECT?

19 A. YES, SIR, THAT'S THE, WHERE THE SHELL CASING WAS
20 WHEN I FOUND IT.

21 Q. NOW ADDITIONALLY -- NOW, THOSE ARE ALL THE SHELL
22 CASINGS THAT YOU FOUND OUT THERE?

23 A. YES, SIR.

24 Q. OKAY. NOW, ADDITIONALLY, DID YOU HAVE AN
25 OPPORTUNITY TO ALSO FIND MULTIPLE EITHER BULLETS

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1 OR WHAT APPEARED TO BE FRAGMENTS FROM BULLETS - -

2 -

3 A. YES, SIR.

4 Q. --- IN THE LIVING ROOM AREA? AND WERE THOSE ITEMS
5 COLLECTED?

6 A. OH, YES, SIR.

7 Q. AND THERE'S SOME OF THEM AT LEAST NOTED ON THE, I
8 GUESS, THE YELLOW MARKERS?

9 A. YES, SIR.

10 Q. JUST SO YOU CAN IDENTIFY THEM HERE, I SHOW YOU
11 WHAT'S BEEN MARKED AS STATE'S EXHIBIT, I BELIEVE
12 WE HAVE SIXTY-THREE THROUGH SEVENTY-TWO. I WANT
13 YOU TO LOOK IN STATE'S SIXTY-THREE.

14 A. YES, SIR, THESE WERE SOME OF THE BULLET FRAGMENTS
15 I COLLECTED FROM THE SCENE.

16 Q. OKAY. LET ME ASK YOU, THE ONES THAT ARE IN
17 STATE'S EXHIBIT NUMBER SIXTY-THREE, WERE THESE
18 FRAGMENTS HERE SENT OUT TO THE STATE LAW
19 ENFORCEMENT DIVISION FOR ANY ADDITIONAL ANALYSIS
20 ON THIS STACK RIGHT HERE?

21 A. NO, SIR, THEY WERE NOT.

22 Q. OKAY. AND WHY, TELL THE JURY WHY THESE WERE NOT
23 SENT OUT?

24 A. BASED ON MY EXPERIENCE, WHAT I'LL DO IS EXAMINE
25 EVIDENCE TO SEE IF, IN MY OPINION, IT'S POSSIBLE

1 FOR ADDITIONAL ANALYSIS TO BE DONE, WHETHER IT BE
2 FINGERPRINTS OR DNA OR BULLET FRAGMENTS. IN THIS
3 CASE THESE PARTICULAR ITEMS WERE EITHER VERY
4 SMALL FRAGMENTS OR PIECES THAT WERE DAMAGED SO
5 SEVERELY FROM THE IMPACT AFTER THEY WERE FIRED,
6 IN MY OPINION I DIDN'T BELIEVE THEY WOULD BE ANY
7 USE FOR ANY FURTHER ANALYTICAL ANALYSIS.

8 Q. OKAY. SO YOU JUST COLLECTED THEM AND THEY ARE
9 OBVIOUSLY PRESERVED HERE FOR US TODAY, RIGHT?

10 A. YES, SIR.

11 Q. ALRIGHT. AND NOW, ADDITIONALLY, LET ME SHOW YOU
12 STATE'S EXHIBITS SIXTY-FOUR THROUGH SEVENTY-TWO
13 AND LET YOU LOOK AT THOSE.

14 A. YES, SIR, I COLLECTED THESE BULLET FRAGMENTS FROM
15 THE SCENE.

16 Q. LET ME JUST ASK YOU, ON THE LITTLE KIND OF COIN
17 ENVELOPE INSIDE YOU DOCUMENT YOUR, I GUESS IN
18 BLACK PEN, YOUR MARKER NUMBER?

19 A. YES, SIR, THAT WOULD BE THE, HOW I IDENTIFY EACH
20 PIECE.

21 Q. AND YOU ALSO INDICATED ON THE COIN ENVELOPE WHERE
22 YOU COLLECTED THOSE ITEMS FROM?

23 A. YES, SIR.

24 SOLICITOR SORENSON: JUST TO BE CERTAIN, I WOULD
25 MOVE STATE'S SIXTY-THREE THROUGH SEVENTY-TWO ALSO.

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1 THE COURT: INTO EVIDENCE WITHOUT OBJECTION.

2 COURT REPORTER: WAIT, LET ME - - -

3 THE COURT: SIXTY-THREE THROUGH SEVENTY-TWO, YES,
4 MA'AM, I THINK THEY'VE ALREADY BEEN MARKED.

5 (State's Exhibits Sixty-three through Seventy-two
6 marked and filed.)

7 Q. AND LET ME KIND OF BACK YOU UP A LITTLE BIT.
8 NOW, SOME OF THOSE ITEMS WERE FOUND OBVIOUSLY OUT
9 -- AND THEY'RE DEPICTED AS THE YELLOW MARKERS,
10 KIND OF OUT IN THE LIVING ROOM AREA, IS THAT
11 CORRECT?

12 A. YES, SIR.

13 Q. ALRIGHT. NOW, YOU HAD INDICATED EARLIER THAT
14 AFTER YOU HAD KIND OF REMOVED, COLLECTED ITEMS SO
15 THEY WOULDN'T BE DISTURBED, THAT MR. PRINGLE --
16 THE CORNER THEN REMOVED HIS BODY FROM THE SCENE,
17 IS THAT CORRECT?

18 A. YES, SIR.

19 Q. DID YOU HAVE AN OPPORTUNITY AFTER MR. PRINGLE WAS
20 REMOVED FROM THE SCENE THEN TO DISCOVER ANY OTHER
21 ITEMS OF EVIDENCE OUT THERE AFTER HE WAS REMOVED?

22 A. YES, SIR. ONCE THE BODY WAS REMOVED BY THE
23 CORNER IT BECAME VERY APPARENT AND VISIBLE THAT
24 THERE WAS ADDITIONAL EVIDENCE UNDERNEATH THE
25 BODY.

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1 Q. AND WOULD YOU DESCRIBE FOR THE JURY WHAT YOU MEAN
2 BY THAT?

3 COURT REPORTER: AND WHAT?

4 Q. I'M SORRY. DESCRIBE FOR THE JURY.

5 COURT REPORTER: HAVE YOU FINISHED WITH EXAMINING
6 HIM BEFORE THE JURY?

7 SOLICITOR SORENSON: NO, MA'AM.

8 COURT REPORTER: ALRIGHT. GO AHEAD, BUT JUST
9 KEEP YOUR VOICE UP, PLEASE.

10 A. I'LL TRY TO TALK A LITTLE LOUDER.

11 COURT REPORTER: YES, SIR.

12 A. ONCE THE BODY WAS REMOVED BY THE CORONER THE
13 CARPET WAS EXPOSED WHERE HIS BODY HAD LAID, AND
14 THERE WERE BULLET FRAGMENTS LAYING ON TOP OF THE
15 CARPET. THERE WERE SEVERAL. ALSO, THERE WAS
16 DAMAGE TO THE CARPET. WE ALSO HAD SOME OF THAT
17 DAMAGE VISIBLE ON THE, BASICALLY, THE EDGES OF
18 THE VICTIM'S BODY, ON THE LEFT SIDE WHERE THE
19 CARPET WAS FRAYED.

20 Q. I'M SHOWING YOU STATE'S EXHIBIT NUMBER TWENTY-
21 THREE, DOES THAT SHOW THAT AREA OF CARPET
22 UNDERNEATH WHERE MR. PRINGLE HAD BEEN?

23 A. YES, SIR, THIS IS THE AREA OF THE UPPER BODY, MR.
24 PRINGLE HAD COVERED THIS AREA HERE UP. EACH OF
25 THE PLACARDS IS IDENTIFYING A BULLET OR BULLET

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1 FRAGMENT THAT WAS UNDERNEATH HIS BODY.

2 Q. ALRIGHT. AND OBVIOUSLY, THOSE WERE COLLECTED
3 AND THEY'RE IN THAT ENVELOPE THAT WE JUST LOOKED
4 AT?

5 A. YES, SIR, THEY ARE.

6 Q. OKAY. NOW, DID YOU HAVE AN OPPORTUNITY DUE TO
7 THE DAMAGE TO THE CARPET THERE TO DO ANYTHING
8 ELSE WITH REGARDS TO THAT CARPET THAT WAS
9 UNDERNEATH MR. PRINGLE?

10 A. YES, SIR, I DID. BASED ON THE DAMAGE TO THE
11 CARPET ITSELF LED ME TO BELIEVE THERE WOULD BE
12 ADDITIONAL EVIDENCE UNDER THE CARPET. SO, ONCE
13 THE EVIDENCE VISIBLE ON TOP WAS DOCUMENTED AND
14 COLLECTED, I DO WHAT WE CALL A CUTTING, I CUT OUT
15 THAT SECTION OF CARPET TO SEE WHAT WAS UNDERNEATH
16 IT.

17 Q. OKAY. I'M SHOWING YOU STATE'S EXHIBIT NUMBER
18 TWENTY-SIX WITH A MARKER FORTY-FIVE. WHAT IS
19 MARKER FORTY-FIVE?

20 A. FORTY-FIVE IS ACTUALLY THE PIECE OF CARPET THAT I
21 CUT OUT. AND WHAT YOU'RE LOOKING AT HERE IS THE
22 BACK OF THE CARPET WHICH INDICATES THE DAMAGE WAS
23 NOT JUST ON TOP BUT IT WENT ALL THE WAY THROUGH,
24 ALL THE WAY THROUGH THE CARPET TO THE FLOOR.

25 Q. OKAY. AND WHEN YOU REMOVED THAT PIECE OF CARPER,

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1 THAT MARKER FORTY-FIVE, FROM THE FLOOR, DID YOU
2 FIND ANY ITEMS UNDERNEATH THAT CARPET?

3 A. YES, SIR, I DID, ADDITIONAL BULLET FRAGMENTS WERE
4 UNDERNEATH THE CARPET.

5 Q. I'M SHOWING YOU STATE'S EXHIBITS TWENTY-FOUR AND
6 TWENTY-FIVE, WHAT ARE DEPICTED IN THOSE ITEMS?

7 A. FORTY-FOUR IS A SMALL PIECE OF A BULLET FRAGMENT
8 WHICH WAS FOUND UNDERNEATH THE CARPET FROM
9 UNDERNEATH WHERE MR. PRINGLE'S BODY HAD LAID.
10 FORTY-THREE IS OBVIOUSLY A LARGER, MORE COMPLETE
11 FRAGMENT OF A BULLET, AND A SMALLER FRAGMENT OF A
12 BULLET, AGAIN, THAT WAS FOUND UNDERNEATH THE
13 CARPET ONCE I CUT IT.

14 Q. AND THOSE TWO ITEMS THAT YOU JUST SHOWED HERE AT
15 MARKERS FORTY-THREE AND FORTY-FOUR, AND THOSE
16 ITEMS WERE COLLECTED?

17 A. YES, SIR, THEY WERE.

18 Q. I'M SHOWING YOU STATE'S EXHIBITS SIXTY-NINE AND
19 SEVENTY, ARE THOSE THOSE ITEMS?

20 A. YES, SIR, THESE WOULD BE THE FRAGMENTS THAT WERE
21 COLLECTED FROM UNDERNEATH THE CARPET.

22 Q. AND THAT'S STATE'S SIXTY-NINE AND SEVENTY, IS
23 THAT CORRECT?

24 A. YES, SIR.

25 Q. ALRIGHT. AND WHAT, IN YOUR EXPERIENCE AS A CRIME

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1 SCENE INVESTIGATOR, LIEUTENANT, WHAT, YOU KNOW,
2 THE LOCATION OF THOSE ITEMS AND THE EVIDENCE YOU
3 FOUND, WHAT WOULD THAT SUGGEST TO YOU IN YOUR
4 EXPERIENCE?

5 A. BASED ON MY EXPERIENCE, RECONSTRUCTING SHOOTING
6 SCENES, MOST OF THE SHOTS FIRED WHICH HIT THE
7 VICTIM WERE FIRED AFTER HE WAS ALREADY ON THE
8 FLOOR. THIS IS BASED ON THE EVIDENCE, FRAGMENTS
9 AND THE DAMAGE TO THE CARPET, THE IMPACTS TO THE
10 HARD SUB-FLOOR UNDERNEATH, OTHER FRAYED, WHAT IN
11 OPINION A BULLET IMPACTS TO THE CARPET ALONG THE
12 LEFT SIDE OF THE BODY, THESE WERE CAUSED BY
13 BULLETS BEING FIRED DOWNWARD AT THE FLOOR, AND
14 THE ITEMS WE DISCOVERED ONCE I MADE THIS CARPET
15 CUTTING APPEARED TO BE THE BULLETS THAT STRUCK
16 MR. PRINGLE AFTER HE WAS ALREADY LAYING ON THE
17 FLOOR. THE OTHER THING OF NOTE, USUALLY WHEN
18 YOU HAVE THIS MANY SHOTS FIRED INSIDE A HOUSE,
19 YOU HAVE, YOU KNOW, BULLET IMPACTS IN WALLS,
20 CEILING, ALL OVER THE ROOM. I SEARCHED THE ROOM,
21 THERE WERE NO IMPACTS FOUND BY ME ANYWHERE BUT
22 THE FLOOR AND MR. PRINGLE.

23 Q. I'M SHOWING YOU STATE'S EXHIBIT NUMBER TWENTY-
24 SEVEN, WHAT IS IN TWENTY-SEVEN?

25 A. TWENTY-SEVEN IS ACTUALLY THE FLAT SCREEN T.V. I

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1 ACTUALLY DESCRIBED EARLIER. IT'S SITTING ON THE
2 T.V. STAND RIGHT NEXT TO MR. PRINGLE. IT HAS
3 DAMAGE TO THE SCREEN WHICH WERE POSSIBLY
4 RICOCHETS OF FRAGMENTS. THEY WEREN'T ROUND
5 HOLES. THERE WAS DAMAGE, IT WAS CRACK, THE SCREEN
6 WAS CRACKED AND HAD SOME INDENTATIONS WHICH MAY
7 HAVE POSSIBLE BEEN FRAGMENTS THAT CAME UP AND HIT
8 THE T.V.

9 Q. OKAY. I BELIEVE YOU CAN HAVE A SEAT, LIEUTENANT,
10 THANK YOU. NOW, LIEUTENANT, YOU HAD INDICATED
11 MR. PRINGLE WAS REMOVED FROM THE SCENE BY THE
12 CORNER'S OFFICE, IS THAT CORRECT?

13 A. YES, SIR.

14 Q. OKAY. AND THAT FOLLOWING MORNING, THAT FOLLOWING
15 SATURDAY MORNING DID YOU HAVE AN OPPORTUNITY TO
16 ATTEND AN AUTOPSY THAT WAS PERFORMED ON MR.
17 PRINGLE?

18 A. YES, SIR, I DID.

19 Q. AND WHERE WAS THAT PERFORMED AT?

20 A. THAT WOULD BE AT NEWBERRY PATHOLOGY IN THE
21 NEWBERRY HOSPITAL.

22 Q. AND WAS THAT DR. ROSS THAT PERFORMED THAT?

23 A. YES, SIR.

24 Q. OKAY. AND AT THE AUTOPSY WERE THERE ANY ITEMS OF
25 EVIDENTIARY VALUE THAT WERE TURNED OVER TO YOU BY

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1 THE PATHOLOGIST?

2 A. YES, SIR. ALL OF THE EVIDENCE GATHERED AT THE
3 AUTOPSY IN A HOMICIDE IS TRANSPORTED BY THE
4 INVESTIGATING OFFICER EITHER DURING WEEK DAYS
5 MONDAY THROUGH FRIDAY, I WOULD HAVE TRANSPORTED
6 THESE TO SLED, BUT BECAUSE IT WAS THE WEEKEND I
7 HAD TO PUT THEM INTO OUR EVIDENCE STORAGE UNTIL
8 THE FOLLOWING WEEK WHEN I COULD GET THEM TO SLED.

9 Q. OKAY.

10 A. BUT, YES, SIR, ITEMS WERE COLLECTED.

11 Q. OKAY. AND THOSE ITEMS, DID YOU RECEIVE SEVERAL
12 BOTTLES WITH POTENTIAL BULLETS OR FRAGMENTS AND
13 STUFF OF THAT NATURE?

14 A. YES, SIR.

15 Q. OKAY. AND DID YOU OPEN THEM OR ANYTHING?

16 A. NO, SIR, I WOULD NOT HAVE OPENED THEM.

17 Q. OKAY. AND WERE THOSE ULTIMATELY TRANSPORTED OUT
18 TO SLED FOR COMPARISON OUT THERE BY THE FIREARMS
19 EXPERT?

20 A. YES, SIR.

21 Q. ADDITIONALLY, WHEN YOU ARRIVED ON THE SCENE, AS
22 FAR AS MR. PRINGLE, AS IS SHOWN IN STATE'S
23 EXHIBIT NUMBER EIGHT, THE DUCT TAPE THAT'S ON HIS
24 HEAD, WAS THAT THE CONDITION IT WAS IN WHEN YOU
25 GOT THERE?

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1 A. YES, SIR, THAT'S THE CONDITION I FOUND IT IN ON
2 THE SCENE.

3 Q. OKAY. AND WAS THAT DUCT TAPE REMOVED FROM MR.
4 PRINGLE'S HEAD?

5 A. IT WAS REMOVED BY THE PATHOLOGIST AT AUTOPSY.

6 Q. OKAY. AND WAS THAT TURNED OVER TO ALSO BE
7 TRANSPORTED OUT TO SLED FOR FURTHER ANALYSIS?

8 A. YES, SIR, IT WAS TURNED OVER TO ME AND THEN AT A
9 LATER DATE TRANSPORTED TO SLED.

10 Q. ALRIGHT. I KIND OF TOUCHED ON SOME OF THIS, BUT
11 AS FAR AS THE SHELL CASINGS, THE NINE MILLIMETER
12 SHELL CASINGS, THE FORTY CALIBER SHELL CASINGS,
13 THE SEVEN POINT SIX TWO BY THIRTY-NINE RIFLE
14 CASINGS, WERE THOSE ITEMS ALL TRANSPORTED OUT TO
15 STATE LAW ENFORCEMENT DIVISION FOR FURTHER
16 ANALYSIS?

17 A. ALL EXCEPT FOR, WAS IT STATE'S EXHIBIT SIXTY-
18 THREE?

19 Q. YES, SIR.

20 A. ALL EXCEPT FOR STATE'S EXHIBIT SIXTY-THREE WAS
21 TRANSPORTED TO SLED.

22 Q. SO, ALL THE NINE MILLIMETER CASINGS WENT OUT
23 THERE?

24 A. YES, SIR.

25 Q. ALL OF THE SEVEN POINT SIX TWO MILLIMETER RIFLE

DIRECT - GERALD DAVID CARTER BY SOL. SORENSON

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1 CASINGS?

2 A. YES, SIR.

3 Q. THE FORTY CALIBER CASINGS?

4 A. YES, SIR.

5 Q. AND ALL OF THE OTHER BULLETS AND FRAGMENTS EXCEPT
6 FOR THE ONES THAT YOU HAD TESTIFIED ABOUT?

7 A. OTHER -- YES, SIR.

8 Q. ALL WENT OUT THERE?

9 A. YES, SIR.

10 Q. AND AS YOU TESTIFIED, THE DUCT TAPE FROM THE
11 VICTIM'S HEAD AND ALSO THE PROJECTILES COLLECTED
12 FROM THE AUTOPSY ALSO WERE SENT OUT THERE?

13 A. YES, SIR.

14 Q. NOW, STATE'S EXHIBIT -- NOT STATE'S EXHIBIT, BUT
15 YOUR MARKER NUMBER ONE, STATE'S EXHIBIT THIRTY-
16 EIGHT, THE DUCT TAPE THAT YOU FOUND AT THE SCENE,

17 - - -

18 A. YES, SIR.

19 Q. DID YOU, WHEN YOU GOT BACK TO THE OFFICE, PERFORM
20 ANY TESTING ON THAT ROLL OF DUCT TAPE THAT YOU
21 FOUND OUT THERE?

22 A. YES, SIR, I DID. I EXAMINED THE FLAT PORTION
23 THAT WAS PULLED FROM THE ROLL AND THE ROLL ITSELF
24 FOR LATENT FINGERPRINTS. THE END OF THE TAPE WAS
25 WADDED UP IS THE BEST WAY TO DESCRIBE IT. I

1 SWABBED THE END OF THE TAPE THAT WAS WADDED UP
2 FOR DNA, WHICH THE Q-TIPS USED TO COLLECT THE
3 SWABS THEN WOULD BE TRANSPORTED TO SLED FOR DNA
4 ANALYSIS.

5 Q. OKAY. AND AS TO YOUR PROCESSING THE ACTUAL ROLL
6 ITSELF AS OPPOSED AS TO KIND OF THE PART THAT WAS
7 STICKING OUT WADDED UP, WERE YOU ABLE TO GET ANY
8 USABLE FINGERPRINTS OFF OF THAT ROLL OF DUCT
9 TAPE?

10 A. NO, SIR, THERE WERE NO IDENTIFIABLE FINGERPRINTS
11 ON THE DUCT TAPE.

12 Q. EXPLAIN WHAT YOU MEAN BY IDENTIFIABLE?

13 A. TO BE IDENTIFIABLE YOU HAVE TO BE ABLE TO COLLECT
14 ENOUGH RIDGES, LAY PEOPLE CALL THEM LINES, FROM
15 THE FINGERS. I WAS ONLY ABLE TO DEVELOP ONE OR
16 TWO RIDGES WHICH IS COMPLETELY USELESS FOR
17 IDENTIFICATION OF ANY TYPE. SO THE, WHAT WAS
18 DEVELOPED ON THE TAPE WAS NOT IDENTIFIABLE.

19 Q. ALRIGHT. AND ALSO YOU INDICATED THAT YOU HAD
20 SWABBED KIND OF THAT END OF THE DUCT TAPE, IS
21 THAT CORRECT?

22 A. YES, SIR.

23 Q. BUT, AND THAT WAS SENT OFF TO SLED TO SEE IF THEY
24 COULD GET DNA OFF OF THAT?

25 A. YES, SIR.

DIRECT - GERALD DAVID CARTER BY SOL. SORENSON

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1 Q. AND ARE YOU AWARE OF WHETHER THEY WERE ABLE TO
2 DEVELOP ANY DNA OFF OF THAT, THOSE SWABS THAT YOU
3 TOOK?

4 A. NO, SIR, THE REPORT I RECEIVED BACK FROM THE LAB
5 WAS, NO, SIR, THEY COULD NOT DEVELOP A PROFILE
6 FROM THE DNA.

7 Q. AND THEN YOU HAVE INDICATE ALSO THAT THE DUCT
8 TAPE THAT WAS AROUND MR. PRINGLE'S HEAD THAT WAS
9 COLLECTED ALSO WAS SENT OUT TO SLED?

10 A. YES, SIR.

11 Q. WHY WAS IT SENT OUT TO SLED?

12 A. IT WAS A, BECAUSE IT WAS COLLECTED AT AUTOPSY AND
13 NOT THE SCENE, PER SE, I WANTED IT TO GO WITH THE
14 REST OF THE EVIDENCE FROM AUTOPSY, SO I ALLOWED
15 SLED TO, I SENT THAT TO THEM TO PROCESS.

16 Q. OKAY. AND ARE YOU AWARE OF WHETHER, WERE THEY
17 ABLE TO GET ANY USABLE PRINTS OFF OF THAT, THAT
18 DUCT TAPE THAT WAS TAKEN OFF OF MR. PRINGLE?

19 A. NO, SIR, THE REPORT FROM SLED WAS A NEGATIVE
20 RESULT FOR FINGERPRINTS.

21 Q. I THINK I'M JUST ABOUT DONE, LIEUTENANT. TWO
22 OTHER ITEMS TO SHOW YOU, STATE'S EXHIBITS
23 SEVENTY-THREE, AND I BELIEVE IT'S SEVENTY-FOUR,
24 LET ME SHOW YOU THOSE ITEMS.

25 A. YES, SIR.

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- 1 Q. WERE THOSE ITEMS TURNED INTO YOU FROM LIEUTENANT
2 SHUMPERT?
- 3 A. YES, SIR.
- 4 Q. OKAY. AND DID YOU HAVE AN OPPORTUNITY, OR WHAT
5 DID YOU DO WITH THOSE STATE'S EXHIBITS SEVENTY-
6 THREE AND SEVENTY-FOUR?
- 7 A. I PUT THEM IN -- I WAS THE ONE THAT PLACED THEM
8 IN THESE BOXES, AND I TIED THEM UP IN THE BOX SO
9 THEY WERE SUSPENDED OR HANGING, AND I SENT THEM
10 TO SLED FOR, I BELIEVE LATENT PRINT FIREARMS
11 COMPARISON.
- 12 Q. ALRIGHT. AND AS TO -- ARE YOU AWARE OF WHETHER
13 THEY WERE ABLE TO GET ANY LATENT PRINTS OFF OF
14 THE MAGAZINE OR THE GUN?
- 15 A. I'M UNAWARE OF ANY. I HAVEN'T SEEN A REPORT ON
16 THAT.
- 17 Q. OKAY. ALRIGHT, AND I'M SHOWING YOU STATE'S
18 EXHIBIT NUMBER SEVENTY-THREE, CAN YOU TELL THE
19 JURY WHAT STATE'S SEVENTY-THREE IS?
- 20 A. STATE'S SEVENTY-THREE IS AN AUTO LOADER ON WHAT
21 WE CALL A SEMI-AUTO PISTOL. IT'S MANUFACTURED BY
22 THE RUGER CORPORATION, AND -- LET ME SEE WHAT IT
23 SAYS ON HERE. AND IT WOULD BE A FORTY CALIBER
24 WEAPON.
- 25 Q. SO, IT WOULD BE AT LEAST THE SAME CALIBER AS

DIRECT - GERALD DAVID CARTER BY SOL. SORENSON

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1 EIGHT OF THE SHELL CASINGS YOU RECOVERED AT THE
2 CRIME SCENE?

3 A. YES, SIR.

4 Q. ALRIGHT. AND STATE'S EXHIBIT SEVENTY-FOUR?

5 A. STATE'S EXHIBIT SEVENTY-FOUR WOULD BE THE
6 MAGAZINE OR COMMONLY CALLED A CLIP, BUT IT'S A
7 MAGAZINE THAT WOULD HOLD THE BULLETS FOR THAT
8 TYPE WEAPON, FOR THE RUGER AUTOMATIC WEAPON.

9 Q. AND I BELIEVE, AND THOSE ITEMS I BELIEVE WERE
10 SENT OUT TO SLED ON MARCH EIGHTEENTH, IS THAT
11 CORRECT?

12 A. YES, SIR.

13 Q. AND ANY FURTHER ANALYSIS, THEN, AS FAR AS
14 COMPARING THAT GUN TO ANY OF THE EVIDENCE FOUND
15 AT THAT SCENE WOULD HAVE BEEN DONE BY A FIREARMS
16 EXPERT AT SLED?

17 A. YES, SIR.

18 SOLICITOR SORENSON: YOUR HONOR, I BELIEVE
19 SEVENTY-THREE AND SEVENTY-FOUR I'D OFFER INTO
20 EVIDENCE. I BELIEVE THEY'RE ALREADY IN ALSO, BUT JUST

21 - - -

22 THE COURT: NO OBJECTION?

23 MR. LACKEY: NO OBJECTION.

24 MS. ULLMAN: NO OBJECTION.

25 MR. PALMER: NO OBJECTION.

DIRECT - GERALD DAVID CARTER BY SOL. SORENSON

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1 MR. MELLARD: NO OBJECTION.

2 MR. KOGER: NO OBJECTION.

3 THE COURT: OKAY, WITHOUT OBJECTION, THEY'RE IN
4 EVIDENCE.

5 (State's Exhibits Seventy-three and Seventy-four
6 marked and filed.)

7 SOLICITOR SORENSON: I BEG THE COURT'S
8 INDULGENCE.

9 THE COURT: YES, SIR.

10 SOLICITOR SORENSON: THANK YOU, LIEUTENANT,
11 PLEASE ANSWER ANY QUESTIONS THAT DEFENSE COUNSEL HAS.

12 THE COURT: ALRIGHT, MR. LACKEY.

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

CROSS - GERALD DAVID CARTER BY MR. LACKEY

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CROSS-EXAMINATION OF GERALD DAVID CARTER

BY MR. LACKEY:

Q. GOOD MORNING.

A. GOOD MORNING.

Q. I ONLY HAVE A FEW QUESTIONS FOR YOU. YOU SAID THAT YOU WERE UNABLE TO COLLECT ANY FINGERPRINTS THAT DEVELOPED ANY SUSPECT, IS THAT CORRECT?

A. YES, SIR, I DIDN'T COLLECT ANY FINGERPRINTS IN THIS CASE.

Q. OKAY. AND IT'S ALSO YOUR TESTIMONY THE SAME AS TO DNA?

A. YES, SIR. I DIDN'T COLLECT ANY DNA EVIDENCE THAT I KNOW OF THAT CAME BACK FROM SLED.

Q. AS TO THE CASINGS WERE YOU ABLE TO DETERMINE FROM YOUR ANALYSIS HOW MANY WEAPONS WERE USED?

A. FROM MY ANALYSIS, IF YOU WILL, FROM THE SCENE, AND I COULD ONLY GO BY THE SHELL CASINGS, I MEAN, I'M NOT A FIREARMS EXPERT, THERE WERE AT LEAST THREE WEAPONS AT THE SCENE DUE TO THE FACT WE COLLECTED THREE DIFFERENT CALIBER SHELL CASINGS FROM THE SCENE.

Q. OKAY. THAT WAS THE NINE MILLIMETER, THE FORTY CALIBER AND THE -- WHAT WAS THE THIRD?

A. SEVEN POINT SIX TWO BY THIRTY-NINE MILLIMETER.

Q. OKAY. SO, THOSE WERE THE THREE TYPES OF CASINGS

1 YOU COLLECTED?

2 A. YES, SIR.

3 Q. LET ME ASK YOU THIS, WHEN YOU GO TO A CRIME SCENE
4 LIKE THIS AND GO THROUGH ALL THIS, I MEAN, YOU
5 HAD A MOUNTAIN OF STUFF TO COLLECT, YOU DO A
6 DETAILED REPORT?

7 A. YES, SIR.

8 Q. AND YOU COVER EVERY TIDBIT OF WHAT YOU COLLECTED
9 AND HOW YOU COLLECTED IT?

10 A. YES, SIR, I MAKE EVERY EFFORT TO DESCRIBE AND
11 DOCUMENT THE SCENE AND DESCRIBE WHAT WAS
12 COLLECTED AND WHERE IT WAS COLLECTED FROM.

13 Q. AND IF, YOU KNOW, LET'S SAY, A FEW DAYS LATER
14 EVIDENCE IS FOUND YOU WOULD DO A SUPPLEMENTAL
15 REPORT AND PUT THAT IN THERE?

16 A. IF I'M INVOLVED WITH THE ACTUAL FINDING THE
17 EVIDENCE OR COLLECTING THE EVIDENCE I WOULD DO A
18 BASIC CONTINUATION OF MY REPORT.

19 Q. OKAY. BUT YOU WANT TO MAKE SURE, AND I GUESS
20 THAT EVERY INVESTIGATION, OR EVERY INVESTIGATOR
21 WOULD MAKE SURE THEY WOULD WANT TO DOCUMENT
22 EVERYTHING IN A REPORT?

23 A. YES, SIR, YOU MAKE EVERY EFFORT TO DOCUMENT AS
24 MUCH AS YOU CAN.

25 Q. OKAY. AND IF YOU, LET'S SAY, YOU LOOK BACK ON

CROSS - GERALD DAVID CARTER BY MR. LACKEY

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1 THE REPORT AND YOU FOUND AN ERROR, YOU KNOW,
2 THREE WEEKS DOWN THE ROAD, WOULD YOU -- HOW WOULD
3 YOU CORRECT THAT?

4 A. I WOULD ACTUALLY DENOTE THE ERROR AND THEN
5 CORRECT IT. I WOULDN'T JUST CHANGE THE REPORT
6 BECAUSE IF IT'S ALREADY BEEN ISSUED I WOULDN'T
7 WANT TO CAUSE ANY CONFUSION WITH TWO DIFFERENT
8 REPORTS. SO, IF I DID FIND AN ERROR OF SOME SORT
9 ON MY PART II WOULD DENOTE THE ERROR AND THEN
10 MAKE THE CORRECT IN A SUPPLEMENTAL OR
11 CONTINUATION.

12 Q. SO, YOU WOULD MAKE A SEPARATE REPORT AND REFER
13 BACK TO THE FIRST AND SAY BASICALLY, OOPS?

14 A. RIGHT. IF I MADE SOME TYPE OF ERROR I WOULD
15 POINT OUT, YEAH, I MADE AN ERROR.

16 Q. IS THAT PRETTY STANDARD OPERATING PROCEDURE?

17 A. YES, SIR.

18 MR. LACKEY: I HAVE NO FURTHER QUESTIONS.

19 THE COURT: THANK YOU, MR. LACKEY.

20 MS. ULLMAN.

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

CROSS - GERALD DAVID CARTER BY MS. ULLMAN

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CROSS-EXAMINATION OF GERALD DAVID CARTER

BY MS. ULLMAN:

Q. GOOD MORNING.

A. GOOD MORNING.

Q. I JUST HAVE A COUPLE OF QUICK QUESTIONS.

A. THAT'S FINE.

Q. WHEN YOU FIRST ARRIVED YOU SAID THAT IT WAS DIMLY
LIT WITH A BLACK LIGHT?

A. YES, MA'AM, THERE WAS, IT WAS A BLACK LIGHT IN
THE OVERHEAD FIXTURE IN THE LIVING ROOM.

Q. WAS THAT THE ONLY LIGHT THAT THEY HAD THAT YOU
NOTICED?

A. THAT WAS THE ONLY ONE THAT I NOTICED BEING ON.
I'M PRETTY SURE THAT WAS THE ONLY ONE ON WHEN I
WENT IN. THE OTHER ROOMS, NOW, HAD REGULAR LIGHT
BULBS IN THEM, BUT THEY JUST WEREN'T TURNED ON
WHEN I ENTERED.

Q. YES, SIR. DO YOU REMEMBER IF IT WAS ONE BULB,
TWO BULBS, FIVE BULBS?

A. HONESTLY, I DON'T REMEMBER.

Q. NOW, YOU SAID THAT ANOTHER OFFICER ACTUALLY
CHANGED THAT BULB OUT AND PUT A WHITE BULB IN SO
YOU COULD SEE BETTER?

A. YES, MA'AM.

Q. AND THAT'S WHEN YOU TOOK THE PICTURES AND

CROSS - GERALD DAVID CARTER BY MS. ULLMAN

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1 COLLECTED EVIDENCE AND ALL OF THAT?

2 A. YES, MA'AM.

3 Q. THE SOLICITOR WENT THROUGH SOME OF THE DRUGS YOU
4 FOUND AT THE SCENE. YOU SAID YOU FOUND MARIJUANA
5 PRETTY MUCH ALL IN THE KITCHEN?

6 A. IN THE CABINETS DIRECTLY ABOVE THE STOVE, TO THE
7 RIGHT OF THE STOVE, AND ON THE MICROWAVE OVEN.

8 Q. YOU ALSO FOUND SOME MONEY NEAR THAT MARIJUANA,
9 DIDN'T YOU?

10 A. YES, THERE WAS A HUNDRED DOLLARS IN TWENTY DOLLAR
11 BILLS.

12 Q. AND YOU ALSO FOUND SCALES, ELECTRONIC SCALES
13 USUALLY USED TO WEIGH DRUGS?

14 A. I CAN ONLY SPECULATE WHAT HE USED THEM FOR, BUT
15 YES, THERE WAS A SMALL SET OF ELECTRONIC SCALES
16 ON THE KITCHEN TABLE.

17 Q. IN YOUR EXPERIENCE, THEY'RE USUALLY USED FOR
18 DRUGS, THOUGH, AM I CORRECT?

19 A. QUITE OFTEN.

20 Q. IT CERTAINLY WASN'T A KITCHEN SCALE THAT YOU'RE
21 PUTTING FOOD ON?

22 A. NO, IT WAS A SMALL FLAT ELECTRONIC SCALE THAT
23 QUITE OFTEN IS USED TO WEIGH OUT DRUGS.

24 Q. I'M SHOWING YOU STATE'S TWENTY-SEVEN.

25 A. YES, MA'AM.

CROSS - GERALD DAVID CARTER BY MS. ULLMAN

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- 1 Q. YOU SAID THAT'S THE T.V. THAT WAS THE ROOM CLOSE
2 TO WHERE THE BODY WAS FOUND?
- 3 A. IT WAS RIGHT NEXT TO THE RIGHT SIDE OF MR.
4 PRINGLE.
- 5 Q. AND I BELIEVE YOU TESTIFIED THAT IT WAS ON SOME
6 SORT OF STAND, CORRECT?
- 7 A. YES, MA'AM.
- 8 Q. IT CERTAINLY WASN'T ON THE FLOOR?
- 9 A. NO, NO, IT WAS NOT ON THE FLOOR.
- 10 Q. OKAY. TALKING ABOUT THE LIVING ROOM, JUST THE
11 SIZE OF IT, ACCORDING TO YOUR CHART, NOT
12 INCLUDING -- I'M GOING TO STAND OVER HERE, BUT
13 NOT INCLUDING THE KITCHEN AREA AT ALL, JUST
14 ACCORDING TO YOUR CHART, FROM THE DOOR TO KIND OF
15 THE BREAK OFF POINT IS FIFTEEN FEET FOUR INCHES?
- 16 A. YES, MA'AM.
- 17 Q. OKAY. AND THEN THIS WAY IS HOW BIG?
- 18 A. FROM THE NORTH WALL, THE FRONT OF THE APARTMENT,
19 ONTO THE PETITION AGAIN WOULD BE THE SAME
20 DISTANCE, APPROXIMATELY FIFTEEN FEET FOUR INCHES.
21 AND THERE'S A STEP WHICH APPARENTLY I NEGLECTED
22 TO MEASURE, BUT THERE'S A STEP WHICH LEADS TO THE
23 BATHROOM, IT WOULD BE THIS AREA HERE, PROBABLY,
24 POSSIBLY THREE MORE FEET OR SOMETHING OF THAT
25 NATURE.

CROSS - GERALD DAVID CARTER BY MS. ULLMAN

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1 Q. AND HOW BIG THIS WAY?

2 A. THIS WAY IT'S GOING TO BE FOURTEEN FEET SIX
3 INCHES.

4 Q. SO, THE AREA IS BASICALLY FOURTEEN BY FIFTEEN
5 FEET?

6 A. YEAH, POSSIBLY.

7 Q. GIVE OR TAKE A FEW INCHES?

8 A. YES, MA'AM.

9 MS. ULLMAN: I HAVE NO FURTHER QUESTIONS.

10 THE COURT: THANK YOU, MA'AM.

11 MR. PALMER.

12 MR. PALMER: NO QUESTIONS.

13 THE COURT: THANK YOU.

14 MR. MELLARD.

15 MR. MELLARD: NO QUESTIONS, YOUR HONOR.

16 THE COURT: MR. KOGER.

17 MR. KOGER: A COUPLE OF QUESTIONS.

18 THE COURT: ALRIGHT.

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

CROSS - GERALD DAVID CARTER BY MR. KOGER

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CROSS-EXAMINATION OF GERALD DAVID CARTER

BY MR. KOGER:

Q. INVESTIGATOR CARTER, YOU SAY THAT THE CRIME SCENE TEAM PRIMARILY EMPHASIZED THE LIVING ROOM AREA?

A. THAT WAS THE PRIMARY AREA OF EVIDENCE COLLECTION, YES, SIR.

Q. OKAY. SO YOU PRIMARILY DUSTED FOR PRINTS IN THE LIVING ROOM AREA?

A. YES, SIR.

Q. OKAY. NOW, I THINK YOU TESTIFIED, TOO, THAT YOU DUSTED, YOU DUSTED FOR PRINTS ON THE DOOR?

A. YES, THE DOOR AND DOOR KNOB, YES, SIR.

Q. THE DOOR AND DOOR KNOB?

A. YES, SIR.

Q. DID YOU DUST FOR PRINTS ON THE DOOR JAM, AROUND THE DOOR, THE FRAME?

A. THE DOOR ITSELF, ON THE FRAME AROUND THE DOOR, NO, SIR, I DON'T BELIEVE I DID.

Q. OKAY. AND YOU DIDN'T DUST FOR PRINTS ON EITHER THE INSIDE OR OUTSIDE OF THE DOOR FRAME?

A. NOT ON THE DOOR FRAME.

Q. OKAY. AS FAR AS IN THE LIVING ROOM THERE WAS A COUPLE OF OTHER ITEMS THAT WAS IN THE LIVING ROOM. YOU MENTIONED THAT IT WAS A COFFEE TABLE. DID YOU DUST FOR PRINTS ON THE COFFEE TABLE?

CROSS - GERALD DAVID CARTER BY MR. KOGER

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1 A. NO, SIR, I DID NOT.

2 Q. OKAY. DID YOU DUST FOR PRINTS ON THE END TABLE?

3 A. NO, SIR, I DID NOT.

4 Q. DID YOU DUST FOR PRINTS ON THE T.V. STAND?

5 A. NO, SIR, I DID NOT.

6 Q. DID YOU DUST FOR PRINTS ON THE ACTUAL TELEVISION?

7 A. NO, SIR, I DID NOT.

8 Q. OKAY. AND THERE WAS A LOVE SEAT AND A COUCH THAT
9 YOU TESTIFIED TO THE CUSHIONS BEING CUT, CORRECT?

10 A. IT APPEARED THEY MAY HAVE BEEN CUT, YES, SIR.

11 Q. OKAY. AND LOOKING AT EXHIBIT NUMBER FIFTEEN,
12 WILL YOU IDENTIFY THAT FOR THE COURT?

13 A. STATE'S EXHIBIT FIFTEEN IS A PHOTOGRAPH OF THE
14 LOVE SEAT. THE CUSHIONS ARE MISSING AND THE
15 PLACARDS ARE IDENTIFYING CARTRIDGE CASINGS WHICH
16 WERE FOUND ON THE LOVE SEAT.

17 Q. OKAY. NOW, WOULDN'T YOU AGREE ON THIS PARTICULAR
18 LOVE SEAT THAT THERE'S SOME TYPE OF EITHER FAKE
19 WOOD ON THE ARMS AND COMING DOWN THE SIDES?

20 A. YES, SIR.

21 Q. OKAY. AND WOULDN'T YOU AGREE THAT THAT TYPE OF
22 FAKE WOOD MATERIAL IS ALSO ON THE SOFA, TOO?

23 A. YES, I BELIEVE IT WAS A MATCHING SET, YES, SIR.

24 Q. A MATCHING SET. AND DID YOU DUST FOR PRINTS ON
25 THAT FAKE WOOD MATERIAL ON THE SOFA AND LOVE

CROSS - GERALD DAVID CARTER BY MR. KOGER

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1 SEAT?

2 A. NO, SIR, I DID NOT.

3 Q. OKAY. IF YOU HAD DUSTED FOR PRINTS, WOULD, IS IT
4 A POSSIBILITY THAT THAT MATERIAL COULD HAVE
5 PICKED UP PRINTS?

6 A. THIS MATERIAL COULD VERY POSSIBLY HAVE PRINTS ON
7 IT, YES, SIR.

8 Q. OKA. AND AS FAR AS THE LOVE SEAT AND THE SOFA,
9 THE ACTUAL MATERIAL, WHAT TYPE MATERIAL IS ON
10 THAT LOVE SEAT AND SOFA?

11 A. IT WAS KIND OF A SUEDE TYPE OF MATERIAL, I THINK
12 THAT WOULD BE A GOOD DESCRIPTION OF IT.

13 Q. OKAY. AND THAT MATERIAL COULD -- DID YOU DUST
14 THAT MATERIAL FOR PRINTS?

15 A. NO, SIR, I DIDN'T DUST THAT.

16 Q. BUT IF YOU HAD DUSTED THAT MATERIAL FOR PRINTS
17 COULD IT HAVE TAKEN, COULD YOU HAVE FOUND PRINTS?

18 A. THE CHANCES ON THAT PARTICULAR TYPE MATERIAL
19 FINDING PRINTS WOULD BE VERY SLIM.

20 Q. BUT NOT IMPOSSIBLE?

21 A. NOT IMPOSSIBLE.

22 Q. OKAY, NOT IMPOSSIBLE?

23 A. NOT IMPOSSIBLE BUT VERY SLIM, YES, SIR.

24 Q. SO, BASICALLY, WITHIN THE LIVING ROOM, THE AREA
25 OF CONCENTRATION YOU DIDN'T DUST FOR ANY PRINTS?

CROSS - GERALD DAVID CARTER BY MR. KOGER

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1 A. NOT INSIDE THE ROOM ITSELF.

2 Q. NOT INSIDE THE LIVING IN WHICH THE BODY WAS
3 FOUND, YOU DIDN'T DUST FOR ANY TYPE OF PRINTS?

4 A. OUTSIDE THE LIVING ROOM?

5 Q. INSIDE THE LIVING ROOM.

6 A. INSIDE THE LIVING ROOM, NOT INSIDE THE ROOM
7 ITSELF.

8 Q. AND YOU WOULD TESTIFY THAT THAT WAS THE CRIME
9 SCENE, THE AREA OF CONCENTRATION?

10 A. THAT WAS THE PRIMARY AREA, YES, SIR.

11 Q. OKAY. YOU DIDN'T FIND ANY GLOVES AT THE SCENE OR
12 ANYTHING?

13 A. NO, SIR, NOT AT THE SCENE.

14 Q. OKAY. SO, I WOULD ASSUME THAT IF YOU DID NOT
15 DUST FOR PRINTS IN THE LIVING ROOM YOU DIDN'T
16 DUST FOR ANY PRINTS IN THE KITCHEN?

17 A. NO, SIR, THERE WAS NO INDICATION ANY SUSPECTS
18 EVER ENTERED THE KITCHEN.

19 Q. YOU DIDN'T DUST FOR ANY PRINTS IN EITHER ONE OF
20 THE BEDROOMS?

21 A. AGAIN, THERE WAS NO -- NO, SIR, I DID NOT, THERE
22 WAS NO INDICATION THAT ANY OF THE SUSPECTS WENT
23 INTO THOSE ROOMS.

24 Q. AND YOU DIDN'T DUST ANY ITEMS, YOU DIDN'T DUST
25 FOR ANY PRINTS ON ANY ITEMS IN EITHER ONE OF

CROSS - GERALD DAVID CARTER BY MR. KOGER

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1 THOSE ROOMS?

2 A. NO, SIR.

3 MR. KOGER: I BEG THE COURT'S INDULGENCE FOR JUST
4 ONE MORE MOMENT.

5 THE COURT: TAKE YOUR TIME, MR. KOGER.

6 Q. NOW, I THINK AT THE BEGINNING OF YOUR TESTIMONY
7 YOU MENTIONED ABOUT A DOG?

8 A. YES, SIR.

9 Q. OKAY. AND THIS DOG WAS TIED TO A CEMENT BLOCK?

10 A. YES, SIR.

11 Q. WAS THE DOG INJURED IN ANY MANNER?

12 A. NO, SIR.

13 Q. OKAY. HE WAS ALIVE?

14 A. YES, SIR.

15 Q. OKAY. WHAT TYPE OF DOG WAS IT?

16 A. IT WASN'T, IT WAS A LARGE DOG BUT IT DIDN'T
17 APPEAR TO BE A PURE BRED DOG.

18 Q. OKAY.

19 A. IT WAS PROBABLY A MIXED BREED, I'M NOT SURE.

20 Q. A MUTT?

21 A. YES, SIR.

22 Q. OKAY. BUT FROM YOUR OBSERVATION OF THE DOG HE
23 OR SHE WAS NOT SHOT?

24 A. NO, SIR.

25 Q. WAS NOT INJURED?

CROSS - GERALD DAVID CARTER BY MR. KOGER

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1 A. NO, SIR.

2 Q. AND WAS VERY MUCH ALIVE?

3 A. YES, SIR.

4 Q. AND JUST TO REITERATE A RESPONSE TO, I THINK
5 ATTORNEY ULLMAN'S QUESTIONS, THERE WAS NO PRINTS
6 FOUND ON THE SCENE?

7 A. NO, SIR.

8 Q. NO PRINTS CONNECTING ANY OF THE DEFENDANTS TO THE
9 CRIME SCENE?

10 A. NO, SIR.

11 MR. KOGER: THANK YOU, NO FURTHER QUESTIONS.

12 THE COURT: ALRIGHT, SIR.

13 MR. SORENSON, ANYTHING ON REDIRECT.

14 SOLICITOR SORENSON: JUST ONE BRIEF QUESTION.

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

REDIRECT - GERALD DAVID CARTER BY SOL. SORENSON

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REDIRECT EXAMINATION OF GERALD DAVID CARTER

BY SOLICITOR SORENSON:

Q. LIEUTENANT CARTER, DO YOU RECALL WHEN MR. LACKEY'S FIRST WORDED THAT QUESTION TO YOU HE WAS ASKING YOU ABOUT HOW MANY, IF YOU COULD TELL HOW MANY WEAPONS WERE USED?

A. YES, SIR.

Q. OKAY. AND I BELIEVE YOUR RESPONSE WAS, THERE WERE THREE DIFFERENT TYPES OF SHELL CASINGS, RIGHT, CALIBER SHELL CASINGS?

A. YES.

Q. WOULD THE FIREARMS EXPERT AT SLED BE MORE QUALIFIED IN DETERMINING HOW MANY DIFFERENT WEAPONS FIRED ALL OF THOSE SHELL CASINGS YOU RECOVERED?

A. OH, YES, SIR, THEY WOULD ACTUALLY ANALYZE THE BULLET FRAGMENTS AND THE SHELL CASINGS THEMSELVES TO DETERMINE HOW MANY CAME FROM THE SAME GUN OR DIFFERENT WEAPONS.

Q. OKAY. AND THOSE WERE ALL SENT OUT FOR THAT TO BE DONE?

A. YES, THEY WERE.

SOLICITOR SORENSON: THANK YOU, LIEUTENANT.

THE COURT: ALRIGHT, SIR, MR. LACKEY, ANYTHING ON RECROSS?

1 MR. LACKEY: NO, SIR, YOUR HONOR.

2 THE COURT: MS. ULLMAN, ANYTHING ON RECROSS?

3 MS. ULLMAN: NO, SIR.

4 THE COURT: MR. PALMER?

5 MR. PALMER: NO, SIR.

6 THE COURT: MR. MELLARD?

7 MR. MELLARD: NO, SIR.

8 THE COURT: AND MR. KOGER?

9 MR. KOGER: NO, YOUR HONOR.

10 THE COURT: OKAY. THANK YOU, LIEUTENANT CARTER,
11 YOU MAY STEP DOWN. THANK YOU, SIR.

12 ALRIGHT, WE'RE GOING TO TAKE ABOUT A TEN TO
13 FIFTEEN MINUTE BREAK. LADIES AND GENTLEMEN OF THE
14 JURY, AGAIN I WILL REMIND YOU, WE HAVE NOT HEARD ALL
15 OF THE TESTIMONY IN THIS CASE, YOU CANNOT BEGIN
16 TALKING ABOUT ANYTHING THAT YOU'VE HEARD IN THIS CASE.
17 YOU CAN TALK ABOUT THE WEATHER, GETTING READY FOR
18 CHRISTMAS OR ANYTHING LIKE THAT, BUT THAT'S ALL YOU
19 CAN TALK ABOUT. ALRIGHT, Y'ALL ARE EXCUSE TO THE JURY
20 ROOM FOR ABOUT TEN OR FIFTEEN MINUTES. THANK Y'ALL.

21 (Whereupon, the jury retires
22 to the jury room and the following
23 takes place out of the presence
24 of the jury.)

25 THE COURT: ANYTHING FROM THE STATE?

1 SOLICITOR SORENSON: NO, YOUR HONOR.

2 THE COURT: OKAY. ANYTHING FROM ANY OF THE
3 DEFENDANTS?

4 MR. LACKEY: NO, YOUR HONOR.

5 MS. ULLMAN: NO, SIR.

6 MR. PALMER: NO, SIR.

7 MR. MELLARD: NO, SIR.

8 MR. KOGER: NO, SIR.

9 THE COURT: ALRIGHT, WE WILL BE IN RECESS FOR
10 ABOUT FIFTEEN MINUTES. Y'ALL ARE AT EASE.

11 (Recess)

12 THE COURT: IS THE STATE READY TO PROCEED?

13 SOLICITOR SORENSON: YES, SIR.

14 THE COURT: ARE DEFENDANTS READY TO PROCEED?

15 MR. LACKEY: YES, SIR.

16 MS. ULLMAN: YES, SIR.

17 MR. PALMER: YES, SIR.

18 MR. MELLARD: YES, SIR.

19 MR. KOGER: YES, SIR.

20 THE COURT: ALRIGHT, IF YOU'D CALL THE JURY BACK
21 IN, PLEASE. THANK YOU.

22 (Whereupon, the jury enters
23 the courtroom and the following
24 takes place in the presence of
25 the jury.)

1 THE COURT: LADIES AND GENTLEMEN, I HOPE YOU
2 ENJOYED YOUR BREAK. WE'RE GETTING READY NOW TO RESUME
3 TAKING TESTIMONY IN THIS CASE.

4 THE STATE CAN CALL THEIR NEXT WITNESS.

5 SOLICITOR SORENSON: YES, SIR. THE STATE CALLS
6 SHANNON MITCHELL.

7 CLERK: SIR, PLACE YOUR LEFT HAND ON THE BIBLE
8 AND RAISE YOUR RIGHT.

9 (Whereupon, Shannon Rishon Mitchell
10 is duly sworn.)

11 CLERK: HAVE A SEAT AND STATE OUR FULL NAME FOR
12 THE COURT.

13 WITNESS: SHANNON RISHON MITCHELL.

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

DIRECT - SHANNON R. MITCHELL BY SOL. SORENSON

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DIRECT EXAMINATION OF SHANNON R. MITCHELL

BY SOLICITOR SORENSON:

Q. SHANNON, IF YOU WOULD, TELL US, HOW OLD ARE YOU?

A. TWENTY-TWO.

Q. AND YOU LIVE HERE IN ORANGEBURG?

A. YES, SIR.

Q. DID YOU GROW UP IN ORANGEBURG?

A. SOMEWHAT, YES, SIR.

Q. WHERE DID YOU GO TO HIGH SCHOOL?

A. ORANGEBURG-WILKERSON.

Q. AND LET ME ASK YOU, BACK IN MARCH OF THIS YEAR
DID YOU KNOW THE VICTIM IN THIS CASE, CHARLES
PRINGLE?

A. YES, SIR.

Q. AND HOW, TELL THE JURY HOW YOU KNEW MR. PRINGLE?

A. HE WAS A FRIEND OF MINE.

Q. OKAY. AND WHAT NAME DID YOU KNOW HIM BY?

A. OLD SCHOOL.

Q. OKAY. AND HOW LONG HAD YOU BEEN FRIENDS WITH MR.
PRINGLE?

A. ABOUT THREE OR FOUR MONTHS.

Q. OKAY. AND TELL THE JURY HOW YOU INITIALLY BECAME
FRIENDS WITH MR. PRINGLE?

A. WELL, I START PURCHASING WEED, I STARTED SMOKING
WITH HIM, HANGING OUT, THAT'S ABOUT IT.

DIRECT - SHANNON R. MITCHELL BY SOL. SORENSON

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1 Q. AND BACK, THE BEGINNING OF MARCH OF THIS YEAR HOW
2 OFTEN WOULD YOU KIND OF HANG OUT AND HANG AROUND
3 MR. PRINGLE?

4 A. MAYBE THREE OR FOUR DAYS OUT THE WEEK.

5 Q. AND WERE YOU FAMILIAR BACK IN MARCH OF THIS YEAR
6 WITH A YOUNG LADY NAMED ASHLEY PARSLEY?

7 A. YES, SIR.

8 Q. OKAY. AND HOW DID YOU KNOW MS. PARSLEY?

9 A. WE MET HER EARLIER IN THE WEEK.

10 Q. OKAY. AND WAS SHE ACTUALLY, FRIDAY, MARCH THE
11 TWELFTH, AT THAT TIME WAS SHE STAYING WITH MR.
12 PRINGLE?

13 A. YES, SIR.

14 Q. DID YOU KNOW HER PRIOR TO THAT, THOUGH, MEETING
15 HER EARLIER IN THE WEEK?

16 A. NO, SIR.

17 Q. OKAY. I'M GOING TO TURN YOUR ATTENTION, IF I
18 COULD, SHANNON, BACK TO THAT EVENING OF FRIDAY,
19 MARCH THE TWELFTH OF THE YEAR. DO YOU REMEMBER
20 WHAT YOU WERE DOING THAT NIGHT?

21 A. YES, SIR.

22 Q. OKAY. AND DID THREE COME A TIME WHEN YOU WENT
23 OVER TO MR. PRINGLE'S APARTMENT?

24 A. YES, SIR.

25 Q. AND WHERE WAS HE LIVING BACK IN MARCH?

DIRECT - SHANNON R. MITCHELL BY SOL. SORENSON

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1 A. KINGS ROAD, I'M NOT SURE OF THE ADDRESS.

2 Q. THE APARTMENT, APARTMENT COMPLEX?

3 A. YES, SIR.

4 Q. AND DID YOU GO OVER, WENT OVER TO HIS HOUSE THAT
5 EVENING?

6 A. YES, SIR.

7 Q. TO THE APARTMENT, AND DO YOU KNOW ABOUT WHAT TIME
8 YOU GOT THERE?

9 A. ABOUT NINE O'CLOCK, AROUND, BETWEEN NINE AND
10 NINE:TEN.

11 Q. NINE AND NINE:TEN?

12 A. YES, SIR.

13 Q. AND DID YOU HAVE ANYBODY WITH YOU?

14 A. NO, SIR.

15 Q. ALRIGHT. AND HOW DID YOU GET THERE?

16 A. I DROVE.

17 Q. AND WHAT KIND OF CAR WERE YOU DRIVING BACK THEN?

18 A. TWO THOUSAND TWO HONDA ACCORD, IT WAS GREEN.

19 Q. OKAY. AND DO YOU RECALL WHERE YOU PARKED?

20 A. IN THE FIRST FROM THE LAST PARKING SPACE ON THE
21 END, IN FRONT OF HIS APARTMENT.

22 Q. I'M SHOWING YOU STATE'S EXHIBIT NUMBER SIX, DO
23 YOU RECOGNIZE THAT PICTURE?

24 A. YES, SIR.

25 Q. OKAY. AND IS THAT, SHOW THE JURY OR POINT OUT

DIRECT - SHANNON R. MITCHELL BY SOL. SORENSON

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1 WHERE YOU WERE PARKED?

2 A. ON THE OTHER SIDE OF THIS HONDA.

3 Q. OKAY. SO, THE FAR SIDE OF THAT HONDA, OR THE
4 NEAR SIDE, CLOSER TO THE PERSON TAKING THE
5 PICTURE OR FARTHER AWAY FROM THE PERSON TAKING
6 THE PICTURE?

7 A. FARTHER AWAY.

8 Q. AND THAT WOULD BE THE HONDA ACCORD YOU'RE TALKING
9 ABOUT RIGHT THERE?

10 A. YES, SIR.

11 Q. SO, YOU'D BASICALLY BE ALMOST IN THE LAST SPOT IN
12 THAT APARTMENT COMPLEX?

13 A. YES, SIR.

14 Q. OKAY. AND IS THAT RIGHT IN FRONT OF MR.
15 PRINGLE'S APARTMENT?

16 A. YES, SIR.

17 Q. NOW, WHEN YOU GOT OVER THERE THAT NIGHT WAS MR.
18 PRINGLE HOME?

19 A. YES, SIR.

20 Q. OKAY. HOW ABOUT MS. PARSLEY?

21 A. YES.

22 Q. OKAY. AND WHEN YOU FIRST GOT THERE WHO, WHO, IF
23 ANYBODY OUT OF THE TWO OF THEM WERE YOU
24 INTERACTING WITH IN THE APARTMENT?

25 A. ASHLEY.

DIRECT - SHANNON R. MITCHELL BY SOL. SORENSON

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1 Q. ASHLEY. AND WHERE WAS CHARLES?

2 A. IN THE ROOM TAKING A NAP.

3 Q. ALRIGHT. AND WHAT, WHAT WERE YOU AND ASHLEY THEN
4 DOING?

5 A. JUST TALKING, SHOOTING THE BREEZE. I WAS SMOKING
6 BUT SHE WASN'T SMOKING, SHE WAS JUST TALKING TO
7 ME.

8 Q. AND WHERE WAS IT THAT Y'ALL WERE TALKING?

9 A. IN THE LIVING ROOM.

10 Q. OKAY. SITTING DOWN, STANDING UP?

11 A. SITTING DOWN.

12 Q. OKAY. NOW, DID THERE COME A TIME, SHANNON, WHERE
13 ANYBODY ELSE WHILE YOU WERE THERE, ANYBODY ELSE
14 CAME TO THE APARTMENT?

15 A. YES, SIR.

16 Q. AND TELL THE JURY HOW THAT CAME ABOUT.

17 A. I WAS SITTING THERE IN THE APARTMENT SMOKING, ME
18 AND ASHLEY TALKING, AND WALTER CAME AND KNOCKED
19 ON THE DOOR AND ASKED IF WE HAD ANY WEED.

20 Q. OKAY. AND BY WALTER, DO YOU SEE WALTER HERE IN
21 THE COURTROOM TODAY?

22 A. YES, SIR.

23 Q. COULD YOU POINT HIM OUT TO THE JURY? WHICH ONE
24 OUT OF THE FIVE PEOPLE ON THE FRONT BENCH IS HE?

25 A. BROWN SHIRT.

DIRECT - SHANNON R. MITCHELL BY SOL. SORENSON

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1 Q. BROWN SHIRT, IN THE MIDDLE OF THE FIVE OF THEM?

2 A. YES, SIR.

3 Q. OKAY. AND HOW DO YOU KNOW WALTER?

4 A. HIGH SCHOOL, SEEING HIM AROUND YEARS BEFORE.

5 Q. OKAY. SO, YOU HAD KNOWN HIM FOR A WHILE?

6 A. YES, SIR.

7 Q. OKAY. SO, YOU KNEW HIM BY NAME AND SIGHT WHEN
8 YOU SAW HIM?

9 A. BY A NICK NAME.

10 Q. WHAT NICK NAME DID YOU KNOW HIM BY BACK THEN?

11 A. PETE.

12 Q. SAY AGAIN?

13 A. PETE.

14 Q. PETE? LET ME ASK YOU THIS, YOU SAID THAT YOU
15 HAD BEEN HANGING AROUND OVER AT MR. PRINGLE'S
16 WITH HIM FOR THE LAST THREE OR FOUR MONTHS BEFORE
17 THIS OR SO?

18 A. YES, SIR.

19 Q. HAD YOU EVER SEEN WALTER HARRIS THAT YOU KNEW BY
20 PETE, HAD YOU EVER SEEN HIM OVER AT MR. PRINGLE'S

21 - - -

22 A. NO, SIR.

23 Q. --- EITHER HANGING OUT OR BUYING MARIJUANA PRIOR
24 TO THAT NIGHT?

25 A. NO, SIR.

DIRECT - SHANNON R. MITCHELL BY SOL. SORENSON

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1 Q. AND BACK IN MARCH OF THIS YEAR, DID MR. HARRIS,
2 DID HE KNOW WHAT KIND OF CAR YOU DROVE?

3 A. NO, SIR.

4 Q. HE DIDN'T. ALRIGHT. NOW, TELL THE JURY WHAT
5 HAPPENED THEN WHEN HE CAME TO AND ENTERED THE
6 APARTMENT THAT NIGHT?

7 A. HE ASKED IF WE HAD ANY DROE. DROE IS CALLED,
8 YOU KNOW, A CERTAIN MARIJUANA. HE WAS ASKING IF
9 WE HAD ANY, I SAID, NO, AND HE LEFT.

10 Q. OKAY. DID HE END UP TALKING TO ANYBODY BESIDES
11 YOU AND MS. PARLEY?

12 A. OLD SCHOOL CAME OUT AND ASKED WHAT WAS HE LOOKING
13 FOR.

14 COURT REPORTER: WHO CAME OUT WHERE?

15 A. CHARLES, WE CALLED HIM OLD SCHOOL, CAME OUT AND
16 ASKED IF -- I GUESS ASKED ME WHAT HE WANTED, AND
17 I TOLD HIM HE ASKED FOR SOME DROE. HE TOLD HIM
18 HE DIDN'T HAVE ANY.

19 Q. DO YOU REMEMBER IF CHARLES ASKED MR. HARRIS FOR
20 ANYTHING?

21 A. YES, SIR.

22 Q. WHAT DID HE ASK HIM FOR?

23 A. HE ASKED FOR AN ID, HE HADN'T SEEN HIM BEFORE, HE
24 DIDN'T KNOW HIM, SO HE ASKED EVERYBODY FOR AN ID
25 THAT HADN'T BEEN THERE BEFORE, AND CHECK THEM

1 OUT.

2 Q. DO YOU KNOW WHETHER MR. HARRIS GAVE HIM AN ID?

3 A. YES, SIR.

4 Q. NOW, Y'ALL SAID THAT, AS FAR AS YOU KNOW, MR.
5 PRINGLE DIDN'T HAVE ANY DROE, THAT TYPE OF
6 MARIJUANA?

7 A. NO, SIR.

8 Q. OKAY. ARE YOU AWARE OF WHETHER HE SOLD MR.
9 HARRIS ANYTHING AT THAT TIME?

10 A. NOT AT THAT TIME.

11 Q. AND DID MR. HARRIS STICK AROUND AFTER THAT OR DID
12 HE LEAVE?

13 A. HE LEFT.

14 Q. NOW, LET ME ASK YOU, AT THAT TIME DO YOU
15 REMEMBER, YOU HAD TESTIFIED THAT PARKED BASICALLY
16 RIGHT OUT IN FRONT OF THE APARTMENT, WERE YOU
17 AWARE, OR DID YOU HEAR A CAR PULL UP IN FRONT OF
18 THE APARTMENT OR A CAR DOOR CLOSE OR A CAR LEAVE
19 AFTER MR. HARRIS LEFT OUTSIDE THE APARTMENT?

20 A. NO, SIR.

21 Q. ALRIGHT. LET ME ASK YOU THIS TO KIND OF BACK UP
22 A LITTLE BIT, WHILE YOU WERE IN THERE TALKING
23 WITH ASHLEY DID YOU SEE AT ANY POINT IN TIME ANY
24 WEAPONS INSIDE THE APARTMENT?

25 A. YES, SIR.

DIRECT - SHANNON R. MITCHELL BY SOL. SORENSON

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1 Q. WHAT KIND OF WEAPON DID YOU SEE?

2 A. A THREE FIFTY-SEVEN THAT HE HAD, YEAH.

3 Q. WHO HAD THE, WHO HAD THAT WEAPON - - -

4 A. CHARLES.

5 Q. --- WHILE YOU WERE IN THERE?

6 A. OH, ASHLEY WAS HOLDING THE WEAPON.

7 Q. OKAY. YOU SAID IT WAS A THREE FIFTY-SEVEN?

8 A. YES, SIR, IT WAS A REVOLVER.

9 Q. A REVOLVER. OKAY. AND HAD YOU SEEN THAT GUN
10 PRIOR TO THAT NIGHT, THAT FRIDAY NIGHT?

11 A. YES, SIR.

12 Q. AND DID YOU KNOW WHOSE GUN IT WAS?

13 A. IT WAS CHARLES'S.

14 Q. OKAY. BUT ASHLEY HAD IT IN HER POSSESSION WHILE
15 YOU WERE THERE THAT NIGHT?

16 A. YES, SIR.

17 Q. NOW, AFTER PETE LEFT HOW LONG DID YOU END UP
18 STAYING THERE?

19 A. ABOUT MAYBE TEN MINUTES.

20 Q. AND HOW LONG DO YOU THINK YOU WERE THERE TOTAL?

21 A. THIRTY TO MAYBE FORTY MINUTES TOTAL.

22 Q. AND WHAT WAS -- LET ME ASK YOU, WHEN YOU LEFT THE
23 APARTMENT THAT NIGHT, I MEAN, WHAT CONDITION WAS
24 IT IN?

25 A. EVERYTHING WAS FINE. A COUPLE THINGS WAS ON THE

DIRECT - SHANNON R. MITCHELL BY SOL. SORENSON

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1 TABLE, THAT'S ABOUT IT.

2 Q. WERE THE COUCH AND THE LOVE SEAT CUSHIONS IN
3 THEIR PROPER PLACE?

4 A. YES, SIR.

5 Q. WAS THE CARPET ALL TORN UP AT ALL THAT YOU CAN
6 RECALL?

7 A. NO, SIR.

8 Q. AND WHEN YOU LEFT WHO WAS STILL IN THE APARTMENT
9 WHEN YOU LEFT THAT NIGHT?

10 A. JUST ASHLEY AND CHARLES.

11 Q. ALRIGHT. AND WHERE DID YOU END UP GOING,
12 SHANNON?

13 A. I WENT TO PICK UP A FRIEND.

14 Q. AND WHO WAS THAT FRIEND YOU PICKED UP?

15 A. SHELDON.

16 COURT REPORTER: WHO?

17 A. SHELDON.

18 Q. SHELDON. ALRIGHT. AND WHAT DID YOU AND SHELDON
19 THEN GO DO, DO YOU RECALL?

20 A. TALK ABOUT SOME THINGS, SMOKED A COUPLE OF
21 JOINTS, THAT'S ABOUT IT.

22 Q. OKAY. AND SOMETIME LATER ON AFTER YOU LEFT DID
23 YOU GET A CALL FROM ANYBODY, SPECIFICALLY, FROM
24 ASHLEY?

25 A. YES, SIR.

DIRECT - SHANNON R. MITCHELL BY SOL. SORENSON

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1 Q. OKAY. AND HOW WAS SHE ON THE PHONE WHEN SHE
2 CALLED?

3 A. KIND OF UPSET. SHE CALLED AND TOLD ME OLD SCHOOL
4 GOT KILLED.

5 Q. NOW, DID YOU TALK TO, AT ANY POINT IN TIME LATER
6 ON THAT NIGHT AFTER YOU LEFT THE APARTMENT DID
7 YOU TALK TO MR. HARRIS AGAIN?

8 A. YES, SIR.

9 Q. OKAY. AND WAS THAT IN PERSON OR ON THE
10 TELEPHONE?

11 A. TELEPHONE.

12 Q. AND WHO -- DID HE CALL YOUR PHONE, OR YOU SAID
13 SHELDON WAS WITH YOU?

14 A. SHELDON'S PHONE.

15 Q. DO YOU REMEMBER WHAT SHELDON'S PHONE NUMBER WAS
16 BACK THEN?

17 A. IT WAS 803 403 SOMETHING, I DON'T REMEMBER THE
18 LAST FOUR DIGITS.

19 Q. IF YOU SAW IT WOULD YOU RECOGNIZE IT?

20 A. YES, SIR.

21 Q. I'M SHOWING YOU STATE'S EXHIBIT NUMBER THIRTY-
22 SIX, PHONE CALLS AT TEN:FIFTY-NINE, ELEVEN
23 O'CLOCK.

24 MS. ULLMAN: OBJECTION, YOUR HONOR, HE'S SHOWING
25 PHONE RECORDS WITH LOTS OF DIFFERENT PHONE NUMBERS ON

DIRECT - SHANNON R. MITCHELL BY SOL. SORENSON

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1 THERE, AND HE SAID HE IF YOU SAW A NUMBER WOULD YOU
2 RECOGNIZE IT? HE'S SHOWING HIM THAT NUMBER.

3 THE COURT: HE'S GOING TO HAND IT TO HIM AND SEE
4 IF HE CAN IDENTIFY IT.

5 A. YES, SIR.

6 THE COURT: YOU CAN IDENTIFY HIS NUMBER?

7 A. YES, SIR.

8 Q. OKAY. WHAT IS SHELDON'S PHONE NUMBER?

9 A.

10 Q. OKAY. ALRIGHT, AND DID YOU ACTUALLY TALK TO HIM,
11 TO MR. HARRIS?

12 A. YES, SIR.

13 Q. OKAY. AND THAT WAS ON SHELDON'S PHONE YOU WERE
14 USING, THOUGH?

15 A. YES, SIR.

16 Q. AND DO YOU KNOW WHERE HE WAS AT THAT TIME?

17 A. NO, SIR.

18 Q. WHAT DID HE WANT?

19 A. WE TOLD HIM, WELL, HE ASKED US WHAT WE WAS GOING
20 TO DO. I GUESS HE HAD FOUND OUT WHAT HAPPENED. I
21 TOLD HIM WE WERE GOING TO TAKE A RIDE AND SMOKE,
22 AND HE WANTED TO COME, WELL, HE WANTED ME TO COME
23 PICK HIM UP AND RIDE WITH HIM, BUT I DIDN'T KNOW
24 WHY.

25 Q. HE WANTED TO BE PICKED UP AT THAT POINT IN TIME?

DIRECT - SHANNON R. MITCHELL BY SOL. SORENSON

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1 A. I DIDN'T PICK HIM UP.

2 Q. YOU DIDN'T, THOUGH?

3 A. NO, SIR.

4 Q. SO, DID YOU SEE HIM ANYMORE THAT EVENING?

5 A. NO, SIR.

6 Q. OKAY. DID YOU ULTIMATELY GO BACK OVER THAT NIGHT
7 OVER TO CHARLES'S APARTMENT COMPLEX, THAT AREA?

8 A. I WENT TO SEE WHAT WAS GOING ON, AND ASK HER WHAT
9 WAS GOING ON. SHE SAID, WELL, I DIDN'T TALK TO -
10 - SHE WAS IN THE BACK OF THE CAR, COP CAR, BUT I
11 THINK IT WAS A DEPUTY ASH, SHE TOLD US THAT WE
12 COULDN'T COME AROUND, WE HAD TO LEAVE, WE
13 COULDN'T STAY AT THE SCENE.

14 Q. OKAY. DID YOU ALSO GO IN AND SPEAK TO LAW
15 ENFORCEMENT THAT - - -

16 A. NO -- OH, THAT NIGHT, YES, SIR.

17 Q. THAT WOULD BE LIEUTENANT SHUMPERT YOU SPOKE TO?

18 A. YES, SIR.

19 SOLICITOR SORENSON: THANK YOU, SHANNON.

20 THE COURT: MR. LACKEY?

21 MR. LACKEY: I HAVE NOTHING FOR THIS WITNESS,
22 YOUR HONOR.

23 THE COURT: OKAY.

24 MS. ULLMAN, OR MR. WISE, EXCUSE ME, I'M SORRY.

25 MR. WISE.

CROSS - SHANNON R. MITCHELL BY MR. WISE

558

CROSS-EXAMINATION OF SHANNON R. MITCHELL

BY MR. WISE:

Q. MR. MITCHELL, I JUST HAVE A FEW QUESTIONS FOR
YOU. WHEN YOU WERE IN THE APARTMENT THAT NIGHT,
IT WAS PRETTY DARK IN THERE, RIGHT?

A. YES, SIR.

Q. OKAY. THE ONLY LIGHTS THAT THEY HAD IN THAT
APARTMENT ON THAT NIGHT WAS A BLACK LIGHT?

A. MAYBE. IT MAYBE HAVE BEEN A RED ONE IN THE
KITCHEN BUT IT WAS A BLACK LIGHT IN THE LIVING
ROOM PART, YES, SIR.

Q. OKAY. THE ILLUMINATION, THE LIGHTING IN THE
APARTMENT MAKES IT HARD TO SEE, IS THAT RIGHT?

A. SOMEWHAT, YES, SIR.

Q. SURE. OKAY. IF YOU DIDN'T RECOGNIZE ME, AND
WE'RE THIS DISTANCE APART IN THAT LIGHTING COULD
YOU MAKE OUT MY FEATURES?

A. YES, SIR.

Q. OKAY. HOW ABOUT IF WE WERE ABOUT THIS FAR?

A. NO, SIR.

Q. OKAY. AND YOU'D SAY FROM WHERE YOU ARE TO WHERE I
AM IS ABOUT HOW FAR?

A. EIGHT FEET.

Q. EIGHT FEET. OKAY. WHEN YOU WERE IN THE
APARTMENT YOU WERE SMOKING MARIJUANA BUT YOU SAID

CROSS - SHANNON R. MITCHELL BY MR. WISE

559

- 1 ASHLEY WAS NOT?
- 2 A. NO, SIR.
- 3 Q. AND HOW LONG WERE YOU THERE?
- 4 A. FOR ABOUT THIRTY MINUTES, THIRTY TO FORTY
- 5 MINUTES.
- 6 Q. OKAY. HOW MUCH DID YOU SMOKE IN THIRTY TO FORTY
- 7 MINUTES?
- 8 A. JUST ONE.
- 9 Q. ONE?
- 10 A. JOINT.
- 11 Q. JOINT. A BLUNT?
- 12 A. YES, SIR.
- 13 Q. OKAY. ABOUT THE NORMAL SIZE OF A BLUNT IS THE
- 14 NORMAL SIZE OF A CIGAR?
- 15 A. YES, SIR.
- 16 Q. EXPLAIN TO THE JURY WHAT A BLUNT IS?
- 17 A. TOBACCO PURCHASED AT THE GAS STATION AND ROLLED
- 18 UP MARIJUANA.
- 19 Q. IT'S A CIGAR CALLED A BLUNT?
- 20 A. YES, SIR.
- 21 Q. AND YOU TAKE THE TOBACCO OUT, PUT MARIJUANA IN
- 22 AND YOU SMOKE IT?
- 23 A. YES, SIR.
- 24 Q. OKAY. ALRIGHT. IN TERMS OF HOW MUCH MARIJUANA A
- 25 BLUNT WOULD HOLD, WOULD IT BE FIVE DOLLARS WORTH,

CROSS - SHANNON R. MITCHELL BY MR. WISE

560

1 TEN DOLLARS WORTH?

2 A. FIVE DOLLARS.

3 Q. FIVE DOLLARS WORTH. ALRIGHT. AND YOU JUST HAD
4 THE ONE BLUNT?

5 A. YES, SIR.

6 Q. WHEN YOU ARE SITTING SMOKING THIS BLUNT AND
7 TALKING TO ASHLEY, HOW FAR AWAY FROM ASHLEY ARE
8 YOU?

9 A. MAYBE A FOOT. SHE'S SITTING RIGHT NEXT TO ME.

10 Q. SHE'S RIGHT NEXT TO YOU?

11 A. YES, SIR.

12 Q. OKAY. YOU ARE SMOKING THE BLUNT AND YOU'RE
13 BREATHING THE MARI -- SMOKING THE MARIJUANA, THE
14 SMOKE'S OUT AND YOU'RE BREATHING IT, SHE'S
15 BREATHING IT?

16 A. YES, SIR.

17 Q. OKAY. ALRIGHT. YOU TESTIFIED THAT ASHLEY CALLED
18 YOU LATER AFTER YOU LEFT?

19 A. YES, SIR.

20 Q. WHAT DID SHE SAY TO YOU?

21 A. SHE TOLD ME THAT OLD SCHOOL WAS DEAD, HAD BEEN
22 KILLED.

23 Q. DID SHE TELL YOU WHAT HAPPENED?

24 A. NO, SIR.

25 Q. DID SHE TELL YOU WHO DID IT?

CROSS - SHANNON R. MITCHELL BY MR. WISE

561

1 A. NO, SIR.

2 Q. DID SHE TELL ME HOW MANY PEOPLE WERE INVOLVED?

3 A. NO, SIR.

4 Q. DID SHE SAY THAT SHE SAW ANYBODY?

5 A. NO, SIR.

6 Q. DID SHE SAY SHE SAW ANYBODY'S FACE?

7 A. NO, SIR.

8 Q. DID SHE DESCRIBE ANYBODY?

9 A. NO, SIR.

10 Q. ANYBODY AS TALL OR SHORT?

11 A. NO, SIR.

12 Q. CHUBBY OR THIN?

13 A. NO, SIR.

14 Q. OKAY. SHE COULDN'T GIVE YOU ANY INFORMATION
15 ABOUT WHO DID IT?

16 A. NO, SIR.

17 Q. DID SHE GIVE YOU ANY INFORMATION ABOUT HOW MANY
18 PEOPLE WERE INVOLVED?

19 A. NO, SIR.

20 Q. OKAY.

21 MR. WISE: YOUR HONOR, MAY I HAVE ONE MOMENT?

22 THE COURT: SURE.

23 MR. WISE: THANK YOU, MR. MITCHELL.

24 A. YES, SIR.

25 THE COURT: MR. PALMER.

1 MR. PALMER: YES, SIR. IF I COULD REMAIN HERE,
2 YOUR HONOR?

3 THE COURT: YES, SIR, YOU MAY.

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

CROSS - SHANNON R. MITCHELL BY MR. PALMER

563

CROSS-EXAMINATION OF SHANNON R. MITCHELL

BY MR. PALMER:

Q. HOW ARE YOU DOING, MR. MITCHELL?

A. ALRIGHT.

Q. YOU'VE ALREADY TESTIFIED YOU WERE FRIENDS WITH MY
CLIENT, AND YOU SMOKED WEED WITH HIM BEFORE?

A. WITH?

Q. MR. HARRIS, PETE?

A. NO, SIR.

Q. YOU HAVEN'T?

A. NO, SIR.

Q. OKAY. WERE YOU SURPRISED TO SEE HIM THAT NIGHT?

A. KIND OF, SORT OF, BUT NOT REALLY, NO, SIR.

Q. NOW, IT'S YOUR TESTIMONY THAT HE HAD NEVER BEEN
THERE BEFORE TO YOUR KNOWLEDGE?

A. YES, SIR.

Q. AND HOW LONG, TOTAL, DID HE STAY?

A. HOW MANY AMOUNT OF MINUTES, MAYBE TWO OR THREE,
FOUR MINUTES, SOMETHING LIKE THAT.

Q. OKAY. ALRIGHT. AND DO YOU, HAVE YOU BEEN IN MR.
PRINGLE'S APARTMENT WHEN HE ASKED FOR SOMEONE
ELSE'S ID?

A. YES, SIR.

Q. PRIOR TO THIS EVENT?

A. YES, SIR.

CROSS - SHANNON R. MITCHELL BY MR. PALMER

564

1 Q. WHAT -- DO YOU HAVE AN UNDERSTANDING OF WHAT THE
2 PURPOSE OF THE ID THING IS, WHAT DOES IT MATTER
3 WHAT THEIR ID SAYS?

4 A. HE TOLD ME AN HONEST MAN CARRIES ID. HE SAID - -
5 -

6 Q. UH-HUH.

7 A. --- HE WOULD ALWAYS CHECK ANY PERSON HE DIDN'T
8 KNOW TO SEE, BEFORE, BECAUSE HE'S NOT FROM AROUND
9 HERE. SO, HE ASKED FOR ANYONE'S ID, HE WANTED TO
10 SEE, THAT HE DIDN'T KNOW, HE CHECKED IT OUT.
11 COOL.

12 Q. ALRIGHT. OKAY. SO, IF A PERSON DIDN'T HAVE ID
13 HE MIGHT NOT DO BUSINESS WITH HIM?

14 A. I COULDN'T SAY.

15 Q. IS THAT -- OR YOU COULDN'T SAY. ALRIGHT.

16 A. I WOULDN'T KNOW.

17 Q. SO, PETE SHOWS UP, HE STAYS A FEW MINUTES. MR.
18 PRINGLE DOESN'T HAVE WHAT HE WANTS AND HE LEAVES,
19 IS THAT ACCURATE?

20 A. NO, SIR.

21 Q. NOW, SO WHAT DID I MISS?

22 A. YOU SAID, HE WANTS AND HE LEAVES? REPHRASE YOUR
23 QUESTION.

24 Q. MR. PRINGLE DIDN'T HAVE WHAT HE WANTED, THE TYPE
25 OF WEED THAT HE WANTED, CORRECT?

CROSS - SHANNON R. MITCHELL BY MR. PALMER

565

1 A. YES, SIR.

2 Q. SO, THEN, MR. HARRIS LEAVES?

3 A. YES, SIR.

4 Q. AND YOU DON'T SEE HIM AFTER THAT, IS THAT
5 CORRECT?

6 A. NO, SIR.

7 Q. OKAY. YOU DO TALK TO HIM ON THE PHONE, THOUGH?

8 A. YES, SIR.

9 Q. AND THE CONVERSATION WAS THAT HE WANTED YOU TO
10 COME PICK HIM UP?

11 A. YES, SIR.

12 Q. WHAT KIND OF CAR DID YOU HAVE BACK THEN?

13 A. A HONDA ACCORD, TWO THOUSAND TWO.

14 Q. OKAY. AND YOU SAID THAT, I'M NOT COMING TO PICK
15 YOU UP?

16 A. YES, SIR.

17 Q. AND THAT WAS IT?

18 A. YES, SIR.

19 MR. PALMER: OKAY. THANK YOU, SIR.

20 THE COURT: MR. MELLARD.

21 MR. MELLARD: NO QUESTIONS, YOUR HONOR.

22 THE COURT: MR. KOGER.

23 (NOTE: Blank lines on this page do not indicate any
24 part of record has been omitted. See next ensuing
25 page for sequential continuation of record.)

CROSS - SHANNON R. MITCHELL BY MR. KOGER

566

CROSS-EXAMINATION OF SHANNON R. MITCHELL

BY MR. KOGER:

Q. MR. MITCHELL, DID YOU SEE MARIO SHIVERS ON THE
SCENE ANYTIME THAT NIGHT?

A. NO, SIR.

MR. KOGER: THANK YOU, NO FURTHER QUESTIONS.

THE COURT: ALRIGHT. ANYTHING ON REDIRECT?

SOLICITOR SORENSON: JUST ONE BRIEF QUESTION.

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pages and hard page breaks between testimony are now
required by the Court. See next ensuing page for
sequential continuation of record.)

REDIRECT - SHANNON R. MITCHELL BY SOL. SORENSON

567

REDIRECT EXAMINATION OF SHANNON R. MITCHELL

BY SOLICITOR SORENSON:

Q. DID YOU HAVE ANY PROBLEM -- YOU TALKED ABOUT, MR. WISE ASKED YOU ABOUT THE LIGHTING IN THE APARTMENT, I MEAN, DID YOU HAVE ANY PROBLEM SEEING AND IDENTIFYING WALTER HARRIS WHEN HE WAS IN THERE THAT NIGHT?

A. NO, SIR.

Q. THERE WAS NO DOUBT IN YOUR MIND THAT WAS HIM?

A. NO, SIR.

SOLICITOR SORENSON: THAT'S ALL I HAVE.

THE COURT: MR. LACKEY, ANYTHING ON RECROSS?

MR. LACKEY: NOTHING.

THE COURT: MR. WISE?

MR. WISE: NO, YOUR HONOR.

THE COURT: MR. PALMER.

MR. PALMER: NO, SIR.

THE COURT: MR. MELLARD?

MR. MELLARD: NO, SIR.

THE COURT: MR. KOGER?

MR. KOGER: NO, YOUR HONOR.

THE COURT: ALRIGHT. THANK YOU, MR. MITCHELL, YOU MAY STEP DOWN. APPRECIATE YOU COMING.

SOLICITOR SORENSON: MAY HE BE EXCUSED?

THE COURT: YOU MAY BE EXCUSED. OKAY.

1 ALRIGHT, SIR.

2 SOLICITOR PASCOE: I CALL ANDRE WASHINGTON, YOUR
3 HONOR.

4 THE COURT: ALRIGHT, SIR. ANDRE WASHINGTON?
5 (Whereupon, the witness
6 enters the courtroom.)

7 CLERK: SIR, PLACE YOUR LEFT HAND ON THE BIBLE
8 AND RAISE YOUR RIGHT HAND.

9 (Whereupon, Andre Washington
10 is duly sworn.)

11 CLERK: HAVE A SEAT AND STATE YOUR FULL NAME FOR
12 THE COURT.

13 WITNESS: ANDRE WASHINGTON.

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

DIRECT - ANDRE WASHINGTON BY SOL. PASCOE

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DIRECT EXAMINATION OF ANDRE WASHINGTON

BY SOLICITOR PASCOE:

Q. GOOD MORNING, MR. WASHINGTON.

A. ALRIGHT.

Q. I APPRECIATE YOU COMING TODAY. YOU NEED TO SPEAK
UP AS CLEARLY AS YOU CAN, OKAY, SO THE COURT
REPORTER CAN HEAR YOU AND THE JURORS. ALRIGHT?

A. ALRIGHT.

Q. THANK YOU. HOW OLD ARE YOU, MR. WASHINGTON?

A. TWENTY-THREE.

Q. DO YOU LIVE HERE IN ORANGEBURG COUNTY?

A. YES, SIR.

Q. OKAY. DO YOU KNOW A YOUNG MAN, A SEVENTEEN YEAR
OLD BY THE NAME OF PATRICK TYLER?

A. NO, SIR.

Q. DO YOU KNOW CHRIS COLEMAN, THE DEFENDANT RIGHT
HERE?

A. NO, SIR.

Q. DO YOU KNOW RALPH COLEMAN IN THE BLUE SHIRT?

A. I JUST WENT TO SCHOOL WITH HIM, THAT'S IT.

Q. WERE Y'ALL FRIENDS?

A. NO.

Q. DID YOU EVER HANG OUT WITH HIM?

A. NO.

Q. DO YOU KNOW THE DEFENDANT, WALTER HARRIS, IN THE

DIRECT - ANDRE WASHINGTON BY SOL. PASCOE

570

1 MIDDLE WITH THE BROWN SHIRT?

2 A. YES, SIR.

3 Q. AND HOW LONG HAVE YOU KNOWN MR. WALTER HARRIS?

4 A. ABOUT A COUPLE OF YEARS.

5 Q. AND WERE YOU FRIENDS WITH HIM?

6 A. WE BE STRAIGHT, BUT NOT LIKE THAT.

7 COURT REPORTER: WHAT? I'M SORRY.

8 SOLICITOR PASCOE: HE SAID, WE BE STRAIGHT, BUT
9 NOT LIKE THAT.

10 A. NOT LIKE THAT.

11 Q. DID YOU KNOW THE DEFENDANT, DANNY RYANT?

12 A. NO, SIR.

13 Q. AT ALL?

14 A. HUH-UH.

15 Q. AND DID YOU KNOW THE DEFENDANT, MARIO SHIVERS, ON
16 THE END WITH THE BLUE SHIRT?

17 A. NO, SIR.

18 Q. AT ALL?

19 A. HUH-UH.

20 Q. SO, OF THE FIVE DEFENDANTS THE ONLY ONE THAT YOU
21 REALLY KNEW CLOSE FOR A FEW YEARS WAS WHO?

22 A. PETE.

23 Q. AND WHO IS PETE?

24 A. OVER THERE.

25 Q. IN THE BROWN SHIRT IN THE MIDDLE?

DIRECT - ANDRE WASHINGTON BY SOL. PASCOE

571

1 A. YEAH.

2 Q. IS THAT THE NAME WALTER HARRIS WENT BY?

3 A. (Witness nods in the affirmative.)

4 Q. OKAY. YOU'VE GOT TO SPEAK UP, OKAY?

5 A. ALRIGHT.

6 Q. I'M GETTING HARD OF HEARING, TOO, SO -- DID YOU
7 KNOW THE VICTIM IN THIS CASE, MR. CHARLES
8 PRINGLE?

9 A. NO, SIR.

10 Q. HAD YOU EVER BEEN TO HIS APARTMENT ON KINGS ROAD?

11 A. NO, SIR.

12 Q. OKAY. LET ME ASK YOU THIS, MR. WASHINGTON, DO
13 YOU RECOGNIZE WHAT'S BEEN MARKED AS STATE'S
14 EXHIBIT SEVENTY-THREE? HOLD IT AND TAKE A LOOK
15 AT IT. DO YOU RECOGNIZE THAT?

16 A. YES.

17 Q. WHAT DO YOU RECOGNIZE THAT TO BE?

18 A. A FORTY CALIBER HE SOLD ME.

19 Q. AND WHEN YOU SAY, HE SOLD YOU, WHO SOLD YOU THAT
20 FORTY CALIBER?

21 A. PETE.

22 Q. OKAY. AND IS THERE ANYTHING ON THERE, A SCUFF OR
23 ANYTHING THAT YOU RECOGNIZE?

24 A. PROBABLY LIKE, BY THE CLIP.

25 Q. AND LET ME SHOW YOU WHAT'S BEEN MARKED STATE'S

DIRECT - ANDRE WASHINGTON BY SOL. PASCOE

572

1 EXHIBIT SEVENTY-FOUR, DO YOU RECOGNIZE THAT?

2 A. YEAH.

3 Q. WHAT DO YOU RECOGNIZE THAT AS?

4 A. IT'S THE CLIP.

5 Q. THE CLIP OF WHAT?

6 A. THE FORTY CALIBER.

7 Q. WHO GAVE YOU THAT CLIP?

8 A. PETE.

9 Q. OKAY. WHEN DID PETE, OR MR. WALTER HARRIS SELL
10 YOU STATE'S EXHIBITS SEVENTY-THREE AND SEVENTY-
11 FOUR?

12 A. REPEAT THAT AGAIN?

13 Q. WHEN DID HE SELL YOU THOSE TWO ITEMS?

14 A. IN MARCH, AROUND SOME TIME IN MARCH.

15 Q. OF THIS YEAR?

16 A. YEAH.

17 Q. OKAY. HOW LONG AFTER WALTER HARRIS SOLD YOU THE
18 GUN DID YOU KEEP IT IN YOUR POSSESSION?

19 A. ABOUT THREE OR FOUR DAYS.

20 Q. OKAY. WHAT DID YOU END UP DOING WITH THE GUN?

21 A. SELLING IT.

22 Q. AND WHY DID YOU END UP SELLING IT?

23 A. BECAUSE I FOUND OUT IT WAS HOT, AND AFTER THAT I
24 SOLD IT.

25 Q. AND WHEN YOU SAY IT WAS HOT, WHAT DOES THAT MEAN?

DIRECT - ANDRE WASHINGTON BY SOL. PASCOE

573

1 A. I FOUND OUT SOMETHING WAS DONE WITH IT, DEALING
2 WITH A MURDER OR WHATEVER, SO I SOLD IT.

3 Q. OKAY. DID YOU FIND THAT OUT WHEN YOU BOUGHT THE
4 GUN FROM MR. HARRIS OR AFTER?

5 A. AFTER.

6 Q. SO, IF YOU SOLD THE GUN TO -- DO YOU KNOW WHO
7 CHRISTOPHER DWIGHT IS?

8 A. YEAH.

9 Q. WHO DID YOU SELL THE GUN TO?

10 A. YEAH, THAT'S WHO I SOLD IT TO.

11 Q. AND IF YOU SOLD IT TO HIM ON MARCH THE
12 SEVENTEENTH, BECAUSE IT WAS HOT, WHICH WAS A
13 WEDNESDAY, WHAT DAY DO YOU THINK YOU GOT THAT
14 EXHIBIT, THAT GUN?

15 MS. ULLMAN: OBJECTION, YOUR HONOR, NONE OF THAT
16 HAS BEEN PUT INTO EVIDENCE, NOBODY SAID THAT HE HAD
17 SOLD IT TO ANYBODY.

18 THE COURT; WAIT, HOLD ON JUST A SECOND, MR.
19 WASHINGTON.

20 WHAT'S YOUR OBJECTION?

21 MS. ULLMAN: THE SOLICITOR SAID THAT ON MARCH
22 SEVENTEENTH WHEN HE SOLD WHATEVER, HOW MANY DAYS PRIOR
23 TO THAT DID HE PURCHASE IT? NOBODY HAS EVER STATED
24 EXCEPT FOR MR. PASCOE THAT THIS GUN WAS SOLD ON MARCH
25 SEVENTEENTH.

DIRECT - ANDRE WASHINGTON BY SOL. PASCOE

574

1 THE COURT: WELL, I THINK HE, MR. WASHINGTON
2 TESTIFIED THAT HE SOLD IT TO MR. CHRISTOPHER SOMEONE.

3 SOLICITOR PASCOE: CHRISTOPHER DWIGHT, YES, SIR.

4 THE COURT: CHRISTOPHER DWIGHT ON THE
5 SEVENTEENTH. WAS THAT YOUR TESTIMONY, MR. WASHINGTON?

6 A. YEAH, I SOLD IT.

7 THE COURT: AND DO YOU REMEMBER THAT DATE?

8 A. I DON'T REMEMBER THE EXACT DATE THAT I SOLD IT
9 ON, BUT I SOLD IT. I KNOW I AIN'T HAD IT BUT
10 LIKE THREE OR FOUR DAYS.

11 SOLICITOR PASCOE: AND THAT'S THE POINT I WAS
12 TRYING TO MAKE. I GUESS THE PURPOSE - - -

13 Q. IF YOU SOLD IT ON A WEDNESDAY, WHAT DAY OF THE
14 WEEK DID YOU BUY THAT GUN, OR HOW MUCH EARLIER
15 DID YOU BUY THAT GUN?

16 THE COURT: YEAH.

17 Q. WHAT DAY OF THE WEEK DID YOU BUY THAT GUN?

18 A. PROBABLY LIKE ON A, IT HAD TO OF BEEN A SATURDAY
19 OR SUNDAY.

20 Q. AND THIS WAS -- I DON'T KNOW HOW MANY -- THAT'S
21 LIKE NINE MONTHS AGO. YOU DON'T KNOW THE EXACT
22 DAY YOU SOLD THE GUN TO CHRISTOPHER DWIGHT,
23 RIGHT?

24 A. I DON'T KNOW THE EXACT DATE.

25 Q. TELL THE JURY IF YOU COULD NOW, GO INTO DETAIL,

DIRECT - ANDRE WASHINGTON BY SOL. PASCOE

575

1 HOW YOU WENT ABOUT BUYING THAT FORTY CALIBER GUN
2 FROM WALTER HARRIS?

3 A. WELL, I HAD CALLED HIM AND I ASKED HIM, YOU KNOW,
4 IF SOMEBODY IS SELLING A GUN, AND HE WAS, LIKE,
5 YEAH, HE GOT A FORTY CAL. AND THAT'S WHEN HE
6 CAME AND HE BROUGHT IT TO THE HOUSE, AND I GAVE
7 HIM TWO FIFTY AND MY THIRTY-TWO AUTOMATIC FOR IT.

8 Q. OKAY. SO, YOU GAVE HIM TWO HUNDRED AND FIFTY
9 DOLLARS AND ANOTHER GUN FOR THE FORTY CALIBER
10 GUN?

11 A. YEAH.

12 Q. AND THAT WAS ON A SATURDAY OR A SUNDAY?

13 A. YEAH.

14 Q. LET'S SEE, DID -- WHEN HE SOLD YOU THE GUN WERE
15 THERE ANY BULLETS IN THE MAGAZINE?

16 A. NOT THAT I KNOW OF. WELL, WHEN HE GOT TO THE
17 DOOR HE TOOK TWO OUT OF THE CLIP.

18 Q. OKAY. SO, WHEN HE GOT TO WHAT DOOR, THE DOOR TO
19 YOUR HOUSE, A CAR OR WHAT?

20 A. YEAH, LIKE THE CAR DOOR.

21 Q. AND HOW MANY WERE IN THE CLIP THAT HE TOOK OUT?

22 A. LIKE TWO.

23 Q. HOW MANY BULLETS DOES THE CLIP HOLD?

24 A. TEN.

25 Q. WOULD YOU HAVE BOUGHT THE GUN IF YOU KNEW HE HAD

DIRECT - ANDRE WASHINGTON BY SOL. PASCOE

576

1 BEEN USED IN A MURDER?

2 A. NO, I WOULDN'T HAVE BOUGHT IT.

3 Q. DID YOU EVER USE THE FORTY CALIBER IN THE THREE
4 TO FOUR DAYS THAT IT WAS IN YOUR POSSESSION?

5 A. NO, SIR.

6 Q. AND WHY DID YOU SELL THE GUN TO CHRISTOPHER
7 DWIGHT THREE OR FOUR DAYS LATER?

8 A. BECAUSE I FOUND OUT IT WAS HOT.

9 Q. DID YOU LET CHRISTOPHER DWIGHT KNOW THAT?

10 A. YEAH, HE KNEWED IT WAS HOT.

11 Q. AND HOW MUCH DID YOU SELL THE GUN TO CHRISTOPHER
12 DWIGHT FOR?

13 A. THREE HUNDRED.

14 Q. AND MR. WASHINGTON, I'VE LEARNED, AND I THINK
15 YOU'RE THE ONE THAT TOLD ME THIS, DO YOU HAVE
16 PENDING CHARGES IN MY OFFICE?

17 A. YES, SIR.

18 Q. OKAY. FAILURE TO STOP FOR A BLUE LIGHT?

19 A. UH-HUH.

20 Q. AND THAT CARRIES ZERO TO THREE YEARS, DO YOU KNOW
21 THAT, IS THAT RIGHT?

22 A. YES, SIR.

23 Q. AND ARE THERE ANY DEALS OR NEGOTIATIONS FOR YOUR
24 SENTENCE IN THAT CASE?

25 A. NO, SIR.

DIRECT - ANDRE WASHINGTON BY SOL. PASCOE

577

1 Q. AND YOU MIGHT HAVE, I'VE BEEN TOLD, DO YOU HAVE
2 FORGERY CHARGES IN MY OFFICE?

3 A. NOT THAT I KNOW OF.

4 Q. OKAY. LET ME ASK YOU THIS, IF YOU DO HAVE
5 FORGERY CHARGES, HAVE THERE BEEN ANY DEALS OR
6 NEGOTIATIONS ABOUT THOSE?

7 A. OH, NO.

8 Q. IN FACT, WE HAVEN'T TALKED ABOUT ANY CHARGES AT
9 ALL WITH YOU, HAVE WE?

10 A. NO.

11 Q. DID YOU MEET WITH DETECTIVE SHUMPERT SOMETIME
12 BACK IN MARCH RIGHT AFTER YOU SOLD THAT GUN TO
13 CHRISTOPHER DWIGHT?

14 A. YES, SIR.

15 Q. OKAY. AND DID YOU COOPERATE WITH HIM?

16 A. YEAH.

17 Q. DID YOU TELL HIM EVERYTHING YOU TOLD THE JURY
18 TODAY?

19 A. YES, SIR.

20 Q. AND THE PERSON THAT YOU BOUGHT STATE'S EXHIBIT
21 SEVENTY-THREE FROM ON THAT SATURDAY, DO YOU SEE
22 HIM IN THE COURTROOM?

23 A. YES, SIR.

24 Q. AND POINT HIM OUT FOR THE JURY?

25 A. HE'S OVER THERE.

DIRECT - ANDRE WASHINGTON BY SOL. PASCOE

578

1 Q. THE BROWN SHIRT, PETE?

2 A. YEAH.

3 SOLICITOR PASCOE: OKAY. THANK YOU, MR.
4 WASHINGTON, ANSWER ANY QUESTIONS THEY HAVE FOR YOU.

5 THE COURT: MR. LACKEY.

6 MR. LACKEY: YOUR HONOR, I HAVE NONE.

7 THE COURT: ALRIGHT, MS. ULLMAN, OR MR. WISE.
8 MS. ULLMAN, SORRY.

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

CROSS - ANDRE WASHINGTON BY MS. ULLMAN

579

CROSS-EXAMINATION OF ANDRE WASHINGTON

BY MS. ULLMAN:

Q. YOU SAY THAT YOU KNOW THAT CLIP HOLDS TEN
BULLETS, IS THAT RIGHT?

A. UH-HUH.

Q. IS IT POSSIBLE THAT THERE WOULD BE ELEVEN BULLETS
IN A GUN IF IT WAS FULLY LOADED, YOU CAN CHAMBER
ONE AND THEN LOAD THE CLIP, CORRECT?

A. YEAH, YOU CAN PUT ON IN THE HEAD.

Q. SO, THERE COULD CERTAINLY BE ELEVEN BULLETS, IS
THAT RIGHT?

A. UH-HUH.

Q. OKAY. WHY DID YOU WANT TO BUY A GUN?

A. FOR PROTECTION.

Q. FOR PROTECTION?

A. UH-HUH.

Q. DO YOU HAVE A DANGEROUS JOB?

A. NO, JUST I WAS IN A LITTLE SITUATION AROUND THAT
TIME ANYWAY SO I HAD NEEDED A GUN.

Q. YOU WERE IN A SITUATION THAT YOU FELT YOU NEEDED
A GUN?

A. YEAH, AROUND THAT TIME.

MS. ULLMAN: NO FURTHER QUESTIONS.

THE COURT: THANK YOU.

ALRIGHT, MR. PALMER.

CROSS - ANDRE WASHINGTON BY MR. PALMER

580

CROSS-EXAMINATION OF ANDRE WASHINGTON

BY MR. PALMER:

Q. HOW DID YOU FIND OUT THE GUN WAS HOT?

A. BECAUSE ONCE I WENT BACK OVER THERE ON JAMISON
AND PEOPLE WAS TALKING PRETTY MUCH AND - - -

Q. DO YOU REMEMBER WHO WAS TALKING?

A. WELL, THE GUY, CHRISTOPHER DWIGHT, HE WAS
TALKING.

Q. CHRISTOPHER DWIGHT, THAT'S THE GUY YOU SOLD IT
TO, RIGHT?

A. YEAH, HE WAS PRETTY MUCH TALKING ABOUT WHAT HE
HEARD AND ALL THAT, AND HE WAS, LIKE, WELL, THAT
MIGHT BE THE GUN. SO, ONCE HE SAID THAT I
DECIDED TO SELL IT.

Q. OKAY. DID YOU END UP BUYING ANOTHER GUN?

A. NO, SIR.

Q. SO, THAT WAS THE ONLY GUN YOU'VE EVER OWNED?

A. YES, SIR.

Q. EXCEPT FOR THE ONE YOU TRADED?

A. YEAH, EXCEPT FOR THAT ONE.

Q. WHAT KIND OF GUN WAS THAT?

A. A THIRTY-TWO AUTOMATIC.

Q. OKAY. WHAT DID YOU NEED THAT GUN FOR?

A. PROTECTION.

Q. OKAY. NOW, YOU'D NEVER USE IT ON ANYBODY, WOULD

CROSS - ANDRE WASHINGTON BY MR. PALMER

581

1 YOU?

2 A. NO, SIR.

3 Q. AND JUST BECAUSE YOU OWN A GUN DOESN'T MEAN
4 YOU'RE GOING TO KILL ANYBODY, DOES IT?

5 A. NO, SIR.

6 MR. PALMER: OKAY. THANK YOU.

7 THE COURT: ALRIGHT. MR. MELLARD.

8 MR. MELLARD: NO QUESTIONS, YOUR HONOR.

9 THE COURT: AND MR. KOGER.

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

CROSS - ANDRE WASHINGTON BY MR. KOGER

582

CROSS-EXAMINATION OF ANDRE WASHINGTON

BY MR. KOGER:

Q. MR. WASHINGTON, YOU DIDN'T PURCHASE THE GUN
FROM MR. SHIVERS, DID YOU?

A. NO, SIR.

MR. KOGER: THANK YOU, NO FURTHER QUESTIONS.

THE COURT: ALRIGHT. ANYTHING ON REDIRECT?

SOLICITOR PASCOE: NO, SIR, THANK YOU.

THE COURT: ALRIGHT. THANK YOU, MR. WASHINGTON,
YOU MAY STEP DOWN. APPRECIATE IT.

ALRIGHT, CALL YOUR NEXT WITNESS.

SOLICITOR SORENSON: THE STATE CALLS MONEAK
BUSBY.

(Whereupon, the witness
enters the courtroom.)

CLERK: MA'AM, PLACE YOUR LEFT HAND ON THE BIBLE
AND RAISE YOUR RIGHT HAND.

(Whereupon, Moneak Busby
is duly sworn.)

CLERK: YOU MAY HAVE A SEAT AND STATE OUR FULL
NAME FOR THE COURT.

WITNESS: MONEAK R. BUSBY.

(NOTE: Blank lines on this page do not indicate any
part of record has been omitted. See next ensuing
page for sequential continuation of record.)

DIRECT - MONEAK R. BUSBY BY SOL. SORENSON

583

DIRECT EXAMINATION OF MONEAK R. BUSBY

BY SOLICITOR SORENSON:

Q. GOOD MORNING, MONEAK.

A. GOOD MORNING, SIR.

Q. IF YOU WOULD, TELL THE JURY WHERE YOU LIVE?

A. [REDACTED] GREEN STREET, MALIBU APARTMENTS.

Q. AND THAT'S HERE IN ORANGEBURG?

A. YES, SIR.

Q. DID YOU GROW UP HERE IN ORANGEBURG?

A. YES, SIR.

Q. AND I WANT TO TURN YOUR ATTENTION, IF I COULD,
MONEAK, BACK TO FRIDAY, MARCH THE TWELFTH OF THIS
YEAR. DO YOU REMEMBER THAT NIGHT?

A. YES, SIR.

Q. DO YOU REMEMBER WHAT YOU WERE DOING THAT FRIDAY
NIGHT?

A. YES, SIR.

Q. OKAY. AND WHERE DID YOU END UP GOING THAT FRIDAY
NIGHT?

A. TO A POOL ROOM CALLED THE CORNER POCKET.

Q. OKAY. AND WHERE IS THE CORNER POCKET LOCATED AT?

A. ON THE CORNER OF STILTON.

Q. ALRIGHT. AND LET ME SHOW YOU STATE'S EXHIBITS
THIRTY AND THIRTY-ONE, IS THAT THE CORNER POCKET?

A. YES, SIR.

DIRECT - MONEAK R. BUSBY BY SOL. SORENSON

584

1 Q. OKAY. AND WHAT IS THE CORNER POCKET?

2 A. IT'S A LITTLE POOL ROOM.

3 Q. A POOL BAR?

4 A. POOL BAR.

5 Q. A POOL HALL. AND WHO DID, WHO DID YOU GO TO THE
6 CORNER POCKET WITH THAT NIGHT?

7 A. YVONNE SHARPERSON, MAKIVA MONROE, AND SHAUN
8 MONROE.

9 Q. OKAY, AND THOSE THREE PEOPLE, MAKIVA, SHAUN AND
10 YVONNE, OUT OF THOSE THREE PEOPLE ARE ANY OF THEM
11 RELATED TO ANY OF THE DEFENDANTS HERE IN COURT
12 TODAY?

13 A. YES, SIR.

14 Q. OKAY. AND WHO IS RELATED TO WHO OVER THERE?

15 A. RYANT, THAT'S HIS MOTHER.

16 Q. OKAY. DANNY, THE DEFENDANT, DANNY RYANT THAT'S
17 IN THE KIND OF LIGHT COLORED SHIRT TOWARDS, THE
18 SECOND FROM THE RIGHT?

19 A. YES, SIR.

20 Q. ALRIGHT, AND WHO IS MR. RYANT'S MOTHER?

21 A. MAKIVA.

22 Q. OKAY. AND HOW ABOUT SHAUN, IS SHE RELATED TO MR.
23 RYANT?

24 A. THAT'S HIS AUNT.

25 Q. THAT'S HIS AUNT, SO THAT'S MAKIVA'S SISTER, IS

DIRECT - MONEAK R. BUSBY BY SOL. SORENSON

585

1 THAT RIGHT?

2 A. YES, SIR.

3 Q. ALRIGHT. AND HOW ABOUT MS. SHARPERSON, IS SHE
4 RELATED TO ANY OF THESE DEFENDANTS?

5 A. NO, SIR.

6 Q. OKAY. NOW, THE FOUR OF Y'ALL ENDED UP GOING,
7 YOU, MAKIVA, SHAUN AND YVONNE WENT OVER TO THE
8 CORNER POCKET THAT NIGHT?

9 A. YES, SIR.

10 Q. AND DO YOU KNOW ABOUT WHAT TIME YOU GOT THERE?

11 A. BETWEEN EIGHT, EIGHT:THIRTY.

12 Q. OKAY. AND YOU WERE JUST GOING TO HANG OUT?

13 A. YES, SIR.

14 Q. OKAY. AND IS THERE A REASON THAT YOU KNOW YOU
15 GOT THERE BETWEEN EIGHT AND EIGHT:THIRTY?

16 A. YES, SIR.

17 Q. AND WHAT'S THAT REASON?

18 A. BECAUSE ABOUT NINE O'CLOCK THEN THEY START
19 CHARGING, WHEN THE DJ COMES.

20 Q. OKAY. SO, YOU GOT IN FOR -- YOU DIDN'T GET IN
21 FOR ANY COVER CHARGE PRIOR TO NINE O'CLOCK?

22 A. YES, SIR.

23 Q. OKAY. AND THAT NIGHT WHEN YOU WERE OVER THERE,
24 BETWEEN EIGHT AND EIGHT:THIRTY AND THE, KIND OF
25 THE TIME AFTER THAT DID YOU SEE MR. RYANT INSIDE

DIRECT - MONEAK R. BUSBY BY SOL. SORENSON

586

1 THE CORNER POCKET?

2 A. YES, SIR.

3 Q. OKAY. AND WHAT NICK NAME OR WHAT NAME DID YOU
4 KNOW MR. RYANT BY BACK IN MARCH?

5 A. POKEY.

6 Q. AND MONEAK, DID THERE COME A TIME THAT NIGHT WHEN
7 YOU SAW POKEY TALKING TO ANYBODY OVER BY THE
8 FRONT DOOR?

9 A. YES, SIR.

10 Q. OKAY. AND ABOUT WHAT TIME DO YOU THINK THAT WAS?

11 A. BETWEEN ABOUT NINE, NINE:THIRTY, SOMEWHERE AROUND
12 THERE, ABOUT NINE:FIFTEEN.

13 Q. LET ME ASK YOU, WERE YOU LOOKING AT A WATCH, KIND
14 OF TAKING DOWN - - -

15 A. NO, SIR.

16 Q. --- KIND OF ALL THESE TIMES, KIND OF ESTIMATING?

17 A. YES, SIR.

18 Q. ALRIGHT. AND WHO DID YOU SEE, OR HOW MANY PEOPLE
19 DID YOU SEE POKEY TALKING TO OVER BY THE DOOR?

20 A. TWO OF THEM.

21 Q. OKAY. AND WAS HE TALKING TO THEM AT THE SAME
22 TIME OR - - -

23 A. NO, SIR.

24 Q. SO, IT WAS KIND OF ONE AT A TIME?

25 A. YES, SIR.

DIRECT - MONEAK R. BUSBY BY SOL. SORENSON

587

- 1 Q. OKAY. AND LET ME ASK YOU, DID YOU RECOGNIZE ANY
2 OF THOSE PEOPLE THAT HE WAS TALKING TO?
3 A. ONE OF THEM.
4 Q. OKAY. AND WHO, HOW DID YOU -- DID YOU KNOW THAT
5 PERSON JUST RECOGNIZED THEM?
6 A. I REALLY DON'T KNOW HIM BUT I KNOW OF HIM A
7 LITTLE BIT.
8 Q. OKAY. AND DOES HE HAVE SOME CONNECTION TO MR.
9 RYANT?
10 A. YES, SIR.
11 Q. WHAT'S HIS CONNECTION TO MR. RYANT?
12 A. THAT'S HIS SISTER'S BABY'S DADDY.
13 Q. SO, IT'S DANNY RYANT'S SISTER'S BABY'S FATHER?
14 A. YES, SIR.
15 Q. OKAY. AND WHO IS THAT PERSON THAT YOU SAW MR.
16 RYANT TALKING TO, DO YOU SEE HIM IN THE COURTROOM
17 HERE TODAY?
18 A. THE ONE RIGHT THERE FAR TO MY RIGHT, ON THE
19 CORNER.
20 Q. ON THE END, MR. MARIO SHIVERS?
21 A. YES, SIR.
22 Q. AND DID YOU KNOW HIS NAME BACK IN MARCH?
23 A. YES, SIR.
24 Q. NOW, HOW ABOUT THE OTHER PERSON, DID YOU
25 RECOGNIZE HIM, THAT YOU SAW HIM TALKING TO, DID

DIRECT - MONEAK R. BUSBY BY SOL. SORENSON

588

1 YOU KNOW THAT OTHER PERSON?

2 A. NO, SIR.

3 Q. OKAY. LET ME ASK YOU, DO YOU SEE THAT OTHER
4 PERSON HERE IN THE COURTROOM TODAY ON THE FRONT
5 ROW?

6 A. NO, SIR.

7 Q. NOW, THOSE PEOPLE THAT YOU SAW MR. RYANT TALKING
8 TO, DID EITHER ONE OF THEM COME INTO THE CORNER
9 POCKET?

10 A. NO, SIR.

11 Q. DO YOU KNOW WHY THEY DIDN'T?

12 A. BECAUSE THE MAN AT THE DOOR SAY IF RYANT WOULD
13 HAVE WENT OUT THEN HE WOULD HAVE TO PAY, AND IF
14 THEY WOULD HAVE CAME IN THEY WOULD HAVE TO PAY TO
15 GO IN, SO THEY NEVER CAME IN.

16 Q. ALRIGHT. NOW, DID THERE COME A TIME KIND OF
17 LATER ON AFTER THAT HAPPENED WHEN ANYBODY INSIDE
18 THE CORNER POCKET WAS LOOKING FOR DANNY RYANT?

19 A. HIS MOTHER.

20 Q. OKAY. AND SHE WAS LOOKING FOR HIM DID YOU SEE
21 HIM ANYWHERE INSIDE THE CORNER POCKET WHEN SHE
22 WAS LOOKING FOR HIM?

23 A. NO, SIR, BECAUSE I WAS ONE SIDE, HE WAS ON
24 ANOTHER SIDE.

25 Q. SO, YOU DON'T KNOW WHERE HE WAS AT THAT POINT IN

DIRECT - MONEAK R. BUSBY BY SOL. SORENSON

589

1 TIME, - - -

2 A. NO, I REALLY - - -

3 Q. --- IS THAT CORRECT?

4 A. YES, SIR.

5 Q. YOU DIDN'T SEE HIM AT THAT TIME THAT SHE WAS
6 LOOKING FOR HIM?

7 A. NO, SIR.

8 Q. NOW, DID THERE COME A TIME SOMETIME LATER ON THAT
9 NIGHT WHEN YOU SAW MR. RYANT AGAIN AT THE CORNER
10 POCKET?

11 A. YES, SIR.

12 Q. AND DO YOU KNOW WHAT TIME THAT WOULD HAVE BEEN?

13 A. LIKE, ABOUT FORTY, FORTY-FIVE MINUTES LATER.

14 Q. FORTY-FIVE MINUTES AFTER YOU SAW HIM TALKING AT
15 THE DOOR - - -

16 A. YES, SIR.

17 Q. --- OR AFTER?

18 A. AFTER I SEEN HIM TALKING AT THE DOOR.

19 Q. SO, YOU SAW HIM BACK INSIDE THE CORNER POCKET AT
20 THAT TIME?

21 A. YES, SIR.

22 Q. WAS HE BY HIMSELF AT THAT TIME - - -

23 A. YES, SIR.

24 Q. --- WHEN YOU SAW HIM BACK IN THERE? I TURN YOUR
25 ATTENTION, DO YOU REMEMBER BACK ON MARCH THE

DIRECT - MONEAK R. BUSBY BY SOL. SORENSON

590

1 TWENTY-SIXTH MEETING WITH LIEUTENANT SHUMPERT
2 WITH THE SHERIFF'S OFFICE?

3 A. YES, SIR.

4 Q. AND DO YOU REMEMBER GIVING HIM A STATEMENT AT
5 THAT TIME?

6 A. YES, SIR.

7 Q. AND DO YOU ALSO REMEMBER HIM SHOWING YOU A COUPLE
8 OF LINEUPS?

9 A. YES, SIR.

10 Q. I'M SHOWING YOU STATE'S EXHIBIT NUMBER ONE, DO
11 YOU REMEMBER HIM SHOWING YOU THAT LINEUP?

12 A. YES, SIR.

13 Q. WERE YOU ABLE TO PICK ANYBODY OUT OF THAT LINEUP?

14 A. YES, SIR.

15 Q. AND WHAT NUMBER DID YOU PICK OUT?

16 A. NUMBER THREE.

17 Q. OKAY. AND WHO WAS THAT IN PHOTOGRAPH NUMBER
18 THREE?

19 A. MR. SHIVERS.

20 Q. OKAY. AND THAT'S THE PERSON DOWN ON THE END?

21 A. YES, SIR.

22 Q. OBVIOUSLY, HIS HAIR IS A LITTLE DIFFERENT IN THE
23 PHOTOGRAPH - - -

24 A. YES.

25 Q. --- THAN IT IS NOW, IS THAT CORRECT?

DIRECT - MONEAK R. BUSBY BY SOL. SORENSON

591

1 A. YES, SIR.

2 Q. AND DID YOU THEN KIND OF MEMORIALIZE THAT IN THAT
3 ATTACHED AFFIDAVIT THAT YOU PICKED OUT THAT
4 PHOTOGRAPH?

5 A. YES, SIR.

6 SOLICITOR SORENSON: YOUR HONOR, AT THIS TIME
7 WE'D OFFER STATE'S NUMBER ONE INTO EVIDENCE.

8 THE COURT: ANY OBJECTION?

9 MR. MELLARD: WITHOUT OBJECTION, YOUR HONOR.

10 THE COURT: ALRIGHT, STATE'S NUMBER ONE ADMITTED
11 INTO EVIDENCE.

12 (State's Exhibit One
13 marked and filed.)

14 Q. AND WHAT DID YOU INDICATE ON HERE ABOUT THE
15 PERSON, WHAT DID YOU WRITE ON THERE, AS THAT
16 BEING THE PERSON THAT WHAT?

17 A. THAT WAS AT THE DOOR AT THE CLUB.

18 Q. AT THE CORNER POCKET, THE CLUB, THE CORNER
19 POCKET?

20 A. YES, SIR.

21 Q. AND YET AGAIN, THAT PHOTOGRAPH NUMBER THREE IS
22 THE PERSON THAT YOU KNOW AS MARIO SHIVERS?

23 A. YES, SIR.

24 Q. AND THAT IS DANNY RYANT'S SISTER'S BABY'S FATHER?

25 A. YES, SIR.

DIRECT - MONEAK R. BUSBY BY SOL. SORENSON

592

1 Q. AND DID YOU ALSO HAVE AN OPPORTUNITY TO LOOK AT
2 ANOTHER LINEUP, STATE'S EXHIBIT NUMBER TWO?

3 A. YES, SIR.

4 Q. WERE YOU ABLE TO PICK ANYBODY OUT OF STATE'S
5 EXHIBIT NUMBER TWO?

6 A. YES, SIR.

7 Q. AND WHAT PHOTOGRAPH DID YOU PICK OUT OF NUMBER
8 TWO?

9 A. NUMBER FOUR.

10 Q. OKAY. AND WHO IS THAT IN NUMBER FOUR?

11 A. I REALLY DON'T KNOW HIM, BUT I SEEN HIM WHEN HE
12 WAS AT THE DOOR.

13 Q. THAT'S THE OTHER PERSON YOU TESTIFIED ABOUT?

14 A. YES, SIR.

15 Q. ALRIGHT. AND YOU DON'T KNOW WHO HE IS, RIGHT?

16 A. NO, SIR.

17 SOLICITOR SORENSON: OKAY. YOUR HONOR, AT THIS
18 TIME WE'D OFFER STATE'S NUMBER TWO INTO EVIDENCE?

19 THE COURT: ANY OBJECTION? THERE BEING NO
20 OBJECTION, IT IS ADMITTED.

21 SOLICITOR SORENSON: THANK YOU.

22 (State's Exhibit Two
23 marked and filed.)

24 Q. AND DID YOU ALSO, JUST LIKE YOU DID WITH THE
25 OTHER ONE, INDICATED THAT YOU SAW THAT PERSON AT

DIRECT - MONEAK R. BUSBY BY SOL. SORENSON

593

1 THE DOOR?

2 A. YES, SIR.

3 Q. AND LET ME MAKE SURE, THAT'S THE PICTURE YOU
4 CIRCLED, NUMBER FOUR?

5 A. YES, SIR.

6 Q. AND HE IS NOT SEATED ON THE FRONT ROW, IS THAT
7 CORRECT?

8 A. NO, SIR.

9 Q. YOU DON'T SEE THAT PERSON IN THE COURTROOM?

10 A. NO, SIR.

11 Q. NOW, WHEN YOU WERE SHOWN THOSE TWO LINEUPS BY
12 LIEUTENANT SHUMPERT DID HE AT ANYTIME TELL YOU
13 WHO TO PICK OUT OR SUGGEST TO YOU WHO TO PICK OUT
14 OF THOSE LINEUPS?

15 A. NO, SIR.

16 SOLICITOR SORENSON: THANK YOU, MS. BUSBY.

17 THE COURT: NO, NO, MS. BUSBY, I'M SORRY. I KNOW
18 YOU WANT TO LEAVE, BUT OTHER PEOPLE GET A CHANCE TO
19 ASK YOU QUESTIONS, TOO. OKAY? SO, IF YOU'LL BEAR
20 WITH US WE'RE GOING TO LET THEM ASK YOU QUESTIONS,
21 TOO. ALRIGHT?

22 OKAY, MR. LACKEY.

23 MR. LACKEY: NO QUESTIONS FOR HER, YOUR HONOR.

24 THE COURT: ALRIGHT, MS. - - -

25 MS. ULLMAN: NO QUESTIONS, YOUR HONOR.

594

1 THE COURT: OKAY. MS. ULLMAN. OKAY.

2 MR. PALMER: NO QUESTIONS.

3 THE COURT: ALRIGHT, MR. MELLARD.

4 MR. MELLARD: YES, SIR.

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

CROSS - MONEAK R. BUSBY BY MR. MELLARD

595

CROSS-EXAMINATION OF MONEAK R. BUSBY

BY MR. MELLARD:

Q. I'VE JUST GOT A COUPLE OF QUESTIONS. NOW, YOU
TOLD US YOU WERE AT THE CORNER POCKET ON THE
NIGHT OF MARCH THE TWELFTH?

A. YES, SIR.

Q. OKAY. AND JUST SO WE UNDERSTAND, THAT'S LOCATED
YOU SAID AT THE CORNER OF STILTON?

A. YES, SIR.

Q. ALRIGHT. AND IT'S IN A NEIGHBORHOOD, I BELIEVE?

A. YES, SIR.

Q. ALRIGHT. AND IT'S SURROUNDED BY HOUSES?

A. YES, SIR.

Q. OKAY. YOU DON'T LIVE BY THE CORNER POCKET?

A. NO, SIR.

Q. OKAY. YOU HAD TO GET A RIDE THERE?

A. YES, SIR.

Q. AND JUST SO THE JURY UNDERSTANDS, YOU CAN GO
INSIDE THE CORNER POCKET, AND I BELIEVE YOU SAID
THERE'S A PLACE YOU CAN SHOOT POOL?

A. YES, SIR.

Q. ALRIGHT. AND I BELIEVE IT'S ALSO A PLACE WHERE
YOU CAN GET SOME FOOD, IS THAT CORRECT?

A. YES, SIR.

Q. THEY SERVE STONE STEW?

CROSS - MONEAK R. BUSBY BY MR. MELLARD

596

1 A. YES, SIR.

2 Q. OKAY. AND THE CORNER POCKET HAS A PLACE WHERE YOU
3 CAN DANCE?

4 A. YES, SIR.

5 Q. ALRIGHT. AND THE CORNER POCKET HAS A BAR?

6 A. YES, SIR.

7 Q. OKAY. AND WHEN YOU GET TO THE CORNER POCKET
8 EARLY I BELIEVE YOU DON'T HAVE TO PAY TO GET IN?

9 A. NO, SIR.

10 Q. ALRIGHT. DO YOU KNOW WHAT TIME THEY START
11 CHARGING TO GET IN?

12 A. ABOUT NINE O'CLOCK.

13 Q. ABOUT NINE O'CLOCK. HOW MUCH DO THEY CHARGE TO
14 GET INTO THE CLUB?

15 A. FIVE DOLLARS.

16 Q. FIVE DOLLARS. ALRIGHT, SO YOU TRIED TO GET THERE
17 EARLY ON THAT NIGHT SO YOU WOULDN'T HAVE TO PAY
18 THE COVER CHARGE?

19 A. YES.

20 Q. ALRIGHT. AND IT'S ALSO MY UNDERSTANDING, IF YOU
21 LEAVE THE CLUB YOU'VE GOT TO PAY TO GET BACK IN?

22 A. YES, SIR.

23 Q. HOW MUCH HAVE YOU GOT TO PAY TO GET BACK IN?

24 A. AN ADDITION OF TWO DOLLARS.

25 Q. TWO DOLLARS. OKAY. SO, I'M JUST KIND OF

CROSS - MONEAK R. BUSBY BY MR. MELLARD

597

1 WONDERING, WHEN YOU GET -- IF YOU DON'T WANT TO
2 PAY THE FIVE DOLLARS YOU TRY TO STAY IN THE CLUB

3 - - -

4 A. YES, SIR.

5 Q. --- UNTIL YOU'RE READY TO LEAVE?

6 A. YES, SIR.

7 Q. OKAY. NOW, I BELIEVE YOU SAID YOU SPOKE TO
8 INVESTIGATOR SHUMPERT?

9 A. YES, SIR.

10 Q. AND AT THAT TIME YOU TOLD INVESTIGATOR SHUMPERT
11 YOU GOT TO THE BAR AROUND SEVEN:THIRTY?

12 A. SIR, I CAN'T REALLY TELL YOU WHAT TIME IT WAS
13 BECAUSE I DIDN'T HAVE A WATCH ON, BUT IT WAS
14 BETWEEN SEVEN:THIRTY TO EIGHT, NO LATER THAN
15 EIGHT:THIRTY.

16 Q. OKAY. IT COULD BE ANYWHERE BETWEEN SEVEN:THIRTY
17 AND EIGHT:THIRTY?

18 A. YES, SIR.

19 Q. OKAY. AND SO, YOU DIDN'T HAVE TO PAY TO GET IN?

20 A. NO, SIR.

21 Q. NOW, IT'S MY UNDERSTANDING THAT YOU'RE CLAIMING
22 YOU SAW SOME PEOPLE COME TO THE DOOR AND TALK TO
23 DANNY RYANT?

24 A. YES, SIR.

25 Q. ALRIGHT. NOW, WHAT TIME -- YOU SAID THIS

CROSS - MONEAK R. BUSBY BY MR. MELLARD

598

1 HAPPENED AROUND NINE:FIFTEEN, SOMEWHERE AROUND
2 THERE, GIVE OR TAKE?

3 A. YES, SIR.

4 Q. SOMEWHERE BETWEEN NINE O'CLOCK OR NINE:THIRTY?

5 A. YES, SIR.

6 Q. OKAY. ALRIGHT, NOW IN MARCH YOU TOLD
7 INVESTIGATOR SHUMPERT THAT YOU LEFT THE CORNER
8 POCKET AROUND ELEVEN:TWENTY?

9 A. ELEVEN:TWENTY TO TWELVE.

10 Q. OKAY. IS THAT STILL YOUR TESTIMONY, THAT YOU
11 LEFT BETWEEN ELEVEN:THIRTY AND TWELVE?

12 A. YES, SIR.

13 Q. ALRIGHT. NOW, YOU GAVE THE STATEMENT TO
14 INVESTIGATOR SHUMPERT ABOUT, YOU SAID THAT MR.
15 RYANT WAS TALKING TO PEOPLE, CORRECT?

16 A. YES, SIR.

17 Q. ALRIGHT. AND I ASSUME THAT YOUR STATEMENT WAS
18 TRUE WHEN YOU TOLD HIM THAT?

19 A. YES, SIR.

20 Q. OKAY. BUT YOU DIDN'T TELL HIM ANYTHING ABOUT YOU
21 LEAVING THE CLUB?

22 A. NO, SIR.

23 Q. OKAY. BECAUSE YOU DIDN'T LEAVE THE CLUB?

24 A. YES, I DID.

25 Q. ALRIGHT. WHEN DID YOU LEAVE THE CLUB?

CROSS - MONEAK R. BUSBY BY MR. MELLARD

599

1 A. LIKE, AFTER TWELVE.

2 Q. OKAY. AFTER TWELVE, RIGHT, BUT I MEAN,
3 OBVIOUSLY, YOU'RE HERE IF YOU LEFT THE CLUB, BUT
4 BETWEEN WHEN YOU GOT THERE AND THE TIME YOU LEFT
5 AROUND TWELVE O'CLOCK YOU DIDN'T LEAVE THE CLUB?

6 A. NOT, NO, SIR.

7 Q. OKAY. SO, YOU DIDN'T FOLLOW DANNY TO WHERE HE
8 WENT?

9 A. NO, SIR.

10 Q. ALRIGHT. YOU DON'T KNOW WHAT HAPPENED ONCE YOU
11 SAW HIM TALKING, CORRECT?

12 A. NO -- YOU'RE RIGHT, SIR.

13 Q. OKAY. NOW, I BELIEVE YOUR STATEMENT DOESN'T SAY
14 ANYTHING ABOUT ANY OF THESE OTHER PEOPLE BEING
15 THERE OTHER THAN THE ONES YOU IDENTIFIED, IS THAT
16 CORRECT?

17 A. YES, SIR.

18 Q. ALRIGHT. NOW, THE CORNER POCKET IS A BAR, I
19 BELIEVE WE HAVE ESTABLISHED THAT, CORRECT?

20 A. YES, SIR.

21 Q. ALRIGHT. SO, I ASSUME YOU HAD A COUPLE OF DRINKS
22 WHILE YOU WERE THERE?

23 A. YES, SIR.

24 Q. HOW MANY DRINKS DID YOU HAVE WHILE YOU WERE
25 THERE?

CROSS - MONEAK R. BUSBY BY MR. MELLARD

600

1 A. APPROXIMATELY THREE OR FOUR.

2 Q. THREE OR FOUR, WHAT DO YOU USUALLY DRINK?

3 A. BEER.

4 Q. BEER? YOU HAD THREE OR FOUR BEERS.

5 MR. MELLARD: ALRIGHT. THAT'S ALL THE QUESTIONS

6 I HAVE.

7 THE COURT: THANK YOU, MR. MELLARD.

8 MR. KOGER.

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

CROSS - MONEAK R. BUSBY BY MR. KOGER

601

CROSS-EXAMINATION OF MONEAK R. BUSBY

BY MR. KOGER:

Q. MS. BUSBY, WERE YOU EMPLOYED AT THE TIME?

A. NO, SIR.

Q. OKAY. SO, YOU DIDN'T WORK ON THAT PARTICULAR
FRIDAY, CORRECT?

A. NO, SIR.

Q. NOW, YOU JUST TESTIFIED TO HAVING THREE OR FOUR
BEERS WHILE YOU WAS AT THE BAR?

A. YES, SIR.

Q. OKAY. HOW ABOUT BETWEEN THE TIME FRAME OF
SEVEN:THIRTY AND NINE:THIRTY, HOW MANY BEERS DID
YOU HAVE?

A. PROBABLY TWO.

Q. TWO. OKAY, NOW, BEFORE YOU GOT TO THE CORNER
POCKET ON THAT PARTICULAR DAY, YOU SAY YOU DON'T
WORK, DID YOU HAVE ANY TYPE OF DRINKS AT HOME OR
ANYTHING?

A. NO, SIR.

Q. DID YOU HAVE ANY WEED ON THAT PARTICULAR DAY?

A. NO, SIR.

Q. OKAY. SO, YOUR TESTIMONY IS THAT THE TOTAL TIME
YOU HAD THREE OR FOUR BEERS?

A. YES, SIR.

Q. AND AT THE TIME THAT YOU ARRIVED BETWEEN

CROSS - MONEAK R. BUSBY BY MR. KOGER

602

1 SEVEN:THIRTY AND EIGHT:THIRTY YOU HAD AT LEAST
2 TWO BEERS BUT IT COULD HAVE BEEN MORE?

3 A. I SAID, ONLY TWO.

4 Q. ONLY TWO.

5 A. BECAUSE I ONLY HAD FOUR THE WHOLE TIME I WAS
6 THERE.

7 Q. OKAY. AND WHAT WERE THE OUNCES OF THOSE BEERS?

8 A. IT WAS TWELVE OUNCE CAN.

9 Q. A LITTLE TWELVE OUNCE CAN?

10 A. UH-HUH.

11 Q. OKAY, TWO OF THEM.

12 A. I HAD FOUR -- YEAH, TWO AT THAT TIME.

13 Q. OKAY. BUT FOUR TOTAL?

14 A. YES, SIR.

15 MR. KOGER: THANK YOU. NO FURTHER QUESTIONS.

16 THE COURT: ANYTHING ON REDIRECT?

17 SOLICITOR SORENSON: JUST REAL BRIEFLY, YOUR
18 HONOR.

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

REDIRECT - MONEAK R. BUSBY BY SOL. SORENSON

603

1 REDIRECT EXAMINATION OF MONEAK R. BUSBY
2 BY SOLICITOR SORENSON:

3 Q. MR. MELLARD ASKED YOU A WHOLE BUNCH OF QUESTIONS
4 ABOUT YOUR STATEMENT, IS THAT CORRECT?

5 A. YES, SIR.

6 SOLICITOR SORENSON: IS THERE ANY OBJECTION TO
7 PUTTING HER STATEMENT INTO EVIDENCE?

8 MR. MELLARD: I WOULD OBJECT TO IT. SHE CAN
9 TESTIFY TO ANYTHING SHE WANTS TO RIGHT NOW.

10 THE COURT: JUST ASK HER QUESTIONS.

11 SOLICITOR SORENSON: COULD I JUST MARK THIS FOR
12 ID?

13 COURT REPORTER: STATE'S EIGHT, ID?

14 SOLICITOR SORENSON: I BELIEVE THAT'S CORRECT.
15 (State's Exhibit Eighty,
16 Statement of Moneak R. Busby,
17 marked for identification only.)

18 THE COURT: WHAT NUMBER IS THAT?

19 COURT REPORTER: THAT WOULD BE NUMBER EIGHTY,
20 STATE'S EIGHTY.

21 THE COURT: NUMBER EIGHTY FOR ID.

22 SOLICITOR SORENSON: FOR ID, YES, SIR.

23 THE COURT: OKAY.

24 Q. I WANT YOU TO LOOK AT THAT, AND I'LL GET A COPY
25 HERE. THAT WOULD BE STATE'S EXHIBIT NUMBER

REDIRECT - MONEAK R. BUSBY BY SOL. SORENSON

604

1 EIGHTY, IS THAT THE STATEMENT YOU GAVE TO
2 LIEUTENANT SHUMPERT?

3 A. YES, SIR.

4 Q. --- BACK IN, ON MARCH TWENTY-SIX?

5 A. YES, SIR.

6 Q. IS THAT CORRECT?

7 A. YES, SIR.

8 Q. AND AS FAR AS GOING OVER -- MR. MELLARD ASKED
9 YOU, YOU KNOW, ABOUT A BUNCH OF TIMES, IS THAT
10 CORRECT?

11 A. YES, SIR.

12 Q. ALRIGHT. IS THAT, DOES YOUR STATEMENT INDICATE
13 THAT YOU GOT THERE ABOUT SEVEN:THIRTY, IS THAT
14 CORRECT?

15 A. YES, SIR.

16 Q. AND IT ALSO INDICATES THAT POKEY LEFT ABOUT
17 NINE:TWENTY, YOU PUT THAT AS FAR AS TIMES IN YOUR
18 STATEMENT?

19 A. HE WAS OUT OF MY EYE SIGHT AROUND THAT TIME.

20 Q. OKAY. BUT IN THE FRONT PART OF YOUR STATEMENT IN
21 THAT PARAGRAPH YOU DID INDICATE THAT HE LEFT AT
22 ABOUT NINE:TWENTY, IS THAT CORRECT?

23 A. FROM AROUND ME, YES, SIR.

24 Q. OKAY. AND STAYED -- AND IT SAYS, AND STAYED FOR
25 ABOUT FORTY-FIVE MINUTES TO AN HOUR?

REDIRECT - MONEAK R. BUSBY BY SOL. SORENSON

605

1 A. YES, SIR.

2 Q. AND THAT WOULD BE POKEY YOU'RE TALKING ABOUT,
3 RIGHT?

4 A. YES, SIR.

5 Q. OKAY. AND THAT YOU LEFT THE CLUB ABOUT
6 ELEVEN:TWENTY, RIGHT?

7 A. YES, SIR.

8 Q. OKAY. AND THAT'S WHAT YOU TOLD LIEUTENANT
9 SHUMPERT BACK IN MARCH, RIGHT?

10 A. YES, SIR.

11 Q. AND THEN JUST AS FAR AS TIMES, EVEN FARTHER DOWN,
12 HE ASKED YOU ABOUT WHAT TIME YOU SAW THEM BOYS AT
13 THE DOOR, IS THAT CORRECT?

14 A. YES, SIR.

15 Q. AND WHAT TIME WAS THAT THAT YOU INDICATED? THAT
16 WOULD BE MID-WAY DOWN THE FRONT PAGE.

17 A. ABOUT NINE:TWENTY-FIVE.

18 Q. AND THEN THE NEXT QUESTION, DID POKEY LEAVE WITH
19 THEM BOYS YOU PICKED OUT OF THE PHOTO LINEUP?
20 AND WHAT WAS YOUR ANSWER TO THAT?

21 A. YES.

22 Q. OKAY. AND THAT'S WHAT YOU TOLD LIEUTENANT
23 SHUMPERT BACK IN MARCH, RIGHT?

24 A. YES, SIR.

25 Q. SO, THAT HE HAD LEFT WITH THEM ABOUT NINE:TWENTY-

REDIRECT - MONEAK R. BUSBY BY SOL. SORENSON

606

1 FIVE, AND WAS GONE ABOUT FORTY-FIVE MINUTES TO AN
2 HOUR?

3 A. YES, SIR.

4 Q. AND THAT'S WHAT YOU PUT IN YOUR STATEMENT, IS
5 THAT CORRECT?

6 A. YES, SIR.

7 Q. IT WAS OBVIOUSLY FRESHER IN YOUR MIND BACK IN
8 MARCH, IS THAT CORRECT?

9 A. YES, SIR.

10 SOLICITOR SORENSON: THANK YOU, MONEAK.

11 THE COURT: ANYTHING ON RECROSS, MR. LACKEY?

12 MR. LACKEY: NO, SIR, YOUR HONOR.

13 THE COURT: MS. ULLMAN?

14 MS. ULLMAN: NO, SIR.

15 THE COURT: MR. PALMER?

16 MR. PALMER: NO, SIR.

17 THE COURT: MR. MELLARD?

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

RECROSS - MONEAK R. BUSBY BY MR. MELLARD

607

RECROSS-EXAMINATION OF MONEAK R. BUSBY

BY MR. MELLARD:

Q. YOU SAID IN YOUR STATEMENT THAT HE LEFT WITH
THOSE PEOPLE?

A. SIR, I DIDN'T SEE HIM LEFT, BUT THEY WAS LOOKING
FOR HIM IN THE CLUB?

Q. OKAY. SO, YOU DIDN'T SEE HIM LEAVE?

A. NO, SIR.

MR. MELLARD: OKAY. THANK YOU.

THE COURT: MR. KOGER?

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

RECROSS - MONEAK R. BUSBY BY MR. KOGER

608

RECROSS-EXAMINATION OF MONEAK R. BUSBY

BY MR. KOGER:

Q. MR. BUSBY, YOU JUST WENT OVER THE STATEMENT WITH SOLICITOR SORENSON. THIS STATEMENT IS A TRUE AND AN ACCURATE DEPICTION OF WHAT HAPPENED ON THAT PARTICULAR NIGHT?

A. YES, SIR.

Q. OKAY. IS THERE ANY INDICATION THAT YOU HAD BEEN DRINKING ON THAT PARTICULAR NIGHT IN YOUR STATEMENT?

A. NO, SIR.

Q. AND YOU DID NOT PUT THAT IN YOUR STATEMENT?

A. WHAT I PUT ON THE PAPER, THAT'S WHAT I PUT ON THE STATEMENT.

Q. BUT THE STATEMENT DOES NOT HAVE THAT YOU WERE DRINKING ON THAT PARTICULAR NIGHT, CORRECT?

A. NO, SIR.

MR. KOGER: THANK YOU.

THE COURT: ALRIGHT. THANK YOU, MS. BUSBY. YOU ARE NOW EXCUSED. THANK YOU, MA'AM.

ALRIGHT, DOES THE STATE CALL THEIR NEXT WITNESS?

SOLICITOR SORENSON: YES, SIR, THE STATE CALLS YVONNE SHARPERSON.

(Whereupon, the witness enters the courtroom.)

1 CLERK: MA'AM, PLACE YOUR LEFT HAND ON THE BIBLE
2 -- LEFT HAND ON THE BIBLE AND RAISE YOUR RIGHT HAND.
3 (Whereupon, Yvonne Sharperson
4 is duly sworn.)

5 CLERK: OKAY. HAVE YOU A SEAT AND STATE YOUR
6 FULL NAME FOR THE COURT.

7 WITNESS: YVONNE SHARPERSON.

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

DIRECT - YVONNE SHARPERSON BY SOL. SORENSON

610

DIRECT EXAMINATION OF YVONNE SHARPERSON

BY SOLICITOR SORENSON:

Q. I GUESS IT'S TECHNICALLY NOW AFTERNOON, SO GOOD
AFTERNOON, MS. SHARPERSON. HOW ARE YOU TODAY?

A. ALRIGHT.

Q. ALRIGHT, IF YOU WOULD, TELL THE JURY, YOU'RE
FROM HERE IN ORANGEBURG?

A. ORANGEBURG, SOUTH CAROLINA.

Q. OKAY. AND DID YOU GROW UP HERE, DID YOU GROW UP
HERE IN ORANGEBURG?

A. YES.

Q. OKAY. I'M GOING TO TURN YOUR ATTENTION, GOING
BACK TO THE NIGHT, FRIDAY NIGHT, MARCH THE
TWELFTH, OF THIS YEAR, OKAY, DO YOU REMEMBER THAT
EVENING?

A. YES.

Q. OKAY. AND WHERE DID YOU GO THAT NIGHT?

A. TO THE CORNER POCKET.

Q. OKAY. AND THE CORNER POCKET WE'VE HEARD
TESTIMONY IS A LITTLE KIND OF POOL HALL OVER ON
STILTON?

A. YES.

Q. IS THAT CORRECT?

A. UH-HUH.

Q. THE CORNER POCKET, STATE'S THIRTY?

DIRECT - YVONNE SHARPERSON BY SOL. SORENSON

611

1 A. UH-HUH.

2 Q. ALRIGHT. AND WHO DID YOU GO TO THE CORNER POCKET
3 WITH THAT NIGHT, YVONNE?

4 A. ME, MONEAK, SHAUN AND KIVA.

5 Q. OKAY. AND MONEAK IS THE YOUNG LADY THAT JUST
6 TESTIFIED, CORRECT?

7 A. THAT'S RIGHT.

8 Q. AND KIVA IS MAKIVA, IS THAT RIGHT?

9 A. UH-HUH.

10 Q. AND IS SHE RELATED TO ONE OF THE DEFENDANTS OVER
11 HERE ON THE PEW?

12 A. YES.

13 Q. WHO IS SHE RELATED TO?

14 A. POKEY.

15 Q. AND THAT'S MR. RYANT?

16 A. I GUESS THAT'S HIS REAL NAME, I JUST KNOW HIM BY
17 POKEY.

18 Q. OKAY. AND HE WOULD BE THE SECOND FROM THE END?

19 A. YES.

20 Q. OKAY. AND HOW IS KIVA RELATED TO POKEY?

21 A. THAT'S HIS MOTHER.

22 Q. OKAY. ALRIGHT, AND HOW ABOUT SHAUN, IS SHE
23 RELATED TO POKEY?

24 A. THAT'S HIS AUNT.

25 Q. OKAY. AND LET ME ASK YOU, ARE YOU RELATED TO

DIRECT - YVONNE SHARPERSON BY SOL. SORENSON

612

1 HIM?

2 A. NO.

3 Q. OKAY. ARE YOU AWARE OF WHETHER MONEAK IS RELATED
4 TO MR. RYANT?

5 A. NOT THAT I KNOW OF.

6 Q. NOT THAT YOU KNOW OF. OKAY. NOW, THAT NIGHT, DO
7 YOU KNOW ABOUT WHAT TIME YOU GOT TO THE CORNER
8 POCKET THAT NIGHT?

9 A. BETWEEN, EXACTLY EIGHT:THIRTY AND NINE O'CLOCK.

10 MR. MELLARD: I'M SORRY, I CAN'T HEAR HER.

11 THE COURT: WOULD YOU PLEASE - - -

12 A. BETWEEN EIGHT:THIRTY AND NINE O'CLOCK.

13 Q. AND HOW DID YOU GET THERE?

14 A. KIVA CAME AND PICKED ME, MONEAK AND SHAUN UP.

15 Q. OKAY. AND SHE WAS DRIVING ALL OF Y'ALL?

16 A. YES.

17 Q. OKAY. AND WHEN YOU GOT THERE THAT NIGHT DID YOU
18 SEE POKEY THERE?

19 A. YEAH, HE WAS THERE.

20 Q. AND WHAT WAS HE DOING WHEN YOU SAW HIM THERE?

21 A. HE WAS EATING WHEN I SAW HIM.

22 Q. OKAY. AND DID YOU KEEP UP WITH HIM THE REST OF
23 THE NIGHT WHEN YOU WERE THERE?

24 A. I, THE ONLY THING I DID WAS SAW HIM THE SECOND
25 TIME AT THE POOL, BY THE POOL ROOM. AFTER THAT,

DIRECT - YVONNE SHARPERSON BY SOL. SORENSON

613

1 ONCE I GET MY DRINKS I DON'T WATCH NOBODY ELSE IN
2 THE CLUB.

3 Q. OKAY. NOW, DID THERE COME A TIME THAT NIGHT, MS.
4 SHARPERSON, WHEN ANY OF POKEY'S FAMILY WAS
5 LOOKING FOR HIM?

6 A. HIS MAMA ASKED ME TO ASK HIS SISTER TO TELL, TO
7 CALL HIS PHONE BUT HE DIDN'T PICK UP.

8 Q. OKAY. SO, THEY WERE HAVING, COULDN'T FIND HIM AT
9 THAT POINT IN TIME?

10 A. HE COULD HAVE STILL BEEN IN THE CLUB AS FAR AS I
11 KNOW, BECAUSE HE WAS BY THE POOL TABLE THE LAST
12 TIME I SAW HIM.

13 Q. OKAY. BUT YOU DIDN'T ACTUALLY, WHEN THEY WERE
14 LOOKING FOR HIM YOU DIDN'T PHYSICALLY LAY EYES ON
15 HIM AT THAT TIME, DID YOU? ARE YOU AWARE OF
16 WHETHER THEY WERE ABLE TO GET IN TOUCH WITH HIM
17 AT THAT TIME WHEN THEY WERE LOOKING FOR HIM?

18 A. I DON'T KNOW BECAUSE ABOUT A COUPLE OF MINUTES
19 LATER I LEFT.

20 Q. OKAY. SO, YOU LEFT A SHORT TIME AFTER THAT?

21 A. YES.

22 Q. OKAY. AND WHAT TIME WAS IT THAT YOU LEFT THAT
23 NIGHT?

24 A. ABOUT NINE:THIRTY, BETWEEN NINE:THIRTY AND TEN.

25 Q. OKAY. SO, IT WOULD HAVE BEEN SHORTLY BEFORE

DIRECT - YVONNE SHARPERSON BY SOL. SORENSON

614

1 NINE:THIRTY OR TEN THAT HIS SISTER AND MOTHER
2 WERE LOOKING FOR HIM, IS THAT CORRECT? YOU SAID
3 YOU LEFT A SHORT TIME AFTER THAT, SO ...

4 A. I LEFT, IT COULD HAVE BEEN, BETWEEN NINE:THIRTY,
5 SOMETHING LIKE THAT.

6 Q. OKAY. SOMEWHERE, GIVE OR TAKE, A FEW MINUTES
7 AROUND THAT TIME, THOUGH, IS THAT CORRECT?

8 A. UH-HUH.

9 Q. ALRIGHT. AND DID YOU LEAVE -- WHO DID YOU LEAVE
10 WITH THAT NIGHT?

11 A. HIS AUNT SHAUN.

12 Q. AND AFTER SEEING HIM KIND OF EARLIER THAT NIGHT
13 DID YOU EVER -- WELL, LET ME KIND OF BACK UP,
14 ERASE THAT. AFTER THE TIME WHEN HIS SISTER AND
15 MOTHER WERE LOOKING FOR POKEY, DID YOU EVER SEE
16 HIM AGAIN THAT NIGHT?

17 A. AS OF, BEFORE I LEFT THE CLUB?

18 Q. BEFORE YOU LEFT THE CLUB?

19 A. NO.

20 Q. OKAY.

21 SOLICITOR SORENSON: THANKS, YVONNE, PLEASE
22 ANSWER ANY QUESTIONS THE DEFENDANTS HAVE.

23 THE COURT: ALRIGHT, MR. LACKEY.

24 MR. LACKEY: I HAVE NONE, YOUR HONOR.

25 THE COURT: MS. ULLMAN?

1 MS. ULLMAN: NO QUESTIONS.

2 MR. PALMER: NO QUESTIONS, YOUR HONOR.

3 THE COURT: OKAY. MR. MELLARD.

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

CROSS - YVONNE SHARPERSON BY MR. MELLARD

616

CROSS-EXAMINATION OF YVONNE SHARPERSON

BY MR. MELLARD:

Q. JUST ONE THING. WHEN YOU SAID YOU WERE, THEY
ASKED YOU ABOUT, I BELIEVE, PEOPLE LOOKING FOR
HIM, I BELIEVE YOU TESTIFIED AS FAR AS YOU KNEW
HE COULD HAVE STILL BEEN IN THE CLUB?

A. HE COULD HAVE STILL BEEN IN, I NEVER CHECKED THE
BATHROOM OR THE BACK AFTER I CAME TO THE FRONT.

MR. MELLARD: OKAY. THANK YOU.

THE COURT: OKAY, MR. KOGER?

MR. KOGER: NO QUESTIONS, YOUR HONOR.

THE COURT: ALRIGHT. ANYTHING ON REDIRECT?

SOLICITOR SORENSON: I DON'T THINK SO, NO, SIR.

THE COURT: OKAY. THANK YOU, MS. SHARPERSON, YOU
MAY STEP DOWN.

CALL YOUR NEXT WITNESS.

SOLICITOR SORENSON: YOUR HONOR, MAY WE APPROACH?

THE COURT: SURE.

(Whereupon, a bench conference
is had out of the hearing of
the jury and court reporter.)

THE COURT: OKAY. YOU KNOW, LADIES AND GENTLEMEN,
I TOLD Y'ALL BEFORE WE STARTED THE TRIAL THAT EVERY
NOW AND THEN I'D HAVE TO TALK TO THE ATTORNEYS, YOU
KNOW, AND Y'ALL WOULDN'T GET TO HEAR WHAT WE'RE

1 TALKING ABOUT. SOMETIMES IT WAS MATTERS OF LAW AND
2 LIKE THAT. THIS TIME IT'S A MATTER OF FOOD. WE
3 VOTED AND DECIDED WE WERE GOING TO TAKE A BREAK FOR
4 LUNCH NOW.

5 OKAY, NOW, Y'ALL NEED TO REMEMBER WHAT I HAVE
6 TOLD Y'ALL SINCE THE VERY BEGINNING, BEFORE YOU EVEN
7 GOT SWORN IN AS JURORS. YOU HAVE NOT HEARD ALL THE
8 EVIDENCE IN THIS CASE, YOU CANNOT BEGIN TALKING ABOUT
9 ANYTHING ABOUT THIS CASE RIGHT NOW. OKAY? SO, I AM
10 GOING TO EXCUSE Y'ALL AND LET Y'ALL GO TO LUNCH, YOU
11 KNOW, DON'T TALK ABOUT THE CASE, DON'T READ, LOOK AT
12 ANYTHING, AND I'M GOING TO ASK Y'ALL TO BE BACK IN
13 THE JURY ROOM AT ONE:THIRTY.

14 WHEN YOU GET BACK INTO THE JURY ROOM WHAT I WANT
15 YOU TO DO, THE TWELVE OF YOU THAT ARE JURORS, AND
16 MADAM ALTERNATE, YOU DON'T NEED TO WORRY ABOUT THIS,
17 YOU CAN BE IN THERE, BUT I WANT THE TWELVE OF Y'ALL
18 TO PICK SOMEBODY TO BE THE FOREMAN OF THIS JURY. THE
19 FOREMAN OF THE JURY GETS TO SIT IN THAT SEAT RIGHT
20 THERE CLOSEST TO ME. OKAY? NOW, LET ME TELL YOU
21 WHAT'S IMPORTANT ABOUT BEING THE FOREMAN OF THE JURY.
22 WHEN I TELL Y'ALL THAT Y'ALL ARE GOING TO BEGIN
23 DELIBERATIONS THE FOREMAN OF THE JURY IS GOING TO BE
24 IN CHARGE OF MAKING SURE EVERYBODY HAS SOME FEEDBACK
25 INTO THE DELIBERATIONS. THEY WILL PRESIDE OVER THE

1 JURY ROOM AND THEY'RE THE ONE THAT'S GOING TO SIGN
2 THE VERDICT FORMS. OKAY? SO, WHEN Y'ALL GET BACK
3 INTO THE JURY ROOM AT ONE:THIRTY I WANT Y'ALL TO VOTE
4 ON SOMEBODY TO BE THE FOREMAN FOR Y'ALL'S JURY.
5 Y'ALL HAVE BEEN WITH EACH OTHER NOW FOR TWO AND A
6 HALF DAYS, SO Y'ALL HAVE GOT A GOOD IDEA OF WHAT
7 EVERYONE OF Y'ALL IS LIKE, SO IF Y'ALL WILL LET ME
8 KNOW WHEN Y'ALL GET FROM LUNCH. OKAY?

9 NOW, GO HAVE A GOOD LUNCH, AND DON'T TALK ABOUT
10 THE CASE.

11 THANK YOU.

12 (Whereupon, the jury leaves
13 the courtroom and the following
14 takes place out of the presence
15 of the jury.)

16 THE COURT: ALRIGHT. ANYTHING FROM THE STATE
17 BEFORE WE TAKE A BREAK?

18 SOLICITOR SORENSON: NO, SIR.

19 THE COURT: ANYTHING FROM ANY OF THE DEFENDANTS
20 BEFORE WE TAKE A BREAK?

21 MR. LACKEY: NO, YOUR HONOR.

22 MS. ULLMAN: NO, YOUR HONOR.

23 MR. PALMER: NO, YOUR HONOR.

24 MR. MELLARD: NO, YOUR HONOR.

25 MR. KOGER: NO, YOUR HONOR.

25 THE COURT: YES, MA'AM, I UNDERSTAND.

620

1 BEAR WITH US WHILE WE FIND OUT WHO THE FOREPERSON
2 IS.

3 SOLICITOR SORENSON: YOUR HONOR, I TOLD MS.
4 WALKER THAT I MARKED SEVERAL EXHIBITS, I THINK IT'S
5 ELEVEN DIFFERENT BULLET FRAGMENTS, BULLETS OR BULLET
6 FRAGMENTS THAT WERE REMOVED DURING THE AUTOPSY, AND
7 ALSO A BODY DIAGRAM. I'VE MARKED THEM BASICALLY AS
8 STATE'S EIGHTY-ONE THROUGH NINETY-ONE ON THE
9 FRAGMENTS, AND NINETY-TWO, IT'S A DIAGRAM. I'VE
10 SHOWN THEM TO ALL FIVE DEFENSE COUNSEL.

11 COURT REPORTER: BUT JUDGE, I HAVEN'T HAD TIME TO
12 MARK THOSE ON MY EXHIBIT SHEET.

13 THE COURT: YOU HAVEN'T? OKAY.

14 COURT REPORTER: WILL YOU WAIT UNTIL I DO THAT?

15 THE COURT: YES, MA'AM, I WILL

16 COURT REPORTER: ALRIGHT, THANK YOU.

17 (State's Exhibits Eighty-one through Ninety-one,
18 bullets and bullet fragments,
19 marked for identification.)

20 (State's Exhibit Ninety-two,
21 body diagram,
22 marked for identification.)

23 THE COURT: OKAY, BRING THE JURY IN.

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

1 THE COURT: OKAY, WE'RE READY TO RESUME. MS.
2 WILLIAMS, CONGRATULATIONS.

3 JURY FOREMAN: THANK YOU.
4 (Court's Exhibit 2
5 marked and filed.)

6 THE COURT: ALRIGHT, IS THE STATE READY?

7 SOLICITOR SORENSON: YES, SIR.

8 THE COURT: OKAY.

9 SOLICITOR SORENSON: THE STATE CALLS DR. JANICE
10 ROSS.

11 THE COURT: ALRIGHT.

12 CLERK: PLEASE PLACE YOUR LEFT HAND ON THE BIBLE
13 AND RAISE YOUR RIGHT HAND.
14 (Whereupon, Dr. Janice Edwards Ross
15 is duly sworn.)

16 CLERK: HAVE A SEAT AND STATE OUR FULL NAME FOR
17 THE COURT.

18 WITNESS: JANICE EDWARDS ROSS, R-O-S-S.

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

DIRECT - DR. JANICE E. ROSS BY SOL. SORENSON

622

DIRECT EXAMINATION OF DR. JANICE E. ROSS

BY SOLICITOR SORENSON:

Q. GOOD AFTERNOON, DR. ROSS.

A. GOOD AFTERNOON.

Q. IF YOU WOULD, TELL THE JURY WHERE YOU'RE
EMPLOYED?

A. IN NEWBERRY, SOUTH CAROLINA, WITH THE NEWBERRY
PATHOLOGY ASSOCIATES.

Q. AND WHAT DO YOU DO AT NEWBERRY PATHOLOGY
ASSOCIATES?

A. WE DO PATHOLOGY EXAMINATIONS FOR THE HOSPITAL AND
WE DO FORENSIC AUTOPSIES FOR CORNERS AROUND THE
COUNTIES OF THE STATE.

Q. OKAY. AND IF YOU WOULD, JUST TELL THE JURY JUST
BRIEFLY YOUR EDUCATIONAL BACKGROUND?

A. YES. I HAVE A BACHELOR'S DEGREE FROM THE
UNIVERSITY OF SOUTH CAROLINA, MY MB FROM UPSTATE
MEDICAL CENTER IN SYRACUSE, NEW YORK, AND I'VE
DONE TRAINING IN HOSPITAL PATHOLOGY AND FORENSIC
PATHOLOGY TO BECOME BOARD CERTIFIED IN THREE
AREAS OF PATHOLOGY.

Q. OKAY. AND THEN, KIND OF AFTER YOUR EDUCATION
THEN, WHAT'S BEEN YOUR WORK HISTORY?

A. AFTERWARD I'VE BEEN HOSPITAL PATHOLOGIST PLUS A
FORENSIC PATHOLOGIST DOING AUTOPSIES FOR CORONERS

DIRECT - DR. JANICE E. ROSS BY SOL. SORENSON

623

1 OF THE STATE OF NEW YORK AND IN THE STATE OF
2 SOUTH CAROLINA. I'VE BEEN A CORONER MYSELF AND A
3 CHIEF MEDICAL EXAMINER.

4 Q. OKAY. AND SPECIFICALLY IN YOUR CURRENT POSITION
5 WITH NEWBERRY PATHOLOGY ASSOCIATES, HOW LONG HAVE
6 YOU BEEN THERE?

7 A. TEN YEARS.

8 Q. OKAY. AND YOU CURRENTLY, HOW MANY OTHER
9 PATHOLOGISTS ARE CURRENTLY WORKING WITH YOU THERE
10 NOW?

11 A. ONE.

12 Q. ALRIGHT. AND OVER THE LAST TEN YEARS DO YOU HAVE
13 ANY IDEA APPROXIMATELY HOW MANY AUTOPSIES YOU'VE
14 PERFORMED?

15 A. OVER THE LAST TEN YEARS?

16 Q. YES, MA'AM.

17 A. THREE THOUSAND.

18 Q. OKAY. HAVE YOU HAD AN OPPORTUNITY TO COME INTO
19 COURT AND TESTIFY BEFORE ABOUT YOUR FINDINGS?

20 A. YES.

21 Q. YOU'VE BEEN QUALIFIED AS AN EXPERT IN THE FIELD
22 OF FORENSIC PATHOLOGY ON THOSE OCCASIONS?

23 A. YES.

24 Q. AND YOU'VE TESTIFIED IN THIS VERY COURTROOM
25 MULTIPLE TIMES, HAVE YOU NOT?

DIRECT - DR. JANICE E. ROSS BY SOL. SORENSON

624

1 A. YES.

2 SOLICITOR SORENSON: OKAY. YOUR HONOR, AT THIS
3 TIME WE'D OFFER DR. ROSS AS AN EXPERT IN THE FIELD OF
4 FORENSIC PATHOLOGY.

5 THE COURT: ANY OBJECTION FROM ANY OF THE
6 DEFENDANTS?

7 MR. LACKEY: NO OBJECTION.

8 MS. ULLMAN: NO OBJECTION.

9 MR. PALMER: NO OBJECTION.

10 MR. MELLARD: NO OBJECTION.

11 MR. KOGER: NO OBJECTION.

12 THE COURT: ALRIGHT. SHE IS NOTED AS AN EXPERT
13 IN FORENSIC PATHOLOGY.

14 SOLICITOR SORENSON: THANK YOU, YOUR HONOR.

15 Q. ALRIGHT, DR. ROSS, IF YOU WOULD, TELL THE JURY
16 JUST WHAT AN AUTOPSY CONSISTS OF?

17 A. YES. WHEN WE DO AN AUTOPSY IT'S IN THE MORGUE OF
18 NEWBERRY COUNTY MEMORIAL HOSPITAL. THE BODY IS
19 BROUGHT TO US AND WE LOOK AT THE BODY EXTERNALLY,
20 INCLUDING THE CLOTHING, AND DO INVENTORY,
21 PHOTOGRAPHS, AND THEN WE, OF COURSE, LOOK AT THE
22 BODY NUDE, LOOKING FOR INJURIES AND EVIDENCE OF
23 DISEASES, AND WE DO A SPECIFIC TYPE OF INTERNAL
24 EXAMINATION LOOKING AT EACH ORGAN TO IDENTIFY
25 PATTERNS OF INJURY OR ANY DISEASES.

DIRECT - DR. JANICE E. ROSS BY SOL. SORENSON

625

1 Q. AND SPECIFICALLY IN THIS CASE DID YOU HAVE THE
2 OCCASION BACK ON THE MORNING OF MARCH THE
3 THIRTEENTH OF THIS YEAR TO PERFORM AN AUTOPSY ON
4 A CHARLES PRINGLE?

5 A. YES.

6 Q. OKAY. AND HOW OLD WAS MR. PRINGLE AT THE TIME OF
7 HIS DEATH?

8 A. THIRTY-EIGHT.

9 Q. AND IF YOU WOULD, DESCRIBE FOR THE JURY WHEN, HOW
10 MR. PRINGLE PRESENTED TO YOU IN NEWBERRY?

11 A. HE PRESENTED IN CLOTHING AND, WHICH WE
12 PHOTOGRAPHED AND INVENTORIED.

13 Q. OKAY. DID HE HAVE ANY OTHER, AS FAR AS HIS HEAD
14 AREA, ANY OTHER ITEMS THAT WAS KIND OF UNUSUAL
15 OR OUT OF THE ORDINARY?

16 A. YES, HE HAD GRAY DUCT TAPE AROUND HIS MOUTH AND
17 AROUND HIS HEAD.

18 Q. OKAY. AND WHAT, IF ANYTHING, DID YOU DO WITH
19 THAT DUCT TAPE, MA'AM?

20 A. WE CAREFULLY REMOVED IT AND PLACED IT IN A BAG
21 FOR INVESTIGATORS TO TAKE TO SLED.

22 Q. OKAY. AND IT WAS TURNED OVER TO LIEUTENANT
23 CARTER WITH THE SHERIFF'S OFFICE?

24 A. YES.

25 Q. OKAY. I'M SHOWING YOU STATE'S EXHIBIT NUMBER

DIRECT - DR. JANICE E. ROSS BY SOL. SORENSON

626

1 EIGHT, OBVIOUSLY, THAT'S AT THE SCENE, BUT IS
2 THAT BASICALLY HOW MR. PRINGLE PRESENTED TO YOU
3 AT THE NEWBERRY MORGUE?

4 A. YES.

5 Q. OKAY. AND THAT WOULD BE THE DUCT TAPE THERE THAT
6 YOU COLLECTED AND TURNED OVER TO LIEUTENANT
7 CARTER?

8 A. YES.

9 Q. GOING ON FROM THERE YOU HAD AN OPPORTUNITY, I
10 GUESS, TO REMOVE MR. PRINGLE'S CLOTHING?

11 A. YES.

12 Q. OKAY. AND WHAT -- WHEN YOU DID YOU THEN KIND OF
13 DID AN INITIAL PHYSICAL EXTERNAL EXAM, AND WHAT
14 WERE YOUR FINDINGS AT THAT TIME, MA'AM?

15 A. WE FOUND A TOTAL OF TWENTY-FOUR GUN SHOT WOUNDS
16 TO THE BODY, TORSO AND ARMS AND LEGS.

17 Q. AND DID YOU HAVE AN OPPORTUNITY TO PREPARE A KIND
18 OF A LITTLE BODY DIAGRAM TO KIND OF LAY OUT THE
19 LOCATIONS OF THOSE WOUNDS AND DIRECTION OF
20 TRAVEL?

21 A. YES.

22 Q. OKAY. AND I'M SHOWING YOU STATE'S EXHIBIT
23 NINETY-THREE, I'M SORRY, NINETY-TWO, IS THAT AN
24 ENLARGEMENT OF THE DIAGRAM THAT YOU PREPARED,
25 MA'AM?

DIRECT - DR. JANICE E. ROSS BY SOL. SORENSON

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1 A. YES, IT IS.

2 SOLICITOR SORENSON: YOUR HONOR, AT THIS TIME
3 WE'D OFFER STATE'S NINETY-TWO INTO EVIDENCE.

4 MR. PALMER: NO OBJECTION.

5 MR. LACKEY: NO OBJECTION.

6 MS. ULLMAN: NO OBJECTION.

7 MR. MELLARD: NO OBJECTION.

8 MR. KOGER: NO OBJECTION.

9 THE COURT: IT IS ADMITTED WITHOUT OBJECTION.

10 COURT REPORTER: WHAT NUMBER? THAT WAS NINETY-
11 TWO?

12 THE COURT: NINETY-TWO.
13 (State's Exhibit Ninety-two
14 marked and filed.)

15 SOLICITOR SORENSON: CAN I GET DR. ROSS TO STEP
16 DOWN, YOUR HONOR?

17 THE COURT: YES.

18 Q. LET ME PUT THIS OVER HERE AND I WANT YOU TO STEP
19 AROUND, WE DON'T HAVE A HIGH TECH POINTER, BUT WE
20 HAVE A ...

21 A. THANK YOU.

22 Q. IF YOU COULD, DR. ROSS, JUST KIND OF GO THROUGH
23 FOR THE JURY, AND OBVIOUSLY, I NEED YOU TO KEEP
24 YOUR VOICE UP NICE AND LOUD SO THAT NOT ONLY MS.
25 WALKER BUT ALSO DEFENSE COUNSEL HEAR YOU, AND

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1 KIND OF TELL THE JURY WHAT THEY'RE LOOKING AT
2 THERE?

3 A. YES. THIS IS BASICALLY A DIAGRAM, NOT ACCURATE
4 TO THE CENTIMETER, BUT IT SHOWS THE ROUND CIRCLES
5 OR ENTRANCE WOUNDS OF BULLETS, AND THE LITTLE
6 SQUIGGLY CIRCLES, ALMOST LIKE STARS THAT ARE EXIT
7 WOUNDS. AND YOU CAN SEE THAT THERE ARE A NUMBER
8 OF ENTRANCE WOUNDS GOING INTO THE LEFT ARM, TWO
9 BULLETS I THINK WERE LEFT IN THE ARM, WE FOUND
10 THOSE. ONE WENT THROUGH THE ARM THEN ENTERED THE
11 CHEST. THERE ARE A TOTAL OF FOUR OTHER WOUNDS IN
12 THE CHEST. THERE ARE, THIS WOUND IN THE ABDOMEN,
13 I THINK SEVEN, OR FIVE IN THE BACK. THERE'S A
14 TOTAL OF TWENTY-FOUR, BUT THE, THERE ARE ALSO
15 ARROWS HERE SHOWING THE DIRECTION OF THE BULLETS.
16 SO, SOME OF THEM ARE GOING LEFT TO RIGHT, SOME
17 ARE GOING RIGHT TO LEFT, SOME ARE GOING FROM
18 FRONT TO BACK. THIS IS AN ENTRANCE WOUND IN THE
19 CHEST THAT COMES OUT THE BACK. SOME ARE GOING
20 FROM BACK TO FRONT, SOME ARE GOING FROM THE
21 ABDOMEN DOWNWARD. THIS ONE IN THE FOOT IS GOING
22 FROM RIGHT TO LEFT AND THEN ACROSS THE TOP OF THE
23 LEFT FOOT. SO, THERE ARE BULLETS GOING DIFFERENT
24 PATHS.

25 Q. OKAY. AND ALSO I NOTICE, IS THAT AN INJURY TO

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1 MR. PRINGLE'S - - -

2 A. YES, IT IS.

3 Q. --- I GUESS THE BACK OF HIS RIGHT KNEE?

4 A. THE BACK OF THE RIGHT KNEE WAS A LARGE GAPING
5 WOUND CAUSED BY A GRAZE WOUND. THE BULLET JUST
6 GRAZED THE TOP OF THE SKIN AND DIDN'T GO
7 UNDERNEATH.

8 Q. THANK YOU, DR. ROSS. NOW, YOU MADE REFERENCE TO
9 THIS IN YOUR TESTIMONY RIGHT THERE, DID YOU HAVE
10 AN OPPORTUNITY THEN, DR. ROSS, TO, TO KIND OF
11 ALSO DO AN INTERNAL EXAM IN AN ATTEMPT TO LOCATE
12 ANY EVIDENCE -- YOU INDICATED SOME OF THEM WERE
13 AND ENTRANCE WOUND AND AN EXIT WOUND, BUT SOME OF
14 THEM THERE WAS NO EXIT WOUND?

15 A. CORRECT.

16 Q. DID YOU HAVE AN OPPORTUNITY THEN TO DO AN
17 INTERNAL EXAM IN AN ATTEMPT TO FIND ANY PHYSICAL
18 EVIDENCE WITHIN MR. PRINGLE?

19 A. YES, I DID AN INTERNAL EXAM ASSISTED BY X-RAYS TO
20 SHOW WHERE BULLETS WERE LOCATED. WE FOUND A LOT
21 OF INJURIES TO DIFFERENT ORGANS OF THE BODY FROM
22 THE BULLET WOUNDS, LACERATED HEART, LUNGS, LIVER,
23 STOMACH, SEVERAL DIFFERENT ORGANS, AND THEN WE
24 WERE ABLE TO RETRIEVE SOME BULLETS, SOME WHOLE
25 BULLETS AND SOME FRAGMENTS OF BULLETS FROM THAT.

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1 Q. OKAY. AND THOSE ITEMS WERE COLLECTED, CORRECT?

2 A. YES.

3 Q. LET ME SHOW YOU WHAT IS MARKED AS STATE'S
4 EXHIBITS NUMBERS EIGHTY-ONE THROUGH NINETY-ONE
5 AND GET YOU TO JUST KIND OF LOOK THROUGH THOSE
6 ITEMS.

7 A. THESE ARE BULLETS AND BULLET FRAGMENTS THAT WE
8 WERE ABLE TO GET FROM CHARLES PRINGLE DURING THE
9 AUTOPSY ON MARCH THIRTEENTH. THEY ARE, THEY WERE
10 SUBMITTED IN THESE LITTLE CONTAINERS AND SEALED
11 FOR EVIDENCE AND TAKEN TO SLED BY GERALD CARTER.

12 Q. OKAY.

13 SOLICITOR SORENSON: YOUR HONOR, AT THIS TIME
14 WE'D OFFER STATE'S EIGHTY-ONE THROUGH NINETY-ONE INTO
15 EVIDENCE.

16 THE COURT: ANY OBJECTION?

17 MR. LACKEY: NO OBJECTION.

18 MS. ULLMAN: NO OBJECTION.

19 MR. PALMER: NO OBJECTION.

20 MR. MELLARD: NO OBJECTION.

21 MR. KOGER: NO OBJECTION.

22 THE COURT: THERE BEING NO OBJECTION, THEY ARE
23 ADMITTED INTO EVIDENCE.

24 (State's Exhibits Eighty-one through Ninety-one
25 marked and filed.)

DIRECT - DR. JANICE E. ROSS BY SOL. SORENSON

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1 SOLICITOR SORENSON: ARE YOU READY, MS. WALKER?

2 COURT REPORTER: YES, SIR.

3 Q. OKAY. NOW, DR. ROSS, LET ME JUST KIND OF,
4 KEEPING OUT JUST FOR DESCRIPTION PURPOSES FOR THE
5 JURY, STATE'S EXHIBIT NUMBER EIGHTY-EIGHT. YOU
6 INDICATED THAT THESE, THE FRAGMENT OR WHATEVER
7 YOU COLLECTED WAS THEN PLACED IN THIS LITTLE
8 VIAL?

9 A. YES.

10 Q. OKAY. DID YOU, WHAT IF ANYTHING DID YOU DOCUMENT
11 ON THE ACTUAL VIAL ITSELF?

12 A. WELL, THE NAME OF THE PERSON, CHARLES PRINGLE,
13 THE DATE OF THE AUTOPSY, THE NUMBER OF THE
14 AUTOPSY, THE AREA WHERE THE FRAGMENTS WERE FOUND,
15 AND THIS ONE IS, HEART, AND MY INITIALS.

16 Q. OKAY. SO, EACH ONE OF THESE YOU CAN LOOK AT
17 INDIVIDUALLY AND SEE WHERE IT WAS THAT YOU
18 COLLECTED IT FROM WITHIN MR. PRINGLE?

19 A. YES.

20 Q. NOW, AS PART OF YOUR AUTOPSY, DR. ROSS, DID YOU
21 COLLECT A BLOOD STANDARD FROM MR. PRINGLE TO HAVE
22 A TOXICOLOGICAL SCREEN DONE ON IT?

23 A. YES.

24 Q. AND THAT WAS DONE IN THIS CASE?

25 A. YES.

DIRECT - DR. JANICE E. ROSS BY SOL. SORENSON

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1 Q. DO YOU HAVE THE RESULTS OF THE TOXICOLOGY?

2 A. YES, I DO.

3 Q. WHAT WAS THE RESULT, IF YOU KNOW?

4 A. THE ONLY THING PRESENT WAS TETRA HYDRO
5 CANANBINOL, THC, WHICH IS MARIJUANA, AND ONE OF
6 THE METABOLITES FROM IT.

7 Q. NO OTHER DRUGS IN HIS SYSTEM BESIDES MARIJUANA?

8 A. NO.

9 Q. ALRIGHT, NOW, GOING BACK AS FAR AS YOU KIND OF
10 TALKING ABOUT THE ACTUAL WOUNDS THEMSELVES, WHAT
11 -- YOU DESCRIBED EARLIER SEVERAL INTERNAL ORGANS
12 THAT WERE DAMAGED AS A RESULT?

13 A. YES.

14 Q. WHAT WERE THOSE AGAIN?

15 A. THE HEART, LUNGS --BOTH LUNGS, LIVER, SPLEEN,
16 STOMACH, AND VARIOUS BLOOD VESSELS IN THE CHEST
17 AND ABDOMEN.

18 Q. OKAY. AND LET ME ASK YOU, AS FAR AS LOOKING AT
19 THE WOUNDS WERE YOU ABLE TO TELL ANYTHING ABOUT,
20 YOU KNOW, WHAT KIND OF WEAPON POSSIBLY COULD HAVE
21 CAUSED ANY OF THE WOUNDS?

22 A. ALL I CAN SAY IS, THE ENTRANCE WOUNDS HAD SOME
23 VARIABILITY IN THEIR SIZE.

24 Q. OKAY. AND THAT WOULD SUGGEST WHAT TO YOU IN YOUR
25 EXPERIENCE?

DIRECT - DR. JANICE E. ROSS BY SOL. SORENSON

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1 A. SUGGESTS DIFFERENT CALIBERS.

2 Q. ULTIMATELY, DR. ROSS, WERE YOU ABLE TO DETERMINE
3 WITHIN A REASONABLE DEGREE OF MEDICAL CERTAINTY A
4 MANNER AND CAUSE OF DEATH IN THIS CASE?

5 A. YES.

6 Q. AND WHAT, TELL THE JURY WHAT YOUR OPINION IS IN
7 REGARD TO THAT?

8 A. THE CAUSE OF DEATH IS LACERATION OF MULTIPLE
9 ORGANS DUE TO DUE TO MULTIPLE GUN SHOT WOUNDS OF
10 THE CHEST AND THE ABDOMEN. THE MANNER OF DEATH,
11 HOMICIDE.

12 Q. AND SPECIFICALLY AS TO THOSE, YOU TESTIFIED
13 EARLIER ABOUT THERE BEING, YOU KNOW, TWENTY,
14 POSSIBLY TWENTY-FOUR GUN SHOT WOUNDS TO MR.
15 PRINGLE. WERE YOU ABLE TO KIND OF LOOK AT THEM
16 AND DETERMINE WHAT OF THOSE TWENTY-FOUR WOUNDS
17 WERE THE FATAL WOUNDS?

18 A. MOSTLY THOSE GOING INTO THE CHEST.

19 Q. OKAY. AND THOSE WERE THE ONES THAT PERFORATED, I
20 THINK YOU TESTIFIED, THE HEART AND THE LUNGS AND
21 BASICALLY THOSE INTERNAL ORGANS?

22 A. YES, AND PROBABLY SOME OF THE ONES FROM THE BACK
23 THAT WENT INTO THE CHEST CAVITY.

24 SOLICITOR SORENSON: I BEG THE COURT'S
25 INDULGENCE.

1 THE COURT: SURE.

2 SOLICITOR SORENSON: THANK YOU, DR. ROSS.

3 THE COURT: ALRIGHT, MR. LACKEY.

4 MR. LACKEY: I HAVE NO QUESTIONS, YOUR HONOR.

5 THE COURT: MS. ULLMAN.

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

CROSS - DR. JANICE E. ROSS BY MS. ULLMAN

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CROSS-EXAMINATION OF DR. JANICE E. ROSS

BY MS. ULLMAN:

Q. GOOD AFTERNOON.

A. GOOD AFTERNOON.

Q. YOU TESTIFIED THERE WERE ENTRANCE WOUNDS IN MR.
PRINGLE'S BACK?

A. YES.

Q. WOULD THAT BE CONSISTENT WITH SOMEONE WHO WAS
LAYING ON THEIR BACK ON THE GROUND, GETTING SHOT
WHILE LAYING DOWN?

A. WELL, YOU HAVE -- BULLETS GO STRAIGHT, SO SOMEHOW
THE BULLET CAME IN THE BACK. WHETHER HE WAS ON
THE GROUND, WHETHER HE WAS STANDING UP. YOU HAVE
TWO PEOPLE MOVING, A GUN AND A BODY. IT'S
POSSIBLE THAT HE COULD HAVE BEEN LAYING ON HIS
STOMACH.

Q. I GUESS MY QUESTION, IF I'M LYING ON MY BACK
WOULD YOU SAY IT'S POSSIBLE AT ALL TO GET SHOT IN
MY BACK?

A. OH, IF YOU'RE LYING ON YOUR BACK?

Q. YES, MA'AM.

A. NO, NO.

Q. SO, THE WOUNDS IN THE BACK WOULD MAKE YOU ASSUME
THAT IF HE WERE LAYING DOWN HE MUST HAVE BEEN ON
HIS STOMACH OR HE WAS NOT LYING DOWN?

CROSS - DR. JANICE E. ROSS BY MS. ULLMAN

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A. CORRECT.

MR. ULLMAN: NO FURTHER QUESTIONS, YOUR HONOR.

THE COURT: THANK YOU.

MR. PALMER.

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

CROSS - DR. JANICE E. ROSS BY MR. PALMER

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CROSS-EXAMINATION OF DR. JANICE E. ROSS

BY MR. PALMER:

Q. DR. ROSS, EXCUSE ME, THE PROJECTILES THAT YOU
JUST TESTIFIED TO THAT YOU COLLECTED ARE FROM THE
ACTUAL BODY?

A. YES.

Q. AND YOU, YOU DETECTED, OR YOU DETERMINED THERE
WERE TWENTY-FOUR GUN SHOT WOUNDS?

A. YES.

Q. DOES THAT MEAN TWENTY-FOUR ENTRANCE WOUNDS?

A. TWENTY-FOUR ENTRANCE WOUNDS, YES.

Q. AND HOW MANY ACTUAL PROJECTILES OR FRAGMENTS OF
PROJECTILES DID YOU COLLECT?

A. WELL, WE COLLECTED ELEVEN CONTAINERS. NOW, SOME
OF THOSE MAY BE MIXED, SOME FOR INSTANCE THAT
WERE JUST FRAGMENTS FOUND IN THE PELVIC AREA, AND
THEY COULD BE REPRESENTATIVE OF ONE BULLET OR
TWO, OR THREE.

Q. OKAY.

A. WE DID HAVE SOME WHOLE BULLETS, I CAN'T REMEMBER
EXACTLY HOW MANY, BUT A LOT OF THE FRAGMENTS, I
CAN'T TELL YOU IF THEY WERE FROM ONE BULLET OR
SEVERAL.

Q. OKAY. THANK YOU.

MR. MELLARD: NO QUESTIONS.

1 THE COURT: ALRIGHT. AND MR. KOGER?

2 MR. KOGER: NO QUESTIONS, YOUR HONOR.

3 THE COURT: ALRIGHT. ANYTHING ON REDIRECT?

4 SOLICITOR SORENSON: NO, SIR.

5 THE COURT: ALRIGHT, DR. ROSS, THANK YOU FOR
6 COMING IN, I APPRECIATE IT.

7 YOUR NEXT WITNESS?

8 SOLICITOR SORENSON: YES, SIR. THE STATE CALLS
9 JAMES GREEN.

10 (Whereupon, the witness
11 enters the courtroom.)

12 CLERK: SIR, PLACE YOUR LEFT HAND ON THE BIBLE
13 AND RAISE YOUR RIGHT.

14 (Whereupon, James Green
15 is duly sworn.)

16 CLERK: HAVE A SEAT AND STATE YOUR FULL NAME FOR
17 THE COURT.

18 WITNESS: JAMES GREEN, G-R-E-E-N.

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

DIRECT - JAMES GREEN BY SOL. SORENSON

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DIRECT EXAMINATION OF JAMES GREEN

BY SOLICITOR SORENSON:

Q. GOOD AFTERNOON, AGENT GREEN.

A. GOOD AFTERNOON.

Q. IF YOU WOULD, TELL THE JURY WHERE IT IS THAT
YOU'RE EMPLOYED?

A. I'M EMPLOYED BY THE SOUTH CAROLINA LAW
ENFORCEMENT DIVISION COMMON KNOWN AS SLED, IN THE
FIREARMS DEPARTMENT OF THE FORENSIC SERVICES
LABORATORY.

Q. ALRIGHT. HOW LONG HAVE YOU BEEN EMPLOYED FIRST
OF ALL, WITH THE STATE LAW ENFORCEMENT DIVISION?

A. APPROXIMATELY FIVE AND A HALF YEARS.

Q. OKAY. AND HAVE YOU BEEN IN THE FIREARMS
DEPARTMENT THAT ENTIRE TIME?

A. YES, SIR.

Q. OKAY. AND IF YOU WOULD, TELL THE JURY KIND OF
BRIEFLY WHAT YOUR TRAINING IS IN THAT DEPARTMENT?

A. AT THE FIREARMS DEPARTMENT AT SLED WE UNDERGO A
THREE YEAR IN HOUSE COURSE OF INSTRUCTION, AND
WHAT THAT DEALS WITH IS EXTENSIVE MICROSCOPIC
COMPARISONS, RESEARCH, READING, UNDER COURT
QUALIFIED FIREARMS EXAMINERS, WHERE YOU START
OUT WATCHING THEM PERFORM THEIR CASE WORK, AND AS
YOU BECOME MORE COMFORTABLE YOU START WRITING UP

DIRECT - JAMES GREEN BY SOL. SORENSON

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1 THEIR WORK SHEETS FOR THEM, DOING THE MICROSCOPIC
2 WORK, AND THEN THEY WILL COME BACK BEHIND YOU AND
3 LOOK. I WAS ALSO GIVEN PRACTICAL PROBLEMS IN
4 ORAL AND WRITTEN EXAMINATIONS.

5 Q. AND WHEN, WHAT TIME WERE YOU CERTIFIED TO
6 ACTUALLY START HANDLING CASES ON YOUR OWN?

7 A. I BELIEVE IT WAS MARCH, TWO THOUSAND NINE.

8 Q. AND HAVE YOU HAD AN OPPORTUNITY, AGENT GREEN, --
9 I GUESS AS KIND OF YOUR TRAINING AND ALL CONTINUE
10 ON A DAY TO DAY BASIS IN THE LAB?

11 A. YES, SIR.

12 Q. AND HAVE YOU HAD AN OPPORTUNITY TO TESTIFY BEFORE
13 REGARDING YOUR FINDINGS, SIR?

14 A. YES, I HAVE.

15 Q. AND HOW MANY TIMES?

16 A. SIX.

17 Q. OKAY. AND HAVE YOU BEEN QUALIFIED AS AN EXPERT
18 IN FIREARMS ANALYSIS?

19 A. IN FIREARMS IDENTIFICATION, YES, SIR.

20 Q. OKAY.

21 THE COURT: IN WHAT, FIREARM WHAT?

22 A. IDENTIFICATION.

23 SOLICITOR SORENSON: AND AT THIS TIME, YOUR
24 HONOR, I WOULD OFFER AGENT GREEN AS AN EXPERT IN THE
25 FIELD OF FIREARMS IDENTIFICATION.

DIRECT - JAMES GREEN BY SOL. SORENSON

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1 THE COURT: ANY OBJECTION FROM THE DEFENDANTS?

2 MR. PALMER: NONE.

3 MR. LACKEY: NO OBJECTION.

4 MR. MELLARD: NO OBJECTION.

5 MR. KOGER: NO OBJECTION.

6 MS. ULLMAN: NO OBJECTION.

7 THE COURT: OKAY. WITHOUT OBJECTION AGENT GREEN
8 IS QUALIFIED AS AN EXPERT AS TO FIREARMS.

9 Q. OKAY. AGENT GREEN, IF YOU WOULD, TELL THE JURY
10 KIND OF WHAT, WHAT, BASICALLY WHAT CAPABILITIES
11 Y'ALL HAVE OUT AT SLED AS FAR AS IN THE FIELD OF
12 FIREARMS AND IDENTIFICATION?

13 A. WHEN FIREARMS ARE MANUFACTURED THE MANUFACTURER
14 SAYS, WELL, WE'RE GOING TO MAKE A GUN OF THIS
15 CALIBER WITH THIS MANY LANDING GROOVES IN THE
16 BARREL, AND A LANDING GROOVE IS A RIFLING. LET'S
17 SAY THEY WANT SIX GROOVES CUT, AND THEY WILL CUT
18 SIX GROOVES INTO THE BARREL. AND WHAT THAT DOES
19 IS, IT CAUSES THE BULLET TO SPIN AS IT MOVES
20 THROUGH THE BARREL AND THROUGH THE AIR. YOU CAN
21 THINK ABOUT A QUARTERBACK IN THE NFL, THEY THROW
22 A NICE TIGHT SPIRAL, IT GOES FARTHER, IT'S MORE
23 ACCURATE, VERSUS, IF YOU THROW A FOOTBALL LIKE ME
24 IT'S LIKE A DUCK, IT JUST KIND OF GOES THROUGH
25 THE AIR AND IT FALLS NOWHERE NEAR WHERE YOU WANT

DIRECT - JAMES GREEN BY SOL. SORENSON

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1 IT TO GO. SO, THEY PUT THE RIFLING IN THE BARREL
2 IN A CERTAIN CALIBER, AND THEY'LL SAY, WE WANT TO
3 MAKE THE SLIDE OR THE BREACH FACE AREA LOOK LIKE
4 THIS, AND THEY'LL USE A DIFFERENT VARIETY OF
5 TOOLS TO CUT THE WORKING SURFACES. THOSE MARKS
6 LEFT ON THE WORKING SURFACES BY THE TOOLS MADE OR
7 USED TO CREATE THE FIREARMS ARE WHAT WE LOOK FOR.
8 YOU'LL HAVE CERTAIN CLASS CHARACTERISTICS, WHICH
9 IS A BROAD CATEGORY. WHEN THE FIREARMS
10 MANUFACTURER SAYS, WE WANT TO MAKE A GUN THAT
11 LOOKS LIKE THIS, THAT WOULD FALL INTO A CLASS.
12 HOWEVER, WHEN THE TOOL MOVES ACROSS THE TOOL
13 SURFACE, OR THE SURFACE BEING MACHINED, TINY
14 RAPIDLY CHANGING MICROSCOPIC MARKS ARE LEFT ON
15 THOSE SURFACES, AND THAT LETS US DIFFERENTIATE
16 BETWEEN, SAY, THIS FIREARM FIRING SOMETHING
17 VERSUS THIS FIREARM FIRING SOMETHING, VERSUS
18 THIS. WE CAN PRETTY MUCH TELL WHICH FIREARM
19 SOMETHING WAS FIRED BY BASED ON THE MICROSCOPIC
20 LEFT ON THE WORKING SURFACE OF THE FIREARM.

21 Q. IN OTHER WORDS, YOU CAN TAKE THREE GUNS OF THE
22 SAME CALIBER, SAME BRAND, FIRE ONE OF THEM,
23 RECOVER THAT BULLET, AND THEN BE ABLE TO TELL
24 WHICH OF THOSE GUNS FIRED IT?

25 A. YES, SIR. I ACTUALLY JUST FINISHED TAKING A TEST

DIRECT - JAMES GREEN BY SOL. SORENSON

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1 ADMINISTERED BY THE MIAMI DADE POLICE DEPARTMENT
2 DOWN IN FLORIDA WHERE THEY TOOK, THEY WENT TO THE
3 RUGER FACTORY AND THEY GOT TEN CONSECUTIVELY
4 MANUFACTURED SLIDES. IF YOU'RE EVER GOING TO FIND
5 ANY SIMILARITIES IN FIREARMS IT'S GOING TO BE
6 THOSE MADE BY THE SAME TOOL. SO, WHAT THEY DID
7 WAS, IT WAS LIKE A BLIND TEST, THEY GAVE US SOME
8 FIRED CARTRIDGES CASES, AND THEN SOME KNOWN
9 CARTRIDGE CASES THAT THEY SAID, WE FIRED FROM GUN
10 NUMBER ONE, WE FIRED FROM GUN NUMBER TWO, ALL THE
11 WAY THROUGH, AND I WAS ABLE TO CORRECTLY IDENTIFY
12 WHICH UNKNOWN CARTRIDGE CASES WENT BACK TO THAT
13 PARTICULAR FIREARM.

14 Q. OKAY. AND AS FAR AS CARTRIDGE CASINGS, EXPLAIN
15 TO THE JURY, AND THEY'VE HEARD A LITTLE BIT OF
16 THIS ALREADY, BUT WHEN YOU FIRE A WEAPON, LET'S
17 SAY IN THE CASE OF A SEMI-AUTOMATIC PISTOL, WHEN
18 YOU FIRE IT THE BULLET'S GOING TO COME OUT THE
19 END OF THE GUN, RIGHT?

20 A. YES, SIR.

21 Q. AND THE SHELL CASING IS GOING TO GET EJECTED OUT
22 OF THE GUN?

23 A. YES, SIR.

24 MS. ULLMAN: OBJECTION, YOUR HONOR, HE'S
25 TESTIFYING. HE CAN ASK HIM WHAT HAPPENS WHEN IT GETS

DIRECT - JAMES GREEN BY SOL. SORENSON

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1 EXPELLED.

2 THE COURT: IF YOU'D JUST REPHRASE THE QUESTION.

3 Q. WOULD YOU DESCRIBE FOR THE JURY WHAT HAPPENS WHEN
4 YOU FIRE A SEMI-AUTOMATIC PISTOL?

5 A. OKAY, I'LL START FROM THE BEGINNING. USUALLY
6 SEMI-AUTOMATIC PISTOLS HAVE A MAGAZINE. YOU TAKE
7 THE UNFIRED CARTRIDGES, LOAD THEM INTO THE
8 MAGAZINE, AND THEN YOU FULL SEAT THE MAGAZINE TO
9 THE MAGAZINE WELL, WHICH IS THE HOLE IN THE
10 FIREARM FOR THE MAGAZINE TO GO IN. THEN YOU PULL
11 BACK THE SLIDE WHICH IS THE PART THAT MOVES BACK
12 AND FORTH. AND THAT WILL CHAMBER THE FIRST
13 CARTRIDGE. THEN YOU PULL THE TRIGGER, THE FIRING
14 PIN WILL HIT THE PRIMER CAUSING THE LITTLE
15 PRIMING PELLET TO COMBUST, I'M GETTING A LITTLE
16 TECHNICAL, IT WILL SEND A FLASH OF FLAME THROUGH
17 A FLASH HOLE IN THE CARTRIDGE CASE WHICH IGNITES
18 THE GUN POWER AND THE CARTRIDGE CASE. THE
19 CARTRIDGE CASE, OR EXCUSE ME, THE GUN POWDER WILL
20 BURN AND TURN INTO A GAS, AND THAT PRESSURE FROM
21 THE GAS BUILDS UNTIL WHERE IT PUSHES THE BULLET
22 DOWN THE BARREL, AND OUT THE BARREL OF THE
23 FIREARM. AND AS THE BULLET IS PUT OUT OF THE
24 FIREARM BARREL THE CARTRIDGE CASE GETS PUSHED
25 BACK UP AGAINST THE BREACH FACE AND THE FORCE OF

DIRECT - JAMES GREEN BY SOL. SORENSON

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1 THAT RECOIL WILL MAKE THE SLIDE MOVE REARWARD
2 BASED ON SPRING TENSION, AND ONCE IT HITS A
3 CERTAIN POINT THE CARTRIDGE CASE WILL BE EJECTED
4 FROM THE FIREARM IN ANY DIFFERENT NUMBER OF
5 DIRECTIONS. AND THEN THE SLIDE MOVE FORWARD BACK
6 INTO THAT SPRING TENSION AND YOU PULL THE TRIGGER
7 AND THE WHOLE CYCLE STARTS OVER AGAIN.

8 Q. OKAY. AND NOW, YOU MADE REFERENCE EARLIER TO, I
9 THINK, THE PROJECTILES AND THEN ALSO TO THE SHELL
10 CASINGS, SO AN INDIVIDUAL FIREARM CAN BE COMPARED
11 TO BOTH THE PROJECTILE IT FIRES AND ALSO THE
12 SHELL CASING THAT'S PROJECTED FROM IT?

13 A. YES, SIR.

14 Q. OKAY. AND LET ME ASK YOU THIS, IF YOU ARE
15 SUBMITTED IN A CASE A HANDFUL OF SHELL CASINGS
16 THAT ARE COLLECTED BUT YOU DON'T HAVE A WEAPON,
17 WHAT IF ANY CAPABILITY DO YOU HAVE WITH REGARD TO
18 DOING ANALYSIS ON THOSE SHELL CASINGS, IF YOU
19 DON'T HAVE A WEAPON TO ACTUALLY COMPARE THEM TO?

20 A. BASED ON JUST CLASS CHARACTERISTICS WE CAN
21 NEGATE, LET'S SAY, IF I GET A HANDFUL OF TEN
22 CARTRIDGE CASES, FIVE LOOK LIKE THEY CAME OUT OF
23 A HIGH POINT AND FIVE LOOK LIKE THEY CAME OUT OF
24 A GLOCK BASED ON THE CLASS CHARACTERISTICS, I CAN
25 DEFINITELY SAY THAT THESE FIVE WEREN'T FIRED BY

DIRECT - JAMES GREEN BY SOL. SORENSON

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1 THE GUN THAT FIRED THESE FIVE, BASED ON JUST THE
2 CLASS CHARACTERISTICS. THEN, YOU ALSO HAVE
3 CALIBER. SOME CALIBERS ARE USED SOMEWHAT
4 INTERCHANGEABLY IN DIFFERENT FIREARMS, SOME OR
5 NOT. IT'S LIKE I CAN SAY, A TWENTY-TWO LONG
6 RIFLE RIM FIRE CARTRIDGE WASN'T FIRED OUT OF A
7 TWELVE GAUGE SHOT GUN.

8 Q. OKAY. YOU'RE ALSO ABLE TO TAKE THOSE CASINGS AND
9 COMPARE THEM TO EACH OTHER?

10 MS. ULLMAN: OBJECTION, YOUR HONOR, THERE'S NO
11 QUESTION, WHAT HE'S SAYING, JUST STATING - - -

12 Q. ARE YOU ALSO ABLE TO - - -

13 THE COURT: LET HIM FINISH THE QUESTION. YOU GO
14 AHEAD AND FINISH THE QUESTION, MR. SORENSON.

15 SOLICITOR SORENSON: THANK YOU.

16 Q. ARE YOU ALSO ABLE TO COMPARE THOSE SHELL CASINGS
17 TO EACH OTHER TO SEE IF THEY WERE FIRED BY THE
18 SAME FIREARM?

19 A. YES, SIR, WE CAN, SAY, ONCE AGAIN, IF I HAVE TEN
20 I CAN SAY THEY WERE ALL FIRED BY ONE GUN, OR
21 FIRED BY TEN DIFFERENT FIREARMS.

22 Q. OKAY. ALRIGHT, NOW, SPECIFICALLY I WANT TO NOW
23 TURN US TO THIS CASE THAT WE'RE HERE ABOUT TODAY.
24 OKAY, AGENT GREEN, DID YOU HAVE AN OPPORTUNITY TO
25 RECEIVE SEVERAL ITEMS OF EVIDENCE IN THIS CASE

DIRECT - JAMES GREEN BY SOL. SORENSON

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1 SUBMITTED BY THE ORANGEBURG COUNTY SHERIFF'S
2 OFFICE?

3 A. YES, SIR.

4 Q. OKAY. AND SPECIFICALLY, I GUESS TO KIND OF THESE
5 ONE AT A TIME, LET ME SHOW YOU THIS ENVELOPE, AND
6 LET YOU LOOK THROUGH THAT. DID YOU RECEIVE THOSE
7 ITEMS FOR YOUR ANALYSIS?

8 A. WHEN WE RECEIVE ITEMS OF EVIDENCE AT SLED EACH
9 ITEM IS MARKED WITH THE LAB NUMBER, ITEM NUMBER
10 THAT IS GIVEN BY SLED, AND OUR INITIALS SO WE CAN
11 IDENTIFY THEM AS HAVING BEEN RECEIVED. THAT'S
12 WHAT I'M DOING NOW IS MAKING, LOOKING FOR MY
13 INITIALS AND CASE NUMBER AND ITEM NUMBER. YES,
14 SIR, I'VE SEEN ALL THESE ITEMS IN THIS ENVELOPE.

15 SOLICITOR SORENSON: AND JUST FOR THE RECORD,
16 YOUR HONOR, HE JUST SAID HE HAD SEEN STATE'S EXHIBITS
17 THIRTY-NINE THROUGH FORTY-NINE.

18 THE COURT: OKAY.

19 Q. BEFORE -- YOU CAN JUST LEAVE THEM OUT FOR RIGHT
20 NOW. AGENT GREEN, LET ME SHOW YOU -- LET ME ASK
21 YOU THIS BEFORE WE GET INTO THOSE. IN THIS CASE
22 DID YOU RECEIVE ANY ACTUAL WEAPONS, ANY FIREARMS,
23 WERE ANY SUBMITTED TO YOU IN THIS CASE?

24 A. YES, SIR, I RECEIVED ONE RUGER PISTOL.

25 Q. I'M SHOWING YOU WHAT'S BEEN MARKED AS STATE'S

DIRECT - JAMES GREEN BY SOL. SORENSON

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1 EXHIBIT NUMBER SEVENTY-THREE, AND ASK IF YOU
2 RECOGNIZE THAT ITEM?

3 A. YES, SIR, THIS THE PISTOL I EXAMINED IN THIS
4 CASE.

5 Q. OKAY, AND WHAT -- TELL THE JURY WHAT KIND OF
6 PISTOL THAT IS?

7 A. THIS IS A RUGER MODEL P-NINETY-FOUR, A SEMI-
8 AUTOMATIC PISTOL, IT'S A NINE MILLIMETER LUGAR
9 CALIBER.

10 Q. WHAT IS THE CALIBER?

11 A. I'M SORRY, IT'S A FORTY CALIBER SMITH AND WESSON.

12 Q. SO, IT'S A FORTY CALIBER?

13 A. YES, SIR.

14 Q. AGENT GREEN, NOW AS TO STATE'S EXHIBITS THIRTY-
15 NINE THROUGH FORTY-NINE THAT ARE BEFORE YOU, WHAT
16 IF ANY EXAMINATION OR ANALYSIS DID YOU PERFORM ON
17 THOSE ELEVEN ITEMS?

18 A. LET ME GET THEM IN ORDER HERE. I TOOK THESE
19 CARTRIDGES CASES AND LOOKED AT THEM USING OUR
20 COMPARISON MICROSCOPE. AND WHAT THAT IS, IT'S
21 JUST BASICALLY TWO MICROSCOPES JOINTED TOGETHER
22 BY AN OPTICAL BRIDGE THAT LETS US LOOK AT TWO
23 ITEMS SIMULTANEOUSLY UNDER MAGNIFICATION AND
24 DIFFERENT LIGHTING ANGLES.

25 Q. OKAY. AND WHAT WERE YOUR RESULTS WHEN YOU

DIRECT - JAMES GREEN BY SOL. SORENSON

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1 COMPARED THOSE ELEVEN SHELL CASINGS?

2 A. THESE ELEVEN SHELL CASINGS, WHICH WERE ITEMS,
3 STATE'S EXHIBITS THIRTY-NINE THROUGH FORTY-NINE,
4 WERE ALL FIRED BY ONE FIREARM.

5 Q. LET ME ASK YOU, COULD THEY HAVE BEEN FIRED BY, OR
6 WERE THEY FIRED BY STATE'S EXHIBIT SEVENTY-THREE?

7 A. NO, SIR, THEY WERE NOT.

8 Q. OKAY. ALRIGHT. I'M GIVING YOU ANOTHER ENVELOPE
9 TO LOOK AT, AND I ASK YOU TO DO THE SAME THING
10 IN THAT ENVELOPE?

11 A. YES, SIR, I'VE SEEN ALL OF THOSE ITEMS.

12 Q. OKAY. AND THAT'S STATE'S EXHIBITS FIFTY THROUGH
13 FIFTY-SEVEN, IS THAT CORRECT?

14 A. YES, SIR.

15 Q. OKAY. AND DID YOU HAVE AN OPPORTUNITY TO EXAMINE
16 THOSE ITEMS?

17 A. YES, SIR, I DID.

18 Q. OKAY. AND WHAT, WHAT CALIBER SHELL CASINGS ARE
19 THOSE?

20 A. THOSE ARE FORTY SMITH AND WESSON, OR FORTY S AND
21 W CALIBER.

22 Q. AND LET ME ASK YOU THIS, DID YOU HAVE AN
23 OPPORTUNITY TO COMPARE THOSE EIGHT SHELL CASINGS
24 TO STATE'S EXHIBIT SEVENTY-THREE?

25 A. YES, SIR.

DIRECT - JAMES GREEN BY SOL. SORENSON

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1 Q. OKAY. AND WHAT WERE THE RESULTS OF COMPARING
2 THOSE EIGHT SHELL CASINGS TO THAT FORTY CALIBER
3 PISTOL?

4 A. THEY WERE ALL FIRED BY THAT PISTOL.

5 Q. OKAY. SO THAT GUN EJECTED THOSE EIGHT SHELL
6 CASINGS?

7 A. YES, SIR, THEY WERE FIRED BY, AND EJECTED FROM
8 IT.

9 Q. ALRIGHT. WE CAN PUT THEM BACK UP. LET ME SHOW
10 YOU STATE'S EXHIBITS FIFTY-EIGHT THROUGH SIXTY-
11 TWO, I BELIEVE, YES, FIFTY-EIGHT THROUGH SIXTY-
12 TWO, AND ASK YOU IF YOU RECOGNIZE THOSE ITEMS?

13 A. YES, SIR.

14 Q. OKAY. DESCRIBE FOR THE JURY WHAT STATE'S
15 EXHIBITS FIFTY-EIGHT THROUGH SIXTY-TWO ARE?

16 A. THEY ARE FIVE FIRED SEVEN POINT SIX TWO BY
17 THIRTY-NINE SOVIET OR RUSSIAN CALIBER CARTRIDGE
18 CASES.

19 Q. OKAY. AND WHAT KIND OF WEAPON WOULD FIRE THOSE,
20 THOSE TYPE OF, WOULD EJECT THOSE KIND OF SHELL
21 CASINGS?

22 A. TYPICALLY WHAT YOU SEE IN SEVEN POINT SIX TWO BY
23 THIRTY-NINE CALIBER ARE YOUR SKS OR AK FORTY-
24 SEVEN VARIANCE.

25 Q. AND LET ME SHOW YOU STATE'S EXHIBIT NUMBER

DIRECT - JAMES GREEN BY SOL. SORENSON

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1 SEVENTY-FIVE, IS THAT A PHOTOGRAPH THAT YOU
2 PROVIDED TO OUR OFFICE OF ONE OF THE WEAPONS THAT
3 COULD POSSIBLY HAVE FIRED THOSE SHELL CASINGS?

4 A. YES, SIR, THIS IS A PHOTOGRAPH OF ONE OF THE SKS
5 TYPE RIFLES FROM OUR FIREARMS REFERENCE
6 COLLECTION.

7 SOLICITOR SORENSON: AT THIS TIME WE'D OFFER
8 STATE'S SEVENTY-FIVE INTO EVIDENCE.

9 MS. ULLMAN: YOUR HONOR, I DO OBJECT.

10 THE COURT: OKAY. AND I NOTE YOUR OBJECTION FROM
11 EARLIER, AND I AM GOING TO ALLOW IT IN, AND I WILL GO
12 OVER THE REASONS FOR DOING THAT AT A LATER TIME.

13 MS. ULLMAN: YES, SIR.

14 THE COURT: OKAY. THANK YOU. BUT I WILL NOTE
15 YOUR OBJECTION FOR THE RECORD.

16 NUMBER SEVENTY-FIVE IS ADMITTED.
17 (State's Exhibit Seventy-five
18 marked and filed.)

19 Q. AND THAT IS ONE OF THE TYPES OF FIREARMS THAT
20 COULD HAVE FIRED BULLETS AND EJECTED THOSE FIVE
21 SHELL CASINGS?

22 A. YES, SIR.

23 Q. ALRIGHT, NOW, WHAT -- I WAS GOING TO ASK YOU, DID
24 YOU HAVE ANY WEAPONS LIKE THIS SUBMITTED IN THIS
25 CASE?

DIRECT - JAMES GREEN BY SOL. SORENSON

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- 1 A. NO, SIR, THE ONLY WEAPON SUBMITTED WAS THE
2 PISTOL.
- 3 Q. OKAY. AND OBVIOUSLY, I MEAN, COULD THIS GUN HAVE
4 FIRED THOSE SHELL CASINGS?
- 5 A. NO, SIR.
- 6 Q. DID YOU HAVE AN OPPORTUNITY TO THEN TAKE THOSE
7 FIVE SHELL CASINGS AND KIND OF COMPARE THEM TO
8 EACH OTHER TO SEE IF THE SAME FIREARM FIRED THOSE
9 FIVE?
- 10 A. YES, SIR, I DID.
- 11 Q. AND WHAT WERE YOUR RESULTS AFTER DOING THAT?
- 12 A. STATE'S EXHIBIT FIFTY-EIGHT, FIFTY-NINE, SIXTY
13 AND SIXTY-ONE WERE FIRED BY THE SAME FIREARM, AND
14 STATE'S EXHIBIT SIXTY-TWO WAS FIRED BY A
15 DIFFERENT FIREARM.
- 16 Q. SO, THIS ONE RIGHT HERE, STATE'S SIXTY-TWO, WHICH
17 IS -- WHAT MARKER NUMBER IS THAT NOTED ON THE
18 BACK?
- 19 A. IT SAYS, NUMBER THIRTY.
- 20 Q. OKAY. AND THAT WAS FIRED BY A DIFFERENT RIFLE
21 THAN THE RIFLE THAT FIRED THESE FOUR?
- 22 A. YES, SIR.
- 23 Q. THANK YOU, WE CAN PUT THAT ONE BACK UP. BASED ON
24 THE -- AND DID YOU RECEIVE ANY OTHER SHELL
25 CASINGS IN THIS CASE, OTHER THAN WHAT WE'VE GONE

DIRECT - JAMES GREEN BY SOL. SORENSON

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1 OVER?

2 A. LET'S SEE, WE WENT OVER -- NO, SIR.

3 Q. OKAY. SO, JUST BASED ON THE SHELL CASINGS FOUND,
4 HOW MANY DIFFERENT WEAPONS WOULD HAVE HAD TO HAVE
5 BEEN USED TO FIRE ALL THOSE SHELL CASINGS THAT
6 WERE SUBMITTED TO YOU?

7 A. FOUR.

8 Q. FOUR.

9 COURT REPORTER: FOUR?

10 A. YES, MA'AM.

11 Q. AND YOU ALSO, IN ADDITION TO THE SHELL CASINGS
12 THAT WERE SUBMITTED, ALSO HAD SEVERAL PROJECTILES
13 AND BULLETS AND THINGS OF THAT NATURE SUBMITTED?

14 A. YES, SIR.

15 Q. OKAY. AND LET ME SHOW YOU ANOTHER ENVELOPE HERE.
16 AND I BELIEVE THAT SHOULD CONTAIN STATE'S
17 EXHIBITS SIXTY-FOUR THROUGH SEVENTY-TWO, I
18 BELIEVE.

19 A. YES, SIR, I'VE SEEN THOSE BEFORE.

20 Q. OKAY. NOW ADDITIONALLY, I HAND YOU ANOTHER BAG
21 HERE, AND WE'LL EVENTUALLY TAKE THEM ONE AT A
22 TIME HERE, BUT - - -

23 SOLICITOR SORENSON: THAT BAG CONTAINS STATE'S
24 EIGHTY-ONE THROUGH NINETY-ONE, YOUR HONOR, THAT HE'S
25 LOOKING AT NOW.

DIRECT - JAMES GREEN BY SOL. SORENSON

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THE COURT: OKAY.

A. YES, SIR, I'VE SEEN ALL THOSE AS WELL.

Q. SO, ALL OF THOSE ITEMS WERE SUBMITTED TO YOU FOR
YOUR ANALYSIS IN THIS CASE?

A. YES, SIR.

Q. ALRIGHT. AND I GUESS THE BEST WAY TO DO THIS,
AGENT GREEN, IS TO JUST KIND OF TAKE THEM ONE AT
A TIME AND GET YOU TO KIND OF TELL THE JURY WHAT
YOUR FINDINGS WERE AS TO EACH OF THOSE AS WE GO
THROUGH. IF YOU WANT ME TO KIND OF GIVE THEM TO
YOU IN ORDER OR DO YOU -- IF YOU WOULD JUST KIND
OF IDENTIFY THE STATE'S EXHIBIT AND THE RIGHT
STICKER BEFORE YOU ...

A. OKAY. STATE'S EXHIBIT SIXTY-FOUR IS WHAT I'M
LOOKING AT RIGHT NOW.

Q. OF COURSE, NOW, YOU HAVE A DIFFERENT NUMBER THAN
THAT, IS THAT CORRECT?

A. YES, SIR.

Q. OKAY.

A. SO, I'M TRYING TO BALANCE THESE WITH MY NUMBERS.

Q. THAT SHOULD BE, I BELIEVE, YOUR ITEM TWENTY-FIVE
I BELIEVE, IS THAT CORRECT?

A. YES, SIR.

Q. THEY SHOULD BE IN ORDER. WHAT OTHER NUMBERS ARE
YOU LOOKING FOR?

DIRECT - JAMES GREEN BY SOL. SORENSON

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1 A. I GOT THEM OUT OF ORDER WHEN I PUT THEM UP HERE.
2 OKAY, I'M SORRY. ALRIGHT, ITEM SIXTY-FOUR,
3 STATE'S EXHIBIT SIXTY-FOUR, SIXTY-FIVE, SIXTY-
4 SEVEN, SEVENTY-ONE, SIXTY-NINE, EIGHTY-TWO,
5 EIGHTY-FOUR, EIGHTY-SEVEN AND NINETY-ONE -- OKAY,
6 STATE'S EXHIBIT NINETY-ONE IS ACTUALLY TWO OF MY
7 ITEM NUMBERS COMBINED INTO ONE.

8 Q. YES, SIR.

9 A. OKAY. SO WHEN I REFER TO STATE'S EXHIBIT NINETY-
10 ONE I'M REFERRING TO THE FIRED BULLET PORTION AND
11 NOT THE NON-AMMUNITION COMPONENTS.

12 COURT REPORTER: NOT THE WHAT?

13 A. IT LOOKS LIKE A BUTTON, BUT IT'S NOT AN
14 AMMUNITION COMPONENT.

15 Q. AND HOW MANY IS THAT, TEN TOTAL?

16 A. YES, SIR. I'M MISSING ONE. WHICH ONE AM I
17 MISSING? HANG ON, THAT'S NOT RIGHT.

18 Q. IT SHOULD BE FIVE OF THOSE.

19 A. TWENTY-FIVE, TWENTY-SIX, TWENTY-EIGHT, THIRTY-
20 TWO.

21 Q. HAVE YOU GOT IT?

22 A. YES, SIR. OKAY. LET ME GIVE YOU THOSE ITEMS
23 NUMBERS AGAIN. I'M SORRY. ITEMS SIXTY-FOUR,
24 SIXTY-FIVE, SIXTY-SEVEN, SIXTY-NINE, SEVENTY-ONE,
25 EIGHTY-TWO, EIGHTY-FOUR, EIGHTY-SEVEN, NINETY AND

DIRECT - JAMES GREEN BY SOL. SORENSON

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1 NINETY-ONE.

2 Q. OKAY. SO, THOSE TEN BULLETS AND/OR BULLET
3 FRAGMENTS, WHAT WERE THE RESULTS OF THOSE TEN?

4 A. THEY WERE ALL FIRED BY THE SAME FIREARM, BUT THEY
5 WERE NOT FIRED BY THE RUGER PISTOL.

6 Q. ALL FIRED BY THE SAME BUT NOT BY STATE'S EXHIBIT
7 SEVENTY-THREE?

8 A. YES, SIR.

9 Q. WHAT CAN YOU TELL US ABOUT AS FAR AS THE CALIBER
10 OR ANYTHING OF THAT NATURE AS TO THOSE?

11 A. BASED ON THE WEIGHT, THEIR OBSERVABLE PHYSICAL
12 CHARACTERISTICS, AND WHERE APPLICABLE THEIR
13 DIAMETERS AT BASE, THEY'RE MOST CONSISTENT WITH
14 BEING BULLETS LOADED INTO SOME NINE MILLIMETER
15 LUGER CALIBER CARTRIDGES.

16 Q. OKAY. SO, THEREFORE, THEY WOULD BE CONSISTENT
17 WITH COMING FROM THESE ELEVEN SHELL CASINGS?

18 A. YES, SIR, FROM CARTRIDGE CASINGS OF THAT CALIBER,
19 YES, SIR.

20 Q. LET ME ASK YOU THIS, COULD THEY HAVE BEEN THEN
21 FIRED BY THE SAME GUN THAT EJECTED THESE SHELL
22 CASINGS HERE?

23 A. THEY COULD HAVE BEEN, BUT THAT'S NOT AN
24 EXAMINATION WE PERFORM.

25 Q. ALRIGHT. LET'S KIND OF GO ON TO THE NEXT GROUP.

DIRECT - JAMES GREEN BY SOL. SORENSON

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- 1 A. I HAVE STATE'S EXHIBITS SIXTY-SIX, SIXTY-EIGHT,
2 SEVENTY, SEVENTY-TWO AND EIGHTY-FIVE.
- 3 Q. WHAT ABOUT EIGHTY-THREE?
- 4 A. NO, SIR, I'M LOOKING TO MAKE SURE I'VE GOT
5 EVERYTHING. I'M SORRY, AND ITEM EIGHTY-THREE.
- 6 Q. SO, IT'S ONE, TWO, THREE, FOUR, FIVE, SIX EITHER
7 BULLET FRAGMENTS OR PROJECTILES?
- 8 A. YES, SIR.
- 9 Q. ALRIGHT. AND WHAT WERE YOUR RESULTS AS TO THOSE
10 SIX?
- 11 A. THEY WERE ALL FIRED BY THE SAME FIREARM, WHICH IS
12 THAT RUGER PISTOL.
- 13 Q. SO, THOSE SIX BULLETS AND/OR BULLET FRAGMENTS
14 WERE ALL FIRED BY STATE'S EXHIBIT SEVENTY-THREE?
- 15 A. YES, SIR. OKAY, I'LL TAKE THESE ONE AT A TIME.
- 16 Q. OKAY.
- 17 A. STATE'S EXHIBIT EIGHTY-ONE IS A HEAVILY DAMAGED
18 BULLET FRAGMENT BUT BASED ON THE REMAINING
19 OBSERVABLE PHYSICAL CHARACTERISTICS I WAS ABLE TO
20 CONCLUDE IT WAS CONSISTENT WITH BULLETS LOADED IN
21 SOME SEVEN POINT SIX TWO BY THIRTY-NINE
22 MILLIMETER CALIBER CARTRIDGES, AND THEY ALSO CAME
23 WITH TWO LEAD FRAGMENTS WHICH BORE NO MARKS OF
24 VALUE FOR IDENTIFICATION PURPOSES, SO THEY WERE
25 UNSUITABLE.

DIRECT - JAMES GREEN BY SOL. SORENSON

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1 Q. SO, THAT COULD HAVE BEEN FIRED BY A WEAPON
2 SIMILAR TO THIS ONE?

3 A. YES, SIR, IT COULD HAVE BEEN. STATE'S EXHIBIT
4 EIGHTY-SIX IS JUST A SMALL JACKET FRAGMENT, AND
5 ONE SMALL LEAD FRAGMENT. DUE TO THE DAMAGE I WAS
6 UNABLE TO DETERMINE THE CALIBER OF THIS FRAGMENT.
7 HOWEVER, IT DID HAVE SOME MARKS OF VALUE SO IT
8 MAY BE SUITABLE FOR IDENTIFICATION.

9 Q. OKAY. DID YOU ATTEMPT TO COMPARE IT WITH STATE'S
10 EXHIBIT SEVENTY-THREE?

11 A. I DID, AND IT WAS NOT FIRED BY THAT FIREARM.

12 Q. ALRIGHT.

13 A. STATE'S EXHIBIT EIGHTY-EIGHT, ONCE AGAIN DUE TO
14 THE DAMAGE I WAS UNABLE TO RELIABLY DETERMINE THE
15 CALIBER, BUT BASED ON THE RIFLING SPECIFICATIONS
16 I WAS ABLE TO DETERMINE IT WAS NOT FIRED BY THE
17 PISTOL.

18 Q. OKAY. ALRIGHT.

19 A. STATE'S EXHIBIT EIGHTY-NINE, THERE'S ACTUALLY IN
20 THERE, ONE'S A SMALL LEAD FRAGMENT WHICH IS
21 UNSUITABLE, AND THEN THERE'S A BULLET JACKET,
22 ACTUALLY TWO BULLET JACKET FRAGMENTS AND A LEAD
23 FRAGMENT. BASED ON THE JACKET FRAGMENTS I WAS
24 ABLE TO DETERMINE IT'S MOST CONSISTENT WITH
25 BULLETS LOADED INTO SOME NOMINAL THIRTY CALIBER

DIRECT - JAMES GREEN BY SOL. SORENSON

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1 CARTRIDGES. I WAS UNABLE TO DETERMINE AN EXACT
2 CALIBER DUE TO THE DAMAGE, AND BASICALLY, ALL I
3 HAVE IS WHAT'S LEFT AT THE BASE, AND A THIRTY
4 CALIBER COMES WITH A LOT OF DIFFERENT CALIBERS,
5 THERE'S THIRTY OUGHT SIX SPRINGFIELD THREE O
6 EIGHT, SO I WAS UNABLE TO GET AN EXACT CALIBER
7 OTHER THAN A NOMINAL, AN APPROXIMATE THIRTY
8 CALIBER.

9 Q. OKAY. COULD IT HAVE BEEN FIRED BY STATE'S
10 EXHIBIT SEVENTY-THREE?

11 A. NO, SIR, IF IT WOULD HAVE BEEN FIRED IT WOULD
12 HAVE BEEN DEFORMED AND IT COULD NOT HAVE BEEN
13 FIRED BY THAT GUN BASED ON THE RIFLING AS WELL.

14 Q. COULD IT HAVE BEEN FIRED BY AN ASSAULT RIFLE SUCH
15 AS THIS?

16 A. IT COULD HAVE.

17 Q. COULD IT HAVE BEEN FIRED BY A NINE MILLIMETER
18 PISTOL?

19 A. NO, SIR.

20 Q. OBVIOUSLY, GOING BACK TO THE FORTY CALIBER PISTOL
21 THAT YOU RECEIVED, IT WAS OPERABLE?

22 A. YES, SIR.

23 Q. AND LET ME ASK YOU THIS, KIND OF, MAYBE I SHOULD
24 HAVE COVERED THIS BEFORE I EVEN GOT INTO THIS,
25 BUT WHEN YOU, THE SHELL CASINGS AND THE

DIRECT - JAMES GREEN BY SOL. SORENSON

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1 PROJECTILES THAT YOU TESTIFIED WERE FIRED BY THIS
2 WEAPON, HOW DID YOU, HOW DO YOU GET STANDARDS TO
3 COMPARE THOSE TO, TO MAKE THAT COMPARISON?

4 A. IT, SLED IN THE FIREARMS DEPARTMENT WE ACTUALLY
5 HAVE A TWO STORY VERTICAL WATER TANK THAT WE TEST
6 FIRE OUR FIREARMS INTO. THE WATER WE CHOSE AS A
7 MEDIUM BECAUSE IT DOESN'T ADD TO OR TAKE AWAY
8 FROM ANY MARKINGS LEFT ON THE FIRED COMPONENTS.
9 AND WE TEST FIRE THE SPECIFIC FIREARMS, IN THIS
10 CASE THE RUGER. I TEST FIRED THE PISTOL, SO I
11 CAN SAY DEFINITELY I KNOW THOSE BULLETS AND
12 CARTRIDGE CASINGS CAME FROM THAT GUN BECAUSE I
13 FIRED THEM MYSELF.

14 Q. AND YOU TOOK THEN THOSE STANDARDS WHEN YOU FIRED
15 IT INTO THE WATER TANK AND COMPARED THOSE
16 STANDARDS THEN TO THE CASINGS FOUND AT THE SCENE
17 AND THE PROJECTILES THAT WERE SUBMITTED TO YOU?

18 A. YES, SIR. AFTER I TEST FIRE THEM I'LL LOOK AT
19 THE TESTS, MATCH THE TESTS UP, SEE HOW THE
20 FIREARM'S MARKING. I DO THAT WITH BOTH THE
21 CARTRIDGE CASINGS AND THE BULLETS, AND THEN WHAT
22 I'LL DO IS, I'LL GO THROUGH EVERY SINGLE EVIDENCE
23 ITEM YOU JUST SAW ME GO THROUGH AND SAY, YES,
24 I'VE SEEN THEM BEFORE, I'LL LOOK AT THOSE VERSUS
25 THE TESTS TO SEE IF THEY WERE FIRED BY THAT

DIRECT - JAMES GREEN BY SOL. SORENSON

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1 FIREARM OR NOT.

2 Q. OKAY. AND I THINK ONE OF THE LAST THINGS I WANT
3 TO ASK YOU ABOUT IS TO JUST GO BACK TO TWO OF THE
4 ITEMS THAT YOU TESTIFIED ABOUT, STATE'S EXHIBITS
5 SIXTY-NINE AND SEVENTY. START WITH STATE'S
6 EXHIBIT SIXTY-NINE, I BELIEVE THAT WOULD BE YOUR
7 ITEM THIRTY I BELIEVE. LET ME FIND THAT IN YOUR
8 REPORT. AND WHAT IS, WHAT IS THE MARKER NUMBER
9 THAT IS ON THAT LITTLE COIN ENVELOPE INSIDE THE
10 PLASTIC ENVELOPE?

11 A. FORTY-THREE IS WHAT IT SAYS.

12 Q. AND WHAT IS NOTED ON THERE AS FAR AS WHERE THAT
13 ITEM WAS FOUND? I THINK IT'S UNDERNEATH.

14 A. YEAH, IT SAYS, UNDER CARPET.

15 Q. UNDER CARPET. ALRIGHT. AND ONCE AGAIN, WHAT
16 WERE THE RESULTS OF STATE'S EXHIBIT SIXTY-NINE?

17 A. THE SMALL COPPER FRAGMENT DIDN'T HAVE ANY MARKS
18 OF VALUE ON IT, IT WAS UNSUITABLE, AND THEN THE
19 BULLET ITSELF WAS MOST CONSISTENT WITH BEING A
20 NINE MILLIMETER RUGER.

21 Q. ALRIGHT. AND THEN, STATE'S EXHIBIT NUMBER
22 SEVENTY, YET AGAIN, WHAT IS THE MARKER NUMBER
23 THAT'S LISTED ON STATE'S EXHIBIT NUMBER SEVENTY?

24 A. FORTY-FOUR.

25 Q. AND WHERE DOES IT INDICATE THAT THAT ITEM WAS

DIRECT - JAMES GREEN BY SOL. SORENSON

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1 FOUND?

2 A. UNDER A CARPET.

3 Q. OKAY. AND ONCE AGAIN, AS TO STATE'S EXHIBIT
4 NUMBER SEVENTY, WHAT WERE YOUR RESULTS AS TO
5 STATE'S EXHIBIT NUMBER SEVENTY?

6 A. THIS WAS FIRED BY THE PISTOL, THE RUGER PISTOL.

7 Q. SO, THAT WAS FIRED BY STATE'S EXHIBIT NUMBER
8 SEVENTY-THREE?

9 A. YES, SIR.

10 Q. ALRIGHT.

11 SOLICITOR SORENSON: I BEG THE COURT'S
12 INDULGENCE.

13 THE COURT: TAKE YOUR TIME.

14 SOLICITOR SORENSON: THAT WOULD BE ALL I HAVE,
15 AGENT, PLEASE ANSWER ANY QUESTIONS DEFENDANTS HAVE
16 FOR YOU.

17 THE COURT: MR. LACKEY.

18 MR. LACKEY: THANK YOU, YOUR HONOR.

19 THE COURT: YES, SIR.

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

CROSS - JAMES GREEN BY MR. LACKEY

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CROSS-EXAMINATION OF JAMES GREEN

BY MR. LACKEY:

Q. AGENT GREEN?

A. YES, SIR.

Q. NOW, YOU'VE HAD A LOT OF SHELL CASINGS AND
FRAGMENTS AND OF THE SORT HERE. I DON'T KNOW IF
I KEPT UP WITH EVERYTHING EXACTLY RIGHT. TELL ME
IF YOU COULD HOW MANY WEAPONS YOU BELIEVE WERE
CONNECTED TO THE FRAGMENTS AND CASINGS HERE?

A. HANG ON A MINUTE AND LET ME GO THROUGH THIS.

Q. SURE.

A. ALRIGHT, BASED ON JUST THE CARTRIDGE CASINGS,
THERE'S FOUR.

Q. SO, FOUR WEAPONS?

A. YES, SIR. ALRIGHT, NOW, PARDON ME, IT WILL TAKE
ME SOME TIME FOR THE BULLETS.

THE COURT: THAT'S OKAY, AGENT GREEN, TAKE YOUR
TIME.

Q. THAT'S FINE, WE STAY WITH THE FOUR. AS FAR AS --
LET'S START WITH STATE'S SEVENTY-THREE. NOW,
YOU'VE IDENTIFIED THIS AS A WEAPON THAT WAS
ACTUALLY USED TO FIRE SOME OF THOSE PROJECTILES?

A. YES, SIR.

Q. AND WHAT KIND OF WEAPON IS THAT?

A. IT'S A RUGER NINETY-FOUR SEMI-AUTOMATIC PISTOL.

CROSS - JAMES GREEN BY MR. LACKEY

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1 Q. ALRIGHT. AND I BELIEVE YOU ALSO SAID THERE WAS A
2 NINE MILLIMETER - - -

3 A. YES, SIR.

4 Q. --- THAT COULD BE USED TO FIRE THOSE? ALRIGHT.
5 IF YOU COULD, EXPLAIN TO US WHAT SIZE WEAPON A
6 NINE MILLIMETER PISTOL IS?

7 A. WELL, THERE'S SO MANY DIFFERENT VARIANCES, IT'S
8 HARD TO SAY. I KNOW RUGER MAKES A NINE MILLIMETER
9 PISTOL. OTHER THAN THE BORE DIAMETER OR THE
10 WIDTH OF THE BARREL IT LOOKS EXACTLY LIKE THAT
11 PISTOL RIGHT THERE, SOME OF THE RUGERS DO.

12 Q. OKAY. SO IT WOULD ESSENTIALLY BE ABOUT THE SAME
13 SIZE AS THIS?

14 A. YES, SIR.

15 Q. OKAY. AND THEN, YOU ALSO IDENTIFIED SOME OF THE
16 PROJECTILES AS BEING FIRED FROM A WEAPON SIMILAR
17 TO STATE'S SEVENTY-FIVE, IS THAT CORRECT?

18 A. YES, SIR.

19 Q. OKAY. AND NOTHING SHOWS THE REAL SCALE OF THIS,
20 BUT I MEAN, HOW, HOW LONG WOULD YOU SAY THAT GUN
21 IS?

22 A. I'M TRYING TO THINK, THAT'S JUST YOUR STANDARD
23 SKS WITH A STANDARD WOODEN STOCK. YOU CAN BUY AT
24 YOUR MARKET, YOU KNOW, SYNTHETICS. THAT RIFLE IS
25 APPROXIMATELY FORTY-ONE OR FORTY-TWO INCHES LONG.

CROSS - JAMES GREEN BY MR. LACKEY

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1 Q. SO, THAT WOULD BE A LITTLE OVER THREE FEET?

2 A. YES, SIR.

3 Q. CORRECT. SO, THAT WOULD BE AROUND - - -

4 A. RIGHT ABOUT WAIST HIGH, YES, SIR.

5 Q. AND YOU SAID THAT THERE COULD HAVE POSSIBLY BEEN
6 TWO DIFFERENT TYPE OF THOSE SKS WEAPONS USED?

7 A. THERE WERE TWO, YES, SIR.

8 Q. THERE WERE DEFINITELY TWO?

9 A. YES, SIR.

10 Q. SO, FROM YOUR FINDINGS YOU HAD TWO OF THE LONG
11 GUNS AND THEN TWO OF THE PISTOLS?

12 A. YES, SIR. LET ME BACK UP FOR A SECOND. I WAS
13 THINKING PISTOL. THERE ARE SOME LONG GUNS MADE
14 IN NINE MILLIMETER LUGER CALIBER. I KNOW HIGH
15 POINT MAKES SOME CARIBBEANS, BUT GENERALLY, MOST
16 OF THE NINE MILLIMETER LUGER CALIBER FIREARMS YOU
17 SEE ARE IN PISTOLS.

18 Q. OKAY. SO, THERE'S A POSSIBILITY THAT THE NINE
19 MILLIMETER COULD HAVE ALSO BEEN ABOUT THIS, ABOUT
20 THIS LENGTH AS WELL?

21 A. IT'S POSSIBLE, YES, SIR.

22 Q. IT'S POSSIBLE. OKAY. NOW, YOUR ANALYSIS OF
23 THESE CASINGS AND THESE FRAGMENTS AND THESE
24 WEAPONS, IT'S NOT YOUR JOB TO PUT THESE WEAPONS
25 IN ANY INDIVIDUAL'S HAND, YOU DON'T DO ANYTHING

CROSS - JAMES GREEN BY MR. LACKEY

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1 WITH FINGERPRINTS OR CONNECTING THAT TO ANY
2 INDIVIDUAL, DO YOU?

3 A. NO, SIR.

4 Q. AND YOU DIDN'T CONNECT ANY OF THESE -- WELL, THE
5 ONE WEAPON HERE, TO ANY INDIVIDUALS CHARGED IN
6 THIS CASE, DID YOU?

7 A. NO, SIR, ALL I DO IS JUST LOOK AT THE EVIDENCE.

8 Q. OKAY.

9 MR. LACKEY: THAT'S ALL I HAVE.

10 THE COURT: OKAY. THANK YOU, MR. LACKEY.

11 MS. ULLMAN.

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

CROSS - JAMES GREEN BY MS. ULLMAN

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CROSS-EXAMINATION OF JAMES GREEN

BY MS. ULLMAN:

Q. GOOD AFTERNOON.

A. HOW ARE YOU?

Q. I'M FINE. WHEN YOU WERE GOING OVER HOW YOU
COMPARE ALL OF THIS YOU SAID YOU GET A TEST
SAMPLE THAT YOU FIRE?

A. YES, MA'AM.

Q. AND YOU TAKE WHAT'S BEEN GIVEN TO YOU - - -

A. UH-HUH.

Q. --- AND YOU STICK IT UNDER A MICROSCOPE AND YOU
LOOK AT IT?

A. YES, MA'AM.

Q. SO, BASICALLY, IT'S JUST YOUR KNOWLEDGE THAT
YOU'RE LOOKING AT THIS?

A. YES. HOWEVER, BEFORE ANY OF OUR RESULTS ARE
PUBLISHED OR GIVEN TO A SUBMITTING AGENCY SLED
HAS A ONE HUNDRED PER CENT MICRO-VERIFICATION
POLICY, WHICH MEANS THAT, SAY, IF YOU AND I ARE
WORKING TOGETHER I'LL LOOK AT ALL THE EVIDENCE
AND COME TO YOU AND SAY, I NEED YOU TO LOOK AT
BUNCH OF EVIDENCE. SO, YOU COME AND SAY, OKAY,
WELL, GIVE ME FIVE MINUTES, OR WHATEVER THE CASE
MAY BE. AND YOU COME IN AND I SAY, OKAY, I HAVE
ITEMS ONE THROUGH A HUNDRED. I'VE ALREADY

CROSS - JAMES GREEN BY MS. ULLMAN

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1 FINISHED WITH IT. SIT DOWN AND TELL ME WHAT YOU
2 THINK. AND THEN WHEN THAT PERSON IS DOING THE
3 MICRO-VERIFICATION, IT'S FINISHED, WE'LL SIT DOWN
4 AND GO OVER WHAT I HAVE VERSUS WHAT THEY HAVE.

5 Q. OKAY. YOU WOULD AGREE WITH ME, THOUGH, THAT
6 THERE'S NO REAL SCIENCE TO THIS, I MEAN, IT'S NOT
7 A BLOOD TEST WHERE YOU CAN SAY FOR SURE THAT
8 THEY'RE A POSITIVE, O NEGATIVE, I MEAN, IT IS YOU
9 LOOKING AT SOMETHING, AND I UNDERSTAND YOU HAVE
10 SOMEONE BACK YOU UP AND LOOK AT IT ALSO, BUT IT
11 IS YOU LOOKING AT SOMETHING AND BASED ON YOUR
12 KNOWLEDGE YOU'RE COMPARING IT?

13 A. WELL, THAT'S A BIG TOPIC IN THE FIREARMS WORLD
14 RIGHT NOW, IN THE FIREARMS IDENTIFICATION WORLD.
15 BASED ON THE NAS STUDY, WHICH THEY SAID -- I MAY
16 BE GOING OFF INTO A TANGENT, BUT PARDON ME, THEY
17 WERE CHARGED WITH MAKING A DATA BASE FOR EVERY
18 FIREARM SOLD IN THE UNITED STATES. THEY DID A
19 FIRED CARTRIDGE CASE AND A FIRED BULLET AND PUT
20 IT IN THIS BIG SYSTEM. THAT WAS THEIR CHARGE.
21 AND IN THEIR REPORT THEY CAME THROUGH AND SAID
22 THAT FIREARMS IDENTIFICATION IS NOT RELIABLE, IT
23 NEEDS TO BE TESTED MORE. SHORTLY THEREAFTER THE
24 HEAD OF THE COMMITTEE WROTE AN AFFIDAVIT WHICH
25 WAS SUBMITTED IN FEDERAL COURT IN CALIFORNIA THAT

1 SAID, WHOA, WHOA, THAT'S NOT WHAT WE MEANT,
2 FIREARMS IS A GOOD SCIENCE. SO, BASICALLY, WHAT
3 WE'RE DOING IS, WE'RE TAKING A HYPOTHESIS AND I'M
4 SAYING THAT I WANT TO LOOK AT THESE CARTRIDGE
5 CASES AND SEE IF THEY MATCH THIS GUN. SO, I'LL
6 TEST IT BY FIRING THEM, OR FIRING, LOOKING AT THE
7 TEST VERSUS THEMSELVES, LOOKING AT TESTS VERSUS
8 THE EVIDENCE AND MAKING CONCLUSIONS FROM THERE.
9 AND THE KEY TO SCIENCE IS REPEATABILITY, AND A
10 TRAINED FIREARM EXAMINER CAN FOLLOW THE STEPS I
11 FOLLOWED AND ARRIVE AT THE SAME CONCLUSION I DID.

12 Q. WHEN YOU DID YOUR ANALYSIS YOU DIDN'T TAKE ANY
13 PICTURES OF WHAT YOU WERE DOING, CORRECT?

14 A. YOU MEAN PICTURES, AS ...

15 Q. AS IN, I UNDERSTAND I CAN LOOK AT THIS BULLET BUT
16 IT'S NOT GOING TO SHOW ME WHAT YOU SAW BECAUSE
17 YOU USED A MICROSCOPE, CORRECT?

18 A. CORRECT.

19 Q. BUT FOR ME TO BE ABLE TO SEE WHAT YOU SAW I WOULD
20 EITHER NEED THE MICROSCOPE OR SOME SORT OF
21 PICTURE OF HOW CLOSE UP YOU LOOKED AT IT?

22 A. CORRECT.

23 Q. AND WE DON'T HAVE THAT TODAY?

24 A. NO.

25 Q. OKAY. YOU ALSO SAID WHEN YOU DO THE TEST FIRING

CROSS - JAMES GREEN BY MS. ULLMAN

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1 THAT YOU FIRE INTO WATER?

2 A. YES, MA'AM.

3 Q. AND YOU SAID THAT'S BECAUSE IT DOESN'T CHANGE ANY
4 CHARACTERISTICS OF THE BULLET, SHELL CASING,
5 ANYTHING?

6 A. CORRECT.

7 Q. NOW, IF I FIRED INTO THE FLOOR WOULD IT CHANGE
8 IT, POSSIBLY?

9 A. IT COULD, IT WOULD DEFORM THE BULLET. THE REASON
10 WHY WE CHOOSE WATER IS BECAUSE IT'S SOFT AND IT
11 SLOWS THE BULLET DOWN, BUT IF YOU FIRED INTO THE
12 FLOOR OR A WALL OR A CAR IT COULD DEFORM THE
13 BULLETS. IT MAY REMOVE ALL THE MARKINGS ON THE
14 BULLETS THAT WE LOOK FOR OR IT MAY NOT. IT JUST
15 DEPENDS ON HOW IT HITS.

16 Q. OKAY. NOW, THE PICTURE OF THE RIFLE, YOU DIDN'T
17 RECEIVE AN ACTUAL RIFLE THAT LOOKED LIKE THIS?

18 A. NO, MA'AM.

19 Q. YOU'RE JUST STATING THAT IT COULD HAVE LOOKED
20 LIKE THIS?

21 A. CORRECT. THAT IS WHAT A STANDARD SKS LOOKS LIKE.

22 Q. OKAY. NOW, THE STATE ASKED YOU TO GIVE THEM A
23 PICTURE THAT REPRESENTED WHAT AN SKS LOOKED LIKE,
24 AM I CORRECT?

25 A. YES, MA'AM.

CROSS - JAMES GREEN BY MS. ULLMAN

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1 Q. THEY DIDN'T ASK YOU FOR A PICTURE OF ANY SORT OF
2 NINE MILLIMETER?

3 A. NO, MA'AM.

4 Q. OKAY.

5 MS. ULLMAN: JUST ONE SECOND, YOUR HONOR, PLEASE.

6 THE COURT: TAKE YOUR TIME.

7 Q. LET ME ASK YOU JUST ONE MORE QUESTION. ABOUT
8 THESE SEVEN POINT SIX TWO BY THIRTY-NINE
9 MILLIMETER BULLETS, THERE'S A REPORT THAT YOU
10 CREATED ABOUT ALL OF YOUR RESULTS, CORRECT?

11 A. YES, MA'AM.

12 Q. AND IN THAT REPORT DID YOU NOT LIST -- WE'LL JUST
13 GO WITH THE NUMEROUS, MAKES OR MODELS AS TO WHERE
14 THESE BULLETS COULD HAVE COME FROM, LOOKING AT
15 PAGE FOUR OF SEVEN OF YOUR REPORT, THAT
16 BASICALLY, THEY COULD HAVE BEEN FIRED BY THE
17 FOLLOWING, INCLUDING, BUT NOT LIMITED TO -- THREE
18 FULL LISTS OF POSSIBLE, POTENTIAL MAKERS OF THIS
19 GUN, AM I CORRECT?

20 A. YES, MA'AM. BASED ON THE MEASUREMENTS THAT WE
21 RECEIVED, WHEN WE TALKED ABOUT THE LANDS AND
22 GROOVES PREVIOUSLY IN THE BARREL, WE'LL MEASURE
23 THOSE, AND THEN WE'LL USE THOSE MEASUREMENTS AND
24 PUT THEM INTO A DATA BASE PROVIDED TO US BY THE
25 FBI, AND BASICALLY WHAT HAPPENS IS, WHEN A

CROSS - JAMES GREEN BY MS. ULLMAN

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1 FIREARM IS CREATED BY A MANUFACTURER, I BELIEVE
2 THEY'LL CALL THE FBI AND SAY, HEY, WE'RE MAKING
3 THIS GUN. THIS IS GOING TO BE THE CALIBER, THIS
4 IS GOING TO BE THE TYPE OF RIFLING, AND THESE ARE
5 GOING TO BE THE MEASUREMENTS, AND THEY'LL ENTER
6 THAT INTO THEIR DATE BASE. SO, IT'S A SEARCH OF
7 THE DATA BASE SO WE CAN USE IT AND WE'LL INPUT
8 OUR MEASUREMENTS AND IT WILL GIVE US A LIST OF
9 FIREARMS THAT HAVE THOSE SIMILAR RIFLING, OR
10 EXCUSE, THOSE SIMILAR MEASUREMENTS.

11 Q. JUST LOOKING AT THE LIST QUICKLY, I DIDN'T COUNT
12 ALL OF THEM BUT THERE'S ONE ROW OF SEVENTEEN AND
13 THERE'S THREE ROWS, BUT DOING THE MATH THERE'S
14 POTENTIALLY FIFTY-ONE MANUFACTURERS OF THIS
15 FIREARM, IS THAT CORRECT, AGAIN, LOOKING AT PAGE
16 FOUR O SEVEN?

17 A. YES, MA'AM.

18 MS. ULLMAN: THANK YOU.

19 THE COURT: MR. PALMER.

20 MR. PALMER: NO QUESTIONS.

21 THE COURT: ALRIGHT.

22 MR. MELLARD: NO QUESTIONS, YOUR HONOR.

23 THE COURT: MR. KOGER

24 MR. KOGER: JUST A COUPLE.

25 THE COURT: ALRIGHT, SIR.

CROSS - JAMES GREEN BY MR. KOGER

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CROSS-EXAMINATION OF JAMES GREEN

BY MR. KOGER:

Q. AGENT GREEN, TO REITERATE WHAT ATTORNEY ULLMAN
JUST STATED, UNDER ITEM FORTY-SEVEN, IS THAT IN
REFERENCE TO THE NINE MILLIMETER OR THE RIFLE?

A. THAT WOULD BE -- THAT LONG LIST THAT SHE WAS
SPEAKING OF JUST A MOMENT AGO, THAT'S A LIST OF
FIREARMS IN NINE MILLIMETER LUGER CALIBER THAT
COULD HAVE FIRED THOSE BULLETS.

Q. IN RELATION TO NINE MILLIMETER?

A. YES, SIR.

Q. OKAY. NOW, IT SAYS RIGHT HERE IN THE LAST
PORTION OF YOUR REPORT, AND YOU HAVE THIS LISTED
IN THREE ROWS OF SEVENTEEN, AS SHE STATED IT'S
FIFTY-ONE, IT SAYS, MAYBE NOT -- SO IT COULD
ACTUALLY BE MORE?

A. YES, SIR. IF A PARTICULAR FIREARM IS MADE IN
RUSSIA AND IMPORTED BY RSA INDUSTRIES OUT OF NEW
JERSEY THEY MAY HAVE NEGLECTED TO ENTER IT.

Q. OKAY.

A. SO, IT'S KIND OF LIKE, -- WE REALLY ISSUE THIS
LIST AS AN INVESTIGATIVE TOOL, LIKE IF YOU'RE AN
INVESTIGATOR I'M SAYING, WELL, BASED ON WHAT WE
HAVE THESE WERE ALL FIRED BY ONE FIREARM. I
CAN'T TELL YOU WHAT KIND OF FIREARM IT IS BUT IF

CROSS - JAMES GREEN BY MR. KOGER

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1 YOU GIVE ME ON I MAY BE ABLE TO, AND THIS IS
2 WHERE YOU MAY WANT TO START LOOKING, WITH
3 FIREARMS ON THIS LIST. BUT IF YOU -- IT'S KIND
4 OF AN UNDERSTAND THAT IF SOMETHING IS NOT ON THAT
5 LIST AND YOU WANT TO SUBMIT IT YOU GIVE US A CALL
6 AND WE'LL TELL YOU.

7 Q. SO, ACCORDING TO YOUR REPORT THERE ARE AT LEAST
8 FIFTY-ONE DIFFERENT BRANDS OF NINE MILLIMETERS?

9 A. WELL, THAT COULD HAVE FIRED THOSE BULLETS, YES,
10 SIR, BUT THERE'S - - -

11 Q. AT LEAST FIFTY-ONE?

12 A. YES, SIR.

13 Q. AND YOU WOULD AGREE THAT A NINE MILLIMETER WAS
14 NOT SUBMITTED IN COURT, A SPECIFIC FIREARM WAS
15 NOT SUBMITTED IN COURT TODAY, A NINE MILLIMETER,
16 CORRECT?

17 A. CORRECT.

18 Q. ALRIGHT. NOW, AS FAR AS WHAT THE ACTUAL RIFLE, I
19 THINK THAT RIFLE THAT WE ARE DEALING IS A SOVIET
20 CALIBER RIFLE?

21 A. YES, WELL, IT'S CALLED SEVEN POINT SIX TWO BY
22 THIRTY-NINE SOVIET SIMPLY BECAUSE THE INVENTOR OF
23 THE CARTRIDGE WAS FROM RUSSIA, OR THE SOVIET
24 UNION AND THEY JUST KIND OF TOOK ON THAT NAME.

25 Q. OKAY. AND ACCORDING TO YOUR REPORT HOW MANY

CROSS - JAMES GREEN BY MR. KOGER

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1 DIFFERENT RIFLES COULD HAVE FIRED THIS CASING OR
2 PROJECTILE THAT WAS FOUND ON THE SCENE?

3 A. NINE.

4 Q. NINE?

5 A. YES, SIR, NINE IS WHAT'S ON MY LIST.

6 Q. OKAY. AND YOU WOULD AGREE THAT, THAT THE STATE
7 HAS NOT SUBMITTED A SPECIFIC FIREARM IN RELATION
8 TO THIS RIFLE IN COURT TODAY?

9 A. CORRECT.

10 Q. AND THE ONLY THING THAT THEY HAVE SUBMITTED IS A
11 PICTURE OF ONE?

12 A. YES, SIR.

13 Q. OKAY. AND THIS IS NOT IN EVIDENCE, THIS, AN
14 ACTUAL PHYSICAL RIFLE IS NOT IN EVIDENCE,
15 CORRECT?

16 A. CORRECT.

17 Q. OKAY. AND THE ONLY FIREARM THAT'S IN EVIDENCE IS
18 THE FORTY CALIBER?

19 A. YES, SIR.

20 MR. KOGER: OKAY. I HAVE NO FURTHER QUESTIONS.

21 THANK YOU.

22 THE COURT: THANK YOU. ANYTHING ON REDIRECT?

23 SOLICITOR SORENSON: NO, SIR.

24 THE COURT: ALRIGHT, THANK YOU, SIR, I APPRECIATE
25 YOU COMING, AGENT GREEN.

1 AGENT GREEN: THANK YOU, HAVE A GREAT DAY, SIR.

2 THE COURT: ALRIGHT, YOU, TOO, I APPRECIATE IT.

3 SOLICITOR SORENSON: MAY HE BE EXCUSED, YOUR
4 HONOR?

5 THE COURT: HE MAY BE EXCUSED AND -- YOU CAN STEP
6 DOWN, THANK YOU, SIR, I APPRECIATE IT.

7 COURT REPORTER: YOU DON'T HAVE ANY OF MY
8 EXHIBITS, DO YOU?

9 AGENT GREEN: NO, MA'AM.

10 COURT REPORTER: GOOD. THANK YOU.

11 THE COURT: SHE'LL RUN YOU DOWN IF YOU DO. OKAY?
12 THANK YOU, AGENT GREEN.

13 ALRIGHT, WE'RE GOING TO TAKE ABOUT A TEN OR
14 FIFTEEN MINUTE BREAK. WE'VE BEEN GOING SINCE
15 ONE:THIRTY SO WE'LL TAKE ABOUT A TEN OR FIFTEEN
16 MINUTE BREAK AND THEN COME BACK OUT HERE AND TAKE
17 SOME MORE TESTIMONY. OKAY? REMEMBER, YOU CANNOT
18 TALK ABOUT THIS.

19 AND NOW, MS. WILLIAMS, YOU, AS FOREMAN, YOU MAKE
20 SURE NOBODY TALKS ABOUT THIS CASE.

21 JUROR FOREMAN: YES, SIR.

22 THE COURT: THANK YOU, MA'AM.

23 (Whereupon, the jury retires
24 to the jury room and the following
25 takes place out of the presence

1 of the jury.)

2 THE COURT: NOW, BEFORE -- MS. WALKER, ARE YOU
3 STILL WITH ME?

4 COURT REPORTER: YES, SIR.

5 THE COURT: OKAY. MS. ULLMAN, YOU MADE THE,
6 RENEWED YOUR MOTION FOR ME NOT TO HAVE THAT
7 PHOTOGRAPH PUT INTO EVIDENCE, - - -

8 MS. ULLMAN: YES, SIR.

9 THE COURT: --- AND I TOLD YOU I WAS GOING TO PUT
10 ON THE RECORD WHY I WAS GOING TO DO THAT.

11 MS. ULLMAN: YES, SIR.

12 THE COURT: AND I'M GOING TO DO THAT NOW. MR.
13 TYLER, WHEN HE TESTIFIED, TESTIFIED THAT THEY HAD --
14 SKS TYPE WEAPONS WERE USED. THAT IS ONE OF THE TYPES
15 OF FIREARMS THAT AGENT GREEN TESTIFIED COULD HAVE
16 FIRED THAT BULLET, AND I THOUGHT IT COULD ASSIST THE
17 JURY IN DETERMINING WHAT TYPE OF WEAPON WAS USED
18 BECAUSE, IN FACT, I'M NOT FAMILIAR WITH THAT KIND OF
19 WEAPON. SO, IT HELPED ME TO VISUALIZE WHAT TYPE
20 WEAPON WAS USED. THAT WAS THE BASIS FOR IT. I AM
21 NOTING YOUR OBJECTION ON THE RECORD TO ME PUTTING
22 THAT INTO EVIDENCE, BUT I WANTED TO PUT ON THE RECORD
23 WHY I DID IT. OKAY?

24 MS. ULLMAN: I WOULD JUST NOTE THAT THEY DID NOT
25 SHOW A NINE MILLIMETER, AND I BROUGHT THAT UP, BUT

1 TODAY THEY MADE THAT READILY APPARENT THAT THEY'RE
2 WANTING TO HELP THEM KNOW WHAT THE SKS LOOKED LIKE,
3 BUT THEY OBVIOUSLY DON'T CARE IF THEY KNEW WHAT THE
4 PISTOL LOOKED LIKE. SO, THAT WAS PART OF MY
5 OBJECTION. I UNDERSTAND YOUR RULING, I JUST WANTED
6 THAT ON THE RECORD.

7 THE COURT: YES, MA'AM. OKAY. YOU GOT IT.
8 OKAY.

9 ANYTHING FROM THE STATE BEFORE WE TAKE A BREAK?

10 SOLICITOR SORENSON: NO, SIR.

11 THE COURT: ANYTHING FROM THE DEFENDANTS BEFORE
12 WE TAKE A BREAK?

13 MR. LACKEY: NOTHING, YOUR HONOR.

14 MS. ULLMAN: NO, SIR.

15 MR. PALMER: NO, SIR.

16 MR. MELLARD: NO, SIR.

17 MR. KOGER: NO, SIR.

18 THE COURT: IT'S GOING TO BE ABOUT FIFTEEN
19 MINUTES, AND MR. PASCOE OR MR. SORENSON, YOU'VE GOT
20 ONE MORE WITNESS THIS AFTERNOON?

21 SOLICITOR SORENSON: YES, SIR.

22 THE COURT: OKAY. THANK YOU.

23 (Recess)

24 THE COURT: WE'VE GOT ONE MORE WITNESS, IS THAT
25 CORRECT?

1 SOLICITOR SORENSON: YES, SIR, FOR TODAY.

2 THE COURT: OKAY. I KNOW THE JURY IS GOING TO BE
3 UPSET.

4 ALRIGHT, IS THE STATE READY TO PROCEED?

5 SOLICITOR PASCOE: YES, YOUR HONOR.

6 THE COURT: OKAY. ARE THE DEFENDANTS READY TO
7 PROCEED?

8 MR. LACKEY: YES, YOUR HONOR.

9 MS. ULLMAN: YES, YOUR HONOR.

10 MR. PALMER: YES, YOUR HONOR.

11 MR. MELLARD: YES, YOUR HONOR.

12 MR. KOGER: YES, YOUR HONOR.

13 THE COURT: OKAY. YOU CAN GET THE JURY ON OUT
14 HERE.

15 (Whereupon, the jury enters
16 the courtroom and the following
17 takes place in the presence
18 of the jury.)

19 THE COURT: LADIES AND GENTLEMEN, I APPRECIATE
20 Y'ALL GETTING BACK PROMPTLY. I HOPE YOU ENJOYED YOUR
21 BREAK. WE'RE GOING TO PROCEED WITH TAKING SOME MORE
22 TESTIMONY HERE THIS AFTERNOON.

23 IS THE STATE READY TO PROCEED?

24 SOLICITOR PASCOE: YES, YOUR HONOR.

25 THE COURT: ALRIGHT, IF YOU'D CALL YOUR NEXT

1 WITNESS, PLEASE, SIR.

2 SOLICITOR PASCOE: DARRIUS GARNER, YOUR HONOR.

3 CLERK: PLACE YOUR LEFT HAND ON THE BIBLE, SIR,
4 AND RAISE YOUR RIGHT HAND.

5 (Whereupon, Darrius Garner
6 is duly sworn.)

7 CLERK: HAVE A SEAT AND STATE YOUR FULL NAME FOR
8 THE COURT.

9 WITNESS: DARRIUS GARNER.

10 THE COURT: ALRIGHT, THANK YOU, SIR.

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

DIRECT - DARRIUS GARNER BY SOL. PASCOE

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DIRECT EXAMINATION OF DARRIUS GARNER
BY SOLICITOR PASCOE:

Q. OKAY, DARIUS, YOU NEED TO SPEAK UP AS LOUDLY AS
YOU CAN BECAUSE YOU'RE KIND OF SOFT SPOKEN.
ALRIGHT? OKAY?

A. ALRIGHT.

Q. ALRIGHT. AND YOU'VE GOT TO TALK, TOO, BECAUSE
THE COURT REPORTER HAS TO BE ABLE TO HEAR YOU.
YOU CAN'T JUST NOD. UNDERSTAND?

A. YES, SIR.

Q. OKAY. ALRIGHT. ARE YOU A LITTLE NERVOUS?

A. NO.

Q. YOU'RE OKAY?

A. (Witness nods head.)

THE COURT: OKAY, NOW YOU'RE GOING TO HAVE TO --
INSTEAD OF SHAKING YOUR HEAD YOU'RE GOING TO HAVE TO
SAY YES OR NOT, BECAUSE THEY'RE TAKING DOWN WHAT YOU
SAY. OKAY? NOT WHAT YOU SAY BY SHAKING YOUR HEAD.

Q. DO YOU UNDERSTAND?

A. YES, SIR.

Q. OKAY. ARE YOU ALRIGHT? A LITTLE NERVOUS? IS
THAT A NO?

A. YES, SIR.

Q. OKAY. DO YOU NEED ANY WATER OR ANYTHING?

A. NO.

DIRECT - DARRIUS GARNER BY SOL. PASCOE

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1 Q. ALRIGHT. WHERE DO YOU GO TO SCHOOL, DARIUS?

2 A. O-W.

3 Q. ALRIGHT. AND DID WE HAVE TO GET YOU OUT OF
4 SCHOOL TODAY?

5 A. UH-HUH.

6 Q. ARE YOU UPSET ABOUT THAT?

7 A. (Nods head in the negative.)

8 Q. I DIDN'T THINK SO. THAT'S A NO, WHAT YOU NEED IS
9 TO ...

10 A. NO, SIR.

11 Q. OKAY. WHAT GRADE ARE YOU IN?

12 A. TWELFTH.

13 Q. ARE YOU SET TO GRADUATE ON TIME?

14 A. YES, SIR.

15 Q. HAVE I ASKED YOU, HOW OLD ARE YOU, DARIUS?

16 A. SEVENTEEN.

17 Q. SEVENTEEN. WHAT DO YOU WANT TO DO WHEN YOU
18 GRADUATE FROM O-W?

19 A. BE A MECHANIC.

20 Q. OKAY. DO YOU KNOW SOMEBODY BY THE NAME OF
21 PATRICK TYLER?

22 A. YES, SIR.

23 Q. AND HOW LONG HAVE YOU KNOW PATRICK TYLER?

24 A. SINCE, LIKE, THE EIGHTH GRADE.

25 COURT REPORTER: SINCE APRIL?

DIRECT - DARRIUS GARNER BY SOL. PASCOE

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1 SOLICITOR PASCOE: EIGHTH GRADE.

2 A. EIGHTH GRADE.

3 Q. AND DO THE TWO OF YOU ALSO GO TO O-W TOGETHER?

4 A. YES, SIR.

5 Q. OKAY. SPEAK UP.

6 A. YES, SIR.

7 Q. ALRIGHT. AND HOW CLOSE WERE YOU AND PATRICK BACK
8 IN MARCH OF THIS YEAR?

9 A. WE WAS COOL, WE WOULD CHILL OUT.

10 Q. WERE Y'ALL CLOSE FRIENDS?

11 A. YES, SIR.

12 Q. OKAY. HOW OFTEN WOULD THE TWO OF YOU HANG OUT
13 BACK IN MARCH AND FEBRUARY AND JANUARY?

14 A. DAILY.

15 Q. LET ME ASK YOU, HOW WELL DO YOU KNOW SOMEBODY BY
16 THE NAME OF MARIO SHIVERS?

17 A. I DON'T KNOW HIM.

18 Q. DID YOU EVER HANG OUT WITH MARIO SHIVERS BEFORE
19 MARCH THE TWELFTH?

20 A. NO, SIR.

21 Q. AND DID YOU KNOW WHAT NAME HE WENT BY?

22 A. LITTLE M.

23 Q. LITTLE M?

24 A. YES, SIR.

25 COURT REPORTER: LITTLE M? ALRIGHT.

DIRECT - DARRIUS GARNER BY SOL. PASCOE

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1 Q. BUT YOU GUYS WEREN'T CLOSE OR ANYTHING, RIGHT?

2 A. NO, SIR.

3 Q. DID YOU EVEN KNOW ANYBODY BY THE NAME OF RALPH
4 COLEMAN?

5 A. NO, SIR.

6 Q. DID YOU KNOW ANYBODY BY THE NAME OF WALTER
7 HARRIS?

8 A. NO, SIR.

9 Q. DID YOU KNOW ANYBODY BY THE NAME OF CHRIS
10 COLEMAN?

11 A. NO, SIR.

12 Q. DID YOU KNOW OF DANNY RYANT, THOUGH?

13 A. I KNEW OF HIM.

14 Q. OKAY. WHAT DID YOU KNOW HIM BY?

15 A. POKE.

16 Q. POKE? BUT DID YOU EVER HANG OUT WITH DANNY
17 RYANT?

18 A. NO, SIR.

19 Q. WERE YOU FRIENDS WITH MARIO SHIVERS, RALPH
20 COLEMAN, WALTER HARRIS, CHRIS COLEMAN, OR DANNY
21 RYANT?

22 A. NO, SIR.

23 Q. BECAUSE THE SIX PEOPLE THAT I'VE ASKED YOU ABOUT,
24 THE ONLY ONE YOU WERE CLOSE WITH WAS PATRICK?

25 A. YES, SIR.

DIRECT - DARRIUS GARNER BY SOL. PASCOE

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1 Q. OKAY. NOW I WANT TO ASK YOU ABOUT THE AFTERNOON
2 OF MARCH THE TWELFTH OF THIS YEAR, THAT FRIDAY
3 AFTERNOON. WHO WERE YOU HANGING OUT WITH AT
4 THREE, FOUR, FIVE, SIX O'CLOCK THAT NIGHT?

5 A. PATRICK.

6 Q. AND WHERE WERE YOU AND PATRICK HANGING OUT AT
7 THREE, FOUR, FIVE, SIX O'CLOCK?

8 A. AROUND BROOKDALE.

9 Q. OKAY. BROOKDALE, AND THAT'S AN AREA IN THE
10 NEIGHBORHOOD?

11 A. YES, SIR.

12 Q. WHO LIVED IN THE BROOKDALE AREA?

13 A. BOTH OF US.

14 Q. OKAY. BOTH YOU AND PATRICK?

15 A. YES, SIR.

16 Q. AND WHO WAS DRIVING BACK THEN, YOU OR PATRICK?

17 A. ME.

18 Q. OKAY. ALRIGHT. AND TELL US WHERE YOU AND
19 PATRICK ENDED UP GOING SOMETIME BETWEEN, YOU
20 KNOW, SEVEN:FIFTEEN AND SEVEN:THIRTY?

21 A. WOODBINE.

22 Q. WOODBINE? WHERE IS WOODBINE?

23 A. BY FRED'S.

24 Q. FRED'S, IS THAT A STORE?

25 A. UH-HUH.

DIRECT - DARRIUS GARNER BY SOL. PASCOE

686

- 1 Q. WHERE IS FRED'S?
- 2 A. ON THREE O ONE.
- 3 Q. ON THREE O ONE? OKAY. DID YOU KNOW WHOSE HOUSE
- 4 YOU WERE GOING TO ON WOODBINE?
- 5 A. NO, SIR.
- 6 Q. WHO DIRECTED YOU ON HOW TO GET TO WOODBINE?
- 7 A. P.T.
- 8 Q. P.T. AND WHO IS P.T.?
- 9 A. PATRICK.
- 10 Q. PATRICK, STANDS FOR PATRICK TYLER?
- 11 A. UH-HUH.
- 12 Q. OKAY. AND HAD YOU EVER BEEN TO THE HOUSE ON
- 13 WOODBINE BEFORE?
- 14 A. NO, SIR.
- 15 Q. SO, THAT, MARCH THE TWELFTH, THAT FRIDAY NIGHT
- 16 WAS THE FIRST TIME YOU EVER WENT?
- 17 A. YES, SIR.
- 18 Q. AND DO YOU RECOGNIZE THE HOUSE IN STATE'S
- 19 EXHIBITS THIRTY-TWO AND THIRTY-THREE?
- 20 A. YES, SIR.
- 21 Q. OKAY. IS THAT THE HOUSE ON WOODBINE?
- 22 A. YES, SIR.
- 23 Q. IN FACT, -- AND YOU'VE GOT TO SPEAK UP, OKAY? IN
- 24 FACT, WERE YOU THE ONE WHO DIRECTED MY
- 25 INVESTIGATORS ON HOW TO FIND THAT HOUSE?

DIRECT - DARRIUS GARNER BY SOL. PASCOE

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1 A. YES, SIR.

2 Q. OKAY. AND WHEN YOU AND PATRICK GOT TO THE HOUSE
3 ON WOODBINE WHO WAS THERE?

4 A. LITTLE M AND ANOTHER DUDE WITH THE DREDS, KIND
5 OF STOCKY.

6 COURT REPORTER: AND ANOTHER DUDE WHAT?

7 SOLICITOR PASCOE: WITH THE DREDS, KIND OF
8 STOCKY.

9 Q. OKAY. LITTLE M BEING MARIO SHIVERS?

10 A. YES, SIR.

11 Q. OKAY. AND YOU KNEW OF HIM BUT YOU HAD NEVER HUNG
12 OUT WITH HIM BEFORE THAT NIGHT, RIGHT?

13 A. YES, SIR.

14 Q. AND YOU HAD NEVER HUNG OUT WITH THE DUDE WITH THE
15 DREDS BEFORE THAT WAS STOCKY?

16 A. NO, SIR.

17 Q. DID YOU EVEN KNOW WHOSE HOUSE THIS WAS WHEN YOU
18 GOT THERE THAT NIGHT?

19 A. NO, SIR.

20 Q. WAS ANYBODY ELSE THERE BESIDES THE HEAVY SEAT GUY
21 WITH THE DREDS, LITTLE M, YOU AND PATRICK TYLER?

22 A. NO, SIR.

23 Q. HOW LONG DID YOU END UP STAYING AT THE HOUSE ON
24 WOODBINE?

25 A. FOR, LIKE, TWENTY MINUTES.

DIRECT - DARRIUS GARNER BY SOL. PASCOE

688

1 Q. AND WHERE DID Y'ALL HANG OUT, THE FOUR OF YOU,
2 WHEN YOU WERE AT WOODBINE?

3 A. OUTSIDE.

4 Q. OKAY. ANY PARTICULAR PART OF THE HOUSE OUTSIDE?

5 A. UNDER THE CAR PORT.

6 Q. AND THAT'S THE CAR PORT IN STATE'S EXHIBIT
7 THIRTY-TWO?

8 A. YES, SIR.

9 Q. OKAY. SPEAK UP, ALRIGHT? AT ANY POINT IN TIME
10 IN THE TWENTY MINUTES THAT YOU WERE THERE WAS
11 ANYBODY ELSE THERE BESIDES YOU, LITTLE M, THE
12 STOCKY GUY WITH THE DREDS, AND PATRICK?

13 A. NO, SIR.

14 Q. OKAY. DID YOU ACTUALLY SEE ANY WEAPONS WHILE YOU
15 WERE THERE?

16 A. NO, SIR.

17 Q. ANY GUNS?

18 A. NO, SIR.

19 Q. ANY RIFLES?

20 A. NO, SIR.

21 Q. DID YOU SEE ANYTHING THAT PEAKED YOUR INTEREST
22 WHILE YOU WERE THERE?

23 A. A BAG, A RIFLE BAG OR SOMETHING.

24 Q. OKAY. NOW, SAY THAT AGAIN SO I CAN HEAR YOU?

25 A. A RIFLE BAG.

DIRECT - DARRIUS GARNER BY SOL. PASCOE

689

1 Q. OKAY. DESCRIBE FOR THE JURY WHAT YOU MEAN BY A
2 RIFLE BAG, AND TELL THEM WHAT IT LOOKED LIKE?

3 A. CAMOUFLAGE.

4 COURT REPORTER: I'M SORRY?

5 A. A CAMOUFLAGE BAG.

6 SOLICITOR PASCOE: HE SAID, A CAMOUFLAGE BAG.

7 Q. OKAY. HOW LONG WAS IT?

8 A. I DON'T REALLY KNOW.

9 Q. BUT YOU SAID IT WAS A RIFLE BAG?

10 A. YES, SIR.

11 Q. DID ANYBODY SHOW YOU WHAT WAS INSIDE THE BAG?

12 A. NO, SIR.

13 Q. DID ANYBODY OPEN UP THE BAG WHILE YOU WERE THERE?

14 A. NO, SIR.

15 Q. SO, IN HONESTY, ALL YOU KNOW IS IT WAS A RIFLE
16 BAG, YOU DON'T EVEN KNOW WHAT, IF ANYTHING, WAS
17 IN IT, RIGHT?

18 A. YES, SIR.

19 Q. NOW, YOU TESTIFIED YOU STAYED THERE FOR TWENTY
20 MINUTES. WHAT DID YOU, WHAT DID YOU DO WHILE YOU
21 WERE THERE WITH LITTLE M, THE GUY WITH THE DREDS,
22 AND PATRICK, WHAT DID Y'ALL DO, THE FOUR OF YOU
23 TOGETHER?

24 A. WE WAS SMOKING.

25 Q. SMOKING WHAT?

DIRECT - DARRIUS GARNER BY SOL. PASCOE

690

- 1 A. WEED.
- 2 Q. OKAY. AND AFTER THAT TWENTY MINUTES WENT BY WHAT
- 3 DID YOU END UP DOING?
- 4 A. I LEFT AND WENT OVER ON TREADWELL.
- 5 Q. YOU HAVE TO SAY THAT AGAIN, I DIDN'T EVEN HEAR
- 6 THAT. WHAT DID YOU SAY?
- 7 A. I LEFT AND WENT ON TREADWELL.
- 8 Q. YOU LEFT AND WENT ON TREADWELL. WHERE IS
- 9 TREADWELL?
- 10 A. BEHIND THE BARBER SHOP.
- 11 Q. OKAY. WHERE'S -- BEHIND THE BARBER SHOP. WHO
- 12 WERE YOU LOOKING FOR?
- 13 A. SOME GIRLS.
- 14 Q. A GIRL? ALRIGHT, NOW, I KNOW YOU SPEAK LOUDER
- 15 THAN THIS WHEN YOU TALK TO GIRLS. OKAY? SO,
- 16 YOU'VE GOT TO SPEAK UP SO WE CAN ALL HEAR YOU.
- 17 ALRIGHT? DID ANYBODY ELSE GO WITH YOU, DID
- 18 PATRICK GO WITH YOU?
- 19 A. NO, SIR.
- 20 Q. OKAY. HE STAYED AT THE HOUSE ON WOODBINE?
- 21 A. YES, SIR.
- 22 Q. AND YOU LEFT BY YOURSELF?
- 23 A. YES, SIR.
- 24 Q. WERE YOU A LITTLE UPSET ABOUT THAT?
- 25 A. NO, SIR.

DIRECT - DARRIUS GARNER BY SOL. PASCOE

691

1 Q. WERE YOU SURPRISED?

2 A. NO, SIR.

3 Q. OKAY. AFTER YOU LEFT WOODBINE TO GO MEET A GIRL
4 DID YOU EVER HANG OUT WITH LITTLE M AGAIN THAT
5 NIGHT?

6 A. NO, SIR.

7 Q. THE GUY WITH THE -- THE HEAVIER SET GUY WITH THE
8 DREDS, DID YOU HANG OUT WITH HIM AGAIN THAT
9 NIGHT?

10 A. NO, SIR.

11 Q. DID YOU EVER GO BACK TO WOODBINE?

12 A. NO, SIR.

13 Q. DO YOU KNOW ANY -- DID YOU KNOW ANYBODY BY THE
14 NAME OF CHARLES PRINGLE?

15 A. NO, SIR.

16 Q. HAD YOU EVER BEEN TO KINGS ROAD?

17 A. NO, SIR.

18 Q. DID YOU EVER SEE PATRICK TYLER AGAIN THAT NIGHT?

19 A. YES, SIR.

20 Q. OKAY. WHAT WAS YOUR CELL PHONE NUMBER BACK THEN?

21 A.

22 Q. SO, IT'S , I MEAN - - -

23 A.

24 Q. --- AND TELL THE JURY WHY PATRICK TYLER
25 CALLED YOU ON A COUPLE OF OCCASIONS BETWEEN TEN:0

DIRECT - DARRIUS GARNER BY SOL. PASCOE

692

1 TWO P.M. AND TEN:O-SEVEN P.M.?

2 A. HE SAID HE HAD BEEN WALKING THROUGH THE RAIN AND
3 HE WAS TRYING TO CATCH A RIDE.

4 Q. AND DID YOU GO PICK HIM UP?

5 A. YES, SIR.

6 Q. WHERE DID YOU GO PICK HIM UP AT?

7 A. AT THE BOTTOM OF KINGS, BY THE LIGHT.

8 Q. BOTTOM OF WHAT?

9 A. OF KINGS, WHERE THE LIGHT AT, KINGS STREET, WHERE
10 THE LIGHT AT.

11 Q. KINGS STREET. OKAY. SO, HOW FAR IS THAT TO
12 BELLEVILLE-COLEMAN AREA?

13 A. DOWN THE STREET.

14 Q. OKAY. AND WHAT WAS THE WEATHER LIKE THAT NIGHT?

15 A. IT WAS RAINING.

16 Q. AND YOU TESTIFIED YOU PICKED HIM UP, AND HE WAS
17 WALKING IN THE RAIN. WAS ANYONE ELSE WITH HIM
18 WHEN YOU PICKED HIM UP?

19 A. NO, SIR.

20 Q. HOW LONG APPROXIMATELY DID IT TAKE YOU TO GET TO
21 HIM AFTER HE CALLED YOU?

22 A. LIKE, TEN MINUTES.

23 Q. PRETTY QUICK?

24 A. YES, SIR.

25 Q. WAS HE ARMED WITH ANY WEAPON THAT YOU COULD SEE

DIRECT - DARRIUS GARNER BY SOL. PASCOE

693

1 WHEN YOU PICKED HIM UP?

2 A. NO, SIR.

3 Q. DID YOU EVER SEE HIM WITH A GUN THAT NIGHT?

4 A. NO, SIR.

5 Q. DID HE TELL YOU WHAT HAPPENED AFTER YOU PICKED
6 HIM UP?

7 A. NO, SIR.

8 Q. WHAT DID Y'ALL DO AFTER YOU PICKED HIM UP?

9 A. I HAD TOOK HIM TO SANTEE.

10 Q. AND WHO LIVED IN SANTEE?

11 A. HIS MOM.

12 Q. HIS MOM DID? DID Y'ALL TALK A LOT ON THE WAY
13 THERE?

14 A. NO, SIR.

15 Q. WHAT DID YOU DO AFTER YOU DROPPED PATRICK TYLER
16 OFF IN SANTEE, DID YOU STAY THERE?

17 A. NO, SIR, I CAME BACK TO ORANGEBURG.

18 Q. YOU HEADED BACK TO ORANGEBURG?

19 A. YES, SIR.

20 Q. OKAY.

21 SOLICITOR PASCOE: I BEG THE COURT'S INDULGENCE
22 ONE SECOND, YOUR HONOR.

23 THE COURT: OKAY.

24 SOLICITOR PASCOE: THANK YOU, DARRIUS, ANSWER ANY
25 QUESTIONS DEFENSE COUNSEL HAS FOR YOU. AND YOU'VE

1 GOT TO SPEAK UP. OKAY?

2 THE COURT: MR. LACKEY.

3 MR. LACKEY: YES, SIR.

4 THE COURT: OKAY.

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

CROSS - DARRIUS GARNER BY MR. LACKEY

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CROSS-EXAMINATION OF DARRIUS GARNER

BY MR. LACKEY:

Q. NOW, DARIUS, YOU, YOU JUST TESTIFIED THAT YOU
DON'T KNOW WHO CHRISTIAN COLEMAN IS, IS THAT
CORRECT?

A. YES, SIR.

MR. LACKEY: I HAVE NO FURTHER QUESTIONS.

THE COURT: ALRIGHT.

MS. ULLMAN?

MS. ULLMAN: I HAVE NO QUESTIONS, YOUR HONOR.

THE COURT: OKAY. MR. PALMER.

MR. PALMER: THANK YOU, YOUR HONOR.

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

CROSS - DARRIUS GARNER BY MR. PALMER

696

CROSS-EXAMINATION OF DARRIUS GARNER

BY MR. PALMER:

Q. DO YOU KNOW WHO WALTER HARRIS IS?

A. NO, SIR.

Q. YOU DON'T KNOW HIM?

A. NO, SIR.

Q. AND YOU DIDN'T SEE WALTER HARRIS THAT DAY,
CORRECT?

A. NO, SIR. I DON'T KNOW HIM.

Q. THANK YOU.

A. I DON'T KNOW WHO THAT IS.

THE COURT: OKAY. MR. MELLARD.

MR. MELLARD: I HAVE NO QUESTIONS, YOUR HONOR.

THE COURT: OKAY. MR. KOGER.

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

CROSS - DARRIUS GARNER BY MR. KOGER

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CROSS-EXAMINATION OF DARRIUS GARNER

BY MR. KOGER:

Q. MR. GARNER, BACK IN MARCH OF THIS YEAR WERE YOU
ALSO A STUDENT AT ORANGEBURG-WILKERSON?

A. YES, SIR.

Q. AND YOU WERE, I GUESS YOU WERE A JUNIOR AT THAT
PARTICULAR TIME OF THIS INCIDENT?

A. YES, SIR.

Q. OKAY. AND WHAT TIME DID YOU GET OUT OF SCHOOL
DURING THAT PARTICULAR TIME, MARCH OF THIS YEAR?

A. ABOUT THREE:THIRTY-FIVE.

Q. ABOUT THREE:THIRTY. AND WHEN DID YOU GET UP WITH
PATRICK TYLER ON THAT DAY?

A. WE CAUGHT THE BUS TOGETHER.

Q. OH, Y'ALL CAUGHT THE BUS TOGETHER. OKAY. Y'ALL
CAUGHT THE BUS TOGETHER. HOW DID, AFTER Y'ALL
RODE THE BUS, I GUESS, HOME, CORRECT?

A. UH-HUH.

Q. OKAY. WHEN DID Y'ALL GET IN THE CAR AND LEAVE,
IN YOUR CAR AND LEAVE?

A. I AIN'T GOT NO CAR BUT IT WAS LATER ON THAT DAY.

Q. LATER ON THAT DAY?

A. YES, SIR.

Q. OKAY. WHOSE CAR?

A. MY MOM'S BOYFRIEND.

CROSS - DARRIUS GARNER BY MR. KOGER

698

1 Q. WHO?

2 A. MY MOM'S BOYFRIEND.

3 Q. YOUR MOTHER'S BOYFRIEND?

4 A. YES, SIR.

5 Q. SO, WHAT TIME DID YOU GET YOUR MOTHER'S
6 BOYFRIEND'S CAR?

7 A. I DON'T REALLY RECALL THAT.

8 Q. OKAY. YOU DON'T RECALL. YOU JUST TESTIFIED TO
9 SOME EVENTS THAT HAPPENED ON MARCH TWELFTH, BUT
10 YOU DON'T RECALL THIS PARTICULAR FACT, CORRECT?

11 A. I DON'T KNOW THE EXACT TIME.

12 Q. OKAY. ALRIGHT. NOW, BUT AT SOME TIME YOU GOT
13 TOGETHER BETWEEN THREE AND SIX? YOU SAY YOU GOT
14 OUT OF SCHOOL -- DID YOU GET OUT OF SCHOOL AT
15 THREE:THIRTY OR GOT OFF THE BUS AT THREE:THIRTY?

16 A. NO, WE AIN'T GOT OFF THE BUS AT THREE:THIRTY, IT
17 WAS PROBABLY LIKE GOING ON FOUR WHEN WE GOT OFF
18 THE BUS.

19 Q. OKAY. SO, YOU GOT OFF THE BUS AT FOUR O'CLOCK.
20 DOES PATRICK TYLER LIVE NEAR YOU OR SOMETHING?

21 A. YES, SIR.

22 Q. OKAY. DID YOU GO HOME WHEN PATRICK TYLER WENT
23 HOME?

24 A. NO, SIR, WE WAS CHILLING.

25 Q. OH, Y'ALL WERE CHILLING. SO, HE CAME, HE WENT TO

1 YOUR HOUSE OR YOU WENT TO HIS HOUSE?

2 A. HE CAME TO MY HOUSE.

3 Q. HE CAME TO YOUR HOUSE. OKAY. AND WHILE Y'ALL
4 WERE CHILLING, HOW LONG WERE THE TWO OF YOU THERE
5 CHILLING?

6 A. I DON'T KNOW, FOR A GOOD LITTLE MINUTE.

7 Q. OKAY. A GOOD LITTLE MINUTE. WHEN DID YOU GET
8 YOUR MOTHER'S BOYFRIEND'S CAR?

9 A. I DON'T KNOW, IT WAS, LIKE, BEFORE IT START
10 RAINING, IT WAS BEFORE IT START RAINING.

11 Q. OKAY. NOW, YOU STATED THAT WHEN YOU WAS AT THIS
12 OTHER LOCATION YOU WERE SMOKING WEED, RIGHT?

13 A. YES, SIR.

14 Q. OKAY. WHO BROUGHT THE WEED THERE?

15 A. PATRICK.

16 Q. PATRICK BROUGHT THE WEED?

17 A. YES, SIR.

18 Q. DID Y'ALL, DID Y'ALL SMOKE WEED BEFORE YOU GOT
19 THERE?

20 A. NO, SIR.

21 Q. OKAY. YOU DIDN'T SMOKE WEED IN YOUR HOUSE?

22 A. IN MY HOUSE?

23 Q. RIGHT.

24 A. NO, SIR.

25 Q. YOU DIDN'T SMOKE WEED IN THE CAR OVER THERE?

CROSS - DARRIUS GARNER BY MR. KOGER

700

1 A. NO, SIR.

2 Q. OKAY. SO, PATRICK OBVIOUSLY -- DID Y'ALL STOP TO
3 BUY WEED BEFORE YOU GOT TO THIS OTHER LOCATION?

4 A. NO, SIR.

5 Q. OKAY. SO, PATRICK BROUGHT THE WEED, HE BROUGHT
6 THE WEED FROM SCHOOL?

7 A. I AIN'T KNOW WHERE HE BROUGHT IT FROM.

8 Q. OKAY. BUT HE DIDN'T TAKE IT OUT ON THE BUS, DID
9 HE?

10 A. NO, SIR.

11 Q. OKAY. ALRIGHT, SO, HE BROUGHT THE WEED TO THIS
12 OTHER LOCATION?

13 A. (Nods head in the affirmative.)

14 Q. OKAY. AND DID Y'ALL START SMOKING THE WEEK SOON
15 AFTER YOU GOT THERE?

16 A. AFTER WE GOT THERE AND KIND OF TALKED FOR A
17 LITTLE BIT THEN WE START SMOKING.

18 Q. OKAY. ALRIGHT. AND HOW LONG DID Y'ALL SMOKE
19 WEED?

20 A. PROBABLY LIKE FIFTEEN MINUTES, OR SOMETHING LIKE
21 THAT.

22 Q. OKAY. HOW MUCH WEED DID YOU SMOKE ON THAT DAY?

23 A. NOT A LOT.

24 Q. WELL, HOW MUCH IS NOT A LOT?

25 A. LIKE, TWO BLUNTS OR SOMETHING.

CROSS - DARRIUS GARNER BY MR. KOGER

701

1 Q. TWO BLUNTS A PIECE?

2 A. NO, TOGETHER.

3 Q. OH, Y'ALL PASSED IT AROUND OR SOMETHING?

4 A. UH-HUH.

5 Q. OKAY. NOW HAVE YOU SMOKED WEED WITH MR. TYLER IN
6 THE PAST?

7 A. UH-HUH.

8 Q. OKAY. AND HOW OFTEN DID YOU AND MR. TYLER GET
9 TOGETHER AND SMOKE WEED?

10 A. I AIN'T NEVER KNOW HE HAD IT.

11 Q. WHEREVER HE HAD IT. WELL, OFTEN DID YOU HAVE IT?

12 A. EVERY NOW AND THEN.

13 Q. EVERY NOW AND THEN, WHEN, I MEAN, EVERY NOW AND
14 THEN, EVERY WEEK, TWO DAYS A WEEK, THREE DAYS A
15 WEEK?

16 A. EVERY WEEK.

17 Q. EVERY WEEK. OKAY. SO, YOU SMOKED ONCE A WEEK OR
18 MULTIPLE TIMES PER WEEK?

19 A. MULTIPLE TIMES.

20 Q. OKAY. HOW MANY DAYS OUT OF THE WEEK?

21 A. ALL WEEK.

22 Q. ALL WEEK, ALL SEVEN DAYS?

23 A. UH-HUH.

24 Q. YOU DIDN'T REST ON SUNDAY?

25 A. HUH-UH.

CROSS - DARRIUS GARNER BY MR. KOGER

702

1 Q. OKAY. SO, HOW LONG HAVE YOU BEEN SMOKING WEED?

2 COURT REPORTER: ANSWER, PLEASE.

3 MR. KOGER: EXCUSE ME?

4 COURT REPORTER: HE DOESN'T, HE'S GOT TO ANSWER.

5 Q. OKAY. SO, HOW LONG HAVE YOU AND PATRICK TYLER
6 BEEN SMOKING WEED?

7 A. I DON'T KNOW.

8 Q. A YEAR?

9 A. FOR A LONG TIME.

10 Q. A YEAR, TWO YEARS, THREE YEARS?

11 A. ABOUT THREE YEARS.

12 Q. ABOUT THREE YEARS. SO, YOU STARTED SMOKING WEED
13 AT WHAT AGE?

14 A. PROBABLY LIKE FOURTEEN.

15 Q. FOURTEEN. AND NOW YOU'RE SEVENTEEN. SO, YOU
16 BEEN SMOKING WEED FOR THREE YEARS?

17 A. (Nods head in the affirmative.)

18 Q. AND HOW LONG HAVE YOU KNOWN PATRICK TYLER?

19 A. SINCE EIGHTH GRADE.

20 Q. EIGHTH GRADE. SO, Y'ALL BEEN SMOKING WEED
21 TOGETHER FOR THREE YEARS?

22 A. (Nods head in the affirmative.)

23 Q. OKAY. NOW, AFTER YOU LEFT HIS LOCATION DID YOU
24 SMOKE WEED LATER ON THAT NIGHT?

25 A. NO, SIR.

1 Q. OKAY. SO, SO IT'S YOUR TESTIMONY THAT THE ONLY
2 WEED YOU HAD ON THAT PARTICULAR DAY WAS WHEN YOU
3 WAS AT THAT PLACE?

4 A. YES, SIR.

5 Q. BUT IT'S YOUR TESTIMONY THAT YOU SMOKED WEED
6 CONTINUOUSLY, EVERY DAY FOR THE PAST THREE YEARS?

7 A. NOT EVERY DAY BUT EVERY DAY I HAD IT.

8 Q. EVERY DAY YOU HAD IT.

9 MR. KOGER: THANK YOU, NO FURTHER QUESTIONS.

10 THE COURT: ANYTHING ON REDIRECT?

11 SOLICITOR PASCOE: NO, SIR.

12 THE COURT: ALRIGHT. THANK YOU, SIR, YOU MAY
13 STEP DOWN, YOU ARE EXCUSED.

14 OKAY. AND IS THAT THE STATE'S LAST WITNESS FOR
15 THE DAY?

16 SOLICITOR SORENSON: YES, SIR, YES, SIR. AND
17 WE'LL JUST HAVE PROBABLY ONE MORE TOMORROW.

18 THE COURT: OKAY. ALRIGHT, LADIES AND GENTLEMEN,
19 I'M HOPING YOU FEEL LIKE IT'S GOOD NEWS. WE'RE GOING
20 TO STOP THE TESTIMONY FOR TODAY AND COME BACK
21 TOMORROW MORNING AT NINE O'CLOCK IN THE MORNING, AND
22 RESUME TESTIMONY.

23 AGAIN, LET ME REMIND YOU, YOU CAN'T TALK ABOUT
24 THE CASE TO ANYBODY, YOU CAN'T READ ANYTHING ABOUT
25 THE CASE, YOU CAN'T LISTEN TO ANYTHING ABOUT THE CASE

1 ON THE RADIO, YOU CAN'T WATCH ANYTHING ABOUT THE CASE
2 ON T.V. OR ON THE INTERNET OR DO ANYTHING LIKE THAT.
3 AND IF SOMEBODY WANTS TO TALK TO YOU ABOUT THE CASE
4 OR COMES UP TO TALK TO YOU, FIND OUT WHO THEY ARE
5 BECAUSE THEY'RE NOT SUPPOSED TO DO THAT. OKAY?

6 Y'ALL HAVE A GOOD EVENING, AND I'LL SEE Y'ALL
7 BACK HERE AT NINE O'CLOCK IN THE MORNING. THANK YOU
8 VERY MUCH.

9 (Whereupon, the jury leaves
10 the courtroom for the day
11 and the following takes place
12 out of the presence of the jury.)

13 THE COURT: ANYTHING FROM THE STATE BEFORE WE'RE
14 IN RECESS?

15 SOLICITOR SORENSON: NO, SIR, THANK YOU.

16 THE COURT: OKAY. ANYTHING FROM ANY OF THE
17 DEFENDANTS BEFORE WE GO INTO RECESS FOR THIS EVENING?

18 MR. LACKEY: NO, SIR.

19 MS. ULLMAN: NO, SIR.

20 MR. PALMER: NO, SIR.

21 MR. MELLARD: NO, SIR.

22 MR. KOGER: NO, SIR.

23 THE COURT: ALRIGHT, I'LL SEE Y'ALL BACK HERE AT
24 NINE O'CLOCK IN THE MORNING.

25 COURT REPORTER: JUDGE, TELL ALL THE ATTORNEYS TO

1 COUNT THEIR EXHIBITS AND LEAVE THEM ALL WITH ME,
2 PLEASE.

3 THE COURT: OKAY. IF Y'ALL WILL DOUBLE CHECK THE
4 EXHIBITS BEFORE YOU LEAVE, MAKE SURE MS. HARRY DOT
5 HAS THEM ALL. OKAY?

6 Y'ALL HAVE A WONDERFUL EVENING, AND I'LL SEE
7 Y'ALL IN THE MORNING AT NINE. THANK YOU.

8 (Recess for the day.)

1 DATE:

2 DECEMBER 16, 2010

3 THE COURT: IS THE STATE READY TO PROCEED?

4 SOLICITOR PASCOE: YES, SIR.

5 THE COURT: ARE ALL OF THE DEFENDANTS READY TO
6 PROCEED?

7 MR. LACKEY: YES, SIR.

8 MS. ULLMAN: YES, SIR.

9 MR. PALMER: YES, SIR.

10 MR. MELLARD: YES, SIR.

11 MR. KOGER: YES, SIR.

12 THE COURT: OKAY. ALRIGHT. AND THE JURY IS ALL
13 HERE?

14 BAILIFF: YES, SIR.

15 THE COURT: OKAY. BRING THE JURY ON IN.

16 (Whereupon, the jury enters
17 the courtroom and the following

1 takes place in the presence
2 of the jury.)

3 THE COURT: GOOD MORNING, LADIES AND GENTLEMEN, I
4 HOPE YOU ALL HAD A PLEASANT EVENING. WE ARE NOW
5 GOING TO PROCEED WITH TESTIMONY.

6 SOLICITOR SORENSON: THE STATE CALLS LIEUTENANT
7 JAMES SHUMPERT.

8 CLERK: PLACE YOUR LEFT HAND ON THE BIBLE AND
9 RAISE YOUR RIGHT HAND.
10 (Whereupon, James Shumpert
11 is duly sworn.)

12 CLERK: HAVE A SEAT AND STATE YOUR FULL NAME FOR
13 THE COURT.

14 WITNESS: JAMES SHUMPERT.

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

DIRECT - JAMES SHUMPERT BY SOL. SORENSON

707

DIRECT EXAMINATION OF JAMES SHUMPERT
BY SOLICITOR SORENSON:

Q. GOOD MORNING, LIEUTENANT.

A. GOOD MORNING.

Q. IF YOU WOULD, TELL THE JURY WHERE IT IS THAT
YOU'RE EMPLOYED?

A. ORANGEBURG COUNTY SHERIFF'S OFFICE.

Q. AND HOW LONG HAVE YOU BEEN EMPLOYED WITH THE
ORANGEBURG SHERIFF'S OFFICE?

A. GOING ON TWELVE YEARS.

Q. IF YOU WOULD, TELL THE JURY WHAT YOUR CURRENT
DUTIES AND RESPONSIBILITIES ARE WITH THE
SHERIFF'S OFFICE?

A. I'M A LIEUTENANT OVER CRIMINAL INVESTIGATIONS AND
THE BURGLARY TASK FORCE AT THE ORANGEBURG COUNTY
SHERIFF'S OFFICE AT THIS MOMENT.

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

A. ABOUT, SEVERAL MONTHS NOW.

Q. OKAY. AND BACK IN MARCH OF TWO THOUSAND TEN IN
WHAT CAPACITY WERE YOU EMPLOYED AT THAT TIME NINE
MONTHS AGO?

A. I WAS THE SERGEANT OVER CRIMINAL INVESTIGATIONS.

Q. OKAY. SO, YOU'VE BEEN PROMOTED SINCE MARCH?

A. I HAVE.

DIRECT - JAMES SHUMPERT BY SOL. SORENSON

708

1 Q. ALRIGHT. AND LET ME ASK YOU, BACK IN MARCH OF
2 TWO THOUSAND TEN WERE YOU ASSIGNED AS THE LEAD
3 INVESTIGATOR INTO THE MURDER OF CHARLES PRINGLE?

4 A. I WAS.

5 Q. OKAY. AND DID YOU HAVE AN OPPORTUNITY,
6 LIEUTENANT, TO RESPOND OUT TO THE SCENE THAT
7 NIGHT, AT KINGS ROAD?

8 A. I DID.

9 Q. ALRIGHT. AND THERE WERE OTHER OFFICERS AND
10 INVESTIGATORS THAT ALSO RESPONDED OUT THERE THAT
11 NIGHT?

12 A. YES, SIR.

13 Q. LET ME ASK YOU, DID YOU BECOME AWARE AT ANY POINT
14 IN TIME WHETHER THERE WAS A WITNESS WHO WAS
15 ACTUALLY IN THE APARTMENT AT THE TIME THE
16 HOMICIDE OCCURRED?

17 A. I DID.

18 Q. AND WHO WAS THAT WITNESS?

19 A. MS. ASHLEY PARSLEY.

20 Q. AND DID YOU HAVE AN OPPORTUNITY THEN THAT NIGHT,
21 INTO THE EARLY MORNING HOURS OF THE THIRTEENTH TO
22 TAKE A STATEMENT FROM MS. PARSLEY?

23 A. I DID.

24 Q. AND I'M SHOWING YOU DEFENDANT MARIO SHIVERS'S
25 EXHIBIT NUMBER ONE. IS THAT THE STATEMENT YOU

DIRECT - JAMES SHUMPERT BY SOL. SORENSON

709

1 TOOK FROM MS. PARSLEY?

2 A. IT IS.

3 Q. AND WHAT TIME WAS THAT STATEMENT TAKEN?

4 A. TWO:TWENTY-FIVE A.M.

5 Q. SO, THAT WOULD BE - - -

6 A. ON THE THIRTEENTH.

7 Q. --- THAT WOULD BE FOUR HOURS, FOUR AND A HALF
8 HOURS AFTER THE HOMICIDE, IS THAT CORRECT?

9 A. CORRECT.

10 Q. LET ME SHOW YOU WHAT'S BEEN MARKED AS STATE'S
11 EXHIBIT NUMBER NINETY-FOUR OR ID, DOES THAT
12 ACCURATELY DEPICT THE CALENDER OF THE MONTH OF
13 MARCH THIS YEAR?

14 A. IT IS.

15 SOLICITOR SORENSON: YOUR HONOR, AT THIS TIME
16 WE'D OFFER STATE'S NUMBER NINETY-FOUR INTO EVIDENCE.

17 THE COURT: ANY OBJECTION?

18 MR. LACKEY: NO OBJECTION.

19 MS. ULLMAN: NO OBJECTION.

20 MR. PALMER: NO, SIR.

21 MR. MELLARD: NO OBJECTION.

22 MR. KOGER: NO OBJECTION.

23 THE COURT: ALRIGHT, IT IS ADMITTED INTO EVIDENCE
24 WITHOUT OBJECTION.

25 (State's Exhibit Ninety-four

DIRECT - JAMES SHUMPERT BY SOL. SORENSON

710

1 marked and filed.)

2 Q. NOW, THIS INCIDENT HAPPENED ON?

3 A. MARCH TWELFTH.

4 Q. MARCH TWELFTH. AND THAT WOULD BE -- WHAT DAY OF
5 THE WEEK WOULD THAT BE?

6 A. I BELIEVE THAT WAS ON A FRIDAY, IF I'M NOT
7 MISTAKEN.

8 Q. AND IN LOOKING AT STATE'S EXHIBIT NUMBER NINETY-
9 FOUR, WHAT DOES THE CALENDAR INDICATE THAT DAY
10 WAS -- AND JUST HOLD ON THAT IN CASE YOU NEED IT.
11 CAN YOU SEE IT FROM THERE OR I'LL TURN IT, I'LL
12 TURN IT.

13 A. RIGHT HERE, MARCH TWELFTH.

14 Q. OKAY. SO, THAT WOULD BE A FRIDAY NIGHT?

15 A. YES, SIR.

16 Q. ALRIGHT. SO, MS. PARSLEY'S STATEMENT WAS TAKEN
17 AT TWO:TWENTY-FIVE THAT SATURDAY MORNING
18 AFTERWARDS, IS THAT CORRECT?

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

20 Q. ALRIGHT. NOW, OVER THAT WEEKEND, ON SATURDAY THE
21 THIRTEENTH, DID YOU HAVE AN OPPORTUNITY ALSO TO
22 TALK TO A YOUNG MAN BY THE NAME OF SHANNON
23 MITCHELL?

24 A. I DID.

25 Q. AND THROUGH MR. MITCHELL WERE YOU ULTIMATELY

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711

1 ABLE TO -- LET ME ASK YOU THIS, HAD MS. PARSLEY
2 GIVEN YOU INFORMATION ABOUT AN INDIVIDUAL BEING
3 IN THE APARTMENT A SHORT TIME BEFORE THE
4 HOMICIDE?

5 A. SHE DID.

6 Q. OKAY. AND WHEN YOU TALKED TO MR. MITCHELL WERE
7 YOU ULTIMATELY ABLE TO GET A NAME OF WHO THAT
8 PERSON WAS?

9 A. I DID.

10 Q. AND WHO WAS THAT?

11 A. WALTER HARRIS.

12 Q. OKAY. AND DID MR. HARRIS HAVE A NICK NAME THAT
13 HE WENT BY?

14 A. PETE.

15 Q. AND AS A RESULT OF THAT, GETTING THAT INFORMATION
16 FROM MR. MITCHELL, DID YOU THEN HAVE AN
17 OPPORTUNITY ON THE FIFTEENTH OF MARCH -- SO NOW
18 THAT WOULD BE INTO MONDAY, TO SHOW MS. PARSLEY A
19 PHOTO LINEUP CONTAINING A PICTURE OF WALTER
20 HARRIS?

21 A. I DID.

22 Q. AND I'M SHOWING YOU STATE'S EXHIBIT NUMBER THREE,
23 IS THAT THE LINEUP YOU SHOWED MS. PARSLEY ON
24 MARCH THE FIFTEENTH?

25 A. IT WAS, YES, SIR.

DIRECT - JAMES SHUMPERT BY SOL. SORENSON

712

1 Q. OKAY. AND WHO, WHAT SUSPECT IS IN THAT LINEUP?

2 A. WALTER HARRIS.

3 Q. OKAY. AND WHAT PHOTOGRAPH IS HE IN THAT LINEUP?

4 A. NUMBER THREE.

5 Q. OKAY. AND LET ME SEE IT REAL QUICK. AND MR.

6 HARRIS HOW HE IS NUMBER THREE, IS THAT

7 ESSENTIALLY HOW MR. HARRIS LOOKED BACK IN MARCH

8 OF THIS YEAR?

9 A. NO, SIR.

10 Q. THAT IS NOT?

11 A. HE HAD, LIKE, SMALL TWISTIES IN HIS HAIR.

12 Q. OKAY. SO HIS HAIR WAS A LITTLE DIFFERENT THAN IT
13 IS IN THIS PICTURE?

14 A. CORRECT.

15 Q. OKAY. IS IT ALSO A LITTLE DIFFERENT THAN IT IS
16 HERE IN COURT TODAY?

17 A. IT IS.

18 Q. WHEN YOU SHOWED MS. PARSLEY THIS LINEUP DID YOU
19 TELL HER SHE HAD TO PICK SOMEBODY OUT?

20 A. NO, SIR.

21 Q. SUGGEST TO HER WHO TO PICK OUT?

22 A. NO, SIR.

23 Q. OKAY. AND WAS,-- SHE, IN FACT, AS IS CIRCLED
24 AND DATED AND INITIALED, DID SHE PICK OUT MR.
25 HARRIS'S PICTURE?

DIRECT - JAMES SHUMPERT BY SOL. SORENSON

713

1 A. CORRECT.

2 Q. AND THE ATTACHED AFFIDAVIT TO STATE'S EXHIBIT
3 NUMBER THREE, WHO FILLED THAT OUT?

4 A. SHE DID, THAT'S HER HANDWRITING. I JUST SIGNED TO
5 WITNESS IT.

6 Q. OKAY. SHE SIGNED IT ALSO?

7 A. SHE DID.

8 Q. AND THAT WAS DONE BACK ON MARCH THE FIFTEENTH?

9 A. YES, SIR.

10 Q. NOW, AFTER SHE PICKED HIM OUT WERE YOU ABLE TO AT
11 THAT POINT IN TIME DETERMINE A POSSIBLE ADDRESS
12 FOR MR. HARRIS?

13 A. I DID.

14 Q. ALRIGHT. AND WHERE WAS THAT?

15 A. SEVEN, I BELIEVE IT WAS SEVEN O EIGHT
16 REPRESENTATIVE CIRCLE.

17 Q. AND WHERE IS THAT LOCATED AT?

18 A. WHAT WE CALL ROOSEVELT GARDENS APARTMENT COMPLEX
19 OFF OF SIX O ONE.

20 Q. OKAY. AND ON MARCH THE SIXTEEN, OR THAT
21 FOLLOWING DAY, THAT TUESDAY, DID THE SHERIFF'S
22 OFFICE, DID Y'ALL HAVE AN OPPORTUNITY TO EXECUTE
23 A SEARCH WARRANT ON THAT RESIDENCE?

24 A. WE DID.

25 Q. OKAY. NOW, LET ME ASK YOU, BACK FROM RESPONDING

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714

1 OUT TO THE SCENE THAT NIGHT, AND SPEAKING TO
2 INVESTIGATORS, INCLUDING LIEUTENANT CARTER, DID
3 YOU KNOW WHAT TYPE OF CALIBER WEAPONS YOU WERE
4 LOOKING FOR IN THIS CASE?

5 A. I DID.

6 Q. AND WHAT CALIBER WEAPONS WERE YOU LOOKING FOR?

7 A. FROM TALKING TO LIEUTENANT CARTER, HE STATED THAT
8 WE MAY POSSIBLY BE LOOKING FOR A NINE MILLIMETER,
9 FORTY CAL, AND ANY TYPE OF WEAPON THAT MAY SHOOT
10 A SEVEN POINT SIX TWO CARTRIDGE.

11 Q. OKAY. AND THAT WOULD BE LIKE A RIFLE ROUND?

12 A. YES, SIR.

13 Q. OKAY. ALRIGHT, NOW LET ME ASK YOU, WHEN YOU
14 SEARCHED WALTER HARRIS'S -- THAT APARTMENT THAT
15 DAY ON THE SIXTEENTH DID YOU FIND A NINE
16 MILLIMETER PISTOL?

17 A. NO, WE DID NOT.

18 Q. DID YOU FIND A FORTY CALIBER PISTOL?

19 A. NO, WE DID NOT.

20 Q. DID YOU FIND ANY RIFLES?

21 A. NO, WE DID NOT.

22 Q. ALRIGHT. AND FOLLOWING UP ON THAT, THOUGH, THE
23 FOLLOWING DAY, ON MARCH THE SEVENTEENTH OR
24 THEREABOUTS DID YOU LEARN OF A POSSIBLE LOCATION
25 FOR THE FORTY CALIBER PISTOL THAT WAS ALLEGEDLY

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715

1 USED IN MR. PRINGLE'S MURDER?

2 A. WE DID.

3 Q. ALRIGHT. AND AT THAT POINT IN TIME WHO DID YOU
4 LEARN ALLEGEDLY HAD THAT WEAPON?

5 A. ANDRE WASHINGTON.

6 Q. OKAY. AND WHAT DID YOU THEN DO AS A RESULT OF
7 LEARNING THAT?

8 A. WELL, WHAT WE DID, WE GOT IN CONTACT WITH AN
9 INDIVIDUAL BY THE NAME OF CHRISTOPHER DWIGHT. WE
10 GAVE HIM THREE HUNDRED DOLLARS TO GO BUY THE
11 WEAPON BACK. WE PUT A WIRE ON HIM, VIDEO SO WE
12 COULD MONITOR THE TRANSACTION, AND ESSENTIALLY,
13 AFTER HE OBTAINED THE WEAPON HE TURNED IT BACK
14 OVER TO US.

15 Q. OKAY. SO YOU, IMMEDIATELY GOT POSSESSION OF THAT
16 WEAPON?

17 A. YES, SIR, WE DID.

18 Q. OKAY. IN SHOWING YOU STATE'S EXHIBITS NUMBER
19 SEVENTY-THREE AND SEVENTY-FOUR, IS THAT THE
20 WEAPON THAT MR. DWIGHT PURCHASED FROM MR.
21 WASHINGTON AND THEN TURNED OVER TO YOU ON MARCH
22 THE SEVENTEENTH?

23 A. YES, SIR, IT IS.

24 Q. AND AFTER THAT WAS DONE WERE YOU ULTIMATELY ABLE
25 THEN TO TALK TO, OR DID YOU TALK TO MR.

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716

1 WASHINGTON, ANDREW WASHINGTON?

2 A. I DID.

3 Q. ALRIGHT. NOW, ON MARCH THE SEVENTEENTH WHAT
4 HAPPENED TO WALTER HARRIS ON MARCH THE
5 SEVENTEENTH?

6 A. HE WAS ARRESTED.

7 Q. WERE YOU ABLE TO DETERMINE THROUGH YOUR
8 INVESTIGATION WHAT WALTER HARRIS'S CELL PHONE
9 NUMBER WAS THAT HE HAD BACK THEN?

10 A. I DID.

11 Q. AND LET ME SHOW YOU STATE'S EXHIBIT NUMBER SEVEN
12 -- OR, I'M SORRY, THIRTY-SIX, AND ARE THOSE THE
13 RECORDS THAT YOU THEN OBTAINED?

14 A. LET ME COMPARE IT TO MY NOTES AS WELL.

15 Q. YES, SIR.

16 A. YES, SIR, IT IS.

17 Q. OKAY. AND WHAT IS THAT CELL PHONE NUMBER?

18 A. , OR .

19 Q. OKAY. AND THOSE RECORDS, I THINK WE'VE HEARD
20 TESTIMONY FROM THE ALLTEL REPRESENTATIVE IN THE
21 NAME OF PETEY CRACK LOCATED ON
22 ASHLEY AVENUE?

23 MS. ULLMAN: OBJECTION, YOUR HONOR, HE'S
24 TESTIFYING. HE COULD ASK HIM WHAT THE PIECE OF PAPER
25 SAYS.

DIRECT - JAMES SHUMPERT BY SOL. SORENSON

717

1 THE COURT: IF YOU'D JUST REPHRASE THE QUESTION.

2 SOLICITOR SORENSON: YES, SIR.

3 Q. WHAT IS THAT, AND WE'VE HEARD TESTIMONY OF THIS,
4 BUT WHAT IS THE NAME AND ADDRESS THAT THOSE
5 RECORDS ARE IN?

6 A. IT SAYS, "PETEY CRACK, [REDACTED]
7 AVENUE."

8 Q. OKAY. WHOSE HOUSE IS LOCATED AT [REDACTED]
9 [REDACTED] ASHLEY AVENUE?

10 A. WALTER HARRIS'S GRANDMAMA.

11 Q. OKAY. NOW, THE FOLLOWING DAY, ON MARCH THE
12 EIGHTEEN, SO THAT WOULD BE NOW INTO THURSDAY OF
13 MARCH OF THIS YEAR, DID ANY OTHER DEFENDANTS AT
14 THAT POINT TIME TURN THEMSELVES IN ON THAT
15 THURSDAY, MARCH THE EIGHTEENTH?

16 A. YES, SIR.

17 Q. AND WHO WAS THAT?

18 A. DANNY RYANT AND PATRICK TYLER.

19 Q. OKAY. AND WERE THEY BOTH ARRESTED AT THAT POINT
20 IN TIME?

21 A. THEY WERE.

22 Q. BOTH CHARGED WITH MURDER, BURGLARY, FIRST, ARMED
23 ROBBERY?

24 A. YES, SIR, THEY WERE.

25 Q. NOW, DID YOU HAVE AN OPPORTUNITY ON MARCH THE

DIRECT - JAMES SHUMPERT BY SOL. SORENSON

718

1 EIGHTEENTH TO TAKE A STATEMENT, OR TO TALK TO AND
2 TAKE A STATEMENT FROM PATRICK TYLER?

3 A. I DID.

4 Q. ALRIGHT. I'M SHOWING YOU, IT LOOKS LIKE
5 DEFENDANT MARIO SHIVERS'S EXHIBIT NUMBER TWO, IS
6 THAT THE STATEMENT THAT YOU TOOK FROM MR. TYLER
7 ON MARCH THE EIGHTEENTH?

8 A. IT IS.

9 Q. ALRIGHT. NOW WHO IS -- NOW, WHERE WAS IT -- I
10 BELIEVED I HAS ASKED YOU EARLIER, BUT DID MR.
11 TYLER TURN HIMSELF IN?

12 A. HE DID.

13 Q. OKAY. AND WHERE WAS THAT THAT HE TURNED HIMSELF
14 IN?

15 A. AT [REDACTED] ELLIS AVENUE, AT THE MAIN
16 OFFICE AT THE COMPLEX.

17 Q. OKAY. AND IS THAT WHERE YOU TOOK THE STATEMENT
18 FROM HIM?

19 A. IT WAS.

20 Q. AND WHO WAS WITH MR. TYLER WHEN HE TURNED HIMSELF
21 IN?

22 A. HIS PARENTS.

23 Q. ALRIGHT. AND BACK ON MARCH THE EIGHTEENTH OF
24 THIS YEAR WHEN HE DID TURN HIMSELF IN, HOW OLD
25 WAS PATRICK TYLER AT THAT TIME?

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719

1 A. AT THE TIME HE WAS SIXTEEN.

2 Q. OKAY. NOW, YOU INDICATED HIS PARENTS WERE WITH
3 HIM, DID HE HAVE AN ATTORNEY WITH HIM AT THAT
4 TIME?

5 A. NO, HE DID NOT.

6 Q. OKAY. NOW, BEFORE YOU TOOK THAT STATEMENT FROM
7 HIM WAS THERE ANYTHING YOU WENT OVER WITH MR.
8 TYLER?

9 A. I ADVISED HIM OF HIS MIRANDA WARNINGS.

10 Q. DID YOU DO THAT WITH A WRITTEN FORM?

11 A. YES, I DID.

12 Q. OKAY. AND I'M SHOWING YOU STATE'S EXHIBIT NUMBER
13 NINETY-FIVE, IS THAT THE FORM THAT YOU WENT OVER
14 WITH HIM?

15 A. IT IS.

16 SOLICITOR SORENSON: YOUR HONOR, AT THIS TIME
17 WE'D OFFER STATE'S NINETY-FIVE INTO EVIDENCE.

18 THE COURT: ANY OBJECTION?

19 MR. LACKEY: NO OBJECTION.

20 MS. ULLMAN: NO OBJECTION.

21 MR. PALMER: NO OBJECTION.

22 MR. MELLARD: NO OBJECTION.

23 MR. KOGER: NO OBJECTION.

24 THE COURT: ALRIGHT IT IS -- STATE'S NINETY-FIVE
25 IS ADMITTED INTO EVIDENCE WITHOUT OBJECTION.

DIRECT - JAMES SHUMPERT BY SOL. SORENSON

720

1 (State's Exhibit Ninety-five
2 marked and filed.)

3 Q. AND I'LL LET YOU HOLD ON TO THAT. AND IN
4 LOOKING AT STATE'S EXHIBIT NUMBER NINETY-FIVE,
5 DOES THAT INDICATE WHAT DATE YOU WENT OVER THAT
6 FORM WITH MR. TYLER?

7 A. IT IS.

8 Q. AND WHAT DAY IS THAT?

9 A. MARCH EIGHTEENTH.

10 Q. OF THIS YEAR, TWO THOUSAND TEN?

11 A. YES, SIR.

12 Q. AND WHAT, HOW ABOUT, IS THERE A TIME ON IT ALSO?

13 A. YES, SIR.

14 Q. AND WHAT'S THE TIME?

15 A. FOUR:FORTY-THREE P.M.

16 Q. OKAY. AND IF YOU WOULD, JUST GO OVER WITH THE
17 JURY WHAT RIGHTS YOU WENT OVER WITH MR. TYLER
18 THAT AFTERNOON AT FOUR:FORTY-THREE OR SO IN THE
19 AFTERNOON?

20 A. YES, SIR. THE STATEMENT SAYS, IT SAYS, "BEFORE
21 WE ASK YOU ANY QUESTIONS YOU MUST UNDERSTAND YOUR
22 RIGHTS." AND THEN WE ASK HIM TO PLEASE INITIAL
23 BY EACH AFTER WE READ THEM THEIR RIGHTS. AND THE
24 FIRST, NUMBER SAYS, "YOU HAVE A RIGHT TO REMAIN
25 SILENT. ANYTHING YOU SAY CAN BE USED AGAINST YOU

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721

1 IN COURT." NUMBER TWO SAYS, "YOU HAVE THE RIGHT
2 TO TALK TO A LAWYER FOR ADVICE BEFORE WE ASK YOU
3 ANY QUESTIONS, HAVE HIM WITH YOU DURING
4 QUESTIONING." NUMBER THREE SAYS, "IF YOU CANNOT
5 AFFORD A LAWYER ONE WILL BE APPOINTED FOR YOU
6 BEFORE ANY QUESTIONS IF YOU WISH." NUMBER FOUR,
7 "IF YOU DECIDE TO ANSWER QUESTIONS WITHOUT A
8 LAWYER PRESENT YOU WILL STILL HAVE THE RIGHT TO
9 STOP ANSWERING QUESTIONS AT ANYTIME." NUMBER
10 FIVE, "YOU ALSO HAVE THE RIGHT TO STOP ANSWERING
11 QUESTIONS AT ANYTIME UNTIL YOU TALK TO A LAWYER."
12 AFTER I WENT OVER THE RIGHTS WITH HIM HE
13 INITIALED EACH ONE. AT THE BOTTOM HERE IT SAYS,
14 "I UNDERSTAND MY RIGHTS." AND HE SIGNED HIS
15 NAME. AND THEN AT THE BOTTOM OF THE PAPER IT
16 SAYS, "WAIVER OF YOUR RIGHTS." AND IT SAYS, "I
17 HAVE READ THE STATEMENT OF MY RIGHTS. I
18 UNDERSTAND WHAT MY RIGHTS ARE. I AM WILLING TO
19 MAKE A STATEMENT AND ANSWER ANY QUESTIONS. I DO
20 NOT WANT A LAWYER AT THIS TIME. I UNDERSTAND AND
21 KNOW WHAT I'M DOING. NO PROMISE OR THREATS HAVE
22 BEEN MADE TO ME OR NO PRESSURE OR COERCION OF ANY
23 KIND HAVE BEEN USED AGAINST ME." AND AGAIN, HE
24 SIGNED HIS NAME AT THE TOP, AND I WITNESSED IT AT
25 THE BOTTOM.

DIRECT - JAMES SHUMPERT BY SOL. SORENSON

722

1 Q. OKAY. NOW, AT THAT POINT IN TIME WHAT WAS, WHAT
2 WAS MR. TYLER'S DEMEANOR LIKE WHEN YOU WERE
3 INITIALLY TALKING TO HIM?

4 A. WELL, WHEN I FIRST MADE CONTACT WITH MR. TYLER HE
5 FIRST TOLD ME THAT HE DIDN'T KNOW NOTHING ABOUT
6 NOTHING, AND HE DIDN'T EVEN KNOW WHY HE WAS
7 THERE.

8 Q. OKAY. AND THEN, WHAT ULTIMATELY ENDED UP
9 HAPPENING AFTER THAT?

10 A. WELL, AFTER I KEPT SPEAKING WITH MR. TYLER, HE
11 JUST BROKE DOWN AND HE STARTED CRYING, AND HE
12 SAID THAT, I WANT TO TELL THE TRUTH NOW. HE JUST
13 SAID, I WANT TO TELL THE TRUTH, AND KEPT SAYING
14 IT.

15 Q. ALRIGHT. AND DID YOU ULTIMATELY AT THAT POINT IN
16 TIME TAKE THAT WRITTEN STATEMENT FROM MR. TYLER?

17 A. I DID.

18 Q. IT'S DEFENDANT'S SHIVERS'S NUMBER TWO?

19 A. IT IS.

20 Q. OKAY. AND DID MR. TYLER SIGNED THAT STATEMENT
21 ALSO?

22 A. YES, HE SIGNED IT ON THE BACK.

23 Q. OKAY. ALRIGHT, LET ME ASK YOU THIS, LIEUTENANT
24 SHUMPERT, DURING ALL OF THAT, DEALINGS WITH MR.
25 TYLER BACK ON MARCH THE EIGHTEENTH, DID YOU AT

DIRECT - JAMES SHUMPERT BY SOL. SORENSON

723

1 ANY POINT IN TIME PROMISE HIM ANYTHING TO GET HIM
2 TO TALK TO YOU AND TO GIVE YOU THAT STATEMENT?

3 A. NO, I DIDN'T.

4 Q. DID YOU MAKE ANY OFFERS OR ANY DEALS TO GET HIM
5 TO TALK WITH YOU BACK ON MARCH THE EIGHTEENTH?

6 A. NO, I DIDN'T.

7 Q. AND IN FACT, AFTER YOU GOT DONE WAS HE CHARGED AT
8 THAT POINT IN TIME WITH MURDER, BURGLARY, FIRST
9 DEGREE, AND ARMED ROBBERY?

10 A. YES, HE WAS.

11 Q. AND TAKEN OFF TO JAIL?

12 A. WELL, DUJ AT THE TIME.

13 Q. OKAY. AND THAT'S BECAUSE HE WAS SIXTEEN AT THE
14 TIME?

15 A. CORRECT.

16 Q. BUT HE WAS CHARGED AS AN ADULT RIGHT FROM THE GET
17 GO?

18 A. YES, HE WAS.

19 Q. ALRIGHT. NOW, IN THAT STATEMENT, THAT DEFENDANT
20 SHIVERS'S NUMBER TWO STATEMENT OF MY TYLER, DOES
21 HE REFERENCE IN THERE A DRIVER ALSO BEING
22 INVOLVED?

23 A. HE DID.

24 Q. AND DID HE INDICATE THAT BACK ON MARCH THE
25 EIGHTEENTH THAT HE KNEW WHO THAT DRIVER WAS?

DIRECT - JAMES SHUMPERT BY SOL. SORENSON

724

1 A. HE DID NOT.

2 Q. OKAY. AND HAS HE EVER INDICATED TO YOU THAT
3 YOU'RE AWARE OF THAT HE KNEW WHO THE DRIVER WAS?

4 A. NO, HE NEVER KNEW WHO THE DRIVER WAS.

5 Q. LET ME ASK YOU, WHAT WAS THE FIRST TIME YOU CAME
6 INTO PHYSICAL CONTACT WITH A YOUNG MAN BY THE
7 NAME OF RONNIE WASHINGTON?

8 A. TWO WEEKS AGO, I BELIEVE IT PROBABLY WOULD BE
9 NOVEMBER THIRTIETH.

10 Q. AND DID YOU TAKE A STATEMENT FROM HIM AT THAT
11 TIME?

12 A. I DID.

13 Q. LET ME SHOW YOU STATE'S EXHIBITS NUMBER TWENTY,
14 TWENTY-EIGHT AND TWENTY-NINE. HAVE YOU SEEN
15 THOSE PHOTOGRAPHS BEFORE?

16 A. YES, SIR.

17 Q. AND WHOSE, WHOSE FORD EXPLORER, WHO DOES THAT
18 FORD EXPLORER BELONG TO?

19 A. RONNIE WASHINGTON.

20 Q. AND WHO WAS DRIVING THIS BACK ON MARCH THE
21 TWELFTH OF TWO THOUSAND AND TEN?

22 A. RONNIE WASHINGTON.

23 Q. NOW, HAS MR. WASHINGTON AT THIS TIME BEEN CHARGED
24 WITH ANYTHING, LIEUTENANT?

25 A. NOT AT THIS TIME.

DIRECT - JAMES SHUMPERT BY SOL. SORENSON

725

1 Q. AND IS THAT SOMETHING THE SHERIFF'S OFFICE IS
2 STILL EVALUATING?

3 A. WE ARE.

4 Q. AND YET AGAIN, HE JUST CAME TO YOUR ATTENTION TWO
5 WEEKS AGO?

6 A. TWO WEEKS AGO.

7 Q. ALRIGHT. ALSO, AS PART OF YOUR INVESTIGATION AND
8 TALKING TO PATRICK BACK IN MARCH OF THIS YEAR DID
9 YOU LEARN WHAT PATRICK TYLER'S CELL PHONE IS?

10 A. I DID.

11 Q. ALRIGHT. I'M SHOWING YOU STATE'S EXHIBIT NUMBER
12 THIRTY-FIVE, IS THAT MR. TYLER'S RECORDS THAT YOU
13 OBTAINED?

14 A. IT IS.

15 Q. ALRIGHT. AND WHAT IS THAT NUMBER?

16 A.

17 Q. OKAY. NOW, ALSO ON THAT DATE, THAT MARCH, ON
18 MARCH THE EIGHTEENTH DID YOU HAVE AN OPPORTUNITY
19 TO SHOW MR. TYLER ANY PHOTOGRAPHIC LINEUPS?

20 A. I DID.

21 Q. I'M SPECIFICALLY SHOWING YOU STATE'S EXHIBITS
22 NUMBER SEVENTY-SIX AND SEVENTY-SEVEN. DID YOU
23 HAVE AN OPPORTUNITY TO SHOW HIM THOSE TWO
24 LINEUPS, ON MARCH THE EIGHTEENTH?

25 A. I DID.

DIRECT - JAMES SHUMPERT BY SOL. SORENSON

726

1 Q. ALRIGHT. AND WHO WAS CONTAINED IN THOSE TWO
2 LINEUPS THAT YOU SHOWED TO HIM ON MARCH THE
3 EIGHTEENTH?

4 A. DANNY RYANT AND MARIO SHIVERS.

5 Q. OKAY. AND WAS HE ABLE TO PICK MR. RYANT AND MR.
6 SHIVERS OUT AS BEING THE PEOPLE THAT HE HAD
7 REFERENCED IN THAT STATEMENT HE GAVE TO YOU?

8 A. HE DID.

9 SOLICITOR SORENSON: YOUR HONOR, AT THIS TIME
10 WE'D OFFER STATE'S SEVENTY-SIX AND SEVENTY-SEVEN INTO
11 EVIDENCE.

12 THE COURT: ANY OBJECTION? I THOUGHT,-- THEY'RE
13 WEREN'T IN ALREADY?

14 SOLICITOR SORENSON: NO, SIR.

15 THE COURT: OKAY.

16 MR. LACKEY: NO OBJECTION.

17 MS. ULLMAN: NO OBJECTION.

18 MR. PALMER: NO OBJECTION.

19 MR. MELLARD: NO OBJECTION.

20 MR. KOGER: NO OBJECTION.

21 THE COURT: OKAY, WITHOUT OBJECTION, THEY ARE
22 ADMITTED INTO EVIDENCE.

23 (State's Exhibits Seventy-six and Seventy-seven
24 marked and filed.)

25 Q. STARTING INITIALLY, LIEUTENANT WITH STATE'S

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727

1 EXHIBIT NUMBER SEVENTY-SIX, WAS HE ABLE TO PICK
2 SOMEBODY OUT OF STATE'S EXHIBIT NUMBER SEVENTY-
3 SIX?

4 A. HE DID.

5 Q. AND WHO IS THAT THAT HE PICKED OUT?

6 A. DANNY RYANT, NUMBER TWO.

7 Q. AND THAT'S PHOTOGRAPH NUMBER TWO?

8 A. UH-HUH.

9 Q. AND YET AGAIN, DID YOU AT ANY POINT IN TIME
10 SUGGEST OR TELL MR. TYLER WHO TO PICK OUT?

11 A. NO, I DID NOT.

12 Q. DID HE FREELY AND VOLUNTARILY DO THAT?

13 A. HE DID.

14 Q. DID HE FILL OUT THE ACCOMPANYING AFFIDAVIT WITH
15 THAT?

16 A. HE DID.

17 Q. AND WHAT DID HE INDICATE AS FAR AS BEING WHY HE
18 PICKED OUT PHOTOGRAPH NUMBER TWO?

19 A. "WAS WITH A GUN IN THE APARTMENT, IT HAPPENED
20 LAST FRIDAY."

21 Q. OKAY. NOW, YOU ALSO INDICATED THAT YOU SHOWED
22 HIM STATE'S EXHIBIT NUMBER SEVENTY-SEVEN AT THAT
23 TIME. WAS HE ABLE TO PICK SOMEBODY OUT OF
24 STATE'S EXHIBIT NUMBER SEVENTY-SEVEN?

25 A. HE DID.

DIRECT - JAMES SHUMPERT BY SOL. SORENSON

728

1 Q. AND WHAT PHOTOGRAPH WAS THAT?

2 A. NUMBER THREE, MARIO SHIVERS.

3 Q. SO, THAT'S MR. SHIVERS?

4 A. IT IS.

5 Q. OKAY. AND YET AGAIN, DID YOU PROMISE HIM
6 ANYTHING, SUGGEST TO HIM IN ANY WAY, YOU KNOW,
7 TELL HIM THAT HE HAD TO, OR WHO TO PICK OUT OF
8 THIS PHOTOGRAPHIC LINEUP?

9 A. NO, SIR, I DID NOT.

10 Q. AND HE CIRCLED, DATED AND INITIALED THAT?

11 A. HE DID.

12 Q. AND I BELIEVE, DID HE ALSO WRITE SOMETHING ELSE
13 UNDERNEATH THE PICTURE?

14 A. HE DID. HE WROTE, "LITTLE M."

15 Q. OKAY. AND WHY DID HE WRITE THAT?

16 A. THAT'S THE NICK NAME HE KNEW HIM BY.

17 Q. AND DID HE ALSO THEN FILL OUT THE ACCOMPANYING
18 AFFIDAVIT?

19 A. HE DID.

20 Q. AND WHAT DID HE PUT ON THERE AS FAR AS WHY HE
21 PICKED OUT MARIO SHIVERS, OR LITTLE M?

22 A. "HAD GUN, WE WENT INTO APARTMENT, LITTLE M,
23 HAPPENED LAST FRIDAY."

24 Q. AND GOING BACK TO STATE'S SEVENTY-SIX, WITH MR.
25 RYANT, DID HE ALSO PUT THE NICK NAME THAT HE KNEW

DIRECT - JAMES SHUMPERT BY SOL. SORENSON

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1 MR. RYANT BY UNDER HIS PHOTO?

2 A. HE DID.

3 Q. AND WHAT IS THAT NICK NAME?

4 A. "POKE."

5 Q. NOW, AT THAT POINT IN TIME WHEN YOU WERE SHOWING
6 THOSE TWO ITEMS OF MR. SHIVERS AND MR. RYANT TO
7 MR. TYLER, WALTER HARRIS HAD ALREADY BEEN
8 ARRESTED THE DAY BEFORE?

9 A. YES, SIR, HE ALREADY BEEN ARRESTED.

10 Q. NOW, THE FOLLOWING DAY, ON MARCH THE NINETEENTH,
11 DID YOU THEN HAVE AN OPPORTUNITY TO SHOW SOME
12 ADDITIONAL PHOTOGRAPHIC LINEUPS TO ASHLEY
13 PARSLEY?

14 A. I DID.

15 Q. I BELIEVE YOU TESTIFIED EARLIER YOU HAD SHOWN HER
16 THE ONE OF WALTER HARRIS BACK ON MARCH THE
17 FIFTEENTH, IS THAT CORRECT?

18 A. CORRECT.

19 Q. AND WHO WERE YOU, WHO DID YOU SHOW HER LINEUPS OF
20 ON MARCH THE NINETEENTH, THEN?

21 A. I SHOWED HER PHOTO LINEUPS OF RALPH COLEMAN,
22 DANNY RYANT, MARIO SHIVERS AND PATRICK TYLER.

23 Q. OKAY. AND WAS SHE ABLE TO PICK ANYBODY OUT OF
24 THOSE FOUR LINEUPS THAT YOU SHOWED HER?

25 A. TWO OUT OF THE FOUR SHE DID.

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1 Q. OKAY. AND I'M SHOWING YOU STATE'S EXHIBIT NUMBER
2 FOUR, IS THAT ONE OF THE LINEUPS SHE PICKED
3 SOMEBODY OUT OF?

4 A. IT IS.

5 Q. ALRIGHT. AND WHO DID SHE PICK OUT OF STATE'S
6 EXHIBIT NUMBER FOUR?

7 A. MARIO SHIVERS.

8 Q. OKAY. AND THAT'S PHOTOGRAPH NUMBER THREE?

9 A. IT IS.

10 Q. ALRIGHT. AND DID SHE ALSO THEN DOCUMENT ON THE
11 AFFIDAVIT WHY SHE PICKED HIM OUT?

12 A. SHE DID.

13 Q. AND WHAT DID SHE INDICATE ON THERE?

14 A. SHE SAID, "POINTED GUN AT ME IN THE APARTMENT AND
15 TOLD ME TO PUT MY HANDS UP, AND IT WAS A SILVER
16 NINE MILLIMETER."

17 Q. OKAY. ALRIGHT, AND THEN ADDITIONALLY, ON STATE'S
18 EXHIBIT NUMBER FIVE DID SHE PICK SOMEBODY OUT OF
19 STATE'S EXHIBIT NUMBER FIVE?

20 A. SHE DID.

21 Q. AND WHAT PHOTOGRAPH DID SHE PICK OUT?

22 A. NUMBER ONE, RALPH COLEMAN.

23 Q. AND IS THAT RALPH COLEMAN?

24 A. IT IS.

25 Q. AND WHAT DID SHE INDICATE ON THAT AFFIDAVIT?

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1 A. SHE SAID, "WORE A GREEN T-SHIRT THAT CAME IN THE
2 APARTMENT, AND HE IS POSSIBLE TO BE ONE OF THE
3 GUYS THAT ENTERED THE HOUSE. I DIDN'T COMPLETELY
4 SEE HIS FACE."

5 Q. OKAY. AND DID YOU TELL HER WHAT TO WRITE ON
6 THOSE?

7 A. NO, I DID NOT.

8 Q. OKAY. AND YET AGAIN, DID YOU TELL HER SHE HAD TO
9 PICK SOMEBODY OUT OF ANY OF THESE LINEUPS?

10 A. NO, I DIDN'T.

11 Q. AND I BELIEVE YOU TESTIFIED A MINUTE AGO THAT TWO
12 OTHER LINEUPS WITH PATRICK TYLER AND DANNY RYANT,
13 THAT SHE WASN'T ABLE TO IDENTIFY ANY OF THOSE, IS
14 THAT CORRECT?

15 A. NO, SHE DIDN'T PICK THEM OUT. CORRECT.

16 Q. NOW, AT THAT TIME, ON MARCH THE NINETEENTH,
17 HONESTLY, YOU'VE SPOKEN TO MR. TYLER, SO YOU HAVE
18 HIS STATEMENT, IS THAT CORRECT?

19 A. CORRECT.

20 Q. ALRIGHT. AND DOES HE REFERENCE A LITTLE CHRIS IN
21 HIS STATEMENT?

22 A. YES, ON THE BACK PAGE.

23 Q. OKAY. AND I BELIEVE IT'S SEVERAL SPOTS IN THERE,
24 IS THAT CORRECT?

25 A. RIGHT.

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1 Q. NOW, AT THAT TIME ON MARCH THE NINETEENTH WHEN
2 YOU WERE SHOWING THESE OTHER LINEUPS TO MS.
3 PARSLEY, HAD YOU IDENTIFIED WHO LITTLE CHRIS WAS
4 YET AT THAT POINT IN TIME?

5 A. NO.

6 Q. DID YOU HAVE A FULL NAME?

7 A. NO, I DID NOT.

8 Q. THEREFORE, WERE YOU ABLE TO SHOW HER A LINEUP ON
9 MARCH THE NINETEENTH OF CHRISTIAN COLEMAN?

10 A. NO, HUH-UH.

11 Q. OKAY. KIND OF WHILE WE'RE DEALING WITH THE
12 LINEUPS, LET ME TALK TO YOU ABOUT A COUPLE OF
13 OTHERS HERE. DID YOU HAVE AN OPPORTUNITY OVER
14 THE NEXT SEVERAL DAYS TO SHOW, A COUPLE OF
15 OCCASIONS TO SHOW MR. TYLER PHOTO LINEUPS OF
16 RALPH COLEMAN AND ULTIMATELY ALSO CHRISTIAN
17 COLEMAN?

18 A. CORRECT.

19 Q. OKAY. AND I'M SHOWING YOU STATE'S EXHIBIT NUMBER
20 SEVENTY-EIGHT, DO YOU RECOGNIZE THAT DOCUMENT?

21 A. YES, SIR.

22 Q. AND WHO IS, WHO IS IN THAT LINEUP?

23 A. RALPH COLEMAN.

24 Q. OKAY. AND IS THAT THE LINEUP THAT YOU SHOWED TO
25 MR. TYLER?

DIRECT - JAMES SHUMPERT BY SOL. SORENSON

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1 A. WELL, ACTUALLY, MR. KISSAM SHOWED THE LINEUP.

2 Q. AND -- WELL, HE WITNESSED IT?

3 A. RIGHT.

4 Q. IS HIS NAME AT THE TOP AS FAR AS ...

5 A. RIGHT, YES, SIR.

6 Q. AND WAS MR. TYLER ABLE TO PICK ANYBODY OUT OF
7 THAT LINEUP, STATE'S EXHIBIT NUMBER SEVENTY-
8 EIGHT, I BELIEVE IT IS?

9 A. CORRECT. HE PICKED NUMBER ONE, RALPH COLEMAN.

10 SOLICITOR SORENSON: YOUR HONOR, AT THIS TIME
11 WE'D OFFER STATE'S SEVENTY-EIGHT INTO EVIDENCE.

12 THE COURT: ANY OBJECTION?

13 MS. ULLMAN: I DO OBJECT, YOUR HONOR.

14 THE COURT: AND?

15 MS. ULLMAN: AND THE REASON BEHIND MY BEHIND MY
16 OBJECTION IS TWO-FOLD. FIRST OFF, PATRICK TYLER WAS
17 ALREADY IN COURT AND IDENTIFIED RALPH COLEMAN, AND
18 PICKING HIS PICTURE OUT OF A LINEUP DOESN'T PROVE
19 ANYTHING AS TO WHETHER RALPH COLEMAN WAS THERE OR
20 NOT, HE KNEW WHO HE WAS.

21 THE OTHER ISSUE I HAVE, YOUR HONOR, IS, IN
22 INVESTIGATOR'S REPORTS THEY STATE THAT THEY OBTAINED
23 A PICTURE OF RALPH COLEMAN AND SHOWED IT TO TYLER,
24 AND I HAVE EVIDENCE TO SHOW THAT THEY OBTAINED A DMV
25 PHOTO OF RALPH COLEMAN BY HIMSELF, SHOWED IT TO

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1 PATRICK TYLER. AFTER THAT THEY CREATED THIS LINEUP
2 AND HAD HIM PICK HIM OUT.

3 THE COURT: AFTER THEY SHOWED HIM THE LINEUP?

4 MS. ULLMAN: AFTER THEY SHOWED HIM THE ONE DMV
5 PHOTO AND HE IDENTIFIED RALPH COLEMAN, THEN THEY MADE
6 THE LINEUP.

7 THE COURT: ALRIGHT. I'M OVERRULING YOUR
8 OBJECTION, AND I AM ADMITTING IT INTO EVIDENCE, AND I
9 NOTE YOUR OBJECTION TO MY RULING ON THE RECORD SO IT
10 WILL BE PRESERVED. THANK YOU.

11 COURT REPORTER: STATE'S SEVENTY-EIGHT?

12 SOLICITOR SORENSON: SEVENTY-EIGHT, YES, MA'AM.

13 (State's Exhibit Seventy-eight
14 marked and filed.)

15 Q. AND I'M SHOWING YOU THEN THE ATTACHED LINEUP, AND
16 MR. TYLER CIRCLED THE PHOTOGRAPH ON THERE?

17 A. HE DID.

18 Q. ALRIGHT. NOW, AND THAT'S NUMBER ONE?

19 A. IT IS.

20 Q. AND WHO IS THAT IN PHOTOGRAPH NUMBER ONE?

21 A. RALPH COLEMAN.

22 Q. DID HE ALSO THEN FILL OUT THE ACCOMPANYING
23 AFFIDAVIT?

24 A. HE DID.

25 Q. AND WHAT DID HE PUT ON THREE AS FAR AS WHY HE

DIRECT - JAMES SHUMPERT BY SOL. SORENSON

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1 PICKED MR. RALPH COLEMAN OUT?

2 A. "HAD GO AND DO A MURDER."

3 Q. ALRIGHT. AND THEN, I'M SHOWING YOU STATE'S
4 EXHIBIT NUMBER SEVENTY-NINE, AND I AGAIN ASK YOU
5 IF YOU HAD AN OPPORTUNITY TO SHOW THAT LINEUP TO
6 MR. TYLER?

7 A. I DID.

8 Q. WHEN WSA THAT DONE?

9 A. THIS LINEUP WAS SHOWN ON MARCH TWENTY-THIRD, TWO
10 THOUSAND TEN.

11 Q. OKAY. AND WHO IS CONTAINED IN THAT LINEUP?

12 A. CHRISTIAN COLEMAN.

13 Q. ALRIGHT. AND WAS MR. TYLER ABLE TO PICK
14 CHRISTIAN COLEMAN OUT OF THAT LINEUP?

15 A. HE DID, NUMBER TWO.

16 SOLICITOR SORENSON: YOUR HONOR, AT THIS TIME
17 WE'D OFFER STATE'S SEVENTY-NINE INTO EVIDENCE.

18 THE COURT: ANY OBJECTION?

19 MR. LACKEY: NO OBJECTION, YOUR HONOR.

20 MS. ULLMAN: NO OBJECTION.

21 MR. PALMER: NO OBJECTION.

22 MR. MELLARD: NO OBJECTION.

23 MR. KOGER: NO OBJECTION.

24 THE COURT: ALRIGHT. IT IS ADMITTED INTO
25 EVIDENCE. THANK YOU.

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1 (State's Exhibit Seventy-nine
2 marked and filed.)

3 Q. AND AFTER SHOWING HIM THAT LINEUP DID HE, WHAT
4 PHOTOGRAPH DID HE CIRCLE AND INITIAL?

5 A. NUMBER TWO.

6 Q. AND YET AGAIN, WHO IS THAT?

7 A. CHRISTIAN COLEMAN.

8 Q. DID MR. TYLER THEN ALSO FILL OUT THE ACCOMPANYING
9 AFFIDAVIT AND SIGN IT?

10 A. HE DID.

11 Q. AND WHY DID HE INDICATE HE PICKED OUT CHRISTIAN
12 COLEMAN ON MARCH THE TWENTY-THIRD?

13 A. HE WROTE, "HAD GUN WHEN WE WAS IN THE HOUSE, OR
14 IN THE CAR." I'M SORRY, "WHEN WE WAS IN HOUSE,
15 RIDE IN CAR." THAT'S WHAT HE WROTE.

16 Q. HAD GUN WHEN WE WAS IN HOUSE, RIDING IN CAR?

17 MS. ULLMAN: OBJECTION, YOUR HONOR, HE JUST READ
18 IT AND THE SOLICITOR IS READING IT AGAIN.

19 THE COURT: I'M OVERRULING YOUR OBJECTION.

20 SOLICITOR SORENSON: THANK YOU. I'M JUST
21 CLARIFYING, HE SAID IT TWO WAYS.

22 Q. SO, IT'S, "HAD GUN WHEN WE WAS IN HOUSE, RIDE IN
23 CAR." IS THAT CORRECT?

24 A. YES, SIR.

25 Q. NOW, LIEUTENANT SHUMPERT WHAT IS, WHAT ARE

DIRECT - JAMES SHUMPERT BY SOL. SORENSON

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1 CHRISTIAN COLEMAN'S AND RALPH COLEMAN'S
2 RELATIONSHIP?

3 A. BROTHERS.

4 Q. NOW, YOU TESTIFIED EARLIER THAT WALTER HARRIS WAS
5 ARRESTED ON MARCH THE SEVENTEENTH, CORRECT?

6 A. CORRECT.

7 Q. AND THAT DANNY RYANT AND PATRICK TYLER WERE
8 ARRESTED ON MARCH THE EIGHTEENTH, IS THAT
9 CORRECT?

10 A. CORRECT.

11 Q. WHEN DID YOU OBTAIN WARRANTS FOR MARIO SHIVERS,
12 RALPH COLEMAN AND CHRISTIAN COLEMAN?

13 A. LET ME LOOK BACK. WE HAD, THE FIRST ONE I GOT ON
14 MARIO WAS ON THE EIGHTEENTH, AND RALPH COLEMAN, I
15 GOT A WARRANT ON HIM ON THE NINETEENTH, AND
16 CHRISTIAN ON THE TWENTY-FOURTH.

17 Q. OKAY. AND THAT'S ALL IN MARCH?

18 A. CORRECT.

19 Q. SO, MARIO SHIVERS, YOU OBTAINED HIS WARRANT ON
20 MARCH THE EIGHTEENTH?

21 A. CORRECT.

22 Q. AND RALPH COLEMAN ON MARCH THE NINETEENTH?

23 A. NINETEENTH.

24 Q. AND CHRISTIAN COLEMAN ON MARCH THE TWENTY-FOURTH?

25 A. THE TWENTY-FOURTH, YES, SIR.

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1 Q. ALRIGHT. HOW ABOUT, WHEN WERE THE THREE OF THEM
2 ARRESTED?

3 A. MARIO SHIVERS ON THE TWENTY-FIRST, RALPH ON THE
4 TWENTY-SECOND, AND CHRISTIAN ON THE SAME DAY, THE
5 TWENTY-FOURTH.

6 Q. SO, MARIO, YOU OBTAINED A WARRANT ON THE
7 EIGHTEENTH, HE WAS ARRESTED ON THE TWENTY-FIRST?

8 A. YES, SIR.

9 Q. RALPH COLEMAN, YOU OBTAINED A WARRANT ON THE
10 NINETEENTH AND HE WAS ARRESTED ON THE TWENTY - -
11 -

12 A. SECOND.

13 Q. --- SECOND? AND THEN CHRISTIAN COLEMAN, YOU
14 OBTAINED IT ON THE TWENTY-FOURTH AND HE WAS
15 ARRESTED THAT SAY DAY, THE TWENTY-FOURTH?

16 A. YES, SIR.

17 Q. NOW, I HAD ASKED YOU EARLIER HOW OLD PATRICK
18 TYLER WAS BACK IN MARCH OF TWO THOUSAND TEN, DO
19 YOU REMEMBER THAT?

20 A. YES, SIR.

21 Q. AND HOW OLD WAS HE?

22 A. SIXTEEN.

23 Q. OKAY. NOW HOW ABOUT THE OTHER FIVE DEFENDANTS
24 BACK IN MARCH OF TWO THOUSAND TEN, HOW OLD WERE
25 THEY AT THAT TIME?

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1 A. CHRISTIAN COLEMAN WAS TWENTY, DANNY RYANT WAS
2 TWENTY, MARIO SHIVERS WAS TWENTY-ONE, WALTER
3 HARRIS WAS TWENTY-ONE, AND RALPH COLEMAN WAS
4 TWENTY-TWO.

5 Q. LET ME SHOW YOU STATE'S EXHIBIT NUMBER THIRTY-
6 SEVEN, HAVE YOU SEEN THAT DOCUMENT BEFORE?

7 A. YES, SIR.

8 Q. ALRIGHT. AND THAT'S THE ALLTEL RECORD THAT'S IN
9 EVIDENCE FOR PHONE NUMBER BELONGING TO
10 DANIELLE MONROE?

11 A. YES, SIR.

12 Q. OKAY. AND WHAT, WHAT RELATIONSHIP IS DANIELLE
13 MONROE TO THE DEFENDANT, DANNY RYANT?

14 A. BROTHER AND SISTER, SIBLINGS.

15 Q. LET ME ASK YOU, ARE YOU ALSO AWARE WHETHER MS.
16 MONROE HAS ANY CONNECTION TO MARIO SHIVERS, THE
17 DEFENDANT ON THE END?

18 A. YES, SIR.

19 Q. AND WHAT IS THEIR CONNECTION?

20 A. HE'S THE FATHER OF HER KID, CHILD.

21 Q. SO, SHE HAS A CHILD BY MR. SHIVERS?

22 A. YES, SIR.

23 Q. ALRIGHT. LET ME ASK YOU, AS PART OF YOUR
24 INVESTIGATION WERE YOU ALSO ABLE TO DETERMINE
25 BACK IN MARCH OF TWO THOUSAND TEN WHAT PHONE

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1 NUMBER MARIO SHIVERS HAD?

2 A. YES, SIR.

3 Q. WHAT NUMBER WAS THAT?

4 A.

5 COURT REPORTER: SIXTY WHAT?

6 A. I'M SORRY.

7 Q. 614 -- HOLD ON, LET ME SHOW YOU THE RECORDS. I'M
8 SHOWING YOU STATE'S EXHIBIT NUMBER THIRTY-FIVE,
9 IS THAT PHONE ON THERE?

10 A. YES, SIR, I'M SORRY.

11 Q. .

12 A. I GOT MY NUMBERS BACKWARDS.

13 Q. THE NUMBERS TRANSPOSED?

14 A. RIGHT, I GOT THEM BACKWARDS.

15 Q. OKAY. I'M SHOWING YOU STATE'S EXHIBIT NUMBER --
16 AND WE'RE JUST ABOUT DONE HERE, LIEUTENANT,
17 STATE'S EXHIBIT THIRTY-TWO AND THIRTY-THREE. DO
18 YOU RECOGNIZE WHOSE RESIDENCE THAT IS?

19 A. YES, SIR.

20 Q. AND WHOSE RESIDENCE IS THAT IN STATE'S THIRTY-TWO
21 AND THIRTY-THREE?

22 A. RALPH COLEMAN AND CHRISTIAN COLEMAN.

23 Q. AND WHAT ROAD IS THAT LOCATED ON?

24 A. WOODBINE.

25 Q. AND DO YOU KNOW WHO ELSE WAS LIVING THERE BACK IN

DIRECT - JAMES SHUMPERT BY SOL. SORENSON

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1 MARCH OF THIS YEAR?

2 A. AS FAR AS I KNOW, THE GRAND MAMA.

3 Q. AND I'M GOING TO KIND OF TURN BACK TO MR. TYLER'S
4 STATEMENT THAT HE GAVE YOU, STATE'S EXHIBIT
5 NUMBER -- DEFENSE EXHIBIT NUMBER TWO, DEFENDANT
6 SHIVERS'S EXHIBIT NUMBER TWO, DID MR. TYLER BACK
7 ON MARCH THE EIGHTEENTH PROVIDE YOU INFORMATION
8 ABOUT THEM HAVING PICKED UP DANNY RYANT AT THE
9 CORNER POCKET IN THAT STATEMENT?

10 A. HE DID.

11 Q. I'M SHOWING YOU STATE'S EXHIBIT NUMBER THIRTY,
12 WHAT'S DEPICTED IN STATE'S EXHIBIT NUMBER THIRTY?

13 A. THE CORNER POCKET.

14 Q. OKAY. AND WHERE IS THE CORNER POCKET LOCATED AT?

15 A. IT'S RIGHT OFF OF GOFF AVENUE AND STILTON, IT'S
16 ON THE CORNER.

17 Q. ALRIGHT. AND AS A RESULT OF THAT INFORMATION
18 THAT MR. TYLER PROVIDED YOU, DID YOU FOLLOW UP ON
19 THAT INFORMATION?

20 A. I DID.

21 Q. ALRIGHT. AND WHO, IF ANYBODY, DID YOU
22 ULTIMATELY TAKE STATEMENTS FROM AS A RESULT OF
23 THAT INFORMATION?

24 A. MONEAK BUSBY AND YVONNE SHARPERSON.

25 Q. AND IN FACT, THEN ON MARCH TWENTY-SIXTH DID YOU

DIRECT - JAMES SHUMPERT BY SOL. SORENSON

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1 HAVE AN OPPORTUNITY TO SHOW MS. BUSBY TWO PHOTO
2 LINEUPS, STATE'S EXHIBIT ONE AND TWO?

3 A. I DID.

4 Q. OKAY. LET'S GO TO STATE'S EXHIBIT NUMBER ONE
5 FIRST. IS THAT THE LINEUP YOU SHOWED HER ON
6 MARCH TWENTY-SIXTH?

7 A. IT IS.

8 Q. AND YET AGAIN, DID YOU TELL HER SHE HAD TO PICK
9 SOMEBODY OUT OF THAT LINEUP?

10 A. NO, I DID NOT.

11 Q. DID YOU SUGGEST TO HER WHO TO PICK OUT?

12 A. NO, I DID NOT.

13 Q. OKAY. I'M SHOWING YOU THE LINEUP THERE, WHOSE
14 PHOTOGRAPH DID SHE PICK OUT OF THAT LINEUP?

15 A. MARIO SHIVERS.

16 Q. OKAY. AND THAT'S PHOTOGRAPH NUMBER THREE?

17 A. CORRECT.

18 Q. AND MS. BUSBY INITIALED THAT AND DATED IT?

19 A. SHE DID.

20 Q. AND DID SHE THEN WRITE ALSO ON THE AFFIDAVIT WHY
21 SHE PICKED OUT MR. SHIVERS?

22 A. SHE DID.

23 Q. ALRIGHT. AND WHAT DID SHE PUT ON THERE?

24 A. "THE PERSON WHO CAME TO THE DOOR AT THE CLUB,
25 CORNER POCKET."

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1 Q. OKAY. AND THAT'S IN HER HANDWRITING?

2 A. IT IS.

3 Q. ALRIGHT. AND I'M SHOWING YOU STATE'S EXHIBIT
4 NUMBER TWO. YET AGAIN, DID YOU SHOW HER THAT
5 LINEUP?

6 A. I DID.

7 Q. AND WAS SHE ABLE TO PICK SOMEBODY OUT OF STATE'S
8 EXHIBIT NUMBER TWO?

9 A. SHE DID.

10 Q. AND WHAT PHOTO DID SHE PICK OUT?

11 A. PATRICK TYLER, NUMBER FOUR.

12 Q. THAT WOULD BE PATRICK TYLER. AND SHE DATED THAT
13 AND INITIALED IT ALSO?

14 A. SHE DID.

15 Q. AND YET AGAIN, DID YOU SUGGEST TO HER OR TELL HER
16 WHO TO PICK OUT?

17 A. I DID NOT.

18 Q. DID YOU TELL HER SHE HAD TO PICK SOMEBODY OUT?

19 A. NO, SIR.

20 Q. AND DID SHE ALSO THEN IN THE ACCOMPANYING
21 AFFIDAVIT INDICATE WHY SHE PICKED OUT -- IN HER
22 HANDWRITING WHY SHE HAD PICKED OUT MR. TYLER?

23 A. YES, SIR.

24 Q. AND WHAT DID SHE PUT ON THERE?

25 A. "I SEEN THE BOY COME TO THE, AND GET POKEY AT THE

DIRECT - JAMES SHUMPERT BY SOL. SORENSON

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1 CLUB."

2 Q. LET ME SHOW YOU STATE'S EXHIBIT NUMBER NINETY-
3 THREE. DO YOU RECOGNIZE THAT ITEM?

4 A. YES, SIR.

5 Q. AND IS THAT, DOES THIS FAIRLY AND ACCURATELY
6 DEPICT KIND OF THE SURROUNDING AREA AROUND THE
7 INCIDENT LOCATION AT KINGS ROAD?

8 A. IT DOES.

9 SOLICITOR SORENSON: YOUR HONOR, AT THIS TIME
10 WE'D OFFER STATE'S NUMBER NINETY-THREE INTO EVIDENCE.

11 THE COURT: ANY OBJECTION?

12 MR. LACKEY: NO OBJECTION.

13 MS. ULLMAN: NO OBJECTION.

14 MR. PALMER: NO OBJECTION.

15 MR. MELLARD: NO OBJECTION.

16 MR. KOGER: NO OBJECTION.

17 THE COURT: ALRIGHT. NINETY-THREE IS ADMITTED
18 INTO EVIDENCE WITHOUT OBJECTION.

19 (State's Exhibit Ninety-three
20 marked and filed.)

21 SOLICITOR SORENSON: COULD I HAVE LIEUTENANT
22 SHUMPERT STEP DOWN BRIEFLY, YOUR HONOR?

23 THE COURT: SURE. YOU MAY STEP DOWN.

24 Q. IF YOU WOULD, I THINK IT'S ACTUALLY DEPICTED ON
25 HERE, BUT SHOW THE JURY WHERE THE INCIDENT

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1 LOCATION AT KINGS ROAD IS ON THAT
2 MAP?

3 A. THE INCIDENT LOCATION HAPPENED RIGHT HERE, AT
4 KINGS ROAD.

5 Q. AND HOW ABOUT, WHEN YOU TESTIFIED EARLIER ABOUT
6 THE CORNER POCKET DEPICTED IN STATE'S EXHIBIT
7 NUMBER THIRTY, WHERE IS THAT LOCATED AT ON THE
8 MAP?

9 A. THE CORNER POCKET WOULD BE LOCATED RIGHT HERE.

10 THE COURT: HOLD ON A SECOND BEFORE -- IF YOU
11 WOULD JUST POINT IT OUT AGAIN, AND LET THE DEFENSE
12 ATTORNEYS GET OVER THERE SO THEY CAN SEE, TOO, AS
13 SOON AS THEY GET SITUATED. I'M SORRY, LIEUTENANT
14 SHUMPERT, I JUST WANTED TO MAKE SURE THEY GET OVER
15 THERE. ALRIGHT, IF YOU'LL GO BACK AND POINT OUT THE
16 CORNER POCKET TO THEM NOW.

17 A. OKAY.

18 THE COURT: ALRIGHT, THANK YOU, SIR.

19 A. YES, SIR. THE CORNER POCKET IS RIGHT HERE.

20 Q. AND JUST SINCE THEY WEREN'T ALL OVER THERE, IF
21 YOU'D SHOW THEM ALSO WHERE KINGS
22 ROAD IS?

23 A. RIGHT HERE.

24 Q. OKAY. AND ADDITIONALLY, YOU TESTIFIED EARLIER
25 ABOUT WHERE WALTER HARRIS'S GRANDMOTHER LIVED AT

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1 [REDACTED] ASHLEY AVENUE?

2 A. YES, SIR.

3 Q. WHERE IS THAT LOCATED AT?

4 A. RIGHT ABOUT, RIGHT HERE.

5 Q. AND ASHLEY, IS THAT THE INTERSECTION OF ASHLEY
6 AND ANOTHER ROAD?

7 A. COLEMAN.

8 Q. OKAY. SO, AT THE INTERSECTION OF ASHLEY AND
9 COLEMAN, YOU SAID THAT'S RIGHT IN THAT AREA?

10 A. YES, SIR.

11 Q. OKAY. AND LET ME ASK YOU, SPECIFICALLY WITH
12 REGARDS TO THE CORNER POCKET AT STILTON AND GOFF
13 AND THE INCIDENT LOCATION AT
14 KINGS ROAD, WHAT IS THE DISTANCE BETWEEN THOSE
15 TWO LOCATIONS?

16 A. JUST A LITTLE OVER A HALF A MILE.

17 Q. THANK YOU, LIEUTENANT, YOU CAN HAVE A SEAT.

18 A. YES, SIR.

19 SOLICITOR SORENSON: THAT WOULD BE ALL I WOULD
20 HAVE, YOUR HONOR.

21 THE COURT: ALRIGHT.

22 ALRIGHT, MR. LACKEY.

23 MR. LACKEY: THANK YOU, YOUR HONOR.

24 (See Volume Three for the continuation
25 of this transcript.)

STATE OF SOUTH CAROLINA

COURT OF GENERAL SESSIONS

COUNTY OF ORANGEBURG

FIRST JUDICIAL CIRCUIT

VOLUME THREE OF THREE

STATE OF SOUTH CAROLINA)

TRANSCRIPT OF RECORD

versus)

DATE:

DECEMBER 10 - 17, 2010

CHRISTIAN COLEMAN,)

CASE NOS.

RALPH BERNARD COLEMAN)

2010-GS-38-802, 803, 805

WALTER LEE HARRIS,)

2010-GS-38-808, 810, 811

DANNY RYANT, JR.,)

2010-GS-38-812, 813, 814

MARIO MONTEZ SHIVERS)

2010-GS-38-817, 818, 819

2010-GS-38-822, 823, 824

DEFENDANTS)

BEFORE:

HONORABLE EDGAR DICKSON, PRESIDING JUDGE

AND A JURY.

APPEARANCES:

DAVID M. PASCOE, ESQUIRE

SOLICITOR

DONALD N. SORENSON, ESQUIRE

ASSISTANT SOLICITOR

FOR THE STATE

RICHARD LACKEY, ESQUIRE

FOR DEFENDANT CHRISTIAN COLEMAN

JILLIAN ULLMAN AND MARK WISE, ESQUIRE

FOR DEFENDANT RALPH BERNARD COLEMAN

SCOTT PALMER, ESQUIRE

FOR DEFENDANT WILLIE HARRIS

DOUGLAS MELLARD, ESQUIRE

FOR DEFENDANT DANNY RYANT, JR.

JOSHUA KOGER, ESQUIRE

FOR DEFENDANT, MARIO MONTEZ SHIVERS

HARRY A. WALKER (MRS.)

COURT REPORTER, FIRST JUDICIAL CIRCUIT

POST OFFICE BOX 127

ROWESVILLE, SOUTH CAROLINA 29133

I N D E X

(See Volume One for complete index.)

CROSS - JAMES SHUMPERT BY MR. LACKEY

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1 DATE:

2 DECEMBER 16, 2010

3 (Continued from Volume Two.)

4 CROSS-EXAMINATION OF JAMES SHUMPERT5 BY MR. LACKEY:

6 Q. GOOD MORNING.

7 A. HOW ARE YOU DOING, MR. LACKEY.

8 Q. GOOD. HOW ABOUT YOU?

9 A. ALRIGHT, FINE.

10 Q. LIEUTENANT SHUMPERT, YOU WERE THE LEAD
11 INVESTIGATOR ON THIS CASE, IS THAT CORRECT?

12 A. YES, SIR.

13 Q. OKAY. AND SO, YOU WERE RESPONSIBLE BASICALLY
14 FOR, ULTIMATELY RESPONSIBLE FOR ALL ASPECTS OF
15 THE INVESTIGATION?

16 A. YES, SIR.

17 Q. AND YOU'VE BEEN IN HERE DURING THIS ENTIRE TRIAL
18 AND LISTENED TO ALL THE TESTIMONY?

19 A. YES, SIR.

20 Q. AND THAT INCLUDES, OF COURSE, PATRICK TYLER?

21 A. CORRECT, YES, SIR.

22 Q. NOW, YOU KNOW MY CLIENT IS CHRISTIAN COLEMAN
23 RIGHT HERE ON THE END?

24 A. YES, SIR.

25 Q. OKAY. YOU TESTIFIED EARLIER THAT I THINK ASHLEY

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1 PARSLEY IDENTIFIED MR. TYLER FROM A PHOTO LINEUP,
2 DID YOU NOT?

3 A. DID SHE PICK PATRICK TYLER OUT OF A LINEUP? SHE
4 PICKED WALTER HARRIS OUT.

5 Q. OH, WALTER HARRIS. OKAY. WHO PICKED PATRICK
6 TYLER OUT OF A LINEUP?

7 A. WHO PICKED PATRICK TYLER OUT?

8 Q. UH-HUH.

9 A. WALTER HARRIS.

10 Q. OKAY. AND SO, YOU DID TESTIFY THAT PATRICK TYLER
11 DID COME IN AND YOU INTERVIEWED HIM?

12 A. YES.

13 Q. AND HE CAME IN WITH HIS PARENTS, IS THAT CORRECT?

14 A. YES, SIR, YES, SIR.

15 Q. AND YOUR, I GUESS IN YOUR TRAINING, YOU'RE
16 TRAINED IN INTERVIEWING TECHNIQUES, IS THAT
17 CORRECT?

18 A. SOMEWHAT, YES, SIR.

19 Q. IS IT FAIR TO SAY THAT ONE OF THE TECHNIQUES TO
20 BE USED IS TO TRY TO LOCK A SUSPECT INTO SOME
21 KIND OF STATEMENT?

22 A. YES, SIR.

23 Q. EVEN IF IT'S NOT TRUTHFUL YOU CAN AT LEAST USE
24 THAT TO BOX HIM IN, IS THAT CORRECT?

25 A. WELL, THE INITIAL DAY YOU WANT TO GET A STATEMENT

1 FROM THEM, WE WILL BE INTERVIEWING THEM, CORRECT.

2 Q. AND YOU CAN USE THAT STATEMENT AS THE BASIS FOR
3 TALKING TO HIM ABOUT OTHER ASPECTS YOU KNOW ABOUT
4 THE CASE?

5 A. YES, SIR.

6 Q. AND YOU CAN POKE HOLES IN HIS STATEMENT HOWEVER
7 YOU SEE FIT?

8 A. YES, SIR.

9 Q. INITIALLY, I'M HANDING YOU WHAT'S BEEN MARKED
10 DEFENDANT'S EXHIBIT TWO AND MOVED INTO EVIDENCE
11 UNDER MARIO SHIVERS, I BELIEVE THAT IS, AND
12 THAT'S PATRICK TYLER'S STATEMENT, IS THAT
13 CORRECT?

14 A. CORRECT, YES, SIR.

15 Q. OKAY. AND TELL ME THE PROCESS, THE INITIAL
16 STATEMENT HE WROTE FOR YOU, IS THAT CORRECT?

17 A. YES, SIR, THIS IS HIS HANDWRITING.

18 Q. OKAY. AND YOU SAID EARLIER THAT INITIALLY HE
19 SAID HE HAD NOTHING TO DO WITH THE, WITH ANYTHING
20 ABOUT THESE CHARGES?

21 A. CORRECT.

22 Q. AND THEN FINALLY HE SAID HE WAS GOING TO BE
23 TRUTHFUL WITH YOU AND WRITE THAT STATEMENT, IS
24 THAT CORRECT?

25 A. CORRECT.

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- 1 Q. OKAY. AND SO, HE WROTE THE STATEMENT, HE, AND
2 THEN HE PUT A GUN IN EVERYBODY'S HAND EXCEPT HIS
3 OWN, IS THAT CORRECT?
- 4 A. CORRECT.
- 5 Q. OKAY. YOU'VE HEARD TESTIMONY THERE WERE FOUR
6 WEAPONS, IS THAT CORRECT?
- 7 A. YES, SIR.
- 8 Q. OKAY. AND THERE ARE SIX CO-DEFENDANTS, IS THAT
9 CORRECT?
- 10 A. CORRECT.
- 11 Q. NOW, AFTER HE WROTE THAT STATEMENT -- I'M JUST
12 MAKING SURE HE -- AGAIN, HE NAMED EVERYBODY, EVEN
13 ON THE BACK PAGE, ON THE SECOND PAGE OF HIS
14 HANDWRITTEN STATEMENT, AND YOU CAN START ON THE
15 FRONT, READ ME THAT LAST SENTENCE?
- 16 A. AT THE BOTTOM?
- 17 Q. YES, SIR, AND GOING OVER TO THE END OF THE
18 STATEMENT.
- 19 A. OKAY. "THAT WHEN ALL THE GUN SHOTS WENT OFF AND
20 I WAS SHOCKED. BUT LITTLE CHRIS OR PETE HAD GUNS,
21 LITTLE M AND POKE AND RALPH."
- 22 Q. OKAY. SO, IF YOU -- POINT OUT HERE ON PAGE TWO
23 IT SAID THAT LITTLE CHRIS OR PETE HAD GUNS?
- 24 A. CORRECT.
- 25 Q. SO, HE'S JUST, BASICALLY HE'S MAKING SURE HE'S

1 GOT A GUN IN EVERYBODY'S HAND?

2 A. I DON'T KNOW HIS INTENT, BUT THAT'S WHAT HE
3 WROTE.

4 Q. OKAY. THAT'S WHAT HE WROTE. SO, YOU WITNESSED
5 THAT?

6 A. YES, I DID.

7 Q. OKAY. AND THEN, IS IT FAIR TO SAY, AFTER THAT
8 YOU FOLLOWED UP WITH SOME STATEMENTS, OR SOME
9 QUESTIONS, I'M SORRY?

10 A. YES, SIR, I DID.

11 Q. OKAY. AND SO, THIS WAS AFTER HE WROTE THAT
12 INITIAL STATEMENT?

13 A. CORRECT, YES, SIR.

14 Q. ALRIGHT. AND WHY DO YOU DO THAT, WHY DON'T YOU
15 JUST SAY, OKAY, YOU WROTE A STATEMENT, AND THAT'S
16 GOOD?

17 A. WELL, IF JUST, WHEN THEY WRITE STATEMENTS,
18 SOMETIMES IT'S NOT CLEAR AS TO WHAT THEY'RE
19 WRITING, SO YOU GO BACK THROUGH A QUESTION AND
20 ANSWER SERIES TO JUST GET CLARITY OF WHAT THEY'RE
21 TRYING TO SAY.

22 Q. OKAY. SO, YOU'RE CLARIFYING THE DETAILS?

23 A. CORRECT, YES, SIR.

24 Q. OKAY. ALRIGHT, IF YOU WOULD, GO AHEAD AND READ
25 THAT FIRST QUESTION AND THE ANSWER. AND LET ME

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1 ASK YOU THIS BEFORE YOU GET TO THAT.

2 A. UH-HUH.

3 Q. WHO WROTE THE QUESTIONS?

4 A. I WRITE THE QUESTION AND I HAVE THE DEFENDANT
5 WRITE THE ANSWER.

6 Q. OKAY. GOOD ENOUGH. ALRIGHT, READ THAT FIRST
7 QUESTION?

8 A. "WHO PICKED YOU UP?"

9 Q. OKAY. AND WHAT WAS HIS ANSWER?

10 A. THE ANSWER WAS, "IT WAS LITTLE CHRIS PASSENGER,
11 LITTLE M BACK, RALPH BACK SEAT. DON'T HAVE NO
12 IDEA WHO THE DRIVER IS."

13 Q. OKAY. AND THEN - - -

14 A. WHO WAS THE DRIVER.

15 COURT REPORTER: WHAT WAS YOUR LAST ...

16 A. IT'S THE DRIVER.

17 Q. SO, THERE WAS AN UNKNOWN DRIVER?

18 A. CORRECT.

19 Q. ALRIGHT, WE'LL COME BACK TO HIM. ALRIGHT, WHAT'S
20 THE NEXT QUESTION?

21 A. "THEN WHERE DID Y'ALL GO?" ANSWER: "WENT TO
22 JAMISON AND GOT PETE."

23 Q. OKAY. AND THEN THE NEXT QUESTION AND ANSWER?

24 A. "WHO ALL HAD GUNS?" "PETE, LITTLE M, POKE AND
25 RALPH."

- 1 Q. SO, SO THE ANSWER THERE WAS PETE, WHO'S BEEN
2 IDENTIFIED AS WALTER HARRIS?
3 A. CORRECT.
4 Q. LITTLE M, WHO'S BEEN IDENTIFIED AS MARIO SHIVERS?
5 A. YES, SIR.
6 Q. WHO WAS NEXT?
7 A. POKE.
8 Q. POKE. AND THAT'S WHO?
9 A. DANNY RYANT.
10 Q. OKAY. AND THEN, RALPH?
11 A. RALPH, RALPH COLEMAN.
12 Q. OKAY. AND THAT'S ALL HE SAID WHO HAD GUNS?
13 A. YES, SIR.
14 Q. OKAY. HE DIDN'T SAY ANYTHING ABOUT MY CLIENT
15 HAVING A GUN?
16 A. NOT IN THAT QUESTION, NO.
17 Q. NOT IN THAT QUESTION?
18 A, HUH-UH.
19 Q. OKAY, GOOD. ALRIGHT, LET'S GO DOWN TO THE NEXT
20 QUESTIONS. I THINK THE NEXT FEW QUESTIONS WERE
21 TRYING TO FIND OUT WHO THE ...
22 A. THE NAMES OF THE OTHER.
23 Q. THE NAMES FROM THE NICK NAMES?
24 A. YES, SIR.
25 Q. OKAY. AND THEN, AFTER THAT DID YOU ASK HIM AGAIN

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- 1 ABOUT GUNS?
- 2 A. YES, SIR.
- 3 Q. YOU WROTE THESE QUESTIONS, DIDN'T YOU?
- 4 A. I DID.
- 5 Q. OKAY. AND READ THAT QUESTION FOR ME?
- 6 A. "WHO ALL TOOK GUNS INTO THE APARTMENT?"
- 7 Q. ALRIGHT. SO, YOU WENT FROM WHO ALL HAD GUNS TO
- 8 WHO ALL TOOK GUNS INTO THE APARTMENT?
- 9 A. YES, SIR.
- 10 Q. AND WHAT WAS HIS ANSWER?
- 11 A. "LITTLE M, POKE, PET, AND RALPH."
- 12 Q. ALRIGHT. SO, THAT WAS THE SAME ANSWER AS HE GAVE
- 13 YOU ON THE FIRST GUN QUESTION?
- 14 A. CORRECT.
- 15 Q. OKAY. SO, AND WHEN WAS THIS, WHEN WAS THIS
- 16 STATEMENT TAKEN?
- 17 A. MARCH EIGHTEENTH.
- 18 Q. OKAY. SO, YOU'RE TRYING TO CLARIFY THE DETAILS
- 19 HERE AND HE NEVER MENTIONED CHRISTIAN COLEMAN,
- 20 DID HE?
- 21 A. NOT AT THE LATTER PART OF THE QUESTION AND ANSWER
- 22 SERIES, HE DIDN'T, NO, SIR.
- 23 Q. WHERE YOU WERE TRYING TO CLARIFY AND MAKE SURE
- 24 YOU UNDERSTOOD - - -
- 25 A. YES, SIR.

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1 Q. --- WHO HAD THE GUNS?

2 A. YES, SIR.

3 Q. ALRIGHT. SO, YOU SAY THAT THAT WAS, THAT
4 INTERVIEW WAS ON THE EIGHTEENTH?

5 A. YES, SIR.

6 Q. OKAY. AND USING THIS INFORMATION YOU TESTIFIED
7 EARLIER THAT YOU SUBMITTED FOUR PHOTO LINEUPS TO
8 ASHLEY PARSLEY, IS THAT CORRECT?

9 A. I DID.

10 Q. OKAY. AND WHO WERE INCLUDED IN THE FOUR PHOTO
11 LINEUPS?

12 A. RALPH COLEMAN, MARIO SHIVERS, DANNY RYANT, AND
13 PATRICK.

14 Q. PATRICK TYLER?

15 A. UH-HUH.

16 Q. THE CO-DEFENDANT WHO TESTIFIED?

17 A. CORRECT.

18 Q. ALRIGHT. AND AFTER THAT INTERVIEW AND AFTER YOU
19 CLARIFIED THE DETAILS YOU DIDN'T PUT TOGETHER A
20 PHOTO LINEUP OF MY CLIENT, CHRISTIAN COLEMAN, TO
21 SHOW ASHLEY PARSLEY, DID YOU?

22 A. I DIDN'T HAVE CHRISTIAN COLEMAN'S NAME AT THE
23 TIME. ALL HE REFERRED TO HIM AS WAS LITTLE
24 CHRIS.

25 Q. OKAY. AND THE UNKNOWN WAS ALSO REFERRED TO?

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1 A. RIGHT, YES, SIR.

2 Q. SO, YOU DIDN'T SHOW A PICTURE OF THE UNKNOWN
3 DRIVER BECAUSE OBVIOUSLY, HE DIDN'T KNOW WHO THE
4 DRIVER WAS?

5 A. HE DIDN'T KNOW THE DRIVER'S NAME.

6 Q. AND YOU SAID, I BELIEVE EARLIER IN YOUR TESTIMONY,
7 THAT TWO OF THE INDIVIDUALS CHARGED HERE TODAY
8 WERE PICKED OUT OF THOSE FOUR LINEUPS, OR OUT OF
9 THE FOUR INDIVIDUALS THAT YOU SHOWED IN A MONTAGE
10 OF LINEUPS, TWO OF THE DEFENDANT WERE PICKED OUT?

11 A. BY MS. PARLEY YOU SAID?

12 Q. YES.

13 A. YES, SIR.

14 Q. NOW, LET ME, STICKING WITH PATRICK TYLER FOR A
15 SECOND, YOU SAID YOU DID SOME FURTHER
16 INVESTIGATION, YOU SAID YOU DIDN'T KNOW WHO MY
17 CLIENT WAS AT THE TIME. I'M SHOWING YOU STATE'S
18 EXHIBIT SEVENTY-NINE WHICH HAS BEEN MOVED INTO
19 EVIDENCE WITHOUT OBJECTION FROM ME, AND TELL ME
20 WHAT THAT IS?

21 A. A PHOTO LINEUP OF CHRISTIAN COLEMAN.

22 Q. OKAY. AND THAT WAS - - -

23 A. THE TWENTY-THIRD OF MARCH OF THIS YEAR.

24 Q. SO, FIVE DAYS LATER?

25 A. YES, SIR.

1 Q. AND WHAT DID, WHAT DID PATRICK TYLER WRITE ON
2 THAT STATEMENT?

3 A. "HAD GUN, WE WAS IN HOUSE, RIDE IN CAR."

4 Q. OKAY. SO, MR. TYLER CAME IN TO MAKE A STATEMENT
5 TO YOU ON THE EIGHTEENTH?

6 A. YES, SIR.

7 Q. AND HE FINALLY BROKE DOWN AND GAVE HIMSELF UP?

8 A. YES, SIR.

9 Q. AND SO, HE'S PUTTING GUNS IN EVERYBODY'S HANDS
10 EXCEPT HIS OWN?

11 A. YES, SIR.

12 Q. AND SO, ON CLARIFYING THE DETAILS HE WANTED TO
13 MAKE SURE WHO HE SAID HAD GUNS IN THAT MARCH
14 EIGHTEEN STATEMENT?

15 A. YES, SIR.

16 Q. ALRIGHT. HE SITS THERE FOR FIVE DAYS, HE ALL OF
17 A SUDDEN PICKS OUT MY CLIENT, CHRISTIAN COLEMAN,
18 AND NOW HE COMES BACK AND PUTS A GUN BACK IN HIS
19 HAND?

20 A. YES, SIR.

21 Q. DID YOU HEAR PATRICK TYLER SAY HE WENT TO HIGH
22 SCHOOL WITH MY CLIENT, CHRISTIAN?

23 A. I BELIEVE HE SAID HE KNEW HIM BACK IN HIGH
24 SCHOOL.

25 Q. WHEN YOU DO THESE INTERVIEWS DO YOU -- YOU DIDN'T

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1 USE A TAPE RECORDER ON THIS, DID YOU?

2 A. NO, I DID NOT.

3 Q. DO Y'ALL EVER USE TAPE RECORDERS?

4 A. IN SOME INSTANCES, BUT I THINK ON THIS DAY WHEN
5 MR. TYLER CAME IN HE TURNED HIMSELF IN TO CHIEF
6 WALTERS'S OFFICE WITH HIS PARENTS, EXCUSE ME.

7 Q. OKAY. AND HOW ABOUT VIDEO TAPES, DO YOU EVER
8 VIDEO TAPE WHEN YOU INTERVIEW A SUBJECT?

9 A. I NEVER VIDEO TAPE.

10 Q. YOU NEVER HAVE?

11 A. NO, SIR.

12 Q. HAS THE COUNTY, DOES ORANGEBURG COUNTY EVER VIDEO
13 TAPE ANY INTERVIEWS?

14 A. I CAN'T SPEAK FOR ANYBODY ELSE, I JUST DON'T USE
15 IT.

16 Q. OKAY. BUT A TAPE RECORDER - - -

17 A. BUT I SAY, WHERE WE WERE AT IT WASN'T SET UP FOR
18 THAT, IT WASN'T SET UP FOR NO TAPE RECORDER NOR
19 NO VIDEO. LIKE I SAID, AGAIN, IT WAS IN THE
20 CHIEF'S OFFICE, HE WAS THERE WITH HIS PARENTS AND
21 THAT'S WHERE THE INTERVIEW TOOK PLACE AT.

22 Q. OKAY. FAIR ENOUGH. SO, I MEAN, Y'ALL TALKED
23 ABOUT OTHER THINGS DURING THE INTERVIEW, THAT'S
24 NOT A -- WORD FOR WORD THAT'S NOT EVERYTHING
25 Y'ALL TALKED ABOUT. DID YOU EVER SAY, WHY DON'T

1 YOU HELP YOURSELF OUT, PATRICK?

2 A. NO, SIR.

3 Q. YOU DIDN'T SAY THAT?

4 A. NO. IT'S LIKE I SAID, I ASKED HIM A QUESTION
5 ABOUT THE INCIDENT. HE INITIALLY STATED THAT HE
6 DIDN'T KNOW NOTHING ABOUT NOTHING.

7 Q. SO, HE LIED INITIALLY?

8 A. AT FIRST, HE SAID HE DIDN'T KNOW NOTHING ABOUT
9 NOTHING. HIS PARENTS WAS THERE AND HE JUST BUST
10 OUT CRYING AND SAID, ALRIGHT, I WANT TO TELL THE
11 TRUTH.

12 Q. UH-HUH.

13 A. AND THEN WE WENT FROM THERE.

14 Q. OKAY. AND WHEN HE SAID HE WANTED TO TELL THE
15 TRUTH YOU STATED, WHEN YOU CLARIFIED THE DETAILS
16 HE PUT A GUN IN EVERYBODY'S HAND EXCEPT MY
17 CLIENT'S, IS THAT RIGHT?

18 A. RIGHT. BUT I ALSO BELIEVE HE TESTIFIED TO THE
19 FACT THAT MR. HARRIS HAD A GUN BUT HE GAVE HIS
20 GUN TO SOME OTHER DEFENDANT.

21 Q. OKAY. BUT HE DIDN'T SAY A NAME.

22 A. I CAN'T - - -

23 COURT REPORTER: HE DIDN'T WHAT?

24 Q. HE DIDN'T SAY A NAME.

25 A. I CAN'T REMEMBER.

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- 1 Q. OKAY. NOW, LET ME ASK YOU THIS, DURING THIS
2 INVESTIGATION YOU WERE THE LEAD INVESTIGATOR AND
3 YOU TESTIFIED EARLIER THAT YOU'RE ULTIMATELY
4 RESPONSIBLE FOR ALL THE, ALL THE EVIDENCE, ALL
5 THE LEADS, ALL THE FOLLOWUP IN THE CASE, IS THAT
6 RIGHT?
- 7 A. YES, SIR.
- 8 Q. I MEAN, WITH ASSISTANCE FROM, OF COURSE, OTHER
9 FOLKS IN YOUR OFFICE?
- 10 A. CORRECT.
- 11 Q. AND YOU SAID EARLIER THAT Y'ALL HAVE TRAINING ON
12 DIFFERENT THINGS. I ASKED YOU ABOUT TRAINING FOR
13 INTERVIEWING TECHNIQUES, THAT'S CORRECT?
- 14 A. RIGHT, YES, SIR.
- 15 Q. AND DO Y'ALL HAVE TO GO THROUGH YEARLY TRAINING
16 AND CERTIFICATION ON DIFFERENT THINGS?
- 17 A. YEARLY TRAINING ON INTERVIEWING, NO, SIR.
- 18 Q. ON ANYTHING, YOU JUST HAVE TO DO TRAINING EVERY
19 YEAR ON DIFFERENT, DIFFERENT ISSUES?
- 20 A. ASPECTS OF THE JOB, CORRECT, YES, SIR.
- 21 Q. OKAY. HAVE YOU EVER HAD ANY TRAINING ON REPORT
22 WRITING?
- 23 A. YES, SIR.
- 24 Q. OKAY. AND IS IT FAIR TO SAY, AS FAR AS YOUR
25 REPORT YOU DOCUMENT THE ACTIVITIES OF AN

1 INVESTIGATION?

2 A. RIGHT, IN MY INVESTIGATIVE NOTES, CORRECT.

3 Q. OKAY. SO, BASICALLY THIS IS, THESE ARE THE FACTS
4 OF THE CASE IN WRITTEN FORM, THAT'S ...

5 A. RIGHT, THROUGH THE INVESTIGATION.

6 Q. UH-HUH. SO, AS FAR AS, YOU KNOW, LET'S SAY,
7 LIEUTENANT SHUMPERT WON THE LOTTERY AND YOU SAID,
8 WELL, I LIKE LAW ENFORCEMENT BUT I'M GOING TO
9 HANG IT UP FOR A WHILE, YOU OUGHT TO BE ABLE TO
10 HAND THAT REPORT OFF TO SOMEBODY ELSE AND THEY
11 OUGHT TO BE ABLE TO FINISH THE INVESTIGATION, IS
12 THAT CORRECT?

13 A. CORRECT.

14 Q. DO YOU -- I'M TAKING A STAB, BUT I'D SAY YOU
15 PROBABLY INVESTIGATE A LOT OF CASES PER YEAR?

16 A. YES, SIR.

17 Q. SO, YOU'VE GOT SOME PRETTY GOOD EXPERIENCE?

18 A. ON DIFFERENT CASES, YES, SIR.

19 Q. YOU'VE BEEN THERE FOR TWELVE YEARS?

20 A. I DID APPROXIMATELY ABOUT EIGHT, MAYBE SEVEN
21 YEARS ON THE ROAD.

22 Q. AND THEN WENT INTO INVESTIGATION?

23 A. AND THEN WENT INTO INVESTIGATION, SIR.

24 Q. SO, YOU KNOW, BASICALLY FROM TOP TO BOTTOM?

25 A. IF YOU WANT TO SAY THAT, YEAH.

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1 Q. AND SO, YOU REFERENCED EARLIER WHEN YOU WERE
2 TESTIFYING I THINK WHEN SOLICITOR SORENSON WAS
3 TALKING TO YOU, YOU REFERENCED, I NEED TO LOOK AT
4 MY NOTES?

5 A. YES, SIR.

6 Q. AND THOSE NOTES ARE WHAT YOU USE TO REFRESH YOUR
7 MEMORY, IS THAT CORRECT?

8 A. CORRECT, YES, SIR.

9 Q. SO, IT'S IMPORTANT THAT YOUR REPORT BE ACCURATE?

10 A. YES, SIR.

11 Q. IT'S IMPORTANT THAT YOUR REPORT BE THOROUGH?

12 A. YES, SIR.

13 Q. IT'S IMPORTANT THAT YOUR REPORT BE COMPLETE?

14 A. YES, SIR.

15 Q. OKAY. AND CONTAIN ALL THE FACTS?

16 A. CORRECT.

17 Q. ALRIGHT. AS FAR AS YOUR REPORT ON THIS CASE DID
18 YOU CONSIDER THAT THOROUGH, COMPLETE AND
19 PROFESSIONAL?

20 A. YES, SIR.

21 Q. OKAY. AND I BELIEVE WHAT I SAW IN YOUR REPORT,
22 YOU DO DIFFERENT NARRATIVES IN YOUR REPORT?

23 A. I DID, YES, SIR.

24 Q. AND IT'S DATED AND YOU GIVE KIND OF THE SUMMARY
25 OF WHAT'S HAPPENED THROUGH THE DAY?

1 A. YES, SIR, YES, SIR.

2 Q. OKAY. AND IN THIS CASE, ESPECIALLY INVOLVING A
3 MURDER AND ARMED ROBBERY AND A BURGLARY, FIRST,
4 THIS WAS A, YOU KNEW YOU HAD TO BE ON TOP OF YOUR
5 GAME ON THIS, DIDN'T YOU?

6 A. YES, SIR.

7 Q. AND WE'VE ALREADY HAD TESTIMONY IN HERE THAT
8 MURDER CARRIES LIFE IN PRISON?

9 A. YES, SIR.

10 Q. AND HOW MUCH DOES ARMED ROBBERY CARRY?

11 A. I BELIEVE - - -

12 SOLICITOR SORENSON: OBJECTION, THAT'S NOT
13 RELEVANT. I DON'T SEE HOW IT'S RELEVANT WITH THIS.

14 THE COURT: WELL, THE TESTIMONY CAME IN ABOUT THE
15 MURDER.

16 SOLICITOR SORENSON: RIGHT, BUT NOT WITH REGARDS,
17 I MEAN, AS FOR A SPECIFIC LIMITED PURPOSE.

18 THE COURT: RIGHT. IF YOU WILL JUST -- I'M GOING
19 TO SUSTAIN YOUR OBJECTION, SO IF YOU WANT TO REPHRASE
20 THE QUESTION OR SOMETHING LIKE THAT?

21 MR. LACKEY: THAT'S FINE. HE TESTIFIED THAT
22 MURDER CARRIES LIFE IN PRISON, SO, THIS IS - - -

23 SOLICITOR SORENSON: OBJECTION, YOUR HONOR, I
24 MEAN, THIS IS - - -

25 THE COURT: NO, I'M GOING TO LET -- THE JURY HAS

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1 ALREADY GOTTEN THAT TESTIMONY. THEY KNOW THAT.

2 SOLICITOR SORENSON: YOU JUST SUSTAINED THE
3 OBJECTION AND HE JUST PROCEEDED TO REPEAT WHAT YOU
4 JUST SUSTAINED, SAYING IT WAS IMPROPER.

5 THE COURT: NO, I DIDN'T WANT HIM TO GO INTO ANY
6 OF THE SENTENCES FOR ANYTHING ELSE.

7 SOLICITOR SORENSON: OKAY.

8 THE COURT: OKAY. LET ME CLARIFY MY STATEMENT.
9 OKAY?

10 MR. LACKEY: THAT'S FINE.

11 THE COURT: THANK YOU, SIR.

12 MR. LACKEY: I MEAN, WE'VE HEARD WHAT WE'VE
13 HEARD.

14 THE COURT: OKAY. YES, SIR.

15 Q. ALRIGHT, DO YOU HAVE A COPY OF THE REPORT THAT
16 YOU MADE IN YOUR NARRATIVES WITH YOU?

17 A. I DO, YES, SIR.

18 Q. OKAY, DO YOU HAVE IT WITH YOU, IN FRONT OF YOU?

19 A. UH-HUH.

20 Q. LET ME, LET ME ASK YOU, AND I WANT TO MAKE SURE
21 WE'RE LOOKING AT THE SAME THING, CAN I ASK YOU
22 TO, I THINK, FLIP TO THE - - -

23 A. THEY'RE NUMBERED AT THE TOP.

24 Q. OKAY. I THINK MINE WAS CUT OFF IN THE COPIER
25 WHEN I RECEIVED IT. IT LOOKS LIKE ON MINE THE

1 NEXT TO THE LAST PAGE, NARRATIVE FOURTEEN?

2 A. YES, SIR.

3 Q. OKAY. IS THAT THE NEXT TO THE LAST PAGE ON
4 YOURS, TOO?

5 A. IT IS.

6 Q. SO, IT'S, IT'S, WHAT'S THE DATE ON THIS?

7 A. THE TWENTY-THIRD.

8 Q. THE TWENTY-THIRD?

9 A. OF MARCH, TWO THOUSAND TEN.

10 Q. OKAY. AND THE TIME OF DAY?

11 A. SIXTEEN:TWENTY-ONE.

12 Q. TRANSLATE THAT INTO REGULAR TIME FOR ME.

13 A. OH, I'M SORRY, FOUR:TWENTY-ONE.

14 Q. OKAY. FOUR:TWENTY-ONE P.M.?

15 A. CORRECT.

16 Q. ALRIGHT, I'VE GOT YOU NOW. ALRIGHT, AND ON THE
17 LEFT SIDE IT SAYS, SUPPLEMENTAL DETAILS, IS THAT
18 CORRECT?

19 A. YES, SIR, IT DOES.

20 Q. ALRIGHT. AND BELOW THAT YOU'VE TITLED THIS
21 SECTION AS WHAT?

22 A. CASE OVERVIEW.

23 Q. CASE OVERVIEW. OKAY. AND REMIND ME AGAIN, WHEN
24 YOU TOOK THE STATEMENT FROM PATRICK TYLER, THAT
25 WAS ON THE EIGHTEENTH, SO FIVE DAYS PRIOR TO

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1 THIS?

2 A. YES, SIR, IT IS.

3 Q. OKAY. FIVE DAYS PRIOR TO THIS CASE OVERVIEW IS
4 WHEN YOU TALKED TO HIM?

5 A. CORRECT.

6 Q. ALRIGHT. AND WHEN DID HE PICK OUT MR. CHRISTIAN
7 COLEMAN, MY CLIENT, FROM THE LINEUP?

8 A. THE TWENTY-THIRD.

9 Q. OKAY. AND WHAT TIME ON THE TWENTY-THIRD?

10 A. ONE:TWENTY-FIVE.

11 Q. SO, THAT WAS BEFORE YOU PUT TOGETHER THIS CASE
12 OVERVIEW, IS THAT CORRECT?

13 A. CORRECT.

14 Q. ALRIGHT. LET'S GO THROUGH THIS, THE FIRST LINE
15 READS, "BASED ON THE INVESTIGATION OF THIS
16 INVESTIGATOR," SO YOU'RE SAYING AFTER YOUR
17 INVESTIGATIONS THIS IS WHAT YOU FOUND, IS THAT
18 CORRECT?

19 A. CORRECT, YES, SIR.

20 Q. AND, "IT WAS DETERMINED THAT MARIO SHIVERS," - -
21 -

22 MR. MELLARD: YOUR HONOR, I WOULD OBJECT, I MEAN,
23 IF HE'S GOING TO READ IT I WOULD JUST SAY IT'S
24 HEARSAY. I THINK HE CAN ASK WHAT HE WANTS TO ASK
25 ABOUT IT, BUT THE DOCUMENT ITSELF IS HEARSAY.

1 THE COURT: ALRIGHT. IF YOU'D JUST ASK HIM A
2 QUESTION.

3 Q. ALRIGHT. WHO DOES IT SAY HERE THAT PLANNED THE
4 ROBBERY?

5 A. MARIO SHIVERS.

6 Q. AND THAT WAS BASED ON YOUR INVESTIGATION?

7 A. YES, SIR.

8 Q. ALRIGHT. AND THE NEXT SENTENCE IT SAYS THAT
9 SOMEBODY CONTACTED - -

10 MR. MELLARD: YOUR HONOR, I OBJECT.

11 THE COURT: I THINK HE'S GOING TO CONTINUE HIS
12 OBJECTION. IF YOU'LL JUST ASK HIM QUESTIONS ABOUT
13 WHAT HE SAYS ON THERE - - -

14 MR. LACKEY: OKAY.

15 THE COURT: --- OR WHAT HIS INVESTIGATION
16 REVEALED, - - -

17 MR. LACKEY: OKAY.

18 THE COURT: --- THAT WOULD BE EASIER, MR. LACKEY.

19 Q. ALRIGHT. AS FAR AS THE REMAINDER OF THE CASE
20 OVERVIEW, THIS SUMMARIZES YOUR TALKS WITH PATRICK
21 TYLER AS WELL, DOES IT NOT?

22 A. CORRECT, YES, SIR.

23 Q. OKAY. AND IN HERE IT STATES SEVERAL INDIVIDUALS
24 CHARGED IN THIS CASE, INCLUDING MR. SHIVERS, IS
25 THAT CORRECT?

CROSS - JAMES SHUMPERT BY MR. LACKEY

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1 A. RIGHT.

2 SOLICITOR SORENSON: YOUR HONOR, I THINK I'M
3 GOING TO KIND OF JOIN IN MR. MELLARD'S OBJECTION.
4 THIS IS HECKLING HEARSAY, I MEAN, WHEN HE'S ASKING HIM
5 - - -

6 Q. OKAY, WELL, WHO DO YOU - - -

7 THE COURT: WAIT A MINUTE, IF YOU'LL JUST ASK HIM
8 QUESTIONS ABOUT HIS INVESTIGATION.

9 SOLICITOR SORENSON: AND YOUR HONOR, ALSO, IF YOU
10 WANT TO GO FIRST THAT'S FINE WITH ME, AS TO WHAT
11 PATRICK TYLER SAYS, THAT WOULD BE HEARSAY. HE HAD A
12 CHANCE TO TESTIFY HIMSELF.

13 MR. LACKEY: OKAY.

14 THE COURT: IF -- I WILL SUSTAIN THE OBJECTIONS.
15 OKAY?

16 Q. ALRIGHT. I WANT TO ASK IT THIS WAY, LIEUTENANT
17 SHUMPERT, - - -

18 A. YES, SIR.

19 Q. COULD YOU TAKE A MINUTE TO REVIEW THAT CASE
20 OVERVIEW?

21 A. YES, SIR.

22 Q. ALRIGHT. LET ME KNOW WHEN YOU'VE FINISHED GOING
23 THROUGH THAT.

24 A. I WILL. YES, SIR.

25 Q. OKAY. DID YOU GO THROUGH THAT?

CROSS - JAMES SHUMPERT BY MR. LACKEY

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1 A. UH-HUH.

2 Q. ALRIGHT. AND IN THAT CASE OVERVIEW WERE THE
3 INDIVIDUALS CHARGED IN THIS CASE NAME?

4 A. YES, SIR.

5 Q. EVEN CHRISTIAN COLEMAN?

6 A. NOT CHRISTIAN, NO, SIR.

7 Q. THAT WAS NOT INCLUDED IN THIS, WAS IT?

8 A. RIGHT. AT THE TIME THIS WAS WRITTEN WE STILL
9 HADN'T KNOWN WAS LITTLE CHRIS, HE STILL WASN'T
10 IDENTIFIED.

11 Q. OKAY.

12 A. WE STILL HADN'T IDENTIFIED HIM. WE HAD ALREADY
13 SPOKEN TO PATRICK AND PATRICK GAVE THE NAME OF
14 LITTLE CHRIS, BUT CHRISTIAN AT THAT TIME STILL
15 WASN'T IDENTIFIED.

16 Q. OKAY. HE STILL WASN'T IDENTIFIED?

17 A. NO, SIR.

18 Q. SO, EVEN THOUGH HE PICKED HIM OUT OF THIS LINEUP
19 HERE HE STILL WASN'T IDENTIFIED?

20 A. RIGHT. WHAT I'M SAYING IS, WHEN WE INTERVIEWED
21 PATRICK HE GAVE THE NAME OF LITTLE CHRIS. WE
22 SHOWED HIM THE LINEUP. HE STILL HADN'T -- THE
23 WARRANTS WAS ALREADY TAKEN OUT ON THE REST OF THE
24 INDIVIDUALS, BUT THIS IS JUST A BASIS TO CONTINUE
25 ON WITH THE INVESTIGATION.

CROSS - JAMES SHUMPERT BY MR. LACKEY

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1 Q. UH-HUH.

2 A. SO, YES, SIR.

3 Q. HAD, HAD YOU RUN ANY DMV RECORDS FOR POTENTIAL
4 SUSPECTS BY THIS TIME?

5 A. I BELIEVE I DID, YES, SIR.

6 Q. HAD YOU RUN ANY INCLUDING THE NAME, CHRISTIAN
7 COLEMAN?

8 A. I'M NOT SURE, BUT IF WE DO PHOTO LINEUPS WE RUN
9 THE DMV PICTURES FIRST, CORRECT.

10 Q. I MEAN, JUST FOR YOUR OWN INVESTIGATION, THOUGH,
11 DID YOU - - -

12 A. I BELIEVE I DID, YES, SIR.

13 Q. SO, ARE YOU STATING THAT YOU HAD ALREADY
14 SUPPOSEDLY FIGURED OUT WHO LITTLE CHRIS WAS?

15 A. AS TO WHEN?

16 Q. AS TO MARCH TWENTY-THIRD, TWO THOUSAND TEN?

17 A. WELL, I THINK I STATED THAT THAT'S WHEN WE GOT
18 THE WARRANT ON CHRISTIAN ON THE TWENTY-FOURTH.

19 Q. UH-HUH.

20 A. RIGHT. SO, THAT WOULD BE THE DAY BEFORE.

21 Q. OKAY.

22 A. THAT WAS THE SAME DAY WE SHOWED THE LINEUP TO
23 PATRICK.

24 COURT REPORTER: THAT WAS THE SAME WHAT?

25 A. THE DAY WE SHOWED THE LINEUP TO PATRICK.

1 Q. YOU LISTED THE UNKNOWN DRIVER I BELIEVE, DID YOU
2 NOT, IN YOUR REPORT?

3 A. CORRECT, YES, SIR.

4 Q. OKAY. AND THEN, GOING ON THROUGH YOUR
5 NARRATIVES, AFTER THAT POINT IN YOUR REPORT COULD
6 YOU POINT OUT, OR DID YOU EVER PUT ANOTHER
7 NARRATIVE IN FOLLOWING UP ON WHO MY CLIENT WAS?

8 A. IT WAS, IN NARRATIVE THIRTEEN I SAID, "I SHOWED
9 PATRICK TYLER A PHOTO LINEUP OF A SUBJECT THAT
10 MAY HAVE BEEN INVOLVED IN THE ROBBERY AND DEATH
11 OF CHARLES PRINGLE, AND THE KIDNAPING OF ASHLEY
12 PARSLEY. HE PICKED OUT ALL SUBJECTS THAT WERE
13 INVOLVED WITH HIM. SEE LINEUPS." SO, I
14 REFERENCED THE LINEUPS IN THAT NARRATIVE
15 THIRTEEN.

16 Q. YOU -- ALRIGHT, SO THAT WAS ON THE TWENTY-SECOND?

17 A. YES, SEE, OUR COMPUTER, THEY, WE CAN'T CONTROL
18 THE DATES WHEN WE INPUT THAT INFORMATION, SO - -
19 -

20 Q. OKAY.

21 A. --- I GUESS THAT'S A TECHNOLOGICAL ERROR WITH THE
22 COMPUTER AS FAR AS THE DATES, BUT I DID ENTER IT
23 IN THE NARRATIVE, "SEE THE LINEUPS."

24 Q. OKAY.

25 A. THAT, ALL PARTIES THAT WAS INVOLVED WITH PATRICK

CROSS - JAMES SHUMPERT BY MR. LACKEY

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- 1 TYLER.
- 2 Q. OKAY. AND THAT WAS NARRATIVE - - -
- 3 A. THIRTEEN.
- 4 Q. --- THIRTEEN BEFORE YOU DID NARRATIVE FOURTEEN?
- 5 A. CORRECT.
- 6 Q. IN THE CASE OVERVIEW. OKAY. AND THEN, I BELIEVE
- 7 THE NEXT PAGE ENDS YOUR REPORT, IS THAT RIGHT?
- 8 A. CORRECT.
- 9 Q. OKAY. AND THAT WAS DATED WHAT?
- 10 A. THE TWENTY-THIRD.
- 11 Q. DID YOU, DID YOU HAVE ANY SUPPLEMENTAL REPORT AS
- 12 FAR AS, I THINK YOU TESTIFIED WHEN YOU FOUND THE
- 13 UNKNOWN DRIVER DID YOU MAKE A SUPPLEMENTAL REPORT
- 14 ON THAT?
- 15 A. NO, I JUST TOOK A STATEMENT FROM HIM BECAUSE,
- 16 LIKE I SAID, I HADN'T EVEN GOT A CHANCE TO
- 17 INTERVIEW, I MEANT, FINISH INVESTIGATING THAT
- 18 PART OF THE INVESTIGATION.
- 19 Q. OKAY. SO, YOU TOOK A STATEMENT FROM HIM?
- 20 A. THAT'S ALL I DID, TOOK A STATEMENT FROM HIM,
- 21 CORRECT.
- 22 Q. AND WHAT WAS HIS NAME?
- 23 A. RONNIE WASHINGTON.
- 24 Q. OKAY. SO, YOU TOOK THE STATEMENT FROM HIM, DID
- 25 HE ADMIT TO BEING THE DRIVER IN THE STATEMENT?

CROSS - JAMES SHUMPERT BY MR. LACKEY

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1 A. YES, HE DID.

2 Q. SO, YOU CHARGED HIM AT THAT TIME?

3 A. NO, I DID NOT.

4 Q. AND WHY IS THAT?

5 A. WELL, HE SAID THAT HE WAS THE DRIVER, FROM WHAT
6 HE TOLD ME THAT, HE STATES THAT - - -

7 MS. ULLMAN: OBJECTION, YOUR HONOR, HE'S GETTING
8 INTO WHAT RONNIE WASHINGTON SAID IN HIS STATEMENT AND
9 HE'S CERTAINLY NOT HERE FOR ME TO CROSS-EXAMINE HIM.

10 THE COURT: THE OBJECTION IS SUSTAINED.

11 Q. OKAY. BUT YOU DIDN'T ARREST HIM?

12 A. NOT YET.

13 Q. NOT YET?

14 A. NOT YET.

15 Q. NOT FROM TWO WEEKS AGO?

16 A. TWO WEEKS AGO, CORRECT.

17 Q. AND DID HE, DIDN'T HE, OR DID HE SAY HE KNEW MY
18 CLIENT?

19 A. YES, SIR.

20 Q. AND HOW DID HE KNOW MY CLIENT?

21 A. HE SAID THEY USED TO WORK TOGETHER AT BURGER
22 KING.

23 Q. UH-HUH.

24 A. AND I THINK THEY WENT TO SCHOOL TOGETHER, BUT HE
25 USED TO RUN ERRANDS FOR HIM.

CROSS - JAMES SHUMPERT BY MR. LACKEY

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1 Q. OKAY. AS FAR AS, AS FAR AS THE ARREST OR NON-
2 ARREST, FROM YOUR EXPERIENCE AS A LAW ENFORCEMENT
3 OFFICER YOU DIDN'T FEEL AT THE TIME THAT YOU
4 COULD CHARGE HIM WITH ANY CHARGE?

5 A. WELL, IT'S A MATTER OF -- WELL, I DON'T GO BY
6 WHAT I FEEL. DO I THINK HE PROBABLY PARTICIPATED
7 IN IT? YES. BUT CAN I PROVE IT? AT THIS TIME I
8 CAN'T. THAT'S WHY IT'S STILL A FURTHER
9 INVESTIGATION.

10 Q. OKAY. SO, - - -

11 A. THE STATEMENT I TOOK FROM HIM IS NOT ENOUGH TO
12 PLACE HIM UNDER ARREST AT THIS TIME, I'VE GOT TO
13 CONTINUE MY INVESTIGATION, BUT I'VE BEEN IN COURT
14 ALL WEEK, SO ...

15 Q. BUT THAT WAS TWO WEEKS AGO?

16 A. TWO WEEKS, CORRECT.

17 Q. NOVEMBER THIRTIETH, IS THAT CORRECT?

18 A. YES, SIR.

19 Q. DID YOU CONSULT THE SOLICITOR'S OFFICE ABOUT
20 MAKING THAT ARREST?

21 A. I TOLD THEM THAT I TALKED TO THE DRIVER OF THE
22 VEHICLE, IF THAT'S WHAT YOU'RE ASKING ME.

23 Q. DID Y'ALL TALK ABOUT A POSSIBLE ARREST?

24 A. I WAS MORE FOCUSED ON THIS CASE. I -- LIKE I TOLD
25 THEM, I WOULD CONTINUE THE INVESTIGATION. I WENT

CROSS - JAMES SHUMPERT BY MR. LACKEY

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1 OUT ON MY OWN AND I CONDUCTED ANOTHER LINEUP,
2 TOOK IT TO MR. TYLER, AND HE COULDN'T PICK HIM
3 OUT. SO, I DIDN'T HAVE ENOUGH TO GO SEEK
4 PROBABLE CAUSE TO GET AN ARREST AT THIS TIME.

5 Q. SO, YOU SAID YOU WERE MORE FOCUSED ON THIS CASE,
6 BUT HE'S PART OF THIS CASE, IS HE NOT?

7 A. YES, NOW HE IS.

8 Q. OKAY. AND HE WAS TWO WEEKS AGO?

9 A. YES, SIR, HE IS.

10 Q. OKAY.

11 MR. LACKEY: I HAVE NO FURTHER QUESTIONS, YOUR
12 HONOR.

13 THE COURT: THANK YOU, SIR.

14 ALRIGHT, LADIES AND GENTLEMEN, WE'VE BEEN GOING
15 FOR OUR USUAL HOUR AND A HALF, AND RIGHT NOW WE'RE
16 GOING TO TAKE A BREAK FOR ABOUT FIFTEEN MINUTES, LET
17 Y'ALL STRETCH YOUR LEGS, AND THEN WE'LL BE BACK IN
18 HERE AGAIN. LET ME REMIND YOU, YOU HAVE NOT HEARD ALL
19 THE TESTIMONY IN THIS CASE SO YOU CANNOT TALK ABOUT
20 THIS CASE AT THIS TIME. Y'ALL CAN GO BACK IN THE JURY
21 ROOM NOW. OKAY? THANK YOU.

22 (Whereupon, the jury leaves
23 the courtroom and the following
24 takes place out of the presence
25 of the jury.)

1 THE COURT: AND LIEUTENANT, IF YOU NEED TO GET UP
2 AND WALK AROUND. AGAIN, YOU KNOW, YOU CAN'T TALK TO
3 ANYBODY ABOUT YOUR TESTIMONY.

4 WITNESS SHUMPERT: YES, SIR.

5 THE COURT: OKAY.

6 ALRIGHT, IS IT MS. ULLMAN OR MR. WISE THAT'S
7 GOING TO DO IT?

8 MS. ULLMAN: MR. WISE.

9 THE COURT: MR. WISE? OKAY.

10 ALRIGHT, WE'RE GOING TO BE IN RECESS FOR ABOUT
11 FIFTEEN MINUTES. OKAY? THANK Y'ALL.

12 (Recess)

13 THE COURT: ARE YOU READY?

14 COURT REPORTER: YES, SIR.

15 THE COURT: OKAY. IS THE STATE READY TO PROCEED?

16 SOLICITOR SORENSON: THE STATE'S READY.

17 THE COURT: OKAY. ARE THE DEFENDANTS READY TO
18 PROCEED?

19 MR. LACKEY: YES, SIR.

20 MR. WISE: YES, SIR.

21 MR. PALMER: YES, SIR.

22 MR. MELLARD: YES, SIR.

23 MR. KOGER: YES, SIR.

24 THE COURT: AND MR. WISE IS -- OH.

25 MR. WISE: I JUST DIDN'T WANT THAT TO BE IN THE

1 WAY.

2 THE COURT: I SEE, I APPRECIATE THAT, MR. WISE.
3 ARE YOU READY TO GO?

4 MR. WISE: WE ARE.

5 THE COURT: OKAY. IS THE JURY READY? SEE IF
6 THEY'RE READY TO COME ON BACK IN. I TAKE THAT AS A
7 YES. OKAY.

8 (Whereupon, the jury enters
9 the courtroom and the following
10 takes place in the presence
11 of the jury.)

12 THE COURT: ALRIGHT, WE WILL CONTINUE WITH THE
13 CROSS-EXAMINATION OF LIEUTENANT SHUMPERT, AND MR.
14 WISE, I BELIEVE YOU WERE GOING TO CROSS -- IT'S YOUR
15 TURN, RIGHT?

16 MR. WISE: YES, YOUR HONOR, IF IT PLEASE THE
17 COURT.

18 THE COURT: ALRIGHT, YES, SIR.

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

CROSS - JAMES SHUMPERT BY MR. WISE

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CROSS-EXAMINATION OF JAMES SHUMPERT

BY MR. WISE:

Q. GOOD AFTERNOON, LIEUTENANT SHUMPERT.

A. YES, SIR, GOOD AFTERNOON.

Q. OR GOOD MORNING.

A. GOOD MORNING.

Q. I'M OFF TO A GOOD START. LIEUTENANT, LET ME ASK
YOU JUST SOME QUESTIONS TO FOLLOW UP ON SOME OF
THE QUESTIONS THAT MR. SORENSON ASKED YOU.

A. YES, SIR.

Q. DID YOU EXECUTE ANY OTHER SEARCH WARRANTS IN THIS
CASE?

A. NO, I DIDN'T.

Q. YOU INDICATED THAT CHRISTOPHER DWIGHT WAS WIRED
WHEN HE PURCHASED THE GUN FROM ANDRE WASHINGTON?

A. YES, SIR.

Q. SO, YOU HAVE A TAPE OF THAT TRANSACTION?

A. YES, SIR.

Q. YOU TESTIFIED THAT PATRICK TYLER TURNED HIMSELF
IN?

A. HE DID.

Q. HE CAME IN VOLUNTARILY?

A. YES, SIR, HE DID.

Q. OKAY. RALPH ALSO TURNED HIMSELF IN?

A. YES, HE DID.

1 Q. HE CAME IN VOLUNTARILY?

2 A. HE DID.

3 Q. YOU DIDN'T HAVE TO TRACK HIM DOWN?

4 A. WELL, WE LOOKED FOR HIM FOR SEVERAL DAYS BUT HE
5 EVENTUALLY TURNED HIMSELF IN.

6 Q. OKAY. YOU TALKED ABOUT YOUR INTERVIEW WITH
7 PATRICK, AND I JUST NEED TO ASK YOU A LITTLE
8 BACKGROUND, WHAT TIME DID HE GET TO YOUR OFFICE?

9 A. I'D HAVE TO LOOK BACK AT HIS STATEMENT.

10 Q. TAKE YOUR TIME.

11 A. WE STARTED THE STATEMENT AT FOUR:FIFTY-THREE. I
12 WOULD HAVE WENT OVER HIS ADVISEMENT OF RIGHTS
13 FIRST, SO I WOULD SAY ABOUT, SOMEWHERE A LITTLE
14 AFTER, CLOSE TO FOUR:THIRTY, SOMEWHERE IN THAT
15 TIME FRAME.

16 Q. SO, HE ARRIVED AROUND FOUR:THIRTY?

17 A. I'M NOT SURE EXACTLY OF THE TIME BUT IF I COULD
18 LOOK AT MY ADVISEMENT OF RIGHTS, THAT WOULD
19 PROBABLY TELL YOU.

20 Q. I DON'T HAVE THEM.

21 THE COURT: I THOUGHT THAT WAS AN EXHIBIT, I
22 DON'T REMEMBER.

23 COURT REPORTER: IT IS, BUT - - -

24 SOLICITOR SORENSON: YOU DON'T HAVE IT IN YOUR
25 FILE?

CROSS - JAMES SHUMPERT BY MR. WISE

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1 COURT REPORTER: IT WOULD BE NINETY-FIVE, STATE'S
2 NINETY-FIVE.

3 THE COURT: STATE'S NINETY-FIVE, IF YOU CAN PUT
4 YOUR HANDS ON IT.

5 A. OKAY. SO, IF, I READ HIM THE ADVISEMENT OF
6 RIGHTS AT FOUR:FORTY-THREE, SO THAT MEANS HE
7 PROBABLY WOULD HAVE GOTTEN THERE ABOUT FIVE, MAY
8 SIX MINUTES BEFORE THAT.

9 Q. OKAY. SO, YOU ONLY SPOKE TO HIM ABOUT SIX
10 MINUTES BEFORE YOU ADVISED HIM OF HIS RIGHTS?

11 A. WELL, I WAS -- HE WAS SITTING IN THE CHIEF'S
12 OFFICE, I WAS CALLED TO COME OVER TO HER OFFICE,
13 AND PATRICK AND HIS PARENTS WAS ALREADY IN THE
14 OFFICE. AND LIKE I SAY, I CAN'T TELL YOU EXACTLY
15 WHAT TIME HE GOT TO THE COMPLEX. I KNOW I WAS
16 CALLED OVER THERE.

17 Q. OKAY. LET ME REPHRASE IT THIS WAY, WHAT TIME DID
18 YOU FIRST START SPEAKING TO PATRICK?

19 A. WHEN I STARTED READING HIM HIS RIGHTS.

20 Q. SO, THE FIRST WORDS OUT OF YOUR MOUTH TO HIM
21 WERE?

22 A. ONCE I KNEW WHAT HE WAS THERE FOR, I WENT
23 STRAIGHT INTO THE ADVISEMENT OF RIGHTS, AND THAT
24 WAS AT FOUR:FORTY-THREE.

25 Q. OKAY. AND HIS STATEMENT IS TIMED AT FOUR:FIFTY-

1 THREE?

2 A. CORRECT.

3 Q. OKAY. WHEN YOU WERE TESTIFYING YOU USED THE
4 EXPRESSION, WE KEPT SPEAKING. WHAT DID YOU SAY?

5 A. I'M NOT SURE WHAT YOU'RE TALKING ABOUT.

6 Q. WHEN YOU SAID YOU -- IT WAS WHEN YOU WERE
7 TESTIFYING ABOUT YOUR INTERACTION WITH PATRICK
8 YOU SAID, HE FIRST SAID HE DIDN'T KNOW NOTHING.

9 A. RIGHT, CORRECT.

10 Q. AND THEN YOU USED THE EXPRESSION, WE KEPT
11 SPEAKING. THAT'S THE TERM YOU USED?

12 A. IF I SAID IT.

13 Q. OKAY. ALRIGHT. DO YOU REMEMBER WHAT YOU KEPT
14 SPEAKING ABOUT?

15 A. I ASKED PATRICK ABOUT THE INCIDENT AND HE STATED
16 THAT, LIKE I SAID AT FIRST INITIALLY HE DIDN'T
17 KNOW NOTHING ABOUT NOTHING.

18 Q. UH-HUH.

19 A. AND THEN HE HELD HIS HEAD DOWN AND THEN HIS
20 PARENTS WAS STANDING THERE AND THEN HE BUST OUT
21 CRYING, LIKE I STATED EARLIER.

22 Q. UH-HUH.

23 A. AND HE STATED THAT HE WANTED TO TELL THE TRUTH.
24 AND THEN I LISTENED TO WHAT HE HAD TO SAY AND
25 AFTER HE SAID WHAT HE HAD TO SAY I ASKED HIM TO

CROSS - JAMES SHUMPERT BY MR. WISE

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1 PROVIDE A STATEMENT, WHICH HE DID.

2 Q. DID YOU TELL HIM, PROVIDE HIM ANY INFORMATION
3 ABOUT WHAT YOU THOUGHT HAD HAPPENED TO MR.
4 PRINGLE, HOW THAT WHOLE EVENT OCCURRED?

5 A. NO, NO, I COULDN'T HAVE, I DIDN'T KNOW.

6 Q. OKAY. DO YOU KNOW WHILE HE WAS WAITING FOR YOU
7 TO COME OVER DID ANYBODY ELSE PROVIDE HIM ANY
8 INFORMATION OR DETAILS ABOUT WHAT HAPPENED?

9 A. LIKE I SAID, WHEN I GOT THERE HE WAS ALREADY IN
10 THE CHIEF'S OFFICE.

11 Q. SO, YOU DON'T KNOW WHAT HAPPENED BEFORE THAT?

12 A. NO.

13 Q. OKAY. I WANT TO SHOW YOU STATE'S EXHIBIT FIVE,
14 THAT'S ASHLEY'S - - -

15 A. PARSLEY.

16 Q. RIGHT. THAT'S HER, THE AFFIDAVIT ATTACHED TO HER
17 IDENTIFICATION?

18 A. YES, SIR.

19 Q. IN THAT AFFIDAVIT SHE NEVER MENTIONS RALPH HAVING
20 A GUN, DOES SHE?

21 A. NO, SHE DOESN'T.

22 Q. WHEN -- I THINK YOU TESTIFIED THAT BEFORE YOU PUT
23 TOGETHER A LINEUP YOU FIRST PULLED DMV PHOTOS, IS
24 THAT RIGHT?

25 A. YES. IT'S CUSTOMARY WHEN WE GET READY TO DO A

1 LINEUP WE HAVE TO PULL THE DMV PHOTOS AND GIVE
2 THEM TO THE SECRETARIES AND SHOW THEM WHO WE NEED
3 TO BE PUT IN A LINEUP. BUT, NOW, HOWEVER, IF WE
4 DON'T HAVE A JAIL PICTURE OF THE PERSON WE HAVE
5 TO SEND A DMV PHOTO LINEUP, OR A DMV PICTURE OFF
6 TO SLED WHERE THEY MAKE A PHOTO LINEUP.

7 Q. DID YOU SHOW ANY DMV PHOTOS TO PATRICK BEFORE YOU
8 SHOWED HIM THE LINEUP?

9 A. NO, I DIDN'T.

10 Q. OKAY. ALRIGHT. NOW, WHEN YOU WERE BEING FIRST
11 EXAMINED BY MR. LACKEY YOU USED THE EXPRESSION
12 THAT YOU WANT TO GET A STATEMENT WHEN REFERRING
13 TO INTERVIEWING PEOPLE, IS THAT YOUR INTENTION
14 WHEN YOU'RE SITTING DOWN TALKING TO THEM, THAT
15 YOU WANT TO GET A STATEMENT OUT OF THEM?

16 A. WELL, I MEAN, THAT DEPENDS ON THE SITUATION. IF
17 YOU'RE INVESTIGATING A CRIME AND SOMEBODY'S GOT
18 PERTINENT INFORMATION, YES, YOU WANT TO GET A
19 STATEMENT FROM THEM.

20 Q. OKAY. ALRIGHT. AND LET ME BACK UP, WHEN YOU GET
21 THESE DMV PICTURES AND YOU'RE PUTTING OTHER
22 PICTURES WITH THEM WHAT YOU'RE TRYING TO DO IS
23 GET PICTURES THAT LOOK AS CLOSE AS POSSIBLE TO
24 THE PICTURE OF THE PERSON THAT YOU ARE CONCERNED
25 ABOUT, IS THAT AN ACCURATE STATEMENT?

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1 A. IF POSSIBLE.

2 Q. SURE. WHEN YOU WERE TALKING TO PATRICK DID YOU
3 SAY TO HIM THAT IF HE TOLD THE TRUTH OR IF HE
4 GAVE A STATEMENT, THAT THAT WOULD HELP HIM, DID
5 YOU TELL HIM THAT?

6 A. NO, SIR.

7 Q. DID YOU TELL HIM YOU WOULD TALK TO MR. PASCOE ON
8 HIS BEHALF?

9 A. NO, SIR. AS I STATED EARLIER, WHEN I GOT TO THE
10 OFFICE I WAS CALLED OVER THERE, AND HE WAS IN
11 THERE WITH HIS PARENTS, AND JUST LIKE I STATED
12 EARLIER, HE STATED THAT HE DIDN'T KNOW NOTHING
13 ABOUT NOTHING, AND ON HIS OWN FREE WILL HE JUST
14 BUST OUT AND START CRYING AND SAYING, I WANT TO
15 TELL THE TRUTH. AND I THINK THAT'S WHAT HE WROTE
16 IN HIS STATEMENT.

17 Q. HE WANTED TO DO WHAT WAS RIGHT?

18 A. BUT I CAN'T JUDGE PEOPLE, SIR.

19 Q. OKAY. AND WHAT, WHAT HE SAID TO YOU, YOU PUT
20 INTO YOUR REPORT, YOU ARE, AND MR. LACKEY ASKED
21 YOU ABOUT THIS, YOU ARE DOING THESE INVESTIGATIVE
22 REPORTS?

23 A. YES, SIR.

24 Q. OKAY. ALRIGHT. WHEN PATRICK WAS TESTIFYING I
25 THOUGHT HE REFERRED TO YOU AS JUNIOR SHUMPERT.

1 DID I HEAR THAT RIGHT?

2 A. YES, SIR.

3 Q. DO YOU KNOW HIM, DID YOU KNOW HIM BEFORE THIS?

4 A. NO, I DON'T KNOW HIM, NO, SIR.

5 Q. DO YOU KNOW WHY HE WOULD REFER TO YOU THAT WAY?

6 A. A LOT OF PEOPLE REFER, A LOT OF PEOPLE CALL ME
7 JUNIOR, A LOT OF PEOPLE CALL ME JUNIOR SHUMPERT,
8 A LOT OF PEOPLE CALL ME JAMES SHUMPERT, A LOT OF
9 PEOPLE CALL ME SHUMPERT. I MEAN, I HAVE NO
10 EARTHLY IDEA, YOU'D HAVE TO ASK HIM THAT.

11 Q. OKAY. DID YOU TELL HIM TO CALL YOU JUNIOR?

12 A. NO, I DIDN'T.

13 Q. I WOULD CALL YOU LIEUTENANT, RIGHT?

14 A. CORRECT.

15 Q. OKAY. FINE. SO YOU AND HE -- OKAY, ALRIGHT.
16 WHEN, WHEN HE MADE HIS STATEMENT, WHEN HE SPOKE
17 TO YOU AND MADE HIS STATEMENT HE NEVER SAID THAT
18 THEY NEEDED ANOTHER PERSON FOR THIS ROBBERY, DID
19 HE, HE SAID THEY NEEDED ANOTHER STRAP, THAT'S
20 WHAT YOU WROTE DOWN, ISN'T THAT RIGHT?

21 A. IN MY INVESTIGATIVE NOTES?

22 Q. YEAH, WITH - - -

23 A. DO YOU HAVE THEM RIGHT THERE, I'LL LOOK AT YOURS.

24 COURT REPORTER: HE SAID THEY NEEDED ANOTHER
25 WHAT?

CROSS - JAMES SHUMPERT BY MR. WISE

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1 MR. LACKEY: STRAP.

2 Q. THAT WAS THE TERM THAT HE USED, CORRECT?

3 A. I'M GOING TO HAVE TO READ IT. THE WHOLE THING,
4 BECAUSE I DON'T SEE IT, IT'S NOT HIGHLIGHTED.

5 Q. I'M SORRY, TAKE YOUR TIME.

6 A. YES, SIR.

7 Q. HE USED THE EXPRESSION, WE NEED ANOTHER STRAP;
8 NOT ANOTHER PERSON?

9 A. RIGHT, HE SAID, STRAP, UH-HUH.

10 Q. OKAY. ALRIGHT, AND THAT WORD, STRAP, IS WHAT
11 PEOPLE USE, SOMETIMES REFER TO AS A GUN?

12 A. CORRECT.

13 Q. OKAY. ALRIGHT. WHEN HE SPOKE TO YOU AND WROTE
14 HIS STATEMENT, HE NEVER SAID THAT ANYBODY GAVE
15 THEIR GUN TO RALPH, HE NEVER SAID THAT, DID HE?

16 A. I CAN'T RECALL, I JUST REMEMBER HIM SAYING THAT
17 HE PASSED -- PETE PASSED HIS GUN OFF TO SOMEONE.

18 Q. LOOK IN YOUR REPORT. YOU DON'T SEE ANYTHING IN
19 THERE ABOUT HIM SAYING ANYONE GAVE HIS GUN TO
20 RALPH?

21 A. NO, IT STATES HERE THAT PETE HANDED HIS GUN - - -
22 MR. MELLARD: OBJECTION, YOUR HONOR, HE CAN
23 ANSWER THE QUESTIONS BUT NOT WHAT'S HEARSAY.

24 THE COURT: ALRIGHT. I SUSTAIN YOUR OBJECTION.
25 LIEUTENANT SHUMPERT, IF YOU'D JUST ANSWER THE

1 QUESTION, IF YOU'LL JUST ANSWER HIS QUESTION, DON'T
2 READ THE REPORT. IF YOU WOULD, JUST ANSWER THE
3 QUESTION, DID -- IF YOU'LL REPHRASE THE QUESTION, DID
4 ...

5 Q. PATRICK NEVER SAID IN HIS CONVERSATIONS WITH YOU
6 OR STATEMENT THAT ANYONE PASSED A GUN TO RALPH?

7 A. NO, NOT IN THIS.

8 Q. OKAY. AND HE NEVER MENTIONED TO YOU OR WROTE IN
9 HIS STATEMENT THAT HE RAN OUT OF THE APARTMENT?

10 A. LET ME LOOK BACK IN HIS STATEMENT REAL QUICK.

11 Q. TAKE YOUR TIME.

12 A. NO, SIR.

13 Q. OKAY. AND HE NEVER MENTIONED TO YOU OR WROTE IN
14 HIS STATEMENT ANYTHING ABOUT ANYBODY SHOOTING A
15 DOG?

16 A. NO, SIR.

17 Q. OKAY. THERE OBVIOUSLY CAME A TIME WHEN PATRICK
18 OFFERED TO TESTIFY IN THIS CASE. DID HE DO THAT
19 YOUR FIRST MEETING?

20 A. NO, SIR, NOT WITH ME.

21 Q. OKAY. WERE, WERE YOU INVOLVED IN, WHEN THAT
22 ISSUE CAME UP ABOUT WHEN HE, THAT HE WOULD OFFER
23 TESTIMONY, WERE YOU INVOLVED AT ALL?

24 A. NO, SIR, I WASN'T INVOLVED WITH THAT.

25 Q. OKAY. ALRIGHT. SO, YOU DIDN'T MAKE ANY OFFERS

CROSS - JAMES SHUMPERT BY MR. WISE

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1 TO HIM ABOUT TESTIFYING?

2 A. NO, SIR, NO.

3 Q. YOU DIDN'T TALK TO HIS ATTORNEY ABOUT HIM
4 OFFERING TESTIMONY?

5 A. NO, I DIDN'T.

6 Q. WHEN YOU, AND MR. LACKEY HAD TOUCHED ON THIS,
7 WHEN YOU LOOK AT HIS STATEMENT, TAKING TOGETHER
8 WHAT HE TRIES TO DO IS MINIMIZE HIS INVOLVEMENT
9 AND INCREASE THE INVOLVEMENT OF EVERYBODY ELSE,
10 ISN'T THAT CORRECT? LET ME BE MORE SPECIFIC.

11 A. YES, SIR.

12 Q. WHEN YOU LOOK AT HIS STATEMENT AND READ YOUR
13 REPORT ABOUT WHAT HE SAYS, HE DOESN'T PUT ANY
14 GUNS IN HIS HANDS?

15 A. CORRECT.

16 Q. AND HE DOESN'T EVEN SAY HE WAS THERE?

17 A. OH, HE SAID HE WAS THERE.

18 Q. WHEN THE SHOOTING OCCURRED?

19 A. I -- NO, HE SAID HE WAS THERE.

20 Q. SO, HE SAYS HE WAS THERE WHEN THE SHOOTING
21 OCCURRED?

22 A. NO, I'M SAYING WHEN THE INCIDENT TOOK PLACE, BUT
23 I DON'T, YOU KNOW, FROM WHAT HE TESTIFIED TO.

24 Q. THAT'S GOOD, THAT'S A GOOD POINT. WOULD YOU
25 AGREE WITH ME THAT SOME OF HIS STATEMENTS TO YOU

1 AND THAT HE WROTE DOWN ARE VERY INCONSISTENT WITH
2 SOME OF THE THINGS HE TESTIFIED TO?

3 A. WELL, THAT'S JUST A MATTER OF OPINION, VERSUS
4 WHETHER HE RAN OUT THE HOUSE OR WALKED OUT THE
5 HOUSE, I JUST THINK THERE PROBABLY BEEN, YOU
6 KNOW, I JUST DON'T KNOW TOO MANY PEOPLE WHO WILL
7 PUT THEMSELVES IN A CRIME SCENE.

8 Q. OKAY. LET ME ASK YOU THIS, IN YOUR OPINION, - -
9 -

10 A. YES, SIR.

11 Q. --- WOULD YOU AGREE WITH ME THAT WHAT HE WROTE IN
12 HIS STATEMENT AND WHAT HE TOLD YOU IS
13 INCONSISTENT WITH SOME OF THE THINGS HE TESTIFIED
14 TO FROM THAT WITNESS STAND?

15 A. YES.

16 Q. OKAY. DURING THE COURSE OF THIS INVESTIGATION
17 YOU PERFORMED A, I GUESS IT'S A GUN SHOT RESIDUE
18 TEST ON ASHLEY PARSLEY THAT WAS PERFORMED?

19 A. IT WAS, BUT I DIDN'T DO IT.

20 Q. OKAY. ALRIGHT. YOU'RE THE LEAD INVESTIGATOR.
21 DID YOU CONSIDER HER A SUSPECT?

22 A. IN THE BEGINNING?

23 Q. YES.

24 A. YES, I DID.

25 Q. OKAY. IT'S, IS IT FAIR TO SAY THAT YOU CONSIDER

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1 THIS, EVEN NOW, AS A ROBBERY OF A PERSON WHO WAS
2 SELLING DRUGS, THAT'S WHAT THE MOTIVE OF THIS
3 WHOLE THING WAS?

4 A. YOU'RE ASKING ME WHAT I CONSIDERED?

5 Q. BASED ON YOUR INVESTIGATION?

6 A. WELL, FROM WHAT THE TESTIMONY, THAT'S WHAT IT MAY
7 APPEAR TO BE, PEOPLE ROB FOR DRUGS AND MONEY.

8 Q. OKAY. ALRIGHT. AND YOU, DURING THE COURSE OF
9 YOUR INVESTIGATION, LEARNED THAT ASHLEY PARSLEY
10 HAD TOLD SOMEONE ELSE, SOMEBODY NAMED HASSAN
11 GADDIST THAT THEY WERE SELLING DRUGS OUT OF THAT
12 APARTMENT, YOU BECAME AWARE OF THAT, DIDN'T YOU?

13 A. I CAN'T RECALL THAT ISSUE, IT MAY BE WRITTEN, I
14 CAN'T RECALL IT.

15 Q. OKAY. LIEUTENANT, JUST BEAR WITH ME ONE MINUTE.

16 A. YES, SIR.

17 MR. WISE: YOUR HONOR, JUST ONE MOMENT.

18 Q. LIEUTENANT, I'M GOING TO SHOW YOU A DOCUMENT,
19 OKAY?

20 A. YES, SIR.

21 Q. I DON'T WANT YOU TO TALK ABOUT IT, I JUST WANT
22 YOU TO LOOK AT IT.

23 A. YES, SIR.

24 Q. OKAY. DO YOU RECOGNIZE THAT?

25 A. YES, SIR.

CROSS - JAMES SHUMPERT BY MR. WISE

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1 Q. IS THAT YOUR SIGNATURE AT THE BOTTOM?

2 A. IT'S VERY FADED, BUT I BELIEVE IT IS, YES, SIR.

3 Q. OKAY. NOW, I WANT YOU TO LOOK NEAR THE BOTTOM.

4 A. UH-HUH.

5 Q. IS THERE A NOTATION ON THAT DOCUMENT THAT YOU
6 SIGNED THAT - - -

7 SOLICITOR SORENSON: YOUR HONOR, I'M GOING TO
8 OBJECT AT THIS POINT IN TIME. I MEAN, I DON'T THINK
9 HE LAID THE PROPER FOUNDATION WHEN THEY WERE
10 QUESTIONING MS. PARSLEY TO NOW BE ABLE TO IMPEACH,
11 ATTEMPT TO IMPEACH HER WITH THAT DOCUMENT. AND HE
12 NEVER ASKED HER, IT'S HEARSAY, AND HE NEVER ASKED HER
13 SPECIFICALLY ABOUT THAT, WHAT HE IS NOW SHOWING
14 LIEUTENANT SHUMPERT. I THINK UNDER RULE, I THINK IT'S
15 SIX THIRTEEN THAT HE HAS NOT LAID A PROPER FOUNDATION
16 IN AN ATTEMPT TO IMPEACH HER.

17 MS. ULLMAN: YOUR HONOR, I ACTUALLY QUESTIONED
18 MS. PARSLEY AND I DID QUESTIONED HER AS TO WHETHER SHE
19 DISCUSSED THIS WITH THE POLICE.

20 SOLICITOR SORENSON: YOUR HONOR, MAY WE APPROACH?

21 THE COURT: YES.

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

25 THE COURT: OKAY, LADIES AND GENTLEMEN, AS YOU

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1 CAN SEE, I'VE GOT SOMETHING I'VE GOT TO CONSIDER, AND
2 I MENTIONED BEFORE THAT I MAY HAVE TO TAKE UP SOME
3 THINGS AND MAKE SOME COMMENTS ON SOME THINGS OUTSIDE
4 OF Y'ALL'S PRESENCE. I'M GOING TO ASK Y'ALL TO STEP
5 BACK INTO THE JURY ROOM FOR JUST A SECOND AND NOT TALK
6 ABOUT THIS CASE FOR A MINUTE. OKAY? THANK YOU.

7 (Whereupon, the jury retires
8 to the jury room and the following
9 takes place out of the presence
10 of the jury.)

11 THE COURT: ALRIGHT, NOW, I'VE GOT THIS DOCUMENT
12 THAT YOU ARE ASKING HIM QUESTIONS ABOUT, AND I'M
13 GETTING THE IMPRESSION, MR. WISE, THAT YOU'RE ASKING
14 IF HASSAN GADDIST WAS A POSSIBLE SUSPECT?

15 MR. WISE: THAT'S WHERE I'M GOING, THAT'S EXACTLY
16 WHERE I'M GOING.

17 THE COURT: OKAY.

18 MR. WISE: THAT' EXACTLY WHERE I'M GOING.

19 THE COURT: AND WHEN I READ THIS THING, IT
20 INDICATES THAT MS. PARSLEY SAYS THAT SHE DIDN'T PLAN
21 TO ROB CHARLES PRINGLE, WHO IS THE VICTIM IN HERE, AND
22 THAT THE ONLY THING SHE DID IS, SHE TOLD THIS MR.
23 GADDIST WHERE SHE WAS NOW LIVING AND THAT THEY WERE
24 SELLING DRUGS IN THE APARTMENT.

25 MR. WISE: YES, SIR.

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1 THE COURT: WHAT DOES THAT, HOW DO YOU GET TO THE
2 POINT OF WHERE HASSAN GADDIST MIGHT BE A SUSPECT OF A
3 ROBBERY FROM THIS?

4 MR. WISE: WELL, MAYBE HE WAS AND MAYBE HE
5 WASN'T, BUT HERE'S THE ISSUE, - - -

6 THE COURT: TELL ME WHAT THE ISSUE IS.

7 MR. WISE: THE LIEUTENANT HAS TESTIFIED THAT THE
8 REASON THIS ROBBERY OCCURRED IS BECAUSE THERE WERE
9 DRUGS BEING SOLD BY MR. PRINGLE, AND BECAUSE THAT WAS
10 THE REASON FOR THE ROBBERY, I SUBMIT TO THE COURT THAT
11 PEOPLE WHO KNEW THAT DRUGS WERE BEING SOLD WOULD HAVE
12 THE SAME INTERESTS, IF YOU WILL, IN COMMITTING A
13 ROBBERY, SINCE THAT'S WHAT THIS WAS ALL ABOUT.

14 THE COURT: ALRIGHT. MR. SORENSON, DO YOU WANT
15 TO SAY ANYTHING?

16 SOLICITOR SORENSON: YES, IF I COULD, YOUR HONOR.
17 I GUESS MY OBJECTION NOW WOULD BE TWO-FOLD, AND
18 INITIALLY MY OBJECTION WAS THAT THEY DIDN'T LAY THE
19 PROPER FOUNDATION UNDER RULE SIX THIRTEEN, BECAUSE I
20 THOUGHT THEY WERE, AT THAT POINT, INITIALLY,
21 ATTEMPTING TO IMPEACH MS. PARSLEY. SO, UNDER THAT
22 LINE OF MY OBJECTION WOULD BE THAT THEY DID NOT ADVISE
23 HER OF THE SUBSTANCE OF THE STATEMENT, THE TIME AND
24 PLACE IT WAS ALLEGEDLY MADE, THE PERSON TO WHOM IT WAS
25 MADE, AND GIVE HER AN OPPORTUNITY TO EXPLAIN OR DENY

CROSS - JAMES SHUMPERT BY MR. WISE

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1 IT, SO THEREFORE, THEY WOULD NOT BE ABLE TO INTRODUCE
2 IT THROUGH LIEUTENANT SHUMPERT.

3 MY SECOND OBJECTION, ACTUALLY, IT'S PROBABLY I
4 THINK THE MORE RELEVANT OBJECTION AT THIS POINT IN
5 TIME IS THAT IT'S THIRD PARTY GUILT, AND I DON'T SEE
6 HOW, I MEAN, THAT LITERALLY IS THE VERY DEFINITION IS
7 JUST THROWING BARE SUSPICION ON SOMEBODY ELSE, I MEAN,
8 HOW THAT IS POSSIBLY RELEVANT. IF THAT'S, FROM WHAT I
9 HEAR FROM MR. WISE, IF THAT'S THE REASON WHY THEY WANT
10 TO GET INTO IT, IT'S EXACTLY TO TRY AND JUST POINT THE
11 FINGER AT SOMEBODY ELSE WHEN THIS EVIDENCE HAS
12 ABSOLUTELY NOTHING, I MEAN, IT DOESN'T IN ANY WAY
13 DISPROVE HIS CLIENT'S OR ANY OF THOSE OTHER
14 DEFENDANTS' GUILT IN THIS MATTER, AND I THINK IT IS
15 CLEARLY INADMISSIBLE UNDER THE CASE LAW DEALING WITH
16 THIRD PARTY GUILT.

17 MR. WISE: MAY I RESPOND, YOUR HONOR?

18 THE COURT: YES, SIR, YOU CAN RESPOND.

19 MR. WISE: WELL, ONE OF THE ISSUES I THINK IN
20 THIS CASE IS GOING TO BE WHO ALL WAS PRESENT AND WHO
21 ALL WAS BEING A PART OF THE PLANNING AND WHO ALL WAS
22 FIRING GUNS. AND SO, I THINK PEOPLE WHO -- ESPECIALLY
23 PEOPLE CONNECTED TO MS. PARSLEY WHO KNEW THAT THIS WAS
24 GOING ON IN THERE, THAT MAKES IT RELEVANT TO WHAT
25 HAPPENED. IF, DO YOU HAVE FOUR GUYS, OR FIVE GUYS, OR

CROSS - JAMES SHUMPERT BY MR. WISE

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1 SIX GUYS OR SEVEN GUYS, AND THREE GUNS OR FOUR GUNS,
2 SO I THINK THAT'S, THAT'S WHY I THINK IT BECOMES
3 RELEVANT.

4 THE COURT: OKAY. ALRIGHT, ONE OF THE QUESTIONS
5 THEY ASKED HER WAS, REGARDING CHARLES, DID YOU PLAN
6 WITH ANYONE TO ROB HIM? AND THE ANSWER WAS, NO. IS
7 THAT CORRECT?

8 MR. WISE: THAT'S CORRECT. ABSOLUTELY.

9 THE COURT: OKAY. ALRIGHT. ALRIGHT, I'M GOING
10 TO SUSTAIN YOUR OBJECTION. IF YOU WANT -- SINCE WE'VE
11 HAD THIS, YOU CAN NOTE YOUR OBJECTION TO MY RULING,
12 BUT WE'RE NOT GOING TO GO INTO HASSAN, WHATEVER HIS
13 NAME IS, AS A POSSIBLE DEFENDANT IN THIS CASE, OKAY,
14 AS A POSSIBLE THIRD PARTY DEFENDANT. OKAY? AND I'LL
15 NOTE YOUR OBJECTION TO MY RULING SO IT WILL BE
16 PRESERVED. AND IF YOU WANT TO, I'LL MAKE THAT
17 COURT'S EXHIBIT SO IT WILL BE PRESERVED FOR THE
18 RECORD.

19 MR. WISE: THANK YOU.

20 THE COURT: OKAY.

21 MR. WISE: I APPRECIATE IT.

22 THE COURT: OKAY. A LITTLE WHILE LATER WE'LL
23 MAKE A COPY OF THAT A COURT'S EXHIBIT NUMBER THREE SO
24 IT WILL BE PRESERVED FOR THE RECORD, SO THEY'LL HAVE
25 THAT IF YOU WANT TO GO FURTHER WITH THIS. OKAY?

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1 SO, YOU CAN HAND THAT BACK TO HIM. WE'RE THROUGH
2 WITH THAT PART OF IT. OKAY?

3 MR. WISE: GIVE IT TO THE COURT REPORTER?

4 THE COURT: YEAH, YOU CAN GIVE IT TO HER, WE'LL
5 RUN A COPY OF IT LATER. IF YOU'D JUST PUT A STICKY
6 NOTE ON THERE, IT WILL BE COURT'S NUMBER THREE,
7 PRESERVED. OKAY.

8 (Court's Exhibit Three marked
9 and preserved for the record.)

10 THE COURT: OKAY. I'M GETTING READY TO BRING THE
11 JURY BACK OUT. OKAY, BRING THE JURY ON BACK OUT.

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

16 THE COURT: LADIES AND GENTLEMEN, I APOLOGIZE FOR
17 HAVING TO HAVE Y'ALL STEP OUT OF THE ROOM, BUT BECAUSE
18 THERE WERE SOME THINGS WE NEEDED TO DISCUSS THAT Y'ALL
19 DIDN'T NEED TO HEAR THAT'S WHY I ASKED Y'ALL TO BE
20 EXCUSED WHILE WE DISCUSS SOME OF THE EVIDENCE.

21 ALRIGHT, IF YOU WANT TO PROCEED WITH YOUR CROSS-
22 EXAMINATION.

23 MR. WISE: THANK YOU, YOUR HONOR.

24 THE COURT: YES, SIR.

25 Q. LIEUTENANT, MR. LACKEY ASKED YOU IF YOU ARRESTED

1 RONNIE WASHINGTON, AND YOU SAID YOU HADN'T?

2 A. CORRECT.

3 Q. BUT YOU WOULD AGREE WITH ME, WOULDN'T YOU, THAT
4 IF YOU BELIEVED EVERYTHING PATRICK TYLER SAID, HE
5 WAS GUILTY OF THIS CRIME, HE WAS A PART OF THIS
6 WHOLE CRIME?

7 A. YES.

8 Q. IF YOU BELIEVED PATRICK TYLER?

9 A. CORRECT.

10 Q. OKAY. WHEN YOU SPOKE TO PATRICK TYLER INITIALLY
11 DID HE TELL YOU THE THINGS ABOUT RONNIE
12 WASHINGTON THAT HE TESTIFIED TO IN THIS TRIAL,
13 DID HE TELL YOU THAT INFORMATION?

14 A. I'M NOT SURE WHAT YOU'RE ASKING, BUT - - -

15 Q. OKAY.

16 A. --- IF IT'S THE WAY YOU'RE ASKING ME, HE DIDN'T
17 TELL ME NOTHING ABOUT RONNIE WASHINGTON BECAUSE
18 HE SAID HE DIDN'T KNOW THE DRIVER.

19 Q. OKAY. BUT LET ME BE MORE SPECIFIC.

20 A. OKAY.

21 Q. IF YOU -- HE OBVIOUSLY, THEN, IT'S YOUR TESTIMONY
22 THAT HE DIDN'T TELL YOU THAT WHEN THEY WERE IN
23 THE CAR THAT THEY WERE TALKING ABOUT THE ROBBERY,
24 HE DIDN'T TELL YOU THAT, DID HE?

25 A. NO, HE DIDN'T.

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1 Q. OKAY. HE DIDN'T TELL YOU THAT RONNIE WASHINGTON
2 DROVE THEM THERE?

3 A. HE SAID AN UNKNOWN DRIVER DROVE THEM THERE.

4 Q. OKAY. HE DIDN'T TELL YOU THAT ON THE WAY THERE
5 THAT DISCUSSIONS WERE TAKING PLACE IN THE CAR
6 ABOUT WHAT WAS GOING TO HAPPEN AT THE ROBBERY, HE
7 DIDN'T TELL YOU THAT, DID HE?

8 A. NO.

9 Q. OKAY. I MAY HAVE ASKED YOU THIS, HE DIDN'T TELL
10 YOU THAT THERE WERE GUNS IN THE CAR WHEN HE
11 TALKED TO YOU AND WROTE THAT STATEMENT, HE DIDN'T
12 TELL YOU THAT THERE WERE GUNS IN THE CAR?

13 A. NOT AT THE TIME, NO, HE DID NOT.

14 Q. OKAY. AND HE DIDN'T - - -

15 A. BUT HE DID ALSO SAY THAT HE HAD, THEY NEEDED
16 ANOTHER STRAP, SO BY HIM SAYING ANOTHER STRAP,
17 AND THEM GOING TO PICK UP WALTER HARRIS I ASSUMED
18 THERE WERE GUNS ALREADY IN THE CAR.

19 Q. WELL, HERE'S THE POINT, YOU HEARD HIM TESTIFY TO
20 THE GUNS BEING IN THE CAR EARLIER THIS WEEK,
21 RIGHT?

22 A. YES.

23 Q. OKAY. ALRIGHT. SO, IF YOU BELIEVED THAT WHAT HE
24 SAID IS TRUE, WOULDN'T YOU ARREST RONNIE
25 WASHINGTON?

1 A. NOT AT THIS TIME. LIKE I STATED EARLIER, WHEN I
2 LEARNED OF MR. WASHINGTON I SHOWED HIM A PHOTO
3 LINEUP OF HIM, AND HE WASN'T ABLE TO PICK HIM
4 OUT. AND SO, NOBODY ELSE REALLY HAVE CAME
5 FORWARD AND SAID, YEAH, THIS IS THE GUY THAT WAS
6 WITH US. SO, LIKE I SAID, IT'S A FURTHER
7 INVESTIGATION STILL GOING ON AT THIS TIME.

8 Q. BUT -- OKAY. FINE. OKAY. WHEN YOU WERE DOING
9 YOUR INVESTIGATION DID YOU INVESTIGATE SOMEBODY
10 NAMED CHRISTOPHER EVANS TO THIS?

11 SOLICITOR SORENSON: YOUR HONOR, OBJECTION. SAME
12 OBJECTION THAT I JUST MADE A LITTLE WHILE AGO.

13 THE COURT: I UNDERSTAND, I UNDERSTAND IT'S THE
14 SAME OBJECTION, AND TELL ME - - -

15 MR. WISE: WELL, YOUR HONOR, AT - - -

16 THE COURT: WELL, YOUR HONOR, - - -

17 THE COURT: WAIT A MINUTE.

18 MR. WISE: OKAY.

19 THE COURT: Y'ALL COME UP HERE.

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

23 THE COURT: THIS IS GOOD EXERCISE FOR ME, GOOD
24 EXERCISE FOR YOU. I'M GOING TO ASK Y'ALL TO GO BACK
25 INTO THE JURY ROOM AGAIN, ONE MORE TIME. OKAY?

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1 YOU'RE NOT GOING TO TALK ABOUT THE CASE AT ALL. I'M
2 GOING TO GO OVER SOME THINGS OUT HERE AND I'LL GET
3 Y'ALL BACK IN IN A FEW MINUTES. OKAY? THANK YOU.
4 (Whereupon, the jury retires to
5 the jury room and the following
6 takes place out of the presence
7 of the jury.)

8 THE COURT: MR. WISE, BEFORE I HAVE THE JURY GO
9 IN AND OUT ALL THESE TIMES I WANT TO KNOW THE NAMES OF
10 EVERYBODY YOU THINK ...

11 MR. WISE: I HAVE TWO MORE PEOPLE I WAS GOING TO
12 ASK HIM ABOUT.

13 THE COURT: GIVE ME, I WANT TO KNOW, I WANT TO
14 SEE THE BASIS OF YOU ASKING HIM ANY QUESTIONS ABOUT
15 ANYBODY ELSE.

16 MR. WISE: OKAY. I HAVE -- AND THEY'RE BOTH THE
17 SAME SITUATION.

18 THE COURT: OKAY.

19 MR. WISE: ONE IS CHRISTOPHER EVANS AND ONE IS
20 OMAR CAPERS.

21 THE COURT: OKAY.

22 MR. WISE: AND THESE NAMES COME UP THIS WAY, IN
23 THE DISCOVERY THAT WAS PROVIDED, THEY PROVIDED US WITH
24 WHAT I BELIEVE TO BE DMV PRINTOUTS OF THESE TWO
25 PEOPLE. WHEN LIEUTENANT SHUMPERT ...

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1 THE COURT: LET ME SEE THAT.

2 MR. WISE: OH. OKAY. WELL, YOUR HONOR, THIS IS
3 CHRISTOPHER EVANS.

4 THE COURT: YES.

5 MR. WISE: GIVE ME ONE MOMENT FOR MR. CAPERS.

6 THE COURT: THESE WERE INCLUDED IN DISCOVERY
7 DOCUMENTS THAT YOU GOT, THAT YOU GOT AS PART OF YOUR
8 RULE FIVE DISCOVERY?

9 MR. WISE: YES, SIR.

10 THE COURT: OKAY. AND WHAT DID YOU WANT TO ASK

11 ...

12 MR. WISE: I JUST WANTED TO ASK IF THEY
13 CONSIDERED THEM A SUSPECT IN THE ROBBERY, OF THESE ...

14 THE COURT: ASK HIM.

15 MR. WISE: OKAY.

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

CROSS, IN CAMERA - JAMES SHUMPERT BY MR. WISE

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CROSS-EXAMINATION, IN CAMERA, OF JAMES SHUMPERT

BY MR. WISE:

Q. CHRISTOPHER EVANS, DID YOU CONSIDER HIM A
SUSPECT?

A. NO. WELL, WITH CHRIS, ---

THE COURT: JUST ...

A. --- HIS NAME WAS LITTLE CHRIS.

THE COURT: OH, OKAY. NEVER MIND.

A. OH, WAS LITTLE CHRIS, THE NAME CAME UP, LITTLE
CHRIS. SO, CHRISTOPHER EVANS CAME UP, WE TRIED
TO GET HIM FOR IDENTIFICATION PURPOSES.

Q. BECAUSE HIS NAME MATCHED, KIND OF SOUNDED LIKE
ONE OF THE NAMES YOU HAD?

A. LITTLE CHRIS.

Q. I'VE GOT YOU.

A. RIGHT.

Q. OMAR CAPERS. DID YOU CONSIDER HIM A SUSPECT?

A. NOT AT THE TIME. THAT WAS ANOTHER NAME THAT CAME
UP.

Q. OKAY. HOW DID IT COME UP? MAY I ASK?

THE COURT: NO, GO AHEAD.

Q. HOW DID IT COME UP?

A. WE GET, LIKE WHEN WE HAVE INCIDENTS LIKE THAT WE
GET ZILLIONS OF CALLS, PEOPLE CALLING IN WITH
INFORMATION ABOUT, YOU KNOW, THIS PERSON, THAT

1 PERSON, THIS MAY BE LITTLE CHRIS, AND IF I'M NOT
2 MISTAKEN I THINK THAT WAS ONE THAT ALSO THEY MAY
3 HAVE CALLED HIM LITTLE CHRIS AT THE TIME. BUT I
4 THINK WHEN THOSE NAMES CAME UP WE WAS TRYING TO
5 FIND OUT WHO LITTLE CHRIS WAS.

6 Q. SO, YOU WERE TRYING TO FIND LITTLE CHRIS, YOU
7 USED CHRISTOPHER EVANS BECAUSE HIS NAME'S
8 CHRISTOPHER. AND SOMEBODY TOLD YOU THAT OMAR
9 CAPERS MAYBE LITTLE CHRIS?

10 A. IF I REMEMBER CORRECTLY, I'LL HAVE TO LOOK BACK,
11 I CAN'T REMEMBER.

12 Q. AS THE INVESTIGATION PROCEEDED, THOUGH, YOU
13 DIDN'T DO ANYTHING MORE WITH THOSE?

14 A. WELL, WE FOUND OUT THAT, IDENTIFIED LITTLE CHRIS
15 AS BEING CHRISTOPHER COLEMAN AFTER PATRICK PICKED
16 HIM OUT OF THE LINEUP, SO WE DIDN'T GO NO FURTHER
17 WITH MR. EVANS OR, I DON'T BELIEVE WE WENT ANY
18 FURTHER WITH THE OTHER GUY.

19 Q. YOU NEVER SHOWED THOSE PHOTOS TO ANYBODY ELSE?

20 A. NO, I DIDN'T EVEN DO A LINEUP OF THEM BECAUSE I
21 THINK WE HAD ALREADY IDENTIFIED LITTLE CHRIS AS
22 BEING CHRISTOPHER COLEMAN.

23 THE COURT: OKAY. ALRIGHT, I'M SUSTAINING YOUR
24 OBJECTION, WE'RE NOT GOING TO GO INTO THAT. I'LL NOTE
25 YOUR OBJECTION TO MY RULING ON THE RECORD. OKAY?

1 MR. WISE: THANK YOU.

2 WITNESS SHUMPERT: YOUR HONOR, - - -

3 THE COURT: YES, SIR?

4 WITNESS SHUMPERT: COULD I HAVE TWENTY-FIVE
5 SECONDS TO RUN TO THE RESTROOM?

6 THE COURT: SURE. YEAH. ALRIGHT, GO DO THAT.
7 NOBODY ELSE.

8 SOLICITOR SORENSON: I WAS GOING TO GO, TOO, BUT
9 I DON'T WANT TO GO WITH HIM.

10 THE COURT: WELL, GO AHEAD. GO AHEAD.

11 MR. PALMER: I'M FINE WITH THAT.

12 THE COURT: OKAY.

13 (Recess)

14 THE COURT: ALRIGHT. ARE Y'ALL READY?

15 SOLICITOR SORENSON: YES, SIR.

16 MR. WISE: YOUR HONOR, BEFORE YOU BRING THE JURY
17 IN, THERE WAS ONE OTHER NAME I WAS GOING TO ASK HIM
18 ABOUT THAT WAS A SUSPECT, I APOLOGIZE, BUT THAT NAME
19 IS CHRISTOPHER DWIGHT, WHO I THINK WAS ONE OF THE
20 PEOPLE THAT PURCHASED THE GUN.

21 THE COURT: BOUGHT THE GUN.

22 MR. WISE: YES.

23 THE COURT: AND YOU'RE GOING TO ASK HIM ABOUT?

24 MR. WISE: IF HE CONSIDERED HIM A SUSPECT IN THE
25 ROBBERY.

1 THE COURT: HE'S ALREADY TESTIFIED HE BOUGHT THE
2 GUN, BUT I'LL LET YOU ASK HIM IF THEY CONSIDERED HIM A
3 SUSPECT. OKAY?

4 MR. WISE: OKAY. I APOLOGIZE.

5 THE COURT: THAT'S OKAY.

6 MR. WISE: AND MAYBE I WON'T.

7 THE COURT: ALRIGHT. BRING THE JURY BACK IN.

8 (Whereupon, the jury enters
9 the courtroom and the following
10 takes place in the presence
11 of the jury.)

12 THE COURT: LADIES AND GENTLEMEN, YOU'LL FIND, I
13 LIKE TO STAND UP AND WALK AROUND, THAT HELPS ME. AND
14 SO, I KNOW Y'ALL PROBABLY GET TIRED OF SITTING, AND I
15 DO GET TIRED OF SITTING, SO I HOPE Y'ALL APPRECIATED
16 THE BREAK, GETTING UP, AND WE'RE GOING TO RESUME THE
17 CROSS-EXAMINATION NOW.

18 MR. WISE.

19 MR. WISE: THANK YOU, YOUR HONOR.

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

CROSS - JAMES SHUMPERT BY MR. WISE

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CROSS-EXAMINATION OF JAMES SHUMPERT

BY MR. WISE CONTINUES:

Q. LIEUTENANT SHUMPERT, YOU CONSIDERED CHRISTOPHER DWIGHT WHITE A SUSPECT, DIDN'T YOU?

A. YES, SIR.

Q. OKAY. ALRIGHT. LIEUTENANT, YOU TESTIFIED THAT RALPH AND CHRISTIAN LIVED TOGETHER, BUT YOUR RECORDS REFLECTED THEY DON'T LIVE TOGETHER, DO THEY? AND I CAN SHOW YOU YOUR ARREST REPORT IF THAT WOULD HELP REFRESH YOUR RECOLLECTION?

A. NO, I CAN EXPLAIN THAT. NORMALLY WHEN WE GET THE NAMES OF INDIVIDUALS AND ARE ABLE TO GET PROBABLE CAUSE YOU GO BY THE ADDRESS THAT YOU HAVE. WE BELIEVED THE TWO LIVED THERE. AND I BELIEVE THAT THE WARRANTS MAY BE HAVING DIFFERENT ADDRESSES, BUT YOU KNOW, PEOPLE MOVE SO MUCH YOU CAN'T KEEP UP WITH THEM.

Q. BUT THE INFORMATION THAT YOU HAVE IS TWO DIFFERENT ADDRESSES?

A. LET ME SEE, LOOK IT UP. CORRECT.

Q. OKAY. THANK YOU, LIEUTENANT.

A. UH-HUH.

Q. LIEUTENANT, ON TWO THOUSAND -- YOUR RESPONSIBILITIES, YOU UNDERSTAND ABOUT THE CRIME RATE IN ORANGEBURG, OR YOU KNOW THE STATISTICS

CROSS - JAMES SHUMPERT BY MR. WISE

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1 HERE, DON'T YOU?

2 A. NOT OFF HAND RIGHT NOW, BUT ...

3 Q. APPROXIMATELY HOW MANY MURDERS OCCURRED IN
4 ORANGEBURG THIS YEAR?

5 SOLICITOR SORENSON: YOUR HONOR, OBJECTION.

6 MR. WISE: YOUR HONOR, MAY WE APPROACH ABOUT
7 THIS? IT'S A LITTLE EXPLANATION.

8 THE COURT: ALRIGHT, SIR.

9 (Whereupon, a bench conference
10 is had out of the hearing of
11 the jury and court reporter.)

12 THE COURT: ALRIGHT, I WILL SUSTAIN YOUR
13 OBJECTION, AND AFTERWARDS WE'LL GO BACK AND WE CAN
14 TALK ABOUT IT ON THE RECORD LATER ON. OKAY?

15 MR. WISE: THANK YOU, YOUR HONOR.

16 THE COURT: THANK YOU, SIR.

17 MR. WISE: YOUR HONOR, THAT'S ALL THE QUESTIONS I
18 HAVE.

19 THE COURT: ALRIGHT, THANK YOU.

20 MR. WISE: THANK YOU, LIEUTENANT.

21 THE COURT: ALRIGHT, MR. PALMER.

22 MR. PALMER: THANK YOU, YOUR HONOR.

23 (NOTE: Blank lines on this page do not indicate any
24 part of record has been omitted. See next ensuing
25 page for sequential continuation of record.)

CROSS - JAMES SHUMPERT BY MR. PALMER

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CROSS-EXAMINATION OF JAMES SHUMPERT

BY MR. PALMER:

Q. LIEUTENANT SHUMPERT, GOOD TO SEE YOU AGAIN.

A. YES, SIR.

Q. AS YOU KNOW, I REPRESENT MR. WALTER LEE HARRIS.

A. YES, SIR.

Q. AND I'M JUST REMINDING YOU OF THAT, BUT YOU
ALREADY KNOW, JUST FOR THE RECORD. NOW, AND MY
QUESTIONS HOPEFULLY WILL BE UNDERSTOOD BY YOU TO
RELATE TO MR. HARRIS. I JUST WANTED TO GET THAT
OUT THERE AS WELL.

A. YES, SIR.

Q. NOW, YOU WOULD AGREE WITH ME, SIR, THAT OF ALL
THE EXHIBITS THAT ARE ON THE RECORD, SPECIFICALLY
REFERRING TO THE PHOTOGRAPHIC LINEUPS, THERE'S
ONLY ONE THAT RELATES TO WALTER LEE HARRIS?

A. CORRECT, YES, SIR.

Q. AND THAT'S THE ONE OF ASHLEY PARSLEY - - -

A. YES, SIR.

Q. --- THAT WAS DONE SHORTLY AFTER THESE ALLEGED
OCCURRENCES?

A. YES, SIR.

Q. AND YOU WOULD AGREE WITH ME THAT THIS CASE
INVOLVES SOME ALLEGED FACTS THAT PUT WALTER LEE
HARRIS AT THAT APARTMENT ON

KINGS

1 ROAD ON TWO SEPARATE OCCASIONS?

2 A. YES, SIR.

3 Q. OKAY. AND JUST FOR THE RECORD AND TO MAKE THIS
4 EASIER FOR US TO GET THROUGH THE QUESTIONING, I'M
5 GOING TO REFER TO THEM AS ALLEGED VISIT ONE AND
6 ALLEGED VISIT TWO, DO YOU FOLLOW ME WHERE I'M
7 GOING?

8 A. YES, SIR, YES, SIR.

9 Q. OKAY. AND SO, MS. PARSLEY'S PHOTO LINEUP, WOULD
10 YOU AGREE, RELATES TO ALLEGED VISIT ONE?

11 A. YES, SIR.

12 Q. AND THAT'S THE, WHEN WALTER LEE HARRIS WAS
13 ALLEGED TO HAVE VISITED THE APARTMENT BY HIMSELF?

14 A. YES, SIR.

15 Q. WENT IN, DEALT WITH MS. PARSLEY AND MR. OLD
16 SCHOOL, SHOWED HIS ID APPARENTLY, DIDN'T HAVE THE
17 WEED THAT HE WANTED, AND HE LEFT?

18 A. YES, SIR.

19 Q. IS THAT YOUR UNDERSTANDING OF WHAT HAPPENED, THE
20 BASIC FACTS OF ALLEGED VISIT ONE?

21 A. CORRECT, YES, SIR.

22 Q. OKAY. AND YOU WOULD AGREE WITH ME THAT AS FAR AS
23 THE RECORD GOES, AND YOU'VE HAD THE BENEFIT OF
24 BEING, LISTENING TO THE TESTIMONY, ESPECIALLY OF
25 PATRICK TYLER, YOU WOULD AGREE WITH ME THAT THE

CROSS - JAMES SHUMPERT BY MR. PALMER

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1 ONLY EVIDENCE IN THE FILE, IN THE CASE RIGHT NOW
2 THAT PUTS MR. WALTER LEE HARRIS AT THAT APARTMENT
3 DURING ALLEGED VISIT TWO, AND WHAT I'M REFERRING
4 TO SPECIFICALLY IS THE ALLEGATIONS OF THE ACTUAL
5 ROBBERY AND HOMICIDE AND THE BURGLARY, WHICH ARE
6 THE THREE CHARGES IN THE CASE, ARE THE STATEMENT
7 AND THE TESTIMONY OF PATRICK TYLER?

8 A. ARE YOU ASKING ME DO I AGREE?

9 Q. WELL, DO YOU AGREE THAT THAT'S THE ONLY EVIDENCE IN
10 THE CASE THAT PUTS -- IN THE CASE NO THE RECORD THAT
11 PUTS MR. WALTER LEE HARRIS AT THAT ADDRESS THE SECOND
12 TIME?

13 A. NO, SIR.

14 Q. YOU DON'T AGREE WITH THAT?

15 A. NO.

16 Q. OKAY. NOW, I WANT TO ASK YOU A LITTLE BIT -- I
17 KNOW YOU'RE TIRED OF TALKING ABOUT PATRICK
18 TYLER'S STATEMENT, - - -

19 A. YES, SIR.

20 Q. --- BUT I HAVE TO ASK YOU A COUPLE OF QUESTIONS
21 ABOUT IT, AND I'LL TRY TO GET THROUGH IT AS
22 QUICKLY AS I CAN. YOU'VE ALREADY TALKED ABOUT
23 HOW YOU INTERVIEWED MR. TYLER, AND I WANT TO ASK
24 YOU A COUPLE OF QUESTIONS ABOUT WHEN HE CAME IN
25 WITH HIS PARENTS - - -

1 A. YES, SIR.

2 Q. --- HE INITIALLY DENIED ANY KNOWLEDGE OR
3 INVOLVEMENT IN THIS, IS THAT AN ACCURATE
4 STATEMENT?

5 A. CORRECT, YES, SIR.

6 Q. OKAY. AND THEN, AT SOME POINT HE BECAME
7 EMOTIONAL AND THEN STARTED TO TELL YOU WHAT
8 HAPPENED, AN ACCURATE STATEMENT?

9 A. YES, SIR, HE SAID HE WANTED TO TELL THE TRUTH.

10 Q. OKAY. HOW MUCH TIME PASSED BETWEEN THE POINT
11 THAT HE DENIED ANY KNOWLEDGE AND INVOLVEMENT AND
12 THEN WHEN HE STARTED TO TELL YOU THAT HE WAS
13 INVOLVED?

14 A. A MATTER OF SECONDS.

15 Q. OKAY.

16 A. IT WAS LIKE HE JUST CAME IN, AND LIKE I SAID, HIS
17 PARENTS WAS STANDING THERE, AND IT WAS JUST A
18 MATTER, I MEAN, IT WAS LIKE LESS THAN A MINUTE.

19 Q. OKAY.

20 A. LIKE I SAID, HE DROPPED HIS HEAD AND START CRYING
21 AND SAID, I WANT TO TELL YOU THE TRUTH, I WANT TO
22 TELL YOU WHAT HAPPENED.

23 Q. OKAY. AND IN BETWEEN THE DENIAL AND THE
24 ADMISSION, IF YOU WANT TO JUST SUMMARIZE WHAT
25 HAPPENED, YOU DIDN'T HAVE ANY OTHER CONVERSATION

CROSS - JAMES SHUMPERT BY MR. PALMER

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1 WITH HIM?

2 A. ARE YOU TALKING ABOUT AFTER HE SAID HE WANTED TO
3 TELL THE TRUTH?

4 Q. WELL, NO, ACTUALLY BEFORE -- AFTER HE DENIED IT
5 AND BEFORE HE SAID HE WANTED TO TELL THE TRUTH. I
6 MEAN, YOU SAID IT WAS A SECOND, BUT YOU DIDN'T
7 SAY ANYTHING TO HIM TO INDUCE HIM TO FESS UP, IF
8 YOU WANT TO CALL IT THAT?

9 A. LIKE I SAID, AGAIN, HE CAME IN WITH HIS PARENTS
10 AND INITIALLY HE STATED WHAT HE STATED, AND HE
11 STARTED CRYING. AND AFTER THAT, I TOLD HIM TO
12 TELL ME WHAT HAPPENED, AND THEN HE WENT IN --
13 BEFORE HE DID THAT I MIRANDIZED HIM, GAVE HIM HIS
14 RIGHTS, AND THEN WE WENT INTO THE STATEMENT.

15 Q. OKAY. NOW, YOU KNOW, YOUR POSITION ON THE
16 SHERIFF'S DEPARTMENT, YOU'VE BEEN DOING THIS FOR
17 QUITE A WHILE, YOU'RE OBVIOUSLY AN EXPERIENCED,
18 SKILLED DETECTIVE, AND YOU HAVE IN THE PAST USED
19 CERTAIN INTERROGATION TECHNIQUES, IS THAT A FAIR
20 STATEMENT?

21 A. YES.

22 Q. AND DID YOU HAVE TO USE ANY OF THOSE SKILLS OR
23 TECHNIQUES TO GET MR. TYLER TO TELL YOU ABOUT
24 WHAT HAPPENED IN THIS PARTICULAR INCIDENT?

25 A. NO, AS A MATTER OF FACT, TO BE HONEST WITH YOU, I

1 THOUGHT IT WAS QUITE STRANGE BECAUSE I NEVER
2 REALLY HAD PEOPLE JUST THAT EASY TELL ME WHAT
3 HAPPENED.

4 Q. OKAY. HOW LONG DID IT TAKE YOU TO -- EXCUSE ME,
5 HOW LONG DID IT TAKE HIM TO TELL YOU WHAT
6 HAPPENED?

7 A. AFTER HE SAID HE WANTED TO TELL ME THE TRUTH?

8 Q. RIGHT.

9 A. HE WENT THROUGH WHAT HE SAID, I ASKED HIM WHAT
10 HAPPENED, HE WENT THROUGH IT, AND WHEN HE
11 FINISHED WE STARTED GOING INTO THE STATEMENT,
12 AND THAT WAS AT FOUR:FIFTY-THREE.

13 Q. OKAY. SO, AT FOUR:FIFTY-THREE YOU ASKED HIM TO
14 START WRITING, YOU GAVE HIM THIS FORM?

15 A. AT FOUR:FIFTY-THREE, CORRECT, YES, SIR.

16 Q. I DIDN'T MEAN TO TALK OVER YOU. YOU GAVE HIM
17 THIS FORM AND ASKED HIM TO FILL IT OUT?

18 A. YES, SIR, I DID.

19 Q. AND I BELIEVE YOU SAID THIS IS HIS HANDWRITING?

20 A. YES, SIR, THAT'S HIS HANDWRITING.

21 Q. OKAY. I WANT TO ASK YOU A COUPLE SPECIFIC THINGS
22 ABOUT IT. THE FIRST QUESTION IS, AND IT'S RIGHT
23 AT THE BEGINNING OF LINE TWO, HE REFERS TO
24 SOMETHING CALLED A LICK, L-I-C-K.

25 A. YES, SIR.

CROSS - JAMES SHUMPERT BY MR. PALMER

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1 Q. NOW, IN YOUR EXPERIENCE AS A DETECTIVE, WHAT DOES
2 A LICK MEAN, IS THAT SOME KIND OF STREET LINGO?

3 A. YEAH, FROM MY UNDERSTANDING IT'S SUPPOSED TO BE A
4 ROBBERY.

5 Q. OKAY. THAT'S A ROBBERY.

6 A. YES, SIR.

7 Q. HAVE YOU EVER HEARD OF ANYBODY REFER TO A
8 HOMICIDE AS A LICK?

9 A. NO, SIR.

10 Q. OKAY. SO, YOUR UNDERSTANDING, THAT SPECIFICALLY
11 REFERS TO A ROBBERY?

12 A. CORRECT.

13 Q. OKAY. SO, YOU WOULD INTERPRET THAT PART OF THE
14 STATEMENT TO SAY THAT THERE WAS SOME PLAN TO
15 COMMIT A ROBBERY?

16 A. CORRECT.

17 Q. OKAY. AND IT GOES ON TO SAY THAT, LET'S SEE, AND
18 HIS STATEMENT CONTAINS A LOT OF VERNACULAR THAT
19 I'M NOT FAMILIAR WITH SO I'M TRYING TO GET
20 THROUGH IT. IT SAYS, TO BUY, AND THEN IT SAYS,
21 A. M. GREEN FROM DUDE. WHAT DO YOU INTERPRET
22 THAT STATEMENT TO MEAN?

23 A. OKAY. ABOUT HOW FAR ARE YOU DOWN?

24 Q. OKAY. I'M SORRY, I'M ON THE THIRD LINE STARTING
25 AT THE FAR LEFT. BUY, AND THEN IT LOOKS A.M. TO

1 ME.

2 A. SUM.

3 Q. OH, THAT'S SUM, S-U-M. OKAY, TO BUY SUM GREEN
4 FROM DUDE. WHAT DOES THAT MEAN TO YOU?

5 A. TO PURCHASE MARIJUANA.

6 Q. OKAY. ALRIGHT. AND THEN FARTHER DOWN, SO IT'S
7 LINE ONE, TWO, THREE, FOUR, FIVE -- WELL,
8 ACTUALLY ABOUT IN THE MIDDLE OF LINE FOUR IT
9 SAYS, "THEY WAS, LIKE, WE NEED ANOTHER STRAP."
10 AND YOU'VE ALREADY TESTIFIED -- I'LL GIVE YOU
11 TIME TO FIND THE PLACE.

12 A. YEAH, I SEE IT, I FOLLOW YOU.

13 Q. OKAY. YOU'VE ALREADY TESTIFIED THAT TO YOUR
14 KNOWLEDGE AND YOUR EXPERIENCE STRAP MEANS A GUN?

15 A. CORRECT.

16 Q. OKAY.

17 A. OR OTHER WEAPON.

18 Q. AND THE STRAP MEANS THAT THEY NEED A PERSON WITH
19 A WEAPON OR THE WEAPON ITSELF?

20 A. WHAT I'M FAMILIAR WITH, A WEAPON.

21 Q. OKAY. ALRIGHT. OKAY, AND MOVING ON, IT SAYS,
22 "WE NEED ANOTHER STRAP." AND THEN IT GOES ON TO
23 SAY, IT LOOKS LIKE, "LITTLE M CALLED PEAT," AND
24 HE SPELLED IT P-E-A-T. "WE WENT AND GOT PEAT OFF
25 JAMISON. PEAT HOP IN THE JEEP, WE MADE IT 4" THE

CROSS - JAMES SHUMPERT BY MR. PALMER

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1 NUMERAL FOUR IT LOOKS LIKE, OR MAYBE IT ISN'T.

2 A. IT IS.

3 Q. OKAY. "WE MADE IF 4 A MINUTE, THAT'S WHEN WE
4 WENT TO THE PERSON THAT WAS SELLING THE WEED AND
5 PEAT WAS," AND THEN THERE'S A CORRECTION. DO YOU
6 REMEMBER HIM MAKING THAT CORRECTION?

7 A. YES, SIR.

8 Q. AND WHAT DID HE CORRECT, DO YOU RECALL?

9 A. I CAN'T SEE WHAT HE SCRATCHED OUT, BUT WHEN THEY
10 MAKE MISTAKES, WE GO BACK OVER THEIR STATEMENT
11 WITH THE. IF THEY HAVE ANY MISTAKES IN IT WE
12 JUST HAVE THEM SCRATCH IT OUT AND INITIAL IT.
13 BUT I CAN'T MAKE OUT - - -

14 Q. OKAY. AND DID HE DO THAT IN THIS CASE?

15 A. YES.

16 Q. OKAY.

17 A. HE GOT P.T. OVER IT.

18 Q. I SEE THE INITIALS. OKAY. AND IT SAYS, "AND
19 PEAT SAY, I'M BOUT TO GO BUY SOME WEED. HE COME
20 BACK, LIKE, IT'S A DUDE IN THERE I NO" SPELLED N-
21 O.

22 A. YES, SIR.

23 Q. AND YOU INTERPRETED THAT TO MEAN WHAT?

24 A. THAT HE KNEW A PERSON THAT WAS IN THE APARTMENT.

25 Q. AND DO YOU -- IS IT YOUR UNDERSTANDING WE'RE

1 STILL TALKING ABOUT ALLEGED VISIT NUMBER ONE?

2 A. CORRECT.

3 Q. WHEN MR. HARRIS ALLEGEDLY WENT IN AND PURCHASED,
4 TRIED TO PURCHASE THE WEED?

5 A. YES, SIR.

6 Q. OKAY. OKAY. AND THEN I'M READING ON, THERE'S NO
7 PUNCTUATION, BUT IT LOOKS LIKE, "EVERYBODY WAS
8 LIKE" AND THEN I CAN'T MAKE OUT THAT WORD. DO YOU
9 SEE WHERE I'M TALKING ABOUT?

10 A. YES, SIR.

11 Q. TO ME IT LOOKS LIKE C-I-T-E.

12 A. WELL, I GUESS THAT'S SHORT TERMINOLOGY FOR,
13 YOU'RE TRYING TO SAY ALRIGHT, BECAUSE THE I --
14 SO, I'M - - -

15 Q. OH, OKAY.

16 COURT REPORTER: SPELL WHAT YOU'RE SAYING?

17 A. WELL, IT'S SPELLED ON HERE, A-I-T-E, I BELIEVE
18 THAT'S A-I-T.

19 Q. OKAY. ALRIGHT, OKAY, SO "HE COME BACK LIKE IT'S
20 A DUDE IN THERE I NO. EVERYBODY WAS LIKE, AITE,"
21 IF I SAID THAT CORRECTLY, "THEN THAT'S WHEN THEY
22 CALLED POKE ON THE WAY. YOU AT POKE LIKE CORNER
23 POCKET." NOW, WITH YOUR CONVERSATION WITH MR.
24 TYLER, WHAT WAS THE, YOUR UNDERSTANDING OF WHY
25 THEY CALLED THE DEFENDANT THEY'VE REFERRED TO AS

CROSS - JAMES SHUMPERT BY MR. PALMER

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1 POKE?

2 A. I NEVER UNDERSTOOD THE REASON WHY THEY WENT IN
3 AND GOT HIM, I HAVE NO EARTHLY IDEA.

4 Q. OKAY. AND THEN IT SAYS, DESCRIBES, THEY WENT ON
5 TO GET POKE. NOW, YOUR UNDERSTANDING FROM THIS
6 STATEMENT THAT THE FIRST EXTRA STRAP THEY NEEDED
7 WAS MR. HARRIS?

8 A. A GUN, ANOTHER GUN.

9 Q. OKAY. AND AT SOME POINT THEY CALLED ANOTHER
10 STRAP IN, IS THAT YOUR UNDERSTANDING?

11 A. NO.

12 Q. NO?

13 A. MY UNDERSTANDING WAS, THEY WENT AND PICKED UP
14 ANOTHER INDIVIDUAL.

15 Q. OKAY. AND DID MR. - - -

16 SOLICITOR SORENSON: YOUR HONOR, TO THE EXTENT
17 THAT THEY'RE DISCUSSING WHAT ALL THAT STUFF MEANS,
18 THAT WOULD BE BASED ON HEARSAY. THE STATEMENT STANDS
19 BY ITSELF. I MEAN, ANYTHING THAT THEY KNOW ABOUT WHAT
20 IT MEANT, THAT WOULD BE CONVERSATION.

21 THE COURT: AND I WILL - - -

22 SOLICITOR SORENSON: IF YOU WANT TO TALK ABOUT,
23 I'M FINE WITH THAT, BUT - - -

24 THE COURT: OKAY. AND I WILL SUSTAIN HIS
25 OBJECTION TO THAT. YOU CAN ASK HIM ABOUT YOUR CLIENT,

1 BUT, YOU KNOW, I'M SUSTAINING HIS OBJECTION AS TO
2 REGARDING ANYBODY ELSE.

3 MR. PALMER: OKAY.

4 THE COURT: OKAY.

5 Q. NOW, IN YOUR INTERVIEW WITH MR. TYLER, - - -

6 A. YES, SIR.

7 Q. --- HE, DID HE DESCRIBE MR. HARRIS'S INVOLVEMENT
8 IN ALLEGED VISIT NUMBER TWO?

9 A. YES, HE DID.

10 Q. AND AS PART OF WHAT HE DESCRIBED TO YOU CONTAINED
11 IN THAT STATEMENT?

12 A. YES, SIR.

13 Q. OKAY. NOW, HE DID REFER TO MR. HARRIS AS HAVING
14 SOME DUCT TAPE, I THINK IT'S DOWN AT THE BOTTOM
15 OF THE FIRST PAGE?

16 A. YES, HE -- YES, SIR.

17 Q. OKAY. AND YOU ALSO WERE HERE WITH MR. TYLER
18 TALKED ABOUT MR. HARRIS RELINQUISHING HIS STRAP
19 OR HIS WEAPON. - - -

20 A. CORRECT.

21 Q. --- TO ONE OF THE OTHER DEFENDANTS?

22 A. YES, SIR.

23 Q. THAT, DOES THAT APPEAR, DOES THAT INFORMATION
24 APPEAR IN THIS STATEMENT?

25 A. NO, SIR.

CROSS - JAMES SHUMPERT BY MR. PALMER

822

1 Q. OKAY. WOULD YOU CONSIDER THAT TO BE AN
2 INCONSISTENCY?

3 A. IT'S NOT IN HIS STATEMENT BUT I DON'T THINK IT'S
4 INCONSISTENT FROM THE OTHER STATEMENTS THAT I HAD
5 TAKEN.

6 Q. OKAY. NOW, I'M GOING TO ASK YOU TO TURN TO PAGE
7 TWO WHERE IT SAYS AT THE TOP, PAGE TWO,
8 DEFENDANT'S AFFIDAVIT?

9 A. YES, SIR.

10 Q. AND IS THAT THAT QUESTION AND ANSWER SESSION?

11 A. YES, SIR.

12 Q. OKAY. AND I'M GOING DOWN TO THE THIRD QUESTION,
13 THEY'RE NOT NUMBERED BUT IT'S THE THIRD ONE THAT
14 APPEARS ABOUT SIX OR SEVEN LINES DOWN.

15 A. YES, SIR.

16 Q. AND YOU HAD WRITTEN, "WHO ALL HAD GUNS?"

17 A. CORRECT.

18 Q. AND WHAT DID TYLER WRITE?

19 A. "PEAT, LITTLE M, POKE AND RALPH."

20 Q. OKAY. AND THERE'S NO MENTION ANYWHERE ON THAT
21 PAGE ABOUT MR. HARRIS HAVING ANY DUCT TAPE AT
22 THAT POINT?

23 A. NO.

24 Q. OKAY. AND I'M GOING DOWN ABOUT, LET'S SEE, FIVE
25 MORE QUESTIONS, AND YOUR QUESTION THAT YOU WROTE

1 WAS, "WHO ALL TOOK GUNS INTO THE APARTMENT?" AND
2 WHAT WAS HIS RESPONSE?

3 A. "LITTLE M, POKE, PEAT AND RALPH."

4 Q. OKAY. AND DO YOU FIND THAT CONSISTENT WITH THE
5 INFORMATION ON PAGE ONE THAT TALKS ABOUT MR.
6 HARRIS HAVING THE DUCT TAPE?

7 A. IF YOU'RE ASKING ME MY OPINION, YES, BECAUSE FROM
8 WHAT I THINK MR. TYLER SAID WAS, THAT ONCE IN
9 THAT HIS GUN WAS PASSED OFF, PETE PASSED HIS GUN
10 OFF, AND I THINK HE SAID THAT SOMEBODY YELLED AT
11 PETE AND TOLD HIM TO TAPE THE GUY UP. SO, YES.

12 Q. OKAY. AND SO YOUR UNDERSTANDING OF THE STATEMENT
13 AND TYLER'S STATEMENT TO YOU WAS THAT PETE GOT
14 RID OF HIS GUN TO SOMEONE ELSE AND THAT'S WHEN
15 THE DUCT TAPE CAME INTO PLAY?

16 A. THAT'S MY UNDERSTANDING, YES, SIR.

17 Q. OKAY. ALRIGHT. AND YOUR LAST QUESTION WAS, "DID
18 THE VICTIM HAVE A GUN?" AND THE RESPONSE WAS?

19 A. "NO."

20 Q. NOW, YOUR INVESTIGATION REVEALED THAT THERE
21 ACTUALLY WAS A GUN IN THAT APARTMENT AT ONE
22 POINT?

23 A. YES, SIR.

24 Q. BELONGING TO MR. PRINGLE?

25 A. YES, SIR.

CROSS - JAMES SHUMPERT BY MR. PALMER

824

1 Q. AND DO YOU REMEMBER WHAT TYPE OF WEAPON THAT WAS?

2 A. I BELIEVE THEY SAID IT WAS A THREE FIFTY-SEVEN.

3 Q. OKAY.

4 A. BUT IT WAS NEVER RECOVERED.

5 Q. ALRIGHT.

6 MR. PALMER: GIVE ME JUST A MOMENT, PLEASE.

7 THE COURT: TAKE YOUR TIME.

8 Q. THE INFORMATION THAT TYLER GAVE YOU, IS IT YOUR
9 TESTIMONY HERE THAT HE GAVE IT WITHOUT ANY KIND
10 OF PROMPTING OR QUESTIONING FROM YOU, HE JUST
11 SORT OF WENT INTO A NARRATIVE AND TOLD YOU
12 EVERYTHING THAT HAPPENED?

13 A. YES, SIR, THE BEST I CAN RECOLLECT. LIKE I
14 SAID, AND I KEEP SAYING OVER AND OVER, I WAS
15 CALLED OVER TO THE OFFICE AND HE WAS IN THERE
16 WITH HIS PARENTS - - -

17 Q. UH-HUH.

18 A. --- AND LIKE I SAY AGAIN, HE INITIALLY SAID HE
19 AIN'T HAD NOTHING TO DO WITH IT, AND WENT INTO
20 THIS CRYING MODE, AND STARTED ...

21 Q. AND DO YOU RECALL HOW LONG IT TOOK HIM TO
22 COMPLETE THIS WRITTEN STATEMENT?

23 A. NO, SIR.

24 Q. AND WAS THIS THE ORIGINAL STATEMENT OR WERE THERE
25 ANY OTHER STATEMENTS THAT WERE DESTROYED OR

1 REVISED THAT RESULTED IN THIS ONE?

2 A. NO, SIR.

3 Q. OKAY. I'M JUST ASKING BECAUSE HE, HE GAVE YOU AN
4 INITIAL STATEMENT THAT WAS QUITE DIFFERENT, THAT
5 HE SAID HE DIDN'T KNOW ANYTHING ABOUT IT.

6 A. YEAH, THAT WAS VERBALLY.

7 Q. AND THAT WASN'T EVER REDUCED TO WRITING?

8 A. NO.

9 Q. OKAY. ALRIGHT. AND AT THE TIME THIS STATEMENT
10 WAS RENDERED WOULD YOU AGREE THAT MR. HARRIS WAS
11 ALREADY UNDER ARREST?

12 A. YES, HE WAS.

13 Q. OKAY. AND WAS THAT BASED ON THE PHOTO LINEUP OF
14 ASHLEY PARSLEY?

15 A. NO, SIR.

16 Q. THE PHOTO LINEUP HAD NOTHING TO DO WITH IT?

17 A. IT HAD SOMETHING TO DO WITH THE CASE BUT THAT
18 WASN'T WHAT HE WAS INITIALLY ARRESTED FOR.

19 Q. OKAY.

20 MR. PALMER: ALRIGHT, THANK YOU FOR YOUR
21 TESTIMONY.

22 A. YES, SIR.

23 THE COURT: ALRIGHT. MR. MELLARD.

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

CROSS - JAMES SHUMPERT BY MR. MELLARD

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CROSS-EXAMINATION OF JAMES SHUMPERT

BY MR. MELLARD:

Q. I'VE JUST GOT A COUPLE OF QUESTIONS.

A. YES, SIR.

Q. ALRIGHT.

THE COURT: I'M COUNTING.

Q. ALRIGHT, I'D SAY LESS THAN TWENTY.

THE COURT: OKAY. WELL, NOW, YOU WENT FROM A
COUPLE TO LESS THAN TWENTY, RIGHT? OKAY, THANKS.

Q. ALRIGHT. YOU INVESTIGATED THE CASE, WE'VE
ESTABLISHED THAT.

A. YES, SIR.

Q. AND YOU WENT TO ASHLEY PARSLEY, CORRECT?

A. YES.

Q. AND YOU SHOWED HER VARIOUS PHOTO LINEUPS?

A. WE CALLED HER IN.

Q. OKAY. YOU CALLED HER IN?

A. YES, SIR, YES, SIR.

Q. AND YOU SHOWED HER VARIOUS PHOTO LINEUPS?

A. YES, SIR.

Q. OKAY. AND ONE OF THESE PHOTO LINEUPS CONTAINED A
PICTURE OF DANNY RYANT?

A. CORRECT.

Q. AND SHE DID NOT PICK DANNY RYANT OUT OF THAT?

A. SHE DID NOT.

CROSS - JAMES SHUMPERT BY MR. MELLARD

827

1 Q. SHE DID NOT PICK DANNY RYANT AS A PERSON WHO HAD
2 COME INTO THE HOUSE ON MARCH THE TWELFTH?

3 A. NO, SHE DIDN'T.

4 MR. MELLARD: THAT'S IT. LESS THAN TWENTY, YOUR
5 HONOR.

6 THE COURT: YES, SIR, MUCH LESS THAN TWENTY.
7 THANK YOU, SIR.

8 MR. MELLARD: FOR THE RECORD, IT WAS SIX.

9 THE COURT: IT WAS SIX? OKAY.

10 MR. KOGER.

11 MR. KOGER: MAY IT PLEASE THE COURT.

12 THE COURT: YES, SIR.

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

CROSS - JAMES SHUMPERT BY MR. KOGER

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CROSS-EXAMINATION OF JAMES SHUMPERT

BY MR. KOGER:

Q. INVESTIGATOR SHUMPERT, HOW ARE YOU DOING?

A. YES, SIR.

Q. JUST FOR THE RECORD, I REPRESENT MARIO SHIVERS ON
THE END.

A. YES, SIR.

Q. OKAY. YOU TESTIFIED, TOO, THAT YOU DIDN'T KNOW
HOW LONG MR. TYLER AND HIS PARENTS WERE SITTING
IN THE OFFICE WITH THE CHIEF, CORRECT?

A. CORRECT.

Q. BEFORE YOU CAME?

A. CORRECT. I WAS CALLED OVER.

Q. YOU WERE CALLED OVER.

A. YES, SIR.

Q. OKAY. THE CHIEF NEVER COMMUNICATED THAT TO YOU?

A. COMMUNICATED WHAT, NOW?

Q. COMMUNICATED HOW LONG THEY WAS IN THE OFFICE
BEFORE YOU ARRIVED?

A. NO, HUH-UH.

Q. DID THE CHIEF COMMUNICATE TO YOU WHETHER SHE HAD
A CONVERSATION WITH THE PARENTS AND MR. TYLER?

A. NO, SHE DIDN'T.

Q. OKAY. NOW, YOU STATED THAT INITIALLY HE DENIED
IT AND THEN AFTER A COUPLE OF MINUTES HE BROKE

1 DOWN, CORRECT?

2 A. SECONDS, WITHIN SECONDS.

3 Q. WITHIN SECONDS. DID YOU TAKE HIM TO ANOTHER
4 ROOM?

5 A. NO, WE STAYED RIGHT THERE IN THE CHIEF'S OFFICE.

6 Q. AND WHEN YOU SAY, WE, DID THAT INCLUDE THE CHIEF?

7 A. NO, SERGEANT ETHERIDGE.

8 Q. OKAY. SERGEANT ETHERIDGE, AND HOW ABOUT THE
9 PARENTS?

10 A. THE PARENTS WAS THERE, YES, SIR.

11 Q. SO, SO MR. TYLER BROKE DOWN IN FRONT OF HIS
12 PARENTS AND MADE THE STATEMENT?

13 A. I BELIEVE HE DID. I BELIEVE AT ONE POINT, I'M NOT
14 SURE IF IT WAS THE MOM OR THE DAD THAT STEPPED
15 OUT, BUT THEY WAS THERE.

16 Q. OKAY.

17 A. BECAUSE WHEN I GOT THERE THEY WAS IN THE OFFICE.

18 Q. SO, AT LEAST ONE OF THE PARENTS WAS IN THE ROOM
19 THE WHOLE TIME THAT HE WAS MAKING THE STATEMENT?

20 A. I CAN'T REMEMBER IF THEY STAYED THE WHOLE TIME
21 BUT I'M ALMOST CERTAIN THEY WAS THERE.

22 Q. OKAY.

23 A. THEY WAS THERE WHEN I GOT THERE, LIKE I SAID.

24 Q. GOOD.

25 A. THEY NEVER LEFT.

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1 Q. THEY WERE THERE WHEN YOU GOT THERE. SO, YOU SAY
2 HE SIGNED THE WAIVER OF RIGHTS AT FOUR:FORTY-
3 THREE, THE WAIVER OF RIGHTS, APPROXIMATELY?

4 A. YES, SIR.

5 Q. OKAY. AND HE ACTUALLY GAVE HIS STATEMENT AT
6 FOUR:FIFTY-THREE?

7 A. YES, SIR.

8 Q. OKAY. AND HOW LONG DID IT TAKE HIM TO WRITE THAT
9 STATEMENT?

10 A. ONCE AGAIN, HE ASKED ME THAT BEFORE, AND I CAN'T
11 TELL YOU.

12 Q. OKAY.

13 A. I DON'T KNOW HOW LONG IT TOOK HIM TO WRITE IT.

14 Q. AND ONCE HE FINISHED WRITING THE STATEMENT YOU
15 TOOK THE STATEMENT FROM HIM?

16 A. I DID.

17 Q. ALRIGHT. AND YOU REVIEWED IT?

18 A. I DID.

19 Q. AND ONCE YOU REVIEWED THE STATEMENT, THEN YOU
20 ASKED ADDITIONAL QUESTIONS?

21 A. I DID.

22 Q. OKAY. AND DO YOU KNOW HOW LONG THAT PORTION
23 TOOK?

24 A. HOW LONG I ASKED THE QUESTIONS OR HOW LONG DID I
25 WRITE THE QUESTIONS OUT?

1 Q. WELL, HOW LONG HIS RESPONSE TO YOUR QUESTIONS
2 TOOK, BECAUSE HE WROTE THEM OUT, CORRECT?

3 A. I WILL WRITE, WE WILL GO STEP BY STEP. I ASK THE
4 QUESTIONS, INSTEAD OF JUST WRITING A LIST OF
5 QUESTIONS I ASK ONE QUESTION, HE WILL ANSWER.
6 I'LL WRITE THE NEXT QUESTION, AND HE WILL ANSWER.
7 SO, IT COULD HAVE TOOK A MATTER OF TEN, FIFTEEN
8 MINUTES, APPROXIMATELY.

9 Q. OKAY. AND DURING THE TIME THAT YOU WERE
10 INTERACTING WITH MR. TYLER DID THE PARENTS OR HIM
11 OBJECT?

12 A. NO, I DON'T RECALL THEM OBJECTING AT ALL.

13 Q. DID, DID THE PARENTS - - -

14 A. I BELIEVE THE DAD SAID, IF -- I BELIEVE THE DAD
15 SAID SOMETHING, BUT AS FAR AS, I CAN'T REMEMBER
16 WHAT HE SAID.

17 Q. OKAY. WELL, DID HE SAY SOMETHING TO YOU OR SAID
18 SOMETHING TO MR. TYLER?

19 A. I BELIEVE HE SAID SOMETHING TO HIS SON.

20 Q. OKAY. ALRIGHT. AND YOU DON'T RECALL THE
21 COMMENT?

22 A. WELL, SOMETHING SMALL, NO, SIR.

23 Q. OKAY. DO YOU RECALL THE MOTHER SAYING ANYTHING
24 TO MR. TYLER?

25 A. I BELIEVE THEY SPOKE BUT I CAN'T REMEMBER WHAT

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1 THE CONVERSATION WAS ABOUT.

2 Q. NOW, YOU SAY, YOU SAID THEY SPOKE. DID THEY
3 SPEAK BEFORE THIS SESSION STARTED OR DURING THE
4 SESSION?

5 A. WELL, THEY OBVIOUSLY SPOKE BEFORE BECAUSE, LIKE I
6 SAY, THEY THE ONES BRUNG THEM INTO THE OFFICE.

7 Q. OKAY.

8 A. AND WHILE WE WAS IN THE OFFICE, I MEAN, LIKE I
9 SAID, I BELIEVE THEY SAID SOMETHING TO HIM, BUT I
10 JUST -- I KNOW IT WAS A LOT OF CRYING, A LOT OF
11 HUGGING GOING ON AND, YOU KNOW, I BELIEVE THEY
12 SAID SOMETHING TO THE EFFECT, WE'LL BE THERE FOR
13 YOU, AND, YOU KNOW.

14 Q. AND THIS IS, THIS IS DURING, WHILE HE WAS
15 ACTUALLY SPEAKING TO YOU OR WRITING THE STATEMENT
16 OR - - -

17 A. IT WAS AFTER.

18 Q. IT WAS AFTER. WHAT INTERACTION DID THE PARENTS
19 HAVE WITH MR. TYLER DURING THE TIME HE WAS
20 WRITING THE STATEMENT AND ANSWERING YOUR
21 QUESTIONS, WRITING RESPONSES TO YOUR QUESTIONS?

22 A. LIKE I SAID, AGAIN, I CAN'T REMEMBER IF THERE WAS
23 ANY INTERACTION AT ALL. LIKE I SAID, ONCE HE
24 TOLD ME WHAT HAPPENED, I ASKED HIM TO WRITE THE
25 STATEMENT, HE STARTED WRITING THE STATEMENT, AND

1 THAT'S BASICALLY WHAT I RECOLLECT.

2 Q. YOU WOULD AGREE THAT THERE WAS A TOTAL OF FOUR
3 PEOPLE IN THE ROOM?

4 A. NO, SIR.

5 Q. OKAY. WHAT WAS THE TOTAL NUMBER OF PEOPLE IN THE
6 ROOM?

7 A. IT WAS MYSELF, INVESTIGATOR ETHERIDGE, PATRICK,
8 HIS PARENTS. THE CHIEF LEFT OUT.

9 Q. OKAY. SO, THE PARENTS, WAS IT ONE PARENT OR TWO
10 PARENTS?

11 A. LIKE I SAID, AGAIN, I CAN'T RECALL IF THEY CAME
12 IN AND OUT, BUT LIKE I SAID, THEY WAS THERE.
13 THAT'S ALL I CAN TELL YOU. I CAN'T TELL YOU, YOU
14 KNOW, HOW LONG THEY STAYED IN, HOW LONG THEY WENT
15 OUT, I MEAN, IT'S THE SAME ANSWER OVER AND OVER.

16 Q. BUT YOU CAN SAY THAT HE WAS THE ONLY MINOR IN
17 THAT ROOM UNDER EIGHTEEN?

18 A. CORRECT.

19 Q. OKAY. NOW, - - -

20 A. WE MAKE IT CUSTOMARY TO TALK TO THE PARENTS, WHEN
21 WE DEAL WITH MINORS WE ALWAYS MAKE IT CUSTOMARY
22 TO TALK TO THE PARENTS FIRST.

23 Q. NOW, INVESTIGATOR SHUMPERT, YOU STATED, I THINK
24 ON CROSS WITH ONE OF THE ATTORNEYS, THAT YOU DO
25 ACKNOWLEDGE THAT THERE HAVE BEEN SOME

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1 INCONSISTENCIES BETWEEN THE TESTIMONY OF MR.
2 TYLER AND WHAT HE WROTE ON MARCH EIGHTEENTH,
3 CORRECT?

4 A. YES, SIR.

5 Q. OKAY. AND WOULDN'T YOU AGREE, TO USE THE
6 TERMINOLOGY OF ATTORNEY PALMER, THAT THERE IS AN
7 INCONSISTENCY BETWEEN THE STATEMENT OF ASHLEY
8 PARSLEY AND ALLEGED VISIT TWO IN RELATION TO
9 PATRICK TYLER'S STATEMENT?

10 A. I'M NOT SURE IF I FOLLOW YOU. ARE YOU ASKING ME
11 - - -

12 Q. WELL, CAN YOU REVIEW THE STATEMENT YOU TOOK FROM
13 ASHLEY PARSLEY AND REVIEW THE STATEMENT THAT YOU
14 TOOK FROM - - -

15 A. IT'S DOWN THERE SOMEWHERE.

16 Q. OKAY. FROM MR. TYLER.

17 A. I'VE GOT TYLER'S HERE.

18 Q. YOU'VE GOT TYLER'S?

19 MR. KOGER: MAY I BEG THE COURT'S INDULGENCE,
20 YOUR HONOR?

21 THE COURT: TAKE YOUR TIME.

22 A. NOW WHAT WAS THE QUESTION NOW?

23 Q. WOULDN'T YOU AGREE THAT THERE IS AN INCONSISTENCY
24 WITH MS. PARSLEY SAYING THE SECOND TIME SOMEONE
25 CAME IN, SOMEONE CAME IN WITH A GUN?

1 A. IN HER STATEMENT SHE STATES THAT THERE WAS A
2 KNOCK AT THE DOOR AND SHE HAD A PISTOL IN HER
3 HAND.

4 Q. OKAY.

5 A. AND THE GUY WANTED TO BUY SOME MARIJUANA, AND
6 WHEN SHE REACHED DOWN TO GET IT THAT'S WHEN SHE
7 LOOKED UP AND THEY HAD A GUN.

8 Q. OKAY. SO, YOU WOULD SAY THAT'S AN INCONSISTENCY
9 WITH MR. TYLER SAYING THAT HE WENT IN TO ATTEMPT
10 TO PURCHASE SOME MARIJUANA?

11 A. WELL, I BELIEVE IT'S THE SAME, BECAUSE MR. TYLER
12 STATES THAT HE AND RALPH -- I'M GOING TO READ
13 BACK AT THE STATEMENT, BUT HE SAID THEY WENT IN
14 FOR THE PURPOSE OF ACTING LIKE THEY WERE GOING TO
15 BUY SOME MARIJUANA, AND I THINK THAT'S THE SAME.

16 Q. SO, YOU DON'T AGREE WITH THIS INCONSISTENCY, BUT
17 YOU HAVE TESTIFIED THAT THEY ARE SOME
18 INCONSISTENCIES BETWEEN WHAT MR. TYLER TESTIFIED
19 ON THE STAND AND WHAT HE WROTE BEFORE YOU ON
20 MARCH EIGHTEENTH?

21 A. YES, I DO.

22 Q. OKAY. ALRIGHT. NOW, YOU WERE THE LEAD
23 INVESTIGATOR IN THIS CASE?

24 A. YES, I WAS.

25 Q. OKAY. AND AS PART OF BEING A LEAD INVESTIGATOR