

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

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Appeal from Orangeburg County
Honorable Kristi Lea Harrington, Circuit Court Judge

S.C. SUPREME COURT

WALTER HARRIS,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2016-000891

A P P E N D I X

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INDEX

INDEX.....	i
TRIAL TRANSCRIPT DATED DECEMEBER 10-17, 2010	1
APPLICATION FOR POST-CONVICTION RELIEF FILED JANUARY 17, 2013.....	1129
AMENDMENT TO POST-CONVICTION RELIEF APPLICATION FILED JANUARY 22, 2013.....	1136
RETURN DATED MAY 2, 2013	1139
POST-CONVICTION RELIEF HEARING DATED OCTOBER 29, 2014	1146
ORDER OF DISMISSAL FILED JANUARY 15, 2015.....	1210
INDICTMENTS.....	1125

DIRECT - GERALD DAVID CARTER BY SOL. SORENSON

501

1 FIRING 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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502

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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503

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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504

1 THE COURT: OKAY. THANK YOU.

2 (State's Exhibits Thirty-nine through
3 Forty-nine marked and filed.)

4 Q. ALRIGHT. AND I'LL JUST PUT THESE BACK IN THE
5 ENVELOPE. BUT THESE ELEVEN ITEMS, THESE ELEVEN
6 SHELL CASINGS, IF YOU WOULD, JUST KIND OF SHOW
7 FOR THE JURY ON THE DIAGRAM WHERE THOSE ELEVEN
8 SHELL CASINGS WERE LOCATED AT? I KNOW THEY'VE
9 BEEN KIND OF COLOR CODED ON THERE ALSO?

10 A. YES, SIR. IN THE DIAGRAM THE NINE MILLIMETER
11 CASINGS HAVE BEEN COLOR CODED IN GREEN TO MAKE
12 THEM MORE VISIBLE, MAKE THEM EASIER TO SEE. ALL
13 OF THE NINE MILLIMETER SHELL CASINGS I FOUND AT
14 THE SCENE AND COLLECTED EXCEPT FOR ONE WERE
15 ACTUALLY LAYING -- THESE SEVEN WERE ON THE LOVE
16 SEAT. THEY WERE APPARENTLY PLACED IN THIS
17 POSITION AFTER THE CUSHIONS WERE LAID UP, WHEN
18 THE CUSHIONS WERE TURNED UP IT FELL ON IT, BUT
19 THEY WERE ALL UNDERNEATH WHAT WOULD HAVE BEEN
20 WHERE THE CUSHIONS WERE SITTING ON THE LOVE SEAT.
21 THERE WERE THREE NINE MILLIMETER CASINGS ON THE
22 SOUTH END, IF YOU WILL, THIS BEING THE NORTH WALL
23 OF THE RESIDENCE. ON THE SOUTH END OF THE LOVE
24 SEAT, ON THIS END THERE WERE THREE THERE, AND
25 THERE WAS A FINAL NINE MILLIMETER SHELL CASING

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505

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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506

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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507

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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508

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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509

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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510

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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511

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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512

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

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513

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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514

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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515

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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516

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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517

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

DIRECT - GERALD DAVID CARTER BY SOL. SORENSON

518

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

DIRECT - GERALD DAVID CARTER BY SOL. SORENSON

519

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

DIRECT - GERALD DAVID CARTER BY SOL. SORENSON

. 520

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?

DIRECT - GERALD DAVID CARTER BY SOL. SORENSON

521

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

522

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

DIRECT - GERALD DAVID CARTER BY SOL. SORENSON

523

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

524

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.

DIRECT - GERALD DAVID CARTER BY SOL. SORENSON

525

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

526

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

527

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

528

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

CROSS - GERALD DAVID CARTER BY MR. LACKEY

529

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.

530

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 I 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

531

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

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

533

- 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

534

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

535

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 PRIMARY 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

536

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

537

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. OKAY. 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

538

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

539

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

540

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

541

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

545

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

546

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

547

- 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

548

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

549

- 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 - SEANNON R. MITCHELL BY SOL. SORENSON

550

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

551

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

DIRECT - SHANNON R. MITCHELL BY SOL. SORENSON

552

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

553

- 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

554

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

555

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

556

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. 803 403 [REDACTED].

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

557

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

REDIRECT - 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

569

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 KNOWED 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.

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
7 pages and hard page breaks between testimony are now
8 required by the Court. See next ensuing page for
9 sequential continuation of record.)

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 FOR
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.)

RE CROSS - MONEAK R. BUSBY BY MR. MELLARD

607

RE CROSS-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.

1 THE COURT: ALRIGHT.

2 COURT REPORTER: JUDGE, EXCUSE ME, - - -

3 THE COURT: HAVE I ASKED HER?

4 COURT REPORTER: NO, SIR.

5 THE COURT: OKAY, MS. WALKER, WHAT HAVE YOU GOT
6 TO SAY?

7 COURT REPORTER: I FORGOT. DO YOU WANT THIS
8 COURTROOM LOCKED WITH THE EXHIBITS OUT LIKE THIS?

9 THE COURT: YES, MA'AM. WE'LL LOCK THE
10 COURTROOM. THANK YOU, MA'AM, FOR REMINDING ME OF
11 THAT.

12 COURT REPORTER: YOU'RE WELCOME.

13 THE COURT: SHE COMES IN VERY HELPFUL, Y'ALL, YOU
14 KNOW, SHE REALLY DOES.

15 ALRIGHT, WE'RE GOING TO BE IN RECESS UNTIL
16 ONE:THIRTY. OKAY? AND IF Y'ALL WILL SECURE THE
17 COURTROOM.

18 (Recess)

19 THE COURT: HAVE THEY ELECTED A FOREPERSON?

20 BAILIFF: I'LL FIND OUT.

21 THE COURT: WELL, WE CAN FIND OUT LATER. OH, MS.
22 JACKSON, AS A RETIRED TEACHER I DON'T EXPECT YOU TO
23 FORGET ANYTHING.

24 BAILIFF: I'VE GOT A LOT ON MY MIND.

25 THE COURT: YES, MA'AM, I UNDERSTAND.

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

627

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

DIRECT - DR. JANICE E. ROSS BY SOL. SORENSON

628

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

DIRECT - DR. JANICE E. ROSS BY SOL. SORENSON

629

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.

DIRECT - DR. JANICE E. ROSS BY SOL. SORENSON

630

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

631

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

632

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

633

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

635

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

636

1 A. CORRECT.

2 MR. ULLMAN: NO FURTHER QUESTIONS, YOUR HONOR.

3 THE COURT: THANK YOU.

4 MR. PALMER.

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 - DR. JANICE E. ROSS BY MR. PALMER

637

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

639

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

640

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

641

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

642

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

643

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

644

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

645

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

646

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

647

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

648

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

649

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

650

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

651

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

652

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

653

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

654

1 THE COURT: OKAY.

2 A. YES, SIR, I'VE SEEN ALL THOSE AS WELL.

3 Q. SO, ALL OF THOSE ITEMS WERE SUBMITTED TO YOU FOR
4 YOUR ANALYSIS IN THIS CASE?

5 A. YES, SIR.

6 Q. ALRIGHT. AND I GUESS THE BEST WAY TO DO THIS,
7 AGENT GREEN, IS TO JUST KIND OF TAKE THEM ONE AT
8 A TIME AND GET YOU TO KIND OF TELL THE JURY WHAT
9 YOUR FINDINGS WERE AS TO EACH OF THOSE AS WE GO
10 THROUGH. IF YOU WANT ME TO KIND OF GIVE THEM TO
11 YOU IN ORDER OR DO YOU -- IF YOU WOULD JUST KIND
12 OF IDENTIFY THE STATE'S EXHIBIT AND THE RIGHT
13 STICKER BEFORE YOU ...

14 A. OKAY. STATE'S EXHIBIT SIXTY-FOUR IS WHAT I'M
15 LOOKING AT RIGHT NOW.

16 Q. OF COURSE, NOW, YOU HAVE A DIFFERENT NUMBER THAN
17 THAT, IS THAT CORRECT?

18 A. YES, SIR.

19 Q. OKAY.

20 A. SO, I'M TRYING TO BALANCE THESE WITH MY NUMBERS.

21 Q. THAT SHOULD BE, I BELIEVE, YOUR ITEM TWENTY-FIVE
22 I BELIEVE, IS THAT CORRECT?

23 A. YES, SIR.

24 Q. THEY SHOULD BE IN ORDER. WHAT OTHER NUMBERS ARE
25 YOU LOOKING FOR?

DIRECT - JAMES GREEN BY SOL. SORENSON

655

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

656

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

657

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

658

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

659

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

660

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

661

FIREARM OR NOT.

Q. OKAY. AND I THINK ONE OF THE LAST THINGS I WANT TO ASK YOU ABOUT IS TO JUST GO BACK TO TWO OF THE ITEMS THAT YOU TESTIFIED ABOUT, STATE'S EXHIBITS SIXTY-NINE AND SEVENTY. START WITH STATE'S EXHIBIT SIXTY-NINE, I BELIEVE THAT WOULD BE YOUR ITEM THIRTY I BELIEVE. LET ME FIND THAT IN YOUR REPORT. AND WHAT IS, WHAT IS THE MARKER NUMBER THAT IS ON THAT LITTLE COIN ENVELOPE INSIDE THE PLASTIC ENVELOPE?

A. FORTY-THREE IS WHAT IT SAYS.

Q. AND WHAT IS NOTED ON THERE AS FAR AS WHERE THAT ITEM WAS FOUND? I THINK IT'S UNDERNEATH.

A. YEAH, IT SAYS, UNDER CARPET.

Q. UNDER CARPET. ALRIGHT. AND ONCE AGAIN, WHAT WERE THE RESULTS OF STATE'S EXHIBIT SIXTY-NINE?

A. THE SMALL COPPER FRAGMENT DIDN'T HAVE ANY MARKS OF VALUE ON IT, IT WAS UNSUITABLE, AND THEN THE BULLET ITSELF WAS MOST CONSISTENT WITH BEING A NINE MILLIMETER RUGER.

Q. ALRIGHT. AND THEN, STATE'S EXHIBIT NUMBER SEVENTY, YET AGAIN, WHAT IS THE MARKER NUMBER THAT'S LISTED ON STATE'S EXHIBIT NUMBER SEVENTY?

A. FORTY-FOUR.

Q. AND WHERE DOES IT INDICATE THAT THAT ITEM WAS

DIRECT - JAMES GREEN BY SOL. SORENSON

662

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

663

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

664

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

665

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

666

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

667

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

668

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

CROSS - JAMES GREEN BY MS. ULLMAN

669

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

670

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

671

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

672

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

673

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

674

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

675

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

681

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

682

- 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

683

SOLICITOR PASCOE: EIGHTH GRADE.

A. EIGHTH GRADE.

Q. AND DO THE TWO OF YOU ALSO GO TO O-W TOGETHER?

A. YES, SIR.

Q. OKAY. SPEAK UP.

A. YES, SIR.

Q. ALRIGHT. AND HOW CLOSE WERE YOU AND PATRICK BACK
IN MARCH OF THIS YEAR?

A. WE WAS COOL, WE WOULD CHILL OUT.

Q. WERE Y'ALL CLOSE FRIENDS?

A. YES, SIR.

Q. OKAY. HOW OFTEN WOULD THE TWO OF YOU HANG OUT
BACK IN MARCH AND FEBRUARY AND JANUARY?

A. DAILY.

Q. LET ME ASK YOU, HOW WELL DO YOU KNOW SOMEBODY BY
THE NAME OF MARIO SHIVERS?

A. I DON'T KNOW HIM.

Q. DID YOU EVER HANG OUT WITH MARIO SHIVERS BEFORE
MARCH THE TWELFTH?

A. NO, SIR.

Q. AND DID YOU KNOW WHAT NAME HE WENT BY?

A. LITTLE M.

Q. LITTLE M?

A. YES, SIR.

COURT REPORTER: LITTLE M? ALRIGHT.

DIRECT - DARRIUS GARNER BY SOL. PASCOE

684

- 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

685

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

687

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 SIX THIRTY-FIVE 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. 860 0216.
- 22 Q. SO, IT'S 860 86, I MEAN - - -
- 23 A. 0216.
- 24 Q. --- 0216. 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

695

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.

(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 - DARRIUS GARNER BY MR. KOGER

697

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

CROSS - DARRIUS GARNER BY MR. KOGER

699

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.

A. YES, SIR.

A. NOT EVERY DAY BUT EVERY DAY I HAD IT.

Q. EVERY DAY YOU HAD IT.

MR. KOGER: THANK YOU, NO FURTHER QUESTIONS.

THE COURT: ANYTHING ON REDIRECT?

SOLICITOR PASCOE: NO, SIR.

THE COURT: ALRIGHT. THANK YOU, SIR, YOU MAY
STEP DOWN, YOU ARE EXCUSED.

OKAY. AND IS THAT THE STATE'S LAST WITNESS FOR THE DAY?

SOLICITOR SORENSON: YES, SIR, YES, SIR. AND
WE'LL JUST HAVE PROBABLY ONE MORE TOMORROW.

THE COURT: OKAY. ALRIGHT, LADIES AND GENTLEMEN, I'M HOPING YOU FEEL LIKE IT'S GOOD NEWS. WE'RE GOING TO STOP THE TESTIMONY FOR TODAY AND COME BACK TOMORROW MORNING AT NINE O'CLOCK IN THE MORNING, AND RESUME TESTIMONY.

AGAIN, LET ME REMIND YOU, YOU CAN'T TALK ABOUT
THE CASE TO ANYBODY, YOU CAN'T READ ANYTHING ABOUT
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 SIX THIRTY-FIVE 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

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A. CORRECT.

Q. AND THE ATTACHED AFFIDAVIT TO STATE'S EXHIBIT
NUMBER THREE, WHO FILLED THAT OUT?

A. SHE DID, THAT'S HER HANDWRITING. I JUST SIGNED TO
WITNESS IT.

Q. OKAY. SHE SIGNED IT ALSO?

A. SHE DID.

Q. AND THAT WAS DONE BACK ON MARCH THE FIFTEENTH?

A. YES, SIR.

Q. NOW, AFTER SHE PICKED HIM OUT WERE YOU ABLE TO AT
THAT POINT IN TIME DETERMINE A POSSIBLE ADDRESS
FOR MR. HARRIS?

A. I DID.

Q. ALRIGHT. AND WHERE WAS THAT?

A. SEVEN, I BELIEVE IT WAS SEVEN O EIGHT
REPRESENTATIVE CIRCLE.

Q. AND WHERE IS THAT LOCATED AT?

A. WHAT WE CALL ROOSEVELT GARDENS APARTMENT COMPLEX
OFF OF SIX O ONE.

Q. OKAY. AND ON MARCH THE SIXTEEN, OR THAT
FOLLOWING DAY, THAT TUESDAY, DID THE SHERIFF'S
OFFICE, DID Y'ALL HAVE AN OPPORTUNITY TO EXECUTE
A SEARCH WARRANT ON THAT RESIDENCE?

A. WE DID.

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

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USED IN MR. PRINGLE'S MURDER?

A. WE DID.

Q. ALRIGHT. AND AT THAT POINT IN TIME WHO DID YOU
LEARN ALLEGEDLY HAD THAT WEAPON?

A. ANDRE WASHINGTON.

Q. OKAY. AND WHAT DID YOU THEN DO AS A RESULT OF
LEARNING THAT?

A. WELL, WHAT WE DID, WE GOT IN CONTACT WITH AN
INDIVIDUAL BY THE NAME OF CHRISTOPHER DWIGHT. WE
GAVE HIM THREE HUNDRED DOLLARS TO GO BUY THE
WEAPON BACK. WE PUT A WIRE ON HIM, VIDEO SO WE
COULD MONITOR THE TRANSACTION, AND ESSENTIALLY,
AFTER HE OBTAINED THE WEAPON HE TURNED IT BACK
OVER TO US.

Q. OKAY. SO YOU, IMMEDIATELY GOT POSSESSION OF THAT
WEAPON?

A. YES, SIR, WE DID.

Q. OKAY. IN SHOWING YOU STATE'S EXHIBITS NUMBER
SEVENTY-THREE AND SEVENTY-FOUR, IS THAT THE
WEAPON THAT MR. DWIGHT PURCHASED FROM MR.
WASHINGTON AND THEN TURNED OVER TO YOU ON MARCH
THE SEVENTEENTH?

A. YES, SIR, IT IS.

Q. AND AFTER THAT WAS DONE WERE YOU ULTIMATELY ABLE
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. 347, OR 803 347 9288.

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 FIFTEEN TWENTY-
22 FIVE ASHLEY AVENUE?

23 MS. ULLMAN: OBJECTION, YOUR HONOR, HE'S
24 TESTIFYING. HE COULD ASK HIM WHAT THE PIECE OF PAPER
25 SAYS.

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717

THE COURT: IF YOU'D JUST REPHRASE THE QUESTION.

SOLICITOR SORENSON: YES, SIR.

Q. WHAT IS THAT, AND WE'VE HEARD TESTIMONY OF THIS,
BUT WHAT IS THE NAME AND ADDRESS THAT THOSE
RECORDS ARE IN?

A. IT SAYS, "PETEY CRACK, FIFTEEN TWENTY-FIVE ASHLEY
AVENUE."

Q. OKAY. WHOSE HOUSE IS LOCATED AT FIFTEEN TWENTY-
FIVE ASHLEY AVENUE?

A. WALTER HARRIS'S GRANDMAMA.

Q. OKAY. NOW, THE FOLLOWING DAY, ON MARCH THE
EIGHTEEN, SO THAT WOULD BE NOW INTO THURSDAY OF
MARCH OF THIS YEAR, DID ANY OTHER DEFENDANTS AT
THAT POINT TIME TURN THEMSELVES IN ON THAT
THURSDAY, MARCH THE EIGHTEENTH?

A. YES, SIR.

Q. AND WHO WAS THAT?

A. DANNY RYANT AND PATRICK TYLER.

Q. OKAY. AND WERE THEY BOTH ARRESTED AT THAT POINT
IN TIME?

A. THEY WERE.

Q. BOTH CHARGED WITH MURDER, BURGLARY, FIRST, ARMED
ROBBERY?

A. YES, SIR, THEY WERE.

Q. NOW, DID YOU HAVE AN OPPORTUNITY ON MARCH THE

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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 FIFTEEN TWENTY 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.

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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.

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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

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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, DJJ 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. 803 860 6062.

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.

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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.

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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

729

- 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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730

- 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?

DIRECT - JAMES SHUMPERT BY SOL. SORENSON

731

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.

DIRECT - JAMES SHUMPERT BY SOL. SORENSON

732

- 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

733

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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734

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

735

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PICKED MR. RALPH COLEMAN OUT?

A. "HAD GO AND DO A MURDER."

Q. ALRIGHT. AND THEN, I'M SHOWING YOU STATE'S
EXHIBIT NUMBER SEVENTY-NINE, AND I AGAIN ASK YOU
IF YOU HAD AN OPPORTUNITY TO SHOW THAT LINEUP TO
MR. TYLER?

A. I DID.

Q. WHEN WSA THAT DONE?

A. THIS LINEUP WAS SHOWN ON MARCH TWENTY-THIRD, TWO
THOUSAND TEN.

Q. OKAY. AND WHO IS CONTAINED IN THAT LINEUP?

A. CHRISTIAN COLEMAN.

Q. ALRIGHT. AND WAS MR. TYLER ABLE TO PICK
CHRISTIAN COLEMAN OUT OF THAT LINEUP?

A. HE DID, NUMBER TWO.

SOLICITOR SORENSON: YOUR HONOR, AT THIS TIME
WE'D OFFER STATE'S SEVENTY-NINE INTO EVIDENCE.

THE COURT: ANY OBJECTION?

MR. LACKEY: NO OBJECTION, YOUR HONOR.

MS. ULLMAN: NO OBJECTION.

MR. PALMER: NO OBJECTION.

MR. MELLARD: NO OBJECTION.

MR. KOGER: NO OBJECTION.

THE COURT: ALRIGHT. IT IS ADMITTED INTO
EVIDENCE. THANK YOU.

DIRECT - JAMES SHUMPERT BY SOL. SORENSON

736

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

737

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.

DIRECT - JAMES SHUMPERT BY SOL. SORENSON

738

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?

DIRECT - JAMES SHUMPERT BY SOL. SORENSON

739

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 [REDACTED] 2014 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

DIRECT - JAMES SHUMPERT BY SOL. SORENSON

740

1 NUMBER MARIO SHIVERS HAD?

2 A. YES, SIR.

3 Q. WHAT NUMBER WAS THAT?

4 A. 803 [REDACTED] 6147.

5 COURT REPORTER: SIXTY WHAT?

6 A. 6147, 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, 803 [REDACTED] 6417, I'M SORRY.

11 Q. 6417.

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

741

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

742

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."

DIRECT - JAMES SHUMPERT BY SOL. SORENSON

743

- 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

744

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 [REDACTED] 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

DIRECT - JAMES SHUMPERT BY SOL. SORENSON

745

1 LOCATION AT SIX THIRTY-FIVE KINGS ROAD IS ON THAT
2 MAP?

3 A. THE INCIDENT LOCATION HAPPENED RIGHT HERE, AT SIX
4 THIRTY-FIVE 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 [REDACTED] 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

DIRECT - JAMES SHUMPERT BY SOL. SORENSON

746

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 [REDACTED]
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

COUNTY OF ORANGEBURG

STATE OF SOUTH CAROLINA)

versus)

CHRISTIAN COLEMAN,)
 RALPH BERNARD COLEMAN)
 WALTER LEE HARRIS,)
 DANNY RYANT, JR.,)
 MARIO MONTEZ SHIVERS)

DEFENDANTS)

COURT OF GENERAL SESSIONS

FIRST JUDICIAL CIRCUIT
VOLUME THREE OF THREE

TRANSCRIPT OF RECORD

DATE:

DECEMBER 10 - 17, 2010

CASE NOS.

2010-GS-38-802, 803, 805

2010-GS-38-808, 810, 811

2010-GS-38-812, 813, 814

2010-GS-38-817, 818, 819

2010-GS-38-822, 823, 824

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
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 ROWESVILLE, SOUTH CAROLINA 29133

I N D E X

(See Volume One for complete index.)

CROSS - JAMES SHUMPERT BY MR. LACKEY

749

DATE:

DECEMBER 16, 2010

(Continued from Volume Two.)

CROSS-EXAMINATION OF JAMES SHUMPERT

BY MR. LACKEY:

Q. GOOD MORNING.

A. HOW ARE YOU DOING, MR. LACKEY.

Q. GOOD. HOW ABOUT YOU?

A. ALRIGHT, FINE.

Q. LIEUTENANT SHUMPERT, YOU WERE THE LEAD
INVESTIGATOR ON THIS CASE, IS THAT CORRECT?

A. YES, SIR.

Q. OKAY. AND SO, YOU WERE RESPONSIBLE BASICALLY
FOR, ULTIMATELY RESPONSIBLE FOR ALL ASPECTS OF
THE INVESTIGATION?

A. YES, SIR.

Q. AND YOU'VE BEEN IN HERE DURING THIS ENTIRE TRIAL
AND LISTENED TO ALL THE TESTIMONY?

A. YES, SIR.

Q. AND THAT INCLUDES, OF COURSE, PATRICK TYLER?

A. CORRECT, YES, SIR.

Q. NOW, YOU KNOW MY CLIENT IS CHRISTIAN COLEMAN
RIGHT HERE ON THE END?

A. YES, SIR.

Q. OKAY. YOU TESTIFIED EARLIER THAT I THINK ASHLEY

CROSS - JAMES SHUMPERT BY MR. LACKEY

750

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

CROSS - JAMES SHUMPERT BY MR. LACKEY

751

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.

CROSS - JAMES SHUMPERT BY MR. LACKEY

752

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

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753

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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754

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."

CROSS - JAMES SHUMPERT BY MR. LACKEY

755

- 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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756

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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757

- 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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758

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.

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759

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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760

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

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761

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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762

- 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

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763

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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764

- 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?

CROSS - JAMES SHUMPERT BY MR. LACKEY

765

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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766

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

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767

- 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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768

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.

CROSS - JAMES SHUMPERT BY MR. LACKEY

769

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

770

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

771

- 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

772

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.

CROSS - JAMES SHUMPERT BY MR. LACKEY

773

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

774

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

775

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

776

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

777

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.)

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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

780

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.

CROSS - JAMES SHUMPERT BY MR. WISE

781

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

782

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-

CROSS - JAMES SHUMPERT BY MR. WISE

783

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

784

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

CROSS - JAMES SHUMPERT BY MR. WISE

785

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?

CROSS - JAMES SHUMPERT BY MR. WISE

786

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.

CROSS - JAMES SHUMPERT BY MR. WISE

787

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

788

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

CROSS - JAMES SHUMPERT BY MR. WISE

789

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

790

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

CROSS - JAMES SHUMPERT BY MR. WISE

791

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

CROSS - JAMES SHUMPERT BY MR. WISE

792

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

793

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

CROSS - JAMES SHUMPERT BY MR. WISE

794

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.

CROSS - JAMES SHUMPERT BY MR. WISE

795

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

796

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

797

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?

CROSS - JAMES SHUMPERT BY MR. WISE

798

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

CROSS - JAMES SHUMPERT BY MR. WISE

799

- 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.

CROSS - JAMES SHUMPERT BY MR. WISE

800

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?

CROSS - JAMES SHUMPERT BY MR. WISE

801

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?

CROSS - JAMES SHUMPERT BY MR. WISE

802

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

CROSS - JAMES SHUMPERT BY MR. WISE

803

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

804

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

CROSS, IN CAMERA - JAMES SHUMPERT BY MR. WISE

805

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

808

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

809

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

810

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 SIX THIRTY-FIVE KINGS

CROSS - JAMES SHUMPERT BY MR. PALMER

811

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

812

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 - - -

CROSS - JAMES SHUMPERT BY MR. PALMER

813

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

814

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

CROSS - JAMES SHUMPERT BY MR. PALMER

815

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

816

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

CROSS - JAMES SHUMPERT BY MR. PALMER

817

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

818

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

CROSS - JAMES SHUMPERT BY MR. PALMER

819

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

820

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,

CROSS - JAMES SHUMPERT BY MR. PALMER

821

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

CROSS - JAMES SHUMPERT BY MR. PALMER

823

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

CROSS - JAMES SHUMPERT BY MR. PALMER

825

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

826

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

828

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

CROSS - JAMES SHUMPERT BY MR. KOGER

829

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.

CROSS - JAMES SHUMPERT BY MR. KOGER

830

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?

CROSS - JAMES SHUMPERT BY MR. KOGER

831

- 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

CROSS - JAMES SHUMPERT BY MR. KOGER

832

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

CROSS - JAMES SHUMPERT BY MR. KOGER

833

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

CROSS - JAMES SHUMPERT BY MR. KOGER

834

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?

CROSS - JAMES SHUMPERT BY MR. KOGER

835

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

CROSS - JAMES SHUMPERT BY MR. KOGER

836

1 YOU WOULD PARTICIPATE OR HAVE SOME INPUT IN
2 WHETHER A SEARCH WARRANT IS EXECUTED OR NOT,
3 CORRECT?

4 A. CORRECT.

5 Q. ALRIGHT. OF COURSE, THE MAGISTRATE - - -

6 A. RIGHT, YES.

7 Q. --- SIGNS OFF ON IT, BUT YOU PROVIDE THE INPUT TO
8 THE MAGISTRATE?

9 A. YES, SIR.

10 Q. OKAY. NOW, I THINK YOU TESTIFIED TOO THAT YOU
11 RECEIVED SOME INFORMATION SOON AFTER THE INCIDENT
12 FROM LIEUTENANT CARTER?

13 A. ABOUT THE TYPES OF WEAPONS WE'RE LOOKING FOR?

14 Q. RIGHT.

15 A. YES, SIR.

16 Q. AND WHAT WERE THOSE TYPES OF WEAPONS AGAIN?

17 A. A NINE MILLIMETER, A FORTY CALIBER AND ANY TYPE
18 OF WEAPON THAT WOULD SHOOT A SIX, I MEAN, A SEVEN
19 POINT SIX TWO.

20 Q. OKAY. AND YOU ARRESTED MR. SHIVERS WITH A
21 WARRANT THAT WAS OBTAINED ON MARCH EIGHTEENTH,
22 CORRECT?

23 A. YEAH - LET ME LOOK BACK FOR SURE.

24 Q. YOU CAN REFRESH YOUR MEMORY.

25 A. CORRECT, YES, SIR.

CROSS - JAMES SHUMPERT BY MR. KOGER

837

1 Q. OKAY. AND ACCORDING TO THE WARRANT WHAT IS THE
2 DATE OF HIS ARREST?

3 A. THE TWENTY-FIRST.

4 Q. AND BY VIRTUE OF THAT, THE ADDRESSES, OR ADDRESS
5 ON THE WARRANT YOU HAD CREDIBLE INFORMATION WHERE
6 HE WAS STAYING AT THAT PARTICULAR TIME, CORRECT?

7 A. I BELIEVE, YES, SIR, I THINK, AND CORRECT ME IF
8 I'M WRONG, BUT I BELIEVE THE ADDRESS THAT WE GOT
9 WAS OFF OF HIS DMV PHOTO.

10 Q. OKAY. DOES ONE FIFTY-TWO LEQUINTA DRIVE HERE IN
11 ORANGEBURG JOG YOUR MEMORY?

12 A. HOLD ON ONE SECOND.

13 Q. YOU CAN REVIEW THE WARRANT. I HAVE A COPY OF THE
14 WARRANT OR ONE OF THE WARRANTS IF YOU WANT TO
15 VIEW IT.

16 A. OKAY. I'LL LOOK AT YOURS. YES, SIR.

17 Q. OKAY. AND IT'S ALSO ANOTHER ADDRESS ON THERE?

18 A. SOMEBODY HAND WRITTEN IN THERE, NINE FIFTY-FIVE
19 RODNEY STREET.

20 Q. AND FROM YOUR KNOWLEDGE, IS RODNEY STREET IN
21 ORANGEBURG COUNTY?

22 A. I BELIEVE SO. I'M NOT SURE WHERE IT IS, BUT I
23 BELIEVE SO.

24 Q. OKAY. IS IT IN THE CITY OF ORANGEBURG?

25 A. IT COULD BE, I DON'T KNOW.

CROSS - JAMES SHUMPERT BY MR. KOGER

838

1 Q. OKAY. SO, AROUND MARCH, A COUPLE OF DAYS AFTER,
2 LIEUTENANT CARTER COMMUNICATED TO YOU THE TYPE OF
3 WEAPONS THAT YOU WERE LOOKING FOR?

4 A. YES, SIR.

5 Q. OKAY. AND THEN YOU TOOK THE STATEMENT FROM MR.
6 TYLER ON MARCH EIGHTEENTH?

7 A. YES, SIR.

8 Q. OKAY. AND MR. SHIVERS WAS IMPLICATED IN THAT
9 PARTICULAR STATEMENT?

10 A. YES, SIR.

11 Q. OKAY. AND THAT WAS THE BASIS FOR HIS ARREST?

12 A. NO, THAT WASN'T THE ONLY BASIS FOR HIS ARREST.

13 Q. OKAY. ALRIGHT.

14 A. MS. PARSLEY HAS ALSO PICKED HIM OUT.

15 Q. OKAY. DID YOU EVER EXECUTE A SEARCH WARRANT OF
16 ONE FIFTY-TWO LEQUINTA DRIVE?

17 A. NO, I DID NOT.

18 Q. DID YOU EVER EXECUTE A SEARCH WARRANT FOR NINE
19 FIFTY-FIVE RODNEY STREET?

20 A. NO, SIR, I DID NOT.

21 Q. DID YOU EVER EXECUTE A SEARCH WARRANT FOR THE
22 WOODBINE LOCATION WITH CHRISTOPHER AND RALPH
23 COLEMAN?

24 A. NO, SIR.

25 Q. OKAY. DID YOU EVER EXECUTE A SEARCH WARRANT FOR

CROSS - JAMES SHOMPert BY MR. KOGER

839

1 THE RESIDENCE, OR ADDRESS OF DANNY RYANT?

2 A. NO, SIR.

3 Q. OKAY. DID YOU EVER EXECUTE A SEARCH WARRANT FOR
4 PATRICK TYLER'S RESIDENCE?

5 A. NO, SIR.

6 Q. OKAY. WHAT EFFORTS DID ORANGEBURG COUNTY
7 SHERIFF'S OFFICE PLACE FOR IN TRYING TO LOCATE
8 THESE MURDER WEAPONS?

9 A. WELL, THIS IS, IN MY EXPERIENCE, SIR, NORMALLY
10 WHEN YOU HAVE INDIVIDUALS THAT COMMIT CRIMES AND
11 THEY TURN THEMSELVES IN THEY'RE NOT GOING TO
12 LEAVE THE EVIDENCE AT THEIR HOUSE ONCE THEY TURN
13 THEMSELVES IN. SO, I MEAN, I JUST DIDN'T SEE NO
14 POINT IN GOING AND TEARING UP OTHER PEOPLE'S
15 HOUSES ONCE THESE GUYS TURNED THEMSELVES IN. I
16 MOST CERTAIN THEY'RE NOT GOING TO LEAVE A MURDER
17 WEAPON AT THEIR HOME, SO THAT'S WHY THE WARRANTS
18 WASN'T EXECUTED.

19 Q. DID YOU LOCATE AROUND, ANY TYPE OF SURROUNDING
20 AREAS, WOODED AREAS AROUND WHERE THESE DEFENDANTS
21 WAS LOCATED?

22 A. THEY TURNED THEMSELVES IN.

23 Q. BUT DID YOU -- SO, YOUR TESTIMONY IS THAT WE'VE
24 STILL GOT MURDER WEAPONS OUT HERE?

25 A. YES.

CROSS - JAMES SHUMPERT BY MR. KOGER

840

1 Q. AND THE ORANGEBURG COUNTY SHERIFF'S OFFICE DIDN'T
2 PUT FORTH ANY EFFORT TO FIND THESE MURDER
3 WEAPONS?

4 A. NO, THAT IS NOT WHAT I'M SAYING. AND IT'S A SCARY
5 THOUGHT ONE OF THE WEAPONS IS STILL OUT THERE,
6 BUT WHAT I'M SAYING IS, EVEN ON THE WARRANT THAT
7 ADDRESS WITH A SIMILAR WARRANT IS TOTALLY
8 DIFFERENT FROM THE ADDRESS WHERE HE RESIDES. WE
9 ONLY COULD GET THE ADDRESSES THAT'S OFF THE DMV
10 PHOTOS BECAUSE YOU CANNOT OBTAIN A WARRANT
11 WITHOUT AN ADDRESS. SO, WE GO BY THE LAST KNOWN
12 ADDRESS. SO, IF YOU'RE ASKING ME DID WE PUT FORTH
13 AN EFFORT, WE PUT FORTH THE BEST EFFORT THAT WE
14 CAN TO FIND WEAPONS. AND I THINK WE DID A GOOD
15 JOB BECAUSE WE GOT ONE OF THEM BACK.

16 Q. DURING THIS INVESTIGATION THOUGH, IN RELATION TO
17 MARIO SHIVERS, Y'ALL WAS ABLE TO ASCERTAIN HIS
18 CORRECT RESIDENCE, CORRECT?

19 A. NO.

20 Q. AFTER HE WAS LOCKED UP Y'ALL WERE ABLE - - -

21 A. AFTER HE WAS LOCKED UP.

22 Q. OKAY. ALRIGHT.

23 A. AFTER HE TURNED HIMSELF IN.

24 Q. SO, YOU HAD THE INFORMATION?

25 A. AFTER HE TURNED HIMSELF IN.

CROSS - JAMES SHUMPERT BY MR. KOGER

841

1 Q. AFTER HE TURNED HIMSELF IN?

2 A. RIGHT.

3 Q. DID Y'ALL MAKE ANY EFFORT WITH THAT INFORMATION
4 TO LOOK FOR ANY MURDER WEAPONS?

5 A. ONCE AGAIN, I STATE, ONCE A PERSON TURNS
6 THEMSELVES IN, I MEAN, THEY'RE NOT GOING TO LEAVE
7 EVIDENCE OF A CRIME THEY COMMITTED AT THEIR
8 NORMAL ADDRESS. IT JUST DON'T MAKE SENSE. SO,
9 NO, THERE WAS NO WARRANT TO SEARCH FOR ONE
10 ISSUED.

11 Q. ISN'T IT TRUE, INVESTIGATOR SHUMPERT, THAT THERE,
12 THAT THE ORANGEBURG COUNTY SHERIFF'S OFFICE HAS
13 NOT LOCATED ANY TYPE OF GUN, ANY TYPE OF RIFLE
14 THAT CONNECTS MARIO SHIVERS TO THESE CRIMES?

15 A. NO.

16 MR. KOGER: THANK YOU, NO FURTHER QUESTIONS.

17 THE COURT: ALRIGHT, THANK YOU, SIR.

18 ANYTHING ON REDIRECT?

19 SOLICITOR SORENSON: NO, SIR.

20 THE COURT: ALRIGHT. THANK YOU, LIEUTENANT
21 SHUMPERT, I APPRECIATE IT.

22 LIEUTENANT SHUMPERT: THANK YOU, SIR.

23 THE COURT: LADIES AND GENTLEMEN, I'M GOING TO
24 ASK Y'ALL TO GO BACK -- YOU CAN STEP DOWN, I'M SORRY.
25 I'M TALKING TO THE JURY RIGHT NOW. OKAY?

1 LADIES AND GENTLEMEN, I'M GOING TO ASK Y'ALL TO
2 GO BACK INTO THE JURY ROOM. I'M NOT EXCUSING YOU FOR
3 LUNCH RIGHT NOW, IT'S NOT BECAUSE I'M GOING TO CALL
4 YOU BACK IMMEDIATELY, IT'S BECAUSE I WANT TO TALK WITH
5 THE ATTORNEYS FOR A MINUTE AND DECIDE HOW LONG I'M
6 GOING TO GIVE Y'ALL FOR LUNCH. OKAY? SO, Y'ALL GO
7 BACK IN THE JURY ROOM. AGAIN, YOU HAVE NOT HEARD ALL
8 THE EVIDENCE IN THIS CASE, YOU CANNOT BEGIN TALKING
9 AMONG YOURSELVES ABOUT THIS CASE. OKAY? THANK Y'ALL.

10 (Whereupon, the jury retires
11 to the jury room and the following
12 takes place out of the presence
13 of the jury.)

14 THE COURT: OKAY. NOW, I'M NOT ASKING YOU TO REST
15 ON THE RECORD, BUT IT'S MY UNDERSTANDING THAT'S
16 Y'ALL'S LAST WITNESS?

17 SOLICITOR PASCOE: YES, SIR.

18 THE COURT: OKAY. AND SO, THEN, I KNOW I'VE GOT
19 MOTIONS TO HEAR FROM Y'ALL. OKAY?

20 SOLICITOR PASCOE: OKAY. AND WE'RE GOING TO
21 CHECK AND MAKE SURE EVERYTHING IS IN IF THAT'S OKAY.

22 THE COURT: YEAH.

23 SOLICITOR PASCOE: BUT THE STATE RESTS.

24 THE COURT: RIGHT, RIGHT. NOW, WHEN DO Y'ALL
25 WANT ME TO QUESTION THE WITNESSES, I MEAN, YOUR

1 CLIENTS ABOUT WHETHER OR NOT THEY'RE GOING TO TESTIFY
2 OR NOT?

3 MS. ULLMAN: I WOULD PREFER AFTER THE STATE
4 RESTED AND AFTER WE HAD A MOMENT, AFTER I HAVE A
5 MOMENT TO SPEAK WITH MR. COLEMAN TO SEE WHAT HIS
6 INTENTIONS ARE.

7 THE COURT: OKAY. WELL, THAT'S WHAT I WAS
8 ASKING, DO Y'ALL WANT TO -- BECAUSE I'M TRYING TO FIND
9 OUT WHEN I WANT THE JURY TO COME BACK, BECAUSE IT'S
10 GOING TO TAKE ME SOME TIME, I KNOW, TO LISTEN TO THE
11 MOTIONS, IT'S GOING TO TAKE ME SOME TIME TO GO OVER
12 THE QUESTIONING WITH ALL FIVE OF THEM. SO, AND THEN
13 GO ON AND EAT LUNCH IN BETWEEN?

14 MR. PALMER: I WOULD JOIN IN WHAT JILL SAID, BUT
15 I THINK I'LL NEED MORE THAN A MOMENT. I CAN DO IT OVER
16 THE LUNCH BREAK BUT - - -

17 THE COURT: OKAY. IS THAT WHAT Y'ALL WANT TO DO?
18 AND THEN I'LL QUESTION THEM WHEN WE COME BACK FROM
19 LUNCH. OKAY. WHAT I'M THINKING ABOUT DOING IS
20 LETTING THE JURY -- TELL THE JURY TO COME BACK AT,
21 SAY, TWO. THAT WILL GIVE US TIME TO DO THE MOTIONS
22 AND GO OVER THE QUESTIONS. Y'ALL HAVE A BREAK FOR
23 LUNCH, TALK WITH YOUR CLIENTS. OKAY?

24 ALRIGHT, WOULD YOU TELL THE JURY THEY ARE EXCUSED
25 AND ASK THEM TO BE BACK IN THE JURY ROOM AT TWO?

1 OKAY. THANK YOU.

2 ALRIGHT. ANYTHING FROM THE STATE BEFORE WE
3 BREAK?

4 SOLICITOR SORENSON: NO, YOUR HONOR, THANK YOU.

5 THE COURT: ANYTHING FROM THE DEFENDANTS BEFORE
6 WE BREAK?

7 MS. ULLMAN: NO, SIR.

8 THE COURT: Y'ALL WANT TO DO, ARE YOU GOING TO DO
9 YOUR MOTIONS NOW OR DO YOU WANT TO DO THEM WHEN WE
10 COME BACK?

11 MS. ULLMAN: YOUR HONOR, I DON'T THINK THEY'VE
12 OFFICIALLY RESTED.

13 SOLICITOR SORENSON: WELL, WE CAN STILL DO THEM
14 IF YOU WANT TO, WE'RE GOING TO REST AS LONG AS
15 EVERYTHING IS IN.

16 THE COURT: I MEAN, THEY'RE GOING TO REST WHEN
17 THE JURY COMES -- IT'S MY UNDERSTANDING THEY'RE GOING
18 TO REST WHEN THE JURY COMES BACK.

19 SOLICITOR SORENSON: YES, SIR.

20 THE COURT: AND SO, I WAS JUST TRYING - - -

21 SOLICITOR SORENSON: WE COULD JUST ASK MS. WALKER
22 IF THERE'S ANYTHING THAT'S NOT IN EVIDENCE RIGHT NOW,
23 I MEAN, THAT WILL ANSWER THEIR QUESTION, I MEAN, - - -

24 THE COURT: OKAY. LOOK AND SEE IF THERE'S
25 SOMETHING THAT'S NOT IN EVIDENCE, MS. WALKER.

1 COURT REPORTER: JUST A MINUTE.

2 THE COURT: UNFORTUNATELY, SHE'S GOT TO DO TWO
3 JOBS, SO -- OH, YEAH, YOU WANT TO GET YOUR NOTES.
4 THANK YOU FOR REMINDING ME.

5 COURT REPORTER: SOLICITOR, - - -

6 SOLICITOR SORENSON: UH-HUH.

7 COURT REPORTER: ON SEVENTY-SIX, CRIMINAL
8 INVESTIGATIVE SOMETHING, ID PHOTO LINEUP AND AFFIDAVIT
9 -- OH, THAT'S CHECKED OFF.

10 SOLICITOR SORENSON: YES.

11 COURT REPORTER: I SEE IT. OKAY, HOLD ON.
12 SOLICITOR, COME BACK. STATEMENT OF BUSBY, ID?

13 SOLICITOR SORENSON: YES, THAT'S ID, THAT IS NOT
14 IN.

15 COURT REPORTER: OKAY, JUST ONE MORE. HOLD ON.

16 SOLICITOR SORENSON: THAT SHOULD BE THE ONLY
17 THING.

18 COURT REPORTER: I'VE GOT ONE MORE SHEET. THAT'S
19 IT, THEY ARE ALL IN.

20 THE COURT: OKAY, ONLY ONE PERTAINING TO - - -

21 COURT REPORTER: WITH THE EXCEPTION OF THE
22 STATEMENT OF, NUMBER EIGHTY, THE STATEMENT OF BUSBY IS
23 ONLY ID, IT HAS NOT BEEN PUT IN.

24 THE COURT: ALRIGHT, THANK YOU, MA'AM.

25 AND MR. WISE, YOU WANTED TO CLEAR UP, YOU HAD,

1 WANTED TO ASK QUESTIONS ABOUT STATISTICAL MURDERS AND
2 ROBBERIES OR WHATEVER IN ORANGEBURG, OF LIEUTENANT
3 SHUMPERT, IS THAT CORRECT?

4 MR. WISE: YES, SIR, YOUR HONOR.

5 THE COURT: AND I SUSTAINED THE STATE'S
6 OBJECTION, BUT YOU WANTED TO PUT THE REASONS FOR YOUR
7 REQUEST ON THE RECORD?

8 MR. WISE: I DO, YOUR HONOR, AND THE REASON I
9 WANTED TO DO THAT IS, THERE'S GOING TO COME A POINT
10 WHERE REVIEWING THE CHARGES IN THIS CASE, AND ONE OF
11 THE CHARGES I'M GOING TO ASK THE COURT TO CONSIDER IS
12 THE CHARGE THAT'S BASED ON THE CASE, AND I'M SURE THE
13 COURT'S AWARE OF IT, THAT SAYS, WHEN PEOPLE BAND
14 TOGETHER TO COMMIT AN ILLEGAL ACT LIKE A ROBBERY, AND
15 A MURDER OCCURS, THAT YOU CAN'T CONVICT SOMEBODY WHO
16 IS A PARTICIPANT IF THE MURDER WASN'T A NATURAL AND
17 PROBABLE CONSEQUENCE OF WHAT THEY WERE BANDING
18 TOGETHER TO DO. SO, THE PURPOSE OF ASKING LIEUTENANT
19 SHUMPERT ABOUT THE CRIMES IN ORANGEBURG COUNTY WAS SO
20 THAT THERE WOULD BE A FOUNDATION FOR THE COURT TO BE
21 ABLE TO CONSIDER WHETHER OR NOT IT WAS AN APPROPRIATE
22 CHARGE.

23 THE COURT: OKAY. ALRIGHT, THANK YOU, SIR.

24 MR. WISE: THANK YOU, YOUR HONOR.

25 THE COURT: I APPRECIATE IT. WE HAVE NOW MADE

1 THAT A PART OF THE RECORD, AND THE OBJECTION.

2 ALRIGHT, NOW, DO Y'ALL WANT -- YOU KNOW, IT'S MY
3 UNDERSTANDING THE STATE'S NOT GOING TO PUT UP ANYMORE
4 EVIDENCE, THEY'RE GOING TO REST ON THE RECORD IN FRONT
5 OF THE JURY, YOU KNOW, WHEN WE COME BACK, AND I WAS
6 GOING TO GO AHEAD AND HEAR OUR MOTIONS NOW, BUT IF
7 Y'ALL WANT TO WAIT -- BECAUSE OTHERWISE WE COME BACK,
8 WE REST ON THE RECORD, THEN I LET THEM GO BACK OUT AND
9 THEN YOU MAKE YOUR MOTIONS FOR A DIRECTED VERDICT OR
10 WHATEVER YOU WANT TO MAKE. IS THAT, THAT'S WHAT Y'ALL
11 WERE PLANNING ON DOING, RIGHT?

12 MS. ULLMAN: YES, SIR.

13 THE COURT: OKAY. ANY PROBLEM WITH THEM PUTTING
14 ON THE RECORD THAT THEY ARE RESTING AND THEN WE'LL
15 JUST VERIFY IT WITH THE JURY WHEN THEY COME OUT, AND
16 THEN Y'ALL MAKE YOUR MOTIONS NOW? DOES ANYBODY HAVE
17 ANY PROBLEMS WITH THAT?

18 MR. LACKEY: YOUR HONOR, I THINK IT WOULD BE, IF
19 WE COULD, WE'VE HEARD THIS TESTIMONY TODAY, TO GIVE
20 THE ATTORNEYS HERE A LITTLE TIME TO TALK ABOUT THOSE
21 MOTIONS, SO I DON'T KNOW WHETHER IT WOULD MORE - - -

22 THE COURT: OKAY. THAT WILL BE FINE, WE'LL DO
23 THAT.

24 MR. LACKEY: -- EXPEDIENT TO JUST DO IT WHEN WE
25 COME BACK FROM LUNCH.

1 THE COURT: OKAY.

2 MS. ULLMAN: I WOULD ACTUALLY AGREE WITH THAT,
3 AND IF WE'RE TRYING TO SAVE THE JURY COMING OUT JUST
4 TO GO BACK IN, WE CERTAINLY, WHEN WE GET BACK, COULD
5 UNDERSTAND THEY'VE RESTED, MAKE OUR MOTIONS, LET THE
6 JURY COME IN, AND DO THEM RESTING ON THE RECORD.

7 THE COURT: OKAY.

8 MS. ULLMAN: WE DON'T, WE'RE NOT REQUIRING THE
9 MOVEMENT, WE JUST WOULD LIKE A MINUTE TO TALK ABOUT
10 IT.

11 THE COURT: OH, THAT'S NO PROBLEM. I WASN'T
12 TRYING TO HURRY Y'ALL ALONG. OKAY.

13 ALRIGHT, THEN WE'RE IN RECESS. WHAT TIME DO YOU
14 WANT -- THE JURY'S COMING BACK AT TWO, YOU WANT TO BE
15 BACK HERE AT, WHAT, TWENTY TIL TWO? ALRIGHT, Y'ALL,
16 DO Y'ALL WANT TO BE BACK AT TWO? Y'ALL TELL ME.

17 MR. LACKEY: I WOULD SAY, TWO, BECAUSE WE'VE GOT
18 TO TALK TO OUR CLIENTS.

19 THE COURT: OKAY, TWO O'CLOCK. ALRIGHT, WE'LL BE
20 BACK AT TWO. THANK Y'ALL. WE'RE IN RECESS UNTIL TWO.

21 (Recess)

22 THE COURT: OKAY. ANYTHING FROM THE STATE?

23 SOLICITOR SORENSON: NO, YOUR HONOR.

24 THE COURT: ANYTHING FROM THE DEFENDANTS?

25 MS. ULLMAN: YES, SIR.

1 THE COURT: OKAY. MS. ULLMAN.

2 MS. ULLMAN: THANK YOU. I BELIEVE THE STATE HAS
3 RESTED, AND I WOULD MAKE A MOTION FOR A DIRECTED
4 VERDICT ON BEHALF OF MR. COLEMAN. MR. COLEMAN IS HERE
5 TODAY CHARGED WITH THREE CHARGES. I'LL START WITH THE
6 ARMED ROBBERY.

7 THE COURT: YOU MEAN RALPH COLEMAN?

8 MS. ULLMAN: I'M SORRY, YES, SIR, MR. RALPH
9 COLEMAN. ARMED ROBBERY, THE ELEMENTS ARE TAKING
10 PERSONAL PROPERTY FROM ANOTHER WITHOUT THEIR CONSENT,
11 AGAINST THEIR WILL, WITH THE INTENT TO STEAL IT, DOING
12 IT IN THAT PERSON'S PRESENCE, AND DOING SO BY VIOLENCE
13 OR THREAT OF VIOLENCE OR INTIMIDATION. IN THIS
14 SITUATION, YOUR HONOR, WE'VE CERTAINLY HAD EVIDENCE --
15 LET ME REPHRASE THAT, I APOLOGIZE. I DON'T BELIEVE
16 THERE'S BEEN ANY EVIDENCE THAT ANYTHING'S BEEN
17 ACTUALLY TAKEN AWAY FROM ANOTHER. THE INDICTMENT
18 AGAINST RALPH COLEMAN IS AN INDICTMENT THAT STATES
19 THAT ON MARCH TWELFTH, ON OR ABOUT MARCH TWELFTH MR.
20 COLEMAN DID TAKE AND CARRY AWAY THE PERSONAL PROPERTY
21 OF CHARLES PRINGLE. I DON'T THINK THAT THERE'S BEEN
22 ANY EVIDENCE IN THIS CASE AS TO WHAT IT IS THAT WAS
23 ALLEGEDLY TAKEN. REALISTICALLY, THE ONLY WITNESSES
24 THAT WERE PRESENTED THAT COULD POSSIBLY SAY THAT
25 SOMETHING WAS MISSING FROM THAT HOUSE WOULD BE ASHLEY

1 PARSLEY OR SHANNON MITCHELL. CERTAINLY, NOBODY ELSE
2 THAT TESTIFIED HAS PERSONAL KNOWLEDGE AS TO WHAT WAS
3 IN THE HOUSE AND WAS NOT IN THE HOUSE AFTERWARDS.
4 CERTAINLY, SHANNON MITCHELL HAS NO KNOWLEDGE AS TO
5 WHAT WAS NOT IN THE HOUSE AFTERWARDS BECAUSE HE WAS
6 NOT ALLOWED BACK ON THE SCENE AND CERTAINLY NEVER WENT
7 BACK INTO THE HOUSE. ASHLEY PARSLEY DID NOT STATE
8 THAT ANYTHING WAS TAKEN FROM THAT RESIDENCE. THERE'S
9 NO EVIDENCE THAT ANYTHING WAS FOUND ON MR. COLEMAN. I
10 UNDERSTAND THAT HE DID TURN HIMSELF IN BUT THERE'S
11 CERTAINLY NO REASON THEY COULDN'T HAVE TRIED TO SEARCH
12 HIS HOUSE, THEY COULD HAVE GOTTEN A WARRANT.
13 INVESTIGATOR SHUMPERT ACTUALLY STATED THAT HE TURNED
14 HIMSELF IN I THINK ON THE TWENTY-SECOND OR TWENTY-
15 THIRD. HIS WARRANT HAD BEEN ISSUED ON THE NINETEENTH.
16 OBVIOUSLY, THEY HAD PROBABLY CAUSE AGAINST HIM ON THE
17 NINETEENTH, THEY CERTAINLY COULD HAVE GOTTEN A SEARCH
18 WARRANT AND LOOKED FOR ANYTHING TO SEE IF THERE WAS
19 SOMETHING TAKEN. THE ALLEGATION THAT WE'VE HEARD FROM
20 EVERYBODY, INCLUDING PATRICK TYLER, THE ONLY PERSON
21 WHO WAS ALLEGEDLY THERE DURING THIS INCIDENT, SAYS
22 THAT THEY WENT THERE WITH THE INTENT TO ROB MONEY AND
23 DRUGS. THEY FOUND MONEY IN THE KITCHEN, FOUND DRUGS
24 IN THE KITCHEN. I UNDERSTAND THERE MAY BE EVIDENCE
25 THAT THINGS WERE LOOKED FOR, TURNED UP CUSHIONS,

1 THINGS OF THAT NATURE, BUT ARMED ROBBERY IS NOT
2 SOMEONE TRIES TO TAKE SOMETHING, IT'S SOMEONE DID TAKE
3 SOMETHING, AND I CERTAINLY DON'T THINK THERE'S BEEN
4 EVIDENCE OF ANYTHING THAT'S BEEN TAKEN.

5 IN REGARDS TO THE MURDER, YOUR HONOR, I WOULD
6 ALSO MOTION THIS COURT FOR A FINDING, OR A DIRECTED
7 VERDICT. MURDER AS IT IS STATED IS AN INTENTIONAL
8 KILLING OF ANOTHER WITH MALICE AND MALICE
9 AFORETHOUGHT. YOUR HONOR, THERE'S BEEN NO TESTIMONY
10 AT ALL THAT THERE HAS BEEN ANY MALICE AFORETHOUGHT. I
11 THINK ANOTHER WAY TO EXPLAIN THAT IS KIND OF A
12 PREMEDITATION. I UNDERSTAND THE LAW DOESN'T SAY THAT
13 THERE HAS TO BE LOTS OF PREMEDITATION, BUT THE ONLY
14 TESTIMONY HERE THAT WE'VE HEARD IS BASICALLY THAT
15 PEOPLE ENTERED THIS HOUSE WITH THE INTENT TO ROB, THAT
16 THEY RANSACKED THE HOUSE AND THINGS WENT BAD
17 OBVIOUSLY, AND SOMEONE GOT SHOT. CERTAINLY, THAT IS
18 NOT MALICE AFORETHOUGHT. IT MAY BE -- I'M LOOKING FOR
19 THE WORD, I'M SORRY, YOUR HONOR -- IT MAY BE HEAT OF
20 PASSION. IF THEY WERE CHARGED WITH VOLUNTARY
21 MANSLAUGHTER I DON'T THINK I'D BE STANDING HERE MAKING
22 THIS MOTION, BUT THEY ARE NOT. I CERTAINLY THINK
23 ACCEPTING THE EVIDENCE AS TRUE, WHICH IN A DIRECTED
24 MOTION IS WHAT YOU MUST DO, LOOK AT IT IN THE LIGHT
25 MOST FAVORABLE TO THE STATE, TAKING PATRICK TYLER'S

1 STATEMENT AS IT IS IN THE LIGHT MOST FAVORABLE TO THE
2 STATE, IT IS THAT THEY WENT IN THERE TO ROB, AND WHILE
3 THEY WERE TRYING TO ROB HIM THE VICTIM MADE SOME
4 STATEMENTS, MADE SOME MOVEMENTS, AND AT THAT POINT
5 PATRICK TYLER HEARD GUNSHOTS. HE CERTAINLY NEVER SAID
6 THERE WAS INTENT TO GO IN THERE AND KILL ANYBODY, HE
7 NEVER SAID THEY SPOKE ABOUT IT, HE NEVER SAID WHILE
8 THEY WERE IN THERE ANYBODY SAID, HE'S NOT GIVING US
9 WHAT WE WANT, KILL HIM, NOTHING LIKE THAT. WHAT HE
10 SAID IS, THINGS WENT CRAZY, I HEARD GUNSHOTS AND RAN.
11 SO, I DON'T THINK THERE'S BEEN ANY EVIDENCE OF MALICE
12 AFORETHOUGHT.

13 LASTLY, YOUR HONOR, IN REGARDS TO - - -

14 THE COURT: BURGLARY, ONE.

15 MS. ULLMAN: EXCUSE ME?

16 THE COURT: BURGLARY.

17 MS. ULLMAN: YES, SIR. IN REGARDS TO THE
18 BURGLARY, IN REGARDS TO RALPH COLEMAN, BASICALLY,
19 AGAIN TAKING THE EVIDENCE IN THE LIGHT MOST FAVORABLE
20 TO THE STATE, IF YOU BELIEVE PATRICK TYLER THAT HE AND
21 RALPH COLEMAN WENT IN, THEY WENT IN THERE WITH THE
22 INTENTION OF BUYING WEED. THEY WERE LET IN BY THE
23 VICTIM. PATRICK TYLER ACTUALLY BOUGHT MARIJUANA WHILE
24 THEY WERE IN THERE. ACCORDING TO PATRICK TYLER, SO I
25 DON'T THINK THAT THEY ENTERED WITHOUT CONSENT. I

1 THINK WHEN YOU'RE A DRUG DEALER YOU HAVE YOUR DOOR
2 OPEN TO WHOEVER IS COMING IN TO BUY DRUGS, AND
3 CERTAINLY, YOU'RE CONSENTING TO THEM COMING IN FOR
4 THAT PURPOSE. THAT'S WHAT THEY WENT IN TO DO AND
5 THAT'S CERTAINLY WHAT THEY STARTED TO DO.

6 AND THAT WOULD BE MY BASIS FOR MY MOTION ON RALPH
7 COLEMAN.

8 THE COURT: THANK YOU. DO Y'ALL WANT TO RESPOND?

9 SOLICITOR PASCOE: I CAN, YOUR HONOR.

10 THE COURT: IF YOU WANT TO BRIEFLY RESPOND.

11 SOLICITOR PASCOE: OR I CAN WAIT UNTIL THE END,
12 IT DOESN'T MATTER.

13 THE COURT: IS EVERYBODY GOING TO MAKE SEPARATE
14 MOTIONS?

15 MR. PALMER: I'M GOING TO MAKE A MOTION.

16 THE COURT: OKAY. WELL, THEN, I'LL LET YOU WAIT
17 UNTIL THE END. OKAY. WHO WANTS TO GO NEXT?

18 MR. PALMER: I'LL GO NEXT, YOUR HONOR.

19 THE COURT: ALRIGHT, YES, SIR.

20 MR. PALMER: FIRST AND FOREMOST, YOUR HONOR, I
21 WOULD JOIN IN THE MOTION ALREADY MADE BY CO-COUNSEL,
22 BUT WITH REGARD TO MR. HARRIS ON THE SAME GROUNDS. AND
23 THEN ADDITIONALLY, YOUR HONOR, I WOULD MAKE AN
24 ADDITIONAL MOTION FOR A DIRECTED VERDICT ON THE CHARGE
25 OF MURDER WITH REGARD TO WALTER LEE HARRIS. THE

1 GROUND OF MY MOTION ARE AS FOLLOWS, YOUR HONOR.
2 THERE'S BEEN A LOT OF CIRCUMSTANTIAL EVIDENCE THAT
3 SUGGESTS MR. HARRIS HAD A GUN AND SO FORTH AND SO ON,
4 BUT THE ONLY THAT THE EVIDENCE THAT THE JURY HAS TO
5 SUPPORT THE CHARGE OF MURDER IS THE STATE'S WITNESS,
6 MR. TYLER, THAT DESCRIBED WHAT HAPPENED AT THE
7 APARTMENT. AND MR. TYLER'S TESTIMONY IS THAT MY
8 CLIENT RELINQUISHED HIS WEAPON AND INSTEAD HAD A ROLL
9 OF TAPE. AND YOUR HONOR, THERE'S NO EVIDENCE IN THE
10 RECORD THAT THE ORIGINAL PLAN WAS TO MURDER THIS
11 GENTLEMAN OR THAT THE PLAN DEVELOPED ON THE WAY TO THE
12 INCIDENT, OR EVEN THAT THESE DEFENDANTS ALLEGEDLY HAD
13 THE INTENT TO MURDER WHEN THEY ENTERED THE APARTMENT.
14 THE ONLY INFORMATION THE JURY HAS TO INFER INTENT IS
15 WHAT HAPPENED AFTER THEY GOT THERE BECAUSE EVERYONE
16 AGREES THAT THE PLAN WAS TO COMMIT A ROBBERY, AND
17 WHETHER OR NOT ALL OF THEM OR SOME OF THEM WERE IN ON
18 IT IS A FACTUAL DETERMINATION. BUT IF YOU BELIEVE MR.
19 TYLER, WHICH IS WHAT THE STATE'S RELYING THEIR CASE ON
20 PRIMARILY, IS THAT MR. HARRIS WAS IN THERE WITH A ROLL
21 OF TAPE, IN THE PROCESS OF RESTRAINING THE VICTIM,
22 AND HE HAD ALREADY GIVEN UP HIS WEAPON. SO, YOUR
23 HONOR, WHEN THE INTENT, IF THE JURY FINDS THERE WAS
24 INTENT TO MURDER, I THINK UNDER THE FACTS THE JURY
25 WOULD HAVE TO FIND THAT THE INTENT FORMED AFTER THE

1 DEFENDANTS WERE INSIDE THE APARTMENT IN THE PROCESS OF
2 CARRYING OUT THE ALLEGED ROBBERY, AND AT THAT POINT MY
3 CLIENT DID NOT HAVE THE MEANS TO COMMIT THE MURDER,
4 BECAUSE AS THE STATE'S WITNESS TESTIFIED, THE CAUSE OF
5 DEATH WAS FROM GUN SHOT WOUNDS AND NOT ANYTHING TO DO
6 WITH DUCT TAPE. SO, ON THAT BASIS I WOULD MAKE AN
7 ADDITIONAL MOTION FOR A DIRECTED VERDICT ON BEHALF OF
8 MR. HARRIS ON THE CHARGE OF MURDER.

9 THE COURT: ADDITIONAL REASON? AN ADDITIONAL
10 REASON REGARDING YOUR CLIENT?

11 MR. PALMER: YES, SIR, YES, SIR, THANK YOU.

12 THE COURT: OKAY. I JUST WANTED TO MAKE SURE.
13 OKAY.

14 MR. MELLARD.

15 MR. MELLARD: YES, SIR, I WOULD ALSO JOIN IN
16 THOSE MOTIONS. AS FAR AS THE ARMED ROBBERY, ON THE
17 SAME GROUNDS THAT MS. ULLMAN MADE, AND ALSO TO THE
18 EXTENT THAT IT APPLIES TO DANNY RYANT, THE SAME
19 GROUNDS THAT MR. PALMER MADE.

20 THE COURT: OKAY.

21 MR. MELLARD: AS FAR AS THE ARMED ROBBERY, AGAIN,
22 THERE'S NO EVIDENCE THAT ANY PROPERTY OF CHARLES
23 PRINGLE WAS TAKEN. ASHLEY PARSLEY, AGAIN, WAS THE ONLY
24 WITNESS WHO COULD HAVE TESTIFIED TO THAT, AND FROM
25 WHAT I HEARD I DON'T BELIEVE SHE PROVIDED ANY

1 TESTIMONY THAT MR. PRINGLE'S PROPERTY WAS TAKEN.

2 AS FAR AS THE BURGLARY, FIRST, MS. PARSLEY DID
3 NOT SEE DANNY RYANT ON MARCH THE TWELFTH, I BELIEVE
4 THAT WAS ESTABLISHED BY HER TESTIMONY AND ALSO BY
5 OFFICER SHUMPERT'S TESTIMONY.

6 AND AS FAR AS THE MURDER, AGAIN I WOULD REITERATE
7 WHAT EVERYBODY ELSE SAYS, THAT THE PURPOSE OF GOING
8 THERE WAS TO ROB, IT WAS NOT TO KILL.

9 THE COURT: OKAY. THANK YOU, SIR.

10 WHO'S NEXT? MR. KOGER?

11 MR. KOGER: YOUR HONOR, MAY IT PLEASE THE COURT.

12 THE COURT: YES, SIR.

13 MR. KOGER: I, TOO, JOIN IN WITH SEVERAL OF MY
14 COLLEAGUES AS FAR AS DIRECTED VERDICT ON THESE THREE
15 PARTICULAR CHARGES. IN RELATION TO THE MURDER IT'S
16 BEEN TESTIFIED TO IN RELATION TO MARIO SHIVERS AGAIN
17 AND AGAIN THAT THERE'S NO PHYSICAL EVIDENCE, NO MURDER
18 WEAPON THAT CONNECTS MR. SHIVERS TO THESE PARTICULAR
19 CRIMES. SO THEREFORE, NO EVIDENCE EXISTS FOR, ON THE
20 MURDER CHARGE TO GET TO THE JURY FOR A JURY TO MAKE A
21 DETERMINATION. THERE'S NOTHING THAT PLACES MARIO
22 SHIVERS THERE IN RELATION TO THE MURDER.

23 AS FAR AS WITH THE ARMED ROBBERY, I AGAIN JOIN IN
24 WITH THE GROUNDS SET FORTH BY CO-COUNSEL ON THAT
25 PARTICULAR INSTANCE. THERE HAS BEEN NO TESTIMONY OF

1 ANY TYPE OF GOODS OR ANY TYPE OF MONIES TAKEN OFF OF
2 THE PERSON OF CHARLES PRINGLE IN THIS PARTICULAR
3 TRIAL. AS SET FORTH BY ASHLEY PARSLEY, PARSLEY DID
4 NOT TESTIFY TO ANYTHING, AND MR. TYLER, HIS STATEMENT
5 WAS RATHER VAGUE WHEN HE CAME TO THAT. AND I'M
6 READING THE INDICTMENT HERE, AND THERE HAS BEEN NO
7 TESTIMONY FOR THE TAKING AND CARRYING AWAY OF ANY
8 GOODS OR MONIES FROM THE PERSON OR THE PRESENCE OF THE
9 VICTIM, CHARLES PRINGLE, SO I ASK THAT YOUR HONOR
10 WOULD CONSIDER GRANTING A DIRECTED VERDICT ON THAT
11 PARTICULAR CHARGE.

12 IN RELATION TO THE BURGLARY IN THE FIRST DEGREE,
13 I AM AWARE THAT EVEN THOUGH THERE WAS AN ATTEMPTED
14 IDENTIFICATION BY ASHLEY PARSLEY TO PUT MY GUY AT THE
15 DOOR, AND THAT MAY BE A JURY QUESTION, BUT I WOULD
16 JUST ASK YOUR HONOR, IN YOUR DISCRETION TO DETERMINE
17 WHETHER TO GRANT A DIRECTED VERDICT IN RELATION TO
18 THAT PARTICULAR CHARGE.

19 THE COURT: ALRIGHT, THANK YOU, SIR.

20 AND MR. LACKEY.

21 MR. LACKEY: THANK YOU, YOUR HONOR. AGAIN, I
22 WOULD JOIN IN THESE MOTIONS FOR A DIRECTED VERDICT.
23 AND TO FURTHER SPECIFY AS TO MY CLIENT, CHRISTIAN
24 COLEMAN, FIRST TO THE MURDER, I BELIEVE THAT THERE WAS
25 TESTIMONY THAT, FROM THE STATEMENT OF PATRICK TYLER

1 THAT PUT THE GUN IN EVERYBODY'S, OR WEAPONS IN
2 EVERYONE'S HANDS EXCEPT MY CLIENT, CHRISTIAN COLEMAN.
3 ALSO, AS FAR AS THE MALICE AFORETHOUGHT, NUMBER ONE,
4 THERE'S BEEN NO TESTIMONY OF ANY PLANNING OF A MURDER.
5 NUMBER TWO, IF THERE WAS PLANNING, THAT PLANNING DID
6 NOT INCLUDE MY CLIENT AT ALL FROM WHAT CO-DEFENDANT
7 PATRICK TYLER SAID.

8 MOVING ON TO THE ARMED ROBBERY AGAIN, THERE IS
9 EVIDENCE IN THE RECORD OF NO WEAPON THAT MY CLIENT HAD
10 EITHER BEFORE OR UPON ENTRANCE INTO THE APARTMENT.
11 AND ALSO, AGAIN, NOTHING WAS TAKEN FROM THE PREMISES
12 THAT BELONGED TO CHARLES PRINGLE, NOTHING TAKEN AT
13 ALL. THERE WAS A LOT OF SPECULATION ABOUT THE ROBBERY
14 AND LOOKING FOR ITEMS, BUT AFTER LOOKING, NO EVIDENCE
15 OF ACTUAL REMOVAL OF SOMETHING.

16 AND AS TO THE BURGLARY, FIRST, I THINK AGAIN THE
17 ABSENCE OF A WEAPON IN MY CLIENT'S HAND. ALSO, BOTH
18 THE TESTIMONY THAT, IF YOU WOULD EVEN INFER THAT MY
19 CLIENT WERE AT THE SCENE, BOTH ASHLEY PARSLEY AND
20 PATRICK TYLER USED THE WORD, CONSENT UPON THE ENTRANCE
21 INTO THE APARTMENT THAT NIGHT.

22 AND THOSE WOULD BE MY GROUNDS ON THOSE THREE
23 CHARGES FOR A DIRECTED VERDICT.

24 THE COURT: OKAY. SOLICITOR PASCOE.

25 SOLICITOR PASCOE: MAY IT PLEASE THE COURT.

1 THE COURT: YES, SIR.

2 SOLICITOR PASCOE: THANK YOU, YOUR HONOR.

3 YOUR HONOR, WHEN YOU LOOK AT THE EVIDENCE IN THIS
4 CASE IN THE LIGHT MOST FAVORABLE TO THE STATE, WHICH
5 IS THE STANDARD, THIS CASE WOULD CERTAINLY GO TO THE
6 JURY TO MAKE THE DETERMINATION OF WHETHER EACH OF
7 THESE DEFENDANTS IS GUILTY OF MURDER, BURGLARY AND
8 ARMED ROBBERY. PATRICK TYLER'S TESTIMONY AND ASHLEY
9 PARSLEY'S TESTIMONY BY ITSELF IS ENOUGH TO GET THIS
10 CASE TO THE JURY. PATRICK TYLER TESTIFIED THAT ALL
11 FIVE OF THESE DEFENDANTS PARTICIPATED IN THE MURDER,
12 BURGLARY AND ARMED ROBBERY OF THE VICTIM, CHARLES
13 PRINGLE. MS. PARSLEY TESTIFIED THAT DURING THE
14 BURGLARY AND ROBBERY, THE VICTIM'S GUN WAS TAKEN FROM
15 THE SCENE. SHUMPERT, INVESTIGATOR SHUMPERT TESTIFIED
16 THAT THAT GUN WAS NEVER RECOVERED FROM THE SCENE. THAT
17 IS ENOUGH TO GET AN ARMED ROBBERY CHARGE TO THE JURY.

18 ADDRESSING SOME OF THE SPECIFICS BROUGHT UP BY
19 SOME OF THE DEFENSE ATTORNEYS, I THINK MS. ULLMAN AND
20 SOME OF THE OTHER ATTORNEYS INADVERTENTLY MIS-STATED
21 THE LAW. WITH REGARDS TO MALICE ON MURDER, THE LAW
22 SAYS SPECIFICALLY IT DOESN'T HAVE TO BE ANY
23 PREMEDITATION. FOR MURDER THERE JUST HAS TO BE MALICE
24 AFORETHOUGHT, AND THE MERE USE OF A DEADLY WEAPON, AND
25 WE HAD A MINIMUM OF FOUR WEAPONS USED IN THIS CASE, IS

1 EVIDENCE BY ITSELF OF MALICE. IT'S EVIDENCE OF MALICE.

2 WITH REGARDS TO WALTER LEE HARRIS, AGAIN, THE
3 TESTIMONY FROM PATRICK TYLER, MR. HARRIS PARTICIPATED
4 IN THIS HOME INVASION, HE GAVE HIS GUN, ACCORDING TO
5 PATRICK TYLER, TO ANOTHER PERSON TO USE DURING THIS
6 HOME INVASION, AND ACCORDING TO PATRICK TYLER WALTER
7 HARRIS PUT THE TAPE OVER THE VICTIM'S MOUTH DURING
8 THIS HOME INVASION. AND UNDER THE HAND OF ONE IS THE
9 HAND OF ALL, IT WOULD CERTAINLY PROVE GUILT ON BEHALF
10 OF MR. HARRIS AND ALL OF THESE DEFENDANTS.

11 SO, IT'S THE STATE'S POSITION THAT ALL OF THESE
12 CHARGES SHOULD OBVIOUSLY GO BEFORE THE JURY.

13 THE COURT: ALRIGHT, SIR.

14 ALRIGHT, WITH REGARD TO YOUR MOTIONS, I AM
15 DENYING THE MOTIONS. I BELIEVE THERE IS EVIDENCE IN
16 THE RECORD REGARDING ALL OF THE CHARGES. I BELIEVE
17 THE RECORD ESTABLISHES THAT THEY WERE, WITH REGARDS TO
18 THE ARMED ROBBERY, THEY WERE PLANNING A ROBBERY.
19 THERE IS EVIDENCE IN THE RECORD THAT A GUN WAS TAKEN.
20 THERE IS CIRCUMSTANTIAL EVIDENCE THAT THEY WERE
21 LOOKING FOR OTHER THINGS BY SLITTING THE SOFA AND
22 GOING THROUGH THE HOUSE.

23 IN REGARD TO THE BURGLARY, THEY MAY -- I DON'T
24 THINK YOU CAN GET AROUND JUST INTENT OR AN INVITATION
25 IN IF YOU'RE DOING IT ON A DECEITFUL BASIS. I DON'T

1 THINK YOU CAN GET AROUND, THEY WERE TRYING TO USE
2 DECEIT TO COME INTO THE HOUSE AND I THINK THAT IS
3 PROPER TO GO FORWARD ON THE BURGLARY CHARGE. WHEN
4 Y'ALL WERE MAKING THE ARGUMENT ABOUT WHETHER AT LEAST
5 ONE PERSON WAS ALLOWED TO COME IN, MR. TYLER I THINK
6 WENT IN UNDER THE AUSPICES TO BUY THE DRUGS AND THEN
7 WAS FOLLOWED IN ALLEGEDLY BY ANOTHER ONE OF THE
8 GENTLEMAN.

9 IN REGARD TO THE MURDER AND WHETHER OR NOT THERE
10 WAS ANY MALICE, I THINK YOU CAN INFER MALICE, AGAIN,
11 FROM THE USE OF THE WEAPONS, BUT ALSO YOU CAN INFER
12 MALICE ON THE FACT THAT HE WAS SHOT, I BELIEVE TWENTY
13 SOMETHING TIMES ACCORDING TO THE NUMBER OF ENTRANCE
14 WOUNDS THAT WAS FOUND IN HIS BODY.

15 AND SO, I THINK THERE IS ENOUGH EVIDENCE BEFORE
16 THE JURY FOR THEM TO MAKE A DETERMINATION WITH REGARD
17 TO ALL THREE OF THESE CHARGES, SO I WILL DENY YOUR
18 MOTIONS AND NOTE OUR OBJECTIONS TO MY DENIAL OF YOUR
19 MOTIONS. OKAY?

20 WHAT ELSE?

21 MS. ULLMAN.

22 MS. ULLMAN: YES, SIR. I WOULD ALSO RENEW ALL
23 OTHER MOTIONS AND OBJECTIONS THAT I HAVE MADE DURING
24 THIS TRIAL, - - -

25 THE COURT: OKAY.

1 MS. ULLMAN: --- INCLUDING MY MOTION TO SEVER.
2 AND I UNDERSTAND YOUR RULING BUT I WOULD LIKE TO PUT A
3 COUPLE OF THINGS ON THE RECORD THAT I THINK ARE NEW
4 COMPARED TO WHAT I HAVE PREVIOUSLY STATED.

5 THE COURT: OKAY.

6 MS. ULLMAN: AT THE BEGINNING OF THIS WHEN I
7 DISCUSSED OR ARGUED THIS MOTION TO SEVER PART OF THE
8 QUESTION I BELIEVE FROM YOUR HONOR IN REGARDS TO THE
9 STATE WAS THE WITNESSES. THEY STATED THAT PRETTY MUCH
10 THE SAME WITNESSES WOULD BE CALLED AT EACH SEPARATE
11 TRIAL, ALL FIVE SEPARATE TRIALS. WHILE I DISAGREED
12 WITH THAT YOUR HONOR QUESTIONED THEM AND I THINK THE
13 NUMBER THAT WE HAD COME UP WITH WAS ABOUT NINETY PER
14 CENT OF THESE WITNESSES WOULD BE THE SAME.

15 THE COURT: UH-HUH.

16 MS. ULLMAN: IN COUNTING WHAT OCCURRED DURING
17 THIS WEEK I COUNT TWELVE WITNESSES, AND LOOKING AT THE
18 TESTIMONY THAT THEY HAVE PROVIDED I WOULD SAY HALF OF
19 THEM ARE NOT RELEVANT AT ALL TO RALPH COLEMAN. DARIUS
20 GARDNER DOES NOT PUT RALPH COLEMAN AT ANY CERTAIN
21 LOCATION EXCEPT HIS OWN HOUSE AND IT'S CERTAINLY NOT
22 ILLEGAL TO BE AT YOUR OWN HOUSE.

23 YVONNE SHARPERSON HAS NO KNOWLEDGE OF RALPH
24 COLEMAN.

25 MONEAK BUSBY HAS NO KNOWLEDGE OF RALPH COLEMAN.

1 ANDRE WASHINGTON HAS NO KNOWLEDGE OF RALPH
2 COLEMAN.

3 SHANNON MITCHELL HAD NO KNOWLEDGE OF RALPH
4 COLEMAN.

5 NATHANIEL HUBBARD HAD NO KNOWLEDGE OF RALPH
6 COLEMAN.

7 AND WHEN I SAY KNOWLEDGE, I MEAN TESTIMONY REGARDING
8 HIM IN ANY FASHION. AND CERTAINLY, THAT'S HALF, THAT
9 IS FIFTY PER CENT.

10 NOW, I UNDERSTAND YVONNE SHARPERSON, MONEAK BUSBY
11 MAY BE RELEVANT TO DANNY RYANT'S CASE, I UNDERSTAND
12 ANDRE WASHINGTON MAY BE RELEVANT TO WALTER HARRIS'S
13 CASE, BUT THEY ARE NOT RELEVANT AND THEY CERTAINLY
14 WERE PRESENTED DURING THIS TRIAL AGAINST RALPH
15 COLEMAN.

16 ALSO, YOUR HONOR, IN THE BEGINNING OF THIS I
17 STATED THAT I DID BELIEVE THAT WE WOULD HAVE
18 ANTAGONISTIC VIEWS. THERE IS CASE LAW THAT SAYS THAT
19 ANTAGONISTIC VIEWS IN AND OF ITSELF IS NOT A REASON TO
20 SEVER A TRIAL, BUT WHERE THE COURT CAN FIND THAT THOSE
21 ANTAGONISTIC VIEWS WHEN PRESENTED TO A JURY WOULD
22 REQUIRE THE JURY TO DETERMINE EITHER BASICALLY THAT
23 THE VIEWS ARE SO ANTAGONISTIC THAT THEY ALL MUST BE
24 INCORRECT, THEREFORE, EVERYONE MUST BE GUILTY. BASED
25 ON THE TESTIMONY THAT'S COME OUT I FEEL THAT WE'RE IN

1 THAT POSITION. IF I STAND UP AND ARGUE AS I INTENDED
2 TO ORIGINALLY, THAT RALPH COLEMAN WAS MISTAKENLY
3 PICKED OUT DUE TO CHRISTIAN COLEMAN'S INVOLVEMENT,
4 THEY'RE GOING TO CONVICT ON ALL. THE STATE HAS
5 PRESENTED ITS CASE IN SUCH A WAY, AS THE STATE SAID IN
6 THEIR OPENING, AS JIG SAW PUZZLES AND WHEN THEY FIT
7 ALL THOSE PIECES TOGETHER THE RESULT'S GOING TO BE
8 THAT THEY ALL MUST HAVE DONE THIS. AND MY POINT IS,
9 IF THE JURY BELIEVES THAT WALTER HARRIS THAT FORTY AND
10 THAT HE SOLD THAT FORTY, AND HAT FORTY WAS USED IN
11 THIS, HE'S SITTING HERE NEXT TO MY CLIENT, THEY'RE
12 GOING TO FIND HIM GUILTY, THEY'RE GOING TO FIND RALPH
13 COLEMAN GUILTY. AND IT'S GOING TO BE BASED ON THE
14 EVIDENCE THAT WAS ENTERED BY ANDRE WASHINGTON AND
15 OTHERS RELATING TO THAT FORTY CALIBER WEAPON THAT HAS
16 NO RELATION TO MY CLIENT. I THINK THERE'S BEEN
17 WITNESSES THAT WOULDN'T HAVE BEEN PRODUCED AT MY TRIAL
18 SEPARATELY FOR RALPH COLEMAN. I THINK THERE'S BEEN
19 EVIDENCE INTRODUCE THAT WOULDN'T HAVE BEEN INTRODUCED.
20 I WOULD NOTE FOR THE RECORD ALSO THAT INVESTIGATOR
21 SHUMPERT DID MENTION TODAY THAT WALTER HARRIS TOLD HIM
22 SOMETHING, OFF THE TOP OF MY HEAD I DON'T REMEMBER
23 RIGHT NOW EXACTLY WHAT IT WAS, BUT MY POINT IS, THE
24 FACT THAT WALTER HARRIS TALKED TO INVESTIGATOR
25 SHUMPERT CERTAINLY CAME OUT TODAY, AND I DON'T BELIEVE

1 THAT WOULD HAVE BEEN SOMETHING THAT COULD HAVE BEEN
2 DONE AT A TRIAL AGAINST RALPH COLEMAN ON HIS OWN,
3 BECAUSE AS FAR AS I UNDERSTAND, AND I UNDERSTAND WE
4 HAVEN'T GOTTEN TO THAT POINT YET, BUT IF WALTER HARRIS
5 DOESN'T TAKE THE STAND I HAVE NO ABILITY TO QUESTION
6 HIM ABOUT, DID HE TALK TO HIM, WAS IT VOLUNTARY, DID
7 HE MEAN WHAT HE SAID, WAS HE LYING TO GET OTHER PEOPLE
8 OUT OF IT, WHY DID HE SAY IT? I CANNOT QUESTION HIM
9 ON ANY OF THAT. SO, I WOULD RENEW MY MOTION SEVER FOR
10 ALL OF THE GROUNDS THAT I PREVIOUSLY STATED PLUS THE
11 NEW GROUNDS THAT I'VE STATED JUST NOW.

12 THE COURT: OKAY. THANK YOU, MA'AM, AND I
13 APPRECIATE YOU NOW HAVE THAT ON THE RECORD. I AGAIN
14 STAND BY MY DECISION NOT TO SEVER THIS TRIAL. OKAY?

15 MR. MELLARD: JUST ONE MORE, YOUR HONOR.

16 THE COURT: YES, SIR. NO, I'M NOT TRYING TO
17 HURRY YOU THROUGH.

18 MR. MELLARD: I'M NOT, I'M NOT NECESSARILY
19 JOINING MS. ULLMAN'S GROUNDS ON THE SEVERANCE PART,
20 BUT IT'S MY ARGUMENT THAT THIS TRIAL, BECAUSE OF THE
21 LACK TO SEVER HAS VIOLATED DANNY RYANT'S RIGHT TO DUE
22 PROCESS. MS. ULLMAN HAS STATED SOME OF THE GROUNDS.
23 OBVIOUSLY, WE HAVE LOST THE RIGHT TO MAKE LAST
24 ARGUMENT, WE'VE PUT -- DANNY RYANT HAS PUT NO EVIDENCE
25 UP, HE MAY DECIDE TO DO IT, BUT IF HE DOES DO IT, IT

1 IS DETERMINED STRATEGY IN THIS CASE, BECAUSE ANOTHER
2 DEFENDANT HAS ALREADY ADMITTED EVIDENCE INTO THIS CASE
3 AND IT'S AFFECTED THAT PART OF OUR TRIAL. CROSS-
4 EXAMINATION HAS BEEN AFFECTED. AS MS. ULLMAN SAYS, IF
5 WE START POINTING FINGERS AT EVERYBODY IT'S NOT GOING
6 TO HELP ANYBODY, SO CROSS-EXAMINATION HAS BEEN
7 AFFECTED BY THIS. JUST, THE OVERALL STRATEGY, THE
8 OVERALL PROCEDURAL ASPECTS OF IT, IT'S OUR, IT'S DANNY
9 RYANT'S POSITION THAT BECAUSE THESE DEFENDANTS WERE
10 TRIED JOINTLY, THAT HIS RIGHT TO DUE PROCESS HAS BEEN
11 VIOLATED, YOUR HONOR.

12 THE COURT: OKAY. THANK YOU, SIR.

13 MS. ULLMAN: AND YOUR HONOR, IF I MIGHT REFLECT,
14 I WOULD ACTUALLY JOIN THAT MOTION AND STATE THAT AS
15 OBVIOUSLY HAS HAPPENED, WE HAVE ALL BEEN FORCED TO
16 WORK AS A GROUP, WE PICKED A JURY AS A GROUP, WE
17 DECIDED ON WHETHER WE WOULD AGREE TO THE JURY MEMBER
18 BEING EXCUSED AS A GROUP, WE HAVE ACTUALLY DISCUSSED
19 DIRECTED VERDICT MOTIONS AS A GROUP. AT THIS POINT,
20 UNFORTUNATELY, WE DIDN'T KNOW THAT WE NEED TO DISCUSS
21 WHETHER EVIDENCE WAS BEING PRESENTED AS A GROUP OR
22 NOT, AND MR. KOGER HAS ENTERED EVIDENCE AND THAT HAS
23 RUINED OUR RIGHT TO LAST CLOSE. OBVIOUSLY, YOUR HONOR
24 KNOWS WE DID NOT KNOW THAT. I BELIEVE THE STATE WAS
25 AWARE AT THE BEGINNING AND WE WERE NOT, AND

1 UNFORTUNATELY, HERE WE STAND. IT CERTAINLY HAS
2 AFFECTED HOW I WOULD HAVE QUESTIONED PEOPLE, JUST AS
3 MR. MELLARD SAID, AND CERTAINLY, ABSOLUTELY IT'S GOING
4 TO AFFECT MY CLOSING ARGUMENT.

5 THE COURT: THANK YOU, MA'AM.

6 MR. KOGER.

7 MR. KOGER: YOUR HONOR, MAY IT PLEASE THE COURT.
8 I ALSO WOULD LIKE TO JOIN IN ON THE GROUNDS SET FORTH
9 BY ATTORNEY MELLARD, THIS TRIAL MAY HAVE RESULTED IN
10 SOME LOSS OF SOME CONSTITUTIONAL RIGHTS FOR MY CLIENT,
11 MR. SHIVERS. AS ATTORNEY ULLMAN JUST SET FORTH BEFORE
12 THE COURT, OF COURSE, I REPRESENT MR. SHIVERS, I DID
13 NOT KNOW BEFOREHAND, BECAUSE YOU STATED FROM THE
14 BENCH, YOUR HONOR, AND WE ALL STATED IN OUR OPENINGS
15 THAT THESE ARE FIVE SEPARATE TRIALS. I DIDN'T KNOW
16 BEFOREHAND THAT I'M SUPPOSED TO CONFER WITH FOUR OTHER
17 ATTORNEYS WITH THEIR SEPARATE CLIENTS BEFORE I
18 SUBMITTED EVIDENCE ON BEHALF OF MY CLIENT. I THINK
19 MS. ULLMAN JUST STATED THEY DIDN'T EVEN KNOW THAT. WE
20 WAS FORCED TO, AGAIN, SELECT THE JURY TOGETHER, AND
21 IT'S BEEN A GOING BACK AND FORTH TYPE THING HERE, YOU
22 KNOW. SOMETIMES WE ARE TOGETHER, WE'RE SUPPOSED TO BE
23 TOGETHER, AND THEN WE'RE SUPPOSED TO SEPARATELY IN
24 DEPTH, YOUR HONOR, REPRESENT OUR CLIENT. SO, I JOIN
25 IN ON THE DUE PROCESS ISSUE ON THE GROUNDS SET FORTH

1 BY MR. MELLARD IN RELATION TO THIS CASE.

2 MR. PALMER: YOUR HONOR, - - -

3 THE COURT: YES, SIR.

4 MR. PALMER: --- JUST BRIEFLY, - - -

5 THE COURT: YES, SIR.

6 MR. PALMER: --- I JOIN IN ALL OF THAT ON BEHALF
7 OF MY CLIENT. I WANT TO ADD SOMETHING THAT - - -

8 THE COURT: ADD ANOTHER TWIST TO IT, PLEASE, SIR.

9 MR. PALMER: JUST ANOTHER TWIST, PLEASE, SIR.

10 THE COURT: YES, SIR.

11 MR. PALMER: --- THAT AT FIRST GLANCE MAY SEEM
12 KIND OF FRIVOLOUS BUT SITTING HERE ALL WEEK IT'S GIVEN
13 ME MORE AND MORE CONCERN, IT'S JUST THE LOGISTICS OF
14 THIS TRIAL, YOUR HONOR, AND I'M NOT, YOU KNOW, CASTING
15 ANY ASPERSIONS ON ANYONE, BUT JUST THE WAY WE'RE
16 CLUTTERED AT THE DEFENSE TABLE AND BUNCHED UP LIKE
17 THIS, AND YOU KNOW, IT JUST LOOKS LIKE THE PROSECUTION
18 HAS MORE ROOM TO WORK, AND AGAIN, NO REFLECTION ON
19 THEM, BUT THEY JUST LOOK MORE ORGANIZED AND CONFIDENT
20 THAN WE DO. WE'RE STEPPING OVER EACH OTHER TO GET OUT
21 TO CONDUCT OUR CROSS-EXAMINATIONS AND DO OTHER THINGS
22 IN THE COURTROOM, AND I THINK JUST THE APPEARANCE OF
23 IT WITH THE JURY, YOUR HONOR, MAY BE PREJUDICING OUR
24 CLIENTS' RIGHT TO A FAIR TRIAL. THANK YOU VERY MUCH.

25 THE COURT: AN INTERESTING TWIST, MR. PALMER.

1 THANK YOU FOR THAT.

2 OKAY, AND MR. LACKEY.

3 MR. LACKEY: YES, SIR, YOUR HONOR, JUST BRIEFLY,
4 I WOULD, TOO, JOIN IN THE MOTION MR. MELLARD MAKES. IT
5 IS DIFFICULT AS YOU REPRESENT YOUR CLIENT TO ALSO HAVE
6 TO CONFER WITH THESE OTHER ATTORNEYS, WHICH ARE GREAT
7 ATTORNEYS, BUT WE EACH HAVE OUR OWN TRIAL STRATEGY,
8 AND AT THAT POINT IT DOES AFFECT CERTAIN DECISIONS,
9 WHETHER THEY BE LARGE OR SMALL, BUT TO BE MADE IN
10 PUTTING UP A DEFENSE FOR YOUR CASE. SO, WE WOULD ALSO
11 JOIN IN ON BEHALF OF MY CLIENT, CHRISTIAN COLEMAN.

12 THE COURT: ALRIGHT, THANK YOU.

13 SOLICITOR PASCOE: YOUR HONOR, - - -

14 THE COURT: OH, YES, SIR.

15 SOLICITOR PASCOE: I ASK, OBVIOUSLY FEEL
16 PREJUDICED AS WELL. I WANT TO JOIN IN THEIR MOTION
17 BECAUSE IT IS, AFTER ALL, SIX AGAINST TWO, AND MY
18 WITNESSES HAD TO BE CROSS-EXAMINED BY FIVE DEFENSE
19 ATTORNEYS INSTEAD OF ONE. ON A SERIOUS NOTE, THOUGH,
20 I WANT TO CORRECT SOME MIS-STATEMENTS.

21 FIRST OF ALL, MS. ULLMAN TWICE SAID THAT WE
22 WOULDN'T HAVE CALLED THE SAME WITNESSES AGAINST HER
23 CLIENT THAT WE CALLED IN THIS TRIAL. EVERY SINGLE
24 WITNESS WE CALLED IN THIS TRIAL WOULD HAVE BEEN CALLED
25 IN THE TRIALS AGAINST EVERYONE OF THOSE DEFENDANTS,

1 EVERY SINGLE WITNESS. THAT IS A MIS-STATEMENT AND I
2 WANT TO CLARIFY THAT ON THE RECORD.

3 HAVING TO BE FORCED TO WORK IN A GROUP? NO, SIR,
4 THAT WAS ONE OF THE LAWYER'S STATEMENTS. THAT WAS
5 THEIR CHOICE TO WORK IN A GROUP. AS MR. KOGER POINTED
6 OUT, REALLY, THEY AREN'T SUPPOSED TO CONFER IF THEY
7 DON'T WANT TO. SO, THEY'RE NOT PREJUDICED IN ANY
8 MANNER, AND I JUST WANTED TO MAKE THAT PART OF THE
9 RECORD.

10 THE COURT: OKAY. THANK YOU, SIR. ON BEHALF --
11 WITH Y'ALL'S MOTIONS, LET ME TELL YOU, I UNDERSTAND
12 THE DIFFICULTIES THAT Y'ALL HAD, AND I CAN APPRECIATE
13 THE DIFFICULTIES THAT Y'ALL HAD, BUT -- AND YOU KNOW,
14 I UNDERSTAND EVERYTHING THAT Y'ALL SAID ABOUT, YOU
15 KNOW, HAVING TO WORK TOGETHER AND TRYING TO DETERMINE
16 WHETHER YOU WERE GOING TO WORK AS A GROUP IN CERTAIN
17 SITUATIONS AND THEN HAVING TO ALSO JUST WORRY ABOUT
18 REPRESENTING YOUR CLIENTS INDIVIDUALLY. OKAY? I WANT
19 TO TELL YOU THAT I THINK Y'ALL HAVE THUS FAR DONE A
20 WONDERFUL JOB IN REPRESENTING YOUR CLIENTS THROUGH ALL
21 THESE DIFFICULTIES. AS I MENTIONED EARLIER, I AM NOT
22 CHANGING MY POSITION WITH REGARD TO SEVERANCE AND I AM
23 DENYING YOUR MOTIONS THAT YOU HAVE, THAT WE HAVE JUST
24 GONE THROUGH. SO, I THINK Y'ALL HAVE DONE A GREAT
25 JOB. I REALIZE IT WAS UNDER DIFFICULT CIRCUMSTANCES,

1 I DO THINK THAT THIS WOULD HAVE BEEN THE SAME CASE
2 TRIED FIVE TIMES, AND I WAS, I THINK THAT Y'ALL WERE
3 ALSO ABLE TO CROSS -- FIVE DIFFERENT PEOPLE WERE ABLE
4 TO CROSS-EXAMINE ANY ONE OF THE WITNESSES, AND BY
5 VIRTUE OF THE FACT THAT Y'ALL ALL HAD DIFFERENT STYLES
6 I THOUGHT IT WAS EFFECTIVE, WHEREAS IF WE WERE DOING
7 SINGLE TRIALS YOU WOULD HAVE ONLY HAD ONE STYLE
8 ATTORNEY CROSS-EXAMINING ANOTHER. AND IN REGARD TO
9 MR. PALMER'S COMMENT, WHICH I THOUGHT WAS INTERESTING
10 ABOUT -- ACTUALLY, I THINK THAT EVEN THOUGH Y'ALL DID
11 HAVE TO STEP UP, AND I APOLOGIZE FOR Y'ALL NOT HAVING
12 AS MUCH SPACE, BUT I THINK Y'ALL ACTUALLY SEEMED TO
13 WORK VERY WELL TOGETHER IN FRONT OF THE JURY, AND I
14 THINK THAT THAT CAME ACROSS TO THE JURY. BUT I NOTE
15 ALL THE PROBLEMS THAT Y'ALL HAVE RECITED, OKAY, AND
16 DENY YOUR MOTIONS. THANKS.

17 ANYTHING ELSE?

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: OKAY. NOW, DO YOU WANT ME TO CALL
24 THE JURY BACK IN SO THAT THE STATE CAN REST AND THEN
25 EXCUSE THEM WHILE Y'ALL, SO Y'ALL CAN TELL ME, SO I

1 CAN THEN QUESTION THE DEFENDANTS?

2 MS. ULLMAN: YES, SIR.

3 THE COURT: OKAY. BRING THE JURY BACK IN SO WE
4 CAN PROCEED.

5 (Whereupon, the jury enters
6 the courtroom and the following
7 takes place in the presence of
8 the jury.)

9 THE COURT: I APPRECIATE YOU GETTING BACK IN A
10 TIMELY FOR LUNCH, OR FROM LUNCH, EXCUSE ME. WE HAD
11 SOME THINGS TO TAKE CARE OF BEFORE I COULD BRING YOU
12 BACK OUT, AND NOW WE'RE READY TO PROCEED.

13 MR. PASCOE.

14 SOLICITOR PASCOE: MAY IT PLEASE THE COURT.

15 THE COURT: YES, SIR.

16 SOLICITOR PASCOE: YOUR HONOR, AT THIS TIME THE
17 STATE RESTS.

18 THE COURT: ALRIGHT. THANK YOU, SIR.

19 ALRIGHT, LADIES AND GENTLEMEN, THE STATE HAS NOW
20 PUT UP ALL THE EVIDENCE THAT THEY ARE GOING TO PUT UP
21 IN THIS CASE, AND SO IT WILL BE NOW, WE'RE GOING TO
22 FIND OUT WHAT THE DEFENDANTS ARE GOING TO CHOOSE TO
23 DO. BEFORE I CAN DO THAT I HAVE GOT TO ASK THEM SOME
24 QUESTIONS BEFORE THEY TESTIFY OR ANY EVIDENCE IS PUT
25 UP, SO I'M GOING TO EXCUSE YOU TO GO BACK INTO THE

1 JURY ROOM FOR A FEW MINUTES WHILE WE MAKE SOME
2 DETERMINATIONS, AND THEN I'LL BRING Y'ALL BACK OUT.
3 OKAY? THANK YOU. AND REMEMBER, YOU'VE HEARD ALL THE
4 EVIDENCE ONLY FROM THE STATE'S PERSPECTIVE SO YOU
5 STILL CANNOT BEGIN DISCUSSING THIS CASE. THANK YOU.
6 (Whereupon, the jury retires
7 to the jury room and the following
8 takes place out of the presence
9 of the jury.)

10 THE COURT: ALRIGHT, ARE Y'ALL'S CLIENTS READY
11 FOR ME TO GO OVER THEIR RIGHTS WITH THEM?

12 MS. ULLMAN: YES, SIR.

13 THE COURT: OKAY. AND EACH ONE OF YOU HAVE HAD A
14 CHANCE TO MEET WITH THEM AND DISCUSS THIS WITH THEM?

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: OKAY. ALRIGHT, MR. CHRISTIAN
21 COLEMAN, WOULD YOU PLEASE STAND, PLEASE, SIR? OKAY.

22 AND MR. RALPH COLEMAN, WOULD YOU STAND?

23 AND MR. WALTER LEE HARRIS?

24 AND MR. DANNY RYANT?

25 AND MR. MARIO SHIVERS.

1 IF Y'ALL WANT TO MOVE -- YEAH, IF Y'ALL WANT TO
2 MOVE AND JUST STAND OVER TO THE STAND THAT WILL BE
3 HELPFUL, IF YOU DON'T MIND.

4 MADAM CLERK, WOULD YOU MIND SWEARING THEM IN?

5 CLERK: ALL RAISE YOUR RIGHT HAND.

6 (Whereupon, Ralph Coleman, Christian
7 Coleman, Walter Lee Harris, Danny Ryant
8 and Mario Shivers are duly sworn.)

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.)

EXAM, IN CAMERA - RALPH COLEMAN, CHRISTIAN
COLEMAN, WALTER LEE HARRIS, DANNY RYANT
AND MARIO SHIVERS BY THE COURT

875

EXAMINATION, IN CAMERA, OF RALPH COLEMAN,
CHRISTIAN COLEMAN, WALTER LEE HARRIS, DANNY
RYANT AND MARIO SHIVERS BY THE COURT:

Q. ALRIGHT, GENTLEMEN, AT THIS TIME I'M GOING TO GO
OVER AND EXPLAIN CERTAIN OF YOUR RIGHTS TO YOU
AND IF WHILE I'M DOING THE EXPLANATIONS I SAY
SOMETHING THAT YOU DON'T UNDERSTAND IF YOU WILL
PLEASE STOP ME OR ASK ME TO GO INTO FURTHER
DETAIL I WILL BE HAPPY TO DO SO, BUT I WANT TO
MAKE SURE Y'ALL UNDERSTAND THAT FIRST OFF. DO
Y'ALL ALL UNDERSTAND THAT, THAT YOU HAVE A RIGHT
TO QUESTIONING?

A. (RALPH COLEMAN) YES, SIR.

A. (CHRISTIAN COLEMAN) YES, SIR.

A. (WALTER LEE HARRIS) YES, SIR.

A. (DANNY RYANT) YES, SIR.

A. (MARIO SHIVERS) YES, SIR.

Q. OKAY. MR. CHRISTIAN COLEMAN?

A. YES, SIR.

Q. OKAY. MR. RALPH COLEMAN?

A. YES, SIR.

Q. MR. HARRIS?

A. YES, YOUR HONOR.

Q. MR. RYANT?

EXAM, IN CAMERA - RALPH COLEMAN, CHRISTIAN
COLEMAN, WALTER LEE HARRIS, DANNY RYANT
AND MARIO SHIVERS BY THE COURT

876

1 A. YES, SIR.

2 Q. MR. SHIVERS?

3 A. YES, SIR.

4 Q. OKAY. NOW, WE ARE, AS YOU KNOW, THE STATE HAS
5 ALREADY PRESENTED THEIR CASE, AND IT'S NOW UP TO
6 Y'ALL TO DECIDE WHAT Y'ALL ARE GOING TO DO AS FAR
7 AS PRESENTING A DEFENSE OR NOT. YOU HAVE THE
8 RIGHT TO CLAIM THE PROTECTIONS OF THE FIFTH
9 AMENDMENT WHICH SAYS THAT NO ONE, -- IN PERTINENT
10 PART, SAYS THAT NO PERSON SHALL BE COMPELLED IN
11 ANY CRIMINAL CASE TO BE A WITNESS AGAINST
12 HIMSELF. THIS MEANS THAT YOU CANNOT BE REQUIRED
13 TO TESTIFY IN THIS CASE. YOU DO HAVE THE RIGHT
14 TO TESTIFY IN YOUR OWN BEHALF, BUT NO ONE CAN
15 MAKE YOU TESTIFY. THIS IS A PERSONAL RIGHT THAT
16 YOU HAVE AND ONLY YOU CAN WAIVE. IF YOU DECIDE TO
17 TESTIFY YOU WILL BE SUBJECT TO THE SAME RULES
18 THAT GOVERN THE OTHER WITNESSES AND YOU MAY BE
19 EXAMINED AND CROSS-EXAMINED ON ANY RELEVANT ISSUE
20 IN THIS CASE JUST AS ALL THE WITNESSES FROM THE
21 STATE'S CASE WERE CROSS-EXAMINED.
22 ADDITIONALLY, IF YOU HAVE ANY CONVICTIONS
23 INVOLVING DISHONESTY OR FALSE STATEMENTS OR FOR
24 CRIMES PUNISHABLE BY IMPRISONMENT FOR MORE THAN

EXAM, IN CAMERA - RALPH COLEMAN, CHRISTIAN
COLEMAN, WALTER LEE HARRIS, DANNY RYANT
AND MARIO SHIVERS BY THE COURT

877

1 ONE YEAR AND I DETERMINE THAT THE PROBATIVE VALUE
2 OF ADMITTING THIS EVIDENCE OUTWEIGHS ITS
3 PREJUDICIAL EFFECT TO YOU THE SOLICITOR WILL BE
4 ABLE TO INTRODUCE YOUR RECORD TO ATTACK YOUR
5 CREDIBILITY.

6 IF YOU DECIDE TO TESTIFY THIS DECISION ON YOUR
7 PART MUST BE FREELY, VOLUNTARILY AND
8 INTELLIGENTLY MADE, WITH KNOWLEDGE OF THE
9 PROTECTIONS GIVEN TO YOU BY THE FIFTH AMENDMENT
10 AND THE CONSEQUENCES OF YOUR DECISION TO TESTIFY.

11 IF YOU DECIDE NOT TO TESTIFY I WILL INSTRUCT THE
12 JURORS THAT THEY CANNOT GIVE THE FACT THAT YOU
13 DID NOT TESTIFY ANY CONSIDERATION WHATSOEVER, AND
14 THAT THERE IS TO BE ABSOLUTELY NO PREJUDICE TO
15 YOU BECAUSE YOU DID NOT TESTIFY. IT IS LEFT
16 ENTIRELY UP TO YOU WHETHER OR NOT YOU TESTIFY. I
17 KNOW THAT YOU HAVE ALL -- LET'S SEE, FIRST I JUST
18 NEED TO FIND OUT.

19 MR. CHRISTIAN COLEMAN, YOU HAVE TALKED WITH YOUR
20 ATTORNEY?

21 A. YES, SIR.

22 Q. ABOUT THIS?

23 A. YES, SIR.

24 Q. HAVE YOU TALKED WITH ANY FAMILY MEMBERS ABOUT IT

EXAM. IN CAMERA - RALPH COLEMAN, CHRISTIAN
COLEMAN, WALTER LEE HARRIS, DANNY RYANT
AND MARIO SHIVERS BY THE COURT

878

1 AS WELL?

2 A. NO, SIR.

3 Q. OKAY. HAVE YOU UNDERSTOOD EVERYTHING YOUR
4 ATTORNEY HAS TOLD YOU?

5 A. YES, SIR.

6 Q. OKAY. MR. RALPH COLEMAN, HAVE YOU TALKED WITH
7 YOUR ATTORNEYS ABOUT THIS?

8 A. YES, SIR.

9 Q. HAVE YOU TALKED WITH ANY FAMILY MEMBERS ABOUT IT?

10 A. NO, SIR.

11 Q. OKAY. HAVE YOU UNDERSTOOD EVERYTHING YOUR
12 ATTORNEYS HAVE TOLD YOU?

13 A. YES, SIR.

14 Q. OKAY. MR. HARRIS, HAVE YOU TALKED WITH YOUR
15 ATTORNEY ABOUT THIS?

16 A. YES, YOUR HONOR.

17 Q. HAVE YOU TALKED WITH ANY FAMILY MEMBERS ABOUT
18 THIS?

19 A. YES, YOUR HONOR.

20 Q. OKAY. HAVE YOU UNDERSTOOD EVERYTHING YOUR
21 ATTORNEY HAS SAID?

22 A. YES, YOUR HONOR.

23 Q. OKAY. MR. RYANT, HAVE YOU TALKED WITH YOUR
24 ATTORNEY ABOUT THIS?

EXAM, IN CAMERA - RALPH COLEMAN, CHRISTIAN
COLEMAN, WALTER LEE HARRIS, DANNY RYANT
AND MARIO SHIVERS BY THE COURT

879

- 1 A. YES, SIR.
- 2 Q. HAVE YOU UNDERSTOOD EVERYTHING HE'S TOLD YOU?
- 3 A. YES, SIR.
- 4 Q. HAVE YOU TALKED WITH ANY FAMILY MEMBERS ABOUT
- 5 THIS?
- 6 A. NO, SIR.
- 7 Q. OKAY. AND MR. SHIVERS, HAVE YOU TALKED WITH YOUR
- 8 ATTORNEY ABOUT THIS?
- 9 A. YES, SIR.
- 10 Q. OKAY. HAVE YOU TALKED WITH ANY FAMILY MEMBERS
- 11 ABOUT IT?
- 12 A. NO, SIR.
- 13 Q. OKAY. HAVE YOU UNDERSTOOD EVERYTHING THAT YOUR
- 14 ATTORNEY HAS TOLD YOU ABOUT THIS?
- 15 A. YES, SIR.
- 16 Q. ALRIGHT. DO EACH ONE OF YOU GENTLEMEN UNDERSTAND
- 17 THAT THE DECISION YOU MAKE NOW WILL BE YOUR FINAL
- 18 DECISION? DO YOU UNDERSTAND THAT, MR. CHRISTIAN
- 19 COLEMAN?
- 20 A. YES, SIR.
- 21 Q. OKAY, MR. RALPH COLEMAN?
- 22 A. YES, SIR.
- 23 Q. MR. HARRIS?
- 24 A. YES, YOUR HONOR.

EXAM. IN CAMERA - RALPH COLEMAN, CHRISTIAN
COLEMAN, WALTER LEE HARRIS, DANNY RYANT
AND MARIO SHIVERS BY THE COURT

1 Q. MR. RYANT?

2 A. YES, SIR.

3 Q. AND MR. SHIVERS?

4 A. YES, SIR.

5 Q. ALRIGHT. HAS EVERYONE UNDERSTOOD WHAT I HAVE
6 TOLD YOU? ALRIGHT, MR. CHRISTIAN COLEMAN?

7 A. YES, SIR.

8 Q. MR. RALPH COLEMAN?

9 A. YES, SIR.

10 Q. MR. HARRIS?

11 A. YES, YOUR HONOR.

12 Q. MR. RYANT?

13 A. YES, SIR.

14 Q. AND MR. SHIVERS?

15 A. YES, SIR.

16 Q. ALRIGHT. DO ANY OF Y'ALL HAVE ANY QUESTIONS
17 ABOUT WHAT I'VE EXPLAINED TO YOU? IF YOU DO, I
18 NEED, IF YOU'LL JUST RAISE YOUR HAND. ALRIGHT,
19 NO ONE HAS ANY QUESTIONS. DOES ANYBODY NEED TO
20 TALK TO THEIR ATTORNEY ONE MORE TIME? MR.
21 CHRISTIAN COLEMAN?

22 A. NO, SIR.

23 Q. MR. RALPH COLEMAN?

24 A. NO, SIR.

EXAM. IN CAMERA - RALPH COLEMAN, CHRISTIAN
COLEMAN, WALTER LEE HARRIS, DANNY RYANT
AND MARIO SHIVERS BY THE COURT

881

- 1 Q. MR. HARRIS?
- 2 A. NO, YOUR HONOR.
- 3 Q. MR. RYANT?
- 4 A. NO, SIR.
- 5 Q. MR. SHIVERS?
- 6 A. NO, SIR.
- 7 Q. ALRIGHT. MR. CHRISTIAN COLEMAN, DO YOU WISH TO
- 8 TESTIFY?
- 9 A. NO, SIR.
- 10 Q. ALRIGHT. AND MR. COLEMAN, HAS ANYBODY THREATENED
- 11 YOU TO GET YOU TO DECIDE THIS?
- 12 A. NO, SIR.
- 13 Q. HAS ANYBODY PROMISED YOU ANYTHING TO GET YOU TO
- 14 DECIDE THIS?
- 15 A. NO, SIR.
- 16 Q. YOU'RE DOING IT FREELY AND VOLUNTARILY?
- 17 A. YES, SIR.
- 18 Q. YOU UNDERSTAND WHAT YOU'RE DOING?
- 19 A. YES, SIR.
- 20 Q. ALRIGHT, SIR. MR. RALPH COLEMAN, DO YOU WISH TO
- 21 TESTIFY?
- 22 A. NO, SIR.
- 23 Q. ALRIGHT, SIR. HAS ANYBODY THREATENED YOU TO GET
- 24 YOU TO NOT TESTIFY?

EXAM, IN CAMERA - RALPH COLEMAN, CHRISTIAN
COLEMAN, WALTER LEE HARRIS, DANNY RYANT
AND MARIO SHIVERS BY THE COURT

882

1 A. NO, SIR.

2 Q. HAS ANYBODY PROMISED YOU ANYTHING TO GET YOU TO
3 NOT TESTIFY?

4 A. NO, SIR.

5 Q. ARE YOU DOING IT FREELY AND VOLUNTARILY?

6 A. YES, SIR.

7 Q. YOU UNDERSTAND WHAT YOU'RE DOING?

8 A. YES, SIR.

9 Q. ALRIGHT, SIR. MR. HARRIS, DO YOU WISH TO
10 TESTIFY?

11 A. NO, YOUR HONOR.

12 Q. ALRIGHT, SIR. MR. HARRIS, HAS ANYBODY THREATENED
13 YOU TO GET YOU TO NOT TESTIFY?

14 A. NO, YOUR HONOR.

15 Q. HAS ANYBODY PROMISED YOU ANYTHING TO GET YOU TO
16 NOT TESTIFY?

17 A. NO, YOUR HONOR.

18 Q. ALRIGHT, SIR. YOU'RE DOING IT FREELY AND
19 VOLUNTARILY?

20 A. YES, SIR.

21 Q. YOU UNDERSTAND WHAT YOU'RE DOING?

22 A. YES, SIR.

23 Q. ALRIGHT. MR. RYANT, DO YOU WISH TO TESTIFY?

24 A. NO, SIR.

EXAM, IN CAMERA - RALPH COLEMAN, CHRISTIAN
COLEMAN, WALTER LEE HARRIS, DANNY RYANT
AND MARIO SHIVERS BY THE COURT

883

1 Q. ALRIGHT, SIR. MR. RYANT, HAS ANYBODY PROMISED
2 YOU ANYTHING TO GET YOU TO NOT TESTIFY?

3 A. NO, SIR.

4 Q. HAS ANYBODY THREATENED YOU TO GET YOU TO NOT
5 TESTIFY?

6 A. NO, SIR.

7 Q. YOU'RE DOING IT FREELY AND VOLUNTARILY?

8 A. YES, SIR.

9 Q. YOU UNDERSTAND WHAT YOU'RE DOING?

10 A. YES, SIR.

11 Q. ALRIGHT. MR. SHIVERS, DO YOU WISH TO TESTIFY?

12 A. NO, SIR.

13 Q. OKAY. HAS ANYBODY PROMISED YOU ANYTHING TO GET
14 YOU TO NOT TESTIFY?

15 A. NO, SIR.

16 Q. HAS ANYBODY THREATENED YOU TO GET YOU TO NOT
17 TESTIFY?

18 A. NO, SIR.

19 Q. YOU'RE DOING IT FREELY AND VOLUNTARILY?

20 A. YES, SIR.

21 Q. YOU UNDERSTAND WHAT YOU'RE DOING?

22 A. YES, SIR.

23 THE COURT: ALRIGHT, SIR. ALRIGHT, THANK YOU,
24 GENTLEMEN, YOU MAY BE SEATED. APPRECIATE IT.

1 ALRIGHT, NOW, I KNOW THAT THERE WERE SOME OTHER
2 ISSUES BESIDES -- IS THERE GOING TO BE ANY EVIDENCE
3 PUT UP BY THE DEFENSE AT ALL, ANY WITNESSES? I KNOW
4 THERE WERE SOME ALLEGATION OF SOME OTHER THINGS. I
5 WAS PUT ON NOTICE OF SOME OTHER WITNESSES.

6 MS. ULLMAN: YOUR HONOR, RALPH COLEMAN IS NOT
7 PUTTING UP ANY WITNESSES.

8 THE COURT: OKAY. MR. LACKEY?

9 MR. LACKEY: YOUR HONOR, NONE ON BEHALF OF
10 CHRISTIAN COLEMAN.

11 THE COURT: MR. PALMER?

12 MR. PALMER: NONE ON BEHALF OF MR. HARRIS, YOUR
13 HONOR.

14 THE COURT: OKAY. AND MR. MELLARD?

15 MR. MELLARD: NONE ON BEHALF OF DANNY RYANT.

16 THE COURT: AND MR. KOGER?

17 MR. KOGER: NONE ON BEHALF OF MR. SHIVERS, YOUR
18 HONOR.

19 THE COURT: ALRIGHT. SO, WHEN THE JURY COMES IN
20 YOU'RE JUST GOING TO TELL THEM, LET EACH ONE OF Y'ALL
21 TELL THE JURY THAT THE DEFENSE RESTS, EACH ONE OF
22 Y'ALL RESTS.

23 NOW, ARE Y'ALL PREPARED TO GO FORWARD WITH THE
24 ARGUMENTS RIGHT NOW OR DO WE NEED A BREAK, OR HOW DO
25 Y'ALL WANT TO HANDLE THAT? MR. LACKEY, I'LL LET YOU

1 GO FIRST SINCE YOU'RE IN LINE.

2 MR. LACKEY: YOUR HONOR, I THINK WHAT WE WOULD
3 NEED TO DO AT THAT POINT IS THEN MEET WITH, MEET WITH
4 YOUR HONOR AND GO OVER THE REQUESTS TO CHARGE TO MAKE
5 SURE - - -

6 THE COURT: OH, YEAH, WE'VE GOT A LOT, I WILL
7 TELL YOU WHAT I'M PLANNING ON CHARGING AND THEN Y'ALL
8 CAN TELL ME WHAT -- BUT I MEAN, OTHER THAN THAT ARE
9 Y'ALL PREPARED TO GO FORWARD AFTER WE DO THAT?

10 MR. LACKEY: YOUR HONOR, I WOULD -- JUST IN THE
11 INTEREST OF TIME, AFTER ALL THAT IS DONE I WOULD -- IT
12 APPEARS TO ME THAT WE WOULD PROBABLY RUN PAST THE HOUR
13 TONIGHT, AND I CERTAINLY DO NOT WANT TO BIFURCATE
14 CLOSING ARGUMENTS.

15 THE COURT: YOU'RE SUGGESTING THAT WE COME BACK
16 IN THE MORNING AND DO CLOSINGS?

17 MR. LACKEY: EVEN IF WE WANT TO START EARLIER, I
18 THINK THAT WOULD BE MORE FUNDAMENTALLY FAIR TO EACH OF
19 OUR CLIENTS SINCE THE STATE DOES GET LAST CLOSE AND
20 THEY'D HAVE OVERNIGHT WHEREVER WE BROKE IT IF A COUPLE
21 OF US HAD TO ARGUE.

22 THE COURT: ALRIGHT. MS. ULLMAN?

23 MS. ULLMAN: I AGREE COMPLETELY. IT'S OBVIOUS TO
24 ME, BASED ON TIME, THE STATE WOULD GO THE FIRST TIME
25 LIKE THEY DID TO, MAYBE MR. LACKEY AND I WOULD GO AND

1 THEN THEY WOULD HAVE ALL NIGHT TO DEVELOP THEIR
2 RESPONSE TO US, AND THE OTHER ATTORNEYS WOULD GET TO
3 GO TOMORROW, BUT CERTAINLY, THE LAST TIME THE JURY
4 WOULD HEAR ME SPEAK ON BEHALF OF RALPH COLEMAN WOULD
5 BE TODAY, AND I CERTAINLY THINK THAT'S UNFAIR.

6 THE COURT: OKAY. MR. PALMER?

7 MR. PALMER: AGREED, YOUR HONOR.

8 THE COURT: MR. MELLARD?

9 MR. MELLARD: YES, I THINK WE NEED TO START
10 TOMORROW MORNING, YOUR HONOR.

11 THE COURT: OKAY. MR. KOGER?

12 MR. KOGER: I AGREE, YOUR HONOR.

13 THE COURT: OKAY. AND MR. PASCOE?

14 SOLICITOR PASCOE: I'LL DO WHATEVER YOUR HONOR
15 WANTS TO DO.

16 THE COURT: OKAY. ALRIGHT. I DON'T HAVE ANY
17 HOPE THAT ANYBODY IS GOING TO BE SHORT WINDED IN THEIR
18 CLOSINGS, SO I WILL, WE WILL START BACK IN THE
19 MORNING. LET'S GET THE JURY BACK OUT THERE. I'LL LET
20 EACH ONE OF Y'ALL REST AND THEN I'LL EXCUSE THE JURY
21 FOR THE DAY. I'M NOT GOING TO TELL THEM TO COME BACK
22 ANY EARLIER THAN NINE, AND WE'LL JUST START AT NINE.
23 OKAY?

24 ALRIGHT, ANYTHING ELSE BEFORE I BRING THE JURY
25 BACK OUT?

1 SOLICITOR PASCOE: NO, SIR.

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

3 THE COURT: OKAY. THANK YOU. IF YOU'LL BRING
4 THE JURY ON BACK OUT.

5 (Whereupon, the jury enters
6 the courtroom and the following
7 takes place in the presence
8 of the jury.)

9 THE COURT: ALRIGHT, LADIES AND GENTLEMEN, I
10 APPRECIATE YOUR PATIENCE. RIGHT NOW WE ARE READY TO
11 PROCEED WITH THE REMAINING PORTION OF THIS TRIAL.

12 MR. LACKEY.

13 MR. LACKEY: YOUR HONOR, AT THIS TIME ON BEHALF
14 OF MY CLIENT, MR. CHRISTIAN COLEMAN, THE DEFENSE WOULD
15 REST.

16 THE COURT: OKAY. THANK YOU, SIR.

17 MS. ULLMAN.

18 MS. ULLMAN: THANK YOU, YOUR HONOR. ON BEHALF OF
19 RALPH COLEMAN THE DEFENSE RESTS.

20 THE COURT: OKAY. MR. PALMER.

21 MR. PALMER: THANK YOU, YOUR HONOR. ON BEHALF OF
22 WALTER LEE HARRIS, THE DEFENSE RESTS.

23 THE COURT: OKAY. AND MR. MELLARD.

24 MR. MELLARD: YES, SIR. ON BEHALF OF THE
25 DEFENDANT, DANNY RYANT, THE DEFENSE RESTS.

1 THE COURT: ALRIGHT. AND MR. KOGER.

2 MR. KOGER: YOUR HONOR, ON BEHALF OF MARIO
3 SHIVERS THE DEFENSE RESTS.

4 THE COURT: THANK YOU, SIR.

5 ALRIGHT, LADIES AND GENTLEMEN, WHAT YOU HAVE NOW
6 HEARD IS THAT THE DEFENDANTS HAVE RESTED ON THE
7 TESTIMONY THAT IS BEFORE YOU. OKAY? WHAT WE HAVE TO
8 DO NOW IS GO FORWARD AND DO THE CLOSING ARGUMENTS AND
9 I NEED TO CHARGE YOU WITH THE LAW. OKAY? IT IS NOW
10 NEARLY THREE O'CLOCK IN THE AFTERNOON. Y'ALL HAVE
11 BEEN WITH ME ALL WEEK, Y'ALL HAVE A GOOD IDEA, I GUESS
12 YOU HAVE A GOOD GUESS THAT THE ATTORNEYS AND THE COURT
13 HAVE A LOT TO SAY, TO ADVISE YOU ABOUT AT THE END OF
14 TRIAL, AND SINCE IT IS LATE IN THE AFTERNOON AND I
15 DON'T WANT TO KEEP Y'ALL INTO THE EVENING WITH THE
16 CLOSINGS AND THEN TO BEGIN YOUR DELIBERATIONS, WHAT
17 I'M GOING TO ALLOW Y'ALL TO DO IS GO HOME EARLY, COME
18 BACK HERE AT NINE O'CLOCK IN THE MORNING. WHEN YOU
19 GET BACK HERE AT NINE O'CLOCK IN THE MORNING WE WILL
20 BEGIN IMMEDIATELY WITH THE CLOSING ARGUMENTS OF THE
21 ATTORNEYS, AND THEN I WILL CHARGE YOU WITH THE LAW,
22 AND THEN AND ONLY THEN WILL YOU BE TOLD THAT YOU CAN
23 BEGIN TALK ABOUT THIS CASE AMONG YOURSELVES AND BEGIN
24 YOUR DELIBERATIONS.

25 NOW, AGAIN, I AM GOING TO EXCUSE YOU FOR THE REST

1 OF THE AFTERNOON AND I ASK YOU TO BE BACK IN THE JURY
2 ROOM AT NINE O'CLOCK. REMEMBER, YOU CAN'T TALK ABOUT
3 IT, YOU HAVE NOT HEARD THE CLOSING ARGUMENTS OR MY
4 INSTRUCTIONS ON THE LAW SO YOU CANNOT TALK ABOUT THIS
5 CASE AMONG YOURSELVES OR TO ANYONE. AGAIN, YOU CANNOT
6 READ ANYTHING IN THE PAPER, LISTEN TO ANYTHING ON T.V.
7 OR THE INTERNET OR THE RADIO ABOUT THIS CASE. AND
8 AGAIN, I APPRECIATE Y'ALL'S ATTENTION THAT YOU HAVE
9 GIVEN TO ALL THE WITNESS AND THE ATTORNEYS IN THIS
10 MATTER, AND WE WILL BE BACK HERE TOMORROW SO WE CAN
11 FINALIZE THIS. OKAY? THANK Y'ALL SO MUCH AND Y'ALL
12 ARE NOW EXCUSED FOR THE REMAINDER OF THE AFTERNOON.

13 (Whereupon, the jury leaves
14 the courtroom for the day
15 and the following takes place
16 out of the presence of the
17 jury.)

18 THE COURT: ALRIGHT, WE'LL TAKE A SHORT BREAK,
19 LET THE COURTROOM CLEAR, AND THEN, YOU KNOW, WE'LL
20 COME BACK AND GO OVER THE CHARGES AND ALL LIKE THAT.
21 OKAY? THANK Y'ALL.

22 (Recess)

23 THE COURT: MS. HARRY DOT, ARE YOU READY?

24 COURT REPORTER: YES, SIR.

25 THE COURT: OKAY. LET ME GO THROUGH, I THINK, I

1 DON'T KNOW IF THIS IS GOING TO BE THE WAY TO DO IT OR
2 NOT, BUT THIS IS GOING TO BE, WE'LL AT LEAST START
3 THIS WAY. I'M GOING TO GO THROUGH WHAT MY USUAL, WHAT
4 I SEE, CHARGES FOR, I THINK -- Y'ALL HAVE EXCHANGED
5 CHARGES?

6 MS. ULLMAN: YES, SIR.

7 THE COURT: OKAY. Y'ALL KNOW WHAT EACH ONE OF YOU
8 HAS? OKAY. YOU KNOW, I START OFF WITH THE FACT THAT
9 INDICTMENT IS NOT EVIDENCE. I DO THE CHARGE ON
10 MULTIPLE CHARGES, YOU'VE GOT, EACH ONE IS SEPARATE AND
11 DISTINCT. I'M GOING OVER THE MULTIPLE DEFENDANTS
12 CHARGE AND THAT SAYS THAT, YOU KNOW, YOU CAN FIND ONE
13 GUILTY OR ONE INNOCENT, YOU KNOW, TRY AND SEPARATE --
14 YEAH, EVERYBODY IS HERE. OKAY. TRY AND SEPARATE IT
15 OUT. I GO OVER THE PRESUMPTION OF INNOCENCE, THAT'S
16 THE ONE, BECAUSE I CAN'T FIND ANYTHING ELSE I LIKE I'M
17 STILL DOING THAT ROBE OF RIGHTEOUSNESS THAT YOU
18 MENTIONED WHICH I STILL DISLIKE THAT PHRASE TO NO END,
19 BUT I HAVEN'T FOUND ANOTHER WAY TO DESCRIBE IT, SO I'M
20 STILL DESCRIBING IT THAT WAY.

21 MR. LACKEY: I THINK I USE THE CLOAK RATHER THAN
22 ROBE.

23 THE COURT: WELL, IF YOU'LL SAY CLOAK AND I'LL
24 SAY ROBE I'LL FEEL MUCH BETTER. OKAY. THEN I'LL DO
25 BOTH REASONABLE DOUBTS, I DO THE SHORT ONE AND THE

1 LONG ONE, BECAUSE SOME SIDES WANT IT LONG, SOME WANT
2 IT SHORT, SO I DO IT BOTH. OKAY? I GO OVER THE
3 DUTIES OF THE TRIAL JUDGE AND THE JURY, DIRECT AND
4 CIRCUMSTANTIAL EVIDENCE, CREDIBILITY OF WITNESSES.
5 SINCE WE HAD AN EXPERT WITNESS I WILL GIVE AN EXPERT
6 WITNESS CHARGE, THE FAILURE OF THE DEFENDANTS TO
7 TESTIFY THE FACT THAT THEY CANNOT EVEN BE DISCUSSED IN
8 THE JURY ROOM. THE HAND OF ONE IS THE HAND OF ALL,
9 IN THAT REGARD, SOLICITOR SORENSON, YOU HANDED ME YOUR
10 HAND OF ONE, YOUR REQUEST TO CHARGE NUMBER FIVE?

11 SOLICITOR SORENSON: YES, SIR.

12 THE COURT: MINE, THAT'S INCLUDED IN MINE, MY
13 HAND OF ONE, HAND OF ALL IS THE LONGEST.

14 SOLICITOR SORENSON: THE WAY I'VE GOT IT,
15 ACTUALLY, SOME JUDGES CHARGE IT THAT WAY.

16 THE COURT: OKAY. I'VE GOT -- I HAVE A CHARGE --
17 I'M GOING TO CHARGE IDENTIFICATION, YOU KNOW, INTENT,
18 ARMED ROBBERY, FIRST DEGREE BURGLARY, AND MURDER, AND
19 I USUALLY LEAVE OUT -- WELL, NOT USUALLY LEAVE OUT,
20 BUT WHEN I'M GOING THROUGH, THE MALICE CAN BE INFERRED
21 BY THE USE OF A DEADLY WEAPON, I DON'T MENTION A DIRK.
22 EVEN THOUGH I KNOW IT'S IN THERE, I USUALLY LEAVE DIRK
23 OUT BECAUSE I DON'T KNOW IF ANYBODY KNOWS WHAT IT IS
24 ON THE JURY. I DOUBT THAT TOO MANY PEOPLE IN THIS ROOM
25 KNOW WHAT A DIRK IS, YOU KNOW, BUT, SO I LEAVE THAT

1 OUT UNLESS SOMEBODY REALLY WANTS ME TO MENTION IT. YOU
2 KNOW, I CAN SEE THE LOOK. OKAY.

3 SOLICITOR SORENSON: I THINK TO ACCURATELY STATE
4 THE LAW, YOUR HONOR.

5 THE COURT: SIR?

6 SOLICITOR SORENSON: TO ACCURATELY STATE THE LAW.

7 THE COURT: SURE. OKAY. LET'S SEE, Y'ALL HAVE
8 LOOKED -- LET'S SEE, MS. ULLMAN, YOU GAVE ME THE BASIC
9 CHARGE.

10 MS. ULLMAN: YOUR HONOR, MY ACCOMPLICE LIABILITY
11 AND THEN THE CASE I GAVE YOU WHICH ACTUALLY HAS TWO
12 SEPARATE POINTS OF LAW IN IT THAT I WAS RELYING UPON.
13 THEY'RE BOTH RELATED TO IDENTIFICATION TESTIMONY, BUT
14 ONE IS IN RELATION TO AN INFORMER IDENTIFICATION
15 TESTIMONY, AND THEN THE OTHER IS IN RELATION TO EYE
16 WITNESS IDENTIFICATION WHEN THERE'S BEEN TESTIMONY
17 THAT IT IS NOT A - - -

18 THE COURT: OKAY, YOUR ACCOMPLICE LIABILITY
19 CHARGE?

20 MS. ULLMAN: YES, SIR.

21 THE COURT: OKAY. AND I THINK -- YOU DON'T HAVE
22 YOURS NUMBERED. YOU SAID, ACCOMPLICE LIABILITY, BUT
23 MR. SORENSON, YOU HAVE ONE THAT SAYS, IF TWO OR MORE
24 PEOPLE ACT TOGETHER TO COMMIT AN UNLAWFUL ACT, IS YOUR
25 CHARGE, THAT'S YOUR FIRST CHARGE?

1 SOLICITOR SORENSON: YES, SIR.

2 THE COURT: OKAY. ALRIGHT, OKAY, I DON'T HAVE
3 ANY PROBLEMS WITH CHARGING BOTH OF THESE. I'LL CHARGE
4 YOUR NUMBER ONE, AND FOLLOW IT UP WITH HER ONE
5 SENTENCE THING ABOUT ACCOMPLICE LIABILITY, I'LL PUT
6 THOSE BOTH TOGETHER.

7 SOLICITOR PASCOE: I DON'T THINK WE HAVE ANY
8 OBJECTION TO THAT, BUT I MEAN, WE'D JUST KIND OF LOOK
9 STATE VERSUS PETERSON TO SEE WHAT CONTEXT THAT IS IN.

10 THE COURT: YEAH, AND I'M GOING TO DOUBLE CHECK,
11 I'M GOING TO DOUBLE CHECK BOTH OF THESE CITES JUST TO
12 MAKE SURE MYSELF, BUT ON MY INITIAL READING OF IT,
13 SINCE I KNOW Y'ALL WANT SOME KIND OF AN IDEA. OKAY?

14 SOLICITOR PASCOE: YES, SIR.

15 THE COURT: YOUR REQUEST NUMBER TWO, VOLUNTARY
16 INTOXICATION OR USE OF DRUGS DOES NOT CONSTITUTE A
17 DEFENSE FOR A CRIME. I DON'T KNOW THAT THERE WAS ANY
18 EVIDENCE -- TELL ME --

19 SOLICITOR PASCOE: OH, YEAH, THERE'S TESTIMONY
20 THROUGHOUT THE TRIAL THAT THEY WERE SMOKING MARIJUANA,
21 YOUR HONOR, THAT MARIO SHIVERS WAS SMOKING MARIJUANA,
22 PATRICK TYLER WAS SMOKING MARIJUANA WITH THEM, RALPH
23 COLEMAN, SO THAT - - -

24 THE COURT: OKAY. OH, YEAH, THAT'S RIGHT, THEY
25 HAD BEEN. OKAY, WELL, LET ME CHECK THAT, AND I'LL

1 READ THAT CASE AS WELL, YOU KNOW, JUST TO BE ON THE
2 SAFE SIDE.

3 SOLICITOR PASCOE: THANK YOU, YOUR HONOR.

4 THE COURT: THE -- AND YOU'VE GOT CHARGES THREE
5 AND FOUR LOOK FINE. OKAY?

6 OKAY. WITH REGARD TO -- LET ME SEE, LET ME GO
7 THROUGH THE BASIC CHARGE. OKAY, MS. ULLMAN, I GO
8 THROUGH THE FACT THEY PLED NOT GUILTY, I DON'T -- AND
9 TOWARD THE END OF IT I REMIND EVERYBODY, SOLE JUDGES
10 OF THE FACTS, CREDIBILITY OF THE WITNESSES. I'VE GOT,
11 I'VE GOT PRETTY MUCH EVERYTHING IN YOUR BASIC CHARGE
12 IN MY CHARGES SO, REASONABLE DOUBT, I'VE ALREADY SAID
13 I'M CHARGING BOTH THE LONG AND THE SHORT. I'VE GOT MY
14 PRESUMPTION OF INNOCENCE THING. I'M GOING OVER THE
15 FACT THAT THEY CAN'T INFER ANYTHING ABOUT THE
16 DEFENDANTS NOT TAKING THE STAND, THEY CAN'T EVEN TALK
17 ABOUT THE DEFENDANTS NOT TAKING THE STAND. LET'S SEE
18 -- I THINK I ALREADY TOLD Y'ALL I'M CHARGING CRIMINAL
19 INTENT, DIDN'T I?

20 MS. ULLMAN: YES, SIR.

21 THE COURT: OKAY. THE, AT THE END OF THE CASE I
22 REMIND EVERY ONE OF THEM THAT IT IS EACH AND EVERY ONE
23 OF THEM, UNANIMITY OF VERDICT, I REMIND THEM OF THAT.
24 MY MURDER CHARGE IS ABOUT THE SAME, IT'S THE STANDARD
25 MURDER CHARGE.

1 NOW, MERE PRESENCE, YOU HAVE MERE PRESENCE.
2 WELL, I'M NOT GOING TO USE, I WON'T USE YOUR LONG -- I
3 HAVE A SHORTER ONE THAT JUST REMINDS THE, IT JUST SAYS
4 THAT IT'S NOT -- PRESENCE AT THE SCENE IS NOT
5 SUFFICIENT TO PROVE SOMEONE GUILTY OF IT. MERE
6 ASSOCIATION WITH A PERSON WHO COMMITS A CRIME DOES NOW
7 MAKE THEM -- AND JUST REMIND EVERYBODY -- AND THEN THE
8 NEXT PARAGRAPH THAT THE BURDEN IS ON THE STATE TO
9 PROVE THAT THEY WERE ALL THERE, AND THAT'S WHY WE'VE
10 GOT THE ACCOMPLICE CHARGE IN THERE LIKE THAT. SO MY,
11 I'VE GOT A SHORTER MERE PRESENCE CHARGE THAT I WILL
12 USE.

13 WHY DO YOU HAVE VOLUNTARY MANSLAUGHTER?

14 MS. ULLMAN: YOUR HONOR, WE WOULD ASK THAT YOU
15 CHARGE THE JURY ON VOLUNTARY MANSLAUGHTER, I THINK
16 WHAT PATRICK TYLER STATED WAS THAT THEY WENT THERE
17 INTENDING TO ROB THIS PERSON AND THAT WHILE THEY WERE
18 THERE ROBBING HIM THINGS WENT CRAZE AND STUFF JUST
19 HAPPENED. YOU KNOW, THAT'S MY - - -

20 THE COURT: WELL, THAT IS - - -

21 MS. ULLMAN: --- SYNOPSIS OF WHAT HE SAID.

22 THE COURT: --- THAT IS THE SYNOPSIS OF WHAT HE
23 SAID.

24 MS. ULLMAN: I THINK THE JURY COULD FIND THAT
25 THERE WAS NO MALICE AND THAT IN THE HEAT OF PASSION IT

1 HAPPENED.

2 THE COURT: SO, YOU WANT ME TO MAKE THAT AN
3 OPTION ON THE VERDICT FORM, VOLUNTARY MANSLAUGHTER?

4 MS. ULLMAN: WELL, TO BE QUITE HONEST, YOUR
5 HONOR, I KIND OF THINK AT THIS POINT MAYBE WE SHOULD
6 DISCUSS THAT SINCE WE KIND OF ALL ARE SITTING IN THE
7 SAME BOAT AND WE'VE HAD TO DISCUSS OTHER THINGS.

8 THE COURT: OKAY. ALRIGHT -- YES?

9 SOLICITOR PASCOE: AND OF COURSE, I'M GOING TO
10 OBJECT, BECAUSE IF THEY HAD FOUND THEM GUILTY OF
11 VOLUNTARY MANSLAUGHTER IT'S GOING TO GET THROWN OUT.
12 THERE'S NO EVIDENCE OF LEGAL PROVOCATION, HEAT OF
13 PASSION. YOU WILL NEVER FIND A CASE IN THE HISTORY OF
14 SOUTH CAROLINA WHERE A HOME INVASION WAS A VOLUNTARY
15 MANSLAUGHTER.

16 THE COURT: WELL, LET ME -- OH, YEAH, I MEAN, I'M
17 SORRY, I'M JUST READING OVER THE CHARGE. I SEE, HEAT
18 OF PASSION WILL NOT SUFFICE. WHAT'S THE SUFFICIENT
19 LEGAL PROVOCATION IN THIS ONE?

20 MS. ULLMAN: YOUR HONOR, I WOULD SIMPLY SAY THAT
21 IF THE JURY COULDN'T FIND THE MALICE THEN THEY MIGHT
22 FIND THAT IN THE HEAT OF PASSION. THERE'S TESTIMONY
23 THAT WHEN - - -

24 THE COURT: IF THEY DON'T FIND THE MALICE THEY
25 MIGHT FIND THEM NOT GUILTY OF MURDER.

1 MS. ULLMAN: YES, SIR.

2 THE COURT: OKAY. SO, I'M NOT GOING TO CHARGE
3 VOLUNTARY MANSLAUGHTER. OKAY?

4 OBJECTIONS.

5 MR. PALMER: EXCUSE ME, YOUR HONOR, ONE MOMENT.

6 THE COURT: OKAY. YOU'VE GOT A CHARGE ABOUT
7 OBJECTIONS. YOU KNOW, MY CHARGE IS GOING TO BE LONG
8 ENOUGH WITHOUT GOING INTO THAT. I DON'T THINK THAT
9 THERE IS ANYTHING IN HERE TO MAKE ME THINK THAT, YOU
10 KNOW, WE NEED TO SAY ANYTHING ABOUT OBJECTING IN THE
11 CHARGE. I'M JUST CHARGING THEM ON THE LAW SO THEY CAN
12 MAKE A DETERMINATION ABOUT WHETHER THEY'RE GOING TO
13 FIND SOMEBODY GUILTY OR NOT. SO, DID YOU MAKE A COPY
14 OF THIS AND GIVE IT TO - - -

15 MR. PALMER: I HAVE, YOUR HONOR, YES.

16 THE COURT: ALRIGHT. OKAY, I'VE GOT MY EXPERT
17 WITNESS AND I'VE GOT IDENTIFICATION. I'VE ALREADY GOT
18 THOSE CHARGES. OKAY. AND THEN, WHAT WAS THE -- MS.
19 ULLMAN, WHAT DID YOU -- I'VE GOT YOUR -- OKAY.

20 MS. ULLMAN: YOUR HONOR, THE U.S. VERSUS BROOKS
21 CASE THAT I'VE HANDED TO YOU ACTUALLY CITES THE CASE
22 OF U.S. VERSUS TELFARE, I BELIEVE IS HOW IT'S SAID,
23 AND VERY BRIEFLY, BASICALLY, THAT STATES THAT WHEN
24 THERE IS EVIDENCE THAT AN EYE WITNESS HAS MADE AN
25 IDENTIFICATION, THAT EYE IDENTIFICATION IS CERTAINLY

1 NOT CERTAIN, WHICH MS. PARSLEY IN REGARDS TO RALPH
2 COLEMAN ABSOLUTELY STATED THAT SHE IS NOT SURE, SHE
3 COULDN'T BE SURE, IT'S POSSIBLE IT WASN'T HIM, THAT
4 THERE BE A SPECIAL INSTRUCTION GIVEN TO THE JURY THAT
5 STATES, I BELIEVE THE INSTRUCTION IS IN THERE, BUT IT
6 BASICALLY IS A CAUTIONARY INSTRUCTION STATING THAT
7 JUST BECAUSE SHE PICKS THAT PICTURE DOESN'T GUARANTEE
8 THAT PERSON WAS THERE, THEY NEED TO PAY ATTENTION TO
9 WHAT SHE SAID ABOUT HER ABILITY TO SEE, HER ABILITY TO
10 PERCEIVE WHAT IT IS THAT SHE IDENTIFIED.

11 THE COURT: OKAY. MY CHARGE ON IDENTIFICATION
12 SAYS THAT IDENTIFICATION TESTIMONY IS EXPRESSION OF
13 BELIEF OR AN IMPRESSION BY A WITNESS, AND IT GOES ON
14 DOWN TO SAY, YOU MAY CONSIDER WHETHER A WITNESS HAD AN
15 ADEQUATE TO OBSERVE THE OFFENDER. THIS WOULD BE
16 AFFECTED BY THINGS, ABOUT HOW LONG OR SHORT A TIME IS
17 AVAILABLE, HOW FAR OR CLOSE, LIGHTING CONDITIONS,
18 WHETHER THEY HAD A CHANCE TO SEE OR KNOW THE PERSON IN
19 THE PAST. ONCE AGAIN, I INSTRUCT YOU, THE BURDEN IS
20 ON THE STATE. OKAY? SO, I THINK THAT'S INCLUDED IN
21 MY GENERAL INSTRUCTION.

22 MS. ULLMAN: JUST FOR THE RECORD, I NOTE THE
23 TELFARE INSTRUCTION.

24 THE COURT: MA'AM?

25 MS. ULLMAN: THE RECORD CALLS IT A TELFARE

1 INSTRUCTION, A CAUTIONARY INSTRUCTION UNDER THE
2 TELFARE CASE.

3 THE COURT: WELL, THE REQUIREMENT OF A CAUTIONARY
4 INSTRUCTION, IT SAYS, "THE CAUTIONARY INSTRUCTION OF
5 IDENTIFICATION IS NOT AN ABSOLUTE RULE BUT IT'S A
6 FLEXIBLE ONE TO BE APPLIED IN CONNECTION WITH THE
7 FACTS IN A PARTICULAR CASE UNDER REVIEW." IN MY
8 INSTRUCTIONS I'M GOING TO TELL THEM TO PAY ATTENTION
9 TO WHAT THEY SAID, HOW FAR OR CLOSE, LIGHTING
10 CONDITIONS IS SOMETHING THAT Y'ALL HAVE MADE A BIG
11 ISSUE ABOUT, AND I'M CHARGING THEM ON THAT. I MEAN,
12 ISN'T THAT WHAT - - -

13 MS. ULLMAN: WHAT I MEANT SIR, WAS - - -

14 THE COURT: OH, I'M SORRY, I MUST BE MISSING THE
15 WHOLE POINT.

16 MS. ULLMAN: YES, SIR, THE CASE, I BELIEVE IN A,
17 I WANT TO SAY, FOOTNOTE ACTUALLY GAVE THE EXACT
18 INSTRUCTION. THE FOOTNOTE MAY NOT BE THERE NOW THAT
19 I'M THINKING ABOUT THIS, I MAY HAVE TO RUN DOWNSTAIRS
20 TO GET IT FOR YOU, BUT THE POINT OF WHAT I'M GETTING
21 AT IS, I UNDERSTAND YOUR INSTRUCTION TALKS ABOUT THE
22 LIGHTING AND ALL OF THAT. THE TELFARE INSTRUCTION
23 ITSELF IS ACTUALLY A SPECIALLY CAUTIONARY INSTRUCTION
24 THAT JUDGES CHOOSE TO GIVE AT CERTAIN POINTS, AND I
25 UNDERSTAND THAT CASE THAT I GAVE YOU IS A FOURTH

1 CIRCUIT CASE SAYING THAT IT IS NOT A -- IT IS A
2 FLEXIBLE RULE IN THE JUDGE'S DISCRETION. I'M NOT
3 SAYING YOU HAVE TO GIVE IT, I'M JUST ASKING, AND
4 AGAIN, I MAY NOT HAVE THE ACTUAL INSTRUCTION FOR YOU,
5 I AN GRAB IT IN ABOUT TWO MINUTES, BUT THE TELFARE
6 INSTRUCTION I'M SPEAKING OF IS AN ACTUAL SPECIAL
7 CAUTIONARY INSTRUCTION ASIDE FROM THE NORMAL EYE
8 WITNESS IDENTIFICATION INSTRUCTION THAT'S GIVEN THAT
9 STATES, LOOK AT THE LIGHTING, LOOK AT THE DISTANCE,
10 THINGS OF THAT NATURE.

11 THE COURT: OKAY. WELL, I'LL LET YOU -- SINCE I
12 MUST BE MISSING IT - - -

13 MS. ULLMAN: I'M THINKING I HAD TO PULL IT IN A
14 DIFFERENT CASE BECAUSE I COULDN'T GET THE FOOTNOTE,
15 AND I FORGOT TO BRING THAT CASE OVER HERE, BUT I CAN
16 GET IT FROM MY OFFICE IN ABOUT A MINUTE.

17 THE COURT: AND MAYBE I'M JUST MISSING IT IN
18 HERE, BUT IF YOU'LL BRING IT TO MY ATTENTION I'LL LOOK
19 BACK OVER IT. OKAY?

20 MS. ULLMAN: YES, SIR. THE FURTHER INSTRUCTION,
21 YOUR HONOR, IS THE INFORMER'S IDENTIFICATION
22 INSTRUCTION, AND IT'S ALSO STATED IN THAT BROOKS CASE
23 THAT I HANDED YOU. AND I THINK IT'S ACTUALLY STATED IN
24 THE BROOKS CASE CLOSE TO THE LAST PAGE, IT'S KIND OF
25 INDENTED UPON ITSELF, AND BASICALLY, THAT INSTRUCTION

901

1 STATES THAT WHEN A PARTICIPANT IN THE ACT PRESENTS EYE
2 WITNESS IDENTIFICATION ABOUT WHO PARTICIPATED, A
3 CAUTIONARY INSTRUCTION CAN BE GIVEN IF THAT PERSON HAS
4 BEEN PAID FOR THEIR TESTIMONY OF IF THEY'VE RECEIVED
5 IMMUNITY FOR THEIR TESTIMONY, WHICH THEY HAVE NOT - -

6
7 THE COURT: RIGHT.

8 MS. ULLMAN: --- OF IF THEY'VE RECEIVED ANY SORT
9 OF PERSONAL BENEFIT. I UNDERSTAND THERE HAS BEEN NO
10 PROMISE REGARDING SENTENCING, AND OUTSIDE OF THE
11 JURY'S PRESENCE, I CERTAINLY CAN SAY, PLEADING TO
12 VOLUNTARY MANSLAUGHTER GIVES A PERSON A BENEFIT. I
13 MEAN, THE IDEA OF HIM COMING IN HERE AND TESTIFYING
14 AND GETTING LIFE WITHOUT PAROLE IS PRETTY ABSURD. SO,
15 THE REALITY IS, HE'S GOING TO GET SOME SORT OF
16 SENTENCE THAT EVERYBODY IN THIS COURT KNOWS HE WILL
17 SERVE EIGHTY-FIVE PER CENT OF, AND NOT DAY FOR DAY FOR
18 MURDER. SO, CERTAINLY, HIS TESTIMONY HAS PROVIDED A
19 BENEFIT TO HIM. EVEN IF HE DOESN'T UNDERSTAND THAT,
20 WE ALL UNDERSTAND THAT. HE HAS CERTAINLY BEEN
21 PROVIDED A BENEFIT, AND I BELIEVE THAT THE CAUTIONARY
22 INSTRUCTION REGARDING AN INFORMER'S TESTIMONY SHOULD
23 ALSO BE GIVEN.

24 THE COURT: OKAY. YOU KNOW, I KNOW THAT EACH ONE
25 OF Y'ALL, EACH AND EVERY ONE OF Y'ALL, WHEN YOU STAND

1 UP AND DO YOUR CLOSING ARGUMENTS IS GOING TO MAKE SOME
2 COMMENT ABOUT THAT, OR I WILL BE STUNNED, YOU KNOW,
3 BUT THE WAY THIS READS IS, IT SAYS, -- THIS IS FOR AN
4 INFORMER, THIS IS A CO-DEFENDANT. I UNDERSTAND YOU
5 WANT TO SAY HE'S AN INFORMER BECAUSE HE SQUEALED, YOU
6 KNOW, AND SO, I DON'T SEE, -- GIVEN THAT, BUT ASIDE
7 FROM THAT, THE EXAMPLE, IT SAYS, "TESTIMONY OF AN
8 INFORMANT WHO PROVIDES EVIDENCE AGAINST A DEFENDANT
9 FOR PAY OR FOR IMMUNITY FROM PUNISHMENT, OR FOR A
10 PERSONAL ADVANTAGE OR VINDICATION MUST BE EXAMINED AND
11 WEIGHED BY THE JURY." OKAY. EVERYTHING THAT I CAN
12 SEE IS, OKAY, HE HASN'T BEEN PAID. OKAY. HE'S NOT
13 GETTING ANY IMMUNITY FROM PUNISHMENT, AND I --
14 PERSONAL ADVANTAGE OR VINDICATION, I DON'T KNOW
15 EXACTLY WHAT THAT MEANS, I'D HAVE TO READ IT, BUT THAT
16 SOUNDS MORE LIKE SOME PERSONAL VENDETTA THAT HE WOULD
17 HAVE AGAINST SOMEBODY ELSE. I REALIZE WHAT YOU'RE
18 SAYING, HE'S ALLOWED TO PLEAD TO, WHAT, VOLUNTARY?

19 SOLICITOR PASCOE: YES, SIR.

20 THE COURT: BUT THAT'S NOT, IT'S NOT IMMUNITY
21 FROM PUNISHMENT. HE'S STILL GOT TO WORRY ABOUT
22 WHATEVER SOME CRAZY JUDGE IS GOING TO DO, YOU KNOW.
23 SO, YOU CAN BRING ME THAT TELFARE THING BUT I'M - - -

24 MS. ULLMAN: I'M GETTING IT RIGHT NOW.

25 THE COURT: OKAY. IF YOU'LL DO THAT. OKAY. SO,

903

1 IS THERE ANYTHING THAT Y'ALL, ANYTHING ELSE THAT Y'ALL
2 THINK -- MR. PALMER? OH, YEAH, YOUR WITHDRAWAL,
3 EXCUSE ME.

4 MS. PALMER: AND YOUR HONOR, I, QUITE CANDIDLY, I
5 HAD HOPED THAT MY CLIENT WOULD WANT TO TESTIFY,
6 BECAUSE I THINK THAT WOULD MAKE HIS DEFENSE WITH
7 REGARD TO WITHDRAWAL EVEN STRONGER, BUT I THINK AS IT
8 STANDS THERE'S STILL SOME EVIDENCE IN THE RECORD, EVEN
9 FROM THE STATE'S PRINCIPLE WITNESS THAT MY CLIENT, YOU
10 KNOW, HAD A CHANGE OF HEART, HANDED OVER HIS GUN, AND
11 AT LEAST TRIED TO WITHDRAW FROM THE SITUATION. OF
12 COURSE, A LOT OF IT DEPENDS ON HOW CREDIBLE THE JURY
13 FINDS PATRICK TYLER IN DIFFERENT PARTS OF HIS
14 STATEMENT TO BE, BUT I DO THINK THERE IS ENOUGH
15 FACTUAL MATTER IN THE EVIDENCE TO SUPPORT THAT CHARGE,
16 AND I SURE WOULD LIKE TO MAKE THE ARGUMENT.

17 THE COURT: OKAY. WELL, YOU'RE MAKING THE
18 ARGUMENT NOW, I MEAN, TO ME.

19 MR. PALMER: YES, SIR.

20 THE COURT: BUT IT SAYS, "WITHDRAWAL MAY BE SHOWN
21 IF HE WITHDREW ENTIRELY FROM THE ENTERPRISE." THAT'S
22 ONE THING. SO, WE KNOW THAT'S NOT TRUE.

23 MR. PALMER: I GUESS IT DEPENDS ON WHETHER THEY
24 BELIEVE TYLER, BECAUSE HE SAYS THAT HE CAME BACK WITH
25 DUCT TAPE.

1 THE COURT: WELL, YOU KNOW, WITHDRAWAL IS BEFORE
2 SOME ACT IN FURTHERANCE. I MEAN, THIS WHOLE CASE IS
3 GOING TO DETERMINE WHETHER OR NOT THEY BELIEVE P.T.,
4 YOU KNOW, THAT'S WHERE WE ARE WITH THIS. I DON'T KNOW
5 THAT I -- I MEAN, I'M LOOKING OVER THE DIFFERENT
6 CHARGES, I MEAN, THE DIFFERENT ELEMENTS OF WITHDRAWAL,
7 AND THE ONLY ONE I SEE THAT EVEN MAY BE ARGUMENT IS
8 THE SECOND, NUMBER TWO, WHICH IT'S GOT FOUR DIFFERENT
9 THINGS, IT'S GOT ONE, TWO, TWO AND THREE.

10 MR. PALMER: IT'S SUPPOSED TO BE FOUR OF THEM.

11 THE COURT: I KNOW, IT SOUNDS LIKE SOMETHING I
12 WOULD BE DRAWING UP, SO I WAS IMPRESSED WITH THAT.
13 BUT ANYWAY, IT SAYS, "THERE WAS AN AFFIRMATIVE ACT BY
14 THE DEFENDANT SUCH AS VOICING WITHDRAWAL WHICH
15 ANNOUNCED WITHDRAWAL TO THE OTHERS INVOLVED IN THE
16 CRIME." NOW, I DO REMEMBER P.T. SAYING SOMETHING TO
17 THE EFFECT THAT YOUR CLIENT SAID, HE KNOWS SOMEBODY
18 THERE, AND LET'S GO. AND I, AND - - -

19 MR. PALMER: AND THAT'S WHEN THEY WENT AND GOT
20 THE OTHER GUNMAN.

21 THE COURT: YEAH. NOW, I, I'M, I WILL LOOK OVER
22 THAT CASE JUST TO SEE, THAT STATE VERSUS WALTER LEE
23 HARRIS, I MEAN, -- I THOUGHT YOU HAD A CITE UP THERE,
24 I'M SORRY, STATE VERSUS WALTER LEE HARRIS, EXCUSE ME.

25 MR. PALMER: IT'S KIND OF ROUGH SHOD CAPTION.

1 THE COURT: THANK YOU, THANK YOU. UNLESS YOU'VE
2 GOT -- UNLESS YOU CAN FIND ME A CASE THAT WOULD LEAD
3 ME -- WELL, THERE'S ONE DOWN HERE STATE V. VANG, LET
4 ME LOOK AT THAT ONE, TWO THOUSAND THREE. RIGHT NOW I
5 WANT TO TELL YOU THAT IT'S NOT LOOKING GOOD. OKAY?

6 MR. PALMER: AND YOUR HONOR, JUST TO SHIFT GEARS
7 FOR JUST A SECOND - - -

8 THE COURT: SURE.

9 MR. PALMER: --- AND GO BACK TO THE -- THE FACT
10 THAT MR. TYLER TESTIFIED AND HE'S GETTING A DEAL AND
11 THAT SORT OF THING, I MEAN, YOU SAID THAT YOU WOULD BE
12 SURPRISED IF WE DIDN'T ALL GET INTO THAT, BUT JUST FOR
13 MY -- SO I DON'T STEP IN IT, HOW FAR CAN WE GO WITH
14 THAT?

15 THE COURT: WELL, ACTUALLY, I DON'T HAVE -- IT'S
16 HARD FOR ME TO TELL Y'ALL HOW FAR TO GO, BECAUSE
17 THAT'S NOT MY JOB. I JUST FIGURED Y'ALL WERE GOING TO
18 MENTION -- I FIGURED Y'ALL WERE JUST GOING TO MENTION
19 THE FACT, HE IS GETTING THIS AND HE'S HERE, AND YOU'LL
20 NOTICE, LIKE MR. LACKEY SAID, HE'S THE ONLY ONE THAT
21 DIDN'T PUT A GUN IN HIS HAND, YOU KNOW, AND GET
22 WHATEVER IMPLICATION YOU CAN GET OUT OF THAT. BUT - -

23

24 SOLICITOR PASCOE: BUT THE ONLY GUIDANCE I WOULD
25 PROVIDE, YOUR HONOR, WOULD BE, THEY CAN GET INTO WHAT

1 CAME OUT DURING HIS TESTIMONY, THAT INSTEAD OF LOOKING
2 AT THIRTY TO LIFE, DAY FOR DAY, HE'S LOOKING AT
3 FIFTEEN TO LIFE, EIGHTY-FIVE PER CENT, WITHOUT PAROLE.

4 MR. PALMER: BUT WE CAN'T - - -

5 SOLICITOR PASCOE: I'M SORRY, SCOTT, THERE WAS
6 NOTHING, YOU KNOW, ABOUT INDIVIDUAL CHARGES,
7 OBVIOUSLY, OR ANYTHING LIKE THAT, JUST THAT THAT'S
8 WHAT HIS SENTENCE IS.

9 THE COURT: COULD BE.

10 SOLICITOR PASCOE: COULD BE, YES, SIR.

11 MR. PALMER: I THINK MY SPECIFIC QUESTION WOULD
12 BE, WOULD IT BE APPROPRIATE TO ARGUE THAT HE STATED
13 THAT HE INTENDS TO PLEAD GUILTY TO EACH OF THE CHARGES
14 THAT HE SAID HE WAS GETTING?

15 SOLICITOR PASCOE: YES, SIR.

16 MR. PALMER: OKAY.

17 THE COURT: YEAH, HE SAID THAT.

18 SOLICITOR PASCOE: HE'S GOING TO PLEAD GUILTY TO
19 THOSE CHARGES.

20 MR. PALMER: OKAY.

21 THE COURT: WHAT ELSE, WHAT ELSE HAVE WE GOT?

22 MS. ULLMAN: YOUR HONOR, I'VE GOT TELFARE.

23 THE COURT: OH, YOU'VE GOT TELFARE. DID MR.
24 CHISOLM BRING IT?

25 MS. ULLMAN: HE DID.

1 THE COURT: THAT'S TAINTED, THEN. NEVER MIND,
2 OKAY.

3 MS. ULLMAN: OKAY. HE WAS DIDN'T WANT ME TO GO
4 UP AND DOWN THE STAIRS A COUPLE OF TIMES - - -

5 THE COURT: I JUST WANTED YOU TO DO THAT A COUPLE
6 OF TIMES.

7 MS. ULLMAN: YOU KNOW, IN MY HEELS IT'S
8 DANGEROUS.

9 THE COURT: LET ME READ THIS OVER AND JUST SEE.
10 OKAY. BUT SO YOU'LL KNOW, I'M -- YOU KNOW, UNLESS YOU
11 CAN HAVE MR. CHISOLM ARGUE IT FOR ME, BECAUSE I'VE
12 ALREADY HEARD FROM YOU AND MR. WISE ENOUGH, SO LET ME
13 SEE IF MR. CHISOLM HAS A FRESH TASTE ON SOMETHING.
14 NO, I'LL READ THIS OVER AND I'LL PULL THAT VANG CASE,
15 AND HAVE Y'ALL HAD A CHANCE TO LOOK AT THE VERDICT
16 FORM? OH, I'M SORRY.

17 SOLICITOR PASCOE: YES, SIR, I HAVE, AND THE ONLY
18 THING I DID SEE WAS JUST A TYPO ON NUMBER TWO,
19 UNANIMOUSLY.

20 THE COURT: OKAY.

21 MS. ULLMAN: UNANIMOUSLY.

22 THE COURT: OKAY.

23 SOLICITOR PASCOE: I OBJECT TO THE NOT GUILTY
24 PART OF THESE JURY VERDICT FORMS.

25 MS. ULLMAN: WELL, WE OBJECT TO THE GUILTY PART.

1 SOLICITOR PASCOE: I HAD A JUDGE SHULER ONCE, I
2 WAS TRYING A CASE, AND HE HAD THE FORMS AND HE MADE A
3 MISTAKE AND HAD HIM GUILTY, GUILTY, AND I, OF COURSE,
4 HAD NO OBJECTION TO THAT. JUDGE SHULER MIGHT NOT HAVE
5 EVEN - - -

6 THE COURT: DO Y'ALL -- WHEN WE DID THE ROMAN
7 NUMERAL AFTER BURGLARY, YOU WOULD HAVE PUT BURGLARY IN
8 THE FIRST DEGREE, OR SINCE I'M GOING TO BE CHANGING
9 THIS ANYWAY, OR - IT SAYS, BURGLARY, ONE.

10 SOLICITOR PASCOE: FIRST DEGREE, YES.

11 MR. LACKEY: I THINK JUST FOR - - -

12 THE COURT: CLARIFICATION.

13 MR. LACKEY: IT WOULD BE PARALLEL TO THE
14 INDICTMENT, YES, SIR.

15 THE COURT: OKAY. I'LL MAKE THAT CHANGE, AND
16 HOPEFULLY I'LL SPELL UNANIMOUSLY CORRECTLY NEXT TIME,
17 SINCE I'M RESPONSIBLE FOR MY LOYAL AND DEVOTED STAFF.
18 I TOOK RESPONSIBILITY. OKAY.

19 OKAY. ALRIGHT, THANK Y'ALL -- ANYTHING - - -

20 MS. ULLMAN: I HAVE JUST ONE MORE.

21 THE COURT: YES, MA'AM.

22 MS. ULLMAN: I THINK IT'S MORE OF A QUESTION TO
23 THE STATE.

24 THE COURT: YES, MA'AM.

25 MS. ULLMAN: EVERYBODY HAS HEARD, GOING ON AND ON

1 AND ON ABOUT THE LIGHTS BEING BLACK LIGHTS, THINGS OF
2 THAT NATURE. I WOULD LIKE TO BRING A BLACK LIGHT IN
3 TO SHOW THE JURY. I UNDERSTAND THAT I CAN'T SAY THAT'S
4 THE BLACK LIGHT THAT CAME FROM THE HOUSE, JUST AS MUCH
5 AS THEY CAN'T SAY THAT THE PICTURE OF THE GUN IS THE
6 GUN THAT CAME FROM THIS INCIDENT, AND I CERTAINLY --
7 AND IT'S JUST A MATTER OF, I'D LIKE FOR THEM TO SEE A
8 BLACK LIGHT. I MEAN, I UNDERSTAND THAT IN MY MIND I
9 KNOW WHAT A BLACK LIGHT IS, BUT REALISTICALLY, I THINK
10 MOST PEOPLE COULD PROBABLY SAY, YEAH, I KNOW WHAT A
11 BLACK LIGHT IS, BUT COULD MOST PEOPLE SAY THAT THEY
12 UNDERSTAND HOW BRIGHT OR HOW DIM IT REALLY IS. I WOULD
13 SAY NOT. I WOULD JUST ASK FOR ME TO BE ALLOWED TO
14 PLUG IN A BLACK LIGHT AND TURN IT ON.

15 THE COURT: WELL, I UNDERSTAND YOUR REQUEST. ARE
16 YOU THEN ASKING US TO TURN OFF THE LIGHTS IN HERE SO
17 WE CAN THEN SEE? AND THEN, THE OTHER QUESTION IS,
18 EVEN THOUGH THEY SAID IT WAS A BLACK LIGHT, OKAY,
19 NOBODY SAID WHAT THE WATTAGE WAS, AND JUST SO Y'ALL
20 WILL KNOW, WHEN I WAS IN COLLEGE I HAD A FLORESCENT
21 BLACK LIGHT THAT WAS REALLY, REALLY BRIGHT, YOU KNOW.
22 SO, YOU KNOW, -- SO - - -

23 MS. ULLMAN: ACTUALLY, I DO BELIEVE, YOUR HONOR,
24 THAT ASHLEY PARSLEY TESTIFIED THAT THE WATTAGE OF THE
25 BULBS IN THE HOUSE WAS SIXTY WATTS.

1 THE COURT: SHE DID?

2 MS. ULLMAN: AND ON TOP OF THAT, YOUR HONOR, I
3 WOULD NOT ASK THAT WE TURN THE COURTROOM OFF. I MEAN,
4 I UNDERSTAND WE'VE ALREADY GOT A BUNCH OF SECURITY IN
5 HERE. TWO THINGS COULD HAPPEN, WE COULD HAVE ONE OF
6 THE BAILIFFS PUT THE LIGHT IN THE JURY ROOM AND THEY
7 COULD GO IN THERE AND SEE IT AND COME BACK OUT. OR - -

8
9 THE COURT: NO, I'M NOT GOING TO LET THEM - I'M
10 NOT GOING TO DO THAT.

11 MS. ULLMAN: THERE WAS ONE OTHER SUGGESTION, YOUR
12 HONOR.

13 THE COURT: OKAY.

14 MS. ULLMAN: I'VE PLAYED WITH THE LIGHTS IN THE
15 ROOM.

16 THE COURT: HUH?

17 MS. ULLMAN: I'VE ACTUALLY PLAYED WITH ALL OF THE
18 LIGHTS IN THE ROOM, AND I'VE FOUND THAT YOU CAN TURN
19 JUST THOSE BROWN LIGHTS OVER THE JURY OFF, JUST THOSE,
20 AND NOT AFFECT ANYBODY ELSE. SO, THAT WOULD BE MY
21 OTHER SUGGESTION.

22 THE COURT: YOU'VE GOT A SIXTY WATT BLACK LIGHT?

23 MS. ULLMAN: YES, SIR.

24 SOLICITOR PASCOE: IT'S - - -

25 THE COURT: GO AHEAD.

1 SOLICITOR PASCOE: IT'S ONE HUNDRED PER CENT
2 IMPROPER, YOUR HONOR, WE CAN'T DO THAT, WE CAN'T HAVE
3 SCIENCE EXPERIMENTS IN FRONT OF THE JURY. I MEAN,
4 THAT'S SOMETHING SHE COULD HAVE ASKED THE WITNESSES
5 ABOUT AND MAYBE HAD A DEMONSTRATION THEN. I'M NOT SO
6 SURE SHE COULD HAVE EVEN DONE IT THEN.

7 THE COURT: WELL, I THINK SHE COULD HAVE HAD A
8 DEMONSTRATION IF SHE WANTED TO SAY, IS THIS BLACK
9 LIGHT, IS THIS ABOUT THE RIGHT LIGHTING, I THINK SHE
10 COULD HAVE DONE THAT. I'M -

11 SOLICITOR PASCOE: NOT TO MENTION, I DON'T THINK
12 THE SIXTY WATT INFORMATION CAME OUT DURING THE TRIAL.
13 IT MIGHT HAVE COME OUT IN PRETRIAL.

14 SOLICITOR SORENSON: I KNOW IT DID DURING THE
15 PRETRIAL, I DON'T THINK SHE TESTIFIED TO THAT DURING
16 THE -- I COULD BE WRONG, BUT - - -

17 THE COURT: I DON'T, I HONESTLY DON'T REMEMBER HER
18 OR ANYBODY TESTIFYING TO THE WATTAGE.

19 SOLICITOR SORENSON: SHE DID IN THE PRETRIAL, I
20 KNOW THAT, BECAUSE I'VE EVEN GOT THE TRANSCRIPT. I
21 DON'T BELIEVE SHE DID TUESDAY.

22 THE COURT: I'M - - -

23 SOLICITOR PASCOE: AND THERE'S BEEN GOOD
24 TESTIMONY THAT THEY CAN USE IN THEIR CLOSING. DIDN'T
25 ONE OF THE WITNESSES TALK ABOUT HOW YOU COULDN'T SEE

1 SOMEONE FROM - - -

2 THE COURT: YEAH, MR. WISE GOT UP AND, I THINK IT
3 WAS MR. WISE, - - -

4 SOLICITOR PASCOE: YES, MR. WISE.

5 THE COURT: --- AND ASKED, COULD YOU SEE ME FROM
6 HERE? AND OF COURSE, WHEN HE WAS STANDING BACK TOWARD
7 RICHARD AND HE SAID IT WAS EIGHT FEET, I THOUGHT, OH,
8 YEAH. I THOUGHT THAT WAS GOOD, YOU KNOW, I REMEMBERED
9 THAT PART AND I WAS THINKING, OH, GOOD. HE'S A GOOD
10 JUDGE OF DISTANCE. OKAY. BUT, I MEAN, YOU GET TO MAKE
11 THE EIGHT FOOT ARGUMENT EVEN THOUGH HE WAS FOURTEEN,
12 FIFTEEN FEET AWAY, WHICH I THOUGHT THAT WAS CLEVER THE
13 WAY HE DIDN'T SAY, NO, ISN'T IT MORE LIKE FIFTEEN?

14 MR. WISE: I SAID OVER EIGHT FEET, YOUR HONOR.

15 THE COURT: I KNOW, I KNOW. NO, MA'AM.

16 MS. ULLMAN: YES, SIR.

17 THE COURT: OKAY. I APPRECIATE IT. OKAY. DOES
18 ANYBODY WANT TO DO A DEMONSTRATION OF DUCT TAPING
19 SOMEBODY'S MOUTH AND SEE IF THEY CAN STILL TALK?

20 MS. ULLMAN: I ACTUALLY WOULD KIND OF - - -

21 THE COURT: NO, NO, NO. OKAY. ALRIGHT, ANYTHING
22 ELSE FROM - - -

23 MR. MELLARD: YES, SIR.

24 THE COURT: MR. MELLARD, YES, SIR.

25 MR. MELLARD: I BELIEVE THE DEFENSE HAS RESTED,

1 SO AT THIS TIME I WOULD RENEW OUR DIRECTED VERDICT
2 MOTIONS.

3 THE COURT: OH, YEAH, LET'S -- YEAH, SINCE WE'RE
4 ON THE RECORD NOW, ALL OF Y'ALL ARE RENEWING YOUR
5 DIRECTED VERDICT MOTIONS.

6 COURT REPORTER: JUDGE, ALL OF THIS I HAVE BEEN
7 PUTTING ON THE RECORD.

8 THE COURT: YOU HADN'T BEEN DOING THIS ON THE
9 RECORD?

10 COURT REPORTER: I HAVE.

11 THE COURT: OKAY. OKAY. NO, I WANT THIS, ON THE
12 RECORD IS FINE. OKAY?

13 COURT REPORTER: THAT'S ALL. OKAY.

14 THE COURT: OKAY. AND NOW, JUST CONTINUING ON
15 THE RECORD, I'M SORRY, I DIDN'T MEAN TO IMPLY THAT YOU
16 WEREN'T DOING IT, OKAY, ALL OF THE DEFENDANTS ARE
17 RENEWING THEIR DIRECTED VERDICT MOTION AND THE OTHER
18 MOTION YOU MADE ABOUT VIOLATION OF DUE PROCESS.

19 MR. MELLARD: FAIR TRIAL AND DUE PROCESS, YES,
20 SIR.

21 THE COURT: THAT I THINK EVERYBODY JOINED IN.

22 MR. MELLARD: YES, SIR.

23 THE COURT: LET'S SEE, AND I DID ENJOY THE WAY
24 Y'ALL DANCED AROUND THE FACT THAT -- WHO MADE THE
25 DECISION TO GO FORWARD ON THIS?

1 MR. MELLARD: ON WHAT?

2 THE COURT: THE COURT. NO, OF DENYING SEVERANCE
3 AND DENYING YOUR CLIENTS A RIGHT TO A FAIR AND
4 IMPARTIAL TRIAL AND LIKE THAT WAS ALL DONE BY THIS
5 COURT, AND I AM AGAIN DENYING YOUR MOTIONS FOR
6 DIRECTED VERDICT AND I'M DENYING THE MOTION THAT THEY
7 DIDN'T GET A FAIR TRIAL, THEY GOT ONE. AND I THOUGHT
8 Y'ALL DID A GREAT JOB. OKAY. I THINK THAT'S IT.
9 HAVE WE GOT ALL THE OBJECTIONS PRESERVED FOR THE
10 RECORD, I THINK, ALL YOUR COMPLAINTS ABOUT WHAT I DID
11 IS PRESERVED, SO WE OUGHT TO BE DOING PRETTY GOOD.
12 OKAY.

13 ANYTHING ELSE FROM THE STATE?

14 SOLICITOR PASCOE: NO, YOUR HONOR.

15 THE COURT: ANYTHING ELSE FROM DEFENDANTS?

16 MS. ULLMAN: NO, YOUR HONOR.

17 MR. LACKEY: NO, YOUR HONOR.

18 MR. PALMER: NO, YOUR HONOR.

19 MR. MELLARD: NO, YOUR HONOR.

20 MR. KOGER: NO, YOUR HONOR.

21 THE COURT: AND I'LL EXPECT TO SEE YOU IN A WHITE
22 SHIRT AND A STRIPED TIE, MR. PASCOE.

23 SOLICITOR PASCOE: YES, SIR.

24 THE COURT: OKAY. THANK YOU, SIR. Y'ALL HAVE A
25 GOOD EVENING, OKAY, AND WE'LL SEE Y'ALL AT NINE IN THE

1 MORNING. AND I'LL LOOK -- AGAIN, I WILL LOOK OVER
2 THIS VANG CASE AND TELFARE.

3 MS. ULLMAN: THANK YOU, YOUR HONOR.

4 (Recess for the day.)

5 DATE:

6 DECEMBER 17, 2010

7 THE COURT: ALRIGHT, Y'ALL HAD, Y'ALL CAME BACK
8 INTO CHAMBERS AND STARTED DISCUSSING THINGS THAT WE
9 DECIDED WE NEEDED TO COME AND PUT THOSE, THAT STUFF ON
10 THE RECORD, SO LET'S GO AHEAD AND DO THAT.

11 MR. PASCOE.

12 SOLICITOR PASCOE: THANK YOU, YOUR HONOR.

13 THE COURT: YES, SIR.

14 SOLICITOR PASCOE: ONE THING WE WOULD ASK FOR,
15 SINCE THERE HAS BEEN TESTIMONY ABOUT SENTENCES, A
16 CHARGE FOR THE JURY THAT THEY'RE NOT TO CONSIDER
17 SENTENCING IN THEIR DELIBERATIONS, THAT YOU ARE THE
18 ONLY PERSON WHO CONSIDER WHAT SENTENCE SOMEONE GETS.

19 THE COURT: AND WHAT I'M GOING TO DO IN MY CHARGE
20 WHERE I DISCUSS THE DUTIES OF THE JUDGE AND THE JURY,
21 I'M GOING TO REMIND THE JURY IT'S THEIR JOB TO
22 DETERMINE GUILT OR INNOCENCE, AND IT'S MY JOB TO,
23 BASED UPON THEIR DECISION, TO DETERMINE WHAT SENTENCE,
24 IF ANY, WILL BE GIVEN TO THE DEFENDANTS, AND THAT THEY
25 AREN'T TO CONSIDER ANY OF THAT IN COMING TO THEIR

1 DETERMINATION OF THAT GUILT OR INNOCENCE. I'M GOING
2 TO ADD THAT AS PART OF MY JURY CHARGES.

3 ANY OBJECTION TO THAT FROM ANY OF THE DEFENSE
4 ATTORNEYS?

5 MR. LACKEY: NO, YOUR HONOR.

6 MS. ULLMAN: NO, SIR, YOUR HONOR.

7 MR. PALMER: NO, YOUR HONOR.

8 MR. MELLARD: NO, YOUR HONOR.

9 MR. KOGER: NO, YOUR HONOR.

10 THE COURT: ALRIGHT. WHAT'S NEXT, MR. PASCOE?

11 SOLICITOR PASCOE: YOUR HONOR WAS GOING TO LOOK
12 AT THE -- AND I DON'T HAVE IT IN FRONT OF ME, THE JURY
13 REQUEST TO CHARGE ON ACCOMPLICE LIABILITY BY MS.
14 ULLMAN.

15 THE COURT: YES, IT WAS A ONE SENTENCE REQUEST --
16 I'VE GOT IT SOMEWHERE IN THERE -- CITING STATE VERSUS
17 PETERSON - - -

18 SOLICITOR PASCOE: YES, SIR.

19 THE COURT: --- THE ACCOMPLICE LIABILITY THING.
20 I HAVE READ THE STATE VERSUS PETERSON THING, THE
21 PARTIES WERE KIND ENOUGH TO PROVIDE ME A COPY OF IT.
22 IN THAT CASE IT APPEARED TO BE THE UNARMED LARCENY OF
23 A CAR, AND THERE WAS AN ISSUE ABOUT WHETHER IT WOULD
24 HAVE BEEN THE NATURAL AND PROBABLE CONSEQUENCE OF THAT
25 SITUATION WHEN IT WAS A NON LIFE THREATENING CRIME.

1 AND AFTER REVIEWING THAT I KNOW THAT I AM GOING TO NOT
2 MAKE THAT CHARGE. AND SO, I WILL NOTE Y'ALL'S
3 OBJECTION TO MY FAILURE TO DO THAT IN THE RECORD.

4 MR. WISE, IS THERE ANYTHING ELSE YOU WANT TO PUT
5 ON THE ABOUT THAT?

6 MR. WISE: NO, YOUR HONOR.

7 THE COURT: OKAY. OH, YES, SIR?

8 MR. WISE: CAN YOU MAKE THAT PART OF THE COURT'S
9 EXHIBITS?

10 THE COURT: YEAH, I'LL BE GLAD TO. I WILL MAKE
11 THAT ACCOMPLICE LIABILITY, I DON'T KNOW WHAT COURT'S
12 EXHIBIT THAT WAS. WHERE ARE WE ON THAT, MS. - - -

13 COURT REPORTER: IT WILL BE -- HOLD ON ONE
14 MOMENT. IT WILL BE COURT'S THREE.

15 THE COURT: COURT'S THREE? OKAY.

16 COURT REPORTER: FOUR, I'M SORRY.

17 THE COURT: NUMBER FOUR?

18 COURT REPORTER: YES, SIR.

19 THE COURT: OKAY. IF YOU'D MARK THAT NUMBER FOUR
20 AND GOING ALONG WITH MR. WISE'S OBJECTION. OKAY?

21 COURT REPORTER: YES, SIR.

22 (Court's Exhibit Four
23 marked and filed.)

24 THE COURT: ALRIGHT. YES, SIR?

25 SOLICITOR PASCOE: ALSO, YOUR HONOR, I THINK IT

1 WAS AN AGREEMENT IN CHAMBERS WITH THE STATE AND THE
2 DEFENSE ATTORNEYS THAT WE'RE GOING TO REQUEST AN
3 ATTEMPTED ARMED ROBBERY CHARGE IN THIS CASE AS WELL.

4 THE COURT: ALRIGHT. THE, AND WE'RE IN THE
5 PROCESS OF DOING THE VERDICT FORM RIGHT NOW. AND THE
6 VERDICT FORM, I BELIEVE, Y'ALL HAD SEEN A COPY BUT THE
7 LAST ONE, OR THE LAST CHARGE THAT'S ON IT, I BELIEVE
8 IS ARMED ROBBERY, IS THAT CORRECT?

9 SOLICITOR PASCOE: YES, SIR.

10 THE COURT: AND WHAT I'M GOING TO DO IS, I HAVE
11 AN INSTRUCTION ON THAT VERDICT FORM THAT READS, "IF
12 YOU FIND THE DEFENDANT GUILTY OF NUMBER THREE" WHICH
13 IS THE THIRD CHARGE, "YOU CAN END YOUR DELIBERATIONS.
14 IF YOU FIND THE DEFENDANT NOT GUILTY AS TO NUMBER
15 THREE," WHICH IS THE ARMED ROBBERY CHARGE, "YOU WILL
16 GO ON AND CONSIDER QUESTION NUMBER FOUR" WHICH IS THE
17 ATTEMPTED ARMED ROBBERY CHARGE. OKAY? AT SOME POINT
18 THEY WILL BE PRINTED UP AND I'LL GET EACH ONE OF Y'ALL
19 TO LOOK IT OVER FOR, -- Y'ALL ARE MY OFFICIAL SPELL
20 CHECKS. SO, WE'LL GET Y'ALL TO DOUBLE CHECK AND SEE IF
21 YOU HAVE ANY OBJECTION TO IT, SO WE CAN HAVE THOSE
22 READY TO GIVE TO THE JURY UPON THE CONCLUSION OF THE
23 CLOSINGS.

24 ANYTHING ELSE, MR. PASCOE?

25 SOLICITOR PASCOE: NO, YOUR HONOR.

1 THE COURT: ANYTHING ELSE FROM THE DEFENDANTS,
2 ANY OF THE DEFENDANTS?

3 MR. PALMER: YES, YOUR HONOR.

4 THE COURT: YEAH, WE'VE GOT -- I'M SORRY, WE DO
5 HAVE TWO OTHER THINGS. MR. PALMER, YOU MADE THE
6 REQUEST OF THE WITHDRAWAL CHARGE?

7 MR. PALMER: YES, SIR.

8 THE COURT: AND YOU WERE KIND ENOUGH TO POINT OUT
9 STATE VERSUS VANG, - - -

10 MR. PALMER: YES, SIR.

11 THE COURT: --- AND WE MENTIONED HOW IN CHAMBERS
12 IT WAS AN INTERESTING GROUP OF DEFENDANTS IN THAT
13 CASE.

14 MR. PALMER: YES, SIR.

15 THE COURT: IN THAT CASE IT APPEARS TO ME THAT,
16 THAT MR. VANG ACTIVELY PARTICIPATED IN HIS DEFENSE IN
17 THE CASE. I MEAN, HE PUT UP A DEFENSE. I REALIZE THAT
18 FROM, FROM, IN MY CHARGE TO THE JURY WITH REGARD TO
19 YOUR CLIENT IN THIS CASE, THEY CAN'T MAKE ANY
20 INFERENCE WITH REGARD TO THAT, YOU KNOW. BUT IT SEEMS
21 TO ME IN THIS CASE THAT MR. VANG ACTIVELY PARTICIPATED
22 IN THE DEFENSE OF HIS CASE AND PUT UP A DEFENSE, IS
23 THAT CORRECT?

24 MR. PALMER: I AGREE THAT VANG MADE AN
25 AFFIRMATIVE DEFENSE IN THE CASE, YOUR HONOR, - - -

1 THE COURT: YES, SIR.

2 MR. PALMER: --- AND HAD MY CLIENT DONE THAT, OF
3 COURSE, WE'D HAVE A DIFFERENT SITUATION. HOWEVER, I
4 BELIEVE THERE IS -- IT'S NOT JUST MY BELIEF, IT'S
5 OBVIOUS THAT THERE IS SOME EVIDENCE IN THE STATE'S
6 CASE FROM THEIR PRINCIPLE WITNESS THAT MY CLIENT TOOK
7 SOME ACTION TO WITHDRAW FROM THIS CHAIN OF EVENTS.
8 NOW, WHETHER OR NOT HE RE-ENTERED, IT IS A QUESTION OF
9 FACT AS WELL, BUT I THINK IT'S CERTAINLY ENOUGH TO GET
10 IT TO THE JURY.

11 THE COURT: WELL, YOUR CHARGE IS DIFFERENT FROM
12 EVEN THE CHARGE THAT THEY GAVE IN VANG -- IN VANG,
13 EXCUSE ME, I GET CONFUSED WITH THE TWO DEFENDANTS.
14 AND THAT CHARGE THAT WAS GIVEN IN VANG AND APPROVED,
15 THE JUDGE ADDED THE PART THAT A PERSON WHO CONTINUES
16 IN THE COMMON DESIGN CANNOT CLAIM WITHDRAWAL, YOU
17 KNOW, AND I REALIZE THERE IS AN INFERENCE FROM, FROM
18 THE STATE'S PRIMARY WITNESS THAT AT LEAST YOUR CLIENT
19 MENTIONED THAT THEY SHOULD NOT GO THROUGH WITH THIS.

20 MR. PALMER: YOUR HONOR, IN ADDITION, HE GAVE UP
21 HIS WEAPON, ACCORDING TO THE WITNESS.

22 THE COURT: RIGHT. BUT HE STILL CAME AND
23 ACTIVELY PARTICIPATED IN THE CRIME, ACCORDING TO ALL
24 THE TESTIMONY I'VE HEARD SO FAR AS WELL.

25 MR. PALMER: YES, SIR, AND CERTAINLY, THE JURY

1 CAN BELIEVE PART OF THAT AND NOT PART OF -- THE OTHER
2 PART.

3 THE COURT: I AGREE.

4 MR. PALMER: AND I'M FINE WITH YOUR HONOR
5 CHARGING THE CHARGE THAT'S IN THE CASE LAW ITSELF
6 ABOUT CONTINUING, BECAUSE THAT'S, YOU KNOW, I
7 ACKNOWLEDGE THAT'S A QUESTION OF FACT, BUT CERTAINLY,
8 I THINK MY CLIENT HAS THE RIGHT TO AT LEAST ARGUE
9 THAT, SINCE THERE ARE SOME FACTS IN THE RECORD, AND
10 THE JURY CAN GIVE THOSE FACTS WHATEVER WEIGHT OR
11 CREDIBILITY THEY WANT TO.

12 THE COURT: ALRIGHT. MR. PASCOE, ANYTHING FROM
13 YOU?

14 SOLICITOR PASCOE: WELL, CAN I HAVE TIME LATER TO
15 LOOK AT THE CASE, I APOLOGIZE, I JUST HAVEN'T LOOKED
16 AT THE CASE.

17 THE COURT: OKAY.

18 SOLICITOR PASCOE: I WILL SAY THIS, THOUGH,
19 WITHOUT HAVING LOOKED AT IT, ONE PROBLEM IS, FOR THE
20 DEFENSE, THAT ONCE ALLEGATIONS ARE MADE AND THE ONLY
21 EVIDENCE IS THAT A DEFENDANT GOES IN THERE TO START
22 THE PROCESS OF THE ROBBERY AND THE BURGLARY, IT, I
23 DON'T THINK IT MATTERS UNDER THE LAW EVEN IF HE WALKS
24 AWAY THEN, EVEN IF THE EVIDENCE WAS, I WENT IN THERE
25 AND SCOPED IT OUT AND CAME OUT AND SAID, I CAN'T GO

1 BACK IN THERE WITH YOU, AND HE WALKS AWAY, HE'S STILL
2 PART OF THE ROBBERY AND THE BURGLARY.

3 THE COURT: OH, I AGREE, AND THE CHARGE THAT
4 JUDGE KEISLEY GAVE WAS, IF A PERSON COMPLETELY
5 WITHDRAWS FROM THE COMMON DESIGN. SO, I MEAN, IT'S --
6 AND MAKES IT CLEAR THAT IT'S COMMUNICATED TO ALL OF
7 THE OTHER PARTICIPANTS, YOU KNOW. AND FINALLY, HE
8 SAYS, IF HE CONTINUES HE CANNOT CLAIM IT. SO, YOU
9 KNOW, I THINK IT -- I UNDERSTAND -- I'LL GIVE YOU A
10 CHANCE TO READ THE CASE, - - -

11 SOLICITOR PASCOE: THANK YOU, YES, SIR.

12 THE COURT: --- AND THEN I'LL MAKE THAT DECISION
13 IN A FEW MINUTES -- AS SHORTLY AS WE CAN. I'VE GOT
14 THE CASE HERE IF YOU WANT TO SEE IT.

15 SOLICITOR PASCOE: YES, SIR, THANK YOU.

16 THE COURT: HERE, I'VE GOT IT RIGHT HERE, AND YOU
17 CAN LOOK IT OVER. OKAY?

18 SOLICITOR PASCOE: YOU SAID, THE DEFENDANT
19 TESTIFIED IN THIS CASE, YOUR HONOR?

20 THE COURT: WELL, HE -- IT APPEARS, I CANNOT TELL
21 FOR SURE. IT APPEARS THAT HE TESTIFIED. IT SAYS IN
22 THERE THAT HE, HIS TESTIMONY FROM A PREVIOUS TRIAL WAS
23 READ INTO THE RECORD, AND THEN IT SEEMS TO APPEAR THAT
24 HE -- YOU TAKE YOUR TIME, YOU DON'T HAVE TO DO IT
25 RIGHT NOW. I'M GOING TO GO ON TO THE OTHER THING, TO

1 THE OTHER THING RIGHT NOW.

2 SOLICITOR PASCOE: YES, SIR, THANK YOU.

3 THE COURT: --- AND WE'LL COME BACK TO THAT.

4 AND FINALLY, MS. ULLMAN, YOU ASKED ME TO GIVE A
5 TELFARE CHARGE?

6 MS. ULLMAN: YES, SIR.

7 THE COURT: AND I AM CURIOUS, DID YOU HAPPEN TO
8 READ STATE VERSUS PATTERSON OR STATE VERSUS ROBINSON?

9 MS. ULLMAN: YOUR HONOR, I DID NOT, I READ THE
10 BROOKS CASE THAT I PRESENTED TO YOU.

11 THE COURT: OKAY. ALRIGHT, ANYWAY, IT APPEARS
12 FROM MY READING OF THOSE CASES, STATE VERSUS PATTERSON
13 IS FIVE TWENTY-TWO SOUTHEASTERN, SECOND, EIGHT FORTY-
14 FIVE -- AND HAVE YOU GOT THE CITE FOR ROBINSON? AND
15 I'LL GIVE YOU THE CITE FOR ROBINSON. ---

16 MS. ULLMAN: YES, SIR.

17 THE COURT: --- BUT IT APPEARS TO ME THAT I AM
18 NOT GOING TO CHARGE, FROM MY READING OF STATE LAW THAT
19 I AM NOT GOING TO CHARGE THE TELFARE INSTRUCTIONS IN
20 THIS MATTER. AND THE ROBINSON CASE IS TWO SEVENTY-
21 FOUR SOUTH CAROLINA ONE NINETY-EIGHT. AND I WILL GET
22 Y'ALL - I WILL NOTE YOUR OBJECTION TO MY RULING, ---

23 MS. ULLMAN: YES, SIR.

24 THE COURT: --- AND THEN IF YOU NEED TO PUT
25 ANYTHING ELSE IN THE RECORD AFTER YOU'VE READ THOSE

1 SOUTH CAROLINA CASES YOU MAY FEEL FREE TO DO SO.

2 MS. ULLMAN: YES, SIR.

3 THE COURT: OKAY?

4 MS. ULLMAN: YES, SIR.

5 THE COURT: ALRIGHT, I'M GOING TO GIVE Y'ALL A
6 CHANCE TO FINISH READING THE CASE, SINCE THIS IS NOT A
7 TIMED EVENT. OKAY? MR. SORENSON, YOU CAN TAKE --
8 OKAY.

9 SOLICITOR PASCOE: HE HAS NOTHING ELSE TO DO.

10 THE COURT: HE DOESN'T HAVE ANYTHING ELSE TO DO,
11 SO YOU'RE GOING TO DO THE OPENING?

12 SOLICITOR PASCOE: YES, SIR, I'M GOING TO DO ALL
13 THE CLOSINGS.

14 THE COURT: OKAY. AND YOU CAN DO YOUR OPENING
15 WITHOUT ME MAKING A DECISION ON THAT?

16 SOLICITOR PASCOE: I CAN, YES, SIR.

17 THE COURT: ALRIGHT. WHAT I'M GOING TO DO, SINCE
18 THE JURY HAS BEEN HERE FOR A WHILE, IF THERE'S NO
19 OBJECTION FROM ANY OF THE PARTIES HERE I'M GOING TO
20 ALLOW THE SOLICITOR TO GO AHEAD AND DO HIS OPENING IN
21 THIS CASE, AND THEN WE'LL TAKE A BREAK AND THAT WILL
22 GIVE EVERYBODY A CHANCE, AND I'LL TELL YOU AT THAT
23 TIME WHETHER I'M GOING TO CHARGE THE WITHDRAWAL THAT
24 JUDGE KEISLEY DID IN THAT CASE, AND THEN WE'LL ALLOW
25 Y'ALL TO ALL GO FORWARD AND DO YOUR CLOSINGS.

1 SOLICITOR PASCOE: I JUST WANT TO -- AND THAT'S
2 FINE WITH ME, I'LL LET YOU KNOW THAT MY OPENING ISN'T
3 GOING TO BE MORE THAN TEN MINUTES, FIFTEEN MINUTES.

4 THE COURT: NOW, YOU KNOW, I AM STUNNED, JUST --
5 WELL, NEVER MIND, YOU KNOW. I APPRECIATE YOU DOING IT
6 IN SUCH A PRECISE FASHION.

7 SOLICITOR PASCOE: YES, SIR. WE CAN STILL TAKE A
8 BREAK.

9 THE COURT: OKAY.

10 SOLICITOR PASCOE: I INTENTIONALLY ONLY HAD ONE
11 CUP OF COFFEE TODAY, THINKING I WAS GOING TO HAVE TO
12 SIT A LONG TIME.

13 THE COURT: WELL, I JUST FEEL LIKE IF WE CAN AT
14 LEAST GET THE JURY OUT AND DO THAT, AND THEN THAT WILL
15 GIVE US SOME TIME.

16 MS. ULLMAN, YOU LOOKED LIKE YOU WANTED TO SAY
17 SOMETHING.

18 MS. ULLMAN: YES, SIR, I HAVE A QUESTION. IF MR.
19 PASCOE IS GOING TO USE THOSE BOARDS IS THERE ANY WAY
20 HE COULD JUST SHOW - - -

21 SOLICITOR PASCOE: SHE CAN DO IT, RIGHT, YES,
22 SIR, I'LL LET HER - - -

23 MS. ULLMAN: JUST SO WE DON'T HAVE TO GET UP AND
24 EVERYTHING, I MEAN, IF WE COULD JUST SEE THEM
25 BEFOREHAND.

1 THE COURT: SURE.

2 SOLICITOR PASCOE: COULD WE JUST DO THAT NOW JUST
3 TO SAVE TIME?

4 THE COURT: YES, GO AHEAD AND DO THAT.

5 OKAY. ARE THE DEFENDANTS READY?

6 MR. PALMER: YES, SIR.

7 THE COURT: ALRIGHT, BRING THE JURY 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: GOOD MORNING, LADIES AND GENTLEMEN, I
13 HOPE YOU ALL HAD A GOOD EVENING.

14 AGAIN, BEFORE I GET READY TO GET STARTED TODAY I
15 WANT TO JUST GO THROUGH AND ASK YOU THE SAME QUESTIONS
16 I'VE BEEN ASKING Y'ALL ALL WEEK, AND ASK YOU TO RAISE
17 YOUR HANDS IF YOU NEED TO ANSWER IN THE AFFIRMATIVE AS
18 TO ANY OF MY QUESTIONS.

19 HAS ANYBODY READ ANYTHING IN THE PAPER ABOUT THIS
20 CASE?

21 ALRIGHT, NO ONE HAS RAISED THEIR HANDS.

22 HAS ANYBODY SEEN ANYTHING ON T.V., LISTED TO
23 ANYTHING ON THE RADIO OR READ OR SEEN ANYTHING ON THE
24 INTERNET ABOUT THIS CASE?

25 HAS ANYBODY TRIED TO CONTACT YOU ABOUT THIS CASE?

1 ALRIGHT, NO ONE HAS ANSWERED IN THE AFFIRMATIVE,
2 SO LADIES AND GENTLEMEN, WHAT WE ARE NOW -- AS I TOLD
3 YOU YESTERDAY, YOU HAVE HEARD ALL OF THE EVIDENCE --
4 ALL OF THE TESTIMONY IN THIS CASE, AND WE ARE NOW
5 GETTING READY TO BEGIN THE CLOSING ARGUMENTS IN THIS
6 TRIAL, AND AFTER YOU'VE HEARD THE CLOSING ARGUMENTS OF
7 THE ATTORNEYS I WILL THEN CHARGE YOU ON THE LAW AND
8 THEN I WILL TELL YOU -- I WILL GO OVER THE VERDICT
9 FORM WITH YOU, MADAM FORELADY, AND THEN I WILL TELL
10 Y'ALL TO BEGIN Y'ALL'S DELIBERATIONS IN THIS CASE.

11 NOW, UNTIL I TELL YOU YOU CAN BEGIN YOUR
12 DELIBERATIONS IN THIS CASE YOU STILL MAY NOT TALK
13 ABOUT THIS CASE, UNTIL I TELL YOU TO BEGIN
14 DELIBERATIONS, BECAUSE THERE WILL BE A LOT OF
15 ATTORNEYS SPEAKING TO YOU TODAY. WE WILL BE TAKING
16 BREAKS DURING THESE CLOSING ARGUMENTS. OKAY? RIGHT
17 NOW THE SOLICITOR IS GOING TO DO HIS OPENING PART OF
18 HIS CLOSING ARGUMENT.

19 ALRIGHT, MR. PASCOE.

20 SOLICITOR PASCOE: MAY IT PLEASE THE COURT.

21 THE COURT: YES, SIR.

22 CLOSING ARGUMENT BY SOLICITOR PASCOE

23 MADAM FORELADY, AND LADIES AND GENTLEMEN OF THE
24 JURY, GOOD MORNING. I WANT TO START OFF BY THANKING
25 EACH AND EVERY ONE OF YOU FOR YOUR SERVICE THIS WEEK.

1 IT'S OFTEN SAID THAT JURY DUTY IS ONE OF THE MOST
2 IMPORTANT DUTIES YOU CAN PERFORM FOR YOUR COUNTRY, AND
3 I CERTAINLY CONCUR WITH THAT. YOUR SERVICE IS NOT
4 ONLY IMPORTANT TO THE FIVE DEFENDANTS, IT'S IMPORTANT
5 TO THE STATE OF SOUTH CAROLINA, TO CHARLES PRINGLE'S
6 FAMILY, AND IT'S IMPORTANT TO THE CITIZENS OF
7 ORANGEBURG COUNTY. AND IT'S IMPORTANT BECAUSE WE ALL
8 HAVE OUR JOBS TO DO IN THIS COURTROOM. UNDER THE CODE
9 OF ETHICS IT'S THE STATE'S JOB TO BE MINISTERS OF
10 JUSTICE, IT'S DEFENSE COUNSELS' JOB TO REPRESENT THEIR
11 CLIENTS ZEALOUSLY, IT'S THE JUDGE'S JOB TO ADMINISTER
12 THE LAW, AND IT'S YOUR JOB, MOST IMPORTANT OF ALL, TO
13 RENDER A VERDICT. WHETHER YOUR VERDICT IS GUILTY OR
14 NOT GUILTY, AS LONG AS IT SPEAKS THE TRUTH NO ONE WILL
15 BE ABLE TO QUESTION IT. IF YOU RECALL, THE MOST
16 IMPORTANT THING YOU'VE DONE UP TO NOW IS, YOU TOOK AND
17 OATH. YOU TOOK AN OATH ON MONDAY THAT YOU WOULD PUT
18 ASIDE ANY BIAS OR PREJUDICE THAT YOU MAY HAVE EITHER
19 AGAINST THE STATE OF SOUTH CAROLINA OR THE DEFENDANTS,
20 AND BASE YOUR VERDICT ON JUST TWO THINGS, THE EVIDENCE
21 AND THE LAW, NOT ON ASSERTION, NOT ON FICTION, NOT ON
22 SPECULATION, BUT ON THE EVIDENCE AND THE LAW. AND
23 WHAT I'M GOING TO DO IS, I'M GOING TO TAKE NO MORE
24 THAN MAYBE TEN TO TWELVE MINUTES MORE OF YOUR TIME
25 RIGHT NOW AND I'M GOING TO TALK TO YOU A LITTLE BIT

1 ABOUT THE LAW IN THIS CASE. AND THEN I'M GOING TO SIT
2 DOWN, THE DEFENSE ATTORNEYS ARE GOING TO PRESENT THEIR
3 CLOSING ARGUMENTS, AND I'M GOING TO GET ONE MORE
4 OPPORTUNITY TO COME UP HERE AND TALK TO YOU ABOUT THE
5 FACTS IN THIS CASE.

6 NOW, AS I GO OVER THE LAW WITH YOU, LET ME GIVE
7 YOU ONE CAVEAT, WHICH IS, IF I EVER SAY ANYTHING THAT
8 CONTRADICTS THE LAW THAT THE JUDGE TELLS YOU, YOU TAKE
9 THE LAW ACCORDING TO JUDGE DICKSON, AND NOT THE LAW
10 ACCORDING TO PASCOE, BECAUSE JUST LIKE YOU ARE THE
11 SOLE TRIERS OF THE FACTS IN THIS CASE, HE IS THE SOLE
12 TRIER OF THE LAW.

13 AND AS WE ALL KNOW BY THE DEFENDANT IS CHARGE --
14 ALL THE DEFENDANTS ARE CHARGED WITH MURDER, BURGLARY
15 IN THE FIRST DEGREE, AND ARMED ROBBERY. AND WHILE
16 MURDER -- AND I THINK MR. SORENSON TOLD YOU THIS IN
17 HIS OPENING, IS THE MOST HEINOUS CRIME A PERSON CAN
18 COMMIT, IT HAS PROBABLY THE SHORTEST AND SIMPLEST
19 DEFINITION OF ANY CRIME ON OUR BOOKS. MURDER IS
20 DEFINED AS THE UNLAWFUL KILLING OF ANOTHER WITH MALICE
21 AFORETHOUGHT, EITHER EXPRESSED OR IMPLIED. THAT'S IT.
22 PREMEDITATION IS AN ELEMENT OF MURDER, BECAUSE AS YOU
23 CAN IMAGINE, YOU CAN'T PROVE USUALLY WHAT'S IN
24 SOMEBODY'S HEAD. PREMEDITATION IS NOT AN ELEMENT OF
25 MURDER. ALL YOU HAVE TO HAVE IS MALICE AFORETHOUGHT,

1 THE UNLAWFUL KILLING OF ANOTHER WITH MALICE
2 AFORETHOUGHT. AND MALICE HAS A NUMBER OF DEFINITIONS.

3 MALICE IS AN INTENTIONAL ACT OF VIOLENCE, SUCH AS
4 COMMITTING A BURGLARY OR A ROBBERY. MALICE IS RECKLESS
5 DISREGARD FOR THE WELFARE OF ANOTHER. I MEAN, HOW
6 MUCH MORE RECKLESS CAN YOU GET THAN STICKING ONE GUN
7 IN SOMEBODY'S FACE? MALICE IS CONDUCT THAT SIGNIFIES
8 A CONSCIOUS EFFORT OF CREATING A HIGH RISK OF BODILY
9 INJURY TO ANOTHER. MALICE HAS NO TIME LIMIT. IT CAN
10 HAPPEN AT THE SNAP OF A FINGER OR THE BLINK OF AN EYE.
11 I CAN HAPPEN AT THE PULLING OF THE TRIGGER ONE TIME,
12 MUCH LESS TWENTY-FOUR TIMES. AND AS I SAID, MALICE
13 CAN BE EITHER EXPRESSED OR IMPLIED. AND EXAMPLES OF
14 EXPRESSED OR IMPLIED MALICE WOULD BE WHEN THE HOMICIDE
15 OCCURRED DURING A ROBBERY. ANOTHER EXAMPLE OF MALICE
16 WOULD BE JUST THE MERE USE OF ONE DEADLY WEAPON, MUCH
17 LESS, MULTIPLE DEADLY WEAPONS. SIMPLY PUT, YOU SHOOT
18 SOMEBODY WITH A GUN YOU'RE GUILTY OF MURDER, THE
19 UNLAWFUL KILLING OF ANOTHER WITH MALICE AFORETHOUGHT.

20 THE JUDGE IS ALSO GOING TO CHARGE YOU WITH
21 REGARDS TO MURDER ON ACCOMPLICE LIABILITY. SOMETIMES
22 IT'S REFERRED TO AS FELONY MURDER, BUT IT'S REALLY,
23 IT'S ACCOMPLICE LIABILITY MURDER. AND THIS ONLY
24 APPLIES -- LET ME GET THIS CLEAR, THIS ONLY APPLIES TO
25 NON-TRIGGER MEN, PEOPLE WHO GO IN A HOME WITHOUT A

1 GUN, THAT'S WHO IT APPLIES TO. AND UNDER THE
2 ACCOMPLICE LIABILITY FOR MURDER THE LAW IS, AND HE'S
3 GOING TO CHARGE YOU, IS SEVERAL PEOPLE AGREE TO COMMIT
4 A FELONY, SUCH AS A ROBBERY OR A BURGLARY, EACH OF
5 THOSE PERSONS IS CRIMINALLY RESPONSIBLE FOR THE ACTS
6 OF HIS ASSOCIATES. THE COMMON PURPOSE MAY NOT HAVE
7 INCLUDED THE KILLING AND MURDER OF ANYONE. LET ME
8 READ THAT AGAIN, THE COMMON PURPOSE MAY NOT HAVE
9 INCLUDED THE KILLING AND MURDER OF ANYONE, BUT IF IN
10 EXECUTING THE CRIME A HOMICIDE IS COMMITTED BY ONE OF
11 THE DEFENDANTS, ALL WHO ARE PRESENT ARE AS GUILTY AS
12 THE SLAYER HIMSELF. AND THE REASON FOR THAT, VERY
13 SIMPLY, IS BECAUSE HOMICIDE IS A NATURAL CONSEQUENCE
14 OF HAVING A GUN STUCK IN YOUR FACE, BECAUSE ARMED
15 ROBBERY AND BURGLARY ARE DANGEROUS CRIMES. IF SIX
16 PEOPLE DECIDE TO GO INTO A HOME TO ROB SOMEBODY OR
17 BURGLARIZE THE HOME, IF SIX PEOPLE GO INTO THAT HOME
18 AND ONLY ONE PERSON TAKES A GUN, AND THAT ONE PERSON
19 SHOOTS AND KILLS SOMEONE IN THAT HOME DURING THE
20 ROBBERY, UNDER THE LAW ALL SIX PEOPLE ARE GUILTY OF
21 MURDER, NOT JUST THE GUNMAN, BECAUSE THE LAW STATES
22 THAT YOU SHOULD KNOW THAT IT IS AN INHERENTLY
23 DANGEROUS THING TO GO INTO ANOTHER PERSON'S HOME ARMED
24 WITH A WEAPON, EVEN IF SOMEBODY ELSE HAS A GUN, FOR
25 THE PURPOSE OF COMMITTING A ROBBERY. AND THAT'S JUST

1 IF ONE PERSON HAS A GUN, ALL SIX PEOPLE ARE GUILTY OF
2 MURDER.

3 THE NEXT CRIME IS BURGLARY IN THE FIRST DEGREE.
4 AND BURGLARY IN THE FIRST DEGREE IS WHERE YOU ENTER A
5 DWELLING, OR APARTMENT OR HOUSE, WITHOUT CONSENT OR BY
6 DECEPTION OR MISREPRESENTATION WITH JUST THE INTENT TO
7 COMMIT A CRIME AND IT'S EITHER DONE DURING THE HOURS
8 OF DARKNESS, SUCH AS TEN O'CLOCK AT NIGHT, OR WHILE
9 ARMED WITH A DEADLY WEAPON, MUCH LESS FOUR, OR THE
10 VICTIM IS INJURED DURING THE BURGLARY, THAT'S IT. IF
11 SIX PEOPLE GO INTO A HOME, EVEN THEY'RE UNARMED, AT
12 NIGHT TIME WITH JUST THE INTENT TO COMMIT A CRIME,
13 EVEN IF THEY DON'T COMMIT A CRIME IN THERE, IN THE
14 HOUSE LIKE A MURDER AND A ROBBERY, THEY'RE GUILTY OF
15 BURGLARY IN THE FIRST DEGREE, VERY SIMPLE.

16 AND FINALLY, THE DEFENDANTS ARE ALL CHARGED WITH
17 ARMED ROBBERY. AND ARMED ROBBERY IS THE TAKING OF
18 PROPERTY FROM THE PRESENCE OF ANOTHER BY MEANS OF
19 FORCE OR INTIMIDATION WHILE ARMED WITH A DEADLY
20 WEAPON. IF YOU STICK A GUN INTO SOMEBODY'S FACE, OR
21 ONE OF YOUR ACCOMPLICES STICKS A GUN INTO SOMEBODY'S
22 FACE AND THEY TAKE MONEY OR THEY TAKE DRUGS, OR THEY
23 TAKE A GUN, AS IN THIS CASE, IT'S ARMED ROBBERY.

24 NOW, THE JUDGE, REGARDS TO THE ARMED ROBBERY
25 VERDICT, IS GOING TO GIVE YOU TWO POSSIBLE VERDICTS

1 WITH REGARDS TO GUILT. YOU CAN FIND THE DEFENDANTS
2 GUILTY OF ARMED ROBBERY, OR IF FOR SOME REASON YOU
3 DON'T FIND THAT A GUN WAS TAKEN AT THE SCENE, THEY CAN
4 BE FOUND GUILTY OF JUST ATTEMPTED ARMED ROBBERY. SO,
5 YOU'LL HAVE THE OPPORTUNITY TO FIND THE DEFENDANTS
6 EITHER GUILTY OF ARMED ROBBERY, WHICH I SUBMIT DID
7 OCCUR, BECAUSE A GUN WAS TAKEN, OR ATTEMPTED ARMED
8 ROBBERY IF NOTHING WAS TAKEN.

9 THE JUDGE IS ALSO GOING TO CHARGE YOU THAT IN
10 SOUTH CAROLINA, AND ANYWHERE, MERE PRESENCE TO A CRIME
11 BY ITSELF IS NOT ENOUGH TO CONVICT SOMEBODY. NOW,
12 THAT DOESN'T MEAN THAT MERE PRESENCE AND MERE
13 ASSOCIATION WITH DEFENDANTS IS AN EVIDENCE OF GUILT,
14 IT IS DEFINITELY EVIDENCE OF GUILT WHICH YOU CAN
15 CONSIDER IN YOUR VERDICT, IT JUST MEANS THAT BY ITSELF
16 IT'S NOT ENOUGH TO CONVICT SOMEONE. AND IN SOUTH
17 CAROLINA, MUCH LIKE THE ACCOMPLICE LIABILITY CRIME I
18 TOLD YOU ABOUT WITH MURDER, IF TWO OR MORE PEOPLE SET
19 OUT TO COMMIT A CRIME TOGETHER EACH IS GUILTY NO
20 MATTER WHAT ROLES THEY PLAY. THE HAND OF ONE IS THE
21 HAND OF ALL. IT DOESN'T MATTER WHAT ROLE YOU PLAY,
22 WHETHER YOU WERE THE PERSON THAT PUT DUCT TAPE ON
23 SOMEBODY'S MOUTH, OR YOU WERE THE PERSON THAT WOULD GO
24 IN THE HOUSE WITH A GUN, EVERYBODY IS GUILTY OF ARMED
25 ROBBERY, MURDER AND BURGLARY IN THE FIRST DEGREE.

1 NOW, LADIES AND GENTLEMEN, I SUBMIT, YOUR JOB IS
2 SIMPLE IN THIS CASE, YOU'VE HAD A DIFFICULT WEEK,
3 YOU'VE HAD A LONG WEEK, YOU'VE HAD TO PUT UP WITH THE
4 COLD, IF YOU'RE LIKE ME YOU HAD A HARD TIME GETTING
5 YOUR CAR STARTED ON MONDAY AND TUESDAY MORNINGS,
6 TAKING CARE OF YOUR CHILDREN, YOUR JOBS, BUT YOUR JOB
7 IS SIMPLE IN THIS RESPECT, IT'S NOT TO TELL US WHAT
8 HAPPENED, THERE IS NO DOUBT WHATSOEVER THAT CHARLES
9 PRINGLE WAS MURDERED, ROBBED, AND HIS HOUSE WAS
10 BURGLARIZED. YOUR JOB IS JUST TO TELL US WHETHER
11 THEY'RE INVOLVED OR NOT, DID THEY PARTICIPATE? AND
12 WHEN YOU DO THAT YOU LOOK AT THE EVIDENCE.

13 THERE ARE TWO TYPES OF EVIDENCE, BOTH OF WHICH
14 EXIST IN THIS CASE, AND BOTH ARE EQUAL UNDER THE LAW.
15 THERE'S DIRECT EVIDENCE AND THERE'S CIRCUMSTANTIAL
16 EVIDENCE. DIRECT EVIDENCE IS EVIDENCE THAT A WITNESS
17 SEES, HEARS, TOUCHES, SMELLS. ASHLEY'S TESTIMONY, I
18 COULD HEAR THE FOOTPRINTS, I COULD HEAR THE DUCT TAPE.
19 PATRICK TYLER'S TESTIMONY THAT WALTER HARRIS GAVE HIS
20 BLACK GUN TO RALPH COLEMAN. HE SAW THAT. THAT'S
21 DIRECT EVIDENCE. CIRCUMSTANTIAL EVIDENCE IS WHERE YOU
22 CAN INFER SOMETHING FROM THE CIRCUMSTANCES. IT'S A
23 CHAIN OF EVENTS THAT PROVE THE EXISTENCE OF A FACT.
24 JUST ONE EXAMPLE OF CIRCUMSTANTIAL EVIDENCE IN THIS
25 CASE IS THAT A BLACK GUN, THE FORTY CALIBER THAT

1 WALTER HARRIS SOLD ON SATURDAY IS ONE OF THE GUNS USED
2 TO MURDER CHARGES PRINGLE. THAT'S AN EXAMPLE OF
3 CIRCUMSTANTIAL EVIDENCE. BOTH ARE EQUAL UNDER THE
4 LAW.

5 AND THE JUDGE IS GOING TO TELL YOU THAT YOU ALSO
6 ASSESS THE CREDIBILITY OF THE WITNESSES. AND WHEN YOU
7 ASSESS THE CREDIBILITY OF THE WITNESSES THAT TOOK THAT
8 WITNESS STAND ALL I ASK IS THAT YOU USE YOUR EVERY DAY
9 LIFE EXPERIENCES. YOU DEAL WITH PEOPLE EVERY SINGLE
10 DAY. YOU KNOW WHEN SOMEBODY IS LYING, YOU KNOW WHEN
11 SOMEBODY IS TELLING THE TRUTH. AND SOME OTHER THINGS
12 YOU CAN CONSIDER WHEN DETERMINING THE CREDIBILITY OF
13 THE WITNESSES, WHAT WAS THEIR DEMEANOR ON THE WITNESS
14 STAND? WERE THEY FORTHRIGHT OR HESITANT? IS THEIR
15 TESTIMONY CONSISTENT? WAS THE TESTIMONY CORROBORATED
16 BY THE EVIDENCE? AND DOES THE WITNESS HAVE A REASON
17 TO BE BIASED OR PREJUDICED?

18 AND LET ME TELL YOU WHAT IS NOT A DEFENSE TO A
19 CRIME IN SOUTH CAROLINA. VOLUNTARY INTOXICATION IS
20 NEVER A DEFENSE TO A CRIME, NEVER A DEFENSE. GETTING
21 HIGH ON MARIJUANA, HIGH ON DRUGS AND THEN DECIDING TO
22 ROB SOMEBODY AND END UP MURDERING THEM, IS NEVER A
23 DEFENSE TO A CRIME. NOW, IT MAY BE EVIDENCE AS TO WHY
24 SOMEBODY COMMITTED THE CRIME, BUT IT IS NEVER A
25 DEFENSE TO A CRIME IN SOUTH CAROLINA.

1 AND THE LAST LEGAL PHRASE I'M GOING TO TALK TO
2 YOU ABOUT IS PROOF BEYOND A REASONABLE DOUBT. THIS
3 PHRASE MEANS EXACTLY AS IT SOUNDS. IT'S NOT PROOF
4 BEYOND ANY DOUBT, IT'S NOT PROOF BEYOND ANY POSSIBLE
5 DOUBT, IT'S PROOF BEYOND A REASONABLE DOUBT. THE
6 SIMPLE FACT OF THE MATTER IS, WE ALL HAVE DOUBTS IN
7 THIS WORLD. SOME MAY DOUBT WHETHER THE EARTH REVOLVES
8 AROUND THE SUN, BUT YOU HAVE TO ASK YOURSELF, IS IT
9 REASONABLE? AND IN ESSENCE, WHAT PROOF BEYOND A
10 REASONABLE DOUBT MEANS IS, AFTER YOU'VE LOOKED AT ALL
11 THE EVIDENCE COLLECTED, NOT JUST ONE PIECE, BUT AFTER
12 YOU'VE LOOKED AT ALL THE EVIDENCE, IF YOU ARE FIRMLY
13 CONVINCED, JUST FIRM CONVINCED THAT THE DEFENDANTS ARE
14 GUILTY, YOU MUST FIND THEM GUILTY. AND I SUBMIT, THE
15 EVIDENCE IN THIS CASE LEAVES YOU MUCH, MUCH MORE THAN
16 FIRMLY CONVINCED.

17 IN CLOSING, I AGAIN WANT TO THANK YOU FOR YOUR
18 SERVICE. YOU'VE BEEN EXTREMELY ATTENTIVE THIS ENTIRE
19 WEEK AND I'M SURE YOU'RE GOING TO CONTINUE THAT TODAY.
20 AND ALL I ASK IS THAT DURING THE DEFENSE ATTORNEYS'
21 CLOSING ARGUMENTS, THE ONLY THING I ASK IS THAT YOU
22 KEEP AN OPEN MIND AND YOU GIVE ME ONE MORE OPPORTUNITY
23 TO COME UP HERE AND TALK TO YOU ABOUT THE FACTS IN
24 THIS CASE.

25 THANK YOU.

1 THE COURT: ALRIGHT, THANK YOU, MR. PASCOE.

2 ALRIGHT, LADIES AND GENTLEMEN, WHAT WE'RE GOING
3 TO DO RIGHT NOW BEFORE THE DEFENSE ATTORNEYS BEGIN
4 MAKING THEIR CLOSING ARGUMENTS, I'VE GOT SOMETHING
5 THAT I'VE GOT TO TAKE UP WITH THEM, AND SO I WILL HAVE
6 A SHORT BREAK, LET Y'ALL HAVE JUST A QUICK SHORT
7 BREAK, HOPEFULLY, ABOUT TEN MINUTES BACK IN THE JURY
8 ROOM, AND THEN WE'LL COME BACK AND YOU'LL START
9 HEARING THE CLOSING ARGUMENTS OF THE ATTORNEYS.
10 AGAIN, LET ME REMIND YOU, YOU CANNOT BEGIN TALKING
11 ABOUT THIS CASE NOW. OKAY? THANK Y'ALL VERY MUCH.

12 (Whereupon, the jury retires
13 to the jury room and the following
14 takes place out of the presence
15 of the jury.)

16 THE COURT: ALRIGHT, MR. SORENSON, OR MR. PASCOE.
17 SINCE MR. SORENSON IS DOING ALL THE READING I'M GOING
18 TO LET HIM DO IT RATHER THAN YOU TRANS ---

19 SOLICITOR SORENSON: OKAY. YOUR HONOR, I THINK
20 WE'LL LEAVE IT UP TO YOUR HONOR INITIALLY WHETHER
21 YOU'RE GOING TO CHARGE WITHDRAWAL. I WOULD ASK IF YOU
22 DO DECIDE TO CHARGE IT, TO CHARGE WHAT, THAT
23 ADDITIONAL KIND OF LANGUAGE.

24 THE COURT: OH, YEAH, I'M GOING TO CHARGE, I'M
25 GOING TO MAKE THE CHARGE THAT JUDGE KEISLEY MADE IN

1 THAT CASE, BECAUSE I THINK IT MORE ACCURATELY REFLECTS
2 WHAT POSSIBLY COULD HAVE HAPPENED HERE.

3 SOLICITOR SORENSON: YES, SIR.

4 THE COURT: BUT I NEED THAT SO I CAN DO IT.

5 SOLICITOR SORENSON: YES, SIR.

6 THE COURT: OKAY. AND SO, MR. PALMER, I'M GOING
7 TO CHARGE JUDGE KEISLEY'S CHARGE FROM STATE VERSUS
8 VANG. OKAY?

9 MR. PALMER: THANK YOU, YOUR HONOR.

10 THE COURT: NOW, IF ANYBODY NEEDS A -- NOW, WE'RE
11 GOING TO DO CLOSINGS IN THE SAME ORDER WE'VE BEEN
12 DOING EVERYTHING ELSE? AND IS IT -- MS. ULLMAN,
13 YOU'VE BEEN POINTED TO BY MR. WISE, SO I'LL EXPECT YOU
14 TO BE BATTING NUMBER TWO. OKAY?

15 YES, MA'AM, MS. ULLMAN.

16 MS. ULLMAN: I HATE TO ASK, BUT COULD WE HAVE
17 MORE THAN TWENTY-FIVE SECONDS, MR. MELLARD AND I NEED
18 TO GO TO THE RESTROOM.

19 THE COURT: OH, YEAH.

20 MS. ULLMAN: IT WON'T TAKE ME MORE THAN TWENTY-
21 FIVE SECONDS, I PROMISE YOU.

22 THE COURT: WELL, I WAS GOING TO GIVE -- IF Y'ALL
23 WILL BE BACK HERE ABOUT TWENTY AFTER, WE'LL BE READY
24 TO GO. THAT WAY I CAN FIX MYSELF A CUP OF COFFEE.
25 OKAY. THANK Y'ALL. ALRIGHT, WE'RE IN RECESS FOR

1 ABOUT TEN MINUTES.

2 (Recess)

3 THE COURT: IS THE JURY READY? OKAY. BRING THEM
4 ON OUT.

5 (Whereupon the jury enters
6 the courtroom and the following
7 takes place in the presence
8 of the jury.)

9 THE COURT: ALRIGHT, LADIES AND GENTLEMEN, WE'RE
10 GETTING READY TO BEGIN THE CLOSING ARGUMENTS OF
11 DEFENSE COUNSEL. AGAIN, I WOULD ASK YOU AS YOU HAVE
12 DONE THROUGHOUT THE TRIAL TO CONTINUE TO GIVE THEM
13 YOUR COMPLETE ATTENTION. ALRIGHT? THANK YOU.

14 MR. LACKEY.

15 MR. LACKEY: THANK YOU, YOUR HONOR.

16 THE COURT: YES, SIR.

17 MR. LACKEY: MAY IT PLEASE THE COURT.

18 THE COURT: YES, SIR.

19 CLOSING ARGUMENT BY MR. LACKEY

20 LADIES AND GENTLEMEN OF THE JURY, MY CLIENT,
21 CHRISTIAN COLEMAN, DID NOT HAVE A PART IN PLAYING THIS
22 EVENT. I SUBMIT TO YOU, HE DID NOT HAVE A GUN, AND
23 HIS MERE PRESENCE THAT DAY DOES NOT CARRY TO THAT.

24 NOW, YOU SAW ME OVER HERE, AND I DIDN'T ASK MANY
25 QUESTIONS THROUGH THE TRIAL. A LOT OF TIMES I'D SAY,

1 NO QUESTIONS, YOUR HONOR. WHAT I DON'T WANT YOU TO
2 TAKE THAT AS IS A LACK OF CONCERN, LACK OF
3 PREPARATION. WHAT IT WAS IS A LACK OF EVIDENCE
4 AGAINST MY CLIENT. AS WE'VE SAID, WE'VE EACH GOT
5 SEPARATE TRIALS FOR EACH OF OUR SEPARATE CLIENTS, AND
6 THE ONLY PERSON WHO, THE ONLY LAY PERSON WHO MENTIONED
7 MY CLIENT WAS PATRICK TYLER, THE CO-DEFENDANT WHO
8 TESTIFIED. PATRICK TYLER IS THE GUY WHO, ONE OF THE
9 STATE'S WITNESSES, SAID SMOKED WEED SEVEN DAYS A WEEK
10 FOR THE LAST THREE YEARS. LET'S TALK ABOUT HIS
11 TESTIMONY A LITTLE BIT.

12 HE ALSO MADE THE STATEMENT, WHICH YOU'LL HAVE IN
13 THE JURY ROOM TO LOOK AT. WHAT DOES HE SAY? HE SAID
14 THE DAY STARTED OFF ON MARCH TWELFTH, HE CALLED LITTLE
15 M, MARIO SHIVERS. THAT'S THE FIRST THING THAT HE
16 CONTRADICTS IN HIS STATEMENT, BECAUSE THAT DAY HE SAID
17 LITTLE M CALLED HIM, SO, IT'S FULL OF INCONSISTENCIES.
18 HOWEVER, WHAT DID HE DECIDE TO DO THAT DAY? HE WENT
19 OVER TO LOOK AT SOME GUYS. MR. WISE QUESTIONED MR.
20 TYLER AND SAID, HAVE YOU SEEN A GUN BEFORE? AND HE
21 COULDN'T HELP HIMSELF, HE SAID, I'VE SEEN PLENTY OF
22 GUNS. WHAT WE'RE LOOKING AT HERE IS A GUY WHO IS
23 FAMILIAR WITH GUNS, HE'S FAMILIAR WITH WEED. JUST
24 THINK ABOUT THAT. WHAT DID HE DO NEXT? HE WENT OVER
25 TO SEE THE GUNS, AND HE NAMED HIMSELF AND TWO OTHERS

1 WAS THE GUYS THAT WERE PLANNING THIS EVENT THAT NIGHT,
2 THIS CRIME. IT WAS HIMSELF, MARIO SHIVERS AND RALPH
3 COLEMAN. THAT'S WHO HE NAMED FROM THIS WITNESS STAND.
4 YOU SAW HIM HERE IN SHACKLES, YOU SAW HIM HERE IN THE
5 ORANGE JUMP SUIT. HE NEVER SAID MY CLIENT, CHRISTIAN
6 COLEMAN, HAD A THING TO DO WITH IT. WHAT DID HE SAY
7 ABOUT CHRISTIAN COLEMAN? HE SAID -- HE DIDN'T SAY
8 ANYBODY CALLED THEM, ALL HE SAID WAS, THE UNKNOWN
9 DRIVER AND CHRISTIAN COLEMAN CAME BY THAT NIGHT. THEY
10 DIDN'T GET OUT OF THE CAR, ALL THEY DID WAS GET INTO
11 THE BACK. MR. TYLER SAID THEY PUT THE GUNS IN THE
12 BACK.

13 AND LET'S TALK HIS STATEMENTS, HIS WRITTEN
14 STATEMENT AND HIS TESTIMONY, AND INCONSISTENCIES
15 THERE. WHAT DO WE HAVE? WE'VE GOT SOMEBODY WHO WROTE
16 A LENGTHY STATEMENT AND HE -- AND YOU'LL HAVE IT BACK
17 IN THE JURY ROOM TO CONSIDER -- HE WROTE A LENGTHY
18 STATEMENT AND HE SAID ON THE STAND, AFTER BEING
19 QUESTIONED ABOUT THAT LENGTHY STATEMENT, HE SAID,
20 WELL, I WASN'T TRUTHFUL IN ALL OF IT. AND I SAID, DO
21 YOU MEAN YOU LIED? AND HE SAID, YEAH, I LIED. SO, IT
22 WAS APPARENT THAT HE DID IT. IN THERE HE NAMED EVERY
23 OTHER PERSON BESIDES HIMSELF THAT HAD A GUN. HE
24 DIDN'T PUT A GUN IN PATRICK TYLER'S HAND, HE PUTS FOUR
25 GUNS IN FIVE OTHER PEOPLE'S HANDS. EVEN LIEUTENANT

1 SHUMPERT SAID, CRIMINALS DON'T PUT THEMSELVES IN
2 DIRECT LINE OF FIRE WHEN YOU'VE GOT A CONFESSION
3 GOING. LIEUTENANT SHUMPERT SAID HE HAD TO FOLLOW UP
4 WITH SOME QUESTIONS, HE WROTE THE QUESTIONS, AND I
5 WANT YOU TO LOOK AT THIS, HE ASKED TWO TIMES ABOUT
6 GUNS. AND PATRICK TYLER, IN HIS HANDWRITING, NAMED
7 FOUR PEOPLE THAT HAD GUNS. I THINK THE FIRST QUESTION
8 THAT WAS STATED IS, WHO ALL HAD GUNS? IT WAS -- HIS
9 RESPONSE WAS, LITTLE M, PETE, RALPH AND S FOURTH CO-
10 DEFENDANT. HE ASKED HIM AGAIN, WHO TOOK THEM INTO --
11 WHO TOOK THE GUNS INTO THE APARTMENT? AGAIN, LITTLE
12 M, RALPH, PETE, AND POKE, DANNY RYANT. HE NEVER
13 MENTIONED CHRISTIAN COLEMAN.

14 NOW, LET ME TALK TO YOU A LITTLE BIT, SWITCHING
15 GEARS HERE, ABOUT A FELLOW NAMED RONNIE WASHINGTON.
16 RONNIE WASHINGTON. RONNIE WASHINGTON, SOLICITOR
17 SORENSON GAVE THE OPENING STATEMENT AND HE PROMISED
18 YOU RONNIE WASHINGTON, WHO WAS THE DRIVER, WAS GOING
19 TO COME IN HERE AND TESTIFY. RONNIE WASHINGTON DID
20 NOT GET ON THAT STAND, DID NOT PUT HIS HAND ON THAT
21 BIBLE, AND DID NOT TESTIFY. I DO, IN MY CIVIL
22 PRACTICE I DO A LOT OF WORK FOR A LUMBER COMPANY, AND
23 THE EIGHTY-SIX YEAR OLD FOUNDER OFTENTIMES SAYS, WITH
24 THE CUSTOMERS, YOU DON'T WANT TO OVER PROMISE AND
25 UNDER DELIVER. DON'T OVER PROMISE AND UNDER DELIVER.

1 WELL, THAT'S EXACTLY WHAT THE STATE DID, ESPECIALLY
2 WITH REGARD TO RONNIE WASHINGTON. NOW, LIEUTENANT
3 SHUMPERT SAID THEY DID FIND THE DRIVER, RONNIE
4 WASHINGTON, ABOUT SOME TWO WEEKS AGO. HE SAID HE
5 ADMITTED TO BEING THE DRIVER THAT NIGHT. OKAY. DID
6 YOU CHARGE HIM WITH ANYTHING? NO. OKAY. WELL, AS
7 THE SOLICITOR JUST GAVE YOU THE CHARGES ON THE LAW, HE
8 WOULD HAVE YOU BELIEVE THAT THE HAND OF ONE IS THE
9 HAND OF ALL, LET'S GO AHEAD AND PICK HIM AND CHARGE
10 HIM WITH THE SAME THING THESE GUYS ARE CHARGED WITH.
11 WELL, NO CHARGES, HE'S WALKING FREE ON THE STREETS.
12 THAT'S BECAUSE, I ASSUME, BECAUSE OF MERE PRESENCE,
13 THEY DIDN'T WANT TO CHARGE HIM WITH THAT.

14 LET'S GO BACK TO PATRICK TYLER. ONE OF THE FEW
15 CONSISTENT THINGS HE SAID IN HIS TESTIMONY WAS THAT
16 THE UNKNOWN DRIVER WHO WE NOW KNOW AS RONNIE
17 WASHINGTON WAS SITTING IN THE FRONT SEAT DRIVING AND
18 CHRISTIAN COLEMAN WAS IN THE PASSENGER SEAT. WHAT
19 BETTER WITNESS TO COME IN HERE AND TESTIFY OF
20 CHRISTIAN COLEMAN'S ACTIVITIES THAT NIGHT THAN RONNIE
21 WASHINGTON? WHO COULD HAVE TOLD YOU BETTER IF
22 CHRISTIAN COLEMAN GOT OUT OF THAT CAR THAT NIGHT AND
23 WENT INTO THIS APARTMENT? WHO COULD HAVE HAD A BETTER
24 SHOT OF LOOKING TO SEE IF CHRISTIAN COLEMAN HAD A GUN
25 IN THE CAR THAT NIGHT THAN RONNIE WASHINGTON? NOW,

1 WHY WAS RONNIE WASHINGTON NOT HERE? NOW, IF THAT
2 CAUSES YOU PAUSE FOR CONCERN OR THAT MAKES YOU
3 HESITATE TO ACT, YOU'VE JUST HAD REASONABLE DOUBT.
4 AND THE JUDGE WILL TALK TO YOU MORE ABOUT THAT AND
5 HE'LL SAY THOSE WORDS, HE'LL STATE THAT THAT'S
6 REASONABLE DOUBT. I WANT YOU TO THINK ABOUT THAT.
7 OVER PROMISE, UNDER DELIVER.

8 NOW, THE JUDGE, AS I SAID, AND I'M NOT GOING TO
9 STAND UP TOO LONG, I'M JUST GOING TO TALK TO YOU ABOUT
10 THE LAW. HE'LL TALK TO YOU ABOUT THE HAND OF ONE, THE
11 HAND OF ALL, AND AS WE ALSO SAID, MERE PRESENCE, THE
12 MERE PRESENCE ON THE SCENE, THE MERE PRESENCE IN THE
13 CAR DOES NOT MAKE YOU GUILTY. IF YOU'RE GOING INTO
14 THE MALL WITH A GROUP OF FRIENDS CHRISTMAS SHOPPING
15 AND THEY START SHOOTING UP PEOPLE, JUST BECAUSE YOU'RE
16 THERE YOU'RE NOT GOING TO BE ARRESTED. PATRICK TYLER
17 TESTIFIED THAT CHRISTIAN COLEMAN DID NOT PLAN THIS
18 EVENT.

19 NOW, AS FAR AS MY CLIENT, CHRISTIAN, HE DIDN'T
20 TESTIFY. NOT ONLY CAN YOU NOT HOLD THAT AGAINST HIM,
21 THE JUDGE IS GOING TO TELL YOU, YOU CAN'T EVEN TALK
22 ABOUT THAT. THAT'S A FUNDAMENTAL CONSTITUTIONAL
23 RIGHT. THE STATE HAS TO PROVE THEIR CASE, THEY HAVE
24 THE BURDEN OF PROOF. HAVE THEY DONE THAT HERE? AS TO
25 CHRISTIAN COLEMAN, THEY HAVE NOT. BEYOND A REASONABLE

1 DOUBT, AS I SAID, MY CLIENT HAS TO PROVE NOTHING. THEY
2 HAVE TO PROVE THEIR CASE BEYOND A REASONABLE DOUBT.
3 THAT MAKES A REASONABLE MAN HESITATE TO ACT, HESITATE
4 TO ACT. THINK ABOUT THAT.

5 THE JUDGE WILL ALSO TELL YOU, AS I STATED
6 EARLIER, WE HAVE SEPARATE TRIALS FOR EACH OF THESE
7 SEPARATE DEFENDANTS. I WOULD SUBMIT TO YOU, MY CLIENT
8 HAS A FACT PATTERN THAT'S MUCH DIFFERENT FROM THE
9 OTHER FOUR, AND YOU HAVE TO CONSIDER THE EVIDENCE
10 AGAINST MY CLIENT DISTINCTLY FROM THE EVIDENCE AGAINST
11 THE OTHER CLIENTS. AND WHEN YOU DO THAT YOU'RE GOING
12 TO SEE THE STATE HAS FAILED TO MEET THEIR BURDEN OF
13 PROOF. YOU'RE GOING TO SEE THAT THE ONLY VERDICT YOU
14 CAN RETURN IS A NOT GUILTY ON ARMED ROBBERY, A NOT
15 GUILTY ON BURGLARY, AND A NOT GUILTY ON MURDER.

16 I THANK YOU FOR YOUR TIME AND ATTENTION.

17 THE COURT: THANK YOU, MR. LACKEY.

18 MS. ULLMAN.

19 CLOSING ARGUMENT BY MS. ULLMAN

20 GOOD MORNING. AS MR. LACKEY JUST SAID, THIS IS
21 FIVE SEPARATE TRIALS. I UNDERSTAND WE'RE ALL SITTING
22 HERE, WE'RE ALL SITTING AS A GROUP OVER THERE, BUT THE
23 REALITY IS, THAT IS FOR JUDICIAL ECONOMY. WHAT DO I
24 MEAN BY THAT? IT'S CHEAPER FOR THE STATE TO DO IT
25 THIS WAY, WE DON'T HAVE TO HAVE MORE THAN ONE JURY

1 HERE, WE DON'T HAVE TO HAVE THE LAWYERS HERE MORE THAN
2 ONCE, WE DON'T HAVE TO HAVE THE WITNESSES HERE MORE
3 THAN ONCE. THAT SHOULD NOT MATTER TO YOU, THOUGH, YOU
4 NEED TO GO INTO THAT JURY DELIBERATION ROOM AND THINK
5 OF EACH PERSON SITTING THERE SEPARATELY. YOU WILL
6 ACTUALLY HAVE A FORM THAT THE JUDGE IS GOING TO GIVE
7 YOU TO FILL OUT WHEN YOU DELIBERATE TO DECIDE WHETHER
8 A PERSON IS GUILTY OR NOT GUILTY. EACH ONE OF THOSE
9 FORMS IS PER PERSON, YOU WILL HAVE FIVE FORMS BACK
10 THERE. SO, I JUST REMIND YOU TO PLEASE SEPARATE THIS.
11 IF YOU DECIDE THAT ONE PERSON OVER THERE IS GUILTY,
12 THAT IS NOT A REASON THAT YOU MUST DECIDE THAT THEY
13 ARE ALL GUILTY. ONE PERSON COULD BE GUILTY, THE REST
14 COULD BE NOT GUILTY, THEY COULD ALL BE NOT GUILTY.

15 I REPRESENT RALPH COLEMAN.

16 PLEASE STAND UP, RALPH.

17 THIS IS RALPH COLEMAN, HE IS MY CLIENT. I'M HERE
18 TO TALK ABOUT RALPH TODAY AND THE EVIDENCE THE STATE
19 WAS NOT ABLE TO PRODUCE FOR RALPH.

20 NOW, MR. PASCOE GOT UP HERE AND PUT SOME BOARDS
21 UP HERE THAT TOLD YOU WHAT HE SAYS THE LAW IS. AND AS
22 HE TOLD YOU, WHAT HE SAID REALLY DOESN'T MATTER, THE
23 JUDGE IS GOING TO TELL YOU WHAT THE LAW IS. WHEN WE
24 ALL GET DONE TALKING YOU WILL GET TO TAKE THE EVIDENCE
25 THAT YOU'VE HEARD FROM THE WITNESS STAND, ALL THE

1 EXHIBITS, THE PICTURES, EVERYTHING THAT YOU SAW BACK
2 INTO THAT DELIBERATION ROOM AND YOU'LL GET TO USE ALL
3 OF THAT, PUT IT AGAINST THE LAW THE JUDGE GIVES YOU TO
4 DECIDE INNOCENCE OR GUILT.

5 ONE THING I'D LIKE TO POINT OUT THAT THE
6 SOLICITOR DID SAY THAT I AGREE WITH, THOUGH, IS, I DO
7 WANT YOU TO PAY ATTENTION TO EVIDENCE, DIRECT
8 EVIDENCE, CIRCUMSTANTIAL EVIDENCE, AND PART OF THAT IS
9 PAYING ATTENTION TO THE WITNESSES. THE STATE ASKED
10 YOU TO LOOK AT THE TESTIMONY GIVEN AND CONSIDER
11 WHETHER A PERSON WAS BIASED OR PREJUDICED, WHETHER
12 THEY HAD A REASON TO LIE, WHAT THEIR DEMEANOR WAS ON
13 THE STAND, AND I'LL TELL YOU, THAT IS VERY IMPORTANT,
14 PLEASE KEEP THAT IN YOUR MIND.

15 I UNDERSTAND THIS HAS BEEN A LONG TRIAL, IT'S
16 BEEN LONG FOR EVERYBODY. AND THIS IS A VERY IMPORTANT
17 TRIAL. THERE'S ONE PERSON THAT'S LOST THEIR LIFE,
18 THERE'S NO QUESTION ABOUT THAT. WE ARE NOT
19 QUESTIONING WHAT HAPPENED, IT CERTAINLY DID HAPPEN.
20 RIGHT NOW RALPH COLEMAN IS FIGHTING FOR HIS LIFE, AND
21 NOTHING I'VE SAID TODAY, NOTHING I'M GOING TO SAY, AND
22 NOTHING THAT I'VE SAID OVER THE LAST WEEK IN ANY WAY
23 WAS MEANT BY ME OR RALPH COLEMAN AS DISRESPECT TO MR.
24 PRINGLE OR TO HIS FAMILY. BUT RALPH HAS NOTHING TO
25 PROVE HERE TODAY. HE SITS HERE AN INNOCENT MAN, AND

1 HE'S GOING TO REMAIN INNOCENT UNTIL YOU DELIBERATE. I
2 SUBMIT TO YOU THAT WHEN YOU ARE DONE DELIBERATING HE
3 WILL REMAIN AN INNOCENT MAN. YOU ARE THE ONLY PEOPLE
4 WHO CAN DETERMINE WHETHER HE IS INNOCENT OR GUILTY.

5 RALPH DOES NOT HAVE TO TESTIFY, THE JUDGE WILL
6 TELL YOU THAT. THE JUDGE WILL TELL YOU THAT YOU
7 CANNOT CONSIDER WHETHER HE TESTIFIED OR NOT, AS ANY
8 SORT OF EVIDENCE, HE DOES NOT HAVE TO TESTIFY. HE
9 DOESN'T HAVE TO GET UP THERE AND TELL YOU HE WASN'T
10 THERE ON THE MARCH TWELFTH. HE DOESN'T HAVE TO
11 PRODUCE SOMEBODY ELSE THAT CAN TELL YOU HE WASN'T
12 THERE ON THE NIGHT OF MARCH TWELFTH. IT'S ACTUALLY
13 YOUR DUTY AS THE JURY TO ASSUME HE WAS NOT THERE ON
14 THE MARCH TWELFTH. YOU MUST GO INTO THAT ROOM
15 ASSUMING HE WAS NOT THERE, AND THE ONLY WAY YOU CAN
16 CHANGE YOUR MIND ABOUT THAT IS IF THE STATE HAS
17 PROVIDED EVIDENCE TO YOU BEYOND A REASONABLE DOUBT
18 THAT HE WASN'T. AND NOT JUST THAT HE WAS THERE, AS
19 THE JUDGE WILL TELL YOU, MERE PRESENCE DOES NOT
20 MATTER, BUT THAT HE WAS THERE, KNEW WHAT WAS GOING ON
21 AND PARTICIPATED IN SOME FASHION.

22 NOW, FOR YOU TO BE CONVINCED BEYOND A REASONABLE
23 DOUBT THAT RALPH COLEMAN WAS PRESENT AND THAT HE
24 PARTICIPATED YOU NEED TO LOOK AT THE EVIDENCE AS IT
25 CAME FROM THE WITNESSES' MOUTHS. I SUBMIT TO YOU THAT

1 NONE OF THE EVIDENCE, PICTURES OR THE BALLISTICS, THE
2 BULLETS, ANY OF THAT STUFF, REALLY MATTERS. WE'VE
3 ALREADY STATED, UNFORTUNATELY, THERE IS A PERSON WHO
4 PASSED AWAY. HE DEFINITELY WAS SHOT, WE'RE NOT
5 CONTENDING THAT, BUT BULLETS DON'T PROVE ANYTHING.

6 NOW, I ASK YOU TO PAY ATTENTION TO ACTUALLY WHAT
7 CAME OUT OF THE WITNESSES' MOUTHS, NOT WHAT THEY WERE
8 PROMPTED TO SAY. IF I SAY, ON MARCH SEVENTEENTH, YOU
9 SPOKE TO SOMEONE, THE WITNESS DIDN'T TELL YOU IT
10 HAPPENED ON MARCH SEVENTEENTH, THE ATTORNEY PROMPTED
11 THEM TO SAY YES TO THAT. I SUBMIT TO YOU THAT WHEN
12 THE STATE IS QUESTIONING THEIR WITNESSES THE WITNESS
13 SHOULD BE TELLING YOU WHAT HAPPENED, WHEN IT HAPPENED,
14 WHAT DATE IT HAPPENED, ALL OF THAT. THEY SHOULD BE
15 COMPLETING THE STORY, NOT, SO ON MARCH SEVENTEENTH,
16 WHO DID YOU TALK TO, AT FIVE P.M. ON MARCH
17 SEVENTEENTH, WHO DID YOU TALK TO? THAT'S THE STATE
18 THROWING IN THOSE FACTS FOR YOU, AND WHAT THE STATE
19 SAYS IS NOT EVIDENCE. WHAT CAME OUT OF THEIR MOUTHS
20 AS THEY STOOD AT THE PODIUM ASKING QUESTIONS OR AS
21 THEY SIT HERE AS I AM TALKING TO YOU IS NOT EVIDENCE.

22 NOW, PART OF THE PROBLEM IN THIS CASE AND PART OF
23 THE REASON I KNOW THAT AFTER YOU DELIBERATE YOU WILL
24 FIND RALPH COLEMAN INNOCENT, IS THAT THE STATE DID NOT
25 INVESTIGATE THIS CASE VERY WELL. AND THAT IS VERY

1 UNFORTUNATE BECAUSE THERE IS SOMEONE WHO PASSED AWAY.
2 INVESTIGATOR SHUMPERT WAS THE LEAD INVESTIGATOR, HE
3 TOLD YOU THAT HE WAS RESPONSIBLE FOR THE ENTIRE
4 INVESTIGATION. HE TOLD YOU THAT TIPS COME IN, THEY
5 GET PHONE CALLS, PEOPLE IN THE COMMUNITY, TALKING
6 ABOUT WHO MIGHT HAVE DONE SOMETHING. AND THEY, OF
7 COURSE, WEIGH THOSE TIPS AND GO FROM THERE AND DECIDE
8 WHETHER TO INVESTIGATE OR NOT INVESTIGATE. THEY
9 INVESTIGATED A FEW PEOPLE, THEY TESTIFIED THAT THERE
10 WERE SOME SUSPECTS, BUT THEN THEY TALKED TO PATRICK
11 TYLER, PATRICK TYLER GAVE THEM NAMES, AND THAT WAS THE
12 END OF IT. THEY DECIDE THOSE PEOPLE WERE WHO DID THIS,
13 THEY GOT WARRANTS, THAT WAS THE END OF IT. WHAT ELSE
14 DID THEY DO? THEY DID NOT GET SEARCH WARRANTS FOR
15 ANYBODY'S HOUSE EXCEPT ONE PERSON. NOW, I UNDERSTAND
16 INVESTIGATOR SHUMPERT GOT ON THE STAND AND SAID, WELL,
17 ONCE A PERSON'S BEEN ARRESTED WE'RE NOT GOING TO
18 SEARCH THEIR HOUSE BECAUSE ONCE THEY'VE BEEN ARRESTED
19 ONCE THEY, OR TURN THEMSELVES IN AS RALPH COLEMAN DID,
20 THEY'RE NOT GOING TO HAVE EVIDENCE AT THEIR HOUSE.
21 AND THAT'S BASED ON HIS EXPERIENCE, THAT'S JUST TRUE.
22 WELL, THE PROBLEM IS, HE GOT ON THE STAND AND TOLD YOU
23 THAT RALPH COLEMAN'S WARRANT WAS ISSUED ON MARCH
24 NINETEENTH RALPH COLEMAN TURNED HIMSELF IN ON MARCH
25 TWENTY-SECOND. I SUBMIT TO YOU THAT THE PROBABLE

1 CAUSE NECESSARY TO GET AN ARREST WARRANT WOULD
2 CERTAINLY SUFFICE TO GET A SEARCH WARRANT, ON THE SAME
3 DATE FROM THE SAME MAGISTRATE THE ARREST WARRANT WAS
4 ISSUED A SEARCH WARRANT COULD HAVE BEEN ISSUED. NOW,
5 INVESTIGATOR SHUMPERT SAID THERE'S NO POINT IN GETTING
6 A SEARCH WARRANT IF YOU DON'T KNOW WHERE THE PERSON
7 LIVES. BUT HE ALSO TESTIFIED THAT HE KNEW MY CLIENT
8 LIVED ON WOODBINE DRIVE. THAT WAS HIS GRANDMOTHER'S
9 HOUSE. HE EVEN KNEW WHOSE HOUSE IT WAS. SO,
10 CERTAINLY, HE COULD HAVE INVESTIGATED THIS FURTHER. HE
11 GOT ON THE STAND AND SAID THAT THERE ARE MURDER
12 WEAPONS IN THE COMMUNITY, AND THAT'S A SCARY THOUGHT,
13 BUT WHAT DID THEY DO TO TRY TO GET THOSE WEAPONS?
14 THEY DIDN'T SEARCH CHRISTOPHER DWIGHT'S HOUSE, HE WAS
15 THE PERSON WHO HAD THIS WEAPON THAT THEY'RE SAYING WAS
16 ONE OF THE MURDER WEAPONS. THEY DIDN'T INVESTIGATE
17 HIM ANY FURTHER. HE HAD A MURDER WEAPON AND THEY
18 DIDN'T DECIDE TO SEARCH HIS HOUSE TO SEE HE MAYBE HAD
19 ONE OF THE OTHER WEAPONS, TO SEE IF HE WAS INVOLVED,
20 THEY JUST GOT THE WEAPON FROM HIM AND MOVED ON. WHY IS
21 THAT? BECAUSE PATRICK TYLER SAID WHO DID IT.

22 NOW, CHRISTOPHER DWIGHT ALSO, THEY COULD HAVE
23 MADE A LINEUP FOR HIM, THEY COULD HAVE PUT HIM IN A
24 LINEUP AND SHOWED HIM TO PATRICK TYLER OR ASHLEY
25 PARSLEY, BUT THEY DIDN'T DO THAT. HIS NAME IS

1 CHRISTOPHER, HE COULD BE LITTLE CHRIS, BUT THEY DIDN'T
2 DO THAT.

3 ANDRE WASHINGTON CAME INTO COURT, HE HAD THE, HE
4 WAS THE PERSON THAT SAID HE HAD ORIGINALLY PURCHASED
5 THE FORTY CALIBER PISTOL FROM CHRISTOPHER DWIGHT. HE
6 GOT ON THE STAND AND SAID HE BOUGHT IT FOR PROTECTION,
7 DIDN'T HAVE ANY SORT OF DANGEROUS JOB, HAD BEEN IN
8 SOME KIND OF SCUFFLE, SO OBVIOUSLY, HE THOUGHT
9 SOMEBODY MIGHT SHOOT HIM AND HE MIGHT NEED TO SHOOT
10 SOMEBODY. HE ALSO SAID THAT WHEN HE BOUGHT THAT GUN
11 HE TRADED A GUN HE ALREADY HAD. ALL OF THIS IS
12 EVIDENCE THAT HE HAD NUMEROUS WEAPONS. DID THEY TRY
13 TO SEARCH HIS HOUSE TO FIND ANY OTHER OF THESE GUNS?
14 NO. THEY JUST TOOK HIS WORD THAT THIS IS WHO I GOT IT
15 FROM, THIS IS WHERE IT CAME FROM, AND THEY TOOK IT.
16 NOW, DOES MR. WASHINGTON'S POSSESSION OF ONE OF THESE
17 WEAPONS GIVE PROBABLE CAUSE TO SEARCH HIS HOUSE?
18 ABSOLUTELY.

19 NOW, ANOTHER PROBLEM THAT WE HAD WAS AT THE CRIME
20 SCENE. AND I UNDERSTAND INVESTIGATOR SHUMPERT WAS NOT
21 AT THE CRIME SCENE, HE'S NOT THE CRIME SCENE
22 INVESTIGATOR, BUT HE IS IN CHARGE OF THE
23 INVESTIGATION. HE DIDN'T ASK WHY, AND LIEUTENANT
24 CARTER DIDN'T BOTHER FINGERPRINTING THE ENTIRE LIVING
25 ROOM. WHERE DID THEY FINGERPRINT? ONE PLACE, THE

1 DOOR KNOB. AND I BELIEVE IT WAS LIEUTENANT CARTER
2 THAT ACTUALLY STATED, A DOOR KNOB IS USUALLY A PLACE
3 THAT FINGERPRINTS AREN'T THE BEST PLACE, AREN'T LEFT
4 WELL. WHY IS THAT? BECAUSE IF I GO THROUGH A DOOR
5 AND I TOUCH IT, AND YOU GO THE DOOR AND YOU TOUCH IT,
6 AND YOU GO THROUGH THE DOOR AND YOU TOUCH IT,
7 FINGERPRINTS ARE GOING TO BE WIPED AWAY, THEY'RE NOT
8 GOING TO BE SOMETHING THAT'S VALUABLE. THEY DIDN'T
9 FINGERPRINT THE TABLE, THEY DIDN'T FINGERPRINT ANY
10 PART OF THE WOOD THAT WAS ON EITHER OF THE COUCHES,
11 THEY DIDN'T FINGERPRINT ANYTHING IN THAT LIVING ROOM.
12 THEY SAY THAT WAS OBVIOUSLY THE PLACE THAT EVERYTHING
13 WENT DOWN, NO FINGERPRINTS.

14 THEY DIDN'T SEARCH THE OUTSIDE AREA OF THIS
15 APARTMENT. YOU'LL HAVE THE PICTURES BACK THERE, AND
16 IN ONE OF THE PICTURES IS A DEPICTION OF THE ACTUAL
17 APARTMENT BUILDING. AT THE END OF THE APARTMENT
18 BUILDING RIGHT NEXT TO THE LAST APARTMENT, WHICH IS
19 SIX THIRTY-FIVE KINGS ROAD, YOU WILL SEE THERE'S, I
20 DON'T KNOW HOW BIG IT IS, TO BE QUITE HONEST, BUT
21 THERE'S AN OPENING, AN OPEN FIELD. IT'S NOT A HOUSE OR
22 ANOTHER PARKING LOT OR ANYTHING LIKE THAT. THEY
23 DIDN'T SEARCH THAT AREA. WHOEVER DID THIS CERTAINLY
24 COULD HAVE THROWN A GUN WHEN THEY RAN OUT OF THE
25 SEARCH, BUT THEY DIDN'T SEARCH. THERE'S A BACK DOOR,

1 AND THEY DIDN'T SEARCH BEHIND THE HOUSE. I SUBMIT TO
2 YOU, THERE IS AREA BEHIND THE HOUSE. THERE IS
3 OBVIOUSLY NOT A BUILDING BUTTED UP AGAINST THIS
4 BUILDING, THERE'S AREA BACK THERE. THERE WAS ACTUALLY
5 EVEN TESTIMONY FROM PATRICK TYLER THAT THE, THAT MR.
6 PRINGLE WAS SAYING DURING THIS INCIDENT, THE STUFF'S
7 OUTSIDE, THE STUFF'S OUTSIDE. BUT THEY DIDN'T LOOK
8 OUTSIDE. AND WHEN I SAY, THEN, I MEAN, THE POLICE.
9 THEY DIDN'T LOOK OUTSIDE FOR ANYTHING.

10 NOW, DUE TO THE POLICE NOT INVESTIGATING PROPERLY
11 THE STATE HAS NOT BEEN ABLE TO PROVIDE YOU WITH
12 EVIDENCE BEYOND A REASONABLE DOUBT AGAINST RALPH
13 COLEMAN. NOW, CERTAINLY, AT THE BEGINNING OF THIS
14 TRIAL YOU HEARD THE ATTORNEYS GIVE AN OPENING
15 STATEMENT, AND IT'S NOT EVIDENCE, IT'S NOT ANYTHING
16 YOU CAN USE TO DECIDE WHETHER A PERSON IS GUILTY OR
17 INNOCENCE, BUT IT'S CERTAINLY SOMETHING THAT YOU CAN
18 TAKE TO SEE WHAT THE ATTORNEYS ARE TELLING YOU. WHAT
19 ARE WE TELLING YOU THIS CASE IS GOING TO SHOW? THE
20 STATE SAID THEY'RE GOING TO BE ABLE TO SHOW YOU BEYOND
21 ANY DOUBT, ANY DOUBT THAT RALPH COLEMAN WAS GUILTY.
22 THAT MEANS THAT YOU HAVE NO DOUBT AT ALL, NOT A
23 REASONABLE DOUBT, NO DOUBT AT ALL THAT HE IS GUILTY,
24 AND I SUBMIT TO YOU, THEY HAVE NOT DONE THAT.

25 NOW, RALPH COLEMAN WAS NOT PRESENT DURING THIS

1 INCIDENT. THE STATE HAS NOT PROVEN THAT HE WAS
2 PRESENT DURING THIS INCIDENT, BUT FOR ARGUMENT'S SAKE,
3 FOR JUST ONE SECOND LET'S PRETEND HE WAS. NOW,
4 PRETENDING RALPH COLEMAN WAS PRESENT, THE STATE STILL
5 HASN'T PROVEN THAT HE'S GUILTY OF MURDER. AS THEY
6 EXPLAINED TO YOU, MURDER IS THE KILLING OF ANOTHER
7 WITH MALICE AFORETHOUGHT. THERE'S CERTAINLY SOMEONE
8 WHO'S PASSED AWAY, WE'VE STATED THAT. MALICE
9 AFORETHOUGHT, THEY WENT THROUGH A BUNCH OF DEFINITIONS
10 OF WHAT THAT MEANS. THE JUDGE WILL GO THROUGH MORE
11 DEFINITIONS. MALICE IS VERY HARD TO UNDERSTAND. AS A
12 LAWYER I DON'T NECESSARILY HAVE A PERFECT DEFINITION
13 EITHER. IT IS NOT SOMETHING THAT IS EASILY
14 UNDERSTOOD. IT'S SOMETHING THAT I'VE OFTEN READ IS,
15 IT'S A DEPRAVED HEART, A MATTER OF ILL WILL. AND
16 THEY'RE NOT GOING TO BE ABLE TO PROVE THAT. THEY'RE
17 NOT GOING TO BE ABLE TO PROVE THAT RALPH COLEMAN HAD A
18 DEPRAVED HEART IN ANY SORT OF ACTIONS THAT HE HAD.

19 NOW, REGARDING ARMED ROBBERY, THE JUDGE IS GOING
20 TO EXPLAIN TO YOU THAT ARMED ROBBERY IS THE TAKING OF
21 PROPERTY FROM ANOTHER PERSON BY FORCE. AND HE'S GOING
22 TO GIVE YOU A BETTER DEFINITION BUT THAT'S THE SHORT
23 VERSION, BUT IT'S THE TAKING OF PROPERTY. THE STATE
24 HAS NOT PROVEN THAT PROPERTY WAS TAKEN BY RALPH
25 COLEMAN IN THIS CASE. NOW, THERE IS, I THINK, AN

1 ALLEGATION THAT ASHLEY PARSLEY HAD A GUN. NOW, SHE
2 SAYS IT WASN'T HER GUN, SHE SAYS IT WAS CHARLES
3 PRINGLE'S GUN. AND THEY SAID THAT THEY COULD NEVER
4 RECOVER THAT GUN. NOW, DOES THAT MEAN THAT RALPH
5 COLEMAN TOOK THAT GUN, THAT HE ARM ROBBED CHARLES
6 PRINGLE OF THAT GUN? NO, IT DOES NOT. THAT GUN AGAIN
7 COULD HAVE BEEN OUTSIDE, MAYBE WHEN THIS WAS ALL OVER
8 ASHLEY WAS CONCERNED ABOUT WHAT HAD JUST HAPPENED, THE
9 POLICE OBVIOUSLY THOUGHT AT ONE POINT SHE WAS
10 INVOLVED, AND SHE THREW THE GUN OUT BACK, OR SHE THREW
11 THE GUN OUT THE FRONT DOOR. IT COULD HAVE BEEN IN THE
12 AREA WHERE I SAID, ANY OF THESE GUNS COULD BE. THEY
13 DIDN'T FIND IT BUT THAT DOESN'T PROVE RALPH COLEMAN
14 TOOK IT.

15 NOW, LET'S STEP AWAY FROM THAT AND GO BACK TO THE
16 TRUTH. AND THE TRUTH IS, RALPH COLEMAN WAS NOT
17 PRESENT DURING THIS. REMOVE ANY IDEA THAT I SAID,
18 LET'S ASSUME HE WAS PRESENT, BECAUSE YOUR JOB AS A THE
19 JURY, AS I SAID, IS TO ASSUME HE WAS NOT PRESENT UNTIL
20 YOU FIND THAT THE STATE HAS PROVEN BEYOND A REASONABLE
21 DOUBT THAT HE WAS.

22 NOW, WE HEARD A LOT OF TESTIMONY OVER THE LAST
23 WEEK, BUT WHAT WE REALLY NEED TO FOCUS ON IS WHAT OF
24 THAT TESTIMONY PERTAINS TO RALPH COLEMAN AND WHETHER
25 OR NOT HE COMMITTED THESE ACTS. WE SUBMIT TO YOU THAT

1 THERE ARE TWO PEOPLE, TWO WITNESSES OUT OF EVERYBODY
2 YOU SAW, I BELIEVE THERE WERE TWELVE WITNESSES, TWO
3 PERTAIN TO THIS. THAT WOULD BE ASHLEY PARSLEY AND
4 PATRICK TYLER. INVESTIGATOR SHUMPERT GOT UP, HE WAS
5 THE LAST WITNESS YESTERDAY, AND HE TALKED A LOT ABOUT
6 WHO PATRICK TYLER SAID DID WHAT, AND WHAT ASHLEY
7 PARSLEY WAS ABLE TO TELL HIM, BUT HE HAD NO PERSONAL
8 KNOWLEDGE. HIS TESTIMONY IS JUST BASICALLY EXPLAINING
9 HIS INVESTIGATION. SO, JUST BECAUSE HE GOT UP THERE
10 AND SAID, ASHLEY PARSLEY PICKED THIS PHOTO OUT OF THIS
11 LINEUP DOESN'T MAKE IT ANYMORE TRUE, IT JUST MEANS
12 THAT HE WAS THE INVESTIGATOR SHOWING THE LINEUPS.
13 IT'S BASICALLY A MATTER OF EVIDENCE, THE STATE CAN'T
14 SHOW YOU THOSE LINEUPS WITHOUT THE INVESTIGATOR
15 SAYING, YES, I MADE THAT LINEUP. IT DOESN'T MAKE IT
16 MORE TRUE JUST BECAUSE IT CAME FROM THE INVESTIGATOR'S
17 MOUTH. HE CAN'T MAKE ANOTHER WITNESS BE TRUTHFUL.

18 NOW, LOOKING AT ASHLEY PARSLEY FIRST, HER
19 STATEMENT TO THE POLICE, AND YOU'LL HAVE THAT IN YOUR
20 JURY ROOM WITH YOU, HAD ABOUT FOUR LINES, AND IT'S A
21 GOOD LONG PAGE, THAT ACTUALLY DISCUSSED WHAT HAPPENED
22 DURING THIS INCIDENT. SHE STATED TO THE POLICE THAT
23 ONE DARK SKINNED DUDE IN BLUE CAME IN. NOW, ON THE
24 STAND SHE ACTUALLY ADMITTED THAT SHE COULDN'T SEE THAT
25 PERSON'S FACE, SHE SAW HIS EYES, THAT HE HAD SOMETHING

1 COVERING HIS FACE, A MASK. NOW, I SUBMIT TO YOU, IT'S
2 A LITTLE STRANGE THAT YOU WOULD OPEN A DOOR TO A
3 MASKED MAN AND LET HIM IN, BUT SHE SAID SHE DID. NOW,
4 OBVIOUSLY, THAT PERSON, THAT ONE DARK SKINNED DUDE IN
5 THE BLUE WAS NOT RALPH COLEMAN. SHE NEVER SAID THAT
6 WAS RALPH COLEMAN.

7 NOW, IN HER STATEMENT TO THE POLICE THE DAY THAT
8 IT HAPPENED, THAT MORNING THIS HAPPENED, SHE NEVER
9 TALKED ABOUT SEEING A SECOND PERSON. SHE MENTIONED ON
10 THE STAND SHE MIGHT HAVE CAUGHT A GLIMPSE OF A CHUBBY
11 PERSON, BUT SHE NEVER TOLD THE POLICE THAT ORIGINALLY.
12 SHE DIDN'T RELAY ANY OF THAT INFORMATION TO THE
13 DISPATCH WHEN SHE CALLED NINE ONE ONE, SHE COULDN'T
14 IDENTIFY ANYBODY, SHE COULDN'T GIVE ANY DESCRIPTION.
15 SHE SAID NOTHING. SHE SAID, SEVERAL MEN, THAT WAS HER
16 DESCRIPTION. SHE DIDN'T TALK TO THE RESPONDING
17 OFFICER ABOUT, I ACTUALLY SAW TWO PEOPLE, SHE DIDN'T
18 EVEN SAY SHE SAW ONE. SHE DIDN'T TALK TO INVESTIGATOR
19 SHUMPERT ABOUT SEEING TWO PEOPLE. EIGHT MONTHS AFTER
20 THIS INCIDENT SHE GOT ON THE STAND AND SAID NOW SHE
21 REMEMBERED SEEING TWO PEOPLE.

22 NOW, THAT SECOND PERSON SHE SAW, SHE SAID SHE
23 CAUGHT A GLIMPSE OF, HE WAS CHUBBY, MIGHT HAVE BEEN
24 WEARING GREEN, YOU KNOW, WHY COULD SHE NOT SAY WHAT
25 HAPPENED? HER FACE WAS DOWN ON THE GROUND. SHE SAW

1 ONE PERSON, AND BEYOND THAT YOU REMEMBER TESTIMONY
2 FROM JUST ABOUT EVERY WITNESS THAT WAS ACTUALLY AT THE
3 SCENE THAT THERE WAS ONE LIGHT IN THIS HOUSE IN THE
4 CEILING, AND IT WAS A BLACK LIGHT. NOW, I KNOW WE'RE
5 ALL DIFFERENT AGES, SO BLACK LIGHTS MIGHT MEAN
6 DIFFERENT THINGS TO EVERYBODY, BUT FOR ME, THINK OF A
7 SKATE RINK WHEN YOU'RE A KID GOING SKATING, THEY HAVE
8 BLACK LIGHTS A LOT OF TIMES. IN THE EVENINGS THEY'LL
9 PUT MUSIC ON, BLACK LIGHTS. COSMIC BOWLING, IF YOU'VE
10 EVER BEEN COSMIC BOWLING OR TAKING YOUR CHILDREN
11 BOWLING, THEY TURN OFF ALL THE LIGHTS, TURN ON BLACK
12 LIGHTS, PLAY MUSIC, YOU BOWL. THEY USED TO HAVE BLACK
13 LIGHTS A LOT OF TIMES IN CLUBS, I THINK SOMETIMES THEY
14 STILL DO, BUT I KNOW IT USED TO BE MUCH MORE POPULAR.
15 LASER TAG, I'M NOT FROM SOUTH CAROLINA, WHERE I'M FROM
16 WE USED TO LAY LASER TAG, AND THAT'S THE SAME THING,
17 IN A BUILDING YOU'RE PLAYING TAG AND YOU TURN OFF THE
18 LIGHTS AND THERE'S BLACK LIGHTS. THE REASON I BRING
19 THIS UP, AND I HOPE YOU ALL HAVE A REFERENCE OF WHAT A
20 BLACK IS, A BLACK LIGHT IS NOT MEANT TO ILLUMINATE A
21 ROOM. A BLACK LIGHT, THE PURPOSE OF A BLACK LIGHT IS
22 TO CHANGE COLORS. IF YOU WALK INTO A ROOM WITH A
23 BLACK LIGHT, I SUBMIT TO YOU, YOU WOULD NOT BE ABLE TO
24 TELL THAT I HAD A GREEN SHIRT ON VERSUS A BROWN SUIT.
25 YOU WOULDN'T EVEN BE ABLE TO TELL I HAVE A BROWN SUIT

1 ON. IT WOULD LOOK ALL BLACK TO YOU. NOW, MY HAIR
2 WOULD GLOW, AND MY NAILS MIGHT GLOW, BECAUSE THEY'RE
3 WHITE AT THE ENDS. WHITE GLOWS IN THE DARK, IN BLACK
4 LIGHT. LIGHTER COLORS GLOW IN BLACK LIGHT. DARKER
5 COLORS ALL LOOK THE SAME IN BLACK LIGHT. BEYOND THAT
6 IT IS NOT BRIGHT. EVERYBODY TESTIFIED THAT IT WAS
7 DIM. I BELIEVE SHANNON MITCHELL, WHEN MY CO-COUNSEL
8 WAS QUESTIONING HIM, SAID THAT THIS FAR AWAY HE MIGHT
9 BE ABLE TO SEE SOMEBODY, BUT NOT THIS FAR AWAY. WHEN
10 I SPEAK OF A BLACK LIGHT, IT'S NOT MEANT TO ILLUMINATE
11 THE ROOM. NOBODY IN THAT ROOM COULD SEE WHAT WAS
12 GOING ON.

13 NOW, GETTING BACK TO WHAT ASHLEY SAID ABOUT THE
14 PERSON THAT SHE MIGHT HAVE SEEN, IN HER AFFIDAVIT OF
15 THE LINEUP SHE SAID THAT IT'S POSSIBLE THAT PERSON WAS
16 THERE, I DIDN'T REALLY SEE HIS FACE. WHEN I
17 QUESTIONED HER ON THE STAND I SAID, ARE YOU SURE THAT
18 THE PERSON YOU PICKED IN THAT LINEUP IS THE PERSON YOU
19 SAW? SHE SAID, NO, I CAN'T BE SURE, I CAN'T BE SURE.
20 NOW, THE ONLY DESCRIPTION WE GOT OF THAT PERSON WAS,
21 HE'S CHUBBY.

22 RALPH COULD YOU PLEASE STAND UP.

23 I SUBMIT TO YOU, THERE'S NOTHING CHUBBY ABOUT
24 RALPH COLEMAN. HE'S ACTUALLY A PRETTY WELL BUILT MAN,
25 NOTHING CHUBBY ABOUT HIM. NOW, WHAT IS NOTICEABLE

1 ABOUT HIM? I WOULD SAY HIS LONG DREDS ARE PRETTY
2 NOTICEABLE. THAT'S NOT SOMETHING THAT YOU GROW
3 OVERNIGHT. SHE MENTIONED NOTHING ABOUT ANYBODY HAVING
4 ANY DREDS.

5 THANK YOU, RALPH.

6 NOW, I UNDERSTAND SHE DID PICK HIM OUT OF THE
7 LINEUP, AND THAT'S CURIOUS, THAT'S QUESTIONABLE. BUT
8 YOU HEARD INVESTIGATOR SHUMPERT SAY, WHEN THEY PUT A
9 LINEUP TOGETHER THE PURPOSE IS TO MAKE THESE SIX
10 PEOPLE LOOK AS MUCH ALIKE AS POSSIBLE. AND THE REASON
11 IS, THEY DON'T WANT WITNESSES TO MAKE A MISTAKE OR TO
12 NOT BE SURE, JUST AS ASHLEY PARSLEY SAID, SHE WAS NOT
13 SURE. THEY MAKE EVERYBODY LOOK AS CLOSE ALIKE AS THEY
14 CAN SO THAT WHEN YOU TRULY GET A GOOD LOOK AT SOMEBODY
15 YOU COULD PICK THAT PERSON OUT EVEN THOUGH THE OTHER
16 FIVE PICTURES LOOK LIKE THEM. NOW, I'LL ASK YOU, WHEN
17 YOU GO BACK INTO THAT JURY ROOM LOOK AT THIS LINEUP.
18 I WILL TELL YOU THAT THE MAN IN NUMBER TWO IS PRETTY
19 DARN CLOSE TO THE MAN IN NUMBER ONE. BOTH HAVE DREDS,
20 BOTH HAVE THE SAME FACE STRUCTURE, BOTH HAVE THE SAME
21 NOSE STRUCTURE, THEY LOOK VERY SIMILAR, VERY SIMILAR.
22 NOW, WHY DID SHE PICK NUMBER ONE? WE CAN ONLY GUESS
23 AS TO THAT, BUT IF YOU THINK ABOUT IT, RALPH COLEMAN'S
24 PICTURE IN THIS SIX PERSON LINEUP WAS NUMBER ONE, THE
25 FIRST ONE. WHEN YOU'RE A CHILD, VERY YOUNG, YOU START

1 TO LEARN TO READ. HOW DO WE READ, LEFT TO RIGHT, TOP
2 TO BOTTOM? YOUR EYE IS NATURALLY DRAWN TO THAT PART
3 OF THE PAPER, START AT THE TOP, WORK TO THE BOTTOM,
4 LEFT TO RIGHT, THAT'S THE WAY WE READ, THAT'S THE WAY
5 WE'VE BEEN TAUGHT TO READ SINCE THREE, FOUR, FIVE
6 YEARS OLD, A VERY NATURAL THING TO DO. YOU'RE GOING
7 TO HAVE ALL THESE LINEUPS BACK THERE, AND I ASK YOU TO
8 LOOK AT THEM.

9 NOW, THEY SHOWED PATRICK TYLER LINEUPS. HE
10 PICKED MARIO SHIVERS, HIS PICTURE WAS NUMBER THREE, HE
11 PICKED DANNY RYANT, HIS PICTURE WAS NUMBER TWO, HE
12 PICKED CHRISTIAN COLEMAN, HIS PICTURE WAS NUMBER TWO,
13 HE PICKED RALPH COLEMAN, AGAIN, HIS PICTURE WAS NUMBER
14 ONE. GRANTED, PATRICK TYLER KNEW ALL OF THESE PEOPLE.
15 HE WAS ALSO SHOWN DMV PHOTOS PREVIOUSLY WHO THESE
16 PEOPLE WERE, SO, REALISTIC HIS LINEUPS DON'T MATTER.
17 BUT THE POINT IS, WHERE THE PEOPLE WERE IN THESE
18 LINEUPS. ASHLEY PARSLEY LOOKED AT LINEUPS, THE THREE
19 SHE PICKED, MARIO SHIVERS WAS NUMBER THREE, WALTER
20 HARRIS WAS NUMBER THREE, AGAIN RALPH COLEMAN WAS
21 NUMBER ONE. WHEN MONEAK BUSBY LOOKED AT LINEUPS, AND
22 GRANTED, MONEAK BUSBY HAS NOTHING TO DO WITH RALPH
23 COLEMAN, KNOWS NOTHING ABOUT RALPH COLEMAN, BUT WHEN
24 SHE LOOKED AT LINEUPS SHE PICKED TWO PEOPLE. PATRICK
25 TYLER WAS NUMBER FOUR, MARIO SHIVERS WAS NUMBER

1 THREE. OUT OF ALL THE LINEUPS THAT ANYBODY WAS ABLE
2 TO BE IDENTIFIED, RALPH COLEMAN IS THE ONLY ONE THAT
3 HIS PICTURE WAS NUMBER ONE, AND I SUBMIT TO YOU, SHE
4 PICKED HIM BECAUSE IT WAS THE FIRST IN THE LINE, SHE
5 WASN'T REAL SURE, IT LOOKED LIKE IT COULD HAVE BEEN
6 THAT GUY, SO SHE PICKED HIM.

7 NOW, HEARING ASHLEY PARSLEY ADIT ON THE STAND SHE
8 WAS NOT SURE AT ALL IF IT WAS RALPH COLEMAN OR NOT,
9 SHE COULDN'T BE SURE, IS THAT REASONABLE DOUBT AS TO
10 WHETHER RALPH COLEMAN WAS PRESENT? YES. THAT'S
11 ABSOLUTELY REASONABLE DOUBT. AND I UNDERSTAND, THE
12 SOLICITOR ORIGINALLY GOT UP HERE AND TALKED ABOUT
13 REASONABLE DOUBT AND SAID, YOU KNOW, 'SOME PEOPLE MAY
14 DOUBT THAT THE EARTH REVOLVES AROUND THE SUN. IS THAT
15 REASONABLE? I WOULD SAY, NO. I MEAN, AT THIS POINT
16 WE'VE GOT SCIENTIFIC PROOF, WE'VE HAD -- WE'VE GOT
17 SATELLITES, WE'VE HAD PEOPLE ON THE MOON, WE CAN TELL
18 THE EARTH REVOLVES AROUND THE SUN. THAT IS NOT A
19 REASONABLE DOUBT. IS IT REASONABLE TO DOUBT THAT
20 RALPH COLEMAN WAS THERE WHEN THE ONLY PERSON PRESENT
21 DURING THE ROBBERY THAT HAS NO INTEREST IN THIS CASE
22 CAN'T BE SURE IF HE WAS THERE? IT'S ABSOLUTELY
23 REASONABLE TO DOUBT HE WAS THERE.

24 NOW, PATRICK TYLER GOT ON THE STAND AND SAID A
25 LOT OF INTERESTING THINGS. MOST INTERESTING I FOUND

1 WAS HIS NEW DESIRE TO DO THE RIGHT THING. NOW, HE
2 SAID, WHY WAS HE DOING THE RIGHT THING? FOR HIM AND
3 HIS FAMILY. WELL, THAT DOESN'T MEAN HE'S TELLING THE
4 TRUTH, THAT JUST MEANS HE'S TRYING TO GET HIMSELF OUT
5 OF TROUBLE. HE'S SEVENTEEN YEARS OLD. HIS FAMILY
6 DOESN'T WANT HIM IN PRISON FOR THE REST OF HIS LIFE,
7 SO HE'S DOING WHAT HE CAN TO GET HOME AS QUICK AS HE
8 CAN.

9 NOW, HE TURNED HIMSELF IN, PATRICK TYLER KNEW HE
10 WAS WANTED. HE KNEW WHAT THE POLICE WANTED HIM FOR.
11 INVESTIGATOR SHUMPERT SAID THEY HAD GOTTEN TIPS ABOUT
12 WHAT WAS GOING ON, INVESTIGATOR, OR EXCUSE ME, ANDRE
13 WASHINGTON SAID THAT HE HAD HEARD THAT THIS GUN THAT
14 HE HAD PURCHASED WAS STOLEN. WELL, WHO DID HE HEAR
15 THAT FROM? PEOPLE ON THE STREET. WE KNOW HOW IT
16 WORKS. EVERYBODY TALKS. ORANGEBURG COUNTY IS HUGE,
17 AND I UNDERSTAND THAT. BASED ON SIZE AND LAND IT IS
18 BIG. BUT COMMUNITY, THE COMMUNITY AROUND HERE IS
19 SMALL. AND WHAT I MEAN BY THAT IS, PEOPLE TALK.
20 PEOPLE STICK TOGETHER, PEOPLE TALK ABOUT WHAT'S GOING
21 ON, AND THAT'S HOW PATRICK TYLER KNEW WHO THE POLICE
22 WERE LOOKING FOR AND KNEW WHAT THEY WANTED TO HEAR.
23 PATRICK TYLER GOT ON THE STAND AND ACTUALLY TOLD YOU,
24 HE TOLD THE POLICE WHAT THEY WANTED TO HEAR. HE TOLD
25 YOU HE LIED. HE DIDN'T SAY AT ANYTIME HE WAS TELLING

1 THE TRUTH, HE SAID HE WAS DOING WHAT HE NEEDED TO DO,
2 DOING WHAT WAS RIGHT FOR HIS FAMILY.

3 NOW, I UNDERSTAND PATRICK TYLER CAME, AND
4 EVERYONE OF THE DEFENSE ATTORNEYS QUESTIONED HIM ABOUT
5 HIS BENEFIT FOR TESTIFYING, AND HE SAID HE HAD GOTTEN
6 NO PROMISE. AND I'M SURE THAT'S TRUE, THE STATE
7 WOULDN'T MAKE A PROMISE SO HE COULD COME IN HERE AND
8 TESTIFY THEY PROMISED HIM SOMETHING. BUT HE DID TELL
9 YOU HE'S PLEADING TO A REDUCED CHARGE. NOW, I
10 UNDERSTAND THAT A REDUCED CHARGE DOESN'T GET HIM OUT
11 OF TROUBLE, ABSOLUTELY DOESN'T GET HIM OUT OF TROUBLE.
12 HE SHOULDN'T BE OUT OF TROUBLE. HE ADMITTED ON THIS
13 STAND HE WAS PRESENT WHEN CHARLES PRINGLE WAS KILLED.
14 HE SHOULDN'T BE OUT OF TROUBLE. NOW, HE'S FACING
15 FIFTEEN YEARS TO LIFE, HE TOLD YOU THAT. BUT
16 REALISTICALLY -- AND HE SAID THAT HE WOULDN'T BE
17 SURPRISED IF HE GOT LIFE. IS THAT REAL? IS THAT
18 REALISTIC? NO. HE'S NOT GOING TO GET LIFE, HE'S
19 GOING TO GET A BENEFIT FROM TESTIFYING, OR HE WOULD
20 HAVE NEVER DONE IT. NOW, HE CAN GET FIFTEEN TO LIFE,
21 BUT WHATEVER HE GETS HE'S ALSO PAROLE ELIGIBLE, HE'LL
22 SERVE EIGHTY-FIVE PER CENT OF HIS SENTENCE. SO, LET'S
23 PRETEND HE GETS FIFTEEN YEARS. WHAT DOES THAT MEAN?
24 THAT MEANS HE'S GOING TO SERVE ABOUT TWELVE AND A
25 HALF, GIVE OR TAKE A MONTH OR TWO, I'M NOT A

1 MATHEMATICIAN, BUT MY POINT IS, HIS TESTIMONY COULD
2 VERY WELL GET HIM TWELVE AND A HALF YEARS IN PRISON
3 FOR HIS ADMISSION THAT HE WAS PRESENT AND PARTICIPATED
4 IN THE MURDER OF CHARLES PRINGLE. DOES HE HAVE A
5 BENEFIT FOR GETTING UP HERE AND TELLING YOU WHAT THE
6 POLICE WANTED TO HEAR? ABSOLUTELY.

7 NOW, HE ALSO GOT UP HERE AND SAID THAT HE WASN'T
8 LYING, BUT HE KNEW HE COULDN'T CHANGE HIS STORY
9 EITHER, BECAUSE IF HE CHANGES HIS STORY HE WOULDN'T
10 GET ANY BENEFIT. I SUBMIT TO YOU, HE DID CHANGE HIS
11 STORY. LOOK AT HIS STATEMENT AND THEN LISTEN TO WHAT
12 HE SAID ON THE STAND. IT IS NOT THE SAME. NOW,
13 OBVIOUSLY, THERE IS ONE PART THAT IS THE SAME, AND
14 THAT'S WHO PARTICIPATED. BUT WHY DID HE NOT CHANGE
15 THAT? BECAUSE HE KNEW BETTER. THAT WAS THE PART THE
16 POLICE WANTED TO HEAR. THEY DIDN'T REALLY CARE ABOUT
17 WHO HAD A GUN AND WHO DIDN'T. I MEAN, THEY'RE TELLING
18 YOU THAT IT DIDN'T MATTER WHO HAD A GUN. SO, IF HE'S
19 CHANGING HIS STORY ABOUT WHO HAD A GUN, OR IF HE'S
20 CHANGING HIS STORY ABOUT WHO WENT WHERE WHEN, THAT'S
21 NOT GOING TO AFFECT HIS BENEFIT. BUT HE CAN'T NOW
22 COME IN HERE AND TELL YOU THAT ANYBODY ELSE DID IT, HE
23 HAD TO STICK TO RALPH COLEMAN BEING THERE, HE HAD TO,
24 OR HE WOULDN'T GET THE BENEFIT.

25 NOW, THE SOLICITOR MADE A BIG POINT ABOUT

1 PATRICK TYLER BEING SIXTEEN YEARS OLD WHEN THIS
2 HAPPENED. SIXTEEN IS YOUNG, I'M NOT SAYING THAT IT'S
3 NOT. HE'S SEVENTEEN NOW, BUT THAT DOESN'T MATTER. THE
4 POINT IS, HE MADE AN ADULT DECISION. THE SOLICITOR
5 AND PATRICK TYLER CAN'T COME IN HERE AND ACT LIKE HE
6 WAS YOUNG AND DIDN'T WANT TO DO THIS, AND THESE OLDER
7 GUYS JUST MADE HIM DO THIS, AND YOU KNOW, HE JUST, HE
8 JUST COULDN'T STOP HIMSELF, HE WAS JUST TOO YOUNG AND
9 TOO DUMB TO KNOW BETTER. I SUBMIT TO YOU THAT
10 EVERYBODY KNOWS BETTER. I THINK AT FIVE YEARS OLD YOU
11 KNOW BETTER.

12 NOW, WHAT ELSE DID PATRICK TYLER TELL US? WHAT
13 ELSE IS GOING TO HELP MAKE SURE THAT HE DOESN'T GET
14 LIFE IN PRISON? HIS STORY. PATRICK TYLER DIDN'T
15 HAVE A GUN, ACCORDING TO PATRICK TYLER. PATRICK TYLER
16 WASN'T PRESENT WHEN MR. PRINGLE GOT SHOT, EXCUSE ME,
17 ACCORDING TO PATRICK TYLER. WHAT DID HE SAY ON THE
18 STAND? HE SAID, HE WAS IN THE HOUSE WITH ALL THESE
19 OTHER PEOPLE, AND THAT HE HEARD A GUN SHOT BECAUSE
20 SOMEONE SHOT THE DOG. AND GRANTED, NO OTHER PERSON
21 GOT ON THAT STAND AND SAID THAT DOG WAS HURT, EVER. I
22 THINK WE ACTUALLY ASKED ONE OF THE INVESTIGATORS IF
23 THE DOG WAS HURT IN ANY FASHION, WAS HE INJURED, WAS
24 HE SHOT, WAS HE DEAD? AND I BELIEVE IT WAS LIEUTENANT
25 CARTER WHO SAID, NO, HE WAS FINE, HE WAS TIED TO A

1 BRICK IN THE KITCHEN. BUT PATRICK TYLER HAS THAT, HAS
2 SOMEBODY, HE DOESN'T KNOW WHO, DEFINITELY NOT HIM,
3 SHOOTING THE DOG, AND HE RUNS OUT. HE RUNS OUT TO THE
4 CAR, RIGHT, BECAUSE HE DOESN'T WANT TO BE IN THERE, HE
5 DOESN'T KNOW WHO SHOT WHAT, AND HE DIDN'T EVEN KNOW
6 CHARLES PRINGLE GOT SHOT BECAUSE HE DIDN'T SEE IT.
7 THEY ONLY SHOT THE DOG AS FAR AS HE KNEW.

8 WHAT ELSE DID HE DO TO MAKE SURE THAT HE DOESN'T
9 GET LIFE? HE WAS ONLY SUPPOSED TO BUY WEED. HE
10 DIDN'T HAVE A GUN, HIS ONLY PARTICIPATION WAS GOING IN
11 TO BUY THE WEED. HE WAS JUST TO GO IN, BUT WHAT HE
12 FORGOT TO TELL YOU WAS, HE WAS SUPPOSED TO GO IN AND
13 LEAVE THAT DOOR OPEN TO MAKE SURE THAT SOMEBODY ELSE
14 COULD GET IN. THAT DOESN'T MAKE HIM INNOCENT. HE WAS
15 PRESENT, HE WILL BE PUNISHED, AND HE NEEDS TO BE
16 PUNISHED.

17 NOW, OTHER INTERESTING THINGS CAME OUT OF PATRICK
18 TYLER'S TESTIMONY. HE SAID THAT HE AND RALPH HAD WENT
19 INTO THIS HOUSE TOGETHER WHEN THEY GOT THERE, THE
20 SECOND TIME, AND YOU'VE HEARD ABOUT THEM GOING ONE
21 TIME AND THEN GOING BACK A SECOND TIME. THE SECOND
22 TIME IS WHAT REALLY MATTERS. HE SAID HE AND RALPH
23 WENT IN TOGETHER. ASHLEY PARSLEY, THE PERSON WHO WAS
24 THERE, THE PERSON WHO HAS NO REASON TO CHANGE ANY SORT
25 OF STORY, SHE SAID, ONE PERSON CAME IN, NOT TWO. SHE

1 SAID IT WAS ONE DARK SKINNED GUY WITH A MASK ON HIS
2 FACE, WHICH AGAIN, IS ODD, BUT THAT'S WHAT SHE SAID.
3 SHE DIDN'T SAY TWO PEOPLE CAME IN.

4 NOW, PATRICK TYLER SAID THAT WALTER HARRIS HAD
5 GIVEN RALPH HIS GUN BEFORE HE HAD GONE INTO THE
6 APARTMENT. ASHLEY PARSLEY SAID THAT THE PERSON THAT
7 CAME IN AND PUT A GUN IN HER FACE HAD A NINE
8 MILLIMETER CHROME, AND I BELIEVE THAT'S IN HER
9 AFFIDAVIT ON THE LINEUPS THAT SHE PICKED, NOT ON RALPH
10 COLEMAN'S LINEUP, BUT THE PERSON THAT PUT THE GUN IN
11 HER FACE HAD A NINE MILLIMETER CHROME GUN. THAT IS
12 CERTAINLY NOT THE BLACK FORTY THAT THEY ARE TRYING TO
13 SAY WALTER GAVE TO RALPH, THAT THEY'RE TRYING TO SAY
14 RALPH WENT INTO THAT HOUSE WITH. ASHLEY PARSLEY SAID
15 IT WAS A CHROME NINE MILLIMETER. DOES SHE HAVE ANY
16 REASON TO LIE? NO.

17 NOW, PATRICK TYLER GAVE US TWO STORIES. IN COURT
18 HE TESTIFIED, I BELIEVE IT WAS DARIUS GARNER HAD TAKEN
19 HIM TO RALPH COLEMAN'S HOUSE AND WHILE THEY WERE THERE
20 THEY DISCUSSED A ROBBERY. NOW, IN HIS FIRST STORY YOU
21 WILL SEE, HE DOESN'T SAY THAT, HE SAYS, LITTLE M
22 CALLED HIM AND THAT THEY ALL RODE OVER THERE TO PICK
23 PATRICK TYLER UP OFF BROOKDALE, UP AROUND BROOKDALE
24 SCHOOL. OBVIOUSLY, THAT'S WAY DIFFERENT THAN HIM
25 BEING AT RALPH COLEMAN'S HOUSE.

1 NOW, WHEN YOU GET BACK IN THE JURY ROOM REMEMBER
2 WHAT HE ORIGINALLY TOLD THE POLICE. HE PUT FOUR GUNS
3 IN FIVE PEOPLE'S HANDS. HE SAID, ME AND RALPH WENT IN
4 AND RALPH HAD A GUN, AND THEN WALTER, PETE, POKE --
5 WHO AM I MISSING, THE OTHER FOUR, EXCUSE ME, CAME IN
6 WITH GUNS OUT. THAT'S FIVE PEOPLE, FOUR GUNS. NOT
7 POSSIBLE.

8 NOW, WHAT WAS CONSISTENT WITH PATRICK TYLER'S
9 STORY? HE'S NOT THE BAD GUY. NOW, WHY WOULD PATRICK
10 TYLER SAY RALPH COLEMAN WAS THERE IF HE WASN'T? WHY
11 WOULD HE PICK HIM? WELL, IF YOU BELIEVE DARIUS
12 GARNER'S STORY THAT HE DID TAKE PATRICK TYLER OVER TO
13 RALPH COLEMAN'S HOUSE, MAYBE HE KNEW THAT SOMEONE
14 COULD PUT RALPH COLEMAN WITH HIM. DARIUS COULD SAY, I
15 TOOK HIM TO RALPH COLEMAN'S HOUSE. NOW, DARIUS
16 COULDN'T TRULY SAY IT WAS RALPH COLEMAN'S HOUSE, WE
17 LEARNED THAT THROUGH SOMEBODY ELSE, AND HE COULDN'T
18 TRULY SAY IT WAS ACTUALLY RALPH COLEMAN, HE SAID IT
19 WAS A STOCKY GUY WITH DREDS. I SUBMIT TO YOU, RALPH
20 COLEMAN IS CERTAINLY NOT THE ONLY PERSON STOCKY WITH
21 DREDS. DARIUS GRANT, OR GARNER, EXCUSE ME, COULD NOT
22 PUT RALPH COLEMAN WITH PATRICK TYLER AFTER THIS EVENT,
23 AFTER HIS HOUSE. HE LEFT HIM THERE, THAT'S ALL HE
24 COULD SAY. BUT THAT TIED PATRICK TYLER TO RALPH
25 COLEMAN ON THIS DATE, SO PATRICK KNEW HE COULD PICK

1 RALPH AND THERE WOULD BE SOME EVIDENCE THAT THEY HAD
2 BEEN TOGETHER. WHY ELSE WOULD BE PICK RALPH? WELL,
3 THERE'S SOME REASON TO BELIEVE THAT THERE HAD BEEN
4 SOME CONFRONTATION BETWEEN THE TWO OF THEM. I BELIEVE
5 PATRICK TYLER DENIED IT, BUT I BELIEVE THERE - - -

6 SOLICITOR PASCOE: SO, WHERE IS HER EVIDENCE OF
7 IT? OBJECTION, YOUR HONOR. THERE IS NO EVIDENCE OF
8 IT. I WITHDRAW MY OBJECTION, I APOLOGIZE. I WITHDRAW
9 IT, GO AHEAD.

10 THE COURT: YES, SIR.

11 MS. ULLMAN: JUST BECAUSE PATRICK TYLER SAID THAT
12 HE AND RALPH NEVER HAD PROBLEMS DOESN'T MEAN IT'S
13 TRUE.

14 WHEN YOU GO BACK IN THAT JURY ROOM TO DELIBERATE
15 PLEASE PAY ATTENTION TO THE TESTIMONY OF THE
16 WITNESSES, AGAIN, WHAT CAME OUT OF THEIR MOUTHS.
17 ALSO, PLEASE REMEMBER TWO THINGS THE STATE PROMISED AT
18 THE BEGINNING OF THIS TRIAL, THEY PROMISED THAT ONCE
19 PATRICK TYLER EXPLAINED EVERYBODY THAT WAS INVOLVED
20 AND EVERYTHING THAT WAS DONE THEY WOULD HAVE AT LEAST
21 ONE MORE WITNESS, IF NOT MORE, THAT WOULD BACK UP WHAT
22 HE SAID. NOW, WHAT WITNESS DID THEY PROVIDE TO BACK
23 UP HIS STORY? DARIUS GARNER. WHAT DID HE BACK UP?
24 HE BACKED UP THAT HE DROPPED PATRICK TYLER OFF AT
25 SOMEBODY'S HOUSE AND THAT HOURS LATER HE PICKED HIM UP

1 IN THE RAIN. I SUBMIT TO YOU THAT THAT DOES NOT
2 CORROBORATE PATRICK TYLER'S STORY OF WHAT HAPPENED IN
3 BETWEEN. HE COULD HAVE BEEN ANYWHERE WITH ANYBODY.
4 DARIUS GARNER HAS NO IDEA.

5 THEY ALSO PROMISED THEY WERE GOING TO PRODUCE
6 RONNIE WASHINGTON. RONNIE WASHINGTON HAS ADMITTED HE
7 WAS THE DRIVER IN THIS INCIDENT. THEY DID NOT PRODUCE
8 HIM. THEY DID NOT PRODUCE THE PERSON WHO WAS
9 ALLEGEDLY IN HIS CAR WHO ADMITTED TO BEING IN HIS CAR,
10 WHO SUPPOSEDLY DROVE ALL THESE PEOPLE, INCLUDING
11 PATRICK TYLER, TO THIS RESIDENCE. THEY DIDN'T PRODUCE
12 HIM. HE DID NOT GET ON THAT STAND AND NAME RALPH
13 COLEMAN AS EVER BEING IN THAT CAR. AS A MATTER OF
14 FACT, DURING OPENING STATEMENTS THE STATE ACTUALLY
15 PROMISED YOU THAT RONNIE WASHINGTON WOULD COME IN HERE
16 AND CORROBORATE ALL SIX PEOPLE WERE IN THAT CAR, AND
17 WHEN I SAY, SIX, I'M INCLUDING PATRICK TYLER. HE
18 DIDN'T SAY ANYTHING, HE DID NOT COME IN HERE. RONNIE
19 WASHINGTON WAS SUPPOSED TO TELL YOU THAT HE TOOK ALL
20 SIX OF THOSE PEOPLE TO THE KINGS ROAD APARTMENT, THEY
21 WERE GOING THERE TO BUY WEED IS WHAT HE KNEW, BUT HE
22 DIDN'T COME IN AND TELL YOU THAT. THE STATE HAS NOT
23 PRODUCED THAT. SO, THEY HAVE NOT CORROBORATED PATRICK
24 TYLER'S STORY. NOBODY HAS CORROBORATED PATRICK
25 TYLER'S STORY EXCEPT FOR WHERE HE WAS AROUND, I THINK,

1 FIVE O'CLOCK, AND WHERE HE WAS AROUND MAYBE TEN:THIRTY
2 OR ELEVEN O'CLOCK. THAT DOES NOT CORROBORATE HIS
3 STORY.

4 ASHLEY PARSLEY, THE ONLY OTHER PERSON WHO HAD ANY
5 TESTIMONY ABOUT WHAT DID OR DID NOT HAPPEN IN THAT
6 APARTMENT, DOES NOT CORROBORATE HIS STORY. SHE SAYS
7 ONE PERSON CAME IN, HE SAYS TWO. SHE NEVER BROUGHT UP
8 THE DOG IN HER STATEMENT. HE NEVER TALKED ABOUT ANY OF
9 THAT.

10 THE STATE HAS NOT MADE GOOD ON THEIR PROMISES,
11 THEY DID NOT CORROBORATE PATRICK TYLER'S STORY, THEY
12 DID NOT PRODUCE SUFFICIENT EVIDENCE TO PROVE RALPH
13 COLEMAN GUILTY BEYOND A REASONABLE DOUBT, OR AS THEY
14 SAID, BEYOND ANY DOUBT. ALL THEY'VE PRODUCED IS A
15 LYING CO-DEFENDANT AND A WITNESS THAT DID NOT SEE
16 RALPH, ID'D HIM POSSIBLY BECAUSE MAYBE, MAYBE SHE SAW
17 HIM. I SUBMIT TO YOU THAT THAT IS REASONABLE DOUBT, A
18 LYING CO-DEFENDANT AND A WITNESS WHO CANNOT BE SURE IS
19 REASONABLE DOUBT. IT IS NOT WHETHER OR NOT THE EARTH
20 REVOLVES AROUND THE SUN, IT IS A QUESTION THAT A
21 REASONABLE PERSON WOULD ASK THEMSELVES, IT WOULD CAUSE
22 YOU TO HESITATE.

23 NOW, AS I STATED EARLIER, I DID NOT HAVE TO
24 PROVE, NOR DOES RALPH COLEMAN HAVE TO PROVE THAT HE
25 DID NOT DO THIS. HE DOESN'T HAVE TO PROVE THAT HE WAS

1 NOT THERE. THE STATE MUST PROVE TO YOU BEYOND A
2 REASONABLE DOUBT THAT HE WAS, AND THEY HAVE NOT. AND
3 I ASK YOU TO RETURN A VERDICT OF NOT GUILTY FOR RALPH
4 COLEMAN.

5 THANK YOU.

6 THE COURT: THANK YOU, MS. ULLMAN.

7 MR. PALMER.

8 MR. PALMER: THANK YOU, YOUR HONOR, MAY IT PLEASE
9 THE COURT.

10 THE COURT: YES, SIR.

11 CLOSING ARGUMENT BY MR. PALMER

12 LADIES AND GENTLEMEN, WEED AND GUNS, I'M SURE
13 YOU'RE TIRED OF HEARING ABOUT WEED AND GUNS, AS I AM,
14 BUT WE HAVE TO TALK ABOUT WEED AND GUNS FOR A MINUTE,
15 BECAUSE THE DEFENDANTS ARE ALLEGED TO HAVE BEEN
16 INVOLVED IN THIS. NOW PART OF WHAT THEY'RE BEING
17 ACCUSED OF IS BEING INVOLVED WITH WEED AND GUNS. BUT
18 LET ME SUGGEST TO YOU, AND MY NEXT COMMENT
19 SPECIFICALLY EXCLUDES THE EXPERT WITNESSES THAT
20 TESTIFIED IN THIS TRIAL. WHAT I'M TALKING ABOUT IS
21 THE LAW ENFORCEMENT OFFICERS, I'M NOT REFERRING TO
22 THEM, BUT EVERY OTHER FACTUAL WITNESS THAT TOOK THIS
23 STAND IS ALSO HEAVILY INVOLVED IN WEED AND GUNS. SO,
24 IF YOU'RE GOING TO JUDGE MY CLIENT, MR. HARRIS IN THE
25 RED TIE OVER THERE, BECAUSE HE IS INVOLVED, OR HAS

1 BEEN INVOLVED IN WEED AND GUNS, THEN YOU'VE GOT TO
2 GIVE THESE WITNESSES THE SAME JUDGEMENT. NOW, THEY'RE
3 NOT HERE ON TRIAL FOR SMOKING WEED OR POSSESSING GUNS,
4 THEY'RE HERE FOR A MUCH GRIMMER PURPOSE. AND AS THE
5 SOLICITOR SAID, WHICH I AGREE, MR. HARRIS IS CHARGED
6 WITH THE MOST HEINOUS CRIME ON THE BOOKS, MURDER. BUT
7 LET'S GET ONE THING OUT OF THE WAY, EVEN IF YOU
8 BELIEVE EVERY WORD OF TESTIMONY, EVEN IF YOU BELIEVE
9 WHAT'S ON EVERY WRITTEN STATEMENT, WALTER LEE HARRIS
10 DID NOT ACTUALLY KILL ANYBODY. THERE'S NOT A SHRED OF
11 EVIDENCE THAT HE PULLED THE TRIGGER IN ANY SEQUENCE OF
12 EVENTS THAT LED UP TO THESE CHARGES. AND THAT'S OUT
13 OF THE WAY.

14 NOW, LET'S LOOK AT THE STATE'S CASE BECAUSE WE
15 WERE -- YOU KNOW, THEY WROTE A CHECK AT THE BEGINNING
16 OF THIS TRIAL, AND WE NEED TO SEE IF THEY CAN CASH IT.
17 AND I KNOW MR. SORENSON TO BE A GREAT LAWYER, BUT HE
18 TOLD YOU THERE WAS NO DOUBT AT ALL, AND AT THE END OF
19 THE TRIAL YOU WOULD HAVE NO DOUBT AS TO WHAT HAPPENED.
20 WELL, I AGREE WITH HIM AND THEN I DON'T. LET'S TALK
21 ABOUT WHAT THERE'S NO DOUBT ABOUT.

22 THERE'S NO DOUBT THAT THIS GENTLEMAN IS DECEASED.
23 THERE'S NO DOUBT THAT THE CAUSE OF HIS DEMISE WAS
24 INJURY BY GUN SHOT WOUNDS. THERE'S NO DOUBT THAT IT
25 HAPPENED AT SIX THIRTY-FIVE KINGS ROAD, AND I HOPE I

1 GOT THE ADDRESS RIGHT.

2 BUT NOW THE DOUBT COMES IN. AND I'LL TELL YOU
3 WHY, BECAUSE THE STATE'S CASE IS BUILT ON A FOUNDATION
4 OF SAND. THE STATE'S CASE DEPENDS AND REVOLVES SOLELY
5 ON THE TESTIMONY OF PATRICK TYLER WHO TOOK THIS -- WHO
6 CAME INTO THIS COURTROOM, TOOK THIS STAND AND TOLD US
7 THAT HE HAD EVERY REASON TO TESTIFY AGAINST WALTER LEE
8 HARRIS, AND THE REASON IS, IS THAT HE'S GOT A DEAL.
9 AND WE ALL KNOW WHAT THAT MEANS. AND IF YOU REMEMBER,
10 WHEN I CROSS-EXAMINED THIS GENTLEMAN, THIS YOUNG MAN I
11 ASKED HIM OVER AND OVER AGAIN, PLEASE ADMIT THAT YOU
12 WILL BENEFIT FROM TESTIFYING AGAINST MY CLIENT.
13 EVERYBODY IN THE ROOM KNOWS HE'S GOING TO. AND YOU
14 KNOW WHAT? HE WOULD NOT ADMIT IT. AND IF HE HAD
15 ADMITTED IT, IT WOULD HAVE BEEN OKAY, BUT HE WOULDN'T.
16 AND THAT'S GOT TO TELL YOU THAT HE'S NOT BEING HONEST
17 WITH US.

18 NOW, HIS TESTIMONY IS THAT HE AND TWO OTHERS, NOT
19 INCLUDING MR. HARRIS, TWO OTHER GUYS STARTED TO PLAN
20 THIS WHOLE CAPER. THEY STARTED LONG BEFORE WALTER
21 HARRIS WAS EVEN AROUND. THEY GOT THE GUNS, THEY LOADED
22 THEM IN THE TRUCK IN THE BACK, THEY WERE SMOKING WEED,
23 THEY GOT IN, AND THE PLAN WAS UNDERWAY. AND I'M JUST,
24 I'M NOT SAYING THAT THESE ARE FACTS, I'M SAYING THAT
25 THIS IS WHAT HE SAID. AT SOME POINT THEY DECIDED THEY

1 NEED ANOTHER STRAP, AND LIEUTENANT SHUMPERT CONFIRMED
2 WHEN I ASKED HIM THAT THE STRAP IS A TERM FOR THE GUN
3 NOT THE GUNMAN. THEY NEEDED ANOTHER GUN. OKAY. SO,
4 THEY CALLED MR. HARRIS. NOW, THERE'S NOT A SHRED OF
5 EVIDENCE WHAT THEY TOLD HIM, AND THERE'S NO EVIDENCE
6 THAT HE HAD ANYTHING TO BELIEVE OTHER THAN THEY WERE
7 GOING TO GO OUT AND BUY SOME WEED. NOW, THE ORIGINAL
8 PLAN, ACCORDING TO TYLER, WAS THAT HE WAS GOING TO GO
9 IN AND GET THE WEED, BUT IT DIDN'T TURN OUT THAT WAY.
10 THERE'S NO EVIDENCE BEEN SUPPLIED TO SAY WHAT CHANGED
11 THE PLAN. WHY DID TYLER NOT GO IN TO INITIALLY BUY
12 THE WEED? AND LET ME SUGGEST SOMETHING, THERE'S A
13 THEME THAT JUST JUMPS OUT AT ME IN THIS CASE. THERE'S
14 TWO KINDS OF PLAYERS THAT ARE BECOMING APPARENT IN
15 THIS TRIAL, THERE'S THE BAD GUYS AND THERE'S THE FALL
16 GUY. THEY CALL UP MR. HARRIS, AND THIS IS ACCORDING
17 TO HIM, IF YOU CHOOSE TO BELIEVE ANY OF HIS TESTIMONY
18 THIS IS WHAT HIS VERSION OF THE PLAN WAS, THEY CALL
19 MR. HARRIS, AND APPARENTLY SEND HIM IN TO BUY THE
20 WEED. THERE'S NOT A SHRED OF EVIDENT THAT EVEN IF YOU
21 BELIEVE THAT IT HAPPENED THAT WAY, THAT WALTER HARRIS
22 KNEW ANYTHING OTHER THAN HE WAS SUPPOSED TO GO IN AND
23 BUY SOME WEED. BUT THEN PATRICK TYLER SAYS HE COMES
24 OUT AND SAYS, I'M NOT DOING THIS ANYMORE, I QUIT,
25 HERE'S MY GUN.

1 NOW, JUDGE DICKSON IS GOING TO CHARGE YOU ON THE
2 LAW, AND PART OF WHAT HE'S GOING TO CHARGE YOU IS THE
3 DEFENSE OF WITHDRAWAL. AND WHAT WITHDRAWAL MEANS IS,
4 IF YOU ARE INVOLVED IN SOME SORT OF PLAN OR
5 CONSPIRACY, AND I'M NOT SAYING THAT MY CLIENT WAS, BUT
6 IF YOU ARE, AND AT SOME POINT BEFORE THE ACTUAL PLAN
7 IS UNDERWAY YOU WITHDRAW, YOU TAKE YOURSELF OUT OF IT,
8 IT'S AN ABSOLUTE DEFENSE. NOW, DON'T TAKE MY WORD FOR
9 IT, -- AND BY THE WAY, ANYTHING THE LAWYERS TELL YOU
10 IN THIS CASE ARE NOT NECESSARILY FACTS AND ARE NOT
11 NECESSARILY THE LAW. THE FACTS COME FROM YOU FINE
12 LADIES AND GENTLEMEN, THAT'S YOUR JOB IN THIS CASE,
13 AND THE LAW COMES FROM JUDGE DICKSON.

14 OKAY, SO WHERE ARE WE? WALTER HARRIS, ACCORDING
15 TO PATRICK TYLER, COMES OUT AND SAYS, FOR WHATEVER
16 REASON, THERE'S A GUY IN THERE I KNOW, I'M OUT, HERE'S
17 MY GUN. AND YOU KNOW WHAT CORROBORATES THAT ACCORDING
18 TO TYLER IS, HE MUST HAVE MADE, BEEN SO ASSERTED THAT
19 THE BAD GUYS SAID, OKAY, WELL, WE NEED ANOTHER GUY, SO
20 LET'S GO OVER TO THE CORNER POCKET AND GET ANOTHER
21 GUY, MEANING MR. RYANT. OKAY. AND THIS IS RIGHT OUT
22 OF HIS STATEMENT AND HIS TESTIMONY.

23 NOW, THIS IS WHERE IT GETS INTERESTING, BECAUSE
24 NOW WE'VE GOT FOUR GUYS -- EXCUSE ME, FOUR GUNS,
25 ACCORDING TO HIS TESTIMONY, AND FIVE GUYS. AND SO,

1 WHAT TYLER WANTS US TO BELIEVE IS, HE WENT IN TO BUY
2 THE WEED TO BUY THE WEED THE SECOND TIME AND THE REST
3 OF THE OTHER GUYS DID EVERYTHING, ALL THE BAD STUFF.
4 AND IN ORDER FOR HIM TO PULL THAT OFF, TO MAKE THE
5 MATH WORK HE NEEDS FOUR GUNMEN AND HE NEEDS A GUY WITH
6 TAPE. HERE COMES THE FALL GUY. THE ONLY WAY TO MAKE
7 THAT WORK IS TO PUT WALTER HARRIS BACK IN THE MIX WITH
8 THE DUCT TAPE. AND YOU KNOW WHAT? THIS IS ALL FROM
9 HIS STATEMENT, WHICH, THIS VERSION I'VE MARKED UP A
10 LITTLE BIT, BUT YOU'LL HAVE THE STATEMENT, IT'S IN
11 EVIDENCE, IT WAS PUT IN EVIDENCE BY THE DEFENDANT AND
12 NOT THE STATE, BUT READ THIS STATEMENT CAREFULLY,
13 BECAUSE IT DOESN'T EVEN AGREE WITH ITSELF. THERE ARE
14 SOME PARTS THAT SAY THAT MR. HARRIS DID ONE THING,
15 THERE ARE SOME PARTS THAT SAY HE DID ANOTHER THING,
16 THAT HE HAD THIS AND HE HAD THAT, AND I SUBMIT TO YOU,
17 IF YOU'RE GOING TO CONVICT A MAN BASED ON A WRITTEN
18 STATEMENT THAT WAS MADE BACK IN MARCH, AT LEAST
19 REQUIRE, DEMAND THAT IT AGREE WITH ITSELF. AND NOT
20 ONLY THAT, EVEN THOUGH, EVEN IF IT DOESN'T AGREE WITH
21 ITSELF, WHAT HE TOLD YOU THIS WEEK DOESN'T EVEN AGREE
22 WITH THAT.

23 THERE'S ONE THING I'VE LEARNED IN TRYING CASES
24 AND LISTENING TO WITNESSES, IS THAT THE TRUTH IS THE
25 SAME EVERY TIME YOU TELL IT. THINGS CHANGE WHEN YOU

1 START TO PUT THE SPIN ON IT, AND I WILL SUBMIT TO YOU
2 THAT THIS WITNESS WAS SPINNING LIKE A TOP, AND THAT
3 THE STATE'S CASE IS HANGING BY THE THREAD OF PATRICK
4 TYLER. BECAUSE IF YOU CHOOSE NOT TO BELIEVE PATRICK
5 TYLER, GUESS WHAT? IT'S GAME OVER. THAT'S ALL
6 THEY'VE GOT. OF COURSE, THEY CAN PROVE THE VICTIM
7 DIED. OF COURSE, THEY CAN PROVE HE WAS KILLED WITH
8 GUNS. OF COURSE, THEY CAN PROVE THEY'VE GOT BULLETS
9 AND FRAGMENTS AND SHELLS AND CASINGS AND ALL THAT.
10 BUT WITHOUT PATRICK TYLER THEY DON'T HAVE THE WHO, AND
11 THEY DON'T HAVE THE HOW, AND THEY DON'T HAVE THE WHO
12 DID WHAT. AND THEY DON'T EVEN HAVE THESE GUYS AT THIS
13 SCENE, ESPECIALLY WALTER HARRIS.

14 NOW, CIRCUMSTANTIAL EVIDENCE IS VERY REAL, AND I
15 DON'T AGREE -- EXCUSE ME, I DON'T DISAGREE WITH
16 ANYTHING MR. PASCOE TOLD YOU ABOUT CIRCUMSTANTIAL
17 EVIDENCE. WHAT DO THEY HAVE TO OFFER? THE BLACK
18 FORTY CAL. NOW, LAW ENFORCEMENT TESTIFIED THAT THEY
19 EXECUTED A SEARCH WARRANT WHERE MR. HARRIS STAYS. DID
20 THEY FIND THE BLACK FORTY CAL THERE? NO. DID THEY
21 FIND IT IN HIS POSSESSION? NO. WHAT DO THEY HAVE TO
22 PUT THE FORTY CAL IN HIS HAND? ANOTHER GUY THAT
23 SMOKES WEED AND LIKES TO HAVE GUNS, THAT BUYS THEM ON
24 THE STREET, CAME UP AND SAID, I BOUGHT THE GUN FROM
25 PETE. BAD GUY OR FALL GUY, WHY SHOULD YOU BELIEVE

1 THIS GUY? WHO WAS HE? AND THE REASON, THE ONLY WAY
2 LAW ENFORCEMENT RECOVERED IT IS, HE SOLD IT TO ANOTHER
3 GUY.

4 YOU KNOW, WALTER HARRIS WAS MENTIONED A LOT IN
5 THIS CASE, BUT THINK ABOUT IT, WALTER HARRIS BECAME A
6 PART OF THIS CASE, AND YOU HEARD ME ASK LIEUTENANT
7 SHUMPERT TO CONSIDER THESE TWO INCIDENTS IN THIS
8 APARTMENT, ALLEGED VISIT NUMBER ONE AND ALLEGED VISIT
9 NUMBER TWO. ALLEGED VISIT NUMBER ONE IS WHEN WALTER
10 HARRIS WAS SUPPOSED TO HAVE APPEARED IN THE APARTMENT,
11 ASKED FOR THE PARTICULAR TYPE OF WEED THAT HE
12 APPARENTLY LIKES. THEY DIDN'T HAVE IT AND HE LEFT.
13 NO CRIME, AT LEAST ANY CRIME THAT'S CHARGED WAS
14 COMMITTED DURING ALLEGED VISIT NUMBER ONE. BUT GUESS
15 WHAT? THE ONLY WITNESS THAT HAS IDENTIFIED MR. HARRIS
16 AS BEING IN THAT APARTMENT THROUGH A PHOTO LINEUP WAS
17 DURING ALLEGED VISIT NUMBER ONE, AND THAT'S MS.
18 PARSLEY. AND NO, MR. MITCHELL, TOO. THOSE ARE TWO
19 STATE'S WITNESSES THAT BRING WALTER HARRIS INTO THIS
20 CASE, BUT IT WAS DURING THE FIRST VISIT, WHEN NOTHING
21 HAPPENED. THAT'S HOW HE GOT INVOLVED IN THIS CASE.
22 AND YOU HEARD LIEUTENANT SHUMPERT SAY, WHEN THIS
23 STATEMENT WAS WRITTEN WALTER HARRIS WAS ALREADY UNDER
24 ARREST. SO, HOW COULD HE BE A SUSPECT IN THIS CHAIN
25 OF EVENTS, BECAUSE THE STATEMENT HADN'T EVEN BEEN

1 WRITTEN WHEN HE WAS PICKED UP? HE WAS PICKED UP BASED
2 ON ALLEGED VISIT NUMBER ONE, WHEN NOTHING HAPPENED.

3 BACK TO PATRICK TYLER, IN ORDER FOR HIS STORY TO
4 WORK HE NEEDS TO PUT MY CLIENT IN THAT APARTMENT. AND
5 YOU KNOW HOW THAT HELPS HIM? IT'S BECAUSE WHEN HE
6 STANDS BEFORE THE COURT, WHENEVER THAT IS, AND PLEADS
7 GUILTY, HE WANTS TO BE ABLE TO SAY, I WAS JUST THERE
8 BUT I DIDN'T DO ANYTHING. BECAUSE IT'S GOING TO HELP
9 HIM. SO, WITH FOUR GUNS, AND A ROLL OF DUCT TAPE, HE
10 NEEDS TO PUT ALL OF THESE GUYS IN THE APARTMENT, EVEN
11 THOUGH BY HIS OWN TESTIMONY MY CLIENT HAD OPTED OUT
12 BEFORE ANY OF THE VIOLENCE STARTED. AND THE ONLY
13 EVIDENCE TO SHOW THAT HE, TO SHOW YOU THAT HE WENT IN
14 THAT APARTMENT IS THIS GUY'S TESTIMONY. AND YOU'VE
15 GOT TO THINK ABOUT WHY HE'S SAYING THAT, WHY HE'S
16 TRYING TO THROW MY CLIENT UNDER THE BUS, BECAUSE
17 WITHOUT MY CLIENT, THE FALL GUY, IT DOESN'T WORK.

18 SO, YOU KNOW, KEEP IN MIND THAT ALL OF THESE
19 WITNESSES HAD SOMETHING TO GAIN. NOW, I CAN'T TELL
20 YOU EXACTLY WHAT THE GUY THAT CAME IN ABOUT THE GUN,
21 WHERE HE WAS COMING FROM. MAYBE HE DID BUY THE GUN
22 FROM WALTER HARRIS, AND MAYBE WALTER HARRIS ENDED UP
23 WITH THE GUN. BUT HE'S NOT CHARGED WITH POSSESSION OF
24 A FIREARM, HE'S CHARGED WITH SOMETHING MUCH WORSE, AND
25 THE ONLY STATE'S WITNESS SAID, EVEN IF YOU BELIEVE

1 THIS, SAID HE DIDN'T HAVE A GUN WHEN ALL THIS
2 HAPPENED.

3 AND LET'S SAY THAT YOU DO BELIEVE IT, T HAT
4 WALTER HARRIS WENT IN AND TAPED THIS GUY UP, AND
5 THAT'S THE ONLY EVIDENCE, BECAUSE WHEN SLED GOT THE
6 DUCT TAPE, THEY DID AN ANALYSIS, THEY DID THEIR
7 SCIENTIFIC THING ON IT, INCONCLUSIVE. THEY CAN'T PUT
8 THAT DUCT TAPE IN WALTER HARRIS'S HAND. BUT EVEN IF
9 YOU BELIEVE HIM, THE PLAN WAS ROBBERY. AND AT SOME
10 POINT, AND I'M SURE IT HAPPENED QUICKLY, THE PLAN
11 CHANGED FROM ROBBERY TO HOMICIDE, IF YOU BELIEVE THIS.
12 WELL, AT THAT POINT, ACCORDING TO THIS TESTIMONY,
13 THERE WERE FOUR GUYS WITH GUNS, AND ONE GUY WITH DUCT
14 TAPE. AND THE VICTIM DIDN'T DIE FROM DUCT TAPE. SO,
15 AT THAT INSTANT, AT THAT FLASH IN TIME WHEN THE PLAN
16 CHANGED FROM ROBBERY TO MURDER, EVEN IF YOU BELIEVE
17 THIS, WHICH YOU SHOULDN'T, MR. HARRIS DIDN'T EVEN HAVE
18 THE MEANS TO CARRY OUT THE CRIME.

19 LADIES AND GENTLEMEN, THIS IS AMERICA, WE'RE
20 WORKING UNDER THE SAME LAWS THAT PROTECT US, THAT
21 PROTECT MY CLIENT, THAT PROTECT EVERYONE IN THIS
22 COURTROOM AND EVERY U. S. CITIZEN. THE STATE HAS THE
23 BURDEN OF CARRYING THE PROOF IN THIS CASE, AND THAT
24 BURDEN IS GREAT. IF ANYTHING ABOUT THIS CASE,
25 ESPECIALLY WITH REGARD TO MR. HARRIS, GIVES YOU A

1 DOUBT TO WHICH YOU CAN ASSIGN A REASON IT'S YOUR DUTY
2 TO FIND HIM NOT GUILTY. I WOULD SUBMIT THAT THERE'S
3 ALL KIND OF DOUBT, AND I HOPE I'VE COVERED IT, I HOPE
4 I'VE DONE A GOOD JOB PLAYING THIS OUT FOR MY CLIENT,
5 BECAUSE WE CAN'T DECIDE THINGS ON IMPRESSIONS OR
6 PROBABILITIES OR WHAT MIGHT HAVE HAPPENED OR, YOU
7 KNOW, THIS GUY'S OUT THERE SMOKING WEED OR THIS OR
8 THAT, WE'RE NOT RUNNING HIM FOR COUNTY COUNCIL, WE'RE
9 NOT AUDITIONING HIM FOR THE CHURCH CHOIR, WE'RE TRYING
10 HIM FOR MURDER, WE'RE TRYING HIM FOR ARMED ROBBERY,
11 AND WE'RE TRYING HIM BURGLARY, FIRST DEGREE. THE
12 PROOF HAS TO BE, THE PROOF HAS TO BE MADE, IT HAS TO BE
13 MET, THE BURDEN HAS TO BE MET. IT HASN'T. WALTER LEE
14 HARRIS IS NOT GUILTY OF ANY OF THESE CRIMES.

15 THANK YOU VERY MUCH.

16 THE COURT: THANK YOU, MR. PALMER.

17 ALRIGHT, LADIES AND GENTLEMEN OF THE JURY, MR.
18 MELLARD IS ANXIOUS TO GET UP HERE AND DO HIS CLOSING
19 FOR MR. RYANT, BUT WE'VE BEEN GOING FOR A LITTLE OVER
20 AN HOUR, AND I REMEMBER WHEN I WAS IN SCHOOL I HATED
21 SITTING IN CLASS FOR OVER AN HOUR, SO I'M GOING TO
22 GIVE Y'ALL A BREAK. YOU HAVEN'T HEARD ALL THE
23 CLOSING STATEMENTS, SO AGAIN, I'M REMINDING YOU, YOU
24 CANNOT TALK ABOUT THIS CASE AT THIS TIME, BUT WE'RE
25 GOING TO TAKE A SHORT TEN MINUTE BREAK, LET Y'ALL GET

1 UP, STRETCH YOUR LEGS, MAYBE GET SOME WATER OR
2 SOMETHING LIKE THAT, AND THEN COME ON BACK IN HERE AND
3 WE'LL FINISH UP WITH THE DEFENDANTS' CLOSING
4 ARGUMENTS.

5 ALRIGHT, THANK Y'ALL.

6 (Whereupon, the jury retires
7 to the jury room and the
8 following take place out
9 of the presence of the jury.)

10 THE COURT: ALRIGHT, MR. MELLARD, I APOLOGIZE, I
11 KNOW YOU'RE READY TO GO, BUT A BREAK WOULDN'T HURT
12 ANYBODY SO, WE'LL BE IN RECESS FOR ABOUT TEN MINUTES.
13 OKAY? THANK Y'ALL.

14 (Recess)

15 THE COURT: ALRIGHT, MR. MELLARD, ARE YOU READY?

16 MR. MELLARD: YES, SIR.

17 THE COURT: ALRIGHT, IF YOU'LL GET THE JURY ON
18 OUT.

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

23 THE COURT: ALRIGHT, LADIES AND GENTLEMEN, I
24 APPRECIATE Y'ALL'S CONTINUED ATTENTION.

25 MR. MELLARD.

1 MR. MELLARD: YOUR HONOR, THANK YOU.

2 THE COURT: YES, SIR.

3 CLOSING ARGUMENT BY MR. MELLARD

4 I JUST WANT TO TALK TO Y'ALL BRIEFLY ABOUT THE
5 FACTS AGAINST MY CLIENT, DANNY RYANT, BUT BEFORE I DO
6 I WANT TO TALK TO Y'ALL ABOUT THE SCALES OF JUSTICE.
7 ALRIGHT, NOW, THE SCALES OF JUSTICE, SOMETIMES YOU'LL
8 SEE THEM IN A COURTROOM. AND WHAT THEY ARE IS, IS
9 USUALLY A WOMAN, AND SHE'S HOLDING THESE TWO SCALES,
10 AND THE WAY THESE SCALES USUALLY WORK IS, AT THE
11 BEGINNING OF THE TRIAL THE SCALES ARE EVEN. ONE
12 PERSON PUTS UP EVIDENCE, THE OTHER SIDE PUTS UP
13 EVIDENCE, AT THE END OF THE TRIAL YOU LOOK TO SEE
14 WHICH WAY THE SCALES TIP. THAT'S THE WAY IT USUALLY
15 WORKS, BUT IN A CRIMINAL CASE IT'S ENTIRELY
16 DIFFERENT. IN A CRIMINAL CASE THE SCALES OF JUSTICE
17 DO NOT START OFF EVEN. IN A CRIMINAL CASE THE SCALES
18 OF JUSTICE ARE TIPPED IN FAVOR OF THE DEFENDANT.
19 THAT'S HOW THEY START OFF. AND THEY START OFF LIKE
20 THAT BECAUSE OF TWO THINGS: NUMBER ONE, BECAUSE THE
21 DEFENDANT IS PRESUMED INNOCENT, THAT'S THE FIRST
22 REASON. THE SECOND REASON IS BECAUSE THE DEFENDANT
23 DOESN'T HAVE TO PUT ANYTHING UP. HE DOESN'T HAVE TO
24 DO ANYTHING. IT'S THE SOLICITOR WHO HAS THE DUTY TO
25 ADD TO HIS SIDE OF THE SCALES, WHILE AT THE SAME TIME

1 REMOVING REASONABLE DOUBT FROM THE DEFENDANT'S SIDE OF
2 THE SCALES. SO, WITH THAT IN MIND I WANT TO TALK TO
3 Y'ALL ABOUT THE EVIDENCE AGAINST DANNY RYANT.

4 Y'ALL HEARD FROM SERGEANT CRAIG DAVIS, HE WAS THE
5 FIRST WITNESS. AND WHAT DID HE TELL YOU? HE WAS THE
6 PATROL OFFICER. HE GOT THE CALL, HE CAME TO THE
7 SCENE, HE LOOKED AROUND, HE SECURED IT, AND THEN HE
8 CALLED THE CRIMINAL ENFORCEMENT DIVISION. THAT'S WHAT
9 HE TOLD Y'ALL. THE SCALES OF JUSTICE DIDN'T MOVE,
10 NOTHING AGAINST DANNY RYANT.

11 THEN YOU HEARD FROM ASHLEY PARSLEY. SHE IS,
12 WE'VE ALL HEARD ABOUT HER, SHE WAS THE LADY THAT WAS
13 LIVING WITH CHARLES PRINGLE AT THIS TIME. SHE MET HIM
14 AT A BAR, SHE MOVED IN WITH HIM. SHE'S IMPORTANT
15 BECAUSE SHE'S AN EYE WITNESS TO THIS CASE. AND AS AN
16 EYE WITNESS, WHAT DID SHE SAY? WELL, SHE SAID THAT
17 PEOPLE CAME IN. THEY WERE, SHE HEARD, SHE WAS PUT
18 FACE DOWN ON THE GROUND, SHE HEARD GUN SHOTS. SHE
19 PICKED SOME PEOPLE OUT OF A LINEUP, BUT SHE DID NOT
20 PICK DANNY RYANT OUT OF ANY LINEUP. ASHLEY PARSLEY
21 DID NOT SEE DANNY RYANT AT THE SCENE OF THE CRIME.
22 ASHLEY PARSLEY DID NOT PUT DANNY RYANT ANYWHERE NEAR
23 THE SCENE OF THIS CRIME. THE SCALES, THEY HAVEN'T
24 MOVED.

25 NEXT YOU HEARD FROM LIEUTENANT CARTER. HE'S THE

1 CRIME SCENES OPERATION FELLOW. HE'S THE GUY THAT GOES
2 TO THE CRIME SCENE AND TAKES THE PICTURES, LOOKS AT
3 THE EVIDENCE, COLLECTS THE EVIDENCE, SENDS IT OFF TO
4 BE TESTED. NOW, HE'S THE EXPERT ON CRIME SCENE
5 INVESTIGATION. WHAT DID HE DO? WELL, HE GETS THERE,
6 HE SEES THIS BLACK LIGHT. THAT'S THE ONLY THING THAT
7 WAS ILLUMINATING THIS HOUSE WAS THIS ONE BLACK LIGHT.
8 SO, HE CAN'T SEE ANYTHING, SO HE TAKES A FLASH LIGHT
9 AND HE STARTS LOOKING AROUND. ANOTHER OFFICER COMES,
10 THEY CHANGE THE LIGHT BULB, PUT IN A LIGHT BULB THAT
11 THEY COULD SEE, AND THEN HE STARTS HIS INVESTIGATION.
12 WELL, HE DETERMINES THERE WAS NO FORCED ENTRY, NO
13 FORCED ENTRY AT THE FRONT DOOR, THE BACK DOOR, OF
14 COURSE, WAS LOCKED. HE STARTS TAKING PHOTOGRAPHS OF
15 THE SCENE, AND Y'ALL HAVE SOME OF THE PHOTOGRAPHS INTO
16 EVIDENCE HERE. AND THEN HE TAKES SOME YELLOW MARKERS,
17 AND WE'VE HEARD WHAT THOSE YELLOW MARKERS ARE, SOME OF
18 THEM ARE BULLET FRAGMENTS, SOME OF THEM ARE SHELL
19 CASINGS, BUT HE STARTS GOING AROUND AND MARKING THOSE
20 THINGS. AND REMEMBER, THIS GUY IS THE EXPERT IN CRIME
21 SCENE INVESTIGATION. AND THEN -- AFTER HE PUTS THE
22 MARKERS DOWN HE TAKES SOME MORE PICTURES. ALRIGHT, AT
23 THAT POINT HE DECIDES HE SHOULD FINGERPRINT THE DOOR.
24 NOW, WE'VE HEARD THAT HE FINGERPRINTS THE DOOR, HE
25 DOESN'T FIND ANYTHING. WE'VE ALSO HEARD HE DIDN'T

1 FINGERPRINT ANYTHING ELSE IN THE HOUSE. HE DIDN'T
2 FINGERPRINT THE LOVE SEAT, THE SOFA, THE END TABLE, HE
3 DIDN'T FINGERPRINT ANYTHING. ALRIGHT, THEN HE FINDS
4 SOME DUCT TAPE AND HE SENDS IT OFF TO SLED TO BE
5 TESTED, AND SLED DOESN'T FIND ANY FINGERPRINTS ON THE
6 DUCT TAPE, SLED DOESN'T FIND ANY DNA ON THE DUCT TAPE.
7 WHETHER YOU FEEL LIEUTENANT CARTER DID A GOOD JOB OR
8 A BAD JOB WITH HIS INVESTIGATION, ONE THINGS IS FOR
9 CERTAIN, FOR PURPOSES OF DANNY RYANT, IT DOESN'T
10 MATTER, BECAUSE HE FOUND NO EVIDENCE IN THAT HOME
11 AGAINST DANNY RYANT. AGAIN, THREE WITNESSES, THOSE
12 SCALES HAVEN'T MOVED.

13 SHANNON MITCHELL, WHAT DID HE SAY? HE WAS AT THE
14 HOUSE BEFORE THIS THING EVEN OCCURRED. DID HE SEE
15 DANNY RYANT THERE? NO. DID HE EVE KNOW ABOUT DANNY
16 RYANT? NO. SHANNON MITCHELL DOESN'T KNOW ANYTHING,
17 HE ADDS NO EVIDENCE TO THE SOLICITOR'S SIDE OF THE
18 SCALE, AND HE REMOVES NO REASONABLE DOUBT FROM THE
19 DEFENDANT'S SIDE OF THE SCALE. THE SCALES HAVEN'T
20 MOVED.

21 WE HEARD FROM ANDRE WASHINGTON. HE'S THE GUY
22 THAT BOUGHT A GUN FROM, SUPPOSEDLY FROM WALTER HARRIS
23 AND THEN TURNED AROUND AND HE SELLS THE GUN TO SOME
24 OTHER FELLOW, CHRISTOPHER DWIGHT. ANDRE WASHINGTON,
25 HE DOESN'T KNOW DANNY RYANT AT ALL, DOESN'T EVEN KNOW

1 HIM. ONCE AGAIN, NO EVIDENCE PRESENTED BY THE STATE
2 AGAINST DANNY RYANT, NO, NOTHING REMOVED ANY
3 REASONABLE DOUBT FROM OUR SIDE OF THE SCALES.

4 ALRIGHT, WHAT ABOUT MONEAK BUSBY? MONEAK BUSBY
5 WAS AT THE CORNER POCKET ON THE NIGHT OF MARCH THE
6 TWELFTH. ALRIGHT, SHE SAID SHE GOT THERE AROUND EIGHT
7 OR EIGHT:THIRTY, AND THE REASON SHE GOT THERE EARLY,
8 OF COURSE, IS BECAUSE SHE SAID YOU'VE GOT TO PAY LIKE
9 FIVE BUCKS TO GET INTO THE CLUB AND SHE DIDN'T WANT TO
10 PAY. ALRIGHT, SO SHE GETS THERE EARLY. AND WHAT DOES
11 SHE SEE? SHE SEES DANNY RYANT. NOW, THE CORNER
12 POCKET, AS WE'VE HEARD, IT'S A BAR, IT'S A POOL ROOM,
13 IT'S A PLACE WHERE YOU CAN EAT, AND IT'S GOT A PLACE
14 WHERE YOU CAN DANCE. ALRIGHT, IT'S GOT FIVE DIFFERENT
15 PLACES IN THERE THAT YOU CAN DO FIVE DIFFERENT THINGS.
16 AND AS YOU REMEMBER, SHE SAID SHE DID NOT, MONEAK
17 BUSBY DID NOT LEAVE THE CORNER POCKET. AND WHY?
18 BECAUSE IF SHE LEAVES SHE WOULD HAVE TO PAY MORE MONEY
19 TO GET BACK IN. SO, SHE STAYS THERE FROM AROUND EIGHT
20 OR EIGHT:THIRTY UNTIL SHE LEAVES AROUND TWELVE O'CLOCK
21 AT NIGHT. OKAY. AND SHE TESTIFIES THAT SHE SEE A
22 PERSON THAT SHE IDENTIFIED AS MARIO SHIVERS COME TO
23 THE DOOR. ALRIGHT, YOU KNOW, WHETHER YOU BELIEVE THAT
24 OR NOT IT DOESN'T MATTER BECAUSE WHAT MATTER FROM THE
25 POINT OF DANNY RYANT IS, THERE'S NO TESTIMONY THAT SHE

1 SAW DANNY RYANT LEAVE THE CORNER POCKET, NONE, NO
2 TESTIMONY. THERE'S NO TESTIMONY THAT SHE SAW HIM GET
3 INTO A CAR WITH ANYBODY, NO TESTIMONY. ALRIGHT, THE
4 ONLY THING MONEAK BUSBY KNOWS IS THAT HE WASN'T IN THE
5 SAME PART OF -- DANNY RYANT WAS NOT IN THE SAME PART
6 OF THE CLUB THAT SHE WAS. THAT'S THE ONLY THING SHE
7 KNOWS. SO, THE SOLICITOR IS MAKING A BIG DEAL ABOUT
8 THE FACT THAT MONEAK BUSBY DOESN'T KNOW WHERE DANNY
9 RYANT IS EVERY MINUTE OF THAT NIGHT, BUT YOU'VE GOT TO
10 REMEMBER, MONEAK BUSBY IS IN A BAR, RIGHT. SHE'S
11 SITTING THERE, SHE'S THERE TO DRINK BEER AND SHE'S
12 THERE TO SOCIALIZE. SHE'S NOT THERE TO LOOK FOR DANNY
13 RYANT. SO, AGAIN, THE SCALES HAVEN'T MOVED. THEY
14 HAVE NOT ADDED EVIDENCE THAT SHOWS DANNY RYANT'S PART
15 OF THE CRIME, AND THEY HAVE NOT REMOVED REASONABLE
16 DOUBT FROM OUR SIDE OF THE SCALES.

17 YVONNE SHARPERSON, SHE WAS AT THE CORNER POCKET.
18 WHAT DID SHE SAY? WELL, SHE SAID AT SOME POINT
19 DANNY'S MOM WAS LOOKING FOR HIM. THE STATE ASKED HER,
20 YOU KNOW, DID SHE SEE DANNY RYANT IN THE CLUB WHEN SHE
21 WAS LOOKING? AND SHE SAID, LOOK, I WAS IN THERE
22 DRINKING, I WASN'T IN THERE LOOKING FOR DANNY RYANT.
23 SO, AGAIN, WE'VE GOT THE SCALES, THOSE SCALES HAVEN'T
24 MOVED, HAVEN'T MOVED AN INCH.

25 THEN WE HEARD FROM JANET ROSS, SHE'S THE

1 PATHOLOGIST. ALRIGHT, SHE'S THE PERSON THAT DID THE
2 AUTOPSY. SHE TOLD YOU HOW SHE EXAMINED THE BODY, SHE
3 TOLD YOU HOW SHE REMOVED BULLETS AND BULLET FRAGMENTS
4 AND THEY WERE SENT TO SLED. BUT SHE DIDN'T PROVIDE
5 ANY EVIDENCE THAT YOU CAN LINK DANNY RYANT TO THIS
6 CRIME, NONE WHATSOEVER. AGAIN, THE SCALES HAVE NOT
7 MOVED.

8 JAMES GREEN, HE'S THE SLED FIREARMS EXPERT, HE
9 TOLD US ABOUT GUNS AND GUN CASINGS. THE SCALES HAVEN'T
10 MOVED.

11 DARIUS GARNER, HE'S THE FELLOW THAT'S BEEN
12 SMOKING DOPE EVERY DAY SINCE HE WAS ABOUT FOURTEEN
13 YEARS OLD. HE SAYS HE KNOWS PATRICK TYLER, THAT'S HIS
14 DOPE SMOKING FELLOW, THEY LIVE IN THE SAME
15 NEIGHBORHOOD, HANG OUT EVERY DAY, BEEN SMOKING DOPE
16 TOGETHER FOR ABOUT THE LAST THREE YEARS. WHAT DID HE
17 TELL YOU? DID HE TELL YOU ANYTHING ABOUT DANNY RYANT?
18 NO, NOTHING. NO EVIDENCE ABOUT DANNY RYANT.

19 AND THEN YOU HEARD FROM LIEUTENANT JAMES
20 SHUMPERT, AND WHAT DID HE SAY? WELL, HE'S THE
21 INVESTIGATOR, HE DOESN'T KNOW FIRST HAND KNOWLEDGE AS
22 ALL THESE OTHERS HAVE TOLD YOU, NO FIRST HAND
23 KNOWLEDGE ABOUT WHAT WENT ON. HE SHOWED ASHLEY
24 PARSLEY A LINEUP AND THIS LINEUP CONTAINED DANNY RYANT
25 IN IT. AND WHAT YOU HEARD WAS, ASHLEY PARSLEY DID NOT

1 PICK DANNY RYANT OUT OF ANY LINEUP. ASHLEY PARSLEY
2 DID NOT PUT DANNY RYANT AT THE SCENE OF THE CRIME.
3 AND AGAIN, NO MOVEMENT.

4 SO, WE'VE GOT ELEVEN WITNESSES HERE, DAVIS,
5 PARSLEY, CARTER, MITCHELL, WASHINGTON, BUSBY,
6 SHARPERSON, ROSS, GREEN, GARNER AND SHUMPERT, ELEVEN
7 STATE'S WITNESSES, AND THEY HAVEN'T MOVE THAT SCALE
8 ONE BIT. AND WHAT DID THESE WITNESSES DETERMINE?
9 WELL, THEY DETERMINED THAT A MAN WAS SHOT AND A MAN
10 WAS KILLED ON MARCH THE TWELFTH. BUT WHAT DID THESE
11 WITNESSES ALSO SHOW YOU? THEY SHOW YOU THAT DANNY
12 RYANT WAS PROBABLY AT THE CORNER POCKET WHEN THIS
13 OCCURRED. SO, AGAIN, NO MOVEMENT.

14 NOW, THEN THERE'S THE LAST WITNESS, AND THAT'S
15 THE PATRICK TYLER WITNESS, AND THAT'S THE ONE
16 EVERYBODY IS TALKING ABOUT BECAUSE THAT'S THEIR WHOLE
17 CASE. LIKE EVERYBODY SAID, THAT IS THEIR WHOLE CASE
18 AGAINST DANNY RYANT. NOW, WHAT YOU HEARD -- WELL,
19 WHAT YOU SAW, THE SOLICITOR PUT UP A BOARD HERE ABOUT
20 THE CREDIBILITY OF WITNESSES. ALRIGHT, AND ONE OF THE
21 THINGS YOU NEED TO DO WHEN YOU DETERMINE HIS
22 CREDIBILITY IS LOOK AT HIS APPEARANCE, LOOK A PATRICK
23 TYLER'S APPEARANCE AND HIS DEMEANOR. NOW, Y'ALL WERE
24 WATCHING HIM ON THIS STAND, AND WHAT DID HE DO? WHEN
25 HE WAS TALKING TO THE SOLICITOR, WHEN THEY WERE

1 PRESENTING THEIR CASE, HE WAS ALL, SITTING UP, HE WAS
2 TALKING TO THEM, HE WAS ANSWERING THEIR QUESTIONS.
3 BUT AS SOON AS HE GOT THROUGH, WHAT HAPPENED TO HIS
4 DEMEANOR? HE KICKED BACK IN THE CHAIR, STARTED
5 YAWNING. HE DIDN'T CARE. AND HE DIDN'T CARE BECAUSE HE
6 KNEW ONCE HE TESTIFIED FOR THE STATE HIS JOB WAS DONE.
7 HE HAD DONE WHAT HE WAS SUPPOSED TO DO IN ORDER TO GET
8 A DEAL, AND HE DID WHAT HE WAS SUPPOSED TO DO, SO HE
9 DIDN'T CARE AFTER HE TESTIFIED. HE WASN'T WORRIED ONE
10 BIT AFTER HE TESTIFIED.

11 NOW, YOU'VE GOT TO ASK WHETHER PATRICK TYLER'S
12 TESTIMONY WAS CONSISTENT. AND YOU'VE HEARD THE OTHER
13 ATTORNEYS, AND THEY SAY IT IS NOT, AND I WOULD ASK
14 THAT YOU LOOK AT THIS EVIDENCE AND DETERMINE FOR
15 YOURSELF WHETHER YOU FIND PATRICK TYLER'S TESTIMONY IS
16 CONSISTENT. AND IF YOU FIND THAT IT IS NOT
17 CONSISTENT, THEN YOU NEED TO QUESTION HIS CREDIBILITY,
18 BUT MOST IMPORTANTLY, YOU NEED TO CONSIDER WHETHER
19 PATRICK TYLER HAD AN INTEREST IN THE OUTCOME OF THIS
20 TRIAL. WE'VE ALL TALKED ABOUT THAT. AND THE ANSWER
21 IS DEFINITELY, YES. BECAUSE I WOULD SUBMIT TO YOU
22 THAT PATRICK TYLER IS GUILTY OF MURDER. PATRICK TYLER
23 IS GUILTY OF ARMED ROBBERY. PATRICK TYLER IS GUILTY
24 OF BURGLARY. AND PATRICK TYLER, BY HIS OWN
25 ADMISSION, IS LOOKING AT SPENDING THE REST OF HIS LIFE

1 IN PRISON. AND SO, PATRICK TYLER IS GOING TO DO
2 EVERYTHING HE CAN TO HELP THE STATE AND GET HIMSELF
3 OUT OF TROUBLE.

4 NOW, IN AMERICA WE ALL ENJOY FREEDOM TO THINK AND
5 BELIEVE WHAT WE WANT TO BELIEVE. YOU KNOW, EVERY DAY
6 IN OUR LIVES WE DRAW CONCLUSIONS WHEN THERE ARE
7 ABSOLUTELY NO FACTS. FOR INSTANCE, IF YOU HEAR THAT
8 YOUR NEIGHBOR IS HAVING AN AFFAIR YOU MIGHT CHOOSE TO
9 BELIEVE IT, YOU MAY CHOOSE NOT TO BELIEVE IT. YOU
10 DON'T HAVE ANY FACTS BUT YOU CAN JUST CHOOSE TO
11 BELIEVE IT AND THAT IS YOUR RIGHT TO DO THAT IF YOU
12 WANT TO DO IT. THE SAME WITH POLITICS, EVERY COUPLE
13 OF YEARS SOME FELLOW OR SOME LADY RUNS FOR OFFICE, I
14 DON'T KNOW ANYTHING ABOUT THEM, BUT EVERY COUPLE OF
15 YEARS I LOOK AT HIM, AND I SAY, WELL, THIS PERSON
16 LOOKS OKAY, AND THEN I GO AND VOTE FOR HIM. I HAVE NO
17 FACTS, BUT I GO AND VOTE FOR HIM. AND THEN, IN A
18 COUPLE OF YEARS, OR A COUPLE OF MONTHS I'M USUALLY
19 DISAPPOINTED. BUT WE IN OUR EVERY DAY LIFE CAN DRAW
20 CONCLUSIONS WHENEVER WE WANT TO. AND THAT'S FINE.
21 BUT WHEN Y'ALL WALKED INTO THIS COURTROOM AND YOU ALL
22 GOT CHOSEN FOR THIS JURY THINGS CHANGED. ALRIGHT,
23 BECAUSE IT'S DIFFERENT, BECAUSE THERE IS SO MUCH AT
24 STAKE HERE. SO, WHEN YOU'RE IN THIS COURTROOM AND YOU
25 HAVE TO MAKE A DECISION IT DOESN'T MATTER WHAT YOU

1 THINK OR WHAT YOU BELIEVE OR WHAT YOU EVEN KIND OF
2 FIGURE WHAT HAPPENED. THE ONLY THING THAT MATTER IS
3 WHAT THE STATE PROVED BEYOND A REASONABLE DOUBT. AND
4 IF YOU WANT A REASONABLE DOUBT, THE OFFICER WHO
5 RESPONDED TO THE SCENE, CRAIG DAVIS, FOUND NO EVIDENCE
6 LINKING DANNY RYANT TO THE CRIME. IF YOU WANT A
7 REASONABLE DOUBT, ASHLEY PARSLEY, THE EYE WITNESS,
8 CANNOT PUT DANNY RYANT AT THE SCENE OF THIS CRIME. IF
9 YOU WANT A REASONABLE DOUBT, LIEUTENANT GERALD CARTER,
10 HE'S AN EXPERT IN CRIME SCENE INVESTIGATION, HE CAN'T
11 PUT DANNY RYANT AT THE CRIME. IF YOU WANT REASONABLE
12 DOUBT, SHANNON MITCHELL, HE WAS THERE BEFORE THE CRIME
13 OCCURRED, HE CAN'T PUT DANNY RYANT AT THE CRIME.
14 ANDRE WASHINGTON, REASONABLE DOUBT, HE CAN'T PUT DANNY
15 RYANT AT THE CRIME. MONEAK BUSBY, SHE DIDN'T SEE
16 DANNY RYANT LEAVE, REASONABLE DOUBT. YVONNE
17 SHARPERSON, SHE DIDN'T SEE DANNY RYANT LEAVE THE
18 CORNER POCKET, THAT'S REASONABLE DOUBT. JANET ROSS IS
19 REASONABLE DOUBT, JAMES GREEN IS REASONABLE DOUBT,
20 DARIUS GARNER IS REASONABLE DOUBT, SHUMPERT, HE DIDN'T
21 FIND ANYTHING, REASONABLE DOUBT, AND THEN THERE'S
22 PATRICK TYLER. PATRICK TYLER HAS EVERY REASON TO GET
23 ON THAT STAND AND LIE, THAT'S REASONABLE DOUBT.

24 THE STATE OF SOUTH CAROLINA HAS THE BURDEN OF
25 PROVING DANNY RYANT GUILTY BEYOND A REASONABLE DOUBT.

1 IF YOU THINK ABOUT THE SCALES OF JUSTICE YOU'LL SEE
2 THEY DIDN'T ADD ANYTHING TO THEIR SIDE, AND THEY
3 DIDN'T TAKE AWAY ANY REASONABLE DOUBT FROM OURS. WE'D
4 ASK THAT YOU FIND DANNY RYANT NOT GUILTY.

5 THE COURT: THANK YOU, MR. MELLARD.

6 MR. KOGER.

7 MR. KOGER: MAY IT PLEASE THE COURT.

8 THE COURT: YES, SIR.

9 MR. KOGER: MR. PASCOE, AND MR. SORENSON.

10 CLOSING ARGUMENT BY MR. KOGER

11 MR. SHIVERS, STAND UP, TO CLEAR UP ANY CONFUSION.

12 I REPRESENT MARIO SHIVERS ON THE CHARGES OF
13 MURDER, ARMED ROBBERY -- YOU CAN SIT DOWN -- AND
14 BURGLARY IN THE FIRST DEGREE.

15 WE ALL HAVE A QUIET PLACE, WE HAVE A QUIET PLACE
16 THAT WE HAVE IN OUR HOMES THAT THERE'S A ROOM THAT WE
17 GO TO REST, THERE'S A ROOM THAT WE GO TO PRAY, THERE'S
18 A ROOM THAT WE GO TO READ. AND WHEN WE ARE NOT
19 PHYSICALLY ABLE TO GET TO THAT QUIET PLACE, THINK OF A
20 QUIET PLACE IN OUR MIND, BECAUSE THERE'S A PORTION OF
21 OUR MIND THAT WE CAN GO TO, AND WE CAN THINK AND
22 REFLECT. AND THIS IS WHAT I WANT YOU TO DO NOT ONLY
23 NOW BUT WHEN YOU GO INTO THAT JURY ROOM, I WANT YOU TO
24 GO TO THAT PLACE RIGHT NOW AND CONCENTRATE ON MARIO
25 SHIVERS' CASE.

1 NOW, THE FIRST THING I'M GOING TO ADDRESS IS THE
2 IDENTIFICATION BY ASHLEY PARSLEY. SHE IDENTIFIED, OR
3 SHE ATTEMPTED TO IDENTIFY THAT MR. SHIVERS WAS AT THE
4 SCENE ON THAT PARTICULAR EVENING. AND YOU CAN RECALL
5 IN HER STATEMENT SHE STATED IT WAS A DARK SKINNED
6 PERSON IN BLUE. AND AS YOU MAY RECALL FROM THE
7 TESTIMONY, I HAD HER TO GO OVER DIFFERENT COMPLEXIONS,
8 BECAUSE WE AS AFRICAN AMERICANS KNOW COMPLEXIONS, AND
9 WE SIMPLY IDENTIFY EACH OTHER BY DIFFERENT
10 COMPLEXIONS. AND I ASKED HER ON THE STAND, AND I
11 MIGHT HAVE ASKED MY CLIENT, MARIO SHIVERS, TO STAND OR
12 NOT, I CAN'T RECALL, BUT SHE SAID MARIO SHIVERS WAS
13 LIGHT SKINNED. SHE SAID ATTORNEY WISE WAS FAIR OR
14 LIGHT SKINNED, AND STATED THAT INVESTIGATOR SHUMPERT
15 WAS MORE LIKE HER COMPLEXION, DARK SKINNED. BUT SHE
16 GAVE A STATEMENT THAT THE PERSON WHO HAD THE WEAPON ON
17 THAT PARTICULAR NIGHT WAS DARK SKINNED. NOW, DO I
18 THINK SHE HAS SOME TYPE OF EVIL INTENT WHEN SHE MADE
19 THAT IDENTIFICATION IN MARCH OF THIS YEAR? NO, SHE
20 WAS JUST BASICALLY MISTAKEN, AND THOSE THINGS HAPPEN.
21 AS A MATTER OF FACT, I HATE TO ADMIT IT BUT SOMETHING
22 SIMILAR HAPPENED TO ME TWO WEEKS AGO. MY OFFICE IS
23 LOCATED AT THREE NINETY-SIX ST. PAUL STREET IN THE
24 CAROLINA BUILDING, AND I'M IN THE VERY FRONT BUILDING,
25 SUITE ONE HUNDRED. AND I HAVE A LARGE WINDOW. AND I

1 THINK IT HAPPENED ABOUT WEDNESDAY OR THURSDAY ABOUT
2 TWO WEEKS AGO. AND I SAW THIS, TWO THOUSAND ONE
3 BURGUNDY CHEVROLET SILVERADO DRIVE UP WITH A COPPER
4 BOTTOM, AND I GOT KIND OF EXCITED BECAUSE THAT WAS THE
5 TRUCK OF MY FATHER. YOU KNOW, USUALLY HE IS IN TOWN
6 OR WORKING ON A JOB HE'LL COME BY AND WE HAVE GOOD
7 CONVERSATION, YOU KNOW, AND I REALLY LOVE MY DAD, AND
8 SO I GOT KIND OF EXCITED BECAUSE AT THREE O'CLOCK IN
9 THE AFTERNOON, TO SEE WHAT DADDY HAD TO TELL ME TODAY.
10 SO, I SAW THE TRUCK DRIVE UP RIGHT IN FRONT OF MY
11 WINDOW, WE KEEP OUR BLINDS OPEN, AND I WAS WALKING TO
12 THE DOOR, I SAW THE PERSON GET OUT OF THE TRUCK, HAD
13 ON A HAT, AND MY FATHER IS KNOWN FOR HIS CAPS
14 ESPECIALLY WHEN HE'S WORKING ON A JOB, HAD ON A PLAID
15 WORK SHIRT, AND MY FATHER WEARS PLAID WORK SHIRTS WHEN
16 HE WORKS ON HIS IRON WORKS AND STEEL JOB, SO I WENT TO
17 THE DOOR, I OPENED MY DOOR AND WENT TO THE FRONT DOOR
18 OF THE BUILDING, AND DISCOVERED THAT IT WAS LINFIELD,
19 THE MAINTENANCE MAN IN THE BUILDING. NOW, THIS IS
20 SOMEONE THAT I'VE KNOWN FOR FORTY-FOUR YEARS, RAISED
21 ME, FED ME UNTIL AGE EIGHTEEN, I TRY TO GET FED NOW ON
22 SUNDAYS, AND I MADE A MISTAKE IN IDENTIFICATION OF MY
23 VERY OWN FATHER. SO, AGAIN, ASHLEY PARSLEY MIGHT HAVE
24 THOUGHT THAT SHE SAW MARIO SHIVERS ON THAT PARTICULAR
25 EVENING BUT SHE WAS MISTAKEN. AND THAT'S VERY

1 IMPORTANT BECAUSE -- AND YOU'RE GOING TO RECEIVE AN
2 INSTRUCTION AT THE END OF THIS STATEMENT THAT THE
3 STATE MUST PROVE BEYOND A REASONABLE DOUBT THAT AN
4 IDENTIFICATION IS CORRECT, THAT AN IDENTIFICATION IS
5 ACCURATE, THAT AN IDENTIFICATION IS TRUTHFUL, AND THAT
6 AN IDENTIFICATION IS RELIABLE. AND IF THE STATE
7 CANNOT PROVE, JUST ABOUT IDENTIFICATION, MEET THOSE
8 THREE CRITERIA, YOU HAVE TO DISREGARD IT.

9 THE SECOND PERSON WHO MADE AN ATTEMPT AT
10 IDENTIFICATION, NOT AT THE SCENE BUT AT THE CORNER
11 POCKET WAS MONEAK BUSBY, AND SHE STATED THAT SHE COULD
12 HAVE POSSIBLY SEEN MR. SHIVERS, MARIO SHIVERS AT THE
13 DOOR. NOW, SHE STATED ON THE STAND WHEN I WENT INTO,
14 WELL, WHAT TYPE OF CONDITION SHE WAS IN ON THAT
15 PARTICULAR NIGHT, HOW MUCH SHE HAD TO DRINK, SHE SAID
16 TWO TWELVE OUNCE BEERS. NOW, I NOTICE IN THE
17 COURTROOM WE HAVE NUMEROUS LAW ENFORCEMENT HERE, AND
18 SOME PROBABLY HAVE WORKED THE ROAD, BUT USUALLY IF A
19 PERSON SAY THEY HAVE TWO BEERS THEY'RE ALWAYS UNDER
20 REPORT, IT'S USUALLY FOUR. NOW, THIS IS WHAT I'M
21 SAYING, THE SAME STANDARD THT WAS APPLIED TO MS.
22 PARSLEY'S IDENTIFICATION THAT THE STATE MUST PROVE
23 BEYOND A REASONABLE DOUBT THAT HER IDENTIFICATION WAS
24 CORRECT, ACCURATE, TRUTHFUL AND RELIABLE, THE SAME
25 STANDARD APPLIES TO MS. BUSBY. SO, YOU CAN TAKE THAT