

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Certiorari to Orangeburg County

Honorable Maite Murphy, Circuit Court Judge

TERRELL SCOTT,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO 2017-001936

APPENDIX

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INDEX

INDEX	i
TRIAL TRANSCRIPT DATED MAY 12-14, 2009	1
TRIAL TRANSCRIPT DATED MAY 15, 2009	698
APPLICATION FOR POST-CONVICTION RELIEF FILED JUNE 15, 2012	844
AMENDED APPLICATION FOR POST-CONVICTION RELIEF FILED JULY 31, 2012	851
ORDER FOR MERGER FILED JANUARY 11, 2013	856
RETURN	858
AMENDMENTS TO POST-CONVICTION RELIEF APPLICATION DATED MAY 22, 2014	863
POST-CONVICTION RELIEF HEARING TRANSCRIPT DATED MAY 18, 2015	865
ORDER OF DISMISSAL	935
MOTION PURSUANT TO RULE 59(e) SCRPC TO AMEND FILED JUNE 20, 2016	952
AMENDED ORDER OF DISMISSAL	954
SOUTH CAROLINA DEPARTMENT OF CORRECTIONS RECORDS	972
INDICTMENTS AND SENTENCING SHEET	974

STATE OF SOUTH CAROLINA
COUNTY OF ORANGEBURG

COURT OF GENERAL SESSIONS
FIRST JUDICIAL CIRCUIT

CASE NO. 07-GS-38-480
07-GS-38-640

STATE OF SOUTH CAROLINA

versus

TERRELL SCOTT,

DEFENDANT

)
) VOLUME ONE OF TWO
) (PARTIAL)
) TRANSCRIPT OF RECORD
)

) DATE:
) MAY 12-14, 2009
)

BEFORE:

HONORABLE JAMES C. WILLIAMS, JR., PRESIDING JUDGE
AND A JURY.

APPEARANCES:

DONALD N. SORENSON, ESQUIRE
ASSISTANT SOLICITOR
FOR THE STATE

GLENN WALTERS, ESQUIRE
ATTORNEY AT LAW
MICHAEL CULLER, ESQUIRE
PUBLIC DEFENDER
FOR THE DEFENDANT

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I N D E XEXAMINATION OF: DIRECT CROSS REDIRECT RECROSS

JOHN RANDOLPH,
IN CAMERA

SOL. SORENSON 18

MR. CULLER 34

WILL GILLIARD, JR.,
IN CAMERA

SOL. SORENSON 47

MR. WALTERS 64

LAWRENCE JAMES KELLY
IN CAMERA

SOL. SORENSON 83

JAMES CARL SHUMPERT
IN CAMERA

SOL. SORENSON 98

MR. WALTERS 108

JOHN RANDOLPH,
IN CAMERA

SOL. SORENSON 153

MR. CULLER 155

WILL GILLIARD, JR.,
IN CAMERA

SOL. SORENSON 157

LAWRENCE JAMES KELLY,
IN CAMERA

SOL. SORENSON 160

I N D E X (CONTINUED)

<u>EXAMINATION OF:</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
JAMES W. ETHERIDGE				
SOL. SORENSON	203		227	
MR. WALTERS		212		228
GERALD D. CARTER, SR.,				
SOL. SORENSON	230			
MR. CULLER		260		
DR. JANICE E. ROSS				
SOL. SORENSON	278			
MR. CULLER		291		
JOHN RANDOLPH				
SOL. SORENSON	295		351	
MR. WALTERS		331		
WILL GILLIARD, JR.				
SOL. SORENSON	354		386	
MR. CULLER		376		391
LAWRENCE JAMES KELLY				
SOL. SORENSON	404			
MR. WALTERS		437		
VELLO PAAVEL				
SOL. SORENSON	450			
MR. WALTERS		468		

I N D E X (CONTINUED)EXAMINATION OF: DIRECT CROSS REDIRECT RECROSS

ILA SIMMONS

SOL. SORENSON 472 482

MR. CULLER 480

DANIEL YOUNG

SOL. SORENSON 485

MR. CULLER 506

L. MAURICE CHEESEBORO

SOL. SORENSON 518 550

MR. CULLER 540 554

CLINTON JONES

SOL. SORENSON 557 586

MR. CULLER 578 588

JAMES CARL SHUMPERT,
IN CAMERA

SOL. SORENSON 590

MR. WALTERS 595

JAMES CARL SHUMPERT

SOL. SORENSON 604

MR. WALTERS 629

I N D E X (CONTINUED)

<u>EXAMINATION OF:</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RE CROSS</u>
TERRELL SCOTT, IN CAMERA				
BY THE COURT	648			
TERRELL SCOTT				
MR. WALTERS	652			
SOL. SORENSON		664		
ANGELA FIELDS				
MR. WALTERS	676			
SOL. SORENSON		680		
MAURIN RAVANDA				
SOL. SORENSON	690			

I N D E X (CONTINUED)

	<u>PAGE</u>
NEAL V. BIGGERS HEARING	
ARGUMENT BY MR. WALTERS	162
ARGUMENT BY SOL. SORENSON	168
RULING OF THE COURT	173
 OPENING STATEMENT BY SOL. SORENSON	 179
OPENING STATEMENT BY MR. WALTERS	189
CLOSING ARGUMENT (TAKEN BY ANOTHER COURT REPORTER)	
CLOSING ARGUMENT BY (" ' " " ")	
CHARGE BY THE COURT (" " " " ")	
VERDICT OF THE JURY (" " " " ")	
SENTENCE OF THE COURT (" " " " ")	

I N D E X (CONTINUED)E X H I B I T S

<u>NUMBER</u>	<u>DESCRIPTION</u>	<u>ID.</u>	<u>EV.</u>
ST. 1	SCENE PHOTO	17	235
ST. 2	SCENE PHOTO	17	235
ST. 3	SCENE PHOTO	17	235
ST. 4	PHOTO LINEUP	*	326
ST. 5	PHOTO LINEUP	*	326
ST. 6	PHOTO LINEUP	*	371
ST. 7	PHOTO LINEUP	*	371
ST. 8	PHOTO LINEUP	*	271
ST. 9	DMV DRIVING RECORD/PHOTO OF TERRELL SCOTT	*	374
ST.10	PHOTO LINEUP & AFFIDAVIT	*	328
ST.11	PHOTO LINEUP & AFFIDAVIT	*	431
ST.12	PHOTO LINEUP & AFFIDAVIT	*	433
ST.13	FORENSIC COMPOSITE DRAWING	*	428
ST.14	(NO EXHIBIT 14 MARKED)		
ST.15	SCENE PHOTO	*	235
ST.16	SCENE PHOTO	*	235
ST.17	SCENE PHOTO	*	235
ST.18	SCENE PHOTO	*	235
ST.19	SCENE PHOTO	*	235
ST.20	EVIDENCE BAG		252
ST.21	WEAPON	253	456
ST.22	ADVISEMENT OF RIGHTS	591	617

I N D E X (CONTINUED)E X H I B I T S

<u>NUMBER</u>	<u>DESCRIPTION</u>	<u>ID.</u>	<u>EV.</u>
DEF. 1	PHOTO	*	260
DEF. 2	PHOTO	*	260
DEF. 3	PHOTO	*	260
DEF. 4	PHOTO	*	260
DEF. 5	PHOTO	*	260
DEF. 6	PHOTO	*	260
DEF. 7	PHOTO	*	260
DEF. 8	PHOTO	*	260
DEF. 9	PHOTO	*	260
DEF.10	PHOTO	*	260
DEF.11	PHOTO	*	260

*NOTE: THESE EXHIBITS WERE PRE-MARKED FOR
IDENTIFICATION ONLY OFF THE RECORD.

1 DATE:

2 MAY 12, 2009

3 THE COURT: ALRIGHT, SOLICITOR.

4 SOLICITOR SORENSON: MAY IT PLEASE
5 THE COURT, YOUR HONOR.

6 THE COURT: YES, SIR.

7 SOLICITOR SORENSON: AT THIS TIME,
8 YOUR HONOR, THE STATE IS PREPARED TO GO FORWARD, I GUESS
9 WE NEED TO PUT A COUPLE OF THINGS ON THE RECORD, THE
10 CASE OF THE STATE VERSUS TERRELL SCOTT. YOUR HONOR, MR.
11 SCOTT WAS INDICTED ORIGINALLY BY THE ORANGEBURG COUNTY
12 GRAND JURY BACK IN TWO THOUSAND AND SEVEN FOR ONE COUNT
13 OF -- TWO THOUSAND AND SEVEN FOR ONE COUNT OF MURDER,
14 INDICTMENT 2007-GS-38-640, AND ONE COUNT OF ARMED
15 ROBBERY IN INDICTMENT 2007-GS-38-480. THE STATE WOULD
16 BE PREPARED TO GO TO TRIAL ON THOSE TWO INDICTMENTS THIS
17 WEEK, YOUR HONOR. AS I INDICATED TO YOU EARLIER THE
18 ARMED ROBBERY CHARGE THERE WAS A MISTAKE AS FAR AS THE
19 VICTIM ALLEGING THE ARMED ROBBERY AND THAT IS BEING RE-
20 PRESENTED TO THE GRAND JURY THE FIRST THING IN THE
21 MORNING. I'VE GIVEN A, AT LEAST SHOWN A COPY TO MR.
22 CULLER OF WHAT THE PROPOSED AMENDMENT THAT I'M
23 PRESENTING TO THE GRAND JURY. SO, THAT'S WHY WE CANNOT
24 GO FORWARD WITH PICKING A JURY TODAY.

25 YOUR HONOR, THERE IS SOME PRETRIAL

1 THAT CAN BE DONE, HOWEVER, TODAY. MR. SCOTT, YOUR
2 HONOR, IS REPRESENTED BY MR. GLENN WALTERS AND IT'S MY
3 UNDERSTANDING LAST WEEK MR. WALTERS GOT MR. CULLER AND
4 HIS OFFICE INVOLVED ALSO. I'VE SPOKEN TO MR. WALTERS,
5 HE HAD A HEARING IN HAMPTON COUNTY AND IS ON HIS WAY
6 BACK HERE TODAY BUT HAS INDICATED TO ME THAT MR. CULLER
7 WILL BE PREPARED TO GO FORWARD WITH THE PRETRIAL
8 SPECIFICALLY RELATING TO SOME PHOTOGRAPHIC LINEUPS THAT
9 WERE SHOWN TO THE THREE WITNESSES IN THIS CASE. MR.
10 SCOTT, HOWEVER, YOUR HONOR, IS NOT PRESENT AND IT'S MY
11 UNDERSTANDING FROM TALKING TO MR. BROWN AND MR. CULLER
12 THAT HE KNOWS TO BE HERE TODAY. SO, I GUESS THE FIRST
13 MATTER I HAVE, WE WOULD MOVE FOR A BENCH WARRANT ON MR.
14 SCOTT. AND WE'LL BE PREPARED TO CALL THE CASE AND GO
15 FORWARD IN THE MORNING. WE'LL BE SEEKING TO GO FORWARD
16 WITH OR WITHOUT HIS PRESENCE IN THE MORNING.

17 THE COURT: ALRIGHT, WHO WANTS TO
18 SPEAK, MR. CULLER OR MR. BROWN?

19 MR. CULLER: YOUR HONOR, WE'RE
20 REALLY NOT IN A POSITION I DON'T THINK TO ARGUE WITH
21 THE STATE AT THIS POINT. I HAVE BEEN INVOLVED, I GUESS,
22 MR. BROWN AND I, FOR ABOUT TWO AND A HALF OR THREE
23 WEEKS. I'VE NOT MET WITH MR. SCOTT. MY UNDERSTANDING
24 IS THAT MR. SCOTT DID SPEAK WITH MR. WALTERS YESTERDAY.
25 I WAS DRIVING AROUND IN THE CAR WITH HIM, AND HE SAID,

11

1 YOU KNOW, HEY, I'M GOING TO BE THERE. HE TALKED TO HIM
2 TODAY AS WELL IN MY PRESENCE AND I WOULD TELL THE COURT
3 THAT, YOU KNOW, OBVIOUSLY, HE'S NOT HERE. WE DON'T KNOW
4 WHERE HE IS. WE HOPE THAT HE IS ON THE WAY, THAT'S WHAT
5 EVIDENTLY HE HAS TOLD MR. WALTERS.

6 THE COURT: ALRIGHT. WELL, I WILL
7 AUTHORIZE THE ISSUANCE OF A BENCH WARRANT, AND JUST IN
8 CASE YOU -- WE NEED TO GET HIS ADDRESS, I MEAN, I THINK
9 WE NEED TO TRY TO SEND AND PICK HIM UP. WE DON'T KNOW,
10 MAYBE HE'S ON HIS WAY AND MAYBE HE'S NOT, BUT IF HE'S
11 GOT SOME IDEA HE'S NOT COMING IT'S BETTER FOR US TO TRY
12 TO PICK HIM UP TODAY, SEND SOMEBODY TO TRY AND GET HIM
13 TONIGHT SO HE'LL BE HERE TOMORROW.

14 LET ME PUT ON THE RECORD THAT I'M,
15 I DON'T KNOW ANYTHING ABOUT THE FACTS OF THIS CASE, BUT
16 UNDER THE SYSTEM THAT WE'RE RUNNING NOW MR. SCOTT WAS
17 GIVEN AN OFFER SOME MONTHS AGO AND I KNOW HE STOOD
18 PERSONALLY IN FRONT OF ME ON SEVERAL DIFFERENT OCCASIONS
19 WHEN HE WAS TOLD THAT HIS TRIAL WOULD BE THE WEEK OF MAY
20 ELEVENTH, AND HE HAD UNTIL, I FORGOT, I THINK THE LAST
21 WEEK IN APRIL, I'M NOT SURE, TO ACCEPT THE OFFER.
22 THAT'S NOT THE POINT, THE POINT IS THAT I PERSONALLY
23 HAVE TOLD MR. SCOTT THAT HIS CASE WAS GOING TO BE TRIED
24 THIS WEEK. SO, THERE'S NO QUESTION IN MY MIND THAT HE
25 KNEW THAT, AND OF COURSE, WHAT MR. CULLER SAYS, HE WAS

1 TOLD THAT AGAIN YESTERDAY AND TODAY. AND SO, I WILL
2 AUTHORIZE THE BENCH WARRANT.

3 NOW, SOLICITOR, LET ME SEE YOUR
4 INDICTMENTS.

5 AND WHAT IS THE PRETRIAL MATTERS
6 THAT WE'RE GOING TO DO TODAY?

7 SOLICITOR SORENSON: YOUR HONOR, MY
8 INTENTION WOULD BE THE PHOTOGRAPHIC LINEUPS AND THE
9 STATE WOULD BE SEEKING TO HAVE IN COURT IDENTIFICATIONS
10 BY THREE WITNESSES. SO, I'VE GOT THOSE THREE WITNESSES
11 PLUS THE INVESTIGATOR INVOLVED IN SHOWING THEM.

12 THAT WOULD BE THE MURDER INDICTMENT,
13 YOUR HONOR, WHICH HAS BEEN TRUE BILLED, AND A COPY OF
14 THE INDICTMENT THAT WILL BE PRESENTED IN THE MORNING TO
15 THE GRAND JURY.

16 THE COURT: WELL, I WANT TO SEE THE
17 ONE THAT'S ALREADY BEEN PRESENTED, AS WELL AS THESE TWO.

18 SOLICITOR SORENSON: I'M NOT SURE I
19 STILL HAVE A COPY OF THAT, YOUR HONOR. I HAD MARKED UP
20 ON IT WHAT I WANTED TO CHANGE.

21 THE COURT: WELL, I DON'T CARE IF
22 IT'S MARKED UP ON OR NOT, I JUST NEED TO SEE WHAT IT
23 SAYS.

24 SOLICITOR SORENSON: I DO HAVE IT.

25 THE COURT: ALRIGHT. NOW,

13

1 INDICTMENT NUMBER 640 ACCUSES MR. SCOTT OF KILLING HARRY
2 LEE MACK, JUNIOR, ON DECEMBER TWENTY-FOURTH, TWO
3 THOUSAND AND SIX, BY SHOOTING HIM. THE INDICTMENT WHICH
4 HAS BEEN TRUE BILLED ACCUSES MR. MACK OF TAKING MONEY --
5 ACCUSES MR. SCOTT OF TAKING MONEY FROM HARRY MACK, WHO
6 WAS THE SAME VICTIM WHO WAS KILLED. THE INDICTMENT --
7 AND THAT'S INDICTMENT NUMBER 480. THE REVISED
8 INDICTMENT NUMBER 480 OR SUPERCEDED INDICTMENT NUMBER
9 480 WE WOULD CALL IT, I GUESS, ACCUSES MR. SCOTT OF
10 TAKING MONEY FROM THE PERSON OR PRESENCE OF HARRY MACK,
11 JUNIOR, AND/OR JOHN RANDOLPH, AND/OR WILL T. GILLIARD,
12 JUNIOR, AND/OR LAWRENCE KELLY. SO, IT JUST CHANGES THE
13 VICTIMS IN THE CASE.

14 SOLICITOR SORENSON: YES, SIR.

15 THE COURT: NOW, I DON'T KNOW HOW
16 FAMILIAR YOU ARE WITH THE CASE, MR. CULLER, BUT I MEAN,
17 DO YOU KNOW, WERE YOU AWARE THAT THE VICTIMS WERE MACK,
18 RANDOLPH, WELL, RANDOLPH, GILLIARD AND KELLY IN ADDITION
19 TO MACK?

20 MR. CULLER: MY UNDERSTANDING, YOUR
21 HONOR, IS THAT THE ALLEGATION WAS THAT THE OTHER
22 INDIVIDUALS NAMED IN THE INDICTMENT IN ADDITION TO MR.
23 MACK IN THE REVISED INDICTMENT, IF YOU WILL, WERE
24 ALLEGEDLY PRESENT IN THE HOUSE WHEN THIS ROBBERY
25 OCCURRED, AND I BELIEVE THAT LAW ENFORCEMENT STATEMENTS

1 THAT WERE TAKEN FROM THOSE PEOPLE INDICATED THAT
2 MATERIAL WAS TAKEN FROM THEM, MONIES AND - - -

3 THE COURT: AND YOU HAVE, I GUESS,
4 ARE THERE STATEMENTS AS WELL AS LAW ENFORCEMENT REPORTS?

5 MR. CULLER: THERE ARE, YOUR HONOR.

6 THE COURT: AND THEY WOULD INDICATE
7 THAT RANDOLPH, GILLIARD AND KELLY WERE OR MAY HAVE BEEN
8 VICTIMS?

9 MR. CULLER: YES, SIR.

10 THE COURT: SO, THERE'S NOTHING, NO
11 SURPRISE TO YOU IN ADDING THOSE NAMES AS WITNESSES, AS
12 VICTIMS ON THE INDICTMENT?

13 MR. CULLER: NO, YOUR HONOR.

14 THE COURT: AND DO YOU SEE ANY
15 POSSIBLE PREJUDICE TO MR. SCOTT WITH US PROCEEDING ON --
16 REALLY, THE INDICTMENT HAS NOT BEEN TRUE BILLED NAMING
17 RANDOLPH, GILLIARD AND KELLY AS ADDITIONAL VICTIMS, THAT
18 WE PROCEED WITH THE DISCOVERY MOTIONS, THE NEAL V.
19 BIGGERS AND THE VOLUNTARINESS, JACKSON-DENNO?

20 SOLICITOR SORENSON: NO, NO
21 STATEMENT, YOUR HONOR, IT'S JUST - - -

22 THE COURT: JUST NEAL-BIGGERS AND
23 WHAT ELSE?

24 SOLICITOR SORENSON: JUST THAT, - -

25 -

1 THE COURT: ALRIGHT.

2 SOLICITOR SORENSON: --- IT'S THREE
3 DIFFERENT VICTIMS.

4 THE COURT: SO, MY QUESTION IS, DO
5 YOU SEE ANY PREJUDICE IN US PROCEEDING WITH THE NEAL-
6 BIGGERS HEARING PRIOR TO THIS INDICTMENT BEING TRUE
7 BILLED, THE ONE WITH THE CORRECT VICTIMS' NAMES?

8 MR. CULLER: YOUR HONOR, I
9 APOLOGIZE, I'M AS FAMILIAR AS I CAN BE WITH IT, I DON'T
10 KNOW THAT I CAN INTELLIGENTLY ANSWER THAT QUESTION.

11 THE COURT: WELL, WE'LL PROCEED WITH
12 THE HEARING AND IF AT SOME POINT IN TIME THERE'S A
13 PROBLEM YOU BRING IT TO MY ATTENTION AND WE'LL STOP OR
14 DO WHATEVER WE NEED TO DO AND WAIT UNTIL TOMORROW.

15 MR. CULLER: ALRIGHT.

16 THE COURT: OKAY. GO AHEAD
17 SOLICITOR.

18 SOLICITOR SORENSON: NOW, I GUESS MY
19 ONE CONCERN, I GUESS I CAN DO AS MUCH OF THE HEARING AS
20 I CAN, BUT OBVIOUSLY, A PORTION OF THE, YOU KNOW, THE
21 PURPOSE OF A NEAL V. BIGGERS HEARING IS TO DETERMINE
22 WHETHER A WITNESS CAN DO AN IN COURT IDENTIFICATION, AND
23 OBVIOUSLY, WE DON'T HAVE THE DEFENDANT SO WE CAN'T DO
24 THAT PORTION OF IT. BUT I GUESS I CAN GO THROUGH ALL OF
25 THE FACTORS AND ALL OF THAT, AND THE LINEUP PROCEDURE

1 AND ALL OF THAT PORTION, BUT WITHOUT MR. SCOTT BEING
2 HERE IT'S GOING TO BE - - -

3 MR. CULLER: I WOULD AGREE BUT I
4 DON'T KNOW, I MEAN, I'M GLAD TO ACCOMPLISH WHAT WE CAN
5 TODAY, JUDGE, BUT, YOU KNOW, - - -

6 SOLICITOR SORENSON: I MEAN, I CAN
7 DO NINETY PER CENT OF IT TODAY AND THEN HANDLE THE REST
8 OF IT AS SOON AS HE -- OBVIOUSLY, IF HE DOESN'T SHOW UP,
9 I MEAN, WE CAN'T HAVE AN IN COURT IDENTIFICATION OF
10 SOMEBODY THAT'S NOT HERE, BUT THE OUT OF COURT
11 IDENTIFICATION WE'D STILL BE SEEKING TO GET IN ONE WAY
12 OR THE OTHER. SO, - - -

13 THE COURT: ALRIGHT, I MEAN,
14 CERTAINLY, WE CAN'T ASK THEM TO IDENTIFY SOMEBODY WHO IS
15 NOT HERE. SO, WE WILL PROCEED AS FAR AS WE CAN GO. YOU
16 CAN ASK THEM ANY QUESTIONS BUT THAT, I GUESS, AND IF
17 NECESSARY IN THE MORNING WE'LL PUT THEM BACK UP AND ASK
18 THEM THAT QUESTION. IF HE DOESN'T SHOW UP IT AIN'T
19 GOING TO MATTER ANYHOW.

20 SOLICITOR SORENSON: YES, SIR.
21 OKAY. THE STATE CALLS JOHN RANDOLPH.

22 THE COURT: MR. RANDOLPH, WOULD YOU
23 PLACE YOUR LEFT HAND ON THAT BIBLE AND RAISE YOUR RIGHT,
24 PLEASE.

25 (Whereupon, John Randolph

1 is duly sworn.)

2 THE COURT: THANK YOU, SIR, HAVE A
3 SEAT.

4 (State's Exhibits One, Two, and Three,
5 photographs,
6 marked for identification.)

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

DIRECT, IN CAMERA-JOHN RANDOLPH BY SOL.SORENSEN

18

DIRECT EXAMINATION, IN CAMERA, OF JOHN RANDOLPH
BY SOLICITOR SORENSON:

Q. MR. RANDOLPH, IF YOU WOULD, TELL THE COURT HOW OLD
YOU ARE?

A. TWENTY-SIX.

Q. TWENTY-SIX. AND THE VICTIM IN THIS CASE, HARRY
MACK, WERE YOU RELATED TO MR. MACK?

A. YES, SIR.

Q. AND IF YOU WOULD, TELL THE COURT WHAT YOUR
RELATIONSHIP WAS TO HIM?

A. WE WERE FIRST COUSINS.

Q. FIRST COUSINS? ALRIGHT. AND BACK IN DECEMBER OF
TWO THOUSAND SIX, WHERE WERE YOU LIVING AT THAT
TIME, SIR?

A. SHADOW LAWN, [REDACTED] SHADOW LAWN DRIVE.

Q. AND IS THAT A HOUSE OR AN APARTMENT?

A. APARTMENT.

Q. ALRIGHT. AND WHO ELSE WAS LIVING WITH YOU AT THAT
TIME AT THAT APARTMENT?

A. HARRY MACK.

Q. HARRY MACK, THE VICTIM IN THIS CASE?

A. YES, SIR.

Q. ALRIGHT. AND I WANT TO TURN YOUR ATTENTION, IF I
COULD -- WELL, FIRST OF ALL LET ME SHOW YOU WHAT'S
BEEN MARKED AS STATE'S EXHIBITS FOR ID, ONE

DIRECT, IN CAMERA-JOHN RANDOLPH BY SOL.SORENSEN

19

1 THROUGH THREE, DO YOU RECOGNIZE THOSE PHOTOGRAPHS?

2 A. YES, SIR.

3 Q. WHAT ARE THEY PHOTOGRAPHS OF?

4 A. MY APARTMENT.

5 Q. YOUR APARTMENT? AND DOES THAT KIND OF SHOW THE
6 FRONT DOOR HERE?

7 A. YES, SIR.

8 Q. THE LIVING AREA?

9 A. YES, SIR.

10 Q. THE LIVING AREA?

11 A. YES, SIR.

12 Q. AND KIND OF FROM THE FRONT DOOR LOOKING AT THE
13 LIVING AREA INTO THE KITCHEN?

14 A. YES, SIR.

15 SOLICITOR SORENSON: HE'S - - -

16 MR. CULLER: YEAH, HE'S SHOWN ME
17 THOSE, YOUR HONOR, I DON'T HAVE ANY OBJECTION TO THOSE
18 BEING AN EXHIBIT AT THIS POINT.

19 THE COURT: ALRIGHT.

20 SOLICITOR SORENSON: THESE ARE
21 ALREADY MARKED FOR ID.

22 THE COURT: ONE, TWO AND THREE.

23 SOLICITOR SORENSON: THEY'RE JUST
24 FOR ID AT THIS TIME.

25 COURT REPORTER: YOU DON'T WANT ME

DIRECT, IN CAMERA--JOHN RANDOLPH BY SOL. SORENSON

20

1 TO TAKE THEM OFF, TAKE THE ID OFF?

2 SOLICITOR SORENSON: NO, THEY'RE
3 JUST FOR ID.

4 THE COURT: NO, THEY'RE ALREADY
5 MARKED FOR ID, AND THAT'S IT.

6 ALRIGHT, GO AHEAD.

7 Q. AND THAT APARTMENT IS, THAT PRETTY MUCH SHOWS THE
8 LIVING AREA OF THE APARTMENT, WHAT'S DEPICTED IN
9 STATE'S ONE, TWO AND THREE, KIND OF A LIVING ROOM
10 AND A KITCHEN?

11 A. AND ONE BEDROOM.

12 Q. AND THERE'S ONE BEDROOM KIND OF OFF AS YOU GO INTO
13 THE LEFT?

14 A. YES, SIR.

15 Q. AND I WANT TO TURN YOUR ATTENTION IF I COULD,
16 JOHN, BACK TO DECEMBER TWENTY-THIRD OF TWO
17 THOUSAND AND SIX, THAT NIGHT, WHAT WERE YOU
18 PREPARING TO DO THAT EVENING?

19 A. WE WERE GETTING READY TO GO OUT.

20 Q. OKAY, I NEED TO MAKE SURE YOU SPEAK UP NICE AND
21 LOUD.

22 A. WE WAS JUST GETTING READY TO GO OUT.

23 Q. OKAY. AND WHO WAS AT THE APARTMENT THAT NIGHT?

24 A. ME, HARRY, WILL AND LAWRENCE.

25 Q. OKAY. WILL AND LAWRENCE, WHAT, WHO WAS WILL, FIRST

DIRECT, IN CAMERA-JOHN RANDOLPH BY SOL.SORENSEN

21

1 OF ALL?

2 A. HE'S ALSO A FIRST COUSIN OF MINE.

3 Q. OKAY, HE'S COUSIN WITH YOU AND HARRY?

4 A. YES, SIR.

5 Q. OKAY. AND WHO IS LAWRENCE?

6 A. LAWRENCE IS A FRIEND OF THE FAMILY.

7 Q. OKAY. AND IS HE A FRIEND OF WILL'S?

8 A. YEAH, WE ALL WORK TOGETHER.

9 Q. AND THAT NIGHT YOU AND HARRY WERE AT THE
10 APARTMENT?

11 A. YES, SIR.

12 Q. WAS WILL AND LAWRENCE, WERE THEY THERE THE WHOLE
13 NIGHT ALSO?

14 A. NO, THEY SHOWED UP PRIOR TO US GOING OUT.

15 Q. OKAY. SAY THAT AGAIN?

16 A. THEY SHOWED UP RIGHT BEFORE WE WAS LEAVING TO GO
17 OUT.

18 Q. OKAY. ALRIGHT, SO, IT WAS JUST THE FOUR OF Y'ALL
19 AT THAT POINT IN TIME IN THE APARTMENT?

20 A. YES, SIR.

21 Q. OKAY. AND WHAT TIME WAS IT NOW?

22 A. A LITTLE BEFORE MIDNIGHT.

23 Q. OKAY. AND THAT WOULD BE ON THE TWENTY-THIRD
24 LEADING UP TO THE TWENTY-FOURTH?

25 A. YES, SIR.

1 Q. IS THAT CORRECT?

2 A. YES, SIR.

3 Q. AND IF YOU WOULD, TELL THE JUDGE, THEN, KIND OF
4 AROUND, AS IT GOT UP AROUND, UP UNTIL MIDNIGHT AND
5 THEN IN THE EARLY MORNING HOURS OF THE TWENTY-
6 FOURTH OF DECEMBER, TELL THE JUDGE WHAT HAPPENED?

7 A. RIGHT BEFORE WE WAS GETTING READY TO WALK OUT THE
8 DOOR WE GOT A KNOCK AT THE DOOR, AND HARRY OPENED
9 THE DOOR, AND TERRELL WAS STANDING THERE. AND AT
10 THE TIME NONE OF US RECOGNIZED WHO HE WAS. SO, AS
11 HE'S STANDING TO THE DOOR WE WAS JUST, LIKE,
12 ASKING HIM WHO WAS HE, AND EVERYTHING, AND - - -

13 Q. OKAY. IF YOU WOULD, DESCRIBE HIM, THE GUY THAT WAS
14 STANDING, THAT HAD KNOCKED AND WAS AT THE DOOR
15 WHEN HARRY ANSWERED THE DOOR?

16 A. A HEAVY SET GUY, NOT TOO DARK, NOT TOO LIGHT, LIKE
17 BROWN, LIKE, MORE OF A BROWN COMPLEXION. HE HAD A
18 LOT OF HAIR ON HIS FACE. HE WAS WEARING A SWEATER
19 CAP, SOME SWEATS AND SOME GLOVES.

20 Q. AND YOU INDICATED TO THE COURT A SECOND AGO THAT
21 YOU DIDN'T, YOU DIDN'T KNOW WHO HE WAS AT THAT
22 POINT IN TIME?

23 A. NO, SIR, I DIDN'T KNOW WHO HE WAS.

24 Q. OKAY. DO YOU REMEMBER WHO HE WAS LOOKING FOR OR
25 WHAT HE WAS LOOKING FOR?

DIRECT, IN CAMERA-JOHN RANDOLPH BY SOL. SORENSON

23

1 A. HE CAME TO BUY DRUGS, AND HE DIDN'T SAY WHO HE WAS
2 LOOKING FOR. HE JUST WAS - - -

3 Q. WHERE WAS EVERYBODY AT INSIDE THE APARTMENT?

4 A. EVERYBODY WAS IN THE LIVING ROOM. IT'S A ONE
5 BEDROOM APARTMENT SO IT'S ONLY THE LIVING ROOM,
6 THE KITCHEN AND THE BEDROOM IN THE BACK.

7 Q. SO, THE FOUR OF Y'ALL, YOU, HARRY, WILL AND LARRY,
8 WERE ALL KIND OF IN THE LIVING ROOM, THE LIVING
9 AREA OF THE APARTMENT?

10 A. I WAS STANDING UP LIKE IN THE KITCHEN, WHICH IS
11 RIGHT BEHIND THE LIVING ROOM, AND LAWRENCE, WILL
12 AND HARRY WAS IN THE LIVING ROOM AREA.

13 Q. OKAY. NOW, YOU SAID THAT HE INDICATED TO YOU THAT
14 HE WAS LOOKING FOR DRUGS?

15 A. YES, SIR.

16 Q. OKAY. AND YOU INDICATED THAT YOU DIDN'T KNOW WHO
17 HE WAS, IS THAT CORRECT?

18 A. YES, SIR.

19 Q. AND WHAT, WHAT CONVERSATION, THEN, WENT ON AMONGST
20 Y'ALL WHILE HE WAS STANDING IN THE DOORWAY?

21 A. WHILE HE WAS JUST STANDING TO THE DOOR, WE WAS,
22 EVERYBODY WAS JUST, LIKE, WE DON'T KNOW YOU, BUT
23 THEN, MY COUSIN, WILL, SAID THAT HE RECOGNIZED HIM
24 FROM OUR HOME TOWN.

25 Q. WHERE IS THAT?

DIRECT, IN CAMERA-JOHN RANDOLPH BY SOL. SORENSON

24

1 A. HOLLY HILL-SANTEE AREA.

2 Q. OKAY. SO, IT WAS WILL THAT SAID THAT HE
3 RECOGNIZED HIM?

4 A YES, SIR.

5 Q. OKAY. AND WHAT HAPPENED THEN?

6 A. THEN HE STEPPED IN THE DOOR, AND I WAS STILL,
7 LIKE, I DON'T KNOW WHO YOU IS, WHO YOU ARE, WHAT
8 YOU WANT. THAT'S WHEN HE STARTED ASKING FOR THE
9 DRUGS. AND AT THAT TIME MY COUSIN WILL GOT UP AND
10 WAS JUST GOING TO THE DOOR BECAUSE HE SAID HE FELT
11 SOMETHING FUNNY, SOMETHING DIDN'T FEEL RIGHT. AND
12 AS HE WENT TO THE DOOR THAT'S WHEN THE OTHER GUYS
13 CAME RUSHING THROUGH.

14 Q. SO, WHEN WILL GOT TO THE DOOR HOW MANY OTHER GUYS
15 CAME IN?

16 A. TWO.

17 Q. TWO? AND DESCRIBE THEM.

18 A. ONE WAS KIND OF SHORT, LIGHT SKINNED. THEY HAD
19 MASKS ON SO I COULDN'T SEE NO' FACES. ONE WAS
20 WEARING A HOOD, THE OTHER ONE WAS KIND OF TALL,
21 WEARING SWEATS, A SWEATER, HAD A MASK ON, BOTH
22 CARRYING GUNS, TALL DARK SKINNED, SHORT LIGHT
23 SKINNED.

24 Q. OKAY. AND WHAT HAPPENED THEN AS THE TWO OF THEM
25 WERE RUSHING IN, WHAT DID YOU DO?

DIRECT, IN CAMERA-JOHN RANDOLPH BY SOL.SORENSEN

25

1 A. I WENT TO THE FLOOR.

2 Q. YOU WERE IN THE LIVING ROOM OR THE KITCHEN AREA?

3 A. I WENT TO THE FLOOR IN THE KITCHEN.

4 Q. IN THE KITCHEN. OKAY. AND DID YOU HEAR, WHAT
5 HAPPENED THEN?

6 A. A GUN SHOT WENT OFF AS THE GUYS CAME RUNNING IN,
7 AND I WENT TO THE FLOOR. ONE GUY SHOT, A GUN SHOT
8 WENT OFF, AND AFTER THAT I WAS GRABBED AND PUT IN
9 A CHOKE HOLD AND SEARCHED.

10 Q. ALRIGHT, DID THEY END UP TAKING ANYTHING OFF OF
11 YOU?

12 A. SOME MONEY AND SOME JEWELRY.

13 Q. OKAY. AND DID YOU HAVE AN OPPORTUNITY FROM WHERE
14 YOU WERE TO EVER SEE THAT PERSON THAT HAD
15 INITIALLY COME IN THE DOOR THAT Y'ALL HAD THE
16 CONVERSATION, DID YOU SEE HIM ANYMORE IN THE
17 APARTMENT?

18 A. YES, SIR, HE WAS STANDING AT THE FRONT OF THE DOOR
19 POINTING THE GUN THE WHOLE TIME.

20 Q. OKAY. SO, THAT'S WHAT I WAS GOING TO ASK YOU.
21 SO, YOU SAID THE TWO GUYS THAT HAD THEIR FACES
22 COVERED CAME IN AND HAD GUNS. DID THAT INITIAL
23 PERSON ALSO HAVE A GUN?

24 A. YES, SIR.

25 Q. WHEN DID YOU FIRST SEE THAT GUN?

DIRECT, IN CAMERA--JOHN RANDOLPH BY SOL. SORENSON

26

1 A. I DIDN'T SEE THAT GUN UNTIL AFTER I WAS PULLED UP
2 OFF THE FLOOR.

3 Q. OKAY. NOW, THE GUN SHOT YOU HEARD, WERE YOU, FROM
4 YOUR VANTAGE POINT IN THE KITCHEN FROM WHEN YOU
5 HIT THE FLOOR, WERE YOU ABLE TO SEE WHO FIRED THAT
6 SHOT FROM WHERE YOU WERE?

7 A. NO, SIR.

8 Q. AND HARRY - - -

9 COURT REPORTER: WAS YOUR
10 ANSWER, NO, SIR?

11 A. NO, SIR.

12 Q. AND HARRY, WHERE DID HE GO?

13 A. WHEN THE GUN SHOT WENT OFF AND I'M GOING TO THE
14 FLOOR I SEEN HARRY RAN BACK IN THE ROOM.

15 Q. OKAY. HE WAS RUNNING BACK INTO THE BEDROOM AREA?

16 A. YES, SIR.

17 Q. OKAY. NOW, AFTER THEY ENDED UP TAKING ITEMS OFF
18 OF YOU WERE THEY ALSO SEARCHING THE OTHER PEOPLE
19 THAT WERE IN THERE?

20 A. YES, SIR.

21 Q. WILL, LARRY?

22 A. YES, SIR.

23 Q. HOW ABOUT HARRY, DID THEY GO BACK TO WHERE HE
24 WENT?

25 A. YEAH, ONE GUY WENT BACK IN THE BACK AND SEARCHED

DIRECT, IN CAMERA-JOHN RANDOLPH BY SOL.SORENSEN

27

1 HARRY, TOO.

2 Q. OKAY. AFTER THAT DID THEY STICK AROUND OR DID
3 THEY LEAVE?

4 A. NO, THEY LEFT.

5 Q. OKAY. AND -- ALRIGHT, LET ME KIND OF BACK YOU UP
6 NOW, THAT PERSON THAT INITIALLY CAME IN THAT YOU
7 WERE ABLE TO, THAT FIRST KNOCKED ON THE DOOR AND
8 CAME IN, ANYTHING COVERING HIS FACE?

9 A. NO, SIR.

10 Q. WHAT ABOUT, WHAT WAS THE LIGHTING LIKE INSIDE YOUR
11 APARTMENT?

12 A. ALL THE LIGHTS WAS ON, REALLY, T.V., LIVING ROOM
13 LIGHTS, KITCHEN LIGHT.

14 Q. OKAY. SO, IS THERE ANYTHING THAT WAS BLOCKING
15 YOUR VIEW OF HIS FACE WHEN YOU WERE FACING HIM AND
16 TALKING TO HIM?

17 A. NO, SIR.

18 Q. AND HOW FAR AWAY WERE YOU FROM HIM WHILE HE WAS
19 STANDING INITIALLY IN THE DOORWAY AND THEN WHEN HE
20 CAME INTO YOUR APARTMENT?

21 A. PROBABLY FROM HER TO WHERE MR. SHUMPERT IS
22 SITTING.

23 Q. OKAY. SO, FIFTEEN FEET OR SO?

24 A. YEAH.

25 Q. AND TELL THE COURT, WERE YOU PAYING ATTENTION TO

1 HIM?

2 A. I WAS WATCHING HIM THE WHOLE TIME.

3 Q. OKAY. AND WHY IS IT THAT YOU WERE WATCHING HIM
4 AND PAYING ATTENTION TO HIM?

5 A. BECAUSE HE WAS THE ONE WHO INITIALLY CAME IN, YOU
6 KNOW, AND I KNOW I DIDN'T KNOW HIM, SIR.

7 Q. TRYING TO FIGURE OUT WHO HE WAS AND WHAT HE WAS
8 GOING IN YOUR APARTMENT?

9 A. YES, SIR.

10 Q. AND HOW LONG DO YOU THINK THAT Y'ALL KIND OF HAD
11 THAT INITIAL KIND OF BACK AND FORTH BEFORE WILL
12 HAD GONE UP TO THE DOOR AND THEN THE OTHER TWO
13 GUYS RUSHED IN, HOW LONG DO YOU THINK THAT ALL
14 TOOK?

15 A. LIKE, AT MOST FIVE MINUTES.

16 Q. AND DURING THAT WHOLE TIME THERE WAS NOTHING EVER
17 OBSTRUCTING YOUR VIEW OF HIM?

18 A. NO, SIR.

19 Q. ALRIGHT, NOW, AFTER THEY RAN OUT DID Y'ALL AT SOME
20 POINT IN TIME THEN DISCOVER THAT HARRY HAD BEEN
21 SHOT?

22 A. YES, SIR, I DID.

23 Q. AND WE'LL KIND OF FAST FORWARD A LITTLE BIT FOR
24 THE PURPOSES OF THIS HEARING, DID YOU HAVE AN
25 OPPORTUNITY, THEN, JOHN, LATER ON, SO THIS IS, I

DIRECT, IN CAMERA-JOHN RANDOLPH BY SOL.SORENSEN

29

1 GUESS, SHORTLY AFTER MIDNIGHT NOW INTO THE TWENTY-
2 FOURTH, IS THAT CORRECT?

3 A. YES, SIR.

4 Q. DID YOU HAVE AN OPPORTUNITY LATER ON THAT DAY,
5 THEN, TO TALK TO LAW ENFORCEMENT?

6 A. YES, SIR.

7 Q. OKAY. AND DID YOU GIVE THEM KIND OF MULTIPLE
8 STATEMENTS, I GUESS, THROUGHOUT THE FOLLOWING DAY
9 OR SO?

10 A. YES, SIR.

11 Q. I'M GOING TO ASK YOU, DID YOU HAVE AN OPPORTUNITY
12 THEN, DO YOU RECALL LIEUTENANT SHUMPERT A COUPLE
13 OF DAYS LATER ON THE TWENTY-SIXTH COMING OUT TO I
14 BELIEVE YOUR MOTHER'S HOUSE - - -

15 A. MY MOTHER'S HOUSE.

16 Q. --- AND SHOWING YOU SOME PHOTOGRAPHIC LINEUPS?

17 A. YES, SIR.

18 Q. I'M GOING TO SHOW YOU STATE'S EXHIBITS FOUR AND
19 FIVE AND ASK YOU IF YOU RECOGNIZE THOSE ITEMS?

20 A. I RECOGNIZE THEM.

21 Q. OKAY. AND WERE YOU SHOWN THOSE LINEUPS?

22 A. YES, SIR.

23 Q. AND WHAT WAS THE PURPOSE, DO YOU KNOW WHY
24 LIEUTENANT SHUMPERT WAS SHOWING YOU THOSE LINEUPS?

25 A. TRYING TO FIND - - -

1 COURT REPORTER: I CAN'T HEAR YOU.

2 THE COURT: SHE HAS TO WRITE DOWN
3 WHAT YOU SAY, MR. RANDOLPH, SO YOU NEED TO SPEAK A
4 LITTLE BIT LOUDER.

5 A. HE WAS SHOWING THEM TO ME TO SEE IF I SEEN WHO THE
6 GUY WAS THAT CAME IN MY APARTMENT.

7 Q. OKAY. AND DID YOU LOOK AT STATE'S EXHIBITS FOUR
8 AND FIVE?

9 A. YES, SIR.

10 Q. DID YOU RECOGNIZE ANYBODY IN EITHER ONE OF THOSE
11 GROUPS OF THOSE BASICALLY TWELVE INDIVIDUALS THAT
12 WAS THE PERSON THAT HAD COME INTO YOUR APARTMENT
13 THAT NIGHT?

14 A. NO, SIR.

15 Q. NOW WAS ANYBODY ELSE THERE WITH YOU WHEN
16 LIEUTENANT SHUMPERT WAS SHOWING YOU THOSE
17 PHOTOGRAPHS, DO YOU REMEMBER, THAT DAY?

18 A. MY FAMILY, LIKE MY MOTHER AND MY LITTLE BROTHER.

19 Q. DO YOU REMEMBER, WAS MR. KELLY, LAWRENCE KELLY WAS
20 HE THERE THAT DAY, TOO?

21 A. YEAH, HE CAME, HE CAME, WE ALL WAS SUPPOSED TO
22 MEET TO MY HOUSE.

23 Q. ALRIGHT, AND I'M GOING TO KIND OF FAST FORWARD, SO
24 YOU WEREN'T ABLE TO IDENTIFY OR DIDN'T SEE THE
25 PERSON IN EITHER ONE OF THOSE LINEUPS, IS THAT

DIRECT, IN CAMERA-JOHN RANDOLPH BY SOL.SORENSEN

31

1 CORRECT?

2 A. YES, SIR.

3 Q. ALRIGHT. IM' GOING TO FAST FORWARD, DO YOU
4 REMEMBER, MR. RANDOLPH, HAVING AN OPPORTUNITY
5 ALMOST A MONTH LATER, ACTUALLY A LITTLE OVER A
6 MONTH LATER ON JANUARY TWENTY-EIGHTH OF TWO
7 THOUSAND AND SEVEN, LIEUTENANT SHUMPERT COMING
8 BACK OUT AND MEETING UP WITH YOU AND SHOWING YOU
9 ANOTHER SERIES OF PHOTOGRAPHS?

10 A. YES, SIR.

11 Q. OKAY. I'M SHOWING YOU STATE'S EXHIBIT NUMBER TEN,
12 DO YOU REMEMBER THAT?

13 A. YES, SIR.

14 Q. OKAY. AND WHAT, IF ANYTHING, DID LIEUTENANT
15 SHUMPERT SAY TO YOU WHEN HE SHOWED YOU THAT
16 LINEUP, STATE'S EXHIBIT NUMBER TEN?

17 A. HE JUST ASKED ME IF I RECOGNIZED ANYBODY ON THERE.

18 Q. OKAY. AND DID YOU TAKE A LOOK AT IT?

19 A. YES, SIR.

20 Q. WERE YOU ABLE TO IDENTIFY ANYBODY IN THIS LINEUP?

21 A. YES, SIR.

22 Q. ALRIGHT, WHO DID YOU IDENTIFY?

23 A. THE FIRST PICTURE.

24 Q. OKAY. AND DID YOU CIRCLE THAT, IS THAT YOUR
25 INITIALS AND THE DATE, JANUARY TWENTY-EIGHTH, OF

1 O-SEVEN?

2 A. INITIALED IT AND DATED IT, YES, SIR.

3 Q. AND DID THEY ALSO GET YOU TO, WHAT'S ATTACHED TO
4 THE FRONT HERE, TO KIND OF FILL OUT AN AFFIDAVIT
5 INDICATING THAT YOU HAD PICKED OUT PHOTOGRAPH
6 NUMBER ONE?

7 A. YES, SIR.

8 Q. OKAY. AND TELL THE COURT WHY IT IS THAT YOU
9 IDENTIFIED PHOTOGRAPH NUMBER ONE?

10 A. BECAUSE THAT'S THE GUY I WAS WATCHING THE WHOLE
11 TIME THE ROBBERY WAS GOING ON, STANDING AT THE
12 DOOR WITH THE GUN POINTED TOWARDS ME.

13 Q. SO, YOU IDENTIFIED THAT AS BEING THE PERSON THAT
14 INITIALLY KNOCKED ON THE DOOR AND CAME IN?

15 A. YES, SIR.

16 Q. ANY DOUBT IN YOUR MIND THAT THAT'S THE PERSON?

17 A. NO DOUBT.

18 Q. HAD YOU HAD ANY CONVERSATIONS WITH ANYBODY, EITHER
19 MR. KELLY OR MR. GILLIARD, ANYONE TOLD YOU ABOUT
20 WHO TO PICK OUT IN THIS BEFORE YOU MET WITH
21 LIEUTENANT SHUMPERT?

22 A. THEY DIDN'T EVEN KNOW THAT SHUMPERT WAS COMING TO
23 SEE ME.

24 COURT REPORTER: I CAN'T HEAR YOU.

25 A. NO, MA'AM, HE DIDN'T.

DIRECT, IN CAMERA-JOHN RANDOLPH BY SOL.SORENSEN

33

1 SOLICITOR SORENSON: THANK YOU, MR.
2 RANDOLPH, THAT WOULD BE ALL I WOULD HAVE. PLEASE ANSWER
3 ANY QUESTIONS DEFENSE MAY HAVE.

4 THE COURT: CROSS-EXAMINATION, MR.
5 CULLER.

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

CROSS, IN CAMERA - JOHN RANDOLPH BY MR. CULLER

34

CROSS-EXAMINATION, IN CAMERA, OF JOHN RANDOLPH

BY MR. CULLER:

Q. SO, MR. RANDOLPH, Y'ALL ALL WORKED TOGETHER?

A. YES, SIR.

Q. WHERE WAS THAT?

A. HUSCAVANA.

Q. OKAY. NOW, THIS APARTMENT -- I'M SORRY.

MR. CULLER: DO YOU HAVE THE
APARTMENT PHOTOS?

THE COURT: YES, SIR.

Q. WHAT'S BEEN SHOWN TO YOU EARLIER STATE'S ONE, TWO
AND THREE, HOW BIG WOULD YOU SAY THIS APARTMENT
IS, MR. RANDOLPH, I MEAN, FROM WALL TO WALL, HAVE
YOU GOT ANY IDEA?

A. NOT IN MEASUREMENTS BUT - - -

Q. SIR?

A. NOT BY MEASUREMENTS, BUT IT'S NOT THAT BIG BECAUSE
IT ONLY A ONE BEDROOM APARTMENT.

Q. OKAY. AND I BELIEVE YOU SAID YOU WERE IN THE
KITCHEN AREA - - -

A. YES, SIR.

Q. --- WHEN THIS GUY ALLEGEDLY COMES IN THE DOOR.
WHERE IS THE FRONT DOOR, I'M NOW LOOKING AT
STATE'S THREE, YOU'RE IN THE KITCHEN?

A. WELL, THE ONE IN THE FRONT DOOR IS - - -

CROSS, IN CAMERA - JOHN RANDOLPH BY MR. CULLER

35

1 Q. OPPOSITE THE - - -

2 A. --- IN THE LIVING ROOM.

3 Q. OKAY. SO, IT WOULD BE WHERE YOU'RE SITTING?

4 A. LIKE IF YOU'RE SITTING HERE YOU'RE SITTING BY THE
5 DOOR.

6 Q. OKAY. AND THE DOOR WOULD BE RIGHT HERE?

7 A. YES, SIR.

8 Q. SO, IT'S SORT OF WHERE YOU ARE, OPPOSITE THE
9 KITCHEN?

10 A. YES, SIR.

11 Q. OKAY. AND THE SOFA SOMEWHAT PROTRUDES OUT IN
12 FRONT OF PART OF THE KITCHEN. IS THERE ANYTHING
13 BEHIND THIS, IS IT A WALL?

14 A. THE KITCHEN TABLE.

15 Q. OKAY.

16 A. RIGHT BEHIND THE CHAIR, THE COUCH.

17 Q. YES, SIR. IS THERE A WALL HERE OR IS THE
18 REFRIGERATOR THE END OF THE APARTMENT?

19 A. IT'S THE WALL BEHIND THE REFRIGERATOR.

20 Q. OKAY. ALRIGHT, AND SO, WHERE WERE YOU STANDING.
21 WITH REGARD TO THE - - -

22 A. LIKE, RIGHT BEHIND THIS COUCH.

23 Q. OKAY. AND YOU SAID YOU WENT TO THE FLOOR. DID YOU
24 JUST GET DOWN BECAUSE YOU SAW A GUN OR - - -

25 A. NO, I GOT DOWN BECAUSE I KNEW IT WAS A ROBBERY,

1 ONCE I NOTICED THAT THE GUYS WAS RUNNING IN THE
2 APARTMENT.

3 Q. OKAY. AND DID YOU USE THE SOFA TO SORT OF SHIELD
4 YOURSELF?

5 A. YES.

6 Q. OKAY. NOW, I BELIEVE YOU SAID THEY CAME TO THE
7 DOOR -- THIS GUY COMES TO THE DOOR AND HE WANTS TO
8 BUY DRUGS?

9 A. YES, SIR.

10 Q. WHAT DOES HE SAY TO YOU? HE SAYS HE WANTS TO - -
11 -

12 A. HE WAS JUST, LIKE, I WANT SOME DOPE.

13 Q. OKAY. AND AT THAT POINT, ARE YOU COOKING IN THE
14 KITCHEN OR WHAT ARE YOU DOING?

15 A. NO, WE WAS GETTING READY TO LEAVE.

16 Q. OKAY. SO, Y'ALL HAD BEEN EATING AND YOU'RE MOVING
17 STUFF IN THERE OR YOU JUST HAPPENED TO BE STANDING
18 THERE?

19 A. WE WAS JUST STANDING AROUND GETTING READY TO WALK
20 OUT THE DOOR.

21 Q. ALRIGHT.

22 A. I HAD JUST FINISHED GETTING DRESSED AND -- ME AND
23 HARRY JUST FINISHED GETTING DRESSED.

24 Q. ALRIGHT. NOW, LET ME TAKE YOU BACK TO STATE'S
25 THREE, WHERE WERE THE OTHER THREE GUYS THAT ARE IN

CROSS, IN CAMERA - JOHN RANDOLPH BY MR. CULLER

37

- 1 THERE WITH YOU, WHERE IS MR. MACK?
- 2 A. MR. MACK WAS, LIKE THIS COUCH, AND LAWRENCE AND
- 3 WILL WAS AT THAT COUCH.
- 4 Q. OKAY. SO, THE COUCH THAT YOU GOT BEHIND LAWRENCE
- 5 AND WILL WERE SITTING ON, AND THE COUCH THAT YOU
- 6 SAY IS NEXT TO THE DOOR MR. MACK WAS SITTING ON?
- 7 A. UH HUH. (Nods head in the affirmative.)
- 8 Q. ALRIGHT. AND WHEN THE DOOR OPENS DOES IT OPEN TO
- 9 THE RIGHT OR TO THE LEFT?
- 10 A. IT OPENS OUT, NO, IN TO THE RIGHT.
- 11 Q. IN TO THE RIGHT. OKAY. ALRIGHT. AND -- OKAY.
- 12 SO, YOU'RE STANDING SORT OF BEHIND WILL AND MR.
- 13 MACK, BECAUSE THEY'RE SEATED ON THAT COUCH.
- 14 A. WILL AND LAWRENCE.
- 15 Q. I BEG YOUR PARDON, WILL AND LAWRENCE. AND SO,
- 16 WHO'S TALKING TO THIS GUY WHEN HE COMES IN, YOU?
- 17 A. HARRY WAS AT FIRST.
- 18 Q. DOES HE COME IN AND ASK FOR ANYBODY BY NAME OR
- 19 DOES HE JUST - - -
- 20 A. NO, HE WAS, HE WAS, HE WASN'T - - -
- 21 Q. --- MAKE A STATEMENT?
- 22 A. YEAH.
- 23 Q. SO, HARRY'S TALKING TO HIM?
- 24 A. YES.
- 25 Q. AND THERE'S NOT MUCH CONVERSATION?

1 A. NO, JUST WHO ARE YOU?

2 Q. HOW MANY SENTENCES? I BEG YOUR PARDON?

3 A. JUST, WHO ARE YOU?

4 Q. OKAY. AND SO, THAT DIDN'T TAKE LONG.

5 A. NO.

6 Q. AND THEN, AT WHAT POINT DOES WILL SAY, I KNOW HIM
7 FROM SANTEE?

8 A. AFTER I SAID I DIDN'T KNOW HIM, AND HARRY SAID, I
9 DIDN'T KNOW HIM.

10 Q. OKAY. ALRIGHT, SO, HOW LONG IS THE CONVERSATION
11 DO YOU THINK, TOTALLY?

12 A. LIKE, TWO MINUTES, THREE MINUTES, SOMETHING LIKE
13 THAT.

14 Q. IT TOOK THREE MINUTES TO SAY THAT?

15 A. IT WASN'T LONG.

16 Q. OR WAS IT - - -

17 A. WE WAS JUST, LIKE, SITTING THERE, LIKE - - -

18 Q. YOU WERE PUZZLED?

19 A. YEAH, EVERYBODY WAS JUST SITTING THERE LIKE, OKAY,
20 WHO ARE YOU?

21 Q. ALRIGHT. SO, YOU THINK IT COULD HAVE TAKEN THREE
22 MINUTES OR COULD IT HAVE BEEN LESS THAN THAT?

23 A. IT COULD HAVE BEEN LESS THAN THAT.

24 Q. OKAY. COULD IT HAVE BEEN A MINUTE?

25 A. IT COULD HAVE BEEN A MINUTE.

CROSS, IN CAMERA - JOHN RANDOLPH BY MR. CULLER

39

- 1 Q. OKAY. SO, YOU TALK, NOT MUCH IS LEARNED FROM THE
2 CONVERSATION, AND THEN WILL IS -- WILL GETS UP OFF
3 OF THE SOFA AND HE'S WALKING TOWARDS THE DOOR?
4 A. TOWARDS THE DOOR.
5 Q. SO, IS HE BETWEEN YOU AND THE GUY STANDING AT THE
6 DOOR WHEN HE'S WALKING TOWARDS THE DOOR?
7 A. HE'S BETWEEN, HE HAD TO WALK ACROSS ME, LIKE THAT.
8 Q. SO, LIKE, IF YOU'RE SITTING, IF YOU'RE IN THE
9 KITCHEN - - -
10 A. UH HUH.
11 Q. --- WILL'S WALKING TOWARDS THE DOOR, HE'S BETWEEN
12 YOU AND THE GUY AT THE DOOR?
13 A. (Nods in the affirmative.)
14 Q. HE'S OBSTRUCTING YOUR VIEW OF HIM, IS THAT RIGHT?
15 A. WELL, NO, NOT REALLY.
16 Q. WELL, CAN YOU SEE THROUGH WILL?
17 A. YOU CAN'T SEE THROUGH HIM BUT WILL DIDN'T STAND IN
18 FRONT OF ME, HE JUST WALKED PAST ME.
19 Q. THAT'S COOL, I UNDERSTAND, BUT WHEN HE GOES TO THE
20 DOOR TO OPEN IT THIS GUY IS AT THE DOOR OR WHERE
21 IS HE?
22 A. NO, HE ALREADY STEPPED IN AND HE WAS STANDING NEXT
23 TO THE DOOR.
24 Q. OKAY. TO THE RIGHT BECAUSE THE DOOR OPENED TO THE
25 RIGHT, OR TO THE LEFT?

CROSS, IN CAMERA - JOHN RANDOLPH BY MR. CULLER

40

1 A. HE WAS STANDING TO THE LEFT.

2 Q. OKAY. AND MR. MACK IS SEATED ON THE SOFA TO THE
3 LEFT, CORRECT?

4 A. UH HUH, MR. MACK WAS STANDING AT THIS TIME.

5 Q. HE'S STANDING AT THIS TIME?

6 A. YES.

7 Q. SO, HE WOULD BE - - -

8 A. BECAUSE HE OPENED THE DOOR.

9 Q. I BEG YOUR PARDON?

10 A. HE OPENED THE DOOR.

11 Q. OKAY. SO, MR. MACK IS STANDING, AND HE HAD BEEN
12 SEATED ON THIS SOFA, IS HE OBSTRUCTING YOUR VIEW
13 OF THE GUY AT THE FRONT DOOR?

14 A. NO, SIR.

15 Q. WHY NOT?

16 COURT REPORTER: YES, SIR OR NO,
17 SIR?

18 A. NO, SIR.

19 Q. WHY NOT?

20 A. BECAUSE HE WASN'T STANDING RIGHT IN FRONT OF THE
21 DOOR.

22 Q. RIGHT. I UNDERSTAND.

23 MR. CULLER: AND I'LL BE BRIEF YOUR
24 HONOR, I APOLOGIZE.

25 Q. I HAVE NOT BEEN TO THIS APARTMENT, BUT IF THE DOOR

CROSS, IN CAMERA - JOHN RANDOLPH BY MR. CULLER

41

1 OPENED IN TO THE RIGHT, AND MR. MACK GETS OFF OF
2 THIS SOFA AND IS STANDING HERE, AND MR. WILL
3 GILLIARD WALKS THIS DIRECTION, AND HE'S STANDING,
4 AND THERE'S SOMEONE ELSE STANDING HERE, AND YOU'RE
5 BEHIND BOTH MR. MACK AND MR. GILLIARD - - -

6 A. BUT I DON'T - - -

7 Q. --- NEITHER ONE OF THEM OBSTRUCTED YOU?

8 A. NO, SIR, BECAUSE THEY WASN'T STANDING AT THE SAME
9 TIME. THERE WAS ONLY HARRY STANDING AT FIRST, AND
10 THEN WILL GOT UP AND JUST WALKED STRAIGHT TO THE
11 DOOR.

12 Q. OKAY. SO, HARRY SAT BACK DOWN?

13 A. NO, HARRY WAS STANDING THERE WITH THE DOOR OPEN,
14 LIKE, LETTING EVERYBODY SEE HIM, BECAUSE HE WAS,
15 LIKE, I DON'T KNOW YOU. SO, HARRY OPENED THE DOOR
16 AND HE WAS STANDING TO THE SIDE.

17 Q. OKAY. SO THE DOOR IS NOT SHUT?

18 A. HUH UH.

19 Q. I BEG YOUR PARDON?

20 A. NOT WHILE TERRELL WAS STANDING IN THE DOORWAY, NO.

21 Q. SO, THE DOOR IS OPENED AND THE GUY COMES IN OR THE
22 GUY IS STANDING OUTSIDE?

23 A. NO, WHEN THE DOOR OPENED THE GUY IS JUST STANDING
24 THERE TO THE DOOR.

25 Q. SO, HE'S NOT IN THE DOOR, HE'S OUTSIDE?

CROSS, IN CAMERA - JOHN RANDOLPH BY MR. CULLER

42

1 A. THAT'S IT, YES.

2 Q. OKAY. SO, IT'S ABOUT, YOU SAID I BELIEVE EARLIER
3 ABOUT FIFTEEN FEET FROM WHERE YOU ARE TO THE FRONT
4 DOOR, AND THIS GUY IS BEYOND THAT?

5 A. NO, HE WAS, LIKE, RIGHT IN THE DOORWAY.

6 Q. HE'S INSIDE?

7 A. HE ISN'T INSIDE BUT HE'S STANDING RIGHT OUTSIDE
8 THE DOOR.

9 Q. ALRIGHT. HE'S OUTSIDE. ALRIGHT, I'M SORRY.
10 ALRIGHT, SO ANYWAY, THE CONVERSATION COULD HAVE
11 LASTED A MINUTE, COULD HAVE BEEN A LITTLE BIT
12 LONGER, COULD HAVE BEEN A LITTLE BIT LESS?

13 A. ABOUT A MINUTE, THAT'S IT.

14 Q. THEN WILL GOES TO THE DOOR WHICH IS OPEN -- WHEN
15 WILL GOES TO THE DOOR IT'S OPEN?

16 A. NO, THE DOOR WAS CLOSED. WILL DIDN'T GO TO THE
17 DOOR UNTIL AFTER TERRELL CAME IN.

18 Q. OKAY. I'M SORRY, I THOUGHT YOU SAID TERRELL WAS
19 STANDING OUTSIDE OF THE DOOR?

20 A. YES.

21 Q. AND THE DOOR WAS SHUT?

22 A. NO, I DIDN'T.

23 Q. I MISUNDERSTOOD YOU THEN. ANYWAY, IS THE DOOR
24 SHUT WHEN WILL GOES TO IT?

25 A. YES.

CROSS, IN CAMERA - JOHN RANDOLPH BY MR. CULLER

43

1 Q. OKAY. AND WILL OPENS THE DOOR TO GO OUT?

2 A. YES, SIR.

3 Q. AND THEN THESE OTHER TWO GUYS COME RUNNING IN?

4 A. YES, SIR.

5 Q. ARE THEY WALKING OR ARE THEY RUNNING?

6 A. THEY CAME RUNNING IN.

7 Q. AND THEY SAW, YOU SAW GUNS AT THAT POINT?

8 A. I DIDN'T SEE GUNS UNTIL AFTER I WAS PICKED UP OFF
9 THE FLOOR.

10 Q. OKAY. AND YOU JUST FIGURED, THIS IS A BAD SCENE,
11 SO YOU WENT TO THE FLOOR?

12 A. I KNEW IT WAS.

13 Q. ALRIGHT. SO, FROM THE TIME THIS, THIS GUY COMES
14 INTO YOUR APARTMENT, TO THE TIME YOU GO TO THE
15 FLOOR, IT'S NOT A VERY LONG TIME?

16 A. HUH UH.

17 Q. AND YOU GO TO THE FLOOR AND THEN SOMEONE PUTS
18 THEIR ARM AROUND YOUR NECK OR SOMETHING AND STANDS
19 YOU UP?

20 A. YES, SIR.

21 Q. AND THAT'S WHEN YOU SEE THIS GENTLEMAN AGAIN THAT
22 HAD COME TO YOUR APARTMENT INITIALLY?

23 A. YEAH.

24 Q. AND THEN THEY TAKE SOME STUFF. HOW LONG ARE THEY
25 THERE, HOW LONG ARE YOU STANDING - - -

CROSS, IN CAMERA - JOHN RANDOLPH BY MR. CULLER

44

1 A. I DON'T KNOW HOW LONG EXACTLY, BUT THEY WAS IN
2 THERE ABOUT, I'D SAY ABOUT FIFTEEN, FIFTEEN OR
3 TWENTY MINUTES.

4 Q. FIFTEEN OR TWENTY MINUTES THEY WERE STANDING IN
5 YOUR APARTMENT?

6 A. THEY WAS GOING THROUGH OUR POCKETS AND GOING
7 THROUGH THE APARTMENT. SO, YOU KNOW, - - -

8 Q. DID THE GUY STANDING WITH YOU HAVE A GUN?

9 A. YES.

10 Q. WHERE WAS THE GUN?

11 A. IN HIS HAND.

12 Q. DID HE HAVE IT TO YOUR ARM, YOUR NECK, YOUR - - -

13 A. HE HAD HIS LEFT ARM AROUND MY NECK AND JUST WAS
14 HOLDING THE GUN.

15 Q. OKAY. IN FRONT OF YOU OR - - -

16 A. YEAH, IN FRONT OF ME.

17 Q. ALRIGHT. AND YOU WERE, I WOULD GUESS, FOCUSED ON
18 THE GUN SOMEWHAT, TOO, RIGHT?

19 A. WELL, NOT REALLY. AT FIRST I WAS, BUT ONCE I
20 NOTICED HE WASN'T POINTING IT AT ME I WASN'T.

21 Q. ALRIGHT, OKAY.

22 MR. CULLER: ALRIGHT, I DON'T THINK
23 I HAVE ANYTHING ELSE, YOUR HONOR.

24 THE COURT: REDIRECT?

25 SOLICITOR SORENSON: NO, SIR.

1 THE COURT: ALRIGHT, MR. RANDOLPH,
2 YOU CAN STEP DOWN. NOW, TOMORROW WHEN YOU COME TO
3 TESTIFY THAT JURY BOX IS GOING TO BE FULL OF JURORS, AND
4 THEY NEED TO HEAR WHAT YOU'VE GOT TO SAY.

5 MR. RANDOLPH: YES, SIR.

6 THE COURT: SO, I WANT YOU TO GO
7 HOME TONIGHT AND PRACTICING TALKING LOUD. YOU PRETEND
8 EVERYBODY IN YOUR APARTMENT IS DEAF, AND THE JUDGE IS
9 ABOUT DEAF, ESPECIALLY WHEN YOU'RE LOOKING THAT WAY, BUT
10 THOSE JURORS HAVE GOT TO HEAR YOU. YOU NEED TO TALK A
11 LITTLE BIT LOUDER TOMORROW, ALRIGHT, SIR?

12 MR. RANDOLPH: OKAY.

13 THE COURT: ALRIGHT, THANK YOU, SIR,
14 YOU ARE FREE TO LEAVE.

15 YES, SIR?

16 SOLICITOR SORENSON: THE STATE CALLS
17 WILL GILLIARD.

18 THE COURT: COME AROUND, MR.
19 GILLIARD. MR. GILLIARD, PUT YOUR LEFT HAND ON THE
20 BIBLE, PLEASE, AND RAISE YOUR RIGHT.

21 (Whereupon, Will Gilliard, Jr.,
22 is duly sworn.)

23 THE COURT: THANK YOU, SIR. DID YOU
24 HEAR EVERYTHING MR. RANDOLPH SAID?

25 MR. GILLIARD: SOME OF IT.

1
2
3
4
5
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7
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9
10

THE COURT: WELL, I WANT HIM TO HEAR
EVERYTHING THAT YOU SAY, OKAY?

MR. GILLIARD: ALRIGHT.

THE COURT: YOU CAN PRETEND HE'S
HARD OF HEARING, SO WE CAN ALL HEAR IT.

(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.)

DIRECT, IN CAMERA, WILL GILLIARD, JR.,
BY SOL. SORENSON

47

DIRECT EXAMINATION, IN CAMERA, OF WILL GILLIARD, JR.,

BY SOLICITOR SORENSON:

Q. MR. GILLIARD, IF YOU WOULD, TELL THE COURT HOW OLD
YOU ARE?

A. TWENTY-FOUR.

Q. ALRIGHT. AND ARE YOU RELATED TO MR. RANDOLPH THAT
JUST TESTIFIED?

A. YES, SIR.

Q. HOW ARE YOU RELATED TO MR. RANDOLPH?

A. FIRST COUSIN.

Q. FIRST COUSIN. HOW ABOUT THE VICTIM IN THIS CASE,
HARRY MACK?

A. FIRST COUSIN.

Q. SO, YOU SHARE PARENTS, SIBLINGS, YOUR PARENTS?

A. MY MOTHER AND HIS FATHER IS BROTHER AND SISTER.

Q. OKAY. YOUR MOTHER AND HARRY'S FATHER ARE BROTHER
AND SISTER?

A. YES.

Q. AND WHAT ABOUT YOU AND JOHN?

A. HIS MOTHER IS MY MOTHER'S SISTER.

Q. MOTHER AND FATHER ARE ALL SIBLINGS, IS THAT
CORRECT?

A. YES, SIR.

Q. AND I WANT TO TURN YOUR ATTENTION BACK TO DECEMBER
OF TWO THOUSAND AND SIX, WHERE WERE YOU LIVING

DIRECT, IN CAMERA, WILL GILLIARD, JR.,
BY SOL. SORENSON

48

1 BACK IN DECEMBER OF O-SIX?

2 A. SANTEE.

3 Q. SANTEE, SOUTH CAROLINA?

4 A. YES, SIR.

5 Q. AND SPECIFICALLY, THE NIGHT OF DECEMBER TWENTY-
6 THIRD, KIND OF INTO THE EARLY MORNING HOURS OF
7 DECEMBER TWENTY-FOURTH, WHERE, OR WHAT WERE YOU
8 PLANNING ON DOING THAT NIGHT?

9 A. WE WAS GOING TO CLUB ECLIPSE, ME AND LAWRENCE.

10 Q. OKAY. YOU AND LAWRENCE? AND HOW DO YOU KNOW
11 LAWRENCE?

12 A. I'M MARRIED TO HIS COUSIN.

13 Q. TO LAWRENCE'S COUSIN?

14 A. YES, SIR.

15 Q. AND HOW LONG HAD, HAD HE JUST RECENTLY MOVED TO
16 SOUTH CAROLINA BEFORE THAT?

17 A. YES.

18 Q. SO, THAT NIGHT THE TWO OF Y'ALL WERE GOING OUT,
19 AND CLUB ECLIPSE IS HERE IN ORANGEBURG?

20 A. YES, SIR.

21 Q. OKAY. AND WHERE, WHAT DID Y'ALL DECIDE TO DO
22 BEFORE YOU WENT TO THAT CLUB?

23 A. WE DECIDED TO STOP BY JOHN'S HOUSE.

24 Q. OKAY. AND THAT'S THE APARTMENT THAT HE WAS LIVING
25 AT AT THE TIME?

DIRECT, IN CAMERA, WILL GILLIARD, JR.,
BY SOL. SORENSON

49

1 A. YES, SIR.

2 Q. ALRIGHT. AND SO, DID Y'ALL, IN FACT, STOP BY
3 THERE THAT NIGHT?

4 A. WE DID.

5 Q. ALRIGHT. AND WHO ELSE WAS AT THE APARTMENT WHEN
6 YOU STOPPED BY THAT NIGHT?

7 A. HARRY AND JOHN.

8 Q. OKAY. SO, THE FOUR OF Y'ALL, THEN, WERE THERE?

9 A. YES, SIR.

10 Q. AND WHAT DID YOU SIT AROUND AND DO THAT NIGHT
11 INSIDE THE APARTMENT?

12 A. WELL, WE WAS JUST SMOKING?

13 Q. OKAY. AND WHAT WERE YOU SMOKING?

14 A. MARIJUANA.

15 Q. THAT WOULD BE ALL FOUR OF Y'ALL?

16 A. YES, SIR.

17 Q. AND WHAT WERE YOU -- WHILE DOING THAT WHAT WERE
18 YOU WAITING ON TO DO?

19 A. WE WAS WAITING FOR THEM TO GET DRESSED.

20 Q. OKAY. SO, THEY WEREN'T READY WHEN YOU FIRST
21 STOPPED BY THERE?

22 A. YES.

23 Q. ALRIGHT. AND WHAT -- TELL THE COURT WHAT ENDED UP
24 AS Y'ALL WERE SITTING AROUND THAT APARTMENT
25 WAITING FOR EVERYBODY TO GET READY, WHAT ENDED UP

DIRECT, IN CAMERA, WILL GILLIARD, JR.,
BY SOL. SORENSON

50

1 HAPPENING?

2 A. WELL, I WAS SITTING ON THE COUCH, ME AND LAWRENCE,
3 AND THEN I GUESS HARRY, HE TOOK A SHOWER FIRST.

4 Q. I'M SHOWING YOU STATE'S EXHIBIT NUMBER TWO, IS
5 THAT THE COUCH THAT Y'ALL WERE SITTING ON?

6 A. YES.

7 Q. ALRIGHT. AND AT SOME POINT IN TIME DID SOMEBODY
8 KNOCK AT THE DOOR OR COME TO THE APARTMENT?

9 A. YES, SIR.

10 Q. OKAY. AND TELL THE COURT WHAT HAPPENED WHEN THAT
11 KNOCK OCCURRED?

12 A. WHEN THE KNOCK CAME TO THE DOOR HARRY OPENED THE
13 DOOR, AND THAT'S WHEN TERRELL CAME IN.

14 Q. OKAY. AND AT THE TIME YOU AND LAWRENCE WERE
15 SITTING ON THAT COUCH THAT YOU JUST POINTED OUT TO
16 THE COURT?

17 A. YES, SIR.

18 Q. AND WHERE, DO YOU KNOW WHERE JOHN WAS AT THE TIME?

19 A. HE WAS RIGHT BEHIND US.

20 Q. OKAY. SO THAT WOULD BE, BEHIND YOU WOULD BE IN
21 THAT KITCHEN AREA?

22 A. IN THE KITCHEN.

23 Q. OKAY. AND TELL THE COURT WHAT HAPPENED THEN WHEN
24 HARRY ANSWERED THE DOOR AND THE PERSON THAT - - -

25 A. WELL, THEY KEEP GOING BACK AND FORTH LIKE, I DON'T

DIRECT, IN CAMERA, WILL GILLIARD, JR.,
BY SOL. SORENSON

51

1 KNOW YOU. YEAH, YOU KNOW ME. I WAS WATCHING T.V.
2 AND I KEEP LOOKING AT THEM. SO, I WAS, LIKE, I
3 KNOW HIM, MAN, I DON'T KNOW HIS NAME, BUT I KNOW
4 HIS FACE FROM SANTEE.

5 Q. AND DID YOU SAY THAT, DID YOU ACTUALLY SAY THAT TO
6 EVERYBODY?

7 A. YES, SIR.

8 Q. OKAY. AND DID YOU, IN FACT, ASK THAT PERSON
9 ANYTHING, DID YOU SAY ANYTHING TO HIM OR - - -

10 A. NO, NO, SIR.

11 Q. DID YOU ASK HIM IF HE WAS FROM SANTEE OR ANYTHING
12 LIKE THAT?

13 A. NO, SIR.

14 Q. BUT YOU HAD INDICATED TO JOHN AND HARRY THAT YOU
15 KNEW HIM, YOU WERE FAMILIAR WITH HIM FROM SANTEE?

16 A. YEAH, I SEEN HIS FACE, YEAH, FROM THE SANTEE AREA.

17 Q. OKAY. AND WHAT -- WHEN THAT WHOLE BACK AND FORTH
18 WAS GOING ON BETWEEN -- AND WHO WAS THAT INITIALLY
19 THAT WAS GOING BACK AND FORTH, I DON'T KNOW YOU,
20 YEAH YOU DO, WHO WAS THAT THAT WAS DOING THAT KIND
21 OF BACK AND FORTH?

22 A. IT WAS JOHN AND TERRELL.

23 Q. OKAY. AND WHERE - - -

24 A. WELL, HARRY SAID IT FIRST, LIKE HE DIDN'T KNOW
25 HIM, SO - - -

DIRECT, IN CAMERA, WILL GILLIARD, JR.,
BY SOL. SORENSON

52

1 Q. SO, HARRY INITIALLY SAID IT, BUT THEN JOHN - - -

2 A. AND JOHN SAID, I DON'T KNOW HIM EITHER.

3 Q. OKAY. AND WHERE WAS THAT PERSON STANDING AT THAT
4 TIME?

5 A. ON THE SIDE OF THE DOOR.

6 Q. OKAY. DID HE ACTUALLY, DID HE COME INTO THE
7 APARTMENT?

8 A. YES.

9 Q. OKAY. AND WHEN HE CAME INTO THE APARTMENT WHAT
10 HAPPENED TO THE DOOR TO THE APARTMENT?

11 A. IT SHUT.

12 Q. IT SHUT? OKAY, SO, AT THAT POINT IN TIME IT'S NOW
13 THE FIVE OF Y'ALL INSIDE THAT LITTLE APARTMENT?

14 A. YES, SIR.

15 Q. OKAY. AND THAT PERSON, WAS THERE ANYTHING
16 OBSTRUCTING YOUR VIEW OF THAT PERSON'S FACE?

17 A. WELL, I KNOW HE HAD A LOT OF HAIR ON HIS FACE, HE
18 HAD A SWEATER CAP ON.

19 Q. YOU SAID A SWEATER CAP ON THE TOP OF HIS HEAD AND
20 HE HAD A LOT OF HAIR LIKE - - -

21 A. YEAH.

22 Q. --- FACIAL HAIR?

23 A. YEAH.

24 Q. OKAY. BUT NOTHING, HE DIDN'T HAVE ANYTHING A
25 HANDKERCHIEF OR ANYTHING LIKE THAT, OR A SHIRT OR

DIRECT, IN CAMERA, WILL GILLIARD, JR.,
BY SOL. SORENSON

53

1 ANYTHING PULLED UP OVER HIS FACE AT ALL?

2 A. NO, SIR.

3 Q. AND DESCRIBE IF YOU COULD, YOU HAD INDICATED THE
4 SWEATER CAP, A LOT OF FACIAL HAIR, WHAT ELSE?

5 A. I KNOW HE WAS ON THE CHUBBY SIDE. HE WASN'T THAT
6 TALL.

7 Q. HOW ABOUT, IF YOU CAN TELL ME, YOUNG, OLD?

8 A. YEAH, HE WAS LIKE IN HIS EARLY THIRTIES, I GUESS.

9 Q. DO YOU REMEMBER GIVING A STATEMENT TO THE POLICE?

10 A. YES.

11 Q. LET ME SHOW YOU THIS, TO KIND OF REFRESH YOUR
12 MEMORY. THAT WAS THE MORNING OF THE TWENTY-FOURTH
13 AT EIGHT:FIFTEEN, IS THAT CORRECT?

14 A. YES, SIR.

15 Q. AND AT THE BOTTOM THERE, DID YOU GIVE THEM A
16 DESCRIPTION THAT MORNING OF HIM?

17 A. YES, SIR.

18 Q. AND DID YOU INDICATE A POSSIBLE AGE ON THAT
19 MORNING?

20 A. YES, SIR.

21 Q. WHAT WAS THE AGE THAT YOU TOLD THEM THE MORNING, I
22 MEAN, EIGHT HOURS AFTER THIS HAPPENED OR SO?

23 A. TWENTY-SEVEN TO THIRTY.

24 Q. TWENTY-SEVEN TO THIRTY?

25 A. YES, SIR.

DIRECT, IN CAMERA, WILL GILLIARD, JR.,
BY SOL. SORENSON

54

1 Q. NOW, AFTER YOU HAD INDICATED TO THEM THAT HE
2 LOOKED FAMILIAR TO YOU FROM SANTEE, WHAT HAPPENED
3 THEN, TELL THE COURT WHAT HAPPENED THEN AT THE
4 APARTMENT?

5 A. HE SAID, YEAH, I'M FROM SANTEE. SO, - - -

6 Q. OKAY. WHAT WAS HE ASKING FOR AT THAT POINT IN
7 TIME, DO YOU - - -

8 A. DRUGS.

9 Q. DRUGS? OKAY, AND WHO - - -

10 A. HE ASKED FOR A HALF OUNCE, I FORGOT WHAT HE ASKED
11 FOR, BUT I KNOW HE SAID, A HALF OUNCE.

12 Q. DO YOU REMEMBER WHO HE WAS TALKING TO, HARRY, YOU
13 - - -

14 A. HE WAS TALKING WITH JOHN.

15 Q. JOHN?

16 A. YEAH.

17 Q. AND IS JOHN, JUST IN CASE THIS COMES UP LATER,
18 DOES JOHN HAVE A NICK NAME THAT HE GOES BY?

19 A. SCAR.

20 Q. SCAR?

21 A. YES, SIR.

22 Q. OKAY. ALRIGHT, WHAT DID YOU DO AT THAT POINT IN
23 TIME, WILL?

24 A. WELL, I WAS WATCHING T.V., STEADY SMOKING, AND
25 THEY KEPT GOING BACK AND FORTH ABOUT THEY DON'T

DIRECT, IN CAMERA, WILL GILLIARD, JR.,
BY SOL. SORENSON

55

1 KNOW HIM, SO I WAS, LIKE, WELL, I'M GOING TO
2 OUTSIDE.

3 Q. OKAY.

4 A. I FELT FUNNY.

5 Q. YOU HAD KIND OF A WEIRD FEELING ABOUT WHAT WAS
6 GOING ON?

7 A. YEAH.

8 Q. ALRIGHT. SO YOU, ANYTHING IMPEDING YOUR PATH FROM
9 THE COUCH TO THE DOOR, WERE YOU ABLE TO GET TO THE
10 DOOR?

11 A. YES, SIR.

12 Q. OKAY. WHERE WAS THE GUY STANDING, I MEAN, AT THAT
13 POINT IN TIME?

14 A. HE WAS ON THE LEFT SIDE OF THE DOOR.

15 Q. LET ME SHOW YOU IF YOU WOULD, KIND OF POINT OUT TO
16 THE COURT THEN, - - -

17 A. THAT'S THE LEFT SIDE RIGHT THERE.

18 Q. OVER HERE?

19 A. YES, SIR.

20 Q. OKAY. SO, YOU KIND OF WALKED IN FRONT OF HIM AND
21 OPENED THE DOOR?

22 A. YES, SIR.

23 Q. OKAY. AND TELL THE COURT WHAT HAPPENED WHEN YOU
24 GOT TO THE DOOR AND OPENED IT?

25 A. WHEN I OPENED THE DOOR IT WAS TWO MORE GUYS WITH

DIRECT, IN CAMERA, WILL GILLIARD, JR.,
BY SOL. SORENSON

56

1 SKI MASKS ON. IT WAS, LIKE, WHEN I OPENED THE DOOR
2 THEY SCARED ME, AND I SCARED THEM AT THE SAME
3 TIME. BUT THEY RUSHED IN, AND THEN I SEE TERRELL
4 SCOTT PULL OUT HIS GUN AND PULL THE TRIGGER.

5 Q. OKAY. SO, YOU GOT TO THE DOOR AND THEY CAME
6 RUSHING IN, PUSHING YOU BACK INTO THE APARTMENT?

7 A. YES, SIR.

8 Q. OKAY. AND AT THAT POINT IN TIME WHERE DID YOU SEE
9 THE PERSON THAT YOU SAID, TERRELL, WHAT DID YOU
10 SEE HIM DOING?

11 A. HE PULLED OUT HIS GUN AND SHOT IT. AT FIRST I
12 THOUGHT HE SHOT ME THE WAY I HAD FALL DOWN ON THE
13 GROUND.

14 Q. SO, YOU SAW HIM SHOOT ONE TIME?

15 A. YES, SIR.

16 Q. HOW MANY GUN SHOTS DID YOU HEAR IN THE APARTMENT?

17 A. ONE.

18 Q. JUST THAT ONE?

19 A. YES, SIR.

20 Q. NOW, THE OTHER TWO THAT CAME RUSHING IN THE SKI
21 MASKS ON, DID YOU NOTICE WHETHER THEY WERE ARMED
22 ALSO?

23 A. YEAH, THEY HAD GUNS.

24 Q. THEY BOTH DID ALSO?

25 A. YES, SIR.

DIRECT, IN CAMERA, WILL GILLIARD, JR.,
BY SOL. SORENSON

57

1 Q. WHERE DID -- YOU SAID YOU FELL, WHERE DID YOU GO
2 TO THE FLOOR?

3 A. IN THE MIDDLE, IN THE MIDDLE OF THE FLOOR, LIKE -
4 - -

5 Q. KIND OF THE LIVING, THIS LIVING ROOM AREA WHERE
6 THE COFFEE TABLE'S KNOCKED OVER?

7 A. YES, SIR.

8 Q. AND WAS THAT COFFEE TABLE UPRIGHT OR KNOCKED OVER
9 INITIALLY?

10 A. I GUESS I'M PROBABLY THE ONE THAT KNOCKED IT OVER.

11 Q. OKAY. SO, BEFORE ALL THIS HAPPENED IT WAS RIGHT
12 SIDE UP?

13 A. YES, SIR.

14 Q. ALRIGHT. AND WHERE -- DID YOU SEE WHAT EVERYBODY
15 ELSE WAS DOING AT THAT POINT IN TIME?

16 A. NO, SIR, I WAS FACE DOWN.

17 Q. DO YOU KNOW WHERE HARRY WENT?

18 A. NO, NOT AT THE MOMENT.

19 Q. NOT INITIALLY, YOU FOUND OUT LATER ON?

20 A. YEAH, WHEN I HEARD SCAR SAY THAT HARRY GOT SHOT.

21 Q. OKAY, THAT WAS AFTER EVERYTHING WAS OVER?

22 A. YEAH, YES, SIR.

23 Q. OKAY. WHAT ABOUT, WHAT ABOUT LAWRENCE, DO YOU
24 KNOW WHERE LAWRENCE WAS?

25 A. NO, SIR.

DIRECT, IN CAMERA, WILL GILLIARD, JR.,
BY SOL. SORENSON

58

1 Q. OKAY. AND HOW ABOUT JOHN RANDOLPH, SCAR, DO YOU
2 KNOW WHERE HE WAS?

3 A. NO, SIR.

4 Q. OKAY. SO, YOU WERE PRETTY MUCH FACE DOWN AT THAT
5 POINT IN TIME?

6 A. YEAH, FACE DOWN, YES, SIR.

7 Q. ALRIGHT. AND DID ANYBODY TAKE ANYTHING OFF OF YOU?

8 A. YEAH, I HAD A HUNDRED DOLLAR BILL, THAT'S ALL HE
9 TOOK.

10 Q. OKAY. AND FROM THE TIME THAT YOU HIT THE GROUND
11 AND YOU WERE KIND OF FACE DOWN, DID YOU EVER LOOK
12 UP AT ANYBODY AGAIN?

13 A. NO, SIR.

14 Q. YOU WAITED UNTIL AFTER THEY WERE DONE?

15 A. NO, SIR.

16 Q. NOW, LET ME KIND OF GO BACK AND JUST FOLLOW UP ON
17 THIS A LITTLE BIT. WHAT WAS THE LIGHTING LIKE
18 INSIDE THE APARTMENT?

19 A. THE LIGHTS WAS ON.

20 Q. OKAY. SO, THE FIRST PERSON THAT KNOCKS AND COMES
21 IN THE DOOR ARE YOU ABLE TO SEE HIM?

22 A. YES, SIR.

23 Q. ABLE TO SEE HIS FACE?

24 A. YES, SIR.

25 Q. BESIDES THE FACIAL HAIR, I MEAN, ANYTHING ELSE

DIRECT, IN CAMERA, WILL GILLIARD, JR.,
BY SOL. SORENSON

59

1 IMPEDING OR OBSTRUCTING YOUR VIEW OF HIM WHILE
2 YOU'RE SITTING THERE KIND OF LOOKING UP AT HIM?

3 A. NO, SIR.

4 Q. IN FACT, YOU TOLD THE COURT THAT YOU WERE ABLE TO
5 LOOK AT HIM GOOD ENOUGH TO REALIZE THAT YOU
6 RECOGNIZED HIM, RIGHT?

7 A. HE WAS, YEAH, HE WAS FROM SANTEE, YES.

8 Q. ALRIGHT. AND DID YOU, THEN, WILL, LATER ON INTO
9 THE NEXT MORNING PROVIDE STATEMENTS TO LAW
10 ENFORCEMENT?

11 A. YES, SIR.

12 Q. OKAY. AND DID YOU, AS I POINTED OUT TO YOU AND
13 SHOWED YOU A MINUTE AGO, DID YOU GIVE THEM A
14 DESCRIPTION THAT MORNING?

15 A. YES, SIR.

16 Q. KIND OF THAT DESCRIPTION THAT YOU JUST TOLD THE
17 COURT?

18 A. YES, SIR.

19 Q. DID YOU INDICATE TO THEM THAT DAY ALSO THAT YOU
20 THOUGHT YOU KNEW WHO THE GUY WAS, YOU JUST
21 COULDN'T RECALL HIS NAME?

22 A. YES, SIR, YEAH, I DIDN'T KNOW THE NAME.

23 Q. NOW, OVER THE NEXT SEVERAL WEEKS, DO YOU REMEMBER
24 LIEUTENANT SHUMPERT WITH THE SHERIFF'S OFFICE
25 COMING OUT AND SHOWING YOU SOME PHOTOGRAPHIC

DIRECT, IN CAMERA, WILL GILLIARD, JR.,
BY SOL. SORENSON

60

1 LINEUPS?

2 A. YES, SIR.

3 Q. LET ME SHOW YOU, I'M NOT SURE IF YOU REMEMBER
4 SEEING ALL OF THESE OR NOT, BUT STATE'S EXHIBITS
5 FOUR THROUGH EIGHT, SEE IF YOU REMEMBER SEEING ALL
6 OF THEM OR -- AT SOME POINT IN TIME OVER THE
7 COMING WEEKS YOU GOT WITH LIEUTENANT SHUMPERT ON
8 ONE OCCASION OR MULTIPLE OCCASIONS?

9 A. YEAH, MULTIPLE.

10 Q. OKAY. AND HE SHOWED YOU THESE LINEUPS?

11 A. YES, SIR.

12 Q. DO YOU REMEMBER WHAT HE TOLD YOU BEFORE HE SHOWED
13 YOU EACH OF THE LINEUPS?

14 A. NO.

15 Q. DID HE TELL YOU TO PICK ANYBODY OUT OF THEM?

16 A. I KNOW HE ASKED ME, DO YOU SEE ANYONE THAT LOOKS
17 FAMILIAR AS THE PERSON I SAW THAT NIGHT.

18 Q. OKAY. AND WERE YOU ABLE TO IDENTIFY ANYBODY OUT
19 OF ANY OF THESE FIVE LINEUPS THAT WERE SHOWN TO
20 YOU?

21 A. NOBODY.

22 Q. NOW, AS YOU HAD INDICATED THAT NIGHT YOU, AND
23 LATER ON TO LAW ENFORCEMENT THAT YOU THOUGHT YOU
24 RECOGNIZED HIM, AT SOME POINT IN TIME WERE YOU
25 ABLE TO PROVIDE A POSSIBLE NAME TO LIEUTENANT

DIRECT, IN CAMERA, WILL GILLIARD, JR.,
BY SOL. SORENSON

61

1 SHUMPERT OF WHO YOU THOUGHT IT MIGHT BE?

2 A. CAN YOU REPEAT THAT, PLEASE?

3 Q. AT SOME POINT IN TIME, YOU KNOW, THE WEEKS WENT BY
4 THERE INTO THE MIDDLE OF JANUARY, WERE YOU ABLE TO
5 PROVIDE A NAME TO LIEUTENANT SHUMPERT - - -

6 A. OH, YES, BECAUSE I - - -

7 Q. --- OF WHO YOU THOUGHT IT WAS?

8 A. --- YEAH, I WAS ON THE STREETS TALKING ABOUT IT,
9 AND THE NAME KEEP COMING UP, TERRELL SCOTT,
10 TERRELL SCOTT. SO, I JUST HAPPENED TO CALL THE
11 NAME.

12 Q. AND DID YOU PROVIDE THAT NAME TO HIM?

13 A. YEAH. AND I TOLD HIM.

14 Q. DID YOU HAVE AN OPPORTUNITY THEN TOWARDS THE END
15 OF JANUARY TO COME INTO THE LAW ENFORCEMENT
16 COMPLEX TO YET AGAIN MEET WITH LIEUTENANT
17 SHUMPERT?

18 A. YES, SIR, I WENT THERE AFTER WORK, YEAH.

19 Q. OKAY. AND TELL THE COURT WHAT HAPPENED WHEN YOU
20 WENT INTO HIS OFFICE THAT DAY?

21 A. WELL, WHEN I CAME INTO THE OFFICE I WAS BEING NOSY
22 LOOKING AT ALL THE PAPERS THAT HE HAD ON HIS DESK.
23 I HAPPENED TO SEE ONE OF THE TERRELL SCOTT
24 PICTURES AND I JUST GRABBED THE PAPER, AND I WAS,
25 LIKE, THIS HIM RIGHT HERE.

DIRECT, IN CAMERA, WILL GILLIARD, JR.,
BY SOL. SORENSON

62

1 Q. OKAY. AND SHOWING YOU STATE'S EXHIBIT NUMBER
2 NINE, DID THAT APPEAR TO BE THAT PICTURE THAT YOU
3 SAW?

4 A. THAT'S THE PICTURE RIGHT THERE, YES, SIR.

5 Q. OKAY. AND DO YOU REMEMBER -- IT HAS TERRELL
6 SCOTT'S NAME ON IT, DO YOU REMEMBER, DID YOU SEE
7 THE NAME OR - - -

8 A. NO, I COULDN'T SEE THE NAME, NO.

9 Q. OKAY, SO WHAT DREW YOU TO THAT PIECE OF PAPER THAT
10 WAS SITTING ON LIEUTENANT SHUMPERT'S DESK?

11 A. I WAS JUST LOOKING.

12 Q. OKAY. BUT I MEAN, WHAT CAUSED YOU TO FOCUS YOUR
13 ATTENTION AND PICK UP AND POINT OUT THE PICTURE ON
14 HERE?

15 A. LIKE I SAID, I WAS JUST LOOKING, AND I REMEMBERED
16 THE FACE.

17 Q. OKAY. THAT, I MEAN, THE FACE THAT WAS ON THERE?

18 A. YES, SIR.

19 Q. WHAT DO YOU REMEMBER THAT AS BEING, WHY DID YOU
20 REMEMBER THAT FACE?

21 A. BECAUSE THAT'S WHO CAME IN THE HOUSE THAT NIGHT.

22 Q. IS THAT THE PERSON THAT YOU RECALLED SEEING
23 EARLIER FROM IN SANTEE ALSO?

24 A. YES, SIR.

25 Q. AND DID YOU THEN INDICATE THAT TO LIEUTENANT

DIRECT, IN CAMERA, WILL GILLIARD, JR.,
BY SOL. SORENSON

63

SHUMPERT?

A. YES, SIR.

Q. OKAY.

SOLICITOR SORENSON: AT THIS POINT
IN TIME, YOUR HONOR, I BELIEVE THAT'S ALL I HAVE WITH
REGARDS TO THIS WITNESS.

THE COURT: ALRIGHT. MR. WALTERS?

MR. WALTERS: MAY IT PLEASE THE
COURT.

THE COURT: YES, SIR.

(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, IN CAMERA - WILL GILLIARD, JR.,
BY MR. WALTERS

64

CROSS-EXAMINATION, IN CAMERA, OF WILL GILLIARD, JR.,

BY MR. WALTERS:

Q. HOW ARE YOU DOING, MR. GILLIARD?

A. ALRIGHT.

Q. MR. GILLIARD, DO YOU, YOU GAVE YOUR RENDITION OF
THE FACTS, IS THAT THE COMPLETE TRUTH?

A. YES, SIR.

Q. THE WHOLE TRUTH, AND NOTHING BUT THE TRUTH?

A. YES, SIR.

Q. ALRIGHT. WELL, LET'S START WITH YOUR FIRST
STATEMENT THAT YOU WENT OVER - - -

MR. WALTERS: WHERE'S THE STATEMENT
YOU HANDED HIM, DON? WHERE'S THE SHEET THAT YOU - - -

SOLICITOR SORENSON: THE STATEMENT?

MR. WALTERS: I BELIEVE YOU HAD HIM
LOOK AT A STATEMENT.

SOLICITOR SORENSON: THIS IS THE
ONE, THE BOTTOM OF THAT.

MR. WALTERS: OKAY.

Q. DO YOU REMEMBER THIS DOCUMENT THAT SOLICITOR
SORENSON HANDED YOU?

A. YES, SIR.

Q. TAKE A LOOK AT THAT DOCUMENT. NOW, YOU JUST
TESTIFIED THAT IN THIS PARTICULAR CASE THAT THE
GENTLEMAN STATED HE WAS FROM SANTEE, IS THAT

CROSS, IN CAMERA - WILL GILLIARD, JR.,
BY MR. WALTERS

65

1 CORRECT?

2 A. YES, SIR.

3 Q. SHOW ME IN THE STATEMENT WHERE IT SAYS THAT.

4 A. I DON'T SEE IT.

5 Q. IT'S NOT IN THERE, IS IT?

6 A. NO, SIR.

7 Q. ALRIGHT. YOU ALSO JUST TESTIFIED THAT TERRELL
8 SCOTT, OR YOU ALLEGE THAT IT'S TERRELL SCOTT, HE
9 WANTED A HALF OUNCE, IS THAT CORRECT?

10 A. YES, SIR.

11 Q. SHOW ME WHERE IT'S IN THAT STATEMENT?

12 A. IT'S NOT IN HERE.

13 Q. ALRIGHT. SO, THAT'S NOT TRUE, IS IT?

14 A. YES, IT IS.

15 Q. YOU JUST CHANGED YOUR MIND?

16 A. NO, SIR.

17 Q. YOU'RE ADDING MORE TO THE STORY?

18 A. NO, SIR.

19 Q. YOU SWORE TO TELL THE WHOLE TRUTH AND NOTHING BUT
20 THE TRUTH WHEN YOU CAME IN HERE.

21 A. YES, SIR.

22 Q. YOU ALSO SIGNED THAT STATEMENT UNDER OATH, IS THAT
23 CORRECT?

24 A. YES, SIR.

25 Q. WHICH VERSION DO YOU WANT THE JUDGE TO BELIEVE?

CROSS, IN CAMERA - WILL GILLIARD, JR.,
BY MR. WALTERS

66

1 SOLICITOR SORENSON: YOUR HONOR, I'M
2 NOT SURE HOW THIS IS, I MEAN, THIS MIGHT BE APPROPRIATE
3 CROSS-EXAMINATION, I MEAN, IN FRONT OF THE JURY, BUT AT
4 THIS POINT IN TIME, I MEAN - - -

5 MR. WALTERS: THE CREDIBILITY OF THE
6 WITNESS IS IN QUESTION WITH REGARDS TO THIS PARTICULAR
7 MOTION, THE NEAL V. BIGGERS HEARING.

8 SOLICITOR SORENSON: BUT I ALSO, THE
9 FACT THAT HE'S ALSO, I MEAN, WHICH VERSION OF IT, I
10 MEAN, IT'S NOT LIKE IN THERE IT SAYS THAT HE DIDN'T SAY
11 THAT, I MEAN, SO - - -

12 MR. WALTERS: MAY IT PLEASE THE
13 COURT, HIS - - -

14 THE COURT: WELL, GO AHEAD. I
15 OVERRULE THE OBJECTION.

16 Q. YOU TESTIFIED HE WANTED HALF AN OUNCE, IS THAT
17 CORRECT?

18 A. YES, SIR.

19 Q. IT'S NOT IN THE STATEMENT, IS IT?

20 A. NO.

21 Q. ALRIGHT. NOW YOU WENT ON AND YOU TESTIFIED THERE
22 WERE TWO MORE GUYS THAT CAME IN WITH SKI MASKS ON?

23 A. UH HUH.

24 Q. SHOW ME IN THE STATEMENT WHERE IT SAYS THAT?

25 A. IT'S NOT IN THERE.

CROSS, IN CAMERA - WILL GILLIARD, JR.,
BY MR. WALTERS

67

1 Q. THAT'S RIGHT, YOU JUST MADE IT UP, DIDN'T YOU?

2 A. NO, SIR. I BEEN THERE.

3 Q. BUT YOU SAT IN HERE AND YOU HEARD THE TESTIMONY OF
4 YOUR BUDDY, IS THAT RIGHT, MR. GILLIARD?

5 A. YEAH.

6 Q. ALRIGHT. BUT IN THIS PARTICULAR CASE NO ONE
7 STATEMENT THEY WERE FROM SANTEE, IS THAT RIGHT?

8 A. NO, SIR.

9 Q. AND IN THIS PARTICULAR CASE NO ONE STATED THEY
10 WANTED TO BUY A HALF OUNCE, IS THAT RIGHT?

11 A. YES, HE DID.

12 Q. WHERE IS IT IN YOUR STATEMENT?

13 A. I DIDN'T WROTE IT.

14 Q. YOU DIDN'T THINK THAT WAS IMPORTANT? YOU DIDN'T
15 THINK IT WAS IMPORTANT TO TELL THE POLICE, THESE
16 POLICE OFFICERS THAT RISK THEIR LIVES EVERY DAY,
17 THAT THERE WERE PEOPLE THAT CAME IN WITH SKI MASKS
18 ON, TO GIVE AN ACCURATE DESCRIPTION OF WHO
19 COMMITTED THIS CRIME, YOU DIDN'T THINK THAT WAS
20 IMPORTANT?

21 A. THEY ASKED ME WHAT HAPPENED SO I TOLD THEM WHAT
22 HAPPENED.

23 Q. ALRIGHT. BUT YOU DIDN'T TELL THIS OFFICER OR ANY
24 OF THE OFFICERS THAT WERE THERE, THESE PEOPLE CAME
25 IN WITH SKI MASKS ON, DID YOU?

CROSS, IN CAMERA - WILL GILLIARD, JR.,
BY MR. WALTERS

68

1 A. YES, I DID.

2 Q. IN FACT, WHEN YOU TALKED TO THE POLICE WHAT YOU
3 DID WAS, IS THAT YOU DIDN'T TELL THEM, FIRST OF
4 ALL, THAT YOU VOUCHED FOR THE PERSON THAT CAME IN
5 THE ROOM, IS THAT CORRECT?

6 A. I TOLD THEM THAT I, HE WAS FROM SANTEE. SO, - - -

7 Q. WHAT YOU SAID WAS, SHORTIE IS STRAIGHT, BECAUSE I
8 KNOW HIM FROM FOUR FIVE, IS THAT CORRECT?

9 A. SHORTIE, FROM FOUR FIVE.

10 Q. THAT'S WHAT YOU STATED?

11 A. NO, I DIDN'T.

12 Q. YOU'RE THE INDIVIDUAL INSIDE THE ROOM WHEN THIS
13 CRIME WAS COMMITTED, EVERYBODY SAID, WE REALLY
14 DON'T KNOW WHO DID IT, BUT YOU WERE THE INDIVIDUAL
15 THAT IDENTIFIED THE MAN THAT CAME IN AND SAID, I
16 KNOW THIS PERSON, EVERYONE CAN CALM DOWN?

17 A. I SAID, I KNOW HIS FACE.

18 Q. RIGHT. AND YOU STATED - - -

19 A. I SEEN HIM AROUND SANTEE.

20 Q. YOU JUST TESTIFIED YOU WENT OVER AND WATCHED SOME
21 TELEVISION, IS THAT RIGHT?

22 A. YEAH, I WAS WATCHING TELEVISION, SO, YEAH.

23 Q. RIGHT. AND THEN WHEN YOU FIGURED OUT THAT
24 EVERYBODY ELSE WASN'T GOING TO BUY IN TO WHAT YOU
25 WERE SAYING ABOUT YOU VOUCHING FOR THIS PERSON

CROSS, IN CAMERA - WILL GILLIARD, JR.,
BY MR. WALTERS

69

1

- - -

2

A. I WASN'T VOUCHING FOR HIM, I JUST SAID, I SEEN HIS
FACE IN SANTEE.

3

4

Q. WHERE DOES IT SAY THAT IN THAT STATEMENT?

5

A. I DIDN'T WROTE IT DOWN.

6

Q. BUT YOU - - -

7

A. BUT I'M TELLING YOU WHAT I REMEMBER, I BEEN THERE.

8

Q. ALRIGHT. SO, IT'S YOUR TESTIMONY NOW, YOU REALLY

9

DIDN'T KNOW WHO CAME IN THE ROOM? EITHER YOU KNEW

10

HIM OR YOU DIDN'T KNOW HIM?

11

A. I KNOW HIS FACE, I SEEN HIS FACE, I KNOW HIS FACE.

12

Q. ALRIGHT.

13

A. I DIDN'T KNOW HIS NAME.

14

Q. BUT THEN, YOU WENT ON AND TESTIFIED THAT AS FAR AS

15

SOMEONE GETTING INSIDE THE APARTMENT -- REMEMBER,

16

SEVEN PEOPLE THAT YOU ALLEGE CAME INSIDE THIS

17

APARTMENT, IS THAT CORRECT?

18

A. SEVEN?

19

Q. IT'S THREE, ONE THAT CAME IN TO BUY DOPE, TWO THAT

20

RUSHED IN BEHIND THAT PERSON, AND THERE WERE

21

ALREADY FOUR PEOPLE IN THE APARTMENT, FOUR PLUS

22

THREE EQUALS WHAT? YOU'RE SURPRISED BY THE

23

NUMBER, DOES THAT EQUAL SEVEN?

24

A. YEAH.

25

Q. ALRIGHT. SO, THERE'S SEVEN PEOPLE INSIDE OF THE

CROSS, IN CAMERA - WILL GILLIARD, JR.,
BY MR. WALTERS

70

1 APARTMENT, IS THAT CORRECT? YES OR NO?

2 A. NO, IT WASN'T.

3 Q. YOU CAN'T DO THE MATH?

4 A. NO, IT WASN'T.

5 Q. WILL T. GILLIARD IS HERE. ALRIGHT, YOU'RE
6 STANDING HERE. ALRIGHT, YOUR COUSIN WAS IN THERE.
7 ALRIGHT. AND WHO ELSE WAS IN THERE? POOKIE,
8 LAWRENCE KELLY?

9 A. LAWRENCE, YEAH.

10 Q. ALRIGHT. SO, THAT EQUALS SEVEN, DOESN'T IT?

11 A. OKAY.

12 Q. SO, DO YOU AGREE OR DISAGREE?

13 A. IT'S SEVEN.

14 Q. ALRIGHT, THEN, WHY DO YOU HAVE PROBLEMS WITH
15 NUMBERS, WHY DO YOU HAVE PROBLEMS WITH THE
16 QUESTIONS THAT I ASK YOU?

17 SOLICITOR SORENSON: YOUR HONOR, I
18 WOULD ASK HIM, I MEAN, TO QUIT BADGERING THE WITNESS AT
19 THIS POINT IN TIME.

20 MR. WALTERS: YOUR HONOR, THIS IS
21 CROSS-EXAMINATION.

22 THE COURT: WELL, IT'S KIND OF
23 WASTED ON THE COURT, MR. WALTERS.

24 MR. WALTERS: YES, SIR, YOUR
25 HONOR.

CROSS, IN CAMERA - WILL GILLIARD, JR.,
BY MR. WALTERS

71

1 THE COURT: I MEAN, YOU HAVE A RIGHT
2 TO MAKE YOUR POINT, BUT YOU DON'T HAVE A JURY HERE,
3 YOU'VE GOT - - -

4 MR. WALTERS: YES, SIR, I
5 UNDERSTAND.

6 THE COURT: NO, I'VE BEEN AROUND A
7 LONG TIME. TOO LONG.

8 Q. NOW, THE ONLY WAY THAT SEVEN PEOPLE GOT INSIDE OF
9 THE APARTMENT IS, YOU GOT UP AND YOU OPENED THE
10 DOOR TO ALLOW THE OTHER TWO PEOPLE TO COME IN, IS
11 THAT CORRECT?

12 A. YES, SIR.

13 Q. OKAY. SO, YOU VOUCHED FOR THE MAN THAT CAME
14 INSIDE THE ROOM?

15 A. I DIDN'T VOUCH FOR HIM, I SAID, I KNOW HIM.

16 Q. ALRIGHT. AND THEN, YOU TURNED AROUND AND GOT UP
17 AND OPENED THE DOOR SO TWO MORE PEOPLE COULD COME
18 IN?

19 A. YEAH, I WAS GOING OUTSIDE.

20 Q. ALRIGHT. YOU ALSO SAID THAT YOU GAVE THE SAME
21 DESCRIPTION -- WHAT WAS THE DESCRIPTION THAT YOU
22 HAD GIVEN?

23 A. HE WAS CHUBBY, HAD A LOT OF HAIR ON HIS FACE, HAD
24 A HAT ON, SHORT.

25 Q. WHEN YOU SAY, CHUBBY, HOW MUCH DOES HE WEIGH?

CROSS, IN CAMERA - WILL GILLIARD, JR.,
BY MR. WALTERS

72

1 A. I DON'T KNOW, HE WAS CHUBBY, HE WAS BIGGER THAN
2 ME.

3 Q. HOW MUCH DO YOU WEIGH?

4 A. I WEIGH, LIKE, TWO FIFTEEN.

5 Q. ALRIGHT. SO, HE WAS BIGGER THAN YOU. WAS HE TWO
6 FIFTY, WAS HE THREE HUNDRED, OR WAS HE TWO FORTY?

7 A. I DON'T KNOW.

8 Q. ALRIGHT. BUT YOU DON'T HAVE ANY IDEA?

9 A. NO, SIR.

10 Q. ALRIGHT. YOU STATED THAT YOU GAVE THE SAME
11 DESCRIPTION. WHAT DESCRIPTION DID YOU GIVE?

12 A. I JUST TOLD YOU.

13 Q. TELL ME.

14 A. HE WAS SHORT, CHUBBY, - - -

15 Q. OTHER THAN BEING CHUBBY. THAT'S NOT A
16 DESCRIPTION.

17 A. SHORT, FAT, HAD A LOT OF HAIR ON HIS FACE.

18 Q. WHAT DESCRIPTION WAS GIVEN? I COULD SIMPLY STATE,
19 HE WAS TALL, BUT THAT DOESN'T GIVE ME A
20 DESCRIPTION OF A PARTICULAR INDIVIDUAL. WHAT
21 DESCRIPTION WAS GIVEN BY YOU?

22 A. HE WAS SHORT, FAT, A LOT OF HAIR ON HIS FACE.

23 Q. SO, HE WAS SHORT. WHEN YOU SAY SHORT, WHEN YOU
24 THINK ABOUT A SHORT PERSON, I'M A SHORT MAN. WAS
25 HE SHORT LIKE ME?

CROSS, IN CAMERA - WILL GILLIARD, JR.,
BY MR. WALTERS

73

1 A. I WAS TALLER THAN HIM, SO I CALL THAT SHORT.

2 Q. HOW TALL ARE YOU, STAND UP. TELL THE JUDGE, HOW
3 TALL ARE YOU?

4 A. I'M SIX FOOT.

5 Q. ALRIGHT. SO, YOU'RE SIX FEET TALL, AND YOU REFER
6 TO ANYONE THAT'S SHORTER THAN YOU AS SHORT?

7 A. UH HUH.

8 Q. OKAY. AND WOULD YOU CONSIDER ME A SHORT MAN
9 STANDING NEXT TO YOU?

10 A. NO, SIR.

11 Q. ALRIGHT. SO, WHAT DO YOU CONSIDER SHORT? I'M
12 ONLY ABOUT FIVE:EIGHT OR FIVE:NINE. WHAT DO YOU
13 CALL SHORT?

14 A. FIVE:EIGHT, I'D SAY ABOUT FIVE:EIGHT.

15 Q. ALRIGHT, SO YOU CONSIDER ME A SHORT GUY?

16 A. FIVE:EIGHT, FIVE:SEVEN.

17 Q. FIVE:EIGHT, FIVE:SEVEN?

18 A. YEAH.

19 Q. OKAY. SO, THE PERSON THAT YOU SAW WAS FIVE:EIGHT
20 OR FIVE:SEVEN, AND THEY WERE CHUBBY, BUT YOU CAN'T
21 MEASURE HOW MUCH THEY WEIGH, IS THAT CORRECT?

22 A. NO, SIR.

23 Q. ALRIGHT. AND YOU'RE SAYING THAT A SHORT PERSON TO
24 YOU IS SOMEONE THAT'S FIVE:SEVEN OR LESS, AND
25 THEY'RE CHUBBY, IS THAT CORRECT?

CROSS, IN CAMERA - WILL GILLIARD, JR.,
BY MR. WALTERS

74

1 A. YES, SIR.

2 Q. ALRIGHT. SO, YOU'RE SURE THAT IT WASN'T A PERSON
3 THAT WAS OVER FIVE:EIGHT OR FIVE:NINE, OR THEY
4 CERTAINLY WEREN'T TALLER THAN YOU BECAUSE YOU'RE A
5 TALL MAN, IS THAT RIGHT?

6 A. YES, SIR.

7 Q. ALRIGHT. AND THAT'S YOUR DESCRIPTION OF THE
8 PERSON THAT COMMITTED THE CRIME?

9 A. YES, SIR.

10 Q. IN ADDITION TO THAT, WERE THEY WEARING A MASK?

11 A NO, SIR.

12 Q. SO, THIS PARTICULAR PERSON THAT YOU SAW WAS NOT
13 WEARING A MASK?

14 A. NO, SIR.

15 Q. WHAT WERE THEY WEARING?

16 A. A BLACK SWEATER CAP WITH A HOODIE A BLACK HOODIE.

17 Q. OKAY. SO, THIS PERSON WAS WEARING A BLACK SWEATER
18 CAP. ARE YOU SAYING IT'S A STOCKING CAP?

19 A. A SWEATER CAP WITH A LIP ON IT, HE HAD IT TURNED
20 BACK.

21 Q. A SWEATER CAP WITH THE LIP TURNED BACKWARDS, AND
22 YOU SAID, A HOODIE, IS THAT RIGHT?

23 A. WELL, - - -

24 Q. WHEN YOU SAY, A HOODIE - - -

25 A. HE HAD A HOODIE ON.

CROSS, IN CAMERA - WILL GILLIARD, JR.,
BY MR. WALTERS

75

- 1 Q. DESCRIBE TO THE COURT WHAT A HOODIE IS?
- 2 A. A HOODIE IS A JACKET WITH A HAT ON THE BACK.
- 3 Q. OKAY. SO, HE HAD A HOODIE ON AND HE HAD A SWEATER
- 4 CAP ON, IS THAT RIGHT?
- 5 A. YES, SIR.
- 6 Q. AND HE WAS SHORT, AND HE WEIGHED OVER TWO HUNDRED
- 7 AND FIFTEEN POUNDS, BECAUSE THAT'S HOW YOU USUALLY
- 8 GAUGE PEOPLE YOU WEIGH TWO FIFTEEN?
- 9 A. YES, SIR.
- 10 Q. ALRIGHT. HAVE A SEAT. NOW, WHEN YOU GAVE THIS
- 11 DESCRIPTION WHO DID YOU GIVE IT TO?
- 12 A. I THINK I GAVE IT TO SHUMPERT.
- 13 Q. INVESTIGATOR SHUMPERT?
- 14 A. YES, SIR.
- 15 Q. WHAT DID YOU TELL INVESTIGATOR SHUMPERT, THE SAME
- 16 INFORMATION THAT YOU JUST TOLD THE COURT AT THIS
- 17 TIME?
- 18 A. YES, SIR.
- 19 Q. ALRIGHT. AND AFTER PROVIDING THAT INFORMATION TO
- 20 HIM HOW DID YOU END UP SETTING UP A MEETING WHERE
- 21 TERRELL SCOTT POPS UP, AND YOU SAY, OOH, I SAW HIM
- 22 ON YOUR DESK?
- 23 A. I DIDN'T SET THAT MEETING UP, HE WAS CALLING ME
- 24 ALMOST EVERY DAY.
- 25 Q. HE WAS CALLING YOU ALMOST EVERY DAY?

CROSS, IN CAMERA - WILL GILLIARD, JR.,
BY MR. WALTERS

76

1 A. YES, SIR.

2 Q. AND AFTER HE CALLED YOU EVERY DAY HOW DID YOU
3 FINALLY END UP IN HIS OFFICE?

4 A. I JUST, I CALLED HIM AND TOLD HIM THE NAME THAT I
5 WAS HEARING.

6 Q. OH, SO WHAT HAPPENED WAS, IS THAT YOU DIDN'T GO
7 OUT AND IDENTIFY SOMEONE OR GET INFORMATION TO
8 DETERMINE WHO HAD COMMITTED THE CRIME, I BELIEVE
9 YOUR TESTIMONY WAS, TO QUOTE TO YOU WHAT YOU SAID,
10 "THE NAME KEPT COMING UP, TERRELL SCOTT." SO, YOU
11 HEARD SOMETHING IN THE STREET, AND WHEN YOU HEARD
12 THIS IN THE STREET YOU THEN RAN BACK TO THE POLICE
13 WITH THAT NAME, IS THAT CORRECT?

14 A. YES, SIR.

15 Q. WOULDN'T A BEST MEASURE OF WHO COMMITTED THIS
16 CRIME IS TO SIMPLY SAY, YOU KNOW, I KNOW WHO THE
17 PERSON IS? BUT YOU CAME UP WITH A NAME, THAT'S
18 WHAT YOU DID?

19 A. NO, I DIDN'T CAME UP WITH A NAME.

20 Q. THE STREET CAME UP WITH A NAME?

21 A. I GUESS THEY KNOW.

22 Q. ALRIGHT. AND THEN YOU WENT BACK TO INVESTIGATOR
23 SHUMPERT, AND WHEN YOU GOT BACK TO INVESTIGATOR
24 SHUMPERT YOU THEN WENT DOWN TO THE POLICE
25 DEPARTMENT, AND WHAT HAPPENED NEXT?

CROSS, IN CAMERA - WILL GILLIARD, JR.,
BY MR. WALTERS

77

1 A. THE PICTURE WAS LAYING ON THE DESK.

2 Q. RIGHT. THE PICTURE THAT WAS SHOWN TO YOU, AND I'M
3 REFERRING TO STATE'S EXHIBIT NUMBER NINE, HAS THE
4 GENTLEMAN'S NAME ON IT, DOESN'T IT?

5 A. I DIDN'T SEE IT ON THERE.

6 Q. ALRIGHT. BUT YOU SAW THE PICTURE?

7 A. CAN I SHOW YOU HOW THE PICTURE WAS ON THE DESK?

8 Q. WELL, LET ME ASK YOU A QUESTION, THE PICTURE THAT
9 WE HAVE HERE, THIS MAN DOESN'T HAVE HAIR ALL OVER
10 HIS FACE, DOES HE?

11 A. I STILL KNEW HIS FACE.

12 Q. HE HAS HIS NAME RIGHT HERE, HIS PICTURE IS HERE, -

13 - -

14 A. LIKE I SAID, I KNEW - - -

15 Q. --- AND YOU SAID IT WAS LAYING ON A DESK AND IT
16 WAS JUST LAYING THERE AND YOU JUST SAW IT?

17 A. YEAH, YEAH.

18 Q. ALRIGHT. AND YOU JUST PICKED IT OUT OF NOWHERE?

19 A. YEAH, I PICKED IT UP, AND I SAID, MAN, THIS THE
20 GUY RIGHT HERE.

21 Q. OKAY. AND WHO HAD IT ON THE DESK, DID
22 INVESTIGATOR SHUMPERT, HE HAD IT ON HIS DESK?

23 A. YES, SIR.

24 Q. DID HE KNOW IN ADVANCE THAT YOU WERE LOOKING FOR
25 SOMEONE NAMED TERRELL SCOTT?

CROSS, IN CAMERA - WILL GILLIARD, JR.,
BY MR. WALTERS

78

1 A. YES, BECAUSE I GAVE HIM THE NAME.

2 Q. OKAY. SO, YOU GAVE HIM THE NAME BECAUSE YOU HEARD
3 IT FROM THE STREET?

4 A. YES, SIR.

5 Q. AND THIS IS THE PERSON THAT YOU REALLY DON'T KNOW
6 WHO THEY ARE, BUT YOU SAY YOU VOUCHERED FOR HIM
7 WHEN HE CAME INTO THE ROOM?

8 A. I DIDN'T VOUCH FOR HIM, I SAID, I KNOW HIM, I KNOW
9 HIS FACE.

10 Q. WELL, NOW, YOU GUYS ARE SELLING DOPE INSIDE THAT
11 ROOM?

12 A. AIN'T NO GUYS SELLING DOPE, WHAT DO YOU MEAN?

13 Q. YOU'VE GOT TWELVE OUNCE GALLON SIZED BAGS, ZIP
14 LOCK BAGS IN THERE - - -

15 A. THAT'S NOT MY HOUSE.

16 Q. --- WITH GREEN LEAFY SUBSTANCE. ALRIGHT.

17 A. THAT'S NOT MY HOUSE.

18 Q. AND I BELIEVE IN YOUR STATEMENT YOU'RE THE ONE
19 THAT DETECTED THERE WAS SOME TENSION THAT WAS
20 GROWING, SO YOU GOT UP AND YOU SAID, I'M GOING TO
21 GO OVER HERE AND OPEN THE DOOR. IS THAT CORRECT?
22 YOU SAW SOME TENSION BECAUSE JOHN WOULD NOT SELL
23 THE GUY THAT CAME INSIDE THE ROOM THAT SAID, I
24 WANT SOME WEIGHT?

25 A. I FELT FUNNY.

CROSS, IN CAMERA - WILL GILLIARD, JR.,
BY MR. WALTERS

79

1 Q. YOU FELT FUNNY, BECAUSE - - -

2 A. BECAUSE EVERYTHING TOOK SO LONG.

3 Q. YOUR TESTIMONY TODAY IS, YOU SAID HE WANTED A HALF
4 OUNCE?

5 A. UH HUH.

6 Q. DO YOU KNOW WHAT YOUR TESTIMONY WAS BEFORE?

7 A. WHAT WAS IT?

8 Q. DO YOU WANT TO REFRESH YOUR MIND? READ YOUR
9 STATEMENT.

10 A. I DIDN'T SAY IT THEN.

11 COURT REPORTER: WHAT DID YOU JUST
12 SAY?

13 A. I DIDN'T SAY IT.

14 Q. YOU REALIZE YOU GAVE THREE STATEMENTS, YOU KNOW
15 THAT, DON'T YOU?

16 A. THREE STATEMENTS?

17 Q. YOU DON'T REALIZE THAT YOU GAVE THREE STATEMENTS
18 TO THE POLICE?

19 A. OKAY.

20 Q. YES OR NO?

21 A. YES.

22 Q. AND DO YOU KNOW YOU CHANGED YOUR STATEMENT EVERY
23 TIME, YES OR NO?

24 A. NO. I WAS JUST TELLING YOU WHAT I REMEMBER.

25 Q. ALRIGHT. SO, THEN, AFTER YOU WENT THROUGH THIS

CROSS, IN CAMERA - WILL GILLIARD, JR.,
BY MR. WALTERS

80

1 PROCESS AND YOU GO INSIDE THE ROOM WITH OFFICER
2 SHUMPERT, INVESTIGATOR SHUMPERT, I'M SORRY, AND
3 YOU GET INSIDE THE ROOM THERE, THAT PICTURE JUST
4 POPPED OUT, AND YOU SAID, BAM, THAT'S GOT TO BE
5 HIM?

6 A. LIKE I SAID, I WAS BEING NOSY LOOKING AT THE OTHER
7 PICTURES.

8 Q. AND YOU HAPPENED TO SEE THAT PICTURE?

9 A. AND I SEE THE FACE AND I'M, LIKE, MAN, THAT'S THE
10 GUY RIGHT THERE.

11 Q. WHAT A FRUITEOUS EVENT. YOU JUST HAPPENED TO SEE
12 SOMEONE FROM SANTEE AND THEY WALK IN THE
13 APARTMENT, AND YOU SAY, I KNOW HIM, GO AHEAD AND
14 SELL TO HIM, AND THEN YOU REALIZE THERE'S
15 TENSION, AND YOU OPEN THE DOOR AND TWO PEOPLE RUSH
16 IN?

17 A. I KNOW HIM, GO AHEAD AND SELL TO HIM, I DIDN'T SAY
18 THAT.

19 Q. BUT WHEN YOU VOUCHED FOR HIM AND SAID I KNOW HIM -
20 - -

21 A. I DIDN'T VOUCH FOR HIM, I SAID I KNOW HIS FACE.

22 Q. --- THAT WAS FOR THEM TO SELL THE DOPE, WASN'T IT?

23 A. NO, WHAT DO YOU MEAN, MAN?

24 MR. WALTERS: I BEG THE COURT'S
25 INDULGENCE.

CROSS, IN CAMERA - WILL GILLIARD, JR.,
BY MR. WALTERS

81

- 1 Q. YOU ALSO TESTIFIED THAT YOU FELL DOWN, IS THAT
2 CORRECT?
- 3 A. YES, SIR.
- 4 Q. DID SOMEBODY KNOCK YOU DOWN?
- 5 A. I GUESS I TRIP UP.
- 6 Q. HOW DID YOU TRIP?
- 7 A. BECAUSE THE GUYS RUSHED IN.
- 8 Q. THESE THREE GUYS?
- 9 A. TWO GUYS.
- 10 Q. THAT'S RIGHT, YOU OPENED THE DOOR AND LET THEM IN,
11 THAT'S RIGHT. IS THAT RIGHT?
- 12 A. SO, YOU'RE SAYING I'M THE THIRD GUY?
- 13 Q. YOU OPENED THE DOOR AND TERRELL SCOTT WAS STANDING
14 THERE, YOU THEN WENT AND PROCEEDED FORWARD AND
15 OPENED THE DOOR, AND TWO MORE PEOPLE RAN IN,
16 THAT'S WHAT YOU DID?
- 17 A. YES, SIR.
- 18 Q. TERRELL SCOTT DIDN'T OPEN THE DOOR, HARRY MACK
19 DIDN'T OPEN THE DOOR - - -
- 20 A. I OPENED THE DOOR.
- 21 Q. THAT'S RIGHT. DID YOU KNOW THE TWO PEOPLE THAT
22 WERE OUTSIDE THAT DOOR?
- 23 A. NO, SIR, NO, SIR.
- 24 Q. ARE YOU SURE YOU DIDN'T?
- 25 A. NO, SIR.

1 MR. WALTERS: YOUR HONOR, WE HAVE NO
2 FURTHER QUESTIONS.

3 THE COURT: ALRIGHT. REDIRECT?

4 SOLICITOR SORENSON: NO, SIR.

5 THE COURT: YOU CAN STAND DOWN.

6 SOLICITOR SORENSON: THE STATE CALLS
7 LAWRENCE KELLY.

8 THE COURT: ALRIGHT. I'M GOING TO
9 HAVE TO TAKE A LITTLE RECESS AT FIVE:THIRTY, I'VE GOT A
10 CONFERENCE COMING IN. WE'LL GO UNTIL THEN AND THEN I'LL
11 FINISH MY CALL AND COME BACK.

12 SOLICITOR SORENSON: OKAY.

13 THE COURT: PUT YOUR LEFT HAND ON
14 THE BIBLE AND RAISE YOUR RIGHT, PLEASE.

15 (Whereupon, Lawrence James KELLY,
16 is duly sworn.)

17 THE COURT: THANK YOU, SIR, HAVE A
18 SEAT AND STATE YOUR FULL NAME.

19 MR. KELLY: LAWRENCE JAMES KELLY.

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.)

DIRECT, IN CAMERA, LAWRENCE JAMES KELLY
BY SOLICITOR SORENSON:

83

DIRECT EXAMINATION, IN CAMERA, OF LAWRENCE JAMES
KELLY BY SOLICITOR SORENSON:

Q. ALRIGHT, MR. KELLY, PLEASE TELL THE COURT HOW OLD
YOU ARE?

A. FORTY.

Q. OKAY. AND WHERE ARE YOU ORIGINALLY FROM, MR.
KELLY?

A. I'M ORIGINALLY FROM DETROIT, MICHIGAN.

Q. OKAY. AND WHEN DID YOU MOVE DOWN HERE TO SOUTH
CAROLINA?

A. TWO THOUSAND SIX.

Q. OKAY, ABOUT SIX MONTHS OR SO BEFORE THIS HAPPENED?

A. MAYBE THREE.

Q. THREE MONTHS BEFORE?

A. I THINK IT WAS IN JUNE, TWO THOUSAND AND SIX.

Q. OKAY. AND IF YOU WOULD, TELL THE COURT JUST
BRIEFLY, HOW DO YOU KNOW WILL GILLIARD?

A. I KNOW WILL GILLIARD THROUGH MY COUSIN AND HIS
WIFE.

Q. OKAY. AND HOW ABOUT JOHN RANDOLPH AND HARRY MACK?

A. I JUST MET THOSE TWO GUYS THE NIGHT OF THE TWENTY-
THIRD.

Q. OKAY. AND I WANT TO TURN YOUR ATTENTION, IF I
COULD, TO THAT NIGHT, WHAT WERE YOU DOING THAT
NIGHT OF THE TWENTY-THIRD, INTO THE EARLY MORNING

DIRECT, IN CAMERA, LAWRENCE JAMES KELLY
BY SOLICITOR SORENSON:

84

1 HOURS OF THE TWENTY-FOURTH, WHAT WERE Y'ALL DOING?

2 A. GETTING READY TO GO OUT TO A CLUB, CLUB ECLIPSE.

3 Q. OKAY. AND WHO WERE YOU WITH INITIALLY?

4 A. I WAS INITIALLY WITH WILL GILLIARD.

5 Q. OKAY. AND WHO WAS DRIVING?

6 A. I WAS.

7 Q. OKAY. AND WHERE, WHERE DID YOU END UP STOPPING
8 BEFORE YOU WENT TO THE CLUB?

9 A. WE WENT OVER TO JOHN'S HOUSE.

10 Q. OKAY. AND HAD YOU EVER BEEN TO THAT APARTMENT
11 BEFORE THAT NIGHT?

12 A. NO.

13 Q. OKAY. AND WHEN YOU WENT INSIDE WHO DID YOU MEET
14 THEN INSIDE THAT NIGHT?

15 A. I MET JOHN AND HARRY.

16 Q. OKAY. AND I BELIEVE YOU HAD TESTIFIED JUST A
17 SECOND AGO, HAD YOU EVER MET EITHER ONE OF THEM
18 BEFORE THAT NIGHT?

19 A. NO, I HAVEN'T. I KNOW WILL BEFORE THAT NIGHT, I
20 MEAN.

21 Q. YES, SIR. ALRIGHT, AND WHAT WERE Y'ALL DOING I
22 THAT APARTMENT?

23 A. SMOKING SOME WEED, TALKING TRASH.

24 Q. OKAY. AND WERE Y'ALL WAITING ON ANYTHING IN
25 PARTICULAR?

DIRECT, IN CAMERA, LAWRENCE JAMES KELLY
BY SOLICITOR SORENSON:

85

- 1 A. JOHN AND HARRY, TO GET DRESSED.
- 2 Q. WERE THEY GOING TO OUT WITH Y'ALL?
- 3 A. YES.
- 4 Q. OKAY. AND TELL THE COURT WHAT HAPPENED THEN?
- 5 A. IT WAS A KNOCK CAME TO THE DOOR. THE GUY SAID HIS
- 6 NAME WAS JAY, JAY FROM SANTEE.
- 7 Q. DID HE -- WHO ANSWERED THE DOOR?
- 8 A. HARRY ANSWERED THE DOOR.
- 9 Q. OKAY. AND WHERE WERE YOU AT WHEN THAT HAPPENED?
- 10 A. I WAS SITTING ON THE COUCH.
- 11 Q. OKAY. AND THAT WOULD BE THE, KIND OF THE LONGER
- 12 OF THE COUCHES, THAT COUCH THERE?
- 13 A. YEAH, THAT COUCH RIGHT THERE.
- 14 Q. AND WHO ELSE WAS SITTING THERE, ANYBODY, DO YOU
- 15 REMEMBER?
- 16 A. I THINK WILL T. WAS SITTING ON THIS END, AND I WAS
- 17 SITTING ON THE FAR END.
- 18 Q. OKAY. AND -- ALRIGHT, AND YOU SAID HARRY ANSWERED
- 19 THE DOOR?
- 20 A. YES.
- 21 Q. OKAY. DESCRIBE THE PERSON THAT WAS AT THE DOOR
- 22 WHEN HE ANSWERED IT?
- 23 A. BROWN SKINNED, CHUNKY GUY, DIRTY SHIRT, BASEBALL -
- 24 - ONE OF THOSE SWEATER CAPS WITH THE BILL ON THE
- 25 BACK.

DIRECT, IN CAMERA, LAWRENCE JAMES KELLY
BY SOLICITOR SORENSON:

86

1 Q. OKAY. ALRIGHT, AND WHAT HAPPENED THEN, TELL THE
2 COURT WHAT HAPPENED THEN?

3 A. WHEN HARRY ANSWERED THE DOOR HE SAID HIS NAME WAS
4 JAY FROM SANTEE. HE BASICALLY, LIKE, BULLIED HIS
5 WAY THROUGH THE DOOR, YOU KNOW, JUST WALKED IN.
6 SO, JOHN SAID HE DIDN'T KNOW HIM, HARRY SAID HE
7 DIDN'T KNOW HIM, SO JOHN SAID, PUT HIM OUT.
8 ACTUALLY, HE WASN'T TRYING TO LEAVE, JUST TRYING
9 TO KEEP GOING ON ABOUT THE WEIGHT SITUATION.

10 Q. AND WHAT DO YOU MEAN, TELL THE COURT WHAT HE WAS
11 ASKING FOR?

12 A. HE WAS ASKING FOR DRUGS.

13 Q. OKAY. ALRIGHT, AND WHAT WERE YOU DOING THIS WHOLE
14 TIME?

15 A. WATCHING HIM.

16 Q. OKAY. WHERE WERE YOU, STILL ON THE COUCH?

17 A. YEAH.

18 Q. OKAY. AND TELL THE COURT, WHY WERE YOU WATCHING
19 HIM?

20 A. BECAUSE HE CAME IN ASKING FOR DRUGS, YOU KNOW, AND
21 I DIDN'T KNOW THE HOUSE WAS A DRUG HOUSE OR
22 NOTHING LIKE THAT.

23 Q. DID IT MAKE YOU UNCOMFORTABLE AT THAT POINT IN
24 TIME?

25 A. YEAH.

DIRECT, IN CAMERA, LAWRENCE JAMES KELLY
BY SOLICITOR SORENSON:

87

- 1 Q. ALRIGHT. AND TELL THE COURT WHAT HAPPENED THEN?
- 2 A. HE KEPT PROCEEDING ON, ASKING FOR DRUGS, AND THEY
- 3 KEPT SAYING, THERE'S NO DRUGS HERE.
- 4 Q. OKAY. AND WAS THERE ANYTHING -- YOU TESTIFIED
- 5 THAT HE HAD KIND OF LIKE A SWEATER CAP ON WITH A
- 6 BILL, - - -
- 7 A. YEAH.
- 8 Q. --- WAS ANYTHING ELSE COVERING HIS FACE, A SHIRT
- 9 PULLED OR A HANDKERCHIEF, OR ANYTHING OBSTRUCTING
- 10 YOUR VIEW OF HIS FACE AT THAT TIME?
- 11 A. NONE OF THAT.
- 12 Q. AND WHAT ABOUT THE LIGHTING INSIDE THE APARTMENT,
- 13 WERE THE LIGHTS ON WHERE YOU COULD SEE?
- 14 A. YES.
- 15 Q. ALRIGHT. AND WHAT HAPPENED THEN, AFTER, I MEAN,
- 16 THEY HAD KIND OF GONE BACK AND FORTH ABOUT WHO HE
- 17 WAS OR WHETHER ANYBODY KNEW HIM, WHAT HAPPENED
- 18 THEN?
- 19 A. I'M PRETTY MUCH SURE, WILL GOT UP AND SAID, I'M
- 20 GOING OUTSIDE TO GET SOME AIR.
- 21 Q. OKAY. DO YOU RECALL AT ANY POINT IN TIME IF
- 22 ANYBODY INDICATED THEY KNEW WHO HE WAS?
- 23 A. YEAH, WILL SAID, I KNOW ABOUT HIM FROM SANTEE OR
- 24 FORTY-FIVE, ONE OF THE TWO, I'M NOT SURE WHICH
- 25 ONE, BUT I THINK IT'S SANTEE.

88

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A. I'M PRETTY SURE WILL SAID HE WAS FROM SANTEE OR FORTY-FIVE.

A. FORTY-FIVE IS A LITTLE ROAD ON - - -

A. YEAH.

A. YEAH?

Q. OKAY. AND DID HE ACTUALLY GO TO THE DOOR?

A. YES.

Q. AND TELL THE COURT WHAT HAPPENED THEN?

A. WHEN HE OPENED THE DOOR TWO GUYS RUSHED IN, PUSHED, BASICALLY PUSHED HIM DOWN TO THE FLOOR. THAT'S WHEN I SAID, MAN, THIS IS A HIT. I DOVE TO THE FLOOR.

Q. OKAY. ALRIGHT, AND TELL THE COURT WHAT YOU SAW THEN?

A. I SAW TERRELL PULLED OUT THE BIGGEST GUN I EVER
SEEN IN MY LIFE.

Q. WHAT KIND OF GUN WAS IT, I MEAN, DESCRIBE, YOU SAID, BIG.

A. IT LOOKED LIKE A THREE FIFTY-SEVEN, IT'S A LONG

DIRECT, IN CAMERA, LAWRENCE JAMES KELLY
BY SOLICITOR SORENSON:

89

1 ONE.

2 Q. OKAY. A REVOLVER OR - - -

3 A. REVOLVER, YES.

4 Q. ALRIGHT. AND WHAT HAPPENED THEN?

5 A. I HEARD A COUPLE OF SHOTS. THAT'S WHEN THEY
6 GRABBED JOHN, START ROUGHING HIM UP.

7 Q. DO YOU KNOW WHERE HARRY WENT AT THAT POINT IN
8 TIME?

9 A. TO THE BEDROOM, BATHROOM, THAT'S THAT WAY,
10 BATHROOM, BEDROOM.

11 Q. BACK THERE?

12 A. YES.

13 Q. ALRIGHT. AND YOU SAID YOU THOUGHT A COUPLE OF
14 SHOTS?

15 A. YES.

16 Q. DO YOU KNOW WHO IT WAS THAT WAS SHOOTING?

17 A. TERRELL.

18 Q. OKAY. NOW, THE OTHER TWO GUYS THAT RUSHED IN,
19 WERE THEY ARMED ALSO?

20 A. YES.

21 Q. OKAY. AND WHAT KIND OF GUNS DID THEY HAVE?

22 A. SMALL ONES.

23 Q. OKAY. AND DID YOU ACTUALLY SEE THE GUY THAT YOU
24 IDENTIFIED AS TERRELL WHEN HE PULLED IT OUT AND
25 STARTED SHOOTING?

DIRECT, IN CAMERA, LAWRENCE JAMES KELLY
BY SOLICITOR SORENSON:

90

1 A. YES. I NEVER TOOK MY EYES OFF THIS GUY.

2 Q. OKAY. AND DID THEY END UP TAKING ANYTHING OFF OF
3 YOU?

4 A. A WALLET AND A HUNDRED AND FIFTY DOLLARS.

5 Q. OKAY. YOU SAID YOU NEVER TOOK YOUR EYE OFF OF
6 HIM, DID YOU GET A GOOD LOOK AT HIM THEN?

7 A. YES.

8 Q. ALRIGHT. I'M GOING TO KIND OF FAST FORWARD NOW.
9 THAT NEXT MORNING DID LIEUTENANT SHUMPERT
10 ULTIMATELY GET UP WITH YOU BACK AT YOUR HOUSE AND
11 GET YOU TO COME IN AND SEE HIM?

12 A. YES, HE CALLED ME DOWN TO SANTEE FACILITIES.

13 Q. OKAY. AND DID YOU GIVE A STATEMENT AT THAT POINT
14 IN TIME?

15 A. NO, I DIDN'T.

16 Q. OKAY. DID YOU ULTIMATELY AT SOME POINT IN TIME
17 THAT MORNING GIVE A STATEMENT?

18 A. YEAH, LATER ON THAT DAY.

19 Q. LATER ON THAT DAY. ALRIGHT, DID YOU HAVE AN
20 OPPORTUNITY ALSO THAT DAY TO MEET WITH A SLED
21 AGENT AND DO A - - -

22 A. COMPOSITE SKETCH.

23 Q. --- COMPOSITE?

24 A. YES.

25 Q. LET ME SHOW YOU STATE'S EXHIBIT NUMBER THIRTEEN,

DIRECT, IN CAMERA, LAWRENCE JAMES KELLY
BY SOLICITOR SORENSON:

91

- 1 IS THAT THE COMPOSITE THAT YOU ASSISTED IN DOING?
- 2 A. YES, YES, IT IS.
- 3 Q. ALRIGHT. AND IS THAT FROM INFORMATION THAT YOU
- 4 PROVIDED AS FAR AS HIS DESCRIPTION?
- 5 A. YES.
- 6 Q. OKAY. AND IN LOOKING AT THAT NOW, DOES THAT
- 7 PRETTY MUCH RESEMBLE THE PERSON THAT YOU SAW THAT
- 8 NIGHT IN THAT APARTMENT?
- 9 A. YES.
- 10 Q. OKAY. IS THERE ANYTHING THAT COULD BE CHANGED
- 11 WITH IT A LITTLE BIT OR - - -
- 12 A. IF SHE WOULD HAVE FATTENED THE FACE UP A LITTLE
- 13 BIT.
- 14 Q. A LITTLE BIT?
- 15 A. JUST A LITTLE.
- 16 Q. NOW, HAD YOU EVER SEEN THAT PERSON BEFORE THAT
- 17 NIGHT?
- 18 A. NO.
- 19 Q. HE DIDN'T LOOK FAMILIAR TO YOU AT ALL?
- 20 A. NO.
- 21 Q. ALRIGHT. NOW, A COUPLE OF DAYS LATER, ON THE
- 22 TWENTY-SIXTH, I GUESS THE DAY AFTER CHRISTMAS, DO
- 23 YOU RECALL LIEUTENANT SHUMPERT GETTING WITH YOU
- 24 AND SHOWING YOU A COUPLE OF PHOTOGRAPHIC LINEUPS?
- 25 A. YES.

DIRECT, IN CAMERA, LAWRENCE JAMES KELLY
BY SOLICITOR SORENSON:

92

1 Q. I WANT TO SHOW YOU STATE'S EXHIBIT NUMBER FIVE, DO
2 YOU RECALL HIM SHOWING YOU THAT LINEUP THAT DAY,
3 ON THE TWENTY-SIXTH?

4 A. YES, I DO.

5 Q. OKAY. AND DID YOU RECOGNIZE ANYBODY IN THAT
6 LINEUP?

7 A. EXCUSE ME, NO, I DIDN'T.

8 Q. OKAY. AND DID HE TELL YOU, DID LIEUTENANT
9 SHUMPERT AT ANY POINT IN TIME TELL YOU YOU HAD TO
10 PICK ANYBODY OR WHO TO PICK OUT OR ANYTHING LIKE
11 THAT?

12 A. NO, HE JUST SAID, MAKE SURE THAT I PICK THE RIGHT
13 ONE.

14 Q. AND THEN, STATE'S EXHIBIT NUMBER ELEVEN, LET ME
15 ASK YOU, DID YOU ALSO, AFTER HE CAME AROUND THAT
16 SAME DAY DID HE SHOW YOU STATE'S EXHIBIT NUMBER
17 ELEVEN?

18 A. YES.

19 Q. OKAY. AND DID YOU, IN FACT, PICK ANYBODY OUT OF
20 STATE'S EXHIBIT NUMBER ELEVEN?

21 A. YES, I TOLD HIM I PROBABLY WAS ABOUT SEVENTY-FIVE
22 OR EIGHTY PER CENT SURE, BUT I WASN'T A HUNDRED.

23 Q. OKAY. AND WHO DID YOU PICK OUT?

24 A. NUMBER SIX.

25 Q. OKAY. AND DID YOU CIRCLE THAT, INITIALED IT AND

DIRECT, IN CAMERA, LAWRENCE JAMES KELLY
BY SOLICITOR SORENSON:

93

1 DATED IT?

2 A. YES.

3 Q. AND YOU ALSO FILLED OUT A LITTLE AFFIDAVIT THAT
4 WAS ATTACHED TO IT ALSO, THAT THAT WAS THE GUY
5 THAT HAD KNOCKED ON THE DOOR - - -

6 A. YES.

7 Q. --- SAYING THAT, THAT YOU THOUGHT THAT WAS HIM?

8 A. YES.

9 Q. OKAY. AND DID YOU TELL LIEUTENANT SHUMPERT THAT
10 YOU WERE ONLY SEVENTY-FIVE TO EIGHTY PER CENT SURE
11 AT THAT POINT IN TIME?

12 A. YES, I DID, I TOLD HIM I WAS ABOUT SEVENTY-FIVE OR
13 EIGHTY PER CENT SURE.

14 Q. ALRIGHT. I'M GOING TO KIND OF FAST FORWARD YOU
15 NOW, ALMOST A MONTH LATER, DO YOU RECALL
16 LIEUTENANT SHUMPERT COMING OUT AND MEETING WITH
17 YOU AND SHOWING YOU ANOTHER SERIES OF PICTURES?

18 A. I CAME TO THE COMPLEX.

19 Q. OKAY. AND THAT IS ON JANUARY TWENTY-FIFTH OF TWO
20 THOUSAND AND SEVEN, WOULD THAT BE CORRECT?

21 A. YES.

22 Q. I'M SHOWING YOU STATE'S EXHIBIT NUMBER TWELVE, IS
23 THAT THE SERIES OF PHOTOGRAPHS THAT HE HAD YOU
24 LOOK AT THAT DAY?

25 A. YES.

DIRECT, IN CAMERA, LAWRENCE JAMES KELLY
BY SOLICITOR SORENSON:

94

1 Q. OKAY. AND THAT WOULD BE TWELVE PICTURES?

2 A. YES.

3 Q. AND YET AGAIN, DID HE TELL YOU THAT YOU HAD TO
4 PICK ANYBODY OUR, OR THAT THERE WAS A SPECIFIC
5 PERSON THAT YOU NEEDED TO IDENTIFY?

6 A. HE JUST TOLD ME TO BE SURE.

7 Q. OKAY. AND DID YOU LOOK AT THESE TWELVE PICTURES?

8 A. YES, I DID.

9 Q. AND WERE YOU ABLE TO IDENTIFY ANYBODY IN THESE
10 TWELVE PICTURES?

11 A. NUMBER FIVE.

12 Q. NUMBER FIVE ON THIS FIRST - - -

13 A. YEAH.

14 Q. OKAY. AND DID YOU, YET AGAIN AS YOU DID BEFORE,
15 CIRCLE IT, INITIAL AND DATE IT AND TIME AT THIS
16 TIME, TOO, FOUR:O-FIVE IN THE AFTERNOON?

17 A. YES.

18 Q. AND FILLED OUT THE ATTACHED AFFIDAVIT INDICATING
19 THAT YOU PICKED OUT NUMBER FIVE?

20 A. YES.

21 Q. AND IT'S SIGNED AND WITNESSED, IS THAT CORRECT?

22 A. YES.

23 Q. OKAY. AND TELL THE COURT WHEN YOU SAW THESE
24 TWELVE PHOTOGRAPHS AND IDENTIFIED THAT PICTURE
25 THAT, TELL THE COURT, I MEAN, HOW THAT WENT AND

DIRECT, IN CAMERA, LAWRENCE JAMES KELLY
BY SOLICITOR SORENSON:

95

1 HOW SURE YOU WERE WHEN YOU SAW THAT?

2 A. HE LAID THE PICTURES SIDE BY SIDE, TOLD ME TO TAKE
3 A LOOK AT THEM, AND I POINTED TO THIS GUY RIGHT
4 HERE.

5 Q. OKAY. AND WHY IS IT THAT YOU IDENTIFIED THAT
6 PHOTOGRAPH?

7 A. BECAUSE THAT WAS HIM THAT COME THROUGH THE DOOR.

8 Q. ANY DOUBT IN MY MIND?

9 A. NO DOUBT IN YOUR MIND.

10 Q. THAT'S THE PERSON THAT YOU HAD DEPICTED IN THE
11 COMPOSITE?

12 A. EXACTLY, THIS GUY, EXACTLY.

13 SOLICITOR SORENSON: THANK YOU, MR.
14 KELLY, PLEASE ANSWER ANY QUESTIONS THAT - - -

15 THE COURT: LET'S TAKE A FEW MINUTES
16 RIGHT NOW. JUST BE AT EASE AND I'LL BE BACK IN JUST A
17 FEW MINUTES.

18 (Recess)

19 THE COURT: ALRIGHT, CROSS-
20 EXAMINATION OF MR. KELLY.

21 MR. WALTERS: MAY IT PLEASE THE
22 COURT, YOUR HONOR, WE HAVE NO QUESTIONS.

23 THE COURT: NO QUESTIONS. ALRIGHT,
24 THANK YOU, MR. KELLY, YOU CAN HAVE A SEAT.

25 ANYTHING ELSE FROM THE STATE?

1 SOLICITOR SORENSON: LIEUTENANT
2 SHUMPERT.

3 THE COURT: NOW, THAT, THAT'S NOT
4 WASTED ON THE COURT.

5 SOLICITOR SORENSON: LIEUTENANT
6 SHUMPERT, PLEASE.

7 THE COURT: SIR?

8 SOLICITOR SORENSON: LIEUTENANT
9 SHUMPERT.

10 THE COURT: ALRIGHT, COME ON AROUND.

11 SOLICITOR: YOUR HONOR, MAY WE
12 APPROACH?

13 THE COURT: YES.

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

17 THE COURT: THIS IS DIRECTED TO ANY
18 LAW ENFORCEMENT OFFICER IN THE STATE OF SOUTH CAROLINA,
19 THE STATE'S REQUEST FOR A BENCH WARRANT IS GRANTED. THE
20 BENCH WARRANT IS ISSUED FOR THE IMMEDIATE ARREST OF
21 TERRELL SCOTT. THAT OUGHT TO TAKE CARE OF YOU.

22 SOLICITOR: THANK YOU, YOUR HONOR,
23 I'LL MAKE FOUR COPIES OF IT.

24 THE COURT: ALRIGHT, SIR, HAVE A
25 SEAT. PLACE YOUR LEFT HAND ON THE BIBLE AND RAISE YOUR

1 RIGHT.

2 (Whereupon, James Carl Shumpert
3 is duly sworn.)

4 THE COURT: THANK YOU, SIR, HAVE A
5 SEAT AND STATE YOUR FULL NAME.

6 MR. SHUMPERT: IT'S JAMES CARL
7 SHUMPERT.

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

DIRECT, IN CAMERA, JAMES CARL SHUMPERT
BY SOL. SORENSON

98

DIRECT EXAMINATION, IN CAMERA OF JAMES CARL SHUMPERT
BY SOLICITOR SORENSON:

Q. SIR, WHERE ARE YOU EMPLOYED?

A. ORANGEBURG COUNTY SHERIFF'S OFFICE.

Q. AND WHAT ARE YOUR CURRENT DUTIES THERE?

A. INVESTIGATOR, CRIMINAL INVESTIGATOR.

Q. OKAY. AND HOW LONG HAVE YOU BEEN WITH THE
SHERIFF'S OFFICE?

A. TEN YEARS.

Q. ALRIGHT. AND HOW LONG HAVE YOU BEEN EMPLOYED AS AN
INVESTIGATOR THERE?

A. THREE, JUST A LITTLE OVER THREE YEARS.

Q. OKAY. AND BACK IN DECEMBER OF TWO THOUSAND AND
SIX WERE YOU ASSIGNED AS THE LEAD INVESTIGATOR
INTO THE INVESTIGATION OF THE MURDER OF HARRY
MACK?

A. YES, I WAS.

Q. OKAY. AND DID YOU HAVE AN OPPORTUNITY, SIR, IN
THE DAY OR SO THAT FOLLOWED, OR THE SHERIFF'S
OFFICE AT LEAST, TO OBTAIN STATEMENTS FROM THE
THREE VICTIMS/WITNESSES THAT JUST TESTIFIED BEFORE
THE COURT?

A. YES, WE DID.

Q. OKAY. AND AS PART OF THAT INVESTIGATION,
LIEUTENANT, THE COMPOSITE, STATE'S EXHIBIT NUMBER

DIRECT, IN CAMERA, JAMES CARL SHUMPERT
BY SOL. SORENSON

99

1 THIRTEEN, WAS THAT COMPOSITE DONE BY MR. KELLY?

2 A. YES, ACTUALLY THE SLED AGENT THAT I CALLED, BUT
3 YES, SIR.

4 Q. OKAY. SO, THAT WAS THEN PROVIDED TO YOU AS PART
5 OF YOUR INVESTIGATION?

6 A. IT WAS.

7 Q. OKAY. AND LET ME ASK YOU, AT THE EARLY PART OF
8 THAT INVESTIGATION HAD ONE OF, ANY OF THE THREE OF
9 THEM, EITHER MR. GILLIARD, MR. KELLY, OR MR.
10 RANDOLPH INDICATED TO YOU THAT THEY MAY HAVE
11 RECOGNIZED OR SEEN THE SUSPECT THAT DIDN'T HAVE
12 HIS FACE COVERED BEFORE?

13 A. THE ONLY ONE THAT ACTUALLY SAID THEY COULD
14 RECOGNIZE HIS FACE WAS MR. GILLIARD.

15 Q. OKAY. THAT HE HAD SEEN HIM AT SOME POINT IN TIME
16 BEFORE?

17 A. AROUND SANTEE, FIFTEEN.

18 Q. ALRIGHT. NOW, AS THE DAYS PROGRESSED AFTER THIS
19 HOMICIDE, INVESTIGATOR, DID YOU START KIND OF
20 GENERATING PHOTO LINEUPS OF NAMES THAT HAD COME UP
21 OR THAT YOU HAD, IN HAVING LOOKING AT EVEN THE
22 COMPOSITE, HAD KIND OF GENERATED TO SHOW TO THE
23 THREE OF THEM?

24 A. YES, SIR, I DID.

25 Q. OKAY. AND SPECIFICALLY, ON DECEMBER TWENTY-SIXTH,

DIRECT, IN CAMERA, JAMES CARL SHUMPERT
BY SOL. SORENSON

100

1 TWO DAYS LATER OR SO, DID YOU HAVE AN OPPORTUNITY
2 TO SHOW A COUPLE OF THOSE LINEUPS TO MR. KELLY AND
3 TO MR. RANDOLPH?

4 A. YES, I DID.

5 Q. AND SPECIFICALLY, LET ME SHOW YOU STATE'S EXHIBIT
6 NUMBER FIVE, DID YOU HAVE AN OPPORTUNITY TO SHOW
7 THAT LINEUP TO THE TWO OF THEM?

8 A. THAT WAS ONE OF THEM, YES, SIR.

9 Q. OKAY. AND WERE EITHER ONE OF THEM ABLE TO PICK
10 ANYBODY, OR DID EITHER ONE OF THEM PICK ANYBODY
11 OUT OF STATE'S EXHIBIT NUMBER FIVE?

12 A. NO, THEY DIDN'T PICK NO ONE OUT OF FIVE.

13 Q. DID YOU AT ANY POINT IN TIME WHEN YOU WERE SHOWING
14 THESE LINEUPS TELL THE WITNESSES THAT THEY HAD TO
15 PICK SOMEBODY, OR THAT THE PERSON WAS IN THERE?

16 A. NO, I DIDN'T.

17 Q. AND I'M ALSO SHOWING YOU STATE'S EXHIBIT NUMBER
18 FOUR, DID YOU HAVE AN OPPORTUNITY TO SHOW THAT
19 LINEUP THAT SAME DAY, DECEMBER TWENTY-SIXTH, TO
20 MR. RANDOLPH?

21 A. I DID.

22 Q. OKAY. AND WAS HE, DID HE PICK ANYBODY OUT OF
23 STATE'S EXHIBIT NUMBER FOUR?

24 A. NO, HE DIDN'T.

25 Q. AND STATE'S EXHIBIT NUMBER ELEVEN, DID YOU HAVE AN

DIRECT, IN CAMERA, JAMES CARL SHUMPERT
BY SOL. SORENSON

101

1 OPPORTUNITY TO SHOW, WHICH IS JUST BASICALLY A RE,
2 KIND OF ORDERED NUMBER FOUR, THAT LINEUP TO MR.
3 KELLY?

4 A. I DID.

5 Q. AND DID HE, IN FACT, PICK SOMEBODY OUT OF THAT
6 LINEUP?

7 A. HE DID, HE PICKED SIX.

8 Q. SIX, AND HE CIRCLED IT, INITIALED IT AND DATED IT?

9 A. HE DID.

10 Q. OKAY. AND WHAT DID HE INDICATE TO YOU WHEN HE
11 PICKED THAT PERSON OUT?

12 A. WELL, HE TOLD ME THAT HE WASN'T SURE IF THAT WAS
13 THE GUY. HE GAVE A PERCENTAGE, HE WAS, LIKE,
14 SEVENTY TO EIGHTY PER CENT SURE, THAT HE WASN'T
15 CERTAIN IF THAT WAS THE GUY BUT IT RESEMBLED THE
16 GUY.

17 Q. OKAY. SO, HE HAD INDICATED THAT TO YOU THERE?

18 A. YES, HE DID.

19 Q. OKAY. LET ME ASK YOU, AS THE WEEKS WENT BY DID
20 YOU GENERATE SEVERAL OTHER PHOTOGRAPHIC LINEUPS
21 THAT WERE SHOWN TO ANY OF THESE WITNESSES?

22 A. I DID.

23 Q. OKAY. AND SPECIFICALLY, DID YOU HAVE AN
24 OPPORTUNITY OVER THOSE NEXT COUPLE OF WEEKS TO
25 SHOW STATE'S EXHIBITS FOUR THROUGH EIGHT, THESE

DIRECT, IN CAMERA, JAMES CARL SHUMPERT
BY SOL. SORENSON

102

1 FIVE LINEUPS HERE, DID YOU HAVE AN OPPORTUNITY TO
2 SHOW THOSE FIVE LINEUPS THROUGHOUT THE NEXT
3 SEVERAL WEEKS TO MR. GILLIARD?

4 A. YES, SIR, I DID.

5 Q. AND WAS MR. GILLIARD, DID HE EVER AT ANY POINT IN
6 TIME PICK ANYBODY OUT OF ANY OF THOSE FIVE
7 LINEUPS?

8 A. NO, HE DIDN'T PICK NO ONE OUT.

9 Q. NOW, HAD YOU BEEN IN KIND OF CONSTANT CONTACT WITH
10 HIM THROUGHOUT, DUE TO THE FACT THAT HE HAD
11 INDICATED FROM THE OUTSET THAT HE HAD SEEN THE
12 PERSON BEFORE, WERE YOU IN KIND OF CONSTANT
13 CONTACT WITH HIM THROUGHOUT THOSE SEVERAL WEEKS?

14 A. I WAS IN CONSTANT CONTACT WITH ALL THREE OF THE
15 VICTIMS THAT WERE IN THE APARTMENT JUST TO SEE IF
16 THEY HAD ANY NEW EVIDENCE THAT COULD HELP ME IN
17 TRYING TO FIGURE OUT WHO WAS THE GUY THAT DID THE
18 SHOOTING.

19 Q. OKAY. AND DID THERE COME A TIME WHEN YOU WERE
20 PROVIDED INFORMATION THAT BROUGHT UP THE NAME,
21 TERRELL SCOTT, THE DEFENDANT IN THIS CASE?

22 A. YES, I WAS.

23 Q. OKAY. AND DO YOU REMEMBER WHO YOU GOT THAT
24 INFORMATION FROM?

25 A. MR. GILLIARD.

DIRECT, IN CAMERA, JAMES CARL SHUMPERT
BY SOL. SORENSON

103

- 1 Q. OKAY. AND DID YOU HAVE AN OPPORTUNITY THEN TO TRY
2 TO PULL SOME PICTURES OF MR. SCOTT?
- 3 A. YES, I DID.
- 4 Q. I'M SPECIFICALLY SHOWING YOU STATE'S EXHIBIT
5 NUMBER NINE, DID YOU OBTAIN THAT DRIVER'S PHOTO
6 THERE?
- 7 A. WELL, THE SECRETARY OBTAINED IT, BUT I DID ASK HER
8 TO PRINT THAT FOR ME.
- 9 Q. OKAY. AND THAT WAS JANUARY TWENTY-THIRD OF TWO
10 THOUSAND AND SEVEN, THAT'S WHEN THAT WAS PRINTED
11 OFF?
- 12 A. YES, IT WAS.
- 13 Q. AT SOME TIME SUBSEQUENT TO THAT, INVESTIGATOR, DID
14 YOU, DID MR. GILLIARD COME INTO YOUR OFFICE OVER
15 AT THE LAW ENFORCEMENT COMPLEX?
- 16 A. YES, SIR, THAT SAME DAY.
- 17 Q. OKAY. AND TELL THE COURT WHAT HAPPENED WHEN HE
18 CAME INTO YOUR OFFICE THAT DAY, HOW -- DID
19 SOMETHING HAPPEN WITH REGARDS TO THAT PHOTOGRAPH?
- 20 A. YES. WELL, LET ME DIGRESS A LITTLE BIT. MR.
21 GILLIARD CALLED ME AND GAVE ME THE NAME OF TERRELL
22 SCOTT AND TOLD ME I NEEDED TO CHECK THAT NAME OUT.
23 AT THAT TIME WE DIDN'T HAVE ACCESS TO DMV FILES,
24 SO I ASKED THE SECRETARY WOULD THEY GO AND PULL ME
25 A PICTURE OF HIM. AND I THINK AT THAT TIME MR.

DIRECT, IN CAMERA, JAMES CARL SHUMPERT
BY SOL. SORENSON

104

1 GILLIARD HAD CAME UP FRONT, AND OUR OFFICE IS
2 LOCATED ALL THE WAY TO THE BACK OF THE COMPLEX.
3 SO, I WENT UP FRONT, GOT MR. GILLIARD, AND I CAME
4 BACK, I HAD SEVERAL OTHER PHOTO LINEUPS ON MY
5 DESK. AND I SAT DOWN AT MY DESK, MR. GILLIARD
6 CAME IN, AND HE PICKED THE PICTURE UP AND SAID,
7 THAT'S THE GUY RIGHT THERE.

8 Q. OKAY. DID YOU ACTUALLY EVER SHOW IT TO HIM AND
9 SAY, IS THIS HIM, OR - - -

10 A. NO, I NEVER PICKED THE PICTURE UP.

11 Q. OKAY. AND WAS THIS THE, WERE THERE OTHER PICTURES
12 WITH THIS SITTING ON YOUR DESK AT THAT TIME?

13 A. NO OTHER DRIVER LICENSE PHOTOS BUT THERE WAS OTHER
14 PHOTO LINEUPS.

15 Q. OKAY.

16 A. AND THAT WAS, LIKE, ON ONE OF THEM.

17 Q. OKAY. SO, HE POINTED THAT OUT TO YOU AND TOLD
18 YOU, THAT'S THE GUY, AT THAT POINT?

19 A. YES.

20 Q. AS A RESULT OF THAT DID YOU HAVE AN OPPORTUNITY
21 THEN TO CREATE A PHOTOGRAPHIC LINEUP INVOLVING
22 TERRELL SCOTT IN AN ATTEMPT TO THEN SHOW IT TO MR.
23 RANDOLPH AND MR. KELLY?

24 A. I DID.

25 Q. OKAY. AND SPECIFICALLY AS TO MR. KELLY, SHOWING

DIRECT, IN CAMERA, JAMES CARL SHUMPERT
BY SOL. SORENSON

105

- 1 YOU STATE'S EXHIBIT NUMBER TWELVE, DID YOU HAVE AN
2 OPPORTUNITY TO SHOW THAT TO HIM, I GUESS TWO DAYS
3 LATER, ON JANUARY TWENTY-FIFTH?
- 4 A. YES, SIR, I DID.
- 5 Q. OKAY. AND HOW MANY PHOTOGRAPHS DID YOU SHOW HIM
6 AT THAT POINT IN TIME?
- 7 A. I SHOWED HIM TWO PHOTO LINEUPS CONTAINING SIX
8 INDIVIDUALS A PIECE, SO THAT WAS TWELVE
9 INDIVIDUALS.
- 10 Q. OKAY. AND THAT'S WHAT'S DEPICTED IN STATE'S
11 NUMBER TWELVE STAPLED TOGETHER HERE?
- 12 A. YES, SIR, IT IS.
- 13 Q. OKAY. AND DID MR. KELLY PICK ANYBODY OUT OF THOSE
14 TWO LINEUPS?
- 15 A. HE PICKED NUMBER FIVE.
- 16 Q. NUMBER FIVE ON THIS TOP ONE HERE, DID HE CIRCLE
17 THAT, INITIAL IT AND DATE IT?
- 18 A. YES, THAT'S HIS SIGNATURE.
- 19 Q. OKAY. AND JUST LIKE HE HAD TOLD YOU A MONTH
20 EARLIER THAT HE WAS SEVENTY TO EIGHTY PER CENT
21 SURE, DID HE INDICATE TO YOU AT THIS POINT IN TIME
22 HOW SURE HE WAS THAT THAT WAS THE PERSON THAT HE
23 SAW INSIDE THAT APARTMENT?
- 24 A. WELL, HE SAID HE WAS A HUNDRED PER CENT, BECAUSE
25 LIKE I SAID, WHEN I SHOWED HIM, PLACED DOWN BOTH

DIRECT, IN CAMERA, JAMES CARL SHUMPERT
BY SOL. SORENSON

106

1 OF THE PHOTOS, AND HE JUST WENT AND PICKED THE GUY
2 STRAIGHT OUT.

3 Q. OKAY. AND DID YOU THEN HAVE HIM ALSO FILL OUT AN
4 AFFIDAVIT INDICATING THAT ALSO?

5 A. YES, I DID, UH HUH.

6 Q. OKAY. DID YOU THEN HAVE AN OPPORTUNITY TWO DAYS
7 LATER, THREE DAYS LATER TO SHOW A LINEUP, ANOTHER
8 LINEUP WITH MR. SCOTT'S PICTURE IN IT TO THE OTHER
9 WITNESS, MR. RANDOLPH?

10 A. YES, I DID.

11 Q. OKAY. AND DID YOU USE THE SAME LINEUP THAT YOU
12 HAD USED WITH MR. KELLY?

13 A. NO, I DIDN'T.

14 Q. WHY, WHY DID YOU NOT DO THAT?

15 A. WELL, I KNEW THAT, YOU KNOW, THEY WAS ALL FAMILY
16 AND I DIDN'T WANT NOBODY TO SAY THAT, YOU KNOW, I
17 SHOWED THE SAME LINEUP TO THE SAME INDIVIDUALS.
18 SO, WHAT I DID WAS, I SENT OFF TO SLED AND GOT AN
19 INDIVIDUAL OF TERRELL SCOTT, PUT IT IN A PHOTO
20 LINEUP, AND I GOT A JAIL PHOTO WHERE HE HAD A
21 BUNCH OF HAIR ON HIS HEAD, AND PUT IT IN THE
22 LINEUP AND SHOWED IT TO THEM, TWO DIFFERENT
23 LINEUPS.

24 Q. ALRIGHT. AND I'M SHOWING YOU STATE'S EXHIBIT
25 NUMBER TEN, IS THAT, THEN, THE LINEUP THAT YOU

DIRECT, IN CAMERA, JAMES CARL SHUMPERT
BY SOL. SORENSON

107

1 SHOWED OF MR. SCOTT TO MR. RANDOLPH?

2 A. YES, SIR, IT WAS.

3 Q. OKAY. AND DID YOU IN ANY WAY SUGGEST TO HIM WHO
4 OR WHETHER TO EVEN PICK ANYBODY OUT OF THIS
5 LINEUP?

6 A. NO, I DID NOT.

7 Q. OKAY. AND DID HE, IN FACT, IDENTIFY SOMEBODY IN
8 THIS LINEUP?

9 A. YES, HE PICKED NUMBER ONE, AND INITIALED AND DATED
10 IT.

11 Q. CIRCLED, INITIALED AND DATED IT?

12 A. UH HUH.

13 Q. DID YOU GET YET AGAIN TO FILL OUT AN AFFIDAVIT TO
14 THAT EFFECT ALSO?

15 A. YES, SIR.

16 Q. AND DID HE INDICATE TO YOU HOW SURE HE WAS THAT
17 THAT WAS THE PERSON THAT HE SAW IN HIS APARTMENT?

18 A. HE WAS A HUNDRED PER CENT.

19 SOLICITOR SORENSON: I BELIEVE THAT
20 WOULD BE ALL I WOULD HAVE, YOUR HONOR.

21 THE COURT: CROSS-EXAMINATION.

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

CROSS, IN CAMERA, JAMES CARL SHUMPERT
BY MR. WALTERS

108

CROSS-EXAMINATION, IN CAMERA, OF JAMES CARL SHUMPERT
BY MR. WALTERS:

Q. INVESTIGATOR SHUMPERT, I WASN'T SURE WHAT YOU SAID ABOUT YOU BEING AN INVESTIGATOR. WERE YOU A BRAND NEW INVESTIGATOR WHEN YOU STARTED THIS CASE?

A. I BELIEVE THE INCIDENT TOOK PLACE IN - - -

Q. DECEMBER TWENTY-FOURTH, TWO THOUSAND SIX.

A. RIGHT. SO, I STARTED INVESTIGATION IN MARCH OF TWO THOUSAND AND SIX.

Q. OKAY. SO, YOU WERE A NEW INVESTIGATOR?

A. A NEW INVESTIGATOR, YES, SIR.

Q. ALRIGHT. IN THIS PARTICULAR CASE, FROM YOUR TESTIMONY THE POLICE DIDN'T SOLVE THIS CRIME, MR. GILLIARD DID, DIDN'T HE? HE HEARD SOMETHING IN THE STREET, HE BROUGHT THE NAME BACK, HE TOLD YOU ABOUT THE NAME, AND THEN HE SAID, I'M IDENTIFYING THE PERSON, AND IT'S TERRELL SCOTT, BUT THERE WAS NO POLICE WORK DONE TO BRING IN TERRELL SCOTT?

A. WELL, I WOULD SAY THAT THE TOTALITY OF THE CASE AND THE CIRCUMSTANCES BROUGHT THE WHOLE CASE TOGETHER, BECAUSE NOT ONLY MR. GILLIARD WAS A PIECE OF THE PUZZLE, THERE WERE OTHER INDICATORS THAT WAS PIECED TOGETHER TO BRING TERRELL SCOTT TO JUSTICE.

Q. WELL, LET'S GO THROUGH YOUR WORDS, YOU SAID, THE

CROSS, IN CAMERA, JAMES CARL SHUMPERT
BY MR. WALTERS

109

1 TOTALITY OF THE CASE ITSELF.

2 A. UH HUH.

3 Q. LET'S TALK ABOUT THE PARTS THAT YOU'RE REFERRING
4 TO THAT MAKE UP THE SUM OF THAT TOTAL.

5 A. YES, SIR.

6 Q. WHAT OTHER FACTORS WERE THERE THAT YOU CONSIDERED
7 THAT LED YOU TO TERRELL SCOTT OTHER THAN THE FACT
8 THAT GILLIARD TOLD YOU, I HEARD IN THE STREET THAT
9 THIS IS THE MAN, I WANT TO IDENTIFY HIM, AND THEN
10 HIS TWO COUSINS COME IN AND THEY ALSO IDENTIFY
11 HIM?

12 A. WELL, LET ME CORRECT YOU, - - -

13 SOLICITOR SORENSON: YOUR HONOR, I'M
14 GOING TO OBJECT, I DON'T SEE HOW THIS IS RELEVANT TO A
15 NEAL V. BIGGERS HEARING. THIS IS ALL YET AGAIN, IT'S
16 PROPER CROSS-EXAMINATION IN FRONT OF A JURY, BUT I MEAN,
17 NOT TO DETERMINING THE SUGGESTIVENESS OF A LINEUP AND
18 THEIR IN COURT IDENTIFICATION. I MEAN, HOW IS HIS
19 INVESTIGATION RELEVANT TO THAT?

20 THE COURT: TIE IT UP, MR. WALTERS.

21 Q. AGAIN OFFICER SHUMPERT, - - -

22 A. YES, SIR.

23 Q. --- INVESTIGATOR SHUMPERT, - - -

24 A. YES, SIR.

25 Q. MY QUESTION WAS, WHAT POLICE WORK WAS DONE TO

CROSS, IN CAMERA, JAMES CARL SHUMPERT
BY MR. WALTERS

110

1 IDENTIFY MR. TERRELL SCOTT OTHER THAN THE FACT
2 THAT MR. GILLIARD CAME RUNNING TO YOU AND SAID,
3 I'VE GOT THE MAN?

4 A. WELL, ACTUALLY, THE INITIAL, WHEN WE DID THE
5 FORENSIC DRAWING, WE USED THAT, AND THE, JOHN
6 RANDOLPH PICKED HIM OUT OF THE LINEUP, AND ALSO
7 MR. KELLY PICKED HIM OUT OF A PHOTO LINEUP.

8 Q. LET'S BACK UP, LET'S GO THROUGH WHAT YOU SAID.
9 THE INITIAL DRAWING WAS USED. THIS IS THE INITIAL
10 DRAWING, ISN'T IT?

11 A. YES, IT IS.

12 Q. ALRIGHT.

13 A. DO YOU WANT ME TO TAKE IT OR - - -

14 Q. YEAH, TAKE IT, PUT IT IN YOUR HAND.

15 A. ALRIGHT. YEAH, I'M FAMILIAR WITH IT.

16 Q. ALRIGHT. AND SHOW ME HOW THAT LOOKS LIKE TERRELL
17 SCOTT?

18 A. YOU WANT ME TO SHOW YOU HOW IT LOOKS LIKE - - -

19 Q. YEAH, PICK THE PICTURE OUT, SHOW ME THE PICTURE
20 THAT LOOKS LIKE THIS DRAWING?

21 A. MAY I, YOUR HONOR?

22 THE COURT: YES, SIR.

23 A. ALRIGHT, IF YOU LOOK AT BOTH OF THE DRAWINGS, I
24 MEAN, THE EYES, THE NOSE, THE LIPS, THE FACIAL
25 HAIR, AND ALSO WHEN MR. KELLY GAVE THE DRAWING HE

CROSS, IN CAMERA, JAMES CARL SHUMPERT
BY MR. WALTERS

111

1 SAID THE CHEEKS NEEDED TO BE A LITTLE BIT WIDER.
2 SO, IN MY OPINION, YOU SEE, I DIDN'T DRAW THAT
3 CONCLUSION OR THAT SAID, HEY, THAT'S HIM. IT JUST
4 LOOKED LIKE HIM TO ME.

5 Q. YOU WOULD AGREE THAT THE MAN THAT'S IN THIS
6 DRAWING, HE DOESN'T LOOK CHUBBY OR FAT?

7 A. WELL, SEE, MR. WALTERS, YOU'VE GOT TO UNDERSTAND,
8 MR. KELLY STATED THAT THE CHEEKS NEEDED TO BE A
9 LITTLE BIT FATTER - - -

10 Q. ALRIGHT.

11 A. --- AFTER THE YOUNG LADY DREW THE PICTURE.

12 Q. WHERE IS THAT IN YOUR NOTES?

13 A. EXCUSE ME?

14 Q. WHERE IS THAT IN YOUR NOTES? YOU HAD A FORENSIC
15 ARTIST THERE AND YOU'RE SAYING SHE DREW IT
16 INCORRECTLY, AND NOW YOU'RE TELLING ME THAT SHE
17 SHOULD HAVE CORRECTED IT BY DOING X, Y AND Z.
18 WHERE IS THAT IN YOUR NOTES, OR DID YOU BRING HER
19 BACK TO CORRECT WHAT WAS WRONG?

20 A. NO.

21 Q. BECAUSE YOU TOOK THAT AND YOU WENT OUT AND LOOKED
22 FOR PEOPLE?

23 A. YES, WE DID.

24 Q. THEN WHY WOULD YOU TAKE THAT IF YOU KNEW IT WAS
25 DRAWN INCORRECTLY AND GO LOOK FOR PEOPLE WHEN

CROSS, IN CAMERA, JAMES CARL SHUMPERT
BY MR. WALTERS

112

1 SOMEONE TOLD YOU THAT IT'S INCORRECT?

2 A. LISTEN, WE WAS GOING BY THE INFORMATION OF THE
3 PEOPLE THAT CALLED -- AND LET ME ANSWER YOUR
4 QUESTION.

5 Q. ANSWER MY QUESTION.

6 A. I'M TRYING TO ANSWER YOU IF YOU'LL LET ME. WE
7 WAS, THE NAMES WE WERE GIVEN, WE PUT THOSE FOLKS
8 IN THE LINEUP, AND LIKE I SAID, WE WAS
9 INVESTIGATING. SO, WE INVESTIGATED EACH AND EVERY
10 NAME THAT WAS GIVEN, JUST AS MUCH WHEN TERRELL
11 SCOTT'S NAME CAME UP, HE WAS PLACED IN A PHOTO
12 LINEUP AND A WITNESS DRAWING. THIS DRAWING DIDN'T
13 HAVE NOTHING TO DO WITH THE PHOTO LINEUP, BECAUSE
14 ONCE MR. GILLIARD GAVE US THE NAME OF TERRELL
15 SCOTT I IMMEDIATELY CALLED MR. KELLY AFTER I
16 PLACED TERRELL IN A PHOTO LINEUP, AND I WAITED FOR
17 MR. RANDOLPH TO COME BACK FROM GEORGIA TO IDENTIFY
18 HIM.

19 Q. ALRIGHT. I WANT YOU TO ANSWER MY QUESTION. YOU
20 JUST TESTIFIED THAT THIS DRAWING WAS INCORRECT
21 BECAUSE THE FACE SHOULD HAVE BEEN FULLER, SHOULD
22 HAVE BEEN FATTER. THAT'S YOUR TESTIMONY, IS THAT
23 RIGHT?

24 A. NO. WHAT I'M SAYING IS, MR. KELLY SAID THAT THE
25 CHEEKS NEEDED TO BE FATTER, AND THAT'S WHAT HE

CROSS, IN CAMERA, JAMES CARL SHUMPERT
BY MR. WALTERS

113

1 TOLD THE FORENSIC DRAWER.

2 Q. WELL, THEN WHY DIDN'T YOU CORRECT THE DRAWING SO
3 YOU COULD HAVE AN ACCURATE DEPICTION OF THE PERSON
4 THAT YOU WERE LOOKING FOR? WHY WOULD YOU GO OUT I
5 THE STREET WITH THIS DRAWING THAT IS INCORRECT,
6 AND ONE OF THE PEOPLE THAT'S INVOLVED IN THE CRIME
7 HAS TOLD YOU, IT'S INCORRECT, WHY DIDN'T YOU
8 CORRECT IT?

9 A. I'M NOT THE DRAWER. I DIDN'T DRAW THE PICTURE.

10 Q. YOU'RE THE INVESTIGATOR, YOU'RE IN CHARGE.

11 A. I INVESTIGATED IT.

12 Q. YOU COULD SIT DOWN WITH THAT ARTIST AND SAY,
13 STRAIGHTEN THIS OUT, AND DRAW EXACTLY WHAT THEY
14 SAID, OR I'LL GET SOMEONE ELSE IN HERE. WHY WOULD
15 YOU TAKE A DRAWING THAT YOU'RE NOW TESTIFYING WAS
16 INCORRECT AND USE THAT IN THE STREET AND
17 DISTRIBUTE IT AND SAY, WE'RE LOOKING FOR THIS
18 PERSON?

19 A. WELL, MR. WALTERS, I'M NOT SAYING THE PICTURE IS
20 TOTALLY INCORRECT. AS I STATED BEFORE, HE SAID
21 THAT THE JAWS NEED TO BE A LITTLE BIT BIGGER.
22 OKAY, WE COULD DO THIS ALL DAY. SHE DIDN'T
23 CORRECT IT. OKAY? SHE DIDN'T CORRECT IT.

24 Q. SO, THAT'S YOUR TESTIMONY NOW, THAT THE FORENSIC
25 ARTIST, THE DRAWING THAT SHE HAS THERE, IT IS

CROSS, IN CAMERA, JAMES CARL SHUMPERT
BY MR. WALTERS

114

1 WRONG, AND IT SHOULD HAVE BEEN CORRECTED, IS THAT
2 NOW YOUR TESTIMONY?

3 A IT'S NOT, IT'S NOT TOTALLY WRONG, NO, SIR, IT'S
4 NOT. IT'S NOT TOTALLY WRONG. HE DREW THIS
5 PICTURE, HE GAVE THE INFORMATION THAT HE HAD, SHE
6 DREW IT FROM SCRATCH. AND WHEN SHE WAS COMPLETE
7 AND DONE WITH THE PHOTO MR. KELLY STATED TO HER
8 THAT THE CHEEKS NEED TO BE FATTER.

9 Q. AND WHY DIDN'T SHE CORRECT IT?

10 A. YOU'LL HAVE TO ASK HER THAT.

11 Q. BUT YOU'RE IN CHARGE, YOU'RE THE INVESTIGATOR. YOU
12 DON'T WANT A PICTURE OF SOMEONE THAT'S INACCURATE.
13 DID YOU GO BACK AND SAY, LET'S CORRECT THIS AND
14 MAKE SURE IT'S CORRECT SO WHEN WE GO OUT IN THE
15 STREET AND WE SEND THESE OFFICERS OUT THERE
16 RISKING THEIR LIVES LOOKING FOR PEOPLE, WHY DIDN'T
17 YOU STRAIGHTEN THAT OUT?

18 A. I DIDN'T.

19 Q. WAS IT YOUR INEXPERIENCE BECAUSE YOU JUST STARTED
20 IN MARCH AND YOU DIDN'T KNOW HOW TO DO THAT?

21 A. WELL, NO, I DON'T DRAW PICTURES, LIKE I STATED.

22 Q. BUT YOU'RE IN CHARGE, IS THAT CORRECT?

23 A. I WAS THE LEAD DETECTIVE, STILL AM, YES, SIR.

24 Q. NOW, BACK TO MY QUESTION, - - -

25 A. UH HUH.

CROSS, IN CAMERA, JAMES CARL SHUMPERT
BY MR. WALTERS

115

1 Q. --- WHAT INFORMATION DID YOU HAVE, OTHER THAN YOUR
2 INACCURATE PICTURE THAT YOU REFERRED TO, THAT LED
3 TO TERRELL SCOTT, OTHER THAN THE FACT THAT
4 GILLIARD RAN IN AND SAID, I'VE GOT YOUR MAN, I'VE
5 GOT A NAME FOR YOU, I KNOW WHO THE PERSON IS, WHAT
6 INFORMATION, SHOW ME ONE DOCUMENT THAT LED YOU TO
7 TERRELL SCOTT INDEPENDENT OF MR. GILLIARD?

8 A. NONE.

9 Q. SO, WHAT YOU'RE TELLING ME IS, IS THAT OUT OF ALL
10 THAT POLICE WORK AND ALL THAT MONEY THAT YOU
11 SPENT, AND ALL THE INVESTIGATION THAT WAS DONE - -
12 -

13 SOLICITOR SORENSON: YOUR HONOR, I'M
14 GOING TO OBJECT.

15 Q. --- YOU DIDN'T HAVE ONE OUNCE OF EVIDENCE THAT LED
16 YOU TO TERRELL SCOTT.

17 SOLICITOR SORENSON: I OBJECTED, MR.
18 WALTERS.

19 THE COURT: IT IS A NEAL-BIGGERS
20 HEARING, MR. WALTERS. YOU NEED TO STAY ON THOSE ISSUES.

21 MR. WALTER: YES, SIR, YOUR HONOR.
22 AND WITH ALL DUE RESPECT TO THE COURT, MY QUESTIONS GO
23 TOWARD THE SUGGESTIVENESS OF THE ID ITSELF. IN THIS
24 PARTICULAR CASE THE OFFICER IS TELLING ME, WE HAD NO
25 DOCUMENTATION TO SUBSTANTIATE EVEN PULLING OUT ANY

1 DOCUMENTS WITH REGARDS TO AN IDENTIFICATION OTHER THAN
2 WE HAVE SOMEONE WHO CLAIMS TO BE A VICTIM THAT SAID,
3 I'VE GOT A NAME AND I WANT TO COME IN AND IDENTIFY
4 SOMEONE.

5 THE COURT: WELL, ISN'T THE
6 IMPORTANT THING, WHAT HAPPENED AFTER HE PUT THE
7 PHOTOGRAPH ON THE SHEET OF PAPER AND NOT HOW THE
8 PHOTOGRAPH GOT ON THE SHEET OF PAPER?

9 SOLICITOR SORENSON: AND I THINK HE
10 COULD JUST PULL A NAME OUT OF - - -

11 THE COURT: NEVER MIND, MR.
12 SORENSON.

13 MR. WALTERS: MAY IT PLEASE THE
14 COURT.

15 THE COURT: YES, SIR.

16 MR. WALTERS: YOUR HONOR, WITH
17 REGARDS TO NEAL V. BIGGERS, THE QUESTION OF WHETHER
18 THERE'S IRREPARABLE HARM AS A RESULT OF THAT
19 IDENTIFICATION, AND IT'S SUGGESTIVE. THE SUGGESTIVENESS
20 OF THE PROCESS ITSELF IS IN QUESTION. AND IN THIS
21 PARTICULAR CASE THE OFFICER IS SAYING, I NEVER SUGGESTED
22 THAT WE SHOULD EVEN DO THIS, IT'S JUST SOMEONE CAME IN
23 OFF THE STREET AND SAID THIS, AND I RAN BEHIND THEM AND
24 DID WHAT THEY TOLD ME TO DO, AND AS A RESULT OF THAT A
25 MAN WAS ARRESTED. AND HIS OWN TESTIMONY IS THAT WE DID

117

1 THAT WITH REGARDS TO SOMEONE ELSE, WITH LAWRENCE KELLY,
2 AND WE GOT THE WRONG MAN.

3 THE COURT: WELL, MY POINT IS,
4 YOU'VE ESTABLISHED THAT FACT, AND YOU JUST DON'T NEED TO
5 KEEP GOING ON AND ON. YOU KNOW, I'VE BEEN AROUND A
6 LITTLE WHILE, I DO THIS, YOU KNOW, IT DOESN'T TAKE ME AS
7 LONG AS YOU MIGHT THINK IT WOULD TAKE THE JURY. I'M NOT
8 SURE IT TAKES THE JURY AS LONG AS YOU MIGHT THINK, BUT
9 I GUARANTEE IT DOESN'T TAKE ME AS LONG TO GET THE POINT.
10 YOU'VE MADE YOUR POINT, YOU CAN MAKE YOUR ARGUMENT WHEN
11 THE TIME COMES.

12 MR. WALTERS: THANK YOU, YOUR HONOR,
13 I HAVE NO FURTHER QUESTIONS.

14 THE COURT: YES, SIR. ALRIGHT, SIR,
15 ANYTHING - - -

16 SOLICITOR SORENSON: NO, SIR.

17 THE COURT: YOU MAY HAVE A SEAT,
18 OFFICER.

19 ANY OTHER WITNESSES FOR THE STATE?

20 SOLICITOR SORENSON: NO, YOUR HONOR.

21 THE COURT: WELL, WE WILL RECESS
22 THIS HEARING UNTIL IN THE MORNING, AT WHICH TIME I HOPE
23 THAT THE DEFENDANT WILL BE HERE. IF HE'S NOT HERE, MR.
24 WALTERS, I EXPECT TO HEAR YOUR MOTION TO CONTINUE THE
25 CASE. I EXPECT, UNLESS I HEAR SOMETHING THAT I HAVEN'T

1 HEARD, I'M GOING TO DENY THAT MOTION BASED SIMPLY ON THE
2 FACT THAT I TOLD MR. SCOTT ON NUMEROUS OCCASIONS
3 STANDING IN THIS COURTROOM IN YOUR PRESENCE THAT HIS
4 TRIAL, HIS CASE WAS UP FOR TRIAL ON THE WEEK OF MAY THE
5 ELEVENTH. ISN'T THAT RIGHT?

6 MR. WALTERS: MAY IT PLEASE THE
7 COURT. YOUR HONOR, YOUR STATEMENTS ARE CORRECT WITH
8 REGARDS TO HIM APPEARING BEFORE THE COURT, AND OF
9 COURSE, OUR POSITION IS, WHETHER HE SHOWS UP OR HE
10 DOESN'T, THEY STILL HAVE TO PROVE THEIR CASE.

11 THE COURT: WELL, NO QUESTION ABOUT
12 THAT. I'M JUST SAYING THAT I'M NOT LIKELY TO GRANT A
13 MOTION FOR CONTINUANCE. I DON'T WANT YOU TO GO HOME
14 TONIGHT THINKING, IF HE DOESN'T SHOW UP I'M GOING TO
15 GRANT THAT MOTION. I WILL LISTEN IN THE MORNING AT ANY
16 REASON THAT YOU MIGHT HAVE THAT I SHOULD GRANT YOU A
17 CONTINUANCE, BUT UNLESS I HEAR SOMETHING THAT I DON'T
18 KNOW NOW, AND I'M NOT ASKING YOU TO ARGUE THAT MOTION,
19 I'M NOT LIKELY TO GRANT IT, BECAUSE I'VE TOLD HIM MYSELF
20 HE NEEDED TO BE HERE, AND MR. CULLER JUST SAID THAT YOU
21 TOLD HIM TODAY IN MR. CULLER'S PRESENCE, AND YOU TOLD
22 HIM YESTERDAY IN MR. CULLER'S PRESENCE THAT HE NEEDED TO
23 BE HERE TODAY. SO, WHAT I WANT YOU TO DO, WE'VE GOT A
24 WARRANT OUT FOR HIM. IF HE'S TRYING TO AVOID DETECTION
25 HE'S PROBABLY GOING TO BE SUCCESSFUL IN DOING THAT. I

1 THINK YOU WOULD AGREE THAT IT'S NOT TO HIS ADVANTAGE NOT
2 TO BE HERE. I DON'T KNOW THAT ANYBODY EVER IS ADVANTAGED
3 BY A TRIAL IN THEIR ABSENCE. SO I'M SURE YOU WILL CALL
4 HIS FAMILY OR FRIENDS OR ANY CONTACTS THAT YOU HAVE AND
5 TRY TO GET THEM TO TALK SOME SENSE INTO HIM IF HE IS
6 HIDING OUT THERE SOMEWHERE, AND URGE HIM TO BE HERE IN
7 THE MORNING SO HE CAN HELP YOU PUT UP A DEFENSE ON HIS
8 BEHALF.

9 MR. WALTERS: MAY IT PLEASE THE
10 COURT, YOUR HONOR, AS AN OFFICER OF THE COURT I WILL
11 ATTEMPT TO CONTACT EVERY NUMBER THAT HE HAS PROVIDED TO
12 ME, AND I WILL MAKE THAT MOTION FOR THE RECORD, AND I
13 UNDERSTAND THE COURT'S RULING WITH REGARDS TO THAT
14 PARTICULAR ISSUE, BUT WE'RE PREPARED TO TRY THIS CASE.

15 THE COURT: ALRIGHT. AND JUST LET
16 THOSE PEOPLE KNOW THAT THERE'S NOT MUCH LIKELIHOOD THAT
17 THE CASE IS GOING TO BE POSTPONED IF HE'S NOT HERE
18 BECAUSE I MEAN THEY MIGHT BE HARBORING THE BELIEF THAT
19 IF HE DOESN'T SHOW UP WE'RE NOT GOING TO HAVE THIS
20 TRIAL, AND I THINK IT'S IMPORTANT FOR THEM TO
21 UNDERSTAND, HIS FRIENDS AND FAMILY OR WHOEVER, THAT
22 THAT'S PROBABLY NOT THE CASE, ALMOST CERTAINLY THAT'S
23 NOT GOING TO BE THE CASE.

24 MR. WALTERS: AND FOR THE RECORD,
25 YOUR HONOR, IF I'M CONTACTED BY HIM I WILL PROCEED TO

1 CONTACT THE SHERIFF'S DEPARTMENT.

2 THE COURT: SURE, THAT WILL BE FINE.

3 THANK YOU, SIR.

4 NOW, ARE THERE ANY OTHER PRETRIAL
5 MATTERS FROM THE STATE THAT YOU KNOW OF?

6 SOLICITOR SORENSON: WE DO HAVE TO
7 AT SOME POINT IN TIME AS FAR AS SETTling SOME WITNESSES'
8 RECORDS, AND I'M PREPARED TO BRIEFLY DO THAT NOW IF YOU
9 WANT TO DO THAT NOW, OR WE CAN DO IT IN THE MORNING.

10 THE COURT: JUST GO OVER THAT WITH
11 MR. WALTERS OR MR. CULLER OR MR. BROWN, AND IF Y'ALL
12 HAVE ANY QUESTIONS ABOUT IT WE'LL TAKE THEM UP IN THE
13 MORNING, AND WE CAN PUT IT ON THE RECORD IN THE MORNING.

14 SOLICITOR SORENSON: OKAY.

15 THE COURT: MR. WALTERS, DO YOU
16 ANTICIPATE ANY PRETRIAL MATTERS?

17 MR. WALTERS: JUST A MOTION TO
18 SEQUESTER THE WITNESSES, YOUR HONOR

19 THE COURT: THAT'S GRANTED, THE FACT
20 WITNESSES.

21 MR. CULLER: ONE OTHER THING, YOUR
22 HONOR, JUST, THE COURTROOM HAS ALWAYS, I THINK, BEEN SET
23 UP, AND I TALKED TO MR. SORENSON ABOUT THIS EARLIER, WE
24 WOULD CERTAINLY AGREE THAT ANYBODY THAT WOULD BE BEHIND
25 US WOULD BE ON THE SECOND ROW. AND SINCE THE ROWS ARE

121

1 SORT OF RIGHT NEXT TO THE JURY BOX, WE WOULD JUST
2 REQUEST THAT WHOEVER IS ON THE SOLICITOR'S SIDE WOULD
3 ALSO BE ON THE SECOND ROW. I DON'T THINK IT IMPAIRS
4 THEM FROM BEING ABLE TO SEE OR HEAR ANYTHING. IT JUST
5 IS A LITTLE BIT MORE ROOM.

6 THE COURT: I DON'T HAVE ANY PROBLEM
7 WITH THAT. IF ALL THE FAMILY MEMBERS WOULD JUST SIT ON
8 THE SECOND ROW IN THE MORNING INSTEAD OF THE FIRST ROW,
9 YOU CAN STILL SEE AND HEAR EVERYTHING THAT GOES ON. AND
10 OF COURSE, NOBODY TRIES TO MAKE ANY EYE CONTACT WITH THE
11 JURORS, YOU SHOULD NEVER LOOK AT THE JURORS. IF YOU'LL
12 WATCH ME FOR THE NEXT COUPLE DAYS YOU'LL SEE I RARELY
13 LOOK AT THE JURORS, BECAUSE I DON'T WANT THE JURORS TO
14 DRAW ANYTHING FROM ME LOOKING AT THEM THAT THEY MIGHT
15 DRAW SOME CONCLUSION FOR THAT. I RARELY LOOK AT THE
16 DEFENDANT OR THE LAWYERS IF I CAN HELP IT, BUT IT'S NOT
17 MUCH ELSE TO LOOK AT. SO, I THINK I'M GOING TO PUT SOME
18 PICTURES IN THE BACK OF THE COURTHOUSE, IF I GET MY
19 DONE. BUT ANYHOW, JUST SIT ON THE SECOND ROW TOMORROW.

20 DO YOU ANTICIPATE ANYTHING ELSE?

21 MR. WALTERS: NO, SIR, YOUR HONOR.

22 THE COURT: ALRIGHT. THE JURY WAS
23 TOLD TO BE HERE AT NINE:THIRTY, SO WE'LL BE IN RECESS
24 UNTIL NINE:THIRTY IN THE MORNING. THANK YOU VERY MUCH.

25 (Recess for the day.)

1 DATE:

2 MAY 13, 2009

3 THE COURT: ALRIGHT, SOLICITOR, YOU
4 MAY CALL YOUR CASE.

5 SOLICITOR SORENSON: MAY IT PLEASE
6 THE COURT, YOUR HONOR. AT THIS TIME THE STATE CALLS THE
7 CASE OF THE STATE OF SOUTH CAROLINA VERSUS TERRELL
8 SCOTT. MR. SCOTT'S BEEN INDICTED IN TWO INDICTMENTS,
9 YOUR HONOR, 2007-GS-38-480 AND 640, CHARGING HIM WITH
10 ARMED ROBBERY AND MURDER. HE IS PRESENT, WELL, HE WAS
11 PRESENT IN THE COURTROOM. HE'S RIGHT OUTSIDE THE DOOR,
12 DO WE NEED TO WAIT ON HIM?

13 (Whereupon, Defendant enters
14 the courtroom.)

15 SOLICITOR SORENSON: DO YOU WANT ME
16 TO START OVER AGAIN?

17 THE COURT: NO, JUST - - -

18 SOLICITOR SORENSON: HE'S PRESENT,
19 YOUR HONOR, MR. SCOTT IS WITH HIS LAWYERS, MR. GLENN
20 WALTERS AND MR. MICHAEL CULLER. AT THIS TIME THE STATE
21 IS PREPARED TO GO FORWARD. YOU SHOULD HAVE, I BELIEVE,
22 BOTH OF THE INDICTMENTS, YOUR HONOR.

23 THE COURT: ALRIGHT, MR. WALTERS,
24 YOU REPRESENT MR. SCOTT?

25 MR. WALTERS: YES, SIR, THAT IS

1 CORRECT.

2 THE COURT: ARE YOU READY TO
3 PROCEED?

4 MR. WALTERS: YES, SIR.

5 THE COURT: ALRIGHT. LADIES AND
6 GENTLEMEN, THE STATE HAS CALLED THE CASES AGAINST MR.
7 TERRELL SCOTT. THE STATE HAS CHARGED HIM IN TWO
8 INDICTMENTS WITH TWO SEPARATE CRIMES, THE CRIME OF ARMED
9 ROBBERY AND THE CRIME OF MURDER. TO THESE CHARGES MR.
10 SCOTT HAS PLED NOT GUILTY. THAT PLACES THE BURDEN ON
11 THE STATE TO PROVE HIM GUILTY BEYOND A REASONABLE DOUBT.
12 MR. SCOTT DOES NOT HAVE TO PROVE ANYTHING AT ALL. A
13 DEFENDANT NEVER HAS TO PROVE HIMSELF INNOCENT, IT IS THE
14 BURDEN OF THE STATE TO PROVE HIM GUILTY.

15 NOW, BOTH THE STATE AND THE
16 DEFENDANT IN THIS CASE ARE ENTITLED TO WHAT WE CALL A
17 FAIR AND IMPARTIAL JURY, AND BY THAT WE MEAN A JURY
18 WHICH CAN BASE ITS DECISION IN THIS CASE SOLELY ON THE
19 TESTIMONY AND THE EVIDENCE THAT YOU HEAR IN THIS
20 COURTROOM AND MY INSTRUCTIONS TO YOU ON THE LAW. IT
21 MEANS A JURY WHICH WOULD NOT BE INFLUENCED BY ANY
22 EXPERIENCE YOU MIGHT HAVE HAD OR SOMETHING THAT YOU ARE
23 FAMILIAR WITH OR KNOW ABOUT, WHETHER IT'S ABOUT THIS
24 CASE OR SOME OTHER CASE, SIMILAR OR DISSIMILAR, BUT YOU
25 WOULD NOT BE INFLUENCED BY ANY OF THOSE MATTERS BUT YOU

1 WOULD MAKE YOUR DECISION BASED SOLELY ON THE TESTIMONY
2 AND THE EVIDENCE THAT YOU HEAR IN THIS COURTROOM AND MY
3 INSTRUCTIONS TO YOU ON THE LAW.

4 NOW, I'M GOING TO ASK YOU SOME
5 QUESTIONS TO DETERMINE YOUR ABILITY TO SERVE ON THIS
6 JURY. YOU ARE STILL UNDER OATH, I PLACED YOU UNDER OATH
7 YESTERDAY. YOU ARE REQUIRED TO ANSWER THESE QUESTIONS.
8 IF IT IS OF A PERSONAL NATURE OR YOU THINK THE ANSWER
9 WOULD BE EMBARRASSING OR YOUR RESPONSE WOULD BE
10 EMBARRASSING TO YOU, YOU MAY COME FORWARD AND SPEAK WITH
11 ME PRIVATELY ABOUT IT, BUT PLEASE DO NOT WITHHOLD ANY
12 INFORMATION THAT MIGHT BE IMPORTANT. IF THERE'S SOME
13 QUESTION AS TO WHETHER OR NOT YOU SHOULD RESPOND TO ANY
14 OF MY QUESTIONS THEN YOU SHOULD COME FORWARD AND SPEAK
15 WITH ME ABOUT IT AND LET ME DECIDE WHETHER THAT'S
16 SIGNIFICANT OR NOT.

17 LADIES AND GENTLEMEN, I'M GOING TO
18 READ YOU THESE TWO INDICTMENTS, UNDERSTANDING THAT THESE
19 INDICTMENTS ARE NOT EVIDENCE, THESE INDICTMENTS ARE
20 SIMPLY DOCUMENTS DRAWN UP BY THE STATE OF SOUTH CAROLINA
21 TO ADVISE THE DEFENDANT OF THE CHARGES HE IS FACING SO
22 HE AND HIS ATTORNEY CAN PREPARE A PROPER DEFENSE. AND
23 AS I SAID, HE HAS PLED NOT GUILTY TO THESE INDICTMENTS.

24 THE FIRST INDICTMENT IS INDICTMENT
25 NUMBER 2007-GS-38-480, ARMED ROBBERY. THE STATE ALLEGES

1 THAT IN ORANGEBURG COUNTY, ON OR ABOUT DECEMBER THE
2 TWENTY-FOURTH, TWO THOUSAND AND SIX, MR. SCOTT COMMITTED
3 ROBBERY BY FELONIOUSLY OR WRONGFULLY TAKING FROM THE
4 PERSON OR PRESENCE OF THE VICTIMS, HARRY MACK, JUNIOR,
5 AND/OR JOHN RANDOLPH, AND/OR WILL T. GILLIARD, JUNIOR,
6 AND/OR LAWRENCE KELLY BY MEANS OF FORCE OR INTIMIDATION
7 SOME GOODS OR MONIES WITH THE INTENT TO PERMANENTLY
8 DEPRIVE THE OWNER OF THIS PROPERTY WHILE MR. SCOTT WAS
9 ARMED WITH A DEADLY WEAPON.

10 THE SECOND INDICTMENT IS INDICTMENT
11 NUMBER 2007-GS-38-640. THE INDICTMENT CHARGES MR. SCOTT
12 WITH MURDER. THE ALLEGATIONS ARE THAT TERRELL SCOTT
13 DID, IN ORANGEBURG COUNTY, ON OR ABOUT DECEMBER TWENTY-
14 FOURTH, TWO THOUSAND AND SIX, WITH MALICE AFORETHOUGHT,
15 KILL ONE HARRY LEE MACK BY MEANS OF SHOOTING THE VICTIM,
16 AND THE VICTIM DIED AS A PROXIMATE RESULT THEREOF, IN
17 VIOLATION OF THE LAW.

18 NOW, AS I SAID, TO THESE CHARGES MR.
19 SCOTT HAS PLED NOT GUILTY.

20 MR. SCOTT, WOULD YOU STAND AND FACE
21 THE JURY SO THEY CAN IDENTIFY YOU, PLEASE.

22 (Whereupon, the defendant stands.)

23 THE COURT: LADIES AND GENTLEMEN,
24 THIS IS MR. TERRELL SCOTT. THANK YOU, SIR, YOU MAY BE
25 SEATED.

1 IS THERE ANY MEMBER OF THE JURY
2 PANEL RELATED BY BLOOD, CONNECTED BY MARRIAGE, CLOSE
3 PERSONAL FRIEND, HAVE ANY KNOWLEDGE OR ACQUAINTANCE WITH
4 MR. TERRELL SCOTT? IF YOU KNOW MR. SCOTT IN ANY
5 CAPACITY WHATSOEVER WOULD YOU PLEASE STAND.

6 (Affirmative response from jury panel.)

7 THE COURT: YES, MA'AM, YOUR NAME
8 AND NUMBER?

9 JUROR GOINGS: LINDA GOINGS, JUROR
10 SEVENTY-THREE. I KNOW HIM A LONG TIME AGO.

11 THE COURT: ALRIGHT. AND WOULD THE
12 FACT THAT YOU KNOW HIM, WOULD THAT HAVE ANY EFFECT ON
13 YOUR ABILITY TO BE A FAIR AND IMPARTIAL JUROR FOR BOTH
14 THE STATE AND MR. SCOTT IN THIS CASE?

15 JUROR GOINGS: NO.

16 THE COURT: THANK YOU, MA'AM, YOU
17 ARE QUALIFIED TO SERVE.

18 YES, SIR, YOUR NAME AND NUMBER?

19 JUROR JAMISON: PHILLIP JAMISON,
20 NUMBER NINETY-FOUR.

21 THE COURT: YES, SIR?

22 JUROR JAMISON: I KNOW HIM, I'M
23 GOING WITH A GIRL WHO LIVES ACROSS THE STREET FROM HIM.

24 THE COURT: I DIDN'T HEAR YOU. YOU
25 KNOW HIM AND WHAT?

1 JUROR JAMISON: HE WAS TALKING TO
2 THIS GIRL I USED TO LIVE WITH, I USED TO DATE, RIGHT
3 ACROSS THE STREET FROM WHERE I USED TO LIVE.

4 THE COURT: ALRIGHT. AND THE FACT
5 THAT YOU KNOW HIM IN THAT CAPACITY HAVE ANY EFFECT ON
6 YOUR ABILITY TO BE A FAIR AND IMPARTIAL JUROR FOR BOTH
7 SIDES?

8 JUROR JAMISON: I THINK SO.

9 THE COURT: ALRIGHT, SIR, I
10 UNDERSTAND THAT, I'LL EXCUSE YOU FROM SERVING ON THIS
11 TRIAL, BUT YOU NEED TO REMAIN WITH US FOR RIGHT NOW.
12 JUST HAVE A SEAT. BUT I'LL EXCUSE YOU FROM SERVING.
13 YOU WON'T HAVE TO RESPOND TO ANY OF THE OTHER QUESTIONS.

14 LADIES AND GENTLEMEN, MR. SCOTT IS
15 BEING REPRESENTED BY MR. GLENN WALTERS. MR. WALTERS,
16 WOULD YOU STAND. MR. MICHAEL CULLER, AND MR. ANDREW
17 BROWN. THEY'RE ALL OF THE ORANGEBURG COUNTY BAR AND
18 THEY'RE STANDING BEFORE YOU AT THIS TIME. YOU MAY BE
19 SEATED. IS THERE ANY MEMBER OF THE JURY PANEL RELATED
20 BY BLOOD, CONNECTED BY MARRIAGE, CLOSE PERSONAL FRIENDS
21 WITH MR. WALTERS, MR. CULLER OR MR. BROWN, OR IF YOU ARE
22 NOW OR HAVE EVER BEEN REPRESENTED BY EITHER OF THESE
23 THREE ATTORNEYS WOULD YOU PLEASE STAND?

24 (Affirmative response from jury panel.)

25 THE COURT: YES, MA'AM, YOUR NAME

1 AND NUMBER.

2 JUROR FLOYD: YVETTE FLOYD, I THINK
3 MY NUMBER WAS SEVENTY-ONE, I'M NOT SURE.

4 THE COURT: MS. FLOYD?

5 JUROR FLOYD: YES.

6 THE COURT: ALRIGHT.

7 JUROR FLOYD: MR. WALTERS DID MY
8 DIVORCE.

9 THE COURT: ALRIGHT. AND IS THAT
10 STILL PENDING OR IS IT COMPLETED?

11 JUROR FLOYD: THAT'S COMPLETED.

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

14 JUROR FLOYD: NO.

15 THE COURT: THANK YOU, MA'AM, YOU'RE
16 QUALIFIED TO SERVE.

17 YES, MA'AM?

18 JUROR FELDER: I'M DEBORAH FELDER,
19 NUMBER FORTY, MR. WALTERS' WIFE IS MY SECOND COUSIN.

20 THE COURT: ALRIGHT. AND WOULD THAT
21 AFFECT YOUR ABILITY TO BE A FAIR AND IMPARTIAL JUROR IN
22 THIS CASE?

23 JUROR : NO.

24 THE COURT: THANK YOU, MA'AM.

25 YES, MA'AM, IN THE BACK?

1 JUROR SIMMONS: PATRICIA SIMMONS, I
2 DON'T REMEMBER WHAT MY NUMBER WAS.

3 THE COURT: SIMMONS?

4 JUROR SIMMONS: SIMMONS.

5 THE COURT: ALRIGHT.

6 JUROR SIMMONS: MR. WALTERS HAD
7 REPRESENT ME IN A CASE.

8 THE COURT: AND WOULD THAT FACT
9 AFFECT YOUR ABILITY TO BE A FAIR AND IMPARTIAL JUROR IN
10 THIS CASE?

11 JUROR SIMMONS: NO.

12 THE COURT: THANK YOU, MA'AM, YOU'RE
13 QUALIFIED TO SERVE.

14 YES, MA'AM?

15 JUROR VOID: MY NUMBER IS ONE
16 SEVENTY-FOUR, MY NAME IS LOIS VOID, I WAS REPRESENTED BY
17 MR. WALTERS IN A CASE.

18 THE COURT: AND WOULD THAT AFFECT
19 YOUR ABILITY TO BE A FAIR AND IMPARTIAL JUROR?

20 JUROR VOID: NO.

21 THE COURT: THANK YOU, MA'AM.

22 YES, SIR?

23 JUROR BALLARD: I'M JUROR NUMBER
24 SIX, WAYNE BALLARD. GLENN WALTERS IS A PERSONAL FRIEND
25 OF MINE, HE HAS DONE WORK FOR ME, BUSINESS AND PERSONAL.

1 THE COURT: ALRIGHT. AND WOULD THAT
2 AFFECT YOUR ABILITY TO BE A FAIR AND IMPARTIAL JUROR FOR
3 BOTH THE STATE AND THE DEFENSE?

4 JUROR BALLARD: I THINK IT MIGHT,
5 SIR.

6 THE COURT: ALRIGHT, SIR, I'LL
7 EXCUSE YOU FROM SERVING. JUST HAVE A SEAT AND REMAIN
8 WITH US FOR RIGHT NOW.

9 ANYONE ELSE?

10 (Negative response from jury panel.)

11 THE COURT: LADIES AND GENTLEMEN,
12 THE CASE IS BEING PROSECUTED BY MR. DON SORENSON. ARE
13 YOU GOING TO HAVE ANY OTHER ATTORNEYS HELPING YOU?

14 SOLICITOR SORENSON: NO, SIR.

15 THE COURT: MR. SORENSON, WOULD YOU
16 STAND? THIS IS MR. DON SORENSON, OF THE SOLICITOR'S
17 OFFICE. THANK YOU, SIR, YOU MAY BE SEATED. IS THERE
18 ANY MEMBER OF THE JURY PANEL RELATED BY BLOOD, CONNECTED
19 BY MARRIAGE, CLOSE PERSONAL FRIEND, HAVE ANY KNOWLEDGE
20 OR ACQUAINTANCE WITH MR. SORENSON, OR IF YOU ARE NOW OR
21 HAVE EVER BEEN REPRESENTED BY MR. SORENSON, OR IF YOU
22 KNOW ANY MEMBERS OF THE LEGAL STAFF OF THE SOLICITOR'S
23 OFFICE WOULD YOU PLEASE STAND.

24 (Negative response from jury panel.)

25 THE COURT: LADIES AND GENTLEMEN,

131

1 I'M GOING TO READ YOU THE NAMES OF SOME OTHER WITNESSES
2 WHO MAY TESTIFY IN THIS CASE. THEY MAY OR MAY NOT BE
3 WITNESSES BUT THEY OBVIOUSLY HAVE SOME KNOWLEDGE ABOUT
4 THE CASE, AND IF YOU KNOW ANY OF THESE INDIVIDUALS, AND
5 THERE ARE EIGHTEEN OF THEM, WHEN I CALL THEIR NAME WOULD
6 YOU PLEASE STAND. INVESTIGATOR JAMES SHUMPERT. IF THE
7 WITNESSES ARE PRESENT I WOULD ASK THAT THE WITNESSES
8 STAND WHEN I CALL THEIR NAME SO YOU CAN IDENTIFY THEM,
9 BUT MOST OF THEM WILL NOT BE HERE. THIS IS INVESTIGATOR
10 JAMES SHUMPERT WITH THE SHERIFF'S OFFICE, ORANGEBURG
11 COUNTY. THANK YOU, INVESTIGATOR, YOU MAY BE SEATED. IF
12 YOU KNOW ANY OF THESE WITNESSES PLEASE STAND WHEN I CALL
13 THEIR NAMES. ALSO WITH THE SHERIFF'S OFFICE SERGEANT
14 ANTHONY CRAFT. LIEUTENANT GERALD CARTER.

15 (Affirmative response from jury panel.)

16 THE COURT: YES, MA'AM.

17 JUROR FORTE: I KNOW MR. CRAFT'S
18 FATHER.

19 THE COURT: YOUR NAME?

20 JUROR FORTE: MARCY FORD.

21 THE COURT: AND YOUR NUMBER?

22 JUROR FORTE: I THINK IT'S FIFTY-
23 NINE.

24 THE COURT: ALRIGHT, MS. FORTE, AND
25 THE FACT THAT YOU KNOW MR. CRAFT'S FATHER, WOULD THAT

1 AFFECT YOUR ABILITY TO BE A FAIR AND IMPARTIAL JUROR IN
2 THIS CASE?

3 JUROR FORTE: NO, SIR.

4 THE COURT: THANK YOU, MA'AM.

5 YES, MA'AM?

6 JUROR SCOTT: SANDRA SCOTT, I DON'T
7 REMEMBER MY NUMBER. I KNOW ANTHONY CRAFT.

8 COURT REPORTER: I DIDN'T GET THE
9 NAME.

10 JUROR SCOTT: SANDRA SCOTT.

11 THE COURT: MS. SCOTT. WOULD THAT
12 AFFECT YOUR ABILITY TO BE A FAIR AND IMPARTIAL JUROR IN
13 THIS CASE?

14 JUROR SCOTT: NO, SIR.

15 THE COURT: THANK YOU, MA'AM.

16 YES, MA'AM?

17 JUROR FELDER: I KNOW MR. ANTHONY
18 CRAFT, TOO. WE GREW UP TOGETHER.

19 THE COURT: YOUR NAME AND NUMBER?

20 JUROR FELDER: DEBRA FELDER, NUMBER
21 FORTY.

22 THE COURT: AND WOULD THAT AFFECT
23 YOUR ABILITY TO BE A FAIR AND IMPARTIAL JUROR?

24 JUROR FELDER: NO, SIR.

25 THE COURT: THANK YOU, MA'AM.

133

1 LIEUTENANT GERALD CARTER, AND IT'S
2 STILL WITH THE SHERIFF'S OFFICE. INVESTIGATOR JAMES
3 BILLY ETHERIDGE.

4 (Affirmative response from jury panel.)

5 THE COURT: YES, MA'AM, YOUR NAME
6 AND NUMBER?

7 JUROR WIMBERLY: NAOMI WIMBERLY, ONE
8 NINETY-ONE, AND HE'S A FRIEND.

9 THE COURT: AND WOULD THAT AFFECT
10 YOUR ABILITY TO BE A FAIR AND IMPARTIAL JUROR?

11 JUROR WIMBERLY: NO, SIR.

12 THE COURT: THANK YOU, MA'AM.
13 LIEUTENANT, I MEAN, SERGEANT TERRY
14 LOGAN.

15 (Affirmative response from jury panel.)

16 JUROR DENNIS: VERA DENNIS, JUROR
17 NUMBER NINETY-NINE. TERRY LOGAN USED TO BE MY NEIGHBOR
18 WHEN HE WAS IN HIGH SCHOOL.

19 THE COURT: ALRIGHT. AND WOULD THAT
20 AFFECT YOUR ABILITY TO BE A FAIR AND IMPARTIAL JUROR?

21 JUROR DENNIS: NO, SIR.

22 THE COURT: THANK YOU, MA'AM.

23 YES, MA'AM, YOUR NAME AND NUMBER?

24 JUROR BROWN: SHERRILL BROWN, NUMBER
25 TWENTY-FOUR. TERRY AND I WENT TO HIGH SCHOOL TOGETHER.

1 THE COURT: ALRIGHT. AND WOULD THAT
2 AFFECT YOUR ABILITY TO BE A FAIR AND IMPARTIAL JUROR?

3 JUROR BROWN: NO.

4 THE COURT: ALRIGHT. SERGEANT
5 BAILEY. WHAT'S SERGEANT BAILEY'S FIRST NAME?

6 LIEUTENANT SHUMPERT: SHANTE BAILEY,
7 WITH THE SHERIFF'S OFFICE.

8 DEPUTY WILLIAM KETCHERSIDE, ALSO
9 WITH THE SHERIFF'S OFFICE.

10 (Affirmative response from jury panel.)

11 THE COURT: YES, MA'AM, MS. SCOTT.

12 JUROR SCOTT: SHANTE BAILEY AND I
13 ATTEND THE SAME CHURCH.

14 THE COURT: AND WOULD THAT AFFECT
15 YOUR ABILITY TO BE A FAIR AND IMPARTIAL JUROR?

16 JUROR SCOTT: NO, SIR.

17 THE COURT: THANK YOU, MA'AM.

18 DEPUTY WILLIAM KETCHERSIDE.

19 LADIES AND GENTLEMEN, WITH THE
20 SUMTER COUNTY SHERIFF'S OFFICE, DEPUTY MONTY JONES.

21 (Affirmative response from jury panel.)

22 JUROR STILLINGER: JUROR ONE SIXTY-
23 NINE, I THINK, SUSAN STILLINGER. WE GREW UP TOGETHER.

24 THE COURT: ALRIGHT. AND WOULD THAT
25 AFFECT YOUR ABILITY TO BE A FAIR AND IMPARTIAL JUROR?

1 JUROR STILLINGER: NO.

2 THE COURT: THANK YOU, MA'AM.

3 WITH THE STATE LAW ENFORCEMENT
4 DIVISION, LADIES AND GENTLEMEN, COMMONLY CALLED SLED,
5 AGENT VELLO PAAVEL. AGENT ILA SIMMONS. AND AGENT
6 DEBBIE GOFF. OTHER WITNESSES WHO MAY TESTIFY, LADIES
7 AND GENTLEMEN, ARE MR. DON GERNDT, HE WAS FORMERLY WITH
8 SLED, I THINK HE'S A PRIVATE INVESTIGATOR NOW. MR.
9 DANNY MCDANIEL WHO ALSO WAS WITH THE HIGHWAY DEPARTMENT
10 AND IS A PRIVATE INVESTIGATOR NOW, DANNY MCDANIEL.
11 ANGELA FIELDS. AND IF ANY OF THESE WITNESSES ARE
12 PRESENT I WOULD ASK THAT THEY STAND WHEN I CALL THEIR
13 NAMES. IS THIS MS. FIELDS BACK HERE?

14 OKAY, WAIT A MINUTE. OKAY, ALRIGHT,
15 HAVE A SEAT, MS. SCOTT AND I'LL GET YOU IN JUST A
16 MINUTE.

17 THIS IS MS. ANGELA FIELDS, RIGHT?

18 MS. FIELDS: YES.

19 THE COURT: OKAY. THANK YOU, YOU
20 MAY BE SEATED.

21 (Affirmative response from jury panel.)

22 THE COURT: YES, SIR, YOUR NAME AND
23 NUMBER?

24 JUROR FIELDS: ROBERT FIELDS, FORTY-
25 NINE.

1 THE COURT: YES, SIR?

2 JUROR FIELDS: SHE'S MARRIED TO MY
3 FIRST COUSIN.

4 THE COURT: ALRIGHT, AND WOULD THAT
5 AFFECT YOUR ABILITY TO BE A FAIR AND IMPARTIAL JUROR IN
6 THIS CASE?

7 JUROR FIELDS: NO.

8 THE COURT: THANK YOU, SIR.
9 ANYONE ELSE?

10 ALRIGHT, NOW, MS. SCOTT, WOULD YOU
11 STAND AGAIN, PLEASE. THIS IS MS., IS IT IESHA, IS THAT
12 RIGHT?

13 MS. SCOTT: YES, SIR.

14 THE COURT: THANK YOU, MA'AM. THIS
15 IS MS. SCOTT, LADIES AND GENTLEMEN, DOES ANY MEMBER KNOW
16 MS. SCOTT? THANK YOU, MA'AM, YOU MAY BE SEATED.

17 JOHN RANDOLPH. WILL GILLIARD,
18 JUNIOR. LAWRENCE - - -

19 (Affirmative response from jury panel.)

20 THE COURT: YES, MA'AM?

21 JUROR MCKEOUN: I KNOW THEIR FAMILY.

22 THE COURT: AND YOUR NAME AND
23 NUMBER?

24 JUROR MCKEOUN: MARIE MCKEOUN, ONE
25 TWENTY-FIVE.

1 THE COURT: AND DO YOU ALSO KNOW
2 LAWRENCE KELLY AND JOHN RANDOLPH?

3 JUROR MCKEOUN: I KNOW JOHN
4 RANDOLPH.

5 THE COURT: AND DID YOU KNOW THE
6 VICTIM, MR. MACK?

7 JUROR MCKEOUN: NOT CLOSELY, BUT MY
8 DAUGHTER WENT TO SCHOOL WITH HIM.

9 THE COURT: ALRIGHT, AND THE FACT
10 THAT YOU KNEW THOSE PEOPLE THAT YOU DID, WOULD THAT HAVE
11 ANY EFFECT ON YOUR ABILITY TO BE A FAIR AND IMPARTIAL
12 JUROR FOR BOTH THE STATE AND THE DEFENSE?

13 JUROR MCKEOUN: NO.

14 THE COURT: THANK YOU, MA'AM, YOU
15 ARE QUALIFIED TO SERVE.

16 YES, MA'AM?

17 JUROR BUSH: YES, CAROLYN BUSH,
18 JUROR NUMBER TWENTY-EIGHT. I KNOW THE RANDOLPHS AND THE
19 MACKS THROUGH SOME RELATIVES, AND I ALSO CO-WORK WITH
20 HIS MOTHER.

21 THE COURT: AND WOULD THAT AFFECT
22 YOUR ABILITY TO BE A FAIR AND IMPARTIAL JUROR IN THIS
23 CASE?

24 JUROR BUSH: NO.

25 THE COURT: THANK YOU, MA'AM, YOU'RE

1 QUALIFIED TO SERVE.

2 ANYONE ELSE?

3 (Negative response from jury panel.)

4 THE COURT: LAWRENCE KELLY. NOW,
5 LADIES AND GENTLEMEN, THESE WERE THE THREE VICTIMS,
6 ALLEGED THREE VICTIMS IN ADDITION TO MR. MACK, SO LET'S
7 JUST DO ALL FOUR OF THEM AT ONE TIME. THE GENTLEMAN WHO
8 DIED WAS MR. HARRY LEE MACK, JUNIOR. THE OTHER THREE
9 VICTIMS ARE JOHN RANDOLPH, WILL GILLIARD, JUNIOR, AND
10 LAWRENCE KELLY. SO, IF YOU KNOW ANY OF THOSE FOUR
11 INDIVIDUALS IN ANY CAPACITY WHATSOEVER WOULD YOU PLEASE
12 STAND.

13 (Negative response from jury panel.)

14 THE COURT: ALRIGHT. CLINTON JONES.
15 LEAFUS MAURICE CHEESEBORO. DANIEL YOUNG, DR. JANICE
16 ROSS.

17 (Negative response from jury panel.)

18 THE COURT: ANY OTHER VOIR DIRE
19 REQUESTS FROM THE DEFENSE?

20 LADIES AND GENTLEMEN, DOES ANY
21 MEMBER OF THE JURY PANEL KNOW OF ANY REASON WHATSOEVER
22 THAT YOU COULD NOT GIVE BOTH THE STATE AND THE DEFENDANT
23 IN THIS CASE A FAIR AND IMPARTIAL TRIAL? IT MAY BE
24 SOMETHING I'VE MENTIONED, SOME WITNESS I'VE MENTIONED OR
25 SOMETHING ELSE. LET ME ASK IF ANYBODY KNOWS ANYTHING

139

1 ABOUT THIS INCIDENT, LADIES AND GENTLEMEN, THIS IS
2 ALLEGED TO HAVE OCCURRED ON DECEMBER TWENTY-FOURTH, TWO
3 THOUSAND AND SIX -- AND WHAT WAS THE ADDRESS WHERE IT
4 OCCURRED, SOLICITOR?

5 SOLICITOR SORENSON: IT WAS [REDACTED]

6 [REDACTED] SHADOW LAWN DRIVE, IT'S AN APARTMENT COMPLEX
7 HERE IN ORANGEBURG.

8 THE COURT: SHADOW LAWN DRIVE?

9 SOLICITOR SORENSON: SHADOW LAWN
10 DRIVE, YES, SIR.

11 THE COURT: THAT'S AN APARTMENT
12 COMPLEX HERE IN ORANGEBURG, ON DECEMBER THE TWENTY-
13 FOURTH, TWO THOUSAND AND SIX. LADIES AND GENTLEMEN, I
14 FEEL CERTAIN THERE WAS SOMETHING I THE NEWSPAPER ABOUT
15 IT WHEN IT HAPPENED, THAT'S BEEN TWO AND A HALF YEARS.
16 I DON'T KNOW WHETHER THERE'S BEEN ANYTHING IN THE
17 NEWSPAPER ABOUT IT SINCE THEN. YOU MIGHT HAVE HEARD
18 SOMEBODY TALKING ABOUT IT AT THE BARBER SHOP, OR THE
19 BEAUTY PARLOR OR THE FILLING STATION. IF YOU HAVE ANY
20 KNOWLEDGE WHATSOEVER ABOUT THIS ALLEGED INCIDENT, THIS
21 ARMED ROBBERY AND MURDER, ANY INFORMATION WHATSOEVER
22 FROM ANY SOURCE WHATSOEVER, WOULD YOU PLEASE STAND?

23 (Negative response from jury panel.)

24 THE COURT: SO, DOES ANY MEMBER OF
25 THE JURY PANEL KNOW OF ANY REASON THAT YOU CAN'T GIVE

1 BOTH THE STATE AND THE DEFENSE A FAIR AND IMPARTIAL
2 TRIAL? IF YOU NEED TO COME FORWARD AND SPEAK WITH ME
3 PRIVATELY I'LL BE GLAD FOR YOU TO DO THAT.

4 (Affirmative response from jury panel.)

5 THE COURT: YES, MA'AM, COME ON
6 DOWN.

7 (Whereupon, a bench conference
8 is had out of the hearing of
9 the court reporter.)

10 THE COURT: MS. DAVIS, NUMBER FORTY-
11 ONE, IS EXCUSED.

12 ANYONE ELSE? COME ON DOWN NOW,
13 PLEASE, IF YOU NEED TO COME.

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

17 THE COURT: ANYONE ELSE?

18 COURT REPORTER: I DIDN'T GET HER
19 NAME.

20 THE COURT: I'LL GIVE IT TO YOU IN
21 A MINUTE, MS. WALKER, JUST ONE SECOND.

22 ANYTHING ELSE FROM THE STATE?

23 SOLICITOR SORENSON; NO, SIR.

24 THE COURT: FROM THE DEFENSE?

25 MR. WALTERS: NO, SIR.

1 THE COURT: ALRIGHT, Y'ALL COME UP
2 HERE.

3 (Whereupon, a bench conference
4 is had between the Court and
5 counsel out of the hearing of
6 the court reporter.)

7 THE COURT: JUROR NUMBER SIX, MS.
8 CRIBB, IS EXCUSED, MS. WALKER.

9 COURT REPORTER: THANK YOU.

10 JUROR CRIBB: CAN I GO?

11 THE COURT: NO, YOU NEED TO WAIT FOR
12 RIGHT NOW.

13 SOLICITOR SORENSON: SHE'S SEVENTY-
14 SIX, YOUR HONOR.

15 THE COURT: OH, SEVENTY-SIX? OKAY,
16 SEVENTY-SIX.

17 NOW, LADIES AND GENTLEMEN, HOW WE
18 WILL PROCEED IS AS FOLLOWS: BOTH THE STATE AND THE
19 DEFENSE UNDER OUR SYSTEM OF LAW HAS A RIGHT TO EXCUSE A
20 CERTAIN NUMBER OF PEOPLE FROM SERVING ON THE JURY, AND
21 THEY CAN DO THIS FOR ANY REASON THAT THEY WANT TO.
22 THEY'VE BEEN LISTENING AS YOU ANSWERED QUESTIONS, OR
23 THEY MIGHT HAVE DONE SOME RESEARCH ON YOU FOR ALL I
24 KNOW. THEY DON'T HAVE TO GIVE ANY REASON IF THEY EXCUSE
25 YOU FROM SERVING ON THE JURY. BUT IN JUST A FEW MINUTES

1 WHEN THE CLERK GETS READY THE CLERK IS GOING TO CALL
2 YOUR NAMES. THEY ARE RANDOMLY DRAWN BY THIS COMPUTER UP
3 HERE. AND SO, IF HE CALLS YOUR NAME I'M GOING TO ASK
4 YOU TO COME ALL THE WAY UP TO THE FRONT, STAND RIGHT
5 HERE AGAINST THIS PODIUM, LOOK BACK AT THAT EXIT SIGN
6 WHERE YOU WOULD LOVE TO BE, BUT YOU CAN'T GO QUITE YET,
7 YOU'LL HAVE TO STAND HERE WHILE THE ATTORNEYS GET ONE
8 LAST LOOK AT YOU, AND THEY WILL EITHER APPROVE YOU FOR
9 SEATED ON THE JURY OR YOU WILL BE EXCUSED. AND THE
10 STATE MAKES THE DECISION FIRST AND THEN THE DEFENDANT.
11 PLEASE DO NOT BE OFFENDED IF YOU ARE EXCUSED, THEY HAVE
12 THEIR REASONS, BUT LIKE I SAY, THEY DON'T HAVE TO TELL
13 US WHAT THOSE REASONS ARE. AND YOU MAY HAVE FINISHED
14 YOUR WEEK'S WORK IF YOU GET EXCUSED. SO, THE STRIKES
15 ARE FIVE AND TEN. ALRIGHT. IT'S GOING TO TAKE A COUPLE
16 OF MINUTES, LADIES AND GENTLEMEN, TO GET THIS COMPUTER
17 WARMED UP. WE USED TO JUST PUT THEM IN A BOX LIKE WE
18 WERE PLAYING BINGO. AND I CAN SEE HOW THAT WORKS. I
19 CAN'T SEE HOW THESE COMPUTERS WORK, I HAVE TO TRUST
20 THESE FOLKS OVER HERE. BUT THEY'RE GETTING THAT READY,
21 SO IT WILL TAKE JUST A FEW MINUTES. WILL IT BE TEN
22 MINUTES OR SO, OR IT WON'T BE THAT LONG? ALRIGHT, HE
23 SAYS IT MIGHT BE TEN MINUTES OR SO, SO IF YOU WANT TO
24 TAKE A SHORT BREAK, STEP OUTSIDE JUST A MINUTE, BUT
25 PLEASE MAKE IT SHORT, AND BE RIGHT BACK IN WHEN WE GET

144

1 JUROR NUMBER ONE EIGHTEEN, ANITRA
2 MACK. WHAT SAYS THE STATE?

3 SOLICITOR SORENSON: PLEASE PRESENT
4 MS. MACK.

5 CLERK: WHAT SAYS THE DEFENSE?

6 MR. WALTERS: SEAT THE JUROR.

7 CLERK: YOU MAY BE SEATED IN THE
8 JURY BOX.

9 JUROR NUMBER SIXTY-SEVEN, ROGER
10 GLEATON. WHAT SAYS THE STATE?

11 SOLICITOR SORENSON: PLEASE PRESENT
12 MR. GLEATON.

13 CLERK: WHAT SAYS THE DEFENSE?

14 MR. WALTERS: SEAT THE JUROR.

15 CLERK: YOU MAY BE SEATED IN THE
16 JURY BOX.

17 JUROR NUMBER FORTY-NINE, ROBERT
18 FIELDS. WHAT SAYS THE STATE?

19 SOLICITOR SORENSON: PLEASE EXCUSE
20 MR. FIELDS.

21 CLERK: YOU MAY RETURN TO YOUR SEAT.

22 JUROR NUMBER FIFTY, YVETTE FLOYD.
23 WHAT SAYS THE STATE?

24 SOLICITOR SORENSON: PLEASE EXCUSE
25 MS. FLOYD.

1 CLERK: JUROR NUMBER ONE SIXTY-NINE,
2 SUSAN STILLINGER. WHAT SAYS THE STATE?

3 SOLICITOR SORENSON: PLEASE PRESENT
4 MS. STILLINGER.

5 CLERK: WHAT SAYS THE DEFENSE?

6 MR. WALTERS: EXCUSE THE JUROR.

7 CLERK: JUROR NUMBER ONE FIFTY-SIX,
8 ALICE SHULER. WHAT SAYS THE STATE?

9 SOLICITOR SORENSON: PLEASE PRESENT
10 MS. SHULER.

11 CLERK: WHAT SAYS THE DEFENSE?

12 MR. WALTERS: SEAT THE JUROR.

13 CLERK: YOU MAY BE SEATED IN THE
14 JURY BOX.

15 JUROR NUMBER ONE O THREE, BRITTANY
16 JONES. WHAT SAYS THE STATE?

17 SOLICITOR SORENSON: PLEASE PRESENT
18 MS. JONES.

19 CLERK: WHAT SAYS THE DEFENSE?

20 MR. WALTERS: SEAT THE JUROR.

21 CLERK: JUROR NUMBER ONE NINETY-TWO,
22 ROBERT WOLFE. WHAT SAYS THE STATE?

23 SOLICITOR SORENSON: PLEASE PRESENT
24 MR. WOLFE.

25 CLERK: WHAT SAYS THE DEFENSE?

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MR. WALTERS: STRIKE HIM.

CLERK: YOU MAY RETURN TO YOUR SEAT,

MR. WOLFE.

JUROR NUMBER EIGHTY, JANET HALL.

WHAT SAYS THE STATE?

SOLICITOR SORENSON: PLEASE PRESENT

MS. HALL.

CLERK: WHAT SAYS THE DEFENSE?

MR. WALTERS: STRIKE HER.

CLERK: JUROR NUMBER ONE EIGHTY-

SEVEN, DAVID WILLIAMSON. WHAT SAYS THE STATE?

SOLICITOR SORENSON: PLEASE PRESENT

MR. WILLIAMSON.

CLERK: WHAT SAYS THE DEFENSE?

MR. WALTERS: SEAT THE JUROR.

CLERK: JUROR NUMBER ONE SIXTY-ONE,

KATHLEEN SMITH. WHAT SAYS THE STATE?

SOLICITOR SORENSON: PLEASE PRESENT

MS. SMITH.

CLERK: WHAT SAYS THE DEFENSE?

MR. WALTERS: STRIKE HER.

CLERK: JUROR NUMBER ONE EIGHTY-TWO,

KATHY WILLIAMS. WHAT SAYS THE STATE?

SOLICITOR SORENSON: PLEASE PRESENT

MS. WILLIAMS.

1 CLERK: WHAT SAYS THE DEFENSE?

2 MR. WALTERS: SEAT THE JUROR.

3 CLERK: JUROR NUMBER FORTY-SEVEN,
4 SAMUEL FELDER. WHAT SAYS THE STATE?

5 SOLICITOR SORENSON: PLEASE PRESENT
6 MR. FELDER.

7 CLERK: WHAT SAYS THE DEFENSE?

8 MR. WALTERS: SEAT THE JUROR.

9 CLERK: JUROR NUMBER NINETY-ONE,
10 EMMA JAMES. WHAT SAYS THE STATE?

11 SOLICITOR SORENSON: PLEASE PRESENT
12 MS. JAMES.

13 CLERK: WHAT SAYS THE DEFENSE?

14 MR. WALTERS: SEAT THE JUROR.

15 CLERK: JUROR NUMBER FIFTY-THREE,
16 DEBORA FOGLE. WHAT SAYS THE STATE?

17 SOLICITOR SORENSON: PLEASE PRESENT
18 MS. FOGLE.

19 CLERK: WHAT SAYS THE DEFENSE?

20 MR. WALTERS: STRIKE HER.

21 CLERK: JUROR NUMBER FIFTY-NINE,
22 WILLIAM FRENCH. WHAT SAYS THE STATE?

23 SOLICITOR SORENSON: PLEASE PRESENT
24 MR. FRENCH.

25 CLERK: WHAT SAYS THE DEFENSE?

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MR. WALTERS: SEAT THE JUROR.

CLERK: JUROR NUMBER TWENTY-SEVEN,
MICHELLE BURNS. WHAT SAYS THE STATE?

SOLICITOR SORENSON: PLEASE PRESENT
MS. BURNS.

CLERK: WHAT SAYS THE DEFENSE?

MR. WALTERS: SEAT THE JUROR.

CLERK: JUROR NUMBER THIRTY-ONE,
LEVON CALHOUN. WHAT SAYS THE STATE?

SOLICITOR SORENSON: PLEASE EXCUSE
MR. CALHOUN.

CLERK: YOU MAY RETURN TO YOUR SEAT.

THE COURT: I HAVE THREE AND SEVEN.

CLERK: JUROR NUMBER NINETY-TWO,
TERRANCE JAMES. WHAT SAYS THE STATE?

SOLICITOR SORENSON: PLEASE PRESENT
MR. JAMES.

CLERK: WHAT SAYS THE DEFENSE?

MR. WALTERS: SEAT THE JUROR.

THE COURT: ACTUALLY, I'VE GOT THREE
AND SIX.

SOLICITOR SORENSON: YES, SIR, YOUR
HONOR.

MR. WALTERS: THAT'S WHAT I'VE GOT.

CLERK: JUROR NUMBER ONE HUNDRED

1 TEN, JOHN LANE. WHAT SAYS THE STATE?

2 SOLICITOR SORENSON: PLEASE PRESENT

3 MR. LANE.

4 CLERK: WHAT SAYS THE DEFENSE?

5 MR. WALTERS: STRIKE HIM.

6 CLERK: JUROR NUMBER TWENTY-EIGHT,

7 CAROLINE BUSH. WHAT SAYS THE STATE?

8 SOLICITOR SORENSON: PLEASE PRESENT

9 MS. BUSH.

10 CLERK: WHAT SAYS THE DEFENSE?

11 MR. WALTERS: STRIKE HER.

12 CLERK: JUROR NUMBER ONE SEVENTY-

13 SEVEN, MELINDA WASHINGTON. WHAT SAYS THE STATE?

14 SOLICITOR SORENSON: PLEASE PRESENT

15 MS. WASHINGTON.

16 CLERK: WHAT SAYS THE DEFENSE?

17 MR. WALTERS: SEAT THE JUROR.

18 THE COURT: ALRIGHT, LET'S GET TWO

19 ALTERNATES, AND THE STRIKES WILL BE ONE AND TWO FOR

20 EACH.

21 CLERK: JUROR NUMBER ONE TWENTY-

22 THREE, LINDA MCDANIEL. WHAT SAYS THE STATE?

23 SOLICITOR SORENSON: PLEASE PRESENT

24 MS. MCDANIEL.

25 CLERK: WHAT SAYS THE DEFENSE?

150

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MR. WALTERS: STRIKE HER.

CLERK: JUROR NUMBER ONE SEVENTY-
FOUR, LOIS VOID. WHAT SAYS THE STATE?

SOLICITOR SORENSON: PLEASE EXCUSE
MS. VOID.

CLERK: JUROR NUMBER NINETY-SIX,
ELAINE JEFFCOAT. WHAT SAYS THE STATE?

SOLICITOR SORENSON: PLEASE PRESENT
MS. JEFFCOAT.

CLERK: WHAT SAYS THE DEFENSE?

MR. WALTERS: SEAT THE JUROR.

CLERK: JUROR NUMBER ONE FIFTY,
SHERRILL SAULS. WHAT SAYS THE STATE?

SOLICITOR SORENSON: PLEASE PRESENT
MS. SAULS.

CLERK: WHAT SAYS THE DEFENSE?

MR. WALTERS: SEAT THE JUROR.

THE COURT: ALRIGHT, ANY MATTERS
REGARDING JURY SELECTION FROM THE STATE?

SOLICITOR SORENSON: NO, YOUR HONOR.

THE COURT: FROM THE DEFENSE?

MR. WALTERS: NO, SIR, YOUR HONOR.

THE COURT: ALRIGHT, LADIES AND
GENTLEMEN WHO WERE SELECTED ON THIS JURY, WE'VE GOT A
COUPLE SOME MORE MATTERS THAT WE DIDN'T FINISH UP

1 YESTERDAY. WE WERE HERE, I THINK, UNTIL ABOUT
2 SIX:THIRTY YESTERDAY, BUT WE STILL DIDN'T QUITE GET
3 FINISHED. I'M GOING TO ASK YOU TO RETIRE TO YOUR JURY
4 ROOM AND DO NOT TALK ABOUT THE CASE. TALK ABOUT
5 ANYTHING ELSE YOU WANT TO, BUT DON'T SAY ANYTHING ABOUT
6 THIS CASE. WE'RE GOING TO GET STARTED JUST AS QUICKLY
7 AS WE CAN. PLEASE FOLLOW THE BAILIFF TO THE JURY ROOM.
8 (Whereupon, the jury retires
9 to the jury room and the
10 following takes place out of
11 the presence of the jury.)

12 THE COURT: NOW, LADIES AND
13 GENTLEMEN WHO WERE NOT SELECTED ON THIS CASE, I'M GOING
14 TO EXCUSE YOU AT THIS TIME AND I'M GOING TO ASK YOU TO
15 CALL BACK IN AFTER SIX O'CLOCK THE CALL IN NUMBER THAT
16 YOU HAVE -- IF YOU DON'T HAVE IT THEY'LL GIVE IT YOU AT
17 THE BACK -- AND FOLLOW WHATEVER INSTRUCTIONS THAT YOU
18 FIND ON THE MACHINE AT THAT TIME. IT MIGHT SAY BE HERE
19 IN THE MORNING AT NINE:THIRTY. IT MIGHT SAY CALL BACK
20 TOMORROW AFTER SIX O'CLOCK. IF I KNEW WHAT IT WAS GOING
21 TO SAY I'D TELL YOU NOW, BUT WE CAN'T TELL UNTIL WE SEE
22 HOW THE REST OF THE DAY GOES. WE ANTICIPATE THIS TRIAL
23 MIGHT TAKE THE REST OF THE WEEK BUT WE CAN NEVER BE
24 CERTAIN OF THAT, AND THAT'S THE REASON I NEED YOU TO
25 CALL BACK. YOU ARE WELCOME TO STAY IF YOU WOULD LIKE.

1 WE HAVE SOME MOTIONS WE NEED TO HEAR IN THIS CASE AND
2 THEN WE'RE GOING TO START THE TRIAL. IF YOU WANT TO STAY
3 YOU ARE WELCOME TO STAY BUT YOU ARE FREE TO LEAVE AT
4 THIS TIME IF YOU WOULD LIKE TO LEAVE.

5 ALRIGHT, SOLICITOR, WE'VE GOT TO
6 FINISH UP OUR NEAL-BIGGERS MATTER.

7 SOLICITOR SORENSON: YES SIR. GET
8 MR. RANDOLPH. COME BACK AROUND, PLEASE.

9 THE COURT: MR. RANDOLPH, YOU'RE
10 STILL UNDER OATH.

11 MR. RANDOLPH: I AIN'T GOT TO DO IT
12 AGAIN?

13 THE COURT: SIR?

14 MR. RANDOLPH: I WAS ASKING HIM DID
15 I HAVE TO - - -

16 THE COURT: WELL, I'LL SWEAR YOU
17 AGAIN.

18 (Whereupon, John Randolph
19 is duly sworn.)

20 THE COURT: ALRIGHT, SIR. NOW,
21 PLEASE TALK LOUD. PLEASE TALK LOUD, EVERYBODY NEEDS TO
22 HEAR YOU, IT'S VERY IMPORTANT.

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

DIRECT, IN CAMERA, JOHN RANDOLPH BY SOL.SORENSEN

153

DIRECT EXAMINATION, IN CAMERA, OF JOHN RANDOLPH

BY SOLICITOR SORENSON:

Q. KEEP YOUR VOICE UP, JOHN, I'VE JUST GOT A COUPLE
OF QUESTIONS FOR YOU. WE WENT THROUGH ALL THE
STUFF YESTERDAY AS FAR AS THE LINEUPS AND
EVERYTHING, AND I THINK I HAD ENDED WITH YOU WHERE
YOU HAD IDENTIFIED IN STATE'S EXHIBIT NUMBER TEN,
PICTURE NUMBER ONE, IS THAT CORRECT?

A. YES, SIR.

Q. ALRIGHT, NOW, DO YOU SEE HERE IN THE COURTROOM
TODAY, AND IF YOU DO, COULD YOU POINT HIM OUT FOR
THE JUDGE THE PERSON THAT CAME INTO YOUR APARTMENT
ARMED WITH A GUN BACK THE EVENING OF, OR EARLY
MORNING HOURS OF DECEMBER TWENTY-FOURTH, TWO
THOUSAND AND SIX, DO YOU SEE HIM HERE IN THE
COURTROOM?

A. YES, SIR.

Q. COULD YOU POINT HIM OUT FOR THE COURT? WHICH ONE?

A. WHITE SHIRT.

Q. SITTING, IN THE WHITE SHIRT, ON THE SECOND ROW
THERE?

A. YES, SIR.

Q. ALRIGHT. IS THERE ANYTHING DIFFERENT ABOUT HIM
TODAY AS OPPOSED TO HOW HE LOOKED BACK IN YOUR
APARTMENT ON DECEMBER TWENTY-FOURTH?

DIRECT, IN CAMERA, JOHN RANDOLPH BY SOL.SORENSEN

154

1 A. NO FACIAL HAIR.

2 Q. NO FACIAL HAIR? ALRIGHT. AND WHEN YOU POINTED
3 HIM OUT FOR THE COURT WHAT ARE YOU BASING THAT ON?

4 A. HIS FACE.

5 Q. OKAY. BUT WHERE DID YOU SEE THAT FACE BEFORE?

6 A. AT MY APARTMENT DOOR, IN MY APARTMENT.

7 Q. ANY DOUBT IN YOUR MIND THAT THAT'S THE SAME PERSON
8 THAT WAS IN YOUR APARTMENT THAT MORNING?

9 A. NO, SIR.

10 SOLICITOR SORENSON: OKAY. THANK
11 YOU, JOHN.

12 THE COURT: CROSS-EXAM?

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, IN CAMERA - JOHN RANDOLPH BY MR. CULLER

155

CROSS-EXAMINATION, IN CAMERA, OF JOHN RANDOLPH

BY MR. CULLER:

Q. MR. RANDOLPH, I DON'T REMEMBER WHICH INDIVIDUAL IT WAS THAT MET WITH DETECTIVE SHUMPERT, WERE YOU THE ONE THAT WENT IN AND MET WITH DETECTIVE SHUMPERT AND SAW THE INITIAL PHOTO? AT WHAT POINT IN TIME DID YOU PICK MR. SCOTT OUT OF A LINEUP, DO YOU REMEMBER?

A. IT WAS EITHER THE SECOND OR THIRD TIME SHUMPERT CAME AND SHOWED ME A LINEUP.

Q. OKAY. ALRIGHT. AND I THINK WE WENT THROUGH THE FACT THAT THE TESTIMONY YESTERDAY WAS, YOU WERE IN THE KITCHEN WHEN THIS WHOLE THING WENT DOWN?

A. YES, SIR.

Q. AND YOU HAD TWO PEOPLE SEATED ON A SOFA IMMEDIATELY IN FRONT OF YOU, MR. MACK WAS - - -

SOLICITOR SORENSON: YOUR HONOR, I MEAN, HE WENT THROUGH ALL THIS CROSS YESTERDAY, I MEAN, THE ONLY, THE ONLY NEW INFORMATION IS JUST HIM ID'ING HIM IN THE COURTROOM TODAY.

THE COURT: I'LL GIVE YOU A LITTLE LATITUDE, MR. CULLER, BUT NOT MUCH, I MEAN - - -

MR. CULLER: I'M NOT GOING FAR.

THE COURT: --- BECAUSE YOU FULLY CROSS-EXAMINED HIM YESTERDAY.

CROSS, IN CAMERA - JOHN RANDOLPH BY MR. CULLER

156

1 MR. CULLER: I DID, I DID.

2 THE COURT: ALRIGHT, SIR.

3 MR. COURT: I'M NOT GOING FAR.

4 THE COURT: ALRIGHT, SIR.

5 Q. ISN'T THAT THE SITUATION THAT IT WAS?

6 A. YES, SIR.

7 Q. OKAY. AND, I WAS JUST TRYING TO REMEMBER, AND
8 IMMEDIATELY YOU SAID YOU WENT DOWN WHEN THESE
9 PEOPLE CAME INTO YOUR APARTMENT?

10 A. THAT'S RIGHT.

11 MR. CULLER: THAT'S ALL I NEED.

12 THE COURT: ANYTHING ELSE FROM THE
13 STATE?

14 SOLICITOR SORENSON: NO, SIR.

15 THE COURT: ALRIGHT, SIR, YOU CAN
16 STEP DOWN.

17 SOLICITOR SORENSON: WILL GILLIARD.

18 THE COURT: COME AROUND, PLEASE, AND
19 PLACE YOUR LEFT HAND ON THE BIBLE AND RAISE YOUR RIGHT.

20 (Whereupon, Will Gilliard, Jr.,

21 is duly sworn.)

22 THE COURT: ALRIGHT, MR. SORENSON.

23 SOLICITOR SORENSON: THANK YOU.

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

DIRECT, IN CAMERA, WILL GILLIARD, JR.,
BY SOL.SORENSEN

157

DIRECT EXAMINATION, IN CAMERA, OF WILL GILLIARD, JR.,

BY SOLICITOR SORENSON:

Q. MR. GILLIARD, DO YOU SEE IN THE COURTROOM HERE
TODAY, AND IF YOU DO COULD YOU POINT HIM OUT FOR
THE COURT, THE PERSON THAT YOU HAVE IDENTIFIED AS
COMING INTO THAT APARTMENT SOMETIME DURING THE
EARLY MORNING HOURS DECEMBER TWENTY-FOURTH, TWO
THOUSAND AND SIX? OKAY. YOU'RE POINTING TO --
DESCRIBE HIM FOR THE JURY, PLEASE, I MEAN, FOR THE
JUDGE?

A. TERRELL SCOTT.

Q. DESCRIBE, WHAT HE'S WEARING, WHICH ONE?

A. THE ONE WITH THE WHITE SHIRT ON.

Q. OKAY. THE BLACK MALE IN THE KIND OF ROW BEHIND THE
TABLE WITH THE WHITE SHIRT?

A. YES, SIR.

Q. OKAY. IS THERE ANYTHING DIFFERENT ABOUT HIM TODAY
AS OPPOSED TO HOW HE LOOKED BACK ON DECEMBER
TWENTY-FOURTH, TWO THOUSAND AND SIX?

A. HE'S SHAVED, SHAVED ALL THE HAIR OFF HIS FACE.

Q. NO FACIAL HAIR?

A. YEAH.

Q. AND IS THERE ANY DOUBT IN YOUR MIND THAT THAT'S
THE SAME PERSON?

A. NO, SIR.

DIRECT, IN CAMERA, WILL GILLIARD, JR.,
BY SOL.SORENSEN

158

1 Q. OKAY. AND WHAT ARE YOU BASING THAT ON, WHERE HAVE
2 YOU SEEN HIM BEFORE?

3 A. BECAUSE THAT'S THE ONE THAT BEEN IN THE HOUSE, THE
4 APARTMENT, THAT DID THE SHOOTING.

5 Q. NO DOUBT ABOUT IT?

6 A. NO DOUBT ABOUT IT.

7 SOLICITOR SORENSON: THANK YOU, MR.
8 GILLIARD.

9 THE COURT: CROSS-EXAM.

10 MR. WALTERS: WE HAVE NO QUESTIONS,
11 YOUR HONOR.

12 THE COURT: THANK YOU, SIR, YOU MAY
13 STEP DOWN.

14 CALL YOUR NEXT WITNESS.

15 SOLICITOR SORENSON: THE STATE CALLS
16 LAWRENCE JAMES KELLY.

17 THE COURT: COME ON DOWN, PLEASE,
18 SIR, AND PLACE YOUR LEFT HAND ON THE BIBLE AND RAISE
19 YOUR RIGHT.

20 (Whereupon, Lawrence James
21 Kelly is duly sworn.)

22 THE COURT: ALRIGHT, SIR, HAVE A
23 SEAT, PLEASE, SIR.

24 COURT REPORTER: WHAT'S YOUR NAME,
25 PLEASE?

DIRECT, IN CAMERA, WILL GILLIARD, JR.,
BY SOL.SORENSEN

159

WITNESS: LAWRENCE JAMES KELLY.

(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.)

DIRECT, IN CAMERA, LAWRENCE JAMES KELLY
BY SOLICITOR SORENSON

160

DIRECT EXAMINATION, IN CAMERA, OF LAWRENCE

JAMES KELLY BY SOLICITOR SORENSON:

Q. MR. KELLY, DO YOU SEE THE PERSON HERE IN COURT
TODAY THAT YOU SAW IN THE APARTMENT THAT YOU
TESTIFIED ABOUT THAT YOU SAW BACK IN THE APARTMENT
ON DECEMBER TWENTY-FOURTH, TWO THOUSAND AND SIX,
PULL OUT A GUN AND SHOOT IT?

A. YES, SIR.

Q. OKAY. AND IF YOU SEE HIM IN THE COURTROOM HERE
TODAY COULD YOU POINT HIM OUT AND IDENTIFY HIM FOR
THE JUDGE?

A. THERE YOU GO RIGHT THERE.

Q. THE WHITE SHIRT SITTING ON THE KIND OF BENCH
BEHIND THE TABLE?

A. YES.

Q. ANY DOUBT IN YOUR MIND THAT'S THE SAME PERSON?

A. YOU COULD HAVE HAD HIM SKINNY AS A PRUNE AND I
STILL WOULD RECOGNIZE HIM.

Q. OKAY. ANYTHING DIFFERENT ABOUT HIM TODAY AS
OPPOSED TO HOW HE LOOKED BACK ON DECEMBER TWENTY-
FOURTH, TWO THOUSAND SIX?

A. A LITTLE SMALLER, HIS FACE IS CLEAN.

Q. FACE IS CLEAN? LET ME ASK YOU, HAVE YOU SEEN HIM
SINCE THE INCIDENT OCCURRED?

A. A COUPLE OF TIMES.

DIRECT, IN CAMERA, LAWRENCE JAMES KELLY
BY SOLICITOR SORENSON

161

1 Q. OKAY. AND HOW DID HE LOOK ON THOSE OTHER
2 OCCASIONS THAT YOU SAW HIM?

3 A. REAL BIG, BALD HEADED, FULL BEARD.

4 Q. OKAY. NO DOUBT IN YOUR MIND THAT THAT'S THE SAME
5 PERSON?

6 A. NO DOUBT.

7 Q. AND WHAT ARE YOU BASING THAT ON, SEEING HIM FROM
8 WHEN?

9 A. AT THAT APARTMENT BUILDING.

10 Q. THAT MORNING ON THE TWENTY-FOURTH?

11 A. YES, SIR.

12 SOLICITOR SORENSON: THANK YOU, MR.
13 KELLY.

14 THE COURT: CROSS-EXAM.

15 MR. WALTERS: I HAVE NO QUESTIONS,
16 YOUR HONOR.

17 THE COURT: THANK YOU, SIR, YOU MAY
18 STEP DOWN.

19 ANYTHING ELSE FROM THE STATE?

20 SOLICITOR SORENSON: NO, SIR.

21 THE COURT: ANYTHING FROM THE
22 DEFENSE?

23 MR. WALTERS: NO, SIR, YOUR HONOR.

24 THE COURT: DO YOU HAVE ANY MOTIONS?

25 MR. WALTERS: YOUR HONOR, WE'D RENEW

162

1 OUR MOTIONS FROM PREVIOUSLY, ON YESTERDAY WITH REGARDS
2 TO SEQUESTERING ALL OF THE WITNESSES.

3 THE COURT: THAT MOTION WAS GRANTED.
4 ALL THE FACT WITNESSES WILL BE 'SEQUESTERED. I -- GO
5 AHEAD.

6 MR. WALTERS: IF I COULD BE ALLOWED
7 TO ARGUE, I DON'T KNOW IF THE COURT WANTS TO HEAR MY
8 ARGUMENTS WITH REGARDS TO THE NEAL V. BIGGERS HEARING.

9 THE COURT: WELL, THAT'S THE POINT I
10 WAS MAKING. YOU REALLY HADN'T MADE A MOTION TO SUPPRESS
11 THE IN COURT IDENTIFICATION, - - -

12 MR. WALTERS: RIGHT.

13 THE COURT: --- BUT I ASSUMED THAT'S
14 WHY WE WERE DOING THE NEAL V. BIGGERS, SO I ACCEPT THE
15 FACT THAT YOU'VE MADE A MOTION TO SUPPRESS THE IN COURT
16 IDENTIFICATION BY MR., EACH OF THESE THREE WITNESSES WHO
17 HAVE TESTIFIED, MR. RANDOLPH, MR. GILLIARD AND MR.
18 KELLY, IS THAT RIGHT?

19 MR. WALTERS: YES, SIR, THAT IS
20 CORRECT.

21 THE COURT: ALRIGHT, I'LL BE GLAD TO
22 HEAR YOUR ARGUMENT IN THAT REGARD.

23 ARGUMENT ON NEAL V. BIGGERS HEARING

24 BY MR. WALTERS

25 MAY IT PLEASE THE COURT. YOUR

1 HONOR, WITH REGARDS TO THE NEAL V. BIGGERS HEARING, I
2 BELIEVE THE COURT WAS CONSIDERING TWO FACTORS, AND
3 CERTAINLY, YOUR HONOR IS MORE LEARNED IN THAT MATTER
4 THAN I AM, BUT THE TWO FACTORS ARE THAT IT MUST NOT BE
5 UNDULY SUGGESTIVE; AND OF COURSE, IN ADDITION TO THAT,
6 UNDER THE TOTALITY OF THE CIRCUMSTANCES THEY HAVE TO
7 DETERMINE, OR YOU HAVE TO DETERMINE IF THERE'S A
8 SUBSTANTIALLY, OR A SUBSTANTIAL LIKELIHOOD OF
9 IRREPARABLE MISIDENTIFICATION. 'LET'S GO THROUGH THE
10 TESTIMONY OF THE FIRST SO CALLED VICTIM, AND IN THIS
11 PARTICULAR CASE I'D START WITH WILL T. GILLIARD.

12 MR. GILLIARD IT APPEARS THAT
13 ESSENTIALLY STAGED THE PROCESS OF IDENTIFYING SOMEONE.
14 HE SIMPLY STATED THAT, I HEARD SOMETHING IN THE STREET,
15 AND AS A RESULT OF HEARING IT IN THE STREET I APPROACHED
16 THE POLICE DEPARTMENT AND I TALKED TO INVESTIGATOR
17 SHUMPERT. AFTER TALKING TO INVESTIGATOR SHUMPERT I THEN
18 IDENTIFIED THE PERSON KNOWN AS TERRELL SCOTT. THERE WAS
19 NO INDEPENDENT INDICIA THAT WAS USED TO DEFINE WHO
20 EXACTLY THEY WERE LOOKING FOR. IT'S SIMPLY A MATTER OF
21 WALKING INTO THE SHERIFF'S DEPARTMENT AND SAYING, I
22 HEARD IT WAS SOLICITOR DON SORENSON. DO YOU HAPPEN TO
23 HAVE A PICTURE OF DON SORENSON? AND THEN HE TURNED
24 AROUND AND SAID, THAT'S THE PERSON THAT COMMITTED THE
25 CRIME.

1 THE SECOND PERSON THAT'S REALLY
2 QUESTIONABLE IS LAWRENCE KELLY. LAWRENCE KELLY BLAMED
3 ANOTHER MAN FOR COMMITTING THIS CRIME, AND ACTUALLY
4 IDENTIFIED THAT MAN, THAT MAN BEING JOHNNY WHITE. AFTER
5 HE IDENTIFIED JOHN WHITE HE THEN TURNED AROUND AND
6 LATER, AS THE STORY CRUMBLED, RECANTED AND SAID, WELL,
7 I DON'T THINK HE'S THE PERSON THAT COMMITTED THE CRIME.

8 YOUR HONOR, THE SHOTS THAT WERE
9 PROVIDED TO EACH OF THESE INDIVIDUALS, EVEN MR.
10 RANDOLPH, -- IN HIS PARTICULAR CASE, MR. RANDOLPH
11 TESTIFIED THAT HE WAS INSIDE OF THE APARTMENT. HE STATED
12 THAT WILL T. GILLIARD, AND I USED THE WORD, VOUCH, AND
13 THEY KEEP SAYING, WELL, I DIDN'T VOUCH FOR HIM, BUT THE
14 WORD IN THE STATEMENT WAS, SHORTIE'S STRAIGHT, I KNOW
15 HIM FOR FOUR-FIVE. AND WE LEARNED LATER THAT FOUR-FIVE
16 REPRESENTS A STRETCH OF ROAD DOWN IN SANTEE. SO, WE
17 HAVE MR. GILLIARD WHO IDENTIFIES THE MAN THAT HE
18 BELIEVES IS THE SHOOTER, BUT WHEN PRESENTED WITH THIS
19 INFORMATION AT THE BEGINNING OF THE CASE HE NEVER COMES
20 FORWARD, HE NEVER SAYS, I KNOW THE INDIVIDUAL, HE NEVER
21 PUTS HIS HANDS ON THE INDIVIDUAL. BUT AFTER SEVERAL
22 MEETINGS AND ESPECIALLY THE MEETING THEY HAD OUT ON TREE
23 O ONE, ONE SEVENTY-SIX AFTER THE SHOOTING OCCURRED,
24 WHICH IS VERY STRANGE, AN INDIVIDUAL'S BEEN SHOT AND
25 TAKEN TO THE HOSPITAL, AND INSTEAD OF GOING TO THE

1 HOSPITAL TO TAKE CARE OF THEIR LOVED ONE, THEY ALL
2 GATHERED TOGETHER TWENTY-THREE MILES AWAY FROM THEIR
3 HOME, FROM ORANGEBURG, AND THEN THEY DECIDE TO GO BACK
4 TO THE HOSPITAL AFTER HAVING THAT MEETING. WHEN THEY
5 COME BACK FROM THAT MEETING, OF COURSE, MR. LAWRENCE,
6 POOKIE WILLIAM KELLY, BUT WE FIND OUT HIS REAL NAME IS
7 LAWRENCE KELLY, HE'S THE ONE THAT PANICS, AND HE GOES
8 OUT AND BLAMES ONE MAN FOR COMMITTING THE CRIME AND THEN
9 HE LATER RECANTS. NOW HE'S BACK BEFORE THE COURT AND
10 HE'S SAYING, I KNOW THIS PARTICULAR INDIVIDUAL.

11 IN ADDITION TO THAT YOU HAVE TO LOOK
12 AT THE CREDIBILITY OF THE WITNESSES. AND I WROTE DOWN
13 WHAT HE SAID IN HIS TESTIMONY.. WE CAN CAREFULLY GO
14 THROUGH IT. MR. LAWRENCE KELLY WHO WAS JUST BEFORE YOU,
15 HIS STATEMENT WAS, I DID NOT KNOW THERE WERE DRUGS IN
16 THE HOUSE. HIS OWN STATEMENT SAYS HE WAS SMOKING WEED
17 INSIDE OF THE HOUSE. HE WAS ACTUALLY SMOKING WEED WITH
18 ALL FOUR OF THE BOYS INSIDE THE HOUSE. SO, IN
19 DETERMINING WHETHER IT'S SUGGESTIVE, AND THE TOTALITY OF
20 THE INFORMATION THAT YOU HAVE BEFORE YOU, THEY FAIL ON
21 ALL TERMS. MR. KELLY, HE'S DONE THIS BEFORE AND THEN
22 RECANTED, AND NOW HE'S BACK BEFORE THE COURT, AND HE'S
23 SAYING, THIS TIME I'VE GOT IT RIGHT. BUT IF YOU LOOK AT
24 THE CREDIBILITY OF HIS OWN TESTIMONY AND THE STATEMENTS
25 HE SIGNED UNDER OATH, HE SAID, I DIDN'T KNOW THERE WERE

1 DRUGS IN THE HOUSE, BUT IN HIS STATEMENT HE SAYS, I WAS
2 SMOKING DOPE. WILL T. GILLIARD SAYS, I REALLY DIDN'T
3 KNOW THE INDIVIDUAL, BUT HE VOUCHED FOR HIM WHEN HE CAME
4 INTO THE HOUSE, AND SAID HE KNEW WHO HE WAS. AND THEN
5 JOHN RANDOLPH, OF COURSE, HE INDIVIDUAL THAT WE BELIEVE
6 THAT IT WAS HIS APARTMENT, THAT HAD THE TWELVE OUNCE
7 SIZE ZIP LOCKED BAGS OF MARIJUANA IN THIS PARTICULAR
8 CASE, HIS TESTIMONY WAS IS THAT HE WAS LISTENING TO THE
9 TELEVISION AND HE WASN'T SURE ABOUT WHAT WAS GOING ON.
10 AND WHAT'S MOST EGREGIOUS IS IS THAT WILL T. GILLIARD
11 WHO SAYS HE DOESN'T KNOW THIS PARTICULAR PERSON, HE'S
12 THE ACTUAL INDIVIDUAL THAT GOT UP AND OPENED THE DOOR SO
13 TWO MORE INDIVIDUALS COULD COME INSIDE OF THE APARTMENT.
14 SO, AGAIN, WE'RE BACK BEFORE THE COURT WITH REALLY
15 LAWRENCE KELLY WHO'S SAYING, THIS IS THE PERSON THAT'S
16 COMMITTED THE CRIME, AND THIS IS THE SECOND TIME HE'S
17 DONE THIS. AND BOTH TIMES IT WAS ORCHESTRATED BY WILL
18 T. GILLIARD. WILL TOLD THE POLICE, GO FIND THIS PERSON.
19 LAWRENCE KELLY SHOWS UP AND SAYS, AHA, THIS IS THE
20 PERSON. THIS IS THE SAME INDIVIDUAL THAT LIED BEFORE,
21 AND HE WRITES IT OFF AS A SIMPLE MISTAKE. I DON'T
22 CONSIDER A SIMPLE MISTAKE IF I POINT AT AN INDIVIDUAL
23 AND SAY, YOU COMMITTED MURDER, THEY'RE ARRESTED AND
24 CHARGED WITH THE CRIME, AND THEN ALL OF A SUDDEN I COME
25 BACK LATER AND SAY, WELL, I DON'T THINK IT'S YOU.

1 THEY'RE JUST SIMPLY PLAYING GAMES WITH THE COURT AGAIN.
2 AND IN THIS PARTICULAR CASE I ASKED THE OFFICER, I SAID,
3 WHAT INDEPENDENT INFORMATION DID YOU HAVE TO CORROBORATE
4 THAT TERRELL SCOTT WAS THE PERSON THAT COMMITTED THESE
5 CRIMES? AND HIS ANSWER SIMPLY WAS, HE DIDN'T HAVE ANY.
6 BUT IN ADDITION TO THAT, I SAID, YOU HAD A FORENSIC
7 ARTIST COME IN AND DRAW A PICTURE. HIS TESTIMONY ON THE
8 STAND IS, THAT PICTURE IS NOT CORRECT. AND I SAID, WELL,
9 IF YOU'RE THE LEAD OFFICER HANDLING THIS MATTER AND YOU
10 BROUGHT IN THE FORENSIC ARTIST, DID YOU TELL THE
11 FORENSIC ARTIST, REDRAW IT CORRECTLY SO WE'LL KNOW WHO
12 WE'VE GOT IN FRONT OF US? AND HE SAID, NO. THIS IS
13 BOTCHED ON ALL SIDES, AND THE ID PROCESS THAT WAS
14 COORDINATED HERE, THEY SIMPLY PLAYED THE POLICE, AND
15 THEY PLAYED THEM WELL. THEY COULD HAVE SIMPLY RUN DOWN
16 IN THE ROOM AND SAID, I THINK IT'S JIMMY WILLIAMS, I
17 HEARD IT OUT ON THE STREET THAT IT MIGHT BE JIMMY
18 WILLIAMS, CAN YOU FIND ME A PICTURE? AND THEN THEY
19 SAID, THAT'S THE GUY. AND THEY SAID, LET'S GO HOME.
20 BUT BASED ON THE STATEMENTS THEY'VE GIVEN THERE ARE
21 INCONSISTENCIES AND CONTRADICTIONS ALL THE WAY THROUGH
22 IT. AND NOW HERE WE ARE AGAIN, ANOTHER MAN'S BEFORE
23 THE COURT CHARGED WITH MURDER. I WONDER IF MR. KELLY IS
24 GOING TO CHANGE HIS MIND SIX MONTHS FROM NOW.

25 THE COURT: MR. SORENSON.

1 SOLICITOR SORENSON: MAY IT PLEASE
2 THE COURT, YOUR HONOR.

3 ARGUMENT ON NEAL-BIGGERS HEARING

4 BY SOLICITOR SORENSON

5 EVERYTHING MR. WALTERS JUST ARGUED
6 TO, I MEAN, THAT ALL GOES TO THE WEIGHT OF THE
7 EVIDENCE, NOT THE ADMISSIBILITY, IT'S ALL STUFF THAT HE
8 COULD ARGUE IN FRONT OF THE JURY AS TO HOW MUCH WEIGHT
9 OR CREDIBILITY YOU GIVE TO EACH OF THOSE WITNESSES. I
10 THINK, YOUR HONOR, WHEN YOU'RE LOOKING AT IT AS FAR AS
11 THE THREE IDENTIFICATIONS HERE, FIRST OF ALL, YOU KNOW,
12 THE TWO KIND OF FACTORS THAT MR. WALTERS TALKED ABOUT,
13 FIRST OF ALL, IT MUST NOT BE UNDULY SUGGESTIVE. AND
14 YOUR HONOR, HAVE YOU SEEN ALL OF THE LINEUPS, YOUR
15 HONOR? I PROBABLY NEED TO HAND ALL THESE UP TO YOU, BUT
16 YOUR HONOR, LOOKING AT ALL OF THOSE LINEUPS THAT WERE
17 SHOWN THERE IS NOTHING THAT IS UNDULY SUGGESTIVE ABOUT
18 ANY OF THOSE LINEUPS. IN FACT, I THINK LAW ENFORCEMENT
19 KIND OF WENT, IF ANYTHING, KIND OF BEYOND WHAT'S OFTEN
20 DONE, AND EVEN IN A COUPLE OF CASES, SHOWING INSTEAD OF
21 A SIX PERSON LINEUP, ESSENTIALLY A TWELVE PERSON LINEUP.
22 BUT IF I COULD TAKE, I GUESS, EACH OF THE WITNESSES KIND
23 OF ONE AT A TIME, YOUR HONOR, FIRST OF ALL, I GUESS, IS
24 MR. WALTERS ADDRESSES MR. GILLIARD.

25 IF YOU RECALL MR. GILLIARD'S

1 TESTIMONY, AND IT WAS CORROBORATED BY INVESTIGATOR
2 SHUMPERT, IS THAT THAT NIGHT AFTER THIS HAPPENED HE
3 INDICATED TO LAW ENFORCEMENT THAT HE KNEW WHO--
4 RECOGNIZED THE PERSON, THAT HE KNEW WHO HE WAS BUT HE
5 DIDN'T KNOW HIS NAME. HE IS SHOWN, YOUR HONOR, OVER THE
6 COURSE OF THE NEXT SEVERAL WEEKS FIVE OF THOSE LINEUPS,
7 ALL OF THE LINEUPS THAT AREN'T ATTACHED TO AFFIDAVITS,
8 AND ESSENTIALLY DOESN'T PICK ANYBODY OUT OF ANY OF THOSE
9 LINEUPS. IT'S NOT UNTIL JANUARY TWENTY-THIRD, I
10 BELIEVE, WHEN HE HAS, HE HAS COME UP WITH, FROM THE
11 STREET OR WHEREVER HEARING IT, THE NAME TERRELL SCOTT,
12 MATCHING THE DESCRIPTION THAT HE HAD GIVEN OF WHO THE
13 PERSON WAS. HE PROVIDED THAT TO INVESTIGATOR SHUMPERT,
14 I MEAN, THAT'S WHAT HE SHOULD HAVE DONE. AND HE ENDS UP
15 OBSERVING, YOU HAVE THE DRIVER'S LICENSE PHOTO, AND YOU
16 HEARD THE TESTIMONY ABOUT THAT, THAT HE CAME IN AND IT
17 WAS SITTING ON INVESTIGATOR SHUMPERT'S DESK IN AMONGST
18 A BUNCH OF OTHER PAPERWORK, AND THAT HE SAW IT AND AT
19 THAT POINT IN TIME SAID, THAT'S THE GUY RIGHT THERE.
20 THE TESTIMONY IS, HE DIDN'T SEE THE NAME ON THE PIECE OF
21 PAPER, I MEAN, ESSENTIALLY IT'S NOT EVEN A LINEUP
22 BECAUSE IT WASN'T SOMETHING THAT WAS ACTUALLY
23 ORCHESTRATED BY LAW ENFORCEMENT, BUT AT THAT POINT IN
24 TIME WHEN HE SAID, THAT'S THE PERSON, NO DOUBT ABOUT IT,
25 LO AND BEHOLD, THAT'S THE NAME THAT HE HAD GIVEN TO LAW

170

1 ENFORCEMENT. SO I SUBMIT TO YOU, YOUR HONOR, WHEN YOU'RE
2 LOOKING AT KIND OF THE FACTORS FOR THE COURT TO CONSIDER
3 AND THEN THE KIND OF, WHETHER IT'S UNDULY SUGGESTIVE,
4 AND ALSO WHETHER THERE'S A SUBSTANTIAL LIKELIHOOD OF
5 MISIDENTIFICATION AS TO MR. GILLIARD, YOU KNOW, HIS
6 TESTIMONY WAS THAT HE HAD AN AMPLE OPPORTUNITY THE
7 MORNING OF DECEMBER TWENTY-FOURTH TO OBSERVE THE GUY.
8 HIS DEGREE OF ATTENTION, I SUBMIT TO YOU, WAS HIGH AS
9 WAS EVERYONE WHO WAS IN THAT APARTMENT. HE WAS LOOKING
10 AT HIM AND ULTIMATELY IS THE ONE THAT INDICATES THAT I
11 DO RECOGNIZE HIM, SHOWING THAT HE WAS PAYING ATTENTION
12 TO HIM. AND YOUR HONOR, THE LEVEL OF CERTAINTY THAT HE
13 SHOWED, I MEAN, IF YOU RECALL HIS TESTIMONY THIS
14 MORNING, I MEAN, NO DOUBT ABOUT IT THAT THAT'S THE MAN
15 THAT HE SAW. SO, I SUBMIT TO YOU THAT, I MEAN, ANY
16 ARGUMENTS THAT MR. WALTERS MAKES AS TO MR. GILLIARD ALL
17 WOULD GO TO THE WEIGHT OF THE EVIDENCE NOT TO THE
18 ADMISSIBILITY.

19 AS TO MR. KELLY, YOUR HONOR, THE
20 SAME THING AS THOSE FACTORS, I MEAN, HIS TESTIMONY THAT
21 HE HAD AN AMPLE OPPORTUNITY TO VIEW HIM, THE LIGHTING
22 WAS WELL IN THE APARTMENT, NOTHING OBSTRUCTING THE VIEW
23 OF MR. SCOTT'S FACE THAT MORNING. HIS ATTENTION WAS
24 PEAKED JUST BY THE FACT THAT, I MEAN, HE WAS MADE UNEASY
25 BY THE FACT OF THIS GUY COMING IN, AND THE CONVERSATION

1 GOING BACK AND FORTH, I DON'T KNOW YOU -- YES, YOU DO --
2 BACK AND FORTH. THAT GOT HIS ATTENTION SO HE WAS PAYING
3 ATTENTION. I THINK HE TESTIFIED THAT HE NEVER TOOK HIS
4 EYE OFF OF THAT MAN'S FACE AFTER ALL THAT STARTED INSIDE
5 THERE. THE ACCURACY OF HIS PRIOR DESCRIPTION, YOUR
6 HONOR, YOU'VE THE COMPOSITE UP THERE AND I SUBMIT TO YOU
7 THAT IT IS CONSISTENT WITH MR. SCOTT. IF YOU'LL LOOK AT
8 HIM, HE DOESN'T HAVE THE FACIAL HAIR NOW, BUT THE TWO
9 PICTURES THAT YOU HAVE OF HIM IN THE TWO SEPARATE
10 LINEUPS UP THERE, THAT IT IS CONSISTENT. AND YET AGAIN
11 THIS MORNING, YOUR HONOR, I MEAN, HE TESTIFIED, I MEAN,
12 NO DOUBT ABOUT IT, I MEAN, HE WAS AS SURE AS ANY OF
13 THOSE THREE WITNESSES THAT THAT'S THE MAN THAT HE SAW.
14 AND I SUBMIT TO YOU, AS TO THE PRIOR, THE
15 CHARACTERIZATION OF HIS MISIDENTIFICATION OF SOMEBODY A
16 MONTH EARLIER HE INDICATED, AND INVESTIGATOR SHUMPERT
17 CORROBORATED THIS, THAT AT THAT POINT IN TIME HE ONLY
18 THOUGHT, HE WAS SEVENTY OR EIGHTY PER CENT SURE, HE
19 WASN'T POSITIVE AT THAT POINT IN TIME. HE HAD BEEN
20 SHOWN TWELVE PICTURES ON THAT DAY, BUT WHEN HE SAW THE
21 TWELVE PERSON LINEUP WITH THE DEFENDANT IN IT, NO DOUBT
22 ABOUT IT, NO DOUBT ABOUT IT IN HIS MIND, A HUNDRED PER
23 CENT THAT THAT'S THE PERSON THAT HE SAW.

24 AND AS TO MR. RANDOLPH, YOUR HONOR,
25 HE, SAME THING AS TO HIS OPPORTUNITY TO OBSERVE, HIS

1 DEGREE OF ATTENTION, I SUBMIT, PEAKED THAT MORNING. I
2 MEAN, HE WAS TRYING TO FIGURE OUT IF HE KNEW WHO THE GUY
3 WAS, I MEAN, HE WAS STARING RIGHT AT HIM. AND YOUR
4 HONOR, MR. RANDOLPH WAS SHOWN TWO LINEUPS ON THE TWENTY-
5 SIXTH, HE DIDN'T PICK ANYBODY OF THOSE TWELVE. AND THEN
6 WAS SHOWN ANOTHER SIX WITH A WHOLLY DIFFERENT LINEUP
7 THAN WAS SHOWN TO MR. KELLY ON JANUARY TWENTY-SEVENTH OR
8 TWENTY-EIGHTH. SO, HE ESSENTIALLY HAS BEEN SHOWN
9 EIGHTEEN PICTURES, IDENTIFIES THE DEFENDANT, NO DOUBT
10 ABOUT IT. HE CAME INTO COURT THIS MORNING, NO DOUBT
11 ABOUT IT, THAT'S THE DEFENDANT MINUS THE FACIAL HAIR.
12 THE FACIAL HAIR, I SUBMIT TO YOU, HE HAD YESTERDAY
13 AFTERNOON. SO, THAT'S SOMETHING THAT JUST DISAPPEARED
14 OVERNIGHT.

15 SO, I SUBMIT TO YOU, YOUR HONOR,
16 LOOKING AT THE THREE OF THESE IDENTIFICATIONS, THERE'S
17 NOTHING, NOTHING UNDULY SUGGESTIVE THAT WAS DONE IN ANY
18 OF THE THREE CASES. I SUBMIT TO YOU, THAT THERE'S
19 REALLY LITTLE TO NO LIKELIHOOD OF MISIDENTIFICATION, AND
20 ALL THREE OF THESE THREE WITNESSES INDICATED THAT THEY
21 CAN IDENTIFY THIS MAN IN COURT AS THEY DID THIS MORNING,
22 BASED ON THEIR OBSERVATIONS AND SEEING HIM IN
23 THAT APARTMENT ON THE MORNING OF DECEMBER TWENTY-
24 FOURTH.

25 THANK YOU.

RULING OF THE COURT ON NEAL-V-BIGGERS

THE COURT: ALRIGHT, I FIND THAT ALL THREE OF THE WITNESSES HAD AMPLE OPPORTUNITY TO VIEW THE DEFENDANT IN THE CASE, OR THE ACCUSED, THE ALLEGED PERPETRATOR OF THIS CRIME; THAT CERTAINLY, THEIR ATTENTION WOULD HAVE BEEN FOCUSED ON HIM AT LEAST AFTER HE PULLED THE WEAPON ON THEM. THERE HASN'T BEEN MUCH TESTIMONY ABOUT THE PRIOR DESCRIPTIONS, BUT WHAT HAS BEEN THERE'S BEEN NOTHING REALLY INCONSISTENT ABOUT THE ACTUAL DESCRIPTION OF THE DEFENDANT IN THE CASE. THE QUESTION THAT ONE MISIDENTIFIED ANOTHER PERSON INITIALLY AND THEN LATER IDENTIFIED THE DEFENDANT IS A MATTER OF THE WEIGHT THAT THE JURY WOULD GIVE THAT SITUATION. THERE'S NOTHING, NO TESTIMONY REALLY THAT THE LINEUPS THEMSELVES WERE SUGGESTIVE IN ANY MEANS WHATSOEVER.

IN REGARD TO THE DRIVER'S RECORD, IT WAS SITTING ON THE DETECTIVE'S DESK, I MEAN, AND ONE OF THE WITNESSES SAW IT AND SAID, THAT'S HIM RIGHT THERE. I MEAN, THERE'S REALLY NOTHING, NO CONDUCT, NO ACTION ON THE PART OF THE OFFICER EXCEPT LEAVING IT ON HIS DESK IF THAT COULD BE CONSIDERED TO BE SUGGESTIVE, WHICH I DON'T THINK IT'S UNNECESSARILY SUGGESTIVE. THERE'S JUST NO EVIDENCE WITH WHICH THE COURT COULD DETERMINE THAT THERE WAS A DEGREE OF SUGGESTIVENESS HERE THAT WOULD UNDERMIND THE IDENTIFICATION IN COURT OF THE INDIVIDUAL

1 THAT'S BEING TRIED.

2 SO, I WOULD DENY THE MOTION TO
3 SUPPRESS THE IN COURT IDENTIFICATION IN REGARD TO ALL
4 THREE WITNESSES.

5 ALRIGHT, ANYTHING ELSE?

6 SOLICITOR SORENSON: NO, SIR.

7 THE COURT: ANYTHING ELSE FROM THE
8 DEFENSE?

9 MR. WALTERS: NO, SIR, YOUR HONOR.

10 THE COURT: ALRIGHT, WE'LL TAKE
11 ABOUT FIVE MINUTES AND THEN WE'LL BE GETTING THE JURY
12 OUT TO GET STARTED.

13 (Recess)

14 THE COURT: IS THE STATE READY?

15 SOLICITOR SORENSON: THE STATE'S
16 READY, YOUR HONOR.

17 THE COURT: IS THE DEFENSE READY?

18 MR. WALTERS: YES, SIR.

19 THE COURT: ALRIGHT, BRING THE JURY
20 IN.

21 (Whereupon, the jury enters
22 the courtroom.)

23 THE COURT: COME ON IN, MA'AM, JUST
24 FILE ALL THE WAY DOWN.

25 ALTERNATE JUROR: I'M AN ALTERNATE.

1 THE COURT: OH, YOU'RE THE
2 ALTERNATE, YOU'RE ON THE BACK ROW, YES, MA'AM. THE
3 ALTERNATES ARE ON THE BACK ROW, EVERYBODY ELSE JUST FILL
4 ALL THE WAY DOWN ON ONE OF THE FRONT TWO.

5 ALRIGHT, LADIES AND GENTLEMEN, IF
6 YOU WOULD STAND, PLEASE, THE CLERK WILL ADMINISTER TO
7 YOU THE JUROR'S OATH. PLEASE STAND.

8 MADAM CLERK.

9 CLERK: RAISE YOUR RIGHT HAND.
10 (Whereupon, the jury is duly
11 sworn and impaneled.)

12 THE COURT: THANK YOU, YOU MAY BE
13 SEATED.

14 NOW, LADIES AND GENTLEMEN, I DON'T
15 KNOW IF ANY OF Y'ALL HAVE EVER SERVED ON A JURY IN A
16 COURTROOM LIKE THIS. EVERYBODY HAS KIND OF BECOME AN
17 EXPERT IN T.V. JUSTICE. WELL, THESE T.V. PROGRAMS ARE
18 NOT BASED ON REALITY, I CAN ASSURE YOU OF THAT. THEY
19 HAVE ALL THE ANSWERS BEFORE THEY EVEN WRITE THE
20 QUESTIONS, YOU KNOW, THEY SHOOT THE LAST SCENE BEFORE
21 THEY SHOOT THE FIRST ONE. WELL, WE DON'T LIVE IN THAT
22 WORLD. THIS IS THE REAL WORLD, THIS IS A SERIOUS
23 MATTER. YOU'VE EACH ANSWERED MY QUESTIONS AND ASSURED
24 THE COURT THAT YOU CAN BE FAIR AND IMPARTIAL JUDGES OF
25 THE FACTS IN THIS CASE, AND YOU'VE TAKEN AN OATH NOW TO

1 DO SO, AND IT WILL BE YOUR JOB TO DO SO.

2 NOW, I TOLD YOU EARLIER THAT YOU HAD
3 TO MAKE YOUR DECISION BASED SOLELY ON THE TESTIMONY AND
4 THE EVIDENCE THAT YOU HEAR IN THIS COURTROOM. I TELL
5 YOU NOW THAT YOU MUST CONSIDER ONLY THE TESTIMONY AND
6 THE EVIDENCE THAT YOU HEAR IN THIS COURTROOM, AND YOU
7 MUST CONSIDER ALL OF THE TESTIMONY AND THE EVIDENCE THAT
8 YOU HEAR IN THIS COURTROOM, AND MY INSTRUCTIONS TO YOU
9 ON THE LAW. THAT MEANS THE FIRST WITNESS IS JUST AS
10 IMPORTANT, AND THE LAST WITNESS IS JUST AS IMPORTANT.
11 SO, UNTIL YOU HAVE HEARD ALL OF THE WITNESSES AND MY
12 INSTRUCTIONS ON THE LAW YOU ARE NOT IN A POSITION, YOU
13 DON'T HAVE ALL OF THE INFORMATION THAT YOU NEED TO MAKE
14 A DECISION IN THE CASE. AND THAT'S THE REASON I ASK YOU
15 NOT TO TALK ABOUT THE CASE. IF YOU START TALKING ABOUT
16 THE CASE AFTER YOU'VE HEARD ONE OR TWO WITNESSES WHEN
17 YOU GO TO LUNCH TODAY YOU'LL START FORMING AN OPINION
18 ABOUT THE CASE, AND IT WOULD BE WRONG TO DO THAT BECAUSE
19 YOU DO NOT HAVE ALL OF THE INFORMATION THAT YOU NEED.
20 AND SOMETIME OUR EARLY IMPRESSIONS ARE NOT RIGHT, THEY
21 ARE NOT GOOD, AND IT MIGHT BE HARD TO CHANGE THEM LATER
22 ON. SO, WE JUST SOLVE THAT PROBLEM BY NOT TALKING ABOUT
23 THE CASE. IN ADDITION YOU MIGHT GO TO LUNCH TODAY AND
24 SIT DOWN AND SAY, LET ME TELL YOU ALL ABOUT THIS CASE
25 I'M TRYING, AND YOU FIND OUT THAT YOU'RE SITTING NEXT TO

1 SOMEBODY WHO WAS A WITNESS IN THE CASE, OR WHO READ ALL
2 ABOUT IT IN THE NEWSPAPER OR TALKED WITH PEOPLE ABOUT
3 IT, AND THEY MIGHT START OFFERING YOU ADVICE OR OPINIONS
4 ABOUT THE CASE, AND THAT WOULD BE WRONG, THAT WOULD BE
5 IMPROPER, THAT WOULD DISQUALIFY YOU FROM SERVING ON THE
6 JURY BECAUSE YOU'VE GOTTEN INFORMATION OUTSIDE THE
7 PRESENCE OF THIS COURTROOM. SO, PLEASE REMEMBER THAT,
8 THAT'S THE REASON I ASK YOU NOT TO TALK ABOUT THE CASE.
9 IF YOU SUBSCRIBE TO THE ORANGEBURG PAPER, I'VE NOT SEEN
10 A REPORTER IN HERE, OF COURSE, THEY MIGHT HAVE A NEW ONE
11 FOR ALL I KNOW, BUT THERE MIGHT VERY WELL BE SOMETHING
12 IN THE NEWSPAPER ABOUT IT TOMORROW, AND THAT'S THEIR
13 RIGHT TO PUBLISH THAT, BUT YOU CANNOT READ THAT. YOU
14 CANNOT READ THAT, YOU DO NOT READ IT AND EXPOSE YOURSELF
15 TO THAT, BECAUSE AGAIN, THAT WOULD BE SOMETHING YOU
16 DIDN'T HEAR IN THE COURTROOM.

17 NOW, I TOLD YOU EARLIER THAT THE
18 STATE HAS THE BURDEN OF PROVING THE DEFENDANT GUILTY
19 BEYOND A REASONABLE DOUBT. BECAUSE THE STATE HAS THAT
20 BURDEN THEY GO FIRST. NOW, THEY WILL PUT UP THEIR
21 TESTIMONY AND THE EVIDENCE, I'M SURE THEY WILL HAVE SOME
22 EXHIBITS THAT THEY WILL INTRODUCE. THE DEFENDANT WOULD
23 BE ABLE TO CROSS-EXAMINE THOSE WITNESSES IF THEY CHOOSE
24 TO DO SO AND CHALLENGE THE ADMISSIBILITY OF THOSE
25 EXHIBITS IF THEY CHOOSE TO DO SO, BUT THE STATE GOES

1 FIRST. ONCE THE STATE IS FINISHED THE DEFENDANT HAS AN
2 OPPORTUNITY TO TESTIFY OR OFFER EVIDENCE IF HE CHOOSES
3 TO DO SO, BUT AS I TOLD YOU EARLIER, HE DOESN'T HAVE TO
4 PROVE A THING. HE DOESN'T HAVE TO TESTIFY, HE DOESN'T
5 HAVE TO CALL ANY WITNESSES, HE DOESN'T HAVE TO PUT UP
6 ANY EVIDENCE, BUT IF HE CHOOSES TO DO SO HE WOULD DO
7 THAT AFTER THE STATE PUTS UP THEIR CASE.

8 THEN, WHEN YOU'VE HEARD ALL OF THE
9 EVIDENCE IN THE CASE I'LL COME BACK BEFORE YOU AND I
10 WILL CHARGE YOU ON THE LAW, I WILL TELL YOU WHAT THE LAW
11 IS IN SOUTH CAROLINA THAT MIGHT APPLY TO THIS CASE
12 DEPENDING UPON WHAT YOU FIND TO BE THE FACTS IN THE
13 CASE, BECAUSE YOU ARE THE JUDGES OF THE FACTS. YOU
14 DETERMINE WHAT THE TRUTH IS IN THE CASE. I'M THE JUDGE
15 OF THE LAW, THAT MEANS I PRESIDE, I RULE ON EVIDENTIARY
16 MATTERS. AND YOU'VE SEEN THEM ON T.V., THEY SAY, YOUR
17 HONOR, I OBJECT. WELL, IF THAT HAPPENS I MAY HAVE TO
18 ASK YOU TO STEP OUTSIDE THE COURTROOM WHILE I TAKE UP
19 THAT OBJECTION. BUT THAT'S THEIR JOB, DON'T HOLD THAT
20 AGAINST THEM, THAT'S THE WAY WE OPERATE. BUT THAT'S MY
21 JOB AND NOT YOURS, AND SO I MIGHT NEED TO EXCUSE YOU
22 WHILE I TAKE UP A MATTER OF LAW.

23 AND THEN, AFTER YOU'VE HEARD MY
24 INSTRUCTIONS ON THE LAW YOU'LL BEGIN YOUR DELIBERATIONS,
25 AND YOU'LL HAVE PLENTY OF TIME TO TALK ABOUT THE CASE AT

1 THAT TIME, AND SO YOU DON'T NEED TO TALK ABOUT IT UNTIL
2 YOU GET TO THAT POINT.

3 SO, PLEASE GIVE YOUR ATTENTION, THE
4 FIRST THING WE'RE GOING TO HAVE IS THE OPENING STATEMENT
5 FROM THE ATTORNEYS, AND THEN THE STATE WILL CALL THEIR
6 WITNESSES, AND WE'LL GET STARTED IN A FEW MINUTES. WHAT
7 THE ATTORNEYS TELL YOU IN THEIR OPENINGS AND IN THEIR
8 CLOSING ARGUMENTS WHEN THEY MAKE THOSE LATER ON IN THE
9 WEEK IS NOT EVIDENCE. THE EVIDENCE COMES FROM THAT
10 WITNESS STAND, PEOPLE WHO ARE PUT UNDER OATH AND
11 TESTIFY, AS WELL AS THE EXHIBITS THAT YOU WILL HAVE WITH
12 YOU. AND YOU WILL HAVE THOSE BACK WITH YOU IN THE JURY
13 ROOM WHEN YOU ARE DELIBERATING.

14 SO, PLEASE GIVE THE ATTORNEYS YOUR
15 ATTENTION AS THEY ADDRESS YOU AND THEN WE'LL BEGIN OUR
16 TESTIMONY.

17 MR. SORENSON.

18 SOLICITOR SORENSON: THANK YOU, MAY
19 IT PLEASE THE COURT, YOUR HONOR.

20 THE COURT: YES, SIR.

21 OPENING STATEMENT BY SOLICITOR SORENSON

22 GOOD MORNING, LADIES AND GENTLEMEN.

23 DECEMBER TWENTY-THIRD, TWO THOUSAND
24 AND SIX, INTO THE EARLY MORNING HOURS OF DECEMBER
25 TWENTY-FOURTH, TWO THOUSAND AND SIX, IT'S SUPPOSED TO BE

1 A TIME OF JOY AND HAPPINESS WITH CHRISTMAS COMING UP.
2 BUT TWENTY-ONE YEAR OLD HARRY MACK, LITTLE DOES HE KNOW
3 THAT AS MIDNIGHT STRUCK FOR DECEMBER TWENTY-FOURTH, HE'D
4 BE DEAD FOUR HOURS LATER, SHOT ONE TIME IN THE CHEST,
5 BROUGHT TO THE REGIONAL MEDICAL CENTER, WHERE HE DIED
6 SEVERAL HOURS LATER, NEVER REGAINING CONSCIOUSNESS, HIS
7 LIFE IS OVER. I SUBMIT TO YOU, LADIES AND GENTLEMEN,
8 THERE ARE THREE MEN THAT ARE RESPONSIBLE, THREE MEN THAT
9 ARE RESPONSIBLE FOR HARRY MACK'S DEATH. ONE OF THEM IS
10 THAT MAN SEATED THERE IN THE WHITE SHIRT AT THE DEFENSE
11 TABLE, TERRELL SCOTT.

12 NOW, AS HIS HONOR TOLD YOU EARLIER
13 THIS MORNING, MR. SCOTT, AS A RESULT OF HIS ACTIONS THAT
14 NIGHT, HAS BEEN CHARGED WITH TWO CRIMES, MURDER AND
15 ARMED ROBBERY, MURDER AND ARMED ROBBERY.

16 NOW, AS I'VE BEEN INTRODUCED TO YOU,
17 MY NAME IS DON SORENSON, I'M AN ASSISTANT SOLICITOR HERE
18 IN THE FIRST JUDICIAL CIRCUIT, COMPRISED OF ORANGEBURG,
19 CALHOUN AND DORCHESTER COUNTIES. AND IT'S MY JOB AND MY
20 RESPONSIBILITY, AND ONE THAT I WELCOME, TO PRESENT TO
21 YOU THE CASE AGAINST MR. SCOTT. AND I WANT TO TAKE JUST
22 A FEW MINUTES HERE, LADIES AND GENTLEMEN, AND I HOPE
23 THAT MY VOICE IS GOING TO HOLD OUT BECAUSE I'M KIND OF
24 COMING DOWN WITH SOMETHING, BUT TO TALK TO YOU A LITTLE
25 BIT ABOUT TWO THINGS, THE FIRST ONE BEING THE CHARGES

1 AGAINST MR. SCOTT, AND THEN BRIEFLY, A LITTLE BIT ABOUT
2 WHAT YOU'RE GOING TO HEAR FROM THIS WITNESS STAND OVER
3 THE NEXT DAY OR TWO HERE. OKAY?

4 AS I SAID, MR. SCOTT'S BEEN CHARGED
5 WITH TWO INDICTMENTS, HE'S BEEN INDICTED BY THE
6 ORANGEBURG COUNTY GRAND JURY WITH ARMED ROBBERY AND
7 MURDER. AND I'M GOING TO TALK BRIEFLY ABOUT THE ARMED
8 ROBBERY FIRST. ARMED ROBBERY, LADIES AND GENTLEMEN, IS
9 VERY SIMPLY THE TAKING AND CARRYING AWAY OF PROPERTY OF
10 ANOTHER THROUGH FORCE OR INTIMIDATION WHILE ARMED WITH
11 A DEADLY WEAPON. VERY SIMPLY, TO BREAK IT DOWN, IF YOU
12 STEAL SOMETHING FROM SOMEBODY THROUGH USING A DEADLY
13 WEAPON, IN THIS CASE A HAND GUN, YOU'D BE GUILTY OF
14 ARMED ROBBERY, IF YOU DO THAT WITHOUT THEIR CONSENT.

15 MURDER, LADIES AND GENTLEMEN, IS THE
16 UNLAWFUL KILLING OF ANOTHER PERSON WITH MALICE
17 AFORETHOUGHT, EITHER EXPRESSED OR IMPLIED. THE UNLAWFUL
18 KILLING OF ANOTHER PERSON WITH MALICE AFORETHOUGHT. AND
19 MALICE, LADIES AND GENTLEMEN, IS A, KIND OF, HIS HONOR
20 IS GOING TO CHARGE YOU ON THIS AT THE CLOSE OF THE CASE
21 BUT IT'S ESSENTIALLY A HEART DEVOID OF SOCIAL DUTY,
22 FATALLY BENT ON MISCHIEF, THE INTENTIONAL DOING OF A
23 WRONGFUL ACT. AFORETHOUGHT, WHICH MEANS THAT THE STATE
24 HAS TO BE PROVE THAT THAT MALICE EXISTED AT THE TIME THE
25 FATAL SHOT WAS FIRED. WE DON'T HAVE TO PROVE ANY

1 PREMEDITATION, WE DON'T HAVE TO PROVE THAT THEY WENT,
2 THAT THEY PLANNED A DAY EARLIER, OR HOURS EARLIER, WHEN
3 THEY WENT TO THAT APARTMENT THAT YOU'RE GOING TO HEAR
4 ABOUT THOSE EARLY MORNING HOURS INTENDING ON KILLING
5 SOMEBODY. BUT IF YOU FIND, LADIES AND GENTLEMEN, THAT
6 AT THE TIME THAT FATAL SHOT WAS FIRED THAT THERE WAS
7 MALICE IN TERRELL SCOTT'S HEART, HIS MIND, LADIES AND
8 GENTLEMEN, HE'S GUILTY OF MURDER, GUILTY OF MURDER.

9 NOW, JUDGE WILLIAMS TOLD YOU A FEW
10 MINUTES AGO, THE BURDEN OF PROOF, AS IT IS IN ANY
11 CRIMINAL CASE, RESTS ON THE STATE OF SOUTH CAROLINA, AND
12 THAT'S THE BURDEN THAT WE WELCOME. IN A CRIMINAL CASE
13 THE BURDEN IS BEYOND A REASONABLE DOUBT. WE HAVE TO
14 PROVE OUR CASE TO YOU BEYOND A REASONABLE DOUBT. AND
15 VERY SIMPLY WHAT THAT MEANS IS, IS AFTER YOU'VE HEARD
16 ALL THE EVIDENCE IN THE CASE, ALL THE WITNESSES HAVE
17 TESTIFIED, YOU'VE RECEIVED ALL THE EXHIBITS THAT HAVE
18 BEEN PUT INTO EVIDENCE, AND YOU'VE HAD AN OPPORTUNITY TO
19 GO BACK INTO YOUR JURY ROOM AND DELIBERATE, TALK ABOUT
20 THE CASE, IF YOU ARE FIRMLY CONVINCED AT THAT POINT IN
21 TIME OF THE DEFENDANT'S GUILT, UNDER YOUR OATH YOU MUST
22 FIND HIM GUILTY OF MURDER AND ARMED ROBBERY. IF,
23 HOWEVER, THERE IS A REAL POSSIBILITY THAT THE DEFENDANT
24 IS NOT GUILTY, THEN UNDER YOUR OATH YOU ALSO HAVE A DUTY
25 TO FIND HIM AT THAT POINT IN TIME, NOT GUILTY. OKAY?

1 AND I WANT TO TAKE JUST A COUPLE
2 MORE MINUTES AND I'M GOING TO SIT DOWN AND MR. WALTERS
3 OR MR. CULLER WILL HAVE AN OPPORTUNITY TO COME UP BEFORE
4 YOU. BUT I JUST WANT TO TALK TO YOU JUST A LITTLE BIT
5 ABOUT WHAT YOU'RE GOING TO HEAR FROM THE WITNESS STAND.
6 AS I SAID, WE HAVE THE BURDEN, AND THE WAY WE GO ABOUT
7 PROVING THAT IS CALLING WITNESSES WHO WILL COME UP HERE,
8 AND TAKE AN OATH TO TELL YOU THE TRUTH AND TESTIFY ABOUT
9 WHAT THEY KNOW ABOUT WHAT HAPPENED THE EARLY MORNING
10 HOURS OF DECEMBER TWENTY-FOURTH, TWO THOUSAND AND SIX.
11 IT'S KIND OF, THIS IS A LITTLE, KIND OF A NUT SHELL OF
12 WHAT YOU'RE GOING TO HEAR, LADIES AND GENTLEMEN, IS THAT
13 THE EVENING OF DECEMBER TWENTY-THIRD INTO THE EARLY
14 MORNING HOURS, RIGHT AROUND MIDNIGHT AND SHORTLY AFTER
15 MIDNIGHT YOU'RE GOING TO HEAR TESTIMONY THAT TWO, TWO
16 YOUNG MEN BY THE NAME OF LAWRENCE KELLY AND WILL
17 GILLIARD HAD COME FROM THE SANTEE-HOLLY HILL AREA INTO
18 ORANGEBURG, THEY WERE GOING TO GO OUT TO A CLUB, AND
19 DECIDED TO STOP BY WILL'S COUSIN'S APARTMENT, JOHN
20 RANDOLPH. JOHN RANDOLPH AND THE VICTIM IN THIS CASE,
21 HARRY MACK, LIVED IN THAT APARTMENT ON SHADOW LAWN DRIVE
22 HERE IN ORANGEBURG COUNTY. THEY CAME BY, THEY TALKED
23 ABOUT GOING OUT AND AT THAT POINT IN TIME MR. RANDOLPH
24 AND MR. MACK HAD TO GO ABOUT GETTING READY, BECAUSE THEY
25 WEREN'T DRESSED, THEY WERE TAKING SHOWERS AND GETTING

1 READY FOR THEM ALL TO GO OUT. YOU'RE GOING TO HEAR THAT
2 WHILE THEY WERE SITTING AROUND THAT NIGHT THEY WERE
3 SMOKING MARIJUANA, AND AS IT GOT TO MIDNIGHT, MAYBE A
4 FEW MINUTES AFTER MIDNIGHT THERE WAS A KNOCK ON THE
5 APARTMENT DOOR. YOU'RE GOING TO SEE PICTURES OF THE
6 APARTMENT, IT'S A SMALL, LITTLE ONE BEDROOM APARTMENT
7 WITH A LIVING ROOM, A KITCHEN, A BEDROOM AND BATHROOM
8 OFF OF THE KITCHEN. YOU'RE GOING TO HEAR HOW THEY WERE
9 ALL SITTING AROUND BASICALLY WATCHING T.V., WHEN THERE
10 WAS A KNOCK ON THE DOOR, AND HARRY, THE VICTIM, GETS UP
11 AND GOES AND ANSWERS THE DOOR. AND THERE'S A MAN
12 STANDING THERE THAT YOU'RE GOING TO HEAR TESTIMONY THAT
13 THEY'RE ALL GOING TO IDENTIFY AS THAT MAN RIGHT THERE,
14 TERRELL SCOTT, AND THAT HE WAS ASKING, LOOKING FOR DRUGS
15 AT THAT POINT IN TIME. AND YOU'RE GOING TO HEAR ABOUT
16 A CONVERSATION THAT GOES BACK AND FORTH BETWEEN JOHN
17 RANDOLPH AND HIM, WHERE THEY'RE SAYING, I DON'T KNOW WHO
18 YOU ARE, I MEAN, WHO ARE YOU, WHAT DO YOU WANT, BACK AND
19 FORTH. AND THAT WILL GILLIARD, ONE OF THE OTHER MEN IN
20 THE APARTMENT, THEY RECOGNIZE HIM, AND SAY, WELL, I KNOW
21 HIM, I MEAN, HE LOOKS LIKE SOMEBODY I KNOW FROM THE
22 SANTEE AREA. AT THAT POINT IN TIME, YOU KNOW, EVERYBODY
23 IS ALMOST STARTING TO GET A LITTLE TENSE I THE
24 APARTMENT. MR. GILLIARD GETS UP TO GO OUTSIDE. WHEN HE
25 OPENS THE DOOR YOU'RE GOING TO HEAR TESTIMONY THAT AT

1 THAT POINT IN TIME THAT THERE ARE TWO MASKED MEN WITH
2 GUNS OUTSIDE THE APARTMENT. WHEN THAT DOOR OPENS THE
3 TWO OF THEM RUSH IN. AT THE SAME TIME MR. SCOTT PULLS
4 OUT A BIG THREE FIFTY-SEVEN REVOLVER, AND UNFORTUNATELY
5 MR. MACK AT THAT POINT IN TIME, HARRY MACK PANICS, AND
6 HE RUNS TOWARD THE BACK BEDROOM AND GETS SHOT ONE TIME
7 BY THAT MAN RIGHT THERE, ON THE LEFT SIDE, IT WENT
8 THROUGH HIS BODY, THROUGH HIS LUNGS AND LIVER, AND HE
9 COLLAPSES BACK IN THE BEDROOM-BATHROOM AREA. YOU'RE
10 GOING TO HEAR HOW AT THAT POINT IN TIME THOSE TWO MASKED
11 MEN CAME IN ALSO ARMED AND WHILE HE'S KIND OF STANDING
12 AT THE DOOR WATCHING OVER EVERYBODY AS A SECURITY GUARD
13 BASICALLY, HOW THEY WENT THROUGH AND METHODICALLY
14 SEARCHED EVERY PERSON IN THAT APARTMENT, TOOK MONEY,
15 JEWELRY AND PROBABLY SOME DRUGS, AND THEN THE THREE OF
16 THEM LEFT, THE THREE OF THEM LEFT. YOU'RE GOING TO HEAR
17 HOW A LITTLE OVER THREE TO FOUR HOURS LATER HARRY DIED
18 AT THE REGIONAL MEDICAL CENTER. YOU'RE GOING TO HEAR
19 HOW OVER THE NEXT MONTH OR SO THERE ARE SEVERAL LEADS
20 THAT LAW ENFORCEMENT FOLLOWED UP ON, SHOWED MULTIPLE
21 LINEUPS, PHOTOGRAPHIC LINEUPS THAT YOU'RE GOING TO GET
22 TO SEE BECAUSE THESE THREE WITNESSES, MR. GILLIARD, MR.
23 RANDOLPH AND MR. KELLY, ULTIMATELY CULMINATING AT THE
24 END OF JANUARY WITH MR. SCOTT BEING IDENTIFIED IN A
25 LINEUP BY MR. KELLY, MR. RANDOLPH, AND ADDITIONALLY

1 BEING IDENTIFIED IN A PHOTOGRAPH BY MR. GILLIARD AS
2 BEING THE PERSON, NO DOUBT ABOUT IT, ONE HUNDRED PER
3 CENT THEY ARE SURE OF AS THE PERSON THAT CAME TO THAT
4 DOOR, FACE NOT COVERED, INITIALLY LOOKING FOR DRUGS, I
5 SUBMIT TO YOU, AT THAT POINT IN TIME GETTING IN THERE
6 AND BASICALLY SCOPING THE PLACE OUT BEFORE HIS TWO CO-
7 DEFENDANTS CAME RUSHING IN TO FINISH THINGS OFF. YOU'RE
8 GOING TO HEAR HOW HE WAS ARRESTED AT THAT POINT IN TIME,
9 MR. SCOTT WAS, AND THEN OVER THE MONTHS THAT FOLLOWED
10 THERE WERE NO LEADS, THEY DIDN'T KNOW WHO THE OTHER TWO
11 PEOPLE WERE. THEY INDICATED THEIR FACES WERE COVERED,
12 THEY WEREN'T ABLE TO FIND ANY FINGERPRINTS, SO THERE'S
13 REALLY NOTHING THAT THEY TOUCHED INSIDE THE APARTMENT,
14 THEY BASICALLY JUST WENT THROUGH THE THREE, THE VICTIMS,
15 INSIDE THEIR POCKETS AND ALL TAKING STUFF OFF OF THEM.
16 YOU'RE GOING TO HEAR HOW THEY FINALLY GOT A BREAK AS TO
17 THE OTHER TWO PEOPLE. TOWARD THE END OF TWO THOUSAND
18 SEVEN, SOME TEN MONTHS OR SO AFTER THIS INCIDENT
19 OCCURRED, ONE OF THE INMATES WHO WAS IN FEDERAL CUSTODY
20 BY THE NAME OF DANIEL YOUNG HAD ENTERED INTO A PLEA
21 AGREEMENT WITH THE FEDERAL GOVERNMENT, THE U. S.
22 ATTORNEY'S OFFICE, TO PROVIDE WHATEVER INFORMATION THAT
23 YOU HAPPEN TO KNOW ABOUT ANY CRIMES BASICALLY IN THE
24 ORANGEBURG AREA, AND AT THAT POINT IN TIME HE ULTIMATELY
25 WAS PUT IN TOUCH WITH INVESTIGATOR SHUMPERT, AND HE TOLD

1 THEM THAT HE KNEW ABOUT THIS HOMICIDE THAT HAD OCCURRED
2 AT SHADOW LAWN APARTMENT, AND HE PROCEEDED, YOU'RE GOING
3 TO HEAR MR. YOUNG TESTIFY ABOUT SOME CONVERSATIONS THAT
4 HE HAD WITH TERRELL SCOTT PRIOR TO THIS INCIDENT
5 OCCURRING WHERE MR. SCOTT WAS TRYING TO RECRUIT PEOPLE
6 TO COME WITH HIM BECAUSE HE KNEW AN APARTMENT WHERE
7 THERE WOULD BE DRUGS AND MONEY, TO GO AND COMMIT THIS
8 ROBBERY; THAT HE WAS AROUND MR. SCOTT AND ALSO THE TWO
9 OTHER CO-DEFENDANTS, CLINTON JONES AND MAURICE
10 CHEESEBORO. AND HE ALSO PROVIDED THOSE NAMES. SO,
11 THAT'S THE FIRST TIME THOSE TWO NAMES, CLINTON JONES AND
12 MAURICE CHEESEBORO, COME TO LAW ENFORCEMENT'S ATTENTION
13 REGARDING THIS CRIME. YOU'RE GOING TO HEAR HOW THEN HE
14 ALSO TELLS LAW ENFORCEMENT ABOUT SOME CONVERSATIONS HE
15 HAD WITH THEM AFTER THE INCIDENT OCCURRED WHERE MR.
16 SCOTT TOLD HIM WHY HE SHOT, THE FACT THAT HE SAW THE
17 LITTLE GUY REACHING FOR, HE THOUGHT HE WAS REACHING FOR
18 A GUN AND THAT'S WHY HE HAD TO SHOOT HIM. AS I SAID, HE
19 ALSO PROVIDED THE NAMES OF CLINTON JONES AND MAURICE
20 CHEESEBORO, AND THIS IS HOW WE KNOW HE'S TELLING THE
21 TRUTH. YOU KNOW, THEY KNEW NOTHING ABOUT THE TWO OF
22 THEM AT THAT POINT IN TIME, BUT INVESTIGATOR SHUMPERT
23 GOES AND TRACKS THE TWO OF THEM DOWN. ONE OF THEM IS IN
24 JAIL, IN THE DEPARTMENT OF CORRECTIONS, THE OTHER ONE IS
25 OUT ON THE STREET. HE CONFRONTS THE TWO OF THEM, AND

1 THEY ULTIMATELY ADMIT TO BEING PRESENT AND INVOLVED IN
2 THIS. AND I SUBMIT TO YOU, YOU'RE GOING TO HEAR FROM
3 THE TWO OF THEM, THEY'RE GOING TO TAKE THIS WITNESS
4 STAND AND TELL YOU ABOUT THE PREPARATION, THE
5 CONVERSATIONS THEY HAD WITH THAT MAN PRIOR TO THIS
6 HAPPENING, THE CONVERSATIONS THEY HAD THAT NIGHT, AND
7 WHAT HAPPENED. THEY'RE GOING TO ADMIT TO BEING THE TWO
8 MEN WITH THEIR FACES COVERED THAT CAME RUSHING INTO THAT
9 APARTMENT WHEN THE DOOR OPENED, BOTH ARMED, AND THAT
10 THAT MAN FIRED THE FATAL SHOT THAT KILLED HARRY MACK.
11 YOU'RE GOING TO HEAR ABOUT THE CONVERSATIONS THEY THEN
12 HAD WITH HIM AFTERWARDS.

13 I SUBMIT TO YOU, LADIES AND
14 GENTLEMEN, AS HIS HONOR TOLD YOU A LITTLE WHILE AGO,
15 JUST LIKE HE IS THE JUDGE OF THE LAW, WHATEVER HE SAYS
16 THE LAW IS IS WHAT THE LAW IS, YOU, LADIES AND
17 GENTLEMEN, ARE JUDGES ALSO, THE TWELVE OF YOU. YOU'RE
18 THE JUDGES OF THE FACTS, AND YOU, AND YOU ALONE, WHEN
19 YOU GO BACK INTO THAT JURY ROOM AND BEGIN YOUR
20 DELIBERATIONS, CAN TELL US WHAT THE FACTS ARE ABOUT WHAT
21 HAPPENED THE EARLY MORNING HOURS OF DECEMBER TWENTY-
22 FOURTH, TWO THOUSAND SIX. ALL I ASK OF YOU AT THIS
23 POINT, LADIES AND GENTLEMEN, BECAUSE YOU HAVEN'T HEARD
24 ANY OF THE TESTIMONY YET, TO KEEP AN OPEN MIND, KEEP AN
25 OPEN MIND. AND GIVE ME THE OPPORTUNITY AFTER YOU'VE

1 HEARD ALL OF THE TESTIMONY, HEARD ALL OF THE EVIDENCE IN
2 THIS CASE, TO COME BACK BEFORE YOU AND TIE IT ALL
3 TOGETHER. I SUBMIT TO YOU, AT THAT POINT IN TIME YOU'RE
4 GOING TO FIND THAT NOT ONLY TERRELL SCOTT IS GUILTY OF
5 ARMED ROBBERY AND MURDER BEYOND A REASONABLE DOUBT, I
6 SUBMIT TO YOU, HE'S GUILTY BEYOND ANY DOUBT.

7 THANK YOU.

8 THE COURT: THANK YOU, SIR.

9 MR. WALTERS.

10 MR. WALTERS: MAY IT PLEASE THE
11 COURT.

12 THE COURT: YES, SIR.

13 MR. WALTERS: ATTORNEY SORENSON.

14 OPENING STATEMENT BY MR. WALTERS

15 IN THIS PARTICULAR CASE HIS HONOR,
16 WHEN HE WAS IN THE PROCESS OF QUALIFYING THE JURY, HE
17 WANTED TO KNOW IF YOU HAD ANY FRIENDS OR ENEMIES IN THIS
18 PARTICULAR CASE, IF YOU HAD SOMEONE TO REWARD OR DID YOU
19 HAVE ANY INVOLVEMENT, BECAUSE HE WAS LOOKING FOR A JURY
20 THAT WOULD BE FAIR AND LISTEN TO THE FACTS AND THE
21 EVIDENCE THAT WOULD BE PRESENTED BEFORE YOU. AND IN OUR
22 AMERICAN SYSTEM THAT'S WHAT WE PRIDE OURSELVES ABOUT, A
23 SYSTEM WHERE PEOPLE WILL LISTEN TO ALL OF THE FACTS AND
24 ALL OF THE INFORMATION.

25 THIS OPENING STATEMENT IS A PREVIEW

1 OF WHAT WE EXPECT THE EVIDENCE IN THIS CASE TO SHOW, AND
2 IT ESSENTIALLY INVOLVES THREE DIFFERENT PEOPLE, JOHN
3 RANDOLPH, WHOSE NICK NAME IS SCAR, AND YOU'RE GOING TO
4 HEAR ABOUT WHY HE'S CALLED SCAR, YOU'RE GOING TO HEAR
5 ABOUT WILL T. GILLIARD, AND A MAN NAMED LAWRENCE KELLY,
6 A/K/A, POOKIE.

7 NOW, IN THIS PARTICULAR CASE THE
8 FACTS ARE THAT UNDER THE CIRCUMSTANCES THEY ALLEGE THAT
9 THERE WAS A SHOOTING THAT OCCURRED AT AN APARTMENT. IT
10 WAS ALLEGED THAT THERE WERE FOUR PEOPLE IN THAT
11 APARTMENT, THERE WAS THE DECEDENT, HARRY MACK, JUNIOR.
12 HARRY MACK, JUNIOR'S FAMILY IS HERE BEFORE THE COURT.
13 IT'S SAD THAT A YOUNG MAN HAS DIED IN ORANGEBURG COUNTY
14 AND IT'S SAD THAT HE WAS SHOT IN SUCH A WAY IN
15 ORANGEBURG COUNTY, AND HIS FAMILY IS SUFFERING TODAY,
16 AND CERTAINLY WHATEVER I SAY IS WITH RESPECT TO THE
17 FAMILY BECAUSE THEY HAVE LOST A CHILD. BUT UNDER THE
18 CIRCUMSTANCES, AT [REDACTED] SHADOW LAWN DRIVE,
19 HARRY MACK IS THERE ALONG WITH JOHN RANDOLPH, LAWRENCE
20 KELLY AND WILL T. GILLIARD. THREE OF THESE PEOPLE ARE
21 FIRST COUSINS. THEIR MOTHERS AND FATHERS ARE BROTHERS
22 AND SISTERS, AND THEY MAY BE PRESENT BEFORE THE COURT
23 NOW. SO, THE THREE COUSINS THAT ARE FIRST COUSINS ARE
24 JOHN RANDOLPH, WILL T. GILLIARD, AND OF COURSE, THE
25 PERSON THAT DIED, HARRY MACK, JUNIOR. BUT WHAT DO THE

1 FACTS AND THE EVIDENCE SHOW IN THIS PARTICULAR CASE?

2 WHAT THE FACTS AND THE EVIDENCE SHOW
3 IN THIS PARTICULAR CASE, AND THIS IS UNDISPUTED, AS WE
4 GO THROUGH THIS, THESE THREE BOYS ALLEGE THAT THERE WAS
5 SOME TYPE OF SHOOTING THAT OCCURRED AT AN APARTMENT.
6 WELL, LET'S GO THROUGH THE FACTS THAT ARE UNDISPUTED
7 INTO EVIDENCE AND WHAT THE EVIDENCE WILL SHOW. AND I'LL
8) CAREFULLY GO THROUGH THAT WITH YOU RIGHT NOW.

9 THE FIRST ISSUE IS, IS THAT HARRY
10 MACK, JUNIOR, IS DEAD BECAUSE HE WAS SHOT WITH A THREE
11 FIFTY-SEVEN CALIBER MAGNUM GUN. THAT'S THE FIRST ISSUE,
12 THAT'S UNDISPUTED.

13 THE SECOND ISSUE IS, IS THAT HARRY
14 MACK, JUNIOR, WAS SHOT IN THE CHEST. BUT ALL THE
15 STATEMENTS THAT WERE GIVEN BY ALL OF HIS COUSINS AND MR.
16 LAWRENCE KELLY THAT WERE INSIDE THE APARTMENT, THEY TOLD
17 THE POLICE HE WAS SHOT IN THE STOMACH, EVERY LAST ONE OF
18 THEM. IT'S INTERESTING THAT THE SOLICITOR WOULD COME
19 FORTH TODAY AND SAY THAT HE WAS SHOT IN THE CHEST, BUT
20 EACH ONE OF THESE BOYS WHO WERE INVOLVED IN THIS
21 PARTICULAR SHOOTING, THEY TESTIFIED AND THEY WROTE
22 STATEMENTS STATING HE WAS SHOT IN THE STOMACH. THEY
23 ALSO STATED THIS OVER AND OVER AGAIN TO EACH
24 INVESTIGATOR, GREAT INVESTIGATORS, INVESTIGATOR
25 SHUMPERT, INVESTIGATOR ETHERIDGE, ALL OF THEM THAT HE

1 WAS SHOT IN THE STOMACH. BUT THE AUTOPSY REPORT, WHAT
2 DOES IT SHOW? IT SHOWS THAT HE WAS SHOT FROM A DOWNWARD
3 ANGLE, OVER TO THE RIGHT. AND AS SOLICITOR SORENSON
4 SAID, IT TRAVELED THROUGH THE SIDE AND WENT OUT THE
5 SIDE.

6 IT'S UNDISPUTED THAT IN THIS
7 PARTICULAR CASE THAT HARRY MACK, JUNIOR, WAS SHOT, AND
8 HIS FAMILY, THOSE BOYS THAT THEY'RE GOING TO HAVE IN
9 FRONT OF YOU RIGHT NOW THAT CLAIM TO BE THE VICTIMS, MR.
10 WILL T. GILLIARD WHO THEY'VE GOT BACK THERE IN A ROOM,
11 MR. LAWRENCE KELLY, WHO THEY'VE GOT BACK THERE IN A
12 ROOM, - - -

13 SOLICITOR SORENSON: YOUR HONOR, I'M
14 GOING TO, - - -

15 MR. WALTERS: --- EACH ONE OF THOSE
16 - - -

17 THE COURT: WAIT A MINUTE, MR.
18 WALTERS.

19 SOLICITOR SORENSON: MAY I APPROACH?

20 THE COURT: YES, SIR.

21 (Whereupon, a bench conference
22 is had out of the hearing of the
23 jury and the court reporter.)

24 THE COURT: THIS IS OPENING, NOW,
25 NOT CLOSING ARGUMENT.

1 MR. WALTERS: YES, SIR.

2 THESE THREE INDIVIDUALS, THEY DUMPED
3 HARRY MACK, JUNIOR'S, BODY, THEIR FIRST COUSIN, THEY
4 DUMPED HIS BODY AT THE ENTRANCE TO ORANGEBURG REGIONAL
5 HOSPITAL. THEY FORGOT THAT FACT. AND WHEN THEY DUMPED
6 THE BODY THERE IN FRONT OF ORANGEBURG REGIONAL HOSPITAL,
7 THESE COUSINS THAT SHOWED THIS LOVE AND WHATEVER ELSE,
8 THEY DROVE OFF IN THE CAR, AND THEY LEFT THE BODY IN
9 FRONT OF ORANGEBURG REGIONAL HOSPITAL. THAT'S
10 UNDISPUTED.

11 IN ADDITION TO THAT, THE FAMILY
12 MEMBERS, AFTER DUMPING THE BODY, AND THE EVIDENCE WILL
13 BE THAT MR. GILLIARD DUMPED THE BODY ALONG WITH POOKIE,
14 THEY WERE FORCED TO GO BACK TO THE HOSPITAL AND ATTEMPT
15 TO EXPLAIN WHY THEY WERE DUMPING A BODY AT THE ENTRANCE
16 TO THE HOSPITAL. THAT'S WHAT THE EVIDENCE WILL SHOW.

17 IN ADDITION TO THAT, THE EVIDENCE
18 WILL SHOW THAT AFTER THE SHOOTING JOHN RANDOLPH, WILL T.
19 GILLIARD, LAWRENCE KELLY, A/K/A, LAWRENCE WILLIAMS,
20 POOKIE, NEVER CALLED THE FAMILY AND TOLD THEM WHAT WAS
21 GOING ON, NEVER CALLED THE POLICE AND SAID, THIS IS WHAT
22 HAS HAPPENED AT THE APARTMENT. YOU SEE, THE STORY THE
23 APARTMENT THE FACTS WILL SHOW POPS UP LATER AFTER THEY
24 DUMP THIS BODY IN FRONT OF ORANGEBURG REGIONAL HOSPITAL.
25 AND THE FACTS WILL SHOW THAT TERRELL SCOTT NEVER DUMPED

1 A BODY IN FRONT OF THE HOSPITAL, NEVER DUMPED A BODY AT
2 THE ENTRANCE TO THE HOSPITAL, JUST HIS FAMILY.

3 THE FACTS WILL SHOW THAT THEY'VE
4 ALLEGED THAT THEY SOMEHOW WERE ROBBED INSIDE OF THIS
5 APARTMENT. THEY WERE INSIDE SMOKING WEED, THIS IS WHAT
6 THEY TOLD THE POLICE, THAT SOMEONE CAME INSIDE OF THE
7 APARTMENT AND REQUESTED DOPE OR WHATEVER, AND TWO OTHER
8 PEOPLE RAN BEHIND HIM.

9 THE EVIDENCE WILL SHOW THAT A THREE
10 FIFTY-SEVEN MAGNUM WAS USED TO KILL THIS MAN.

11 THE EVIDENCE WILL SHOW THAT IN THIS
12 APARTMENT WHERE THIS MAN WAS SUPPOSEDLY SHOT WITH A
13 THREE FIFTY-SEVEN MAGNUM, THERE WAS NO BLOOD IN THE
14 APARTMENT. IN FACT, THE EVIDENCE WILL SHOW THAT THESE
15 THREE YOUNG MEN, WHEN THEY TURNED THE BODY OVER THEY
16 SAID THEY SAW THAT HE WAS SHOT, THEY SAW BLOOD, BUT
17 THERE'S AN ACTUAL FILM OF THE APARTMENT AND THE EVIDENCE
18 WILL SHOW THERE IS NO BLOOD IN THE APARTMENT.

19 THE EVIDENCE WILL ALSO SHOW, WHEN
20 THEY ALLEGE THAT THERE WERE THREE SHOTS THAT WERE BEING
21 FIRED, THERE WERE NO CARTRIDGE CASINGS INSIDE THE SCENE,
22 NO DISPENSED BULLETS OR ANYTHING OF THAT NATURE. THIS
23 IS UNDISPUTED.

24 THE EVIDENCE WILL SHOW THAT THERE
25 WAS NO DAMAGE TO THE APARTMENT AFTER FINDING THE THREE

1 FIFTY-SEVEN MAGNUM HAD BEEN FIRED, WITH REGARD TO THIS
2 YOUNG MAN.

3 THE EVIDENCE WILL ALSO SHOW I THIS
4 PARTICULAR CASE THAT IT HAD NO BULLET IMPACT, BECAUSE
5 THE TESTIMONY AND THE EVIDENCE WILL BE THAT A SHOT WAS
6 FIRED, WE KNOW THAT HARRY MACK WAS SHOT, BUT AS FAR AS
7 THESE OTHER BULLETS, WE DON'T KNOW WHERE THEY ARE,
8 THEY'RE NOT IN THE WALLS, THEY'RE NOT IN THE FLOOR, THEY
9 DIDN'T GO THROUGH A WINDOW, IT DOESN'T SHOW ANYTHING.
10 THIS IS UNDISPUTED.

11 THE EVIDENCE WILL SHOW THAT THERE
12 WERE TWELVE GALLON SIZED ZIP LOCK BAGS WITH A GREEN
13 LEAFY SUBSTANCE THAT WERE FOUND AT THE SCENE.

14 THE EVIDENCE WILL SHOW THAT INSIDE
15 THIS APARTMENT THERE WAS A FORTY-FIVE CALIBER CARTRIDGE
16 IN THE HOUSE.

17 THE EVIDENCE WILL SHOW THAT THERE
18 WAS A BOX FOR A HIGH POINT THREE HUNDRED CALIBER PISTOL
19 INSIDE OF THE HOUSE.

20 THE EVIDENCE WILL SHOW THAT THESE
21 BOYS ARE ALLEGING THAT IT WAS FOUR OF THEM INSIDE OF THE
22 APARTMENT. THEY ALLEGE THAT ONE MAN CAME TO THE DOOR
23 AND THEN TWO MORE MEN CAME INSIDE OF THE APARTMENT. SO,
24 FOUR PLUS THREE EQUALS SEVEN, OR MAYBE EVEN EIGHT, WE'RE
25 NOT SURE, BUT AT LEAST THAT MANY MEN WERE INSIDE OF THE

1 APARTMENT, AND THEY ALLEGE THAT THERE WAS SOME TYPE OF
2 SCUFFLE. BUT WHAT DID OUR GREAT POLICE OFFICERS FIND,
3 THE EVIDENCE WILL SHOW? THERE WAS NO FINGERPRINTS, NOT
4 EVEN FINGERPRINTS TO CORROBORATE THE THREE YOUNG MEN
5 THAT ARE COMING BEFORE YOU TODAY. THERE WERE NO
6 FINGERPRINTS WITH REGARDS TO A TERRELL SCOTT, THERE WERE
7 NO FINGERPRINTS, THE EVIDENCE WILL SHOW, WITH REGARDS TO
8 ANYONE ELSE BEING INSIDE OF THE APARTMENT.

9 THE EVIDENCE WILL SHOW THAT WHEN OUR
10 SHERIFF'S DEPARTMENT WENT OUT THERE TO THE SCENE WHERE
11 THEY ALLEGED THAT SOMEONE WAS KILLED, AFTER THEY HAD
12 DUMPED THE BODY AT THE HOSPITAL, THAT OUR SHERIFF'S
13 DEPARTMENT FOUND THERE WAS A FOOTPRINT INSIDE THE
14 APARTMENT. AND YOU'LL GET TO SEE THE VIDEO. AND WHEN
15 YOU TAKE A FOOTPRINT ANALYSIS, THEY TAKE A PICTURE OF
16 IT, AND IT'S A REAL SIMPLE THING TO DO. IF YOU TAKE A
17 PICTURE OF SOMEONE'S FOOT AND IT'S A TEN AND A HALF, IF
18 YOU'VE GOT SEVEN OR EIGHT MEN, OR FOUR MEN THAT SAY, WE
19 WERE THERE, YOU TELL EACH ONE OF THEM, COME IN HERE AND
20 LET ME GET YOUR FOOTPRINT AND SEE IF IT MATCHES THE TEN
21 AND A HALF HERE, YOU WEAR A TWELVE, I KNOW THAT'S NOT
22 YOUR FOOT. THERE WAS NO FOOTPRINT ANALYSIS DONE WITHIN
23 THIS APARTMENT.

24 IT WAS ALLEGED THAT, AND THE
25 EVIDENCE WILL SHOW, THAT AFTER HARRY MACK, JUNIOR, WAS

1 SHOT, WHEN HIS FAMILY WAS TAKING HIM TO THE HOSPITAL TO
2 DUMP HIS BODY IN FRONT OF THE HOSPITAL, MR. JOHN
3 RANDOLPH, ONE OF THE COUSINS, THE EVIDENCE WILL SHOW
4 THAT HE SAID HE TOOK HARRY MACK, JUNIOR'S, PHONE. HE
5 TOOK THE DECEDENT'S PHONE, THE MAN THAT WAS DYING. HE
6 TOOK HIS PHONE, AND IN THIS PARTICULAR CASE THE EVIDENCE
7 WILL SHOW THAT INSTEAD OF GOING TO THE HOSPITAL TO TAKE
8 CARE OF HIS LOVED ONE, WHAT HE DID WAS, HE GOT IN THE
9 CAR AND HE DROVE ABOUT TWENTY-THREE MILES FROM
10 ORANGEBURG, HE DROVE OUT TO A PLACE CALLED, THE OAKS,
11 AND MANY OF YOU MAY KNOW WHAT THE OAKS IS ABOUT, BUT
12 IT'S AN INTERSECTION BETWEEN HIGHWAY THREE O ONE AD ONE
13 SEVENTY-SIX. HE DROVE OUT THERE INSTEAD OF GOING TO THE
14 HOSPITAL, AND HE TOOK HARRY MACK'S PHONE. AND WHEN HE
15 TOOK HIS PHONE THE QUESTION CAME UP, WELL, WHO DID YOU
16 CALL? YOUR FIRST COUSIN'S JUST BEEN SHOT. YOU DIDN'T
17 CALL THE FAMILY, YOU DIDN'T CALL THE POLICE. BUT HE HAD
18 TO GO OUT TO THE OAKS. AND WHEN HE GOT OUT TO THE OAKS
19 YOU'RE GOING TO FIND OUT WHAT HE DID. BUT THE POLICE,
20 IN SNATCHING THAT PHONE, AFTER THEY FINALLY GOT IT, THEY
21 MADE A MISTAKE THE EVIDENCE WILL SHOW. THEY DIDN'T GO
22 AND DO THE ANALYSIS THAT'S REQUIRED FOR A CELL PHONE.
23 THE EVIDENCE WILL SHOW THAT YOU CAN SIMPLY TAKE A CELL
24 PHONE AND YOU CAN SCROLL DOWN IT AND SAY, I THINK I KNOW
25 WHO YOU CALLED, BUT YOU SEE, WHEN PEOPLE ELIMINATE A

1 CALL AND YOU DON'T KNOW THEY'VE MADE THE CALL, THERE'S
2 A SIMPLE WAY TO DO IT, YOU GO TO THE TELEPHONE COMPANY,
3 AND YOU SAY, GIVE US THE BILL SO WE CAN KNOW EXACTLY
4 EVERYBODY HE CALLED. THAT WAS NEVER DONE.

5 THE POLICE NEVER ASKED ANYONE IN THE
6 NEIGHBORHOOD IF THEY HEARD THESE SHOTS, BECAUSE THESE
7 BOYS SAID A THREE FIFTY-SEVEN WENT OFF. THE EVIDENCE
8 WILL SHOW THAT IF YOU FIRE A THREE FIFTY-SEVEN, A
9 DEAFENING SOUND. FIRED THREE TIMES, THAT'S WHAT'S
10 ALLEGED HERE. THEY NEVER ASKED ANYONE IN THE
11 NEIGHBORHOOD AROUND THIS APARTMENT, DID YOU HEAR THIS
12 GUN? THE EVIDENCE WILL SHOW THAT WHEN THEY HAD GOT TO
13 THE HOSPITAL -- AND IT'S INTERESTING HOW THEY GOT TO THE
14 HOSPITAL. THE EVIDENCE WILL SHOW THAT POOKIE, LAWRENCE
15 KELLY, ALONG WITH WILL T. GILLIARD, THEY ALLEGE THAT
16 THEY PUT HARRY MACK, JUNIOR, INSIDE OF POOKIE'S CAR AND
17 DROVE HIM TO ORANGEBURG REGIONAL HOSPITAL. WHEN THEY
18 GOT TO THE HOSPITAL THEY DUMPED THE BODY OUT AT THE
19 ENTRANCE. THE TWO OF THEM GOT IN THE CAR AND ATTEMPTED
20 TO DRIVE AWAY. WILL T. GILLIARD WAS IN THE CAR AND
21 POOKIE WAS IN THE CAR. JOHN RANDOLPH, THE OTHER COUSIN,
22 NEVER WENT TO THE HOSPITAL. AS I STATED, THE EVIDENCE
23 WILL SHOW HE WENT OUT TO THE OAKS. INSTEAD OF STAYING
24 WITH THEIR FAMILY MEMBER HE THEN CALLED AND SAID, YOU
25 GUYS MEET ME AT THE OAKS. SO, GUESS WHAT HAPPENS AT THE

1 OAKS? THE EVIDENCE WILL SHOW THAT JOHN T. RANDOLPH WAS
2 AT THE OAKS, HE MET WITH LAWRENCE KELLY, AND HE ALSO MET
3 WITH WILL T. GILLIARD. WE DON'T KNOW WHAT THE
4 DISCUSSION WAS AND WE DON'T KNOW WHAT WAS GOING ON, BUT
5 AT THAT TIME RANDOLPH CURSED WILL T. GILLIARD, AND SAID,
6 YOU GO BACK TO THE HOSPITAL, GO BACK TO THE HOSPITAL.
7 AT THAT TIME HE REALIZED THAT HE HAD A PROBLEM ON HIS
8 HANDS, BECAUSE THERE'S ONE PERSON IN THE GROUP HE
9 COULDN'T CONTROL, LAWRENCE KELLY. KELLY BECAME NERVOUS,
10 AND INSTEAD OF GOING BACK TO THE HOSPITAL, IMAGINE WHAT
11 THEY'VE DONE, THEY'VE DRIVEN THREE OR FOUR MILES TO GET
12 TO THE HOSPITAL, DUMPED THEIR LOVED ONE OFF IN FRONT OF
13 THE ELECTRONIC DOORS TO THE ENTRANCE. THEY ATTEMPT TO
14 DRIVE AWAY, THEY RECEIVE A PHONE CALL FROM THE OTHER
15 INDIVIDUAL THAT WAS AT THE HOUSE WHO'S TWENTY-THREE
16 MILES AWAY AT THREE O ONE-ONE SEVENTY-SIX, THAT SAYS,
17 COME OUT HERE. THEY GO OUT THERE AND TALK, AND WHAT
18 DOES JOHN RANDOLPH INSTRUCT MR. GILLIARD TO DO? YOU AND
19 POOKIE GO BACK TO THE HOSPITAL. SOMEBODY'S GOT TO
20 EXPLAIN WHAT'S GOING ON AT, WHERE WE'RE COMING FROM. WE
21 DON'T KNOW WHERE THEY'RE COMING FROM, WE DON'T KNOW
22 WHERE THEY GOT THIS BODY FROM. BUT GUESS WHAT HAPPENS
23 IN THE MIDDLE OF THAT PROCESS? LAWRENCE KELLY PANICS.

24 THE COURT: FIVE MINUTES, MR.
25 WALTERS, WE'RE NOT TRYING THE CASE, THIS IS JUST

1 SUPPOSED TO BE A BRIEF OPENING STATEMENT.

2 MR. WALTERS: YES, SIR.

3 AND THE FACTS SHOW THAT LAWRENCE
4 KELLY PANICKED AND HE TOOK OFF. AND THE POLICE
5 CONFRONTED MR. GILLIARD AND MR. RANDOLPH WHEN THEY CAME
6 BACK TO THE HOSPITAL AND THEY GAVE FOUR DIFFERENT
7 ALIASES AS TO WHO MR. KELLY WAS. THAT'S WHAT THE
8 EVIDENCE WILL SHOW.

9 THE POLICE ALSO LOOKED AT MR.
10 LAWRENCE KELLY'S CAR, THE CAR THEY TRANSPORTED THE
11 PERSON THAT WAS SHOT. THERE'S NO BLOOD INSIDE THE
12 VEHICLE. THEY THEN SPLIT THEM UP INTO DIFFERENT GROUPS
13 AND THEY SAY, WELL, WHAT HAPPENED? JOHN RANDOLPH SAYS
14 THERE WAS ONE SHOT THAT WAS FIRED, LAWRENCE KELLY SAYS
15 THERE ARE TWO SHOTS THAT WERE FIRED. THEY CAN'T GET
16 THEIR STORY TOGETHER. AND AGAIN, THEY DISCUSS THIS
17 MEETING AT THREE O ONE AND ONE SEVENTY-SIX.

18 IN ADDITION TO THAT, WHEN THE
19 SHOOTING OCCURRED ITSELF THEY ASKED THE GENTLEMAN, WHAT
20 TYPE OF CAR DID THE SHOOTER HAVE? WILL T. GILLIARD SAID
21 IT WAS A LIGHT BLUE CAPRICE, THE EVIDENCE WILL SHOW.
22 JOHN RANDOLPH SAID IT WAS A NISSAN CENTRA THAT WAS USED.
23 ONE OF THEM TESTIFIED SOME OF THE PEOPLE WERE WEARING
24 MASKS. ONE OF THEM TESTIFIED, AND THIS IS IN THEIR
25 STATEMENT, SOMEONE WAS WEARING A GOLDEN HOODIE. THEY

1 GOT A FORENSIC ARTIST TO DRAW A PICTURE, THE EVIDENCE
2 WILL SHOW, AND THEY DREW A MAN WITH A BASEBALL CAP. THE
3 EVIDENCE WILL SHOW THAT LAWRENCE KELLY, POOKIE WHO
4 PANICKED BEFORE, HE PANICKED AGAIN, AND HE BLAMED A MAN
5 FOR COMMITTING THIS CRIME, THIS TYPE OF ROBBERY AND
6 MURDER. HE SAID HE PICKED HIM OUT OF A LINEUP AND THEN
7 LATER, AFTER THE MAN WAS ARRESTED, POOKIE CAME BACK TO
8 THE POLICE AND CHANGED HIS MIND. MR. SCOTT, HE WAS
9 ACCUSED OF COMMITTING THIS CRIME, AND THEY SAID HE WAS
10 GOING TO BE ARRESTED FOR ARMED ROBBERY. HE GOT A LAWYER
11 AND TURNED HIMSELF IN. THEY SAID, YOU'RE GOING TO BE
12 CHARGED WITH MURDER. HE GOT A LAWYER AND TURNED HIMSELF
13 IN. THE MURDER CHARGE WAS DISMISSED, ARMED ROBBERY WAS
14 DISMISSED. THEY CAME BACK AND SAID, WE'RE GOING TO THE
15 GRAND JURY, WE'RE GOING TO GET YOU. HE GOT A LAWYER,
16 AND TURNED HIMSELF IN.

17 NOW, AT THEIR WIT'S END, THEY'VE NOW
18 TURNED AROUND AND THEY SAID, WE WENT TO THE JAIL HOUSE
19 AND WE STARTED ASKING QUESTIONS. DID MR. SCOTT WHEN WE
20 ARRESTED HIM FOR THESE PARTICULAR CRIMES AND HE WAS
21 SITTING IN HIS CELL, DID HE SPILL HIS GUTS AND SAY THAT
22 HE COMMITTED THESE CRIMES? AND GUESS WHAT, THEY GOT
23 THREE JAIL BIRDS THAT SAY, I'LL TESTIFY THAT HE SAID
24 SOMETHING TO ME. I'LL TESTIFY HE SAID SOMETHING TO ME.

25 THE EVIDENCE WILL SHOW IN THIS

1 PARTICULAR CASE THAT THIS FAMILY HAS SOME SERIOUS
2 PROBLEMS, AND IT'S SAD THAT THE MACKS ARE HERE TODAY,
3 AND THEY HAVE LOST A CHILD, BUT THESE FACTS ARE
4 UNDISPUTED, AND THOSE THREE COUSINS, MR. GILLIARD, MR.
5 KELLY -- KELLY'S NOT A COUSIN, BUT MR. GILLIARD AND MR.
6 RANDOLPH, THEY CAN'T EXPLAIN THESE BASIC FACTS THAT YOU
7 SEE BEFORE YOU. I ASK THAT YOU CONSIDER ALL OF THE
8 EVIDENCE THAT WILL BE PRESENTED AND THE STORIES THAT
9 WILL BE PRESENTED. THEY'VE HAD OVER EIGHT HUNDRED DAYS,
10 EIGHT HUNDRED DAYS TO COACH THEM, GET THEIR STORIES
11 TOGETHER, AND YOU'VE GOT TO ASK YOURSELF, CAN YOU
12 BELIEVE ANYTHING THAT THEY SAY?

13 THANK YOU.

14 THE COURT: YOU MAY CALL YOUR
15 WITNESS.

16 SOLICITOR SORENSON: THE STATE CALLS
17 INVESTIGATOR ETHERIDGE.

18 THE COURT: COME AROUND, PLEASE,
19 SIR. COME ON DOWN, PLEASE, SIR, AND PUT YOUR LEFT ON
20 THE BIBLE AND RAISE YOUR RIGHT.

21 (Whereupon, James William Etheridge
22 is duly sworn.)

23 THE COURT: HAVE A SEAT AND STATE
24 YOUR FULL NAME, PLEASE.

25 WITNESS: JAMES WILLIAM ETHERIDGE.

DIRECT - JAMES W. ETHERIDGE BY SOL. SORENSON

203

DIRECT EXAMINATION OF JAMES W. ETHERIDGE

BY SOLICITOR SORENSON:

Q. GOOD MORNING, INVESTIGATOR ETHERIDGE. IF YOU WOULD, TELL THE JURY WHERE IT IS THAT YOU'RE EMPLOYED?

A. ORANGEBURG COUNTY SHERIFF'S OFFICE.

Q. AND WHAT ARE YOUR CURRENT DUTIES WITH THE SHERIFF'S OFFICE?

A. I'M AN INVESTIGATOR WITH THE CRIMINAL INVESTIGATION DIVISION.

Q. AND HOW LONG, HOW LONG HAVE YOU BEEN EMPLOYED THERE?

A. AT THE ORANGEBURG COUNTY SHERIFF'S OFFICE AROUND SEVEN YEARS.

Q. OKAY. AND IN YOUR CURRENT CAPACITY HOW LONG HAVE YOU BEEN THERE?

A. THREE, - - -

Q. THREE YEARS?

A. --- A LITTLE OVER THREE YEARS.

Q. SO, BACK IN DECEMBER OF TWO THOUSAND AND SIX YOU WERE AT THAT TIME EMPLOYED AS AN INVESTIGATOR?

A. YES, SIR, I WAS.

Q. OKAY. NOW, LET ME ASK YOU, I'D CALL YOUR ATTENTION BACK TO THE EARLY MORNING HOURS OF DECEMBER TWENTY-FOURTH, TWO THOUSAND SIX, WERE YOU

DIRECT - JAMES W. ETHERIDGE BY SOL. SORENSON

204

1 WORKING AT THAT TIME?

2 A. YES, SIR, WAS ACTUALLY ON CALL THAT DAY.

3 Q. OKAY. AND DID YOU, DID THERE COME AN OCCASION
4 WHEN YOU GOT CALLED OUT TO THE REGIONAL MEDICAL
5 CENTER?

6 A. YES, SIR, I DID.

7 Q. AND THAT'S THE LOCAL HOSPITAL HERE IN ORANGEBURG?

8 A. RIGHT HERE IN ORANGEBURG, YES, SIR.

9 Q. OKAY. AND IF YOU WOULD, TELL THE JURY WHEN YOU
10 GOT THERE WHAT WAS GOING ON WHEN YOU ARRIVED AT
11 THE HOSPITAL THAT MORNING?

12 A. WHEN I ARRIVED ON THE SCENE I WAS ADVISED BY
13 DEPUTIES THAT MR. HARRY MACK HAD BEEN BROUGHT INTO
14 THE EMERGENCY ROOM IN REFERENCE TO A GUN SHOT
15 WOUND TO THE STOMACH. THEY SAID THAT ACTUALLY AN
16 INDIVIDUAL HAD BROUGHT HIM IN AND DROPPED HIM OFF,
17 BUT THEY DID GIVE A NAME, AND THEY LEFT. I SPOKE
18 WITH MEDICAL PERSONNEL THAT WAS WORKING WITH HIM
19 AT THAT TIME AND HE WAS UNCONSCIOUS, NON-
20 RESPONSIVE. I WASN'T ABLE TO GET ANY INFORMATION
21 OUT OF HIM.

22 Q. OKAY. DID YOU VERIFY AT THAT POINT IN TIME THAT
23 HE WAS SUFFERING FROM A, IT WAS A GUN SHOT WOUND?

24 A. YES, SIR.

25 Q. OKAY. ALRIGHT. AND THEY HAD INDICATED TO YOU AT

DIRECT - JAMES W. ETHERIDGE BY SOL. SORENSON

205

1 THAT POINT IN TIME THAT HE HAD BEEN DROPPED OFF AT
2 THE HOSPITAL BY, AT THAT POINT IN TIME, UNKNOWN
3 INDIVIDUALS?

4 A. UNKNOWN INDIVIDUALS.

5 Q. NOW, LET ME ASK YOU, DID THEY INDICATE THAT HE HAD
6 JUST DUMPED - DID THEY JUST DUMP HIM ON THE CURB
7 OR DID THEY BRING HIM IN?

8 A. NO, SIR, THEY BROUGHT HIM IN AND ACTUALLY GAVE ONE
9 OF THE EMPLOYEES OF THE HOSPITAL HIS NAME, YOU
10 KNOW, AS TO WHO HE WAS.

11 Q. OKAY. ALRIGHT. NOW, YOU INDICATED THAT, THAT MR.
12 MACK, THE VICTIM AT THAT POINT IN TIME WAS
13 UNRESPONSIVE?

14 A. YES, SIR.

15 Q. OKAY. SO YOU, DID YOU EVER HAVE AN OPPORTUNITY
16 FROM THE TIME YOU ARRIVED THERE OR DID ANY LAW
17 ENFORCEMENT HAVE AN OPPORTUNITY TO TALK TO MR.
18 MACK?

19 A. I NEVER WAS ABLE TO SPEAK WITH HIM.

20 Q. OKAY. AND YOU LEARNED LATER ON THAT HE DID PASS
21 AWAY?

22 A. CORRECT, YES, SIR.

23 Q. DID HE EVER REGAIN CONSCIOUSNESS FROM THE TIME HE
24 WAS BROUGHT IN THERE?

25 A. NO, SIR, NEVER OBTAINED ANY INFORMATION FROM HIM.

DIRECT - JAMES W. ETHERIDGE BY SOL. SORENSON

206

- 1 Q. OKAY. NOW, AS TO MR. MACK, DID YOU HAVE AN
2 OPPORTUNITY THAT MORNING TO COLLECT ANY ITEMS
3 FROM, OF MR. MACK'S OR FROM MR. MACK THAT MORNING
4 AT THE HOSPITAL?
- 5 A. I DID, I COLLECTED HIS CLOTHING TO TURN INTO
6 EVIDENCE, AND I ALSO DID A GUN SHOT RESIDUE KIT ON
7 MR. MACK.
- 8 Q. OKAY. EXPLAIN TO THIS JURY WHAT A GUN SHOT
9 RESIDUE KIT IS?
- 10 A. WELL, A GUN SHOT RESIDUE KIT IS ACTUALLY JUST TO
11 DETERMINE WHETHER HE HAD SHOT A FIREARM, JUST A
12 KIT THAT WE PERFORM ON HIS HANDS, FRONT, BACK,
13 PALMS, FINGERS. IT'S COLLECTED. THE DIRECTIONS
14 ARE IN THE PACK, WE GO STRICTLY BY THE DIRECTIONS,
15 COLLECT EVIDENCE, AND IT'S TURNED OVER TO SLED.
- 16 Q. OKAY. AND THOSE KITS CONTAIN SWABS?
- 17 A. CONTAIN SWABS AND - - -
- 18 Q. ALSO LITTLE STICKY PADS?
- 19 A. --- LITTLE PADDY STICKIES THAT ACTUALLY PICKS THE
20 -- WHAT IT'S LOOKING FOR IS THE METAL ON THE HAND.
- 21 Q. ALRIGHT. AND YOU DID THAT ON MR. MACK?
- 22 A. YES, SIR, I DID.
- 23 Q. AND SEALED THAT UP AND THAT WAS ULTIMATELY SENT
24 OUT TO SLED FOR ANALYSIS?
- 25 A. SENT TO SLED, YES, SIR.

DIRECT - JAMES W. ETHERIDGE BY SOL. SORENSON

207

1 Q. ALRIGHT. NOW, AT SOME POINT IN TIME WHEN YOU WERE
2 THERE DID YOU LEARN -- DID ANY OTHER INDIVIDUALS
3 THAT POSSIBLY MIGHT HAVE SOME KNOWLEDGE ABOUT WHAT
4 HAPPENED RETURN TO THE HOSPITAL WHILE YOU WERE
5 THERE?

6 A. CORRECT. AN OFFICER CAME TO ME AND ADVISED ME
7 THAT THERE WAS TWO INDIVIDUALS THAT CAME BACK TO
8 THE HOSPITAL AND ONE HAD ACTUALLY BROUGHT MR. MACK
9 TO THE HOSPITAL, AND THAT WAS MR. RANDOLPH -- IT
10 WAS TWO OF THEM, MR. RANDOLPH AND MR. GILLIARD.

11 Q. OKAY.

12 A. MR. GILLIARD WAS THE ONE THAT HAD ACTUALLY BROUGHT
13 MR. MACK IN TO THE HOSPITAL, MR. RANDOLPH WAS JUST
14 AT THE HOUSE, OR THE APARTMENT.

15 Q. OKAY. SO THE TWO OF THEM NOW ARE BACK AT THE
16 HOSPITAL NOW AT SOME POINT IN TIME AFTER YOU HAD
17 ARRIVED?

18 A. YES, SIR.

19 Q. OKAY. AND DID YOU HAVE AN OPPORTUNITY TO TALK TO
20 THE TWO OF THEM BRIEFLY AT THAT TIME?

21 A. I DID, I TALKED WITH THEM AT THAT TIME TRYING TO
22 GET INFORMATION AS TO WHAT HAD TAKEN PLACE, AND
23 THAT'S WHEN I ACTUALLY CAME UP WITH THE INCIDENT
24 LOCATION OF WHERE THE INCIDENT OCCURRED, AT [REDACTED]
25 [REDACTED] SHADOW LAWN DRIVE, WHICH IS AN

DIRECT - JAMES W. ETHERIDGE BY SOL. SORENSON

208

1 APARTMENT RIGHT ON SHADOW LAWN DRIVE HERE IN
2 ORANGEBURG, WHICH IS IN THE COUNTY IN OUR
3 JURISDICTION.

4 Q. OKAY. AND WHERE EXACTLY IS SHADOW LAWN DRIVE
5 LOCATED?

6 A. SHADOW LAWN DRIVE IS ACTUALLY KIND OF, IT'S
7 ACTUALLY NOT FAR FROM THE HOSPITAL. JUST COMING
8 THE BACK WAY OFF OF COOK ROAD, BELLEVILLE ROAD,
9 RIGHT OFF THE BELLEVILLE ROAD.

10 Q. AND IT'S IN ORANGEBURG COUNTY?

11 A. YES, SIR, IT'S IN ORANGEBURG COUNTY.

12 Q. OKAY. AND -- ALRIGHT, NOW, PRIOR TO THE TWO OF
13 THEM ARRIVING BACK THERE AT THE SCENE, I MEAN, DID
14 YOU HAVE ANY IDEA, DID LAW ENFORCEMENT HAVE IDEA
15 WHAT HAD HAPPENED TO MR. MACK OTHER THAN THE FACT
16 THAT HE WAS THE VICTIM OF A GUN SHOT WOUND?

17 A. NO, SIR, WE HAD NO INFORMATION.

18 Q. OKAY. NOW, AS TO MR. GILLIARD AND MR. RANDOLPH
19 WHEN THEY RETURNED TO THE HOSPITAL, DID YOU HAVE
20 AN OCCASION THEN TO PERFORM, DO ANY KIND OF
21 TESTING ON THE TWO OF THEM?

22 A. I DID. WE ALSO DID A GUN SHOT RESIDUE KIT ON BOTH
23 OF THEM INDIVIDUALS, WE SURE DID.

24 Q. AND THOSE WERE SEALED AND ALSO TURNED OVER TO GO
25 TO SLED?

DIRECT - JAMES W. ETHERIDGE BY SOL. SORENSON

209

1 A. SEALED AND TURNED OVER TO GO TO SLED.

2 Q. ALRIGHT. NOW, WERE THE TWO OF THEM AT THAT POINT
3 IN TIME TAKEN ANYWHERE TO GET STATEMENTS OR WHAT
4 HAVE YOU?

5 A. I TOOK THEM, YEAH, I TOOK THEM BACK TO THE
6 SHERIFF'S OFFICE TO OBTAIN -- TO TALK WITH THEM
7 TRYING TO FIND OUT MORE INFORMATION OF WHAT WAS
8 GOING ON AND TO START SOME STATEMENTS WITH THEM.

9 Q. AND DID YOU LEARN FROM THEM THAT THERE WAS ANOTHER
10 INDIVIDUAL THAT WAS PRESENT WHEN ALL THIS HAD
11 HAPPENED?

12 A. CORRECT. THEY GAVE ME A NAME OF -- ACTUALLY, THEY
13 GAVE ME A NICK NAME OF POOKIE.

14 Q. POOKIE? ALRIGHT. LET ME ASK YOU THIS, AS FAR AS
15 DEALING WITH MR. GILLIARD AND MR. RANDOLPH, WERE
16 THERE OTHER INVESTIGATORS THAT ULTIMATELY CAME IN
17 THAT WERE INVOLVED IN FURTHER QUESTIONING THEM
18 THAT MORNING?

19 A. CORRECT. RIGHT AFTER I FOUND OUT THAT MR. MACK
20 WAS DECEASED, INVESTIGATOR SHUMPERT WAS CALLED OUT
21 AND SERGEANT CRAFT WAS CALLED TO COME AND
22 INVESTIGATOR SHUMPERT TOOK OVER THE LEAD ON THE
23 INVESTIGATION.

24 Q. OKAY.

25 A. LIEUTENANT CARTER WAS ALSO CONTACTED TO THE SCENE

DIRECT - JAMES W. ETHERIDGE BY SOL. SORENSON

210

1 TO DO THE PROCESS.

2 Q. OKAY. AND LIEUTENANT CARTER IS YOUR CRIME SCENE
3 ANALYST FOR THE SHERIFF'S OFFICE?

4 A. YES, SIR, HE IS, YES, SIR.

5 Q. OKAY. AND IN THAT REGARD, WHEN YOU LEARNED THAT
6 INFORMATION FROM MR. GILLIARD AND MR. RANDOLPH
7 ABOUT THE INCIDENT LOCATION AT [REDACTED]
8 SHADOW LAWN DRIVE, WHAT DID Y'ALL DO THEN WHEN YOU
9 GOT THAT INFORMATION?

10 A. I TOOK, AN OFFICER WENT AND ACTUALLY SECURED THE
11 SCENE IN REFERENCE TO THE APARTMENT, HAD THE
12 APARTMENT SECURED, AND I TOOK THE INFORMATION IN
13 REFERENCE TO THE INFORMATION THAT THEY HAD GIVEN
14 ME AND THE INCIDENT LOCATION, AND I OBTAINED A
15 SEARCH WARRANT SO WE COULD SEARCH THE PROPERTY.

16 Q. OKAY. AND DID YOU THEN GET WITH LIEUTENANT CARTER
17 AND HE WAS ACTUALLY THE ONE THAT THEN SEARCHED AND
18 PROCESSED THAT SCENE?

19 A. HE EXECUTED THE SEARCH WARRANT, I DIDN'T EXECUTE
20 THE SEARCH WARRANT.

21 SOLICITOR SORENSON: THANK YOU,
22 INVESTIGATOR ETHERIDGE, PLEASE ANSWER ANY QUESTIONS
23 DEFENSE MAY HAVE.

24 THE COURT: CROSS-EXAMINATION.

25 MR. WALTERS: MAY IT PLEASE THE

DIRECT - JAMES W. ETHERIDGE BY SOL. SORENSON

211

1 COURT.

2 THE COURT: YES, SIR.

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

CROSS - JAMES W. ETHERIDGE BY MR. WALTERS

212

CROSS-EXAMINATION OF JAMES W. ETHERIDGE

BY MR. WALTERS:

Q. INVESTIGATOR ETHERIDGE, YOU REVIEWED YOUR ENTIRE
FILE BEFORE YOU CAME HERE TODAY, DIDN'T YOU?

A. YES, SIR, I DID.

Q. OKAY. ALRIGHT, AND I BELIEVE THAT YOU STARTED OFF
WITH THE INCIDENT ITSELF, AND HOW IT OCCURRED, IS
THAT RIGHT?

A. YES, SIR.

Q. THERE WAS SOME TESTIMONY ABOUT HOW THE BODY WAS
DELIVERED TO THE HOSPITAL, IS THAT RIGHT?

A. NOT THAT I CAN RECALL. OH, IN REFERENCE TO THE
VEHICLE BEING TRANSPORTED TO THE HOSPITAL?

Q. NO, IN REFERENCE TO MR. MACK BEING BROUGHT TO THE
HOSPITAL. YOU'RE AWARE OF THE INCIDENT REPORT
THAT WAS INITIALLY FILED WITH REGARDS TO THIS
MATTER. DO YOU WANT TO TAKE A LOOK AT THAT AND
REFRESH YOUR MEMORY?

A. OKAY.

Q. DO YOU MIND READING THE HIGHLIGHTED PART THAT I
HAVE THERE?

A. OKAY. IT SAYS, "THIS UNIT WAS SENT TO THE ABOVE
LOCATION. UPON ARRIVAL THE COMPLAINANT STATED
THAT AN UNKNOWN BLACK MALE DROVE UP IN THE FRONT
DOORS OF TRMC AND TOOK THE VICTIM FROM THE VEHICLE

1 AND LAID HIM IN THE DOORWAY OF EMERGENCY ROOM.
2 THE SUBJECT IN THE VEHICLE THEN DROVE AWAY."

3 Q. ALRIGHT. SO, THAT IS A POLICE REPORT, IS THAT
4 CORRECT?

5 A. WRITTEN BY DEPUTY JONES, YES, SIR.

6 Q. EXACTLY RIGHT. AND WHAT IT SAYS IS THAT SOMEONE
7 GOT OUT OF A CAR, LAID SOMEONE'S BODY IN THE
8 DOORWAY AT THE HOSPITAL AND THEN DROVE AWAY, IS
9 THAT CORRECT?

10 A. THAT'S WHAT THE INCIDENT REPORT SAYS.

11 Q. THIS IS ONE OF YOUR OFFICERS, ISN'T IT?

12 A. IT'S ONE OF THE OFFICERS AT THE SHERIFF'S OFFICE,
13 YES, SIR.

14 Q. YES, SIR. WHERE DOES IT STATE WITHIN HERE THAT
15 THEY WENT IN AND REPORTED INFORMATION WITH REGARDS
16 TO WHO THE PERSON WAS AND WHAT WAS GOING ON, OTHER
17 THAN THE FACT THAT THEY HAD DUMPED THIS BODY IN
18 THE DOORWAY AND THEY DROVE AWAY?

19 A. NOT IN THE REPORT, THAT WAS JUST THE INFORMATION
20 THAT WAS GIVEN TO ME.

21 Q. ALRIGHT. BUT NEVERTHELESS, YOU HAD A DEPUTY, PART
22 OF YOUR TEAM, THE SHERIFF'S DEPARTMENT, THIS IS
23 WHAT HE STATED, IS THAT RIGHT?

24 A. CORRECT.

25 Q. ALRIGHT. NOW, IN ADDITION TO THAT, WHEN YOU

CROSS - JAMES W. ETHERIDGE BY MR. WALTERS

214

1 TALKED TO THESE INDIVIDUALS, HOW LONG HAD YOU BEEN
2 AN INVESTIGATOR, SIR?

3 A. AT THE TIME WHEN I TALKED WITH THEM?

4 Q. YES, SIR, HOW LONG HAD YOU BEEN AN INVESTIGATOR?

5 A. I DON'T KNOW, PROBABLY SIX OR EIGHT MONTHS,
6 SOMEWHERE - - -

7 Q. OKAY.

8 A. --- I HAD JUST GONE INTO INVESTIGATION.

9 Q. ALRIGHT, BUT YOU'VE BEEN IN LAW ENFORCEMENT FOR
10 HOW LONG?

11 A. AROUND SEVEN YEARS, GOING ON SEVEN YEARS.

12 Q. OKAY. AND DID YOU THINK IT WAS STRANGE THAT
13 SOMEONE HAD DUMPED A BODY IN THE DOORWAY AND
14 DRIVEN AWAY?

15 A. I'D SAY STRANGE, YES, SIR.

16 Q. ALRIGHT. AND I BELIEVE THAT YOU HAD AN
17 OPPORTUNITY WHEN YOU WENT THERE AND YOU ASSESSED
18 WHAT WAS GOING ON, TWO PEOPLE CAME BACK, AND THAT
19 WAS MR. GILLIARD AND MR. RANDOLPH, IS THAT
20 CORRECT?

21 A. CORRECT, YES, SIR.

22 Q. ALRIGHT. AND YOU HAD AN OPPORTUNITY TO MAKE SOME
23 OBSERVATIONS ABOUT THEM COMING BACK, IS THAT
24 RIGHT?

25 A. CORRECT.

CROSS - JAMES W. ETHERIDGE BY MR. WALTERS

215

1 Q. IN FACT, THERE WERE SOME NARRATIVES THAT WERE
2 WRITTEN WHERE YOU HAD TO GO IN, AND I BELIEVE YOU
3 TAKE GOOD NOTES OF EXACTLY WHAT'S GOING ON AND YOU
4 MAKE OBSERVATIONS ABOUT PEOPLE, AND WE WERE
5 PROVIDED A COPY OF THAT, IS THAT CORRECT?

6 A. CORRECT.

7 Q. ALRIGHT. I WANT YOU TO LOOK AT NARRATIVE NUMBER
8 ONE THAT I HAVE HERE, AND I BELIEVE THAT NARRATIVE
9 NUMBER ONE IS BY YOU. OKAY? TAKE A LOOK AT IT
10 FIRST OF ALL AND TELL ME IF THAT'S YOUR NARRATIVE?

11 A. YES, SIR, IT IS.

12 Q. OKAY. WELL, LET'S TURN TO THE SECOND PAGE HERE.
13 THE FIRST ISSUE WAS, IS THAT, RIGHT HERE, I JUST
14 WANT YOU TO READ THIS SENTENCE, STARTING WITH THE
15 WORD, AFTER, WHAT DOES IT SAY?

16 A. "AFTER SPEAKING WITH RANDOLPH AND GILLIARD MORE
17 THEY KEPT ADDING TO THEIR STATEMENTS AND GIVING
18 MORE INFORMATION."

19 Q. ALRIGHT. COULD YOU TELL ME WHY YOU PUT THAT IN
20 YOUR REPORT?

21 A. BECAUSE AT FIRST WHEN I WAS TALKING TO THEM, YOU
22 KNOW, THEY WERE, YOU KNOW, REAL BRIEF, DIDN'T
23 WANT, YOU KNOW, LIKE THEY WEREN'T GOING TO GIVE A
24 LOT OF INFORMATION, YOU KNOW. THEY HAD JUST FOUND
25 OUT THAT, YOU KNOW, THEIR FRIEND HAD PASSED AWAY,

CROSS - JAMES W. ETHERIDGE BY MR. WALTERS

216

1 BECAUSE THEY DIDN'T, THEY DIDN'T KNOW THAT FROM
2 THE TIME THAT WE ACTUALLY WENT BACK TO THE
3 SHERIFF'S OFFICE. AND, YOU KNOW, THEY WERE JUST,
4 YOU KNOW, JUST KEPT ADDING TO IT, GIVING ME MORE -
5 - THE MORE WE TALKED THE MORE INFORMATION THEY
6 WERE GIVING ME.

7 Q. ALRIGHT. AND ISN'T IT TYPICAL THAT SOMETIMES WHEN
8 YOU DEAL WITH A DEFENDANT AND YOU QUESTION THEM
9 SOMETIMES THEY'RE NOT AS TRUTHFUL AS THEY SHOULD
10 BE, BUT THEY TEND TO ADD MORE AND MORE EACH TIME
11 YOU TALK TO THEM?

12 A. YES, SIR.

13 Q. ALRIGHT. AND IN FACT, YOU WERE TRAINED AT THE
14 ACADEMY HOW TO DEAL WITH DEFENDANTS THAT AREN'T
15 TRUTHFUL BY CONTINUING TO PRESSURE THEM, ASK
16 QUESTIONS, TAKE DIFFERENT POSITIONS. SOMETIMES
17 PEOPLE SEE IT ON T.V., AND THEY SAY, GOOD COP, BAD
18 COP?

19 A. RIGHT, YES, SIR.

20 Q. RIGHT, AND YOU'RE TRAINED IN HOW TO DO THAT. NOW,
21 WHEN YOU INQUIRED ABOUT SOMEONE NAMED POOKIE,
22 ISN'T IT TRUE THAT THEY WERE SORT OF APPREHENSIVE
23 ABOUT PROVIDING THAT INFORMATION?

24 A. CORRECT.

25 Q. ALRIGHT. IN FACT, WHEN YOU INQUIRED ABOUT WHO

CROSS - JAMES W. ETHERIDGE BY MR. WALTERS

217

1 POOKIE WAS, I BELIEVE THE FIRST REACTION WAS, IS
2 WE JUST KNOW THE NAME, POOKIE, WE DON'T KNOW
3 ANYTHING ELSE. IS THAT RIGHT?

4 A. CORRECT, YES, SIR.

5 Q. AND THEN I BELIEVE THE SECOND POSITION THEY TOOK
6 WAS, IS THAT, AND THIS IS MR. GILLIARD, MR.
7 GILLIARD'S POSITION WAS, I THINK I KNOW POOKIE
8 BECAUSE POOKIE IS KIN TO MY WIFE, IS THAT RIGHT?

9 A. YES, SIR.

10 Q. ALRIGHT. WERE YOU SURPRISED -- MOST MEN KNOW
11 EVERYBODY KIN TO THEIR WIFE, DON'T THEY?

12 A. A LOT OF PEOPLE, YES, SIR.

13 Q. AND YOUR WIFE PROBABLY KNOWS EVERYBODY KIN TO YOU?

14 A. YES, SIR.

15 Q. THE GOOD AND THE BAD?

16 A. YES, SIR.

17 Q. BUT THEN ALL OF A SUDDEN MR. GILLIARD SAID, I
18 THINK I KNOW WHO POOKIE IS. YOU'RE PUTTING
19 PRESSURE ON HIM, AND THEN HE SAYS, HE'S KIN TO MY
20 WIFE, AND THEN YOU CONFRONTED HIS WIFE ABOUT THIS,
21 OR YOU CALLED SOMEONE TO FIND OUT WHO WAS HIS
22 COUSIN, DIDN'T YOU?

23 A. CORRECT.

24 Q. THE NAME THAT WAS GIVEN TO YOU WAS NOT LAWRENCE
25 KELLY, THE NAME THAT WAS GIVEN TO YOU WAS LAWRENCE

CROSS - JAMES W. ETHERIDGE BY MR. WALTERS

218

1 WILLIAMS, IS THAT CORRECT?

2 A. READING THIS, I BELIEVE IT WAS LAWRENCE KELLY. I
3 THINK THIS IS A TYPOGRAPHICAL ERROR, I'M PRETTY
4 SURE IT WAS LAWRENCE KELLY.

5 Q. WHAT DOES IT SAY IN YOUR REPORT, THE NAME THAT WAS
6 GIVEN TO YOU?

7 A. IT SAYS, LAWRENCE WILLIAMS.

8 Q. ALRIGHT. AND THEN, AFTER YOU CONFRONTED THE WIFE
9 ABOUT LAWRENCE WILLIAMS, YOU SAY, THIS MAN IS FROM
10 DETROIT?

11 A. CORRECT.

12 Q. IS THAT RIGHT?

13 A. CORRECT.

14 Q. AND YOU CALLED HIM POOKIE, BUT HE'S KIN TO SOMEONE
15 THAT'S IN YOUR FAMILY, AND YOU DETERMINE THEN IT
16 WAS LAWRENCE KELLY, IS THAT RIGHT?

17 A. CORRECT.

18 Q. ALRIGHT. NOW, LAWRENCE KELLY IS NOT THERE, IS HE?

19 A. NO, SIR.

20 Q. ALRIGHT. SO, LET'S MAKE SURE THE JURY IS CLEAR ON
21 WHAT'S HAPPENING HERE. SOMEBODY'S DUMPED A BODY
22 AT THE ENTRANCE DOORS AT THE HOSPITAL, IS THAT
23 CORRECT?

24 A. CORRECT.

25 Q. AND WHO DID YOU DETERMINE THOSE TWO INDIVIDUALS TO

1 BE?

2 A. IT WAS GOING TO BE LAWRENCE KELLY, POOKIE, WAS
3 ONE, AND IT SHOULD HAVE BEEN, NOT MR. RANDOLPH, IT
4 WOULD HAVE BEEN MR. GILLIARD.

5 Q. MR. GILLIARD.

6 A. YES.

7 Q. ALRIGHT. SO, YOU FIND OUT THEY DUMPED THE BODY,
8 THEY FLED THE SCENE, THEN ALL OF A SUDDEN GILLIARD
9 COMES BACK WITH RANDOLPH, AND YOUR QUESTION IS,
10 WHERE IS KELLY? WHERE DID YOU FIND KELLY?

11 A. I DON'T REMEMBER FINDING MR. KELLY.

12 Q. OKAY.

13 A. I DON'T THINK I -- I THINK INVESTIGATOR SHUMPERT
14 MAY HAVE FOUND HIM, I DON'T - - -

15 Q. THAT'S FINE, SOMEONE ELSE HAD TO GO LOOK OR KELLY?

16 A. I DIDN'T TALK TO HIM.

17 Q. ALRIGHT. BUT YOU HAD AN OPPORTUNITY TO TALK TO
18 RANDOLPH AND YOU ALSO HAD AN OPPORTUNITY TO TALK
19 TO GILLIARD?

20 A. CORRECT, YES, SIR.

21 Q. ALRIGHT. AND I BELIEVE THEN, THAT'S WHEN YOU
22 STARTED QUESTIONING PEOPLE, AND YOU ASKED THEM,
23 YOU SAID, WHAT VEHICLE WAS INVOLVED IN THE
24 SHOOTING, THE SHOOTER'S VEHICLE, WHAT TYPE OF
25 VEHICLE WERE THEY DRIVING, AND DID YOU GET AN

CROSS - JAMES W. ETHERIDGE BY MR. WALTERS

220

1 ANSWER TO THAT QUESTION? DO YOU WANT TO SEE WHAT
2 YOU PUT IN YOUR REPORTER?

3 A. NO, THEY GAVE ME, I REMEMBER A BLUE IN COLOR, I
4 THINK IT WAS BLUE, CAPRICE.

5 Q. A LIGHT BLUE CAPRICE, THAT'S WHAT THEY SAID. AND
6 THEN, OF COURSE, IT SAYS THAT Y'ALL WENT OUT AND
7 STARTED LOOKING FOR A LIGHT BLUE CAPRICE, IS THAT
8 RIGHT?

9 A. CORRECT.

10 Q. ALRIGHT. AND YOU NEVER FOUND ONE?

11 A. NO, SIR.

12 Q. ALRIGHT. SO, THEN WHEN YOU GOT BACK TO THE
13 COMPLEX YOU SAID, I'M GOING TO SPLIT THESE PEOPLE
14 UP IN DIFFERENT ROOMS, DIDN'T YOU?

15 A. CORRECT.

16 Q. AND YOU SPLIT THEM UP IN DIFFERENT ROOMS, AND
17 THAT'S WHEN YOU STARTED TAKING STATEMENTS?

18 A. RIGHT.

19 Q. ALRIGHT. NOW, IN THIS PARTICULAR CASE WHEN YOU
20 SPLIT THEM UP I DIFFERENT ROOMS DID YOU PUT MR.
21 KELLY IN A SEPARATE ROOM?

22 A. MR. KELLY WASN'T THERE.

23 Q. ALRIGHT. DID YOU PUT MR. GILLIARD IN A SEPARATE
24 ROOM?

25 A. YEAH, WE KEEP THEM SEPARATED, YES, SIR.

1 Q. OKAY. AND THAT'S WHEN YOU BEGAN THE PROCESS OF
2 TAKING STATEMENTS FROM THEM, IS THAT RIGHT?

3 A. CORRECT.

4 Q. ALRIGHT. HOW MANY STATEMENTS DID YOU TAKE FROM
5 MR. GILLIARD?

6 A. I REMEMBER SITTING DOWN WITH, I THINK IT WAS MR.
7 RANDOLPH I ACTUALLY GOT A STATEMENT FROM.

8 Q. OKAY. BUT IN TAKING THAT STATEMENT THAT HELPED
9 YOU WRITE YOUR NARRATIVE FOR YOUR REPORT, IS THAT
10 CORRECT?

11 A. CORRECT, YES, SIR.

12 Q. ALRIGHT.

13 A. THE STATEMENT SHOULD BE IN THE FILE.

14 Q. I HAVE A COPY OF IT RIGHT HERE. NOW, THE FIRST
15 TIME THAT YOU HAD TALKED TO MR. RANDOLPH YOU TOOK
16 A SERIES OF STATEMENTS FROM HIM, IS THAT RIGHT?

17 A. I VERBALLY GOT A STATEMENT FROM HIM - - -

18 Q. THAT'S RIGHT.

19 A. --- AND THEN I STARTED A WRITTEN STATEMENT WITH
20 HIM, AND INVESTIGATOR SHUMPERT CAME IN AND HELPED
21 FINISH UP WITH THAT STATEMENT.

22 Q. OKAY. AND THAT TIPPED YOU OFF THAT YOU NEEDED TO
23 GET OVER TO [REDACTED] SHADOW LAWN DRIVE, IS
24 THAT RIGHT?

25 A. CORRECT.

CROSS - JAMES W. ETHERIDGE BY MR. WALTERS

222

1 Q. ALRIGHT. AND THAT'S WHEN YOU WENT OUT AND YOU
2 OBTAINED A SEARCH WARRANT, IS THAT RIGHT?

3 A. CORRECT.

4 Q. ALRIGHT. I BELIEVE AT TWO O'CLOCK YOU SECURED THE
5 APARTMENT?

6 A. AROUND CLOSE TO THAT TIME.

7 Q. ALRIGHT. AND THEN ABOUT FIVE:FORTY-ONE YOU WERE
8 ABLE TO GET THAT SEARCH WARRANT, WEREN'T YOU?

9 A. TO BE EXECUTED, YES, SIR.

10 Q. SO, NOBODY ELSE WAS ALLOWED IN THE APARTMENT, YOU
11 HAD IT SECURED, AND WHATEVER WAS THERE FROM, WE
12 CAN SAY FROM TWO O'CLOCK UNTIL FIVE:FORTY-ONE, YOU
13 WERE IN CONTROL?

14 A. IT SHOULD HAVE BEEN SECURED BY THE OFFICER, YES,
15 SIR.

16 Q. ALRIGHT. MR. SORENSON, HE ALLUDED TO THE FACT
17 THAT YOU HAD SOMEONE COME OUT AND DO SORT OF WHAT
18 PEOPLE SEE ON T.V. AS A C.S.I., THEY WENT OVER THE
19 WHOLE PLACE?

20 A. YES, SIR.

21 Q. THEY DIDN'T FIND ANY BLOOD, DID THEY?

22 A. I'M NOT AWARE, I CAN'T TESTIFY TO WHAT LIEUTENANT
23 CARTER FOUND. HE DID THE PROCESSING.

24 Q. YOU KNOW SOMETHING ABOUT WEAPONS, DON'T YOU?

25 A. YES, SIR.

1 Q. YOU'VE BEEN TRAINED IN HOW TO USE WEAPONS?

2 A. CORRECT.

3 Q. AND YOU KNOW WHAT A THREE FIFTY-SEVEN, A POINT
4 THREE SEVEN FIVE TENTHS OF AN INCH MAGNUM BULLET
5 CAN DO, ARE YOU AWARE OF THAT?

6 A. YES, SIR.

7 Q. AND YOU KNOW FOR A FACT THAT IF A THREE FIFTY-
8 SEVEN IS USED, IT'S A DEAFENING GUN, WHEN YOU FIRE
9 IT YOU CAN'T HEAR TOO GOOD, CAN YOU?

10 A. CORRECT.

11 Q. AND IF YOU FIRE THAT GUN, IF YOU FIRE TWO OR THREE
12 TIMES YOU PROBABLY CAN'T HEAR, IS THAT RIGHT?

13 A. YES, SIR.

14 Q. HOW LONG DOES IT TAKE YOU UNTIL WHEN YOU GET BACK
15 YOU CAN HEAR GOOD?

16 A. IT TAKES A LITTLE BIT.

17 Q. THAT'S EXACTLY RIGHT. AND IF THAT GUN IS FIRED
18 INSIDE OF A HOME, WHERE YOU'VE GOT SHEETROCK AND
19 TWO BY FOURS, COULD IT TEAR OUT A WALL?

20 A. I'M NOT AN EXPERT ON THAT, I MEAN, - - -

21 Q. IN YOUR EXPERIENCE IN FIRING A THREE FIFTY-SEVEN,
22 IS IT A POWERFUL GUN?

23 A. YES, IT'S A POWERFUL GUN, I WOULD SAY IT'S
24 POWERFUL GUN.

25 Q. AND GOING INTO THE HOME DID YOU MAKE ANY

CROSS - JAMES W. ETHERIDGE BY MR. WALTERS

224

1 OBSERVATIONS WITH REGARDS TO WHAT YOU SAW?

2 A. I BRIEFLY CHECKED INTO THE HOME BECAUSE WE MAINLY
3 WANTED TO SECURE IT FOR LIEUTENANT CARTER. I DID
4 NOT PROCESS THE HOME, WE JUST GO IN AND CHECK
5 EVERYTHING.

6 Q. NOW, IN YOUR EXPERIENCE AS A POLICE OFFICER, YOU
7 KNOW THE FACTS THAT WERE ALLEGED HERE, IT'S
8 ALLEGED THAT THERE WERE SEVEN PEOPLE INSIDE THIS
9 APARTMENT, IS THAT RIGHT?

10 A. CORRECT.

11 Q. CAN YOU COME TO ANY CONCLUSION AS TO WHY THERE
12 WERE NO FINGERPRINTS IN THE APARTMENT?

13 A. NO, SIR.

14 Q. BASED ON YOUR EXPERIENCE AS A POLICE OFFICER, CAN
15 YOU COME TO ANY CONCLUSION AS TO WHY THERE WERE NO
16 BULLET IMPACTS INSIDE THE APARTMENT?

17 A. NO, SIR.

18 Q. DID THE BULLET JUMP OUT OF A WINDOW, DID IT GO UP
19 A CHIMNEY OR SOMETHING? YOU CAN'T EXPLAIN IT?

20 A. NO, SIR.

21 Q. IN LOOKING AT LAWRENCE KELLY'S VEHICLE WHERE THEY
22 SAY THEY TRANSPORTED A MAN THAT WAS SHOT WITH A
23 THREE FIFTY-SEVEN, CAN YOU EXPLAIN WHY THERE'S NO
24 BLOOD IN THE VEHICLE?

25 A. NO, SIR.

1 Q. DID YOU EVER GET TO THE BOTTOM OF WHY THEY RAN
2 AFTER DUMPING THE BODY AT THE HOSPITAL?

3 A. NO, SIR.

4 Q. DO YOU THINK THERE'S MORE THEY'VE GOT TO ADD TO
5 THEIR STORY?

6 A. I'M NOT AWARE OF ANY, I MEAN, I CAN'T SAY WHAT
7 THEY THINK.

8 Q. DID YOU EVER GET TO THE BOTTOM OF WHY JOHN
9 RANDOLPH TOOK THE DYING MAN'S PHONE AND THEN
10 JUMPED IN THE CAR AND DROVE TWENTY-THREE, TWENTY-
11 FIVE MILES AWAY FROM THE SCENE, ASKED EVERYBODY TO
12 COME OUT THERE, AND THEN TOLD THEM TO GO BACK TO
13 THE HOSPITAL, AND HE COMES BACK TO THE HOSPITAL
14 AND STARTS TALKING TO THE POLICE, DID YOU EVER ASK
15 HIM THAT?

16 A. I DON'T REMEMBER, I MEAN, I DON'T REMEMBER ASKING
17 HIM ALL THAT.

18 Q. DID YOU ASK HIM A QUESTION OUT OF BASIC HUMAN
19 DECENCY, DID YOU CALL THE POLICE OR DID YOU CALL
20 THE BOY'S FAMILY?

21 A. I'M SURE I DID.

22 Q. AND WHAT WAS HIS RESPONSE?

23 A. I DON'T REMEMBER, I DON'T REMEMBER GETTING A
24 RESPONSE.

25 Q. IS THIS A STRANGE CASE TO YOU?

CROSS - JAMES W. ETHERIDGE BY MR. WALTERS

226

1 A. NOT IN ORANGEBURG, NO, SIR.

2 Q. I UNDERSTAND.

3 MR. WALTERS: I HAVE NO FURTHER
4 QUESTIONS, YOUR HONOR.

5 THE COURT: REDIRECT?

6 SOLICITOR SORENSON: I HAVE JUST ONE
7 QUESTION.

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

REDIRECT - JAMES W. ETHERIDGE BY SOL. SORENSON

227

REDIRECT EXAMINATION OF JAMES W. ETHERIDGE

BY SOLICITOR SORENSON:

Q. INVESTIGATOR ETHERIDGE, IF ONLY ONE SHOT WAS FIRED
IN THAT APARTMENT AND IT STRUCK THE VICTIM, AND IT
WAS RECOVERED FROM THE VICTIM, WOULD YOU EXPECT TO
FIND ANY OTHER BULLET HOLES ANYWHERE INSIDE THE
APARTMENT?

A. NO, SIR, NOT IF ONE SHOT WAS FIRED.

SOLICITOR SORENSON: THAT'S ALL I
HAVE.

THE COURT: RECROSS?

(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 - JAMES W. ETHERIDGE BY MR. WALTERS

228

RECROSS-EXAMINATION OF JAMES W. ETHERIDGE

BY MR. WALTERS:

Q. DID ONE OF THE INDIVIDUALS THAT WAS INVOLVED IN
THIS PARTICULAR SHOOTING, DIDN'T THEY TESTIFY OR
GIVE STATEMENTS, LAWRENCE KELLY, THAT THERE WERE
TWO OR THREE SHOTS THAT WERE FIRED?

A. I'D HAVE TO CHECK THE STATEMENT, I DON'T - - -

Q. I'LL GIVE YOU A COPY OF THE STATEMENT.

A. BECAUSE I, I DIDN'T, I TOOK VERBAL STATEMENTS.

Q. THAT'S NO PROBLEM, I'LL GIVE YOU A COPY OF IT
RIGHT HERE.

SOLICITOR SORENSON: YOUR HONOR,
HE'S ALREADY TESTIFIED THAT HE DIDN'T TALK TO MR. KELLY,
SO I'M NOT SURE HOW - - -

THE COURT: IF HE DIDN'T TAKE THE
STATEMENT HE CAN'T TESTIFY ABOUT IT.

MR. WALTERS: I HAVE NO FURTHER
QUESTIONS, YOUR HONOR.

THE COURT: YOU CAN BE EXCUSED.
CALL YOUR NEXT WITNESS.

SOLICITOR SORENSON: THE STATE CALLS
GERALD CARTER.

THE COURT: COME ON AROUND, PLEASE,
AND PUT YOUR LEFT HAND ON THE BIBLE AND RAISE YOUR
RIGHT.

1 (Whereupon, Gerald David Carter, Sr.,
2 is duly sworn.)

3 THE COURT: HAVE A SEAT, AND STATE
4 YOUR FULL NAME.

5 WITNESS: GERALD DAVID CARTER,
6 SENIOR.

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

DIRECT - GERALD D. CARTER, SR., BY SOL. SORENSON

230

DIRECT EXAMINATION OF GERALD D. CARTER, SR.,

BY SOLICITOR SORENSON:

Q. LIEUTENANT CARTER, IF YOU WOULD, TELL THE JURY
WHERE YOU'RE EMPLOYED?

A. I'M EMPLOYED AT THE ORANGEBURG COUNTY SHERIFF'S
OFFICE.

Q. AND WHAT DO YOU DO AT THE SHERIFF'S OFFICE?

A. PRESENTLY I RUN THE CRIME SCENE UNIT, I PROCESS
SCENES OF CRIMINAL ACTIVITY.

Q. OKAY. AND HOW LONG HAVE YOU BEEN, FIRST OF ALL,
EMPLOYED WITH THE SHERIFF'S OFFICE?

A. FOR SIXTEEN YEARS, APPROXIMATELY.

Q. ALRIGHT. AND HOW LONG HAVE YOU BEEN IN YOUR
CURRENT CAPACITY THERE?

A. APPROXIMATELY THREE AND A HALF YEARS.

Q. OKAY. AND IF YOU WOULD, JUST BRIEFLY KIND OF TELL
THE JURY WHAT YOUR DAY TO DAY ACTIVITIES AS A, IN
THAT UNIT CONSISTS OF?

A. ON A DAY TO DAY BASIS I PROCESS EVIDENCE, I
RESPOND TO CRIME SCENES, PROCESS THOSE SCENES FOR
EVIDENCE, SOMETIMES JUST TO RECONSTRUCT, TRY TO
RECONSTRUCT WHAT OCCURRED. I WOULD BRING THIS
EVIDENCE BACK, LOG IT IN, AND I WOULD TRANSPORT
EVIDENCE TO THE STATE LAW ENFORCEMENT LABORATORIES
TO BE, FOR FURTHER ANALYSIS UP THERE.

DIRECT - GERALD D. CARTER, SR., BY SOL. SORENSON

231

1 Q. OKAY. AND DOES PART OF YOUR DUTIES ALSO CONSIST
2 OF, I GUESS, NOT ONLY PROCESSING SCENES BUT ALSO
3 WHEN YOU GET BACK TO THE SHERIFF'S OFFICE, LOOKING
4 FOR, AND IF YOU FIND THEM POSSIBLY COMPARING
5 FINGERPRINTS?

6 A. YES, I'M ALSO A FINGERPRINT COMPARATIVE.

7 Q. OKAY. IF YOU WOULD, TELL THE JURY A LITTLE BIT
8 WHAT KIND OF TRAINING YOU'VE HAD IN THAT REGARD?

9 A. I'VE COMPLETED AN INTERNSHIP WITH STATE LAW
10 ENFORCEMENT, THEIR LATENT PRINT AND CRIME SCENE
11 UNIT. I'VE ALSO COMPLETED FORTY HOURS OF TRAINING
12 AT THE SOUTH CAROLINA CRIMINAL JUSTICE ACADEMY
13 SPECIFICALLY FOR PRINT COMPARISON AND
14 CLASSIFICATION.

15 Q. NOW, I WANT TO TURN YOUR ATTENTION IF I COULD,
16 LIEUTENANT, BACK TO THE EARLY MORNING HOURS OF
17 DECEMBER TWENTY-FOURTH OF TWO THOUSAND AND SIX.
18 WERE YOU CALLED OUT TO AN APARTMENT WHERE A
19 SHOOTING HAD OCCURRED AT [REDACTED] SHADOW
20 LAWN DRIVE HERE IN ORANGEBURG COUNTY?

21 A. YES, SIR, I WAS. I ARRIVED AT ABOUT TWO A.M.

22 Q. OKAY. AND IF YOU WOULD, TELL THE JURY WHAT, WHEN
23 YOU GOT THERE WHAT WAS GOING ON WHEN YOU GOT
24 THERE?

25 A. UPON MY ARRIVAL THE ONLY PERSON THERE WAS DEPUTY

DIRECT - GERALD D. CARTER, SR., BY SOL. SORENSON

232

1 WILLIAM KETCHERSIDE WHO WAS SECURING THAT SCENE.
2 THERE WERE NO CIVILIANS PRESENT, ANYONE ELSE WHO
3 LIVED THERE, IT WAS ONLY THE DEPUTY. I WAS
4 INFORMED THAT THERE HAD BEEN A SHOOTING WHICH HAD
5 OCCURRED. APPARENTLY, THE VICTIM, MY RECOLLECTION
6 IS, HE HAD GONE TO THE HOSPITAL AND THEN WE WERE
7 CALLED BECAUSE THERE HAD BEEN A SHOOTING AND THERE
8 WAS A VICTIM. AND THAT [REDACTED] SHADOW
9 LAWN WAS REPORTEDLY THE INCIDENT LOCATION. SO, I
10 RESPONDED TO SEE WHAT WE HAD.

11 Q. ALRIGHT. AND [REDACTED] SHADOW LAWN, IS THAT
12 AN APARTMENT?

13 A. THAT IS AN APARTMENT.

14 Q. OKAY. AND DID YOU AT THAT POINT IN TIME GO IN AND
15 START SEARCHING THAT AND PROCESSING THAT
16 APARTMENT, OR DID YOU WAIT FOR SOMETHING TO HAPPEN
17 BEFORE YOU DID THAT?

18 A. NO, SIR, IN THIS CASE, I WASN'T SURE WHETHER THE
19 VICTIM INVOLVED LIVED ALONE OR HAD ROOMMATES. IN A
20 CASE LIKE THIS I WAITED TO GET A SEARCH WARRANT SO
21 THAT I COULD LEGALLY ENTER THE APARTMENT. SO, I
22 COULDN'T GO IN UNTIL I GOT THE SEARCH WARRANT.

23 Q. OKAY. AND PRIOR TO THAT HAPPENING, YOU SAID BY
24 THAT SCENE BEING SECURED, SOMEONE HAD GONE IN AND
25 MADE SURE THAT THERE WAS NOBODY ELSE IN THERE,

DIRECT - GERALD D. CARTER, SR., BY SOL. SORENSON

233

1 EITHER INJURED OR ANYBODY THAT COULD POSSIBLY BE A
2 THREAT OR SOMETHING?

3 A. I WASN'T PRESENT, I COULD ONLY SPEAK THE STANDARD
4 POLICY, WHICH WOULD BE, THE FIRST RESPONDING
5 OFFICERS COULD LEGALLY GO IN, LOOK FOR ANY
6 ADDITIONAL SUSPECTS OR VICTIMS, AND YES, DO WHAT
7 WE CALL A SECURITY SWEEP TO MAKE SURE THERE WAS NO
8 DANGER STILL, OR VICTIMS STILL PRESENT AT THE
9 RESIDENCE, AND THEN THEY WOULD COME OUT ONCE THEY
10 SECURED IT.

11 Q. OKAY. AND OF COURSE, YOU TESTIFIED THAT BY THE
12 TIME WHEN YOU FIRST ENTERED THE SCENE THERE WAS
13 NOBODY ELSE IN THERE, RIGHT, WHEN YOU GOT IN
14 THERE?

15 A. YES, THERE WAS NOBODY ELSE IN THE HOUSE.

16 Q. SO, DO YOU, EVENTUALLY THAT SEARCH WARRANT WAS
17 OBTAINED THAT MORNING?

18 A. YES, SIR, IT WAS. INVESTIGATOR ETHERIDGE SECURED
19 A SEARCH WARRANT FOR ME TO BEGIN.

20 Q. AND DID YOU HAVE AN OPPORTUNITY THEN TO GO INSIDE
21 THAT APARTMENT AND BEGIN PROCESSING THAT
22 APARTMENT?

23 A. YES, SIR, I DID. FIRST I DO A VISUAL EXAMINATION,
24 I DON'T TOUCH ANYTHING, DON'T MOVE ANYTHING, I
25 BASICALLY WALK THROUGH, I CHECK THE EXTERIOR TO

DIRECT - GERALD D. CARTER, SR., BY SOL. SORENSON

234

1 SEE IF THERE'S ANYTHING OUTSIDE THAT MAY NEED TO
2 BE SECURED, OR MAKE NOTE OF, AND THEN I WOULD GO
3 INSIDE AND DO THE SAME THING, WALK AROUND AND JUST
4 OBSERVE AND MAKE MENTAL NOTES OF WHAT'S WHERE AND
5 WHAT THE SCENE LOOKS LIKE.

6 Q. OKAY. AND THEN AFTER DOING THAT DO YOU THEN HAVE
7 AN OPPORTUNITY TO GO BACK THROUGH AND KIND OF
8 DOCUMENT THE SCENE THROUGH PHOTOGRAPHS?

9 A. YES, SIR, I WOULD PHOTOGRAPH IN DETAIL ANYTHING
10 THAT SEEMED TO BE PERTINENT TO THE CASE, AND ON
11 OCCASION WE PHOTOGRAPH THE WHOLE RESIDENCE IN CASE
12 THERE'S SOME QUESTION ABOUT A ROOM THAT DIDN'T AT
13 FIRST APPEAR TO BE INVOLVED BUT THERE MAY BE
14 QUESTIONS LATER. I DOCUMENT BY PHOTOGRAPH, YES,
15 SIR.

16 Q. LET ME SHOW YOU IF I COULD, AND JUST GET YOU TO
17 INITIALLY TO KIND OF LOOK AT THESE AND SEE IF YOU
18 RECOGNIZE THEM, STATE'S EXHIBITS ONE THROUGH
19 THREE, AND THEN FIFTEEN THROUGH NINETEEN.
20 INITIALLY, JUST KIND OF FLIP THROUGH THEM.

21 A. YES, SIR.

22 Q. THOSE ARE ALL PICTURES THAT YOU TOOK THAT MORNING?

23 A. YES, SIR.

24 Q. DO THEY ALL FAIRLY AND ACCURATELY DEPICT THE SCENE
25 AS YOU FOUND IT WHEN YOU ENTERED IT WITH THAT

DIRECT - GERALD D. CARTER, SR., BY SOL. SORENSON

235

1 SEARCH WARRANT AND BEGAN PROCESSING THAT SCENE?

2 A. YES, THEY DO, SIR.

3 SOLICITOR SORENSON: ALRIGHT, AT
4 THIS TIME WE'D OFFER STATE'S ONE THROUGH THREE AND
5 FIFTEEN THROUGH NINETEEN.

6 MR. CULLER: THAT'S WITHOUT
7 OBJECTION, YOUR HONOR.

8 THE COURT: ADMITTED WITHOUT
9 OBJECTION.

10 COURT REPORTER: STATE'S ONE THROUGH
11 THREE, AND FIFTEEN THROUGH NINETEEN.

12 (State's Exhibits One, Two, Three,
13 Fifteen, Sixteen, Seventeen, Eighteen
14 and Nineteen marked and filed.)

15 SOLICITOR SORENSON: OKAY. I'M
16 GOING TO GIVE THEM BACK TO YOU AND I'LL DEAL WITH THEM
17 IN A SECOND.

18 Q. ALRIGHT, LIEUTENANT, IF YOU WOULD, DESCRIBE FIRST
19 OF ALL FOR THE JURY, I MEAN, KIND OF THE LAYOUT OF
20 THIS APARTMENT, IF YOU WOULD.

21 A. YOU HAVE A FRONT DOOR, ONCE YOU STEP THROUGH THE
22 FRONT DOOR YOU'RE IN KIND OF A DEN AREA OR A
23 LIVING ROOM AREA. THERE'S NO ACTUAL WALL WHICH
24 SEPARATES THE DEN FROM THE KITCHEN SPACE, IT'S ALL
25 ONE BIG SPACE THAT'S DEFINED BY APPLIANCES AND

DIRECT - GERALD D. CARTER, SR., BY SOL. SORENSON

236

1 FURNITURE, YOU CAN TELL WHAT'S WHAT. TO THE LEFT
2 YOU HAD A BEDROOM AREA, AND THEN YOU HAD A
3 BATHROOM, IF I'M NOT MISTAKEN IT WAS ATTACHED TO
4 THE BEDROOM.

5 Q. OKAY. SO, IT'S A FAIRLY SMALL ONE BEDROOM
6 APARTMENT?

7 A. YES.

8 Q. AND IF YOU WOULD, JUST BRIEFLY KIND OF DESCRIBE,
9 WHAT CONDITION WAS THAT APARTMENT IN WHEN YOU
10 ENTERED IT?

11 A. WHEN I FIRST ENTERED THERE WAS FURNITURE THAT HAD
12 BEEN OVERTURNED, A LAMP KNOCKED OFF THE TABLE,
13 THERE WERE OTHER ORNAMENTAL TYPE THINGS, DISH,
14 THINGS KNOCKED ON THE FLOOR. THERE WAS COINS,
15 MONEY, PENNIES, DIMES, QUARTERS, THAT TYPE OF
16 THING STREWN ALL OVER THE FLOOR. THE KITCHEN TABLE
17 WAS DAMAGED, THE LEG WAS BROKEN. THERE WAS SOME
18 TYPE OF, IT APPEARED TO BE DRINK, LIKE HAWAIIAN
19 PUNCH OR SOMETHING THAT WAS SPILLED ON THE FLOOR,
20 AND OTHER ITEMS AGAIN ON THE FLOOR IN THE KITCHEN.
21 AND THOSE TWO ROOMS WERE IN DISARRAY. IT'S NOT
22 LIKE SOMEBODY WAS MESSY, I WASN'T QUESTIONING HOW
23 PEOPLE LIVE, BUT IT WAS AS IF THERE HAD BEEN SOME
24 TYPE OF INCIDENT, A PHYSICAL ALTERCATION OR SOME
25 TYPE OF STRUGGLE IN THESE TWO ROOMS. THE BEDROOM

DIRECT - GERALD D. CARTER, SR., BY SOL. SORENSON

237

1 AND THE BATHROOM DIDN'T APPEAR TO BE, THEY WEREN'T
2 IN THE SAME CONDITION, THEY DIDN'T APPEAR TO HAVE
3 BEEN RUMMAGED THROUGH OR ANY TYPE OF INCIDENT IN
4 THOSE TWO ROOMS.

5 Q. OKAY.

6 SOLICITOR SORENSON: COULD I ASK HIM
7 TO STEP DOWN, YOUR HONOR?

8 THE COURT: YES, SIR.

9 Q. AND MAKE SURE YOU KEEP YOUR VOICE UP LOUD NOW.

10 A. YES, SIR.

11 Q. I'M SHOWING YOU FIRST OF ALL STATE'S EXHIBIT
12 NUMBER FIFTEEN. WHAT'S DEPICTED IN STATE'S
13 FIFTEEN?

14 A. THIS IS SIMPLY THE FRONT DOOR, THE FRONT OF
15 APARTMENT [REDACTED] SHADOW LAWN DRIVE.

16 Q. OKAY. AND IT WAS, THE EXTERIOR LIGHT WAS ON WHEN
17 YOU GOT THERE?

18 A. YES, SIR, IT WAS.

19 Q. LET ME ASK YOU, WHAT WAS THE LIGHTING LIKE INSIDE
20 THE APARTMENT, WERE YOU ABLE TO SEE WHEN YOU GOT
21 IN THERE?

22 A. MY RECOLLECTION IS THE LIGHTS WERE ON. IT WAS
23 AMBIENT TYPE LIGHTS YOU WOULD FIND IN MOST HOMES.

24 Q. LET ME SHOW YOU THESE AND GET YOU TO KIND OF GO
25 THROUGH THEM AND KIND OF TELL THE JURY WHAT'S

1 DEPICTED IN THEM?

2 A. THIS WOULD BE A PHOTOGRAPH OF THE, FROM THE
3 KITCHEN LOOKING INTO THE DEN AREA, THIS WOULD BE
4 THE FRONT DOOR. THIS IS THE LAMP AS I FOUND IT,
5 IT WAS KNOCKED OVER. HERE WE HAVE THE PENNIES,
6 THE COINS. THERE'S AN ORNAMENT HERE, IT'S A
7 CRYSTAL CROSS OF SOME SORT, AND THERE'S A BOWL
8 WHICH I BELIEVE THE COINS MAY HAVE BEEN IN BEFORE
9 IT WAS KNOCKED OFF. HERE IS THE COFFEE TABLE, IT
10 WAS IN THIS FLIPPED OVER POSITION UPSIDE DOWN WHEN
11 I WENT INTO THE ROOM. THERE'S A CAMERA WHICH WAS
12 ON THE FLOOR, PRESUMABLY KNOCKED OFF OF A COUNTER
13 OR SOMEWHERE. ALRIGHT, THIS IS ANOTHER PICTURE OF
14 THE DEN OR LIVING ROOM AREA AS IT WAS TAKEN FROM
15 THE DIRECTION OF THE FRONT DOOR.

16 Q. IF YOU COULD, JUST IDENTIFY THE PHOTO. THIS IS
17 PHOTO NUMBER TWO.

18 A. OH, I'M SORRY.

19 Q. THAT WAS NUMBER ONE THAT HE HAD JUST DESCRIBED.

20 A. I'M SORRY ABOUT THAT. THIS WOULD BE NUMBER TWO,
21 STATE'S EXHIBIT NUMBER TWO. THIS AGAIN, IS COMING
22 FROM THE DIRECTION OF THE FRONT DOOR, AND IT JUST
23 GIVES YOU A LITTLE DIFFERENT ANGLE FROM WHAT I WAS
24 SEEING. THIS, YOU KNOW, THIS COULD HAVE BEEN JUST
25 SITTING THERE, IT WASN'T QUITE AS SUSPICIOUS, IF

DIRECT - GERALD D. CARTER, SR., BY SOL. SORENSON

239

1 YOU WILL, BUT WITH THE COFFEE TABLE FLIPPED OVER
2 IN THE CORNER YOU CAN SEE AGAIN THE ASH TRAY, SOME
3 OTHER ITEMS THAT ARE IN DISARRAY, AND JUST KIND OF
4 FLUNG ON THE FLOOR. THIS WOULD BE STATE'S EXHIBIT
5 NUMBER THREE. AGAIN, IT'S FROM THE FRONT DOOR BUT
6 IT'S THE OPPOSITE SIDE FROM MY LEFT HAND SIDE.
7 IT'S GOING INTO THE KITCHEN. THIS IS THE ITEMS,
8 THE DRINK CUP AND THE OTHER ITEMS WHICH WERE
9 STREWN ON THE FLOOR. THERE'S A COUPLE OF ITEMS ON
10 THE FLOOR OF THE KITCHEN. THERE'S SOME TYPE OF A
11 SPRAY BOTTLE, I CANNOT REMEMBER WHAT THAT WAS OFF
12 THE TOP OF MY HEAD, AND THERE'S THE SHADE FROM THE
13 LAMP, AND THERE'S THE REST OF THE KITCHEN LAYOUT.
14 THIS IS STATE'S EXHIBIT NUMBER SIXTEEN. THIS IS
15 GOING TO BE A MID-WALL SHOT IN BETWEEN MY LEFT AND
16 RIGHT, AGAIN, THE DEN AREA. I GOT SEVERAL SHOTS OF
17 THIS OBVIOUSLY AT DIFFERENT ANGLES BECAUSE THERE
18 WAS A GOOD BIT OF, THERE WERE SEVERAL ITEMS ON THE
19 FLOOR AND I WANTED TO CAPTURE THAT AS BEST I
20 COULD. AND IT'S OBVIOUSLY THESE ITEMS ON THE
21 FLOOR, THE COFFEE TABLE AND THESE OTHER ITEMS ON
22 THE FLOOR. AGAIN, YOU COULD SEE INTO THE KITCHEN,
23 THE ENTIRE, ALMOST ENTIRE LENGTH OF THE KITCHEN,
24 AND THESE ARE SOME OF THE STAINS ON THE FLOOR,
25 THERE WAS SOME DRINK OF SOME TYPE, HAWAIIAN PUNCH

DIRECT - GERALD D. CARTER, SR., BY SOL. SORENSON

240

1 OR SOME TYPE OF RED DRINK ON THE FLOOR IN THE
2 KITCHEN. STATE'S EXHIBIT NUMBER SEVENTEEN, IT'S
3 MORE OF A, KIND OF GETTING OVER THE TOP OF THE
4 COFFEE TABLE SO YOU CAN TELL WITHOUT ANY QUESTION
5 WHAT THAT IS, BEING A COFFEE TABLE, AND THE ITEMS
6 THAT WERE STREWN ON THE FLOOR AROUND IT IN THE DEN
7 AREA, JUST A LITTLE CLOSER SHOT. OKAY, STATE'S
8 EXHIBIT NUMBER EIGHTEEN, THIS WOULD BE A
9 PHOTOGRAPH FROM THE CORNER OF THE KITCHEN, SO NOW
10 YOU'RE SEEING WHAT WAS IN THE KITCHEN, YOU
11 COULDN'T SEE IT BEFORE, IT WAS BEHIND THE COUCH.
12 SO, YOU'VE GOT THAT GOING INTO THE LIVING ROOM.
13 YOU STILL HAVE THE ITEMS IN THE LIVING ROOM, THE
14 FLIPPED OVER COFFEE TABLE. IN THE KITCHEN NOW YOU
15 CAN SEE THERE WAS A LOT OF DEBRIS, CUPS, BAGS,
16 JUST ALL KINDS OF DIFFERENT MISCELLANEOUS ITEMS
17 ALONG WITH THE DRINK SPILLED ON THE FLOOR IN THE
18 KITCHEN. AND THE LAST PICTURE, STATE'S EXHIBIT
19 NUMBER NINETEEN, THIS IS BASED FROM THE CORNER OF
20 THE KITCHEN, IT'S JUST A GENERAL SHOT INTO THE
21 BEDROOM. THERE WERE ITEMS ON THE FLOOR, BUT AS I
22 SAID, IT DIDN'T APPEAR THAT THERE WAS ANY TYPE OF
23 A STRUGGLE IN THERE, IT WAS, SOMEBODY PULLED THEIR
24 SHOES OFF, THE BED IS UNDONE, BUT IT DIDN'T LOOK
25 LIKE, IT DIDN'T HAVE THE ITEMS IN SUCH DISARRAY IN

1 THE BEDROOM.

2 Q. OKAY, THANK YOU, YOU CAN HAVE A SEAT. NOW,
3 LIEUTENANT CARTER, AFTER YOU INDICATED THAT
4 INITIAL KIND OF WALK THROUGH AND THEN
5 PHOTOGRAPHING TO DOCUMENT THE SCENE, WHAT DID YOU
6 THEN DO AS FAR AS PROCESSING THAT SCENE?

7 A. ONCE I DID MY WALK THROUGH, AND I WOULD HAVE
8 DOCUMENTED BY PHOTOGRAPH AS I FOUND IT WITHOUT
9 MOVING ANYTHING, ONCE I DID THAT AS SEARCH WAS
10 PERFORMED. THERE WAS A SHOOTING INVOLVED, AND
11 IT'S PRETTY STANDARD YOU LOOK FOR FIREARMS OR
12 ANYTHING THAT WOULD INDICATE A FIREARM WAS USED.
13 THIS COULD BE BULLETS, SHELL CASINGS WHICH, AFTER
14 THE BULLET'S FIRED FROM AN AUTOMATIC WEAPON A LOT
15 OF TIMES YOU'LL FIND THOSE, BULLET IMPACTS WHERE
16 BULLETS MAY HAVE STRUCK WALLS, ANYTHING TO DO WITH
17 FIREARMS OR IT MIGHT BE EVIDENCE OF THE FIREARM
18 THAT WAS USED. ONCE I COMPLETED THAT SEARCH THEN
19 I WOULD HAVE BEGAN LOOKING FOR ITEMS OF POSSIBLE
20 FINGERPRINT VALUE. THE ITEMS ON THE FLOOR, THE
21 CRYSTAL CROSS I MENTIONED, THE GLASS BOWL, I DON'T
22 KNOW HOW THEY, WERE THEY JUST KNOCKED OFF THE
23 TABLE OR WERE THEY PICKED UP AND THROWN, I DON'T
24 KNOW. SO, I PROCESS ITEMS LIKE THAT, THE COFFEE
25 TABLE.

DIRECT - GERALD D. CARTER, SR., BY SOL. SORENSON

242

1 Q. LET ME INTERRUPT YOU AND KIND OF GO BACK AND DEAL
2 WITH THE FIRST ISSUE YOU TALKED ABOUT AS FAR AS -
3 - -

4 A. OKAY.

5 Q. --- LOOKING FOR, LET ME ASK YOU, DID YOU FIND ANY
6 WEAPONS INSIDE OF THE APARTMENT, ANY FIREARMS?

7 A. NO WEAPONS WERE FOUND, NO FIREARMS WERE ACTUALLY
8 FOUND IN THE APARTMENT.

9 Q. DID YOU FIND SOME ITEMS THAT WOULD RELATE TO
10 FIREARMS SUCH AS SOME AMMUNITION AND STUFF OF THAT
11 NATURE INSIDE THE APARTMENT?

12 A. YES, I DID, I FOUND A BOX FOR A THREE EIGHTY
13 CALIBER HIGH POINT PISTOL. I DID NOT FIND THE
14 PISTOL, JUST THE BOX. I ALSO FOUND A BOX OF
15 AMMUNITION, I BELIEVE IT WAS BLAZER, IT WAS FOR
16 FORTY-FIVE CALIBER BULLETS.

17 Q. OKAY. ALRIGHT, BUT NO, YOU DIDN'T FIND THE GUN
18 THAT WENT WITH EITHER THE AMMUNITION OR THE BOXES?

19 A. NO, I DIDN'T FIND ANY FIREARMS IN THE APARTMENT.

20 Q. OKAY. NOW, YOU TALKED ABOUT SHELL CASINGS, AND IF
21 YOU WOULD JUST BRIEFLY TELL THE JURY, WHAT'S THE
22 DIFFERENCE BETWEEN AN AUTOMATIC OR A SEMI-
23 AUTOMATIC HAND GUN AND A REVOLVER?

24 A. A SEMI-AUTOMATIC HAND GUN OR AUTOMATIC, BUT
25 NORMALLY SEMI-AUTOMATIC WHICH MEANS YOU HAVE TO

DIRECT - GERALD D. CARTER, SR., BY SOL. SORENSON

243

1 PULL THE TRIGGER EACH TIME YOU DISCHARGE OR FIRE
2 THE GUN, THEY ARE SELF LOADING OR SELF FEEDING.
3 THE BULLETS ARE HELD IN SOME TYPE OF A MAGAZINE.
4 A MAGAZINE IS A HOLDING COMPARTMENT. AS THE GUN
5 IS FIRED THE ACTION OF THE GUN, THERE'S DIFFERENT
6 TYPES OF ACTION, BUT THE ACTION WILL BE, WILL
7 OPERATE, IT WILL PICK UP A ROUND FROM THE MAGAZINE
8 AND LOAD IT INTO THE CHAMBER SO IT'S READY TO FIRE
9 AGAIN. PART OF THE PROCESS, ONCE THE ROUND IS
10 FIRED AND THE ACTION IS ACTIVATED, IT WILL GRAB
11 THE SHELL CASING WHICH IS WHAT IS LEFT, THE BULLET
12 OR PROJECTILE HAS ALREADY LEFT THE GUN. THE SHELL
13 CASING THEN WILL BE EXTRACTED FROM THE BARREL AND
14 THROWN OUT OR EJECTED INTO THE AREA NORMALLY TO
15 THE RIGHT, MOST GUNS GO TO THE RIGHT. IF WE, IF
16 KNOW IT'S AN AUTOMATIC WEAPON OR SEMI-AUTOMATIC WE
17 ALWAYS LOOK FOR THE SHELL CASINGS. IF WE DON'T
18 KNOW WHAT TYPE GUN IT IS WE ALWAYS LOOK FOR THE
19 SHELL CASINGS BECAUSE WE DON'T KNOW. BUT THAT'S A
20 PIECE OF EVIDENCE WE ALWAYS LOOK FOR AT SHOOTING
21 INCIDENTS.

22 Q. OKAY. AND THAT NIGHT WHEN YOU WERE INITIALLY
23 PROCESSING THAT SCENE DID YOU HAVE ANY IDEA WHAT
24 TYPE OF WEAPON WAS USED IN THAT SHOOTING?

25 A. NOT INITIALLY. AT SOME POINT, AND ONE OF THE

DIRECT - GERALD D. CARTER, SR., BY SOL. SORENSON

244

1 INVESTIGATORS, IT EITHER WOULD HAVE BEEN
2 INVESTIGATOR ETHERIDGE OR POSSIBLY INVESTIGATOR
3 SHUMPERT, I WAS INFORMED THAT A REVOLVER MIGHT
4 HAVE BEEN USED, A LARGE FRAME REVOLVER IS HOW IT
5 WAS DESCRIBED TO ME.

6 Q. AND THE DIFFERENCE WITH THE REVOLVER, I GUESS,
7 WOULD BE WHEN YOU, YOU KNOW, AS YOU INDICATED,
8 WITH A SEMI-AUTOMATIC WHEN YOU PULL THE TRIGGER
9 AND A BULLET COMES OUT, A SHELL CASING IS EJECTED,
10 IS THAT CORRECT?

11 A. RIGHT.

12 Q. WITH A REVOLVER, OBVIOUSLY, THE BULLET COMES OUT,
13 WHAT HAPPENS TO THE SHELL CASING?

14 A. THE SHELL CASING REMAINS -- THE REVOLVER IS A
15 SELF-CONTAINED CYLINDER WHICH ROTATES, AND THE
16 SHELL CASING REMAINS IN THE CYLINDER AFTER IT'S
17 FIRED, IT'S HAS TO BE MANUALLY REMOVED BY
18 WHOEVER'S SHOOTING THE GUN. SO, IF YOU'VE GOT A
19 REVOLVER, UNLESS THE PERSON WHO'S SHOOTING THE GUN
20 INTENTIONALLY OPENS THE GUN AND DUMPS THESE SHELL
21 CASINGS OUT WE WON'T FIND THEM AT THE SCENE,
22 THEY'LL LEAVE THE SCENE WITH THE GUN.

23 Q. OKAY. AND I BELIEVE IT WAS YOUR TESTIMONY THAT IN
24 SEARCHING THAT LIVING ROOM AREA, KITCHEN AREA IN
25 THAT APARTMENT, YOU DIDN'T FIND ANY SHELL CASINGS

1 ANYWHERE INSIDE?

2 A. NO, SIR, AFTER AN EXTREMELY THOROUGH SEARCH WE
3 DIDN'T FIND ANY.

4 Q. NOW, HOW ABOUT ANY PROJECTILES, DID YOU FIND ANY
5 BULLETS THAT APPEARED TO HAVE BEEN FIRED, EITHER
6 IMBEDDED IN A WALL OR FURNITURE OR ON THE FLOOR OR
7 WHAT HAVE YOU?

8 A. NO, SIR. AGAIN, AFTER A VERY THOROUGH SEARCH,
9 BECAUSE AFTER YEARS, I'VE WORKED NUMEROUS SHOOTING
10 INCIDENTS, SOMETIMES BULLETS CAN GET IN SOME ODD
11 PLACES, SO I DID AN EXTREMELY THOROUGH SEARCH,
12 UNDERNEATH, OVER COUNTERS, IN COUNTERS, EVERYWHERE
13 CONCEIVABLE AND I FOUND NO BULLETS, PROJECTILES,
14 THE BULLET PART, OR ANY IMPACTS IN THE HOUSE WHERE
15 A BULLET HAD HIT A WALL, I COULDN'T FIND ANY.

16 Q. ALRIGHT. NOW, YOU HAD INDICATED BEFORE I
17 INTERRUPTED YOU AND BACK UP THERE, YOU STARTED
18 TALKING ABOUT PROCESSING ITEMS IN THERE FOR
19 FINGERPRINTS?

20 A. YES, SIR.

21 Q. ALRIGHT, KIND OF GO BACK NOW AND PICK UP WHERE YOU
22 LEFT OFF THERE, IF YOU WOULD.

23 A. WHAT YOU DO WHEN YOU GO INTO A SCENE LIKE THIS,
24 YOU DON'T JUST PROCESS EVERYTHING. IF I PROCESS
25 FROM ONE SIDE OF THE HOUSE TO THE OTHER SIDE OF

DIRECT - GERALD D. CARTER, SR., BY SOL. SORENSON

246

1 THE HOUSE YOU'RE GOING TO BE PROCESSING AREAS THAT
2 ARE NOT SUSPECT. YOU'RE GOING TO GET THE RESIDENT
3 PEOPLE WHO LIVE THERE, WHO HAVE A RIGHT TO LIVE
4 THERE. THERE'S NO AGE ON A FINGERPRINT, SO IT
5 COULD HAVE BEEN PUT THERE A MONTH AGO OR FIVE
6 MINUTES AGO. SO, WHAT YOU DO IS, IN EXAMINING THE
7 SCENE, ANYWHERE THAT YOU COULD REASONABLY OR
8 LOGICALLY BELIEVE THEY MIGHT HAVE TOUCHED IT, THAT
9 GETS PROCESSED, SUCH AS THE CRYSTAL CROSS ON THE
10 FLOOR, THE LITTLE GLASS BOWL, THE COFFEE TABLE
11 WHICH IS FLIPPED OVER, THEY MAY HAVE TOUCHED THESE
12 THINGS IN A WAY THEY MIGHT HAVE LEFT A PRINT, SO
13 IT WOULD GET PROCESSED.

14 Q. OKAY. AND EXPLAIN TO THE JURY HOW, I MEAN, YOU
15 KEEP USING THE WORD, PROCESS, I MEAN, WHAT DO YOU
16 DO TO PROCESS AN ITEM SUCH AS THE BOWL THAT WAS
17 DOWN THERE?

18 A. THE MOST COMMON WAY THAT YOU WOULD DO PROCESSING,
19 OR SOMETIMES DO A PRELIMINARY PROCESS TO SEE IF
20 THERE'S ANYTHING THERE, ANY PRINT POSSIBLY ON AN
21 ITEM AND IT NEEDS MORE PROCESSING LATER IS WITH
22 BLACK LATENT POWDER. WE'VE ALL SEEN ON T.V., YOU
23 HAVE THE BRUSH, YOU POWDER THE DUST ON THE BRUSH
24 AND THEY DUST OVER THE SURFACE. IF THERE'S A
25 FINGERPRINT THERE USUALLY THE DUST WILL ADHERE TO

1 IT AND IT BECOMES VISIBLE TO YOU THEN.

2 Q. LET ME ASK YOU THIS, LIEUTENANT, EVERY TIME, LET'S
3 SAY I TOUCH SOMETHING, DO I LEAVE A FINGERPRINT
4 BEHIND?

5 A. NO, SIR.

6 Q. OKAY. EXPLAIN TO THE JURY HOW THAT WORKS.

7 A. THAT'S A MISCONCEPTION. AGAIN, IT'S, I BLAME
8 TELEVISION SHOWS, AND MOST PEOPLE THAT WATCH THEM
9 THEY TO SOME DEGREE BELIEVE THAT THAT'S HOW IT IS.
10 A FINGERPRINT LEFT ON A SURFACE IS RESIDUE OF SOME
11 TYPE. IT'S EITHER SWEAT, SECRETIONS FROM THE
12 BODY, WHICH IS MOSTLY WATER. YOU MAY HAVE OILS OR
13 GREASE OR ANY KIND OF SUBSTANCE WHICH HAS GOTTEN
14 ON YOUR FINGER. THEN IF YOU TOUCH A SURFACE YOU
15 CAN SOMETIMES LEAVE THAT IMPRESSION, BUT NOT
16 ALWAYS. IF YOU'VE JUST WASHED YOUR HANDS OR IF
17 YOU'RE A PERSON WHO DOES NOT SWEAT MUCH -- A
18 FINGERPRINT IS LEFT IN AN AREA, A TEXTURED
19 SURFACE, THOSE THAT HAVE GOT HUMPS AND BUMPS, A
20 LOT OF TIMES YOU WON'T GET THE WHOLE PRINT. YOU
21 MAY GET LITTLE BITS AND PIECES OF IT BUT YOU WON'T
22 GET THE WHOLE THING. BUT TO ANSWER YOUR QUESTION,
23 WE DON'T ALWAYS LEAVE THIS IMPRESSION, THIS
24 RESIDUE IMPRESSION ON THE SURFACE WHEN WE TOUCH
25 IT.

DIRECT - GERALD D. CARTER, SR., BY SOL. SORENSON

248

1 Q. LET ME ASK YOU, IF I DID LEAVE AN IMPRESSION ON A
2 SURFACE IS THAT ALWAYS AN IMPRESSION THAT YOU AN
3 THEN LIFT AND BE ABLE TO COMPARE TO, LET'S SAY, MY
4 KNOWN KIND OF OLD FINGERPRINTS? ARE YOU ALWAYS
5 ABLE TO MAKE A COMPARISON?

6 A. NOT ALWAYS. AGAIN, IT'S A LOT OF FACTORS THAT
7 COME INTO THIS. IT COULD BE THE TEXTURE OF THE
8 SURFACE, IS IT SMOOTH, IS IT POROUS, HAS IT GOT
9 BUMPS AND HUMPS? AND SOMETIMES THERE'S TOO MUCH,
10 A LOT OF TIMES THERE'S TOO MUCH RESIDUE. SO, YOU
11 TOUCH SOMETHING YOU ACTUALLY LEAVE A SMEAR IS WHAT
12 YOU LEAVE, YOU DON'T ACTUALLY LEAVE THE RIDGES,
13 THE LINES, IF YOU WILL, THAT MAKE UP THE PATTERN
14 OF YOUR FINGERPRINT. I DON'T KNOW PERCENTAGES,
15 BUT MANY TIMES THE PRINTS WHICH WE DO LEAVE, IF WE
16 LEAVE A LATENT IMPRESSION BEHIND, IS NOT GOOD
17 ENOUGH FOR COMPARISON.

18 Q. ALRIGHT. LET ME ASK YOU, IN SEARCHING THIS SCENE
19 WERE YOU ABLE TO LIFT AND DEVELOP ANY FINGERPRINTS
20 THERE OF THE ITEMS THAT YOU PROCESSED THAT WERE OF
21 A SUFFICIENT QUALITY THEN TO BE ABLE TO COMPARE
22 THEM TO ANYBODY?

23 A. NO, SIR. I, THERE WERE SOME SMUDGES REVEALED, BUT
24 I WAS UNABLE TO DEVELOP AND RECOVER ANY
25 FINGERPRINTS AT THE SCENE WITH ENOUGH RIDGE DETAIL

1 TO DO A COMPARISON.

2 Q. DID YOU PROCESS THE DOOR, THE DOOR KNOB, OR
3 ANYTHING LIKE THAT?

4 A. YES, I DID.

5 Q. OKAY. UNABLE TO GET ANYTHING OFF OF, USEABLE OFF
6 OF THE DOOR KNOB INSIDE OR OUT?

7 A. NO, SIR, I DIDN'T RECOVER ANYTHING OFF THE DOOR
8 KNOB.

9 Q. DID YOU FIND ANY EVIDENCE OF ANY BLOOD INSIDE THE
10 APARTMENT?

11 A. NO, SIR, I DID NOT.

12 Q. I'LL COME BACK TO THAT IN A SECOND. LET ME ASK
13 YOU, AS FAR AS ANY NARCOTICS, DID YOU FIND ANY
14 DRUGS, WHETHER THERE BE, YOU KNOW, MARIJUANA,
15 COCAINE OR WHAT HAVE YOU INSIDE THE APARTMENT?

16 A. I DIDN'T FIND ANY QUANTITY WHICH WOULD, IN LAW
17 ENFORCEMENT TERMS MEANS WEIGHT, WEIGHABLE AMOUNT.
18 I DID FIND APPROXIMATELY TWELVE ZIP LOCK, GALLON
19 SIZE ZIP LOCK BAGS WHICH CONTAINED A PLANT
20 MATERIAL WHICH I BELIEVED TO BE MARIJUANA, BUT IT
21 WAS JUST THE RESIDUE. THEY WEREN'T, THEY WERE
22 BASICALLY EMPTY AND IT WOULD BE VERY, VERY
23 MINUSCULE AMOUNTS OF THIS MATERIAL OR RESIDUE LEFT
24 IN THE BAGS.

25 Q. OKAY. WHERE WAS THAT FOUND, DO YOU RECALL?

DIRECT - GERALD D. CARTER, SR., BY SOL. SORENSON

250

1 A. THAT WAS IN A LOWER KITCHEN CABINET.

2 Q. OKAY. NOTHING ELSE ANYWHERE ELSE IN THAT
3 APARTMENT, THOUGH, DRUG-WISE?

4 A. NO, SIR.

5 Q. NOW, DID YOU, LIEUTENANT, HAVE AN OPPORTUNITY TO
6 ATTEND THE AUTOPSY THAT WAS PERFORMED AT NEWBERRY
7 PATHOLOGY ON MR. MACK?

8 A. YES, SIR, I DID.

9 Q. OKAY. AND LET ME ASK YOU THIS, KIND OF GOING BACK
10 AS FAR AS, YOU INDICATED YOU DIDN'T FIND ANY BLOOD
11 INSIDE THE APARTMENT ANYWHERE?

12 A. NO, SIR, I DID NOT.

13 Q. OKAY. DID YOU HAVE AN OPPORTUNITY, EITHER YOU,
14 YOURSELF TO COLLECT IT OR HAVE IT TURNED INTO YOU
15 THE CLOTHING THAT MR. MACK WAS WEARING?

16 A. INVESTIGATOR ETHERIDGE COLLECTED HIS CLOTHING AT
17 THE HOSPITAL WHILE I WAS STILL AT THE SCENE, AND I
18 WAS ACTUALLY FUNCTIONING AS THE EVIDENCE CUSTODIAN
19 AT THE TIME, AND HE TURNED THAT IN TO ME AND I
20 LOCKED IT INTO EVIDENCE.

21 Q. OKAY. AND DID HE HAVE, WAS MR. MACK, WHEN HE
22 ARRIVED AT THE HOSPITAL, CLOTHED?

23 MR. CULLER: OBJECTION, UNLESS HE
24 KNOWS, YOUR HONOR, HE WASN'T THERE.

25 THE COURT: IF HE DOESN'T KNOW HE

DIRECT - GERALD D. CARTER, SR., BY SOL. SORENSON

251

1 CAN'T TESTIFY TO IT, IF HE DOES HE CAN.

2 Q. DO YOU HAVE CLOTHING THAT WAS TURNED IN TO YOU
3 THAT WAS COLLECTED BY INVESTIGATOR ETHERIDGE FROM
4 THE HOSPITAL?

5 A. YES, SIR.

6 Q. ALRIGHT. NOW, LET'S GO BACK TO AS FAR AS
7 ATTENDING THE AUTOPSY, DID YOU, WERE ANY ITEMS
8 TURNED OVER TO YOU FROM THE AUTOPSY?

9 A. YES, SIR, THE SAMPLES WHICH ARE STANDARD
10 COLLECTION SAMPLES OF FLUIDS, BODY FLUIDS AND THIS
11 TYPE THING WAS TURNED OVER TO ME AS WELL AS THE
12 BULLET OR PROJECTILE WHICH WAS RECOVERED FROM THE
13 VICTIM'S BODY.

14 Q. LET ME SHOW YOU THIS ITEM AND ASK YOU, DO YOU
15 RECOGNIZE THAT ITEM AS WHAT WAS RECOVERED FROM THE
16 AUTOPSY AND TURNED OVER TO YOU, THAT PROJECTILE?

17 A. YES, SIR, THIS APPEARS TO BE THE ITEM WHICH WAS
18 COLLECTED AT AUTOPSY.

19 SOLICITOR SORENSON: OKAY. IF WE
20 COULD JUST MARK THIS FOR ID AT THIS TIME?

21 MR. CULLER: WITHOUT OBJECTION, YOUR
22 HONOR.

23 THE COURT: ALRIGHT, MARK IT FOR ID.

24 SOLICITOR SORENSON: DO YOU HAVE ANY
25 OBJECTION TO ME PLACING IT INTO EVIDENCE RIGHT NOW?

DIRECT - GERALD D. CARTER, SR., BY SOL. SORENSON

252

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MR. CULLER: NO.

SOLICITOR SORENSON: WE'LL JUST
OFFER IT INTO EVIDENCE NOW.

THE COURT: ALRIGHT, SIR, ENTER IT
INTO EVIDENCE AS EXHIBIT NUMBER - - -

COURT REPORTER: TWENTY.

SOLICITOR SORENSON: TWENTY.

(State's Exhibit Twenty
marked and filed.)

Q. AND THAT ITEM WAS TURNED OVER TO YOU, SIR, AND
WHAT DID YOU THEN, WHERE DID YOU SEND THIS FOR
FURTHER ANALYSIS?

A. I TRANSPORTED IT TO SLED, SLED LAB, SOUTH CAROLINA
LAW ENFORCEMENT DIVISION LABORATORIES FOR
ANALYSIS.

Q. OKAY. LET ME ASK YOU, THE JURY HAS HEARD
TESTIMONY ABOUT THE GUN SHOT RESIDUE KITS THAT
WERE COLLECTED ON, FROM THE VICTIM, MR. MACK AND
ALSO FROM JOHN RANDOLPH AND WILL GILLIARD. WERE
THOSE TURNED OVER TO YOU ALSO?

A. YES, THEY WERE LOGGED IN I BELIEVE BY INVESTIGATOR
ETHERIDGE INTO EVIDENCE.

Q. AND WHERE DID, WHAT, IF ANYTHING, DID YOU DO WITH
THOSE ITEMS?

A. THOSE WERE ALSO TRANSPORTED UP TO SLED FOR TRACE

DIRECT - GERALD D. CARTER, SR., BY SOL. SORENSON

253

1 ANALYSIS AT THEIR LABORATORY.

2 Q. OKAY. WERE THEY SEALED WHEN YOU TRANSPORTED THEM
3 UP THERE?

4 A. YES, THEY WERE.

5 Q. OKAY. AND DID YOU TAMPER WITH ANY OF THOSE ITEMS
6 WHEN THEY WERE IN YOUR POSSESSION?

7 A. NO, I DID NOT.

8 Q. LET ME ASK YOU, DO YOU ALSO HAVE IN THIS CASE ANY
9 WEAPONS TURNED INTO YOU?

10 A. YES, SIR, THERE WAS A SMITH AND WESSON THREE
11 FIFTY-SEVEN MAGNUM WHICH WAS TURNED INTO EVIDENCE,
12 TURNED IN TO ME FOR LOGGING INTO EVIDENCE BY
13 INVESTIGATOR SHUMPERT.

14 Q. LET ME SHOW YOU THIS ITEM.

15 SOLICITOR SORENSON: LET ME MARK IT
16 REAL QUICK, THAT WILL BE STATE'S TWENTY-ONE.

17 COURT REPORTER: TWENTY-ONE?

18 SOLICITOR SORENSON: YEAH. I DON'T
19 THINK THEY'RE GOING TO OBJECT TO IT, BUT WE'LL SEE.

20 (State's Exhibit Twenty-one,
21 Smith and Wesson gun,
22 marked for ID only.)

23 Q. I'M SHOWING YOU WHAT'S BEEN MARKED AS STATE'S
24 TWENTY-ONE, DO YOU RECOGNIZE THAT ITEM?

25 A. YES, I DO.

DIRECT - GERALD D. CARTER, SR., BY SOL. SORENSON

254

1 Q. DOES THAT APPEAR TO BE THE WEAPON THAT WAS TURNED
2 IN -- WHO TURNED THAT IN TO YOU?

3 A. INVESTIGATOR SHUMPERT.

4 Q. OKAY.

5 SOLICITOR SORENSON: YOUR HONOR, I
6 DON'T THINK THEY HAVE ANY OBJECTION AT THIS TIME TO
7 OFFERING THIS INTO EVIDENCE. I'LL TIE IT UP LATER IF
8 YOU WANT ME TO, BUT - - -

9 MR. CULLER: WE WOULD, I THINK,
10 OBJECT AT THIS POINT.

11 SOLICITOR SORENSON: OKAY, WELL,
12 WE'LL MARK IT FOR ID, THAT'S FINE.

13 THE COURT: MARK IT FOR
14 IDENTIFICATION.

15 (State's Exhibit Twenty-one,
16 Smith and Wesson gun, already
17 marked for id only.)

18 Q. AND THIS ITEM, STATE'S TWENTY-ONE, THAT WAS TURNED
19 IN TO YOU BY INVESTIGATOR SHUMPERT, YOU
20 TRANSPORTED THIS OUT TO STATE LAW ENFORCEMENT
21 ALSO?

22 A. YES, I DID.

23 SOLICITOR SORENSON: I BEG THE
24 COURT'S INDULGENCE.

25 Q. LET ME ASK YOU THIS, BACK ONE OTHER THING ABOUT

DIRECT - GERALD D. CARTER, SR., BY SOL. SORENSON

255

1 THE SCENE, LIEUTENANT, YOU HAD TESTIFIED, AND I
2 BELIEVE YOU EVEN MADE A SHOWING KIND OF IN THE
3 PHOTOGRAPH THAT THERE APPEARED TO BE SOME FOOTWEAR
4 IMPRESSIONS IN THE KITCHEN?

5 A. YES, SIR, THERE WERE SOME PARTIAL FOOTWEAR
6 IMPRESSIONS IN THE DRINK THAT HAD BEEN SPILLED,
7 AND ACTUALLY, YOU COULDN'T SEE THEM IN THE PHOTOS
8 WHICH I DEMONSTRATED, BUT I DID DOCUMENT SOME
9 FOOTWEAR BY PHOTOGRAPH.

10 Q. OKAY. AND DID YOU EVER HAVE ANY FOOTWEAR TURNED
11 IN TO YOU TO COMPARE TO THOSE?

12 A. NO, SIR, NO FOOTWEAR WAS EVER TURNED IN TO ME FOR
13 COMPARISON.

14 Q. ALRIGHT.

15 SOLICITOR SORENSON: THANK YOU,
16 LIEUTENANT.

17 THE COURT: I THINK WE NEED TO BREAK
18 FOR LUNCH BECAUSE I'VE GOT A COUPLE OF MATTERS I NEED TO
19 TAKE UP, AND SO, LADIES AND GENTLEMEN, WE'RE GOING TO
20 STOP HERE AND START BACK AT TWO:FIFTEEN. PLEASE BE BACK
21 IN THE JURY ROOM. NOW, THE BAILIFF WILL TAKE YOU OUT
22 AND SHOW YOU HOW TO GO BACK OUT INTO THE HALL. WHEN YOU
23 COME BACK AFTER LUNCH YOU COME BACK THAT WAY, DO NOT
24 COME INTO THE COURTROOM, AND WE'LL SEE YOU AT
25 TWO:FIFTEEN. AND REMEMBER, PLEASE DO NOT TALK ABOUT THE

1 CASE WITH ANYONE. YOU ARE EXCUSED AT THIS TIME.

2 (Whereupon, the jury leaves
3 the courtroom, and the following
4 takes place out of the presence
5 of the jury.)

6 THE COURT: OFFICER, YOU CAN STEP
7 DOWN, AND DO NOT DISCUSS YOUR TESTIMONY WITH ANY OF THE
8 ATTORNEYS.

9 WITNESS: YES, SIR.

10 THE COURT: ANYTHING FROM THE STATE
11 BEFORE WE RECESS?

12 SOLICITOR SORENSON: NO, SIR.

13 THE COURT: FROM THE DEFENSE?

14 MR. WALTERS: NO, SIR.

15 THE COURT: ALRIGHT, WE'LL BE IN
16 RECESS UNTIL TWO:FIFTEEN.

17 (Recess)

18 THE COURT: IS THE STATE READY?

19 SOLICITOR SORENSON: YES, SIR.

20 THE COURT: IS DEFENSE READY?

21 MR. WALTERS: YES, SIR.

22 THE COURT: ALRIGHT, BRING THE JURY
23 IN.

24 WITNESS: SHOULD I RETURN TO THE
25 STAND, YOUR HONOR?

1 THE COURT: YES, SIR. I SEE THE
2 PATHOLOGIST OUT THERE, TOO.

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

7 THE COURT: LADIES AND GENTLEMEN, I
8 APOLOGIZE FOR KEEPING YOU BACK THERE WAITING. AS I TOLD
9 YOU YESTERDAY, I THINK, WHEN I QUALIFIED YOU THAT WE
10 HAVE A LOT TO DO, WE JUDGES, OTHER THAN PRESIDING IN
11 COURT, AND WE HAVE MATTERS THAT ARE GOING ON IN HUNDREDS
12 OF CASES THAT ARE PENDING. AND SOMETIMES WE SET
13 HEARINGS IN CASES WEEKS IN ADVANCE BECAUSE WE HAVE TO
14 HAVE HEARINGS, USUALLY THEY ARE RELATIVELY SHORT, TO
15 KEEP THOSE CASES MOVING SO THEY'LL BE READY FOR TRIAL,
16 MOSTLY CIVIL CASE. AND I HAD ONE THAT'S BEEN SET FOR
17 SEVERAL WEEKS FOR ONE:FORTY-FIVE, AND I FIGURED IT WOULD
18 TAKE NO MORE THAN THIRTY MINUTES. WELL, I WAS WRONG,
19 I'M JUST SORRY. I DIDN'T REALIZE WHEN I SET IT THAT WE
20 WOULD BE DOING THIS TRIAL TODAY, AND I DIDN'T REALIZE
21 THEN IT WOULD TAKE THAT LONG TO DO IT. SO, IT'S ALL MY
22 FAULT. BUT I'VE BEEN SITTING HERE ON THIS BENCH FOR AN
23 HOUR AND TWENTY MINUTES. SO, IT'S NOT THAT I'VE BEEN
24 SOMEWHERE DRINKING COFFEE OR CHEWING THE RAG WITH
25 SOMEBODY, PLEASE UNDERSTAND THAT. IT'S KEEPING

1 EVERYBODY WAITING, AND I APOLOGIZE FOR THAT, BUT
2 SOMETIMES THAT JUST HAPPENS TRYING TO KEEP THE WHOLE
3 SYSTEM RUNNING.

4 NOW, SOMEBODY ASKED ABOUT TAKING
5 NOTES. I DON'T MIND IF YOU TAKE NOTES, BUT I DON'T
6 ENCOURAGE IT FOR THIS REASON, NUMBER ONE, IT'S TWELVE OF
7 YOU WHO WILL BE DELIBERATING. ONE REASON WE HAVE TWELVE
8 IS YOU'VE GOT TWELVE MEMORIES, AND IF THERE'S SOME REAL
9 QUESTION ABOUT WHAT A WITNESS SAID OR DIDN'T SAY THE
10 COURT REPORTER CAN PLAY BACK THAT PART OF THE TESTIMONY.
11 BUT THE MAIN REASON I DON'T ENCOURAGE TAKING NOTES IS
12 THAT WHEN YOU'RE WRITING YOU CAN'T LISTEN. NOW, YOU
13 MIGHT SAY, WELL, YES, I CAN. WELL, MAYBE YOU CAN BUT IF
14 YOU ARE YOU'RE A REAL EXCEPTION TO THE RULE, I'LL TELL
15 YOU. BECAUSE IT NEVER FAILS, IF I'M SITTING DOWN HERE
16 WRITING SOMETHING, A NOTE FOR MY CLERK TO GO DO
17 SOMETHING AND SOMEBODY OBJECTS I'VE GOT TO SAY, I DIDN'T
18 HEAR IT, TELL ME WHAT'S GOING ON. AND SO, IF YOU'RE
19 WRITING SOMETHING DOWN YOU'RE GOING TO MISS SOMETHING
20 ELSE THAT MIGHT BE MORE IMPORTANT. SO, REALLY, IT'S
21 MORE IMPORTANT TO LISTEN CAREFULLY AND ALL TWELVE OF YOU
22 CAN DISCUSS IT. BUT IF SOMEBODY REALLY WANTS TO TAKE
23 NOTES THAT'S FINE WITH ME, WE'LL GIVE YOU A PAD WHEN YOU
24 COME BACK OUT AND YOU CAN DO THAT.

25 ALRIGHT, COUNSELOR, CROSS-

1 EXAMINATION.

2 MR. CULLER: THANK YOU, YOUR HONOR.

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

CROSS - GERALD D. CARTER, SR., BY MR. CULLER

260

CROSS-EXAMINATION OF GERALD D. CARTER, SR.,

BY MR. CULLER:

Q. LET ME ASK YOU IF YOU'RE FAMILIAR WITH THESE
PHOTOGRAPHS, IF THOSE ARE PART OF THE BATCH THAT
YOU TOOK?

A. YES, SIR, THEY ARE.

Q. OKAY. THANK YOU.

MR. CULLER: THIS IS MARKED STATE'S,
I THINK IT'S ONE THROUGH ELEVEN. THEY'VE BEEN MARKED
FOR ID, I THINK THERE'S NO OBJECTION TO THAT.

SOLICITOR SORENSON: DEFENSE ONE
THROUGH ELEVEN.

MR. CULLER: DEFENSE ONE THROUGH
ELEVEN, I BEG YOUR PARDON, AND I'D OFFER THOSE INTO
EVIDENCE WITHOUT ANY CONCERNS, I DON'T THINK. AND I'LL
JUST GIVE YOU THOSE.

THE COURT: ALRIGHT. IS THAT
DEFENSE ONE THROUGH ELEVEN?

SOLICITOR SORENSON: YES, SIR.

THE COURT: ALRIGHT, THAT'S FINE.

(Defendant's Exhibits One through
Eleven marked and filed.)

Q. NOW, YOU'VE BEEN DOING CRIME RECONSTRUCTION FOR
HOW LONG?

A. ABOUT THREE AND A HALF YEARS.

1 Q. OKAY. AND THE PURPOSE FOR CRIME RECONSTRUCTION IS
2 TO BE ABLE TO GO IN AFTER THE FACT, COLLECT
3 EVIDENCE, AND THEN EITHER CORROBORATE FACTS OR
4 REFUTE FACTS, IS THAT CORRECT?

5 A. IF THE PHYSICAL EVIDENCE WILL ALLOW YOU TO DO SO,
6 YES, SIR.

7 Q. OKAY. AND IN THIS PARTICULAR CASE YOU -- IF I
8 MIGHT LOOK AT THOSE, I'M SORRY -- WERE ABLE TO DO
9 SOME FOOTWEAR IMPRESSIONS THAT YOU DOCUMENTED, BUT
10 YOU SAID NO ONE SUBMITTED ANY FOOTWEAR TO BE
11 EXAMINED?

12 A. CORRECT. NO ONE, NO SUSPECTED SHOES WERE TURNED
13 IN TO BE COMPARED TO THE FOOTWEAR FROM THE SCENE.

14 Q. OKAY. AND I'LL SHOW YOU WHAT'S BEEN MARKED AS
15 DEFENSE TEN, NIGHT, EIGHT AND SEVEN, AND ASK YOU
16 IF THOSE ARE PHOTOGRAPHS THAT YOU USED, YOU
17 DOCUMENTED FOUR DIFFERENT PHOTOGRAPHS?

18 A. RIGHT. I USED A, WHAT WE CALL A GENERAL, WHICH
19 PLACES IT IN THE KITCHEN ON THE FLOOR.

20 Q. RIGHT.

21 A. THEN WE USED A MID-RANGE SHOT WHICH PLACES IT NEXT
22 TO THE LEG OF A CHAIR, IT GIVES YOU A LITTLE MORE
23 REFERENCE. AND THEN THERE'S ITEMS NUMBER NINE AND
24 NUMBER TEN ARE CLOSE UPS OVERHEAD, AND THOSE WOULD
25 ACTUALLY BE THE TWO OVERHEAD THAT WOULD BE USED

1 FOR COMPARISON PURPOSES.

2 Q. ALRIGHT. HOW GOOD IS THAT PRINT, IN YOUR
3 EXPERIENCE?

4 A. I'M ACTUALLY NOT A CERTIFIED IMPRESSION EXAMINER.
5 I'VE BEEN TRAINED HOW TO PHOTOGRAPH IT AND
6 PRESERVE IT BUT THE ACTUAL, IF WE HAD GOTTEN A
7 SHOE THE COMPARISON WOULD BE DONE AGAIN AT SLED
8 WHERE THEY HAVE CERTIFIED EXAMINERS.

9 Q. OKAY.

10 A. MY EXPERIENCE WOULD BE YOU COULD AT LEAST TELL
11 WHAT KIND OF SHOE IT IS, - - -

12 Q. RIGHT.

13 A. --- MAYBE GIVE SOME IDEA WHAT SIZE SHOE IT IS.

14 Q. IN SOME PRINT FORM, SOME OF THE PRINT?

15 A. RIGHT. YOU MIGHT COULD ID THE SHOE. NOW, AS FAR
16 AS GOING BEYOND THAT - - -

17 Q. SURE.

18 A. --- YOU WOULD HAVE TO BE A CERTIFIED EXAMINER THAT
19 WOULD SEE THINGS I DON'T SEE.

20 Q. I UNDERSTAND, I UNDERSTAND. THANK YOU.

21 A. YES, SIR.

22 Q. NOW, YOU ALSO HAVE BEEN TRAINED TO DO
23 FINGERPRINTS, AND I THINK YOU TESTIFIED THAT YOU
24 DON'T FINGERPRINT EVERYTHING.

25 A. RIGHT, NOT THROUGHOUT A HOUSE. BASED ON

1 EXPERIENCE AND TRAINING YOU TRY TO -- AND IT'S NOT
2 LIKE YOU'D RULE SOMETHING OUT IF IT'S
3 QUESTIONABLE.

4 Q. I UNDERSTAND.

5 A. BUT IF IT'S SOMETHING THAT JUST, THERE'S NO
6 INDICATION IT WAS TOUCHED OR BOTHERED I WOULDN'T
7 PRINT THAT. IF IT'S SOMETHING THAT THERE'S A
8 POSSIBILITY, THEN WE WOULD PRINT IT.

9 Q. YEAH. WHAT WOULD BE SOME SURFACES, OR LET ME
10 REPHRASE, GLASS IS A GOOD SURFACE TO TAKE, METAL?

11 A. USUALLY.

12 Q. SMOOTH SURFACES?

13 A. USUALLY.

14 Q. HOW ABOUT PLASTIC?

15 A. IT CAN BE. SOMETIMES PLASTICS ARE DIFFICULT
16 BECAUSE THEY'LL HAVE A REAL FINE TEXTURE TO THEM,
17 AND YOU DON'T REALLY PICK UP ON IT AT FIRST, - - -

18 Q. RIGHT.

19 A. --- BUT WHEN YOU ACTUALLY PUT THE DUST ON IT,
20 THAT'S JUST ONE SCENARIO WHERE THEY SOMETIMES ARE
21 NOT THE BEST IN THE WORLD.

22 Q. HAVE YOU EVER BEEN ABLE TO DO THAT, TO ACCOMPLISH
23 THAT, GET PRINTS OFF OF PLASTIC?

24 A. I HAVE, I HAVE GOTTEN PRINTS OFF OF PLASTIC, YES,
25 SIR.

CROSS - GERALD D. CARTER, SR., BY MR. CULLER

264

- 1 Q. I SHOW YOU WHAT'S BEEN MARKED AS DEFENSE FOUR,
2 FIVE AND SIX, AND AGAIN, THOSE WERE TAKEN BY YOU
3 DOCUMENTING THE PLASTIC BAGS THE TWELVE GALLON
4 SIZED PLASTIC BAGS FOUND WITH WHAT WE ASSUME TO BE
5 MARIJUANA RESIDUE IN THE APARTMENT?
- 6 A. YES, SIR.
- 7 Q. OKAY. WAS THAT EVER TESTED?
- 8 A. FOR FINGERPRINTS?
- 9 Q. NO, NO, NO, FOR RESIDUE?
- 10 A. NOT TO MY KNOWLEDGE.
- 11 Q. WELL, - - -
- 12 A. I MEAN, I DIDN'T SUBMIT IT FOR TESTING MYSELF AND
13 I DON'T KNOW THAT ANYBODY ELSE DID.
- 14 Q. OKAY. WHY WOULDN'T THAT BE DONE?
- 15 A. IT'S SOMETHING TO BE THOROUGH WE PROBABLY SHOULD
16 HAVE DONE. IT WAS SOMETHING AT THE TIME THAT
17 WASN'T DIRECTLY CONNECTED TO THE SHOOTING, PER SE.
18 NOW, IF WE WOULD HAVE FOUND QUANTITY, - - -
- 19 Q. SURE.
- 20 A. --- OKAY, WELL, THAT'S DEFINITELY MOTIVE, BUT - -
21 -
- 22 Q. RIGHT.
- 23 A. --- BUT TO ANSWER YOUR QUESTION, IT WASN'T DONE,
24 MAYBE IT SHOULD HAVE BEEN.
- 25 Q. I UNDERSTAND. BUT OF COURSE, THE INFERENCE THAT

1 COULD BE DRAWN, AND I THINK THIS IS FAIR, YOU TELL
2 ME, IF THEY'RE GALLON SIZED BAGS WITH RESIDUE THAT
3 IMPLIES THERE WAS A LARGER QUANTITY AT SOME POINT
4 POSSIBLY - - -

5 A. RIGHT.

6 Q. --- OR PROBABLY IN THOSE BAGS?

7 A. RIGHT. IT COULD BE IMPLIED, IT COULDN'T BE
8 PROVEN, BUT IT COULD BE IMPLIED.

9 Q. AND YOU'VE GONE INTO CRIME SCENES BEFORE, I WOULD
10 ASSUME, WHERE YOU SEE EVIDENCE OF CRIMES OTHER
11 THAN WHAT YOU'RE INVESTIGATING?

12 A. YES.

13 Q. IN OTHER WORDS, IF YOU'RE THERE FOR A HOMICIDE BUT
14 YOU SEE OTHER EVIDENCE, YOU DOCUMENT IT, YOU DON'T
15 SAY, WELL, THAT'S NOT INVOLVING THIS, YOU DOCUMENT
16 EVERYTHING?

17 A. RIGHT.

18 Q. AND - - -

19 A. AND AGAIN, IF THIS WOULD HAVE BEEN QUANTITY - - -

20 Q. SURE.

21 A. --- THE RESIDUE HERE, YOU WOULD HAVE BEEN IN A
22 BEST CASE SCENARIO FOR LAW ENFORCEMENT WOULD HAVE
23 BEEN SIMPLE POSSESSION, - - -

24 Q. CERTAINLY, I UNDERSTAND.

25 A. --- A MISDEMEANOR, AND SINCE WE WERE INVESTIGATING

CROSS - GERALD D. CARTER, SR., BY MR. CULLER

266

1 A SERIOUS FELONY, AGAIN, WE PROBABLY SHOULD HAVE
2 TESTED IT BUT WE DIDN'T.

3 Q. THAT'S FAIR ENOUGH. LET ME ASK YOU THIS, A COUPLE
4 MORE PHOTOGRAPHS THAT YOU TOOK - - -

5 MR. CULLER: WHERE ARE THE STATE'S
6 PHOTOGRAPHS? THANK YOU.

7 Q. LET ME SHOW YOU WHAT'S BEEN PREVIOUSLY MARKED AS
8 STATE'S TWO. AND THAT, I BELIEVE YOU TOOK EARLIER
9 AS WELL.

10 MR. CULLER: MAY I APPROACH THE
11 WITNESS, YOUR HONOR?

12 THE COURT: YES, SIR.

13 Q. THERE'S A -- INVESTIGATOR, THERE'S A NEWSPAPER
14 RIGHT HERE, - - -

15 A. UH HUH.

16 Q. --- AND IF YOU TURN THAT PICTURE, NUMBER TWO,
17 UPSIDE DOWN, YOU CAN MAKE OUT WHAT IT IS, AND IT
18 LOOKS LIKE IT'S A COPY OF THE WALL STREET JOURNAL?

19 A. THAT'S WHAT IT APPEARS TO BE, YES, SIR.

20 Q. AND IT LOOKS LIKE THERE'S A, SOMEBODY IS
21 SUBSCRIBING TO THE WALL STREET JOURNAL THERE?

22 A. THERE APPEARS TO BE A SUBSCRIPTION TAB ON THERE,
23 YES, SIR.

24 Q. THANK YOU. I WOULD ALSO SHOW YOU WHAT'S BEEN
25 MARKED AS DEFENSE ELEVEN, AND ASK IF YOU CAN MAKE

1 OUT THE TITLE TO THAT BOOK THAT WAS PHOTOGRAPHED
2 BY YOU ON THE FLOOR?

3 A. THE BINDER?

4 Q. YES, SIR.

5 A. IT APPEARS TO BE N-TWO-K TRADING ACADEMY.

6 Q. ALRIGHT.

7 A. TECHNICAL LITERACY FOR ALL, TRAINING BY THE
8 NUMBERS WORKBOOK. IT'S A VOLUME BUT I CAN'T MAKE
9 OUT THE NUMBER.

10 Q. RIGHT.

11 A. A TECHNICAL MANUAL.

12 Q. RIGHT. WOULD IT SURPRISE YOU TO LEARN THAT THAT'S
13 A TECHNICAL MANUAL FOR STOCK OPTION TRADING?

14 A. IT WOULDN'T SURPRISE ME. IT LOOKS LIKE AN
15 EDUCATIONAL TYPE MANUAL, SOME KIND OF TECHNICAL
16 MANUAL.

17 Q. AND DO YOU OFTEN, WHEN YOU GO INTO CRIME SCENES TO
18 RECONSTRUCT THOSE FIND ITEMS LIKE THAT?

19 A. NO, SIR.

20 Q. OKAY. AND WOULD IT BE FAIR TO SAY FROM YOUR
21 EXPERIENCE AS AN INVESTIGATOR THAT IF YOU FIND
22 SOMETHING LIKE THAT, THE POSSIBILITY THAT THESE
23 PEOPLE HAVE SOME MONEY AND THEY'RE TRYING TO LEARN
24 HOW TO INVEST THEIR MONEY?

25 A. THAT'S, YOU COULD MAKE THAT ASSUMPTION, YES, SIR.

CROSS - GERALD D. CARTER, SR., BY MR. CULLER

268

- 1 Q. ALRIGHT. NOW, IN ADDITION YOU DOCUMENTED WHAT'S
2 IN DEFENSE TWO AND THREE AS, IS THIS SOME
3 AMMUNITION THAT WAS FOUND IN THE HOME?
- 4 A. ACTUALLY, TWO AND THREE, THOSE ARE PHOTOGRAPHS OF
5 THE GUN BOX, IT WAS AN EMPTY - - -
- 6 Q. I BEG YOUR PARDON.
- 7 A. IT WAS AN EMPTY BOX FOR A HIGH POINT THREE EIGHTY
8 CALIBER FIREARM.
- 9 Q. OKAY. SO, THAT GUN'S NOT THERE, THAT WAS JUST A
10 BOX FOR IT?
- 11 A. JUST AN EMPTY BOX, YES, SIR.
- 12 Q. AND WHAT'S BEEN MARKED AS DEFENSE ONE, WHAT'S
13 THAT, IS THAT A BOX OF AMMUNITION?
- 14 A. THAT'S A BOX OF AMMUNITION, FORTY-FIVE CALIBER
15 CARTRIDGES OR BULLETS FOR A HAND GUN.
- 16 Q. OKAY. THANK YOU.
- 17 A. YES, SIR.
- 18 Q. BUT YOU DIDN'T FIND THE FORTY-FIVE, AND YOU DIDN'T
19 FIND A -- WHAT WAS IT A THREE EIGHTY?
- 20 A. A THREE EIGHTY, WHICH WOULD BE A LITTLE SEMI-
21 AUTOMATIC HAND GUN.
- 22 Q. OKAY. ALRIGHT, NOW AS PART OF YOUR DOCUMENTATION
23 AS WELL, IN ADDITION TO THE FOOTWEAR COMPARISONS
24 WHICH I KNOW YOU DON'T DO, AND THE FINGERPRINTS,
25 WERE YOU ABLE TO PRINT -- THERE'S, SOMEWHERE

1 THERE'S A LIGHTER I BELIEVE THAT WAS FOUND
2 OUTSIDE?

3 A. RIGHT.

4 Q. AND YOU TRIED TO PRINT THAT?

5 A. I CHECKED IT AT THE SCENE USING VERY LIGHT POWDER,
6 - - -

7 Q. YES.

8 A. --- AND THAT WAY IF THERE'S SOMETHING IT WILL
9 START TO COME OFF, - - -

10 Q. RIGHT.

11 A. ---AND IF IT DOES, THEN YOU DO FURTHER PROCESSING,
12 AND I DIDN'T FIND ANYTHING ON IT.

13 Q. OKAY. LET ME ASK YOU THIS, WITH REGARD TO
14 DETECTING DNA, HAVE YOU BEEN TRAINED IN HOW TO DO
15 THAT?

16 A. YES, SIR.

17 Q. AND WHAT DO YOU DO TO COLLECT DNA EVIDENCE?

18 A. IF YOU FIND IT, THERE'S SEVERAL DIFFERENT
19 TECHNIQUES, IT DEPENDS ON, IF IT'S ON A HARD
20 SURFACE SUCH AS THIS, THE TOP OF THIS RIGHT HERE
21 YOU WOULD USE COTTON SWABS, STERILE SWABS. IF IT'S
22 DRIED BLOOD YOU WOULD MOISTEN THEM A DROP OR TWO
23 OF STERILE WATER, AND THEN YOU'LL WIPE IT UP. THEN
24 YOU'LL ALLOW THOSE TO DRY AND IT WILL BE SENT TO
25 THE SLED LAB AND A PROFILE AND/OR COMPARISON CAN

CROSS - GERALD D. CARTER, SR., BY MR. CULLER

270

1 BE MADE. IF IT'S ALREADY WET, OF COURSE, YOU
2 DON'T HAVE TO WET THE, AGAIN, THE Q-TIP SWABS. IF
3 IT'S ON A FABRIC, SAY, CARPET, BEDSPREADS,
4 CURTAINS, ANYTHING OF THAT MATERIAL, AGAIN,
5 THERE'S SEVERAL WAYS, YOU COULD TAKE THE ENTIRE
6 PIECE, YOU COULD PHOTOGRAPH IT AND DOCUMENT IT AND
7 THEN JUST CUT OUT THE SMALL BLOODY PIECE AND
8 THAT'S YOUR ACTUAL EVIDENCE, WHAT WE CALL A
9 CUTTING. SO, IT JUST KIND OF DEPENDS ON WHAT IT'S
10 ON.

11 Q. SURE. I UNDERSTAND. WERE YOU, DID YOU EVER, YOU
12 DIDN'T VISIBLY OBSERVE ANY BLOOD IN THIS APARTMENT

13 - - -

14 A. I DID NOT.

15 Q. --- FROM THIS THREE FIFTY-SEVEN WOUND? HOW ABOUT
16 THE CAR THAT MR. MACK WAS TRANSPORTED IN TO THE
17 HOSPITAL?

18 MR. CULLER: SHOULD I WAIT, YOUR
19 HONOR?

20 THE COURT: GO AHEAD.

21 Q. HOW ABOUT THE CAR THAT MR. MACK WAS TRANSPORTED TO
22 THE HOSPITAL IN, DID YOU EVER HAVE AN OPPORTUNITY
23 TO EXAMINE THAT?

24 A. HONESTLY, I DON'T THINK I EVER LOOKED IN THAT CAR.

25 Q. OKAY.

1 A. I DON'T REMEM -- I DON'T RECALL LOOKING INTO THE
2 CAR.

3 Q. OKAY. SO, THERE'S NO DNA SWABBING OF, AND I GUESS
4 YOU WOULD SWAB A CAR SEAT?

5 A. YOU COULD, OR TAKE A CUTTING OUT OF THE SEAT, IT
6 JUST DEPENDS ON - - -

7 Q. WHERE WAS THE CAR, DID YOU NEVER - - -

8 A. I THINK IT WAS AT THE HOSPITAL FOR A TIME, AND I'M
9 NOT SURE WHERE IT WENT. I WAS ON THE SCENE, I
10 NEVER LEFT THE HOUSE UNTIL I WAS FINISHED, - - -

11 Q. I UNDERSTAND.

12 A. --- WHICH TOOK SEVERAL HOURS. AND I HONESTLY
13 DON'T RECALL WHERE THE CAR WAS WHEN I GOT THROUGH.

14 Q. OKAY. BUT THE CAR WAS NOT TAKEN IN FOR
15 PROCESSING?

16 A. NO, SIR.

17 Q. OR ANYTHING LIKE THAT. HAVE YOU EVER BEEN
18 INVOLVED, OR WOULD IT BE PROTOCOL TO TAKE A CAR
19 LIKE THAT IN SO THAT YOU WOULD HAVE AN OPPORTUNITY
20 TO DO A CRIME SCENE EXAMINATION?

21 A. YES, IT IS, AND WE DO IT ALL THE TIME. IN THAT
22 PARTICULAR CASE THE ONLY THING I CAN -- POSSIBLY
23 THE INVESTIGATORS, THE CRIMINAL INVESTIGATORS WERE
24 QUESTIONING WITNESSES, AND THEY WOULD TALKED WITH
25 EVERYBODY. THEY MUST HAVE BEEN SATISFIED THAT

CROSS - GERALD D. CARTER, SR., BY MR. CULLER

272

1 THIS CAR WASN'T INVOLVE OR - - -

2 Q. RIGHT.

3 A. --- IT WAS NEVER BROUGHT TO MY ATTENTION AND I
4 DON'T RECALL EVER PROCESSING THAT CAR.

5 Q. I UNDERSTAND. NOW, YOU FOUND NO SHELL CASINGS, NO
6 PROJECTILES, NOTHING IN THAT - - -

7 A. NO SHELL CASINGS, NO PROJECTILES, WHICH IS A FIRED
8 BULLET, NO IMPACTS. AN IMPACT WOULD BE WHERE THE
9 BULLET STRUCK A WALL, A CABINET - - -

10 Q. SURE.

11 A. --- ANY SURFACE INSIDE THE RESIDENCE, I DIDN'T
12 FIND ANYTHING LIKE THAT.

13 Q. HAVE YOU EVER HAD OCCASION WHERE YOU'VE SWABBED A
14 SEAT WHERE BLOOD IS NOT VISIBLE, CAN YOU DETECT IT
15 IF IT'S BEEN WIPE OFF?

16 A. NORMALLY YOU CAN. IT'S HARD TO COMPLETELY CLEAN
17 DNA. IT COULD BE BLOOD OR ANY OTHER TYPE OF BODY
18 FLUID. IF IT'S THERE IN ANY KIND OF SUFFICIENT
19 QUANTITY IT'S REALLY HARD TO CLEAN IT ALL UP.

20 Q. RIGHT. BUT YOU NEVER HAD AN OPPORTUNITY TO MAKE
21 AN EXAMINATION OF THAT CAR?

22 A. NOT THAT CAR, NO, SIR.

23 Q. ALRIGHT. DO YOU HAVE A COPY OF YOUR REPORT?

24 A. YES, SIR, I DO.

25 Q. I THINK IN YOUR REPORT, AND I'M ALMOST FINISHED,

1 INVESTIGATOR, YOU WENT IN WITH THE SEARCH WARRANT
2 AT FIVE:FORTY-ONE, DID A VISUAL INVESTIGATION, AND
3 SAID THAT ALTHOUGH THERE WAS A ROBBERY IT LOOKED
4 LIKE NOBODY HAD GONE IN ANY DRAWERS OR ANYTHING
5 LIKE THAT?

6 A. IN THE BEDROOM AND THE BATHROOM THE, DURING MY
7 VISUAL EXAMINATION OF THE APARTMENT AS A WHOLE - -
8 -

9 Q. RIGHT.

10 A. --- THE DEN AND THE KITCHEN THERE WERE SIGNS OF
11 SOME TYPE OF A STRUGGLE.

12 Q. OKAY.

13 A. NOT SO MUCH DRAWERS OPENED AND CABINETS OPENED,
14 BUT JUST STUFF KNOCKED OVER, AND SOMETHING
15 HAPPENED, BUT THE BEDROOM AND THE BATHROOM I
16 REALLY DIDN'T SEE THAT, NOR DID I SEE ANY DRAWERS,
17 AND IT LOOKED LIKE THEY HADN'T BEEN OPENED. IT
18 LOOKED LIKE NOBODY HAD BEEN IN THERE.

19 Q. AND IN TERMS OF THE STRUGGLE, THE TABLE BEING
20 TURNED OVER AND THERE'S CHANGE ON THE FLOOR, IT
21 APPEARS THERE'S A LOT OF STUFF KIND OF ON THE
22 FLOOR. YOU GO INTO THE BEDROOM, THERE ARE CLOTHES
23 EVERYWHERE, IT'S NOT EXACTLY, AS YOU SAID EARLIER,
24 YOU DON'T WANT TO JUDGE HOW PEOPLE LIVE - - -

25 A. RIGHT.

1 Q. --- BUT IT'S NOT A VERY ORDERLY - - -

2 A. NO, IT WASN'T, YOU KNOW, THE MOST PRISTINE HOUSE
3 AS FAR AS HOUSE KEEPING.

4 Q. SURE. SO, HOW DO YOU DISTINGUISH, IF POSSIBLE,
5 BETWEEN WHAT'S JUST THERE AS THESE COLLEGE AGE
6 PEOPLE WERE LIVING, VERSUS A STRUGGLE?

7 A. RIGHT. WHAT'S COMMON, WHAT'S REASONABLE. THE
8 BEDROOM WAS A LITTLE BIT MESSY, - - -

9 Q. SURE.

10 A. --- THERE'S SHOES ON THE FLOOR, IT'S NOT UNCOMMON.
11 THE BED'S UNDONE, HE DIDN'T MAKE HIS BED, BUT THE
12 MATTRESS WASN'T, LIKE, FLIPPED UP, AND THERE WAS
13 THINGS ALL OVER THE DRESSER BASICALLY IN THEIR
14 PLACE, THEY WERE PUT UP, WHEREAS IN THE DEN AND IN
15 THE KITCHEN THESE ARE ITEMS THAT WERE, JUST AS IF
16 YOU KNOCKED THEM OFF A TABLE, AND EVERYTHING WAS
17 STREWN ALL OVER THE FLOOR. SO IT WAS NOT COMMON
18 OR AS REASONABLE TO THINK THEY LIVE THAT WAY WITH
19 THE TABLES TURNED UPSIDE DOWN AND THE LEG BROKEN
20 ON THE KITCHEN TABLE, THAT KIND OF STUFF.

21 Q. OKAY. AND WITH REGARD TO ROBBERIES HAVE YOU
22 INVESTIGATED OR DONE CRIME SCENES WHERE PEOPLE
23 HAVE RANSACKED LOOKING FOR VALUABLES?

24 A. YES, SOMETIMES, YES.

25 Q. AND IS IT YOUR EXPERIENCE AS AN INVESTIGATOR THAT

1 IF PEOPLE ARE FAMILIAR WITH A PLACE THEY KNOW
2 WHERE THE THINGS ARE THEN THEY DON'T RANSACK AS
3 FREQUENTLY AS IF IT'S JUST A RANDOM ACT, IS THAT
4 FAIR?

5 A. YES, I'VE WORKED CASES LIKE THAT WHERE PEOPLE ARE
6 FAMILIAR WITH THE INTERIOR OF THE LOCATION AND
7 THEY GO STRAIGHT THERE, GET WHAT THEY WANT AND
8 LEAVE.

9 MR. CULLER: JUST A MOMENT, YOUR
10 HONOR, PLEASE.

11 Q. IF YOU KNOW, INVESTIGATOR, YOU SECURED THE HOUSE,
12 YOU WERE THERE, AND IT WAS SECURED I SHOULD SAY,
13 YOU CONDUCTED A SEARCH WARRANT AT FIVE:FORTY-ONE,
14 IS THAT RIGHT?

15 A. YES, SIR.

16 Q. DO YOU KNOW WHEN IT WAS SECURED?

17 A. AFTERWARDS?

18 Q. NO, PRIOR.

19 A. PRIOR?

20 Q. UH HUH. THE INCIDENT WAS ALLEGEDLY AT
21 TWELVE:THIRTY.

22 A. RIGHT. I CANNOT, I DON'T -- WHEN I GOT THERE THE
23 ONE DEPUTY WAS THERE, AND THAT'S - - -

24 Q. RIGHT.

25 A. --- I REALLY DON'T KNOW WHAT TIME THEY GOT THROUGH

CROSS - GERALD D. CARTER, SR., BY MR. CULLER

276

1 WITH -- IF THEY CONDUCTED THE SECURITY SWEEP I
2 DESCRIBED EARLIER, AND THEN ONCE THEY CLEARED
3 AFTER THAT - - -

4 Q. I UNDERSTAND.

5 A. --- I REALLY CAN'T GIVE YOU A TIME ON THAT.

6 Q. ALL OF WHICH WOULD HAVE BEEN DEPENDENT ON WHAT
7 TIME THEY WERE CONTACTED, BY WHICH I MEAN LAW
8 ENFORCEMENT WAS CONTACTED?

9 A. YES, CORRECT.

10 MR. CULLER: I DON'T THINK I HAVE
11 ANYTHING ELSE. THANK YOU.

12 THE COURT: REDIRECT?

13 SOLICITOR SORENSON: NO, SIR.

14 THE COURT: THANK YOU, SIR, YOU MAY
15 STEP DOWN.

16 YOU MAY CALL YOUR NEXT WITNESS.

17 SOLICITOR SORENSON: THE STATE CALLS
18 DR. ROSS.

19 THE COURT: DR. ROSS, PLEASE.

20 SOLICITOR SORENSON: CAN LIEUTENANT
21 CARTER BE EXCUSED?

22 THE COURT: SURE.

23 (Whereupon the witness
24 enters the courtroom.)

25 THE COURT: GOOD AFTERNOON. COME ON

CROSS - GERALD D. CARTER, SR., BY MR. CULLER

277

1 DOWN, DR. ROSS. IF YOU'LL COME RIGHT AROUND THERE AND
2 PUT YOUR LEFT HAND ON THE BIBLE AND RAISE YOUR RIGHT,
3 PLEASE.

4 (Whereupon, Dr. Janice Edwards Ross
5 is duly sworn.)

6 THE COURT: THANK YOU, MA'AM.

7 ALRIGHT, COUNSELOR.

8 COURT REPORTER: STATE YOUR FULL
9 NAME, PLEASE.

10 WITNESS: JANICE EDWARDS ROSS.

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

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

278

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 IT IS THAT
YOU'RE EMPLOYED?

A. IN NEWBERRY, SOUTH CAROLINA, AT NEWBERRY PATHOLOGY
ASSOCIATES.

Q. AND WHAT DO YOU DO THERE?

A. WE DO, WE'RE FORENSIC PATHOLOGISTS AND WE DO
AUTOPSIES FOR VARIOUS CORONERS OF THE STATE.

Q. IF YOU WOULD, DR. ROSS, PLEASE TELL THE JURY A
LITTLE BIT ABOUT, FIRST OF ALL, YOUR EDUCATIONAL
BACKGROUND AND ALSO YOUR WORK HISTORY.

A. YES.

MR. CULLER: YOUR HONOR, I DON'T
MEAN TO INTERRUPT, WE'D STIPULATE TO HER QUALIFICATIONS,
SHE CAN CERTAINLY LAY THAT OUT, BUT WE WOULD STIPULATE
SHE'S AN EXPERT.

THE COURT: ALRIGHT. GO AHEAD, MR.
SORENSON.

SOLICITOR SORENSON: THANK YOU.

Q. IF YOU COULD JUST BRIEFLY, I MEAN, NOT IN A LOT OF
DETAIL, BUT JUST A LITTLE DETAIL OF YOUR
EDUCATIONAL BACKGROUND.

- 1 A. YES, I HAVE A DEGREE FROM THE UNIVERSITY OF SOUTH
2 CAROLINA IN BIOLOGY, AND THEN I HAVE MEDICAL MD
3 FROM UPSTATE MEDICAL CENTER IN SYRACUSE, NEW YORK,
4 AND I'VE BEEN TRAINED IN AREAS OF PATHOLOGY
5 INCLUDING HOSPITAL PATHOLOGY AND FORENSIC
6 PATHOLOGY, AT WHICH TIME WE LEARN HOW TO DO AN
7 AUTOPSY, HOW TO INTERPRET PATTERS OF INJURY AND
8 IDENTIFY CAUSES OF DEATH AND MANNERS OF DEATH,
9 WHETHER THEY'RE ACCIDENT, NATURAL, HOMICIDE OR
10 SUICIDE.
- 11 Q. ALRIGHT. AND HOW LONG HAVE YOU BEEN EMPLOYED AT
12 NEWBERRY PATHOLOGY ASSOCIATES?
- 13 A. SINCE MAY OF TWO THOUSAND, NINE YEARS.
- 14 Q. OKAY. AND OVER THOSE NINE YEARS ABOUT HOW MANY
15 AUTOPSIES DO YOU THINK YOU'VE BEEN A PART OF?
- 16 A. OVER THOSE NINE YEARS, AT LEAST TWO THOUSAND.
- 17 Q. OKAY. AND HAVE YOU HAD AN OPPORTUNITY THEN TO
18 COME AND TESTIFY BEFORE IN A COURT SUCH AS THIS
19 ABOUT YOUR FINDINGS?
- 20 A. YES.
- 21 Q. AND YOU'VE BEEN QUALIFIED AS AN EXPERT ON THOSE
22 OCCASIONS?
- 23 A. YES.
- 24 Q. HOW MANY TIMES DO YOU THINK YOU'VE TESTIFIED HERE
25 IN SOUTH CAROLINA?

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

280

1 A. IN SOUTH CAROLINA OVER SIXTY TIMES.

2 SOLICITOR SORENSON: YOUR HONOR, AT
3 THIS TIME WE'D OFFER HAS AS AN EXPERT IN THE FIELD OF
4 FORENSIC PATHOLOGY.

5 THE COURT: ALRIGHT, WITHOUT
6 OBJECTION I FIND THAT SHE'S QUALIFIED AS AN EXPERT IN
7 THE FIELD OF FORENSIC PATHOLOGY.

8 LADIES AND GENTLEMEN, ORDINARILY A
9 WITNESS CANNOT GIVE YOU AN OPINION, ORDINARILY A WITNESS
10 CAN ONLY TELL YOU WHAT THEY KNOW OF THEIR OWN FIRST HAND
11 KNOWLEDGE AND EXPERIENCE. BUT SOME WITNESSES BECAUSE OF
12 THEIR TRAINING, THEIR BACKGROUND, THEIR EXPERIENCE,
13 THEIR EDUCATION, CAN BE QUALIFIED TO GIVE YOU AN OPINION
14 IN THEIR FIELD OF EXPERTISE. WE CALL THOSE WITNESSES
15 EXPERT WITNESSES. AND SO, THIS WITNESS WILL BE ALLOWED
16 TO GIVE YOU HER OPINION, AND IF ASKED, THE REASON FOR
17 THOSE OPINIONS IN HER AREA OF EXPERTISE. YOU JUDGE THE
18 CREDIBILITY OR THE BELIEVABILITY OF ALL WITNESSES WHO
19 TESTIFY IN THE TRIAL, INCLUDING EXPERT WITNESSES.

20 ALRIGHT, SIR.

21 SOLICITOR SORENSON: THANK YOU, YOUR
22 HONOR.

23 Q. ALRIGHT, DR. ROSS, YOU HAD KIND OF TOUCHED ON THIS
24 JUST BRIEFLY, BUT IF YOU WOULD, JUST TELL THE JURY
25 WHAT, WHEN A DECEASED PERSON IS BROUGHT TO YOU TO

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

281

1 CONDUCT AN AUTOPSY WHAT GENERALLY GOES INTO THAT?

2 A. YES, WE, FIRST OF ALL, LOOK AT THE BODY EXTERNALLY
3 AND ANY CLOTHING IF WE HAVE CLOTHING. WE LOOK FOR
4 ANY KIND OF INJURY OR EVIDENCE OF NATURAL DISEASE
5 EXTERNALLY, AND THEN WE DO A THOROUGH EXAM TO LOOK
6 AT EACH ORGAN AND IDENTIFY INJURIES AND/OR NATURAL
7 DISEASE.

8 Q. ALRIGHT. I WANT TO TURN YOUR ATTENTION, IF I
9 COULD, MA'AM, BACK TO DECEMBER TWENTY-FOURTH OF
10 TWO THOUSAND AND SIX. WAS A YOUNG MAN BY THE NAME
11 OF HARRY MACK BROUGHT TO YOU FOR THE PURPOSE OF
12 YOU CONDUCTING AN AUTOPSY?

13 A. YES.

14 Q. OKAY. AND WHO WAS THAT REQUESTED BY?

15 A. SAMUETTA MARSHALL.

16 Q. OKAY. AND SHE'S THE CORONER HERE IN ORANGEBURG
17 COUNTY?

18 A. YES.

19 Q. OKAY. AND HOW OLD WAS MR. MACK?

20 A. TWENTY-ONE.

21 Q. ALRIGHT. AND WHEN HE PRESENTED TO YOU OR WAS
22 BROUGHT TO YOU AT NEWBERRY PATHOLOGY WAS HE
23 CLOTHED WHEN HE GOT THERE?

24 A. NO, HE WAS NOT.

25 Q. OKAY. IF YOU WOULD, JUST BRIEFLY DESCRIBE KIND OF

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

282

1 YOUR GENERAL INITIAL EXTERNAL EXAMINATION OF MR.
2 MACK?

3 A. HE EVIDENTLY HAD BEEN THROUGH SURGERY, HE HAD
4 SURGERY ON HIS LEFT CHEST. HE HAD SURGERY IN THE
5 ABDOMEN AND HE HAD SOME DRAINAGE TUBES IN BOTH
6 CHEST AND ABDOMEN. HE ALSO HAD AN ENTRANCE GUN
7 SHOT WOUND IN THE LEFT CHEST.

8 Q. OKAY. AND LET ME ASK YOU, WHAT -- AS PART OF THE
9 HISTORY YOU'RE PROVIDED, WERE YOU GIVEN A TIME OF
10 DEATH FOR HIM?

11 A. YES.

12 Q. OKAY. AND WHEN WAS THAT?

13 A. DECEMBER TWENTY-FOURTH, TWO THOUSAND SIX, AT
14 THREE:FIFTY-SEVEN A.M.

15 THE COURT: COULD YOU SPEAK A LITTLE
16 LOUDER, PLEASE, MA'AM?

17 A. YES, SIR.

18 THE COURT: THANK YOU.

19 Q. OKAY. AND THE AUTOPSY THAT YOU PERFORMED ON HIM,
20 WHEN WAS THAT PERFORMED?

21 A. THAT WAS PERFORMED DECEMBER TWENTY-FOURTH, TWO
22 THOUSAND SIX, AT ELEVEN O'CLOCK A.M.

23 Q. SO, SOME SEVEN HOURS AFTER HIS DEATH, IS THAT
24 CORRECT?

25 A. YES.

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

283

- 1 Q. ALRIGHT. AND HOW LONG, WHAT SIZE WAS MR. MACK?
- 2 A. WE MEASURED HIM AS MEASURING SEVENTY INCHES TALL,
- 3 AND WE ONLY ESTIMATE THE WEIGHT, WE DON'T HAVE A
- 4 SCALES IN THE -- WE ESTIMATED ABOUT A HUNDRED AND
- 5 FORTY POUNDS.
- 6 Q. OKAY. SO, SEVENTY INCHES, THAT WOULD BE FIVE FOOT
- 7 TEN, IS THAT CORRECT?
- 8 A. YES.
- 9 Q. AND ABOUT A HUNDRED AND FORTY POUNDS. ALRIGHT,
- 10 AND YOU SAID NOW THERE WAS OBVIOUSLY EVIDENCE OF
- 11 SOME SURGICAL ATTEMPTS TO SAVE MR. MACK, IS THAT
- 12 CORRECT?
- 13 A. YES.
- 14 Q. OKAY. AND WHEN LOOKING AT HIM WHAT, WHAT INJURIES
- 15 WERE NOTED ON HIS BODY WHEN YOU DID THE OVERALL
- 16 EXTERNAL EXAMINATION?
- 17 A. JUST A GUN SHOT WOUND IN THE LEFT CHEST.
- 18 Q. OKAY. IN FACT, COULD I -- I'M GOING TO GET YOU TO
- 19 STEP DOWN IN A SECOND, BUT WERE YOU ABLE TO
- 20 FURTHER EXPLORE THAT GUN SHOT WOUND IN DETERMINING
- 21 KIND OF WHAT COURSE IT TOOK THROUGH MR. MACK'S
- 22 BODY?
- 23 A. YES.
- 24 Q. OKAY. AND IF YOU'D TELL THE JURY ABOUT THAT?
- 25 A. IT WENT FROM THE LEFT CHEST, FROM LEFT TO RIGHT,

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

284

1 SLIGHTLY BACKWARD AND SLIGHTLY DOWNWARD. AND
2 THROUGH ITS COURSE IT HIT THE LOWER LOBE OF THE
3 LEFT LUNG, IT WENT THROUGH THE LIVER, THE STOMACH,
4 THE SPLEEN WAS ABSENT, I DON'T HAVE THE MEDICAL
5 RECORDS, BUT PROBABLY THE SPLEEN WAS TAKEN OUT
6 BECAUSE THERE WAS HEMORRHAGING. AND THEN IT WENT
7 OUT THROUGH THE LOWER RIGHT CHEST, AND THE BULLET
8 WAS IN FRAGMENTS AND WAS FOUND UNDERNEATH THE SKIN
9 IN THE RIGHT SIDE TOWARDS THE BACK.

10 SOLICITOR SORENSON: OKAY. COULD I
11 HAVE HER STEP DOWN JUST BRIEFLY?

12 THE COURT: YES, SIR. YES, MA'AM.

13 Q. IF I COULD, DR. ROSS, I'M GOING TO GET YOU JUST TO
14 KIND OF SHOW ON ME WHERE, WHERE THE ENTRANCE WOUND
15 WAS THAT YOU NOTED?

16 A. IT'S KIND OF IN THE, RIGHT IN THE LATERAL SIDE,
17 THE SIDE OF THE CHEST. IF YOU TAKE THE AXILLA, THE
18 ARM PIT AND JUST RIGHT IN THE MIDDLE OF THE ARM
19 PIT AND GO STRAIGHT DOWN, IT WAS RIGHT, WHAT WE
20 CALL THE MID-AXILLARY LINE. SO, IT WENT IN THERE,
21 I THINK THROUGH RIB NUMBER NINE, AND THEN IT WENT
22 THROUGH, LEFT TO RIGHT, SLIGHTLY DOWNWARD AND
23 TOWARDS THE BACK, AND THE BULLET WAS FOUND BENEATH
24 THE SKIN OVER HERE.

25 Q. OKAY. AND LET ME SHOW YOU WHILE I'VE GOT YOU DOWN

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

285

1 HERE, STATE'S EXHIBIT NUMBER TWENTY. DO YOU
2 RECOGNIZE THAT ITEM?

3 A. YES.

4 Q. OKAY. AND WHAT IS CONTAINED IN STATE'S EXHIBIT
5 NUMBER TWENTY?

6 A. THOSE ARE THE BULLET FRAGMENTS TAKEN OUT DURING
7 THE AUTOPSY OF MR. MACK.

8 Q. OKAY. SO, IT'S THE BULLET, WHEN YOU RECOVERED IT
9 FROM JUST UNDER HIS SKIN ON HIS RIGHT SIDE HERE,
10 WAS IT IN ONE PIECE AT THAT POINT IN TIME?

11 A. NO, IT WAS NOT.

12 Q. OKAY. DESCRIBE TO THE JURY WHAT CONDITION IT WAS
13 IN?

14 A. IT WAS FRAGMENTED, THE JACKET HAD COME OFF AND THE
15 METAL BULLET ITSELF WAS IN A FEW FRAGMENTS.

16 Q. AND YOU CAN SEE, THAT'S THE JACKET THERE?

17 A. YES.

18 Q. AND BY JACKET, IS THAT WHAT KIND OF GOES AROUND
19 THE BULLET, IS THAT CORRECT?

20 A. YES.

21 Q. AND THEN THE ACTUAL BULLET YOU INDICATED WAS IN
22 WHAT CONDITION?

23 A. FRAGMENTED.

24 Q. AND THAT CAN BE SEEN, I BELIEVE, RIGHT HERE, IN
25 THAT OTHER LITTLE ENVELOPE, LITTLE PIECES IN

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

286

1 THERE?

2 A. YES.

3 Q. OKAY. NOW, IT'S IN MULTIPLE LITTLE PIECES, THEN,
4 IS THAT CORRECT?

5 A. YES.

6 Q. AND WHAT WOULD HAVE CAUSED THAT BULLET TO BREAK UP
7 INTO SO MANY PIECES?

8 A. IT HAS TO DO WITH THE SPEED AND WITH WHAT IT HIT.
9 IT WENT THROUGH RIBS.

10 Q. YOU CAN HAVE A SEAT. SO, IT HIT HIS RIB GOING
11 THROUGH BOTH THE LEFT SIDE AT THE ENTRANCE AND
12 ALSO EXITING ON THE RIGHT SIDE?

13 A. YES.

14 Q. AND YOUR TESTIMONY, DR. ROSS, WAS THAT THE BULLET,
15 THE PATH OF THE BULLET WAS SLIGHTLY FRONT TO REAR,
16 SLIGHTLY?

17 A. SLIGHTLY.

18 Q. AND THEN SLIGHTLY DOWNWARD, IS THAT CORRECT?

19 A. YES.

20 Q. IS THERE ANY WAY YOU CAN TELL, I MEAN, DOES THAT
21 MEAN THAT THE PERSON THAT SHOT HIM WAS SHOOTING
22 DOWN, IS THERE ANY WAY TO TELL, I MEAN, THE ANGLE
23 OF THE SHOT FROM THE PATH OF THE BULLET?

24 A. IT'S HARD TO TELL. THE BULLET GOES STRAIGHT. THE
25 VICTIM MAY HAVE BEEN LEANING ONE WAY OR THE OTHER,

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

287

1 SO IT'S HARD TO SAY WHERE ANYBODY WAS STANDING
2 OTHER THAN THE GUN WAS TO THE VICTIM'S LEFT.

3 Q. SO, OBVIOUSLY, LET'S SAY, TAKING ME, I MEAN, IF
4 YOU TILTED ME LIKE THIS, I MEAN, THAT PROJECTILE
5 FROM WHERE IT ENTERED TO WHERE IT EXITED, EVEN
6 THOUGH IT'S DOWNWARD IN MY BODY, IT STILL ACTUALLY
7 COULD HAVE BEEN GOING UPWARD, IS THAT CORRECT?

8 A. YES.

9 Q. IT JUST DEPENDS ON HOW YOU POSITION THE VICTIM IN
10 RELATION TO THE LOCATION OF THE WEAPON, IS THAT
11 CORRECT?

12 A. YES.

13 Q. NOW, THAT WOUND, WAS THERE A LOT OF BLOOD FROM
14 THAT INJURY?

15 A. YES.

16 Q. OKAY. AND WHERE WAS THAT BLOOD LOCATED AT?

17 A. WE HAD SIX HUNDRED CC'S IN THE RIGHT CHEST AND
18 FIVE HUNDRED AND FIFTY CC'S IN THE LEFT CHEST, AND
19 THREE HUNDRED AND FIFTY CC'S IN THE ABDOMEN. THE
20 CHEST TUBES HAD BEEN PLACED IN THERE DURING
21 SURGERY, AND HOW MUCH THEY DRAINED OUT I DON'T
22 KNOW.

23 Q. OKAY. AND THAT WOULD HAVE, ALL THAT BLOOD THAT
24 WAS FOUND INSIDE OF MR. MACK'S BODY IS ALL FROM
25 THE, YOU KNOW, PERFORATION FROM THE LUNG,

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

288

- 1 DIAPHRAGM, LIVER, STOMACH AND ALL OF THAT?
- 2 A. YES.
- 3 Q. OKAY. LET ME ASK YOU, WOULD THERE HAVE BEEN A
- 4 WHOLE LOT OF, WITH THIS WOUND A WHOLE LOT OF
- 5 EXTERNAL BLEEDING INITIALLY?
- 6 A. NO.
- 7 Q. NOW, AS PART OF THE AUTOPSY, DR. ROSS, DO YOU
- 8 COLLECT SAMPLES, SPECIFICALLY A BLOOD SAMPLE AND A
- 9 URINE SAMPLE FOR THE PURPOSE OF BEING SENT OUT FOR
- 10 A TOXICOLOGICAL ANALYSIS OUT AT SLED?
- 11 A. YES.
- 12 Q. OKAY. AND WAS THAT DONE IN THIS CASE?
- 13 A. YES.
- 14 Q. AND HAVE YOU GOTTEN THE RESULTS BACK FROM THAT
- 15 TOXICOLOGY?
- 16 A. YES.
- 17 Q. AND SPECIFICALLY LOOKING AT THE BLOOD DO YOU HAVE
- 18 A REPORT BACK AS TO WHAT, IF ANY, SUBSTANCES WERE
- 19 FOUND IN MR. MACK'S BLOOD?
- 20 A. YES.
- 21 Q. AND WHAT WERE THOSE RESULTS?
- 22 A. THE ONLY THING THAT WAS PRESENT WAS, IT'S
- 23 MARIJUANA THC
- 24 Q. OKAY. AND THEY TESTED FOR ALCOHOL?
- 25 A. YES.

1 Q. AND IT WAS NEGATIVE?

2 A. YES.

3 Q. AND WHAT ABOUT ANY OTHER CONTROLLED SUBSTANCES?

4 A. THEY TEST FOR OPIATES WHICH ARE PAIN KILLERS AND
5 COCAINE AND OTHER DRUGS, AND EVERYTHING WAS
6 NEGATIVE.

7 Q. OKAY. SO, THE ONLY THING FOUND AS FAR AS
8 SUBSTANCE WOULD BE MARIJUANA?

9 A. YES.

10 Q. WOULD THAT BE CONSISTENT WITH SOMEBODY HAVING
11 SMOKED MARIJUANA A SHORT TIME PRIOR TO HIS DEATH?

12 A. YES. MARIJUANA STAYS AROUND A WHILE, SO EXACTLY
13 HOW LONG I CAN'T SAY.

14 Q. OKAY. IT COULD HAVE BEEN FROM FOUR HOURS EARLIER,
15 POTENTIALLY?

16 A. YES.

17 Q. ALRIGHT. AND DR. ROSS, AS YOU INDICATED EARLIER,
18 AS PART OF YOUR ROLE AS A FORENSIC PATHOLOGIST, IS
19 IT DETERMINING BOTH THE MANNER AND THE CAUSE OF
20 DEATH, IS THAT CORRECT?

21 A. YES.

22 Q. ALRIGHT. IN THIS CASE WERE YOU ABLE TO, WITHIN A
23 REASONABLE DEGREE OF MEDICAL CERTAINTY, DETERMINE
24 A MANNER AND CAUSE OF DEATH?

25 A. YES.

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

290

1 Q. OKAY. IF YOU WOULD, TELL THE JURY WHAT YOUR
2 OPINION IS IN THAT REGARD?

3 A. THE CAUSE OF DEATH IS EXANGUINATION, WHICH MEANS
4 BLEEDING OUT DUE TO THE LACERATION OF THE LIVER
5 AND LUNG, DUE TO THE GUN SHOT WOUND TO THE CHEST.

6 Q. ESSENTIALLY, HE ULTIMATELY ENDED UP BLEEDING TO
7 DEATH?

8 A. YES.

9 SOLICITOR SORENSON: THANK YOU, DR.
10 ROSS, PLEASE ANSWER ANY QUESTIONS MR. CULLER MAY HAVE.

11 THE COURT: CROSS-EXAM.

12 MR. CULLER: THANK YOU, YOUR HONOR.

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

CROSS - DR. JANICE E. ROSS BY MR. CULLER

291

CROSS-EXAMINATION OF DR JANICE E. ROSS

BY MR. CULLER:

Q. DR. ROSS, HOW MUCH BLOOD DOES A HUMAN BODY HAVE IN
TERMS OF - - -

A. IT DEPENDS ON -- I'M SORRY.

Q. GENERALLY, I'M SORRY.

A. IT DEPENDS ON YOUR SIZE. A PERSON OF THIS SIZE
MAY HAVE TEN OR ELEVEN UNITS OF BLOOD.

Q. WHAT WOULD THAT TRANSLATE TO INTO, LIKE, QUARTS OR
CC'S?

A. WELL, A UNIT OF BLOOD IS FIVE HUNDRED CC'S,
BASICALLY.

Q. ALRIGHT. SO, MAYBE FORTY-FIVE HUNDRED CC'S,
SOMETHING LIKE THAT, ROUGHLY?

A. YES.

Q. AND IN THIS CASE BY YOUR EXAM HE HAD LOST
APPROXIMATELY, I THINK, FIFTEEN HUNDRED CC'S THAT
WERE THERE, MORE POSSIBLY THAT HAD BEEN REMOVED BY
THE DRAINS AND THE DIFFERENT SURGICAL
INTERVENTION, IS THAT CORRECT?

A. YES.

Q. AND THIS WOUND THAT WENT ACROSS, IT HIT SOME
HEAVILY VASCULARIZED AREAS THAT HAD A LOT OF VEINS
AND ARTERIES, PARTICULARLY THE LIVER AND THE
SPLEEN. IS THAT CORRECT?

CROSS - DR. JANICE E. ROSS BY MR. CULLER

292

1 A. YES.

2 Q. ALRIGHT. AND LET ME ASK YOU THIS, IF HE WERE TO
3 BE SHOT WITH THIS WHAT PERIOD OF TIME WOULD AN
4 INDIVIDUAL REMAIN COHERENT AND BE ABLE TO FUNCTION
5 BEFORE SHOCK WOULD SET IN?

6 A. HE MAY HAVE BEEN ABLE TO ACTUALLY MOVE AROUND, A
7 GUESSTIMATION UP TO A MINUTE.

8 Q. AFTER THAT WHAT WOULD HAPPEN?

9 A. HE WOULD BECOME UNCONSCIOUS BECAUSE THERE'S NOT
10 ENOUGH BLOOD CIRCULATING TO CARRY YOUR OXYGEN AND
11 FOOD TO THE BRAIN, AND THE BRAIN WILL CAUSE
12 UNCONSCIOUSNESS.

13 Q. RIGHT. AND IF YOU WERE SO CONSCIOUS WOULD YOU BE
14 IN SHOCK PRIOR TO GOING UNCONSCIOUS?

15 A. YES.

16 Q. AND SO, IT WOULD BE UNLIKELY AN INDIVIDUAL WOULD
17 BE ABLE TO WALK AFTER FIVE OR SIX, SEVEN MINUTES
18 WITH THIS SORT OF WOUND?

19 A. CORRECT.

20 Q. OKAY. AND WE'RE NOT SAYING THERE WAS NO BLOOD
21 EXTERNALLY BECAUSE IT'S POSSIBLE THAT WITH THE
22 VOLUME OF BLOOD LOSS IT WOULD FILL THE CAVITY, THE
23 BODY CAVITY AND THEN BEGIN EXTERNAL BLEEDING, IS
24 THAT CORRECT?

25 A. YES.

CROSS - DR. JANICE E. ROSS BY MR. CULLER

293

1 Q. OKAY. SO, IF HIS SHIRT AND OTHER CLOTHING WERE
2 SOAKED WITH BLOOD THAT WOULDN'T BE SURPRISING
3 EITHER?

4 A. NO, IT WOULD NOT.

5 Q. OKAY. ONE OTHER THING, DR. ROSS, THE TYPE OF
6 WOUND HERE, THE BULLET, ALTHOUGH IT HIT THE RIB
7 AND FRACTURED, IT'S FOUND JUST UNDER THE SKIN,
8 WOULD THAT BE, COULD YOU CHARACTERIZE THAT AS A
9 SHORED UP WOUND OR WOULD YOU?

10 A. IF THERE WERE AN EXIT WOUND - - -

11 Q. BY WHICH I MEAN - - -

12 A. THE WORD, SHORED WOUND REFERS TO AN EXIT WOUND
13 THROUGH THE SKIN WHERE THERE'S ABRASION, SO IT CAN
14 LOOK LIKE AN ENTRANCE WOUND.

15 Q. I BEG YOUR PARDON.

16 A. BUT IT OBVIOUSLY SLOWED DOWN ENOUGH SO IT COULD
17 NOT PENETRATE THE SKIN GOING OUTWARD.

18 Q. WOULD THAT ALSO POSSIBLY BE THE RESULT OF A BODY
19 BEING, FOR EXAMPLE, ON THE GROUND OR UP AGAINST
20 SOMETHING WHERE THE BULLET WOULD HAVE EXITED?

21 A. IT COULD, THAT COULD HELP.

22 MR. CULLER: OKAY. ALRIGHT, THANK
23 YOU, I DON'T THINK THAT I HAVE ANYTHING FURTHER, THANK
24 YOU, DR. ROSS.

25 THE COURT: REDIRECT?

1 SOLICITOR SORENSON: NO, SIR.

2 THE COURT: THANK YOU, MA'AM, THANK
3 YOU, DR. ROSS, FOR COMING AND YOU MAY BE EXCUSED.

4 WITNESS: THANK YOU.

5 THE COURT: NEXT WITNESS.

6 SOLICITOR SORENSON: I CALL JOHN
7 RANDOLPH.

8 THE COURT: MR. RANDOLPH, PLEASE.

9 (Whereupon, the witness
10 enters the courtroom.)

11 THE COURT: COME ON DOWN, MR.
12 RANDOLPH, AND IF YOU WOULD COME AROUND AND PUT YOUR LEFT
13 HAND ON THE BIBLE AND RAISE YOUR RIGHT, PLEASE.

14 (Whereupon, John Randolph
15 is duly sworn.)

16 THE COURT: THANK YOU, SIR, HAVE A
17 SEAT THERE AND STATE YOUR FULL NAME FOR US AND SPEAK
18 LOUD ENOUGH FOR EVERYBODY TO HEAR YOU.

19 WITNESS: JOHN RANDOLPH.

20 THE COURT: THANK YOU.

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.)

DIRECT - JOHN RANDOLPH BY SOL. SORENSON

295

DIRECT EXAMINATION OF JOHN RANDOLPH

BY SOLICITOR SORENSON:

Q. MR. RANDOLPH, IF YOU WOULD, PLEASE TELL THE JURY
HOW OLD YOU ARE?

A. TWENTY-SIX.

Q. AND WHERE DO YOU CURRENTLY LIVE?

A. [REDACTED] YELLOW JASMINE ROAD.

Q. THAT'S HERE IN ORANGEBURG?

A. ORANGEBURG.

Q. AND ARE YOU FROM ORANGEBURG?

A. I'M ORIGINALLY FROM HOLLY HILL.

Q. FROM HOLLY HILL. ALRIGHT, AND THE VICTIM IN THIS
CASE, HARRY MACK, HOW DID YOU KNOW HARRY?

A. HARRY WAS MY FIRST COUSIN.

Q. FIRST COUSIN. HIS, HOW ARE YOU COUSINS?

A. HIS FATHER AND MY MOTHER ARE BROTHER AND SISTER.

Q. OKAY. LET ME ASK YOU ABOUT A COUPLE OF OTHER
PEOPLE WHILE I'M HERE. WILL T. GILLIARD, IS HE
ALSO A COUSIN OF YOURS?

A. FIRST COUSIN.

Q. OKAY. AND HOW ABOUT, ARE YOU RELATED TO LAWRENCE
KELLY?

A. NO, WE'RE NOT RELATED.

Q. OKAY. ACQUAINTANCES WITH MR. KELLY?

A. YEAH, WE'RE JUST FRIENDS.

DIRECT - JOHN RANDOLPH BY SOL. SORENSON

296

1 Q. ALRIGHT. NOW, I WANT TO TURN YOU BACK, MR.
2 RANDOLPH, BACK TO DECEMBER OF TWO THOUSAND AND
3 SIX, WHERE WERE YOU LIVING AT THAT TIME?

4 A. [REDACTED] SHADOW LAWN DRIVE.

5 Q. ALRIGHT. AND THAT'S HERE IN ORANGEBURG COUNTY?

6 A. HERE IN ORANGEBURG.

7 Q. ALRIGHT. AND I'M SHOWING YOU STATE'S EXHIBIT
8 NUMBER FIFTEEN, IS THAT A PICTURE OF THE OUTSIDE
9 OF THAT APARTMENT?

10 A. YES, SIR.

11 Q. OKAY. AND WHO ELSE WAS LIVING IN THAT APARTMENT
12 WITH YOU BACK IN DECEMBER OF TWO THOUSAND SIX?

13 A. HARRY MACK.

14 Q. HARRY WAS? AND DESCRIBE IF YOU WOULD FOR THE JURY
15 THE LAYOUT OF THAT APARTMENT?

16 A. IT WAS A ONE BEDROOM APARTMENT, YOU WALK THROUGH
17 THE DOOR TO THE LIVING AREA. RIGHT BEHIND THERE IS
18 THE KITCHEN AND THROUGH THE DOOR TO THE LEFT IS A
19 BEDROOM AND BATHROOM.

20 Q. OKAY. AND WHERE WERE Y'ALL EACH STAYING THERE IN
21 THE APARTMENT?

22 A. WHERE WE SLEEP?

23 Q. UH HUH.

24 A. I SLEPT IN THE ROOM AND HARRY SLEPT ON THE CHAIR,
25 OR THE COUCH IN THE LIVING ROOM.

DIRECT - JOHN RANDOLPH BY SOL. SORENSON

297

1 Q. OKAY. ALRIGHT. AND SPECIFICALLY I WANT TO TURN
2 YOU, MR. RANDOLPH, TO THE EVENING OF -- ACTUALLY,
3 LET ME STOP FOR A SECOND HERE, AND LET ME COVER
4 THIS. YOU CURRENTLY, MR. RANDOLPH, HAVE SOME
5 PENDING CHARGES IN OUR OFFICE, IS THAT CORRECT?

6 A. YES, SIR.

7 Q. YOU HAVE A LAWYER ON THOSE CHARGES, IS THAT RIGHT?

8 A. YES, SIR.

9 Q. I DON'T KNOW THE EXACT AMOUNT, BUT NEEDLESS TO
10 SAY, IT'S ABOUT EIGHT DRUG CHARGES AND A COUPLE OF
11 WEAPON CHARGES, IS THAT CORRECT?

12 A. YES, SIR.

13 Q. AND I BELIEVE YOU WERE ARRESTED ON THOSE EARLIER
14 THIS YEAR IN FEBRUARY?

15 A. YES, SIR.

16 Q. AND WE HAVEN'T TALKED ABOUT THOSE CHARGES AT ALL,
17 HAVE WE?

18 A. NO, SIR.

19 Q. OKAY. ALRIGHT. I WANT TO TURN YOUR ATTENTION IF
20 I COULD NOW BACK TO DECEMBER, THE EVENING OF
21 DECEMBER TWENTY-THIRD, TWO THOUSAND AND SIX. WHAT
22 WERE YOU DOING THAT EVENING?

23 A. WE WERE GETTING READY TO GO OUT.

24 Q. OKAY. SO, YOU WERE HOME AT YOUR APARTMENT?

25 A. YES, SIR.

DIRECT - JOHN RANDOLPH BY SOL. SORENSON

298

1 Q. AND WHO INITIALLY WAS WITH YOU EARLIER IN THE
2 EVENING AT THE APARTMENT?

3 A. JUST ME AND HARRY.

4 Q. OKAY. AND WHO -- TELL THE JURY, WHO CAME BY THEN
5 LATER ON THAT EVENING?

6 A. WILL AND LAWRENCE CAME BY LATER ON, RIGHT BEFORE
7 WE WERE LEAVING TO GO OUT.

8 Q. OKAY. AND WHY DID THEY STOP BY?

9 A. WELL, THEY JUST CAME UP HERE TO GO OUT THEMSELVES,
10 SO THEY JUST STOPPED BY TO SEE WHAT WE WERE DOING.

11 Q. OKAY. SO, YOU, WERE YOU EXPECTING THEM WHEN THEY
12 SHOWED UP?

13 A. I DIDN'T KNOW THEY WERE COMING.

14 Q. OKAY. ALRIGHT, AND THEN, SO Y'ALL ALL DECIDED YOU
15 WERE GOING TO GO OUT TOGETHER?

16 A. YES, SIR.

17 Q. OKAY. TELL THE JURY, THEN, WHAT WERE, WERE YOU
18 AND HARRY READY TO GO OUT OR WERE Y'ALL IN THE
19 PROCESS OF GETTING READY OR WHAT?

20 A. WE WEREN'T READY WHEN LAWRENCE AND WILL GOT THERE.
21 WHEN THEY GOT THERE THAT'S WHEN WE STARTED GETTING
22 READY.

23 Q. OKAY. SO, IN THE MEANTIME WHAT WERE, IT WAS THE
24 FOUR OF Y'ALL NOW IN THAT APARTMENT?

25 A. YES, SIR.

DIRECT - JOHN RANDOLPH BY SOL. SORENSON

299

- 1 Q. WHAT WERE Y'ALL DOING AS, YOU KNOW, YOU AND HARRY
2 WERE STARTING TO GET READY FOR Y'ALL TO GO OUT,
3 WHAT WERE Y'ALL DOING?
4 A. SITTING AROUND WATCHING T.V., SMOKING.
5 Q. OKAY, YOU SAID SMOKING, WHAT WERE Y'ALL SMOKING?
6 A. MARIJUANA.
7 Q. IS THAT ALL FOUR OF YOU?
8 A. YES, SIR.
9 Q. AND TELL THE JURY, DID THERE COME A TIME WHEN
10 SOMEBODY CAME UP TO THE DOOR?
11 A. YES, SIR.
12 Q. OKAY. AND TELL THE JURY, DID THEY JUST COME IN OR
13 DID THEY KNOCK OR WHAT HAPPENED?
14 A. NO, IT WAS A KNOCK AT THE DOOR.
15 Q. OKAY. AND WHO, WHERE WERE YOU AT WHEN THAT KNOCK
16 CAME AT THE DOOR?
17 A. IN THE KITCHEN.
18 Q. OKAY. AND THAT KITCHEN NOW WOULD BE -- I SHOW YOU
19 STATE'S EXHIBIT NUMBER THREE, THAT'S THE KITCHEN
20 YOU'RE REFERRING TO?
21 A. YES, SIR.
22 Q. OKAY. AND FROM THAT KITCHEN DEPICTED IN STATE'S
23 EXHIBIT NUMBER ONE, THAT'S BASICALLY LOOKING FROM
24 THE KITCHEN TOWARDS THE FRONT DOOR, IS THAT
25 CORRECT?

DIRECT - JOHN RANDOLPH BY SOL. SORENSON

300

1 A. YES, SIR.

2 Q. IS THAT KIND OF THE VANTAGE POINT THAT YOU HAD
3 FROM WHERE YOU WERE, LOOKING TOWARDS THE FRONT
4 DOOR?

5 A. YES, SIR.

6 Q. ALRIGHT. AND WHERE, AT THAT TIME WHEN THERE WAS A
7 KNOCK ON THE DOOR WHERE WERE THE OTHER THREE
8 PEOPLE AT?

9 A. WILL AND LAWRENCE WERE SITTING ON THE COUCH IN
10 FRONT OF ME AND HARRY WAS JUST COMING OUT OF THE
11 ROOM, AND HE HAD JUST SAT ON THE OTHER COUCH NEXT
12 TO THE DOOR.

13 Q. OKAY. SO, HERE'S ONE COUCH DEPICTED IN STATE'S
14 NUMBER SIXTEEN?

15 A. THAT'S THE COUCH THAT WILL AND LAWRENCE WAS
16 SITTING ON.

17 Q. AND WILL AND LAWRENCE WERE BOTH SITTING ON THIS
18 COUCH?

19 A. YES, SIR.

20 Q. OKAY. AND THEN THERE'S ANOTHER KIND OF SMALLER,
21 LIKE MAYBE LOVE SEAT KIND OF SIZE, IS THAT RIGHT?

22 A. YES, SIR.

23 Q. THAT'S THE ONE THAT'S RIGHT KIND OF ALMOST IN
24 FRONT OF THE DOOR?

25 A. IN FRONT OF THE DOOR, YES, SIR.

DIRECT - JOHN RANDOLPH BY SOL. SORENSON

301

1 Q. AND THAT'S WHERE HARRY WAS SITTING?

2 A. SO, WHEN THERE WAS A KNOCK ON THE DOOR, DID
3 SOMEBODY COME IN OR DID SOMEBODY GO ANSWER THE
4 DOOR?

5 A. HARRY WENT AND ANSWERED THE DOOR.

6 Q. SO, HARRY ACTUALLY OPENED THE DOOR?

7 A. HE LOOKED THROUGH THE PEEPHOLE FIRST AND THEN HE
8 LOOKED BACK AND WAS, LIKE, I DON'T KNOW WHO HE IS,
9 AND THEN, I WAS, LIKE, OPEN THE DOOR.

10 Q. ALRIGHT. SO, HE OPENED THE DOOR AND WHAT DID YOU
11 OBSERVE THEN WHEN HE OPENED THE DOOR?

12 A. TERRELL JUST STANDING AT THE DOOR.

13 Q. OKAY. AND I'M GOING TO COME BACK TO THAT IN A
14 SECOND, BUT SO THERE WAS A GUY STANDING AT THE
15 DOOR?

16 A. YES, SIR.

17 Q. AND DESCRIBE HIM FOR THE JURY, THE PERSON THAT YOU
18 SAW STANDING AT THE DOOR?

19 A. A HEAVY SET GUY ABOUT MY COMPLEXION, A LOT OF HAIR
20 ON HIS FACE, WEARING A SWEATER CAP, GLOVES ON,
21 THAT'S REALLY ALL I REMEMBER.

22 Q. OKAY. NOW AT THAT POINT IN TIME WHEN YOU SAW HIM
23 STANDING, THE PERSON STANDING IN YOUR DOORWAY WAS
24 THERE ANYTHING OBSTRUCTING YOUR VIEW OF HIM?

25 A. NO, SIR.

DIRECT - JOHN RANDOLPH BY SOL. SORENSON

302

1 Q. OKAY. SO, YOU COULD SEE HIM FROM WHERE YOU WERE
2 STANDING IN THE KITCHEN?

3 A. YES, SIR.

4 Q. WERE LIGHTS ON INSIDE THE LIVING ROOM?

5 A. THE LIGHTS ON INSIDE AND OUT.

6 Q. LIGHTS, AS DEPICTED IN THIS, WAS THE LIGHT ON ON
7 THE FRONT PORCH OUTSIDE THERE?

8 A. YES, SIR.

9 Q. DID HE HAVE ANYTHING BESIDES -- YOU TESTIFIED HE
10 HAD FACIAL HAIR, I MEAN, ANYTHING COVERING HIS
11 FACE?

12 A. NO, SIR.

13 Q. OKAY. LET ME ASK YOU THIS, HAD YOU EVER AT THAT
14 POINT IN TIME WHEN YOU SAW THIS GUY DID YOU RECALL
15 EVER HAVING SEEN HIM BEFORE?

16 A. NO, SIR.

17 Q. OKAY. ALRIGHT, AND TELL THE JURY THEN WHAT
18 HAPPENED AS FAR AS WHAT CONVERSATION THEN
19 TRANSPIRED BETWEEN YOU AND ANYBODY THERE?

20 A. WELL, WHEN HARRY OPENED THE DOOR WE, EVERYBODY WAS
21 JUST SITTING THERE LOOKING, LIKE, WHO ARE YOU, YOU
22 KNOW WHAT I'M SAYING? I WAS, LIKE, I DIDN'T KNOW
23 HIM, HARRY WAS, LIKE, I DIDN'T KNOW HIM, AND WILL
24 WAS, LIKE, I SEEN HIM - - -

25 MR. CULLER: YOUR HONOR, I WANT TO

DIRECT - JOHN RANDOLPH BY SOL. SORENSON

303

1 OBJECT TO ANY HEARSAY IF HE'S TESTIFYING ABOUT WHAT
2 SOMEONE ELSE SAID. I DON'T KNOW THAT HE IS, BUT - - -

3 SOLICITOR SORENSON: WELL, IT'S NOT
4 REALLY OFFERED FOR THE - - -

5 THE COURT: WHAT WAS THE QUESTION?
6 I CAN HARDLY HEAR HIM. YOU NEED TO SPEAK A LITTLE
7 LOUDER, MR. RANDOLPH. WHAT WAS THE QUESTION? ASK HIM
8 THE QUESTION AGAIN.

9 SOLICITOR SORENSON: IT WAS,
10 BASICALLY, WHAT WAS SAID THEN WHEN THAT GUY CAME INSIDE
11 THE DOORWAY? I MEAN, I DON'T THINK IT'S OFFERED FOR THE
12 TRUTH, I MEAN, - - -

13 THE COURT: DO YOU KNOW WHAT THE
14 ANSWER IS?

15 A. YES.

16 SOLICITOR SORENSON: I MEAN, IT'S
17 GOING TO BE WHAT OTHER PEOPLE SAID, BUT I MEAN, THEY'RE
18 - - -

19 THE COURT: I KNOW WHAT HEARSAY IS
20 AND WHAT HEARSAY ISN'T. BUT I DON'T KNOW WHAT THE
21 ANSWER TO THE QUESTION IS. DO YOU WANT ME TO SEND THE
22 JURY OUT AND DEAL WITH IT?

23 MR. WALTERS: NO, SIR, YOUR HONOR,
24 I BELIEVE IF I COULD JUST OFFER SOME CLARIFICATION, I
25 BELIEVE HE TESTIFIED, EVERYBODY SAID, WHO ARE YOU? THE

DIRECT - JOHN RANDOLPH BY SOL. SORENSON

304

1 SENSE OF THAT IS HEARSAY, AND WE'RE OBJECTING TO THAT.

2 THE COURT: THAT ISN'T HEARSAY AT
3 ALL. A QUESTION IS NEVER HEARSAY.

4 MR. WALTERS: MAY IT PLEASE THE
5 COURT?

6 THE COURT: YES, SIR.

7 MR. WALTERS: YOUR HONOR, HE'S NOT
8 ASKING A QUESTION, HE'S STATING A STATEMENT OF WHAT WAS
9 HEARD AND - - -

10 THE COURT: SOMEBODY OVER THERE
11 SAYS, WHO ARE YOU? THAT'S NOT AN ASSERTION, THAT'S NOT
12 HEARSAY. AND I'LL BE GLAD TO SEND THE JURY OUT, THAT'S
13 THE BEST THING.

14 LADIES AND GENTLEMEN, STEP OUT TO
15 THE JURY ROOM A MINUTE AND LET ME TAKE UP A MATTER OF
16 LAW.

17 (Whereupon, the jury retires
18 to the jury room and the following
19 takes place out of the presence
20 of the jury.)

21 THE COURT: ALRIGHT, ASK HIM THE
22 QUESTION, OR LET HIM CONTINUE THE ANSWER AND THEN WE'LL
23 SEE WHAT HAPPENS.

24 SOLICITOR SORENSON: WELL,
25 BASICALLY, THE QUESTION WAS, I MEAN, AT THAT POINT IN

DIRECT - JOHN RANDOLPH BY SOL. SORENSON

305

1 TIME WHAT WAS SAID WHEN THAT GUY WAS STANDING INSIDE THE
2 DOORWAY.

3 WITNESS RANDOLPH: AND I WAS SAYING,
4 WHEN HARRY OPENED THE DOOR EVERYBODY WAS JUST SITTING
5 THERE LOOKING, LIKE, WHO ARE YOU? AND THEN I SAID, I
6 DON'T KNOW YOU. HARRY SAID, I DON'T KNOW HIM, AND THEN
7 THAT'S WHEN WILL SAID, I SEEN HIM BEFORE.

8 THE COURT: WELL, I WOULD NOT ALLOW
9 HIM TO TESTIFY TO WHAT HARRY SAID OR WHAT THE OTHER GUY
10 SAID.

11 SOLICITOR SORENSON: OKAY.

12 THE COURT: UNLESS THERE'S SOME
13 REASON, OTHER THAN THE TRUTH OF IT, AND THE TRUTH BEING
14 THAT ONE OF THEM KNEW HIM AND ONE OF THEM DIDN'T.
15 YOU'VE GOT BOTH OF THEM TO TESTIFY.

16 SOLICITOR SORENSON: NO, ONE OF THEM
17 IS DEAD.

18 THE COURT: OH, ONE WAS HARRY.
19 ALRIGHT, GO AHEAD.

20 SOLICITOR SORENSON: WELL, I MEAN,
21 I GUESS MY POSITION WOULD BE THAT IT'S NOT HEARSAY
22 BECAUSE IT'S NOT OFFERED FOR THE MATTER ASSERTED, IT'S
23 OFFERED TO PROVE, BASICALLY TO SHOW WHY THEY AT THAT
24 POINT IN TIME ALLOWED HIM TO COME INTO THE APARTMENT. I
25 MEAN, IT WAS BECAUSE WILL SAID HE KNEW HIM. AND HE'S

DIRECT - JOHN RANDOLPH BY SOL. SORENSON

306

1 GOING TO TESTIFY, I MEAN, HE'S GOING TO BE MY NEXT
2 WITNESS.

3 THE COURT: ALRIGHT, MR. WALTERS,
4 I'LL BE GLAD TO HEAR YOU ON IT.

5 MR. WALTERS: YOUR HONOR, IF WILL'S
6 GOING TO TESTIFY HE SHOULD TESTIFY AS TO THAT PARTICULAR
7 EVENT, BUT TO ALLOW THIS TO GO ON I DON'T BELIEVE IT'S
8 APPROPRIATE.

9 THE COURT: SO TELL ME, WHAT'S --
10 THE ONLY THING THAT COULD POSSIBLY BE HEARSAY WAS ONE
11 GUY SAID, I KNOW HIM, AND ONE GUY SAID, I DON'T KNOW
12 HIM.

13 MR. WALTERS: YOUR HONOR, WE'LL
14 WITHDRAW IT. LET HIM PROCEED FORWARD.

15 THE COURT: ALRIGHT. BUT A QUESTION
16 IS NOT HEARSAY, BY DEFINITION. A QUESTION IF SOMEBODY
17 ASKED SOMETHING OVER THERE IS NOT AN ASSERTION.

18 ALRIGHT, BRING THE JURY BACK.
19 (Whereupon, the jury enters the
20 courtroom and the following
21 takes place in the presence
22 of the jury.)

23 THE COURT: ALRIGHT, YOU MAY
24 PROCEED.

25 Q. ALRIGHT, MR. RANDOLPH, I KIND OF, TURN BACK TO

DIRECT - JOHN RANDOLPH BY SOL. SORENSON

307

1 WHERE WE LEFT OFF, ALRIGHT, SO, WHEN THE GUY IS
2 STANDING THERE IN THE DOORWAY, WHAT AGAIN IS THE
3 CONVERSATION NOW THAT'S TAKING PLACE BETWEEN
4 Y'ALL?

5 A. WE WAS JUST, I SAID I DIDN'T KNOW HIM, HARRY SAID
6 HE DIDN'T KNOW HIM AND THEN WILL SAID HE SEEN HIM
7 BEFORE.

8 Q. OKAY. AT THAT POINT IN TIME WHERE WAS THIS GUY
9 STANDING AT?

10 A. AFTER WILL SAID THAT HE'D SEEN HIM BEFORE, THAT'S
11 WHEN HE STEPPED THROUGH THE DOOR AND JUST STEPPED
12 OUT TO THE LEFT.

13 Q. OKAY. SO, HE STEPPED IN THROUGH THAT DOOR AND
14 THEN TO THE, OVER TO HERE?

15 A. YES, SIR.

16 Q. ALRIGHT. AND AT THAT POINT IN TIME DID THE DOOR
17 STAY OPENED OR CLOSED?

18 A. THE DOOR CLOSED.

19 Q. THE DOOR CLOSED BEHIND HIM?

20 A. YES, SIR.

21 Q. ALRIGHT. AND WHAT, TELL THE JURY WHAT
22 CONVERSATION YOU HAD WITH HIM THEN AT THAT POINT
23 IN TIME?

24 A. I BASICALLY ASKED HIM WHAT HE WANTED AND WHY HE
25 WAS THERE.

DIRECT - JOHN RANDOLPH BY SOL. SORENSON

308

1 Q. ALRIGHT. AND WHAT DID HE SAY, WHAT DID HE
2 INDICATE THAT HE WAS LOOKING FOR?

3 A. HE SAID HE WANTED SOME DOPE.

4 Q. OKAY. AND AT THIS POINT IN TIME, WAS YOUR
5 ATTENTION ON HIM?

6 A. YEAH, I'M LOOKING IN HIS FACE THE WHOLE TIME.

7 Q. OKAY. YOU INDICATED HE WASN'T SOMEBODY YOU HAD
8 EVER SEEN BEFORE AT THAT POINT IN TIME?

9 A. YES, SIR.

10 Q. IS THAT CORRECT?

11 A. YES.

12 Q. OKAY. ALRIGHT, WHAT HAPPENED -- NOW, WHILE ALL
13 THIS INITIALLY WAS GOING ON AND HE STEPPED IN,
14 HARRY WAS KIND OF STANDING OVER NEAR THE DOOR?

15 A. YEAH, HE WAS STANDING OVER, RIGHT IN FRONT OF THE
16 DOOR.

17 Q. OKAY. AND WILL AND LAWRENCE WERE STILL ON THAT
18 SAME COUCH?

19 A. YES, SIR.

20 Q. ALRIGHT. WHAT, WHAT HAPPENED THEN AFTER -- SO,
21 HE'S NOW COME INTO THE LIVING ROOM?

22 A. YEAH, HE STEPPED OFF TO THE LEFT OF THE DOOR, THE
23 DOOR CLOSED, AND I'M STILL, LIKE, WHO ARE YOU? YOU
24 KNOW, I STILL DON'T KNOW WHO YOU ARE.

25 Q. OKAY. YOU'RE STILL IN THE KITCHEN AREA BASICALLY?

DIRECT - JOHN RANDOLPH BY SOL. SORENSON

309

1 A. YES, SIR.

2 Q. OKAY. AND WHAT HAPPENED NEXT?

3 A. WILL SAID HE FELT STRANGE AND HE GOT UP AND WALKED
4 TO THE DOOR, AND THAT'S WHEN WILL OPENED THE DOOR
5 GOING OUTSIDE THE OTHER GUYS CAME RUNNING THROUGH
6 THE DOOR.

7 Q. OKAY. SO, WILL WENT UP AND OPENED THE DOOR, AND
8 THAT DOOR OPENS, PULLS IN, IS THAT CORRECT?

9 A. YES, SIR.

10 Q. ALRIGHT. AND WHAT HAPPENED WHEN HE OPENED, PULLED
11 THAT DOOR OPEN?

12 A. THE OTHER TWO GUYS CAME RUNNING IN.

13 Q. ALRIGHT. SO, TWO OTHER GUYS CAME RUNNING IN.
14 DESCRIBE THOSE TWO GUYS, IF YOU WOULD, FOR THE
15 JURY?

16 A. ONE WAS KIND OF SHORT, PROBABLY A LITTLE LIGHTER
17 THAN ME. HE HAD A MASK ON. THE OTHER ONE WAS
18 TALL, DARK, WITH A MASK ON.

19 Q. OKAY. SO, THEIR FACES WERE BOTH COVERED?

20 A. YES, SIR.

21 Q. OKAY. DID YOU SEE IF THEY HAD ANYTHING IN THEIR
22 HANDS?

23 A. THEY BOTH HAD GUNS.

24 Q. OKAY. WHAT DID YOU DO WHEN YOU SAW THE TWO OF
25 THEM COMING IN THROUGH THE DOOR?

DIRECT - JOHN RANDOLPH BY SOL. SORENSON

310

1 A. I WENT TO THE FLOOR.

2 Q. SO, YOU HIT THE FLOOR?

3 A. RIGHT.

4 Q. ALRIGHT, WHAT DID YOU -- DID YOU HEAR ANYTHING AT
5 THAT POINT IN TIME AS YOU WERE HITTING THE FLOOR?

6 A. I HEARD A GUN SHOT.

7 Q. YOU HEARD A GUN SHOT. OKAY. LET ME ASK YOU, DID
8 YOU, COULD YOU TELL WHO WAS SHOOTING AT THAT POINT
9 IN TIME?

10 A. NO, SIR.

11 Q. OKAY. AND YOU HEARD ONE GUN SHOT?

12 A. YES, SIR.

13 Q. LET ME ASK YOU, DO YOU REMEMBER, AS FAR AS THAT
14 GUN SHOT, WAS IT LOUD?

15 A. OH, YES, SIR.

16 Q. ALRIGHT. WHAT -- AND YOU SAID THAT YOU HIT THE
17 FLOOR, SO YOU WERE IN THE KITCHEN?

18 A. YES, SIR.

19 Q. LET ME SEE HERE -- LET ME SHOW YOU STATE'S EXHIBIT
20 NUMBER SIXTEEN, DO YOU SEE WHERE YOU HAD BEEN ON
21 THE FLOOR, OR WERE YOU BEHIND THE COUCH OR IN THE
22 AREA WHERE - - -

23 A. I WAS RIGHT HERE.

24 Q. SO, YOU WERE KIND OF RIGHT, RIGHT AROUND WHERE MY
25 FINGER IS?

DIRECT - JOHN RANDOLPH BY SOL. SORENSON

311

1 A. YES, SIR.

2 Q. NOW, AT THAT POINT IN TIME, MR. RANDOLPH, FROM
3 YOUR VANTAGE POINT ON THE FLOOR THERE, COULD YOU
4 SEE WHAT WAS GOING ON IN THE LIVING ROOM?

5 A. FROM UNDER THE CHAIR ALL I SAW WAS THE OTHER TWO
6 GUYS RUNNING IN. ONE RAN TOWARDS ME AND ONE RAN
7 IN THE BACK ROOM.

8 Q. OKAY. WHERE, DO YOU KNOW WHERE LAWRENCE AND WILL
9 WENT?

10 A. WILL WAS ON THE FLOOR WHEN THEY CAME RUNNING IN,
11 AND I GUESS LAWRENCE JUST GOT ON THE FLOOR, TOO,
12 WHEN THEY CAME RUNNING IN.

13 Q. OKAY. ALRIGHT, THAT WOULD HAVE BEEN SOMEWHERE OUT
14 IN THE LIVING ROOM AREA?

15 A. RIGHT IN THE MIDDLE OF THE LIVING ROOM.

16 Q. AND WHAT ABOUT HARRY, DID YOU SEE WHERE HARRY
17 WENT?

18 A. I NOTICED HARRY WENT RUNNING IN THE BACK ROOM.

19 Q. OKAY. NOW, AT THAT POINT TIME WHEN HARRY RAN, SO
20 YOU SAID THE BACK, THAT'S WHERE, BACK INTO THE
21 BEDROOM?

22 A. YES, SIR.

23 Q. OKAY. AND THAT BEDROOM IS KIND OF OFF THE
24 KITCHEN, IS THAT CORRECT?

25 A. TO THE LEFT.

DIRECT - JOHN RANDOLPH BY SOL. SORENSON

312

1 Q. SO, THAT'S IN STATE'S EXHIBIT NINETEEN, THAT'S
2 BACK IN THE BEDROOM?

3 A. YES, SIR.

4 Q. SO, THAT'S OFF, SO THAT WOULD BE THE KITCHEN, THE
5 CORNER KITCHEN COUNTER, IS THAT CORRECT?

6 A. YES, SIR.

7 Q. ALRIGHT. AND COULD YOU SEE BACK INTO THE BEDROOM
8 FROM WHERE YOU WERE ON THE FLOOR?

9 A. YES, SIR.

10 Q. COULD YOU SEE HARRY BACK THERE?

11 A. I SAW HIM ON THE FLOOR.

12 Q. DID YOU KNOW AT THAT POINT IN TIME THAT HE HAD
13 BEEN SHOT?

14 A. NO, SIR.

15 Q. WAS HE SAYING ANYTHING OR DOING ANYTHING BACK
16 THERE?

17 A. HE WAS JUST ON THE FLOOR.

18 Q. ALRIGHT. WHAT, TELL THE JURY WHAT HAPPENED THEN.
19 LET ME ASK YOU, DID YOU EVER HEAR ANY OTHER GUN
20 SHOTS BESIDES THE ONE THAT YOU HEARD?

21 A. NO.

22 Q. THAT YOU RECALL?

23 A. NOT THAT I RECALL, THAT ONE GUN SHOT.

24 Q. ALRIGHT. WHAT HAPPENED THEN? SO AFTER YOU HIT
25 THE FLOOR AND YOU SAID ONE OF THE GUYS IN A MASK

DIRECT - JOHN RANDOLPH BY SOL. SORENSON

313

1 CAME RUNNING TOWARDS YOU AND ONE WENT IN THE
2 LIVING ROOM?

3 A. ONE WENT IN THE BEDROOM.

4 Q. IN THE BEDROOM, I'M SORRY. TELL THE JURY WHAT
5 HAPPENED THEN?

6 A. THE GUY THAT CAME RUNNING TOWARDS ME CAME AND
7 PICKED ME UP OFF THE FLOOR AND PUT ME IN A LITTLE
8 CHOKE HOLD, AND THE THIRD GUY WAS JUST, I SEEN HIM
9 GO THROUGH HARRY'S POCKETS, AND HE WENT THROUGH
10 WILL AND LAWRENCE POCKETS, AND WENT LOOKING
11 THROUGH THE HOUSE AND, YOU KNOW, JUST LOOKING TO
12 TAKE WHAT HE COULD FIND, REALLY.

13 Q. OKAY. SO YOU WERE, THEY STOOD YOU UP AT THAT
14 POINT IN TIME?

15 A. YES.

16 Q. SO, YOU COULD SEE NOW INTO THE LIVING ROOM AREA?

17 A. YES.

18 Q. WHERE WAS THE INITIAL GUY THAT CAME IN THAT DIDN'T
19 HAVE HIS FACE COVERED, WHERE WAS HE AT?

20 A. HE WAS STANDING UP BY THE DOOR.

21 Q. OKAY. ALRIGHT. DID THEY EVER INDICATE TO YOU
22 WHAT THEY WERE LOOKING FOR?

23 A. NOBODY WAS REALLY SAYING NOTHING AFTER THEY CAME
24 IN.

25 Q. OKAY. NEVER SAID, WHERE IS THE MONEY, WHERE IS

DIRECT - JOHN RANDOLPH BY SOL. SORENSON

314

1 THE DRUGS, WHERE IS, ANYTHING LIKE THAT?

2 A. NOBODY SAID ANYTHING.

3 Q. OKAY. DID THEY END UP TAKING ANYTHING FROM YOU?

4 A. SOME MONEY, MY PHONE, SOME JEWELRY.

5 Q. SO, THEY TOOK SOME JEWELRY THAT YOU WERE WEARING?

6 A. YES, SIR.

7 Q. LIKE, WHAT KIND OF JEWELRY, DO YOU REMEMBER?

8 A. A CHAIN.

9 Q. A CHAIN. AND DO YOU KNOW ABOUT HOW MUCH MONEY YOU
10 HAD ON YOU?

11 A. IT WAS A COUPLE HUNDRED, I DON'T KNOW EXACTLY.

12 Q. OKAY. AND WHERE WAS THAT, WHERE DID YOU HAVE THAT
13 AT?

14 A. IN MY POCKET.

15 Q. IN YOUR POCKET. AND YOU INDICATED THAT ONE OF
16 THEM HAD KIND OF GRABBED YOU BY A CHOKE HOLD AND
17 STOOD YOU UP, DO YOU REMEMBER WHICH ONE OF THEM IT
18 WAS, CAN YOU DESCRIBE, ONE BEING SHORT - - -

19 A. IT WAS THE SHORT ONE.

20 Q. SO, THE SHORTER OF THE TWO OF THEM?

21 A. THE SHORT ONE, RIGHT.

22 Q. OKAY. AND I GUESS IT'S THE OTHER ONE THEN THAT
23 WAS GOING THROUGH EVERYONE'S POCKETS WHILE HE HAD
24 YOU?

25 A. YES, SIR.

DIRECT - JOHN RANDOLPH BY SOL. SORENSON

315

1 Q. OKAY. SO, YOU OBSERVED THAT, HIM ACTUALLY GOING
2 THROUGH, LIKE, LAWRENCE'S POCKETS, WILL'S POCKETS,
3 AND HARRY'S POCKETS?

4 A. YES, SIR.

5 Q. OKAY. ALRIGHT. WHAT HAPPENED AFTER THAT?

6 A. I GUESS AFTER THEY GOT WHAT THEY WANTED THEY JUST
7 LEFT.

8 Q. OKAY. ALRIGHT. LET ME ASK YOU, WHEN THE TWO GUYS
9 CAME RUSHING IN THE DOOR WITH THE MASKS AND YOU
10 HIT THE FLOOR, DID YOU HEAR ANYBODY YELLING
11 ANYTHING OR SAYING ANYTHING AT THAT TIME?

12 A. I HEARD SOMEBODY SAYING, THE ONE IN THE ROOM GOT
13 THE GUN.

14 Q. THE ONE IN THE ROOM HAS THE GUN?

15 A. YES, SIR.

16 Q. ALRIGHT. LET ME ASK YOU, WAS THERE A GUN THAT WAS
17 IN THAT APARTMENT THAT NIGHT?

18 A. YES, SIR.

19 Q. OKAY. WHAT KIND OF GUN WAS THAT?

20 A. A THREE FIFTY-SEVEN.

21 Q. OKAY. AND HAD THAT GUN BEEN OUT EARLIER IN THE
22 EVENING?

23 A. YES, SIR.

24 Q. ALRIGHT. AND WHO HAD HAD IT THE LAST TIME YOU SAW
25 IT?

DIRECT - JOHN RANDOLPH BY SOL. SORENSON

316

- 1 A. HARRY.
- 2 Q. HARRY DID? AND I'M GOING TO KIND OF JUMP FORWARD
- 3 HERE A LITTLE BIT. DID THERE COME A TIME WHEN YOU
- 4 TURNED THAT GUN OVER TO LIEUTENANT, TO
- 5 INVESTIGATOR SHUMPERT WITH THE SHERIFF'S OFFICE?
- 6 A. YES, SIR.
- 7 Q. AND I'M SHOWING YOU STATE'S EXHIBIT NUMBER TWENTY-
- 8 ONE, IS THAT THE GUN THAT YOU TURNED OVER TO HIM
- 9 THAT NIGHT?
- 10 A. YES, SIR.
- 11 Q. DID YOU GIVE IT TO HIM THAT SAME DAY OR SOMETIME
- 12 LATER, DO YOU REMEMBER?
- 13 A. IT WAS THAT SAME DAY, WHILE WE WAS DOING THE
- 14 PROTOCOL.
- 15 Q. ALRIGHT. AFTER THEY GOT DONE SEARCHING ALL OF
- 16 Y'ALL, WHAT HAPPENED THEN?
- 17 A. THEY LEFT.
- 18 Q. THEY LEFT, ALL THREE OF THEM?
- 19 A. YES, SIR.
- 20 Q. OKAY. AND WHAT DID YOU DO AT THAT POINT IN TIME?
- 21 A. AFTER THEY LEFT I WENT RUNNING IN THE ROOM ASKING
- 22 HARRY FOR THE GUN.
- 23 Q. OKAY. SO, YOU WENT LOOKING FOR THE GUN THAT HE
- 24 HAD?
- 25 A. YES, SIR.

DIRECT - JOHN RANDOLPH BY SOL. SORENSON

317

1 Q. AND WHAT DID YOU FIND WHEN YOU GOT BACK INTO THE
2 ROOM WHERE HARRY WAS?

3 A. WELL, I WAS YELLING AT HARRY, GIVE ME THE GUN, AND
4 HE WAS JUST, LIKE, LOOKING AT ME LIKE HE WAS
5 SHOCKED. AND THEN IT JUST HIT ME, AND I WAS,
6 LIKE, YOU GOT HIT? THAT'S WHEN I REALIZED HE GOT
7 SHOT, AND I YELLED FOR WILL AND LAWRENCE TO BRING
8 THE CAR AROUND.

9 Q. OKAY. DID YOU SEE AT THAT POINT IN TIME, LET ME
10 ASK YOU, WAS HARRY CLOTHED, I MEAN, WAS HE FULLY
11 CLOTHED?

12 A. YEAH, HE HAD, HE WAS DRESSED.

13 Q. WERE YOU ABLE TO SEE EXACTLY WHERE HE HAD BEEN
14 SHOT?

15 A. NO.

16 Q. DO YOU REMEMBER PUTTING INTO ONE OF YOUR
17 STATEMENTS MAYBE THAT HE WAS SHOT IN THE STOMACH,
18 DO YOU KNOW IF YOU SAID THAT OR - - -

19 A. NO, I REMEMBER SAYING, I HELD UP HIS SHIRT AND SAW
20 BLOOD. I NEVER SAID WHERE I SEEN HIM GOT SHOT AT.

21 Q. OKAY. SO, YOU SAID AT THAT POINT IN TIME THAT YOU
22 CALLED FOR LAWRENCE AND WILL?

23 A. YES.

24 Q. AND WHAT DID Y'ALL THEN DO WITH HARRY?

25 A. LAWRENCE BROUGHT THE AROUND, AND ME AND WILL PUT

DIRECT - JOHN RANDOLPH BY SOL. SORENSON

318

1 HARRY IN THE CAR.

2 Q. OKAY. AND WHAT HAPPENED THEN?

3 A. WILL AND LAWRENCE TOOK HARRY TO THE HOSPITAL.

4 Q. SO, THEY LEFT?

5 A. YES.

6 Q. HAD YOU FOUND THAT GUN?

7 A. YES, SIR.

8 Q. WHERE WAS IT?

9 A. ON THE FLOOR IN THE ROOM.

10 Q. ON THE FLOOR, WHERE HARRY WAS ON THE FLOOR BACK
11 THERE?

12 A. YES, SIR.

13 Q. OKAY. WHAT DID YOU THEN DO, WHEN THEY -- YOU
14 SAID, WILL AND LAWRENCE TOOK HARRY AND LEFT, YOU
15 UNDERSTOOD, TO GO TO THE HOSPITAL, AND THAT
16 APARTMENT, HOW FAR AWAY FROM THE HOSPITAL IS IT?

17 A. NOT FAR, PROBABLY TWO, A RIGHT, LEFT AND ANOTHER
18 LEFT.

19 Q. OKAY. A COUPLE OF MINUTES AWAY?

20 A. NOT EVEN TEN MINUTES.

21 Q. ALRIGHT. WHAT DID YOU DO THEN?

22 A. I GRABBED THE GUN AND WENT LOOKING FOR THE CAR.

23 Q. OKAY. HAD YOU SEEN, HAD YOU SEEN THEM GET INTO A
24 CAR OUTSIDE?

25 A. YES, SIR.

DIRECT - JOHN RANDOLPH BY SOL. SORENSON

319

1 Q. WHAT DO YOU RECALL, WHAT DO YOU REMEMBER THE
2 DESCRIPTION OF THAT CAR THAT THEY GOT INTO?

3 A. IT WAS PROBABLY LIKE A GRAY OR BROWN COLORED CAR,
4 TWO DOOR, BECAUSE IT LOOKED LIKE SOMEBODY WAS
5 SITTING UP TO THE FRONT SEAT SO SOMEBODY COULD GET
6 IN THE BACK.

7 Q. OKAY. HOW CLOSE, DID YOU ACTUALLY GET OUT BY THE
8 CAR OR WAS THAT ALL FROM THE APARTMENT THAT YOU
9 WERE IN?

10 A. NO, WHEN THEY WENT OUT THE DOOR I WENT TO THE
11 BLINDS.

12 Q. OKAY. WHERE WAS THE CAR PARKED AT?

13 A. THE CAR PULLED UP RIGHT IN FRONT OF THE APARTMENT.

14 Q. ALRIGHT, NOW, WHAT, WERE YOU EVER ABLE TO FIND THE
15 CAR?

16 A. NO, SIR.

17 Q. YOU NEVER SAW THEM AGAIN THAT NIGHT?

18 A. NO, SIR.

19 Q. OKAY. WHAT, TELL THE JURY WHAT HAPPENED, DID YOU
20 ULTIMATELY END UP BACK AT THE HOSPITAL?

21 A. WELL, AFTER I RODE AROUND A LITTLE WHILE, AND I
22 COULDN'T FIND THE CAR I JUST CALLED WILL AND ASKED
23 HIM WHAT WAS GOING ON, BECAUSE I KNOW I TOLD THEM
24 TO TAKE HARRY TO THE HOSPITAL, AND HE WAS, LIKE,
25 WE DROPPED THEM OFF, AND WE'RE GOING HOME.

DIRECT - JOHN RANDOLPH BY SOL. SORENSON

320

1 Q. THAT WAS WILL YOU TALKED TO?

2 A. YES, SIR.

3 Q. LET ME ASK YOU THIS, YOU HAD INDICATED THAT, THAT
4 WHEN YOU HAD STUFF TAKEN OFF OF YOU, THEY TOOK
5 MONEY OFF OF YOU, A CHAIN, AND ALSO YOUR CELL
6 PHONE?

7 A. YES, SIR.

8 Q. ALRIGHT. SO, WHOSE CELL PHONE, DID YOU HAVE A
9 CELL PHONE WITH YOU WHEN YOU WERE CALLING WILL?

10 A. I HAD HARRY'S CELL PHONE.

11 Q. OKAY. AND WHERE DID YOU GET THAT FROM?

12 A. IT WAS JUST IN THE APARTMENT, I THINK IT WAS,
13 LIKE, EITHER ON THE FLOOR OR ON THE TABLE OR
14 SOMETHING.

15 Q. OKAY. SO YOU PICKED THAT UP AND TOOK THAT WITH
16 YOU, AND YOU TOOK, I GUESS, THE GUN WITH YOU WHEN
17 YOU LEFT, TOO?

18 A. YES, SIR.

19 Q. ALRIGHT. WHAT, NOW AFTER YOU HAD THAT
20 CONVERSATION WITH WILL WHAT DID YOU THEN DO?

21 A. WELL, WILL TOLD ME HE WAS ON HIS WAY HOME, AND I
22 TOLD HIM HE NEEDED TO TELL POOKIE TO STOP WHERE
23 Y'ALL AT, BECAUSE I WAS COMING TO GET THEM.

24 Q. AND POOKIE IS LAWRENCE KELLY?

25 A. LAWRENCE, UH HUH.

DIRECT - JOHN RANDOLPH BY SOL. SORENSON

321

1 Q. OKAY. AND THAT'S WHO WAS DRIVING HIS CAR?

2 A. YES, SIR.

3 Q. ALRIGHT. AND DID YOU THEN MEET THEM SOMEWHERE?

4 A. DOWN ON THREE O ONE AND ONE SEVENTY-SIX.

5 Q. WHERE?

6 A. THREE O ONE AND ONE SEVENTY-SIX.

7 Q. THREE O ONE AND ONE SEVENTY-SIX?

8 A. YES, SIR.

9 Q. OKAY. AND AT THAT POINT IN TIME DID WILL GET IN
10 THE CAR WITH YOU?

11 A. YES, SIR.

12 Q. OKAY. AND WHERE DID Y'ALL GO?

13 A. TO THE HOSPITAL.

14 Q. OKAY. AND WHERE DID LAWRENCE GO?

15 A. HOME.

16 Q. AND WHEN YOU GOT TO THE HOSPITAL WHO WAS AT THE
17 HOSPITAL?

18 A. MY FAMILY AND THE POLICE WAS ALREADY THERE.

19 Q. OKAY. WHO HAD CALLED THE FAMILY THAT WAS THERE,
20 DO YOU KNOW?

21 A. HIS SISTER CALLED ME ON OUR WAY TO THE HOSPITAL.

22 Q. OKAY.

23 A. SHE DIDN'T SAY THAT THEY WAS TO THE HOSPITAL OR
24 THEY WAS ON THEIR WAY, SHE JUST WAS ASKING FOR
25 HARRY.

DIRECT - JOHN RANDOLPH BY SOL. SORENSON

322

1 Q. OKAY. DO YOU HAVE ANY IDEA HOW THEY FOUND OUT
2 WHAT HAD HAPPENED?

3 A. NO, SIR.

4 Q. OKAY. SO, YOU HADN'T CALLED ANYBODY?

5 A. NO, SIR.

6 Q. ALRIGHT, NOW, WHEN YOU GOT THE HOSPITAL POLICE
7 OFFICERS WERE THERE?

8 A. YES, SIR.

9 Q. OKAY. AND YOU TALKED TO THEM?

10 A. YES, SIR. THEY TAKE, TOOK ME WITH THEM.

11 Q. OKAY. DID YOU ULTIMATE TELL THEM WHERE, WHERE
12 THIS HAD HAPPENED AT?

13 A. YES, SIR.

14 Q. OKAY. YOU ENDED UP GIVING THEM MULTIPLE
15 STATEMENTS OVER THE NEXT, YOU KNOW, TWELVE OR
16 SIXTEEN HOURS OR SO, IS THAT CORRECT?

17 A. YES, SIR.

18 Q. AND HAD YOU BEEN TO SLEEP AT ANY POINT IN TIME
19 THAT NIGHT?

20 A. NO, SIR.

21 Q. AND LET ME ASK YOU THIS, THE FIRST PERSON THAT YOU
22 SAW THAT CAME IN THROUGH THAT DOOR, HOW GOOD A
23 LOOK DID YOU GET OF HIM?

24 A. WHEN HE CAME THROUGH THE DOOR?

25 Q. THE FIRST PERSON THAT KNOCKED ON THE DOOR AND CAME

DIRECT - JOHN RANDOLPH BY SOL. SORENSON

323

1 IN, HOW -- TELL THE JURY, HOW GOOD OF A LOOK DID
2 YOU GET AT THAT GUY?

3 A. A REAL GOOD LOOK.

4 Q. DID YOU FEEL IF YOU SAW HIM AGAIN YOU WOULD
5 RECOGNIZE HIM?

6 A. I KNOW IF I SAW HIM AGAIN I WOULD RECOGNIZE HIM.

7 Q. DO YOU RECALL A COUPLE OF DAYS LATER, ON THE
8 TWENTY-SIXTH OF DECEMBER, INVESTIGATOR SHUMPERT
9 COMING OUT AND SHOWING YOU SOME PHOTOGRAPHS AND
10 ASKING YOU IF YOU RECOGNIZED ANYBODY?

11 A. YES, SIR.

12 Q. AND I'M GOING TO SHOW YOU STATE'S EXHIBITS NUMBER
13 FOUR AND FIVE, DO YOU RECOGNIZE THOSE TWO SERIES
14 OF LINEUPS?

15 A. YES, SIR.

16 MR. WALTER: MAY IT PLEASE THE
17 COURT, I DIDN'T HEAR THE DATE WHEN YOU SAID OFFICER
18 SHUMPERT CAME OUT.

19 SOLICITOR SORENSON: DECEMBER
20 TWENTY-SIXTH.

21 MR. WALTER: WHAT YEAR?

22 SOLICITOR SORENSON: TWO THOUSAND
23 SIX.

24 Q. TWO DAYS AFTER THE INCIDENT, IS THAT CORRECT?

25 A. YES, SIR.

DIRECT - JOHN RANDOLPH BY SOL. SORENSON

324

1 Q. DO YOU RECALL INVESTIGATOR SHUMPERT SHOWING YOU
2 THESE TWO LINEUPS?

3 A. YES, SIR.

4 Q. DO YOU REMEMBER HIM TELLING YOU THAT YOU NEEDED TO
5 PICK ANYBODY OUT OF EITHER ONE OF THEM OR ANYTHING
6 OF THAT NATURE?

7 A. HE JUST TOLD ME TO LOOK AND SEE IF I RECOGNIZED
8 ANYBODY.

9 Q. OKAY. AND DID YOU LOOK AT THESE TWO LINEUPS?

10 A. YES, SIR.

11 Q. DID YOU RECOGNIZE ANYBODY AS BEING INVOLVED IN
12 THIS INCIDENT?

13 MR. CULLER: YOUR HONOR, I'M GOING
14 TO OBJECT TO RELEVANCE AT THIS POINT, IF THERE'S NOT AN
15 IDENTIFICATION MADE FROM THOSE. I MEAN, WE COULD DO
16 THIS FOR A LONG TIME. I UNDERSTAND THERE WAS AN
17 IDENTIFICATION MADE FROM A LINEUP, AND I WOULD OBJECT TO
18 ANY ADDITIONAL IDENTIFICATION AS TO BEING NOT RELEVANT.

19 THE COURT: I OVERRULE YOUR
20 OBJECTION, I THINK IT'S RELEVANT.

21 SOLICITOR SORENSON: AND WHO, I
22 MEAN, I'VE HAD BOTH OF THEM STAND UP. WHICH ONE OF THEM

23 - - -

24 MR. WALTER: I'M SORRY, YOUR HONOR,
25 I'LL TAKE THE WITNESS, I'M SORRY.

DIRECT - JOHN RANDOLPH BY SOL. SORENSON

325

1 SOLICITOR SORENSON: THEY NEED TO
2 DECIDE.

3 THE COURT: SO, WHICH ONE?

4 MR. WALTERS: I WILL, YOUR HONOR.

5 THE COURT: OKAY.

6 MR. WALTERS: SORRY.

7 SOLICITOR SORENSON: THANK YOU.

8 Q. DID YOU HAVE AN OPPORTUNITY THEN TO VIEW THESE TWO
9 LINEUPS?

10 A. YES, SIR.

11 Q. DID YOU RECOGNIZE ANYBODY IN EITHER ONE OF THESE
12 THAT WAS INVOLVED IN THAT INCIDENT TWO DAYS
13 EARLIER WHERE YOUR COUSIN WAS KILLED?

14 A. NO, SIR.

15 SOLICITOR SORENSON: YOUR HONOR, AT
16 THIS TIME WE'D OFFER STATE'S NUMBERS FOUR AND FIVE INTO
17 EVIDENCE.

18 THE COURT: ANY OBJECTION?

19 MR. WALTERS: YOUR HONOR, AGAIN I'D
20 RENEW MY OBJECTION. HE SAID HE DIDN'T IDENTIFY ANYONE,
21 WHAT'S THE PURPOSE OF PUTTING THAT INFORMATION BEFORE
22 THE JURY IF IT'S IRRELEVANT TO THE CASE?

23 THE COURT: I THINK IT WILL BE
24 RELEVANT. I OVERRULE YOUR OBJECTION.

25 COURT REPORTER: LET ME TAKE THE ID

DIRECT - JOHN RANDOLPH BY SOL. SORENSON

326

1 OFF. STATE'S FOUR AND FIVE.

2 (State's Exhibits Four and Five
3 marked and filed.)

4 Q. AND MR. RANDOLPH, THEN, DO YOU RECALL SEVERAL
5 WEEKS LATER, I BELIEVE ON JANUARY TWENTY-EIGHTH,
6 GETTING BACK UP WITH LIEUTENANT SHUMPERT, OR
7 INVESTIGATOR SHUMPERT AND HIM SHOWING YOU ANOTHER
8 LINEUP?

9 A. YES, SIR.

10 Q. OKAY. AND DO YOU RECALL WHERE THAT OCCURRED AT?

11 A. MY MOTHER'S HOUSE.

12 Q. YOUR MOTHER'S HOUSE. OKAY. AND I'M SHOWING YOU
13 WHAT'S BEEN MARKED AS STATE'S EXHIBIT NUMBER TEN,
14 DO YOU RECOGNIZE THE SECOND PAGE OF THAT EXHIBIT?

15 A. YES, SIR.

16 Q. OKAY. IS THAT THE LINEUP THAT HE SHOWED TO YOU?

17 A. YES, SIR.

18 Q. OKAY. AND WHAT, IF ANYTHING, DID HE SAY TO YOU
19 WHEN HE SHOWED YOU THIS LINEUP?

20 A. HE TOLD ME JUST TO LOOK AND SEE IF I RECOGNIZED
21 ANYBODY.

22 Q. OKAY. AND DID YOU DO THAT JUST LIKE YOU DID ON
23 DECEMBER TWENTY-SIXTH?

24 A. YES, SIR.

25 Q. OKAY. AND IN LOOKING AT THIS LINEUP DID YOU

DIRECT - JOHN RANDOLPH BY SOL. SORENSON

327

1 RECOGNIZE ANYBODY IN THIS LINEUP?

2 A. YES, SIR.

3 Q. AND WHAT NUMBER DID YOU RECOGNIZE?

4 A. NUMBER ONE.

5 Q. OKAY. IN FACT, DID YOU CIRCLE, INITIAL AND DATE
6 NUMBER ONE?

7 A. YES, SIR.

8 Q. ALRIGHT. AND WHY -- DID YOU THEN FILL OUT AN
9 AFFIDAVIT WITH INVESTIGATOR SHUMPERT ACTUALLY
10 INDICATING THAT YOU HAD PICKED NUMBER ONE?

11 A. YES, SIR.

12 Q. OKAY. WHY -- TELL THE JURY WHY IT IS THAT YOU
13 PICKED OUT NUMBER ONE OUT OF THIS LINEUP?

14 A. BECAUSE THAT'S THE GUY THAT KNOCKED ON THE DOOR,
15 THAT'S THE GUY I REMEMBER SEEING COMING IN THE
16 HOUSE, THE GUY I REMEMBER SEEING HIM POINTING THE
17 GUN AT ME WHILE THEY HAD ME IN A CHOKE HOLD,
18 THAT'S THE GUY.

19 Q. NO DOUBT ABOUT IT?

20 A. NO DOUBT.

21 SOLICITOR SORENSON: YOUR HONOR, AT
22 THIS TIME WE'D OFFER STATE'S NUMBER TEN INTO EVIDENCE.

23 MR. WALTERS: NO OBJECTION, YOUR
24 HONOR.

25 THE COURT: I OVERRULE YOUR

DIRECT - JOHN RANDOLPH BY SOL. SORENSON

328

1 OBJECTION.

2 MR. WALTERS: YOUR HONOR, IT WASN'T
3 AN OBJECTION.

4 THE COURT: ALRIGHT, THAT'S FINE.
5 ADMITTED WITHOUT OBJECTION.

6 COURT REPORTER: STATE'S TEN.
7 (State's Exhibit Ten
8 marked and filed.)

9 Q. YET AGAIN, THE PICTURE THAT'S CIRCLED ON THERE IS
10 THE ONE THAT YOU PICKED OUT?

11 A. YES, SIR.

12 Q. SO, IT'S YOUR TESTIMONY, WHERE HAD YOU SEEN HIM
13 BEFORE?

14 A. AT MY APARTMENT THE NIGHT HARRY WAS KILLED.

15 Q. LET ME ASK YOU, YOU HAD MENTIONED SOMETHING A
16 MINUTE AGO AND I'M NOT SURE, I MAY HAVE MISSED
17 WITH YOU EARLIER, KIND OF BACKING YOU UP TO THE
18 NIGHT OF THE INCIDENT, WHEN THE TWO GUYS CAME INTO
19 THE DOOR AND YOU HIT THE FLOOR, YOU SAID YOU SAW
20 THEM WITH GUNS INITIALLY, RIGHT, WHEN THEY WERE
21 COMING IN THROUGH THE DOOR?

22 A. YES, SIR.

23 Q. DID YOU EVER SEE THE GUY THAT YOU'VE IDENTIFIED IN
24 STATE'S EXHIBIT NUMBER TEN, TERRELL SCOTT, DID YOU
25 EVER SEE HIM WITH A GUN THAT NIGHT INSIDE THE

DIRECT - JOHN RANDOLPH BY SOL. SORENSON

329

1 APARTMENT?

2 A. AFTER I WAS PICKED UP OFF THE FLOOR.

3 Q. OKAY. AND DESCRIBE THE GUN THAT HE HAD WHEN YOU
4 WERE PICKED UP OFF THE FLOOR?

5 A. IT AS A REVOLVER, A BIG REVOLVER.

6 Q. AND WHAT WAS HE DOING WITH THAT BIG REVOLVER?

7 A. HE JUST WAS POINTING IT AROUND THE ROOM.

8 Q. OKAY. MR. RANDOLPH, LET ME ASK YOU THIS, DO YOU
9 SEE IN THE COURTROOM HERE TODAY THAT PERSON THAT
10 YOU'VE IDENTIFIED IN THIS LINEUP AS BEING THE
11 PERSON THAT HAD THAT BIG REVOLVER IN YOUR
12 APARTMENT THAT NIGHT?

13 A. YES, SIR.

14 Q. WILL YOU POINT HIM OUT FOR THE JURY?

15 A. THE WHITE SHIRT AND STRIPED TIE.

16 Q. THE WHITE SHIRT? LET ME ASK YOU THIS, IS THERE
17 ANYTHING ABOUT HIM THAT'S DIFFERENT TODAY THAN IT
18 AS TWO AND A HALF YEARS AGO?

19 A. HIS FACIAL HAIR.

20 Q. OKAY. WHAT'S DIFFERENT ABOUT THAT?

21 A. IT'S NOT THERE.

22 Q. HOW MUCH FACIAL HAIR DID HE HAVE BACK THEN?

23 A. HE HAD A FULL BEARD.

24 Q. A FULL BEARD?

25 A. YEAH.

DIRECT - JOHN RANDOLPH BY SOL. SORENSON

330

1 Q. OKAY. ANY DOUBT IN YOUR MIND THAT THAT'S THE MAN
2 THAT YOU SAW IN YOUR APARTMENT WITH A GUN THAT
3 NIGHT?

4 A. NO, SIR.

5 SOLICITOR SORENSON: THANK YOU, MR.
6 RANDOLPH, PLEASE ANSWER ANY QUESTIONS MR. WALTERS HAS.

7 THE COURT: MR. WALTERS.

8 MR. WALTERS: MAY IT PLEASE THE
9 COURT.

10 THE COURT: YES, SIR.

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

CROSS - JOHN RANDOLPH BY MR. WALTERS

331

CROSS-EXAMINATION OF JOHN RANDOLPH

BY MR. WALTERS:

Q. MR. RANDOLPH, THE SOLICITOR WAS ASKING YOU SOME QUESTIONS ABOUT YOURSELF BEFORE HE GOT STARTED, AND HE ALLUDED TO THE FACT THAT YOU HAVE EIGHT PENDING CHARGES IN ORANGEBURG COUNTY, IS THAT CORRECT?

A. YES, SIR.

Q. WHAT'S THE FIRST CHARGE FOR, SIR? YOU DON'T KNOW WHY YOU WERE ARRESTED EIGHT TIMES?

A. I KNOW WHY I WAS ARRESTED BUT I DON'T KNOW WHICH ONE THEY FIRST.

Q. TELL ME THE FIRST TIME WHY YOU WERE ARRESTED?

A. THAT WAS THE FIRST TIME I EVER GOT ARRESTED.

Q. TELL ME WHAT THE FIRST CHARGE IS, PLEASE TELL THIS JURY WHAT YOUR FIRST CHARGE IS?

A. POSSESSION.

Q. POSSESSION OF COCAINE, ISN'T THAT CORRECT?

A. YES.

Q. ALRIGHT, AND HOW MUCH TIME CAN YOU GET?

A. I DON'T KNOW.

Q. YOU DON'T KNOW?

A. NO.

Q. YOU HAVE A LAWYER REPRESENTING YOU, DON'T YOU?

A. YES.

CROSS - JOHN RANDOLPH BY MR. WALTERS

332

- 1 Q. ALRIGHT. LET'S TALK ABOUT THE SECOND CHARGE THAT
2 YOU HAVE. TELL THE JURY WHAT THAT CHARGE IS?
3 A. POSSESSION.
4 Q. POSSESSION OF WHAT?
5 A. MARIJUANA.
6 Q. ISN'T IT THAT IT'S DISTRIBUTION, SELLING,
7 PURCHASING, MANUFACTURING A DRUG OTHER THAN CRACK
8 COCAINE WITHIN A SCHOOL, PUBLIC PARK OR
9 PLAYGROUND, ISN'T THAT RIGHT?
10 A. SAY THAT AGAIN?
11 Q. YOUR SECOND CHARGE WAS A CHARGE OF SELLING DRUGS
12 WITHIN A SCHOOL, PUBLIC PARK OR PLAYGROUND,
13 DISTRIBUTION?
14 A. IT WAS POSSESSION WITH INTENT.
15 Q. TO DISTRIBUTE. DISTRIBUTE DRUGS. YOU MIGHT SELL
16 THEM OUT OF AN APARTMENT, OUT OF A CAR, BUT THE
17 DISTRIBUTION OF DRUGS, DO YOU UNDERSTAND?
18 A. YOU WAS SAYING DISTRIBUTION, I WAS SAYING IT'S
19 WITH INTENT.
20 Q. WELL, THAT'S YOUR SECOND CHARGE RIGHT NOW THAT'S
21 PENDING?
22 A. YES, SIR.
23 Q. ALRIGHT. LET'S MOVE TO YOUR THIRD CHARGE. TELL
24 THIS JURY WHAT YOUR THIRD CHARGE IS?
25 A. ANOTHER POSSESSION CHARGE.

CROSS - JOHN RANDOLPH BY MR. WALTERS

333

1 Q. DISTRIBUTION, TO SELL, PURCHASE OR MANUFACTURE A
2 DRUG OTHER THAN CRACK COCAINE, IS THAT CORRECT?

3 A. YES, SIR.

4 Q. ALRIGHT. AND WOULD YOU TELL THE JURY THE THIRD
5 CHARGE THAT YOU HAVE PENDING NOW IN ORANGEBURG
6 COUNTY?

7 A. POSSESSION OF A WEAPON.

8 Q. ISN'T IT A CHARGE OF TRAFFICKING IN METH OR
9 COCAINE BASE, ISN'T THAT CORRECT?

10 A. YES, SIR.

11 Q. ALRIGHT. AND HOW MUCH TIME COULD YOU GET FOR THAT
12 CHARGE IN ORANGEBURG COUNTY?

13 A. I DON'T KNOW.

14 Q. YOU DON'T KNOW?

15 A. NO, SIR.

16 Q. HAVE YOU TALKED TO YOUR LAWYER?

17 A. YES, SIR.

18 Q. LET'S MOVE TO YOUR NEXT CHARGE, WHAT'S THAT, TELL
19 THIS JURY WHAT YOUR NEXT CHARGE IS?

20 A. POSSESSION.

21 Q. ISN'T IT TRAFFICKING IN COCAINE?

22 A. YES, SIR.

23 Q. ALRIGHT. TELL THIS JURY WHAT YOUR NEXT CHARGE,
24 WE'RE UP TO NUMBER FIVE, WE'RE GOING TO FINISH
25 PRETTY SOON.

CROSS - JOHN RANDOLPH BY MR. WALTERS

334

1 SOLICITOR SORENSON: YOUR HONOR, I'D
2 JUST ASK HIM, HE'S -- MR. WALTERS HAS A LIST THERE OF
3 THE -- HE DOESN'T HAVE THE BENEFIT OF THAT LIST TO KNOW
4 WHAT ORDER HE WANTS HIM TO ANSWER HIM IN, SO I MEAN, TO
5 ASK HIM, WHAT'S YOUR FIFTH CHARGE, WELL, I MEAN, SO HE
6 KEEPS CORRECTING HIM LIKE HE'S WRONG. I MEAN, - - -

7 THE COURT: IT WOULD BE A LITTLE
8 SIMPLER. IF YOU'VE GOT THE LIST YOU WOULD JUST ASK IF
9 THAT'S TRUE. IT WOULD JUST SAVE US SOME TIME.

10 MR. WALTERS: WELL, YOUR HONOR, I'D
11 ASK HIM TO READ THE LIST.

12 THE COURT: I MEAN, IT MIGHT BE HARD
13 TO REMEMBER THEM ALL.

14 Q. START WITH EACH CHARGE COME ALL THE WAY DOWN THE
15 LINE, AND THOSE TWO THERE. READ TO THE JURY ALL
16 THE CHARGES YOU HAVE PENDING IN ORANGEBURG COUNTY
17 RIGHT NOW.

18 A. DISTRIBUTION, SALE, PURCHASE, MANUFACTURE DRUGS
19 OTHER THAN CRACK COCAINE - - -

20 COURT REPORTER: WAIT A MINUTE,
21 YOU'RE LEAVING ME.

22 THE COURT: YES, SIR, YOU NEED TO
23 SPEAK A LITTLE LOUDER SO THE COURT REPORTER CAN HEAR
24 YOU.

25 A. DISTRIBUTION, SALE, PURCHASE, MANUFACTURE OF DRUGS

1 OTHER THAN CRACK COCAINE, OR PWID NEAR A SCHOOL.
2 TRAFFICKING IN METH OR COCAINE BASE, TEN GRAMS OR
3 MORE, LESS THAN TWENTY-EIGHT GRAMS. TRAFFICKING
4 IN COCAINE, A HUNDRED GRAMS OR MORE BUT LESS THAN
5 TWO HUNDRED GRAMS. UNLAWFUL CARRYING A PISTOL.
6 SALE, DELIVERY OF PISTOL TO AND POSSESSION BY
7 PERSONS UNLAWFUL. STOLEN PISTOL. MANUFACTURE AND
8 POSSESSION OF OTHER SUBSTANCE WITH INTENT TO
9 DISTRIBUTE. DISTRIBUTE, SALE, PURCHASE,
10 MANUFACTURE DRUGS OTHER THAN CRACK COCAINE NEAR A
11 SCHOOL, DISTRIBUTE, SALE, PURCHASE, MANUFACTURE
12 CRACK COCAINE NEAR A SCHOOL. POSSESSION OF
13 COCAINE, DISTRIBUTION, SALE, PURCHASE, MANUFACTURE
14 OF DRUGS OTHER THAN CRACK COCAINE NEAR A SCHOOL.

15 Q. YOU'RE AWARE OF THE FACT THAT YOU'RE FACING CLOSE
16 TO A HUNDRED YEARS IN JAIL?

17 A. NOW I DO.

18 Q. NOW, ON THIS PARTICULAR DAY YOU WERE BREAKING THE
19 LAW ON THAT DAY, IS THAT CORRECT?

20 A. SAY THAT AGAIN?

21 Q. ON THE DATE OF THIS PARTICULAR INCIDENT YOU WERE
22 BREAKING THE LAW ON THAT DAY?

23 A. OKAY. YES, SIR, WE WERE SMOKING.

24 Q. IN FACT, YOU WERE NOT ONLY SMOKING, I WANT TO SHOW
25 YOU WHAT'S BEEN MARKED - - -

CROSS - JOHN RANDOLPH BY MR. WALTERS

336

- 1 MR. WALTERS: CAN I GET A COPY OF
2 THAT?
3 Q. I WANT TO SHOW YOU WHAT'S BEEN MARKED AS
4 DEFENDANT'S EXHIBIT NUMBER FIVE, CAN YOU HOLD
5 THAT, SIR, AND I WANT TO SHOW YOU WHAT'S BEEN
6 MARKED AS DEFENDANT'S EXHIBIT NUMBER FOUR. CAN
7 YOU HOLD THAT? WOULD YOU DESCRIBED TO THE JURY
8 WHAT'S IN THAT PICTURE?
9 A. ZIP LOCK BAGS.
10 Q. THAT'S RIGHT. AND YOU HAD MARIJUANA IN THOSE ZIP
11 LOCK BAGS, IS THAT CORRECT?
12 A. NO, SIR.
13 Q. ALRIGHT. SO, IT'S YOUR TESTIMONY YOU DID NOT HAVE
14 MARIJUANA IN THE ZIP LOCK BAGS, BUT YOU HAD
15 MARIJUANA IN THE APARTMENT ON THAT PARTICULAR DAY?
16 A. YES, SIR.
17 Q. BECAUSE YOU WERE SMOKING A BLUNT OR A DIME BAG, IS
18 THAT CORRECT?
19 A. YES, SIR.
20 Q. NOW, YOUR TESTIMONY IS, IS THAT YOU'RE SITTING
21 INSIDE THE ROOM AND SOMEONE KNOCKED ON THE DOOR?
22 A. YES, SIR.
23 Q. AND YOU ALLOWED THIS PERSON TO COME IN, AND I
24 BELIEVE YOUR TESTIMONY WAS, EVERYBODY WAS SORT OF
25 THINKING, WHO ARE YOU, IS THAT CORRECT?

1 A. YES, SIR.

2 Q. ALRIGHT. SO, YOU ALLOWED SOMEONE TO COME INTO
3 YOUR PREMISES, YOU DON'T KNOW WHO THEY ARE, YOU
4 DON'T KNOW WHAT THEY'RE THERE FOR, AND NOBODY
5 KNOWS WHO THIS PARTICULAR PERSON IS, WHY DID YOU
6 EVEN OPEN THE DOOR AND ALLOW THEM TO COME IN?

7 A. BECAUSE WILL SAID HE RECOGNIZED HIM.

8 Q. YOU LET HIM COME IN THE DOOR BECAUSE YOUR WERE
9 SELLING DRUGS ON THAT PARTICULAR DAY, IS THAT
10 CORRECT?

11 A. I LET HIM COME THROUGH THE DOOR BECAUSE WILL SAID
12 HE RECOGNIZED HIM.

13 Q YOU OPENED THE DOOR BECAUSE YOU WANTED TO SELL
14 DRUGS TO SOMEONE ON THAT PARTICULAR DAY?

15 A. WE OPENED THE DOOR BECAUSE HE KNOCKED TO THE DOOR.

16 Q. SO, IF I KNOCK ON YOUR DOOR AND YOU DON'T KNOW WHO
17 I AM YOU JUST SIMPLY OPEN THE DOOR AND ALLOW ME TO
18 COME IN?

19 A. NO, I OPEN THE DOOR TO FIND OUT WHO YOU ARE.

20 Q. NO, THE PURPOSE OF OPENING THAT DOOR WAS SO YOU
21 COULD GO AHEAD AND MAKE A SALE TO SOMEONE, IS THAT
22 RIGHT?

23 A. NO, THE PURPOSE OF OPENING THE DOOR WAS TO FIND
24 OUT WHO HE WAS.

25 Q. LET ME ASK YOU A QUESTION, WHAT HAPPENED TO THE

CROSS - JOHN RANDOLPH BY MR. WALTERS

338

1 THREE EIGHTY THAT WAS IN THE HOUSE, BECAUSE, YOU
2 KNOW, THE BULLETS WERE INSIDE THE HOUSE, WHERE IS
3 THE GUN?

4 A. THAT WAS A THREE EIGHTY THAT WAS STOLEN FROM ME A
5 COUPLE OF YEARS BEFORE.

6 Q. OKAY. WHILE YOU WERE DOING THESE EIGHT PARTICULAR
7 CRIMES HERE, OR WHEN DID YOU LOSE YOUR GUN?

8 A. MY GUN WAS STOLEN, LIKE, A YEAR BEFORE THIS
9 INCIDENT.

10 Q. ALRIGHT. AND WHAT ABOUT THE FORTY-FIVE, WHERE WAS
11 THAT? THE BULLETS WERE IN THE HOUSE, WHERE WAS
12 THE GUN?

13 A. IT PROBABLY WAS SOME OLD BULLETS.

14 Q. SO, YOU JUST KEPT SOME OLD BULLETS AROUND BUT YOU
15 DON'T HAVE A GUN?

16 A. I USED TO HAVE A LOT OF FRIENDS COME OVER, THEY
17 PROBABLY BROUGHT THEM OVER.

18 Q. SO, YOU HAD FRIENDS THAT BROUGHT GUNS OVER TO THE
19 HOUSE AND BULLETS, OR JUST BULLETS?

20 A. SOME FRIENDS CAME OVER WITH GUNS AND BULLETS.

21 Q. SO, YOU'VE GOT FRIENDS THAT COME OVER TO THE HOUSE
22 AND BULLETS, AND THEY ALSO COME OVER AND PURCHASE
23 MARIJUANA?

24 A. NO, I DIDN'T SAY THAT.

25 Q. WHAT ARE YOU TRYING TO SAY?

CROSS - JOHN RANDOLPH BY MR. WALTERS

339

1 A. I'M ANSWERING YOUR QUESTION.

2 Q. NO, YOU'RE NOT.

3 A. YES, I AM.

4 Q. WHAT HAPPENED TO THE - - -

5 SOLICITOR SORENSON: OBJECTION, YOUR
6 HONOR, I MEAN, HE'S ANSWERED EVERY QUESTION HE'S ASKED
7 HIM. I MEAN, I - - -

8 THE COURT: DON'T ARGUE WITH HIM,
9 JUST ASK HIM QUESTIONS.

10 Q. ANSWER THIS QUESTION HONESTLY, IS THIS THE FIRST
11 APARTMENT THAT YOU'VE EVER LIVED IN WHERE SOMEONE
12 WAS SHOT AND KILLED?

13 A. NO, SIR.

14 SOLICITOR SORENSON: YOUR HONOR, I'M
15 GOING TO OBJECT TO THIS.

16 THE COURT: ALRIGHT, LADIES AND
17 GENTLEMEN, STEP OUT TO THE JURY ROOM A MINUTE AND LET
18 ME TAKE UP A MATTER OF LAW.

19 (Whereupon, the jury retires
20 to the jury room and the following
21 takes place out of the presence
22 of the jury.)

23 THE COURT: ALRIGHT, SIR.

24 SOLICITOR SORENSON: YOUR HONOR, MY
25 OBJECTION WOULD BE TO THE RELEVANCE. I MEAN, HE'S

CROSS - JOHN RANDOLPH BY MR. WALTERS

340

1 GETTING READY TO GO INTO A LINE OF QUESTIONING DEALING
2 WITH ANOTHER HOMICIDE THAT OCCURRED AT ANOTHER
3 APARTMENT THAT MR. RANDOLPH HAD HIS NAME IN, I BELIEVE
4 IT HAPPENED AFTER THIS?

5 A. BEFORE.

6 SOLICITOR SORENSON: BEFORE THIS.
7 I JUST DON'T SEE WHAT POSSIBLE RELEVANCE THAT COULD BE.
8 I KNOW ABOUT THE CASE BECAUSE I PROSECUTED IT. IT'S A
9 TRIAL WE DID A YEAR AGO UP HERE, AND I JUST CAN'T
10 IMAGINE WHAT RELEVANCE THAT COULD POSSIBLY HAVE ON
11 THIS.

12 THE COURT: WHAT RELEVANCE DOES IT
13 HAVE, MR. WALTERS?

14 MR. WALTERS: MAY IT PLEASE THE
15 COURT, IT'S A REVERSE FORM OF LYLE. IT'S A PATTERN
16 HERE, EVERYWHERE HE STAYS SOMEONE DIES.

17 THE COURT: A REVERSE FORM OF LYLE,
18 THIS IS A NEW THEORY OF THE ADMISSIBILITY OF EVIDENCE
19 THAT'S BEEN IN HERE THIS MORNING FOR THIS TRIAL.

20 MR. WALTERS: YOUR HONOR, THIS
21 PARTICULAR CASE, IT'S A PATTERN THAT'S FORMED BY THIS
22 PARTICULAR VICTIM IN THIS PARTICULAR CASE. THIS IS THE
23 SECOND INCIDENCE WHERE THE SAME THING HAS HAPPENED AND
24 SOMEONE HAS BEEN AT AN APARTMENT WHERE HE'S BEEN
25 ENGAGED IN ACTIVITIES.

CROSS - JOHN RANDOLPH BY MR. WALTERS

341

1 THE COURT: THE THEORY HAS MUCH TO
2 BE MODEST ABOUT, THE OBJECTION IS SUSTAINED. YOU WILL
3 NOT FOLLOW THAT LINE OF QUESTIONING. YOU'VE PUSHED THE
4 LIMIT ON THIS DRUG THING. THE ONLY REASON THAT'S
5 ADMISSIBLE IS WHETHER OR NOT THE STATE HAS MADE HIM
6 SOME OFFER OR SOMETHING. YOU DIDN'T EVEN GO INTO THAT.
7 YOU'RE PUSHING THE LIMIT SEVERELY IN GOING INTO THIS
8 DRUG THING, AND WE'RE NOT GOING INTO ANY OTHER HOMICIDE
9 IN HIS APARTMENT, NOT ON THAT THEORY OR ANY OTHER THAN
10 I'M FAMILIAR WITH. ALRIGHT?

11 MR. WALTERS: THANK YOU, YOUR HONOR.

12 THE COURT: ALRIGHT, BRING THE JURY
13 BACK.

14 SOLICITOR SORENSON: YOUR HONOR,
15 COULD I TAKE TWO SECONDS?

16 THE COURT: YEAH, WE'LL TAKE --
17 WAIT. GO TELL HER TO HOLD THE JURY AND WE'LL TAKE A
18 COUPLE OF MINUTES. THEY'RE PROBABLY NOT READY EITHER.
19 WE'LL TAKE ABOUT FIVE MINUTES, LADIES AND GENTLEMEN.

20 YOU CAN JUST SIT RIGHT THERE, MR.
21 RANDOLPH. OKAY?

22 I THINK WE'LL JUST KEEP GOING UNTIL
23 WE SEE SOME OF THE JURORS NOD.

24 SOLICITOR SORENSON: YES, SIR.

25 (Recess)

CROSS - JOHN RANDOLPH BY MR. WALTERS

342

1 THE COURT: ALRIGHT, BRING THE JURY
2 IN.

3 (Whereupon, the jury enters
4 the courtroom and the following
5 takes place in the presence
6 of the jury.

7 THE COURT: ALRIGHT, YOU MAY
8 CONTINUE, MR. WALTERS.

9 MR. WALTERS: MAY IT PLEASE THE
10 COURT.

11 ATTORNEY SORENSON.

12 Q. MR. RANDOLPH, YOU'VE TESTIFIED TODAY THAT THE
13 GENTLEMAN YOU SAW, HE HAD A FULL BEARD, IS THAT
14 CORRECT?

15 A. YES, SIR.

16 Q. ALRIGHT. I WANT TO HAND YOU YOUR STATEMENTS. YOU
17 GAVE SEVERAL STATEMENTS, AND I WANT TO LET YOU
18 LOOK AT THEM. DECEMBER TWENTY-FOURTH, THAT'S AT
19 ELEVEN:NINETEEN, AND THE OTHER STATEMENT IT DON'T
20 HAVE A TIME. PLEASE TAKE YOUR TWO STATEMENTS
21 THERE AND LOOK AT THEM, AND SHOW ME WHERE YOU TOLD
22 THE POLICE THE GENTLEMAN HAD A HEAVY SET BEARD, A
23 FULL BEARD.

24 A. I DON'T SEE IT.

25 Q. SIR?

CROSS - JOHN RANDOLPH BY MR. WALTERS

343

1 A. I SAID, I DON'T SEE IT.

2 Q. SO, AS FAR AS THE STATEMENTS THAT YOU GAVE THE
3 POLICE AFTER THIS PARTICULAR EVENT OCCURRED, YOU
4 NEVER TOLD THE POLICE THAT SOMEONE WAS WEARING A
5 FULL BEARD, IS THAT CORRECT?

6 A. I TOLD THEM, I JUST DIDN'T WRITE IT IN THE
7 STATEMENT.

8 Q. I HAVE ANOTHER QUESTION FOR YOU, IT'S YOUR
9 TESTIMONY IN THIS PARTICULAR CASE THAT I BELIEVE
10 YOU TESTIFIED, OR YOU STATED THAT HARRY MACK
11 OPENED THE DOOR TO THE APARTMENT, IS THAT RIGHT?

12 A. YES, SIR.

13 Q. AND IT'S YOUR TESTIMONY THAT SOMEONE LOOKED
14 THROUGH THE PEEPHOLE, IS THAT RIGHT?

15 A. YES, SIR.

16 Q. SHOW ME IN YOUR STATEMENTS WHERE SOMEONE LOOKED
17 THROUGH THE PEEPHOLE TO SEE WHO WAS COMING IN?

18 A. I KNOW I DIDN'T WRITE THAT.

19 Q. OKAY. I BELIEVE THAT YOU ALSO PROVIDED
20 INFORMATION WITH REGARDS TO HOW THE EVENT
21 OCCURRED, AND IT WAS YOUR TESTIMONY THAT YOU WERE
22 IN THE KITCHEN, IS THAT RIGHT?

23 A. YES, SIR.

24 Q. AND YOU JUST TESTIFIED THAT SOMEONE CAME THROUGH
25 THE DOOR, AND THEY STOOD INSIDE THE HOUSE, IS THAT

CROSS - JOHN RANDOLPH BY MR. WALTERS

344

1 RIGHT, OR INSIDE THE APARTMENT?

2 A. YES, SIR.

3 Q. BUT THAT'S NOT WHAT YOU TOLD THE POLICE ON
4 DECEMBER TWENTY-FOURTH AT ELEVEN:NINETEEN. I'M
5 GOING TO SHOW YOU YOUR STATEMENT HERE AND I'M
6 GOING TO ASK THAT YOU READ THAT TO THE JURY.
7 START RIGHT THERE AND END IT RIGHT THERE. COULD
8 YOU READ THAT TO THE JURY, PLEASE?

9 A. "AND ANSWERED THE DOOR."

10 SOLICITOR SORENSON: YOUR HONOR, I'M
11 GOING TO OBJECT TO HIM HAVING HIM JUST READ FROM THE
12 STATEMENT. I MEAN, HE CAN ASK HIM A QUESTION, IF HE
13 DOESN'T REMEMBER, I DON'T EVEN KNOW WHAT HE'S ASKING
14 HIM TO READ. I MEAN, IT'S JUST - - -

15 MR. WALTERS: I'LL REPHRASE THE
16 QUESTION, YOUR HONOR.

17 THE COURT: ALRIGHT.

18 Q. MR. RANDOLPH, YOU JUST TESTIFIED THAT SOMEONE WENT
19 TO THE PEEPHOLE, LOOKED THROUGH THE PEEPHOLE, AND
20 THERE WAS AN INDIVIDUAL AFTER YOU OPENED THE DOOR
21 THAT CAME IN AND YOU STATED THAT YOU RECOGNIZED
22 THE INDIVIDUAL, IS THAT CORRECT?

23 A. SAY THAT AGAIN?

24 Q. YOU PREVIOUSLY TESTIFIED THAT SOMEONE WENT TO THE
25 PEEPHOLE AND LOOKED AND SOMEONE CAME IN THE DOOR,

CROSS - JOHN RANDOLPH BY MR. WALTERS

345

1 AND THERE WAS A LONG DISCUSSION ABOUT EXACTLY WHO
2 THIS PERSON IS, IS THAT CORRECT?

3 A. YES, SIR.

4 Q. ALRIGHT. MY QUESTION TO YOU IS, IS THAT THAT'S
5 NOT WHAT YOU TOLD THE POLICE, BASED ON YOUR
6 STATEMENT THAT'S DATED DECEMBER TWENTY-FOURTH AT
7 ELEVEN:NINETEEN, RIGHT AFTER THIS PARTICULAR EVENT
8 OCCURRED. I'M ASKING YOU, DID YOU TELL THE POLICE
9 THE STATEMENT THAT'S LISTED HERE? AND I'VE GIVEN
10 YOU YOUR STATEMENT, I'VE MARKED THE SENTENCE
11 THERE. THE SENTENCE SAYS, WOULD YOU READ IT FOR
12 ME?

13 A. "HARRY ANSWERED THE DOOR AND - - -

14 THE COURT: MR. WALTERS -- Y'ALL
15 COME AROUND HERE JUST ONE SECOND.

16 (Whereupon, a bench conference
17 is had out of the hearing of
18 the jury and court reporter.)

19 Q. SIR, DID YOU STATE IN YOUR STATEMENT, "HARRY
20 ANSWERED THE DOOR AND THREE GUYS RUSHED IN."?

21 A. NO, SIR.

22 Q. WOULD YOU READ THAT SENTENCE RIGHT THERE, IF
23 YOU'RE DENYING IT, YOU SIGNED YOUR NAME, IS THAT
24 YOUR SIGNATURE AT THE BOTTOM OF THIS STATEMENT?

25 A. YES.

CROSS - JOHN RANDOLPH BY MR. WALTERS

346

1 Q. IT IS YOUR SIGNATURE?

2 A. YES, SIR.

3 Q. ALRIGHT. AND YOU SIGNED THIS STATEMENT ON
4 DECEMBER TWENTY-FOURTH AT ELEVEN:NINETEEN, IS THAT
5 CORRECT?

6 A. YES, SIR.

7 Q. ALRIGHT. AND WOULD YOU READ TO ME WHAT YOU TOLD
8 THE POLICE?

9 A. "HARRY ANSWERED THE DOOR AND THREE GUYS RUSHED
10 IN."

11 Q. EXACTLY. SO, THERE WAS NO ONE THAT WENT TO A
12 PEEPHOLE, SAW SOMEONE COME IN, THEY WALKED IN, WE
13 LOOKED AT THE PERSON. WHAT HAPPENED WAS, IS THAT
14 YOU TOLD THE POLICE THAT YOU WERE IN THE KITCHEN,
15 SOMEONE KNOCKED AT THE DOOR, HARRY ANSWERED IT,
16 AND THREE PEOPLE RUSHED IN. IS THAT RIGHT?

17 A. I DON'T REMEMBER TELLING THEM THAT BUT - - -

18 Q. BUT THAT'S YOUR SIGNATURE AND THAT'S YOUR
19 STATEMENT?

20 A. THAT'S MY SIGNATURE, BUT THAT'S NOT MY
21 HANDWRITING.

22 Q. YOU SIGNED THE STATEMENT?

23 A. YEAH.

24 Q. ALRIGHT. NOW, YOU STATED THERE WERE TWO PEOPLE
25 THAT CAME INSIDE AND STARTED MOVING AROUND. WHAT

1 PERSON WENT AFTER HARRY?

2 A. THE TALL - - -

3 Q. WAS IT THE TALL PERSON OR THE SHORT PERSON?

4 A. THE TALL DARK SKINNED DUDE.

5 Q. THE TALL PERSON. ALRIGHT. AND DID THEY CHASE
6 HARRY INTO THE BEDROOM?

7 A. THEY WEREN'T REALLY CHASING HIM BECAUSE HARRY WAS
8 ALREADY IN THERE.

9 Q. ALRIGHT. AND IT'S YOUR TESTIMONY TODAY, IT WAS A
10 BROWN OR GRAY COLORED CAR, IS THAT CORRECT?

11 A. IT WAS SOMETHING LIKE THAT. I COULDN'T SEE
12 BECAUSE IT WAS DARK. LIKE I SAID, THAT'S THE
13 COLOR THAT IT LOOKED TO ME.

14 Q. SO, IT LOOKED BROWN OR GRAY? EXCUSE ME?

15 A. YES, SIR.

16 Q. ALRIGHT. AND AS FAR AS THE GUY THAT RAN IN THE
17 BACK, COULD YOU GIVE ME A DESCRIPTION OF HIM?

18 A. TALL, DARK SKINNED. THAT'S REALLY ALL I COULD SEE
19 BECAUSE HE HAD ON, LIKE A SWEATER, LIKE A SWEATER
20 WITHOUT ARMS, TO TELL HOW DARK HE WAS. EVERYTHING
21 ELSE WAS COVERED.

22 Q. ALRIGHT. WHAT COMPLEXION WAS HE?

23 A. DARK.

24 Q. DARK?

25 MR. WALTERS: I BEG THE COURT'S

CROSS - JOHN RANDOLPH BY MR. WALTERS

348

1 INDULGENCE, YOUR HONOR.

2 THE COURT: YES, SIR.

3 Q. NOW, AFTER THIS OCCURRED -- HARRY MACK IS YOUR
4 FIRST COUSIN, IS THAT CORRECT?

5 A. YES, SIR.

6 Q. AND I BELIEVE THAT THE STATEMENT YOU GAVE THE
7 POLICE WAS, IS AFTER HARRY WAS SHOT YOU TOOK HIS
8 CELL PHONE, IS THAT RIGHT?

9 A. YES, SIR.

10 Q. DID YOU PICK UP THAT CELL PHONE AND CALL HIS MOM
11 OR HIS DAD OR ANYBODY IN THE FAMILY?

12 A. NO, SIR.

13 Q. DID YOU PICK UP THAT CELL PHONE AND DIAL NINE ONE
14 ONE?

15 A. NO, SIR.

16 Q. IN FACT, YOU DIDN'T EVEN GO TO THE HOSPITAL?

17 A. NO, SIR.

18 Q. YOU JUMPED IN THE CAR AND YOU DROVE ALMOST TWENTY
19 -- YOU DROVE CLOSE TO TWENTY MILES AWAY FROM THE
20 SCENE OF THIS INCIDENT, AND YOU DROVE OUT TO A
21 PLACE CALLED THE OAKS, IS THAT RIGHT?

22 A. I'M NOT SURE.

23 Q. THREE O ONE AND ONE SEVENTY-SIX?

24 A. YEAH, WE CALL IT THREE O ONE AND ONE SEVENTY-SIX,
25 I DON'T KNOW IT AS THE OAKS.

CROSS - JOHN RANDOLPH BY MR. WALTERS

349

1 Q. RIGHT. SO, YOUR FIRST COUSIN'S BEEN SHOT, YOU
2 KNOW THEY'RE TAKING HIM TO THE HOSPITAL. YOU TAKE
3 HIS PHONE, YOU DRIVE OUT TO THREE O ONE AND ONE
4 SEVENTY-SIX, WHAT WERE YOU GOING TO DO OUT THERE?

5 A. PICK WILL UP.

6 Q. OKAY. DIDN'T WILL GO TO THE HOSPITAL WITH POOKIE
7 TO TAKE LAWRENCE TO THE HOSPITAL?

8 A. TAKE HARRY TO THE HOSPITAL.

9 Q. TAKE HARRY TO THE HOSPITAL?

10 A. YES, SIR.

11 Q. ALRIGHT. SO, WHAT SENSE DID IT MAKE TO DRIVE FROM
12 SHADOW LAWN DRIVE, WHICH IS FOUR MINUTE FROM THE
13 HOSPITAL, FOUR OR FIVE MINUTES FROM THE HOSPITAL,
14 WHAT SENSE DID IT MAKE TO GET IN A CAR AND LEAVE
15 SHADOW LAWN DRIVE AND DRIVE ALL THE WAY OUT TO
16 THREE O ONE WHERE IT INTERSECTIONS ONE SEVENTY-SIX
17 TO PICK UP WILL WHEN WILL HAD GONE TO THE
18 HOSPITAL?

19 A. BECAUSE I CALLED WILL ON HARRY'S PHONE AND WILL
20 TOLD ME HE HAD DROPPED HARRY OFF TO THE HOSPITAL
21 AND HIM AND POOKIE WAS HEADING HOME, WHICH IS
22 DOWN THREE O ONE TO ONE SEVENTY-SIX. SO SINCE
23 ME, WILL AND HARRY ARE FIRST COUSINS, I FELT
24 LIKE HE SHOULDN'T HAVE LEFT THE HOSPITAL. SO, I
25 TOLD HIM TO TELL POOKIE TO STOP, AND I'M COMING TO

CROSS - JOHN RANDOLPH BY MR. WALTERS

350

1 GET YOU.

2 Q. WHY DIDN'T YOU GET IN THE CAR AT [REDACTED]
3 SHADOW LAWN DRIVE AND DRIVE FOUR MILES TO THE
4 HOSPITAL AND SAY, I'M HERE, I'M CONCERNED ABOUT MY
5 COUSIN?

6 A. BECAUSE WHEN I FIRST LEFT I WENT LOOKING FOR THE
7 CAR THAT JUST HAD LEFT MY APARTMENT, I WENT
8 LOOKING FOR THEM.

9 Q. IN FACT, YOU GOT INTO AN ARGUMENT WITH WILL T.
10 GILLIARD, AND YOU SAID, WE'VE GOT TO GO BACK TO
11 THE HOSPITAL, DIDN'T YOU?

12 A. NO, I TOLD HIM HE WAS GOING BACK.

13 Q. ALRIGHT. AND YOU WENT BACK WITH HIM ALSO?

14 A. YEAH, I WENT AND PICKED HIM UP.

15 Q. AND THAT'S WHEN THE TWO OF YOU GOT TOGETHER AND
16 TALKED, AND THEN YOU WENT TO THE HOSPITAL, AND THE
17 TWO OF YOU HAD A CONVERSATION WITH THE POLICE, IS
18 THAT RIGHT?

19 A. YES, SIR.

20 Q. ALRIGHT.

21 MR. WALTERS: YOUR HONOR, I HAVE NO
22 FURTHER QUESTIONS.

23 THE COURT: REDIRECT?

24 SOLICITOR SORENSON: JUST VERY
25 BRIEFLY.

REDIRECT - JOHN RANDOLPH BY SOL. SORENSON

351

1 REDIRECT EXAMINATION OF JOHN RANDOLPH

2 BY SOLICITOR SORENSON:

3 Q. MR. WALTERS ASKED YOU ABOUT THE STATEMENTS THAT
4 YOU GAVE, - - -

5 THE COURT: WHO IS YOUR NEXT
6 WITNESS, SO THEY CAN GET HIM TO THE DOOR?

7 SOLICITOR SORENSON: WILL GILLIARD,
8 JUST HAVE HIM RIGHT OUTSIDE THE DOOR.

9 Q. LET ME ASK YOU THIS, THIS INCIDENT HAPPENED
10 SHORTLY AFTER MIDNIGHT, RIGHT?

11 A. YES, SIR.

12 Q. OKAY. AND A LITTLE BIT OF DRIVING AROUND, WHAT
13 TIME DO YOU THINK IT WAS PROBABLY WHEN YOU GOT TO
14 THE HOSPITAL AND FIRST MADE CONTACT WITH LAW
15 ENFORCEMENT?

16 A. IT PROBABLY WAS A LITTLE BEFORE ONE.

17 Q. A LITTLE BEFORE ONE O'CLOCK IN THE MORNING?

18 A. ONE O'CLOCK IN THE MORNING.

19 Q. OKAY. SO, AT THAT POINT IN TIME THEY TOOK YOU,
20 THE SHERIFF'S OFFICE TOOK YOU BACK TO THE
21 SHERIFF'S OFFICE, IS THAT CORRECT?

22 A. YES, SIR.

23 Q. AND BEGAN TALKING TO YOU?

24 A. YES, SIR.

25 Q. OKAY. THE STATEMENT THAT MR. WALTERS WAS

REDIRECT - JOHN RANDOLPH BY SOL. SORENSON

352

1 REFERRING TO, LET ME SHOW YOU THAT, WHAT TIME DOES
2 THAT INDICATE THAT STATEMENT WAS TAKEN FROM YOU?

3 A. ELEVEN:NINETEEN.

4 Q. ELEVEN:NINETEEN?

5 A. A.M.

6 Q. SO, THAT'S SOME TEN HOURS LATER?

7 A. YES, SIR.

8 Q. HAD YOU PRETTY MUCH BEEN DEALING WITH THE POLICE
9 OFFICERS FOR THAT WHOLE TEN HOUR PERIOD OF TIME?

10 A. YES, SIR.

11 Q. LET ME ASK YOU THIS, HAD YOU BEEN TO SLEEP?

12 A. NO, SIR.

13 Q. HOW WERE YOU FEELING BY THAT POINT IN TIME?

14 A. I JUST LOST MY COUSIN, AND THE WORSE FEELING EVER.

15 Q. SO, YOU KNEW AT THAT POINT IN TIME THAT HARRY HAD
16 DIED, IS THAT CORRECT?

17 A. YES, SIR.

18 Q. WERE YOU TIRED?

19 A. TIRED.

20 Q. WORN OUT?

21 A. WORN OUT, YES.

22 Q. READY TO GO HOME?

23 A. YES.

24 SOLICITOR SORENSON: THAT'S ALL I'D
25 HAVE.

1 THE COURT: CROSS-EXAM?

2 MR. WALTERS: I HAVE NO QUESTIONS,
3 YOUR HONOR.

4 THE COURT: THANK YOU, SIR, YOU MAY
5 BE EXCUSED.

6 BRING MR.-- WHO'S THE NEXT ONE, MR.
7 GILLIARD?

8 SOLICITOR SORENSON: YES, SIR.

9 (Whereupon, the witness
10 enters the courtroom.)

11 THE COURT: COME ON AROUND THIS WAY,
12 PLEASE, SIR, AND IF YOU WOULD PUT YOUR LEFT HAND ON THE
13 BIBLE AND RAISE YOUR RIGHT.

14 (Whereupon, Will Gilliard, Jr.,
15 is duly sworn.)

16 THE COURT: THANK YOU, SIR, PLEASE
17 HAVE A SEAT THERE, STATE YOUR FULL NAME, AND WHEN THEY
18 ASK YOU QUESTIONS PLEASE SPEAK LOUD ENOUGH SO EVERYBODY
19 CAN HEAR YOU.

20 WITNESS: WILL GILLIARD, JR..

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.)

DIRECT - WILL GILLIARD, JR., BY SOL. SORENSON

354

DIRECT EXAMINATION OF WILL GILLIARD, JR.,

BY SOLICITOR SORENSON:

Q. MR. GILLIARD, IF YOU WOULD, TELL THE JURY HOW OLD
YOU ARE?

A. TWENTY-FOUR.

Q. TWENTY-FOUR. AND YOU LIVE HERE IN ORANGEBURG
COUNTY?

A. YES, SIR.

Q. OKAY. DID YOU GROW UP HERE IN ORANGEBURG COUNTY?

A. YES, SIR.

Q. ALRIGHT. AND IF YOU WOULD, THE YOUNG MAN THAT
JUST LEFT THE COURTROOM, MR. RANDOLPH, HOW ARE YOU
RELATED TO MR. RANDOLPH?

A. HE'S MY FIRST COUSIN.

Q. OKAY. AND HOW ABOUT THE VICTIM IN THIS CASE,
HARRY MACK, HOW ARE YOU RELATED?

A. FIRST COUSIN.

Q. SAME? ONE OF YOUR PARENTS OF EACH OF Y'ALL ARE
ALL SIBLINGS, IS THAT CORRECT?

A. YES.

Q. ALRIGHT. AND HOW ABOUT LAWRENCE KELLY, HOW DO YOU
KNOW LAWRENCE KELLY?

A. I'M MARRIED TO HIS COUSIN.

Q. SAY THAT AGAIN?

A. I'M MARRIED TO HIS COUSIN.

1 Q. YOU'RE MARRIED TO LAWRENCE'S COUSIN?

2 A. YES, SIR.

3 Q. OKAY. AND WHERE IS LAWRENCE ORIGINALLY FROM?

4 A. I THINK DETROIT.

5 Q. DETROIT. OKAY. NOW, I WANT TO TURN YOUR
6 ATTENTION, IF I COULD, MR. GILLIARD, BACK TO
7 DECEMBER TWENTY-THIRD OF TWO THOUSAND AND SIX.
8 WHAT HAD YOU BEEN DOING THAT DAY?

9 A. WELL, CHRISTMAS SHOPPING.

10 Q. CHRISTMAS SHOPPING. AND WHO WERE YOU WITH?

11 A. LAWRENCE AND I.

12 Q. YOU AND LAWRENCE?

13 A. YES, SIR.

14 Q. OKAY. AND DID THERE COME A TIME LATER ON THAT
15 NIGHT WHERE YOU MADE PLANS, THE TWO OF Y'ALL, TO
16 GO DO SOMETHING?

17 A. YES, SIR, WE DECIDED TO GO TO CLUB ECLIPSE.

18 Q. OKAY, NOW KEEP YOUR VOICE UP, NOW. WHERE IS CLUB
19 ECLIPSE LOCATED?

20 A. ORANGEBURG.

21 Q. OKAY. AND WHERE WERE THE TWO OF Y'ALL LIVING AT
22 THAT TIME?

23 A. SANTEE.

24 Q. OKAY. WERE YOU LIVING TOGETHER OR - - -

25 A. NO, SIR.

DIRECT - WILL GILLIARD, JR., BY SOL. SORENSON

356

- 1 Q. OKAY. SO, Y'ALL DROVE THEN FROM SANTEE INTO
2 ORANGEBURG?
3 A. YES, SIR.
4 Q. OKAY. AND HOW LONG HAVE YOU BEEN LIVING IN
5 SANTEE?
6 A. GOING ON THREE YEARS NOW.
7 Q. OKAY. IT WAS GOING ON ABOUT A YEAR WHEN THIS
8 HAPPENED?
9 A. YES, SIR.
10 Q. SOMEWHERE AROUND THERE?
11 A. YES, SIR.
12 Q. AND DID THERE COME-- DID YOU HAVE AN OCCASION THAT
13 NIGHT TO GO BY YOUR COUSIN, MR. RANDOLPH'S
14 APARTMENT?
15 A. YEAH, WE DECIDED TO GO THERE AND SEE IF THEY
16 WANTED TO GO OUT WITH US.
17 Q. HAD YOU MADE ANY ARRANGEMENTS AHEAD OF TIME?
18 A. NO, SIR.
19 Q. OKAY. AND WHO WAS DRIVING?
20 A. LAWRENCE.
21 Q. AND WHEN YOU GOT TO -- THAT'S MR. RANDOLPH'S
22 APARTMENT THERE?
23 A. YES, SIR.
24 Q. OKAY. AND WHEN YOU GOT THERE AND WENT INSIDE WHO
25 ELSE WAS AT THE APARTMENT?

DIRECT - WILL GILLIARD, JR., BY SOL. SORENSON

357

1 A. IT WAS JOHN AND HARRY.

2 Q. OKAY. DID YOU KNOW HARRY WAS LIVING THERE AT THAT
3 TIME, TOO, OR - - -

4 A. I HEARD BUT I DIDN'T REALLY KNOW.

5 Q. BUT IT WAS JUST THE TWO OF THEM THERE WHEN YOU GOT
6 THERE, THOUGH?

7 A. YES, SIR.

8 Q. OKAY. AND WHAT, DID Y'ALL MAKE PLANS THEN FOR ALL
9 OF Y'ALL TO GO OUT?

10 A. YES, SIR.

11 Q. OKAY. AND TELL THE JURY, WHAT DID Y'ALL DO THEN,
12 DID YOU STAY IN THE APARTMENT FOR A LITTLE WHILE?

13 A. YEAH, WE WAS SMOKING, SMOKING MARIJUANA.

14 Q. OKAY. THAT WAS ALL FOUR OF YOU?

15 A. YES, SIR.

16 Q. OKAY. AND WHERE WERE YOU SITTING AT WHEN - - -

17 A. I WAS SITTING ON THE COUCH IN FRONT OF THE T.V.

18 Q. SO, THAT'S THE BIGGER COUCH IN THE LIVING ROOM?

19 A. YES, SIR.

20 Q. THAT COUCH RIGHT THERE?

21 A. YES, SIR.

22 Q. OKAY. AND WAS ANYBODY ELSE SITTING ON THAT COUCH
23 WITH YOU?

24 A. LAWRENCE.

25 Q. OKAY. AND WHAT WAS HARRY AND JOHN DOING?

DIRECT - WILL GILLIARD, JR., BY SOL. SORENSON

358

1 A. GETTING READY.

2 Q. OKAY. DID THERE COME A TIME THAT NIGHT WHEN
3 SOMEBODY ELSE CAME TO THE DOOR?

4 A. YEAH. WHEN HARRY CAME OUT THE BATHROOM A KNOCK
5 CAME TO THE DOOR.

6 Q. A KNOCK CAME TO THE DOOR, IS THAT WHAT YOU SAID?

7 A. YES, SIR.

8 Q. OKAY. AND WHAT HAPPENED THEN?

9 A. HE OPENED IT, AND THEN IT WAS TERRELL.

10 Q. SO, HARRY OPENED THE DOOR, THERE WAS SOMEBODY
11 THERE, DESCRIBE THE PERSON THAT WAS AT THE DOOR?

12 A. HE WAS SHORT, CHUBBY, A LOT OF HAIR ON HIS FACE,
13 WITH A BLACK, BLACK SWEATER CAP WITH THE LIP ON IT
14 TURNED BACK WITH A HOODIE.

15 Q. OKAY. AND DID YOU RECOGNIZE HIM, THAT PERSON AT
16 THAT POINT IN TIME?

17 A. YEAH, I'D SEEN HIM IN SANTEE.

18 Q. OKAY. LET ME ASK YOU, WHAT'S THE LIGHTING LIKE
19 INSIDE WHERE YOU WERE SITTING INSIDE THE
20 APARTMENT?

21 A. ALL THE LIGHTS WAS ON.

22 Q. OKAY. AND THE OUTSIDE PORCH LIGHT ON, TOO, DO YOU
23 RECALL OR - - -

24 A. I CAN'T REMEMBER.

25 Q. OKAY. ANYTHING OBSTRUCTING YOUR VIEW, I MEAN, DID

1 YOU - - -

2 A. NO, SIR.

3 Q. --- GET A GOOD LOOK AT THE GUY?

4 A. YES, SIR.

5 Q. OKAY. AND LET ME ASK YOU, DID YOU KNOW HIS NAME
6 AT THAT POINT IN TIME?

7 A. NO, SIR, I JUST KNOW HIS FACE.

8 Q. OKAY. AND WHERE WAS IT THAT YOU, WHEN YOU SAW HIM
9 THAT YOU RECOGNIZED HIM FROM?

10 A. I'D SEEN HIM IN SANTEE.

11 Q. IN SANTEE?

12 A. YES, SIR.

13 Q. OKAY. AND FOR THOSE OF US THAT MIGHT NOT KNOW, I
14 MEAN, WHAT IS -- IS SANTEE BIG, SMALL, IT'S NOT AS
15 BIG AS ORANGEBURG, IS IT?

16 A. OH, NO, SIR.

17 Q. OKAY. ALRIGHT, SO TELL THE JURY WHAT HAPPENED
18 THEN, WHEN HARRY ANSWERS THE DOOR, THIS GUY THAT
19 YOU RECOGNIZE FROM SANTEE IS AT THE DOOR, WHAT
20 HAPPENS THEN?

21 A. HE CAME IN, HE ASKED FOR SOME DOPE, ABOUT A HALF
22 OUNCE.

23 Q. OKAY. AND WHO IS TALKING TO HIM INITIALLY?

24 A. WELL, BOTH HARRY AND JOHN WAS TALKING TO HIM, THEY
25 WAS SAYING THAT THEY DIDN'T KNOW HIM. SO, THAT'S

DIRECT - WILL GILLIARD, JR., BY SOL. SORENSON

360

1 WHEN I HAD LOOKED AND I WAS, LIKE, I DONE SEEN HIM
2 IN SANTEE.

3 Q. OKAY. SO, YOU ACTUALLY MADE THAT COMMENT THAT
4 I'VE SEEN HIM IN SANTEE?

5 A. YES, SIR.

6 Q. OKAY. ALRIGHT, WHAT HAPPENED THEN?

7 A. AND THEN THEY KEEP GOING BACK AND FORTH ABOUT THEY
8 DIDN'T KNOW HIM, AND HE KEEP SAYING, YEAH, I'M
9 FROM SANTEE. SO, I DECIDED TO GET UP BECAUSE I
10 FELT SOMETHING WAS GOING ON. SO, I JUST WENT TO
11 THE DOOR. AND THEN WHEN I OPENED THE DOOR IT WAS
12 TWO MORE FELLOWS RIGHT THERE THAT RUSHED IN.

13 Q. OKAY. SO, THEY WERE OUTSIDE THE APARTMENT?

14 A. YES, SIR.

15 Q. OKAY. AND DESCRIBE THOSE TWO PEOPLE FOR THE JURY?

16 A. WELL, THEY HAD SKI MASKS ON.

17 Q. OKAY. COULD YOU TELL ANYTHING ABOUT THEM
18 INITIALLY WHEN YOU SAW THEM, OR AFTERWARDS EVEN?

19 A. NO, NOT REALLY.

20 Q. OKAY. COULD YOU TELL IF THEY WERE WHITE MALES,
21 BLACK MALES?

22 A. NO, SIR.

23 Q. YOU COULDN'T EVEN TELL THAT?

24 A. NO, SIR.

25 Q. OKAY. COULD YOU SEE WHETHER THEY HAD ANYTHING IN

1 THEIR HANDS?

2 A. YEAH, THEY HAD GUNS.

3 Q. OKAY. ALRIGHT. AND YOU INDICATED THAT THE TWO OF
4 THEM CAME RUSHING IN?

5 A. YES, SIR.

6 Q. ALRIGHT. AND WHERE WERE YOU AT WHEN THAT
7 HAPPENED?

8 A. I WAS THE ONE THAT OPENED THE DOOR.

9 Q. OKAY. SO, YOU WERE RIGHT IN THE DOORWAY?

10 A. YES, SIR.

11 Q. ALRIGHT. WHAT HAPPENED THEN WHEN THEY WERE - - -

12 A. WHEN THEY RUSHED IN I JUMPED BACK BECAUSE I SCARED
13 THEM JUST LIKE THEY SCARED ME, I MEAN. I OPENED
14 THE DOOR, LIKE, THEY JUMPED, TOO, BUT THEY RUSHED,
15 YOU KNOW WHAT I'M SAYING, THEY RUSHED IN, TOO.

16 Q. OKAY. WHERE, WHERE DID YOU GO, DID YOU GO RUN
17 ANYWHERE IN THE LIVING ROOM?

18 A. NO, I FALL IN THE MIDDLE OF THE FLOOR.

19 Q. OKAY. YOU FELL IN THE MIDDLE OF THE FLOOR. LET
20 ME ASK YOU, LET ME SHOW THESE PICTURES HERE. I
21 SHOW YOU STATE'S EXHIBIT NUMBER EIGHTEEN, THAT
22 KIND OF SHOWS FROM THE KITCHEN INTO THE LIVING
23 ROOM AREA?

24 A. YES, SIR.

25 Q. THERE'S A LITTLE, KIND OF COFFEE TABLE, I GUESS?

DIRECT - WILL GILLIARD, JR., BY SOL. SORENSON

362

1 A. YEAH, I THINK I'M THE ONE THAT KNOCKED IT OVER
2 WHEN I FALL.

3 Q. BUT PRIOR TO ALL OF THIS HAPPENING THAT COFFEE
4 TABLE WAS RIGHT SIDE UP IN THERE?

5 A. YES, SIR.

6 Q. YES, SIR.

7 MR. CULLER: YOUR HONOR, I OBJECT TO
8 THAT, HE'S TESTIFYING, NOT ASKING A QUESTION. I'D ASK
9 HIM TO ASK A QUESTION.

10 THE COURT: ALRIGHT, SIR, DON'T LEAD
11 THE WITNESS.

12 SOLICITOR SORENSON: YES, SIR.

13 Q. WHAT -- PRIOR TO THOSE GUYS COME RUSHING IN, WHAT
14 CONDITION WAS THAT LIVING ROOM AREA IN PRIOR TO
15 THAT HAPPENING?

16 A. IT WAS STRAIGHTENED UP, EVERYTHING WAS, THE TABLE
17 WAS UPRIGHT.

18 Q. LET ME SHOW YOU, THERE'S VARIOUS ITEMS ON THE
19 FLOOR IN THESE PHOTOGRAPHS, WHERE WERE THOSE ITEMS
20 AT PRIOR TO THOSE TWO GUYS RUSHING IN?

21 A. ON THE TABLE, ON THE COFFEE TABLE.

22 Q. HOW ABOUT, HOW ABOUT THIS LAMP HERE THAT'S NEXT TO
23 THAT END TABLE, WHERE WAS THAT LAMP AT PRIOR TO
24 THEM RUSHING IN?

25 A. ON THIS TABLE.

DIRECT - WILL GILLIARD, JR., BY SOL. SORENSON

363

1 Q. ON THE END TABLE THERE NEXT TO THE - - -

2 A. YES, SIR.

3 Q. --- IT'S A LITTLE SMALLER COUCH?

4 A. YES, SIR.

5 Q. ALRIGHT. ALRIGHT, TELL THE JURY WHAT, AS YOU SAW
6 THEM RUSH IN AND YOU KIND OF TESTIFIED THAT YOU
7 FELL TO THE FLOOR AND YOU KNOCKED THAT COFFEE
8 TABLE OVER, WHAT HAPPENED, WHAT DID YOU SEE OR
9 HEAR THEN?

10 A. AS I WAS FALLING DOWN I COULD SEE TERRELL PULL OUT
11 HIS GUN AND SHOT.

12 Q. OKAY. SO, YOU SAW TERRELL PULL OUT HIS GUN, WHAT
13 KIND OF GUN WAS IT?

14 A. IT LOOKED LIKE A THREE FIFTY-SEVEN, I KNOW IT WAS
15 CHROME, A BIG REVOLVER.

16 Q. A BIG CHROME REVOLVER?

17 A. YES, SIR.

18 Q. OKAY. AND WHAT DID YOU SEE HIM DO WITH THAT GUN?

19 A. HE SHOT.

20 Q. HOW MANY TIMES?

21 A. WELL, I HEARD ONE SHOT, SIR.

22 Q. ONE SHOT?

23 A. YES, SIR.

24 Q. AND FROM WHERE YOU WERE DID YOU SEE IF HE HIT
25 ANYTHING OR ANYONE AT THAT POINT IN TIME?

DIRECT - WILL GILLIARD, JR., BY SOL. SORENSON

364

- 1 A. NO, SIR. NO, SIR, BECAUSE AS I WENT DOWN I WAS
2 FACE DOWN.
- 3 Q. OKAY. AND WHEN ALL THIS STARTED, I GUESS, HARRY
4 WAS UP NEAR THE FRONT DOOR STILL INITIALLY?
- 5 A. YES, SIR.
- 6 Q. WHERE DID, WHERE DID HE GO?
- 7 A. I DIDN'T KNOW, I WAS FACE DOWN.
- 8 Q. OKAY. SO, YOU DIDN'T KNOW WHERE HE -- INITIALLY
9 YOU DIDN'T KNOW WHERE HE WENT?
- 10 A. NO, SIR.
- 11 Q. OKAY. ALRIGHT. HOW ABOUT, WAS THERE ANYBODY ELSE
12 THAT WAS ON THE FLOOR WITH YOU OUT IN THE LIVING
13 ROOM AREA?
- 14 A. I DIDN'T KNOW, I WAS FACE DOWN.
- 15 Q. OKAY. SO, YOU, WHEN YOU HIT THE FLOOR YOUR FACE
16 WAS, YOU WERE EATING CARPET BASICALLY AT THAT
17 POINT IN TIME?
- 18 A. YES, SIR.
- 19 Q. OKAY. TELL THE JURY, AS YOU'RE ON THE FLOOR THERE
20 AND THAT FACE DOWN, WHAT'S GOING ON INSIDE THE
21 APARTMENT?
- 22 A. I FELT SOMEBODY WENT IN MY POCKET AND TOOK MY
23 HUNDRED DOLLAR BILL THAT I HAD IN THERE.
- 24 Q. OKAY.
- 25 A. AND WE WAS GETTING ROBBED.

1 Q. SO, HE TOOK A HUNDRED DOLLAR BILL OUT OF YOUR
2 POCKET?

3 A. YES, SIR.

4 Q. OKAY. DID HE TAKE ANYTHING ELSE OFF OF YOU, ANY
5 JEWELRY OR ANYTHING LIKE THAT?

6 A. NO, SIR.

7 Q. ANYBODY SAYING ANYTHING AT THAT POINT IN TIME?

8 A. I HEARD SOMEBODY WAS SAYING, THE LITTLE MAN GOT
9 THE GUN, THE LITTLE MAN GOT THE GUN.

10 Q. OKAY. LET ME ASK YOU, DID YOU HAVE ANY IDEA WHAT,
11 DO YOU KNOW WHO THAT WAS THAT WAS SAYING THAT?

12 A. NO, SIR.

13 Q. DO YOU HAVE ANY IDEA WHAT THEY WERE TALKING ABOUT
14 AT THAT POINT IN TIME?

15 A. I KNOW HARRY HAD THE GUN ON HIM.

16 Q. OKAY. YOU KNEW THAT HARRY HAD, HAD YOU SEEN THAT
17 GUN ON HIM WHILE YOU WERE IN THE APARTMENT THAT
18 NIGHT?

19 A. YES, SIR, YES, SIR.

20 Q. WHAT DO YOU REMEMBER ABOUT THAT GUN?

21 A. HE JUST HAD IT ON HIS SIDE.

22 Q. DO YOU REMEMBER WHAT KIND OF GUN IT WAS?

23 A. I THINK IT WAS A THREE FIFTY-SEVEN.

24 Q. SIMILAR TO THE TYPE OF GUN THAT YOU SAW - - -

25 A. NO, I THINK HIS WAS BIGGER, THOUGH.

DIRECT - WILL GILLIARD, JR., BY SOL. SORENSON

366

1 Q. OKAY. WHOSE WAS BIGGER?

2 A. TERRELL'S.

3 Q. TERRELL'S WAS BIGGER THAN HARRY'S?

4 A. YES, SIR.

5 Q. OKAY. ALRIGHT. YOU SAID AFTER THEY WENT THROUGH
6 YOUR POCKETS AND TOOK A HUNDRED DOLLAR BILL OFF
7 YOU, WHAT HAPPENED THEN?

8 A. I JUST WAITED ON THE GROUND FOR A MINUTE UNTIL I
9 FELT THAT EVERYTHING WAS CLEAR, AND THEN I GOT UP
10 AND I WAS SEEING THE SHOT AND EVERYTHING RINGING
11 IN MY HEAD, AND I JUST HEARD JOHN WAS, LIKE, HEY,
12 MAN, HARRY GOT SHOT. SO, I CAME IN THE BEDROOM
13 AND HE WAS LYING ON THE FLOOR.

14 Q. OKAY. SO, HE WAS BACK, THAT'S WHERE YOU FOUND HIM
15 WAS BACK IN THE BEDROOM?

16 A. YES, SIR.

17 Q. OKAY. WHAT, WHAT DID YOU DO THEN?

18 A. WELL, WE JUST TOOK HIM AND PUT HIM IN LAWRENCE'S
19 CAR AND WE TOOK HIM TO THE HOSPITAL.

20 Q. OKAY. WHO WAS WE?

21 A. LAWRENCE AND I.

22 Q. YOU AND LAWRENCE?

23 A. YES.

24 Q. OKAY. AND WHAT WAS JOHN DOING AT THAT POINT IN
25 TIME?

DIRECT - WILL GILLIARD, JR., BY SOL. SORENSON

367

1 A. HE JUST LEFT. I HAD TO GET MY COUSIN TO THE
2 HOSPITAL.

3 Q. OKAY. SO YOU WERE, THE MINUTE HE GOT LOADED IN
4 Y'ALL - - -

5 A. YEAH, WE TOOK OFF.

6 Q. HOW FAR WERE Y'ALL FROM THE HOSPITAL?

7 A. I'D SAY ABOUT A GOOD THREE MINUTES.

8 Q. ABOUT THREE MINUTES?

9 A. THREE OR FOUR MINUTES.

10 Q. OKAY. AND TELL THE JURY, WHEN YOU GOT THE
11 HOSPITAL WAS LAWRENCE DRIVING?

12 A. YES, SIR.

13 Q. OKAY. AND WHERE WERE YOU AT?

14 A. I WAS I THE FRONT SEAT.

15 Q. THE FRONT SEAT, AND Y'ALL PUT HARRY IN THE BACK
16 SEAT?

17 A. WE PUT HARRY IN THE BACK SEAT.

18 Q. ALRIGHT. WHERE, WHERE, TELL THE JURY WHAT
19 HAPPENED THEN WHEN YOU GOT THE HOSPITAL?

20 A. WHEN WE GOT TO THE HOSPITAL I GOT OUT THE CAR, I
21 WENT IN THE BACK SEAT, I WAS TOTING HARRY AT
22 FIRST. I WAS TOTING HIM. AND I WAS JUST TOTING
23 HIM IN. HE TOLD ME TO PUT HIM DOWN BECAUSE HE
24 COULD WALK, HE DIDN'T WANT NOBODY TO SEE HIM LIKE
25 THAT. I MEAN, HE WALKED, AND HE COLLAPSED IN THE

DIRECT - WILL GILLIARD, JR., BY SOL. SORENSON

368

1 DOOR, YOU KNOW. AND I PICK HIM UP AND PUT HIM IN
2 A WHEEL CHAIR, YOU KNOW.

3 Q. THAT WAS RIGHT INSIDE THE DOORWAY?

4 A. YEAH.

5 Q. DID YOU TALK TO ANYBODY AT THE HOSPITAL AT THAT
6 TIME?

7 A. SOME LADY. I GAVE HER THE NAME AND NUMBER, I
8 GUESS.

9 Q. YOU GAVE HER NAME AND WHAT?

10 A. I THINK I GAVE HER A NUMBER.

11 Q. A PHONE NUMBER?

12 A. I GUESS, I DON'T REMEMBER, I KNOW I GAVE HER THE
13 NAME.

14 Q. OKAY. HIS NAME?

15 A. YES, SIR.

16 Q. AND WHERE WAS LAWRENCE AT AT THIS POINT IN TIME?

17 A. HE WAS STILL IN THE CAR.

18 Q. OKAY. TELL THE JURY WHAT HAPPENED THEN?

19 A. AND THEN, I WAS JUST SHOCKED, YOU KNOW, AND THEN,
20 WHEN I CAME BACK OUTSIDE LAWRENCE WAS, LIKE, MAN,
21 COME ON, LET'S GO, MAN, YOU KNOW I CAN'T BE AROUND
22 THIS, YOU KNOW. SO, I STILL WASN'T THINKING, SO I
23 JUST GOT IN THE CAR WITH HIM AND WE JUST ROAD OFF.

24 Q. OKAY. AND WHAT HAPPENED THEN?

25 A. I MET UP WITH JOHN, AND ME AND JOHN CAME BACK TO

1 THE HOSPITAL AND WE MET THE COPS.

2 Q. TELL THE JURY HOW IT WAS THAT YOU CAME TO MEET
3 BACK UP WITH JOHN?

4 A. WELL, JOHN HAD CALLED ME AND SAID, HE ASKED ME
5 WHERE I WAS AT. I TOLD HIM WE WAS ON THREE O ONE
6 GOING TOWARDS ONE SEVENTY-SIX. HE SAID, WELL, I'M
7 ON THE WAY DOWN THERE, I'LL COME AND GET YOU. SO,
8 YOU KNOW, WE MET UP, I GOT BACK IN THE CAR, AND WE
9 CAME BACK TO THE HOSPITAL.

10 Q. OKAY. AND WHEN YOU GOT BACK TO THE HOSPITAL DID
11 YOU END UP TALKING TO THE POLICE OFFICERS THERE BY
12 THE TIME THE TWO OF Y'ALL GOT BACK?

13 A. YES, SIR.

14 Q. NOW, DID LAWRENCE COME BACK WITH YOU AT THAT POINT
15 IN TIME?

16 A. NO, SIR.

17 Q. DID YOU END UP SPENDING HOW MUCH TIME WIT THE
18 POLICE OFFICERS THEN?

19 A. ALL DAY LONG.

20 Q. ALL DAY LONG?

21 A. YES, SIR.

22 Q. OKAY. DID YOU FIND OUT AT SOME POINT IN TIME
23 THAT NIGHT THAT HARRY HAD DIED?

24 A. THEY TOLD US AROUND LIKE, SOMETIME THAT NEXT
25 MORNING.

DIRECT - WILL GILLIARD, JR., BY SOL. SORENSON

370

1 Q. OKAY. SOMETIME THAT NEXT MORNING?

2 A. YES, SIR.

3 Q. OKAY. WHERE WERE Y'ALL AT WHEN THAT HAPPENED?

4 A. STILL AT THE COMPLEX.

5 Q. THE SHERIFF'S OFFICE?

6 A. YES, SIR.

7 Q. YOU, MR. GILLIARD, DID YOU INFORM LAW ENFORCEMENT,
8 THE SHERIFF'S OFFICE THAT, THAT YOU RECOGNIZED THE
9 GUY?

10 A. YES, SIR.

11 Q. YOU DIDN'T KNOW HIS NAME, THOUGH, STILL AT THAT
12 POINT IN TIME, RIGHT?

13 A. DIDN'T KNOW HIS NAME.

14 Q. DID YOU HAVE AN OPPORTUNITY THEN OVER THE COMING
15 WEEKS TO HAVE INVESTIGATOR SHUMPERT SHOW YOU
16 SEVERAL PHOTOGRAPHIC LINEUPS AND ASK YOU IF YOU
17 COULD RECOGNIZE ANYBODY IN THEM?

18 A. YES, SIR.

19 Q. ALRIGHT. LET ME SHOW YOU STATE'S EXHIBITS FOUR
20 AND FIVE WHICH ARE ALREADY IN EVIDENCE. DO YOU
21 RECALL BEING SHOWN THOSE TWO LINEUPS?

22 A. YES, SIR.

23 Q. OKAY. AND DO YOU RECOGNIZE ANYBODY THAT WAS
24 INVOLVED IN THIS INCIDENT IN EITHER ONE OF THOSE
25 LINEUPS?

DIRECT - WILL GILLIARD, JR., BY SOL. SORENSON

371

1 A. NO, SIR.

2 Q. AND I'M SHOWING YOU STATE'S EXHIBITS NUMBER SIX,
3 SEVEN AND EIGHT, LET ME ASK YOU IF YOU HAD AN
4 OPPORTUNITY TO VIEW THOSE LINEUPS ALSO?

5 A. YES, SIR.

6 Q. DID YOU SEE ANYBODY IN THOSE LINEUPS THAT WAS
7 INVOLVED IN THIS INCIDENT?

8 A. NO, SIR.

9 Q. DID YOU PICK ANYBODY OUT OF ANY OF THOSE LINEUPS
10 FOR INVESTIGATOR SHUMPERT?

11 A. I DIDN'T.

12 SOLICITOR SORENSON: YOUR HONOR,
13 WE'D OFFER SIX, SEVEN AND EIGHT INTO EVIDENCE ALSO.

14 MR. CULLER: I THINK THAT WOULD BE
15 SUBJECT TO OUR EARLIER OBJECTION, AND I THINK THE
16 COURT'S ALREADY OVERRULED.

17 THE COURT: I OVERRULE YOUR
18 OBJECTION. I THINK THEY'RE RELEVANT IN THIS CASE.

19 COURT REPORTER: STATE'S SIX, SEVEN
20 AND EIGHT.

21 (State's Exhibits Six, Seven and Eight
22 marked and filed.)

23 Q. AND WHEN YOU WERE SHOWN THESE THREE LINEUPS, YOU
24 DIDN'T SEE IN ANY OF THESE THREE LINEUPS THE
25 PERSON THAT WAS INVOLVED IN THIS INCIDENT, IS THAT

DIRECT - WILL GILLIARD, JR., BY SOL. SORENSON

372

1 CORRECT?

2 A. YES, SIR.

3 Q. LET ME ASK YOU, DID THERE COME A TIME A FEW WEEKS
4 AFTER THIS TOWARDS KIND OF THE END OF JANUARY,
5 THREE WEEKS OR SO IN JANUARY WHEN YOU HAD PROVIDED
6 A NAME TO INVESTIGATOR SHUMPERT?

7 A. YES, SIR.

8 Q. AND WHAT WAS THE NAME THAT YOU HAD PROVIDED TO
9 HIM?

10 A. TERRELL SCOTT.

11 Q. OKAY. AND WHERE, HOW DID YOU COME UP WITH THAT
12 NAME?

13 A. JUST ON THE STREETS, ON THE STREETS.

14 Q. HAD YOU BEEN DESCRIBING THE PERSON TO - - -

15 A. YES.

16 Q. AND DID YOU KNOW FOR SURE THAT WAS THE PERSON AT
17 THAT POINT IN TIME YET?

18 A. NO, SIR.

19 Q. OKAY. AND LET ME ASK YOU, DID YOU HAVE AN
20 OPPORTUNITY THEN TO GO IN AND MEET WITH
21 INVESTIGATOR SHUMPERT?

22 A. YES, SIR.

23 Q. AND WHERE DID THAT OCCUR AT?

24 A. AT THE COMPLEX.

25 Q. OKAY. AND TELL THE JURY WHEN YOU WENT IN TO MEET

1 WITH HIM THEN WHAT HAPPENED?

2 A. WELL, WHEN I WENT THERE I SAT DOWN AND I WAS BEING
3 NOSY, LOOKING ON HIS DESK, AND HE HAD A LOT OF
4 PICTURES ON THERE, AND I JUST HAPPENED TO SPOT HIS
5 PICTURE, TERRELL SCOTT'S PICTURES, AND I PICKED IT
6 UP, AND I WAS, LIKE, THIS THE GUY RIGHT HERE.

7 Q. OKAY. AND I'M SHOWING YOU STATE'S EXHIBIT NUMBER
8 NINE, DOES THAT APPEAR TO BE THE PIECE OF PAPER
9 YOU SAW ON INVESTIGATOR SHUMPERT'S DESK?

10 A. YES, SIR.

11 Q. OKAY. AND WHEN YOU SAW THAT, WHAT PART OF IT DID
12 YOU SEE THAT DREW YOUR ATTENTION?

13 A. NOTHING BUT THE TOP PART.

14 Q. THE PICTURE, THE PHOTO AT THE TOP?

15 A. YES, SIR.

16 Q. AND WHAT DID YOU DO WHEN YOU SAW THAT THEN?

17 A. I WAS, LIKE, THIS IS THE GUY RIGHT HERE, AND I
18 PICK IT UP AND SHOW HIM.

19 Q. TO INVESTIGATOR SHUMPERT?

20 A. YES, SIR.

21 SOLICITOR SORENSON: YOUR HONOR, AT
22 THIS TIME WE'D OFFER STATE'S NUMBER NINE INTO EVIDENCE.

23 MR. CULLER: WITHOUT OBJECTION, YOUR
24 HONOR.

25 THE COURT: WITHOUT OBJECTION.

DIRECT - WILL GILLIARD, JR., BY SOL. SORENSON

374

COURT REPORTER: STATE'S NINE.

(State's Exhibit Nine
marked and filed.)

Q. TELL THE JURY WHY IT IS THAT, I MEAN, WHY DID YOU
POINT OUT THAT PICTURE WHEN YOU POINTED IT OUT TO
INVESTIGATOR SHUMPERT?

A. BECAUSE THAT'S THE FACE I REMEMBERED COMING IN THE
APARTMENT WITH THE GUN THAT SHOT MY COUSIN. I'LL
NEVER FORGET THAT FACE.

Q. THE SAME PERSON THAT YOU REMEMBER SEEING AROUND
SANTEE?

A. YES, SIR.

Q. AND WILL, LET ME ASK YOU, DO YOU SEE THAT PERSON
THAT CAME IN AND PULLED OUT THE GUN AND FIRED THE
SHOT THAT YOU TESTIFIED ABOUT BACK ON DECEMBER
TWENTY-FOURTH, DO YOU SEE HIM HERE IN THE
COURTROOM?

A. YES, SIR.

Q. COULD YOU POINT HIM OUT TO THE JURY, PLEASE?

A. WITH THE WHITE SHIRT ON, WITH THE - - -

Q. IS HE AT THE TABLE WITH THE STRIPED TIE?

A. YES, SIR. HE DON'T HAVE NO JACKET ON.

Q. WITHOUT THE JACKET. LET ME ASK YOU THIS, LOOKING
AT HIM TODAY, WHAT, IS ANYTHING DIFFERENT ABOUT
HIM TODAY THAN WHEN YOU SAW HIM BACK IN DECEMBER

DIRECT - WILL GILLIARD, JR., BY SOL. SORENSON

375

1 OF TWO THOUSAND AND SIX?

2 A. YEAH, HE SHAVED HIS FACE.

3 Q. HIS FACE IS SHAVED?

4 A. YES, SIR.

5 Q. OKAY. LET ME ASK YOU, HAVE YOU SEEN HIM SINCE
6 DECEMBER OF TWO THOUSAND AND SIX PRIOR TO TODAY?

7 A. NO, SIR.

8 Q. ANY DOUBT IN YOUR MIND THAT'S THE PERSON THAT YOU
9 SAW IN THAT APARTMENT WITH A GUN IN HIS HAND?

10 A. THAT'S HIM.

11 SOLICITOR SORENSON: THANK YOU, MR.
12 GILLIARD, PLEASE ANSWER ANY QUESTIONS MR. CULLER MAY
13 HAVE.

14 THE COURT: CROSS-EXAM.

15 MR. CULLER: THANK YOU, YOUR HONOR.

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 - WILL GILLIARD, JR., BY MR. CULLER

376

CROSS-EXAMINATION OF WILL GILLIARD, JR.,

BY MR. CULLER:

Q. MR. GILLIARD, YOU DO HAVE TO ADMIT YOU HAVE SOME
DOUBTS, THOUGH, YOU'D AGREE WITH THAT?

A. NO, I DON'T.

Q. YOU DON'T. ISN'T IT A FACT THAT YOU GAVE TWO
STATEMENTS, WERE YOU SO TIRED THAT YOU MIXED UP
IMPORTANT DETAILS WHEN YOU GAVE YOU STATEMENTS TO
LAW ENFORCEMENT?

A. I BEEN THERE ALL DAY.

Q. YOU'D BEEN THERE ALL DAY?

A. YES, SIR.

Q. WELL, DO YOU THINK YOU REMEMBER THINGS BETTER
TODAY, TWO, TWO AND A HALF YEARS LATER, OR DO YOU
THINK YOU REMEMBERED THEM TEN HOURS LATER? DO YOU
THINK YOU REMEMBERED THEM BETTER THEN OR NOW?

A. THEN AND NOW.

Q. AND IT'S THE SAME, REALLY. IF SOMETHING HAPPENS,
TWO YEARS FROM NOW YOU REMEMBER IT JUST AS GOOD AS
IF IT HAPPENED A FEW HOURS LATER?

A. NOT THAT GOOD NOW.

Q. OKAY. WELL, YOU SAID, JUST THE SAME AS NOW.
THERE IS A DIFFERENCE. THERE'S NO DIFFERENCE FOR
YOU?

A. NO

CROSS - WILL GILLIARD, JR., BY MR. CULLER

377

1 Q. BUT IT WAS A DIFFERENCE FOR YOU THAT MORNING.
2 ISN'T IT TRUE, YOU GAVE TWO STATEMENTS TO LAW
3 ENFORCEMENT?

4 A. YOU HAVE THEM RIGHT THERE.

5 Q. I DO HAVE THEM RIGHT THERE. AND THE FIRST ONE
6 LOOKS LIKE IT WAS TAKEN AT EIGHT:FIFTEEN IN THE
7 MORNING. DO YOU HAVE A COPY OF THESE?

8 A. NO, SIR.

9 MR. CULLER: DO WE HAVE A COPY OF
10 HIS STATEMENTS?

11 Q. HERE, I'LL HAND YOU THAT AND ASK IF YOU RECOGNIZE
12 IT?

13 A. YES.

14 Q. I MEAN, DID YOU GIVE A LOT OF STATEMENTS TO LAW
15 ENFORCEMENT? HOW MANY STATEMENTS HAVE YOU GIVEN?

16 A. I GAVE THEM NOTHING BUT TWO.

17 Q. OKAY. SO, THAT TOOK A WHILE. YOU RECOGNIZE THAT
18 AS A STATEMENT YOU GAVE TO LAW ENFORCEMENT?

19 A. YES, THIS MY HANDWRITING.

20 Q. ALRIGHT. AND ISN'T IT TRUE THAT THEY WERE
21 CONCERNED ABOUT GETTING SOME DETAILS FROM YOU,
22 THIS IS A SERIOUS MATTER, YOUR COUSIN'S DEAD,
23 RIGHT?

24 A. YES, SIR.

25 Q. AND ISN'T IT TRUE THAT THEY ASKED YOU, ONE OF THE

CROSS - WILL GILLIARD, JR., BY MR. CULLER

378

1 QUESTIONS THEY SPECIFICALLY ASKED YOU WAS, DID
2 HARRY HAVE A GUN WHEN HE ANSWERED THE DOOR?

3 A. YEAH.

4 Q. THAT'S IN THERE.

5 A. YEAH.

6 Q. AND DO YOU RECALL YOUR ANSWER?

7 A. YES, I SAID, I CAN'T REMEMBER.

8 Q. I CAN'T REMEMBER.

9 A. YES.

10 Q. DO YOU CONSIDER THAT A SMALL DETAIL TO NOT
11 REMEMBER OR A LARGE DETAIL? IT'S NOT LIKE
12 SOMEBODY'S SWEATER IS BLUE OR GREEN, THAT'S A
13 SMALL DETAIL. BUT IF YOU ASK SOMEBODY WHETHER
14 THEY HAD A GUN OR NOT AND YOU CAN'T REMEMBER,
15 THAT'S A BIG DETAIL, ISN'T IT?

16 A. BUT I JUST SAID HE HAD A GUN, THOUGH.

17 Q. I BEG YOUR PARDON?

18 A. I JUST SAID HE HAD A GUN.

19 Q. WHEN DID YOU DO THAT?

20 A. TODAY.

21 Q. TODAY YOU DID.

22 A. YES, SIR.

23 Q. BUT I BELIEVE YOU DID IT WITH YOUR OTHER
24 STATEMENT, DIDN'T YOU, IN THE SECOND STATEMENT
25 THAT YOU GAVE THAT DAY AT SIXTEEN HUNDRED DO YOU

1 RECALL THAT STATEMENT? I ASK IF YOU RECOGNIZE
2 THAT? DO YOU RECOGNIZE THAT AS A STATEMENT YOU
3 GAVE?

4 A. YES.

5 Q. ALRIGHT. AND ISN'T IT TRUE THAT AFTER YOU TOLD
6 THE POLICE AT EIGHT O'CLOCK IN THE MORNING, WHICH
7 WOULD HAVE BEEN LESS THAN EIGHT HOURS AFTER THIS
8 EVENT, I DON'T REMEMBER IF HARRY HAD A GUN. YOU
9 THEN CORRECTED YOURSELF AND YOU SAID IN THE
10 STATEMENT, "I OPENED THE DOOR, TWO GUYS RUSHED IN
11 WITH GUNS. AS I WAS FALLING TO THE FLOOR HARRY WAS
12 PULLING OUT THE GUN. THEN A SHOT WENT OFF." SO,
13 YOU FORGOT THE SHOT WENT OFF EARLIER AND HARRY WAS
14 PULLING THE GUN. IT WAS A LOT OF DRAMA. WERE YOU
15 SO TRAUMATIZED BY THE DRAMA THAT YOU WEREN'T ABLE
16 TO ARTICULATE THAT FOR LAW ENFORCEMENT, LESS THAN
17 EIGHT HOURS AFTER IT HAPPENED, OR IS IT JUST NOT
18 TRUE?

19 A. I WASN'T THINKING THEN, I COULDN'T THINK.

20 Q. WELL, WHEN DO WE KNOW WHEN YOU'RE TELLING THE
21 TRUTH, DOES A LIGHT COME ON OVER YOUR HEAD, WHEN DO
22 WE KNOW?

23 A. JUST LISTEN.

24 Q. WELL, I'VE LISTENED AND YOU'VE TOLD TWO DIFFERENT
25 STORIES, MAYBE THREE. THAT'S A PRETTY SERIOUS

CROSS - WILL GILLIARD, JR., BY MR. CULLER

380

1 PART OF THE STORY, AND YOU DON'T SEEM TO BE SURE
2 ABOUT IT.

3 A. WELL, HE HAD A GUN, I JUST TOLD YOU HE HAD A GUN.

4 Q. HARRY HAD A GUN?

5 A. YES.

6 Q. ALRIGHT. SO, YOU CORRECTED YOURSELF AND YOU SAID
7 HARRY DID HAVE A GUN. NOW, THE TIME THAT THIS
8 HAPPENED, DID YOU MAKE ANY DESCRIPTIONS OF THE
9 OTHER INDIVIDUALS THAT CAME IN TO THIS HOUSE,
10 HEIGHT, WEIGHT, THAT SORT OF THING?

11 A. WELL, I THINK I DID SAY THAT ONE WAS TALL AND ONE
12 WAS SHORT.

13 Q. OKAY. IS THAT ANYWHERE IN YOUR STATEMENTS, EITHER
14 ONE OF THEM?

15 A. NO, I DON'T SEE IT.

16 Q. YOU DON'T SEE IT?

17 A. NO.

18 Q. SO, EVIDENTLY, YOU WEREN'T ABLE TO DESCRIBE THESE
19 OTHER PEOPLE WHO ALLEGEDLY CAME IN?

20 A. NO, SIR.

21 Q. OKAY.

22 A. THEY HAD HOODIES, SKI MASKS, I COULDN'T SEE THEM.

23 Q. AND AGAIN, YOU WOULD HAVE REMEMBERED, OR LET ME
24 ASK YOU, YOU WOULD HAVE REMEMBERED IT BETTER
25 IMMEDIATELY AFTER THE EVENT THAN YOU WOULD NOW,

1 TWO YEARS LATER, OR YOU REMEMBER IT BETTER NOW?

2 A. I REMEMBER BETTER NOW.

3 Q. YOU REMEMBER BETTER NOW?

4 A. YES, SIR.

5 Q. YOU HAVE AN UNUSUAL MEMORY. MOST PEOPLE REMEMBER
6 BETTER CLOSER TO THE EVENT.

7 A. I'M JUST TELLING YOU I REMEMBER NOW.

8 Q. I UNDERSTAND. DO YOU REMEMBER TESTIFYING EARLIER
9 THAT THE INDIVIDUAL THAT DID THIS THAT WAS
10 STANDING, THIS PERSON STANDING AT THE DOOR THAT
11 NEVER MOVED, NEVER HAD A MASK ON, JUST STOOD THERE
12 SO EVERYBODY COULD LOOK AT HIM, A REAL GOOD PLAN,
13 WAS FIVE-SEVEN, TWO HUNDRED POUNDS, DO YOU
14 REMEMBER TESTIFYING TO THAT?

15 A. FIVE-SEVEN, TWO HUNDRED POUNDS?

16 Q. UH HUH.

17 A. WHEN DID I TESTIFY TO THAT?

18 Q. YESTERDAY.

19 A. OKAY.

20 Q. DO YOU ALSO REMEMBER THAT YOU TESTIFIED EARLIER,
21 THIS PERSON THAT CAME IN SAID, I'M FROM SANTEE,
22 LET ME TELL YOU WHERE I'M FROM SO WHEN THIS LICK
23 GOES DOWN AND SOMEBODY GETS KILLED YOU'LL KNOW
24 WHERE TO FIND ME, AND I'M NOT GOING TO WEAR A
25 MASK. DO YOU REMEMBER TESTIFYING TO THAT EARLIER?

CROSS - WILL GILLIARD, JR., BY MR. CULLER

382

1 A. NO, I DIDN'T, I DON'T REMEMBER THAT.

2 Q. YOU DON'T REMEMBER SAYING THAT YESTERDAY?

3 A. NO.

4 Q. THAT THE PERSON SAID, I'M FROM SANTEE?

5 A. I DON'T REMEMBER THAT.

6 Q. YOU DON'T REMEMBER THAT?

7 A. NO, SIR.

8 Q. DO YOU REMEMBER TESTIFYING YESTERDAY, THIS PERSON
9 SAID HE WANTED A HALF OUNCE?

10 A. YES, SIR.

11 Q. YOU REMEMBER THAT FROM YESTERDAY?

12 A. YES, SIR.

13 Q. SO, IT WAS CURIOUS THAT THE TWO PEOPLE THAT CAME
14 IN THAT WERE THE AFTERS HAD ON MASKS, THEY
15 CONCEALED THEIR IDENTIFY?

16 A. UH HUH.

17 Q. AND YOU STAYED DOWN ON THE FLOOR SO YOU COULDN'T
18 REALLY SEE ANYTHING, BUT THIS ONE GUY THAT CAME
19 IN, HE WANTED EVERYBODY TO GET A LOOK AT HIM,
20 RIGHT?

21 A. YEAH.

22 Q. IS THAT WHY HE DID IT?

23 A. WHY HE DO WHAT?

24 Q. WALKED IN WITH NO MASK, JUST STOOD RIGHT THERE?

25 A. I DON'T KNOW.

CROSS - WILL GILLIARD, JR., BY MR. CULLER

383

1 Q. YOU DON'T KNOW WHY HE DID THAT?

2 A. I DON'T KNOW.

3 Q. IT DOESN'T MAKE ANY SENSE, DOES IT? THAT'S NOT
4 HOW YOU DO IT WHEN YOU'RE GOING TO MAKE A LICK, IS
5 IT?

6 A. WELL, I KNOW HE WAS THE ONE THAT SHOT MY COUSIN.

7 Q. THAT'S RIGHT, YOU KNOW THAT?

8 A. YES.

9 Q. AND YOU WERE SO UPSET ABOUT THAT THAT YOU LEFT
10 YOUR COUSIN ALONE AT THE HOSPITAL BECAUSE YOU WERE
11 CONFUSED AND YOU WEREN'T THINKING WELL, ISN'T THAT
12 RIGHT? HOW OLD ARE YOU?

13 A. TWENTY-FOUR.

14 Q. OKAY. SO, YOU'RE AN ADULT, YOUR COUSIN GETS SHOT,
15 HE MAY BE DYING, AND YOU'RE CONFUSED AND YOU LEAVE
16 HIM ALONE AT THE HOSPITAL. YOU'RE SO WORRIED
17 ABOUT HIM YOU LEAVE HIM. DO YOU THINK THAT'S HOW
18 YOU USUALLY TREAT FAMILY MEMBERS? HOW DO YOU
19 TREAT PEOPLE AT THE HOLIDAYS? DID YOU CARE ABOUT
20 HIM?

21 A. I LOVE HIM.

22 Q. AND YOU LEFT HIM, YOU ABANDONED HIM. IS THAT WHAT
23 PEOPLE DO WHEN THEY LOVE YOU, THEY ABANDON PEOPLE,
24 OR WAS THIS A SETUP AND YOU'RE THE ONE THAT WENT
25 TO THE DOOR, I THOUGHT SOMETHING WAS GOING ON AND

CROSS - WILL GILLIARD, JR., BY MR. CULLER

384

1 I JUST OPENED THE DOOR, BECAUSE WE WERE WORRIED
2 ABOUT THIS GUY INSIDE, AND THE NEXT THING I KNOW
3 THESE PEOPLE COME RUNNING IN?

4 A. IT WASN'T A SETUP.

5 Q. IT WASN'T A SETUP. THEY GO THROUGH THE HOUSE,
6 DON'T GO THROUGH THE DRAWERS, THEY KNOW WHAT
7 THEY'RE GOING FOR.

8 A. YOU SOUND LIKE YOU KNOW MORE THAN ME.

9 Q. ISN'T THAT RIGHT?

10 COURT REPORTER: WHAT DID YOU SAY?

11 A. HE SOUND LIKE HE KNOW MORE THAN ME.

12 Q. I JUST READ YOUR STATEMENTS, I'M JUST LOOKING AT
13 THEM.

14 A. DID I SAY I SET SOMEBODY UP IN EITHER ONE OF MY
15 STATEMENTS?

16 Q. YOU'RE OPENING THE DOOR, YOU'RE LETTING PEOPLE IN,
17 YOU'RE LEAVING YOUR COUSIN TO DIE AT THE HOSPITAL?

18 A. THEY RUSHED IN. THEY RUSHED IN.

19 Q. THEY RUSHED IN. BUT NO QUESTION ABOUT YOU LEAVING
20 YOUR COUSIN ALONE, FOR HOW LONG? WHEN YOU WENT
21 BACK HE WASN'T THERE HE WAS IN SURGERY, AND THEN
22 HE DIED, RIGHT?

23 MR. CULLER: I DON'T THINK I HAVE
24 ANYTHING FURTHER.

25 THE COURT: REDIRECT.

CROSS - WILL GILLIARD, JR., BY MR. CULLER

385

1 SOLICITOR SORENSON: A FEW THINGS,
2 YOUR HONOR.
3 (NOTE: Blank lines on this page do not indicate any
4 part of record has been omitted. Headers on testimony
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6 required by the Court. See next ensuing page for
7 sequential continuation of record.)

REDIRECT - WILL GILLIARD, JR., BY SOL. SORENSON

386

REDIRECT EXAMINATION OF WILL GILLIARD, JR.,

BY SOLICITOR SORENSON:

Q. LET ME ASK YOU, WHEN YOU LEFT HARRY AT THE
HOSPITAL WHO WAS HE WITH?

A. I LEFT HIM WITH THE DOCTORS, I GUESS. I GUESS IT
WAS A DOCTOR OR A NURSE.

MR. CULLER: OBJECTION, YOUR HONOR,
I DON'T THINK THERE'S BEEN ANY TESTIMONY THAT THE
STATE'S PUT UP FROM ANYBODY, AND THEY'VE HAD PLENTY OF
TIME TO FIND A NURSE, SOMEBODY FROM THE HOSPITAL TO SAY
- - -

SOLICITOR SORENSON: HE CAN TESTIFY
TO WHO HE LEFT HIM WITH.

MR. CULLER: HE CAN TESTIFY TO IT,
BUT IT'S NOT - - -

SOLICITOR SORENSON: THAT'S WHAT I
ASKED.

MR. CULLER: ALRIGHT, GO AHEAD.

THE COURT: GO AHEAD.

Q. WHO DID YOU LEAVE HIM WITH?

A. I GUESS IT WAS A DOCTOR OR A NURSE.

Q. DID YOU LEAVE HIM OUT ON THE CURB?

A. NO, SIR, HE WAS IN THE - - -

Q. DID YOU ROLL HIM OUT OF THE CAR WHEN YOU PULLED
UP?

REDIRECT - WILL GILLIARD, JR., BY SOL. SORENSON

387

- 1 A. I PUT HIM IN A WHEEL CHAIR.
- 2 Q. DID YOU PROVIDE HOSPITAL PERSONNEL WITH HIS NAME
- 3 AND A PHONE NUMBER?
- 4 A. YES, SIR, I SURE DID.
- 5 Q. THIS WHOLE SITUATION THAT HAPPENED THAT NIGHT, DID
- 6 IT UPSET YOU?
- 7 A. IT STILL DOES.
- 8 Q. LET ME ASK YOU THIS, MR. GILLIARD, MR. CULLER
- 9 ASKED YOU ABOUT TESTIFYING IN ANOTHER HEARING
- 10 YESTERDAY, WHAT -- DID YOU DESCRIBE THE HEIGHT AND
- 11 WEIGHT OF THE PERSON THAT YOU'VE IDENTIFIED AS
- 12 BEING TERRELL SCOTT, - - -
- 13 A. YES, SIR.
- 14 Q. DID YOU DESCRIBE, WHAT WAS THE HEIGHT THAT YOU
- 15 DESCRIBED YESTERDAY WHEN YOU TESTIFIED?
- 16 A. ABOUT FIVE-EIGHT, I GUESS, ABOUT FIVE-EIGHT.
- 17 Q. I THINK YOU MADE REFERENCE, HE EVEN HAD YOU - - -
- 18 A. HE CAME AND STAND RIGHT BY, I SAID HE WAS FIVE-
- 19 EIGHT, FIVE-NINE.
- 20 Q. HOW TALL ARE YOU?
- 21 A. I'M SIX FOOT.
- 22 Q. OKAY. WAS THE GUY TALLER OR SHORTER THAN YOU?
- 23 A. SHORTER THAN ME.
- 24 Q. AND YOU ESTIMATED HE WAS ABOUT FIVE FOOT EIGHT?
- 25 A. YES, SIR.

REDIRECT - WILL GILLIARD, JR., BY SOL. SORENSON

388

1 Q. AND I KNOW THE QUESTION WAS ASKED OF YOU YESTERDAY
2 HOW MUCH YOU WEIGH, RIGHT?

3 A. YES, SIR.

4 Q. AND HOW MUCH DO YOU WEIGH?

5 A. TWO FIFTEEN.

6 Q. OKAY. AND WAS THIS PERSON BIGGER OR SMALLER THAN
7 YOU?

8 A. HE WAS BIGGER THAN ME.

9 Q. DID YOU EVER YESTERDAY TESTIFY THAT YOU THOUGHT HE
10 WAS TWO HUNDRED POUNDS?

11 A. NO, SIR.

12 Q. HOW MUCH DO YOU THINK HE WOULD WEIGH?

13 A. ABOUT TWO THIRTY, I GUESS.

14 Q. DO YOU RECALL YESTERDAY SAYING YOU WEREN'T SURE?

15 A. YES, SIR.

16 Q. AND HOW DID YOU DESCRIBE HIM AS FAR AS WHEN YOU
17 GAVE A DESCRIPTION OF HIS PHYSICAL SIZE?

18 A. COME AGAIN?

19 Q. HOW WOULD YOU DESCRIBE HIS PHYSICAL SIZE, THE
20 PERSON THAT YOU SAW IN THAT APARTMENT THAT NIGHT?

21 A. SHORT, CHUBBY, WITH A LOT OF HAIR ON HIS FACE.

22 Q. AND THE STATEMENTS THAT YOU GAVE, DO YOU STILL
23 HAVE THEM UP THERE?

24 A. YES, SIR.

25 Q. THIS INCIDENT, TESTIMONY'S BEEN OUT ALREADY IS

1 THAT THIS HAPPENED SHORTLY AFTER MIDNIGHT ON THE
2 TWENTY-FOURTH. WHAT ARE THE TIMES ON THE TWO
3 STATEMENTS THAT YOU GAVE, THE TWO WRITTEN
4 STATEMENTS THAT WERE TAKEN FROM YOU BY LAW
5 ENFORCEMENT?

6 A. SIXTEEN HUNDRED.

7 Q. SIXTEEN HUNDRED. SO, THAT WOULD BE, AND THAT'S ON
8 THE TWENTY-FOURTH, THE SAME DAY, RIGHT?

9 A. YES, SIR.

10 Q. SO, SIXTEEN HUNDRED, THAT WOULD BE MILITARY TIME,
11 THAT WOULD BE FOUR O'CLOCK IN THE AFTERNOON?

12 A. OKAY.

13 Q. IS THAT CORRECT? WELL, WHAT'S THE TIME ON THE
14 OTHER ONE?

15 A. EIGHT:FIFTEEN.

16 Q. AND THAT WOULD BE A.M.?

17 A. YES, SIR.

18 Q. SO, THIS HAPPENED SHORTLY AFTER MIDNIGHT, SO
19 YOU'RE GIVING, THE FIRST TIME THEY'RE TAKING A
20 STATEMENT FROM YOU IS SOME EIGHT HOURS LATER?

21 A. YES, SIR.

22 Q. AND THEN THE NEXT TIME IS SOME, FOUR, ABOUT EIGHT
23 HOURS LATER AFTER THAT?

24 A. YES, SIR.

25 Q. IS THAT CORRECT? HAD YOU BEEN TO SLEEP AT ANY

REDIRECT - WILL GILLIARD, JR., BY SOL. SORENSON

390

1 POINT IN TIME AT THAT POINT IN TIME?

2 A. NONE AT ALL, NONE AT ALL.

3 Q. AND YOU OBVIOUSLY HAD LEARNED AT SOME POINT IN
4 TIME THAT YOUR COUSIN HAD DIED, IS THAT CORRECT?

5 A. YES, SIR.

6 SOLICITOR SORENSON: ALRIGHT, THANK
7 YOU, MR. GILLIARD.

8 THE COURT: RECROSS.

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.)

RECROSS - WILL GILLIARD, JR., BY MR. CULLER

391

RECROSS-EXAMINATION OF WILL GILLIARD, JR.,

BY MR. CULLER:

Q. MR. GILLIARD, IN YOUR SECOND STATEMENT YOU HAD A LOT MORE DETAIL. SO, THE ONE AT FOUR P.M. WAS REALLY BETTER THAN THE ONE AT EIGHT:FIFTEEN, WASN'T IT? THAT'S WHEN YOU REMEMBERED THAT HARRY HAD THE GUN, AT FOUR O'CLOCK IN THE AFTERNOON? WAS THAT BETTER, THE LATER STATEMENT WAS BETTER?

A. I GAVE STATEMENTS.

Q. I UNDERSTAND, BUT MY POINT IS, THE SOLICITOR IS GOING THROUGH A SIGNIFICANT AMOUNT OF TIME TALKING ABOUT YOUR LACK OF SLEEP, YOUR EMOTIONAL TRAUMA, HOW UPSET YOU WERE, BUT WHEN YOU GAVE A STATEMENT IT WAS CLEARER AT FOUR P.M., IT HAD MORE DETAIL AT FOUR P.M. THAN THE ONE YOU'D GIVE AT EIGHT:FIFTEEN. WOULD YOU AGREE WITH THAT?

A. YES, IT WAS.

Q. OKAY. SO, EVIDENTLY, THIS LACK OF SLEEP AND THE TRAUMA DIDN'T PREVENT YOU FROM BEING ABLE TO GIVE THAT STATEMENT?

A. YES, IT WAS.

Q. OKAY. WELL, IT'S A CIRCULAR ARGUMENT, I GUESS, I APOLOGIZE. THE HOSPITAL PERSONNEL, DID HARRY WALK IN WITH YOU?

A. NO, I TOTE HIM IN.

RECROSS - WILL GILLIARD, JR., BY MR. CULLER

392

1 Q. YOU TOTED HIM IN?

2 A. WELL, I WAS TOTING HIM, AND THIS WAS BEFORE WE GOT
3 TO THE DOOR HE TOLD ME TO PUT HIM DOWN.

4 Q. RIGHT.

5 A. SO, WHILE WE WAS WALKING, AND WHEN WE GOT TO THE
6 DOOR HE COLLAPSED. SO, I PICKED HIM UP AND PUT
7 HIM IN A WHEEL CHAIR. I DON'T KNOW THE LADY'S
8 NAME OR NOTHING.

9 Q. I UNDERSTAND.

10 A. I JUST GAVE HIM THE NAME, I GUESS I GAVE HER A
11 NUMBER, TOO. SO, - - -

12 Q. WHAT NUMBER WOULD YOU HAVE GIVEN THEM?

13 A. HIS PARENTS, I GUESS.

14 Q. HIS PARENTS, YOU GUESS. ALRIGHT. DID YOU EVER
15 DESCRIBE THIS PERSON THAT YOU LEFT HIM WITH AT THE
16 HOSPITAL?

17 A. DESCRIBE WHO?

18 Q. THE HOSPITAL PERSONNEL, WAS IT A MAN, A WOMAN?

19 A. IT WAS A LADY.

20 Q. BLACK OR WHITE?

21 A. BLACK.

22 Q. OLD OR YOUNG?

23 A. I THINK MID AGE.

24 Q. ALRIGHT. WELL, YOU REMEMBER THINGS BETTER TWO
25 YEARS LATER, ABOUT TWO YEARS LATER, BUT YOU SEEM

RECROSS - WILL GILLIARD, JR., BY MR. CULLER

393

1 CONFUSED ABOUT THAT.

2 A. CONFUSED ABOUT WHAT?

3 Q. HOW OLD THIS PERSON WAS.

4 A. YOU THINK I WAS LOOKING DIRECTLY IN HER FACE?

5 Q. I DON'T KNOW, YOU SAID YOU WERE LOOKING DIRECTLY
6 IN THIS PERSON'S FACE WHO CAME IN WITH A GUN, YOU
7 WERE SO UPSET, TRAUMATIZED.

8 A. I WAS WATCHING MY COUSIN AND I WAS TALKING TO THE
9 LADY. I GAVE HER THE INFORMATION THAT SHE WANTED.

10 Q. OKAY.

11 MR. CULLER: THANK YOU.

12 THE COURT: THANK YOU, SIR, YOU CAN
13 STEP DOWN.

14 ALRIGHT, LADIES AND GENTLEMEN, WE'LL
15 STOP HERE, BUT WE'LL START BACK AT NINE:THIRTY IN THE
16 MORNING. PLEASE BE BACK IN THE JURY ROOM AT
17 NINE:THIRTY. PLEASE REMEMBER, DO NOT TALK ABOUT THE
18 CASE. WE DO HAVE A REPORTER IN THE COURTROOM, I'M SURE
19 THERE WILL BE SOMETHING IN THE NEWSPAPER TOMORROW, DO
20 NOT READ WHATEVER'S IN THE PAPER TOMORROW. THAT IS NOT
21 PART OF YOUR JOB. YOU CAN READ ALL OF IT WHEN THIS
22 TRIAL IS OVER. SO, IF YOU TAKE THE PAPER TELL YOUR
23 WIFE OR HUSBAND OR SOMEBODY TO SAVE IT FOR YOU, BUT
24 DON'T READ IT. AND I'LL SEE YOU IN THE MORNING AT
25 NINE:THIRTY. THANK YOU VERY MUCH.

1 (Whereupon, the jury leaves
2 the courtroom for the day
3 and the following takes place
4 out of the presence of
5 the jury.)

6 THE COURT: ANYTHING FROM THE STATE
7 BEFORE WE RECESS?

8 SOLICITOR SORENSON: YOUR HONOR, ONE
9 THING, I'D LIKE TO JUST CALL THE COURT'S ATTENTION, WE
10 HAD BROUGHT OVER, BECAUSE I HAD NO IDEA HOW FAR WE WERE
11 GOING TO GET, BUT I HAD THE JAIL TRANSPORT ONE OF OUR
12 OTHER WITNESSES OVER, AND THEY ARE BACK IN THE HOLDING
13 CELL. AND IT'S COME TO MY ATTENTION THAT MR. SCOTT HAD
14 MADE SOME COMMENTS, CALLING HIM A SNITCH, AND MAKING
15 COMMENTS TO HIM BACK THERE IN THE CELLS. AND I'D JUST
16 LIKE TO CALL THAT TO THE COURT'S ATTENTION. I MEAN, I
17 DO NOT - - -

18 THE COURT: ALRIGHT, DO NOT
19 TRANSPORT THESE PEOPLE TOGETHER. DO NOT LET THEM SEE
20 EACH OTHER. YOU CAN TAKE ONE OF THEM BACK AND WHEN YOU
21 BRING THEM BACK TOMORROW DO NOT BRING THEM TOGETHER, DO
22 NOT LET THEM HAVE ANY CONTACT WHATSOEVER WITH EACH
23 OTHER, NONE WHATSOEVER.

24 ALRIGHT, SIR?

25 SOLICITOR SORENSON: AND I'D ASK YOU

1 TO CAUTION, I MEAN, IF THEY WERE TO, I MEAN, THAT'S
2 BORDERLINE OF HIM, I MEAN, INTIMIDATING A WITNESS.

3 THE COURT: WELL, THEY DON'T NEED TO
4 BE IN ANY SEMBLANCE OF THEIR LOCATION, BUT IF YOU DO
5 SEE ONE OF THEM, MR. SCOTT, IT WOULD NOT BE PROPER FOR
6 YOU TO SAY ANYTHING TO ANY OF THEM. ALRIGHT, SIR?

7 MR. CULLER: I'M SORRY, YOUR HONOR,
8 HE'S BASICALLY DEAF, HE CAN BARELY HEAR.

9 THE COURT: WELL, YOU CAN TELL HIM.
10 YOU CAN TELL HIM. WELL, THE JAIL IS GOING TO TAKE CARE
11 OF THAT, THEY'RE NOT GOING TO GIVE THEM THE OPPORTUNITY
12 TO SEE EACH OTHER OR TALK TO EACH OTHER. IF THEY DO --
13 WELL, THEY'RE NOT, PERIOD. THEY'RE NOT GOING TO DO IT.
14 OKAY?

15 ANYTHING ELSE?

16 COURT REPORTER: JUDGE, ASK THE
17 ATTORNEYS TO BE SURE I HAVE ALL OF THE EXHIBITS.

18 THE COURT: ALRIGHT, GET WITH MS.
19 HARRY DOT AND CHECK OUT THE EXHIBITS. WE'LL BE IN
20 RECESS UNTIL NINE:THIRTY IN THE MORNING.

21 (Recess for the day.)

22
23 (GO TO VOLUME TWO FOR THE CONTINUATION OF THIS
24 TRANSCRIPT.)
25

STATE OF SOUTH CAROLINA
COUNTY OF ORANGEBURG

COURT OF GENERAL SESSIONS
FIRST JUDICIAL CIRCUIT

CASE NO. 07-GS-38-480
07-GS-38-640

STATE OF SOUTH CAROLINA)

) VOLUME TWO OF TWO
(PARTIAL)

versus)

) TRANSCRIPT OF RECORD

TERRELL SCOTT,)

) DATE:

DEFENDANT)

) MAY 12-14, 2009

BEFORE:

HONORABLE JAMES C. WILLIAMS, JR., PRESIDING JUDGE
AND A JURY.

APPEARANCES:

DONALD N. SORENSON, ESQUIRE
ASSISTANT SOLICITOR
FOR THE STATE

GLENN WALTERS, ESQUIRE
ATTORNEY AT LAW
MICHAEL CULLER, ESQUIRE
PUBLIC DEFENDER
FOR THE DEFENDANT

HARRY A. WALKER (MRS.)
COURT REPORTER, FIRST JUDICIAL CIRCUIT
POST OFFICE BOX 127
ROWESVILLE, SOUTH CAROLINA 29133

I N D E X

NOTE: SEE VOLUME ONE FOR ENTIRE INDEX OF VOLUMES ONE AND TWO OF THIS TRANSCRIPT.

1 (NOTE: Continuation from Volume One of this
2 transcript.)

3 DATE:

4 MAY 14, 2009

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

8 THE COURT: ANYTHING FROM THE STATE
9 BEFORE WE PROCEED?

10 SOLICITOR SORENSON: NO, SIR.

11 THE COURT: FROM THE DEFENSE?

12 MR. WALTERS: NO, SIR.

13 THE COURT: ALRIGHT, HAVE YOU GOT
14 YOUR NEXT WITNESS CLOSE BY?

15 SOLICITOR SORENSON: YES SIR.

16 THE COURT: BRING THE JURY IN,
17 PLEASE, MA'AM.

18 SOLICITOR SORENSON: HE'S SITTING IN
19 THE BACK OF THE COURTROOM.

20 MR. CULLER: YOUR HONOR, I BEG YOUR
21 PARDON.

22 THE COURT: WAIT A MINUTE.

23 MR. CULLER: THERE IS ONE THING.

24 MR. WALTERS: MAY WE APPROACH, YOUR
25 HONOR?

1 THE COURT: YES, SIR.

2 (Whereupon, a bench conference
3 is held out of the hearing
4 of the court reporter.)

5 THE COURT: NO, SIR, THAT'S NOT THE
6 THREE WITNESSES, MR. RANDOLPH, MR. GILLIARD AND MR.
7 KELLY HAD BEEN SEQUESTERED AS FACT WITNESSES.
8 AND WHEN THE MOTION WAS MADE TO SEQUESTER THE
9 WITNESSES I GRANTED THAT MOTION IN REGARD TO ALL OF
10 THE FACT WITNESSES. WE NEVER REALLY DISCUSSED THE
11 FACT THAT THESE THREE ARE FACT WITNESSES, BUT THEY'RE
12 ALSO VICTIMS AND THEY ARE ENTITLED TO BE IN THE
13 COURTROOM AT ALL TIMES, AND I THINK WE KIND OF
14 CLEARED THAT UP AT THE BENCH CONFERENCE DURING MR.
15 WALTERS'S OPENING STATEMENT. BUT FOR THE RECORD I'LL
16 NOTICE THAT THE THREE WITNESSES, MR. RANDOLPH, MR.
17 GILLIARD AND MR. KELLY, DID NOT COME INTO THE
18 COURTROOM AFTER THAT. THEY HAVE NOT BEEN IN THE
19 COURTROOM DURING ANY OF THE TESTIMONY ALTHOUGH I FIND,
20 AND I'LL BE GLAD TO HEAR YOU ON THIS IF YOU
21 DISAGREE, MR. WALTERS, I FIND THEY WOULD HAVE BEEN
22 ENTITLED TO BE IN THE COURTROOM DURING THE ENTIRE
23 PROCEEDINGS. DO YOU DISAGREE?

24 MR. WALTERS: NO, SIR, YOUR HONOR,
25 I RESPECT THE COURT'S RULING.

400

1 THE COURT: ALRIGHT. AND SO, NOW,
2 ARE THERE ANY OTHER WITNESSES? MR. KELLY IS THE LAST
3 WITNESS, AND I SEE HIM, I THINK, SITTING IN THE
4 COURTROOM, AND HE'S GOING TO BE THE FIRST WITNESS THIS
5 MORNING. HE WOULD BE REALLY THE LAST FACT WITNESS.
6 OTHER THAN - - -

7 SOLICITOR SORENSON: WELL, THERE'S
8 THE CO-DEFENDANTS, I MEAN, - - -

9 THE COURT: --- THE CO-DEFENDANTS
10 WHO ARE INCARCERATED AND THEY CERTAINLY DON'T - - -

11 SOLICITOR SORENSON: WELL, ONE OF
12 THEM IS NOT, BUT I MEAN, I WOULD KEEP HIM OUT OF THE --
13 HE HAS NOT BEEN IN THE COURTROOM.

14 THE COURT: SO, HE IS SEQUESTERED
15 ALSO.

16 SOLICITOR SORENSON: YES, SIR.

17 THE COURT: ALRIGHT, IS THERE
18 ANYBODY ELSE, THEN? WHAT'S HIS NAME?

19 SOLICITOR SORENSON: HIS NAME IS
20 MAURICE CHEESEBORO.

21 THE COURT: ALRIGHT, MR. CHEESEBORO
22 IS SEQUESTERED. I THINK THAT'S THE ONLY OTHER ONE
23 THAT'S SEQUESTERED, AND WHERE IS HE?

24 SOLICITOR SORENSON: HE'LL BE UP
25 HERE THIS MORNING, AT SOME POINT IN TIME THIS MORNING,

1 BUT HE'S REPRESENTED BY THE PUBLIC DEFENDER'S OFFICE, SO
2 I MEAN, WHEN HE WAS HERE YESTERDAY HE WAS OVER IN THEIR
3 OFFICE.

4 THE COURT: ALRIGHT. WELL, WE
5 JUST DON'T WANT ANYBODY LEAVING THE COURTROOM TO GO
6 TALK WITH THESE WITNESSES ABOUT THEIR TESTIMONY, THAT
7 WOULD DEFEAT THE PURPOSE OF SEQUESTRATION I THINK IS
8 MR. WALTERS'S POINT. AND CERTAINLY, WE NEED TO SEE
9 THAT THAT DOES NOT HAPPEN, INCLUDING ALSO THE WITNESSES
10 -- AND I DON'T KNOW, MR. WALTERS, YOUR WITNESSES
11 HAVE NOT BEEN IN THE COURTROOM, HAVE THEY, DURING THE
12 TRIAL?

13 MR. WALTERS: NO, SIR, YOUR
14 HONOR.

15 THE COURT: AND I DON'T KNOW THAT
16 THEY ARE FACT WITNESSES ANYHOW, BUT THEY HAVEN'T BEEN IN
17 THE COURTROOM, SO IT'S NOT AN ISSUE.

18 ALRIGHT. BRING IN THE JURY,
19 PLEASE.

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

24 THE COURT: GOOD MORNING, LADIES AND
25 GENTLEMEN, WE'RE READY TO GET STARTED NOW. THERE WAS AN

1 ARTICLE IN THE ORANGEBURG PAPER ABOUT THE TRIAL THIS
2 MORNING, DID ANY OF YOU READ THAT ARTICLE?

3 (Negative response from jury.)

4 THE COURT: ALL ANSWER IN THE
5 NEGATIVE, THEY DID NOT READ THE ARTICLE.

6 ALRIGHT, ANYTHING FROM THE STATE
7 BEFORE WE BEGIN WITH THE TESTIMONY?

8 SOLICITOR SORENSON: NO, SIR.

9 THE COURT: FROM THE DEFENSE?

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

11 THE COURT: THANK YOU, SIR, YOU MAY
12 CALL YOUR WITNESS, MR. SORENSON.

13 SOLICITOR SORENSON: THANK YOU. THE
14 STATE CALLS LAWRENCE KELLY.

15 THE COURT: COME ON DOWN, MR. KELLY.
16 MR. KELLY, IF YOU WOULD, PLACE YOUR LEFT HAND ON THAT
17 BIBLE AND RAISE YOUR RIGHT, PLEASE.

18 (Whereupon, Lawrence James Kelly
19 is duly sworn.)

20 THE COURT: ALRIGHT, SIR, HAVE A
21 SEAT AND STATE YOUR FULL NAME FOR US AND SPEAK LOUD
22 ENOUGH FOR EVERYBODY TO HEAR YOU.

23 WITNESS: MY NAME IS LAWRENCE JAMES
24 KELLY.

25 THE COURT: THANK YOU, SIR.

1 ALRIGHT, COUNSELOR.

2 SOLICITOR SORENSON: THANK YOU.

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

DIRECT - LAWRENCE JAMES KELLY BY SOL. SORENSON

404

DIRECT EXAMINATION OF LAWRENCE JAMES KELLY

BY SOLICITOR SORENSON:

Q. GOOD MORNING, MR. KELLY.

A. GOOD MORNING.

Q. IF YOU WOULD, TELL THE JURY HOW OLD YOU ARE?

A. FORTY.

Q. FORTY. AND WHERE WERE YOU ORIGINALLY FROM?

A. DETROIT, MICHIGAN.

Q. OKAY. AND HOW LONG HAVE YOU BEEN HERE IN SOUTH CAROLINA?

A. ABOUT TWO AND A HALF YEARS, THREE.

Q. OKAY. WHEN, WHEN ABOUT DID YOU MOVE DOWN HERE?

A. MAY OF O-SIX.

Q. MAY OF O-SIX, SO ABOUT SEVEN MONTHS OR SO BEFORE THIS ALL HAPPENED?

A. YES.

Q. OKAY. AND LET ME ASK YOU, THE OTHER THREE PEOPLE THAT WERE IN THE APARTMENT WITH YOU THAT NIGHT, HOW DO YOU KNOW THE THREE OF THEM?

A. I'D JUST MET TWO THAT NIGHT, BUT I KNOW WILL GILLIARD THROUGH MY COUSIN.

Q. OKAY. IS HE MARRIED TO YOUR COUSIN?

A. YES.

Q. IS THAT CORRECT? OKAY. SO, HOW LONG HAVE YOU KNOWN WILL?

1 A. ABOUT THREE MONTHS BEFORE THIS INCIDENT.

2 Q. OKAY. SO, YOU'VE KNOWN HIM SINCE AUGUST OR
3 SEPTEMBER OR SO OF TWO THOUSAND AND SIX?

4 A. YES.

5 Q. OKAY. AND THEN, YOU TESTIFIED THAT YOU HAD JUST
6 MET THE OTHER TWO GUYS THAT NIGHT, THAT WOULD BE
7 JOHN RANDOLPH AND THE VICTIM, HARRY MACK?

8 A. YES.

9 Q. ALRIGHT. IF YOU WOULD TELL THE JURY WHAT YOU HAD
10 BEEN DOING EARLIER THAT DAY, DECEMBER TWENTY-
11 THIRD OF TWO THOUSAND AND SIX?

12 A. WELL, ME AND WILL WENT CHRISTMAS SHOPPING,
13 HANGING OUT A LITTLE BIT, BASICALLY SHOPPING.

14 Q. OKAY. AND DID THERE COME A TIME WHERE THE TWO OF
15 YOU HAD MADE SOME PLANS TO DO SOMETHING LATER ON
16 THAT EVENING?

17 A. YES.

18 Q. OKAY. WHERE WERE YOU LIVING BACK THEN?

19 A. I WAS LIVING IN SANTEE.

20 Q. IN SANTEE. IS THAT WHERE WILL WAS LIVING ALSO?

21 A. YES.

22 Q. AND WHAT WERE THE PLANS THAT THE TWO OF Y'ALL HAD
23 MADE FOR LATER ON THAT EVENING OF THE TWENTY-
24 THIRD INTO THE MORNING OF THE TWENTY-FOURTH?

25 A. ME AND WILL WAS GOING OUT TO A CLUB.

DIRECT - LAWRENCE JAMES KELLY BY SOL. SORENSON

406

1 Q. OKAY. AND DID YOU KNOW THE CLUB THAT YOU WERE
2 PLANNING ON GOING TO?

3 A. HE MENTIONED ABOUT A CLUB ESCAPE.

4 Q. OKAY. AND WHERE WAS THAT LOCATED AT, DID YOU
5 KNOW?

6 A. NO, NOT AT THE TIME.

7 Q. WAS IT, I MEAN, IN SANTEE?

8 A. IT'S IN ORANGEBURG.

9 Q. IN ORANGEBURG. OKAY. AND TELL THE JURY WHAT
10 Y'ALL HAD DID THAT NIGHT, DID THE TWO OF YOU GO,
11 COME TO ORANGEBURG FROM SANTEE?

12 A. YES.

13 Q. OKAY. AND TELL THE JURY WHAT THE TWO OF Y'ALL
14 DID?

15 A. WELL, WE WAS COMING TO ORANGEBURG, HE SAID, LET'S
16 GO BY MY COUSIN'S HOUSE. WE WENT OVER TO HIS
17 COUSIN'S HOUSE. I SAID, MAN, I DON'T FEEL RIGHT
18 ABOUT THIS SPOT.

19 Q. AND TELL THE JURY WHAT YOU MEANT BY THAT, WHY
20 DIDN'T YOU FEEL RIGHT WHEN YOU PULLED UP THERE?

21 A. IT LOOKED LIKE A BAD AREA, I MEAN.

22 Q. AND LET ME SHOW YOU STATE'S EXHIBIT NUMBER
23 FIFTEEN, IS THAT THE APARTMENT THAT Y'ALL WENT
24 TO?

25 A. YES, IT IS.

DIRECT - LAWRENCE JAMES KELLY BY SOL. SORENSON

407

1 Q. OKAY. ALRIGHT, WHAT, DID THE TWO OF Y'ALL GO
2 INTO THE APARTMENT?

3 A. YES.

4 Q. OKAY. AND WHO WAS INSIDE WHEN YOU GOT IN THERE?

5 A. JOHN AND HARRY.

6 Q. AND YOU TESTIFIED YOU WERE INTRODUCED TO THEM AT
7 THAT POINT IN TIME?

8 A. YES.

9 Q. THE FIRST TIME YOU HAD EVER MET EITHER ONE OF
10 THEM?

11 A. YES.

12 Q. ALRIGHT. AND WHAT WERE YOUR OBSERVATIONS
13 INITIALLY WHEN YOU GOT INSIDE THE APARTMENT?

14 A. A COUPLE OF GUYS SITTING AROUND, THEY WAS SMOKING
15 SOME WEED.

16 Q. WHAT DID Y'ALL DO THEN?

17 A. WE SAT DOWN AND STARTED CONVERSING.

18 Q. YOU SAID THEY WERE SMOKING SOME WEED WHEN YOU GOT
19 THERE?

20 A. YEAH.

21 Q. DID YOU AND WILL THEN JOIN IN DOING THAT ALSO
22 WITH THEM?

23 A. OF COURSE.

24 Q. AND DID Y'ALL HAVE ANY CONVERSATION THEN ABOUT
25 CONTINUING ON TO THE CLUB THAT YOU WERE PLANNING

DIRECT - LAWRENCE JAMES KELLY BY SOL. SORENSON

408

1 ON GOING TO?

2 A. YEAH, THEY SAID, WELL, SINCE Y'ALL ARE GOING TO
3 THE CLUB LET US GET DRESSED AND WE'LL GO WITH
4 YOU.

5 Q. OKAY. SO, YOU STAYED THERE WAITING FOR THEM TO
6 GET READY, THEN?

7 A. YEAH.

8 Q. AND HOW LONG DO YOU THINK YOU WERE IN THE
9 APARTMENT BEFORE THE KNOCK CAME THAT I'M GOING TO
10 TALK TO YOU ABOUT IN A SECOND?

11 A. ABOUT AN HOUR.

12 Q. AND WHERE WERE YOU AT IN THE APARTMENT DURING
13 THAT PERIOD OF TIME?

14 A. I WAS SITTING ON THE COUCH IN FRONT OF THE
15 TELEVISION.

16 Q. ALRIGHT. LET ME SHOW YOU STATE'S EXHIBIT NUMBER
17 SIXTEEN, - - -

18 A. YEAH.

19 Q. --- IS THAT THE COUCH?

20 A. ON THE FAR END OF THE COUCH.

21 Q. OVER HERE BY THAT END TABLE NEAR THE WALL?

22 A. YES.

23 Q. AND THAT'S BASICALLY IN FRONT OF THE TELEVISION,
24 THE TELEVISION IS KIND OF IN THIS CORNER HERE?

25 A. RIGHT.

1 Q. AND IS THAT WHERE YOU SAT PRETTY MUCH THE WHOLE
2 TIME?

3 A. THE WHOLE TIME.

4 Q. ALRIGHT. AND WHERE WAS EVERYBODY ELSE DURING
5 THAT PERIOD OF TIME?

6 A. I THINK HARRY WENT TO THE BATHROOM FIRST, TOOK A
7 SHOWER, PUT HIS CLOTHES ON, AND THEN JOHN WENT IN
8 BEHIND HIM.

9 Q. OKAY. AND WHAT ABOUT WILL, WHERE WAS HE AT THE
10 WHOLE TIME?

11 A. HE WAS SITTING ON THE COUCH NEXT TO ME.

12 Q. THE SAME COUCH BUT AT THE OTHER END, THIS END
13 HERE?

14 A. YEAH.

15 Q. ALRIGHT. AND TELL THE JURY WHAT HAPPENED THEN,
16 YOU SAID YOU HAD BEEN THERE UP TO APPROXIMATELY
17 AN HOUR, WHAT HAPPENED THEN?

18 A. THEY CAME OUT THE BATHROOM, THEY SAID, WE WAS
19 ABOUT READY - - -

20 MR. CULLER: YOUR HONOR, I'M GOING
21 TO OBJECT TO HEARSAY AT THIS POINT, THAT'S WHAT
22 SOMEONE ELSE IS SAYING.

23 SOLICITOR SORENSON: I MEAN, I'LL
24 MOVE ON, I MEAN, I DON'T REALLY THINK IT'S OFFERED FOR
25 THE TRUTH, BUT - - -

DIRECT - LAWRENCE JAMES KELLY BY SOL. SORENSON

410

1 THE COURT: ALRIGHT, MOVE ON, I
2 SUSTAIN THE OBJECTION.

3 Q. WHAT, SO THE TWO OF THEM HAD COME OUT OF THE
4 BATHROOM?

5 A. YES.

6 Q. OKAY. AND WHAT HAPPENED THEN?

7 A. WE WAS GETTING READY TO GO, WE HEARD A KNOCK AT
8 THE DOOR.

9 Q. OKAY. IT WAS A KNOCK ON THE DOOR?

10 A. YES.

11 Q. WERE YOU STILL SITTING ON THE COUCH AT THAT POINT
12 IN TIME?

13 A. AT THIS TIME I THINK I WAS STANDING, WE WAS ALL
14 STANDING.

15 Q. OKAY. AND ALRIGHT, WHAT HAPPENED, SO THE KNOCK
16 AT THE DOOR, AND WHAT HAPPENED THEN?

17 A. A GUY CAME IN, SAID HE WANTED SOME WEIGHT.

18 Q. OKAY. WHO -- HOW DID HE GET IN THE DOOR?

19 A. HARRY OPENED THE DOOR.

20 Q. OKAY. SO, HARRY WENT AND OPENED THE DOOR?

21 A. YES.

22 Q. OKAY. AND YOU SAID HE WAS LOOKING FOR SOME
23 WEIGHT?

24 A. YES.

25 Q. DO YOU KNOW WHAT HE MEANT BY THAT WHEN HE SAID

DIRECT - LAWRENCE JAMES KELLY BY SOL. SORENSON

411

1 THAT?

2 A. IN STREET TERMS, YEAH, I MEAN.

3 Q. AND WHAT DO YOU THINK HE MEANT WHEN HE ASKED FOR
4 THAT?

5 A. DRUGS.

6 Q. OKAY. LET ME ASK YOU THIS, AT THAT POINT IN TIME
7 DID YOU, DID YOU RECOGNIZE THE GUY?

8 A. I NEVER SAW HIM BEFORE IN MY LIFE.

9 Q. NEVER SEEN HIM BEFORE? ALRIGHT. AND WHO ELSE
10 WAS IN THE ROOM AT THAT POINT IN TIME, IN THE
11 LIVING ROOM AND I GUESS THE KIND OF LIVING ROOM-
12 KITCHEN AREA OF THAT APARTMENT?

13 A. JOHN WAS IN THE KITCHEN.

14 Q. OKAY.

15 A. AND ME, WILL AND HARRY WAS IN THE LIVING ROOM,
16 AND HARRY OPENED THE DOOR.

17 Q. OKAY. WHEN HARRY OPENED THE DOOR, WAS THERE ANY
18 CONVERSATION THAT WENT BACK AND FORTH BETWEEN
19 ANYBODY AND THE GUY THAT WAS IN THE DOORWAY?

20 A. YEAH, BETWEEN HIM AND HARRY AT FIRST, HE SAID HE
21 WAS LOOKING FOR SCAR.

22 Q. HE SAID HE WAS LOOKING FOR SCAR?

23 A. YEAH.

24 Q. OKAY. AND LET ME ASK YOU THIS, DID YOU GET THE
25 IMPRESSION THAT HE APPEARED TO KNOW WHO SCAR WAS

DIRECT - LAWRENCE JAMES KELLY BY SOL. SORENSON

412

1 THAT HE WAS LOOKING FOR?

2 A. NO, BECAUSE HE WAS LOOKING FOR HARRY WHEN HE
3 ASKED FOR SCAR.

4 Q. OKAY. ALRIGHT, AND WHO -- THE NICKNAME, SCAR,
5 HAD YOU HEARD THAT BEFORE THEN?

6 A. YEAH, THAT'S HOW I WAS INTRODUCED TO JOHN, AS
7 SCAR.

8 Q. OKAY. SO, YOU KNEW THAT WAS JOHN RANDOLPH'S
9 NICKNAME?

10 A. YEAH.

11 Q. ALRIGHT. NOW, AT SOME POINT IN TIME DID THAT GUY
12 THAT CAME TO THE DOOR DID HE ACTUALLY COME INTO
13 THE APARTMENT?

14 A. HE STEPPED IN.

15 Q. OKAY. AND DID THE DOOR REMAIN OPEN OR CLOSED?

16 A. AFTER HE CAME IN HARRY PUSHED THE DOOR CLOSED.

17 Q. OKAY. AND WAS THERE ANY FURTHER CONVERSATION
18 THEN BETWEEN HIM -- I MEAN, HE SAID HE WAS
19 LOOKING FOR SCAR AND THEN WAS ASKING FOR SOME
20 WEIGHT, I THINK WAS THE TERM YOU USED?

21 A. INITIALLY HE STARTED TALKING TO THE WHOLE HOUSE,
22 AND TO ME IT APPEARED HE WAS TRYING TO FIND WHO
23 WAS SCAR.

24 Q. OKAY. WERE YOU PAYING ATTENTION TO HIM AT THAT
25 POINT IN TIME?

1 A. THE WHOLE TIME HE WALKED THROUGH THE HOUSE.

2 Q. WHAT WERE YOU LOOKING AT?

3 A. HIS FACE.

4 Q. OKAY. AND DESCRIBE HIM IF YOU WOULD FOR THE
5 JURY?

6 A. HE WAS KIND OF SMALL, CHUNKY, - - -

7 Q. CHUNKY?

8 A. --- SHORT, HIS CHEEKS WAS RECEDING BUT HE HAD A
9 BEARD.

10 Q. OKAY. THICK BEARD OR THIN BEARD OR - - -

11 A. IT WAS GROWING IN, LOOKED LIKE HE WAS JUST
12 STARTING TO GROW IT.

13 Q. OKAY. AND ANYTHING COVERING THE REST OF HIS FACE
14 OR ANYTHING LIKE THAT?

15 A. HE HAD ON A HOODIE WITH A BILL ON IT, TURNED TO
16 THE BACK.

17 Q. DO YOU REMEMBER ANYTHING ABOUT WHAT HE WAS
18 WEARING, CLOTHING-WISE?

19 A. I THINK IT WAS SOME TAN PANTS, A YELLOW T-SHIRT
20 AND BLACK SHIRT UP UNDERNEATH IT.

21 Q. ALRIGHT. AND AT THAT POINT IN TIME WHAT
22 HAPPENED, THEN, SO AFTER HE COMES IN AND THEY'RE
23 ALL KIND OF GOING BACK AND FORTH TALKING DID YOU
24 HAVE ANY CONVERSATION WITH THE GUY?

25 A. NO.

DIRECT - LAWRENCE JAMES KELLY BY SOL. SORENSON

414

1 Q. DID YOU EVER SAY ANYTHING TO HIM?

2 A. NO.

3 Q. OKAY. WHAT HAPPENED THEN?

4 A. JOHN STARTED SAYING, I DON'T KNOW THIS GUY, YOU
5 CAN LET HIM OUT. HE KEPT SAY HE WAS JAKE FROM
6 SANTEE, I'M JAKE FROM SANTEE. WILL SAID, I KNOW,
7 BUDDY, I SEEN HIM BEFORE, I SEEN BUDDY FROM
8 SANTEE.

9 MR. WALTERS: I'M GOING TO OBJECT,
10 YOUR HONOR, THAT'S HEARSAY, AGAIN.

11 THE COURT: ALRIGHT, I SUSTAIN THE
12 OBJECTION.

13 SOLICITOR SORENSON: YOUR HONOR,
14 MAY WE APPROACH?

15 THE COURT: YES, SIR.

16 (Whereupon, a bench conference
17 is had out of the hearing of
18 the jury and court reporter.)

19 Q. AT THAT POINT IN TIME WHILE ALL OF THIS IS GOING
20 ON IN, KIND OF, IN THAT LIVING ROOM AREA THERE,
21 WHAT -- ALL OF Y'ALL ARE STILL IN THE LIVING
22 ROOM?

23 A. YES, WELL, SCAR WAS IN THE - - -

24 Q. AND JOHN WAS IN THE KITCHEN AREA?

25 A. --- KITCHEN PART.

DIRECT - LAWRENCE JAMES KELLY BY SOL. SORENSON

415

- 1 Q. WHICH ESSENTIALLY IS CONNECTED TO THE LIVING
2 ROOM, RIGHT?
- 3 A. RIGHT.
- 4 Q. THERE'S NOT A WALL OR ANYTHING BETWEEN THEM. AND
5 WHAT HAPPENED THEN, DID ANYBODY GET UP OR LEAVE
6 THE APARTMENT OR WHAT HAPPENED NEXT?
- 7 A. WELL, WILL SAID HE WAS GOING TO GO OUTSIDE AND
8 GET SOME AIR.
- 9 Q. DID HE GET UP AND GO TOWARDS THE DOOR?
- 10 A. YES, HE WENT TO THE DOOR AND OPENED THE DOOR.
- 11 Q. OKAY. AND TELL THE JURY WHAT HAPPENED AS HE
12 OPENED THE DOOR?
- 13 A. WHEN WILL OPENED THE DOOR IT WAS TWO GUYS
14 STANDING BEHIND THE DOOR AND RUSHED IN, KNOCKED
15 WILL TO THE FLOOR. WHEN I SEEN THAT I DOVE TO
16 THE FLOOR.
- 17 Q. OKAY. AND THOSE TWO GUYS, WHAT DO YOU REMEMBER
18 ABOUT THOSE TWO GUYS THAT CAME RUSHING IN?
- 19 A. ONE WAS WEARING A SKI MASK AND ONE HAD ON A
20 HOODIE.
- 21 Q. OKAY. DID YOU GET A LOOK AT EITHER ONE OF THEIR
22 FACES?
- 23 A. NO.
- 24 Q. OKAY. DID YOU SEE DID THEY HAVE ANYTHING IN
25 THEIR HANDS WHEN THEY CAME RUSHING IN?

DIRECT - LAWRENCE JAMES KELLY BY SOL. SORENSON

416

1 A. WEAPONS.

2 Q. WEAPONS. DO YOU REMEMBER ANYTHING ABOUT THE GUNS
3 OR - - -

4 A. THEY WERE SMALL CALIBER WEAPONS.

5 Q. AND, ALRIGHT, AS YOU THEN DOVE TO THE FLOOR, YOU
6 SAID WILL GOT PUSHED TO THE FLOOR ALSO?

7 A. YES.

8 Q. SO, THAT'S GOING TO BE ALL, WHERE IN THE
9 APARTMENT?

10 A. IN THE LIVING ROOM.

11 Q. DO YOU KNOW WHAT JOHN DID BEHIND YOU?

12 A. I THINK HARRY RAN TOWARDS THE ROOM, LIKE, WHEN
13 THEY RUSHED IN, PUSHED WILL TO THE FLOOR, I THINK
14 WAS GOING TO GO TOWARDS THE ROOM, AND I DOVE TO
15 THE FLOOR THAT'S WHEN I HEARD THE TWO SHOTS.

16 Q. OKAY. AND DESCRIBE TO THE JURY, WHAT DID YOU SEE
17 HAPPEN THEN, WHAT DID YOU SEE AND HEAR HAPPEN?

18 A. THE TWO GUYS RAN TOWARDS JOHN AND STARTED
19 ROUGHING JOHN UP.

20 Q. OKAY. LET ME BACK UP AS FAR AS THE SHOTS, YOU
21 SAID YOU SAW THE TWO GUYS RUSHING IN, YOU SAID
22 THAT THEY BOTH APPEARED TO HAVE SMALL CALIBER
23 GUNS IN THEIR HANDS?

24 A. RIGHT.

25 Q. DID YOU SEE ANY OTHER WEAPONS AT THAT POINT IN

DIRECT - LAWRENCE JAMES KELLY BY SOL. SORENSON

417

1 TIME IN THE APARTMENT?

2 A. YES, THE GUY THAT CAME IN, HE HAD A GUN.

3 Q. OKAY. AND HAD HE HAD THAT GUN OUT THE WHOLE TIME

4 OR - - -

5 A. NO, AFTER THOSE GUYS RUSHED IN THAT'S WHEN I SEEN
6 HIM PULL HIS GUN.

7 Q. OKAY. AND DESCRIBE THE GUN THAT YOU SAW HIM PULL
8 OUT?

9 A. A BIG THREE FIFTY-SEVEN, ABOUT THAT LONG RIGHT
10 THERE.

11 Q. SO, THIS WAS A BIG GUN?

12 A. YES.

13 Q. OKAY. AND YOU SAID YOU HEARD TWO SHOTS. DID YOU
14 SEE WHO WAS SHOOTING?

15 A. I WAS ON THE GROUND.

16 Q. OKAY. AND DESCRIBE THE NOISE THAT YOU HEARD,
17 THOUGH?

18 A. A LOUD NOISE.

19 Q. LOUD?

20 A. TWO LOUD NOISES.

21 Q. AND YOU SAID YOU THOUGHT HARRY WAS RUNNING BACK
22 TOWARDS THE BEDROOM AREA?

23 A. BEDROOM, YES.

24 Q. ALRIGHT. NOW, SO YOU HIT THE FLOOR AT THAT POINT
25 IN TIME?

DIRECT - LAWRENCE JAMES KELLY BY SOL. SORENSON

418

1 A. YES.

2 Q. AND WHAT WAS GOING ON THEN?

3 A. AT THAT TIME THE GUYS WAS RUNNING AROUND THE
4 HOUSE, THE APARTMENT, SEARCHING THE APARTMENT.
5 THEY KEPT ASKING JOHN, WHERE IS THE BAG, WHERE IS
6 THE BAG?

7 A. OKAY. AND HAD YOU SEEN, DO YOU HAVE ANY IDEA
8 WHAT THEY WERE TALKING ABOUT AT THAT POINT IN
9 TIME?

10 A. NO, NOT REALLY.

11 Q. DO YOU REMEMBER, HAD YOU SEEN A BAG OR ANYTHING
12 IN THE APARTMENT THERE?

13 A. I THINK IT WAS A BLACK NIKE BAG ON THE KITCHEN
14 COUNTER.

15 Q. YOU HAD SEEN THAT WHEN YOU CAME IN?

16 A. YES.

17 Q. DID YOU EVER SEE WHAT WAS IN THAT BAG?

18 A. NO, THE BAG WAS ON THE KITCHEN COUNTER THE WHOLE
19 TIME.

20 Q. NOW, DID THEY, AT ANY POINT IN TIME DID ANYBODY
21 COME AND DO ANYTHING TO YOU WHEN YOU WERE ON THE
22 FLOOR?

23 A. YEAH, PUT A PISTOL TO MY HEAD, SEARCHED MY
24 POCKETS, TOOK A HUNDRED AND FIFTY DOLLARS IN MY
25 WALLET.

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419

1 Q. AND WHO WAS IT THAT WAS DOING THAT?

2 A. ONE OF THE OTHER GUYS.

3 Q. OKAY. NOW, THE GUY THAT INITIALLY CAME IN THE
4 APARTMENT THAT Y'ALL WERE ALL INITIALLY DEALING
5 WITH, WHERE WAS HE AT?

6 A. BY THIS TIME HE WAS IN THE KITCHEN BEATING SCAR.

7 Q. OKAY. SO, HE HAD GONE TOWARDS THE KITCHEN AREA
8 ALSO?

9 A. YEAH.

10 Q. ALRIGHT. AFTER THEY ENDED UP TAKING MONEY OFF OF
11 YOU WHAT HAPPENED THEN?

12 A. THEY ALL LEFT AFTER THEY TAKE EVERYBODY'S MONEY
13 OUT THEIR POCKET THEY ALL LEFT, JUMPED IN A BLUE
14 FOUR DOOR CAPRICE.

15 Q. OKAY. AND YOU, WHILE ALL THIS WAS GOING ON YOU
16 WERE ON THE FLOOR IN THE LIVING ROOM?

17 A. YES.

18 Q. KIND OF IN FRONT OF, KIND OF POINT OUT FOR THE
19 JURY WHERE YOU WERE?

20 A. I WAS RIGHT HERE - - -

21 Q. KIND OF - - -

22 A. --- AGAINST THE WALL.

23 Q. OKAY. OVER HERE AGAINST THE WALL?

24 A. YES.

25 Q. FACE DOWN OR - - -

DIRECT - LAWRENCE JAMES KELLY BY SOL. SORENSON

420

1 A. FACE DOWN, BUT I WAS LOOKING AROUND MAKING SURE -

2 - -

3 Q. ALRIGHT, NOW YOU SAID THAT -- ALRIGHT, SO AFTER
4 THEY, DID THE THREE OF THEM LEAVE TOGETHER?

5 A. YES.

6 Q. OKAY. AND WHAT DID YOU DO WHEN THEY RAN OUT?

7 A. WELL, WHEN THE DOOR CLOSED I JUMPED UP.

8 Q. OKAY. AND WHAT DID YOU DO?

9 A. I GOT A CHANCE TO SEE THE CAR AND I GOT A CHANCE
10 TO SEE THE PERSON WHO HAD THE THREE FIFTY-SEVEN
11 MAKING SURE ALL HIS BUDDIES GOT IN THE CAR.

12 Q. OKAY. WHERE, WHERE WAS THE CAR PARKED AT?

13 A. IT WAS IN THE MIDDLE OF THE STREET DOUBLE PARKED.

14 Q. OKAY. AND WHERE, DID YOU LOOK OUT, I GUESS IT'S

15 A - - -

16 A. IT'S A FRONT WINDOW RIGHT BEHIND THE TELEVISION.

17 Q. SO, THAT WOULD BE THAT WINDOW THERE?

18 A. YES.

19 Q. YOU PEEKED OUT THROUGH THE BLINDS, I GUESS?

20 A. YES.

21 Q. ALRIGHT, AND WHAT KIND OF CAR DID YOU SEE OUT
22 FRONT THERE?

23 A. IT WAS A FOUR DOOR CHEVY CAPRICE.

24 Q. LET ME ASK YOU THIS, YOU TESTIFIED ABOUT THE
25 THREE WEAPONS THAT YOU SAW, THE THREE MEN THAT

DIRECT - LAWRENCE JAMES KELLY BY SOL. SORENSON

421

1 CAME IN THE APARTMENT HAD. HAD YOU SEEN ANY
2 OTHER WEAPONS INSIDE THAT APARTMENT EARLIER IN
3 THE EVENING, DURING THAT HOUR THAT YOU WERE
4 THERE?

5 A. WELL, JOHN SHOWED ME AND WILL THAT HE HAD JUST
6 BOUGHT A NEW PIECE.

7 Q. OKAY. AND DO YOU REMEMBER ANYTHING ABOUT THAT
8 GUN?

9 A. IT WAS NICKEL PLATED WITH A BROWN HANDLE.

10 Q. OKAY. LET ME SHOW YOU STATE'S EXHIBIT NUMBER
11 TWENTY-ONE, DOES THAT APPEAR TO BE THE GUN THAT
12 HE SHOWED YOU?

13 A. THAT'S THE GUN THAT SCAR SHOWED US.

14 Q. NOW, AT THE TIME WHEN THESE GUYS, ALL THIS
15 HAPPENED INSIDE THE APARTMENT DID YOU KNOW WHERE
16 THAT GUN WAS AT THAT TIME?

17 A. HARRY PUT THAT GUN UP IN THE ROOM.

18 Q. HARRY HAD PUT IT BACK IN WHAT ROOM?

19 A. IN THE BEDROOM.

20 Q. OKAY. SO, AT THE TIME WHEN THEY CAME IN DID YOU
21 KNOW EXACTLY WHERE IT WAS?

22 A. NO.

23 Q. ALRIGHT. AFTER YOU LOOKED OUT THE WINDOW AND
24 SAW, SAW THE VEHICLE THAT YOU JUST DESCRIBED
25 OUTSIDE WHAT, WHAT HAPPENED NEXT?

DIRECT - LAWRENCE JAMES KELLY BY SOL. SORENSON

422

1 A. I WENT IN THE CAR TO LEAVE. I TOLD THEM I WAS
2 GOING TO LEAVE.

3 Q. DID YOU KNOW AT THAT POINT IN TIME THAT HARRY HAD
4 BEEN SHOT?

5 A. NO, I DIDN'T KNOW IT UNTIL THEY BROUGHT HIM OUT
6 TO THE CAR AND ASKED ME TO TAKE HIM TO THE
7 HOSPITAL.

8 Q. SO, WHO WAS IT THAT BROUGHT HIM OUT TO YOUR CAR?

9 A. WILL AND JOHN.

10 Q. OKAY. AND WHERE DID THEY PUT HIM IN YOUR CAR?

11 A. IN THE BACK SEAT.

12 Q. AND DID YOU THEN TAKE HIM TO THE HOSPITAL?

13 A. YES, I DID.

14 Q. AND WHO ELSE WENT WITH YOU?

15 A. WILL.

16 Q. OKAY. JOHN DIDN'T GO WITH YOU?

17 A. NO.

18 Q. AND DESCRIBE TO THE JURY WHAT HAPPENED WHEN Y'ALL
19 GOT TO THE HOSPITAL?

20 A. I TOLD WILL, I'M NOT GOING IN, I'M GOING HOME. I
21 DON'T KNOW NOTHING ABOUT THIS, I'M GOING HOME.

22 Q. YET AGAIN, THIS IS THE FIRST TIME YOU HAD MET TWO
23 OF THESE PEOPLE AN HOUR EARLIER, IS THAT CORRECT?

24 A. YES.

25 Q. ALRIGHT. SO, WHAT -- SO WHEN YOU GOT THE

DIRECT - LAWRENCE JAMES KELLY BY SOL. SORENSON

423

1 HOSPITAL, THEN, WHAT HAPPENED, I MEAN, DID YOU GO
2 IN?

3 A. NO.

4 Q. OKAY. WHAT DID WILL AND HARRY DO?

5 A. WELL, HARRY GOT OUT, HE WAS GOING IN. I TOLD
6 WILL, YOU'RE GOING TO HAVE TO GO WITH HIM.
7 THEY'RE GOING TO ASK QUESTIONS, THEY'RE GOING TO
8 WANT TO KNOW SOMETHING, YOU'RE GOING TO HAVE TO
9 TELL THEM SOMETHING. HE GOT OF THE CAR, HE SEEN
10 HIS COUSIN LEANING AGAINST THE CAR. HE PICKED HIM
11 UP AND TRIED TO CARRY HIM IN THE HOSPITAL. HE
12 JUMPED OUT OF HIS ARMS, SAID HE COULD WALK, SO
13 THEY BOTH WALKED IN THE HOSPITAL.

14 MR. WALTERS: OBJECT, YOUR HONOR,
15 TO HEARSAY.

16 THE COURT: WHO'S HANDLING THIS
17 WITNESS?

18 MR. WALTERS: I AM, YOUR HONOR.

19 THE COURT: THAT'S NOT HEARSAY.
20 THAT'S NOT OFFERED TO PROVE THE TRUTH OF IT, HE WAS AN
21 OBSERVER, HE WAS THERE WITNESSING IT, IT'S PROPER
22 TESTIMONY.

23 ALRIGHT, GO AHEAD.

24 A. WILL, WHEN HE JUMPED OUT OF WILL'S ARM, HIM AND
25 WILL WALKED INTO THE HOSPITAL. SO, BEFORE THEY

DIRECT - LAWRENCE JAMES KELLY BY SOL. SORENSON

424

1 WALKED IN I TOLD WILL, I'M GOING TO WIPE THIS
2 BLOOD AND I'M GONE.

3 Q. SO, THERE WAS SOME BLOOD IN THE BACK SEAT OF YOUR
4 CAR?

5 A. YES, IT WAS.

6 Q. OKAY. AND DID WILL COME BACK OUT?

7 A. YEAH.

8 Q. HOW LONG DO YOU THINK HE WAS INSIDE FOR?

9 A. A COUPLE OF MINUTES.

10 Q. OKAY. DID HE ACTUALLY, DID YOU OBSERVE THE TWO
11 OF THEM ACTUALLY GO INTO THE HOSPITAL?

12 A. YES.

13 Q. OKAY. AND DO YOU HAVE ANY IDEA WHAT HAPPENED
14 INSIDE THE HOSPITAL?

15 A. NO. I SEEN HIM COMING BACK OUT, THERE WAS A
16 NURSE COMING OUT ASKING HIM A COUPLE OF
17 QUESTIONS. SHE WAS, LIKE, YOU'VE GOT TO STAY,
18 YOU'VE GOT TO STAY.

19 MR. WALTERS: I'M GOING TO OBJECT
20 TO THAT, YOUR HONOR, THAT'S HEARSAY.

21 THE COURT: WHO ASKED WHO
22 QUESTIONS?

23 A. THE NURSE WAS ASKING WILL QUESTIONS.

24 THE COURT: AND YOU HEARD WHAT SHE
25 SAID?

DIRECT - LAWRENCE JAMES KELLY BY SOL. SORENSON

425

1 A. NO, I DIDN'T.

2 THE COURT: OKAY. NOTHING TO
3 OBJECT TO. GO AHEAD.

4 Q. OKAY. SO, IT WAS A NURSE COMING OUT THAT WAS
5 ASKING QUESTIONS BUT YOU DON'T KNOW WHAT THEY
6 WERE?

7 A. NO.

8 Q. ALRIGHT. BUT TRYING TO GET Y'ALL TO SAY?

9 A. TRYING TO GET HIM TO STAY. I WAS IN A GET READY
10 TO GO POSITION.

11 Q. OKAY. YOU WERE BACK IN YOUR CAR?

12 A. I WAS IN MY CAR THE WHOLE TIME.

13 Q. DID WILL GET IN THE CAR WITH YOU?

14 A. YEAH.

15 Q. AND WHERE DID Y'ALL GO THEN?

16 A. WELL, WE WAS GOING DOWN THE I-TWENTY-SIX.

17 Q. WHERE WERE YOU HEADING, WHERE WAS IT YOUR
18 INTENTION TO HEAD?

19 A. I WAS GOING BACK TO ONE SEVENTY-SIX.

20 Q. OKAY. AND WHERE WOULD THAT TAKE YOU?

21 A. OKAY. SO, YOU WERE HEADING HOME?

22 A. YEAH.

23 Q. AND TELL THE JURY WHAT HAPPENED THEN?

24 A. WILL GOT A PHONE CALL FROM SCAR ASKING US TO MEET
25 HIM AT THE LOVE'S. I TOOK HIM TO THE LOVE'S.

DIRECT - LAWRENCE JAMES KELLY BY SOL. SORENSON

426

1 Q. THAT'S A GAS STATION?

2 A. YES.

3 Q. SO, YOU BROUGHT WILL BACK AND MET SCAR AT THE
4 LOVE'S?

5 A. WHEN WE WAS COMING OFF THE FREEWAY I JUST MADE
6 THE RIGHT, TOOK HIM TO THE GAS STATION, JUMPED
7 BACK ON ONE SEVENTY-SIX AND WENT HOME.

8 Q. OKAY. SO, DID YOU STAY THERE AND HAVE ANY
9 CONVERSATION WITH THE TWO OF THEM?

10 A. NO.

11 Q. SO, WILL GOT OUT AND GOT IN WITH JOHN AND YOU
12 WENT ON HOME?

13 A. YES.

14 Q. OKAY. DID YOU TALK TO EITHER ONE OF THEM AGAIN
15 THAT NIGHT?

16 A. NO.

17 Q. OKAY. WHEN WAS THE NEXT TIME THAT YOU HEARD FROM
18 SOMEBODY ABOUT, ABOUT WHAT HAD HAPPENED?

19 A. I THINK DETECTIVE SHUMPERT CALLED ME AT THE HOUSE
20 AND TOLD ME I NEED TO COME TO THE POLICE STATION.

21 Q. OKAY. AND DO YOU REMEMBER WHEN THAT WAS?

22 A. THE NEXT MORNING.

23 Q. OKAY. SO, SEVEN, EIGHT, NINE HOURS LATER,
24 SOMEWHERE LIKE THAT?

25 A. IT WAS, LIKE, EIGHT IN THE MORNING.

DIRECT - LAWRENCE JAMES KELLY BY SOL. SORENSON

427

1 Q. SO, ABOUT EIGHT O'CLOCK THAT NEXT MORNING?

2 A. YEAH, I WAS GETTING A PHONE CALL.

3 Q. OKAY. DID YOU GO MEET WITH LIEUTENANT SHUMPERT,
4 OR INVESTIGATOR SHUMPERT?

5 A. YES.

6 Q. AND AT THAT POINT IN TIME DID YOU GIVE A
7 STATEMENT TO THEM ABOUT THAT NIGHT?

8 A. NO, HE ASKED ME TO COME IN AND TALK TO HIM. I
9 THINK HE HAD SOMEBODY IN THE OFFICE, HE TOLD ME
10 TO LOOK AT HIM, AND SEE IF THAT WAS THE GUY. I
11 DIDN'T GIVE A STATEMENT UNTIL I GOT TO THE
12 ORANGEBURG COMPLEX.

13 Q. OKAY. SO, YOU ULTIMATELY GAVE A STATEMENT,
14 THOUGH, LATER ON THAT MORNING TO INVESTIGATOR
15 SHUMPERT?

16 A. YES.

17 Q. LET ME ASK YOU, DID YOU HAVE AN OPPORTUNITY ALSO
18 TO SIT AND DO, WITH ANOTHER, AN ARTIST, A
19 COMPOSITE?

20 A. YES.

21 Q. OKAY. AND LET ME SHOW YOU STATE'S EXHIBIT NUMBER
22 THIRTEEN, DO YOU RECOGNIZE THAT ITEM?

23 A. YES.

24 Q. IS THAT THE COMPOSITE THAT YOU HAD ASSISTED IN
25 PREPARING?

DIRECT - LAWRENCE JAMES KELLY BY SOL. SORENSON

428

1 A. YES.

2 Q. BASED ON THE DESCRIPTION THAT YOU WERE GIVING TO
3 HER?

4 A. YEAH.

5 SOLICITOR SORENSON: YOUR HONOR,
6 AT THIS TIME WE'D OFFER STATE'S THIRTEEN.

7 MR. WALTERS: NO OBJECTION, YOUR
8 HONOR.

9 THE COURT: ADMITTED WITHOUT
10 OBJECTION.

11 COURT REPORTER: STATE'S THIRTEEN.
12 (State's Exhibit Thirteen
13 marked and filed.)

14 Q. AND THIS, LOOKING AT STATE'S EXHIBIT NUMBER
15 THIRTEEN, DOES PRETTY FAIRLY AND ACCURATELY PICK
16 THE PERSON THAT YOU SAW - LET ME ASK YOU, WHO
17 WAS THIS SUPPOSED TO BE WHEN YOU WERE DOING THIS
18 COMPOSITE, WHO WAS THAT SUPPOSEDLY OF?

19 A. THAT MAN RIGHT THERE.

20 Q. OKAY. BUT WHAT ROLE DID THIS PERSON SUPPOSEDLY
21 PLAY IN THAT INCIDENT THE NIGHT BEFORE?

22 A. THE ROBBERY?

23 Q. UH HUH. HE WAS WHICH GUY, WHICH ONE, I GUESS?

24 A. THE SHOOTER.

25 Q. OKAY. THE INITIAL GUY THAT CAME INTO THE

DIRECT - LAWRENCE JAMES KELLY BY SOL. SORENSON

429

1 APARTMENT?

2 A. YES.

3 Q. OKAY. AND DOES THIS FAIRLY AND ACCURATELY DEPICT
4 YOUR RECOLLECTION OF THAT PERSON THAT NIGHT?

5 A. YES.

6 Q. IS THERE ANYTHING LOOKING BACK ON IT NOW THAT YOU
7 THINK IS OFF AT ALL?

8 A. SHE COULD HAVE FATTENED THE CHEEKS UP.

9 Q. A LITTLE FATTER CHEEKS?

10 A. YEAH.

11 Q. BUT THOSE ARE THE EYES, NOSE - - -

12 A. EYES, NOSE, MOUTH, I WAS ON WITH THAT.

13 Q. AND FACIAL HAIR?

14 A. YES.

15 Q. AND THAT YOU DESCRIBED AS FAR AS THE HAT AND ALL
16 THAT TYPE OF - - -

17 A. YES.

18 Q. --- WHAT HE HAD ON THE TOP OF HIS HEAD?

19 A. YEAH.

20 Q. LET ME ASK YOU, DID YOU HAVE AN OPPORTUNITY A
21 COUPLE OF DAYS LATER THEN ON THE TWENTY-SIXTH OF
22 DECEMBER TO MEET AGAIN WITH INVESTIGATOR SHUMPERT

23 - - -

24 A. YES.

25 Q. --- AND HAVE HIM SHOW YOU SOME PHOTOGRAPHS TO

DIRECT - LAWRENCE JAMES KELLY BY SOL. SORENSON

430

1 LOOK AT?

2 A. YES.

3 Q. OKAY. I'M SHOWING YOU STATE'S EXHIBIT NUMBER
4 FIVE, DO YOU RECALL LOOKING AT THAT PHOTOGRAPHIC
5 LINEUP?

6 A. YES.

7 Q. AND ALSO STATE'S EXHIBIT NUMBER ELEVEN?

8 A. YES.

9 Q. OKAY. AND DO YOU RECALL IF YOU LOOKED AT THE TWO
10 OF THEM, I MEAN, ONE AT A TIME OR SIDE BY SIDE OR
11 ONE ON TOP OF EACH OTHER?

12 A. SIDE BY SIDE.

13 Q. SIDE BY SIDE?

14 A. YES.

15 Q. AND LOOKING AT -- THERE'S TWELVE DIFFERENT PEOPLE
16 DEPICTED, IS THAT CORRECT?

17 A. YES.

18 Q. DID YOU, DID YOU PICK ANYBODY OUT OF THOSE TWELVE
19 PHOTOGRAPHS?

20 A. I PICKED NUMBER SIX, I TOLD HIM I WASN'T A
21 HUNDRED PER CENT SURE, I WAS ABOUT SEVENTY-FIVE
22 PER CENT SURE.

23 Q. OKAY. AND IN FACT, YOU CIRCLED THAT, INITIALED
24 IT AND DATED IT, IS THAT CORRECT?

25 A. YES, I DID.

DIRECT - LAWRENCE JAMES KELLY BY SOL. SORENSON

431

1 Q. AND THEN FILLED OUT AN AFFIDAVIT THAT THEY HAD
2 YOU SIGNED SAYING THAT YOU HAD PICKED NUMBER SIX?

3 A. YES.

4 SOLICITOR SORENSON: AND YOUR
5 HONOR, AT THIS TIME WE'D OFFER STATE'S NUMBER ELEVEN
6 INTO EVIDENCE.

7 MR. WALTERS: NO OBJECTION, YOUR
8 HONOR.

9 THE COURT: ADMITTED WITHOUT
10 OBJECTION.

11 COURT REPORTER: STATE'S ELEVEN.

12 (State's Exhibit Eleven
13 marked and filed.)

14 Q. AND YET AGAIN, WHEN YOU PICKED OUT THIS PICTURE
15 NUMBER SIX OF THIS LINEUP, YOU DIDN'T SEE ANYBODY
16 IN STATE'S NUMBER FIVE THAT YOU RECOGNIZED,
17 RIGHT?

18 A. NO.

19 Q. OKAY. WHEN YOU PICKED OUT NUMBER SIX HERE IN
20 STATE'S NUMBER ELEVEN WHAT DID YOU TELL
21 INVESTIGATOR SHUMPERT WHEN YOU CIRCLED AND PICKED
22 OUT THAT PICTURE?

23 A. "I'M NOT A HUNDRED PER CENT SURE, I'M SEVENTY-
24 FIVE PER CENT SURE."

25 Q. AND I'M GOING TO KIND OF FAST FORWARD YOU TO

DIRECT - LAWRENCE JAMES KELLY BY SOL. SORENSON

432

1 JANUARY TWENTY-FIFTH OF TWO THOUSAND AND SEVEN,
2 LET ME ASK YOU, THE WEEKS IN BETWEEN THERE HAD
3 YOU HAD ANY CONVERSATIONS WITH JOHN RANDOLPH?

4 A. NO.

5 Q. HAD YOU HAD ANY CONVERSATIONS WITH WILL GILLIARD?

6 A. NO.

7 Q. WERE YOU HANGING AROUND WITH EITHER ONE OF THEM?

8 A. NO.

9 Q. ON JANUARY TWENTY-FIFTH OF TWO THOUSAND SEVEN DID
10 INVESTIGATOR SHUMPERT GET BACK WITH YOU?

11 A. YES.

12 Q. OKAY. DID HE HAVE AN OPPORTUNITY TO SHOW YOU
13 SOME MORE PHOTO LINEUPS?

14 A. YES.

15 Q. OKAY. I'M SHOWING YOU WHAT'S ATTACHED TO STATE'S
16 EXHIBIT NUMBER TWELVE, DO YOU RECOGNIZE THOSE TWO
17 LINEUPS?

18 A. YES, I DO.

19 Q. THOSE ARE LINEUPS THAT YOU WERE SHOWN ON THAT AY?

20 A. YES.

21 SOLICITOR SORENSON: AT THIS TIME
22 WE'D OFFER STATE'S TWELVE INTO EVIDENCE.

23 MR. WALTERS: NO OBJECTION, YOUR
24 HONOR.

25 THE COURT: ADMITTED WITHOUT

1 OBJECTION.

2 COURT REPORTER: STATE'S TWELVE.

3 (State's Exhibit Twelve
4 marked and filed.)

5 Q. AND YET AGAIN, WITH THESE TWO PHOTOGRAPHIC
6 LINEUPS THAT YOU WERE SHOWN ON JANUARY TWENTY-
7 FIFTH, HOW, DID YOU LOOK AT THEM ONE AT A TIME,
8 SIDE BY SIDE, ONE ON TOP OF EACH OTHER?

9 A. I THINK HE PUT THOSE ONE ON TOP OF EACH OTHER.

10 Q. OKAY. KIND OF LIKE THAT?

11 A. YES.

12 Q. AND IN LOOKING AT THEM DID YOU TAKE A LOOK AT ALL
13 TWELVE OF THOSE PHOTOGRAPHS?

14 A. YES.

15 Q. AND WERE YOU ABLE TO PICK ANYBODY OUT OF EITHER
16 ONE OF THESE LINEUPS?

17 A. I SAID, THAT'S THE GUY RIGHT THERE, I'M A HUNDRED
18 PER CENT SURE THAT'S THE GUY RIGHT THERE.

19 Q. OKAY. ON THIS, THE FIRST OF THE TWO OF THEM
20 STAPLED HERE?

21 A. YES.

22 Q. DID YOU CIRCLE IT, AND WHOSE INITIALS ARE THOSE?

23 A. THAT'S MY INITIALS.

24 Q. AND DATED IT?

25 A. YES.

DIRECT - LAWRENCE JAMES KELLY BY SOL. SORENSON

434

1 Q. AND ACTUALLY PUT THE TIME HERE, THIS TIME IT'S
2 FOUR:O-FIVE IN THE AFTERNOON?

3 A. YES, IT WAS.

4 Q. OKAY. AND YET AGAIN, FILLED OUT AN AFFIDAVIT,
5 AND WHAT DID YOU PUT IN THE AFFIDAVIT HERE THAT
6 WAS FILLED OUT?

7 A. HE WAS THE GUY THAT CAME INTO JOHN'S APARTMENT
8 AND SAID HIS NAME WAS JAKE.

9 Q. FROM SANTEE?

10 A. FROM SANTEE.

11 Q. AND THAT'S YOUR SIGNATURE?

12 A. YES.

13 Q. AND YET AGAIN, WHEN OUT PICKED OUT ON THIS LINEUP
14 PHOTOGRAPH NUMBER SIX, I MEAN, I'M SORRY, NUMBER
15 FIVE, WHAT DID YOU TELL INVESTIGATOR SHUMPERT
16 WHEN YOU PICKED THIS ONE OUT?

17 A. I'M A HUNDRED PER CENT SURE THAT'S THE GUY.

18 Q. ANY DOUBT IN YOUR MIND WHEN YOU SAW THAT
19 PHOTOGRAPH?

20 A. NO.

21 Q. AND WHERE IS IT THAT YOU REMEMBER SEEING THAT
22 PERSON BEFORE?

23 A. COMING INTO THE APARTMENT.

24 Q. NOW, MR. KELLY, DO YOU -- THE PERSON THAT YOU SAW
25 IN THAT APARTMENT BACK ON DECEMBER TWENTY-FOURTH,

DIRECT - LAWRENCE JAMES KELLY BY SOL. SORENSON

435

1 TWO THOUSAND AND SIX, PULL OUT THAT BIG THREE
2 FIFTY-SEVEN REVOLVER THAT YOU DESCRIBED AND FIRE,
3 DO YOU SEE HIM HERE IN THE COURTROOM TODAY?

4 A. YES, I DO.

5 Q. IF YOU WOULD, POINT HIM OUT TO THE JURY, PLEASE.

6 A. RIGHT THERE.

7 Q. HOW IS HE DRESSED?

8 A. A BLUE SHIRT, A WHITE COLLAR, BLUE TIE.

9 Q. AND IN LOOKING AT HIM TODAY, IS THERE ANYTHING
10 DIFFERENT ABOUT HIM TODAY AS OPPOSED TO WHEN YOU
11 SAW HIM BACK IN DECEMBER OF TWO THOUSAND AND SIX?

12 A. A LOT BIGGER AND A LOT CLEANER.

13 Q. WHAT DO YOU MEAN BY CLEANER?

14 A. CLEAN, WASHED.

15 Q. OKAY. HOW ABOUT, AS FAR AS FACIAL HAIR?

16 A. NO HAIR, AND NO HAIR ON HIS HEAD.

17 Q. WAS HE LIKE THAT BACK IN DECEMBER OF TWO THOUSAND
18 AND SIX?

19 A. NO.

20 Q. WAS THE FACIAL HAIR MORE SIMILAR TO HOW YOU
21 DEPICTED IT IN HERE?

22 A. YES.

23 Q. ANY DOUBT IN YOUR MIND, THOUGH, THAT THAT'S THE
24 PERSON?

25 A. THAT'S THE PERSON THERE.

DIRECT - LAWRENCE JAMES KELLY BY SOL. SORENSON

436

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12

SOLICITOR SORRENSON: THANK YOU,

MR. KELLY.

THE COURT: CROSS-EXAM.

MR. WALTERS: MAY IT PLEASE THE
COURT.

THE COURT: YES SIR.

MR. WALTERS: ATTORNEY SORENSON.

(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 - LAWRENCE JAMES KELLY BY MR. WALTERS

437

CROSS-EXAMINATION OF LAWRENCE JAMES KELLY

BY MR. WALTERS:

Q. MR. KELLY, GOOD MORNING, HOW ARE YOU?

A. GOOD MORNING, FINE, AND YOU?

Q. MR. KELLY, YOU WERE IN THIS COURTROOM A COUPLE OF DAYS AGO AND YOU WERE TESTIFYING, DO YOU REMEMBER THAT?

A. YES.

Q. DO YOU REMEMBER YOU TESTIFIED THAT YOU DID NOT KNOW THERE WERE DRUGS IN THE HOUSE THAT YOU WERE GOING TO?

A. I DIDN'T.

Q. ALRIGHT. BUT YOU FELT COMFORTABLE ENOUGH TO SIT DOWN AND START SMOKING WEED IN THAT HOUSE, IS THAT RIGHT?

A. YES.

Q. SO, IT'S YOUR TESTIMONY YOU DIDN'T KNOW THERE WERE DRUGS IN THE HOUSE, BUT YOU WERE COMFORTABLE ENOUGH TO SIT DOWN AND START SMOKING WEED, SMOKING A BLUNT, AND YOU WERE ALSO COMFORTABLE ENOUGH TO SIT DOWN AND LOOK AT THE AMMUNITION AND GUNS INSIDE OF THE HOUSE, IS THAT RIGHT?

A. YEAH, THAT'S RIGHT.

Q. AND YOU WANT THIS JURY TO BELIEVE THAT YOU DIDN'T KNOW THERE WERE DRUGS THERE, AND YOU THOUGHT --

CROSS - LAWRENCE JAMES KELLY BY MR. WALTERS

438

1 LET ME QUOTE YOUR WORDS TO YOU, "I DID NOT FEEL
2 RIGHT ABOUT THIS SPOT." DID YOU JUST SAY THAT?

3 A. YES, I DID.

4 Q. ALRIGHT. SO, YOU DIDN'T FEEL RIGHT ABOUT THE
5 SPOT, BUT YOU WERE COMFORTABLE ENOUGH TO SIT DOWN
6 IN A CHAIR, START SMOKING A BLUNT, AND LOOKING AT
7 WEAPONS AND GUNS THAT MR. RANDOLPH, MR. GILLIARD,
8 MR. MACK, ALL OF THEM HAD IN THAT HOUSE?

9 A. IT WAS JUST ONE GUN.

10 Q. RIGHT. BUT IT'S MY UNDERSTANDING THAT YOU DID
11 NOT FEEL RIGHT ABOUT THE SPOT BUT YOU WERE
12 COMFORTABLE ENOUGH TO SIT DOWN AND SMOKE A BLUNT
13 AND SIT DOWN AND LOOK AT A THREE FIFTY-SEVEN, AND
14 SIT AROUND THE HOUSE THERE AND WATCH SOME T.V.,
15 IS THAT RIGHT?

16 A. I SMOKED WEED. I LOVE TO SMOKE WEED.

17 Q. HOW LONG HAVE YOU BEEN SMOKING WEED?

18 A. FOR A LONG TIME, I MEAN, IF YOU DO THE MATH, IT'S
19 OVER TWENTY YEARS.

20 Q. WELL, LET'S DO THE MATH. WHY DON'T YOU TELL THIS
21 JURY HOW OFTEN YOU GO BACK TO DETROIT AND COME
22 BACK TO MR. RANDOLPH'S PLACE, WHAT ARE YOU DOING?

23 A. I DON'T GO TO MR. RANDOLPH'S PLACE, I ONLY MET
24 THE MAN - - -

25 Q. WHAT DO YOU GO TO DETROIT FOR AND WHAT DO YOU

1 BRING BACK TO ORANGEBURG?

2 SOLICITOR SORENSON: YOUR HONOR, I
3 OBJECT.

4 A. I HAVEN'T BEEN TO DETROIT IN TWO YEARS.

5 THE COURT: UNLESS YOU'VE GOT SOME
6 BASIS FOR IT, MR. WALTERS, YOU NEED TO BE CAREFUL.

7 MR. WALTER: MAY IT PLEASE THE
8 COURT.

9 THE COURT: YES, SIR.

10 Q. MR. KELLY, YOU ALSO TESTIFIED IN YOUR STATEMENT
11 THAT THERE WERE TWO OR THREE SHOTS THAT WERE
12 FIRED WHEN YOU WERE IN THAT APARTMENT, IS THAT
13 RIGHT?

14 A. TWO SHOTS.

15 Q. OKAY. LET'S TAKE A LOOK AT YOUR STATEMENT. I
16 WANT YOU TO TAKE A LOOK AT THIS DOCUMENT. WHAT
17 DATE IS THAT DOCUMENT?

18 A. THE DATE?

19 Q. IT'S DOWN AT THE BOTTOM.

20 A. IT'S NO DATE ON THERE -- THE TWENTY-FOURTH.

21 Q. THAT'S WHAT I THOUGHT. LOOK AT THE SECOND PAGE,
22 IS THAT YOUR SIGNATURE?

23 A. YES, IT IS.

24 Q. ALRIGHT. I'D LIKE YOU TO LOOK AT THE FIRST LINE
25 ABOVE HERE. ISN'T IT YOUR TESTIMONY THAT THERE

CROSS - LAWRENCE JAMES KELLY BY MR. WALTERS

440

1 WERE TWO OR THREE SHOTS THAT WERE FIRED?

2 A. YES.

3 Q. SO, IT'S NOT TWO SHOTS, YOUR TESTIMONY IS THERE
4 WERE TWO OR THREE SHOTS THAT WERE FIRED?

5 A. YES.

6 Q. AT LEAST, THAT'S WHAT YOU TOLD THE POLICE BACK ON
7 DECEMBER - - -

8 A. THAT'S WHAT'S IN BLACK AND WHITE. THAT'S WHAT'S
9 IN BLACK AND WHITE.

10 Q. THAT'S WHAT YOU TOLD THEM ON DECEMBER TWENTY-
11 FOURTH?

12 A. YES.

13 Q. SO, THIS TWO SHOT DEAL TODAY IS INCORRECT, IS
14 THAT RIGHT?

15 A. I DIDN'T SAY, OR THREE.

16 Q. ALRIGHT. IN THIS PARTICULAR CASE WILL GILLIARD
17 VOUCHERED FOR THE MAN THAT CAME INSIDE OF THE
18 APARTMENT, IS THAT RIGHT, THAT'S YOUR STORY?

19 A. HE SAID HE KNEW HIM FROM SANTEE.

20 Q. ALRIGHT. AND WILL IS THE ONE THAT OPENED THE
21 DOOR THAT ALLOWED TWO OTHER PEOPLE TO COME INTO
22 THE APARTMENT?

23 A. YES.

24 Q. ALRIGHT. IN ADDITION TO THAT, I BELIEVE YOU ALSO
25 TESTIFIED, YOU TALK ABOUT TAKING A YOUNG MAN TO

1 THE HOSPITAL. YOU STATED THERE WAS SOME BLOOD IN
2 YOUR CAR?

3 A. YES.

4 Q. DID THE POLICE EVER LOOK AT YOUR CAR?

5 A. NO.

6 Q. EVER EXAMINE YOUR CAR?

7 A. NO.

8 Q. ALRIGHT. THEY COULDN'T BECAUSE GUESS WHAT YOU
9 DID, YOU FLED THE SCENE, DIDN'T YOU?

10 A. YEAH.

11 Q. IN FACT, WHEN YOU MET EVERYBODY AT THE OAKS AT
12 THREE O ONE AND ONE SEVENTY-SIX, YOU TOOK OFF,
13 AND YOU WENT ON HOME, DIDN'T YOU?

14 A. I MET THEM AT THE LOVE'S.

15 Q. RIGHT. AND THE POLICE HAD TO HUNT YOU DOWN, IS
16 THAT CORRECT?

17 A. NO, HE JUST CALLED MY HOUSE.

18 Q. ALRIGHT. YOU TESTIFIED WITH REGARDS TO THIS
19 PARTICULAR LINEUP THAT THEY HAD, AND YOU
20 IDENTIFIED SOMEONE?

21 A. YES.

22 Q. WOULD YOU GET UP AND COME IN FRONT OF THE JURY
23 HERE? HOLD THAT IN YOUR HAND. SHOW THE JURY THE
24 MAN THAT YOU BLAMED FOR COMMITTING THIS CRIME THE
25 SHOOTER?

CROSS - LAWRENCE JAMES KELLY BY MR. WALTERS

442

1 A. I SAID I WAS SEVENTY-FIVE PER CENT SURE THIS WAS
2 THE SHOOTER.

3 Q. ALRIGHT. AND YOU SIGNED YOUR NAME, DIDN'T YOU?

4 SOLICITOR SORENSON: YOUR HONOR, I
5 HATE TO OBJECT BUT CAN HE AT LEAST USE THE EXHIBIT
6 THAT'S IN EVIDENCE?

7 MR. WALTERS: WELL, LET'S USE A
8 COLOR EXHIBIT. I BELIEVE IT'S ELEVEN.

9 Q. SHOW THE JURY WHAT YOU SAID, YOU TOLD THE POLICE
10 THAT THIS IS THE MAN THAT SHOT THE GUN - - -

11 A. NO.

12 Q. --- THAT KILLED SOMEONE?

13 A. I SAID I WASN'T SURE, I WAS SEVENTY-FIVE PER CENT
14 SURE.

15 Q. THAT'S RIGHT. AND THEN YOU WENT UP AND YOU WITH
16 A FORENSIC ARTIST AND THEN YOU DREW THIS PICTURE
17 OF THE MAN?

18 A. YES.

19 Q. ALRIGHT. LET'S MAKE SURE THE JURY SEES BOTH OF
20 THEM. THAT'S FROM YOUR TESTIMONY, IS THAT
21 CORRECT?

22 A. YES, IT IS.

23 Q. ALRIGHT. AND WHAT HAPPENED LATER THAT MADE YOU
24 CHANGE YOUR MIND AND GO BACK TO THE POLICE
25 DEPARTMENT AND TELL THEM, I'M RECANTING WHAT I

1 HAVE TO SAY, I DON'T WANT TO BLAME THIS MAN NO
2 MORE FOR THIS CRIME?

3 A. WELL, I GUESS DETECTIVE SHUMPERT KNEW I WASN'T
4 TOO SURE.

5 Q. WELL, ISN'T IT TRUE THAT YOU MET WITH MR.
6 RANDOLPH AND YOU MET WITH MR. GILLIARD AND YOU
7 HAD TO GET YOUR STORY TOGETHER ON EXACTLY WHO
8 COMMITTED THE CRIME?

9 A. NO.

10 Q. ALRIGHT. AND THEN YOU RAN DOWN TO THE POLICE
11 DEPARTMENT AND YOU TOLD OFFICER SHUMPERT, YOU
12 SAID, I DON'T THINK THAT'S THE GUY?

13 A. THAT'S NOT HOW IT WENT.

14 Q. ALRIGHT. AND TODAY YOU'RE IN THIS COURTROOM --
15 DO YOU KNOW THIS MAN WAS ARRESTED BECAUSE OF WHAT
16 YOU SAID?

17 SOLICITOR SORENSON: I'M GOING TO
18 OBJECT BECAUSE THAT IS NOT ACCURATE.

19 THE COURT: I SUSTAIN THE
20 OBJECTION, AND THE JURY WILL DISREGARD THAT.

21 Q. ARE YOU AWARE OF THE FACT THAT THIS MAN WAS
22 ARRESTED BECAUSE YOU - - -

23 SOLICITOR SORENSON: I'M GOING TO
24 OBJECT, THAT'S THE SAME QUESTION.

25 THE COURT: JUST WAIT A MINUTE.

CROSS - LAWRENCE JAMES KELLY BY MR. WALTERS

444

1 LADIES AND GENTLEMEN, PLEASE STEP
2 TO THE JURY ROOM.

3 (Whereupon, the jury retires
4 to the jury room and the following
5 takes place out of the presence
6 of the jury.)

7 THE COURT: NOW, MR. WALTERS, THE
8 SOLICITOR OBJECTED ON THE BASIS OF THE QUESTION, THE
9 LEADING QUESTION THAT YOU ASKED HIM WAS NOT CORRECT.
10 AND YOU MADE NO RESPONSE TO THAT. I SUSTAINED THE
11 OBJECTION, AND ASKED THE JURY TO DISREGARD IT, AND YOU
12 ASKED THE JURY THE SAME QUESTION AGAIN.

13 MR. WALTERS: MAY IT PLEASE THE
14 COURT.

15 THE COURT: YES, SIR.

16 MR. WALTERS: YOUR HONOR, MY
17 QUESTION WAS, WAS HE AWARE OF THE FACT THAT SOMEONE
18 WAS ARRESTED AS A RESULT OF HIM IDENTIFYING SOMEONE.
19 HE MADE AN OBJECTION BUT I HAVEN'T HEARD THE RULE OR
20 THE GROUNDS FOR THE OBJECTION.

21 THE COURT: BUT IT DOESN'T MATTER.
22 I SUSTAINED THE OBJECTION AND YOU MADE NO, YOU MADE NO
23 ATTEMPT TO JUSTIFY YOUR QUESTION. WHEN HE SAID IT WAS
24 NOT TRUE, THE QUESTION THAT YOU WERE ASKING, YOU MADE
25 NO ATTEMPT TO JUSTIFY IT AT ALL, AND I SUSTAINED IT.

CROSS - LAWRENCE JAMES KELLY BY MR. WALTERS

445

1 AND THEN YOU ASKED THE SAME QUESTION AGAIN.

2 MR. WALTERS: MAY IT PLEASE THE
3 COURT?

4 THE COURT: YES, SIR.

5 MR. WALTERS: I'LL BE SURE TO
6 RESPOND IN THE FUTURE AND I'LL ABIDE BY YOUR RULING.

7 THE COURT: WELL, WHAT BASIS DO
8 YOU HAVE TO SAY THAT HE WAS ARRESTED BECAUSE OF THAT
9 DOCUMENT? I MEAN, IF YOU'VE GOT SOME BASIS FOR
10 STATING THAT THEN YOU CAN ASK THE QUESTION AND I'LL
11 OVERRULE THE STATE'S OBJECTION.

12 MR. WALTERS: THE OBJECTION WAS
13 THAT IN THIS PARTICULAR CASE YOU SAID THERE WAS NO
14 BASIS FOR THAT. I SIMPLY ASKED THE DEFENDANT, WERE
15 YOU AWARE OF THE FACT THAT SOMEONE WAS ARRESTED
16 BECAUSE YOU ACCUSED HIM OF COMMITTING CRIMES.

17 THE COURT: WELL, IS THAT TRUE OR
18 NOT?

19 MR. WALTERS: THAT'S THE QUESTION
20 I ASKED THE DEFENDANT, DID HE KNOW THIS?

21 SOLICITOR SORENSON: BUT THAT
22 IMPLIES THAT - - -

23 THE COURT: YOU CAN'T ASK THAT
24 QUESTION UNLESS YOU HAVE A REASONABLE BASIS TO BELIEVE
25 IT'S TRUE, MR. WALTERS. DO YOU?

CROSS - LAWRENCE JAMES KELLY BY MR. WALTERS

446

1 MR. WALTERS: YOUR HONOR, I'LL
2 WITHDRAW IT.

3 THE COURT: NO, ANSWER MY
4 QUESTION.

5 MR. WALTERS: I DO HAVE A
6 REASONABLE BASIS.

7 THE COURT: WHAT IS IT? PUT IT ON
8 THE RECORD RIGHT NOW, WHY DO YOU THINK THAT THIS MAN,
9 WHAT WAS HIS NAME?

10 SOLICITOR SORENSON: JOHNNY WHITE.

11 THE COURT: THAT MR. WHITE WAS
12 ARRESTED BECAUSE OF WHAT MR. KELLY SAID? NOW, IF
13 THAT'S THE TRUTH YOU CAN ASK MR. KELLY ABOUT IT, BUT
14 IF IT'S NOT, YOU WERE WAY OUT OF LINE.

15 MR. WALTERS: THE RULE FIVE
16 MATERIAL THAT'S PROVIDED BY THE SOLICITOR'S OFFICE, I
17 BELIEVE THERE'S A WARRANT FOR JOHNNY WHITE.

18 SOLICITOR SORENSON: THERE IS, AND
19 ALSO IN HIS NOTES IT INDICATES THAT THEY BROUGHT HIM
20 IN, TALKED TO HIM, AND THEN LET HIM GO HOME. HE WAS
21 NEVER ARRESTED, AND THAT'S ALL IN THE DISCOVERY THAT
22 WAS PROVIDED TO HIM.

23 MR. WALTERS: YOUR HONOR, THE ONLY
24 ASSUMPTION I CAN DRAW FROM A WARRANT BEING ISSUED IS
25 SOMEONE WAS PICKED UP.

CROSS - LAWRENCE JAMES KELLY BY MR. WALTERS

447

1 SOLICITOR SORENSON: NOT WHEN THE
2 INVESTIGATOR'S REPORT DIRECTLY CONTRADICTS THAT.

3 THE COURT: THAT IS OVER. HIS
4 OBJECTION IS SUSTAINED, YOU WILL NOT ASK THAT QUESTION
5 AGAIN. AND THE NEXT TIME I SUSTAIN AN OBJECTION IF
6 YOU HAVE A PROBLEM WITH IT YOU APPROACH THE BENCH OR
7 ASK TO BE HEARD OUTSIDE THE PRESENCE OF THE JURY. YOU
8 DON'T ASK THE SAME QUESTION THE SECOND TIME. DO YOU
9 UNDERSTAND THAT?

10 MR. WALTERS: YES, SIR.

11 THE COURT: AND THAT APPLIES TO
12 EVERYBODY ELSE.

13 BRING THE JURY IN.

14 (Whereupon, the jury enters
15 the courtroom and the following
16 takes place in the presence
17 of the jury.)

18 THE COURT: ALRIGHT, YOU MAY
19 CONTINUE.

20 MR. WALTERS: MAY IT PLEASE THE
21 COURT.

22 MR. SORENSON.

23 Q. NOW, IN THIS PARTICULAR CASE YOU GAVE A
24 DESCRIPTION TO THE FORENSIC ARTIST, IS THAT
25 CORRECT?

CROSS - LAWRENCE JAMES KELLY BY MR. WALTERS

448

1 A. YES.

2 Q. ALRIGHT. AND I BELIEVE THAT THIS WAS THE PICTURE
3 THAT WAS PRODUCED, IS THAT RIGHT?

4 A. YES, IT IS.

5 Q. ALRIGHT. HOW MUCH DID THIS MAN WEIGH THAT YOU
6 SAW?

7 A. I COULDN'T BE SURE.

8 Q. HOW TALL WAS HE?

9 A. ABOUT FIVE-EIGHT, FIVE-SIX, I MEAN, ABOUT FIVE-
10 EIGHT, FIVE-NINE.

11 Q. ALRIGHT. AND IT'S YOUR TESTIMONY THAT THIS WAS
12 THE SHOOTER?

13 A. YES.

14 Q. ALRIGHT. AND YOU'RE SAYING THAT THIS PICTURE IS
15 AN ACCURATE DEPICTION OF THAT MAN THAT'S SITTING
16 OVER THAT?

17 A. AT THAT TIME, YES.

18 Q. AT THAT TIME?

19 A. YEAH. HE'S DONE PUT ON A LOT OF WEIGHT.

20 Q. ALRIGHT.

21 A. HE CUT HIS HAIR AND CLEANED HIMSELF UP.

22 MR. WALTERS: ALRIGHT. YOUR HONOR,
23 I HAVE NO FURTHER QUESTIONS.

24 THE COURT: REDIRECT?

25 SOLICITOR SORENSON: NOTHING.

1 THE COURT: THANK YOU, SIR, YOU
2 MAY STEP DOWN.

3 CALL YOUR NEXT WITNESS, PLEASE.

4 SOLICITOR SORENSON: MAY HE BE
5 EXCUSED, YOUR HONOR, OR - - -

6 THE COURT: ANY OBJECTION?

7 MR. WALTERS: NO OBJECTION.

8 THE COURT: YES, SIR, YOU MAY BE
9 EXCUSED.

10 SOLICITOR SORENSON: THE STATE
11 CALLS VELLO PAAVEL.

12 THE COURT: MR. PAAVEL, PLEASE.
13 PUT YOUR LEFT HAND ON THE BIBLE AND RAISE YOUR RIGHT.
14 (Whereupon, Vello Paavel
15 is duly sworn.)

16 THE COURT: THANK YOU, SIR. AND
17 STATE YOUR FULL NAME, PLEASE, AND SPELL YOUR LAST NAME
18 FOR US.

19 WITNESS: ALRIGHT, SIR. MY NAME
20 IS VELLO PAAVEL, P-A-A-V-E-L.

21 THE COURT: THANK YOU, SIR.

22 WITNESS: YES, SIR.

23 THE COURT: EXAMINE THE WITNESS.

24 SOLICITOR SORENSON: THANK YOU,
25 YOUR HONOR.

DIRECT - VELLO PAAVEL BY SOL. SORENSON

450

DIRECT EXAMINATION OF VELLO PAAVEL

BY SOLICITOR SORENSON:

Q. AGENT PAAVEL, IF YOU WOULD, TELL THE JURY WHERE IT IS THAT YOU'RE EMPLOYED?

A. I WORK FOR THE SOUTH CAROLINA LAW ENFORCEMENT DIVISION, WHICH IS COMMONLY KNOWN AS SLED. IN PARTICULAR, I WORK IN THE FORENSIC SERVICES LABORATORY IN THE FIREARMS DEPARTMENT WHERE I'M A FIREARM AND TOOL MARK EXAMINER. ALSO, I'M CURRENTLY THE SUPERVISOR OF THAT DEPARTMENT.

Q. OKAY. AND HOW LONG, FIRST OF ALL, HAVE YOU BEEN EMPLOYED AT THE STATE LAW ENFORCEMENT DIVISION?

A. I'VE BEEN THERE JUST OVER TWENTY-TWO YEARS, ALL OF THAT TIME IN THE FIREARMS DEPARTMENT, AND FOR THE PAST TWENTY YEARS I'VE BEEN CONDUCTING FIREARM AND TOOL MARK EXAMINATIONS.

Q. OKAY. AND YOU INDICATED THAT YOU'RE CURRENTLY THE SUPERVISOR OVER THAT DEPARTMENT?

A. YES, SIR.

Q. HOW LONG HAVE YOU BEEN EMPLOYED IN THAT CAPACITY?

A. JUST OVER TWO YEARS.

Q. AND HOW MANY OTHER -- AT SLED HOW MANY OTHER FIREARMS EXAMINERS ARE THERE?

A. WE HAVE A TOTAL OF TEN EMPLOYEES IN THE FIREARMS DEPARTMENT. ONE IS A TECHNICIAN THAT WORKS ON

DIRECT - VELLO PAAVEL BY SOL. SORENSON

451

1 THE IBIS COMPUTER. THE REST OF THE EMPLOYEES IN
2 THAT DEPARTMENT ARE FULL TIME EXAMINERS, PART
3 TIME EXAMINERS, OR TRAINEES. SO, THERE'S A TOTAL
4 OF NINE THAT WOULD TECHNICALLY BE DOING FIREARMS
5 EXAMINATION AT SOME TIME.

6 Q. OKAY. AND IF YOU WOULD, JUST BRIEFLY GO OVER FOR
7 THE JURY YOUR, FIRST YOUR EDUCATIONAL BACKGROUND
8 BUT ALSO THEN WHATEVER TRAINING YOU'VE HAD WITH
9 REGARDS TO YOUR CURRENT POSITION?

10 A. YES, SIR. ONE OF THE REQUIREMENTS FOR WORKING IN
11 THE FORENSIC SERVICES LABORATORY IS TO HAVE SOME
12 TYPE OF FOUR YEAR DEGREE. I HAVE A BACHELOR OF
13 SCIENCE DEGREE FROM THE UNIVERSITY OF SOUTH
14 CAROLINA, MY MAJOR WAS IN CHEMISTRY. MY
15 BACKGROUND IN ACTUAL FIREARMS STARTED MANY, MANY
16 YEARS AGO, IT WAS A HOBBY OF MINE, AND THEN IT
17 DEVELOPED INTO ACTUALLY MY WORK FOR A PERIOD OF
18 TIME. I WORKED IN A GUN SHOP WHERE I BOUGHT, SOLD
19 AND REPAIRED FIREARMS. THEN I GOT INTO LAW
20 ENFORCEMENT PRIOR TO SLED, AND I WORKED FOR A
21 TOTAL OF SIX AND A HALF YEARS AT THE COLUMBIA
22 POLICE DEPARTMENT, AND THEN FOR RICHLAND COUNTY
23 SHERIFF'S OFFICE, AND ULTIMATELY I WENT TO WORK
24 AT SLED IN NINETEEN EIGHTY-SEVEN. WHEN I FIRST
25 STARTED TO WORK AT SLED I HAD TO PARTICIPATE IN A

DIRECT - VELLO PAAVEL BY SOL. SORENSON

452

1 TRAINING PROGRAM. NOW, WHEN I FIRST STARTED IN
2 THE FIREARMS DEPARTMENT MY RESPONSIBILITY WAS
3 LATENT PRINTS, CRIME SCENES AND FIREARM AND TOOL
4 MARK IDENTIFICATION. AFTER APPROXIMATELY TWO
5 YEARS WE MOVED INTO OUR NEW BUILDING AND WE
6 SEPARATED THAT CRIME SCENE AND FIREARMS UNIT AND
7 I STAYED WITH THE FIREARMS DEPARTMENT. DURING MY
8 INITIAL EMPLOYMENT I HAD TO WORK UNDER THE
9 SUPERVISION OF COURT QUALIFIED FIREARM AND TOO
10 MARK EXAMINERS, I HAD TO STUDY, I HAD TO READ, I
11 WAS ABLE TO ATTEND CERTAIN TYPES OF FIREARM
12 RELATED COURSES SUCH AS ARMORS COURSES THAT
13 TAUGHT ME FURTHER HOW FIREARMS WORK AND HOW TO
14 REPAIR THEM. I ALSO WAS ABLE TO LITERALLY DO ON
15 THE JOB TRAINING WHICH ENCOMPASSED MICROSCOPIC
16 COMPARISON OF FIRED BULLETS AND CARTRIDGE
17 CASINGS, WHICH IS THE BULK OF WHAT WE DO IN OUR
18 DEPARTMENT, IS TRYING TO DETERMINE WHETHER OR NOT
19 THE BULLET OR CARTRIDGE CASE WAS FIRED BY A
20 PARTICULAR FIREARM. AND AFTER I SUCCESSFULLY
21 COMPLETELY MY TRAINING I WAS ALLOWED TO WORK
22 CASES ON MY OWN AND TESTIFY IN COURT AS AN EXPERT
23 IN THE AREA OF FIREARM AND TOOL MARK
24 IDENTIFICATION.

25 Q. OKAY. AND HAVE YOU HAD AN OPPORTUNITY, AGENT

DIRECT - VELLO PAAVEL BY SOL. SORENSON

453

1 PAAVEL, TO TESTIFY IN COURT BEFORE?

2 A. YES, SIR, I HAVE.

3 Q. AND YOU'VE BEEN QUALIFIED AS AN EXPERT WITNESS ON
4 THOSE OCCASIONS?

5 A. YES, SIR, I HAVE.

6 Q. HOW MANY TIMES DO YOU THINK YOU'VE BEEN QUALIFIED
7 AS AN EXPERT WITNESS IN FIREARMS AND FIREARM
8 IDENTIFICATION?

9 A. IN FIREARM AND TOOL MARK IDENTIFICATION AT LEAST
10 THREE HUNDRED TIMES.

11 SOLICITOR SORENSON: YOUR HONOR,
12 AT THIS TIME WE'D OFFER AGENT PAAVEL AS AN EXPERT I
13 THE FIELD OF FIREARMS.

14 MR. WALTERS: NO OBJECTION, YOUR
15 HONOR.

16 THE COURT: I FIND HE'S QUALIFIED
17 IN THE FIELD SO STATED, LADIES AND GENTLEMEN, WITH THE
18 SAME RESULTS AS I EXPLAINED TO YOU EARLIER.

19 ALRIGHT, SIR.

20 SOLICITOR SORENSON: THANK YOU.

21 Q. ALRIGHT, AGENT PAAVEL, IF YOU WOULD JUST BRIEFLY
22 KIND OF TELL THE JURY ESPECIALLY WITH REGARD TO
23 FIREARMS WHAT ARE SOME OF THE THINGS THAT YOU
24 HAVE THE CAPABILITY OF TESTING AND COMPARING OUT
25 AT SLED?

DIRECT - VELLO PAAVEL BY SOL. SORENSON

454

1 A. LADIES AND GENTLEMEN, TYPICALLY WHAT WE DO IS
2 EXAMINE FIREARMS AND DETERMINE WHETHER THEY'RE
3 WORKING PROPERLY, AND THEN WE ALSO TEST FIRE
4 THOSE FIREARMS TO OBTAIN TEST BULLETS AND TEST
5 CARTRIDGE CASINGS TO USE FOR MICROSCOPIC
6 COMPARISON. SO ONE OF THE THINGS WE DO WOULD BE
7 TO COMPARE TEST BULLETS FROM SUSPECT FIREARMS TO
8 EVIDENCE SPECIMENS, WHETHER THEY BE BULLETS,
9 CARTRIDGE CASINGS, OR SHOT GUN SHELLS. IN
10 SITUATIONS WHERE WE DON'T HAVE A FIREARM
11 SUBMITTED AND WE ONLY HAVE BULLETS OR CARTRIDGE
12 CASINGS SUBMITTED, WE CAN LOOK AT THE BULLETS AND
13 TRY TO DETERMINE WHAT CALIBER THEY ARE, WHAT TYPE
14 OF CARTRIDGE THEY MAY HAVE ORIGINATED FROM, AND
15 BY LOOKING AT THE RIFLING CHARACTERISTICS THAT
16 WERE LEFT ON THE PARTICULAR BULLET AS A RESULT OF
17 THE BULLET TRAVELING DOWN THE BARREL I MAY BE
18 ABLE TO PROVIDE A LIST OF FIREARMS THAT MAY HAVE
19 FIRED A PARTICULAR BULLET. IF I HAVE MULTIPLE
20 BULLETS I CAN DO MICROSCOPIC COMPARISONS AND TRY
21 TO DETERMINE WHETHER THOSE BULLETS WERE FIRED BY
22 ONE OR MORE FIREARMS. WITH CARTRIDGE CASINGS I
23 CAN DO THE SAME THING, I CAN ACTUALLY
24 MICROSCOPICALLY COMPARE THOSE TO TRY TO DETERMINE
25 WHETHER THEY WERE FIRED BY ONE FIREARM OR MORE

DIRECT - VELLO PAAVEL BY SOL. SORENSON:

455

1 THAN ONE FIREARM. I CAN LOOK AT THE CARTRIDGE
2 AND GIVE A BRAND AND A CALIBER OF CARTRIDGE WHICH
3 MAY BE HELPFUL FOR INVESTIGATION. AND WE ALSO DO
4 GENERAL TOOL MARK ANALYSIS AND WE DO SERIAL
5 NUMBER RESTORATION ON FIREARMS AND FIREARM
6 RELATED OBJECTS.

7 Q. OKAY. AND SPECIFICALLY I WANT TO TURN YOU TO
8 THIS CASE AT HAND HERE, AGENT PAAVEL, DID YOU
9 HAVE SEVERAL ITEMS SUBMITTED TO YOU BY THE
10 ORANGEBURG COUNTY SHERIFF'S OFFICE?

11 A. YES, SIR, THERE WERE.

12 Q. AND THOSE ITEMS, THE FIRST I'M SHOWING YOU WHAT'S
13 BEEN MARKED AS STATE'S EXHIBIT NUMBER TWENTY-ONE.
14 THIS WEAPON IN THE BAG AND THE AMMUNITION THAT
15 WAS, I GUESS, WITH THE WEAPON, WAS THAT SUBMITTED
16 FOR YOUR ANALYSIS?

17 A. YES, SIR. THIS IS THE FIREARM AND UNFIRED
18 AMMUNITION THAT WAS SUBMITTED TO ME FOR ANALYSIS.

19 SOLICITOR SORENSON: AT THIS TIME,
20 I'M NOT SURE THIS HAS BEEN OFFERED INTO EVIDENCE YET
21 SO I'D OFFER STATE'S TWENTY-ONE INTO EVIDENCE.

22 MR. WALTERS: WITHOUT OBJECTION,
23 YOUR HONOR.

24 THE COURT: ADMITTED WITHOUT
25 OBJECTION.

DIRECT - VELLO PAAVEL BY SOL. SORENSON

456

COURT REPORTER: DID I MARK IT?

STATE'S TWENTY-ONE.

(State's Exhibit Twenty-one
marked and filed.)

Q. ALRIGHT. AND ADDITIONALLY, DID YOU HAVE ANY
OTHER ITEMS SUBMITTED TO YOU FOR YOUR ANALYSIS?

A. YES, SIR, THERE WAS A FIRED FRAGMENTED BULLET OR
PROJECTILE.

Q. OKAY. AND I'M SHOWING YOU STATE'S EXHIBIT NUMBER
TWENTY WHICH IS ALREADY IN EVIDENCE. IS THAT THE
OTHER ITEM THAT WAS SUBMITTED TO YOU? IF YOU
NEED TO WE CAN OPEN THAT IF THAT WOULD HELP YOU.

A. THAT WOULD PROBABLY HELP. I SEE MY MARKINGS ON
THE CONTAINERS, AND IT'S SEALED AND IT STILL HAS
ALL MY ORIGINAL MARKINGS ON IT WHERE I SEALED IT.
IT SHOULD BE THE CORRECT EVIDENCE. YES, SIR,
THIS IS THE FIRED FRAGMENTED BULLET THAT I
EXAMINED IN THIS CASE.

Q. OKAY. ARE THOSE ESSENTIALLY THE TWO ITEMS THAT
YOU RECEIVED OUT THERE THAT WAS SUBMITTED BY LAW
ENFORCEMENT, THIS WEAPON AND THAT ITEM THERE?

A. WELL, IF YOU COUNT THE AMMUNITION SEPARATE THAT
WOULD BE THREE ITEMS. WE HAD THE FIREARM AND
AMMUNITION, UNFIRED AMMUNITION, AND THEN WE HAD
THIS FIRED BULLET OR PROJECTILE.

DIRECT - VELLO PAAVEL BY SOL. SORENSON

457

1 Q. OKAY. JUST SO I GUESS I'M CLEAR, THIS AMMUNITION
2 HERE WAS ALL LOADED IN THIS, THIS REVOLVER?

3 A. BEAR WITH ME, SIR, LET ME CHECK AND SEE WHETHER
4 IT WAS ACTUALLY IN THE FIREARM, I DON'T BELIEVE
5 IT WAS WHEN I RECEIVED IT, LET ME BE SURE. NO,
6 SIR, THE AMMUNITION WAS NOT IN THE FIREARM WHEN I
7 RECEIVED IT, THE AMMUNITION WAS ACTUALLY INSIDE A
8 SMALL HEAT SEALED POUCH SEPARATE FROM - - -

9 Q. WELL, LET ME ASK YOU THIS, WOULD LAW ENFORCEMENT,
10 WHEN THEY TRANSFER WEAPONS OUT TO YOU WOULD THEY
11 TYPICALLY UNLOAD THEM BEFORE THEY DO THAT JUST
12 FOR SAFETY PURPOSES?

13 A. QUITE OFTEN, MORE OFTEN THAN NOT WHEN WE RECEIVE
14 FIREARMS THEY'VE BEEN UNLOADED BY SOMEBODY ELSE
15 FOR SAFETY PURPOSES OR FOR THEIR DOCUMENTATION
16 PURPOSES. WE RARELY RECEIVE A FIREARM IN THE
17 LABORATORY THAT IS STILL LOADED.

18 Q. OKAY. ALRIGHT, NOW IF YOU WOULD, TELL THE JURY
19 THEN WHAT, GIVEN THESE ITEMS THAT YOU RECEIVED
20 OUT THERE, WHAT ANALYSIS YOU WERE ABLE TO DO WITH
21 REGARDS TO THE TWO OF THEM?

22 A. YES, SIR. WITH THE FIREARM I DOCUMENT ITS
23 CONDITION, RECORD ITS MAKE, MODEL, SERIAL NUMBER,
24 CALIBER, AND THEN THE FIREARM WILL BE TEST FIRED
25 AND WE HAVE A WATER FILLED BULLET RECOVERY TANK

DIRECT - VELLO PAAVEL BY SOL. SORENSON

458

1 AND WE SHOOT INTO THAT PARTICULAR TANK SO WE CAN
2 RECOVER THE BULLET, AND WE SHOOT INTO WATER
3 BECAUSE THE WATER WON'T ADD ANY MARKINGS TO THE
4 BULLET OR OBLITERATE ANY OF THE MARKINGS THAT
5 HAVE BEEN LEFT ON THE BULLET AS A RESULT OF THE
6 BULLET TRAVELING THROUGH THE BARREL. AND THAT'S
7 IMPORTANT TO ME BECAUSE I WILL BE DOING A
8 MICROSCOPIC COMPARISON OF THOSE MARKINGS THAT THE
9 BARREL LEFT ON THE PARTICULAR BULLET THAT WAS
10 FIRED THROUGH IT. SO, IN ESSENCE, I TAKE THE
11 FIREARM, DOCUMENT IT, EXAMINE IT, TEST FIRE IT,
12 COLLECT THE TEST, CHECK THE TRIGGER PULL. IN
13 THIS CASE THERE WAS AMMUNITION WITH THE FIREARM,
14 I WILL DO THE SAME THING AND I WILL DOCUMENT
15 WHAT'S THERE, NOTE ITS CALIBER, TRY TO DETERMINE
16 WHAT TYPE OF BULLET IS IN THE PARTICULAR
17 CARTRIDGE. AGAIN, NOTE IT'S CONSTRUCTION, SEE IF
18 IT'S THE PROPER CALIBER FOR USE IN THE FIREARM,
19 AND THEN WITH THE PROJECTILE OR THE BULLET, AND
20 THAT'S OBVIOUSLY THE PART THAT COMES OUT OF THE
21 BARREL AND TRAVELS TOWARD THE TARGET, I WILL
22 EXAMINE THAT, DOCUMENT ITS CONDITION, DETERMINE
23 ITS GENERAL RIFLING CHARACTERISTICS, MEANING WHAT
24 CALIBER IS IT, HOW MANY LAND AND GROOVE
25 IMPRESSIONS ARE ON IT, AND THOSE ARE IMPRESSIONS

DIRECT - VELLO PAAVEL BY SOL. SORENSON

459

1 THAT WOULD HAVE BEEN LEFT BY THE RIFLING THAT'S
2 INSIDE THE BARREL, WHAT DIRECTION THOSE LANDS AND
3 GROOVES ARE GOING IN, DO THEY GO TO THE RIGHT OR
4 DO THEY GO TO THE LEFT, AND LOOK AT THE
5 DIMENSIONS OF THE RIFLING CHARACTERISTICS THAT
6 ARE THERE. THEN I WILL DO A MICROSCOPIC
7 COMPARISON OF THE FIRED BULLET TO TEST BULLETS
8 THAT I ACTUALLY FIRED OR FIRED BY THE SUSPECT
9 FIREARM. AND THAT'S WHAT WAS DONE IN THIS CASE.

10 Q. OKAY. AND AS TO THE WEAPON, WHAT MAKE, MODEL,
11 CALIBER, WHAT HAVE YOU, IS THAT WEAPON THAT WAS
12 SUBMITTED TO YOU?

13 A. RIGHT. THIS IS SMITH AND WESSON, WHICH IS ITS
14 BRAND. IT IS A MODEL SIXTY-SIX, AND IT'S A
15 REVOLVER. IT IS A THREE FIFTY-SEVEN MAGNUM
16 CALIBER, AND THAT ALSO MEANS THAT IT'S CAPABLE OF
17 FIRING THIRTY-EIGHT SPECIAL CALIBER AMMUNITION.
18 IT HAD A PARTICULAR SERIAL NUMBER WHICH WAS ONE
19 THREE K TWO FIVE SIX TWO. AGAIN, I EXAMINED IT,
20 DOCUMENTED IT, DETERMINED ITS TRIGGER PULL
21 WEIGHT, TEST FIRED THE FIREARM, AND OBTAINED
22 THOSE TESTS, AND DURING TESTING THE REVOLVER
23 WORKED PROPERLY.

24 Q. OKAY. ALRIGHT, NOW AS TO THE, SO IT WAS WORKING
25 PROPERLY?

DIRECT - VELLO PAAVEL BY SOL. SORENSON

460

1 A. YES, SIR.

2 Q. OKAY. NOW, AS TO STATE'S EXHIBIT NUMBER TWENTY,
3 AND I MAY GET YOU TO STEP DOWN IN FRONT OF THE
4 JURY AND KIND OF GIVE THEM A LITTLE BETTER IDEA
5 OF WHAT IT IS THAT THEY'RE LOOKING AT HERE.

6 A. SURE, WE CAN DO THAT.

7 Q. WHAT, IF YOU WOULD JUST KIND OF OPEN THAT UP AND
8 JUST KIND OF GO THROUGH FOR THE JURY AND EXPLAIN
9 TO THEM WHAT THAT IS.

10 A. LADIES AND GENTLEMEN, IN STATE'S NUMBER TWENTY I
11 HAD FIRED FRAGMENTED BULLET. AND WHAT THAT MEANS
12 IS, FIRED MEANS IT HAD RIFLING IMPRESSIONS ON IT
13 WHICH INDICATED THAT IT HAD GONE THROUGH A
14 FIREARM BARREL. IT WAS EXPANDED AND FRAGMENTED
15 BECAUSE IT WAS IN MULTIPLE PIECES. NOW, THIS
16 TYPE OF BULLET ACTUALLY IS A TWO PIECE BULLET
17 WHEN IT'S MANUFACTURED. IT HAS A LEAD CORE, THE
18 INSIDE OF IT IS MADE OUT OF LEAD, LEAD BEING A
19 RELATIVE SOFT METAL. IT HAS AN OUTER COVERING
20 CALLED A JACKET, JUST LIKE A JACKET COVERS
21 SOMEBODY, IT COVERS THAT LEAD CORE. THE JACKET
22 IN THIS CASE WAS MADE OUT OF A HARDER METAL, IT'S
23 A COPPER ALLOY, AND THAT COPPER ALLOYED JACKET IS
24 THE PART THAT COMES IN CONTACT WITH THE INSIDE OF
25 THE BARREL, AND THAT'S THE PART OF THE BULLET

DIRECT - VELLO PAAVEL BY SOL. SORENSON

461

1 THAT WILL HAVE THE MARKINGS ON IT THAT I USE FOR
2 COMPARISON PURPOSES. NOW, BULLETS USUALLY
3 FRAGMENTS BECAUSE THEY ARE GOING FAIRLY FAST OR
4 THEY'RE DESIGNED TO EXPAND AND COME APART, WHICH
5 IS A HOLLOW POINT OR A SOFT POINT. SO, THAT'S
6 WHY THIS PARTICULAR PROJECTILE APPARENTLY WHEN IT
7 STRUCK THE TARGET WENT INTO PIECES. YOU HAVE ONE
8 LARGE JACKET WHICH IS EXPANDED, AND THEN YOU HAVE
9 MULTIPLE PIECES OF THE LEAD CORE.

10 Q. NOW, WERE YOU ABLE TO THEN -- YOU INDICATED WHAT
11 YOU'RE CAPABLE OF DOING. JUST TO THEN ATTEMPT TO
12 SEE WHETHER THAT BULLET THERE COULD HAVE POSSIBLY
13 BEEN FIRED BY STATE'S EXHIBIT NUMBER TWENTY-ONE?

14 A. CORRECT. THAT WAS THE MAIN EXAMINATION THAT WAS
15 CONDUCTED WAS TO TRY TO DETERMINE WHETHER OR NOT
16 THIS PARTICULAR FRAGMENTED BULLET OR BULLET
17 JACKET WAS FIRED BY THIS PARTICULAR SMITH AND
18 WESSON REVOLVER. AND I DID THAT BY FIRST
19 MICROSCOPICALLY COMPARING THE TEST THAT I
20 ACTUALLY OUT OF THIS PARTICULAR FIREARM. IT'S
21 IMPORTANT TO ME TO COMPARE THE TEST FIRST TO BE
22 SURE THAT THE FIREARM IS MARKING THE BULLET
23 PROPERLY. I NEED TO MAKE SURE THAT I HAVE
24 CONSISTENT MARKINGS ON THE ACTUAL TEST. THESE
25 TESTS WERE MARKED FAIRLY CONSISTENTLY. THEN WHAT

DIRECT - VELLO PAAVEL BY SOL. SORENSON

462

1 I'LL DO IS ACTUALLY DO A MICROSCOPIC COMPARISON
2 OF THE MARKINGS THAT WERE PRESENT ON THIS FIRED
3 BULLET JACKET, THE EVIDENCE SPECIMEN, WITH THE
4 TEST. WHEN I DID THAT COMPARISON I FOUND THAT
5 THEY HAD THE SAME GENERAL CHARACTERISTICS,
6 MEANING, THEY'RE THIRTY-EIGHT OR THREE FIFTY-
7 SEVEN CALIBER AND THEY HAD FIVE LAND AND GROOVE
8 IMPRESSIONS WITH LIGHT TWISTS AND THE SAME
9 DIMENSIONS ON THE RIFLING. HOWEVER, I DIDN'T
10 HAVE ENOUGH INDIVIDUAL MARKINGS ON THIS
11 PARTICULAR BULLET JACKET THAT I COULD TELL
12 WHETHER OR NOT THIS ITEM WAS FIRED BY THIS
13 REVOLVER OR FIRED BY ANOTHER REVOLVER WITH THE
14 SAME RIFLING CHARACTERISTICS. AND THAT'S DUE TO
15 DAMAGE AND THE LIMITED AMOUNT OF MARKINGS THAT
16 WERE PRESENT ON THIS PARTICULAR FIRED BULLET
17 JACKET.

18 Q. SO, IN OTHER WORDS, THIS BULLET WAS FIRED BY --
19 AND SO, YOU WERE ABLE, THEN, TO MAKE A
20 DETERMINATION AS TO WHAT TYPE OF WEAPON, THOUGH,
21 ACTUALLY FIRED THIS BULLET?

22 A. YES. WHAT I DID, AFTER THAT, ONCE I DID THE
23 ACTUAL MICROSCOPIC COMPARISON AND RENDERED MY
24 INCLUSIVE CONCLUSION THAT I COULD NOT TELL, THEN
25 I ACTUALLY MEASURED THE DIMENSIONS OF THIS

DIRECT - VELLO PAAVEL BY SOL. SORENSON

463

1 RIFLING, AND USING A DATA BASE THAT'S PROVIDED TO
2 US BY THE FBI, PROVIDED A LIST OF FIREARMS THAT
3 COULD HAVE FIRED THIS PARTICULAR BULLET, BASED ON
4 THE GENERAL CHARACTERISTICS, MEANING AGAIN, THE
5 DIMENSIONS OF THE RIFLING, THE NUMBER OF LANDS
6 AND GROOVES, AND THE DIRECTION OF TWISTS.

7 Q. OKAY. AND WHAT, WHAT TYPE, WHAT WERE YOUR
8 CONCLUSIONS THERE AS TO THE TYPED OF WEAPONS THAT
9 COULD HAVE FIRED THAT BULLET?

10 A. ALRIGHT, SIR. OBVIOUSLY, SMITH AND WESSON WOULD
11 BE ONE OF THEM, SINCE THE COMPARISON TO THAT
12 REVOLVER WAS INCONCLUSIVE. I HAVE ALPHABETICALLY,
13 ALPHA, ARISAGA, COONAN ARMS, INA, LLAMA, RUGER,
14 SMITH AND WESSON, SPANISH COPIES OF SMITH AND
15 WESSON, SPORTS ARMS, AND TAURIS. AND WHAT THIS
16 MEANS, THESE ARE FIREARM BRANDS THAT HAVE RIFLING
17 OF THE SAME GENERAL DIMENSIONS AS WAS FOUND ON
18 THAT PARTICULAR FIRED BULLET JACKET.

19 Q. OKAY. IN OTHER WORDS, FROM WHAT YOU WERE ABLE TO
20 TELL OUT OF THIS THERE ARE AN AWFUL LOT OF
21 POTENTIAL WEAPONS OUT THERE THAT COULD HAVE FIRED
22 THIS BULLET?

23 A. THAT'S CORRECT.

24 Q. AND -- YOU CAN HAVE A SEAT, AGENT PAAVEL.

25 A. YES, SIR.

DIRECT - VELLO PAAVEL BY SOL. SORENSON

464

1 Q. LET ME ASK YOU, AS FAR AS THREE FIFTY-SEVEN
2 REVOLVERS GO, IS THIS THE ONLY SIZE THAT A THREE
3 FIFTY-SEVEN REVOLVER COMES IN?

4 A. NO, SIR. THERE ARE A FEW THAT ARE SOMEWHAT
5 SMALLER THAN THAT, BUT MOST OF THEM ARE AT LEAST
6 THIS SIZE OR LARGER. THIS IS A SO-CALLED MEDIUM
7 FRAME THREE FIFTY-SEVEN. THERE ARE LARGE FRAME
8 THREE FIFTY-SEVENS. THIS PARTICULAR ONE HAS A
9 SHORTER BARRELING THAN WHAT YOU COMMONLY
10 ENCOUNTER. MOST OF THEM HAVE FOUR INCH OR
11 POTENTIALLY EVEN SIX INCH BARRELS. SO, YOU CAN
12 HAVE THREE FIFTY-SEVEN MAGNUM REVOLVER THAT COULD
13 BE SLIGHTLY SMALLER THAN THE ONE THAT'S HERE, BUT
14 MANY OF THEM ARE CONSIDERABLY LARGER THAN THE
15 REVOLVER THAT YOU SEE HERE.

16 Q. OKAY. BY CONSIDERABLY LARGER, I MEAN, HOW, I
17 MEAN, - - -

18 A. WELL, THIS PARTICULAR ONE HAS A TWO AND A HALF
19 INCH BARREL, SO IF YOU HAVE ONE WITH A FOUR INCH
20 BARREL, THAT'S ANOTHER INCH AND A HALF, A SIX
21 INCH BARREL ADDS THREE AND A HALF INCHES TO IT,
22 SOME OF THEM MAY EVEN HAVE LONGER BARRELS. THE
23 FRAME SIZE MAY ONLY, THERE MAY ONLY BE LIKE A
24 HALF INCH DIFFERENCE IN THE ACTUAL SIZE OF THE
25 FRAME. IT'S NOT LIKE IT'S GOING TO BE TWICE AS

DIRECT - VELLO PAAVEL BY SOL. SORENSON

465

1 BIG AS THAT GUN, EXCEPT FOR THE BARREL LENGTH.

2 Q. OKAY. AND IT'S A THREE FIFTY-SEVEN, YOU HAVE A
3 THREE FIFTY-SEVEN SMITH AND WESSON OR ANY OF
4 THESE OTHER MAKES THAT YOU DESCRIBED TO THE JURY
5 A MOMENT AGO, THAT LIST YOU WENT OFF, WITH A FOUR
6 OR A SIX INCH OR LARGER BARREL, I MEAN, COULD
7 THAT WEAPON STILL HAVE CONCEIVABLY FIRED THIS
8 BULLET?

9 A. YES, SIR. THE BARREL LENGTH WOULD NOT HAVE MADE
10 ANY DIFFERENCE AS A MATTER OF THE RIFLING
11 CHARACTERISTICS. HOWEVER, THE MAKE AND MODEL
12 POTENTIALLY WOULD. AND AGAIN, THIS LIST IS A
13 LIST OF FIREARMS THAT THE FBI HAS COMPILED OVER
14 THE YEARS. WHEN THEY ENCOUNTER FIREARMS AND
15 WHEN OTHER EXAMINERS ENCOUNTER FIREARMS WE CAN
16 ACTUALLY GIVE THAT INFORMATION TO THE FBI. AND
17 THEY PROVIDE US A DATA BASE YEARLY THAT HAS
18 INFORMATION ON THE GENERAL RIFLING
19 CHARACTERISTICS AND THEN I CAN USE THAT TO GIVE A
20 LIST OF POSSIBLE FIREARMS.

21 Q. LET ME ASK YOU, AT THE TIME THAT YOU -- I MEAN,
22 YOU RECEIVED THESE ITEMS OUT AT STATE LAW
23 ENFORCEMENT DIVISION, IS THAT CORRECT?

24 A. YES, SIR, THESE WERE SUBMITTED TO THE FORENSIC
25 SERVICES LABORATORY.

DIRECT - VELLO PAAVEL BY SOL. SORENSON

466

1 Q. OKAY. AND THEN THEY ARE ULTIMATELY TRANSMITTED
2 AND THAT CASE GOT ASSIGNED TO YOU AND YOU DO YOUR
3 ANALYSIS, IS THAT CORRECT?

4 A. THAT'S CORRECT.

5 Q. AT THAT TIME DO YOU RECALL WHETHER, I MEAN, YOU
6 HAD ANY SPECIFICS AS TO THE FACTS BEHIND THIS
7 INCIDENT OR WERE YOU JUST RECEIVING THESE TWO
8 ITEMS AND DOING THE ANALYSIS THAT YOU WOULD
9 TYPICALLY DO WHEN YOU RECEIVED A PROJECTILE AND A
10 WEAPON?

11 A. BEAR WITH ME. NORMALLY, OCCASIONALLY WE GET AN
12 INCIDENT REPORT. I DON'T SEE ONE IN MY REPORT
13 BUT I MAY NOT HAVE ACTUALLY PRINTED IT OUT AND
14 PUT IT INTO IT. MOST OF THE TIME WE DON'T HAVE
15 ANY REAL DETAILS OF THE CASE AT THE TIME THE
16 ANALYSIS IS DONE UNLESS SOMEONE HAS CALLED US, AN
17 INVESTIGATOR HAS CALLED US AND SAID, YOU KNOW,
18 WOULD YOU PLEASE LOOK AT THIS, OR WE HAVE THIS
19 SITUATION, AND CAN YOU PLEASE HELP US. I DON'T
20 HAVE ANY INFORMATION ABOUT THAT IN THE CASE FILE.

21 Q. SO, I GUESS THE ANALYSIS THAT YOU DID IS WHAT YOU
22 WOULD TYPICALLY DO WHEN YOU RECEIVE A FIREARM AND
23 A PROJECTILE?

24 A. THAT'S CORRECT, SIR.

25 SOLICITOR SORENSON: THANK YOU,

1 AGENT PAAVEL, PLEASE ANSWER ANY QUESTIONS MR. WALTERS
2 HAS FOR YOU.

3 THE COURT: MR. WALTERS.

4 MR. WALTERS: MAY IT PLEASE THE
5 COURT.

6 THE COURT: YES, SIR.

7 MR. WALTERS: ATTORNEY SORENSON.

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

CROSS - VELLO PAAVEL BY MR. WALTERS

468

CROSS-EXAMINATION OF VELLO PAAVEL

BY MR. WALTERS:

Q. AGENT PAAVEL, DID I PRONOUNCE IT CORRECTLY?

A. YES, SIR.

Q. ALRIGHT. WHEN YOU FIRE THIS THREE FIFTY-SEVEN,
IS IT A LOUD GUN?

A. YES, SIR, IT WOULD BE A VERY LOUD FIREARM.

Q. IS IT A DEAFENING TYPE OF GUN WHERE YOU CAN'T
HEAR AFTER IT'S FIRED?

A. WELL, WHEN I SHOOT I HAVE EAR MUFFS ON, AND
SOMETIMES EVEN EAR PLUGS, AND I'M SHOOTING IT IN
A ROOM THAT HAS SOUND DEADENING MATERIAL, BUT
EVEN WITH ALL OF THAT IN THERE IT'S STILL LOUD
THROUGH THE MUFFS. IT WOULD POTENTIALLY BE, I
DON'T KNOW IF IT'S DEAFENING, BUT YOU CERTAINLY
WOULD PROBABLY HAVE A RINGING IN YOUR EARS AFTER
YOU FIRED ONE IN AN ENCLOSED ROOM WITHOUT SOME
SORT OF HEARING PROTECTION.

Q. SO, IF THE GUN WAS FIRED TWO OR THREE TIMES YOU'D
KNOW IT?

A. I THINK I'D KNOW IT, IN AN ENCLOSED ROOM. IF YOU
FIRED IT IN HERE WE'D KNOW IT.

Q. WHAT DO YOU MEAN, EXPLAIN TO THE JURY, IF IT'S
FIRED IN HERE WE'D KNOW IT?

A. AGAIN, THIS PARTICULAR REVOLVER, IF YOU SHOOT

1 THREE FIFTY-SEVEN MAGNUM AMMUNITION IT'S GOING TO
2 BE LOUD. AND BY LOUD I DON'T KNOW WHAT THE
3 ACTUAL SOUND LEVELS ARE AS A MATTER OF NUMERICAL
4 DATA BUT A REVOLVER LIKE THIS BEING FIRED IN A
5 ROOM LIKE THIS, I WOULD BELIEVE THAT EVERYBODY
6 WOULD BE AWAKE AND THEY WOULD KNOW THAT IT WAS
7 BEING FIRED.

8 Q. SHOT IN A -- SUPPOSE IT WAS SHOT IN A TYPICAL
9 RANCH HOUSE IN A NEIGHBORHOOD, WOULD THE
10 NEIGHBORHOOD HEAR THE GUN?

11 A. I DON'T KNOW. I DON'T KNOW WHETHER THEY WOULD
12 HEAR IT OUTSIDE. CERTAINLY, I WOULD EXPECT
13 SOMEBODY THAT WAS IN THE ROOM WHERE IT OCCURRED
14 TO HEAR IT. I DON'T KNOW HOW FAR IT WOULD
15 TRANSMIT IN THE HOUSE ITSELF.

16 Q. IT WOULDN'T BE ANY MISTAKE THAT YOU HEARD A GUN
17 FIRE?

18 A. AGAIN, DEPENDING ON WHERE YOU WERE IN THE ROOM --
19 IN THE HOUSE I DON'T KNOW, I REALLY DON'T KNOW
20 ABOUT THAT. THAT'S SOMETHING YOU MIGHT HAVE TO
21 ACTUALLY LOOK FOR EACH CASE ON A CASE BY CASE
22 BASIS. IF THIS IS A GUN THAT'S FIRED AT ONE END
23 OF THE HOUSE AND YOU'RE IN THE OTHER END OF THE
24 HOUSE DOING SOMETHING I DON'T KNOWN WHETHER YOU
25 WOULD RECOGNIZE IT AS A GUN SHOT, DEPENDING ON

CROSS - VELLO PAAVEL BY MR. WALTERS

470

1 WHAT YOU'RE DOING AND WHAT'S GOING ON IN THE REST
2 OF THE REST OF THE HOUSE.

3 Q. WHEN YOU SAY IT'S A SORT OF A DEAFENING SOUND,
4 AFTER THE GUN IS FIRED CAN YOU HEAR CLEARLY?

5 A. WELL, I DON'T DO THAT, I DON'T SHOOT FIREARMS
6 WITHOUT EAR PROTECTION, SO YEAH, I CAN HEAR
7 CLEARLY, BUT I HAVE EAR MUFFS ON. I DON'T KNOW
8 WHAT ANOTHER PERSON WOULD DO, YOU KNOW, OR WHAT
9 WOULD HAPPEN TO ME IF I FIRED IT IN A ENCLOSED
10 AREA WITHOUT EAR MUFFS.

11 Q. ALRIGHT. BUT YOU WOULD AGREE IF IT WAS SHOT IN
12 THIS ROOM EVERYBODY HERE WOULD KNOW IT?

13 A. I THINK THAT ANYBODY THAT WAS IN THIS ROOM WITH
14 NORMAL HEARING AND WE FIRED THAT PARTICULAR
15 REVOLVER WITH MAGNUM AMMUNITION, EVERYBODY WOULD
16 KNOW IT.

17 MR. WALTERS: I HAVE NO FURTHER
18 QUESTIONS, YOUR HONOR.

19 THE COURT: REDIRECT?

20 SOLICITOR SORENSON: NO, SIR.

21 THE COURT: THANK YOU, SIR, YOU
22 MAY STEP DOWN.

23 WITNESS: THANK YOU, SIR.

24 THE COURT: THANK YOU FOR COMING,
25 AGENT.

CROSS - VELLO PAAVEL BY MR. WALTERS

471

1 SOLICITOR SORENSON: CAN WE EXCUSE
2 HIM?

3 THE COURT: SIR? YES, SIR, HE CAN
4 BE EXCUSED.

5 CALL YOUR NEXT WITNESS.

6 SOLICITOR SORENSON: THE STATE
7 CALLS AGENT SIMMONS.

8 THE COURT: MS. SIMMONS, PLEASE
9 PLACE YOUR LEFT HAND ON THE BIBLE AND RAISE YOUR
10 RIGHT.

11 (Whereupon, Ila Simmons
12 is duly sworn.)

13 THE COURT: THANK YOU, MA'AM, HAVE
14 A SEAT RIGHT UP THERE AND STATE YOUR FULL NAME.

15 WITNESS: MY NAME IS ILA SIMMONS.

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.)

DIRECT - ILA SIMMONS BY SOL. SORENSON

472

DIRECT EXAMINATION OF ILA SIMMONS

BY SOLICITOR SORENSON:

Q. GOOD MORNING, AGENT SIMMONS.

A. GOOD MORNING.

Q. IF YOU WOULD, PLEASE TELL THE JURY WHERE IT IS
THAT YOU'RE EMPLOYED?

A. I WORK WITH THE SOUTH CAROLINA LAW ENFORCEMENT
DIVISION, ALSO KNOWN AS SLED, IN THE FORENSICS
LABORATORY, TRACE EVIDENCE DEPARTMENT.

Q. OKAY. AND IF YOU WOULD JUST BRIEFLY DESCRIBE FOR
THE JURY WHAT THE TRACE EVIDENCE DEPARTMENT
CONSISTS OF?

A. WE ANALYZE GUN SHOT RESIDUE, GUN POWDER RESIDUE,
WE ANALYZE THE RESIDUE OF EXPLOSIVES, IGNITABLE
LIQUIDS, WE PERFORM FIBER, PAINT AND GLASS
COMPARISONS.

Q. AND HOW LONG HAVE YOU BEEN EMPLOYED, FIRST OF
ALL, WITH SLED?

A. NINE YEARS.

Q. NINE YEARS. AND HOW LONG HAVE YOU BEEN IN THE
TRACE DEPARTMENT?

A. NINE YEARS.

Q. NINE YEARS. OKAY. AND IF YOU WOULD, BRIEFLY
TELL THE JURY A LITTLE BIT ABOUT YOUR EDUCATIONAL
BACKGROUND?

DIRECT - ILA SIMMONS BY SOL. SORENSON

473

1 A. I HAVE A BACHELOR'S OF SCIENCE DEGREE IN
2 CHEMISTRY. AFTER COMPLETING MY DEGREE IN
3 CHEMISTRY I WENT TO WORK AT SLED WHERE I
4 UNDERWENT A THREE YEAR TRAINING PROGRAM IN THE
5 ANALYSIS OF TRACE EVIDENCE. I WORKED WITH A COURT
6 CERTIFIED, SLED QUALIFIED TRACE EXAMINER WHO
7 TAUGHT ME HOW TO COLLECT AND ANALYZE TRACE
8 EVIDENCE. I'M A MEMBER OF THE SOUTHERN
9 ASSOCIATION OF FORENSIC SCIENCE, AS WELL AS THE
10 AMERICAN ACADEMY OF FORENSIC SCIENCE. EACH YEAR
11 I TRY TO ATTEND AT LEAST ONE OR TWO CLASSES TO
12 KEEP MYSELF UP TO DATE ON ALL THE DIFFERENT
13 DISCIPLINES THAT WE ANALYZE.

14 Q. OKAY. HAVE YOU HAD AN OPPORTUNITY, AGENT
15 SIMMONS, TO TESTIFY IN COURT BEFORE?

16 A. YES, SIR, I HAVE.

17 Q. AND HAVE YOU BEEN QUALIFIED AS AN EXPERT IN THE
18 FIELD OF TRACE EVIDENCE?

19 A. YES, SIR, OVER A HUNDRED AND TWENTY-FIVE TIMES.

20 SOLICITOR SORENSON: YOUR HONOR,
21 AT THIS TIME WE'D OFFER AGENT SIMMONS AS AN EXPERT IN
22 THE FIELD OF TRACE EVIDENCE.

23 MR. WALTERS: NO OBJECTION, YOUR
24 HONOR.

25 THE COURT: I FIND SHE'S SO

DIRECT - ILA SIMMONS BY SOL. SORENSON

474

1 QUALIFIED.

2 Q. OKAY, AGENT SIMMONS, IF YOU WOULD, NOW BRIEFLY,
3 IN THIS CASE WE'RE DEALING SPECIFICALLY WITH GUN
4 SHOT RESIDUE?

5 A. YES, SIR.

6 Q. IF YOU WOULD, BRIEFLY DESCRIBE TO THE JURY WHAT
7 GUN SHOT RESIDUE IS?

8 A. GUN SHOT RESIDUE IS A MIXTURE OF MICROSCOPIC
9 CHEMICALS THAT COME OUT OF A GUN WHEN IT IS
10 FIRED. IT'S OFTEN SEEN MIXED IN WITH THE SMOKE
11 THAT COMES OUT OF THE GUN IN A CONE SHAPED FORM.
12 THIS GUN SHOT RESIDUE CAN GET ON ANYTHING IN
13 CLOSE PROXIMITY TO THE GUN WHEN IT'S FIRED
14 INCLUDING THE HANDS OF SOMEONE FIRING THE WEAPON.

15 Q. OKAY. AND ARE YOU ABLE THEN -- LET ME ASK YOU,
16 IS THERE A SPECIFIC KIND OF KIT THAT IS PROVIDED
17 TO LAW ENFORCEMENT AGENCIES TO USE WITH EITHER
18 VICTIMS, SUSPECTS, OR WITNESSES IN AN ATTEMPT TO
19 COLLECT THAT GUN SHOT RESIDUE FOR YOUR ANALYSIS?

20 A. YES, SIR, THERE IS.

21 Q. AND DESCRIBE TO THE JURY WHAT THAT CONSISTS OF?

22 A. IT'S A STANDARDIZED KIT THAT'S PREPARED BY
23 DIFFERENT FORENSIC COMPANIES. IT CONSISTS OF
24 STICKY TABS, WHICH IS A SMALL ALUMINUM DISK THAT
25 HAS DOUBLE SIDED TAPE ON IT, AND IT HAS A HANDLE.

1 IT'S REMOVED FROM A VIAL AND WHOEVER IS TAKING
2 THE KIT WILL GO ACROSS THE HANDS OF THE PERSON
3 THAT THE KIT IS BEING SAMPLED FROM AND THE STICKY
4 TAPE WILL PICK UP GUN SHOT RESIDUE PARTICLES.
5 ONCE THAT'S COMPLETED IT'S PLACED BACK IN THE
6 VIAL AND SEALED. A SAMPLE IS TAKEN FROM THE PALM
7 OF THE RIGHT HAND, A SAMPLE IS TAKEN FROM THE
8 BACK OF THE RIGHT HAND, ANOTHER SAMPLE FROM THE
9 PALM OF THE LEFT AND ANOTHER SAMPLE FROM THE BACK
10 OF THE LEFT HAND. AFTER THOSE ARE COMPLETED, IN
11 THE KIT IS ALSO SOME COTTON SWABS WITH DILUTE
12 NITRIC ACID. YOU PLACE A COUPLE OF DROPS OF
13 NITRIC ACID ON THE SWABS AND GO BACK OVER THE
14 SAME AREAS OF THE HAND AND THIS PICKS UP ANY
15 RESIDUAL GUN SHOT RESIDUE THAT MAY BE THERE.

16 Q. OKAY. AND LET ME ASK YOU, AS FAR AS GUN SHOT
17 RESIDUE, SO IF I FIRE A FIREARM, IT'S CONCEIVABLE
18 THEN THAT I CAN HAVE GUN SHOT RESIDUE ON MY HANDS
19 FROM FIRING THAT WEAPON?

20 A. YES, SIR.

21 Q. OKAY. NOW, WHAT, HOW CAN THAT GUN SHOT RESIDUE,
22 IS IT SOMETHING I WOULD BE ABLE TO SEE LOOKING AT
23 MY HANDS?

24 A. NO, SIR, IT'S MICROSCOPIC, YOU WOULDN'T BE ABLE
25 TO SEE IT.

DIRECT - IIA SIMMONS BY SOL. SORENSON

476

1 Q. OKAY. AND HOW DO I GO ABOUT REMOVING THAT GUN
2 SHOT RESIDUE FROM MY HANDS?

3 A. GUN SHOT RESIDUE IS VERY LIGHT, VERY EASILY
4 REMOVED, IT HAS THE CONSISTENCY OF FLOUR. SO, IF
5 YOU WERE TO WASH YOUR HANDS OR TO WIPE YOUR HANDS
6 THOROUGHLY ON A TOWEL, USE HAND SANITIZER, BEGIN
7 TO SWEAT PROFUSELY, THESE ARE ALL THINGS THAT
8 WOULD REMOVE THE GUN SHOT RESIDUE FROM YOUR
9 HANDS.

10 Q. AND AS FAR AS COLLECTING, FROM THE LAW
11 ENFORCEMENT PERSPECTIVE, COLLECTING OR DOING
12 THOSE GUN SHOT RESIDUE TESTS, IS THERE A SPECIFIC
13 TIME WINDOW THAT YOU ASK THEM TO MAKE SURE THAT
14 THEY'RE WITHIN WITH REGARDS TO COLLECTING THOSE
15 SAMPLES?

16 A. YES, SIR, ON A LIVING INDIVIDUAL GUN SHOT RESIDUE
17 WILL NOT REMAIN ON THE HANDS LONGER THAN SIX
18 HOURS. IN FACT, IT BEGINS TO FALL AWAY
19 IMMEDIATELY AFTER THE GUN IS FIRED. SO, IT IS
20 BEST TO COLLECT THE GSR KIT AS CLOSE TO THE
21 SHOOTING INCIDENT AS POSSIBLE. HOWEVER, AFTER
22 SIX HOURS WE HAVE NEVER FOUND GUN SHOT RESIDUE ON
23 SOMEONE'S HANDS EVEN IF THEY DON'T WASH THEIR
24 HANDS, WIPE THEIR HANDS OR USE HAND SANITIZER OR
25 ANYTHING OF THAT NATURE. SO, AFTER SIX HOURS WE

DIRECT - ILA SIMMONS BY SOL. SORENSON

477

1 DON'T EVEN ACCEPT THE GSR KIT.

2 Q. AND SPECIFICALLY TURNING TO THIS CASE AT HAND
3 HERE, AGENT, WERE THERE, DID YOU RECEIVE THREE
4 GUN SHOT RESIDUE KITS IN THIS CASE - - -

5 A. YES, SIR, I DID.

6 Q. --- FOR YOUR ANALYSIS? AND IF YOU WOULD TELL THE
7 JURY WHO THOSE THREE, THOSE KITS WERE FROM?

8 A. A GSR KIT FROM JOHN RANDOLPH, JUNIOR, ANOTHER KIT
9 FROM WILL GILLIARD, JUNIOR, AND ONE KIT FROM
10 HARRY MACK, JUNIOR.

11 Q. OKAY. AND DID YOU HAVE AN OPPORTUNITY IN LOOKING
12 AT THE ENCLOSED PAPERWORK THAT CAME WITH THEM,
13 DID THEY ALL APPEAR TO HAVE BEEN COLLECTED WITHIN
14 THAT SIX HOUR TIME WINDOW?

15 A. YES, SIR.

16 Q. OKAY. AND IF THEY HADN'T BEEN WHAT WOULD YOU
17 HAVE DONE?

18 A. IF THEY HAD NOT BEEN COLLECTED WITHIN THAT SIX
19 HOUR TIME WINDOW WE WOULD NOT HAVE ANALYZED THE
20 KIT, IF THEY WERE LIVING. HOWEVER, IF THEY WERE
21 DECEASED, IT NO LONGER APPLIES.

22 Q. OKAY. AND DID YOU HAVE AN OPPORTUNITY, THEN, TO
23 DO THE ANALYSIS ON ALL THREE OF THOSE KITS, FROM
24 MR. RANDOLPH, MR. GILLIARD, AND MR. MACK?

25 A. YES, SIR, I DID.

DIRECT - ILA SIMMONS BY SOL. SORENSON

478

1 Q. OKAY. AND SPECIFICALLY AS TO MR. RANDOLPH, DID
2 YOU HAVE A CHANCE TO ANALYZE THE GUN SHOT RESIDUE
3 FROM HIS RIGHT HAND, RIGHT PALM, LEFT BACK, LEFT
4 PALM?

5 A. YES, SIR, I DID.

6 Q. AND WHAT WERE THE RESULTS OF THAT ANALYSIS?

7 A. THE QUANTITIES OF METALS THAT WE DETECTED DID NOT
8 INDICATE THE PRESENCE OF GUN SHOT RESIDUE.

9 Q. OKAY. ALL FOUR OF THOSE SAMPLES?

10 A. YES, SIR.

11 Q. OKAY. AND HOW ABOUT MR. GILLIARD?

12 A. THE SAME, YES, SIR. IT WAS ON ALL THE AREAS OF
13 THE HANDS THAT WERE SAMPLED, AND THE QUANTITIES
14 OF METALS THAT WE DETECTED DID NOT INDICATE THE
15 PRESENCE OF GUN SHOT RESIDUE.

16 Q. NO INDICATION OF GUN SHOT RESIDUE ANYWHERE ON MR.
17 GILLIARD'S HANDS?

18 A. NO, SIR.

19 Q. AND HOW ABOUT THE VICTIM IN THIS CASE, HARRY LEE
20 MACK, JUNIOR?

21 A. THE QUANTITIES OF METALS DID NOT INDICATE THE
22 PRESENCE OF GUN SHOT RESIDUE ON HARRY MACK,
23 JUNIOR, EITHER.

24 Q. SO, THERE'S NOTHING THAT YOU WOULD BE ABLE TO
25 SHOW FROM YOUR ANALYSIS THAT WOULD INDICATE ANY

DIRECT - ILA SIMMONS BY SOL. SORENSON

479

1 OF THEM HAD FIRED A WEAPON WITHIN A SHORT PERIOD
2 OF TIME PRIOR TO THOSE - - -

3 A. NOT FROM WHAT I ANALYZED.

4 SOLICITOR SORENSON: THANK YOU,
5 AGENT SIMMONS, PLEASE ANSWER ANY QUESTIONS THE DEFENSE
6 MAY HAVE.

7 THE COURT: MR. CULLER.

8 MR. CULLER: THANK YOU, YOUR
9 HONOR.

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 - ILA SIMMONS BY MR. CULLER

480

CROSS-EXAMINATION OF ILA SIMMONS

BY MR. CULLER:

Q. AGENT, LET ME ASK YOU A QUESTION, THE GUN SHOT RESIDUE CAN BE DEPOSITED NOT ONLY BY FIRING A WEAPON BUT ALSO IF SOMEONE IS IN A POSTURE, A DEFENSIVE POSTURE AND A WEAPON IS FIRED IN RELATIVE CLOSE PROXIMITY?

A. YES, SIR.

Q. WOULD THAT ALSO DEPOSIT GUN SHOT RESIDUE?

A. YES, SIR, THAT CAN.

Q. WHAT'S THE DISTANCE THAT WOULD BE APPROPRIATE FOR THAT, AT WHAT POINT DOES IT NO LONGER DEPOSIT GUN SHOT RESIDUE?

A. WITH HAND GUNS IT'S DEPENDENT UPON THE CALIBER AND THE TYPE OF AMMUNITION THAT'S USED. USUALLY WITH A HAND GUN, A VERY HIGH POWERED HAND GUN LIKE A FORTY-FIVE OR A FORTY-FOUR MAGNUM IT WOULD BE AT THE MOST SIX FEET.

Q. OKAY. SO, AT THE END OF SIX FEET, AND I GUESS WE'RE ABOUT FIVE OR SIX FEET, THIS WOULD BE THE APPROPRIATE DISTANCE THAT IF I, FOR EXAMPLE, HAD MY HANDS OUT, IT WOULD DEPOSIT ON MY HANDS?

A. YES, AND IT MAY OR MAY NOT, DEPENDING UPON THE CALIBER. A TWENTY-TWO OR SOMETHING OF THAT NATURE WOULD BE MUCH CLOSER.

CROSS - ILA SIMMONS BY MR. CULLER

481

1 Q. UNDERSTOOD, POINT WELL MADE. LET'S ASSUME FOR
2 THIS EXAMPLE THAT IT'S A THREE FIFTY-SEVEN
3 MAGNUM, WOULD THAT BE ONE THAT WOULD DEPOSIT IT
4 AT SIX FEET?

5 A. YES, IT COULD, IT COULD, UP TO FIVE OR SIX FEET,
6 YES, SIR.

7 Q. ALRIGHT. AND WITH REGARD TO THE REMOVAL OF GUN
8 SHOT RESIDUE, I BELIEVE YOU SAID THAT SWEAT WOULD
9 REMOVE IT?

10 A. YES.

11 Q. YOU CAN WASH YOUR HANDS, EVEN RUB THEM THOROUGHLY
12 WITH A CLOTH WOULD REMOVE IT?

13 A. YES, ALL OF THOSE THINGS CAN REMOVE GUN SHOT
14 RESIDUE.

15 Q. SO, IT'S VERY FRAGILE EVIDENCE?

16 A. IT IS.

17 MR. CULLER: I DON'T HAVE ANYTHING
18 FURTHER. THANK YOU, AGENT.

19 THE COURT: REDIRECT?

20 SOLICITOR SORENSON: REAL BRIEFLY.

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.)

REDIRECT - ILA SIMMONS BY SOL. SORENSON

482

REDIRECT EXAMINATION OF ILA SIMMONS

BY SOLICITOR SORENSON:

Q. AGENT SIMMONS, AS TO WHAT MR. CULLER HAD ASKED
YOU ABOUT, IF YOU GET IT ON YOUR HANDS, I MEAN,
IF YOU'RE WITHIN THAT FIVE OR SIX AND YOU HAD
YOUR HANDS UP, I MEAN, - - -

A. YES, SIR.

Q. --- YOU COULD CONCEIVABLY GET SOME ON THERE?

A. RIGHT, IF THE HANDS WERE IN A POSITION WHERE THEY
WERE NOT IN THE DIRECT LINE OF THE GUN SHOT
RESIDUE THEN THE GUN SHOT RESIDUE WOULD NOT BE ON
THE HANDS.

SOLICITOR SORENSON: THANK YOU.

THE COURT: RECROSS?

MR. CULLER: NONE, YOUR HONOR.

THE COURT: THANK YOU, MA'AM, YOU
MAY STEP DOWN AND YOU MAY BE EXCUSED. THANK YOU FOR
COMING.

NEXT WITNESS.

SOLICITOR SORENSON: YOUR HONOR,
COULD WE TAKE A SHORT BREAK? I NEED TO CHECK ON
SOMETHING.

THE COURT: ALRIGHT, LADIES AND
GENTLEMEN, WE'LL TAKE OUR MORNING BREAK AT THIS TIME.
PLEASE RETIRE TO THE JURY ROOM. PLEASE DO NOT DISCUSS

1 THE CASE. WE'LL BE READY TO GO IN PROBABLY TEN OR
2 FIFTEEN MINUTES.

3 (Whereupon, the jury retires
4 to the jury room.)

5 (Recess)

6 THE COURT: ALRIGHT, IS YOUR WITNESS
7 READY?

8 SOLICITOR SORENSON: HE SHOULD BE IN
9 THE BACK.

10 THE COURT: ARE YOU READY FOR THE
11 JURY, MR. SORENSON?

12 SOLICITOR SORENSON: YES, SIR.

13 THE COURT: ALRIGHT, BRING IN THE
14 JURY, PLEASE, MA'AM.

15 (Whereupon, the jury enters
16 the courtroom and the following
17 takes place in the presence
18 of the jury.)

19 THE COURT: ALRIGHT, WE HAVE ALL OF
20 OUR JURY, YOU MAY CALL YOUR NEXT WITNESS.

21 SOLICITOR SORENSON: THANK YOU. THE
22 STATE CALLS DANIEL YOUNG.

23 THE COURT: COME AROUND, PLEASE,
24 SIR, COME AROUND THIS WAY. COME RIGHT ON AROUND AND ON
25 THE CORNER THERE YOU'LL SEE THAT BIBLE. IF YOU WOULD,

1 PLACE YOUR LEFT HAND ON THE BIBLE AND RAISE YOUR RIGHT,
2 PLEASE.

3 (Whereupon, Daniel Young
4 is duly sworn.)

5 THE COURT: ALRIGHT, SIR, HAVE A
6 SEAT RIGHT THERE, MR. YOUNG, AND STATE YOUR FULL NAME,
7 PLEASE, AND YOU'RE GOING TO HAVE TO SPEAK LOUD SO
8 EVERYBODY CAN HEAR YOU. WE DON'T HAVE A MICROPHONE IN
9 HERE.

10 WITNESS: MY NAME IS DANIEL YOUNG.
11 DO YOU WANT ME TO GO AHEAD?

12 SOLICITOR SORENSON: NO, I'M GOING
13 TO ASK YOU QUESTIONS.

14 THE COURT: THANK YOU, SIR.

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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.)

DIRECT - DANIEL YOUNG BY SOL. SORENSON

485

DIRECT EXAMINATION OF DANIEL YOUNG

BY SOLICITOR SORENSON:

Q. MR. YOUNG, TELL THE JURY, PLEASE, HOW OLD YOU ARE?

A. I'M TWENTY-TWO.

Q. TWENTY-TWO. AND WHERE ARE YOU -- YOU'RE CURRENTLY
AT THE ORANGEBURG JAIL RIGHT NOW, IS THAT CORRECT?

A. YES, SIR.

Q. WHERE, WHERE HAD YOU BEEN THOUGH BEFORE WE HAD YOU
BROUGHT BACK HERE TO ORANGEBURG?

A. I WAS AT ESTILL FEDERAL PRISON.

Q. ESTILL FEDERAL PRISON?

A. UH HUH.

Q. AND WHAT ARE YOU DOING, ARE YOU SERVING A SENTENCE
AT THE ESTILL FEDERAL PRISON?

A. YES, SIR.

Q. OKAY. AND TELL THE JURY WHAT THAT SENTENCE IS
FOR?

A. I GOT INDICTED ON, I GOT CAUGHT WITH SOME GUNS,
AND THEY CAREERED ME OUT AND GAVE ME, I HAD TO
PLEAD TO A FIFTEEN TO LIFE SENTENCE, YOU KNOW,
THAT'S WHY I'M SITTING IN A FEDERAL PRISON NOW.

Q. OKAY, SO, CURRENTLY YOU PLED GUILTY TO I GUESS
IT'S CALLED POSSESSION OF A WEAPON BY A CONVICTED
FELON, IS THAT THE - - -

A. YES, SIR.

DIRECT - DANIEL YOUNG BY SOL. SORENSON

486

1 Q. ALRIGHT. LET ME GO THROUGH KIND OF YOUR OTHER
2 PRIOR RECORD WITH YOU, ALRIGHT? BACK IN TWO
3 THOUSAND THREE WERE YOU CONVICTED OF ASSAULT AND
4 BATTERY OF A HIGH AND AGGRAVATED NATURE?

5 A. YES, SIR.

6 Q. IN TWO THOUSAND FIVE, POSSESSION WITH INTENT TO
7 DISTRIBUTE MARIJUANA?

8 A. YES, SIR.

9 Q. TWO THOUSAND SIX, FAILURE TO STOP FOR A BLUE
10 LIGHT?

11 A. YES, SIR.

12 Q. TWO THOUSAND SIX, ANOTHER ASSAULT AND BATTERY OF A
13 HIGH AND AGGRAVATED NATURE?

14 A. YES, SIR.

15 Q. ALRIGHT. AND AS A RESULT OF THAT PRIOR RECORD YOU
16 WERE INDICTED BY THE U. S. ATTORNEY'S OFFICE ON
17 THAT WEAPON CHARGE, IS THAT CORRECT?

18 A. YES, SIR.

19 Q. ALRIGHT. AND WHAT IS YOUR SENTENCE THAT YOU'RE
20 CURRENTLY SERVING, YOU PLED GUILTY TO THAT CHARGE?

21 A. YES, SIR, I'M SERVING FIFTEEN YEARS NOW.

22 Q. OKAY. SO, A FIFTEEN YEAR SENTENCE, AND THAT'S IN
23 ESTILL, WHICH IS A FEDERAL PRISON HERE IN SOUTH
24 CAROLINA?

25 A. YES, SIR.

DIRECT - DANIEL YOUNG BY SOL. SORENSON

487

1 Q. OKAY. AND LET ME ASK YOU, AS PART OF YOUR, WHEN
2 YOU WERE ARRESTED AND CHARGED BY THE ALCOHOL,
3 TOBACCO AND FIREARMS, ATF, THAT CHARGED YOU - - -

4 A. YES, SIR.

5 Q. --- AND OBVIOUSLY, THE U. S. ATTORNEY'S OFFICE
6 HANDLED THAT PROSECUTION, IS THAT CORRECT? IT
7 WASN'T THE SOLICITOR'S OFFICE HERE?

8 A. NO.

9 Q. DID YOU ENTER INTO A PLEA AGREEMENT THROUGH YOUR
10 LAWYER AT THE TIME WITH ATF AND THE U. S.
11 ATTORNEY'S OFFICE WHEN YOU PLED GUILTY TO THAT
12 WEAPONS CHARGE?

13 A. WELL, MY LAWYER CAME TO ME WITH THE PLEA, AND I
14 SEE I HAD, I KNOW, IT WOULD HAVE BEEN BEST FOR ME,
15 YOU KNOW, SO HE CAME TO ME WITH IT, AND HE WENT
16 AND TELL THE SOLICITOR THAT, YES, I WOULD TAKE
17 THAT PLEA. AND WITHIN TWO WEEKS, WITHIN TWO WEEKS
18 TO THREE WEEKS LATER THEY CAME AND GOT ME SO I
19 COULD SIGN THE PLEA, AND THAT WAS IT AFTER THAT.

20 Q. OKAY. AND THAT PLEA AGREEMENT, DO YOU REMEMBER
21 THE CONDITIONS OF THAT PLEA AGREEMENT?

22 A. NOT, NOT RIGHT OFF HAND, BUT I REMEMBER MOST OF IT
23 THOUGH.

24 Q. OKAY. LET ME ASK YOU, HOW MUCH, IN AGREEING FOR
25 YOU AGREEING TO PLEAD GUILTY WHAT SENTENCE WERE

DIRECT - DANIEL YOUNG BY SOL. SORENSON

488

1 YOU GOING TO GET?

2 A. THEY TOLD ME FIFTEEN YEARS.

3 Q. OKAY. AND YOU WERE LOOKING AT THAT POINT IN TIME
4 UP TO A, POTENTIALLY A LIFE SENTENCE, IS THAT
5 CORRECT?

6 A. A LIFE SENTENCE, YEAH. IF I DIDN'T PLEA, YOU
7 KNOW.

8 Q. OKAY. AND AS A CONDITION OF THAT PLEA AGREEMENT
9 WAS IT THAT YOU'D COOPERATE WITH LAW ENFORCEMENT
10 AND ANY OTHER THINGS THAT YOU MAY HAVE INFORMATION
11 ABOUT?

12 A. OH, YES, SIR.

13 Q. OKAY. AND AS PART OF THAT PLEA AGREEMENT DID YOU
14 ALSO AGREE THAT YOU WOULD THEN SUBSEQUENTLY
15 TESTIFY IN ANY COURT PROCEEDINGS IN THOSE MATTERS
16 ALSO?

17 A. YES, SIR.

18 Q. IS THAT HOW YOU ENDED UP HERE TODAY, ESSENTIALLY?

19 A. YES, SIR.

20 Q. OKAY. ALRIGHT. NOW, MR. YOUNG, WHERE ARE YOU
21 ORIGINALLY FROM?

22 A. I'M FROM, WELL, I WAS BORN IN NEW YORK, I CAME TO
23 SOUTH CAROLINA WHEN I WAS THREE, YOU KNOW, AND - -

24 -

25 Q. WHERE DID YOU GO TO SCHOOL?

DIRECT - DANIEL YOUNG BY SOL. SORENSON

489

1 A. ELEMENTARY, MELLICHAMP, AND CLARK MIDDLE SCHOOL,
2 AND ORANGEBURG-WILKERSON.

3 Q. OKAY. AND DID YOU GRADUATE FROM O-W, SO IT'S
4 CALLED?

5 A. NO, I GOT KICKED OUT.

6 Q. OKAY, AND WHAT GRADE WAS THAT THAT YOU GOT KICKED
7 OUT?

8 A. ELEVENTH GRADE.

9 Q. OKAY. AND IS THAT AS A RESULT OF THAT FIRST
10 CONVICTION, THAT ASSAULT AND BATTERY CASE?

11 A. YES, SIR.

12 Q. ALRIGHT. LET ME ASK YOU, DO YOU KNOW THE
13 DEFENDANT IN THIS CASE, TERRELL SCOTT?

14 A. YES, SIR.

15 Q. AND TELL THE JURY HOW YOU KNOW MR. SCOTT?

16 A. WELL, I STARTED, YOU KNOW, I STARTED GOING ON
17 MAXEY STREET IN O-THREE, TWO THOUSAND THREE. AND
18 HE AIN'T FROM REALLY OVER THERE BUT HE USED TO
19 COME THROUGH, YOU KNOW, JUST LIKE I USED TO COME
20 THROUGH, LIKE PROBABLY LIKE FOUR TIMES EVERY WEEK.
21 SO, WE KIND OF BUILT A LITTLE FRIENDSHIP. I MEAN,
22 I KNOW MR. TERRELL SCOTT SINCE TWO THOUSAND THREE,
23 AND ON MAXEY STREET, AS WELL AS THE OTHER TWO.

24 Q. WELL, I'M GOING TO ASK YOU ABOUT THEM IN A SECOND.
25 ALRIGHT. SO, YOU'VE KNOWN MR. SCOTT SINCE AROUND

DIRECT - DANIEL YOUNG BY SOL. SORENSON

490

1 TWO THOUSAND THREE?

2 A. TWO THOUSAND THREE.

3 Q. OKAY. LET ME ASK YOU, BACK IN TWO THOUSAND THREE,
4 TWO THOUSAND FOUR, O-FIVE, O-SIX, DID HE LOOK HOW
5 HE LOOKS NOW?

6 A. YES, YES, SIR.

7 Q. WAS THERE EVER A TIME THAT HE HAD ANY FACIAL HAIR
8 WHEN YOU KNEW HIM?

9 MR. CULLER: YOUR HONOR, I OBJECT TO
10 HIS LEADING.

11 THE COURT: I OVERRULE YOUR
12 OBJECTION. GO AHEAD.

13 A. OH, WELL, BACK IN O-THREE I REMEMBER A TIME WHEN
14 HE HAD BRAIDS, YOU KNOW, BUT YOU KNOW, IT'S LIKE,
15 I CAN'T REALLY, I KNOW HE HAD BRAIDS AT ONE POINT
16 IN TIME AND FACIAL HAIR, YOU KNOW.

17 Q. OKAY, SO, HE WASN'T ALWAYS CLEAN SHAVEN?

18 A. NO, HE WASN'T ALWAYS.

19 Q. ALRIGHT. NOW, WHERE, YOU MADE REFERENCE TO
20 KNOWING HIM FROM OVER ON MAXEY STREET. WHERE IS
21 MAXEY STREET, HERE IN ORANGEBURG?

22 A. YES, SIR.

23 Q. OKAY. AND WHAT WOULD YOU DO OVER ON MAXEY STREET?

24 A. YOU SAID, WHAT?

25 Q. WHAT WOULD YOU BE DOING OVER ON -- IS THAT WHERE

DIRECT - DANIEL YOUNG BY SOL. SORENSON

491

1 YOU WERE LIVING?

2 A. NO, YOU KNOW, SOME PEOPLE OVER THERE WAS MY AGE,
3 AND I WENT TO SCHOOL WITH, AND AFTER I GOT OUT OF
4 JUVENILE JUSTICE I CAME OVER THERE BECAUSE I FOUND
5 A COUPLE OF HOME BOYS I WENT TO SCHOOL WITH WAS
6 OVER THERE AND I STARTED HANGING OVER THERE THEN,
7 YOU KNOW, BACK AND FORTH OVER THERE.

8 Q. OKAY. AND THAT'S WHERE YOU SAID YOU FIRST MET MR.
9 SCOTT?

10 A. YEAH.

11 Q. OKAY. NOW, WHAT ABOUT, LET ME ASK YOU ABOUT TWO
12 OTHER PEOPLE, ONE OF THEM, A MAURICE CHEESEBORO?

13 A. UH HUH.

14 Q. DO YOU KNOW MR. CHEESEBORO?

15 A. YES, SIR.

16 Q. AND HOW DO YOU KNOW MR. CHEESEBORO?

17 A. THE SAME WAY, THE SAME WAY, WHEN I CAME OVER THERE
18 IN TWO THOUSAND THREE.

19 Q. OKAY. SO, HE USED TO HANG OUT OVER IN THAT MAXEY
20 STREET AREA ALSO?

21 A. YEAH, MAURICE CHEESEBORO LIVED OVER THERE.

22 Q. HE ACTUALLY LIVED OVER THERE?

23 A. UH HUH.

24 Q. OKAY. AND LET ME ASK YOU, DO YOU KNOW WHETHER MR.
25 CHEESEBORO AND MR. SCOTT KNEW EACH OTHER?

DIRECT - DANIEL YOUNG BY SOL. SORENSON

492

1 A. YEAH.

2 Q. OKAY. AND HOW ABOUT, AND IS MR. CHEESEBORO YOUR
3 AGE, OR YOUNGER OR OLDER?

4 A. NO, HE'S ABOUT FIVE YEARS OLDER THAN ME, FOUR OR
5 FIVE YEARS OLDER THAN ME.

6 Q. OKAY. HOW ABOUT MR. SCOTT, IS HE YOUR AGE OR - -
7 -

8 A. NO, HE'S OLDER THAN ME, TOO.

9 Q. SO, THE TWO OF THEM, THEY'RE BOTH ABOUT THE SAME
10 AGE, DO YOU THINK?

11 A. I THINK SCOTT IS A LITTLE OLDER, I DON'T KNOW. I
12 DON'T KNOW. YEAH, THEY SHOULD BE AROUND THE SAME
13 AGE, I NEVER DID, YOU KNOW, GOT INTO THE AGE WITH
14 THEM.

15 Q. I'VE GOT YOU. BUT THEY'RE BOTH A LITTLE BIT OLDER
16 THAN YOU?

17 A. YEAH.

18 Q. OKAY. AND HOW ABOUT CLINTON JONES, DO YOU KNOW
19 CLINTON JONES?

20 A. YEAH, ME AND CLINTON THE SAME AGE. THAT'S WHY ME
21 AND HIM WAS CLOSER.

22 Q. OKAY. AND HOW LONG HAVE YOU KNOWN CLINTON?

23 A. SINCE AROUND O-ONE, O-TWO, SOMETHING LIKE THAT.

24 Q. OKAY. SO, BACK PRIOR TO KNOWING MR. CHEESEBORO
25 AND MR. SCOTT?

1 A. YES, UH HUH.

2 Q. ALRIGHT. AND HOW WOULD YOU CHARACTERIZE YOUR
3 RELATIONSHIP BACK IN TWO THOUSAND THREE, FOUR,
4 FIVE AND TWO THOUSAND SIX, DURING THAT FOUR YEAR
5 PERIOD, HOW WOULD YOU CHARACTERIZE YOUR
6 RELATIONSHIP WITH THE THREE OF THEM?

7 A. I'D SAY WE WAS, WE WAS PRETTY CLOSE. YOU KNOW, WE
8 ALWAYS HAD EACH OTHER'S BACK, YOU KNOW. IT JUST,
9 WE WAS, I'D JUST SAY WE WAS REAL CLOSE, YOU KNOW,
10 THAT'S ALL I CAN SAY, YOU KNOW.

11 Q. WHAT WOULD Y'ALL DO TOGETHER OUT THERE ON MAXEY
12 STREET?

13 A. WE'D JUST SIT AROUND, YOU KNOW, SIT AROUND IF IT
14 AIN'T NOTHING TO DO, BECAUSE WE WAS REALLY INTO
15 CLUBS BACK, YOU KNOW, BACK IN THE EARLY TWO
16 THOUSAND, LIKE O-THREE AND O-FOUR AND STUFF LIKE
17 THAT. AND YOU KNOW, IF NOT CLUBS WE'D BE AROUND
18 THERE NOT DOING NOTHING, SMOKING, DRINKING, YOU
19 KNOW, JUST CUTTING, YOU KNOW, JUST CUTTING UP, YOU
20 KNOW.

21 Q. OKAY. ALRIGHT. AND I WANT TO TURN YOUR
22 ATTENTION, IF I COULD, MR. YOUNG, BACK TO DECEMBER
23 OF TWO THOUSAND SIX. OKAY? DO YOU REMEMBER, LET
24 ME ASK YOU, DO YOU REMEMBER EVER HAVING A
25 CONVERSATION INVOLVING THIS DEFENDANT, TERRELL

DIRECT - DANIEL YOUNG BY SOL. SORENSON

494

1 SCOTT, IN RELATION TO ANY KIND OF PLANNING, ANY
2 KIND OF ROBBERY?

3 A. YES, SIR.

4 Q. ALRIGHT. TELL THE JURY ABOUT THAT, WHERE THAT
5 OCCURRED AND HOW THAT CAME ABOUT?

6 A. WELL, WE WAS OVER THERE OFF OF MAXEY STREET TO
7 THIS, THIS GIRL NAMED TRACEY, WE WAS BACK BEHIND
8 THEIR HOUSE, AND WE WAS BACK AND FORTH FROM TRACEY
9 TO THE BROWN HOUSE RIGHT THROUGH THE PATH, YOU
10 KNOW. WE WAS TALKING ABOUT HER ALL THAT NIGHT,
11 YOU KNOW, AND LIKE FOR A WHOLE WEEK PRIOR, BUT WE,
12 YOU KNOW, HE WAS PLANNING, HE WAS PLANNING A LICK,
13 THAT'S A ROBBERY, OVER THERE AT SOME APARTMENTS BY
14 BO-JANGLES. I DON'T KNOW THE NAME OF THE
15 APARTMENTS. HE WAS TELLING ME, HE WAS JUST
16 TELLING ME ABOUT IT, AND I WAS, LIKE, AT FIRST I
17 WAS, LIKE, YEAH, BECAUSE I NEED TO -- I HAD NEED
18 IT, YOU KNOW, SOME MONEY IN MY POCKET. BUT IT
19 NEVER - - -

20 Q. SO, HE WAS, WHEN HE WAS TALKING, WHO IS IT THAT
21 WAS TELLING YOU ABOUT WANTING TO DO THIS?

22 A. OH, TERRELL SCOTT.

23 Q. OKAY. AND WHEN TERRELL, WAS HE TRYING TO GET YOU
24 TO COME WITH HIM?

25 A. YEAH, I MEAN, BECAUSE HE KNOW I WAS, BACK, YOU

DIRECT - DANIEL YOUNG BY SOL. SORENSON

495

1 KNOW, I WAS YOUNG AND I WAS A ROUTER, YOU KNOW,
2 WHAT THEY CALL A ROUTER, LIKE, A PERSON THAT, YOU
3 KNOW, WILL GO, YOU KNOW, AIN'T SCARED, AND HE KNEW
4 THAT. BUT THAT'S WHY HE CAME AT ME, THEN, AND WE
5 WAS KIND OF COOL, WE WAS REAL COOL, AS A MATTER OF
6 FACT. AND I JUST, I NEVER GOT AROUND TO IT, I
7 NEVER DID WENT.

8 Q. OKAY, NOW THE TIMES, NOW, HOW MANY TIMES DO YOU
9 THINK YOU TALKED TO HIM PRIOR TO THIS INCIDENT
10 HAPPENING, HOW MANY TIMES DO YOU THINK YOU TALKED
11 TO MR. SCOTT ABOUT THIS LICK, THIS ROBBERY THAT HE
12 WAS PLANNING?

13 A. I CAN'T, I KNOW IT WAS A COUPLE, IT WAS COUPLE OF
14 TIMES, YOU KNOW.

15 Q. WAS THERE ANY, WAS THERE EVER ANYBODY ELSE AROUND
16 DURING THOSE INITIAL CONVERSATIONS OR WAS IT JUST
17 YOU AND HIM OR - - -

18 A. IT WAS ALWAYS HIM AND MAURICE CHEESEBORO, IT WAS
19 ALWAYS HIM AND MAURICE CHEESEBORO, BECAUSE THEY
20 WAS OLDER, AND LIKE I SAY, ME AND CLINT IS
21 YOUNGER. SO, MOST OF THE TIME HIM AND MAURICE
22 CHEESEBORO.

23 Q. OKAY. AND WHAT, DID HE TELL YOU WHAT THEY WERE
24 HOPING TO GET AT THIS ROBBERY?

25 A. NO. I MEAN, IT WAS DRUGS AND MONEY, BUT YOU KNOW,

DIRECT - DANIEL YOUNG BY SOL. SORENSON

496

1 IT'S NO CERTAIN AMOUNT LIKE, YOU KNOW, NO CERTAIN
2 AMOUNT.

3 Q. OKAY. ALRIGHT. AND LET ME ASK YOU, THE ACTUAL
4 INCIDENT THAT OCCURRED THAT WE'RE HERE ABOUT, WERE
5 YOU THERE THAT NIGHT, I MEAN, WERE YOU AT THE
6 APARTMENT WHEN THIS ROBBERY OCCURRED?

7 A. NO, NO.

8 Q. OKAY. DID THERE COME A TIME WHEN YOU HEARD ABOUT
9 IT AFTER IT HAPPENED?

10 A. AFTER IT HAPPENED? YES, SIR.

11 Q. OKAY. TELL THE JURY ABOUT THAT.

12 A. I MEAN, YOU KNOW, THROUGH THE FACT THAT, YOU KNOW,
13 ALL THIS WAS COOL, YOU KNOW, IT'S, THEY TRUSTED
14 ME, YOU KNOW, LIKE THEY ALWAYS, LIKE, YOU KNOW,
15 YOU DON'T TREAT THEM RIGHT. SHOT THAT ONE IN THE
16 STOMACH, BLAH, BLAH, BLAH, BLAH.

17 Q. WHAT, SAY THAT AGAIN? GO BACK, WHAT DID YOU SAY?

18 A. YOU KNOW, LIKE - - -

19 MR. CULLER: OBJECTION, YOUR HONOR.

20 A. IT WAS, THEY WAS EXCITED.

21 THE COURT: WAIT A MINUTE, WAIT A
22 MINUTE.

23 MR. CULLER: I THINK THERE'S SOME
24 HEARSAY GOING ON, YOUR HONOR.

25 THE COURT: SIR?

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497

1 MR. CULLER: IT'S A HEARSAY
2 OBJECTION.

3 SOLICITOR SORENSON: I CAN GO BACK,
4 I MEAN.

5 THE COURT: YOU'D BETTER. I SUSTAIN
6 THE OBJECTION.

7 SOLICITOR SORENSON: YES, SIR.
8 ALRIGHT.

9 Q. LET ME, BACK IT UP, OKAY? MY FIRST QUESTION WAS,
10 DID THERE COME A TIME AFTER THE INCIDENT OCCURRED
11 WHERE YOU HEARD ABOUT WHAT HAD HAPPENED?

12 A. YEAH, THROUGH THE PEOPLE.

13 Q. OKAY. YES, IS THAT THE ANSWER?

14 A. YES.

15 Q. OKAY. WHO WAS THERE WHEN YOU HEARD ABOUT HAD
16 HAPPENED, WHO DID YOU HEAR ABOUT WHAT HAD HAPPENED
17 FROM?

18 A. CLINTON AND MAURICE CHEESEBORO.

19 Q. OKAY. DID YOU EVER HAVE ANY CONVERSATIONS WITH
20 HIM AFTER THE FACT, WITH MR. SCOTT?

21 A. YEAH.

22 Q. OKAY. AND THAT'S WHAT I WANT TO FOCUS ON, YOU
23 CAN'T TESTIFY TO WHAT CLINTON JONES AND MAURICE
24 TOLD YOU, OKAY?

25 A. OKAY, OKAY.

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498

1 Q. ALRIGHT, WHAT, IF ANYTHING, DID TERRELL SCOTT TELL
2 YOU WHAT HAPPENED AFTER IT HAPPENED?

3 A. WELL, HE WAS TELLING ME IT WENT DOWN, THEY HAD GOT
4 A LITTLE SOMETHING, THEY HAD GOT A LITTLE
5 SOMETHING, LIKE THAT, HE NEVER DID TELL ME THE
6 AMOUNT. HE WAS TELLING ME IT WENT DOWN, BUT HE
7 GOT, HE WAS SAYING THAT THEY DID THE ROBBERY AND
8 THAT HE, YOU KNOW WHAT I'M SAYING, DUE TO THE FACT
9 HE WAS ON COCAINE, BUT SCAR, NO, HARRY, I MEANT,
10 WAS STEADY FLINCHING, YOU KNOW, SO HE HAD TO - - -

11 Q. WHAT?

12 A. FLINCHING, LIKE, - - -

13 Q. FLINCHING?

14 A. LIKE HE WANTED TO REACH FOR SOMETHING. SO, HE HAD
15 TO DO WHAT HE HAD TO DO BECAUSE HE WAS ON COCAINE.
16 BUT HE NEVER, LIKE, AT THAT TIME, HE DIDN'T WENT
17 INTO ANY DETAIL ABOUT IT UNTIL I GOT LOCKED UP IN
18 O-SEVEN, AND THIS WAS AROUND SEPTEMBER, I THINK
19 SEPTEMBER WHEN I BEEN, WHEN I BEEN, THEY MOVED ME
20 ON THE SIDE WITH HIM WHEN HE WAS LOCKED UP IN O-
21 SEVEN. THAT'S WHEN WE REALLY HAD TIME TO TALK AND
22 SIT DOWN AND TALK AND HE WENT INTO DETAIL WITH IT.
23 BUT - - -

24 Q. OKAY.

25 A. I'M GOING TO GO BACK TO THE PART WHERE - - -

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499

1 Q. OKAY, SO INITIALLY AFTER IT HAPPENED, YOU HAD A
2 BRIEF CONVERSATION WITH HIM, THAT WAS ACTUALLY OUT
3 ON THE STREET?

4 A. OUT ON THE STREET, YOU KNOW, BUT I REALLY WAS
5 GETTING INFORMATION FROM CLINT AND MAURICE
6 CHEESEBORO AT THAT TIME BUT TERRELL NEVER GOT INTO
7 ANY DETAIL WITH IT AT THAT TIME, UNTIL WE GOT IN
8 THE JAIL HOUSE IN O-SEVEN.

9 Q. OKAY. I'M GOING TO FORWARD THEN, SO DID THERE
10 COME A TIME THEN IN, I THINK YOU SAID SEPTEMBER OF
11 TWO THOUSAND SEVEN WHEN YOU HAD BEEN LOCKED UP?

12 A. UH HUH.

13 Q. ALRIGHT. AND YOU WERE IN JAIL WITH MR. SCOTT AT
14 THAT TIME?

15 A. MR. SCOTT.

16 Q. AND HE HAD BEEN CHARGED WITH THIS INCIDENT BY THAT
17 TIME, RIGHT?

18 A. YES, SIR, YES, SIR.

19 Q. AND DID YOU HAVE CONVERSATION WITH HIM THEN - - -

20 A. EVERY DAY.

21 Q. --- ABOUT WHAT HAD HAPPENED?

22 A. YES, SIR.

23 Q. DID HE TELL YOU ANY MORE DETAILS ABOUT WHAT HAD
24 HAPPENED AT THAT POINT IN TIME?

25 A. YES, SIR.

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500

1 Q. AND TELL THE JURY WHAT HE TOLD YOU THEN?

2 A. YOU KNOW, I WAS, JUST LIKE I SAY, I WAS SUPPOSED
3 TO GO, WELL, HE WANTED ME TO GO BUT I DIDN'T. BUT
4 HE WAS TELLING ME THAT, YOU KNOW, WHEN THEY GOT TO
5 THE APARTMENT BY BO-JANGLES, THEY WAS SITTING
6 THERE JUST PLOTTING, YOU KNOW, LIKE, JUST MAKING
7 SURE EVERYTHING WAS CLEAR, LIKE, THEY HAD A, YOU
8 KNOW, A GOOD TIME TO MOVE IN. SO, WHEN THE SPOT
9 WAS CLEAR, WHEN EVERYTHING WAS CLEAR HE FELT LIKE
10 IT WAS GOOD TO GO IN. HE GOT OUT THE CAR WITH A
11 THREE FIFTY-SEVEN IN HIS WAIST LINE IN HIS SHIRT.
12 SO, - - -

13 Q. LET ME ASK YOU, YOU SAID IT WAS A THREE FIFTY-
14 SEVEN, HAVE YOU EVER SEEN MR. SCOTT WITH A GUN
15 BEFORE?

16 A. YES, SIR.

17 Q. CAN YOU DESCRIBE THAT GUN THAT YOU HAD SEEN HIM
18 WITH BEFORE?

19 A. IT WAS A SMITH AND WESSON, IT WAS A LONG ONE, YOU
20 KNOW, I USED TO ALWAYS SEE IT, BECAUSE AS A MATTER
21 OF FACT, YOU KNOW, I WAS FASCINATED WITH GUNS, I
22 WANTED TO BUY IT BUT HE NEVER WOULD SELL IT TO ME.

23 Q. SO, IT WAS A THREE FIFTY-SEVEN?

24 A. SMITH AND WESSON.

25 Q. AND WAS IT A REVOLVER OR - - -

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501

1 A. A REVOLVER.

2 Q. AND YOU SAID IT WAS A LONG GUN?

3 A. YEAH, ABOUT THAT LONG.

4 Q. ALRIGHT, GO BACK, I'M SORRY, I DIDN'T MEAN TO
5 INTERRUPT YOU THERE.

6 A. YEAH, SO TERRELL SCOTT GOT OUT WITH THE GUN IN HIS
7 WAIST UNDER HIS SHIRT. SO, AS HE WAS GETTING OUT
8 HE TOLD MAURICE AND CLINT, I GUESS HE WAS
9 INFORMING THEM AGAIN OF THE PLANS, SO WHEN HE GOT
10 OUT HE WAS, LIKE, WHEN YOU SEE ME GO IN, Y'ALL
11 COME STAND BY THE DOOR AND THEN WHEN YOU SEE ME
12 COME OUT GO AHEAD AND COME ON AND RUSH UP IN
13 THERE. SO, THEY - - -

14 COURT REPORTER: WAIT A MINUTE.
15 WHEN YOU SEE ME COME OUT, WHAT?

16 A. WHEN HE GO IN HE'S GOING TO KNOCK ON THE DOOR,
17 WHEY THEY SEE HIM GO IN, HE SAID HE TOLD THEM TO
18 COME STAND BY THE DOOR. SO, ON HIS WAY OUT THEY
19 WANT TO COME RUSH IN. I MEAN, HE WANTED THEM TO
20 COME RUSH IN. YOU GOT THAT?

21 COURT REPORTER: YES, SIR.

22 A. ALRIGHT. NOW, SO HE WENT UP AND KNOCKED ON THE
23 DOOR, SOMEBODY CAME TO THE DOOR, AND AFTER HE GOT
24 IN THE BOYS WENT AND, I GUESS THEY WENT, THE TWO
25 BOYS JUST WENT AND STAND BESIDE THE DOOR. SO,