

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Appeal from Newberry County

The Honorable Brooks P. Goldsmith, Circuit Court Judge
2000-CP-36-0051

RECEIVED

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S.C. Supreme Court

STEPHEN ANDREW BECKHAM,

PETITIONER,

vs.

STATE OF SOUTH CAROLINA,

RESPONDENT.

SUPPLEMENTAL APPENDIX

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STATE OF SOUTH CAROLINA)
COUNTY OF NEWBERRY) COURT OF GENERAL SESSIONS
STATE OF SOUTH CAROLINA,)
PLAINTIFF,) TRANSCRIPT OF RECORD
VERSUS) 96-GS-36-79
STEPHEN ANDREW BECKHAM,)
DEFENDANT.)

NEWBERRY, SOUTH CAROLINA
SEPTEMBER 14-OCTOBER 4, 1996

B E F O R E

HONORABLE HENRY F. FLOYD, JUDGE.

A P P E A R A N C E S

W. TOWNES JONES, IV, SOLICITOR
MICHAEL T. COULTER, DEPUTY SOLICITOR
BETTY C. STROM, ASST. SOLICITOR
KNOX MCMAHON, DEPUTY SOLICITOR
APPEARING ON BEHALF OF THE PLAINTIFF.

JACK SWERLING, ATTORNEY
RICHARD HARPOOTLIAN, ATTORNEY
APPEARING ON BEHALF OF THE DEFENDANT.

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Brenda A. Douglas, CVR
Certified Court Reporter
P. O. Box 2896
Aiken, South Carolina 29802

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REBECCA SWEANEY:

DIRECT BY JONES 2624

BONNIE MALASKY:

DIRECT BY JONES 2630

CROSS BY SWERLING 2644

REDIRECT BY JONES 2661

DONALD EVANS:

DIRECT BY JONES 2663

CROSS BY HARPOOTLIAN 2673

REDIRECT BY JONES 2679

RECROSS BY HARPOOTLIAN 2681

SCOTT BERRY:

DIRECT BY JONES 2687

SHAWN GEHM:

DIRECT BY JONES 2692

CROSS BY SWERLING 2714

REDIRECT BY JONES 2780

RECROSS BY SWERLING 2790

TAMMY MCKINNEY:

DIRECT BY JONES 2792

CROSS BY SWERLING 2806

REDIRECT BY JONES 2833

MOTION (IN CAMERA) 2836

REDIRECT cont. BY JONES 2922

1 SWEENEY TO THE STAND. REBECCA SWEENEY.

2 REBECCA ANN SWEENEY, BEING

3 DULY SWORN, TESTIFIED AS FOLLOWS:

4 DIRECT EXAMINATION:

5 BY MR. JONES:

6 A MY NAME IS REBECCA ANN LANDON SWEENEY

7 Q GOOD MORNING, MS. SWEENEY. WHERE DO YOU

8 WORK, MS. SWEENEY?

9 A I WORK AT CAROLINA GOLD AND SILVER.

10 Q AND IS THAT A FAMILY OWNED BUSINESS?

11 A YES, SIR.

12 Q SO YOU ARE PART OWNER, ALSO?

13 A MY FAMILY.

14 Q YOUR FAMILY IS? WERE YOU WORKING THERE

15 IN JUNE OF 1994?

16 A YES.

17 Q AND WERE YOU, YOURSELF, ACTUALLY IN THE

18 BUSINESS DURING JUNE, PARTICULARLY JUNE 3RD OF

19 1994?

20 A YES, SIR.

21 Q WHERE IS YOUR BUSINESS LOCATED?

22 A TWO NOTCH ROAD, 8502 TWO NOTCH ROAD.

23 Q AND WHAT TOWN IS THAT IN?

24 A COLUMBIA, SOUTH CAROLINA.

25 Q AND WHERE DO YOU LIVE?

1 A ON THAT SAME SIDE OF TOWN, OFF OF TWO
2 NOTCH ROAD.

3 Q NOW, DID YOU BRING--I HAND YOU STATE'S
4 EXHIBIT NINETY, STATE'S EVIDENCE NINETY, AND ASK
5 YOU IF YOU RECOGNIZE WHAT IS CONTAINED ON THAT
6 DOCUMENT AND WHAT THAT DOCUMENT IS?

7 A YES, I DO. IT'S WHERE I BOUGHT A CHAIN
8 FROM STEPHEN BECKHAM ON THE 3RD OF JUNE, 1994.

9 Q ALL RIGHT, NOW, DID YOU TAKE DOWN THE
10 INFORMATION ON THE DOCUMENT THERE?

11 A YES, IT'S GOT HIS DRIVER'S LICENSE
12 NUMBER, HIS DATE OF BIRTH, THAT HE'S A MALE AND
13 BLOND HAIR, WEIGHT, HEIGHT.

14 Q GIVE US HIS DRIVER'S LICENSE NUMBER,
15 PLEASE.

16 A SOUTH CAROLINA DRIVER'S LICENSE NUMBER
17 004924496.

18 Q ALL RIGHT, AND THE OTHER INFORMATION
19 THAT YOU COLLECTED?

20 A MALE, BLOND, 170 POUNDS, 5 FOOT, 11,
21 WHITE. AND THE BIRTHDATE: 7-1-59.

22 Q AND DID YOU GET THAT INFORMATION FROM
23 SOME DRIVER'S LICENSE THAT YOU OBSERVED WHEN YOU
24 BOUGHT THE CHAIN?

25 A YES, WE ALWAYS CHECK A PICTURED I.D. AND

- 1 MAKE SURE IT LOOKS LIKE THE PERSON.
- 2 Q AND HOW MUCH DID YOU PAY FOR THE CHAIN?
- 3 A THE CHAIN, WE PAID \$136 FOR.
- 4 Q AND HOW DID YOU MAKE PAYMENT FOR THE
- 5 CHAIN?
- 6 A WE PAID BY CHECK; CHECK NUMBER 48361.
- 7 Q SO YOU WROTE HIM A CHECK?
- 8 A YES, SIR.
- 9 Q I'D LIKE TO ASK YOU IF YOU RECOGNIZE THE
- 10 PERSON THAT YOU BOUGHT THAT CHAIN FROM ON JUNE 3RD,
- 11 1994, IN THE COURTROOM?
- 12 A YES. ONLY VAGUELY THOUGH, FROM THE
- 13 NEWSPAPER.
- 14 Q SO YOU'VE SEEN HIS PICTURE SINCE JUNE OF
- 15 1994?
- 16 A YES.
- 17 Q AND BASED ON THAT OBSERVATION, DO YOU
- 18 RECOGNIZE HIM TODAY?
- 19 A I DID FROM AN EARLIER PICTURE IN THE
- 20 PAPER LOOK AND THINK THAT HE LOOKED FAMILIAR, YES.
- 21 Q DO YOU SEE HIM HERE TODAY?
- 22 A YES, ON THE LEFT OVER HERE WITH THE
- 23 YELLOW TIE.
- 24 MR. JONES: LET THE RECORD REFLECT SHE'S
- 25 POINTING TO DEFENDANT BECKHAM.

- 1 Q MS. SWEENEY, WHEN YOU BOUGHT THIS CHAIN
2 JUNE 3RD, 1994, DID YOU CONTACT THE POLICE?
3 A NO.
4 Q DID YOU CONTACT THE POLICE WHEN YOU SAW
5 HIS PHOTOGRAPH IN THE PAPER BETWEEN THEN AND NOW?
6 A NO, SIR.
7 Q ANY PARTICULAR REASON THAT YOU DID NOT?
8 A I DIDN'T PUT IT ALL TOGETHER. I DIDN'T
9 KNOW THAT THERE WAS ANYTHING OUT OF THE ORDINARY.
10 IT JUST SEEMED NORMAL. I DIDN'T THINK ABOUT THIS
11 AGAIN...
12 Q UNTIL?
13 A UNTIL THE POLICEMAN CAME INTO THE STORE.
14 Q DO YOU RECALL THAT THAT WAS THE LAST OF
15 AUGUST OR FIRST OF SEPTEMBER OF THIS YEAR?
16 A YES.
17 Q AND WHEN THE POLICE CAME TO YOU AND
18 TALKED TO YOU IF YOU'D HAD ANY DEALINGS WITH
19 STEPHEN BECKHAM ON JUNE 3RD, 1994,...
20 A I HAD NO IDEA.
21 Q WHAT DID YOU DO?
22 A HE ASKED FOR THE RECORDS FROM THE DATE,
23 AND WE KEEP THEM ON PREMISES. AND WE WENT AND GOT
24 THE BOOK, AND IT WAS IN THERE. IT WAS THE FIRST
25 THING THEY OPENED IT UP TO. IT JUST WAS RIGHT

1 THERE ON THE RIGHT DATE THAT HE WAS LOOKING FOR.

2 Q DO YOU RECALL THE TRANSACTION, BASED ON
3 EVERYTHING THAT YOU PUT TOGETHER NOW, OR ARE YOU
4 RELYING ON YOUR RECORDS?

5 A I REMEMBER ABOUT ZERO FROM THIS. THE
6 ONLY THING THAT I CAN THINK OF IS THAT I PROBABLY
7 ASKED HIM IF HE WAS RELATED TO THE WOMAN FROM
8 BECKHAM'S BARN WHICH IS A JEWELRY FINDINGS PLACE
9 NEAR LAKE MURRAY. AND THAT'S THE ONLY THING I
10 WOULD HAVE ASKED HIM.

11 Q THE DOCUMENT THAT YOU'VE GOT, STATE'S
12 EXHIBIT, I BELIEVE IT'S NUMBER NINETY?

13 A NUMBER NINETY.

14 Q IS IT IN YOUR HANDWRITING?

15 A YES.

16 Q SO YOU PREPARED THAT DOCUMENT?

17 A YES.

18 MR. JONES: YOUR HONOR, WE'D OFFER IT
19 INTO EVIDENCE.

20 THE COURT: ANY OBJECTION?

21 MR. SWERLING: WE DON'T HAVE ANY
22 OBJECTION.

23 THE COURT: WITHOUT OBJECTION.

24 (SO MARKED AND ENTERED, WITHOUT
25 OBJECTION.

1 MR. JONES: YOUR HONOR, WE'D OFFER
2 STATE'S EXHIBIT NINETY-ONE AS A BLOWUP OF THE
3 DOCUMENT AT THIS POINT IN TIME.

4 MR. SWERLING: NO OBJECTION.

5 THE COURT: BEARING IN MIND THAT THE
6 ACTUAL--ONLY TO ASSIST THE JURY.

7 MR. JONES: YES, SIR.

8 Q LET ME ASK YOU, MA'AM, WHAT DOES
9 PCC48361, DOES THAT MEAN ANYTHING TO YOU?

10 A IT MEANS I DIDN'T WRITE IT REAL CLEARLY.
11 THAT'S PD FOR PAID, THEN CK FOR CHECK, PAID CHECK
12 NUMBER 48361.

13 Q AND THEN WHAT'S THIS DESCRIPTION ABOVE
14 THERE? WHAT DOES THAT SAY AND MEAN?

15 A WE BUY THE GOLD BY THE WEIGHT, AND THAT
16 17.9 DWT, WHICH STANDS FOR PENNYWEIGHT, 14 KARATE
17 GOLD, TWENTY INCH, 4 MILLIMETER, SOLID ROPE, \$136.

18 Q OKAY. AND DO YOU RECOGNIZE WHAT'S
19 WRITTEN FOR BUYER'S INITIALS?

20 A REBECCA A. LANDON SWEENEY, RALS.

21 Q OKAY, SO THAT WOULD BE YOU?

22 A YES.

23 Q AND DO YOU RECALL, NOW YOU SAID, DO YOU
24 RECALL WHETHER OR NOT THE DEFENDANT BECKHAM, WHEN
25 HE SOLD THIS CHAIN TO YOU ON JUNE 3RD, 1994, WAS

1 ALONE OR WITH SOMEBODY? DO YOU RECALL?

2 A I THINK HE WAS ALONE IN THE STORE, YES.

3 Q ANSWER ANY QUESTIONS THESE LAWYERS HAVE
4 FOR YOU.

5 THE COURT: CROSS EXAMINATION, MR.

6 SWERLING?

7 MR. SWERLING: NO QUESTIONS.

8 THE COURT: THANK YOU, MA'AM. YOU MAY
9 STEP DOWN. WITHOUT OBJECTION, CAN SHE BE RELEASED
10 FROM THE SUBPOENA, OR DO YOU NEED HER TO REMAIN
11 UNDER IT?

12 MR. JONES: SHE CAN BE RELEASED FROM
13 SUBPOENA, YOUR HONOR.

14 THE COURT: ALL RIGHT, THANK YOU, MA'AM.
15 CALL YOUR NEXT WITNESS.

16 MR. JONES: STATE CALLS BONNIE MALASKY.

17 BONNIE MALASKY, BEING DULY
18 SWORN, TESTIFIED AS FOLLOWS:

19 DIRECT EXAMINATION:

20 BY MR. JONES:

21 Q BONNIE, WHERE DO YOU LIVE?

22 A MOUNT PLEASANT, SOUTH CAROLINA.

23 Q AND THAT'S NEAR WHAT MAJOR CITY?

24 A CHARLESTON.

25 Q AND DO YOU WORK DOWN THERE?

- 1 A YES, PART-TIME.
- 2 Q PART-TIME? YOU ARE RELATED TO VICKIE'S
- 3 MOTHER, VICKIE LANDER BECKHAM'S MOTHER, IS THAT
- 4 CORRECT?
- 5 A THAT'S CORRECT.
- 6 Q AND HOW ARE YOU RELATED TO HER MOTHER?
- 7 A I'M HER SISTER.
- 8 Q SO, BONNIE, YOU ARE VICKIE'S AUNT, IS
- 9 THAT RIGHT?
- 10 A RIGHT.
- 11 Q I WANT TO ASK YOU IF YOU RECALL VISITING
- 12 JOLENE, VICKIE'S MOM, AND VICKIE AND HER FAMILY, UP
- 13 HERE IN NEWBERRY DURING THE WEEK OF JUNE 6TH?
- 14 A YES, I DO. I WAS UP HERE FOR A WEEK.
- 15 Q OF 1994?
- 16 A OF 1994, VISITING MY MOTHER AND TWO
- 17 SISTERS.
- 18 Q SO YOUR MOTHER LIVES HERE IN NEWBERRY?
- 19 A YES.
- 20 Q AND YOU WERE HERE IN '94?
- 21 A RIGHT.
- 22 Q AND YOU HAVE TWO SISTERS THAT LIVE HERE
- 23 IN NEWBERRY, ALSO?
- 24 A JOLENE AND SANDRA.
- 25 Q AND WHEN YOU CAME TO VISIT, DO YOU

1 RECALL WHO YOU WERE STAYING WITH DURING THAT WEEK?

2 A I WAS BACK AND FORTH AT MY MOTHER'S AND
3 MY SISTERS' HOUSE.

4 Q DO YOU RECALL AN OCCASION WHERE YOU
5 ACCOMPANIED VICKIE TO DROP HER CHILDREN AT
6 DEFENDANT BECKHAM'S RESIDENCE AT THE TRAILER THERE
7 ON THE BECKHAM PROPERTY?

8 A YES, I DO.

9 Q AND TELL THE JURY WHAT YOU REMEMBER
10 ABOUT THAT OCCASION, AND WHEN IT WAS. FIRST OF
11 ALL, DO YOU REMEMBER WHEN IT WAS?

12 A YES, I DO. IT WAS THE WEDNESDAY BEFORE
13 SHE WAS MURDERED.

14 Q THE WEDNESDAY BEFORE SHE WAS MURDERED?
15 SO IF SHE WAS MURDERED ON JUNE 12TH, JUNE 11TH IS A
16 SATURDAY, JUNE 10TH IS A FRIDAY, JUNE 9TH IS A
17 THURSDAY, AND JUNE 8TH IS A WEDNESDAY. SO IT WAS
18 JUNE 8TH, IS THAT CORRECT?

19 A I GUESS, I'D HAVE TO LOOK AT THE
20 CALENDAR. I KNOW IT WAS A WEDNESDAY, THE WEDNESDAY
21 BEFORE THE SUNDAY THAT SHE WAS MURDERED.

22 Q ALL RIGHT. WELL, THAT BEING THE DATE,
23 DO YOU RECALL WHAT VEHICLE YOU WENT WITH VICKIE IN
24 TO DROP THE CHILDREN OFF?

25 A WE WENT IN HER DAD'S CAR. HER DAD HAD

- 1 GIVEN HER A CAR TO DRIVE.
- 2 Q WHICH ONE WAS THAT?
- 3 A IT WAS A SILVER CAR THAT HE HAD BOUGHT
- 4 FROM HIS FRIEND, GENE.
- 5 Q I HAND YOU STATE'S EXHIBIT NUMBER ONE
- 6 AND ASK YOU IF YOU RECOGNIZE WHAT'S DEPICTED THERE?
- 7 A THAT'S IT.
- 8 Q THIS IS THE CAR YOU RODE IN?
- 9 A YES.
- 10 Q IF YOU WOULD, PULL THE MICROPHONE A
- 11 LITTLE CLOSER TO YOU, OR PULL THE CHAIR A LITTLE
- 12 CLOSER. I WANT YOU TO BE AS COMFORTABLE AS
- 13 POSSIBLE, BUT THE JURY NEEDS TO HEAR YOU, AND YOU
- 14 ARE A SOFT-SPOKEN PERSON SO... IF YOU WOULD, A
- 15 LITTLE CLOSER. OKAY. THAT'S FINE. ARE YOU
- 16 COMFORTABLE WITH THAT ARRANGEMENT?
- 17 A (NODS AFFIRMATIVE)
- 18 Q YOU SAY THIS IS THE AUTOMOBILE THAT YOU
- 19 DROVE IN WITH VICKIE ON JUNE 8TH, 1994, TO DROP THE
- 20 CHILDREN OFF?
- 21 A THAT'S RIGHT.
- 22 Q NOW, DID YOU RIDE IN THE FRONT PASSENGER
- 23 SEAT OR DID YOU DRIVE, OR WHERE WERE YOU SEATED
- 24 WHEN YOU RODE IN THE CAR ON THAT DAY?
- 25 A - VICKIE DROVE AND I SAT IN THE PASSENGER.

- 1 Q DO YOU RECALL WHAT CHILDREN WERE WITH
2 YOU?
3 A SAMUEL AND ANDREW.
4 Q WAS SHANNON WITH YOU ALSO, OR JUST THE
5 TWO, SAMUEL AND ANDREW?
6 A YES.
7 Q DO YOU RECALL ON THAT DATE--HAD YOU BEEN
8 IN THIS AUTOMOBILE PREVIOUS TO THAT DATE BEFORE?
9 A YES, I HAD.
10 Q DO YOU RECALL WHETHER THE PASSENGER
11 FRONT SEAT, PASSENGER HEADREST WAS ON THE SEAT OR
12 NOT ON THE SEAT?
13 A IT WASN'T, BECAUSE IT KEPT COMING OFF
14 AND SO VICKIE TOOK IT OFF.
15 Q IT WAS NOT ON THE FRONT SEAT? YOU DID
16 NOT HAVE A HEADREST...
17 A SHE SAID IT KEPT FALLING OFF.
18 Q DO YOU REMEMBER THAT?
19 A YES, I DO.
20 Q IT WAS BROKEN THEN WHEN YOU RODE IN THE
21 CAR?
22 A WHEN I RODE IN THE CAR.
23 Q NOW, TELL US ABOUT WHAT YOU RECALL ABOUT
24 GOING WITH VICKIE TO THE BECKHAM PROPERTY ON JUNE
25 8TH, 1994. TELL THE JURY WHAT YOU RECOLLECT ABOUT

1 THAT OCCASION. AND IF YOU WOULD, START AS EARLY IN
2 THE DAY AS YOU CAN.

3 Q WELL, THE NIGHT BEFORE, WE'D BEEN
4 PLAYING SPADES AND VICKIE ASKED ME IF I'D RIDE WITH
5 HER, AND SHE KNEW THAT I WOULD BE...

6 MR. SWERLING: OBJECTION TO HEARSAY.

7 THE COURT: MR. SOLICITOR, OPEN-ENDED
8 QUESTIONS LIKE THAT ARE GOING TO CAUSE THEM TO BE
9 OBJECTING RIGHTFULLY, SO--POTENTIAL HEARSAY, SO WHY
10 DON'T YOU ASK THE QUESTIONS YOU NEED FOR THE JURY
11 TO ANSWER.

12 Q WHEN DID YOU DECIDE THAT YOU WOULD RIDE
13 WITH VICKIE TO THE BECKHAM PROPERTY ON JUNE 8TH,
14 1994?

15 A THE NIGHT BEFORE.

16 Q AND WHERE WERE YOU AND WHAT WERE YOU
17 DOING WHEN YOU MADE THAT DECISION?

18 A WE WERE AT MY MOTHER'S HOUSE PLAYING
19 CARDS, SPADES.

20 Q AND WHO IS WE?

21 A MY SISTER, SANDRA, HER DAUGHTER, ANGELA,
22 AND VICKIE AND ME.

23 Q AND HOW WERE YOU TO GET UP WITH VICKIE
24 TO GO WITH HER TO DELIVER THE CHILDREN?

25 A SHE WAS TO PICK ME UP FROM SANDRA'S

1 HOUSE.

2 Q AND DO YOU RECALL WHAT TIME SHE WAS TO
3 PICK YOU UP AT SANDRA'S HOUSE?

4 A OUGHT TO BE ABOUT 9:30.

5 Q AND DID YOU KNOW FROM YOUR DEALINGS WITH
6 YOUR NIECE AND HER FAMILY...

7 MR. SWERLING: OBJECT TO THE LEADING
8 FORM OF THE QUESTION, STARTED OFF LEADING.

9 THE COURT: I DON'T KNOW WHERE HE'S
10 HEADED WITH THE QUESTION. I OVERRULE IT RIGHT NOW
11 AND LET ME SEE. IT'S A QUESTION OF WHAT KNOWLEDGE
12 SHE HAD, SO...ALL RIGHT.

13 Q DO YOU HAVE KNOWLEDGE OF THE TIME THAT
14 VICKIE WOULD NORMALLY BE DROPPING THE CHILDREN OFF
15 AT THE BECKHAM PROPERTY, DEFENDANT BECKHAM'S HOME?

16 A USUALLY, BETWEEN SIX AND SIX-THIRTY.

17 Q AND DO YOU KNOW WHAT THE REASON THAT SHE
18 WAS NOT WANTING YOU TO GO UNTIL NINE OR NINE-THIRTY
19 ON THIS DATE, JUNE 8TH, 1994?

20 MR. SWERLING: YOUR HONOR, THAT WOULD
21 HAVE TO BE HEARSAY.

22 THE COURT: SUSTAINED.

23 Q DO YOU KNOW WHERE SHE WAS?

24 A SHE WAS AT SISTER CARE.

25 Q BETWEEN SIX-THIRTY AND NINE-THIRTY?

1 MR. SWERLING: YOUR HONOR, CAN WE
2 APPROACH THE SIDE-BAR?

3 THE COURT: SURE.

4 (BENCH CONFERENCE IN THE PRESENCE OF THE
5 JURY, OUT OF THE HEARING OF THE JURY, AND OFF THE
6 RECORD.)

7 THE COURT: ALL RIGHT, THE OBJECTION IS
8 OVERRULED, NOT BEING OFFERED FOR THE TRUTH OF THE
9 MATTER AS TO WHERE MS. BECKHAM, BUT AS TO HER
10 RECOLLECTION OF TIME.

11 Q NOW, DO YOU REMEMBER WHERE YOU WERE AND
12 WHAT YOU WERE DOING ON JUNE 8TH, 1994 WHEN VICKIE
13 PICKED YOU UP TO GO WITH HER TO DROP THE CHILDREN
14 OFF?

15 A YES, I WAS IN THE DEN OF MY SISTER'S
16 HOUSE, SITTING AROUND WATCHING TV, TALKING MOST OF
17 THE TIME WITH HER AND HER HUSBAND AND CHILDREN.

18 Q AND DO YOU RECALL GOING OVER TO THE
19 BECKHAM PROPERTY WITH VICKIE TO DROP THE CHILDREN
20 OFF ON THAT DAY?

21 A YES, I DO.

22 Q AND DO YOU RECALL GETTING TO THE BECKHAM
23 PROPERTY ON THAT DAY?

24 A YES, SIR.

25 Q TELL THE JURY, NOT ANYTHING VICKIE SAID,

1 BUT WHAT THE DEFENDANT SAID OR DID WHEN YOU ARRIVED
2 AT HIS PROPERTY, AND ABOUT WHAT TIME IT WAS WHEN
3 YOU ARRIVED AT HIS PROPERTY. WHAT TIME WAS IT WHEN
4 YOU ARRIVED AT HIS PROPERTY?

5 A BETWEEN NINE AND TEN.

6 Q AND SO WAS IT DARK?

7 A IT WAS DARK. WE HAD THE LIGHTS ON THE
8 CAR.

9 Q WHEN YOU GOT THERE, DID YOU DROP THE
10 KIDS OFF?

11 A WE DROPPED THE CHILDREN OFF, THEY WENT
12 IN THE HOUSE.

13 Q ALL RIGHT, TELL THE JURY WHAT STEPHEN,
14 DEFENDANT BECKHAM DID OR SAID.

15 A HE WANTED TO TALK TO VICKIE; SHE GOT OUT
16 AND CLOSED, AND I COULDN'T HEAR ANY OF THAT. THE
17 AIR CONDITIONER WAS RUNNING, THE MOTOR, MAYBE FOR
18 TEN MINUTES. AND THEN SHE OPENED THE DOOR TO GET
19 BACK IN AND HE ASKED HER IF SHE COULD DROP ME OFF
20 AND COME BACK. SHE SAID, NO. HE KEPT ASKING,
21 SAYING IT WAS VERY IMPORTANT FOR HER TO COME BACK
22 TO DISCUSS IF HE MOVED TO MYRTLE BEACH WHAT THEY
23 WOULD DO.

24 Q YOU RECALL THAT SPECIFICALLY?

25 A YES, SIR.

1 Q DID YOU GIVE A STATEMENT TO THE POLICE
2 CONCERNING YOUR ACTIVITIES, AND WHAT YOU HEARD AND
3 SAW OUT THERE THAT NIGHT?

4 A YES, I DID.

5 Q ON JUNE 16TH, 1994?

6 A YES, I DID. THAT WAS MY FIRST
7 STATEMENT.

8 Q DID YOU GIVE A STATEMENT JUNE 16TH, 1994
9 TO THE POLICE, THREE DAYS AFTER VICKIE'S MURDER?

10 MR. SWERLING: YOUR HONOR, THAT'S IN
11 APPROPRIATE. IT'S AN OBJECTION IF HE'S TRYING TO
12 DO A PRIOR CONSISTENT STATEMENT AT THIS TIME.

13 THE COURT: SUSTAINED, IF THAT'S THE
14 PURPOSE FOR WHICH YOU'RE OFFERING IT.

15 MR. JONES: ALL RIGHT.

16 Q WHEN YOU HEARD THE CONVERSATION, THE ONE
17 YOU WERE ABLE TO HEAR BETWEEN DEFENDANT BECKHAM AND
18 VICKIE, YOU SAID, I BELIEVE JUST A SECOND AGO YOU
19 SAID SOMETHING ABOUT MYRTLE BEACH, DID YOU HEAR
20 ANYTHING ELSE HE DISCUSSED WITH VICKIE THAT HE
21 WANTED HER TO COME BACK AND TALK WITH HIM ABOUT?

22 A HE SAID HE HAD A JOB INTERVIEW AND HE
23 WAS PRETTY SURE HE WAS GOING TO GET IT, AND THEY
24 NEEDED TO TALK ABOUT IT.

25 Q AND WHY DID THEY NEED TO TALK ABOUT IT?

1 A BECAUSE HE MIGHT BE MOVING THERE?
2 Q AND IF HE MOVED THERE, WHAT WOULD OCCUR?
3 A HE WOULD...
4 MR. SWERLING: YOUR HONOR, IS MS.
5 MALASKY TESTIFYING TO SOMETHING SHE HEARD...
6 A THEY'D HAVE TO DECIDE WHAT TO DO WITH
7 THE CHILDREN.
8 MR. SWERLING: ...I THOUGHT SHE...
9 THE COURT: WAIT, WAIT, WAIT, MS...
10 MR. SWERLING: IS THIS HEARSAY,
11 SOMETHING MS. BECKHAM RELATED, BECAUSE I THOUGHT
12 SHE COULDN'T HEAR ANYTHING.
13 THE COURT: SHE'S TESTIFYING...
14 A YES...
15 THE COURT: EXCUSE ME JUST A MINUTE.
16 SOLICITOR PUT THE QUESTION TO HER AS TO WHETHER OR
17 NOT SHE HAD HEARD ANYTHING THAT MR. BECKHAM SAID
18 ABOUT GOING TO MYRTLE BEACH. ALL RIGHT NOW...
19 A THIS IS AFTER THE DOOR WAS OPENED.
20 THE COURT: WAIT, WAIT, WAIT, MA'AM,
21 WAIT JUST A MINUTE.
22 NOW, SOLICITOR?
23 MR. JONES: YES, SIR.
24 THE COURT: CAREFUL WITH WHAT YOU'RE
25 TRYING TO GET OUT.

1 A I WAS...

2 THE COURT: HE'LL ASK THE QUESTION.

3 DON'T GO BEYOND THE WILLIAMS CASE.

4 MR. JONES: COULD WE APPROACH?

5 (BENCH CONFERENCE IN THE PRESENCE OF THE
6 JURY, OUT OF THE HEARING OF THE JURY, AND OFF THE
7 RECORD.)

8 THE COURT: ALL RIGHT, YOU CAN PUT THE
9 QUESTION TO THE WITNESS.

10 Q WHAT DID YOU RECALL DEFENDANT BECKHAM
11 SAYING REGARDS, IF ANYTHING, THAT HE MIGHT BE
12 MOVING TO MYRTLE BEACH? WHAT DID HE WANT TO TALK
13 TO VICKIE ABOUT CONCERNING THAT MOVE?

14 A IT HAD TO DO WITH WHAT THEY WOULD DO
15 ABOUT THE CHILDREN.

16 Q AND IN THAT REGARD, AS FAR AS WHO WOULD
17 KEEP, HAVE THE CHILDREN? IS THAT WHAT YOU'RE
18 TALKING ABOUT? CUSTODY?

19 A HE DIDN'T SAY THAT.

20 Q OKAY, WHAT WE'D DO ABOUT THE CHILDREN?

21 A UH-HUH.

22 Q OKAY. WELL, LET ME ASK YOU THIS. HOW
23 MUCH LONGER DID YOU STAY, OR WHAT ELSE DO YOU
24 RECALL THE DEFENDANT SAYING DURING THAT
25 CONVERSATION, IF ANYTHING?

1 A THAT'S ALL. HE JUST KEPT ASKING HER TO
2 COME BACK, THAT HE FELT LIKE THEY REALLY NEEDED TO
3 TALK ABOUT IT THAT NIGHT.

4 Q ALL RIGHT, YOU REMEMBER THAT NOW?

5 A YES, I DO.

6 Q NOW, WHAT ELSE DO YOU REMEMBER WHEN SHE
7 DECIDED NOT TO STAY, AND TO LEAVE AFTER DROPPING
8 THE CHILDREN?

9 A WE TURNED AROUND AND WENT TO LEAVE THE
10 DRIVEWAY TO HIS TRAILER AND WE GOT ALMOST TO THE
11 END OF THE ROAD, AND THERE WAS A TRASH CAN LAYING
12 IN THE LEFT-HAND SIDE WITH BRANCHES ALL OVER IT.
13 VICKIE HAD TO GET OUT AND MOVE IT OVER TO THE SIDE
14 BECAUSE SHE COULDN'T PULL OVER. THERE WASN'T
15 ENOUGH ROOM IN THE DRIVEWAY TO PULL OVER. THERE
16 WAS A LOT OF TREES AND SHRUBS.

17 SHE DID THAT AND GOT BACK IN THE CAR AND
18 THEN THE CAR WAS STILL RUNNING; WE PULLED OFF AND
19 SHE SAID, "OH, NO....

20 MR. SWERLING: OBJECTION.

21 Q DON'T, DON'T, DON'T.

22 THE COURT: SUSTAINED. THAT'S WHY--

23 DON'T MAKE IT OPEN-ENDED, SOLICITOR. NOW ASK THE
24 QUESTION YOU WANT.

25 Q I ASKED YOU NOT TO SAY WHAT VICKIE SAID.

1 THE COURT: IT'S NOT YOUR FAULT, MA'AM.
2 IT'S THE SOLICITOR. HE HAS TO ASK THE QUESTION,
3 OKAY.

4 A ALL RIGHT.

5 THE COURT: YOU JUST ANSWER HIS
6 QUESTIONS.

7 Q ALL RIGHT, LET ME ASK YOU THIS. DID
8 VICKIE MOVE THE MATERIALS THAT WERE IN FRONT OF THE
9 CAR, AND DID SHE DRIVE TO THE END OF THE DRIVEWAY?

10 A YES, SHE DID.

11 Q AND WHERE DID YOU GO AFTER THAT?

12 A WE WENT BACK TO NEWBERRY; WENT OUT TO
13 THE DRIVEWAY AND TURNED LEFT, AND THE CAR THAT WAS
14 BEHIND US TURNED RIGHT, AND WE WENT ON TO MY
15 SISTER'S HOUSE.

16 Q DO YOU KNOW WHETHER VICKIE INTENDED TO
17 GO BACK OUT THERE THAT NIGHT?

18 A NO, SIR.

19 Q NO, YOU DON'T KNOW, OR NO, YOU KNOW?

20 A NO, SHE DID NOT INTEND TO. SHE DIDN'T.

21 Q SHE DID NOT GO BACK OUT THERE?

22 A UNLESS SHE WOKE UP IN THE MIDDLE OF THE
23 NIGHT AND SNEAKED OUT.

24 Q DON'T, DON'T--ANSWER ANY QUESTIONS THESE
25 LAWYERS MAY HAVE.

1 THE COURT: CROSS EXAMINATION, MR.

2 SWERLING.

3 MR. SWERLING: THANK YOU, YOUR HONOR.

4 CROSS EXAMINATION:

5 BY MR. SWERLING:

6 Q MS. MALASKY, I JUST HAVE A COUPLE OF
7 QUESTIONS. MY NAME IS JACK SWERLING.

8 YOU'RE FAMILIAR WITH NEWBERRY COUNTY?

9 YOU GREW UP IN NEWBERRY COUNTY?

10 A NO, I DIDN'T.

11 Q YOU DID NOT. HAVE YOU EVER LIVED IN
12 NEWBERRY COUNTY?

13 A NO.

14 Q SO YOU WERE JUST UP HERE VISITING THE
15 LANDERS WHEN...

16 A VISITING MY MOTHER AND MY TWO SISTERS.

17 Q OKAY. AND ON JUNE 8TH, YOU HAPPENED TO
18 GO OVER--YOU WERE WITH VICKIE TO GO OVER TO DROP
19 THE CHILDREN OFF, IS THAT RIGHT?

20 A RIGHT.

21 Q OKAY. NOW, I JUST HAVE A COUPLE OF
22 QUESTIONS IN CONNECTION WITH THAT. FIRST OF ALL,
23 DO YOU REMEMBER APPROACHING, WHICH WAY YOU
24 APPROACHED MR. BECKHAM'S HOUSE? WAS IT FROM THE
25 INTERSTATE OR FROM POMARIA? DID YOU TRAVEL THE

1 INTERSTATE TO GET THERE OR DID YOU TRAVEL, DO YOU
2 RECALL WHICH WAY YOU TRAVELLED IN?

3 A IS THAT ROAD RIGHT OUTSIDE THE DRIVEWAY
4 INTERSTATE?

5 Q YEAH, 773; AND IF YOU GO LEFT COMING OUT
6 OF THE DRIVEWAY, YOU GO TOWARD THE INTERSTATE, I-
7 26; IF YOU GO RIGHT, YOU'RE GOING INTO POMARIA. DO
8 YOU KNOW WHICH WAY YOU...

9 A WE CAME THE SAME WAY THAT WE LEFT.

10 Q AND WHICH WAY DID YOU LEAVE? YOU TURNED
11 LEFT?

12 A TURNED LEFT OUT OF THE DRIVEWAY.

13 Q SO THAT WOULD HAVE BEEN GOING TOWARD THE
14 INTERSTATE?

15 A I HAVE NO IDEA.

16 Q ALL RIGHT, BUT YOU DID TURN LEFT GOING
17 OUT OF THE DRIVEWAY?

18 A RIGHT.

19 Q AND AS I UNDERSTAND IT, THE OTHER CAR
20 THAT YOU SAID CAME OUT OF THE DRIVEWAY RIGHT
21 AFTERWARDS, TURNED RIGHT?

22 A UH-HUH, THAT'S RIGHT.

23 Q OPPOSITE DIRECTIONS?

24 A THAT'S TRUE.

25 Q SO IF YOU WERE GOING TOWARD THE

1 INTERSTATE GOING LEFT, THE OTHER CAR WOULD BE GOING
2 RIGHT, AWAY FROM THE INTERSTATE?

3 A THAT'S TRUE. NO, I DON'T KNOW ABOUT
4 THAT. I DON'T KNOW WHERE THE INTERSTATE IS.

5 Q WHAT I'M SAYING THOUGH IS IF YOU TURNED
6 LEFT AND THAT WAS TOWARD THE INTERSTATE, AND THE
7 OTHER CAR TURNED RIGHT, THAT WOULD BE AWAY FROM THE
8 INTERSTATE. IT JUST MAKES SENSE, DOESN'T IT?

9 A NO, BECAUSE THERE COULD BE OTHER ROUTES
10 GOING TO THE INTERSTATE.

11 Q RIGHT. YOU TURNED LEFT?

12 A RIGHT.

13 Q OKAY, AND THE OTHER CAR TURNED RIGHT?

14 A RIGHT.

15 Q ALL RIGHT. NOW, WHEN YOU GOT THERE, YOU
16 SAID IT WAS ABOUT 9:30, SOME WHERE BETWEEN NINE AND
17 TEN?

18 A YEAH, BETWEEN NINE AND TEN.

19 Q WAS IT DARK OUT AT THAT TIME ALREADY?

20 A IT WAS DARK BUT SHE HAD LIGHTS WHILE SHE
21 WAS DRIVING.

22 Q OKAY, AND THIS HEADREST, YOU REMEMBER
23 THAT HEADREST BEING OFF THE CAR?

24 A YES.

25 Q THE FIRST TIME YOU WERE ASKED ABOUT THAT

1 WAS JUST IN THE LAST FEW DAYS, WASN'T IT? IT'S
2 NEVER COME UP BEFORE IN ANY OF YOUR STATEMENTS OR
3 ANY OF YOUR INTERVIEWS WITH THE POLICE. YOU JUST
4 GOT ASKED THAT WITHIN THE LAST COUPLE OF DAYS.

5 A THERE ARE A LOT OF THINGS IN THERE THAT
6 I SAID BUT THE STATEMENT DOESN'T SAY THAT I SAID
7 THEM.

8 Q NO, I'M SPECIFICALLY REFERRING TO THIS
9 HEADREST THAT MR. JONES WAS REFERRING TO. THAT
10 JUST CAME UP IN THE LAST COUPLE OF DAYS?

11 A YES, IT DID.

12 Q OKAY, THAT'S WHAT I'M SAYING. AND SO,
13 HAVE YOU BEEN IN THE COURTROOM?

14 A YES, I HAVE.

15 Q SO YOU'VE LISTENED TO SOME OF THE
16 TESTIMONY, AND THAT'S FINE. THERE'S NOTHING WRONG
17 WITH THAT, BUT YOU'VE LISTENED TO SOME OF THE
18 TESTIMONY.

19 A ARE YOU TRYING TO SAY THAT I DON'T TELL
20 THE TRUTH?

21 Q MA'AM, I SAID WERE YOU IN THE COURTROOM?

22 A YES, I WAS.

23 Q OKAY, YOU MAY BE ASSUMING SOMETHING THAT
24 I'M NOT. WHAT I ASKED YOU WAS HAVE YOU BEEN IN THE
25 COURTROOM?

- 1 A YES, I HAVE.
- 2 Q OKAY. IS THERE AN INSINUATION FROM THAT
- 3 AT ALL?
- 4 A YES.
- 5 Q I DON'T THINK SO. YOU'VE BEEN IN THE
- 6 COURTROOM AND YOU HEARD THIS ISSUE COME UP ABOUT
- 7 THE HEADREST, ISN'T THAT TRUE?
- 8 A YES.
- 9 Q BUT AT NO TIME PRIOR TO THIS IN THE LAST
- 10 COUPLE OF DAYS HAVE YOU MENTIONED THE HEADREST,
- 11 ISN'T THAT TRUE?
- 12 A BUT I KNEW ABOUT THE HEADREST FOR YEARS.
- 13 Q YES, MA'AM, BUT YOU HAVEN'T MENTIONED TO
- 14 ANYBODY?
- 15 A NO, I DIDN'T SEE ANY REASON TO MENTION
- 16 IT.
- 17 Q AND TODAY IS REALLY THE FIRST TIME
- 18 YOU'RE SAYING ANYTHING ABOUT IT WITHIN THE LAST
- 19 COUPLE OF DAYS?
- 20 A YES.
- 21 Q OKAY. FINE. OF COURSE, THIS EVENT TOOK
- 22 PLACE SOME OVER TWO YEARS...
- 23 A TO ME A BROKEN HEADREST IS NOTHING.
- 24 Q PARDON?
- 25 A A BROKEN HEADREST TO ME WHEN I'M RIDING

1 IN A CAR IS NOTHING TO MENTION.

2 Q NOTHING. AND THIS WAS OVER TWO YEARS
3 AGO?

4 A YES.

5 Q NOW, WHEN YOU APPROACHED THE DRIVEWAY,
6 AS I UNDERSTAND IT, YOU DROVE IN THE DRIVEWAY,
7 THERE WAS NO OBSTRUCTION THERE AT ALL, ISN'T THAT
8 TRUE?

9 A THAT'S TRUE.

10 Q YOU DIDN'T SEE ANYTHING AT ALL BLOCKING
11 THAT DRIVEWAY AT ALL?

12 A THAT'S TRUE.

13 Q AND YOU DROVE STRAIGHT UP TO AND PAST
14 MR. SUBER'S HOUSE, YOU KNOW, THAT LITTLE HOUSE OVER
15 THERE.

16 A ON THE RIGHT.

17 Q AND THEN YOU WENT DOWN TO THE HOUSE
18 WHERE STEPHEN'S TRAILER WAS BEYOND THAT ROAD.

19 A RIGHT.

20 Q WHERE WAS STEPHEN WHEN YOU DROVE UP
21 THERE?

22 A OUTSIDE.

23 Q HE WAS OUTSIDE ALREADY?

24 A HE CAME OUT THE DOOR.

25 Q AND HE WAS STANDING THERE WHEN YOU DROVE

- 1 UP, AND HE AND VICKIE HAD A CONVERSATION?
- 2 A YES.
- 3 Q AND MOST OF THE CONVERSATION, YOU COULD
- 4 NOT HEAR, AS I UNDERSTAND IT?
- 5 A THAT'S TRUE.
- 6 Q BUT HE WAS NEVER OUT OF YOUR SIGHT?
- 7 A THAT'S RIGHT.
- 8 Q AND VICKIE WAS NEVER OUT OF YOUR SIGHT?
- 9 A RIGHT.
- 10 Q AND IT LASTED HOW LONG, FIVE, TEN
- 11 MINUTES, MAYBE SOMETHING LIKE THAT?
- 12 A SEEMED TO ME THAT IT WAS AT LEAST TEN
- 13 MINUTES.
- 14 Q WHERE WERE THE CHILDREN DURING THIS
- 15 PERIOD OF TIME?
- 16 A IN THE TRAILER.
- 17 Q SO THEY HAD GONE BACK IN THE TRAILER,
- 18 AND AT NO TIME DID STEPHEN LEAVE YOUR EYESIGHT?
- 19 A NO.
- 20 Q IN FACT, SOME OF THE CONVERSATION YOU
- 21 SAID YOU COULD HEAR ABOUT POSSIBLY GOING DOWN TO
- 22 MYRTLE BEACH OR SOMETHING TO THAT EFFECT, IS THAT
- 23 RIGHT?
- 24 A THAT WAS WHEN SHE OPENED THE DOOR TO GET
- 25 BACK IN.

1 Q RIGHT. BUT THAT WAS THE ONLY PART OF
2 THE, BASICALLY THE PART OF THE CONVERSATION YOU
3 HEARD?

4 A RIGHT.

5 Q NOW, WHEN YOU TURNED AROUND TO COME BACK
6 OUT, WHAT I UNDERSTAND YOU TO SAY IS AS YOU WERE
7 DRIVING DOWN THE DRIVEWAY, AND THIS WOULD HAVE BEEN
8 ABOUT TEN OR FIFTEEN MINUTES AFTER YOU HAD GOTTEN
9 THERE, YOU CAME UPON WHAT YOU DESCRIBED ONE TIME AS
10 A BLOCKADE.

11 A A BLOCKADE CONSISTING OF A TRASH CAN AND
12 A BUNCH OF LIMBS.

13 Q SO THE TRASH CAN WAS RIGHT IN THE MIDDLE
14 OF THE ROAD?

15 A IT WAS IN THE MIDDLE OF THAT LEFT, YOU
16 KNOW HOW DENTS IN THE DIRT DRIVEWAY?

17 Q RIGHT.

18 A ON THE LEFT HAND SIDE, AS WE WERE GOING
19 OUT OF THE DRIVEWAY ON THE LEFT HAND SIDE.

20 Q OKAY. AND THERE WERE--YOU COULD NOT
21 DRIVE AROUND IT?

22 A NO, WE COULDN'T.

23 Q AND THERE WERE LARGE BRANCHES AND LIMBS
24 AND THINGS OF THAT NATURE PLACED ON THE ROAD ALSO,
25 TO PREVENT YOU FROM DRIVING OUT?

- 1 A IT WAS ALL IN ONE POSITION WITH LIMBS
2 LAYING ACROSS THE TRASH CAN.
- 3 Q OKAY. WELL, YOU DESCRIBED IT ONCE AS
4 THERE WAS A BLOCKADE CONSISTING OF A LARGE TRASH
5 CAN AND LARGE LIMBS LAID OUT ACROSS THE DRIVEWAY.
- 6 A WELL, LARGE, IT WASN'T ALL THE WAY
7 ACROSS IT. BUT THEY WERE AS LARGE AS THE TRASH
8 CAN.
- 9 Q BUT DID YOU DESCRIBE IT AT ONE TIME AS
10 BEING A BLOCKADE WITH LARGE LIMBS AND A TRASH CAN?
- 11 A YES, I DID. UH-HUH.
- 12 Q WHICH LOOKED LIKE AND APPEARED AS IF
13 SOMEONE HAD SIT THAT ALL THERE, IS THAT CORRECT?
- 14 A LOOKED LIKE TO ME.
- 15 Q YEAH. ALL RIGHT. NOW, OF COURSE,
16 STEPHEN WAS UP AT THE HOUSE THE WHOLE TIME,
17 CORRECT?
- 18 A YES.
- 19 Q IN YOUR EYESIGHT THE ENTIRE TIME?
- 20 A YES.
- 21 Q ALL RIGHT. NOW, VICKIE GOT OUT AND
22 MOVED THE LIMBS?
- 23 A YES.
- 24 Q WAS SHE THE ONLY ONE THAT GOT OUT AND
25 MOVED THE LIMBS?

- 1 A YES.
- 2 Q AND THE TRASH CAN?
- 3 A YES.
- 4 Q BUT IT WAS CLEAR WHEN YOU GOT THERE,
5 THAT WAS NOT OUT THERE AT ALL?
- 6 A TRUE.
- 7 Q BECAUSE YOU DIDN'T SEE THE LIMBS LAID
8 ACROSS THE DRIVEWAY?
- 9 A NO.
- 10 Q YOU KNOW WHAT THE DRIVEWAY LOOKS LIKE,
11 DON'T YOU? DO YOU REMEMBER THE DRIVEWAY?
- 12 A YES, I DO. IT'S NARROW. IT HAS A LOT
13 OF SHRUBS AND WOODS ON EACH SIDE OF IT.
- 14 Q NOW, OF COURSE, YOU DON'T REMEMBER THE
15 REARVIEW MIRROR OFF, DO YOU?
- 16 A NO, I DON'T.
- 17 Q AND YOU DON'T REMEMBER THE DENTS IN THE
18 SIDES OF THE DOORS, THE INDENTATIONS ON EACH SIDE
19 OF THE DOORS?
- 20 A THAT CAR HAD A LOT OF DENTS ON IT.
- 21 Q I'M TALKING ABOUT ON THE INTERIOR?
- 22 A ON THE INTERIOR?
- 23 Q IT LOOKED CLEAN ON THE INTERIOR, DID IT
24 NOT? YOU DON'T REMEMBER--WHAT I MEAN, I DON'T KNOW
25 ABOUT CLEAN BUT I'M TALKING ABOUT YOU DON'T

1 REMEMBER ANY INDENTATIONS, ANY DAMAGE ON THE
2 INTERIOR OF THE CAR, DO YOU?

3 A THE CAR WAS OLD. IT WASN'T REAL CLEAN.

4 Q MY QUESTION THOUGH IS DO YOU REMEMBER
5 ANY INDENTATIONS OR DAMAGE ON THE INTERIOR OF THE
6 VEHICLE?

7 A INDENTATIONS WHERE?

8 Q ON THE INTERIOR OF THE VEHICLE, ON THE
9 DOORS?

10 A NO.

11 Q I THINK--YOU HAVE THOSE PICTURES? LET
12 ME SHOW YOU, FOR EXAMPLE, THIS PHOTOGRAPH HERE.
13 YOU DON'T REMEMBER ANYTHING LIKE THAT ON THE INSIDE
14 OF THE VEHICLE, DO YOU?

15 A I'M NOT VERY OBSERVANT.

16 Q YOU'RE NOT OBSERVANT, BUT YOU REMEMBER
17 THE HEADREST?

18 A AS FAR AS THAT.

19 MR. SWERLING: ANY OBJECTION TO THIS?

20 MR. JONES: NO OBJECTION, YOUR HONOR.

21 THE COURT: WITHOUT OBJECTION.

22 MR. SWERLING: WE'D LIKE TO OFFER THIS,
23 YOUR HONOR. I'D LIKE TO PUBLISH IT TO THE JURY
24 ALSO.

25 A IT WAS DARK INSIDE, TOO.

1 COURT REPORTER: DEFENDANT'S SEVENTEEN.

2 (SO MARKED AND ENTERED WITHOUT

3 OBJECTION.)

4 Q NOW, DO YOU RECOGNIZE THESE PHOTOGRAPHS
5 AS THE DRIVEWAY THAT YOU DROVE DOWN THAT NIGHT?

6 A THIS IS GOING IN?

7 Q YEAH, ONE GOING UP, ONE COMING DOWN.

8 A HUH-UN, IT SEEM LIKE TO ME IT WAS
9 THICKER.

10 Q I'M TALKING ABOUT THE DRIVEWAY. DO YOU
11 RECOGNIZE THE DRIVEWAY?

12 A YEAH, BUT SEE, WE COULDN'T HAVE COME
13 AROUND, I MEAN, WE COULD HAVE COME AROUND LIKE THIS
14 BUT...

15 Q COULD YOU SPEAK A LITTLE BIT LOUDER. I
16 THINK THE COURT REPORTER HAS GOT TO GET YOU, OKAY?
17 I'M NOT ASKING IF IT LOOKED LIKE IT DID THAT NIGHT,
18 BUT DO YOU REMEMBER THE DRIVEWAY?

19 A YES.

20 MR. SWERLING: YOUR HONOR, I'D LIKE TO
21 OFFER THESE INTO EVIDENCE.

22 THE COURT: ANY OBJECTION?

23 MR. JONES: NONE, YOUR HONOR.

24 THE COURT: WITHOUT OBJECTION.

25 MR. SWERLING: AND MAY I PUBLISH THESE

1 TO THE JURY.

2 COURT REPORTER: EIGHTEEN AND NINETEEN.

3 (SO MARKED AND ENTERED, WITHOUT
4 OBJECTION, DEFENDANT'S EXHIBITS NUMBER 18 AND 19.)

5 Q SO, AS I UNDERSTAND, YOU SAW NO
6 OBSTRUCTION, BUT COMING OUT, THE DRIVEWAY WAS
7 COMPLETELY OBSTRUCTED?

8 A HALF OF THE DRIVEWAY.

9 Q WELL, IF HALF OF IT WAS OBSTRUCTED, WHY
10 DIDN'T YOU GO DOWN THE OTHER HALF?

11 A THERE WASN'T ROOM; THERE WERE SHRUBS.
12 IT WAS THICK.

13 Q BUT, NOW THE WORDS YOU USED AT ONE POINT
14 ON JUNE 16TH WAS A BLOCKADE.

15 A SIR...

16 Q WERE THOSE YOUR WORDS?

17 A SIR, IT LOOKED LIKE A BLOCKADE TO ME.

18 Q YES, MA'AM. WERE THOSE...

19 A YOU KNOW THAT'S JUST THE WORDS.

20 Q YES, MA'AM.

21 A WHAT DOES A BLOCKADE MEAN?

22 Q I DON'T KNOW. WERE THOSE YOUR WORDS, A
23 BLOCKADE?

24 A SIR, SOMETHING THAT YOU COULDN'T GET BY,
25 RIGHT?

1 Q RIGHT. OKAY. A BLOCKADE WITH LARGE
2 LIMBS AND A TRASH CAN, THOSE WERE YOUR WORDS, WERE
3 THEY NOT?

4 A THOSE WERE MY WORDS, YES.

5 Q OKAY. FINE. NOW, SOMETIME AFTER THAT,
6 YOU WERE INTERVIEWED BY SOMEONE FROM, I THINK IT
7 WAS SPIKE MCGRAW, DO YOU REMEMBER? THIS GENTLEMEN
8 HERE?

9 A BY TELEPHONE?

10 Q MIGHT HAVE BEEN A TELEPHONE INTERVIEW.
11 AND THEY WERE GOING BACK AND CHECKING SOME THINGS,
12 AND HE WANTED TO ASK YOU SOME QUESTIONS CONCERNING
13 THE TIME.

14 A RIGHT. THAT WAS IN '96, FEBRUARY.

15 Q YES, MA'AM, IN FEBRUARY, FEBRUARY 5TH OF
16 1996. SOME QUESTION HAD COME UP CONCERNING THE
17 TIME THAT YOU AND VICKIE MIGHT HAVE ARRIVED ON THE
18 PROPERTY ON JUNE 8TH, 1994. DO YOU RECALL THAT?

19 A YES, I DO.

20 Q ALL RIGHT. I MEAN, WHATEVER THE
21 PROBLEM, THEY DIDN'T TELL YOU WHAT THE PROBLEM WAS
22 BUT THEY SAID THEY WANTED TO ASK YOU AGAIN ABOUT
23 THE TIMES.

24 A UH-HUH.

25 Q AND ON FEBRUARY 6TH, 19...FEBRUARY 5TH,

1 1996, YOU TOLD AGENT SPIKE MCGRAW THAT YOU HAD BEEN
2 WRONG WHEN YOU SAID IN...

3 A NO, I DIDN'T SAY I'D BEEN WRONG.

4 Q WELL, YOU TOLD HIM IT WAS A DIFFERENT
5 TIME, DIDN'T YOU?

6 A THAT'S TRUE.

7 Q SO YOU TOLD HIM, IF YOU TOLD HIM A
8 DIFFERENT TIME ON FEBRUARY 5TH, 1996, THAN YOU HAD
9 SAID ON JUNE 16TH, 1996...

10 A I ASKED HIM...

11 Q ...THEN ONE OF THEM WAS WRONG.

12 A TO GO BACK TO MY STATEMENT AND FIND OUT
13 THE TIME, AND HE SAID, "WELL, YOU KNOW, JUST GIVE
14 ME THE TIME." AND AT THIS TIME, I KNEW IT WAS
15 DARK. IT WAS DARK OUTSIDE, SO I SAID WHATEVER TIME
16 IS IN MY STATEMENT.

17 Q OKAY. WELL, YOU AGREE THAT THEY CAME
18 BACK TO YOU SPECIFICALLY ONE OF THE THINGS THEY
19 WANTED TO ASK YOU, AMONG OTHERS MAYBE, WAS THE
20 TIME.

21 A NO.

22 Q THEY ASKED YOU ABOUT...

23 A THEY JUST ASKED THE SAME THINGS THEY DID
24 BEFORE.

25 Q MS. MALASKY, I DON'T THINK WE'RE...

- 1 A FOR ME TO GIVE A STATEMENT.
- 2 Q THEY ASKED YOU ABOUT THE TIME, TOO,
- 3 DIDN'T THEY?
- 4 A YES, THEY DID. YES, SIR.
- 5 Q AND THE TIME YOU GAVE ON FEBRUARY 5TH,
- 6 1996, IS NOT THE TIME THAT YOU GAVE ON JUNE 16TH,
- 7 1994, IS THAT CORRECT?
- 8 A THAT'S TRUE.
- 9 Q OKAY.
- 10 A THE TIME IN '96 WAS WRONG.
- 11 Q OKAY, THE TIME THAT YOU GAVE IN FEBRUARY
- 12 OF 1996 AFTER THEY CAME BACK TO DISCUSS THAT TIME
- 13 WITH YOU WAS SIX P.M., ISN'T THAT TRUE?
- 14 A I'VE ALREADY SAID THAT THREE TIMES.
- 15 Q NO, WELL WE HAVEN'T GOTTEN TO THE TIME
- 16 YET THAT YOU SAID. ON FEBRUARY 5TH, 1996 DID YOU
- 17 NOT TELL SPIKE MCGRAW, AFTER THEY CAME TO YOU AND
- 18 QUESTIONED THE TIME, THAT IT WAS AT SIX P.M. WHEN
- 19 YOU GOT TO STEPHEN BECKHAM'S PROPERTY?
- 20 A I DID TELL THEM OVER THE PHONE, YES.
- 21 Q AND YOUR TESTIMONY NOW TODAY AGAIN IS
- 22 YOUR GOING BACK TO YOUR ORIGINAL STATEMENT OF JUNE
- 23 OF 1994, AFTER HAVING SAT IN THE COURTROOM...
- 24 A NO, NOT AFTER HAVING SAT IN THE
- 25 COURTROOM. I READ MY STATEMENT, MY FIRST

1 STATEMENT, AND THEN MY FAMILY REMINDED ME THAT WE
2 WERE SITTING IN THE DEN--I WAS SORRY THAT I FORGOT,
3 BUT NOT AFTER SITTING IN THE COURTROOM.

4 Q WELL, YOU HAVE BEEN IN THE COURTROOM?

5 A BUT THAT'S NOT THE CAUSE, THAT'S NOT THE
6 REASON I REMEMBERED IT.

7 Q I'M NOT TRYING TO ARGUE WITH YOU, MS.
8 MALASKY. I'M JUST ASKING YOU, YOU HAVE BEEN IN THE
9 COURTROOM?

10 A YES, I HAVE BEEN IN THE COURTROOM.

11 Q AND IN BETWEEN THE TIME OF JUNE OF 1994
12 WHEN YOU SAID IT WAS 9:30, AND TODAY WHEN YOU SAY
13 IT WAS 9:30, YOU TOLD THE POLICE WHEN THEY
14 QUESTIONED YOU ABOUT THE TIME, IT WAS SIX P.M.
15 ISN'T THAT TRUE?

16 A (NO AUDIBLE ANSWER.)

17 Q ISN'T THAT TRUE?

18 A IT WAS ACCIDENTALLY.

19 Q SO I'M CORRECT ABOUT THAT, MALASKY?

20 A BETWEEN '94 AND '96, TWO YEARS, AND I
21 HAD BEEN GRIEVING, AND THEY CALLED ME IN FEBRUARY,
22 IT IS DARK AT SIX O'CLOCK...

23 Q IT'S DARK AT SIX O'CLOCK.

24 A IN JUNE, IT IS NOT DARK AT SIX O'CLOCK.

25 Q THAT'S CLEAR THAT AT SIX O'CLOCK IN JUNE

1 OF 1994 WOULD NOT HAVE BEEN DARK.

2 A CORRECT, IT'S NOT DARK. IN FEBRUARY, IN
3 CHARLESTON, IT WAS DARK.

4 Q BUT THEY WERE ASKING YOU ABOUT JUNE OF
5 1994.

6 A WELL, I'M SORRY I MADE AN ERROR. IS
7 THAT THE ONLY ONE YOU FOUND IN MY STATEMENT?

8 Q MA'AM, ALL I'M ASK YOU TO DO IS ANSWER
9 THE QUESTION.

10 A I'M NOT GOING TO ANSWER IT AGAIN.

11 Q ON FEBRUARY 5TH...

12 THE COURT: WAIT JUST A MINUTE, MS.

13 MALASKY, NOW. AND MR. SWERLING, ASK THE QUESTION
14 THAT YOU WANT AND LET'S GET ON WITH IT.

15 Q ON FEBRUARY 5TH, 1996, DIDN'T YOU TELL
16 THE POLICE WHEN THEY QUESTIONED YOU ABOUT THE TIME
17 THAT IT WAS SIX P.M.?

18 A YES, I DID.

19 Q THANK YOU.

20 A YOU'RE WELCOME.

21 THE COURT: REDIRECT?

22 REDIRECT EXAMINATION:

23 BY MR. JONES:

24 Q MS. MALASKY, IN ASSESSING TIMES FOR JUNE
25 4TH, OR JUNE 8TH, 1994, DID YOU--WHAT DID YOU USE

1 TO ESTIMATE WHAT TIME IT WAS? WHAT CRITERIA DID
2 YOU USE WHEN YOU GAVE YOUR STATEMENT ON JUNE 16TH,
3 1994 ABOUT WHAT TIME IT WAS WHEN YOU WERE WITH
4 VICKIE ON JUNE 8TH, ON THE BECKHAM PROPERTY,
5 DROPPING THOSE CHILDREN OFF IN 1994? WHAT CRITERIA
6 DID YOU USE?

7 A I ANALYZED WHERE SHE HAD BEEN, I KNEW
8 WHAT TIME SHE GOT OUT OF WHERE SHE WAS.

9 Q ALL RIGHT.

10 A AND THE FACT THAT WE WERE ALL SITTING IN
11 THE DEN WONDERING IF VICKIE WAS REALLY GOING TO
12 PICK ME UP TO GO WITH HER THAT NIGHT, BECAUSE WE
13 THOUGHT IT WAS A LITTLE LATE.

14 Q ANYTHING ELSE?

15 THE COURT: YOU NEED TO--THAT ONE OF
16 THOSE QUESTIONS.

17 Q DID YOU USE THE LIGHTNESS OR DARKNESS,
18 DID YOU USE YOUR RECOLLECTION..

19 MR. SWERLING: OBJECTION, YOUR HONOR.
20 THAT IS LEADING.

21 Q DID YOU USE LIGHTNESS OR DARKNESS, DID
22 YOU USE WHETHER OR NOT IT WAS DAYLIGHT OR DARK IN
23 ASSESSING WHAT TIME IT WAS YOU WENT OUT THERE?

24 A I KNEW IT WAS DARK WHEN IT WAS LATE WHEN
25 SHE GOT THERE.

1 Q ALL RIGHT NOW, AS FAR AS YOU'RE TELLING
2 THIS JURY, TODAY, JUNE 16TH, 1994, FEBRUARY 1996,
3 DID YOU GO WITH VICKIE TO THE BECKHAM PROPERTY ON
4 JUNE 8TH, 1994?

5 A YES, I DID.

6 Q DID YOU HEAR DEFENDANT BECKHAM ATTEMPT
7 TO GET HER TO COME BACK THERE...

8 MR. SWERLING: OBJECTION, YOUR HONOR.

9 THE COURT: SUSTAINED.

10 Q WHAT DID YOU HEAR DEFENDANT...

11 MR. SWERLING: I NEVER EVEN MENTIONED...

12 THE COURT: THAT'S RIGHT, AND I SUSTAIN
13 THAT OBJECTION. IMPROPER REDIRECT.

14 MR. JONES: NO FURTHER QUESTIONS, YOUR
15 HONOR.

16 THE COURT: THANK YOU, MA'AM. YOU MAY
17 STEP DOWN. CALL YOUR NEXT WITNESS.

18 MR. JONES: CALL DONALD EVANS TO THE
19 STAND, PLEASE. DONALD EVANS.

20 DONALD EVANS, BEING DULY

21 SWORN, TESTIFIED AS FOLLOWS:

22 DIRECT EXAMINATION:

23 BY MR. JONES:

24 Q YOUR NAME, PLEASE?

25 A DONNIE EVANS.

- 1 Q DONNIE, WHERE DO YOU WORK?
2 A AMERICAN FIBER FINISHING.
3 Q WHAT DO YOU DO OUT THERE?
4 A LOOM FIXER.
5 Q SIR?
6 A LOOM FIXER.
7 Q AND HOW LONG HAVE YOU BEEN WORKING AT
8 AMERICAN FIBER FINISHING AS A LOOM FIXER?
9 A OH, ABOUT TWENTY YEARS.
10 Q IS YOUR HEARING ALL RIGHT?
11 A AS LONG AS I'M FACING YOU, I CAN HEAR
12 OKAY, BUT IF YOU TURN YOUR BACK, I CAN'T HEAR YOU
13 THERE.
14 Q DONNIE, WHERE DO YOU LIVE?
15 A NEWBERRY. NEAR PERRY.
16 Q AND IS ONE OF YOUR HOBBIES HUNTING?
17 A YES, SIR.
18 Q WHAT KIND OF HUNTING DO YOU LIKE TO DO?
19 A DEER HUNTING.
20 Q DO YOU HAVE A CLUB THAT YOU HUNT WITH?
21 A YES, SIR.
22 Q WHAT'S THE NAME OF YOUR CLUB?
23 A B & R HUNTING CLUB.
24 Q HOW LONG HAS THAT CLUB BEEN FORMED?
25 A SINCE THE '70'S.

- 1 Q DO YOU HAVE A PIECE OF PROPERTY THAT YOU
2 HAVE ACCESS TO THAT YOUR CLUB HUNTS?
3 A WE HAVE SEVERAL.
4 Q DO YOU HAVE A PIECE OF PROPERTY OFF
5 WEDERMAN ROAD HERE IN NEWBERRY COUNTY THAT YOUR
6 CLUB HUNTS?
7 A YES, SIR.
8 Q HOW FAR OFF WEDERMAN ROAD IS THE GATE OR
9 ENTRANCE TO THE PROPERTY THAT YOU HUNT?
10 A ABOUT A CAR LENGTH IF YOU PARK CARS
11 THERE WHERE YOU GO IN.
12 Q I HAND YOU STATE'S EXHIBIT NUMBER FIFTY-
13 NINE, AND ASK YOU IF YOU RECOGNIZE THAT?
14 A YES, SIR. THAT'S OUR CABLE ACROSS OUR
15 ROAD.
16 Q DO YOU RECOGNIZE IT AS BEING YOUR CAR
17 PULLED THERE ACROSS THE ROAD?
18 A YES, SIR.
19 Q AND THAT'S PROPERTY THAT YOUR CLUB HAS
20 THE RIGHT TO HUNT?
21 A YES, SIR.
22 Q NOW, WHAT ARE THE MAJOR HUNTING SEASONS
23 FOR YOUR CLUB ON THIS PROPERTY? WHAT ARE THE TWO
24 TIMES A YEAR THAT YOU HUNT?
25 A MAINLY DEER HUNTING. THAT MOSTLY WHAT

- 1 WE DO. FROM OCTOBER TO THE FIRST OF THE YEAR.
- 2 Q SO DEER SEASON IS FROM OCTOBER TO THE
- 3 FIRST OF THE YEAR?
- 4 A YES, SIR.
- 5 Q ANY OTHER KIND OF HUNTING THAT YOU DO
- 6 OUT THERE?
- 7 A TURKEY HUNTING COMES IN, IN THE SPRING
- 8 OF THE YEAR.
- 9 Q TURKEY HUNTING IS ACTUALLY FROM THE
- 10 FIRST OF APRIL TO THE END OF APRIL
- 11 A YES, SIR.
- 12 Q ONE MONTH, IS THAT RIGHT?
- 13 A YES, SIR.
- 14 Q SO YOU HUNT DURING APRIL?
- 15 A YES, SIR. A FEW PEOPLE GO OUT THERE.
- 16 Q DURING APRIL?
- 17 A YES, SIR.
- 18 Q WHAT ABOUT BETWEEN THE END OF APRIL WHEN
- 19 TURKEY SEASON ENDS AND THE FIRST OF OCTOBER WHEN
- 20 DEER SEASON BEGINS?
- 21 A NOT TOO MANY PEOPLE OUT THERE, NO.
- 22 Q SO THERE'S NOT A LOT OF USE GOING IN AND
- 23 OUT OF YOUR PROPERTY THROUGH THIS GATE, IS THAT
- 24 RIGHT?
- 25 A NO, SIR.

1 Q HOW DO YOU GET IN AND OUT OF YOUR
2 PROPERTY WHEN YOU WANT TO GO OUT THERE, GO ON THE
3 PROPERTY TO HUNT? HOW DO YOU GET IN THAT?

4 A UNLOCK THE CABLE AND DRIVE IN OR WALK
5 IN.

6 Q HOW MANY LOCKS ARE ON THE CABLE?

7 A TWO.

8 Q WHERE IS YOUR LOCK LOCATED, IF YOU'RE
9 FACING THE CABLE?

10 A STANDING IN THE GROUND ROAD, FACING THE
11 CABLE, ON THE RIGHT HAND SIDE; STANDING ON WEDERMAN
12 ROAD, OUR LOCK IS ON THE RIGHT HAND SIDE AND THE
13 TIMBER COMPANY'S IS ON THE LEFT HAND SIDE.

14 Q NOW, ARE YOU SAYING THE TIMBER COMPANY
15 HAS A LOCK ON THE CHAIN, TOO?

16 A YES, SIR.

17 Q SO YOU'RE GOT A LOCK ON ONE SIDE AND THE
18 TIMBER COMPANY HAS GOT ONE ON THE OTHER?

19 A YES, SIR.

20 Q DO YOU RECALL GOING OUT TO THE PROPERTY
21 IN JULY OR AUGUST OF 1994?

22 A YES, SIR.

23 Q WHAT WERE YOU DOING OUT THERE?

24 A I WENT OUT THERE THE FIRST OF AUGUST TO
25 PUT ANOTHER LOCK ON WHERE ONE HAD BEEN CUT.

1 Q SO A LOCK HAD BEEN CUT ON THE CHAIN?
2 A YES, SIR.
3 Q AND YOU WERE AWARE OF THAT THE FIRST OF
4 AUGUST, 1994?
5 A I WAS AWARE OF IT IN JULY.
6 Q WHO MADE YOU AWARE OF IT?
7 A RAYMOND RICHARDSON.
8 Q IS HE A MEMBER OF YOUR CLUB?
9 A HE'S THE PRESIDENT OF THE CLUB.
10 Q PRESIDENT OF THE CLUB?
11 A YES, SIR.
12 Q DID HE...
13 MR. HARPOOTLIAN: YOUR HONOR, I WOULD
14 OBJECT TO ANY HEARSAY.
15 THE COURT: OVERRULE RIGHT NOW. MOVE
16 ALONG.
17 Q WHERE DID YOU GET THE LOCK TO PUT BACK
18 ON IT?
19 A HE GAVE IT TO ME.
20 Q WHO?
21 A RAYMOND.
22 Q WHERE DID HE GET IT?
23 A I THINK THE PAPER COMPANY GAVE US A
24 HANDFUL OF THEM, BECAUSE WE'VE GOT DIFFERENT CABLES
25 ACROSS THE LANDS.

- 1 Q SO IT WAS THE PAPER COMPANY'S LOCK...
- 2 A I MEAN, THE TIMBER COMPANY.
- 3 Q THE TIMBER COMPANY'S LOCK THAT HAD BEEN
- 4 CUT.
- 5 A YES, SIR.
- 6 Q SO AS YOU'RE FACING THE END OF YOUR
- 7 PROPERTY, STATE'S FIFTY-NINE...
- 8 A UH-HUH.
- 9 Q COME DOWN HERE AND POINT TO ME WHICH
- 10 LOCK YOU WENT OUT THERE AND REPLACED.
- 11 A STANDING ON THE GRAVEL ROAD, IT WOULD BE
- 12 THE LOCK ON THE LEFT.
- 13 Q POINT FOR THE MEMBERS OF THE JURY. PUT
- 14 YOUR FINGER WHERE IT WOULD BE.
- 15 A ON THE LEFT.
- 16 Q ON THIS SIDE?
- 17 A YES, SIR.
- 18 Q SO AS YOU'RE WALKING INTO THE PROPERTY,
- 19 IF YOU'RE GOING BACK DOWN THAT ROAD THERE, IT WOULD
- 20 BE THE LOCK ON YOUR LEFT, IS THAT RIGHT?
- 21 A YES, SIR, IF YOU'RE WALKING DOWN THE
- 22 ROAD.
- 23 Q AND YOU REPLACED IT?
- 24 A YES, SIR.
- 25 Q AND IF YOU WOULD, WHAT DID YOU DO WITH

- 1 THE LOCK THAT WAS CUT?
- 2 A SIR, I DON'T KNOW EXACTLY WHAT I DONE
- 3 WITH IT. I HAD MY DAUGHTER, STEP-DAUGHTER WITH ME
- 4 AND SHE HAD THAT BOOGY-BOOGY MUSIC GOING, AND I WAS
- 5 JUST WANTING TO REPLACE IT AND GET OUT OF THERE.
- 6 Q OKAY. WELL, WHAT DO YOU THINK YOU DID
- 7 WITH IT?
- 8 A I THINK I THREW IT DOWN TO THE WOODS.
- 9 Q YOU THINK YOU THREW IT DOWN TO THE
- 10 WOODS?
- 11 A YES, SIR.
- 12 Q NOW, WOULD YOU HAVE WANTED TO GET IT
- 13 AWAY FROM THIS ROAD?
- 14 A YES, SIR. I WOULDN'T HAVE LEFT IT
- 15 THERE.
- 16 Q WHY NOT?
- 17 A BECAUSE I BUSH-HOG THERE.
- 18 Q SO YOU WOULDN'T HAVE WANTED TO RUN OVER
- 19 THE LOCK WITH THE BUSH-HOG?
- 20 A NO, SIR.
- 21 Q OKAY. SO YOU WOULD HAVE THROWN IT SOME
- 22 DISTANCE, IF YOU THREW IT?
- 23 A YES, SIR. I THINK I THREW IT DOWN
- 24 THROUGH HERE.
- 25 Q NOW, AGAIN, WHEN WAS THAT YOU WENT DOWN

- 1 AND REPLACED THIS LOCK AND DID ALL OF THAT?
- 2 A AUGUST, FIRST PART OF AUGUST.
- 3 Q OF WHAT YEAR?
- 4 A 1994.
- 5 Q YOU KNOW THAT?
- 6 A YES, SIR.
- 7 Q DID YOU OR ANYONE FROM YOUR CLUB NOTIFY
- 8 LAW ENFORCEMENT AT THAT TIME THAT YOU HAD HAD ONE
- 9 OF YOUR LOCKS CUT?
- 10 A RAYMOND MENTIONED IT TO BO HAMN, BUT
- 11 WASN'T NOTHING MADE OF IT. YOU KNOW, HE JUST SAW
- 12 HIM AND TOLD HIM ABOUT IT.
- 13 Q SO YOU DIDN'T GO FILE A REPORT?
- 14 A NO, SIR.
- 15 Q YOU DIDN'T INITIATE AN INVESTIGATION?
- 16 A NO, SIR.
- 17 Q AND YOU DIDN'T BRING IT, THAT YOU KNOW
- 18 OF, TO THE ATTENTION OF THE SHERIFF OR ANY OF HIS
- 19 PEOPLE?
- 20 A NO, SIR.
- 21 Q AND YOU WEREN'T QUESTIONED ABOUT IT,
- 22 THIS LOCK AT THAT TIME?
- 23 A NO, SIR.
- 24 Q WHEN WAS THE FIRST TIME YOU WERE
- 25 QUESTIONED ABOUT YOUR REPLACING THIS LOCK?

- 1 A ABOUT A YEAR LATER.
- 2 Q A YEAR LATER, IN 1995?
- 3 A YES, SIR.
- 4 Q IS THAT RIGHT?
- 5 A YES, SIR.
- 6 Q DID LAW ENFORCEMENT COME AND TALK TO YOU
- 7 ABOUT IT?
- 8 A YES, SIR.
- 9 Q IN JULY OR AUGUST OF 1995?
- 10 A YES, SIR.
- 11 Q OKAY, RETURN TO THE STAND, PLEASE SIR.
- 12 YOU REMEMBER WHEN YOU WENT OUT TO
- 13 REPLACE THE LOCK, WHAT CONDITION WAS THE CABLE IN
- 14 WHEN YOU WENT OUT THERE, DONNIE? WAS IT...
- 15 A IT WAS UP.
- 16 Q IT WAS UP?
- 17 A YES, SIR.
- 18 Q HOW WAS IT UP?
- 19 A MY LOCK WAS HOLDING AND THAT LOCK WAS A
- 20 DUMMY LOCK. IT WAS, YOU KNOW, LOOKED LIKE IT WAS
- 21 LOCKED.
- 22 Q WELL, WHEN YOU SAY DUMMY LOCK, SO THE
- 23 LOCK THAT HAD BEEN CUT...
- 24 A YES, SIR.
- 25 Q ...WAS IN GOOD ENOUGH SHAPE TO ACTUALLY

- 1 HOLD THE CHAIN UP?
- 2 A IT HELD IT UP.
- 3 Q BUT IT WOULDN'T SECURE AND ACTUALLY LOCK
- 4 THAT SIDE?
- 5 A NO, SIR.
- 6 Q SO THERE WAS A PORTION OF THE LOCK THAT
- 7 WAS CUT OUT?
- 8 A YES, SIR.
- 9 Q A PORTION OF THAT U PART OF THE LOCK, IS
- 10 THAT RIGHT?
- 11 A IT WAS THE TOP PART OF IT WHERE YOU LOCK
- 12 IT AT WAS CUT OUT, YES, SIR.
- 13 Q CUT OUT. LET ME ASK YOU, HOW LONG HAD
- 14 Y'ALL BEEN HUNTING THAT LAND?
- 15 A SINCE THE '70'S.
- 16 Q HAD YOU EVER HAD THE LOCK CUT BEFORE
- 17 JULY OF 1994?
- 18 A NO, SIR.
- 19 Q ANSWER ANY QUESTIONS THAT...
- 20 THE COURT: CROSS EXAMINATION, MR.
- 21 HARPOOTLIAN?
- 22 MR. HARPOOTLIAN: MAY IT PLEASE THE
- 23 COURT, YOUR HONOR?
- 24 CROSS EXAMINATION:
- 25 BY MR. HARPOOTLIAN:

1 Q MR. EVANS, MY NAME IS DICK HARPOOTLIAN.
2 WE HAVEN'T MET BEFORE, HAVE WE?
3 A NO, SIR.
4 Q THIS IS THE ONLY LOCK YOU'VE EVER HAD
5 CUT?
6 A YES, SIR.
7 Q SO THAT'S WHY YOU REMEMBER IT?
8 A I REMEMBER IT TOO BECAUSE MY WIFE HAD
9 SURGERY WITH HER FOOT AND THAT'S WHY I REMEMBER
10 REPLACING IT WHEN I DID.
11 Q MY UNDERSTANDING OF YOUR TESTIMONY IS
12 THAT WHEN YOU FOUND IT, ON ONE END OF THIS CABLE,
13 ON ONE END OF THIS CABLE, WHEN YOU FOUND IT,-- I
14 MEAN, THIS CABLE LOOKED JUST LIKE THIS WHEN YOU
15 FOUND IT, IS THAT CORRECT?
16 A IT WAS UP.
17 Q IT WAS UP. AND ON ONE END OF THE CABLE
18 IS A LOCK--I MEAN, IT LOCKS ON BOTH ENDS, RIGHT?
19 A YES, SIR.
20 Q SAME KEY UNDO BOTH OF THEM?
21 A NO, SIR.
22 Q SO YOU HAVE TO HAVE A...
23 A WE DON'T HAVE A KEY TO THE LOCK THAT WAS
24 CUT.
25 Q OKAY, YOU'VE GOT A KEY TO THE OTHER

- 1 LOCK?
- 2 A YES, SIR.
- 3 Q AND SO THE TIMBER COMPANY...
- 4 A THAT'S THEIR WAY TO GET IN.
- 5 Q AND THE OTHER LOCK IS?
- 6 A OUR WAY TO GET IN.
- 7 Q NOW, WHEN YOU CAME UP, THE CABLE WAS IN
- 8 PLACE, CORRECT?
- 9 A YES, SIR.
- 10 Q AND WAS BEING HELD BECAUSE ONE OF THE
- 11 LOCKS HAD BEEN CUT, A PIECE OF THAT--THIS IS LIKE A
- 12 LOCK THAT'S GOT A LITTLE PIECE THAT COMES IN THE
- 13 TOP AND STICKS IN, IS THAT CORRECT?
- 14 A IT'S JUST A REGULAR LOCK.
- 15 Q A LITTLE PIECE HAD BEEN CUT OUT BUT
- 16 THERE WAS ENOUGH OF A HOOK FOR IT TO HOLD UP, IS
- 17 THAT RIGHT?
- 18 A YES, SIR.
- 19 Q NOW, IT WAS HELD TOGETHER WITH BREAD --
- 20 DO YOU KNOW WHAT A BREAD TIE IS? THOSE THINGS YOU
- 21 CLOSE A BAG OF BREAD WITH?
- 22 A I DIDN'T SEE NO BREAD TIES.
- 23 Q OKAY. I MEAN, WERE THERE ANY BREAD--I
- 24 MEAN, I GUESS WHAT I'M TRYING TO ASK YOU AND MAYBE
- 25 I'M NOT DOING A VERY GOOD JOB OF IT, IS THE CABLE

- 1 WAS BEING HELD UP BY THE TWO LOCKS, ISN'T THAT
2 RIGHT?
- 3 A YES, SIR.
- 4 Q WASN'T ANY PROBLEM BEING HELD UP BY THE
5 TWO LOCKS?
- 6 A NO, SIR.
- 7 Q CABLE HADN'T FALLEN DOWN ON THE GROUND?
8 A WHEN YOU LOOSENED THE OTHER SIDE IT
9 WOULD.
- 10 Q BUT YOU HAD TO UNHOOK THE LOCK?
- 11 A YES, SIR.
- 12 Q IN OTHER WORDS, THERE WAS ENOUGH OF A
13 HOOK LEFT THAT YOU COULD PUT IT THROUGH THE END OF
14 THE CABLE AND THE LITTLE BOLT YOU'VE GOT THERE AND
15 IT WAS HOLDING THE CABLE UP?
- 16 A YES, SIR.
- 17 Q DIDN'T NEED ANY BREAD TIES TO HOLD IT
18 UP? WASN'T WIRED UP IN ANY WAY. THE LOCK WAS
19 HOLDING IT UP?
- 20 A YES, SIR.
- 21 Q DIDN'T SEE ANY BREAD TIES?
- 22 A NO, SIR.
- 23 Q OKAY, NOW THE -- AND WHEN WAS THIS?
24 THIS WAS IN JULY OF '94?
- 25 A WHEN I REPLACED THE LOCK...

- 1 Q RIGHT.
- 2 A ...WAS IN AUGUST.
- 3 Q OKAY, AND THAT WAS THE FIRST TIME YOU'D
- 4 SEEN IT?
- 5 A RIGHT.
- 6 Q AND THERE WERE NO BREAD TIES AROUND
- 7 EITHER END OF THAT POST OR NEAR THE LOCK OR ON THE
- 8 LOCK, OR ANY...YOU DON'T REMEMBER SEEING ANY BREAD
- 9 TIES, DO YOU?
- 10 A I DIDN'T LOOK TO SEE NONE, NO.
- 11 Q OKAY. YOU MUST HAVE GONE OVER TO THAT
- 12 POST--WAS IT DURING THE DAYTIME OR NIGHTTIME YOU
- 13 WENT?
- 14 A IT WAS IN THE AFTERNOON. WE HAD JUST
- 15 HAD A CLUB MEETING. I LEFT THE CLUB MEETING AND
- 16 WENT STRAIGHT OVER THERE AND PUT IT ON, AFTER I
- 17 GOT MY DAUGHTER TO PUT IT ON.
- 18 Q AND THE--LET ME ASK YOU A LITTLE BIT
- 19 ABOUT THIS AREA ON EITHER SIDE OF THIS. Y'ALL HUNT
- 20 DEER IN THERE?
- 21 A YES, SIR.
- 22 Q YOU DRIVE THEM OR USE STANDS?
- 23 A USE STANDS.
- 24 Q WELL, WHY DON'T YOU DRIVE THEM?
- 25 A YOU'RE NOT ALLOWED TO.

- 1 Q NOT ALLOWED TO. WELL, I LEARN SOMETHING
2 NEW EVERY DAY. YOU'RE NOT ALLOWED TO DRIVE DEER
3 ANYWHERE?
- 4 A NO, NOT THAT I KNOW OF. THEY STOPPED
5 THAT UP HERE.
- 6 Q OKAY. THAT MAY BE A LOW COUNTRY KIND OF
7 THING.
- 8 A YEAH, Y'ALL GET TO DO IT WITH DOGS DOWN
9 THERE.
- 10 Q WHAT NOW?
- 11 A THE LOW COUNTRY GETS TO DO IT WITH DOGS.
- 12 Q DOGS. BUT IN THE UP COUNTRY, YOU'VE GOT
13 TO SIT UP IN A TREE?
- 14 A YES, SIR.
- 15 Q AND THIS AREA AROUND HERE, YOU SAY YOU
16 BUSH-HOG, YOU BUSH-HOG AROUND...
- 17 A I BUSH-HOG AROUND THE AREA, IN FRONT OF
18 THE CABLE, DOWN THE ROAD.
- 19 Q NOW, YOU DON'T DO IT WITH DOGS. YOU'VE
20 NEVER CHASED DOGS THROUGH THOSE WOODS?
- 21 A HAVE I...?
- 22 Q CHASED A DOG THROUGH THOSE WOODS.
- 23 A THERE'S DOGS AT THE HOUSE.
- 24 Q YEAH, BUT YOU DON'T DRIVE DEER WITH
25 DOGS?

1 A NO, NO.

2 Q SO YOU DON'T CHASE THEM THROUGH THE

3 WOODS?

4 A NO, SIR.

5 Q YOU STAY IN ONE PLACE.

6 A YOU SIT IN ONE PLACE WHEN YOU HUNT DEER.

7 Q OKAY.

8 MR. HARPOOTLIAN: BEG THE COURT'S

9 INDULGENCE ONE MINUTE.

10 Q THANK YOU. NO FURTHER QUESTIONS.

11 THE COURT: ANYTHING ON REDIRECT?

12 MR. JONES: YES, SIR.

13 REDIRECT EXAMINATION:

14 BY MR. JONES:

15 Q DONNIE, IF I COULD, ALTHOUGH YOU DON'T

16 DRIVE DOGS THROUGH THE WOODS, HAVE YOU WALKED

17 THROUGH THOSE WOODS BEFORE?

18 A YES, SIR.

19 Q AND I WANT TO ASK YOU TO STEP DOWN HERE

20 FOR A MINUTE. STEP BACK, DONALD, JUST FOR A SECOND

21 THERE.

22 I WANT TO ASK YOU TO LOOK AT THIS

23 STATE'S EXHIBIT NUMBER SIXTY-EIGHT. I WANT TO ASK

24 YOU IF YOU CAN ORIENT YOURSELF THERE AND SEE IF YOU

25 CAN RECOGNIZE WHAT'S DEPICTED IN THAT PHOTOGRAPH,

1 IF YOU RECOGNIZE THE GEOGRAPHICAL AREA.

2 A OKAY, THIS IS 773, THIS IS THE ROAD AND
3 RIGHT IN HERE IS THE CABLE.

4 Q ALL RIGHT. HAVE YOU TRAVELLED THIS AREA
5 OF THAT LAND IN THERE? HAVE YOU WALKED THROUGH
6 THAT AREA UP THERE?

7 A YES, SIR.

8 Q ARE THERE ANY, I'M POINTING IN THIS AREA
9 RIGHT HERE. ARE THERE AREAS THROUGH THERE CLEAR
10 ENOUGH TO WALK THROUGH WITH RELATIVE EASE?

11 A YES, SIR.

12 Q IT IS?

13 A YES, SIR.

14 Q WELL, ISN'T IT PRETTY THICK PINES,
15 UNDERBRUSH OR NOT?

16 A THE PINES ARE GROWED UP BUT YOU CAN WALK
17 THROUGH THEM, YOU KNOW, OKAY. UP IN HERE IS REAL
18 GOOD.

19 Q WHERE? POINT WHERE YOU'RE TALKING
20 ABOUT.

21 A RIGHT AROUND THE CABLE ALL THE WAY WHERE
22 THE TWO ROADS FORK.

23 Q UH-HUH.

24 A YOU GO TO YOUR RIGHT THERE. I MEAN, YOU
25 CAN WALK THROUGH THERE ALL THE TIME.

1 Q RUN YOUR FINGER WHERE YOU'RE TALKING
2 ABOUT.

3 A OKAY. YOU GOT TWO ROADS, ONE GOING THIS
4 WAY, ONE GOING THIS WAY.

5 Q UH-HUH.

6 A AND FROM HERE BACK TO THE CABLE, YOU GO
7 TO THE RIGHT, I MEAN, YOU CAN WALK THROUGH THERE.
8 NOW, IF YOU GO ON DOWN THROUGH HERE, IT GETS PRETTY
9 THICK DOWN THERE.

10 Q ALL RIGHT. BUT YOU'VE TRAVELLED IN THAT
11 AREA?

12 A YES, SIR.

13 Q NO FURTHER QUESTIONS.

14 THE COURT: RECROSS?

15 RECROSS EXAMINATION:

16 BY MR. HARPOOTLIAN:

17 Q LET ME ASK YOU SOMETHING ABOUT THIS REAL
18 QUICK.

19 THE COURT: ON THAT ISSUE ONLY.

20 MR. HARPOOTLIAN: YES, SIR.

21 Q THIS AREA, I THINK YOU JUST TOLD US,
22 COMING BACK FROM THE CABLE AND CUTTING OVER TO 773,
23 COMING THIS WAY, IT'S NOT TOO BAD, BUT DIDN'T YOU
24 JUST SAY THIS AREA UP IN HERE IS PRETTY THICK?

25 A OKAY. ALL RIGHT, SAY IF YOU WANTED TO

- 1 GO BACK TO 773, YOU COULD COME BACK THROUGH HERE
2 AND YOU COULD PROBABLY COME OUT RIGHT HERE. WE GOT
3 A BOARD RIGHT HERE, A SIGNING BOARD.
- 4 Q RIGHT.
- 5 A AND YOU KNOW, IT'S CLEAR THERE.
- 6 Q SO IF YOU'RE GOING UP HERE, YOU COME OUT
7 HERE AND THEN YOU GO UP THIS ROAD?
- 8 A YES, SIR. THAT'S THE EASIEST WAY.
- 9 Q AND YOU SAY IT'S A PRETTY GOOD WALK, BUT
10 WOULD YOU RECOMMEND JOGGING THROUGH THERE, RUNNING
11 THROUGH THERE, RUNNING THROUGH THESE WOODS?
- 12 A I COULD, YOU KNOW, GO THROUGH THERE IN A
13 HURRY, BECAUSE, I MEAN YOU KNOW, I'VE BEEN THROUGH
14 THEM BEFORE.
- 15 Q RIGHT.
- 16 A SEE, WE GOT SOME TRAILS RIGHT HERE, AND
17 THEY MIGHT BE DONE GROWED UP A LITTLE BIT. COMING
18 RIGHT HER, OUR BOARD'S RIGHT HERE. WE GOT A BOARD
19 UP HERE BESIDE THE ROAD.
- 20 Q RIGHT, BUT THAT WOULD COME OUT ON 773;
21 YOU TOLD ME UP IN THIS AREA, IF YOU'RE GOING
22 BETWEEN HERE AND HERE, YOU'RE GOING THROUGH PRETTY
23 THICK WOODS AT THAT POINT, RIGHT UP IN HERE?
- 24 A WELL, SIR, THE ROAD MAKES A TURN RIGHT
25 HERE AND GOES BACK THIS WAY.

1 Q NO, I'M TALKING ABOUT FROM THE CABLE.
2 A FROM THE CABLE, IT'S PRETTY CLEAR TO
3 HERE.
4 Q RIGHT THROUGH TO HERE.
5 A YEAH, AND THEN RIGHT HERE BESIDE THE
6 ROAD IS KIND OF THICK.
7 Q RIGHT, BUT UP IN HERE, IT'S THICK ALSO?
8 A NO. RIGHT IN HERE, BETWEEN THERE AND
9 OUR BOARD, IT'S OKAY.
10 Q OKAY. GO AHEAD AND HAVE A SEAT.
11 MR. HARPOOTLIAN: THAT'S ALL I HAVE.
12 THE COURT: ALL RIGHT, THANK YOU, SIR,
13 YOU MAY STEP DOWN.
14 ANY REASON TO KEEP HIM UNDER SUBPOENA?
15 MR. JONES: NO, YOUR HONOR.
16 THE COURT: HE'S RELEASED WITHOUT
17 OBJECTION.
18 CALL YOUR NEXT WITNESS.
19 MR. JONES: JUDGE, IF I MIGHT
20 RESPECTFULLY SUGGEST THAT THE NEXT WITNESS MAY BE
21 ABOUT AN HOUR LONG. I DON'T KNOW IF YOU'D WANT TO
22 BREAK FOR LUNCH NOW OR GO FORWARD.
23 THE COURT: I'D JUST AS SOON STOP NOW
24 AND PICK UP, WE CAN EAT A LITTLE EARLY AND THEN WE
25 CAN GO...WHO IS IT?

1 MR. JONES: WE ANTICIPATE IT TO BE SHAWN
2 GEHM, THE DISC JOCKEY AT SMUGGLER'S.

3 THE COURT: ALL RIGHT, MADAM FOREMAN,
4 AND LADIES AND GENTLEMEN OF THE JURY, LET ME LET
5 YOU TAKE A LUNCH BREAK, AND LET'S SEE. THAT'S
6 12:30--WHERE DID BOBBY GO? HAVE THEM BACK AT A
7 QUARTER TO TWO. TELL THE SLED AGENTS A QUARTER TO
8 TWO.

9 (JURY RECESSED FOR LUNCH AT 12:33 P.M.)

10 ALL RIGHT, I'M ASSUMING, SOLICITOR,
11 SINCE YOU'RE GOING TO CALL THIS WITNESS NEXT THAT
12 THE ISSUE ABOUT THE MIAMI LETTER WILL NOT COME UP?

13 MR. JONES: YES, YOUR HONOR.

14 THE COURT: OKAY, SO THAT'S NOT GOING TO
15 BE AN ISSUE IN EXAMINATION.

16 OKAY, A QUARTER TO TWO.

17 MR. SWERLING: JUDGE, WE'D, AT SIDE-BAR,
18 HAD MADE A MOTION FOR A MISTRIAL BASED ON THE
19 REFERENCE TO SISTER CAR AS INJECTING SOME
20 PREJUDICIAL, WHAT WE THINK IS A CONSIDERABLE
21 PREJUDICIAL ISSUE INTO THE CASE ABOUT ANY KIND OF
22 ABUSE. SISTER CARE OBVIOUSLY IS RELATED TO ABUSED
23 WOMEN, MENTALLY, PHYSICALLY, AND SO WE FEEL
24 COMPELLED TO MOVE FOR A MISTRIAL AS HAVING INJECTED
25 THAT ARBITRARY AND CAPRICIOUS FACTOR INTO THE

1 TRIAL.

2 THE COURT: ALL RIGHT, I WOULD DENY THAT
3 MOTION. I TELL YOU THE TRUTH, ONE OF THE REASONS
4 FOR BRINGING AN OUTSIDE JURY IN IS THEY DON'T KNOW
5 WHAT YOU'VE GOT HERE ONE WAY OR THE OTHER. AND
6 QUITE FRANKLY, WHEN I WAS FIRST APPRISED OF THAT, I
7 MEAN, I'D HAVE TO USE MY IMAGINATION TO FIND WHAT
8 THAT IS. SO I DON'T THINK THE JURY CAN IN ANYWAY
9 INFER OR IMPLY THE PURPOSE OF SISTER CARE, AND I
10 WOULD DENY YOUR MOTION FOR A MISTRIAL.

11 I WOULD REMIND YOU THOUGH, AND OF
12 COURSE, IT WILL BE YOUR TURN SOON ENOUGH, AND I'M
13 SAYING IT TO BOTH OF YOU, DON'T ASK THESE OPEN-
14 ENDED QUESTIONS BECAUSE ALL IT DOES IS CREATE
15 PROBLEMS FOR ME AND YOU SO--ON DIRECT EXAMINATION,
16 SO JUST BE CAREFUL. THINK ABOUT WHAT YOU'RE DOING.
17 THESE WITNESSES ARE NOT USED TO ANSWERING
18 QUESTIONS. THEY PERCEIVE THE WAY THEY SHOULD
19 ANSWER QUESTIONS IS BASED ON EVERYTHING, INCLUDING
20 WHAT SOMEBODY TOLD THEM, AND THAT'S A HARD THING
21 FOR A LAYPERSON TO DO. SO EVERYBODY BE CAREFUL
22 ABOUT THE DIRECT QUESTIONS.

23 MR. JONES: YOUR HONOR, I WILL KEEP THAT
24 IN MIND, AND I APPRECIATE YOU BRINGING IT TO MY
25 ATTENTION. I WOULD...

1 THE COURT: BECAUSE THEY'RE LOOKING TO
2 TRY, IF THEY'RE YOUR WITNESS, I'M TALKING ABOUT
3 BOTH SIDES, IF THEY'RE YOUR WITNESS AND YOU'RE
4 SITTING THERE QUITE, THEY'RE SEARCHING THEIR MIND,
5 "WHAT ELSE AM I SUPPOSED TO SAY," AND THE NEXT
6 THING YOU KNOW, HERE IT COMES AND IT CREATES A
7 PROBLEM. SO Y'ALL JUST BE CAREFUL.

8 ALL RIGHT, A QUARTER TO TWO.

9 (LUNCH RECESS, COURT RECONVENING AT 2:02
10 P.M.)

11 THE COURT: ARE WE READY TO GO?

12 MR. JONES: YOUR HONOR, COULD WE
13 APPROACH THE SIDE-BAR?

14 (BENCH CONFERENCE, OUT OF THE PRESENCE
15 OF THE JURY.

16 THE COURT: ALL RIGHT, MR. SWERLING, I'M
17 GOING TO GIVE YOU SOME LATITUDE WITH REGARD TO THIS
18 WITNESS AS IT RELATES TO TESTIMONY OF MR. ANDERSON,
19 BUT I'M NOT GOING TO LET YOU WANDER ALL OVER THE
20 PLACE, SO WHEN YOU GET THE QUE, YOU'VE GOT TO REEL
21 IT IN.

22 BRING THE JURY IN.

23 (JURY RETURNED TO THE OPEN COURTROOM AT
24 2:03 P.M.)

25 ALL RIGHT, GOOD AFTERNOON, LADIES AND

1 GENTLEMEN. WE'RE READY TO CONTINUE ALONG WITH THE
2 EVIDENCE IN THE CASE.

3 SOLICITOR, CALL YOUR NEXT WITNESS.

4 MR. JONES: MAY IT PLEASE THE COURT,
5 YOUR HONOR, THE STATE WOULD CALL SHAWN GEHM TO THE
6 STAND. SHAWN GEHM.

7 YOUR HONOR, THE STATE'S WITNESS HAS BEEN
8 CHANGED TO THE EXTENT THAT WE WOULD FIRST CALL
9 SCOTT BERRY TO THE STAND.

10 THE COURT: ALL RIGHT, MR. BERRY, COME
11 AROUND.

12 SCOTT BERRY, BEING DULY SWORN,
13 TESTIFIED AS FOLLOWS:

14 DIRECT EXAMINATION:

15 BY MR. JONES:

16 Q WHERE DO YOU WORK, MR. BERRY?

17 A NATIONAL MAIL SERVICES.

18 Q NATIONAL MAIL SERVICES?

19 A YES, SIR.

20 Q AND WHERE IS YOUR OFFICE?

21 A IT'S IN ST. ANDREWS, IN COLUMBIA.

22 Q IN COLUMBIA?

23 A YES, SIR.

24 Q AND HOW LONG HAVE YOU BEEN WORKING

25 THERE?

- 1 A FIVE YEARS.
- 2 Q ALL RIGHT. AND WHAT DOES NATIONAL MAIL
- 3 SERVICES DEAL WITH IN THE WAY OF MAIL? WHAT TYPE
- 4 OF POSTAL PACKAGES DO YOU HANDLE?
- 5 A WE DO A VARIETY. WE DO UPS, FEDERAL
- 6 EXPRESS, POST OFFICE, BASICALLY THOSE THREE.
- 7 Q OKAY. I HAND YOU STATE'S EXHIBIT FOR
- 8 IDENTIFICATION PURPOSES, NUMBER 104, AND ASK IF YOU
- 9 RECOGNIZE WHAT IT IS?
- 10 A YES, SIR.
- 11 Q WHAT IS IT?
- 12 A IT'S A UPS INVOICE TO SHIP A PACKAGE
- 13 OUT.
- 14 Q DO YOU KNOW WHETHER OR NOT YOU WERE THE
- 15 ONE THAT PREPARED THAT INVOICE?
- 16 A YES, SIR, I WAS THE PERSON.
- 17 Q THAT PREPARED IT?
- 18 A NO, I DIDN'T PREPARE IT. I'M THE ONE
- 19 THAT FILLED OUT THE PRICE ON IT.
- 20 Q SO YOU HAD A PART WITH MAKING OUT THAT
- 21 INVOICE?
- 22 A YES, SIR.
- 23 Q WHEN WAS THAT INVOICE MADE OUT?
- 24 A IT WAS MADE OUT DECEMBER 7TH, '94.
- 25 Q DECEMBER 7TH, OF 1994?

1 A YES, SIR.

2 Q AND WHAT IS REFLECTED ON THERE TO
3 INDICATE WHAT IT WAS AN INVOICE FOR?

4 A REALLY, THIS IS THE INVOICE WE USE TO
5 SHIP STRICTLY UPS PACKAGES. I MEAN, IT DOESN'T
6 TELL WHAT THE CONTENTS IS; IT DOES TELL THAT IT WAS
7 A FIVE POUND PACKAGE AND WHAT THE PRICE OF THE ITEM
8 WAS TO SHIP IT.

9 Q AND WHAT WAS--WHO SHIPPED IT?

10 A WELL, UP HERE AT THE TOP WHERE THEY FILL
11 OUT WHO IT WAS SHIPPED FROM, IT'S EVIDENTLY A
12 COMPANY'S NAME, IS T.T.I.

13 Q IS THERE A PERSON'S SIGNATURE ON THE
14 INVOICE?

15 A YES, SIR, DOWN AT THE VERY BOTTOM.

16 Q AND WHAT WAS IT?

17 A I COULDN'T BEGIN TO TELL YOU. I MEAN,
18 IT'S...

19 Q YOU CAN'T READ IT?

20 A I COULDN'T INTERPRET IT, YOU KNOW.

21 MR. JONES: YOUR HONOR, WE'D OFFER IT
22 INTO EVIDENCE AT THIS TIME.

23 MR. SWERLING: I HAVE NO OBJECTION TO
24 THIS PARTICULAR ITEM.

25 THE COURT: WITHOUT OBJECTION.

- 1 (SO MARKED AND ENTERED, WITHOUT
2 OBJECTION, STATE'S EXHIBIT 104)
3 Q I HAND YOU STATE'S EXHIBIT FOR
4 IDENTIFICATION PURPOSES NUMBER 105, AND ASK YOU IF
5 THIS IS A BLOWUP OF THE RECEIPT THAT YOU...
6 A YES, SIR, IT SURE IS.
7 Q ALL RIGHT, DO YOU KNOW WHERE THIS
8 PACKAGE WAS SHIPPED ON DECEMBER 7TH, 1994? DO YOU
9 KNOW WHERE IT WAS SHIPPED TO?
10 A EH....
11 Q WILL YOU STEP DOWN AND READ WHERE IT WAS
12 SHIPPED TO?
13 A SURE.
14 Q WHO IT WAS SHIPPED TO AND WHERE IT WAS
15 SHIPPED TO?
16 A TO SHAWN GEHM, I GUESS IS THE LAST NAME.
17 161 PRINCESS STREET, SOCATEES, SOUTH CAROLINA.
18 Q TURN AROUND SO THE JURORS, SPEAK UP SO
19 THE JURORS CAN HEAR, PLEASE SIR.
20 A WENT TO SHAWN GEHM, 161 PRINCESS STREET,
21 SOCATEES, SOUTH CAROLINA, 29577.
22 Q DID YOU PARTICIPATE IN FILLING THAT OUT?
23 A NOT THE ADDRESS, NO SIR.
24 Q WHO WOULD HAVE FILLED THAT OUT?
25 A THE CUSTOMER.

- 1 Q THE CUSTOMER WOULD HAVE FILLED THAT OUT?
2 A RIGHT.
3 Q AND WHAT'S THE ADDRESS FOR THE CUSTOMER
4 LISTED THERE?
5 A 4650, HIGHWAY 773, POMARIA, SOUTH
6 CAROLINA, 29126.
7 Q 4650, HIGHWAY 773, POMARIA?
8 A RIGHT.
9 Q AND WHAT WAS THE PHONE LISTED?
10 A 803, 691-9519.
11 Q WHAT IS THE DATE OF WHEN THIS RECEIPT
12 FILLED OUT? WHEN WAS IT MAILED AGAIN?
13 A DECEMBER 7TH, 1994.
14 Q IF YOU WOULD, POINT THAT ON STATE'S
15 EXHIBIT 105, WHERE THE CUSTOMER WOULD HAVE SIGNED
16 INDICATING.
17 A RIGHT HERE.
18 Q IS THAT WHERE THE CUSTOMER IS SUPPOSED
19 TO SIGN?
20 A YES, SIR.
21 Q IF YOU WOULD, POINT OUT FOR THE JURY
22 WHERE THE CUSTOMER WOULD HAVE SIGNED.
23 A RIGHT DOWN HERE AT THE BOTTOM.
24 MR. JONES: YOUR HONOR, I WOULD OFFER
25 THE ENLARGEMENT INTO EVIDENCE AT THIS TIME.

1 THE COURT: WITHOUT OBJECTION.

2 MR. JONES: IT'S ALREADY BEEN MARKED.

3 Q NO FURTHER QUESTIONS.

4 MR. SWERLING: NO QUESTIONS, YOUR HONOR.

5 THE COURT: THANK YOU, SIR. YOU MAY

6 STEP DOWN. THANK YOU.

7 LET ME DO THIS. MR. SWERLING, LET'S

8 REVISIT THAT QUESTION JUST A MINUTE OVER HERE

9 BEFORE I LET YOU--MR. MCMAHON.

10 (BENCH CONFERENCE IN THE PRESENCE OF THE
11 JURY, OUT OF THE HEARING OF THE JURY, AND OFF THE
12 RECORD.)

13 THE COURT: ALL RIGHT, SOLICITOR, CALL
14 YOUR NEXT WITNESS.

15 MR. JONES: SHAWN GEHM, PLEASE.

16 BRET SHAWN GEHM, BEING DULY

17 SWORN, TESTIFIED AS FOLLOWS:

18 DIRECT EXAMINATION:

19 BY MR. JONES:

20 Q DO YOU GO BY SHAWN?

21 A SHAWN, YES, SIR.

22 Q SHAWN, WHERE DO YOU WORK?

23 A I WORK AT SMUGGLER'S SHOW GIRLS, NOW

24 KNOWN AS THE GENTLEMEN'S CLUB.

25 Q WHAT TYPE...WHAT IS SMUGGLER'S SHOW

1 GIRLS OR THE GENTLEMEN'S CLUB?

2 A IT'S AN ADULT ENTERTAINMENT
3 ESTABLISHMENT.

4 Q AND WHAT TYPE OF ENTERTAINMENT DO YOU
5 HAVE THERE?

6 A DANCERS. EROTIC DANCERS.

7 Q PARDON ME?

8 A EROTIC DANCERS.

9 Q OKAY, ARE THEY CLOTHED OR UNCLOTHED?

10 A THEY ARE CLOTHED NOW.

11 Q IN 1990, 1991, AND 1992, AND 1993, AND
12 1994?

13 A I BELIEVE THEY WERE UNCLOTHED AT THE
14 TIME, TOPLESS.

15 Q DID YOU WORK THERE IN 1990, 1991, 1992,
16 '93, '94 ?

17 A YES, SIR, I DID.

18 Q ... '95?

19 A YES, SIR.

20 Q '96?

21 A YES, SIR.

22 Q AND IN WHAT CAPACITY DID YOU WORK THERE
23 AGAIN?

24 A I WAS THE DISC JOCKEY. I STILL AM.

25 Q AND AS THE DISC JOCKEY, WHAT ARE YOUR

1 DUTIES? WHAT DO YOU DO THERE?

2 A I ASSURE THAT THE LADIES GET ON STAGE ON
3 TIME AND I PLAY THEIR MUSIC FOR THEM, THINGS OF
4 THAT NATURE. I HELP KEEP AN EYE ON THE FLOOR ALSO.

5 Q SO YOU PLAY MUSIC AND SEE TO IT THAT
6 THEY'RE ON STAGE IN TIME TO ENGAGE IN THEIR WORK,
7 IS THAT CORRECT?

8 A YES, SIR.

9 Q WHAT TIME WOULD YOU BE REQUIRED TO BE AT
10 WORK AND HOW LONG WOULD YOU STAY THERE?

11 A I WOULD USUALLY GET THERE AROUND THREE
12 O'CLOCK IN THE AFTERNOON, BECAUSE I ALSO WOULD DO
13 SOME CLEANING UP AROUND THE CLUB. WE OPEN AT FOUR
14 O'CLOCK AND I'M THERE UNTIL CLOSING TIME.

15 Q AND WHAT IS CLOSING TIME?

16 A BETWEEN MONDAY AND FRIDAYS, FOUR O'CLOCK
17 UNTIL WHENEVER THEY DECIDE TO CLOSE.

18 Q MIDNIGHT?

19 A NO, SIR, NOT ALL THE TIME. SOMETIMES
20 TWO OR THREE IN THE MORNING.

21 Q TWO OR THREE IN THE MORNING?

22 A YES, SIR, EXCEPT FOR ON SATURDAYS.

23 Q SIR?

24 A EXCEPT FOR ON SATURDAYS, WE CLOSED AT
25 MIDNIGHT.

- 1 Q AT MIDNIGHT ON SATURDAYS?
- 2 A YES, SIR.
- 3 Q WHAT WOULD BE ONE OF YOUR BUSIEST NIGHTS
- 4 THERE AT THE CLUB?
- 5 A FRIDAYS, SATURDAYS, ALSO THURSDAYS
- 6 SOMETIMES, DEPENDING ON THE SEASON.
- 7 Q AND AGAIN, WHEN DID YOU BEGIN WORKING AT
- 8 SMUGGLER'S, AS IT WAS CALLED BACK IN '94?
- 9 A I FIGURE ABOUT CLOSER INTO THE YEAR OF
- 10 1986 OR OF LATE '85.
- 11 Q AND WERE YOU ALWAYS A DISC-JOCKEY?
- 12 A YES, SIR.
- 13 Q DO YOU RECALL MEETING AND KNOWING
- 14 RICHARD ANDERSON?
- 15 A YES. SIR.
- 16 Q AND WHEN DID YOU MEET HIM AND HOW DID
- 17 YOU KNOW HIM?
- 18 A I KNOW HIM THROUGH THE ESTABLISHMENT.
- 19 HE WAS HIRED AS A BOUNCER THERE.
- 20 Q DO YOU RECALL WHAT YEAR YOU MET HIM IN?
- 21 A NO, NOT REALLY. NO, SIR.
- 22 Q ALL RIGHT. DO YOU KNOW THE DEFENDANT IN
- 23 THIS CASE, DEFENDANT STEPHEN BECKHAM?
- 24 A YES, SIR. I DO.
- 25 Q AND HOW LONG HAVE YOU KNOWN DEFENDANT

1 BECKHAM?

2 A ABOUT FROM 1991.

3 Q 1991?

4 A YES, SIR.

5 Q DID YOU KNOW HIM IN APRIL AND MAY AND
6 JUNE OF 1994?

7 A YES, SIR.

8 Q AND, HOW DID YOU KNOW HIM. WHAT WAS THE
9 RELATIONSHIP THAT YOU HAD WITH HIM IN 1994?

10 A HE WAS A CUSTOMER, A REGULAR CUSTOMER IN
11 OUR ESTABLISHMENT. NOT SO MUCH IN '94 AS HE WAS IN
12 PREVIOUS YEARS.

13 Q IN '90 AND '91.

14 A YES, SIR.

15 Q HOW WOULD YOU CHARACTERIZE YOUR
16 RELATIONSHIP TO HIM THEN AND TODAY?

17 A WELL, WE HAD A FRIENDSHIP ACCORDING TO
18 JUST BY HIM COMING INTO THE CLUB AND THINGS OF THAT
19 NATURE, AS BEING A REGULAR CUSTOMER. I HAVE A LOT
20 OF FRIENDS THAT ARE REGULAR CUSTOMERS, BUT I HARDLY
21 EVER SEE THEM OUTSIDE THE CLUB THOUGH.

22 Q UH-HUH...BUT YOU DID SEE HIM OUTSIDE THE
23 CLUB FROM TIME TO TIME DURING 1994...

24 MR. SWERLING: OBJECTION, YOUR HONOR, TO
25 LEADING THE WITNESS.

1 THE COURT: SUSTAINED.

2 Q HAVE YOU EVER SEEN HIM OUTSIDE THE CLUB
3 FROM TIME TO TIME DURING 1994, ON A FRIENDSHIP
4 BASIS?

5 A YES, SIR.

6 Q SO, YOU WOULD CHARACTERIZE YOUR
7 RELATIONSHIP WITH HIM AS FRIENDS IN 1994?

8 A YES, SIR.

9 Q AND THERE'S NOTHING TO CHANGE THAT TO
10 DATE, THAT YOU KNOW OF?

11 A NO, SIR.

12 Q ALL RIGHT. SHAWN, DO YOU RECALL HAVING
13 A CONVERSATION WITH DEFENDANT BECKHAM DURING LATE
14 MARCH, EARLY APRIL OF 1994?

15 A YES, SIR.

16 Q AND WHAT WAS THAT CONVERSATION ABOUT?

17 A SEEM TO ME THAT HE...THE FACT THAT HE
18 WAS REFERRING ABOUT SLICK RICK.

19 Q SLICK RICK?

20 A IT WAS ANOTHER CUSTOMER THAT USE TO COME
21 IN THERE AT TIMES.

22 Q DID YOU KNOW SLICK RICK?

23 A YES, SIR, THROUGH THE ESTABLISHMENT.

24 Q WELL, WHY DID HE MENTION SLICK RICK'S
25 NAME TO YOU. WHAT WAS THE CONVERSATION ABOUT?

1 A HE HAD ASKED ME IF I HAD SEEN HIM AND I
2 SAW HIM ABOUT TWO DAYS PRIOR, AND I NOTIFIED HIM OF
3 THAT, AND HE ASKED ME THE NEXT TIME I SEE HIM FOR
4 SLICK RICK TO GET IN TOUCH WITH STEVE BECKHAM.

5 Q SO, DEFENDANT BECKHAM ASKED YOU TO TELL
6 SLICK RICK TO GET IN TOUCH WITH HIM?

7 A YES, SIR.

8 Q DID YOU SEE SLICK RICK AFTER THAT
9 CONVERSATION WITH THE DEFENDANT AROUND THE FIRST OF
10 APRIL OR SO?

11 A AFTER A WEEK OF SO HAD PASSED BY, YES,
12 SIR. HE DID COME INTO THE CLUB AND I GAVE HIM THE
13 MESSAGE.

14 Q ALL RIGHT, AND WITHOUT GOING INTO WHAT
15 SLICK RICK SAID TO YOU, DO YOU RECALL TELLING THE
16 JURY WHAT HIS REACTION...WOULD YOU TELL THE JURY,
17 IF YOU RECALL, WHAT SLICK RICK'S REACTION WAS TO
18 THE INFORMATION YOU PROVIDED HIM THAT DEFENDANT
19 BECKHAM WANTED TO SEE HIM OR TALK WITH HIM?

20 MR. SWERLING: OBJECT TO ANYTHING THAT
21 WAS SAID, YOUR HONOR.

22 THE COURT: SUSTAINED.

23 Q WITHOUT...DON'T SAY WHAT HE SAID, I
24 ASKED HIM WHAT HIS REACTION WAS.

25 THE COURT: ALSO, CONDUCT CAN AMOUNT TO

1 HEARSAY.

2 Q ALL RIGHT. LET ME ASK YOU THIS. IF...

3 THE COURT: NOW, I DON'T KNOW WHETHER

4 YOU WANT TO HEAR OUTSIDE THE PRESENCE. I'D BE GLAD

5 TO DO THAT, BUT I...I'M TELLING YOU THAT CONDUCT

6 CAN BE DEEMED HEARSAY.

7 MR. JONES: ALL RIGHT.

8 Q HOW DO YOU KNOW...HOW DO YOU KNOW...OR

9 WHAT...THAT THIS WAS DURING LATE MARCH OR APRIL OF

10 1994?

11 A BECAUSE, SLICK RICK HAD JUST RECENTLY

12 GOT OUT OF PRISON.

13 Q AND YOU KNEW WHEN HE HAD GOTTEN OUT OF

14 PRISON?

15 A YES, SIR.

16 Q AND YOU REMEMBER...WHAT HAPPENED ABOUT

17 THE TIME SLICK RICK HAD JUST GOTTEN OUT OF PRISON?

18 A YES, SIR.

19 Q WHAT...I'M ASKING YOU. WHAT DO YOU

20 REMEMBER OCCURRED ABOUT THE TIME SLICK RICK GOT OUT

21 OF PRISON WITH REGARD TO DEFENDANT BECKHAM?

22 A I RELAYED THAT MESSAGE TO HIM.

23 Q WHAT MESSAGE?

24 A THE ONE THAT STEVE BECKHAM ASKED ME TO

25 GIVE TO SLICK RICK.

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1 Q OKAY. NOW, DO YOU RECALL ABOUT THAT
2 TIME, DEFENDANT BECKHAM ASKING YOU, OUT OF THE
3 CLUB, ON ONE OF THOSE OCCASIONS, WHEN HE WANTED TO
4 SHOW YOU SOMETHING OUTSIDE THE CLUB?

5 MR. SWERLING: YOUR HONOR, OBJECTION.
6 LEADING THE WITNESS.

7 THE COURT: HE ASKED WHETHER OR NOT HE
8 ASKED HIM TO STEP OUTSIDE THE CLUB. HE CAN ANSWER
9 THAT QUESTION, YES OR NO.

10 A YES, SIR. HE DID.

11 Q AND DO YOU RECALL THE PURPOSE THAT HE
12 ASKED YOU TO STEP OUTSIDE THE CLUB DURING THAT
13 TIME?

14 A HE WANTED TO SHOW ME A RIFLE THAT HE HAD
15 IN THE TRUNK OF HIS CAR.

16 Q AND DO YOU RECALL WHAT KIND OF RIFLE IT
17 WAS?

18 A IT WAS A WORLD WAR TWO TYPE RIFLE. IT
19 HAD A BOLT LATCH ON IT. I'M NOT TOO FAMILIAR WITH
20 GUNS MYSELF THOUGH.

21 Q BUT, YOU DO REMEMBER DEFENDANT BECKHAM
22 ASKING YOU TO TAKE A LOOK AT THAT?

23 A YES, SIR.

24 Q DID HE SAY ANYTHING TO YOU ABOUT WHAT HE
25 HAD THE GUN FOR OR WHETHER HE WANTED THE GUN?

- 1 A NO, SIR.
- 2 Q ALL RIGHT. NOW, YOU SAY THAT OCCURRED
- 3 SOMETIME IN APRIL OF 1994, IS THAT CORRECT?
- 4 A YES, SIR.
- 5 Q DO YOU RECALL SEEING DEFENDANT BECKHAM
- 6 IN THE CLUB DURING THE MONTH OF MAY OF 1994?
- 7 A I COULDN'T RECALL, EXACTLY, IF I HAD OR
- 8 NOT.
- 9 Q HOW ABOUT JUNE OF 1994?
- 10 A IT COULD HAVE...BEEN...HE...AFTER HE HAD
- 11 MOVED AWAY FROM MYRTLE BEACH, HE DIDN'T COME IN AS
- 12 OFTEN AS HE USED TO, SO I COULDN'T BE EXACTLY FOR
- 13 SURE ON WHAT DATES HE DID COME IN. USUALLY IT WAS
- 14 LIKE DURING THE WEEKENDS OR SOME SORT.
- 15 Q WELL, DO YOU RECALL WHETHER OR NOT YOU
- 16 RECEIVED A LETTER OR A PACKAGE FROM DEFENDANT
- 17 BECKHAM IN 1994?
- 18 A YES, SIR.
- 19 Q AND WHAT DO YOU RECALL ABOUT THE LETTER
- 20 OR PACKAGE THAT YOU RECEIVED FROM DEFENDANT BECKHAM
- 21 IN 1994?
- 22 A THE LETTER I RECEIVED IN 1994 WAS
- 23 IN...ON DECEMBER, I DO BELIEVE. DECEMBER THE 7TH.
- 24 IT WAS A LETTER CONTAINING THAT UM...NOT TO SAY
- 25 ANYTHING IN CASE ANYBODY HAD APPROACHED ME, AND I

1 DIDN'T KNOW EXACTLY WHAT HE WAS SPEAKING OF, AND
2 THAT I HAD A LETTER CONTAINING TO...ANOTHER LETTER
3 WITHIN THAT LETTER TO GIVE TO KING RICHARD.

4 Q NOW, EXPLAIN THAT TO ME AGAIN NOW. YOU
5 RECEIVED A LETTER FROM DEFENDANT BECKHAM IN
6 DECEMBER OF '94?

7 A YES, SIR.

8 Q AND WHAT WAS CONTAINED IN YOUR LETTER
9 THAT YOU RECEIVED?

10 A NOT TO GIVE UP ANY TYPE OF INFORMATION,
11 IF PEOPLE COME AND START TALKING TO ME, AND IT HAD
12 A LETTER IN THE ENVELOPE THAT WAS SEALED CLOSED,
13 INSIDE THE LETTER I HAD GOTTEN.

14 Q SO, YOUR LETTER HAD A LETTER INSIDE THAT
15 WAS SEALED?

16 A YES, SIR, THAT WAS TO BE GIVEN TO KING
17 RICHARD.

18 Q WHO IS KING RICHARD?

19 A RICHARD ANDERSON.

20 Q WHAT DID YOU DO WITH THE SEALED LETTER
21 THAT WAS CONTAINED INSIDE YOUR LETTER?

22 A I GAVE IT TO KING RICHARD.

23 Q WHEN DID YOU GIVE IT TO RICHARD?

24 A AS SOON AS I GOT TO WORK.

25 Q IN DECEMBER OF '94?

- 1 A YES, SIR, THAT SAME DAY I HAD RECEIVED
2 IT IN THE MAIL.
- 3 Q DID YOU KNOW WHAT THE CONTENTS OF
4 RICHARD ANDERSON'S LETTER WAS?
- 5 A NO, SIR.
- 6 Q DID YOU ASK HIM?
- 7 A NO, SIR.
- 8 Q WHAT DID YOU DO WITH THE LETTER THAT YOU
9 RECEIVED ON OR ABOUT DECEMBER 7TH, 1994, FROM
10 DEFENDANT BECKHAM?
- 11 A I THREW IT AWAY.
- 12 Q DID YOU RECEIVE ANYTHING ELSE FROM
13 DEFENDANT BECKHAM IN THE MONTH OF DECEMBER, 1994?
- 14 A I ALSO RECEIVED A PACKAGE OF KAHLUA.
- 15 Q KAHLUA?
- 16 A YES, SIR.
- 17 Q WHAT IS KAHLUA?
- 18 A KAHLUA IS A COFFEE LIQUEUR.
- 19 Q IS IT ALCOHOLIC OR NON-ALCOHOLIC?
- 20 A IT'S ALCOHOLIC.
- 21 Q AND WAS THERE ANYTHING ACCOMPANYING THE
22 BOTTLE OF KAHLUA THAT YOU RECEIVED, IN THE WAY OF
23 AN INDICATION OF WHO IT WAS FROM OR WHAT IT WAS
24 FOR?
- 25 A IT SAID SOME SORT OF MERRY CHRISTMAS,

1 SIGNED STEVE.

2 Q ALL RIGHT, NOW, YOU INDICATED THAT YOU
3 HAD BEEN ACQUAINTED WITH DEFENDANT BECKHAM SINCE
4 1990 AND THAT YOU CONSIDERED YOURSELF A FRIEND OF
5 HIS. PRIOR TO DECEMBER 7TH OF 1994, HAD YOU EVER
6 RECEIVED ANY TYPE OF LETTER OR CORRESPONDENCE FROM
7 DEFENDANT BECKHAM?

8 A NO, SIR.

9 Q PRIOR TO DECEMBER OF 1994, HAD YOU EVER
10 RECEIVED ANY KIND OF CHRISTMAS PRESENT OR
11 COMMUNICATION FROM THE DEFENDANT BECKHAM?

12 A I MIGHT HAVE THROUGH...WITHIN THE CLUB
13 THAT HE WAS SOMEONE BUYING SOMEONE A DRINK OR
14 SOMETHING OF THAT NATURE, LIKE ON MY BIRTHDAY OR
15 SOMETHING LIKE THAT.

16 Q HAD YOU EVER RECEIVED A CHRISTMAS
17 PRESENT FROM THE DEFENDANT BECKHAM BEFORE?

18 A NO, SIR.

19 Q NOW, AFTER RECEIVING THE LETTER OF
20 DECEMBER 7TH AND THE PACKAGE OF DECEMBER 7TH OR
21 AROUND THAT AREA, DID YOU RECEIVE A VISIT FROM
22 DEFENDANT BECKHAM?

23 A YES, SIR. I HAVE.

24 Q AND WHERE WAS THE VISIT THAT YOU
25 RECEIVED FROM DEFENDANT BECKHAM DURING THAT PERIOD

1 OF TIME?

2 A HE CAME TO MY HOME.

3 Q AND WHEN WAS THAT?

4 A I CAN'T RECALL EXACTLY WHAT DATE IT WAS.

5 IT WAS, I IMAGINE, BETWEEN THE FIRST OF DECEMBER

6 AND CHRISTMAS.

7 Q AND WHAT WAS IT, IF ANYTHING, HE SAID TO

8 YOU ON THAT VISIT? WHAT OCCURRED WHEN HE CAME BY

9 YOUR HOUSE? WHAT HAPPENED?

10 A HE CAME BY MY HOUSE AND SAID THAT HE

11 NEEDED TO TALK TO ME AND UM...AT THE TIME MY WIFE

12 WAS GETTING READY TO GO TO WORK SO, HE ASKED...I

13 HAD TO ASK HIM IF HE COULD GIVE PATTY A RIDE TO

14 WORK.

15 Q WHO IS PATTY?

16 A THAT'S MY WIFE.

17 Q AND WHERE DID SHE WORK AT THE TIME?

18 A GRAND STRAND HEALTH CARE. AND UM...HE

19 SAID HE WOULD DO SO. HE TOOK HER TO WORK, BUT

20 BEFORE HE LEFT HE SAID HE HAD TO GO SEE SOME OTHER

21 PEOPLE OR TAKE CARE OF SOME BUSINESS AND THAT HE

22 WOULD BE BACK AROUND THREE O'CLOCK TO TAKE ME TO

23 WORK.

24 Q DID HE COME BACK?

25 A YES, SIR. HE DID.

1 Q DID YOU HAVE A TALK WITH HIM?

2 A WELL, WE WENT TO B'J'S DART PUB, WHICH
3 IS RIGHT DOWN THE...IT'S IN THE SAME STRIP MALL
4 THAT SMUGGLER'S IS IN. WE WENT DOWN THERE AND WE
5 SAT AND TALKED AND HAD A DRINK.

6 Q AND WHAT WAS YOUR CONVERSATION ABOUT AT
7 THAT TIME?

8 A BASICALLY, WHAT HE SAID IN THE LETTER,
9 NOT TO TALK TO ANYBODY, GIVE ANY TYPE OF
10 INFORMATION. HE ALSO ASKED ME IF I HAD RECEIVED
11 HIS LETTER AND I TOLD HIM, YES, I HAD. AND THEN HE
12 ALSO ASKED ME IF I HAD RECEIVED ANY OTHER LETTERS,
13 INDICATING THERE WAS MORE, BUT I HADN'T.

14 Q DID HE ASK YOU ABOUT THE NOTE THAT WAS
15 CONTAINED WITHIN YOUR LETTER?

16 A NO, SIR.

17 Q BUT, HE ASKED YOU IF YOU...

18 A HE HAD ASKED ME IF I HAD GIVEN IT TO
19 RICHARD AND MY REPLY WAS, YES.

20 Q SO, HE ASKED YOU IF YOU HAD PASSED ON A
21 NOTE TO RICHARD ANDERSON?

22 A YES, SIR.

23 Q NOW, DID YOU SEE OR HEAR FROM DEFENDANT
24 BECKHAM BETWEEN THAT MEETING IN DECEMBER AND JULY
25 5TH, 1995?

- 1 A REPEAT THE QUESTION AGAIN.
- 2 Q DO YOU RECALL RECEIVING ANY...DO YOU
- 3 RECALL SEEING, HEARING FROM, OR TALKING TO
- 4 DEFENDANT BECKHAM BETWEEN THE DECEMBER MEETING THAT
- 5 YOU HAD WITH HIM AT YOUR HOME AND SUBSEQUENTLY AT
- 6 THE DART PUB AND JULY OF 1995...JULY 5TH OF 1995?
- 7 A I HAD RECEIVED A LETTER IN THE MAIL FROM
- 8 HIM.
- 9 Q WHEN?
- 10 A IT WAS IN...IT WAS IN...ON JULY '95, I
- 11 THINK IT WAS, I'M NOT SURE WHAT THE DATE WAS
- 12 THOUGH.
- 13 Q NOW, LET ME ASK YOU THIS SHAWN...YOU
- 14 SAID EARLIER THAT YOU KNEW A RICHARD ANDERSON
- 15 THROUGH WORK, IS THAT CORRECT?
- 16 A YES, SIR.
- 17 Q AND HOW WOULD YOU DESCRIBE RICHARDS
- 18 ABILITY OR PERFORMANCE ON THE JOB THERE TO DO HIS
- 19 JOB AS A BOUNCER, AS YOU CALL IT?
- 20 A HE DID IT WELL.
- 21 Q AND HOW DO YOU FEEL DOING THAT JOB WELL
- 22 IS? WHAT...HOW DO YOU HANDLE THAT JOB? AS A DISK
- 23 JOCKEY, HOW WOULD YOU WANT A BOUNCER OR A DOORMAN
- 24 TO CONDUCT HIMSELF AND HANDLE HIS JOB?
- 25 A AS FAR AS IF ANYBODY'S GETTING OUT OF

1 HAND, YOU WOULD ASK THEM TO LEAVE. SOME CASES YOU
2 GIVE THEM A FIRST WARNING, THEN IF THEY CONTINUE ON
3 BEING OFFENSIVE OR WHATEVER, YOU WOULD ASK THEM TO
4 LEAVE AND IF THEY REFUSE TO LEAVE THEN YOU WOULD
5 SEE THAT THEY GOT ESCORTED OUT THE DOOR.

6 Q AND HOW WOULD RICHARD CONDUCT HIS
7 ESCORTS OF PEOPLE WHO REFUSE TO LEAVE WHEN THEY
8 WERE ASKED TO, OUT THE DOOR?

9 A NORMALLY, THEY WOULD LEAVE. RICHARD
10 WAS...HIS APPEARANCE IS FAIRLY INTIMIDATING.
11 PEOPLE WOULDN'T WANT TO START ANYTHING WITH HIM,
12 BUT IF SOME OF THEM WOULD HE WOULD, NORMALLY,
13 USUALLY JUST GRAB THEM BY THE BACK OF THEIR PANTS
14 OR BY THE BACK OF THE COLLAR AND TAKE THEM OUT THE
15 FRONT DOOR.

16 Q NOW, IN JULY...JULY 5TH OF 1995, DID YOU
17 RECEIVE A LETTER FROM DEFENDANT BECKHAM?

18 A YES, SIR. I DID.

19 Q AND DID YOU SAVE THAT LETTER?

20 A YES, SIR. I DID.

21 Q NOW, WHAT WAS IT IN JULY OF 1995 THAT
22 CAUSED YOU TO KEEP THAT LETTER AND NOT KEEP THE ONE
23 OF DECEMBER 7TH OF '94?

24 A WELL, AT FIRST I DIDN'T...DURING
25 UM...THE FIRST LETTER I GOT, I DIDN'T KNOW NOTHING

- 1 ABOUT WHAT IT MIGHT BE CONTAINING TO. AND THEN IN
2 '95, IN JULY, THE STORY HAD BROKE IN THE NEWSPAPERS
3 ABOUT TWO OR THREE DAYS PRIOR, MAYBE, MAYBE BEFORE
4 THEN, BUT WHEN I RECEIVED THAT LETTER...
- 5 Q AND HAD THERE BEEN LAW ENFORCEMENT
6 PERSONNEL IN THE AREA OF SMUGGLER'S?
- 7 A YES, SIR.
- 8 Q VISITING?
- 9 A YES, SIR.
- 10 Q SO, YOU WERE AWARE OF AN INVESTIGATION?
- 11 A YES, SIR. I WAS.
- 12 Q ...THAT INVOLVED CONTACTS AT SMUGGLER'S?
- 13 A YES, SIR.
- 14 Q SO, ON JULY THE 5TH, I HAND YOU THIS
15 ITEM, AND ASK YOU IF YOU RECOGNIZE THESE TWO ITEMS?
- 16 A YES, SIR.
- 17 Q WHAT IS IT?
- 18 A THIS IS THE LETTER THAT I RECEIVED ON
19 JULY THE 5TH FROM STEVE BECKHAM AT MY HOME.
- 20 Q WOULD YOU READ IT?
- 21 A YES, SIR. IT SAYS, " DEAR SHAWN, I HOPE
22 YOU ARE DOING GOOD. THINGS HAVE BEEN HELL HERE.
23 THEY HAVE BEEN TELLING LIES AND DOING ANYTHING TO
24 TRASH ME. I HEARD FROM AN INVESTIGATOR THAT THEY
25 HAVE ZERO AND SO THEY ARE TELLING PEOPLE THAT THEY

1 HAVE A BUNCH OF EVIDENCE TO TRY AND SPOOK SOMEONE
2 INTO SAYING SOMETHING, EVEN IF IT'S NOT TRUE. I
3 WILL TRY AND SEE YOU SOMETIME SOON. TELL ANYONE
4 WHO GETS BOTHERED THAT I'M SORRY THAT THESE GUYS
5 ARE SO DESPERATE AND FULL OF SHIT. IT DOESN'T SEEM
6 LIKE WE ARE IN AMERICA WITH SOME OF THE CRAP THEY
7 ARE PULLING. IF YOU WANT TO WRITE ", THEN HE GIVES
8 ME HIS ADDRESS. " STEPHEN BECKHAM, 4650 HIGHWAY
9 773 " ...I DON'T KNOW HOW TO PRONOUNCE THAT.

10 Q LET ME ASK YOU AGAIN. WHAT ADDRESS DOES
11 HE GIVE YOU ON THAT DATE?

12 A "STEPHEN BECKHAM, 4650 HIGHWAY 773,
13 POMARIA, SOUTH CAROLINA "...THE ZIP CODE IS " 29126
14 ".

15 Q AND HE GAVE YOU THAT ADDRESS IF YOU
16 WANTED TO WRITE HIM BACK?

17 A YES, SIR.

18 Q DID YOU WRITE HIM BACK?

19 A NO, SIR. I DID NOT.

20 Q HAVE YOU EVER WRITTEN STEPHEN BECKHAM A
21 LETTER DURING THE COURSE OF YOUR FRIENDSHIP WITH
22 HIM?

23 A NO, SIR. I HAVE NOT.

24 Q HAVE YOU EVER SENT HIM A CHRISTMAS
25 PRESENT...

1 A NO.

2 Q ...DURING THE COURSE OF YOUR
3 RELATIONSHIP WITH HIM?

4 A NO, SIR. I HAVE NOT.

5 MR. JONES: YOUR HONOR, I WOULD OFFER
6 THIS LETTER.

7 MR. SWERLING: WE HAVE NO OBJECTION.

8 THE COURT: WITHOUT OBJECTION.

9 MR. JONES: YOUR HONOR, I'D OFFER THIS
10 BLOW UP OF THAT LETTER, STATE'S EXHIBIT 103, INTO
11 EVIDENCE AT THIS TIME.

12 THE COURT: WITHOUT OBJECTION.

13 Q WHEN YOU UH...YOU KEPT THAT LETTER OF
14 JULY THE 5TH, DID YOU TURN IT OVER TO ANYONE AT
15 SOME POINT IN TIME?

16 A YES, SIR.

17 Q WHO DID YOU GIVE IT TO?

18 A I GAVE IT TO A HORRY COUNTY
19 INVESTIGATOR...I CAN'T...NO EXCUSE ME...IT WAS
20 SPIKE...SPIKE MCCRAW...MCCRAW.

21 Q ALL RIGHT. YOU REMEMBER HIS NAME AS
22 SPIKE MCCRAW?

23 A YEAH, I BELIEVE THEY CALL HIM SPIKE DOG.

24 Q AND, YOU MET WITH HIM AND TURNED THAT
25 LETTER OVER TO HIM?

1 A YES, SIR. HE CAME TO MY HOME ABOUT
2 SEVEN O'CLOCK THAT EVENING.

3 Q AND ON THE EVENING THAT YOU TURNED THE
4 LETTER OVER TO HIM, DID YOU ALSO GIVE HIM A
5 STATEMENT CONCERNING...OF THE ISSUES THAT YOU HAVE
6 PRESENTED IN COURT TODAY?

7 A YES, SIR. I HAVE. A SIGNED STATEMENT, I
8 BELIEVE.

9 Q AND DO YOU REMEMBER THAT THAT WAS JULY
10 15TH, 1995?

11 A I BELIEVE IT WAS, YES, SIR.

12 MR. SWERLING: THIS IS NOT APPROPRIATE
13 TO SHOW A WITNESS HIS STATEMENT.

14 A I'M SORRY.

15 MR. JONES: I JUST WANTED TO ASK HIM
16 TO...

17 THE COURT: OBJECTION IS WHAT?

18 MR. SWERLING: SIX-O-NINE.

19 THE COURT: SUSTAINED. THAT'S THE
20 STATEMENT YOU'RE TALKING ABOUT? SUSTAINED.

21 Q LET ME ASK YOU THIS, MR. GEHM. YOU
22 REMEMBER WHEN YOU GOT THE LETTER, IS THAT CORRECT?

23 A YES, SIR.

24 Q HOW LONG AFTER YOU RECEIVED THAT LETTER
25 ON JULY THE 5TH, APPROXIMATELY, WAS IT THAT YOU MET

1 WITH SPIKE MCCRAW OF STATE LAW ENFORCEMENT
2 DIVISION?

3 A I BELIEVE IT WAS ON, MAYBE, I CAN'T BE
4 FOR SURE, PROBABLY, MAYBE A WEEK OR SO. I HAD
5 TRIED TO GET A HOLD OF SOMEONE. THEY TOLD ME THEY
6 WOULD SEND SOMEONE OUT, AND IT TOOK A FEW DAYS
7 BEFORE THEY GOT SOMEONE OUT THERE.

8 Q SO, YOU HAD TRIED TO CONTACT LAW
9 ENFORCEMENT YOURSELF WHEN YOU RECEIVED THIS LETTER?

10 A YES, SIR. MY WIFE ALSO, ADVISED ME TO
11 DO SO.

12 Q NOW, DO YOU RECALL ON THE OCCASION THAT
13 DEFENDANT BECKHAM ASKED YOU TO STEP OUTSIDE TO TAKE
14 A LOOK AT A RIFLE, I BELIEVE, WHAT TYPE OF
15 AUTOMOBILE HE WAS DRIVING AT THAT TIME?

16 A I BELIEVE IT WAS A HONDA, LIKE A
17 BURGUNDY COLOR OR SO.

18 Q AND DO YOU RECALL WHEN HE CAME TO VISIT
19 YOU IN DECEMBER OF 1994 AND Y'ALL WENT FROM YOUR
20 HOUSE, AS YOU SAID, TO PLAY DARTS BEFORE YOU WENT
21 TO WORK, WHAT HE WAS DRIVING THEN?

22 A I BELIEVE HE WAS STILL DRIVING THAT
23 HONDA AT THE TIME, YES, SIR.

24 Q I HAND YOU STATE'S EVIDENCE 43 AND ASK
25 YOU IF YOU RECOGNIZE THAT?

1 A YES, SIR. THAT'S HIS CAR.
2 Q WHAT? THAT'S IT?
3 A WELL, IT LOOKS LIKE IT ANYWAY. SAME
4 COLOR,
5 FOUR DOOR.
6 Q THANK YOU MR. GEHM, ANSWER ANY
7 QUESTIONS.
8 THE COURT: CROSS EXAMINATION, MR.
9 SWERLING.
10 CROSS EXAMINATION:
11 BY MR. SWERLING:
12 Q HEY, SHAWN.
13 A HOW YOU DOING, SIR.
14 Q HOW ARE YOU DOING? WE'VE TALKED
15 BEFORE...?
16 A YES, SIR, WE HAVE.
17 Q ...ON A COUPLE OF OCCASIONS, RIGHT?
18 A CORRECT.
19 Q AND, I GUESS...YOU'VE PROBABLY BEEN
20 INTERVIEWED MORE THAN ANYBODY IN THIS CASE, I WOULD
21 IMAGINE?
22 A I HAVE NO IDEA, BUT IT'S BEEN QUITE AN
23 ORDEAL.
24 Q YOU WERE...SPIKE MCCRAW AND SOME OF THE
25 FELLOWS FROM THE SLED HAVE COME DOWN TO THE CLUB ON

- 1 A NUMEROUS OCCASIONS AND TALKED TO YOU, RIGHT?
- 2 A YES, SIR, AND SO HAS SOME OF YOUR
- 3 INVESTIGATORS, ALSO.
- 4 Q RIGHT, THAT'S WHAT I WAS GOING TO SAY.
- 5 WE GOT...WE'VE BEEN DOWN THERE AND MR. TOMMY DAVIS?
- 6 A YES, SIR.
- 7 Q ...THE FORMER FBI AGENT CAME DOWN AND
- 8 TALKED TO YOU AS AN INVESTIGATOR?
- 9 A CORRECT.
- 10 Q AND I THINK I CAME DOWN TWICE?
- 11 A I BELIEVE SO.
- 12 Q AND MR. HARPOOTLIAN CAME DOWN?
- 13 A YES, SIR.
- 14 Q AND OF COURSE SPIKE MCCRAW AND MEMBERS
- 15 OF THE SLED TEAM HAVE BEEN DOWN THERE ON A NUMBER
- 16 OF OCCASIONS ALSO?
- 17 A CORRECT.
- 18 Q AND, THIS WAS OUT...OVER A PERIOD OF
- 19 FROM AROUND JULY OF 1995 UNTIL AS LATE AS LAST
- 20 WEEK?
- 21 A YES, SIR. CORRECT.
- 22 Q WOULD IT BE FAIR TO SAY THAT PROBABLY
- 23 YOU'VE BEEN INTERVIEWED BY PEOPLE FROM THE STATE
- 24 AND FROM MR. HARPOOTLIAN AND MR. DAVIS AND MYSELF
- 25 AND SOME OTHER PEOPLE WHO WERE WORKING FOR US

1 PROBABLY FIFTEEN TIMES, BETWEEN BOTH SIDES?

2 A I DON'T KNOW, IT SEEMS LIKE A LOT MORE
3 THAN THAT.

4 Q MAYBE EVEN MORE THAN THAT, OKAY. AND
5 THAT'S BEEN OVER THE LAST YEAR, IS THAT RIGHT?

6 A YES, SIR.

7 Q AND, WE CAME DOWN THERE AND YOU WERE
8 GRACIOUS ENOUGH TO, WHILE YOU WERE WORKING, TO COME
9 SIT DOWN WITH US SOMETIMES, AND SOMETIMES WE CAME
10 DOWN RIGHT BEFORE YOU STARTED TO WORK, AND I'M SURE
11 THAT SAME THING WENT ON FOR THE STATE TOO?

12 A WELL, MORE SO, YOUR SIDE THAN THEIR SIDE
13 THOUGH, WHILE I WAS AT WORK, THAT IS.

14 Q CAME DOWN AND TALKED TO A LOT OF PEOPLE
15 AT THE CLUB, RIGHT?

16 A YES, SIR.

17 Q AND YOU WERE VERY KIND TO SPEAK WITH
18 EVERYBODY, IS THAT RIGHT?

19 A YES, SIR.

20 Q OKAY. NOW, WHEN WAS THE LAST TIME YOU
21 SPOKE WITH SOMEONE FROM THE STATE? I GUESS YOU'VE
22 BEEN SPEAKING TO THEM THIS WEEK, PROBABLY...?

23 A YES, SIR.

24 Q ...YOU'VE BEEN HERE FOR A FEW DAYS, HAVE
25 YOU NOT?

- 1 A YES, SIR. I HAVE.
- 2 Q AND THEY CAME DOWN AND SAW YOU LAST
- 3 WEEK, I GUESS, AT THE BEACH ALSO?
- 4 A UM.
- 5 Q SOME FOLKS, SPIKE MCCRAW AND SOME OF THE
- 6 OTHER FELLOWS FROM THE STATE?
- 7 A I'M NOT FOR SURE. SOMEONE DID.
- 8 Q BUT IT'S BEEN RIGHT UP UNTIL...
- 9 A A LOT OF TIMES IT GETS CONFUSING TO TELL
- 10 WHO'S ON WHO'S SIDE AND WHO'S ON...
- 11 Q ALL RIGHT. BUT, IT GETS UP UNTIL...BUT
- 12 EVERYBODY'S PRETTY MUCH TREATED YOU OKAY?
- 13 A YES, SIR.
- 14 Q AND JUST BASICALLY TRYING TO GET
- 15 INFORMATION FROM YOU?
- 16 A CORRECT.
- 17 Q BECAUSE, YOU ACTUALLY HAVE BEEN AT THE
- 18 CLUB WORKING FOR HOW LONG?
- 19 A ON AND OFF, CLOSE TO TWELVE YEARS.
- 20 Q TWELVE YEARS, A LONG TIME?
- 21 A YES, SIR.
- 22 Q AND YOU KNOW, YOU SIT UP IN THAT AREA
- 23 WHERE THE D.J. SITS AND YOU GET TO OBSERVE A LOT OF
- 24 THINGS?
- 25 A PRETTY MUCH A BIRD'S EYE VIEW.

1 Q AND WHAT YOU DO MOST OF THE TIME IS YOU
2 PLAY MUSIC, RIGHT?

3 A CORRECT.

4 Q AND YOU KNOW REALLY GET, LIKE YOU SAID A
5 BIRDS EYE VIEW OF WHAT'S GOING ON INSIDE THE CLUB?

6 A YES, SIR.

7 Q SO, IT WAS NOT UNUSUAL FOR PEOPLE TO
8 COME AND TALK TO YOU ABOUT WHAT WAS GOING ON INSIDE
9 THE CLUB?

10 A NO, SIR.

11 Q AND, OF COURSE, OVER THE YEARS, THE
12 TWELVE YEARS THAT YOU'VE BEEN THERE, YOU'VE GOTTEN
13 TO MEET MOST OF THE PEOPLE THAT HAVE BEEN REFERRED
14 TO IN THIS CASE, MOST OF THE PEOPLE WHO HAVE BEEN
15 INTERVIEWED, MOST OF THE PEOPLE WHO HAVE BEEN
16 REFERRED TO?

17 A I DON'T KNOW ABOUT MOST OF THE PEOPLE
18 WHO HAVE BEEN INTERVIEWED, BUT...

19 Q IN OTHER WORDS THE PEOPLE WHO THE
20 STATE'S COME DOWN AND INTERVIEWED AND THE PEOPLE
21 WE'VE COME DOWN AND INTERVIEWED, YOU KNOW THOSE
22 PEOPLE?

23 A MOST OF THE PEOPLE THAT'S...HAD WORKED
24 IN THE CLUB PREVIOUSLY AND THAT WORK THERE NOW.

25 Q THAT'S WHAT I MEAN...

- 1 A YES, SIR.
- 2 Q ...FROM THE CLUB, OKAY. LET ME ASK YOU
- 3 ABOUT A FEW OF THE PEOPLE, OKAY?
- 4 A OKAY.
- 5 Q FIRST OF ALL MIKE BEATTY.
- 6 A JUNIOR OR SENIOR?
- 7 Q WELL, BOTH.
- 8 A OKAY.
- 9 Q LET'S TALK ABOUT THERE'S A JUNIOR AND
- 10 THERE'S A SENIOR.
- 11 A YES, SIR.
- 12 Q MIKE BEATTY SENIOR IS ABOUT IN HIS LATE
- 13 FORTIES, MAYBE FIFTY?
- 14 A I WOULD IMAGINE. YES, SIR.
- 15 Q AND MIKE BEATTY JUNIOR IS IN HIS
- 16 TWENTIES?
- 17 A YES, SIR.
- 18 Q ...OR SOMEWHERE IN THAT RANGE, RIGHT?
- 19 AND THEY OWNED SMUGGLER'S AT ONE TIME?
- 20 A NOT MICHAEL JUNIOR, MICHAEL BEATTY AND
- 21 JERRY HOGAN, AT ONE TIME, OWNED IT.
- 22 Q MIKE BEATTY SENIOR OWNED THE CLUB. MIKE
- 23 BEATTY JUNIOR WORKED THERE?
- 24 A HE WAS THE MANAGER.
- 25 Q HE WAS THE MANAGER OF THE CLUB?

- 1 A YES, SIR.
- 2 Q AND YOU WORKED THERE DURING THAT PERIOD
- 3 OF TIME?
- 4 A YES, SIR. I DID.
- 5 Q AND, HOW LONG A PERIOD OF TIME DID THAT
- 6 LAST?
- 7 A I WOULD SAY APPROXIMATELY MAYBE FOUR
- 8 YEARS.
- 9 FOUR OR FIVE, MAYBE.
- 10 Q WHILE THEY WERE CO-OWNERS?
- 11 A COULD HAVE BEEN A LOT LONGER, BUT I'M
- 12 NOT FOR SURE.
- 13 Q WHILE THEY WERE CO-OWNERS?
- 14 A YES, SIR.
- 15 Q AND DO YOU RECALL WHAT PERIOD OF TIME
- 16 WE'RE TALKING ABOUT? WAS IT THE LATE EIGHTIES,
- 17 EARLY NINETIES, SOMEWHERE...?
- 18 A LATE EIGHTIES.
- 19 Q LATE EIGHTIES, AND IT WENT INTO MAYBE
- 20 INTO THE NINETIES, WHEN THEY BOTH OWNED IT?
- 21 A YES, SIR. THAT'S A FAIR ASSUMPTION.
- 22 Q NOW, MIKE BEATTY SENIOR...MIKE BEATTY
- 23 SENIOR WENT TO JAIL FOR DRUGS, DID HE NOT?
- 24 A YES, SIR, HE WAS CONVICTED.
- 25 Q CONVICTED OF DRUGS. IT WAS WHAT,

1 COCAINE?

2 A I DO BELIEVE SO, I CAN'T BE FOR SURE,
3 THOUGH.

4 Q AND, JERRY HOGAN, HE ESCAPED THAT, DID
5 HE NOT?

6 A YES, SIR, BECAUSE AT THEIR...JERRY HOGAN
7 DIDN'T LEAVE UNTIL AFTER HIM AND MICHAEL SENIOR HAD
8 SOLD THE CLUB TO JOHN TUITT. AND THEN MICHAEL
9 SENIOR WAS STILL HERE, BECAUSE YOU KNOW HE LIVED
10 HERE AND HE HAD TIES HERE. HE OWNS A HOME IN
11 LITTLE RIVER AND HIS SON LIVES HERE, SO HE STAYED
12 HERE AND I THINK JERRY HOGAN HAS MOVED ON.

13 Q NOW ALL THESE PEOPLE KNEW EACH OTHER,
14 WORKED TOGETHER, AND WERE IN BUSINESS TOGETHER?

15 A YES, SIR.

16 Q YOU WERE WORKING DOWN THERE AND THERE'S
17 ANOTHER GROUP...THERE'S A WHOLE GROUP OF PEOPLE WHO
18 WORKED IN THE CLUB AND WERE REGULARS IN THE CLUB,
19 AS FAR AS WORKING?

20 A YOU HAD YOUR REGULAR WORK STAFF, YEAH.

21 Q STEPHEN CAME IN DURING THE, I GUESS, THE
22 EARLY NINETIES, HE WAS A POKER PLAYER, VIDEO POKER
23 PLAYER, RIGHT?

24 A YES, SIR, HE DID.

25 Q HE'D COME IN AND HE'D GO SIT AT A POKER

1 MACHINE AND HE'D SIT THERE ALL NIGHT LONG

2 SOMETIMES, DID HE NOT?

3 A SOMETIMES HE LIKED COUCH DANCERS ALSO.

4 PERIODICALLY. IT WASN'T NORMAL FOR HIM TO DO SO,

5 THOUGH.

6 Q IT WASN'T NORMAL FOR HIM TO HAVE

7 ANYTHING TO DO WITH THE GIRLS? HE DIDN'T LOOK AT

8 THE GIRLS. HE WAS THERE TO PLAY VIDEO POKER?

9 A HE WOULD SOMETIMES TURN AROUND AND WALK

10 UP TO THE STAGE AND TIP A GIRL A DOLLAR OR SO, BUT

11 HE DIDN'T NEVER SIT AT THE STAGE OR ACTUALLY JUST

12 SIT DOWN AT THE TABLE AND WATCH THE GIRLS, NO.

13 Q HIS THING WAS TO PLAY THE VIDEO POKER

14 MACHINES?

15 A YES, SIR, BUT HE'D SPREAD HIS WEALTH

16 AROUND A LITTLE BIT.

17 Q AND YOU AND HE GOT ALONG PRETTY WELL?

18 A YES, SIR.

19 Q NOW, MR. HOGAN WAS A DRUG DEALER, WAS HE

20 NOT?

21 A I CAN'T BE FOR SURE ON THAT. THE

22 ONLY...HE...

23 Q HAVEN'T YOU TOLD PEOPLE IN THE PAST THAT

24 MR. HOGAN...

25 A I HATE TO SAY DRUG DEALER, BUT I GUESS

1 MACHINE AND HE'D SIT THERE ALL NIGHT LONG

2 SOMETIMES, DID HE NOT?

3 A SOMETIMES HE LIKED COUCH DANCERS ALSO.

4 PERIODICALLY. IT WASN'T NORMAL FOR HIM TO DO SO,

5 THOUGH.

6 Q IT WASN'T NORMAL FOR HIM TO HAVE

7 ANYTHING TO DO WITH THE GIRLS? HE DIDN'T LOOK AT

8 THE GIRLS. HE WAS THERE TO PLAY VIDEO POKER?

9 A HE WOULD SOMETIMES TURN AROUND AND WALK

10 UP TO THE STAGE AND TIP A GIRL A DOLLAR OR SO, BUT

11 HE DIDN'T NEVER SIT AT THE STAGE OR ACTUALLY JUST

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16 AROUND A LITTLE BIT.

17 Q AND YOU AND HE GOT ALONG PRETTY WELL?

18 A YES, SIR.

19 Q NOW, MR. HOGAN WAS A DRUG DEALER, WAS HE

20 NOT?

21 A I CAN'T BE FOR SURE ON THAT. THE

22 ONLY...HE...

23 Q HAVEN'T YOU TOLD PEOPLE IN THE PAST THAT

24 MR. HOGAN...

25 A I HATE TO SAY DRUG DEALER, BUT I GUESS

1 MACHINE AND HE'D SIT THERE ALL NIGHT LONG

2 SOMETIMES, DID HE NOT?

3 A SOMETIMES HE LIKED COUCH DANCERS ALSO.

4 PERIODICALLY. IT WASN'T NORMAL FOR HIM TO DO SO,

5 THOUGH.

6 Q IT WASN'T NORMAL FOR HIM TO HAVE

7 ANYTHING TO DO WITH THE GIRLS? HE DIDN'T LOOK AT

8 THE GIRLS. HE WAS THERE TO PLAY VIDEO POKER?

9 A HE WOULD SOMETIMES TURN AROUND AND WALK

10 UP TO THE STAGE AND TIP A GIRL A DOLLAR OR SO, BUT

11 HE DIDN'T NEVER SIT AT THE STAGE OR ACTUALLY JUST

12 SIT DOWN AT THE TABLE AND WATCH THE GIRLS, NO.

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15 A YES, SIR, BUT HE'D SPREAD HIS WEALTH

16 AROUND A LITTLE BIT.

17 Q AND YOU AND HE GOT ALONG PRETTY WELL?

18 A YES, SIR.

19 Q NOW, MR. HOGAN WAS A DRUG DEALER, WAS HE

20 NOT?

21 A I CAN'T BE FOR SURE ON THAT. THE

22 ONLY...HE...

23 Q HAVEN'T YOU TOLD PEOPLE IN THE PAST THAT

24 MR. HOGAN...

25 A I HATE TO SAY DRUG DEALER, BUT I GUESS

1 MACHINE AND HE'D SIT THERE ALL NIGHT LONG

2 SOMETIMES, DID HE NOT?

3 A SOMETIMES HE LIKED COUCH DANCERS ALSO.

4 PERIODICALLY. IT WASN'T NORMAL FOR HIM TO DO SO,

5 THOUGH.

6 Q IT WASN'T NORMAL FOR HIM TO HAVE

7 ANYTHING TO DO WITH THE GIRLS? HE DIDN'T LOOK AT

8 THE GIRLS. HE WAS THERE TO PLAY VIDEO POKER?

9 A HE WOULD SOMETIMES TURN AROUND AND WALK

10 UP TO THE STAGE AND TIP A GIRL A DOLLAR OR SO, BUT

11 HE DIDN'T NEVER SIT AT THE STAGE OR ACTUALLY JUST

12 SIT DOWN AT THE TABLE AND WATCH THE GIRLS, NO.

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15 A YES, SIR, BUT HE'D SPREAD HIS WEALTH

16 AROUND A LITTLE BIT.

17 Q AND YOU AND HE GOT ALONG PRETTY WELL?

18 A YES, SIR.

19 Q NOW, MR. HOGAN WAS A DRUG DEALER, WAS HE

20 NOT?

21 A I CAN'T BE FOR SURE ON THAT. THE

22 ONLY...HE...

23 Q HAVEN'T YOU TOLD PEOPLE IN THE PAST THAT

24 MR. HOGAN...

25 A I HATE TO SAY DRUG DEALER, BUT I GUESS

- 1 Q DID YOU EVER SAY TO THEM THAT JERRY
2 HOGAN OR RICHARD ANDERSON WORKED IN THE DRUG
3 BUSINESS FOR JERRY HOGAN?
4 A HE WORKED CLOSELY WITH JERRY, YES, SIR.
5 Q WELL, THAT'S WHAT I'M TRYING TO
6 ESTABLISH THOUGH, I MEAN, I UNDERSTAND, YOU
7 KNOW...YOU DO AGREE THAT YOU TOLD TOMMY DAVIS AND
8 CAROL WINGARD, WHO WERE WORKING FOR US AND ARE BOTH
9 FORMER FBI AGENTS...
10 A CORRECT..
11 Q ...THAT RICHARD ANDERSON WAS IN
12 CONNECTION WITH JERRY HOGAN IN THE DRUG BUSINESS
13 AND HE WAS HIS NUMBER TWO MAN.
14 A WELL, HE WAS THE CONNECTION. I DON'T
15 KNOW ABOUT NUMBER ONE AND NUMBER TWO MAN, ANYTHING
16 OF THAT NATURE.
17 Q BUT, HE WAS A MAJOR PLAYER?
18 A JERRY HAD OTHER CONNECTIONS OUTSIDE THE
19 CLUB ALSO.
20 Q BUT, RICHARD ANDERSON WAS A MAJOR PLAYER
21 WITH JERRY HOGAN?
22 A HE COULD HAVE BEEN, YES SIR.
23 Q AND JERRY HOGAN WAS AND HAD A PRETTY
24 GOOD BUSINESS IN COCAINE?
25 A YES, SIR.

1 Q AND WHAT I'M REFERRING TO WHEN I
2 SAID...TALKING TO MR. DAVIS AND CAROL WINGARD ON
3 JUNE 20TH, 1996, DID YOU TELL THEM THAT RICHARD
4 ANDERSON WAS A SELLER AND AN ENFORCER FOR JERRY
5 HOGAN?

6 A I'M NOT SURE IF I USED THOSE WORDS, NO,
7 SIR.

8 Q YOU WOULD...WOULD YOU DENY YOU USED
9 THOSE WORDS?

10 A YES, SIR.

11 Q YOU WOULD DENY YOU USED THOSE WORDS?

12 A NOW SAY IT...REPEAT THE QUESTION AGAIN
13 PLEASE.

14 Q THAT ON JUNE 20TH, 1996, THAT YOU
15 DESCRIBED HOGAN'S RELATIONSHIP AND RICHARD
16 ANDERSON'S RELATIONSHIP, THAT ANDERSON WAS HIS
17 NUMBER TWO PERSON, AND SOLD AND ENFORCED FOR JERRY
18 HOGAN?

19 A I NEVER USED THE WORD ENFORCE, NO, SIR.

20 Q ON AUGUST 21ST, 1996, DID YOU TELL MR.
21 DAVIS AND MR. WINGARD THAT RICHARD ANDERSON SOLD
22 DRUGS FOR HOGAN?

23 A HE COULD HAVE, VERY POSSIBLY WELL BE.
24 THAT'S THE WORDS THAT I USED, TOO.

25 Q DID YOU ALSO DESCRIBE HIM AS HIS GOFER.

- 1 A WELL, EVERYBODY WAS JERRY'S GOFER.
- 2 Q OKAY, I'M TALKING ABOUT IN CONNECTION
- 3 WITH THE DRUG BUSINESS, SHAWN.
- 4 A HE COULD HAVE BEEN, YES, SIR.
- 5 Q AND HE WOULD DO...DID YOU TELL MR. DAVIS
- 6 AND MR. WINGARD THAT HE WOULD DO THE PICKUPS FOR
- 7 MR. HOGAN?
- 8 A AT TIMES, HE WOULD.
- 9 Q AND PICKUPS BEING DRUGS?
- 10 A I WOULD IMAGINE. I NEVER ACTUALLY SEEN
- 11 HIM GO OUT AND PICK UP ANY...
- 12 Q I UNDERSTAND, BUT THAT WAS WHAT YOU
- 13 UNDERSTOOD?
- 14 A YES, SIR.
- 15 Q AND THAT ON THAT PARTICULAR DATE, DID
- 16 YOU TELL MR. DAVIS AND MR. WINGARD AGAIN THAT, YOU
- 17 USED AGAIN THE WORDS "ENFORCER"? YOU DON'T EVER
- 18 REMEMBER USING THOSE WORDS ON THOSE COUPLE OF DAYS?
- 19 A NO, SIR.
- 20 Q NOW, BUT WE DO HAVE...WE OUGHT TO HAVE
- 21 AT LEAST ESTABLISHED NOW THAT THERE WAS...JERRY
- 22 HOGAN WAS IN THE COCAINE BUSINESS, IN ADDITION TO
- 23 BEING IN THE BAR BUSINESS.
- 24 A CORRECT.
- 25 Q AND RICHARD ANDERSON WORKED IN THE BAR

- 1 BUSINESS AS A BOUNCER, CORRECT?
- 2 A CORRECT.
- 3 Q BUT HE ALSO WORKED IN THE DRUG BUSINESS
- 4 WITH JERRY HOGAN...
- 5 A YES, SIR.
- 6 Q ...IN A CAPACITY THAT WOULD BE DESCRIBED
- 7 AS HIS RIGHT HAND MAN, SOMEONE WHO ASSISTED HIM IN
- 8 THE DRUG BUSINESS. CORRECT?
- 9 A YES, SIR.
- 10 Q ALL RIGHT. AND FROM TIME TO TIME, AS
- 11 FAR AS YOU KNOW, STEPHEN BECKHAM, RIGHT OR WRONG,
- 12 GOT SOME COCAINE FROM RICHARD ANDERSON OR JERRY
- 13 HOGAN?
- 14 A I CAN'T BE A HUNDRED PERCENT SURE, BUT,
- 15 YES. I DO BELIEVE SO. MY FAIR ASSUMPTION WOULD BE
- 16 SO.
- 17 Q OKAY. AND, AGAIN I'M NOT SAYING RIGHT
- 18 OR WRONG, BUT THAT'S WHAT YOU UNDERSTOOD HAPPENED?
- 19 A YES, SIR.
- 20 Q AS A MATTER OF FACT, THE NUMBER OF
- 21 PEOPLE IN THE BUSINESS, WORKING AT SMUGGLER'S, FROM
- 22 TIME WOULD GET COCAINE FROM JERRY HOGAN?
- 23 A A SMALL AMOUNT OF PEOPLE, NOTHING
- 24 OUTRAGEOUS, NOT EVERYBODY ON THE PLACE WAS HIGH ON
- 25 COKE, YOU KNOW.

- 1 Q RIGHT, BUT NOT TO EMBARRASS ANYBODY, BUT
2 YOU, YOURSELF SOMETIMES HAD GOTTEN SOME STUFF?
- 3 A NO, SIR.
- 4 Q NEVER?
- 5 A NO, I NEVER BOUGHT ANY, NO, SIR.
- 6 Q GOT SOME?
- 7 A I WAS GIVEN A LINE HERE AND THERE, SIR.
- 8 Q I MEAN, I'M NOT TRYING TO EMBARRASS YOU,
9 BUT I MEAN, THAT WAS...SMUGGLER'S WAS A PLACE THAT
10 BECAUSE OF HOGAN'S REPUTATION...
- 11 A YES, SIR, AND I'M GLAD HE'S GONE.
- 12 Q ...AND MIKE BEATTY'S REPUTATION, MIKE
13 BEATTY SENIOR, I MEAN, THAT WAS A PLACE THAT PEOPLE
14 KNEW THAT IF YOU WANTED TO GET A LINE OF COCAINE,
15 YOU COULD GO THERE AND GET IT?
- 16 A YES, SIR.
- 17 Q ALL RIGHT. NOW, OTHER THAN, IT'S ALSO A
18 PLACE, I MEAN, LET'S JUST PUT SMUGGLER'S IN IT'S
19 PERSPECTIVE. IT'S...WE'VE BEEN THERE, SOME MEMBERS
20 OF LAW ENFORCEMENT AND MR. HARPOOTLIAN AND MYSELF
21 AND IT'S BASICALLY A PLACE, AS YOU DESCRIBE, WHERE
22 YOU HAVE MUSIC AND THERE'S A BAR THERE AND ...
- 23 A YES, SIR.
- 24 Q ...THERE'S SOME GIRLS THAT DANCE, BUT
25 THERE'S VIDEO POKER AND...

- 1 A YES, SIR.
- 2 Q ...ALSO, THERE'S A NUMBER OF TABLES
- 3 THERE...
- 4 A YES, SIR.
- 5 Q ...WHERE YOU CAN SIT AND HAVE
- 6 CONVERSATION. CORRECT?
- 7 A CORRECT.
- 8 Q OKAY. AND, DURING THE, ESPECIALLY
- 9 DURING...I GUESS RIGHT NOW, STARTING IN SEPTEMBER,
- 10 THIS IS A...WHEN ALL THE GOLFERS COME IN FROM THE
- 11 NORTHEAST AND THE MIDWEST, I GUESS, THEN THE PLACE
- 12 IS PACKED...
- 13 A YES, SIR.
- 14 Q ...WITH REPUTABLE PEOPLE?
- 15 A CORRECT.
- 16 Q BUSINESSMEN, PEOPLE WHO...
- 17 A LAWYERS.
- 18 Q LAWYERS, DOCTORS...ANY JUDGES? WE HAVE
- 19 NO JUDGES?
- 20 A I WOULDN'T SAY IT IF IT WAS.
- 21 Q WELL, THERE'S DEFINITELY BEEN SOME
- 22 LAWYERS THERE, I CAN TELL YOU OVER THE LAST SUMMER.
- 23 BUT, IT'S THE KIND OF PLACE THAT NOT ONLY...IT'S
- 24 NOT JUST THE KIND OF PLACE THAT YOU WOULD EXPECT
- 25 PEOPLE TO JUST COME AND WATCH THE GIRLS?

- 1 A IT IS...IT'S GOTTEN CLEANED UP A LOT
2 SINCE JERRY HOGAN LEFT.
3 Q RIGHT, RIGHT.
4 A THAT'S THE BEST THING THAT COULD EVER
5 HAPPENED TO THAT PARTICULAR BUSINESS.
6 Q BACK IN THOSE DAYS IT WAS A LITTLE BIT
7 MORE...YOU KNOW YOU'D HAVE...THERE WAS THE DANCERS.
8 WELL, YOU HAD THE VIDEO POKER, WHICH IS WHAT
9 STEPHEN MOSTLY DID, AND THEN YOU HAD PEOPLE WHO
10 CAME IN THERE FOR THE COCAINE?
11 A YES, SIR.
12 Q OKAY, ALL RIGHT. NOW, AND THEY WERE
13 ALSO, I GUESS, AND BY THE WAY, JERRY HOGAN ALSO HAD
14 OTHER PEOPLE WORKING FOR HIM TOO, DID HE NOT?
15 A NOT TO MY KNOWLEDGE, OTHER
16 THAN...OUTSIDE THE CLUB?
17 Q NO, I'M TALKING ABOUT SELLING COCAINE
18 FOR HIM, DIRECTING PEOPLE TO HIM IN THE CLUB?
19 A NOT TO MY KNOWLEDGE.
20 Q BLANTON...
21 A HE COULD HAVE BEEN.
22 Q BILL HALEY, LITTLE BILL?
23 A HE COULD HAVE BEEN.
24 Q BUT, FROM WHAT YOU SAW. FROM WHAT YOU
25 OBSERVED?

- 1 A I STILL WOULDN'T BE FOR SURE. NO, SIR.
- 2 Q OKAY. WELL, I'M JUST ASKING YOU FROM
- 3 YOUR OBSERVATIONS.
- 4 A OKAY.
- 5 Q OKAY. AND FROM YOUR OBSERVATIONS, YOU
- 6 THOUGHT THAT THEY WERE?
- 7 A THEY COULD HAVE BEEN. YES, SIR.
- 8 Q AND THIS THING WAS GOING ON FOR
- 9 ABOUT...WITH HOGAN WAS ABOUT FOUR OR FIVE YEARS?
- 10 A TOO LONG.
- 11 Q TOO LONG. NOW, LET ME ASK YOU ALSO
- 12 ABOUT RICHARD ANDERSON, OKAY. NOW, WHAT WAS YOUR
- 13 RELATIONSHIP WITH RICHARD ANDERSON?
- 14 A HE WAS A BOUNCER AT THE PLACE I WORKED
- 15 AT.
- 16 Q OKAY, AND THAT WAS AT SMUGGLER'S OR AT
- 17 ANOTHER PLACE?
- 18 A AT SMUGGLER'S.
- 19 Q OKAY. AND, WHAT PERIOD OF TIME WAS HE A
- 20 BOUNCER AT SMUGGLER'S?
- 21 A SHORTLY THEREAFTER I HAD STARTED THERE.
- 22 THAT WAS BACK IN MAYBE '86, '85.
- 23 Q AND, SO, HIS KIND OF CAREER THERE SORT
- 24 OF CORRESPONDS AND CORRELATES WITH YOUR CAREER, FOR
- 25 ABOUT TEN OR TWELVE YEARS?

- 1 A NO, I DON'T KNOW IF HE'S BEEN THERE THAT
2 LONG, BUT...YEAH.
- 3 Q BUT, OVER THE PERIOD OF TIME...SO, YOU
4 KNOW HIM VERY WELL?
- 5 A YES. SIR.
- 6 Q OKAY. AND, AS A MATTER OF FACT, SINCE
7 HIS ARREST IN JULY OF 1995, YOU'VE SPOKEN TO HIM?
- 8 A YES, SIR. I HAVE.
- 9 Q AND SPOKEN TO HIM, I MEAN, ON HOW MANY
10 OCCASIONS DO YOU THINK YOU MIGHT HAVE SPOKEN TO
11 HIM, FIFTEEN?
- 12 A TWICE. TWICE.
- 13 Q JUST TWICE? OKAY.
- 14 A OVER THE PHONE.
- 15 Q OVER THE PHONE. THAT'S WHEN HE WOULD
16 CALL YOUR HOUSE OR CALL SMUGGLER'S?
- 17 A HE WOULD CALL SMUGGLER'S.
- 18 Q AND, AS A MATTER OF FACT, HE'S
19 MAINTAINED QUITE A GOOD CONSTANT CONTACT WITH
20 SMUGGLER'S OVER THE LAST YEAR?
- 21 A NOT THAT I KNOW OF.
- 22 Q YOU'RE NOT FAMILIAR WITH THE FACT THAT
23 HE'S CALLED THERE ON A NUMBER OF OCCASIONS?
- 24 A NO, SIR. I'VE ONLY TALKED TO HIM IN
25 PERSONALLY TWICE.

- 1 Q ALL RIGHT, BUT YOU'RE AWARE OF THE FACT
2 FROM OTHER PEOPLE THAT HE HAS CALLED THEM?
- 3 A NO, SIR.
- 4 Q ALL RIGHT. BUT, YOU, YOURSELF HAVE
5 TALKED TO HIM?
- 6 A YES, SIR.
- 7 Q AND, WERE THEY EXTENDED CONVERSATIONS
8 OR...
- 9 A NO, SIR. I WAS WORKING AT THE TIME.
10 USUALLY, FOR ME TO GET A BREAK, IT'S USUALLY ABOUT
11 TWO MINUTES WHILE THE SONG IS PLAYING AND THEN I
12 REPORT BACK TO THE BOOTH.
- 13 Q HAVE YOU SEEN HIM SINCE THEN?
- 14 A NO, SIR. WELL, I'VE SEEN HIM SINCE THIS
15 TRIAL STARTED.
- 16 Q YOU DID. DID YOU GET TO SAY HELLO TO
17 HIM?
- 18 A NO, SIR.
- 19 Q WHEN WAS THE LAST TIME YOU SPOKE WITH
20 HIM?
- 21 A I DON'T REMEMBER THE DAY. HE CALLED ONE
22 TIME ON THE PHONE AT THE CLUB. I DON'T REMEMBER
23 WHAT DATE IT WAS. ASKED ME TO SEND HIM TEN
24 DOLLARS, BECAUSE HE DIDN'T HAVE ANY MONEY AND YOU
25 KNOW, HE WAS BEING LONELY. I COULD UNDERSTAND

1 THAT, BUT I SENT HIM SOME MONEY AND THEN THE SECOND
2 TIME HE CALLED, I ASKED HIM IF HE RECEIVED IT AND
3 HE SAID, NO, WHICH WAS A SHORT CONVERSATION, AND I
4 JUST TOLD MYSELF I'D NEVER DO THAT AGAIN, BECAUSE
5 OBVIOUSLY, HE'S NOT GOING TO GET HIS MAIL.

6 Q AND YOU'RE NOT FAMILIAR WITH THE FACT
7 THAT HE'S CALLED SOME OTHER FOLKS...

8 A NO, SIR.

9 Q ...AT TIMES YOU'VE BEEN WORKING THERE AT
10 SMUGGLER'S?

11 A THAT PHONE RINGS ALL THE TIME. I DON'T
12 ASK WHO'S ON THE LINE.

13 Q NOW, MR. JONES ASKED YOU ABOUT RICHARD
14 BEING A BOUNCER.

15 A YES, SIR.

16 Q AND, AS FAR AS BOUNCERS GO, HE WAS A
17 PRETTY OVERZEALOUS BOUNCER, WASN'T HE?

18 A AT TIMES. HE COULD HAVE BEEN. I MEAN,
19 THAT'S A SMALL PORTION OF THE TIME, THOUGH.

20 Q OKAY, BUT,

21 A USUALLY HE WAS PRETTY GOOD ABOUT DOING
22 HIS JOB.

23 Q BUT, YOU WOULD AGREE THAT ON A...HE HAD
24 A REPUTATION FOR BEING A VIOLENT PERSON?

25 A I WOULDN'T SAY THAT.

- 1 Q YOU DON'T THINK HE WAS VIOLENT?
- 2 A WELL, OBVIOUSLY HE IS, BUT...
- 3 Q WELL, I'M ASK...
- 4 A DURING THAT TIME...
- 5 Q THAT'S WHAT I'M ASKING?
- 6 A IF YOU UPSET HIM, YEAH. HE COULD BECOME
- 7 PRETTY VIOLENT.
- 8 Q WELL, YOU SAID, OBVIOUSLY HE IS VIOLENT,
- 9 SO
- 10 THAT MEANS THAT...?
- 11 A WELL, HE COMMITTED TO THE MURDER, SO...
- 12 Q RIGHT. HAVE YOU NOT TOLD TOMMY DAVIS
- 13 AND CAROL WINGARD, THE AGENTS, THAT HE HAD A
- 14 REPUTATION FOR BEING VIOLENT, WHEN THEY SPOKE WITH
- 15 YOU ON JUNE 20TH?
- 16 A THEY ASKED ME A QUESTION. I TOLD THEM
- 17 THAT ON OCCASIONS HE WOULD HAVE TO BE. IF SOMEBODY
- 18 RESISTED NOT LEAVING, THEN USUALLY THE CLUB, NOT
- 19 RICHARD OR...BUT MAYBE THE MANAGER OR THE BARTENDER
- 20 ON DUTY WOULD CALL 911...OR IF, YOU KNOW...BUT, IF
- 21 SOMETHING ALREADY OCCURRED IN THE CLUB AND THEN UM,
- 22 YOU KNOW, AFTER YOU HAD JUST THROWN HIM OUT EARLIER
- 23 THE POLICE WOULD BE ON THEIR WAY.
- 24 Q YES, SIR.
- 25 A IN CASE SOMETHING ELSE HAPPENED OUTSIDE

1 THE CLUB.

2 Q DO YOU REMEMBER TALKING TO MR. DAVIS AND
3 MR. WINGARD ON THE 21ST OF AUGUST AND THE 20TH OF
4 JUNE. LET'S SEE THE 21ST OF AUGUST, DID I SAY THAT
5 ALREADY, THAT HE WAS A VIOLENT PERSON AND HAD A
6 REPUTATION FOR BEING VIOLENT AMONG OTHER BOUNCERS
7 ON THE BEACH?

8 A I DON'T KNOW ABOUT THAT. I'M AT WORK
9 ALL THE TIME. WE DON'T GET TO GO OUT TO OTHER
10 CLUBS.

11 Q I UNDERSTAND, BUT HIS REPUTATION WE'RE
12 TALKING ABOUT?

13 A I WOULDN'T KNOW WHAT THE OTHER PEOPLE
14 THOUGHT ABOUT HIM. I WOULDN'T. I WASN'T...

15 Q WELL, DID YOU DESCRIBE THAT YOU THOUGHT,
16 AND THIS IS ON AUGUST 20TH, THAT YOU THOUGHT HE
17 OVER DID HIS DUTIES SOMETIMES?

18 A AT TIMES HE DID, YES.

19 Q AND, RICHARD WAS VERY UNLIKELY TO LET
20 ANYBODY GET THE DROP ON HIM. ISN'T THAT TRUE?

21 A YOU WOULD THINK SO.

22 Q I MEAN HE WAS...HE WAS PRETTY QUICK.
23 QUICK THINKING AND QUICK REACTING...

24 A YES, SIR.

25 Q AS FAR AS WHAT YOU KNEW, RIGHT? AND, IF

1 HE HAD TO, AS YOU SAID, HE WOULD, WELL HE HAD HIS
2 OWN PARTICULAR WAY OF GETTING PEOPLE OUT THE DOOR,
3 DIDN'T HE? HEAD FIRST?

4 A WELL, HE WOULD GRAB THEM BY THE BACK OF
5 THE PANTS, OR BY THE BACK OF THE COLLAR AND TAKE
6 THEM OUT THE DOOR.

7 Q HEAD FIRST?

8 A WELL, IF THEIR HEAD WAS DOWN, I GUESS
9 SO.

10 Q THROUGH THE DOOR, RIGHT?

11 A I'M SURE HE TRIED TO OPEN THE DOOR FOR
12 THEM FIRST, YOU KNOW, HE WOULDN'T TRY TO CAUSE
13 BODILY HARM, NOT ON PURPOSE.

14 Q YEAH, BUT HAVEN'T YOU SEEN HIM PUT THE
15 PEOPLE THROUGH THE DOOR?

16 A I MEAN, THERE'S BEEN BOUNCERS
17 BEFORE...THE BEACH HAS BEEN SUED BECAUSE OF THAT.

18 Q HAVEN'T YOU SEEN HIM, YOURSELF, SITTING
19 IN THAT BIRD'S EYE VIEW...

20 A I CAN'T SEE THE FRONT DOOR FROM THERE.

21 Q ...PUT PEOPLES HEAD THROUGH THE DOOR?

22 A I COULDN'T SEE...I CAN'T SEE FOR THE
23 STORE ROOM TO THE LEFT OF MY BOOTH, WHICH OBSTRUCTS
24 THE FRONT DOOR.

25 Q DID YOU TELL MR. DAVIS AND MR. WINGARD,

1 THOSE FORMER FBI AGENTS, ON AUGUST 21ST...

2 A THIS WAS HEARSAY FROM WHAT I HAD HEARD
3 BEFORE, SOMEONE ELSE SAY THAT RICHARD OPENED THE
4 DOOR WITH HIS HEAD.

5 Q OPEN DOORS WITH THEIR HEADS?

6 A I HAVE HEARD SOME OTHER PEOPLE TELL ME
7 THAT'S HOW HE GOT...THAT'S HOW HE GOT...

8 Q OKAY, I JUST WANT TO CLARIFY THAT. AND
9 DID YOU ALSO TELL THEM ON AUGUST 21ST, 1996 THAT
10 PEOPLE DIDN'T PARK THEIR CARS RIGHT IN FRONT OF
11 SMUGGLER'S, BECAUSE, WHEN RICHARD THREW SOMEBODY
12 OUT IN THE PARKING LOT, THEY USUALLY WENT INTO A
13 CAR, HEAD FIRST?

14 A NO.

15 Q YOU'VE TOLD THEM THAT.

16 A WELL, I'VE ALSO TOLD THEM THAT USUALLY
17 PEOPLE ON THE BEACH DON'T PARK THEIR
18 CARS...ESPECIALLY LOCALS...

19 A BUT, YOU DID TELL THEM...

20 A ...BUT IF SOMEBODY DOES GET THROWN OUT,
21 USUALLY THAT'S WHERE THEIR GOING TO LAND.

22 Q BUT, YOU DID TELL THEM WHAT I SAID. I
23 DIDN'T MIS-CHARACTERIZE WHAT YOU TOLD...

24 A WELL, I NEVER SAID THAT RICHARD THREW
25 SOMEBODY OUT THE FRONT DOOR AND THEY LANDED ON A

- 1 CAR, YOU KNOW, I NEVER SAID THAT.
- 2 Q BUT, YOU DID SAY THAT PEOPLE WOULD NOT
- 3 PARK THEIR CARS THERE...
- 4 A LOCALS WOULDN'T, MOST LOCALS WOULDN'T,
- 5 NO.
- 6 Q ...BECAUSE RICHARD WOULD THROW PEOPLE
- 7 OUT OF THE BAR?
- 8 A WELL, THAT'S USUALLY AT ANY BAR.
- 9 Q OKAY. NOW, SHAWN, YOU...YOU WERE, ON
- 10 AUGUST 21ST, A LOT MORE...YOU VOLUNTEERED A LOT
- 11 MORE INFORMATION THAN YOU ARE NOW.
- 12 A NO, SIR.
- 13 Q AS FAR AS RICHARD ANDERSON, AND AS FAR
- 14 AS JERRY HOGAN, AND AS FAR AS THESE PEOPLE AT THE
- 15 CLUB. THE...HAVE PEOPLE FROM LAW ENFORCEMENT BEEN
- 16 TALKING TO YOU SINCE AUGUST 21ST, THAT'S JUST,
- 17 WHAT, SIX WEEKS AGO?
- 18 A YEAH...
- 19 Q NOT EVEN SIX WEEK AGO, FOUR WEEKS AGO?
- 20 A SOME OF THEM, SOME OF YOUR PEOPLE TOO.
- 21 Q I MEAN IT'S...YOU DO ADMIT SAYING THESE
- 22 THINGS, NOW THAT I'M ASKING YOU ABOUT THEM?
- 23 A I BEEN ANSWERING YOU TRUTHFULLY.
- 24 Q I KNOW, BUT YOU SEEM RELUCTANT NOW, OR
- 25 MORE RELUCTANT, AND AGAIN IF I'M WRONG YOU TELL ME,

1 BUT MORE RELUCTANT NOW...

2 A WELL, IT'S JUST THAT THE SURROUNDINGS
3 ARE A LITTLE BIT MORE DIFFERENT.

4 Q OKAY. BUT, NOBODY...WHEN WE WERE
5 TALKING TO YOU IN AUGUST, IN LATE AUGUST, NOBODY
6 WAS FORCING YOU TO TELL US ANYTHING, RIGHT?

7 A NO, SIR.

8 Q AS A MATTER OF FACT, WE HAD A VERY
9 CONGENIAL TALK, DIDN'T WE?

10 A YES, SIR. WE DID.

11 Q AS A MATTER OF FACT, THE LAST TIME MR.
12 HARPOOTLIAN CAME DOWN THERE, I THINK IT WAS THE
13 NIGHT THE HURRICANE WAS COMING IN, YOU EVEN ASKED
14 HIM WHERE'S JACK, DIDN'T YOU?

15 A I DO BELIEVE, I MIGHT HAVE.

16 Q OKAY, SO, I MEAN, WE HAD A PLEASANT
17 CONVERSATION?

18 A YES, SIR.

19 Q BOTH TIMES? AND THAT WAS ON TWO
20 DIFFERENT OCCASIONS. I THINK ONE WAS AUGUST, THAT
21 WAS THE TIME MR. HARPOOTLIAN SPOKE WITH YOU, BUT ON
22 JUNE 20TH AND...

23 A I CAN'T RECALL THE DATES Y'ALL CAME BY.

24 Q AUGUST 21ST, BECAUSE THE HURRICANE WAS
25 ON THE 29TH. ON THE TWO OCCASIONS I CAME DOWN, WE

- 1 SAT AND WE TALKED AND, I MEAN, YOU WERE A LITTLE
2 BIT MORE FORTHCOMING THEN THAN YOU ARE NOW.
3 WOULDN'T THAT BE A FAIR ASSESSMENT?
- 4 A NO, SIR.
- 5 Q YOU DIDN'T...WEREN'T WILLING...
- 6 A I'M ANSWERING YOUR QUESTIONS NOW JUST
7 LIKE I DID BEFORE.
- 8 Q BUT, WEREN'T YOU A LITTLE CLEARER THEN
9 ABOUT THE RELATIONSHIP BETWEEN MR. ANDERSON AND MR.
10 HOGAN AND WHAT KIND OF CHARACTER MR. ANDERSON WAS
11 LIKE?
- 12 A THE SAME TYPE I JUST TOLD YOU THEN AND
13 WHAT I'M TELLING YOU NOW.
- 14 Q WELL, SHAWN, DIDN'T YOU SAY THEN THAT
15 RICHARD ANDERSON WAS VIOLENT?
- 16 A I SAID HE COULD BE VIOLENT AT TIMES.
- 17 Q OKAY, AND VIOLENT MEANS OVERDOING,
18 OVERREACTING AND BEATING PEOPLE UP, DOESN'T IT?
- 19 A NO, SIR.
- 20 Q WHAT DOES VIOLENT MEAN?
- 21 MR. JONES: YOUR HONOR, THAT'S BEEN
22 ASKED.
- 23 THE COURT: SUSTAINED, ASKED AND
24 ANSWERED.
- 25 Q DID HE WEAR COMBAT BOOTS AND A BLACK T-

- 1 SHIRT WHEN HE WORKED?
- 2 A HE WORE COMBAT BOOTS NORMALLY. YES,
- 3 SIR.
- 4 Q ARE YOU AFRAID OF RICHARD ANDERSON?
- 5 A NO, SIR.
- 6 Q YOU SURE?
- 7 A I'M POSITIVE.
- 8 Q ARE YOU AFRAID OF JERRY HOGAN?
- 9 A NO, SIR. I HAVE NO REASON TO BE.
- 10 Q MICHAEL BEATTY SENIOR AND JUNIOR, THEY
- 11 STILL HANG AROUND SOMETIMES AT SMUGGLER'S, DON'T
- 12 THEY?
- 13 A THEY SHOW UP SPORADICALLY, EVERY ONCE
- 14 AND A WHILE.
- 15 Q ALL RIGHT. AS A MATTER OF FACT, I THINK
- 16 FORTUITOUSLY, ONE OF THE NIGHTS THAT I WAS THERE ON
- 17 THE 21ST OF AUGUST MAYBE, THEY WERE THERE TOO?
- 18 A I'M NOT FOR SURE. I CAN'T RECALL THE
- 19 DATES.
- 20 Q WELL, ONE OF THE TIMES...DO YOU REMEMBER
- 21 ONE OF THE TIMES WE WERE THERE, THEY WERE ALSO
- 22 THERE?
- 23 A THEY COULD HAVE BEEN.
- 24 Q OKAY, NOW, THEY DON'T HAVE AN INTEREST
- 25 IN THE CLUB ANYMORE?

- 1 A NO, SIR, THEY DON'T.
- 2 Q BUT, ALL THESE PEOPLE KNOW EACH OTHER?
- 3 A YES, SIR. ONE BIG HAPPY FAMILY.
- 4 Q RIGHT. IT'S A BIG HAPPY FAMILY FROM THE
- 5 BEACH?
- 6 A YEP.
- 7 Q ALL RIGHT. ARE THERE ANY CLUBS OR ANY
- 8 OF THEM BIKERS OR DRIVE BIKES OR ANYTHING LIKE
- 9 THAT, ANY OF THESE FOLKS, OR HAVE ANY CAR CLUBS OR
- 10 BIKE CLUBS OR ANYTHING LIKE THAT?
- 11 A WHO?
- 12 Q HOGAN AND ANDERSON AND BEATTY AND ANY OF
- 13 THAT CROWN?
- 14 A NO, SIR.
- 15 Q BUT, EVERYBODY GENERALLY HUNG AROUND
- 16 SMUGGLER'S? AND EITHER WORKED...
- 17 A YES, SIR, IT IS A LOCALS BAR.
- 18 Q A LOCALS BAR, AND THE PEOPLE EITHER
- 19 WORKED THERE OR THEY HAD SOME OWNERSHIP INTEREST IN
- 20 THE BAR TOO? I'M TALKING ABOUT THE THREE PEOPLE I
- 21 REFERRED TO, HOGAN AND BEATTY SENIOR AND BEATTY
- 22 JUNIOR?
- 23 A YES, SIR.
- 24 Q IS THAT RIGHT? MICHAEL BEATTY, BY THE
- 25 WAY, HE HAS A SISTER, DOESN'T HE?

- 1 A I DO BELIEVE SO.
- 2 Q HIS SISTER'S FROM NORTH CAROLINA, THAT'S
- 3 WHERE THEY'RE FROM, GASTONIA, NORTH CAROLINA?
- 4 A I HAVE NO IDEA EXACTLY WHERE THEY'RE
- 5 FROM.
- 6 Q AND YOU...YOU...
- 7 A I THINK THEY'RE FROM MONKS CORNER.
- 8 Q PARDON?
- 9 A I THINK IT MIGHT BE MONKS CORNER.
- 10 Q OKAY, YOU'RE FAMILIAR WITH THE PONTIAC,
- 11 THE GRAND PRIX?
- 12 A I'VE SEEN THAT GOLD PONTIAC.
- 13 Q THAT GOLD PONTIAC, YOU KNOW WHO'S...AND
- 14 RICHARD ANDERSON DRIVES THAT CAR?
- 15 A HE DROVE THAT. HE ALSO DROVE THE BUS
- 16 THAT WE HAVE.
- 17 Q AND THAT WAS THE...MIKE BEATTY JUNIORS
- 18 CAR AND HIS SISTERS CAR, RIGHT?
- 19 A I DO BELIEVE SO. WHEN HIS SISTER WAS
- 20 GOING TO...WHEN WE MOVED UP THERE TO THE BEACH, HE
- 21 GAVE HER THAT CAR TO DRIVE.
- 22 Q DID YOU EVER SEE RICHARD ANDERSON WITH A
- 23 WEAPON?
- 24 A NO, SIR.
- 25 Q NEVER SAW HIM HAVE A GUN?

- 1 A NO, SIR.
- 2 Q BUT, YOU'VE SEEN HIM TAKE A GUN FROM
- 3 SOMEONE?
- 4 A NO, SIR.
- 5 Q YOU HAVEN'T SEEN...HAVE YOU EVER SEEN
- 6 HIM TAKE A KNIFE FROM ANYBODY?
- 7 A WELL, WE...A LOT OF TIMES, IF SOMEBODY
- 8 WALKS IN AND THEY JUST GET OFF WORK AND THEY HAVE
- 9 EITHER A RAZOR BLADE HOLDER OR A LARGE KNIFE ON
- 10 THEM, YEAH WE ALWAYS ASK HIM TO TAKE IT OFF?
- 11 Q AND RICHARD IS NOT THE KIND OF PERSON
- 12 THAT WOULD LET ANYBODY GET THE DROP ON HIM FOR
- 13 SOMETHING LIKE THAT, IS HE?
- 14 A WELL, THAT'S WHY WE ASK THEM TO MAKE
- 15 SURE THAT THEY GAVE UP THEIR WEAPONS BEFORE THEY
- 16 CAME INTO THE CLUB?
- 17 Q RIGHT, BUT WHAT I'M SAYING IS, KNOWING
- 18 RICHARD THE WAY YOU DO AND HAVING SEEN HIM IN
- 19 ACTION, THE WAY HE RESPONDS TO CERTAIN
- 20 SITUATIONS...
- 21 A I DIDN'T SEE HIM LOOSE TOO MANY FIGHTS.
- 22 Q HE DOESN'T LOOSE TOO MANY FIGHTS?
- 23 A I HAVEN'T SEEN HIM LOOSE ANY.
- 24 Q AND IF SOMEBODY PULLED A WEAPON ON HIM,
- 25 HE'D GET IT AWAY FROM THEM, DIDN'T HE?

1 A I'VE NEVER ACTUALLY SEEN ANYBODY PULL A
2 WEAPON ON HIM, THOUGH.

3 Q YOU DON'T THINK ANYBODY COULD GET THE
4 DROP ON HIM THOUGH, FROM WHAT YOU SAW, ISN'T THAT
5 TRUE?

6 A YOU NEVER DO KNOW.

7 Q PARDON?

8 A SOMEONE MIGHT BE MEANER THAN RICHARD.

9 Q BUT, IF THEY DID, WHAT WOULD HE DO AFTER
10 THE SITUATION? DO YOU THINK RICHARD WOULD HESITATE
11 PUTTING THAT GUN BACK IN THEIR THROAT?

12 MR. JONES: OBJECTION, YOU HONOR,
13 SPECULATION.

14 THE COURT: SUSTAINED, I'M NOT SURE
15 WHERE YOU'RE HEADED MR. SWERLING. MOVE ALONG.

16 Q WELL, WHAT I'M ASKING YOU IS, I GUESS
17 I'M ASKING...RICHARD WASN'T AFRAID OF TOO MANY
18 THINGS, WAS HE?

19 A NO, SIR.

20 MR. JONES: SPECULATION, YOUR HONOR.

21 THE COURT: HE'S ANSWERED IT. ASKED AND
22 ANSWERED. MOVE ON.

23 Q NOW, THE...THERE WAS A TIME WHEN STEPHEN
24 ACTUALLY LIVED AT THE BEACH, RIGHT?

25 A YES, SIR.

- 1 Q AND THAT'S WHEN HE WOULD COME IN MORE
2 OFTEN THAN NOT AND PLAY THE POKER?
- 3 A CORRECT. HE WAS A REGULAR AT THAT TIME.
- 4 Q AND THERE WAS A TIME THERE WHERE SOME OF
5 Y'ALL AT THE CLUB WERE GOING TO PICK UP A LITTLE
6 EXTRA MONEY FROM STEPHEN. HE WANTED HIS HOUSE
7 PAINTED?
- 8 A CORRECT.
- 9 Q AND I THINK SEVERAL OF YOU WENT DOWN AND
10 HELPED PAINT HIS HOUSE?
- 11 A I BELIEVE THERE WAS FOUR OF US.
- 12 Q FOUR OF YOU?
- 13 A AND ON THAT OCCASION, YOU SAW HIS WIFE
14 AT THE HOUSE, VICKIE?
- 15 A I NEVER SAW HER, I JUST SAW THE TOP OF
16 HER HEAD.
- 17 Q SAW THE TOP OF HER HEAD. BUT, THE
18 PEOPLE THAT WENT DOWN TO PAINT WERE YOU AND BILL
19 HALEY AND ROBERT BLANTON AND RICHARD ANDERSON?
- 20 A YES, SIR.
- 21 Q AND, OVER HOW LONG A PERIOD OF
22 TIME...DID...WOULD IT TAKE TWO DAYS, I THINK TO
23 PAINT THE HOUSE?
- 24 A I'M NOT...I JUST PAINTED...DID SOME TRIM
25 WORK THAT FIRST DAY AND THEN AFTER THAT, I DIDN'T

1 BOTHER GOING BACK TO HELP HIM.

2 Q BUT IT TOOK A COUPLE DAY JOB? THEY HAD
3 A HOUSE DOWN THERE?

4 A YES, SIR, I IMAGINE SO.

5 Q OKAY. BUT SHE WAS HOME THAT DAY?

6 A YES, SIR.

7 Q AND YOU JUST GOT...I THINK WHAT YOU SAID
8 WAS YOU JUST GOT TO SEE THE TOP OF HER HAIR?

9 A SHE STUCK HER HEAD OUT THE SIDE DOOR AND
10 TOLD STEPHEN THERE WAS A PHONE CALL AND I WAS ON
11 THE ROOF AT THE TIME.

12 Q NOW, LET ME TALK TO YOU ABOUT THIS FIRST
13 LETTER YOU SAID YOU GOT. FIRST OF ALL THE SECOND
14 LETTER THAT THE SOLICITOR'S INTRODUCED, WHICH IS
15 STATE'S EXHIBIT 103. THIS LETTER HERE...LET ME
16 SHOW IT TO THE JURY...THAT DOESN'T SAY ANYTHING
17 ABOUT YOU NOT SAYING ANYTHING OR TALKING TO ANYBODY
18 OR COOPERATING WITH ANYBODY. IT APOLOGIZED REALLY
19 FOR YOU GETTING HASSLED ALONG WITH EVERYBODY ELSE,
20 DOESN'T IT?

21 A I'D HAVE TO RE-READ OR WHATEVER, TO MAKE
22 SURE.

23 Q WELL, THERE'S A SMALLER VERSION. I
24 THINK IT'S PROBABLY A LITTLE EASIER TO DEAL WITH.
25 THAT LETTER FROM STEPHEN...AND THAT'S...THE DATE OF

1 IT IS WHAT, JULY 5TH?

2 A I BELIEVE SO. YES, SIR.

3 Q OKAY, I MEAN, THAT DOESN'T SAY ANYTHING
4 AT ALL ABOUT NOT TALKING TO THE POLICE OR TELLING
5 THE POLICE ANYTHING OR ANYTHING OF THAT NATURE?

6 A NOT PARTICULARLY IN THIS LETTER, BUT
7 STILL IN SOME, IF YOU READ BETWEEN THE LINES.

8 Q WHAT...

9 A SOME OF THEM I GOT...RECEIVED ON THE
10 FIRST LETTER.

11 Q WELL, I'M TALKING ABOUT THAT LETTER
12 THOUGH, WHICH WAS JUST WRITTEN. WHAT WAS THE DATE
13 OF THE LETTER?

14 A JULY THE 5TH.

15 Q OF?

16 A '95

17 Q '95. IT DOESN'T SAY ANYTHING ABOUT NOT
18 COOPERATING AND NOT TALKING. IT JUST SAYS, "I'M
19 SORRY," BASICALLY, "YOU'RE GETTING HASSLED BY
20 PEOPLE," AND BASICALLY, HIS OPINION ABOUT WHAT THE
21 LAW ENFORCEMENT WAS DOING. AND THAT WAS TELLING
22 PEOPLE ABOUT EVIDENCE THAT THEY HAD AND HARASSING
23 PEOPLE?

24 A THAT IS CORRECT.

25 Q THAT'S WHAT IT SAYS, RIGHT?

- 1 A YES, SIR.
- 2 Q OKAY. NOW, YOU SAID YOU HAD GOTTEN THIS
- 3 OTHER LETTER IN DECEMBER?
- 4 A THAT'S CORRECT.
- 5 Q AND THAT LETTER...BY THE WAY, THIS
- 6 LETTER YOU TURNED OVER...
- 7 A YES, SIR.
- 8 Q ...TO LAW ENFORCEMENT. THE LETTER YOU
- 9 GOT, THAT YOU'RE TALKING ABOUT, IN DECEMBER, WAS IN
- 10 DECEMBER OF 1994, IS THAT CORRECT?
- 11 A I DO BELIEVE...YES, SIR.
- 12 Q OKAY, ALL RIGHT. THAT'S THE LETTER THAT
- 13 YOU THREW AWAY?
- 14 A CORRECT.
- 15 Q AND THAT'S THE LETTER YOU SAID CAME
- 16 AROUND CHRISTMAS TIME?
- 17 A AROUND, I BELIEVE IT WAS DECEMBER THE
- 18 7TH.
- 19 Q OKAY. AND, IT WAS THE LETTER THAT,
- 20 WHERE HE SAID SOMETHING ABOUT, "DON'T SAY
- 21 ANYTHING", OR WHAT WAS THE BEST...TO THE BEST OF
- 22 YOUR RECOLLECTION, WHAT WAS THAT ABOUT?
- 23 A IT SAID SOMETHING TO THE FACT THAT
- 24 "DON'T GIVE UP ANY INFORMATION WHEN PEOPLE START
- 25 COMING AROUND ASKING YOU A BUNCH OF QUESTIONS.

1 DON'T SAY ANYTHING." THINGS OF THAT NATURE.

2 Q ALL RIGHT. BUT, YOU DIDN'T KNOW

3 ANYTHING ABOUT...THIS KILLING?

4 A OBVIOUSLY, HE THOUGHT MAYBE RICHARD HAD

5 SAID SOMETHING TO ME.

6 Q WELL, BUT, ALSO, WHAT YOU DID KNOW ABOUT

7 WAS THE DRUG ACTIVITY DOWN THERE?

8 A OF COURSE.

9 Q OKAY. SO, IF STEPHEN BECKHAM WAS SAYING

10 TO YOU TO NOT SAY ANYTHING, I MEAN, YOU DIDN'T KNOW

11 ANYTHING ABOUT THE MURDER?

12 A NO, SIR.

13 Q ALL RIGHT. SO, THERE'S NOTHING YOU

14 COULD SAY ABOUT THE MURDER, CORRECT?

15 A CORRECT.

16 Q BUT, WHAT YOU COULD SAY SOMETHING ABOUT

17 WAS THE FACT THAT HE BOUGHT COCAINE OR GOT COCAINE

18 FROM JERRY HOGAN AND RICHARD ANDERSON AND MIKE

19 BEATTY SENIOR?

20 A AND JUST THE WHOLE DRUG THING, I

21 IMAGINE.

22 Q RIGHT, THE DRUG THING. AND, THE FACT OF

23 THE MATTER IS, WHEN HE SAID THAT TO YOU, THAT'S

24 EXACTLY WHAT YOU THOUGHT HE WAS REFERRING TO, ISN'T

25 IT?

- 1 A YES, SIR.
- 2 Q OKAY. YOU DIDN'T THINK HE WAS REFERRING
- 3 TO YOU ABOUT ANYTHING AT ALL DEALING WITH SOME KIND
- 4 OF HOMICIDE? ISN'T THAT TRUE?
- 5 A NO, SIR. NOT AT THAT TIME, NO.
- 6 Q RIGHT. AND, BECAUSE YOU DIDN'T KNOW
- 7 ANYTHING? CORRECT?
- 8 A THAT IS CORRECT.
- 9 Q AND YOU STILL DON'T KNOW ANYTHING ABOUT
- 10 IT, EXCEPT WHAT YOU'VE HEARD?
- 11 A TRUE.
- 12 Q BUT, IN DECEMBER OF 1994, YOU HAD NO
- 13 KNOWLEDGE, WHATSOEVER?
- 14 A NO, SIR.
- 15 Q ALL RIGHT. NOT FROM STEPHEN BECKHAM,
- 16 RICHARD ANDERSON OR ANYBODY ELSE IN THE WORLD?
- 17 A NO, SIR.
- 18 Q SO, THE ONLY THING THAT STEPHEN BECKHAM
- 19 COULD HAVE BEEN REFERRING TO YOU AT THAT TIME, NOT
- 20 TO TALK ABOUT, WAS THE DRUGS?
- 21 A NOT UNLESS HE ASSUMED THAT I DID KNOW.
- 22 Q RIGHT, OR THE DRUGS, WHICH IS WHAT
- 23 YOU'VE TOLD US ON PREVIOUS OCCASIONS, ISN'T IT?
- 24 A YES, SIR.
- 25 Q AND THAT'S WHAT YOU TOLD MR. DAVIS AND

- 1 MR. WINGARD, AND TOLD ME?
- 2 A YES, SIR. THAT'S ALSO WHAT I TOLD SLED.
- 3 Q ...AND SLED. OKAY, YOU TOLD SLED THAT
- 4 TOO.
- 5 A YES, SIR.
- 6 Q THAT'S THE ONLY THING THAT STEPHEN
- 7 BECKHAM COULD HAVE BEEN REFERRING TO?
- 8 A NOT THE ONLY THING. I SAID IT'S A
- 9 POSSIBILITY.
- 10 Q THE OBVIOUS THING?
- 11 A CORRECT.
- 12 Q BECAUSE, YOU DIDN'T KNOW ANYTHING ABOUT
- 13 THE HOMICIDE?
- 14 A NO, SIR.
- 15 Q ALL RIGHT. NOW, THEY CAME DOWN...EXCUSE
- 16 ME ONE MINUTE.
- 17 JUDGE, DOES SOMEONE NEED TO TAKE A
- 18 BREAK?
- 19 THE COURT: ALL RIGHT. WE'LL DO THAT.
- 20 WE GOT A GOOD SPOT TO...TAKE A SHORT BREAK, THEN.
- 21 I UNDERSTAND THAT THE JURY NEEDS TO DO THAT.
- 22 (JURY TAKES A RECESS AT 3:15)
- 23 THE COURT: ALL RIGHT, WE'LL TAKE ABOUT
- 24 TEN OR FIFTEEN MINUTES.
- 25 (JURY IS RETURNED TO THE COURT ROOM AT

1 3:35)

2 THE COURT: ALL RIGHT, MR. SWERLING, YOU
3 MAY RESUME YOUR CROSS EXAMINATION.

4 Q THAT YOU, YOUR HONOR.

5 I'VE GOT A COUPLE OF MORE QUESTIONS AND
6 WE'LL WRAP IT UP. WHEN YOU STARTED...I THINK THEY
7 CAME DOWN AND STARTED INTERVIEWING YOU, SOMEBODY
8 FROM LAW ENFORCEMENT AROUND...LET ME JUST GET IT
9 CORRECT...JULY 14TH, 1995? WOULD THAT BE ABOUT
10 RIGHT?

11 A YES, SIR.

12 Q WHEN THEY CAME DOWN THERE, DID THEY TELL
13 YOU THAT MIKE BEATTY HAD BEEN IDENTIFIED AS ONE OF
14 THE POSSIBLE PEOPLE?

15 MR. JONES: YOUR HONOR, THAT'S...

16 THE COURT: SUSTAINED.

17 Q I'M NOT OFFERING IT FOR THE TRUTH OF THE
18 MATTER, YOUR HONOR.

19 THE COURT: IT'S STILL THE SAME. SAME
20 OBJECTION.

21 Q DID THEY SHOW YOU ANY COMPOSITES?

22 A NO, SIR.

23 Q DID THEY SHOW YOU ANY LINEUP PHOTOS OR
24 ANYTHING LIKE THAT?

25 A NO, SIR.

- 1 Q DID THEY TELL YOU THAT...WELL, I GUESS
2 BY JULY 14TH...RICHARD ANDERSON HAD ALREADY BEEN
3 ARRESTED?
- 4 A I DO BELIEVE SO.
- 5 Q OKAY, SO WHEN YOU SPOKE WITH LAW
6 ENFORCEMENT, ANDERSON HAD ALREADY BEEN ARRESTED?
- 7 A CORRECT.
- 8 Q ALL RIGHT. DID THEY ASK YOU FOR YOUR
9 WORK RECORDS OR ANY WORK RECORDS AT SMUGGLER'S AND
10 DO YOU KNOW ANYTHING ABOUT ANY WORK RECORDS?
- 11 A OF MY OWN?
- 12 Q YOURS OR ABOUT HOW THEY ARE MAINTAINED?
- 13 A NO, SIR.
- 14 Q NOW, THESE LETTERS...LET ME GO TO THIS
15 PARTICULAR ONE LETTER FIRST, THE ONE THAT YOU SAID
16 YOU GOT ON DECEMBER 7TH. NOW, DO YOU REMEMBER
17 THIS? THIS IS THE ONE THAT CAME WITH THIS PACKAGE
18 RECEIVED IN UPS...IT CAME BY UPS.
- 19 A CORRECT.
- 20 Q NOW, WHEN I CAME...WHEN WE CAME DOWN TO
21 THE BEACH...I WON'T USE ME, BUT I'LL USE MR. DAVID,
22 TOMMY DAVIS, ON AUGUST 21ST, AND I SHOWED YOU THAT
23 RECEIPT, REMEMBER?
- 24 A I DON'T BELIEVE YOU DID.
- 25 Q YOU DON'T REMEMBER MR. DAVIS SHOWING YOU

1 THAT RECEIPT?

2 A THAT WAS THE FIRST TIME I SAW THAT
3 RECEIPT, OTHER THAN THE ONE I SIGNED ON THE
4 PACKAGE.

5 Q THE PACKAGE?

6 A WELL, THE ENVELOPE.

7 Q RIGHT. WE POINTED OUT TO YOU, OR MR.
8 DAVIS POINTED OUT TO YOU THAT THAT PACKAGE WAS FIVE
9 POUNDS. IT WASN'T A LETTER. DO YOU REMEMBER THAT?

10 A CORRECT.

11 Q OKAY. AND, PREVIOUS TO THAT, YOU HAD
12 THOUGHT THAT IT WAS A LETTER. THAT WHEN LAW
13 ENFORCEMENT WAS REFERRING TO IT...WHAT YOU GOT IN
14 DECEMBER OF 1994, YOU THOUGHT IT WAS A LETTER?

15 A THAT'S WHAT THEY HAD SAID.

16 Q RIGHT. AND, YOU DID NOT REMEMBER THAT
17 YOU HAD GOTTEN A GIFT BOX OF KAHLUA FROM MR.
18 BECKHAM UNTIL WE POINTED OUT TO YOU THAT IT WAS
19 FIVE POUNDS...

20 A THAT'S CORRECT.

21 Q ...AND THEN YOU REMEMBERED THAT YOU HAD
22 GOTTEN A CHRISTMAS GIFT FROM HIM...

23 A CORRECT.

24 Q ...AND THAT HE KNEW YOU LIKED KAHLUA?

25 A CORRECT.

- 1 Q IS THAT CORRECT?
- 2 A YES, SIR.
- 3 Q BECAUSE, EVEN WHEN THEY SPOKE WITH YOU
- 4 ON AUGUST 25TH, 1995, WHICH IS A MONTH LATER, YOU
- 5 DID NOT DESCRIBE THE LETTER YOU GOT IN DECEMBER AS
- 6 A LETTER...WELL, I'M SORRY...YOU DIDN'T DESCRIBE
- 7 WHAT YOU GOT IN DECEMBER AS A PACKAGE, YOU WERE
- 8 STILL DESCRIBING IT AS A LETTER?
- 9 A I WAS DESCRIBING THE LETTER THAT I HAD
- 10 RECEIVED.
- 11 Q RIGHT. BUT, WHAT, AND REALLY WHAT YOU
- 12 HAD GOT AND WHAT...
- 13 A THAT WAS THE ONE WITH UM...THE ONE WITH
- 14 THE LETTER FOR RICHARD ANDERSON IN IT.
- 15 Q RIGHT, BUT WHAT REALLY WHAT YOU HAD GOT
- 16 WAS A PACKAGE FROM UPS?
- 17 A NO, I GOT A LETTER, AND THEN I GOT A
- 18 PACKAGE. I TESTIFIED TO THAT EARLIER, THAT I GOT A
- 19 PACKAGE CLOSE AROUND CHRISTMAS TIME.
- 20 Q BUT THE LETTER DIDN'T COME IN THE
- 21 PACKAGE?
- 22 A NO.
- 23 Q OKAY. SO, THIS...WHAT THE STATE HAS
- 24 INTRODUCED HERE, THIS PACKAGE, HAS NOTHING TO DO
- 25 WITH THESE LETTERS? IS THAT RIGHT? THIS IS

- 1 SEPARATE AND APART?
- 2 A CORRECT.
- 3 Q OKAY. SO, WHAT YOU GOT FROM STEPHEN
- 4 BECKHAM AROUND DECEMBER 7TH, 1994 WAS A FIVE POUND
- 5 BOX FROM UPS THAT HAD KAHLUA IN IT...KAHLUA GIFT
- 6 BOX. CORRECT?
- 7 A OBVIOUSLY, YES, SIR.
- 8 Q OKAY. WELL, YOU SEE...YOU KEEP SAYING
- 9 YOU GOT THE LETTER AROUND DECEMBER 7TH, 1994. WHEN
- 10 DID...WHERE DID YOU GET THE LETTER FROM?
- 11 A IT WAS IN THE FIRST OF DECEMBER.
- 12 Q ALL RIGHT, BUT HOW DO YOU KNOW THAT?
- 13 WHERE IS THAT COMING FROM, THAT YOU GOT A LETTER
- 14 AROUND DECEMBER 1ST, 1994? YOU'VE BEEN REFERRING
- 15 TO THE FACT THAT YOU GOT THE LETTER DECEMBER 7TH,
- 16 1994, WHEN IN FACT WHAT YOU GOT WAS A PACKAGE?
- 17 A I GOT THE PACKAGE AND THE LETTER...AND
- 18 THE FIRST LETTER IN DECEMBER, '94. I REMEMBER
- 19 THAT...
- 20 Q BUT, NOT TOGETHER?
- 21 A THEY COULD HAVE BEEN A DAY BEHIND OR A
- 22 DAY EARLIER BEFORE ONE ANOTHER.
- 23 Q YOU DON'T REMEMBER?
- 24 A NOT SPECIFICALLY, NO, SIR.
- 25 Q OKAY. IN FACT, YOU DON'T REALLY

- 1 REMEMBER WHEN IT WAS THAT YOU GOT THAT LETTER? YOU
2 KNOW WHEN YOU GOT THE PACKAGE?
- 3 A IT WAS IN DECEMBER. I DO REMEMBER THAT
4 IT WAS IN DECEMBER, BECAUSE WE WERE GETTING
5 CHRISTMAS CARDS AT THE TIME, TOO.
- 6 Q OKAY. ALL RIGHT. SO, YOU THINK YOU
7 GOT, OR YOU BELIEVE YOU GOT THE LETTER IN DECEMBER
8 OF 1994?
- 9 A CORRECT.
- 10 Q AND, IT WAS ADDRESSED TO YOU?
- 11 A CORRECT.
- 12 Q AND, IT WAS ADDRESSED TO...
- 13 A IT ALSO HAD NO RETURN ADDRESS.
- 14 Q IT HAD NO RETURN ADDRESS?
- 15 A ON THE OUTSIDE.
- 16 Q AND, WHAT WAS INSIDE OF IT?
- 17 A THE LETTER THAT I DESCRIBED TO YOU
18 EARLIER.
- 19 Q ALL RIGHT. DESCRIBE THE LETTER TO ME.
20 WAS IT IN AN ENVELOPE OR WAS IT JUST IN A PIECE OF
21 PAPER OR HOW WAS IT...
- 22 A OH, IT WAS IN AN ENVELOPE. IT GOT
23 MAILED TO ME, SO IT HAD TO COME IN AN ENVELOPE.
- 24 Q THE LETTER THAT CAME TO YOU WAS IN AN
25 ENVELOPE?

1 A YES, SIR.

2 Q NO RETURN ADDRESS?

3 A I HAD A RETURN ADDRESS ON THE INSIDE,

4 BUT I DON'T REMEMBER WHAT IT WAS. I THREW IT AWAY.

5 Q THE INSIDE OF THE LETTER HAD A RETURN

6 ADDRESS AND NOT THE OUTSIDE OF THE LETTER?

7 A CORRECT. THE SAME AS THAT ONE THERE

8 DOES.

9 Q ALL RIGHT. AND, HOW WAS THE LETTER FROM

10 RICHARD...YOU SAID THERE WAS A LETTER IN THERE TO

11 RICHARD ANDERSON. HOW WAS THAT PACKAGED?

12 A IT WAS IN A SMALLER ENVELOPE.

13 Q SO, IT WAS IN AN ENVELOPE TOO?

14 A YES, SIR.

15 Q AND, IT SAID WHAT?

16 A I HAVE NO IDEA.

17 Q ALL RIGHT, BUT WHAT DID HE...WHAT DID IT

18 SAY ON THE OUTSIDE?

19 A I BELIEVE IT MIGHT HAVE SAID RICHARD OR

20 KING RICHARD OR SOMETHING OF THAT NATURE.

21 Q YOU'RE NOT SURE ABOUT THAT EITHER?

22 A BUT, I...I DO KNOW IN THE LETTER, IT

23 TOLD ME TO GIVE THAT TO HIM.

24 Q TO GIVE THAT TO RICHARD ANDERSON?

25 A YES, SIR.

- 1 Q ALL RIGHT. NOW, WHEN YOU WERE
2 INTERVIEWED BY SPIKE MCCRAW ON AUGUST 25TH, 1995,
3 YOU STATED...YOU REFERRED TO A LETTER THAT WAS
4 MAILED TO YOU THROUGH THE NATIONAL MAIL SERVICES
5 DATED DECEMBER 7TH, 1994. THAT WAS INCORRECT. THE
6 LETTER WASN'T MAILED THROUGH THE NATIONAL MAIL
7 SERVICES. WAS IT?
- 8 A NO.
- 9 Q OKAY.
- 10 A DID I SAY THE LETTER?
- 11 Q YES, SIR.
- 12 A TO HIM? THAT'S IN MY STATEMENT?
- 13 Q YES, SIR. DO YOU WANT TO TAKE A LOOK AT
14 IT, SEE IF IT REFRESHES YOUR MEMORY, JUST TO
15 REFRESH YOUR MEMORY.
- 16 DOES THAT REFRESH YOUR MEMORY, MR. GEHM,
17 OF THE CONVERSATION?
- 18 A IT SURE DOES. YES, SIR.
- 19 Q SO, WHAT SLED DID IS ON AUGUST 25TH,
20 1995...MR. MCCRAW CAME DOWN AND SAID, LOOK WE'VE
21 GOT A COPY, AND THEY SHOWED YOU A COPY OF THIS
22 RECEIPT?
- 23 A I'M NOT FOR SURE IF HE SHOWED ME THE
24 RECEIPT OR NOT.
- 25 Q AND, OR THEY SAID TO YOU...

- 1 A HE MIGHT HAVE. HE MIGHT HAVE.
- 2 Q OKAY, AND THEY SAID TO YOU THAT WE HAVE
- 3 INFORMATION THAT YOU RECEIVED SOMETHING FROM
- 4 NATIONAL MAIL SERVICE, WHICH IS THE HEADING ON THAT
- 5 A...
- 6 A RECEIPT.
- 7 Q ...RECEIPT, CORRECT?
- 8 A YES, SIR. I DID.
- 9 Q THE NUMBER IS NATIONAL MAIL SERVICES?
- 10 A I SEE IT.
- 11 Q AND THEY TOLD YOU, WE HAVE INFORMATION
- 12 THAT STEPHEN BECKHAM SENT YOU SOMETHING FROM
- 13 NATIONAL MAIL SERVICES ON DECEMBER 7TH, 1994, AND
- 14 YOU TOLD THEM THAT YOU REMEMBERED RECEIVING A
- 15 LETTER AND YOU THINK THERE WAS ANOTHER ENVELOPE
- 16 THAT HE GAVE RICHARD ANDERSON? DO YOU REMEMBER
- 17 THAT?
- 18 A I DON'T KNOW ABOUT, I THINK. I KNEW
- 19 THERE WAS.
- 20 Q I KNOW, BUT I'M ASKING YOU. LOOK AT IT
- 21 AND SEE IF IT REFRESHES YOUR MEMORY, BECAUSE YOU
- 22 TOLD THEM YOU THOUGHT THERE WAS ANOTHER ENVELOPE
- 23 THAT YOU GAVE RICHARD ANDERSON, AND THEN YOU SAID
- 24 YOU'RE NOT SURE WHETHER THERE WAS AN ENVELOPE OR
- 25 NOT INSIDE. IT MAY HAVE BEEN A FOLDED PIECE OF

- 1 PAPER. DOES THAT REFRESH YOUR MEMORY?
- 2 A REPEAT YOUR QUESTION, PLEASE.
- 3 Q ALL RIGHT. LET ME...IT'S THREE
- 4 QUESTIONS.
- 5 A OKAY.
- 6 Q NUMBER ONE, THEY FIRST TOLD YOU THAT WE
- 7 HAVE INFORMATION THAT YOU RECEIVED A LETTER AROUND
- 8 DECEMBER 7TH, 1994, THAT WAS MAILED BY STEPHEN
- 9 BECKHAM THROUGH NATIONAL MAIL SERVICES, RIGHT?
- 10 A CORRECT.
- 11 Q THE SECOND QUESTION IS, YOU TOLD THEM
- 12 THAT YOU THOUGHT YOU GOT A LETTER FROM STEPHEN
- 13 BECKHAM?
- 14 A I'M NOT SURE IF I COULD HAVE WORDED IT
- 15 SUCH AS, I MIGHT HAVE.
- 16 Q BUT, DOES THIS REFRESH YOUR MEMORY THAT
- 17 YOU MAY HAVE?
- 18 A NO, SIR. I KNOW FOR SURE THERE WAS A
- 19 LETTER INSIDE, I MEAN ANOTHER LETTER, SO I WOULDN'T
- 20 HAVE THOUGHT THERE WAS.
- 21 Q BUT, IT DOES HAVE THINK IN IT?
- 22 A OBVIOUSLY, IF THAT'S WHAT HE WROTE DOWN.
- 23 THAT'S NOT A SIGNED STATEMENT BY ME, THOUGH.
- 24 Q NO, I DIDN'T SAY THAT.
- 25 A OKAY.

- 1 Q AND THEN THE THIRD THING WAS, THAT YOU
2 SAID TO MR. MCCRAW IS THAT, YOU'RE NOT SURE WHETHER
3 THERE WAS AN ENVELOPE INSIDE OR A FOLDED PIECE OF
4 PAPER, TRUE?
- 5 A SAY AGAIN?
- 6 Q THAT YOU WEREN'T SURE WHETHER THERE WAS
7 AN ENVELOPE INSIDE OR A FOLDED PIECE OF PAPER?
- 8 A NO, I WAS SURE. THERE WAS A ENVELOPE
9 INSIDE THE LETTER.
- 10 Q RIGHT, BUT DID YOU TELL MR. MCCRAW ON
11 AUGUST 25TH, THAT YOU WERE NOT SURE THERE WAS AN
12 ENVELOPE IN THE LETTER OR IT COULD HAVE BEEN A
13 PIECE OF PAPER FOLDED UP?
- 14 A WITHIN THE ENVELOPE?
- 15 Q WITHIN THE ENVELOPE THAT YOU GOT.
- 16 A WITHIN THE ENVELOPE THAT I GOT, THERE
17 WAS A LETTER TO ME, AND THERE WAS AN ENVELOPE FOR
18 ME TO GIVE TO RICHARD.
- 19 Q I UNDERSTAND WHAT YOU'RE SAYING NOW MR.
20 GEHM. WHAT I'M SAYING IS DID YOU TELL MR. MCCRAW
21 ON AUGUST 25TH THAT YOU THOUGHT THERE WAS ANOTHER
22 ENVELOPE THAT YOU GAVE TO RICHARD ANDERSON, NUMBER
23 ONE, AND NUMBER TWO, THAT YOU WEREN'T SURE IF THERE
24 WAS AN ENVELOPE OR NOT IN THE LETTER, BUT THERE
25 COULD HAVE BEEN A PIECE OF PAPER FOLDED UP THAT YOU

- 1 GAVE ANDERSON? DID YOU TELL MR. MCCRAW THAT?
- 2 A I DON'T RECALL.
- 3 Q OKAY. THE FACT OF THE MATTER IS THAT
- 4 WHAT YOU GOT ON DECEMBER 7TH WAS A BOX OF KAHLUA, A
- 5 GIFT BOX OF KAHLUA FOR CHRISTMAS...
- 6 A YES, SIR. I DO REMEMBER RECEIVING THAT.
- 7 Q ALL RIGHT.
- 8 A I DON'T REMEMBER WHAT DATE IT WAS OR
- 9 WHAT DATE IT CAME ON OR ANYTHING LIKE THAT...
- 10 Q WHICH HAS NOTHING TO DO WITH THE LETTER
- 11 YOU'RE TALKING ABOUT?
- 12 A IT ALL CAME WITHIN ABOUT THE SAME AMOUNT
- 13 OF TIME.
- 14 Q BUT, THE LETTERS DID NOT COME WITH THAT?
- 15 A NOT PARTICULARLY WITH THAT BOX. NO,
- 16 SIR.
- 17 Q ALL RIGHT. AND, STEPHEN BECKHAM KNEW
- 18 YOU LIKED KAHLUA?
- 19 A YES, SIR. HE DID. I WAS DRINKING WHITE
- 20 RUSSIANS AT THE TIME, BUT THEY GOT TOO FATTENING.
- 21 Q IN FACT, STEPHEN BECKHAM HAD STAYED AT
- 22 YOUR HOUSE ONCE OR TWICE...
- 23 A HE HAD STAYED AT MY HOUSE ONLY ONCE.
- 24 Q ...IT WAS A GIFT FOR YOU? IT WAS A
- 25 GIFT?

- 1 A WHAT WAS THAT NOW?
- 2 Q THAT WAS A GIFT?
- 3 A YES, IT WAS.
- 4 Q OKAY. ALL RIGHT.
- 5 A THIS WAS A GIFT, I IMAGINE.
- 6 Q NOW, ISN'T IT ALSO...ISN'T IT TRUE THAT
- 7 ON NOVEMBER 20TH, 1995, WAS THE FIRST TIME THAT YOU
- 8 EVER SAID THAT THE LETTER INSIDE, THAT YOU'D
- 9 GOT...THIS LETTER THAT YOU'D GOT INSIDE, HAD KING
- 10 RICHARD ON THE OUTSIDE OF IT? WHEN YOU WERE
- 11 INTERVIEWED BY SPIKE MCCRAW AGAIN, NOVEMBER 20TH,
- 12 1995?
- 13 A I IMAGINE MY MEMORY WAS GETTING A LITTLE
- 14 BETTER, AT THE TIME.
- 15 Q YOUR MEMORY WAS GETTING...
- 16 A I WAS REMEMBERING A LITTLE MORE OF THE
- 17 DETAILS...
- 18 Q SO, THE FURTHER AWAY FROM THE EVENT, THE
- 19 BETTER YOUR MEMORY GOT?
- 20 A I WOULDN'T SAY THAT. I WAS JUST GIVEN
- 21 MORE TIME TO, YOU KNOW, THINK BACK ON THINGS.
- 22 Q THAT'S WHAT I'M JUST ASKING?
- 23 A OKAY.
- 24 Q THIS IS IN NOVEMBER OF 1995, AND YOU
- 25 SAY... NOW YOU SAY THAT OUTSIDE, YOU DEFINITELY GOT

- 1 AN ENVELOPE, AND ON THE OUTSIDE IT WAS KING
2 RICHARD?
3 A OR RICHARD, SIMILAR TO THAT NATURE.
4 Q BUT, YOU TOLD SPIKE MCCRAW KING RICHARD?
5 A WELL, IT COULD HAVE BEEN KING RICHARD.
6 Q ALL RIGHT. DID HE TELL YOU THAT RICHARD
7 ANDERSON HAD SAID HE'D GOTTEN A LETTER?
8 A THAT RICHARD ANDERSON HAD RECEIVED A
9 LETTER FROM WHOM?
10 Q DID HE...DID SPIKE MCCRAW TELL YOU THAT
11 RICHARD ANDERSON SAID HE HAD RECEIVED A LETTER FROM
12 YOU?
13 A NO...
14 Q THROUGH STEPHEN OR THROUGH YOU, FROM
15 STEPHEN BECKHAM?
16 A ... BECAUSE I ALREADY KNEW. THE ONLY
17 REASON THEY KNEW IS BECAUSE I HANDED IT TO THEM.
18 Q LISTEN TO WHAT I'M SAYING. DID MR.
19 MCCRAW TELL YOU THAT RICHARD ANDERSON WAS SAYING
20 THAT HE GOT A LETTER FROM STEPHEN BECKHAM THROUGH
21 YOU?
22 A NO, SIR.
23 Q THAT NEVER CAME UP? THAT CONVERSATION
24 HAS NEVER COME UP?
25 A IT COULD HAVE. I DON'T REMEMBER. I

1 CAN'T BE FOR SURE.

2 Q YOU CAN'T BE FOR SURE. OKAY. AND, YOU
3 HAVE SPOKEN TO RICHARD ANDERSON ON A COUPLE OF
4 OCCASIONS?

5 A I TALKED TO HIM TWICE ON THE PHONE SINCE
6 HE'S BEEN INCARCERATED.

7 Q NOW, MR. GEHM, THAT WAS A CONVERSATION
8 YOU HAD WITH MR. GIL...MR....I'M SORRY, MR. MCCRAW
9 ON NOVEMBER 20TH, 1995, WHERE YOU NOW NARROW IT
10 DOWN AS KING RICHARD?

11 A CORRECT. WE HAD ALWAYS CALLED HIM KING
12 RICHARD, THAT'S HIS...

13 Q OKAY. ON AUGUST 25TH, YOU'RE TALKING
14 ABOUT THE PACKAGE YOU GOT ON DECEMBER 7TH, WHERE
15 YOU THINK THERE WAS ANOTHER ENVELOPE INSIDE, AND
16 THEN, IT MIGHT HAVE BEEN AN ENVELOPE...

17 MR. JONES: THAT'S BEEN ASKED AND
18 ANSWERED.

19 MR. SWERLING: WELL, I'M GOING BACK.

20 THE COURT: SUSTAINED, NOW MR.

21 SWERLING...

22 Q YOU ALSO GAVE THEM A STATEMENT EARLIER
23 IN TIME THAN THAT, DID YOU NOT? ON JULY 15TH,
24 1995?

25 A I GAVE THEM WHAT?

- 1 Q A STATEMENT. A HAND WRITTEN, SIGNED
2 STATEMENT?
- 3 A I WRITTEN STATEMENT, YES, SIR.
- 4 Q ON JULY 15TH, 1995?
- 5 A NOT IN MY HAND WRITING, BUT IT WAS...
- 6 Q BUT, IT WAS A SIGNED STATEMENT?
- 7 A YES, SIR.
- 8 Q NOW, YOU WERE INTERVIEWED BY MR. MCCRAW?
- 9 A CORRECT. THAT'S WHEN I TURNED OVER THAT
10 LETTER.
- 11 Q AND, IN THAT STATEMENT, IS WHEN YOU WERE
12 TURNING OVER THE LETTER, CORRECT?
- 13 A THAT'S WHEN THEY CAME TO MY HOUSE AND
14 THEY TOOK DOWN THE STATEMENT.
- 15 Q AND MR. MCCRAW ASKED YOU IF YOU HAD
16 RECEIVED ANY OTHER LETTERS FROM STEPHEN BECKHAM AND
17 YOU HAD SAID, YES? CORRECT?
- 18 A CORRECT.
- 19 Q BUT, YOU DIDN'T MENTION THE FACT, IN
20 THAT STATEMENT OF JULY 15TH, 1995, THAT YOU HAD
21 EVER GOTTEN A LETTER FROM STEPHEN BECKHAM TO BE
22 GIVEN TO RICHARD ANDERSON, ISN'T THAT TRUE?
- 23 A THAT'S PROBABLY BECAUSE HE NEVER ASKED,
24 AND I NEVER THOUGHT OF TELLING HIM SO.
- 25 Q WELL, SO THEN THE ANSWER TO MY QUESTION

1 IS WHEN I SPOKE WITH SPIKE MCCRAW ON JULY 15TH,
2 1995, I TOLD HIM ABOUT THE TWO LETTERS I GOT,
3 MEANING YOU...CORRECT?

4 A SAY AGAIN, NOW?

5 Q THE ANSWER TO MY QUESTION, IS THAT ON
6 JULY 15TH, 1995, WHEN YOU SPOKE WITH SPIKE
7 MCCRAW...

8 A CORRECT.

9 Q ...YOU TOLD HIM ABOUT THE LETTER YOU HAD
10 GOTTEN, THE TWO LETTERS YOU HAD GOTTEN...

11 A CORRECT.

12 Q ...BUT, YOU DIDN'T TELL HIM THAT YOU
13 EVER GOT A LETTER FROM STEPHEN BECKHAM FOR RICHARD
14 ANDERSON?

15 A I MIGHT HAVE, MAYBE HE DIDN'T WRITE IT
16 DOWN.

17 Q WELL, YOU WANT...LET'S TAKE A LOOK AT
18 IT, SINCE THERE SEEMS TO BE SOME QUESTION...AND SEE
19 WHETHER OR NOT THIS REFRESHES YOUR MEMORY.

20 A AM I SUPPOSE TO LOOK AT THIS, YOUR
21 HONOR?

22 THE COURT: YES, SIR.

23 A OKAY.

24 THE COURT: YOU CAN NOW.

25 Q DOES THAT STATEMENT SAY, ON JULY 15TH,

1 1995, THAT YOU EVER GOT A LETTER FROM STEPHEN
2 BECKHAM FOR RICHARD ANDERSON?

3 A NO, SIR, BECAUSE HE NEVER BROUGHT IT
4 UP...HE NEVER...WELL, I NEVER THOUGHT...HE ASKED ME
5 IF I RECEIVED A LETTER, ANOTHER LETTER, AND I JUST
6 SAID...I TOLD HIM YES.

7 Q FOR YOU?

8 A HE SAID HAVE YOU RECEIVED ANY OTHER
9 LETTERS FROM STEPHEN BECKHAM, AND I HAD TOLD HIM I
10 ONLY RECEIVED ONE OTHER LETTER, AND HE DIDN'T
11 QUESTION IT NO FURTHER, OTHER THAN ANY FURTHER
12 RIGHTS.

13 Q MR. GEHM, THE BOTTOM LINE IS, YOU NEVER
14 MENTIONED YOU GOT A LETTER FROM RICHARD ANDERSON,
15 ISN'T THAT TRUE?

16 A OH, I HAVE NUMEROUS TIMES.

17 Q I'M TALKING ABOUT IN THAT STATEMENT...

18 A ON THIS PARTICULAR STATEMENT, NO, SIR.

19 Q ALL RIGHT, AND THAT'S THE HAND
20 WRITTEN...THAT'S A SIGNED STATEMENT, UNDER OATH, IS
21 IT NOT?

22 A UNDER OATH, I DON'T KNOW ABOUT THAT.

23 Q WASN'T IT SWORN TO BEFORE A NOTARY?

24 A HE WAS AT MY HOUSE, AND...

25 Q IS IT SWORN TO?

- 1 A IT'S WITNESSED BY, YES, SIR.
- 2 Q BY SPIKE MCCRAW?
- 3 A AND UH, DANNY GILLIAM, I BELIEVE.
- 4 Q DO YOU SEE WHERE IT SAYS SWORN?
- 5 A OKAY.
- 6 Q SWORN, UNDER OATH? OKAY? NOW, LET ME
- 7 ASK YOU...
- 8 MR. JONES: WE OBJECT...
- 9 THE COURT: NO, SIR, I'M NOT LETTING THE
- 10 STATEMENTS IN.
- 11 MR. JONES: ALL RIGHT, FINE.
- 12 Q LET ME ASK YOU ONE OTHER QUESTION. YOU
- 13 MENTIONED TODAY, A FELLOWS NAME OF SLICK RICK
- 14 MITCHELL OR SOMETHING LIKE THAT?
- 15 A WE CALL HIM SLICK RICK. I NEVER KNEW
- 16 WHAT HIS LAST NAME WAS.
- 17 Q DO YOU KNOW THIS FELLOW PRETTY WELL?
- 18 A NOT VERY WELL, I MEAN, NOT PERSONALLY.
- 19 I'M NOT A GOOD CLOSE FRIEND, NO, SIR.
- 20 Q HE HANGS AROUND THE CLUB?
- 21 A HE WAS A REGULAR THERE AT ONE TIME.
- 22 Q HE KNOWS, OR KNEW AND RAN AROUND WITH
- 23 MIKE BEATTY AND JERRY HOGAN...RICHARD ANDERSON?
- 24 A I DON'T KNOW IF HE RAN AROUND WITH MIKE
- 25 BEATTY AND STUFF, BUT HE WAS A REGULAR IN THE CLUB.

- 1 Q WELL, WHAT I'M ASKING IS HE PART OF THIS
2 GROUP?
- 3 A WHAT GROUP? HE DIDN'T WORK AT
4 SMUGGLER'S, NO SIR.
- 5 Q HE NEVER WORKED THERE?
- 6 A NO, SIR.
- 7 Q BUT, HE WAS A REGULAR THERE?
- 8 A YES, SIR.
- 9 Q HE KNOWS HOGAN, KNOWS BEATTY?
- 10 A IT'S A LOCAL BAR, I MEAN, MOST PEOPLE
11 THAT GO THERE KNOW EACH OTHER.
- 12 Q OKAY. SO, THE ANSWER TO MY QUESTION IS
13 HE KNOWS ALL OF THESE PEOPLE THEN, RIGHT?
- 14 A I'M SURE HE DID.
- 15 Q OKAY. DO YOU ALSO LIVE IN THE SAME
16 TRAILER PARK WITH HIM?
- 17 A NO, SIR.
- 18 Q DID YOU?
- 19 A NO, SIR.
- 20 Q ALL RIGHT.
- 21 A HE RENTED FROM THE SAME LANDLORD, BUT
22 NOT THE SAME TRAILER PARK.
- 23 Q OKAY. SO, YOU HAVE THE SAME LANDLORD?
24 WHEN WAS THE LAST TIME YOU SPOKE WITH HIM?
- 25 A THAT WAS AROUND APRIL, I BELIEVE, THE

- 1 FIRST OF APRIL.
- 2 Q OF?
- 3 A NINETY FIVE, I BELIEVE IT WAS.
- 4 Q NINETY FIVE. YOU HAVEN'T SEEN HIM...
- 5 A OR NINETY FOUR, EXCUSE ME.
- 6 Q YOU HAVEN'T SEEN OR TALKED TO HIM SINCE
- 7 THEN?
- 8 A NO, SIR. WELL, I SAW HIM ONCE AFTER
- 9 THAT, WHEN I GAVE THE MESSAGE FROM STEPHEN BECKHAM
- 10 TO GIVE TO HIM.
- 11 Q ALL RIGHT. NOW, YOU START...WE STARTED
- 12 THIS WHOLE CONVERSATION SOMETIME AGO. HAD YOU
- 13 SPOKEN TO MR. MCCRAW AND MEMBERS OF LAW ENFORCEMENT
- 14 AND MY STAFF, MR. HARPOOTLIAN, THE TWO
- 15 INVESTIGATORS, FORMER FBI AGENTS, DOZENS OF TIMES,
- 16 IT SEEMED LIKE, RIGHT?
- 17 A YES, SIR.
- 18 Q ISN'T IT TRUE, YOU'VE NEVER MENTIONED
- 19 RICK MITCHELL...
- 20 A NO, SIR.
- 21 Q ...UNTIL THE LAST FEW DAYS?
- 22 A THAT IS TRUE.
- 23 Q IT'S TRUE, YOU'VE NEVER MENTIONED HIS
- 24 NAME?
- 25 A I'VE NEVER MENTIONED HIS NAME BEFORE.

- 1 Q NEVER MENTIONED THAT CONVERSATION?
- 2 A BECAUSE IT NEVER CAME UP.
- 3 Q I UNDERSTAND NOW, YOU CAN EXPLAIN IT,
- 4 BUT, WITH ALL THE CONVERSATIONS YOU'VE HAD WITH LAW
- 5 ENFORCEMENT...
- 6 A CORRECT.
- 7 Q ...THE DOZENS OF TIMES THEY'VE BEEN
- 8 THERE, THE DOZENS OF TIMES WE'VE BEEN THERE...
- 9 A TRUE.
- 10 Q ...THIS CONVERSATION THAT YOU HAD WITH
- 11 MR. MITCHELL...
- 12 A CORRECT.
- 13 Q ...SEEING THIS GUN OR RIFLE YOU TALK
- 14 ABOUT THAT MR. BECKHAM HAS...
- 15 A WHICH I TOTALLY FORGOTTEN UNTIL VERY
- 16 RECENTLY.
- 17 Q ALL OF THESE THINGS THAT YOU RELATED
- 18 ABOUT RICK MITCHELL WAS JUST WITHIN THE LAST WEEK?
- 19 A WITHIN THE LAST DAY.
- 20 Q WITHIN THE LAST...
- 21 A WITHIN THE LAST COUPLE OF DAYS.
- 22 Q THE LAST COUPLE OF DAYS?
- 23 A IT JUST CAME TO MIND, YOU KNOW, IT JUST
- 24 CAME TO MY MEMORY, THAT I HAD TALKED TO HIM.
- 25 Q THE COURT WOULD INDULGE ME ONE MOMENT.

- 1 JUST ONE MINUTE, WE'LL WRAP IT UP, MR.
2 GEHM. YOU TOLD...EVERYTHING YOU'VE TOLD THE JURY
3 TODAY ABOUT ALL THESE DRUGS DOWN THERE AND ALL
4 THAT, YOU'VE RELAYED THAT TO LAW ENFORCEMENT,
5 RIGHT?
6 A I'M SURE I HAVE.
7 Q ANYBODY EVER SAY YOU COULD BE PROSECUTED
8 FOR ANY OF THAT?
9 A THEY SAID I COULD NOT.
10 Q COULD NOT BE. SO, THAT DISCUSSION DID
11 COME UP WITH YOU, AS TO WHETHER OR NOT YOU WOULD OR
12 NOT...WOULD OR WOULD NOT BE PROSECUTED?
13 A NO, THEY, NOT ACTUALLY, NO, SIR.
14 Q WELL, HOW DID IT COME UP THAT YOU WOULD
15 NOT?
16 A I MEAN, I HAD COME TO THE ASSUMPTION.
17 IT'S LIKE THE PRESIDENT SAYING HE'S SMOKED POT
18 BEFORE, BUT DIDN'T INHALE. YOU DON'T SEE ANYBODY
19 ARRESTING HIM.
20 Q YEAH, BUT HE JUST ADMITTED HE WISHED HE
21 HAD.
22 A WELL, THEY SHOULD HAVE ARRESTED HIM.
23 Q HE JUST SAID HE WISHED HE HAD. HE WAS
24 AT THE SAME PARTY THAT A FEW OTHER PEOPLE I KNOW
25 WERE AT. LET ME ASK YOU, BUT WHY DID THAT

1 DISCUSSION COME UP, THAT THEY SAID THEY WOULDN'T
2 PROSECUTE YOU?

3 A THEY DIDN'T WANT ME TO BE...THEY DIDN'T
4 WANT ME TO HOLD BACK ON TELLING THE TRUTH, IN CASE
5 YOU WERE TO BRING IT UP OR IN CASE THEY WOULD BRING
6 IT UP. GO AHEAD AND TELL THE TRUTH AND DON'T BE
7 FRIGHTENED.

8 Q SO, THE DISCUSSION WAS HAD THAT YOU
9 WOULD NOT BE PROSECUTED?

10 A NO, I DIDN'T NEVER SAY THAT I COULDN'T
11 BE PROSECUTED, BUT WHY...I MEAN, I DON'T SEE HOW
12 THAT COULD BE POSSIBLE. I MEAN...

13 Q WHEN DID YOU HAVE THAT DISCUSSION WITH
14 THEM ABOUT THAT? IN THE LAST COUPLE OF DAYS?

15 A IT'S BEEN OFF AND ON. NO, JUST THE
16 WHOLE TIME...I BELIEVE SOME OF YOUR PEOPLE ASKED ME
17 THE SAME THING.

18 Q I'M TALKING ABOUT WHEN THEY HAD THE
19 DISCUSSION ABOUT BEING PROSECUTED? WHERE THEY HAD
20 THAT DIS...

21 A THAT'S NEVER...WE HADN'T NEVER HAD A
22 DISCUSSION.

23 Q NOT BEING PROSECUTED?

24 A THEY NEVER HAD THE DISCUSSION AT ALL,
25 ABOUT BEING PROSECUTED OR NOT. THEY JUST SAID NOT

1 TO BE AFRAID TO TELL THE TRUTH TO THE FACT THAT
2 DRUGS WERE TO COME INTO PLAY, INTO THE TESTIMONY OR
3 WHATEVER.

4 Q CORRECT ME. DID YOU SAY THAT THERE WAS
5 A DISCUSSION WHERE YOU...THEY SAID YOU COULDN'T BE
6 PROSECUTED FOR IT?

7 A I DON'T BELIEVE SO.

8 Q YOU DIDN'T SAY THAT?

9 A I DON'T BELIEVE SO.

10 Q HAD ANYBODY FROM LAW ENFORCEMENT EVER
11 SAID TO YOU ANYTHING ABOUT BEING PROSECUTED FOR
12 DRUGS?

13 A NO, SIR.

14 Q OR NOT BEING PROSECUTED FOR DRUGS?

15 A NO, SIR.

16 Q HAS ANYBODY...YOU'VE TOLD THEM ABOUT ALL
17 THESE OTHER ACTIVITIES WITH BEATTY AND HOGAN AND
18 ALL THOSE...THAT WHOLE CROWD AND ANDERSON, THEY'VE
19 NEVER SAID ANYTHING ABOUT PROSECUTING ANY OF THEM
20 FOR DRUGS?

21 A NO, SIR.

22 Q THAT'S ALL I HAVE.

23 THE COURT: ALL RIGHT, REDIRECT.

24 MR. JONES: YES, SIR, YOUR HONOR.

25 REDIRECT EXAMINATION:

1 BY MR. JONES:

2 Q SHAWN, I BELIEVE YOU SAID...I THINK I
3 HEARD YOU RIGHT, I WANT TO ASK YOU. DID YOU TELL
4 MR. SWERLING ON CROSS EXAMINATION THAT DEFENDANT
5 WAS WELCOME IN YOUR HOUSE ANYTIME?

6 A I DON'T BELIEVE I SAID--WELL, ALL OF MY
7 FRIENDS ARE WELCOME TO MY HOUSE ANY TIME.

8 Q WELL, SO HE'S A FRIEND?

9 A YES.

10 Q AND HE WAS IN 1990?

11 A YES, SIR.

12 Q HE WAS IN 1991?

13 A YES, SIR.

14 Q WAS HE IN '92?

15 A I'M SURE HE WAS.

16 Q WAS HE IN '93?

17 A I'M PRETTY SURE HE WAS.

18 Q WAS HE IN '94?

19 A YES, SIR.

20 Q HAD HE EVER SENT YOU A CHRISTMAS PRESENT
21 BEFORE DECEMBER OF 1994?

22 A NO, SIR.

23 Q ALL RIGHT, HAD HE EVER SENT YOU A LETTER
24 BEFORE DECEMBER OF 1994?

25 A NO, SIR.

1 Q WHEN HE SENT YOU A LETTER, IS HE A
2 FRIEND OF YOUR'S?

3 MR. SWERLING: JUDGE?

4 A YES, SIR.

5 MR. SWERLING: NOW, HE CAN MOVE OVER
6 HERE. HE DOESN'T HAVE TO STAND BEHIND...

7 THE COURT: I'M NOT GOING TO TELL Y'ALL
8 WHERE YOU'RE GOING TO STAND IN THE COURTROOM.

9 MR. SWERLING: YES, SIR.

10 Q WHEN HE SENT YOU A LETTER...

11 THE COURT: ALL RIGHT NOW, HOLD IT.
12 NOW, I'VE BEEN REAL EASY GOING WITH THE AUDIENCE
13 NOW, I WANT YOU TO HOLD IT DOWN NOW.

14 ALL RIGHT, SOLICITOR.

15 Q WHEN HE SENT YOU A LETTER IN DECEMBER OF
16 '94, DID IT OR DID IT NOT HAVE A NOTE INSIDE FOR
17 RICHARD ANDERSON?

18 A IT DID.

19 Q WHY?

20 A I HAVE NO IDEA.

21 Q NOW, I'D LIKE TO ASK YOU...YOU MENTIONED
22 ON CROSS EXAMINATION THAT DEFENDANT BECKHAM WAS A
23 POKER PLAYER, IS THAT CORRECT?

24 A THAT IS CORRECT, SIR.

25 Q HE LIKED TO PLAY THE POKER MACHINES?

- 1 A YES, SIR.
- 2 Q AND I BELIEVE YOU SAID THAT HE SPREAD
3 HIS WEALTH AROUND IN THE CLUB?
- 4 A YES, SIR.
- 5 Q AND I BELIEVE YOU SAID THAT HE, FROM
6 TIME TO TIME WOULD GET A COUCH DANCE?
- 7 A CORRECT.
- 8 Q WHAT'S A COUCH DANCE?
- 9 MR. HARPOOTLIAN: YOUR HONOR, I OBJECT
10 TO THAT.
- 11 THE COURT: I...I DON'T KNOW WHERE
12 YOU'RE HEADED MR. SOLICITOR...
- 13 MR. JONES: WELL, YOUR HONOR, IT'S
14 ALL...
- 15 THE COURT: WAIT...WAIT...WAIT...DON'T.
16 RIGHT HERE.
- 17 (BENCH CONFERENCE IN THE PRESENCE OF THE
18 JURY, OUT OF THE HEARING OF THE JURY, AND OFF THE
19 RECORD.)
- 20 THE COURT: OBJECTION SUSTAINED.
21 REPHRASE YOUR QUESTION SOLICITOR.
- 22 Q WHEN DEFENDANT BECKHAM WOULD COME IN THE
23 CLUB, WOULD YOU EVER ANNOUNCE HIS PRESENCE OVER THE
24 LOUD SPEAKER?
- 25 A I DID THAT QUITE OFTEN WITH ALL THE

1 REGULARS THAT COME INTO THE CLUB.

2 Q HOW MANY REGULARS DID YOU HAVE AT THE
3 CLUB IN 1994...IN THE SPRING OF 1994...IN APRIL AND
4 MAY AND JUNE OF 1994 THAT DROVE FROM POMARIA, SOUTH
5 CAROLINA TO MYRTLE BEACH ON A REGULAR BASIS, TO
6 VISIT THE CLUB?

7 A FROM THAT PARTICULAR TOWN, I WOULDN'T
8 KNOW. PROBABLY JUST STEVE BECKHAM.

9 Q WELL, YOU'VE DRIVEN UP HERE FROM MYRTLE
10 BEACH, HAVEN'T YOU?

11 A YES, SIR.

12 Q HOW LONG DID IT TAKE YOU TO GET UP HERE
13 FROM MYRTLE BEACH, TO GET TO NEWBERRY, SOUTH
14 CAROLINA?

15 A APPROXIMATELY ABOUT TWO AND A HALF
16 HOURS, I IMAGINE, OR MAYBE LONGER.

17 Q DO YOU KNOW HOW MANY REGULARS YOU HAD AT
18 THE CLUB IN THE SPRING OF 1994 THAT DROVE TWO AND A
19 HALF HOURS TO COME DOWN TO PLAY A POKER MACHINE?

20 MR. HARPOOTLIAN: HOW WOULD HE KNOW
21 THAT, YOUR HONOR?

22 THE COURT: SUSTAINED.

23 Q BUT, YOU DO RECALL HIM COMING DOWN IN
24 APRIL AND MAY...

25 A YES, SIR.

1 Q ...AND JUNE OF 1994?

2 A I DO.

3 Q AND HE PLAYED THE POKER MACHINES?

4 A YES, SIR.

5 Q NOW, YOU MENTIONED THAT HE...THAT YOU
6 RECALL HIM...DID YOU SAY HE ASKED WHERE HE COULD
7 FIND SLICK RICK?

8 A YES, HE DID.

9 Q ALL RIGHT, NOW, I WANT TO ASK YOU...
10 REGARDLESS OF WHEN YOU TOLD THE AUTHORITIES ABOUT
11 THAT, DID HE, IN APRIL OF 1994, ASK YOU WHERE HE
12 COULD FIND...

13 MR. SWERLING: OBJECTION TO THE LEADING
14 FORM OF THE QUESTION. LEADING.

15 THE COURT: SUSTAINED. REPHRASE.

16 Q WHAT DID HE ASK YOU ABOUT SLICK RICK IN
17 APRIL OF 1994?

18 MR. SWERLING: ASKED AND ANSWERED. I DID
19 NOT GO INTO THAT. IT IS NOT PROPER REDIRECT.

20 THE COURT: SUSTAINED AS TO THAT.

21 Q ALL RIGHT, DID YOU MEET WITH HIM IN
22 DECEMBER OF 1994?

23 MR. SWERLING: OBJECTION, YOUR HONOR.
24 NOT ASKED, NOT PROPER REDIRECT.

25 THE COURT: AND I SUSTAIN THAT. AND

1 GENTLEMEN, THIS IS NOT A PLACE TO HASH AND REHASH
2 NOW, OKAY. AND I SAY THAT TO MR. SWERLING AS WELL.

3 Q LET ME ASK YOU THIS. DO YOU RECALL WHEN
4 YOU WENT TO WORK AT SMUGGLER'S?

5 A YES, SIR. APPROXIMATELY TWELVE YEARS
6 AGO.

7 Q AND THAT WOULD BE IN 1984?

8 A '84 OR '85. I CAN'T BE EXACTLY SURE ON
9 THE DATE.

10 Q AND WHO WAS THE OWNER THEN?

11 A THE OWNERS WERE JERRY HOGAN; THEY HAD
12 JUST PURCHASED THE PLACE. AT THE TIME, I WAS
13 WORKING DOWN THE STREET AT HARPER'S THREE AS AN
14 UNDERSTUDY, AND WHEN THEY BOUGHT SMUGGLER'S
15 SHOWGIRLS, I BELIEVE AT THE TIME IT WAS CALLED
16 SMUGGLER'S GOLD. THEY BOUGHT IT FROM A GENTLEMAN
17 BY THE NAME RICK WHOM I DON'T KNOW. AND ONCE THEY
18 OPENED THE DOORS, THEY INVITED ME TO COME DOWN
19 THERE AND THEY OFFERED ME MORE PAY. AND OF COURSE,
20 I LEFT HARPER'S THREE AND I WENT DOWN TO WORK FOR
21 THEM, AND I CAN'T BE EXACTLY SURE WHAT YEAR IT WAS.
22 IT WAS IN THE MID-'80'S, LATE '80'S.

23 Q ALL RIGHT. WHEN DID MR. JERRY HOGAN
24 DISASSOCIATE HIMSELF WITH SMUGGLER'S? WHEN DID HE
25 LEAVE TOWN AND NO LONGER HAVE AN INTEREST IN

1 SMUGGLER'S?

2 A AGAIN, I CAN'T RECALL THE EXACT YEAR OR
3 MONTH THAT HAPPENED IN. IT'S BEEN--JOHN TUITT OR
4 J.T. BOUGHT THE ESTABLISHMENT. I'D SAY MAYBE '93
5 MAYBE.

6 Q SO YOU SAY IT WAS 1993...

7 A '93, OR '92. I THINK J.T. OWNED IT FOR
8 ABOUT FOUR YEARS MAYBE, AT THE MOST.

9 Q FOR FOUR YEARS.

10 A I CAN'T BE FOR SURE, SIR. SOMETHING I
11 NEVER REALLY NEVER, YOU KNOW, THOUGHT ABOUT
12 REMEMBERING.

13 Q CAN YOU TELL US WHETHER OR NOT HOGAN WAS
14 THERE IN THE SPRING OF '94?

15 A NO, HE WAS NOT.

16 Q HE WAS NOT THERE IN THE SPRING...

17 A I DON'T BELIEVE HE WAS, NO, SIR.

18 Q WHO WAS YOUR BOSS IN THE SPRING OF '94?

19 A GOOD QUESTION. I WOULD IMAGINE, WELL,
20 MY BOSS HAS ALWAYS BEEN MICHAEL BEATTY, JUNIOR.
21 HE'S THE ONE THAT'S BEEN MANAGING THE CLUB ALL THE
22 WAY 'TIL J.T. HAD SOLD THE PLACE. SO MY BOSS WAS
23 MICHAEL BEATTY, JUNIOR.

24 Q DID YOU EVER SEE...

25 A AS TO WHO THE OWNERSHIP GO TO EXACTLY ON

1 THE CLUB DURING THAT TIME, I COULDN'T BE FOR SURE.
2 I MEAN, IT WAS A PRETTY LONG TRANSACTION. J.T. WAS
3 OVER THERE, WAS ALWAYS THERE, AND MICHAEL, JUNIOR
4 AND THEM WAS ALWAYS THERE. SO WHEN THE TRANSACTION
5 ACTUALLY TOOK OVER THE MEMBERSHIP, WELL, WHO OWNED
6 THE PLACE, I DON'T KNOW.

7 Q ALL RIGHT, MR. SWERLING ASKED YOU
8 SOMETHING ABOUT A FELLOW BY THE NAME OF BLANTON.
9 IS THAT ROBERT BLANTON?

10 A THAT IS.

11 Q WHAT DID HE HAVE TO DO WITH THE CLUB,
12 ROBERT BLANTON?

13 A HIS NICKNAME WAS MINI BOTTLE ROBERT. HE
14 WAS A BARTENDER AT THE TIME.

15 Q AND WHAT ABOUT HIS WIFE, BROOKE, WHAT
16 DID SHE HAVE TO DO WITH THE CLUB?

17 A SHE WAS AN EROTIC DANCER AT THE TIME.

18 Q DO YOU KNOW WHETHER DEFENDANT BECKHAM
19 KNEW ROBERT AND BROOKE?

20 A I IMAGINE SO. THEY WERE EMPLOYEES OF
21 THE CLUB.

22 Q DO YOU KNOW WHETHER HE EVER SPENT ANY
23 TIME AT THE HOME...

24 MR. SWERLING: OBJECTION. YOUR HONOR,
25 THAT IS NOT REDIRECT.

1 THE COURT: SUSTAINED. HE DIDN'T GO
2 INTO THAT QUESTION.

3 Q AND WHO IS WILD BILL? I BELIEVE MR.
4 SWERLING MENTIONED A BILL, DO YOU KNOW?

5 A WILD BILL, BILL HALEY.

6 Q BILL HALEY? AND WHAT DID HE HAVE TO DO
7 WITH THE CLUB?

8 A HE WAS AN UNDERSTUDY OF MINE.

9 Q SO HE WAS AN APPRENTICE DISC-JOCKEY?

10 A YES, SIR.

11 Q AND DID HE KNOW DEFENDANT BECKHAM?

12 A I BELIEVE SO. I'M SURE HE DID.

13 Q WELL, WHO WAS DEFENDANT BECKHAM CLOSEST
14 TO BETWEEN ROBERT BLANTON, BILL HALEY, RICHARD
15 ANDERSON AND YOU?

16 MR. SWERLING: JUDGE, THAT'S JUST NOT...

17 THE COURT: I OVERRULE THAT OBJECTION.

18 A I DON'T KNOW. I NEVER CONSIDERED
19 LABELING, YOU KNOW, YOUR FRIENDSHIP, YOU KNOW, MORE
20 SO THAN ANOTHER PERSON. I DON'T UNDERSTAND THE
21 QUESTION. WHO WAS HE CLOSEST TO IN BETWEEN THOSE
22 PEOPLE? I WOULD IMAGINE MYSELF.

23 Q NOTHING FURTHER.

24 THE COURT: ANYTHING ON...

25 MR. SWERLING: I JUST HAVE ONE OTHER

1 THING.

2 RECROSS EXAMINATION:

3 BY MR. SWERLING:

4 Q YOU SAID SOMETHING IN RESPONSE TO WHAT
5 MR. JONES SAID ABOUT MR. BECKHAM HAVING SOME MONEY?

6 A HAVING WHAT?

7 Q MONEY?

8 A YEAH.

9 Q I MEAN, PEOPLE DOWN AT THE CLUB THOUGHT
10 HE HAD MONEY, DID THEY NOT?

11 A WELL, HE'S ABOUT THE ONLY FELLOW THAT
12 CAME IN ON A REGULAR BASIS WEARING A SUIT AND TIE.

13 Q AND HE HAD A--YOU KNOW WHERE HE WORKED?

14 A I BELIEVE AT THE TIME HE OWNED A
15 TELEPHONE COMMUNICATIONS OR SOMETHING OF THAT
16 NATURE.

17 Q AND ANDERSON AND YOU AND ANYBODY ELSE IN
18 THE CLUB WOULD HAVE KNOWN THAT HE HAD OR THOUGHT HE
19 HAD SOME MONEY?

20 A WE THOUGHT--WELL, HE GAVE THAT
21 IMPRESSION THAT HE WAS FINANCIALLY SECURE.

22 Q THAT'S ALL I HAVE.

23 THE COURT: ALL RIGHT, THANK YOU, SIR.
24 YOU MAY STEP DOWN. ANY REASON THE WITNESS CAN'T BE
25 EXCUSED FROM THE SUBPOENA?

1 MR. JONES: NONE ON THE PART OF THE
2 STATE, YOUR HONOR.

3 THE COURT: ALL RIGHT, THANK YOU. CALL
4 YOUR NEXT WITNESS.

5 MR. JONES: STATE CALLS TAMMY MCKINNEY.

6 THE COURT: I WANT TO REPEAT MYSELF
7 ABOUT HASHING AND REHASHING. I DON'T WANT YOU TO
8 ASK THE SAME QUESTION THREE OR FOUR DIFFERENT WAYS.
9 I'M GOING TO LET YOU TRY YOUR CASE, BUT, YOU KNOW,
10 OKAY? I JUST SAY THAT AS A GENERAL COMMENT.

11 MR. JONES: JUST FOR THE RECORD, I THINK
12 MY REDIRECT WAS ABOUT SIX MINUTES.

13 THE COURT: YOU DID A GOOD JOB,
14 SOLICITOR.

15 MR. JONES: SIX MINUTES, AS OPPOSED TO
16 CROSS THAT WAS AN HOUR.

17 THE COURT: I UNDERSTAND.

18 MR. SWERLING: HIS DIRECT WAS AN HOUR.
19 WHAT DIFFERENCE DOES THAT MAKE?

20 THE COURT: ALL RIGHT, FELLOWS. I'M
21 JUST POINTING OUT TO YOU, NOW YOU WANT ME TO DRAW A
22 REAL TIGHT LINE AROUND BOTH OF YOU, I WILL. NOW
23 KNOCK IT OFF. I JUST SAID DON'T REPEAT YOURSELF.
24 BOTH SIDES. I SAY THAT GENERALLY TO YOU. YOU'VE
25 BOTH BEEN DOING GOOD. NOW, THINK ABOUT THE JURY

1 WHEN YOU'RE EXAMINING.

2 TAMMY MCKINNEY, BEING DULY

3 SWORN, TESTIFIED AS FOLLOWS:

4 DIRECT EXAMINATION:

5 BY MR. JONES:

6 Q PLEASE STATE YOUR NAME FOR THE RECORD,

7 AGAIN.

8 A TAMMY LYNN MCKINNEY.

9 Q TAMMY, WHERE DO YOU CURRENTLY WORK?

10 A DEJA VU SHOWGIRLS.

11 Q AND WHERE IS THAT CLUB, DEJA VU

12 SHOWGIRLS LOCATED?

13 A COLORADO SPRINGS, COLORADO.

14 Q AND IS THAT WHERE YOU'RE LIVING?

15 A YEAH.

16 Q AND IN WHAT CAPACITY DO YOU WORK AT DEJA

17 VU SHOWGIRLS CLUB?

18 A I DON'T UNDERSTAND WHAT YOU MEAN.

19 Q WHAT KIND OF WORK DO YOU DO THERE?

20 A OH, I'M A DANCER.

21 Q AND WHAT KIND OF DANCING DO YOU DO

22 THERE?

23 A STRIPPING.

24 Q NOW, YOU CAME TO NEWBERRY TO TESTIFY IN

25 THIS TRIAL, IS THAT CORRECT?

- 1 A YES, SIR.
- 2 Q AND YOU'VE BEEN HERE FOR SEVERAL DAYS
- 3 AWAITING YOUR TESTIMONY, IS THAT CORRECT?
- 4 A YES, SIR.
- 5 Q DO YOU RECALL LIVING WITH RICHARD
- 6 ANDERSON SOMETIME IN THE EARLY 1990'S?
- 7 A YES, SIR.
- 8 Q AND DO YOU RECALL WHERE YOU LIVED WITH
- 9 HIM AND WHEN YOU FIRST MOVED IN WITH HIM?
- 10 A WE MOVED IN TOGETHER, I BELIEVE IT WAS
- 11 MARCH OF 1990, IN MYRTLE BEACH.
- 12 Q DO YOU RECALL WHETHER OR NOT YOU WERE
- 13 LIVING WITH HIM IN THE SPRING AND EARLY SUMMER OF
- 14 1994?
- 15 A YES, SIR, I WAS.
- 16 Q AND WHERE WERE YOU WORKING DURING THE
- 17 SPRING AND EARLY SUMMER OF 1994?
- 18 A SMUGGLER'S.
- 19 Q AND IN WHAT CAPACITY WERE YOU WORKING AT
- 20 SMUGGLER'S? WHAT WAS YOUR WORK? WHAT DID YOU DO
- 21 THERE?
- 22 A I WAS DANCING.
- 23 Q AND AS A DANCER, YOU WOULD DO WHAT
- 24 THERE?
- 25 A EXCUSE ME?

- 1 Q WOULD YOU TAKE OFF YOUR CLOTHES AS A
2 DANCER THERE?
- 3 A YEAH.
- 4 Q YOU WOULD STRIP THERE ALSO?
- 5 A YEAH.
- 6 Q NOW, DO YOU RECALL WHO THE OWNER OF THE
7 CLUB WAS THAT WAS IN EFFECT YOUR BOSS DURING THE
8 SPRING OF 1994?
- 9 A THE OWNER OF THE CLUB WAS JOHN TUITT.
- 10 Q AND DO YOU KNOW HOW LONG HE HAD BEEN THE
11 OWNER, AND IN EFFECT, I ASSUME YOUR BOSS?
12 APPROXIMATELY?
- 13 A I BELIEVE HE BOUGHT THE CLUB IN DECEMBER
14 OF '89.
- 15 Q AND HOW LONG HAD YOU WORKED THERE?
- 16 A I STARTED WORKING AT SMUGGLER'S
17 APPROXIMATELY A MONTH AFTER JOHN TUITT TOOK OVER.
- 18 Q DO YOU KNOW A PERSON BY THE NAME OF MR.
19 JERRY HOGAN?
- 20 A I DON'T RECALL EVER MEETING JERRY HOGAN.
- 21 Q NOW, LET ME ASK YOU THIS. DO YOU KNOW
22 DEFENDANT BECKHAM, DEFENDANT STEPHEN BECKHAM?
- 23 A ONLY BY APPEARANCE.
- 24 Q WELL, DO YOU SEE HIM IN THIS COURTROOM
25 HERE TODAY?

- 1 A YES, SIR, I DO.
- 2 Q AND DESCRIBE HIS DRESS FOR ME, IF YOU
- 3 WOULD.
- 4 A EXCUSE ME?
- 5 Q HOW IS HE DRESSED? POINT HIM OUT TO ME.
- 6 WHERE IS HE?
- 7 A RIGHT THERE. THAT'S HIM STANDING.
- 8 Q OKAY. SO YOU HAVE SEEN HIM BEFORE
- 9 TODAY?
- 10 A YES, I HAVE.
- 11 Q WHEN YOU WORKED AT SMUGGLER'S, DID YOU
- 12 EVER SEE HIM THERE?
- 13 A YES, I DID.
- 14 Q DID YOU EVER HAVE OCCASION TO SPEAK TO
- 15 HIM PERSONALLY?
- 16 A NO, SIR.
- 17 Q NOW, DO YOU REMEMBER AROUND JUNE OF
- 18 1994, SPECIFICALLY JUNE 12TH OF 1994?
- 19 A YES, SIR, I DO.
- 20 Q HAVE YOU GONE BACK THROUGH TO THINK
- 21 ABOUT THAT TIME PERIOD AND TRY TO RECALL CERTAIN
- 22 EVENTS THAT YOU NOW REMEMBER AND ASSOCIATE THAT
- 23 WITH THE DATE AND TIME PERIOD?
- 24 A YES, SIR.
- 25 Q WHAT DO YOU RECALL ABOUT THAT TIME

1 PERIOD, ABOUT JUNE 12TH, 1994? WHAT, IF ANYTHING,
2 DO YOU RECALL ABOUT ANYTHING THAT OCCURRED DURING
3 THAT TIME PERIOD THAT STANDS OUT IN YOUR MIND NOW?

4 A COULD YOU SAY THAT AGAIN? I DON'T
5 UNDERSTAND WHAT YOU'RE ASKING.

6 Q IF JUNE 12TH, 1994 WAS A SUNDAY, WHAT
7 WOULD YOU HAVE BEEN DOING THAT DAY?

8 A NORMALLY, ME AND MY GIRLFRIEND, SHEILA
9 WHITE WENT TO BINGO EVERY SUNDAY. IT WAS A REGULAR
10 THING. WE DID THAT SUNDAY AS WELL.

11 Q DO YOU REMEMBER WHEN OR WHERE RICHARD
12 ANDERSON WAS ON THAT DAY?

13 A HE WAS IN COLUMBIA ON BUSINESS.

14 Q AND YOU KNOW THAT THAT IS WHERE HE WAS
15 TO BE, IS THAT CORRECT?

16 A THAT'S WHERE HE TOLD ME HE WAS GOING.

17 Q DO YOU REMEMBER WHEN HE GOT BACK?

18 A WHEN I GOT HOME FROM BINGO THAT NIGHT,
19 HE WAS THERE AT THE HOUSE ALREADY. IT WAS
20 APPROXIMATELY 12:30 THAT NIGHT.

21 Q AND WHAT WAS HIS Demeanor OR HIS
22 APPEARANCE, OR HIS EMOTIONAL STATE AT THAT TIME?

23 A HE WAS VERY NERVOUS, SCARED, LIKE
24 TREMBLING.

25 MR. SWERLING: OBJECTION, YOUR HONOR, AS

1 TO ANY CHARACTERIZATION OTHER THAN HER OBSERVATION
2 OF HIS Demeanor.

3 THE COURT: I SUSTAIN--WELL, I SUSTAIN
4 THE OBJECTION, BUT SHE SO FAR HAS NOT VIOLATED, IN
5 OTHER WORDS, SHE CAN TESTIFY AS TO WHAT SHE SAW,
6 WHAT SHE FELT, WHAT SHE HEARD IN RESPONDING TO THAT
7 QUESTION.

8 MR. JONES: INCLUDING HIS STATEMENTS?

9 THE COURT: NO, NOT HIS STATEMENTS, NO.

10 MR. JONES: WHAT SHE HEARD?

11 Q TELL ME, WHAT DID RICHARD DO WHEN YOU
12 ARRIVED HOME AT 12:30. WHAT WERE SOME OF THE
13 THINGS THAT HE DID OR DID NOT DO DURING THE COURSE
14 OF THE EVENING?

15 A HE WAS PACING THE FLOOR, HE WAS, HIS
16 BODY WAS SHAKING, HE WAS VERY NERVOUS, VERY OUT OF
17 CHARACTER FOR RICHARD. I'D NEVER SEEN HIM LIKE
18 THAT BEFORE.

19 Q AND OF COURSE YOU WENT ON TO BED THAT
20 NIGHT?

21 A I DID. RICHARD COULDN'T SLEEP.

22 Q WITHIN A DAY OR SO, DID YOU AND HE FIND
23 YOURSELVES HAVING BREAKFAST ONE MORNING?

24 A WE WENT TO DENNY'S, YES.

25 Q AND WHAT, IF ANYTHING, DID HE DO DURING

1 YOUR TRIP TO DENNY'S?

2 A WE BOUGHT THE LOCAL, ER...EXCUSE ME, THE
3 COLUMBIA NEWSPAPER. AND THIS WAS THE ARTICLE WHERE
4 THEY...

5 Q IF YOU WOULD, PLEASE--SOME OF THE JURORS
6 AREN'T ABLE TO HEAR WITH THE AIR CONDITIONING GOING
7 AND ALL. IF YOU WOULD, WITH AS MUCH COMFORT AS YOU
8 CAN, TRY TO--

9 A OKAY, NOW I FORGOT WHAT YOU ASKED ME.

10 Q WHAT I ASKED YOU, TAMMY, WAS WHEN YOU
11 WENT TO DENNY'S WHAT DID YOU GO THERE FOR? WHAT
12 WERE YOU DOING?

13 A WE WERE LOOKING FOR THE COLUMBIA
14 NEWSPAPER. WE GOT THAT NEWSPAPER AT DENNY'S, WE
15 WENT IN TO HAVE BREAKFAST, AND RICHARD READ THE
16 NEWSPAPER ARTICLE WHILE WE WERE WAITING ON OUR
17 FOOD. AND WE ENDED UP GETTING OUR FOOD TO GO AND
18 LEAVING DENNY'S AND GOING BACK TO OUR APARTMENT
19 WHERE I THEN READ THE NEWSPAPER ARTICLE AT MY
20 HOUSE.

21 Q AND WHAT WAS THE ARTICLE ABOUT?

22 MR. SWERLING: OBJECTION, YOUR HONOR.
23 THAT WOULD BE HEARSAY.

24 THE COURT: SUSTAINED. NOT OFFERING IT
25 FOR THE TRUTH OF THE MATTER?

1 MR. JONES: NO, SIR, WE'RE NOT.

2 THE COURT: OVERRULED.

3 Q WHAT WAS THE ARTICLE ABOUT?

4 A IT WAS THE FIRST ARTICLE ABOUT THE DEATH
5 OF VICKIE BECKHAM.

6 Q AND WHAT DID YOU LEARN ABOUT VICKIE
7 BECKHAM IN THE ARTICLE?

8 A THAT SHE HAD BEEN BEATEN TO DEATH, THAT
9 SHE WAS THE STATE SENATOR'S DAUGHTER-- I REALLY
10 CAN'T REMEMBER MUCH ELSE ABOUT THE ARTICLE.

11 Q NOW, AT THIS POINT IN TIME, ON THAT DAY,
12 DID YOU PUSH OR PRESS RICHARD FOR ANY INFORMATION
13 ABOUT THIS ARTICLE, THIS EVENT?

14 A YES, SIR, I DID. I ASKED HIM DID HE
15 KILL HER.

16 Q AND WITHOUT SAYING WHAT HE SAID TO YOU,
17 WHAT REACTIONS DID HE MAKE OR GIVE TO YOU, WITHOUT
18 GOING INTO ANYTHING HE SAID TO YOU.

19 A REACTIONS, I DON'T UNDERSTAND...

20 Q ALL RIGHT. AS A RESULT OF THAT
21 CONVERSATION, AFTER THAT CONVERSATION, AND I ASSUME
22 THAT WAS SOMETIME IN JUNE OF '94?

23 A YES, SIR.

24 Q DID YOU SEE DEFENDANT STEPHEN BECKHAM
25 AFTER THAT DATE, JUNE 13TH/14TH OF 1994?

- 1 A NO, I DON'T BELIEVE I EVER SAW HIM IN
2 SMUGGLER'S AGAIN.
- 3 Q BUT DID YOU SEE HIM AGAIN?
- 4 A YES, I DID.
- 5 Q FIRST OF ALL, TELL THE JURY HOW--DID YOU
6 KNOW YOU WERE GOING TO SEE HIM AGAIN?
- 7 A NO, I DID NOT.
- 8 Q DID YOU RECEIVE A CALL AT HOME?
- 9 A YES, I DID.
- 10 Q DO YOU REMEMBER WHEN THAT CALL WAS?
- 11 A APPROXIMATELY SIX MONTHS AFTER VICKIE
12 BECKHAM'S DEATH.
- 13 Q AND WHO CALLED YOU?
- 14 A STEPHEN BECKHAM.
- 15 Q HOW DO YOU KNOW IT WAS STEPHEN BECKHAM?
- 16 A WELL, I ANSWERED THE PHONE, HE ASKED TO
17 SPEAK WITH RICHARD, AND I ASKED WHO IT WAS AND HE
18 SAID STEVE.
- 19 Q AND WHAT DID YOU DO WITH THE PHONE?
- 20 A I GAVE IT TO RICHARD.
- 21 Q AND AFTER YOU GAVE THE PHONE TO RICHARD,
22 WHAT DID YOU AND RICHARD DO?
- 23 A WE GOT IN THE CAR, DROVE ACROSS THE
24 STREET TO ZACK'S MART.
- 25 Q DROVE ACROSS THE STREET TO ZACK'S MART?

1 AND WHERE WERE YOU GOING IN ADDITION TO DRIVING
2 ACROSS THE STREET TO THE ZACK MART, IF ANYWHERE?

3 A WE WERE ON OUR WAY TO WORK.

4 Q SO IT WAS IN THE AFTERNOON?

5 A IT WAS IN THE EVENING. IT WAS JUST
6 GETTING DARK, PROBABLY SEVEN, EIGHT O'CLOCK.

7 Q I HAND YOU STATE'S EXHIBIT SIXTY-FOUR,
8 STATE'S EVIDENCE SIXTY-FOUR AND ASK YOU IF YOU
9 RECOGNIZE WHAT'S DEPICTED IN THAT PHOTOGRAPH?

10 A THAT'S THE ZACK MART ACROSS THE STREET
11 FROM WHERE I LIVE.

12 Q AND YOU DROVE TO THAT ZACK MART?

13 A ACTUALLY, WHERE WE DROVE IN FRONT OF WAS
14 THE LAUNDROMAT ON THIS SIDE THAT IS NOT IN THIS
15 PICTURE.

16 Q IF YOU WOULD, STEP DOWN HERE FOR A
17 MOMENT PLEASE, AND SPEAK UP AS YOU SPEAK IN FRONT
18 OF THE JURY, AND POINT TO THEM WHERE YOU WOULD HAVE
19 DRIVEN TO.

20 A OKAY, THERE'S A LAUNDROMAT ON THIS SIDE
21 OF THE BUILDING, SAME BUILDING. THE LAUNDROMAT IS
22 ON THIS END, WE PULLED UP RIGHT IN FRONT OF THE
23 LAUNDROMAT.

24 Q NOW, TAMMY, WHEN YOU PULLED UP, WHAT, OR
25 WHO, IF ANYBODY, DID YOU SEE THERE?

1 A STEPHEN BECKHAM.
2 Q AND WHERE WAS HE?
3 A HE WAS IN HIS CAR.
4 Q WHAT KIND OF CAR WAS IT?
5 A IT WAS WHITE RENTAL CAR.
6 Q IT WAS A RENTAL CAR?
7 A YES, SIR.
8 Q DID YOU REMEMBER THAT?
9 A YES, SIR.
10 Q WHERE WAS HE PARKED? CAN YOU SHOW ON
11 HERE WHERE HE WAS PARKED?
12 A HE WAS PARKED OVER HERE ON THE OTHER
13 SIDE OF US IN FRONT OF THE LAUNDROMAT AS WELL.
14 Q WHAT DID YOU OR RICHARD DO WHEN YOU
15 PULLED UP THERE?
16 A RICHARD GOT OUT OF THE CAR AND HE WENT
17 OVER TO THE PAY PHONE TO PRETEND HE WAS USING THE
18 PHONE, AND STEPHEN PULLED UP JUST AS RICHARD GOT TO
19 THE PHONE. RICHARD HUNG UP THE PHONE AND WALKED
20 OVER TO THE DRIVER'S SIDE DOOR, STOOD THERE FOR
21 JUST A COUPLE OF MINUTES. IT WASN'T VERY LONG AT
22 ALL. HE CAME AND GOT BACK IN THE CAR, AND WE LEFT
23 AND WENT ON TO WORK.
24 Q ALL RIGHT, RETURN TO THE STAND.
25 NOW, TAMMY, SOMETIME IN JULY OF 1995,

1 WERE YOU APPROACHED BY THE POLICE TO TALK TO THEM
2 ABOUT ANY KNOWLEDGE YOU HAD ABOUT THE MURDER OF
3 VICKIE BECKHAM?

4 A YES, SIR, I WAS.

5 Q AND YOU TOLD THEM YOU WANTED TO SPEAK TO
6 A LAWYER FIRST, IS THAT CORRECT?

7 A YES, I DID.

8 Q AND YOU DID GO SPEAK TO YOUR LAWYER, IS
9 THAT CORRECT?

10 A YES, I DID.

11 Q AND AFTER YOU SPOKE WITH YOUR LAWYER,
12 DID YOU TELL THE POLICE YOU WOULD TALK WITH THEM
13 FREELY ABOUT ANYTHING THEY WANTED TO KNOW?

14 A YES, I DID.

15 Q AND DID YOU SPEAK WITH THEM FREELY ABOUT
16 ANYTHING THEY WANTED TO KNOW?

17 A YES, I DID.

18 Q AND DID YOU GIVE THEM A STATEMENT ABOUT
19 THE INFORMATION AND KNOWLEDGE YOU HAD OF THE
20 WHEREABOUTS OF RICHARD ANDERSON AND STEPHEN BECKHAM
21 DURING THE OCCASION YOU HAVE TESTIFIED TO?

22 A YES, I DID.

23 Q NOW, WHEN DID YOU LEAVE MYRTLE BEACH AND
24 WORKING AT SMUGGLER'S, TAMMY?

25 A I QUIT SMUGGLER'S WHEN DERRIERE'S OPENED

- 1 AND I WENT TO WORK AT DERRIERE'S.
- 2 Q WHAT IS DERRIERE'S?
- 3 A IT'S ANOTHER STRIP CLUB IN MYRTLE BEACH.
- 4 Q ALL RIGHT, AND WHERE DID YOU GO TO WORK?
- 5 A I LEFT MYRTLE BEACH PROBABLY A MONTH
- 6 AFTER I GAVE MY STATEMENT TO THE POLICE.
- 7 Q A MONTH AFTER YOU GAVE YOUR STATEMENT TO
- 8 THE POLICE?
- 9 A SOMEWHERE AROUND THERE, YEAH.
- 10 Q AND YOU LEFT A MONTH AFTER YOU GAVE YOUR
- 11 STATEMENT TO THE POLICE; WHERE DID YOU GO WHEN YOU
- 12 LEFT MYRTLE BEACH?
- 13 A TO NEW ORLEANS.
- 14 Q AND HOW LONG--DID YOU GO TO WORK IN NEW
- 15 ORLEANS?
- 16 A YES, I DID.
- 17 Q AND HOW LONG DID YOU STAY AND WORK IN
- 18 NEW ORLEANS?
- 19 A SIX MONTHS.
- 20 Q AND WHEN YOU LEFT NEW ORLEANS, WHERE DID
- 21 YOU GO TO WORK?
- 22 A COLORADO SPRINGS.
- 23 Q AND YOU HAVE BEEN WORKING IN COLORADO
- 24 SPRINGS FOR THE LAST SIX MONTHS?
- 25 A YES, SIR.

- 1 Q AND YOU'RE STILL WORKING THERE?
- 2 A YES, SIR.
- 3 Q AND WHEN ARE YOU DUE BACK AT WORK THERE?
- 4 A THURSDAY.
- 5 Q DAY AFTER TOMORROW?
- 6 A YES, SIR.
- 7 Q IF YOU WOULD, TAMMY, I'D LIKE TO ASK YOU
- 8 TWO OTHER QUESTIONS. IS THIS THE PERSON THAT YOU
- 9 SAW NEXT DOOR TO THE ZACK MART ABOUT SIX MONTHS
- 10 AFTER JUNE 12TH, 1994?
- 11 A YES, SIR, IT IS.
- 12 Q ARE YOU CERTAIN?
- 13 A YES, SIR, I AM.
- 14 Q WITHOUT GOING INTO ANYTHING THAT RICHARD
- 15 SAID ON THAT DAY WHEN YOU WERE WITH HIM WHEN HE MET
- 16 WITH DEFENDANT BECKHAM, WHAT WAS HIS EMOTIONAL
- 17 STATE THEN? I'M ASKING YOU ABOUT RICHARD'S
- 18 EMOTIONAL STATE THEN. WHAT...
- 19 MR. SWERLING: YOUR HONOR, OBJECT TO
- 20 EMOTIONAL STATE.
- 21 THE COURT: SHE CAN DESCRIBE WHAT SHE
- 22 SAW.
- 23 Q WHAT DID YOU SEE RICHARD DO...
- 24 MR. SWERLING: ARE YOU TALKING ABOUT
- 25 RICHARD ANDERSON?

1 THE COURT: YES, SIR.

2 Q WHAT DID YOU SEE RICHARD ANDERSON DO
3 DURING THAT PERIOD?

4 A HE GOT BACK IN THE CAR, SEEMED A LITTLE
5 AGITATED, WE WENT ON TO WORK.

6 Q OKAY, ANSWER ANY QUESTIONS THESE LAWYERS
7 HAVE.

8 THE COURT: CROSS EXAMINATION, MR.
9 SWERLING.

10 CROSS EXAMINATION:

11 BY MR. SWERLING:

12 Q HEY, MS. MCKINNEY. RICHARD, AS WE'RE
13 REFERRING TO HIM, WAS YOUR BOYFRIEND?

14 A YES, SIR.

15 Q AND RICHARD, HOW LONG HAD Y'ALL DATED
16 EACH OTHER, FOUR OR FIVE YEARS?

17 A WE LIVED TOGETHER FOR FIVE YEARS.

18 Q OKAY. I MEAN, Y'ALL HAD A GOOD
19 RELATIONSHIP, WERE IN LOVE WITH EACH?

20 A YES, SIR.

21 Q VERY STRONG COMMITMENT ON BOTH OF YOUR
22 PARTS?

23 A YES, SIR.

24 Q AND WAS SO UNTIL THE TIME HE GOT
25 ARRESTED?

- 1 A YES, SIR.
- 2 Q AND OBVIOUSLY, YOU WERE VERY UPSET WHEN
- 3 HE GOT ARRESTED?
- 4 A YES, I WAS.
- 5 Q AND YOU AND HE STILL HAVE A GREAT DEAL
- 6 OF AFFECTION FOR EACH OTHER?
- 7 A TO SOME EXTENT, YEAH.
- 8 Q OKAY. I MEAN, YOU'VE COMMUNICATED WITH
- 9 EACH OTHER?
- 10 A YES.
- 11 Q AND YOU'VE STAYED IN TOUCH WITH HIM EVEN
- 12 THOUGH YOU KNOW HE'S GOING TO BE NOT COMING HOME
- 13 FOR A LONG TIME, RIGHT?
- 14 A YES.
- 15 Q BUT RICHARD AND YOU HAVE CONTINUED TO
- 16 CORRESPOND, AND COMMUNICATE ON THE TELEPHONE?
- 17 A UH-HUH.
- 18 Q AND FOR A PERIOD OF TIME AFTER HE GOT
- 19 ARRESTED IN JULY OF 1995 UNTIL THE TIME YOU LEFT
- 20 THE BEACH, HE WOULD CALL YOU FREQUENTLY, CORRECT?
- 21 A SOMETIMES TWO AND THREE TIMES A DAY,
- 22 YEAH.
- 23 Q AND, I MEAN, Y'ALL HAD A LOT OF TIME TO
- 24 TALK THEN. THAT'S THE BOTTOM LINE?
- 25 A YES.

1 Q AS A MATTER OF FACT, AND OF COURSE
2 YOU'VE STAYED IN TOUCH WITH HIM SINCE YOU'VE BEEN
3 OUT IN COLORADO?

4 A I'VE ONLY SPOKE TO HIM ONCE SINCE I LEFT
5 MYRTLE BEACH.

6 Q OKAY. AND WAS THAT ON THE PHONE?

7 A YES, SIR.

8 Q AND AS A MATTER OF FACT, ON SEPTEMBER
9 20TH, I GUESS IS WHEN YOU GOT HERE?

10 A I GOT HERE ON SEPTEMBER 18TH.

11 Q EIGHTEENTH, SO YOU'VE BEEN HERE FOR A
12 LONG TIME, WITH REGARDS TO THIS PARTICULAR CASE,
13 RIGHT?

14 A I'VE BEEN HERE FOR--

15 Q OVER A WEEK?

16 A ALMOST A WEEK. WILL BE A WEEK TOMORROW.

17 Q YEAH. AND DURING THAT PERIOD OF TIME
18 YOU'VE HAD A NUMBER OF MEETINGS WITH THE SOLICITOR
19 AND MEMBERS OF THE SOLICITOR'S STAFF AND LAW
20 ENFORCEMENT, GOING OVER YOUR TESTIMONY?

21 A YEAH.

22 Q AND ASKING QUESTIONS AND GOING BACK OVER
23 YOUR STATEMENTS AND THINGS OF THAT NATURE, RIGHT?
24 YOU'VE SPENT A LOT OF TIME WITH THEM OVER THE LAST
25 FEW DAYS, EIGHT OR NINE DAYS, SEVEN DAYS?

- 1 A YEAH, I GUESS YOU COULD SAY SO.
- 2 Q AND WITH THE ANTICIPATION OF GETTING ON
- 3 THE WITNESS STAND RIGHT NOW, CORRECT? OKAY, YOU
- 4 UNDERSTAND THAT? DO YOU UNDERSTAND WHAT I'M
- 5 SAYING? YOU WERE GOING THROUGH WITH THEM QUESTIONS
- 6 AND ANSWERS FOR YOUR TESTIMONY?
- 7 A YES, SIR.
- 8 Q OKAY. AND YOU'RE STILL VERY IMPORTANT
- 9 TO RICHARD, ARE YOU NOT?
- 10 A YES, SIR.
- 11 Q AS A MATTER OF FACT, YOU MET WITH
- 12 RICHARD LAST WEEK AT THE JAIL, DID YOU NOT?
- 13 A YES, I DID.
- 14 Q AND THAT WAS SEPTEMBER 20TH?
- 15 A I GUESS.
- 16 Q WHO ARRANGED THAT MEETING BETWEEN YOU
- 17 AND RICHARD?
- 18 A SPIKE DOG.
- 19 Q SPIKE DOG DID THAT. AND WAS THAT A
- 20 CONTACT VISIT?
- 21 A YES, SIR.
- 22 Q CONTACT VISIT AT THE JAIL. HERE IN
- 23 NEWBERRY?
- 24 A UH-HUH.
- 25 Q IN OTHER WORDS, Y'ALL WERE LET IN A ROOM

1 BY YOURSELVES?

2 A NO, SPIKE DOG WAS IN THE ROOM.

3 Q HE WAS IN THE ROOM WITH YOU, BUT WE'RE
4 TALKING ABOUT NOT THROUGH THE BARS?

5 A NOT THROUGH THE GLASS.

6 Q AND HOW LONG DID YOU SPEND WITH RICHARD?

7 A I DON'T KNOW, FIFTEEN OR TWENTY MINUTES.

8 Q LET ME ASK YOU SOMETHING. WHY DID YOU
9 LEAVE THE MYRTLE BEACH AREA?

10 A WELL, BECAUSE THE PEOPLE THAT YOU HIRED
11 TO INVESTIGATE THIS CASE WOULD NOT LEAVE ME ALONE.

12 Q I HIRED? THE FORMER FBI AGENT?

13 A THE QUANTICO GROUP.

14 Q YEAH, THE FBI AGENT?

15 A YEAH.

16 Q HE WOULDN'T LEAVE YOU ALONE. HE WANTED
17 TO TALK TO YOU.

18 A RIGHT.

19 Q INTERVIEW YOU?

20 A SURE.

21 Q WHAT ABOUT THE POLICE, THEY DIDN'T
22 BOTHER YOU TOO MUCH?

23 A THEY QUESTIONED ME MAYBE THREE TIMES.

24 THEY NEVER CAME TO MY PLACE OF EMPLOYMENT BOTHERING
25 ME.

1 Q SO THAT'S WHAT YOU MEAN BY HE BOTHERED
2 YOU?

3 A THEY NEVER WENT TO MY FRIENDS' PLACES OF
4 EMPLOYMENT BOTHERING ME. I DIDN'T HAVE THAT
5 PROBLEM WITH THEM.

6 Q HOW MANY TIMES DID YOU SPEAK TO MR.
7 DAVIS WHO IS A FORMER FBI AGENT?

8 MR. JONES: YOUR HONOR?

9 THE COURT: YES, SIR?

10 MR. JONES: MR. DAVIS, WHETHER HE'S A
11 FORMER FBI AGENT OR NOT, YOUR HONOR, HAS GOT
12 NOTHING...

13 THE COURT: YOU ALL DO THAT, BOTH SIDES
14 DO THAT. OVERRULED.

15 A EXCUSE ME NOW?

16 Q TELL ME HOW MANY TIMES DID YOU SPEAK
17 WITH MR. DAVIS?

18 A ONCE.

19 Q ONCE. SO THAT'S WHAT YOU DESCRIBE AS
20 CONTINUING TO BOTHER YOU?

21 A WELL, EVERY TIME I TURNED AROUND, I WAS
22 BEING TOLD THEY WERE THERE; THEY WERE LOOKING FOR
23 ME; THEY WANTED TO TALK TO ME; THEY WANT TO DO
24 THIS, THEY WANT TO DO THAT.

25 Q WELL, YOU WERE A WITNESS IN THE CASE,

1 WEREN'T YOU?

2 A YEAH.

3 Q YOU HAD SPOKEN TO LAW ENFORCEMENT.

4 A UH-HUH.

5 Q WAS THERE ANYTHING WRONG WITH MR. DAVIS
6 TRYING TO INTERVIEW YOU?

7 A NO, THERE'S NOTHING WRONG WITH THAT.

8 Q OH, ALL RIGHT. IN FACT, ON ONE
9 OCCASION, YOU DID SPEAK WITH HIM, DID YOU NOT?

10 A BRIEFLY.

11 Q BRIEFLY. AND YOU TOLD HIM THAT RICHARD
12 ANDERSON, DIDN'T YOU TELL HIM ABOUT WHAT RICHARD
13 ANDERSON'S...WHY HE LEFT PEORIA, ILLINOIS?

14 MR. JONES: OBJECTION, YOUR HONOR,
15 WHAT'S THE RELEVANCE?

16 MR. SWERLING: PRIOR INCONSISTENT
17 STATEMENT.

18 THE COURT: LET ME--COME HERE JUST A
19 MINUTE.

20 (BENCH CONFERENCE IN THE PRESENCE OF THE
21 JURY, OUT OF THE HEARING OF THE JURY, AND OFF THE
22 RECORD.)

23 ALL RIGHT, THE OBJECTION IS OVERRULED.
24 THE--LET ME HEAR WHAT THE ANSWER IS AND THEN I'LL
25 INSTRUCT THE JURY ON IT.

1 Q DID RICHARD ANDERSON EVER TELL YOU HE
2 LEFT PEORIA, ILLINOIS BECAUSE HE THREW SOMEONE INTO
3 A WINDOW AND THE PERSON DIED?

4 A YES, HE DID.

5 Q AND THAT WAS IN HIS POSITION AS A
6 BOUNCER?

7 A YES, IT WAS.

8 MR. MCMAHON: HOW CAN HE GO INTO DETAIL,
9 JUDGE?

10 MR. SWERLING: I DIDN'T.

11 THE COURT: SUSTAINED.

12 MR. MCMAHON: WELL, HE STARTED TO ASK...

13 THE COURT: WELL, STRIKE THE QUESTION.

14 IF THAT'S YOUR OBJECTION, MR. SOLICITOR, YOU'VE GOT
15 TO MAKE IT. STRIKE THE ANSWER AS A BOUNCER. IT
16 GOES TO DETAIL.

17 NOW, I TELL THE JURY, LADIES AND
18 GENTLEMEN, THE QUESTION WAS PERMITTED TO BE
19 ANSWERED BASED UPON THE ISSUE OF CREDIBILITY, AND
20 IT IS FOR YOU AND YOU ALONE TO DETERMINE THE ISSUE
21 OF CREDIBILITY. IT IS NOT ADMITTED ON ANY ISSUE AS
22 TO WHETHER THAT CONDUCT IS TRUE OR NOT, OR WHETHER
23 THE EVENT HAPPENED OR NOT, ONLY BEING ADMITTED FOR
24 THE ISSUE OF CREDIBILITY OF THE WITNESS AGAINST
25 WHOM THE STATEMENT IS OFFERED.

1 ALL RIGHT, MOVE ON.

2 Q MS. MCKINNEY, DURING THE PERIOD OF TIME
3 THAT YOU WERE GETTING PHONE CALLS FROM RICHARD
4 ANDERSON, DID YOU EVER HAVE AN OCCASION TO PATCH
5 HIM IN TO SOMEONE ELSE?

6 A NO, SIR.

7 Q THREE-WAY CONVERSATION?

8 A NO, SIR.

9 Q DID THAT EVER TAKE PLACE? ALL RIGHT,
10 HAVE YOU EVER DELIVERED ANY LETTERS FROM HIM TO
11 ANYONE ELSE?

12 A NO, SIR.

13 Q NOW, YOU TESTIFIED THAT YOU KNEW HE WENT
14 TO COLUMBIA ON JUNE 12TH BEFORE HE LEFT?

15 A YES, SIR.

16 Q HAVE YOU REVIEWED YOUR STATEMENT THAT
17 YOU GAVE LAW ENFORCEMENT ON JULY 9TH, 1995?

18 A I DID ABOUT A WEEK AGO.

19 Q YOU DON'T SAY IN THERE THAT YOU KNEW HE
20 WAS GOING TO COLUMBIA AND FOR WHAT PURPOSE, DO YOU?

21 A I DIDN'T KNOW WHAT PURPOSE. I KNEW HE
22 HAD SOME SORT OF BUSINESS THERE WITH MR. BECKHAM.

23 Q YOU DON'T SAY THAT IN THE STATEMENT
24 THOUGH, DO YOU, MS. MCKINNEY?

25 MR. JONES: WHAT STATEMENT IS HE

1 REFERRING TO?

2 MR. SWERLING: JULY 9TH STATEMENT.

3 MR. JONES: JULY 9TH, 1995, YOUR HONOR?

4 MR. SWERLING: JULY 9TH, 1995.

5 THE COURT: I DON'T HAVE IT IN FRONT OF

6 ME. IS THAT THE STATEMENT YOU'RE ASKING ABOUT?

7 OKAY.

8 A NO, I DON'T GUESS SO.

9 Q WHAT YOU SAID IS THAT HE, WHAT YOU TOLD

10 SLED THAT DAY WAS THAT HE BORROWED MR. BEATTY'S

11 CAR, IS THAT CORRECT?

12 A YES.

13 Q BUT YOU DIDN'T SAY WHERE HE WAS GOING?

14 A RIGHT.

15 Q BECAUSE YOU HAD A BINGO GAME, THAT'S

16 WHAT YOUR CONCERN WAS THAT DAY, CORRECT?

17 A UH-HUH.

18 Q AS A MATTER OF FACT, THE FIRST TIME YOU

19 SPOKE WITH LAW ENFORCEMENT, YOU WOULDN'T TALK WITH

20 THEM AT ALL. ISN'T THAT TRUE?

21 A THAT'S WHAT I TOLD THEM.

22 Q OKAY. AND THE FACT OF THE MATTER IS,

23 THE POLICE CAME BACK AND THEY TOLD YOU, DID THEY

24 NOT, THAT YOU COULD BE CHARGED WITH A CRIMINAL

25 OFFENSE IF YOU DIDN'T COOPERATE? DIDN'T THEY?

- 1 A THEY DID TELL ME THAT, YEAH.
- 2 Q ALL RIGHT. AND WHO TOLD YOU THAT?
- 3 A SPECIFICALLY, I DON'T KNOW.
- 4 Q WAS IT IN THAT EARLY CONVERSATION LIKE
- 5 RIGHT AFTER RICHARD GOT ARRESTED?
- 6 A YES.
- 7 Q AND THEY THREATENED TO PUT YOU IN JAIL
- 8 IF YOU DIDN'T COOPERATE?
- 9 A YEAH, THAT'S WHY I TOLD THEM I NEEDED TO
- 10 TALK TO MY LAWYER BEFORE I ANSWERED ANYTHING.
- 11 Q OKAY. DID THEY SAY WHAT THEY WERE GOING
- 12 TO PUT YOU IN JAIL FOR?
- 13 A ACCESSORY AFTER THE FACT.
- 14 Q OKAY, SO THEY CONSIDERED YOU AN
- 15 ACCESSORY AFTER THE FACT OF WHAT?
- 16 A MURDER.
- 17 Q AND SINCE YOU'VE COOPERATED WITH THEM,
- 18 HAVE THEY TOLD YOU THAT THEY'RE NOT GOING TO
- 19 PROSECUTE YOU?
- 20 A NO. I DON'T UNDERSTAND WHAT YOU'RE...
- 21 Q IN OTHER WORDS, YOU WERE TOLD--I GUESS
- 22 THE WAY IT WAS IS THAT IF YOU DIDN'T COOPERATE,
- 23 YOU'D BE ARRESTED AS AN ACCESSORY AFTER THE FACT OF
- 24 MURDER.
- 25 A YEAH.

1 Q BUT IF YOU DID COOPERATE, YOU WOULDN'T
2 GET ARRESTED. THAT'S THE WAY IT WAS PUT? FAIR
3 STATEMENT?

4 A YEAH, I GUESS.

5 Q OKAY, SO THEN YOU WENT AHEAD AND YOU
6 COOPERATED, RIGHT?

7 A YES, SIR.

8 Q AND WHAT YOU TOLD THEM IS WHAT YOU KNEW
9 ABOUT RICHARD. IN FACT, YOU LOVED RICHARD AND YOU
10 WANTED TO HELP RICHARD, CORRECT?

11 A UH-HUH.

12 Q YOU STILL WANT TO HELP RICHARD, CORRECT?

13 A HELP HIM TELL THE TRUTH, YEAH.

14 Q HELP HIM TELL THE TRUTH, OKAY. SO WHEN
15 WE GO BACK IN THE STATEMENT, YOU DIDN'T TELL THEM
16 ABOUT GOING, THAT HE KNEW, OR YOU KNEW THAT HE WAS
17 GOING TO COLUMBIA ON THAT DAY. DID YOU SPEAK WITH
18 ANYBODY ON THAT DAY, JUNE 12TH? DID YOU HAVE ANY
19 CONVERSATIONS WITH ANYBODY THAT DAY? THAT YOU CAN
20 RECALL?

21 A RICHARD CALLED ME THAT DAY, COLLECT. HE
22 WOKE ME UP, I BELIEVE. I DON'T REALLY REMEMBER THE
23 EXTENT OF THE CONVERSATION, AND THEN MY GIRLFRIEND,
24 SHEILA WHITE WHOM I WENT TO BINGO WITH...

25 Q WHAT TIME DID YOU GO TO BINGO?

- 1 A BINGO STARTED USUALLY ABOUT, WE USUALLY
2 GOT THERE ABOUT SIX O'CLOCK.
- 3 Q DO YOU REMEMBER TALKING TO ANYONE ELSE
4 THAT DAY?
- 5 A NOT IN PARTICULAR.
- 6 Q NOW, LET ME ASK YOU ABOUT RICHARD.
7 RICHARD WAS A BOUNCER, CORRECT?
- 8 A YES.
- 9 Q AND HE BOUNCED AT A CLUB THAT YOU WORKED
10 AT, CORRECT?
- 11 A YES.
- 12 Q AND YOU'RE FAMILIAR WITH THE FACT THAT
13 RICHARD, FROM TIME TO TIME, WOULD GET A LITTLE
14 VIOLENT WITH PEOPLE, AREN'T YOU?
- 15 A NO.
- 16 Q YOU'RE NOT?
- 17 A RICHARD WAS NOT A VIOLENT PERSON.
18 RICHARD DID HIS JOB ACCORDING TO WHAT HIS JOB
19 DESCRIPTION WAS.
- 20 Q AND IF THAT MEANT GETTING VIOLENT, HE
21 GOT VIOLENT? YES, OR NO?
- 22 A YEAH.
- 23 Q OKAY. NOW, TO YOU, HE WAS NOT A VIOLENT
24 PERSON.
- 25 A NO, SIR.

- 1 Q OKAY. YOU AND HE LOVED EACH OTHER.
- 2 A UH-HUH.
- 3 Q NOW, THAT AFTERNOON, ACTUALLY YOU DIDN'T
- 4 SEE HIM UNTIL THE FOLLOWING MORNING, CORRECT?
- 5 A WHAT DO YOU MEAN?
- 6 Q YOU DIDN'T SEE HIM UNTIL HE GOT HOME
- 7 THAT EVENING, OR YOU DIDN'T EVEN--DID YOU SEE HIM
- 8 WHEN HE GOT HOME THAT EVENING?
- 9 A HE WAS AT HOME WHEN I GOT HOME FROM
- 10 BINGO THAT NIGHT.
- 11 Q OKAY. AND YOU'VE TOLD THE POLICE ABOUT
- 12 HIS MOOD, OR YOU TOLD MR. JONES ABOUT HIS MOOD AND
- 13 HIS DEMEANOR WHEN YOU GOT HOME, CORRECT?
- 14 A YES, SIR.
- 15 Q ON JULY 9TH WHEN YOU GAVE THAT STATEMENT
- 16 TO THE POLICE, YOU NEVER DESCRIBED ANY KIND OF
- 17 ABNORMAL BEHAVIOR ON RICHARD ANDERSON'S PART AT
- 18 ALL, DID YOU? I'M TALKING ABOUT THE MORNING THAT
- 19 HE GOT HOME, IT WOULD BE JULY 13TH--JUNE 13TH, I'M
- 20 SORRY.
- 21 A WELL, THEY OBVIOUSLY DIDN'T ASK ME.
- 22 Q OKAY. THAT'S JUST SOMETHING THAT'S BEEN
- 23 GONE OVER IN THE LAST COUPLE OF DAYS, ISN'T IT?
- 24 A YES, SIR.
- 25 Q IN FACT, A LOT OF THE TESTIMONY THAT

1 YOU'RE BRINGING OUT TODAY IS STUFF THEY'VE GONE
2 OVER WITH YOU IN THE LAST COUPLE OF DAYS?

3 A YES, SIR.

4 Q THIS IS NOT STUFF THAT YOU RELATED IN
5 JULY OF 1995?

6 A SOME OF IT.

7 Q OKAY, SOME OF IT IS, BUT SOME OF IT IS
8 NOT. SOME OF IT IS JUST BRAND NEW STUFF THAT
9 YOU'RE COMING UP WITH, CORRECT, FOR THE FIRST TIME?

10 A WELL, THAT I'M MAKING THEM AWARE OF,
11 YES.

12 Q OKAY, BUT YOU SPOKE WITH THEM--WELL,
13 ONCE YOU DIDN'T SPEAK WITH THEM, THEN YOU SPOKE
14 WITH THEM ON JULY 9TH. AND THEN YOU TOOK OFF
15 SOMETIME SIX MONTHS AGO AND NOBODY KNEW WHERE YOU
16 WERE, ISN'T THAT TRUE?

17 A I'VE BEEN GONE OVER A YEAR.

18 Q A YEAR. ALL RIGHT, NOBODY KNEW WHERE
19 YOU WERE, ISN'T THAT TRUE?

20 A THAT'S RIGHT. I DIDN'T TELL ANYBODY
21 WHERE I WAS GOING.

22 Q AND SLED TRACKED YOU DOWN OUT IN
23 COLORADO?

24 A NO, THEY DID NOT.

25 Q THEY DID NOT? HOW LONG AGO DID THEY

1 FIND YOU?

2 A I CALLED AND...

3 Q HOW LONG AGO?

4 A THAT WAS A MONTH AGO, MAYBE? TWO, A
5 MONTH, MONTH AND A HALF, ABOUT...

6 Q NOW, YOU WERE...

7 MR. JONES: YOUR HONOR, LET HER FINISH
8 ANSWERING THE QUESTION. HE SAID, "SO THEY TRACKED
9 YOU DOWN," AND...

10 MR. SWERLING: THAT'S FINE. THAT'S
11 FINE. I DIDN'T KNOW.

12 THE COURT: ALL RIGHT, SHE CAN ANSWER
13 THE QUESTION.

14 MR. SWERLING: HE DIDN'T HAVE TO MAKE A
15 SPEECH IS MY OBJECTION.

16 THE COURT: I SUSTAIN THAT PART, AND
17 OVERRULE. YOU MAY ASK YOUR QUESTION OR IF YOU KNOW
18 WHAT THE QUESTION WAS...

19 A I CALLED SOLICITOR JONES ON MY OWN
20 ACCORD IN REGARDS TO COMING AND TESTIFYING IN THIS
21 TRIAL. THEY DIDN'T FIND ME, THEY DIDN'T MAKE ME, I
22 DID THIS ALL ON MY OWN.

23 Q WHEN WAS THAT? THAT'S WHAT I'M TRYING
24 TO FIND OUT.

25 A I BELIEVE I CALLED HIM ANYWHERE FROM A

1 MONTH TO TWO MONTHS AGO. I CAN'T BE EXACTLY SURE.

2 Q HOW DID YOU KNOW THAT HE WANTED TO TALK
3 TO YOU? DID SOMEONE TELL YOU THAT? RICHARD?

4 A NO.

5 Q WHO TOLD YOU THAT?

6 A A FRIEND OF MINE DOWN IN NEW ORLEANS WHO
7 HAD TALKED TO THE DETECTIVES THAT HAD WENT THERE
8 LOOKING FOR ME. I CALLED HER AND SHE TOLD ME THAT
9 THEY HAD BEEN THERE LOOKING FOR ME, AND I TOLD HER
10 OKAY. I CALLED MY MOTHER AND MY MOTHER TOLD ME
11 THAT THEY HAD CALLED THERE ASKING, BECAUSE IT WAS
12 COMING UP TIME ON THE TRIAL. AND I THEN CALLED
13 RICHARD TO TELL HIM THAT I WAS CALLING THE
14 INVESTIGATORS IN THE MORNING, AND HE ENDED UP
15 CALLING ME BACK TO GIVE ME THE NUMBER OF THE PERSON
16 I NEEDED TO GET IN TOUCH WITH, WHO WAS SOLICITOR
17 JONES.

18 Q WHEN RICHARD LEFT THAT MORNING ON THE
19 12TH, WHAT WAS HE WEARING?

20 A I BELIEVE HE WAS WEARING BLACK JEANS AND
21 SOME SORT OF BLACK TEE-SHIRT, MOTORCYCLE.

22 Q WHAT WAS HE WEARING WHEN HE GOT HOME?
23 SAME THING, OR HE HAD CHANGED?

24 A NO, HE HAD A DIFFERENT SHIRT ON. HE HAD
25 THE SAME PANTS ON, I BELIEVE, BUT HE HAD A

- 1 DIFFERENT SHIRT ON.
- 2 Q HE HAD A DIFFERENT SHIRT. DO YOU
- 3 REMEMBER WHAT COLOR IT WAS OR WHAT KIND OF SHIRT IT
- 4 WAS?
- 5 A NO, SIR, I DON'T.
- 6 Q POLO SHIRT OR TEE-SHIRT?
- 7 A NO, RICHARD DIDN'T WEAR POLO SHIRTS.
- 8 Q WAS IT A DRESS SHIRT?
- 9 A NO, IT WAS PROBABLY JUST A TEE-SHIRT.
- 10 Q TEE-SHIRT, AND THAT'S WHAT HE WAS
- 11 WEARING WHEN HE GOT HOME?
- 12 A YES, SIR.
- 13 Q AND LET'S SEE, YOU DESCRIBED WHEN YOU
- 14 WENT AND GOT THE NEWSPAPER. LET ME ASK--A COUPLE
- 15 OF WEEKS LATER, YOU TOLD THE SLED ON JULY 9TH, 1995
- 16 THAT YOU FOUND A BLOODY TEE-SHIRT UNDER THE SINK IN
- 17 YOUR APARTMENT, DID YOU NOT?
- 18 A NO, I DID NOT FIND A BLOODY TEE-SHIRT
- 19 UNDER THE SINK. I FOUND A SPOT UNDER THE SINK
- 20 WHERE IT LOOKED LIKE MAYBE A BLOODY TEE-SHIRT OR
- 21 SOMETHING HAD BEEN SITTING THERE.
- 22 Q YOU NOTICED WHAT APPEARED TO BE A DRIED
- 23 SPOT, DRIED BLOOD SPOT UNDER THE SINK AS IF A
- 24 BLOODY TEE-SHIRT HAD BEEN THERE?
- 25 A RIGHT.

- 1 Q YOU ASKED RICHARD ABOUT THAT?
- 2 A YES, I DID.
- 3 Q AND HE DIDN'T EVEN ANSWER YOU, WHAT HE
- 4 DID IS HE PUT A BASKET OVER IT, RIGHT, AND NEVER
- 5 ANSWERED YOU, NEVER RESPONDED TO YOU?
- 6 A WELL, HE TOLD ME--I CAN'T--I CAN'T
- 7 REALLY SAY BECAUSE YOU'LL OBJECT TO IT. YEAH, HE
- 8 PUT A BUCKET OVER IT.
- 9 Q PUT A BUCKET OVER IT. I'M ASKING YOU
- 10 WHAT YOU TOLD THE POLICE, CORRECT?
- 11 A YEAH.
- 12 Q NOW, WHEN THE POLICE SPOKE WITH YOU ON
- 13 JULY 9TH, 1995, RICHARD ANDERSON HAD ALREADY BEEN
- 14 ARRESTED OR HE WAS ALREADY TAKEN INTO CUSTODY?
- 15 A YEAH.
- 16 Q AND HE HAD BEEN FINGERPRINTED A COUPLE
- 17 OF WEEKS BEFORE THAT, IS THAT CORRECT?
- 18 A UH-HUH. APPROXIMATELY A WEEK OR SO.
- 19 Q SO THE POLICE TOOK HIS FINGERPRINTS EVEN
- 20 BEFORE HE WAS ARRESTED?
- 21 A YES, SIR.
- 22 Q AND THAT'S WHEN THEY CAME DOWN THERE ON
- 23 JUNE 26TH, IS THAT CORRECT?
- 24 A YES, SIR.
- 25 Q AND AFTER--DO YOU REMEMBER WHEN THEY

- 1 CAME DOWN JUNE 26TH TO TALK TO HIM?
- 2 A YES, SIR. I WAS THERE.
- 3 Q HE WAS GETTING READY TO RUN, WASN'T HE?
- 4 A HE WAS GETTING READY TO LEAVE TOWN, YES,
- 5 SIR.
- 6 Q AND HE HAD TOLD YOU THAT?
- 7 A YES, SIR.
- 8 Q AND HE ALSO SPOKE WITH MICHAEL BEATTY,
- 9 DID HE NOT?
- 10 A I DON'T KNOW.
- 11 Q DIDN'T YOU TELL THE POLICE ON JULY 9TH
- 12 THAT HE TRIED TO CALL BEATTY TO FIND OUT WHAT WAS
- 13 GOING ON WITH BEATTY'S CAR?
- 14 A WHAT DO YOU--WHAT...?
- 15 Q DIDN'T YOU TELL THE POLICE ON JULY 9TH,
- 16 1995 THAT HE WAS TRYING TO GET IN TOUCH WITH
- 17 MICHAEL BEATTY ABOUT THE CAR?
- 18 A WHEN WAS HE TRYING TO GET--WHAT DO YOU
- 19 MEAN?
- 20 Q ON THE DAY THE POLICE CAME, JUNE 26TH TO
- 21 GO AHEAD AND QUESTION HIM AND TAKE HIS
- 22 FINGERPRINTS?
- 23 A OH, YEAH.
- 24 Q IS THAT TRUE OR NOT TRUE?
- 25 A UH-HUH.

1 Q SO ON JULY 9TH, YOU KNOW, THE POLICE HAD
2 RICHARD ANDERSON'S FINGERPRINTS FOR A COUPLE OF
3 WEEKS ALREADY, CORRECT?

4 A YES, SIR.

5 Q AND THEY ALSO KNEW THAT HE HAD BEEN
6 TRYING TO REACH AND TRYING TO CALL MICHAEL BEATTY
7 ABOUT THE CAR, CORRECT?

8 A YES, SIR.

9 Q AND RICHARD ALSO TOLD YOU THAT HE TOLD
10 MICHAEL BEATTY WHAT WAS GOING ON AND WHAT HAD
11 HAPPENED AFTER IT HAPPENED.

12 A THAT'S WHAT RICHARD TOLD ME, YEAH.

13 Q NOW YOU MENTIONED WHEN THIS INCIDENT
14 WHEN YOU GOT THE PHONE CALL, YOU DROVE ACROSS THE
15 STREET?

16 A UH-HUH.

17 Q SO IN OTHER WORDS, THIS PLACE THAT YOU
18 WENT TO IS ACROSS THE STREET FROM YOUR APARTMENT OR
19 WHEREVER YOU LIVED?

20 A YES, SIR.

21 Q AND Y'ALL GOT IN THE CAR AND DROVE
22 ACROSS THE STREET?

23 A YES, SIR.

24 Q AND RICHARD WENT TO A PHONE BOOTH AND
25 THEN, BUT CAME OUT AND SPOKE WITH BECKHAM AT HIS

1 CAR?

2 A WHEN BECKHAM--RICHARD WAS AT THE PHONE
3 BOOTH WHEN BECKHAM DROVE INTO THE DRIVE. HE HUNG
4 UP THE PHONE AND WALKED OVER TO THE DRIVER'S SIDE
5 OF BECKHAM'S CAR.

6 Q AND THAT'S WHERE THE CONVERSATION TOOK
7 PLACE?

8 A I ASSUME SO, YES.

9 Q WELL, YOU COULD SEE THEM.

10 A YES, SIR.

11 Q NOW, YOU SAID TO THE SOLICITOR AND ALSO
12 IN YOUR STATEMENT YOU SAID IT WAS A WHITE RENTAL
13 CAR. HOW DO YOU KNOW IT WAS A RENTAL CAR?

14 A I SAW THE LICENSE TAG ON THE BACK OF IT.

15 Q DID ANYBODY TELL YOU IT WAS A RENTAL
16 CAR?

17 A NO, SIR. IT WAS A RENTAL CAR LICENSE
18 TAG. I DON'T RECALL WHAT THE EXACT--WHAT THE
19 COMPANY WAS, BUT I REMEMBER SEEING A TAG ON THE
20 BACK OF THAT CAR FOR A RENTAL COMPANY. AND ONLY
21 RENTAL CARS HAVE THEM TAGS, SO I ASSUMED IT WAS A
22 RENTAL CAR.

23 Q DID STEPHEN LOOK MUCH THE SAME AS HE
24 DOES TODAY?

-25 A YES, SIR.

1 Q OKAY, ANYTHING DIFFERENT ABOUT HIM THAT
2 DAY THAN YOU SAW TODAY?

3 A I DON'T THINK HE WAS DRESSED QUITE THAT
4 NICE.

5 Q THAT'S ABOUT IT, OTHER THAN THAT?

6 A YEAH.

7 Q OKAY. ALL RIGHT, WHEN YOU--ONE OR TWO
8 MORE QUESTIONS. WHEN, SOMETIME DURING THE PERIOD
9 OF TIME THAT RICHARD WAS IN CUSTODY AND BEFORE HE
10 PLED GUILTY, YOU AND HE DISCUSSED THE FACT THAT THE
11 STATE WAS OFFERING HIM A LIFE SENTENCE WITH THIRTY
12 YEARS PAROLE, ISN'T THAT TRUE? AND THAT HE TURNED
13 THAT DOWN?

14 A YEAH.

15 Q SO IN OTHER WORDS, HE HAD DISCUSSED WITH
16 YOU HIS PLEA OPTIONS AT THAT POINT, AND HAD TOLD
17 YOU THAT WHAT THEY WANTED HIM TO DO WAS PLEAD
18 GUILTY TO LIFE WITHOUT AGGRAVATING CIRCUMSTANCES SO
19 HE WOULD GET A THIRTY YEAR PAROLE ELIGIBILITY,
20 RIGHT?

21 MR. JONES: WHAT'S THE RELEVANCE, JUDGE?

22 THE COURT: SUSTAINED.

23 A WELL, HE DIDN'T...

24 THE COURT: THE OBJECTION IS RELEVANCE
25 WITH THIS WITNESS.

1 MR. SWERLING: WELL, YOUR HONOR, CAN I
2 APPROACH?

3 (BENCH CONFERENCE IN THE PRESENCE OF THE
4 JURY, OUT OF THE HEARING OF THE JURY, AND OFF THE
5 RECORD.)

6 THE COURT: OBJECTION SUSTAINED.

7 MR. SWERLING: ALL RIGHT, THAT LAST
8 QUESTION WAS SUSTAINED, YOUR HONOR?

9 THE COURT: YES, SIR.

10 Q LET ME GO BACK JUST ONE SECOND. YOU
11 SAID A FEW MINUTES AGO THAT YOU CALLED MR. JONES
12 AFTER YOU SPOKE WITH WHO?

13 A RICHARD.

14 Q YOU CALLED RICHARD?

15 A I CALLED TWILLA, I CALLED MY MOTHER, AND
16 THEN I CALLED RICHARD. RICHARD CALLED ME BACK THE
17 NEXT DAY TO GIVE ME MR. JONES' TELEPHONE NUMBER.

18 Q HOW DID YOU CALL RICHARD ANDERSON WHEN
19 HE WAS IN JAIL?

20 A WELL, I CALLED THE JAIL AND HAD THEM
21 GIVE HIM A MESSAGE TO CALL ME AT MY HOME. HE
22 CALLED ME COLLECT WITHIN FIFTEEN MINUTES OR SO.

23 Q WHEN WAS THAT? YOU SAID THAT WAS ABOUT
24 THIRTY DAYS AGO?

25 A APPROXIMATELY, YEAH.

1 Q SO IN ADDITION TO SPEAKING WITH HIM ON
2 SEPTEMBER 20TH IN JAIL, YOU ALSO SPOKE WITH HIM ON
3 THE PHONE.

4 A THAT ONE TIME. THAT WAS THE ONE TIME I
5 TALKED WITH HIM AFTER I LEFT THE BEACH.

6 Q ALL RIGHT, AND WHEN YOU CALLED SOLICITOR
7 JONES, HAD YOU GOTTEN INTO SOME TROUBLE?

8 A NO, SIR...

9 Q ...OR YOUR BOYFRIEND GOT IN SOME
10 TROUBLE, ANOTHER BOYFRIEND?

11 MR. JONES: JUDGE, WHAT'S THE--
12 OBJECTION.

13 THE COURT: SUSTAINED AS TO RELEVANCE.

14 MR. SWERLING: GO TO THE MOTIVE, YOUR
15 HONOR.

16 A I DON'T KNOW WHAT YOU'RE TALKING ABOUT.

17 THE COURT: OH, EXCUSE ME, I'M SORRY.

18 MR. JONES: WHAT'S THE RELEVANCE, JUDGE?

19 THE COURT: SUSTAINED.

20 Q ONE LAST THING I WANTED TO ASK YOU
21 ABOUT. WHEN YOU ASKED RICHARD ANDERSON ABOUT THE
22 DEATH OF VICKIE BECKHAM, THE FIRST THING HE TOLD
23 YOU AND WHAT YOU TOLD THE POLICE WAS THAT HE KILLED
24 HER, ISN'T THAT TRUE?

25 A NO, I DON'T BELIEVE THAT'S WHAT HE TOLD

1 ME.

2 Q LET ME SEE IF THIS REFRESHES YOUR
3 MEMORY.

4 A BUT IT'S HEARSAY ANYWAY, ISN'T IT? WHAT
5 RICHARD SAYS TO ME...

6 Q YOU KNOW THE RULES OF EVIDENCE?
7 THE COURT: WAIT A MINUTE, WAIT A
8 MINUTE...

9 A NO, I DON'T.
10 THE COURT: WAIT, MA'AM, JUST A MINUTE.
11 YOUR OBJECTION IS--

12 MR. JONES: NO, SIR, WE DON'T HAVE AN
13 OBJECTION.

14 THE COURT: NO OBJECTION. AND SHOW HER
15 THE QUESTION.

16 A I DON'T UNDERSTAND.

17 THE COURT: SHOW HER THE STATEMENT.

18 Q DOES THAT REFRESH YOUR MEMORY?

19 MR. JONES: WHAT LINE IS HE REFERRING
20 TO, YOUR HONOR?

21 MR. SWERLING: PAGE TWO, FIRST SENTENCE,
22 SECOND PARAGRAPH.

23 A YEAH.

24 Q YES, WHAT?

25 MR. JONES: YOUR HONOR, SHE'S ALLOWED TO

1 READ THAT FIRST STATEMENT AND THE...

2 THE COURT: SHE'S READY TO ANSWER THE
3 QUESTION, SOLICITOR.

4 MR. JONES: YES, SIR.

5 THE COURT: ALL RIGHT.

6 Q DID YOU TELL SPIKE MCGRAW ON JULY 9TH,
7 1995 THAT THE FIRST THING THAT RICHARD ANDERSON WAS
8 THAT HE KILLED VICKIE BECKHAM?

9 A YES, WITH STEPHEN BECKHAM.

10 Q I WANT YOU TO READ THIS. LATER HE TOLD
11 YOU ABOUT STEPHEN BECKHAM. I WANT YOU TO READ WHAT
12 IS IN THE STATEMENT THAT YOU SIGNED UNDER OATH.

13 A YES, I'VE READ THE STATEMENT.

14 Q ALL RIGHT, AND AM I ACCURATELY SAYING
15 THAT IN THE STATEMENT, "I ASKED RICHARD WHAT WAS
16 GOING ON. AT FIRST, HE TOLD ME THAT HE KILLED
17 HER."

18 A YES.

19 Q "LATER HE TOLD ME THAT HE DIDN'T, BUT
20 THAT HE WAS HIRED BY STEPHEN BECKHAM."

21 A YES.

22 Q TRUE OR NOT TRUE?

23 A THAT'S TRUE.

24 Q BUT AT FIRST YOUR OWN BOY FRIEND WHO
25 YOU'RE IN LOVE WITH TOLD YOU THAT HE KILLED HER.

1 A AT FIRST, YEAH.

2 THE COURT: ANYTHING ELSE, MR. SWERLING?

3 MR. SWERLING: NO, SIR.

4 THE COURT: ALL RIGHT, REDIRECT?

5 MR. JONES: YES, SIR.

6 REDIRECT EXAMINATION:

7 BY MR. JONES:

8 Q TAMMY, I'D LIKE TO HAND YOU THIS

9 STATEMENT, IF I COULD. PULL UP CLOSER TO THE

10 MICROPHONE, PLEASE.

11 NOW, YOU RECOGNIZE THE STATEMENT YOU'VE

12 GOT IN YOUR HANDS NOW, DON'T YOU?

13 A YES, SIR.

14 Q NOW WHEN DID YOU GIVE THAT STATEMENT?

15 A THIS STATEMENT WAS GIVEN AFTER RICHARD

16 WAS TAKEN INTO CUSTODY.

17 Q WHAT IS THE TIME AND THE DATE AND THE

18 YEAR?

19 A THERE IT IS: 1:25 A.M. ON THE 9TH, OF

20 JULY, 1995.

21 Q AND DID YOU SIGN IT?

22 A YES, SIR.

23 Q TAMMY L. MCKINNEY?

24 A UH-HUH.

25 Q AND WHO WITNESSED IT?

- 1 A TOMMY FLOWERS.
- 2 Q WHO IS HE?
- 3 A MYRTLE BEACH HOMICIDE DETECTIVE.
- 4 Q AND WHO WAS THE SWORN NOTARY PUBLIC WHO
- 5 SIGNED IT AS A SWORN STATEMENT?
- 6 A SPIKE DOG.
- 7 Q SO WHEN YOU SAY SPIKE DOG, WHO ARE YOU
- 8 REFERRING TO?
- 9 A SPIKE MCCRAW.
- 10 Q IS HE IN THE COURTROOM?
- 11 A YES, SIR.
- 12 Q WHERE IS HE SEATED?
- 13 A RIGHT THERE.
- 14 Q WHAT'S HE GOT ON?
- 15 A WHITE SHIRT, WHITE TOP, WHITE PANTS,
- 16 GRAY JACKET, PAISLEY TIE.
- 17 Q SO HE WAS PRESENT WHEN YOU GAVE THIS
- 18 STATEMENT ON JULY 9TH, 1995, IS THAT CORRECT?
- 19 A YES, SIR.
- 20 Q ALL RIGHT, NOW, I WANT TO ASK YOU TO
- 21 LOOK AT THE STATEMENT, AND THE SECOND PARAGRAPH...
- 22 MR. SWERLING: WHAT PAGE?
- 23 MR. JONES: PAGE ONE.
- 24 Q SECOND PARAGRAPH, TAMMY, WHERE IT SAYS
- 25 SOMETIME IN MID-JUNE OF '94, IS THAT CORRECT?

1 MR. SWERLING: YOUR HONOR, THAT'S NOT A
2 PROPER...PRIOR CONSISTENT...

3 THE COURT: I DON'T HAVE THE STATEMENT
4 IN FRONT OF ME, SO I CAN'T...GIVE ME A COPY OF THE
5 STATEMENT.

6 MR. SWERLING: THAT'S NOT THE WAY THE
7 RULES REQUIRE.

8 THE COURT: ALL RIGHT, MADAM FOREMAN,
9 LADIES AND GENTLEMEN, LET ME LET YOU GO TO THE JURY
10 ROOM. I'VE GOT TO HEAR THEM ON THE RECORD.

11 (JURY RECESSED TO JURY ROOM AT 5:00
12 P.M.)

13 THE COURT: ALL RIGHT, MR. MCMAHON, ARE
14 YOU ARGUING THE ISSUE?

15 MR. MCMAHON: IF THAT'S APPROPRIATE WITH
16 THE COURT.

17 THE COURT: YES, SIR.

18 MR. MCMAHON: YOUR HONOR, WE THINK IT'S
19 APPROPRIATE AND PROPER REDIRECT, BOTH UNDER RULE
20 103 ON STATE VERSUS JACKSON, 217 S.E.2D, EXCUSE ME,
21 RULE 106, I APOLOGIZE, YOUR HONOR. I APOLOGIZE.
22 STATE VERSUS JACKSON, 217 S.E.2D 794, A 1975 CASE.
23 AND IT WOULD ALSO BE PROPER UNDER STATE VERSUS
24 THOMAS WHERE USE OF A PRIOR CONSISTENT STATEMENT TO
25 REBUT A CHARGE OF RECENT FABRICATION OR IMPROPER

1 MOTIVE, AND FURTHER DENIAL OR EXPLANATION OF THE
2 IMPEACHING FACT UNDER HOWARD VERSUS TEMPLE WHICH IS
3 A 1967 CASE.

4 BASICALLY, YOUR HONOR, STARTING WITH
5 RULE 106, PART OF THIS WRITING HAS BEEN INTRODUCED
6 THROUGH PUBLICATION. IT HAS BEEN SPECIFICALLY READ
7 TO THE JURY PART OF THIS THREE PAGE STATEMENT, ON
8 PAGE TWO. MR. SWERLING HAD THE WITNESS TESTIFY, "I
9 ASKED RICHARD WHAT WAS GOING ON. AT FIRST, HE TOLD
10 ME THAT HE KILLED HER. LATER HE TOLD ME THAT HE
11 DIDN'T KILL HER BUT THAT HE WAS HIRED BY STEVE."

12 NOW, 106 SAYS THAT ACTUALLY AT THAT
13 TIME, WE COULD HAVE REQUIRED, IN MY OPINION, THE
14 INTRODUCTION OF ANY OTHER PART OR ANY OTHER WRITING
15 OR RECORDING STATEMENT WHICH ALL IN FAIRNESS COULD
16 BE CONSIDERED CONTEMPORANEOUSLY WITH IT.

17 NOW IF HIS HONOR WOULD SAY, "WELL,
18 SOLICITOR, THEY DIDN'T ACTUALLY OFFER THE
19 DOCUMENT," ALTHOUGH IT WAS SPECIFICALLY PUBLISHED,
20 BUT IF YOU WERE TO SAY THEY DIDN'T ACTUALLY OFFER
21 IT, THE NOTES TO RULE 106 FALL DIRECTLY BACK TO
22 STATE VERSUS JACKSON. AND I WOULD SAY TO THE COURT
23 THAT THERE IS NO RULE OF EVIDENCE THEN THAT COVERS
24 CONVERSATIONS, THAT STATE VERSUS JACKSON WOULD BE
25 CONTROLLING. AND STATE VERSUS JACKSON SAYS THE

1 SAME RULE IS APPLICABLE TO CONVERSATIONS.

2 BASICALLY, HE'S BEEN ALLOWED TO GO INTO
3 AND PICK APART JUST THREE OR FOUR LINES OUT OF A
4 THREE PAGE STATEMENT AND LEFT THAT IMPRESSION WITH
5 THE JURY. FURTHER, HE'S GONE INTO THIS IMPROPER
6 MOTIVE TYPE OF THEORY OR RECENT FABRICATION THAT
7 PERHAPS SHE'S TALKED WITH SOLICITOR JONES, OR
8 TALKED WITH AGENT MCCRAW, OR TALKED WITH RICHARD
9 ANDERSON, AND SOMEHOW SHE'S MADE A GREAT DEAL OF
10 WHAT SHE'S TESTIFIED TO TODAY UP BEFORE THIS JURY.

11 WELL, LET'S SEE WHAT SHE SAID JULY 9TH,
12 OF 19...

13 MR. SWERLING: YOUR HONOR, COULD WE HAVE
14 THE WITNESS EXCUSED? I'M SORRY, I DIDN'T MEAN TO
15 INTERRUPT, MR. MCMAHON, BUT I THINK WE OUGHT TO
16 HAVE HER EXCUSED.

17 MR. MCMAHON: LET'S SEE WHAT SHE SAYS
18 JULY 9TH OF 1995 AND LET THE JURY HEAR THAT. HE'S
19 GONE INTO PART OF IT, AND LET THE JURY COMPARE HER
20 STATEMENT BACK JULY 9TH OF 1995 WITH HER TESTIMONY
21 BEFORE THE JURY TODAY TO SEE THE CONSISTENCY, TO
22 SEE THE INCONSISTENCY.

23 NOW, YOUR HONOR, I DON'T KNOW HOW, I
24 MEAN, TO ME, I DON'T KNOW WHY IT WOULD BE UNCLEAR.
25 I CERTAINLY WOULD DEFER TO WHATEVER HIS HONOR'S

1 RULINGS ARE, WILL BE. BUT I THINK IT'S CLEARLY
2 ADMISSIBLE OR THE STATE'S AT A DISADVANTAGE IF THEY
3 CAN GO INTO TWO OR THREE LINES OUT OF THE
4 STATEMENT. IT'S ALWAYS BEEN MY UNDERSTANDING THAT
5 YOU COULD GO BACK INTO PARTS OF THE STATEMENT THEY
6 WENT INTO. ONCE MR. SWERLING STARTED GOING INTO
7 IT, IT WAS MY POSITION AND POSITION OF SOLICITOR
8 AND SOLICITOR COULTER THAT WE COULD THEN GO INTO
9 THE REMAINDER OF THAT STATEMENT, BOTH UNDER THE
10 RULES AND THE CASE LAW.

11 AND YOUR HONOR, I BELIEVE I HAVE A COPY
12 OF STATE VERSUS JACKSON HERE ALSO, IF YOU'D LIKE TO
13 REVIEW IT.

14 YES, SIR, IF WE JUST CONSIDER THIS PART
15 OF A CONVERSATION, STATE VERSUS ANDERSON SAYS,
16 "WHEN PART OF A CONVERSATION IS PUT INTO EVIDENCE,
17 AN ADVERSE PARTY IS ENTITLED TO PROVE THE REMAINDER
18 OF THE CONVERSATION SO LONG AS IT IS RELEVANT,
19 PARTICULARLY WHEN IT EXPLAINS OR GIVES NEW MEANING
20 TO THE PART INITIALLY RECITED.

21 ALL STATEMENTS MADE IN A CONVERSATION IN
22 RELATION TO THE SAME SUBJECT OR MATTER ARE TO BE
23 SUPPOSED TO HAVE BEEN INTENDED TO EXPLAIN OR
24 QUALIFY EACH OTHER AND THEREFORE THE PLAINEST
25 PRINCIPAL OF JUSTICE REQUIRES IF ONE OF THE

1 STATEMENTS IS TO BE USED AGAINST THE PARTY, ALL OF
2 THE OTHER STATEMENTS TENDING TO EXPLAIN OR TO
3 QUALIFY THIS YOU, SHOULD BE SHOWN AND CONSIDERED IN
4 CONNECTION WITH THIS."

5 THE COURT: ALL RIGHT, MR. SWERLING.

6 MR. SWERLING: JUDGE, FIRST OF ALL, WHAT
7 I ASKED HER ABOUT WAS NOT A PRIOR, THAT'S A PRIOR
8 INCONSISTENT STATEMENT WITH HER TESTIMONY. I ASKED
9 HER DID SHE TELL SPIKE MCGRAW ON JULY 9TH THAT AT
10 FIRST RICHARD ANDERSON TOLD HER THAT HE HAD KILLED
11 VICKIE BECKHAM? SHE DENIED THAT. I USED THE
12 STATEMENT TO SHOW IT AS A PRIOR INCONSISTENT
13 STATEMENT, SO RULE 106 DOESN'T EVEN COME INTO PLAY.
14 I DIDN'T PUBLISH THE STATEMENT FOR SUBSTANTIVE
15 PROOF. I DIDN'T PUBLISH THE STATEMENT OR INTRODUCE
16 THE STATEMENT FOR ANY OTHER PURPOSE THAN FOR
17 IMPEACHMENT.

18 THE COURT: WHAT DO YOU DO ABOUT THE
19 FACT THAT YOU INJECTED, WITHOUT OBJECTION FROM THE
20 STATE, HEARSAY, AND YOU OPENED THE DOOR?

21 MR. SWERLING: JUDGE, JUST BECAUSE I
22 INJECTED HEARSAY DOESN'T MEAN THEY CAN. THEY HAD A
23 RIGHT TO OBJECT; THEY DIDN'T. I OBJECT.

24 THE COURT: BUT YOU'VE OPENED THE DOOR.
25 WHAT DO I DO ABOUT UNDER THE RULE OF COMPLETENESS.

1 FOR THAT PURPOSE.

2 MR. SWERLING: JUDGE, HEARSAY IS STILL
3 ABOUT OBJECTION. I MEAN, THAT HAPPENS ALL THE
4 TIME. IF THEY DECIDED NOT TO OBJECT AND THEY
5 WANTED TO GET IN, BUT I DO OBJECT, THEN I HAVE THE
6 RULE OF EVIDENCE IN MY FAVOR, THEY DON'T.

7 THE COURT: WELL, LET'S ASSUME THAT YOU
8 TOOK, THAT YOU WERE OFFERING IT AS A PRIOR
9 INCONSISTENT STATEMENT AND YOU OFFERED IT FOR
10 SUBSTANTIVE EVIDENCE...

11 MR. SWERLING: I'M NOT.

12 THE COURT: THEN FOR WHAT PURPOSE DID
13 YOU OFFER IT?

14 MR. SWERLING: IMPEACHMENT. A PRIOR
15 INCONSISTENT STATEMENT. THAT'S WHAT IT'S BEING
16 OFFERED AS.

17 THE COURT: NO, BECAUSE SEE, SHE
18 ADMITTED THAT THAT'S WHAT SHE SAID.

19 MR. SWERLING: ONLY AFTER I SHOWED HER
20 THE STATEMENT, YOUR HONOR.

21 THE COURT: THAT'S RIGHT.

22 MR. SWERLING: OKAY. AND THAT'S ALL I'M
23 OFFERING IT FOR. I DIDN'T OFFER THE STATEMENT. I
24 OFFERED IT TO SHOW HER WHETHER OR NOT IT REFRESHED
25 HER MEMORY THAT SHE HAD MADE A PRIOR INCONSISTENT

1 STATEMENT. I MEAN, THE STATE NEEDS TO UNDERSTAND
2 THAT THIS IS NOT USED FOR ANY OTHER PURPOSE THAN TO
3 SHOW A PRIOR INCONSISTENT STATEMENT.

4 RULE 106 REFERS TO A SITUATION WHERE I
5 WALK A PART OF A DOCUMENT IN EVIDENCE. THEY'RE
6 ENTITLED TO HAVE THE WHOLE THING PUT INTO EVIDENCE.
7 THIS IS NOT THAT KIND OF SITUATION. THIS IS
8 IMPEACHMENT. THAT'S ALL THIS IS USED FOR.

9 SECOND OF ALL, WHAT I ASKED HER ABOUT
10 THAT PARTICULAR SITUATION, ABOUT WHETHER OR NOT SHE
11 HAD TOLD SPIKE MCGRAW THAT RICHARD ANDERSON HAD
12 FIRST SAID THAT HE DID THE KILLING, THERE'S NOT--I
13 MEAN, THERE'S NO CLAIM OF RECENT FABRICATION THERE.
14 IT'S A STATEMENT THAT WAS MADE JULY 9TH.

15 THE COURT: WHAT DO YOU THINK YOU WERE
16 DOING WITH HER WHEN YOU WENT THROUGH ALL OF THAT
17 TESTIMONY ABOUT SLED TRACKING HER DOWN AND FINDING
18 HER, AND SHE'D BEEN HERE THE LAST SEVERAL MONTHS,
19 HAD A CONTACT VISIT WITH HIM. I MEAN, WHAT DO
20 YOU...

21 MR. SWERLING: BUT, JUDGE, I'M TALKING
22 ABOUT THE STATEMENTS THAT THE STATE WANTS TO GET
23 BACK INTO NEVER WERE ALLEGED BY ME TO BE PRIOR
24 INCONSISTENT STATE...I MEAN, RECENT FABRICATIONS.
25 THEY'RE IN THE STATEMENT OF JULY OF 1995, SO HOW

1 CAN THAT BE RECENT FABRICATION. THE ONLY WAY THE
2 STATE'S ALLOWED TO COME BACK IN AND SHOW A PRIOR
3 CONSISTENT STATEMENT, IF THERE'S A CLAIM OF RECENT
4 FABRICATION AS TO THAT STATEMENT.

5 THE COURT: AND THAT'S WHAT YOU HAVE
6 DONE.

7 MR. SWERLING: NO, SIR. HOW CAN I DO
8 THAT IF THE STATEMENT WAS MADE IN JULY OF 1995?
9 HOW CAN THAT BE RECENT FABRICATION? IN ADDITION,
10 IN ORDER TO SHOW A PRIOR CONSISTENT STATEMENT, THAT
11 STATEMENT HAS TO BE MADE BEFORE THE PARTY GIVING
12 THE STATEMENT IS RELATED TO THE CAUSE. TAMMY
13 MCKINNEY IS OBVIOUSLY RELATED TO THE CAUSE THE DAY
14 SHE GIVES THE STATEMENT.

15 PRIOR CONSISTENT STATEMENT REFERS BACK
16 TO SOMETHING THAT SHE WOULD HAVE SAID PRIOR TO
17 RICHARD ANDERSON BEING ARRESTED OR HER BEING TOLD
18 THAT SHE IS A TARGET OF THIS THING AND IF SHE
19 DOESN'T COOPERATE THEN THEY MIGHT HAVE HER
20 ARRESTED. I MEAN, OBVIOUSLY AT THAT POINT, SHE'S
21 RELATED TO THE CAUSE. THERE'S SPECIFIC EXCLUDING
22 LANGUAGE IN THE RULE TO SAY THAT THE PERSON'S GOT
23 TO BE, THE STATEMENT HAS GOT TO BE MADE, PRIOR
24 CONSISTENT STATEMENT, PRIOR TO THE PARTY'S
25 RELATIONSHIP TO THE CAUSE.

1 MR. MCMAHON: JUDGE, CAN I MENTION ONE
2 THING ABOUT SUBSTANTIVE EVIDENCE?

3 THE COURT: YES, SIR.

4 MR. MCMAHON: IT WAS MY UNDERSTANDING
5 SINCE STATE VERSUS COPLAND, 300 S.E.2D 63, 1983
6 DEATH PENALTY CASE OUT OF BERKELY COUNTY, IN THAT
7 PARTICULAR CASE, THAT CHANGED THE LAW IN SOUTH
8 CAROLINA AS HIS HONOR WELL KNOWS ON PRIOR
9 INCONSISTENT STATEMENTS. PRIOR TO THAT, SOUTH
10 CAROLINA FOLLOWED THE TRADITIONAL RULE THAT,
11 "TESTIMONY OF INCONSISTENT STATEMENTS IS ADMISSIBLE
12 ONLY TO IMPEACH THE CREDIBILITY OF THE WITNESS.
13 HENCEFORTH FROM TODAY, WE WILL ALLOW TESTIMONY OF
14 PRIOR INCONSISTENT STATEMENTS TO BE USED AS
15 SUBSTANTIVE EVIDENCE WHEN THE DEFENDANT TESTIFIES
16 AT TRIAL AND IS SUBJECT TO CROSS EXAMINATION."

17 THE COURT: ALL RIGHT, LET ME TAKE YOU
18 THROUGH THIS ANALYSIS, MR. SWERLING, NOW, AND
19 LISTEN TO WHAT MR. MCMAHON POSITION, THINK ABOUT
20 WHAT MR. MCMAHON'S POSITION WAS AWHILE AGO.
21 THEY'RE OBJECTION WAS TO ASKING A WITNESS ABOUT
22 WHETHER OR NOT RICHARD ANDERSON HAD TOLD HER ABOUT
23 A HOMICIDE IN ILLINOIS. AND YOU KNOW, WE HAD A
24 SIDE-BAR ABOUT THAT, AND I OVERRULED THEIR
25 OBJECTION ON THIS BASIS. THE QUESTION WAS IT WAS

1 NOT BEING OFFERED FOR WHETHER OR NOT HE DID OR DID
2 NOT DO THAT. IT WAS BEING OFFERED FOR THE PURPOSE
3 AS TO WHETHER OR NOT YESTERDAY HE WAS CREDIBLE OR
4 NOT. AND SO I LET THAT FOR THE JURY TO CONSIDER.
5 SO IT WASN'T BEING OFFERED TO PROVE OR DISPROVE THE
6 ISSUES IN THIS CASE, BUT RATHER AS TO HIS
7 CREDIBILITY BEARING ON THAT, BUT NOW THE QUESTION
8 AS TO WHO DID WHAT WHEN AND WHERE IN THIS
9 STATEMENT, IT'S NOT JUST THAT SHE GAVE A PRIOR--I
10 MEAN, IT'S BEING ADMITTED AS A PRIOR INCONSISTENT
11 STATEMENT FROM HER WRITTEN STATEMENT, WHICH IS
12 SUBSTANTIVE EVIDENCE, NOT BEARING JUST ON THE
13 QUESTION OF CREDIBILITY. BUT ON WHO DID WHAT,
14 WHEN, AND WHERE. SO IT'S A DIFFERENT SCENARIO,
15 ISN'T IT?

16 MR. SWERLING: DIFFERENT SCENARIO?

17 THE COURT: FROM THE ONE WE JUST HAD
18 WHERE I LET THE EVIDENCE IN ON THE BASIS OF A
19 LIMITING INSTRUCTION. I DON'T SEE HOW I CAN TURN
20 AROUND AND TELL THIS JURY--I MEAN, YOU-- THAT IT'S
21 ONLY BEING ADMITTED ON THE QUESTION OF CREDIBILITY.
22 THAT'S NOT THE REASON IT'S BEING LET IN.

23 MR. SWERLING: JUDGE, HERE'S THE
24 PROBLEM. IT'S NOT A PRIOR CONSISTENT STATEMENT.
25 WHAT I ASKED HER WAS, DID YOU--SEE, THAT'S WHERE I

1 THINK EVERYBODY, WE'RE GETTING OFF. WHAT I ASKED
2 HER WAS, "DID YOU TELL SPIKE MCGRAW ON JULY 9TH
3 THAT RICHARD ANDERSON TOLD YOU THAT HE'D KILLED
4 VICKIE BECKHAM?" THAT WAS THE PRIOR INCONSISTENT
5 STATEMENT. HOW DOES THAT OPEN UP THE WHOLE
6 STATEMENT?

7 MR. MCMAHON: STATE VERSUS JACKSON AND
8 106. I MEAN, YOU'VE GOT TO COMPLY WITH IT.

9 THE COURT: WELL, CLEARLY--WELL, I CAN
10 ANSWER THE QUESTION ABOUT JACKSON AND 106, AS TO
11 WHETHER OR NOT THIS IS, IT IS WITHIN MY DISCRETION.
12 IT'S NOT A QUESTION OF BEING BLACK OR WHITE, IT'S A
13 QUESTION OF FAIRNESS AND COMPLETENESS. SO
14 THAT'S...

15 MR. SWERLING: JUDGE, SOMEBODY WHO WROTE
16 THIS BOOK HERE, I DON'T KNOW WHAT HIS NAME IS, BUT
17 I HAVE A CASE, STATE VERSUS JOLLEY, 402 S.E.2D 895,
18 TWO RULES THAT ALLOW PRIOR CONSISTENT STATEMENTS.
19 WHERE A WITNESS HAS BEEN IMPEACHED ON A PRIOR
20 INCONSISTENT STATEMENT, BUT IN THAT CASE, THERE
21 MUST BE IN, NUMBER ONE, THAT SITUATION, MUST BE
22 THAT PRIOR TO THE CONSISTENT STATEMENT, THE PERSON,
23 THAT STATEMENT MUST HAVE BEEN MADE BEFORE THE
24 EXISTENCE OF THE RELATION TO THE WITNESS TO THE
25 CAUSE.

1 THAT'S THE FEDERAL RULE AND THAT'S THE
2 RULE IN SOUTH CAROLINA, EVEN BEFORE WE ADOPTED THE
3 RULES OF EVIDENCE. I MEAN, YOU HAVE TO SHOW,
4 BEFORE YOU CAN SHOW EVIDENCE OF A PRIOR CONSISTENT
5 STATEMENT, THAT THE STATEMENT WAS MADE BEFORE THE
6 PERSON HAD A RELATIONSHIP WITH THE CAUSE.

7 THE COURT: WHAT OTHER STATEMENT DID SHE
8 MAKE THAN THIS ONE?

9 MR. SWERLING: SHE MADE NONE. THAT'S WHY
10 IT CANNOT COME IN AS A PRIOR CONSISTENT STATEMENT,
11 BECAUSE WHEN SHE MADE THIS STATEMENT, SHE WAS IN
12 RELATIONSHIP TO THE CAUSE.

13 MR. MCMAHON: JUDGE, I DON'T AGREE
14 WITH...

15 MR. SWERLING: IT HAS NO--EXCUSE ME.
16 THE PROBLEM IS THIS. IT'S BEEN DEALT WITH MORE IN
17 THE FEDERAL COURTS. THE PROBLEM IS IT HAS NO
18 GUARANTEES OF TRUSTWORTHINESS IF THE STATEMENT CAME
19 AFTER THE PERSON HAD A RELATIONSHIP TO THE CAUSE.
20 THE REASON IT HAS GUARANTEES OF TRUSTWORTHINESS IS
21 BECAUSE THE STATEMENT COMES BEFORE THE PARTY HAS A
22 RELATIONSHIP TO THE CAUSE. SO THAT'S THE BASIS OF
23 THE RULE.

24 AGAIN, I WOULD SPECIFICALLY POINT OUT,
25 ALL I ASKED HER WAS, "DID YOU SAY THAT RICHARD

1 ANDERSON WAS, THAT HE HIMSELF HAD DONE THE
2 KILLING." ALL THAT IS, IS A PRIOR INCONSISTENT
3 STATEMENT. I DON'T SEE HOW THAT OPENS UP THE DOOR
4 FOR THE STATE TO GET INTO ANYTHING ELSE IN THAT
5 STATEMENT...

6 MR. MCMAHON: NO, SIR, HE ASKED...

7 MR. SWERLING: ...BECAUSE THAT'S ALL I
8 ASKED.

9 MR. MCMAHON: HE ASKED ABOUT THE BLOODY
10 TEE-SHIRT, AND HE ASKED HER ABOUT MICHAEL BEATTY,
11 JUNIOR, AND MICHAEL BEATTY'S CAR, AND LAW
12 ENFORCEMENT, TRENT AND RICHARD, HE ASKED HER ABOUT
13 ALL OF THAT RIGHT AFTER THE STATEMENT, YOUR HONOR.

14 MR. SWERLING: SHE DIDN'T DENY IT.

15 MR. MCMAHON: I'M SAYING THAT'S THE DOOR
16 HE OPENED, JUDGE. HE'S SITTING HERE SAYING,
17 "THAT'S ALL I ASKED HER ABOUT OUT OF THE
18 STATEMENT," THAT'S NOT CORRECT.

19 MR. SWERLING: JUDGE, JUST BECAUSE YOU
20 ASK SOMEONE A QUESTION OUT OF A STATEMENT DOES NOT
21 LET THE STATEMENT IN. I MEAN, I JUST DON'T KNOW
22 WHERE THE STATE'S COMING FROM TO EVER THINK THAT
23 THE RULES OF EVIDENCE ALLOWS BECAUSE SOMEONE ASKS A
24 QUESTION OUT OF A STATEMENT TO SHOW A PRIOR
25 INCONSISTENT STATEMENT THAT THE WHOLE STATEMENT

1 COMES IN.

2 MR. MCMAHON: JUDGE, I BELIEVE YOU SEE
3 EXACTLY WHERE WE'RE COMING FROM.

4 MR. SWERLING: I DIDN'T SEE WHERE
5 THEY'RE COMING FROM; I SUBMIT THE RULES DON'T ALLOW
6 THAT.

7 MR. MCMAHON: AND I SUBMIT THEY DO, AND
8 THE CASE MR. SWERLING CITED, STATE VERSUS JOLLEY,
9 IS ONE OF THE FEW MISPRINTS I FOUND IN THE BOOK...

10 MR. SWERLING: MAY NOT BE THE RIGHT
11 CITE.

12 MR. MCMAHON: I THINK THE CITE'S
13 CORRECT, AND I DON'T SEE WHERE YOU GET--I'M NOT
14 SURE WHAT IT MEANS WHEN IT SAYS, "A PRIOR
15 CONSISTENT STATEMENT MUST BE MADE BEFORE THE
16 EXISTENCE OF THE WITNESS..."

17 THE COURT: I'LL GIVE YOU AN EXAMPLE OF
18 THIS.

19 MR. MCMAHON: I DON'T KNOW WHAT THAT
20 MEANS.

21 THE COURT: WELL, I'LL GIVE YOU ONE. IN
22 FACT, I'VE BEEN AFFIRMED ON THIS QUESTION BEFORE.
23 KID GETS ARRESTED, HE TELLS HIS MOTHER AND DADDY
24 SOMETHING--WELL, HE'S COMMITTED THE OFFENSE; HE
25 GOES HOME AND TELLS HIS PARENTS SOMETHING, THE

1 POLICE CALL, HE COMES DOWN TO THE POLICE STATION
2 WITH HIS PARENTS TO TAKE A STATEMENT, A WRITTEN
3 STATEMENT. AND IT'S INCONSISTENT WITH WHAT HE TOLD
4 THE PARENTS--I HAVE TO THINK THAT THING THROUGH.
5 IT WAS A KIDNAPPING, ARMED ROBBERY, MURDER CASE.

6 I TELL YOU WHAT I'LL DO. I'LL TAKE A
7 SHORT RECESS AND DOUBLE CHECK THAT CASE. I THINK I
8 CAN ANSWER THAT QUESTION.

9 MADAM COURT REPORTER, HOW FAR BACK--CAN
10 WE PICK OUT WHAT MR. SWERLING SPECIFICALLY ASKED
11 ABOUT THAT STATEMENT? HOW MUCH TROUBLE IS THAT?

12 COURT REPORTER: IT WILL JUST TAKE A FEW
13 MINUTES. I'LL JUST HAVE TO GO BACK AND FIND IT.

14 MR. JONES: YOUR HONOR, THERE WAS A TIME
15 WHEN HE WAS ASKING ABOUT THE STATEMENT THAT I
16 STARTED TO STAND UP AND SAY, "PLEASE LET THE RECORD
17 REFLECT THAT HE IS ASKING HER TO READ FROM THIS
18 STATEMENT."

19 THE COURT: I KNOW HE DID THAT.

20 MR. JONES: YES, SIR. THERE WAS A LOT
21 OF THIS STATEMENT THAT HE WENT INTO, A LOT OF IT.
22 HALF OR MORE.

23 MR. SWERLING: JUDGE...

24 THE COURT: BUT, THIS WHOLE CONVERSATION
25 STARTED, I MEAN, WHAT IT ALL STARTED WITH WAS

1 WHETHER OR NOT HE WAS HOME BEFORE SHE WAS.

2 MR. JONES: THAT'S THE WAY THIS SIDE-BAR
3 BEGAN, YES, SIR.

4 THE COURT: YEAH.

5 MR. JONES: AND THAT WAS ONE OF THE
6 AREAS THAT HE QUESTIONED HER ABOUT. HE SAID, "WHAT
7 DID HE HAVE ON WHEN HE GOT HOME," AND SHE
8 MISTAKENLY FELL INTO THE TRAP OF ASSUMING THAT--
9 THAT--YOU KNOW, "WHAT DID HE HAVE ON WHEN HE GOT
10 HOME," THAT SHE WAS ALREADY HOME WHEN HE GOT THERE.

11 THE COURT: WELL, WHY CAN'T YOU SOLVE
12 THAT PROBLEM SIMPLY BY ASKING WHO GOT HOME FIRST?
13 THE JURY DOESN'T KNOW ANYTHING ABOUT THIS STATEMENT
14 AS TO WHAT SHE SAID ONE WAY OR THE OTHER.

15 MR. JONES: BECAUSE HE'S...HE'S...WHAT
16 HE HAS DONE BY REFERRING TO THIS STATEMENT AND
17 ATTEMPTING TO MIS-CHARACTERIZE WHAT SHE SAID IS TO
18 MAKE THEM THINK THAT SHE HAS CHANGED WHAT SHE'S
19 SAYING HERE TODAY FROM WHAT SHE SAID IN THE
20 STATEMENT. YOU'VE GOT TO REFER BACK TO THE
21 STATEMENT TO KNOW THAT'S WHAT SHE TOLD HIM ON JULY
22 14TH, 1994.

23 MR. SWERLING: JUDGE, IF I RECALL
24 CORRECTLY, I NEVER ASKED HER ANYTHING ABOUT IN THE
25 STATEMENT ABOUT WHAT HE HAD ON WHEN HE GOT HOME,

1 NOTHING.

2 THE COURT: YEAH, YOU DID.

3 MR. SWERLING: FROM THE STATEMENT? I

4 JUST ASKED HER WHAT HE HAD ON WHEN HE GOT HOME.

5 THE COURT: I UNDERSTAND THAT. YOU

6 ASKED...

7 MR. SWERLING: I DIDN'T USE THE

8 STATEMENT.

9 MR. JONES: JUDGE, THERE WAS A PERIOD OF
10 CROSS EXAMINATION THERE WHERE HE TOLD HER TO REFER
11 TO THAT STATEMENT ON EVERY OTHER QUESTION HE ASKED.
12 "GO BACK AND READ YOUR STATEMENT AND SEE WHAT YOU
13 SAID. GO BACK AND LOOK AT YOUR STATEMENT AND SEE
14 WHAT YOU SAID. REFRESH YOUR MEMORY. LOOK AT YOUR
15 STATEMENT." AND HE WAS ASKING HER QUESTIONS OVER
16 AND OVER AND OVER ALONG THOSE LINES.

17 MR. SWERLING: I AM ALLOWED TO DO THAT.

18 THE COURT: I AGREE, BUT THE DANGER OF
19 THAT IS WHICH IS WHAT I'M NOT--WHICH IS CAUSING ME
20 SOME HEARTBURN AT THIS POINT IN TIME IS THAT WHEN
21 YOU OPENED THE, WHEN YOU DO THAT, AND IT'S
22 OTHERWISE INADMISSIBLE EVIDENCE, AND YOU OTHERWISE
23 OBTAIN INADMISSIBLE EVIDENCE, HOW FAR DO I GO IN
24 ALLOWING IT TO BE COMPLETED SO IT IS FAIR TO ALL
25 SIDES.

1 MR. SWERLING: JUDGE, ASSUME FOR A
2 MOMENT THAT THEY'RE CORRECT AND 106 APPLIES, WHICH
3 I SAY IT DOESN'T. WHAT I ASKED HER WERE PRIOR
4 INCONSISTENT STATEMENTS. IF THEY'RE NOT
5 INCONSISTENT, THEN THEY'RE ENTITLED TO GO INTO THE
6 STATEMENT TO SHOW THAT THEY WEREN'T INCONSISTENT,
7 THAT I MISREPRESENTED SOMETHING. I DIDN'T
8 MISREPRESENT ANYTHING. I READ OUT OF THE
9 STATEMENT, "DID YOU FIND SOMETHING BLOODY UNDER THE
10 TEE-SHIRT...." SHE EVEN EXPLAINED IT. I SAID, "DID
11 YOU FIND A BLOODY TEE-SHIRT." I WAS UNDER...I HAD
12 READ IT WRONG. SHE FOUND BLOOD UNDER THE SINK, SO
13 SHE EXPLAINED THAT. SO WHAT IS INCONSISTENT ABOUT
14 IT?

15 THE COURT: WELL, THE PROBLEM...

16 MR. JONES: YOUR HONOR, LET ME GIVE...

17 THE COURT: WAIT A MINUTE, SOLICITOR.
18 NOW, YOU SIT DOWN, AND MR. MCMAHON IS ARGUING THIS
19 POINT.

20 MR. SWERLING: YEAH, THEY'RE BOTH DOUBLE
21 TEAMING ME.

22 THE COURT: NOW, HANG ON. JUST HANG ON.
23 NOW, LISTEN. HERE'S WHAT HAPPENED, "I ASKED
24 RICHARD WHAT WAS GOING ON. AT FIRST, HE TOLD ME HE
25 KILLED HER." NOW YOU ASKED THAT QUESTION.

1 MR. SWERLING: ABSOLUTELY.

2 MR. MCMAHON: AND SHE DENIED THAT.

3 THE COURT: THEN YOU ASKED...HUH?

4 MR. MCMAHON: SHE SAID, "NO, I DON'T
5 THINK THAT WAS THE FIRST THING."

6 THE COURT: AND THEN IT WENT ON AND SAID
7 THAT SHE LOOKED AT IT AND EVENTUALLY CONCEDED THAT
8 THAT'S WHAT SHE SAID. "LATER HE TOLD ME THAT HE
9 DIDN'T KILL HER, BUT THAT HE WAS HIRED BY STEVE TO
10 GET RID OF THE BODY..." ETCETERA.

11 HAVEN'T YOU LEFT THE IMPRESSION IN THE
12 JURY THAT WHAT SHE SAID IN THIS STATEMENT IS
13 INCONSISTENT FROM THE WAY, IN OTHER WORDS, IN THIS
14 STATEMENT SHE SAID WHAT YOU ASKED. A CONSISTENCY.
15 THAT IS, "AT FIRST HE TOLD ME HE KILLED HER."

16 MR. SWERLING: ONLY AFTER I IMPEACHED
17 HER.

18 THE COURT: SURE.

19 MR. MCMAHON: EXACTLY.

20 THE COURT: AND IT WAS BASED ON THIS
21 STATEMENT.

22 MR. SWERLING: CORRECT.

23 THE COURT: BUT IF YOU TAKE THE
24 STATEMENT AS A WHOLE, THEN SHE SAYS, "LATER HE TOLD
25 ME,..." WHICH IS IN THE SAME STATEMENT. IT'S

1 CONSISTENT WITH BOTH ANSWERS.

2 MR. SWERLING: WELL, JUDGE, THAT'S THE
3 WHOLE PURPOSE OF ALLOWING, NOT ALLOWING PRIOR
4 CONSISTENT STATEMENTS UNLESS THE PERSON HAS NO
5 RELATIONSHIP TO THE CAUSE AT THE TIME THE STATEMENT
6 IS MADE.

7 ALL I ASKED HER WAS, I MEAN, UNDERSTAND,
8 WE'VE GOT TO REMEMBER AGAIN WHAT I ASKED HER. THE
9 PRIOR INCONSISTENT STATEMENT WAS, "DIDN'T YOU TELL
10 THE POLICE THAT AT FIRST, RICHARD ANDERSON SAID HE
11 HAD KILLED HER?" IF SHE'D ADMITTED, THAT'S THE END
12 OF THE INQUIRY, BECAUSE AT THAT POINT, SHE HAS BEEN
13 IMPEACHED, AND THAT'S IN FACT WHAT SHE SAID.
14 THAT'S THE PURPOSE OF ALLOWING A PRIOR INCONSISTENT
15 STATEMENT.

16 THE COURT: BUT THAT IS NOT INCONSISTENT
17 WITH THE STATEMENT THAT SHE GAVE. HER TESTIMONY
18 HERE TODAY WAS INCONSISTENT WITH THE STATEMENT THAT
19 SHE GAVE TO START WITH.

20 MR. SWERLING: NO, SIR, BECAUSE THAT
21 DIDN'T COME UP UNDER THE STATE'S EXAMINATION. IT
22 DIDN'T COME UP THAT WAY. THEY NEVER GOT INTO, IF
23 YOU RECALL, YOUR HONOR, ON DIRECT EXAMINATION...

24 THE COURT: AND THE REASON THEY CAN'T DO
25 IT IS BECAUSE...

1 MR. SWERLING: IT'S HEARSAY.

2 THE COURT: THAT'S RIGHT, IT'S HEARSAY.

3 MR. SWERLING: SO WHAT I USED IT FOR IS
4 IMPEACHMENT PURPOSES....

5 MR. MCMAHON: WE CAN'T BOLSTER HER
6 CREDIBILITY BEFORE IT'S ATTACKED.

7 MR. SWERLING: AND THEY CAN'T BOLSTER IT
8 AFTER SHE'S ATTACKED UNLESS SHE IS NOT RELATED TO
9 THE CAUSE AT THE TIME THE STATEMENT IS MADE.

10 MR. MCMAHON: THAT'S NOT THE LAW, YOUR
11 HONOR.

12 MR. SWERLING: READ STATE VERSUS JOLLEY.

13 MR. MCMAHON: IT'S JOLLEY VERSUS STATE,
14 AND I HAVE READ IT, AND IT'S NOT...

15 THE COURT: ALL RIGHT, LET'S TAKE A
16 SHORT BREAK, AND YOU ALSO NEED TO LOOK UP...

17 MR. MCMAHON: HE NEEDS TO READ STATE
18 VERSUS JACKSON.

19 THE COURT: WE'LL LOOK UP ONE OTHER
20 CASE. WHAT ELSE HAVE YOU GOT BESIDES THIS WITNESS
21 TODAY?

22 MR. JONES: THIS WILL CONCLUDE IT THIS
23 EVENING, YOUR HONOR, UNLESS YOU WANT TO CONTINUE TO
24 GO FORWARD.

25 THE COURT: WELL, WHO ELSE YOU GOT?

1 MR. JONES: WELL, THE NEXT WITNESS WILL
2 BE PRETTY LENGTHY, TO BE HONEST WITH YOU. WE MAY
3 CAN FIND A SHORT ONE, A FIFTEEN OR TWENTY MINUTES
4 WITNESS.

5 THE COURT: WELL, TELL ME KIND OF...WE
6 KNOW WE'VE GOT TO DO THE MESSIAH HEARING IN THE
7 MORNING.

8 MR. JONES: IS THAT SCHEDULED FOR IN THE
9 MORNING.

10 THE COURT: THAT'S WHAT WE SAID.

11 MR. JONES: TOMORROW MORNING OR TOMORROW
12 AFTERNOON? WE KIND OF THOUGHT...

13 MR. SWERLING: I DIDN'T KNOW--TOMORROW
14 AFTERNOON?

15 MR. JONES: WE WERE THINKING YOU MIGHT
16 WANT TO SCHEDULE IT FOR--AND LET ME TELL YOU WHY
17 NOW, TOMORROW AFTERNOON. AGENT MCCRAW HAS GOT TO
18 TESTIFY AT SOME POINT IN TIME. WE HAVE
19 APPROXIMATELY FIFTY EXHIBITS TO INTRODUCE THROUGH
20 HIM IN THE FORM OF TELEPHONE RECORDS, MOTEL
21 RECEIPTS, CHECKS CASHED, VARIOUS DOCUMENTATION FOR
22 CONTACT BETWEEN DEFENDANT BECKHAM AND RICHARD
23 ANDERSON FROM APRIL OF '94 UNTIL JUNE 12TH OF '94.
24 WE ANTICIPATE THAT HE WILL BE ON THE STAND FOR TWO
25 HOURS, MAYBE A LITTLE LONGER, IN OUR DIRECT

1 EXAMINATION.

2 THE COURT: YOU'RE TALKING ABOUT
3 STARTING OFF WITH HIM TOMORROW?

4 MR. JONES: YES, SIR.

5 THE COURT: ALL RIGHT, SO WHAT ELSE HAVE
6 YOU GOT LEFT? LET'S GET A...WE HAVE NO SECRETS
7 AROUND HERE. LET'S FIGURE OUT EXACTLY, BECAUSE I
8 WANT TO GET THIS CASE...

9 MR. JONES: YES, SIR. AGENT MCCRAW.

10 THE COURT: ALL RIGHT.

11 MR. JONES: AND THEN OF COURSE, WE HAVE
12 THE MESSIAH ISSUES CONCERNING WITNESSES WARD AND
13 JEFFCOAT.

14 THE COURT: OKAY.

15 MR. JONES: AND THEN OF COURSE WE HAVE
16 RICHARD MITCHELL.

17 THE COURT: AND THAT'S GOING TO TAKE A,
18 WE'VE GOT TO HAVE A LYLE HEARING ON THAT, OR AT
19 LEAST ON PART OF IT.

20 MR. JONES: ON PART OF IT. AND THEN OF
21 COURSE WE HAVE WITNESSES THAT--CHARLES MORRIS WHO
22 RICK MITCHELL WAS STAYING WITH WHEN RICK MITCHELL
23 SAYS DEFENDANT BECKHAM, YOU KNOW, ATTEMPTED TO HIRE
24 HIM TO KILL HIS WIFE IN APRIL OF '94. CHARLES
25 MORRIS WAS THERE AS A WITNESS WHEN THAT CONTACT

1 TOOK PLACE. AND THEN WE HAVE EDWARD JEFFERIES WHO
2 WAS PRESENT WHEN DEFENDANT BECKHAM HIRED RICK
3 MITCHELL TO INTIMIDATE AND BEAT UP A BUSINESS
4 PARTNER IN 1991, WHO RICH MITCHELL RECRUITED TO
5 ASSIST HIM IN THAT...

6 THE COURT: YEAH, I UNDERSTAND THE
7 WITNESSES. YOU DON'T HAVE TO GIVE ME A HISTORY.

8 MR. JONES: OKAY. WELL, THOSE
9 WITNESSES, AND THEN POTENTIAL FLIGHT WITNESSES.
10 WE'VE GOT A HOTEL OPERATOR FROM KENTUCKY, MR.
11 PATEL; WE HAVE A POLICE OFFICER FROM LEXINGTON
12 COUNTY, OFFICER JOHNSON, JERRY JOHNSON; WE HAVE A
13 DOCTOR FROM LEXINGTON...

14 MR. SWERLING: I THOUGHT WE WEREN'T
15 GETTING INTO THAT?

16 MR. JONES: SIR?

17 MR. SWERLING: I THOUGHT WE WERE NOT
18 GETTING INTO THE DOCTOR ISSUE. DR. BLEDSOE?

19 MR. JONES: DR. BLEDSOE.

20 MR. SWERLING: I THOUGHT THE OTHER DAY
21 YOU SAID YOU WEREN'T GETTING INTO THAT.

22 MR. COULTER: NO, NO. THAT WAS IN
23 REGARD TO STATEMENTS MADE. WE'RE NOT GETTING INTO
24 THE STATEMENTS.

25 MR. JONES: STILL WANT TO GET INTO THE

1 CONTENTS OF HIS STOMACH.

2 MR. SWERLING: I GOT YOU.

3 MR. JONES: AND YOUR HONOR, YOU KNOW, SO
4 TO GIVE YOU SOME IDEA, THAT'S ESSENTIALLY THE
5 REMAINING WITNESSES IN OUR CASE. AND WE WILL DO,
6 WE WILL HAVE THE WITNESSES AVAILABLE HERE FOR YOU
7 WHENEVER YOU WANT TO DO THE MESSIAH HEARING. JUST
8 LET US KNOW; I'VE GOT SOLICITOR BAILEY'S NUMBER AT
9 HOME, I'VE GOT A DETECTIVE THAT WAS THERE AT HOME,
10 WE'VE GOT MICHAEL CULLER. WE CAN GET THEM HERE
11 WHENEVER YOU WANT THEM HERE.

12 THE COURT: WELL, WHAT I WAS THINKING
13 ABOUT IS WHY DON'T WE DO--WHAT I'D LIKE TO DO IS
14 AVOID THIS BUSINESS OF HAVING THIS JURY SITTING
15 AROUND. WHY COULDN'T WE DO THE MESSIAH--YOU THINK
16 IT'S GOING TO TAKE A HALF A DAY TO DO THAT?

17 MR. JONES: WELL, YOUR HONOR, WE DON'T.

18 THE COURT: A COUPLE OF HOURS, DON'T YOU
19 THINK?

20 MR. SWERLING: I WOULD THINK A COUPLE OF
21 HOURS.

22 MR. JONES: YOUR HONOR, IF I COULD, TO
23 GIVE YOU SOME IDEA. I DON'T KNOW WHAT THEY THINK
24 THAT THEY PLAN TO DO WITH THAT ISSUE, BUT MY
25 UNDERSTANDING OF THE SITUATION IS THAT MR. WARD MET

1 WITH LAW ENFORCEMENT ABOUT HIS CASE IN NOVEMBER OF
2 '95, I'M SORRY, NOVEMBER OF '94. NOVEMBER OF '94,
3 YOUR HONOR. HE ATTEMPTED TO CONTACT SOLICITOR
4 BAILEY THEREAFTER, AND SOLICITOR BAILEY DID NOT
5 CONTACT HIM BACK UNTIL SOLICITOR BAILEY RECEIVED A
6 LETTER WHEREIN MR. WARD SAID, "I HAVE INFORMATION
7 OBTAINED FROM DEFENDANT BECKHAM CONCERNING HIS
8 CASE," AND BAILEY CALLED ME AND SAID, "SOLICITOR,
9 JONES, YOU NEED TO TALK TO THIS MAN. HE'S ALLEGING
10 HE'S TALKED TO DEFENDANT BECKHAM."

11 I CONTACTED CAPTAIN WEBER; THAT WAS IN
12 OCTOBER OF '95. I CONTACTED CAPTAIN WEBER TO ASK
13 HIM TO MEET WITH MR. WARD, AND HE DID IN NOVEMBER.
14 AND SO I DON'T KNOW WHERE THEY CAN GET ANY
15 INFORMATION THAT HE WAS AN AGENT FOR WALTER BAILEY
16 OR OF ANY LAW ENFORCEMENT AGENCY. SO WE'VE GOT
17 THREE WITNESSES, WALTER BAILEY, A DETECTIVE WITH
18 THE ORANGEBURG'S SHERIFF'S OFFICE AND MICHAEL
19 CULLER. AND I WOULD SUGGEST MR. CULLER'S TESTIMONY
20 COULD PROBABLY ELIMINATE IF...ONCE YOU HEAR FROM
21 WALTER BAILEY AND DETECTIVE WITH THE ORANGEBURG
22 SHERIFF'S DEPARTMENT, IS WHAT I THINK IT'S GOING TO
23 BE.

24 THE COURT: ALL RIGHT. WELL, HAVE
25 MORGAN MARTIN AND WALTER BAILEY, AND ANYBODY YOU

1 NEED ON THE SIDE HERE AT TWO O'CLOCK TOMORROW.

2 MR. JONES: ALL RIGHT. WELL, JUDGE, WE
3 LEARNED THAT MORGAN MARTIN DOES NOT REPRESENT MR.
4 CULLER...

5 THE COURT: WHOEVER. TWO O'CLOCK FOR
6 THE MESSIAH QUESTION. I WANT TO FOLLOW THAT BY THE
7 LYLE HEARING ON SLICK....WHATEVER HIS NAME IS.

8 MR. SWERLING: SLICK RICK.

9 MR. JONES: JUDGE, IF WE DO THAT, IF WE
10 START THIS WITNESS IN THE MORNING THEN WHAT YOU'RE
11 GOING TO DO IS YOU'RE GOING TO GIVE AN OVERNIGHT
12 BREAK BETWEEN HIS DIRECT EXAMINATION AND CROSS.

13 THE COURT: I'M JUST AS SORRY AS I CAN
14 BE, BUT I CAN ONLY DO SO MANY THINGS AT ONE TIME,
15 AND YOU KNOW...

16 MR. JONES: WELL, WHAT IF I CAN GET THEM
17 HERE--WELL, ALL RIGHT. WHAT IF WE HAVE THEM HERE
18 AT TWO AND, OR HAVE THEM HERE AT THREE AND START
19 WITH MCCRAW IN THE MORNING, SEE IF WE CAN FINISH
20 HIM UP AT A REASONABLE HOUR LIKE THREE OR FOUR, AND
21 THAT WAY WORK WITH BAILEY AND THOSE GUYS TOMORROW
22 EVENING. LET THE JURY GO HOME TOMORROW EVENING,
23 AND WE'LL WORK ON THE MESSIAH ISSUE AND THE LYLE
24 ISSUE.

25 THE COURT: I DON'T HAVE A PROBLEM WITH

1 THAT.

2 MR. JONES: ALL RIGHT.

3 THE COURT: BUT I MEAN, HAVE THEM
4 AVAILABLE IN CASE EVERYTHING GOES...

5 MR. HARPOOTLIAN: HOW LATE DO YOU INTEND
6 ON GOING, YOUR HONOR?

7 THE COURT: WELL, WE'LL GOING TO HAVE TO
8 PICK UP THE PACE A LITTLE BIT TOMORROW.

9 MR. HARPOOTLIAN: YES, SIR. YOUR HONOR,
10 I REITERATE FOR THE RECORD THAT WE HAVE TO DRIVE AN
11 HOUR BACK TO COLUMBIA. IF WE'RE GOING TO WORK ON
12 THIS CASE AT NIGHT, WE NEED TO, YOU KNOW,--

13 THE COURT: WELL, HERE'S WHAT I WANT TO
14 DO. THE WAY I'M LOOKING AT THEM, I KNOW WE'RE
15 SITTING HERE WASTING TIME RIGHT NOW. I'M TRYING TO
16 FIGURE OUT WHAT TO DO. I'D LIKE TO HAVE THE STATE
17 THROUGH BY THURSDAY, LUNCH, TWO O'CLOCK, AND THEN
18 WE MAY--OR AT LEAST BY TWO OR THREE O'CLOCK AND WE
19 JUST TAKE A BREAK TO GET YOU ALL UP FRIDAY AND
20 SATURDAY.

21 MR. SWERLING: THAT'S REALISTIC.

22 MR. HARPOOTLIAN: WE DO NEED SOME GEAR-
23 UP TIME, YOUR HONOR.

24 THE COURT: JUST ABOUT A COUPLE OR THREE
25 HOURS, SOMEWHERE IN THERE.

1 MR. HARPOOTLIAN: IF WE BREAK THURSDAY
2 AFTERNOON, WE CAN BE READY FRIDAY MORNING, BECAUSE
3 WE'RE GOING TO NEED A LITTLE GEAR-UP TIME.

4 THE COURT: WELL, HOW MANY MORE
5 WITNESSES YOU GOT LIKE MS. MCKINNEY YOU'RE GOING TO
6 PUT UP WHERE WE'RE GOING TO HAVE THIS POTENTIAL
7 ISSUE IN IT? IS THIS THE ONLY ONE?

8 MR. JONES: WELL, YOU KNOW, AGENT MCCRAW
9 WAS INVOLVED AND PRESENT DURING ONE, TWO, MAYBE
10 THREE INTERVIEWS OF RICHARD ANDERSON. BUT AS FAR
11 AS OTHER WITNESSES WHO HAVE GIVEN PREVIOUS
12 STATEMENTS THAT ARE BRINGING UP ISSUES LIKE THIS,
13 NO SIR, I DON'T KNOW OF ANY. I THINK THIS IS THE
14 LAST ONE. THIS WILL BE THE LAST WITNESS THAT WAS
15 INTERVIEWED BY LAW ENFORCEMENT A YEAR AGO
16 CONCERNING THIS CASE. THESE OTHER WITNESSES HAVE
17 COME FORWARD IN MORE RECENT TIME AND HAVE NOT BEEN
18 INTERVIEWED WITH STATEMENTS TAKEN BY LAW
19 ENFORCEMENT.

20 BUT JUDGE, I WOULD RESPECTFULLY REQUEST
21 THAT IF I CAN GET THOSE GUYS HERE ON THE MESSIAH
22 QUESTION AT, YOU KNOW, THREE O'CLOCK TOMORROW, FOUR
23 O'CLOCK, THAT WE GO AS FAR AS WE CAN WITH OUR
24 TESTIMONY AND THEN DO THAT LATE IN THE AFTERNOON
25 AFTER THE JURY GOES. AND IF IT LOOKS LIKE IT'S

1 GOING TO TAKE TWO OR THREE HOURS TO GET IT DONE,
2 AND IT'S TOO LATE AND PEOPLE NEED TO GO HOME, THEN
3 WE CAN START BACK WITH THE MESSIAH THE NEXT
4 MORNING. YOU KNOW, I'M SURE SOLICITOR BAILEY WON'T
5 MIND NOR WILL PUBLIC DEFENDER CULLER, NOR WILL THAT
6 DEPUTY MIND BEING HERE TWO DAYS. AS A MATTER OF
7 FACT, I KNOW THEY WON'T. THEY TOLD ME THAT THEY'RE
8 PREPARED--OF COURSE, WE WILL HAVE WARD AND JEFFCOAT
9 HERE.

10 SO WHAT I'M SAYING IS WE CAN GET THIS
11 JURY WORKING ALL DAY AND IF WE CAN'T FINISH OUR
12 WORK AT A REASONABLE TIME AFTER THEY LEAVE, THEN WE
13 CAN INFRINGE ON THEIR MORNING.

14 ALSO, JUDGE, I REALLY BELIEVE THAT AFTER
15 SPIKE MCCRAW, OUR WITNESSES, WE CAN FINISH OUR CASE
16 BY MID-DAY THURSDAY, AFTER AGENT MCCRAW TESTIFIES,
17 DEPENDING ON THE EXTENT OF CROSS EXAMINATION AND
18 HOW MUCH...

19 AND AS FAR AS SOME OF THESE LEGAL
20 ISSUES, WE'RE MORE THAN HAPPY TO DEAL WITH SOME OF
21 THOSE THIS AFTERNOON, LIKE THE FLIGHT ISSUE, THE
22 RELEVANCY OF FLIGHT; THE LIFE INSURANCE ISSUE, AND
23 THE--BUT WE WOULD LIKE TO FINISH WITH THIS WITNESS
24 THIS EVENING.

25 THE COURT: WELL, THAT'S THE PROBLEM.

1 THIS IS PROBABLY THE MOST CRITICAL RULING FOR ME TO
2 THIS POINT. EVERYTHING ELSE HAS BEEN REASONABLY
3 EASY.

4 MR. JONES: WELL, WE WANT YOU TO TAKE
5 YOUR TIME, JUDGE.

6 THE COURT: SO I'M GOING TO--WE'RE GOING
7 TO DO WHAT WE CAN DO ON THE LEGAL QUESTIONS OTHER
8 THAN THIS ISSUE, I'M GOING TO BRING THAT WITNESS
9 BACK IN THE MORNING FOR WHAT WILL EITHER BE A REAL
10 BRIEF RE-DIRECT IN YOUR HANDS. THAT WILL GIVE ME
11 OVERNIGHT TO THINK ABOUT THAT QUESTION AND RE-READ
12 IT.

13 SO BRING THE JURY IN AND LET ME SEND
14 THEM HOME.

15 (JURY RETURNED TO OPEN COURTROOM AT 5:35
16 P.M.)

17 ALL RIGHT, LADIES AND GENTLEMEN OF THE
18 JURY PANEL, ON ONE OF THE ISSUES, I NEED SOME TIME
19 TO THINK ABOUT IT, SO I'M GOING TO LET YOU GO BACK
20 TONIGHT AND WE'LL START BACK WITH TESTIMONY
21 TOMORROW AT NINE, AND WE'RE ALSO GOING TO TAKE UP
22 SOME OTHER ISSUES THAT HOPEFULLY WILL KEEP YOU OUT
23 HERE MOST OF THE DAY TOMORROW WITHOUT TOO MUCH UP
24 AND DOWN. BUT I NEED A LITTLE TIME TONIGHT TO
25 THINK ABOUT SOMETHING.

1 SO DON'T DISCUSS THE CASE, OR ALLOW
2 ANYONE TO DISCUSS IT WITH YOU, AND WE'LL SEE YOU
3 BACK IN THE MORNING AT NINE O'CLOCK.

4 (JURY RECESSED FOR EVENING AT 5:20 P.M.)

5 LET'S TAKE A SHORT BREAK BEFORE WE TALK
6 ABOUT THESE OTHER THINGS, AND THEN WE'LL COME BACK
7 AND DEAL WITH POTENTIALLY THE FLIGHT ISSUE AND THE
8 INSURANCE QUESTION. AND I'LL BE TRYING TO FIND MY
9 MATERIAL ON THE OTHER.

10 THERE ARE THE ISSUES OF FLIGHT AND
11 ISSUES OF INSURANCE THAT WILL BE COMING UP QUICKLY
12 TOMORROW.

13 MR. HARPOOTLIAN: YOUR HONOR, COULD I
14 ASK YOU TO DO THIS. WE HAVE SOME OF THAT RESEARCH
15 IN COLUMBIA, ESPECIALLY ON FLIGHT--WHAT WAS THE
16 OTHER ONE, FLIGHT, INSURANCE--THAT--WE REALLY
17 DIDN'T ANTICIPATE THAT COMING UP TODAY. COULD WE
18 JUST START EARLIER IN THE MORNING PERHAPS?

19 THE COURT: TELL ME HOW COMPLICATED
20 Y'ALL--I MEAN, IT'S A QUESTION OF FACTS, AND NOT SO
21 MUCH, THE LAW IS PRETTY SIMPLE ON THESE...

22 MR. HARPOOTLIAN: ON FLIGHT, IT'S PRETTY
23 SIMPLE. THEY'VE GOT TO SHOW THAT HE KNEW.

24 THE COURT: WELL, NO, THERE'S SOME OTHER
25 WAYS IN OR OUT OF THAT PROBLEM. IT'S NOT JUST

1 WHETHER HE KNEW.

2 MR. HARPOOTLIAN: I'LL GIVE YOU MR.
3 SWERLING. THAT'S HIS ISSUE.

4 THE COURT: OKAY. LET ME DEAL WITH
5 SOMETHING ELSE. I TOLD YOU I WASN'T GOING TO GIVE
6 YOU ANY ADVICE, AND I'M NOT GIVING YOU ANY ADVICE,
7 BUT I AM TELLING YOU THIS, THAT ON THE COMPOSITE
8 QUESTION, WE HAVE, IF THAT ISSUE COMES UP AGAIN, WE
9 HAVE SOME STATES THAT HAVE RULED THAT THAT IS
10 HEARSAY. WE HAVE SOME PEOPLE WHO SAY, SOME STATES
11 THAT SAY THAT IT IS NOT HEARSAY, BUT AUTHENTICATION
12 HAS BEEN REQUIRED IN EVERY CASE, NO MATTER WHAT YOU
13 CALL THE ANIMAL, HEARSAY OR NOT HEARSAY, BUT SOME
14 FORM OF AUTHENTICATION IS REQUIRED.

15 MR. HARPOOTLIAN: I'M SORRY, WHAT
16 ISSUE...

17 THE COURT: ON THE COMPOSITE. SO 801,
18 YOU KNOW, I PROBABLY COULD GIVE AN ALTERNATIVE
19 RULING AND EITHER WAY WON'T LOSE ON THAT. THE
20 QUESTION IS ON THE 901 ON THE AUTHENTICATION, THAT
21 IS REQUIRED AND ON MOST OF THE CASES THAT WE FOUND,
22 THERE HAS TO BE AN ADOPTION OF THE COMPOSITE,
23 GENERALLY SPEAKING.

24 MR. HARPOOTLIAN: IF, YOUR HONOR, YOU'RE
25 INTRODUCING THE HEARSAY TO PROVE SOMETHING ABOUT

1 THE COMPOSITE, I MEAN, THAT'S WHAT--I MEAN, STATE
2 VERSUS PATTERSON WHICH IS A NORTH CAROLINA CASE IS
3 VERY SIMILAR...

4 THE COURT: WE'VE GOT IT.

5 MR. HARPOOTLIAN: OKAY, YOU'VE ALREADY
6 GOT IT. AND I'M NOT ARGUING WITH THE COURT, BUT
7 EVEN IN THAT CASE, WHAT THEY'RE SAYING IS, IN THESE
8 CASES, ALL OF THE COMPOSITE CASES IS WHERE A
9 WITNESS HAS TESTIFIED TO A DESCRIPTION AND THE
10 DEFENDANT OBJECTED TO THE COMPOSITE COMING IN
11 BECAUSE IT'S HEARSAY. IT'S WHAT SHE SAID TO
12 SOMEBODY ELSE, AND THEREFORE, INADMISSIBLE.
13 INTERESTINGLY ENOUGH, IT'S INADMISSIBLE BECAUSE
14 IT'S A PRIOR CONSISTENT STATEMENT.

15 BUT WHAT THE COURTS HAVE SAID,
16 ESPECIALLY WHEN YOU LOOK AT THE ANALYSIS IN
17 PATTERSON, IT'S ADMISSIBLE THERE EVEN UNDER THE
18 OBJECTIONS UNDER 802. IT SEEMS TO ME, YOUR HONOR,
19 WHAT NEEDS TO BE UNDERSTOOD ABOUT WE'RE OFFERING
20 ANY TESTIMONY ABOUT A COMPOSITE IS NOT TO PROVE
21 THAT THE COMPOSITE IS AN ACCURATE DEPICTION OF
22 SOMEBODY, BUT TO PROVE THAT LAW ENFORCEMENT, STATE
23 OF MIND ON THE PART OF A SPECIFIC LAW ENFORCEMENT
24 OFFICER WHEN HE TOOK AN ACT, HE WAS UNDER THE
25 BELIEF. NOW HE CAN EXPLAIN THAT BELIEF WAS MISTAKEN

1 OR HE WAS IN ERROR. BUT IT CERTAINLY SEEMS TO ME
2 THAT IF WE'RE INTRODUCING IT TO SHOW, THE CHALLENGE
3 THE INTEGRITY OF THE INVESTIGATION, NOT TO PROVE
4 THAT A CERTAIN PERSON WAS ON THE SCENE, BUT THAT
5 OFFICERS SWORE UNDER OATH, AN OFFICER SWORE UNDER
6 OATH AT A PRIOR TIME, IT SEEMS TO ME IT WOULD BE A
7 PRIOR INCONSISTENT STATEMENT.

8 THE COURT: WELL, ACTUALLY, STATEMENTS
9 IN ARREST WARRANTS AND SEARCH WARRANTS ARE
10 INADMISSIBLE IN THAT ALL THEY ARE, ARE SUSPICIONS,
11 AND THEREFORE IT IS NOT A BASIS UPON WHICH A CASE
12 CAN BE DECIDED.

13 MR. HARPOOTLIAN: YOUR HONOR, THEY ARE
14 SUSPICIONS BUT WHEN HE STATES IN A SEARCH WARRANT,
15 UNDER OATH, IN AN AFFIDAVIT THAT HE BELIEVES THAT
16 AT THAT POINT,-- YOUR HONOR, AGAIN, IT WOULD BE
17 LUDICROUS TO NOT ALLOW US TO ASK THE POLICE OFFICER
18 IF HE DID NOT, BEFORE A JUDICIAL OFFICER, SWEAR
19 THAT A CERTAIN VEHICLE WAS OF EVIDENTIARY VALUE
20 BECAUSE THE PERSON WHO OWNS THAT VEHICLE WAS SEEN
21 AT THE SCENE OF THE CRIME. THAT'S WHAT HE SAID.

22 THE COURT: WELL, IT WOULD BE EQUALLY
23 LUDICROUS TO ALLOW HIM TO ANSWER THE QUESTION FROM
24 THE OTHER POINT OF VIEW, "DID YOU NOT SWEAR BEFORE
25 SO AND SO THAT X COMMITTED A CRIME AND THAT WAS THE

1 BASIS OF THE WARRANT?"

2 MR. HARPOOTLIAN: WELL, YOUR HONOR, HE
3 OBVIOUSLY COULD SWEAR THAT HE APPEARED BEFORE A
4 MAGISTRATE AND SAID X, Y, AND Z.

5 AND YOUR HONOR, I MEAN, THERE'S TWO
6 POINTS TO BE MADE HERE. AGAIN, WE'RE NOT
7 INTRODUCING IT TO PROVE THE MATTER ASSERTED. WE'RE
8 NOT INTRODUCING IT TO PROVE THAT ANYONE IDENTIFIED
9 THAT PERSON OR ANYONE DREW THAT COMPOSITE.

10 THE COURT: BUT YOU'RE OFFERING IT, YOU
11 ARE OFFERING IT FOR THE TRUTH, YOU ARE OFFERING IT
12 TO DIVERT THE ATTENTION AWAY FROM YOUR CLIENT.

13 MR. HARPOOTLIAN: NO, SIR. WE'RE
14 OFFERING TO SHOW THAT THE LAW ENFORCEMENT EFFORT IN
15 THIS CASE WAS FOCUSED ON OUR CLIENT TO EXCLUSION OF
16 EVERY OTHER REASON ROUTE. AND WE CAN SHOW, AND
17 WILL SHOW, IN OUR CASE, THAT THEY IGNORED MASSIVE
18 AMOUNTS OF EVIDENCE, NOT JUST IN THIS AREA, BUT
19 OTHER AREAS.

20 YOUR HONOR, IT'S CONSISTENT WITH THE
21 QUESTIONS I ASKED THE PATHOLOGIST IN THIS CASE.
22 AND CAN I JUST PUT IN THE RECORD WHAT THOSE ARE?

23 THE COURT: SURE.

24 MR. HARPOOTLIAN: I ASKED THE
25 PATHOLOGIST, I SAID, "LOOK AT THESE BOLT CUTTERS,

1 LOOK AT THIS GUN. YOU KNOW THAT THEY CAN EXAMINE
2 THESE ITEMS AND DETERMINE WHETHER OR NOT, THERE ARE
3 TESTS ON WHETHER OR NOT THERE'S BLOOD IN THESE
4 CREVICES, WHETHER THERE ARE, WHETHER THERE'S TRACE
5 EVIDENCE," AND HE SAID, CERTAINLY.

6 AS FAR AS I KNOW, AT THIS JUNCTURE, THE
7 STATE'S NOT GOING TO PRESENT ANY EVIDENCE OF THAT,
8 LACK OF OR PRESENCE OF TRACE EVIDENCE, NUMBER ONE;
9 AND NUMBER TWO, IF THEY DO, WE WILL HAVE AN EXPERT
10 TO SHOW WHATEVER TESTS THEY DID WAS INADEQUATE, AND
11 WAS NOT THE STANDARD THAT THEY SHOULD HAVE BEEN
12 FOLLOWING, JUST AS WE'VE SHOWN THAT AGENT BLACK DID
13 NOT DO THE APPROPRIATE INVESTIGATION WITH THE
14 FINGERPRINT.

15 WHAT WE'RE ATTEMPTING TO SHOW IS A
16 SERIES OF EVENTS THAT OCCUR DURING THE
17 INVESTIGATION OF THIS CASE, THAT RAISE QUESTIONS
18 ABOUT THE INTEGRITY OF THAT INVESTIGATION. HIS
19 STATEMENT TO A MAGISTRATE TO OBTAIN A SEARCH
20 WARRANT IS JUST ONE OF THOSE PIECES OF EVIDENCE.
21 IT'S WE'RE NOT INTRODUCING IT TO PROVE THAT MICHAEL
22 BEATTY, JUNIOR WAS ON THE SIDE OF THE ROAD ON THE
23 DATE IN QUESTION.

24 THE COURT: OKAY. REMEMBER, HEARSAY,
25 NON-HEARSAY, AUTHENTICATION.

1 MR. HARPOOTLIAN: YES, SIR. I
2 UNDERSTAND WHAT YOU'RE SAYING, YOUR HONOR, BUT WHAT
3 I'M ASKING YOU IS EVEN IF IT IS HEARSAY AND IT'S
4 NOT BEING INTRODUCED TO PROVE THE MATTER ASSERTED,
5 THAT IS AN EXCEPTION TO THE HEARSAY. IN OTHER
6 WORDS, THAT'S AN EXCEPTION TO THE HEARSAY RULE.
7 WE'RE NOT INTRODUCING IT TO PROVE THE MATTER
8 ASSERTED.

9 THE COURT: I UNDERSTAND WHAT YOU'RE
10 SAYING, OKAY?

11 MR. HARPOOTLIAN: YES, SIR. YOU DON'T
12 AGREE WITH IT THOUGH.

13 THE COURT: I MIGHT NOT.

14 MR. HARPOOTLIAN: OKAY. APPARENTLY.

15 MR. SWERLING: HE'S NOT SIGNING OFF ON
16 IT.

17 THE COURT: I'M NOT SIGNING OFF ON IT IS
18 CORRECT, BUT I--SEE, ONE OF THE OTHER PROBLEMS IS,
19 IS THAT YOU'VE GOT TO TAKE, YOU MAY HAVE, IF IT CAN
20 BE OTHERWISE ESTABLISHED, WHICH APPARENTLY IT CAN
21 BE, AT LEAST THE WITNESS IS AVAILABLE, YOU MAY HAVE
22 TO TAKE YOUR CHANCES.

23 MR. HARPOOTLIAN: WELL, YOUR HONOR, I
24 THINK AGAIN IF WE WERE ATTEMPTING TO APPROVE THAT
25 MICHAEL BEATTY WAS ON THE SIDE OF THE ROAD THAT

1 DAY, I WOULD AGREE WITH YOU, BUT WE'RE NOT. WE'RE
2 ATTEMPTING TO PROVE THAT THE INTEGRITY OF THE LAW
3 ENFORCEMENT INVESTIGATION OF THIS CASE, AND THIS IS
4 ONE BIG HOLE IN IT. THEY, AT ONE TIME APPARENTLY
5 THOUGHT MICHAEL BEATTY WAS SOMEBODY ON THE SIDE OF
6 THE ROAD, AND I THINK AGENT MCGRAW WILL HAVE AN
7 EXPLANATION AS TO WHY IT WAS NOT. BUT AT LEAST AT
8 SOME POINT HE THOUGHT THAT, HE THOUGHT THAT.

9 THE COURT: WHAT EVIDENTIARY VALUE DOES
10 THAT HAVE IN THIS TRIAL TODAY?

11 MR. HARPOOTLIAN: THE SAME EVIDENTIARY
12 VALUE THAT IT HAS AND WE SHOW THAT THE PERSON THAT
13 WAS IN CHARGE OF THE FINGERPRINT INVESTIGATION
14 DROPPED THE BALL AND DID NOT DO IT IN A
15 PROFESSIONAL AND APPROPRIATE FASHION, THE SAME
16 RELEVANCE WHEN I ASKED DR. SEXTON ABOUT WHAT
17 HAPPENED TO THE TRACE EVIDENCE. I MEAN, THERE'S
18 TESTIMONY THAT THERE WERE ITEMS PULLED OFF, OUT OF
19 THE WOUNDS ON HER NECK. AS FAR AS I KNOW, THE
20 STATE DOESN'T INTEND TO CALL FORENSIC EXPERTS TO
21 TESTIFY WHAT THAT SUBSTANCE WAS. THERE'S TESTIMONY
22 THAT ANY ITEM THAT CAUSED THE INJURY TO HER SHOULD
23 HAVE SOME TRACE EVIDENCE ON IT. I DON'T KNOW THAT
24 THE STATE INTENDS ON CALLING ANY WITNESSES TO PROVE
25 THAT.

1 AND IN ADDITION TO THAT, EVEN IF THEY
2 DO, WE HAVE WITNESSES WE WOULD CALL IN THE DEFENSE
3 THAT WOULD SAY WHATEVER THEY DID WAS INADEQUATE,
4 THAT THERE WERE TESTS THAT THEY COULD HAVE
5 CONDUCTED THAT THEY DID NOT CONDUCT THAT WOULD HAVE
6 PROVIDED A BETTER TEST FROM THE TENNIS SHOES WITH
7 THE SPOT OF BLOOD THAT AGENT SKRABA TESTIFIED SHE
8 RAN SPECIFIC TESTS FOR, WE WILL INTRODUCE A WITNESS
9 WHO WILL SAY THOSE TESTS ARE INVALID.

10 YOUR HONOR, IT IS A SERIES OF EVENTS WE
11 WOULD ARGUE, AND AGAIN, THE CENTRAL THEME OF THE
12 CASE IS THAT ON JUNE 12TH, 1994, THE LAW
13 ENFORCEMENT OFFICIALS DECIDED STEPHEN BECKHAM
14 KILLED HIS WIFE, AND EVERY STEP OF THE WAY THEY
15 TOOK STEPS TO IGNORE EVIDENCE CONTRARY TO THAT,
16 LEADS CONTRARY TO THAT, AND MAKE EVERYTHING CONFORM
17 TO THAT THEORY. THAT'S THE DEFENSE IN THIS CASE.

18 THE COURT: OKAY.

19 MR. JONES: YOUR HONOR, I DON'T WANT TO
20 REPLY TO THAT ARGUMENT, BUT I WOULD LIKE TO POINT
21 OUT TO THE COURT NOW IS THAT MR. HARPOOTLIAN HAS
22 JUST SAID THEY ARE PREPARED TO CALL EXPERT
23 WITNESSES TO SAY THAT WHAT THE STATE DID WAS NOT
24 ENOUGH. WE HAVE NOT RECEIVED FROM THEM ONE WRITTEN
25 REPORT FROM AN EXPERT. AND YOU TOLD THEM IF THEY

1 DIDN'T GET US THE WRITTEN REPORTS, THEY COULDN'T
2 USE THE EXPERTS. NOW, MY QUESTION IS WHO ARE THE
3 EXPERTS AND WHERE ARE THE REPORTS?

4 MR. HARPOOTLIAN: YOUR HONOR, AND I CAN
5 ANSWER THAT VERY SIMPLY. I GAVE TO THE DEPUTY
6 SOLICITOR A COPY OF PAULETTE, I BELIEVE HER LAST
7 NAME IS...SOMETHING--I'VE GOT THE RESUME BACK HERE--
8 -WHO IS A...

9 MR. JONES: PAULETTE SOMETHING OR
10 ANOTHER, YOUR HONOR? IS THAT WHAT HE'S SAYING HER
11 NAME IS?

12 THE COURT: NOW, SOLICITOR, HE SAYS HE
13 GAVE THE CURRICULUM VITAE TO MR. MCMAHON.

14 MR. MCMAHON: HE GAVE ME A RESUME.

15 MR. HARPOOTLIAN: RESUME.

16 MR. MCMAHON: YES, SIR, AND I PASSED IT
17 ALONG. I GOT A RESUME. IT'S NOT A WRITTEN REPORT.
18 IT'S A RESUME.

19 MR. HARPOOTLIAN: WE DON'T HAVE A
20 WRITTEN REPORT BECAUSE I DIDN'T KNOW WHAT THEIR
21 EXPERTS WERE GOING TO SAY. I DON'T KNOW WHAT
22 THEY'RE GOING TO SAY. I DON'T KNOW IF THEY'RE
23 GOING TO CALL THEM OR NOT. I DIDN'T KNOW WHAT
24 AGENT SKRABA WAS GOING TO SAY UNTIL SHE TESTIFIED.
25 ALL THIS WITNESS WOULD SAY IS...

1 MR. JONES: JUDGE, THEY...

2 MR. HARPOOTLIAN: IF I COULD FINISH,
3 PLEASE. ALL THIS WITNESS WOULD SAY, AS I
4 UNDERSTAND IT IS THERE ARE OTHER TESTS TO BE RUN.

5 THE COURT: WELL, YOU'RE GOING TO HAVE
6 TO GIVE THEM A COPY OF THAT INFORMATION PRIOR TO
7 HER TESTIFYING. I'M NOT GOING TO LET HER GET UP ON
8 THE STAND WITHOUT THEM BEING NOTICED, JUST LIKE I
9 WOULDN'T LET ONE OF THEIR'S GET UP ON THE STAND...

10 MR. HARPOOTLIAN: WELL, THE ONLY...I CAN
11 HAVE HER PREPARE SUCH A WRITTEN DOCUMENT. IT WOULD
12 COST MONEY TO DO THAT. CAN I NOT PUT HER ON THE
13 PHONE WITH THEM?

14 THE COURT: WELL, ANY WAY THAT WOULD
15 SATISFY THE REQUIREMENT THAT THEY HAVE PRIOR
16 KNOWLEDGE AS TO WHAT SHE INTENDS TO TESTIFY TO.
17 THAT'S THE SAME THING I TOLD BOTH SIDES.

18 MR. JONES: JUDGE, JUDGE, I'LL EVEN CALL
19 MYSELF. WHO IS THEIR FINGERPRINT EXPERT?

20 THE COURT: WELL...

21 MR. JONES: DO THEY KNOW?

22 MR. HARPOOTLIAN: YEAH, THE GUY WE GAVE
23 YOU TWO MONTHS AGO, HERBERT MCDONALD, AND PAUL
24 KISH. GAVE YOU THE PHONE NUMBERS...

25 MR. JONES: I'VE NEVER BEEN ABLE TO GET

1 IN TOUCH WITH THOSE PEOPLE, JUDGE. I'VE CALLED,
2 I'VE LEFT MESSAGES ON ANSWERING MACHINES AND I'VE
3 NEVER RECEIVED ANY...

4 MR. HARPOOTLIAN: WELL, BASED ON AGENT
5 BLACK'S TESTIMONY, WE DON'T INTEND ON CALLING THEM.
6 I MEAN, AT THIS JUNCTURE UNLESS THERE'S SOME
7 MORE...

8 MR. JONES: THAT'S NOT THE POINT.
9 THAT'S NOT THE POINT. YOU KNOW, I WAS TOLD THAT IF
10 THEY WEREN'T GOING TO GIVE ME WRITTEN REPORTS FROM
11 THEIR EXPERTS THAT I'D HAVE A CHANCE TO TALK TO
12 THEM. THEY TOLD ME THAT A MONTH AGO, TWO MONTHS
13 AGO. I'VE NEVER BEEN ABLE TO TALK TO THEM.

14 NOW, MR. HARPOOTLIAN ASKED ME LAST WEEK,
15 "DID MCDONALD CALL YOU?" AND I SAID, "NO, I CALLED
16 HIM, I LEFT A MESSAGE ON HIS ANSWERING MACHINE AND
17 HE HASN'T CALLED ME BACK." MR. HARPOOTLIAN WILL,
18 YOU KNOW, VERIFY THAT CONVERSATION BETWEEN US.

19 MR. HARPOOTLIAN: I DON'T INTEND ON
20 CALLING--YOUR HONOR, BASED ON THE FINGERPRINT
21 TESTIMONY I'VE HEARD, WE DON'T NEED A DEFENSE
22 EXPERT. SO, YOU KNOW, WE'RE NOT GOING TO CALL
23 THEM.

24 THE COURT: ALL WE'RE TALKING ABOUT NOW
25 IS THE LADY FROM TENNESSEE.

1 MR. HARPOOTLIAN: YES, SIR.

2 THE COURT: ALL RIGHT, FOCUS ON THAT,
3 FOLKS. YOU EITHER CALL OR GET A REPORT, ONE OF THE
4 TWO.

5 MR. SWERLING: JUDGE, CAN I GET
6 SOMETHING SQUARED AWAY. WE DID GIVE YOU REPORTS OF
7 SOME PSYCHOLOGISTS.

8 THE COURT: YOU'RE NOT GOING TO USE
9 THOSE, AS I UNDERSTAND.

10 MR. HARPOOTLIAN: NOT IN THIS PHASE.

11 THE COURT: NOT IN THIS PHASE.

12 MR. SWERLING: I KNOW, BUT I WANTED TO
13 MAKE SURE YOU GOT THOSE.

14 MR. JONES: WHAT'S THAT?

15 MR. HARPOOTLIAN: THE PSYCHOLOGIST,
16 PAUL....I MEAN...

17 MR. JONES: VAN WHITE?

18 MR. HARPOOTLIAN: WILLIAMS....

19 THE COURT: ALL RIGHT, WHAT ELSE HAVE
20 YOU GOT? ON THE FLIGHT ISSUES...

21 MR. SWERLING: JUDGE, WE HAVE OUR CASES
22 BACK AT THE OFFICE, BUT I MEAN, BASICALLY ON THE
23 FLIGHT ISSUE, THEY HAVE TO PROVE THAT HE KNEW.

24 THE COURT: WELL, THERE ARE OTHER WAYS
25 TO DO THAT, AREN'T THERE?

1 MR. SWERLING: PROVE WHAT?

2 THE COURT: I MEAN, IF HE CAN PROVE
3 THAT, YOU KNOW, FLIGHT EVIDENCE, IT'S NOT NECESSARY
4 THAT THE ACTUAL INDICTMENT OR CHARGE TRIGGER
5 FLIGHT, KNOWLEDGE OF COOPERATION OF A POTENTIAL CO-
6 DEFENDANT WITH AUTHORITIES OR REASON TO BELIEVE
7 THAT ONE IS SOUGHT FOR THE COMMISSION OF A CRIME
8 MIGHT BE SUFFICIENT.

9 MR. SWERLING: AND I HAVEN'T SEEN ANY
10 EVIDENCE THAT THEY HAVE THAT STEPHEN BECKHAM KNEW.

11 MR. COULTER: JUDGE, I THINK THAT'S WHAT
12 YOU JUST READ, AND WE'VE PUT IN THE RECORD ALREADY
13 THAT RICHARD ANDERSON WAS ARRESTED ON JULY 10TH OF
14 1995. THE ARREST WARRANT FOR MR. BECKHAM WASN'T
15 ISSUED UNTIL JULY 11TH, 1995, AND THAT SAME DAY,
16 HE'S IN A HOTEL ROOM IN DAYTONA BEACH, FLORIDA FOR
17 ONE HOUR. THEN HE LEAVES THERE AND GOES TO
18 WILLIAMSBURG, VIRGINIA, OR KENTUCKY AND STAYS THERE
19 FOR TWO DAYS, AND GIVES IN HIS REGISTRATION, A FAKE
20 ADDRESS, FAKE LICENSE PLATE, ALL SORTS OF THINGS,
21 INDICATING HE'S TRYING TO HIDE HIMSELF BASED ON
22 THAT WARRANT THAT WAS ISSUED ON JULY 11TH, 1995.

23 MR. SWERLING: BUT HOW DID HE KNOW THAT?
24 THERE'S NO CONNECTION, THE STATE HAS NEVER BEEN
25 ABLE TO SHOW THAT STEPHEN BECKHAM KNEW THAT THERE

1 WAS A WARRANT ISSUED FOR HIS ARREST, OR RICHARD
2 ANDERSON HAD BEEN ARRESTED. THERE'S NEVER BEEN A
3 CONNECTION. THEY'VE HAD PHONES, THEY'VE HAD PHONE
4 RECORDS, THEY'VE DONE EVERYTHING THEY CAN TO TRY TO
5 TIE THIS UP, NO ONE'S EVER BEEN ABLE TO SAY OR TO
6 SHOW TO ANY CONVINCING EVIDENCE AT ALL THAT STEPHEN
7 BECKHAM KNEW WHEN HE LEFT THE JURISDICTION THAT
8 RICHARD ANDERSON WAS IN CUSTODY OR BEEN ARRESTED.
9 I MEAN, I'VE NEVER SEEN IT.

10 MR. COULTER: YOUR HONOR, HOW ARE WE
11 GOING TO GO PICK IN THE BRAIN OF THE DEFENDANT? I
12 THINK THE EVIDENCE HERE--THEY WANT--IF THEY WANT TO
13 FIGHT THE WEIGHT OF THIS EVIDENCE, THAT'S THEIR
14 BUSINESS DURING CLOSING OR DURING THE CROSS
15 EXAMINATION. BUT I THINK JUST BASED ON THE FACE OF
16 WHAT WE HAVE, A HOTEL RECEIPT WHERE HE'S THERE FOR
17 ONE HOUR IN DAYTONA, FLORIDA, TURNS AROUND AND
18 DRIVES HOURS AWAY ON THAT SAME DAY TO A PLACE IN
19 KENTUCKY, GIVING A FALSE STREET ADDRESS, A FALSE
20 CITY ADDRESS, A FALSE STATE, AS WELL AS A FALSE
21 LICENSE PLATE...

22 MR. SWERLING: WITH HIS RIGHT NAME.

23 MR. COULTER: AS WELL AS IN THE
24 TESTIMONY...IF I COULD FINISH...THAT CAME OUT TODAY
25 ON JULY 5TH, A LETTER THAT HE WRITES TO SHAWN GEHM

1 STATING THAT "LAW ENFORCEMENT IS ALL AROUND. DON'T
2 SAY ANYTHING THAT COMES TO YOU. DON'T VOLUNTEER
3 ANY INFORMATION." HE RECOGNIZES THAT THE LAW IS ON
4 HIS BACK AND ON HIS TRAIL, AND THAT'S WHY HE TAKES
5 OFF ON JULY 11TH.

6 AND IF THEY WANT TO ARGUE THAT THAT'S
7 NOT THE CASE, THAT'S WHAT THEY CAN DO DURING
8 CLOSING, BUT THAT'S CERTAINLY ENOUGH, I WOULD SAY,
9 TO INFER THAT THE DEFENDANT KNEW WHAT WAS GOING ON,
10 AND WE'D BE ALLOWED TO INTRODUCE THIS TYPE OF
11 TESTIMONY.

12 MR. SWERLING: WELL, FIRST...I MEAN, CAN
13 I RESPOND NOW?

14 MR. COULTER: SURE.

15 MR. SWERLING: RICHARD ANDERSON WASN'T
16 TAKEN INTO CUSTODY UNTIL JULY 7TH. HE WASN'T
17 ARRESTED AND CHARGED UNTIL JULY 10TH. THERE'S NO
18 EVIDENCE STEPHEN BECKHAM KNEW HE'D BEEN TAKEN INTO
19 CUSTODY. WITH ALL THE PHONE RECORDS THEY'VE GOT,
20 THERE'S NO EVIDENCE STEPHEN BECKHAM KNEW THAT,
21 BECAUSE THE EVIDENCE IS STEPHEN BECKHAM LEFT TOWN
22 BEFORE RICHARD ANDERSON WAS EVER ARRESTED.

23 MR. COULTER: YOUR HONOR, WHAT THEY'RE
24 ASKING FOR...

25 MR. SWERLING: EXCUSE ME.

1 THE COURT: WAIT A MINUTE, LET HIM
2 FINISH.

3 MR. COULTER: I'M SORRY. I THOUGHT HE
4 WAS FINISHED. I APOLOGIZE.

5 MR. SWERLING: NOW, I'D LIKE TO FINISH.
6 YOU CAN'T--I MEAN, IT'S A VERY SERIOUS ISSUE. YOU
7 CAN'T JUST GO AHEAD AND PUT IT IN EVIDENCE BECAUSE
8 YOU THINK YOU HAVE CIRCUMSTANTIAL EVIDENCE OF IT.
9 YOU'VE GOT TO BE ABLE TO CONNECT THE FACT THAT
10 THERE'S KNOWLEDGE.

11 NOW, THE CIRCUMSTANTIAL EVIDENCE THEY
12 HAD MAY GO TOWARD WHAT HE DID WHILE HE WAS OUT OF
13 TOWN, BUT YOU STILL HAVE TO SHOW THAT HE HAD
14 KNOWLEDGE WHEN HE LEFT. THAT'S THE FLIGHT. IT'S
15 FLIGHT. YOU LEAVE BECAUSE--HE TOOK HIS THREE KIDS
16 WITH HIM. WHERE'S HE GOING TO GO? I MEAN, IF YOU
17 WANT TO TALK ABOUT CIRCUMSTANTIAL EVIDENCE, HE'S
18 GOT HIS THREE CHILDREN WITH HIM. WHY WOULD THAT--
19 HOW COULD ANYBODY INFER HE WAS RUNNING WITH THREE
20 CHILDREN? IT DOESN'T MAKE ANY SENSE.

21 MR. COULTER: AND YOUR HONOR, THAT KIND
22 OF GOES TO THE HEART OF ONE OF THE REASONS AND
23 MOTIVES THAT THE STATE WOULD PRESENT, AND THAT IS
24 THE CUSTODY OF THE CHILDREN. HE TAKES THOSE
25 CHILDREN BECAUSE HE DOESN'T WANT TO LOSE THEM.

1 THAT'S ONE OF THE REASONS HE KILLED VICTORIA LANDER
2 BECKHAM, AND THAT'S WHAT HE CONTINUES TO DO IN HIS
3 FLIGHT.

4 AND I DON'T THINK WE HAVE TO SHOW
5 POSITIVELY AND BY SOME SORT OF AFFIRMATIVE EVIDENCE
6 THAT THE DEFENDANT AGREES THAT HE MADE SOME FLIGHT,
7 BUT IF THERE'S EVIDENCE THAT YOU CAN INFER FLIGHT,
8 I THINK THAT WOULD BE SUFFICIENT. AND THAT AGAIN,
9 GOES TO THE WEIGHT, NOT THE ADMISSIBILITY.

10 AND I WOULD ADD, YOUR HONOR, WHEN HE
11 FINALLY DOES SHOW BACK UP IN SOUTH CAROLINA, THE
12 POLICE FIND HIM IN THE BACK OF A CAR, APPARENTLY
13 UNDER THE INFLUENCE OF SOME SORT OF DRUGS, AND
14 WOULD COME TO FIND OUT, AFTER HE GOES TO THE
15 HOSPITAL, HE TAKES SOME TWO HUNDRED BENADRYL OR
16 SOMETHING ELSE. I DON'T KNOW WHAT IT IS. HAD TO
17 PUMP HIS STOMACH, THAT THE FATHER OF THE DEFENDANT
18 DRIVES BY THE PARKING LOT WHERE THIS CAR HAS BEEN,
19 WHERE HE'S IN THE BACK SEAT BY HIMSELF, AND CLAIMS
20 THAT HE JUST HAPPENED TO BE PASSING BY AT TWO
21 O'CLOCK IN THE MORNING IN LEXINGTON COUNTY WHEN HE
22 LIVES HERE IN POMARIA. HE JUST HAPPENED TO BE
23 DRIVING BY. OBVIOUSLY, THERE WAS CONTACT THERE.
24 YOU DON'T HAVE A PERSON FROM POMARIA DRIVING BY A
25 LEXINGTON COUNTY CHURCH AT TWO O'CLOCK IN THE

1 MORNING. THERE WAS KNOWLEDGE. THE DEFENDANT
2 OBVIOUSLY HAD CONTACT WITH THE DEFENDANT'S FATHER
3 AND THEY KNEW WHAT WAS GOING ON. AND THE
4 DEFENDANT'S STATE OF MIND, WHEN HE ARRIVES BACK IN
5 SOUTH CAROLINA IS OBVIOUSLY NOT THAT OF A PERSON
6 WHO IS TRYING TO COOPERATE WITH THE AUTHORITIES,
7 HE'S TRYING TO ESCAPE. AND POSSIBLY BY THE
8 ULTIMATE ESCAPE, AND THAT IS SUICIDE. IT'S ALL
9 EVIDENCE OF FLIGHT.

10 MR. SWERLING: YOU KNOW, THEY'VE BEEN
11 SAYING THAT, THAT BISHOP BECKHAM KNEW. THERE IS NO
12 EVIDENCE WHATSOEVER THAT BISHOP BECKHAM HAD ANY
13 KNOWLEDGE ABOUT WHERE STEPHEN BECKHAM WAS OR
14 ANYBODY IN HIS FAMILY DID, NOT ONE. I MEAN, THAT'S
15 JUST BEEN THROWN OUT HERE CONSTANTLY OVER THE LAST
16 YEAR. THERE'S NO BASIS TO IT WHATSOEVER. THERE'S
17 NOT ONE PHONE CALL, AND THEY MONITORED ALL OF THEM.

18 AND WHAT WAS HE DOING? BY THE WAY, WAS
19 HE ESCAPING TO SOUTH CAROLINA? BECAUSE THE MINUTE,
20 I WAS CALLED RIGHT AWAY. I MET CHIEF STEWARD AT
21 THE HOSPITAL. WE TURNED OVER THE CHILDREN TO THE
22 AUTHORITIES. WHERE WAS STEPHEN BECKHAM GOING?

23 MR. COULTER: YOUR HONOR, IMMEDIATELY
24 AFTER IT WAS FOUND THE DEFENDANT HAD LEFT THE
25 JURISDICTION, FLIERS WERE SENT EVERYWHERE, BOLOS

1 WERE SENT EVERYWHERE. IT'S APPARENT TWO OR THREE
2 DAYS AFTER HE ESCAPED FROM THE AREA HE DECIDED HE
3 WASN'T GOING TO BE ABLE TO CONTINUE THE ESCAPE. HE
4 CAME BACK TO THE AREA, AND EVEN ABANDONED HIS
5 HONDA, THE MAROON HONDA, BACK IN KENTUCKY.

6 MR. SWERLING: WELL, THOSE BOLOS AREN'T
7 ADMISSIBLE. THAT WOULD BE HEARSAY UNDER THEIR
8 THEORY OF THE COMPOSITES.

9 MR. COULTER: I THINK IT'S ANOTHER
10 INFERENCE THAT YOU COULD SHOW THAT HE KNEW AND HAD
11 KNOWLEDGE OF THE FACT THAT HE WAS WANTED.

12 MR. SWERLING: HOW CAN THEY INTRODUCE
13 EVIDENCE OF A BOLO IF WE CAN'T INTRODUCE EVIDENCE
14 OF A COMPOSITE?

15 THE COURT: WELL, I DON'T KNOW THAT THEY
16 CAN.

17 MR. COULTER: I'M NOT ASKING TO
18 INTRODUCE IT. I'M JUST PRESENTING FOR THE HEARING
19 AS FAR AS THE INFERENCE THAT HE HAD KNOWLEDGE.

20 THE COURT: WELL, TO ANSWER YOUR
21 QUESTION AS FAR AS WHAT THE STANDARD IS, I MEAN THE
22 STANDARD IS WHETHER OR NOT IT IS PROBATIVE ON THE
23 ISSUE. AND CIRCUMSTANTIAL EVIDENCE IS PROBATIVE ON
24 THE QUESTION OF FLIGHT. SO, I MEAN, IT DOESN'T
25 HAVE TO BE DIRECT EVIDENCE. IT CAN BE INFERRED,

1 BECAUSE I MEAN, FLIGHT IS AN INFERENCE.

2 MR. SWERLING: YES, SIR, BUT I THINK
3 IT'S SUCH AN IMPORTANT ISSUE THAT THERE OUGHT TO BE
4 SOME EVIDENCE THAT STEPHEN BECKHAM KNEW THAT
5 RICHARD ANDERSON WAS IN CUSTODY AND WAS
6 COOPERATING. BECAUSE OTHER THAN THAT, IT'S SHEER
7 SPECULATION AS TO WHY STEPHEN BECKHAM LEFT. AND WE
8 HAVE EVIDENCE THAT STEPHEN BECKHAM HAD TOLD SEVERAL
9 PEOPLE, PRIOR TO THAT TIME, THAT HE WAS LEAVING.
10 HE WAS GOING AND TAKE THE KIDS AWAY FOR A FEW DAYS.

11 SO I MEAN, WE HAVE JUST AS MUCH
12 EVIDENCE, WE HAVE MORE EVIDENCE OF A CLEAR STATED
13 INTENTION ON THE PART OF STEPHEN BECKHAM TO TAKE
14 THE KIDS OUT OF TOWN THAT WEEK. ABSOLUTELY BOTTOM
15 LINE.

16 THEY HAVE NO EVIDENCE THAT HE KNEW WHEN
17 HE LEFT TOWN THAT RICHARD ANDERSON WAS IN CUSTODY
18 AND WAS COOPERATING WITH THE AUTHORITIES, OR THAT
19 HE KNEW THAT A WARRANT HAD BEEN ISSUED FOR HIS
20 ARREST. WHICH I DON'T THINK IT WAS ISSUED UNTIL,
21 WHAT, THE--WHAT DAY WAS THE WARRANT ISSUED FOR
22 STEPHEN BECKHAM?

23 MR. COULTER: THE SAME DAY HE WENT TO
24 THE HOTEL IN DAYTONA BEACH, FLORIDA, JULY 11TH OF
25 1995.

1 MR. SWERLING: WELL, HE'D ALREADY LEFT
2 TOWN BEFORE THE WARRANT WAS ISSUED.

3 MR. COULTER: NO, I DON'T THINK THAT'S
4 CORRECT.

5 THE COURT: WELL, I MEAN, Y'ALL ARE--I
6 MEAN, WE'RE NOT TALKING ABOUT A MOTION IN LIMINE
7 HERE, ARE WE? WE'RE TALKING ABOUT JUST EVIDENCE
8 PUT IN, AND THEN I DON'T CHARGE FLIGHT.

9 MR. SWERLING: NO, NO...

10 THE COURT: I MEAN, YOU CAN ARGUE THE
11 EXISTENCE OF OR THE LACK THEREOF.

12 MR. SWERLING: WELL, WE THINK THAT THE
13 EVIDENCE OUGHT TO BE EXCLUDED AS IT RAISES TOO
14 MUCH--EVEN UNDER 402, IF IT'S RELEVANT; UNDER 403,
15 IT SHOULD BE EXCLUDED AS PREJUDICIAL AND
16 SPECULATIVE. AND IT WOULD CREATE AN INFERENCE THAT
17 THE STATE IS TRYING TO RAISE WOULD BE VERY, THAT
18 IT'S PROBATIVE VALUE IS OUTWEIGHED BY ITS
19 PREJUDICIAL EFFECT, EVEN IF YOU FIND IT'S RELEVANT.
20 BUT I SUBMIT IT'S NOT RELEVANT, BECAUSE THEY CAN'T
21 PROVE THAT HE KNEW WHEN HE LEFT.

22 IF THEY HAVE TESTIMONY THAT HE KNEW WHEN
23 HE LEFT, I'D LIKE TO HEAR IT. AND I THINK YOUR
24 HONOR WOULD LIKE TO HEAR IT. BUT THERE IS NO
25 EVIDENCE THAT HE KNEW WHEN HE LEFT.

1 MR. COULTER: JUDGE, AGAIN, I DON'T
2 THINK WE HAVE TO SHOW DIRECT EVIDENCE OF THAT AT
3 ALL, AND AS A MATTER OF FACT, THIS PARTICULAR
4 KENTUCKY HOTEL REGISTRATION, I THINK IS ENOUGH TO
5 INFER HIS KNOWLEDGE. I MEAN, HE SPECIFICALLY WAS
6 HIDING THE FACT OF WHERE HE WAS FROM. AND I DON'T
7 THINK THERE'S ANYTHING HERE IN ANY CASE LAW THAT
8 SAYS NOT ONLY THAT WE HAVE TO SHOW BY DIRECT
9 EVIDENCE OR THAT IS SOME SORT OF EXCLUSIONARY RULE
10 BASED ON THE FACT THAT IT'S EITHER THE HEART OF THE
11 DEFENDANT'S CASE OR THAT IT'S A VERY IMPORTANT
12 ISSUE. I'VE HEARD THAT TWO OR THREE TIMES THESE
13 LAST FEW DAYS. CLEARLY BASED ON THE CASE LAW OF
14 SOUTH CAROLINA, EVIDENCE OF FLIGHT IS ADMISSIBLE.
15 I AGREE WE DON'T GET A CHARGE ON IT, BUT IT IS
16 ADMISSIBLE AS FAR AS INTENT AND KNOWLEDGE.

17 THE COURT: ALL RIGHT, WHAT OTHER
18 EVIDENCE ARE YOU GOING TO, SO I CAN KIND OF
19 UNDERSTAND WHERE YOU'RE HEADED ON THAT? WHAT OTHER
20 EVIDENCE WOULD YOU INTEND TO OFFER IN YOUR CASE ON
21 THE QUESTION OF FLIGHT, OR ARE YOU GOING TO OFFER
22 IN YOUR CASE? DO YOU INTEND TO OFFER IT IN YOUR
23 CASE IN CHIEF?

24 MR. COULTER: WE WOULD, YOUR HONOR. ALL
25 WE WOULD BE INTENDING TO INTRODUCE IN OUR CASE IN

1 CHIEF REGARDING THE FLIGHT WOULD BE THE HOTEL
2 REGISTRATIONS, AND THAT IS PROBABLY IT AS FAR AS...

3 THE COURT: AND THE LETTER?

4 MR. COULTER: OH, YEAH. WELL, WE HAD
5 THE TESTIMONY OF ONE OF THE INNKEEPERS, A GENTLEMAN
6 BY THE NAME OF PATEL, THE INNKEEPER UP IN
7 WILLIAMSBURG, KENTUCKY, WHO FILLED OUT THIS
8 REGISTRATION WITH THE DEFENDANT'S ASSISTANCE.

9 WE HAVE TERRY JOHNSON, THE POLICE
10 OFFICER WHO FOUND MR. BECKHAM IN THE BACK OF THE
11 CAR IN LEXINGTON COUNTY, AS WELL AS DR. BLEDSOE,
12 WHO IS WITH THE LEXINGTON COUNTY HOSPITAL, WHO
13 TREATED MR. BECKHAM ON JULY 15TH AFTER HE WAS
14 RETURNED BACK TO SOUTH CAROLINA.

15 THE COURT: AND TELL ME AGAIN THE DATE
16 THE WARRANT WAS ISSUED OF FLIGHT?

17 MR. COULTER: IT WAS ISSUED ON JULY
18 11TH.

19 THE COURT: AND ANDERSON'S WARRANT WAS
20 ISSUED?

21 MR. COULTER: ANDERSON'S WARRANT WAS
22 ISSUED JULY 10TH, BUT HE WAS TAKEN INTO CUSTODY
23 BEGINNING JULY 7TH, 1995.

24 THE COURT: THE SEVENTH?

25 MR. COULTER: THAT'S CORRECT.

1 MR. SWERLING: JUDGE, ALSO ON THAT
2 ISSUE, DR. BLEDSOE--NOW, WHAT'S THE PROBATIVE VALUE
3 OF SHOWING HE HAD TAKEN ALL THAT BENADRYL? I MEAN,
4 THAT COULD ONLY SERVE TO BE PREJUDICIAL, WOULD OUT
5 WEIGH ANY PROBATIVE VALUE.

6 THE COURT: WELL, I MEAN, THERE ARE TWO
7 WAYS OF LOOKING AT IT. I MEAN, OBVIOUSLY, IT COULD
8 BE PREJUDICIAL, BUT IT COULD BE, AS THE SOLICITOR
9 SUGGESTED, THAT IT WOULD BE THE ULTIMATE ESCAPE.

10 MR. SWERLING: WELL, THAT'S NOT--I MEAN,
11 THAT'S STRETCHING TO SAY THAT'S FLIGHT.

12 THE COURT: I WON'T TOUCH THAT.

13 MR. SWERLING: I MEAN, I THINK THAT GOES
14 A LITTLE TOO FAR EVEN IF THEY WERE ABLE TO SHOW
15 THAT HE KNEW WHEN HE LEFT-- HOW CAN YOU HAVE,
16 FLIGHT MEANS, FLIGHT IS AN INFERENCE OF GUILTY
17 KNOWLEDGE.

18 THE COURT: THAT'S CORRECT.

19 MR. SWERLING: HOW CAN YOU HAVE AN
20 INFERENCE OF GUILTY KNOWLEDGE IF THE STATE CAN'T
21 PROVE THAT HE KNEW WHEN HE LEFT THAT THERE WAS A
22 PROBLEM? THAT ANDERSON WAS IN CUSTODY OR THAT
23 ANDERSON WAS COOPERATING? HOW CAN YOU, HOW CAN THE
24 STATE ARGUE THAT THAT'S AN INFERENCE OF FLIGHT AND
25 THEY CAN'T PROVE, GET PAST THE THRESHOLD QUESTION

1 THAT HE KNEW?

2 THE COURT: THEY DON'T HAVE TO PROVE
3 THAT HE HAD ACTUAL KNOWLEDGE. THEY HAVE TO PROVE
4 THAT HE COULD HAVE HAD GUILTY KNOWLEDGE, NOT THAT
5 HE ACTUALLY KNEW A, B, AND C. BUT THE QUESTION IS
6 WHETHER THEY CAN SHOW BY WAY OF INFERENCE THAT HE
7 HAD KNOWLEDGE OF HIS GUILTY.

8 MR. SWERLING: SURE, BUT THEY'VE BEEN,
9 THE POLICE HAVE BEEN AROUND FOR A YEAR.

10 THE COURT: SURE, I UNDERSTAND THAT.

11 MR. SWERLING: SO WHAT'S THE DIFFERENCE?
12 ANY TIME HE LEFT SOUTH CAROLINA OVER THAT YEAR THEN
13 YOU COULD SAY THAT WAS FLIGHT. I MEAN, IT JUST SO
14 HAPPENS THIS WEEK THEY ISSUED A WARRANT FOR HIS
15 ARREST THAT THEY CAN'T CONNECT UP WITH IS
16 KNOWLEDGE. AND THAT'S FRUSTRATED THEM; I
17 UNDERSTAND THAT. BUT THERE'S NO CONNECTION.

18 THE COURT: ALL RIGHT. WELL, I
19 UNDERSTAND WHAT THE STATE'S GOING TO OFFER AND
20 THAT'S ANOTHER ONE, I'M GOING TO SLEEP ON THAT ONE,
21 TOO.

22 MR. COULTER: I ALSO POINT OUT ONCE
23 AGAIN, YOUR HONOR, IN THIS RELATION, AND THAT'S
24 AGAIN THIS LETTER TO SHAWN GEHM, AND HE'S ONLY
25 RECEIVED TWO LETTERS FROM THE DEFENDANT BECKHAM IN

1 HIS ENTIRE TWELVE YEAR ASSOCIATION, AND ONE OF
2 THOSE IS ON JULY 5TH, A WEEK BEFORE HIS FLIGHT TO
3 DAYTONA, FLORIDA, STAYING THERE FOR AN HOUR AND
4 THEN WILLIAMSBURG, KENTUCKY. AND IT MENTIONS IN
5 FACT THAT SOME TIME THE POLICE MAY BE GETTING IN
6 CONTACT WITH HIM AND HE SHOULDN'T VOLUNTEER ANY
7 INFORMATION.

8 THE COURT: ALL RIGHT, I UNDERSTAND THAT
9 ISSUE AND I'LL RULE ON IT IN THE MORNING. ALL
10 RIGHT, WHAT'S THE NEXT...THE ISSUE ON...

11 MR. COULTER: INSURANCE?

12 THE COURT: INSURANCE. LET ME HEAR JUST
13 GENERALLY WHERE YOU'RE HEADED WITH THAT SO I CAN
14 KIND OF THINK ABOUT IT.

15 MR. COULTER: YOUR HONOR, WE HAVE A LIFE
16 INSURANCE POLICY THAT WAS TAKEN OUT BY THE VICTIM,
17 VICTORIA LANDER BECKHAM, I BELIEVE IN 1990? YES,
18 1990, IN JUNE OF 1990, FOR \$100,000. THE
19 BENEFICIARY OF THIS PARTICULAR INSURANCE POLICE WAS
20 DEFENDANT STEPHEN BECKHAM.

21 WE WOULD ALSO INTEND TO INTRODUCE
22 EVIDENCE, YOUR HONOR, THAT IN AUGUST OF 1992, THE
23 DEFENDANT HAD A FEDERAL TAX LIEN IMPOSED AGAINST
24 HIM IN THE AMOUNT OF \$37,864. IN ADDITION, IN
25 DECEMBER OF 1989, THE DEFENDANT HAD A STATE

1 DEPARTMENT OF REVENUE INCOME TAX LIEN FILED AGAINST
2 HIM IN THE AMOUNT OF \$27,539.

3 IN ADDITION TO THAT, YOUR HONOR, WE
4 WOULD ALSO INTEND TO INTRODUCE BANK STATEMENTS
5 WHERE THERE WAS AUTOMATIC WITHDRAWALS MADE ON THE
6 ACCOUNT OF VICTORIA LANDER BECKHAM AND STEPHEN
7 BECKHAM IN THE TIME FRAME OF MARCH OF '94 THROUGH
8 JUNE OF '94, THE DEATH OF VICTORIA LANDER BECKHAM,
9 WHEREIN AUTOMATIC WITHDRAWALS WERE MADE FROM HIS
10 BANK ACCOUNT TO OLD LIFELINE INSURANCE COMPANY, THE
11 INSURANCE COMPANY THAT IS INSURING VICTORIA BECKHAM
12 IN THE AMOUNT OF \$100,000.

13 EACH ONE OF THESE BANK STATEMENTS SHOW
14 THAT AN AUTOMATIC WITHDRAWAL WAS MADE IN THE AMOUNT
15 OF \$18.09 WHICH WAS THE PREMIUM ON THE INSURANCE
16 POLICE HELD BY VICKIE BECKHAM, NAMING THE
17 BENEFICIARY BEING THE DEFENDANT, STEPHEN BECKHAM.

18 OBVIOUSLY, WHAT WE'RE PRESENTING AS A
19 COUPLE OF REASONS IS NOT ONLY THE \$100,000, BUT THE
20 SOME \$60,000 THE DEFENDANT WAS IN DEBT AT THE TIME
21 OF THE MURDER OF VICKIE LANDER BECKHAM. SO
22 OBVIOUSLY, HE BENEFITED OR WOULD TEND TO BENEFIT
23 GREATLY FROM HER DEATH IN ORDER TO PAY OFF THIS
24 AMOUNT, AS WELL AS MAKE ANOTHER \$40,000 ON TOP OF
25 THAT.

1 THE COURT: SO WHAT DO YOU SAY THE
2 STANDARD IS, SOLICITOR?

3 MR. COULTER: YOUR HONOR, WHAT I
4 UNDERSTAND IT TO BE IS THAT THIS IS A STATE
5 VERSUS...

6 THE COURT: VERMILLION?

7 MR. COULTER: YES. IT'S CLEAR HAD THE
8 APPELLATE BEEN NAMED THE BENEFICIARY, THE TESTIMONY
9 IN QUESTION WOULD BE ADMISSIBLE TO ESTABLISH
10 MOTIVE. THAT'S VERMILLION; THERE'S ALSO STATE
11 VERSUS HALL, WHICH IS A 1981 CASE, AND IT SAYS,
12 "PROOF OF INSURANCE IS ADMISSIBLE TO ESTABLISH
13 MOTIVE AND EVEN IF THE INSURANCE IS NOT IN THE NAME
14 OF THE ACCUSED, IT'S ADMISSIBLE IF SOME CONNECTION
15 IS ESTABLISHED BETWEEN THE APPELLATE AND THE NAMED
16 INSURED IN ORDER TO ESTABLISH UNLAWFUL MOTIVE."
17 AND OBVIOUSLY, IN THIS CASE, HE IS NOT--HE IS THE
18 BENEFICIARY, AS WELL AS THERE'S DEFINITELY
19 KNOWLEDGE THAT CAN BE ASSOCIATED WITH THE AUTOMATIC
20 WITHDRAWAL MADE ON HIS BANK ACCOUNT FOR THIS
21 PARTICULAR PREMIUM IN THE AMOUNT \$18.09.

22 THE COURT: ALL RIGHT, MR. SWERLING, YOU
23 AGREE GENERALLY THAT THAT'S THE LEGAL STANDARD
24 WHETHER YOU AGREE WITH THE FACTS OR NOT?

25 MR. SWERLING: WELL, I THINK THEY HAVE

1 TO CONNECT IT UP WITH THE CASE.

2 THE COURT: AND WHERE DO YOU SAY, POINT
3 OUT TO ME WHERE YOU THINK THEY WOULD HAVE FAILED TO
4 DO THAT.

5 MR. SWERLING: WELL, I MEAN, THERE
6 HASN'T BEEN A WITNESS YET THAT SAID VICKIE BECKHAM
7 WAS BEING KILLED FOR MONEY. I MEAN, ALL OF THEIR
8 WITNESSES THAT THEY'VE PRESENTED--I MEAN, THE
9 STATE'S OWN CASE IS BASED UPON THE FACT THAT SHE
10 WAS, THERE WAS A CUSTODY ISSUE, OR THAT SHE WAS
11 BEING KILLED BECAUSE OF HER KNOWLEDGE ABOUT THE
12 DRUGS. THEY HAVEN'T HAD A WITNESS COME FORWARD YET
13 THAT SAID INSURANCE WAS A MOTIVE IN THIS CASE.

14 THE COURT: WELL, DO YOU THINK THAT YOU
15 WOULD EVER FIND SOMEBODY THAT WOULD TESTIFY THAT HE
16 DID IT FOR MONEY?

17 MR. SWERLING: WELL, JUDGE, IF THE
18 THEORY OF THEIR CASE IS THAT HE DID IT FOR CUSTODY,
19 WHICH HAS CLEARLY BEEN THEIR THEORY, OR BECAUSE, AS
20 ANDERSON TESTIFIED, THAT SHE KNEW ABOUT THE DRUG
21 DEALS GOING ON--I MEAN, HOW CAN YOU JUMP IN NOW
22 WITH INSURANCE?

23 FIRST OF ALL, THERE'S SEVERAL FACTORS
24 HERE TOO WHICH THE COURT NEEDS TO BE AWARE OF,
25 BECAUSE IT'S NOT PAINTED EXACTLY THE WAY THE

1 STATE'S PAINTED IT. NUMBER ONE, THESE DEBTS, I
2 MEAN, FROM 1992?

3 MR. COULTER: 1989 AND...

4 MR. SWERLING: '89, I MEAN, IT'S REMOTE.
5 OKAY, 1992, IT'S REMOTE. THERE'S NO CONNECTION.
6 THEY'VE GOT TO PROVE ABOUT HIS INDEBTEDNESS, I
7 WOULD SUBMIT AT THAT TIME. THEY'VE GOT TO ALSO
8 PROVE HE WAS TRYING TO FIND MONEY TO GO AHEAD AND
9 PAY THESE DEBTS. I MEAN, VERY FRANKLY, AT THIS
10 POINT IN TIME THERE'S NO EVIDENCE HE WAS TRYING TO
11 EVEN SATISFY THE IRS LIEN. IT'S NOT EVEN AN ISSUE.
12 SO, I MEAN, WHERE IS THE EVIDENCE THAT THIS DEBT
13 CAUSED HIM ANY CONCERN? WHERE IS THE EVIDENCE THAT
14 THIS DEBT WAS THE MOTIVE TO TRY AND COLLECT LIFE
15 INSURANCE? IT'S JUST--I MEAN, THE STATE'S JUST
16 THROWING IT OUT THERE.

17 THE COURT: WELL, HOW WOULD IT OTHERWISE
18 ARISE IN A CASE UNLESS YOU JUST--YOU HAVE AN
19 INSURANCE POLICY, YOU HAVE SOME FINANCIAL, YOU HAVE
20 FINANCIAL GAIN. HOW WOULD IT ARISE IN A CASE?

21 MR. SWERLING: WELL, I MEAN, THERE'S A
22 CASE, I CAN'T REMEMBER THE NAME, UP AT MYRTLE BEACH
23 WHERE THEY FOUND, THEY WENT BACK SOME TIME LATER
24 WHERE THEY SAID THE WOMAN DROWNED AND THE--AGAIN,
25 I'M TRYING TO REMEMBER THE CASE. JIM DUNN TRIED

1 IT. BUT THEY CAME BACK LATER, A COUPLE OF YEARS
2 LATER AND TRIED THE GUY AFTER THEY FOUND OUT THAT
3 HE COLLECTED ON A LIFE INSURANCE POLICY.

4 THE EVIDENCE IN THIS CASE IS THAT
5 STEPHEN BECKHAM NEVER MADE AN ATTEMPT TO COLLECT
6 FROM THE LIFE INSURANCE POLICY. AS A MATTER OF
7 FACT, YOUR HONOR, SHE DIED, WHICH THE STATE DID NOT
8 TELL YOU, IS THAT SHE DIED IN JUNE OF 1994. I
9 CALLED DIANE BIANCA IN FEBRUARY OF 1994 BECAUSE WE
10 HEARD SOME RUMOR ABOUT LIFE--'95, SEVEN MONTHS
11 LATER. SEVEN MONTHS LATER, I CALLED HER AND SAID,
12 "IS THERE SOME INSURANCE POLICY?" AND SHE SAID,
13 "WELL, YOU KNOW THERE IS. THE FBI HAS BEEN HERE
14 SEVERAL MONTHS AGO TALKING TO US ABOUT IT." AND I
15 SAID, "WELL, I WOULDN'T BE CALLING YOU WITH A
16 QUESTION IF I KNEW THAT THERE WAS." AND SHE SAID,
17 "WELL, HE WAS SENT A FORM FROM OLD LIFELINE
18 INSURANCE COMPANY TO GO AHEAD AND MAKE A CLAIM."
19 HE HADN'T BEEN. HE HAD NEVER NOTIFIED OLD LIFELINE
20 INSURANCE, THIS IS IN FEBRUARY OF 1995, OF HER
21 DEATH IN JUNE OF 1994, BECAUSE HE DIDN'T KNOW THERE
22 WAS A POLICY.

23 THE OTHER THING THAT GOES TO THAT, YOUR
24 HONOR, IS THAT NUMBER TWO, THE POLICY FOR VICKIE
25 BECKHAM, THE DRAFT KEPT GOING ON UNTIL MAY OF 1995.

1 NOW, IF STEPHEN BECKHAM KNEW THAT WAS VICKIE
2 BECKHAM'S POLICY, WHY WOULD HE CONTINUE TO ALLOW
3 THE COMPANY TO DRAFT HIS ACCOUNT FOR \$18, LET'S
4 SEE, ALMOST TEN MONTHS AFTER HER DEATH. HE THOUGHT
5 IT WAS HIS OWN POLICY, THE POLICY HE HAD. I MEAN,
6 IT DOESN'T MAKE ANY SENSE ANY OTHER WAY, BECAUSE IF
7 IN FACT HE THOUGHT THAT HE WAS GOING TO COLLECT ON
8 VICKIE BECKHAM'S POLICY, NUMBER ONE, HE WOULD HAVE
9 NOTIFIED THE COMPANY AND ATTEMPTED TO COLLECT.

10 NUMBER TWO, WHAT HE WOULD HAVE DONE WAS
11 STOP DRAFTS AGAINST THE ACCOUNT IF HE THOUGHT IT
12 WAS VICKIE BECKHAM'S POLICY AND NOT HIS OWN.

13 THE OTHER THING, YOUR HONOR, IS RIGHT
14 AWAY IN MARCH WHEN WE FOUND OUT ABOUT THAT, WE
15 WROTE OLD LIFELINE INSURANCE COMPANY WITH THE IDEA
16 IN MIND THAT HE WOULD GO AHEAD AND RELINQUISH ANY
17 CLAIM TO THE INSURANCE PROCEEDS AND GIVE IT TO THE
18 CHILDREN AS A CONTINGENT BENEFICIARY.

19 WHERE'S THE MOTIVE? I MEAN, THERE'S NO
20 MOTIVE. THEY CAN'T PROVE MOTIVE. THEY CAN'T PROVE
21 THAT THAT'S A MOTIVE.

22 MR. COULTER: YOUR HONOR, THAT'S EXACTLY
23 HOW HARD THEY TRIED TO GET THIS MOTIVE TAKEN OUT OF
24 THE PICTURE, THAT THEY'VE GONE EVEN JUST LAST
25 MONTH, SOME TWO OR THREE WEEKS AGO, AND THAT'S WHEN

1 THEY GOT HIM TO SIGN TO RELINQUISH THE BENEFITS TO
2 THE CHILDREN. ONLY THREE WEEKS AGO. THAT'S HOW
3 HARD THEY'RE TRYING TO DISASSOCIATE THEMSELVES WITH
4 THAT POSSIBLE MOTIVE.

5 THE COURT: WELL...

6 MR. SWERLING: IN MARCH OF 1995, WE
7 WROTE--AND THAT'S JUST ABSOLUTELY INCORRECT. I
8 TURNED OVER THE DOCUMENTS TO THEM. OLD LIFELINE
9 INSURANCE COMPANY WAS NOTIFIED IN MARCH AND APRIL
10 OF 1995 THAT BECKHAM WANTED TO RELINQUISH THE
11 POLICY TO THE CONTINGENT BENEFICIARIES. KEN
12 WINGATE WAS THE ATTORNEY HANDLING IT. ABSOLUTELY
13 NO QUESTION ABOUT IT. HE WENT AHEAD AND
14 RELINQUISHED IT WITHIN THE LAST FEW MONTHS, OR
15 WITHIN THE LAST MONTH AND WE TURNED THAT OVER TO
16 THEM, TOO.

17 MR. COULTER: RIGHT. THAT IS ABSOLUTELY
18 CORRECT. IT WAS THREE WEEKS...

19 MR. SWERLING: HOW IS HE GOING TO GO
20 AHEAD AND CLAIM ON THE LIFE INSURANCE WHEN--HOW IS
21 THAT A MOTIVE IN THE CASE, THAT THE STATE'S TRYING
22 TO CREATE THIS MOTIVE WHEN IN FACT SEVEN MONTHS
23 AFTERWARDS HE'D NEVER HAD ANY CONTACT WITH THE
24 INSURANCE COMPANY AND WAS STILL ALLOWING THE
25 ACCOUNT TO BE DRAFTED FOR THIS \$18. I MEAN, IT'S

1 SO--IT'S NOT PROBATIVE OF ANYTHING, AND UNDER THE
2 FACTS AND CIRCUMSTANCES AS I'VE TOLD YOU WITH THE
3 COMPLETE PICTURE, IT'S PROBATIVE VALUE WAS FAR
4 OUTWEIGHED BY ANY PREJUDICIAL EFFECT.

5 MR. COULTER: RIGHT. AND YOUR HONOR,
6 HE'S--THE DAY AFTER IT, HE'S ALREADY LINKED TO
7 BEING THE LAST PERSON TO SEE HER. HE'S NOT GOING
8 TO MAKE ANY EFFORT TO MAKE THIS CLEAR TO LAW
9 ENFORCEMENT THAT IS A MOTIVE BY CANCELLING THESE
10 PREMIUMS. HE'S WILLING TO CONCEDE \$18 A MONTH OVER
11 TEN MONTHS IF THE ULTIMATE COLLECTION IS GOING TO
12 BE \$100,000. NO QUESTION ABOUT THAT.

13 MR. SWERLING: THAT'S JUST...

14 MR. COULTER: AND AGAIN, THIS IS THE
15 SECOND TIME, THIS IS THE SECOND ARGUMENT IN
16 ADDITION TO THE ONE ON FLIGHT THAT ALL HE'S ARGUING
17 ARE THINGS BASED ON THE WEIGHT, NOT THE
18 ADMISSIBILITY, JUST THE WEIGHT. AND THESE ARE
19 THINGS HE COULD ARGUE, BUT CERTAINLY IT'S
20 ADMISSIBLE BASED ON THESE TWO CASES, HALL AND
21 VERMILLE.

22 MR. SWERLING: YOU CAN'T JUST PUT THINGS
23 INTO EVIDENCE BECAUSE YOU WANT TO AND ARGUE IT GOES
24 TO THE WEIGHT AND NOT ADMISSIBILITY. YOU HAVE TO
25 BALANCE THE PREJUDICIAL EFFECT OVER THE PROBATIVE

1 VALUE EVEN IF YOUR HONOR FINDS THAT THERE PROBATIVE
2 VALUE. WE SAY IN THE FIRST INSTANCE THERE'S NO
3 PROBATIVE VALUE BECAUSE THEY CAN'T GET OVER THE
4 THRESHOLD QUESTIONS OF NUMBER ONE, AS TO FLIGHT
5 THAT HE HAD KNOWLEDGE, OR NUMBER TWO, AS TO THE
6 INSURANCE THAT HE EVEN KNEW HE HAD INSURANCE OR
7 THERE WAS INSURANCE ON VICKIE BECKHAM. AND I THINK
8 THE FACTS AND CIRCUMSTANCES CLEARLY SHOW THAT IT'S
9 NOT PROBATIVE. IT DOESN'T PROVE ANYTHING. EVEN IF
10 IT DOES, YOU'VE GOT A 403 ANALYSIS.

11 THE COURT: I AGREE WITH YOU, YOU'VE GOT
12 TO HAVE A 403 ANALYSIS REGARDLESS OF WHAT, WHETHER
13 IT'S PROBATIVE, IF I FIND IT'S PROBATIVE.

14 THROUGH WHAT WITNESSES ARE YOU INTENDING
15 TO OFFER THAT IF IT'S ADMISSIBLE, SO I CAN GET
16 MYSELF...

17 MR. COULTER: DIANE BIANCA, THE LIFE
18 INSURANCE...

19 THE COURT: THAT WOULD BE TOMORROW?

20 MR. COULTER: ACTUALLY, WE WERE GOING TO
21 WRAP UP THE CASE PROBABLY WITH HER TESTIMONY.

22 THE COURT: OKAY, SO THAT WOULD BE
23 THURSDAY? OKAY.

24 MR. SWERLING: I REPRESENT TO YOUR HONOR
25 SHE HAS NO KNOWLEDGE ABOUT THIS EXCEPT HEARSAY.

1 WE'VE SPOKEN TO HER. THE ONLY PEOPLE WHO KNOW
2 ANYTHING ABOUT IT IS OLD LIFELINE INSURANCE AND
3 THEY'RE OUT OF STATE. DIANE BIANCA IS AN AGENT.
4 ALL SHE'S GOT IS--ALL SHE HAS IS WHAT SHE WROTE THE
5 POLICIES FOR. SHE HAS NO IDEA ABOUT THE EFFORTS,
6 ABOUT THE DRAFT, SHE HAS NO IDEA ABOUT THE EFFORTS
7 OF COLLECTION, ANYTHING OF THAT NATURE. THAT WOULD
8 BE STRICTLY HEARSAY.

9 MR. COULTER: THAT'S NOT CORRECT. MY
10 UNDERSTANDING IS SHE'S THE ONE WHO ACTUALLY HAD
11 THIS POLICY SIGNED UP, FOR ONE, FOR VICKIE BECKHAM,
12 NAMING THE DEFENDANT AS BENEFICIARY. SHE'S ALSO
13 AWARE OF THE FACT THE PREMIUMS WERE TO BE DRAWN OFF
14 THE NATIONBANK ACCOUNT IN THE AMOUNT OF \$18.09.

15 THE COURT: WELL, ALL MR. SWERLING IS
16 SAYING, AND YOU KNOW, IF IT'S HEARSAY, MAKE SURE
17 YOU'VE GOT YOUR BASIS COVERED, IF IT'S OTHERWISE
18 ADMISSIBLE, BECAUSE YOU MIGHT GET TO THE LAST
19 WITNESS AND HAVE NOTHING. THAT'S WHAT HE'S--I
20 MEAN, HE'S KIND OF TELLING YOU IT'S ALL HEARSAY. I
21 DON'T KNOW WHETHER IT IS OR NOT. I HAVEN'T HEARD
22 THE WITNESS TESTIFY. I'M JUST SAYING JUST BE SURE
23 YOU--IF IT'S OTHERWISE ADMISSIBLE, THAT WHAT HE
24 THINKS IS AN OBJECTION. AND OF COURSE, HEARSAY,
25 YOU KNOW, OUT-OF-COURT STATEMENT MADE BY

1 DECLARANT...

2 MR. COULTER: WELL, I UNDERSTAND THAT,
3 YOUR HONOR. CERTAINLY MS. BIANCA SIGNS THESE AS
4 POLICY--JUST FOR PURPOSES OF DETERMINING OF HOW
5 WE'RE GOING TO INTRODUCE THIS, SHE SIGNS THESE
6 DOCUMENTS AS WELL, WITNESSING VICKIE BECKHAM'S
7 SIGNATURE ON THESE, NAMING THE DEFENDANT AS THE
8 BENEFICIARY. I DON'T KNOW HOW ELSE YOU WOULD...

9 THE COURT: I DON'T EITHER RIGHT NOW.
10 I'M JUST SAYING, THEY SEEM TO BE TELLING YOU THAT
11 IT'S THE LAST WITNESS, YOU KNOW, YOU...

12 MR. COULTER: WELL, IT WAS ROUND ABOUT
13 LAST...

14 THE COURT: WHAT I'M SAYING IS IF IT'S
15 THE LAST WITNESS, THE TRAIN IS GOING TO BE ROLLING.
16 THERE WON'T BE ANY TIME TO CORRECT A DEFECT IN THE
17 PROBLEM. THAT'S WHAT I'M TELLING YOU, SO...

18 MR. SWERLING: JUDGE, THE OTHER THING
19 I'D ASK YOU TO CONSIDER, I MEAN, ALSO, EVEN IF YOU
20 RULE, THIS FINANCIAL INFORMATION, I THINK IS SO
21 REMOTE IN TIME. I MEAN THERE'S NO CONNECTION,
22 THERE'S NO NEXUS BETWEEN THIS INCIDENT AND HIS
23 FINANCIAL OBLIGATION.

24 MR. COULTER: ONCE AGAIN, YOUR HONOR, I
25 THINK I RECEIVED SOME INFORMATION THAT THEY TRIED

1 SO HARD TO DISASSOCIATE THEMSELVES FROM THIS
2 PARTICULAR MOTIVE, THEY PAID BOTH OF THESE LIENS
3 OFF WITHIN THE LAST SIX, SEVEN MONTHS TO A YEAR...

4 MR. SWERLING: I DON'T KNOW ANYTHING
5 ABOUT THAT.

6 MR. COULTER: ...AFTER THE ARREST OF THE
7 DEFENDANT.

8 MR. SWERLING: WELL, WHAT DOES THAT HAVE
9 TO DO....

10 MR. COULTER: THAT'S HOW MUCH THEY'RE
11 TRYING TO DISASSOCIATE THEMSELVES FROM THIS
12 PARTICULAR MOTIVE.

13 THE COURT: ALL RIGHT. WELL, I
14 UNDERSTAND THAT QUESTION, SO I DON'T HAVE TO DEAL
15 WITH THAT ONE ON THURSDAY MORNING, BUT I HAVE TO
16 DEAL WITH THE FLIGHT QUESTION SOMETIME TOMORROW.

17 OKAY.

18 MR. JONES: YOUR HONOR, I DON'T KNOW
19 WHERE MR. HARPOOTLIAN IS, BUT--AND I JUST WANTED TO
20 MENTION THIS TO YOU, FOR WHATEVER IT'S WORTH...

21 MR. SWERLING: I CAN LISTEN.

22 MR. JONES: ALL RIGHT. THEY SAID THAT
23 THEY HADN'T RECEIVED ANY REPORTS FROM EXPERTS, YET
24 THEY QUESTIONED AGENT BLACK ABOUT HIS FINGERPRINT
25 COMPARISON. AND I SUBMIT TO YOU THAT MR.

1 HARPOOTLIAN COULD NOT HAVE QUESTIONED THE
2 FINGERPRINT COMPARISON HE MADE ON THE TWO BEATTY
3 CARDS IF HE HADN'T HAD AN EXPERT LOOK AT THOSE
4 CARDS AND TELL HIM THAT THEY WEREN'T MADE BY THE
5 SAME PERSON.

6 AND IF HE HAD AN EXPERT LOOK AT THEM AND
7 TELL HIM THAT THEY WEREN'T MADE BY THE SAME PERSON,
8 EITHER HE TOLD THE EXPERT NOT TO ISSUE A REPORT SO
9 HE WOULDN'T HAVE TO TURN IT OVER TO US, OKAY? OR
10 THE EXPERT NEVER ISSUES REPORTS BECAUSE IT ONLY
11 MEANS MORE MONEY IN HIS POCKET, DOESN'T IT?

12 THE COURT: OR HE'S NOT GOING TO
13 TESTIFY.

14 MR. JONES: WELL, THAT WASN'T THE MATTER
15 WHETHER THEY WERE GOING TO TESTIFY OR NOT. IT'S
16 WHETHER THEY GOT A REPORT, WE GOT A COPY OF IT. I
17 THOUGHT THAT'S WHAT YOU SAID, THAT WHEN THEY
18 ISSUED...

19 THE COURT: NO, IF THEY TESTIFY, ONLY TO
20 KEEP YOU FROM GETTING BLINDSIDED FROM THE EXPERT
21 BECAUSE THE EXPERT CAN MAKE UP THEIR--WELL, I WON'T
22 SAY THAT.

23 MR. JONES: BUT JUDGE, HE CLEARLY TOLD
24 YOU THE OTHER DAY THAT IF BLACK DENIED THEY WEREN'T
25 THE SAME, HE WAS GOING TO TESTIFY.

1 THE COURT: WELL, HERE'S WHAT I SAID,
2 NOW, GENTLEMEN--DON'T BE TWISTING THINGS AROUND
3 WITH ME. I SAID THAT IF YOU'RE GOING TO PUT AN
4 EXPERT WITNESS ON THE STAND, EACH SIDE IS GOING TO
5 PRODUCE THE REPORT OR HAVE THE PERSON ACCESSED.
6 NOW THAT'S WHAT I SAID, THAT'S WHAT IT IS.

7 MR. SWERLING: JUDGE, I HAVE NEVER HAD A
8 QUESTION ABOUT OUR OBLIGATION ABOUT THAT.

9 THE COURT: I'M JUST SAYING ANY EXPERT
10 ON THAT STAND, THERE BETTER BE A REPORT IN THE
11 OTHER SIDE'S HAND OR AT LEAST SATISFACTION THAT
12 THEY'VE HAD AN OPPORTUNITY TO...

13 MR. JONES: SO, YOUR HONOR, YOU USE THE
14 TERM, BLINDSIDE. ARE YOU SUGGESTING I WASN'T
15 BLINDSIDED A COUPLE OF DAYS AGO?

16 MR. SWERLING: THAT'S CROSS EXAMINATION.

17 THE COURT: I MEAN, I'M TALKING ABOUT
18 THE TESTIMONY OF AN EXPERT WITNESS. YOU'VE GOT TO
19 HAVE THE REPORT. THAT'S ALL I'M SAYING.

20 MR. JONES: OKAY...

21 MR. SWERLING: JUDGE, JUST SO THE RECORD
22 IS CLEAR, I MEAN, THE RULES DON'T REQUIRE THAT ON
23 CROSS EXAMINATION WE GIVE OUT INFORMATION THAT WE
24 GARNER FROM OUR EXPERTS TO ASK QUESTIONS ON CROSS
25 EXAMINATION. WE ONLY TALK ABOUT WHAT WE INTEND TO

1 OFFER IN OUR CASE.

2 THE COURT: I UNDERSTAND THAT RULE AND
3 THAT'S WHY I SAID ANY EXPERT WHO TESTIFIES, EACH
4 SIDE GETS A COPY OF THE REPORT OR ACCESS
5 SATISFACTORY.

6 MR. JONES: JUDGE, ARE YOU TIRED OF
7 HEARING FROM ME THIS AFTERNOON?

8 THE COURT: NO, YEAH, I'M LOOKING FOR
9 SOMETHING. JUST GIVE ME A CHANCE TO FIND WHAT I'M
10 LOOKING FOR AND I'LL BE GLAD TO LISTEN TO YOU. LET
11 ME FIND IT. I'M ABOUT READY TO RULE ON THAT
12 STATEMENT QUESTION IF I CAN JUST FIND WHAT I'M
13 LOOKING FOR.

14 ALL RIGHT, GENTLEMEN, I'M READY TO RULE
15 ON THIS QUESTION ABOUT THIS STATEMENT.

16 HERE'S WHAT HAPPENED, MR. SWERLING.
17 EXAMINATION OF THE WITNESS WAS ONE LAST THING I
18 WANTED TO ASK YOU ABOUT WHEN YOU ASKED R.A. ABOUT
19 THE DEATH OF VICKIE BECKHAM. "THE FIRST THING HE
20 TOLD YOU AND WHAT YOU TOLD THE POLICE WAS THAT HE
21 KILLED HER, IS THAT NOT TRUE?" THAT IS A JUMBLED
22 QUESTION FOR WHICH YOU GOT ONE, A CONSISTENT
23 STATEMENT, AND PART YOU GOT AN INCONSISTENT
24 STATEMENT. HERE'S WHAT SHE SAID: THE FIRST THING
25 SHE TOLD THE POLICE IN HER STATEMENT WAS, "I ASKED

1 RICHARD WHAT WAS GOING ON. AT FIRST, HE TOLD ME HE
2 KILLED HER," WHICH IS CONSISTENT WITH WHAT YOU
3 ASKED; THAT'S TRUE. "LATER HE TOLD ME THAT HE
4 DIDN'T KILL HER BUT HE WAS HIRED BY STEVE TO GET
5 RID OF A BODY FOR \$5,000," STOPPING AT THAT POINT.

6 WHAT I'M GOING TO DO IS I'M GOING TO
7 ALLOW THE STATE TO ASK HER ABOUT HER, TAKE YOUR
8 STATEMENT, WHOEVER IS GOING TO DO THIS EXAMINATION.
9 ON PAGE TWO, I'M GOING TO ALLOW THE STATE TO ASK
10 THE WITNESS THE FOLLOWING LANGUAGE: "I ASKED
11 RICHARD WHAT WAS GOING ON. AT FIRST, HE TOLD ME
12 THAT HE KILLED HER. LATER HE TOLD ME THAT HE
13 DIDN'T KILL HER BUT THAT HE WAS HIRED BY STEVE TO
14 GET RID OF A BODY."

15 MR. JONES: FOR \$5,000.

16 THE COURT: "FOR \$5,000," AND THERE
17 SHOULD BE A PERIOD RIGHT THERE.

18 NOW, OUT OF THAT STATEMENT, THAT'S ALL
19 I'M GOING TO ALLOW YOU TO QUESTION THE WITNESS
20 ABOUT AS FAR AS ASKING SPECIFICALLY OUT OF THAT
21 STATEMENT AS TO DID SHE SAY THIS ON SUCH AND SUCH A
22 DATE. AS TO THE QUESTION THAT STARTED ALL OF THIS,
23 YOU CAN SIMPLY ASK HER ON REDIRECT AS TO WHETHER OR
24 NOT HE WAS THERE, HE GOT HOME BEFORE SHE DID OR
25 VICE VERSA, AND SHE CAN ANSWER THE QUESTION. SHE

1 ANSWERED YOUR QUESTION CORRECTLY. SHE GOT,
2 ACCORDING TO YOUR VIEW OF THE CASE, GOT A LITTLE
3 CONFUSED WHEN MR. SWERLING DID, ACCORDING TO YOUR
4 VIEW OF THE CASE, AND THAT'S SOMETHING THAT
5 REDIRECT HAS ALLOWED YOU TO TAKE CARE OF.

6 MR. JONES: JUDGE, I DON'T THINK I ASKED
7 HER THE QUESTION ON DIRECT EXAMINATION ABOUT
8 WHETHER OR NOT RICHARD WAS HOME BEFORE SHE GOT
9 THERE AND WHAT HE HAD ON. I DIDN'T, BUT I DO
10 RECALL IN TALKING WITH HER, PRIOR TO HER TAKING THE
11 STAND, AND ASKING HER WHAT HAPPENED, AND WHEN, YOU
12 KNOW, ON JUNE 12TH. SHE TOLD ME, "RICHARD WAS
13 ALREADY HOME BEFORE I GOT THERE."

14 THE COURT: YOU CAN ASK HER THAT
15 QUESTION. THAT'S JUST A SIMPLE, THAT'S JUST NOT A
16 QUESTION OF IMPEACHMENT.

17 MR. JONES: AND I KNEW THAT, YOU KNOW,
18 THAT--AND THEN I LOOKED AT THE STATEMENT AND I SAW
19 WHERE SHE SAID IT THEN, TOO. SHE SAID IT BACK ON,
20 YOU KNOW, JUNE--

21 THE COURT: ALL I'M TELLING YOU IS
22 THIS...

23 MR. JONES: ALL RIGHT, JUDGE, COULD I
24 ASK YOU THIS? I UNDERSTAND WHAT YOU'RE SAYING...

25 THE COURT: LET ME MAKE SURE YOU DO.

1 MR. JONES: ALL RIGHT.

2 THE COURT: THAT PART OF WHO GOT HOME
3 FIRST, YOU ASKED ON REDIRECT. THAT'S IT ON THAT
4 QUESTION.

5 ALL RIGHT, NOW, WHAT ELSE IS ON YOUR
6 MIND?

7 MR. JONES: MR. SWERLING STATED, HE
8 ASKED HER, HE SAID, "NOW DIDN'T RICHARD TELL YOU
9 THAT HE HAD INFORMED MICHAEL BEATTY, JUNIOR ABOUT
10 THE MURDER? IN YOUR STATEMENT, DIDN'T YOU TELL
11 THEM THAT RICHARD..." AND HE TOLD HER TO LOOK AT
12 THE THIRD PAGE. IF YOU'LL LOOK AT THE LAST
13 PARAGRAPH WHAT SHE SAYS IS, "RICHARD ALSO TOLD ME
14 THAT HE HAD INFORMED MICHAEL BEATTY, JUNIOR ABOUT
15 THE MURDER," AND HE STOPPED HER RIGHT THERE,
16 "BECAUSE BEATTY'S CAR, THE GRAND PRIX WAS INVOLVED
17 IN IT ALSO."

18 IN OTHER WORDS, SHE SAYS WHY HE TOLD
19 MICHAEL BEATTY, NOT BECAUSE MICHAEL BEATTY WAS
20 THERE BUT BECAUSE MICHAEL BEATTY'S CAR THAT HE HAD
21 USED HAD BEEN INVOLVED IN IT. AND I THINK I OUGHT
22 TO BE ALLOWED TO HAVE HER AT LEAST COMPLETE THAT
23 SENTENCE. HE CHOPPED HER OFF IN MID-SENTENCE. HE
24 IS TRYING TO DISGUISE WHAT SHE TOLD POLICE THAT
25 MICHAEL BEATTY HAD SAID TO HER.

1 THE COURT: PUT ME BACK TO THAT PLACE
2 AGAIN. I LOST IT. WHERE ARE YOU ON PAGE THREE?

3 MR. JONES: SECOND PARAGRAPH ON THE
4 THIRD PAGE.

5 THE COURT: TELL ME WHERE YOU THINK HE
6 CHOPPED HER OFF.

7 MR. JONES: HE STOPPED HER WHEN SHE
8 SAID, "RICHARD ALSO TOLD ME HE HAD INFORMED MICHAEL
9 BEATTY JUNIOR ABOUT THE MURDER." THAT'S IN MID-
10 SENTENCE, "ABOUT THE MURDER, BECAUSE BEATTY'S
11 CAR..." AND HE DIDN'T GO ON. HE JUST STOPPED HER,
12 "DIDN'T YOU, DIDN'T YOU SAY THAT?" HANDED HER THE
13 STATEMENT AND SAID, "DIDN'T YOU SAY THAT?" AND SHE
14 SAID, YES. BUT HE WOULDN'T LET HER GO ON AND
15 EXPLAIN, "BECAUSE BEATTY'S CAR, THE GRAND PRIX, WAS
16 INVOLVED IN IT ALSO."

17 THE COURT: ANYTHING ELSE BEFORE I HEAR
18 FROM MR. SWERLING?

19 MR. JONES: YES, SIR; YES, SIR. YOUR
20 HONOR, WHERE I WAS GOING, IF YOU WILL LOOK TO SEE
21 WHEN THIS ISSUE CAME UP ON PAGE ONE, ON PAGE ONE,
22 WHEN I WAS ASKING HER A QUESTION, I WAS ATTEMPTING
23 TO GET, AND IF YOU'LL LOOK AT LINE, LINE ONE, TWO,
24 THREE, FOUR, FIVE, SIX, SEVEN, EIGHT--I'M SORRY,
25 YOUR HONOR, LINE ONE, TWO, THREE, FOUR, FIVE, SIX,

1 SEVEN, EIGHT, NINE, LINE EIGHT, I'M SORRY YOUR
2 HONOR, LINE EIGHT ON PAGE ONE. THIS IS WHERE I WAS
3 ASKING HER TO DRAW HER ATTENTION TO IN THIS
4 STATEMENT. REMEMBER I SAID, "LOOK AT THE SECOND
5 PARAGRAPH ON PAGE ONE, PAGE ONE," BECAUSE WHEN HE
6 HAD HER QUOTE ON PAGE TWO, IT WAS ALSO INDICATING
7 THAT SHE WAS TELLING RICHARD THAT THAT WAS THE
8 FIRST, THAT THE FIRST TIME HE TALKED TO HER, HE
9 TOLD HER THAT HE'D KILLED HER, WHEN IN FACT, WHEN
10 IN FACT, YOUR HONOR, IN HER STATEMENT THAT SHE
11 WROTE OUT FOR LAW ENFORCEMENT, PAGE EIGHT SAYS,
12 "THIS WAS ON A SUNDAY AND RICHARD LEFT SUNDAY
13 MORNING, AND THEN WHEN I ARRIVED BACK HOME EARLY
14 THE NEXT MORNING AROUND 12:30 TO ONE A.M., HE WAS
15 HOME. I KNOW THIS TO BE ON JUNE 12TH BECAUSE A
16 COUPLE OF DAYS AFTER THIS, I RODE AROUND WITH
17 RICHARD TRYING TO FIND COLUMBIA NEWSPAPERS, TRYING
18 TO SEE WHAT WAS BEING SAID ABOUT WHAT HE HAD DONE."

19 SO ALREADY THERE IN THIS STATEMENT,
20 SHE'S INDICATING THAT AS EARLY AS JUNE, THE MORNING
21 OF JUNE 13TH HE HAD TOLD HER WHAT HE HAD DONE. AND
22 THEN SHE SAYS IN DETAIL, "RICHARD TOLD ME THAT HE
23 WAS INVOLVED IN SOME TYPE OF DEAL WITH STEVE, AND
24 THAT STEVE OWED HIM \$5,000. ONCE I READ THE
25 PAPERS THAT RICHARD HAD PURCHASED, I KNEW THAT HE

1 WAS INVOLVED IN SOME TYPE OF MURDER WITH STEVE.
2 WHEN RICHARD LEFT EARLY SUNDAY MORNING, HE WAS
3 WEARING BLACK JEANS AND A BLACK TEE-SHIRT."

4 NOW MR. SWERLING ALSO ASKED HER ABOUT
5 WHAT HE WAS WEARING SUNDAY MORNING, HE ASKED HER
6 SPECIFICALLY AND SHE ANSWERED. BUT HE INDICATED
7 THAT SINCE HE HAD ON A DIFFERENT SHIRT WHEN HE GOT
8 HOME, HE DIDN'T HAVE ON A BLACK TEE-SHIRT, YOU
9 KNOW, SHE--YOU KNOW, SHE SAID HE HAD ON A DIFFERENT
10 SHIRT. BUT THAT AGAIN IS SOMETHING THAT WE OUGHT
11 TO BE ABLE TO ASK HER ABOUT BECAUSE SHE WAS CROSS
12 EXAMINED ON IT ON THE STATEMENT.

13 THE COURT: I DENY THE SECOND, THE PART
14 ON PAGE THREE. IT'S NOT A QUESTION OF--I MEAN, YOU
15 CAN CERTAINLY ON REDIRECT SEE IF YOU CAN GET AN
16 ANSWER TO IT, BUT YOU'RE NOT GOING TO PUBLISH IT
17 FROM THE STATE. ON PAGE ONE, I WOULD DENY THAT
18 REQUEST. THE REASON I'M ALLOWING YOU TO ASK ON
19 PAGE TWO IS THAT IN FAIRNESS, THE STATEMENT SHOULD
20 BE PUT IN CONTEXT AS TO WHAT SHE FIRST TOLD THE
21 POLICE BASED ON THIS STATEMENT, AND SHE FIRST TOLD
22 THE POLICE THAT HE TOLD HER HE KILLED HER. AND I
23 THINK IN FAIRNESS THAT SHOULD BE PUT IN CONTEXT
24 BECAUSE IT WAS A JUMBLED QUESTION. PART OF IT IS
25 CONSISTENT, PART OF IT'S INCONSISTENT, AND I THINK

1 THAT THAT WOULD BE APPROPRIATE IN THAT CASE.

2 MR. JONES: WELL, YOUR HONOR...

3 THE COURT: THE REST OF IT AS FAR AS HER
4 STATEMENT IS CONCERNED, TRYING TO PUBLISH PARTS OR
5 "DID YOU SAY THIS IN YOUR STATEMENT?" NO. YOU CAN
6 ASK HER ON REDIRECT ANYTHING THAT HE WENT IN TO BUT
7 IN THAT REGARD TO WHETHER SHE SAID THAT IN HER
8 STATEMENT, AND SHE CAN TESTIFY TO THAT.

9 MR. JONES: BUT COULD I ASK HER IF SHE
10 ALSO SAID THIS ON JUNE 14TH, 1995?

11 THE COURT: WELL, YOU CAN ASK HER THAT
12 BUT NOT REFERRING TO THE STATEMENT.

13 MR. JONES: RIGHT.

14 THE COURT: SURE. BUT I MEAN, I'M JUST
15 SAYING THIS BUSINESS OF GOING BACK THROUGH THIS,
16 "DID YOU SAY THIS..." ET CETERA, IN THE STATEMENT.
17 IN PART, MR. SWERLING IS RIGHT ABOUT THE RULE OF
18 WHAT IMPEACHMENT IS. BOTH OF YOU...WELL, BE THAT
19 AS IT MAY. IN CONTEXT, I'M GOING TO LET THAT PART
20 IN ABOUT WHAT SHE FIRST TOLD THE POLICE AND THEN
21 WHAT SHE LATER, BECAUSE I THINK THAT...

22 MR. JONES: AND THAT, YOUR HONOR, I
23 DON'T MEAN TO INTERRUPT, BUT IN THAT CONTEXT, IT
24 CAN BE QUOTED FROM THIS STATEMENT AS BEING SAID ON
25 JUNE 14TH.

1 THE COURT: ABSOLUTELY. THAT'S IT. AS
2 FAR AS PRIOR CONSISTENT STATEMENT.

3 MR. SWERLING: I'M SO CONFUSED NOW.
4 THAT ONE PART IS WHAT YOU'RE GOING TO LET IN.

5 THE COURT: THAT'S THE ONLY PART TO DEAL
6 WITH THE PRIOR CONSISTENT STATEMENT. NOW ON
7 REDIRECT, HE CAN ASK HER ANY OF THESE THINGS
8 WITHOUT REGARD TO THE STATEMENT. AND I DO THAT
9 BASED ON THE WAY YOU PHRASED THE QUESTION TO HER,
10 AND I THINK IN FAIRNESS, IT OUGHT TO BE PUT IN
11 CONTEXT.

12 BUT AS FAR AS GOING BACK THROUGH AND
13 NITPICKING THIS STATEMENT APART AND TRYING TO ASK,
14 YOU KNOW, SOLICITOR, I LEAVE THAT UP TO YOU BUT YOU
15 CAN'T REFER TO THE STATEMENT, YOU KNOW.

16 MR. SWERLING: JUDGE, I IMAGINE SHE'LL
17 BE...

18 THE COURT: YEAH, WHERE IS SHE? SHE'LL
19 NEED TO BE--WHO HAS CUSTODY OR CONTROL OVER HER?

20 MR. SWERLING: SPIKE DOG?

21 MR. JONES: SHE MAY HAVE ALREADY BEEN
22 SENT BACK TO...

23 THE COURT: ALL RIGHT, MR. TEMPLETON--
24 NO, YOU'RE INVOLVED IN THE INVESTIGATION. BRING
25 HER IN.

1 MR. SWERLING: JUDGE, BY THE WAY, JUST
2 SO THE RECORD IS CLEAR, SO WE DIDN'T VIOLATE
3 ANYTHING. THE MICHAEL BEATTY ISSUE, THE FACT THAT
4 MICHAEL BEATTY, JUNIOR'S CARD WAS NEVER MATCHED TO
5 THE CAR, THE VEHICLE, WAS DISCOVERED BY ONE OF OUR
6 LAW CLERKS, NOT AN EXPERT. AND HE'S GOING TO GET A
7 LITTLE BIT OF A BONUS, BUT HE'S NOT AN EXPERT. SO
8 WE DIDN'T VIOLATE ANYTHING.

9 THE COURT: ALL RIGHT, MS. MCKINNEY, LET
10 ME TELL YOU THIS. WE'RE GOING TO LET YOU GO HOME,
11 BUT YOU'VE GOT TO COME BACK TOMORROW AND TESTIFY AT
12 LEAST AS TO REDIRECT AND RECROSS. I HAVE MADE
13 CERTAIN RULINGS AS TO WHAT YOU CAN--WHAT THE
14 ATTORNEYS CAN ASK YOU ABOUT, AND THEY UNDERSTAND
15 WHAT THOSE ARE. BUT I'LL INSTRUCT YOU NOT,
16 TONIGHT, NOT TO DISCUSS YOUR TESTIMONY WITH ANYONE
17 OR ALLOW ANYONE TO DISCUSS IT WITH YOU. YOU COME
18 BACK TOMORROW, ANSWER YOUR QUESTIONS, THEIR
19 QUESTIONS, AND YOU'LL BE ON YOUR WAY BACK TO
20 COLORADO.

21 MS. MCKINNEY: OKAY.

22 THE COURT: NOW, IF YOU DO VIOLATE MY
23 ORDER, YOU WON'T BE GOING BACK TO COLORADO. DO YOU
24 UNDERSTAND?

25 MS. MCKINNEY: YES, SIR.

1 THE COURT: OKAY. HAVE A NICE EVENING.

2 MS. MCKINNEY: OKAY. THANK YOU.

3 MR. JONES: YOUR HONOR, WOULD YOU
4 INQUIRE AS TO WHETHER OR NOT THIS MR. HERB MCDONALD
5 OR ANY OTHER FINGERPRINT EXAMINER THAT THEY HAD
6 EMPLOYED IS UNDER SUBPOENA?

7 MR. HARPOOTLIAN: NO.

8 THE COURT: IS THAT WHAT YOU SAID, NO?

9 MR. HARPOOTLIAN: NO.

10 MR. JONES: THEY'RE NOT UNDER SUBPOENA?

11 MR. SWERLING: HE HAD NOTHING TO DO WITH
12 THAT. I WAS TELLING THE JUDGE BEFORE YOU WALKED
13 IN, HE HAD NOTHING TO DO WITH THAT MICHAEL
14 BEATTY...

15 MR. HARPOOTLIAN: YEAH, WE CAUGHT THAT
16 FROM THE PAPERWORK. IT WAS CLEAR FROM THE REPORT,
17 TO EVERYBODY EXCEPT MR. BLACK.

18 THE COURT: ALL I'M SAYING, FOLKS, TAKE
19 THAT STAND WITH AN EXPERT, BETTER HAVE A REPORT IN
20 THE OTHER MAN'S HAND. THAT'S ALL I'M ASKING.
21 SIMPLE AS THAT.

22 MR. HARPOOTLIAN: YOUR HONOR, BASED ON
23 THE LIST OF WITNESSES THEY'VE GIVEN AND THE
24 TESTIMONY SO FAR, WE WON'T BE CALLING ANY EXPERT IN
25 FINGERPRINTS. THE ONLY EXPERT I INTEND ON CALLING,

1 AND I DON'T KNOW IF IRA JEFFCOAT IS TESTIFYING FOR
2 THEM OR WHETHER LILLIE GALLMAN IS GOING TO BE
3 CALLED. THERE ARE CERTAIN CHAIN WITNESSES WE
4 TALKED ABOUT. MAYBE THE FIRST THING TOMORROW
5 MORNING. I'LL HAVE TO PULL THOSE LISTS OUT AND SEE
6 WHO ACTUALLY...

7 MR. SWERLING: WE MAY HAVE SOMEBODY ON
8 BLOOD.

9 MR. HARPOOTLIAN: YEAH, PAULETTE...
10 WHATEVER.

11 MR. JONES: JUDGE, WE NEVER RECEIVED THE
12 LIST YOU ASKED THEM TO GIVE US CONCERNING
13 WITNESSES. YOU KNOW, EARLIER IN THE WEEK WE WERE
14 TALKING ABOUT...

15 MR. SWERLING: I DID SO.

16 MR. HARPOOTLIAN: YEAH, WE DID.

17 MR. SWERLING: I GAVE YOU A LIST. I
18 GAVE YOU A LIST OF THE PEOPLE WE WANTED IN THE
19 COURTROOM. THEY'RE RIGHT HERE.

20 MR. JONES: THE WITNESSES THAT THEY
21 WANTED SEQUESTERED. THAT'S WHAT WE WERE TRYING TO
22 DETERMINE, WAS WHICH WITNESSES...WE ALL DECIDED
23 THAT FAMILY MEMBERS WOULD NOT BE SEQUESTERED.

24 MR. HARPOOTLIAN: RIGHT.

25 MR. JONES: WHAT WE WANTED TO MAKE SURE

1 THAT, YOU KNOW, WE WERE PLAYING, YOU KNOW, WITHIN
2 THE BOUNDS OF FAIRNESS WAS A LIST OF THEIRS,
3 BECAUSE THEY TOLD US, "WE WANT YOUR MYRTLE BEACH
4 WITNESSES SEQUESTERED."

5 MR. SWERLING: WE HAVE HAD NO WITNESSES
6 IN THE COURTROOM.

7 MR. HARPOOTLIAN: NONE.

8 MR. SWERLING: EXCEPT THE FAMILY.

9 MR. JONES: IMMEDIATE FAMILY OR THE...

10 MR. SWERLING: NO, THE LIST THAT I GAVE.

11 MR. HARPOOTLIAN: WE GAVE YOU A LIST OF
12 PEOPLE WE MAINTAINED IN THE COURTROOM.

13 MR. SWERLING: WE GAVE YOU A LIST. THE
14 ZEIDERS, THE LIBBYS...

15 THE COURT: OKAY NOW, FELLAS, Y'ALL CAN
16 ARGUE ABOUT THAT TONIGHT. I'M GOING HOME. SEE
17 Y'ALL IN THE MORNING AT NINE O'CLOCK.

18 (COURT RECESSED FOR EVENING AT 7:00
19 P.M.)

20 (COURT RECONVENED ON WEDNESDAY,
21 SEPTEMBER 25TH AT 9:00 A.M.)

22 THE COURT: I NEED TWO OR THREE THINGS.
23 ONE FROM THE PROSECUTION, I NEED A COPY OF YOUR
24 NOTICE OF EVIDENCE IN AGGRAVATION BECAUSE I NEED TO
25 BE MAKING THAT DECISION TODAY.

1 I NEED FROM YOU, MR. SWERLING, MR.

2 HARPOOTLIAN, ANY CASES THAT YOU WANT ME TO LOOK AT
3 ON FLIGHT. I'M PREPARED TO RULE ON THAT TODAY. I
4 DON'T KNOW THAT THERE WERE ANY EXTRA CASES, BUT...

5 MR. HARPOOTLIAN: I THINK YOU GOT THEM.

6 THE COURT: OKAY. NOW, MR. SOLICITOR,
7 YOU CAUGHT ME AT A WEAK MOMENT YESTERDAY AFTERNOON.
8 LISTEN TO WHAT IS EVIDENCE AND WHAT IS NOT
9 EVIDENCE.

10 PRIOR CONSISTENT STATEMENT IN MS.
11 MCKINNEY'S STATEMENT THAT WE MARKED IS ADMISSIBLE.
12 BUT YOU ASKED ME, "CAN I SAY DID SHE TELL SO AND SO
13 ON SUCH AND SUCH A DATE THAT..." THAT'S NOT
14 EVIDENCE. THAT'S DOING INDIRECTLY WHAT YOU CAN'T
15 DO DIRECTLY. WHAT IS EVIDENCE THOUGH IS WHAT SHE
16 KNOWS ABOUT WHO WAS HOME FIRST, THAT KIND OF STUFF,
17 OKAY?

18 YOU WERE GOING TO SAY, "WELL, DIDN'T YOU
19 TELL AGENT MCCRAW ON JUNE 14TH THIS AND THAT?"
20 THAT'S DOING INDIRECTLY WHAT YOU CAN'T DO DIRECTLY
21 EXCEPT FOR THAT ONE MARKED PASSAGE.

22 MR. JONES: EXCEPT THAT ONE MARKED
23 PASSAGE, YOUR HONOR, BUT WITH REGARD TO EXAMINATION
24 OF HER ABOUT OTHER FACTS, WHETHER SHE MADE THEM IN
25 THIS STATEMENT OR NOT, OTHER FACTS THAT

1 SHE...CERTAINLY I COULD ASK HER IF SHE HAD
2 PREVIOUSLY STATED THAT THESE FACTS WERE WITHIN HER
3 KNOWLEDGE ON JUNE...

4 THE COURT: NO, SIR. THAT'S DOING
5 INDIRECTLY WHAT YOU CAN'T DO DIRECTLY. YOU'RE
6 TRYING TO BOLSTER HER TESTIMONY, AND THAT'S NOT
7 EVIDENCE. THE EVIDENCE IS, THE EVIDENCE IS HER
8 FIRSTHAND KNOWLEDGE, NOT WHAT SHE TOLD SOMEBODY
9 ELSE, EXCEPT FOR BOLSTERING HER TESTIMONY AS TO A
10 PRIOR CONSISTENT STATEMENT.

11 MR. JONES: ALL RIGHT.

12 THE COURT: OKAY. THAT WILL ALSO
13 SHORTEN HER TESTIMONY SOME, TOO.

14 IS MS. MCKINNEY AVAILABLE NOW? LET'S
15 PUT HER ON THE STAND.

16 (TAMMY MCKINNEY IS RETURNED TO THE
17 WITNESS STAND AND REMINDED OF HER OATH.)

18 THE COURT: ALL RIGHT, MS. MCKINNEY,
19 YOU'RE STILL UNDER OATH FOR PURPOSES OF YOUR
20 TESTIMONY.

21 ALL RIGHT, STATE WAIVE POLLING OF THE
22 JURY?

23 MR. JONES: STATE WAIVES POLLING, YOUR
24 HONOR.

25 THE COURT: AND DEFENSE WAIVE POLLING?

1 MR. HARPOOTLIAN: YES, SIR.

2 THE COURT: ALL RIGHT, BRING THE JURY

3 IN.

4 (JURY RETURNED TO THE OPEN COURTROOM AT

5 9:08 A.M.)

6 THE COURT: ALL RIGHT, GOOD MORNING,

7 MADAM FOREMAN, AND LADIES AND GENTLEMEN OF THE

8 JURY. EVERYBODY READY TO GO? OKAY, WE'RE GOING TO

9 RESUME THE TRIAL WITH THE REDIRECT TESTIMONY OF MS.

10 MCKINNEY.

11 MR. SOLICITOR?

12 MR. JONES: MAY IT PLEASE THE COURT,

13 YOUR HONOR?

14 REDIRECT EXAMINATION:

15 BY MR. JONES:

16 Q TAMMY, YOU WERE ON THE STAND YESTERDAY,

17 IS THAT CORRECT?

18 A YES, SIR.

19 Q AND YOU HAVE NOT DISCUSSED YOUR

20 TESTIMONY THAT YOU GAVE YESTERDAY OR ANY OTHER TIME

21 WITH ANYBODY SINCE YOU LEFT THE STAND YESTERDAY, IS

22 THAT CORRECT?

23 A NO, SIR.

24 Q YOU HAVEN'T DISCUSSED IT WITH ANYBODY?

25 A THAT'S RIGHT.

1 Q ALL RIGHT, I WANT TO ASK YOU, TAMMY,
2 BACK ON JUNE 12TH OF 1994, I BELIEVE YOU SAID YOU'D
3 GONE TO PLAY BINGO?

4 A YES, SIR.

5 Q AND WHEN DID YOU FINISH PLAYING BINGO ON
6 THAT DAY? WHAT TIME DO YOU RECALL FINISHING, IF
7 YOU KNOW?

8 A IT WAS APPROXIMATELY MIDNIGHT.

9 Q AND WHEN YOU GOT HOME, WAS RICHARD
10 ALREADY THERE?

11 A YES, SIR, HE WAS.

12 Q SO HE HAD ALREADY--WHAT TIME DID YOU GET
13 HOME, APPROXIMATELY?

14 A APPROXIMATELY 12:30.

15 Q AND HE WAS ALREADY THERE?

16 A YES, SIR.

17 Q NOW, I BELIEVE YOU TESTIFIED EARLIER
18 THAT HE WAS NOT ABLE TO SLEEP THAT NIGHT?

19 A CORRECT.

20 Q DID YOU LATER TALK TO HIM ABOUT, WITHIN
21 A MATTER OF DAYS, ABOUT WHAT HE HAD DONE THAT DAY
22 AND WHERE HE HAD BEEN?

23 A A COUPLE OF DAYS AFTER, I DID THAT.

24 Q AND HE TOLD YOU WHAT?

25 MR. SWERLING: WELL, YOUR HONOR, THAT

1 WOULD BE HEARSAY.

2 THE COURT: SUSTAINED. THAT DOESN'T
3 PROHIBIT YOU FROM DEALING WITH THE STATEMENT ISSUE,
4 BUT YOU CAN'T GO WHOLESALE, OKAY?

5 MR. JONES: YOUR HONOR, IF I COULD, JUST
6 FOR ONE MINUTE?

7 THE COURT: SURE.

8 (BENCH CONFERENCE IN THE PRESENCE OF THE
9 JURY, OUT OF THE HEARING OF THE JURY, AND OFF THE
10 RECORD.)

11 THE COURT: ALL RIGHT, YOU MAY PROCEED.

12 Q (BY MR. JONES) DO YOU HAVE A COPY OF
13 YOUR STATEMENT WITH YOU?

14 A YES, SIR.

15 Q PAGE TWO, TOP OF THE PAGE, SECOND
16 PARAGRAPH. THIS IS THE STATEMENT THAT YOU GAVE THE
17 POLICE ON JULY 14TH, 1995?

18 A YES, SIR.

19 Q I WANT TO ASK YOU...

20 MR. SWERLING: JULY 14TH? I DON'T HAVE
21 A STATEMENT FOR JULY 14TH.

22 A JULY 9TH.

23 Q JULY 9TH. JULY 9TH, 1995, IS THAT
24 CORRECT?

25 A YES, SIR.

- 1 Q DID YOU SAY THEN, "I ASKED RICHARD WHAT
2 WAS GOING ON. AT FIRST, HE TOLD ME THAT HE HAD
3 KILLED HER." WHO DID HE MEAN, HER?
- 4 A VICKIE BECKHAM.
- 5 Q "LATER HE TOLD ME THAT HE DIDN'T KILL
6 HER BUT HE WAS HIRED BY STEVE TO GET RID OF THE
7 BODY FOR \$5,000." IS THAT CORRECT?
- 8 A YES, SIR.
- 9 Q HOW MUCH LATER WAS IT THAT HE TOLD YOU
10 HE WAS HIRED BY STEVE, IN TIME?
- 11 A IT WAS WITHIN THE SAME CONVERSATION.
- 12 Q SO IT WASN'T A DAY...
- 13 MR. SWERLING: OBJECTION, YOUR HONOR.
- 14 THE COURT: AND THE OBJECTION IS TO...
- 15 MR. SWERLING: LEADING.
- 16 THE COURT: ...LEADING? SUSTAINED.
- 17 Q WHEN WAS THAT CONVERSATION THAT YOU HAD
18 WITH RICHARD?
- 19 A WHEN I READ--WHEN WE WERE IN MY
20 APARTMENT AND AFTER I HAD READ THE NEWSPAPER
21 ARTICLE.
- 22 Q WHICH WAS APPROXIMATELY WHEN?
- 23 A I BELIEVE IT WAS TWO DAYS AFTER THE
24 MURDER.
- 25 Q WHICH WOULD HAVE MADE IT?

1 A JUNE 14TH.

2 Q OF WHAT YEAR?

3 A 1994.

4 Q AND WHO DID YOU TAKE HIM TO MEAN? WHO
5 DID YOU KNOW HE MEANT WHEN HE SAID THAT HE WAS
6 HIRED BY STEVE TO GET RID OF THE BODY FOR \$5,000?

7 A I DON'T UNDERSTAND WHAT YOU MEAN.

8 Q WHO DID YOU UNDERSTAND HE WAS REFERRING
9 TO?

10 A VICKIE BECKHAM.

11 Q WHEN HE SAID HE WAS HIRED BY STEVE. WHO
12 IS STEVE?

13 A STEPHEN BECKHAM.

14 Q DID YOU KNOW THAT THAT WAS WHO HE WAS
15 TALKING ABOUT?

16 A YES, SIR.

17 Q THANK YOU.

18 THE COURT: ANYTHING ON RECROSS?

19 MR. SWERLING: NO, YOUR HONOR.

20 THE COURT: ALL RIGHT, THANK YOU, MA'AM.

21 ANY REASON THE WITNESS CANNOT BE RELEASED FROM THE
22 SUBPOENA, FROM THE STATE?

23 MR. JONES: NONE FROM THE STATE.

24 THE COURT: FROM THE DEFENSE?

25 MR. SWERLING: NO OBJECTION.