

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Appeal from Newberry County

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

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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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ROBERT BOWERS:

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CROSS BY MCMAHON	4091
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PAULETTE SUTTON:

DIRECT BY HARPOOTLIAN	4108
CROSS BY COULTER	4122
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JAMES SUBER:

DIRECT BY HARPOOTLIAN	4137
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COURT	4218
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MICHAEL COX:

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KENNETH WINGATE:

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GEORGE BRADDOCK:

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ALVIN PALMER:

DIRECT BY HARPOOTLIAN	4294
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ALBERT MCCARTER:

DIRECT BY HARPOOTLIAN	4307
CROSS BY JONES	4319
REDIRECT BY HARPOOTLIAN	4326

1 THE COURT: ALL RIGHT, CALL YOUR NEXT
2 WITNESS, PLEASE.

3 MR. SWERLING: ROBERT BOWERS, YOUR
4 HONOR.

5 ROBERT ANDREW BOWERS, BEING
6 DULY SWORN, TESTIFIED AS FOLLOWS:

7 DIRECT EXAMINATION:

8 BY MR. SWERLING:

9 Q ALL RIGHT, ROBERT, YOU ARE FROM WHERE?

10 A CHAPIN, SOUTH CAROLINA.

11 Q AND PRIOR TO JUNE 12TH, 1994, WHERE WERE
12 YOU LIVING?

13 A AT THAT TIME, I WAS LIVING IN, WELL I
14 WAS LIVING IN CHAPIN; I MOVED TO COLUMBIA.

15 Q OKAY. NOW, ON JUNE 12TH, 1994, WHAT HAD
16 YOU DONE THAT DAY?

17 A BASICALLY, ATTEND A BALL GAME, BASEBALL
18 GAME.

19 Q ALL RIGHT, AND WHO WERE YOU WITH?

20 A SOME OF MY FRIENDS FROM LITTLE MOUNTAIN
21 AND CHAPIN.

22 Q ALL RIGHT, WHERE WAS THE GAME?

23 A CHAPIN BASEBALL FIELD.

24 Q ALL RIGHT. AFTER YOU LEFT THE GAME, DO
25 YOU RECALL APPROXIMATELY WHAT TIME IT WAS WHEN YOU

1 LEFT THE GAME.

2 A I CAN'T REMEMBER THE EXACT TIME ON WHAT

3 TIME WE LEFT THE GAME.

4 Q DID YOU GO SOMEWHERE AFTER YOU LEFT THE

5 GAME?

6 A YEAH, WE WENT TO THE C&L SOCIAL CLUB.

7 Q AND WHERE IS THE C&L SOCIAL CLUB?

8 A IT'S IN CHAPIN, BETWEEN CHAPIN AND

9 LITTLE MOUNTAIN.

10 Q WHAT KIND OF CLUB IS IT?

11 A I MEAN, YOU GO THERE TO HAVE DRINKS,

12 DANCE.

13 Q AND WHO DID YOU GO WITH?

14 A ME AND THE GUYS THAT I WAS WITH, SOME

15 FRIENDS FROM THE LITTLE MOUNTAIN/CHAPIN AREA.

16 Q OKAY. NOW, HOW LONG DID YOU STAY AT THE

17 CLUB?

18 A OH, MAYBE AN HOUR, HOUR AND A HALF.

19 Q NOW, DO YOU REMEMBER APPROXIMATELY WHAT

20 TIME IT WAS WHEN YOU LEFT THE CLUB?

21 A I WOULD HAVE TO SAY APPROXIMATELY AROUND

22 EIGHT TO EIGHT-THIRTY.

23 Q OKAY, SOMEWHERE IN THE EIGHT TO EIGHT-

24 THIRTY AREA. NOW, WHAT TIME, LET'S PUT IT IN

25 RELATIONSHIP TO TIME, WHAT TIME DID YOU GET TO

1 WHERE YOU WERE GOING?

2 A AROUND ABOUT BETWEEN NINE AND NINE-
3 THIRTY, SOMEWHERE AROUND IN THERE.

4 Q AND WHAT WAS SIGNIFICANT ABOUT THE PLACE
5 WHERE YOU WERE GOING? WAS THERE SOMETHING ON TV
6 THAT YOU REMEMBER?

7 A YEAH, THE FINALS, BASKETBALL FINALS. WE
8 HAD BEEN LOOKING AT THAT AND IT WAS CLOSE TO BEING
9 OVER.

10 Q CLOSE TO BEING OVER. NOW, BETWEEN THE
11 CLUB AND GOING TO THE HOUSE--NOW, WHOSE HOUSE WERE
12 YOU GOING TO?

13 A WENT TO A FRIEND OF MINE'S MOM'S HOUSE.

14 Q ALL RIGHT, AND WHO WAS WITH YOU WHEN YOU
15 LEFT THE CLUB?

16 A JOHNNIE RAY HAWKINS.

17 Q NOW, AS YOU WERE DRIVING ALONG, DID YOU
18 GET ON LITTLE MOUNTAIN ROAD? DID YOU GET TO LITTLE
19 MOUNTAIN ROAD?

20 A YES.

21 Q AND AS YOU WERE DRIVING ON LITTLE
22 MOUNTAIN, WHEN YOU WERE DRIVING ALONG, DID YOU SEE
23 ANY VEHICLES ON THE ROAD?

24 A YES, I DID. I SAW TWO VEHICLES.

25 Q NOW, ON THE LEFT SIDE OF THE ROAD, WHAT

- 1 VEHICLE DID YOU SEE?
- 2 A I SAW A GRAY COLORED, SILVER, I THINK
- 3 IT WAS A MAXIMA.
- 4 Q DID YOU SEE THE OTHER VEHICLE ON THE
- 5 LEFT SIDE OF THE ROAD OR THE LEFT SIDE OF THE ROAD?
- 6 A I DON'T UNDERSTAND.
- 7 Q IN OTHER WORDS, YOU SAW TWO VEHICLES;
- 8 ONE WAS A MAXIMA THAT WAS ON THE LEFT SIDE OF THE
- 9 ROAD?
- 10 A LEFT SIDE OF THE ROAD.
- 11 Q AND THE OTHER VEHICLE YOU SAW WAS ON
- 12 WHICH SIDE, THE LEFT OR THE RIGHT?
- 13 A ON THE RIGHT SIDE.
- 14 Q SO IT WAS ACROSS THE ROAD?
- 15 A ACROSS THE ROAD.
- 16 Q ALL RIGHT, AND WAS IT DIRECTLY ACROSS
- 17 FROM THAT CAR, OR BEFORE THAT CAR OR AFTER THAT
- 18 CAR?
- 19 A IT WAS AFTER WE PASSED THE CAR. IT WAS
- 20 UP A LITTLE.
- 21 Q OKAY. I'M SORRY, APPROXIMATELY HOW FAR
- 22 PAST THE CAR YOU SAW ON THE LEFT WAS THE CAR ON THE
- 23 RIGHT?
- 24 A ABOUT TEN OR TWENTY YARDS, SOMEWHERE IN
- 25 THERE.

1 Q NOW, WHICH DIRECTION WERE THEY FACING?
2 DO YOU RECALL THAT?

3 A THE GRAY CAR WAS--WELL, THE BROWN CAR
4 WAS FACING LITTLE MOUNTAIN, LIKE GOING TOWARD
5 LITTLE MOUNTAIN IN THE DIRECTION WE WAS DRIVING.
6 THE OTHER CAR WAS FACING OPPOSITE, GOING DOWNHILL.

7 Q NOW, DID YOU SEE ANYBODY STANDING ON THE
8 ROAD?

9 A YEAH, I SAW A GUY STANDING BY THE GRAY
10 CAR.

11 Q AND COULD YOU GIVE THE JURY A
12 DESCRIPTION OF THE PERSON YOU SAW STANDING NEAR THE
13 GRAY CAR?

14 A WELL, I WOULD HAVE TO SAY HE WAS
15 APPROXIMATELY 5'10 TO 6 FEET TALL. HE HAD SHORT,
16 WELL LONG HAIR ABOUT SHOULDER LENGTH. I REMEMBER
17 THE BLUE-JEAN SHORT PANTS.

18 Q OKAY, BLUE-JEAN SHORT PANTS. SO IN
19 OTHER WORDS, CUT-OFFS?

20 A YEAH.

21 Q OKAY. NOW, AS FAR AS BODY BUILD,
22 LOOKING AT ME AND LET'S SAY MR. HEFFER STANDING
23 OVER THERE, THIS PERSON, WHICH DID HE MORE CLOSELY
24 RESEMBLE, MY BODY BUILD OR HERB HEFFER'S BODY
25 BUILD?

- 1 A PROBABLY YOU. I MEAN, HE WAS A LITTLE
2 SHORTER, MAYBE NOT AS BIG AS YOU.
- 3 Q ALL RIGHT. THANKS. NOW, AS YOU DROVE
4 BY THAT PERSON, DID YOU ACKNOWLEDGE HIM, DID HE
5 ACKNOWLEDGE YOU, WAS ANYTHING SAID OR DONE, OR DO
6 YOU REMEMBER ANYTHING ABOUT IT?
- 7 A YES. AS WE PULLED BY I WAVED AT HIM AND
8 HE WAVED BACK TO ME. THAT WAS IT.
- 9 Q NOW, AT THAT TIME, DID YOU THINK
10 ANYTHING ABOUT WHAT YOU WERE DOING DRIVING PAST
11 THERE?
- 12 A NO, JUST THOUGHT THERE WAS CAR TROUBLE
13 OR SOMETHING AND WE JUST DROVE ON THROUGH.
- 14 Q DID YOU SEE ANYBODY IN THE OTHER CAR?
- 15 A NO, I DIDN'T.
- 16 Q OKAY. NOW, LOOK AT STEPHEN BECKHAM.
17 WAS THE PERSON YOU SAW ON THE ROAD THAT NIGHT, WAS
18 IT STEPHEN BECKHAM?
- 19 A I WOULDN'T THINK SO.
- 20 Q NOT THE SAME DESCRIPTION?
- 21 A NO.
- 22 Q AS YOU DROVE PAST THAT PERSON, YOU WAVED
23 AT HIM. WAS THERE ANY ACKNOWLEDGEMENT BACK OR
24 ANYTHING THAT HE DID?
- 25 A HE WAVED BACK.

- 1 Q NOW, DID THAT PERSON STAY ON THE LEFT
2 SIDE OF THE ROAD AS YOU DROVE PAST?
- 3 A YEAH, HE JUST STAYED IN THE SAME SPOT.
- 4 Q NOW, YOU WENT OVER TO THE BOWER
5 RESIDENCE, I BELIEVE IT WAS?
- 6 A NO, THE BATES RESIDENCE.
- 7 Q BATES RESIDENCE, I'M SORRY. NOW, WHEN
8 YOU GOT TO THE BATES RESIDENCE, HOW FAR WAS THAT
9 FROM WHERE THIS WAS ON LITTLE MOUNTAIN ROAD?
- 10 A PROBABLY ABOUT A THIRTY SECOND DRIVE.
- 11 Q OKAY, NOT FAR AT ALL?
- 12 A NOT FAR.
- 13 Q AND WHEN YOU DROVE PAST, WHAT DID YOU
14 THINK WAS GOING ON THERE?
- 15 A WE JUST THOUGHT IT WAS JUST CAR TROUBLE;
16 THE GUY WAS STANDING THERE.
- 17 Q NOW, WHEN YOU GOT TO THE HOUSE, HOW LONG
18 WERE YOU AT--WHAT WAS ON THE TV, BY THE WAY, WHEN
19 YOU GOT TO THE HOUSE?
- 20 A THE BASKETBALL FINALS.
- 21 Q AND HOW LONG HAD YOU BEEN IN THE HOUSE
22 BEFORE THERE WAS A KNOCK ON THE DOOR?
- 23 A APPROXIMATELY FIFTEEN TO TWENTY MINUTES.
- 24 Q AND AS A RESULT OF THE KNOCK ON THE
25 DOOR, WAS SOMEONE AT THE DOOR?

- 1 A YEAH.
- 2 Q DID SOMEONE SAY SOMETHING ABOUT YOUR
- 3 ASSISTANCE?
- 4 A YES,...
- 5 Q WITHOUT GOING INTO WHAT WAS SAID, DO YOU
- 6 REMEMBER WHO THE PERSON WAS?
- 7 A YES, I DO.
- 8 Q WHO WAS IT?
- 9 A DEBORAH SULTON.
- 10 Q DEBORAH SULTON, OKAY. AND AS A RESULT
- 11 OF WHAT DEBORAH SAID, WHAT DID YOU DO?
- 12 A WE WENT BACK WITH HER.
- 13 Q AND WHEN YOU SAY WE, WHO IS WE?
- 14 A ME, JOHNNIE RAY HAWKINS, AND WILLIS
- 15 BATES.
- 16 Q OKAY. HOW LONG AFTER YOU HAD PASSED THE
- 17 SCENE WHERE THE TWO CARS WERE, DID YOU GET BACK TO
- 18 THE SCENE?
- 19 A AROUND TWENTY...TWENTY...ABOUT TWENTY
- 20 MINUTES, MAYBE TWENTY MINUTES.
- 21 Q ALL RIGHT. NOW, WHEN YOU GOT BACK TO
- 22 THE SCENE, HAD THE E.M.S. GOTTEN THERE YET?
- 23 A NO, THEY HADN'T.
- 24 Q HAD THE POLICE GOTTEN THERE YET?
- 25 A NO, THEY HADN'T.

- 1 Q WAS THERE ANYONE ELSE THERE BESIDES THE
2 THREE OF YOU AND MS. SULTON?
3 A I THINK CHARLES SHEALY. I THINK HE CAME
4 DOWN.
5 Q NOW DID YOU APPROACH THE CAR?
6 A YES, I DID.
7 Q DID YOU OBSERVE THE BODY OF VICKIE
8 BECKHAM IN THE CAR?
9 A YES, I DID.
10 Q WHAT WAS YOUR EMOTIONAL STATE AT THAT
11 TIME WHEN YOU SAW THAT?
12 A I GUESS I WOULD SAY I WAS PUZZLED, YOU
13 KNOW, JUST SEEING SOMEBODY DEAD BESIDE THE ROAD.
14 Q AND YOU FEEL LIKE YOUR ADRENALIN WAS
15 PUMPING, CONFUSED?
16 A A LITTLE, YES.
17 Q AND WHAT THE PEOPLE YOU WERE WITH? WAS
18 IT AN EXCITED SITUATION?
19 A SOMEWHAT. I MEAN, WE STARTED TALKING
20 ABOUT IT.
21 Q AND WHAT DID YOU SAY?
22 A I JUST TOLD JOHNNIE RAY, I WAS TELLING
23 HIM ABOUT THE GUY THAT I SAW THAT WAS STANDING
24 BESIDE THE CAR.
25 Q SO YOU TOLD JOHNNIE RAY THAT, AND THIS

1 WAS RIGHT AT THE SAME TIME WHILE YOU WERE STANDING
2 THERE AT THE CAR, LOOKING AT THE BODY?

3 A YEAH, AT THAT TIME.

4 Q AND WHAT DID HE SAY TO YOU?

5 MR. MCMAHON: OBJECTION. OBJECTION TO
6 WHAT.

7 MR. SWERLING: 803(1).

8 THE COURT: OVERRULED.

9 MR. MCMAHON: I DIDN'T HEAR, YOUR HONOR.

10 THE COURT: HE'S ON IT ON 803(1).

11 MR. MCMAHON: I DIDN'T HEAR YOUR RULING,
12 I APOLOGIZE.

13 THE COURT: HE SAYS HE'S OFFERING IT
14 UNDER 803(1). DO YOU WANT TO BE HEARD ON THAT?

15 MR. MCMAHON: I OBJECT.

16 THE COURT: OVERRULED THEN.

17 MR. MCMAHON: ALL RIGHT, SIR. THAT'S
18 WHAT I...

19 THE COURT: ALL RIGHT. I WAS GOING TO
20 HEAR FROM YOU IF YOU WANTED TO, BUT...

21 Q AT THAT TIME WHEN YOU MADE THAT
22 STATEMENT, WHAT DID JOHNNIE RAY SAY TO YOU,
23 STANDING NEAR THE CAR?

24 A HE SAID HE HAD SAW SOMEONE OR SOMETHING,
25 WELL HE SAID HE SAW SOMEONE RUN ACROSS THE ROAD.

- 1 Q ACROSS THE ROAD?
- 2 A YEAH.
- 3 Q NOW, AT THE SAME SCENE?
- 4 A YEAH.
- 5 Q NOW, JUST SO I CAN UNDERSTAND AND
- 6 CLARIFY, AS YOU DROVE PAST, THE PERSON YOU SAW ON
- 7 THE LEFT SIDE OF THE ROAD STAYED RIGHT THERE AND
- 8 WAVED AT YOU?
- 9 A YEAH.
- 10 Q AND YOU WAVED AT HIM?
- 11 A CORRECT.
- 12 Q AND AS YOU DROVE BY, HE WAS STANDING
- 13 THERE? IS THAT RIGHT?
- 14 A CORRECT.
- 15 Q BUT JOHNNIE RAY SAID AT THE SAME AREA,
- 16 HE SAW SOMEBODY RUN ACROSS THE ROAD?
- 17 A RIGHT.
- 18 Q NOW, BY THE WAY, DID YOU TOUCH THE CAR?
- 19 A I DIDN'T THINK I TOUCHED IT, BUT MY
- 20 FINGERPRINT WAS ON IT.
- 21 Q OKAY. AND WERE YOU THERE WHEN E.M.S.
- 22 CAME?
- 23 A YES, I WAS.
- 24 Q WERE YOU THERE WHEN THE POLICE CAME?
- 25 A YES, I WAS.

- 1 Q DID YOU GIVE THEM YOUR IDENTIFICATION?
- 2 A YES, I DID.
- 3 Q AND DID JOHNNIE RAY GIVE IDENTIFICATION?
- 4 A YES, HE DID.
- 5 Q AND AS A RESULT OF YOUR CONVERSATIONS
- 6 WITH THE POLICE, DID YOU AND JOHNNIE RAY COME DOWN
- 7 AND GIVE MAJOR CASE PRINTS?
- 8 A YES, WE DID.
- 9 Q DID YOU COOPERATE WITH THE POLICE?
- 10 A I THINK SO.
- 11 Q HOW LONG DID YOU STAY THERE?
- 12 A I THINK WE ENDED UP LEAVING THE SCENE
- 13 ABOUT TWELVE-SOMETHING THAT NIGHT.
- 14 Q SO YOU WERE THERE A COUPLE OF HOURS?
- 15 A YES, SIR.
- 16 Q AND ABOUT A YEAR LATER, DO YOU RECALL
- 17 THE POLICE COMING TO YOU AND ASKING YOU TO TAKE A
- 18 LOOK AT A CAR THEY HAD IMPOUNDED?
- 19 A YES, SIR.
- 20 Q AND WHICH CAR WAS IT, THE ONE ON THE
- 21 LEFT OR THE ONE ON THE RIGHT SIDE OF THE ROAD?
- 22 A THE ONE ON THE RIGHT SIDE.
- 23 Q ALL RIGHT, AND WERE YOU ABLE TO IDENTIFY
- 24 THAT CAR?
- 25 A YES.

- 1 Q AND NOW, DID YOU KNOW ANY OF THE PEOPLE
2 HERE IN THE COURTROOM PRIOR TO JUNE 12TH?
- 3 A NO, I DIDN'T.
- 4 Q AND WE'VE SPOKEN TO YOU ALSO, HAVE WE
5 NOT?
- 6 A YEAH.
- 7 Q AND THE STATE HAS SPOKEN TO YOU ALSO?
- 8 A YEAH.
- 9 Q YOU'VE SPOKEN TO THE AGENTS AND TO THE
10 SOLICITOR?
- 11 A YES, SIR.
- 12 Q AND YOU WERE SUBPOENAED BY THE STATE FOR
13 THE TRIAL?
- 14 A CORRECT.
- 15 Q AND HOW LONG AGO, LIKE WITHIN RECENT
16 MEMORY, HOW WAS THE LAST TIME YOU WERE CONTACTED BY
17 THE STATE, ANYBODY FROM THE STATE, WITHIN THE LAST
18 COUPLE OF WEEKS?
- 19 A YEAH.
- 20 Q AND ALSO BY MR. HARPOOTLIAN AND MYSELF,
21 WE CAME TO SEE YOU, TOO, DIDN'T WE?
- 22 A YEAH.
- 23 MR. SWERLING: IF THE COURT WOULD
24 INDULGE ME ONE MOMENT?
- 25 Q MR. BOWERS, ONE THING I WANTED TO ASK

1 YOU, WHEN YOU, YOU SAID YOU STAYED THERE AND YOU
2 COOPERATED WITH THE POLICE AND SPOKE WITH THE
3 POLICE IN ADDITION TO GIVING YOUR PRINTS?

4 A YEAH.

5 Q BECAUSE THAT'S WHAT THEY HAD ASKED YOU,
6 CORRECT?

7 A YEAH.

8 Q DO YOU REMEMBER TELLING THE POLICE WHAT
9 THE DESCRIPTION OF THE PERSON WAS?

10 A EH....

11 Q LET ME SEE IF THIS REFRESHES YOUR
12 MEMORY.

13 MR. SWERLING: YOUR HONOR, IT'S ONLY
14 BEING USED TO REFRESH HIS MEMORY.

15 Q I KNOW THIS IS NOT YOUR STATEMENT. SEE
16 IF IT REFRESHES YOUR MEMORY AS TO WHAT YOU TOLD
17 THE POLICE THE DESCRIPTION OF THE PERSON WAS.

18 OKAY, NOW THAT I'VE SHOWN YOU THAT, DOES
19 THAT REFRESH YOUR MEMORY?

20 A YES, IT DOES A LITTLE.

21 Q AND THAT DAY, THAT WAS JUNE 15TH, 1994,
22 WHAT DESCRIPTION DID YOU GIVE THE POLICE?

23 A I'D SAY HE WAS ABOUT MID-THIRTIES, HIS
24 HAIR WAS FLUFFED OUT, HE WAS ABOUT, I'D SAY 160
25 POUNDS OR SO, ABOUT 5'10" TO 6 FEET TALL.

- 1 Q AND ABOUT HIS BUILD?
- 2 A SLIM BUILD.
- 3 Q ALL RIGHT, THANK YOU VERY MUCH, MR.
- 4 BOWERS.
- 5 THE COURT: ALL RIGHT, CROSS
- 6 EXAMINATION, MR. MCMAHON.
- 7 MR. MCMAHON: MAY IT PLEASE THE COURT?
- 8 CROSS EXAMINATION:
- 9 BY MR. MCMAHON:
- 10 Q ROBERT, THE AFTERNOON OF THE 12TH, THAT
- 11 SUNDAY, AS I UNDERSTAND IT, YOU HAD GONE TO A BALL
- 12 GAME IN CHAPIN, IS THAT CORRECT?
- 13 A CORRECT.
- 14 Q AND AFTER THE BALL GAME Y'ALL WENT TO,
- 15 IS IT THE C&L CLUB?
- 16 A CORRECT.
- 17 Q AND THAT'S DOWN THERE OFF OF MEADOWLARK?
- 18 A YES, SIR.
- 19 Q NOW, Y'ALL STAYED DOWN THERE FOR SEVERAL
- 20 HOURS?
- 21 A I WOULD SAY SO.
- 22 Q AND WHEN I SAY SEVERAL HOURS, TWO OR
- 23 THREE?
- 24 A YEAH.
- 25 Q TWO OR THREE HOURS?

1 A YEAH.

2 Q AND I TAKE IT DURING THAT PERIOD OF
3 TIME, THERE WAS, LIKE ON MOST SUNDAY AFTERNOONS,
4 THERE WAS SOCIALIZING AND SUCH AS THAT?

5 A YEAH.

6 Q WAS ANYONE DRINKING? AND WHEN I SAY
7 DRINKING, ALCOHOLIC BEVERAGES?

8 A YEAH, ALL OF US.

9 Q SIR?

10 A ALL OF US.

11 Q ALL OF US? AND OF COURSE, THERE'S
12 NOTHING WRONG WITH THAT, BUT NOW MR. HAWKINS THAT
13 WAS WITH YOU, I BELIEVE Y'ALL ALSO CALL HIM
14 DILLARD?

15 A YES, SIR.

16 Q HAD YOU BEEN DRINKING?

17 A YES, I HAD.

18 Q AND HAD MR. HAWKINS BEEN DRINKING?

19 A YES, HE HAD.

20 Q WOULD IT BE AN UNFAIR STATEMENT TO SAY
21 THAT MR. HAWKINS, DILLARD, HAD HAD MORE TO DRINK
22 THAN YOU DID?

23 A YEAH.

24 Q WOULD THAT BE A FAIR STATEMENT?

25 A YEAH.

- 1 Q AND OF COURSE, YOU WERE DRIVING WHEN
2 Y'ALL LEFT THE CLUB TO GO BACK TO THE BATES'
3 RESIDENCE, YOU WERE DRIVING?
4 A YEAH.
5 Q AND Y'ALL WERE IN YOUR VEHICLE?
6 A YES.
7 Q WHEN YOU LEFT THE CLUB, DID YOU HAVE TO
8 HAVE YOUR LIGHTS ON? WAS IT PRETTY MUCH DUSK DARK,
9 ROBERT?
10 A I WOULD THINK SO. I'M NOT FOR SURE.
11 Q AND THAT AREA, IS THAT A VERY HEAVILY
12 TRAVELLED AREA, THAT SECTION OF MOUNTAIN ROAD?
13 A NOT REALLY.
14 Q AND EVEN IF IT'S NOT QUITE DARK, THAT
15 AREA COMING AROUND THE CURVE AND UP THE MOUNTAIN,
16 IT'S STILL A LITTLE DARKER, ISN'T IT, WITH ALL THE
17 TREES AND FOLIAGE AND SUCH AS THAT?
18 A YES, SIR.
19 Q IS THAT RIGHT?
20 A YES, SIR.
21 Q AND YOU'RE FROM CHAPIN, I BELIEVE?
22 A YES, SIR.
23 Q AND WHEN I SAY FROM CHAPIN, WOULD THAT
24 INCLUDE THE MEADOWLARK AREA?
25 A YEAH.

- 1 Q WOULD YOU CALL THAT CHAPIN?
- 2 A YEAH.
- 3 Q AND YOU'RE FAMILIAR WITH THE MOUNTAIN
- 4 ROAD AREA?
- 5 A YEAH.
- 6 Q AND YOU'RE FAMILIAR WITH THE FACT
- 7 THERE'S BEEN OTHER ACCIDENTS WHERE PEOPLE'S RUN OFF
- 8 THE MOUNTAIN?
- 9 A YES.
- 10 Q AND THEY HAVEN'T BEEN FOUND FOR AWHILE?
- 11 A I WOULDN'T KNOW ABOUT THAT.
- 12 Q BUT I MEAN, BEING FROM CHAPIN AND ALL.
- 13 A YEAH.
- 14 Q THEY'VE HAD SOME ACCIDENTS UP OFF THAT
- 15 MOUNTAIN, IS THAT RIGHT?
- 16 A YEAH.
- 17 Q NOW, WHEN Y'ALL LEFT COMING BACK UP THE
- 18 MOUNTAIN, YOU'D BEEN GOING TOWARD THE TOWN OF
- 19 LITTLE MOUNTAIN?
- 20 A WHEN WE WAS COMING FROM THE CLUB?
- 21 Q CORRECT.
- 22 A YEAH.
- 23 Q AND THE TERM, WOULD YOU DESCRIBE
- 24 DILLARD, MR. HAWKINS, AS PRETTY WELL UNDER THE
- 25 INFLUENCE?

- 1 A YEAH, I WOULD SAY SO.
- 2 Q AND I BELIEVE YOU SAID WHEN MR. SWERLING
- 3 ASKED YOU ABOUT DILLARD SAID, WHEN YOU GOT BACK,
- 4 WHEN YOU GOT BACK TO THE CAR, DILLARD SAID
- 5 SOMETHING ABOUT, "I SAW SOMEBODY OR SOMETHING..."
- 6 IS THAT RIGHT?
- 7 A YEAH.
- 8 Q HE WASN'T EVEN SURE IT WAS A PERSON?
- 9 A WELL, AT THAT TIME, HE SAID HE SAW
- 10 SOMEBODY, THEN HE WASN'T SURE LATER ON.
- 11 Q HE WASN'T SURE LATER ON WHETHER IT WAS
- 12 SOMEBODY OR SOMETHING?
- 13 A YEAH.
- 14 Q HE WASN'T SURE. AND WHEN YOU'RE COMING
- 15 UP THAT MOUNTAIN, YOU'RE DRIVING AND YOU SEE TWO
- 16 VEHICLES. AND THE FIRST VEHICLE YOU PASS IS GOING
- 17 TO BE THE SILVER VEHICLE?
- 18 A YEAH.
- 19 Q THE NISSAN?
- 20 A OKAY.
- 21 Q IS THAT RIGHT?
- 22 A YES, SIR.
- 23 Q AND THAT'S THE ONE YOU GO BACK AND YOU
- 24 SEE THE LADY'S BODY IN?
- 25 A YEAH.

- 1 Q IS THAT RIGHT?
- 2 A CORRECT.
- 3 Q NOW, WHEN Y'ALL WERE GOING UP THE
- 4 MOUNTAIN, YOU SAY THE PERSON WAVED, KIND OF
- 5 ACKNOWLEDGED Y'ALL PASSING?
- 6 A YEAH.
- 7 Q WAS THERE ANY TRAFFIC IN FRONT OR BEHIND
- 8 Y'ALL?
- 9 A NO, NOT THAT I CAN RECALL.
- 10 Q AND I CAN'T REMEMBER, ROBERT, WERE Y'ALL
- 11 IN AN AUTOMOBILE OR A TRUCK? I APOLOGIZE.
- 12 A AN AUTOMOBILE.
- 13 Q AN AUTOMOBILE. AND WHEN THIS PERSON
- 14 WAVED, HOW MANY PEOPLE DID YOU SEE TOTAL, ROBERT?
- 15 A I SAW ONE PERSON.
- 16 Q ONE PERSON. AND YOU THOUGHT MAYBE ONE
- 17 OF THE VEHICLES WAS BROKE DOWN?
- 18 A YEAH.
- 19 Q AND THE SILVER VEHICLE WAS NOT OFF OVER
- 20 IN THE DITCH, WAS IT?
- 21 A NAW, NOT AT THAT TIME.
- 22 Q IT WAS KIND OF ON THE ROADWAY?
- 23 A YEAH.
- 24 Q HEADED DOWNHILL?
- 25 A DOWNHILL.

- 1 Q HEADED TOWARD THE BOTTOM OF THE MOUNTAIN
2 AND THE CURVE?
3 A IT WAS AT A SLANT TOWARD, A SLANT, BUT I
4 DIDN'T THINK IT WAS IN A DITCH.
5 Q IT WASN'T IN THE DITCH YET, YOU DIDN'T
6 THINK?
7 A NO.
8 Q AND DILLARD DIDN'T SAY ANYTHING TO YOU
9 AT THAT TIME?
10 A YOU'RE TALKING ABOUT GOING BY?
11 Q GOING BY.
12 A NO, HE DIDN'T.
13 Q DIDN'T MENTION IT?
14 A NO.
15 Q DIDN'T SAY, "HEY, DID YOU SEE THAT
16 PERSON RUNNING?"
17 A NO.
18 Q DIDN'T SAY A WORD?
19 A NO.
20 Q AND Y'ALL GO ON UP TO THE BATES' HOUSE,
21 AND MAYBE I'VE GOT THIS WRONG. IS MS. BATES
22 DILLARD'S MOTHER?
23 A CORRECT.
24 Q IS THAT CORRECT? AND Y'ALL WERE THERE A
25 FEW MINUTES, ABOUT HOW LONG?

- 1 A ABOUT FIFTEEN OR TWENTY MINUTES.
- 2 Q SO ABOUT WHAT TIME IS IT WHEN YOU HEAR
- 3 THE KNOCK ON THE DOOR?
- 4 A I'D SAY AROUND 9:20 OR 9:30, SOMEWHERE
- 5 IN THERE.
- 6 Q NINE-TWENTY TO NINE-THIRTY, AND IF Y'ALL
- 7 HAD BEEN THERE ABOUT TWENTY MINUTES, IT WAS NINE
- 8 O'CLOCK OR TEN AFTER NINE WHEN Y'ALL PASSED BY THAT
- 9 AREA, IS THAT RIGHT?
- 10 A COMING...
- 11 Q IS THAT A FAIR STATEMENT?
- 12 A APPROXIMATELY, YEAH.
- 13 Q AND THEN APPROXIMATELY 9:20 OR 9:30, MS.
- 14 SULTON'S AT THE DOOR AND Y'ALL GO BACK DOWN THERE
- 15 WITH HER?
- 16 A CORRECT.
- 17 Q NOW, DILLARD WAS STILL PRETTY MUCH IN
- 18 THE SAME CONDITION AT 9:20 OR 9:30 THAT HE WAS IN
- 19 AT 9:00 OR 9:10, IS THAT A FAIR STATEMENT?
- 20 A YEAH.
- 21 Q WAS HE IN ANY WORSE CONDITION?
- 22 A NO.
- 23 Q BUT ABOUT THE SAME?
- 24 A ABOUT THE SAME.
- 25 Q AND WHEN YOU GO BACK DOWN THERE, YOU GO

1 BACK WITH MS: SULTON?

2 A WELL, WE DROVE, WE FOLLOWED HER.

3 Q BUT Y'ALL ALL GO BACK AT THE SAME TIME?

4 A YEAH.

5 Q AND THAT'S WHEN YOU SEE THE VEHICLE?

6 A CORRECT.

7 Q AND THAT'S THE FIRST TIME DILLARD EVER

8 SAYS ANYTHING ABOUT THIS FELLOW RUNNING, OR THIS

9 SOMEBODY RUNNING...

10 MR. SWERLING: YOUR HONOR, HE SAID

11 SOMEBODY.

12 MR. MCMAHON: SOMEBODY. THIS FELLOW, I

13 SAID, OR SOMEBODY.

14 THE COURT: HE'S GOT IT PHRASED RIGHT.

15 MR. MCMAHON: I APOLOGIZE, I DIDN'T MEAN

16 TO MIS-CHARACTERIZE IT.

17 A CAN YOU REPEAT THAT AGAIN?

18 Q THAT'S THE FIRST TIME DILLARD EVER SAYS

19 ANYTHING ABOUT SOMEBODY?

20 A YEAH.

21 Q AND LATER ON, HE SAYS, "WELL, MAYBE IT

22 WAS SOMETHING..."

23 MR. SWERLING: OBJECTION, LATER ON, IS

24 NOT 803(1).

25 THE COURT: OVERRULED. THE QUESTION HAS

1 BEEN ASKED AND ANSWERED.

2 MR. MCMAHON: I WAS JUST TRYING TO GET
3 THE TIMING STRAIGHT.

4 MR. SWERLING: YOUR HONOR, I WAS
5 OBJECTING BECAUSE IT'S NOT 803(1) ANYMORE UNLESS HE
6 CAN...

7 THE COURT: LET ME TELL YOU WHERE I'M
8 COMING FROM.

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

12 THE COURT: OBJECTION OVERRULED.

13 Q AT ONE TIME, DILLARD SAID MAY HAVE SAW
14 SOMEBODY OR SOMETHING RUNNING?

15 A CORRECT.

16 Q NOW, THIS PERSON YOU SAW, AND IT WAS
17 JUST ONE PERSON?

18 A ONE PERSON.

19 Q WAS MALE OR FEMALE?

20 A MALE.

21 Q A WHITE MALE?

22 A A WHITE MALE.

23 Q ALL RIGHT, SIR, NOW ORIGINALLY I BELIEVE
24 MR. SWERLING ASKED YOU HOW DID THE DESCRIPTION OF
25 THIS PERSON COMPARE AS BETWEEN MR. SWERLING AND

1 HERB; DO YOU RECALL HIM ASKING YOU THAT QUESTION,
2 ROBERT?

3 A YES.

4 Q AND YOU SAID HE COMPARED MORE TO MR.
5 SWERLING'S BUILD THAN TO HERB'S BUILD, IS THAT
6 RIGHT?

7 A CORRECT.

8 Q AND YOU WENT BACK, WELL LET ME ASK YOU
9 THIS. WOULD YOU DESCRIBE MR. SWERLING AS BEING IN
10 HIS THIRTIES?

11 A NO, I WOULDN'T.

12 Q BUT THAT WAS WHAT YOU THINK YOU GAVE THE
13 POLICE AS HIS AGE RANGE BACK WHEN YOU TALKED TO
14 THEM BACK IN JUNE OF '94?

15 A YEAH, ABOUT MID TO LATE THIRTIES.

16 Q AND I DIDN'T NOTICE, AND I'M GOING TO
17 HAND YOU THIS DOCUMENT, AND I BELIEVE IT'S A COPY
18 OF THE SAME DOCUMENT THAT MR. SWERLING SHOWED YOU,
19 ROBERT. I DIDN'T NOTICE THE AGE BEING INDICATED IN
20 THAT DOCUMENT.

21 A NO, BECAUSE I GAVE ANOTHER STATEMENT; I
22 THINK, WHEN I TALKED WITH THE POLICE, I TOLD THEM
23 MID-THIRTIES.

24 MR. HARPOOTLIAN: CAN'T HEAR HIM.

25 Q I UNDERSTAND. SO, AND THEN YOU DESCRIBE

1 IN THAT STATEMENT, WHAT HEIGHT WOULD YOU HAVE SAID
2 THIS PERSON WAS?

3 A ABOUT 5'10 TO 6 FEET TALL.

4 Q AND YOU WOULDN'T DESCRIBE MR. SWERLING
5 AS 5'10" TO 6 FEET TALL?

6 A NO, HE'S TALLER THAN THAT.

7 Q HE'S TALLER THAN THAT?

8 A YEAH.

9 Q AND THEN WHAT BUILD WOULD YOU DESCRIBE
10 THE PERSON AS HAVING?

11 A SLIM.

12 Q WOULD YOU DESCRIBE HIS BUILD THE SAME AS
13 MR. SWERLING'S?

14 A NO, HE'S A LITTLE SMALLER.

15 Q ALL RIGHT, SIR. AND I BELIEVE IN THAT
16 STATEMENT, DID YOU INDICATE WHAT TYPE OF PANTS HE
17 HAD ON?

18 A NOT IN THIS STATEMENT HERE.

19 Q YOU JUST KIND OF SAID HE WAS NOT WELL
20 DRESSED?

21 A NOT WELL DRESSED.

22 Q NOT WELL DRESSED. BUT YOU DIDN'T
23 INDICATE AT THAT TIME WHETHER HE DID OR DID NOT
24 HAVE ON SHORTS?

25 A NO, I DIDN'T.

- 1 Q ALL RIGHT, SIR, BUT WHATEVER, WHETHER HE
2 DID OR DIDN'T HAVE ON SHORTS, DO YOU REMEMBER THAT
3 NOW?
- 4 A YES.
- 5 Q WHEN DID YOU...
- 6 A I SEEM TO RECALL THAT HE HAD ON SHORTS.
- 7 Q SEEM TO RECALL THAT HE HAD ON SHORTS?
- 8 A YES, SIR.
- 9 Q AND WHEN DID YOU SEEM TO RECALL THAT,
10 ROBERT?
- 11 A I'M NOT SURE ON THAT. I'M THINKING IT
12 WAS BEFORE, PROBABLY RIGHT AFTER I GAVE THIS
13 STATEMENT.
- 14 Q RIGHT AFTER YOU GAVE THE STATEMENT?
- 15 A UH-HUH.
- 16 Q AND REGARDLESS, WHEN YOU RECALL THAT,
17 YOU RECALL THEY WERE BLUE-JEANS?
- 18 A YEAH, THEY WAS CUT OFF LIKE FRIZZY AT
19 THE BOTTOM.
- 20 Q THEY WERE BLUE-JEANS?
- 21 A BLUE-JEANS.
- 22 Q AND YOU RECALLED THAT LATER?
- 23 A YEAH.
- 24 Q NOW, ROBERT, YOU WERE ALSO HYPNOTIZED?
- 25 A YES, I WAS.

1 Q AND THAT WAS DONE AFTER YOU GAVE YOUR
2 STATEMENT, YOUR ORIGINAL STATEMENT?

3 A YES.

4 Q THANK YOU. I DON'T HAVE ANY FURTHER
5 QUESTIONS.

6 THE COURT: REDIRECT?

7 REDIRECT EXAMINATION:

8 BY MR. SWERLING:

9 Q BY THE WAY, WHO HAD YOU HYPNOTIZED?

10 A NEWBERRY SHERIFF'S DEPARTMENT.

11 Q AND WAS THAT IN AN EFFORT TO FURTHER THE
12 INVESTIGATION?

13 A I WOULD THINK SO.

14 Q YOU COOPERATED WITH THEM AS MUCH AS YOU
15 COULD?

16 A YES, I DID.

17 Q DID THEY DRAW ANY COMPOSITES AS A RESULT
18 OF THAT, OF WHAT YOU TOLD THEM?

19 A I'M NOT SURE. I DON'T THINK SO.

20 Q ALL RIGHT. WHAT WAS THE FIRST TIME YOU
21 MET ME AND MR. HARPOOTLIAN?

22 A WHEN Y'ALL CAME OUT TO MY HOUSE.

23 Q AND HOW LONG AGO WAS THAT?

24 A PROBABLY A COUPLE OF WEEKS AGO.

25 Q OKAY. NOW, AS FAR AS THE SHORTS

1 SITUATION, YOU TOLD THE POLICE THAT A LONG TIME
2 AGO, DIDN'T YOU?

3 A I SEEM TO RECALL I DID.

4 Q THE CUT-OFF BLUE JEANS, AND THAT WAS
5 SOMETIME AFTER YOU FIRST SPOKE WITH THEM?

6 A YEAH.

7 Q BUT SHORTLY THEREAFTER?

8 A YEAH.

9 Q ALL RIGHT, BUT YOU DIDN'T HEAR FROM US
10 UNTIL WITHIN THE LAST COUPLE OF WEEKS, IS THAT
11 CORRECT?

12 A CORRECT.

13 Q ALL RIGHT. LET ME JUST ASK YOU THIS.
14 THE PERSON YOU SAW IN THE ROAD THAT NIGHT, DID HE
15 WEIGH 275 POUNDS OR 175 POUNDS?

16 A PROBABLY MORE NEAR 175 POUNDS.

17 Q OKAY. ALL RIGHT.

18 MR. SWERLING: I BELIEVE THAT'S ALL I
19 HAVE, YOUR HONOR.

20 THE COURT: RECROSS---WAIT, WAIT, WAIT.

21 THIS IS HIS WITNESS, YOU'RE ENTITLED TO RECROSS.

22 RECROSS EXAMINATION:

23 BY MR. MCMAHON:

24 Q ROBERT, THE FIRST TIME YOU TALKED TO MR.
25 SWERLING AND MR. HARPOOTLIAN OR A MEMBER OF THEIR

- 1 STAFF WAS NOT TWO WEEKS AGO?
- 2 A I SAID, PROBABLY A COUPLE OF WEEKS. I'M
- 3 NOT SAYING TWO WEEKS; MIGHT HAVE BEEN THREE. THEY
- 4 CAME OUT TO MY HOUSE.
- 5 Q DIDN'T YOU TALK WITH THEM BEFORE THAT?
- 6 DIDN'T YOU MEET WITH THEM BEFORE THAT, OR A MEMBER
- 7 OF THEIR STAFF?
- 8 A I MET WITH MR. CARVENO.
- 9 Q MR. CARVENO. AND WHEN WAS THAT?
- 10 A I CAN'T REMEMBER. I CAN'T REMEMBER
- 11 EXACTLY.
- 12 Q AND HOW DID YOU COME TO HAVE A MEETING
- 13 WITH MR. CARVENO?
- 14 A HE CALLED ME, CALLED ME ON THE PHONE.
- 15 Q AND HOW WAS THAT SET UP?
- 16 A WE MET AT THE I-HOP ON ST. ANDREWS ROAD.
- 17 Q AND ABOUT WHEN WAS THAT?
- 18 A THAT WAS PROBABLY ABOUT TWO WEEKS BEFORE
- 19 I MET WITH MR. HARPOOTLIAN AND MR. SWERLING.
- 20 Q SO YOU MET THEIR INVESTIGATOR FIRST IN
- 21 COLUMBIA?
- 22 A YEAH.
- 23 Q IS THAT RIGHT?
- 24 A CORRECT.
- 25 Q AND THEN LATER ON, MET WITH THEM?

1 A YEAH.

2 Q IS THAT RIGHT?

3 A YEAH.

4 Q OKAY, THANK YOU. I DON'T HAVE ANY
5 FURTHER QUESTIONS.

6 THE COURT: ALL RIGHT, THANK YOU, SIR.
7 YOU MAY STEP DOWN.

8 ANY REASON THIS WITNESS CAN'T BE EXCUSED
9 FROM THE SUBPOENA?

10 MR. SWERLING: NO, SIR.

11 THE COURT: STATE?

12 MR. MCMAHON: NO, SIR.

13 THE COURT: ALL RIGHT, WITHOUT
14 OBJECTION.

15 ALL RIGHT, LADIES AND GENTLEMEN OF THE
16 JURY PANEL, THIS IS PROBABLY A GOOD SPOT TO BREAK
17 FOR LUNCH, AND I'D ASK YOU TO BE BACK AT 2:15 AND
18 WE'LL CONTINUE ALONG WITH THE TESTIMONY FOR TODAY.
19 HAVE A NICE LUNCH.

20 (JURY RECESSED FOR LUNCH AT 1:07 P.M.)

21 THE COURT: ALL RIGHT, 2:15.

22 (RECONVENED WITH JURY RETURNING TO OPEN
23 COURTROOM AT 2:20 P.M.)

24 THE COURT: ALL RIGHT, MR. HARPOOTLIAN,
25 CALL YOUR NEXT WITNESS, PLEASE.

1 MR. HARPOOTLIAN: PAULETTE SUTTON.

2 PAULETTE SUTTON, BEING DULY

3 SWORN, TESTIFIED AS FOLLOWS:

4 DIRECT EXAMINATION:

5 BY MR. HARPOOTLIAN:

6 A MY NAME IS PAULETTE SUTTON. THE LAST
7 NAME IS SPELLED S-U-T-T-O-N.

8 Q ALL RIGHT, MS. SUTTON, LET ME ASK YOU A
9 LITTLE BIT ABOUT YOUR EDUCATIONAL BACKGROUND,
10 PLEASE.

11 A YES, SIR. I RECEIVED MY UNDERGRADUATE
12 DEGREE FROM THE UNIVERSITY OF TENNESSEE IN MEMPHIS,
13 IN WHAT IS KNOWN AS MEDICAL TECHNOLOGY. MY
14 GRADUATE DEGREE IS FROM THE UNIVERSITY OF ARKANSAS
15 OUT OF FAYETTEVILLE, ARKANSAS.

16 Q JUST ONE SECOND. I'M SORRY TO HAVE
17 INTERRUPTED YOU. CONTINUE WITH YOUR EDUCATION,
18 PLEASE.

19 A YES, SIR. I'VE ALSO ATTENDED COURSES AT
20 THE F.B.I. ACADEMY, NORTHWEST LOUISIANA CRIME LAB,
21 NATIONAL COLLEGE OF DISTRICT ATTORNEYS TO NAME A
22 FEW.

23 Q NOW, WHERE ARE YOU EMPLOYED CURRENTLY?

24 A AT THE UNIVERSITY OF TENNESSEE IN
25 MEMPHIS.

1 Q AND HOW LONG HAVE YOU BEEN SO EMPLOYED?

2 A TWENTY YEARS.

3 Q AND WHAT DO YOU DO FOR THEM?

4 A I'M THE SUPERVISOR OF THE FORENSIC
5 SEROLOGY LAB AND MEDICAL EXAMINERS OFFICE THERE AT
6 THE UNIVERSITY, AND ALSO AN ASSOCIATE PROFESSOR
7 THERE.

8 Q NOW, FORENSIC SEROLOGY, WHAT IS THAT?

9 A BASICALLY THE ANALYSIS OF BODY FLUIDS
10 FOR MEDICAL LEGAL MATTERS.

11 Q ALL RIGHT, AND AS SUCH, HAVE YOU EVER
12 TESTIFIED IN THE COURTS OF THIS STATE OR ANY OTHER
13 STATE, OR IN THE FEDERAL COURTS, CONCERNING, AND
14 BEEN QUALIFIED AS AN EXPERT IN THE AREA OF FORENSIC
15 SEROLOGY?

16 A I'VE NOT TESTIFIED IN THIS STATE
17 PREVIOUS TO TODAY, BUT I HAVE IN OTHER STATES, YES
18 SIR.

19 Q ON HOW MANY DIFFERENT OCCASIONS?

20 A I'VE NEVER KEPT A COUNT OF THEM.

21 Q JUST ESTIMATE.

22 A OH, I GUESS OVER TWENTY YEARS AT LEAST
23 TWO HUNDRED TIMES.

24 Q ALL RIGHT, AND YOU ARE CERTIFIED IN A
25 NUMBER OF STATES TO TEACH AT THEIR LAW ENFORCEMENT

1 ACADEMIES?

2 A YES, SIR, I AM.

3 Q AND YOU HAVE DONE THAT?

4 A YES, SIR.

5 Q YOU'VE ALSO TAUGHT AT THE NATIONAL

6 DISTRICT ATTORNEYS ASSOCIATION'S COLLEGE OF

7 DISTRICT ATTORNEYS?

8 A YES, SIR, I AM DISTINGUISHED FACULTY

9 THERE.

10 Q ALL RIGHT. AND YOU HAVE TAUGHT A NUMBER

11 OF DIFFERENT PROSECUTORS AND DEFENSE ATTORNEYS

12 SEMINARS, HAVE YOU NOT?

13 A YES, SIR.

14 Q AND OVER YOUR CAREER, YOU'VE TESTIFIED

15 IN A NUMBER OF DIFFERENT TRIALS BOTH FOR THE STATE

16 AND FOR THE DEFENSE, IS THAT CORRECT?

17 A YES, SIR.

18 Q AND YOU'VE BEEN QUALIFIED IN TENNESSEE,

19 ARKANSAS, FLORIDA, INDIANA AND MISSISSIPPI ON A

20 NUMBER OF DIFFERENT AREAS INVOLVING SEROLOGY, ALSO,

21 IS THAT CORRECT?

22 A YES, SIR.

23 Q AMONG OTHER STATES.

24 MR. HARPOOTLIAN: YOUR HONOR, WE'D MOVE

25 TO HAVE MS. SUTTON QUALIFIED IN THE AREA OF

1 FORENSIC SEROLOGY?

2 THE COURT: DO YOU WISH TO EXAMINE THE
3 WITNESS, MR. COULTER?

4 MR. COULTER: NO, SIR.

5 THE COURT: WITHOUT OBJECTION. YOU MAY
6 PROCEED.

7 Q (BY MR. HARPOOTLIAN) ALL RIGHT, NOW,
8 MS. SUTTON, LET ME REFER YOU TO -- LET ME SEE IF I
9 CAN DO THIS IN A LOGICAL FASHION. I WANT TO REFER
10 YOU TO STATE'S EXHIBIT NUMBER TWENTY-ONE. AND I'M
11 GOING TO NEED...I DON'T DO A VERY GOOD JOB OF THIS.
12 I NEED THE PIECE OF PAPER WITH THE DOT ON IT.

13 COURT REPORTER: IT'S IN YOUR STACK
14 RIGHT THERE.

15 MR. HARPOOTLIAN: IS IT IN OUR STACK?
16 OKAY, I'M SORRY.

17 Q OKAY, LET ME REFER YOU TO STATE'S
18 EXHIBIT NUMBER TWENTY-ONE WHICH IS A PAIR OF TENNIS
19 SHOES.

20 A DO YOU HAVE ANY GLOVES?

21 Q I'LL HOLD IT.

22 A OKAY.

23 Q WHY IS IT YOU WOULD WANT GLOVES?

24 A WELL, ANYBODY, ANYTHING THAT COMES INTO
25 A CRIME LAB WE ALWAYS CONSIDER THE POTENTIAL THAT

1 IT HAS BODY FLUIDS ON IT, AND WE DON'T WANT TO
2 CATCH ANY INFECTIOUS DISEASES.

3 Q COULD YOU CATCH INFECTIOUS DISEASES TWO
4 YEARS AFTER THE ITEM COMES IN?

5 A IT'S POSSIBLE, SURE.

6 Q OKAY.

7 (HYSTERICAL LAUGHTER)

8 A WHICH IS PROBABLY WHY YOU SHOULD BE
9 WEARING GLOVES.

10 Q OKAY. WHAT KIND OF DISEASES TWO YEARS
11 LATER? I MEAN, NOTHING...

12 A HEPATITIS IS REALLY ABOUT...

13 Q HEPATITIS, OKAY. LET'S SAY WE HAD A
14 PAIR OF SNEAKERS, AND IN THE PROCESS OF EXAMINING
15 THOSE SNEAKERS, A FORENSIC SEROLOGIST SUCH AS
16 YOURS, IDENTIFIED A SPOT WHICH APPEARED TO BE A
17 BLOOD COLOR THE SIZE OF THE DOT YOU SEE ON
18 DEFENDANT'S EXHIBIT SIX, WITH THE ARROW DRAWN TO
19 IT; THAT LITTLE DOT.

20 A YES, SIR.

21 Q OKAY. NOW, AFTER DISCOVERING THAT
22 ITEM,-- LET ME GET FOR YOU--AND I BELIEVE I'VE
23 SHOWN YOU BEFORE THE TEST PROCESS AND RESULTS THAT
24 NANCY SKRABA CONDUCTED.

25 A YES, SIR.

1 Q AND HER ANALYSIS PROCESS, IS THAT
2 CORRECT?

3 A YES, SIR.

4 Q AND I BELIEVE THIS IS THAT, IS THAT
5 CORRECT?

6 A YES, SIR, THIS IS THE WORKSHEET.

7 Q NOW, THE WORKSHEET, AND MS. SKRABA
8 INDICATED TWO TESTS HAD BEEN RUN ON THAT ITEM, IS
9 THAT CORRECT?

10 A ACTUALLY, THREE.

11 Q THREE, OKAY. WELL, THE TWO, WERE THEY
12 CONDUCTED BY MS. SKRABA--WEREN'T JUST TWO OF THEM
13 CONDUCTED BY MS. SKRABA, OR THREE?

14 A NOW, I'M NOT SURE WHO CONDUCTED THE
15 TESTS. SIMPLY LOOKING AT THE WORKSHEET, THERE ARE
16 THREE CATEGORIES FILLED OUT, SO THERE ARE ACTUALLY
17 THREE DIFFERENT TESTS.

18 Q OKAY. WELL, EXPLAIN TO ME, FIRST OF
19 ALL, WHAT TESTS, WAS IT YOUR UNDERSTAND WAS
20 CONDUCTED ON THAT DOT?

21 A THE PHENOLPHTHALEIN SCREENING TEST FOR
22 BLOOD...

23 Q RIGHT.

24 A AND ANTI-HUMAN SPECIES IDENTIFICATION
25 AND THEN A PGM SUBTYPE.

1 Q OKAY. NOW, FROM YOUR EXPERIENCE, HAVE
2 YOU RUN TESTS ON BLOOD, ATTEMPTING...ON A SUBSTANCE
3 ATTEMPTING TO DETERMINE WHETHER OR NOT IT'S HUMAN
4 BLOOD?

5 A YES, SIR.

6 Q ARE THOSE THE TESTS YOU RUN?

7 A I RUN THESE TESTS, BUT I ALSO RUN
8 ADDITIONAL TESTS.

9 Q AND THE ADDITIONAL TESTS WOULD BE WHAT?

10 A I RUN A CONFIRMATION TESTS FOR THE
11 PRESENCE OF BLOOD BETWEEN THE PHENOLPHTHALEIN AND
12 THE ANTI-HUMAN TEST.

13 Q AND WHY DO YOU DO THAT?

14 A TO CONFIRM THAT THE SUBSTANCE IS INDEED
15 BLOOD.

16 Q DO YOU HAVE AN OPINION AS TO WHETHER OR
17 NOT THE TESTS RUN THERE ARE CONCLUSIVE AS TO THE
18 PRESENCE OF HUMAN BLOOD?

19 A I DON'T FEEL LIKE THEY'RE CONCLUSIVE,
20 NO.

21 Q ARE THERE OTHER REASONABLE EXPLANATIONS
22 FOR THOSE TESTS SHOWING POSITIVE OTHER THAN BLOOD,
23 HUMAN BLOOD?

24 A IT'S ALWAYS A POSSIBILITY. THAT'S MY
25 CONCERN.

1 Q OKAY. AND IN YOUR TWENTY-SOMETHING
2 YEARS OF DOING TESTING OF SUBSTANCES BROUGHT TO
3 YOU, I MEAN, UNKNOWNNS ARE BROUGHT TO YOU AND THEN
4 YOU RUN A CHEMICAL TEST ON THEM TO DETERMINE WHAT
5 THEY ARE, CORRECT?

6 Q IN THE PROCESS OF DOING THAT FOR SOME
7 TWENTY YEARS, DO YOU RUN AN ADDITIONAL TEST, I
8 GUESS IS WHAT I'M ASKING YOU?

9 A YES, SIR, I DO.

10 Q AND WHAT IS THAT TEST CALLED?

11 A I EITHER DO A TAKAYAMA CONFIRMATION TEST
12 FOR BLOOD OR AN ANTI-HUMAN HEMOGLOBIN CONFIRMATION
13 TEST. A BASIC CATEGORY OF CONFIRMATION TESTS FOR
14 BLOOD.

15 Q WITHOUT THAT TEST, IS THERE SOME OTHER
16 REASONABLE EXPLANATION FOR THESE TESTS SHOWING
17 POSITIVE?

18 A WITHOUT WHICH?

19 Q WITHOUT THE CONFIRMATION TEST YOU'RE
20 TALKING ABOUT; JUST RUNNING THE TESTS WE SEE THAT
21 MS. SKRABA RAN, IS THERE SOME OTHER REASONABLE
22 EXPLANATION, OTHER THAN THE PRESENCE OF HUMAN
23 BLOOD?

24 A THERE'S A POSSIBILITY, AND AGAIN, THAT
25 IS MY CONCERN.

- 1 Q OKAY. WELL, LET'S TAKE THE TEST SHE
2 RAN. SHE RAN A PHENOL TEST. ARE THERE SUBSTANCES
3 OTHER THAN HUMAN BLOOD OR --YEAH, ARE THERE
4 SUBSTANCES OTHER THAN HUMAN BLOOD THAT THAT REACTS
5 POSITIVELY WITH?
- 6 A YES, SIR.
- 7 Q LIKE?
- 8 A WELL, FIRST OFF, THE PHENOL TEST, THE
9 PHENOLPHTHALEIN TEST DOES NOTHING TO IDENTIFY THE
10 SPECIES OF THE STAIN ITSELF. IT'S ONLY GIVING US
11 AN INDICATION IN THE LAB, OR ON THE SCENE, THAT
12 THIS STAIN POTENTIALLY IS BLOOD. OTHER THINGS THAT
13 WE KNOW CAN REACT WITH THAT TEST BESIDES BLOOD IN
14 GENERAL ARE SOME VEGETABLE MATERIALS, SOME
15 CHEMICALS, ESPECIALLY BLEACH AND CLEANSING AGENTS,
16 THINGS LIKE THAT THAT MIGHT BE FOUND IN A HOUSE.
17 AND THEN THE LITERATURE ALWAYS ADDS INTO THAT OTHER
18 HUMAN BODY FLUIDS BESIDES BLOOD.
- 19 Q SUCH AS URINE?
- 20 A IT WOULD BE A POSSIBILITY BECAUSE IT IS
21 THE BASIS OF A TEST THAT WE USE CLINICALLY TO TEST
22 FOR BLOOD IN URINE.
- 23 Q OKAY, NOW THE OTHER TEST SHE RAN WAS
24 WHAT TEST? SHE RAN A COUPLE OF OTHER TEST?
- 25 A SHE RAN THE ANTI-HUMAN SPECIES

1 IDENTIFICATION.

2 Q WHAT DOES THAT INDICATE?

3 A THAT INDICATES THAT THE SUBSTANCE THAT
4 YOU'RE TESTING IN THE LABORATORY IS HUMAN IN
5 ORIGIN.

6 Q OKAY. SO WE HAVE SOMETHING THAT REACTS
7 WITH THE PHENOL TEST, AND SOMETHING THAT SHOWS IT'S
8 HUMAN IN ORIGIN, IS THAT CORRECT?

9 A YES, SIR.

10 Q DID SHE DO A SPECIFIC TEST TO SHOW
11 WHETHER OR NOT IT WAS BLOOD?

12 A NO, SIR.

13 Q AGAIN, WOULD URINE REACT, WOULD THERE BE
14 PROTEIN OR HUMAN PROTEIN IN URINE WHICH WOULD REACT
15 ON THE SECOND TEST?

16 A YES, SIR.

17 Q SEMEN?

18 A SEMEN, YES SIR.

19 Q SLOUGHED OFF SKIN?

20 A YES, SIR.

21 Q NOW, I THINK YOU'VE INDICATED THAT SOME
22 GRASSES REACT WITH THE FIRST TEST, PHENOL, THE
23 PHENOL TEST?

24 A YES, SIR.

25 Q FESCUE GRASS, FOR INSTANCE?

- 1 A ZOYSIA, I KNOW.
- 2 Q ZOYSIA, I'M SORRY.
- 3 A I HAVE NOT TESTED FESCUE PERSONALLY.
- 4 Q OKAY, BUT SOME GRASSES REACT ON THE
- 5 FIRST TEST, SO IF YOU HAD A GRASS STAIN, PLUS
- 6 URINE, YOU MIGHT GET POSITIVES ON BOTH TESTS, IS
- 7 THAT CORRECT?
- 8 A YES, SIR, IT WOULD BE POSSIBLE.
- 9 Q AND TO DETERMINE AND RULE OUT THE THINGS
- 10 I'M TALKING ABOUT, ONE HAS TO DO THE HEMOGLOBIN
- 11 TEST?
- 12 A A CONFIRMATION TEST WHICH THAT IS WHAT
- 13 WE'RE TESTING FOR IS HEMOGLOBIN.
- 14 Q OKAY.. AND THERE ARE TWO KINDS OF THOSE
- 15 YOU TALKED ABOUT?
- 16 A WELL, BASICALLY. THERE ARE A FEW
- 17 OTHERS, BUT THOSE ARE THE PRIMARY ONES THAT I KNOW
- 18 OF BEING USED IN THE UNITED STATES.
- 19 Q OKAY. AND THEN THERE'S AN EVEN MORE
- 20 SPECIFIC TEST THAT CAN BE RUN ON A SUBSTANCE CALLED
- 21 DNA, IS THAT CORRECT?
- 22 A YES, SIR.
- 23 Q AND THAT'S EVEN MORE, I MEAN THAT WOULD
- 24 ALLOW YOU TO KNOW NOT ONLY WHETHER IT THERE IS
- 25 HUMAN BLOOD PRESENT, WOULD ALLOW YOU TO TYPE IT, IS

1 THAT CORRECT?

2 A ONE VERSION WILL, SAY DOING THE DNA
3 TESTING WOULD TELL YOU THAT IT WAS HUMAN BLOOD, AND
4 THEN OF COURSE, TYPING IT, YES.

5 Q AND BY TYPING, I MEAN WHETHER IT WAS A,B
6 OR O. AND MAYBE EVEN MORE DEFINED THAN THAT, IS
7 THAT CORRECT?

8 A WELL, DNA WON'T TELL YOU A, B, AND O.
9 BUT IT TELLS YOU THEIR DNA TYPE, WHATEVER SYSTEM
10 WE'RE USING.

11 Q OKAY. SO IF YOU HAD SOMEONE WHO HAD
12 BEEN MURDERED, AND THEN YOU HAD SOMEONE WHO WAS A
13 SUSPECT WITH WHAT APPEARED TO BE A MINUTE PORTION
14 THAT SIZE ON A SHOE, IT WOULD BE POSSIBLE TO TAKE
15 AN ITEM THAT SIZE, HAVE IT RUN THROUGH THIS DNA
16 ANALYSIS AND BE A LOT, LOT, LOT MORE SPECIFIC IN
17 COMPARING IT TO THE DECEASED'S BLOOD THAN WHAT WE
18 SEE HERE, IS THAT NOT CORRECT?

19 A YES, SIR, IT WOULD BE POSSIBLE.

20 Q AND EVEN IF YOU DIDN'T DO DNA, YOU COULD
21 DO AN ADDITIONAL CONFIRMATION TEST, THE TAKAYAMA,
22 WHATEVER HEMOGLOBIN TEST AND THAT WOULD AT LEAST
23 TELL YOU IT WAS HUMAN BLOOD, IS THAT CORRECT?

24 A WITH THE COMBINATION...

25 Q THE PHENOL PLUS?

1 A OR AT LEAST THE TAKAYAMA AND THE SPECIES
2 IDENTIFICATION.
3 Q OKAY. NOW, THERE IS A VERY SMALL AMOUNT
4 HERE, IS THAT CORRECT?
5 A YES, SIR, IT SURE IS.
6 Q VERY SMALL AMOUNT. AND IN THE PROCESS
7 OF DOING THESE TESTS, YOU CONSUME SOME OF THAT
8 SAMPLE, DO YOU NOT?
9 A YES, SIR.
10 Q AND IN THE PROCESS OF CONSUMING THE
11 SAMPLE, YOU RUN OUT AT SOME POINT IF YOU RUN
12 SEVERAL TESTS, IS THAT CORRECT?
13 A YES, SIR.
14 Q NOW, IF YOU HAD BEEN DOING THIS TEST,
15 WHAT WOULD YOU HAVE DONE DIFFERENTLY TO DETERMINE
16 WHETHER OR NOT THIS WAS HUMANE BLOOD?
17 A THE PROTOCOL THAT OUR STATE LAB HAS US
18 USE IS TO STILL IDENTIFY THE PRESENCE OF HUMAN
19 BLOOD. THE ONLY DIFFERENCE IS WE WOULD USE A
20 CONFIRMATION TEST, A TEST THAT DIDN'T CROSS-REACT
21 WITH OTHER SUBSTANCES, TO BE MORE SPECIFIC. AND
22 THEN DO THE SPECIES IDENTIFICATION. THEN THEY
23 WOULD ACCEPT IT FOR DNA ANALYSIS.
24 Q SO THERE'S A SPECIFIC TEST, THE
25 HEMOGLOBIN TEST WHICH SAYS THERE'S BLOOD HERE, IS

1 THAT CORRECT?

2 A YES, SIR.

3 Q AND THEN THERE'S A SPECIFIC SPECIES
4 IDENTIFICATION TEST TELLING YOU IT'S HUMAN BLOOD?

5 A THE SPECIES DOESN'T TELL YOU IT'S BLOOD,
6 IT JUST TELLS YOU THE SPECIES OF ORIGIN. IT'S A
7 PROTEIN FROM THIS ANIMAL.

8 Q FROM A HUMAN, DOG, CAT...

9 A RIGHT. YOU COMBINE THE TWO TO BE ABLE
10 TO MAKE THE STATEMENT HUMAN BLOOD.

11 Q WITHOUT THOSE TESTS, YOU WOULD NOT BE
12 ABLE TO STATE UNDER OATH THAT THIS WAS HUMAN BLOOD?

13 A NO, SIR.

14 Q OKAY.

15 MR. HARPOOTLIAN: BEG THE COURT'S
16 INDULGENCE ONE MOMENT, PLEASE.

17 Q JUST ONE OTHER QUESTION. JUST PRIOR TO
18 YOUR TESTIMONY, -- YOU'VE FLOWN IN TODAY FROM?

19 A FROM MEMPHIS.

20 Q MEMPHIS. OKAY. PRIOR TO YOUR TESTIMONY
21 TODAY, YOU HAD AN OPPORTUNITY TO MEET WITH IRA
22 JEFFCOAT WHO'S WITH THE SLED LAB AND HE'S MADE
23 AVAILABLE TO YOU, THEY'VE COOPERATED WITH YOU, MADE
24 EVERYTHING AVAILABLE FOR YOUR EVALUATION?

25 A YES, SIR.

1 Q OKAY. AND YOU HAD A CHANCE TO MEET WITH
2 MR. COULTER?
3 A YES, SIR.
4 Q OKAY. THANK YOU. PLEASE ANSWER ANY
5 QUESTIONS...
6 THE COURT: CROSS EXAMINATION, MR.
7 COULTER.
8 MR. COULTER: THANK YOU.
9 CROSS EXAMINATION:
10 BY MR. COULTER:
11 Q LOOKING AT STATE'S EXHIBIT NUMBER SIX..
12 A YES, SIR.
13 Q YOU HAD SEEN THIS PARTICULAR MARK ON
14 THIS PIECE OF PAPER?
15 A YES, SIR.
16 Q IN YOUR BACKGROUND AS FAR AS SEROLOGY
17 GOES, HAVE YOU EVER HAD THE OPPORTUNITY TO EXAMINE
18 AN ITEM TO HAVE BLOOD ABOUT THIS SAME AMOUNT
19 BEFORE?
20 A I DON'T KNOW IF YOU'D CALL IT AN
21 OPPORTUNITY, IT'S A DEFINITE PROBLEM, BUT YES SIR.
22 Q SO YOU HAVE BEEN ABLE TO IDENTIFY BLOOD
23 IN ABOUT THIS SAME AMOUNT BEFORE ON A DIFFERENT
24 ITEM?
25 A YES, SIR.

- 1 Q OKAY. SO THAT WASN'T COMPLETELY UNUSUAL
2 TO FIND BLOOD IN THAT SMALL AMOUNT ON SAY A SHOE?
- 3 A NOT COMPLETELY UNUSUAL?
- 4 Q RIGHT.
- 5 A OH, NO SIR. NO, SIR.
- 6 Q AND I THINK, IN LOOKING AT THE TESTS
7 FROM SLED, WOULD YOU AGREE THAT REALLY THERE WERE
8 FOUR TESTS DONE, ONE OF THEM BEING A VISUAL TEST?
- 9 A I'M SURE THERE WAS, BUT I DON'T SEE ANY
10 RESULTS. THERE WOULD HAVE HAD TO BE A VISUAL OR
11 YOU WOULDN'T HAVE KNOWN WHAT TO SWAB.
- 12 Q RIGHT. AND A SEROLOGIST AS YOURSELF,
13 THAT WOULD BE MUCH DIFFERENT THAN A LAY PERSON
14 LOOKING AT AN ITEM AS FAR AS A VISUAL TEST; YOUR
15 KNOWLEDGE OF WHAT MAY OR MAY NOT BE BLOOD WOULD BE
16 MUCH GREATER THAN A LAY PERSON SUCH AS MYSELF,
17 CORRECT?
- 18 A YES, SIR.
- 19 Q SO, A SEROLOGIST LOOKING AT THIS SHOE
20 AND THIS AMOUNT OF BLOOD, THIS SMALL AMOUNT, THE
21 DEGREE OF CERTAINTY THAT THEY WOULD HAVE WOULD
22 EXCEED THAT OF MYSELF OR ANY OTHER LAY PERSON,
23 CORRECT?
- 24 A YES, SIR.
- 25 Q THAT'S A CRUCIAL TEST, IS IT NOT?

- 1 A THE VISUAL?
- 2 Q CORRECT.
- 3 A YES, SIR. IT CERTAINLY IS.
- 4 Q BECAUSE YOU WANT TO KNOW THE COLOR, IN
- 5 PARTICULAR, OF WHAT'S BEING SWABBED.
- 6 A THE COLOR AND ALSO...HOW WOULD YOU SAY,
- 7 THE CONSISTENCY. WE LOOK AT THINGS LIKE HOW IT
- 8 COMES OFF ON THE SWAB WHEN WE'RE DOING THE TESTS.
- 9 Q ALL RIGHT.
- 10 A ALL OF THOSE KINDS OF THINGS YOU CAN
- 11 SEE.
- 12 Q AND ALL THOSE TYPE OF THINGS WOULD ADD
- 13 TO THE DEGREE OF CERTAINTY THAT A SEROLOGIST WOULD
- 14 HAVE IN CALLING A PARTICULAR SAMPLE BLOOD, CORRECT?
- 15 HUMAN BLOOD?
- 16 A CALLING IT BLOOD IS WHERE I HAVE A
- 17 PROBLEM.
- 18 Q WHAT I'M ASKING IS, ISN'T THAT PART OF
- 19 THE TEST IMPORTANT?
- 20 A YES, SIR. IT IS IMPORTANT, BUT I'M ALSO
- 21 NOT INFALLIBLE AND BECAUSE I TELL YOU THAT IT LOOKS
- 22 LIKE BLOOD TO ME, YOU KNOW, THAT'S I THINK...
- 23 Q RIGHT. OH, I UNDERSTAND, BUT CERTAINLY
- 24 YOU WOULDN'T JUST VISUALLY...
- 25 A BUT THE VISUAL IS VERY, VERY IMPORTANT,

1 YES.

2 Q RIGHT, BUT THAT'S AN IMPORTANT ASPECT OF
3 THE TEST. YOU WOULDN'T CERTAINLY CALL IT THAT JUST
4 BECAUSE IT LOOKS LIKE BLOOD?

5 A CORRECT.

6 Q BUT THAT WOULD ADD TO THE DEGREE OF
7 CERTAINTY YOU WOULD HAVE IN TESTIFYING LATER ON?

8 A YES, SIR.

9 Q ALL RIGHT. AND YOU'RE FAMILIAR THAT THE
10 F.B.I. TEACHES THE SAME PROCEDURE THAT THE SOUTH
11 CAROLINA SLED LABORATORIES USE, CORRECT?

12 A WELL, THAT'S WHAT IRA TOLD ME WHEN WE
13 TALKED THIS MORNING. THE LAST I TALKED TO ANYBODY
14 AT THE F.B.I. THEY WERE STILL DOING A CONFIRMATION.
15 BUT THAT'S BEEN TWO YEARS. IT COULD CERTAINLY HAVE
16 CHANGE.

17 Q SO BASED ON YOUR KNOWLEDGE, AND IRA MAY
18 BE RIGHT, AND THAT'S THE F.B.I. TEACHES THIS
19 PARTICULAR PROCEDURE?

20 A IT COULD BE, YES.

21 Q AS AN ACCEPTED PRACTICE?

22 A AND I DO KNOW THAT OTHER LABORATORIES
23 USE THIS PRACTICE.

24 Q INCLUDING G.B.I., CORRECT? THAT'S THE
25 GEORGIA BUREAU OF INVESTIGATION, IS THAT RIGHT?

- 1 A I DON'T KNOW ABOUT G.B.I. I KNOW THAT
2 T.B.I., TENNESSEE, DOES.
- 3 Q OKAY, FOLLOWS THE SAME PROCEDURE SLED
4 DOES?
- 5 A YES, SIR.
- 6 Q ALL RIGHT. AS A MATTER OF FACT, MOST OF
7 THE LABS IN YOUR STATE FOLLOW THAT PARTICULAR
8 PROCEDURE, DON'T THEY?
- 9 A WELL, THERE'S ONLY TWO OF US, SO THEY
10 DO, WE DON'T. SO IT'S FIFTY/FIFTY.
- 11 Q OH, I SEE. ALL RIGHT. SO IF THE
12 DEFENSE HAD HIRED SOMEBODY FROM T.B.I. THEY WOULD
13 HAVE BEEN IN COMPLETE AGREEMENT WITH WHAT NANCY
14 SKRABA, THE SEROLOGIST, HAD TESTIFIED TO, CORRECT?
- 15 A THAT IS HOW THEY WOULD REPORT, BUT WHEN
16 I TALKED TO THE SEROLOGIST THEY AGREED THAT THERE'S
17 NOTHING HERE TO SAY THAT IT'S DEFINITELY BLOOD.
- 18 Q YOU WOULD AGREE THAT THE AMOUNT IS
19 IMPORTANT, THE AMOUNT OF BLOOD THAT YOU HAVE IS
20 IMPORTANT FOR MAKING SUBSEQUENT TESTS?
- 21 A YES, SIR.
- 22 Q ALL RIGHT. AND AS I THINK YOU MENTIONED
23 ON DIRECT EXAMINATION THAT EACH TEST YOU DO
24 CONSUMES MORE BLOOD?
- 25 A YES, SIR.

1 Q AND I THINK YOU ALSO HAD SUGGESTED ON
2 DIRECT EXAMINATION THAT THE BEST TEST WOULD BE THE
3 DNA TEST?

4 A IN AN IDEAL WORLD, SURE.

5 Q AND YOU'VE READ THROUGH THE FILE THAT
6 THE DEFENSE HAS GIVEN TO YOU AS FAR AS WHAT
7 SEROLOGICAL TESTING HAS BEEN DONE, AND DNA TESTING,
8 CORRECT?

9 A NO, SIR. THIS IS WHAT I'VE SEEN.

10 Q THAT'S ALL THEY'VE GIVEN YOU?

11 A YES, SIR.

12 Q SO THEY HAVE NOT PROVIDED YOU WITH ANY
13 DNA LAB REPORTS?

14 A NO, SIR.

15 Q AND YOU DO NOT HAVE, DO YOU HAVE ANY
16 IDEA WHETHER OR NOT THERE WAS ENOUGH OF THIS SAMPLE
17 LEFT TO RUN A TAKAYAMA TEST, IS THAT CORRECT? IS
18 THAT THE RIGHT PRONUNCIATION?

19 A THAT'S THE CORRECT PRONUNCIATION. I
20 HAVE NO IDEA OF WHAT WAS LEFT OF THE SAMPLE.

21 Q SO IF THERE WASN'T ENOUGH TO DO THIS
22 TEST...

23 MR. HARPOOTLIAN: MAY IT PLEASE THE
24 COURT, YOUR HONOR, THOSE FACTS ARE NOT IN EVIDENCE.
25 SHE'S INDICATED THERE WAS...

1 THE COURT: WAIT, WAIT, WAIT JUST A
2 MINUTE. HE CAN PUT IT IN A HYPOTHETICAL.

3 MR. HARPOOTLIAN: AS LONG AS IT'S MADE
4 CLEAR IT'S HYPOTHETICAL. THOSE AREN'T THE FACTS IN
5 EVIDENCE.

6 THE COURT: ALL RIGHT, SUSTAINED AS TO
7 THAT OBJECTION, BUT YOU CAN PHRASE IT IN A
8 HYPOTHETICAL.

9 MR. COULTER: THANK YOU.

10 Q LOOKING BACK TO DEFENSE EXHIBIT NUMBER
11 SIX, AGAIN, THIS IS A SMALL AMOUNT OF BLOOD?

12 A YES, SIR.

13 Q ALL RIGHT, AND THE MORE TESTS YOU DO ON
14 THIS SMALL AMOUNT OF BLOOD, THE MORE THE BLOOD IS
15 CONSUMED BY THE TESTING?

16 A YES, SIR.

17 Q AND HYPOTHETICALLY, IT'S POSSIBLE THAT
18 BY THE END OF THE SECOND TEST, THERE WOULDN'T BE
19 ENOUGH LEFT OVER TO DO THE TAKAYAMA TEST?

20 A YES, SIR.

21 Q AS A MATTER OF FACT, BASED ON, IF YOU
22 LOOK AT THIS REPORT, THERE WAS AN INSUFFICIENT
23 AMOUNT TO DO A BLOOD TYPING ON IT, WASN'T IT?

24 A THAT'S WHAT THEY'RE...I SEE, YES, THERE
25 WAS AN INSUFFICIENT AMOUNT. WE USE A DIFFERENT

1 DESIGNATION OR DIFFERENT ABBREVIATION.

2 Q I GOT YOU. SO THERE WAS AN INSUFFICIENT
3 AMOUNT LEFT FROM THIS SAMPLE TO DO TYPING OF THE
4 BLOOD?

5 A YES, SIR.

6 Q AND AS FAR AS THE OTHER THINGS WOULD
7 REACT WITH THE PHENOLPHTHALEIN TEST, YOU HAD
8 MENTIONED VEGETATION, IS THAT RIGHT?

9 A YES, SIR.

10 Q WHAT TYPES OF VEGETATION?

11 A ZOYSIA GRASS AND AN ALOE PLANT ARE TWO
12 OF THE THINGS THAT I'VE HAD REACT. CERTAIN--THE
13 STEM OF A SQUASH, RED POTATO, RHUBARB. THERE ARE
14 SEVERAL OTHERS MENTIONED IN THE LITERATURE.

15 Q APPLES?

16 A YES.

17 Q APRICOTS?

18 A UH-HUH.

19 Q ASPARAGUS, BEANS? OF COURSE, NONE OF
20 THOSE THINGS ARE RED, WOULD LOOK LIKE BLOOD?

21 A RIGHT.

22 Q ALL RIGHT, AND THAT'S WHY WE GO BACK TO
23 THE VISUAL TEST BEING SO IMPORTANT.

24 A RIGHT.

25 Q SO ONCE YOU DO THAT PHENOLPHTHALEIN TEST

1 THEN YOU HAVE TO GO ON TO THE NEXT STEP, WHICH THEY
2 DO IN THIS PARTICULAR CASE, AND THAT'S THE HUMAN
3 SPECIES?

4 A YES, THAT'S SLED'S PROTOCOL, YES SIR.

5 Q ALL RIGHT, AND IN THAT PARTICULAR CASE,
6 THEY'RE RULING OUT THE PRESENCE OF BEING A RASH AND
7 VEGETATION, CORRECT?

8 A WELL, YOU'RE SAYING THERE'S SOMETHING
9 THAT'S HUMAN...

10 Q RIGHT.

11 A ...BUT YOU COULD STILL HAVE A VEGETATING
12 MATTER IN THE STEIN, THE SPECIES IDENTIFICATION
13 WOULD DO NOTHING WITH THAT.

14 Q UH-HUH. IT...

15 A SO THERE WOULD BE A MIXTURE.

16 Q A MIXTURE EVEN IN THIS SMALL A
17 CONCENTRATION?

18 A THERE COULD BE. I MEAN, IF WE COULD
19 LOOK AT IT AND TELL WHETHER IT WAS HUMAN BLOOD, I
20 THINK EVERY ONE OF US SHOULD BE GLAD TO SAY, YOU
21 KNOW, YEAH, WE DON'T HAVE TO DO ANY TEST.

22 Q RIGHT, BUT AGAIN, NONE OF THOSE
23 PARTICULAR ITEMS THAT I MENTIONED AS FAR AS
24 VEGETATION ARE RED OR WOULD LOOK RED, ISN'T THAT
25 RIGHT?

- 1 A NONE OF THE ITEMS THAT YOU MENTIONED
2 WOULD LOOK RED.
- 3 Q OKAY.
- 4 A THE ALOE THAT I STAINED ONTO A PIECE OF
5 WHITE CLOTH GAVE ME A BROWNISH STAIN THAT WOULD
6 LOOK LIKE AN OLD BLOOD STAIN.
- 7 Q IT WOULD?
- 8 A EVEN THOUGH IT CAME OUT OF THE VEGETABLE
9 CLEAN.
- 10 Q I SEE. HOW ABOUT...
- 11 A THAT WAS THE REASON I STAINED IT,
12 BECAUSE, YOU KNOW, I WAS CURIOUS AS TO WHAT IS IT
13 GOING TO LOOK LIKE ALSO.
- 14 Q UH-HUH. HOW ABOUT THIS. WE WENT ON TO
15 THE SECOND TEST WHICH IS THE HUMAN SPECIES TEST,
16 AND YOU HAD MENTIONED THINGS SUCH AS URINE.
17 OBVIOUSLY, THAT DOESN'T LOOK LIKE BLOOD?
- 18 A RIGHT.
- 19 Q ALL RIGHT, NOR SEMEN DOES THAT LOOK LIKE
20 BLOOD, OR SKIN...
- 21 A SEMEN USUALLY DOESN'T. I'VE SEEN THEM
22 BE A FUNNY COLOR, TOO. BUT, NO, SKIN...
- 23 Q RED?
- 24 A ...DOESN'T. I HAD ONE THAT WAS A
25 REDDISH ORANGE THAT DID NOT GIVE US A SCREENING

1 TEST FOR BLOOD, SO I HAD TO ASSUME THAT THERE WAS
2 NOTHING IN IT BUT SEMEN.

3 Q I SEE. AND IF YOU COULD, YOU WERE FLOWN
4 UP HERE BY THE DEFENSE?

5 A YES, SIR.

6 Q AT HOW MUCH PER HOUR?

7 A A HUNDRED AND TWENTY-FIVE PER HOUR.

8 Q AND YOU'RE BEING FLOWN BACK BY THE
9 DEFENSE?

10 A YES, SIR, I HOPE SO.

11 Q YOU HOPE. AND NOW YOU ARE FAMILIAR THAT
12 THE AGENT IN THIS PARTICULAR CASE HAD SWABBED A
13 CONTROL AREA ON THE SHOE, ISN'T THAT RIGHT?

14 A YES, SIR.

15 Q AND WHY IS THAT IMPORTANT?

16 A THE CONTROL AREA IS TO TRY TO TELL US
17 WHETHER OR NOT THERE ARE OTHER SUBSTANCES THERE
18 GIVING A REACTION WITH THE TEST.

19 Q OKAY. LIKE URINE OR SOMETHING LIKE
20 THAT?

21 A ANYTHING THAT MIGHT BE ON AN UNSTAINED
22 AREA OF WHATEVER ITEM WE'RE TESTING; IT'D SHOW
23 URINE, ANYTHING THAT COULD BE THERE. A DETERGENT
24 THAT IT WAS WASHED IN.

25 Q AND THAT WOULD CORROBORATE THE

- 1 SEROLOGIST'S FINAL RESULTS, CORRECT?
- 2 A IT SHOULD.
- 3 Q IT SHOULD.
- 4 A WE REQUIRE IT OF IT. I SEE WE AS BEING
- 5 ALL FORENSIC SEROLOGIST. WE HAVE TO HAVE NEGATIVE
- 6 CONTROLS OR WE DON'T CALL OUR RESULTS, WE DON'T
- 7 CALL IT A POSITIVE REACTION.
- 8 Q ALL RIGHT, AND AS FAR AS, IN THIS
- 9 PARTICULAR CASE, A CONTROLLED SWAB WAS DONE AND IT
- 10 WAS NEGATIVE, IS THAT CORRECT?
- 11 A YES, SIR, THAT'S WHAT'S INDICATED.
- 12 Q ALL RIGHT, AND THAT'S THE AREA RIGHT
- 13 NEXT TO THE AREA WITH THE BLOOD?
- 14 A THAT'S WHERE IRA SAID THE AREA WAS. I'M
- 15 SURE THAT'S RIGHT.
- 16 Q AND YOU HAD SAID BEFORE YOU WOULD NEVER
- 17 TESTIFY UNDER OATH TO--DID YOU EVER RUN THIS TYPE
- 18 OF TEST BEFORE, THE TYPE OF TEST THAT WE'RE TALKING
- 19 ABOUT RIGHT HERE?
- 20 A THE PHENOLPHTHALEIN?
- 21 Q YEAH.
- 22 A OH, YES.
- 23 Q I MEAN, HAVE YOU RUN THIS TYPE OF
- 24 PROCEDURE BEFORE?
- 25 A WHAT DO--THIS TYPE OF PROCEDURE, THE

- 1 PHENOLPHTHALEIN TEST?
- 2 Q RIGHT.
- 3 A YES, SIR.
- 4 Q AND HAVE YOU EVER RUN A TEST ON BLOOD
- 5 THAT DIDN'T INCLUDE THE TAKAYAMA TEST?
- 6 A I HAVE NEVER CALLED IT BLOOD...
- 7 Q WITHOUT?
- 8 A ...THAT....
- 9 Q I'M SORRY, I DIDN'T MEAN...
- 10 A IF THAT'S WHAT YOU MEAN BY RUN A TEST?
- 11 Q YES.
- 12 A OUR PROTOCOL IS THAT WITHOUT A
- 13 CONFIRMATION TEST, THE ONLY INTERPRETATION THAT WE
- 14 CAN MAKE IS THAT IT IS A POSITIVE SCREENING TEST
- 15 FOR THE PRESENCE OF BLOOD. AND THAT IS WHAT WE
- 16 TELL THE JURY, AND ALLOW THEM TO DECIDE WHAT THEY
- 17 THINK IT IS BECAUSE THEY CAN CERTAINLY LOOK AT IT.
- 18 THEN I CAN TELL THEM WHAT MY TESTING RESULTS WERE,
- 19 AND THE JURY CAN DECIDE.
- 20 Q BUT CERTAINLY YOU DON'T DISAGREE WITH
- 21 THESE RESULTS, YOU JUST WOULDN'T FEEL PERSONALLY
- 22 COMFORTABLE TESTIFYING TO THESE RESULTS?
- 23 A OH, NO, SIR. I DON'T DISAGREE WITH
- 24 THESE RESULTS. I MEAN, THEIR CONTROLS ARE FINE AND
- 25 SLED IS A FINE LABORATORY. I'M NOT SAYING THEY'RE

1 WRONG RESULTS.

2 Q JUST YOU WOULDN'T FEEL COMFORTABLE ABOUT
3 IT?

4 A I WOULD NOT FEEL COMFORTABLE SAYING
5 HUMAN BLOOD WITHOUT A TEST THAT WAS SPECIFIC FOR
6 BLOOD.

7 Q BUT BASED ON THIS TEST, SOMEBODY FROM
8 G.B.I. WOULD, OR T.B.I.?

9 A AGAIN, I DON'T KNOW ABOUT G.B.I., BUT
10 T.B.I. WOULD, YES.

11 Q AND POSSIBLY, THE F.B.I. IF THEY TEACH
12 THIS PARTICULAR PROCEDURE?

13 A AGAIN, MY CONTACT AT THE F.B.I. SAYS NO,
14 BUT THAT'S BEEN TWO YEARS AGO SINCE WE DISCUSSED
15 IT. SO THAT'S A POSSIBILITY ALSO.

16 Q THANK YOU.

17 THE COURT: ALL RIGHT, REDIRECT?

18 REDIRECT EXAMINATION:

19 BY MR. HARPOOTLIAN:

20 Q JUST, I THINK, A COUPLE OF QUESTIONS.
21 YOU HAVE MS. SKRABA'S RESULTS UP THERE WITH YOU?

22 A YES, SIR.

23 Q WHEN YOU PROCESS SOMETHING LIKE THIS,

24 AND I'M NOT GOING TO PICK THIS TENNIS SHOE UP

25 AGAIN, BUT IF I SHOWED IT TO YOU, WHEN YOU PROCESS

1 SOMETHING LIKE THAT, IS THERE ANY PRACTICE OR
2 PROCEDURE TO PHOTOGRAPH OR MEMORIALIZE HOW THE
3 SUBSTANCE LOOKED BEFORE YOU RAN THE TESTS ON IT?
4 DO YOU EVER DO THAT?

5 A YES, SIR, WE DO.

6 Q IS IT PRETTY ROUTINE?

7 A I WOULD SAY IT'S DONE ENOUGH TO BE ABLE
8 TO CALL IT ROUTINE.

9 Q SO IN TERMS OF BEING ABLE TO TELL US
10 WHAT COLOR AND WHAT SIZE AND ALL THE SORTS OF
11 THINGS THAT MR. COULTER ASKED YOU ABOUT, IF WE HAD
12 A PHOTOGRAPH OF IT, YOU COULD LOOK AT IT NOW AND
13 PERHAPS BE A LITTLE MORE ABLE TO ASSESS ITS COLOR
14 AND TEXTURE AND THOSE KINDS OF THINGS, COULD YOU
15 NOT?

16 A YES, SIR.

17 Q NUMBER TWO, AND MR. COULTER'S ASKED YOU
18 ABOUT WHAT THE PRACTICE IS IN GEORGIA, AND THE
19 PRACTICE OF THE F.B.I., AND YOU'VE BEEN DOING THIS
20 FOR TWENTY YEARS, AND YOU'VE TESTIFIED ALL OVER THE
21 COUNTRY, TAUGHT AT THE NATIONAL DISTRICT ATTORNEYS'
22 ASSOCIATION; BASED ON THESE RESULTS, WOULD YOU, I
23 BELIEVE YOU SAID YOU WOULD NOT BE ABLE TO SAY IT'S
24 HUMAN BLOOD, UNDER OATH, IS THAT CORRECT?

25 A THAT IS CORRECT.

1 Q THANK YOU.

2 THE COURT: ALL RIGHT, ANYTHING ELSE OF
3 THIS WITNESS?

4 MR. COULTER: NO, SIR.

5 THE COURT: ANY REASON SHE CAN'T BE
6 RELEASED FROM THE SUBPOENA?

7 MR. HARPOOTLIAN: NOT FROM US, YOUR
8 HONOR.

9 MR. COULTER: NOT FROM THE STATE.

10 THE COURT: WITHOUT OBJECTION. THANK
11 YOU VERY MUCH.

12 A YES, SIR, THANK YOU.

13 THE COURT: CALL YOUR NEXT WITNESS.

14 MR. HARPOOTLIAN: JAMIE SUBER.

15 JAMES SUBER, BEING DULY SWORN,

16 TESTIFIED AS FOLLOWS:

17 DIRECT EXAMINATION:

18 BY MR. HARPOOTLIAN:

19 Q JAMIE, STATE YOUR FULL NAME FOR THE
20 RECORD, PLEASE.

21 A JAMES ALBERT SUBER, THE FOURTH.

22 Q AND WHERE DO YOU LIVE?

23 A I LIVE IN POMARIA, NEXT DOOR TO MY
24 GRANDPARENTS, WILLIAM A. BECKHAM AND HARRIET
25 BECKHAM.

- 1 Q AND SO YOU ARE RELATED TO STEVE BECKHAM
2 OVER HERE, ARE YOU NOT?
3 A YES, SIR.
4 Q HOW LONG HAVE YOU LIVED ON THE BECKHAM
5 PROPERTY?
6 A I'D SAY FOR ABOUT SEVEN YEARS.
7 Q ALL RIGHT, DO YOU WORK SOMEWHERE?
8 A AT THE MOMENT, I WORK AT SUBWAY IN
9 CHAPIN.
10 Q OKAY. BACK IN JUNE OF 1994, WHERE WERE
11 YOU LIVING?
12 A SAME SPOT.
13 Q OKAY, WHEN YOU SAY THE SAME SPOT, I SHOW
14 YOU, IF I CAN FIND IT, --I SHOW YOU FIRST OF ALL
15 DEFENSE EXHIBIT NUMBER EIGHTEEN. CAN YOU TELL ME
16 WHAT THAT IS?
17 A THAT'S THE DRIVEWAY LEADING UP TO MY
18 HOUSE AND GOES ON FURTHER DOWN TO MY UNCLE'S.
19 Q OKAY, AND ON THE BACK OF THIS END, WHAT
20 IS THIS? WHERE I HAVE THIS FINGER RIGHT HERE, WHAT
21 IS--IS THERE A ROAD THERE?
22 A RIGHT THERE? GOING IN FRONT OF THE
23 DRIVEWAY RIGHT HERE IS 773.
24 Q OKAY, THAT WOULD BE ON THIS END AND
25 WHERE WOULD YOUR HOUSE BE?

- 1 A MY HOUSE IS RIGHT HERE, ALMOST IN THE
2 CENTER. YOU CAN SEE IT OFF IN THE DISTANCE.
- 3 Q OKAY, I'M GOING TO PUT MY RIGHT FINGER
4 BY YOUR HOUSE AND MY LEFT FINGER BY 773. THAT'S ON
5 DEFENDANT'S EXHIBIT NUMBER EIGHTEEN.
- 6 NOW, IF YOU DRIVE UP 773 PAST YOUR
7 HOUSE, THERE'S A GATE THERE NOW, IS THERE NOT?
- 8 A CORRECT.
- 9 Q OKAY. THERE WAS NOT TWO YEARS AGO, AS I
10 UNDERSTAND IT?
- 11 A THAT'S RIGHT.
- 12 Q YOU CONTINUE GOING PAST YOUR HOUSE DOWN
13 THE HILL, YOU COME TO A TRAILER.
- 14 A YES, SIR.
- 15 Q AND I SHOW YOU DEFENDANT'S EXHIBIT
16 NUMBER FORTY-THREE, WHAT IS THIS A VIEW OF?
- 17 A IT'S A VIEW OF MY UNCLE'S TRAILER, THE
18 TREE HOUSE AND MY GRANDFATHER'S SHOP, ALL FROM
19 BEHIND THE FENCE THAT'S NEXT TO MY HOUSE.
- 20 Q OKAY, SO THIS WAS TAKEN FROM NEXT TO
21 YOUR HOUSE, LOOKING DOWN AT STEPHEN'S HOUSE?
- 22 A CORRECT.
- 23 Q STEPHEN BEING YOUR UNCLE, IS THAT
24 CORRECT?
- 25 A RIGHT.

1 Q IF YOU'D REFER TO HIM AS STEPHEN THAT
2 WOULD MAKE IT A LITTLE BIT EASIER PERHAPS FOR
3 EVERYBODY TO UNDERSTAND.

4 A OKAY.

5 Q AND THIS IS FROM NEXT TO YOUR HOUSE,
6 LOOKING DOWN THE HILL TOWARD STEPHEN'S TRAILER, IS
7 THAT CORRECT? JAMIE, AM I CORRECT ABOUT THAT?

8 A THAT'S CORRECT.

9 Q AND IN 1994, HOW LONG HAD YOU BEEN
10 LIVING THERE?

11 A '94, BE ABOUT, PROBABLY ABOUT FIVE
12 YEARS.

13 Q OKAY. NOW, I WANT YOU TO THINK BACK TO
14 1994, AND BEFORE I GO INTO SPECIFIC OCCURRENCES AND
15 STATEMENTS, LET'S GO AHEAD AND FIRST OF ALL ASK YOU
16 IF ON A NUMBER OF OCCASIONS, AFTER JUNE 12TH OF
17 1994, HAVE YOU BEEN INTERVIEWED BY THE POLICE?

18 A YES, SIR.

19 Q AND HAVE YOU BEEN INTERVIEWED BY MR.
20 SWERLING AND HIS STAFF?

21 A YES, SIR.

22 Q SO YOU'VE HAD A NUMBER OF OCCASIONS
23 SINCE JUNE 12TH, 1994 TO THINK BACK ON WHAT
24 HAPPENED ON JUNE 12TH, 1994?

25 A YES, SIR.

1 Q AS A MATTER OF FACT, THE FIRST OF THOSE
2 QUESTION SESSIONS WAS FOUR A.M. ON THE 13TH, IS
3 THAT CORRECT?

4 A THAT'S CORRECT.

5 Q NOW, LET ME, FIRST OF ALL, TAKE YOU BACK
6 TO THE--

7 MR. HARPOOTLIAN: BEG THE COURT'S
8 INDULGENCE.

9 Q I WANT YOU TO THINK BACK TO--DO YOU
10 REMEMBER THE DAY THAT I GUESS IT WOULD HAVE BEEN
11 YOUR AUNT, VICKIE, WAS KILLED?

12 A YES, SIR.

13 Q OKAY, THE DAY AUNT VICKIE WAS KILLED WAS
14 A SUNDAY, IS THAT CORRECT?

15 A YES, SIR. IT WAS ON MY MOM'S BIRTHDAY.

16 Q OKAY. YOUR MOM IS WHO?

17 A KATHERINE BECKHAM.

18 Q OKAY. AND ON THE DAY YOUR AUNT WAS
19 KILLED, WAS A SUNDAY, THINK BACK TO THE PREVIOUS
20 WEDNESDAY, OKAY?

21 A YES, SIR.

22 Q NOW, YOUR HOME IS AT THE HEAD OF THE
23 DRIVEWAY THAT COMES FROM 773 UP TO THAT GATE, IS
24 THAT CORRECT?

25 A YES, IT'S AT THE TOP OF THAT HILL.

1 Q OKAY. THAT DRIVEWAY AT THAT POINT IN
2 TIME, WERE Y'ALL DOING ANY WORK ON IT?

3 A WE HAD TO CLEAR IT OUT, THE TRAILER, TO
4 COME UP SECTION BY SECTION AND THEN THERE WAS A
5 BUNCH OF LIMBS AND STUFF WE WERE TRYING TO CLEAN UP
6 AFTER WE HAD CUT THEM DOWN.

7 Q OKAY. NOW, WHO HAD CUT THEM DOWN?

8 A I'M NOT REAL SURE.

9 Q DID YOU DO IT?

10 A NO, I NEVER MESS WITH CHAIN SAWS.

11 Q OKAY, BUT SOMEBODY CAME IN AND CHAIN-
12 SAWED A BUNCH OF THE BRUSH ON EITHER SIDE OF THE
13 DRIVEWAY?

14 A RIGHT.

15 Q AND WHAT HAPPENED TO THAT BRUSH?

16 A IT WAS JUST KIND OF OUT OF THE WAY,
17 PUSHED OUT OF THE WAY, AND WE--STEPHEN HAD BEEN
18 PICKING SOME OF IT UP AND PUTTING IT IN A TRASH CAN
19 AND STUFF.

20 Q OKAY, AND WAS THERE BRUSH IN A TRASH CAN
21 ON THAT--IN THAT AREA OF YOUR DRIVEWAY BETWEEN 773
22 AND YOUR HOUSE DURING THE WEEK PRIOR TO YOUR AUNT
23 VICKIE'S MURDER?

24 A OH, YES.

25 Q NOW, DO YOU REMEMBER, AND IF YOU DO,

- 1 JUST TELL ME, A NIGHT THAT BONNIE MALUSKY OR
2 MALASKY CAME OVER?
- 3 A YES, I REMEMBER THAT NIGHT.
- 4 Q WAS THAT THE PREVIOUS WEDNESDAY, THE
5 WEDNESDAY PRIOR TO AUNT VICKIE BEING KILLED?
- 6 A RIGHT.
- 7 Q AND THIS ISN'T THE FIRST TIME YOU'VE
8 BEEN ASKED ABOUT THAT, IS IT?
- 9 A NO, SIR.
- 10 Q I THINK THE POLICE ASKED YOU ABOUT IT.
- 11 A IT WAS A WHILE BACK BUT, YES SIR.
- 12 Q MR. SWERLING AND HIS FOLKS HAVE ASKED
13 YOU ABOUT IT?
- 14 A RIGHT.
- 15 Q AND IN THE LAST WEEK OR SO, I'VE ASKED
16 YOU ABOUT IT?
- 17 A RIGHT.
- 18 Q DO YOU REMEMBER WHO WAS IN THE CAR WHEN
19 BONNIE AND VICKIE LEFT? WELL, FIRST OF ALL, DO YOU
20 REMEMBER THEM COMING?
- 21 A NOT REALLY, NOT COMING, NO.
- 22 Q OKAY, DO YOU REMEMBER WHEN THEY WERE
23 THERE?
- 24 A YES.
- 25 Q WHERE WERE YOU WHEN VICKIE AND BONNIE

1 WERE ON THE BECKHAM PROPERTY ON THE NIGHT OF
2 WEDNESDAY, THE 8TH?

3 A I WAS UP AT MY HOUSE AT FIRST, THEN I
4 STARTED TO WALK DOWN TOWARD MY UNCLE'S TRAILER.

5 Q OKAY, TOWARD STEPHEN'S TRAILER?

6 A RIGHT.

7 Q WHEN YOU GOT DOWN THERE, WAS VICKIE
8 THERE?

9 A YES.

10 Q AND DID SHE HAVE ANYBODY WITH HER?

11 A YES, SHE HAD A LADY THERE, BUT I DIDN'T
12 KNOW WHO SHE WAS.

13 Q YOU KNOW WHO SHE IS NOW?

14 A RIGHT.

15 Q THAT'S BONNIE MCCLUSKY, I BELIEVE--AM I
16 POUNCING THAT CORRECTLY?

17 MR. JONES: MALASKY.

18 Q MALASKY, BONNIE MALASKY, AND YOU KNOW
19 THAT'S WHO SHE IS NOW; YOU'VE SEEN HER TESTIFY?

20 A RIGHT.

21 Q NOW, TELL THE JURY PLEASE WHAT TIME OF
22 NIGHT THIS WAS, DO YOU REMEMBER WHETHER IT WAS
23 LIGHT OR DARK?

24 A IT WAS KIND OF BORDERLINE.

25 Q GETTING DARK?

1 A RIGHT.

2 Q DO YOU KNOW ABOUT WHAT TIME OF DAY IT

3 WAS, OR NIGHT?

4 A I'M NOT PARTICULARLY SURE OF THE TIME.

5 I JUST KNOW IT WAS KIND OF BORDERLINE LIGHT.

6 Q I MEAN, BASED ON IT BEING THE MIDDLE, OR

7 EARLY JUNE, DO YOU HAVE SOME IDEA, PLUS OR MINUS A

8 HALF HOUR?

9 A PROBABLY--I'M NOT REAL SURE ABOUT THE

10 TIME.

11 Q WELL, OKAY, I JUST THOUGHT YOU MIGHT BE

12 ABLE TO GIVE US SOME IDEA.

13 NOW, TELL US A LITTLE BIT, WHEN THEY

14 WERE DOWN THERE, DID YOU TALK TO AUNT VICKIE AT

15 ALL?

16 A NOT TOO MUCH; JUST SAID HELLO.

17 Q DO YOU REMEMBER WHEN SHE LEFT?

18 A YES.

19 Q OKAY, AND WHO WAS DRIVING HER VEHICLE?

20 A SHE WAS.

21 Q AND DO YOU REMEMBER WHO WAS SITTING IN

22 THE FRONT PASSENGER SEAT?

23 A BONNIE.

24 Q BONNIE? OKAY, NOW WHEN SHE LEFT, WHAT,

25 IF ANYTHING DID YOU DO, OR YOU AND STEPHEN DO?

1 A WE WERE GOING OFF TO SHEALY BROTHERS.

2 Q OKAY NOW, WHEN YOU COME OUT OF THE END
3 OF YOUR DRIVEWAY, IF YOU WERE GOING TO SHEALY
4 BROTHERS, WHICH WAY DO YOU TURN?

5 A OKAY, TAKE A RIGHT. IF YOU COME DOWN TO
6 THE END OF YOUR DRIVEWAY AND YOU'RE GOING TO
7 NEWBERRY, WHICH WAY DO YOU GO?

8 A YOU CAN GO EITHER WAY, BUT A LOT OF
9 TIMES, PEOPLE TAKE THE INTERSTATE SO THEY TAKE A
10 LEFT.

11 Q OKAY. NOW, DO YOU HAVE ANY RECOLLECTION
12 OF, FIRST OF ALL, ON THAT NIGHT, THAT IS WEDNESDAY,
13 THE 8TH, DO YOU HAVE ANY RECOLLECTION OF A TRASH
14 CAN FULL OF LIMBS IN THE DRIVEWAY FALLING OVER, OR
15 BEING OVER IN THE DRIVEWAY?

16 A YES. WE HAD TALKED TO STEVE BEFORE
17 ABOUT IT; IT WAS KIND OF TOP HEAVY WITH ALL THE
18 LIMBS AND EVERYTHING.

19 Q DO YOU REMEMBER SEEING IT IN THE
20 DRIVEWAY?

21 A YES.

22 Q WAS THAT BEFORE OR AFTER VICKIE CAME?

23 A I REALLY DIDN'T LOOK, BUT ON THE WAY
24 OUT, IT HAD FALLEN OVER.

25 Q OKAY. NOW, HOW DO YOU KNOW ON THE WAY--

1 LET ME ASK YOU THIS. WHEN VICKIE LEFT, HOW LONG
2 WAS IT BEFORE YOU AND STEPHEN LEFT?

3 A NOT LONG. WE PRETTY MUCH LEFT RIGHT
4 AFTER THAT.

5 Q I MEAN, COULD YOU SEE THEM IN FRONT OF
6 YOU?

7 A YES.

8 Q HOW MANY CAR LENGTHS WERE YOU BEHIND
9 THEM AS THEY PULLED OUT?

10 A JUST A FEW.

11 Q WHAT, IF ANYTHING, AS THEY CAME NEAR
12 THAT TRASH CAN WITH THE LIMBS IN IT DID YOU SEE
13 HAPPEN?

14 A WELL, THEY HAD TO STOP BASICALLY JUST
15 FOR THE FACT THE THING WAS IN THE WAY.

16 Q OKAY, AND WHAT HAPPENED THEN?

17 A IT GOT PICKED UP AND MOVED.

18 Q DO YOU KNOW WHO PICKED IT UP? DO YOU
19 REMEMBER WHO GOT OUT AND DID IT? WAS IT THE DRIVER
20 OR THE PASSENGER?

21 A I BELIEVE IT WAS VICKIE.

22 Q AND WHERE WERE Y'ALL?

23 A WE WERE BEHIND THEM.

24 Q AND AS YOU CAME UP BEHIND THEM AND
25 VICKIE GOT OUT AND PICKED UP THE TRASH CAN WITH THE

- 1 LIMBS IN IT AND PUT IT BACK, WHAT HAPPENED NEXT?
- 2 A WELL, AFTER EVERYTHING WAS OUT OF THE
- 3 WAY, WE RODE ON FURTHER DOWN AND THEY TOOK A LEFT
- 4 AND WENT ON THEIR WAY.
- 5 Q OKAY, NOW THEY TOOK A LEFT AND WHICH WAY
- 6 DID YOU GO?
- 7 A WE WENT RIGHT.
- 8 Q OKAY. NOW TELL THE JURY, PLEASE, AS YOU
- 9 CAME DOWN TO THE END OF THE DRIVEWAY AND GOT READY,
- 10 WHO WAS DRIVING, YOU OR STEPHEN?
- 11 A STEPHEN.
- 12 Q OKAY. AND I GUESS YOU HESITATED TO LOOK
- 13 BOTH WAYS?
- 14 A WE HAD TO LOOK BOTH WAYS. WE'RE NOT
- 15 GOING TO JUST PULL OUT IN THE ROAD.
- 16 Q OKAY. AND AS YOU DID THAT, DID RICHARD
- 17 ANDERSON GET IN THE FRONT SEAT WITH YOU OR DID HE
- 18 GET IN THE BACK SEAT OR DID HE GET...
- 19 MR. JONES: LEADING, YOUR HONOR.
- 20 Q ...IN THE TRUNK...
- 21 THE COURT: SUSTAINED.
- 22 Q WHERE, IF ANYWHERE, DID ANYONE GET IN
- 23 THE CAR WITH YOU AS Y'ALL PULLED OUT OF THE
- 24 DRIVEWAY?
- 25 A THERE WAS NO ONE WITH US. WE JUST WENT

- 1 TO SHEALY BROTHERS.
- 2 Q OKAY, DID YOU SEE ANYBODY AT THE END OF
3 THE DRIVEWAY?
- 4 A NO.
- 5 Q DID YOU SEE ANYBODY HIDING IN THE
6 BUSHES?
- 7 A NO, THERE'S NOT ANYWHERE TO HIDE ANYWAY,
8 BUT IF THERE WAS ANYBODY HIDING, I DIDN'T NOTICE
9 THEM.
- 10 Q DID STEPHEN STOP AND LET ANYBODY IN THE
11 CAR?
- 12 A NO, HE JUST STOPPED TO LOOK BOTH WAYS.
- 13 Q OKAY. WHAT KIND OF VEHICLE WERE Y'ALL
14 IN?
- 15 A WE WERE IN THE HONDA
- 16 Q AND YOU TURNED RIGHT AND WENT TO
17 SHEALY'S?
- 18 A RIGHT.
- 19 Q AND HOW LONG WERE YOU DOWN AT SHEALY'S?
- 20 A FOR ABOUT, I'D SAY MAYBE THIRTY MINUTES
21 OR SO.
- 22 Q AND WHEN YOU CAME BACK WHERE DID YOU GO?
- 23 A I WENT DOWN TO THE TRAILER FOR A LITTLE
24 BIT.
- 25 Q WITH WHO?

- 1 A STEPHEN.
- 2 Q WERE YOU DOWN THERE WITH HIM FOR AWHILE?
- 3 A A LITTLE WHILE.
- 4 Q DID HE STAY THERE FOR AWHILE?
- 5 A YEAH, THE KIDS WERE THERE. I WANTED TO
- 6 SEE THEM. I WAS RIGHT THERE WITH THEM.
- 7 Q DID YOU EVER SEE HIM LEAVE THAT NIGHT?
- 8 A NO.
- 9 Q NOW, YOU WERE INTERVIEWED AT FOUR
- 10 O'CLOCK IN THE MORNING ON JUNE 13TH, 1994. I'M
- 11 SORRY, ON JUNE 21ST, 1994 AT 3:15 P.M. YOU WERE
- 12 INTERVIEWED BY THE POLICE. DID YOU TELL THEM ABOUT
- 13 THE BLOCKED DRIVEWAY, AND VICKIE GETTING OUT AND
- 14 MOVING IT, AND Y'ALL LEAVING AND ALL OF THAT?
- 15 A I TOLD THEM ABOUT PRETTY MUCH EVERYTHING
- 16 THEY ASKED ME. WHATEVER THEY ASKED ME, I WAS
- 17 WILLING TO TELL THEM ABOUT IT.
- 18 Q OKAY. NOW, LET'S GO BACK TO, WE DEALT
- 19 WITH THE 8TH. LET'S GO BACK TO THE 12TH. WHERE
- 20 HAD YOU BEEN THAT DAY?
- 21 A THE 12TH, EARLIER IN THAT DAY I WAS HOME
- 22 UNTIL ABOUT, I'D SAY RIGHT ABOUT 4:15 OR 4:30 AND
- 23 THEN I LEFT. I HAD GONE DOWN TO MY UNCLE'S TO SAY
- 24 GOODBYE TO HIM, YOU KNOW, GOING TO MY MOM'S HOUSE
- 25 FOR HER BIRTHDAY.

1 Q I'M SORRY, WHAT TIME DID YOU GET HOME?
2 A I GOT HOME AROUND 8:20 AND STARTED
3 WORKING ON MY CAR STEREO SYSTEM.
4 Q AND WHO WERE YOU WITH PRIOR TO 8:20?
5 A MY MOM FOR THAT TIME PERIOD.
6 Q WHAT TIME DID YOU GET WITH HER?
7 A I GOT THERE A LITTLE BIT BEFORE FIVE AND
8 SHE WANTED TO GET A HAIRCUT BECAUSE I REALLY NEEDED
9 ONE, SO WE WENT TO GET A HAIRCUT, AND THEN WENT TO
10 EAT AT CHILI'S BECAUSE IT WAS HER BIRTHDAY. I WAS
11 TAKING HER OUT.
12 Q SO, FROM FIVE UNTIL ABOUT EIGHT-
13 SOMETHING, YOU WERE WITH MOM?
14 A FROM FIVE UNTIL ABOUT TEN TILL EIGHT
15 PROBABLY.
16 Q OKAY, AND THEN YOU CAME HOME?
17 A RIGHT.
18 Q AND WHEN YOU CAME HOME, TALK ABOUT HOME,
19 IT'S THAT HOUSE ABOUT A HUNDRED YARDS OR SO FROM
20 STEVE BECKHAM'S TRAILER, IS THAT CORRECT?
21 A THAT'S RIGHT.
22 Q AND ONCE YOU GOT HOME, WHAT DID YOU DO?
23 A I DIDN'T EVEN GET OUT OF THE CAR. I
24 STARTED WORKING ON MY CAR STEREO SYSTEM TO MAKE
25 SURE IT--I'M NOT EXACTLY SURE WHAT I WAS DOING TO

1 IT BUT I WAS MESSING WITH THE CAGE ON MY RADIO
2 BECAUSE I HAD A PULL-OUT RADIO.

3 Q OKAY, AND WHAT DID YOU DO THEN?

4 A WELL, ANDREW CAME RUNNING UP FROM THE
5 TRAILER TO SAY HELLO TO ME, AND AS HE CAME UP, I
6 PULLED MY HAND OUT OF THE CAGE FROM WHERE I WAS
7 WORKING WITH IT AND CUT MY KNUCKLE.

8 Q ABOUT WHAT TIME WAS THAT, YOU RECKON?

9 A PROBABLY FIVE MINUTES AFTER I PULLED UP.

10 Q OKAY.

11 A SO IT WAS ABOUT, PROBABLY AROUND 8:25 OR
12 SOMETHING LIKE THAT. AND THEN AS SOON AS THAT
13 HAPPENED, WE HAD TO GO OVER TO MY GRANDFATHER'S
14 HOUSE BECAUSE HE'S THE ONLY ONE WITH BANDAIDS. I
15 NEVER KEEP THEM IN MY HOUSE.

16 Q OKAY, SO SOMETIME 8:25, 8:30, SOMETIME
17 AROUND THAT TIME, YOU GO OVER TO BISHOP BECKHAM'S
18 HOUSE?

19 A CORRECT.

20 Q AND DID YOU GET A BANDAID ON YOUR
21 FINGER?

22 A YEAH, HE PUT ONE OF THOSE KNUCKLE
23 BANDAGES, ONE WITH THE SPLITS ON EACH SIDE ON IT.

24 Q OKAY, AND THEN WHERE DID YOU GO?

25 A AFTER THAT, WE WENT DOWN TO THE TRAILER.

- 1 Q AND WHO WAS DOWN AT THE TRAILER?
- 2 A LADONNA, SHANNON, STEPHEN, SAMUEL.
- 3 Q OKAY, LADONNA, SHANNON, STEPHEN,
- 4 SAMUEL...
- 5 A RIGHT.
- 6 Q YOU?
- 7 A RIGHT.
- 8 Q AND WHO ELSE?
- 9 A AND ANDREW.
- 10 Q AND ANDREW.
- 11 A HE WALKED DOWN WITH ME BECAUSE HE'D GONE
- 12 OVER WITH ME TO GET THE BAND-AID.
- 13 Q OKAY, AND WHAT DID Y'ALL DO DOWN THERE?
- 14 A WELL, THEY WERE JUST PRETTY MUCH DONE
- 15 WITH DINNER, AND YOU COULD SEE IT ON THE TABLE.
- 16 THEY WERE STILL TRYING TO GET THAT CLEANED UP AND
- 17 EVERYTHING, AND I SAID HELLO TO EVERY BODY, STARTED
- 18 TALKING A LITTLE BIT; THE TV WAS ON. AND AFTER
- 19 AWHILE, I SUGGESTED WE ALL GO GET A MOVIE BECAUSE
- 20 IT'S USUALLY RATHER BORING SUNDAYS, NOT MUCH GOING
- 21 ON.
- 22 Q NOW, DID YOU HAVE OCCASION TO SEE
- 23 STEPHEN AND TALK TO STEPHEN AND BE AROUND STEPHEN
- 24 THAT EVENING?
- 25 A YES.

1 Q COULD YOU DESCRIBE TO THE JURY, PLEASE,
2 HIS DEMEANOR? WAS HE ANXIOUS, NERVOUS, UPSET, OR
3 DID HE APPEAR TO BE CALM?

4 A SAME WAY HE ALWAYS IS, PRETTY EVEN. I
5 DON'T KNOW.

6 Q OKAY. NOW ABOUT WHAT TIME DID YOU GO
7 GET A MOVIE?

8 A WE LEFT, I'D HAVE TO SAY ABOUT 9:30,
9 BECAUSE SHEALY'S WAS CLOSING AT TEN AND WE NEEDED
10 TO HURRY UP AND GET GOING. BUT I DECIDED TO STOP
11 AT MY HOUSE RIGHT AT THE DRIVEWAY. WE PARKED THERE
12 AND WENT INSIDE AND LOOKED THROUGH ALL MY MOVIES
13 AND STUFF TO SEE IF THERE WAS ANYTHING WE WANTED TO
14 GET THERE BEFORE WE WENT TO SHEALY'S.

15 Q WHAT KIND OF MOVIES DID YOU GET?

16 A WE GOT SILENCE OF THE LAMBS, AND THE
17 FORTRESS.

18 Q OKAY. AND WHEN YOU GOT BACK TO
19 STEPHEN'S, DID Y'ALL WATCH THAT?

20 A YES.

21 Q AND WAS STEPHEN THERE OR WAS HE GONE?

22 A HE WAS THERE, HE WAS IN THE BEDROOM. I
23 DON'T KNOW WHAT HE WAS WATCHING BUT HE, HE WOULD
24 COME IN AND OUT PERIODICALLY TO TELL US TO TURN IT
25 DOWN BECAUSE WE KEPT ON CUTTING THE VOLUME UP.

1 Q OKAY. NOW, AT WHAT TIME DID YOU, IF YOU
2 DID, DID YOU STAY THERE ALL NIGHT OR DID YOU GO
3 HOME AT SOME POINT?

4 A I WENT HOME ABOUT TWO O'CLOCK AFTER ALL
5 THE MOVIES WERE OVER WITH, AND WE WERE PRETTY MUCH
6 TIRED.

7 Q OKAY. AND WHEN YOU GOT HOME, DID YOU GO
8 TO BED?

9 A NO, SIR, I DIDN'T HAVE A CHANCE TO.

10 Q WHY NOT?

11 A WELL, AS SOON AS I DROVE MY CAR UP THE
12 DRIVEWAY AND STOPPED IN MY PARKING SPACE, I SAW
13 FLASHLIGHTS OVER AT MY GRANDPARENTS WALKING TOWARD
14 ME. I COULDN'T REALLY SEE THE FIGURES, BUT I SAW
15 THE FLASHLIGHTS FLASHING EVERYWHERE.

16 Q OKAY, AND DID YOU CONFRONT THESE
17 FIGURES? DID YOU SEE THEM, DID YOU TALK TO THEM?

18 A YES, THEY CAME OVER TO MY HOUSE AND THEY
19 ASKED ME WHO I WAS, WHAT I WAS DOING THERE.

20 Q AND WHO ARE THEY?

21 A THEY WERE THE POLICE.

22 Q DO YOU KNOW WHO THEY WERE? ARE THEY
23 HERE TODAY?

24 A I'M NOT POSITIVE OF ALL OF THEM. I
25 BELIEVE GILLIAM WAS THERE, DETECTIVE GILLIAM.

1 Q DEPUTY GILLIAM WHO'S THE GENTLEMAN DOWN
2 THERE ON THE END, FROM THE NEWBERRY COUNTY
3 SHERIFF'S DEPARTMENT?

4 A RIGHT.

5 Q OKAY, AND HE ASKED YOU WHO YOU WERE AND
6 WHY YOU WERE THERE?

7 A RIGHT.

8 Q AND WHAT DID YOU TELL THEM?

9 A I TOLD THEM WHO I WAS; I WAS JAMIE
10 SUBER, I LIVED HERE. THEN THEY ASKED ME WHERE MY
11 UNCLE WAS, AND I TOLD THEM DOWN AT THE TRAILER.

12 Q OKAY. WHAT, IF ANYTHING, DID THEY TELL
13 YOU ABOUT YOUR AUNT VICKIE, AT THAT POINT?

14 A THEY DIDN'T TELL ME ANYTHING.

15 Q OKAY, AND WHAT DID YOU DO AT THAT POINT?

16 A I WENT INSIDE TO CALL MY GRANDMOTHER TO
17 ASK WHAT WAS GOING ON BECAUSE I HAD NO IDEA WHAT
18 WAS GOING ON.

19 Q AND WHAT DID YOUR GRANDMOTHER TELL YOU?

20 MR. JONES: YOUR HONOR...

21 THE COURT: SUSTAINED.

22 Q AS A RESULT OF TALKING TO YOUR
23 GRANDMOTHER, DID YOU LEARN ANYTHING RELATIVE TO
24 VICKIE?

25 A SHE TOLD ME SHE WAS DEAD.

1 THE COURT: EXCUSE ME, HE CAN'T ANSWER
2 THE QUESTION THAT WAY, SOLICITOR.

3 MR. HARPOOTLIAN: I'M SORRY. ALL RIGHT,
4 STRIKE THAT. LET'S MOVE ON.

5 Q AS A RESULT OF THAT CONVERSATION, WHERE
6 DID YOU GO?

7 A AFTER THAT CONVERSATION, I STAYED HOME.

8 Q WERE YOU AT THEIR HOUSE OR DID YOU GO
9 BACK TO YOUR HOUSE?

10 A I WAS AT MY HOUSE. I WAS VERY UPSET AND
11 DIDN'T FEEL LIKE GOING ANYWHERE.

12 Q OKAY. AND WHERE DID YOU GO THEN?

13 A EVENTUALLY, I FINALLY JUST DECIDED TO GO
14 TO SLEEP FOR A LITTLE WHILE. AND AS SOON AS I WENT
15 TO SLEEP, I HAD SOME POLICE OFFICERS TO SHOW UP TO
16 BRING ME IN FOR QUESTIONING.

17 Q NOW, WHO WERE THOSE OFFICERS?

18 A THAT ONE LADY RIGHT THERE. I CAN'T
19 RECALL HER NAME.

20 Q THIS LADY RIGHT HERE?

21 A YES.

22 Q OKAY, AND ANYBODY ELSE?

23 A I THINK IT'S THAT MAN OVER THERE SITTING
24 NEXT TO GILLIAM. I'M TRYING TO THINK OF HIS NAME.

25 Q OKAY, BUT THOSE ARE THE TWO, THE

- 1 GENTLEMAN OVER THERE IN THE BLACK SUIT?
- 2 A RIGHT.
- 3 Q AND DID THEY INVITE YOU, TELL YOU, I
- 4 MEAN, HOW WERE YOU ASKED TO GO ALONG?
- 5 A THEY PRETTY MUCH TOLD ME I NEEDED TO
- 6 COME IN FOR QUESTIONING CONCERNING MY AUNT.
- 7 Q WHAT ABOUT YOUR AUNT?
- 8 A THEY DIDN'T REALLY GO TOO FAR, BUT JUST
- 9 CONCERNING THAT.
- 10 Q OKAY, AND DID YOU GO WITH THEM?
- 11 A WELL, YES.
- 12 Q AND WHEN YOU GOT TO THE--WHERE DID THEY
- 13 TAKE YOU?
- 14 A THEY TOOK ME TO THE NEWBERRY COUNTY
- 15 POLICE DEPARTMENT BUILDING, I GUESS YOU CALL IT THE
- 16 COMPLEX, WHATEVER THEY CALL IT.
- 17 Q OKAY, AND DID THEY, WHEN YOU GOT THERE,
- 18 DID YOU MEET WITH A --DOES THIS LOOK FAMILIAR?
- 19 A YES.
- 20 Q AND WHAT DOES THIS REPRESENT?
- 21 A THAT WAS THE MIRANDA THEY GAVE ME. THEY
- 22 TOLD ME I NEEDED TO SIGN IT BEFORE THEY COULD
- 23 QUESTION ME.
- 24 Q AND DID YOU SIGN IT?
- 25 A YES.

- 1 Q AND DID YOU COOPERATE, FULLY?
- 2 A YES.
- 3 Q WHAT, IF ANYTHING, HOW LONG WERE YOU
- 4 DOWN THERE?
- 5 A IT WAS AWHILE. PROBABLY GOT BACK HOME
- 6 AROUND, PROBABLY ABOUT ELEVEN, TWELVE, SOMEWHERE
- 7 AROUND THERE. IT TOOK AWHILE.
- 8 Q AND WHO WAS QUESTIONING YOU?
- 9 A WRIGHT.
- 10 Q JERRY WRIGHT?
- 11 A YEAH, AND I BELIEVE LEE FOSTER WAS IN
- 12 THERE PART OF THE TIME.
- 13 Q THE SHERIFF?
- 14 A RIGHT.
- 15 Q ANYBODY ELSE?
- 16 A AND I BELIEVE DEPUTY GILLIAM WAS IN
- 17 THERE FOR SOME TIME.
- 18 Q DID YOU COOPERATE FULLY WITH THEM?
- 19 A YES, SIR. BUT I'M NOT POSITIVE ABOUT
- 20 GILLIAM, I'M JUST --WRITE AND FOSTER WERE THE ONES
- 21 I KNOW THAT WERE IN THERE.
- 22 Q OKAY, AND THEY WERE ELICITING
- 23 INFORMATION FROM YOU ABOUT YOUR WHEREABOUTS THAT
- 24 DAY, IS THAT CORRECT?
- 25 A RIGHT.

1 Q AND WHAT INFORMATION DID THEY GIVE YOU?
2 MR. JONES: YOUR HONOR...
3 MR. HARPOOTLIAN: WELL, YOUR HONOR,
4 I'M...
5 THE COURT: I'M SORRY, YOUR OBJECTION IS
6 WHAT?
7 MR. JONES: HE'S ASKING HIM WHAT THE
8 POLICE OFFICER SAID TO HIM. OBJECT TO THE
9 RELEVANCE.
10 THE COURT: WELL, LET ME HEAR YOU OVER
11 HERE. I DON'T QUITE UNDERSTAND WHAT...
12 (BENCH CONFERENCE IN THE PRESENCE OF THE
13 JURY, OUT OF THE HEARING OF THE JURY, AND OFF THE
14 RECORD.)
15 THE COURT: MADAM FOREMAN, LADIES AND
16 GENTLEMEN OF THE JURY, I NEED TO THINK ABOUT THIS
17 ISSUE JUST A FEW MINUTES, SO LET ME LET YOU TAKE
18 JUST A SHORT BREAK.
19 (JURY RECESSED TO JURY ROOM AT 3:24
20 P.M.)
21 THE COURT: LET ME MAKE SURE, SO WE
22 DON'T HAVE TO ARGUE ABOUT THIS WHEN I GET BACK.
23 THE OBJECTION IS, FIRST OF ALL THIS IS THE WITNESS
24 SO WHAT HE TESTIFIES TO THAT HE SAID IS NOT
25 HEARSAY.

1 MR. HARPOOTLIAN: CORRECT, YES, SIR.

2 THE COURT: ALL RIGHT, WE ALL AGREE ON
3 THAT. THE QUESTION IS, WITHOUT GOING INTO WHAT WAS
4 SAID, IS WHETHER OR NOT THE OFFICER WHO WAS
5 INVESTIGATING HIM IS A DECLARANT UNDER RULE 803(3)
6 FOR THE PURPOSES OF ALLOWING YOU TO GET INTO THE
7 RECORD WHAT THE OFFICERS ALLEGEDLY SAID TO HIM.

8 MR. HARPOOTLIAN: YES, SIR.

9 THE COURT: THAT'S THE ISSUE?

10 MR. HARPOOTLIAN: YES, SIR. AND YOUR
11 HONOR, IF YOU DO NOT ALLOW US TO GET IT IN, I'M
12 GOING TO WANT TO DO A PROFFER OUTSIDE THE JURY'S
13 PRESENCE OF WHAT THAT STATEMENT WAS BECAUSE I NEED
14 TO DO THAT TO PROTECT THE RECORD.

15 THE COURT: I UNDERSTAND. ALL RIGHT,
16 LET'S TAKE A SHORT BREAK AND LET ME THINK ABOUT
17 THAT A MINUTE.

18 (RETURN 3:41 P.M.)

19 THE COURT: ALL RIGHT, MR. HARPOOTLIAN,
20 MAKE A PROFFER. I WANT TO HEAR A LITTLE BIT MORE
21 OF IT.

22 (IN CAMERA PROFFER TESTIMONY)

23 Q JAMIE, YOU'VE TESTIFIED BEFORE WE BROKE
24 A MINUTE AGO YOU'D GONE TO THE NEWBERRY COUNTY
25 SHERIFF'S DEPARTMENT AND YOU WERE BEING...

1 A QUESTIONED.

2 Q AND DO YOU REMEMBER WHO WAS QUESTIONING
3 YOU?

4 A I KNEW LEE FOSTER HAD BEEN IN THERE,
5 WRIGHT HAD BEEN IN THERE. I'M NOT SURE IF GILLIAM
6 WAS IN THERE OR NOT. I JUST REMEMBER SEEING HIM
7 THAT NIGHT, I'M NOT SURE WHERE HE WAS.

8 Q AND YOU WERE BEING QUESTIONED BY A
9 NUMBER OF DIFFERENT PEOPLE. IN THE PROCESS OF THAT
10 QUESTIONING, WERE YOU COOPERATING? YOU'D BEEN
11 ADVISED OF YOUR RIGHTS, IS THAT CORRECT, AS YOU'VE
12 ALREADY TESTIFIED. WERE YOU COOPERATING WITH THEM?

13 A YES.

14 Q AT SOME POINT, DID THE OFFICERS, DID ONE
15 OR MORE OF THE OFFICERS THAT YOU MENTIONED MAKE AN
16 ACCUSATION TO YOU ABOUT YOUR CONDUCT OR STEPHEN
17 BECKHAM'S CONDUCT IN RELATION TO THE DEATH OF
18 VICKIE BECKHAM?

19 A YES.

20 Q OKAY, I'M GOING TO ASK YOU TO SPEAK UP,
21 LEAN UP SO THE JUDGE CAN HEAR YOU. YES WAS YOUR
22 ANSWER?

23 A YES.

24 Q TELL THE COURT, PLEASE, WHAT THAT
25 ACCUSATION WAS.

1 A WELL, EVENTUALLY THEY LEFT THE ROOM FOR
2 A LITTLE WHILE AND THEN THEY CAME BACK AFTER AWHILE
3 AND THEY SAID STEPHEN BECKHAM HAD ALREADY CONFESSED
4 AND WE KNOW YOU'RE AN ACCOMPLICE SO YOU MIGHT AS
5 WELL CONFESS NOW.

6 Q OKAY, TELL US, IS THAT WHAT THEY SAID OR
7 IS THAT YOUR SUMMARY OF WHAT THEY SAID?

8 A THAT'S A SUMMARY.

9 Q TELL US WHAT THEY SAID?

10 A THEY BASICALLY TOLD ME I NEEDED TO
11 CONFESS NOW IS MORE OR LESS WHAT IT WAS.

12 Q WHY?

13 A BECAUSE STEPHEN HAD ALREADY CONFESSED
14 AND TOLD THEM EVERYTHING.

15 Q AND WHAT HAD STEPHEN TOLD THEM ABOUT
16 YOU?

17 A THAT I WAS HIS ACCOMPLICE.

18 Q WERE THEY SPECIFIC IN TERMS OF YOU BEING
19 THE ACCOMPLICE OR DID THEY SAY THAT IN A GENERAL
20 SENSE?

21 A I'M NOT SURE ABOUT THAT.

22 Q DID THEY SAY, "JAMIE, STEPHEN SAYS YOU
23 WERE HIS ACCOMPLICE," OR DID THEY SAY, "JAMIE,
24 STEPHEN SAID YOU DROVE THE CAR," "JAMIE, STEPHEN
25 SAID YOU DID THIS, STEPHEN SAID YOU DID THAT."

1 ANYTHING SPECIFIC OR JUST IN THE GENERAL SENSE THAT
2 YOU HELPED HIM AND ASSISTED IN THE DEATH OF VICKIE
3 BECKHAM?

4 A I WOULD SAY MORE IN A GENERAL SENSE.

5 Q OKAY, AND AFTER THEY TOLD YOU THAT, DID
6 THEY ATTEMPT TO ELICIT A CONFESSION OR AN ADMISSION
7 FROM YOU?

8 A YEAH, THEY WANTED ME TO CONFESS.

9 Q AND DID THEY IN ANY WAY ATTEMPT TO
10 PROMISE, OR THREATEN, OR INTIMIDATE IN ANY WAY?

11 A I DON'T KNOW IT WAS AS MUCH AS A THREAT
12 BUT AFTER I HEARD THAT I WAS PRETTY MUCH KIND OF
13 SHOCKED AND DIDN'T KNOW WHAT TO DO.

14 Q OKAY. DID YOU CONTINUE TO ATTEMPT TO
15 COOPERATE WITH THEM?

16 A YES, SIR. THEY WANTED FINGERPRINTS,
17 ETCETERA SO I DID COOPERATE ANYWAY.

18 Q AND DID YOU DENY THAT YOU HAD ANYTHING
19 TO DO WITH IT?

20 A YES, SIR.

21 Q AND AT SOME POINT DID THEY--I MEAN, WERE
22 YOU IN CUSTODY AT THAT POINT? WERE YOU FREE TO GO?

23 A I DIDN'T HAVE THE FEELING I WAS.

24 MR. HARPOOTLIAN: BEG THE COURT'S
25 INDULGENCE ONE MINUTE.

1 Q DID YOU RESPOND TO THEM AND TALK TO THEM
2 UNDER THE INFLUENCE OF THAT THREAT--WHEN I SAY THAT
3 THREAT, UNDER THE INFLUENCE OF THAT ACCUSATION,
4 THAT INFORMATION THAT STEPHEN BECKHAM HAD CONFESSED
5 AND IMPLICATED YOU AS AN ACCOMPLICE?

6 A I TALKED TO THEM ANYWAY BECAUSE I KNEW I
7 DIDN'T DO ANYTHING.

8 Q OKAY, BUT DID THAT SHOCK YOU AND DISTURB
9 YOU WHEN THEY SAID THAT?

10 A YES.

11 Q HAD YOU BEEN TO BED AT ALL?

12 A NO, NOT EXCEPT FOR MAYBE THIRTY MINUTES
13 OF SLEEP BEFORE THEY CAME THERE.

14 MR. HARPOOTLIAN: YOUR HONOR, THAT WOULD
15 BE THE PROFFER.

16 THE COURT: SO DID HE GIVE A WRITTEN
17 STATEMENT OR...

18 MR. HARPOOTLIAN: HE GAVE AN ORAL
19 STATEMENT, YOUR HONOR. I MEAN, THAT'S APPARENTLY
20 WHAT HE SAID. DO YOU WANT ME TO GO INTO THAT WITH
21 THAT ORAL STATEMENT.

22 THE COURT: YEAH, I DON'T UNDERSTAND
23 WHERE THE...

24 MR. HARPOOTLIAN: I'M SORRY, I
25 THOUGHT...OKAY.

1 Q DID YOU, DID THEY ASK YOU WHETHER OR NOT
2 YOU HAD BEEN WITH STEPHEN THAT NIGHT?

3 A YES, SIR.

4 Q AND WHAT DID YOU INDICATE TO THEM?

5 A I TOLD THEM I'D BEEN WITH MY MOM THAT
6 NIGHT FOR PART OF THE NIGHT. THEY SAID, THEY ASKED
7 ME ONE TIME ABOUT IF I'D GONE BY LITTLE MOUNTAIN ON
8 THE WAY HOME.

9 Q AND DID THEY ASK YOU WHAT, IF ANYTHING,
10 YOU KNEW ABOUT A BARREL BEING TIPPED OVER WITH
11 LIMBS IN IT?

12 A I'M NOT SURE IF IT WAS THAT NIGHT, BUT I
13 HAVE ANSWERED ABOUT THAT BEFORE.

14 Q DID THEY ASK YOU AT ALL ABOUT SEEING
15 AILENE HURST AT HIS HOUSE EARLIER THAT AFTERNOON?

16 A NO.

17 MR. HARPOOTLIAN: BEG THE COURT'S
18 INDULGENCE ONE MOMENT.

19 Q DID YOU SUBSEQUENTLY LEARN THAT STEPHEN
20 HAD NOT MADE SUCH A CONFESSION AND HAD NOT
21 IMPLICATED YOU?

22 A YES, SIR.

23 Q SO, I SUPPOSE WHAT WE WOULD SAY THEN IS
24 THAT THE METHOD OF INVESTIGATION BY THE POLICE IN
25 THIS CASE WAS TO LIE TO YOU IN AN ATTEMPT TO ELICIT

1 A STATEMENT, IS THAT CORRECT?

2 A I GUESS THAT WOULD BE ONE WAY OF PUTTING
3 IT.

4 MR. HARPOOTLIAN: YOUR HONOR, THAT WOULD
5 BE ALL I WOULD HAVE.

6 THE COURT: SOLICITOR?

7 MR. JONES: YOUR HONOR, I WOULD LIKE TO
8 OFFER UP THIS STATEMENT THAT WAS TAKEN FROM HIM ON
9 JUNE 13TH AT FOUR A.M. BY POLICE OFFICERS JERRY
10 WRIGHT AND JEFF STEVENS. AND IF YOU'D LIKE, I'LL
11 READ IT INTO THE RECORD RIGHT QUICK.

12 THE COURT: ALL RIGHT, MARK IT AND LET
13 ME READ IT.

14 MR. JONES: THAT'S COURT'S EXHIBIT, YOUR
15 HONOR? THAT'S A COURT'S EXHIBIT?

16 THE COURT: YES, SIR.

17 COURT REPORTER: TWENTY-ONE, YOUR HONOR.

18 (SO MARKED AND ENTERED)

19 MR. JONES: MAY I PUBLISH IT, YOUR
20 HONOR.

21 MR. HARPOOTLIAN: YOUR HONOR, FOR
22 PURPOSES OF THIS HEARING, THERE'S NO REASON TO
23 PUBLISH IT. YOU CAN READ IT. NOT THAT I DON'T
24 WANT TO HEAR THE SOLICITOR READ SOMETHING.

25 THE COURT: MR. HARPOOTLIAN?

1 MR. HARPOOTLIAN: SIR?

2 THE COURT: WHAT DOES THAT STATEMENT DO
3 TO ANYBODY?

4 MR. JONES: YOUR HONOR, PRECISELY MY
5 POINT...

6 THE COURT: WELL, LET ME ASK THE
7 QUESTION. I'M TRYING TO...

8 MR. HARPOOTLIAN: YOUR HONOR, MR.
9 SWERLING IS MORE FAMILIAR WITH THE RULE. WE'RE
10 INTRODUCING THE STATEMENT, YOUR HONOR, WE'LL GO
11 BACK--WE'RE IN OUR CASE NOW.

12 THE COURT: I UNDERSTAND.

13 MR. HARPOOTLIAN: AND ONE OF THE
14 THEORIES THAT WE'RE PUTTING FORTH TO THE JURY IS
15 THAT THE POLICE DECIDED, THE STATE OF SOUTH
16 CAROLINA DECIDED WHEN THEY FOUND THE BODY THAT
17 STEPHEN BECKHAM HAD COMMITTED THIS CRIME, NUMBER
18 ONE. WE THINK THAT'S IMPORTANT BECAUSE THE THEORY
19 OF OUR CASE IS THAT THE POLICE TOOK EVERY PIECE OF
20 EVIDENCE THEY HAD AND TRIED TO MAKE IT TO FIT THE
21 THEORY THAT STEPHEN BECKHAM HAD KILLED HIS WIFE,
22 NUMBER ONE.

23 NUMBER TWO, IN THE PROCESS OF DOING
24 THAT, THEY IGNORED CERTAIN LEADS, MR. BOWERS HAD
25 TESTIFIED TODAY. THEY, IN TESTING CERTAIN

1 EVIDENCE, AS WE HEARD FROM THE CHEMIST WE HAD
2 TESTIFY TODAY, THEY CAME TO CERTAIN CONCLUSIONS,
3 THAT THEY DID A NUMBER OF THINGS THAT WERE
4 STRUCTURED ONLY TO LOOK AT STEPHEN BECKHAM. WITHIN
5 A FEW HOURS OF THE DEATH OF VICKIE BECKHAM,
6 INEXPLICABLE, THE STATE OF SOUTH CAROLINA, THE
7 POLICE ARE TELLING ONE OF THE WITNESSES THAT
8 STEPHEN BECKHAM HAS CONFESSED AND IMPLICATED HIM.

9 THE COURT: WELL, WHAT WE'RE HERE ABOUT
10 IS TO DETERMINE WHAT THE TRUTH IS AS TO THE FACTS
11 AS TO WHO COMMITTED THE HOMICIDE.

12 MR. HARPOOTLIAN: YES, SIR.

13 THE COURT: BUT THERE IS NOTHING IN THAT
14 STATEMENT THAT WOULD IN ANY WAY REMOTELY AFFECT
15 YOUR CLIENT'S...AT LEAST THAT STATEMENT, WOULD HELP
16 OR HURT YOUR CLIENT.

17 MR. HARPOOTLIAN: HIS TESTIMONY ABOUT
18 THE WAY THE POLICE TREATED HIM, AND HE WAS WITH HIS
19 UNCLE THE NIGHT THIS HAPPENED, HOW THEY DEALT WITH
20 HIM, WHAT CLAIMS THEY MADE, WHAT REPRESENTATIONS
21 THEY MADE.

22 THE COURT: HOW DOES THAT BEAR ON...

23 MR. HARPOOTLIAN: BIAS AND PREJUDICE.

24 THE COURT: ...THE EVIDENCE...

25 MR. HARPOOTLIAN: BIAS AND PREJUDICE,

1 BIAS AND PREJUDICE, BIAS AND PREJUDICE. YOUR
2 HONOR, WE SUBMIT THE STATE WAS BIASED AND EVERY
3 WITNESS, I MEAN THEY PUT UP THE CHIEF INVESTIGATOR,
4 THEY PUT UP A NUMBER OF WITNESSES WHO WE SUBMIT
5 COLLECTED EVIDENCE AND INVESTIGATED THIS CASE IN A
6 BIAS FASHION.

7 THE COURT: BUT DON'T WE ALWAYS SAY WHEN
8 WE COME TO THIS COURTHOUSE TO TRY A CASE THAT WHAT
9 WE'RE HERE TO DO, REGARDLESS OF WHAT THE STATE'S
10 THEORY IS, WE'RE HERE TO TEST THAT EVIDENCE THAT
11 PROVES THAT THEORY, AND IT MAY OR MAY NOT SURVIVE
12 THE TEST.

13 MR. HARPOOTLIAN: YES, SIR, YOUR HONOR,
14 AND THE WAY YOU TEST THAT EVIDENCE IS TO DETERMINE
15 WHETHER OR NOT A WITNESS IS BIASED...

16 THE COURT: THIS IS THE WITNESS THOUGH.

17 MR. HARPOOTLIAN: YES, SIR--NO, THIS IS
18 THE WITNESS TO THE STATEMENT MADE BY THE POLICE
19 INVESTIGATORS IN THIS CASE. IT'S THEIR BIAS.

20 THE COURT: WELL, TELL ME UNDER WHAT
21 RULE, WHAT RULE YOU'RE OFFERING--WELL, FIRST OF
22 ALL, LET ME BACKUP. THERE IS AN EXCEPTION TO
23 BOLSTERING A WITNESS WHEN THERE ARE ALLEGATIONS
24 THAT A CONFESSION WAS COERCED. THAT'S AN EXCEPTION
25 TO THE BOLSTERING RULE.

1 MR. HARPOOTLIAN: YES, SIR.

2 THE COURT: BUT THAT'S NOT A CONFESSION.

3 MR. SWERLING: YOUR HONOR, IF I...

4 THE COURT: ...AND SO EVEN IF WHAT HE
5 SAID WAS COERCED, IT IN NO WAY AMOUNTS TO A
6 CONFESSION.

7 MR. HARPOOTLIAN: YES, SIR. IF YOUR
8 HONOR, I'D LIKE TO DEFER TO MR. SWERLING ON THIS
9 RULE.

10 THE COURT: SURE.

11 MR. SWERLING: JUDGE, IT'S JUST NOT HIS
12 CONFESSION, BUT THE STATE'S GOING TO ARGUE IN
13 CLOSING ARGUMENT THAT EVEN THOUGH MR. BECKHAM DID
14 NOT MAKE A CONFESSION, HE PROVIDED INCONSISTENT
15 STATEMENTS. WHAT WE'RE TRYING TO SHOW IS THE
16 METHOD OF INTERROGATION, AND IF THE STATE OBVIOUSLY
17 IS NOT GOING TO INTEND TO ARGUE THAT STEPHEN
18 BECKHAM GAVE AN INCONSISTENT STATEMENT TO MR.
19 SUTTON THEN THIS TESTIMONY MAY NOT BE RELEVANT.
20 BUT THE FACT THAT HE WAS THERE ALL NIGHT, THE FACT
21 THAT STEPHEN WAS THERE ALL NIGHT, THE FACT THAT THE
22 SISTER AND THE MOTHER AND HIS BROTHER WERE NOT
23 ENTITLED TO GO DOWN THERE GOES TOWARD, WE CONTEND,
24 EXPLAINING POSSIBLY STEPHEN'S INCONSISTENCY THAT
25 THE STATE BROUGHT IN UNDER SONNY SUTTON.

1 THE OTHER THING, YOUR HONOR, WE THINK IT
2 DOES COME IN UNDER 803(3) BECAUSE IT GOES TOWARD
3 THEIR STATE OF MIND WHEN THEY WERE CONDUCTING THE
4 INVESTIGATION THAT NIGHT. THE CONSENT FORM, THE
5 SCRATCH, THE PICTURES, GETTING HIM TO SEE MR.
6 SUTTON.

7 AND THE OTHER THING I'D ASK YOUR HONOR
8 TO CONSIDER IS A UNIQUE RULE THAT WE HAVE TO DEAL
9 WITH IN SOUTH CAROLINA NOW,-- WELL IT'S NOT UNIQUE
10 BUT IT'S UNIQUE UNDER THE NEW RULES TO THE EXTENT
11 THE WAY IT'S INTERPRETED IS 801(2), D(2), I'M
12 SORRY, WHICH IS AN ADMISSION OF BY-PARTY OPPONENT.

13 CLEARLY, THE STATE OF SOUTH CAROLINA IN
14 THIS CASE IS THE PARTY OPPONENT; CLEARLY, THE
15 AGENTS OF THE STATE ARE IN A REPRESENTATIVE
16 CAPACITY BY THE STATE, AND UNDER THAT RULE WE
17 SUBMIT WE'RE ENTITLED TO GET IN STATEMENTS THEY
18 MADE. THEY'RE NOT HEARSAY STATEMENTS--TO HIM WHICH
19 FURTHER OUR DEFENSE IN THIS CASE.

20 THE COURT: BUT IF THAT WERE TRUE, MR.
21 SWERLING, THEN EVERY TIME THAT THE STATE MADE SOME
22 ASSERTION TO A WITNESS IN THE INVESTIGATION OF A
23 CRIMINAL TRIAL, CRIMINAL OFFENSE, THAT WOULD COME
24 INTO EVIDENCE AND THAT HAS--THEIR SUSPICIONS OR
25 THEIR FEELINGS OR WHATEVER HAS NOTHING TO DO WITH

1 THIS CASE.

2 MR. SWERLING: IT DOESN'T UNLESS IT'S
3 PROBATIVE OF SOME ISSUE IN THE CASE. I MEAN, I
4 AGREE, YOU'RE NOT OPENING UP...YOU KNOW, YOU CAN'T
5 OPEN UP A PANDORA'S BOX WITH EVERYTHING THE POLICE
6 TELL PEOPLE, BUT I THINK THE POLICE HAVE TO LIVE
7 WITH WHAT THEY TELL PEOPLE. AND IF AT FOUR O'CLOCK
8 IN THE MORNING THEY'RE TELLING THIS YOUNG MAN, THIS
9 KID, THAT HE'S A SUSPECT IN A MURDER, AS BEING AN
10 ACCOMPLICE WITH HIS UNCLE, AND THE FOCUS OF THE
11 INVESTIGATION, THE WAY THE INVESTIGATION IS
12 CONDUCTED FROM THAT MOMENT ON, FROM THE VERY FIRST
13 IS PROBATIVE OF OUR DEFENSE THEN I THINK WE'RE
14 ENTITLED TO EXPLORE IT. AND THAT'S WHAT THE RULES
15 ALLOW. I THINK THE POLICE HAVE TO LIVE WITH THEIR
16 STATEMENTS, TO SOME EXTENT.

17 THE COURT: WHAT DOES THAT PROVE IS WHAT
18 I WANT TO KNOW, TODAY? WHAT DOES IT PROVE TODAY?

19 MR. SWERLING: IT PROVES THE MOTIVE, THE
20 INTENT, THEIR INTEREST, THEIR BIAS AND THEIR
21 PREJUDICE IN THE WAY THEY CONDUCTED THE
22 INVESTIGATION WHICH WE'VE BEEN ABLE TO SHOW, I
23 THINK, FOR A WEEK, IT'S ALL BEEN DIRECTED TOWARD
24 FITTING A SQUARE PEG IN A ROUND HOLE. I MEAN EVERY
25 TIME THEY COME UP WITH A PIECE OF EVIDENCE ALL OF A

1 SUDDEN SOMETHING CHANGES, YOU KNOW. AND THEY'RE
2 GOING TO LIVE WITH THAT DURING CLOSING ARGUMENT.
3 BUT IT DOESN'T PROHIBIT US FROM INTRODUCING THE
4 EVIDENCE.

5 THEY CAN'T GO AROUND--WE CAN'T GO AROUND
6 MAKING STATEMENTS THAT WE'RE NOT GOING TO HAVE TO
7 LIVE WITH. WE HAVE TO LIVE WITH OUR STATEMENTS, SO
8 DO THE POLICE. AND TO SOME EXTENT, IF THEY MAKE
9 STATEMENTS WHICH ARE PROBATIVE OF SOME ISSUE THE
10 DEFENSE INTENDS TO EXPLORE DURING THEIR CASE, THEN
11 I THINK THEY HAVE TO LIVE WITH IT.

12 I MEAN, IF THEY CAN COME IN ON THAT
13 NIGHT AND ACCUSE THIS YOUNG MAN OF BEING AN
14 ACCOMPLICE TO MURDER AND HE SPENDS ALL NIGHT DOWN
15 THERE, HE COOPERATES WITH THEM, STEPHEN BECKHAM
16 COOPERATES WITH THEM, UNDER THAT THREAT THAT THE
17 TWO OF THEM HAVE COMMITTED A MURDER, AND THEY
18 RESPOND, THEY DO THINGS THAT FURTHER THE POLICE
19 INVESTIGATION BUT YET THE POLICE INVESTIGATION
20 KEEPS FOCUSING ON THEM FROM THAT DAY FORWARD AND
21 FOREVER MORE, AND WHAT YOUR HONOR HAS SEEN COME OUT
22 IN THIS CASE FORENSICALLY AND FACTUALLY, AND HOW
23 THINGS CHANGE AND HOW THINGS ARE ADOPTED, I MEAN, I
24 THINK WE'RE ENTITLED TO EXPLORE THAT AS PART OF OUR
25 DEFENSE. IT'S A VERY PART OF OUR DEFENSE, THAT

1 THEY'VE LOOKED AT STEPHEN BECKHAM FROM THAT MORNING
2 AND NEVER LOOKED ANYWHERE ELSE.

3 THE COURT: AND WE'RE HERE TO TEST THAT
4 THEORY TODAY.

5 MR. SWERLING: I AGREE WITH, BUT WE
6 THINK WE'RE ENTITLED TO EXPLORE WITH THEM FROM DAY
7 ONE, THEIR MOTIVE, THEIR INTEREST AND THEIR BIAS.

8 MR. HARPOOTLIAN: YOUR HONOR, IF I MIGHT
9 JUST SPEAK TO THIS ISSUE.

10 MR. SWERLING: IT'S A CONFRONTATION
11 ISSUE. I MEAN, THE SIXTH AMENDMENT SUPERSEDES THE
12 RULES OF EVIDENCE.

13 MR. HARPOOTLIAN: THE STATE'S POSITION
14 IS UNTIL THEY TRACKED DOWN RICHARD ANDERSON, THEY
15 OBVIOUSLY DID NOT CHARGE, THEY DID NOT CHARGE
16 STEPHEN BECKHAM WITH THIS MURDER UNTIL RICHARD
17 ANDERSON MADE A STATEMENT. I MEAN THAT'S
18 UNDISPUTED.

19 THE COURT: SURE.

20 MR. HARPOOTLIAN: THAT'S A YEAR LATER.

21 MR. SWERLING: WELL, DOES THE STATE NOT
22 INTEND TO ARGUE THAT STEPHEN BECKHAM GAVE AN
23 INCONSISTENT STATEMENT TO SONNY SUTTON?

24 THE COURT: WELL, I'M SURE THAT THEY
25 ARE.

1 MR. SWERLING: SURE. WELL, THIS KID'S
2 GOING TO BE ABLE TO EXPLAIN WHY THAT WAS GOING ON.

3 MR. HARPOOTLIAN: HE EXPLAINS WHY.

4 MR. SWERLING: IT WAS AN ACCUSATORY
5 PROCEEDING THAT WHOLE EVENING BETWEEN THE TWO.
6 THEY DID A MUTT AND JEFF ROUTINE ON THEM.

7 THE COURT: AND THEY DO THAT ALL THE
8 TIME.

9 MR. HARPOOTLIAN: WELL, BUT THIS JURY
10 DOESN'T KNOW THAT.

11 MR. SWERLING: BUT THEY GOT AWAY WITH
12 IT, BUT I THINK THEY HAVE TO LIVE WITH IT.

13 THE COURT: I DON'T SEE HOW THAT'S
14 ADMISSIBLE EVIDENCE.

15 MR. HARPOOTLIAN: YOUR HONOR, THE OTHER
16 POINT IS THIS.

17 THE COURT: NOW, ONE AT THE TIME NOW.
18 WHICH ONE OF YOU IS GOING TO ARGUE.

19 MR. SWERLING: IT HELPS US EXPLAIN MAYBE
20 WHAT HE WAS GOING THROUGH THAT NIGHT, AND WHY AT
21 NINE O'CLOCK, TEN O'CLOCK IN THE MORNING, AFTER
22 EIGHT HOURS OF INTERROGATION, HE MAY HAVE MADE A
23 SLIP AS TO WHETHER OR NOT HE WAS WITH HIS WIFE
24 TWENTY MINUTES OR THIRTY MINUTES, OR WHETHER HE WAS
25 ON THE PROPERTY OR MOVED TO ANOTHER PART OF THE

1 PROPERTY.

2 THE COURT: WELL, WE ALL KNOW, IN
3 CAMERA, I MEAN, YOU KNOW, WE HAVE TO LIVE WITH WHAT
4 THE IN CAMERA RULING WAS, BUT WE ALL KNOW THAT HE
5 WAS OFFERED A POLYGRAPH. AND THEN FOR WHATEVER
6 REASON THEN AFTER, THERE'S A STATEMENT BEFORE AND
7 THERE'S A STATEMENT AFTER. I MEAN, I CAN'T TAKE
8 THAT OUT OF THE RECORD.

9 MR. HARPOOTLIAN: RIGHT.

10 MR. SWERLING: I AGREE, AND I THINK
11 THAT'S WHY WE'RE ENTITLED TO EXPLORE IT.

12 MR. HARPOOTLIAN: YOUR HONOR, THE OTHER
13 POINT I WOULD MAKE VERY BRIEFLY IS THIS. THE
14 STATEMENTS OF--THAT THEY--PART OF THE STATEMENT
15 ANYWAY THEY WOULD SEEK TO INTRODUCE OF MR.
16 BECKHAM'S ARE RECOLLECTIONS BY THE POLICE, BY
17 POLICE AGENTS.

18 NOW, IT SEEMS TO ME THAT WE SHOULD HAVE
19 THE ABILITY TO CHALLENGE THEIR BIAS. I MEAN,
20 WHAT'S HAPPENED THROUGHOUT THIS ENTIRE PROCESS IS
21 THAT AS OUR WITNESSES HAVE TAKEN THE STAND, MR.
22 JONES HAS GOTTEN UP AND SAID, "WELL, DIDN'T YOU
23 TELL THE POLICE, DIDN'T IN THIS STATEMENT YOU TELL
24 THE POLICE ON SUCH AND SUCH DATE..." NO WRITTEN
25 STATEMENT HAS EVER BEEN PRODUCED FOR SHANNON OR

1 ANDREW OR ANY OF THESE PEOPLE. WE BELIEVE WE CAN
2 SHOW THAT THERE WAS A BIAS ON THE PART OF THE
3 POLICE JUST AS I ASKED ANDREW, "DID THEY ASK YOU,
4 DID THEY ASK YOU IF YOUR DAD WENT UP AND PARKED UP
5 AT THE END? DID THEY ASK YOU ABOUT ANY OF THE
6 SORTS OF THINGS THAT WOULD TEND TO SHOW THEY WERE
7 EXCULPATORY FOR HIM?" AND THE REASON THEY'RE NOT
8 DOING THAT, IS BECAUSE THEY CAME TO A CONCLUSION
9 THAT NIGHT, NOT IN THE YEAR LATER, THAT NIGHT. AND
10 WHAT THIS EVIDENCE SHOWS IS THE BIAS AND PREJUDICE
11 OF THE POLICE, THE STATE'S INVESTIGATION WITHIN
12 FOUR OR FIVE HOURS OF HER DEATH.

13 AND THAT, YOUR HONOR, IS THE HEART OF
14 THE CASE. AND I KNOW THE STATE'S TIRED OF HEARING
15 THAT, BUT YOU KNOW, IF THIS WERE, IF THE SHOE WERE
16 ON THE OTHER FOOT, IF SOME AGENT OF THE DEFENSE OR
17 SOME MEMBER OF THE DEFENDANT'S FAMILY OR WHATEVER
18 HAD MADE A STATEMENT THAT'S A MIRROR IMAGE OF THIS,
19 INCULPATORY AS TO THE DEFENDANT OR ONE OF HIS
20 RELATIVES, IT WOULD BE ADMISSIBLE AND THERE WOULD
21 BE NO QUESTION OF IT. AGENT OF THE DEFENDANT.

22 THE COURT: BUT GOING BACK TO WHAT WE'RE
23 ALL ARGUING ABOUT IN THE FIRST PLACE, IS THAT IF
24 YOU LOOK AT WHAT HE SAID IN THAT STATEMENT, THAT
25 ADDS NOTHING AND IT TAKES NOTHING AWAY FROM THE

1 CASE.

2 MR. SWERLING: JUDGE...

3 THE COURT: AS TO WHAT HE KNOWS ABOUT
4 WHAT HAPPENED. STATEMENT SAYS HE HASN'T SEEN
5 VICKIE LANDER BECKHAM SINCE THE 11TH OF JULY. HE
6 DID NOT PARTICIPATE IN THE TIMING EXCEPT FOR THE
7 TWO P.M. WATCHING THE MOVIES THING. AND OF COURSE
8 THE STATE OBJECTED TO THE KEY QUESTION THEY ASKED,
9 WOULDN'T LET HIM ANSWER IT. BUT HE WAS ABOUT TO
10 GIVE YOU ALL AN ANSWER. BUT YOU OBJECTED TO IT ON
11 THE BASIS OF HEARSAY. ANYWAY, BE THAT AS IT MAY...

12 MR. HARPOOTLIAN: BUT IF THEY'RE SAYING
13 THIS TO HIM IN ONE ROOM, I THINK THE JURY CAN
14 ASSUME AND FIND ON THE BASIS OF CIRCUMSTANTIAL
15 EVIDENCE, THEY'RE DOING THE SAME KIND OF THING IN
16 THE OTHER ROOM WHICH GOES TO THE CONTEXT AND
17 CREDIBILITY OF ANY IMPEACHMENT THEY'VE DONE OF
18 STEPHEN BECKHAM.

19 MR. JONES: JUDGE, THAT'S ...

20 THE COURT: NO, WE HAD AN IN CAMERA
21 MIRANDA HEARING WHERE HE COULD HAVE TESTIFIED AND
22 WHERE HE DID TESTIFY, AND SO THAT'S A MOOT ISSUE
23 WITH ME.

24 MR. HARPOOTLIAN: I'M NOT TALKING ABOUT
25 ITS ADMISSIBILITY, I'M TALKING ABOUT ITS

1 CREDIBILITY WITH THE JURY; NOT WHETHER IT'S
2 ADMISSIBLE BUT THE WEIGHT GIVEN TO IT BY THE JURY.
3 MR. MCMAHON: JUDGE, THAT'S WHAT THEY
4 CAN CROSS EXAMINE WRIGHT AND SUTTON ABOUT. THAT'S
5 THE BIAS AND THE PREJUDICE, WRIGHT AND SUTTON.
6 EVEN IF YOU TAKE HIS STATEMENT AS TRUE, THIS
7 WITNESS' STATEMENT AS TRUE, IT DIDN'T AFFECT HIM
8 BECAUSE HE SAID "I ENDED UP TELLING THE TRUTH." SO
9 EVEN IF YOU SAY THE POLICE LIED TO HIM, HE'S SAYING
10 "EVERYTHING I SAID IN MY STATEMENT IS THE TRUTH."
11 SO THEIR WHOLE THEORY FALLS ON THE WEIGHT OF
12 ITSELF.

13 THEY'RE SAYING, "OH, THEY COERCED ALL OF
14 THIS, AND THEY USE ALL THESE TACTICS," AND ALL
15 THESE TACTICS DO, WHICH I SUBMIT THEY DID NOT USE,
16 IS GET THEM THE TRUTH. AND THE CHALLENGE TO THE
17 BIAS AND THE INTEREST WAS THE CROSS EXAMINATION OF
18 DETECTIVE WRIGHT AND THE CROSS EXAMINATION OF
19 DETECTIVE SUTTON. "WHAT TECHNIQUES DID YOU USE,
20 DETECTIVE WRIGHT?" THAT WAS ADMISSIBLE. I DON'T
21 THINK WE COULD HAVE GOTTEN AROUND THAT BECAUSE I
22 THINK THAT'S ADMISSIBLE UNDER THE RULES.

23 BUT JUDGE, THIS ISN'T RELEVANT, HOW THEY
24 TREAT THIS PERSON IS NOT RELEVANT. HE DOESN'T EVEN
25 KNOW WHO THE DECLARANT IS. HE HASN'T EVEN

1 IDENTIFIED, ALL HE SAID IS "THEY." HE TALKS ABOUT
2 TWO, MAYBE THREE OFFICERS BEING THERE, AND THEN HE
3 GENERALIZES. IT'S NOT THE SITUATION 803(3)--I
4 DON'T EVEN THINK IT GETS TO 803(3). IT DOESN'T
5 MAKE 402, IT'S NOT RELEVANT TO START WITH, AND AN
6 EXCEPTION. AND IT'S AN EXCEPTION BECAUSE IT GOES
7 NOT ONE IOTA TO THE PROVE OR DISPROVE ANY FACT IN
8 ISSUE AS FAR AS GUILT OR INNOCENCE OF THE DEFENDANT
9 IN THIS CASE, NONE WHATSOEVER.

10 MR. SWERLING: JUDGE, CAN I--NOTHING
11 PROHIBITS UNDER THE RULES OF EVIDENCE OR JUST
12 CONSTITUTION OF CONFRONTATION, SIXTH AMENDMENT
13 ISSUES, US ATTACKING CREDIBILITY OF WITNESSES WHO
14 HAVE ALREADY TESTIFIED THROUGH SOMEONE ELSE, WHICH
15 EXACTLY WHAT WE'RE GOING TO DO. SURE, WE COULD ASK
16 THEM THE QUESTIONS. BUT IN SOME RESPECTS YOU'D
17 HAVE TO BE A FOOL TO ASK THE WITNESS THE QUESTION.
18 YOU ATTACK HIS CREDIBILITY THROUGH QUESTIONS TO
19 OTHER PEOPLE, AND THAT'S JUST A TACTIC OF TRIAL.

20 THE COURT: WELL, OF COURSE ONE OF THE
21 REQUIREMENTS THOUGH IS IF YOU'RE TALKING ABOUT, YOU
22 KNOW, TO SET THAT UP, YOU WOULD HAVE, AND
23 PARTICULARLY WE'RE TALKING ABOUT A STATEMENT THAT
24 AN OFFICER ALLEGEDLY MADE, YOU HAVE TO GIVE THEM
25 THE RIGHT, THE DATE, TIME, PLACE AND CIRCUMSTANCES

1 UNDER WHICH A STATEMENT IS MADE AND THE RIGHT TO
2 ADMIT OR DENY IT. IF THEY DENIED IT, THEN CLEARLY
3 THIS WITNESS COULD TESTIFY, BUT I DON'T RECALL
4 ANYBODY DID THAT WITH WRIGHT.

5 MR. SWERLING: THAT'S IF YOU'RE USING IT
6 FOR THE PURPOSE OF SHOWING PRIOR INCONSISTENT
7 STATEMENT. WE'RE NOT USING IT FOR THE PURPOSE OF
8 SHOWING PRIOR INCONSISTENT STATEMENT. WE'RE USING
9 IT FOR THE PURPOSE OF SHOWING, ATTACKING
10 CREDIBILITY; MOTIVE, INTEREST AND BIAS. DELAWARE
11 VERSUS VANARSDALE, YOUR HONOR, IS THE SIXTH
12 AMENDMENT CASE THAT SAID THE FEDERAL RULES OF
13 EVIDENCE, AND I WOULD ASSUME NOW UNDER THE STATE
14 RULES OF EVIDENCE, ARE SUPERSEDED BY CONSTITUTIONAL
15 ISSUES.

16 IN OTHER WORDS, YOU'RE NOT LIMITED UNDER
17 A SIXTH AMENDMENT CONFRONTATION ISSUE AS TO ANY
18 RULES OF EVIDENCE.

19 THE COURT: WELL, I NEVER HAVE KNOWN A
20 POLICE OFFICER TO BE ANYTHING OTHER THAN BIASED
21 TOWARD A SUSPECT. I MEAN, THEY'RE ALWAYS
22 QUESTIONING THEM. I MEAN, THAT'S THEIR JOB.

23 MR. SWERLING: RIGHT, AND WHY CAN'T WE
24 BRING THAT OUT?

25 THE COURT: WELL, I DON'T SEE HOW THAT

1 BEARS ON THE QUESTION OF WHAT, AS A RESULT OF THAT
2 WHAT DID IT PRODUCE? IT PRODUCED THE EVIDENCE THAT
3 THEY'RE PRESENTING IN THIS TRIAL, THAT EVIDENCE
4 YOU'RE GOING TO TEST IN FRONT OF THIS JURY. AND IT
5 MAY SUCCEED...

6 MR. SWERLING: JUDGE, WE'RE...I'M SORRY.

7 THE COURT: IT MAY SUCCEED OR IT MAY
8 FAIL.

9 MR. SWERLING: ALL WE'RE SAYING TO PUT
10 IN THAT CRUCIBLE OF TRUTH, PUT IN THE CRUCIBLE TO
11 GET THE TRUTH, IS THE JURY IS ENTITLED TO HEAR HOW
12 THE INVESTIGATION WAS CONDUCTED.

13 MR. HARPOOTLIAN: AND YOUR HONOR, WILL
14 YOU GIVE THIS JURY A CHARGE THE POLICE OFFICERS ARE
15 NATURALLY BIASED AND PREJUDICED TO THE STATE?

16 THE COURT: OH, ABSOLUTELY NOT.

17 MR. HARPOOTLIAN: WELL, SO THAT'S NOT A
18 STIPULATED FACT. WE'LL BE ABLE TO PROVE IT.

19 THE COURT: BUT I MEAN, YOU KNOW,
20 THEY'RE ALWAYS, THEY ALWAYS RUN INTO A SITUATION
21 WHERE, I MEAN, TECHNIQUES OF INVESTIGATION, THAT'S
22 AN ART. THE SUPREME COURT OF THIS STATE, WITHIN
23 THE LAST MONTH, HAS AFFIRMED A CONVICTION WHEREIN
24 CLEARLY THE POLICE MISLEAD THE...

25 MR. HARPOOTLIAN: THEN WE'VE GOT

1 NO...WE'RE NOT SAYING THAT IT IS A CONSTITUTIONAL
2 VIOLATION, YOUR HONOR. WE'RE SAYING THAT AT THAT
3 POINT THAT THEY WERE USING THAT TECHNIQUE, AND
4 USING THAT TECHNIQUE HAS IT'S FAULTS IN THAT
5 SOMETIMES YOU GET CONFESSIONS THAT ARE CREDIBLE AND
6 BELIEVED BY THE JURY, BUT YOU'VE GOT TO LIVE WITH
7 BOTH SIDES OF THE COIN.

8 I MEAN, IF JAMIE AND STEVE BECKHAM HAS
9 CONFESSED THAT NIGHT TO KILLING HER OR WHATEVER,
10 YOU KNOW, WE'D BE ARGUING ABOUT THE CONSTITUTIONAL
11 ISSUES, BUT THAT'S NOT WHAT WE'RE ARGUING ABOUT.
12 THEY HAVE TO "WHY ARE THEY," OR TO SOME EXTENT AT
13 THAT JUNCTURE, LYING TO THIS GUY, TELLING HIM.
14 WHERE'S THE EVIDENCE HE HAD ANYTHING TO DO WITH IT?
15 THEY'RE MAKING IT UP. I MEAN, THERE'S NOT A TREAD
16 OF EVIDENCE THAT JAMIE WAS INVOLVED IN ANY WAY.
17 WHY SHOULD THEY--THAT'S AS UNPROFESSIONAL AS IT
18 GETS.

19 THE COURT: WELL, THAT'S NOT AN ISSUE IN
20 THIS TRIAL.

21 MR. HARPOOTLIAN: YES, SIR. IT'S
22 CREDIBILITY OF THE EVIDENCE GATHERING PROCESS BY
23 THE LAW ENFORCEMENT AUTHORITIES. IT GOES TO THEIR
24 BIAS AND PREJUDICE.

25 THE COURT: ALL RIGHT, I...

1 MR. MCMAHON: JUDGE, COULD I PUT ONE
2 THING IN THE RECORD?

3 THE COURT: YES, SIR.

4 MR. MCMAHON: DELAWARE VERSUS
5 VANARSDALE, IT TALKS ABOUT THE DEFENDANT'S RIGHT TO
6 CONFRONTATION BEING VIOLATED BY DENIAL OF THE RIGHT
7 TO CROSS EXAMINE A WITNESS, BY DENIAL OF THE RIGHT
8 TO CROSS EXAMINE A WITNESS. THAT GOES RIGHT BACK
9 TO WHAT I SAID. THEY COULD HAVE CROSS EXAMINED
10 DETECTIVE WRIGHT AND DETECTIVE SUTTON ON THAT
11 ISSUE. WE'RE NOT DENYING THEM THE RIGHT TO CROSS
12 EXAMINE THIS WITNESS. THEY CALLED THIS WITNESS.
13 AND IT'S JUST NOT RELEVANT. IT HAS NO
14 CONSTITUTIONAL IMPLICATIONS WHATSOEVER.

15 THE COURT: ALL RIGHT, I FIND THAT,
16 FIRST OF ALL, PURSUANT TO OUR RULE 402, THAT THE
17 EVIDENCE IS NOT RELEVANT. EVEN IF IT WERE, THEN AN
18 ANALYSIS UNDER 608 AS TO EVIDENCE, CHARACTER,
19 CONDUCT, BIAS OF A WITNESS, THAT TYPE OF AN
20 ANALYSIS WOULD NOT BE, WITH THIS WITNESS, WOULD NOT
21 BE APPROPRIATE, AND I JUST CAN'T BRING MYSELF TO
22 ACCEPT THE IDEA THAT THROUGH 803(3) THAT WITH
23 REGARD TO EXISTING MENTAL, EMOTIONAL, PHYSICAL
24 CONDITION, THAT EXCEPTION TO THE HEARSAY RULE, I
25 WOULD NOT ALLOW THAT TESTIMONY IN.

1 AND ALSO, WITH REGARD TO STATE OF MIND,
2 STATE OF MIND GOES TO EXPLAIN WHY A PERSON
3 COMMITTED A CRIME OR DIDN'T COMMIT A CRIME IN THE
4 CRIMINAL CONTEXT THAT WE'RE IN HERE, AND OF COURSE,
5 HE'S NOT CHARGED WITH THE CRIME. I JUST HAVE A
6 HARD TIME WITH THAT. I UNDERSTAND THAT'S THE HEART
7 AND SOLE OF YOUR CASE, BUT WE'RE GOING TO TEST THIS
8 CASE BASED UPON THE EVIDENCE.

9 I JUST CAN'T...NOW, OF COURSE, IF THE
10 SOLICITOR OPENS THE DOOR, YOU KNOW, THEN HE CAN RUN
11 RIGHT THROUGH IT.

12 MR. JONES: NOW, TELL ME AGAIN WHERE...

13 THE COURT: IF YOU OPEN...

14 MR. JONES: ...THAT DOOR IS.

15 THE COURT: PEAK AROUND THAT CORNER,
16 HE'LL RUN OVER YOU. AND HE'S ENTITLED TO IT. I
17 JUST DON'T THINK THAT'S RELEVANT TO THE ISSUE.

18 MR. HARPOOTLIAN: YES, I UNDERSTAND.
19 THANK YOU, YOUR HONOR.

20 THE COURT: ALL RIGHT, YES SIR.

21 MR. HARPOOTLIAN: I'M SORRY I SAID THANK
22 YOU.

23 THE COURT: WE'RE GOING TO WRAP IT UP
24 FOR TODAY. I WANT TO COMPLIMENT THE AUDIENCE FOR
25 YOUR COOPERATION WITH THE DISCUSSIONS WE HAD

1 YESTERDAY. I THINK WE'VE HAD A NICE PLEASANT DAY,
2 AS FAR AS IT CAN BE UNDER THE CIRCUMSTANCES.

3 ALL RIGHT, BRING THEM IN.

4 (JURY RETURNED TO OPEN COURTROOM AT 4:18
5 P.M.)

6 Q (BY MR. HARPOOTLIAN) WE WERE DEALING
7 WITH YOUR MEETINGS WITH THE POLICE. AFTER YOU
8 RETURNED HOME FROM THE POLICE STATION, WHICH WOULD
9 HAVE BEEN ABOUT I THINK YOU TOLD US ELEVEN O'CLOCK?

10 A SOMEWHERE AROUND IN THERE.

11 Q ALL RIGHT. DID YOU HAVE OCCASION TO
12 MEET WITH THE POLICE AGAIN A COUPLE OF WEEKS LATER
13 ON THE 21ST?

14 A YES, SIR.

15 Q AND COOPERATED FULLY WITH THEM AGAIN?

16 A RIGHT.

17 Q NOW, BEFORE I GO ON ON THAT LINE, GOING
18 BACK TO THE AFTERNOON OF THE 12TH, WHAT TIMES WERE
19 YOU ON THE BECKHAM PROPERTY? WHAT'S THE EARLIEST
20 TIME YOU WERE ON THE BECKHAM PROPERTY?

21 A ON THE 12TH?

22 Q YEAH.

23 A I WAS THERE ALL MORNING UNTIL ABOUT
24 PROBABLY 4:15, 4:30, SOMEWHERE AROUND IN THERE.

25 Q OKAY. AND DURING THAT PERIOD OF TIME

1 WHEN YOU WERE ON THE BECKHAM PROPERTY, WERE YOU UP
2 AT YOUR HOUSE OR UP AT STEPHEN'S OR AT YOUR
3 GRANDFATHER'S HOUSE?

4 A MY HOUSE, AND I STOPPED BY STEPHEN'S
5 BEFORE I LEFT TO GO TO MY MOM'S.

6 Q ABOUT WHAT TIME WAS THAT?

7 A PROBABLY ABOUT FOUR, I DON'T KNOW, A
8 LITTLE AFTER FOUR.

9 Q AND WHAT TIME DID YOU LEAVE, ABOUT FOUR?

10 A PROBABLY AROUND, I DON'T KNOW, I GOT TO
11 MY MOM'S HOUSE JUST BEFORE FIVE O'CLOCK SO IT WAS
12 PROBABLY RIGHT AROUND 4:30 WHEN I LEFT.

13 Q OKAY, AND WHEN YOU LEFT TO GET THE
14 MOVIES THAT NIGHT, WHO WENT WITH YOU?

15 A LADONNA, SHANNON, ANDREW, ME, WERE ALL
16 IN THE CAR.

17 Q OKAY, ARE YOU FAMILIAR WITH AN AREA BACK
18 BEHIND THE TRAILER WHERE FIRES HAVE BEEN BURNED?

19 A YES, SIR.

20 Q I SHOW YOU STATE'S EXHIBIT NUMBER
21 EIGHTEEN. DOES THAT REPRESENT THAT AREA?

22 A RIGHT.

23 Q WAS THIS SOMETHING THAT HAPPENED
24 INFREQUENTLY OR FREQUENTLY?

25 A PRETTY FREQUENTLY. WE HAD A BUNCH OF

1 JUNK TO BURN, BUT MORE OR LESS A BUNCH OF TWIGS AND
2 BRANCHES AND EVERYTHING ELSE THAT HAD BEEN CUT
3 DOWN.

4 Q WERE YOU SUBPOENAED TO TESTIFY IN THIS
5 TRIAL?

6 A NO, SIR.

7 Q NOBODY EVER SERVED A SUBPOENA ON YOU?

8 A NO, SIR.

9 MR. HARPOOTLIAN: BEG THE COURT'S
10 INDULGENCE ONE MOMENT, PLEASE.

11 Q WHEN YOU LEFT AROUND FOUR O'CLOCK,
12 THAT'S WHAT TIME YOU TESTIFIED YOU LEFT, ISN'T THAT
13 RIGHT, AROUND FOUR?

14 A PROBABLY AROUND 4:30 WHEN I LEFT.

15 Q DO YOU KNOW WHETHER STEPHEN'S CAR, DID
16 YOU NOTICE WHETHER STEPHEN'S CAR WAS STILL DOWN IN
17 FRONT OF HIS TRAILER?

18 A YEAH, I LEFT FROM HIS TRAILER IS WHERE I
19 WENT TO GET MY MOM.

20 Q OKAY, WAS HIS CAR STILL THERE?

21 A YES, SIR.

22 Q OKAY. WAS THERE ANY OTHER CAR DOWN IN
23 FRONT OF HIS TRAILER?

24 A YES, SIR.

25 Q DO YOU KNOW WHOSE CAR THAT WAS?

1 A THERE WAS A LADY IN THE TRAILER WHEN I
2 WALKED IN AND I SPOKE TO HER FOR A FEW SECONDS.
3 Q WHAT'S HER NAME?
4 A AT THE TIME, I DIDN'T KNOW WHAT HER NAME
5 WAS.
6 Q DO YOU KNOW IT NOW?
7 A YES.
8 Q WHAT'S HER NAME?
9 A AILENE HURST I BELIEVE IS THE NAME.
10 Q OKAY, AND THAT WAS ABOUT 4:30?
11 A YEAH, I DIDN'T STAY THERE TOO LONG. I
12 JUST WENT IN AND SAID HELLO AND THEN LEFT.
13 Q OKAY, THANK YOU. PLEASE ANSWER ANY
14 QUESTIONS THE SOLICITOR MIGHT HAVE FOR YOU.
15 THE COURT: DO YOU INTEND TO EXAMINE THE
16 WITNESS?
17 MR. JONES: YES, I DO, YOUR HONOR.
18 THE COURT: OKAY, WE'LL BREAK IT NOW.
19 MR. JONES: OH, I THINK THAT I CAN
20 PROBABLY FINISH THIS AFTERNOON. I MEAN, IF I CAN'T
21 FINISH...
22 THE COURT: WITHIN MY TIME CONSTRAINTS?
23 MR. JONES: YES, SIR. YES, SIR.
24 JUDGE, YOU'RE TALKING ABOUT TWENTY MINUTES, RIGHT?
25 TWENTY MINUTES?

1 THE COURT: TWENTY MINUTES, NO, LET ME
2 JUST BE SAFE.

3 MR. JONES: NO, JUDGE, I CAN DO IT IN
4 TWENTY MINUTES.

5 THE COURT: NO, LET ME JUST STOP RIGHT
6 NOW. I THINK WE'LL BE BETTER OFF. I DON'T WANT TO
7 GET TO A POINT AND HAVE TO CUT YOU OFF.

8 MR. JONES: YOU WON'T HAVE TO, JUDGE.
9 I'LL FINISH.

10 THE COURT: ALL RIGHT, HAVE AT IT.

11 MR. JONES: OKAY, I WILL.

12 CROSS EXAMINATION:

13 BY MR. JONES:

14 Q JAMIE, AGAIN, YOUR MOM IS THE
15 DEFENDANT'S SISTER?

16 A YES, SIR.

17 Q OKAY, AND YOU WERE LIVING IN THE HOUSE
18 NEXT TO WHERE THE DEFENDANT MOVED HIS MOBILE HOME.
19 WERE YOU LIVING THERE BEFORE HE MOVED HIS MOBILE
20 HOME THERE?

21 A YES, SIR.

22 Q HOW LONG HAVE YOU BEEN LIVING THERE?

23 A ON THE PROPERTY OR IN THAT HOUSE?

24 Q WELL, BOTH.

25 A ON THE PROPERTY, IT'S BEEN ABOUT SEVEN

- 1 YEARS, AND IN THAT HOUSE PROBABLY ABOUT FIVE.
- 2 Q OKAY. AND YOU LEFT ON THE 12TH AT ABOUT
- 3 4:30?
- 4 A SOMEWHERE AROUND IN THERE.
- 5 Q AND YOU WENT DOWN TO TELL THE DEFENDANT
- 6 THAT YOU WERE LEAVING?
- 7 A RIGHT. I GOT DOWN THERE ACTUALLY A
- 8 LITTLE BIT EARLIER THAN 4:30 SO I COULD SAY HELLO
- 9 TO HIM, AND THERE WAS A LADY DOWN THERE. AND THEN
- 10 I LEFT RIGHT AROUND 4:30 TO GO TO MY MOM'S.
- 11 Q OKAY. AND YOU DIDN'T GET BACK UNTIL?
- 12 A PROBABLY ABOUT 8:20 IS WHEN I GOT BACK.
- 13 Q EIGHT-TWENTY THAT NIGHT?
- 14 A RIGHT
- 15 Q OKAY, ON JUNE 12TH?
- 16 A RIGHT.
- 17 Q ON JUNE 8TH.
- 18 A YES, SIR.
- 19 Q WHAT WERE YOU DOING AGAIN THAT DAY, WERE
- 20 YOU WORKING?
- 21 A NO, SIR.
- 22 Q YOU WEREN'T?
- 23 A NO.
- 24 Q WHERE, I MEAN, WERE YOU ON VACATION OR?
- 25 A I DON'T THINK I WAS SCHEDULED THAT DAY.

- 1 Q WHERE DO YOU WORK?
- 2 A AT THAT TIME, I WORKED AT PIZZA HUT.
- 3 Q PIZZA HUT?
- 4 A RIGHT.
- 5 Q SO YOU WEREN'T WORKING THAT DAY?
- 6 A RIGHT.
- 7 Q SO WHAT DO YOU RECALL DOING THAT DAY?
- 8 A BASICALLY, JUST GOOFING OFF AROUND THE
- 9 HOUSE IS MORE OR LESS WHAT I DID.
- 10 Q STARTING AT WHAT TIME?
- 11 A I'M NOT SURE ABOUT EXACTLY WHAT TIME.
- 12 Q DO YOU THINK YOU GOT UP AROUND NINE OR
- 13 TEN IN THE MORNING?
- 14 A KNOWING ME, PROBABLY NOT.
- 15 Q WHAT TIME DO YOU THINK YOU GOT UP THEN?
- 16 A PROBABLY GOT UP THEN?
- 17 A PROBABLY GOT UP AROUND 11:30, SOMEWHERE
- 18 AROUND IN THERE.
- 19 Q ELEVEN-THIRTY IN THE MORNING?
- 20 A RIGHT.
- 21 Q OKAY, AND THEN WHAT WOULD YOU HAVE DONE?
- 22 A PROBABLY WOULD HAVE GOTTEN UP, WATCHED
- 23 SOME TV, MAYBE PLAYED A COUPLE OF VIDEO GAMES,
- 24 SOMETHING LIKE THAT.
- 25 Q AT HOME?

- 1 A RIGHT.
- 2 Q ALONE?
- 3 A RIGHT, AND THEN I WOULD HAVE PROBABLY
- 4 BEEN, MOSTLY WHAT I DID, I MIGHT HAVE GONE AROUND
- 5 THE YARD A LITTLE BIT.
- 6 Q WHAT WOULD YOU HAVE DONE AROUND THE
- 7 YARD?
- 8 A SIT OUT, SMOKE A CIGARETTE.
- 9 Q OKAY.
- 10 A WATCH TRAFFIC GO BY.
- 11 Q AND WOULD THIS BE DURING THE COURSE OF
- 12 TWO OR THREE HOURS?
- 13 A YES.
- 14 Q SO IT'S ABOUT 3:30 IN THE AFTERNOON?
- 15 A PROBABLY SOMEWHERE AROUND THERE.
- 16 Q AND WHAT WOULD YOU DO AT THAT TIME?
- 17 A PROBABLY WENT INSIDE AND GOT SOMETHING
- 18 TO EAT. THAT'S JUST A ROUGH GUESS.
- 19 Q OKAY. AND THEN WHAT WOULD YOU HAVE
- 20 DONE?
- 21 A THE REST OF THE TIME?
- 22 Q YES, FROM 3:30 AFTER YOU ATE.
- 23 A JUST RELAXED, WATCH TV.
- 24 Q WATCH TV? AT HOME?
- 25 A UH-HUH.

- 1 Q ALONE?
- 2 A YES.
- 3 Q FOUR O'CLOCK YOU WERE WATCHING TV?
- 4 A UH-HUH.
- 5 Q ANYTHING IN PARTICULAR INTEREST YOU AT
- 6 FOUR IN THE AFTERNOON ON TV?
- 7 A NOT USUALLY. SOAP OPERAS ARE GONE BY
- 8 THEN.
- 9 Q SO WHAT ARE YOU WATCHING AT FOUR?
- 10 A JUST VARIOUS, ACCORDING WHAT I GO
- 11 THROUGH. I USUALLY CHANNEL SURF A LOT, JUST GO
- 12 THROUGH AND CLICK THE CHANNELS.
- 13 Q ANYTHING IN PARTICULAR YOU WATCH AT
- 14 FIVE?
- 15 A NOT REALLY.
- 16 Q WELL, HOW LONG DID YOU WATCH OR CHANNEL
- 17 SEARCH?
- 18 A JUST FOR A WHILE. I CAN'T REMEMBER
- 19 EXACTLY HOW LONG I DID IT.
- 20 Q THIS IS UNTIL ABOUT WHAT TIME?
- 21 A I'M NOT POSITIVE OF THE EXACT TIMES.
- 22 Q UH-HUH.
- 23 A AFTER THAT, JUST WATCHING TV.
- 24 Q AND WHAT DID YOU DO? I MEAN, WATCHING
- 25 TV. FOUR O'CLOCK, FIVE O'CLOCK, DID YOU WATCH IT ON

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- 1 TO SIX?
- 2 A PROBABLY.
- 3 Q WHAT ABOUT SEVEN?
- 4 A I DON'T THINK SO, NOT AT SEVEN.
- 5 Q WHAT WERE YOU DOING AT SEVEN?
- 6 A I WAS PROBABLY JUST WALKING AROUND LIKE
- 7 I NORMALLY DO THROUGH MY HOUSE.
- 8 Q WALKING AROUND THROUGH YOUR HOUSE?
- 9 A I GUESS. I'M NOT SURE ABOUT THE TIMES.
- 10 Q IS THAT ABOUT A FOUR ROOM, FIVE ROOM
- 11 HOUSE?
- 12 A IT'S GOT ONE, TWO, THREE--FIVE.
- 13 Q ALL RIGHT, YOU WALKED AROUND THROUGH
- 14 YOUR HOUSE AT SEVEN?
- 15 A I'M JUST TAKING A GUESS AT TIMES.
- 16 MR. HARPOOTLIAN: MAY IT PLEASE THE
- 17 COURT, YOUR HONOR, I WOULD OBJECT TO THESE
- 18 QUESTIONS; CALLS FOR SPECULATION ON THE PART OF THE
- 19 WITNESS. HE SAYS PROBABLY, GUESSING. IF HE
- 20 DOESN'T KNOW FOR SURE...
- 21 MR. JONES: YOUR HONOR, THIS IS AN
- 22 OBJECTION...
- 23 THE COURT: YES, SIR, I OVERRULE THE
- 24 OBJECTION, BUT YOU HAVE TO TAKE HIS ANSWER NOW.
- 25 MR. JONES: YES, SIR.

1 Q AND THAT'S WHAT I'M ASKING IS WHAT IS
2 YOUR ANSWER? WHAT DID YOU DO AT SEVEN O'CLOCK?

3 A I CAN'T REMEMBER EVERYTHING THAT DAY. I
4 MEAN NOT TOTALLY.

5 Q UH-HUH. WELL, DO YOU REMEMBER WHAT YOU
6 DID AT SEVEN O'CLOCK?

7 A I'M NOT A GOOD PERSON AT KEEPING TRACK
8 OF TIME EITHER. I JUST KIND OF GO THROUGH THE DAY
9 ACCORDING TO HOW IT GOES.

10 Q OKAY. WHAT DID YOU DO AT EIGHT O'CLOCK?

11 A LIKE I SAID, I'M NOT A GOOD PERSON AT
12 KEEPING TRACK OF TIME. I JUST REMEMBER THAT DAY
13 THERE WAS A CAR DOWN, AND IT WAS VICKIE'S CAR, AND
14 I WENT DOWN THERE AND SAID HELLO, AND THE KIDS WERE
15 THERE.

16 Q WELL, ON...

17 MR. HARPOOTLIAN: OBJECTION, YOUR HONOR.
18 HE'S ATTEMPTING TO FINISH HIS ANSWER. HE HAS NOT
19 FINISHED HIS ANSWER.

20 Q GO AHEAD.

21 THE COURT: ALL RIGHT, YOU CAN FINISH
22 YOUR ANSWER.

23 A THAT'S WHAT I DID; WENT DOWN AND SAID
24 HELLO. I LIKE TO SAY HELLO TO VICKIE AND SEE HOW
25 SHE WAS AND EVERYTHING, AND THERE WAS A LADY IN THE

1 CAR I HADN'T SEEN BEFORE. AND THEN AFTER THAT,
2 STEPHEN WANTED TO GO TO SHEALY'S, AND THAT WAS IT.
3 AND WE WENT UP THERE AND GOT SOME STUFF AND CAME
4 BACK.

5 Q WELL, ...

6 A I REMEMBER THAT SPECIFICALLY BECAUSE THE
7 TRASH CAN HAD FLIPPED OVER.

8 Q OKAY.

9 A THAT'S THE ONLY REASON I REMEMBER THE
10 INCIDENT THAT WELL, WAS BECAUSE OF THAT.

11 Q ALL RIGHT...

12 A IT WOULDN'T HAVE STUCK IN MY MIND
13 OTHERWISE.

14 Q OKAY, AND WHAT I'M ASKING YOU IS THOUGH
15 ONCE IT STUCK IN YOUR MIND AND ONCE YOU THOUGHT
16 ABOUT IT, AND TALKED ABOUT IT, AND I ASSUME YOU'VE
17 TALKED ABOUT IT BEFORE TODAY?

18 A YES.

19 Q AND I ASSUME YOU TALKED ABOUT IT, YOU
20 KNOW, WHENEVER IT CAME TO MIND.

21 A RIGHT.

22 Q BUT, ONCE YOU THOUGHT ABOUT IT, STARTING
23 THINKING AND TALKING ABOUT IT, YOU DIDN'T THINK, IT
24 DOESN'T HELP YOU TO REMEMBER WHAT YOU DID AT SEVEN
25 O'CLOCK OR EIGHT O'CLOCK, AN HOUR AND A HALF BEFORE

1 THIS HAPPENED?

2 A NO.

3 Q OKAY. SO, AT EIGHT O'CLOCK, YOU'RE NOT
4 SURE OF WHAT YOU WERE DOING, BUT NOTHING, NOTHING
5 REALLY, NOTHING THAT YOU COULD TELL US NOW STICKS
6 OUT IN YOUR MIND AS FAR AS WHAT YOU DID AT SEVEN OR
7 EIGHT OR NINE EVEN THAT NIGHT, DOES IT?

8 A NOT REALLY. NOTHING REALLY SPECTACULAR.
9 I MEAN, THAT WASN'T REALLY ANYTHING, REALLY
10 MEMORABLE BESIDE THE FACT THAT THE TRASH CAN
11 FLIPPED OVER AND WE'D BEEN TELLING STEPHEN FOR
12 AWHILE TO MOVE THE THING.

13 Q RIGHT. WELL, YOU DIDN'T GO DOWN AND
14 TALK TO STEPHEN AT SEVEN?

15 A I DON'T THINK SO.

16 Q OKAY, YOU DIDN'T GO DOWN AND TALK TO HIM
17 AT EIGHT?

18 A I'M NOT SURE ABOUT THE TIMES, LIKE I
19 SAID, BUT I DON'T THINK SO.

20 Q WELL, YOU DON'T THINK YOU DID?

21 A I MAY HAVE, BUT I DON'T KNOW.

22 Q WELL, WHAT MAKES YOU THINK YOU DID?

23 A I MEAN, THAT WOULD BE A DAILY THING
24 ANYWAY, ME RUN INTO STEPHEN AROUND THE PROPERTY, I
25 MEAN IF HE WAS HOME.

1 Q WELL, I ASKED YOU IF YOU WERE ALONE OR
2 WITH SOMEBODY?

3 A BUT I'M NORMALLY UP AT MY HOUSE BY
4 MYSELF. MY FAMILY WILL PRETTY MUCH TELL YOU THAT.

5 Q RIGHT. BUT I MEAN, IF STEPHEN'S FIFTY
6 YARDS AWAY ALL DAY LONG AND YOU WANDER AROUND THE
7 PROPERTY BY YOURSELF, AND WATCHING TV BY YOURSELF,
8 I ASKED YOU WHAT YOU DID AND YOU NEVER ONCE SAID
9 THAT YOU WENT DOWN TO SAY...

10 MR. HARPOOTLIAN: OBJECTION, YOUR HONOR,
11 THAT'S NOT A QUESTION.

12 Q ...TO SEE STEPHEN, DID YOU?

13 THE COURT: IT'S CROSS EXAMINATION, MR.
14 HARPOOTLIAN.

15 MR. HARPOOTLIAN: YES, SIR.

16 Q YOU NEVER ONCE SAID THAT YOU WENT DOWN
17 AND TALKED TO STEPHEN, DID YOU?

18 A NO.

19 Q ALL RIGHT. AND YOU DIDN'T SAY THAT,
20 BECAUSE YOU DIDN'T, DID YOU?

21 A NOT AT THAT TIME, NO.

22 Q RIGHT. THE ONLY TIME YOU WENT DOWN TO
23 SEE HIM WAS AT NINE O'CLOCK, OR BETWEEN NINE AND
24 NINE-THIRTY?

25 A SOMEWHERE THAT...

- 1 Q IS THAT RIGHT? OKAY, WHY?
- 2 A BECAUSE THE KIDS HAD GOTTEN HOME.
- 3 THAT'S THE REASON I WENT DOWN THERE, BECAUSE WHEN
- 4 VICKIE PULLED UP, THE KIDS WERE THERE. I SAID
- 5 HELLO TO THEM AND STEPHEN INVITED ME TO GO TO THE
- 6 STORE.
- 7 Q NOW, WAIT A MINUTE. YOU SAID HELLO TO
- 8 THE KIDS?
- 9 A RIGHT.
- 10 Q WHERE DID YOU SAY HELLO TO THE KIDS?
- 11 A THEY WERE DOWN THERE.
- 12 Q WHERE WERE THEY?
- 13 A THEY WERE IN THE TRAILER.
- 14 Q IN THE TRAILER?
- 15 MR. HARPOOTLIAN: YOUR HONOR, OBJECTION
- 16 TO REPETITION.
- 17 THE COURT: SUSTAINED AS TO THAT. ASK
- 18 THE QUESTION YOU WANT TO ASK.
- 19 Q THEY WERE IN THE TRAILER?
- 20 A THE KIDS WERE THERE, I SAID HELLO TO
- 21 THEM, I SAID HELLO TO VICKIE.
- 22 Q ALL RIGHT, WHERE DID YOU SAY HELLO TO
- 23 THE KIDS?
- 24 A THE TRAILER.
- 25 Q AND WHERE WERE THE KIDS IN THE TRAILER?

- 1 A I'M NOT SURE EXACTLY BUT I THINK THEY
2 WERE IN THE DEN.
- 3 Q IN THE DEN? WHICH KIDS WERE IN THE
4 TRAILER?
- 5 A SHANNON, ANDREW, I DON'T KNOW IF SAMUEL
6 WAS THERE OR NOT.
- 7 Q AND THEN WHAT DID YOU DO?
- 8 A I WENT BACK OUT WITH STEPHEN TO SAY
9 HELLO AND THEN WE TOOK OFF TO GO TO SHEALY'S.
- 10 Q OKAY, SO YOU WENT IN AND SAID, I'M JUST
11 ASKING, "HEY, SAMUEL; HEY, ANDREW; HEY SHANNON.
12 SEE Y'ALL. I'M GOING TO SEE WHAT STEPHEN'S DOING
13 OUTSIDE." AND YOU WALKED OUTSIDE WHILE STEPHEN WAS
14 TALKING TO VICKIE, IS THAT RIGHT, PRETTY MUCH?
- 15 A RIGHT.
- 16 Q SO YOU SPOKE TO THE KIDS INSIDE AND THEN
17 WALKED BACK OUT TO SPEAK TO STEPHEN OR TO SPEAK TO
18 VICKIE, OR BOTH?
- 19 A THEY WERE ALL OUT THERE. I JUST...
- 20 Q THAT'S WHAT I'M ASKING YOU. WHY DID YOU
21 WALK BACK OUT AFTER YOU'D GONE DOWN TO SPEAK TO THE
22 KIDS? DID YOU WALK BACK OUT TO SPEAK TO STEPHEN?
- 23 A I HAD SPOKE TO THEM ALREADY, BUT I WAS
24 STILL WANTING TO SAY HELLO AND EVERYTHING, TO SEE
25 HOW EVERYTHING WAS.

- 1 Q WANTING TO SAY HELLO TO WHO?
2 A TO VICKIE.
3 Q TO VICKIE?
4 A AND STEPHEN WAS OUT THERE SO I WAS
5 TALKING TO HIM SOME TOO.
6 Q OKAY, SO THE PURPOSE OF YOU GOING DOWN
7 TO THE TRAILER WAS AS MUCH TO TALK TO VICKIE AS IT
8 WAS TO TALK TO THE KIDS?
9 A RIGHT.
10 Q OKAY, AND SO YOU TALKED TO VICKIE?
11 A RIGHT.
12 Q AND YOU SPOKE TO THE LADY THAT WAS WITH
13 HER?
14 A RIGHT, NOT VERY MUCH BECAUSE I DIDN'T
15 KNOW HER.
16 Q UH-HUH. AND THEN WHEN VICKIE SAID, "I'M
17 LEAVING," TO Y'ALL, YOU SAID, "BYE, SEE YA',
18 STEPHEN. I'M GOING ON BACK UP TO THE TRAILER," IS
19 THAT RIGHT?
20 A WHAT DO YOU MEAN?
21 Q YOU SAID, "GOOD TO SEE YOU, STEPHEN.
22 I'M GOING ON BACK UP TO THE TRAILER." IS THAT WHAT
23 YOU SAID TO HIM? WHEN VICKIE WAS LEAVING AND SHE
24 SID BYE TO Y'ALL.
25 A RIGHT.

- 1 Q DID YOU TURN TO STEPHEN AND SAY, "SEE
2 YA', STEPHEN. HAVE A GOOD EVENING," AND HEAD ON
3 BACK UP TO YOUR HOUSE?
4 A NO. WE GOT IN THE CAR TO GO TO
5 SHEALY'S. HE WAS GOING TO SHEALY'S.
6 Q SO WHEN VICKIE SAID GOODBYE, THE
7 DEFENDANT TURNED TO YOU AND SAID, "WANT TO GO TO
8 SHEALY'S," IS THAT RIGHT?
9 A BASICALLY IT, YES.
10 Q AND YOU SAID, SURE?
11 A YES.
12 Q FOR WHAT?
13 A WENT UP THERE, I WAS GOING TO GET A
14 MOVIE.
15 Q UH-HUH. AND WHAT WAS HE GOING TO GET?
16 A I'M NOT ENTIRELY POSITIVE WHAT HE WAS
17 GOING TO GET. I WAS GETTING A MOVIE.
18 Q WHEN HAD YOU DECIDED TO GET A MOVIE FROM
19 SHEALY'S?
20 A RIGHT THEN IT WOULD BEAT WHAT WAS ON TV.
21 Q HUH?
22 A IT WOULD BEAT WHAT WAS ON TV.
23 Q IT WOULD BEAT WHAT WAS ON TV?
24 A RIGHT.
25 Q WHAT WAS ON TV?

- 1 A USUALLY THE SAME OLD STUFF THAT'S ALWAYS
2 ON THERE. NOTHING GOOD.
- 3 Q SO WHAT MOVIE DID YOU WANT TO GO GET?
4 A AT THAT TIME, I THINK I GOT ONE OF THE
5 HELLRAISER MOVIES, BUT I'M NOT POSITIVE.
- 6 Q ONE OF THE HELLRAISER MOVIES?
7 A YES.
- 8 Q WHAT IS A HELLRAISER MOVIE?
9 A ONE OF THE HORROR FILMS.
- 10 Q A HORROR FILM?
11 A THAT'S WHAT I USUALLY GET.
- 12 Q ALL RIGHT, AND YOU WANTED TO SEE THAT
13 BECAUSE IT WOULD BEAT WHAT WAS ON TV?
- 14 A RIGHT. THAT'S THE REASON WHY I GET A
15 MOVIE UP AT SHEALY BROTHERS ANYTIME.
- 16 Q OKAY. AND STEPHEN WAS THE ONE THAT
17 WANTED TO GO, RIGHT?
- 18 A UH-HUH.
- 19 Q HE WANTED TO GO, RIGHT?
20 A UH-HUH.
- 21 Q HE WANTED TO GO?
22 A RIGHT.
- 23 Q AND DID HE TELL YOU WHY HE WANTED TO GO?
24 A NO.
- 25 Q WELL, WHAT DID HE GET WHILE YOU WERE

1 THERE?

2 A I DON'T RECALL THAT. I DON'T EVEN
3 REALLY RECALL THE MOVIE I GOT. I'M JUST SAYING I'M
4 TAKING A ROUGH GUESS AND THINKING IT WAS A
5 HELLRAISER FILM BECAUSE I USUALLY WATCH THOSE.

6 Q RIGHT. BUT WHAT DID STEPHEN GET?

7 A I'M NOT SURE.

8 Q YOU'RE NOT SURE?

9 A UN-HUH.

10 Q AND OF COURSE Y'ALL CHECKED WITH THE
11 KIDS TO SEE IF THEY WANTED TO RIDE UP TO SHEALY'S
12 TO GET A MOVIE, OR SOME CANDY, OR SOME GUM, OR
13 SOMETHING?

14 A IT WOULDN'T HAVE TAKEN THAT LONG, BUT I
15 ASSUME STEPHEN WENT IN. I DIDN'T REALLY PAY
16 ATTENTION. I JUST GOT IN THE CAR.

17 Q YOU JUST GOT IN WHOSE CAR?

18 A STEPHEN'S.

19 Q AND YOU'RE TELLING US NOW THAT HE WENT
20 BACK INSIDE TO SEE IF THE KIDS WANTED TO GO?

21 A I DON'T KNOW. I MEAN, I DON'T REMEMBER
22 THAT DETAIL. I ASSUME HE WOULD HAVE, BUT I'M NOT
23 POSITIVE.

24 Q ALL RIGHT, IF YOU ASSUME HE WENT INSIDE
25 AND ASKED THE KIDS IF THEY WANTED TO GO TO

1 SHEALY'S...

2 A HE WOULDN'T HAVE ASKED THEM IF THEY
3 WANTED TO GO. HE WOULD HAVE...THE ONLY THING
4 STEPHEN WOULD HAVE EVER SAID TO THEM IS, "I'M GOING
5 TO SHEALY'S, I'LL BE BACK."

6 Q AND THEY WOULDN'T HAVE SAID, "CAN WE GO?
7 CAN WE GO, DAD? CAN I GO?" THEY WOULDN'T HAVE
8 SAID THAT TO HIM?

9 A I DOUBT IT.

10 Q DOUBT IT? SHEALY'S DOES SELL SODA POP,
11 BUBBLE GUM, AND MOVIES, AND CANDY, AND POPCORN, AND
12 MILK AND CHEESE, AND STUFF LIKE THAT, DOESN'T IT?

13 A AND HARDWARE.

14 Q ALL RIGHT, THEY HAD JUST RETURNED FROM A
15 THREE DAY STAY AWAY FROM THEIR DAD ON THIS
16 OCCASION, HADN'T THEY?

17 A UH-HUH.

18 Q AND AS FAR AS YOU KNOW, HE HAD SEEN THEM
19 A GRAND TOTAL OF ABOUT THIRTY SECONDS AT THIS POINT
20 IN TIME, HADN'T THEY?

21 A RIGHT.

22 Q OKAY. LET ME ASK YOU, IN THE LAST TWO
23 YEARS, SINCE JUNE 12TH OF '94, THERE HAS BEEN A
24 GREAT DEAL MORE LIMB CUTTING AND SHRUB CUTTING, AND
25 BUSH CUTTING ON THE BECKHAM PROPERTY AROUND YOU

1 HOUSE AND PAPA BECKHAM'S, AND THE MOBILE HOME,
2 HASN'T THERE?

3 A YES.

4 Q A SIGNIFICANT AMOUNT OF BRUSH CUTTING TO
5 CLEAR THE VIEW BETWEEN THE MOBILE HOME AND THE
6 BECKHAM, PAPA BECKHAM'S HOUSE, HASN'T THERE?

7 A NOT AS MUCH THE MOBILE HOME AS MINE.

8 Q AS YOURS. A SIGNIFICANT AMOUNT SO THAT
9 THE VIEW BETWEEN THE MOBILE HOME AND YOURS, AND
10 YOURS AND PAPA BECKHAM'S IS GOOD AND CLEAR? I
11 MEAN, IT'S MUCH CLEARER NOW THAN IT WAS TWO YEARS
12 AGO?

13 A RIGHT.

14 Q SO WHEN YOU CAME BACK FROM SHEALY'S, YOU
15 WENT IN YOUR HOUSE AND WATCHED THAT MOVIE, DIDN'T
16 YOU?

17 A NO, I VISITED WITH THE KIDS. THAT'S WHY
18 I WAS THERE.

19 Q YOU DID? AND THEN YOU WENT AND WATCHED
20 THE MOVIE?

21 A RIGHT. NO, I WATCHED IT THERE.

22 Q YOU WATCHED HELLRAISER, ONE OF THE
23 HELLRAISER MOVIES WITH THE KIDS?

24 A YEAH.

25 Q WITH WHICH KIDS?

- 1 A SHANNON, ANDREW, SAMUEL WOULDN'T HAVE
2 KNOWN WHAT IT WAS ANYWAY. BUT I'M NOT SURE IF IT
3 WAS HELLRAISER. LIKE I SAID, I KNOW I RENTED A
4 MOVIE. BUT I KNOW I WATCHED THE MOVIE WITH THEM.
5 MR. JONES: THAT'S IT, JUDGE.
6 THE COURT: ANY REDIRECT?
7 MR. HARPOOTLIAN: YES, SIR, JUST A
8 COUPLE OF QUESTIONS.
9 REDIRECT EXAMINATION:
10 BY MR. HARPOOTLIAN:
11 Q THIS AREA BETWEEN THE BECKHAMS', THIS
12 AREA BETWEEN THE BECKHAM, BISHOP BECKHAM'S HOUSE
13 AND YOUR HOUSE IS YOUR DRIVEWAY, CORRECT? I MEAN,
14 THERE'S A DRIVEWAY THAT COMES BY YOUR HOUSE?
15 A RIGHT.
16 Q AND THEN HE HAS A PARALLEL DRIVEWAY?
17 A MY GRANDFATHER, YES.
18 Q AND THEY BOTH COME OFF 773?
19 A RIGHT.
20 Q THE SOLICITOR HAS ASKED YOU ABOUT THE
21 AREA BETWEEN THERE, WHETHER TODAY IT'S CLEARER THAN
22 IT WAS TWO YEARS AGO, AND YOU RESPONDED IT IS
23 CLEARER TODAY THAN IT WAS TWO YEARS AGO, IS THAT
24 CORRECT?
25 A RIGHT.

- 1 Q TWO YEARS AGO, COULD YOU SEE FROM BISHOP
2 BECKHAM'S HOUSE OVER TO YOUR HOUSE AND DOWN
3 TO...COULD YOU SEE THAT AREA DOWN THE DRIVEWAY?
4 A OH, YES. MY GRANDMOTHER ALWAYS
5 COMPLAINED IF I CAME IN LATE.
6 Q OKAY, SO SHE COULD SEE YOU PULLING IN?
7 A RIGHT.
8 Q AND THERE WERE BUSHES BETWEEN YOUR
9 DRIVEWAY, I SAY THE DRIVEWAY THAT WOULD COME UP
10 PAST YOUR HOUSE AND GO DOWN TO STEPHEN'S HOUSE, AND
11 THEIR DRIVEWAY, IS THAT CORRECT?
12 A RIGHT. WELL, BETWEEN MY DRIVEWAY AND
13 THEIR PARKING AREA. THEY HAVE A LITTLE PARKING
14 AREA.
15 Q RIGHT. BUT DID THOSE BUSHES, BACK TWO
16 YEARS AGO, WAS THERE ENOUGH BRUSH, WAS THERE ENOUGH
17 THICKNESS BETWEEN THE TWO THAT ONE COULDN'T SEE
18 THROUGH OVER TO YOUR YARD, OVER TO YOUR FRONT YARD
19 FROM THE BECKHAMS' YARD, FROM BISHOP BECKHAM'S
20 YARD?
21 A NO, IT WASN'T THAT THICK, BECAUSE GRAMMY
22 WOULDN'T BE ABLE TO SEE WHAT WAS GOING ON. SHE
23 WOULDN'T WANT IT THAT THICK.
24 Q OKAY. AND IN TERMS OF WHAT YOU DID THAT
25 EVENING, SOLICITOR HAD A NUMBER OF QUESTIONS ABOUT

1 WHAT TIME YOU DID THIS AND WHAT TIME YOU DID THAT.
2 DO YOU HAVE ANY SPECIFIC RECOLLECTION OF WHAT
3 OCCURRED OTHER THAN THIS INCIDENT ABOUT THE TRASH
4 CAN ON JUNE 8TH?

5 A NO. LIKE I SAID, MOST OF IT, I'M NOT
6 REAL SURE ABOUT. THAT JUST STUCK OUT IN MY HEAD
7 JUST FOR THE FACT THAT WE HAD BEEN TELLING STEPHEN
8 FOR AWHILE TO MOVE THAT THING, ESPECIALLY PAPA.

9 Q TO MOVE IT. AND YOU HAVE A SPECIFIC
10 RECOLLECTION OF VICKIE GETTING OUT OF THE CAR AND
11 SETTING IT BACK UP?

12 A RIGHT.

13 Q AND THEN Y'ALL GOING DOWN AND TAKING A
14 RIGHT AND THEM TAKING A LEFT, AND YOU WENT TO
15 SHEALY'S?

16 A RIGHT.

17 Q NOW, SHEALY'S IS MORE THAN JUST A MOVIE
18 STORE, ISN'T IT?

19 A IT'S GOT MOVIES, HARDWARE, EH...

20 Q GROCERIES?

21 A GROCERIES. PLENTY OF JUNK FOOD. AND
22 IT'S GOT SOME LITTLE KITCHEN AREA WHERE YOU GET
23 HAMBURGERS AND HOT DOGS, STUFF LIKE THAT.

24 Q NOW, I SHOW YOU DEFENDANT'S EXHIBIT
25 TWENTY-FIVE. WOULD YOU TELL THE JURY, PLEASE, WHAT

- 1 THIS IS?
- 2 A THAT'S A CHECK TO SHEALY BROTHERS.
- 3 Q FROM WHO?
- 4 A STEPHEN.
- 5 Q WHAT DATE?
- 6 A JUNE 8TH, '94.
- 7 Q I'M SORRY, I DIDN'T HEAR THE DATE.
- 8 A JUNE 8TH, '94.
- 9 Q JUNE 8TH, '94, TO SHEALY'S, IS THAT
- 10 CORRECT?
- 11 A YES, SIR.
- 12 Q FOR HOW MUCH?
- 13 A SEVENTY-FIVE, IT LOOKS LIKE.
- 14 Q DO YOU HAVE ANY RECOLLECTION OF WHAT
- 15 STEPHEN BOUGHT THAT NIGHT?
- 16 A NO RECOLLECTION OF WHAT HE BOUGHT, BUT
- 17 HE DIDN'T HAVE TO BUY ANYTHING IF HE WANTED TO CASH
- 18 A CHECK.
- 19 Q COULD HE HAVE BOUGHT GROCERIES?
- 20 A HE COULD HAVE. BUT LIKE I SAID, IT
- 21 DOESN'T MATTER IF YOU BUY ANYTHING OR NOT, AS LONG
- 22 AS THEY KNOW YOU WELL ENOUGH, YOU CAN GO IN AND
- 23 CASH A CHECK FOR NO REASON.
- 24 Q OKAY. BUT DEFENDANT'S EXHIBIT NUMBER
- 25 TWENTY-FIVE SHOWS A CHECK FOR SEVENTY-FIVE DOLLARS

1 CASHED AT SHEALY'S ON THE 8TH, IS THAT CORRECT?

2 A RIGHT.

3 Q AND YOU'RE TELLING THIS COURT THAT YOU
4 WERE WITH STEPHEN BECKHAM AT SHEALY'S ON THE NIGHT
5 OF THE 8TH, IS THAT CORRECT?

6 A RIGHT. WE RODE UP THERE.

7 Q DO YOU KNOW WHAT TIME YOU WERE OVER
8 THERE? WERE YOU LOOKING AT YOUR WATCH?

9 A NO, I DON'T HAVE ANY WATCHES, THAT WORK
10 ANYWAY.

11 Q OKAY. WAS IT DARK, WAS IT LIGHT, WAS IT
12 GETTING DARK?

13 A IT WAS GETTING DARK WHEN WE LEFT. IT
14 WAS DARK WHEN WE GOT BACK.

15 Q GETTING DARK WHEN YOU LEFT, DARK WHEN
16 YOU GOT BACK. OKAY.

17 MR. HARPOOTLIAN: BEG THE COURT'S
18 INDULGENCE FOR ONE MOMENT.

19 THAT WOULD BE ALL WE'D HAVE, YOUR HONOR.

20 THE COURT: ANYTHING ON RECROSS?

21 MR. JONES: BRIEFLY, YOUR HONOR.

22 THE COURT: YES, SIR.

23 REDIRECT EXAMINATION:

24 BY MR. JONES:

25 Q NOW, THE CHECK THAT YOU SAW CASHED, WHEN

1 I ASKED YOU EARLIER, YOU DIDN'T...

2 MR. HARPOOTLIAN: OBJECTION, YOUR HONOR.

3 HE NEVER TESTIFIED HE SAW A CHECK CASHED.

4 MR. JONES: THAT'S WHAT I'M ASKING.

5 Q THE CHECK THAT YOU SAY, MY QUESTION IS
6 DID YOU SEE HIM CASH THE CHECK?

7 A NO.

8 Q OKAY.

9 MR. JONES: JUDGE, HE REFERRED TO
10 STATE'S EXHIBIT NUMBER TWENTY-FIVE, WHICH IS MARCH
11 24TH, 1924.

12 MR. HARPOOTLIAN: THEY'RE ALL--IT'S ONE
13 EXHIBIT.

14 THE COURT: THEY'RE ALL ONE EXHIBIT.

15 MR. JONES: OH, ONE EXHIBIT. OKAY.

16 MR. HARPOOTLIAN: A CHECK CONTAINED
17 WITHIN ...

18 MR. JONES: ALL RIGHT.

19 MR. HARPOOTLIAN: DO YOU WANT ME TO FIND
20 IT FOR YOU?

21 MR. JONES: NO, I'VE GOT IT. I SAW YOU
22 PUT IT ON THE BOTTOM. THAT'S WHY I COULDN'T FIGURE
23 OUT WHY IT WAS ON THE TOP.

24 MR. HARPOOTLIAN: IT'S OLDER THAN MARCH,
25 THAT'S WHY I PUT IT ON TOP.

- 1 Q THAT'S IT, JUNE 8TH, RIGHT?
- 2 A CORRECT.
- 3 Q YOU DON'T KNOW WHAT TIME HE CASHED THAT
- 4 CHECK THERE, DO YOU?
- 5 A I HAVE NO IDEA.
- 6 Q WELL, ...
- 7 A YOU CAN'T TELL BY THE CHECK.
- 8 Q YOU CAN'T FIND THE TIME ON HERE, CAN
- 9 YOU? THEY DON'T TELL YOU WHAT TIME THEY CASHED IT
- 10 IN, DO THEY?
- 11 A NO.
- 12 Q AND AS A MATTER OF FACT, AS FAR AS YOU
- 13 KNOW, THIS CHECK COULD HAVE BEEN CASHED AT TEN
- 14 O'CLOCK IN THE MORNING ON JUNE 8TH, ELEVEN, TWELVE,
- 15 ONE, ANYTIME DURING THE DAY?
- 16 A RIGHT. IT COULD HAVE BEEN CASHED THEN.
- 17 Q RIGHT. AND YOU DON'T KNOW WHERE STEPHEN
- 18 WAS ANYTIME DURING THAT DAY, DO YOU, EXCEPT FOR
- 19 9:30 THAT NIGHT?
- 20 A WHEN I WENT TO SHEALY'S WAS THE ONLY
- 21 TIME I WAS WITH HIM.
- 22 Q AROUND NINE O'CLOCK, RIGHT?
- 23 A RIGHT.
- 24 Q SO AS FAR AS YOU KNOW, HE COULD HAVE
- 25 BEEN AT MYRTLE BEACH THAT DAY?

1 A I DON'T KNOW.

2 MR. HARPOOTLIAN: YOUR HONOR, IT CALLS
3 FOR UNDUE SPECULATION ON THE PART OF THE WITNESS.

4 THE COURT: HE SIMPLY ANSWERED THE
5 QUESTION HE DOESN'T KNOW.

6 MR. HARPOOTLIAN: YOUR HONOR, HE COULD
7 SAY HE COULD HAVE BEEN IN ZANABAR.

8 THE COURT: I UNDERSTAND; HE'S ANSWERED
9 THE QUESTION.

10 MR. JONES: YOU WANT IT BACK ON THE
11 BOTTOM?

12 THE COURT: ALL RIGHT, HURRY UP,
13 SOLICITOR.

14 MR. JONES: YES, SIR, I'M THROUGH.

15 THE COURT: ALL RIGHT, YOU CAN STEP
16 DOWN.

17 ALL RIGHT, MADAM FOREMAN, AND LADIES AND
18 GENTLEMEN OF THE JURY, WE'LL START BACK TOMORROW AT
19 ONE O'CLOCK. AGAIN, DON'T DISCUSS THE CASE AMONG
20 YOURSELVES, ALLOW ANYONE TO DISCUSS IT WITH YOU, OR
21 MAKE UP YOUR MIND, OR READ, LISTEN OR WATCH ANY
22 ACCOUNT OF THE TRIAL. AND WE'LL CONTINUE ALONG
23 TOMORROW. HAVE A NICE EVENING.

24 (JURY RECESSED AT 4:48 P.M.)

25 THE COURT: ALL RIGHT, WE'LL START AT

1 ONE O'CLOCK TOMORROW AND WE'LL PLAN ON WORKING A
2 LITTLE LONGER TOMORROW EVENING MAYBE. ALL RIGHT,
3 SEE YOU THEN.

4 (COURT RECESSED FOR EVENING AT 4:23
5 P.M., RECONVENING ON SUNDAY, SEPTEMBER 29TH, 1996
6 AT 1:00 P.M.)

7 THE COURT: WE'VE GOT TO DEAL WITH A
8 COUPLE OF THINGS. NUMBER ONE, I'M GOING TO GIVE
9 EACH SIDE A DRAFT OF A CIRCUMSTANTIAL CHARGE THAT
10 ESSENTIALLY CONFORMS TO STATE V. EDWARDS, WHICH I
11 BELIEVE TO TAKE OUT ALL OF THE POTENTIAL ISSUES
12 FROM THAT CHARGE. BUT I'LL GIVE IT TO YOU FOR YOU
13 TO LOOK AT.

14 ALSO, REQUEST FOR CHARGE IN THE CASE,
15 I'D LIKE TO HAVE THEM IN THE MORNING, FROM EITHER
16 SIDE. IF YOU HAVE ANYTHING IN PARTICULAR,
17 SOLICITOR, MR. HARPOOTLIAN, MR. SWERLING; OF
18 COURSE, I WAS IN THE EIGHTH CIRCUIT FOR SIX MONTHS
19 SO THEY PRETTY WELL KNOW WHAT I'M GOING TO CHARGE,
20 BUT IF YOU HAVE SOME SPECIFIC LANGUAGE, I'LL BE
21 GLAD TO ENTERTAIN THAT.

22 MR. HARPOOTLIAN: YOUR HONOR, WOULD YOU
23 GIVE US UNTIL LUNCHTIME TOMORROW? ONLY BECAUSE
24 IT'S GOT TO BE TYPED. WE WON'T HAVE A SECRETARY
25 AVAILABLE AND WON'T HAVE ACCESS TO THOSE BOOKS

1 UNTIL WE GET BACK TO COLUMBIA TONIGHT, AND THAT MAY
2 BE LATE.

3 THE COURT: ALL RIGHT.

4 MR. HARPOOTLIAN: I CAN GO IN EARLY IN
5 THE MORNING...

6 THE COURT: IF YOU'RE GOING TO SUBMIT
7 SOME CHARGE TO ME, GIVE ME THE COMPUTER DISK.

8 MR. HARPOOTLIAN: OKAY. SO YOU WANT IT
9 PUT ON DISK AND THEN...

10 THE COURT: I'LL CONFORM IT. MY
11 INTENTION IS, OF COURSE OBVIOUSLY IF WE GOT TO THE
12 PENALTY PHASE, IT WOULD HAVE TO BE IN WRITING, BUT
13 MY INTENTION MAY WELL BE TO GIVE THEM THE--IF I CAN
14 GET IT DONE, MAY BE TO GIVE THEM AN ENTIRE WRITTEN
15 CHARGE. BUT I DON'T KNOW THAT YET.

16 MR. HARPOOTLIAN: OKAY.

17 THE COURT: BUT ANYWAY, THE CLERK WILL
18 GIVE YOU A COPY OF THE CIRCUMSTANTIAL EVIDENCE
19 DRAFT.

20 THE OTHER THING IS, IS THAT I'M APPRISED
21 THAT LAST NIGHT ON WIS THAT THERE WAS AN
22 INADVERTENT SHOWING IN A BACKGROUND SITUATION OF
23 ANDREW BECKHAM. THE STORY CARRIED A BY-LINE TO THE
24 EFFECT THAT, OF THE WARNING AND THE ORDER THAT HE
25 IS NOT TO BE SHOWN. I'VE RECEIVED A LETTER FROM

1 MR. COVENINGTON WHO IS THE NEWS DIRECTOR FOR THE
2 POOL, AND FOR WIS, APOLOGIZING FOR THE PROBLEM.
3 AND I HAVE INTERVIEWED THE REPORTER, CONSULTED WITH
4 THE SHERIFF, CONSULTED WITH MR. SWERLING WHO HAS IN
5 TURN TALKED WITH ANDREW, AND I FIND, WITHOUT
6 OBJECTION, THAT THE SHOWING WAS A BACKGROUND
7 SHOWING AND WAS AN INADVERTENT VIOLATION OF THE
8 ORDER FOR WHICH I WOULD NOT AT THIS TIME IMPOSE
9 SANCTIONS.

10 AM I CORRECT IN WHAT...

11 MR. SWERLING: YES, SIR. THE BECKHAMS
12 ARE FINE, WITH THE UNDERSTANDING IT WAS INADVERTENT
13 AND THERE'S NO PROBLEM.

14 THE COURT: OKAY, WE'LL MARK THAT AS AN
15 EXHIBIT IN THE RECORD.

16 (SO MARKED AND ENTERED COURT'S EXHIBIT
17 NUMBER TWENTY-TWO.)

18 THE COURT: ANYTHING ELSE BEFORE WE NEED
19 TO BRING THE JURY IN?

20 MR. SWERLING: JUDGE, GIVE US A LITTLE
21 MORE TIME TO FIGURE THE ORDER OF THINGS.

22 I THINK WE'LL BE ABLE TO RUN SMOOTH ONCE
23 WE GET THIS WORKED OUT, YOUR HONOR.

24 THE COURT: ALL RIGHT, YOU HAVE YOUR
25 FIRST WITNESS IN?

1 MR. SWERLING: WE'RE READY TO GO, YOUR
2 HONOR, YES.

3 THE COURT: ALL RIGHT, BRING THE JURY
4 IN.

5 (JURY RETURNED TO THE OPEN COURTROOM AT
6 1:12 P.M.)

7 THE COURT: I HOPE YOU HAD A PLEASANT
8 EVENING. I CAN REPORT TO YOU I'VE BEEN TO THE
9 UPPER PART OF THE STATE OVERNIGHT, AND IT'S VERY
10 NICE. SO, THE LEAVES ARE CHANGING, AND BY THE TIME
11 YOU GET BACK, OCONEE WILL BE JUST LIKE FALL.
12 ACTUALLY, THEY'RE TURNING NOW, SO IT'LL BE A PRETTY
13 DRIVE WHEN YOU GET TO GO HOME.

14 ALL RIGHT, STATE WAIVE POLLING?

15 MR. JONES: STATE WAIVES POLLING, YOUR
16 HONOR.

17 THE COURT: DEFENSE WAIVE POLLING?

18 MR. SWERLING: YES, SIR.

19 THE COURT: ALL RIGHT, MR. SWERLING,
20 CALL YOUR NEXT WITNESS.

21 MR. SWERLING: YOUR HONOR, WE'D CALL
22 MICHAEL COX.

23 MICHAEL COX, BEING DULY SWORN,
24 TESTIFIED AS FOLLOWS:
25 DIRECT EXAMINATION:

1 BY MR. SWERLING:

2 Q WOULD YOU IDENTIFY YOURSELF FOR THE
3 JURY?

4 A MY NAME IS MICHAEL COX; I'M AN ATTORNEY
5 IN COLUMBIA, SOUTH CAROLINA.

6 Q MR. COX, HOW LONG HAVE YOU BEEN
7 PRACTICING AT THE BAR?

8 A SINCE 1978.

9 Q AND DO YOU HAVE ANY PARTICULAR
10 SPECIALTY?

11 A YES, I'VE BEEN CERTIFIED BY THE SOUTH
12 CAROLINA SUPREME COURT AS A SPECIALIST IN
13 BANKRUPTCY LAW.

14 Q AND WOULD YOU JUST EXPLAIN FOR AN
15 INDIVIDUAL, WHAT ARE SOME OF THE OPTIONS CONCERNING
16 BANKRUPTCY?

17 A BASICALLY, FOR AN INDIVIDUAL DEBTOR,
18 THERE'S REALLY TWO CHAPTERS THAT PEOPLE CAN FILE,
19 UNDER EITHER CHAPTER 7 OR CHAPTER 13. CHAPTER 13
20 IS A REORGANIZATION, A CHAPTER 7 IS AN OUTRIGHT
21 LIQUIDATION OR WIPING OUT AS MUCH DEBT AS YOU CAN
22 WITHOUT ANY REPAYMENT TO ANY UNSECURED CREDITORS IS
23 ABOUT AS SIMPLY AS I CAN PUT IT.

24 Q NOW, DID STEPHEN BECKHAM CONSULT YOU
25 ABOUT THE POSSIBLE FILING OF BANKRUPTCY?

1 A YES, HE DID.

2 Q ALL RIGHT, AND CAN YOU RELATE TO THE
3 JURY WHEN THAT WAS?

4 A HE FIRST CAME TO SEE ME, I BELIEVE IT
5 WAS IN SEPTEMBER OF 1994. IT WAS A FAIRLY SHORT
6 VISIT, JUST TO GET SOME GENERAL INFORMATION. HE
7 HAD PRIMARILY TAX PROBLEMS.

8 Q AND CAN YOU RECALL AT THIS PARTICULAR
9 TIME WHAT THE NATURE OF THOSE PROBLEMS WERE?

10 A YEAH, BASICALLY, HE HAD SOME 1989, 1999
11 FEDERAL AND STATE TAXES THAT WERE FAIRLY
12 SUBSTANTIAL AMOUNT OF MONEY. I DON'T RECALL HOW
13 THEY AROSE, BUT WHAT WE WERE TRYING TO FIND OUT IS
14 WHETHER THEY WERE OLD ENOUGH TO BE DISCHARGED IN A
15 BANKRUPTCY TO BE WASHED FREE, AND THAT'S WHAT WE
16 WERE TRYING TO FIGURE OUT.

17 Q NOW, WHEN YOU SAY OLD ENOUGH TO BE
18 DISCHARGED IN BANKRUPTCY, IS THERE A PARTICULAR
19 PERIOD OF TIME?

20 A YES, THERE IS. BASICALLY, WITH TAXES,
21 LET'S START WITH THE MOST RECENT YEAR, THE '90
22 TAXES. IF THOSE TAXES, THE RETURN, NOT THAT MONEY
23 WAS PAID, BUT IF THE RETURN WAS FILED ON APRIL,
24 WOULD BE DUE AND PAYABLE ON APRIL 15TH OF 1991, AND
25 THREE YEARS AFTER THAT DATE OR APRIL THE 16TH OF

1 1994, THOSE EIGHTY--1990 AND EARLIER TAXES WHICH IS
2 WHAT WE HAVE HERE WOULD HAVE BEEN DISCHARGED OR
3 CAPABLE OF BEING WIPED OUT AND NOT PAID.

4 BEFORE THAT TIME, THEY'D HAVE TO BE PAID
5 OR THEY SURVIVE THE BANKRUPTCY. THE INTERNAL
6 REVENUE OR BANKRUPTCY CODE CALLS IT, THEY'RE NOT
7 EXCEPTED FROM DISCHARGE, IS THE WORD THAT THEY USE.
8 BUT BASICALLY THREE YEARS AND OLDER, THEY GET
9 WASHED OUT.

10 Q OKAY. AND THAT IS AVAILABLE TO ANYONE
11 WHO FINDS HIMSELF IN A DEBTOR POSITION AND CAN GO
12 AHEAD AND FILE BANKRUPTCY UNDER THAT PROVISION?

13 A YES, SIR.

14 Q OKAY. SO TAX LIENS MAY BE DISCHARGED IN
15 BANKRUPTCY TO THAT EXTENT?

16 A YES. THERE'S ANOTHER OVERLAY. ALL
17 DEBTS LIKE THESE 1990 DEBTS, IN MR. BECKHAM'S CASE
18 ARE '89 AND '90 TAXES. THOSE TAXES WERE
19 SUSCEPTIBLE TO BEING WIPED OUT AND THAT'S WHY THIS
20 CASE WAS FILED IN MAY OF 1995. THE QUESTION IS
21 THEY WERE ALSO TAX LIENS, AND A TAX LIEN ATTACHES
22 TO EVERYTHING THAT SOMEBODY OWNS DOWN TO THEIR
23 SOCKS. AND IN THIS CASE, THE TAXES ARE WIPED OUT,
24 AND THE QUESTION IS WELL, WHAT HAPPENS TO THE LIEN?
25 IS THE LIEN STILL SURVIVE AND IF IT DOES, WHAT

1 HAPPENS TO IT? AND IN THIS CASE, IT ATTACHES TO
2 EVERYTHING THAT HE OWNED, WHICH WAS THE STUFF THAT
3 WAS WORTH EIGHT OR NINE HUNDRED DOLLARS IS WHAT WE
4 SCHEDULED. AND SO THAT LIEN SURVIVED TO THAT SMALL
5 EXTENT, THAT EIGHT OR NINE HUNDRED DOLLARS, AND I
6 BELIEVE IT WAS \$870.

7 SO THE FEDERAL TAX LIEN IS STILL GOOD
8 BUT ONLY FOR \$870. THE STATE LIEN WHICH IS
9 SUBORDINATE OR AN INFERIOR LIEN IS ZEROED OUT. IT
10 HAS NO VALIDITY WHATSOEVER.

11 Q OKAY. NOW, SO IN MAY OF 1995, WAS THAT
12 THE FIRST OPPORTUNITY TO GO AHEAD AND FILE FOR
13 BANKRUPTCY AND TO EXTINGUISH THOSE LIENS?

14 A THAT'S RIGHT. WE FILED THE ACTUAL
15 PETITION AND EVERYTHING THAT STARTS THE CLOCKS
16 RUNNING SOMEWHERE TOWARD THE END OF MAY, 1995.

17 Q OKAY, LET ME SHOW YOU STATE'S EXHIBIT
18 NUMBER 133, 132, AND 131, THE UNDERLYING LIENS.
19 WERE THOSE THE LIENS THAT YOU WERE DEALING WITH AT
20 THAT TIME?

21 A YES.

22 Q NOW, IN FILING THE BANKRUPTCY PETITION
23 IN MAY OF 1995, WHAT DID YOU HAVE TO DO?

24 A WELL, BASICALLY WHAT HAPPENS IS JUST THE
25 FILING OF THE PETITION OF THE PETITION ITSELF WITH

1 THESE OLDER TAXES, '89 AND '90, WIPES OUT THE,
2 EXTINGUISHES THIS TAX LIABILITY ANYWAY, JUST THE
3 FILING OF IT. BUT BECAUSE THERE WAS A LIEN, WE
4 TOOK AN EXTRA STEP AND WE FILED AN ADVERSARY
5 PROCEEDING OR A SEPARATE LAW SUIT WHERE WE SUED THE
6 INTERNAL REVENUE SERVICE, AND WE SUED THE
7 DEPARTMENT OF REVENUE AND TAXATION. AND THAT WAS
8 AN ADDITION STEP BECAUSE WE WANTED TO CLEAN THESE
9 LIENS UP THE BEST WAY WE COULD. IT'S NOT A PERFECT
10 FIT BETWEEN THE BANKRUPTCY COURT, THE INTERNAL
11 SERVICE WHICH HAS SOME PRETTY UNBELIEVABLE POWERS,
12 AND THE CLERK OF COURT'S RECORDING CAPABILITIES.
13 SO WE DID EVERYTHING WE COULD TO CLEAN THIS THING
14 UP.

15 Q OKAY, NOW THOSE LIENS WERE FILED HERE IN
16 NEWBERRY COUNTY IN THE CLERK OF COURT?

17 A YES.

18 Q AND IS THAT THE NORMAL COURSE OF
19 BUSINESS?

20 A YES.

21 Q NOW, AT SOME POINT DID YOU GO AHEAD AND
22 GET AN ORDER IN THE BANKRUPTCY COURT?

23 A YES, I DID.

24 Q COULD YOU RELATE TO THE JURY HOW THAT
25 ORDER COMES ABOUT AND WHAT THE EFFECT OF THAT ORDER

1 IS?

2 A OKAY. FOR EACH OF THE--THE SAME THING
3 WAS DONE WITH EACH, WITH IRS AND WITH THE SOUTH
4 CAROLINA DEPARTMENT OF REVENUE AND TAXATION. BUT
5 ESSENTIALLY WE HAVE TWO ORDERS FOR EACH OF THEM.
6 ONE OF THEM IS AN ORDER THAT VALUES THEIR LIEN OR
7 THEIR SECURITY INTEREST. AND AS I SAID BEFORE, THE
8 INTERNAL REVENUE SERVICE HAS A SUPERIOR LIEN, SO
9 THEIR LIEN WAS VALUED AT \$870 WHICH WAS THE VALUE
10 OF ALL THE POSSESSIONS THAT MR. BECKHAM AS OF THE
11 DAY OF THE FILING.

12 Q WHICH WAS IN MAY OF...

13 A IN MAY, THAT'S CORRECT. AND BECAUSE
14 SOUTH CAROLINA HAS AN INFERIOR LIEN, THEIR CLAIM
15 WAS VALUED AT ZERO, WHICH MEANS THAT THEIR LIEN IS
16 ABSOLUTELY NO GOOD AT ALL. AND THAT'S HOW WE
17 HANDLED THE VALUES.

18 Q NOW, WHEN YOU SAY SUPERIOR LIEN AND
19 INFERIOR LIEN, YOU MEAN THE INTERNAL REVENUE
20 SERVICE HAS A PRIORITY LIEN?

21 A THAT'S RIGHT, WITHIN THE PECKING ORDER.
22 IF THERE'S A LIMITED AMOUNT OF MONEY AND THERE'S
23 NOT ENOUGH MONEY TO GO AROUND, WHO GETS PAID FIRST?
24 IRS IN THIS CASE WOULD TAKE ALL THE MONEY THAT WAS
25 AVAILABLE, ALL \$870. AND WHAT WE WERE TRYING TO

1 DETERMINE AND MAKE IT REAL CLEAR TO THE INTERNAL
2 REVENUE SERVICE, BECAUSE YOU COULD HAVE ARGUMENTS
3 WITH THE IRS FOUR OR FIVE YEARS DOWN THE ROAD ABOUT
4 WHAT THE BANKRUPTCY MEANT. SO WHAT WE DID IS WE
5 TOOK THE EXTRA STEPS HERE TO NAIL IT DOWN SO THAT
6 IN THE FUTURE WHEN WE HAD A DISAGREEMENT WITH IRS,
7 IT WOULD BE CLEAR WHAT WE WERE DOING.

8 Q OKAY. NOW, YOU HAVE THESE TWO ORDERS
9 HERE, IS THAT CORRECT?

10 A YES. THE OTHER ORDERS OR THESE CONSENT
11 ORDERS WHICH ARE SUBMITTED IN THE ADVERSARY
12 PROCEEDING, WHICH ARE A DIFFERENT CASE NUMBER, AND
13 WHAT THEY DO IS BASICALLY IT SAYS THAT THE TAX
14 LIABILITY FOR 1989 AN '90 ARE NOT EXCEPTED FROM
15 DISCHARGE, WHICH IS A BACKHAND WAY OF SAYING THEY
16 GET WIPE OUT.

17 AND THEN IT SAYS FURTHER THAT THE VALUE
18 OF ANYTHING THAT HE HAD AT THE TIME OF THE FILING,
19 THE LIEN ATTACHES TO THAT. AND WHAT THIS SECOND
20 ORDER FOR \$870 DOES IS IT LIMITS IT TO \$870 WORTH
21 OF GOODS. SO ANYTHING HE ACQUIRES FROM THEN GOING
22 FORWARD, THE LIEN DOES NOT ATTACH TO. SO THE LIEN
23 IS STILL THERE ON THE BOOKS, MAY SIT THERE, BUT IT
24 DOESN'T HAVE ANY TEETH.

25 Q SO WHEN WOULD THE TWO ORDERS VALUING THE

1 SECURITY INTEREST WERE FILED ON WHAT DATE?

2 A THESE WERE FILED, THIS IS IN THE
3 BANKRUPTCY COURT IN SOUTH CAROLINA, THE ORDER
4 VALUING THE COMPLAINT OF THE SOUTH CAROLINA
5 DEPARTMENT OF REVENUE AND TAXATION WAS FILED ON
6 AUGUST 21ST, AND THE ONE FROM THE INTERNAL REVENUE
7 SERVICE WAS FILED ON OCTOBER THE 17TH.

8 Q OKAY. AND THE ORDERS, THE TWO CONSENT
9 ORDERS, WHAT WERE THE DATES OF THEIR FILING?

10 A THE ONE FOR THE INTERNAL REVENUE SERVICE
11 WAS FILED ON SEPTEMBER 1ST, AND THE ONE FROM THE
12 DEPARTMENT OF REVENUE AND TAXATION WAS FILED ON
13 SEPTEMBER THE 12TH, EXCUSE ME, SEPTEMBER THE 11TH.

14 Q NOW, ONCE THESE ORDERS--

15 MR. SWERLING: YOUR HONOR, I'D LIKE TO
16 OFFER THESE--WELL, --

17 Q DO EITHER ONE OF THESE ORDERS VALUING
18 SECURITY INTEREST GO WITH EITHER ONE OF THESE
19 CONSENT ORDERS OR ARE THEY FOUR SEPARATE...

20 A YES, THEY BOTH--WELL, THEY'RE FOUR
21 SEPARATE ONES, BUT YOU READ IT TOGETHER BECAUSE ONE
22 OF THEM SAYS THE LIEN IS CUT OFF GOING FORWARD, AND
23 THE OTHER ONE SETS THE VALUE GOING BACKWARD.

24 Q SO LET'S PUT TOGETHER THE ONES THAT GO
25 TOGETHER.

1 A SO YOU'VE GOT THE IRS, SOUTH CAROLINA
2 DEPARTMENT OF REVENUE AND TAXATION, THOSE TWO WOULD
3 GO TOGETHER, AND THESE TWO WOULD GO TOGETHER.

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

6 THE COURT: ANY OBJECTION?

7 MR. COULTER: NO, YOUR HONOR.

8 THE COURT: WITHOUT OBJECTION.

9 COURT REPORTER: FIFTY-NINE AND SIXTY.

10 (SO MARKED AND ENTERED)

11 Q ALL RIGHT, MR. COX, IF YOU WILL JUST
12 EXPLAIN TO ME BECAUSE YOU HAVE TO EXPLAIN TO THE
13 JURY, YOU HAD TO EXPLAIN IT TO ME A COUPLE OF TIME.
14 IT SAYS EXCEPT, WHICH SEEMS TO EXCLUDE THE TAXES AS
15 DISCHARGED FROM BANKRUPTCY. WOULD YOU TELL THE
16 JURY IN FACT WHAT IT REALLY SAYS?

17 A YEAH, WHAT IT HAS, IT'S THE THIRD
18 PARAGRAPH DOWN, AND IT SAYS, "ORDERED, ADJUDGED AND
19 DECREEED THAT THE DEBTOR'S STATE INCOME TAX
20 LIABILITY AS ASSESSED FOR YEARS 1989 AND '90 ARE
21 EXCEPTED FROM ANY DISCHARGE GRANTED THE DEBTOR
22 UNDER SECTION 27 OF THE BANKRUPTCY CODE." AND LIKE
23 I SAID, THAT'S A BACK-END WAY OF SAYING, NORMALLY
24 IF IT WAS LESS THAN SEVEN, IT WOULD BE EXCEPTED
25 FROM DISCHARGE AND IF IT WERE EXCEPTED FROM

1 DISCHARGE, IT WOULD SURVIVE. BUT BECAUSE IT'S NOT
2 EXCEPTED, IT'S--IT SOUNDS BACKWARDS LOGICALLY, BUT
3 BASICALLY HOW THIS ORDER COMES ABOUT IS THE
4 DEPARTMENT OF JUSTICE IN WASHINGTON LIKES THIS
5 PARTICULAR ORDER WITH THIS PARTICULAR LANGUAGE AND
6 THEY WON'T SIGN THE ORDER. SO THAT'S HOW THE
7 LANGUAGE HAS EVOLVED.

8 BUT BASICALLY, THOSE TAXES ARE BECAUSE
9 THEY ARE NOT EXCEPTED FROM DISCHARGE, GO AWAY.

10 Q NOT EXCEPTED?

11 A NOT EXCEPTED, SO IT'S CONTRARY TO HOW
12 YOU WOULD THINK ABOUT IT WHEN YOU READ IT. AND THE
13 SAME THING IS TRUE WITH DEFENDANT'S EXHIBIT NUMBER
14 SIXTY AS IT PERTAINS TO THE FEDERAL TAX LIABILITY
15 FOR 1989 AND '90.

16 Q NOW, UPON RECEIPT OF THOSE ORDERS, DO
17 THOSE RESPECTIVE AGENCIES, THE DEPARTMENT OF
18 INTERNAL REVENUE SERVICE AND THE DEPARTMENT OF TAX
19 IN SOUTH CAROLINA, DO THEY FORWARD THOSE TO THE
20 CLERK OF COURT?

21 A SOMETIMES THEY DO, AND SOMETIMES THEY
22 DON'T. SOMETIMES I FILE THEM AND SOMETIME I DON'T.
23 OFTENTIMES, I DON'T. WHAT HAPPENS IS THE LIEN
24 ITSELF, JUST THE FILING OF THE BANKRUPTCY WITHOUT
25 GOING THROUGH THE STEPS OF THESE '89 AND '90 TAXES,

1 THOSE '89 AND '90 TAXES ARE WIPED OUT ANYWAY. WHAT
2 THESE ARE FOR IS JUST A BACKUP IN THE EVENT THAT
3 YOU HAVE A PROBLEM WITH A REVENUE OFFICER DOWN THE
4 ROAD, AND YOU CAN SAY, "WELL, HERE'S THE ORDERS.
5 WE'VE HAD A BANKRUPTCY COURT JUDGE SAY GRACE OVER
6 THESE THINGS, AND SO THIS IS WHERE WE ARE. YOUR
7 LAWYERS AND WE AGREE AS TO WHAT'S GOING ON, SO
8 THESE LIENS JUST AREN'T ANY GOOD." AND THAT'S
9 REALLY WHAT THESE ARE FOR, JUST TO PROTECT YOU DOWN
10 THE ROAD SO YOU DON'T HAVE TO FIGHT WITH A REVENUE
11 OFFICER WHO MAY OR MAY NOT KNOW WHAT'S GOING ON.

12 MR. SWERLING: YOUR HONOR, MAY I SUBMIT
13 THESE TO THE JURY?

14 THE COURT: YES, SIR.

15 Q NOW, MR. COX, I'VE SHOWN YOU STATE'S
16 133, AND I NEED TO PUT ON MY GLASSES. THAT IS A
17 WARRANT FOR DISTRRAINT FOR \$1,300 FROM THE SOUTH
18 CAROLINA TAX COMMISSION, AND THAT IS, AT THIS
19 POINT, I'M SORRY, IT'S FOR \$27,939. AT THIS POINT,
20 THAT IS NOT MARKED SATISFIED.

21 A RIGHT.

22 Q WAS THAT DISCHARGED IN BANKRUPTCY?

23 A YES.

24 Q ALL RIGHT, AND EVENTUALLY WILL IT BE
25 MARKED SATISFIED?

1 A PROBABLY DOWN THE ROAD. IT COULD BE IF
2 WE WERE TO GO THROUGH THE CHAINS OF GETTING THAT
3 DONE.

4 Q AND HOW LONG AGO WAS THAT DONE?

5 A THOSE ORDERS WERE HANDED DOWN LAST FALL.
6 I THINK THEIR DATES ARE ON THEM; I THINK ONE OF
7 THEM WAS IN AUGUST, THE OTHER WAS IN SEPTEMBER, BUT
8 LAST FALL.

9 Q SO AT THIS POINT, THAT'S JUST AN
10 OMISSION THAT THE TAX COMMISSION HAS NOT TAKEN CARE
11 OF?

12 A YEAH, THE TAX COMMISSION ISN'T GOING TO
13 GET PAID FOR THIS. JUST THIS THING SITS, AND MR.
14 BECKHAM DOESN'T OWN ANY REAL PROPERTY IN THIS
15 COUNTY, SO IT REALLY DOESN'T MAKE ANY DIFFERENCE.

16 Q AND THAT'S GENERALLY IF YOU FILE A LIEN
17 IT'S AGAINST THE REAL PROPERTY?

18 A THAT'S RIGHT. FOR EVERYBODY ELSE, IT
19 WOULD ATTACH ONLY TO THE REAL PROPERTY IF SOMEBODY
20 SUED YOU FOR A DEBT, BUT BECAUSE THESE ARE TAX
21 LIENS, THEY'RE SPECIAL.

22 Q NOW, THE ONE FOR \$467 FROM THE SOUTH
23 CAROLINA DEPARTMENT OF TAX AND REVENUE, THAT IS
24 MARKED SATISFIED?

25 A THAT ONE IS SATISFIED.

- 1 Q AS OF JANUARY 10TH, 1996.
- 2 A YES.
- 3 Q AND THEN STATE'S EXHIBIT NUMBER 131
- 4 WHICH IS THE CERTIFICATE OF RELEASE FROM THE
- 5 FEDERAL TAX LIEN, IS THAT CORRECT?
- 6 A YES, AND THAT'S BEEN MARKED SATISFIED AS
- 7 WELL.
- 8 Q JUST IN SUMMARY, WERE THESE LIENS PAID?
- 9 A NO.
- 10 Q OR WERE THEY SATISFIED BY BANKRUPTCY?
- 11 A THEY WERE SATISFIED BY THE BANKRUPTCY,
- 12 OR THE DEBT WAS WIPE OUT.
- 13 Q THANK YOU. ANSWER ANY QUESTIONS THE
- 14 PROSECUTION HAS.
- 15 THE COURT: CROSS EXAMINATION, MR.
- 16 COULTER.
- 17 MR. COULTER: THANK YOU.
- 18 CROSS EXAMINATION:
- 19 BY MR. COULTER:
- 20 Q MR. COX, WHEN WAS IT THAT, WHEN WOULD
- 21 THE EARLIEST TIME HAVE BEEN FOR THE DEFENDANT TO
- 22 HAVE FILED BANKRUPTCY ON THESE 1989 LIENS?
- 23 A WELL, WE'VE GOT '89 AND '90S.
- 24 Q RIGHT. AND YOU WOULD AGREE THAT THE '89
- 25 LIENS ARE THE HUGH MAJORITY OF WHAT WAS OWED?

- 1 A YEAH, THE '89S, THOSE, IF THEY WERE
2 TIMELY FILED, IF THE '89 TAX RETURN WAS FILED ON
3 APRIL THE 15TH OF 1990, ON APRIL THE 16TH OF 1993,
4 IT COULD HAVE BEEN FILED.
- 5 Q ALL RIGHT. SO, AND WHEN DID YOU FILE ON
6 HIS BEHALF?
- 7 A MAY OF '95.
- 8 Q MAY OF '95. SO HE COULD HAVE FILED FOR
9 BANKRUPTCY PRESUMABLY MUCH EARLIER THAN YOU
10 ACTUALLY DID IT?
- 11 A YEAH. OH, ABSOLUTELY.
- 12 Q ALL RIGHT. AND ...
- 13 A I WOULD SAY I THINK MAYBE WHAT TRIGGERED
14 THOSE, I'M LOOKING AT THE--LET'S SEE HERE. IT
15 SEEMS LIKE A FEDERAL, ONE OF THESE LIENS THEY'VE
16 GOT FILED HERE WOULD--THE BIG STATE LIEN WAS FILED
17 IN JANUARY OF '95. THAT MAY HAVE TRIGGERED SOME,
18 YOU KNOW, THE TAX IS SITTING THERE, IT'S OWED,
19 BUT...YOU KNOW, UNTIL THEY START FILING LIENS, MAY
20 NOT GET ANYBODY'S ATTENTION.
- 21 Q WELL, LOOKING AT THIS ONE FROM THE
22 STATE, THE STATE LIEN, YOU SAID JANUARY OF '95,
23 THAT WOULDN'T HAVE BEEN THE FIRST TIME THE
24 DEFENDANT BECKHAM WOULD HAVE KNOWN HE OWED THIS
25 SUBSTANTIAL AMOUNT OF MONEY?

- 1 A I HAVE NO IDEA BUT I WOULD ASSUME NOT.
- 2 Q WELL, THE STATE TREASURY ISN'T JUST
- 3 GOING TO AUTOMATICALLY FILE IT, THEY'RE GOING TO
- 4 TRY TO COLLECT IT?
- 5 A YEAH. I HAVE NO IDEA, I'M NOT HIM, BUT
- 6 I WOULD ASSUME HE FILED HIS TAX RETURNS AND THEN HE
- 7 OWED SOME MONEY.
- 8 Q WELL, YOU KNOW, WHAT I'M SAYING IS YOU
- 9 KNOW THE PRACTICES OF THE SOUTH CAROLINA TAX
- 10 COMMISSION, GENERALLY, CORRECT? AND THEY WOULD
- 11 HAVE TRIED TO GET THIS MONEY BEFORE THEY FILED THIS
- 12 LIEN?
- 13 A CERTAINLY, CERTAINLY.
- 14 Q SO HE WOULD HAVE KNOWN ABOUT THIS WELL
- 15 BEFORE JANUARY OF '95?
- 16 A I WOULD ASSUME HE WOULD HAVE KNOWN THAT
- 17 HE OWED A LOT OF MONEY TO IRS AND TO THE SOUTH
- 18 CAROLINA REVENUE AND TAXATION.
- 19 Q AGAIN, THIS IS FOR 1989, A SUBSTANTIAL
- 20 PORTION OF THESE LIENS, CORRECT?
- 21 A YEAH. WE FILED THIS IN 1989 AND '90,
- 22 BECAUSE THERE WAS LIABILITY FOR EACH. I'M NOT SURE
- 23 HOW THEY BROKE DOWN. THE ADVERSARY HAS BASICALLY
- 24 WIPED THEM OUT AS TO BOTH.
- 25 Q I'LL LET YOU HAVE THOSE BACK. AND

1 APPROXIMATELY HOW MUCH THERE IS OWED FROM THE '89
2 TAXES?

3 A WELL, FROM THE--ACCORDING TO THE WARRANT
4 FOR DISTRAINT THAT WAS FILED IN JANUARY OF '95, THE
5 AMOUNT THEN WAS \$27,000.

6 Q OKAY, THAT'S FOR STATE?

7 A IT LOOKS LIKE STATE, AND THAT'S BASED ON
8 A TAX LIABILITY OF ABOUT \$9,900. THE REST OF IT'S
9 INTEREST AND PENALTIES.

10 Q ALL RIGHT, AND ADD THAT TO THE FEDERAL
11 THEN.

12 A THE FEDERAL WAS --FOR '89 IS \$37,864,
13 AND IT DOES NOT BREAK IT DOWN BY INTEREST AND
14 PENALTIES.

15 Q ALL RIGHT, SO BASED ON THESE AMOUNTS
16 PRESENTED BY THE FEDERAL AND TAX LIEN, THAT MEANS
17 IN 1989 HE WOULD HAVE HAD TO HAVE MADE A PRETTY
18 SUBSTANTIAL AMOUNT OF MONEY, IS THAT CORRECT?

19 A I WOULD ASSUME SO, YEAH.

20 Q ALL RIGHT, AND SO WHAT YOU WERE...

21 A ACTUALLY, THESE WERE JOINT RETURNS. I
22 DON'T REALLY KNOW WHO OWED WHAT. THERE'S NOT
23 ANYWAY FOR ME TO KNOW.

24 Q ALL RIGHT. LET ME HAND YOU THIS. THIS
25 IS--SEE IF YOU CAN TAKE A LOOK AT THAT. ARE YOU

- 1 FAMILIAR WITH THAT?
- 2 A I MEAN I CAN READ IT.
- 3 Q ALL RIGHT.
- 4 A IT'S A TAX RETURN.
- 5 Q ALL RIGHT.
- 6 A FOR MR. BECKHAM AND VICTORIA BECKHAM.
- 7 Q FROM WHAT YEAR?
- 8 A FROM 1989.
- 9 Q ALL RIGHT, THE YEAR THAT THESE LIENS
- 10 WERE IMPOSED?
- 11 A UH-HUH.
- 12 Q ALL RIGHT. AND GO AHEAD AND TAKE A LOOK
- 13 AT THE BOTTOM, IF YOU COULD, AS FAR AS THE ACTUAL
- 14 BREAKDOWN AS FAR AS EARNINGS GO.
- 15 A WHICH PART WOULD YOU LIKE ME TO READ
- 16 YOU?
- 17 Q WHERE THE EARNINGS ARE.
- 18 A THE ADJUSTED GROSS OR--THE EARNINGS,
- 19 WAGES, SALARIES, AND TIPS WERE \$104,000. LOOKS
- 20 LIKE THERE WAS BUSINESS INCOME OF \$55,320 AND THE
- 21 ADJUSTED GROSS WAS \$166,027.
- 22 Q AND THERE'S A BREAKDOWN IN THAT RETURN,
- 23 IS THERE NOT, THAT SHOWS WHAT HE MADE VERSUS HIS
- 24 SPOUSE, VICTORIA BECKHAM, IN '89?
- 25 A WHY DON'T YOU POINT IT OUT TO ME WHAT

1 SECTION YOU'RE TALKING ABOUT?

2 THERE A BROKEN DOWN COLUMN THAT SAYS
3 "YOU" THAT SHOWS WAGES OF \$86,436 AND NET PROFIT
4 FROM A BUSINESS UNDER THE "YOU" COLUMN FOR \$55,320
5 FOR A TOTAL OF \$141,756. AND THERE'S ANOTHER,
6 UNDER ANOTHER COLUMN FOR "YOUR SPOUSE," IT'S GOT
7 WAGES OF \$17,612 IN SALARY EARNINGS.

8 Q AND WERE YOU FAMILIAR WITH BACK IN 1989
9 THAT THE DEFENDANT HAD OWNED PART OF HIS OWN
10 BUSINESS, A TELEPHONE COMPANY?

11 A I DON'T REALLY REMEMBER WHAT THE TAX
12 LIABILITY SPRANG FROM.

13 Q ALL RIGHT, AND YOU REMEMBER THAT BACK IN
14 1989 HIS WIFE WAS WORKING AT WACCAMAW POTTERY?

15 A I DON'T.

16 Q YOU DON'T? ALL RIGHT. SO IN ESSENCE
17 WHAT YOU DID BY FILING THIS BANKRUPTCY BACK IN '95
18 WAS ALLOW THE DEFENDANT NOT TO PAY ANY TAXES ON ALL
19 THAT MONEY THAT HE MADE BACK IN 1989?

20 A YEAH. THE TAXES, THE INTEREST AND THE
21 PENALTIES.

22 Q ALL RIGHT, AND IN MARCH OF '95 WHEN YOU
23 ACTUALLY FILED...

24 A MAY.

25 Q MAY, I'M SORRY. MAY OF '95 WHEN YOU

1 ACTUALLY FILED ON BEHALF OF THE DEFENDANT BECKHAM,
2 YOU KNEW HE WAS ALSO BEING REPRESENTED BY JACK
3 SWERLING, DID YOU NOT?

4 A I DON'T KNOW THAT I KNEW THAT, AT THAT
5 TIME.

6 Q BUT IF MR. SWERLING HAD BEEN RETAINED IN
7 FEBRUARY/MARCH OF '94, OBVIOUSLY, YOU WOULD HAVE
8 COME INTO THE PICTURE LONG AFTER HE HAD BEEN
9 RETAINED?

10 MR. SWERLING: I THINK THAT'S A
11 MISSTATEMENT, AND I OBJECT.

12 THE COURT: SUSTAINED. YOU'RE HEADED IN
13 THE WRONG DIRECTION, MR. COULTER, ON THAT LINE OF
14 QUESTIONING.

15 MR. COULTER: ALL RIGHT.

16 MR. SWERLING: YOUR HONOR, I MOVE THAT
17 BE STRICKEN. THAT FIRST OF ALL IS INACCURATE...

18 MR. JONES: YOUR HONOR, IF WE'RE GOING
19 TO ARGUMENT THE OBJECTION...

20 THE COURT: I DON'T HAVE TO. I
21 SUSTAINED THE OBJECTION. STRIKE THAT LINE OF
22 QUESTIONS. IT'S NOT RELEVANT TO THE ISSUES IN THIS
23 CASE.

24 MR. COULTER: ALL RIGHT.

25 THE COURT: OKAY.

1 MR. COULTER: I WITHDRAW IT.

2 THE COURT: ALL RIGHT.

3 Q WITHOUT QUESTION, IN '94, THE DEFENDANT
4 AGAIN, HE OWED A SUBSTANTIAL AMOUNT OF MONEY,
5 ALMOST \$60,000?

6 A YEAH.

7 Q AND HAD THE DEFENDANT FILED BANKRUPTCY
8 SAY IN, WELL, LET'S SAY--YES, LET'S SAY HE FILED
9 BANKRUPTCY IN THE MIDDLE OF '95, MAY OF '95, HAD HE
10 COLLECTED A HUNDRED THOUSAND DOLLAR LIFE INSURANCE
11 POLICY AFTER MAY OF '95, WOULD THAT BE EXEMPT FROM
12 THESE LIENS?

13 MR. SWERLING: YOUR HONOR, IT'S A
14 HYPOTHETICAL, FACTS NOT IN EVIDENCE AT THIS POINT.

15 THE COURT: LET ME HEAR THE QUESTION
16 AGAIN.

17 MR. COULTER: IF HE WOULD HAVE FILED
18 BANKRUPTCY IN MAY OF '95, IF HE'D COLLECTED A LIFE
19 INSURANCE POLICY AFTER THE BANKRUPTCY WAS FILED,
20 WOULD THAT HUNDRED THOUSAND DOLLAR POLICY BE EXEMPT
21 FROM THOSE TAXES?

22 THE COURT: WELL, THE QUESTION IS--HE
23 CAN ANSWER THAT QUESTION.

24 A WHEN WOULD THE POLICY HAVE BECOME
25 PAYABLE, THAT'S THE QUESTION?

- 1 Q OH, SO IT DEPENDS ON WHEN IT'S PAYABLE?
- 2 A YES.
- 3 Q NOT WHEN HE COLLECTS IT?
- 4 A NO, IT'S WHEN IT'S PAYABLE, IF YOU KNOW
- 5 THAT YOU'VE GOT A POLICY AND YOU'RE GOING TO
- 6 RECEIVE A BENEFIT THEN THAT SHOULD HAVE BEEN
- 7 DISCLOSED IN THE BANKRUPTCY SCHEDULES.
- 8 Q IT SHOULD HAVE?
- 9 A YES.
- 10 Q SO BASED ON WHAT HE WAS OWED BACK IN
- 11 1994, A HUNDRED THOUSAND DOLLARS COULD HAVE EASILY
- 12 TAKEN CARE OF ALL HIS FINANCIAL PROBLEMS AT THE
- 13 TIME?
- 14 MR. SWERLING: OBJECTION, YOUR HONOR.
- 15 THAT IS A CONCLUSION...
- 16 THE COURT: SUSTAINED.
- 17 Q ALL RIGHT, HE OWED \$60,000
- 18 APPROXIMATELY?
- 19 A UH-HUH. MAY I JUST ADD THAT THE '89
- 20 TAXES, IF THEY WERE FILED IN APRIL OF '90 THEN IN
- 21 APRIL OF '93, THEY COULD HAVE BEEN WIPE OUT
- 22 COMPLETELY.
- 23 Q DID YOU LOOK AT THIS TAX RETURN TO SEE
- 24 EXACTLY WHEN THEY WERE FILED?
- 25 A TEN OF '90, SO IT WOULD HAVE BEEN TEN

1 OF...

2 Q 'NINETY-THREE. SO IN OCTOBER OF '93, HE
3 COULD HAVE WIPED THOSE OUT?

4 A YEAH.

5 Q THANK YOU.

6 THE COURT: ANYTHING ELSE?

7 MR. SWERLING: JUST A COUPLE OF

8 QUESTIONS.

9 REDIRECT EXAMINATION:

10 BY MR. SWERLING:

11 Q MR. COX, DID YOU SAY MR. BECKHAM COULD
12 HAVE FILED THE BANKRUPTCY IN OCTOBER OF '93 AND
13 DISCHARGED THAT?

14 A YES. HE COULD HAVE DISCHARGED THE '89S.

15 Q RIGHT. NOW, MR. COULTER--LET ME PURSUE
16 THE, WITH RESPECT TO THE '89, WHEN WAS IT FILED?

17 A THE '89 TAX RETURN IS DATED--WELL,
18 ACTUALLY, I'VE GOT AN UNSIGNED COPY HERE, BUT HENRY
19 SUMMER, THE CPA, HE DATED IT OCTOBER THE 11TH,
20 1990. THIS IS AN UNSIGNED TAX RETURN.

21 Q ALL RIGHT, DOES IT INDICATE THAT TAX WAS
22 PAID ALSO?

23 A YEAH, THERE WERE TAXES PAID--LET ME LOOK
24 AT MY BIFOCALS--LOOKS LIKE \$17,718 WERE PAID THAT
25 YEAR. YEAH, THAT'S WHAT THAT LOOKS LIKE.

1 Q OKAY, SO ALMOST \$18.,000 WAS PAID IN
2 TAXES?
3 A YEAH, THAT'S EXACTLY RIGHT.
4 Q AND THAT'S A JOINT LIABILITY, IS THAT
5 CORRECT?
6 A THAT'S A JOINT LIABILITY.
7 Q AT THE END OF--UPON MS. BECKHAM'S DEATH,
8 IT WOULD HAVE BEEN THE SOLE LIABILITY OF HIS, IS
9 THAT CORRECT?
10 A I'M NOT A TAX PERSON. I KNOW HOW TO
11 WIPE THESE THINGS OUT IN BANKRUPTCY COURT. I THINK
12 THAT'S PROBABLY TRUE, BUT I'M NOT CERTAIN.
13 Q BUT HE COULD HAVE DISCHARGED IT A LONG
14 TIME BEFORE HER DEATH?
15 A ABSOLUTELY.
16 Q ALL RIGHT. NOW, BY THE WAY, JUST SO--
17 THE SOLICITOR ASKED THE QUESTION, WHEN WAS THE
18 FIRST TIME YOU AND I TALKED ABOUT THIS BANKRUPTCY?
19 THE COURT: I'VE ALREADY RULED ALL OF
20 THAT--IT'S NOT RELEVANT AS TO ANY DISCUSSIONS THAT
21 YOU HAD WITH HIM, JUST LIKE YESTERDAY'S RULING.
22 MR. SWERLING: YES, SIR. OH, THAT'S
23 FINE. I THOUGHT HE ASKED...
24 MR. JONES: ARE WE ARGUING THE POINT,
25 YOUR HONOR.

1 THE COURT: NO, SIR.

2 MR. SWERLING: COULD WE JUST APPROACH A
3 MINUTE? I'M NOT ARGUING ANYTHING.

4 THE COURT: NOW, SOLICITOR, THAT'S THE
5 PERSON EXAMINING THE WITNESS.

6 MR. JONES: YES, SIR.

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

10 Q MICHAEL, TELL THE JURY WHEN THE FIRST
11 TIME YOU AND I EVER TALKED ABOUT STEPHEN BECKHAM'S
12 BANKRUPTCY, EVER?

13 A YESTERDAY AFTERNOON.

14 Q YESTERDAY AFTERNOON. THANK YOU.

15 THE COURT: ANYTHING ELSE?

16 MR. COULTER: NO.

17 THE COURT: ALL RIGHT, THANK YOU, SIR.
18 YOU MAY STEP DOWN.

19 CALL YOUR NEXT WITNESS.

20 MR. SWERLING: WE'D CALL KENNETH
21 WINGATE.

22 KENNETH WINGATE, BEING DULY
23 SWORN, TESTIFIED AS FOLLOWS:

24 DIRECT EXAMINATION:

25 BY MR. SWERLING:

1 Q KENNETH, WOULD YOU IDENTIFY YOURSELF TO
2 THE JURY, PLEASE?

3 A MY NAME IS KENNETH WINGATE. I'M AN
4 ATTORNEY AND A CPA IN COLUMBIA.

5 Q AND KENNETH, HOW LONG HAVE YOU BEEN
6 PRACTICING AT THE BAR?

7 A I HAVE BEEN PRACTICING AS AN ATTORNEY
8 FOR TEN YEARS.

9 Q NOW, DO YOU KNOW STEPHEN BECKHAM?

10 A YES, I DO.

11 Q AS A MATTER OF FACT, IS THERE SOME
12 DISTANT RELATIONSHIP?

13 A NO, THERE'S NO RELATIONSHIP. HE AND MY
14 BROTHER-IN-LAW ARE FRIENDS.

15 Q OH, OKAY. I MISUNDERSTOOD. FINE. DID
16 STEPHEN BECKHAM CONSULT WITH YOU IN THE SPRING OF
17 1995 CONCERNING A LIFE INSURANCE POLICY THAT WAS
18 FOUND TO BE IN EXISTENCE ON VICKIE BECKHAM?

19 A YES, HE DID.

20 Q AND WAS THAT AN OLD LINE LIFE INSURANCE
21 POLICY IN THE AMOUNT OF \$100,000?

22 A THAT IS CORRECT.

23 Q AND AS A RESULT OF HIS CONTACTING YOU IN
24 THE SPRING OF 1995, DID YOU START A SERIES OF
25 COMMUNICATIONS WITH OLD LINE LIFE INSURANCE

1 COMPANY?

2 A YES, I DID.

3 Q ALL RIGHT, AND WHAT WAS THE PURPOSE?

4 A THE PURPOSE OF MY COMMUNICATIONS WITH
5 OLD LINE LIFE INSURANCE COMPANY WAS TO TRY TO FIND
6 OUT INFORMATION ABOUT THE POLICY. I NEEDED TO KNOW
7 THAT THERE WAS A POLICY; I NEEDED TO KNOW WHO THE
8 OWNER AND THE BENEFICIARIES WERE; I NEEDED TO KNOW
9 WHERE THE POLICY WAS. THERE WAS A LOT OF
10 INFORMATION THAT I NEEDED, SO I TRIED FOR A NUMBER
11 OF WEEKS TO CONTACT THE INSURANCE COMPANY IN ORDER
12 TO GAIN THAT INFORMATION.

13 Q WAS MR. BECKHAM MAKING A CLAIM AGAINST
14 THE POLICY?

15 A NO, HE WAS NOT.

16 Q ALL RIGHT, WHAT WAS HIS INTENTIONS?

17 A THE FIRST TIME I EVER MET STEPHEN IN MY
18 LIFE WAS THAT MEETING IN MY OFFICE IN APRIL OF '95,
19 AND HE CAME TO ME AND INDICATED THAT THERE MAY BE A
20 LIFE INSURANCE POLICY OUT THERE ON HIS WIFE'S
21 LIFE...

22 MR. MCMAHON: YOUR HONOR, WE OBJECT TO
23 HEARSAY.

24 THE COURT: SUSTAINED.

25 MR. SWERLING: YOUR HONOR, IT'S NOT

1 BEING OFFERED FOR THE TRUTH OF THE MATTER STATED AT
2 THIS TIME.

3 MR. MCMAHON: YOUR HONOR, IF WE'RE GOING
4 TO MAKE AN ARGUMENT, I'D LIKE TO...

5 THE COURT: THAT'S NOT AN ARGUMENT.
6 THAT'S THE RESPONSE TO YOUR HEARSAY OBJECTION, BUT
7 I'LL HEAR YOU OVER HERE ON THE ARGUMENT.

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

11 Q WITHOUT GOING INTO ACTUALLY WHAT WAS
12 SAID BY MR. BECKHAM, WHAT WERE YOU TRYING TO
13 ACCOMPLISH? WHAT WERE YOU DOING?

14 A I WAS TRYING TO IDENTIFY THE FACTS ABOUT
15 THE POLICY, AS I INDICATED, THAT IT EXISTED, AND
16 WHOSE LIFE IT WAS ON AND HOW MUCH IT WAS, AND WHO
17 WAS THE BENEFICIARY, WHO WAS THE CONTINGENT
18 BENEFICIARY. MY JOB WAS TO RENOUNCE OR TO WAIVE
19 ANY RIGHTS IN THE POLICY THAT MR. BECKHAM MIGHT
20 HAVE.

21 Q OKAY, TO WHO?

22 A TO HIS CHILDREN.

23 Q ALL RIGHT, NOW EXPLAIN, YOU HAVE A
24 BENEFICIARY AND THEN YOU HAVE A CONTINGENT
25 BENEFICIARY. WHO WAS THE BENEFICIARY UNDER THE

1 POLICY?

2 A OKAY, THE LIFE INSURANCE POLICY IS A
3 CONTRACT BETWEEN A LIFE INSURANCE COMPANY AND THE
4 PERSON INSURED ON WHOSE LIFE THE CONTRACT IS
5 WRITTEN, AND THAT PERSON DESIGNATES UNDER THE
6 CONTRACT, A BENEFICIARY WHO IS TO RECEIVE THE DEATH
7 BENEFIT AT THE TIME OF THE INSURED DEATH. THE
8 DESIGNATED BENEFICIARY OF THIS OLD LINE LIFE
9 INSURANCE POLICY, I FOUND OUT, WAS STEPHEN BECKHAM.
10 AND THEN THE CONTINGENT BENEFICIARY WOULD HAVE BEEN
11 THE CHILDREN BORN OF THEIR MARRIAGE.

12 Q AND THAT'S WHAT YOU CALL A CONTINGENT
13 BENEFICIARY?

14 A THAT'S RIGHT.

15 Q HOW DOES A CONTINGENT BENEFICIARY CLAIM
16 UNDER A POLICY? WHAT ARE THE ONLY WAYS?

17 A THE CONTINGENT BENEFICIARY HAS NO RIGHT
18 TO THE POLICY IF THE PRIMARY BENEFICIARY SURVIVES.
19 SO IT WOULD ONLY BE BY WAIVING HIS RIGHTS UNDER THE
20 POLICY THAT STEPHEN BECKHAM COULD ESSENTIALLY PASS
21 THAT POLICY OR LET THAT POLICY PASS TO HIS
22 CHILDREN.

23 Q ALL RIGHT, SO WHEN YOU COMMUNICATED WITH
24 OLD LINE, AS I UNDERSTAND, YOUR PURPOSE WAS TO GO
25 AHEAD AND FIND OUT WHO THE CONTINGENT BENEFICIARIES

- 1 WERE, CORRECT?
- 2 A THAT'S CORRECT.
- 3 Q AND TO FIND OUT THE FACTS ABOUT THE
- 4 POLICY?
- 5 A CORRECT.
- 6 Q AND ALSO GO AHEAD AND RELINQUISH MR.
- 7 BECKHAM'S CLAIM TO THE POLICY?
- 8 A THAT IS CORRECT.
- 9 Q NOW, LET ME JUST SHOW YOU NOW, THIS CAME
- 10 ABOUT IN THE SPRING OF 1995, IS THAT CORRECT?
- 11 A THAT'S RIGHT.
- 12 Q THAT'S THE FIRST TIME YOU MET MR.
- 13 BECKHAM IN CONNECTION WITH THAT?
- 14 A MID TO LATE APRIL, '95 WAS THE FIRST
- 15 TIME I MET HIM.
- 16 Q AND LET ME SHOW YOU A SERIES OF
- 17 CORRESPONDENCE IN CONNECTION WITH THAT. FIRST OF
- 18 ALL, DO YOU RECOGNIZE THIS, A LETTER DATED APRIL
- 19 17TH?
- 20 A YES, I DO RECOGNIZE THIS LETTER.
- 21 MR. SWERLING: YOUR HONOR, I'D LIKE TO
- 22 OFFER THIS IN EVIDENCE. IN FACT, CAN I JUST MARK
- 23 THEM ALL, PRE-MARK THEM? THEY'VE SEEN THEM, YOUR
- 24 HONOR, BUT I...
- 25 THE COURT: ANY OBJECTIONS TO THOSE

1 . LETTERS?

2 MR. SWERLING: YOUR HONOR, I'D OFFER
3 THESE IN. WE COULD PROBABLY MARK THEM AS ONE
4 EXHIBIT.

5 THE COURT: ANY OBJECTION?

6 MR. MCMAHON: NO OBJECTION, YOUR HONOR.

7 THE COURT: WITHOUT OBJECTION.

8 COURT REPORTER: DEFENSE SIXTY-ONE, YOUR
9 HONOR.

10 (SO MARKED AND ENTERED)

11 Q NOW, MR. WINGATE, LET'S --THE FIRST
12 LETTER IS APRIL 17TH, 1995, AND THAT IS FROM WHOM
13 TO WHOM?

14 A THIS IS A LETTER FROM OLD LINE LIFE
15 INSURANCE COMPANY ADDRESSED TO STEPHEN BECKHAM AT
16 HIS ADDRESS IN POMARIA.

17 Q OKAY, AND WHAT DOES THE LETTER BASICALLY
18 SAY? YOU DON'T HAVE TO READ IT, BUT WHAT DOES IT
19 BASICALLY SAY? A SUMMARY OF IT?

20 A IT IS INDICATING THAT AS BENEFICIARY, HE
21 SHOULD COMPLETE THE ENCLOSED CLAIMANT'S STATEMENT
22 AND RETURN THAT INFORMATION TO THE COMPANY, AND
23 STATING THAT THE POLICY IS IN THE AMOUNT OF
24 \$100,000, AND THAT THERE ARE NO OUTSTANDING LOANS
25 AGAINST THE INSURANCE CONTRACT.

- 1 Q SO IT'S BASICALLY A NOTICE OF THE
2 POLICY, AND NOTICE OF A RIGHT TO CLAIM?
- 3 A THAT IS CORRECT.
- 4 Q AND THE DATE OF THAT IS WHAT?
- 5 A APRIL THE 17TH, 1995.
- 6 Q ALL RIGHT, WHAT IS THE NEXT LETTER?
- 7 A THE NEXT LETTER IS SOME TWO MONTHS
8 LATER, AGAIN ON THE LETTERHEAD OF OLD LINE LIFE
9 INSURANCE COMPANY. AND THIS IS A LETTER DATED JUNE
10 27TH ADDRESSED TO ME.
- 11 Q NOW, OBVIOUSLY YOU HAD SENT A LETTER
12 BEFORE AND THAT MAY BE IN THAT, THAT'S PROBABLY IN
13 THAT PACK.
- 14 A I HAD SENT A LETTER IN EARLY OR MID-JUNE
15 OF '95 TO THE INSURANCE COMPANY ASKING FOR THE
16 INFORMATION ABOUT THE POLICY, WHO IS THE CONTINGENT
17 BENEFICIARY, CONFIRMING THE AMOUNT AND THE NUMBER
18 OF THE POLICY.
- 19 YES, I SEE HERE A LETTER IN TIME
20 SEQUENCE THAT IS DATED JUNE 16TH, 1995. THIS IS A
21 LETTER FROM ME TO THE INSURANCE COMPANY INDICATING
22 THAT I REPRESENT STEPHEN BECKHAM, AND ASKING THEM
23 TO NOTIFY ME WHO THE NAMED CONTINGENT BENEFICIARY
24 IS FOR THIS POLICY.
- 25 Q SO THAT WAS YOUR FIRST COMMUNICATION

1 WITH THE INSURANCE COMPANY?

2 A THIS IS MY FIRST WRITTEN COMMUNICATION,
3 THAT'S CORRECT.

4 Q AND THAT WAS AFTER THE NOTICE WAS
5 RECEIVED IN MID-APRIL, 1995?

6 A THAT'S CORRECT.

7 Q ALL RIGHT, WHAT IS THE NEXT IN SEQUENCE
8 CORRESPONDENCE THAT YOU HAVE?

9 A THE NEXT IN SEQUENCE IS A LETTER DATED
10 JUNE THE 27TH, A RESPONSE LETTER TO ME...

11 Q OF?

12 A OF 1995. THIS IS A RESPONSE LETTER TO
13 ME FROM THE INSURANCE COMPANY ACKNOWLEDGING MY
14 LETTER OF JUNE THE 16TH, AND INFORMING ME THAT THE
15 CONTINGENT BENEFICIARY UNDER THIS HUNDRED DOLLAR
16 LIFE INSURANCE POLICY IS "THE CHILDREN BORN OF THE
17 MARRIAGE OF VICTORIA BECKHAM AND STEPHEN BECKHAM,
18 SHARE AND SHARE ALIKE."

19 Q AND AS A RESULT OF THAT, WHAT DID YOU
20 DO?

21 A AS A RESULT OF GETTING THE LETTER FROM
22 THE INSURANCE COMPANY THAT TOLD ME THAT THE
23 CHILDREN WERE THE CONTINGENT BENEFICIARIES, I WROTE
24 A LETTER TO STEPHEN ON JULY THE 10TH, 1995,
25 INDICATING THAT THE INSURANCE COMPANY HAD INFORMED

1 ME OF THE CONTINGENT BENEFICIARIES AND FOR HIM TO
2 GET BACK IN TOUCH WITH ME AND LET ME KNOW WHAT I
3 SHOULD DO.

4 Q THAT WAS JULY 10TH, 1995?

5 A CORRECT.

6 Q THAT WAS THE DAY BEFORE THE WARRANT WAS
7 ISSUED FOR HIS ARREST?

8 A I DON'T KNOW WHAT THE DATE WAS FOR THE
9 WARRANT.

10 Q IF IT WAS JULY 11TH, THE WARRANT, THAT
11 WOULD BE THAT DAY?

12 A CORRECT.

13 Q ALL RIGHT. AND YOU SUBSEQUENTLY FOUND
14 OUT THAT MR. BECKHAM HAD BEEN ARRESTED, IS THAT
15 CORRECT?

16 A THAT IS CORRECT.

17 Q WHEN WAS THE NEXT COMMUNICATION BETWEEN
18 YOU AND THE INSURANCE COMPANY?

19 A I DON'T BELIEVE THERE WAS ANY FURTHER
20 COMMUNICATION BETWEEN ME AND THE INSURANCE COMPANY
21 FOR ALMOST A YEAR. THE NEXT LETTER HERE IS A
22 LETTER DATED JUNE 13, 1996, FROM THE INSURANCE
23 COMPANY TO ME, ASKING ME WHAT'S HAPPENING AND
24 ASKING ME TO MOVE FORWARD WITH PROCESSING THIS
25 CLAIM.

1 Q AND IN FACT, DID YOU DO THAT?

2 A YES, I DID.

3 Q AND IN FACT, DID STEPHEN BECKHAM, IN
4 AUGUST OF 1996, AS A RESULT OF THAT LETTER,
5 RELINQUISH ANY CLAIM HE HAD TO THE POLICY?

6 A YES, HE HAS RELINQUISHED OR RENOUNCED
7 ANY RIGHTS THAT HE HAS IN THAT POLICY.

8 Q TO THE CHILDREN?

9 A THAT IS CORRECT.

10 Q AND IS THAT REVOKABLE OR IRREVOCABLE?

11 A IRREVOCABLE, IRREVERSIBLE; CAN'T BE
12 TAKEN BACK.

13 Q OKAY. AND WAS THAT HIS INTENT WHEN HE
14 CAME IN TO SEE YOU IN THE SPRING OF 1995 EVEN
15 BEFORE HE WAS ARRESTED?

16 A YES.

17 Q AND THAT, IN FACT, HAS BEEN CARRIED OUT?

18 A THAT'S BEEN DONE.

19 Q I THINK THAT'S ALL THE QUESTIONS I HAVE.
20 ANSWER ANY QUESTIONS THAT THE SOLICITOR MAY HAVE?

21 THE COURT: CROSS EXAMINATION, MR.
22 MCMAHON.

23 MR. MCMAHON: THANK YOU, YOUR HONOR.

24 CROSS EXAMINATION:

25 BY MR. MCMAHON:

- 1 Q MR. WINGATE, MY NAME IS KNOX MCMAHON.
- 2 HOW ARE YOU, SIR?
- 3 A VERY WELL, SIR.
- 4 Q COULD I ASK YOU, IS YOUR FATHER JACK?
- 5 A SURE IS.
- 6 Q CPA ALSO?
- 7 A YES.
- 8 Q YOU LOOK FAMILIAR. GOING BACK, AND I
- 9 UNDERSTAND YOU'RE A CPA AND AN ATTORNEY?
- 10 A THAT'S CORRECT.
- 11 Q WELL, I'M SURE I WON'T ASK YOU ANYTHING
- 12 THAT YOU WON'T UNDERSTAND WITH MY VOCABULARY, BUT
- 13 GOING BACK TO JUNE 12TH, OF 1994, BASED ON YOUR
- 14 RESEARCH, WAS THERE A LIFE INSURANCE IN EFFECT ON
- 15 VICKIE LANDER BECKHAM'S LIFE?
- 16 A YES, SIR.
- 17 Q AND THAT IS THE OLD LINE LIFE INSURANCE
- 18 POLICY, CORRECT?
- 19 A YES, SIR.
- 20 Q AND THAT IS IN WHAT AMOUNT?
- 21 A THE INSURANCE COMPANY TELLS ME THAT THE
- 22 PROCEEDS WOULD BE \$100,000.
- 23 Q AND YOU AGREE WITH THAT? I MEAN YOU
- 24 AGREE WITH WHAT THE INSURANCE COMPANY TOLD YOU?
- 25 A I DON'T HAVE ANY REASON TO DISAGREE,

1 RIGHT.

2 Q SURE. I MEAN, BASED ON YOUR RESEARCH
3 AND ALL. AND LET ME SHOW YOU--LET ME SHOW YOU THIS
4 FIRST PAGE FIRST, STATE'S EXHIBIT NUMBER 122. THAT
5 IS AN APPLICATION FOR THAT POLICY?

6 A THAT APPEARS TO BE AN APPLICATION FOR
7 THAT POLICY, AND I SAY THAT BASED JUST ON THIS
8 NUMBER THAT'S WRITTEN ACROSS THE TOP WHICH IS THE
9 SAME NUMBER THE INSURANCE COMPANY HAS USED. I
10 HAVEN'T SEEN THIS PIECE OF PAPER BEFORE.

11 Q BUT IT APPEARS TO BE 1623738, IS THE
12 POLICY NUMBER THAT YOU'RE WRITING BACK AND FORTH TO
13 OLD LINE LIFE ABOUT?

14 A YES, SIR. YES, SIR.

15 Q AND THAT POLICY WAS ON THE LIFE OF
16 VICTORIA BECKHAM?

17 A YES, SIR.

18 Q AND THE BENEFICIARY WAS STEPHEN A.
19 BECKHAM?

20 A THE PRIMARY BENEFICIARY, YES SIR.

21 Q PRIMARY BENEFICIARY. DO YOU KNOW FROM
22 YOUR RESEARCH WHEN THAT POLICY WAS TAKEN OUT?

23 A NO, SIR, I DO NOT.

24 Q BUT YOU DO KNOW THAT THAT POLICY WAS IN
25 EFFECT ON JUNE THE 12TH OF 1994, ON VICTORIA

1 BECKHAM'S LIFE?

2 A I WOULD ASSUME SO, YES SIR.

3 Q AND THE PRIMARY BENEFICIARY WAS THE
4 DEFENDANT, STEPHEN BECKHAM?

5 A STEPHEN BECKHAM IS THE NAMED PRIMARY
6 BENEFICIARY, THAT'S CORRECT.

7 Q SO WITHOUT, I BELIEVE THE TERM YOU USED,
8 RELINQUISHMENT OF THE RIGHT, HE WOULD HAVE
9 COLLECTED THE \$100,000, BASED ON THE CONTRACT
10 BETWEEN THE INSURANCE COMPANY AND THE INSURED WITH
11 HIM BEING NAMED THE PRIMARY BENEFICIARY?

12 A IF HE HAD WANTED THAT HUNDRED THOUSAND
13 DOLLARS, HE COULD HAVE GOTTEN IT.

14 Q WELL, IT'S NOT SO MUCH A MATTER OF WANT
15 IT IS THAT WAS A MATTER OF CONTRACT?

16 A IT WAS A RIGHT THAT BELONGED TO HIM,
17 RIGHT, WHICH IF HE'D WANTED TO, HE COULD HAVE
18 EXERCISED.

19 Q EXACTLY. AND HE CAME TO SEE YOU THE
20 FIRST TIME, NO TIME IN '94, IS THAT CORRECT?

21 A CORRECT.

22 Q WHEN WAS THE FIRST TIME THAT HE CAME TO
23 SEE YOU, MR. WINGATE?

24 A APRIL OF 1995.

25 Q DO YOU KNOW SPECIFICALLY WHEN?

1 A APRIL THE 20TH, 1995.

2 Q APRIL THE 20TH OF '95, WOULD HAVE BEEN
3 AFTER THE DATE OF THAT FIRST LETTER?

4 A THE VERY FIRST LETTER FROM THE INSURANCE
5 COMPANY TO MR. BECKHAM IS DATED APRIL THE 17TH,
6 1995, THAT'S CORRECT.

7 Q AND BY THE WAY, DID YOU HAVE ANY
8 DEALINGS WITH THE DEFENDANT AT ALL AS FAR AS
9 PROBATE WAS CONCERNED?

10 A NO, SIR, I DID NOT.

11 Q YOU DID NOT? AND THAT WOULD NOT BE YOUR
12 AREA OF EXPERTISE?

13 A YES, I'M A CERTIFIED SPECIALIST IN
14 ESTATE PLANNING AND PROBATE LAW.

15 Q ESTATE PLANNING AND PROBATE?

16 A YES, SIR.

17 Q AND INSURANCE?

18 A THAT'S NOT A SEPARATE SPECIALTY
19 RECOGNIZED BY THE SOUTH CAROLINA SUPREME COURT.

20 Q I'M NOT FAMILIAR WITH THE SPECIALITIES
21 DOWN HERE IN THE PIT, SO I DON'T MEAN TO--I'M SURE
22 YOU HAVE PLENTY OF EXPERTISE AND THAT'S WHY I ASKED
23 ABOUT THE INSURANCE AND THE TAX AND PROBATE.

24 A THAT'S FINE.

25 Q LET ME ASK YOU NOW, WHEN HE MET WITH YOU

1 ON APRIL THE 20TH, WAS ANYBODY ELSE PRESENT APRIL
2 20TH OF '95?

3 A APRIL 20TH OF '95, STEPHEN AND I WERE
4 THE ONLY TWO PEOPLE TOGETHER IN MY OFFICE IN THE
5 CONFERENCE ROOM.

6 Q DID YOU HAVE OTHER MEETINGS WITH HIM
7 THROUGHOUT '95?

8 A I MAY HAVE MET WITH HIM ONE OTHER TIME,
9 AND THAT WOULD BE THE EXTENT OF IT.

10 Q AND THAT WOULD HAVE HAD TO BE BETWEEN
11 APRIL, AND IF YOU'LL ACCEPT THIS DATE, JULY 15TH OF
12 '95 BECAUSE HE WAS ARRESTED JULY 15TH OF '95.

13 A YES, SIR, IT WOULD HAVE BEEN BETWEEN
14 THOSE TIME FRAMES.

15 Q AND YOU MAY HAVE HAD ONE OTHER MEETING
16 WITH HIM CONCERNING THIS MATTER?

17 A CORRECT.

18 Q AND THAT OTHER MEETING THAT YOU MAY HAVE
19 HAD WITH HIM, MR. WINGATE, WAS ANYONE ELSE PRESENT?

20 A NO, AGAIN, IT WOULD HAVE BEEN JUST THE
21 TWO OF US ALONE.

22 Q JUST MR. BECKHAM, THE DEFENDANT, AND
23 YOURSELF?

24 A CORRECT.

25 Q NO ONE HAD ACCOMPANIED HIM THERE?

- 1 A NO, SIR.
- 2 Q NOW, THE LETTER APRIL 17TH OF '95 IS THE
- 3 LETTER FROM OLD LINE LIFE TO THE DEFENDANT?
- 4 A YES, SIR, THAT'S CORRECT.
- 5 Q AND THEN IS YOUR FIRST CONTACT WITH THE
- 6 INSURANCE COMPANY JUNE 16TH OF '95?
- 7 A THAT'S MY FIRST CONTACT BY WRITING.
- 8 Q BY WRITING?
- 9 A YES, SIR.
- 10 Q YOU HAD HAD CONTACT WITH THEM PREVIOUS
- 11 TO THAT BY TELEPHONE?
- 12 A I HAD HAD CONTACT NOT WITH THE
- 13 INSURANCE, WHAT I WOULD CALL THE HOME OFFICE, BUT
- 14 WITH AN AGENT IN SOUTH CAROLINA BY THE NAME OF
- 15 BIANCA.
- 16 Q NOW, HOW DO YOU DO YOUR RESEARCH TO
- 17 IDENTIFY THE AGENT, TO LOCATE THE AGENT?
- 18 A I WOULD HAVE NO WAY OF KNOWING IN ANY
- 19 CASE IS UNLESS SOMEONE TELLS ME, AND SO IN THIS
- 20 CASE, I ASSUME THAT STEPHEN BECKHAM TOLD ME WHO THE
- 21 INSURANCE AGENT WAS. BUT THAT IS AN ASSUMPTION
- 22 THAT I'M MAKING RIGHT NOW. I DON'T KNOW HOW I
- 23 FIRST GOT HER NAME.
- 24 Q SO THAT FOR YOU TO DO THE RESEARCH ON
- 25 THE EXISTENCE OF THE POLICY, AND I JUST DON'T

1 UNDERSTAND THAT AREA OF EXPERTISE, SOMEBODY HAS TO
2 TELL YOU SOME INFORMATION TO START WITH?

3 A THAT'S CORRECT.

4 Q IS THAT RIGHT? THERE'S NOT, AMONG OTHER
5 THINGS--BEING COMPUTER ILLITERATE MYSELF, THERE'S
6 NOT A COMPUTER OR DISK THAT YOU COULD KICK A NAME
7 INTO, AND THEN IT WOULD PRINT OUT ALL THE INSURANCE
8 POLICIES ON THAT PERSON?

9 A NO, SIR. THERE'S NO SUCH SOURCE OF
10 INFORMATION.

11 Q SO THAT THERE WOULD HAVE TO HAVE BEEN
12 SOME INFORMATION PROVIDED TO YOU ABOUT THE POLICY
13 OR THE AGENT, SUCH AS THAT?

14 A CORRECT.

15 Q AND THE AGENT THAT YOU CONTACTED WAS MS.
16 DIANE BIANCA DOWN AT, I BELIEVE SHE'S FROM THE
17 MYRTLE BEACH AREA?

18 A YES, SIR.

19 Q AND AS A MATTER OF FACT, I DON'T KNOW IF
20 YOU'RE AWARE OF THIS IN YOUR RESEARCH, THAT'S WHERE
21 THE VICTIM, MS. BECKHAM, AND THE DEFENDANT LIVED
22 BACK WHEN THIS POLICY WAS TAKEN OUT, OR WOULD YOU
23 BE AWARE OF THAT?

24 A I WOULD BE COMPLETELY UNAWARE OF THAT.

25 Q OF COURSE, WE COULD LOOK AT THE STATE'S

1 EXHIBIT AND PERHAPS MOST POLICIES WOULD HAVE THE
2 ADDRESS, INDIAN OAK LANE, MYRTLE BEACH, SOUTH
3 CAROLINA.

4 A TYPICALLY A POLICY APPLICATION WOULD
5 HAVE THE ADDRESS.

6 Q NOW, SIR, I UNDERSTAND THERE WAS THIS
7 COMMUNICATION, TELEPHONICALLY AND IN WRITING,
8 BETWEEN YOU AND THE INSURANCE COMPANY, AND THEN
9 THERE WAS A LETTER -- BY THE WAY, THIS DOCUMENT
10 HERE, WOULD THIS DOCUMENT HAVE TO BE PART OF YOUR
11 BUSINESS RECORDS AND RESEARCH OF THIS?

12 MR. SWERLING: YOUR HONOR, COULD WE
13 APPROACH SIDE BAR FOR A MOMENT?

14 THE COURT: SURE.

15 (BENCH CONFERENCE IN THE PRESENCE OF THE
16 JURY, OUT OF THE HEARING OF THE JURY, AND OFF THE
17 RECORD.)

18 Q MR. WINGATE, THANK YOU.

19 MR. MCMAHON: MAY IT PLEASE THE COURT?

20 THE COURT: YES, SIR.

21 Q WOULD THIS HAVE BEEN PART OF YOUR
22 RESEARCH, THAT PARTICULAR DOCUMENT? WOULD THAT
23 HAVE BEEN NECESSARY FOR YOU TO USE IN CONTACTING
24 THE INSURANCE COMPANY?

25 A IT IS ONE OF THE REQUIREMENTS FOR ANYONE

1 TO MAKE A CLAIM ON THE INSURANCE POLICY, THAT THE
2 INSURANCE COMPANY RECEIVE A DEATH CERTIFICATE, YES
3 SIR.

4 MR. MCMAHON: YOUR HONOR, I WOULD JUST
5 LIKE TO MARK THIS FOR IDENTIFICATION.

6 THE COURT: ALL RIGHT, SIR.

7 MR. MCMAHON: I DON'T INTEND TO OFFER IT
8 AT THIS TIME, BUT I WOULD LIKE TO MARK IT FOR
9 IDENTIFICATION.

10 (SO MARKED)

11 COURT REPORTER: STATE'S 137 FOR I.D.

12 Q NOW, SIR, WITHOUT GOING LETTER BY
13 LETTER, SO-TO-SPEAK, THROUGH THE VARIOUS
14 CORRESPONDENCE, THERE'S A WRITING BACK TO YOU BY
15 OLD LINE LIFE ADVISING YOU YES, THE POLICY WAS IN
16 EFFECT; YES, THE POLICY WAS IN EFFECT ON THE DATE
17 OF HER DEATH, JUNE THE 12TH OF '94, CORRECT?

18 A THEY INDICATED THAT THE POLICY WAS IN
19 EFFECT, YES SIR.

20 Q AND YES, THE DEFENDANT WAS THE PRIMARY
21 BENEFICIARY?

22 A YES, SIR.

23 Q NOW, MR. WINGATE, ARE CONTINGENT
24 BENEFICIARIES NAMED ON THE APPLICATION FOR THE
25 POLICY?

1 A YES, SIR, THEY'RE NAMED EITHER AT THE
2 TIME THE POLICY IS FIRST TAKEN OUT, OR COULD BE
3 ADDED LATER. AND AGAIN, I DON'T HAVE, NEVER HAVE
4 HAD THE APPLICATIONS, SO I DON'T KNOW WHICH
5 HAPPENED IN THIS CASE.

6 Q LET ME ASK YOU THIS JUST A MOMENT, SIR.
7 IF YOU WILL TAKE A MINUTE, AND IF YOU CAN'T READ
8 THIS VERY WELL--WELL, YOU CAN STEP DOWN HERE, MR.
9 WINGATE, IT MAY BE PREFERABLE. COULD YOU POINT OUT
10 FOR US ON HERE IF THE CONTINGENT BENEFICIARIES
11 NAMES APPEAR, AND I REPRESENT TO YOU, THIS IS AN
12 ENLARGEMENT OF THE APPLICATION. I'LL SEE IF I CAN
13 GET THE ORIGINAL FOR YOU, SIR.

14 A YES, SIR. ON LINE EIGHT OF PART A OF
15 THE APPLICATION, IT SAYS, "BENEFICIARY FOR BENEFITS
16 PAYABLE UPON DEATH OF THE PROPOSED INSURED," AND IT
17 SAYS, NEXT TO THE WORD PRIMARY, STEPHEN A. BECKHAM.
18 AND I THINK THAT SAYS HUSBAND. AND THEN
19 CONTINGENT, AND SOMEONE HAS WRITTEN IN THE WORDS,
20 "CHILDREN BORN OF THIS MARRIAGE TO SHARE AND SHARE
21 ALIKE."

22 Q AND THAT WAS--THANK YOU, MR. WINGATE.
23 YOU CAN RETAKE THE STAND. AND THAT WAS DONE AT THE
24 TIME BY THE PERSON APPLYING FOR THE INSURANCE?

25 A THAT'S IN SOMEONE'S HANDWRITING. I

1 DON'T KNOW IF THAT'S THE AGENT'S HANDWRITING OR
2 ANYONE ELSE'S HANDWRITING.

3 Q NOT THE HANDWRITING SO MUCH IS MY
4 QUESTIONING, BUT THAT WOULD HAVE BEEN THE INTENTION
5 OF THE PERSON TAKING OUT THE POLICY?

6 A THAT SHOULD BE AN ACCURATE STATEMENT OF
7 THE PERSON'S INTENTION, IN THIS CASE, MS. BECKHAM.

8 Q AND THAT'S RIGHT, THAT WOULD HAVE BEEN
9 HER INTENTION AT THE TIME WHENEVER THE POLICY WAS
10 TAKEN OUT?

11 A I ASSUME SO, YES, SIR.

12 Q ALL RIGHT, SIR. AND ONE FURTHER THING.
13 YOU SAID THE PURPOSE, THE INTENT OF THESE MEETINGS,
14 THE CONVERSATIONS AND THE CORRESPONDENCE WAS FOR
15 THE DEFENDANT TO RELINQUISH HIS CLAIM TO THE
16 \$100,000 POLICY?

17 A YES, SIR.

18 Q I HAVE LOST TRACK OF TIME. I THINK
19 TODAY IS SEPTEMBER THE 29TH. IT MAY THE 28TH, IT
20 MAY BE THE 30TH; I APOLOGIZE. WHEN WAS IT, WHEN
21 WAS IT SPECIFICALLY THAT HE RELINQUISHED HIS
22 RIGHTS, THE DATE?

23 A I HAVE A WRITTEN DOCUMENT ENTITLED
24 "DISCLAIMER," THAT I DRAFTED THAT'S IN THIS PACKAGE
25 OF EXHIBITS, AND IT'S SIGNED BY STEPHEN A. BECKHAM

- 1 ON AUGUST 22ND, 1996.
- 2 Q APPROXIMATELY FIVE WEEKS AGO?
- 3 A APPROXIMATELY.
- 4 Q THANK YOU, MR. WINGATE. I HAVE NO
- 5 FURTHER QUESTIONS.
- 6 THE COURT: ANYTHING ON REDIRECT?
- 7 MR. SWERLING: JUST ONE OR TWO
- 8 QUESTIONS.
- 9 REDIRECT EXAMINATION:
- 10 BY MR. SWERLING:
- 11 Q MR. WINGATE, WHEN MR. BECKHAM FIRST
- 12 CAME IN, DID HE HAVE A COPY OF THE POLICY?
- 13 A NO, SIR. HE DID NOT HAVE A COPY OF THE
- 14 POLICY.
- 15 Q DID YOU ASK HIM FOR A COPY OF IT?
- 16 A I ASKED FOR ANY INFORMATION THAT COULD
- 17 BE GIVEN TO ME, AND THERE WAS PRECIOUS LITTLE TO BE
- 18 HAD.
- 19 Q OKAY. AND YOU NEVER DID GET A COPY OF
- 20 THE POLICY?
- 21 A NO, SIR. I NEVER HAVE TO THIS DAY SEEN
- 22 A COPY OF THE POLICY.
- 23 Q EXCEPT WHAT MR. MCMAHON JUST SHOWED
- 24 YOU?
- 25 A RIGHT. I HAD NEVER SEEN THIS

1 APPLICATION AND I HAVEN'T SEEN THE POLICY ITSELF
2 EITHER.

3 Q AND THERE WAS A DELAY FROM THE PERIOD
4 OF TIME FROM -- LET'S SEE, HE WAS ARRESTED JULY
5 15TH, WHICH WAS JUST FIVE DAYS AFTER YOUR LETTER TO
6 HIM; IS THAT CORRECT?

7 A CORRECT.

8 Q AND THERE WAS A DELAY IN GOING AHEAD
9 AND PROCESSING IT, CORRECT?

10 A CORRECT. MY JOB FROM THE START HAD
11 BEEN TO RELINQUISH HIS RIGHTS IN THE POLICY. BUT
12 AS I INDICATED, THERE WERE A LOT OF THINGS THAT I
13 NEEDED -- OR THAT THE INSURANCE COMPANY WOULD HAVE
14 NEEDED. I DIDN'T HAVE THE DEATH CERTIFICATE. I
15 DIDN'T HAVE THE ORIGINAL POLICY. I DIDN'T KNOW WHO
16 THE PRIMARY AND CONTINGENT BENEFICIARIES WERE. SO
17 I WAS IN THE PROCESS FOR A PERIOD FROM APRIL OF '95
18 UNTIL JULY '95, THE TIME OF HIS ARREST, IN TRYING
19 TO GATHER THIS INFORMATION TO DO THE THING THAT I
20 WAS TOLD TO DO.

21 Q AND DURING -- AFTER MR. BECKHAM WAS
22 ARRESTED -- HOW DOES MONEY GO TO THE CHILDREN WHEN
23 IT'S PAID OUT OF INSURANCE POLICIES?

24 A BECAUSE OF THE WORDING ON THIS, WHERE
25 IT SAYS: TO THE CHILDREN BORN OF THE MARRIAGE SHARE

1 AND SHARE ALIKE. I UNDERSTAND THAT THERE ARE THREE
2 CHILDREN, SO EACH OF THE THREE CHILDREN WOULD
3 RECEIVE ONE-THIRD OF \$100,000.

4 Q OKAY. AND IF THEY WERE NOT OF
5 MAJORITY, WHICH IS WHAT AGE?

6 A THE PROBLEM IS IN THIS CASE WITH, AS I
7 UNDERSTAND, TWO OF THE THREE CHILDREN BEING UNDER
8 AGE 18, WHICH IS THE AGE OF MAJORITY, THERE HAS TO
9 BE SOMETHING DONE IN ORDER FOR A CONSERVATORSHIP TO
10 BE APPOINTED TO HOLD ONTO THE MONEY THAT GOES TO
11 ANY MINOR.

12 Q AND DURING THE LAST YEAR, CALENDAR
13 YEAR, JULY OF '95 TO JULY OF '96 -- ACTUALLY, WHEN
14 THAT LETTER CAME, WAS THERE CUSTODY ISSUES GOING ON
15 BETWEEN THE GRANDPARENTS?

16 A I UNDERSTAND THAT THERE WERE. I WAS
17 NOT DIRECTLY INVOLVED AS A LAWYER IN ANY OF THOSE
18 PROCEEDINGS, BUT YES, SIR, THAT'S MY UNDERSTANDING.

19 Q AND DID THAT IN SOME WAY ATTRIBUTE TO -
20 - OR CONTRIBUTE TO A DELAY IN PROCESSING THE
21 INFORMATION?

22 A YES, IT DID.

23 Q AND YOU GOT A LETTER AGAIN IN JUNE OF
24 1996 SAYING, LET'S DO SOMETHING?

25 A THAT'S RIGHT. THE INSURANCE COMPANY

1 WROTE ME AGAIN IN JUNE, JUNE 13TH OF '96 SAYING, WE
2 ARE INTERESTED IN COMPLETING THE ABOVE CLAIM AS
3 QUICKLY AS POSSIBLE. PLEASE RESPOND TO US.

4 Q AND DID YOU DO SO?

5 A YES, I DID.

6 Q AND DID MR. BECKHAM, IN AUGUST OF 1996,
7 COMPLETE WHAT HE STARTED OUT TO DO IN APRIL OF 1995

8 --

9 A YES, HE DID.

10 Q -- BEFORE HE WAS CHARGED WITH THIS?

11 A YES, HE DID. MY JOB FROM DAY ONE WAS
12 TO RELINQUISH HIS CLAIM. AND IT TOOK A LOT OF TIME
13 AND A LOT OF BACK AND FORTH TO GET THE RIGHT
14 INFORMATION. BUT IN AUGUST OF '96, HE IRREVERSIBLY
15 RELINQUISHED HIS RIGHTS IN THAT POLICY.

16 Q AND DO YOU RECALL WHO IT WAS THAT GAVE
17 YOU THE INFORMATION ABOUT WHO THE AGENT WAS? DO
18 YOU RECALL THE NAME SANDY GASSER?

19 A I RECALL THE NAME SANDY GASSER. AS I
20 RECALL, I CALLED YOUR OFFICE AND ONE OF YOUR
21 ASSISTANTS, I DON'T KNOW IF IT WAS A PARALEGAL OR
22 SECRETARY. BUT SOMEONE BY THE NAME OF SANDY GASSER
23 GAVE ME THE NAME AND TELEPHONE NUMBER TO CALL TO
24 TRY TO GET THAT INFORMATION.

25 MR. MCMAHON: YOUR HONOR, MAY WE

1 APPROACH THE SIDE BAR?

2 THE COURT: SURE.

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

6 MR. MCMAHON: THANK YOU.

7 THE COURT: YES.

8 Q (BY SWERLING) DID MR. BECKHAM GIVE YOU
9 THAT NAME, DIANE BIANCA?

10 A THAT NAME IS WRITTEN ON MY NOTES, AS I
11 RECALL, FROM MY FIRST MEETING WITH HIM.

12 Q THANK YOU.

13 THE COURT: RECROSS?

14 RECROSS EXAMINATION:

15 BY MR. MCMAHON:

16 Q DO YOU KNOW WHO THE CONSERVATOR IS FOR
17 EITHER OF THE CHILDREN?

18 A YES, SIR. THERE HAS BEEN ONE
19 CONSERVATOR APPOINTED AND THAT'S FOR THE INSURANCE
20 MONEY THAT WENT FOR THE DAUGHTER, THE OLDEST CHILD,
21 AND THAT CONSERVATOR IS BILL BECKHAM, THE BROTHER
22 OF STEPHEN BECKHAM.

23 Q AND THE OTHER TWO CHILDREN?

24 A THERE HAS BEEN NO CONSERVATOR APPOINTED
25 YET FOR THEM. I FILED PAPERS IN AUGUST OF '96,

GEORGE BRADDOCK-DIRECT BY HARPOOTLIAN

1 JUST RECENTLY, FOR THE SAME INDIVIDUAL, MR.
2 BECKHAM, THE BROTHER, TO BE APPOINTED AS T
3 CONSERVATOR FOR THE TWO MINOR CHILDREN TO R
4 THEIR ONE-THIRD SHARES OF THIS POLICY.

5 Q THANK YOU, MR. WINGATE.

6 MR. MCMAHON: NO FURTHER QUESTIONS,
7 YOUR HONOR.

8 THE COURT: THANK YOU, SIR. YOU MAY
9 STEP DOWN.

10 CALL YOUR NEXT WITNESS.

11 MR. HARPOOTLIAN: MR. BRADDOCK, PLEASE.

12 GEORGE BRADDOCK, BEING DULY
13 SWORN, TESTIFIED AS FOLLOWS:

14 THE WITNESS: MY NAME IS GEORGE
15 BRADDOCK.

16 DIRECT EXAMINATION:

17 BY MR. HARPOOTLIAN:

18 Q STATE YOUR FULL NAME FOR THE RECORD,
19 PLEASE.

20 A GEORGE EDWARD BRADDOCK.

21 Q MR. BRADDOCK, WHAT DO YOU DO FOR A
22 LIVING?

23 A I'M AN INDEPENDENT LIFE AND HEALTH
24 INSURANCE AGENT.

25 MR. JONES: YOUR HONOR, COULD I JUST

Brenda A. Douglas, CVR
Certified Court Reporter
P.O. Box 2896
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1 APPROACH FOR ONE SECOND?

2 THE COURT: ARE YOU GOING TO BE
3 EXAMINING THIS WITNESS?

4 MR. JONES: YES, SIR.

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

8 MR. HARPOOTLIAN: MAY IT PLEASE THE
9 COURT?

10 THE COURT: YES, SIR. AND THE
11 OBJECTION IS OVERRULED.

12 Q (BY HARPOOTLIAN) MR. BRADDOCK, BY WHOM
13 ARE YOU EMPLOYED?

14 A I'M INDEPENDENT, SELF-EMPLOYED. I
15 REPRESENT SEVERAL INSURANCE COMPANIES.

16 Q AND YOU'RE AN INSURANCE AGENT, WOULD
17 THAT BE THE CORRECT TERM?

18 A THAT'S CORRECT.

19 Q LET ME JUST -- WHERE DO YOU OPERATE
20 FROM?

21 A I LIVE IN LEXINGTON. I WORK PRETTY
22 MUCH THROUGH THE MIDLANDS AREA OF SOUTH CAROLINA.

23 Q IN DECEMBER OF 1994, WERE YOU DOING
24 SOME ADVERTISING FOR LIFE INSURANCE?

25 A YES, THAT'S CORRECT.

1 Q AND AS A RESULT OF THAT ADVERTISING FOR
2 LIFE INSURANCE, DID YOU RECEIVE A -- WHAT DO YOU
3 CALL IT, A SOLICITATION, A LEAD SOMETHING?

4 A YES, I RECEIVED A RESPONSE CARD FROM
5 STEPHEN BECKHAM.

6 Q AND AS A RESULT OF THAT RESPONSE CARD -
7 - THAT RESPONSE CARD WOULD INDICATE THAT HE WAS
8 INTERESTED IN SOME LIFE INSURANCE?

9 A THAT'S CORRECT.

10 Q DID YOU HAVE OCCASION TO MEET WITH HIM
11 AND FILL OUT AN APPLICATION?

12 A YES, I DID.

13 Q AND HAVE YOU BROUGHT THAT APPLICATION
14 WITH YOU TODAY?

15 A YES, I HAVE.

16 Q AND HAVE YOU ALSO BROUGHT THAT LEAD
17 CARD --

18 A YES, I HAVE.

19 Q -- THAT HE MAILED BACK INTO YOU? CAN I
20 SEE BOTH OF THOSE, PLEASE?

21 A CERTAINLY.

22 MR. HARPOOTLIAN: YOUR HONOR, WE
23 PREVIOUSLY FURNISHED THESE TO THE STATE. I'M GOING
24 TO ASK, THOUGH, TO KEEP THE ORIGINALS AND
25 SUBSTITUTE A COPY LATER ON.

- 1 Q (BY HARPOOTLIAN) NOW, WHAT IS THIS
2 DOCUMENT?
3 A THAT IS THE RESPONSE CARD THAT I
4 RECEIVED BACK.
5 Q AND WHAT ARE THESE DOCUMENTS?
6 A THOSE ARE COPIES OF THE APPLICATION WE
7 TOOK THAT DAY.
8 Q AND THE SECOND DOCUMENT?
9 A ALSO, THAT WE TOOK THAT DAY.
10 Q AND THE THIRD DOCUMENT?
11 A THAT IS MY TRANSMITTAL FORM TO THE
12 COMPANY.
13 Q ALL RIGHT. NOW, IN DECEMBER OF 1994,
14 HOW MUCH INSURANCE DID STEPHEN BECKHAM -- LIFE
15 INSURANCE DID STEPHEN BECKHAM ASK YOU FOR OR APPLY
16 FOR?
17 A ONE HUNDRED THOUSAND AND ONE DOLLARS.
18 Q AND \$100,001, DO YOU SELL IN THAT
19 DENOMINATION?
20 A YES, THERE WAS A PARTICULAR REASON.
21 \$100,000 AND BELOW, HE WOULD HAVE HAD TO APPLY FOR
22 THE STANDARD RATE. BY ADDING ONE DOLLAR TO IT,
23 WHICH IS COMMON PRACTICE FOR THIS COMPANY AND THIS
24 POLICY, WE WERE ABLE TO ATTEMPT TO GET HIM
25 QUALIFIED FOR HIS PREFERRED RATE, WHICH WAS A LOWER

- 1 PRICE.
- 2 Q OKAY. NOW, HOW MUCH PER MONTH WOULD
- 3 THAT COST HIM?
- 4 A FOURTEEN DOLLARS AND SEVENTEEN CENTS.
- 5 Q AND HOW WAS HE SUPPOSE TO PAY YOU?
- 6 A WITH AN AUTOMATIC BANK DRAFT.
- 7 Q AS A MATTER OF FACT, THE SECOND
- 8 DOCUMENT IN THAT APPLICATION IS -- THERE'S A CHECK
- 9 FROM HIM FOR HOW MUCH?
- 10 A FOURTEEN DOLLARS AND SEVENTEEN CENTS.
- 11
- 12 Q AND YOU, ALSO, HAVE A CHECK WHICH IS
- 13 MARKED VOID; IS THAT CORRECT?
- 14 A THAT'S CORRECT.
- 15 Q WHY DO YOU TAKE A CHECK MARKED VOID?
- 16 A THAT'S WHAT THE COMPANY ACTUALLY USES
- 17 TO PRESENT TO THE BANK TO MAKE A WITHDRAWAL.
- 18 Q NOW, WHEN YOU TOOK THIS APPLICATION
- 19 FROM STEPHEN BECKHAM -- FIRST OF ALL, WHAT DID HE
- 20 INDICATE TO YOU HIS MARITAL STATUS WAS?
- 21 A WIDOWED.
- 22 Q NOW, IS IT COMMON TO ASK WHAT OTHER
- 23 LIFE INSURANCE YOU HAVE IN EFFECT AT THE TIME
- 24 YOU'RE APPLYING FOR THIS?
- 25 A YES, IT'S A REQUIREMENT ON THE

- 1 APPLICATION.
- 2 Q AND HOW MUCH DID HE INDICATE TO YOU HE
- 3 HAD IN EFFECT?
- 4 A TWO HUNDRED AND FIFTY THOUSAND.
- 5 Q IN EFFECT ON?
- 6 A HIMSELF.
- 7 Q HIMSELF. NOW, WHAT INSURANCE COMPANY
- 8 WERE YOU REPRESENTING?
- 9 A AT THAT TIME WITH HIM, I WAS
- 10 REPRESENTING OLD LINE LIFE.
- 11 Q OLD LINE LIFE. WHEN YOU SUBMITTED THE
- 12 APPLICATION, IF HE HAD OTHER INSURANCE IN EFFECT
- 13 WITH OLD LINE LIFE, WOULD THE HOME OFFICE HAVE
- 14 GIVEN YOU SOME NOTIFICATION?
- 15 A IN THIS CASE, MOST LIKELY, BECAUSE THE
- 16 AMOUNT TOTAL WOULD HAVE BEEN OVER \$350,000 WITH ONE
- 17 COMPANY, WHICH NORMALLY THEY WOULD HAVE REQUIRED ME
- 18 TO TAKE -- CAUSE SOME ADDITIONAL MEDICAL
- 19 INFORMATION TO BE GENERATED.
- 20 Q IN OTHER WORDS, OLD LINE DIDN'T INFORM
- 21 YOU HE HAD ADDITIONAL INSURANCE?
- 22 A NO.
- 23 Q DID YOU DETERMINE WHETHER OR NOT HE HAD
- 24 ADDITIONAL LIFE INSURANCE ON HIMSELF?
- 25 A NO, I SAW NO DOCUMENTS AT THAT TIME.

1 Q BUT HE INDICATED TO YOU HE HAD
2 ADDITIONAL LIFE INSURANCE ON HIMSELF AT THE TIME?

3 A YES, HE DID.

4 MR. HARPOOTLIAN: YOUR HONOR, WE OFFER
5 THESE ITEMS INTO EVIDENCE.

6 THE COURT: SUBJECT TO THE SIDE BAR
7 RULING.

8 MR. HARPOOTLIAN: YOUR HONOR, I'LL MAKE
9 IT ONE EXHIBIT TO MAKE IT A LITTLE BIT EASIER.

10 (WHEREUPON, DEFENDANT'S EXHIBIT NO. 62
11 WAS MARKED AND ENTERED INTO EVIDENCE.)

12 BY MR. HARPOOTLIAN:

13 Q AND WHO DID HE INDICATE TO YOU THAT HE
14 HAD THAT INSURANCE, THAT \$250,000 PENDING INSURANCE
15 WITH?

16 A I INDICATE HERE IT WAS NOT PENDING, IT
17 WAS ISSUED IN 1988. AND THE NAME OF THE COMPANY
18 WAS UNKNOWN TO HIM AT THAT TIME.

19 Q BUT HE WAS UNDER THE IMPRESSION THAT HE
20 HAD INSURANCE?

21 A YES, SIR.

22 MR. HARPOOTLIAN: BEG THE COURT'S
23 INDULGENCE?

24 Q THANK YOU. PLEASE ANSWER ANY QUESTIONS
25 THE SOLICITOR MAY HAVE.

1 THE COURT: CROSS-EXAMINATION?

2 CROSS-EXAMINATION:

3 BY MR. JONES:

4 Q MR. BRADDOCK, WHEN DID YOU MEET WITH
5 DEFENDANT BECKHAM AGAIN? WHEN DID YOU MEET WITH
6 HIM FOR THE FIRST TIME?

7 A THE APPLICATION WAS SIGNED ON
8 12/2/1994.

9 Q 12/12/94?

10 A YES, SIR.

11 Q DECEMBER 12TH OF '94?

12 A YES, SIR.

13 Q WHERE DID YOU MEET WITH HIM?

14 A AT HIS HOME -- OR AT THE RESIDENCE OF
15 4650 HIGHWAY 773.

16 Q DO YOU RECALL THE STRUCTURE THAT YOU
17 MET WITH HIM IN, WHAT TYPE OF STRUCTURE WAS IT?

18 A I DON'T REMEMBER VERY WELL, ACTUALLY.
19 I BELIEVE IT MIGHT HAVE BEEN A MOBILE HOME OR A
20 SMALL HOUSE. IT WASN'T A LARGE HOUSE.

21 Q OKAY. AND YOU HAD RECEIVED A RESPONSE
22 CARD OR HE HAD RECEIVED IT?

23 A I RECEIVED ONE FROM HIM. HE MAILED ONE
24 BACK TO ME.

25 Q AND YOU CALLED HIM?

- 1 A YES.
- 2 Q AND HE SAID COME ON BY?
- 3 A YES.
- 4 Q AND YOU TOLD HIM THAT YOU HAD QUESTIONS
- 5 TO ASK HIM?
- 6 A THAT'S CORRECT.
- 7 Q DID HE KNOW THAT HE WAS TO BE TRUTHFUL
- 8 WITH YOU ABOUT THOSE QUESTIONS?
- 9 A CERTAINLY.
- 10 Q HE DID; IS THAT CORRECT?
- 11 A THAT'S RIGHT.
- 12 Q AND DID HE KNOW THAT YOU WORKED FOR OLD
- 13 LINE LIFE INSURANCE?
- 14 A YES.
- 15 Q DID HE HAPPEN TO MENTION TO YOU THAT HE
- 16 HAD POLICIES WITH OLD LINE LIFE?
- 17 A NOT TO MY RECOLLECTION.
- 18 Q DIDN'T TELL YOU THAT HE HAD TAKEN OUT A
- 19 POLICY FOR \$200,000 WITH OLD LINE LIFE WHEN HE
- 20 LIVED IN SURFSIDE?
- 21 A ALL I KNOW ABOUT HIS OTHER INSURANCE IS
- 22 WHAT I PUT ON THE APPLICATION.
- 23 Q WHAT ADDRESS DID HE LIST ON THE POLICY?
- 24 A 4650 HIGHWAY 773, POMARIA, SOUTH
- 25 CAROLINA 29126.

1 Q WHAT BUSINESS DID HE LIST ON THE
2 POLICY?

3 A ETI.

4 Q AND THE ADDRESS FOR THE BUSINESS?

5 A 1801 GLENNS BAY ROAD, SURFSIDE BEACH,
6 SOUTH CAROLINA 29575.

7 Q AND, OF COURSE, YOU DIDN'T DISCUSS WITH
8 HIM HIS BUSINESS?

9 A NO.

10 Q DIDN'T TALK TO HIM ABOUT WHAT HE DID?

11 A I AM REQUIRED TO FIND OUT THE TYPE OF
12 BUSINESS IT WAS AND I PUT DOWN FOR OCCUPATION,
13 SALES SUPERVISOR.

14 Q WHY ARE YOU REQUIRED TO FIND OUT WHAT
15 TYPE OF BUSINESS THEY'RE IN?

16 A I REALLY COULDN'T SAY. IT'S A
17 REQUIREMENT THE COMPANY HAS.

18 Q WELL --

19 A IT ASSIST THEM IN OUR UNDERWRITING
20 PROCESS. I'M SIMPLY THE GATHERER OF THE
21 INFORMATION.

22 Q DO YOU GUYS WANT TO HAVE SOME IDEA THAT
23 THEY'RE GOING TO MAKE THE PAYMENTS?

24 A OBVIOUSLY, THE COMPANY HAS THAT DESIRE,
25 YES.

- 1 Q BUT IT DOESN'T REALLY MATTER TO YOU?
- 2 A YES, IT CERTAINLY DOES.
- 3 Q AND IN ORDER TO FIND OUT IF THEY'LL
- 4 MAKE THE PAYMENTS, YOU WOULD BE INTERESTED IN
- 5 KNOWING WHETHER OR NOT THEY WORK?
- 6 A YES.
- 7 Q AND WHAT KIND OF WORK THEY DO?
- 8 A RIGHT.
- 9 Q THIS WAS NOT GOING TO BE A TERRIBLY
- 10 LARGE MONTHLY PAYMENT, WAS IT?
- 11 A NO.
- 12 Q HOW MUCH?
- 13 A FOURTEEN DOLLARS AND SEVENTEEN CENTS.
- 14 Q HOW LONG WOULD YOU SAY YOU WERE THERE
- 15 WITH DEFENDANT BECKHAM?
- 16 A I DON'T SPECIFICALLY RECALL, BUT IT
- 17 WOULD NOT HAVE BEEN A LONG TIME TO COMPLETE THIS
- 18 TRANSACTION.
- 19 Q ONE, TWO, THREE -- HOW MANY PAGES IS
- 20 THE TRANSACTION?
- 21 A THE LIFE INSURANCE APPLICATION ITSELF
- 22 IS TWO PAGES AND THEN, THERE'S THE BANK DRAFT
- 23 AUTHORIZATION, WHICH REQUIRES TWO SIGNATURES. I
- 24 WOULD ESTIMATE IT TYPICALLY WOULD HAVE BEEN ABOUT A
- 25 30-MINUTE TRANSACTION.

- 1 Q AND YOU WERE ASKING HIM QUESTIONS; IS
2 THAT CORRECT?
- 3 A YES.
- 4 Q AND WERE YOU FILLING OUT THE BOXES THAT
5 YOU WERE ASKING HIM?
- 6 A YES.
- 7 Q DID YOU ASK HIM IF HIS DRIVER'S LICENSE
8 WAS RESTRICTED, REVOKED OR SUSPENDED?
- 9 A YES, I DID.
- 10 Q WHAT DID HE TELL YOU?
- 11 A NO. HIS ANSWER WAS NO.
- 12 Q SO YOU ASKED HIM EACH ONE OF THESE
13 QUESTIONS?
- 14 A YES, THAT'S MY PRACTICE TO ALWAYS DO
15 THAT.
- 16 Q YOU TOOK YOUR TIME WITH HIM, DIDN'T
17 YOU?
- 18 A YES, I DID.
- 19 Q I MEAN, YOU WANTED TO MAKE SURE YOU
20 WERE GETTING CORRECT INFORMATION; ISN'T THAT
21 CORRECT?
- 22 A THAT'S CORRECT.
- 23 Q TRUTHFUL INFORMATION?
- 24 A YES.
- 25 Q TURN TO PAGE TWO, QUESTION 6B. YOU

1 ASKED HIM IF HE HAD USED COCAINE, DIDN'T YOU?

2 A YES, I DID.

3 Q AND WHAT DID HE TELL YOU?

4 A NO.

5 Q YOU DIDN'T HAVE ANY REASON TO BELIEVE
6 THAT THAT WAS NOT A TRUTHFUL RESPONSE AT THE TIME,
7 DID YOU?

8 A NO, I DID NOT.

9 Q AND YOU DON'T HAVE ANY REASON TO
10 BELIEVE THAT ANY OTHER RESPONSES HE GAVE YOU IN
11 THIS APPLICATION FOR THIS INSURANCE WERE NOT
12 TRUTHFUL, DO YOU?

13 A NO.

14 Q NO FURTHER QUESTIONS.

15 THE COURT: REDIRECT?

16 MR. HARPOOTLIAN: VERY FEW.

17 REDIRECT EXAMINATION:

18 BY MR. HARPOOTLIAN:

19 Q HOW MANY APPLICATIONS DO YOU TAKE A
20 YEAR FROM PEOPLE FOR INSURANCE?

21 A I'M SORRY, I COULDN'T HEAR YOU?

22 Q HOW MANY APPLICATIONS A YEAR DO YOU
23 TAKE FOR INSURANCE?

24 MR. JONES: YOUR HONOR, WHAT IS THE
25 RELEVANCE OF THAT QUESTION?

1 THE COURT: OVERRULED.

2 A SOMEWHERE BETWEEN, PROBABLY 150 TO 200.

3 Q AND HOW LONG HAVE YOU BEEN DOING THIS?

4 A TEN YEARS.

5 Q YOU'VE TAKEN A COUPLE THOUSAND

6 APPLICATIONS FOR LIFE INSURANCE OVER YOUR CAREER AS

7 AN AGENT?

8 A THAT WOULD BE LIFE AND HEALTH

9 INSURANCE.

10 Q IN TAKING LIFE INSURANCE POLICY

11 APPLICATIONS, DO YOU ALWAYS ASK PEOPLE WHAT OTHER

12 POLICIES THEY HAVE IN EFFECT?

13 A YES, SIR. IT'S VIRTUALLY ALWAYS A

14 REQUIREMENT ON EVERY APPLICATION.

15 Q DO ANY PORTION OF THEM OR SOME PORTION

16 OF THEM KNOW THEY'VE GOT INSURANCE, BUT NOT KNOW

17 WHO IT'S WITH OR NOT KNOW HOW MUCH --

18 MR. JONES: WHAT'S THEM --

19 THE COURT: SUSTAIN THE OBJECTION.

20 MAKE YOUR OBJECTION. TELL ME WHAT'S YOUR

21 OBJECTION.

22 MR. JONES: OBJECTION, YOUR HONOR, IT'S

23 NOT RELEVANT TO THIS.

24 THE COURT: SUSTAINED.

25 MR. HARPOOTLIAN: NOT RELEVANT OR FORM

1 OF THE QUESTION, YOUR HONOR.

2 THE COURT: AS TO THE FORM OF THE
3 QUESTION.

4 MR. HARPOOTLIAN: THANK YOU.

5 Q TELL THE COURT, PLEASE, WHAT YOUR
6 EXPERIENCE WOULD BE WITH THE KNOWLEDGE OF PEOPLE
7 WHO MAKE APPLICATIONS WITH YOU AS TO WHO OR HOW
8 MUCH INSURANCE THEY HAVE PENDING WHEN THEY COME SEE
9 YOU?

10 A MANY PEOPLE ARE NOT FAMILIAR --

11 MR. JONES: YOUR HONOR, I OBJECT. HE
12 CAN'T TESTIFY TO THE KNOWLEDGE OF OTHER PEOPLE.

13 THE COURT: SUSTAINED.

14 Q WHEN YOU FILL OUT APPLICATIONS SUCH AS
15 THESE AND PEOPLE -- YOU HAVE A BLANK FOR HOW MUCH
16 INSURANCE THEY HAVE AND WITH WHO, IS THAT OFTEN
17 TIMES FILLED OUT OR NOT FILLED OUT OR IS IT IN
18 DOUBT?

19 A IT'S ALWAYS FILLED OUT ONE WAY OR THE
20 OTHER. I'M REQUIRED TO PUT A RESPONSE DOWN.
21 FREQUENTLY, THEY ARE NOT FAMILIAR WITH WHAT THEY
22 HAVE.

23 Q THANK YOU, NO FURTHER QUESTIONS.

24 THE COURT: RECROSS?

25 MR. JONES: NONE, YOUR HONOR.

1 THE COURT: THANK YOU, SIR. YO
2 STEP DOWN.

3 MR. HARPOOTLIAN: I'D LIKE HIM
4 EXCUSED, YOUR HONOR.

5 THE COURT: ANY OBJECTION TO HIM BEING
6 EXCUSED?

7 MR. JONES: NONE.

8 THE COURT: WITHOUT OBJECTION.

9 ALL RIGHT, MADAM FOREMAN, I'M GOING TO
10 LET YOU TAKE A SHORT BREAK.

11 (WHEREUPON, THE JURY WAS EXCUSED FOR A
12 SHORT BREAK AT 2:39 P.M.)

13 THE COURT: LET ME PUT ONE MATTER IN
14 THE RECORD ABOUT ONE OF THE QUESTIONS THAT WAS NOT
15 OBJECTED TO. IT PROBABLY COULD NOT HAVE BEEN
16 OBJECTED TO BASED UPON WHAT I HAVE OBSERVED AS A
17 MATTER OF TRIAL STRATEGY. AND THAT IS, WHETHER OR
18 NOT HE ANSWERED THE QUESTION TO THE EFFECT THAT HE
19 HAD TAKEN OR NOT TAKEN COCAINE.

20 MR. HARPOOTLIAN: YES, SIR.

21 THE COURT: I SHOULD NOTE FOR THE
22 RECORD THAT DURING THE OPENING ARGUMENT AND DURING
23 THE EXAMINATION OF DEFENDANT ANDERSON, THAT ISSUE
24 HAS BEEN BROUGHT OUT BY THE DEFENSE.

25 MR. HARPOOTLIAN: YES, SIR.

1 THE COURT: ANY OBJECTION AS TO A
2 CHARACTER ISSUE BEING INSERTED IN THE TRIAL HAS
3 BEEN WAIVED.

4 MR. HARPOOTLIAN: AS TO THAT CHARACTER
5 ISSUE?

6 THE COURT: YES, AS TO THAT ISSUE AS A
7 MATTER OF TRIAL STRATEGY.

8 MR. HARPOOTLIAN: YES, SIR.

9 THE COURT: OKAY, LET'S TAKE A SHORT
10 BREAK.

11 (WHEREUPON, A SHORT BREAK WAS TAKEN.)

12 MR. HARPOOTLIAN: YOUR HONOR, WE HAVE
13 GIVEN TO THE STATE A COPY OF VICKI BECKHAM'S
14 DRIVER'S LICENSE AND A COPY OF THE BOOKING REPORT
15 ON ANDERSON, WHICH WE WOULD LIKE TO INTRODUCE INTO
16 EVIDENCE, BEFORE YOU BRING THE JURY IN. I WANTED
17 TO KNOW IF THERE WAS ANY OBJECTION TO THAT?

18 THE COURT: WHAT NOW, DRIVER'S LICENSE?

19 MR. COULTER: I'D LIKE TO KNOW THE
20 RELEVANCE OF EITHER OF THESE?

21 MR. HARPOOTLIAN: BOTH OF THEM -- YOUR
22 HONOR, WE'VE INTRODUCED TESTIMONY FROM A ROBERT
23 BOWERS THAT THE PERSON HE SAW ON THE SIDE OF THE
24 ROAD ON THE NIGHT IN QUESTION WAS -- HE STOOD
25 SOMEWHERE BETWEEN FIVE TEN AND SIX FEET. HE

1 WEIGHED 160 TO 175 POUNDS. THE BOOKING REPORT FOR
2 MR. ANDERSON IS THAT HE WEIGHED 270 AND WAS SIX
3 FEET TALL. THAT WOULD BE A HUNDRED POUNDS MORE
4 THAN THE PERSON HE SAW ON THE SIDE OF THE ROAD.

5 NOW, YOUR HONOR, AS TO VICTORIA
6 BECKHAM, THAT SHE WAS FIVE FEET TALL. I THINK
7 THERE ARE SOME -- I THINK IT'S IMPORTANT AND I
8 DON'T KNOW --

9 WOULD YOU HAVE AN OBJECTION TO HER
10 DRIVER'S LICENSE, FIVE FEET, 113?

11 MR. COULTER: WHAT IS THE RELEVANCE?

12 MR. HARPOOTLIAN: WELL, THERE ARE SOME
13 INFERENCES TO BE DRAWN FROM THE PHYSICAL EVIDENCE
14 AS TO HOW ANDERSON SAID SHE WAS LYING AND HOW HE
15 MOVED HER AROUND, IN TERMS OF LENGTH, IN TERMS OF
16 HEIGHT AND IN TERMS OF WEIGHT, THAT WE THINK ARE
17 RELEVANT TO THIS CASE.

18 MR. JONES: YOUR HONOR, AS TO THE
19 BOOKING REPORT, IT WAS TAKEN A YEAR AFTER -- IT WAS
20 TAKEN OVER A YEAR AFTER MR. BOWERS TESTIFIED THAT
21 HE SAW SOMEBODY OUT THERE ON JUNE 12TH. I CAN TELL
22 THE COURT THAT IN TALKING WITH RICHARD ANDERSON, HE
23 INDICATED TO ME THAT DURING THAT JUNE PERIOD HE WAS
24 A HEAVY USER OF COCAINE AND HE WEIGHED
25 SUBSTANTIALLY LESS DURING THAT PERIOD. HE'S TOLD

1 ME THAT. HE WASN'T ASKED THAT ON THE STAND, BUT
2 AGAIN, THIS IS A YEAR LATER. SO, FOR THAT REASON
3 ALONE, IT DOESN'T -- IT'S NOT MATERIAL AS TO WHAT
4 HE WEIGHED ON JUNE 12TH, 1994. THIS BOOKING REPORT
5 WAS JULY OF '95.

6 MR. HARPOOTLIAN: YOUR HONOR, IF IT
7 PLEASE THE COURT? IT'S JUST AS RELEVANT AS GLOVES
8 SEIZED FROM THE DEFENDANT'S RESIDENCE A YEAR AFTER
9 THE OFFENSE. IT'S JUST AS RELEVANT AS EVIDENCE
10 THAT WAS GATHERED A YEAR AFTER THE OFF -- I MEAN,
11 THE STATE'S -- HALF THEIR --

12 MR. JONES: I DON'T KNOW IF IT GOES TO
13 SHOW HOW MUCH HE WEIGHED ON JUNE 12TH OF '94.

14 MR. HARPOOTLIAN: YOUR HONOR,
15 CERTAINLY, THEY IN THEIR REPLY CASE CAN COUNTER
16 THAT IF THEY WANTED TO. I'M ABOUT TO PRESENT A
17 WITNESS IN A MINUTE WHO WILL CORROBORATE THE FACT
18 THAT HE WEIGHED SOMEWHERE AROUND 270 IN JUNE OF
19 1994. ALL THIS DOES -- I MEAN, HE WEIGHS ABOUT THE
20 SAME NOW AS HE DID THEN. A FRIEND OF HIS. SO ALL
21 WE'RE TRYING TO DO IS SUBSTANTIATE HOW MUCH HE
22 WEIGHED.

23 THE COURT: I DON'T KNOW HOW THEY GET
24 THAT INFORMATION IN THE JAIL. DO THEY WEIGH THEM
25 IN OR DO THEY ASK THEM?

1 MR. HARPOOTLIAN: WELL, YOUR HONOR, I
2 HAVE ANOTHER DOCUMENT THAT'S ACTUALLY NEWER OR MORE
3 CLOSELY RELATED TO THE EVENT THAN THIS BOOKING
4 REPORT, WHICH IS HIS DRIVER'S LICENSE, WHERE HE
5 TOLD -- I MEAN, THAT'S HOW THEY FIND OUT YOUR
6 WEIGHT WHEN YOU FILL OUT YOUR DRIVER'S LICENSE. HE
7 SAYS HIS WEIGHT AT THAT POINT IN MAY OF 1995,
8 THAT'S TWO MONTHS BEFORE HIS BOOKING, WAS 275. I'D
9 BE HAPPY TO RATHER THAN -- I MEAN, I THINK RATHER
10 THAN PUT ALL THE INFORMATION IN, JUST HAVE THE
11 INFORMATION FROM HIS DRIVER'S LICENSE IN MAY OF
12 1995 BE INTRODUCED THAT HE WEIGHED 275 POUNDS.

13 THE COURT: WHY DIDN'T YOU JUST ASK HIM
14 THAT WHEN HE WAS ON THE STAND?

15 MR. HARPOOTLIAN: WELL, YOUR HONOR, FOR
16 TWO REASONS. ONE, WE WOULD ASSUME THAT THE ONE
17 PERSON THAT HAD SEEN THE MURDERER ON THE SIDE OF
18 THE ROAD, MR. BOWERS, WOULD HAVE BEEN CALLED BY THE
19 STATE. HE WAS UNDER THEIR SUBPOENA. WHEN THEY DID
20 NOT CALL HIM. WE AT THAT -- MR. ANDERSON HAD
21 ALREADY COME OFF THE STAND. I MEAN, I THINK YOU'VE
22 GOT TO UNDERSTAND, WE ARE STILL MYSTIFIED AS TO WHY
23 MR. BOWERS, THE ONE PERSON WHO SAW THE MURDERER ON
24 THE SIDE OF THE ROAD WAS NOT CALLED BY THE STATE.

25 MR. JONES: YOUR HONOR, HE DIDN'T SEE

1 THE MURDERER. HE SAW THE STAGING OF THE MURDER AS
2 AN ACCIDENT.

3 THE COURT: WELL, Y'ALL ARGUE THAT TO
4 THE JURY.

5 MR. HARPOOTLIAN: YES, SIR. I DON'T
6 UNDERSTAND WHAT'S SO PREJUDICIAL ABOUT THIS WEIGHT.
7 THEY CERTAINLY CAN COME BACK -- HE'S STATING HIS
8 WEIGHT WITHIN EIGHT MONTHS OF THE OFFENSE AS 275.
9 THE JURY SAW HIM. I'M WILLING TO PUT IN HIS
10 BOOKING WEIGHT, WHICH IS FIVE POUNDS LIGHTER, 270.

11 MR. JONES: JUDGE, AGAIN, THEY'RE
12 PUTTING THEM IN TO ESTABLISH HIS WEIGHT ON JUNE
13 12TH, 1994. AND NEITHER OF THEM -- ONE OF THEM --
14 AND, JUDGE, I WILL ANSWER YOUR QUESTION. THE
15 SHERIFF EXPLAINED TO ME THAT THIS WEIGHT ON A
16 BOOKING REPORTS IS ASKED OF THE BOOKEE. AND AS A
17 RESPONSE, THEY DON'T WEIGH THEM THERE TO GET AN
18 OFFICIAL WEIGHT, AND AGAIN THEY DON'T WEIGH THEM AT
19 THE HIGHWAY DEPARTMENT TO GET AN OFFICIAL WEIGHT.

20 AND, JUDGE, IF THEY'VE GOT A WITNESS --
21 MR. HARPOOTLIAN JUST SAID THEY'RE ABOUT TO CALL A
22 WITNESS WHO SAYS, I'M A FRIEND OF RICHARD
23 ANDERSON'S. I'VE KNOWN HIM. I KNEW HIM IN '94 AND
24 I KNOW HOW MUCH APPROXIMATELY HE WEIGHED BACK THEN.
25 THAT WOULD BE THE MORE PROPER AVENUE TO GET IN THAT

1 TESTIMONY.

2 THE COURT: WHAT ABOUT MS. BECKHAM'S
3 HEIGHT AND WEIGHT?

4 MR. JONES: YOUR HONOR, I WAS
5 ATTEMPTING TO RECOLLECT. NORMALLY, WHEN A FORENSIC
6 PATHOLOGIST TESTIFIES, HE DETAILS THAT INFORMATION.
7 OF COURSE, HE HAD HER LENGTH AND HER WEIGHT WHEN HE
8 CONDUCTED THE AUTOPSY. I DON'T RECALL ASKING HIM
9 AND I DON'T RECALL THE DEFENSE USING THAT
10 OPPORTUNITY.

11 THE COURT: I AGREE WITH THAT, NEITHER
12 ONE OF YOU DID.

13 MR. JONES: YOUR HONOR, WE WOULD OBJECT
14 TO THE DRIVER'S LICENSE INFORMATION COMING IN AT
15 THIS POINT IN TIME.

16 THE COURT: NOT AT THIS POINT IN TIME.
17 IF I SUSTAIN YOUR OBJECTION, IT'S FOR THE REST OF
18 THE TRIAL. SO IF YOU THINK YOU'RE GOING TO WANT IT
19 IN, YOU BETTER NOT OBJECT NOW.

20 MR. JONES: NO, SIR, WE -- YOU'RE
21 TALKING ABOUT IN THE GUILT-INNOCENCE PHASE OF THIS
22 TRIAL.

23 THE COURT: NO, SIR. EVIDENCE IS
24 EVIDENCE. IF YOUR OBJECTION IS AT THIS POINT IN
25 TIME -- YOUR OBJECTION IS IT'S HEARSAY, IT'S NOT

1 RELIABLE, ETC.

2 MR. JONES: I'M REFERRING NOW TO THE
3 PUNISHMENT PHASE OF THIS TRIAL, A PHOTOGRAPH OF THE
4 VICTIM.

5 THE COURT: YOU CAN PUT A PHOTOGRAPH
6 IN, THERE'S NO PROBLEM ABOUT THAT. BUT WHAT WE'RE
7 TALKING ABOUT IS WEIGHT AND HEIGHT. IF YOU ASK ME
8 TO SUSTAIN THE OBJECTION AND IF I AGREE WITH YOU,
9 THAT'S FOREVER MORE OUTSIDE.

10 MR. JONES: NO, SIR, MY OBJECTION IS
11 NOT TO THE WEIGHT AND HEIGHT. MY OBJECTION IS TO
12 THE PHOTOGRAPH AT THIS POINT IN TIME ON THE
13 DRIVER'S LICENSE. I MAY BE ABLE TO AGREE WITH A
14 STIPULATION AS TO WEIGHT AND HEIGHT. JUST LET ME
15 DISCUSS THAT FOR A MINUTE, YOUR HONOR.

16 YOUR HONOR, WE WOULD WANT --

17 MR. HARPOOTLIAN: I'LL WITHDRAW THEM.

18 MR. JONES: YOUR HONOR, THIS DRIVER'S
19 LICENSE --

20 MR. HARPOOTLIAN: I'M GOING TO WITHDRAW
21 THEM. I'M GOING TO WITHDRAW THEM.

22 MR. JONES: YOUR HONOR --

23 MR. HARPOOTLIAN: I WITHDRAW THEM. NO
24 THANK YOU. WE'RE READY TO PROCEED.

25 THE COURT: HE'S WITHDRAWING SO I DON'T

1 HAVE TO RULE ON IT AT THIS POINT IN TIME. I MAY
2 HAVE TO RULE ON IT LATER WHEN YOU TEND TO DO IT.

3 MR. HARPOOTLIAN: WE'RE READY TO
4 PROCEED. WE'RE READY TO PROCEED.

5 THE COURT: HE SAYS HE WITHDRAWS, SO I
6 DON'T HAVE TO RULE ON IT AT THIS POINT IN TIME.

7 OKAY, NEXT WITNESS?

8 MR. HARPOOTLIAN: YES, SIR.

9 BRING THE JURY IN.

10 (WHEREUPON, THE JURY RETURNED TO OPEN
11 COURT AT 3:05 P.M.)

12 THE COURT: ALL RIGHT, CALL YOUR NEXT
13 WITNESS, PLEASE.

14 MR. HARPOOTLIAN: ALVIN PALMER.

15 ALVIN PALMER, BEING DULY

16 SWORN, TESTIFIED AS FOLLOWS:

17 DIRECT EXAMINATION:

18 BY MR. HARPOOTLIAN:

19 Q MR. PALMER, WHERE DO YOU LIVE?

20 A 109 WINDER ROAD, BALLENTINE.

21 Q DO YOU OWN AN ESTABLISHMENT?

22 A I USED TO.

23 Q IN JUNE OF 1994, DID YOU OWN AN
24 ESTABLISHMENT?

25 A YES, I USED TO OWN AN ESTABLISHMENT

- 1 CALLED JOKERZ.
- 2 Q JOKERZ. AND WHERE IS THAT LOCATED?
- 3 A IT'S RIGHT AT THE INTERSECTION WHERE 76
- 4 AND 176 SPLIT.
- 5 Q WHERE 76 AND 176 -- IS THAT NEAR
- 6 TANNER'S?
- 7 A ABOUT A MILE BEFORE TANNER'S.
- 8 Q ABOUT A MILE BEFORE TANNER'S. AND THAT
- 9 WOULD BE RIGHT OFF THE INTERSTATE THEN?
- 10 A ABOUT A MILE.
- 11 Q IN OTHER WORDS, IF I WAS COMING OFF THE
- 12 INTERSTATE AND WENT BY TANNER'S HEADING TOWARDS --
- 13 A TOWARDS COLUMBIA.
- 14 Q TOWARDS COLUMBIA, I WOULD GO BY JOKERZ?
- 15 A YES, IT WOULD BE THE LAST BUILDING
- 16 BEFORE YOU GOT BACK ON TO 76.
- 17 Q OKAY. NOW, I WANT TO YOU ASK YOU, WAS
- 18 JOKERZ IN JUNE -- LET'S JUST GO RIGHT TO THE DAY.
- 19 ON JUNE 12TH OF 1994, THAT WOULD HAVE BEEN A
- 20 SUNDAY; IS THAT CORRECT?
- 21 A YES, SIR.
- 22 Q DID YOU CHECK AND DETERMINE WHETHER OR
- 23 NOT YOUR ESTABLISHMENT WAS OPEN ON JUNE 12TH, 1994?
- 24 A NO, SIR, WE WERE NOT OPEN ON THE 12TH.
- 25 Q I'M SORRY?

- 1 A WE WERE NOT OPEN ON THE 12TH.
- 2 Q NOW, AT SOME TIME AFTER JUNE 12TH,
- 3 1994, WERE YOU VISITED BY LAW ENFORCEMENT OFFICERS
- 4 --
- 5 A YES, SIR.
- 6 Q WHO ASKED YOU THE VERY SAME QUESTION?
- 7 A YES, SIR.
- 8 Q AND AT THAT TIME, DID THEY SHOW YOU
- 9 SOME PICTURES?
- 10 A YES, SIR.
- 11 Q AND DO YOU REMEMBER HOW MANY PICTURES
- 12 THEY SHOWED YOU?
- 13 A TWO.
- 14 Q TWO PICTURES. DO YOU KNOW WHO THOSE
- 15 PICTURES WERE OF?
- 16 A BECKHAM AND ANDERSON.
- 17 Q BECKHAM AND ANDERSON?
- 18 A RIGHT.
- 19 Q AND DID THEY ASK YOU IF THOSE GUYS WERE
- 20 THERE ON JUNE 12TH, 1994?
- 21 A YES, SIR.
- 22 Q DO YOU REMEMBER HOW LONG AGO THIS WAS?
- 23 A PROBABLY, CLOSE TO A YEAR. IT'S BEEN
- 24 EIGHT MONTHS TO A YEAR OR SO.
- 25 Q AND YOU INDICATED TO THEM AT THAT TIME

- 1 YOU WEREN'T OPEN ON JUNE 12TH, 1994?
- 2 A YES, SIR.
- 3 Q THANK YOU.
- 4 THE COURT: CROSS-EXAMINATION?
- 5 CROSS-EXAMINATION:
- 6 BY MR. JONES:
- 7 Q MR. PALMER, THEY ASKED YOU ABOUT JUNE
- 8 12TH, IF YOU WERE OPEN?
- 9 A YES, SIR.
- 10 Q AND YOU SAID NO?
- 11 A YES, SIR.
- 12 Q AND WHO WERE THEY?
- 13 A THIS GENTLEMAN RIGHT HERE, SPIKE. AND
- 14 A DETECTIVE FROM NEWBERRY, WHO I DON'T REMEMBER. I
- 15 KNOW HIM BECAUSE I USED TO WORK AT A GUN SHOP. HE
- 16 USED TO COME IN AND I REMEMBERED HIM. BUT THE
- 17 OTHER GENTLEMAN, I DON'T REMEMBER WHAT HIS NAME
- 18 WAS.
- 19 Q OKAY, YOU DIDN'T GET HIS NAME? WHAT
- 20 DID HE LOOK LIKE?
- 21 A HE WAS A TALL GENTLEMAN. I REMEMBER HE
- 22 WAS TALLER THAN SPIKE WAS. NOT REAL HEAVYSET, BUT
- 23 A GOOD SIZE FELLOW.
- 24 Q BUT NOT REAL HEAVYSET?
- 25 A NO, HE WAS JUST --

- 1 Q TALLER THAN SPIKE? COME HERE, SPIKE.
- 2 A AS THEY WALKED IN, I -- I REMEMBER --
- 3 YEAH.
- 4 Q AND WHEN WAS IT YOU SAW THEM?
- 5 A I'M NOT SURE AS TO THE EXACT DATE.
- 6 IT'S BEEN ANYWHERE FROM SIX TO EIGHT MONTHS, A
- 7 YEAR. IT'S BEEN A WHILE. I DIDN'T THINK THAT MUCH
- 8 ABOUT IT WHEN THEY CAME IN AND ASK ME.
- 9 Q HOW ABOUT JULY 15TH, 1995? NOW, YOU
- 10 SAY THE FELLOW THAT WAS WITH HIM WASN'T TOO
- 11 HEAVYSET. WAS HE ANYMORE HEAVYSET THAN THIS GUY?
- 12 A WELL, COMPARED TO ME, NOW, I'D SAY HE'S
- 13 NOT THAT BIG. IT'S ALL RELATIVE.
- 14 Q OKAY. OKAY. ALL RIGHT, ALL RELATIVE.
- 15 WELL, HOW ABOUT HIS HEIGHT? HOW TALL WAS HE,
- 16 COMPARED TO ME AND SPIKE? SPIKE, COME AROUND HERE.
- 17 WAS HE A GOOD BIT TALLER THAN SPIKE?
- 18 A HE'S A LITTLE TALLER.
- 19 Q OKAY, BUT THIS IS THE ONE, YEAH, THAT'S
- 20 THE ONE THAT WAS WITH HIM, RIGHT?
- 21 A RIGHT.
- 22 Q NOW, JUNE 15TH IS WHEN THEY CAME AND
- 23 TALKED TO YOU, RIGHT?
- 24 A YES, SIR.
- 25 Q IS THAT ABOUT THE TIME THEY CAME AND

- 1 TALKED TO YOU -- I'M SORRY, JULY 15TH.
- 2 Q RIGHT, IF YOU SAY SO. I WAS OPENING
- 3 UP, CLEANING UP AND THEY WALKED IN AND TALKED TO ME
- 4 FOR MAYBE FIVE MINUTES.
- 5 Q AND YOU ARE A FEW MINUTES FROM TANNER'S
- 6 SO HOW LONG WOULD IT TAKE IF YOU WERE IN A CAR AT
- 7 TANNER'S -- LET'S SAY YOU WERE AT TANNER'S AND
- 8 YOU'RE IN A CAR. HOW LONG WOULD IT TAKE TO GET TO
- 9 YOUR BAR?
- 10 A A MINUTE AND A HALF.
- 11 Q MINUTE AND A HALF? AND ISN'T THERE
- 12 ANOTHER BAR RIGHT THERE NEAR YOU?
- 13 A NOT ON THAT STREET. NOW, THERE ARE
- 14 FIVE OR SIX BARS WITHIN A MILE AREA.
- 15 Q WHAT ABOUT SPORTS PAGE?
- 16 A THEY'RE ABOUT A MILE DOWN FROM ME.
- 17 Q AND YOU SERVED JUST BEER; IS THAT
- 18 RIGHT? YOU DON'T SERVE LIQUOR?
- 19 A THAT'S RIGHT.
- 20 Q SO IF SOMEBODY WANTED A DRINK OF CROWN
- 21 ROYAL IN YOUR ESTABLISHMENT, THEY COULDN'T GET IN
- 22 THERE, COULD THEY?
- 23 A NO, SIR.
- 24 Q BUT IF THEY WANTED TO GO TO SPORTS PAGE
- 25 --

- 1 A YES, SIR.
- 2 Q AND GET A DRINK OF CROWN ROYAL, THEY
- 3 COULD DO THAT, COULDN'T THEY?
- 4 A YES, SIR.
- 5 Q AND THEY COULD DO THAT ON SUNDAY,
- 6 COULDN'T THEY?
- 7 A YES, SIR.
- 8 Q LIKE TODAY?
- 9 A UH-HUH.
- 10 Q WANTED TO GO GET A DRINK OF CROWN
- 11 ROYAL; IS THAT RIGHT?
- 12 A UH-HUH.
- 13 Q TODAY IS SUNDAY, JUNE 29TH -- I MEAN,
- 14 SEPTEMBER 29TH, RIGHT?
- 15 A YES, SIR.
- 16 Q DO YOU REMEMBER SPIKE ASKING YOU --
- 17 WHEN HE ASKED YOU ABOUT JUNE 12TH, HE ASKED YOU IF
- 18 YOU HAD SEEN TWO GUYS, RIGHT?
- 19 A YES, SIR.
- 20 Q AND SHOWED YOU A PICTURE OF THEM?
- 21 A YES, SIR.
- 22 Q AND WHEN HE ASKED YOU ABOUT JUNE 12TH,
- 23 HE ALSO ASKED YOU ABOUT JUNE 8TH, DIDN'T HE? I
- 24 MEAN, HE ASKED IF YOU HAD SEEN ANYBODY THAT MATCHED
- 25 THOSE DESCRIPTIONS, RIGHT?

- 1 A YES, SIR.
- 2 Q AND HE SHOWED YOU A PICTURE OF THEM
- 3 FROM HERE, RIGHT?
- 4 A YES, SIR.
- 5 Q AND YOU SAID, NO, I HADN'T SEEN THOSE
- 6 GUYS. BUT HE ASKED YOU ABOUT JUNE 12TH, '94?
- 7 A YES, SIR.
- 8 Q WHICH WAS A YEAR BEFORE, RIGHT?
- 9 A UH-HUH.
- 10 Q AND HE ASKED YOU ABOUT -- DIDN'T SPIKE
- 11 SAY, WELL, HAVE YOU SEEN THEM IN THERE ANY TIME,
- 12 JUNE 12TH, JUNE 10TH?
- 13 A YES, SIR.
- 14 Q OKAY. AND YOU WERE WORKING ON JUNE
- 15 8TH?
- 16 A YES, SIR.
- 17 Q AND YOU REMEMBERED WHO CAME IN THERE ON
- 18 JUNE 8TH?
- 19 A NOT SPECIFICALLY, BUT I HAD -- IT WAS
- 20 JUST A LITTLE BEER JOINT AND I KNEW EVERYBODY THAT
- 21 WALKED IN THE DOOR. AND IF I DIDN'T KNOW THEM WHEN
- 22 THEY WALKED IN THE DOOR, I MADE A POINT TO FIND OUT
- 23 WHO THEY WERE.
- 24 Q AND NOBODY WALKED IN THAT YOU DIDN'T
- 25 KNOW ON JUNE THE 8TH, YOU KNOW THAT? YOU KNOW

1 THAT?

2 A I DON'T KNOW THAT. BUT I DON'T
3 REMEMBER THOSE GUYS WALKING IN THERE.

4 Q WHAT ABOUT JUNE 7TH, DID ANYBODY WALK
5 IN THAT YOU DIDN'T KNOW?

6 A I CAN'T SAY.

7 Q WHAT ABOUT JUNE 6TH OF 1994, DID
8 ANYBODY WALK IN THAT YOU DIDN'T KNOW?

9 A I CAN'T SAY.

10 Q WHAT ABOUT JUNE 5TH OF 1994, DID
11 ANYBODY WALK IN THAT YOU DIDN'T KNOW?

12 A I'M NOT SURE.

13 Q WHAT ABOUT JUNE 4TH OF 199 --

14 MR. HARPOOTLIAN: YOUR HONOR, I HAVE TO
15 OBJECT TO THIS AS TO RELEVANCE.

16 MR. JONES: YOUR HONOR --

17 THE COURT: OVERRULED.

18 Q WHAT ABOUT JUNE 4TH OF 1994, DID
19 ANYBODY WALK IN THAT YOU DIDN'T KNOW?

20 A IT'S POSSIBLE, I DON'T KNOW.

21 Q BUT YOU DON'T KNOW, DO YOU?

22 A NO, SIR.

23 Q AND YOU DON'T KNOW BECAUSE THAT WAS TWO
24 YEARS AGO AND YOU REALLY DON'T KNOW WHAT DATE
25 ANYBODY WALKED IN THAT YOU DIDN'T KNOW. IT

1 HAPPENED, YOU KNOW THAT, IT'S HAPPENED BEFORE,

2 HASN'T IT?

3 A OF COURSE.

4 Q RIGHT. BUT YOU JUST DON'T KNOW BECAUSE
5 IT'S TOO LONG AGO TO REMEMBER, ISN'T IT?

6 A YEAH, TO PINPOINT IF ANYBODY WALKED IN
7 THE BAR THAT NIGHT.

8 Q THAT YOU DIDN'T KNOW?

9 A THAT'S RIGHT.

10 Q RIGHT. NOW, WHEN YOU TALKED TO SPIKE
11 YOU SAID, NO, I DON'T THINK I'VE SEEN THESE GUYS
12 BEFORE. RIGHT, A YEAR BEFORE? YOU TOLD HIM, I
13 DON'T THINK THEY'VE COME IN HERE?

14 A THAT'S RIGHT.

15 Q BUT YOU COULDN'T TELL HIM EVEN THEN IF
16 HE -- YOU COULDN'T TELL HIM EVEN THEN WHO THE
17 PEOPLE WERE THAT HAD COME IN THAT YOU HADN'T SEEN
18 BEFORE THAT YOU MADE A POINT OF ASKING ABOUT, COULD
19 YOU?

20 A NO.

21 Q YOU COULDN'T HAVE TOLD HIM THAT? YOU
22 KNOW WHAT I'M TALKING ABOUT?

23 A YEAH.

24 Q AND SO THE BOTTOM LINE IS, THAT YOU
25 REALLY, A YEAR LATER, YOU JUST CAN'T TELL SOMEBODY

1 WHETHER OR NOT FOR SURE THEY CAME IN ON A SPECIFIC
2 DATE OR NOT?
3 A YOU'RE RIGHT.
4 Q THANK YOU.
5 THE COURT: REDIRECT?
6 REDIRECT EXAMINATION:
7 BY MR. HARPOOTLIAN:
8 Q BUT YOU COULD TELL THEM THAT THEY
9 WEREN'T THERE ON JUNE 12TH BECAUSE YOU WEREN'T
10 OPEN; ISN'T THAT CORRECT?
11 A THAT'S RIGHT.
12 Q AND ISN'T THAT WHAT THEY WANTED TO
13 KNOW?
14 A YES, SIR.
15 Q THEY DIDN'T ASK YOU ABOUT THE 4TH, 5TH,
16 6TH, 7TH, 8TH, 9TH, 10TH OR 11TH --
17 MR. JONES: OBJECTION, YOUR HONOR.
18 THE COURT: REPHRASE YOUR QUESTION.
19 Q WHAT, IF ANY, DATES OTHER THAN THE
20 12TH, DID THEY ASK YOU ABOUT?
21 A THE 12TH STICKS OUT IN MY MIND.
22 Q AND DID THEY ALSO ASK YOU ABOUT A BAR
23 CALLED ACE'S?
24 A YEAH, THEY MENTIONED SOMETHING ABOUT A
25 PLACE CALLED ACE'S.

1 Q WHAT ABOUT ACE'S?
2 A THE BUILDING THAT WAS NEXT TO MINE WAS
3 CALLED ACE TRAILER RENTALS. SO THAT MIGHT BE WHERE
4 SOMEBODY WOULD ASSOCIATE ACE'S.
5 Q JOKERZ IS SPELLED HOW?
6 A J-O-K-E-R-Z.
7 Q LET ME ASK YOU TO LOOK AT THIS
8 PHOTOGRAPH. IS THIS A PHOTOGRAPH OF YOUR
9 ESTABLISHMENT BACK THEN?
10 A YEAH.
11 MR. HARPOOTLIAN: OFFER THIS INTO
12 EVIDENCE, PLEASE.
13 MR. JONES: NO OBJECTION.
14 THE COURT: WITHOUT OBJECTION.
15 COURT REPORTER: DEFENDANT'S 63.
16 (WHEREUPON, DEFENDANT'S EXHIBIT NO. 63
17 WAS MARKED AND ENTERED IN EVIDENCE.)
18 MR. HARPOOTLIAN: NO FURTHER QUESTIONS.
19 THE COURT: ANYTHING ELSE?
20 RECROSS-EXAMINATION:
21 BY MR. JONES:
22 Q SO RIGHT NEXT DOOR TO YOUR PLACE IS A
23 PLACE CALLED ACE TRAILER?
24 A UH-HUH. IT WAS, IT'S NOW WILLIAM
25 SCOTTSMAN.

- 1 Q RIGHT. AND IS ACE TRAILER DEPICTED IN
2 THIS PHOTOGRAPH?
- 3 A NO.
- 4 Q WHERE IS IT?
- 5 A AS YOU'RE LOOKING AT THAT PICTURE, IT
6 WOULD BE 200 YARDS TO THE LEFT.
- 7 Q COME ON DOWN AND SHOW -- TO THE LEFT AS
8 YOU'RE LOOKING AT THE PICTURE, WHICH SIDE WOULD IT
9 BE ON?
- 10 A IT WOULD BE ON --
- 11 Q THIS SIDE?
- 12 A YES.
- 13 Q AND HOW DO YOU KNOW THAT ACE RENTAL IS
14 200 YARDS TO THE LEFT OF JOKERZ? HOW DOES ONE
15 KNOW? HOW WOULD I KNOW IF I HAD GONE THERE IN JUNE
16 OF '94?
- 17 MR. HARPOOTLIAN: IT CALLS FOR
18 SPECULATION ON THE PART OF THE WITNESS. I WOULD
19 OBJECT.
- 20 THE COURT: OVERRULED. I BELIEVE HE
21 CAN ANSWER THAT.
- 22 Q WHAT'S THERE TO LET ME KNOW THAT ACE'S
23 IS THERE?
- 24 A THEY HAD A SIGN OUT FRONT THAT SAID ACE
25 TRAILER RENTALS.

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1 Q THANK YOU, MR. PALMER.

2 MR. HARPOOTLIAN: ONE FURTHER QUESTION,
3 YOUR HONOR.

4 MR. JONES: THAT'S IT, JUDGE.

5 MR. HARPOOTLIAN: HE RAISED AN
6 ADDITIONAL ISSUE ABOUT ACE TRAILER RENTALS.

7 THE COURT: I TOLD Y'ALL UP FRONT WHEN
8 YOU HAVE TO MAKE YOUR OBJECTIONS TO PROTECT
9 YOURSELVES, IT GOES BOTH WAYS. DIRECT, CROSS,
10 REDIRECT, RECROSS, THAT'S IT.

11 THANK YOU, SIR.

12 MR. HARPOOTLIAN: I ASK THAT HE BE
13 EXCUSED, YOUR HONOR.

14 THE COURT: WITHOUT OBJECTION. CALL
15 YOUR NEXT WITNESS.

16 MR. HARPOOTLIAN: LET ME GET HIM, YOUR
17 HONOR.

18 ALBERT PERRY MCCARTER, BEING
19 DULY SWORN, TESTIFIED AS FOLLOWS:

20 THE WITNESS: ALBERT PERRY MCCARTER.

21 DIRECT EXAMINATION:

22 BY MR. HARPOOTLIAN:

23 Q MR. MCCARTER, PEOPLE DON'T CALL YOU
24 ALBERT OR PERRY, DO THEY?

25 A NO, SIR.

- 1 Q AND YOU HAVE A NICKNAME, IS IT NOT?
- 2 A YES.
- 3 Q WHAT IS THAT NICKNAME?
- 4 A BRICK.
- 5 Q BRICK?
- 6 A LIKE A BRICK HOUSE.
- 7 Q LIKE A BRICK HOUSE, OKAY. NOW, MR.
- 8 MCCARTER, YOU WORK WHERE?
- 9 A THE GENTLEMEN'S CLUB IN MYRTLE BEACH.
- 10 Q THE GENTLEMEN'S CLUB IN MYRTLE BEACH,
- 11 FORMERLY KNOWN AS?
- 12 A SMUGGLER'S.
- 13 Q SMUGGLER'S. AND YOU HAVE WORKED THERE
- 14 ON AND OFF OVER THE YEARS, HAVE YOU NOT?
- 15 A YES.
- 16 Q LET ME, FIRST OF ALL, DEAL WITH AN
- 17 INDIVIDUAL THAT YOU MAY OR MAY NOT KNOW NAMED SLICK
- 18 RICK; DO YOU KNOW HIM?
- 19 A YES.
- 20 Q SLICK RICK MITCHELL?
- 21 A YES.
- 22 Q NOW, SIX MONTHS AGO, WERE YOU WORKING
- 23 AT SMUGGLER'S?
- 24 A YES.
- 25 Q DID YOU HAVE OCCASION TO SEE SLICK RICK

- 1 MITCHELL IN SMUGGLER'S SIX MONTHS AGO?
- 2 A YES.
- 3 Q AND WHEN YOU SAW HIM SIX MONTHS AGO IN
- 4 SMUGGLER'S, DID YOU AND HE HAVE A BEER TOGETHER?
- 5 A NO.
- 6 Q SIR?
- 7 A NO.
- 8 Q NO. TELL US, PLEASE, WHEN HE WAS IN
- 9 SMUGGLER'S WERE Y'ALL CHUMMING IT UP, WERE Y'ALL
- 10 OLD FRIENDS?
- 11 A NO, WE WEREN'T CHUMMING IT UP. I
- 12 TALKED TO HIM.
- 13 Q OKAY. AND FOR HOW LONG DID YOU TALK TO
- 14 HIM?
- 15 A FOUR OR FIVE MINUTES.
- 16 Q AND WHAT WAS THE TOPIC OF YOUR
- 17 CONVERSATION?
- 18 A A COUPLE OF GUYS I KNOW WAS LOOKING FOR
- 19 HIM BECAUSE HE MESSED THEM OVER.
- 20 Q OKAY. HAD YOU SEEN SLICK RICK SINCE,
- 21 MAYBE THE SPRING OF '94?
- 22 A NO.
- 23 Q SO THEY WERE LOOKING FOR HIM AS A
- 24 RESULT OF SOMETHING FROM THAT?
- 25 A ABOUT '94, YEAH, SOMETHING LIKE THAT.

- 1 Q NOW, TO YOUR KNOWLEDGE -- YOU WERE IN
2 HIS PRESENCE FOR HOW LONG?
3 A FOUR OR FIVE MINUTES.
4 Q DID YOU DRINK A BEER WITH HIM?
5 A NO, SIR.
6 Q WHERE DID YOU GO?
7 A I WENT TO THE OFFICE.
8 Q OKAY. AND HOW LONG WERE YOU IN THE
9 OFFICE?
10 A FIVE MINUTES.
11 Q WHEN YOU CAME BACK OUT, WAS HE THERE TO
12 HAVE A BEER WITH YOU?
13 A HE WAS GONE.
14 Q NOW, WERE THERE OTHER PEOPLE IN
15 SMUGGLER'S THAT NIGHT?
16 A CERTAINLY.
17 Q SHAWN GHEM.
18 A YES.
19 Q MOST OF THE REGULARS?
20 A YES.
21 Q SIX MONTHS AGO AT SMUGGLER'S, POLICE
22 COMING AND GOING?
23 A SURE.
24 Q SLED AGENTS?
25 A FOR THE LAST YEAR OR SO.

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1 Q LAST YEAR OR SO. AND WHAT WOULD THEY
2 HAVE BEEN COMING AND GOING ABOUT?
3 A INVESTIGATING THIS CASE.
4 Q THIS CASE?
5 A YEAH.
6 Q PRETTY COMMON KNOWLEDGE IN SMUGGLER'S
7 ABOUT THIS CASE?
8 A YEAH.
9 Q EVERYBODY TALKING ABOUT IT?
10 MR. JONES: LEADING, YOUR HONOR.
11 THE COURT: SUSTAINED AS TO THE
12 LEADING.
13 MR. HARPOOTLIAN: YES, SIR.
14 THE COURT: REPHRASE YOUR QUESTION.
15 Q WHAT, IF ANY, DISCUSSIONS HAD THERE
16 BEEN IN SMUGGLER'S ABOUT THIS CASE?
17 MR. JONES: OBJECTION, YOUR HONOR.
18 HE'S TALKING ABOUT OTHER PEOPLE'S CONVERSATIONS.
19 THAT'S HEARSAY AND I OBJECT ON THAT BASIS.
20 THE COURT: SUSTAINED.
21 Q HAVE YOU HAD ANY DISCUSSION OR HAVE
22 PEOPLE WITH YOU HAD ANY DISCUSSIONS CONCERNING THIS
23 CASE IN SMUGGLER'S?
24 MR. JONES: YOUR HONOR?
25 THE COURT: OVERRULED.

- 1 A SURE.
- 2 Q I'LL MOVE ON TO ANOTHER AREA. YOU KNOW
- 3 A GUY NAMED RICHARD ANDERSON?
- 4 A YES.
- 5 Q DOES HE HAVE A NICKNAME?
- 6 A I JUST ALWAYS CALLED HIM RICHARD.
- 7 Q DO YOU KNOW WHETHER OR NOT HE HAD BEEN
- 8 A BOUNCER AT SMUGGLER'S AT ANY TIME?
- 9 A YES.
- 10 Q AND WHEN HE WORKED THERE, WHO RAN THE
- 11 PLACE, WHO WAS THE MANAGER?
- 12 A MIKE BEATTIE, JUNIOR.
- 13 Q MIKE BEATTIE. NOW, WERE YOU WORKING
- 14 THERE WHEN HE WAS WORKING THERE?
- 15 A NO.
- 16 Q AND WHAT YEARS -- WOULD THAT HAVE BEEN
- 17 '90, '91, '92, '93?
- 18 A I WORKED THERE IN '89 AND '90.
- 19 Q AND HE CAME AFTER YOU?
- 20 A YES.
- 21 Q AND WHEN HE WAS WORKING THERE, DID YOU
- 22 HAVE OCCASION TO BE IN SMUGGLER'S?
- 23 A SURE.
- 24 Q WHAT, IF ANYTHING, DID YOU SEE RELATIVE
- 25 TO RICHARD ANDERSON -- OR OF YOUR OWN PERSONAL

1 KNOWLEDGE KNOW ABOUT RICHARD ANDERSON AND DRUGS IN
2 SMUGGLER'S?

3 A A GOOD BIT.

4 Q A GOOD BIT MEANING?

5 A RICHARD HAD A BAD CRACK PROBLEM. HE
6 WOULD BE STANDING AROUND BACK SMOKING STUFF WITH
7 PEOPLE WITH HIM.

8 Q PEOPLE WITH HIM? DID HE EVER SELL ANY
9 DRUGS?

10 A YES.

11 Q WAS IT A FAIRLY FREQUENT PROCESS?

12 A YES.

13 Q NOW, PEOPLE LIKE STEPHEN BECKHAM OVER
14 HERE --

15 STAND UP, STEVE.

16 DID YOU EVER SEE STEPHEN BECKHAM IN
17 THERE?

18 A YES.

19 Q SIT DOWN, STEVE.

20 WAS HE -- BACK THEN, WAS HE THE KIND OF
21 PERSON THAT CAME IN --

22 MR. JONES: LEADING, YOUR HONOR.

23 THE COURT: SUSTAINED. AND I'M NOT

24 SURE --

25 MR. HARPOOTLIAN: I'M TALKING ABOUT

1 APPEARANCE, YOUR HONOR.

2 THE COURT: SUSTAINED AS TO LEADING.

3 REPHRASE YOUR QUESTION.

4 Q DESCRIBE FOR ME THE APPEARANCE --
5 RELATIVE TO MR. BECKHAM'S APPEARANCE BACK THEN, WAS
6 THAT -- WHAT KIND OF PEOPLE WOULD COME INTO
7 SMUGGLER'S?

8 A YOU COULD TELL BY THEIR APPEARANCE.

9 Q WELL, WHAT COULD YOU TELL ABOUT THEM?

10 A YOU MEAN WHAT I THINK OF STEPHEN?

11 Q WHAT DID YOU THINK OF STEPHEN OR
12 SOMEONE THAT LOOKED LIKE STEPHEN?

13 MR. JONES: YOUR HONOR, OBJECTION.

14 THE COURT: LET ME HEAR YOU OVER HERE.

15 (BENCH CONFERENCE IN THE PRESENCE OF
16 THE JURY, OUT OF THE HEARING OF THE JURY, AND OFF
17 THE RECORD.)

18 MR. HARPOOTLIAN: I'LL WITHDRAW THE
19 QUESTION. I'LL WITHDRAW THE QUESTION. IT'S NOT
20 THAT IMPORTANT. NOTHING TO HAVE A --

21 Q LET'S GET BACK TO MR. ANDERSON. THE
22 CLUB BACK IN '94, '93, YOU'VE INDICATED HAD SOME
23 DRUG TRAFFICKING, DRUG SELLING GOING ON. WAS MR.
24 ANDERSON INVOLVED IN THAT?

25 A YES.

1 Q WOULD TRANSACTIONS TAKE PLACE INSIDE
2 THE CLUB OR OUTSIDE THE CLUB?
3 A BOTH.
4 Q WAS IT FREQUENT?
5 A YES.
6 Q ONGOING?
7 A YES.
8 Q NOW, HAS THE SITUATION CHANGED TODAY?
9 IS THE CLUB YOU'RE NOT INVOLVED IN...
10 A VERY MUCH SO.
11 Q ARE DRUGS ALLOWED IN THE PLACE?
12 A NO.
13 Q HAVE Y'ALL CLEANED IT UP TO A LARGE
14 EXTENT?
15 A YES, WE HAVE. I EVEN HAVE BUSINESS
16 CARDS -- DO YOU WANT ME TO SHOW THEM?
17 Q SURE.
18 A IF THE CUSTOMERS ASK ANY OF MY GIRLS
19 ABOUT IT, THE GIRLS ARE SUPPOSE TO PASS THAT --
20 THEY'RE SUPPOSE TO GIVE THEM THAT AND SAY NO MORE
21 ABOUT IT.
22 Q AND IT SAYS THEY CAN'T DISCUSS ANY
23 ILLEGAL ACTIVITY WITH THEM?
24 A RIGHT.
25 THE COURT: NOW, SOLICITOR, CAREFUL.

- 1 BOTH OF YOU BE CAREFUL.
- 2 MR. HARPOOTLIAN: I'M SORRY, IT'S MY
- 3 FAULT.
- 4 Q WHAT THIS INDICATES IS THAT THEY CAN'T
- 5 DISCUSS ANY ILLEGAL ACTIVITY AND THEY'RE GOING TO
- 6 CALL THE POLICE IF SOMEBODY TRIED TO DO THAT; IS
- 7 THAT CORRECT?
- 8 A YES.
- 9 Q YOU MADE THAT TO CLEAN THE
- 10 ESTABLISHMENT UP?
- 11 A YES.
- 12 Q NOW, RICHARD ANDERSON, LET'S GET BACK
- 13 TO HIM FOR JUST A MOMENT. HAVE YOU HAD OCCASION TO
- 14 SPEAK WITH HIM SINCE HE'S BEEN INCARCERATED?
- 15 A YES.
- 16 Q HOW DID THAT COME ABOUT?
- 17 A HE'S CALLED ME ON THE TELEPHONE AT THE
- 18 BAR SEVERAL TIMES.
- 19 Q AT THE BAR?
- 20 A YES, SIR.
- 21 Q HOW WERE THOSE CALLS PLACED?
- 22 A COLLECT.
- 23 Q SO HE CALLS COLLECT AND Y'ALL ACCEPT
- 24 IT?
- 25 A I DO. WELL, I DID. HE HASN'T CALLED

1 ME LATELY.

2 Q AND IN THE PROCESS OF CALLING YOU, HAS
3 HE EVER DISCUSSED HIS RENDITION OF WHAT OCCURRED...

4 MR. JONES: OBJECTION, YOUR HONOR.

5 THE COURT: LET ME GET THE QUESTION,
6 FIRST.

7 Q HAS HE DISCUSSED WITH YOU HIS
8 PARTICIPATION IN THE MURDER OF VICKI BECKHAM?

9 A YES.

10 THE COURT: NOW, HOLD ON. ARE YOU
11 GOING TO PURSUE THAT A LITTLE FURTHER?

12 MR. HARPOOTLIAN: YES, SIR.

13 THE COURT: LET ME SEE YOU AT THE SIDE
14 BAR.

15 (BENCH CONFERENCE IN THE PRESENCE OF
16 THE JURY, OUT OF THE HEARING OF THE JURY, AND OFF
17 THE RECORD.)

18 THE COURT: ALL RIGHT, MR. HARPOOTLIAN.

19 MR. HARPOOTLIAN: BEG THE COURT'S
20 INDULGENCE?

21 MR. JONES: WITHDRAW THE OBJECTION,
22 YOUR HONOR.

23 THE COURT: OBJECTION WITHDRAWN.

24 MR. HARPOOTLIAN: I'LL WITHDRAW THE
25 QUESTION, YOUR HONOR.

1 THE COURT: MOVE ON.

2 Q NOW, YOU TESTIFIED A MOMENT AGO THAT
3 YOU WERE AROUND THE BAR, THAT IS, WERE AROUND
4 SMUGGLER'S BACK IN '93 AND '94 WHEN RICHARD
5 ANDERSON WAS WORKING THERE AS A BOUNCER; IS THAT
6 CORRECT?

7 A YES.

8 Q YOU EVER SEEN HIM BOUNCE, I GUESS IS
9 THE RIGHT TERM, ACT AS A BOUNCER, A DOORMAN?

10 A A TIME OR TWO, YES.

11 Q YOU EVER SEE HIM GET ROUGH WITH WOMEN?

12 A YES.

13 MR. JONES: JUDGE, COLLATERAL MATTER.

14 THE COURT: SUSTAINED. STRIKE THAT
15 FROM THE RECORD. THE JURY IS TO DISREGARD THAT.

16 MR. HARPOOTLIAN: AS TO A WOMAN NAMED
17 D. J., YOUR HONOR, WHICH HE WAS ASKED ABOUT?

18 MR. JONES: OBJECTION, YOUR HONOR.

19 THE COURT: I'VE SUSTAINED THAT
20 OBJECTION. I'LL GIVE YOU A HEARING ON THE SIDE.

21 MR. HARPOOTLIAN: YOUR HONOR, I THINK I
22 NEED A SIDE BAR ON THAT ONE.

23 (BENCH CONFERENCE IN THE PRESENCE OF
24 THE JURY, OUT OF THE HEARING OF THE JURY, AND OFF
25 THE RECORD.)

1 THE COURT: ALL RIGHT, THE OBJECTION IS
2 SUSTAINED.

3 Q LET ME GO BACK TO SLICK RICK MITCHELL.
4 YOU SAW HIM SIX MONTHS OR SO AGO AT SMUGGLER'S?

5 A YES.

6 Q DO YOU KNOW WHETHER OR NOT HE HAS BEEN
7 BACK TO MYRTLE BEACH SINCE THEN?

8 A HE WAS THERE A COUPLE OF WEEKS AGO. HE
9 JUST GOT MARRIED AND HIM AND VICKI COME DOWN.

10 Q TWO WEEKS AGO, WHICH WOULD HAVE BEEN --
11 IF THIS IS THE 29TH, THAT WOULD HAVE BEEN SOMEWHERE
12 AROUND THE 14TH, 15TH, SOMETHING LIKE THAT?

13 A YES.

14 Q BACK DOWN AT THE BEACH?

15 A YES.

16 MR. HARPOOTLIAN: BEG THE COURT'S
17 INDULGENCE?

18 Q THANK YOU. PLEASE ANSWER ANY QUESTIONS
19 THE SOLICITOR MAY HAVE FOR YOU.

20 THE COURT: CROSS-EXAMINATION?

21 CROSS-EXAMINATION:

22 BY MR. JONES:

23 Q WE TALKED EARLIER TODAY, DIDN'T WE?

24 A YES, SIR.

25 Q FOR THE FIRST TIME PERSON TO PERSON?

1 A YES, SIR.

2 Q BUT I CALLED YOU LAST --

3 A FRIDAY NIGHT.

4 Q WAS IT FRIDAY NIGHT?

5 A YES, SIR.

6 Q AND I ASKED YOU ABOUT SLICK RICK THEN,

7 DIDN'T I?

8 A YES.

9 Q AND YOU TOLD ME THAT, YEAH, I DID HAVE

10 A CONVERSATION WITH HIM ABOUT SIX MONTHS AGO IN THE

11 BAR?

12 A YES.

13 Q AND I ASKED YOU IF YOU SAID ANYTHING TO

14 HIM OR IF HE SAID ANYTHING TO YOU ABOUT THE BECKHAM

15 MURDER CASE; IS THAT RIGHT?

16 A YES.

17 Q AND YOU TOLD ME?

18 A THAT HE HAD NOT.

19 Q THAT HE HAD NOT.

20 A WE DIDN'T TALK ABOUT IT.

21 Q AND I ASKED YOU --

22 MR. HARPOOTLIAN: IF IT PLEASE THE

23 COURT, YOUR HONOR, MR. JONES IS MAKING HIMSELF A

24 WITNESS HERE.

25 THE COURT: SUSTAINED.

1 MR. HARPOOTLIAN: THANK YOU.

2 Q WELL, I CALLED YOU LAST FRIDAY NIGHT,
3 RIGHT?

4 A RIGHT.

5 Q ALL RIGHT. AND YOU TOLD ME --

6 MR. HARPOOTLIAN: IF IT PLEASE THE
7 COURT, YOUR HONOR, THAT'S NOT AN APPROPRIATE
8 QUESTION.

9 THE COURT: WELL, HERE'S THE PROBLEM.
10 YOU'RE GOING TO HAVE TO TAKE HIS ANSWER ONE WAY OR
11 THE OTHER OR OTHERWISE, YOU'RE GOING TO BE A
12 WITNESS.

13 MR. JONES: YES, SIR, JUDGE, I PLAN TO
14 TAKE HIS ANSWER.

15 THE COURT: ASK YOUR QUESTION.

16 Q LET ME ASK YOU THIS QUESTION. THE FACT
17 OF THE MATTER IS, IS THAT YOU AND SLICK RICK DID
18 NOT DISCUSS THE BECKHAM CASE, DID YOU?

19 A NO, WE DID NOT.

20 Q AND YOU DID NOT DISCUSS IT BECAUSE HE
21 WASN'T ANYWHERE AROUND WHEN IT HAPPENED, WAS HE?

22 MR. HARPOOTLIAN: OBJECTION, YOUR
23 HONOR. HE DOESN'T KNOW OF HIS OWN PERSONAL
24 KNOWLEDGE.

25 THE COURT: LAY YOUR FOUNDATION.

- 1 SUSTAINED.
- 2 Q YOU RECALL TALKING TO HIM, DON'T YOU?
- 3 A YES.
- 4 Q AND YOU RECALL WHAT YOU TOLD HIM ON
- 5 THAT OCCASION, DON'T YOU?
- 6 A I KNOW EXACTLY WHAT I TOLD HIM.
- 7 Q YOU TOLD HIM BILL ONSPA?
- 8 A BILL ONSPA.
- 9 Q WAS LOOKING FOR HIM?
- 10 A AND BILLY PARTON.
- 11 Q AND BILLY PARTON. AND ONSPA IS WHOSE
- 12 GIRLFRIEND HE LEFT TOWN WITH?
- 13 A RIGHT.
- 14 Q IN MAY OF '94?
- 15 A YES, SIR.
- 16 Q DO YOU REMEMBER THAT?
- 17 A YES, SIR.
- 18 Q IN MAY OF '94?
- 19 A RIGHT.
- 20 Q AND ONSPA HAD BEEN TRACKING HIM SINCE
- 21 THEN, HADN'T HE?
- 22 A HE --
- 23 MR. HARPOOTLIAN: YOUR HONOR, IT WOULD
- 24 CALL FOR HEARSAY.
- 25 THE COURT: SUSTAINED.

- 1 MR. HARPOOTLIAN: THANK YOU.
- 2 Q YOU HAD BEEN HELPING ONSPA LOCATE HIM,
3 HADN'T YOU?
- 4 A NO, I HADN'T BEEN HELPING HIM.
- 5 Q ALL RIGHT. WHEN YOU SAW SLICK RICK IN
6 THE BAR AND YOU TOLD HIM, ONSPA'S LOOKING FOR YOU
7 AND PARTON'S LOOKING FOR YOU BECAUSE YOU TOOK HIS
8 TOOLS?
- 9 A RIGHT.
- 10 Q RIGHT?
- 11 A YES, SIR.
- 12 Q THEY'RE BOTH LOOKING FOR YOU?
- 13 A RIGHT.
- 14 Q HOW LONG HAD THEY BEEN LOOKING FOR HIM?
- 15 A SINCE ABOUT MAY OF '94.
- 16 Q SINCE MAY OF '94, THEY HAD BEEN LOOKING
17 FOR HIM?
- 18 A RIGHT.
- 19 Q DID YOU KNOW HE HAD BEEN IN WEST
20 VIRGINIA?
- 21 A NOPE.
- 22 Q YOU DIDN'T KNOW HE HAD BEEN IN WEST
23 VIRGINIA?
- 24 MR. HARPOOTLIAN: OBJECTION, YOUR
25 HONOR. HE'S ANSWERED NO.

1 THE COURT: SUSTAINED.

2 MR. HARPOOTLIAN: THANK YOU.

3 Q AT THAT TIME, DID YOU KNOW THAT HE HAD
4 BEEN IN ANDERSON SINCE SEPTEMBER OF '95?

5 MR. HARPOOTLIAN: OBJECTION, YOUR
6 HONOR. HE HASN'T TESTIFIED THAT HE KNEW HE WAS IN
7 ANDERSON IN SEPTEMBER.

8 THE COURT: SUSTAINED. LAY YOUR
9 FOUNDATION, MR. SOLICITOR.

10 MR. HARPOOTLIAN: THANK YOU.

11 Q WERE YOU IN SMUGGLER'S WHEN HE WALKED
12 IN ABOUT SIX MONTHS AGO?

13 A YES, SIR.

14 Q DID YOU SEE HIM COME IN?

15 A YES, SIR.

16 Q AND YOU WALKED OVER AND TALKED TO HIM?

17 A I COME OUT FROM BEHIND THE BAR AND WENT
18 AROUND AND CONFRONTED HIM.

19 Q AND YOU CONFRONTED HIM WITH THE
20 SITUATION?

21 A RIGHT.

22 Q AND HOW MANY MINUTES WOULD YOU SAY
23 AFTER YOU CONFRONTED HIM WITH THE FACT THAT ONSPA
24 AND PARTON WERE LOOKING FOR HIM WAS IT THAT HE
25 LEFT?

1 A ABOUT FIVE MINUTES. BY THE TIME I WAS
2 IN THE OFFICE CALLING THEM TELLING THEM HE WAS
3 THERE.

4 Q RIGHT. YOU WENT AND CALLED ONSPA AND
5 PARTON TO SAY, COME TO SMUGGLER'S, HE'S HERE?

6 A YES, SIR.

7 Q YOU CAN TALK TO HIM ABOUT THIS STUFF,
8 RIGHT?

9 A YEAH.

10 Q AND DID YOU SEE RICK MITCHELL, SLICK
11 RICK MITCHELL, WHEN HE WAS DOWN A COUPLE OF WEEKS
12 AGO?

13 A NO.

14 Q YOU DIDN'T SEE HIM?

15 A NO.

16 Q SO YOUR KNOWLEDGE OF HIM BEING THERE
17 WOULD HAVE COME THROUGH ONSPA ?

18 A NO, BILLY PARTON.

19 Q PARTON. SO YOU DID NOT HAVE PERSONAL
20 KNOWLEDGE OF HIS BEING DOWN THERE?

21 A NO.

22 THE COURT: ALL RIGHT, SOLICITOR, LET'S
23 GO.

24 MR. JONES: YOUR HONOR, JUST -- IF YOU
25 COULD, JUST GIVE ME ONE MINUTE HERE. I'M TRYING TO

1 --

2 Q BEFORE I CALLED YOU LAST WEEK, RICK
3 MITCHELL HAD NOT CONTACTED YOU AT ALL TO SAY
4 ANYTHING TO ME OR ANYBODY ELSE ABOUT YOUR
5 CONVERSATION, HAD HE?

6 A NO.

7 Q BUT SOMEBODY WITH THE DETECTIVES HAD
8 CALLED YOU THE NIGHT BEFORE I CALLED YOU, THURSDAY
9 NIGHT; IS THAT RIGHT?

10 A YES, SIR.

11 Q THEY CALLED YOU THURSDAY NIGHT AND THEN
12 I TALKED TO YOU FRIDAY?

13 A RIGHT.

14 Q OKAY. THAT'S IT.

15 MR. HARPOOTLIAN: JUST A COUPLE MORE
16 QUESTIONS.

17 REDIRECT EXAMINATION:

18 BY MR. HARPOOTLIAN:

19 Q THE THURSDAY AND FRIDAY THE DETECTIVE
20 CALLED YOU AND THE SOLICITOR CALLED YOU ABOUT RICK
21 MITCHELL, WAS THAT BEFORE OR AFTER RICK WAS AT THE
22 BEACH A COUPLE OF WEEKS AGO?

23 MR. JONES: JUDGE, HE HAS SAID THAT HIS
24 KNOWLEDGE OF MR. MITCHELL'S PRESENCE AT THE
25 BEACH...

1 THE COURT: THE QUESTION WAS PUT TO
2 THIS WITNESS AND HE'S ENTITLED TO ANSWER THAT
3 QUESTION ONE WAY OR THE OTHER. I DON'T KNOW WHAT
4 HIS ANSWER IS GOING TO BE.

5 A WELL, IF RICK WAS THERE TWO WEEKS AGO
6 AND HE JUST CALLED ME THURSDAY OR FRIDAY, I GUESS
7 AFTER.

8 Q SO BASED ON THAT, RICK WAS AT THE
9 BEACH, THEN THEY CALL YOU AND ASK YOU ABOUT RICK;
10 IS THAT RIGHT? I MEAN, RICK'S AT THE BEACH AND
11 THEN YOU GET THE CALLS FROM THE LAW ENFORCEMENT
12 PEOPLE; IS THAT RIGHT?

13 A YEAH.

14 Q NOW, THE SOLICITOR ASKED YOU WHETHER
15 THAT WAS BASED ON FIRST-HAND KNOWLEDGE. PEOPLE YOU
16 KNOW, KNOW RICK, DO THEY NOT?

17 A RIGHT.

18 Q AND RICK MOVES AROUND -- AND DON'T GET
19 ME -- I'M NOT SAYING THE SAME CIRCLES, BUT THERE
20 ARE A NUMBER OF PEOPLE YOU KNOW THAT KNOW RICK?

21 A RIGHT.

22 Q AND A NUMBER OF PEOPLE THAT KNOW RICK
23 THAT KNOW ANDERSON?

24 A RIGHT.

25 Q AND A NUMBER OF PEOPLE THAT KNOW RICK

1 THAT KNOW MIKE BEATTIE?
2 A RIGHT.
3 MR. JONES: LEADING, YOUR HONOR.
4 THE COURT: SUSTAINED. I SUSTAIN THE
5 OBJECTION.
6 MR. HARPOOTLIAN: THANK YOU. BEG THE
7 COURT'S INDULGENCE?
8 Q THANK YOU.
9 THE COURT: RECROSS?
10 MR. JONES: NONE, YOUR HONOR.
11 THE COURT: THANK YOU, SIR. YOU MAY
12 STEP DOWN.
13 CALL YOUR NEXT WITNESS.
14 MR. SWERLING: ALLEN HARRISON.
15 JUDGE, MAY WE APPROACH THE SIDE BAR A
16 MINUTE?
17 (BENCH CONFERENCE IN THE PRESENCE OF
18 THE JURY, OUT OF THE HEARING OF THE JURY, AND OFF
19 THE RECORD.)
20 THE COURT: ALL RIGHT, THE NEXT THREE
21 WITNESSES WILL BE UNDER THE AGE OF SEVENTEEN. AND
22 BY MY PREVIOUS ORDER, THEY ARE NOT TO -- PICTURE IS
23 NOT TO BE TELEVISED.
24 ALL RIGHT, MR. SWERLING, CALL YOUR NEXT
25 WITNESS. MR. SWERLING, LET'S GO.