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STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from Richland County

Honorable Brooks P. Goldsmith, Circuit Court Judge

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JOEL ROBINSON,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO 2016-000575

APPENDIX

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STATE OF SOUTH CAROLINA — COURT OF GENERAL SESSIONS

COUNTY OF RICHLAND

2007-GS-40-2038
2007-GS-40-2039
2007-GS-40-2040
2007-GS-40-1345
2007-GS-40-1346

THE STATE OF SOUTH CAROLINA :

-VS- : TRANSCRIPT OF RECORD

JOEL A. ROBINSON :

MARCH 3 - 5, 2009
COLUMBIA, SOUTH CAROLINA

B E F O R E:

THE HONORABLE J. MICHELLE CHILDS, JUDGE, AND JURY.

A P P E A R A N C E S:

VANESSA SHIPLEY, ESQUIRE
SETH ROSE, ESQUIRE
ATTORNEYS FOR THE STATE

JENNIFER DAVIS, ESQUIRE
MICAH LEDDY, ESQUIRE
ATTORNEYS FOR THE DEFENDANT

DAPHNE D. HELMS
CIRCUIT COURT REPORTER

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County: Richland
Date: 3-3-09

07-65-40-2038-2040 VOIR DIRE

Case No: 07-65-40-1345-1346 Judge: Michelle Childs

Pl. / State: State State/Pl's. Atty: Vanessa Shyp
Seth Rose

Defendant: Joel Robinson Defense Atty: Jennifer Davies
Micah Leddy

Court Reporter: Daphne Helms

Juror No.	Name	Sex	Race	*Court	Strikes Plaintiff	Defense	Accep
45	Jeroy Carroll	M	B				✓
176	Kimberly McMahan	F	W				✓
105	Hernando Harris	M	B			✓	
219	Julia Samuel	F	B			✓	
168	Barnette Mathis	F	B			✓	
38	Jeray Byrd	M	B				✓
284	Wanda Whaley	F	B				✓
148	Scott Krause	M	W				✓
63	Timothy Dempsey	M	W				✓
128	Linda Jenkins	F	B				✓
275	Juvanique Watson	F	B		✓		
170	Corey McClerklin	M	B		✓		
74	Natasha Elliot	F	B		✓		
88	Jimmy Gainey	M	B		✓		
31	Mamie Brooks	F	B			✓	
261	Michelle Tapp	F	B				✓

* For the Court column, indicate who made the motion to strike the jurors "for cause."
C-Court, P-Plaintiff, D-Defense

County: Richland
Date: 3-3-09

07-65-40-2038-2040 VOIR DIRE
Case No: 07-65-40-1345-1346

Judge: Childs

Pl. / State: State

State/Pl's. Atty: Shipley
Rose

Defendant: Joel Robinson

Defense Atty: Davis
Leddy

Court Reporter: Daphne Helms

Juror No.	Name	Sex	Race	*Court	Strikes Plaintiff	Defense	Accept
186	Stanley Nascedka	M	W				✓
211	Mark Ruffle	M	W				✓
179	Cindy Mock	F	W			✓	
193	Shannon Outen	F	B				✓
156	Patrick Layden	M	W				✓
—	Alternate #1	—					
65	Howard Denny	M	W				✓
—	Alternate #2	—					
208	Michael Ratcliff	M	B			✓	
259	Vivian Jodile	F	B			✓	
268	Kimberly Vonschweinitz	F	W				✓

* For the Court column, indicate who made the motion to strike the jurors "for cause."
C-Court, P-Plaintiff, D-Defense

(STATE'S EXHIBITS 1 THROUGH 7 WERE MARKED FOR IDENTIFICATION ONLY.)

THE COURT: THANK YOU ALL. PLEASE TAKE YOUR SEATS. IF THE ATTORNEYS COULD APPROACH ME VERY QUICKLY.

(WHEREUPON, A BENCH CONFERENCE WAS HELD.)

THE COURT: I'LL BE RIGHT BACK. LET ME TALK TO THE OTHER JUDGE.

(PAUSE IN PROCEEDINGS.)

THE COURT: STAY SEATED. THANK YOU ALL. OKAY. LADIES AND GENTLEMEN OF -- IN THE COURTROOM, THE STATE CAN NEXT CALL ITS NEXT CASE, AND I BELIEVE THAT WE WILL GO AHEAD AND PROCEED WITH PRETRIAL IN THE CASE AND LET THE OTHER JUDGES DEAL WITH THE JURORS AT THIS MOMENT. SO, MS. SHIPLEY, I DEFER TO YOU.

MS. SHIPLEY: THANK YOU VERY MUCH, YOUR HONOR. AT THIS TIME THE STATE OF SOUTH CAROLINA WOULD CALL THE CASE AGAINST JOEL ANTAWAN ROBINSON FOR THE INDICTMENTS OF MURDER, ASSAULT AND BATTERY WITH INTENT TO KILL, POSSESSION OF A FIREARM DURING THE COMMISSION OF A VIOLENT CRIME, POSSESSION OF CRACK COCAINE, AND POSSESSION OF COCAINE. THOSE ARE INDICTMENTS 2007-GS-40-2040, 2039, 2038, 2007-GS-40-1346 AND 1345.

THE COURT: THANK YOU, MADAM SOLICITOR. AND THE COURT IS JUST REVIEWING THESE INDICTMENTS TO MAKE SURE I HAVE THEM ALL. OKAY. AND I DO. ALL RIGHT. AND THEN AT THIS TIME I'LL BE HAPPY TO HEAR FROM YOU. WE'RE PROCEEDING TO

PRETRIAL. DOES THE COURT HAVE ANY FORMAL WRITTEN MOTIONS FROM YOU ALL?

MS. SHIPLEY: NO, MA'AM.

MR. LEDDY: NO, YOUR HONOR.

THE COURT: OKAY. ALL RIGHT. THEN WE'LL PROCEED WITH YOUR ORAL MOTIONS.

MS. SHIPLEY: YOUR HONOR, AT THIS TIME WE'LL BE CONDUCTING NEIL VERSUS BIGGERS HEARINGS FOR THE PHOTOGRAPHIC LINE-UPS IN THIS CASE. THE FIRST WITNESS WOULD BE -- AND ALSO SHOW-UP IDENTIFICATION IN THIS CASE. YOUR HONOR, AT THIS TIME WE WOULD CALL JEFFREY DEAN SMITH TO THE STAND.

JEFFREY DEAN SMITH, AFTER BEING DULY SWORN, TESTIFIED AS FOLLOWS IN CAMERA:

THE CLERK: PLEASE HAVE A SEAT AND STATE YOUR FULL NAME FOR THE RECORD.

THE WITNESS: JEFFREY SMITH.

DIRECT EXAMINATION

BY MS. SHIPLEY:

Q. MR. SMITH, PLEASE TELL JUDGE CHILDS WHERE YOU'RE FROM.

A. COLUMBIA.

Q. AND YOU HAVE LIVED HERE YOUR WHOLE LIFE?

A. YES, MA'AM.

Q. IS YOUR WHOLE FAMILY FROM COLUMBIA?

A. YES, MA'AM.

Q. AND WHAT PART OF COLUMBIA ARE Y'ALL FROM?

A. THERE'S SOME OFF OF FAIRFIELD ROAD.
Q. FAIRFIELD ROAD?
A. YES, MA'AM.
Q. BACK ON FEBRUARY 15TH OF 2007, WHERE WERE YOU RESIDING?
A. AT THE TRAILER.
Q. AND IS THAT ON ?
A. ON .
Q. WOULD THAT BE ? IS THAT YOUR OLD ADDRESS?
A. YES, MA'AM.
Q. OKAY. WHO WERE YOU LIVING WITH AT THAT TRAILER?
A. ME AND LEVERN SMITH.
Q. LEVERN SMITH?
A. UH-HUH.
Q. AND HOW ARE Y'ALL RELATED?
A. COUSINS.
Q. COUSINS?
A. (WITNESS NODDED HEAD UP AND DOWN.)
Q. AND HOW WERE YOU RELATED TO THE DECEASED IN THIS CASE, THOMAS LEE SMITH?
A. COUSIN.
Q. COUSIN ALSO? FIRST COUSIN?
A. UH-HUH.
Q. AND CAN YOU TELL THE JUDGE IF HE HAS A NICKNAME?
A. THEY CALL HIM SHORT.

Q. SHORT DOG?
A. UH-HUH.
Q. NOW, I'M GOING TO BRING YOUR ATTENTION TO THE EVENTS THAT HAPPENED ON THE DAY THAT YOUR COUSIN WAS MURDERED. CAN YOU TELL JUDGE CHILDS WHETHER OR NOT YOU KNOW THE DEFENDANT, JOEL ROBINSON?
A. I DON'T KNOW HIM, BUT HE CAME THERE THAT NIGHT LOOKING FOR HIM.
Q. OKAY. PRIOR TO HIM COMING THERE THAT NIGHT, HAD YOU EVER SEEN THAT MAN BEFORE?
A. NO, I NEVER SEEN HIM BEFORE.
Q. OKAY. DID HE EVER COME BY YOUR HOUSE EARLIER THAT DAY LOOKING FOR SHORT?
A. YES, MA'AM.
Q. CAN YOU TELL JUDGE CHILDS A LITTLE BIT ABOUT WHAT YOU REMEMBER THE TIME OF DAY WAS WHEN THAT MAN CAME LOOKING FOR SHORT DOG?
A. IT WAS ABOUT 9 THAT MORNING, AND THEN HE CAME AGAIN ABOUT 1, AND THEN HE CAME AGAIN THAT NIGHT.
Q. OKAY. NOW, WHEN HE CAME AT 9 THAT MORNING, WAS SHORT DOG AT YOUR PLACE?
A. NO, MA'AM.
Q. OKAY. DID YOU TELL HIM THAT SHORT DOG WAS NOT THERE?
A. YES, MA'AM.
Q. AND TELL THE JUDGE ABOUT THE LIGHTING CONDITIONS. DID

YOU HAVE ANY TROUBLE SEEING THIS MAN'S FACE?
A. NO, MA'AM.
Q. HOW LONG WAS THIS ENCOUNTER FOR BETWEEN YOU AND THIS MAN, JOEL ROBINSON? HOW LONG DID THE CONVERSATION LAST BETWEEN THE TWO OF YOU ABOUT WHETHER OR NOT SHORT DOG WAS HOME?
A. ABOUT A SECOND.
Q. A SECOND?
A. UH-HUH.
Q. DID YOU THEN -- WHEN YOU SAW HIM LATER AGAIN IN THE DAY, WHAT TIME WAS THAT?
A. ABOUT 1.
Q. ALL RIGHT. THIS TIME AT AROUND 1, WAS IT LIGHT OUT?
A. IT WAS STILL DAY.
Q. STILL DAYTIME?
A. DAYLIGHT.
Q. AND DID YOU HAVE ANY TROUBLE SEEING HIS FACE AT THAT POINT?
A. NO, MA'AM.
Q. AND WHEN HE CAME BACK AGAIN, TELL JUDGE CHILDS WHAT HE WANTED WHEN HE CAME THE SECOND TIME AT 1.
A. HE JUST CAME AND ASKED WHERE HE WAS.
Q. OKAY. DID HE COME INTO YOUR TRAILER?
A. HUH-UH. HE WAS ON THE OUTSIDE IN HIS TRUCK.
Q. JUST IN HIS CAR?

A. UH-HUH.
Q. DID YOU HAVE ANY TROUBLE SEEING HIS FACE?
A. NO, MA'AM.
Q. HOW LONG WAS THAT ENCOUNTER BETWEEN YOU AND THE DEFENDANT AROUND 1:00?
A. ABOUT FIVE MINUTES.
Q. FIVE MINUTES?
A. UH-HUH.
Q. DO YOU RECALL WHAT ELSE YOU MAY HAVE TALKED TO HIM ABOUT?
A. HUH-UH.
Q. AND WERE YOU WATCH -- YOU KNOW, LOOKING AT YOUR WATCH WHILE YOU WERE HAVING THIS CONVERSATION?
A. NO, MA'AM.
Q. SO YOU'RE JUST GUESSING HOW LONG THAT CONFRONTATION WAS?
A. UH-HUH.
Q. OKAY. NOW, AFTER HE LEFT THAT SECOND TIME, TELL JUDGE CHILDS WHAT YOU WERE DOING AND WHERE YOU WERE WHEN YOUR COUSIN THOMAS GOT MURDERED.
A. I WAS SITTING AT THE KITCHEN TABLE WITH SHORT DOG.
Q. OKAY. AND I'M GOING TO SHOW YOU A DIAGRAM SO JUDGE CHILDS IS FAMILIAR WITH THE LAYOUT OF THE TRAILER. DID YOU HAVE AN OPPORTUNITY TO LOOK AT THIS EARLIER? DID I SHOW THIS TO YOU?
A. YES, MA'AM.

Q. OKAY. DOES THAT LOOK LIKE THE LAYOUT OF YOUR TRAILER?
A. YES, MA'AM.
Q. OKAY. AND IF YOU COULD, JUST USING THIS POINTER -- AND, YOUR HONOR, FOR IDENTIFICATION PURPOSES I AM REFERRING TO DIAGRAM -- STATE'S EXHIBIT NUMBER 5 FOR IDENTIFICATION PURPOSES. ALL RIGHT. USING YOUR POINTER - I'M GOING TO PUT THIS OUT SO THEY'RE NOT IN YOUR WAY - SHOW JUDGE CHILDS WHERE IT WAS YOU WERE SITTING WHEN YOU---
A. OKAY. THIS IS THE KITCHEN.
Q. OKAY.
A. I'M SITTING AT THE TABLE, AND THIS IS WHERE THE TABLE WAS.
Q. OKAY. THAT'S THE TABLE?
A. OKAY. THIS IS THE TABLE. I'M SITTING HERE. SHORT DOG IS SITTING ON THIS SIDE OF THE TABLE.
Q. OKAY.
A. SO WHEN HE WALKED -- WHEN HE WALKED IN, SHORT JUMPED UP AND THEY STARTED TUSSLING BY THE WINDOW.
Q. OKAY. AND THERE'S A WINDOW RIGHT THERE?
A. UH-HUH.
Q. ALL RIGHT. AND WHAT'S THAT RIGHT HERE?
A. THAT WAS THE STOVE.
Q. OKAY. WHO WAS STANDING BY THE STOVE?
A. EDWINA.
Q. EDWINA?

A. UH-HUH.
Q. DO YOU KNOW EDWINA'S LAST NAME?
A. HUH-UH.
Q. OKAY. WHAT WAS EDWINA DOING AT THE STOVE?
A. COOKING.
Q. COOKING. NOW, WHAT DID -- WHAT HAPPENED NEXT? YOU SAID SHORT DOG GOT UP?
A. GOT UP AND THEY STARTED TUSSLING.
Q. OKAY.
A. AND THEN WHEN---
Q. BEFORE YOU CONTINUE, LET ME INTERRUPT YOU AND ASK YOU ONE QUICK QUESTION. WHEN THE PERSON WALKED IN, DID YOU RECOGNIZE HIM?
A. I SEEN HIS FACE.
Q. OKAY. SO WAS IT THE SAME PERSON THAT HAD COME BY THE HOUSE?
A. YES, MA'AM.
Q. THE SAME PERSON THAT CAME BY---
A. YES, MA'AM.
Q. ---THERE AT 9 A.M. AND 1 P.M.?
A. YES, MA'AM.
Q. OKAY. AND DO YOU REMEMBER APPROXIMATELY WHAT TIME THIS IS THAT HE CAME IN?
A. IT MIGHT HAVE BEEN ABOUT 9.
Q. 9? OKAY. AND, AGAIN, WERE YOU LOOKING AT YOUR WATCH?

A. NO, MA'AM.
Q. ALL RIGHT. SO YOU'RE GUESSING WHAT TIME IT WAS?
A. UH-HUH.
Q. OKAY. PLEASE TELL THE JUDGE WHAT EXACTLY -- DID HE HAVE ANYTHING IN HIS HANDS WHEN HE WALKED INTO THE ROOM?
A. WHEN HE WALKED IN THE KITCHEN, ALL I COULD SEE WAS HIM AND SHORT TUSSLING, AND THEN ALL OF A SUDDEN I JUST SEEN HIS HAND GOES UP AND I LOOKED. THERE WAS A GUN, AND WHEN SHORT BENT DOWN, HE SHOT SHORT IN THE BACK.
Q. OKAY. AND SHORT BENT DOWN?
A. UH-HUH.
Q. AND, AGAIN, DID SHORT HAVE A WEAPON ON HIM?
A. NO, MA'AM, HE NEVER DID.
Q. OKAY. WHO'S THE ONLY PERSON THAT HAD A WEAPON?
A. MY MAN OVER THERE.
Q. OKAY. AND THAT'S -- YOU'RE REFERRING TO JOEL ROBINSON?
A. YES, MA'AM.
Q. OKAY. NOW, HOW MANY TIMES DID YOU SEE HIM SHOOT SHORT DOG IN THE BACK?
A. THREE TIMES.
Q. OKAY. AND WERE THESE QUICK SHOTS OR...
A. YES, MA'AM.
Q. ALL RIGHT. SO ARE YOU EXACTLY SURE OF THE COUNT---
A. YES, MA'AM.
Q. ---OF THE NUMBER?

A. ALTOGETHER HE SHOT ABOUT TEN TIMES.
Q. OKAY. HE SHOT ABOUT TEN TIMES---
A. UH-HUH.
Q. ---THE WHOLE TIME IN THE KITCHEN?
A. YES, MA'AM.
Q. NOW, YOU SAID THAT SHORT DOG GOT UP TO TUSSLE WITH HIM.
A. YES, MA'AM.
Q. DID YOU SEE THE GUN AT THAT POINT WHEN SHORT DOG GOT UP?
A. YES, MA'AM.
Q. OKAY. SO SHORT DOG WAS GETTING UP BECAUSE HE SAW THE MAN COMING WITH THE GUN.
A. UH-HUH. AND HE RUSHED HIM.
Q. AND THEY TUSSLED. HOW LONG DO YOU THINK THEY TUSSLED FOR?
A. ABOUT FIVE OR SIX MINUTES.
Q. OKAY. AND NOW, AGAIN, WERE YOU LOOKING AT YOUR WATCH DURING THIS TIME?
A. NO, MA'AM.
Q. OKAY. NOW, AFTER YOU SEE HIM SHOOT SHORT DOG, WHAT HAPPENED TO EDWINA?
A. EDWINA WAS TRYING TO LEAVE OUT OF THE KITCHEN, AND HE SHOT HER IN THE HIP AND IN THE HAND.
Q. OKAY. AND WHERE DID -- WHEN HE -- DID HE LEAVE THE ROOM EVENTUALLY, THE KITCHEN - THE DEFENDANT? AFTER HE GOT DONE FIRING SHOTS, DID HE LEAVE?

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A. HE LEFT.
Q. UH-HUH.
A. AND HE COME BACK IN THE DOOR.
Q. UH-HUH.
A. AND HE SHOT SHORT DOG IN THE TOP OF HIS HEAD; I REMEMBER.
Q. OKAY. SO HE LEFT THE ROOM, CAME BACK, AND SHOT SHORT DOG IN THE HEAD?
A. UH-HUH.
Q. OKAY. AND WHERE WERE YOU THE ENTIRE TIME WHEN THIS WAS HAPPENING?
A. STILL SITTING IN A STATE OF SHOCK.
Q. IN A STATE OF SHOCK IN THAT SEAT?
A. UH-HUH.
Q. WERE YOU PAYING ATTENTION TO THAT MAN?
A. YES, MA'AM.
Q. AND WAS IT LIGHT OUT? DID YOU HAVE THE LIGHTS ON IN THERE?
A. THE LIGHT WAS ON.
Q. YOU HAD ELECTRICITY?
A. UH-HUH.
Q. OKAY. AND HOW BIG OF A ROOM IS THIS KITCHEN? BECAUSE THIS IS NOT TO SCALE ON THE MAP. COULD YOU ESTIMATE HOW MANY FEET WIDE AND WIDTH?
A. NO, MA'AM.

Q. OKAY. WELL, LET ME ASK YOU -- TELL ME TO STOP WHEN I GET FROM WHERE YOU WERE SEATED TO WHEN YOU FIRST NOTICED THE DEFENDANT COMING INTO THE KITCHEN AND BEGAN FIRING HIS GUN AT SHORT DOG. TELL ME TO STOP WHEN I GET TO THAT DISTANCE.

A. I'D SAY ABOUT RIGHT THERE.

MS. SHIPLEY: OKAY. YOUR HONOR, LET THE RECORD REFLECT THAT IT'S ABOUT 10 TO 12 FEET DISTANCE BETWEEN ME AND THE WITNESS.

THE COURT: OKAY.

BY MS. SHIPLEY:

Q. WAS THERE ANYTHING OBSTRUCTING YOUR VIEW OF THIS MAN'S FACE DURING THIS ALTERCATION?

A. NO, MA'AM.

Q. NOW, TELL JUDGE CHILDS: AFTER YOUR COUSIN GOT MURDERED, DID Y'ALL CALL THE POLICE?

A. YES, MA'AM, MY SISTER CALLED.

Q. YOUR SISTER CALLED? AND DID IT TAKE THE POLICE A LONG TIME TO GET TO YOUR HOUSE?

A. THEY GOT THERE IN I'D SAY ABOUT A GOOD FIVE OR SIX MINUTES.

Q. FIVE OR SIX MINUTES. SO THAT'S PRETTY QUICK, ISN'T IT?

A. UH-HUH.

Q. OKAY. WHEN THE POLICE ARRIVED, DID YOU GO UP TO THEM AND TELL THEM WHAT YOU KNEW?

A. YES, MA'AM.

Q. AND DID YOU GIVE THEM A DESCRIPTION OF THE SHOOTER?
A. YES, MA'AM.
Q. AND CAN YOU DESCRIBE -- TELL THE JUDGE WHAT DESCRIPTION YOU GAVE OF THE SHOOTER.
A. I TOLD THEM THAT HE HAD A BALD HEAD AND HE WAS LIGHT-SKINNED AND ABOUT A LITTLE TALLER THAN ME, AND HE WENT AND GOT IN HIS CAR AND HE GOT READY TO LEAVE.
Q. UH-HUH.
A. AND THEN AFTER THAT, HE GOT IN HIS CAR. AND WHEN HE GOT OUT, HE STARTED SHOOTING ANOTHER -- A DIFFERENT GUN.
Q. A DIFFERENT GUN OR AT A DIFFERENT HOUSE?
A. IT WAS AT A DIFFERENT HOUSE.
Q. A DIFFERENT HOUSE.
A. UH-HUH.
Q. OKAY. NOW, AT THAT POINT DID YOU TELL THE POLICE -- AFTER YOU GAVE THEM A DESCRIPTION OF THIS MAN, I BELIEVE IN YOUR STATEMENT YOU REFERRED TO HIM AS RED. IS THAT HOW YOU CALLED HIM?
A. RED.
Q. OKAY. DOES HE GO BY ANY OTHER NICKNAMES?
A. I DON'T KNOW. I DIDN'T KNOW. I JUST KNOW RED.
Q. OKAY. DID HE -- WHO IS THE -- WHO TOLD YOU HIS NICKNAME WAS RED?
A. NOBODY. I JUST -- JUST SHORT OF NAMED...
Q. OH, SO YOU NAMED HIM YOURSELF.

A. UH-HUH.
Q. YOU DECIDED TO CALL HIM RED?
A. YES, MA'AM.
Q. OKAY. SO HE DIDN'T TELL YOU HE GOES BY THAT NAME. YOU JUST MADE UP THE NAME FOR HIM.
A. YES, MA'AM.
Q. SORT OF LIKE A TERM OF ENDEARMENT?
A. YOU KNOW, SINCE HE'S, YOU KNOW, REAL LIGHT, THAT'S WHAT I JUST...
Q. OKAY.
A. UH-HUH.
Q. YOU GAVE THE POLICE A DESCRIPTION. DO YOU REMEMBER GOING TO GIVE A STATEMENT TO THE COLUMBIA POLICE DEPARTMENT HEADQUARTERS?
A. YES, MA'AM.
Q. AND DID YOU -- DID YOU RIDE WITH SOMEBODY TO GO TO THE COLUMBIA POLICE---
A. I RODE WITH AN INVESTIGATOR.
Q. INVESTIGATOR. OKAY.
A. AND AS WE WAS RIDING DOWN THE ROAD---
Q. AND LET ME STOP YOU THERE. DID YOU KNOW WHERE YOU WERE GOING TO WHEN YOU GOT IN THE CAR WITH THE INVESTIGATOR?
A. UH-HUH. I WAS GOING TO HEADQUARTERS.
Q. OKAY. AND DO YOU REMEMBER HIS NAME?
A. NO, MA'AM.

Q. OKAY. AND DID HE -- WHERE DID YOU SIT IN HIS CAR?
A. IN THE FRONT SEAT.
Q. OKAY. SO YOU'RE NOT A SUSPECT. YOU WERE IN THE FRONT SEAT OF HIS CAR?
A. UH-HUH.
Q. OKAY. AND YOU VOLUNTARILY WANTED TO GO AND TELL THEM WHAT YOU KNOW IN A WRITTEN STATEMENT?
A. YES, MA'AM.
Q. TELL JUDGE CHILDS APPROXIMATELY HOW MUCH TIME -- IF YOU DON'T REMEMBER, JUST SAY YOU DON'T REMEMBER. BUT HOW MUCH TIME PASSED BETWEEN THE TIME YOU SAW THE MAN SHOOT YOUR COUSIN AND THE TIME THAT YOU'RE RIDING DOWN THE STREET WITH THAT INVESTIGATOR?
A. ABOUT AN HOUR AND A HALF.
Q. OKAY. TELL JUDGE CHILDS WHAT HAPPENED WHILE Y'ALL WERE RIDING DOWN THE STREET. WHAT STREET WERE YOU ON, FIRST OF ALL?
A. ON NORTH MAIN.
Q. NORTH MAIN? TELL JUDGE CHILDS WHAT HAPPENED WHILE Y'ALL WERE DRIVING DOWN NORTH MAIN.
A. WE WERE RIDING DOWN NORTH MAIN, AND WE SEE HIM WALKING DOWN THE ROAD, AND TWO OTHER POLICE HAD JUST STOPPED HIM. AND I TOLD THE INVESTIGATOR -- I SAID, "THAT'S HIM RIGHT THERE." SO WE WENT DOWN, TURNED AROUND AND CAME BACK, AND HE HAD ME SAY, "ARE YOU SURE THAT'S HIM?" I SAID, "YEAH, THAT'S

HIM." AND ALL OF A SUDDEN THE INVESTIGATOR TOLD THE OTHER POLICE -- HE SAY, "WELL, THAT'S HIM RIGHT THERE. MY MAN SAID THAT'S HIM." AND SO WHEN THEY GOT HIM, THEY PULLED THE GUN OUT AND LAID IT ON THE BACK OF THE CAR.

Q. OKAY. SO YOU SAW THE POLICE -- THE INVESTIGATOR TELL THE OTHER POLICE OFFICERS THAT'S YOUR MAN.

A. YES, MA'AM.

Q. "THAT'S THE GUY."

A. YES, MA'AM.

Q. "MY MAN SAID THAT'S HIM."

A. YES, MA'AM.

Q. AND DID YOU WITNESS THE POLICE TAKE THE GUN OUT OF HIS POSSESSION?

A. YES, MA'AM.

Q. OKAY. NOW, WHEN YOU WERE RIDING DOWN STREET TO GO TO HEADQUARTERS, DID YOU KNOW THAT YOU WERE GOING TO RUN IN AND SEE THIS MAN ON THE STREET?

A. NO, MA'AM, I DIDN'T KNOW I WAS GOING TO SEE HIM, BUT WE DID SEE HIM.

Q. AND SURE ENOUGH YOU -- WAS IT YOU THAT YOU BROUGHT IT TO THE OFFICER'S ATTENTION THAT THAT WAS HIM?

A. YES, MA'AM, I BROUGHT IT TO HIS ATTENTION.

Q. OKAY. HE DIDN'T ASK YOU---

A. HE DIDN'T ASK ME NOTHING.

Q. ---ABOUT ANY---

COURT REPORTER: I'M SORRY. I CAN'T TAKE YOU BOTH AT THE SAME TIME.

BY MS. SHIPLEY:

Q. LET ME ASK -- LET ME ASK YOU THE QUESTION, AND THEN SHE'S GOT TO WRITE IT ALL DOWN.

A. OKAY.

Q. SO LET ME ASK FIRST. DID HE EVER TELL YOU THAT YOU WERE GOING TO GO LOOK AT A SUSPECT?

A. NO, MA'AM.

Q. YOU BROUGHT IT TO HIS ATTENTION?

A. YES, MA'AM.

Q. THAT THE PERSON THE POLICE HAD STOPPED WAS YOUR---

A. WAS HIM.

Q. ---MAN. WAS THE SHOOTER.

A. YES, MA'AM.

Q. AFTER YOU IDENTIFIED THE SHOOTER AND TOLD THE INVESTIGATOR THAT THAT WAS HIM, DID YOU THEN GO TO THE COLUMBIA POLICE DEPARTMENT TO GIVE YOUR STATEMENT?

A. YES, MA'AM.

Q. AND I'M GOING TO SHOW YOU A COPY OF THAT STATEMENT AND ASK YOU IF YOU RECOGNIZE IT. IS THAT IT?

A. YES, MA'AM.

Q. IS THAT YOUR HANDWRITING OR SIGNATURE AT THE BOTTOM?

A. YES, MA'AM.

Q. OKAY. AND TELL JUDGE CHILDS: WHAT TIME DID YOU GIVE

THIS STATEMENT?
A. AT 5.
Q. 12:45 P.M. OR A.M.?
A. OH, I THOUGHT THAT WAS A...
Q. OKAY. SO 12:45 A.M.---
A. UH-HUH.
Q. ---IS WHEN YOU GAVE THE STATEMENT.
A. YES, MA'AM.
Q. ALL RIGHT. AND THAT WOULD HAVE BEEN ABOUT -- IS IT TRUE THAT THAT WOULD BE ABOUT THREE HOURS AFTER THE SHOOTING?
A. YES, MA'AM.
Q. OKAY. WERE YOU ABSOLUTELY CERTAIN THAT THE PERSON YOU SAW ON THE STREET---
A. WAS THAT MAN.
Q. ---WAS THE SAME MAN?
A. WAS THAT MAN.
Q. IS THERE ANY DOUBT IN YOUR MIND IT'S THE SAME MAN?
A. AIN'T NO DOUBT IN MY MIND.
Q. AND AT THIS TIME I WOULD ASK YOU TO IDENTIFY THE MAN THAT SHOT AND KILLED YOUR COUSIN, SHORT DOG. PLEASE IDENTIFY HIM FOR THE JUDGE.
A. RIGHT THERE.
Q. OKAY. DESCRIBE WHAT COLOR SHIRT HE'S WEARING.
A. WHITE.
MS. SHIPLEY: OKAY. YOUR HONOR, PLEASE LET THE RECORD

REFLECT THAT THIS INDIVIDUAL, MR. SMITH, HAS IDENTIFIED THE DEFENDANT AS THE PERPETRATOR.

THE COURT: THE RECORD SHALL SO REFLECT IT.

MS. SHIPLEY: NO FURTHER QUESTIONS OF THIS WITNESS.

THE COURT: DEFENSE?

MS. DAVIS: THANK YOU, YOUR HONOR.

CROSS-EXAMINATION

BY MS. DAVIS:

Q. HOW ARE YOU DOING?

A. FINE.

Q. SO YOU DIDN'T KNOW JOEL ROBINSON; RIGHT?

A. NO, MA'AM.

Q. MET HIM FOR THE FIRST TIME THE DAY OF THIS INCIDENT?

A. YES, MA'AM.

Q. AND YOU SAID HE CAME BY THERE TWO TIMES EARLIER IN THE DAY?

A. YES, MA'AM.

Q. NEVER TOLD THE POLICE THAT, DID YOU?

A. I TOLD THE POLICE THAT HE'D BEEN THROUGH THERE LOOKING FOR HIM.

Q. ON THAT DAY?

A. ON THAT -- ON THAT SAME DAY HE GOT KILLED.

Q. OKAY. DID YOU PUT THAT IN YOUR STATEMENT?

A. YES, MA'AM.

Q. YOU PUT THAT IN YOUR WRITTEN STATEMENT?

A. IT'S IN THERE.
Q. OKAY. I THINK MS. SHIPLEY, THE SOLICITOR, JUST SHOWED YOU YOUR STATEMENT; RIGHT? YOUR HONOR, MAY I APPROACH?
THE COURT: YES, YOU MAY.
BY MS. DAVIS:
Q. THAT'S A COPY OF YOUR STATEMENT?
A. YES, MA'AM.
Q. WHERE IN THERE DOES IT SAY THAT JOEL ROBINSON CAME BY AT 9 AND AT 1:00 THAT DAY?
A. BUT HE CAME BY THERE.
Q. BUT IT'S NOT IN HERE, IS IT?
A. WELL, MA'AM, I'M GOING TO TELL YOU LIKE THIS HERE: I CAN'T READ. OKAY?
Q. YOU CAN'T READ.
A. NO, MA'AM.
Q. OKAY. DID THEY READ YOUR STATEMENT TO YOU THEN?
A. YES, MA'AM.
Q. OKAY. WELL, WOULD IT SURPRISE YOU THEN THAT IT'S NOT WRITTEN IN HERE THAT HE CAME BY TWO TIMES EARLIER THAT DAY?
A. MA'AM, I WOULDN'T KNOW IF IT'S IN THERE OR NOT BECAUSE I CAN'T READ.
Q. OKAY. SO YOU DON'T KNOW WHAT YOUR STATEMENT SAYS.
A. UNTIL YOU READ IT TO ME.
Q. OKAY. THE FIRST TIME YOU SAID HE CAME BY, YOU SAID YOU SAW HIM FOR ABOUT A SECOND? WHAT TIME -- WHAT'S THE FIRST

TIME HE CAME BY THAT DAY?
A. HE CAME BY ABOUT 9.
Q. OKAY. AND YOU SAID THAT LASTED ABOUT A SECOND?
A. ABOUT A SECOND OR TWO.
Q. OKAY. THE SECOND TIME HE CAME BY, YOU SAID IT WAS A LITTLE LONGER?
A. ABOUT FIVE MINUTES.
Q. NOW, WHEN YOU SAID THAT -- WHEN THE INCIDENT HAPPENED AND HE CAME IN THE DOOR, YOU WERE SITTING AT THE KITCHEN TABLE.
A. YES, MA'AM.
Q. THEY STARTED FIGHTING.
A. YES, MA'AM. THEY GOT IN A TUSSLE.
Q. FOR AWHILE. RIGHT?
A. FOR ABOUT FIVE OR SIX MINUTES.
Q. YEAH. AND YOU WERE SITTING THERE THE WHOLE TIME?
A. YES, MA'AM.
Q. DIDN'T GET UP?
A. NO, MA'AM.
Q. OKAY. YOU SAW A GUN?
A. YES, MA'AM.
Q. STILL SAT THERE.
A. I SURE DID.
Q. OKAY.
A. I WAS IN SHOCK.

Q. YEAH. DID YOU SEE THE GUN?
A. IF I'D HAVE MOVED, HE PROBABLY WOULD HAVE KILLED ME, TOO.
Q. DID YOU SEE THE GUN?
A. YES, MA'AM, AFTER HE -- AFTER HE PULLED IT.
Q. OKAY. COULD YOU DESCRIBE THE GUN?
A. IT WAS -- IT WAS -- IT HAD TO HAVE BEEN A LITTLE NINE MILLIMETER.
Q. OKAY. SO YOU -- WHEN THE SHOTS WERE FIRED, YOU STAYED SITTING?
A. YES, MA'AM.
Q. OKAY. WERE YOU WORRIED ABOUT SHORT?
A. YES, MA'AM. IT WAS TOO LATE THEN; THEY WAS FIGHTING.
Q. NO, BUT I MEAN, WHILE THEY WERE FIGHTING, WERE YOU WORRIED ABOUT SHORT?
A. I WAS IN A STATE OF SHOCK.
Q. OKAY. YOU WERE IN A STATE OF SHOCK.
A. YES, MA'AM.
Q. SO YOU WERE A LITTLE DISTRACTED.
A. YES, MA'AM.
Q. OKAY. SO YOU WEREN'T -- YOU WERE CONCERNED ABOUT YOUR OWN SAFETY AT THAT TIME.
A. YES, MA'AM. YOU WOULD HAVE BEEN, TOO.
Q. I AGREE WITH YOU.
A. OKAY.

Q. NOW, YOU SAID THAT YOU GAVE DESCRIPTION TO POLICE AT THE SCENE OF JOEL ROBINSON.
A. YES, MA'AM:
Q. DO YOU REMEMBER WHO YOU TALKED TO?
A. I DON'T KNOW THE NAME.
Q. DON'T KNOW HIM.
A. ALL I KNOW IS HE WAS A BLACK MAN THAT I WAS RIDING WITH.
Q. OKAY. AND YOU DON'T READ, SO YOU DON'T KNOW WHAT'S IN YOUR STATEMENT; RIGHT?
A. UNLESS YOU READ IT TO ME.
Q. RIGHT. WELL, DID YOU GIVE THEM A DESCRIPTION?
A. OF THAT MAN?
Q. YES.
A. YES, MA'AM.
Q. OKAY. AND THEN YOU SAID WHEN YOU RODE---
A. DOWN NORTH MAIN.
Q. YOU RODE WITH AN INVESTIGATOR FROM THIS INCIDENT LOCATION; RIGHT?
A. UH-HUH.
Q. YOU DIDN'T KNOW WHERE YOU WERE GOING?
A. YES, MA'AM.
Q. OKAY. WHERE WERE YOU GOING?
A. DOWN TO HEADQUARTERS.
Q. DOWN TO HEADQUARTERS. OKAY. AND WHEN YOU PASSED, YOU SAW PATROL CARS?

A. I SEEN TWO OF THEM, AND THEY HAD HIM.
Q. AT LEAST TWO OF THEM.
A. UH-HUH.
Q. SO THERE WERE SEVERAL OFFICERS OUT THERE, TOO?
A. THERE WAS ABOUT FOUR OR FIVE OFFICERS OUT THERE.
Q. FOUR OR FIVE OFFICERS? ALL IN UNIFORM?
A. UH-HUH.
Q. JOEL WAS -- HE WAS IN PLAIN CLOTHES; RIGHT?
A. UH-HUH.
Q. OKAY. YOU DIDN'T GIVE A DESCRIPTION OF WHAT HE WAS WEARING; RIGHT?
A. NO, MA'AM. I FORGOT WHAT HE WAS WEARING.
Q. DIDN'T KNOW. OKAY. FORGOT WHAT HE WAS WEARING?
A. YES, MA'AM.
Q. OKAY. YOU HADN'T GIVEN INVESTIGATOR -- THE PERSON YOU RODE TO HEADQUARTERS WITH, YOU ALL HADN'T STARTED TALKING YET. RIGHT?
A. NO, MA'AM.
Q. HE HADN'T ASKED YOU ANY QUESTIONS YET.
A. NO, MA'AM.
Q. YOU HADN'T GIVEN HIM A DESCRIPTION OF MR. ROBINSON.
A. MA'AM?
Q. YOU HADN'T GIVEN HIM A DESCRIPTION OF MR. ROBINSON.
A. ALL I DID IS TOLD HIM THAT HE HAD A BALD HEAD AND HE WAS LIGHT-SKINNED.

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Q. YOU TOLD INVESTIGATOR DOW THAT?
A. MA'AM?
Q. YOU TOLD HIM -- YOU TOLD THE OFFICER YOU WERE IN THE CAR WITH THAT?
A. YES, MA'AM.
Q. OKAY. WAS JOEL -- WHEN YOU PULLED UP AND ALL THE OFFICERS WERE OUT FRONT, WAS HE THE ONLY BLACK GUY THERE?
A. YES, MA'AM, BESIDES THE BLACK OFFICER THAT I WAS WITH.
Q. OTHER THAN INVESTIGATOR DOW THAT YOU WERE DRIVING WITH?
A. UH-HUH.
Q. OKAY. BEG THE COURT'S INDULGENCE. YOU DON'T KNOW JOEL ROBINSON; RIGHT? DIDN'T KNOW HIM THAT DAY.
A. NO, MA'AM.
Q. BUT YOU CALLED HIM RED?
A. THAT'S WHAT I CALLED HIM.
Q. YOU JUST MADE THAT UP?
A. I JUST -- BECAUSE HE WAS LIGHT-SKINNED AND I JUST CALLED HIM RED.
Q. OKAY. SO YOU DIDN'T KNOW HIM BY THAT NICKNAME.
A. HUH-UH.
Q. YOU DIDN'T KNOW HIM BY ANY OTHER NICKNAME.
A. HUH-UH.
Q. NO ONE ELSE HAD TOLD YOU WHO HE WAS.
A. NO, MA'AM.
Q. NO ONE ELSE HAD TOLD YOU A NICKNAME OF HIM.

A. NO, MA'AM.
Q. SO THAT'S JUST A -- KIND OF A RANDOM NAME YOU JUST MADE UP.
A. YES, MA'AM.
Q. DID YOU TELL THE INVESTIGATORS THAT?
A. YES, MA'AM.
Q. OKAY. ALL RIGHT. SO YOU CALLED JOEL RED; RIGHT?
A. YES, MA'AM.
Q. YOU SAW HIM OUTSIDE. DID YOU TELL SHORT DOG THAT?
A. I TOLD HIM SOMEBODY WAS LOOKING FOR HIM.
Q. DID YOU TELL HIM IT WAS RED?
A. YES, MA'AM.
Q. OKAY. SO YOU -- AND THAT WAS THE NIGHT OF THE INCIDENT, RIGHT, AT LIKE 9:00 THAT NIGHT?
A. YES, MA'AM.
Q. AND YOU WENT AND TOLD SHORT THAT RED WAS LOOKING FOR HIM.
A. YES, MA'AM.
Q. DID SHORT KNOW WHO THAT WAS?
A. NO, MA'AM. HE'D NEVER SEEN HIM A DAY IN HIS LIFE.
Q. HE DIDN'T RECOGNIZE THE NAME RED; RIGHT?
A. NO, MA'AM.
Q. OKAY. BECAUSE THAT WAS THE NAME YOU CALLED HIM.
A. YES, MA'AM.
MS. DAVIS: NOTHING FURTHER, YOUR HONOR.

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REDIRECT EXAMINATION

BY MS. SHIPLEY:

Q. JUST ONE FOLLOW-UP QUESTION. THE FACT THAT MR. ROBINSON WAS SURROUNDED BY FOUR OFFICERS, DID THAT MAKE YOU CHANGE YOUR OPINION OF WHETHER OR NOT THAT WAS THE MAN YOU SAW SHOOT SHORT DOG?

A. I KNOW THAT WAS HIM.

MS. SHIPLEY: OKAY. NO FURTHER QUESTIONS.

THE COURT: ANY FOLLOW-UP?

MS. DAVIS: NOTHING ELSE.

THE COURT: OKAY. ALL RIGHT, SIR. YOU CAN STEP DOWN.

MS. SHIPLEY: THE STATE CALLS LEVERN SMITH.

LEVERN SMITH, AFTER BEING DULY SWORN, TESTIFIED AS FOLLOWS IN CAMERA:

THE CLERK: PLEASE HAVE A SEAT. STATE YOUR FULL NAME FOR THE RECORD.

DIRECT EXAMINATION

BY MS. SHIPLEY:

Q. MR. SMITH, CAN YOU TELL -- ARE YOU COUSINS WITH JEFF SMITH?

A. YES, MA'AM.

Q. OKAY. WERE YOU LIVING WITH JEFF ON FEBRUARY 15TH, 2007?

A. YES, MA'AM.

Q. AND DID YOU -- ALSO WERE YOU COUSINS WITH THOMAS LEE SMITH, SHORT DOG?

A. YES, MA'AM.
Q. HAD YOU EVER SEEN THAT MAN BEFORE THAT DAY?
A. NO, MA'AM.
Q. CAN YOU TELL JUDGE CHILDS WHAT YOU WERE DOING THE NIGHT AT YOUR TRAILER WHEN SHORT DOG WAS KILLED?
A. I WAS SITTING IN THE TRAILER ON THE COUCH WATCHING T.V.
Q. OKAY. AND I'M GOING TO STOP YOU ONE SECOND. HAVE YOU HAD A CHANCE TO REVIEW THIS DIAGRAM WITH ME?
A. YES, MA'AM.
Q. OKAY. IS IT -- IS IT AN ACCURATE LAYOUT OF HOW YOUR TRAILER LOOKED?
A. YES, MA'AM.
Q. OKAY. USING THIS POINTER, I'M GOING TO BRING YOUR ATTENTION TO THE -- YOU SAID YOU WERE SITTING ON THE SOFA BY THE FRONT DOOR?
A. YES, MA'AM.
Q. OKAY. JUST TO ORIENT YOU, NUMBER 10 IS THE FRONT DOOR. IS THAT THE SOFA ON THE LEFT THAT WAS YOUR FRONT DOOR?
A. YES, MA'AM.
Q. OKAY. POINT WHERE ON THAT SOFA YOU WERE SEATED WHEN YOU NOTICED SOMEONE COME IN.
A. RIGHT HERE.
Q. OKAY. ON THE LEFT SIDE OF THE SOFA?
A. YEAH.
Q. NOW, TELL JUDGE CHILDS WHAT HAPPENED, WHAT HAPPENED THAT

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BROUGHT YOUR ATTENTION TO SOMETHING THAT NIGHT.

A. ALL OF A SUDDEN HE WALKED INSIDE THE DOOR, WENT TOWARDS THE KITCHEN, PULLED OUT... SHORT TRIED TO TACKLE HIM AND HE STARTED SHOOTING UP---

COURT REPORTER: I'M NOT UNDERSTANDING HIM.

BY MS. SHIPLEY:

Q. OKAY. LET'S SPEAK UP A LITTLE BIT SO SHE CAN HEAR YOU AND... ALL RIGHT. SO YOU WERE SITTING ON THE SOFA.

A. YES.

Q. AND YOU SAW A MAN WALK IN?

A. WALKED IN.

Q. OKAY. TELL ME A LITTLE BIT ABOUT WHAT THIS MAN LOOKED LIKE.

A. LIGHT-SKINNED, A LITTLE TALLER THAN ME.

Q. A LITTLE TALLER THAN YOU? HOW TALL ARE YOU?

A. FIVE EIGHT AND A HALF.

Q. OKAY. I'M GOING TO ASK YOU TO STAND UP WHERE YOU ARE AND SHOW JUDGE CHILDS HOW MUCH TALLER HE WAS THAN YOU.

A. ABOUT LIKE THIS.

Q. OKAY. A COUPLE OF INCHES TALLER THAN YOU? SO YOU'RE FIVE EIGHT.

A. FIVE EIGHT AND A HALF.

Q. OKAY. FIVE EIGHT AND A HALF. NOW -- AND YOU SAID HE WAS LIGHT-SKINNED?

A. UH-HUH.

Q. DESCRIBE WHAT HIS HAIR LOOKED LIKE.
A. HE DIDN'T HAVE NO HAIR.
Q. NO HAIR?
A. (WITNESS NODDED HEAD UP AND DOWN.)
Q. WAS HE BALD?
A. BALL HEAD.
Q. OKAY. TELL JUDGE CHILDS: DID HE HAVE ANYTHING IN HIS HANDS?
A. NOT WHEN HE FIRST WALKED IN. AS HE GOT TOWARDS THE KITCHEN...
Q. OKAY. WHAT DID YOU SEE HIM DO WHEN HE GOT TOWARDS THE KITCHEN?
A. WALKED STRAIGHT TO SHORT DOG.
Q. HE WALKED STRAIGHT TO SHORT DOG?
A. (WITNESS NODDED HEAD UP AND DOWN.)
Q. AND WHAT HAPPENED NEXT?
A. SHORT STARTED TUSSLING AND THEN HE STARTED SHOOTING.
Q. AND DID YOU SEE HIM WITH THE GUN?
A. AFTER HE PULLED IT OUT, YES.
Q. WHEN DID HE PULL IT OUT?
A. WHEN HE GOT CLOSE TO SHORT.
Q. WHEN HE GOT CLOSE TO SHORT. AND SO SHORT DOG TRIED TO TAKE THE GUN AWAY FROM HIM?
A. YEAH.
Q. DID SHORT DOG EVER GET A -- HAVE A CHANCE OF GETTING

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THAT GUN AWAY FROM HIM?
A. NO.
Q. AND TELL THE JUDGE CHILDS SLOWLY WHAT HAPPENED NEXT IN THE KITCHEN.
A. AFTER HE SHOT HIM?
Q. HOW MANY TIMES DID YOU SEE HIM SHOOT HIM?
A. HE SHOT HIM SEVERAL TIMES.
Q. SEVERAL TIMES?
A. (WITNESS NODDED HEAD UP AND DOWN.)
Q. AND WHAT HAPPENED AFTER HE SHOT SHORT DOG?
A. SHORT HIT THE FLOOR.
Q. YOU SAW SHORT HIT THE FLOOR?
A. YEAH, I WAS LOOKING AT HIM.
Q. OKAY. AND WHAT HAPPENED AFTER SHORT HIT THE FLOOR?
A. HE STARTED WALKING OUT TOWARDS THE DOOR. HE TURNED BACK AROUND AND SHOT HIM A COUPLE MORE TIMES, I BELIEVE.
Q. ALL RIGHT. SO YOU SAW HIM, THE SHOOTER, COME BACK AND GO TOWARDS THE DOOR AND THEN TURN AROUND AND GO BACK AND SHOOT HIM TWICE OR TWO MORE -- OR MORE TIMES?
A. YEAH.
Q. HOW MANY TIMES DID YOU SEE HIM SHOOT WHEN HE RETURNED?
A. I'M NOT SURE. I KNOW MORE THAN ONCE.
Q. MORE THAN ONCE? DID YOU SEE WHAT PART OF SHORT'S BODY HE SHOT?
A. NO, MA'AM, I WASN'T PAYING NO...

Q. YOU WEREN'T PAYING THAT... NOW, DID YOU HAVE ANY PROBLEM LOOKING FROM THIS SEAT INTO THE KITCHEN?
A. OH, NO.
Q. WAS ANYTHING BLOCKING YOUR VIEW?
A. NO.
Q. THE DOOR -- FRONT DOOR WAS NOT IN YOUR WAY?
A. NOTHING WAS IN MY WAY.
Q. OKAY. DESCRIBE THE LIGHTING CONDITIONS INSIDE THE TRAILER. DID Y'ALL HAVE POWER ON?
A. YEAH.
Q. WAS THE LIGHTS ON?
A. YEAH, I COULD SEE HIM REAL GOOD.
Q. OKAY. DID YOU HAVE ANY PROBLEM SEEING HIS FACE?
A. NO.
Q. AND HAD YOU EVER SEEN HIM BEFORE?
A. NO.
Q. ALL RIGHT. HOW LONG DO YOU THINK IT WAS THAT HE WAS IN THE KITCHEN SHOOTING SHORT DOG?
A. I DON'T HAVE NO IDEA.
Q. YOU DON'T HAVE ANY IDEA?
A. (WITNESS SHOOK HEAD FROM SIDE TO SIDE.)
Q. WAS IT MORE THAN A MINUTE?
A. YEAH, IT WAS MORE THAN A MINUTE.
Q. MORE THAN A MINUTE? WERE YOU PAYING ATTENTION TO WHAT HE WAS DOING?

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A. YEAH, I WAS LOOKING AT HIM.
Q. YOU WERE LOOKING AT HIM? AND DID YOU EVER LEAVE THIS SEAT---
A. NO.
Q. ---DURING THE SHOOTING?
A. NO.
Q. WHY DID YOU NOT LEAVE THAT SEAT DURING THE SHOOTING?
A. SCARED, THOUGHT I WAS---
Q. SCARED? AND WHEN HE TURNED AROUND, COULD YOU SEE HIS FACE WHEN HE TURNED AROUND TO LEAVE BEFORE HE CAME BACK AND SHOT HIM TWO---
A. YEAH.
Q. ---MORE TIMES?
A. YEAH.
Q. OKAY. SO YOU SAW HIM COME IN. YOU SAW HIM IN THE KITCHEN SHOOTING. HOW MANY FEET IS IT FROM YOUR SOFA TO WHERE THE STRUGGLE AND THE SHOOTING OCCURRED?
A. FROM THE SOFA TO THE KITCHEN?
Q. YEAH. AND WHY DON'T YOU DO THIS? YOU STOP ME WHEN I'M AS FAR AWAY FROM YOU... ALL RIGHT. PRETEND YOU'RE ON THAT SOFA. YOU TELL ME TO STOP WHEN I GET AS FAR AWAY FROM WHERE HE WAS.
A. ABOUT RIGHT THERE.
Q. ABOUT RIGHT THERE? YOUR HONOR, LET THE RECORD REFLECT THAT IT'S ABOUT 20 FEET AWAY WHERE I'M STANDING FROM THIS

WITNESS---
A. APPROXIMATELY.
Q. ---APPROXIMATELY.
THE COURT: OKAY.
BY MS. SHIPLEY:
Q. DID YOU GO TALK TO THE POLICE THAT NIGHT AFTER SHORT DOG WAS MURDERED?
A. AFTER THEY TOOK ME DOWN TO THE HEADQUARTERS.
Q. THEY TOOK YOU TO HEADQUARTERS? AND WHILE YOU WERE AT HEADQUARTERS, DID YOU REMEMBER GIVING THEM A WRITTEN STATEMENT?
A. YES.
Q. OKAY. CAN YOU READ AND WRITE?
A. A LITTLE BIT.
Q. A LITTLE BIT? I'M GOING TO SHOW YOU A DOCUMENT AND ASK YOU IF YOU RECOGNIZE THIS. WHAT IS THAT?
A. THAT'S ME. THAT'S---
Q. DO YOU SEE YOUR SIGNATURE ON IT?
A. YES, MA'AM.
Q. IS THAT YOUR WRITTEN STATEMENT?
A. YES.
Q. OKAY. AND CAN YOU READ THAT TIME THAT YOU GAVE THE STATEMENT?
A. 23:53.
Q. 23:53. SO 11:53 P.M. ON FEBRUARY 15TH, 2007?

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A. YEAH.
Q. OKAY. AND HOW LONG IS YOUR STATEMENT? HOW MANY PAGES?
A. TWO.
Q. TWO? OKAY. AND DID YOU GIVE A DESCRIPTION OF THE SHOOTER TO THE INVESTIGATOR IN THIS STATEMENT?
A. YES, I DID.
Q. YOU DID?
A. (WITNESS NODDED HEAD UP AND DOWN.)
Q. OKAY. AND DID YOU ALSO GIVE THE DESCRIPTION TO THE OFFICERS THAT FIRST SHOWED UP ON THE SCENE?
A. THEY HAD ME IN HANDCUFFS, THOUGHT I'D DONE IT.
Q. OH, THEY HAD YOU IN HANDCUFFS, THOUGHT YOU HAD DONE IT? OKAY. TELL JUDGE CHILDS WHERE YOU WERE SEATED WHEN THE POLICE CAME.
A. STILL IN THE CHAIR.
Q. STILL SITTING IN THE CHAIR?
A. (WITNESS NODDED HEAD UP AND DOWN.)
Q. OKAY. AND HAD YOU -- AFTER THE SHOOTER LEFT THE HOUSE, DID YOU GO HIDE ANYWHERE?
A. I WENT AND HIDE IN THE CLOSET BECAUSE MY COUSIN (UNINTELLIGIBLE WORDS SPOKEN).
Q. OKAY. AND HOW LONG DID YOU HIDE IN THE CLOSET?
A. UNTIL THEY LEFT. UNTIL HE LEFT.
Q. OKAY. AND WHY DID YOU HIDE IN THE CLOSET?
A. SCARED HE MIGHT GET ME.

Q. OKAY. AND SO WHAT MADE YOU COME OUT OF THE CLOSET?
A. I FIGURED THAT HE WAS GONE.
Q. OKAY. AND WHAT HAPPENED WHEN YOU GOT INTO THE LIVING ROOM? DID YOU EVER GET A CHANCE TO LEAVE YOUR TRAILER BEFORE THE POLICE SHOWED UP?
A. NO.
Q. SO YOU WERE STILL STUCK HIDING INSIDE THE TRAILER WHEN THE POLICE SHOWED UP.
A. NO, I WAS BACK ON THE COUCH THEN AND---
Q. YOU WERE SITTING ON THE COUCH, AND SO THE POLICE CAME IN AND THOUGHT YOU MIGHT HAVE DONE IT.
A. YEAH.
Q. AND WHAT DID THEY DO WITH YOU?
A. PUT ME IN HANDCUFFS, PUT ME IN THE POLICE CAR.
Q. OKAY. AND EVENTUALLY DID THEY LET YOU -- GET YOU OUT OF YOUR HANDCUFFS?
A. YES, THEY DID.
Q. OKAY. AND DID THEY CLEAR EVERYTHING UP---
A. YEAH.
Q. ---WITH YOU?
A. (WITNESS NODDED HEAD UP AND DOWN.)
Q. OKAY. DID YOU VOLUNTARILY GO TO HEADQUARTERS TO GIVE YOUR STATEMENT?
A. YEAH.
Q. AND WHEN YOU GOT TO THE HEADQUARTERS -- AFTER YOU GAVE

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YOUR STATEMENT, DO YOU REMEMBER THE INVESTIGATOR? AND I BELIEVE IT'S THE -- INVESTIGATOR WAYNE MONTGOMERY. IF YOU COULD STAND, INVESTIGATOR MONTGOMERY. DO YOU RECOGNIZE THAT MAN?

A. I DON'T.

Q. YOU DON'T?

A. THAT WAS TWO YEARS AGO.

Q. IT'S BEEN AWHILE. I'M GOING TO SHOW YOU SOME PICTURES AND ASK YOU IF YOU RECOGNIZE THE STATE'S NUMBER 1. DO YOU RECOGNIZE THESE PICTURES?

A. YES, MA'AM.

Q. OKAY. DO YOU REMEMBER AN INVESTIGATOR WITH THE COLUMBIA POLICE DEPARTMENT SHOWING YOU THESE PICTURES?

A. YES, MA'AM.

Q. OKAY. WHEN HE SHOWED YOU THESE PICTURES, WHAT DID HE ASK YOU TO DO?

A. TO POINT OUT THE SHOOTER.

Q. POINT OUT THE SHOOTER?

A. (WITNESS NODDED HEAD UP AND DOWN.)

Q. AND DID HE SUGGEST TO YOU IN ANY MANNER WHICH PERSON TO PICK OUT?

A. NO. HUH-UH.

Q. AND WHO DID YOU PICK OUT?

A. I PICKED HIM.

Q. OKAY. AND WHAT NUMBER IS UNDERNEATH HIS PHOTO?

A. 48860.
Q. OKAY. 48860. AM I POINTING AT THE CORRECT PHOTOGRAPH OF THE SUSPECT?
A. YES, MA'AM.
MS. SHIPLEY: OKAY. MAY I APPROACH, YOUR HONOR?
THE COURT: YES.
MS. SHIPLEY: YOUR HONOR, LET THE RECORD REFLECT THAT PHOTOGRAPH 48860 IS A PICTURE OF JOEL ROBINSON.
THE COURT: OKAY. SO REFLECTED.
BY MS. SHIPLEY:
Q. HOW LONG DID IT TAKE YOU TO IDENTIFY THAT MAN AS THE PERPETRATOR, AS THE SHOOTER?
A. AS SOON AS I -- AS SOON AS I SEEN THIS PHOTO.
Q. AS SOON AS YOU SAW HIM? IMMEDIATELY?
A. UH-HUH.
Q. AND HOW -- HOW CERTAIN ARE YOU IT'S THE SAME MAN THAT YOU SAW SHOOT SHORT DOG?
A. I'M VERY SURE. A HUNDRED PERCENT SURE.
Q. A HUNDRED PERCENT SURE? OKAY. AFTER YOU IDENTIFIED THE SHOOTER IN THE PHOTO LINE-UP, DID YOU THEN -- WERE YOU ASKED TO SIGN AN AFFIDAVIT SAYING THAT'S WHO YOU PICKED OUT?
A. YES, MA'AM.
Q. AND IS THAT STATE'S EXHIBIT NUMBER 2? IS THAT WHAT YOU SIGNED?
A. UH-HUH.

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Q. YES?
A. YES, THAT'S MY SIGNATURE.
Q. THAT'S YOUR SIGNATURE?
A. YES.
Q. OKAY. AND, AGAIN, THE PHOTOGRAPH THAT YOU PUT IN THIS AFFIDAVIT THAT YOU IDENTIFIED IS WHAT?
A. 48860.
Q. THE SAME NUMBER AS THIS PHOTO.
A. YES, MA'AM.
Q. OKAY. THE PERSON THAT YOU WITNESSED SHOOT SHORT DOG, DO YOU SEE HIM IN THE COURTROOM TODAY?
A. YES, MA'AM.
Q. CAN YOU PLEASE POINT HIM OUT FOR JUDGE CHILDS?
A. RIGHT THERE IN THE WHITE SHIRT.

MS. SHIPLEY: THANK YOU. YOUR HONOR, PLEASE LET THE RECORD REFLECT HE'S IDENTIFIED THE DEFENDANT.

THE COURT: THANK YOU. IT DOES.

MS. SHIPLEY: I HAVE NO FURTHER QUESTIONS, YOUR HONOR.

THE COURT: YOU MAY CROSS.

MS. DAVIS: THANK YOU, YOUR HONOR.

CROSS-EXAMINATION

BY MS. DAVIS:

Q. HOW ARE YOU DOING, LEVERN?
A. ALL RIGHT. HOW ARE YOU DOING?
Q. YOU'D NEVER SEEN JOEL BEFORE THAT NIGHT?

A. NO, MA'AM.
Q. NEVER IN YOUR LIFE?
A. NO.
Q. EVER PASSED HIM ON THE STREET?
A. NO.
Q. IT'S THE ONLY TIME YOU HAD EVER ENCOUNTERED HIM.
A. (WITNESS NODDED HEAD UP AND DOWN.)
Q. THE FIRST TIME YOU SAW HIM THAT NIGHT THEN THERE WAS A LOT GOING ON; RIGHT?
A. MA'AM?
Q. THERE WAS A LOT GOING ON IN THAT APARTMENT; RIGHT?
A. I DON'T HAVE---
Q. IN THE TRAILER?
A. I DON'T HAVE NO IDEA.
Q. YOU DON'T KNOW WHAT WAS GOING ON?
A. NO. I WAS WATCHING T.V.
Q. OKAY. BUT WHEN HE CAME IN THE HOUSE -- YOU'RE SAYING HE CAME IN THE HOUSE. THEN A LOT WAS GOING ON; RIGHT?
A. WHAT DO YOU MEAN?
Q. THERE WAS A FIGHT?
A. AFTER HE COME IN, WALKED IN, COME TOWARDS THE KITCHEN, HE TRIED TO -- SHORT DOG TRIED TO TUSSLE FOR HIS GUN, AND HE JUST STARTED SHOOTING.
Q. RIGHT. SO THERE WAS A STRUGGLE GOING ON; RIGHT?
A. A LITTLE BIT. NOT MUCH.

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Q. SHOTS STARTED GETTING FIRED?
A. YES, MA'AM.
Q. DID YOU KEEP WATCHING T.V. THEN?
A. NO, I LOOKED BACK.
Q. YOU WERE LOOKING BACK? DID YOU WATCH THE WHOLE TIME OR WERE YOU LOOKING KIND OF BACK AND FORTH?
A. I WATCHED THE WHOLE TIME. I DIDN'T EVEN MOVE.
Q. SO YOU WATCHED THEM THE WHOLE TIME?
A. YEAH.
Q. OKAY. SITTING ON THE COUCH?
A. (WITNESS NODDED HEAD UP AND DOWN.)
Q. WAS HE -- WAS HE FACING YOU AT THAT TIME?
A. NO, HE WALKED STRAIGHT ON IN THE KITCHEN.
Q. SO HIS BACK WAS TO YOU.
A. WELL, I SEEN HIM WHEN HE CAME INSIDE THE DOOR.
Q. OKAY. SO HE WALKED BY, BUT HE WENT QUICKLY; RIGHT? YOU SAY HE WENT QUICKLY INTO THE---
A. IT WASN'T THAT QUICK.
Q. SO HE JUST KIND OF SAUNTERED IN THE DOOR?
A. HE WALKED IN LIKE A NORMAL WALK.
Q. ALL RIGHT. SO LIKE A NORMAL PACE.
A. YEAH.
Q. JUST KIND OF HANGING OUT; RIGHT?
A. YEAH.
Q. OKAY. AND THEN HE WENT -- BUT HE WENT TO THE KITCHEN;

RIGHT?
A. (WITNESS NODDED HEAD UP AND DOWN.)
Q. SO HOW LONG WOULD YOU SAY YOU SAW HIM IF HE WENT RIGHT TO THE KITCHEN? IT'S NOT THAT BIG.
A. MA'AM?
Q. IT'S NOT VERY -- IT'S NOT A FAR DISTANCE FROM THE COUCH---
A. NO.
Q. ---IN THE LIVING ROOM TO THE KITCHEN; RIGHT?
A. HE WENT IN THE KITCHEN.
Q. ALL RIGHT. SO IT WAS PRETTY QUICK.
A. YEAH, YOU COULD SAY THAT.
Q. OKAY. SO THE AMOUNT OF TIME YOU SAW HIM WOULD HAVE BEEN KIND OF SHORT.
A. YES, MA'AM.
Q. OKAY. AND YOU'D NEVER SEEN HIM BEFORE THIS; RIGHT?
A. THAT'S RIGHT.
Q. OKAY. AFTER THE SHOOTING, HE GOT OUT OF THERE PRETTY FAST?
A. YEAH. WHEN HE GOT TO THE DOOR, HE TURNED BACK AROUND.
Q. OKAY. BUT WHEN HE LEFT, HE LEFT QUICK.
A. (WITNESS NODDED HEAD UP AND DOWN.)
Q. HE DIDN'T WALK I -- HE DIDN'T WALK OUT REAL SLOW, DID HE?
A. NO.

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Q. OKAY. YOU EVENTUALLY WENT TO HEADQUARTERS WITH THE INVESTIGATOR?
A. YEAH.
Q. YOU GAVE A STATEMENT?
A. YES.
Q. AND THE ONLY THING YOU COULD TELL HIM -- TOLD THEM WAS THAT HE WAS LIGHT-SKINNED?
A. YEAH.
Q. HAD A BALD HEAD?
A. YEAH.
Q. AND WAS A LITTLE BIT TALLER THAN YOU.
A. YEAH.
Q. YOU SAID YOU DIDN'T REMEMBER ANYTHING ELSE.
A. NO.
Q. SO YOU DIDN'T SEE HIS CLOTHES?
A. NO, MA'AM.
Q. COULDN'T TELL -- COULDN'T REALLY DESCRIBE HIS FACE.
A. I SEEN HIS FACE.
Q. YOU COULDN'T GIVE A DESCRIPTION THOUGH; RIGHT?
A. NO.
Q. SO YOU KIND OF GAVE THEM SOME VAGUE, VAGUE DESCRIPTION.
A. NO, I SEEN HIS FACE.
Q. RIGHT. BUT, I MEAN, WHAT YOU TOLD THE POLICE WAS THAT HE WAS BALD; RIGHT?
A. YEAH.

Q. LIGHT-SKINNED?
A. YEAH.
Q. A LITTLE TALLER THAN YOU.
A. (WITNESS NODDED HEAD UP AND DOWN.)
MS. DAVIS: ALL RIGHT. MAY I APPROACH, YOUR HONOR?
THE COURT: YES, YOU MAY.
BY MS. DAVIS:
Q. THIS IS THE LINE-UP THEY SHOWED YOU; RIGHT?
A. YES, MA'AM.
Q. ALL RIGHT. DO YOU RECOGNIZE THAT?
A. YES, MA'AM.
Q. ALL RIGHT. WOULD YOU AGREE WITH ME THAT THE PICTURE OF JOEL ROBINSON -- HE'S PROBABLY THE LIGHTEST SKINNED PERSON IN THAT PICTURE; RIGHT?
A. YEAH.
Q. COMPARED TO THE REST OF THEM. THEY'RE ALL PRETTY DARK-SKINNED; RIGHT?
A. YEAH.
Q. THAT WAS ONE OF THE BIG THINGS YOU USED TO DESCRIBE HIM WAS---
A. NO, THAT'S WHEN I FIRST SEEN HIM. WHEN THEY FIRST SHOWED IT TO ME, I GUESSED AT THAT ONE RIGHT THERE.
Q. BUT WHEN YOU DESCRIBED HIM, A BIG FACTOR IN DESCRIBING HIM WAS THAT HE WAS LIGHT-SKINNED. THAT STUCK OUT IN YOUR MIND; RIGHT?

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A. NO, I HAD SEEN HIM.
Q. RIGHT. AND SO YOU WERE TRYING TO TELL THE POLICE WHAT HE LOOKED LIKE SO THEY COULD APPREHEND HIM.
A. NO. AS SOON AS THEY SHOWED ME THE PHOTO, I KNOW THAT WAS HIM.
Q. I UNDERSTAND THAT. THAT'S NOT WHAT I'M ASKING YOU THOUGH.
A. RIGHT.
Q. I'M SAYING WHEN YOU GAVE A DESCRIPTION TO THE POLICE SO THAT THEY COULD TRY TO FIND THIS PERSON, ONE OF THE THINGS THAT WAS HELPFUL TO YOU WAS THAT HE WAS LIGHT-SKINNED.
A. YES, MA'AM.
Q. OKAY. AND YOU JUST AGREED THAT HE'S THE MOST LIGHT-SKINNED IN THAT PICTURE; RIGHT?
A. (WITNESS NODDED HEAD UP AND DOWN.)
Q. SO EVERYBODY ELSE HAS DARKER SKIN THAN HIM IN THAT PHOTOGRAPH OR IN THAT LINE-UP.
A. (WITNESS NODDED HEAD UP AND DOWN.)
Q. OKAY. WHEN YOU WENT TO HEADQUARTERS THAT NIGHT, DID YOU SEE JEFFREY DOWN THERE?
A. NO.
Q. YOUR COUSIN JEFFREY WASN'T DOWN THERE?
A. WE WASN'T IN THE SAME ROOM.
Q. OKAY. DID YOU SEE HIM IN THE BUILDING THOUGH?
A. NO, NOT AT THAT TIME. NO.

Q. SO YOU WERE BY YOURSELF?

A. YEAH.

MS. DAVIS: OKAY. I'VE GOT NOTHING FURTHER, YOUR HONOR.

THE COURT: OKAY.

MS. SHIPLEY: JUST A FOLLOW-UP QUESTION, YOUR HONOR.

REDIRECT EXAMINATION

BY MS. SHIPLEY:

Q. GOING BACK TO THE PHOTOGRAPHIC LINE-UP, STATE'S NUMBER 1 FOR IDENTIFICATION PURPOSES, THE FACT -- YOU BELIEVE THAT THIS PHOTOGRAPH OF THE SUSPECT, JOEL ROBINSON, THE DEFENDANT, IS LIGHTER THAN THIS MAN RIGHT HERE?

A. A LITTLE BIT.

Q. A LITTLE BIT? HOW MUCH?

A. NOT MUCH.

Q. NOT MUCH? HOW ABOUT IN THE PICTURE BELOW THE TOP LEFT PHOTOGRAPH, THE MAN RIGHT HERE? I'M POINTING TO PHOTO 34216. HOW MUCH LIGHTER IS THAT MAN THAN THE PICTURE OF MR. ROBINSON?

A. KIND OF CLOSE.

Q. CLOSE? OKAY. AND SO THE FACT THAT MR. ROBINSON HAS LIGHT SKIN IN THIS PHOTOGRAPH, IS THAT WHY YOU PICKED HIM OUT OR WHY DID YOU PICK HIM OUT?

A. THAT'S NOT WHY I PICKED HIM OUT.

Q. WHY DID YOU PICK HIM OUT?

A. BECAUSE I KNOWED THAT WAS HIM.

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Q. THAT WAS HIM. MAY I APPROACH THE BENCH, YOUR HONOR?

THE COURT: YES, MA'AM.

MS. SHIPLEY: JUST TO SHOW YOU THE PHOTOS I WAS REFERRING TO, THIS ONE AND THIS ONE, AND THAT'S THE DEFENDANT, BUT I WAS REFERRING TO THESE TWO IN THAT LINE-UP OF QUESTIONING WITH THIS WITNESS.

THE COURT: OKAY.

MS. SHIPLEY: NO FURTHER QUESTIONS, YOUR HONOR.

MS. DAVIS: NOTHING FURTHER.

THE COURT: OKAY, SIR. YOU CAN STEP DOWN.

MS. SHIPLEY: MAY I GET THAT LINE-UP BACK FOR THE NEXT WITNESS?

THE COURT: YOU SURE MAY.

MS. SHIPLEY: THANK YOU.

MR. ROSE: THE STATE CALLS INVESTIGATOR WALT BALES.

WALTER BALES, AFTER BEING DULY SWORN, TESTIFIED AS FOLLOWS IN CAMERA:

THE CLERK: PLEASE HAVE A SEAT. STATE YOUR FULL NAME.

THE WITNESS: MY NAME IS WALTER BALES.

DIRECT EXAMINATION

BY MR. ROSE:

Q. INVESTIGATOR BALES, WERE YOU INVOLVED IN THE INVESTIGATION OF A MURDER OF THE NIGHT OF FEBRUARY 15TH, 2007?

A. YES, SIR, I WAS.

Q. AND WHAT WAS YOUR INVOLVEMENT AS IT RELATES TO A PHOTO LINE-UP?
A. I DEVELOPED A PHOTO LINE-UP OF THE DEFENDANT AND SHOWED IT---
Q. AND HOW DID---
A. ---TO A WITNESS.
Q. AND HOW DID YOU DEVELOP THAT PHOTO LINE-UP?
A. I OBTAINED THE DEFENDANT'S NAME AND RAN IT THROUGH THE ALVIN S. GLENN DATABASE. THERE WAS A PICTURE OF HIM THERE. I TOOK THAT PICTURE, AND THEN I ADDED TO THE LINE-UP FIVE OTHER PEOPLE THAT LOOKED SIMILAR.
Q. AND I SHOW YOU STATE'S EXHIBIT NUMBER 1. DO YOU RECOGNIZE THAT?
A. YES, SIR. THAT'S THE LINE-UP.
Q. THAT'S THE LINE-UP? AND DID YOU HAVE OCCASION TO SHOW THAT LINE-UP TO ANYONE THAT NIGHT?
A. I DID.
Q. AND WHO WAS THAT?
A. I BELIEVE I SHOWED IT TO SHONDA MOFFETT.
Q. SHONDA MOFFETT. AND WHO WAS PRESENT WHEN YOU SHOWED IT TO MS. MOFFETT?
A. CHRIS WHITE, ANOTHER -- WELL, HE WAS A SERGEANT.
Q. WERE THERE ANY OTHER LAY WITNESSES---
A. NO.
Q. ---IN THE ROOM THAT NIGHT WHEN YOU SHOWED THE LINE-UP?

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A. NO, THERE WEREN'T.
Q. THERE WEREN'T? AND WHAT IS YOUR PROCEDURE FOR SHOWING THE PHOTO LINE-UP?
A. WHEN I SHOW A LINE-UP, I WILL PRESENT THE LINE-UP AND EXPLAIN THAT THERE'S SIX PICTURES ON THE LINE-UP. I WILL ASK THE PERSON TO LOOK AT THE LINE-UP, LOOK AT EVERY PICTURE. IF THEY SEE SOMEBODY INVOLVED IN THE CRIME WE'RE INVESTIGATING, I ASK THEM TO IDENTIFY THAT PERSON BY POINTING THEM OUT, AND I ALSO EXPLAIN TO THEM THAT JUST BECAUSE I'M SHOWING THEM A LINE-UP, THAT DOES NOT MEAN THAT THE PERSON COMMITTING THE CRIME IS IN THERE, THAT THEY COULD LOOK AT THE LINE-UP, AND THERE MIGHT BE NOBODY IN THERE THEY RECOGNIZE, AND IF THEY DON'T, THEY CAN TELL ME.
Q. AND DID MS. MOFFETT RECOGNIZE ANYONE?
A. YES, SHE DID.
Q. AND IF I SHOW YOU STATE'S EXHIBIT NUMBER 1 AGAIN, COULD YOU PLEASE TELL JUDGE CHILDS WHICH PICTURE MS. MOFFETT INDICATED WAS THE DEFENDANT?
A. SHE RECOGNIZED THE PICTURE OF THE DEFENDANT. IT'S PICTURE NUMBER 48860, THE BOTTOM RIGHT-HAND CORNER.
Q. AND HOW LONG DID IT TAKE FOR MS. MOFFETT TO PICK OUT THAT PHOTO?
A. JUST A FEW SECONDS. SHE -- I LOOKED AT HER. SHE LOOKED AT ALL THE PHOTOS AND THEN IMMEDIATELY POINTED HIM OUT.
Q. AND SHE WAS -- HOW CERTAIN WOULD YOU SAY SHE APPEARED?

A. SHE WAS POSITIVE.

Q. DID YOU SUGGEST IN ANY WAY WHICH PHOTO FOR MS. MOFFETT TO PICK OUT?

A. NO, SIR.

MR. ROSE: NO FURTHER QUESTIONS.

THE COURT: THANK YOU.

CROSS-EXAMINATION

BY MS. DAVIS:

Q. GOOD AFTERNOON, INVESTIGATOR BALES. SO YOU---

A. GOOD AFTERNOON.

Q. SO YOU ONLY SHOWED THE LINE-UP TO MS. MOFFETT; RIGHT?

A. THAT'S CORRECT.

Q. OKAY. AND CAN I GET THE PHOTO LINE-UP? AND YOU'RE THE ONE THAT CREATED THIS LINE-UP?

A. I DID.

Q. OKAY. AND YOU SAID YOU TRIED TO FIND PEOPLE THAT LOOKED SIMILAR?

A. THAT'S CORRECT.

Q. OKAY. SO THE DESCRIPTION THAT WAS OF JOEL ROBINSON WAS THAT HE IS BALD-HEADED; RIGHT?

A. THAT'S WHAT WE WERE TOLD, THE DESCRIPTION, YES.

Q. HOW MANY OF THE PEOPLE IN THIS LINE-UP ARE ACTUALLY BALD?

A. LET ME TAKE A LOOK. ACTUALLY, THERE'S ONE -- THERE'S ONLY ONE THAT REALLY TRULY LOOKS BALD AND THAT'S THE FELLOW

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THAT'S ABOVE THE DEFENDANT'S PICTURE. THE REST OF THEM ALL HAVE VERY, VERY, VERY CLOSE HEAD HAIR, INCLUDING THE DEFENDANT.

Q. OKAY. AND THEN WHAT WOULD BE YOUR OPINION ABOUT -- I GUESS THE OTHER BIG DESCRIPTION WAS THAT MR. ROBINSON WAS LIGHT-SKINNED?

A. THAT'S CORRECT.

Q. WHAT'S YOUR OPINION IN TERMS OF -- IS HE NOT THE MOST LIGHT-SKINNED COMPARED TO ANYBODY ELSE? BY A GREAT MARGIN ON SOME OF THOSE?

A. I WOULDN'T SAY A GREAT MARGIN. HE'S -- HE MIGHT BE A LITTLE LIGHT-SKINNED, MORE THAN SOME OF THESE OTHERS, BUT THEY'RE ALL FAIRLY LIGHT-SKINNED FELLOWS.

Q. BUT HE'S THE MOST OF ANYBODY ELSE IN THIS PICTURE; RIGHT? I MEAN, JUST BASED ON YOUR---

A. MAYBE A LITTLE BIT MORE THAN THE GUY IN THE CENTER THERE.

Q. YEAH. AND MS. MOFFETT IS THE ONLY ONE YOU SHOWED THE LINE-UP TO; RIGHT?

A. THAT I SHOWED THE LINE-UP TO, THAT'S CORRECT.

Q. SHE KNEW JOEL ROBINSON; RIGHT?

A. YES.

Q. SO SHE WAS POINTING OUT SOMEONE SHE KNEW FOR SOME TIME; RIGHT?

A. I DON'T KNOW HOW LONG SHE KNEW HIM.

Q. BUT SHE KNEW HIM PRIOR TO THIS INCIDENT.

A. THAT'S MY UNDERSTANDING.

MS. DAVIS: NOTHING FURTHER, YOUR HONOR.

MR. ROSE: BRIEFLY, YOUR HONOR.

THE COURT: SURE.

REDIRECT EXAMINATION

BY MR. ROSE:

Q. INVESTIGATOR BALES, HOW ARE THE PICTURES GENERATED? IS IT THE COMPUTER THAT GENERATES THE CHARACTERISTICS?

A. NO. ACTUALLY, THE WAY THE SYSTEM WORKS NOW, THERE ARE SOME CHARACTERISTICS THAT YOU CAN INPUT AND THEN IT GIVES YOU A DATABASE, A LONG LIST OF PHOTOGRAPHS THAT YOU GO THROUGH AND PICK OUT.

Q. UH-HUH. AND IF I SHOW YOU THE PHOTO LINE-UP AGAIN, DOES THE PICTURE OF THE DEFENDANT -- DOES THE DEFENDANT HAVE HAIR IN THAT PICTURE?

A. YES, A LITTLE BIT ON THE SIDES.

MR. ROSE: NO FURTHER QUESTIONS.

THE COURT: OKAY. ALL RIGHT. YOU CAN STEP DOWN, SIR.

THE WITNESS: THANK YOU.

MR. ROSE: AT THIS TIME THE STATE WOULD CALL INVESTIGATOR MONTGOMERY.

WAYNE H. MONTGOMERY, AFTER DULY AFFIRMING TO TELL THE TRUTH, TESTIFIED AS FOLLOWS IN CAMERA:

THE CLERK: PLEASE HAVE A SEAT AND STATE YOUR FULL NAME

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FOR THE RECORD.

THE WITNESS: WAYNE HUGH MONTGOMERY.

DIRECT EXAMINATION

BY MR. ROSE:

Q. GOOD AFTERNOON, INVESTIGATOR. WERE YOU INVOLVED IN THE INVESTIGATION OF A MURDER ON -- BACK IN FEBRUARY OF 2007, SPECIFICALLY FEBRUARY 15TH, 2007?

A. YES, SIR.

Q. AND DID YOU HAVE ANY INVOLVEMENT AS PERTAINS TO A PHOTO LINE-UP?

A. YES, SIR.

Q. AND WHAT WAS THAT INVOLVEMENT?

A. I BELIEVE I SHOWED THE PHOTO LINE-UP TO A WITNESS IN THE CASE.

Q. AND WHICH WITNESS WAS THAT?

A. I BELIEVE IT'S MR. SMITH, LEVERN SMITH.

Q. MR. SMITH. IF I SHOW YOU AN AFFIDAVIT THAT'S BEEN MARKED STATE'S EXHIBIT NUMBER 2, WOULD THAT HELP REFRESH YOUR MEMORY?

A. YES. (THE WITNESS LOOKS AT STATE'S EXHIBIT 2.) YES, THAT WAS LEVERN SMITH.

Q. LEVERN SMITH? AND WHERE DID YOU OBTAIN THIS PHOTO LINE-UP FROM?

A. I ACTUALLY RECEIVED IT FROM INVESTIGATOR BALES.

Q. INVESTIGATOR BALES? AND WHERE DID YOU SHOW THIS

LINE-UP?
A. AT ONE JUSTICE SQUARE WHICH IS THE COLUMBIA POLICE DEPARTMENT HEADQUARTERS IN AN INTERVIEW ROOM.
Q. AND WHEN YOU SHOWED THIS LINE-UP TO LEVERN SMITH, WHO WAS PRESENT IN THE ROOM?
A. MYSELF AND MR. SMITH.
Q. AND THERE WAS NO OTHER WITNESSES, NOBODY ELSE IN THAT ROOM.
A. NONE INSIDE THE ROOM AT THE TIME.
Q. AND WHAT IS YOUR PROCEDURE FOR SHOWING THE LINE-UP TO A WITNESS?
A. FIRST, I HAVE THE ACTUAL PHOTO LINE-UP TURNED OVER WHERE THEY CAN'T SEE ANY OF THE PICTURES, AND I EXPLAIN TO THEM ESSENTIALLY THEY WERE A WITNESS TO A CRIME AND THAT THE INDIVIDUAL MAY BE INSIDE THIS PHOTO LINE-UP OR MAY NOT BE. ONCE I -- BEFORE I TURN THE PAPER OVER TO SHOW THEM, I ASK THEM TO TAKE THEIR TIME. DON'T RUSH TO MAKE A DECISION. LOOK AT EACH PICTURE CAREFULLY, AND IF THAT INDIVIDUAL IS INSIDE OF THAT LINE-UP TO MAKE -- TO IDENTIFY THAT PERSON. ONCE I PRESENTED THE LINE-UP TO THE WITNESS, THE WITNESS INDICATED WHO THEY SAW AS THE PERSON THAT COMMITTED THE CRIME.
Q. AND IF I SHOW YOU STATE'S EXHIBIT NUMBER 1, DO YOU RECOGNIZE THIS?
A. YES, SIR, I DO.

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Q. AND THAT'S THE LINE-UP YOU SHOWED TO LEVERN SMITH THAT NIGHT?
A. THAT IS CORRECT, SIR.
Q. AND DID LEVERN SMITH IDENTIFY ANYBODY IN THAT LINE-UP?
A. YES, HE DID.
Q. AND WHO COULD YOU PLEASE TELL JUDGE CHILDS WHICH INDIVIDUAL WAS IDENTIFIED?
A. HE IDENTIFIED THE PICTURE NUMBERED AS 48860 WHO WAS SUBSEQUENTLY IDENTIFIED AS MR. ROBINSON.
Q. MR. ROBINSON, THE DEFENDANT?
A. YES, SIR.
Q. AND HOW LONG DID IT TAKE LEVERN SMITH TO IDENTIFY THE DEFENDANT OUT OF THAT PHOTO LINE-UP?
A. IT ALMOST APPEARED INSTANTANEOUSLY, SIR.
Q. HE WAS CERTAIN? YOU FELT -- BY HIS BODY LANGUAGE, HOW CERTAIN DID YOU FEEL HE WAS?
A. HE SAID THAT HE HAD -- HE WAS CERTAIN A HUNDRED DEGREE -- A HUNDRED PERCENT DEGREE CERTAIN.

MR. ROSE: NO FURTHER QUESTIONS AT THIS TIME.

MS. DAVIS: THANK YOU, YOUR HONOR.

CROSS-EXAMINATION

BY MS. DAVIS:

Q. INVESTIGATOR MONTGOMERY, THE PHOTO LINE-UP THAT YOU SHOWED LEVERN SMITH, THAT'S THIS PHOTO LINE-UP. RIGHT?
A. YES, MA'AM.

Q. NOW, HE DIDN'T CIRCLE ANYTHING ON THERE; RIGHT?
A. YOU SHOWED ME THE ONE THAT HE ACTUALLY... IS THIS THE ONE THAT HE ACTUALLY...
Q. WELL, THIS IS THE ACTUAL PHOTO LINE-UP. I DON'T KNOW WHERE THE ONE IS THAT HE ACTUALLY LOOKED AT.
A. OKAY. ON THIS PAPER THERE'S NOTHING CIRCLED.
Q. AND THE AFFIDAVIT THAT YOU FILLED OUT, LEVERN SMITH JUST SIGNED IT; RIGHT? EVERYTHING ELSE YOU WROTE IN THERE FOR HIM?
A. HE IDENTIFIED PHOTO -- WROTE IN THE NUMBER WHERE IT SAYS, "I PICKED OUT THE PICTURE." THEN THERE'S THIS BLANK SPACE WITH A PHOTO NUMBER. IT HAS A NUMBER TO IDENTIFY IT, AND THAT NUMBER IS INSIDE WHICH IS 48860 WHICH IS ALSO CONSISTENT WITH THE PICTURE OF MR. ROBINSON AND...
Q. SO HE WROTE THE NUMBER IN AND HIS SIGNATURE.
A. I ACTUALLY WROTE THE NUMBER BASED ON HIS IDENTIFICATION, AND THEN HE SIGNED.
Q. SO ON THAT DOCUMENT THE ONLY THING THAT LEVERN SMITH WROTE WAS HIS SIGNATURE.
A. THAT'S CORRECT.
Q. YOU DIDN'T HAVE HIM CIRCLE THE PERSON THAT HE WAS TALKING ABOUT ON THE LINE-UP.
A. ON THIS LINE-UP HERE? NO, THERE'S NO CIRCLE TO---
Q. YOU DIDN'T HAVE HIM INITIAL NEXT TO IT SAYING THAT'S THE PERSON I PICKED.

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A. NO, MA'AM.
Q. SOMETIMES Y'ALL DO THAT; RIGHT?
A. THAT HAPPENS; YES, MA'AM.
Q. IS THERE ANY DISCREPANCY OR REASONING AS TO WHY YOU WOULD HAVE SOMEONE DO THAT, THAT YOU WOULDN'T DO THE SAME THING IN EVERY PHOTO LINE-UP?
A. THAT'S JUST BASED ON THE INVESTIGATORS...
Q. SO YOU NEVER HAVE THEM CIRCLE OR INITIAL THE LINE-UP.
A. THEY'VE DONE VARIOUS THINGS. SOME, THEY'LL INITIAL. SOME, THEY SIGN THEIR NAME. SOME, THEY'LL JUST IDENTIFY IT AS SUCH ON THIS PAPER.
Q. YOU DON'T GIVE THEM ANY DIRECTION AS TO, "I WANT YOU TO CIRCLE WHOEVER THE PERSON IS," OR ANYTHING. YOU JUST LET THEM DO WHATEVER TO POINT IT OUT TO YOU.
A. IN THIS CASE HE IDENTIFIED THE INDIVIDUAL, AND I WROTE IN THE NUMBER OF THE PERSON HE IDENTIFIED.

MS. DAVIS: OKAY. NOTHING FURTHER, YOUR HONOR.

MR. ROSE: BRIEFLY, YOUR HONOR.

REDIRECT EXAMINATION

BY MR. ROSE:
Q. INVESTIGATOR MONTGOMERY, WHAT IS THE PURPOSE OF THE AFFIDAVIT?
A. THE AFFIDAVIT, SIR -- ESSENTIALLY THE PERSON IS SWEARING THAT THIS IS A TRUE IDENTIFICATION. IT'S NOTARIZED BY A NOTARY, AS STATED HERE AS WELL. IT'S BASICALLY -- IT'S JUST

TO IDENTIFY THE PERSON.

Q. AND DID THE WITNESS SIGN THAT AFFIDAVIT?

A. YES, THE WITNESS SIGNED IT IN HIS OWN SIGNATURE.

Q. AND IS THAT AFFIDAVIT NOTARIZED?

A. YES.

MR. ROSE: NO FURTHER QUESTIONS.

MS. DAVIS: JUST BRIEFLY, YOUR HONOR.

RECROSS EXAMINATION

BY MS. DAVIS:

Q. INVESTIGATOR MONTGOMERY, WERE YOU AWARE MR. LEVERN SMITH CAN'T READ OR WRITE?

A. I DON'T BELIEVE THAT HE SAID HE COULDN'T READ OR WRITE, MA'AM.

Q. DID YOU READ THAT DOCUMENT TO HIM?

A. I READ EVERYTHING TO HIM HERE, MA'AM. YES, MA'AM.

MS. DAVIS: OKAY. NOTHING FURTHER, YOUR HONOR.

THE COURT: OKAY. SIR, YOU CAN STEP DOWN.

MS. SHIPLEY: YOUR HONOR, WE HAVE A WITNESS WHO'S INCARCERATED, SHONDA MOFFETT. IF THE DEFENSE CONCEDES OR STIPULATES THAT SHE KNOWS THE DEFENDANT, WE WOULDN'T HAVE TO CALL HER. OTHERWISE, WE'D HAVE TO CALL HER AFTER LUNCH.

MS. DAVIS: WE HAVE NO PROBLEM WITH THAT, YOUR HONOR.

THE COURT: ALL RIGHT. THANK YOU.

MS. SHIPLEY: UNDER STATE VERSUS MCLEOD, IF THE PERSON KNOWS THEM, THEN WE WOULDN'T HAVE TO PUT THEM ON THE STAND.

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IN THAT CASE, YOUR HONOR, THAT CONCLUDES THE TESTIMONY WITH THE EXCEPTION OF INVESTIGATOR NOEL DOW WHO WAS THE INVESTIGATOR DRIVING JEFF SMITH TO HEADQUARTERS, BUT I THINK THAT THE WITNESS, SMITH, RELAYED IN VERY GOOD DETAIL EVERYTHING THAT INVESTIGATOR DOW WOULD HAVE TESTIFIED TO.

HE HAS GOT THE FLU TODAY, YOUR HONOR, AND WE'RE GOING TO TRY TO SEE IF HE'S OKAY TOMORROW, IF THE DEFENSE WOULD HAVE ANY FOLLOW-UP QUESTIONS ON THE SHOW-UP IDENTIFICATION, BUT EVERYTHING JEFF SMITH RELAYED TO THE COURT IS EXACTLY WHAT INVESTIGATOR DOW WOULD TESTIFY TO.

MS. DAVIS: YOUR HONOR, WE WOULD -- I MEAN, WE NEED INVESTIGATOR DOW TO TESTIFY. I DON'T THINK TAKING THE WORD OF SOMEONE ELSE'S TESTIMONY AND THAT THAT'S WHAT INVESTIGATOR DOW WOULD SAY IS GOING TO BE SUFFICIENT. AFTER HE -- ONCE WE CAN GET HIM HERE TO TESTIFY, WE WILL ALSO PROBABLY CALL A COUPLE OF OTHER WITNESSES THAT WE FEEL ARE PERTINENT TO NEIL V. BIGGERS. SO I'M NOT SURE -- I MEAN, INVESTIGATOR REESE IS ONE PERSON AND SERGEANT DUTTON (PHONETIC) IS ANOTHER PERSON THAT WE FEEL IS IMPORTANT TO THE NEIL V. BIGGERS HEARING.

THE COURT: OKAY. YOU WANT TO AT LEAST PROCEED ON THOSE TWO PERSONS SINCE THEY INSIST ON---

MS. SHIPLEY: INVESTIGATOR REESE WAS ONLY -- NOT INVOLVED IN THE IDENTIFICATION OF THE DEFENDANT. HE WAS INVOLVED IN TAKING HIS STATEMENT.

MS. DAVIS: YOUR HONOR, THE WAY THE SHOW-UP I.D. COMES

ABOUT, THERE'S DISCREPANCIES WHETHER THIS WAS AN ACCIDENTAL THING OR IF THIS WAS AN INTENTIONAL SHOW-UP I.D.

THE COURT: OKAY. I MEAN---

MS. DAVIS: WE FEEL THAT GOES TO THE WEIGHT OF IT.

THE COURT: ---YOU'RE ENTITLED TO PRESENT YOUR CASE IN YOUR FASHION.

MS. SHIPLEY: YOUR HONOR, OFFICER DUTTON IS NO LONGER WITH THE COLUMBIA POLICE DEPARTMENT, SO WE'LL JUST STIPULATE TO HER STATEMENT COMING IN BECAUSE WE DON'T -- WE DON'T HAVE A CLUE WHERE THAT WITNESS IS.

THE COURT: OKAY. AND THE DEFENSE HAS BEEN SHOWN THAT STATEMENT?

MS. SHIPLEY: YEAH, THEY'VE HAD IT IN DISCOVERY.

THE COURT: OKAY.

MS. DAVIS: YOUR HONOR, WE STILL HAVE A PROBLEM WITH THAT. IF THE WITNESS ISN'T HERE, WE DON'T HAVE A MEANINGFUL WAY OF CROSS-EXAMINING THEM ON THE STATEMENT. CLEARLY IF SOMEONE GIVES A STATEMENT, THEY ALWAYS EITHER EXPOUND ON IT OR CHANGE IT. THE FACT THAT THEY CAN'T FIND THEM OR DON'T HAVE THE WITNESS, IT'S THEIR BURDEN IN THE NEIL V. BIGGERS TO PROVE THE ENTIRE PROCESS SO IT'S NOT SUGGESTIVE AND THERE'S NO MISIDENTIFICATION.

WE THINK THAT'S A WITNESS THAT'S IMPORTANT. SHE WAS THE ONE WHO DETAINED JOEL ROBINSON. SHE WAS AT THE ARREST. SHE HAS PERTINENT INFORMATION ABOUT HOW THE SHOW-UP I.D. CAME TO

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BE.

MS. SHIPLEY: WRONG. ACTUALLY, WE DON'T HAVE TO PROVE THAT EVERY PERSON THAT HAD ANY INTERACTION WITH THE SUSPECT -- ONLY THE INDIVIDUALS, LAW ENFORCEMENT INDIVIDUALS, THAT WERE WITH THE WITNESS WHEN AN IDENTIFICATION WAS MADE IS REQUIRED TO BE SHOWN. FOR INSTANCE, INVESTIGATOR REESE WAS NOT WITH JEFF SMITH WHEN JEFF SMITH TOLD INVESTIGATOR DOW THAT THAT'S THE INDIVIDUAL THAT I OBSERVED SHOOT MY COUSIN. HE WAS NOT THERE, SO HE WOULD NOT HAVE PERSONAL KNOWLEDGE.

THE POINT OF THIS HEARING IS TO SHOW THAT THE POLICE DID NOT UNDULY SUGGEST TO THE WITNESS THAT THIS PERSON WAS THE PERPETRATOR, AND SO THE WHOLE PURPOSE OF THIS HEARING IS TO PROTECT THE CASE AGAINST ANY RISK OF MISIDENTIFICATION. INVESTIGATOR REESE HAD NO INTERACTION WITH ANY WITNESS IN THIS CASE THAT IDENTIFIED THAT MAN, SO HE WOULD NOT BE PERTINENT TO THIS HEARING. HE WILL BE CALLED FOR THE JACKSON VERSUS DENNO HEARING.

NOW, INVESTIGATOR OR DUTTON -- WE WERE NEVER GOING TO CALL DUTTON TO TESTIFY ANYHOW BECAUSE ALL SHE DID WAS STOP AN INDIVIDUAL THAT FIT THE DESCRIPTION THAT WAS HEARD ON THE RADIO, YOUR HONOR. SHE NEVER HAD ANY ENCOUNTERS WITH ANY WITNESS IN THIS CASE, SO SHE WOULD NOT BE ABLE TO TELL THE COURT HOW -- WHETHER OR NOT SHE SUGGESTED TO A WITNESS THAT THIS WAS THE INDIVIDUAL. NOW, INVESTIGATOR DOW, I'LL CONCEDE, WAS WITH JEFF SMITH WHEN HE IS THE ONE THAT POINTED

IT OUT TO INVESTIGATOR DOW, "THAT'S THE MAN I SAW SHOOT MY COUSIN. I THINK THAT'S THE MAN." AND AT THAT POINT INVESTIGATOR DOW WILL TESTIFY THAT HE TURNED AROUND TO MAKE SURE THAT THE GUY WAS RIGHT, THAT MR. SMITH WAS RIGHT, THAT HE TURNED AROUND, PARKED BEHIND OFFICER FISHER'S CAR, AND AT THAT POINT, YOUR HONOR, THE WITNESS TELLS HIM AGAIN, "THAT'S DEFINITELY HIM. THAT'S DEFINITELY HIM."

SO THE ONLY PERTINENT LAW ENFORCEMENT WITNESSES FOR THE PURPOSES OF THIS HEARING ARE THE INDIVIDUALS THAT WERE WITH THE WITNESS WHEN AN IDENTIFICATION WAS MADE. SO IF YOU WANT TO HOLD OFF ON THE IDENTIFICATION FOR JEFF SMITH, WE'LL JUST HAVE TO WAIT TO SEE HOW INVESTIGATOR DOW FEELS EITHER LATER THIS AFTERNOON OR TOMORROW MORNING.

THE COURT: AND INVESTIGATOR DOW WAS ACTUALLY IN THE CAR?

MS. SHIPLEY: HE WAS DRIVING JEFF SMITH TO HEADQUARTERS, AND IT'S ALL OVER IN HIS CASE NOTES THAT HE WAS SIMPLY DRIVING THIS MAN TO THE -- TO THE HEADQUARTERS TO GET A STATEMENT AND THAT WAS THIS -- JEFF SMITH'S UNDERSTANDING: I'M JUST RIDING TO GO TO HEADQUARTERS TO GIVE A STATEMENT. HE WAS NEVER TOLD THAT HE WAS GOING TO IDENTIFY ANYBODY, AND THEY JUST TOTALLY INADVERTENTLY CAME UPON THE SCENE WHERE THEY HAD STOPPED THIS INDIVIDUAL AND HE SPONTANEOUSLY -- WITHOUT ANY QUESTIONING PROMPTED BY INVESTIGATOR DOW, HE SPONTANEOUSLY SAYS, "THAT'S HIM. THAT'S HIM." SO THERE WAS

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NO -- AS AN OFFICER OF THE COURT, THAT IS THE TESTIMONY OF INVESTIGATOR DOW. THAT'S EXACTLY WHAT IT WILL BE. IT WILL BE CONSISTENT WITH WHAT JEFF SMITH TESTIFIED TO, BUT I UNDERSTAND IF YOU WOULD LIKE TO HOLD OFF ON HIS IDENTIFICATION.

THE COURT: BUT AT ANY RATE, INVESTIGATOR DOW WOULD BE THE ONLY PERTINENT OFFICER.

MS. SHIPLEY: RIGHT.

THE COURT: OKAY.

MS. SHIPLEY: BUT DUTTON HAS NOTHING TO DO WITH THE IDENTIFICATION PROCEDURES IN THIS CASE.

THE COURT: OKAY. ALL RIGHT. STATE (SIC)?

MS. DAVIS: YOUR HONOR, I UNDERSTAND WHAT MS. SHIPLEY IS SAYING IN TERMS OF THE ONLY THING THAT'S PERTINENT IS THE IDENTIFICATION. I AGREE WITH HER. HOWEVER, WHEN IT'S A SHOW-UP I.D. WHICH THE COURT HAS DEEMED AS SUGGESTIVE IN AND OF ITSELF -- SO WE ALREADY KNOW THAT PART, AND THEN THEY HAVE TO GET TO THE SECOND PART SAYING THERE'S NOT A MIS-IDENTIFICATION. IT'S OUR POSITION THAT OTHER PEOPLE THAT CAN TELL THE COURT INFORMATION ABOUT WHETHER THIS WAS A PLANNED SHOW-UP I.D. OR IF THIS WAS, IN FACT, ACCIDENTAL, AS DOW WANTS IT TO APPEAR -- THERE IS CONTRADICTIONS IN THE STATEMENT OF SERGEANT DUTTON AND INFORMATION THAT INVESTIGATOR REESE HAS IN HIS SUMMARY THAT MAKES IT QUESTIONABLE OF WHETHER OR NOT THIS WAS A PLANNED OR AN

ACCIDENTAL SHOW-UP IDENTIFICATION. AND THE WHOLE PROCESS OF HIM BEING DETAINED STARTS AND ENDS WITH SERGEANT DUTTON. SO I DON'T KNOW HOW HIS OR HOW THIS PERSON'S PRESENCE WON'T BE REQUIRED FOR THE REST OF PRETRIAL.

MR. LEDDY: I CAN TELL YOU THAT IF THEY DON'T THINK THEY NEED TO BRING SERGEANT DUTTON IN FOR THE SUPPRESSION HEARING, THEN THEY'RE NOT PREPARED FOR THIS CASE. THE WHOLE DETAINMENT ISSUE STARTS AND ENDS WITH HER. THE INITIAL DETENTION IS WITH SERGEANT DUTTON, AND WE HAVE A RIGHT TO CROSS-EXAMINE HER. AND SO SERGEANT DUTTON IS GOING TO HAVE TO COME IN THIS COURTROOM IF THEY'RE GOING TO PROCEED ON ANY EVIDENCE THAT WAS OBTAINED PURSUANT TO THAT DETENTION.

THE COURT: OKAY.

MS. SHIPLEY: WRONG, YOUR HONOR. AGAIN, THE PURPOSES OF A SHOW-UP IDENTIFICATION -- WE DON'T HAVE TO PROVE WHETHER IT WAS PLANNED OR ACCIDENTAL. THAT IS NOT PART OF THE TEST. IN A SHOW-UP IDENTIFICATION, THE COURT HAS TO MAKE SURE THAT THE POLICE DID NOT SUGGEST TO THIS WITNESS WHO EXACTLY THE PERPETRATOR WAS. JEFF SMITH IS THE ONE THAT SPONTANEOUSLY BROUGHT IT TO INVESTIGATOR DOW'S ATTENTION THAT THIS -- THAT THEY HAD SOMEONE -- THAT THE PERSON THEY HAD IN CUSTODY ON THE SIDE OF NORTH MAIN STREET WAS THE PERPETRATOR OF THE CRIME.

HE IS THE ONE THAT BROUGHT IT TO HIS ATTENTION. INVESTIGATOR DOW -- AND HE TESTIFIED TO THIS ALREADY, THE

WITNESS DID, THAT HE WAS UNDER THE IMPRESSION THAT HE WAS GOING DOWNTOWN TO GIVE A STATEMENT AT HEADQUARTERS. AND, YOUR HONOR, WHERE MYERS STREET -- WHERE THE CRIME HAPPENED, YOU HAVE TO GO DOWN NORTH MAIN STREET TO GET TO COLUMBIA POLICE DEPARTMENT HEADQUARTERS. THAT'S THE ONLY ROUTE TO GO, THE MAIN AVENUE THAT TAKES YOU TO HEADQUARTERS.

SO, AGAIN, WE DON'T HAVE TO PROVE WHETHER IT WAS PLANNED OR ACCIDENTAL. IT'S A SHOW-UP IDENTIFICATION. SHOW-UP IDENTIFICATIONS ARE NOT GENERALLY FAVORED, BUT UNDER STATE VERSUS GOVAN, THEY'RE EXTREMELY IMPORTANT BECAUSE THEY'RE FRESH. TYPICALLY THEY HAPPEN WITHIN MOMENTS OF THE CRIME. IT ALSO IS IMPORTANT TO UNDERSTAND THAT ONE OF THE GOOD THINGS ABOUT A SHOW-UP IDENTIFICATION IS WHAT IF THEY HAVE THE WRONG GUY IN THEIR CUSTODY? THE WITNESS COULD CLARIFY IMMEDIATELY THAT THIS IS NOT THE PERSON THAT COMMITTED THE CRIME. SO THERE'S PROS AND CONS TO IT, THAT ALTHOUGH THEY'RE GENERALLY DISFAVORED, UNLESS THERE'S UNDULY-SUGGESTIVE BEHAVIOR ON THE PART OF THE POLICE, NOT THE WITNESS, THEN THAT WOULD BE A THING THAT THE COURT WOULD HAVE TO CONSIDER. BUT, AGAIN, WE DON'T HAVE TO PROVE WHETHER IT WAS A PLANNED OR ACCIDENTAL SHOW-UP. IT'S A SHOW-UP IDENTIFICATION, PERIOD.

THE COURT: UH-HUH.

MS. DAVIS: JUST BRIEFLY, YOUR HONOR. I'M NOT TELLING THE STATE THAT THEY NEED TO PROVE WHETHER OR NOT IT WAS

ACCIDENTAL OR PLANNED. HOWEVER, THE FACT OF IF IT WAS OR WASN'T DOES GO TO THE CREDIBILITY OF THE OFFICERS THAT ARE TESTIFYING UNDER OATH ABOUT HOW AND -- HOW AND WHAT THE CIRCUMSTANCES WERE OF THE SHOW-UP IDENTIFICATION. IT GOES TO THE CREDIBILITY. CREDIBILITY IS SOMETHING THAT WOULD BE JUDGED WHEN WE'RE LISTENING TO WHETHER OR NOT THE IDENTIFICATION SHOULD COME IN OR NOT. I'LL LEAVE IT WITH THE COURT'S DISCRETION.

THE COURT: OKAY. AND THEN WHERE IS -- IS IT INVESTIGATOR DUTTON?

MS. SHIPLEY: YES. YOUR HONOR, IN HER -- AND LET'S JUST GO AHEAD AND MAKE HER STATEMENT PART OF THE RECORD. IT'S A TWO-PAGE STATEMENT, AND BASICALLY SHE WRITES IN HER STATEMENT, "I WAS PARKED AT THE C.V.S. ON MAIN STREET AND COLUMBIA COLLEGE DRIVE WHEN I OBSERVED A LIGHT-SKINNED BLACK MALE WITH A BALD HEAD. HE MATCHED THE DESCRIPTION GIVEN OF AN INDIVIDUAL WHO HAD SHOT AND KILLED A PERSON ON STREET. I CALLED OVER THE RADIO AND ASKED UNITS STILL ON THE SCENE OF THE MURDER FOR THE DESCRIPTION OF THE CLOTHING. TAN JACKET WAS GIVEN AND UNKNOWN ON PANTS. THE BLACK MALE I OBSERVED HAD A TAN COAT THAT WENT PAST HIS WAIST.

"I CALLED FOR BACK-UP, AND POLICE ARRIVED. I CALLED FOR BACK-UP AND DROVE AROUND TO COLUMBIA COLLEGE TO TURN LEFT ON MAIN. I GOT CAUGHT BY THE LIGHT. THE BLACK MALE WAS WALKING NORTH ON MAIN APPROACHING HEYWARD AND SONS. I TURNED LEFT ON

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MAIN STREET AND RODE PAST HEYWARD AND SONS. I DID A U-TURN AND GOT OUT WITH THE INDIVIDUAL. I ASKED IF I COULD TALK TO HIM, AND HE SAID, "SURE." HE WAS ON HIS CELL PHONE.

"I ASKED IF I COULD SEE HIS I.D. CARD. HE SAID, "SURE." I ASKED HIM IF HE WOULD HANG UP HIS CELL PHONE CALL SO WE COULD TALK, AND HE DID SO. THE BLACK MALE GOT HIS WALLET OUT AND SHOWED ME HIS I.D. I ASKED HIM IF HE WOULD TAKE IT OUT OF HIS WALLET. I OBSERVED THE SUBJECT, AND THAT'S WHEN OFFICER FISHER AND BAILEY, MY BACK-UP, ARRIVED."

YOUR HONOR, OFFICER BAILEY AND FISHER ARE PRESENT IF YOU HAVE ANY QUESTIONS THAT YOU WOULD LIKE TO ASK THEM ABOUT THE STOP OF THIS INDIVIDUAL, BUT THEY GOT THERE RIGHT AFTER SHE STOPPED HIM. "THEY APPROACHED ME, AND THE SUBJECT AND I TOOK THE STATEMENTS, SUBJECT'S I.D., AND WENT TO MY CAR TO RUN HIS INFORMATION. THAT'S WHEN I WAS INFORMED THAT INVESTIGATOR DOW WAS BRINGING A WITNESS BY. OFFICER WINES (PHONETIC) AND OFFICER BARBER ARRIVED AS ADDITIONAL BACK-UP.

"INVESTIGATOR DOW ARRIVED, AND THE WITNESS POSITIVELY IDENTIFIED THE SUBJECT. OFFICER FISHER AND BAILEY PLACED THE HANDCUFFS ON THE SUBJECT, PLACING HIM UNDER INVESTIGATIVE DETENTION. A PAT-DOWN OF THE SUBJECT REVEALED A SILVER AND BLACK HANDGUN. ALL THIS OCCURRED WHILE I WAS CHECKING ON THE SUBJECT'S INFORMATION IN MY CAR." SO SHE'S NOT EVEN OBSERVING THEM TAKING THE GUN OFF OF HIM.

"ONCE I GOT OUT OF MY CAR, I WAS TOLD THAT THE SUBJECT

HAD THE GUN ON HIM AND THAT HE WAS POSSIBLY THE MURDER SUSPECT." SO IN THIS -- WHAT THEY WANT TO ELICIT FROM THIS ENTIRE STATEMENT IS THAT THIS OFFICER WAS UNDER THE IMPRESSION THAT WHEN DOW SHOWED UP THAT THAT WAS THE WHOLE POINT THAT HE WAS -- THIS WAS PLANNED.

THE COURT: UH-HUH.

MS. SHIPLEY: BUT I CAN CALL OFFICER BAILEY AND OFFICER FISHER, AND YOU CAN QUESTION THEM ABOUT THAT.

MR. LEDDY: YOUR HONOR---

THE COURT: YES.

MR. LEDDY: I JUST DON'T -- I'VE NEVER HEARD OF IT BEING SO OPTIONAL AS TO WHETHER OR NOT TO CALL SOMEBODY AND HAVE THEM TESTIFY. WE DON'T DO TRIALS ON STATEMENTS THAT ARE WRITTEN DOWN TWO YEARS AGO. I MEAN, THE WHOLE REASON THAT AN APPELLATE COURT WON'T DISTURB A LOWER COURT'S DECISION WITHOUT AN ABUSE OF DISCRETION BEING OBVIOUS IS BECAUSE THE LOWER COURT IS HERE TO LISTEN TO THE TESTIMONY AS IT COMES FROM THE WITNESS STAND, AND I MOVE TO STRIKE THAT FROM THE RECORD.

I DON'T THINK IT'S APPROPRIATE FOR YOU TO CONSIDER IT IN YOUR DECISION. I THINK THEY NEED TO GET SERGEANT DUTTON HERE TO TESTIFY. I THINK IT'S OBVIOUS THAT SHE NEEDS TO BE HERE, AND HOW EVER THAT CRIMPS EVERYBODY'S SCHEDULE, NOTWITHSTANDING SHE NEEDS TO COME IN HERE AND TESTIFY.

THE COURT: THIS IS THE ONE WHO'S ILL?

MS. SHIPLEY: NO. THIS ONE DOESN'T EVEN WORK AT THE COLUMBIA POLICE DEPARTMENT ANYMORE.

THE COURT: OKAY.

MS. SHIPLEY: THAT IS LUDICROUS, YOUR HONOR. THERE ARE PEOPLE THAT LEAVE COLUMBIA POLICE DEPARTMENT OR ANY POLICE DEPARTMENT. THE STATE CAN CHOOSE WHO TO CALL IN ORDER TO ESTABLISH ITS BURDEN IN A PRETRIAL HEARING. I SUBMIT TO THE COURT THAT WE'VE ALREADY ESTABLISHED THE THRESHOLD REQUIREMENTS FOR A NEIL VERSUS BIGGERS HEARING. WE DON'T HAVE TO CALL WHO THEY WANT US TO CALL. THEY HAVE SUBPOENA POWER JUST LIKE WE DO.

THE COURT: UH-HUH.

MS. SHIPLEY: I HAVE OFFICERS BAILEY AND FISHER PRESENT. I'LL GO AHEAD AND CALL OFFICER FISHER. THE STATE CALLS RODNEY FISHER.

MR. LEDDY: YOUR HONOR, I HAVE A STRONG SUSPICION WE'RE ALL GOING TO BE DOING THIS AGAIN ONE DAY.

THE COURT: I DON'T KNOW WHY YOU WOULD SAY THAT. I HAVEN'T RULED.

MR. LEDDY: THERE'S NO -- I UNDERSTAND THAT, BUT THERE SEEMS TO BE NO SEMBLANCE OF AN ADHERENCE TO THE RULES WHATSOEVER IN TERMS OF WHO TO CALL AND WHY AND WHETHER OR NOT WE'RE JUST GOING TO READ PEOPLES' STATEMENTS. I MEAN, I'M GETTING A BAD FEELING, YOUR HONOR. THAT'S ALL I'M SAYING.

THE COURT: OKAY. WELL, SHE INDICATED THAT SHE WANTED

THE STATEMENT PUBLISHED FOR THE RECORD AS PART OF GUIDANCE FOR ME IN MAKING THIS RULING. SO I'M NOT SURE WHY YOU WOULD---

MR. LEDDY: AND I WOULD ASK YOUR HONOR TO NOT CONSIDER IT AND ASK YOU TO RULE ON THAT ISSUE.

THE COURT: WELL, SHE'S GIVEN ME SOME FACTUAL BACKGROUND TO UNDERSTAND WHAT OCCURRED AT THAT POINT IN TIME. I STILL HAVE NOT RULED ON WHETHER OR NOT THAT OFFICER IS NECESSARY.

MR. LEDDY: OKAY.

MS. SHIPLEY: ALSO, YOUR HONOR, UNDER THE RULES, HEARSAY EVIDENCE IS PERMISSIBLE IN A PRETRIAL HEARING UNDER THE RULES OF EVIDENCE SO THAT THE COURT CAN MAKE AN INFORMED AND INTELLIGENT DECISION. AND SO I JUST WAS TRYING TO EXPLAIN WHAT CONTEXT DUTTON -- SERGEANT DUTTON'S STATEMENT WAS GIVEN, WHAT THEY ARE TRYING TO ELICIT. WE'LL STIPULATE THAT THAT'S IN HER STATEMENT, BUT WE SIMPLY DON'T HAVE HER. SHE'S NO LONGER WITH THE COLUMBIA POLICE DEPARTMENT.

THE COURT: OKAY. ALL RIGHT.

RODNEY FISHER, AFTER BEING DULY SWORN, TESTIFIED AS FOLLOWS IN CAMERA:

THE CLERK: PLEASE HAVE A SEAT. STATE YOUR FULL NAME FOR THE RECORD.

THE WITNESS: RODNEY FISHER.

DIRECT EXAMINATION

BY MS. SHIPLEY:

Q. OFFICER FISHER, CAN YOU TELL JUDGE CHILDS ABOUT WHAT TRANSPIRED THE NIGHT OF FEBRUARY 15TH AFTER THE SHOOTING AT MYERS STREET? TELL JUDGE CHILDS EXACTLY WHAT YOU RECALL TRANSPIRING THAT NIGHT.

A. OFFICER OR SERGEANT DUTTON GOT OUT WITH THE SUBJECT. WE WAS ONLY A CLEAR UNIT AT THAT TIME, SO WE WENT AND BACKED HER UP.

Q. DO YOU RECALL HEARING A DESCRIPTION OF THE SUSPECT FROM THE SHOOTING ON MYERS STREET OVER THE RADIO THAT NIGHT?

A. YES.

Q. AND WHAT WAS THE DESCRIPTION PROVIDED BY THE DISPATCH OPERATOR?

A. A LIGHT-SKINNED BLACK MALE.

Q. OKAY. DO YOU RECALL WHETHER OR NOT ANY DESCRIPTION WAS PROVIDED AS TO CLOTHING?

A. YEAH. I REMEMBER SERGEANT DUTTON ASKING IF THEY WAS WEARING ANY CLOTHING. I OVERHEARD A TAN JACKET.

Q. AND YOU HEARD THAT ON THE RADIO.

A. ON THE RADIO, RIGHT.

Q. OKAY. AT THAT POINT WHEN YOU ARRIVED ON THE SCENE -- LET ME -- WHEN YOU ARRIVED ON THE SCENE, WHAT WAS SERGEANT DUTTON DOING WITH THE SUSPECT?

A. SHE WAS CHECKING HIS I.D., LOOKING AT HIS I.D. CARD.

Q. OKAY. SO SHE WAS CHECKING THE SUSPECT'S I.D. WHEN YOU SHOWED UP.
A. YES.
Q. WHERE WAS THE SUSPECT STANDING AS TO -- PERTAINING TO HER?
A. TO THE BACK OF THE CAR AND SHE WAS TOWARDS THE FRONT PASSENGER SEAT.
Q. OKAY. AND AT THAT POINT WHAT WAS SHE DOING WHILE HE WAS STANDING TOWARDS THE BACK OF THE CAR?
A. SHE WAS WRITING DOWN HIS INFORMATION.
Q. OKAY. AND WAS HE HANDCUFFED AT ANY POINT?
A. NO.
Q. AND WHAT DID YOU -- WAS SHE FACING HIM OR WAS HER BACK---
A. SHE HAD HER BACK TO HIM.
Q. OKAY. AND AT THAT POINT TELL JUDGE CHILDS WHAT YOU DID WHEN YOU FIRST GOT THERE.
A. WHEN I GOT THERE, I HAD HIM SIT ON THE BACK OF THE CAR, LEAN HIS BUTT AGAINST THE BACK OF THE CAR AND CROSS HIS LEGS.
Q. OKAY. AM I POSING IN THE RIGHT -- CORRECT FASHION LIKE SO?
A. YES.
Q. OKAY. AGAINST YOUR CAR.
A. AGAINST SERGEANT DUTTON'S CAR.
Q. SERGEANT DUTTON'S CAR.

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A. YES.
Q. AND WHAT WAS THE POINT OF DOING THAT?
A. JUST SO HE WOULDN'T RUN. YOU KNOW, WE HAVE TO GET A LOT OF PEOPLE AND THEY TEND TO RUN. SO IF THEY DO THAT, WE CAN SEE IF THEY'RE GOING TO DO SOMETHING.
Q. OKAY. AND HE WAS COOPERATIVE; IS THAT RIGHT?
A. YES.
Q. HE DID NOT TRY TO RUN ONE TIME.
A. NO.
Q. OKAY. NOW, DO YOU RECALL WHAT TRANSPIRED AFTER -- ONCE YOU AND OFFICER BAILEY GOT THERE, WERE Y'ALL -- DID YOU GUYS COME TOGETHER, YOU AND OFFICER BAILEY?
A. YES. OFFICER BAILEY WAS IN TRAINING.
Q. OKAY. AND SO AT THAT POINT TELL JUDGE CHILDS: WAS IT YOUR UNDERSTANDING THAT YOU WERE WAITING FOR AN INVESTIGATOR TO BRING A WITNESS BY?
A. I DIDN'T KNOW AT THE TIME.
Q. OKAY.
A. IT JUST---
Q. GO AHEAD.
A. IT JUST HAPPENED DOW ENDED UP COMING BY LATER ON.
Q. ALL RIGHT. SO WHILE YOU GET ON THE SCENE, DID YOU HEAR ANYBODY OVER THE RADIO SAY, "HOLD THAT SUSPECT FOR AN INVESTIGATOR TO BRING---
A. NO.

Q. ---A WITNESS BY"?
A. NO.
Q. DID YOU EVER HEAR THAT?
A. NO.
Q. OKAY. NOW, YOU HEARD PORTIONS OF ME READING SERGEANT DUTTON'S STATEMENT; CORRECT?
A. YES.
Q. YOU HEARD HOW SHE WROTE THAT WE WERE DETAINING HIM SO INVESTIGATOR DOW COULD BRING A WITNESS.
A. UH-HUH.
Q. IS THAT WHAT HER UNDERSTANDING WAS?
A. YEAH, I ASSUME SO.
Q. OKAY. BUT WHAT WAS YOUR UNDERSTANDING?
A. WELL, I DIDN'T KNOW AT THE TIME THAT AN INVESTIGATOR WAS EN ROUTE. I ASSUMED ONCE WE GOT WITH HIM -- WE HAD TO GET A HOLD OF SOMEBODY AND VERIFY -- YOU KNOW, GET CLARIFICATION. IT JUST SO HAPPENED HE CAME BY AND SAID, "YEAH, THAT'S HIM."
Q. SO WAS THIS PLANNED?
A. NO.
Q. IT WAS NOT PLANNED.
A. NO.
Q. OKAY. NOW, AT THAT POINT WHEN YOU -- DID YOU MAKE CONTACT WITH INVESTIGATOR DOW?
A. YES.
Q. AND TELL JUDGE CHILDS WHAT INVESTIGATOR DOW SAID TO YOU.

A. HE SAID THE WITNESS POSITIVELY IDENTIFIED HIM.
Q. UH-HUH.
A. AND GO AHEAD AND DETAIN HIM.
Q. DETAIN HIM? AND WAS HE FREE TO LEAVE AT THAT POINT?
A. NO.
Q. OKAY. SO TECHNICALLY HE'S BASICALLY UNDER ARREST.
A. YES.
Q. AND THEN DID YOU THEN SEARCH HIM?
A. YES.
Q. OKAY. AND WE'LL GET TO THAT PART OF THE HEARING LATER. SO YOUR UNDERSTANDING WAS -- AGAIN, TELL JUDGE CHILDS ABOUT INVESTIGATOR DOW SHOWING UP WITH THE WITNESS. WAS THAT PLANNED OR WAS THAT NOT PLANNED?
A. IT WASN'T PLANNED.
Q. IT WAS NOT PLANNED.
A. NO.
Q. IT WAS AN INADVERTENT SHOW-UP IDENTIFICATION?
A. YES. HE JUST HAPPENED TO BE DRIVING BY. I SAW HIM TURN AROUND AND COME BACK BEHIND THE CAR---
Q. OKAY.
A. ---AND HE CALLED ME OVER.
Q. ALL RIGHT. SO HE JUST HAPPENED TO BE DRIVING BY.
A. YES.
Q. IN FACT, DID YOU KNOW THAT JOEL ROBINSON WAS GOING TO BE WALKING DOWN NORTH MAIN STREET AT THE EXACT SAME TIME AS

INVESTIGATOR DOW?

A. NO.

MS. SHIPLEY: NO FURTHER QUESTIONS, YOUR HONOR.

THE COURT: ALL RIGHT. YOU CAN PROCEED.

MS. DAVIS: JUST BRIEFLY, YOUR HONOR.

CROSS-EXAMINATION

BY MS. DAVIS:

Q. YOU DON'T KNOW WHAT INVESTIGATOR DOW HAD PLANNED; RIGHT?

A. RIGHT.

Q. YOU WEREN'T IN THE PATROL CAR.

A. NO, I WASN'T WITH INVESTIGATOR DOW---

Q. YOU WEREN'T WITH JEFFREY SMITH IN THE PATROL CAR.

A. NO.

Q. YOU DON'T KNOW WHAT WAS IN SERGEANT DUTTON'S HEAD.

A. NO.

Q. YOU'RE NOT HER; RIGHT?

A. NO.

Q. CAN'T READ HER -- CAN'T READ HER MIND. SO YOU'RE JUST GUESSING AT WHAT SHE MIGHT HAVE BEEN THINKING.

A. YES.

MS. DAVIS: OKAY. THANK YOU, YOUR HONOR.

THE COURT: OKAY. YOU CAN STEP DOWN, SIR.

MS. SHIPLEY: SHOULD I CALL OFFICER BAILEY AS WELL WHO WAS WITH THEM WHEN ALL THIS WENT DOWN?

THE COURT: THAT WOULD BE FINE. YOU MAKE YOUR RECORD.

MS. SHIPLEY: OKAY. THE STATE CALLS OFFICER BAILEY.

MICHAEL W. BAILEY, AFTER BEING DULY SWORN, TESTIFIED AS FOLLOWS IN CAMERA:

THE CLERK: PLEASE HAVE A SEAT AND STATE YOUR NAME FOR THE RECORD.

THE WITNESS: OFFICER MICHAEL W. BAILEY.

DIRECT EXAMINATION

BY MS. SHIPLEY:

Q. THANK YOU, OFFICER BAILEY. CAN YOU BRING US -- BRINGING YOUR ATTENTION TO THE NIGHT OF FEBRUARY 15TH, 2007---

A. YES.

Q. ---DO YOU RECALL BEING ON PATROL THAT NIGHT?

A. YES, I DO.

Q. AND WERE YOU DRIVING WITH ANY OTHER OFFICERS THAT NIGHT?

A. OFFICER FISHER.

Q. OKAY. AND WHEN YOU WERE WITH OFFICER FISHER, DO YOU RECALL HEARING ABOUT A SHOOTING ON MYERS STREET?

A. THAT'S CORRECT.

Q. AND HAD THEY DETERMINED IT WAS INDEED A MURDER, NOT JUST A SHOOTING?

A. INITIALLY IT WAS A SHOOTING THAT TURNED INTO A MURDER.

Q. OKAY. DO YOU REMEMBER WHEN THAT TOOK PLACE?

A. IT INITIALLY CAME OUT AS A SHOOTING.

Q. OKAY.

A. AND LATER ON IN THE EVENING IT TURNED TO A MURDER.

Q. OKAY. BUT IN ANY EVENT, YOU WERE LOOKING FOR -- YOU WERE AWARE THAT THEY WERE SEARCHING FOR A SHOOTING SUSPECT.
A. THAT'S CORRECT.
Q. OKAY. DO YOU REMEMBER HEARING THE DESCRIPTION DISPATCHED OVER THE RADIO OF WHO THE SHOOTER WAS, WHAT HE LOOKED LIKE?
A. I DO.
Q. YOU DO? OKAY. TELL JUDGE CHILDS WHAT YOU REMEMBER HEARING OVER THE RADIO ABOUT THE DESCRIPTION OF THE SHOOTER.
A. I REMEMBER OVER THE RADIO IT WAS A LIGHT-SKINNED BLACK GENTLEMAN WITH A BALD HEAD SUCH AS MYSELF.
Q. OKAY. IN FACT, DO YOU RECALL MAKING A COMMENT TO OFFICER FISHER ABOUT THAT DESCRIPTION?
A. YEAH. YEAH, I DO.
Q. AND WHAT WAS THAT?
A. SOUNDS LIKE MYSELF.
Q. OKAY. NOW, DO YOU RECALL BEING ASKED AS BACK-UP FOR SERGEANT DUTTON?
A. THAT'S CORRECT.
Q. OKAY. AND WHERE WAS -- WHERE WAS SERGEANT DUTTON LOCATED WHEN YOU---
A. SERGEANT DUTTON WAS OUT ON COLUMBIA COLLEGE AND MAIN.
Q. UH-HUH.
A. SHE HAD CALLED FOR BACK-UP. SHE WAS OUT WITH A 10-80.
Q. WHAT'S A 10-80?

A. A SUSPICIOUS PERSON.
Q. OKAY. AND AT THAT POINT DID YOU AND OFFICER FISHER BACK HER UP?
A. THAT'S CORRECT.
Q. HOW LONG DID IT TAKE YOU TO BACK HER UP?
A. A SECOND. WE WERE RIGHT AROUND THE CORNER ACTUALLY.
Q. OKAY. AND WHEN YOU GOT THERE -- SO YOU GOT THERE SECONDS AFTER SHE ASKED FOR BACK-UP.
A. THAT'S CORRECT.
Q. OKAY. AND WHEN YOU GOT THERE, WHAT DID YOU AND OFFICER FISHER DO NEXT?
A. WE OBSERVED THE GENTLEMAN SHE WAS OUT WITH JUST STANDING NEXT TO HER CAR. SHE HAD HIS I.D. CARD, AND SHE WAS AT HER FRONT PASSENGER DOOR I GUESS -- I'M NOT SURE IF SHE WAS ON THE PHONE OR IF SHE WAS ON THE COMPUTER IN THE CAR BECAUSE SHE HAD A COMPUTER IN HER CAR. I BELIEVE SHE WAS RUNNING HIS I.D. JUST TO SEE WHO HE WAS.
Q. OKAY. AND THE PERSON THAT YOU SAW WITH SERGEANT DUTTON, DID HE FIT THE DESCRIPTION OF THE SHOOTER THAT YOU HAD HEARD OVER THE RADIO?
A. THAT IS CORRECT. YES.
Q. OKAY. BUT DID YOU KNOW THIS WAS THE SHOOTER?
A. NO, WE HAD NO CLUE.
Q. OKAY. AND, AGAIN, THE DESCRIPTION WAS A LIGHT-SKINNED BLACK MALE?

A. LIGHT-SKINNED.

Q. BALD?

A. BALD.

Q. OKAY. AT THAT POINT WHAT WAS YOUR UNDERSTANDING ABOUT INVESTIGATOR DOW AND ANOTHER WITNESS? DID YOU -- DID YOU KNOW -- WERE YOU GUYS WAITING ON AN INVESTIGATOR TO COME THERE?

A. NO. WE HAD NO CLUE THAT INVESTIGATOR DOW WAS COMING BY. WE WERE OUT WITH THE GUY. WE ACTUALLY SAW INVESTIGATOR DOW TURN AROUND AND PULL UP IN THE BACK OF OUR CAR, AND THAT'S WHEN HE CALLED OFFICER FISHER OVER AND I WASN'T PRIVY TO THE CONVERSATION. WHEN OFFICER FISHER CAME BACK, HE SAID 69.

Q. WHAT'S THAT?

A. THAT MEANS DETAIN SUBJECT.

Q. OKAY. AND SEARCH THE SUBJECT?

A. DETAIN SUBJECT.

Q. OH, DETAIN THE SUBJECT.

A. UH-HUH.

Q. ALL RIGHT. AND SO YOU WERE NOT WAITING -- DID YOU EVER HEAR ANY CALLS OVER THE RADIO ABOUT, "YOU GUYS STAY PUT UNTIL INVESTIGATOR DOW MAKES IT DOWN THERE TO THE WITNESS"?

A. ABSOLUTELY NOT.

MS. SHIPLEY: OKAY. I HAVE NO FURTHER QUESTIONS, YOUR HONOR.

MS. DAVIS: THANK YOU, YOUR HONOR.

CROSS-EXAMINATION

BY MS. DAVIS:

Q. OFFICER BAILEY---

A. YES, MA'AM.

Q. ---WAS JOEL ROBINSON IN HANDCUFFS BEFORE INVESTIGATOR DOW GOT THERE?

A. NO.

Q. SO HE WASN'T PLACED IN HANDCUFFS UNTIL AFTER.

A. THAT'S CORRECT.

Q. OKAY. THE SOLICITOR ASKED YOU A COUPLE OF QUESTIONS ABOUT SERGEANT DUTTON. YOU SAID Y'ALL WEREN'T WAITING FOR HIM TO COME BY; RIGHT?

A. NO.

Q. OR WEREN'T WAITING FOR INVESTIGATOR DOW TO COME BY.

A. NO.

Q. SHE WROTE IN HER STATEMENT THOUGH THAT SHE WAS INFORMED THAT INVESTIGATOR DOW WAS BRINGING A WITNESS BY.

A. SHE MAY HAVE MADE CONTACT WITH HIM OVER THE PHONE, BUT IT WASN'T OVER THE RADIO.

Q. OKAY.

A. AND OFFICER FISHER AND I WASN'T PRIVY TO THAT INFORMATION.

Q. SO IT'S POSSIBLE THAT SHE WOULD HAVE HAD SOME CONTACT OR INFORMATION GIVEN TO HER EITHER BY RADIO IN HER PATROL CAR OR ON HER PERSON, BUT YOU ALL WOULDN'T HAVE KNOWN ABOUT IT.

A. IT'S POSSIBLE SHE COULD HAVE CALLED HIM AND SAID, "HEY, I'M OUT WITH SOMEBODY MATCHING THAT DESCRIPTION." I'M NOT SURE.

Q. SO IT'S POSSIBLE THAT INVESTIGATOR DOW DID HAVE CONTACT WITH HER AND SAY, "I'M BRINGING A WITNESS BY."

A. ANYTHING IS POSSIBLE.

Q. SHE HAS A RADIO IN HER CAR?

A. THE RADIO IS CONNECTED TO ALL OUR RADIOS, SO WE WOULD KNOW IF THAT WAS THE CASE.

Q. OKAY.

A. BUT THAT WASN'T THE CASE.

Q. OKAY. BUT YOU JUST SAID THAT IT'S POSSIBLE THAT SHE WOULD HAVE HAD COMMUNICATION WITH INVESTIGATOR DOW AND YOU WOULDN'T HAVE KNOWN ABOUT IT.

A. I SAID ANYTHING IS POSSIBLE.

MS. DAVIS: NOTHING FURTHER.

MS. SHIPLEY: THAT'S ALL FROM THE STATE FOR THE PURPOSES OF THIS HEARING WITH THE EXCEPTION OF INVESTIGATOR DOW. WE'LL HAVE TO CHECK ON HIS STATUS.

THE COURT: OKAY. YOU CAN STEP DOWN. THANK YOU.

MS. SHIPLEY: SINCE INVESTIGATOR DOW WAS WITH JEFF SMITH WHEN THE I.D. WAS MADE IN THE SHOW-UP IDENTIFICATION, WE'LL HOLD OFF OBVIOUSLY ON A RULING ON THAT -- REQUESTING A RULING ON THAT.

THE COURT: OKAY.

MS. SHIPLEY: BUT IF WE COULD JUST ARGUE THE LEVERN SMITH IDENTIFICATION AT THIS TIME.

THE COURT: SURE. OKAY.

MS. SHIPLEY: THANK YOU, YOUR HONOR. YOUR HONOR, WE WOULD RESPECTFULLY REQUEST THAT YOU ALLOW MR. LEVERN SMITH TO IDENTIFY THIS DEFENDANT IN THE PRESENCE OF THE JURY. WE HAVE SATISFIED ALL FIVE FACTORS OF NEIL VERSUS BIGGERS. WE HAVE ESTABLISHED THAT HE HAD AN OPPORTUNITY TO VIEW THE SUSPECT. HE INDICATED THAT THE INCIDENTS THAT HE VIEWED IN THE KITCHEN LASTED FOR SEVERAL MINUTES, THAT HE WAS ABOUT 20 FEET AWAY, THAT THE LIGHTS WERE ON, THAT HE WAS PAYING ATTENTION BECAUSE HE WAS SCARED. I ASKED HIM, "WHY DIDN'T YOU MOVE?" "I WAS TOO SCARED."

HE ALSO INDICATED -- THAT'S WHY I USED STATE'S NUMBER 5, THAT HE WAS SEATED ON THIS COUCH IN THE FRONT ROOM AND THAT THE SUSPECT SHOOTER CAME RIGHT THROUGH THE FRONT DOOR AND AT THAT POINT HE HAD NO PROBLEMS VIEWING HIM AND THAT HE WAS IN CLOSE PROXIMITY TO THE KITCHEN AND WITNESSED ALL THE EVENTS THAT TRANSPIRED NEXT TO THE STOVE BETWEEN THE SHOOTER AND HIS COUSIN, SHORT DOG. AND SO THE OPPORTUNITY TO VIEW HAS BEEN ESTABLISHED AS TO LEVERN SMITH.

THE DEGREE OF ATTENTION: AGAIN, YOUR HONOR, HE IS WITNESSING A MAN SHOOT APPROXIMATELY 10 TIMES AT AN UNARMED COUSIN. I MEAN, THIS IS A FAMILY MEMBER OF HIS. AGAIN, THE ACCURACY OF THE DESCRIPTION: IN HIS STATEMENT TO THE POLICE

HE DESCRIBED THE INDIVIDUAL AS A LIGHT-SKINNED BLACK MALE AND BALD, SLIGHTLY TALLER THAN HIM, HE SAID A COUPLE OF INCHES TALLER THAN HIM. YOUR HONOR, THE DEFENDANT IS 5'10". THIS WITNESS SAID HE'S 5'8", AND SO THAT WOULD BE AN ACCURATE DESCRIPTION AS FAR AS HEIGHT.

AND AT THAT POINT, YOUR HONOR, HE ALSO WAS THEN PRESENTED WITH A PHOTOGRAPHIC LINE-UP THAT NIGHT. HIS STATEMENT WAS GIVEN AT 11:35 P.M. THE MURDER HAPPENED AT 9:41 P.M. SO WITHIN TWO HOURS, TWO AND A HALF HOURS, HE IS BEING ASKED TO IDENTIFY AN INDIVIDUAL IN A PHOTOGRAPHIC LINE-UP. HE TESTIFIED THAT THE OFFICER SHOWED HIM THE SIX PICTURES AND THAT HE IMMEDIATELY PICKED NUMBER 48860, AND ON CROSS-EXAMINATION HE DID CONCEDE THAT THIS INDIVIDUAL IS LIGHT -- THE LIGHTEST OF THEM ALL, BUT THEN ON REDIRECT HE INDICATED, WELL, HE'S NOT MUCH LIGHTER THAN PHOTO 34216 OR PHOTO 33685. AND THEN I FOLLOWED UP ON REDIRECT THE FACT THAT HE HAPPENS TO BE THE LIGHTEST SKINNED PHOTOGRAPH IN THIS PICTURE. "DID THAT HAVE ANYTHING TO DO WITH YOUR IDENTIFICATION OF HIM?" AND THE WITNESS'S RESPONSE WAS LIKE, "NO. I PICKED HIM BECAUSE HE'S THE MAN THAT SHOT MY COUSIN."

AND SO, YOUR HONOR, WE WOULD RESPECTFULLY REQUEST THAT THE TIME OF THE CRIME AND THE TIME BETWEEN THE -- THE TIME BETWEEN THE CRIME AND THE CONFRONTATION WAS MINIMAL WHICH THE COURT SHOULD FEEL CONFIDENT THAT THIS WAS A RELIABLE IDENTIFICATION ON BEHALF OF MR. SMITH'S PART BECAUSE HE DID

WITNESS A FAMILY MEMBER GET SHOT DOWN IN COLD BLOOD IN FRONT OF HIM.

THE COURT: MS. DAVIS?

MS. DAVIS: THANK YOU, YOUR HONOR. THAT LAST STATEMENT IS BASED ON THE REASON THAT WE WOULD ASK THAT YOU NOT ALLOW THE IN-COURT IDENTIFICATION FROM LEVERN SMITH. THIS WAS THE ONLY TIME -- HE ADMITTED IT'S THE ONLY TIME HE EVER SAW JOEL ROBINSON. HE STATED THAT HE HAD NEVER SEEN HIM ON ANY OTHER PRIOR OCCASIONS. SO THE FIRST TIME HE'S EVER SEEN HIM WAS DURING CHAOS WHERE THERE'S SHOOTING. HE TESTIFIED THERE WAS 10 SHOTS FIRED. THIS WAS A LOVED ONE OF HIS.

HE SAID THAT HE SAT ON THE COUCH THE ENTIRE TIME, THAT JOEL WAS -- HAD HIS BACK TO HIM FOR MOST OF IT, THAT HE WALKED IN, WALKED OUT QUICKLY. THE DEGREE OR THE OPPORTUNITY FOR HIM TO VIEW JOEL AT THE TIME OR REVIEW THE SUSPECT AT THE TIME WAS MINIMAL AT BEST. HE ADMITTED IT WAS A VERY BRIEF PERIOD OF TIME, NOT TO MENTION THAT THERE WERE OTHER THINGS GOING ON. HE ADMITTED THERE WAS A LOT GOING ON IN THAT APARTMENT, CONSIDERING WHAT THEY'RE ALLEGING THAT HAPPENED.

YOUR HONOR, IN HIS DESCRIPTION THAT HE GAVE, ONE OF THE THINGS IS THE LEVEL OF THE ACCURACY OF HIS PRIOR DESCRIPTION. HE WAS VERY VAGUE IN HIS PRIOR DESCRIPTION. HE SAID LIGHT-SKINNED, BALD, AND 5'8", MAYBE A LITTLE BIT TALLER THAN ME. HE SAID, "I DON'T REMEMBER ANYTHING ELSE." HE COULDN'T GIVE EYE. HE COULDN'T GIVE A PHYSICAL DESCRIPTION OF HIS FACE OR

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FEATURES. HE COULDN'T SAY WHAT HE WAS WEARING, DIDN'T SAY BUILD, COULDN'T TELL IF HE WAS A TALL MAN OR A SHORT STOCKY MAN OR A THIN MAN. HE DIDN'T GIVE ANY INFORMATION TO THAT, AND YOUR HONOR -- AND FOR THOSE REASONS, YOUR HONOR, WE WOULD ASK THAT YOU NOT ALLOW HIS IN-COURT IDENTIFICATION.

FURTHER, ON THE ACTUAL PHOTO LINE-UP, HE DID ADMIT THAT THE LIGHT SKIN WAS ONE OF THE BIGGEST IDENTIFIERS THAT HE COULD GIVE OF JOEL ROBINSON -- OF THE SUSPECT WHICH HE SAYS IS JOEL ROBINSON. HE ADMITTED THAT OF THE SIX PICTURES JOEL -- HIS PICTURE WAS BY FAR THE LIGHTEST SKINNED AND THE FACT THAT THAT WAS SO APPARENT AND THAT THAT WAS THE MAIN WAY THAT THEY WERE IDENTIFYING HIM.

WE'D ASK THAT -- THE PHOTO LINE-UP ITSELF WAS OVERLY OR UNDULY SUGGESTIVE AND THAT THE WITNESS DID NOT HAVE A LONG ENOUGH TIME -- DIDN'T HAVE AN OPPORTUNITY TO VIEW THE WITNESS AND DID NOT GIVE A VERY ACCURATE -- OR GAVE A VAGUE PRIOR DESCRIPTION OF THE SUSPECT AT THAT TIME.

THE COURT: OKAY. ANYTHING?

MS. SHIPLEY: JUST ONE THING. ONE THING THAT MS. DAVIS INDICATED IS THAT YOU SHOULD NOT ALLOW THIS IDENTIFICATION IN COURT BECAUSE IT'S THE FIRST TIME THE WITNESS SAW THE PERPETRATOR. YOUR HONOR, IN MOST CRIMES THE PEOPLE NEVER KNEW THEIR ATTACKERS. SO THAT IS JUST NOT SOMETHING THAT WE'D ASK THE COURT TO RELY ON.

ALSO, ABOUT THE BUILD, YOUR HONOR, THIS PHOTOGRAPHIC

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LINE-UP DOES NOT SHOW ANYBODY'S BUILD, AND THE WITNESS TESTIFIED HE IDENTIFIED HIM BECAUSE HE SAW HIS FACE. "THAT'S THE MAN THAT I SAW."

ALSO, YOUR HONOR, HE TESTIFIED THAT THE INDIVIDUAL WAS BALD. IN THAT PHOTOGRAPH YOU HEARD FROM INVESTIGATOR BALES THAT THERE WAS SOME HAIR ON THE SIDES OF THE PHOTO WITH THE DEFENDANT IN IT, AND SO WE WOULD JUST OFFER THAT AS EVIDENCE THAT THIS MAN IS IDENTIFYING HIM BASED ON HIS FACE, NOT JUST THE BALDNESS OR HIS SKIN. IT'S HIS FACE. AND SO WE WOULD RESPECTFULLY REQUEST THAT YOU ALLOW HIM TO IDENTIFY HIM IN COURT.

THE COURT: OKAY. BASED ON HEARING YOU ALL'S ARGUMENT, I BELIEVE THE STATE HAS SUFFICIENTLY MET ITS BURDEN IN THAT CASE, AND THE I.D. WILL BE ALLOWED.

MS. SHIPLEY: THANK YOU, YOUR HONOR. THE NEXT PRETRIAL MATTER, YOUR HONOR, THAT WE HAVE IS THE -- I BELIEVE THEY HAVE A MOTION TO SUPPRESS, BUT WE'LL GO AHEAD AND JUST DO THE NEIL VERSUS -- THE JACKSON VERSUS DENNO AT THIS TIME.

THE COURT: OKAY.

MS. SHIPLEY: AT THIS TIME THE STATE WOULD CALL OFFICER BRIAN CARROLL.

BRIAN CARROLL, AFTER BEING DULY SWORN, TESTIFIED AS FOLLOWS IN CAMERA:

THE CLERK: PLEASE HAVE A SEAT AND STATE YOUR FULL NAME FOR THE RECORD.

THE WITNESS: BRIAN CARROLL.

DIRECT EXAMINATION

BY MS. SHIPLEY:

Q. OFFICER CARROLL, WHERE ARE YOU EMPLOYED?

A. CITY OF COLUMBIA POLICE DEPARTMENT.

Q. HOW LONG HAVE YOU BEEN EMPLOYED THERE?

A. APPROXIMATELY THREE YEARS.

Q. AND WHAT ARE YOUR DUTIES?

A. PATROLMAN.

Q. AND WHAT AS A PATROLMAN -- CAN YOU PULL THAT MICROPHONE TO YOUR MOUTH SO I CAN HEAR YOU? AS A PATROLMAN, WHAT DO YOUR DUTIES INVOLVE?

A. ANSWER CALLS, RESPOND TO DISTRESS CALLS, TAKE ACCIDENTS, ANYTHING THAT WE GET CALLS FOR SERVICE FOR.

Q. OKAY. NOW, BACK ON FEBRUARY 15TH, 2007, WERE YOU PATROLLING A CERTAIN AREA OF COLUMBIA, THE CITY OF COLUMBIA?

A. I WAS TRANSPORT AT THAT TIME.

Q. YOU WERE---

A. I WAS ACTUALLY -- I WAS AT THE JAIL AT THE TIME.

Q. OKAY. SO YOU WERE WORKING WITH THE COLUMBIA POLICE DEPARTMENT OR YOU WERE WORKING WITH THE JAIL?

A. I WAS WITH THE CITY OF COLUMBIA. I WAS TRANSPORT. THAT WAS MY DUTY FOR THAT NIGHT, TRANSPORT PRISONERS.

Q. OKAY.

A. FOR THE NORTH REGION.

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Q. OKAY. AND WHERE -- WHAT PART OF COLUMBIA IS THE NORTH REGION?
A. FROM CALHOUN STREET NORTH UP TO I-20.
Q. OKAY. NOW, AT THAT POINT DO YOU RECALL BEING CALLED BY INVESTIGATORS TO COME TRANSPORT AN INDIVIDUAL THE NIGHT OF FEBRUARY 15TH, 2007?
A. YES, MA'AM. I DON'T REMEMBER WHO CALLED ME, BUT I RESPONDED OUT TO THE SCENE.
Q. OKAY. AND WHEN YOU WERE CALLED TO THE SCENE, WHAT SCENE WERE YOU CALLED TO?
A. 4800 BLOCK OF NORTH MAIN.
Q. OKAY. AND DO YOU RECALL WHO WAS PRESENT UP THERE AT 4800 NORTH MAIN, OTHER OFFICERS?
A. IT WAS -- SERGEANT DUTTON WAS THERE, FISHER, BAILEY. I BELIEVE THERE WAS AN INVESTIGATOR WHO WAS STILL THERE, AND THE DEFENDANT WAS THERE.
Q. OKAY. AND AT THAT POINT WHERE WERE YOU ASKED TO TAKE THE DEFENDANT TO?
A. HEADQUARTERS.
Q. ALL RIGHT. AND HOW LONG OF A DRIVE IS IT FROM NORTH MAIN TO HEADQUARTERS?
A. ABOUT SIX MINUTES OR SO.
Q. OKAY. AND IF YOU WERE -- ARE YOU FAMILIAR WITH MYERS STREET?
A. YES.

Q. OKAY. IF YOU WERE LEAVING MYERS STREET TO GO TO COLUMBIA POLICE DEPARTMENT HEADQUARTERS, WHAT WOULD BE THE MAIN AVENUE ONE WOULD TAKE TO GET TO THE COLUMBIA POLICE DEPARTMENT?

A. TAKE AMES TO PRESCOTT AND PRESCOTT TO MAIN AND GO SOUTH ON MAIN.

Q. OKAY. AND SO THAT WOULD BE THE QUICKEST ROUTE TO GO TO THE COLUMBIA POLICE DEPARTMENT HEADQUARTERS?

A. I BELIEVE SO.

Q. SO ABOUT SIX MINUTES YOU WERE ALONE WITH THE DEFENDANT, JOEL ROBINSON. CORRECT?

A. THAT'S CORRECT.

Q. OKAY. DID YOU SPEAK WITH HIM AT ALL IN THE VEHICLE ON THE WAY OVER TO THE COLUMBIA POLICE DEPARTMENT?

A. NO, MA'AM.

Q. OKAY. WHERE DID YOU TAKE HIM TO IN THE COLUMBIA POLICE DEPARTMENT?

A. SECOND FLOOR, INVESTIGATIONS.

Q. ALL RIGHT. AND WHO WERE YOU WAITING ON TO SHOW UP TO INTERVIEW THE DEFENDANT WHILE YOU WERE IN THE -- IN THIS EVIDENCE OR INTERVIEW ROOM?

A. I WAS WAITING ON INVESTIGATOR REESE AT THE TIME.

Q. OKAY. HOW LONG DO YOU BELIEVE YOU WERE IN THAT INVESTIGATIVE ROOM WITH THE DEFENDANT WHILE YOU WERE WAITING ON INVESTIGATOR REESE?

A. ABOUT 10 MINUTES OR SO, GIVE OR TAKE.
Q. OKAY. AT THAT POINT DID YOU HAVE ANY DISCUSSIONS WITH THE DEFENDANT?
A. YES, I DID.
Q. AND DID THEY PERTAIN -- TELL THE JUDGE A LITTLE BIT ABOUT YOUR CONVERSATION WITH THE DEFENDANT.
A. SMALL TALK. I USED TO WORK IN ST. MATTHEWS. I TALKED WITH HIM ABOUT THAT, AND I KNEW HIS COUSIN FROM ST. MATTHEWS. SO WE JUST HAD SMALL TALK, AND AT SOME POINT HE MADE THE STATEMENT THAT THE VICTIM HAD DISRESPECTED HIM THROUGHOUT OUR CONVERSATION.
Q. SO WHAT EXACTLY -- WHAT EXACTLY DID HE SAY ABOUT THE VICTIM AND THAT HE HAD BEEN DISRESPECTED?
A. HE JUST STATED THAT THE VICTIM DISRESPECTED HIM SEVERAL TIMES.
Q. OKAY. DID HE EVER SAY ANYTHING ABOUT SHOOTING THE VICTIM?
A. NO.

MS. SHIPLEY: OKAY. YOUR HONOR, THAT IS ALL.

THE COURT: OKAY.

MR. LEDDY: THANK YOU, YOUR HONOR.

CROSS-EXAMINATION

BY MR. LEDDY:

Q. OFFICER, WHAT WAS IT THAT LED FROM SMALL TALK TO A DISCUSSION OF HIM BEING DISRESPECTED? DO YOU RECALL THAT?

A. NO. HE JUST MADE THE COMMENT AT SOME POINT BEFORE INVESTIGATOR REESE HAD COME IN TO TALK TO HIM.
Q. OKAY. DO YOU RECALL IF IT WAS JUST LIKE A PAUSE IN YOUR CONVERSATION AND THEN HE JUST STARTED TALKING ABOUT IT?
A. WE JUST BROUGHT UP THE FACT THAT WE KNEW THE SAME PEOPLE.
Q. UH-HUH.
A. AND I DIDN'T KNOW THE VICTIM, WHO HE WAS.
Q. OKAY.
A. AND HE BROUGHT UP THE FACT -- WHAT HIS COMMENT WAS.
Q. OKAY. AND THAT WAS A ONE-TIME COMMENT THAT HE MADE?
A. YEAH.

MR. LEDDY: OKAY. NOTHING FURTHER.

THE COURT: OKAY.

MS. SHIPLEY: THANK. NO FURTHER QUESTIONS.

THE COURT: OKAY. YOU CAN STEP DOWN, SIR.

MS. SHIPLEY: THE STATE CALLS OFFICER RODNEY FISHER.

THE CLERK: YOU'RE STILL UNDER OATH.

RODNEY FISHER, HAVING BEEN PREVIOUSLY SWORN AND REMAINING UNDER OATH, TESTIFIED AS FOLLOWS IN CAMERA:

DIRECT EXAMINATION

BY MS. SHIPLEY:

Q. OFFICER FISHER, DO YOU RECALL GOING TO THE 4800 BLOCK OF NORTH MAIN STREET ON FEBRUARY 15TH, 2007?
A. YES.

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Q. OKAY. YOU TESTIFIED EARLIER IN A NEIL VERSUS BIGGERS HEARING. DO YOU RECALL TESTIFYING -- WE'RE GOING TO PICK IT UP FROM THERE. INVESTIGATOR DOW SHOWED UP. IS THAT CORRECT?

A. YES.

Q. ALL RIGHT. DESCRIBE FOR JUDGE CHILDS WHAT EXACTLY TRANSPIRED ONCE YOU ARRIVED AND SAW DUTTON WITH THE SUSPECT.

A. FROM THE TIME THAT DOW ARRIVED?

Q. YEAH. YOU ARRIVED TO BACK HER UP.

A. ONCE I BACKED HER UP, OF COURSE, I PUT HIM ON THE BACK OF THE CAR, HAD HIM CROSS HIS LEGS. THAT'S WHEN TWO OTHER OFFICERS CAME, OFFICER WISE AND OFFICER BARBER.

Q. UH-HUH.

A. AND THAT'S WHEN -- SHORTLY AFTER THAT, INVESTIGATOR DOW PULLED BACK THERE AND CALLED ME OVER. SO I HAD THEM STAND BY WITH HIM, AND I WENT AND TALKED WITH INVESTIGATOR DOW. HE SAID THE WITNESS POSITIVELY I.D.'D HIM. SO THAT'S WHEN I WALKED BACK OVER TO HIM AND I 1069'D WHICH IS DETAIN HIM. THEN HE WAS PLACED UNDER DETENTION. THEY HAD SET HIM BACK IN THE CAR, BUT ME AND BAILEY PULLED HIM BACK OUT BECAUSE WE DIDN'T KNOW IF SERGEANT DUTTON HAD PATTED HIM DOWN WHILE SHE WAS TALKING TO HIM BEFORE WE GOT TO HIM OR WHATEVER. SO WE STARTED PATTING HIM DOWN. THAT'S WHEN WE FELT A HANDGUN IN HIS JACKET POCKET, AND IT WAS REMOVED AND CLEARED AND ALL THAT.

Q. OKAY. AND WHAT SIDE OF HIS BODY DID YOU FIND THE

HANDGUN IN?

A. ON THE RIGHT FRONT POCKET.

Q. OKAY. WHAT ELSE DID YOU FIND ON HIM?

A. WELL, AT THAT TIME HE HAD TOLD ME THAT THERE WAS SOME MORE DRUGS IN HIS UPPER LEFT-HAND POCKET WHICH I REMOVED SO...

Q. OKAY. AND WHO WAS SEARCHING HIS LEFT SIDE?

A. OFFICER BAILEY.

Q. OKAY. AND DID YOU OBSERVE OFFICER BAILEY FIND ANYTHING ON HIM?

A. NO, I WASN'T PAYING ATTENTION TO HIM. I WAS TOO BUSY SEARCHING MY SIDE.

Q. OKAY. AND ON YOUR SIDE DID YOU RECOVER A GUN?

A. YES.

Q. OKAY. WHAT KIND OF GUN WAS IT?

A. IT WAS A SILVER AND BLACK NINE MILLIMETER PISTOL.

Q. ALL RIGHT. AND WHAT PART OF THE DEFENDANT'S BODY DID YOU FIND THAT IN?

A. IN THE FRONT JACKET LOWER POCKET.

Q. OKAY. AND HE WAS -- WHAT COLOR WAS HIS JACKET?

A. IT WAS TAN.

Q. ALL RIGHT. AT THAT POINT AFTER YOU RECOVERED THE GUN AND SOME DRUGS OFF OF HIM FROM HIS RIGHT SIDE, WHAT DID YOU DO WITH THE EVIDENCE?

A. IT WAS PLACED ON THE TRUNK OF THE CAR.

Q. OKAY. AND DID YOU OBSERVE ANY OTHER ITEMS OF EVIDENCE THAT OFFICER BAILEY HAD TAKEN---

A. NO.

Q. ---OFF OF HIM? YOU DIDN'T PAY ANY ATTENTION?

A. NO, I DIDN'T PAY NO ATTENTION.

Q. WAS THE SUSPECT THEN CLEARED OR SECURED IN ORDER TO BE PUT BACK IN THE PATROL CAR?

A. YES.

Q. OKAY. DO YOU RECALL BEING PRESENT WHEN INVESTIGATOR REESE ARRIVED ON THE SCENE?

A. YES.

Q. OKAY. CAN YOU TELL JUDGE CHILDS WHAT HAPPENED WHEN -- WHAT DID YOU OBSERVE WHEN INVESTIGATOR REESE SHOWED UP?

A. WHEN INVESTIGATOR REESE SHOWED UP, HE CAME OVER TO TALK TO THE SUBJECT. AND HE WAS AGITATED, SO HE LET HIM STEP OUT OF THE CAR AND SMOKE A CIGARETTE. AND I THINK AT THAT TIME INVESTIGATOR REESE STARTED WALKING AWAY AT WHICH TIME THE DEFENDANT STATED TO ME, "I KILLED HIM. HE'S DEAD." AND THAT'S WHEN I WAS LIKE, "HOLD UP. WAIT A MINUTE. LET ME READ YOU YOUR RIGHTS AND THEN I'LL STOP." AND HE WAS TAKEN TO INVESTIGATOR REESE'S CAR AND TAKEN FROM THERE TO HEADQUARTERS, I ASSUME.

Q. OKAY. AND SO LET ME GET THE SEQUENCE OF EVENTS CORRECTLY. YOU'D ALREADY SEARCHED HIM, PUT HIM IN THE CAR, IN THE PATROL CAR; RIGHT?

A. YES.
Q. HE'S HANDCUFFED.
A. YES.
Q. HE'S UNDER ARREST.
A. YES.
Q. ALL RIGHT. DID YOU QUESTION HIM AT ALL ABOUT HIS INVOLVEMENT IN THE SHOOTING PRIOR TO INVESTIGATOR REESE SHOWING UP?
A. NO, I DIDN'T QUESTION HIM AT ALL.
Q. OKAY. AND AT THAT POINT INVESTIGATOR REESE ALLOWED HIM TO SMOKE A CIGARETTE; IS THAT CORRECT?
A. YES.
Q. AND WHILE INVESTIGATOR REESE TURNED TO DO SOMETHING, WHAT DID YOU HEAR THE DEFENDANT SAY TO YOU?
A. HE SAID, "I KILLED HIM. HE'S DEAD."
Q. AND I WOULD SHOW YOU YOUR STATEMENT REAL QUICK. DID YOU WRITE A STATEMENT IN REFERENCE TO YOUR INVOLVEMENT IN THIS CASE?
A. YES.
Q. OKAY. WOULD IT -- IF YOU REVIEWED IT, WOULD IT HELP YOU TO REFRESH YOUR MEMORY?
A. YES.
Q. I'M JUST GOING TO SPEED UP THIS PROCESS AND POINT IT TO YOU. DID YOU WRITE DOWN EXACTLY WHAT THE MAN SAID TO YOU?
A. YEAH.

Q. AND WHAT DID HE SAY TO YOU?

A. "I SHOT HIM. HE'S DEAD."

Q. OKAY. DID YOU ASK HIM ANY QUESTIONS IN ORDER TO ELICIT THIS FROM HIM?

A. NO.

Q. HE SIMPLY SPONTANEOUSLY SAID IT TO YOU?

A. YES.

Q. AND WHAT EXACTLY DID YOU DO THE MOMENT HE SAID THAT? WHAT DID YOU TRY TO DO FOR HIM?

A. I SAID, "HOLD UP. LET ME READ YOU YOUR RIGHTS OR WHATEVER."

Q. OKAY. AND DID OFFICER OR INVESTIGATOR REESE HEAR YOU---

A. YEAH.

Q. ---TRY TO MIRANDIZE HIM?

A. YES.

Q. WHAT TRANSPIRED WHEN INVESTIGATOR REESE HEARD YOU TRY TO GIVE THIS MAN HIS MIRANDA RIGHTS?

A. HE TOLD ME TO STOP, AND HE TOOK HIM WITH HIM.

Q. OKAY. AND SO HE STOPPED YOU FROM MIRANDIZING HIM AND HE TOOK HIM HIMSELF.

A. RIGHT.

Q. OKAY. AND, AGAIN, DID YOU IN ANY WAY QUESTION THIS MAN CONCERNING HIS INVOLVEMENT IN THIS SHOOTING?

A. NO.

MS. SHIPLEY: NO FURTHER QUESTIONS, YOUR HONOR.

THE COURT: OKAY.

CROSS-EXAMINATION

BY MR. LEDDY:

Q. OFFICER, WHAT DO YOU RECALL SAYING TO THE DEFENDANT WHEN YOU TOOK HIM OUT OF THE BACK OF THIS---

A. I DIDN'T SAY NOTHING TO HIM.

Q. YOU SAID NOTHING. YOU DIDN'T SAY, "SIR, STEP OUT OF THE CAR"?

A. NO. INVESTIGATOR REESE HAD HIM STEP OUT. HE WAS TALKING WITH HIM THE WHOLE TIME. I WAS JUST THERE AS BACK-UP OR WHATEVER.

Q. OKAY. BUT PRIOR TO THAT, YOU DID ACTUALLY ASK HIM TO LEAN AGAINST THE CAR; IS THAT RIGHT?

A. YES.

Q. OKAY. AND AT THAT TIME YOU WERE ON THE SCENE BECAUSE HE WAS THE PERSON WHO WAS A SUSPECT IN A SHOOTING; RIGHT?

A. RIGHT.

Q. AND SERGEANT DUTTON AT THE TIME WAS I GUESS PUNCHING HIS INFORMATION INTO THE COMPUTER YOU GUYS HAVE IN THE CAR?

A. YES.

Q. ALL RIGHT. AND AT THAT TIME DID IT OCCUR TO YOU TO PAT HIM DOWN AT THAT TIME?

A. NOT AT THAT TIME, NO. HUH-UH.

Q. OKAY. NOW, THIS WAS SHORTLY AFTER A SHOOTING WHICH GENERATED A LOT OF RADIO TRAFFIC, I KNOW.

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A. YES.
Q. OKAY. BECAUSE I'VE HEARD THE 9-1-1 CALLS ON THE TAPES AND I THINK YOU WERE ON DUTY AT THAT TIME; RIGHT?
A. YES.
Q. OKAY. SO THERE WAS A LOT OF TRAFFIC. SO YOU WERE AWARE THAT THERE WAS SOMEBODY WHO HAD BEEN KILLED.
A. YES.
Q. ALL RIGHT. AND THIS PERSON WAS STOPPED BECAUSE THEY MATCHED THE DESCRIPTION.
A. RIGHT.
Q. ALL RIGHT. SO YOU DIDN'T -- IT'S JUST ODD THAT THERE WASN'T A PAT-DOWN AT THAT TIME, AND I'M NOT SAYING THAT YOU WERE WRONG. I'M JUST SAYING THAT---
A. WELL, INITIALLY---
Q. CAN YOU TELL ME WHY THERE WASN'T?
A. WELL, INITIALLY SHE GOT OUT WITH HIM. I ASSUMED AT THE TIME SHE HAD PATTED HIM DOWN FOR HER SAFETY.
Q. I SEE.
A. BUT COME TO FIND OUT, THAT WASN'T THE CASE. SO THEN HE WAS DETAINED AND SEARCHED OR PATTED DOWN FOR WEAPONS. FOUND A WEAPON.
Q. AND THAT WAS AFTER INVESTIGATOR DOW ARRIVED WITH THE WITNESS---
A. YES.
Q. ---THAT HE WAS PATTED DOWN?

A. YES.
Q. OKAY. SO WHEN INVESTIGATOR DOW GOT THERE IS WHEN HE WAS PLACED INTO THE CAR FOR THE FIRST TIME.
A. RIGHT.
Q. AFTER THE POSITIVE I.D.
A. RIGHT.
Q. OKAY. AND THEN AFTER THAT, YOU GOT HIM BACK OUT AND SAID, "WE BETTER PAT HIM DOWN."
A. YES.
Q. ALL RIGHT. I'M JUST TRYING TO GET EVERYTHING STRAIGHT AS WELL. AND AT NO TIME -- I GUESS YOU'RE SAYING THAT AT NO TIME DID YOU REALLY SAY ANYTHING AT ALL TO THE DEFENDANT.
A. NO.

MR. LEDDY: OKAY. THANKS.

MS. SHIPLEY: THAT'S ALL FOR THIS WITNESS.

THE COURT: OKAY. YOU CAN STEP DOWN, SIR.

MS. SHIPLEY: THE STATE CALLS INVESTIGATOR KEVIN REESE.

KEVIN REESE, AFTER BEING DULY SWORN, TESTIFIED AS FOLLOWS IN CAMERA:

THE CLERK: PLEASE HAVE A SEAT AND STATE YOUR FULL NAME FOR THE RECORD.

THE WITNESS: KEVIN REESE.

DIRECT EXAMINATION

BY MS. SHIPLEY:

Q. GOOD AFTERNOON, INVESTIGATOR REESE.

A. GOOD EVENING.
Q. INVESTIGATOR REESE, HOW LONG HAVE YOU WORKED AT THE COLUMBIA POLICE DEPARTMENT?
A. THIS IS MY SECOND TOUR, SO SINCE '91.
Q. SINCE 1991?
A. UH-HUH.
Q. AND HOW LONG HAVE YOU BEEN AN INVESTIGATOR?
A. A LITTLE OVER 10 YEARS.
Q. A LITTLE OVER 10 YEARS? CAN YOU DESCRIBE WHAT YOUR ROLE OR DUTIES ARE AS AN INVESTIGATOR?
A. I AM A HOMICIDE AND VIOLENT CRIMES INVESTIGATOR.
Q. AND AS PART OF YOUR DUTIES, DO YOU HAVE TO INTERVIEW SUSPECTS OF CRIMES?
A. THAT'S RIGHT.
Q. AND IN YOUR TRAINING AND EXPERIENCE, WHAT IS THE VERY FIRST THING YOU DO WHEN YOU DEAL WITH A SUSPECT AND YOU WANT TO TALK TO THEM?
A. I MIRANDIZE THEM.
Q. YOU MIRANDIZE THEM?
A. RIGHT.
Q. I'M GOING TO BRING YOUR ATTENTION TO THE NIGHT OF THE FEBRUARY 15TH, 2007. DO YOU RECALL BEING INVOLVED IN AN INVESTIGATION OF A MURDER AT ?
A. YES, I DO.
Q. CAN YOU TELL JUDGE CHILDS WHETHER OR NOT YOU WERE

INVOLVED IN QUESTIONING THE SUSPECT OF THAT CASE?
A. I WAS.
Q. WHEN IS THE FIRST CONTACT YOU HAD WITH THAT INDIVIDUAL?
A. THE FIRST CONTACT I HAD WITH HIM WAS -- I THINK IT WAS THE 4800 BLOCK OF MAIN STREET.
Q. ALL RIGHT. AND AT THAT POINT WAS HE ALREADY IN CUSTODY?
A. YES, HE WAS.
Q. AND HAD HE ALREADY BEEN IDENTIFIED BY JEFF SMITH?
A. YES, HE WAS.
Q. AT THAT POINT WHEN YOU ARRIVED ON THE SCENE, DESCRIBE FOR THE COURT THE DEFENDANT'S DEMEANOR.
A. HE WAS PRETTY AGITATED IN THE BACK SEAT OF THE CAR, CUSSING AND YELLING AND SCREAMING.
Q. OKAY. AND SO AS THE ASSIGNED LEAD INVESTIGATOR IN THIS CASE, WHAT DID YOU DO FOR MR. ROBINSON AT THAT POINT?
A. I KNEW AT THAT POINT I NEEDED TO TAKE SOME STEPS TO CALM HIM DOWN.
Q. OKAY.
A. SO I NOTICED THAT THERE WERE SOME ITEMS ON THE BACK OF THE POLICE CAR---
Q. RIGHT.
A. ---THAT HE WAS IN. OF THOSE ITEMS WERE I THINK TWO PACKS OF CIGARETTES. I ASSUMED THAT THEY WERE HIS. I ASKED THE OFFICERS. THEY GAVE AN AFFIRMATIVE ANSWER, AND AT THIS POINT I OPENED THE DOOR, TRIED TO TALK TO HIM A LITTLE BIT,

CALM HIM DOWN. I ASKED HIM IF HE WANTED TO SMOKE A CIGARETTE AND HE SAID, "YES." I INSTRUCTED THE OFFICERS TO LET HIM OUT OF THE CAR. HE WAS STILL IN HANDCUFFS WITH HIS HANDS CUFFED BEHIND HIS BACK. I TOOK THE CIGARETTE OUT OF THE PACK AND PUT IT IN HIS MOUTH. I LIT IT FOR HIM. WHEN HE PUFFED, I TOOK IT OUT. HE'D PUFF IT AGAIN; I'D PUT IT BACK IN.

Q. AND SO YOU WERE HOLDING THE CIGARETTE, ALLOWING HIM TO SMOKE?

A. RIGHT.

Q. OKAY. AND HAD YOU INTRODUCED YOURSELF TO HIM?

A. YES, I DID.

Q. OKAY. SO HE KNEW YOU WERE WITH THE COLUMBIA POLICE DEPARTMENT INVESTIGATIONS.

A. ABSOLUTELY.

Q. OKAY. NOW, AFTER HE SMOKED A CIGARETTE, DO YOU RECALL WITNESSING OFFICER FISHER BEGIN TO MIRANDIZE HIM?

A. YES, MA'AM, I DO.

Q. OKAY. TELL JUDGE CHILDS WHAT YOU WITNESSED.

A. AFTER HE FINISHED SMOKING THE CIGARETTE, YOU KNOW, I THINK I STEPPED AWAY OR ATTEMPTED TO STEP AWAY, AT ANY POINT, AND I TURNED MY BACK TO MR. ROBINSON, AND AT THAT TIME I DID NOT HEAR WHAT HE SAID. I OVERHEARD OFFICER FISHER SAY, "WAIT A MINUTE. LET ME READ YOU YOUR RIGHTS," AND I IMMEDIATELY TURNED AROUND. I THINK I ASKED FISHER, "WHAT WAS THAT ALL ABOUT?" AND AT THAT POINT I STOPPED FISHER FROM GOING ANY

FURTHER.
Q. OKAY. AND WHY DID YOU STOP FISHER FROM MIRANDIZING HIM?
A. WELL, FOR A NUMBER OF REASONS.
Q. NOT HIS JOB?
A. ABSOLUTELY.
Q. OKAY. SO IT'S YOUR -- YOU WANTED TO BE IN CHARGE OF INTERVIEWING THIS MAN, NOT OFFICER FISHER.
A. RIGHT.
Q. OKAY. SO AT THAT POINT DID OFFICER FISHER RELAY TO YOU WHAT HE HAD SAID TO HIM?
A. YES, HE DID.
Q. OKAY. THAT, "I SHOT HIM. HE'S DEAD"?
A. THAT'S RIGHT.
Q. ALL RIGHT. AT THAT POINT DID YOU TAKE JOEL ROBINSON TO THE COLUMBIA POLICE DEPARTMENT HEADQUARTERS?
A. I HAD -- I HAD HIM BROUGHT THERE. I DIDN'T TAKE HIM MYSELF.
Q. OKAY. AND, IN FACT, DID OFFICER B.J. OR BRIAN CARROLL THAT WAS HERE EARLIER -- DID YOU -- IS THAT THE OFFICER THAT BROUGHT HIM TO YOU?
A. YES, MA'AM.
Q. OKAY. ONCE YOU MADE IT TO HEADQUARTERS, WAS THE SUSPECT ALREADY IN THE INTERVIEW ROOM WAITING FOR YOU?
A. YES, MA'AM.
Q. WITH OFFICER CARROLL?

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A. RIGHT.
Q. OKAY. WHAT IS THE FIRST THING YOU DID WHEN YOU BEGAN INTERVIEWING THE DEFENDANT?
A. THE FIRST THING I DID WAS TO MIRANDIZE HIM.
Q. OKAY. I'M GOING TO SHOW YOU WHAT'S BEEN MARKED STATE'S NUMBER 6 FOR IDENTIFICATION PURPOSES AND ASK YOU IF YOU RECOGNIZE IT.
A. THAT'S RIGHT. THIS IS THE WAIVER OF RIGHTS FORM.
Q. OKAY. AND IS THAT YOUR SIGNATURE ON THAT FORM?
A. THAT IS.
Q. OKAY. AND WHAT DATE AND TIME DOES THE FORM INDICATE YOU'RE MIRANDIZING HIM?
A. FEBRUARY THE 16TH, 2007, 12:47.
Q. 12:47 A.M.?
A. THAT'S RIGHT.
Q. OKAY. AND SO THIS IS ABOUT THREE HOURS AFTER THE SHOOTING INCIDENT?
A. I BELIEVE SO.
Q. OKAY. NOW, USING THAT FORM, PLEASE DEMONSTRATE FOR JUDGE CHILDS EXACTLY YOUR PROCEDURES WHEN YOU GO THROUGH AN ADVICE OF RIGHTS FORM WITH A DEFENDANT.
A. OKAY.
Q. HOW DID YOU DO IT THAT NIGHT WITH JOEL ROBINSON?
A. YOUR HONOR, BASICALLY I READ EXACTLY WHAT IT IS ON THE WAIVER OF RIGHTS FORM. I EXPLAIN TO THE PERSON THAT I INTEND

TO INTERVIEW WHAT IT IS. IN THIS CASE I EXPLAINED TO MR. ROBINSON THAT THIS IS A WAIVER OF RIGHTS FORM. I READ EXACTLY WHAT'S THE WORDING ON THE FORM, AS I DID WITH HIM. I FIRST TOLD HIM, WHICH IS THE FIRST LINE, "BEFORE WE ASK ANY QUESTIONS, YOU MUST UNDERSTAND YOUR RIGHTS." THAT'S WHAT I READ TO HIM.

I THINK I ALSO EXPLAINED TO HIM THAT AFTER EVERY RIGHT I READ TO HIM, I WILL GET HIM TO INITIAL IT WHICH WOULD BE HIS INDICATION TO ME THAT HE UNDERSTANDS WHAT I HAVE READ TO HIM. THE FIRST RIGHT I READ TO HIM IS: "YOU HAVE THE RIGHT TO REMAIN SILENT." I ASKED HIM IF HE UNDERSTOOD THAT. HE SAID, "YES." HE INITIALED THE LINE TO THAT QUESTION.

NEXT QUESTION OR NEXT RIGHT IS: "ANYTHING YOU SAY CAN BE USED AGAINST YOU IN COURT." HE INDICATED HE UNDERSTOOD THAT ONE ALSO BY INITIALING WITH THE INITIALS J.R. THE NEXT RIGHT: "YOU HAVE THE RIGHT TO TALK WITH A LAWYER FOR ADVICE BEFORE WE ASK YOU ANY QUESTIONS AND TO HAVE THEM WITH YOU DURING QUESTIONING." I ASKED HIM IF HE UNDERSTOOD THAT ONE. HE INDICATED YES BY SIGNING IT, ALSO SAYING THAT HE UNDERSTOOD IT.

"IF YOU CANNOT AFFORD A LAWYER, ONE WILL BE APPOINTED TO YOU BEFORE ANY QUESTIONING IF YOU WISH." HE INDICATED, YES, HE UNDERSTOOD THAT ONE, SAME MANNER. "IF YOU DECIDE TO ANSWER QUESTIONS NOW WITHOUT A LAWYER PRESENT, YOU WILL STILL HAVE THE RIGHT TO STOP ANSWERING QUESTIONS AT ANY TIME. YOU

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ALSO HAVE THE RIGHT TO STOP ANSWERING QUESTIONS AT ANY TIME UNTIL YOU TALK TO A LAWYER." I ASKED HIM IF HE UNDERSTOOD THAT ONE. HE INDICATED AGAIN, YES, HE UNDERSTOOD IT AND HE SIGNED THAT LINE, THE BOTTOM OF THE WAIVER OF THE RIGHTS FORM.

I THINK AT THIS POINT I -- I MEAN, AT THIS POINT I ASK EVERYBODY TO GIVE ME SOME INDICATION IF THEY CAN READ OR WRITE OR EITHER I JUST SIMPLY ASK THEM, "CAN YOU READ OR WRITE?" IF THEY SAY, "YES," I HAVE THEM READ THIS -- THE BOTTOM PARAGRAPH. IF THEY SAY, "NO," OR INDICATE NO, I READ IT FOR THEM. I THINK HE INDICATED, YES, HE COULD READ.

IF THAT'S THE CASE HERE, HE READ, "I HAVE READ THIS RIGHT, THIS STATEMENT OF MY RIGHTS, AND I UNDERSTAND WHAT MY RIGHTS ARE. I AM WILLING TO MAKE A STATEMENT AND ANSWER QUESTIONS. I DO NOT WANT A LAWYER AT THIS TIME. I UNDERSTAND AND KNOW WHAT I AM DOING. NO PROMISES OR THREATS HAVE BEEN MADE TO ME, AND NO PRESSURE OR COERCION OF ANY KIND HAS BEEN USED AGAINST ME."

AT THAT POINT I SIGNED OFF ON THE WAIVER OF RIGHTS AS A WITNESS. SERGEANT CHRIS WHITE, WHO WAS THERE ALSO, SIGNED OFF AS A WITNESS, AND MR. ROBINSON SIGNED OFF AS WAIVING HIS RIGHTS.

Q. AND WHEN YOU WENT OVER THESE RIGHTS ONE BY ONE, YOU INDICATED THAT YOU HAD MR. ROBINSON INITIAL THE -- THAT EVENTUALLY HE INITIALED BY EACH ONE?

A. RIGHT.
Q. WHAT DO THOSE INITIALS SIGNIFY?
A. IT SIGNIFIES THAT HE UNDERSTOOD EACH ONE OF THOSE LINES.
Q. OKAY. SO YOU READ IT TO HIM. DO YOU UNDERSTAND? INITIAL IT.
A. RIGHT.
Q. OKAY. AND DURING THIS TIME, DID HE APPEAR TO NOT -- DID HE APPEAR TO UNDERSTAND HIS RIGHTS?
A. ABSOLUTELY.
Q. OKAY. DESCRIBE HIS DEMEANOR TO JUDGE CHILDS. WAS HE COOPERATIVE WITH YOU?
A. IN THE INTERVIEW ROOM?
Q. YES.
A. YES, HE WAS.
Q. OKAY. AND DID HE ANSWER YOUR QUESTIONS APPROPRIATELY?
A. YES, HE DID.
Q. OKAY. AND DID HE HAVE ANY QUESTIONS ABOUT HIS RIGHTS?
A. NO, NOT THAT I CAN RECALL.
Q. OKAY. IF HE HAD HAD ANY QUESTIONS ABOUT HIS RIGHTS, WOULD YOU HAVE EXPLAINED IT TO HIM?
A. DEFINITELY.
Q. OKAY. I'M GOING TO SHOW YOU WHAT'S BEEN MARKED STATE'S NUMBER 7 AND SEE IF YOU RECOGNIZE THIS.
A. THIS IS THE STATEMENT WRITTEN BY -- THE FRONT PAGE OF THE STATEMENT IS WRITTEN BY MR. ROBINSON HIMSELF.

Q. OKAY.
A. AND THE PAGES AFTER WOULD BE QUESTIONS AND ANSWERS WRITTEN BY ME. AFTER I ASKED HIM A QUESTION, HE GAVE AN ANSWER AND I WROTE IT DOWN.
Q. OKAY. AND AT THE TOP OF THAT PAGE, DO YOU SEE YOUR OWN HANDWRITING DESCRIBING WHAT TIME MR. ROBINSON BEGAN WRITING HIS STATEMENT?
A. I DO. I HAVE THE TIME AS 12:47.
Q. OKAY. AND AT THE VERY TOP, I'M TALKING ABOUT ABOVE IT---
A. RIGHT, AT THE---
Q. ABOVE WHERE IT SAYS COLUMBIA POLICE DEPARTMENT.
A. RIGHT. HE STARTED WRITING THE STATEMENT AT 02:00 IN THE MORNING. THAT WOULD HAVE BEEN THE TIME AFTER THE AUDIO PORTION OF THE INTERVIEW.
Q. OKAY. SO IN THIS CASE, AFTER YOU ADVISED MR. ROBINSON OF HIS RIGHTS, YOU HAD -- DID YOU HAVE A RECORDED AUDIO INTERVIEW WITH THE DEFENDANT?
A. YES.
Q. OKAY. DID YOU -- HOW LONG APPROXIMATELY DOES THAT AUDIO LAST?
A. ARE YOU TALKING ABOUT THIS AUDIO OR IN THE---
Q. YEAH, THIS AUDIO IN PARTICULAR.
A. A LITTLE OVER AN HOUR, I THINK.
Q. OKAY. AND DURING THAT STATEMENT DID YOU TAKE NOTES, THE

AUDIO PORTION?

A. YES, I DID.

Q. YOU DID. AND DID YOU ASK HIM QUESTIONS WHEN YOU DIDN'T UNDERSTAND HIS ANSWERS?

A. YES, I DID.

Q. AND DID HE RESPOND TO YOUR QUESTIONS APPROPRIATELY?

A. YES.

Q. WERE HIS ANSWERS RESPONSIVE TO YOUR QUESTIONS?

A. YES.

Q. DID HE CORRECT YOU ALONG THE WAY WHEN YOU MISUNDERSTOOD HIS ANSWERS?

A. YES, HE DID.

Q. IN FACT, AN EXAMPLE, DID YOU UNDERSTAND HOW -- WHAT NAME HE WAS USING TO CALL THE VICTIM?

A. I THINK AT ONE POINT, NO, I DIDN'T. I THOUGHT HE WAS SAYING SHORT -- SHORT DARK?

Q. D-A-R-K?

A. YEAH, I BELIEVE SO, AND I THINK HE CORRECTED IT AND SAID, "SHORT DOG."

Q. D-O-G?

A. D-O-G.

Q. SO HE EVEN CORRECTED YOU---

A. YEAH.

Q. ---DURING THAT INTERVIEW WITH HIM.

A. YEAH, HE CORRECTED ME.

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Q. OKAY. NOW, AFTER THE ONE-HOUR-LONG ORAL INTERVIEW AND YOU TOOK NOTES, WHAT DID YOU DO? IS THAT WHEN YOU ALLOWED HIM TO WRITE HIS STATEMENT IN HIS OWN HANDWRITING?

A. THAT'S RIGHT.

Q. OKAY. AND, AGAIN, THE FIRST PAGE OF HIS WRITTEN STATEMENT IS IN WHOSE HANDWRITING?

A. THE FIRST PAGE OF THE WRITTEN STATEMENT?

Q. YES, SIR.

A. THE TOP PART IS THE INFORMATION I FILLED OUT.

Q. OKAY. LET'S GO OVER THAT REALLY QUICKLY SINCE WE'RE THERE. HOW OLD IS MR. ROBINSON?

A. THIRTY-FOUR.

Q. OKAY. AND---

A. AT THE TIME HE WAS 34.

Q. AT THE TIME HE WAS 34?

A. RIGHT.

Q. OKAY. AND AT THAT POINT DID YOU THEN ASK HIM TO WRITE HIS OWN -- IN HIS OWN HANDWRITING THE EVENTS THAT HAPPENED?

A. RIGHT. I WROTE THE QUESTION, "TELL ME WHAT HAPPENED---

Q. OKAY.

A. ---IN THE TRAILER TONIGHT." I ASKED HIM TO WRITE OUT WHAT HAPPENED IN HIS OWN HANDWRITING, AND HE DID.

Q. OKAY. AND IN STATE'S NUMBER 7, DOES HIS HANDWRITING APPEAR TO BE LEGIBLE?

A. YEAH, IT'S LEGIBLE.

Q. IS IT NEAT?
A. YES, IT'S NEAT.
Q. DOES IT APPEAR THAT HE WAS TOO INTOXICATED TO WRITE HIS OWN VERSION OF THE EVENTS DOWN?
A. NO, IT DOESN'T APPEAR THAT WAY.
Q. DOES IT MAKE SENSE?
A. IT MAKES ABSOLUTE SENSE.
Q. IS IT IN CHRONOLOGICAL ORDER OF THE EVENTS THAT TRANSPIRED THAT NIGHT?
A. THAT'S THE WAY HE PUT IT; THAT'S RIGHT. YES.
Q. CONSISTENT WITH HIS ONE-HOUR ORAL INTERVIEW?
A. RIGHT.
Q. OKAY. AFTER HE THEN WRITES HIS OWN ONE-PAGE STATEMENT OF THE EVENTS THAT TRANSPIRED THAT NIGHT, PAGE 2, 3, 4, AND 5, IS THAT IN YOUR HANDWRITING?
A. THAT'S RIGHT.
Q. OKAY. AND, AGAIN, PLEASE TELL JUDGE CHILDS THE FORMAT OF THE REST OF THE STATEMENT.
A. YOUR HONOR, THE REST OF THE STATEMENT IS JUST THE QUESTION AND ANSWER AFTER THE INTERVIEW. IN THIS WRITTEN STATEMENT I SIMPLY ASKED QUESTIONS, AND THE ANSWERS -- I WROTE THE QUESTIONS DOWN THAT I ASKED. THE ANSWERS THAT HE GAVE, I WROTE THOSE DOWN ALSO.
Q. OKAY. AND, AGAIN, DURING THIS Q. AND A. PORTION OF THE STATEMENT, IS HIS -- ARE HIS ANSWERS RESPONSIVE TO YOUR

QUESTIONS?

A. THEY ARE RESPONSIVE, YES.

Q. AND AFTER YOU WROTE DOWN THIS STATEMENT, DID YOU ALLOW THE DEFENDANT TO REVIEW -- TO REVIEW HIS STATEMENT?

A. YES, I DID.

Q. AND, IN FACT, I NOTICED IN THE ORIGINAL - BECAUSE I HAVE A PHOTOCOPY OF STATE'S NUMBER 7 - IT APPEARS TO BE A CARBON COPY. IS THAT RIGHT?

A. RIGHT.

Q. OKAY. AND WHEN YOU FIRST START FILLING THAT FORM OUT, HOW MANY CARBON COPIES ARE THERE?

A. THERE'S THREE.

Q. OKAY. WHERE IS THE PINK CARBON COPY NOW?

A. THAT WOULD BE THE PINK -- THE PINK COPY IS GIVEN TO -- IN THIS CASE IT WOULD HAVE BEEN GIVEN TO MR. ROBINSON AFTER THE INTERVIEW WAS OVER.

Q. OKAY. SO HE EVEN GOT A COPY OF HIS OWN STATEMENT. IS THAT CORRECT?

A. RIGHT.

Q. AT ANY TIME DURING THIS INTERVIEW THAT LASTED FROM 12:47 UNTIL 2-- WELL, HOW LONG DID IT TAKE HIM TO WRITE THIS STATEMENT AT 2 IN THE MORNING? HOW LONG DO YOU THINK THE ENTIRE INTERVIEW LASTED?

A. AT LEAST ABOUT 12:47 TO WELL AFTER 2:00, 2:30, SOMETHING LIKE THAT.

Q. OKAY. SO TWO AND A HALF, MAYBE THREE HOURS?
A. RIGHT.
Q. OKAY. AND DURING THIS ENTIRE TIME WHERE -- WHAT ROOM ARE YOU IN WITH THE DEFENDANT?
A. IN ONE OF THE INTERVIEW ROOMS ON THE SECOND FLOOR AT THE POLICE DEPARTMENT.
Q. CAN YOU DESCRIBE WHAT THAT ROOM LOOKS LIKE INSIDE?
A. IT'S A BASIC ROOM. THE SIZE WOULD PROBABLY BE -- I DON'T KNOW. I'M NOT REAL GOOD AT...
Q. IS IT A LARGE ROOM OR A SMALL ROOM?
A. IT'S A SMALL ROOM, BUT IT'S COMFORTABLE. YOU'VE GOT ROOM TO MOVE AROUND IN THERE SO... THERE'S SEVERAL CHAIRS IN THERE, A DESK.
Q. AND WHO ELSE WAS PRESENT DURING THIS ENTIRE INTERVIEW?
A. SERGEANT CHRIS WHITE. HE'S WITH THE GAME TASK FORCE AND OFFICER...
Q. THE TRANSPORT OFFICER?
A. THE TRANSPORT OFFICER, THAT'S RIGHT.
Q. OKAY.
A. I ALLOWED HIM TO STAY IN.
Q. OKAY. BUT DID THEY HAVE ANY PARTICIPATION OR ROLE, OTHER THAN CHRIS WHITE WITNESSING THE ADVICE OF RIGHTS? DID THEY HAVE ANY PARTICIPATION IN QUESTIONING MR. ROBINSON ABOUT THE EVENTS OF FEBRUARY 15TH, 2007?
A. NO, NONE WHATSOEVER.

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Q. OKAY. AT ANY TIME DURING THIS INTERVIEW, DID THE DEFENDANT EVER ASK TO USE THE BATHROOM AND WAS HE DENIED THAT RIGHT TO USE THE BATHROOM?

A. I DON'T THINK HE EVER DID, BUT, OF COURSE, IF HE HAD ASKED, YOU KNOW, HE WOULD HAVE BEEN ACCOMMODATED. I'M NOT SURE IF HE DID.

Q. OKAY. IN FACT, YOU'RE THE ONE THAT LET HIM SMOKE A CIGARETTE; RIGHT?

A. RIGHT.

Q. DID HE EVER ASK FOR ANYTHING TO DRINK OR ANYTHING TO EAT WHILE YOU WERE QUESTIONING HIM?

A. I DON'T THINK SO, NO.

Q. OKAY. AND HAD HE ASKED YOU FOR ANY FOOD OR WATER, WOULD YOU HAVE PROVIDED IT TO HIM?

A. IF I COULD HAVE, ABSOLUTELY.

Q. OKAY. BUT DO YOU HAVE ANY PERSONAL RECOLLECTION OF THIS MAN EVER ASKING YOU FOR ANYTHING?

A. NO.

Q. OKAY. DID YOU EVER COERCE HIM INTO GIVING THIS STATEMENT TO YOU?

A. NO.

Q. DID YOU EVER PRESSURE HIM OR MAKE ANY PROMISES OF LENIENCY OR ANY PROMISE OF REWARD TO GET HIM TO GIVE YOU A STATEMENT AND TO GIVE UP HIS RIGHTS?

A. NO.

Q. OKAY. AND, AGAIN, DID HE GIVE UP HIS RIGHTS?
A. YES, HE DID.
Q. AND HE SIGNED HIS STATEMENT? IS THAT CORRECT?
A. THAT'S RIGHT.
Q. AND WHEN YOU ALLOW A DEFENDANT TO SIGN THEIR STATEMENT, ON STATE'S NUMBER 7 DO YOU SEE MR. ROBINSON'S STATEMENT OR HIS SIGNATURE ON EACH PAGE OF THE WRITTEN STATEMENT?
A. HE SIGNED EVERY PAGE, YES.
Q. OKAY. AND DID HE BASICALLY AGREE THAT THIS WAS WHAT HE HAD TOLD YOU? BY SIGNING -- PUTTING HIS NAME AND SIGNING IT, HE IS AGREEING WITH THE CONTENTS OF THIS STATEMENT; CORRECT?
A. RIGHT.
Q. DID HE EVER ASK YOU TO CHANGE ANYTHING ABOUT HIS STATEMENT?
A. NO, HE DID NOT.
Q. OKAY. AND THE VERY LAST QUESTION ON PAGE 5, ISN'T IT TRUE YOU EVEN ASKED HIM, QUESTION, "IS THERE ANYTHING ELSE YOU WANT TO SAY ABOUT THIS INCIDENT?"
A. YES, I DID.
Q. AND SO YOU GAVE HIM AN OPPORTUNITY TO ADD MORE INFORMATION IF HE FELT LIKE IT?
A. RIGHT.
Q. OKAY. AND DID HE ADD SOME MORE INFORMATION?
A. YEAH, HE DID.
Q. OKAY.

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A. ANOTHER LINE.
Q. AND THE MAN WHO YOU INTERVIEWED FOR A TWO-HOUR PERIOD, TWO-AND-A-HALF-HOUR PERIOD, DO YOU SEE HIM IN THE COURTROOM TODAY?
A. YEAH. HE'S SITTING AT THE DEFENDANT'S TABLE IN THE WHITE SHIRT.
MS. SHIPLEY: YOUR HONOR, LET THE RECORD REFLECT THAT HE HAS IDENTIFIED JOEL ROBINSON AS BEING THE PERSON HE INTERVIEWED FOR THIS ADVICE OF RIGHTS FORM.
THE COURT: ALL RIGHT. SO REFLECTED.
MS. SHIPLEY: NO FURTHER QUESTIONS.

CROSS-EXAMINATION

BY MR. LEDDY:
Q. INVESTIGATOR REESE, NOW THIS STATEMENT THAT YOU TOOK FROM MR. ROBINSON WAS ACTUALLY RECORDED; RIGHT?
A. YES, SIR.
Q. AND I WAS PROVIDED A COPY OF THAT AND I'VE LISTENED TO IT, AND THE STATEMENT THAT YOU REDUCED TO WRITING IS ABOUT FIVE PAGES LONG HANDWRITTEN; RIGHT?
A. RIGHT.
Q. ALL RIGHT. AND THE CONVERSATION YOU HAD WAS ABOUT AN HOUR LONG. IS THAT RIGHT?
A. RIGHT.
Q. ALL RIGHT. NOW, MOST CASES WE DON'T -- WE DON'T GET A RECORDING. SO YOU GUYS DON'T NORMALLY RECORD THEM, DO YOU?

A. I RECORD, AS DO MY PARTNER, ALL THE HOMICIDE CASES AND EVERYTHING.
Q. OKAY. AND, INDEED, IT'S VERY HELPFUL TO HAVE. CERTAIN THINGS DON'T COME ACROSS ON PAPER LIKE THEY DO WHEN YOU HEAR THEM.
A. UH-HUH.
Q. NOW, THE -- YOU LATER PREPARED, WITH THE HELP OF THE SOLICITOR'S OFFICE, A TRANSCRIPT OF THE INTERVIEW; RIGHT?
A. UH-HUH.
Q. OKAY. AND IN THAT ONE, WHICH IS TYPED SINGLE-SPACE, IT'S ACTUALLY ABOUT 17 PAGES; RIGHT?
A. I ASSUME. I DON'T HAVE A COPY UP IN FRONT OF ME.
Q. OKAY. BUT IT'S FAIR TO SAY THAT THE HANDWRITTEN ONE WAS SIGNIFICANTLY CONDENSED. WOULD THAT BE A FAIR STATEMENT?
A. YEAH.
Q. SORT OF THE MEAT.
A. WELL, THE WRITTEN DOCUMENT IS BASED ON PARTS OF THE RECORDED DOCUMENT. I ASK QUESTIONS BASED ON WHAT WE'VE ALREADY TALKED ABOUT.
Q. UH-HUH.
A. THAT'S THE MEAT.
Q. I SEE. AND I NOTICED DURING THE RECORDING THAT YOU WERE WRITING SOME STUFF WHILE HE WAS TALKING; RIGHT? IS THAT RIGHT?
A. DURING THE RECORDING?

Q. YEAH.
A. YEAH.
Q. BUT THAT'S NOT -- THAT'S NOT WHAT WE HAVE HERE; RIGHT? IT WAS JUST YOUR NOTES THAT YOU LATER USED TO MAKE THIS? IS THAT RIGHT?
A. ARE YOU TALKING ABOUT THE QUESTIONS, THE QUESTION AND ANSWER OR WHAT ARE YOU...
Q. YES. THE QUESTION-AND-ANSWER HANDWRITTEN VERSION THAT MR. ROBINSON SIGNED, THAT WAS NOT WHAT YOU WERE WRITING AT THE TIME THAT HE WAS TALKING; RIGHT?
A. I'M NOT SURE IF I'M FOLLOWING YOU. WHAT ARE YOU ASKING?
Q. WHEN YOU WERE -- WHEN YOU WERE TALKING TO HIM, YOU WERE WRITING DOWN STUFF BECAUSE YOU'D ASK HIM, "OKAY. HOLD ON FOR A SECOND. I'VE GOT TO WRITE IT DOWN."
A. RIGHT, WHEN THE AUDIO WAS GOING ON.
Q. RIGHT.
A. RIGHT.
Q. THOSE WERE NOTES; RIGHT?
A. UH-HUH.
Q. THAT'S NOT WHAT'S HERE. YOU LATER USED THOSE TO MAKE THIS.
A. I COULD HAVE -- YEAH, I USED WHAT'S IN MY NOTES, BASED ON WHAT HE SAID, TO STRUCTURE MY QUESTIONS, NOT THE ANSWER, JUST MY QUESTIONS.
Q. RIGHT. BUT LATER -- AND YOU DID IT AT THE END OF THE

INTERVIEW, NOT DURING.

A. YEAH, THAT WAS THE LAST THING THAT I DID.

Q. OKAY. SO YOU TURNED THE TAPE OFF, AND THEN YOU CONDENSED EVERYTHING DOWN TO THOSE QUESTIONS.

A. RIGHT.

Q. THAT'S WHAT YOU SAID YOU WERE GOING TO DO.

A. HUH?

Q. THAT'S WHAT YOU SAID YOU WERE GOING TO DO AT THE BEGINNING OF THE INTERVIEW.

A. YES.

Q. AND THAT'S WHAT YOU ALWAYS DO. OKAY. I'M NOT TRYING TO GET YOU.

A. I KNOW, COUNSELOR.

MR. LEDDY: NOTHING FURTHER, YOUR HONOR.

MS. SHIPLEY: NOTHING FURTHER.

THE COURT: OKAY. YOU CAN STEP DOWN, SIR.

THE WITNESS: THANK YOU, YOUR HONOR.

MS. SHIPLEY: YOUR HONOR, FOR PURPOSES OF THE JACKSON VERSUS DENNO HEARING WE ARE DONE WITH CALLING WITNESSES. WE WOULD RESPECTFULLY REQUEST THAT YOU ALLOW THE WITNESSES TO TESTIFY TO THE COMMENTS MADE BY THIS DEFENDANT TO THEM. NAMELY, OFFICER CARROLL INDICATED THAT THIS DEFENDANT -- WHILE THEY WERE HAVING A FRIENDLY CONVERSATION ABOUT ST. MATTHEWS AND PEOPLE THEY KNEW, THIS DEFENDANT INDICATED TO THE OFFICER THAT THE VICTIM HAD DISRESPECTED HIM. WE WOULD

RESPECTFULLY REQUEST THAT YOU ALLOW HIM TO TESTIFY ABOUT THAT COMMENT, THAT THE VICTIM HAD DISRESPECTED HIM.

THE SECOND OFFICER TO TESTIFY WAS OFFICER RODNEY FISHER. I THINK RHODE ISLAND VERSUS INNIS IS CLEAR IN THIS MATTER, THAT THE COMMENT MADE BY THE DEFENDANT THAT, "I SHOT HIM; HE'S DEAD," WAS COMPLETELY UNSOLICITED BY THE OFFICER. IT WAS SPONTANEOUSLY MADE BY THE DEFENDANT TO THE OFFICER, CAUGHT HIM OFF GUARD TO THE POINT WHERE HE SAID, "WAIT. HOLD IT. LET ME MIRANDIZE YOU." AND THEN AGAIN INVESTIGATOR REESE, WHO IS VERY PARTICULAR ABOUT THE WAY HE LIKES TO QUESTION HIS MURDER DEFENDANTS, PUT A STOP TO IT, TOOK HIM TO HEADQUARTERS AND GAVE -- MIRANDIZED THE DEFENDANT.

THE DEFENDANT UNDERSTOOD EVERYTHING AND AT THAT POINT GAVE A -- NOT ONLY A ONE-HOUR-LONG AUDIO -- AND, YOUR HONOR, WE HAVE ALREADY SUBMITTED THE TRANSCRIPT TO YOUR HONOR OF THAT AUDIO. INVESTIGATOR REESE HAS HAD AN OPPORTUNITY TO HEAR THE AUDIO ALONG WITH THAT AND READ ALONG WITH THE TRANSCRIPT AND MADE THE NECESSARY CORRECTIONS, SINCE HE WAS THERE. SO WE MADE THOSE CORRECTIONS AND TURNED IT OVER. WE ARE GOING TO PLAN TO USE THAT TRANSCRIPT IN THE TRIAL SO THAT THE JURY CAN READ ALONG AS WELL. I JUST WANTED TO BRING THAT TO YOUR ATTENTION.

THE COURT: OKAY.

MS. SHIPLEY: AND THERE WERE TWO PORTIONS OF THAT TRANSCRIPT THAT ARE BEFORE YOU: ON PAGE NUMBER 2 AND PAGE

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NUMBER 17. ON PAGE NUMBER 2 THE DEFENDANT MAKES THE COMMENT ABOUT COMING IN AND OUT OF JAIL. WE AGREE THAT THAT NEEDS TO COME OUT, AND WE ARE GLAD TO REDACT THAT. THEN ON PAGE 17, THE VERY LAST PAGE, HE IS ASKED ABOUT HOW MANY TIMES HE HAD BEEN BY THAT PLACE TO BUY DRUGS, AND HE ANSWERED, "NUMEROUS." WE AGREE THAT THAT'S NOT RELEVANT, AND SO WE WOULD CONCEDE WE'LL REDACT THAT. BUT I JUST WANTED THE COURT TO HAVE THE WRITTEN TRANSCRIPT IN CASE THERE ARE ANY OTHER PORTIONS YOU FELT WERE NECESSARY TO REDACT. WE DO HAVE A PRODUCTION COMPANY ON STANDBY TO MAKE THE NECESSARY REDACTIONS ON THE AUDIO, AND WE CAN -- YOU KNOW, WE'VE GOT IT SAVED ON OUR COMPUTER. WE CAN REDACT THAT.

BUT I GOT SIDETRACKED, YOUR HONOR. THE DEFENDANT EVEN WAS PROVIDED AN OPPORTUNITY TO WRITE ON THE FIRST PAGE OF HIS STATEMENT THE EVENTS THAT TRANSPIRED IN HIS OWN WORDS, IN HIS OWN HANDWRITING, AND THAT WAS DONE AND THEN IT WAS FOLLOWED UP BY Q. AND A. BY INVESTIGATOR REESE JUST FOLLOWING THE FORMAT AS HE HAD PRESENTED IT TO THE DEFENDANT WHEN THEY BEGAN THEIR ORAL STATEMENT.

HE INDICATED: ALL RIGHT. THIS IS WHAT WE'RE GOING TO DO. I'VE JUST MIRANDIZED YOU. I'M GOING TO TALK TO YOU. I'M GOING TO TAKE SOME NOTES. THEN WHEN WE'RE DONE, I'M GOING TO ASK YOU TO PUT IT DOWN IN WRITING. THE DEFENDANT WAS FULLY APPRISED OF THE EVENTS THAT WERE ABOUT TO TRANSPIRE, AND HE SIGNED EACH AND EVERY LAST PAGE OF THE

WRITTEN STATEMENT. AND SO WE WOULD RESPECTFULLY REQUEST THAT YOU ADMIT HIS STATEMENT INTO EVIDENCE, ALL THREE STATEMENTS.

THE COURT: OKAY. ALL RIGHT.

MR. LEDDY: YOUR HONOR, I WOULD JUST ON THE ISSUE -- THE ISSUE -- THE ONE THAT WAS WITH OFFICER CARROLL WHILE THEY WERE WAITING FOR INVESTIGATOR REESE TO ARRIVE, YOU KNOW, THE TEST IS VOLUNTARINESS AND WHAT -- OBVIOUSLY I THINK THE RECORD SHOWS THAT MR. ROBINSON HAD NOT BEEN MIRANDIZED AT THAT POINT, AND THE QUESTION OF WHETHER OR NOT IT'S VOLUNTARY YOU HAVE TO -- YOU HAVE TO LOOK AT WAS IT IN RESPONSE TO SOMETHING THAT WAS STATED BY THE OFFICER. THE OFFICER STATED THEY WERE JUST HAVING SMALL TALK, AND THAT OFFICER IS OBVIOUSLY A VERY FRIENDLY GUY AND I APPRECIATE THAT HE WAS OBVIOUSLY BEING CORDIAL.

I HAVE TO RAISE THE ISSUE AS PART OF MY DUTY THAT IF HE ESTABLISHES SUCH A FAMILIAR -- FAMILIARITY WITH THE DEFENDANT THAT THEY HAVE SOME COMMON THREAD OR A COMMON BACKGROUND OR AT LEAST SOME COMMON GROUND THAT IT'S GOING TO -- AND MY CLIENT HASN'T BEEN WARNED OF HIS MIRANDA RIGHTS, THEN IT LEADS TO INCREASED CHANCES THAT MY CLIENT'S GOING TO SAY SOMETHING INCRIMINATING THAT COULD REASONABLY BE FORESEEN TO BE THE RESULT OF THE INTERACTION BETWEEN HIM AND THE OFFICER. SO I WOULD JUST ASK YOUR HONOR TO CONSIDER THAT AS TO WHETHER OR NOT THAT WOULD FALL UNDER THE EXCEPTION FOR ADMISSIBILITY.

THE COURT: OKAY.

MR. LEDDY: AND THEN I THINK THAT WE SHOULD DISCUSS THE TRANSCRIPT SEPARATELY. THIS WAS -- AND I CAN DO THAT.

THE COURT: YOU CAN GO AHEAD.

MR. LEDDY: WELL, I JUST -- I THINK THAT THE RULES OF EVIDENCE PROVIDE FOR A RULE THAT -- I THINK IT'S VERY POSSIBLE TO READ IT SUCH THAT THIS WOULD BE CONSIDERED AN ORIGINAL BECAUSE THE RULE -- THE APPLICABLE RULE 1001, THE RULES OF EVIDENCE, THERE IS -- THIS WAS A NEW ONE TO ME. I DON'T THINK I'VE EVER READ THIS RULE. MS. SHIPLEY INDICATED SHE WANTED TO INTRODUCE IT BECAUSE SOME PEOPLE LEARN BETTER VISUALLY AND SOME PEOPLE LEARN BETTER THROUGH HEARING, AND WHILE I APPRECIATE THAT, I OBVIOUSLY HAVE TO SEE IF THE RULES ALLOW FOR IT.

THE COURT: ARE YOU SUGGESTING THAT THEY SHOULD PRODUCE -- I MEAN, DO ONE OR THE OTHER OR ARE YOU JUST SAYING THEY'RE NOT---

MR. LEDDY: WELL, I DIDN'T THINK THAT THE STATE WOULD SEEK TO ADMIT A TRANSCRIPT. I MEAN, WHEN I LISTENED TO IT, I MADE ONE ALSO. FLIPPING THROUGH THE PREVIOUS ATTORNEY WHO WAS ASSIGNED TO THE CASE, I FOUND THAT SHE HAD MADE ONE. AND NOW I HAVEN'T COMPARED THEM LINE BY LINE. I THINK IF I DID, I THINK I MIGHT FIND SOME SLIGHT VARIANCES.

THE COURT: IS THIS -- WHO ACTUALLY PRODUCED THE WRITTEN DOCUMENT?

MR. LEDDY: WELL, I THINK---

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MS. SHIPLEY: MY OFFICE DID.

THE COURT: YOUR OFFICE DID?

MS. SHIPLEY: YES.

THE COURT: BASED ON SOMEBODY LISTENING TO THE AUDIO?

MS. SHIPLEY: RIGHT, THE AUDIO. THEN I HAD THE INVESTIGATOR WHO WAS PRESENT AND CONDUCTED THE INTERVIEW -- ONCE WE FINISHED TRANSCRIBING IT, HE READ THROUGH IT AND LISTENED TO THE AUDIO AT THE SAME TIME TO MAKE SURE THAT WHAT WAS ON THE TRANSCRIPT WAS EXACTLY WHAT WAS BEING SAID ON THE AUDIO, AND HE EVEN MADE CORRECTIONS AND SO FORTH. GOING BACK TO MY LINE OF QUESTIONING OF HIM: SHORT DARK VERSUS SHORT DOG, YOU KNOW, THINGS LIKE THAT THAT WAS HARD TO PICK UP ON BECAUSE THEY WERE SPEAKING TO EACH OTHER. BUT, ANYHOW, HE MADE ALL THE NECESSARY CORRECTIONS, AND HE CAN ATTEST TO YOU THAT THE TRANSCRIPT THAT WE HAVE PROVIDED TO THE COURT AND TO THE DEFENSE IS EXACTLY WHAT HE SIGNED OFF ON.

MR. LEDDY: AND, YOU KNOW, THE RULE SAYS THAT THROUGH THE CONTENT OF A WRITING OR A RECORDING OR A PHOTOGRAPH, THE ORIGINAL IS REQUIRED EXCEPT AS OTHERWISE PROVIDED, AND WE HAVE THE ORIGINAL.

THE COURT: WHY DOES THE STATE NEED BOTH IF THEY'RE GOING TO HEAR THE -- IF YOU WANT THEM TO HEAR THE AUDIO?

MS. SHIPLEY: BECAUSE, YOUR HONOR, SOME PEOPLE HAVE DIFFICULTY UNDERSTANDING AND PERCEIVING THINGS AUDIALLY, AND OTHER JURORS MIGHT HAVE A BETTER UNDERSTANDING OF WHAT IS

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BEING SAID WHEN THEY CAN FOLLOW ALONG VISUALLY. AND I HAVE DONE THIS BEFORE, YOUR HONOR. IT'S BEEN PERMITTED BEFORE.

THE COURT: UH-HUH.

MR. LEDDY: WELL, YOU KNOW---

MS. SHIPLEY: IF IT ASSISTS THE TRIER OF FACTS...

MR. LEDDY: IT'S ACCORDING TO THE RULES RATHER THAN HOW THINGS ARE DONE---

MS. SHIPLEY: THE RULE SAYS EXCEPT AS OTHERWISE NOTED OR THE LAST SENTENCE...

THE COURT: UH-HUH.

MR. LEDDY: YEAH. WELL, THERE'S FOUR INSTANCES IN WHICH AN ORIGINAL IS NOT REQUIRED AND THAT'S IF IT'S -- IF THE ORIGINAL IS LOST OR DESTROYED, IF THE ORIGINAL WAS NOT OBTAINABLE, IF THE ORIGINAL IS IN POSSESSION OF THE OPPONENT.

THE COURT: I THINK WHEN WE LOOK AT ORIGINAL THOUGH, THIS DOCUMENT IS NOT CONSIDERED AN ORIGINAL. THE AUDIOTAPE IS THE ORIGINAL.

MR. LEDDY: WELL, THAT WAS MY ORIGINAL THOUGHT, YOUR HONOR.

THE COURT: OKAY.

MR. LEDDY: THE DEFINITION IS PRETTY AMBIGUOUS, I THINK, BUT THAT WAS MY ORIGINAL -- I MEAN, THAT WAS MY FIRST THOUGHT, I SHOULD SAY.

THE COURT: OKAY. ONE CONCERN I WOULD HAVE IS THAT - OBVIOUSLY THE COURT HASN'T RULED - BUT IF THIS WERE TO COME

IN THAT YOU WOULD PROBABLY NEED TO PUT UP YOUR PERSON IN YOUR OFFICE WHO ACTUALLY TRANSCRIBED IT AND JUST DESCRIBE THAT THAT'S WHAT TOOK PLACE.

MS. SHIPLEY: YES, MA'AM.

THE COURT: BECAUSE IF I HEARD YOUR LAST COMMENT, YOU INDICATED THERE MAY HAVE BEEN SOME EDITING FROM HER DOCUMENT.

MS. SHIPLEY: WELL, BASICALLY, YOUR HONOR, WE HAD A LAW CLERK IN MY OFFICE SIT DOWN WITH HEADPHONES AND TRANSCRIBE THE ENTIRE AUDIO. IT'S AN HOUR-LONG INTERVIEW. WHEN SHE WAS DONE WITH IT, I HAD INVESTIGATOR REESE GO THROUGH IT WITH -- LISTENING TO THE AUDIO, AND HE CONFIRMED THAT THIS IS WHAT -- HE MADE CHANGES, AND IT WASN'T UNTIL HE HAD AN OPPORTUNITY TO REVIEW IT AND CONFIRM THAT THINGS WERE CORRECT AND HE MADE ANY NECESSARY CHANGES DID WE THEN PRODUCE THE ORIGINAL AND SEND IT TO MR. LEDDY AND HIS OFFICE. SO HE CAN ATTEST TO THE CONTENTS OF THE TRANSCRIPT BEING ACCURATE TO WHAT TRANSPIRED ON THE AUDIO.

THE COURT: OKAY.

MS. SHIPLEY: INVESTIGATOR REESE CAN.

MR. LEDDY: AND AT THIS POINT I THINK IT'S PREMATURE TO MOVE FOR IT TO BE ADMITTED, IF THE STATE'S MOVING TO HAVE IT ADMITTED, BECAUSE THEY HAVEN'T LAID A FOUNDATION. THEY HAVEN'T PUT THE PERSON UP WHO MADE IT AND HOW THEY MADE IT AND YOU KNOW -- YOU KNOW, THERE ARE COMPANIES THAT DO THIS AND THAT'S WHAT THEY DO.

THE COURT: RIGHT.

MR. LEDDY: AND THEY HAVE TO SWEAR AS TO WHAT THEY DID. SO IT DOES SEEM CUMULATIVE. AS FAR AS ASSISTING THE TRIER OF FACT, I KNOW THAT THERE'S A RULE FOR A SUMMARY OF A LARGE AMOUNT OF DATA, THAT AS LONG AS IT TRULY REPRESENTS WHAT'S IN THE LARGE AMOUNT OF DATA IT'S ADMISSIBLE IF IT WOULD HELP THE TRIER OF FACT, BUT I THINK THAT'S A DIFFERENT ISSUE. I MEAN, THAT'S WHY -- I'VE NEVER HAD THIS COME UP. THAT'S WHY I'VE NEVER READ THIS BEFORE BUT...

THE COURT: OKAY. LET ME LOOK AT THAT AND THINK ABOUT THAT ONE BECAUSE, AS I INDICATED, OBVIOUSLY WE WOULD HAVE TO LAY A FOUNDATION FOR HOW THIS CAME TO BE.

MS. SHIPLEY: YES, MA'AM.

THE COURT: BECAUSE THIS IS NOT A DOCUMENT FROM A CERTIFIED COURT REPORTER OR SOMEBODY LIKE THAT.

MS. SHIPLEY: RIGHT. BUT, I MEAN, WE'VE PUT IT IN FOR, FOR INSTANCE, 9-1-1 CALLS.

THE COURT: RIGHT.

MS. SHIPLEY: WITH A TRANSCRIPT OF IT SO THEY CAN READ ALONG---

THE COURT: I'M JUST ASKING HAS IT ALWAYS BEEN DONE IN THAT GUISE WHERE SOMEBODY FROM THE SOLICITOR'S OFFICE---

MS. SHIPLEY: YES, MA'AM. IN PREPARATION FOR TRIAL, I DO IT ALL ON MY OWN.

THE COURT: OKAY.

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MS. SHIPLEY: YES, MA'AM. TRY TO SAVE THE TAXPAYERS SOME MONEY.

THE COURT: OKAY. I'M SURE THEY'RE GRACIOUS. OKAY. ALL RIGHT. JUST BACK TO THE STATEMENTS THEMSELVES... THIS IS A SIDE MATTER.

MR. LEDDY: YES, YOUR HONOR.

THE COURT: ANYTHING FURTHER ON THOSE MATTERS?

MR. LEDDY: NO, YOUR HONOR.

THE COURT: I WOULD DEEM THAT THE RESPONSIVE WAY IN WHICH THE STATEMENT CAME UP -- I WOULD ALLOW THE ALLEGED VOLUNTARY STATEMENT TO COME IN, AND THEN ALSO I FIND THAT THEY HAVE DULY MET THE PREPONDERANCE OF THE EVIDENCE ON THE ACTUAL STATEMENT THAT CAME IN AFTER THE MIRANDA RIGHTS.

MS. SHIPLEY: THANK YOU, YOUR HONOR. SO ALL THREE STATEMENTS FROM CARROLL, FISHER, AND REESE?

THE COURT: RIGHT.

MS. SHIPLEY: THANK YOU, MA'AM. AND THEN THE NEXT MATTER, YOUR HONOR, IS THE MOTION TO SUPPRESS THAT THE DEFENSE HAS.

MR. LEDDY: I GUESS WE'RE GOING TO HAVE TO SUBPOENA SERGEANT DUTTON, YOUR HONOR.

THE COURT: I'M SORRY?

MR. LEDDY: I GUESS WE'LL HAVE TO SUBPOENA SERGEANT DUTTON.

MS. SHIPLEY: ON THE MOTION TO SUPPRESS EVIDENCE?

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MR. LEDDY: YEAH, BECAUSE THE INITIAL DETENTION IS CRITICAL TO THE ANALYSIS -- TO THE FOURTH AMENDMENT ANALYSIS. CRITICAL. IF THE SEARCH WAS MADE AS AN EXPLOITATION OF AN UNLAWFUL STOP, IF THE FIRST STOP WAS UNLAWFUL, THEN EVERYTHING THAT IS FOUND PURSUANT TO IT IS FRUIT OF THE POISONOUS TREE AND NOT ADMISSIBLE AND I JUST -- YOU KNOW, I GOT A LITTLE EXCITED EARLIER. I DIDN'T ANTICIPATE THIS ISSUE COMING UP. I DIDN'T KNOW SERGEANT DUTTON DIDN'T WORK AT THE POLICE DEPARTMENT ANYMORE, SO I DIDN'T ANTICIPATE THAT COMING UP, AND THAT'S WHY I DON'T HAVE HER UNDER SUBPOENA. BUT, NOW, IN ADDITION TO THAT, YOU KNOW, HOW LONG SHE HAD HIM IN DETENTION AND WHY BEFORE THERE WAS -- THERE WAS A REASON TO PLACE HIM UNDER ARREST AND MAKE THE SEARCH.

THE COURT: RIGHT.

MR. LEDDY: THAT'S AN ISSUE, AND I DON'T KNOW THE ANSWER TO THAT ISSUE.

THE COURT: OKAY. JUST A BRIEF RECESS BECAUSE OF A NOTE THAT WAS HANDED TO ME. IF COUNSEL WOULD APPROACH, PLEASE.

(WHEREUPON, A BENCH CONFERENCE WAS HELD.)

THE COURT: ALL RIGHT. YOU ALL, LET'S JUST TAKE ABOUT A FIVE-OR-TEN-MINUTE BREAK WHILE WE'RE WAITING ON THE JURY PANEL.

(WHEREUPON, A SHORT BREAK WAS TAKEN.)

THE COURT: THANK YOU ALL. PLEASE TAKE YOUR SEATS. ARE WE READY TO PROCEED WITH JURY SELECTION?

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MS. SHIPLEY: YES, MA'AM.

MR. LEDDY: YES, YOUR HONOR.

THE COURT: OKAY. YOU CAN CALL THE JURORS UP, PLEASE.

MS. SHIPLEY: INVESTIGATOR DOW IS FEELING BETTER, SO HE'S GOING TO COME RIGHT BACK AFTER WE FINISH---

THE COURT: GREAT.

MS. SHIPLEY: ---WITH THE JURY.

THE COURT: OKAY.

MS. SHIPLEY: SO IF WE CAN JUST GET THAT RULING.

THE COURT: OKAY. GOOD.

MS. SHIPLEY: THANK YOU.

THE COURT: THANK YOU.

(WHEREUPON, THE JURY PANEL WAS BROUGHT INTO THE COURTROOM AT 2:21 P.M.)

THE COURT: GOOD AFTERNOON, LADIES AND GENTLEMEN OF THE JURY. MY NAME IS MICHELLE CHILDS, AND I'M A CIRCUIT COURT JUDGE HERE IN RICHLAND COUNTY. YOU ALL WERE DULY QUALIFIED TO BE OF JURY SERVICE FOR THE TRIALS FOR THIS WEEK, AND WE HAVE CRIMINAL CASES GOING ON OR GENERAL SESSIONS, WHICH IS WHAT I'LL BE HANDLING, AND THEN WE ALSO HAVE COMMON PLEAS OR CIVIL COURT. I APOLOGIZE. THERE'S A COUPLE OF PEOPLE COMING IN, SO I WANT TO MAKE SURE THAT WE HAVE EVERYONE. OKAY. PARTICULARLY IN THE GENERAL SESSIONS COURT, YOU ALL WILL BE ASKED SOME QUESTIONS BY MYSELF TO DETERMINE YOUR QUALIFICATIONS OR ABILITY TO SERVE ON THIS PARTICULAR JURY.

THE STATE HAS CALLED THE CASE OF THE STATE VERSUS JOEL ROBINSON, AND MR. ROBINSON HAS INDICTMENTS FOR MURDER, ASSAULT AND BATTERY WITH INTENT TO KILL, USE OF A FIREARM DURING THE COMMISSION OF A VIOLENT CRIME, POSSESSION OF CRACK COCAINE AS WELL AS POSSESSION OF COCAINE. SO THESE ARE JUST INDICTMENTS. THEY'RE ONLY THE FORMAL INSTRUMENT BY WHICH THE CASE IS BROUGHT TO TRIAL. THEY ARE NOT TO BE CONSIDERED AS EVIDENCE OF GUILT OF THE DEFENDANT. THE JURY PERSONS WHO ARE SELECTED FOR THE PANEL WILL ACTUALLY BE THE ONES WHO WILL DELIBERATE AND MAKE THAT DETERMINATION. SO I JUST WANTED YOU TO KNOW MR. ROBINSON HAS EXERCISED HIS CONSTITUTIONAL RIGHT TO A JURY TRIAL AND, ALONG WITH THAT, REQUIRES THE STATE TO HAVE THE BURDEN OF PROOF BEYOND A REASONABLE DOUBT THAT HE, IN FACT, COMMITTED THE OFFENSES, AND THE JURY PANEL THAT WE SELECT HERE TODAY WILL BE THE ONES WHO ACTUALLY MAKE THAT ULTIMATE DETERMINATION.

SO I'M GOING TO FIRST HAVE YOU SWORN AND THEN WE WILL PROCEED WITH ASKING YOU SOME QUESTIONS SO I CAN GATHER SOME FURTHER INFORMATION ABOUT YOU TO DETERMINE YOUR QUALIFICATIONS AND WHETHER OR NOT ANYBODY HAS ANY LEGITIMATE REASONS FOR BEING EXCUSED AND THEN OTHERWISE TO GIVE THE ATTORNEYS SOME INFORMATION WITH RESPECT TO BEING -- POTENTIALLY SELECTING YOU FOR JURORS. MADAM CLERK, PLEASE.

(THE JURY PANEL WAS SWORN AT 2:25 P.M.)

THE COURT: LADIES AND GENTLEMEN, AS I ASK YOU

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QUESTIONS, I'M GOING TO ASK THAT YOU ALL STAND FROM YOUR SEAT AND INDICATE YOUR NAME AND YOUR JUROR NUMBER. TO THE EXTENT THAT SOMEONE DOES NOT UNDERSTAND A QUESTION THAT I MIGHT ASK, PLEASE RAISE YOUR HAND SO THAT I CAN BE COMFORTABLE THAT EVERYBODY UNDERSTANDS MY QUESTION TO YOU. I WILL SAY IN ADVANCE THAT SOME OF YOU MIGHT PERCEIVE SOME OF THE QUESTIONS AS A LITTLE PERSONAL. DON'T FEEL LIKE YOU HAVE TO MAKE THAT STATEMENT IN FRONT OF YOUR FELLOW JURORS. JUST STAND, STATE YOUR JUROR NAME AND NUMBER, AND THEN JUST ASK YOURSELF TO APPROACH ME AND THAT WILL BE FINE. SOME OF THE QUESTIONS IN WHICH I THINK MIGHT ELICIT SOME PERSONAL RESPONSES THAT YOU DON'T WANT TO HAVE IN THE JURORS' PRESENCE, THEN I WILL BRING YOU OVER WITH ME BY THE COURT REPORTER WHO HAS TO TAKE EVERYTHING DOWN, AND YOU'LL JUST TELL ME YOUR ANSWERS WITH ME HERE AND THEN COUNSEL FOR BOTH SIDES HERE.

ALL RIGHT. I'M FIRST GOING TO ASK MR. JOEL ROBINSON TO STAND. DOES ANY MEMBER OF THE JURY PANEL KNOW MR. ROBINSON, HAVE ANY CLOSE PERSONAL OR SOCIAL RELATIONSHIP WITH HIM OR ANY MEMBER OF YOUR IMMEDIATE FAMILY KNOW HIM? IF SO, PLEASE STAND. ALL RIGHT. AND, SECONDLY, MR. ROBINSON IS REPRESENTED BY MR. MICAH LEDDY AND MS. JENNIFER DAVIS, BOTH OF THE RICHLAND COUNTY PUBLIC DEFENDER'S OFFICE. DOES ANY JUROR HAVE ANY PERSONAL -- CLOSE, SOCIAL, OR PERSONAL RELATIONSHIP WITH EITHER OF THEM OR HAS ANY MEMBER OF THE JURY PANEL OR THEIR FAMILY BEEN REPRESENTED BY THE RICHLAND

COUNTY PUBLIC DEFENDER'S OFFICE, EVEN IF NOT PARTICULARLY THESE ATTORNEYS? IF SO, PLEASE STAND. OKAY. YES, SIR. JUROR NAME AND NUMBER.

JUROR MCCLERKLIN: I KNOW MR. ROBINSON. IT'S BEEN ABOUT 20 YEARS SINCE I'VE SEEN HIM.

THE COURT: OKAY. JUROR NAME AND NUMBER, PLEASE.

JUROR MCCLERKLIN: 170, COREY MCCLERKLIN.

THE COURT: 174?

JUROR MCCLERKLIN: 170.

THE COURT: OKAY. AND YOUR NAME?

JUROR MCCLERKLIN: COREY MCCLERKLIN.

THE COURT: OKAY. AND YOU KNOW MR. ROBINSON?

JUROR MCCLERKLIN: YES.

THE COURT: OKAY. AND HOW DO YOU KNOW HIM?

JUROR MCCLERKLIN: WE GREW UP IN THE SAME NEIGHBORHOOD.

THE COURT: OKAY. WOULD THAT AFFECT YOUR ABILITY TO PROCEED AS A FAIR AND IMPARTIAL JUROR IN THIS CASE? AND WHAT I MEAN BY THAT - BECAUSE YOU'LL HEAR THOSE TERMS OFTEN - IS THAT CAN YOU JUST LISTEN TO THE EVIDENCE PRESENTED BY THE STATE AND THE DEFENSE IN THIS CASE AND THEN MAKE YOUR DECISION ACCORDING TO THAT EVIDENCE PRESENTED HERE IN THIS COURTROOM?

JUROR MCCLERKLIN: YES, MA'AM.

THE COURT: OKAY. THANK YOU. ANYONE ELSE, THAT SAME QUESTION WITH RESPECT TO THE LAWYERS IN THIS CASE ON THE

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DEFENSE SIDE AS WELL AS THE RICHLAND COUNTY PUBLIC DEFENDER'S OFFICE? OKAY. THANK YOU, COUNSEL. YOU AND YOUR CLIENT CAN SIT DOWN.

REPRESENTING THE STATE IS MS. VANESSA SHEALY (SIC) AND MR. SETH ROSE. I'M GOING TO ASK THAT THEY TURN TO YOU AND PLEASE LET ME KNOW IF ANY OF YOU HAVE ANY CLOSE, PERSONAL, OR SOCIAL RELATIONSHIP WITH THEM OR ANY MEMBER OF YOUR FAMILY. I WOULD ADDITIONALLY ASK HAVE ANY OF YOU BEEN REPRESENTED BY THEM THROUGH -- AS WELL AS ANY MEMBER OF THE RICHLAND COUNTY SOLICITOR'S OFFICE, AND THAT INCLUDES ANY DEALINGS WITH THE VICTIM ADVOCATES IN THAT OFFICE AS WELL. OKAY. NO OCCASIONS BY THE JURORS.

NOW I WILL GO OVER A LIST OF THE POTENTIAL WITNESSES IN THIS CASE, AND IF YOU WOULD PLEASE STAND IF YOU KNOW ANY OF THESE PERSONS. CURTIS JACOBS, EDWINA BROWN EVANS, SHONDA MOFFETT, JEFFREY DEAN SMITH, LEVERN SMITH. INVESTIGATOR DEAN ADAMS, COLUMBIA POLICE DEPARTMENT. SERGEANT MIKE BABIN, COLUMBIA POLICE DEPARTMENT. OFFICER MICHAEL BAILEY, COLUMBIA POLICE DEPARTMENT. INVESTIGATOR WALT BALES, COLUMBIA POLICE DEPARTMENT. OFFICER DARYL BARBER, COLUMBIA POLICE DEPARTMENT. INVESTIGATOR -- YES, MA'AM.

JUROR JONES: JUROR NUMBER 133, CATHERINE JONES. I KNOW OFFICER BALES.

THE COURT: OKAY. AND HOW LONG HAVE YOU KNOWN HIM AND IN WHAT CAPACITY?

JUROR JONES: HE INVESTIGATED A BURGLARY AT MY HOME. SO I KNOW HIM AS A POLICE OFFICER, NOT SOCIALLY OR OTHERWISE.

THE COURT: OKAY. AND WOULD THAT AFFECT YOUR ABILITY TO PROCEED AS A FAIR AND IMPARTIAL JUROR IN THIS CASE?

JUROR JONES: NO, MA'AM.

THE COURT: THANK YOU, MA'AM, FOR THAT INFORMATION. AND I'LL CONTINUE ON WITH THE LIST OF POTENTIAL WITNESSES. INVESTIGATOR ROBERT BENSON, COLUMBIA POLICE DEPARTMENT. OFFICER B.J. CARROLL, COLUMBIA POLICE DEPARTMENT. AND ALL OF THESE PERSONS ARE WITH THE COLUMBIA POLICE DEPARTMENT THAT I'LL LIST OUT NOW. CAPTAIN THOMAS DODSON, INVESTIGATOR NOEL DOW, OFFICER RODNEY C. FISHER, SERGEANT MELRON KELLY, OFFICER I.L. MCINTYRE, INVESTIGATOR WAYNE MONTGOMERY, INVESTIGATOR KEVIN REESE. THANK YOU. MR. REESE IS STANDING.

I.D. TECH GLENN ROSS FORMERLY WITH THE COLUMBIA POLICE DEPARTMENT AND NOW WITH THE LEXINGTON COUNTY SHERIFF'S DEPARTMENT. SERGEANT KERMIT SCOTT, LIEUTENANT THORNTON, OFFICER DARRIUS WADE, OFFICER LARRY C. WALKER, SERGEANT CHRIS WHITE, INVESTIGATOR GIANNA STINNEY WILLIAMS, FORMERLY WITH THE COLUMBIA POLICE DEPARTMENT, NOW WITH SOUTH CAROLINA LAW ENFORCEMENT DIVISION OR S.L.E.D. OFFICER MICHAEL WINES, INVESTIGATOR WALTER ROSE, DONNA MARTIN, TRACY DIXON, AND MELISSA HENDRICKS, ALL OF THOSE PERSONS BEING COLUMBIA POLICE DEPARTMENT. YES, SIR.

JUROR RATCLIFF: MICHAEL RATCLIFF, JUROR NUMBER 208. I

KNOW LIEUTENANT THORNTON.

THE COURT: AND HOW DO YOU KNOW MR. THORNTON?

JUROR RATCLIFF: THROUGH HIS WIFE. WE USED TO WORK TOGETHER.

THE COURT: OKAY. AND WOULD THAT AFFECT YOUR ABILITY TO PROCEED AS A FAIR AND IMPARTIAL JUROR IN THIS CASE?

JUROR RATCLIFF: NO, MA'AM.

THE COURT: THANK YOU. AND THEN JOHN GARRELL WITH E.M.S., MELISSA ROSSI WITH E.M.S. DR. JAMES MORRISON, PALMETTO RICHLAND MEMORIAL HOSPITAL. DR. STANTON KESSLER. CHRISTINE BENSON, RICHLAND COUNTY CORONER'S OFFICE, AND TED POWELL WITH THE SAME OFFICE. AND THESE PERSONS ARE WITH SOUTH CAROLINA LAW ENFORCEMENT DIVISION: SPECIAL AGENT DAVID BLACK, SPECIAL AGENT MICHAEL R. MOSKAL, NIKKI PERRY, SELENA KINARD, LISA MCREYNOLDS. ANY JURORS HAVE ANY CLOSE OR PERSONAL, SOCIAL RELATIONSHIP OR EVEN JUST KNOW OF ANY OF THESE PERSONS THAT I'VE LISTED AS A POTENTIAL WITNESSES IN THE CASE?

ALL RIGHT. YOU ALL HAVE HEARD ME CALL OUT THE TYPES OF MATTER WE'LL BE HEARING WITH RESPECT TO THESE INDICTMENTS TODAY, SO NOW I'M GOING TO ASK YOU SOME QUESTIONS THAT ARE MORE FOCUSED ON THIS PARTICULAR TRIAL. ONE OF THE THINGS I WOULD LIKE TO KNOW: HAS ANYBODY BEEN A CONTRIBUTOR OR BEEN A MEMBER OF ANY AGENCY THAT PROTECTS LAW ENFORCEMENT? IF SO, PLEASE STAND. HAS ANY MEMBER -- YES?

JUROR LEVINE: JUDGE, I'M NOT SURE OF YOUR QUESTION, BUT ARE YOU ASKING IF I'VE EVER CONTRIBUTED TO LIKE THE HIGHWAY PATROL OR---

THE COURT: SURE.

JUROR LEVINE: I'VE CERTAINLY DONE THAT.

THE COURT: OKAY. AND JUROR NAME AND NUMBER?

JUROR LEVINE: JUROR 158, WENDY LEVINE.

THE COURT: OKAY. AND WOULD THAT AFFECT YOUR ABILITY TO PROCEED IN THIS CASE AS A FAIR AND IMPARTIAL JUROR?

JUROR LEVINE: NOT AT ALL.

THE COURT: OKAY. THANK YOU, MA'AM. YES, MA'AM?

JUROR MOCK: JUROR 179, CINDY MOCK. HIGHWAY PATROL.

THE COURT: OKAY. WOULD THAT AFFECT YOUR ABILITY TO BE FAIR AND IMPARTIAL?

JUROR MOCK: (SHOOK HEAD FROM SIDE TO SIDE.)

THE COURT: YES, MA'AM?

JUROR GREENE: NUMBER 98.

THE COURT: JUROR 98?

JUROR GREENE: I GIVE---

THE COURT: STATE YOUR NAME.

JUROR GREENE: DEBORAH GREENE.

THE COURT: OKAY.

JUROR GREENE: WHEN THEY CALL AND SOLICIT, I SUPPORT THEM.

THE COURT: HIGHWAY PATROL?

JUROR GREENE: IT'S THE TROOPER, STATE TROOPER.

THE COURT: TROOPERS. OKAY. WOULD THAT AFFECT YOUR ABILITY TO BE FAIR AND IMPARTIAL?

JUROR GREENE: NO, MA'AM.

THE COURT: OKAY. THANK YOU. AND I WOULD ALSO ASK THAT QUESTION TO THE OTHER SIDE. IS THERE ANY MEMBER OF THE JURY PANEL WHO CONTRIBUTES TO OR BELONGS TO ANY MEMBERSHIP IN ANY GROUP THAN PROTECTS VICTIMS' RIGHTS, AND THAT COULD BE MOTHERS AGAINST DRUNK DRIVERS, STUDENTS AGAINST DRUNK DRIVERS, C.A.V.E., CITIZENS AGAINST VIOLENT CRIME, THINGS OF THAT NATURE. IF SO, PLEASE STAND. YES, MA'AM.

JUROR FREEMAN: NUMBER 84, CAROLINE FREEMAN. I WAS ON THE BOARD TO PREVENT CHILD ABUSE.

THE COURT: OKAY. WOULD THAT PREVENT YOU IN ANY WAY FROM BEING A FAIR AND IMPARTIAL JUROR?

JUROR FREEMAN: NO, MA'AM.

THE COURT: OKAY.

BAILIFF: STAND UP, MA'AM.

JUROR EXUM: NUMBER 78, MARY EXUM. I'VE CONTRIBUTED TO THE SEXUAL ABUSE (UNINTELLIGIBLE WORDS SPOKEN). DOES THAT MEET THE...

THE COURT: SURE. WE WANT TO KNOW ALL INFORMATION. I APPRECIATE IT. WOULD THAT AFFECT YOUR ABILITY TO BE FAIR AND IMPARTIAL?

JUROR EXUM: NO, MA'AM.

THE COURT: OKAY. THANK YOU. YES, SIR.

JUROR RIFFLE: JUROR 211, MARK RIFFLE. MY WIFE AND I CONTRIBUTE TO SISTERCARE.

THE COURT: OKAY. AND WOULD THAT AFFECT YOUR ABILITY TO BE FAIR AND IMPARTIAL?

JUROR RIFFLE: NO, YOUR HONOR.

THE COURT: OKAY. NEXT, THE COURT WOULD ASK WHETHER OR NOT BASED ON THESE INDICTMENTS ANYBODY HAS HEARD ABOUT THE CASE AND/OR FORMED AN EXPRESS OPINION THE CASE. IF SO, PLEASE STAND. AND THAT MEANS READING IT IN THE NEWSPAPER, JUST HEARING IT ON THE STREET, JUST IN ANY FORM OR FASHION. IF SO, PLEASE STAND. OKAY. AND THAT WITH RESPECT TO THE NATURE OF THE CASE, DOES ANYBODY BELIEVE THAT THEY WOULD HAVE A BIAS OR PREJUDICE WITH RESPECT TO THE STATE OR THE DEFENSE IN THIS CASE? OKAY.

AND THEN THE NEXT THING THE COURT WOULD WANT TO KNOW IS YOU'VE HEARD THE NATURE OF THE EVENTS HERE. HAS ANYBODY THEMSELVES OR A FAMILY MEMBER IN ANY WAY BEEN AFFECTED BY ANY OF THESE ISSUES OR HAD SOMEBODY REPRESENTED BY THE SOLICITOR'S OFFICE OR THE PUBLIC DEFENDER'S OFFICE IN ANY REGARD SO THAT THE COURT JUST NEEDS FULL INFORMATION ABOUT YOUR CONNECTION WITH ANY OF THESE CRIMES THAT REGARD -- RESULT IN VICTIMS? IF SO, PLEASE STAND. AND I'D LIKE YOU TO COME FORWARD ON THESE ANSWERS. ONE AT A TIME. I INVITE THE ATTORNEYS TO COME FORWARD.

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(THE FOLLOWING COLLOQUY BETWEEN THE COURT AND THE JURORS TOOK PLACE AT THE BENCH IN THE PRESENCE OF EACH JUROR INDIVIDUALLY, THE COURT, AND THE ATTORNEYS. JUROR ELLIOT APPROACHED THE BENCH.)

JUROR ELLIOT: I'M NOT UNDERSTANDING YOUR QUESTION BUT---

THE COURT: JUROR NAME?

JUROR ELLIOT: JUROR NUMBER 74, NATASHA ELLIOT.

THE COURT: OKAY.

JUROR ELLIOT: AND I'M SUPPOSING YOU'RE ASKING DO YOU KNOW ANYBODY WHO MAY HAVE SIMILAR CHARGES THAT YOU WERE CLOSE TO OR ANYTHING LIKE THAT.

THE COURT: (NODDED HEAD UP AND DOWN.)

JUROR ELLIOT: OKAY. MY EX-BOYFRIEND IS NOW IN JAIL ON DRUG CHARGES.

THE COURT: OKAY.

JUROR ELLIOT: THAT'S IT.

THE COURT: OKAY. I APPRECIATE THE INFORMATION. WOULD THAT -- HOLD ON. WOULD THAT AFFECT YOUR ABILITY TO PROCEED AS A FAIR AND IMPARTIAL JUROR IN THIS CASE?

JUROR ELLIOT: OH, NO, MA'AM. NO, MA'AM.

THE COURT: OKAY. THANK YOU.

(JUROR ELLIOT LEAVES THE BENCH CONFERENCE. JUROR BROOKS APPROACHES THE BENCH.)

THE COURT: YES, MA'AM, YOUR NAME AND NUMBER.

JUROR BROOKS: MAMIE BROOKS, NUMBER 31.

THE COURT: OKAY. COME FORWARD AND SPEAK UP A LITTLE LOUDER.

JUROR BROOKS: YES. MY GRANDMOTHER WAS ASSAULTED, RAPED, AND MURDERED.

THE COURT: OKAY. WOULD THAT AFFECT YOUR ABILITY TO PROCEED---

JUROR BROOKS: I THINK IT MIGHT.

THE COURT: ---IN THIS CASE?

JUROR BROOKS: I'M NOT SURE.

THE COURT: SO DO YOU BELIEVE YOU COULD BE FAIR TO THE VICTIM OR THE STATE?

JUROR BROOKS: (NO REPLY.)

THE COURT: IN OTHER WORDS, WOULD THAT COME INTO YOUR CONSIDERATION OR DELIBERATION IN THIS TRIAL?

JUROR BROOKS: NO, I DON'T THINK SO.

THE COURT: EXCUSE ME?

JUROR BROOKS: NO.

THE COURT: OKAY. WHICH MEANS THAT YOU ARE INDICATING YOU CAN LISTEN TO THE TESTIMONY AND THE EVIDENCE HERE AND ONLY MAKE YOUR DECISION BASED ON WHAT IS GOING ON HERE.

JUROR BROOKS: YES.

THE COURT: YOU BELIEVE YOU COULD DO THAT?

JUROR BROOKS: I COULD DO THAT.

THE COURT: OKAY. THANK YOU.

(JUROR BROOKS LEAVES THE BENCH CONFERENCE. JUROR TRAPP APPROACHES THE BENCH.)

THE COURT: OKAY. YOUR JUROR NAME AND NUMBER? COME FORWARD.

JUROR TRAPP: 261.

THE COURT: OKAY.

JUROR TRAPP: MICHELLE TRAPP.

THE COURT: MICHELLE DROP?

JUROR TRAPP: TRAPP. T-R-A-P-P. IN 2003 MY NIECE, NITEKA (PHONETIC) JEFFCOAT, WAS BEATEN BY MY STEPMOTHER, AND THE TRIAL WAS TAKEN HERE. I DON'T KNOW IF -- I DON'T KNOW IF THAT WAS...

THE COURT: THAT'S EXACTLY WHAT I WANT TO KNOW. WOULD THAT AFFECT YOUR ABILITY TO PROCEED AS A FAIR AND IMPARTIAL JUROR IN THIS CASE?

JUROR TRAPP: NO.

THE COURT: YOU UNDERSTAND THAT MEANS THAT YOU WOULD LISTEN TO THE EVIDENCE AND THE TESTIMONY AND MAKE YOUR JUDGMENT BASED ON WHAT GOES ON IN THIS COURTROOM?

JUROR TRAPP: YES, MA'AM.

THE COURT: OKAY. THANK YOU.

JUROR TRAPP: THANK YOU.

(JUROR TRAPP LEAVES THE BENCH CONFERENCE. JUROR SAMUEL APPROACHES THE BENCH.)

JUROR SAMUEL: I'M JUROR 219.

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THE COURT: JULIA SAMUEL?

JUROR SAMUEL: UH-HUH. 219.

THE COURT: OKAY.

JUROR SAMUEL: THE MURDER THAT HAPPENED IN THE COLONIES, THE BOY THAT GOT SHOT WAS MY STEPBROTHER.

THE COURT: THE MURDER THAT HAPPENED IN THE COLONIES?

JUROR SAMUEL: I DIDN'T KNOW IF IT WAS THIS CASE OR NOT.

THE COURT: NO, IT'S NOT THIS CASE.

JUROR SAMUEL: OH.

THE COURT: WOULD THAT AFFECT YOUR ABILITY TO BE FAIR AND IMPARTIAL IN THIS CASE?

JUROR SAMUEL: NO, MA'AM.

THE COURT: SO THAT MEANS THAT YOU COULD LISTEN TO THE TESTIMONY AND EVIDENCE IN THIS TRIAL AND MAKE YOUR DECISION BASED ON WHAT GOES ON HERE?

JUROR SAMUEL: YES, MA'AM.

THE COURT: OKAY. THANK YOU.

(JUROR SAMUEL LEAVES THE BENCH CONFERENCE. JUROR GAINEY APPROACHES THE BENCH.)

THE COURT: JUROR NAME AND NUMBER?

JUROR GAINEY: JIMMY GAINEY, NUMBER 88.

THE COURT: LAST NAME AGAIN?

JUROR GAINEY: GAINEY.

THE COURT: GAINEY.

JUROR GAINEY: YES, MA'AM. I HAVE A BROTHER THAT IS

ARRESTED NOW FOR ASSAULT AND BATTERY. IT WAS AN ATTEMPT TO KILL, BUT I DON'T KNOW WHETHER THAT WAS THE QUESTION YOU WAS ASKING ABOUT.

THE COURT: YES, THAT IS. IS THAT -- WOULD THAT AFFECT YOUR ABILITY TO BE FAIR AND IMPARTIAL IN THIS CASE?

JUROR GAINEY: NO, MA'AM.

THE COURT: DO YOU UNDERSTAND THAT MEANS YOU WOULD LISTEN TO THE TESTIMONY AND THE EVIDENCE IN THIS COURTROOM AND MAKE YOUR DECISIONS BASED ON WHAT IS PROVEN HERE?

JUROR GAINEY: YES, MA'AM.

THE COURT: OKAY. THANK YOU.

JUROR GAINEY: ALL RIGHT.

(JUROR GAINEY LEFT THE BENCH CONFERENCE.)

THE COURT: AND JUST SO THAT I'M CLEAR, THE ONES WHO CAME FORWARD, I REALLY APPRECIATE THE INFORMATION, BUT I WANTED TO MAKE SURE SOME PEOPLE -- EVERYBODY UNDERSTOOD THE QUESTION SO THAT I GET EVERYBODY ELSE. YOU'VE HEARD THE CHARGES, BUT EVEN ASIDE FROM THOSE CHARGES, IF THERE HAS BEEN ANYBODY WHO HAS BEEN IN ANY WAY AFFECTED BY ANY CRIME OF ANY SORT, I WANT YOU TO STEP FORWARD AND JUST LET THE COURT KNOW ABOUT ANY OF THOSE SITUATIONS OR ISSUES BECAUSE I NEED TO MAKE SURE THAT WE GET FULL INFORMATION HERE.

(THE FOLLOWING COLLOQUY BETWEEN THE COURT AND THE JURORS TOOK PLACE AT THE BENCH IN THE PRESENCE OF EACH JUROR INDIVIDUALLY, THE COURT, AND THE ATTORNEYS. JUROR MATHIS

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APPROACHED THE BENCH.)

THE COURT: JUROR NUMBER?

JUROR MATHIS: JUROR 168.

THE COURT: OKAY.

JUROR MATHIS: I HAD A---

THE COURT: STATE YOUR NAME.

JUROR MATHIS: BURNETTE MATHIS.

THE COURT: OKAY.

JUROR MATHIS: I HAD A BREAK-IN IN MY HOUSE BACK IN OCTOBER 2008.

THE COURT: OKAY. AND WOULD THAT AFFECT YOUR ABILITY TO BE FAIR AND IMPARTIAL IN THIS CASE?

JUROR MATHIS: NO, MA'AM. NO, MA'AM.

THE COURT: OKAY. THANK YOU.

JUROR MATHIS: UH-HUH.

(JUROR MATHIS LEAVES THE BENCH CONFERENCE. JUROR WEST APPROACHES THE BENCH.)

THE COURT: OKAY.

JUROR WEST: I'M SORRY. I'M STILL -- YOUR HONOR, MY BROTHER WAS KILLED TEN YEARS AGO---

THE COURT: JUROR NAME AND NUMBER?

JUROR WEST: 283, JANE WEST.

THE COURT: GO AHEAD.

JUROR WEST: HE WAS MURDERED. HE WAS IN A TAXICAB. THEY SHOT HIM IN THE BACK OF THE HEAD AND KILLED HIM.

THE COURT: WOULD THAT AFFECT YOUR ABILITY TO BE FAIR AND IMPARTIAL IN THIS CASE?

JUROR WEST: I DON'T THINK I COULD SAY.

THE COURT: OKAY. LET ME JUST TELL YOU WHAT THAT MEANS. YOU WOULD BE LISTENING TO THE TESTIMONY AND TO ANY EVIDENCE IN THIS CASE AND MAKING YOUR DECISIONS BASED ON WHAT HAS OCCURRED HERE.

JUROR WEST: RIGHT.

THE COURT: DO YOU THINK YOU CAN DO THAT?

JUROR WEST: I THINK I CAN.

THE COURT: DO YOU THINK YOU CAN?

JUROR WEST: I THINK I CAN.

THE COURT: OKAY. I'LL LET YOU REMAIN WITH US.

JUROR WEST: OKAY.

(JUROR WEST LEAVES THE BENCH CONFERENCE, AND JUROR JONES APPROACHES THE BENCH.)

THE COURT: JUROR NAME AND NUMBER?

JUROR JONES: CATHERINE JONES, NUMBER 133.

THE COURT: OKAY.

JUROR JONES: AND MY HOME WAS BURGLARIZED ABOUT TWO AND A HALF YEARS AGO.

THE COURT: THANK YOU. DO YOU BELIEVE THAT YOU CAN BE A FAIR AND IMPARTIAL---

JUROR JONES: YES, MA'AM.

THE COURT: ---JUROR IN THIS CASE?

JUROR JONES: YES, MA'AM.

THE COURT: OKAY. YOU CAN LISTEN TO THE TESTIMONY AND EVIDENCE IN THIS CASE?

JUROR JONES: EXACTLY.

THE COURT: MAKE UP YOUR MIND BASED ON WHAT HAPPENS HERE?

JUROR JONES: YES, MA'AM.

THE COURT: OKAY. THANK YOU.

(JUROR JONES LEAVE THE BENCH CONFERENCE, AND JUROR MOCK APPROACHES THE BENCH.)

THE COURT: OKAY.

JUROR MOCK: HI. JUROR 179.

THE COURT: YOUR NAME AGAIN?

JUROR MOCK: CINDY MOCK.

THE COURT: CINDY?

JUROR MOCK: M-O-C-K.

THE COURT: OKAY.

JUROR MOCK: YOU SAID ANY CRIME. WELL, MY WALLET WAS STOLEN. I IDENTIFIED THE GUY AND EVERYTHING SO... NOTHING MAJOR.

THE COURT: OKAY. DO YOU BELIEVE THAT WOULD AFFECT YOUR ABILITY TO BE FAIR AND IMPARTIAL IN THIS CASE?

JUROR MOCK: HUH-UH. I MEAN, I WOULDN'T HAVE ANY PROBLEM.

THE COURT: OKAY. THANK YOU. STAY WITH US.

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(JUROR MOCK LEAVES THE BENCH CONFERENCE, AND JUROR GARCIA APPROACHES THE BENCH.)

THE COURT: HI. JUROR NUMBER?

JUROR GARCIA: JUROR NUMBER 89, KATHRYN GARCIA.

THE COURT: OKAY.

JUROR GARCIA: WHEN I WAS 16, I WAS WORKING AT HARDEE'S AND WAS HELD UP IN AN ARMED ROBBERY.

THE COURT: OKAY. WOULD THAT AFFECT YOUR ABILITY TO BE FAIR AND IMPARTIAL IN THIS CASE?

JUROR GARCIA: NO, MA'AM.

THE COURT: OKAY. THANK YOU.

JUROR GARCIA: OKAY.

(JUROR GARCIA LEAVES THE BENCH CONFERENCE, AND JUROR HARRIS APPROACHES THE BENCH.)

JUROR HARRIS: THE QUESTION WAS ANY FAMILY MEMBER?

THE COURT: OR YOURSELF OR ANYBODY THAT YOU KNOW THAT MIGHT BE CLOSELY CONNECTED TO YOU IN ANY WAY.

JUROR HARRIS: I HAVE A FIRST COUSIN---

THE COURT: YOUR JUROR NUMBER?

JUROR HARRIS: 105.

THE COURT: AND YOUR NAME?

JUROR HARRIS: HERNANDO HARRIS.

THE COURT: OKAY. GO AHEAD.

JUROR HARRIS: MY FIRST COUSIN GOT MURDERED ABOUT FIVE MONTHS AGO.

THE COURT: OKAY. AND WOULD THAT AFFECT YOUR ABILITY TO BE FAIR AND IMPARTIAL IN THIS CASE?

JUROR HARRIS: POSSIBLY, YES.

THE COURT: OKAY. AND YOU UNDERSTAND THAT MEANS COULD YOU LISTEN TO THE TESTIMONY AND THE EVIDENCE IN THIS CASE?

JUROR HARRIS: YEAH, I DO.

THE COURT: AND MAKE YOUR DECISIONS HERE?

JUROR HARRIS: I DO, YEAH.

THE COURT: AND NOT WHAT HAPPENED TO YOUR COUSIN IN THIS SITUATION. CAN YOU DO THAT?

JUROR HARRIS: I COULD. I COULD.

THE COURT: OKAY. ALL RIGHT. STAY WITH US. THANK YOU.

(JUROR HARRIS LEAVES THE BENCH CONFERENCE.)

MS. SHIPLEY: HE SAID HIS COUSIN WAS MURDERED?

THE COURT: YEAH. UH-HUH.

MS. SHIPLEY: OKAY.

(JUROR PEARSON APPROACHES THE BENCH.)

JUROR PEARSON: HI. JUROR NUMBER 198.

THE COURT: AND YOUR NAME?

JUROR PEARSON: MAE PEARSON.

THE COURT: OKAY.

JUROR PEARSON: I HAVE A NEPHEW. HE WAS MURDERED, AND I DON'T THINK IT WAS JUSTICE...

THE COURT: YOU DON'T THINK IT WAS JUSTICE?

JUROR PEARSON: (SHOOK HEAD FROM SIDE TO SIDE.)

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THE COURT: OKAY. DO YOU BELIEVE THAT YOU COULD BE FAIR AND IMPARTIAL IN THIS CASE?

JUROR PEARSON: I WAS THINKING I DON'T KNOW. I REALLY DON'T KNOW.

THE COURT: OKAY. AND THAT WOULD MEAN WHETHER OR NOT YOU COULD LISTEN TO THE FACTS, TESTIMONY, AND OTHER EVIDENCE PRESENTED IN THIS COURTROOM AND ONLY MAKE UP YOUR MIND BASED ON WHAT GOES ON HERE WITHOUT BRINGING IN THAT SITUATION INTO THE COURTROOM.

JUROR PEARSON: I THINK SO, BUT I REALLY -- I DON'T KNOW. I REALLY DON'T KNOW. I THINK SO THOUGH JUST HERE, YEAH, BUT I KNOW IT WOULD POP UP IN MY MIND.

THE COURT: OKAY. AND MY CONCERN WOULD BE THAT -- YOU KNOW, YOU WOULD HAVE TO BE FAIR TO THE STATE AND FAIR TO THE DEFENSE, AND I WANT TO MAKE SURE THAT I'M COMFORTABLE AND YOU'RE COMFORTABLE THAT YOU WOULD PAY ATTENTION TO WHAT GOES ON HERE AND YOUR JUDGMENT WOULD BE BASED ON WHAT'S PROVEN HERE AT TRIAL.

JUROR PEARSON: OKAY.

THE COURT: I'M ASKING YOU WHETHER OR NOT YOU THINK YOU CAN DO THAT.

JUROR PEARSON: I THINK I CAN. I THINK I CAN.

THE COURT: OKAY. DO YOU KNOW?

JUROR PEARSON: BECAUSE I CONSTANTLY THINK ABOUT IT. I CONSTANTLY THINK ABOUT IT.

THE COURT: BUT DO YOU KNOW WHETHER YOU CAN DO THAT IF -- DO YOU KNOW WHETHER YOU CAN DO THAT?

JUROR PEARSON: I DON'T KNOW.

THE COURT: YOU DON'T KNOW.

JUROR PEARSON: I DON'T KNOW.

THE COURT: OKAY. I'M GOING TO EXCUSE YOU. JUROR NUMBER 198 IS EXCUSED FROM THE TRIAL OF THIS CASE.

(JUROR PEARSON LEAVES THE BENCH CONFERENCE, AND JUROR TISDALE APPROACHES THE BENCH.)

THE COURT: OKAY.

JUROR TISDALE: I'M JUROR NUMBER 259.

THE COURT: YOUR NAME?

JUROR TISDALE: VIVIAN TISDALE.

THE COURT: OKAY.

JUROR TISDALE: MY NEPHEW, HE WAS CONVICTED OF MARIJUANA CHARGES.

THE COURT: CONVICTED OF WHAT?

JUROR TISDALE: MARIJUANA CHARGES.

THE COURT: OKAY..

JUROR TISDALE: OKAY.

THE COURT: DO YOU BELIEVE YOU CAN BE A FAIR AND IMPARTIAL JUROR IN THIS CASE?

JUROR TISDALE: YEAH. UH-HUH.

THE COURT: OKAY. THANKS.

(JUROR TISDALE LEAVES THE BENCH CONFERENCE, AND JUROR

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FREEMAN APPROACHES THE BENCH.)

THE COURT: OKAY.

JUROR FREEMAN: CAROLINE FREEMAN.

THE COURT: OKAY.

JUROR FREEMAN: NUMBER 84.

THE COURT: OKAY.

JUROR FREEMAN: I WAS BURGLARIZED IN KEY WEST TWO YEARS AGO. I WAS BURGLARIZED IN MY HOME IN COLUMBIA ABOUT A YEAR AND A HALF AGO.

THE COURT: OKAY.

JUROR FREEMAN: AND I'VE HAD MY SHOP IN VIRGINIA BROKEN INTO AND MONEY TAKEN.

THE COURT: OKAY. DO YOU BELIEVE THAT YOU CAN BE A FAIR AND IMPARTIAL JUROR IN THIS CASE BASED ON THE FACTS AND CIRCUMSTANCES HERE?

JUROR FREEMAN: UH-HUH.

THE COURT: YOU DO?

JUROR FREEMAN: THINGS JUST HAPPEN.

THE COURT: OKAY. I NEED YOU TO SAY YES OR NO.

JUROR FREEMAN: YES, MA'AM.

THE COURT: OKAY. THANK YOU. WE'LL LEAVE YOU ON.

(JUROR FREEMAN LEAVES THE BENCH CONFERENCE.)

THE COURT: ALL RIGHT.

MS. SHIPLEY: THERE'S ONE JUROR THAT WAS EXCUSED BY JUDGE BARBER FOR FRIDAY, AND I KNOW FOR A FACT THIS CASE IS

GOING TO GO INTO FRIDAY. DO YOU MIND IF I GO AND GRAB THE NAME REAL QUICK?

THE COURT: SURE.

MS. SHIPLEY: THANK YOU. IT WAS JUROR NUMBER 284.

THE COURT: OKAY.

MS. SHIPLEY: MY NOTES REFLECT THAT JUDGE BARBER EXCUSED HER FOR FRIDAY.

THE COURT: OKAY.

MS. SHIPLEY: SO WE NEED TO LET HER GO.

THE COURT: I'LL DO A SPEAK NOW OR FOREVER HOLD YOUR PEACE.

MS. DAVIS: YOU STRUCK THREE OF THE POSSIBLE JURORS WHO INITIALLY SAID, NO, I THINK I COULD BE IMPARTIAL. ONE OF THEM WAS ALSO IN TEARS. THEY SAID MAYBE I COULD BE IMPARTIAL.

THE COURT: THE COURT'S JOB IS TO SEE IF I CAN REHABILITATE THEM FIRST, YOU KNOW, EVEN IF THEY HAVE AN INITIAL RESPONSE, BUT I FURTHER EXPLAINED THAT TO THEM IN TERMS OF WHAT BEING IMPARTIAL IS. I'M HAPPY TO BRING THEM BACK UP AND GET A SECOND VIEW OF THEM.

(AN OFF-THE-RECORD DISCUSSION TOOK PLACE BETWEEN MS. DAVIS AND MR. LEDDY.)

MR. LEDDY: LET'S JUST PICK THE JURY.

THE COURT: ALL RIGHT. LADIES AND GENTLEMEN, THIS IS THE PART OF THE TRIAL WHERE I ALWAYS SAY SPEAK NOW OR FOREVER

HOLD YOUR PEACE, THAT ESSENTIALLY WHAT I NEED TO KNOW IS WHETHER OR NOT AGAIN, NOW THAT YOU'VE HEARD US SPEAK A LITTLE FURTHER, DOES ANYBODY BELIEVE THEY HAVE ANY BIAS OR PREJUDICE OR AN EXPRESSED OPINION ABOUT HOW AN OUTCOME OF THIS TRIAL SHOULD GO, MEANING THAT YOU HAVE A BIAS AGAINST THE STATE OR THE DEFENSE OR JUST EVEN WITH THE TYPE OF MATTERS THAT THE COURT WILL BE DEALING WITH? PLEASE STAND UP NOW AND STATE YOUR JUROR NAME AND NUMBER.

THE OTHER QUESTION WOULD BE FOR YOUR ABILITY TO BE FAIR AND IMPARTIAL JURORS. I ALWAYS LIKE TO MAKE SURE THAT NOTHING WOULD BE ON YOUR MIND, YOU KNOW, TO THE BEST EXTENT POSSIBLE, BUT THIS PARTICULAR CASE SO THAT YOU CAN BE FAIR TO BOTH SIDES. SO IF ANYONE IS AWARE THAT THEY'VE GOT HEART SURGERY TOMORROW OR THEY'VE GOT SOME BIG EXAM OR THEY'VE GOT, YOU KNOW, SOMETHING THAT THEY JUST CANNOT GIVE US FULL TIME AND ATTENTION TO THE MATTER, PLEASE LET US KNOW NOW. I CAN'T SAY THAT IT AUTOMATICALLY GETS YOU OUT, BUT IT AT LEAST GIVES THE ATTORNEYS AN OPPORTUNITY TO KNOW WHO MIGHT NOT BE REALLY HERE IN THE COURTROOM WITH US BECAUSE THEY'RE AGITATED AND, YOU KNOW, HAVE OTHER THOUGHTS ABOUT OTHER THINGS. PLEASE STAND UP NOW AND LET US KNOW THAT.

OKAY. ALL RIGHT. IS THERE ANY OTHER QUESTIONS THAT THE ATTORNEYS WISH THAT THE COURT WOULD ASK?

MS. SHIPLEY: NOTHING FROM THE STATE, YOUR HONOR.

MS. DAVIS: NO, YOUR HONOR.

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THE COURT: OKAY. ARE YOU READY TO PROCEED?

MS. SHIPLEY: YES, MA'AM.

MR. LEDDY: YES, YOUR HONOR.

THE COURT: OKAY. MADAM CLERK.

THE CLERK: LADIES AND GENTLEMEN OF THE JURY PANEL, AS I CALL YOUR NAME, PLEASE COME TO THE MICROPHONE LOCATED HERE AT THE CENTER. AT THE MICROPHONE PLEASE STATE YOUR NAME AND YOUR PLACE OF OCCUPATION. JUROR NUMBER 45, JEROY CARROLL. PLEASE BRING ANY PERSONAL ITEMS THAT YOU MAY HAVE WITH YOU.

JUROR CARROLL: JEROY CARROLL. I'M A MANAGER AT A FOOD PLANT HERE IN SOUTH CAROLINA.

THE CLERK: WHAT SAYS THE STATE?

MS. SHIPLEY: PLEASE PRESENT MR. CARROLL.

THE CLERK: WHAT SAYS THE DEFENSE?

MR. LEDDY: PLEASE SEAT THE JUROR.

THE CLERK: PLEASE HAVE A SEAT IN THE JURY BOX. JUROR NUMBER 176, KIMBERLY MCMAHAN.

JUROR MCMAHAN: MY NAME IS KIMBERLY MCMAHAN. I DO PHARMACEUTICAL SALES WITH ELI LILLY.

THE CLERK: WHAT SAYS THE STATE?

MS. SHIPLEY: PLEASE PRESENT MS. MCMAHAN.

THE CLERK: WHAT SAYS THE DEFENSE?

MR. LEDDY: PLEASE SEAT THE JUROR.

THE CLERK: PLEASE HAVE A SEAT IN THE JURY BOX. JUROR NUMBER 105, HERNANDO HARRIS.

JUROR HARRIS: HERNANDO HARRIS. I WORK FOR DIREC-TV.

THE CLERK: WHAT SAYS THE STATE?

MS. SHIPLEY: PLEASE PRESENT MR. HARRIS.

THE CLERK: WHAT SAYS THE DEFENSE?

MR. LEDDY: PLEASE EXCUSE THIS JUROR.

THE CLERK: PLEASE RETURN TO THE BACK OF THE COURTROOM. JUROR NUMBER 219, JULIA SAMUEL.

JUROR SAMUEL: I'M JULIA SAMUEL, AND I'M A WAITRESS.

THE CLERK: WHAT SAYS THE STATE?

MS. SHIPLEY: PLEASE PRESENT MS. SAMUEL.

THE CLERK: WHAT SAYS THE DEFENSE?

MR. LEDDY: PLEASE EXCUSE THIS JUROR.

THE CLERK: PLEASE RETURN TO THE BACK OF THE COURTROOM. JUROR NUMBER 168, BURNETTE MATHIS.

JUROR MATHIS: MY NAME IS BURNETTE MATHIS. I'M AN ASSEMBLY WORKER IN BLYTHEWOOD.

THE CLERK: WHAT SAYS THE STATE?

MS. SHIPLEY: PLEASE PRESENT MS. MATHIS.

THE CLERK: WHAT SAYS THE DEFENSE?

MR. LEDDY: PLEASE EXCUSE THIS JUROR.

THE CLERK: PLEASE RETURN TO THE BACK OF THE COURTROOM. JUROR NUMBER 38, LEROY BYRD.

JUROR BYRD: MY NAME IS LEROY BYRD, AND I'M A TRUCK DRIVER.

THE CLERK: WHAT SAYS THE STATE?

MS. SHIPLEY: PLEASE PRESENT MR. BYRD.

THE CLERK: WHAT SAYS THE DEFENSE?

MR. LEDDY: PLEASE SEAT THIS JUROR.

THE CLERK: PLEASE HAVE A SEAT IN THE JURY BOX. JUROR NUMBER 284, WANDA WHALEY.

JUROR WHALEY: MY NAME IS WANDA WHALEY. I WORK IN PROCESSING AT U.P.S.

THE CLERK: WHAT SAYS THE STATE?

MS. SHIPLEY: PLEASE PRESENT MS. WHALEY.

THE CLERK: WHAT SAYS THE DEFENSE?

MR. LEDDY: PLEASE SEAT THIS JUROR.

THE CLERK: PLEASE HAVE A SEAT IN THE JURY BOX. JUROR NUMBER 148, SCOTT KRAUSE.

JUROR KRAUSE: MY NAME IS SCOTT KRAUSE, AND I'M A PHOTOGRAPHER.

THE CLERK: WHAT SAYS THE STATE?

MS. SHIPLEY: PLEASE PRESENT MR. KRAUSE.

THE CLERK: WHAT SAYS THE DEFENSE?

MR. LEDDY: PLEASE SEAT THIS JUROR.

THE CLERK: PLEASE HAVE A SEAT IN THE JURY BOX. JUROR NUMBER 63, TIMOTHY DEMPSEY.

JUROR DEMPSEY: I'M TIM DEMPSEY, AND I WORK AT D.H. GRIFFIN WRECKING COMPANY.

THE CLERK: WHAT SAYS THE STATE?

MS. SHIPLEY: PLEASE PRESENT MR. DEMPSEY.

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THE CLERK: WHAT SAYS THE DEFENSE?

MR. LEDDY: PLEASE SEAT THIS JUROR.

THE CLERK: PLEASE HAVE A SEAT IN THE JURY BOX. JUROR NUMBER 128, LINDA JENKINS.

JUROR JENKINS: MY NAME IS LINDA JENKINS, AND I HAD OPEN HEART SURGERY. THAT'S WHY I'M RETIRED.

THE CLERK: WHAT SAYS THE STATE?

MS. SHIPLEY: PLEASE PRESENT MS. JENKINS.

THE CLERK: WHAT SAYS THE DEFENSE?

MR. LEDDY: PLEASE SEAT THIS JUROR.

THE CLERK: PLEASE HAVE A SEAT IN THE JURY BOX. JUROR NUMBER 275, TWANIQUE WATSON.

JUROR WATSON: I'M TWANIQUE WATSON. I'M A DIETARY AIDE AT THE RICE HOME.

THE CLERK: WHAT SAYS THE STATE?

MS. SHIPLEY: PLEASE EXCUSE MS. WATSON.

THE CLERK: PLEASE RETURN TO THE BACK OF THE COURTROOM. JUROR NUMBER 170, COREY MCCLERKLIN.

JUROR MCCLERKLIN: YES. I'M COREY MCCLERKLIN, MAINTENANCE ELECTRICIAN, C.M.C. STEEL, SOUTH CAROLINA.

THE CLERK: WHAT SAYS THE STATE?

MS. SHIPLEY: PLEASE EXCUSE MR. MCCLERKLIN.

THE CLERK: PLEASE RETURN TO THE BACK OF THE COURTROOM. JUROR NUMBER 74, NATASHA ELLIOT.

JUROR ELLIOT: MY NAME IS NATASHA ELLIOT. I'M A

BUSINESS ANALYST AT BLUE CROSS AND BLUE SHIELD.

THE CLERK: WHAT SAYS THE STATE?

MS. SHIPLEY: PLEASE EXCUSE MS. ELLIOT.

THE CLERK: PLEASE RETURN TO THE BACK OF THE COURTROOM. JUROR NUMBER 88, JIMMY GAINEY.

JUROR GAINEY: MY NAME IS JIMMY GAINEY, AND I WORK FOR RICHLAND SCHOOL DISTRICT ONE.

THE CLERK: WHAT SAYS THE STATE?

MS. SHIPLEY: PLEASE EXCUSE MR. GAINEY.

THE CLERK: PLEASE RETURN TO THE BACK OF THE COURTROOM. JUROR NUMBER 31, MAMIE BROOKS.

JUROR BROOKS: MAMIE BROOKS, RETIRED SOCIAL WORKER.

THE CLERK: WHAT SAYS THE STATE?

MS. SHIPLEY: PLEASE PRESENT MS. BROOKS.

THE CLERK: WHAT SAYS THE DEFENSE?

MR. LEDDY: PLEASE EXCUSE THIS JUROR.

THE CLERK: PLEASE RETURN TO THE BACK OF THE COURTROOM. JUROR NUMBER 261, MICHELLE TRAPP.

JUROR TRAPP: MY NAME IS MICHELLE TRAPP. I'M A DATA ENTRY CLERK AT STATON (PHONETIC) FINANCIAL CENTER.

THE CLERK: WHAT SAYS THE STATE?

MS. SHIPLEY: PLEASE PRESENT MS. TRAPP.

THE COURT: WHAT SAYS THE DEFENSE?

MR. LEDDY: PLEASE SEAT THIS JUROR.

THE CLERK: PLEASE HAVE A SEAT IN THE JURY BOX. JUROR

NUMBER 186, STANLEY NASCEDKA.

JUROR NASCEDKA: STANLEY NASCEDKA, AND I WORK FOR MACK HEATING AND COOLING.

THE CLERK: WHAT SAYS THE STATE?

MS. SHIPLEY: PLEASE PRESENT THE JUROR.

THE CLERK: WHAT SAYS THE DEFENSE?

MR. LEDDY: PLEASE SEAT THE JUROR.

THE CLERK: PLEASE HAVE A SEAT IN THE JURY BOX. JUROR NUMBER 211, MARK RIFFLE.

JUROR RIFFLE: MARK RIFFLE. I WORK FOR THE SOUTH CAROLINA DEPARTMENT OF DISABILITIES AND SPECIAL NEEDS.

THE CLERK: WHAT SAYS THE STATE?

MS. SHIPLEY: PLEASE PRESENT MR. RIFFLE.

THE CLERK: WHAT SAYS THE DEFENSE?

MR. LEDDY: PLEASE SEAT THE JUROR.

THE CLERK: YOU MAY HAVE A SEAT.

JUROR RIFFLE: I'M GOING TO SEE HOW THAT WORKS.

BAILIFF: WE'RE GOING TO HAVE TO CARRY YOU AROUND.

THE CLERK: MR. HOLLIS, FOR NOW WHERE THAT BLUE CHAIR IS... JUROR NUMBER 179, CINDY MOCK.

JUROR MOCK: I'M A DISTRICT MANAGER FOR BLOCKBUSTER VIDEO.

THE CLERK: WHAT SAYS THE STATE?

MS. SHIPLEY: PLEASE PRESENT MS. MOCK.

THE CLERK: WHAT SAYS THE DEFENSE?

MR. LEDDY: PLEASE EXCUSE THE JUROR.

THE CLERK: PLEASE RETURN TO THE BACK OF THE COURTROOM. JUROR NUMBER 193, SHANNON OUTEN.

JUROR OUTEN: MY NAME IS SHANNON OUTEN, AND I WORK FOR C.S. CLEANING SERVICE.

THE CLERK: WHAT SAYS THE STATE?

MS. SHIPLEY: PLEASE PRESENT MS. OUTEN.

THE CLERK: WHAT SAYS THE DEFENSE?

MR. LEDDY: PLEASE SEAT THE JUROR.

THE CLERK: PLEASE HAVE A SEAT IN THE JURY BOX. JUROR NUMBER 156, PATRICK LAYDEN.

JUROR LAYDEN: PATRICK LAYDEN, NATIONAL SALES MANAGER FOR MYTECH. IT'S AN I.T. FIRM IN COLUMBIA.

THE CLERK: WHAT SAYS THE STATE?

MS. SHIPLEY: PLEASE PRESENT MR. LAYDEN.

THE CLERK: WHAT SAYS THE DEFENSE?

MR. LEDDY: PLEASE SEAT THIS JUROR.

THE CLERK: PLEASE HAVE A SEAT IN THE JURY BOX.

THE COURT: TWO ALTERNATES.

THE CLERK: JUROR NUMBER 65, HOWARD DENNY.

JUROR DENNY: I'M HOWARD DENNY. I'M A DENTIST IN COLUMBIA.

THE CLERK: WHAT SAYS THE STATE?

MS. SHIPLEY: PLEASE PRESENT DR. DENNY.

THE CLERK: WHAT SAYS THE DEFENSE?

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MR. LEDDY: PLEASE SEAT THE JUROR.

THE CLERK: PLEASE HAVE A SEAT IN THE JURY BOX. JUROR NUMBER 208, MICHAEL RATCLIFF.

JUROR RATCLIFF: I'M MICHAEL RATCLIFF. I'M AN AUDITOR WITH BLUE CROSS AND BLUE SHIELD OF SOUTH CAROLINA.

THE CLERK: WHAT SAYS THE STATE?

MS. SHIPLEY: PLEASE PRESENT MR. RATCLIFF.

THE CLERK: WHAT SAYS THE DEFENSE?

MR. LEDDY: PLEASE EXCUSE THE JUROR.

THE CLERK: PLEASE RETURN TO THE BACK OF THE COURTROOM. JUROR NUMBER 259, VIVIAN TISDALE.

JUROR TISDALE: VIVIAN TISDALE, EXECUTIVE ASSISTANT TO THE SUPERINTENDENT.

THE CLERK: WHAT SAYS THE STATE?

MS. SHIPLEY: PLEASE PRESENT MS. TISDALE.

THE CLERK: WHAT SAYS THE DEFENSE?

MR. LEDDY: PLEASE EXCUSE THE JUROR.

THE CLERK: PLEASE RETURN TO THE BACK OF THE COURTROOM. JUROR NUMBER 268, KIMBERLY VONSCHWEINITZ.

JUROR VONSCHWEINITZ: I'M KIMBERLY VONSCHWEINITZ. I'M SELF-EMPLOYED AS A UTILITY ANALYST.

THE CLERK: WHAT SAYS THE STATE?

MS. SHIPLEY: PLEASE PRESENT MS. VONSCHWEINITZ.

THE CLERK: DOES THE DEFENSE CHALLENGE FOR CAUSE?

MR. LEDDY: NO.

THE CLERK: PLEASE HAVE A SEAT IN THE JURY BOX.

(WHEREUPON, THE JURY WAS IMPANELED AT 3:03 P.M.)

THE COURT: WILL THERE BE ANY EXCEPTIONS TO THE JURY SELECTION?

MS. SHIPLEY: NONE FROM THE STATE, YOUR HONOR.

MR. LEDDY: NONE FROM THE DEFENSE, YOUR HONOR.

THE COURT: OKAY. PARTIES, APPROACH.

(WHEREUPON, A BENCH CONFERENCE WAS HELD.)

THE COURT: OKAY. LADIES AND GENTLEMEN OF THE JURY PANEL FOR THIS PARTICULAR TRIAL, WE HAVE WHAT YOU CALL A FEW PRETRIAL MATTERS THAT THE COURT HAS TO MAKE SOME LEGAL RULINGS ON BEFORE WE PROCEED WITH THIS CASE. SO I'M GOING TO ASK YOU ALL TO EXCUSE YOURSELVES TO THE JURY ROOM FOR A FEW SHORT MOMENTS, AND THEN THE PARTIES HAVE INDICATED THAT THEY'RE READY TO PROCEED AND START THE TRIAL TODAY.

I'M GOING TO REMIND YOU THROUGHOUT THE TRIAL AND PARTICULARLY NOW TO NOT DISCUSS THE CASE IN ANY SHAPE, FORM, OR FASHION WITH ANYONE, AND THE REASON I SAY THAT IS BECAUSE YOU WANT TO BE FAIR TO BOTH PARTIES AND LISTEN TO THE TESTIMONY AND EVIDENCE THAT'S GIVEN IN THIS COURTROOM. I'LL REMIND YOU AGAIN THROUGHOUT THE TRIAL, BUT IT ALSO INCLUDES WHEN YOU GO HOME TONIGHT. DON'T DISCUSS IT WITH YOUR SPOUSES, PARTNERS, SIGNIFICANT OTHER, BECAUSE PEOPLE TEND TO INJECT OPINIONS WHEN YOU RAISE A SUBJECT MATTER. YOU DON'T EVEN HAVE TO SAY WHAT IT'S ABOUT. THEY SOMETIMES TEND TO

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INJECT OPINIONS ON AN ISSUE, AND WE DON'T WANT THOSE OPINIONS TO SWAY YOU. YOU NEED TO BE FAIR TO BOTH PARTIES AND LISTEN TO THE TESTIMONY AND EVIDENCE AS IT'S PRESENTED IN THIS COURTROOM.

THANK YOU FOR YOUR TIME AND SERVICE, AND WE'LL BE BACK WITH YOU VERY SHORTLY. SO YOU CAN EXCUSE YOURSELF FOR AT LEAST ABOUT A 15-MINUTE OR SO BREAK. THANK YOU.

(WHEREUPON, THE JURY WAS EXCUSED FROM OPEN COURT AT 3:06 P.M.)

THE COURT: OKAY. THE COURT IS READY TO PROCEED WITH PRETRIAL MATTERS.

MS. SHIPLEY: THANK YOU, YOUR HONOR. INVESTIGATOR DOW IS STILL NOT FEELING WELL. IF WE COULD JUST GET HIM UP AND RUNNING---

THE COURT: SURE.

MS. SHIPLEY: THANK YOU. THE STATE CALLS INVESTIGATOR NOEL DOW.

THE COURT: AND THANK YOU, SIR, FOR COMING TODAY, AND I HOPE YOU FEEL BETTER.

NOEL DOW, AFTER BEING DULY SWORN, TESTIFIED AS FOLLOWS IN CAMERA.

THE CLERK: PLEASE HAVE A SEAT AND STATE YOUR FULL NAME.

THE WITNESS: NOEL DOW.

DIRECT EXAMINATION

BY MS. SHIPLEY:

Q. INVESTIGATOR DOW, I'M GOING TO JUST GO AHEAD AND SPEED FORWARD SINCE YOU'RE NOT FEELING WELL. DO YOU RECALL WHAT TIME YOU RESPONDED FOR A SHOOTING INCIDENT AT OVER THERE OFF OF AMES ROAD ON FEBRUARY 15TH, 2007?

A. APPROXIMATELY 11 P.M., SOMEWHERE AROUND THERE.

Q. OKAY. I'M GOING TO HAND YOU A COPY OF YOUR NOTES. WHEN WAS THE FIRST TIME THAT YOU WERE NOTIFIED CONCERNING THE CASE?

A. SERGEANT BABIN CALLED ME ON MY CITY CELL PHONE AND TOLD ME THERE WAS A HOMICIDE AT , AND HE TOLD ME THAT INVESTIGATOR BALES -- TO TALK TO INVESTIGATOR BALES TO FIND OUT WHERE HE WANTED ME TO RESPOND TO.

Q. OKAY. AND DID YOU EVENTUALLY MAKE IT TO MYERS STREET?

A. YES, I DID, MA'AM.

Q. OKAY. AND APPROXIMATELY WHAT TIME DID YOU MAKE IT THERE?

A. ABOUT 23:20. 11:20 P.M.

Q. P.M. ON FEBRUARY 15TH, 2007?

A. YES, MA'AM.

Q. OKAY. AT THAT POINT DID YOU GET A REQUEST BY INVESTIGATOR REESE TO ASSIST HIM IN THE INVESTIGATION OF THIS MURDER?

A. YES, MA'AM.

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Q. AND WHAT WITNESS DID HE DIRECT YOU TO INTERVIEW?
A. MR. JEFFREY DEAN SMITH.
Q. OKAY. AND DID YOU TAKE JEFFREY DEAN SMITH ANYWHERE TO GO INTERVIEW HIM?
A. YES. I PUT HIM IN MY CAR AND WAS TAKING HIM TO THE POLICE HEADQUARTERS TO GET A WRITTEN STATEMENT FROM HIM.
Q. OKAY. PRIOR TO LEAVING, DID YOU GET A DESCRIPTION FROM MR. SMITH OR DID YOU -- WAS IT RELAYED TO YOU AS TO WHAT THE PERPETRATOR OF THE SHOOTING LOOKED LIKE?
A. NO.
Q. YOU DIDN'T HAVE ANY IDEA WHAT THE PERPETRATOR OF THE SHOOTING LOOKED LIKE.
A. NO, MA'AM.
Q. OKAY. AT THAT POINT HAD YOU EVEN TALKED TO JEFF SMITH ABOUT WHAT HE KNEW ABOUT THIS MURDER?
A. NO, MA'AM.
Q. AND WHAT WAS THE PURPOSE OF TAKING HIM TO HEADQUARTERS?
A. JUST TO GET A WRITTEN STATEMENT FROM HIM.
Q. OKAY. NOW, IS THAT WHERE YOU WERE PLANNING ON GAINING ALL YOUR INFORMATION?
A. YES, MA'AM.
Q. AT THAT POINT, WHEN YOU WERE IN YOUR VEHICLE, DESCRIBE YOUR CAR TO JUDGE CHILDS.
A. AT THAT TIME I HAD A 1995 BUICK SENTRY, NO RADIO IN IT, JUST ONE OF THE OLDEST CARS IN THE FLEET IN INVESTIGATIONS I

HAD.

Q. OKAY. SO THERE WAS NO RADIO IN YOUR CAR.

A. NO, MA'AM.

Q. ALL RIGHT. DID YOU HAVE A CELL PHONE?

A. YES, MA'AM.

Q. OKAY. DO YOU EVER RECALL HAVING A CELL PHONE CONVERSATION WITH A SERGEANT DUTTON THAT NIGHT?

A. NO, MA'AM.

Q. OKAY. TELL JUDGE CHILDS WHAT ROUTE YOU TOOK LEAVING MYERS STREET TO GO TO COLUMBIA DOWNTOWN HEADQUARTERS.

A. I DROVE SOUTHBOUND ON NORTH MAIN STREET.

Q. OKAY. AND TELL JUDGE CHILDS EXACTLY WHAT TRANSPIRED WHEN YOU WERE DRIVING DOWN NORTH MAIN STREET. FIRST OF ALL, WHERE WAS MR. SMITH SEATED?

A. HE WAS SEATED RIGHT NEXT TO ME.

Q. IN THE FRONT SEAT?

A. YES, MA'AM.

Q. AND HE WAS NOT A SUSPECT; CORRECT?

A. NO, MA'AM.

Q. OKAY. HE WAS COOPERATING WITH YOU?

A. YES, MA'AM.

Q. DESCRIBE FOR JUDGE CHILDS WHAT IT IS THAT YOU OBSERVED ON SPECIFICALLY THE 4800 BLOCK OF NORTH MAIN STREET.

A. WHEN I DROVE THE 4800 BLOCK OF NORTH MAIN STREET, I SAW THREE CITY OF COLUMBIA POLICE CARS PARKED ON THE -- PARKED ON

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THE STREET OPPOSITE COLUMBIA COLLEGE, AND THE OFFICERS WERE STANDING IN FRONT OF THE LIGHT-SKINNED, BALD-HEADED BLACK MALE WHO WAS LEANING AGAINST THE PATROL CAR, PATROL VEHICLE NUMBER 165.

Q. OKAY. AND DO YOU KNOW WHOSE PATROL CAR 165 IS?

A. I THINK IT WAS M.P.O. FISHER.

Q. FISHER'S CAR?

A. UH-HUH.

Q. OKAY. AT THAT POINT WHEN YOU SAW THESE OFFICERS, DID YOU RECOGNIZE THEM---

A. YES, MA'AM.

Q. ---THESE OFFICERS?

A. YES, MA'AM.

Q. THEY WORK IN YOUR SAME DEPARTMENT?

A. YES, MA'AM.

Q. OKAY. WHAT DID YOU DO WHEN YOU OBSERVED THEM, WITH THE SPEED OF YOUR VEHICLE?

A. I JUST SLOWED DOWN TO MAKE SURE THAT EVERYTHING -- THE OFFICERS WAS ALL RIGHT AND THEY WASN'T, YOU KNOW, IN NO DANGER, AND I JUST WANTED TO MAKE SURE FOR OFFICER SAFETY. SO I SLOWED DOWN JUST A LITTLE BIT TO MAKE SURE THEY WAS ALL RIGHT.

Q. OKAY. AND IS THAT CUSTOMARY OF YOU TO HAVE SOME CONCERN FOR YOUR COLLEAGUES AT THE COLUMBIA POLICE DEPARTMENT?

A. YES, MA'AM.

Q. OKAY. NOW, WHAT HAPPENED WHEN YOU SLOWED DOWN? WHAT HAPPENED WITH MR. SMITH?

A. MR. SMITH -- I SLOWED DOWN AND---

Q. AND BY THE WAY, HOW SLOW DO YOU THINK YOU EVEN GOT?

A. MAYBE---

Q. DID YOU STOP?

A. NO, I DIDN'T STOP. NO.

Q. OKAY.

A. MAYBE 20, 15 MILES AN HOUR.

Q. ALL RIGHT. SO YOU SLOWED DOWN. YOU WERE -- YOU WERE NOT INTENDING ON STOPPING?

A. NO, MA'AM.

Q. OKAY. AGAIN, WHERE ARE YOU HEADING?

A. TO THE POLICE HEADQUARTERS.

Q. ALL RIGHT. THEN WHAT HAPPENED WHILE YOU WERE SLOWED DOWN AND PASSED THE OFFICERS?

A. MR. SMITH STATED, "I THINK THAT'S THE SUSPECT WANTED IN THE HOMICIDE."

Q. OKAY. SO HE'S THE ONE THAT TELLS THIS TO YOU?

A. YES, MA'AM.

Q. DID YOU HAVE ANY IDEA THAT THE PERSON THAT WAS WITH THOSE OTHER OFFICERS WAS -- HAD ANYTHING TO DO WITH YOUR MURDER INVESTIGATION?

A. NO, MA'AM.

Q. OKAY. AT THAT POINT -- AND, AGAIN, YOU HAVE NO RADIO IN

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YOUR CAR.
A. NO, MA'AM.
Q. AT THAT POINT, TELL JUDGE CHILDS WHAT YOU DID WHEN THIS WITNESS IS TELLING YOU, "I THINK THAT'S THE GUY"?
A. I TURNED MY CITY CAR AROUND BECAUSE I HAD PASSED THE PATROL CARS. I PARKED IN THE BACK OF PATROL VEHICLE 165, AND MR. SMITH STATED, "THAT'S HIM. THAT'S HIM."
Q. AND DID YOU EVEN GET A CHANCE TO ASK HIM WHETHER THAT WAS HIM OR DID HE JUST VOLUNTEER IT?
A. HE VOLUNTEERED IT.
Q. ALL RIGHT. SO ALL THIS IS NOT EVEN PURSUANT TO YOUR ASKING HIM ANY QUESTIONS.
A. NO, MA'AM.
Q. ALL RIGHT. AT THAT POINT TELL JUDGE CHILDS WHAT HAPPENED WHEN YOU LEARNED THAT THIS WAS INDEED THE SHOOTER OF THE MURDER IN THE MURDER CASE.
A. I PARKED MY BEHIND 165. I GOT OUT. I TOLD M.P.O. FISHER TO COME TO ME, AND WHEN HE CAME TO ME, I TOLD HIM THAT'S THE SUSPECT WANTED IN A HOMICIDE AT . AND I TOLD HIM -- AFTER THAT, I TOLD HIM TO SEARCH THE -- TO SEARCH HIM.
Q. OKAY. DID YOU ALSO TELL HIM TO CUFF HIM?
A. YES, MA'AM.
Q. OKAY. SO YOU'RE THE ONE THAT BROUGHT IT TO OFFICER FISHER AND OFFICER BAILEY'S ATTENTION THAT -- AND OFFICER

DUTTON THAT THE PERSON THEY HAD IN DETENTION WAS INDEED JUST POSITIVELY IDENTIFIED BY YOUR WITNESS AS THE SHOOTER. IS THAT CORRECT?

A. YES, MA'AM.

Q. ALL RIGHT. AND IT WAS BECAUSE OF THAT POSITIVE IDENTIFICATION -- IS THAT WHY YOU INSTRUCTED THEM TO HANDCUFF HIM AND SEARCH HIM?

A. YES, MA'AM.

Q. ALL RIGHT. NOW, WHEN YOU INSTRUCTED THEM TO HANDCUFF HIM, WAS HE BASICALLY UNDER ARREST AT THAT POINT?

A. YES, MA'AM.

Q. NOT FREE TO GO.

A. YES, MA'AM.

Q. JUST IDENTIFIED AS A MURDERER.

A. YES, MA'AM.

Q. TELL JUDGE CHILDS WHAT YOU OBSERVED THE OFFICERS REMOVE FROM THE DEFENDANT'S BODY, FROM HIS PERSON.

A. A SILVER-IN-COLOR SEMIAUTOMATIC PISTOL, ONE BLACK-IN-COLOR EMPTY MAGAZINE, A SMALL, CLEAR PLASTIC BAG CONTAINING A WHITE-COLOR POWDER SUBSTANCE, AND THAT WAS ALL.

Q. ALL RIGHT. SO YOU -- AT THAT POINT, ONCE YOU SAW THE GUN AND EVERYTHING, WHAT DID YOU DO NEXT?

A. AFTER I SAW THAT, THEN I LEFT AND TOOK MR. SMITH TO POLICE HEADQUARTERS.

Q. OKAY. AND DID YOU HAVE CONTACT WITH INVESTIGATOR REESE

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VIA YOUR CELL PHONE ABOUT WHAT HAD JUST TRANSPIRED AT 4800 NORTH MAIN STREET?

A. I THINK I MIGHT HAVE CALLED HIM. I THINK I MIGHT HAVE; I'M NOT SURE.

Q. OKAY. WELL, IF HE'S THE LEAD INVESTIGATOR, WOULD YOU SHARE WITH THE LEAD INVESTIGATOR THAT YOUR WITNESS THAT HE DIRECTED YOU TO INTERVIEW---

A. YES.

Q. ---JUST POSITIVELY IDENTIFIED THE MURDERER?

A. YES, MA'AM.

Q. OKAY. BUT YOU DON'T HAVE IT WRITTEN IN YOUR NOTES; CORRECT?

A. NO, MA'AM.

MS. SHIPLEY: THAT IS ALL I HAVE, YOUR HONOR.

THE COURT: OKAY.

MS. DAVIS: THANK YOU, YOUR HONOR.

CROSS-EXAMINATION

BY MS. DAVIS:

Q. INVESTIGATOR DOW, YOU ARRIVED AT THE SCENE AT AT LIKE 11:20, I THINK YOU SAID?

A. YES, MA'AM.

Q. OKAY. IT WAS ALMOST IMMEDIATELY THAT YOU WERE TOLD TO THEN TAKE JEFFREY SMITH TO HEADQUARTERS.

A. YES, MA'AM.

Q. YOU DIDN'T TALK TO HIM AT ALL AT THE SCENE, JEFFREY

SMITH?

A. NO. NO, MA'AM.

Q. HE DIDN'T TELL YOU A DESCRIPTION?

A. NO, MA'AM.

Q. YOU HADN'T EVEN HEARD WHAT A DESCRIPTION OF THIS PERSON WAS.

A. NO, MA'AM.

Q. OKAY. WHEN YOU DROVE PAST THE SCENE OR PASSED, YOU SAW THREE PATROL CARS?

A. YES, MA'AM.

Q. THERE'S HOW MANY OFFICERS OUT THERE AT THAT TIME?

A. I THINK IT WAS FOUR OR FIVE---

Q. AN ESTIMATE.

A. ---OFFICERS OUT THERE.

Q. FOUR OR FIVE?

A. YES.

Q. THEY'RE ALL IN UNIFORM?

A. YES, MA'AM. YES, MA'AM.

Q. JOEL ROBINSON, HE IS CLEARLY IN PLAIN CLOTHES?

A. YES, MA'AM.

Q. AND YOU SAID THE CAR THAT YOU WERE IN DIDN'T HAVE A RADIO?

A. NO, MA'AM.

Q. OKAY. YOU DIDN'T HAVE ANY SORT OF RADIO---

A. NO, MA'AM.

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Q. ---ON? WERE YOU IN UNIFORM THAT NIGHT?
A. NO, MA'AM.
Q. OKAY. BUT YOU DID HAVE A CITY CELL PHONE?
A. YES, MA'AM.
Q. SO YOU WERE GETTING COMMUNICATION ABOUT THE CASE IN THAT WAY; RIGHT?
A. NO, I DIDN'T -- ONCE I LEFT THE SCENE, I DIDN'T USE -- I DIDN'T GET CALLED AT ALL.
Q. OKAY. BUT YOU CALLED -- YOU MAY HAVE CALLED OTHER PEOPLE.
A. NO, I DID NOT CALL NOBODY.
Q. OKAY. DID YOU NOT -- I THOUGHT YOU JUST TESTIFIED THAT YOU CALLED INVESTIGATOR REESE TO LET HIM KNOW ABOUT THE WITNESS.
A. THAT WAS AFTER, AFTER I WENT TO MAIN STREET. THAT WAS AFTER.
Q. OKAY. SO AFTER YOU -- AFTER THE WITNESS SAID HE COULD IDENTIFY THE PERSON, THEN YOU CALLED INVESTIGATOR REESE.
A. YES, MA'AM.
Q. SO YOU WERE USING YOUR PHONE TO COMMUNICATE WITH PEOPLE ABOUT THE CASE.
A. YES, MA'AM.
Q. OKAY. AND WHEN JEFFREY SMITH -- WHEN Y'ALL FIRST WENT BY, I THINK YOU SAID YOU KIND OF SLOWED DOWN. HE INITIALLY SAID, "I THINK THAT'S HIM." RIGHT? YOU CAN LOOK BACK AT

YOUR REPORT. DO YOU HAVE IT WITH YOU?

A. YES, MA'AM.

Q. OKAY. I THINK YOU WERE JUST PARAPHRASING AT THAT POINT.

A. HE SAID HE THINKS THAT'S HIM. UH-HUH.

Q. OKAY. AND WAS MR. ROBINSON IN HANDCUFFS AT THAT TIME?

A. NO, MA'AM.

Q. HE WAS LEANING UP AGAINST THE PATROL CAR?

A. YES, MA'AM.

Q. AND YOU SAID, JUST TO BE CLEAR, JEFFREY SMITH DIDN'T GIVE YOU ANY SORT OF DESCRIPTION PRIOR TO THIS---

A. NO, MA'AM.

Q. ---OF ANYONE AT THAT INCIDENT LOCATION. DO YOU HAVE ANY -- YOU WEREN'T HERE EARLIER, BUT DO YOU HAVE ANY IDEA WHY SERGEANT DUTTON WOULD WRITE IN HER STATEMENT THAT SHE WAS INFORMED THAT YOU WERE BRINGING A WITNESS TO THE LOCATION?

A. I HAVE NO IDEA, MA'AM.

MS. DAVIS: I HAVE NOTHING FURTHER, YOUR HONOR.

THE COURT: ANYTHING FURTHER?

MS. SHIPLEY: JUST A REALLY QUICK QUESTION ON REDIRECT.

REDIRECT EXAMINATION

BY MS. SHIPLEY:

Q. WHEN THE WITNESS, JEFFREY SMITH, TELLS YOU, "I THINK THAT'S HIM," ARE YOU JUST GOING TO IGNORE -- IGNORE THAT AND GO TO HEADQUARTERS OR ARE YOU GOING TO CONFIRM AND MAKE SURE HE'S RIGHT ABOUT IT?

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A. I'M GOING TO CONFIRM.

Q. OKAY. AND THAT WAY A MURDERER WON'T GO FREE.

A. YES, MA'AM.

MS. SHIPLEY: YOUR HONOR, THAT'S ALL I HAVE.

THE COURT: OKAY. YOU CAN STEP DOWN, SIR.

THE WITNESS: THANK YOU.

MS. SHIPLEY: YOUR HONOR, AT THIS POINT WE ARE DONE WITH THE NEIL VERSUS BIGGERS HEARING.

THE COURT: OKAY.

MS. SHIPLEY: AND WE HAVE THE OFFICERS READY TO TESTIFY IN THE SUPPRESSION HEARING.

THE COURT: OKAY. AND THERE IS NO MORE TESTIMONY REGARDING THE NEIL V. BIGGERS?

MS. SHIPLEY: NO, MA'AM.

THE COURT: OKAY.

MS. SHIPLEY: THAT'S ALL.

THE COURT: OKAY.

MS. SHIPLEY: YOUR HONOR, WE WOULD RESPECTFULLY REQUEST THAT YOU ALLOW THE IDENTIFICATION MADE BY JEFFREY SMITH IN THIS CASE. I THINK WE HAVE MADE IT ABUNDANTLY CLEAR THAT THROUGH SEVERAL WITNESSES - OFFICER BAILEY, OFFICER FISHER, INVESTIGATOR DOW, AND JEFF SMITH HIMSELF - THAT THIS WAS NOT A PLANNED SHOW-UP IDENTIFICATION, THAT, REGARDLESS, THAT'S A MOOT ISSUE IN THIS MATTER, YOUR HONOR. WHETHER IT'S PLANNED OR INADVERTENT, A SHOW-UP IDENTIFICATION IS NOT NECESSARILY

INVALID. IT ACTUALLY -- IT'S DISFAVORED BY THE COURTS. HOWEVER, IT IS USEFUL IN CERTAIN EVENTS BECAUSE THIS HAPPENED WITHIN -- YOU HEARD FROM INVESTIGATOR DOW THAT HE LEFT -- HE GOT TO THE CRIME SCENE AT 23:20. SO THIS IS JUST WITHIN A TWO-HOUR PERIOD FROM THE TIME OF THE MURDER. ACTUALLY, NO, THE MURDER HAPPEN AT 9:41, SO 11:41 WOULD HAVE BEEN TWO HOURS. SO, YES, WITHIN A TWO-HOUR PERIOD HE IS TAKING THE WITNESS DOWN TO HEADQUARTERS.

YOU HEARD FROM THE WITNESS. I ASKED HIM SO YOU COULD FIND CORROBORATION: WHAT'S THE FASTEST WAY TO GET DOWNTOWN? OR ACTUALLY I ASKED BAILEY THAT. WHAT'S THE FASTEST WAY ONE WOULD TAKE -- ROUTE ONE WOULD TAKE TO HEADQUARTERS FROM MYERS STREET? AND THE TESTIMONY WAS YOU WOULD GO DOWN TO NORTH MAIN STREET AND THEN JUST GO -- SHOOT STRAIGHT DOWN NORTH MAIN STREET. WELL, THAT CORROBORATES SMITH AND DOW, YOUR HONOR, THAT THAT'S WHY THEY ENDED UP ON MAIN STREET.

ALSO, YOU HEARD FROM INVESTIGATOR DOW HE DIDN'T HAVE A RADIO IN HIS CAR, SO HE DID NOT EVEN KNOW THAT SOMEONE WAS IN CUSTODY. ALSO, IT WAS BROUGHT OUT THROUGH HIS TESTIMONY THAT THE DEFENDANT, ALTHOUGH SURROUNDED BY OFFICERS, WAS SIMPLY LEANING AGAINST A PATROL CAR BY THE TIME THEY MADE IT BY. HE WAS NOT IN HANDCUFFS, AND THE ONLY WITHIN REASON THAT INVESTIGATOR DOW SLOWED DOWN WAS JUST TO CHECK ON HIS FELLOW COMRADES AND THAT THAT'S WHEN THE WITNESS BLURTED OUT, "THAT LOOKS LIKE HIM; I THINK THAT'S HIM." AND SO OBVIOUSLY, YOUR

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HONOR, BECAUSE YOU DON'T WANT A MURDERER TO GO FREE, HE'S GOING TO TURN AROUND AND MAKE SURE.

ALSO, HE'S GOING TO GO TURN AROUND AND MAKE SURE THAT THEY DON'T HAVE THE WRONG GUY IN CUSTODY, TO ALLOW THE WITNESS TO HAVE THE RIGHT PERSON IN THEIR CUSTODY. AND SO, YOUR HONOR, WE WOULD RESPECTFULLY REQUEST THAT THIS -- IT'S A POSITIVE SHOW-UP IDENTIFICATION WHERE IT WAS ALL BROUGHT UPON BY THE WITNESS, NOT LAW ENFORCEMENT, AND IT WAS NOT UNDULY SUGGESTIVE BECAUSE INVESTIGATOR DOW NEVER SUGGESTED -- DIDN'T EVEN KNOW WHAT THE GUY LOOKED LIKE. IT'S THE WITNESS THAT'S TELLING HIM WHO THE SUSPECT IS, NOT THE OFFICER, AND THAT'S -- THE DANGER THAT NEIL VERSUS BIGGERS IS TRYING TO PREVENT IS OFFICERS INFLUENCING, UNDULY SUGGESTING, TO WITNESSES WHAT THE PERPETRATOR LOOKS LIKE OR WHO THE PERPETRATOR IS.

IN THIS CASE, IT'S THE REVERSE. SO ANY DANGERS OF MIS-IDENTIFICATION SHOULD BE ALLEVIATED, AND THE COURT SHOULD FEEL SATISFIED THAT IT WAS MR. SMITH THAT BROUGHT IT TO LAW ENFORCEMENT'S ATTENTION THAT THEY HAVE THE RIGHT MAN IN CUSTODY. AND SO BASED ON THAT, YOUR HONOR, WE WOULD RESPECTFULLY REQUEST THAT YOU ALLOW THE IN-COURT IDENTIFICATION BY MR. JEFFREY SMITH.

THE COURT: OKAY.

MS. DAVIS: THANK YOU, YOUR HONOR. AND UNDER NEIL V. BIGGERS UNDER A SHOW-UP I.D., THE COURTS HAVE ALREADY DECIDED VERY FIRMLY THAT A SHOW-UP I.D. IN AND OF ITSELF IS UNDULY

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SUGGESTIVE. THERE'S TWO PRONGS IN NEIL V. BIGGERS. THE COURTS HAVE ALREADY DECIDED THE FIRST PRONG FOR US. THEY'VE SAID THAT A PHOTO LINE-UP WITH ONE PICTURE OR A SHOW-UP I.D. IS IN AND OF ITSELF UNDULY SUGGESTIVE.

IN THIS CASE HE WAS SURROUNDED BY, DEPENDING ON THE WITNESSES, BETWEEN FIVE AND SEVEN OFFICERS. EVERYONE ELSE WAS IN UNIFORM. MR. JOEL (SIC) WAS THE ONLY PERSON THERE THAT WAS NOT -- THAT WAS IN PLAIN CLOTHES. JEFFREY SMITH ON THE STAND DURING PRETRIAL SAID THAT HE DID, IN FACT, GIVE INVESTIGATOR DOW A DESCRIPTION. INVESTIGATOR DOW SAYS HE WAS NEVER TOLD ANY DESCRIPTION BY JEFFREY SMITH. THERE'S NOTHING TO CORROBORATE THAT JEFFREY SMITH GAVE ANYBODY A DESCRIPTION OF THIS PERSON OTHER THAN WHEN HE PASSED BY I SAW A PERSON SURROUNDED BY OFFICERS AND SAID, "THAT'S HIM." INVESTIGATOR DOW ADMITS THAT INITIALLY JEFFREY SMITH SAID, "I THINK THAT'S HIM."

THE SECOND PRONG, YOUR HONOR, IS WHAT WE'RE TRYING TO PREVENT FROM HAPPENING IS A MISIDENTIFICATION. AT THE TIME OF THE EVENT JEFFREY SMITH ADMITTED HE WAS DISTRACTED. THERE WAS A LOT GOING ON IN THE TRAILER, THAT HE DID NOT KNOW JOEL ROBINSON, SO THAT WAS THE FIRST TIME OR THAT DAY WAS THE FIRST TIME HE HAD WITNESSED HIM. HIS DESCRIPTION -- OR I'M SORRY. HE DID NOT GIVE A PRIOR DESCRIPTION, SO THAT ENTIRE ELEMENT HAS NOT BEEN MET. THERE IS NO PRIOR DESCRIPTION THAT HE COULD GIVE THAT WAS ACCURATE. HIS DEGREE OF ATTENTION, AS

I'VE SAID, YOUR HONOR: HE SAID HE WAS DISTRACTED. THERE WAS A LOT GOING ON IN THE APARTMENT AT THE TIME.

WE'D ASK YOUR HONOR TO NOT ALLOW THE STATE -- OR THE IN-COURT IDENTIFICATION BASED ON THAT. INVESTIGATOR DOW MADE IT VERY CLEAR THAT THERE WAS NO PRIOR DESCRIPTION GIVEN AND, YOUR HONOR, WE BELIEVE IT WAS UNDULY SUGGESTIVE IN THAT IT WAS A SHOW-UP IDENTIFICATION. INVESTIGATOR DOW, I KNOW, IS SAYING IT WAS AN ACCIDENT; IT DOESN'T MATTER. IT GOES TO THE CREDIBILITY OF THE OFFICERS.

THE SOLICITOR READ IN, WHICH, YOU KNOW, WE DID OBJECT TO, BUT SERGEANT DUTTON PUT IN HER STATEMENT SHE WAS INFORMED THAT A WITNESS WAS BEING BROUGHT BY. I DON'T KNOW ANY OTHER REASON SHE WOULD PUT THAT IN THERE OTHER THAN THAT IT HAPPENED. SO I THINK THAT, YOUR HONOR, WE WOULD ASK YOUR HONOR TO NOT ALLOW THE IN-STATE -- OR THE IN-COURT IDENTIFICATION BY JEFFREY SMITH.

THE COURT: OKAY. ANY RESPONSE?

MS. SHIPLEY: I'M SORRY?

THE COURT: ANY RESPONSE YOU WANT TO MAKE?

MS. SHIPLEY: YES, MA'AM. JUST I WANT TO CLEAR UP ONE THING THAT MS. DAVIS SAID. ACTUALLY, NO, A SHOW-UP IDENTIFICATION IN STATE VERSUS GOVAN WAS FOUND NOT TO BE UNDULY SUGGESTIVE. JUST BECAUSE IT'S A SHOW-UP I.D. DOESN'T NECESSARILY MAKE IT INHERENTLY UNDULY SUGGESTIVE, AND THE FACTS IN THAT CASE ARE VERY SIMILAR TO THE FACTS IN OUR CASE,

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YOUR HONOR. THEY FOUND THAT THAT SHOW-UP IDENTIFICATION WAS PROPER WHEN IT OCCURS SHORTLY AFTER THE CRIME IS COMMITTED, NEAR THE SCENE OF THE CRIME. YOU HEARD HOW CLOSE NORTH MAIN STREET IS TO MYERS STREET.

AS THE WITNESS'S MEMORY IS STILL FRESH, THIS IS WITHIN A TWO-HOUR WINDOW OF THE CRIME HAPPENING WHERE THE SUSPECT HAS NOT HAD TIME TO ALTER HIS LOOKS OR DISPOSE OF THE EVIDENCE. HE LOOKED THE SAME TO MR. SMITH AS HE DID DURING THE SHOOTING AND THAT THE SHOW-UP MAY EXPEDITE THE RELEASE OF AN INNOCENT SUSPECT AND ENABLE THE POLICE TO DETERMINE WHETHER TO CONTINUE SEARCHING. AND SO THAT WAS THE WHOLE PURPOSE OF INVESTIGATOR DOW, WHY I ASKED HIM ON REDIRECT: IS THAT WHY YOU TURNED AROUND, TO MAKE SURE YOU GOT THE RIGHT GUY IN CUSTODY? SO HE -- OUR EVIDENCE FITS THIS PERFECTLY, YOUR HONOR. THEREFORE, WE WOULD ASK THE COURT TO FIND THAT THIS IS NOT UNDULY SUGGESTIVE, AND EVEN IF YOU DISAGREE AND FOUND THAT IT WAS UNDULY SUGGESTIVE, THAT DOESN'T FINISH THE ANALYSIS.

IT GOES ON: EVEN THOUGH A SHOW-UP IS UNDULY SUGGESTIVE, THERE'S A SECOND PRONG THAT CAN BE SATISFIED. THE IN-COURT IDENTIFICATION IS ADMISSIBLE IF THE STATE CAN PROVE BY CLEAR AND CONVINCING EVIDENCE THAT THE IDENTIFICATION IS RELIABLE BASED ON EVIDENCE INDEPENDENT OF THE OUT-OF-COURT PROCEDURE. AND SO, YOUR HONOR, THE FACTORS THAT THEY SHOW ARE THE OPPORTUNITY -- THE NEIL VERSUS BIGGERS FACTORS, AND YOU

ALREADY HEARD FROM JEFF SMITH ABOUT HIS OPPORTUNITY TO VIEW THE WITNESSES.

IN FACT, I DON'T BELIEVE I ARGUED THAT YET, BUT HE HAD PLENTY OF OPPORTUNITY. HE WAS IN THE KITCHEN WHILE HIS COUSIN IS BEING MURDERED. HE WAS THERE, HE BELIEVES, FIVE TO SIX MINUTES. NOW, HE AGREES THAT HE NEVER WAS LOOKING AT HIS WATCH WHEN THIS SHOOTING OCCURRED, BUT HE WAS IN THE KITCHEN. AND I WOULD REFER YOU TO STATE VERSUS -- I MEAN, STATE'S EXHIBIT NUMBER 5 WHICH RIGHT HERE, YOUR HONOR, IS WHERE HE WAS SITTING AND THIS IS WHERE THE SHOOTING HAPPENED.

SO THAT IS WITHIN FEET OF ONE ANOTHER. I BELIEVE HE SAID FIVE FEET. I MIGHT BE MISQUOTING THE -- I FORGET, BUT I DID WALK AWAY FROM HIM AND I SAID, "YOU STOP ME," AND IT WAS VERY CLOSE PROXIMITY. THE LIGHTING CONDITIONS WERE FINE. HE WAS PAYING A LOT OF ATTENTION BECAUSE HIS COUSIN IS GETTING MURDERED. HE WAS ACCURATE ABOUT -- HE TOLD US THAT HE TOLD OFFICERS -- THE FIRST RESPONDING OFFICERS ON THE SCENE THAT THE PERPETRATOR IS A LIGHT-SKINNED BLACK MALE WITH A BALD HEAD AND THAT THAT'S THE DESCRIPTION THAT THE DEFENDANT FITS, SO THAT IS OBVIOUSLY ACCURATE.

AND THEN THE LEVEL OF CERTAINTY DEMONSTRATED: HE'S THE ONE THAT BRINGS IT TO INVESTIGATOR DOW'S ATTENTION. HE SAID, "THAT'S HIM. THAT'S HIM." AND SO THERE'S NO MORE CERTAINTY NEEDED TO PROVE THERE, AND THEN AGAIN WITHIN A TWO-HOUR WINDOW FIT PRONG NUMBER FIVE, THE AMOUNT OF TIME BETWEEN THE

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CRIME AND THE CONFRONTATION, LESS THAN TWO HOURS LATER WHILE IT'S STILL FRESH IN HIS HEAD. THAT'S ALL FROM THE STATE.

THE COURT: OKAY. OKAY. THANK YOU. I WOULD AGREE WITH THE STATE INSOFAR AS THE LAW DOES SAY THAT SHOW-UP - AND THE DEFENSE FOR THAT MATTER - SHOW-UP I.D.'S ARE GENERALLY CONSIDERED UNDULY SUGGESTIVE, BUT GENERALLY THEY'RE DISFAVORED. IT DOES NOT MEAN THAT JUST BECAUSE THERE IS ONE THAT IT IN AND OF ITSELF IS PER SE UNDULY SUGGESTIVE. HERE I BELIEVE THE TESTIMONY INDICATES THAT JEFFREY SMITH ACTUALLY LED THE POLICE TO THIS PERSON. IT WASN'T AS IF THE POLICE JUST AUTOMATICALLY TOOK HIM THERE. IT WAS HIS STATEMENT SAYING THE RIDE WITH THE POLICE MEETING UP WITH MR. ROBINSON IN THE FIRST PLACE...

I DON'T BELIEVE THAT THERE WAS ANY UNDUE INFLUENCE BY THE POLICE BASED ON THE TESTIMONY WE HAVE HERE, AND EVEN ASIDE FROM THAT, I BELIEVE THERE'S INDEPENDENT RELIABILITY WITH RESPECT TO THE STATEMENT, SO IT WILL BE ALLOWED IN. THE IDENTIFICATION WILL BE ALLOWED IN.

MS. SHIPLEY: THANK YOU, YOUR HONOR.

MS. DAVIS: THANK YOU, YOUR HONOR.

THE COURT: ALL RIGHT. ANYTHING ELSE AT THIS TIME?

MS. SHIPLEY: THEY HAVE A MOTION TO SUPPRESS THE EVIDENCE.

THE COURT: OKAY.

MR. LEDDY: THIS IS BASED ON THE TESTIMONY OF OFFICERS

FISHER AND OFFICER, EXCUSE ME, BAILEY. THANK YOU. YOUR HONOR, I DO WANT TO STATE FOR THE RECORD AN OBJECTION UNDER THE SIXTH AMENDMENT TO THE ABSENCE OF SERGEANT DUTTON WHO WAS THE FIRST PERSON TO DETAIN MY CLIENT BECAUSE HE MATCHED THE DESCRIPTION OF THE SUSPECT THAT HAD BEEN RADIOED, AND I THINK THAT SOME LANGUAGE FROM THE CASE OF CRAWFORD V. WASHINGTON, WHICH IS A SIXTH AMENDMENT CASE, DEALS WITH THE RIGHT OF A DEFENDANT TO CONFRONT HIS ACCUSERS AND CROSS-EXAMINE THEIR TESTIMONY.

OBVIOUSLY, WE CAN'T DO THAT WITH SERGEANT DUTTON BECAUSE SERGEANT DUTTON ISN'T HERE, AND I JUST WANT TO PUT ON THE RECORD THAT THERE IS A LOT OF LANGUAGE IN CRAWFORD THAT SEEMS APPLICABLE THAT THE PERSON WHO MAKES THE DECISION ON TESTIMONY SHOULD HEAR IT. IN OTHER WORDS, A JURY, IF THEY'RE GOING TO BE THE FINDER OF FACT, SHOULD HEAR THE PERSON TESTIFY BECAUSE THERE'S A LOT THAT DOESN'T COME THROUGH OFF THE PAGE. AND IN THIS CASE WE'RE GOING TO BE GOING OFF OF -- PARTIALLY OFF OF HER STATEMENT.

NOW, IT'S A HEARSAY STATEMENT OBVIOUSLY WHICH UNDER THE RULES OF EVIDENCE IS ADMISSIBLE, BUT YOU HAVE TO FIRST GET PAST THE CONSTITUTION. AND THE SIXTH AMENDMENT SHOULD APPLY IN THIS TYPE OF SITUATION, ESPECIALLY IN A DRUG CASE WHERE, IF WE WERE TO BE SUCCESSFUL, IT WOULD BE DISPOSITIVE OF THE CASE. YOU KNOW, IF THE DRUGS WERE BEING SUPPRESSED, IT WOULD BE IMPOSSIBLE TO PROSECUTE THE CASE.

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THE COURT: BUT THAT APPLIES TO TESTIMONIAL STATEMENTS.

MR. LEDDY: YES, YOUR HONOR.

THE COURT: ASSUMING IT'S TESTIMONIAL.

MR. LEDDY: IT WOULD BE TESTIMONIAL BECAUSE THE ISSUE THAT I WOULD BE RAISING IS HOW LONG WAS HE DETAINED AND WHY AND TO WHAT EXTENT WAS HIS FREEDOM TO LEAVE CURTAILED AND FOR HOW LONG WAS HE DETAINED AND---

THE COURT: NO, THOSE ARE ISSUES THAT YOU WOULD USE TO CONFRONT HIM, BUT WHAT I'M ASKING IS THAT WHEN CRAWFORD APPLIES THE TESTIMONIAL STATEMENTS---

MR. LEDDY: YES, YOUR HONOR.

THE COURT: ---AND THEN ALSO UNAVAILABILITY OF A WITNESS, WHAT ARE YOU CONTENDING IS A TESTIMONIAL STATEMENT THAT IS RELEVANT HERE?

MR. LEDDY: WELL, BECAUSE IT WOULD BE TESTIMONIAL BECAUSE TESTIMONIAL IS WHETHER OR NOT IT MAKES MORE OR LESS LIKELY TO BE TRUE AN ISSUE THAT'S BEFORE THE COURT. IN A PROCEEDING SUCH AS THAT, THE ISSUE IS WHETHER---

THE COURT: WELL, MY UNDERSTANDING OF THE TESTIMONY IS THAT THE STATEMENT HAS ALREADY OCCURRED AND WE'RE RELYING ON SOME STATEMENT THAT HAS ALREADY OCCURRED IN RESPONSE -- FOR EXAMPLE, THE POLICE INTERROGATION OR SOMETHING OF THAT NATURE.

MR. LEDDY: I THINK THE DEFINITION FROM---

THE COURT: NOT SOMETHING THAT YOU WISH TO ELICIT.

MR. LEDDY: RIGHT. I THINK THE -- I UNDERSTAND WHAT YOU'RE SAYING, YOUR HONOR. THE -- IN THAT -- IN THE STATEMENT AT ISSUE, SHE DOESN'T SAY EXACTLY HOW LONG IT IS. SO IT'S IN -- THAT'S AN ISSUE. NOW, I UNDERSTAND WHAT YOU'RE SAYING THAT IF IT'S -- IF IT'S NOT SOMETHING THAT WAS SAID IS IT HEARSAY? I UNDERSTAND EXACTLY WHAT YOU'RE SAYING, YOUR HONOR.

THE COURT: IN OTHER WORDS, WE'RE ATTACKING SOMETHING THAT HAS ALREADY OCCURRED, AND NOW THAT WITNESS IS UNAVAILABLE TO TESTIFY ABOUT IT---

MR. LEDDY: RIGHT.

THE COURT: ---WITH RESPECT TO YOUR RIGHT TO CONFRONT THE WITNESS.

MR. LEDDY: RIGHT. I THINK THAT IT IS -- ONE OF THE REASONS THAT CROSS-EXAMINATION IS EFFECTIVE TO DO IT IS BECAUSE YOU DO GET TO FLESH OUT WHAT THEY SAID AND EXACTLY WHAT THEY MEANT AND ADDRESS THINGS THAT MAYBE AREN'T IN THE STATEMENT. SO I UNDERSTAND EXACTLY YOUR CONCERN THERE. AND TO BE UPFRONT WITH THE COURT, I DON'T THINK THAT THIS ISSUE HAS COME BEFORE THE SOUTH CAROLINA COURT. I COULD BE WRONG ON THAT BUT -- BECAUSE, LIKE I SAID, I DIDN'T EXPECT THIS ISSUE TO COME UP, SO I'M NOT -- I DIDN'T REFRESH MY MEMORY ON CRAWFORD UNTIL WE WERE SITTING HERE. BUT IN JURISDICTIONS THAT HAVE CONSIDERED THIS ISSUE, THEY HAVE NOT EXTENDED CRAWFORD TO PRETRIAL SUPPRESSION HEARINGS.

THE COURT: OKAY.

MR. LEDDY: AND AS FAR AS I KNOW AT THIS POINT, THERE'S A COUPLE OF FEDERAL DISTRICT COURTS THAT HAVE DONE THAT, AND THEY HAVEN'T DONE SO -- THEY HAVEN'T BEEN VERY FORTHCOMING WITH ANY REASON FOR THAT OTHER THAN TO SAY THAT CRAWFORD AND THE RIGHT TO CONFRONTATION APPLIES DURING THE TRIAL, AND I THINK THAT THAT IS AN ISSUE THAT DOES NEED TO COME BEFORE THE COURT. SO I JUST WANTED TO SAY THAT FOR THE RECORD.

AS FAR AS THE SEARCH AND SEIZURE HERE, THE TESTIMONY WAS THAT MY CLIENT WAS STOPPED BECAUSE HE MET THE DESCRIPTION AND THAT HE -- THAT THE DRUGS WERE FOUND PURSUANT TO HIS TELLING THEM THAT HE HAD SOME. I BELIEVE WAS THE TESTIMONY---

MS. SHIPLEY: WELL, ACTUALLY, THE ONLY OFFICER WHO HAS TESTIFIED ABOUT FINDING THE CRACK COCAINE IS OFFICER FISHER WHO ALSO FOUND THE GUN ON THE RIGHT SIDE OF THE DEFENDANT. OFFICER BAILEY HASN'T TESTIFIED ABOUT THE LEFT SIDE OF THE BODY THAT HE SEARCHED AND WHAT HE FOUND.

MR. LEDDY: THEN I GUESS WE NEED TO PROVE THAT.

THE COURT: OKAY.

MS. SHIPLEY: OFFICER BAILEY, PLEASE TAKE THE STAND.

MICHAEL BAILEY, HAVING BEEN PREVIOUSLY SWORN AND REMAINING UNDER OATH, TESTIFIED AS FOLLOWS IN CAMERA:

DIRECT EXAMINATION

BY MS. SHIPLEY:

Q. OFFICER BAILEY, DO YOU REMEMBER BEING INVOLVED IN

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SEARCHING AN INDIVIDUAL ON FEBRUARY -- LATE HOURS OF FEBRUARY 15TH, 2007?

A. I DO.

Q. OKAY. TELL JUDGE CHILDS HOW IT IS YOU CAME UPON THE DEFENDANT AT MAIN STREET, NORTH MAIN STREET.

A. AGAIN, YOUR HONOR, I WAS PRESENT BASED ON SERGEANT DUTTON CALLING FOR BACK-UP AS SHE WAS GETTING OUT WITH A SUBJECT ON THE 4800 BLOCK OF NORTH MAIN. INITIALLY, THE SUBJECT WAS LEANING AGAINST THE CAR. ONCE INVESTIGATOR DOW PULLED UP AND WE PLACED THE SUBJECT INTO CUSTODY, THAT'S WHEN WE SEARCHED THE SUBJECT. FISHER WAS ON ONE SIDE OF THE SUBJECT AND I WAS ON THE OTHER. UPON SEARCHING HIS JACKET POCKET, I FOUND A CLIP, UNLOADED CLIP, MAGAZINE THAT BELONGED TO A WEAPON THAT FISHER FOUND, KEYS, A CELL PHONE, A BAGGY OF POWDER COCAINE AND SOME MARIJUANA.

Q. OKAY. AND SO LET ME UNDERSTAND THE SEQUENCE OF EVENTS. YOU WERE CALLED UP AS BACK-UP; IS THAT CORRECT?

A. THAT'S CORRECT.

Q. AND IS THAT TYPICAL WHEN PEOPLE STOP SUSPICIOUS PEOPLE? WHEN OFFICERS STOP SUSPICIOUS PEOPLE, DO THEY ASK FOR BACK-UP?

A. THAT'S CORRECT.

Q. OKAY. NOW, WHERE WERE YOU WHEN YOU GOT THE CALL OVER DUTTON -- DID SHE SPECIFICALLY REQUEST YOU AND FISHER TO COME OR ANYBODY IN THE VICINITY?

A. SHE REQUESTED BACK-UP. WE WERE THE ONLY UNIT THAT WAS AVAILABLE AT THE TIME.

Q. OKAY.

A. SO WE, IN TURN, ARRIVED ON THE SCENE TO BACK HER UP.

Q. ALL RIGHT. SO SHE'S AT THE 4800 BLOCK. YOU HEAR A CALL ON DISPATCH REQUESTING BACK-UP.

A. THAT'S CORRECT.

Q. WHERE ARE YOU AND FISHER LOCATED? HOW FAR AWAY ARE YOU GUYS?

A. WE'RE NOT THAT FAR AWAY BECAUSE WE ARRIVED IN SECONDS.

Q. SECONDS.

A. RIGHT.

Q. WHEN YOU ARRIVED ON THE SCENE, YOU OBSERVED -- WHAT DID YOU OBSERVE HER DOING WITH THE DEFENDANT?

A. SHE HAD THE DEFENDANT'S I.D.

Q. UH-HUH.

A. THE DEFENDANT WAS AT THE BACK OF THE CAR AND SHE WAS---

Q. STANDING? FREESTANDING?

A. FREESTANDING.

Q. OKAY.

A. FREESTANDING. SHE WAS AT THE PASSENGER SIDE DOOR OF HER CAR.

Q. OKAY.

A. AND I BELIEVE SHE WAS USING HER COMPUTER.

Q. OKAY. AND AT THAT POINT DID YOU OBSERVE OFFICER FISHER

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ASK MR. ROBINSON, THE MAN THERE, TO LEAN UP ON HIS CAR?
A. THAT'S CORRECT; I DID.
Q. OKAY. AND IS THAT A TYPICAL PRACTICE THAT Y'ALL HAVE WHEN YOU STOP PEOPLE THAT YOU'RE SUSPICIOUS OF?
A. THAT'S CORRECT.
Q. ALL RIGHT. HAD YOU HEARD A DESCRIPTION OF THE SHOOTER OVER YOUR RADIO THAT NIGHT?
A. I DID.
Q. AND WHAT WAS THAT DESCRIPTION?
A. A LIGHT-SKINNED BLACK MALE WITH A BALD HEAD.
Q. OKAY. AND WHAT WAS THE DESCRIPTION -- DESCRIBE THE MAN THAT YOU SAW WITH OFFICER DUTTON SECONDS AFTER SHE CALLED FOR BACK-UP?
A. HE WAS, IN FACT, LIGHT-SKINNED WITH A BALD HEAD.
Q. OKAY. DOES THAT FIT THE DESCRIPTION THAT YOU HEARD ON THE RADIO CONCERNING THE MURDERER?
A. OH, ABSOLUTELY.
Q. OKAY. AT THAT POINT TELL JUDGE CHILDS HOW LONG YOU THINK IT TOOK -- HOW MUCH TIME PASSED FROM THE TIME THAT YOU GOT THERE WITH FISHER TO THE TIME DOW SHOWED UP WITH HIS WITNESS.
A. I BELIEVE IT WAS A SMALL, MINUTE AMOUNT OF TIME. IT WASN'T -- IT WASN'T VERY LONG AT ALL. SHE GOT OUT WITH THE -- SHE WAS ALREADY THERE IN THE AREA INITIALLY FROM THE GET-GO WHEN SHE SAID SHE WAS GETTING OUT WITH A 10-80 WHICH

IS A SUSPICIOUS PERSON, AND SHE CALLED FOR OTHER UNITS. YOU KNOW, WE ARRIVED IN SECONDS. IT WASN'T A LONG SPAN OF TIME AT ALL, SO -- I DON'T BELIEVE IT WAS TEN MINUTES.

Q. NOT EVEN TEN MINUTES BY THE TIME YOU GET ON THE SCENE WITH FISHER WITH THE SUSPECT AND THE TIME BAILEY SHOWS UP, EXCUSE ME, DOW---

A. DOW.

Q. DOW SHOWS UP.

A. THAT'S CORRECT.

Q. OKAY. NOW, AGAIN, IT WAS BROUGHT TO YOUR ATTENTION BY INVESTIGATOR DOW THAT THIS INDIVIDUAL HAD BEEN IDENTIFIED?

A. THAT IS CORRECT.

Q. ALL RIGHT. AND IS THAT WHEN YOU WERE INSTRUCTED TO PUT HIM IN CUFFS?

A. PUT HIM IN CUFFS. THAT'S CORRECT.

Q. ALL RIGHT. WAS HE FREE TO LEAVE AT THAT TIME?

A. UP UNTIL THEN -- UP UNTIL THE IDENTIFICATION, YES.

Q. OKAY. SO HE WAS FREE TO LEAVE UP UNTIL SOMEONE IDENTIFIED HIM.

A. THAT'S CORRECT.

Q. BUT HE WAS NOT FREE TO LEAVE ONCE SOMEONE IDENTIFIED HIM.

A. NO. ONCE HE WAS IDENTIFIED, HE WAS PLACED INTO CUSTODY. HE WAS NOT FREE TO LEAVE.

Q. OKAY. SO HE'S UNDER ARREST.

A. HE WAS UNDER ARREST.
Q. OKAY. WHEN YOU ARREST SOMEBODY THAT HAS BEEN IDENTIFIED AS A MURDERER, WHAT IS YOUR FIRST CONCERN?
A. SAFETY.
Q. ALL RIGHT. AND DID YOU CHECK THIS MAN?
A. THAT'S CORRECT.
Q. SEARCH HIM FOR WHAT?
A. WEAPONS, ANYTHING THAT COULD HURT US OR HURT HIMSELF.
Q. OKAY. AND DID YOU OBSERVE -- WELL, YOU WERE ON THE LEFT SIDE OF THE BODY AND FISHER IS ON THE RIGHT SIDE?
A. RIGHT.
Q. ALL RIGHT. YOU FOUND THE CLIP AND FISHER FOUND THE GUN?
A. WE WERE SEARCHING HIM SIMULTANEOUSLY.
Q. OKAY. AND DID YOU EVER HEAR THE DEFENDANT TELL FISHER, "I GOT SOME MORE DRUGS IN MY POCKET"?
A. YES.
Q. OKAY. AND THAT WOULD HAVE BEEN THE CRACK COCAINE.
A. RIGHT. I BELIEVE IT WAS IN HIS TOP POCKET.
Q. TOP POCKET? AND WAS HE COOPERATING WITH YOU GUYS?
A. HE WAS VERY COOPERATIVE.
Q. HE NOT TRYING TO RESIST YOUR EFFORTS TO FIND ANYTHING ON HIM?
A. NOT AT ALL.
Q. OKAY. AND THEN OTHER THAN THAT, DID YOU HAVE ANY MORE INVOLVEMENT IN THIS CASE?

A. OTHER THAN THAT, NO.

MS. SHIPLEY: OKAY. NO FURTHER QUESTIONS, YOUR HONOR.

THE COURT: ALL RIGHT.

MR. LEDDY: THANK YOU, YOUR HONOR.

CROSS-EXAMINATION

BY MR. LEDDY:

Q. YOU SAID YOU SEARCHED HIM WHEN HE WAS PLACED IN HANDCUFFS; RIGHT?

A. THAT'S CORRECT.

Q. BUT HE ACTUALLY WAS PLACED INTO THE CAR IN HANDCUFFS AND THEN SEARCHED; RIGHT?

A. RIGHT.

Q. SO HE GOT -- YOU PUT HIM IN THE CAR; RIGHT?

A. RIGHT.

Q. AND THEN HE GOT TAKEN BACK OUT AND THEN SEARCHED.

A. THAT'S CORRECT.

Q. OKAY. AND AT THAT TIME HE WAS GOING TO BE TAKEN DOWN TO HEADQUARTERS; RIGHT?

A. THAT'S CORRECT.

Q. FOR QUESTIONING.

A. QUESTIONING.

Q. SO IT WASN'T CONCLUDED THAT YOU WERE GOING TO ISSUE A WARRANT FOR HIS ARREST AT THAT POINT; RIGHT?

A. YOU MEAN FOR MURDER?

Q. YEAH.

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A. NO, BUT...
Q. YOU SUSPECTED HIM, CERTAINLY. RIGHT?
A. YEAH. CERTAINLY.
Q. YEAH. YOU DEFINITELY SUSPECTED HIM, BUT HE WASN'T TOLD, "YOU'RE UNDER ARREST."
A. NO, HE WASN'T TOLD, "YOU'RE UNDER ARREST."
Q. FOR THE MURDER.
A. NO.
Q. OKAY.
A. HE WAS CERTAINLY UNDER ARREST AFTER WE FOUND THE WEAPON.
Q. RIGHT, FOR THE WEAPON AND FOR THE DRUGS.
A. (WITNESS NODDED HEAD UP AND DOWN.)
Q. OKAY. AND THEN TAKEN DOWN FOR QUESTIONING.
A. (WITNESS NODDED HEAD UP AND DOWN.)

MR. LEDDY: OKAY. NOTHING FURTHER, YOUR HONOR.

THE COURT: ALL RIGHT. YOU CAN STEP DOWN.

MS. SHIPLEY: NOTHING FURTHER, YOUR HONOR.

THE COURT: OKAY.

MR. LEDDY: SO, YOUR HONOR, I'D ACTUALLY ARGUE THAT THE STOP WAS INITIALLY MADE BECAUSE HE WAS SUSPECTED. IT WAS A SUSPICION STOP, NOT A PROBABLE CAUSE STOP. IT WAS A SUSPICION STOP, THAT HE MATCHED THE DESCRIPTION OF SOMEBODY WANTED IN A SHOOTING, AND THEN INVESTIGATOR DOW CAME. HE HAD AN EYEWITNESS THERE WHO IDENTIFIED HIM AS THE GUY, AND EVEN AT THAT POINT THE OFFICER TESTIFIED THAT HE WASN'T PLACED

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UNDER ARREST FOR MURDER. HE WAS STILL -- OBVIOUSLY HE WAS SUSPECTED, AND THERE WAS A REASONABLE -- YOU KNOW, IT WAS REASONABLE TO SUSPECT HIM OF BEING INVOLVED AND TAKEN DOWN FOR QUESTIONING.

AT THAT POINT, HOWEVER, IS WHEN HE WAS -- HE WAS SEARCHED JUST LIKE AS THOUGH HE WERE BEING ARRESTED AND WHEN YOU'RE -- WHEN YOU'RE BEING PATTED DOWN, BASED ON REASONABLE SUSPICION, YOU'RE NOT SUPPOSED TO GO INTO THE POCKETS AND SUCH LIKE THAT, AND THAT'S HOW THIS WAS DISCOVERED. I WOULD -- I WOULD CITE THE CASES OF STATE V. CHAFFEY (PHONETIC) WHICH CITES FLORIDA V. BOYER (PHONETIC). THE INTRUSION AND THE DETENTION MUST BE AS MINIMAL AND AS UNINTRUSIVE AS POSSIBLE TO SATISFY THE REQUIREMENTS OF THE STOP, AND IN THIS CASE THE REQUIREMENTS WERE TO TAKE HIM FOR QUESTIONING. AND I THINK TO PAT HIM DOWN FOR THEIR SAFETY WAS WARRANTED, YOUR HONOR, AND I'M SURPRISED IT DIDN'T HAPPEN EARLIER, QUITE FRANKLY. I WAS REALLY SURPRISED.

BUT IN THIS CASE IT SOUNDS LIKE, BASED ON THE TESTIMONY, THAT THEY ACTUALLY PERFORMED A FULL SEARCH AS THOUGH HE WERE UNDER ARREST. HE WASN'T UNDER ARREST UNTIL THEY ACTUALLY PERFORMED THE SEARCH. THEY PUT HIM IN THE CAR BEFORE THEY SEARCHED HIM, AND FOR THAT REASON I WOULD EXCLUDE THE GUN AND THE DRUGS THAT WERE FOUND, YOUR HONOR.

THE COURT: STATE?

MS. SHIPLEY: YOUR HONOR, HE WAS UNDER ARREST --

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ACCORDING TO INVESTIGATOR DOW, HE WAS -- AS SOON AS HIS WITNESS IDENTIFIES THIS MAN AS THE KILLER, HE SAYS, "CUFF HIM AND SEARCH HIM. MY GUY HAS JUST IDENTIFIED HIM AS THE MURDERER." INVESTIGATOR REESE DOESN'T GET A WARRANT SWORN 'TIL THE NEXT DAY AFTER HE INTERVIEWED HIM, BUT THAT DOESN'T MEAN HE'S NOT UNDER ARREST. HE'S JUST NOT FORMALLY CHARGED.

THIS MAN WAS UNDER ARREST, AND THIS IS A CLASSIC TERRY FRISK AND SEARCH INCIDENT TO ARREST. YOU HAVE TWO HATS TO HANG YOUR DECISION ON IN ADMITTING THIS EVIDENCE UNDER THE RULES. SO, THEREFORE, A SEARCH WARRANT WAS NOT REQUIRED TO SEARCH THIS DEFENDANT. THE TERRY FRISK WAS PROPER, AND A SEARCH INCIDENT TO ARREST WAS ALSO PROPER.

THE COURT: MOTION TO SUPPRESS DENIED.

MS. SHIPLEY: THANK YOU, YOUR HONOR.

MR. LEDDY: THANK YOU, YOUR HONOR.

THE COURT: ANYTHING FURTHER?

MS. SHIPLEY: WE'RE READY TO START THE TRIAL, YOUR HONOR.

THE COURT: OKAY. ALL RIGHT. SEND THE JURY -- I'M SORRY?

MR. LEDDY: WELL, WOULD IT AT ALL BE POSSIBLE FOR US TO TAKE A QUICK BREAK TO GET SOMETHING TO EAT SO THAT MY CO-COUNSEL DOESN'T PASS OUT?

THE COURT: OKAY.

MS. DAVIS: ACTUALLY, I JUST NEED TO TAKE ANTIBIOTICS.

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THE COURT: OKAY. SURE. OKAY. Y'ALL JUST TAKE TEN MINUTES AND WE'RE READY TO PROCEED.

MR. LEDDY: OKAY.

MS. SHIPLEY: WELL, YOUR HONOR, CAN MICAH AND I GO OVER THE WITNESSES' RECORDS TO SETTLE THE RECORDS?

THE COURT: ABSOLUTELY.

MS. SHIPLEY: THANKS.

(WHEREUPON, A SHORT BREAK WAS TAKEN.)

THE COURT: ARE YOU READY?

MS. SHIPLEY: YES, MA'AM. ONE THING. SORRY.

THE COURT: GO AHEAD AND CALL FOR THEM THOUGH ANYWAY. DO YOU HAVE A -- IS IT A LONG DISCUSSION?

MS. SHIPLEY: NO.

THE COURT: OKAY. LET HER GO AHEAD AND CALL THEM UP.

MS. SHIPLEY: LET'S GET BACK. WE'RE DOING LEVERN FIRST. LAST TEN YEARS---

THE CLERK: JUDGE CHILDS.

THE COURT: YES?

THE CLERK: YOU DON'T WANT THE JURORS IN HERE, DO YOU?

THE COURT: I APOLOGIZE. STEP OUT ONE MOMENT. I THOUGHT THEY WERE DOWNSTAIRS.

(PAUSE IN PROCEEDINGS.)

THE COURT: OKAY. THANK YOU. I APOLOGIZE. I THOUGHT THEY WERE DOWNSTAIRS AND IT WAS GOING TO TAKE THEM A SECOND.

MS. SHIPLEY: OKAY. LEVERN SMITH, YOUR HONOR. IN THE

LAST 10 YEARS THE CRIMES THAT HE HAS BEEN CONVICTED OF THAT CARRY MORE THAN ONE YEAR OR INVOLVE CRIMES OF DISHONESTY ARE 2001 CRUELTY TO ANIMALS, CARRIES THREE YEARS AT LEAST BECAUSE THAT'S WHAT HE GOT FOR A SENTENCE, THREE YEARS SUSPENDED TO THREE YEARS PROBATION. JUST TO LET THE COURT KNOW AND THE DEFENSE KNOW, HE IS DENYING THAT THAT'S HIM. IT'S HIS COUSIN OR BROTHER THAT USED HIS NAME.

THE COURT: OKAY.

MS. SHIPLEY: BUT IT'S ON HIS RECORD SO THAT HE CAN EXPLAIN THAT ON THE STAND. 2002, HE ADMITS HE WAS INCARCERATED FOR SHOPLIFTING. HE GOT 18 MONTHS. AND THEN 2005, INDECENT EXPOSURE. HE GOT TWO DAYS.

THE COURT: OKAY.

MS. DAVIS: I HAVE A 2001 SHOPLIFTING ALSO PRIOR. DOES HE HAVE TWO SHOPLIFTINGS?

MS. SHIPLEY: DOES IT SAY CONVICTED?

MR. LEDDY: SUSPENDED TO PROBATION.

MS. DAVIS: CONVICTED MARCH 21ST OF '01. OH, I'M SORRY. 1999. I'M SORRY.

MS. SHIPLEY: YEAH, THAT'S BEYOND THE 10 YEARS.

MS. DAVIS: HE PLED GUILTY MARCH 27TH OF '01.

MS. SHIPLEY: OH. WHAT DATE? TELL ME AGAIN.

MS. DAVIS: MARCH 27TH OF '01.

(AN OFF-THE-RECORD DISCUSSION TOOK PLACE BETWEEN THE ATTORNEYS.)

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MS. SHIPLEY: YOUR HONOR, PENDING CHARGES ONLY?

THE COURT: FOR?

MS. SHIPLEY: HE'S GOT APPARENTLY -- HE'S NEVER BEEN CONVICTED OF AN '08 DRUG CHARGE.

THE COURT: I THOUGHT IT WAS A CONVICTION.

MS. SHIPLEY: IT SAYS -- RULE 609 SAYS CONVICTIONS THAT OCCURRED WITHIN THE LAST 10 YEARS.

THE COURT: UH-HUH. AS OPPOSED TO PENDING.

MS. SHIPLEY: AS OPPOSED TO PENDING.

THE COURT: I DON'T THINK YOU CAN GET SOMEBODY THAT---

MS. SHIPLEY: ESPECIALLY NOT IN OUR OFFICE. WELL, I DON'T KNOW.

THE COURT: THESE ALL DEAL WITH CONVICTIONS OF A CRIME, SO I WOULD NOT CONSIDER PENDING.

MS. SHIPLEY: WELL, HE TOLD ME HE WAS -- IT WAS THROWN OUT, SO...

THE COURT: OKAY.

MS. DAVIS: IT'S A BENCH WARRANT ISSUE.

THE COURT: OH, BENCH WARRANT.

MR. LEDDY: IT'S A PENDING BENCH WARRANT.

MS. DAVIS: HE HAS A PENDING BENCH WARRANT ON A POSSESSION OF CRACK. HE HAS A FAILURE TO APPEAR.

THE COURT: MEANING THAT THE -- BUT THE CHARGE, THERE'S BEEN NO DISPOSITION.

MS. SHIPLEY: CORRECT.

MS. DAVIS: CORRECT. IT'S JUST A BENCH WARRANT STATUS.

THE COURT: BENCH WARRANT ON THE CHARGE.

MS. SHIPLEY: WELL, THE RULE SAYS IT HAS TO BE A CONVICTION.

THE COURT: A CONVICTION, RIGHT.

MS. DAVIS: WE'D ASK TO GET INTO IT BASED ON THAT IF HE HAS AN OUTSTANDING PENDING CHARGE IN THE SOLICITOR'S OFFICE.

MS. SHIPLEY: BUT IT'S NOT PENDING. IT'S INACTIVE AND BENCH WARRANTED.

MR. LEDDY: WE WOULDN'T BE SEEKING TO INTRODUCE IT UNDER THAT SAME RULE. IT WOULD BE UNDER PRIOR BAD ACTS.

THE COURT: WELL, YOU MEAN JUST GENERAL IMPEACHMENT.

MR. LEDDY: YEAH.

THE COURT: MY PROBLEM IS THAT THE PREJUDICE OF WHY -- I MEAN, IT'S ONE THING TO SAY OUTSTANDING BENCH WARRANT. IT'S ANOTHER THING TO SAY OUTSTANDING BENCH WARRANT BECAUSE YOU HAVE THIS CHARGE PENDING, AND I THINK---

MS. SHIPLEY: FOR FAILING TO APPEAR.

THE COURT: RIGHT. NOW, IT'S ONE THING TO SAY, YEAH, BECAUSE THESE RULES SPECIFICALLY UNDER 609 DEAL WITH CONVICTION, AND SO I DON'T WANT TO SAY A PENDING CHARGE.

MS. DAVIS: BUT WE WOULDN'T BE TRYING TO GET INTO THE POSSESSION OF CRACK BASED ON THAT RULE. WE'D BE TRYING TO GET INTO IT BASED ON OTHER EVIDENCE RULES OF EITHER BIAS---

THE COURT: YEAH, THAT'S WHAT I'M SAYING.

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MS. DAVIS: STUFF LIKE THAT.

THE COURT: THERE'S NO REASON TO BRING UP THE UNDERLYING PENDING CHARGE, BUT YOU'RE JUST SAYING A BENCH WARRANT USED AS A FORM OF BIAS JUST GENERALLY UNDER GENERAL RULES OF IMPEACHMENT.

MR. LEDDY: NO. I WOULD ARGUE THERE IS A REASON TO GET INTO IT BECAUSE IF IT'S GOING TO BE DISMISSED IF HE'S COOPERATIVE...

THE COURT: OH, I SEE WHAT YOU'RE SAYING.

MR. LEDDY: OKAY.

THE COURT: YEAH. OKAY.

MR. LEDDY: I MEAN, HE CAN COME IN AND TESTIFY AND WALK OUT WITHOUT GETTING TAKEN INTO CUSTODY, AND THAT WOULD BE A PRIVILEGE.

THE COURT: RIGHT. I THINK THAT'S FAIR GROUND, YOU KNOW, TO HEAR IT GENERALLY. OF COURSE, I'LL RULE AT THAT TIME, BUT THAT'S FAIR GROUND FOR IMPEACHMENT.

MS. SHIPLEY: OKAY.

MS. DAVIS: SO WE HAVE THE ABHAN FROM '93 AND HINDERING AN OFFICER IN '05.

MS. SHIPLEY: THAT DOESN'T CARRY MORE THAN -- THAT'S NOT A CRIME OF DISHONESTY. IT'S MAGISTRATE.

MS. DAVIS: OH, I THOUGHT---

MS. SHIPLEY: IT DOESN'T CARRY MORE THAN A YEAR. IT'S GOT TO CARRY MORE THAN YEAR.

MS. DAVIS: I THOUGHT IT WAS A HINDERING...

MS. SHIPLEY: NO, HINDERING IS IN MAGISTRATE.

THE COURT: OKAY. ANYTHING ELSE?

MS. DAVIS: ARE YOU GOING TO DO SHONDA MOFFETT?

MS. SHIPLEY: OH.

THE COURT: YEAH. LET'S JUST DEAL WITH THE WITNESSES FOR TODAY.

MS. SHIPLEY: YES, MA'AM, IF WE GET TO MS. MOFFETT. I DON'T KNOW IF WE WILL.

MR. LEDDY: IS ANYONE BRINGING THE DEFENDANT?

MS. SHIPLEY: YEAH, WE NEED THE DEFENDANT.

THE COURT: YES, IF Y'ALL CAN BRING MR. ROBINSON UP HERE SO WE CAN PROCEED.

MS. SHIPLEY: WE NEED THE DEFENDANT.

THE COURT: THANK YOU.

MS. SHIPLEY: ALL RIGHT.

MS. DAVIS: SHE'S IN JAIL RIGHT NOW FOR A PENDING ABHAN. WE WANT TO GET INTO THAT.

MS. SHIPLEY: YEAH, THAT'S GOOD. ALL RIGHT. '98, ON PAGE 4 FOR THAT.

MS. DAVIS: OOPS, '98.

(AN OFF-THE-RECORD DISCUSSION TOOK PLACE BETWEEN THE ATTORNEYS.)

MS. SHIPLEY: RESISTING ARREST, LESS THAN A YEAR.

MS. DAVIS: YEP.

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MS. SHIPLEY: MAGISTRATE LEVEL.

MR. LEDDY: IF IT'S A PROBATION, IT CAN'T BE MAGISTRATE.

MS. SHIPLEY: OH, YOU KNOW WHAT? THAT IS GOING TO BE... OKAY. ALL RIGHT. '98, FINANCIAL TRANSACTION CARD FRAUD. RECEIVING STOLEN GOODS IN '99, LESS THAN A THOUSAND, MAGISTRATE LEVEL. AND THEN IN 2007 FRAUDULENT CHECK. THAT'S IT.

MS. DAVIS: THEN GIVING FALSE INFORMATION TO POLICE.

MS. SHIPLEY: WHERE IS THAT?

MS. DAVIS: '08.

MS. SHIPLEY: OH, YEAH. THAT'S COMING IN, TOO. YEAH, I CIRCLED IT.

(MR. ROBINSON IS BROUGHT INTO THE COURTROOM NOW.)

THE COURT: ALL RIGHT. DOES THAT DEAL WITH THE WITNESSES THAT MAY GET CALLED TODAY?

MS. SHIPLEY: I THINK THE STATE AND DEFENSE HAVE AGREED ON WHICH CONVICTIONS COME IN.

THE COURT: OKAY. THANK YOU. ALL RIGHT. ARE THE PARTIES READY TO PROCEED?

MS. SHIPLEY: YES, MA'AM.

MR. LEDDY: YES, YOUR HONOR.

THE COURT: OKAY. THE JURORS, PLEASE.

(WHEREUPON, THE JURY WAS BROUGHT INTO OPEN COURT AT 4:04 P.M.)

THE COURT: OKAY. MADAM CLERK, I'LL ASK THAT YOU SWEAR

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THE JURY, PLEASE.

(WHEREUPON, THE JURY WAS SWORN AT 4:05 P.M.)

THE COURT: GOOD AFTERNOON AGAIN, LADIES AND GENTLEMEN OF OUR JURY PANEL. I WANT TO THANK YOU AGAIN FOR YOUR SERVICE AND YOUR TIME AND ATTENTION TO THIS MATTER. LET ME APOLOGIZE FIRST ON BEHALF OF THE ATTORNEYS FOR THE VARIOUS DELAYS. AS WE PROCEED THROUGH TRIAL, THERE ARE CERTAIN TIMES THAT I WILL HAVE TO ASK YOU TO STEP TO YOUR JURY ROOM BECAUSE THE COURT HAS TO TAKE UP LEGAL MATTERS OR ISSUES WITH RESPECT TO THE LAW TO DEAL WITH THESE PARTIES. PLEASE DO NOT HOLD ANY OF THAT AGAINST THE PARTIES.

I TRY MY BEST TO KIND OF GUESSTIMATE HOW LONG THOSE PARTICULAR BRIEF PERIODS OF DETENTION WILL BE, BUT I'M NOT ALWAYS CORRECT AND JUST I APOLOGIZE AND IF YOU ALL WOULD JUST ACCOMMODATE US AS BEST WE CAN... I ALSO WANT TO STATE THAT YESTERDAY WE LOST A DAY OF COURT BECAUSE OF THE IMPENDING SNOW WHICH DIDN'T OCCUR, AND I'M ALSO TRYING TO MOVE THE TRIAL ALONG BECAUSE WE'RE TRYING NOT TO GO INTO SATURDAY. I'M SURE YOU ALL WOULD APPRECIATE THAT AS WELL. SO JUST BEAR WITH US, BUT I THINK WE'RE GETTING THROUGH AS MANY ISSUES AS WE CAN, AND NONE OF THESE PEOPLE HAVE HAD LUNCH TODAY. WE'VE WORKED STRAIGHT THROUGH WHILE YOU ALL WERE GONE SO -- JUST TO GIVE YOU SOME INDICATION THAT THE ATTORNEYS ARE HARD AND STEADFAST AT THIS TRIAL.

THE STATE HAS CALLED AGAIN THE CASE OF THE STATE VERSUS

JOEL ROBINSON, AND THESE PARTICULAR INDICTMENTS WHICH I REMIND YOU AGAIN ARE NOT ACTUAL GUILTY PLEAS -- THEY HAVE NOTHING TO DO WITH THE TRIAL OTHER THAN THE FACT THAT THEY ARE THE FORMAL INSTRUMENT BY WHICH THIS CASE IS CALLED TO TRIAL. THE DEFENDANT HAS EXERCISED HIS CONSTITUTIONAL RIGHT TO HAVE A JURY TRIAL AND HAS PLED NOT GUILTY. SO THAT PROVINCE WILL BE IN YOUR HANDS AT THE APPROPRIATE TIME. BUT THE INDICTMENTS ARE FOR MURDER, ASSAULT AND BATTERY WITH INTENT TO KILL, USE OF A FIREARM DURING THE COMMISSION OF A VIOLENT CRIME, POSSESSION OF CRACK COCAINE, AND POSSESSION OF COCAINE. SO THOSE ARE THE MATTERS THAT WILL PROCEED BEFORE YOU AS WE GO ON THROUGH THE TRIAL.

NOW, BEFORE WE BEGIN THE TRIAL OF THE CASE, WHILE I HOPE THAT IT IS VERY EDUCATIONAL AND INFORMATIVE, THIS IS NOT FOR YOUR ENTERTAINMENT. THIS IS A VERY SERIOUS MATTER THAT YOU WILL HEAR FACTS AND TESTIMONY AS IT WILL BEAR OUT IN THIS CASE, AND I NEED YOU TO DEVOTE YOUR SERIOUS TIME AND ATTENTION TO THIS MATTER. EVERY DAY AS I'M MAKING DECISIONS I HAVE TO REALIZE THAT IN SOME FORM OR FASHION I'M AFFECTING PEOPLE'S LIVES. SO I REALLY TAKE STRONG CONSIDERATION TO ALL THE MATTERS.

I WANT YOU TO GIVE THE STATE YOUR FULL ATTENTION. THEIR PROOF OF BURDEN IS BEYOND A REASONABLE DOUBT, SO THEY HAVE TO PROVE THAT, IN FACT, MR. ROBINSON DID COMMIT THESE CRIMES THAT HE IS ALLEGED TO HAVE COMMITTED. DURING THE TRIAL, WE

WILL HAVE OPENING STATEMENTS BY BOTH PARTIES. THE PARTIES WILL HAVE AN OPPORTUNITY TO JUST GIVE YOU AN OVERVIEW OF WHAT THEY BELIEVE THE EVIDENCE WILL SHOW IN THIS CASE.

BECAUSE THE STATE HAS THE BURDEN OF PROOF, THE DEFENDANT DOES NOT HAVE TO PUT UP ANY EVIDENCE IN THIS CASE, AND YOU'LL BE REMINDED OF THOSE PARTICULAR ISSUES THROUGHOUT THE TRIAL, BUT THE DEFENDANT DOES HAVE AN OPPORTUNITY FOR AN OPENING STATEMENT. THE DEFENSE DOES HAVE AN OPPORTUNITY TO ACTUALLY CROSS-EXAMINE WITNESSES THROUGHOUT THE TRIAL AS WELL, BUT BOTH PARTIES GET A CHANCE TO PUT UP THEIR SIDE OF THE CASE.

THERE WILL BE OBJECTIONS SOMETIMES THROUGH THE TRIAL. PLEASE LISTEN TO THE COURT'S RULING TO DETERMINE WHETHER OR NOT YOU CAN, IN FACT, CONSIDER SUCH EVIDENCE. YOU ARE VERY IMPORTANT IN THIS CASE BECAUSE YOU ARE THE SOLE FINDERS OF FACT. AS WITH ANY CASE OR ANY STORY THAT MAY COME BEFORE YOU, THERE MIGHT BE DIFFERENT VERSIONS OF A STORY OR DIFFERENT VERSIONS OF HOW AN EVENT HAS OCCURRED. AT THE END OF THE DAY, THAT'S IN YOUR PROVINCE. YOU HAVE TO MAKE THAT DETERMINATION.

I, HOWEVER, AM THE JUDGE OF THE LAW. SO YOU'RE GOING TO HAVE TO FORGET ANY NOTIONS OF WHAT YOU THINK THE LAW OUGHT TO BE OR WHAT SOMEBODY TOLD YOU IT IS BUT WHAT I TELL YOU IT IS AT THE END AND CONCLUSION OF THIS CASE PRIOR TO YOUR DELIBERATIONS. WE HAVE PROCEEDED ALONG FOR QUITE SOME TIME, SO I'M NOT GOING TO GIVE YOU A LONG RENDITION OF THINGS WITH

RESPECT TO MY STATEMENTS TO YOU AT THIS TIME, AND WE'RE GOING TO GO AHEAD AND PROCEED WITH THE TRIAL. I DIRECT YOU TO GIVE YOUR FULL TIME AND ATTENTION TO BOTH SIDES OF THIS CASE, AND THEN WE'LL CONTINUE PROCEEDING. IS THE STATE READY TO PROCEED?

MR. ROSE: WE ARE, YOUR HONOR.

THE COURT: OKAY. LET'S GO.

MR. ROSE: MAY IT PLEASE THE COURT?

THE COURT: YES.

MR. ROSE: MR. LEDDY. MS. DAVIS. HE WAS STILL BREATHING. BLOOD BUBBLES WERE COMING OUT OF HIS MOUTH. HE LAID TWITCHING. I WALKED PAST HIM AND FIRED TWO MORE ROUNDS INTO HIS HEAD. THOSE ARE THE COLD-BLOODED WORDS OF A MURDERER. THOSE ARE THE WORDS OF JOEL ANTAWAN ROBINSON.

LADIES AND GENTLEMEN, MY NAME SETH ROSE. THIS IS MY CO-COUNSEL, VANESSA SHIPLEY. WE ARE ASSISTANT SOLICITORS FOR THE FIFTH JUDICIAL CIRCUIT. AS SUCH, WE PROSECUTE CRIMES THAT OCCUR IN RICHLAND AND KERSHAW COUNTIES. I WORK FOR THE SOLICITOR ELECTED BY THE PEOPLE, BARNEY GIESE.

THOMAS SMITH WAS MURDERED, GUNNED DOWN IN COLD BLOOD ON THE NIGHT OF FEBRUARY 15TH, 2007, AROUND 9:41 P.M. THE MAN WHO TOOK THOMAS SMITH'S LIFE HAS CONFESSED TO DOING SO, AND THAT MAN IS THAT DEFENDANT.

FIVE DAYS PRIOR TO THIS INCIDENT, THE DEFENDANT AND THE VICTIM GOT INTO A VERBAL CONFRONTATION AT A TRAILER LOCATED

AT OFF OF AMES ROAD HERE IN RICHLAND COUNTY. AS A RESULT OF THAT VERBAL CONFRONTATION, THE DEFENDANT FELT HE HAD BEEN DISRESPECTED. SO WHAT DOES HE DO? HE ARMS HIMSELF WITH A NINE MILLIMETER HANDGUN. HE LOADS IT WITH TEN ROUNDS OF LIVE AMMUNITION, AND HE GOES BACK TO THAT TRAILER ON STREET. HE GOES BACK, IN HIS WORDS, TO TAKE CARE OF WHAT HE HAS TO TAKE CARE OF.

YOU WILL LEARN THAT THE DEFENDANT DROVE HIS CAR THAT NIGHT TO STREET. HE PARKED ACROSS THE STREET NEXT TO A HOUSE. HE GOT OUT OF HIS CAR, AND HE WALKED DIRECTLY TO THAT TRAILER WITH THE KNOWLEDGE THAT THOMAS SMITH WAS INSIDE. WHEN HE GOT TO THE DOOR, TWO INDIVIDUALS HAD JUST KNOCKED ON THE DOOR AND BEEN TOLD TO COME IN. THE DEFENDANT COMES UP FROM BEHIND THEM, PUSHES THEM OUT OF THE WAY AND ENTERS WITH HIS GUN ALREADY DRAWN, AND HE HEADS DIRECTLY FOR THOMAS SMITH.

THOMAS SMITH IS STANDING IN THE KITCHEN WITH EDWINA EVANS AND A JEFFREY SMITH. THIS KITCHEN, WHEN YOU COME IN THE TRAILER, IT'S JUST TO THE RIGHT. IT'S A SMALL, LITTLE KITCHEN AND IT HAS NO EXITS. THE DEFENDANT ENTERS THAT TRAILER WITH HIS GUN DRAWN, AND HE HEADS DIRECTLY FOR THOMAS SMITH. THEN THE DEFENDANT ENDS UP FIRING HIS GUN AGAIN AND AGAIN AND AGAIN UNTIL HE HAS FIRED ALL TEN ROUNDS AND EMPTIED THAT GUN. ALL IN ALL, THE VICTIM, THOMAS SMITH, WAS SHOT FIVE TIMES AT CLOSE RANGE. TWO BULLETS GO STRAIGHT AND

STRIKE EDWINA EVANS WHO IS STANDING IN THE KITCHEN NEXT TO THE VICTIM.

NOW, YOU'LL HEAR FROM A DR. KESSLER WHO IS GOING TO TAKE THIS STAND, AND HE'S GOING TO TELL YOU THAT THREE OF THOSE FIVE BULLET WOUNDS THOMAS SMITH SUFFERED, THREE OF THE FIVE -- ANY ONE OF THOSE THREE ALONE WOULD HAVE BEEN SUFFICIENT TO TAKE THE LIFE OF THOMAS SMITH. SO WHEN THE DEFENDANT IN HIS STATEMENT SAYS HE DOUBLES BACK AND FIRES TWO MORE ROUNDS INTO THOMAS SMITH'S HEAD AS HE LAYS GURGLING BLOOD, TAKING HIS LAST BREATH, DYING, THOSE WEREN'T EVEN NECESSARY TO TAKE THE LIFE OF THOMAS SMITH.

NOW, IT'S IMPORTANT TO KNOW AND YOU WILL LEARN THAT THE VICTIM, THOMAS SMITH, WAS UNARMED. UNARMED. HE DIDN'T HAVE A KNIFE. HE DIDN'T HAVE A BAT, AND HE DIDN'T HAVE A GUN. HE HAD NO EXIT OUT OF THAT KITCHEN, NO WAY TO ESCAPE THE MAN THAT WAS HUNTING HIM DOWN.

NOW, AFTER THE SHOOTING, THE DEFENDANT CALMLY LEAVES THE KITCHEN AND HE WALKS ACROSS THE STREET AND HE GETS IN HIS CAR. AND SOMEBODY FROM ACROSS THE STREET, NOT FROM THE TRAILER, BUT SOMEBODY FROM ACROSS THE STREET FIRES A WEAPON AT THE DEFENDANT. HE'S IN HIS CAR. SO HE REACHES UNDERNEATH THE SEAT AND HE RELOADS BECAUSE HE'S ALREADY EMPTIED HIS GUN ONCE IN THE TRAILER. HE RELOADS AND HE PROCEEDS TO FIRE TEN MORE ROUNDS INTO THE HOUSE THAT HE BELIEVES THAT THE PERSON FIRED AT HIM FROM. HE THEN ATTEMPTS TO DRIVE AWAY, BUT HIS

CAR STALLS. SO HE GETS OUT AND HE FLEES THE SCENE ON FOOT.

APPROXIMATELY ROUGHLY TWO HOURS LATER THE DEFENDANT IS SEEN BY COLUMBIA POLICE DEPARTMENT OFFICERS ON NORTH MAIN STREET, AND HE MATCHES THE DESCRIPTION OF THE SUSPECT. SPECIFICALLY, HE'S AN AFRICAN-AMERICAN MALE, LIGHT-SKINNED, IN HIS THIRTIES. HE'S BEING DETAINED BY C.P.D. OFFICERS. THEY'RE TRYING TO FIGURE OUT WHAT'S WHAT WHEN, AS FATE WOULD HAVE IT, A MAN WHO WAS IN THAT TRAILER WHO WAS IN THAT KITCHEN THAT NIGHT IS BEING TAKEN TO C.P.D. HEADQUARTERS TO GIVE A WITNESS STATEMENT, AND THEY JUST SO HAPPENED TO BE PASSING THE SPOT ON NORTH MAIN STREET THAT THE DEFENDANT IS BEING DETAINED.

JEFFREY SMITH IS RIDING BY AND HE LOOKS OUT OF HIS WINDOW AND SAYS, "THAT'S HIM RIGHT THERE." AS A RESULT OF THAT, THE DEFENDANT IS PLACED UNDER ARREST, AND FOR THE OFFICERS' SAFETY THEY SEARCH HIM. AND WHAT DO THEY FIND? A NINE MILLIMETER HANDGUN. AND YOU WILL HEAR FROM THE EXPERT WHO IS GOING TO TAKE THIS STAND, A BALLISTICS EXPERT, AND HE'S GOING TO TELL YOU THAT THAT IS POSITIVELY THE GUN THAT FIRED THE ROUNDS THAT TOOK THE LIFE OF THOMAS SMITH, AND IT'S POSITIVELY THE GUN THAT FIRED THE ROUNDS THAT STRUCK EDWINA EVANS.

THE OFFICERS CONTINUE TO SEARCH THE DEFENDANT, AND THEY FIND CRACK COCAINE AND THEY FIND POWDER COCAINE. AS A RESULT, THE DEFENDANT HAS FIVE CHARGES HERE TODAY. ONE, THE

MURDER OF THOMAS SMITH. MURDER IS THE INTENTIONAL KILLING OF A HUMAN BEING WITH MALICE AFORETHOUGHT. MALICE: IT'S A WICKEDNESS; IT'S A MEANNESS. LADIES AND GENTLEMEN, THE STATE SUBMITS TO YOU HUNTING A MAN DOWN AND EXECUTING HIM IS MALICE. THAT'S MURDER.

THE DEFENDANT IS ALSO CHARGED WITH ASSAULT AND BATTERY WITH INTENT TO KILL AS TO THE SHOTS THAT HIT EDWINA EVANS. UNDER OUR LAW -- AND JUDGE CHILDS IS GOING TO GIVE YOU THE LAW AT THE CLOSE OF THE CASE, BUT UNDER OUR LAW THOSE TWO BULLETS THAT WENT ASTRAY -- THE DEFENDANT IS FIRING OVER AND OVER AT THOMAS SMITH. WHEN THOSE TWO BULLETS WENT ASTRAY AND STRUCK EDWINA EVANS, THE DEFENDANT DOES NOT GET A FREE PASS FOR THAT AND, LADIES AND GENTLEMEN, THAT MAKES SENSE. THEREFORE, HE IS CHARGED WITH ASSAULT AND BATTERY WITH INTENT TO KILL AS TO THOSE TWO SHOTS THAT STRUCK EDWINA EVANS.

THIRD CHARGE: POSSESSION OF A FIREARM DURING THE COMMISSION OF A VIOLENT CRIME. HE POSSESSED THE HANDGUN. MURDER IS A VIOLENT CRIME. THE LAST TWO CHARGES: POSSESSION OF CRACK COCAINE AND POSSESSION OF POWDER COCAINE. WHEN HE WAS SEARCHED, THEY WERE ON HIS PERSON. HE POSSESSED THEM.

NOW, THE STATE'S GOT TO PROVE ITS CASE BEYOND A REASONABLE DOUBT. WHAT DOES THAT MEAN? THAT'S NOT BEYOND ALL DOUBT. IT DOESN'T REQUIRE YOU TO BE CERTAIN. IT REQUIRES YOU TO BE FIRMLY CONVINCED.

LADIES AND GENTLEMEN, AS TO THESE FIVE CHARGES HERE

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TODAY, MAKE NO MISTAKE ABOUT IT. THE STATE WELCOMES THAT BURDEN. AT THE CLOSE OF THIS CASE, THE STATE'S GOING TO COME BEFORE YOU AND ASK YOU TO RETURN A VERDICT. A VERDICT THAT TRUTH DICTATES AND JUSTICE FOR THOMAS LEE SMITH AND HIS FAMILY DEMANDS A VERDICT OF GUILTY TO ALL FIVE CHARGES.

THE COURT: THANK YOU, MR. ROSE. DEFENSE COUNSEL?

MS. DAVIS: THANK YOU, YOUR HONOR. MAY IT PLEASE THE COURT? THE STATE WANTS TO TELL YOU A STORY. THEY WANT YOU TO HAVE AN OPINION ABOUT THAT STORY, BUT THEY'RE ONLY TELLING YOU THE END. WE'RE GOING TO TELL YOU THE BEGINNING AND THE MIDDLE BECAUSE IT'S IMPORTANT. WE CAN'T ASK YOU TO MAKE A DECISION OR MAKE AN OPINION ON A BOOK IF YOU'VE ONLY READ THE LAST CHAPTER.

WHAT HAPPENED PRIOR TO THE NIGHT OF FEBRUARY 15TH OF 2007 MATTERS. WHAT HAPPENED DAYS LEADING UP TO IT MATTERS. WHAT HAPPENED MOMENTS BEFORE THE SHOOTING MATTERS. THE BEGINNING AND THE MIDDLE OF THIS STORY IS CRUCIAL. IT'S SO IMPORTANT.

THE BEGINNING OF THE STORY IS THOMAS SMITH, SHORT DOG, MADE THREATS, MADE THREATS TO JOEL ROBINSON ON HIS LIFE. THE MIDDLE OF THE STORY IS JOEL ROBINSON WENT TO THAT TRAILER TO CONFRONT SHORT DOG, NOT TO KILL HIM, AND YOU'LL HEAR THAT SHORT DOG HAD COCAINE AND ALCOHOL IN HIS SYSTEM AT THE TIME OF THIS, AND YOU'LL HEAR THERE WAS A STRUGGLE.

THE STATE WANTS YOU TO BELIEVE THAT THIS WAS HUNTING HIM

DOWN, THAT HE WENT IN THERE AND CHOSE TO DO THIS AND WAS GOING TO DO IT NO MATTER WHAT HAPPENED IN THAT HOUSE. THAT'S NOT TRUE, LADIES AND GENTLEMEN. IT'S NOT TRUE.

THERE'S NO MURDER IN THIS CASE. THERE'S NO ASSAULT AND BATTERY WITH INTENT TO KILL BECAUSE TO HAVE THOSE TWO THINGS YOU HAVE TO HAVE MALICE, AND MR. ROSE GAVE A DESCRIPTION OF THAT. THERE HAS TO BE WICKEDNESS OR MEANNESS, HE SAID. WELL, THERE HAS TO BE THOSE THINGS WITHOUT LEGAL EXCUSE OR JUST CAUSE.

THERE IS NO MALICE IN THIS CASE AND WE KNOW THIS. HOW? SHONDA MOFFETT, SAFETY ON, SELF-PRESERVATION. SHONDA MOFFETT, SHE'S A WITNESS YOU'LL HEAR FROM. IT WAS HER IDEA TO GO TO THIS NEIGHBORHOOD: THE HOLE. THAT'S WHAT THEY CALL THE NEIGHBORHOOD. IT WAS HER IDEA, AND SHE APPROACHED JOEL, ASKED HIM FOR A RIDE. HE SAID, "SURE."

THE SAFETY WAS ON. DID HE HAVE A GUN? YES. NOW, IF HE WAS WALKING IN THAT PLACE TO UNLOAD, TO HUNT SOMEONE DOWN, IS THE SAFETY ON? NO. SELF-PRESERVATION.

YOU WILL HEAR FROM THE WITNESSES THEMSELVES THAT WERE IN THAT TRAILER. THERE WAS A STRUGGLE. THERE WAS A FIGHT WITH THAT GUN. THERE WAS A STRUGGLE THE MOMENT SHORT DOG SAW JOEL. AT THAT MOMENT IN THAT INCIDENT ON THAT NIGHT IT WAS SHORT DOG AND JOEL ROBINSON. SELF-PRESERVATION. NO MALICE. HE DID NOT GO THERE TO KILL. HE WENT THERE TO CONFRONT BECAUSE THERE HAD BEEN THREATS MADE ON HIS LIFE.

NOW, THE STATE WANTS YOU TO BELIEVE THAT BECAUSE JOEL WENT AND HAD A GUN THAT THAT'S MALICE. IN AND OF ITSELF IT MUST BE MALICE. THIS IS A NEIGHBORHOOD CALLED THE HOLE. DRUGS, GUNS, THESE ARE NOT UNUSUAL THINGS IN THAT NEIGHBORHOOD. THEY'RE NOT UNUSUAL THINGS TO THE WITNESSES THAT YOU'LL HEAR FROM TODAY. JOEL KNEW THAT. HE KNEW ABOUT THAT TRAILER. IT WAS A DRUG HOUSE. WHERE THERE'S DRUGS, THERE'S GUNS. WHERE THERE'S DRUGS AND GUNS, THERE'S PEOPLE INSIDE THAT WILL USE THEM.

YOU MAY NOT LIKE THAT HE BROUGHT A GUN. YOU MAY NOT AGREE THAT HE BROUGHT A GUN, BUT HE WENT KNOWING THAT THIS WAS A TRAILER, KNOWING THAT MOST OF THE PEOPLE IN THAT TRAILER WERE FRIENDS OF SHORT DOG, THAT THE PEOPLE SURROUNDING THAT HOLE, THE NEIGHBORHOOD, WERE FRIENDS OF SHORT DOG. HE KNEW SOMEONE MIGHT SHOOT AT HIM. NOT ONLY DID HE THINK THAT, HE WAS RIGHT.

THE SOLICITOR JUST MENTIONED TO YOU SOMEONE SHOT AT HIM. THAT'S WHAT HAPPENS IN THIS NEIGHBORHOOD. SOMEONE IS ON THE PORCH AND THEY'RE SHOOTING AT SOMEONE ELSE. JOEL WENT TO THAT NEIGHBORHOOD TO CONFRONT SHORT DOG, NOT TO KILL HIM.

THIS IS A NEIGHBORHOOD WHERE WHEN THE OFFICERS RESPOND TO THE SCENE, THEY CHECK THE WITNESSES THEMSELVES FOR WEAPONS. THEY DIDN'T LET ANY OF THOSE WITNESSES GET IN THE PATROL CAR OR GIVE A STATEMENT BEFORE THEY PATTED THEM DOWN THEMSELVES TO SEE IF THEY HAD SOMETHING ON THEM: A GUN, A

KNIFE, ANY SORT OF WEAPON. OFFICERS KNEW. OFFICERS KNOW THIS AREA. THEY KNOW WHAT GOES ON IN THIS NEIGHBORHOOD. IT'S ALSO A NEIGHBORHOOD WHERE EVERYONE GOES BY A NICKNAME. YOU'LL HEAR FROM THE WITNESSES: JET, SHORT DOG, BONE. NICKNAMES ARE PREVALENT BECAUSE IT HELPS YOU REMAIN ANONYMOUS. WHY DO YOU NEED TO REMAIN ANONYMOUS IN THIS NEIGHBORHOOD? IT KEEPS YOU SAFE.

JOEL WENT TO THAT NEIGHBORHOOD KNOWING WHAT HE MIGHT EXPECT, BUT HE DID NOT GO TO KILL SHORT DOG. THERE WAS NO MALICE. WHY? WE'VE GONE THROUGH THIS. SHONDA MOFFETT, IT WAS HER IDEA TO GO THERE THAT NIGHT, NOT JOEL'S. THE SAFETY WAS ON. HE DIDN'T GO IN WITH THE INTENT TO START SHOOTING. THERE WAS A STRUGGLE; THERE WAS A FIGHT. AND SELF-PRESERVATION KICKED IN, AND HE KNEW IT WAS EITHER HIM OR SHORT DOG.

AND WE ALL KNOW AND HAVE HEARD THE RIGHTS OF THE ACCUSED TO REMAIN INNOCENT - OR I'M SORRY - ARE TO BE PRESUMED INNOCENT. WHAT THAT MEANS IS THAT EACH AND EVERY ONE OF YOU AT THIS MOMENT MUST BELIEVE THAT JOEL ROBINSON IS INNOCENT, AND IT REMAINS THAT WAY UNLESS THE STATE CAN REPLACE IT WITH FACTUAL EVIDENCE SO IRON CLAD, SO UTTERLY BELIEVABLE, THAT IT ERASES ANY CONCEIVABLE REASONABLE DOUBT FROM EACH ONE OF YOUR MINDS. THAT MEANS THEY HAVE TO PROVE MALICE, AND WE KNOW THERE WAS NO MALICE. AND AT THE END OF THIS CASE WHEN YOU'VE HEARD THE BEGINNING AND YOU'VE HEARD THE MIDDLE AND YOU'VE

HEARD THE END AND YOU'VE HEARD THE ENTIRE STORY, YOU WILL FIND THERE WAS NO MALICE. THERE WAS NO MALICE. SHONDA MOFFETT, SAFETY ON. SELF-PRESERVATION. NO MALICE. NO MURDER. NO ASSAULT AND BATTERY WITH INTENT TO KILL.

THE COURT: THANK YOU, MS. DAVIS. YOU CAN PROCEED WITH YOUR FIRST WITNESS.

MS. SHIPLEY: THANK YOU, YOUR HONOR. MAY IT PLEASE THE COURT? THE STATE CALLS JEFFREY DEAN SMITH.

JEFFREY D. SMITH, AFTER BEING DULY SWORN, TESTIFIED AS FOLLOWS:

THE CLERK: PLEASE HAVE A SEAT AND STATE YOUR FULL NAME FOR THE RECORD, PLEASE.

DIRECT EXAMINATION

BY MS. SHIPLEY:

Q. MR. SMITH, PLEASE STATE YOUR NAME FOR THE RECORD.

A. JEFFREY DEAN SMITH.

Q. MR. SMITH, CAN YOU TELL THE JURY A LITTLE BIT ABOUT YOURSELF? WHERE ARE YOU FROM?

A. COLUMBIA.

Q. AND HOW FAR DID YOU GO IN SCHOOL?

A. TO THE TENTH.

Q. AND IS YOUR WHOLE FAMILY FROM COLUMBIA?

A. YES, MA'AM.

Q. WHAT PART OF COLUMBIA ARE Y'ALL FROM?

A. FAIRFIELD ROAD.

Q. FAIRFIELD ROAD?
A. UH-HUH.
Q. AND WHERE DID YOU GO TO SCHOOL COMING UP?
A. EAU CLAIRE.
Q. EAU CLAIRE? AND TELL ME A LITTLE BIT ABOUT YOUR FAMILY. HOW MANY UNCLES AND AUNTS DO YOU HAVE?
A. (WITNESS SHOOK HEAD FROM SIDE TO SIDE.)
Q. WELL, LET ME CUT TO THE CHASE. WHAT I'M TRYING TO DO IS ESTABLISH HOW YOU KNOW THOMAS LEE SMITH, SHORT DOG. TELL THE JURY HOW YOU KNOW HIM.
A. HIS MAMA AND MY MAMA IS SISTERS.
Q. THEY'RE SISTERS?
A. UH-HUH.
Q. OKAY. AND SO YOU ARE FIRST COUSINS---
A. FIRST COUSIN.
Q. ---WITH THOMAS LEE SMITH.
A. UH-HUH.
Q. THE DECEDENT IN THIS CASE.
A. UH-HUH.
Q. OKAY. HOW OLD WAS SHORT DOG?
A. WELL, RIGHT NOW HE WOULD HAVE BEEN 48.
Q. FORTY-EIGHT? WAS HE MARRIED?
A. YES, MA'AM.
Q. DO YOU KNOW HOW LONG?
A. ABOUT TWO OR THREE YEARS BEFORE HE GOT KILLED.

Q. OKAY. AND WHAT DID HE DO FOR A LIVING?
A. HE WAS A PAINTER.
Q. PAINTER?
A. (WITNESS NODDED HEAD UP AND DOWN.)
Q. DID HE LIVE WITH HIS WIFE?
A. YES, MA'AM.
Q. OKAY. SO HE DID NOT LIVE WITH YOU.
A. NO, MA'AM.
Q. WHERE DID YOU LIVE BACK ON THE DAY HE WAS KILLED?
A. AT THE TRAILER.
Q. THE TRAILER? AND IS THAT A TRAILER AT
?
A. YES, MA'AM.
Q. OKAY. AND CAN YOU DESCRIBE FOR THE JURY: WHAT PART OF COLUMBIA IS THAT TRAILER IN?
A. RIGHT OFF OF OFF AMES ROAD.
Q. OKAY. AND WHAT PART OF COLUMBIA? WHAT'S THE BIGGEST ROAD YOU CAN THINK OF THAT LEADS UP TO AMES ROAD?
A. FARROW ROAD.
Q. FARROW ROAD? OKAY. I'M GOING TO SHOW YOU A MAP THAT'S ALREADY BEEN MARKED STATE'S NUMBER 4. DO YOU RECOGNIZE THIS MAP? YOU INDICATED AMES ROAD? DO YOU SEE AMES ROAD?
A. YES, MA'AM.
Q. OKAY. AND DO YOU SEE ?
A. YES, MA'AM.

Q. AND DO YOU SEE YOUR TRAILER?
A. RIGHT THERE AND THAT'S MY SISTER'S HOUSE.
Q. OKAY. DOES THIS ACCURATELY SHOW HOW YOU GOT TO YOUR HOUSE, YOUR TRAILER? THE MAP, DOES IT HELP TO SHOW WHERE THE TRAILER IS?
A. YES, MA'AM.
MS. SHIPLEY: OKAY. YOUR HONOR, WE'D LIKE TO MOVE NUMBER 4 INTO EVIDENCE AT THIS TIME.
MS. DAVIS: WITHOUT OBJECTION, YOUR HONOR.
(STATE'S EXHIBIT 4 WAS RECEIVED IN EVIDENCE.)
BY MS. SHIPLEY:
Q. USING THIS POINTER, SHOW THE JURY WHICH ONE IS YOUR TRAILER.
A. RIGHT HERE.
Q. OKAY. WHO LIVES OVER HERE?
A. MY SISTER IDA.
Q. IDA? OKAY. WHO LIVES OVER HERE?
A. MY SISTER FREDDIE.
Q. FREDDIE? AND YOU LIVE HERE?
A. YES, MA'AM.
Q. WHO WAS STAYING WITH YOU BACK THEN?
A. LEVERN SMITH.
Q. LEVERN? AND WHAT'S LEVERN'S NICKNAME?
A. BONE.
Q. BONE? DO YOU HAVE A NICKNAME?

A. BO.
Q. BO? WHAT ABOUT IDA? DOES SHE HAVE A NICKNAME?
A. I CALL HER SUE.
Q. SUE? OKAY. AND WHAT ABOUT FREDDIE? DOES SHE HAVE A NICKNAME?
A. YES, MA'AM.
Q. WHAT'S HER NICKNAME?
A. FREEZE-O (PHONETIC).
Q. FREEZE-O? Y'ALL ARE FAMILY THOUGH; RIGHT?
A. YES, MA'AM.
Q. SO THE ENTIRE SMITH FAMILY LIVES ON .
A. YES, MA'AM.
Q. YOUR COUSINS AND SISTERS.
A. (WITNESS NODDED HEAD UP AND DOWN.)
Q. NOW, BACK ON -- I'M GOING TO GO AHEAD AND BRING YOUR ATTENTION TO FEBRUARY 15TH, 2007. OKAY?
A. YES, MA'AM.
Q. DO YOU EVEN KNOW THAT MAN, JOEL ROBINSON?
A. I DIDN'T KNOW HIM THEN.
Q. OKAY. SO I'M ASKING ON -- BEFORE FEBRUARY 15TH, 2007, HAD YOU EVER MET HIM BEFORE?
A. NO, MA'AM.
Q. OKAY. TELL THE JURY HOW IT IS THE VERY FIRST TIME YOU SAW HIM.
A. HE COME BY.

Q. AND WHAT TIME DID HE COME BY?
A. ABOUT 9:00 THAT MORNING LOOKING FOR HIM.
Q. LOOKING FOR WHO?
A. SHORT DOG.
Q. OKAY. AND THAT'S THOMAS SMITH, SHORT DOG.
A. YES, MA'AM.
Q. WHAT -- AND BY THE WAY, WHY DID Y'ALL CALL HIM SHORT DOG?
A. BECAUSE HE WAS SHORT.
Q. HE WAS SHORT?
A. UH-HUH.
Q. OKAY. NOW, DID MR. ROBINSON INDICATE WHY HE WAS LOOKING FOR SHORT DOG?
A. NO, MA'AM.
Q. DID HE ASK FOR SHORT DOG OR FOR THOMAS SMITH? WHAT NAME DID HE USE?
A. HE ASKED FOR SHORT.
Q. SHORT. HE JUST SAID SHORT?
A. UH-HUH. UH-HUH.
Q. OKAY. AND AT THAT POINT WAS YOUR COUSIN WITH YOU?
A. EXCUSE ME?
Q. WAS SHORT WITH YOU?
A. NO, MA'AM.
Q. HE WAS NOT THERE.
A. NO, MA'AM.

Q. OKAY. HE WAS WORKING, I ASSUME?
A. HE WAS WORKING.
Q. ALL RIGHT. AND, AGAIN, DO YOU REMEMBER WHAT DAY OF THE WEEK FEBRUARY 15TH, 2007, FELL ON?
A. THURSDAY?
Q. A THURSDAY? OKAY. AND SO THAT THURSDAY SHORT WAS NOT IN YOUR HOME?
A. NOT AT THE TIME.
Q. NOT AT THAT TIME. NOW, HOW LONG DID THIS CONVERSATION WITH MR. ROBINSON LAST AT 9 A.M. IN THE MORNING WHEN HE'S ASKING FOR SHORT DOG?
A. ABOUT ONE OR TWO MINUTES.
Q. OKAY. DO YOU REMEMBER SAYING EARLIER IN A DIFFERENT HEARING THAT IT MIGHT HAVE BEEN SECONDS?
A. YES, MA'AM.
Q. ALL RIGHT. WERE YOU LOOKING AT YOUR WATCH, TAKING THE TIME?
A. NO, MA'AM.
Q. OKAY. SO ARE YOU JUST GUESSING AS TO HOW LONG IT TOOK?
A. YES, MA'AM.
Q. IT WAS A SHORT PERIOD OF TIME?
A. YES, MA'AM.
Q. TELL THE JURY WHAT, IF ANYTHING, HE SAID TO YOU WHEN YOU TOLD HIM THAT SHORT WAS NOT THERE?
A. HE JUST LEFT.

Q. HE JUST LEFT?
A. YES, MA'AM.
Q. DID YOU SEE HOW HE LEFT?
A. IN HIS CAR.
Q. WHAT KIND OF CAR DID YOU SEE HIM DRIVING?
A. I KNOW IT WAS -- I THINK IT WAS BLUE OR GREEN.
Q. OKAY. AND ARE YOU SURE ABOUT THAT OR YOU JUST THINK SO?
A. I'M THINKING THAT'S THE COLOR IT WAS.
Q. OKAY. WAS IT A LIGHT OR DARK COLOR?
A. IT WAS LIKE A LIGHT COLOR.
Q. A LIGHT COLOR? DO YOU REMEMBER THE MARK -- THE MAKE OR MODEL OF THE CAR?
A. NO, MA'AM.
Q. OKAY. DID YOU GET A TAG NUMBER OFF THE CAR?
A. NO, MA'AM.
Q. OKAY. SO AFTER HE GOT IN HIS CAR AND LEFT, THAT WAS IT?
A. HE NEVER GOT OUT OF HIS CAR.
Q. OH, HE NEVER GOT OUT OF HIS CAR.
A. NO.
Q. OKAY. WHERE DID YOU ENCOUNTER HIM?
A. I MEAN, I WAS WALKING ACROSS TO MY TRAILER. THEY PULL IN AND CIRCLE AROUND AND ASK ME, AND I TOLD HIM, NO, HE WAS WORKING AND THEY WENT ON.
Q. OKAY. SO YOU WERE ACTUALLY IN THIS PARKING AREA THE FIRST TIME.

A. YES, MA'AM.
Q. OKAY. WALKING HOME?
A. YES, MA'AM.
Q. OKAY. AND IT WAS SOMEWHERE IN THIS PARKING LOT?
A. YES, MA'AM.
Q. OKAY. SO THAT WAS ABOUT 9:00. IS THAT CORRECT?
A. YES, MA'AM, THAT MORNING.
Q. TELL THE JURY WHEN IS THE NEXT TIME YOU SAW MR. ROBINSON.
A. ABOUT 1:00.
Q. AND, AGAIN, WHERE WERE YOU AROUND THAT TIME?
A. IN THE -- IN THE SAME OLD AREA.
Q. OKAY. WERE YOU INSIDE YOUR TRAILER WHEN HE CAME THE SECOND TIME?
A. NO, MA'AM.
Q. ALL RIGHT. WHERE IS IT THAT YOU ENCOUNTERED HIM THE SECOND TIME?
A. IN THE SAME OLD AREA IN THE -- IN THE LITTLE CIRCLE.
Q. IN THE CIRCLE, IN THE PARKING LOT?
A. YES, MA'AM.
Q. OKAY. NOW, HOW LONG DO YOU THINK YOU HAD A CONVERSATION WITH MR. ROBINSON THIS TIME, THE SECOND TIME AT 1:00 ON THE 15TH?
A. ABOUT FIVE SECONDS. FIVE OR SIX SECONDS.
Q. OKAY. NOW, DO YOU REMEMBER WHAT, IF ANYTHING, DID HE

ASK YOU ABOUT?

A. ASKED IF SHORT EVER CAME IN.

Q. OKAY. AND WHAT DID YOU TELL HIM?

A. NO.

Q. NO? ALL RIGHT. AND SO AT THAT POINT DID HE STAY MUCH LONGER OR DID HE LEAVE?

A. NO, MA'AM, HE LEFT.

Q. AND, AGAIN, WERE YOU PAYING ATTENTION TO YOUR WATCH WHEN YOU WERE TALKING TO HIM?

A. NO, MA'AM.

Q. AND FOCUSING ON HOW MUCH TIME THIS CONVERSATION LASTED?

A. NO, MA'AM.

Q. OKAY. AND THAT WAS AT 1:00. THE NEXT TIME -- TELL THIS JURY: WHEN IS THE NEXT TIME THAT YOU SEE MR. ROBINSON?

A. ABOUT 9:00 THAT NIGHT.

Q. OKAY. WAS SHORT DOG AT YOUR HOME AT THIS POINT?

A. YES, MA'AM.

Q. WHAT TIME DO YOU THINK IT WAS THAT SHORT DOG CAME OVER?

A. I'D SAY HE GOT THERE AROUND ABOUT A QUARTER 'TIL 9.

Q. OKAY. SO HE WASN'T THERE LONG.

A. HUH-UH.

Q. AND WHO ELSE WAS IN THE TRAILER AT THIS POINT?

A. ME AND LEVERN.

Q. LEVERN SMITH?

A. UH-HUH.

Q. WHO YOU CALL BONE?
A. UH-HUH.
Q. OKAY. WHO ELSE?
A. AND EDWINA.
Q. EDWINA? DOES SHE HAVE A NICKNAME?
A. I DON'T KNOW.
Q. OKAY. AND THEN ANYONE ELSE?
A. THE GIRL, COURTNEY. SHE WAS THERE.
Q. OKAY. AND WHO IS COURTNEY?
A. A FRIEND OF MINE.
Q. DO YOU KNOW HER LAST NAME?
A. NO, MA'AM.
Q. OKAY. NOW, YOU INDICATED THAT YOU WERE IN YOUR TRAILER AT THIS POINT AT NIGHT WITH YOUR COUSIN; CORRECT?
A. YES, MA'AM.
Q. I'M GOING TO SHOW YOU A DIAGRAM AND ASK YOU IF YOU RECOGNIZE IT. DO YOU RECOGNIZE THIS DIAGRAM?
A. YES, MA'AM.
Q. AND DOES THAT ACCURATELY SHOW THE LAYOUT OF YOUR TRAILER?
A. YES, MA'AM.
MS. SHIPLEY: YOUR HONOR, AT THIS TIME WE'D MOVE NUMBER 5 INTO EVIDENCE.
MS. DAVIS: WITHOUT OBJECTION, YOUR HONOR.
THE COURT: THANK YOU. SO ADMITTED.

(STATE'S EXHIBIT 5 WAS RECEIVED IN EVIDENCE.)

BY MS. SHIPLEY:

Q. USING THAT POINTER, SHOW -- KIND OF EXPLAIN TO THE JURY WHERE EVERYBODY LIVED AND STAYED AT. WHERE WAS LEVERN'S ROOM?

A. HE WAS SLEEPING IN THE FRONT.

Q. IN THE FRONT ROOM?

A. YES, MA'AM.

Q. OKAY. IN A BEDROOM OR IN THE LIVING ROOM?

A. IN THE LIVING ROOM.

Q. OKAY. SO HE WAS JUST CRASHING ON YOUR COUCH?

A. YES, MA'AM.

Q. OKAY. WHERE WAS YOUR ROOM?

A. ALL THE WAY TO THE BACK.

Q. SO THE MASTER BEDROOM IS YOUR ROOM?

A. YES, MA'AM.

Q. OKAY. AND THEN JUST KIND OF SHOW THE JURY WHERE THE KITCHEN AND THE LIVING ROOM IS.

A. OKAY. THIS IS THE KITCHEN.

Q. OKAY.

A. AND THIS WAS THE TABLE.

Q. THAT'S THE TABLE? WHERE IS THE FRONT DOOR? DO YOU SEE THE FRONT DOOR?

A. YES, MA'AM.

Q. OKAY.

A. (THE WITNESS INDICATES.)
Q. AND WHERE IS THE LIVING ROOM?
A. RIGHT THERE.
Q. OKAY. AND SO THAT SOFA -- IS THAT A SOFA RIGHT HERE, THIS THING RIGHT HERE?
A. YES, MA'AM.
Q. OKAY. AND IS THAT THE FRONT DOOR?
A. YES, MA'AM.
Q. ALL RIGHT. NOW, TELL THE JURY WHERE YOU WERE SITTING.
A. THIS IS THE TABLE. I'M SITTING HERE. SHORT DOG IS SITTING HERE.
Q. OKAY. AND WHERE IS EDWINA SITTING OR STANDING?
A. EDWINA WAS DOING THE COOKING AT THE STOVE.
Q. OKAY. IS THAT THE STOVE UP THERE ON THE RIGHT CORNER?
A. YES, MA'AM.
Q. IS THAT IT?
A. YES, MA'AM.
Q. OKAY. TELL THE JURY WHAT HAPPENED. DO YOU RECALL LOOKING OUT THE WINDOW AND HEARING A CAR PULL UP OR ANYTHING?
A. YES, MA'AM.
Q. OKAY. AND WHAT HAPPENED?
A. AND SEE WHO IT WAS.
Q. OKAY. AND WHO WAS IT?
A. MY MAN RIGHT THERE.
Q. OKAY. AND IS HE YOUR MAN OR YOU'RE JUST DESCRIBING HIM?

A. I'M JUST DESCRIBING HIM.
Q. ARE YOU FRIENDS WITH HIM?
A. NO, MA'AM.
Q. OKAY. NOW, DID YOU SEE HIM GET OUT OF HIS CAR WHEN HE PULLED UP?
A. YES, MA'AM.
Q. NOW, TELL THE JURY WHAT, IF ANYTHING, YOU SAID TO SHORT DOG ABOUT THAT -- ABOUT THAT.
A. I TOLD HIM THAT SOMEBODY WAS LOOKING FOR HIM.
Q. OKAY. DID HE -- WHAT NAME DID YOU USE IN DESCRIBING THE PERSON LOOKING FOR HIM?
A. I TOLD SHORT---
Q. OKAY.
A. ---THAT THE FELLOW LOOKING FOR HIM WAS WITH THE BALD HEAD.
Q. OKAY. NOW, DID YOU HAVE A NICKNAME FOR THE FELLOW WITH THE BALD HEAD?
A. RED.
Q. RED. WHY DID YOU CALL HIM RED?
A. BECAUSE HE WAS LIGHT-SKINNED.
Q. AND IS THAT A NAME THAT YOU JUST MADE UP FOR HIM?
A. YES, MA'AM.
Q. OKAY. SO HE DOES NOT GO BY THAT NICKNAME.
A. NO, MA'AM.
Q. YOU GAVE IT TO HIM.

A. YES, MA'AM.
Q. DID SHORT DOG HAVE ANY IDEA WHO YOU WERE TALKING ABOUT WHEN YOU SAID RED WAS LOOKING FOR HIM?
A. NO, MA'AM.
Q. DID HE HAVE ANY IDEA -- DID YOU DESCRIBE THIS PERSON THAT WAS LOOKING FOR HIM TO SHORT DOG?
A. YES, MA'AM.
Q. DID THAT -- DID THAT MAKE ANY SENSE TO HIM?
A. HE STILL DIDN'T KNOW WHO I WAS TALKING ABOUT.
Q. STILL HAD NO IDEA WHO YOU WERE TALKING ABOUT.
A. YES, MA'AM.
Q. AT THAT POINT WHAT HAPPENED NEXT WHEN YOU SEE HIM GET OUT OF THE CAR?
A. HE CAME TO THE -- TO THE -- TO THE DOOR.
Q. OKAY. WHEN HE CAME TO THE DOOR, WHAT HAPPENED?
A. HE PUSHED COURTNEY AND SOME -- SOMEBODY OUT OF THE WAY AND HE CAME IN.
Q. OKAY. AND WHAT HAPPENED WHEN HE CAME INTO THE KITCHEN?
A. SHORT JUMPED UP AFTER HE CAME IN. SHORT SEEN HIM, AND THEY STARTED TUSSLING AND GOING ON, AND THEN WHEN SHORT BEND DOWN, HE SHOT SHORT IN THE BACK TWO TIMES.
Q. OKAY. SO LET ME GET THIS STRAIGHT. YOU SAW HIM COME INTO THE KITCHEN?
A. UH-HUH.
Q. OKAY. WHEN WAS IT THAT YOU SAW THE GUN IN HIS HAND?

A. WHEN HE HAD IT UP IN THE AIR.
Q. OKAY. WAS THAT -- WAS THAT BEFORE OR AFTER SHORT GOT UP?
A. THAT WAS -- THAT'S AFTER THEY STARTED THEIR TUSSLING.
Q. THEY WERE TUSSLING?
A. UH-HUH.
Q. DID SHORT SEE THE GUN BEFORE YOU DID OR WHAT HAPPENED?
A. I DON'T KNOW IF HE SEEN IT BEFORE---
MS. DAVIS: OBJECTION, YOUR HONOR.
MS. SHIPLEY: OKAY. WAIT. DON'T ANSWER.
THE COURT: OKAY. BASIS?
MS. DAVIS: SPECULATION. SHE'S ASKING HIM WHAT THE VICTIM WOULD HAVE SEEN.
THE COURT: OKAY.
MS. SHIPLEY: I'LL MOVE ON TO THE NEXT QUESTION.
THE COURT: THANK YOU. SUSTAINED.
BY MS. SHIPLEY:
Q. ONLY ABOUT WHAT YOU KNOW. SO YOU SEE THEM TUSSLING. IS THAT CORRECT?
A. YES, MA'AM.
Q. WERE ANY WORDS EXCHANGED BETWEEN THE TWO OF THEM?
A. NO, MA'AM.
Q. AND WHY WAS IT THAT SHORT DOG GOT UP AND TUSSLED WITH HIM?
A. BECAUSE HE SEEN HIM COMING IN AND---

MS. DAVIS: OBJECTION, YOUR HONOR. SPECULATION.

MS. SHIPLEY: ALL RIGHT. I'LL ASK HIM ANOTHER QUESTION.

THE COURT: THANK YOU.

BY MS. SHIPLEY:

Q. WHEN WAS IT THAT SHORT DOG GOT UP WHEN HE SAW -- WHEN Y'ALL SEE THE MAN COMING IN?

A. WHEN HE CAME IN, SHORT JUMPED UP, AND HE MUST HAVE POINTED THE GUN OR HE WAS COMING OUT WITH IT. AND THEN THE NEXT THING I SEEN IS THE GUN IN THE AIR AND THEY STARTED TUSSLING.

Q. OKAY. AND SO YOU SEE THE GUN IN THE AIR AND THEN THEY'RE TUSSLING?

A. UH-HUH.

Q. WHERE WAS EDWINA DURING THIS TIME?

A. IN THE KITCHEN COOKING.

Q. OKAY. ARE THERE ANY WAYS TO GET OUT OF THAT KITCHEN? ARE THERE ANY OTHER DOORS TO GET OUT OF THAT?

A. NO, MA'AM, NOT BUT ONE WAY.

Q. ONLY ONE WAY.

A. UH-HUH.

Q. WHERE DID YOU REMAIN DURING THIS ENTIRE INCIDENT?

A. STILL SITTING HERE.

Q. AND WERE YOU PAYING ATTENTION TO WHAT WAS GOING ON?

A. THEM FIGHTING AND TUSSLING, YES, MA'AM.

Q. OKAY.

A. I WAS JUST IN A STATE OF SHOCK. I WAS LIKE---
Q. YOU WERE IN A STATE OF WHAT?
A. IN A STATE OF SHOCK.
Q. IN A STATE OF SHOCK. NOW, YOU INDICATED THAT AT ONE POINT YOU SAW THE DEFENDANT RAISE THE HAND---
A. YES, MA'AM, WITH THE GUN---
Q. ---AND POINT DOWN AND SHOOT---
A. ---AND POINT DOWN AND SHOT HIM IN THE BACK.
Q. HOW MANY TIMES?
A. SHOT HIM TWO TIMES IN THE BACK THE FIRST TIME HE SHOT HIM. HE WAS LIKE RIGHT THERE. THEN HE SHOT HIM AGAIN, AND THAT'S WHEN HE FELL BACK.
Q. AND AFTER HE WAS SHOT THE TWO TIMES, HE FELL DOWN?
A. YES, MA'AM, AND THEN HE STARTED SHOOTING AGAIN AND KEPT SHOOTING.
Q. SO AT THIS POINT SHORT DOG IS DOWN ON THE FLOOR?
A. YES, MA'AM.
Q. AND HE IS STILL SHOOTING?
A. YES, MA'AM.
Q. AND WHAT ABOUT EDWINA? WHERE IS SHE NOW?
A. EDWINA WAS TRYING TO GET OUT OF THE KITCHEN.
Q. SHE WAS TRYING TO GET OUT?
A. UH-HUH.
Q. DID YOU EVER SEE SHORT DOG WITH A GUN?
A. NO, MA'AM.

Q. DID YOU EVER SEE HIM WITH A KNIFE?
A. NO, MA'AM.
Q. DID YOU EVER SEE HIM WITH A BAT?
A. NO, MA'AM.
Q. DID HE HAVE ANY WEAPON ON HIM WHATSOEVER?
A. NO KIND OF WEAPON.
Q. DID YOU HAVE ANYTHING ON YOU?
A. NO, MA'AM.
Q. WHAT ABOUT EDWINA?
A. NO, MA'AM.
Q. DID YOU OBSERVE ANY INJURIES OCCUR ON EDWINA?
A. WELL, SHE GOT SHOT IN THE HIP AND IN THE HAND.
Q. OKAY. TELL THE JURY WHAT HAPPENED ONCE HE FINISHED SHOOTING THE GUN. WHERE DID HE GO?
A. HE WALKED OUT -- BACK OUTSIDE, AND THEN HE WALKED BACK IN AND SHOT HIM IN THE TOP OF HIS HEAD TWO MORE TIMES.
Q. SO HE LEAVES THE KITCHEN, GOES TO THE FRONT DOOR, AND THEN WHAT DOES HE DO?
A. COME BACK IN AND SHOT HIM IN THE HEAD TWO TIMES.
Q. WHAT WAS SHORT DOG DOING?
A. HE WAS ALREADY -- HE WAS ALREADY DEAD THEN.
Q. AND SO THAT -- TELL THE JURY WHICH MAN YOU'RE TALKING ABOUT.
A. THE MAN THAT'S SITTING RIGHT THERE IN THE WHITE SHIRT.
Q. HE CAME BACK AND FIRED TWO MORE SHOTS?

A. YES, MA'AM.
Q. ONCE HE LEFT, WHERE DID -- WHAT HAPPENED NEXT? DO YOU REMEMBER WHAT HAPPENED NEXT?
A. EVERYBODY JUST LEFT OUT OF THE TRAILER.
Q. EVERYONE WAS -- WHERE DID THEY RUN TO?
A. BONE AND THEM RAN TO THE -- TO THE BACK ROOM, AND I RAN OUT THE BACK DOOR AND WENT UP TO MY FRIEND'S HOUSE, AND I GOT ON MY LITTLE TELEPHONE AND I WAS TALKING TO MY FRIEND.
Q. OKAY. WHY DID YOU LEAVE SO QUICKLY?
A. IF I WAS DEAD, I THOUGHT HE MIGHT COME BACK IN THERE TO GET ME, TOO.
Q. NOW, DO YOU REMEMBER THE POLICE ARRIVING ON THE SCENE? AFTER THE SHOOTING, SOMEONE CALLED 9-1-1. CORRECT?
A. YES, MA'AM.
Q. DID THE POLICE COME TO THE SCENE?
A. YES, MA'AM.
Q. ALL RIGHT. WERE YOU STILL THERE WHEN THEY SHOWED UP?
A. YES, MA'AM.
Q. TELL THE JURY HOW MUCH TIME YOU THINK IT WAS BETWEEN THE TIME MR. ROBINSON FINISHED SHOOTING YOUR COUSIN AND THE TIME THEY ARRIVED.
A. THEY CAME IN LIKE FROM SIX TO TEN MINUTES.
Q. OKAY. SO WITHIN TEN MINUTES THEY WERE THERE.
A. UH-HUH.
Q. AND DID YOU GIVE THE POLICE A DESCRIPTION OF WHAT THE

SHOOTER LOOKED LIKE?

A. YES, MA'AM. I TOLD HIM THAT HE WAS -- HE WAS BALD. HE WAS LIGHT-SKINNED AND HE HAS A BALD HEAD, AND THAT'S THE ONLY THING I KNOW.

Q. OKAY. WERE YOU ABLE TO DESCRIBE HOW TALL HE WAS?

A. HE WAS A LITTLE TALLER THAN ME.

Q. OKAY. HOW TALL ARE YOU, SIR?

A. 5'6".

Q. OKAY. AND WHAT ABOUT ANY CLOTHING DESCRIPTION?

A. NO, MA'AM.

Q. DID YOU REMEMBER?

A. NO, MA'AM.

Q. COULDN'T REMEMBER WHAT HE WAS WEARING?

A. NO, MA'AM.

Q. DID YOU HAVE ANY DIFFICULTY IN SEEING HIS FACE DURING THE SHOOTING?

A. YES, MA'AM.

Q. WERE YOU ABLE TO SEE HIS FACE OKAY?

A. I SEEN HIS FACE GOOD.

Q. OKAY. NOW, AFTER YOU GAVE A DESCRIPTION OF THE SHOOTER TO THE POLICE, WHAT HAPPENED NEXT? WERE YOU ASKED TO GO ANYWHERE WITH THE POLICE?

A. NO, MA'AM. THEY TOLD ME WE WERE GOING TO HEADQUARTERS, AND I GOT IN THE CAR WITH THEM.

Q. OKAY. SO YOU WERE ASKED TO GO SOMEWHERE WITH THE

POLICE.

A. YES, MA'AM, TO GO TO HEADQUARTERS.

Q. AND WHAT WERE YOU GOING TO DO AT HEADQUARTERS?

A. GIVE A STATEMENT.

Q. GIVE A STATEMENT?

A. YES, MA'AM.

Q. OKAY. DID THE POLICE EVER HANDCUFF YOU?

A. NO, MA'AM.

Q. DID THEY EVER FRISK YOU?

A. NO, MA'AM.

Q. AT THAT POINT -- AND YOU LET THE POLICE COME IN YOUR HOUSE TO HELP WITH THE SCENE. ISN'T THAT RIGHT?

A. YES, MA'AM.

Q. THAT'S YOUR HOUSE.

A. YES, MA'AM.

Q. WHEN YOU WERE ON THE WAY TO COLUMBIA POLICE HEADQUARTERS, CAN YOU DESCRIBE FOR THE JURY WHAT ROAD YOU AND THE OFFICER WERE TRAVELING?

A. WE WAS ON NORTH MAIN.

Q. NORTH MAIN? AND WHO WAS DRIVING?

A. THE OFFICER.

Q. THE OFFICER IS?

A. UH-HUH.

Q. WHAT'S HE LOOK LIKE?

A. HE WAS BALD. HE HAD A BALD HEAD.

Q. OKAY. AND WHAT -- CAUCASIAN? AFRICAN-AMERICAN?
A. HE WAS A BLACK MAN.
Q. OKAY. AND WHERE WERE YOU SEATED IN HIS CAR?
A. IN THE FRONT SEAT.
Q. OKAY. NOW, TELL THE JURY WHAT WAY HE DROVE TO GO TO HEADQUARTERS FROM YOUR HOUSE ON .
A. HE LEFT -- HE GOT ON AMES ROAD. WE WENT ON PRESCOTT, AND THEN WE GOT ON NORTH MAIN AND WENT DOWN LIKE GOING TOWARDS COLUMBIA COLLEGE, AND RIGHT THERE BY COLUMBIA COLLEGE THAT'S WHERE I SPOTTED HIM.
Q. SO YOU SPOTTED HIM ON---
A. UH-HUH.
Q. ---ON 4800---
A. UH-HUH.
Q. ON -- EXCUSE ME. COLUMBIA COLLEGE?
A. YES, MA'AM.
Q. AND NORTH MAIN?
A. YES, MA'AM.
Q. WHEN YOU SPOTTED HIM, TELL THIS JURY: WHAT DID YOU TELL THE DRIVER OF -- THE OFFICER DRIVING YOU?
A. I TOLD THE OFFICER THAT LOOKED LIKE HIM RIGHT THERE. THAT'S WHEN THE OFFICER TURNED AROUND AND CAME BACK UP. I SAID, "YEAH, THAT'S HIM RIGHT THERE."
Q. SO FIRST YOU SAID THAT LOOKS LIKE HIM, AND YOU'RE THE ONE THAT TELLS THE OFFICER THAT?

A. YES, MA'AM.
Q. THE OFFICER WASN'T ASKING YOU TO LOOK AT HIM.
A. NO, MA'AM. NO, MA'AM.
Q. AND AFTER YOU TOLD THE OFFICER THAT, WHAT DOES HE DO?
A. HE TURNED AROUND AND CAME BACK UP AND PULLED BEHIND THE OTHER TWO OFFICERS' CARS, AND I SAID, "YEAH, THAT'S HIM RIGHT THERE," AND HE TOLD ME TO JUST STAY IN THE CAR.
Q. AND SO DID YOU HAVE ANY DIFFICULTY SEEING THE MAN ON THE STREET WITH THE OFFICERS?
A. YES, MA'AM.
Q. WERE YOU ABLE TO SEE HIS FACE OKAY?
A. YES, MA'AM.
Q. AND IS THAT THE MAN THAT YOU SAW SHOOT---
A. YES, MA'AM.
Q. ---SHORT DOG?
A. YES, MA'AM.
Q. SHOOT THOMAS SMITH?
A. YES, MA'AM.
Q. AND YOU WERE THE -- IT WAS YOU THAT TOLD THE OFFICER WHO IT WAS THAT KILLED SHORT DOG?
A. YES, MA'AM.
Q. TELL THE JURY WHAT HAPPENED AFTER THAT. DID YOU SEE THE OFFICERS DO ANYTHING WITH MR. ROBINSON AFTER YOU IDENTIFIED HIM?
A. THEY SHOOK HIM DOWN, AND THEN THEY PULLED THE GUN OUT

AND THEY LAID THE GUN ON THE BACK OF THE CAR.

Q. SO YOU SAW THEM REMOVE A GUN FROM HIM?

A. YES, MA'AM.

Q. DID YOU SEE ANY OTHER THINGS THEY TOOK OFF OF HIM?

A. NO, MA'AM.

Q. YOU WEREN'T ABLE TO SEE WHAT ELSE THEY GOT?

A. NO, MA'AM.

Q. OKAY. AFTER YOU IDENTIFIED MR. ROBINSON -- AND, SIR, IS THERE ANY QUESTION IN YOUR MIND THAT THAT'S THE MAN? THAT MAN RIGHT THERE IS THE MAN THAT KILLED THOMAS---

A. YES, MA'AM. THAT'S THE MAN RIGHT THERE.

Q. THAT'S THE MAN?

A. A HUNDRED PERCENT THAT'S THE MAN.

Q. OKAY. DID YOU GO TO HEADQUARTERS AFTER THIS?

A. YES, MA'AM.

Q. DID YOU GIVE THE POLICE A STATEMENT?

A. YES, MA'AM.

Q. AND IN YOUR STATEMENT TO THE POLICE -- SIR, CAN YOU READ OR WRITE?

A. NO, MA'AM.

Q. NO? OKAY. BUT YOU TOLD THE POLICE WHAT YOU KNEW.

A. YES, MA'AM.

Q. AND DID YOU PROVIDE A STATEMENT TO THE POLICE?

A. YES, MA'AM, BECAUSE THAT'S MY HAND...

Q. YOU CAN SIGN?

A. UH-HUH.
Q. OKAY. SO HOW MANY PAGES DO YOU SEE HERE?
A. TWO.
Q. TWO PAGES? AND IS THAT EVERYTHING YOU TOLD THE POLICE THAT NIGHT?
A. YES, MA'AM.
Q. OKAY. DID YOU REMEMBER TO TELL THE POLICE ABOUT THE TIME HE SHOWED UP AT 9 A.M. OR AT 1 P.M.?
A. NO, MA'AM, I CAN'T REMEMBER THAT.
Q. OKAY. SO YOU DIDN'T REMEMBER TO SAY THAT IN YOUR STATEMENT---
A. YES, MA'AM.
Q. ---BUT YOU TOLD THEM THAT THAT WAS THE GUY.
A. YES, MA'AM.
Q. AFTER HE FINISHED FIRING AT THOMAS SMITH, YOUR FIRST COUSIN IN THE KITCHEN, DID YOU HEAR ANY MORE SHOTS COMING FROM OUTSIDE?
A. YES, MA'AM.
Q. TELL THE JURY A LITTLE BIT ABOUT HOW MUCH TIME YOU THINK PASSED---
A. OKAY.
Q. ---BETWEEN THE TIME HE SHOT THOMAS LEE SMITH AND THE TIME YOU HEARD SHOTS AGAIN.
A. OKAY. I WAS COMING -- I'M GOING TO TELL YOU HOW IT WAS. I WAS COMING DOWN FROM MY FRIEND'S HOUSE, AND I HEARD SOME

MORE SHOTS. THEN WE -- HE WAS IN HIS CAR AND HE GOT AN A-K, AND HE SHOT BACK AT MY SISTER'S HOUSE. WHERE IS THE THING?

Q. OKAY. WELL, DID YOU SEE WHAT KIND OF GUN IT WAS, SIR? COULD YOU SEE IT FROM THAT DISTANCE?

A. THAT WAS AN A-K.

Q. OKAY. DID YOU SEE HIM SHOOT THIS GUN---

A. YES, MA'AM.

Q. ---AT YOUR SISTER'S HOUSE?

A. YES, MA'AM.

Q. OKAY. AND WAS HE ABLE TO GET AWAY IN HIS CAR?

A. NO, MA'AM.

Q. AND AFTER THAT, THE NEXT TIME YOU SEE HIM -- ONCE HE'S FINISHED SHOOTING YOUR SISTER'S HOUSE, FREDDIE'S HOUSE, WHEN IS THE NEXT TIME YOU SEE HIM?

A. WHEN HE WAS WALKING OFF.

Q. OKAY. AND THEN HE WALKS OFF FROM THE SCENE?

A. YES, MA'AM.

Q. AND THEN AFTER THAT WHEN IS THE NEXT TIME YOU SEE HIM AGAIN?

A. WHEN I ARRIVE WITH THE POLICE.

Q. WITH THE POLICE OFFICER? OKAY. NOW, DO THEY CALL YOUR NEIGHBORHOOD THE HOLE? IS THAT WHAT THE PEOPLE CALL IT IN THE NEIGHBORHOOD?

A. YES, MA'AM, BECAUSE IT'S A LITTLE CIRCLE. THEY CALL IT THE HOLE.

Q. THE HOLE. OKAY. AND YOU'VE BEEN IN TROUBLE WITH THE LAW IN YOUR PAST; RIGHT?

A. YES, MA'AM.

Q. BACK IN '93 YOU WERE CONVICTED OF ASSAULT AND BATTERY OF A HIGH AND AGGRAVATED NATURE AND GRAND LARCENY OF A VEHICLE; CORRECT?

A. YES, MA'AM.

Q. AND NOW HOW OLD ARE YOU NOW?

A. FORTY-EIGHT.

Q. FORTY-EIGHT? SO THE SAME AGE OF SHORT DOG?

A. YES, MA'AM.

Q. AND THERE IS A PENDING CHARGE FOR POSSESSION OF COCAINE FROM A RECENT ARREST. IS THAT CORRECT?

A. NO, MA'AM. I DONE DID THE TIME FOR IT.

Q. YOU DID THE TIME ALREADY?

A. YES, MA'AM.

Q. ARE YOU AWARE OF ANY PENDING CHARGES?

A. NO, MA'AM. I DON'T HAVE NO PENDING CHARGES.

Q. HAS ANYONE FROM LAW ENFORCEMENT PROMISED YOU ANYTHING TO GET YOU TO TESTIFY?

A. NO, MA'AM.

Q. DO YOU REMEMBER HOW MUCH TIME HAD PASSED FROM THE TIME THAT YOU WITNESSED YOUR COUSIN GET SHOT IN THE KITCHEN TO THE TIME THAT YOU WERE ON THE STREET WITH THE OFFICER AND POINTING HIM OUT TO THE OFFICER?

A. ABOUT TWO HOURS AND A HALF.
Q. TWO HOURS AND A HALF?
A. (WITNESS NODDED HEAD UP AND DOWN.)
Q. OKAY. WAS HIS FACE STILL FRESH IN YOUR MIND?
A. THE OFFICER?
Q. NO, THE MAN THAT SHOT YOUR COUSIN.
A. YES, MA'AM.
Q. OKAY. AND DO YOU -- AGAIN, DO YOU SEE THAT FACE IN THIS COURTROOM?
A. YES, MA'AM.
Q. AND ONE LAST TIME, POINT HIM OUT FOR THE JURY.
A. RIGHT THERE.
Q. LET THE RECORD REFLECT, YOUR HONOR, THAT HE'S IDENTIFIED THE DEFENDANT. WHAT COLOR SHIRT IS HE WEARING?
A. WHITE.
Q. THE DEFENDANT, MR. ROBINSON.

THE COURT: OKAY.

MS. SHIPLEY: NO FURTHER QUESTIONS.

THE COURT: THANK YOU. DEFENSE?

MS. DAVIS: THANK YOU, YOUR HONOR. MAY IT PLEASE THE COURT?

CROSS-EXAMINATION

BY MS. DAVIS:

Q. HOW ARE YOU DOING, JEFFREY?
A. ALL RIGHT.

Q. ARE YOU ALL RIGHT?
A. (WITNESS NODDED HEAD UP AND DOWN.)
Q. SHORT DOG HUNG OUT AT THAT TRAILER A LOT THOUGH; RIGHT?
A. NO, MA'AM.
Q. HE DIDN'T?
A. NO, MA'AM.
Q. HE WASN'T THERE VERY OFTEN AT ALL?
A. HE WOULD COME THROUGH WHEN HE GET OFF FROM WORK.
Q. OH, OKAY. SO HE WAS THERE AT NIGHTTIME.
A. YES, MA'AM.
Q. OKAY. SO MOST NIGHTS OUT OF A WEEK HE WAS HANGING OUT THERE.
A. (WITNESS NODDED HEAD UP AND DOWN.)
Q. YEAH?
A. YES, MA'AM.
Q. OKAY. BUT HE DIDN'T LIVE WITH YOU?
A. NO, MA'AM.
Q. WERE YOU RENTING THIS TRAILER OR DO YOU OWN THIS TRAILER?
A. I WAS RENTING IT.
Q. YOU RENT IT? OKAY. AND BONE OR LEVERN WAS LIVING THERE WITH YOU?
A. YES, MA'AM.
Q. OKAY. DO YOU KNOW SHORT DOG'S SON, COREY?
A. YES, MA'AM.

Q. DO YOU KNOW HIM?
A. YES, MA'AM.
Q. DID ANYONE SELL DRUGS OUT OF THIS TRAILER?
A. NO, MA'AM.
Q. NO ONE?
A. NO, MA'AM.
Q. DID ANYONE USE DRUGS?
A. YES, MA'AM.
Q. YEAH?
A. ME.
Q. YOU?
A. AND I'M GOING TO TELL YOU THE TRUTH. YEAH, ME.
Q. OKAY. DID SHORT DOG?
A. NO, MA'AM.
Q. NO?
A. NO, MA'AM.
Q. YOU ALL WERE HOME THAT NIGHT; RIGHT?
A. YES, MA'AM.
Q. THERE WAS A LOT OF PEOPLE THAT HAD BEEN OVER THAT DAY; RIGHT?
A. NO, MA'AM. NOBODY WAS THERE BUT ME, LEVERN, COURTNEY, AND ALL OF HER FRIENDS.
Q. RIGHT. AT THE TIME OF THE INCIDENT -- AT THE TIME OF THE INCIDENT, YOU GUYS WERE THERE. RIGHT?
A. YES, MA'AM.

Q. EARLIER IN THE DAY PEOPLE HAD BEEN COMING AND GOING.
A. NO, MA'AM.
Q. NO ONE ELSE?
A. NO, MA'AM.
Q. NO ONE CAME TO VISIT YOU AT ALL THAT DAY?
A. NO, MA'AM.
Q. YOUR SISTER LIVES NEXT DOOR?
A. YES, MA'AM.
Q. ACTUALLY BOTH SISTERS; RIGHT?
A. UH-HUH.
Q. NEITHER ONE OF THEM CAME OVER THAT DAY?
A. NO, MA'AM. THEY DO NOT COME TO MY TRAILER.
Q. THEY DON'T COME THERE?
A. NO, MA'AM.
Q. I THINK YOU SAID YOU GO BY A NICKNAME. WHAT WAS YOUR NICKNAME?
A. BO.
Q. BO?
A. YES, MA'AM.
Q. OKAY. BUT LEVERN GOES BY BONE.
A. YES, MA'AM.
Q. RIGHT? OKAY. A LOT OF PEOPLE IN THAT NEIGHBORHOOD GO BY A NICKNAME; RIGHT?
A. I COULDN'T ANSWER THAT.
Q. YOU DON'T KNOW?

A. NO, MA'AM.
Q. ALL RIGHT. WELL, SHORT DOG -- HE HAD A NICKNAME; RIGHT?
A. SHORT DOG.
Q. YEAH. YOU HAD A NICKNAME?
A. BO.
Q. YEAH. LEVERN SMITH'S GOT A NICKNAME.
A. BONE.
Q. SO A LOT OF YOUR FRIENDS OR FAMILY HAVE NICKNAMES; RIGHT?
A. YES, MA'AM.
Q. OKAY. WOULD IT BE FAIR TO SAY THAT YOU COULD KNOW SOMEONE FOR A WHILE AND NOT REALLY KNOW THEIR NAME, THEIR REAL NAME I MEAN?
A. UH-HUH.
Q. YOU MIGHT JUST KNOW THEM BY A NICKNAME?
A. UH-HUH.
Q. AND SO YOU SAID THAT SHORT DOG IS YOUR COUSIN; RIGHT?
A. FIRST COUSIN.
Q. FIRST COUSIN. SO WAS HE THERE EVERY NIGHT AFTER WORK?
A. NO, MA'AM.
Q. OKAY. JUST SOMETIMES.
A. YES, MA'AM.
Q. AND THIS IS -- I THINK YOU SAID YOU THOUGHT IT MIGHT HAVE BEEN -- IT WAS A THURSDAY NIGHT---
A. YES, MA'AM.

Q. ---WHEN THIS HAPPENED? AROUND 10:00 OR SO?
A. ABOUT 9 SOMETHING.
Q. ABOUT 9 SOMETHING. WERE Y'ALL DRINKING IN THERE?
A. NO, MA'AM, WE DO NOT DRINK.
Q. NO ONE WAS DRINKING?
A. NO, MA'AM.
Q. ANYONE USING DRUGS THAT NIGHT?
A. NO, MA'AM, NOBODY BUT ME.
Q. NO ONE BUT YOU. HOW LONG HAD SHORT BEEN AT YOUR HOUSE BEFORE THIS HAPPENED?
A. ABOUT 15 MINUTES.
Q. ONLY 15 MINUTES?
A. UH-HUH.
Q. YOU SAID THAT YOU -- WELL, YOU ACTUALLY SAID THAT SOMEONE THAT YOU CALLED RED, WHICH IS JOEL -- YOU SAID HE CAME BY TWO TIMES EARLIER IN THAT DAY?
A. HE CAME TWO...
Q. DID YOU TELL THE POLICE THAT?
A. YEAH, I TOLD THEM.
Q. YOU DID?
A. (WITNESS NODDED HEAD UP AND DOWN.)
Q. DID YOU PUT THAT IN YOUR STATEMENT TO POLICE?
A. THAT HE HAD BEEN THROUGH THERE LOOKING FOR HIM?
Q. UH-HUH.
A. I DON'T -- I DON'T REALLY RECALL.

Q. WELL, WOULD IT SURPRISE YOU IF IT WASN'T IN THERE?
A. NO, MA'AM.
Q. WOULDN'T SURPRISE YOU? AND YOU'D NEVER SEEN JOEL BEFORE THAT DAY; RIGHT?
A. NO, MA'AM.
Q. ALL RIGHT. SO YOU CALLED HIM RED, BUT YOU KIND OF MADE THAT UP.
A. BECAUSE HE WAS LIGHT-SKINNED AND MOST PEOPLE WOULD CALL PEOPLE RED.
Q. MORE PEOPLE CALL?
A. IF YOU'RE LIGHT LIKE THAT, PEOPLE---
Q. OH, OKAY.
A. YEAH.
Q. OKAY. YOU SAID YOU SAW JOEL DRIVE UP.
A. UH-HUH.
Q. AND HE CAME IN THE HOUSE.
A. NO, HE DIDN'T COME IN THE HOUSE, MA'AM.
Q. HE DIDN'T COME IN THE HOUSE.
A. NO, MA'AM, NOT AT THE TIME. WHEN HE DROVE UP THAT MORNING, I TALKED TO HIM.
Q. OH, HE WAS STILL IN THE CAR.
A. YES, MA'AM.
Q. AND THEN AT 1:00 HE CAME BACK.
A. YES, MA'AM.
Q. AND WHAT WAS---

A. AND THEN THAT NIGHT, THAT'S WHEN HE -- THAT'S WHEN HE CAME IN.
Q. AND AT 9 A.M. AND 1 P.M. HE ASKED, "WHERE IS SHORT?"
A. YES, MA'AM.
Q. AND THEN HE LEFT.
A. YES, MA'AM.
Q. HE DIDN'T ASK YOU TO HELP HIM FIND SHORT?
A. NO, MA'AM.
Q. HE DIDN'T, AS FAR AS YOU KNOW, GO TO ANYONE ELSE'S HOUSE LOOKING FOR HIM.
A. NO, MA'AM.
Q. SO HE JUST SAID, "ALL RIGHT. HE'S NOT HERE," AND LEFT.
A. YES, MA'AM.
Q. BUT YOU'RE NOT SURE YOU TOLD ANYBODY ELSE THAT HE HAD BEEN THERE EARLIER.
A. NOBODY BUT MY SISTER AND THEM.
Q. JUST YOUR SISTER. ALL RIGHT. WELL, THE NIGHT OF THIS INCIDENT, HE COMES IN THE HOUSE. RIGHT?
A. YES, MA'AM.
Q. AND THERE'S A STRUGGLE. THERE'S A FIGHT?
A. THEY WAS JUST TUSSLING.
Q. YEAH, THEY WERE TUSSLING. THAT'S LIKE FIGHTING; RIGHT?
A. UH-HUH.
Q. THEY'RE STRUGGLING BACK AND FORTH?
A. YES, MA'AM.

Q. AND AFTER THE STRUGGLE, THAT'S WHEN YOU SAW A GUN. RIGHT?
A. YES, MA'AM.
Q. SO IT WASN'T 'TIL THEY STARTED FIGHTING EACH OTHER THAT YOU SAW THAT. RIGHT?
A. YES, MA'AM.
Q. OKAY. AND AFTER THE INCIDENT AND AFTER HE HAD LEFT THE HOUSE, DID YOU CALL 9-1-1?
A. NO, MA'AM. I DIDN'T CALL; MY SISTER CALLED.
Q. OKAY. DID YOU -- YOU KNEW THAT THOUGH?
A. YES, MA'AM, AFTER SHE TOLD ME.
Q. OKAY. SO AT THE TIME -- YOU DIDN'T CALL 9-1-1. YOU DIDN'T KNOW WHO HAD CALLED.
A. I DIDN'T CALL.
Q. OKAY. YOU DIDN'T CALL 9-1-1. AND I THINK YOU SAID THAT WHEN HE WAS LEAVING THAT HE SHOT SOMEONE WITH AN A-K OR SHOT WITH AN A-K?
A. HE SHOT AT MY SISTER'S HOUSE WITH AN A-K.
Q. WITH AN AK-47?
A. YES, MA'AM.
Q. ARE YOU SURE?
A. YES, MA'AM.
Q. I JUST WANT TO BE CLEAR ON THIS. THE PERSON YOU CALLED RED CAME IN THE HOUSE; RIGHT?
A. YES, MA'AM.

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Q. THAT NIGHT.
A. YES, MA'AM.
Q. THEY STARTED FIGHTING.
A. THEY STARTED TUSSLING.
Q. OKAY. THEN YOU SAW THE GUN.
A. YES, MA'AM.
Q. BEG THE COURT'S INDULGENCE. AND, JEFFREY, YOU WENT THROUGH THE SOLICITOR WITH THIS A LITTLE BIT, BUT YOU HAVE BEEN IN TROUBLE BEFORE.
A. YES, MA'AM.
Q. YOU ACTUALLY HAVE -- WELL, YOU SAID YOU DON'T. YOU DON'T HAVE ANY PENDING CHARGES RIGHT NOW?
A. NO, MA'AM.
Q. YOU DON'T HAVE -- YOU HAVE A FAILURE TO APPEAR FOR A POSSESSION OF CRACK CHARGE?
A. NO, MA'AM. I DONE DID TIME FOR IT.
Q. YOU DON'T HAVE A BENCH WARRANT FOR THAT.
A. NO, MA'AM.
Q. YOU DIDN'T FAIL TO APPEAR ON OCTOBER 30TH OF 2008 FOR A POSSESSION OF CRACK CHARGE.
A. UH-HUH. AND THEN I WENT AND THEN THEY CAME AND GOT ME AND I WENT TO COURT FOR IT, AND I DID THE TIME FOR IT.

MS. DAVIS: OKAY. NOTHING FURTHER, YOUR HONOR.

THE COURT: OKAY.

MS. SHIPLEY: NO FURTHER QUESTIONS.

THE COURT: SIR, YOU CAN STEP DOWN AND BE EXCUSED. THANK YOU FOR COMING. STATE, NEXT WITNESS.

MS. SHIPLEY: THE STATE CALLS LEVERN SMITH.

LEVERN SMITH, AFTER BEING DULY SWORN, TESTIFIED AS FOLLOWS:

THE CLERK: HAVE A SEAT AND STATE YOUR FULL NAME FOR THE RECORD, PLEASE.

THE WITNESS: MY NAME IS LEVERN SMITH.

DIRECT EXAMINATION

BY MS. SHIPLEY:

Q. MR. SMITH, PLEASE STATE YOUR NAME FOR THE RECORD.

A. LEVERN SMITH.

Q. LEVERN SMITH. OH, YOU DID THAT ALREADY. MY APOLOGIES. I'M GOING TO GET YOU TO HOLD THIS POINTER FOR ME, OKAY, BECAUSE YOU'RE GOING TO BE USING IT IN A SECOND. MR. SMITH, CAN YOU PLEASE TELL THE JURY A LITTLE BIT ABOUT YOURSELF? WHERE ARE YOU FROM?

A. COLUMBIA.

Q. COLUMBIA? AND YOU'VE BEEN HERE -- YOU WERE BORN AND RAISED?

A. YES, MA'AM.

Q. AND ARE YOU RELATED TO JEFF SMITH?

A. YES, MA'AM.

Q. HOW ARE Y'ALL RELATED?

A. COUSINS.

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Q. FIRST COUSINS?
A. FIRST, SECOND. SECOND COUSIN, I BELIEVE.
Q. OKAY. WHAT ABOUT THOMAS SMITH, SHORT DOG?
A. SECOND.
Q. SECOND COUSIN?
A. (WITNESS NODDED HEAD UP AND DOWN.)
Q. AND SO HOW ARE Y'ALL RELATED?
A. I DON'T KNOW.
Q. YOUR MOTHERS MUST BE RELATED? COUSINS OR SOMETHING?
A. YEAH.
Q. OKAY. DID Y'ALL GROW UP TOGETHER?
A. BASICALLY, YEAH.
Q. ARE YOU AROUND THE SAME AGE AS THOMAS SMITH WOULD HAVE BEEN?
A. NO.
Q. HOW OLD ARE YOU?
A. FORTY-FIVE.
Q. FORTY-FIVE? OKAY. I'M GOING TO BRING YOUR ATTENTION TO FEBRUARY 15TH, 2007. CAN YOU TELL THE JURY WHO YOU WERE LIVING WITH BACK THEN?
A. JEFF SMITH.
Q. OKAY. IS THAT THE ADDRESS?
A. YES, MA'AM.
Q. AND HOW LONG HAD YOU BEEN LIVING THERE?
A. A YEAR AND A HALF OR TWO.

Q. I'M SORRY?
A. ABOUT A YEAR AND A HALF.
Q. OKAY. AND WERE YOU STAYING ON THE COUCH ALL THAT TIME?
A. YES, MA'AM.
Q. YOU DIDN'T HAVE YOUR OWN BEDROOM?
A. NO, MA'AM.
Q. NOW, BACK ON FEBRUARY 15TH, 2007, DO YOU RECALL BEING AT THE HOUSE THAT NIGHT?
A. YES, MA'AM.
Q. AND WHERE -- ON THAT DIAGRAM SHOW THE JURY WHERE YOU WERE SITTING---
A. ON THE COUCH.
Q. ---WHEN SOMEONE CAME IN.
A. ON THE COUCH.
Q. OKAY. AND SO YOU WERE SITTING OVER HERE ON THIS SIDE? AM I POINTING TO THE DIRECTION---
A. YES, MA'AM.
Q. OKAY. SO YOU WERE SITTING HERE. NOW, TELL THE JURY WHAT EXACTLY BROUGHT -- MADE YOU NOTICE SOMETHING DIFFERENT. WHAT HAPPENED DIFFERENTLY THIS NIGHT?
A. WELL, WHEN HE WALKED IN---
Q. YES, SIR.
A. ---I WAS SITTING ON THE COUCH WATCHING T.V. HE WALKED IN. I CAN'T MISS HIM. HE WENT STRAIGHT TO THE KITCHEN TOWARDS SHORT DOG. HE JUST STARTED SHOOTING.

Q. OKAY. NOW, WHEN HE FIRST WALKED IN, TELL THE JURY WHAT, IF ANYTHING, YOU WERE ABLE TO SEE ABOUT THIS PERSON. WHAT DID THEY LOOK LIKE?

A. WHO? THE DEFENDANT?

Q. YES. YES, SIR.

A. LIGHT-SKINNED.

Q. UH-HUH.

A. BALD HEAD.

Q. BALD HEAD? OKAY. WHAT ABOUT HEIGHT?

A. HE LOOKED TALLER THAN I AM.

Q. OKAY. AND HOW TALL ARE YOU?

A. FIVE-EIGHT AND A HALF.

Q. OKAY. CAN YOU STAND UP FOR THIS JURY AND JUST SHOW THEM HOW MUCH TALLER YOU THINK HE WAS THAN YOU?

A. HE WAS AROUND THERE.

Q. OKAY. ALL RIGHT. NOW, WHEN YOU SAW HIM, DID HE COME IN THROUGH THE FRONT DOOR OF THE TRAILER?

A. YES, MA'AM.

Q. AND IS THAT THE FRONT DOOR RIGHT HERE?

A. YES, MA'AM.

Q. AND SO YOU'RE RIGHT THERE.

A. ON THE COUCH.

Q. AND WHAT, IF ANYTHING, DID YOU SEE IN HIS HANDS?

A. I DIDN'T SEE IT 'TIL HE GOT IN THE KITCHEN AND STARTED PULLING IT OUT AND SHOOTING SHORT DOG.

Q. SO YOU DIDN'T SEE HIM PULL OUT THE GUN UNTIL HE GOT IN THE KITCHEN?
A. EXACTLY.
Q. OKAY. AND DID SHORT DOG HAVE ANY WEAPONS ON HIM?
A. NO.
Q. WHERE WAS SHORT DOG WHEN YOU SAW HIM AND THE DEFENDANT? WHERE WERE THEY IN THE KITCHEN?
A. STANDING UP IN THE KITCHEN BY THE STOVE.
Q. BY THE STOVE?
A. (WITNESS NODDED HEAD UP AND DOWN.)
Q. SO SHORT DOG WAS STANDING WHEN YOU SAW THE MAN WITH THE GUN COME IN?
A. UH-HUH.
Q. HAD YOU EVER SEEN THE MAN WITH THE GUN BEFORE THAT NIGHT?
A. NO, MA'AM.
Q. NOW, WHAT EXACTLY HAPPENED ONCE -- WAS THE GUN -- DO YOU REMEMBER SEEING THE GUN BEFORE---
A. NO, MA'AM.
Q. ---OR BEFORE HE FIRED IT? DID YOU SEE IT?
A. NO. I DON'T REMEMBER.
Q. YOU DON'T REMEMBER?
A. I DON'T REMEMBER.
Q. OKAY. WHEN WAS THE FIRST TIME YOU NOTICED THE GUN?
A. WHEN THEY WAS TUSSLING IN THE KITCHEN.

Q. WHEN THEY WERE TUSSLING IN THE KITCHEN?
A. WHEN HE WAS SHOOTING SHORT.
Q. WHEN HE WAS SHOOTING SHORT? AND DID SHORT HAVE A CHANCE TO GET THE GUN AWAY FROM HIM?
A. NO.
Q. AND DID YOU SEE WHERE HE SHOT SHORT?
A. TALKING ABOUT ON THE BODY?
Q. YEAH. WHERE ON HIS BODY DID HE GET SHOT?
A. STOMACH? I DON'T KNOW. STOMACH?
Q. I'M SORRY. WHAT?
A. STOMACH OR...
Q. STOMACH?
A. STOMACH AND SIDE.
Q. THE SIDE? DO YOU RECALL HOW MANY SHOTS YOU HEARD?
A. HE SHOT SEVERAL TIMES.
Q. SEVERAL TIMES?
A. (WITNESS NODDED HEAD UP AND DOWN.)
Q. DID YOU -- DID YOU RECALL HEARING EDWINA GET HURT?
A. AFTERWARDS.
Q. AFTERWARDS? OKAY. TELL THIS JURY: AFTER HE SHOOTS SHORT DOG IN THE KITCHEN, WHAT DID HE DO?
A. AFTER HE SHOOTS SHORT, HE WAS WALKING BACK TOWARDS THE DOOR, FIXING TO WALK OUT. HE TURNED BACK AROUND AND SHOT A COUPLE MORE TIMES.
Q. SO HE'S GETTING READY TO LEAVE AND GETS TO THE DOOR?

A. YEAH.
Q. AND, AGAIN, YOU WERE SITTING WHERE ON THIS DIAGRAM?
A. RIGHT HERE ON THE COUCH.
Q. AND HE COMES BACK TO THIS DOOR.
A. UH-HUH.
Q. AND THEN HE TURNS AROUND AND GOES BACK?
A. YEAH, WHEN HE COMES BACK AROUND AND SHOT SHORT A COUPLE MORE TIMES.
Q. AND HE SHOT SHORT A COUPLE MORE TIMES. AFTER HE SHOT SHORT A COUPLE MORE TIMES, COULD YOU TELL WHERE ON SHORT'S BODY HE SHOT?
A. I WASN'T PAYING THAT MUCH ATTENTION. I WASN'T THERE, SO I DON'T KNOW.
Q. WHERE WERE YOU SITTING ON?
A. ON THE COUCH. I NEVER MOVED OFF THE COUCH.
Q. YOU NEVER MOVED OFF THE COUCH. WHY NOT?
A. SCARED.
Q. SCARED OF WHAT?
A. I MIGHT GET ONE, TOO.
Q. THAT YOU MIGHT GET SHOT?
A. (WITNESS NODDED HEAD UP AND DOWN.)
Q. AT THAT POINT AFTER HE LEFT, WHAT DID YOU DO?
A. I WENT AND HID IN THE CLOSET.
Q. AND WHAT CLOSET DID YOU HIDE INSIDE OF?
A. IN THE BACK ROOM.

Q. CAN YOU USE THAT POINTER AND SHOW THE JURY WHICH CLOSET?
A. IN THE BACK HERE.
Q. IN JEFF'S BEDROOM?
A. YEAH.
Q. OKAY. AND IS THAT THE LAST BEDROOM IN THE TRAILER?
A. YEAH.
Q. OKAY. AM I POINTING TO THE LAST ROOM?
A. ON THE LEFT.
Q. OKAY. AND IS THAT THE CLOSET WHERE YOU HID?
A. YES, MA'AM.
Q. WHO HID IN THERE WITH YOU?
A. EDWINA.
Q. EDWINA?
A. YES, MA'AM.
Q. AND WHY DID YOU GO AND HIDE IN THE CLOSET?
A. BECAUSE I DIDN'T WANT NO BULLETS. I DIDN'T WANT TO GET SHOT.
Q. BUT HE HAD ALREADY LEFT THE HOUSE.
A. I DIDN'T KNOW.
Q. YOU DIDN'T KNOW?
A. NO. I WASN'T TAKING NO CHANCE.
Q. DID YOU HEAR ANY MORE SHOTS AFTER HE LEFT?
A. YES, I HEARD A FEW MORE.
Q. HOW MANY DID YOU HEAR?
A. I'M NOT SURE.

Q. MORE THAN ONE?
A. YEAH, MORE THAN ONE.
Q. MORE THAN FIVE?
A. PROBABLY ABOUT FIVE AT A MINIMUM. PROBABLY.
Q. OKAY. COULD YOU TELL WHERE THE SHOTS WERE COMING FROM?
A. OUTSIDE THE TRAILER.
Q. OKAY. SO YOU DID NOT SEE?
A. NO.
Q. BUT YOU COULD HEAR.
A. I COULD HEAR.
Q. HOW LONG WAS IT THAT YOU STAYED IN THAT CLOSET HIDING?
A. I WAITED 'TIL THE POLICE CAME.
Q. SO YOU WAITED 'TIL THE POLICE CAME?
A. WHEN THEY CAME, I WAS STILL ON THE COUCH. I WAS SITTING ON THE COUCH DURING THAT TIME.
Q. OKAY. SO YOU CAME OUT OF HIDING AND THE POLICE CAME AND YOU WERE ON THE COUCH?
A. YES.
Q. AND AT FIRST DID THEY -- THEY DIDN'T KNOW WHO YOU WERE; RIGHT?
A. NO.
Q. AND WHAT DID THEY DO TO YOU WHEN THEY SAW YOU?
A. DRUG THE GUN ON ME AND PUT ME IN HANDCUFFS AND PUT ME IN THE BACK OF THE POLICE CAR.
Q. OKAY. AND THEN DID IT EVENTUALLY GET CLEARED UP THAT

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YOU WERE---
A. YES.
Q. ---A RESIDENT OF THAT HOUSE?
A. YES, MA'AM.
Q. AT THAT POINT DID YOU GO WITH THE COLUMBIA POLICE DEPARTMENT OFFICER TO HEADQUARTERS?
A. YES, MA'AM.
Q. DID YOU GAVE A STATEMENT?
A. YES, MA'AM.
Q. I'M GOING TO SHOW YOU A DOCUMENT AND ASK YOU IF YOU RECOGNIZE THIS.
A. YES, MA'AM.
Q. IS THAT YOUR STATEMENT?
A. YES, MA'AM.
Q. OKAY. AND IS THAT YOUR SIGNATURE?
A. YES, MA'AM.
Q. HOW MANY PAGES IS IT?
A. TWO.
Q. TWO? AND DO YOU REMEMBER IN YOUR STATEMENT GIVING A DESCRIPTION OF THE SHOOTER?
A. YES, MA'AM.
Q. AND, AGAIN, HOW DID YOU DESCRIBE HIM TO THE POLICE?
A. LIGHT-SKINNED WITH A BALD HEAD.
Q. OKAY. AFTER YOU GAVE YOUR STATEMENT TO THE POLICE, DO YOU REMEMBER THEM SHOWING YOU SOME PICTURES?

A. OH, YES, MA'AM.
Q. OKAY. I'M GOING TO SHOW YOU SOME PICTURES. DO YOU RECOGNIZE WHAT'S BEEN MARKED AS STATE'S NUMBER 1?
A. YES, MA'AM.
Q. AND WHAT IS THAT?
A. A PHOTO.
Q. AND HOW MANY PICTURES DO YOU SEE IN THAT PHOTO?
A. SIX.
Q. OKAY. AND IS THAT THE PICTURES THAT THE POLICE SHOWED YOU TO LOOK AT?
A. YES, MA'AM.

MS. SHIPLEY: ALL RIGHT. YOUR HONOR, AT THIS TIME THE STATE WOULD SEEK TO INTRODUCE NUMBER 1 INTO EVIDENCE.

THE COURT: ANY OBJECTION?

MS. DAVIS: OUR PRIOR OBJECTION, YOUR HONOR.

THE COURT: OKAY. OKAY. THE COURT STANDS BY ITS RULING.

MS. SHIPLEY: THANK YOU, YOUR HONOR.

(STATE'S EXHIBIT 1 WAS RECEIVED IN EVIDENCE.)

BY MS. SHIPLEY:
Q. WHEN THE POLICE OFFICER HANDED YOU THESE PICTURES, WHAT DID HE ASK YOU TO DO?
A. IDENTIFY THE SHOOTER.
Q. IDENTIFY THE SHOOTER?
A. YES, MA'AM.

Q. HOW LONG DID IT TAKE YOU TO IDENTIFY THE SHOOTER?
A. AS SOON AS I SEEN IT, I POINTED RIGHT TO HIM.
Q. RIGHT TO HIM?
A. YES, MA'AM.
Q. AND WHICH PICTURE DID YOU POINT OUT TO HIM?
A. ON THE CORNER RIGHT...
Q. RIGHT THERE?
A. YES, MA'AM.
Q. AM I POINTING AT THE RIGHT PHOTO?
A. YES, MA'AM.

MS. SHIPLEY: YOUR HONOR, MAY I PUBLISH IT TO THE JURY?

THE COURT: YOU MAY.

MS. SHIPLEY: THANK YOU.

BY MS. SHIPLEY:
Q. SO YOU POINTED TO THIS PICTURE; IS THAT CORRECT?
A. YES, AS SOON AS I SEEN IT.
Q. AS SOON AS YOU SAW IT. NOW, I NOTICED IN THIS PICTURE THAT THERE ARE A COUPLE OF INDIVIDUALS THAT HAVE DARKER SKIN THAN THE ONE YOU PICKED, AND THEN THERE ARE ALSO A COUPLE THAT HAVE LIGHTER SKIN THAN THE ONE YOU PICKED.
A. YES, MA'AM.
Q. DID THE SKIN TONE HAVE ANYTHING TO DO WITH WHY YOU PICKED THAT---
A. NO.
Q. ---PHOTOGRAPH OUT?

A. NO, MA'AM. THAT AIN'T GOT NOTHING TO DO WITH IT.
Q. WHY DID YOU PICK THAT PHOTOGRAPH OUT?
A. BECAUSE I KNOW THAT BE HIM.
Q. YOU KNOW THAT'S HIM?
A. I KNOW.
Q. AND DO YOU SEE THAT MAN IN THE COURTROOM TODAY?
A. YES, MA'AM.
Q. PLEASE POINT HIM OUT TO THIS JURY.
A. RIGHT THERE IN THE WHITE TEE SHIRT -- I MEAN WHITE SHIRT.

MS. SHIPLEY: YOUR HONOR, LET THE RECORD REFLECT HE HAS IDENTIFIED THE DEFENDANT.

THE COURT: OKAY.

MS. SHIPLEY: THANK YOU.

BY MS. SHIPLEY:
Q. AFTER YOU POSITIVELY IDENTIFIED MR. ROBINSON FROM THOSE PICTURES, WERE YOU ASKED TO FILL OUT AN AFFIDAVIT SWEARING THAT THAT IS WHO YOU IDENTIFIED AS THE SHOOTER?
A. YES, MA'AM.
Q. AND I'M SHOWING YOU STATE'S NUMBER 2. DO YOU RECOGNIZE THAT?
A. YES, MA'AM.
Q. OKAY. INCIDENTALLY, I NOTICE THERE WAS A NUMBER UNDERNEATH MR. ROBINSON'S PICTURE ON THIS SIX-PACK OF PICTURES?

A. UH-HUH.
Q. WHAT NUMBER IS UNDERNEATH HIS PICTURE ON MY -- ON MY -- THIS ONE RIGHT HERE? WHAT NUMBER DO YOU SEE DOWN THERE?
A. 4-8-8-6-0.
Q. OKAY. WHAT NUMBER IS ON YOUR AFFIDAVIT?
A. 4-8-8-6-0.
Q. OKAY. SO THAT'S -- THOSE NUMBERS MATCH; RIGHT?
A. YES, MA'AM.
Q. AND DID YOU SIGN SWEARING THAT THAT'S THE PHOTOGRAPH THAT YOU IDENTIFIED AS THE SHOOTER IN THIS CASE?
A. YES, MA'AM.
Q. DID THE OFFICER SUGGEST TO YOU IN ANY FASHION, FORM, OR MANNER WHAT PICTURE TO PICK OUT FROM THIS---
A. NO.
Q. ---THIS SIX LINE-UP?
A. NO.
Q. NOW, YOU'VE BEEN IN TROUBLE WITH THE LAW BEFORE; RIGHT?
A. YES, MA'AM.
Q. YOU WERE -- YOU PLED TO A SHOPLIFTING ON MARCH 27TH, 2001.
A. YES, MA'AM.
Q. CORRECT?
A. YES, MA'AM.
Q. AND THERE'S A CRUELTY TO ANIMALS SHOWING ON THERE. IS THAT YOU?

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A. NO.
Q. WHAT HAPPENED THERE?
A. I DON'T HAVE NO IDEA.
Q. DO YOU HAVE A COUSIN THAT USES YOUR NAME?
A. NO, NOT THAT I KNOW OF.
Q. OKAY. BUT YOU HAVE A CONVICTION ON YOUR RECORD. YOU CONCEDE THAT.
A. RIGHT, BUT THAT WASN'T ME THOUGH.
Q. OKAY. YOU ALSO HAVE A SHOPLIFTING FROM JUNE OF 2002.
A. YEAH.
Q. RIGHT?
A. YEAH.
Q. AND THEN LASTLY AN INDECENT EXPOSURE FROM 2005.
A. (WITNESS NODDED HEAD UP AND DOWN.)
Q. AND YOU GOT TWO DAYS TIME SERVED FOR THAT?
A. YES, MA'AM.

MS. SHIPLEY: BEG THE COURT'S INDULGENCE, YOUR HONOR. THANK YOU. PLEASE ANSWER ANY QUESTIONS FROM THE DEFENSE.

CROSS-EXAMINATION

BY MS. DAVIS:

Q. GOOD AFTERNOON.
A. HOW ARE YOU DOING?
Q. YOU GO BY THE NICKNAME BONE?
A. YES, MA'AM.
Q. THE NIGHT OF THIS INCIDENT WHEN THE POLICE GOT THERE,

THEY CAME UP TO YOU FIRST; RIGHT?
A. WHEN THEY GOT THERE?
Q. YEAH.
A. NO, THEY DIDN'T COME TO ME FIRST. I WAS IN THE TRAILER.
Q. YOU WERE WHERE?
A. IN THE TRAILER WHEN THEY CAME UP.
Q. YOU WERE IN THE CHAIR?
A. INSIDE THE TRAILER.
Q. YEAH. THEY CAME IN; RIGHT?
A. YEAH.
Q. THEY SAW YOU?
A. YEAH, I WAS SITTING ON THE COUCH.
Q. THEY ASKED YOU TO STAND UP?
A. YEAH.
Q. TURN AROUND?
A. THEN THEY HANDCUFFED ME.
Q. YEAH. LIFT UP YOUR SHIRT FIRST?
A. YEAH, THEY DID ALL THAT.
Q. CHECKED YOU FOR WEAPONS?
A. YES, MA'AM.
Q. SHORT DOG WAS YOUR COUSIN; RIGHT?
A. YES, MA'AM.
Q. A LOT OF YOUR FAMILY LIVES IN THAT AREA; RIGHT?
A. YES, MA'AM.
Q. RIGHT NEXT DOOR?

A. YES.
Q. I THINK THE HOUSE RIGHT NEXT -- IS IT ON BOTH SIDES OF YOUR HOUSE?
A. HOUSE OR TRAILER?
Q. THE TRAILER. I'M SORRY.
A. YEAH.
Q. YOUR SISTER, ONE LIVED AT---
A. I AIN'T GOT -- I AIN'T GOT NO SISTER THAT STAY THERE.
Q. YOU DON'T HAVE ANY SISTERS. I'M SORRY. YOU'RE THE COUSIN.
A. YEAH.
Q. BUT YOU HAVE A LOT OF FAMILY IN THAT AREA?
A. (WITNESS NODDED HEAD UP AND DOWN.)
Q. DO YOU KNOW SHORT DOG'S SON, COREY?
A. YES.
Q. ARE YOU FAMILIAR WITH HIM?
A. HE'S MY COUSIN.
Q. HE'S YOUR COUSIN?
A. (WITNESS NODDED HEAD UP AND DOWN.)
Q. THEY SOLD DRUGS OUT OF THAT TRAILER; RIGHT?
A. NO, MA'AM, NOT THAT I KNOW OF.
Q. YOU DON'T KNOW?
A. NO, THEY DON'T.
Q. YOU LIVE THERE?
A. I STAYED THERE, YEAH.

Q. YOU STAYED THERE FOR ABOUT A YEAR AND A HALF?
A. THAT'S RIGHT.
Q. NEVER SEEN ANYONE SELL DRUGS FROM THERE?
A. NO, MA'AM.
Q. ANYONE USE DRUGS?
A. NOT THAT I KNOW OF.
Q. NO ONE IN THAT HOUSE USES DRUGS?
A. JEFF PROBABLY, BUT I DIDN'T.
Q. OKAY. ANYBODY ELSE THOUGH?
A. NO, SIR.
Q. EDWINA HUNG OUT THERE A GOOD BIT; RIGHT?
A. I GUESS. I DON'T KNOW. I DON'T PAY IT NO ATTENTION.
Q. NO? IT'S NOT A VERY BIG PLACE THOUGH.
A. NO.
Q. SO IF PEOPLE WERE THERE OFTEN YOU WOULD KNOW.
A. I DON'T PAY IT NO ATTENTION. I BE ON THE COUCH WATCHING CARTOONS.
Q. SO IF SOMEONE IS THERE, YOU WOULD KNOW IF THEY WERE THERE; CORRECT?
A. YEAH.
Q. BUT YOU'RE NOT SURE IF EDWINA BROWN OR EDWINA EVANS -- YOU DON'T KNOW IF SHE HANGS OUT THERE?
A. I SEEN HER A FEW TIMES.
Q. ALL RIGHT. THE NIGHT OF THIS INCIDENT SHE WAS THERE.
A. YES.

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Q. AND SHORT DOG WAS THERE.
A. YEAH.
Q. JEFF, BO, HE WAS THERE?
A. YEAH.
Q. AND THEN YOU SAW THE PERSON COME INSIDE; RIGHT?
A. YEAH.
Q. YOU DIDN'T SEE A GUN THEN.
A. NO, NOT WHEN HE FIRST WALKED IN. NO.
Q. NO. HE DIDN'T HAVE THE GUN OUT WHEN HE FIRST CAME IN; RIGHT?
A. I DIDN'T SEE THAT PART.
Q. DIDN'T SEE A GUN. THEY STARTED FIGHTING.
A. THEY WAS TUSSLING OVER IT.
Q. YEAH, THEY WERE STRUGGLING. A FIGHT GOING ON?
A. YEAH.
Q. THAT'S WHEN YOU SAW A GUN?
A. YEAH, WHEN HE WAS SHOOTING.
Q. SO THE FIRST TIME YOU SAW THE GUN IS WHEN IT -- WHEN YOU HEARD IT?
A. NO, WHEN HE SHOOTING SHORT, I LOOKED AND THEN I SEEN---
Q. THEN YOU SAW IT.
A. I SEEN THE GUN.
Q. BUT THEY WERE FIGHTING BEFORE THAT.
A. THEY WERE TUSSLING. THEY WASN'T FIGHTING.
Q. OKAY. SO THEY WERE STRUGGLING BEFORE THAT.

A. EXACTLY.
Q. OKAY. THE SOLICITOR WENT OVER THIS. YOU HAVE A -- TWO SHOPLIFTING CONVICTIONS; RIGHT?
A. WHO?
Q. YOU HAVE TWO SHOPLIFTING CONVICTIONS?
A. UH-HUH.
Q. RIGHT?
A. (WITNESS NODDED HEAD UP AND DOWN.)
Q. YOU TAKE THINGS FROM A STORE THAT DIDN'T BELONG TO YOU?
A. (WITNESS NODDED HEAD UP AND DOWN.)

MS. DAVIS: AND... BEG THE COURT'S INDULGENCE. I HAVE NOTHING FURTHER, YOUR HONOR.

MS. SHIPLEY: BRIEF REDIRECT.

REDIRECT EXAMINATION

BY MS. SHIPLEY:

Q. MR. SMITH, MS. DAVIS WAS ASKING YOU ABOUT WHY SHORT DOG WAS TUSSLING WITH JOEL ROBINSON THAT NIGHT. YOU TESTIFIED, I BELIEVE, AND I -- I'M HERE TO ASK YOU TO CLARIFY. YOU SAID TUSSLING OVER IT.
A. YEAH.
Q. OVER WHAT?
A. THE GUN.
Q. SO THE ONLY REASON SHORT DOG WAS TUSSLING WITH THAT MAN IS BECAUSE IT'S OVER THE GUN?
A. NO, TO KEEP FROM GETTING SHOT AND KILLED.

MS. SHIPLEY: THANK YOU. NO FURTHER QUESTIONS.

MS. DAVIS: NOTHING FURTHER, YOUR HONOR.

THE COURT: OKAY. SIR, YOU CAN STEP DOWN AND BE EXCUSED. ANY OTHER WITNESSES?

MS. SHIPLEY: MAY WE APPROACH, YOUR HONOR?

THE COURT: YES.

(WHEREUPON, A BENCH CONFERENCE WAS HELD.)

THE COURT: LADIES AND GENTLEMEN OF THE JURY, I'M GOING TO ASK YOU TO STEP TO YOUR JURY ROOM. I REMIND YOU NOT TO DISCUSS THE CASE IN ANY SHAPE, FORM, OR FASHION. I'M TRYING TO PUSH YOU JUST A LITTLE BIT TODAY BECAUSE, AGAIN, I'M TRYING NOT TO HAVE US HERE ON SATURDAY BY US HAVING LOST A TRIAL DAY. SO I APPRECIATE YOU ALL ACCOMMODATING US A LITTLE BIT. THE NEXT WITNESS WE HAVE TO LOCATE WITHIN THE COURTHOUSE, AND THEN WE'LL BE WITH YOU VERY SHORTLY.

(WHEREUPON, THE JURY WAS EXCUSED FROM OPEN COURT AT 5:17 P.M.)

THE COURT: I WOULD REQUEST THAT YOU ALL DO WHAT YOU NEED TO DO TO LOCATE THE NEXT WITNESS. YOU'RE GOING TO BE DOING THAT?

MS. SHIPLEY: YEAH.

(PAUSE IN PROCEEDINGS.)

THE COURT: THANK YOU. YOU CAN TAKE YOUR SEATS. I DID GET A NOTE FROM A JUROR, AND IT SAYS, "I KNOW THE VICTIM. I DID NOT REALIZE THIS UNTIL HIS STREET NAME WAS USED IN THE

TRIAL. KIMBERLY VONSCHWEINITZ, JUROR NUMBER 268."

MS. SHIPLEY: ISN'T SHE AN ALTERNATE, YOUR HONOR?

THE COURT: MADAM CLERK, LET ME KNOW.

MS. SHIPLEY: SHE'S ALTERNATE NUMBER TWO, YOUR HONOR.

THE COURT: OKAY. THAT'S FINE.

MS. SHIPLEY: COULD WE INQUIRE ABOUT THE CAPACITY IN WHICH SHE KNEW HIM?

THE COURT: YEAH, BECAUSE I CAN STILL DETERMINE WHETHER OR NOT SHE CAN STILL BE A FAIR AND IMPARTIAL JUROR.

MS. SHIPLEY: AND ALSO IT COULD BE A DIFFERENT SHORT DOG.

THE COURT: EXACTLY. EXACTLY. BRING JUROR NUMBER 268 OUT, PLEASE.

BAILIFF: JUROR?

THE COURT: 268.

BAILIFF: 268?

THE COURT: YES.

(JUROR 268, KIMBERLY VONSCHWEINITZ, IS BROUGHT INTO THE COURTROOM.)

THE COURT: YOU CAN STAY RIGHT THERE. YOU'RE JUROR NUMBER 268; IS THAT CORRECT?

JUROR VONSCHWEINITZ: YES, I AM.

THE COURT: AND IT'S KIMBERLY -- HOW DO YOU SAY YOUR LAST NAME?

JUROR VONSCHWEINITZ: VONSCHWEINITZ.

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THE COURT: YOU GAVE THE COURT A NOTE INDICATING THAT YOU KNEW MR. ROBINSON (SIC) BY HIS STREET NAME SHORT DOG.

JUROR VONSCHWEINITZ: YES, I KNEW HIM. I DID NOT REALIZE -- I'M SORRY. NOT MR. ROBINSON. THOMAS. BUT I DIDN'T KNOW---

THE COURT: THOMAS SMITH.

JUROR VONSCHWEINITZ: UNTIL IT WAS SHORT DOG, I DIDN'T REALIZE WHO IT WAS.

THE COURT: OKAY. JUST SO THAT WE MAKE SURE THAT BECAUSE IT'S A NICKNAME THAT WE'RE TALKING ABOUT THE SAME PERSON---

JUROR VONSCHWEINITZ: HE WAS A PAINTER. WELL, I BUILT A HOME ABOUT 12 YEARS AGO.

THE COURT: OKAY.

JUROR VONSCHWEINITZ: AND SHORT DOG -- IT'S A LONG TIME STORY, BUT HE PRACTICALLY LIVED WITH US BECAUSE WE MOVED IN BEFORE OUR BUILDER... I KNOW AT THE TIME HE WORKED FOR MILLARD TURNER.

THE COURT: AND YOU'RE SURE THAT THIS IS THE SAME PERSON.

JUROR VONSCHWEINITZ: HE WORKED FOR MILLARD TURNER?

MAN IN THE COURTROOM: YEAH, HE WORKED---

THE COURT: OKAY. ONE MOMENT. THE COURT REPORTER HAS TO GET THIS DOWN. BUT ESSENTIALLY PERSONS ASSOCIATED WITH MR. SMITH ARE INDICATING HE WORKED WITH WHOM?

JUROR VONSCHWEINITZ: MILLARD TURNER WHO WAS OUR BUILDER.

THE COURT: AND IS THAT THE FAMILIAR INDICATING---

MAN IN THE COURTROOM: RIGHT.

THE COURT: OKAY. ALL RIGHT. DO YOU BELIEVE THAT HAVING KNOWN HIM YOU COULD BE FAIR AND IMPARTIAL IN THIS CASE?

JUROR VONSCHWEINITZ: I WOULD LIKE TO SAY SO, BUT I MEAN JUST -- I MEAN...

THE COURT: BASICALLY WHAT THAT MEANS IS YOU COULD LISTEN TO THE FACTS AND EVIDENCE AND ANY TESTIMONY PRESENTED IN THIS TRIAL AND IF -- WE REALIZE YOU'RE AN ALTERNATE NOW---

JUROR VONSCHWEINITZ: RIGHT. RIGHT. RIGHT.

THE COURT: IF YOU WERE FOR SOME REASON PLACED INTO THE ORIGINAL JURY PANEL THAT WHETHER OR NOT YOU COULD JUST DETERMINE YOUR DELIBERATIONS BASED ON WHAT'S IN THIS COURTROOM.

JUROR VONSCHWEINITZ: YOUR HONOR, I'D LIKE TO SAY I COULD. I MEAN, I CAN'T... YOU KNOW, I MEAN, I WAS SITTING HERE. I DID NOT -- I MEAN, I REMEMBER WHEN HE WAS KILLED. YOU KNOW, I READ THE ARTICLE IN THE PAPER, YOU KNOW, BECAUSE I WENT, "OH, MY GOSH, SHORT DOG DIED," YOU KNOW.

THE COURT: RIGHT.

JUROR VONSCHWEINITZ: BUT, YOU KNOW, THIS WAS -- YOU KNOW, TODAY WHEN YOU SAID ANYTHING ABOUT THE MURDER, IT DID

NOT -- NOTHING RANG A BELL WITH ME UNTIL, YOU KNOW, I WAS SITTING HERE, AND THEN I REALIZED I -- I CAN'T TELL YOU BECAUSE I WAS SITTING HERE THE WHOLE TIME, "WOW, THIS WAS SHORT DOG."

THE COURT: OKAY. BUT I NEED A YES OR NO AS TO WHETHER OR NOT YOU BELIEVE YOU COULD---

JUROR VONSCHWEINITZ: OH, I BELIEVE I CAN.

THE COURT: OKAY.

JUROR VONSCHWEINITZ: BUT, YOU KNOW, I JUST...

THE COURT: OKAY. ALL RIGHT. I'M GOING TO ALLOW YOU TO REMAIN WITH US. THANK YOU.

JUROR VONSCHWEINITZ: ALL RIGHT.

(JUROR VONSCHWEINITZ LEAVES THE COURTROOM.)

MR. LEDDY: YOUR HONOR, I WOULD HAVE A CONTEMPORANEOUS OBJECTION.

THE COURT: OKAY.

MR. LEDDY: I MEAN, HE ESSENTIALLY LIVED WITH HER. I THINK THAT'S A TALL ORDER. I UNDERSTAND THE DUTY OF THE COURT, BUT IT WOULD MAKE IT EXCEEDINGLY DIFFICULT FOR ANYBODY TO SET THAT ASIDE, AND I THINK THAT SHE'S TO BE COMMENDED FOR HER SAYING THAT SHE COULD -- SHE THINKS SHE COULD OR HOPED SHE COULD, BUT I THINK THAT THAT'S ASKING TOO MUCH OF ANYBODY.

THE COURT: OKAY.

MR. LEDDY: I WOULD ASK YOU...

THE COURT: STATE?

MS. SHIPLEY: YOUR HONOR, SHE INDICATED SHE BELIEVED SHE COULD. I DON'T KNOW... I'LL LEAVE IT ENTIRELY IN YOUR DISCRETION. I JUST WANT THE RECORD TO REFLECT SHE'S ONLY AN ALTERNATE, THE SECOND ALTERNATE. THE LIKELIHOOD OF GETTING TO HER IS SLIM TO NONE.

THE COURT: RIGHT.

MR. LEDDY: I WOULD -- I WOULD LIKE FOR HER TO BE INSTRUCTED NOT TO, IF SHE HASN'T ALREADY DISCUSSED IT -- THEY'RE NOT SUPPOSED TO BE DISCUSSING THE CASE OBVIOUSLY BUT---

THE COURT: RIGHT.

MR. LEDDY: I HAVE A SNEAKING SUSPICION THAT RULE IS MAYBE NOT OBSERVED JUST BECAUSE IT'S JUST HUMAN NATURE, YOUR HONOR.

THE COURT: RIGHT.

MR. LEDDY: BUT OBVIOUSLY -- I MEAN, I HAVE TO OBJECT TO THAT AND ASK THAT SHE BE INSTRUCTED, IF SHE'S GOING TO REMAIN AS AN ALTERNATE, AND THAT IT BE OVER MY OBJECTION AND THAT SHE BE INSTRUCTED NOT TO BRING THAT INTO THE DELIBERATIONS.

THE COURT: OKAY.

MR. LEDDY: IF SHE BECOMES PART OF THE DELIBERATIONS, I THINK IT WOULD PROBABLY BECOME IMPOSSIBLE IF -- IF IT CREATES ANY DEBATE WHATSOEVER IN THAT ROOM. I THINK THAT THAT'S PROBABLY GOING TO BE SOMETHING THAT COMES UP AND SO... I

DON'T KNOW.

THE COURT: OKAY. I'M GOING TO HOLD MY RULING IN ABEYANCE. I BELIEVE, BECAUSE SHE IS THE SECOND ALTERNATE AT THIS POINT IN TIME, THAT IT'S NOT NECESSARY FOR ME TO MAKE A RULING RIGHT AT THIS MOMENT, BUT I WILL INSTRUCT ALL JURORS AGAIN TO NOT DISCUSS THE CASE IN ANY SHAPE, FORM, OR FASHION SO THAT IT'S CLEAR TO HER BUT THEN ALSO THAT NO JUROR SUSPECTS THAT ANY PARTICULAR JUROR HAS ANY MORE INFORMATION THAN THEY DO. OKAY. JURORS, PLEASE.

(WHEREUPON, THE JURY WAS BROUGHT INTO OPEN COURT AT 5:28 P.M.)

THE COURT: ATTORNEYS, APPROACH.

(WHEREUPON, A BENCH CONFERENCE WAS HELD.)

THE COURT: ALL RIGHT. THE COURT DID RECEIVE SOME INFORMATION FROM A JUROR, AND JUROR NUMBER 268, BASED ON SOME INFORMATION THAT WAS DISCUSSED OUTSIDE THE PRESENCE OF THE JURY, I'M GOING TO HAVE YOU EXCUSED FROM THE TRIAL OF THIS CASE.

JUROR VONSCHWEINITZ: THANK YOU.

THE COURT: THANK YOU ALL. I'M GOING TO REMIND ALL JURORS AGAIN NOT TO DISCUSS THE CASE IN ANY SHAPE, FORM, OR FASHION WITH EACH OTHER. YOU WILL BE GIVEN THE CASE AT THE APPROPRIATE TIME AND THAT'S THE TIME AT WHICH YOU SHOULD DISCUSS IT, BUT NOT AMONGST EACH OTHER. ANY SUBJECT MATTER AGAIN WHEN YOU LEAVE THIS EVENING, DON'T DISCUSS IT AT ALL

WITH ANYONE, NOT EVEN THE TYPE OF CASE THAT YOU'RE HEARING. I JUST WANT TO REMIND YOU OF THAT THROUGHOUT THE TRIAL. STATE, YOU CAN PROCEED.

MS. SHIPLEY: THANK YOU, YOUR HONOR. THE STATE CALLS SHONDA MOFFETT. MS. MOFFETT, PLEASE TAKE THE WITNESS STAND.

SHONDA MOFFETT, AFTER BEING DULY SWORN, TESTIFIED AS FOLLOWS:

THE CLERK: PLEASE HAVE A SEAT AND STATE YOUR FULL NAME FOR THE RECORD.

DIRECT EXAMINATION

BY MS. SHIPLEY:

Q. GOOD AFTERNOON, MS. MOFFETT.

A. GOOD AFTERNOON.

Q. MS. MOFFETT, CAN YOU TELL THE JURY WHERE IT IS THAT YOU'RE CURRENTLY INCARCERATED?

A. AT ALVIN S. GLENN DETENTION CENTER.

Q. OKAY. AND YOU'RE INCARCERATED FOR THE CHARGE OF ASSAULT AND BATTERY OF A HIGH AND AGGRAVATED NATURE?

A. YES, MA'AM.

Q. OKAY. IS THAT YOUR LAWYER RIGHT THERE SEATED IN THE GALLERY?

A. YES, MA'AM.

Q. ALL RIGHT. SO YOU HAVE AN ATTORNEY REPRESENTING YOUR RIGHTS FOR THAT PENDING CHARGE. IS THAT CORRECT?

A. YEAH.

Q. HAVE YOU OR THE STATE OF SOUTH CAROLINA ENGAGED IN ANY SORT OF AGREEMENTS ABOUT YOUR -- THE OUTCOME OF YOUR PENDING CHARGE?

A. NO.

Q. OKAY. IN FACT, YOU'VE BEEN IN TROUBLE IN THE PAST. IS THAT RIGHT?

A. YES, MA'AM.

Q. AND BACK IN '99 YOU WERE CONVICTED OF RESISTING ARREST; RIGHT?

A. YES, MA'AM.

Q. FINANCIAL TRANSACTION CARD FRAUD IN 2000, LESS THAN $500.

A. UH-HUH.

Q. IS THAT CORRECT?

A. YES, MA'AM.

Q. RECEIVING STOLEN GOODS, LESS THAN A THOUSAND DOLLARS.

A. UH-HUH.

Q. IN 2000.

A. UH-HUH.

Q. CORRECT? IS THAT YOU?

A. YES, MA'AM.

Q. OKAY. AND A FRAUDULENT CHECK LESS THAN $500 IN '07?

A. UH-HUH.

Q. CORRECT?

A. YEAH.

Q. AND, LASTLY, A GIVING FALSE INFORMATION WHICH YOU PAID A FINE IN MAGISTRATE'S COURT. CORRECT?
A. YES, MA'AM.
Q. NOW, I'M GOING TO ASK YOU A SERIES OF QUESTIONS ABOUT WHAT YOU KNOW THAT TRANSPIRED THE NIGHT OF FEBRUARY 15TH, 2007.
A. UH-HUH.
Q. WHERE WERE YOU STAYING AT THAT TIME ON FEBRUARY 15TH OF 2007?
A. I WAS STAYING AT ROOM 114 AT THE CORONET MOTEL.
Q. THE CORONET MOTEL?
A. UH-HUH.
Q. AND HAD YOU BEEN STAYING THERE LONG?
A. ALONG?
Q. HAD YOU BEEN STAYING THERE FOR A LONG TIME?
A. YEAH, IT HAD BEEN A COUPLE OF MONTHS.
Q. A COUPLE OF MONTHS?
A. UH-HUH.
Q. WHO WERE YOU LIVING THERE WITH?
A. ME AND STEVE.
Q. AND WHO IS THE STEVE?
A. MY FIANCE.
Q. YOUR FIANCE? AND IS THAT STEVE GOINGS?
A. UH-HUH.
Q. DID YOU SEE MR. -- DID YOU KNOW ANYBODY ELSE THAT WAS

STAYING AT THE CORONET MOTEL AROUND THAT TIME?
A. NO, I DIDN'T KNOW NO ONE ELSE. I JUST WENT OUT THE DOOR AND NEEDED A RIDE, YOU KNOW, AND THAT'S THE ONLY PERSON I SEEN WAS -- THERE WAS THE CAR THAT WAS NEXT DOOR, LIKE A COUPLE OF DOORS DOWN.
Q. NOW, ARE YOU FAMILIAR WITH THE DEFENDANT, MR. ROBINSON?
A. YES.
Q. OKAY. AND HOW LONG -- HOW MANY YEARS HAVE YOU KNOWN HIM?
A. NOT THAT LONG. PROBABLY LIKE A YEAR, YEAR AND A HALF, SOMETHING LIKE THAT.
Q. AND SO PRIOR TO FEBRUARY 15TH, 2007, YOU HAD KNOWN HIM FOR ABOUT A YEAR, YEAR AND A HALF?
A. YES.
Q. OKAY. DID YOU KNOW IF HE WAS STAYING IN THE CORONET MOTEL AS WELL?
A. YEAH, HE HAD BEEN A COUPLE OF DOORS DOWN.
Q. OKAY. DO YOU REMEMBER WHAT ROOM NUMBER HE WAS IN?
A. IT WAS -- I THINK IT WAS 111 OR...
Q. OKAY. IF YOU DON'T REMEMBER, THAT'S OKAY.
A. UH-HUH.
Q. I'M GOING TO SHOW YOU A QUICK PHOTOGRAPH IN STATE'S -- BEG THE COURT'S INDULGENCE. I NEED TO MARK IT.
(STATE'S EXHIBIT 8 WAS MARKED FOR IDENTIFICATION ONLY.)
BY MS. SHIPLEY:

Q. I'M GOING TO SHOW YOU STATE'S NUMBER 8. DO YOU REMEMBER WHAT COLOR THE KEY CHAINS OF THE CORONET MOTEL -- WHAT COLOR THEY WERE?

A. THEY WERE ORANGE.

Q. ORANGE? I'M GOING TO SHOW YOU WHAT'S BEEN MARKED STATE'S NUMBER 8 AND ASK YOU: DO YOU SEE AN ORANGE KEY CHAIN IN THAT PHOTOGRAPH?

A. UH-HUH.

Q. YOU DO?

A. (WITNESS NODDED HEAD UP AND DOWN.)

Q. AND YOU HAVE TO SAY YES OR NO.

A. YES. UH-HUH.

Q. OKAY. AND IS THAT WHAT THE CORONET MOTEL KEYS LOOKED LIKE?

A. YES, MA'AM.

Q. ALL RIGHT. AND IN STATE'S NUMBER 8, DO YOU SEE A ROOM NUMBER ON IT?

A. YES.

Q. AND WHAT ROOM KEY IS THAT?

A. 110.

Q. ROOM 110? YOU INDICATED EARLIER YOU THOUGHT MR. ROBINSON WAS STAYING IN ROOM 111?

A. UH-HUH.

Q. NOW, ON FEBRUARY 15TH, 2007---

A. UH-HUH.

Q. DID YOU USED TO GO TO THE HOLE BEFORE---
A. YEAH.
Q. ---THAT NIGHT?
A. UH-HUH.
Q. ARE YOU FAMILIAR WITH FREDDIE AND IDA AND JEFF AND LEVERN SMITH?
A. YES, MA'AM.
Q. THEY'RE ALL FAMILY.
A. YEAH.
Q. DID THEY ALL LIVE ON THE SAME STREET?
A. YES, MA'AM.
Q. TELL THIS JURY: ARE YOU FRIENDS -- BACK THEN WERE YOU FRIENDS WITH FREDDIE?
A. YES, MA'AM.
Q. ALL RIGHT. WOULD YOU GO VISIT HER AT HER HOUSE?
A. YEAH. YES, MA'AM.
Q. WOULD YOU GO VISIT IDA MAE?
A. NO, WE WENT TO VISIT FREDDIE THAT NIGHT.
Q. OKAY. BUT I'M JUST SAYING: HOW MANY TIMES DO YOU THINK YOU'VE BEEN TO THAT NEIGHBORHOOD?
A. WE'D GO ALL THE TIME.
Q. ALL THE TIME?
A. UH-HUH.
Q. HOW WOULD YOU GET THERE FROM THE CORONET MOTEL?
A. DIFFERENT PEOPLE.

Q. DIFFERENT RIDES?
A. RIDES. UH-HUH.
Q. OKAY. DID YOU HAVE A CAR?
A. NO, MA'AM.
Q. SO YOU WOULD CATCH RIDES?
A. CATCH RIDES FROM DIFFERENT PEOPLE.
Q. OKAY. ON FEBRUARY 15TH, 2007, WERE YOU CATCHING A RIDE OVER THERE?
A. YES.
Q. AND TELL THE JURY HOW IT IS THAT YOU CAME IN CONTACT WITH MR. ROBINSON THAT EVENING.
A. WE NEEDED A RIDE JUST LIKE -- WE WAS SUPPOSED TO CALL A CAB, BUT WE DIDN'T CALL A CAB. HE WAS THE ONLY CAR AT THE MOTEL AND WE REALLY WANTED -- WANTED TO GO DOWN THERE AT THAT TIME, AND WE DIDN'T KNOW NOBODY ELSE. THE ONLY PERSON'S CAR WE SEEN WAS HIS.
Q. OKAY.
A. WAS MR. ROBINSON'S CAR. SO WE ASKED HIM FOR A RIDE TO GO TO, YOU KNOW, DOWN THERE TO SEE FREDDIE.
Q. OKAY. GIVE ME ONE SECOND.
(STATE'S EXHIBIT 9 WAS MARKED FOR IDENTIFICATION ONLY.)
BY MS. SHIPLEY:
Q. I'M GOING TO SHOW YOU WHAT'S BEEN MARKED STATE'S NUMBER 9 AND ASK YOU IF YOU RECOGNIZE WHAT'S IN THIS PHOTOGRAPH.
A. UH-HUH.

Q. WHAT IS IT?
A. WHAT? THE CAR?
Q. YES. WHOSE CAR?
A. THAT'S HIS CAR, MR. ROBINSON.
Q. MR. ROBINSON'S CAR?
A. UH-HUH.
MS. SHIPLEY: YOUR HONOR, AT THIS TIME THE STATE WOULD SEEK TO INTRODUCE NUMBER 9 INTO EVIDENCE.
MR. LEDDY: NO OBJECTION, YOUR HONOR.
THE COURT: OKAY. THANK YOU.
(STATE'S EXHIBIT 9 WAS RECEIVED IN EVIDENCE.)
BY MS. SHIPLEY:
Q. MS. MOFFETT, IS THERE A -- WHAT KIND OF TAG IS ON THAT CAR?
A. A DEALERSHIP.
Q. A DEALERSHIP TAG?
A. UH-HUH.
Q. AND SO THAT'S THE CAR THAT -- IS THAT THE CAR THAT YOU CAUGHT A RIDE WITH THAT NIGHT?
A. YES.
MS. SHIPLEY: MAY I PUBLISH IT TO THE JURY, YOUR HONOR.
THE COURT: YES, YOU MAY.
BY MS. SHIPLEY:
Q. DO YOU KNOW WHETHER OR NOT MR. ROBINSON WAS PLANNING ON GOING THERE ANYHOW?

A. NO, HE DIDN'T -- HE WASN'T PLANNING ON GOING THERE, NOT -- NOT TO MY KNOWLEDGE HE WASN'T.

Q. SO HE AGREED TO GIVE YOU A RIDE.

A. HE JUST AGREED TO GIVE US A RIDE.

Q. NOW, HAD -- TO YOUR KNOWLEDGE, HAD HE BEEN TO THAT AREA BEFORE?

A. NOT TO MY KNOWLEDGE.

Q. SO YOU DIDN'T KNOW---

A. NO.

Q. ---ANY OF HIS---

A. NO.

Q. ---INVOLVEMENT OVER THERE.

A. HUH-UH.

Q. DID YOU KNOW SHORT DOG?

A. YEAH. UH-HUH.

Q. DID YOU KNOW OF ANY BAD BLOOD BETWEEN SHORT DOG AND JOEL ROBINSON?

A. NO. HUH-UH. NO. NO WAY. I JUST HEARD HIM MENTION EARLIER THAT DAY THAT---

Q. WHO?

A. ---SOMEBODY PISSED HIM OFF.

Q. WHO?

A. MR. ROBINSON. SOMEBODY PISSED HIM OFF, BUT I DIDN'T KNOW WHO IT WAS THOUGH.

Q. SO HE---

A. HE SAID SOMEBODY HAD DID SOMETHING TO HIM, BUT I DON'T -- I DIDN'T KNOW WHO HE WAS TALKING ABOUT. I DIDN'T HAVE NO IDEA---

Q. OKAY.

A. ---OR KNOW WHO HE WAS TALKING ABOUT.

Q. WHEN HE TOLD YOU THAT SOMEONE HAD QUOTE/UNQUOTE PISSED HIM OFF, WHERE DID HE TELL YOU THIS?

A. I THINK HE WAS IN HIS ROOM. HE WAS OVER THERE IN HIS ROOM. HE WAS SAYING THAT SOMEBODY PISSED HIM OFF, AND I, YOU KNOW---

MS. DAVIS: OBJECTION, YOUR HONOR. HEARSAY.

MS. SHIPLEY: IT'S A STATEMENT AGAINST INTEREST.

THE COURT: AS TO THE DEFENDANT.

MS. SHIPLEY: YES, MA'AM. IT'S AS TO THE DEFENDANT.

THE COURT: OVERRULED.

BY MS. SHIPLEY:

Q. NOW, MS. MOFFETT, WHEN YOU CAUGHT A RIDE, DO YOU REMEMBER WHAT TIME OF NIGHT IT WAS -- WHAT TIME OF DAY IT WAS WHEN YOU CAUGHT A RIDE WITH MR. ROBINSON?

A. IT WAS AT NIGHT.

Q. IT WAS DARK OUT?

A. UH-HUH.

Q. OKAY. AND DID Y'ALL GO STRAIGHT TO THE HOLE FROM THE CORONET MOTEL?

A. WE WENT STRAIGHT. WE DIDN'T MAKE NO STOPS.

Q. OKAY. WHERE IS THE CORONET MOTEL LOCATED?
A. RIGHT THERE OFF NORTH MAIN. NORTH MAIN ACROSS FROM THE PIGGLY WIGGLY.
Q. NORTH MAIN ACROSS FROM THE PIGGLY WIGGLY?
A. UH-HUH.
Q. HOW MANY BLOCKS WOULD YOU SAY IT IS FROM COLUMBIA COLLEGE?
A. I WOULD SAY ABOUT SIX.
Q. SIX BLOCKS?
A. YEAH.
Q. OKAY. AND IS ALL THIS IN RICHLAND COUNTY?
A. YES, MA'AM.
Q. ALL RIGHT. NOW, MS. MOFFETT, WHEN YOU WERE RIDING OVER TO THE HOLE, WHAT HAPPENS ONCE YOU GET TO THE HOLE?
A. ONCE WE GET TO THE HOLE, ME AND STEVE GOT OUT OF THE CAR. WE WENT INTO THE HOUSE, IN FREDDIE'S HOUSE.
Q. OKAY. AND JUST SO WE'RE ALL ON THE SAME PAGE, I'M GOING TO PUT THIS DIAGRAM UP.
A. UH-HUH.
Q. JUST TO ORIENT YOU, IS THAT THE LAYOUT OF THE HOLE?
A. YES, MA'AM.
Q. THE TRAILER? IDA? FREDDIE?
A. UH-HUH.
Q. OKAY. SO WHOSE HOUSE ARE YOU AT?
A. WE WENT TO FREDDIE'S HOUSE.

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Q. TO FREDDIE'S HOUSE?
A. UH-HUH.
Q. OKAY. I'M GOING TO GIVE YOU A POINTER AND ASK YOU TO SHOW THE JURY -- WITH THIS POINTER, SHOW THE JURY WHERE IT IS THAT YOU PULLED UP WITH MR. ROBINSON. WHERE DID HE PARK HIS CAR?
A. RIGHT THERE ON THE SIDE OF FREDDIE'S HOUSE.
Q. OKAY. ON THE SIDE OF FREDDIE'S HOUSE?
A. ON THE SIDE.
Q. OKAY. AND WHERE DID YOU AND STEVE GO?
A. WE WENT INSIDE THE HOUSE.
Q. OKAY.
A. INSIDE FREDDIE'S HOUSE.
Q. AND WHERE DID MR. ROBINSON GO?
A. WHEN I TURNED MY HEAD GOING IN THE DOOR TO SEE WHERE HE WAS GOING, HE WAS WALKING OVER TOWARD THE TRAILER.
Q. OKAY. AND IS THIS THE TRAILER, JEFF'S AND LEVERN'S TRAILER?
A. YES, MA'AM.
Q. OKAY. AND THIS IS THE PARKING LOT AND THAT'S FREDDIE'S HOUSE.
A. YES.
Q. ARE YOU ORIENTED NOW?
A. UH-HUH.
Q. OKAY. SO YOU SAW HIM GOING OVER TO THE TRAILER?

A. YES, MA'AM.
Q. ALL RIGHT. DID YOU SEE HIM CARRYING ANYTHING WITH HIM WHEN HE WENT TO THE TRAILER?
A. NO.
Q. YOU DIDN'T SEE ANYTHING?
A. NO. HUH-UH.
Q. HOW LONG -- DID YOU WATCH HIM GO INTO THE TRAILER?
A. NO, I DIDN'T WATCH HIM. I JUST WENT STRAIGHT IN THE HOUSE WITH STEVE.
Q. OKAY. HOW LONG DO YOU THINK YOU WERE IN FREDDIE'S HOUSE BY THE TIME YOU HEARD SOME SHOTS?
A. WE WAS IN THERE ABOUT MAYBE FOUR OR FIVE MINUTES, AND THEN THAT'S WHEN WE HEARD THE SHOTS.
Q. OKAY. AND WERE YOU WATCHING -- LOOKING AT YOUR WATCH THE WHOLE TIME?
A. NOT REALLY.
Q. TAKING TIME OF WHAT Y'ALL WERE DOING?
A. UH-HUH.
Q. OKAY. SO WAS IT A LONG TIME OR A SHORT TIME AFTER YOU GOT IN THAT YOU HEARD SHOTS FIRED?
A. IT WAS ABOUT THREE -- EXACTLY ABOUT THREE OR FOUR MINUTES.
Q. OKAY. DID YOU SEE HIM GO INTO THE TRAILER?
A. YES, I SEEN HIM GO IN.
Q. OKAY.

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A. UH-HUH.
Q. NOW, AT THAT POINT DID YOU KNOW WHERE THE SHOTS WERE COMING FROM WHEN YOU HEARD THEM?
A. NO, WE COULDN'T PREDICT WHERE THEY WAS COMING FROM. WE KNOW IT WAS SOMEWHERE IN THE HOLE---
Q. OKAY.
A. ---YOU KNOW, SOME -- YOU KNOW, THAT THE SHOTS WAS COMING FROM, BUT WHEN HE PULLED -- YOU KNOW, WHEN WE WENT TO THE DOOR TO SEE WHO HAD GOT SHOT, THEN WE KNEW THE -- WE KNOWS THAT, YOU KNOW, THAT HE WAS RUSHING.
Q. WHO WAS RUSHING?
A. MR. ROBINSON.
Q. WHERE WAS HE RUSHING TO?
A. I DON'T KNOW. TO GET ME AND PICK ME AND STEVE BACK UP AND ASKED US WAS WE READY AND WE SAID NO. WHAT YOU -- YOU KNOW, WHAT YOU DONE DID? YOU KNOW, WE JUST FELT LIKE HE DID SOMETHING OVER THERE.
Q. OKAY. SO LET ME GET THIS STRAIGHT. YOU HEAR SHOTS COMING FROM THE TRAILER. YOU RUN TO SEE WHERE THEY'RE COMING FROM. IS THAT CORRECT?
A. UH-HUH. UH-HUH.
Q. WHERE DO YOU SEE MR. ROBINSON NEXT?
A. HE PULLED UP IN THE CAR AT FREDDIE'S HOUSE.
Q. OKAY. AND THAT SAME FORD TAURUS THAT I SHOWED YOU A PICTURE OF EARLIER?

A. YES, MA'AM.
Q. THAT'S GOING AROUND NOW? AND DID HE -- AND, AGAIN, WHERE WERE YOU STANDING WHEN HE ASKED YOU IF YOU WANTED A RIDE?
A. WHERE WAS HE STANDING?
Q. WHERE WAS -- WHERE WERE YOU -- WHERE WERE YOU STANDING?
A. IN THE DOORWAY.
Q. IN THE DOORWAY.
A. UH-HUH.
Q. WHERE WAS HE? PULLED UP IN FRONT OF FREDDIE'S HOUSE IN HIS CAR?
A. YES, MA'AM. HE ASKED US WERE WE READY. WE SAID, "NO. WE AIN'T GOING NOWHERE WITH YOU. YOU JUST KILLED SOMEBODY, AIN'T YOU?" YOU KNOW, BECAUSE WE HEARD ALL THE SHOTS. WE KNOW SOMEBODY HAD TO BE DEAD.
Q. OKAY.
A. YOU KNOW, WE JUST AIN'T KNOW WHO IT WAS.
Q. ALL RIGHT. WHAT HAPPENED NEXT? DID YOU GET IN THE CAR WITH HIM?
A. NO.
Q. DID HE -- WHERE DID HE GO?
A. WHEN WE TOLD HIM WE WOULDN'T GO HOME WITH HIM, THEN HE JUST FLIPPED OUT AND PULLED -- WENT UP UNDER HIS SEAT AND GOT A GUN AND STARTED SHOOTING AT US.
Q. AND DID YOU HEAR ANYONE SHOOT AT HIM FIRST?

A. NO. HUH-UH.
Q. YOU DIDN'T HEAR ANYBODY ELSE SHOOT AT HIM?
A. NO, NOBODY ELSE SHOOT.
Q. SO HE SHOT AT YOU GUYS?
A. YEAH. I DIVED ON THE FLOOR. A BULLET GRAZED -- WENT RIGHT PAST MY EARS.
Q. AND WHAT ABOUT STEVE? DID YOU SEE WHETHER OR NOT STEVE GOT SHOT?
A. NO. HE DIVED ON THE FLOOR, TOO.
Q. OKAY. DO YOU KNOW IF ANYBODY IN THAT HOUSE GOT HURT?
A. NO. ALL OF US WAS DIVING ON THE FLOOR, YOU KNOW, GETTING -- LAYING DOWN.
Q. AND YOU SAW HIM POINT A GUN IN YOUR DIRECTION AND SHOOT?
A. YEAH. UH-HUH.
Q. AND HOW MANY SHOTS DID YOU HEAR?
A. AT LEAST ABOUT NINE OR TEN.
Q. OKAY. AFTER HE QUIT FIRING HIS GUN, WHERE DID HE GO NEXT?
A. HE -- I THINK -- I COULDN'T REALLY SEE OUT THE DOOR. HE WAS -- HE JUMPED -- YOU KNOW, RUNNING THROUGH THE WOODS OR RUNNING UP THE STREET SOMEWHERE.
Q. BUT YOU SAW HIM RUN AWAY. HE DIDN'T DRIVE OFF?
A. I WAS SCARED TO LOOK OUT THE DOOR RIGHT THEN BECAUSE THERE WAS SO MANY PELLETS AND GUNS FIRED, YOU KNOW.
Q. DID HE DRIVE AWAY? WHAT HAPPENED WITH HIS CAR?

A. ALL I KNOW IS IT WAS STILL OUT THERE.
Q. I'M GOING TO SHOW YOU SOME PICTURES REAL QUICK.
(STATE'S EXHIBITS 10 THROUGH 12 WERE MARKED FOR IDENTIFICATION ONLY.)
BY MS. SHIPLEY:
Q. MS. MOFFETT, I'M GOING TO SHOW YOU -- YOU INDICATED THAT HE DID NOT DRIVE AWAY IN HIS CAR THAT NIGHT?
A. NO, I DON'T THINK SO.
Q. I'M GOING TO SHOW YOU STATE'S NUMBER 12 AND ASK YOU: WHAT IS THAT A PICTURE OF?
A. HIS CAR.
Q. AND DO YOU RECOGNIZE ANY BUILDINGS IN THE BACKGROUND OF THAT PHOTOGRAPH?
A. YES, MA'AM.
Q. WHOSE BUILDING IS THAT?
A. I THINK IT'S IDA'S.
Q. IDA'S HOUSE?
A. UH-HUH.
Q. AND IS THIS IDA'S HOUSE ON THE BOARD RIGHT HERE?
A. YES.
Q. OKAY. IS THAT WHERE HE LEFT HIS CAR THE NIGHT OF FEBRUARY 15TH, 2007?
A. YES, RIGHT THERE ON THE SIDE---
MS. SHIPLEY: YOUR HONOR, AT THIS TIME WE WOULD LIKE TO INTRODUCE 12 INTO EVIDENCE.

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MR. LEDDY: NO OBJECTION, YOUR HONOR.

THE COURT: OKAY. THANK YOU.

(STATE'S EXHIBIT 12 WAS RECEIVED IN EVIDENCE.)

BY MS. SHIPLEY:

Q. YOU INDICATED THAT YOU HEARD -- THAT YOU SAW HIM FIRING SHOTS AT FREDDIE'S HOUSE?

A. (WITNESS NODDED HEAD UP AND DOWN.)

Q. IS THAT CORRECT?

A. YES, I SEEN HIM DO THAT. YES.

Q. THE STATE IS ALSO GOING TO SHOW YOU STATE'S NUMBER 10. DO YOU RECOGNIZE THAT?

A. UH-HUH.

Q. AND STATE'S NUMBER 11, DO YOU RECOGNIZE THAT?

A. UH-HUH.

Q. WHERE WERE YOU IN THIS -- IN HER ROOM? WELL, LET ME GO AHEAD AND INTRODUCE THE PHOTOGRAPH. WHOSE HOUSE IS THAT IN STATE'S NUMBER 10?

A. FREDDIE'S HOUSE.

MS. SHIPLEY: OKAY. YOUR HONOR, AT THIS TIME THE STATE WOULD INTRODUCE NUMBER 10 INTO EVIDENCE.

MR. LEDDY: NO OBJECTION, YOUR HONOR.

THE COURT: OKAY.

(STATE'S EXHIBIT 10 WAS RECEIVED IN EVIDENCE.)

BY MS. SHIPLEY:

Q. AND WHAT IS NUMBER 11 A PICTURE OF?

A. ON THE BULLET WHEN IT WENT THROUGH THE BLIND. I WAS STANDING RIGHT THERE, AND IT DID GO RIGHT PAST ME, THE BULLET.

MS. SHIPLEY: OKAY. AT THIS TIME STATE'S NUMBER 11 AS WELL.

MR. LEDDY: YES. NO OBJECTION.

THE COURT: OKAY.

(STATE'S EXHIBIT 11 WAS RECEIVED IN EVIDENCE.)

BY MS. SHIPLEY:

Q. ALL RIGHT. SHOWING THE JURY, WHAT WINDOW WERE YOU STANDING BY WHEN YOU OBSERVED -- I ALMOST BROKE MY NECK. WHAT WINDOW WERE YOU LOOKING AT WHEN YOU OBSERVED THE DEFENDANT SHOOTING AT YOU? DO YOU SEE IT IN THE PICTURE?

A. HE SHOT AT THAT -- THROUGH THAT SCREEN DOOR, TOO.

Q. OKAY. WHERE WERE YOU STANDING WHEN YOU WERE LOOKING AT HIM?

A. NO, I WAS IN THE HOUSE.

Q. OKAY. WHERE IN THE HOUSE---

A. RIGHT THERE BY THAT WINDOW---

Q. OKAY.

A. CLOSE TO THAT WINDOW.

Q. THIS WINDOW RIGHT HERE.

A. YEAH.

Q. IS THAT THE FRONT?

A. I WAS ON THE FLOOR.

Q. ON THE FLOOR?
A. UH-HUH.
Q. BUT YOU INDICATED A SHOT WENT THROUGH THAT WINDOW?
A. YES.
Q. DO YOU SEE A HOLE IN THAT WINDOW?
A. I'M THINKING THAT IT'S UP HERE SOMEWHERE.
Q. OKAY. TAKE YOUR TIME.
A. IT'S SOMEWHERE UP HERE.
Q. ALL RIGHT. WELL, DO YOU SEE IT IN STATE'S 11, THE INSIDE OF THIS PICTURE? WELL, IT'S THROUGH THE BLINDS?
A. YEAH. IT CAME THROUGH THE WINDOW THOUGH. IT WENT PAST -- GRAZED ME.
Q. AND SO IN STATE'S NUMBER 10 -- WHOSE HOUSE IS THAT?
A. THAT'S FREDDIE MAE'S.
Q. OKAY. AND WHAT IS THAT ON THE FLOOR ON THE PORCH?
A. THAT'S THE SCREEN DOOR. HE WAS SHOOTING IN THE SCREEN DOOR, TOO.
Q. AND WHAT IS -- IS THAT BROKEN GLASS?
A. YES, MA'AM.

MS. SHIPLEY: MAY I PUBLISH THIS TO THE JURY?

THE COURT: YOU MAY.

BY MS. SHIPLEY:

Q. AM I POINTING AT THE WINDOW YOU WERE STANDING IN?
A. YEAH. I WAS -- I RAN IN THE SCREEN DOOR PAST THE WINDOW AND GOT ON THE FLOOR.

Q. OKAY. BUT BEFORE YOU GOT DOWN ON THE FLOOR PAST THE WINDOW, YOU FELT OR HEARD A SHOTGUN?

A. I FELT IT GO PAST MY FACE.

Q. OKAY.

A. AND IT WENT IN THE WALL.

Q. OKAY. DID YOU REMAIN ON THE SCENE TO TALK TO THE POLICE WHEN THEY GOT THERE?

A. HUH?

Q. DID YOU STAY ON THE---

A. YES. I'M THE ONE -- I'M THE ONE THAT TOLD THE POLICE WHAT HAPPENED.

Q. OKAY. WHAT YOU SAW?

A. WHAT I KNEW, YES---

Q. OKAY.

A. ---BECAUSE NOBODY ELSE WANTED TO TALK SO...

Q. DID YOU TELL THEM WHAT THE -- WHAT MR. ROBINSON LOOKED LIKE? DO YOU REMEMBER?

A. YEAH, I TOLD THEM ABOUT THAT.

Q. OKAY. DO YOU REMEMBER TELLING THEM WHERE YOU THOUGHT MR. ROBINSON STAYED AT?

A. YEAH. UH-HUH.

Q. OKAY. AND WHERE WAS THAT AGAIN?

A. AT THE CORONET.

Q. ALL RIGHT. DID YOU TELL THEM THAT THE CAR THAT WAS ABANDONED ON THE SIDE OF THE STREET WAS HIS?

A. UH-HUH.
Q. IN FACT, YOU TOLD THEM YOU CAUGHT A RIDE WITH HIM.
A. YES, MA'AM.
Q. HEY, DO YOU KNOW A NAME FOR MR. ROBINSON? BECAUSE EVERYONE'S GOT NICKNAMES IN THIS CASE. WHAT'S MR. ROBINSON'S NICKNAME?
A. (PAUSE.)
Q. IF I SHOWED YOU YOUR STATEMENT, WOULD THAT REFRESH YOUR MEMORY?
A. YEAH.
Q. OKAY.
A. I DONE FORGOT THAT FAST.
Q. OKAY. IS THIS YOUR STATEMENT THAT YOU GAVE TO THE POLICE THAT NIGHT? DO YOU SEE YOUR SIGNATURE?
A. YEAH. YEAH. YES, MA'AM.
Q. OKAY. HOW MANY PAGES IS IT? YOU'RE WELCOME TO COUNT. HOW MANY PAGES IS YOUR STATEMENT?
A. THREE.
Q. THREE? OKAY. AND THEN THERE'S AN AFFIDAVIT; IS THAT CORRECT?
A. UH-HUH.
Q. ALL RIGHT. AND SOME PICTURES; IS THAT CORRECT?
A. YES, MA'AM.
Q. OKAY. AND JUST TO REFRESH YOUR MEMORY, WHAT IS THE NICKNAME OF THE DEFENDANT? FIRST PAGE, FIRST LINE.

A. I DONE FORGOT ALREADY.
Q. DO YOU SEE IT IN THERE?
A. (PAUSE.)
Q. IS THAT YOUR HANDWRITING OR THE OFFICER'S?
A. THIS IS MY HANDWRITING.
Q. OKAY.
A. I'M JUST...
Q. LET ME ASSIST YOU TO SAVE TIME. DO YOU SEE SOMETHING IN QUOTES?
A. OH, OKAY. YES. SCOPE.
Q. SCOPE?
A. YEAH.
Q. SO THAT'S WHAT HIS NICKNAME IS?
A. YES.
Q. AND WHAT TIME DID YOU GIVE THAT STATEMENT TO THE POLICE?
A. PROBABLY RIGHT AFTER THEY GOT OUT -- GOT DOWN THERE. PROBABLY ABOUT FIVE MINUTES AFTER THEY ARRIVED.
Q. OKAY.
A. TEN MINUTES.
Q. SO YOU TOLD THEM VERBALLY EVERYTHING. IS THAT CORRECT?
A. YES.
Q. AND THEN WHEN WAS IT THAT YOU ACTUALLY GAVE THEM THE WRITTEN STATEMENT? IT'S ON THE TOP---
A. WHEN THEY TOLD ME TO RIDE DOWN TO THE STATION WITH THEM.
Q. OKAY. DID YOU VOLUNTARILY GO DOWN TO THE STATION WITH

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THEM?

A. YES, MA'AM.

Q. IN FACT, BECAUSE YOU RODE OVER THERE WITH MR. ROBINSON, THEY MIRANDIZED YOU. ISN'T THAT TRUE?

A. YES, MA'AM.

Q. AND I'M GOING TO SHOW YOU A DOCUMENT. DO YOU REMEMBER THEM ADVISING YOU OF YOUR RIGHTS?

A. YEAH.

Q. OKAY. AND YOU AGREED TO GIVE UP ALL YOUR RIGHTS AND TELL THEM WHAT YOU KNEW?

A. UH-HUH.

Q. OKAY. AND THEN YOU WROTE YOUR OWN STATEMENT. IS THAT CORRECT?

A. YES, MA'AM.

Q. AND YOU SAID IT'S THREE PAGES?

A. YES, MA'AM.

Q. ALL RIGHT. AND DID YOU EVER GET CHARGED FOR ANY INVOLVEMENT IN THIS CASE?

A. NO, MA'AM.

Q. OKAY. WHEN YOU FINISHED GIVING YOUR STATEMENT TO THE POLICE, WRITING DOWN EVERYTHING YOU KNEW ABOUT THIS CASE, WERE YOU SHOWN SOME PICTURES?

A. (PAUSE.)

Q. DO YOU REMEMBER SOMEONE SHOWING YOU PICTURES?

A. YES, MA'AM.

Q. OKAY. I'M GOING TO SHOW YOU STATE'S NUMBER 1 AND ASK YOU IF YOU RECOGNIZE THAT.
A. UH-HUH.
Q. OKAY. WHAT IS THE ACTUAL PIECE OF PAPER? WHAT IS THAT? ARE THOSE THE PICTURES THEY SHOWED YOU?
A. YEAH.
Q. OKAY. AND DID YOU IDENTIFY A PHOTOGRAPH IN THOSE PICTURES?
A. YES.
Q. AND WHICH ONE WAS IT?
A. THIS ONE RIGHT HERE.
Q. OKAY. AM I POINTING TO THE CORRECT ONE?
A. UH-HUH.
Q. AND WHAT'S THE -- WHAT'S THE NUMBER UNDERNEATH HIS PICTURE?
A. 4-8-8-6-0.
Q. OKAY. AND I'M GOING TO HAVE YOU LOOK AT STATE'S NUMBER 3. DO YOU RECOGNIZE THAT?
A. YEAH.
Q. AND IS THAT YOUR SIGNATURE ON STATE'S NUMBER 3?
A. YES, MA'AM.
Q. AND DOES IT HAVE THE NUMBER OF THE PERSON YOU IDENTIFIED IN IT?
A. YES, MA'AM.
Q. WHAT NUMBER DOES IT SAY?

A. 4-8-8-6-0.
Q. AND WHOSE NAME IS NEXT TO IT?
A. JOEL ROBINSON.
MS. SHIPLEY: YOUR HONOR, AT THIS TIME WE'D INTRODUCE STATE'S NUMBER 3 INTO EVIDENCE.
MS. DAVIS: NO OBJECTION, YOUR HONOR.
THE COURT: THANK YOU.
(STATE'S EXHIBIT 3 WAS RECEIVED IN EVIDENCE.)
BY MS. SHIPLEY:
Q. AM I POINTING AT THE CORRECT PHOTOGRAPH THAT YOU POINTED OUT TO THE OFFICER?
A. YES. YES, MA'AM.
Q. AND, MS. MOFFETT, DID ANYONE SUGGEST TO YOU WHO TO POINT OUT IN THOSE PHOTOS?
A. NO, MA'AM. AIN'T NOBODY TOLD ME NOTHING.
Q. AND, AGAIN, YOU'D KNOWN HIM FOR A YEAR AND A HALF; RIGHT?
A. RIGHT.
Q. BEG THE COURT'S INDULGENCE. AND ONE LAST -- A FEW QUESTIONS. I'M GOING TO SHOW YOU A DOCUMENT AND ASK YOU IF YOU RECOGNIZE IT. DO YOU RECOGNIZE THAT?
A. UH-HUH.
Q. WHAT IS IT?
A. WELL, ACTUALLY IT'S A -- IT'S A RAP AND I'M EXPRESSING MY FEELINGS ABOUT THIS MAN WHO I CAUGHT A RIDE WITH TO THE

HOLE, HOW HE JUST LEFT ME TO BE A SUSPECT, YOU KNOW.

Q. OKAY. AND SO YOU WROTE THIS. WHEN DID YOU WRITE THIS?

A. I WROTE THAT -- IT HAD TO BE---

Q. OBVIOUSLY AFTER IT HAPPENED?

A. AFTER IT HAPPENED, YEAH.

Q. OKAY. HAVE YOU BEEN TO THE HOLE SINCE THIS INCIDENT?

A. YEAH, I ALWAYS GO.

Q. OKAY. AND HAVE YOU TALKED TO THE FAMILY?

A. YES.

Q. OF MR. SMITH?

A. YES. I DO WANT TO DIRECT -- YOU KNOW, WOULD LIKE TO SAY SOMETHING TO THEM.

Q. WELL, NOW IS NOT THE TIME.

A. OKAY.

Q. BUT HAVE YOU EXPLAINED TO THEM THAT WHAT EXACTLY -- WHY YOU WENT TO THE HOLE WITH MR. ROBINSON?

A. YES, MA'AM.

Q. OKAY.

A. I HAVE EXPLAINED IT TO THEM, YOU KNOW. WHETHER THEY FEEL ME OR NOT, I DON'T KNOW BUT---

Q. OKAY.

A. ---BUT DEEP IN MY HEART I WOULD LIKE TO TELL THEM THAT I DIDN'T HAVE NOTHING TO DO WITH THAT.

Q. AND WHAT WAS YOUR POINT OF CATCHING A RIDE WITH HIM?

A. TO GO SEE FREDDIE MAE THAT NIGHT---

Q. OKAY.
A. ---YOU KNOW.
MS. SHIPLEY: ALL RIGHT. NO FURTHER QUESTIONS, YOUR HONOR.
MS. DAVIS: THANK YOU, YOUR HONOR.
THE COURT: OKAY.

CROSS-EXAMINATION

BY MS. DAVIS:
Q. GOOD EVENING, SHONDA.
A. HEY. HOW ARE YOU DOING?
Q. WHEN YOU SAY YOU CAUGHT A RIDE WITH JOEL, YOU WENT AND ASKED HIM FOR A RIDE. RIGHT?
A. YES, I ASKED HIM FOR A RIDE.
Q. SO YOU WERE STAYING AT THE CORONET MOTEL?
A. YES.
Q. MAYBE ROOM 115 OR 114?
A. 15.
Q. 115? OKAY. AND HE WAS STAYING THERE ALSO?
A. YES. UH-HUH.
Q. WELL, YOU SAW HIS CAR IN THE PARKING LOT; RIGHT?
A. UH-HUH.
Q. SO YOU KNEW HE WAS STAYING THERE.
A. (WITNESS NODDED HEAD UP AND DOWN.)
Q. WAS IT YOU OR WAS IT YOUR BOYFRIEND THAT CONTACTED JOEL ABOUT GETTING A RIDE?

A. I DON'T -- I CAN'T REMEMBER EXACTLY WHICH ONE OF US, BUT EITHER WE -- I KNOCKED ON THE DOOR OR EITHER HE KNOCKED ON THE DOOR.

Q. SO YOU WENT TO HIS ROOM AND ASKED HIM, "HEY, CAN YOU GIVE ME A RIDE TO THE HOLE?"

A. YEAH.

Q. AND HE SAID, "SURE."

A. (WITNESS NODDED HEAD UP AND DOWN.)

Q. RIGHT?

A. YES, MA'AM.

Q. SO THAT WAS YOUR IDEA TO GO OVER THERE THAT NIGHT. RIGHT?

A. YEAH. UH-HUH.

Q. WHEN YOU FIRST TALKED TO OFFICERS, YOU DIDN'T -- AT THE SCENE YOU DIDN'T TELL THEM IT WAS JOEL ROBINSON; RIGHT? YOU DIDN'T USE THAT NAME---

A. I DIDN'T KNOW HIS REAL NAME.

Q. YOU DIDN'T KNOW HIS REAL NAME; RIGHT?

A. HUH-UH.

Q. YOU'D KNOWN HIM FOR HOW LONG? A YEAR?

A. ABOUT A YEAR AND A HALF ON THE STREETS, YOU KNOW. I DIDN'T KNOW HIM LIKE KNOW HIM, YOU KNOW, AND SEE HIM EVERY DAY.

Q. SURE. YOU JUST KNEW HIM BY THE NICKNAME.

A. YES.

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Q. OKAY. YOU CALL THAT PLACE THE HOLE. THAT'S HOW YOU KNOW THAT NEIGHBORHOOD?
A. UH-HUH.
Q. YOU'RE FAMILIAR WITH EVERYONE THAT LIVES IN THAT NEIGHBORHOOD?
A. UH-HUH.
Q. YOU'RE FAMILIAR WITH THAT TRAILER?
A. YES.
Q. WHERE LEVERN AND JEFFREY LIVED?
A. UH-HUH.
Q. SO YOU KNOW WHAT GOES ON IN THAT TRAILER; RIGHT?
A. I DON'T KNOW NOTHING ABOUT WHAT GOES ON THERE.
Q. YOU DON'T KNOW?
A. I AIN'T GOT NOTHING TO DO WITH THAT.
Q. HAVE YOU EVER BEEN IN THERE?
A. HUH?
Q. YOU HAVE BEEN THERE?
A. I DONE BEEN THERE.
Q. YOU KNOW ALL THE FAMILY?
A. YEAH, I KNOW THEM.
Q. BUT YOU DON'T KNOW WHAT HAPPENS THERE.
A. NO, I JUST KNOW THEY HAVE A GOOD TIME. THEY HAVE COOKOUTS AND THEY HAVE FAMILY GATHERINGS. THAT'S ALL I KNOW.
Q. SELL DRUGS THERE?
A. NO. ALL I KNOW IS THEY HAVE FAMILY GATHERINGS.

Q. NOW, YOU SAID THAT WHEN YOU GOT TO THE -- HE DROPPED YOU OFF AT FREDDIE MAE'S HOUSE; RIGHT?
A. UH-HUH.
Q. YOU WENT IN THE HOUSE?
A. UH-HUH.
Q. AND YOU SAID HELLO TO FREDDIE?
A. YEAH.
Q. CORRECT? Y'ALL EXCHANGED HELLOS?
A. UH-HUH.
Q. STEVE WAS WITH YOU?
A. UH-HUH.
Q. THAT'S YOUR BOYFRIEND?
A. UH-HUH.
Q. ARE YOU GUYS STILL TOGETHER?
A. YEAH.
Q. YOU ARE. SO Y'ALL STARTED TALKING A LITTLE BIT; RIGHT?
A. YEAH.
Q. YOU SAID IT HAD BEEN -- IT WAS SEVERAL MINUTES THAT YOU WERE IN THERE; RIGHT?
A. BEEN ABOUT THREE OR FOUR MINUTES BEFORE WE HEARD THE SHOTS.
Q. SO SEVERAL MINUTES YOU WERE TALKING.
A. UH-HUH.
Q. AND YOU SAY THAT WHEN YOU SAW HIM LEAVING, HE JUST RANDOMLY STARTED SHOOTING AT YOU?

A. NO. HE PULLED UP IN FRONT OF THE HOUSE AND ASKED ME AND STEVE WAS WE READY, WAS WE READY, AND I SAID, "NO. WHAT YOU DONE DID? YOU DONE SHOT SOMEBODY OR SOMETHING? IS YOU CRAZY? WE'RE NOT GETTING IN THAT CAR WITH YOU." SO THE NEXT THING I KNOW, HE WENT UNDER HIS SEAT AND STARTED SHOOTING AT US.

Q. NO ONE SHOT AT HIM FIRST?

A. NO.

Q. STEVE DIDN'T SHOOT AT HIM FIRST?

A. AIN'T NOBODY SHOT AT HIM FIRST.

Q. NO ONE SHOT AT HIM FIRST.

A. NO.

Q. YOU SAW THE PICTURE THAT THE STATE SHOWED YOU; RIGHT? I BELIEVE THEY SAID EXHIBIT -- STATE'S EXHIBIT 12? YOU IDENTIFIED THAT AS BEING HIS CAR?

A. YEAH.

Q. DO YOU SEE ANYTHING ON THE GAS TANK THERE?

A. YEAH.

Q. IS THAT A GUNSHOT?

A. YEAH.

Q. WELL, HE DIDN'T SHOOT HIS OWN GAS TANK, DID HE?

A. NO. IT CAME OUT OF THE WOODS.

Q. SOMEONE IN THE WOODS.

A. SOMEBODY FROM THE WOODS HEARD THE SHOTS---

Q. OKAY.

A. ---THAT'S ON THE OTHER SIDE OF THE STREET, AND A LOT OF PEOPLE COMES THROUGH THAT CUT A LOT. SO THEY MUST BE SEEN OR HEARD THE GUNSHOTS AND THEY CAME THROUGH THE CUT AND THEY WERE SHOOTING.

Q. ALL RIGHT. SO SOMEONE THAT HAD NO IDEA WHAT WAS GOING ON SHOT AT HIS CAR.

A. THAT'S RIGHT.

Q. OKAY. AND HOW LONG HAVE YOU AND STEVE GOINGS BEEN GOING OUT?

A. WE'VE BEEN TOGETHER SEVEN YEARS.

Q. SEVEN YEARS? WHAT'S HIS NICKNAME?

A. STEVE.

Q. HE JUST GOES BY STEVE?

A. YEAH.

Q. OKAY. WERE YOU FAMILIAR -- HE HAS SEVERAL ASSAULT AND BATTERIES WITH INTENT TO KILL---

A. THAT DON'T---

MS. SHIPLEY: OBJECTION, YOUR HONOR.

THE WITNESS: THAT DON'T MEAN HE'S GUILTY.

THE COURT: SUSTAINED.

MS. SHIPLEY: THAT'S COMPLETELY INAPPROPRIATE.

MS. DAVIS: I'LL MOVE ON, YOUR HONOR.

THE COURT: OKAY.

THE WITNESS: YOU'RE GUILTY WHEN YOU'RE FOUND GUILTY.

BY MS. DAVIS:

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Q. SO WE'RE -- JUST TO BE CLEAR, IT WAS YOUR IDEA TO GO TO THE HOLE THAT NIGHT. RIGHT?

A. YES. UH-HUH.

Q. YOU WENT AND GOT A RIDE FROM JOEL.

A. YES.

MS. DAVIS: BEG THE COURT'S INDULGENCE.

THE COURT: OKAY.

MS. DAVIS: NOTHING FURTHER, YOUR HONOR.

THE COURT: ALL RIGHT.

REDIRECT EXAMINATION

BY MS. SHIPLEY:

Q. DID YOU HAVE ANY IDEA THAT JOEL ROBINSON WAS GOING TO KILL SOMEONE AND SHOOT AT HIM FIVE TIMES?

A. NO. HUH-UH. I WAS PREGNANT. I WAS NINE MONTHS PREGNANT AT THE TIME, AND I HAD MY BABY TWO, WHAT, TWO DAYS AFTER THAT HAPPENED, TWO OR THREE DAYS AFTER THAT HAPPENED. SO, I MEAN, I WAS A PREGNANT WOMAN JUST GOING TO SEE A FRIEND OF MINE IN THE HOLE WHERE I ALWAYS USED TO GO AT, AND I HAD NO INTENTIONS THAT THIS MAN WAS GOING TO BEAST AND THAT SOMETHING WAS GOING TO JUMP INTO HIM, YOU KNOW, FOR HIM TO DO THAT.

Q. YOU DIDN'T KNOW OF ANY BAD BLOOD OR ANY CONTROVERSY BETWEEN SHORT DOG AND SCOPE?

A. NO, I DIDN'T HAVE NO IDEA ABOUT NONE OF THAT.

Q. OKAY. NOW, YOU SAID THAT SOMEONE CAME RUNNING FROM THE

WOODS AND SHOT AFTER GUNSHOTS.

A. UH-HUH.

Q. AFTER THEY HEARD GUNSHOTS. ARE YOU TALKING ABOUT THE GUNSHOTS IN THE TRAILER?

A. NO, THE GUNSHOTS THAT WHOEVER WAS -- WHEN Y'ALL SHOWED ME THE BULLETS IN HIS CAR, THAT'S PROBABLY WHERE THEY CAME FROM THE WOODS. I'M ASSUMING.

Q. OKAY.

A. I DON'T KNOW.

Q. YOU DON'T KNOW.

A. I WAS IN THE HOUSE AND I WAS ON THE FLOOR AND I WAS DUCKING FOR MY LIFE, COVERING MY BABY UP.

Q. NOW, LET ME ASK YOU THIS: YOU INDICATED THAT YOU HAD NOT BEEN IN -- THAT YOU WERE IN FREDDIE'S HOUSE ABOUT THREE TO FOUR MINUTES.

A. UH-HUH.

Q. ALL RIGHT. TIME IS VERY -- VARIES FOR PERSONS' PERCEPTIONS, SO WE'RE GOING TO DO A QUICK EXPERIMENT. AS SOON AS THE SECOND HITS THE 6:00 MARK, I'M GOING TO ASK YOU TO STOP ME WHEN YOU FEEL LIKE YOU'VE BEEN THERE FOR THREE TO FOUR MINUTES OR WHEN YOU REMEMBER HEARING THE SHOTS. OKAY?

A. OKAY.

Q. START.

A. (LONG PAUSE.) PROBABLY NOW.

Q. OKAY. MA'AM, THAT WAS ONE MINUTE.

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A. YEAH, I KNOW.
Q. OKAY?
A. UH-HUH.
Q. IS THAT A FAIR ESTIMATION OF THE TIME YOU WERE IN FREDDIE'S HOUSE FROM THE MOMENT YOU HEARD THE GUNSHOTS?
A. YEAH, THAT WAS -- THAT WAS TWO YEARS AGO, SO IT'S VERY HARD TO IMAGINE, YOU KNOW, LIKE EXACTLY WHEN THE SHOTS WAS FIRED, YOU KNOW.
Q. OKAY. BECAUSE TIME IS---
A. I'M TRYING TO TIME IT, TRYING IT THE BEST WAY I CAN BUT...
Q. OKAY. SO TIMING IS VERY -- VARIES PER PERSON.
A. UH-HUH.

MS. SHIPLEY: THANK YOU. NO FURTHER QUESTIONS, YOUR HONOR.

MS. DAVIS: JUST BRIEFLY, YOUR HONOR.

THE COURT: SURE.

RECROSS EXAMINATION

BY MS. DAVIS:

Q. SHONDA, I KNOW EARLIER YOU SAID IT HAD BEEN FIVE OR SIX MINUTES; RIGHT?
A. UH-HUH.
Q. THEN YOU SAID MAYBE IT HAD BEEN THREE OR FOUR MINUTES?
A. UH-HUH.
Q. NOW YOU'RE SAYING IT'S BEEN A MINUTE?

A. MA'AM, IT'S BEEN TWO YEARS AND MY MEMORY IS---
Q. EXACTLY.
A. ---REAL BAD.
Q. EXACTLY.
A. I DON'T HAVE NO GOOD MEMORY.
Q. RIGHT. IT HAS BEEN TWO YEARS.
A. BUT I KNOW -- I KNOW -- I'M JUST TESTIFYING THE TRUTH OF WHAT I KNOW.
Q. RIGHT.
A. YOU KNOW, I'M NOT HERE---
Q. AND I'M NOT ACCUSING YOU---
A. ---TO TELL NO LIES.
Q. I'M NOT ACCUSING YOU OF THAT. I'M JUST SAYING IT HAS BEEN TWO YEARS; RIGHT?
A. UH-HUH.
Q. SO YOU'RE NOT SURE EXACTLY HOW LONG IT WAS; RIGHT?
A. IT WAS -- IT WAS LESS THAN THREE TO FOUR MINUTES, YOU KNOW, SOMEWHERE UP IN THERE, YOU KNOW, OR A MINUTE, SOMEWHERE UP IN THERE. I CAN'T BE ACCURATE. I'M NOT---
Q. WELL, I UNDERSTAND.
A. ---A PSYCHIC OR SOMETHING.
Q. I UNDERSTAND. YOU WEREN'T LOOKING AT YOUR WATCH TIMING IT. RIGHT?
A. YEAH.
Q. JUST BRIEFLY, YOU KNOW, ALL THE SMITHS; RIGHT? ALL THAT

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FAMILY?
A. UH-HUH.
Q. RIGHT?
A. (WITNESS NODDED HEAD UP AND DOWN.)
Q. YES?
A. YES, MA'AM.
Q. OKAY.
A. UH-HUH.
Q. AND INITIALLY YOU WERE WORRIED THAT THEY THOUGHT YOU MIGHT HAVE HAD SOMETHING TO DO WITH THIS; RIGHT? YOU WERE CONCERNED ABOUT THAT?
A. NO, I -- WELL, I'M NOT CONCERNED ABOUT IT BECAUSE I KNOW I DIDN'T HAVE NOTHING TO DO WITH IF SOMEBODY WAS SHOOTING AT ME.
Q. I UNDERSTAND THAT, BUT A MOMENT AGO---
A. I COULD HAVE BEEN DEAD JUST AS WELL.
Q. A MOMENT AGO YOU WERE EXPRESSING YOUR CONCERN OF WANTING THE FAMILY TO KNOW THAT YOU HAD NOTHING TO DO WITH THIS. YOU JUST TESTIFIED TO THAT.
A. YEAH, BECAUSE THEY KEEP SAYING THAT, AND THEN THE SOLICITOR SAID THAT THEY THOUGHT THAT I HAD SOMETHING TO DO WITH IT.
Q. OKAY.
A. SO HOW CAN I HAVE SOMETHING TO DO WITH IT WHEN THIS MAN WAS SHOOTING AT ME, TOO?

Q. AND I'M NOT TRYING TO -- ALL I'M ASKING YOU IS THAT YOU WERE CONCERNED THAT PEOPLE KNEW OR PEOPLE THOUGHT YOU MIGHT HAVE HAD SOMETHING TO DO WITH THIS; RIGHT?

A. UH-HUH. UH-HUH.

Q. SO YOU'RE HERE TODAY TO TESTIFY TO HELP THE FAMILY OUT; RIGHT?

A. YEAH.

Q. YOU WANT TO HELP THEM OUT WITH WHAT HAPPENED TO SHORT DOG; RIGHT?

A. UH-HUH.

Q. ALL RIGHT. YOU HAVE A PENDING CHARGE RIGHT NOW, TOO. RIGHT?

A. YEAH. WHAT THAT GOT TO DO WITH ANYTHING?

Q. I'M JUST ASKING YOU. YOU DO THOUGH; RIGHT?

A. YEAH, BUT I'M INNOCENT OF MY CHARGE.

Q. AND THAT COULD BE. I'M NOT ASKING YOU ABOUT THAT.

A. OKAY.

Q. CARRIES UP TO TEN YEARS; RIGHT?

A. I'M INNOCENT OF MY CHARGE, SO I'M NOT WORRYING ABOUT NONE OF THIS.

Q. I UNDERSTAND THAT. YOU'RE TRYING TO HELP COOPERATE WITH THE STATE?

A. I'M DOING THIS FOR THE FAMILY. I'M NOT DOING THIS FOR NOBODY ELSE BECAUSE I'M FRIENDS WITH THE FAMILY. OKAY?

Q. RIGHT. YOU'RE GOOD FRIENDS WITH THE FAMILY.

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A. I MEAN, I'M DOING THAT FOR THE FAMILY. OKAY?
Q. YOU'RE GOOD FRIENDS WITH THE FAMILY.
A. AND I'M -- AND I'M TELLING THE TRUTH, THE TRUTH AND NOTHING BUT THE TRUTH. I BELIEVE IN THE LORD JESUS CHRIST.
Q. OKAY.
A. OKAY?
Q. THANK YOU.
A. THE TRUTH SHALL SET YOU FREE.

MS. DAVIS: NOTHING FURTHER, YOUR HONOR.

THE COURT: OKAY. ALL RIGHT. YOU CAN STEP DOWN AND BE EXCUSED. IS THERE ANYTHING FURTHER TODAY?

MS. SHIPLEY: (SHOOK HEAD FROM SIDE TO SIDE.)

THE COURT: OKAY.

MS. SHIPLEY: MAY WE APPROACH BRIEFLY, YOUR HONOR?

THE COURT: YES, YOU MAY.

(WHEREUPON, A BENCH CONFERENCE WAS HELD.)

THE COURT: LADIES AND GENTLEMEN OF THE JURY, THANK YOU VERY MUCH FOR YOUR PATIENCE TODAY. WE ARE GOING TO EXCUSE YOU FOR THE EVENING, AND I'D LIKE YOU TO REPORT TO YOUR JURY ROOM AT 9:30. I REMIND YOU NOT TO DISCUSS THE CASE. THANK YOU AGAIN.

(WHEREUPON, THE JURY WAS EXCUSED FROM OPEN COURT FOR THE DAY AT 6:09 P.M.)

THE COURT: ARE THERE ANY ISSUES THE COURT NEEDS TO TAKE UP BEFORE WE PROCEED IN THE MORNING?

MS. SHIPLEY: YOUR HONOR, WE'RE JUST GOING TO NEED A RULING ABOUT THE TRANSCRIPT OF THE AUDIO, AND IF YOU DO DECIDE TO REDACT IT, I NEED TO KNOW WHAT YOU WANT REDACTED SO I CAN GET THE PRODUCTION COMPANY TO DO WHAT YOU WANT.

THE COURT: IS THAT GOING TO BE SOMETHING YOU'LL DO FIRST THING IN THE MORNING?

MS. SHIPLEY: NO, MA'AM.

THE COURT: OKAY.

MS. SHIPLEY: THIS CAN WAIT.

THE COURT: OKAY. LET US REVIEW THAT TRANSCRIPT, AND THEN WE'LL HAVE YOU A RULING BEFORE THE MORNING.

MS. SHIPLEY: THANK YOU, MA'AM. AND I'VE GONE AHEAD ON YOUR COPY AND HIGHLIGHTED WHAT TWO SENTENCES -- ON THE FOURTH PAGE OR SECOND PAGE AND PAGE 17 OF WHAT WE CONCEDE CAN BE REDACTED.

THE COURT: OKAY. ALL RIGHT. ANYTHING ELSE?

MS. SHIPLEY: THAT'S IT, YOUR HONOR.

THE COURT: ALL RIGHT. YOU ALL HAVE A GOOD EVENING AND THANK YOU, TOO, COURT STAFF.

MS. SHIPLEY: THANK YOU.

MR. LEDDY: THANK YOU, YOUR HONOR.

(WHEREUPON, THE TRIAL CONCLUDED FOR THE DAY AT 6:10 P.M. AND RESUMED THE FOLLOWING DAY, MARCH 4, 2009, AS FOLLOWS. COURT'S EXHIBIT 1 WAS MARKED FOR IDENTIFICATION ONLY. STATE'S EXHIBITS 13 THROUGH 44 WERE MARKED FOR IDENTIFICATION

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ONLY.)

THE COURT: JUST A COUPLE OF HOUSEKEEPING MATTERS. A COUPLE OF HOUSEKEEPING MATTERS. I JUST WANT TO GET AN IDEA OF THE STATE'S CASE ABOUT HOW FAR WE'LL GO THROUGH.

MS. SHIPLEY: TODAY, YOUR HONOR?

THE COURT: YEAH.

MS. SHIPLEY: WE'RE TRYING TO BE AS AMBITIOUS AS POSSIBLE.

THE COURT: OH, I KNOW. YEAH, YOU DID GREAT YESTERDAY.

MS. SHIPLEY: WE'VE GOT -- THIS MORNING WE'RE HOPING TO GET THROUGH ONE, TWO, THREE, FOUR, FIVE, SIX, SEVEN, EIGHT WITNESSES HOPEFULLY THROUGH THIS MORNING, AND I HAVE OTHER WITNESSES ON STANDBY FOR 2:30 FOR THIS AFTERNOON.

THE COURT: OKAY.

MS. SHIPLEY: SO IF WE COULD JUST BREAK FOR LUNCH. I'VE GOT TO EAT TODAY, YOUR HONOR.

THE COURT: OH, ABSOLUTELY. YEAH.

MS. SHIPLEY: IF WE COULD BREAK FOR LUNCH AND THEN RESUME AT 2:30---

THE COURT: SURE.

MS. SHIPLEY: ---THEN WE'LL BE ABLE TO GET A LOT OF WITNESSES DONE THIS AFTERNOON.

THE COURT: AND I'VE GOT ONE JUROR NOTE THAT'S INDICATING THAT THEY HAVE A 5:45 APPOINTMENT THAT THEY'VE HELD FOR A MONTH, SO I THINK WE CAN MAKE THAT.

MS. SHIPLEY: YES, MA'AM. WE CAN STOP AT 5:00, 5:30.

THE COURT: OKAY. JUST WHEREVER WE ARE IN THE LAST WITNESS.

MS. SHIPLEY: SURE.

THE COURT: OKAY. AND THEN JUST TO LET YOU ALL KNOW, TOO -- BUT BEFORE WE GET THERE, THEN, STATE, DO YOU THINK YOU'LL CONCLUDE YOUR CASE TOMORROW?

MS. SHIPLEY: NO, YOUR HONOR.

THE COURT: OKAY. OKAY.

MS. SHIPLEY: WELL, IT KIND OF DEPENDS ON HOW FAR WE GET THIS AFTERNOON.

THE COURT: OKAY.

MS. SHIPLEY: AND THEN ALSO FROM THE OPENING STATEMENT PROVIDED BY MS. DAVIS, IT APPEARS THAT THEY'RE NOT CONTESTING THAT THEIR CLIENT FIRED THE GUN.

THE COURT: OKAY.

MS. SHIPLEY: SO IF THEY WANT TO STIPULATE TO CHAIN OF CUSTODY WITNESSES, THAT WOULD CUT DOWN ONE, TWO, THREE, FOUR, FIVE WITNESSES.

THE COURT: OKAY.

MS. SHIPLEY: AND I'LL CALL THE EXPERT WITNESSES TO TESTIFY ABOUT THE CONDITION IN WHICH THEY RECEIVED THE ITEM OF EVIDENCE.

THE COURT: OKAY.

MS. SHIPLEY: BUT JUST FROM MY GATHERING FROM THEIR

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OPENING, THEY'RE ARGUING THAT THERE WAS NO MALICE, NOT THAT THEIR CLIENT DIDN'T FIRE THE GUN. SO IF THEY'RE NOT DISPUTING THAT, THAT COULD CUT OUT FIVE WITNESSES, BUT I'LL LEAVE THAT UP TO THEM.

MR. LEDDY: I JUST NEED TO RUN IT BY MY CLIENT.

THE COURT: CERTAINLY.

MR. LEDDY: DO WE HAVE THE NAMES OF THE WITNESSES YOU PLAN ON CALLING THIS MORNING SO WE CAN SETTLE THE RECORD?

MS. SHIPLEY: THE ONLY LAY WITNESS IS EDWINA BROWN EVANS, AND HER PRIOR CONVICTIONS ARE -- I HIGHLIGHTED THEM WHEN I TURNED OVER HER RAP SHEET.

MR. LEDDY: YEAH.

MS. SHIPLEY: 2000 PETIT LARCENY. 2000 POSSESSION OF CRACK. 2003, SOLICITATION OF PROSTITUTION IS NOT -- IT CARRIES NO MORE THAN A YEAR. IT WAS A 30-DAY OFFENSE, SO THAT WON'T COME IN. 2003, POSSESSION OF COCAINE. SHE GOT TIME SERVED FOR THAT. AND 2004, POSSESSION OF CRACK. SHE GOT PROBATION, AND THAT WAS REVOKED AND THAT IS WHAT SHE IS SERVING TIME FOR.

MR. LEDDY: OKAY.

MS. SHIPLEY: WHICH IS WHY SHE GAVE THE NAME EDWINA BROWN TO THE POLICE INSTEAD OF EDWINA EVANS BECAUSE SHE KNEW SHE WAS ON PROBATION.

MR. LEDDY: ALL RIGHT. THEN HER RECORDS FROM ATLANTA AND NEW YORK.

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MS. SHIPLEY: THOSE ARE ALL BEYOND -- TOO OLD. THOSE ARE OUTSIDE OF THE TEN-YEAR WINDOW, AND I CHECKED THE SENTENCES TO MAKE SURE THEY DIDN'T FALL INTO THE TEN-YEAR WINDOW.

MR. LEDDY: OKAY.

THE COURT: OKAY. SO YOU ALL ARE COMFORTABLE WITH THE---

MS. SHIPLEY: ARE YOU IN AGREEMENT WITH THOSE CONVICTIONS, MICAH?

MR. LEDDY: YEAH. I JUST WANT TO GO OVER THEM.

MS. SHIPLEY: AND ONE LAST THING, YOUR HONOR. I FAILED TO RESPOND TO MR. LEDDY WHEN HE WAS DESCRIBING -- ARGUING ABOUT THE CRAWFORD IN THE PRETRIAL MATTERS. I JUST WANTED TO PUT ON THE RECORD RULE 1101 WHICH IS THE RULE CONCERNING APPLICABILITY OF THE RULES OF EVIDENCE, SUBSECTION D. IT SAYS, "RULES INAPPLICABLE. THE RULES, OTHER THAN THE ONES WITH RESPECT TO PRIVILEGE, DO NOT APPLY IN THE FOLLOWING SITUATIONS: NUMBER ONE, PRELIMINARY QUESTIONS OF FACT. THE DETERMINATION OF QUESTIONS OF FACT PRELIMINARILY TO ADMISSIBILITY OF EVIDENCE WHEN THE ISSUE IS TO BE DETERMINED BY THE COURT UNDER RULE 104." AND SO, YOUR HONOR, THAT WOULD BE A JACKSON VERSUS DENNO HEARING. THAT WOULD BE A NEIL VERSUS BIGGERS HEARING AND SO FORTH. SO I JUST WANTED TO PUT THAT ON THE RECORD.

THE COURT: OKAY. THE COURT WOULD FURTHER ADD THAT RULE

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104 DEALS WITH QUESTIONS OF ADMISSIBILITY GENERALLY, AND PRELIMINARY QUESTIONS CONCERNING THE ADMISSIBILITY OF CERTAIN THINGS AS EVIDENCE SHALL BE DETERMINED BY THE COURT, AND IN MAKING ITS DETERMINATION, THE COURT IS NOT BOUND BY THE RULES OF EVIDENCE EXCEPT THOSE WITH RESPECT TO PRIVILEGES ANYWAY.

(MR. ROBINSON IS BROUGHT INTO THE COURTROOM AT THIS TIME.)

THE COURT: OKAY. AND THEN ASIDE FROM THAT PARTICULAR JUROR'S NOTE, I DID RECEIVE TWO OTHER JURORS' NOTES.

MS. SHIPLEY: YES, MA'AM.

THE COURT: AND I WILL LET YOU KNOW THE -- IN A SUMMARY, BOTH NOTES ARE ASKING FOR SUBSTANTIVE INFORMATION IN TERMS OF QUESTIONS REGARDING CERTAIN THINGS THEY'D LIKE TO KNOW ABOUT THE TRIAL AND FOR EVIDENCE. I DO NOT BELIEVE THAT THAT IS APPROPRIATE AT THIS TIME BECAUSE IT WOULD TIP THE HAND AS TO WHAT THE JUROR IS SEEKING INFORMATION IN TERMS OF WHAT YOU ALL SHOULD BE PROVING, BUT I WILL MAKE THESE COURT'S EXHIBITS, YOU KNOW, FOR NOW, BUT THEY WILL NOT BE SHOWN TO YOU ALL AT THIS POINT.

WHEN THE JURY COMES BACK OUT, I WILL INSTRUCT THEM THAT THEY NEED TO LISTEN TO THE REST OF THE CASE AND LET -- HOPEFULLY THESE QUESTIONS WILL THEN BE ANSWERED AT SOME POINT DURING THE TRIAL, BUT I DON'T THINK THAT IT'S FAIR FOR EITHER SIDE IN THIS REGARD TO ACTUALLY READ THESE QUESTIONS ON THE RECORD BECAUSE THEN IT TIPS THE HAND TO MAKE THE SOLICITOR

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PRESENT THE EVIDENCE THEY'RE ASKING FOR, BUT IT COULD POTENTIALLY ALSO FORCE THE DEFENDANT, YOU KNOW, TO FEEL LIKE THEY HAVE THE NEED TO PRESENT A CASE OR WHATEVER, AND I BELIEVE THAT YOUR CASE SHOULD BE PRESENTED AS YOU DEEM APPROPRIATE.

MS. SHIPLEY: YES, MA'AM.

MR. LEDDY: REGARDING THE WITNESS EDWINA BROWN, DOES SHE WANT -- SHOULD I ADDRESS HER AS EDWINA EVANS? TO WHAT EXTENT DOES THE COURT THINK IT IS APPROPRIATE FOR ME TO GET INTO THE FACT THAT SHE HAS SO MANY ALIASES IN TERMS OF SHOWING THAT SHE'LL USE NAMES WHEN CONVENIENT? WHAT -- I JUST WANT TO KNOW---

THE COURT: I THINK IN TERMS OF WHO THE WITNESS IS, JUST HOW EVER HER LEGAL NAME IS, YOU WOULD ADDRESS HER HERE, BUT IN TERMS OF THAT INFORMATION, THAT'S MORE TO IMPEACHMENT.

MR. LEDDY: YEAH.

THE COURT: BUT, I MEAN, WE JUST NEED TO HAVE A PARTICULAR NAME THAT WE USE FOR PURPOSE OF THE RECORD IN TERMS OF ADDRESSING HER SO THAT THAT IS CLEAR.

MS. SHIPLEY: HER LEGAL NAME IS EDWINA EVANS.

THE COURT: OKAY.

MS. SHIPLEY: THAT IS THE NAME THAT SHE IS INCARCERATED UNDER IN THE DEPARTMENT OF CORRECTIONS.

THE COURT: OKAY.

MS. SHIPLEY: AND, YOUR HONOR, BEFORE YOU BRING THE JURY

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OUT, I NEED TO JUST REMIND MS. EVANS ABOUT TWO MATTERS. NUMBER ONE -- IS IT ONE OR TWO? BASICALLY ONE MATTER. SHE INDICATED TO US THAT SHE HAD KNOWN THE DEFENDANT ABOUT A YEAR, HAD MET HIM ABOUT A YEAR PRIOR TO THE MURDER, AND THAT HE THEN WENT TO JAIL FOR THAT ONE-YEAR PERIOD AND THEN SHE SAW HIM OUT GET AGAIN ABOUT A WEEK PRIOR. I JUST WANTED TO REMIND HER NOT TO MENTION THAT.

THE COURT: ABSOLUTELY.

MS. SHIPLEY: SO MAYBE WE COULD JUST GO AHEAD AND SEAT HER IN THE WITNESS STAND---

THE COURT: THAT WOULD BE FINE.

MS. SHIPLEY: ---SINCE SHE IS INCARCERATED, AND THEN SHE'LL BE THERE READY FOR THE JURORS.

THE COURT: THAT WILL BE FINE.

MS. SHIPLEY: CAN WE BRING MS. EVANS IN? WE NEED THE INMATE.

MR. LEDDY: VANESSA, DO YOU -- IS INVESTIGATOR REESE GOING TO TESTIFY TODAY?

MS. SHIPLEY: NO.

MR. LEDDY: OKAY. SO WE DON'T NEED TO GET INTO THE TRANSCRIPT TODAY.

MS. SHIPLEY: YOUR HONOR, IF YOU WANT TO ADDRESS THE TRANSCRIPT MATTER, LYDIA, MY LAW CLERK, IS PRESENT IF YOU HAVE ANY QUESTIONS. SHE'S THE ONE THAT TRANSCRIBED THE AUDIO---

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THE COURT: OKAY.

MS. SHIPLEY: ---INTERVIEW.

THE COURT: SO WE'LL HAVE THIS WITNESS AND THEN HE'S COMING ON NEXT?

MS. SHIPLEY: NO. NO, MA'AM.

THE COURT: OKAY.

MS. SHIPLEY: I WAS JUST -- OUT OF THE PRESENCE OF THE JURY...

THE COURT: RIGHT.

MR. LEDDY: YOUR HONOR, THIS MORNING I GOT THROUGH ABOUT PAGE 8 OF THE TRANSCRIPT, AND THESE ARE THE THINGS THAT I THINK WERE TRANSCRIBED INCORRECTLY SO FAR---

THE COURT: OKAY.

MR. LEDDY: ---IF YOU WANT TO TAKE A LOOK AT IT. I DIDN'T MAKE A COPY FOR THE DEFENSE.

THE COURT: OKAY.

MR. LEDDY: BASICALLY I THINK THAT YOUR HONOR IS GOING TO HAVE TO LISTEN TO THIS AND GO THROUGH IT WORD BY WORD IF WE'RE GOING TO PRESENT THIS.

THE COURT: OKAY. AND I WILL TELL YOU THAT JUST A COUPLE OF CONCERNS THAT I HAVE ON THIS WHOLE MATTER... ONE IS THAT WHILE I UNDERSTAND THE SOLICITOR'S REPRESENTATION WAS THAT THEY'D DONE THIS SEVERAL TIMES, YOU KNOW, EACH CASE IS DIFFERENT AND YOU JUST HAVE TO GO WITH WHAT'S HAPPENING IN THAT PARTICULAR CASE AND ADDRESS IT WITH THE LAW.

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AUTHENTICATION IS NOT THAT HARD GENERALLY IN TERMS OF COURT IF SOMEBODY JUST VERIFIES THAT IT IS THE DOCUMENT THAT IT SAYS IT IS, AND SHE WOULD HAVE TO PROFFER THAT INFORMATION THROUGH HER LAW CLERK AND THEN ALSO INVESTIGATOR REESE. MY CONCERN WAS EXACTLY WHAT MR. LEDDY IS INDICATING IS THAT IF THEY'VE LISTENED TO IT AND THEN THERE'S ANOTHER -- THEN NOW A THIRD INTERPRETATION OF WHAT'S HERE, THE BEST EVIDENCE IS THE TAPE.

SECONDLY, THIS IS CUMULATIVE TO THE EXTENT THAT YOU'VE GOT AN AUDIOTAPE AND THEN YOU'RE ASKING THEM TO READ IT, BUT IT'S NOT SUBSTANTIVE EVIDENCE BECAUSE THE DEFENDANT HASN'T SIGNED THIS STATEMENT.

MS. SHIPLEY: RIGHT.

THE COURT: WE DON'T HAVE ANY TESTIMONY BY THE DEFENDANT THAT SAYS, "IT IS MY STATEMENT." OF COURSE, THAT COULD COME IN THROUGH INVESTIGATOR REESE, YOU KNOW, BECAUSE HE ACTUALLY TOOK IT. MY OTHER CONCERN -- AND I'M JUST SAYING ALL THESE THINGS BECAUSE IT GIVES MS. SHIPLEY AN OPPORTUNITY TO ADDRESS, YOU KNOW, THE COURT'S CONCERNS AND, YOU KNOW, POTENTIALLY ALLEVIATE THEM. MY OTHER CONCERN IS THAT THEY WILL HAVE THE AUDIO, IF THAT'S YOUR INTENTION FOR IT TO GO BACK.

MS. SHIPLEY: YES, MA'AM.

THE COURT: IS THAT CORRECT? THEN THIS WOULD BE CUMULATIVE, BUT THEN IT ALSO -- TO GIVE THEM THE WRITTEN COPY

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ALSO MAKES IT -- EMPHASIS ON IT. IF THEY WANT TO HEAR MORE, THEY CAN OBVIOUSLY ASK FOR THE AUDIO OR IF WE AGREE ON A COPY THAT IS CORRECT, THEN THE COPY CAN GO BACK SO THAT THEY CAN JUST GET TO WHAT THEY WANT INSTEAD OF HAVING TO KEEP REWINDING IT OR SOMETHING AND LET THAT BE SOMETHING LATER ON, BUT I THINK AT THIS JUNCTURE THE AUDIO IS THE BEST EVIDENCE.

MS. SHIPLEY: YES, MA'AM, AND I THINK THAT I DIDN'T MAKE MYSELF CLEAR. I WAS NOT INTENDING ON INTRODUCING THE TRANSCRIPT INTO EVIDENCE.

THE COURT: OH, OKAY.

MS. SHIPLEY: I WAS SIMPLY GOING TO HAND OUT - AND THAT'S WHAT I'VE DONE IN THE PAST - HAND OUT THE TRANSCRIPT FOR THE JURORS WHILE THEY'RE LISTENING---

THE COURT: OKAY. THAT MAKES SENSE---

MS. SHIPLEY: ---TO THE TAPE TO READ ALONG.

THE COURT: ---BECAUSE IT'S DEMONSTRATIVE.

MS. SHIPLEY: YES, MA'AM.

THE COURT: OKAY.

MS. SHIPLEY: I WAS NOT INTENDING ON INTRODUCING IT INTO EVIDENCE.

THE COURT: OKAY.

MS. SHIPLEY: AND SO THAT -- I UNDERSTAND THE COURT'S CONCERN ABOUT IT BEING CUMULATIVE AND---

THE COURT: AND EMPHASIZING IT.

MS. SHIPLEY: IN MY EXPERIENCE, IT'S JUST -- IF IT IS

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HELPFUL TO THE TRIER OF FACT---

THE COURT: OKAY.

MS. SHIPLEY: IN MY EXPERIENCE, SOME PEOPLE ARE MORE AUDIO---

THE COURT: OKAY. THAT MAKES MORE SENSE TO ME.

MS. SHIPLEY: THAT'S WHY I DID THAT TRANSCRIPT.

THE COURT: OKAY. YEAH, THAT PART I THINK I'M OKAY WITH, BUT MY CONCERN WOULD BE -- MR. LEDDY, I ASSUME HE'S HANDED YOU ALL---

MR. LEDDY: I HAVEN'T MADE A COPY, YOUR HONOR, BECAUSE I WAS JUST IN THE MIDDLE OF IT WHEN I...

THE COURT: OKAY. WELL, I WOULD -- BEFORE WE GET TO THAT POINT THEN, LET'S MAKE SURE THAT THE STATE HAS A COPY OF IT BECAUSE I DON'T KNOW IF THEY'VE GOT SOMEBODY WHO HAS A CHANCE TO THEN GO BACK AND LISTEN TO IT BECAUSE WE'VE NOW GOT A THIRD INTERPRETATION OF WHAT THE STATEMENTS ACTUALLY SAID.

MS. SHIPLEY: RIGHT. OKAY.

THE COURT: OKAY. SO THAT'S HOW WE CAN DEAL WITH IT FOR NOW IS IF YOU ALL GIVE YOUR COPY TO THE STATE AND THEN YOU ALL -- WE CAN THINK THROUGH THAT PART BEFORE WE GET TO IT.

MS. SHIPLEY: OKAY. THANK YOU, YOUR HONOR.

THE COURT: OKAY. ANYTHING ELSE AT THIS TIME?

MS. SHIPLEY: YOUR HONOR, JUST THAT EDWINA EVANS IS ON THE STAND AT THIS TIME.

THE COURT: OKAY.

MS. SHIPLEY: MS. EVANS, I JUST WANTED TO REMIND YOU THAT -- REMEMBER YOU TOLD US THAT YOU HAD MET MR. ROBINSON A YEAR BEFORE THE MURDER AND THAT -- THROUGH HIS COUSIN OR SOMETHING?

MS. EVANS: UH-HUH.

MS. SHIPLEY: AND THAT HE THEN WENT TO JAIL AND THEN YOU SAW HIM OUT ABOUT A WEEK BEFORE THE MURDER?

MS. EVANS: UH-HUH.

MS. SHIPLEY: REMEMBER, YOU CANNOT SAY ANYTHING ABOUT HIM GOING TO JAIL. OKAY?

MS. EVANS: UH-HUH.

MS. SHIPLEY: I'M ONLY GOING TO ASK YOU: HOW LONG HAVE YOU KNOWN HIM BEFORE THIS MURDER? A YEAR. AND THEN -- AND THEN YOU DIDN'T SEE HIM FOR A YEAR. I MET HIM A YEAR AGO. I HAVEN'T SEEN HIM FOR A YEAR. I SAW HIM A WEEK BEFORE THE SHOOTING.

MS. EVANS: UH-HUH.

MS. SHIPLEY: OKAY? SO DO NOT MENTION THAT HE WENT TO JAIL. OKAY?

MS. EVANS: UH-HUH.

MS. SHIPLEY: DO NOT MENTION THAT HE HAS ANY PRIOR CRIMINAL HISTORY. OKAY?

MS. EVANS: OKAY.

THE COURT: I NEED YOU TO SPEAK UP AND SAY YES OR NO TO RESPONSES. YOU CAN'T SAY UH-HUH AND THINGS OF THAT NATURE.

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SHE HAS TO TAKE DOWN VERBAL RESPONSES. OKAY?

MS. EVANS: OKAY.

THE COURT: THANK YOU.

MS. SHIPLEY: ALSO, YOUR HONOR, WOULD IT BE POSSIBLE TO REMOVE HER HANDCUFFS? I NEED HER TO USE HER POINTER ON THAT DIAGRAM UP THERE, AND SHE'S CURRENTLY GOT BELLY CHAINS.

THE COURT: OKAY. DEPUTIES, DO YOU HAVE ANY PROBLEM WITH THAT?

MS. SHIPLEY: SHE'S NOT A FLIGHT RISK. SHE WAS IN MY OFFICE WITHOUT CUFFS.

THE COURT: OKAY. THANK YOU. I JUST ALWAYS DEFER TO THEM ON SECURITY CONCERNS BECAUSE I DON'T KNOW ANYTHING ABOUT MS. EVANS. I DO HAVE ONE OTHER NOTE, AND, BAILIFF, DEPUTIES, PLEASE MAKE SURE THAT THEY ACTUALLY SIGN THEIR JUROR NAME AND NUMBER WHEN THEY'RE SUBMITTING THE NOTES TO THE COURT. OKAY. THEY ASKED COULD THEY TAKE NOTES DURING THE TRIAL. I THINK I'M GETTING TO THE POINT WHERE I'M GOING TO JUST START GIVING JURORS THE NOTEPADS AND THE PENCILS. I TEND TO NOT DO IT ON CASES THAT ARE A DAY, BUT LAST WEEK WHEN I WAS IN TRIAL ON A DRUG CASE THAT LASTED ONLY THAT DAY THEY ASKED FOR THE NOTES, YOU KNOW.

BUT, ANYWAY, AT THIS JUNCTURE I'M JUST GOING TO HEAR FROM THE ATTORNEYS BECAUSE WE HAVE GOTTEN THROUGH, YOU KNOW, AT LEAST TWO HOURS OR SO OF TESTIMONY AND, YOU KNOW, I REALLY PRETTY MUCH NEED TO DEFER TO YOU ALL AT THIS POINT BECAUSE I

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DON'T WANT IT TO BE UNFAIR. DO YOU ALL HAVE ANY COMMENT?

MS. SHIPLEY: YOUR HONOR, I HAVE NO PROBLEM WITH THEM TAKING NOTES.

THE COURT: OKAY. AND I'LL GIVE THEM THE GENERAL RULING.

MR. LEDDY: IT'S COMPLETELY IN YOUR DISCRETION, YOUR HONOR.

THE COURT: OKAY. ALL RIGHT. BRING THE JURORS IN.

MS. SHIPLEY: AND IF YOU COULD JUST TELL THEM, YOUR HONOR, THAT PLEASE PAY ATTENTION. DON'T GET DISTRACTED.

THE COURT: YEAH. I'LL DO THAT. OKAY. THANK YOU ALL.

MS. SHIPLEY: THANK YOU, YOUR HONOR.

THE COURT: AND, MS. SHIPLEY, WILL AN HOUR BE LONG ENOUGH FOR LUNCH?

MS. SHIPLEY: YES, MA'AM.

THE COURT: OKAY. THE REASON I'M SAYING THAT IS THE JURORS PROBABLY COULDN'T COME BACK IN AND OUT WITHIN AN HOUR, SO I MIGHT ORDER IN FOR THEM IF THEY WANT LUNCH.

MS. SHIPLEY: AND AN HOUR AND A HALF IS FINE, TOO, IF THEY NEED MORE TIME.

THE COURT: YOU DO -- OKAY. AS LONG AS WE KNOW THAT THIS CASE CAN GET TO THE JURY ON FRIDAY MORNING---

MS. SHIPLEY: YES, MA'AM.

THE COURT: OKAY.

MS. SHIPLEY: AND IF THEY CAN ASK THEIR CLIENT ABOUT

CHAIN.

THE COURT: OKAY. OH, THAT'S RIGHT. THAT'S GOING TO MAKE THE DISTINCTION.

MR. LEDDY: AS FAR AS THE GUN GOES, THAT'S FINE. WE STIPULATE TO CHAIN OF CUSTODY ON THE GUN.

THE COURT: OKAY.

MR. LEDDY: AND THE PROJECTILES AND THE SHELL CASINGS.

THE COURT: OKAY. OKAY. AND THEN AT THE APPROPRIATE TIME, YOU ALL WILL PUT THAT ON THE RECORD. THAT'S FINE.

MR. LEDDY: OKAY.

THE COURT: EVEN IN FRONT OF THE JURY, THE STIPULATION.

MR. LEDDY: OKAY.

THE COURT: OKAY.

(WHEREUPON, THE JURY WAS BROUGHT INTO OPEN COURT AT 9:54 A.M.)

THE COURT: THANK YOU ALL. MS. PENDERGRASS, YOU CAN GO AHEAD AND SWEAR THEM IN. THEN I'LL GIVE THEM SOME OPENING COMMENTS. OKAY. BEFORE WE PROCEED WITH THE WITNESS, JURORS, I RECEIVED A COUPLE OF NOTES FROM YOU. ONE JUROR INDICATED THAT THEY NEEDED TO HAVE AN APPOINTMENT THIS AFTERNOON. THAT WILL BE FINE. WE WILL CONCLUDE SHORTLY AFTER 5. AGAIN, I THANK YOU LAST NIGHT FOR ACCOMMODATING US AS WE PUSHED THROUGH, AGAIN SO THAT WE DON'T HAVE TO WORK ON SATURDAY. SO THAT'S THE REASON FOR IT SINCE WE LOST MONDAY.

OTHER QUESTIONS WERE SUBSTANTIVE IN NATURE ABOUT THE

EVIDENCE. GENERALLY SPEAKING, WHENEVER JURORS GIVE ME NOTES. OUTSIDE OF YOUR PRESENCE I HAVE TO LET THE ATTORNEYS KNOW WHAT THE NOTES SAY SO THAT WE CAN HAVE OUR LEGAL ARGUMENT ON THE RECORD AND THEN THE COURT HAS TO RULE. AS TO THOSE PARTICULAR SUBSTANTIVE NOTES, I DID NOT READ THEM TO THE ATTORNEYS BECAUSE THAT IS SUGGESTING TO THE ATTORNEYS WHAT ELSE YOU ALL NEED TO KNOW ABOUT THE CASE, AND WE HAVE NOT HEARD ALL THE EVIDENCE. AND I DON'T WANT TO TIP ANYBODY'S HAND IN THAT REGARD WITH RESPECT TO WHAT IT IS THAT YOU ALL ARE INQUIRING ABOUT WITH RESPECT TO THE FACTS.

THE STATE NEEDS TO PUT UP THEIR CASE AND MAINTAIN THEIR BURDEN OF PROOF, AND THEN THE DEFENSE, AS YOU WILL NOTE IN MY JURY CHARGES AT THE END, DOES NOT HAVE TO PUT UP A CASE, AND I DON'T WANT TO SUGGEST TO THEM THAT THEY HAVE TO PUT UP A CASE TO ANSWER YOUR QUESTIONS BECAUSE THE BURDEN OF PROOF REMAINS WITH THE STATE. SO IN A NUTSHELL, JUST LISTEN CAREFULLY TO THE REST OF THE EVIDENCE, AND I HOPE THAT YOUR QUESTIONS WILL THEN BE ANSWERED AND THERE WILL BE AN APPROPRIATE TIME LATER THAT IF THEY AREN'T ANSWERED WE'LL, YOU KNOW, DEAL WITH THAT AT THE APPROPRIATE TIME.

THERE WAS ANOTHER QUESTION ABOUT WHETHER JURORS CAN TAKE NOTES. GENERALLY SPEAKING, IF A TRIAL IS NOT GOING TO LAST THAT LONG, I DON'T -- OR IF I THINK THAT THE EVIDENCE WILL BE CLEARER, I DON'T. BUT I THINK BECAUSE I'VE HAD A CASE LAST WEEK THAT I WAS JUST TELLING THEM ABOUT THAT WAS A ONE-DAY

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DRUG CASE AND THE JURORS WANTED TO TAKE NOTES, THEN I MIGHT JUST GO AHEAD AND HAVE A STANDARD PRACTICE OF ALLOWING IT. I TEND TO NOT DO IT AT THIS JUNCTURE WHEN WE'VE HEARD SOME TESTIMONY, BUT I'VE GOTTEN AGREEMENT BY THE ATTORNEYS THAT IT'S OKAY. BUT I WILL REMIND YOU THAT THAT IS -- YOUR TAKING NOTES IS NOT A SUBSTITUTE FOR ACTUALLY LISTENING TO THESE QUESTIONS. I WILL FURTHER REMIND YOU -- THE QUESTIONS AND TESTIMONY IN THE CASE.

I WILL FURTHER REMIND YOU THAT AS YOU GO BACK AND DELIBERATE, DON'T LET YOUR NOTES SUBSTITUTE FOR WHAT YOU BELIEVE YOU HEARD IN THE COURTROOM BECAUSE WE ALL KNOW THAT WE SHORT-HAND WHEN WE TAKE NOTES AND DO THINGS OF THAT NATURE. SO YOU CAN TAKE THEM FOR WHATEVER PURPOSES ARE NECESSARY FOR YOURSELVES, BUT THEN THAT IS NOT TO TAKE THE PLACE OF ACTUALLY LISTENING TO THE COURTROOM EVIDENCE.

WITH THAT IN MIND, I'M GOING TO ASK VERY QUICKLY -- AND I APOLOGIZE. MS. EVANS, JUST TAKE A SEAT FOR A MOMENT. I WOULD LIKE YOU TO GET THE PADS FIRST BEFORE WE SWEAR HER IN AND BEGIN HER TESTIMONY. AND THEN IF YOU ALL BRING QUESTIONS, MAKE SURE THAT YOU SIGN JUROR NAME AND NUMBER BECAUSE WE HAVE TO MAKE EVERYTHING PART OF THE RECORD.

(COURT'S EXHIBIT 2 WAS MARKED FOR IDENTIFICATION ONLY.)

THE COURT: MS. SHIPLEY, WE CAN USE THIS TIME TO PUT YOUR STIPULATION ON THE RECORD ABOUT CERTAIN EVIDENCE AND WITNESSES.

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MS. SHIPLEY: THANK YOU, YOUR HONOR. I BELIEVE THE DEFENSE AND THE STATE OF SOUTH CAROLINA HAVE AGREED AND STIPULATED TO THE CHAIN OF CUSTODY OF THE FIREARM USED IN THIS CASE ALONG WITH THE PROJECTILES AND SHELL CASINGS COLLECTED BY CRIME SCENE INVESTIGATORS IN THIS CASE.

MR. LEDDY: THAT'S RIGHT, YOUR HONOR. I WOULD JUST BE CAREFUL NOT TO STIPULATE TO ANYTHING THAT WAS RULED ON IN THE PRETRIAL SUPPRESSION HEARING.

THE COURT: CERTAINLY.

MR. LEDDY: BECAUSE I DON'T WANT TO MESS THAT UP FOR MR. ROBINSON.

THE COURT: ABSOLUTELY.

MR. LEDDY: BUT I DON'T SEE ANY REASON NOT TO STIPULATE TO SOMETHING THAT'S NOT REALLY AN ISSUE.

THE COURT: OKAY. THANK YOU.

MS. SHIPLEY: ONLY AS TO THE FIREARM AND THE BALLISTIC EVIDENCE.

MR. LEDDY: RIGHT.

MS. SHIPLEY: OKAY.

THE COURT: OKAY. AND WE'LL BE RIGHT WITH YOU AS SOON AS WE GET YOU YOUR NOTEPADS.

MR. LEDDY: YOUR HONOR, REGARDING THE NOTES -- AND I KNOW THE JURY WANTS TO TAKE NOTES AND I UNDERSTAND THAT. I WOULD JUST ASK THE COURT TO CAUTION THEM THAT THEY DIDN'T HAVE THAT OPPORTUNITY YESTERDAY AND THOSE WERE THREE VERY

IMPORTANT WITNESSES, AND I WOULD JUST ASK THE COURT TO INSTRUCT THEM NOT TO -- TO BE CAREFUL NOT TO GIVE MORE WEIGHT TO WHAT THEY'RE GOING TO BE ABLE TO TAKE NOTES ON THAN WHAT THEY WERE...

THE COURT: ABSOLUTELY. AND I BELIEVE THAT HOPEFULLY YOU WILL RECALL THAT TESTIMONY AS WELL, BUT THAT'S WHY I SAY DON'T RELY ON YOUR NOTES. RELY ON WHAT YOU HEARD. OKAY. THANK YOU. OKAY. WE'RE READY TO PROCEED? THANK YOU. PLEASE SWEAR THE WITNESS.

EDWINA EVANS, AFTER BEING DULY SWORN, TESTIFIED AS FOLLOWS:

THE CLERK: HAVE A SEAT. STATE YOUR FULL NAME FOR THE RECORD.

THE WITNESS: MY NAME IS EDWINA EVANS.

DIRECT EXAMINATION

BY MS. SHIPLEY:

Q. GOOD MORNING, MS. EVANS.

A. GOOD MORNING.

Q. MS. EVANS, CAN YOU TELL THE JURY WHERE IT IS YOU'RE CURRENTLY INCARCERATED?

A. AT LIEBER CORRECTIONAL CENTER.

Q. AND WHY ARE YOU INCARCERATED THERE?

A. PROBATION VIOLATION.

Q. OKAY. AND WHAT KIND OF CHARGE ARE YOU SERVING TIME FOR?

A. IT WAS POSSESSION OF CRACK.

Q. ARE YOU A CRACK ADDICT?
A. YES, I WAS.
Q. YOU WAS? HOW LONG HAVE YOU BEEN CLEAN?
A. I'VE BEEN LOCKED UP 15 MONTHS.
Q. OKAY. SINCE YOU GOT LOCKED UP?
A. YES, MA'AM.
Q. AND SO WHAT WAS THE DATE OF YOUR REVOCATION THAT YOU GOT SENT BACK TO PRISON?
A. I GOT LOCKED UP NOVEMBER 6TH.
Q. OF WHAT YEAR?
A. OF 2007.
Q. 2007?
A. UH-HUH.
Q. SO ABOUT NINE MONTHS AFTER THIS INCIDENT HAPPENED WITH SHORT DOG?
A. YEAH.
Q. OKAY. AND AT THE TIME WHEN THIS HAPPENED TO SHORT DOG, WERE YOU ON PROBATION AT THAT TIME?
A. YES. I WAS RUNNING FROM PROBATION.
Q. YOU WERE RUNNING FROM THEM?
A. UH-HUH.
Q. AND TELL THIS JURY WHAT WAS YOUR MAIN FOCUS IN YOUR LIFE BACK THEN. WHAT WAS YOUR -- WHAT DID YOU WANT THE MOST IN YOUR LIFE AT THAT TIME?
A. WHAT DID I WANT?

Q. YES, MA'AM.
A. WELL, AT THE TIME I WAS RUNNING FROM PROBATION, SO I WAS JUST OUT THERE.
Q. HOW OFTEN WERE YOU DOING CRACK?
A. EVERY DAY.
Q. OKAY. NOW, BACK WHEN THIS INCIDENT HAPPENED, YOU WERE SPOKEN TO BY THE POLICE, RIGHT, WHEN SHORT DOG WAS MURDERED?
A. YES.
Q. AND DID YOU TELL THE POLICE YOUR REAL NAME AT THE TIME?
A. NO, I DIDN'T.
Q. WHAT NAME DID YOU GIVE THEM?
A. I DIDN'T GIVE THEM MY REAL LAST NAME. I GAVE THEM EDWINA BROWN.
Q. YOU GAVE THEM EDWINA BROWN?
A. YES.
Q. AND WHAT ADDRESS DID YOU GIVE THEM?
A. MY REAL ADDRESS.
Q. ALL RIGHT. WHAT ADDRESS IS THAT?
A. .
Q. ROAD?
A. YES.
Q. AND WHO LIVES WITH YOU THERE?
A. MY MOM.
Q. AND DID YOU GIVE THEM YOUR DATE OF BIRTH?
A. YEAH.

Q. ALL RIGHT. THE ONLY THING YOU DID NOT GIVE THEM CORRECTLY WAS YOUR LAST NAME?
A. YEAH.
Q. HAVE YOU EVER USED A DIFFERENT LAST NAME? HAVE YOU EVER BEEN MARRIED?
A. YEAH.
Q. AND WHO WERE YOU MARRIED TO?
A. HIS LAST NAME WAS COAKLEY (PHONETIC).
Q. OKAY. AND WHAT ABOUT STOKES? HAVE YOU EVER USED THE LAST NAME STOKES?
A. YEAH. UH-HUH.
Q. WHO IS STOKES?
A. THAT'S MY MOTHER'S MAIDEN NAME.
Q. OKAY. SO YOU HAVE GONE BY EDWINA EVANS.
A. UH-HUH.
Q. EDWINA STOKES. AND THEN THE ONE TIME ON FEBRUARY 15TH YOU TOLD THE POLICE YOUR LAST NAME WAS BROWN?
A. UH-HUH.
Q. NOW, DID YOU -- WHEN YOU -- DID YOU TURN YOURSELF IN TO PROBATION OR DID THEY PICK YOU UP?
A. THEY PICKED ME UP.
Q. OKAY. AND YOU'VE BEEN INCARCERATED SINCE?
A. UH-HUH.
Q. THE STATEMENT THAT YOU GAVE TO THE POLICE ON FEBRUARY -- WELL, SHORTLY AFTER YOU WERE RELEASED FROM THE HOSPITAL, WHEN

WAS THAT GIVEN? DO YOU REMEMBER?
A. I DON'T REMEMBER THE EXACT DATE BUT...
Q. IF I SHOWED YOU YOUR STATEMENT, WOULD THAT HELP YOU REFRESH YOUR MEMORY?
A. YES.
Q. OKAY. DO YOU RECOGNIZE THAT DOCUMENT?
A. YEAH.
Q. AND WHAT IS IT?
A. THIS IS THE INCIDENT ABOUT WHAT HAPPENED.
Q. OKAY. AND DID YOU SIGN THAT STATEMENT?
A. YES, I DID.
Q. ALL RIGHT. CAN YOU TELL THE JURY THE DATE ON THE TOP OF THAT -- ON THE TOP OF THAT DOCUMENT?
A. 2/23/07.
Q. OKAY. 2/23/07?
A. UH-HUH.
Q. AND WHEN DID YOU GET LOCKED UP BY PROBATION?
A. NOVEMBER. NOVEMBER 6TH, '07.
Q. I'M GOING TO LEAVE THE STATEMENT WITH YOU IN CASE YOU NEED TO REFRESH YOUR MEMORY ANY FURTHER. NOW, THIS STINT THAT YOU'RE DOING IN PRISON NOW, THAT'S NOT THE FIRST TIME YOU'VE BEEN IN TROUBLE WITH THE LAW; RIGHT?
A. HUH-UH.
Q. OKAY. BACK IN 2000 YOU WERE CONVICTED OF PETIT LARCENY; CORRECT?

A. YES.
Q. AS WELL AS POSSESSION OF CRACK?
A. YES.
Q. BACK IN '03, 2003, YOU WERE CONVICTED OF POSSESSION OF CRACK?
A. YES.
Q. YOU GOT A TIME-SERVED SENTENCE?
A. UH-HUH. YES.
Q. AND THEN IN '04 YOU WERE CONVICTED FOR POSSESSION OF CRACK?
A. YES.
Q. AND THAT'S THE CHARGE FOR WHICH YOU GOT PROBATION?
A. YES.
Q. IS THAT CORRECT?
A. UH-HUH.
Q. AND THAT'S WHAT YOU VIOLATED.
A. YES.
Q. OKAY. HOW LONG HAVE YOU BEEN BATTLING YOUR ADDICTION WITH CRACK COCAINE?
A. SINCE I STARTED IN THE EIGHTIES, OFF AND ON, LIKE '85 OFF AND ON SINCE -- 'TIL I GOT LOCKED UP.
Q. OKAY. BACK IN FEBRUARY OF 2007, TELL THIS JURY WHERE YOU WERE LIVING.
A. WHERE WAS I LIVING?
Q. YEAH, THE TIME THAT MR. SMITH GOT MURDERED.

A. I WAS LIVING BETWEEN MY MOM AND DOWN THERE WHERE IT HAPPENED AT.

Q. OKAY. SO WERE YOU LIVING AT THE TIME WITH JEFF SMITH?

A. YOU COULD SAY THAT, YES.

Q. OKAY. DID YOU HAVE YOUR THINGS AT HIS HOUSE?

A. I HAD SOME THINGS THERE, YES.

Q. ALL RIGHT. WHAT ROOM WERE YOU USING TO SLEEP IN?

A. IT WAS THE LAST ROOM.

Q. OKAY.

A. IN THE BACK.

Q. IS THAT THE MASTER BEDROOM? LET ME SHOW YOU A DIAGRAM JUST SO WE KNOW WHAT ROOM YOU'RE TALKING ABOUT. DO YOU RECOGNIZE THIS DIAGRAM RIGHT HERE, STATE'S NUMBER 5?

A. YES.

Q. OKAY. IS THAT THE LAYOUT OF THE TRAILER, JEFF'S TRAILER, BACK IN FEBRUARY OF '07?

A. YES.

Q. OKAY. I NOTICE THAT THERE'S THREE BEDROOMS ON THIS CHART.

A. UH-HUH.

Q. WHICH ROOM WERE YOU SLEEPING IN?

A. THE BACK ROOM. SOMETIMES THE MIDDLE ROOM.

Q. SOMETIMES THE MIDDLE ROOM?

A. UH-HUH.

Q. OKAY. AND THEN THIS IS JEFF'S ROOM?

A. YES.
Q. ALL RIGHT. HOW LONG DO YOU BELIEVE YOU WERE STAYING OVER AT JEFF'S HOUSE AROUND THIS TIME?
A. I CAN'T RECALL, BUT IT WAS -- IT WAS SOME MONTHS.
Q. SOME MONTHS?
A. YEAH.
Q. OKAY. TELL THE JURY: WERE YOU WORKING AT THE TIME?
A. NO, MA'AM.
Q. AND HOW WOULD YOU AFFORD TO PAY FOR CRACK?
A. THE BEST WAY I COULD.
Q. ANYTHING YOU COULD DO TO GET YOUR HANDS ON IT?
A. YES.
Q. TELL THIS JURY: HOW LONG HAVE YOU KNOWN JOEL ROBINSON? BEFORE MR. SMITH WAS KILLED, HOW LONG HAD YOU KNOWN HIM - MR. ROBINSON?
A. ABOUT A YEAR OR SO.
Q. OKAY. AND HAD YOU -- HOW LONG WAS IT BEFORE THIS INCIDENT HAPPENED -- WHEN WAS THE LAST TIME YOU SAW MR. ROBINSON BEFORE THIS HAPPENED?
A. IT WAS ABOUT MAYBE A YEAR, IF NOT LESS.
Q. OKAY.
A. SOMEWHERE IN THERE.
Q. OKAY. SO A YEAR BEFORE THE MURDER HAPPENED?
A. YEAH, OR LESS. MAYBE SIX MONTHS. IT WAS IN BETWEEN THEN, BUT IT WAS CLOSE TO A YEAR.

Q. OKAY. AND DO YOU RECALL WHETHER OR NOT YOU SAW HIM THE PRECEDING WEEK ON MAIN STREET?
A. YEAH, I DID.
Q. YOU SAW HIM ABOUT A WEEK BEFORE THIS HAPPENED?
A. YEAH. MAYBE ABOUT A WEEK, YEAH.
Q. OKAY. AND SO YOU -- DID YOU KNOW HIM BY A PARTICULAR NAME?
A. I CALLED HIM JOEY.
Q. JOEY?
A. YEAH.
Q. OKAY. DID YOU CALL HIM ANY OTHER NAMES OR KNOW HIM TO GO BY ANY OTHER NAMES?
A. OTHER PEOPLE CALLED HIM SCOPE.
Q. SCOPE?
A. YEAH.
Q. IS THAT SPELLED S-C-O-P-E?
A. I GUESS. I DON'T KNOW.
Q. AM I PRONOUNCING IT CORRECTLY?
A. YEAH.
Q. OKAY. SO YOU CALLED HIM JOEY AND THEN ALSO PEOPLE CALLED HIM SCOPE?
A. UH-HUH. YES.
Q. ALL RIGHT. NOW, I'M GOING TO BRING YOUR ATTENTION TO FEBRUARY 15TH, 2007. OKAY?
A. UH-HUH.

Q. TELL THIS JURY WHAT YOU WERE DOING THAT NIGHT AND WHO YOU WERE WITH.
A. I WAS IN THE TRAILER. IT WAS ME, JEFF, COURTNEY, BONE AND THEN---
Q. AND IS BONE LEVERN SMITH?
A. YES.
Q. OKAY.
A. YES. AND THEN SHORT DOG CAME IN AFTER AWHILE.
Q. OKAY. AND SO HE WAS -- DID HE COME IN AFTER WORK OR WHAT TIME DO YOU THINK IT WAS?
A. I DON'T KNOW WHERE HE WAS COMING FROM, BUT HE JUST -- HE CAME IN.
Q. OKAY. AND TELL THE JURY WHERE YOU WERE SEATED IN THE -- WHERE YOU WERE IN THE HOUSE WHEN EVERYTHING WENT AWRY.
A. I WAS IN THE KITCHEN.
Q. OKAY. AND WHO ELSE WAS IN THE KITCHEN?
A. JEFF.
Q. AND WHAT ABOUT -- WHO ELSE WAS -- AFTER JEFF, WHO ELSE WAS THERE?
A. COURTNEY WAS IN THERE, BUT SHE HAD WALKED OUT. SHE HAD WALKED OUT, SO IT WAS JUST ME, JEFF, AND SHORT IN THE KITCHEN WHEN IT HAPPENED.
Q. OKAY. TELL THIS JURY WHAT TIME DO YOU THINK IT WAS THAT THIS HAPPENED.
A. 9:42 P.M.

Q. AND HOW COME YOU REMEMBER THAT TIME SO WELL?
A. BECAUSE I HAD JUST CAME FROM THE GROCERY STORE AND I HAD PUT THE GROCERIES AND STUFF UP, AND THE GROCERY STORE CLOSED AT 9. AND I WAS -- I HAD TO CATCH A RIDE BACK THERE. BY THE TIME I PUT EVERYTHING UP, I WOULD SAY IT WAS ABOUT 9:30, SOMETHING LIKE THAT.
Q. OKAY. AND SO YOU GOT BACK AT 9:30 FROM THE GROCERY STORE?
A. YEAH, SOMETHING LIKE THAT. YEAH.
Q. WERE YOU GETTING READY TO COOK SOMETHING TO EAT?
A. YES, I WAS.
Q. TELL THIS JURY WHAT HAPPENED THAT WAS DIFFERENT THAT NIGHT. DID SOMEBODY COME IN THE HOUSE?
A. YOU MEAN WHEN IT HAPPENED?
Q. YES, MA'AM. TELL THE JURY WHAT HAPPENED NEXT.
A. WELL, WE WERE SITTING IN THE KITCHEN, AND SOMEBODY KNOCKED ON THE DOOR, AND SHORT WAS FIXING TO LEAVE. HE WAS STANDING UP AND I WAS STANDING UP BY THE SINK, AND HE WAS STANDING UP BESIDE ME, AND JEFF WAS SITTING DOWN AT THE TABLE. AND SOMEBODY KNOCKED AT THE DOOR, AND WHEN SOMEBODY KNOCKED AT THE DOOR, WE SAID, "COME IN." AND WHEN THEY CAME -- WHEN THEY OPENED THE DOOR, I DON'T KNOW WHO THE GUY WAS THAT WAS IN FRONT OF JOEY, BUT HE PUSHED HIM OUT OF THE WAY. HE HAD A GUN IN HIS HAND AND HE JUST CHARGED.
Q. WHO HAD A GUN IN HIS HAND?

A. JOEY DID.
Q. AND CAN YOU POINT HIM OUT FOR THIS JURY, PLEASE?
A. HE'S SITTING OVER THERE.
Q. YOU HAVE TO POINT AT HIM, PLEASE.
A. RIGHT THERE.
Q. WHAT COLOR SHIRT IS HE WEARING?
A. WHITE.
MS. SHIPLEY: YOUR HONOR, PLEASE LET THE RECORD REFLECT SHE'S IDENTIFIED THE DEFENDANT, MR. ROBINSON.
THE COURT: OKAY.
BY MS. SHIPLEY:
Q. SO WHERE IN THE KITCHEN ARE YOU STANDING, USING THIS POINTER? DO YOU SEE WHERE THE STOVE IS RIGHT HERE, JUST TO ORIENT YOU?
A. OKAY. I WAS STANDING RIGHT HERE.
Q. OKAY.
A. RIGHT IN HERE.
Q. AND---
A. THEN THAT'S THE COUNTER.
Q. TELL THE JURY WHAT JOEY OR THE DEFENDANT HAD IN HIS HAND WHEN HE CAME INTO THE KITCHEN.
A. HE HAD A GUN IN HIS HAND.
Q. AND WHAT DID HE DO WITH THAT GUN?
A. WHAT DO YOU MEAN? HE JUST -- HE HAD IT IN HIS HAND AND HE JUST CHARGED AT HIM AND---

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Q. CHARGED AT WHO?
A. AT SHORT. AND THEY TUSSLED FOR A MINUTE, AND HE FINALLY GOT LOOSE FROM HIM AND PUSHED HIM, AND HE SHOT. AND WHEN HE SHOT, I PUT MY HAND UP BECAUSE I SEEN HIM SHOOTING -- GETTING READY TO SHOOT THE GUN, AND I GOT SHOT IN MY HAND. AND SHORT FELL ON TOP OF ME, AND THEN I WAS TRYING TO GET AWAY AND I CRAWLED TO THE LIVING ROOM AND HE WAS STILL -- I DON'T KNOW. HE WAS BACKING UP. HE WAS STILL SHOOTING WHEN HE WAS BACKING OUT OF THE KITCHEN. AND THEN -- OKAY. I CRAWLED INTO THE LIVING ROOM. BONE WAS ON THE COUCH, AND I CRAWLED INTO THE CORNER BY THE T.V. AND JUST LAID THERE AND COVERED MY HEAD. AND SO HE HAVE WALKED OUT -- JOEY HAD WALKED OUT THE TRAILER, AND WHEN HE WALKED OUT, I GOT READY -- I GOT TO GET UP TO RUN AND BONE DID, TOO, AND HE WALKED BACK IN THE TRAILER.
Q. WHO WALKED BACK IN THE TRAILER?
A. JOEY DID, AND I THOUGHT HE WAS COMING BACK THERE TO SHOOT ME BECAUSE I -- HE KNOW I WAS STANDING THERE, BUT HE DIDN'T. HE WENT BACK IN THE KITCHEN AND SHOT SHORT AGAIN.
Q. DID YOU SEE WHERE ON---
A. I DON'T KNOW. I DIDN'T SEE WHERE HE SHOT HIM AT. I JUST HEARD -- I JUST HEARD THE SHOTS.
Q. HOW MANY?
A. TWO. AND THEN HE WALKED BACK OUT. THEN THAT'S WHEN I GOT UP AND I WAS GETTING -- AND BONE GOT UP. I WAS GETTING READY TO GO OUT THE FRONT DOOR, AND I HEARD SOME MORE

SHOOTING AND I RAN BACK IN THE TRAILER AND RAN AND FOLLOWED BONE AND RAN TO THE BACK OF THE TRAILER TO THE BACK ROOM, AND THAT'S WHEN COURTNEY WAS SITTING BACK THERE. SHE WAS IN THE CLOSET, AND WE SAT IN THE CLOSET 'TIL AFTER WE DIDN'T HEAR NO MORE SHOOTING AND WE WENT OUT THE BACK DOOR.

Q. AND WHEN WAS IT THAT YOU FELT YOU COULD LEAVE THE CLOSET?

A. AFTER I DIDN'T HEAR NO MORE SHOTS.

Q. AND HOW LONG DID IT TAKE FOR YOU TO HEAR SILENCE?

A. IT WASN'T LONG. IT WASN'T LONG.

Q. WHERE DID YOU GO AFTER YOU LEFT THE CLOSET?

A. I RAN OUT THE BACK DOOR.

Q. AND ON THIS EXHIBIT RIGHT HERE, IS THAT THE BACK DOOR YOU'RE TALKING ABOUT?

A. UH-HUH.

Q. OKAY. WHERE DID YOU RUN TO?

A. I RAN AROUND THE SIDE OF THE TRAILER WHERE I SEEN PEOPLE STANDING, AND JEFF AND THEM WAS BACK THERE. AND I RAN OVER HERE AND THEY SAID -- I TOLD THEM I HAD GOT SHOT IN MY HAND, AND BY THAT TIME THE POLICE AND THE AMBULANCE WAS IN THE ENTRANCE, TRYING TO COME IN, AND THEY TOLD ME TO GO OVER THERE AND LET THEM KNOW THAT I GOT SHOT.

Q. NOW, DID YOU GET SHOT ANYWHERE ELSE?

A. YES. I GOT SHOT IN MY BUTT. I HAVE THREE HOLES IN MY BUTT, AND I'VE GOT A BULLET IN MY RIGHT THIGH.

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Q. YOU STILL HAVE A BULLET IN YOU?
A. YES.
Q. DO YOU RECALL WHEN IT WAS -- YOU INDICATED EARLIER WHEN YOU GOT SHOT IN THE HAND---
A. UH-HUH.
Q. ---THAT THAT WAS WHEN HE FIRST STARTED SHOOTING AT SHORT?
A. YES.
Q. WHEN WAS IT THAT YOU GOT SHOT IN THE BUTTOCKS?
A. I GUESS WHEN I WAS TRYING TO GET AWAY, CRAWLING ON THE FLOOR. I GUESS THAT'S THE ONLY WAY I COULD HAVE GOT SHOT IN MY BUTT.
Q. NOW, YOU ALSO INDICATED ALSO THAT SHORT FELL ON TOP OF YOU.
A. YEAH.
Q. IS THAT RIGHT?
A. YES.
Q. WAS SHORT STILL BREATHING OR TALKING OR DOING ANYTHING TO INDICATE---
A. I DIDN'T HEAR---
Q. ---HE WAS ALIVE?
A. I DIDN'T HEAR NO TALKING. ALL I FELT WAS -- THE WEIGHT OF HIM ON ME FELT LIKE HE WASN'T ALIVE BECAUSE I COULDN'T MOVE.
Q. WHEN MR. ROBINSON FIRST CAME INTO THAT KITCHEN, DID HE

HAVE HIS GUN DRAWN OUT?

A. YES.

Q. WHO WAS HE POINTING HIS GUN AT?

A. SHORT.

Q. AND HOW DID SHORT REACT WHEN HE SAW THE DEFENDANT POINTING A GUN AT HIM?

A. HE JUST -- HE GRABBED -- THERE WAS NOTHING -- HE JUST GRABBED HIM.

Q. AND WHERE ON MR. ROBINSON'S BODY DID SHORT GRAB HIM?

A. LIKE AROUND HIS LIKE WAIST LIKE -- HE'S SHORT, SO HE WENT AROUND HIS WAIST LIKE...

Q. AROUND MR. ROBINSON'S WAIST?

A. YEAH.

Q. DID YOU SEE MR. ROBINSON TOUCH MR. SMITH IN ANY FASHION?

A. YEAH, HE GRABBED HIM BACK AND THEY TUSSLED FOR A MINUTE.

Q. OKAY. AT ANY TIME DID MR. -- DID SHORT EVER HAVE A CHANCE -- DID YOU EVER SEE HIS HAND GET ON THE GUN? DID HE EVER HAVE A CHANCE OF GETTING THAT GUN AWAY FROM MR. ROBINSON?

A. NO, I DIDN'T SEE THAT. NO. HUH-UH.

Q. AND YOU INDICATED THAT SHORT IS A SHORT MAN.

A. UH-HUH.

Q. THEREFORE, HIS NICKNAME.

A. YES.

Q. HOW MUCH SHORTER DO YOU BELIEVE HE IS AS TO MR.

ROBINSON?
A. A LOT SHORTER.
Q. AND WHAT PART OF SHORT'S BODY DID YOU SEE MR. ROBINSON GRAB?
A. LIKE HERE.
Q. AND DID YOU SEE MR. ROBINSON SHOOT SHORT AT THAT POINT?
A. YEAH.
Q. AND DESCRIBE FOR THE JURY HOW - AND YOU CAN USE YOUR HAND TO DEMONSTRATE - HOW -- WHAT POSITION DID MR. ROBINSON HOLD THE GUN WHEN HE FIRED THE SHOTS?
A. HE JUST HELD IT LIKE POINTING IT AT HIM LIKE TOWARD HIS HEAD LIKE.
Q. AND DID YOU SEE IN WHICH DIRECTION HE FIRED THE SHOTS AT SHORT'S BODY?
A. WELL, TO ME IT SEEMED LIKE IT WAS HIS HEAD, BUT LIKE I SAID, WHEN I SEEN HIM BREAK FOR LOOSE FOR A MINUTE AND PUSH HIM LIKE THAT AND GO LIKE THAT, I WENT LIKE THIS BECAUSE I SEEN HE WAS FIXING TO SHOOT AND I WENT LIKE THIS.
Q. OKAY.
A. SO I GUESS THAT'S HOW I GOT SHOT IN MY HAND, BUT IT LOOKED LIKE HE WAS GOING TOWARD HIS HEAD.
Q. AND DO YOU STILL HAVE A SCAR ON YOUR HAND FROM THAT WOUND?
A. YES. I DON'T HAVE NO NERVES, AND I CAN'T MAKE A FIST WITH MY HAND.

Q. DID MR. ROBINSON SAY ANYTHING TO SHORT WHEN HE FIRED THE SHOTS?

A. HUH-UH. I DIDN'T HEAR NO TALKING.

Q. NO TALKING? NOT EVEN FROM MR. SHORT?

A. HUH-UH. I CAN'T REMEMBER NO TALKING.

Q. AND AFTER YOU SAW THE DEFENDANT FIRE TWO MORE SHOTS AFTER HE FIRST SHOOTS SHORT, LEAVES---

A. UH-HUH.

Q. ---AND COMES BACK AND SHOOTS HIM TWO MORE TIMES---

A. UH-HUH.

Q. ---DESCRIBE FOR THE JURY THE MANNER IN WHICH HE LEFT THE TRAILER AT THAT POINT.

A. WELL, I CAN'T SAY I SEEN HIM WHEN HE LEFT BECAUSE I WAS COVERING MY HEAD---

Q. OKAY.

A. ---BECAUSE I WAS -- YOU KNOW WHAT I'M SAYING? I KNOW THAT HE DID -- I SEEN HIM WHEN HE CAME BACK IN, AND THE ONLY THING -- I KNOW HOW HE LEFT BECAUSE YOU COULD HEAR WHEN SOMEBODY IS COMING IN AND OUT OF THE TRAILER. THAT'S HOW I KNOW SOMEBODY WAS COMING BACK IN, AND WHEN I LOOKED UP AND SEEN THAT IT WAS HIM, THAT'S WHEN I COVERED MY HEAD AFTER THAT. AND WHEN HE LEFT BACK OUT, I HEARD, YOU KNOW, THE SOUND. YOU COULD TELL SOMEBODY IS COMING IN AND OUT. THEN THAT'S WHEN I GOT UP. SO I DIDN'T KNOW THE MANNER HE WENT OUT IN, BUT I KNOW THAT HE WAS IN THERE.

Q. WHEN MR. ROBINSON FIRST WALKED INTO THAT KITCHEN WITH THE GUN PULLED OUT, DESCRIBE FOR THE JURY THE LOOK ON HIS FACE.

A. HE LOOKED LIKE CRAZY, LIKE A RAVING BULL, LIKE A RAVING MADMAN, LIKE HE JUST LOOKED CRAZY.

Q. AND YOU HAD KNOWN HIM FROM BEFORE; RIGHT?

A. YES.

Q. IS THAT THE FIRST TIME YOU'D SEEN THAT LOOK ON HIM?

A. YES.

Q. I'M GOING TO SHOW YOU SOME PICTURES, STATE'S 13 THROUGH 44, AND I NEED YOU TO GO THROUGH THEM AND SEE IF YOU RECOGNIZE THEM AND LET ME KNOW WHEN YOU'RE DONE.

A. TELL YOU IF I RECOGNIZE THEM?

Q. YES, MA'AM. JUST GO THROUGH EACH ONE AND LOOK AT THEM, AND WHEN YOU'RE DONE, LET ME KNOW.

A. (THE WITNESS COMPLIES.) YES.

Q. OKAY. DO YOU RECOGNIZE THOSE PICTURES?

A. UH-HUH.

Q. AND WHAT ARE THEY PICTURES OF?

A. THE NIGHT -- THE PICTURES OF THE TRAILER AND THE NIGHT IT HAPPENED AND SHORT AND OF ME IN THE HOSPITAL.

Q. AND IS THERE A PICTURE OF MR. ROBINSON AS WELL?

A. YES.

Q. OKAY.

MR. LEDDY: NO OBJECTION, YOUR HONOR.

MS. SHIPLEY: NO OBJECTION?

THE COURT: THANK YOU.

(STATE'S EXHIBITS 13 THROUGH 44 WERE RECEIVED IN EVIDENCE.)

BY MS. SHIPLEY:

Q. STARTING WITH STATE'S NUMBER 41, 42, AND 43 THAT ARE IN EVIDENCE AT THIS TIME, WHAT ARE THOSE THREE PICTURES OF?

A. THOSE ARE PICTURES OF ME IN THE HOSPITAL AND MY HAND BANDAGED UP, AND THEY SHOW AN AMOUNT OF -- THE AMOUNT OF BLOOD THAT I LOST.

Q. AND SO DOES IT SHOW -- IS STATE'S 41 A PICTURE OF YOU IN THE HOSPITAL?

A. YES.

Q. AND 42, IS THAT AN INJURY OF YOUR RIGHT HAND?

A. LEFT.

Q. OR YOUR LEFT HAND. MY APOLOGIES.

A. UH-HUH.

Q. AND STATE'S 43, THE INJURY TO YOUR BUTTOCKS.

A. UH-HUH.

MS. SHIPLEY: OKAY. YOUR HONOR, MAY I PUBLISH THEM TO THE JURY?

THE COURT: YES, YOU MAY.

MS. SHIPLEY: YOUR HONOR, I BEG THE COURT'S INDULGENCE. THEY GOT OUT OF ORDER.

THE COURT: OKAY.

BY MS. SHIPLEY:

Q. ALL RIGHT. MS. EVANS, CAN YOU TELL THE JURY WHAT'S IN STATE'S NUMBER 13?

A. THAT'S THE TRAILER.

Q. THE TRAILER? OKAY. I'M GOING TO NEED YOU TO SPEAK UP SO EVERYONE CAN HEAR YOU.

A. THAT'S THE TRAILER.

Q. OKAY. ALL RIGHT. AND WHAT'S 14?

A. THAT'S THE FRONT DOOR OF THE TRAILER.

Q. OKAY. YOU INDICATED THAT WHEN HE GOT DONE SHOOTING THE FIRST TIME---

A. UH-HUH.

Q. ---YOU WENT TO THE FRONT DOOR AT SOME POINT?

A. YES.

Q. IS THAT CORRECT?

A. YES.

Q. I'M SHOWING YOU STATE'S 15. DO YOU SEE BLOOD ON THE FLOOR BY THE FRONT DOOR?

A. YES, I DO.

Q. AND WHOSE BLOOD IS THAT?

A. MINE'S, I GUESS.

Q. AND DID ANYONE ELSE WAS -- DID SHORT EVER GET UP FROM WHERE HE WAS SHOT AT?

A. NO, MA'AM.

Q. DID ANYONE ELSE GET SHOT AT IN THE HOUSE?

A. NO.
Q. OKAY. AND YOU DID GO TO THE FRONT DOOR?
A. YES.
Q. SO THAT'S AT THE FRONT DOOR; CORRECT?
A. YES.
Q. WHAT'S STATE'S 16 SHOW?
A. THAT'S SHORT.
Q. AND IS THAT HOW HE WAS LAYING WHEN YOU GOT AWAY AND CRAWLED TO THE LIVING ROOM?
A. YES.
Q. AND DID ANYONE MOVE HIM AT ALL?
A. THERE WASN'T NOBODY ELSE IN THERE.
Q. DID MR. ROBINSON MOVE HIM AT ALL AFTER HE'D BEEN SHOT AND HE WAS LAYING ON THE FLOOR?
A. I CAN'T SAY BECAUSE I DIDN'T LOOK.
Q. OKAY. STATE'S NUMBER 17, IS THAT THE TABLE YOU WERE -- MR. SMITH WAS SITTING AT?
A. YES.
Q. STATE'S NUMBER 18, WHAT DO YOU SEE ON THE FLOOR BY SHORT'S BODY?
A. WHAT DO YOU MEAN? BLOOD? OH, THE---
Q. THOSE LITTLE---
A. THE SHELLS.
Q. SHELL CASINGS?
A. YES.

Q. AND IS 19 JUST A CLOSE-UP OF THE SHELL CASINGS AROUND HIS BODY?
A. YES.
Q. STATE'S 20, DO YOU SEE SOME MORE SHELL CASINGS AROUND SHORT'S BODY?
A. YES.
Q. 21, IS THAT WHERE YOU WERE -- WHAT IS THAT A PICTURE OF?
A. THAT'S THE STOVE WITH SOME SHELL CASINGS ON IT.
Q. OKAY. DO YOU SEE A BULLET HOLE ON THE STOVE?
A. YES.
Q. AND IS THAT WHERE YOU WERE GETTING READY TO COOK DINNER?
A. YES.
Q. IS THAT ANOTHER CLOSE-UP OF THAT BULLET HOLE---
A. YES.
Q. ---ON THE STOVE TOP? WHAT'S STATE'S 23?
A. THAT'S A BULLET SHELL BY HIS ARM.
Q. A BULLET SHELL BY SHORT'S ARM?
A. UH-HUH.
Q. WHAT'S IN 24?
A. THAT'S JUST THE TABLE.
Q. OKAY. AND WHAT'S ON THAT TABLE?
A. A BEER CAN AND SOME CIGARETTES AND A GROCERY BAG.
Q. AND WHERE IS THE GROCERY BAG FROM?
A. PIGGLY WIGGLY.
Q. AND SO THAT IS WHAT YOU HAD JUST SHOPPED FOR?

A. YEAH, SOME OF IT. YEAH.
Q. AND SOME OF IT YOU HAD ALREADY PUT UP?
A. YES.
Q. STATE'S 26, WHAT'S THAT A PICTURE OF?
A. THAT'S THE LIVING ROOM.
Q. OKAY. TELL THE JURY AGAIN WHERE IT WAS THAT YOU WENT TO HIDE AFTER THE FIRST ROUND OF SHOTS.
A. IN THE LIVING ROOM OVER THERE BY THE T.V.
Q. BY THE T.V.?
A. UH-HUH.
Q. AND SO IS THAT THE PICTURE OF THE LIVING ROOM?
A. YES.
Q. AND IS STATE'S 27 MERELY A CLOSE-UP OF WHERE YOU WERE HIDING BY THE T.V.?
A. YES.
Q. AND DO YOU SEE ANYTHING ON THE FLOOR -- ON THE CARPET THERE?
A. BLOOD.
Q. AND WHOSE BLOOD IS THAT?
A. MINE'S.
Q. AND IS THAT -- THE COUCH IN STATE'S NUMBER 29, IS THAT THE COUCH WHERE BONE OR LEVERN SMITH WAS SITTING?
A. YES.
Q. WHAT'S IN STATE'S 31?
A. THAT'S THE FIRST ROOM.

Q. THIS ROOM RIGHT HERE?
A. UH-HUH.
Q. OKAY. DID ANYTHING HAPPEN IN 31 IN THAT ROOM?
A. HUH-UH.
Q. NO? OKAY. AND WHAT'S IN STATE'S 32?
A. THAT'S THE SECOND ROOM.
Q. THIS ONE RIGHT HERE?
A. YES.
Q. AND IS THAT WHERE YOU TYPICALLY STAYED?
A. YEAH, SOMETIMES. MOST OF THE TIME, YES.
Q. STATE'S NUMBER 33, WHAT'S THAT A PICTURE OF?
A. THAT'S THE BATHROOM.
Q. AND IS THAT THAT RIGHT HERE?
A. YES.
Q. AND NOTHING HAPPENED IN THERE EITHER; RIGHT?
A. HUH-UH.
Q. WHAT'S IN STATE'S 34?
A. THAT'S THE LAST ROOM.
Q. AND IS THAT THE DOORWAY TO THE LAST ROOM?
A. YES.
Q. DO YOU SEE SOMETHING IN THE THRESHOLD OF THE DOOR?
A. BLOOD.
Q. AND WHAT'S IT ON?
A. A TOWEL.
Q. AND WHY WAS THAT TOWEL PUT THERE?

A. JUST TO BLOCK THE AIR COMING THROUGH.
Q. SO THAT WAS THERE BEFORE?
A. UH-HUH.
Q. AND WHOSE BLOOD IS ON THAT?
A. MINE'S.
Q. AND IS THAT THE ROOM YOU WENT TO TO HIDE?
A. YES.
Q. STATE'S 35, WHAT'S THAT A PICTURE OF?
A. THAT'S THE BACK ROOM.
Q. AND DO YOU SEE ANYTHING ON THE FLOOR?
A. BLOOD.
Q. AGAIN, WHOSE BLOOD?
A. MINE'S.
Q. AND IS THAT SIMPLY -- IS 36 A CLOSE-UP OF THAT BLOOD?
A. YES.
Q. AND STATE'S 37, WHAT'S IN THAT PICTURE?
A. THAT'S THE BACK ROOM. OH, THE CLOSET?
Q. IS THAT THE CLOSET WHERE YOU HID WITH BONE AND WITH COURTNEY?
A. YES.
Q. DID COURTNEY SEE ANYTHING THAT HAPPENED THAT NIGHT?
A. HUH-UH.
Q. JUST USE THE WORDS.
A. NO.
Q. NO. OKAY. SO THAT'S THE CLOSET. IS THAT RIGHT HERE ON

THE DIAGRAM?
A. YES.
Q. IS THAT BLOOD IN THAT CLOSET YOURS?
A. YES.
Q. AND IN STATE'S 38, WHAT'S THAT A PICTURE OF?
A. THAT'S THE BACK STAIRS.
Q. THE BACK STAIRS? AND IS THAT HOW YOU FLED THE TRAILER THROUGH THESE BACK STAIRS?
A. YES.
Q. AND IN STATE'S 39, WHAT'S IN THERE?
A. THAT'S THE BACKYARD.
Q. OKAY. AND WHAT DO YOU SEE IN THE BACKYARD? WHAT IS THAT METAL THING?
A. THAT'S A WORKOUT BENCH.
Q. A WORKOUT BENCH? IS THAT STATE'S 15---
A. UH-HUH.
Q. ---ON THIS DIAGRAM?
A. YES.
Q. ON STATE'S NUMBER 5?
A. UH-HUH.
Q. AND STATE 40, DO YOU SEE SOMETHING NEXT TO THE METAL MACHINE, WORKOUT MACHINE?
A. SOME MORE BLOOD.
Q. OKAY. AND WHOSE BLOOD WOULD THAT BE?
A. MINE'S.

Q. AND AM I POINTING CORRECTLY AT IT?
A. YES.
Q. DID YOU GET A GOOD LOOK AT JOEY, THE MAN YOU KNOW AS JOEY OR THE DEFENDANT, MR. ROBINSON, THAT NIGHT?
A. YES.
Q. STATE'S NUMBER 44, DOES THAT APPEAR TO BE WHAT HE LOOKED LIKE THAT DAY?
A. UH-HUH.
Q. AND THE CLOTHES HE WAS WEARING?
A. YES.

MS. SHIPLEY: STATE'S 44. MAY I PUBLISH THIS PHOTOGRAPH, YOUR HONOR?

THE COURT: YES, YOU MAY.

MS. SHIPLEY: THANK YOU.

BY MS. SHIPLEY:

Q. NOW, AFTER YOU FLED OUT THE BACK DOOR, YOU INDICATED THAT YOU HEARD SIRENS. IS THAT CORRECT?
A. YES.
Q. AND DID YOU MAKE CONTACT WITH ANY MEDICAL CARE PERSONNEL?
A. THE AMBULANCE PEOPLE.
Q. OKAY. AND DID YOU TELL THEM THAT YOU HAD BEEN HURT?
A. I TOLD THEM I HAD GOT SHOT.
Q. AND AT THE TIME DID YOU KNOW YOU HAD BEEN SHOT IN THE BUTTOCKS?

A. NO.
Q. WHEN WAS IT THAT YOU REALIZED YOU HAD BEEN SHOT THERE?
A. WHEN SHE TOLD ME THAT I HAD BLOOD ON MY JEANS AND MY SHOES.
Q. AND, AGAIN, YOU TOLD THE JURY EARLIER THAT THERE WAS THREE HOLES FROM ONE SINGLE SHOT TO YOUR REAR END?
A. YEAH, I GUESS IT WAS ONE SHOT, BUT I HAD THREE HOLES, YES.
Q. OKAY. AND YOU SAID THE BULLET IS STILL IN YOU.
A. YES.
Q. CAN YOU STILL FEEL IT ON YOU?
A. YES.
Q. CAN YOU STAND UP AND JUST SHOW THE JURY WHERE ON YOUR BODY IT IS?
A. RIGHT HERE.
Q. OKAY. HOW LONG WERE YOU IN THE HOSPITAL FOR?
A. I STAYED 'TIL THE NEXT DAY.
Q. 'TIL THE NEXT DAY?
A. YES.
Q. AND WHAT KIND OF TREATMENT DID THEY GIVE YOU FOR YOUR INJURIES? HOW DID THEY TREAT YOUR INJURIES?
A. THEY -- I DIDN'T GET NO KIND OF STITCHING OR NOTHING. THEY JUST BANDAGED IT UP AND BANDAGED MY HAND UP AND MY BUTT AND STUFF, AND THEY SENT ME TO THERAPY. I HAD TO GO TO THERAPY, TOO.

Q. HOW LONG DID YOU HAVE TO GO TO THERAPY FOR?
A. I WENT TO THERAPY UP UNTIL I GOT LOCKED UP NOVEMBER 6.
Q. SO FOR ABOUT NINE MONTHS?
A. UH-HUH.
Q. AND THEN AFTER YOU WERE DISCHARGED FROM THE HOSPITAL, DID THEY TAKE YOU TO THE EMERGENCY ROOM AT THE HOSPITAL?
A. YES.
Q. OKAY. AND WERE YOU TREATED BY A TRAUMA DOCTOR?
A. I GUESS SO, YEAH.
Q. WERE THEY TREATING YOU WITH EMERGENCY CARE?
A. OH, YES. UH-HUH.
Q. OKAY. I WANTED TO ASK YOU ONE LAST THING. AFTER THAT, YOU GAVE STATEMENT TO THE POLICE, CORRECT, AFTER THIS WHOLE INCIDENT HAPPENED?
A. I GUESS I DID. THAT---
Q. THAT PAPER RIGHT THERE---
A. OH, TALKING ABOUT THIS HERE?
Q. YES, MA'AM. YES, MA'AM.
A. YEAH.
Q. OKAY. DO YOU REMEMBER AN OFFICER COMING TO TALK TO YOU AT THE HOSPITAL?
A. THERE WERE SO MANY PEOPLE TALKING TO ME I CAN'T REMEMBER, BUT I GUESS -- I GUESS SO.
Q. OKAY. AND DO YOU RECALL WHAT YOU REPORTED AT THE HOSPITAL?

A. THAT SOMEBODY JUST CAME -- THAT SOMEBODY HAD CAME IN THERE SHOOTING.

Q. OKAY. DESCRIBE FOR THE JURY -- WERE YOU UNDER ANY MEDICATION AT THE TIME? AT THE HOSPITAL DID THEY GIVE YOU ANY MEDICATION FOR PAIN?

A. FOR PAIN, YES.

Q. OKAY. AND SO IS THAT WHY YOU DON'T RECALL EXACTLY---

A. YEAH.

Q. ---WHO SPOKE WITH YOU THERE?

A. UH-HUH. YES.

Q. BUT LATER ON FEBRUARY 23RD, 2007, DID YOU -- DID YOU MEET WITH INVESTIGATOR KEVIN REESE---

A. YES.

Q. ---WITH THE COLUMBIA POLICE DEPARTMENT?

A. UH-HUH.

Q. THAT MAN RIGHT THERE?

A. UH-HUH.

Q. AND DID YOU GIVE HIM A STATEMENT?

A. YES, I DID.

Q. AND HOW MANY PAGES IS YOUR STATEMENT?

A. I THINK IT'S TWO.

Q. TWO?

A. YES.

Q. AND DID YOU TELL HIM EVERYTHING THAT YOU REMEMBERED HAPPENING THAT NIGHT?

A. YES.
Q. ONE THING THAT I FAILED TO ASK YOU WAS: THE FIRST TIME THAT MR. ROBINSON CAME INTO THAT KITCHEN WITH THE GUN DRAWN---
A. UH-HUH.
Q. ---DID YOU -- YOU SAID THAT SHORT GOT UP AND GRABBED HIM AROUND THE WAIST? IS THAT CORRECT?
A. UH-HUH.
Q. AND THAT THE DEFENDANT GRABBED SHORT BY THE ARMS AND STUFF?
A. UH-HUH.
Q. YOU INDICATED AT ONE POINT MR. ROBINSON WAS ABLE TO PUSH SHORT BACK?
A. UH-HUH.
Q. AND THEN GRAB HIS GUN AND SHOOT AT HIM?
A. UH-HUH.
Q. HOW MANY TIMES AT THAT POINT DID YOU -- DO YOU RECALL THE SHOTS -- HOW MANY NUMBER OF SHOTS DID YOU HEAR AT THAT TIME?
A. I HEARD -- THAT WAS THE FIRST ONE I HEARD, AND AFTER -- AFTER -- THAT WAS THE FIRST ONE I HEARD WHEN I DID LIKE THIS.
Q. OKAY. AND I'M JUST GOING TO ASK YOU TO LOOK AT YOUR STATEMENT, AND I'LL JUST POINT IT OUT TO YOU TO SAVE TIME. DO YOU RECALL TELLING THE POLICE A CERTAIN NUMBER?
A. UH-HUH.

Q. YES?
A. YES.
Q. OKAY. HOW MANY TIMES DID YOU TELL -- WAS YOUR MEMORY BETTER BACK ON FEBRUARY 23RD THAN IT IS TWO YEARS LATER?
A. IT WAS -- IT WAS BETTER THEN.
Q. OKAY.
A. YEAH.
Q. SO HOW MANY TIMES DID YOU TELL INVESTIGATOR REESE THAT YOU HEARD THE SHOTS?
A. OKAY. I HEARD THE FIRST SHOT IN MY HAND AND WHEN I FELL TO THE FLOOR I COULD SAY ABOUT -- ABOUT THREE -- THREE MORE OR SO AFTER THAT MAYBE BECAUSE IT WAS -- IT WAS A FEW. IT WAS A FEW SHOTS.
Q. OKAY.
A. AFTER THE FIRST ONE. I REMEMBER -- I REMEMBER THAT FIRST ONE BECAUSE I GOT HIT IN THE HAND.
Q. OKAY.
A. AND THEN AFTER -- WHEN I FELL TO THE FLOOR AND WAS CRAWLING, I COULD STILL HEAR -- I COULD STILL HEAR GUNSHOTS.
Q. AND DO YOU REMEMBER IN YOUR STATEMENT HOW MANY TIMES -- DID YOU TELL INVESTIGATOR REESE HOW MANY SHOTS YOU HEARD? READ YOUR STATEMENT JUST---
A. IT SAYS FOUR.
Q. FOUR TIMES?
A. UH-HUH.

Q. OKAY. SO THE FIRST ROUND YOU REMEMBER HEARING FOUR SHOTS.

A. UH-HUH.

Q. THEN HE LEAVES, RETURNS, AND YOU HEAR HOW MANY MORE?

A. TWO MORE.

Q. OKAY. WERE THESE SHOTS BEING FIRED QUICKLY OR SLOWLY? DESCRIBE THE SPEED THAT THESE SHOTS WERE BEING FIRED.

A. QUICKLY.

Q. OKAY.

A. ONE AFTER ANOTHER.

Q. AND THEN THERE WAS A GAP OF TIME? IS THAT CORRECT?

A. UH-HUH.

Q. AND THEN HE CAME BACK AND DID IT TWO MORE TIMES?

A. UH-HUH.

MS. SHIPLEY: BEG THE COURT'S INDULGENCE, YOUR HONOR. THANK YOU. I HAVE NO FURTHER QUESTIONS, YOUR HONOR.

CROSS-EXAMINATION

BY MR. LEDDY:

Q. GOOD MORNING, MS. EVANS.

A. GOOD MORNING.

Q. MY NAME IS MICAH LEDDY. I REPRESENT MR. ROBINSON.

A. UH-HUH.

Q. I WANT TO TALK TO YOU ABOUT A FEW THINGS THIS MORNING. FIRST OF ALL, YOU SAID THAT YOU'VE HAD AN ADDICTION PROBLEM FOR ABOUT 25 YEARS NOW; RIGHT?

A. YES.
Q. NOW, I'M A PUBLIC DEFENDER. YOU'VE HAD PUBLIC DEFENDERS BEFORE; RIGHT?
A. YES.
Q. AND, IN FACT, SINCE I'VE BEEN AT THE PUBLIC DEFENDER'S OFFICE - IT MAY NOT SURPRISE YOU - I'VE HAD MANY CLIENTS WHO HAVE GONE THROUGH WHAT YOU HAVE WITH CRACK. AND WHEN YOU READ YOUR RECORD, IT HAS A LOT OF THINGS ON IT THAT INDICATE THAT MAYBE YOU'RE NOT TRYING TO FIGHT THIS THING. IT LOOKS LIKE THIS IS GETTING THE BETTER OF YOU, DOESN'T IT, YOUR ADDICTION?
A. LIKE IT'S GETTING THE BETTER OF ME?
Q. YES.
A. NO. IT HAD ME. YES, SIR, IT DID HAVE ME, BUT NO.
Q. RIGHT. WHAT I'M TRYING TO GET TO IS THAT THE WHOLE TIME THAT YOU'RE BATTLING WITH THIS, YOU STILL HAVE -- YOU'RE STILL A PERSON WITH FEELINGS FOR OTHER PEOPLE; RIGHT?
A. OH, YES.
Q. AND EVEN THOUGH YOUR ACTIONS INEVITABLY HURT THOSE AROUND YOU, IT'S NOT SOMETHING THAT YOU DON'T -- YOU DON'T CONSIDER, IS IT?
A. THAT I DON'T CONSIDER MY FEELINGS BY HURTING OTHER PEOPLE?
Q. RIGHT.
A. YES, I DO.

Q. OF COURSE YOU DO.
A. YES.
Q. AND AT THE TIME THAT THIS HAPPENED, I THINK YOU TESTIFIED EARLIER THAT YOU WERE ACTUALLY LIVING IN THIS TRAILER. IS THAT RIGHT?
A. YES.
Q. AND DO YOU RECALL WHEN THE POLICE CAME YOU GAVE THEM SOME STATEMENTS?
A. YES.
Q. AND YOU TOLD THEM ACTUALLY THAT YOU WERE VISITING THAT NIGHT.
A. UH-HUH.
Q. OKAY. AND YOU DIDN'T TELL THEM THAT YOU WERE LIVING THERE, DID YOU?
A. I DON'T KNOW, BUT I -- I'M NOT TRYING TO GET -- I MIGHT HAVE SAID I WAS LIVING THERE, BUT I WAS STAYING THERE FROM TIME -- BACK AND FORTH. THAT WAS NOT MY ADDRESS, BUT I STAYED DOWN THERE BECAUSE THAT'S WHERE I HUNG OUT AT.
Q. OKAY. AND DO YOU RECOGNIZE ALL THE PEOPLE HERE TODAY?
A. YES.
Q. AND THESE ARE -- THESE ARE THE FAMILY OF MR. SMITH, AREN'T THEY?
A. YES.
Q. AND YOU RECOGNIZE QUITE A NUMBER OF THEM, I WOULD IMAGINE.

A. YES.
Q. WE'VE HEARD, BEFORE YOUR TESTIMONY, THAT IN THE HOLE BASICALLY THEIR ENTIRE -- WELL, I DON'T KNOW IF THEIR ENTIRE FAMILY BUT A LOT OF THE MEMBERS OF THEIR FAMILY ARE NEXT-DOOR NEIGHBORS TO ONE ANOTHER THERE, AND THAT'S SOMETHING THAT YOU WOULD SAY IS TRUE; RIGHT?
A. YES.
Q. NOW, LET ME ASK YOU THIS. WHEN YOU -- WHEN THIS FIRST OCCURRED, YOU GOT TAKEN TO THE HOSPITAL. RIGHT?
A. YES.
Q. AND AN INVESTIGATOR SHOWED UP WHILE YOU WERE IN THE HOSPITAL AND ASKED YOU SOME QUESTIONS.
A. UH-HUH. YES.
Q. ALL RIGHT. NOW, A LITTLE WHILE AGO YOU USED THE WORD JOEY TO REFER TO MY CLIENT. RIGHT?
A. YES.
Q. THIS IS ACTUALLY THE FIRST TIME THAT I'VE HEARD SOMEBODY REFER TO HIM AS THAT. AND SO YOU KNEW HIM PRETTY WELL, DIDN'T YOU?
A. I KNEW HIM, YES.
Q. OKAY. AND WOULD YOU SAY THAT YOU AND MR. ROBINSON HAD BEEN FRIENDS?
A. YEAH, YOU COULD SAY THAT. WE KNEW EACH OTHER, I MEAN, YEAH.
Q. OKAY. AND WHEN THE INVESTIGATOR ASKED YOU ABOUT WHAT

HAD HAPPENED, YOU GAVE SOME INFORMATION ABOUT THE PERSON WHO HAD DONE THIS; RIGHT?

A. UH-HUH.

Q. DO YOU RECALL THAT?

A. YEAH.

Q. AND YOU TOLD HIM THAT IT WAS A LIGHT-SKINNED BLACK MALE, DIDN'T YOU?

A. YEAH.

Q. AND YOU TOLD HIM THAT HE WAS WEARING A TAN JACKET.

A. UH-HUH. YES.

Q. OKAY. AND NOW YOU HAVEN'T HAD ANY MORE CONTACT WITH MR. ROBINSON SINCE THIS NIGHT; RIGHT?

A. NO.

Q. ALL RIGHT. AND TODAY YOU CALLED HIM JOEY. RIGHT?

A. YES.

Q. SO AT THE TIME THAT YOU DID THIS, YOU KNEW HIM VERY WELL, BUT YOU DIDN'T TELL THE INVESTIGATOR HIS NAME, DID YOU?

A. I TOLD MR. REESE.

Q. OKAY. BUT THAT WAS SEVEN DAYS LATER, WASN'T IT?

A. YEAH.

Q. OKAY. BUT THAT NIGHT YOU DIDN'T SAY, "THE GUY YOU'RE LOOKING FOR IS JOEL ROBINSON."

A. THE NIGHT I GOT SHOT, I WAS SO HYSTERICAL AND OUT OF IT THAT I DON'T EVEN REMEMBER -- LIKE I TOLD HER, I DON'T EVEN REMEMBER TALKING TO THE OFFICER, BUT SHE SAID SHE HAD IT

WRITTEN DOWN TO WHERE I TALKED TO HIM SAYING SOMEBODY CAME IN AND SHOOTING. I WAS NOT MYSELF. YES, I DID KNOW WHO DID IT AND I STILL KNOW WHO DID IT.

Q. BUT YOU DIDN'T TELL THEM THOUGH, DID YOU?

A. I TOLD -- AT THE TIME, LIKE I SAID, I JUST -- I WAS -- I WAS HYSTERICAL AND I JUST DIDN'T KNOW A THING. I KNEW IT WOULD COME TO IT, BUT AT THAT TIME MY MIND WAS JUST GONE.

Q. OKAY. WELL, SINCE THIS HAPPENED -- IT TOOK ABOUT NINE MONTHS BEFORE THE PROBATION DEPARTMENT CAUGHT UP WITH YOU; RIGHT? YOU WERE AFRAID OF THE PROBATION AGENT FINDING YOU.

A. UH-HUH.

Q. OKAY. AND I'VE REPRESENTED LOTS OF PEOPLE IN THAT SITUATION. I KNOW EXACTLY WHAT YOU'RE DOING THROUGH. OKAY?

A. UH-HUH.

Q. DID YOU SPEND ANY MORE TIME AT THE HOLE AFTER THAT?

A. ARE YOU TALKING ABOUT AFTER I GOT SHOT?

Q. YES.

A. YEAH.

Q. OKAY. DID YOU HAVE ANY FURTHER INTERACTIONS WITH THE SMITHS?

A. YEAH.

Q. AND WERE THEY CORDIAL? WERE YOU STILL FRIENDLY WITH THEM? WERE YOU STILL STAYING THERE?

A. FROM TIME TO TIME.

Q. FROM TIME TO TIME. BUT YOU DIDN'T GO BACK AND STAY IN

THE -- IN JEFF'S PLACE.

A. YEAH, I WAS STAYING THERE FROM TIME TO TIME.

Q. OKAY. WOULD YOU SAY THAT JEFF WAS A LITTLE ANGRY WITH YOU MAYBE?

A. NO.

Q. OKAY. LET ME ASK YOU ABOUT YOUR RELATIONSHIP WITH THOMAS SMITH, SHORT DOG. DID YOU EVER HAVE ANY KIND OF ROMANTIC RELATIONSHIP WITH HIM?

A. NO.

Q. OKAY. AND YOU SAID EARLIER THAT WHEN YOU WERE USING DRUGS YOU'D DO ANYTHING TO GET THEM; RIGHT?

A. UH-HUH.

Q. AND WOULD YOU SAY THAT THIS WAS---

MS. SHIPLEY: YOUR HONOR, MAY WE APPROACH?

THE COURT: YES, YOU MAY.

(WHEREUPON, A BENCH CONFERENCE WAS HELD.)

THE COURT: ALL RIGHT. PROCEED.

MR. LEDDY: THANK YOU, YOUR HONOR.

BY MR. LEDDY:

Q. WE'VE HEARD FROM -- WE'VE HEARD FROM SOME PEOPLE WHO WERE -- WHO WERE ALSO REGULARS AT THIS LOCATION. I TALKED TO JEFF AND LEVERN, AND YOU'RE FAMILIAR WITH THOSE GUYS; RIGHT?

A. (WITNESS NODDED HEAD UP AND DOWN.)

Q. NOW, THEY TOLD US THAT THEY HAD NEVER SEEN MR. ROBINSON BEFORE. OKAY? BUT YOU'VE NOW TOLD US THAT WHILE YOU WERE

STAYING THERE YOU WERE GOOD FRIENDS WITH HIM; RIGHT?
A. YES, I WAS BEFORE -- BEFORE I STARTED BEING DOWN THERE, I KNEW HIM, LIKE I SAID, MAYBE A YEAR AGO BEFORE I STARTED HANGING DOWN IN THE HOLE.
Q. OKAY. HAD YOU EVER SEEN HIM THERE AT THE HOLE - MR. ROBINSON?
A. I SEEN HIM THERE ONE TIME BEFORE THAT HAPPENED.
Q. OKAY. AND WAS HE THERE -- WELL---
A. I DON'T KNOW.
Q. ---DID HE EVER COME THERE TO BUY DRUGS?
A. I DON'T KNOW WHAT HIS REASONS WAS FOR BEING THERE.
Q. OKAY.
A. I JUST HAPPENED TO WAKE UP AND HE WAS THERE, AND I DON'T KNOW WHAT HIS REASONS WAS FOR BEING THERE THAT DAY.
Q. ALL RIGHT. NOW, PEOPLE COME TO THIS LOCATION, AND YOU'VE SEEN PEOPLE USE DRUGS THERE; RIGHT?
A. YEAH.
Q. OKAY. AND IT'S JUST A COMMON OCCURRENCE; RIGHT?
A. UH-HUH.
Q. BECAUSE WE'VE GOTTEN SOME TESTIMONY TO THE CONTRARY ON THAT. NOW, YOU SAID TODAY THAT THE VERY MOMENT THAT MR. ROBINSON CAME IN YOU SAW HIM?
A. UH-HUH.
Q. ALL RIGHT. THE VERY MOMENT THAT HE CAME AROUND THOSE OTHER PEOPLE YOU HAD YOUR EYES ON?

A. UH-HUH.
Q. ALL RIGHT. AND WOULD YOU SAY IT WAS RIGHT AT THAT MOMENT THAT SHORT DOG IMMEDIATELY REACTED TO HIS PRESENCE?
A. YEAH. WHEN HE -- WHEN HE -- WHEN HE -- WHEN HE CHARGED TOWARDS HIM, THAT'S WHEN HE REACTED. THEY GRABBED EACH OTHER, LIKE I SAID.
Q. SO THEY CHARGED EACH OTHER?
A. HE CHARGED HIM, AND WHEN HE GOT TO HIM, HE GRABBED HIM AND HE GRABBED HIM.
Q. OKAY. AND THEN THEY STARTED WRESTLING; RIGHT?
A. THEY TUSSLED A LITTLE, YEAH.
Q. OKAY. AND YOU WERE RIGHT THERE IN THE MIDDLE OF IT.
A. I WAS RIGHT ON THE SIDE OF IT.
Q. OKAY. DO YOU HAVE A COPY OF YOUR STATEMENT THAT YOU GAVE TO INVESTIGATOR REESE ON THE 23RD OF FEBRUARY IN FRONT OF YOU?
A. UH-HUH. YES.
Q. NOW, YOU SAID THAT YOUR MEMORY WAS BETTER THEN THAN IT IS NOW ABOUT EVENTS BECAUSE TIME HAS PASSED; RIGHT?
A. YES.
Q. AND DO YOU SEE ANYWHERE IN THAT STATEMENT WHERE YOU REFER TO THE FACIAL EXPRESSIONS OF MY CLIENT?
A. WHAT? DO YOU WANT ME TO READ THIS?
Q. IF YOU'LL HAVE A LOOK AT IT, I WOULD APPRECIATE IT.
A. (THE WITNESS LOOKS AT THE STATEMENT.) NO, I DON'T.

Q. OKAY. WELL -- AND AT THE TIME, WHEN IT WAS FRESH IN YOUR MIND, YOU WANTED TO GET EVERYTHING DOWN; RIGHT?

A. UH-HUH.

Q. OKAY. THANK YOU, MS. EVANS. I HAVE NO FURTHER QUESTIONS.

A. THANK YOU.

MS. SHIPLEY: MAY IT PLEASE THE COURT?

THE COURT: YOU MAY PROCEED.

REDIRECT EXAMINATION

BY MS. SHIPLEY:

Q. MS. EVANS, WHEN MR. -- WHEN WAS THE FIRST TIME YOU NOTICED MR. ROBINSON COMING INTO THE TRAILER?

A. WHEN DID I KNOW?

Q. WHEN WAS THE FIRST TIME YOU NOTICED HIM COMING IN? WHERE WERE YOU -- USING THIS POINTER, SHOW THE JURY WHERE IN THE KITCHEN YOU WERE STANDING WHEN YOU FIRST NOTICED HIM COMING IN THE KITCHEN.

A. I WAS STANDING LIKE RIGHT HERE.

Q. OKAY. BY THE STOVE AREA?

A. UH-HUH.

Q. OKAY. SHOW THE JURY WHERE MR. SMITH WAS SITTING AT THE TABLE, JEFF SMITH. DO YOU REMEMBER?

A. BY THE WINDOW.

Q. OKAY. THIS WINDOW HERE?

A. THE WINDOW---

Q. IN THE CORNER OR---

MR. LEDDY: YOUR HONOR, I OBJECT. SHE'S LEADING, AND I DON'T THINK THAT'S WHAT THE WITNESS TESTIFIED TO EARLIER.

MS. SHIPLEY: I'M ASKING WHICH WINDOW. THERE'S TWO WINDOWS, YOUR HONOR.

THE COURT: OKAY.

MS. SHIPLEY: THERE'S ONE UP HERE AND ONE DOWN HERE. WHICH WINDOW?

THE COURT: PROCEED.

THE WITNESS: THE ONE IN THE CORNER LIKE BY THE REFRIGERATOR.

BY MS. SHIPLEY:

Q. OKAY. SO WHEN MR. ROBINSON WALKED IN THE KITCHEN, DID YOU SEE HIM FIRST BEFORE MR. JEFF SMITH?

A. YEAH, I HAD TO BECAUSE JEFF WAS SITTING IN THE CORNER.

Q. OKAY. TELL THIS JURY: WHAT DID MR. ROBINSON HAVE IN HIS HAND WHEN HE CAME INTO THAT KITCHEN?

A. HE HAD A GUN IN HIS HAND.

Q. HOW DID HE HAVE THE GUN IN HIS HAND? WAS HE POINTING IT AT ANYBODY?

A. WELL, WHEN HE CAME IN, HE JUST -- HE HAD IT IN HIS HAND LIKE SO---

Q. OKAY.

A. ---YOU KNOW.

Q. AND WHO -- YOU SAID THAT -- EARLIER IN YOUR CROSS-

EXAMINATION YOU WERE ASKED ABOUT WHO WAS CHARGING WHO FIRST. WHO CHARGED FIRST IN THIS CASE?

A. JOEY DID.

Q. AND WHO DID JOE -- JOEL CHARGE AT?

A. SHORT.

Q. AND WHEN SHORT SAW THE DEFENDANT CHARGING AT HIM WITH A GUN, WHAT DID HE DO?

A. GRABBED HIM.

Q. CHARGED BACK?

A. YEAH. WELL, HE REALLY DIDN'T HAVE A CHANCE TO CHARGE BECAUSE HE WAS LEANING ON THE STOVE. BY THE TIME HE GOT -- WHEN HE CAME IN, HE JUST WENT STRAIGHT FOR HIM AND GRABBED HIM, AND SHORT GRABBED HIM AND THEY WAS TUSSLING.

Q. OKAY. YOU WERE ALSO ASKED ABOUT WHETHER OR NOT YOU REMEMBERED TALKING TO A POLICE OFFICER AT THE HOSPITAL. DO YOU REMEMBER THAT LINE OF QUESTIONING BY MR. LEDDY?

A. (WITNESS NODDED HEAD UP AND DOWN.)

Q. YOU SAID YOU DON'T REMEMBER WHO YOU SPOKE WITH THAT NIGHT.

A. I BARELY REMEMBER.

Q. YOU DON'T REMEMBER WHAT YOU TOLD THEM?

A. HUH-UH.

Q. BUT YOU DID SAY IN YOUR CROSS-EXAMINATION, "I KNEW WHO DID THIS."

A. UH-HUH.

Q. DO YOU KNOW WHO DID THIS?
A. YES.
Q. TELL THIS JURY WHO KILLED SHORT DOG.
A. JOEY.
MS. SHIPLEY: NO FURTHER QUESTIONS.
MR. LEDDY: NO RECROSS, YOUR HONOR.
THE COURT: YOU CAN STEP DOWN, MA'AM. SHE CAN BE EXCUSED.
MR. ROSE: THE STATE CALLS OFFICER MCINTYRE.

RYAN MCINTYRE, AFTER BEING DULY SWORN, TESTIFIED AS FOLLOWS:

THE CLERK: PLEASE HAVE A SEAT AND STATE YOUR FULL NAME.
THE WITNESS: MY NAME IS RYAN MCINTYRE. I'M EMPLOYED WITH THE CITY OF COLUMBIA POLICE DEPARTMENT.

DIRECT EXAMINATION

BY MR. ROSE:
Q. GOOD MORNING, OFFICER.
A. GOOD MORNING.
Q. WHERE ARE YOU CURRENTLY EMPLOYED?
A. THE CITY OF COLUMBIA POLICE DEPARTMENT.
Q. AND HOW LONG HAVE YOU BEEN EMPLOYED THERE?
A. ALMOST FIVE YEARS.
Q. AND WHAT IS YOUR POSITION?
A. I AM A MASTER POLICE OFFICER. I WORK ON THE COMMUNITY RESPONSE TEAM.

Q. AND BACK IN FEBRUARY OF 2007, WHAT WAS YOUR POSITION THEN?
A. I WAS ALSO M.P.O., BUT I WAS WITH THE REGULAR STREET UNITS. I WAS A REGULAR LINE UNIT AT THE TIME.
Q. SO CURRENTLY YOU'RE NO LONGER WITH THE STREET UNIT, BUT BACK THEN YOU WERE?
A. CORRECT.
Q. AND WHAT ARE SOME OF YOUR DUTIES -- AS YOUR POSITION WAS BACK IN FEBRUARY OF 2007, WHAT WERE SOME OF YOUR DUTIES BACK THEN?
A. BASICALLY AS A LINE UNIT YOU HANDLE CALLS. YOU GET OUT WITH SUSPICIOUS ACTIVITIES, YOU CHECK PROPERTIES, BUT MOSTLY YOU'RE SITTING THERE TAKING CALLS BECAUSE OF THE CALL VOLUME.
Q. AND WHAT KIND OF TRAINING HAVE YOU HAD TO CARRY OUT THESE DUTIES?
A. THE BASIC CRIMINAL JUSTICE ACADEMY. LITTLE EXTRA TRAININGS WITH THE POLICE DEPARTMENT, JUST BASIC SKILLS AND STUFF LIKE THAT.
Q. DID YOU RESPOND TO A CALL ON THE NIGHT OF FEBRUARY 15TH, 2007?
A. YES.
Q. AND WHAT KIND OF CALL WAS THAT?
A. WE RECEIVED A TONE WHICH COMES OUT AS AN EMERGENCY CALL FOR US. IT CAME OUT AS A SHOTS FIRED, ONE HIT.
Q. AND WHAT TIME DID YOU RESPOND TO THE SCENE?

A. THAT WAS ABOUT I BELIEVE 21:40 HOURS WHICH IS 9:40 IN THE P.M.

Q. OKAY. AND WERE YOU THE FIRST ON THE SCENE?

A. YES. THAT DAY I WAS TRAINING ANOTHER OFFICER, MYSELF AND OFFICER DANTZLER, WHO IS NO LONGER EMPLOYED WITH THE DEPARTMENT. WE ARRIVED AT THE SAME TIME ALONG WITH OFFICER WALKER DIRECTLY BEHIND US.

Q. AND HOW LONG AFTER YOU ARRIVED DID OFFICER WALKER ARRIVE?

A. YES. HE -- WE WERE BOTH ON ANOTHER CALL ON TWO NOTCH WHENEVER THE CALL CAME OUT. SO HE THEN FOLLOWED ME FROM TWO NOTCH ALL THE WAY OVER THERE. SO AS I PULLED UP ON THE SCENE, SO DID HE.

Q. AND DID ANYONE FOLLOW -- FOLLOW? ANY OTHER OFFICERS ARRIVE SHORTLY AFTER THAT?

A. I BELIEVE OFFICER WADE ARRIVED JUST A FEW MINUTES LATER, NOT TOO LONG AFTER.

Q. AND ONCE YOU GUYS ARRIVED AT THE SCENE, WHAT HAPPENED?

A. AS WE ARRIVED UP ON THE SCENE, I WAS DRIVING THE PATROL CAR AND MY TRAINEE WAS IN THE PASSENGER. WE GOT OUT. THERE WAS A LADY STANDING OUTSIDE THE HOUSE NEXT DOOR STATING THAT, "HE WAS SHOT. HE'S DEAD INSIDE," AT WHICH TIME MYSELF, OFFICER WALKER, AND MY RECRUIT, DANTZLER, WENT TO THE FRONT DOOR. I KNOCKED ON THE DOOR. THE DOOR SWUNG OPEN. I OBSERVED THE BODY LAYING IN THE KITCHEN MOTIONLESS. AS I

WENT TO ENTER, I LOOKED THROUGH THE DOOR JUST CHECKING TO SEE IF ANYBODY WAS THERE. I NOTICED SOMEBODY CROUCHED BEHIND THE DOOR BESIDE THE COUCH ON THE LOVE SEAT AT WHICH TIME WE ORDERED HIM TO COME OUT AND DETAINED HIM.

Q. AND WHY DID YOU ORDER HIM TO COME OUT?

A. BECAUSE WE HAD NO IDEA WHO HE WAS. WE DIDN'T KNOW IF HE WAS A WITNESS OR A VICTIM OR THE SUSPECT.

Q. AND WHEN YOU ENTERED THE RESIDENCE, HOW WAS THE LIGHTING? WERE THE LIGHTS ON?

A. YES.

Q. THEY WERE ON? I'M GOING TO SHOW YOU SOME PICTURES. BEG THE COURT'S INDULGENCE. OKAY. I'M GOING TO SHOW YOU STATE'S EXHIBIT 15. WHAT IS THAT A PICTURE OF?

A. BLOOD DROPLETS. IT APPEARS TO BE THE FRONT DOOR.

Q. AND IS THAT HOW IT APPEARED WHEN YOU ENTERED THE FRONT DOOR?

A. YES.

Q. AND YOU SAID WHEN YOU ENTERED YOU SAW THE BODY LAYING IN THE KITCHEN. I'M GOING TO SHOW YOU STATE'S EXHIBIT 16. WHAT IS THAT A PICTURE OF?

A. THAT'S A PICTURE OF THE VICTIM LAYING MOTIONLESS.

Q. AND THAT'S HOW YOU FOUND HIM.

A. YES.

Q. THERE'S ONE OTHER PICTURE I WANT TO SHOW YOU. I'M GOING TO SHOW YOU STATE'S EXHIBIT 27. WHAT IS THAT A PICTURE OF?

A. THAT IS A PICTURE OF THE LOVE SEAT WHERE THE WITNESS WAS KNEELING RIGHT BEHIND THE DOOR.

Q. AND WHAT IS THAT OVER IN THE CORNER RIGHT THERE?

A. BLOOD DROPLETS.

Q. BLOOD DROPLETS. AND I'M GOING TO SHOW YOU STATE'S EXHIBIT 30. WHAT IS THAT A PICTURE OF?

A. THAT IS ALSO BLOOD RIGHT NEXT TO THE HEATER.

Q. WHAT ROOM IS THAT?

A. LIVING ROOM.

Q. LIVING ROOM. AND THAT'S HOW YOU FOUND IT WHEN YOU ENTERED THE RESIDENCE.

A. YES.

Q. OKAY. WHAT STEPS, IF ANY, DID YOU AND THE OTHER OFFICERS THAT RESPONDED TAKE TO SECURE THE CRIME SCENE?

A. WHEN MYSELF, DANTZLER, AND WALKER ARRIVED ON THE SCENE, LIKE I STATED, WE THEN FOUND SOMEBODY BEHIND THE FRONT DOOR. WE TOOK HIM OUT, DETAINED HIM. MYSELF AND WALKER STEPPED INTO THE RESIDENCE TRYING NOT TO DISTURB ANY OF THE BLOOD OR ANYTHING RIGHT THERE, MADE SURE THERE WAS NOBODY ELSE IN THE KITCHEN AREA OR IN THE LIVING ROOM. WE THEN WAITED FOR ANOTHER UNIT TO GET THERE BECAUSE OFFICER DANTZLER WAS A RECRUIT AND IN TRAINING. HE WAS MY RESPONSIBILITY. I'M NOT SUPPOSED TO LEAVE HIM ALONE, SO I DIDN'T WANT TO LEAVE HIM OUTSIDE ALONE WITH A POSSIBLE SUSPECT, VICTIM OR WHOEVER.

SO AS SOON AS OFFICER WADE ARRIVED ON THE SCENE, THAT'S

THE TIME THAT HE ACCOMPANIED ME INSIDE THE HOUSE, AND WE MOVED FROM ROOM TO ROOM TO ROOM CLEARING, MAKING SURE THAT THERE WAS NOBODY ELSE IN THERE. AFTER THAT, WE OBSERVED THE BACK DOOR OPEN WHICH IS WHERE OFFICER WADE STAYED POSTED AT UNTIL EVERYBODY CLEARED THE SCENE.

Q. AND AS AN OFFICER HAVE YOU RECEIVED ANY TRAINING ON HOW TO SECURE A CRIME SCENE?

A. YES. THEY TEACH YOU IN BASIC -- IN THE ACADEMY JUST REAL BASICS ABOUT HOW TO SECURE A CRIME SCENE, TRY NOT TO TOUCH ANYTHING, BASICALLY JUST COMMON KNOWLEDGE. WHENEVER YOU GET ON WITH YOUR DEPARTMENT, SOMETIMES THEY PUT YOU WITH THE CRIME SCENE INVESTIGATORS AT LEAST FOR A COUPLE OF DAYS, A WEEK OR TWO, DEPENDING ON HOW MUCH TIME YOU HAVE OUT THERE, AND THEY ALSO GO A LITTLE BIT FURTHER IN DEPTH IN SHOWING YOU HOW TO DO EVERYTHING.

Q. AND THAT'S FOR ALL OFFICERS?

A. YES.

Q. BASIC TRAINING FOR ALL OFFICERS?

A. YES.

Q. SO WHEN YOU OPENED THE DOOR AND YOU SEE BLOOD RIGHT THERE, WHAT WOULD YOU DO? YOU SEE A POOL OF BLOOD.

A. I TRY TO AVOID IT AS MUCH AS I CAN, BUT SINCE IT IS A DOORWAY AND I HAVE TO MAKE ENTRY, YOU TRY AND OVERSTEP IT, TRY NOT TO STEP IN THE MIDDLE OF IT.

Q. AND WHAT COUNTY DID THIS TAKE PLACE IN?

A. RICHLAND COUNTY.
Q. THIS TOOK PLACE IN RICHLAND COUNTY. WAS ANYONE UNAUTHORIZED ALLOWED INTO THAT TRAILER AFTER YOU RESPONDED AND SECURED THE SCENE?
A. WHENEVER WE RESPONDED, THE ONLY PEOPLE THAT WERE AUTHORIZED WERE IN THERE.
Q. AND DID YOU FILL OUT AN INCIDENT REPORT?
A. MY TRAINEE DID WHICH MY NAME SHOULD BE ON THE BOTTOM OF IT ALSO.
Q. AND DO YOU RECALL AT THE TIME WHAT CHARGES -- BEFORE I DO THAT, LET ME... DID ANYONE AT THE SCENE GET ROWDY? WAS THERE ANY TYPE OF DISTURBANCE OUTSIDE THE TRAILER AFTER IT HAD BEEN SECURED?
A. AFTER WE SECURED THE SCENE, PUT UP TAPE, TRYING TO PUSH EVERYBODY BACK FROM THE FRONT OF THE TRAILER, ONE PERSON DID COME UP AND STARTED CAUSING A SCENE. I BELIEVE THAT WAS THE VICTIM'S SON. OFFICER WALKER MADE CONTACT WITH HIM, ATTEMPTED TO CALM HIM DOWN, DID HAVE TO PUT HIM IN HANDCUFFS TO DETAIN HIM. HE EVENTUALLY CALMED DOWN AT WHICH TIME HE REMOVED THE CUFFS.
Q. OKAY. AND DO YOU RECALL HOW MANY OFFICERS RESPONDED TO THE SCENE? LIKE AT THIS POINT YOU GUYS HAVE SECURED IT.
A. RIGHT.
Q. AND THEN MORE OFFICERS ARE ARRIVING. CORRECT?
A. CORRECT.

Q. AND IF I SHOWED YOU A COPY OF THE INCIDENT REPORT, WOULD YOU BE -- WOULD IT HELP REFRESH YOUR MEMORY AS TO WHO ALL WAS THERE---

A. YES.

Q. ---IN THE TRAILER THAT NIGHT?

A. OKAY.

Q. DO YOU -- DO YOU RECALL WHO ALL WAS THERE?

A. YES.

Q. THIS IS OVER A PERIOD OF TIME; CORRECT?

A. CORRECT.

Q. THESE INDIVIDUALS ARE ARRIVING. IF YOU WOULD PLEASE TELL THE JURY...

A. THE OFFICERS THAT WERE ON THE SCENE WERE MYSELF, OFFICER DANTZLER, OFFICER WALKER, OFFICER WADE, OFFICER STOKES, OFFICER SUMTER, OFFICER HICKS, CORPORAL HOWIE (PHONETIC) WHO WAS MY DIRECT SUPERVISOR AT THE TIME, CORPORAL LINDOWSKI (PHONETIC), SERGEANT DUTTON WHO WAS ALSO MY SUPERVISOR, SERGEANT KELLY, SERGEANT WHITE, SERGEANT BABIN, INVESTIGATORS BALES, MONTGOMERY, BENSON, REESE, DOW, LIEUTENANT THORNTON, CHIEF CRISP AND HIS FATHER.

Q. AT SOME POINT -- WHEN YOU FIRST MADE CONTACT ON THE SCENE AND YOU PUT THE FIRST INDIVIDUAL THAT WAS ON COUCH IN HANDCUFFS, AT WHAT POINT DID YOU REALIZE THAT HE WAS JUST A WITNESS?

A. AFTER WE PLACED HIM IN THE BACK OF THE PATROL CAR, HE

STARTED TALKING TO US, LET US KNOW A LITTLE BIT MORE, BUT SHORTLY AFTER WE ARRIVED ON THE SCENE, INVESTIGATORS WERE THERE. SO I'D SAID MAYBE WITHIN FIVE OR TEN MINUTES THEY WERE THERE AT WHICH TIME THE SCENE AUTOMATICALLY GOES TO THEM. THEY HANDLE EVERYTHING FROM THERE.

Q. AND THAT INDIVIDUAL YOU HANDCUFFED THAT NIGHT, WHAT WAS HIS NAME? AND YOU CAN REFRESH YOUR MEMORY.

A. I BELIEVE IT WAS LEVERN.

Q. LEVERN SMITH; RIGHT?

A. I CAN'T REMEMBER HIS LAST NAME.

Q. SMITH?

A. YES.

Q. AND DID LEVERN SMITH -- DID YOU CHECK HIM FOR WEAPONS?

A. YES.

Q. DID HE HAVE ANY WEAPONS ON HIM?

A. NO, HE DID NOT.

Q. BEG THE COURT'S INDULGENCE. OFFICER MCINTYRE, DID YOU NOTICE A TRAIL OF THE BLOOD IN THE HOUSE?

A. YES. WHENEVER MYSELF AND OFFICER WADE STARTED TO CLEAR THE HOUSE TO MAKE SURE THERE WERE NO MORE OCCUPANTS, WE NOTICED A TRAIL FROM THE KITCHEN GO TOWARDS THE -- SPLATTERED IN THE LIVING ROOM, FROM THERE DOWN THE HALLWAY INTO THE BACK BEDROOM INTO THE BACK CLOSET WHICH IS WHERE WE BELIEVED THERE WAS SOMEBODY HIDING OR SITTING. WE WENT BACK THERE. NOBODY WAS IN THERE, AT WHICH TIME WE NOTICED ANOTHER TRAIL OF BLOOD

COMING OUT, GOING TOWARDS THE BACK DOOR, THEN OUT THE BACK.
Q. AS THE FIRST RESPONDING OFFICER, DID YOU FIND ANY WEAPONS WHATSOEVER IN THIS TRAILER?
A. NO.
Q. OFFICER MCINTYRE, AS FAR AS EVIDENCE, DID YOU FIND ANY OTHER EVIDENCE AT THE SCENE?
A. THE ONLY THING THAT I OBSERVED ON THE SCENE WERE -- BESIDES THE BODY AND THE BLOOD WERE THE SHELL CASINGS.
Q. SHELL CASINGS?
A. THAT WERE LOCATED ON THE STOVE AND ALSO AROUND THE VICTIM'S BODY.
Q. AND HOW MANY SHELL CASINGS WERE THERE?
A. I DON'T RECALL RIGHT OFF THE TOP OF MY HEAD.
Q. I BELIEVE IT MIGHT BE IN THE INCIDENT REPORT. DOES NINE SOUND ABOUT RIGHT?
A. NINE, YES. NINE 9 MILLIMETER.
Q. AND FROM THE WITNESSES DID YOU RECEIVE A DESCRIPTION OF THE SUSPECT?
A. AT THE TIME, NO, I DID NOT. I WAS STATIONED INSIDE THE RESIDENCE. I WAS THERE BASICALLY MAKING SURE THAT NOBODY WAS COMING IN TO CONTAMINATE IT UNTIL INVESTIGATORS GOT ON THE SCENE AT WHICH TIME I WOULD TAKE DOWN THE NAMES OF THE PEOPLE THAT WERE INSIDE THE RESIDENCE.
Q. UH-HUH.
A. I THINK THEY TALKED TO ANOTHER OFFICER OUTSIDE.

Q. OKAY. AND WAS THERE A VEHICLE AT THE SCENE?
A. YES.
Q. AND WAS THAT VEHICLE -- DID YOU HAVE REASON TO BELIEVE THAT VEHICLE WAS DRIVEN BY THE SUSPECT TO THE SCENE?
A. INITIALLY, NO. SHORTLY AFTER INVESTIGATION GOT ON THE SCENE AND STARTED TALKING WITH NEIGHBORS, YES.
Q. AND ULTIMATELY WAS THAT VEHICLE TOWED?
A. YES.
Q. TO WHERE WAS IT TOWED?
A. IT WAS TOWED TO OUR HEADQUARTERS FOR PROCESSING.

MR. ROSE: THANK YOU. NO FURTHER QUESTIONS AT THIS TIME.

CROSS-EXAMINATION

BY MR. LEDDY:

Q. OFFICER MCINTYRE?
A. YES.
Q. YOU SAID YOU'RE ON THE COMMUNITY RESPONSE TEAM; RIGHT?
A. YES.
Q. WERE YOU ON THAT TEAM AT THIS TIME?
A. NO, I WAS NOT. I WAS A REGULAR LINE UNIT.
Q. OKAY. AND THE COMMUNITY RESPONSE TEAM, DID YOU GET PUT ON THAT BECAUSE YOU HAD MORE INTERACTIONS WITH PEOPLE IN THE COMMUNITY?
A. BASICALLY THAT'S WHAT WE'RE THERE FOR. WE HANDLE -- WE'RE MORE IN DEPTH HANDLING THE COMMUNITY COMPLAINTS DUE TO

THE FACT THAT THE STREET UNITS DON'T REALLY HAVE TIME TO ADDRESS THEM. BASICALLY WHAT IT IS IS IF THERE'S OPENINGS, WHOEVER WANTS TO PUT IN CAN.

Q. OKAY.

A. SO YOU DON'T GET IT JUST BECAUSE YOU KNOW PEOPLE IN THE COMMUNITY.

Q. WERE YOU FAMILIAR WITH THIS NEIGHBORHOOD AT THE TIME?

A. YES.

Q. WERE YOU FAMILIAR WITH ITS NICKNAME?

A. THE -- GOING BY THE HOLE?

Q. YEAH.

A. YES.

Q. OKAY. AND SO WHEN THE CALL CAME OUT THERE WERE -- THERE WAS SOME OFFICERS ON THE 9-1-1. I DON'T KNOW IF YOU'VE REVIEWED THE AUDIO, BUT SOME PEOPLE DIDN'T SEEM TO KNOW EXACTLY WHERE IT WAS, BUT I THINK YOU DID.

A. CORRECT.

Q. AND YOU WERE DIRECTING PEOPLE AS TO WHERE TO TURN AND HOW TO GET THERE.

A. CORRECT.

Q. SO YOU WERE FAMILIAR WITH THIS AREA.

A. CORRECT.

Q. AND HOW BAD IT IS.

A. CORRECT.

Q. OKAY. SO IT'S A BAD AREA.

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A. CORRECT.
Q. ALL RIGHT. NOW, YOU OBVIOUSLY DID EXACTLY WHAT YOU WERE SUPPOSED TO DO IN TERMS OF SECURING THE CRIME SCENE.
A. YES, SIR.
Q. AND IN DEALING WITH WITNESSES AND EVERYTHING AND PROMPTLY TURNED IT OVER TO THE INVESTIGATORS. DID YOU NOTICE LATER ON WHEN THIS INCIDENT CAME UP IN THE NEWS ABOUT THE CRIME SCENE?
A. YES. THE CITY CAUGHT A LOT OF FLACK FOR THE FATHER OF THE CHIEF COMING IN, YES.
Q. RIGHT. BUT THAT WASN'T YOUR FAULT.
A. NO.

MR. LEDDY: ALL RIGHT, SIR. NOTHING FURTHER, YOUR HONOR.

THE COURT: OKAY.

REDIRECT EXAMINATION

BY MR. ROSE:
Q. OFFICER MCINTYRE?
A. YES.
Q. AS A RESULT OF CHIEF CRISP'S DAD BEING ON THE SCENE, DID THE CHIEF RESIGN AS A RESULT OF THAT?
A. I DON'T BELIEVE SO. I DON'T BELIEVE HE RESIGNED BECAUSE OF THAT ISSUE, NO.

MR. ROSE: THANK YOU. NO FURTHER QUESTIONS.

MR. LEDDY: NOTHING FURTHER, YOUR HONOR.

THE COURT: THANK YOU, SIR. YOU CAN STEP DOWN AND BE EXCUSED.

MR. ROSE: THE STATE CALLS OFFICER WALKER.

LARRY C. WALKER, AFTER BEING DULY SWORN, TESTIFIED AS FOLLOWS:

THE CLERK: PLEASE HAVE A SEAT AND STATE YOUR FULL NAME FOR THE RECORD.

THE WITNESS: OFFICER L.C. WALKER, COLUMBIA POLICE DEPARTMENT.

DIRECT EXAMINATION

BY MR. ROSE:

Q. HELLO, OFFICER WALKER. WHERE ARE YOU CURRENTLY EMPLOYED?

A. CITY OF COLUMBIA POLICE DEPARTMENT.

Q. AND HOW LONG HAVE YOU BEEN EMPLOYED THERE?

A. MAY 15TH WILL BE THREE YEARS.

Q. AND WHAT IS YOUR POSITION?

A. BASIC PATROL.

Q. AND WHAT KIND OF DUTIES DOES THAT ENTAIL?

A. YES, SIR. EVERYDAY CALLS CONSIDERED PRETTY MUCH LIKE OFFICER MCINTYRE STATED BEFORE... WE ANSWER CALLS ON A REGULAR BASIS.

Q. AND WHAT KIND OF TRAINING HAVE YOU HAD?

A. CRIMINAL JUSTICE ACADEMY, SOUTH CAROLINA.

Q. AND THAT TRAINING ENTAILS CRIME SCENE? SECURING A CRIME

SCENE?

A. YES, SIR, IT DOES.

Q. WERE YOU WORKING THE NIGHT OF FEBRUARY 15TH, 2007?

A. YES, SIR, I WAS.

Q. AND DID YOU RESPOND TO A CALL ON STREET?

A. YES, SIR, I DID.

Q. AND WHAT TIME DID YOU ARRIVE?

A. AS OFFICER MCINTYRE SAID, I WAS BEHIND HIM. I BELIEVE HE STATED RIGHT AROUND 20 MINUTES 'TIL 10. ON THAT EVENING I WAS SECONDS BEHIND HIM.

Q. SO YOU GUYS ARRIVED TOGETHER?

A. YES, SIR.

Q. AND WHAT HAPPENED NEXT?

A. ONCE WE ARRIVED ON THE SCENE, MCINTYRE AND HIS RECRUIT WERE IN FRONT OF ME. WE CAME TO THE DOOR. OFFICER MCINTYRE KNOCKED AND THE DOOR WENT OPEN. AS THE DOOR FLEW OPEN, MCINTYRE SAID, "THERE'S SOMEBODY ON THE FLOOR NEXT TO THE COUCH." AT THAT POINT, BY TRAINING, HE BROUGHT HIM OUT BY GUNPOINT, HAD HIM STICK HIS HANDS UP, TURN AROUND, CHECK FOR WEAPONS. HE WAS PLACED INTO CUSTODY AND PUT IN THE BACK OF THE PATROL CAR.

AT THAT TIME MYSELF AND OFFICER MCINTYRE MADE ENTRY INTO THE HOUSE, TRYING TO AVOID THE BLOOD THAT WAS OBVIOUSLY IN THE DOORWAY. AND AT THAT POINT WE STOPPED AND WAITED FOR OTHER OFFICERS TO ARRIVE, AND WADE WAS THE NEXT OFFICER ON

THE SCENE. ONCE OFFICER WADE ARRIVED ON THE SCENE, MCINTYRE AND WADE SECURED THE REST OF THE HOUSE. I STAYED IN THE LIVING ROOM. ONCE WE HAD A ON POST THE DOOR, I STEPPED BACK OUTSIDE AND STAYED WITH THE PERSON IN THE BACK OF THE CAR.

Q. DID ANYONE DISTURB THE SCENE ONCE YOU GUYS ARRIVED AND SECURED IT?

A. NO, SIR. TO THE BEST OF OUR ABILITY, WE DIDN'T.

Q. AND WAS THERE A DISTURBANCE OUTSIDE THE TRAILER AT SOME POINT?

A. YES, SIR. WHILE I WAS STANDING OUTSIDE WITH OFFICER DANTZLER WHILE THE OTHER OFFICERS SECURED ON THE SCENE AND WAITING FOR OTHER OFFICERS TO ARRIVE, WE HAD SET UP AS -- TO ELABORATE MORE ON THE SCENE, IF THERE'S A MAJOR CRIME SCENE, THEN WE HAVE CRIME SCENE TAPE THAT'S ON THE OUTSIDE PERIMETER TO GIVE A CUSHION OF ROOM SO PEOPLE CAN MOVE AND COOPERATE AND DO WHAT THEY NEED TO DO. AT THE CRIME SCENE TAPE I NOTICED THE VICTIM'S SON. AT THE TIME WE DIDN'T KNOW THAT, BUT IT WAS A BLACK MALE COMING TOWARDS THE SCENE SAYING, "THAT'S MY FATHER. THAT'S MY FATHER. I WANT TO SEE HIM." COME TO FIND OUT, IT WAS MR. COREY SMITH WHO WAS HIS SON. HE WAS VERY DISTRAUGHT. OBVIOUSLY HIS FATHER -- HE HAD FOUND OUT HIS FATHER HAD JUST BEEN SHOT. HE WAS TO THE POINT WHERE I HAD TO PHYSICALLY DETAIN HIM AND PUT HIM IN HANDCUFFS, AND HE REMAINED IN CUFFS UNTIL -- AT THE EDGE OF THE CRIME TAPE UNTIL HE WAS CALM AT WHICH TIME I TOOK HIM OUT OF HANDCUFFS.

Q. HE WAS UPSET THAT HIS FATHER HAD BEEN KILLED?
A. VERY UPSET.
Q. DID YOU FIND ANY WEAPONS IN THE TRAILER?
A. NO, SIR, NOT TO MY KNOWLEDGE.
Q. BEG THE COURT'S INDULGENCE. OFFICER WALKER, DO YOU HAVE A COPY OF THE INCIDENT REPORT WITH YOU?
A. NO, SIR, I DON'T HAVE ONE WITH ME.
Q. WOULD IT REFRESH YOUR MEMORY BY GIVING THIS TO YOU?
A. YES, SIR.
Q. DO YOU RECALL RECEIVING A DESCRIPTION OF THE SUSPECT? ON PAGE 4 OF THE INCIDENT REPORT IS THERE A DESCRIPTION GIVEN?
A. I DO NOT RECALL THE DESCRIPTION BEING GIVEN. AS I SAID, WE WERE THE FIRST ONES ON THE SCENE. I CAN READ THE REPORT.
MR. ROSE: IF I MAY APPROACH THE WITNESS.
THE COURT: YES, YOU MAY.
BY MR. ROSE:
Q. LET ME SHOW YOU ON PAGE 4 OF THE INCIDENT REPORT. IS THERE A DESCRIPTION OF THE SUSPECT THERE?
A. YES, SIR. LISTED ON THE REPORT IT IS A BLACK MALE, AGE OF 34, DOES HAVE A DATE OF BIRTH. I'M GUESSING THAT CAME AFTER WE MADE CONTACT WITH HIM. THE DESCRIPTION THAT CAME OUT WAS 5'10", 215 POUNDS, BALD HAIR, BROWN EYES, TAN JACKET, CAMO PANTS, LIGHT SKIN.
Q. AND DO YOU RECALL INVESTIGATOR GIANNA STINNEY COMING ON

THE SCENE?
A. YES, SIR. SHE WAS OUR CRIME SCENE INVESTIGATOR THAT RESPONDED TO THE SCENE.
Q. AND DID YOU HELP HER IN ANY WAY?
A. ACTUALLY, ONCE THE SCENE WAS SECURED AND OTHER OFFICERS WERE ON THE SCENE, I DID HELP HER RETRIEVE THE ACTUAL EVIDENCE, A-K -- THE SHELL CASINGS, AS SHE WENT THROUGH THE SCENE AND PROCESSED WITH PICTURES AND EVERYTHING ELSE.
Q. AND DID YOU HELP HER TAKE MEASUREMENTS?
A. ACTUALLY, I WAS WRITING DOWN THE MEASUREMENTS AS SHE WAS SPEAKING THEM OUT. I WAS ACTUALLY WRITING THEM ON A TABLET FOR HER TO HAVE FOR HER ACTUAL INVESTIGATION PROCESS.
Q. AND THOSE MEASUREMENTS PERTAIN TO WHERE THE SHELL CASINGS WERE LAYING?
A. CORRECT. SHE WAS TAKING MEASUREMENTS OF HOW FAR OR HOW CLOSE THEY WERE TO THE VICTIM, HOW MANY BULLET HOLES THERE WERE, HOW MANY SHELL CASINGS THERE WERE, APPROXIMATELY WHERE THEY WERE IN THE HOUSE, AND SHE WAS TAKING PHOTOGRAPHS OF EVERYTHING AS WELL.
MR. ROSE: THANK YOU. NO FURTHER QUESTIONS.
MR. LEDDY: WE HAVE NO QUESTIONS FOR THIS WITNESS, YOUR HONOR.
THE COURT: OKAY. THANK YOU. YOU CAN STEP DOWN.
MR. ROSE: THE STATE CALLS OFFICER WADE.
DARRIUS WADE, AFTER BEING DULY SWORN, TESTIFIED AS

FOLLOWS:

THE CLERK: PLEASE HAVE A SEAT AND STATE YOUR FULL NAME FOR THE RECORD.

THE WITNESS: MY NAME IS MASTER POLICE OFFICER DARRIUS WADE, WITH THE CITY OF COLUMBIA POLICE DEPARTMENT.

DIRECT EXAMINATION

BY MR. ROSE:

Q. OFFICER WADE, WHERE ARE YOU CURRENTLY EMPLOYED?

A. I'M CURRENTLY EMPLOYED WITH THE CITY OF COLUMBIA POLICE DEPARTMENT, ASSIGNED TO THE NORTH REGION C.R.T. TEAM.

Q. AND HOW LONG HAVE YOU BEEN SO EMPLOYED?

A. APPROXIMATELY FOUR YEARS.

Q. AND WHAT IS YOUR POSITION?

A. I'M A PART OF THE COMMUNITY RESPONSE TEAM IN THE NORTH REGION.

Q. HAVE YOU RECEIVED TRAINING AS PART OF THAT POSITION?

A. YES. I HAVE ATTENDED THE CRIMINAL JUSTICE ACADEMY AND ALSO A MEMBER OF THE S.W.A.T. TEAM.

Q. DOES THAT ENTAIL SECURING A CRIME SCENE, THAT TRAINING?

A. YES, IT DOES.

Q. WERE YOU WORKING THE NIGHT OF FEBRUARY 15TH, 2007?

A. YES, I WAS.

Q. DID YOU RESPOND TO A CALL ON STREET?

A. YES, I DID.

Q. AND WHAT TIME DID YOU ARRIVE?

A. I BELIEVE I ARRIVED APPROXIMATELY 21:44 OR 21:45, BETWEEN THAT TIME.

Q. AND WHAT WAS THE ORDER OF ARRIVAL THAT NIGHT, AS FAR AS OFFICERS? DID YOU ARRIVE A LITTLE AFTER SOME OTHER OFFICERS?

A. YES, I DID. OFFICER MCINTYRE AND HIS RECRUIT, OFFICER DANTZLER, ARRIVED ON THE SCENE, FOLLOWED BY OFFICER WALKER. THEN I WAS THE FOURTH OFFICER ON THE SCENE TO ARRIVE.

Q. AND AFTER YOUR ARRIVAL, WHAT HAPPENED?

A. UPON MY ARRIVAL ON THE SCENE, OFFICER MCINTYRE SAID THEY DIDN'T CLEAR THE REST OF THE HOUSE. THEY JUST HAD SECURED THE IMMEDIATE CRIME SCENE WHERE THE VICTIM WAS LYING. MYSELF AND OFFICER MCINTYRE THEN WENT TO CLEAR THE HOUSE TO MAKE SURE THERE WEREN'T ANY MORE VICTIMS, BASED ON THE BLOOD TRAIL LEADING TO THE BACK OF THE HOUSE.

AFTER WE SECURED THE BACK OF THE HOUSE TO MAKE SURE THERE WEREN'T ANY MORE VICTIMS, WE NOTICED ANOTHER BLOOD TRAIL GOING TO THE BACK DOOR. AT THAT TIME THERE WERE OTHER OFFICERS ON THE PERIMETER OUTSIDE BECAUSE I BELIEVE THE CANINE UNIT WAS TRAINING IN THE AREA, AND THEY HAD A PERIMETER SET UP. AND THEN I SECURED THE BACK DOOR SO NO ONE ELSE COULD ENTER THE CRIME SCENE THROUGH THE BACK DOOR.

Q. SO THE CRIME SCENE WAS SECURED. WAS ANYBODY UNAUTHORIZED ALLOWED TO ENTER INTO THAT CRIME SCENE?

A. NO.

MR. ROSE: NO FURTHER QUESTIONS.

MR. LEDDY: WE HAVE NO QUESTIONS FOR THIS WITNESS, YOUR HONOR.

THE COURT: THANK YOU, SIR. YOU CAN STEP DOWN.

MR. ROSE: THE STATE CALLS MELISSA ROSSI.

MELISSA ROSSI, AFTER BEING DULY SWORN, TESTIFIED AS FOLLOWS:

THE CLERK: PLEASE HAVE A SEAT AND STATE YOUR FULL NAME FOR THE RECORD.

DIRECT EXAMINATION

BY MR. ROSE:

Q. MS. ROSSI, WHERE YOU CURRENTLY EMPLOYED?

A. RICHLAND COUNTY E.M.S.

Q. AND HOW LONG HAVE YOU BEEN EMPLOYED THERE?

A. IN MAY IT WILL BE SIX YEARS.

Q. AND WHAT KIND OF TRAINING HAVE YOU HAD TO FULFILL YOUR DUTIES?

A. WELL, THE E.M.T. SCHOOL IS APPROXIMATELY FOUR MONTHS. I OBTAINED MY E.M.T. CERTIFICATION WHILE I WAS ALSO GOING TO U.S.C. BY DAY AND E.M.T. CLASS AT NIGHT, AND UPON COMPLETING THE CERTIFICATIONS TO BECOME AN E.M.T., I STARTED WORKING AT RICHLAND COUNTY E.M.S. AND THEN IN '06 I WENT TO PARAMEDIC SCHOOL, AND THAT'S A YEAR-LONG SCHOOL, AND NOW I'M A PARAMEDIC.

Q. IN YOUR TRAINING, WHAT KIND OF THINGS DO YOU LEARN?

A. FOR A PARAMEDIC OR E.M.T.? DO YOU CARE WHICH ONE?

Q. JUST BASIC -- BASIC INFORMATION YOU LEARN.
A. BASICALLY SAFETY PROCEDURES. YOU LEARN HOW TO READ E.K.G. STRIPS. YOU LEARN HOW TO, YOU KNOW, HOW TO PUT SOMEBODY ON OXYGEN, HOW TO START I.V.'S, HOW TO GIVE MEDICATIONS, STABILIZE FRACTURES.
Q. WERE YOU WORKING THE NIGHT OF FEBRUARY 15TH, 2007?
A. YES.
Q. AND DID YOU -- WERE YOU CALLED TO STREET THAT NIGHT?
A. YES.
Q. AND WHAT WAS THE NATURE OF THAT CALL?
A. IT WAS A GUNSHOT.
Q. AND WHEN YOU ARRIVED ON THE SCENE, WHAT DID YOU OBSERVE? WHAT HAPPENED?
A. WE WENT INSIDE THE HOUSE, AND ME AND MY PARTNER -- WE NOTICED THE BODY WAS LAYING OFF -- RIGHT AT THE DOOR OFF IN THE KITCHEN AREA, AND IT WAS VERY APPARENT THAT HE WAS DEAD. JUST ABOUT THAT TIME - I WASN'T IN THERE LONG - I WAS INFORMED THAT THERE WAS ANOTHER PATIENT, SO I WENT TO CHECK ON THAT PATIENT.
Q. AND DO YOU RECALL THAT PATIENT'S NAME?
A. I'D HAVE TO LOOK AT THE RUN REPORT.
Q. LET ME -- IF I SHOW YOU A COPY OF YOUR REPORT, WOULD THIS REFRESH YOUR MEMORY?
A. YES. THIS WAS THE NAME THAT SHE TOLD ME: EDWINA BROWN.

Q. AND WHAT KIND OF INJURIES HAD EDWINA BROWN SUFFERED?
A. SHE WAS SHOT IN THE HAND, LEFT HAND, AND IN THE BUTTOCKS.
Q. AND AS A RESULT OF THOSE WOUNDS, WAS SHE LOSING BLOOD?
A. YES, SHE WAS LOSING A LOT OF BLOOD. IF SHE DIDN'T GET TO THE HOSPITAL, SHE COULD HAVE BLED OUT.
Q. AND IN YOUR REPORT I BELIEVE YOU SAID SOMEWHERE THAT THE SCENE BECAME UNSAFE. WHAT DID YOU MEAN BY THAT?
A. WE NOTICED SOMEBODY -- A BLACK GENTLEMAN KIND OF SHOUTING AND THE COPS WERE, YOU KNOW, SURROUNDING HIM, AND AT THAT TIME WE DIDN'T KNOW WHO HE WAS, YOU KNOW, IF HE HAD SHOT SOMEBODY. SO AT THAT POINT WE GOT TO THE TRUCK AND WE WERE ABOUT TO LEAVE.
Q. YOU TRANSPORTED MS. EVANS---
A. UH-HUH.
Q. ---OR MS. BROWN TO THE HOSPITAL?
A. YES. UH-HUH.
Q. AND IF MS. BROWN HAD NOT RECEIVED MEDICAL ATTENTION THAT NIGHT WITH THE AMOUNT OF BLOOD SHE WAS LOSING, COULD THIS HAVE POTENTIALLY BEEN FATAL?
A. YES.

MR. ROSE: NO FURTHER QUESTIONS.

MR. LEDDY: WE HAVE NO QUESTIONS FOR THIS WITNESS, YOUR HONOR.

THE COURT: THANK YOU. YOU CAN BE EXCUSED.

MR. ROSE: THE STATE CALLS INVESTIGATOR WALT BALES.

WALTER BALES, AFTER BEING DULY SWORN, TESTIFIED AS FOLLOWS:

THE CLERK: PLEASE HAVE A SEAT AND STATE YOUR FULL NAME FOR THE RECORD.

THE WITNESS: MY NAME IS DETECTIVE WALTER BALES.

DIRECT EXAMINATION

BY MR. ROSE:

Q. DETECTIVE BALES, WHERE ARE YOU CURRENTLY EMPLOYED?

A. I WORK RIGHT NOW WITH THE FOREST ACRES POLICE DEPARTMENT.

Q. AND HOW LONG HAVE YOU BEEN THERE?

A. IN A FEW DAYS IT WILL BE TWO YEARS.

Q. AND WHERE WERE YOU WORKING BACK IN FEBRUARY OF 2007?

A. I WORKED FOR THE COLUMBIA POLICE DEPARTMENT AT THE TIME OF THIS INCIDENT, AND A FEW DAYS AFTER THIS INCIDENT I RETIRED FROM THERE AND WENT TO WORK FOR FOREST ACRES.

Q. AND HOW LONG HAD YOU BEEN AT THE COLUMBIA POLICE DEPARTMENT?

A. TWENTY-FIVE YEARS.

Q. AND WHAT WAS YOUR POSITION?

A. I WAS A DETECTIVE.

Q. AND WHAT ARE SOME OF YOUR DUTIES AS A DETECTIVE?

A. TO INVESTIGATE CRIMES AND ATTEMPT TO SOLVE THEM AND ARREST THE PEOPLE THAT ARE GUILTY OF THE CRIME.

Q. AND WHAT KIND OF TRAINING HAVE YOU HAD TO ASSIST YOU IN THOSE DUTIES?

A. LIKE MOST OF THE OFFICERS YOU'VE HEARD TODAY, I'VE BEEN TO THE SOUTH CAROLINA CRIMINAL JUSTICE ACADEMY AND I ALSO HAD SEVERAL OTHER TRAINING SEMINARS OVER THE COURSE OF MY CAREER AND, OF COURSE, A LITTLE ON-THE-JOB TRAINING FROM DETECTIVES THAT HAVE BEEN THERE LONGER THAN I HAVE.

Q. AND WERE YOU WORKING THE NIGHT OF FEBRUARY 15TH, 2007?

A. I WAS.

Q. AND WERE YOU CALLED TO -- DID YOU RECEIVE INFORMATION ABOUT RESPONDING TO THE SCENE ON MYERS STREET---

A. YES.

Q. ---THAT NIGHT? AND DO YOU REMEMBER WHAT TIME YOU RECEIVED THAT CALL?

A. WE GOT THE CALL -- ACTUALLY, DETECTIVE MONTGOMERY AND I WERE OUT WORKING THAT NIGHT. WE WERE WORKING ON ANOTHER CASE. WE HEARD THE CALL OVER THE RADIO, AND WHEN WE HEARD THE CALL OVER THE RADIO, WE RESPONDED ABOUT THE SAME TIME THE UNIFORM OFFICERS DID. WE GOT THERE A LITTLE BIT LATER BECAUSE WE HAD TO QUIT AND FINISH UP WHAT WE WERE DOING.

Q. WHEN YOU RESPONDED TO THE SCENE, WHAT HAPPENED?

A. WHEN WE ARRIVED ON THE SCENE, I DON'T REMEMBER EXACTLY WHICH OFFICER I SPOKE TO INITIALLY, BUT THEY DIRECTED US TOWARD THIS TRAILER. WENT INSIDE THE TRAILER, GLANCED AROUND, SAW THE VICTIM LYING IN THE KITCHEN, AND AT THAT TIME

I WENT OUT AND CONTACTED OUR SUPERVISOR AND TOLD HIM THAT WE WERE ON THE SCENE OF A HOMICIDE AND THAT WE NEEDED OTHER DETECTIVES TO BE CALLED IN TO HELP WORK ON IT.

Q. AND WAS THAT CRIME SCENE SECURED WHEN YOU ARRIVED?

A. YES.

Q. DID YOU MAKE CONTACT WITH ANY WITNESSES WHILE YOU WERE ON THE SCENE?

A. YES.

Q. AND WHO WAS THAT?

A. I SPOKE TO LEVERN BRIEFLY. HE WAS DETAINED IN A CAR. I SPOKE WITH HIM BRIEFLY ABOUT WHAT HAD GONE ON, AND THEN OTHER WITNESSES WERE ACTUALLY TAKEN DOWN TO THE POLICE DEPARTMENT WHERE WE DID SOME INTERVIEWS AND TOOK SOME STATEMENTS.

Q. AND DID YOU HAVE ANY INVOLVEMENT WITH THE PHOTO LINE-UP IN THIS CASE?

A. I DID.

Q. AND, IN FACT, WHAT WAS THAT INVOLVEMENT?

A. I CREATED THE PHOTOGRAPHIC LINE-UP THAT WAS SHOWN TO THE WITNESSES.

Q. AND HOW DID YOU CREATE THAT LINE-UP?

A. I HAVE ACCESS TO A DATABASE OF PHOTOGRAPHS. WHILE I WAS AT HEADQUARTERS, WE WERE CONTACTED AND GIVEN THE DEFENDANT'S NAME. I WAS ABLE TO SECURE A PHOTOGRAPH OF THE DEFENDANT AND LINE UP SOME OTHER PICTURES WITH HIM, FIVE OTHER PICTURES, IN FACT, TO CREATE THIS LINE-UP OF SIX PICTURES.

Q. I'M GOING TO SHOW YOU STATE'S EXHIBIT NUMBER 1. DO YOU RECOGNIZE THAT?

A. YES, SIR. THAT'S THE LINE-UP.

Q. THAT'S THE LINE-UP? AND DID YOU HAVE OCCASION TO SHOW THIS LINE-UP TO ANYONE?

A. I DID. I BELIEVE I SHOWED IT TO A FEMALE THAT ARRIVED AT THE SCENE WITH THE DEFENDANT.

Q. SHONDA?

A. SHONDA MOFFETT.

Q. AND WHAT IS YOUR PROCEDURE FOR SHOWING THIS LINE-UP?

A. WHEN I SHOW THESE LINE-UPS -- AND YOU'VE SEEN A PICTURE OF IT. IF I SIT DOWN WITH SOMEBODY AND I'M GETTING READY TO SHOW THEM A LINE-UP, WHAT I WILL DO IS I WILL EXPLAIN THAT I'M GOING TO SHOW THEM SIX PICTURES AND THAT I WOULD LIKE THEM TO LOOK AT ALL SIX PICTURES AND THAT IF THEY SEE ONE OF THE PERSONS THAT IS IN THOSE SIX PICTURES THAT MIGHT HAVE COMMITTED A CRIME, I WANT THEM TO IDENTIFY THAT PERSON TO ME.

I ALSO TELL THEM THAT JUST BECAUSE I'M SHOWING THEM A LINE-UP THAT DOES NOT MEAN THAT THE PERSON WHO MIGHT HAVE COMMITTED THE CRIME IS ONE OF THOSE SIX PEOPLE SO THAT IF THEY DON'T SEE ANYBODY AT ALL THAT IS THE PERSON WHO COMMITTED THE CRIME, I WANT THEM TO TELL ME THAT, TOO, BECAUSE WE CAN SHOW A LINE-UP THAT PERHAPS THE SUSPECT'S PICTURE IS NOT IN THERE. MAYBE I'VE NOT IDENTIFIED THE PERSON.

Q. WHERE DID YOU SHOW THIS LINE-UP TO MS. MOFFETT?
A. AT POLICE HEADQUARTERS.
Q. AND WHO WAS PRESENT?
A. IT WAS MYSELF, MS. MOFFETT, AND SERGEANT CHRIS WHITE.
Q. OKAY. AND DID MS. MOFFETT RECOGNIZE ANYBODY OUT OF THE LINE-UP?
A. YES, SHE DID. SHE PICKED THE PICTURE OF THE DEFENDANT.
Q. AND, IN FACT, UNDERNEATH -- UNDERNEATH THE PICTURES IN STATE'S EXHIBIT 1, WHAT IS THAT? ARE THOSE NUMBERS?
A. THOSE ARE SOME NUMBERS.
Q. AND SO WHAT NUMBER DID SHONDA MOFFETT PICK OUT?
A. SHE PICKED OUT THE PHOTOGRAPH WITH NUMBER 4-8-8-6-0.
Q. AND WHAT NUMBER DID THAT RELATE TO AS FAR AS THE...
A. THE DEFENDANT'S PICTURE.
Q. JOEL ROBINSON?
A. YES.
Q. AND DID MS. MOFFETT FILL OUT AN AFFIDAVIT NOTARIZED?
A. YES, SHE DID.
Q. IS THAT HER SIGNATURE RIGHT THERE?
A. IT IS.
Q. HOW LONG DID IT TAKE MS. MOFFETT TO PICK OUT THE DEFENDANT?
A. IT DIDN'T TAKE HER LONG AT ALL. SHE LOOKED -- SHE SCANNED THE LINE-UP, THE PIECE OF PAPER, LOOKED AT THE PICTURES, AND THEN POINTED TO THE DEFENDANT'S PICTURE.

Q. AND HOW CERTAIN DID SHE APPEAR TO BE TO YOU?
A. SHE WAS CERTAIN, 100 PERCENT CERTAIN. SHE IDENTIFIED HIM.
MR. ROSE: THANK YOU. NO FURTHER QUESTIONS.
THE COURT: OKAY.
MS. DAVIS: THANK YOU, YOUR HONOR.

CROSS-EXAMINATION

BY MS. DAVIS:
Q. JUST BRIEFLY, INVESTIGATOR BALES. YOU DID THE PHOTO LINE-UP WITH SHONDA MOFFETT?
A. YES.
Q. SHE IDENTIFIED JOEL ROBINSON?
A. YES.
Q. SHE KNOWS JOEL ROBINSON; RIGHT?
A. YES, SHE DOES. SHE -- MY UNDERSTANDING IS SHE ARRIVED WITH HIM DOWN AT THAT LOCATION.
Q. AND AT THE TIME -- WHEN YOU GOT TO THE SCENE THAT NIGHT, YOU ACTUALLY CANVASSED THE AREA; RIGHT?
A. SOME OF IT. THERE WERE SEVERAL OF US THAT WERE TALKING AND ASKING QUESTIONS OF THE BYSTANDERS.
Q. AND YOU ACTUALLY DEEMED SHONDA MOFFETT AS A PERSON OF INTEREST.
A. SHE ARRIVED -- SHE ARRIVED WITH THE DEFENDANT---
Q. RIGHT.
A. ---PRIOR TO THE SHOOTING.

Q. RIGHT. I HAVE NOTHING FURTHER, YOUR HONOR.

THE COURT: ANYTHING FURTHER FROM THE STATE?

MR. ROSE: NOTHING FURTHER, YOUR HONOR.

THE COURT: SIR, YOU CAN STEP DOWN AND BE EXCUSED.

THE WITNESS: THANK YOU, YOUR HONOR.

THE COURT: THIS WOULD BE A GREAT TIME TO TAKE A BREAK. WE WILL TAKE ABOUT A 15-MINUTE RECESS. I REMIND YOU NOT TO DISCUSS THE CASE IN ANY SHAPE, FORM, OR FASHION.

(WHEREUPON, THE JURY WAS EXCUSED FROM OPEN COURT AT 11:29 A.M., AND A SHORT BREAK WAS TAKEN. STATE'S EXHIBITS 45 THROUGH 54 WERE MARKED FOR IDENTIFICATION ONLY.)

THE COURT: PLEASE TAKE YOUR SEATS. ARE THE PARTIES READY TO PROCEED?

MS. SHIPLEY: YES, MA'AM.

THE COURT: JURORS, PLEASE.

(WHEREUPON, THE JURY WAS BROUGHT INTO OPEN COURT AT 11:59 A.M.)

THE COURT: OKAY. STATE, YOU MAY CONTINUE WITH YOUR CASE.

MR. ROSE: THE STATE CALLS INVESTIGATOR MONTGOMERY.

WAYNE H. MONTGOMERY, AFTER BEING DULY SWORN, TESTIFIED AS FOLLOWS:

THE CLERK: PLEASE HAVE A SEAT AND STATE YOUR FULL NAME FOR THE RECORD.

THE WITNESS: WAYNE HUGH MONTGOMERY.

DIRECT EXAMINATION

BY MR. ROSE:

Q. INVESTIGATOR MONTGOMERY, WHERE ARE YOU CURRENTLY EMPLOYED?

A. AT THE CITY OF COLUMBIA POLICE DEPARTMENT.

Q. AND HOW LONG HAVE YOU BEEN EMPLOYED THERE?

A. I'VE BEEN THERE FOR THE LAST SEVEN YEARS, A TOTAL OF TWELVE YEARS IN LAW ENFORCEMENT.

Q. AND WHAT IS YOUR POSITION?

A. I'M CURRENTLY AN INVESTIGATOR IN THE SPECIAL VICTIMS UNIT AT THE COLUMBIA POLICE DEPARTMENT.

Q. WHAT WAS YOUR POSITION BACK IN FEBRUARY OF 2007?

A. A CRIMINAL INVESTIGATOR IN THE SAME DIVISION.

Q. AND WHAT ARE YOUR DUTIES AS A CRIMINAL INVESTIGATOR?

A. GENERALLY, MY SECTION WE -- MY SECTION PRIMARILY INVESTIGATES CHILD ABUSE, SEXUAL ASSAULT CRIMES, CRIMINAL DOMESTIC VIOLENCE, STALKING AND HARASSMENT CASES, GENERALLY THE CASES THAT WE'RE ASSIGNED. WE ALSO ASSIST ON SOME CRITICAL INCIDENTS. WE ASSIST THE VIOLENT CRIMES AGAINST PERSONS DIVISION.

Q. AND WHAT KIND OF TRAINING HAVE YOU HAD TO CARRY OUT THAT POSITION?

A. INITIALLY THE EIGHT WEEKS AT THE CRIMINAL JUSTICE ACADEMY. ALSO HAD SEVERAL TRAININGS AS FAR AS INTERVIEWING TECHNIQUES AND TACTICS, OTHER INVESTIGATIVE COURSES AND

TRAININGS ON DOMESTIC VIOLENCE AND SUCH, GATHERING EVIDENCE AS WELL.

Q. WERE YOU CALLED TO A CRIME SCENE ON THE NIGHT OF FEBRUARY 15TH, 2007?

A. YES, SIR.

Q. AND WHAT CALL WAS THAT? WHAT CALL DID YOU RECEIVE?

A. WE RECEIVED A CALL OR THE CALL CAME OVER THE RADIO THAT A PERSON WAS SHOT ON THE STREET AREA, AND MYSELF AND INVESTIGATOR BALES WHO WAS WORKING ON A CUSTODIAL INTERFERENCE CASE LEFT FROM THAT ONCE HE FINISHED THERE AND WENT TO THE SCENE.

Q. AND WHAT TIME DID YOU RECEIVE THAT CALL?

A. THE CALL CAME OUT APPROXIMATELY 21:44 OR WHICH WOULD BE 9:44 IN THE EVENING.

Q. AND ONCE YOU ARRIVED AT THE SCENE, WHAT DID YOU DO?

A. INITIALLY MADE CONTACT WITH THE INITIAL RESPONDING OFFICERS AS WELL AS CANVASSED THE COMMUNITY TO TRY AND SPEAK WITH ANYONE WHO MAY HAVE SOME KNOWLEDGE OR HEARD WHAT OCCURRED. THAT'S INITIALLY WHAT WE DID WHEN WE GOT TO THE SCENE.

Q. WHEN YOU ARRIVED, WAS THE CRIME SCENE SECURED?

A. YES, SIR.

Q. AND WHAT DID YOU DO AFTER THAT?

A. I SPOKE WITH INDIVIDUALS IN PARTICULAR, GATHERED SOME INFORMATION, IDENTIFIED SOME WITNESSES THAT WE WOULD NEED TO

TALK WITH IN PARTICULAR, AND I BELIEVE I ESCORTED A WITNESS TO HEADQUARTERS FOR A FURTHER INTERVIEW.

Q. DID YOU COME INTO POSSESSION OF A PHOTO LINE-UP?

A. YES, SIR.

Q. IF I SHOW YOU STATE'S EXHIBIT NUMBER 1, DO YOU RECOGNIZE THAT?

A. YES, SIR, I DO.

Q. AND HOW DID YOU COME INTO POSSESSION OF THAT PHOTO LINE-UP?

A. THIS PHOTO LINE-UP WAS GIVEN TO ME BY INVESTIGATOR BALES WHO INITIALLY CREATED THAT LINE-UP.

Q. AND DID YOU HAVE OCCASION TO SHOW THIS LINE-UP TO ANYONE?

A. YES. I BELIEVE I SHOWED THAT LINE-UP TO ONE OF THE WITNESSES.

Q. AND WHERE DID YOU SHOW HIM -- DO YOU RECALL THE WITNESS THAT YOU SHOWED THE LINE-UP TO?

A. I BELIEVE IT WAS LEVERN SMITH.

Q. LEVERN SMITH? AND WHERE DID YOU SHOW HIM THIS LINE-UP?

A. AT THE COLUMBIA POLICE DEPARTMENT WHICH IS ONE JUSTICE SQUARE.

Q. AND WHO WAS PRESENT WHEN YOU SHOWED HIM THE LINE-UP?

A. MYSELF AND HIM, AND AFTER WE HAD IT NOTARIZED BY A NOTARY.

Q. AND WHAT IS YOUR PROCEDURE WHEN YOU'RE SHOWING THIS

LINE-UP?

A. GENERALLY WHEN I SHOW A LINE-UP TO A PERSON, I HAVE THE LINE-UP UPSIDE-DOWN WHERE THEY DON'T SEE THE PICTURES AND POSSIBLY ANOTHER PAPER ON TOP. THAT SAME FORM IN WHICH YOU SEE THE AFFIDAVIT FORM GENERALLY IS ON TOP AS WELL SO THEY DO NOT SEE THE PICTURES. I EXPLAIN TO THEM THAT WE HAVE A PHOTO LINE-UP WE WOULD LIKE TO SHOW THEM. IF THE PERSON WHO WE BELIEVE IS A PARTICIPANT IN THE CRIME IS THERE, ASK THEM TO IDENTIFY THAT PERSON, IF THERE'S NOT ANYONE THERE THAT THEY CAN SAY THAT IS A PARTICIPANT IN THE CRIME NOT TO PICK ANYONE OUT.

Q. AND DID LEVERN SMITH INDICATE THAT HE RECOGNIZED THE INDIVIDUAL WHO SHOT THOMAS SMITH?

A. YES, SIR.

Q. AND IF I SHOW YOU STATE'S EXHIBIT NUMBER 1 -- FIRST OF ALL, ARE THERE NUMBERS UNDERNEATH THOSE PHOTOS?

A. YES. ON EACH ONE OF THESE SIX PICTURES THERE ARE SIX DIFFERENT NUMBERS THAT COINCIDE WITH THE PICTURES.

Q. AND WHICH PICTURE DID LEVERN SMITH PICK OUT?

A. HE PICKED THE PICTURE WHICH HAS NUMBER 4-8-8-6-0 WHICH COINCIDES WITH THE SUSPECT.

Q. JOEL ROBINSON.

A. YES, SIR, JOEL ROBINSON.

Q. AND HOW QUICKLY DID HE PICK OUT THAT PICTURE?

A. ALMOST INSTANTANEOUSLY. ONCE HE SAW THE LINE-UP, HE

IMMEDIATELY POINTED OUT THAT INDIVIDUAL.

Q. BY HIS DEMEANOR, HOW CERTAIN DID HE APPEAR?

A. HE APPEARED WITH A HUNDRED DEGREE OF CERTAINTY, A HUNDRED PERCENT DEGREE.

Q. AND DO YOU RECOGNIZE -- LET ME SHOW YOU STATE'S EXHIBIT NUMBER 2. DO YOU RECOGNIZE THAT?

A. YES. THIS IS A PHOTO LINE-UP FORM WHICH WE GENERALLY SHOW TO THE WITNESSES. THIS ALSO WAS FILLED OUT MYSELF AND SIGNED BY MR. LEVERN SMITH AND NOTARIZED THAT HE INDICATED THAT HE PICKED OUT PICTURE 4-8-8-6-0.

Q. BELONGING TO WHO?

A. BELONGING TO MR. ROBINSON.

MR. ROSE: ALL RIGHT. BEG THE COURT'S INDULGENCE.

THE COURT: YES.

BY MR. ROSE:

Q. INVESTIGATOR, DID YOU HAVE ANY OTHER CONTACT WITH WITNESSES AT THE SCENE THAT NIGHT?

A. YES. I SPOKE WITH MRS. IDA MAE SMITH ACTUALLY WHO LIVES RIGHT NEXT DOOR. SHE WAS A WITNESS. ALSO, MRS. MOFFETT. I SPOKE WITH HER AS WELL AT THE SCENE.

Q. AND DID YOU TAKE A STATEMENT FROM ANYONE THAT NIGHT?

A. I BELIEVE I TOOK A STATEMENT FROM MS. MOFFETT AT POLICE HEADQUARTERS.

MR. ROSE: THANK YOU. NO FURTHER QUESTIONS.

CROSS-EXAMINATION

BY MR. LEDDY:

Q. INVESTIGATOR, DO YOU RECALL SPEAKING TO SOMEBODY WHO IDENTIFIED HIMSELF AS COREY SMITH?

A. COREY SMITH?

Q. YES.

A. EXCUSE ME. I BELIEVE HE IDENTIFIED HIMSELF AS THE SON OF THE VICTIM?

Q. THAT'S CORRECT.

A. YES, SIR, I DID.

Q. HE TOLD YOU---

MR. ROSE: YOUR HONOR, I'D OBJECT. IT'S HEARSAY WHAT COREY SMITH---

MR. LEDDY: THEY'RE STATEMENTS AGAINST INTEREST, YOUR HONOR.

THE COURT: OKAY. YOU ALL APPROACH, PLEASE.

(WHEREUPON, A BENCH CONFERENCE WAS HELD.)

MR. LEDDY: MAY I PROCEED, YOUR HONOR?

THE COURT: YES, YOU MAY.

BY MR. LEDDY:

Q. ALL RIGHT. DO YOU RECALL SPEAKING TO MR. SMITH THAT NIGHT, COREY SMITH?

A. YES, SIR.

Q. OKAY. AND HE TOLD YOU, ACCORDING TO YOUR NOTES -- DO YOU HAVE YOUR NOTES IN FRONT OF YOU?

A. YES, SIR.
Q. OKAY. HE TOLD YOU THAT, IN FACT, HE SELLS ILLEGAL DRUGS THERE; RIGHT?
A. SAY THAT AGAIN, SIR.
Q. HE TOLD YOU THAT HE SELLS ILLEGAL DRUGS THERE.
A. HE INDICATED THAT; YES, SIR.
Q. AND HE SAID THAT IT WAS ACTUALLY SET UP TO DO THAT.
A. YES, SIR.
Q. OKAY. IN YOUR EXPERIENCE AS A POLICE OFFICER AND IN YOUR TRAINING, YOU'RE TAUGHT THAT DRUGS AND WEAPONS ARE INEXORABLY LINKED. ISN'T THAT TRUE?
A. THAT'S AN ASSUMPTION THAT YOU'RE SAYING. I CAN'T SAY THAT'S ALWAYS TRUE.
Q. WELL, IS IT TRUE THAT IN YOUR TRAINING THAT YOU'RE TAUGHT IF YOU HAVE REASON TO BELIEVE SOMEBODY HAS DRUGS THAT YOU ALSO HAVE REASON TO BELIEVE THEM TO BE ARMED AND DANGEROUS?
A. THAT'S AN ASSUMPTION, SIR.
Q. YOU'RE NOT TAUGHT THAT?
A. NOT IN THE MANNER IN WHICH YOU'RE SAYING THAT. NO, SIR.
Q. ALL RIGHT. SO THEY DON'T TELL YOU WHEN YOU CAN DO A PAT-DOWN SEARCH? THEY JUST TRUST YOU TO USE YOUR JUDGMENT?
A. THAT'S BASED ON BASICALLY WHAT YOU HAVE AT THE TIME, WHETHER YOU SEE A BULGE IN THE PERSON'S CLOTHING, WHETHER YOU FEEL THE PERSON IS A THREAT. SO IT DEPENDS ON THE

CIRCUMSTANCES.
Q. AND ONE OF THE CIRCUMSTANCES IS IF SOMEBODY HAD DRUGS; RIGHT?
A. THAT DOESN'T ALWAYS MEAN SOMEONE HAS WEAPONS JUST BECAUSE THEY HAVE DRUGS.
Q. ALL RIGHT. LET'S MOVE ON. DID IT STRIKE YOU AS ODD THAT SOMEBODY WAS TELLING THE POLICE OFFICER THAT THEY SELL DRUGS THERE?
A. WELL, WHEN A PERSON IS WILLING TO PROVIDE INFORMATION ON A HOMICIDE AND ESPECIALLY IF THEY'RE CLOSE TO THEM---
Q. YEAH.
A. ---THEY'RE WILLING TO PROVIDE INFORMATION TO ASSIST AN INVESTIGATION.
Q. BUT DOESN'T IT SEEM KIND OF BRAZEN TO TELL AN INVESTIGATOR WITH THE POLICE DEPARTMENT THAT THIS IS A LOCATION WHERE I'M CURRENTLY ENGAGED IN THE BUSINESS OF SELLING DRUGS?
A. I BELIEVE ANY INFORMATION THAT HE GAVE AT THE TIME AS WELL AS THE NAMES OF SOME PERSONS WAS IN RESPONSE TO HELPING AID THE INVESTIGATION.
Q. OKAY.
A. YES, SIR.
MR. LEDDY: NO FURTHER QUESTIONS, YOUR HONOR.
THE COURT: OKAY.
MR. ROSE: NOTHING FURTHER, YOUR HONOR.

THE COURT: OKAY. YOU CAN STEP DOWN, SIR.

MS. SHIPLEY: YOUR HONOR, AT THIS TIME THE STATE CALLS INVESTIGATOR NOEL DOW TO THE STAND.

NOEL DOW, AFTER BEING DULY SWORN, TESTIFIED AS FOLLOWS:

THE CLERK: PLEASE HAVE A SEAT AND STATE YOUR FULL NAME FOR THE RECORD.

THE WITNESS: NOEL DOW.

DIRECT EXAMINATION

BY MS. SHIPLEY:

Q. INVESTIGATOR DOW, WOULD YOU PLEASE TELL THIS JURY WHERE YOU'RE EMPLOYED?

A. AT THE COLUMBIA POLICE DEPARTMENT.

Q. HOW LONG HAVE YOU WORKED THERE?

A. ALMOST TEN YEARS.

Q. AND HAVE YOU ALWAYS BEEN AN INVESTIGATOR THERE?

A. NO, MA'AM.

Q. TELL THE JURY A LITTLE BIT ABOUT YOUR WORK HISTORY AT THE COLUMBIA POLICE DEPARTMENT.

A. WHEN I FIRST GOT HIRED AT THE COLUMBIA POLICE DEPARTMENT, I WAS HIRED AS A PATROL OFFICER AND I WAS STATIONED -- I WAS ASSIGNED TO THE NORTH REGION, AND I WAS A PATROL OFFICER IN THE NORTH REGION. I PATROLLED AND THEN I WAS A TRAINING OFFICER AND GOT PROMOTED TO MASTER POLICE OFFICER, AND THEN I GOT PROMOTED -- IN 2006 I GOT PROMOTED TO

INVESTIGATOR.
Q. AND THE NORTH REGION OF COLUMBIA, CAN YOU DESCRIBE WHAT STREETS THAT ENCOMPASSES, WHAT AREA OF COLUMBIA?
A. MAIN, NORTH MAIN, FARROW ROAD, MYERS STREET, DUKE AVENUE, MONTICELLO ROAD.
Q. AND SO YOU WERE FAMILIAR WITH THIS SIDE OF TOWN BECAUSE YOU PATROLLED THAT AREA FOR YEARS?
A. YES, MA'AM.
Q. OKAY. I'M GOING TO GO AHEAD AND BRING YOUR ATTENTION TO THE NIGHT OF FEBRUARY 15TH, 2007. DO YOU RECALL GETTING A CALL TO RESPOND TO A SHOOTING?
A. YES, MA'AM.
Q. AND WHAT ADDRESS WERE YOU RESPONDING TO?
A.
Q. AND TELL THE JURY HOW YOU GET TO MYERS STREET FROM THE DOWNTOWN COLUMBIA POLICE DEPARTMENT.
A. DOWNTOWN COLUMBIA DEPARTMENT, YOU GO NORTH, NORTHBOUND ON MAIN STREET, AND YOU MAKE A RIGHT ON -- YOU MAKE A RIGHT OFF OF MAIN STREET TO -- I FORGOT THE STREET. THAT STREET YOU MAKE A RIGHT OFF OF, BUT YOU CAN GO DOWN NORTHBOUND AND MAKE -- I FORGOT THE STREET NAME YOU MAKE A RIGHT ON---
Q. IS PRESCOTT ONE OF THE STREETS?
A. YES, MA'AM. THAT'S THE STREET.
Q. AND IS THAT BY THE COLUMBIA COLLEGE AREA, THAT STREET?
A. NORTH MAIN? YES.

Q. PRESCOTT, IS THAT NEAR COLUMBIA COLLEGE OFF---
A. IT'S NOT -- THAT'S MAYBE SIX OR SEVEN BLOCKS AWAY FROM COLUMBIA COLLEGE.
Q. AND SINCE YOU PATROL THAT AREA, ARE YOU ALSO FAMILIAR WITH THE CORONET MOTEL?
A. YES, MA'AM.
Q. AND APPROXIMATELY WHERE IS THAT LOCATED ON NORTH MAIN STREET?
A. RIGHT ACROSS THE STREET FROM I THINK PIGGLY WIGGLY ON NORTH MAIN.
Q. OKAY. AND SO THERE'S A PIGGLY WIGGLY IN THAT AREA AS WELL.
A. YES, MA'AM.
Q. OKAY. NOW, WHAT TIME WAS IT THAT YOU WERE CONTACTED TO GO TO THE STREET ADDRESS?
A. I WAS CALLED AT 22:16 HOURS WHICH IS 10:16 P.M.
Q. OKAY. AND DID YOU INDEED THEN RESPOND TO THE INCIDENT LOCATION?
A. YES, MA'AM.
Q. AND WHAT TIME DID YOU ARRIVE THERE?
A. I ARRIVED THERE AT 23:20 WHICH IS 11:20 P.M.
Q. OKAY. WHEN YOU FIRST GOT TO THE SCENE, CAN YOU TELL THE JURY HOW -- WERE THERE A LOT OF CARS ON STREET LEADING UP TO THE INCIDENT LOCATION?
A. YES, MA'AM.

Q. OKAY. AND IS MYERS STREET A THROUGH-WAY ZONE OR IS IT A DEAD END?
A. IT'S A DEAD END.
Q. OKAY. TELL THE JURY WHAT EXACTLY YOU DID WHEN YOU FIRST GOT THERE.
A. I GOT THERE AND I LOOKED AT THE SCENE. I TALKED TO INVESTIGATOR REESE, AND INVESTIGATOR REESE GAVE ME SOME INSTRUCTIONS.
Q. OKAY. AND WHY IS IT THAT INVESTIGATOR REESE WAS GIVING INSTRUCTIONS?
A. HE WAS THE LEAD INVESTIGATOR ON THE CASE.
Q. AND IS THAT HOW IT WORKS WHEN YOU RESPOND TO A HOMICIDE AND SOMEONE TAKES CHARGE?
A. YES, MA'AM.
Q. OKAY. IN THIS CASE IT WAS INVESTIGATOR KEVIN REESE.
A. YES, MA'AM.
Q. AT THAT POINT WHAT EXACTLY DID HE INSTRUCT YOU TO DO?
A. HE TOLD ME TO TAKE MR. JEFFREY DEAN SMITH TO THE POLICE HEADQUARTERS TO OBTAIN A WRITTEN STATEMENT FROM HIM.
Q. OKAY. AND WAS MR. SMITH PATTED DOWN FOR ANY WEAPONS BEFORE YOU LET HIM IN YOUR CAR?
A. YES, MA'AM.
Q. DID YOU FIND ANY WEAPONS ON HIM.
A. NO, MA'AM.
Q. AT THAT POINT TELL THIS JURY: WHERE DID YOU LET MR.

SMITH SIT IN YOUR VEHICLE?
A. RIGHT NEXT TO ME ON THE FRONT PASSENGER SEAT, RIGHT SIDE.
Q. SO HE'S JUST A WITNESS; CORRECT?
A. YES, MA'AM.
Q. TELL THE JURY WHAT KIND OF CAR YOU WERE DRIVING BACK THEN.
A. AT THAT TIME I WAS ASSIGNED A 1995 BUICK SENTRY, ONE OF THE OLDEST CARS IN INVESTIGATIONS WITH NO RADIO IN IT.
Q. SO YOU HAD NO RADIO COMMUNICATIONS ON THE C.B. RADIO. IS THAT CORRECT?
A. YES, MA'AM.
Q. AND DID YOU HAVE A CELL PHONE?
A. YES, I DID.
Q. OKAY. NOW, WHEN YOU LEFT MYERS STREET, TELL THE JURY WHAT ROUTE YOU TOOK TO GO TO COLUMBIA POLICE DEPARTMENT HEADQUARTERS WITH YOUR WITNESS.
A. I DROVE SOUTHBOUND ON NORTH MAIN STREET.
Q. OKAY. AND TELL THE JURY WHAT, IF ANYTHING, HAPPENED WHILE YOU WERE DRIVING MR. SMITH TO HEADQUARTERS.
A. WHEN I GOT AROUND THE 4800 BLOCK OF NORTH MAIN STREET, I SAW THREE CITY OF COLUMBIA POLICE CARS PARKED ON THE STREET OPPOSITE COLUMBIA COLLEGE.
Q. OKAY. AND WHAT DID YOU DO WHEN YOU NOTICED THREE COLUMBIA POLICE CARS?

A. I SLOWED DOWN.
Q. AND WHY DID YOU SLOW DOWN?
A. FOR OFFICER SAFETY, TO MAKE SURE THE OFFICERS WAS ALL RIGHT.
Q. AND ARE YOU FAMILIAR WITH THE PATROL OFFICERS IN YOUR DEPARTMENT?
A. YES, MA'AM.
Q. AND IS IT COMMON FOR YOU TO CHECK ON THEM IF THEY'RE -- TO MAKE SURE THEY'RE OKAY?
A. YES, MA'AM.
Q. AND IS THAT WHY YOU SLOWED DOWN IN THIS CASE?
A. YES, MA'AM.
Q. AND TELL THE JURY WHAT HAPPENED WHEN YOU SLOWED DOWN WHEN YOU NOTICED YOUR COMRADES.
A. MR. SMITH SAID TO ME, "I THINK THAT'S THE SUSPECT WANTED IN THE HOMICIDE."
Q. OKAY. YOU SAID THAT YOU SAW THREE PATROL CARS. IS THAT CORRECT?
A. YES, MA'AM.
Q. AND DID YOU SEE POLICE OFFICERS?
A. YES, MA'AM.
Q. HOW MANY OFFICERS?
A. ABOUT FIVE OFFICERS I WOULD SAY.
Q. OKAY. DID YOU SEE ANYBODY ELSE WITH THESE OFFICERS?
A. YES, MA'AM.

Q. AND WHO DID YOU SEE? WHAT KIND OF PERSON DID YOU SEE?
A. I SAW A BLACK -- A LIGHT-SKINNED BLACK MALE WHO WAS LEANING ON PATROL CAR 165.
Q. OKAY. NOW, HAD YOU HEARD A DESCRIPTION OF THE SHOOTING SUSPECT FROM MYERS STREET BY THIS POINT?
A. NO, MA'AM.
Q. DID YOU KNOW THAT THIS PERSON HAPPENED TO FIT THE DESCRIPTION OF THE MYERS STREET SHOOTING?
A. NO, MA'AM.
Q. WHO BROUGHT IT TO YOUR ATTENTION THAT THAT WAS POSSIBLY THE SHOOTING SUSPECT?
A. MR. SMITH.
Q. AND AS A RESULT OF THAT, WHAT DID YOU DO WHEN HE BROUGHT IT TO YOUR ATTENTION THAT THAT LOOKED LIKE THE GUY THAT DID THE SHOOTING?
A. I HAD PASSED THE PATROL CARS, BUT I TURNED AROUND AND I PARKED IN THE BACK OF PATROL CAR 165.
Q. AND WHAT -- TELL THIS JURY WHAT HAPPENED AS SOON AS YOU PULLED UP BEHIND THAT PATROL CAR.
A. AS I WAS PARKING THE VEHICLE, MR. SMITH SAID, "THAT'S HIM. THAT'S HIM."
Q. DID HE SOUND CERTAIN ABOUT IT?
A. YES, MA'AM.
Q. AND WHAT DID YOU DO AS A RESULT OF HIM IDENTIFYING THIS MAN AS TO THE SHOOTING AND KILLING OF THOMAS LEE SMITH?

A. I GOT IN MY CAR AND I HAD -- I ASKED MASTER POLICE OFFICER FISHER TO COME THERE, COME TO ME, AND WHEN HE CAME TO ME, I TOLD HIM THAT THAT'S THE INDIVIDUAL WANTED IN THE HOMICIDE AND THAT I WANTED HIM SEARCHED AND PLACED INTO HANDCUFFS.

Q. OKAY. AT THAT POINT YOU'RE THE ONE INSTRUCTING THE PATROL OFFICER TO PLACE HIM IN HANDCUFFS AND TO SEARCH HIM?

A. YES, MA'AM.

Q. AND THAT IS BASICALLY BECAUSE SOMEONE HAD JUST IDENTIFIED HIM?

A. YES, MA'AM.

Q. NOW, AT THAT POINT DID YOU OBSERVE THE OFFICERS SEARCH THE DEFENDANT?

A. YES, MA'AM.

Q. AND BEFORE WE CONTINUE, I'M GOING TO SHOW YOU STATE'S NUMBER 44 AND ASK YOU: DOES THAT LOOK LIKE THE PERSON THAT YOU -- YOUR WITNESS IDENTIFIED ON THE STREET?

A. YES, MA'AM.

Q. STATE'S 44, YOUR HONOR. TELL THIS JURY: WHAT DID YOU OBSERVE THE OFFICERS REMOVE FROM THIS MAN'S PERSON?

A. A SILVER-IN-COLOR SEMIAUTOMATIC PISTOL, ONE BLACK-IN-COLOR EMPTY MAGAZINE, ONE SMALL CLEAR PLASTIC BAG CONTAINING A WHITE-IN-COLOR POWDER-LIKE SUBSTANCE.

Q. OKAY. I'M GOING TO SHOW YOU WHAT'S BEEN MARKED STATE'S NUMBER 50. YOU INDICATED A WHITE POWDER SUBSTANCE? IS THAT

CORRECT?
A. YES, MA'AM.
Q. DO YOU SEE A BAG OF WHITE POWDER SUBSTANCE IN THIS EXHIBIT 50?
A. YES, MA'AM.
Q. AND DOES THAT APPEAR TO BE CONSISTENT WITH THE QUANTITY YOU SAW TAKEN OFF THE DEFENDANT THAT NIGHT?
A. YES, MA'AM.
Q. I'M GOING TO SHOW YOU WHAT'S BEEN MARKED STATE'S NUMBER 51 AND ASK YOU IF YOU RECOGNIZE THE CONTENTS OF STATE'S 51.
A. YES, I RECOGNIZE THAT.
Q. AND IS THAT THE GUN THAT YOU SAW THEM REMOVE FROM THE DEFENDANT'S PERSON?
A. YES, MA'AM.
Q. AND YOU INDICATED THAT THERE WAS ALSO A CLIP. IS THAT CORRECT?
A. YES, MA'AM.
Q. AND I'M GOING TO PULL IT OUT. DO YOU RECOGNIZE THAT?
A. YES, MA'AM.
Q. AND DOES THAT APPEAR TO CONSISTENT WITH THE CLIP YOU OBSERVED THEM REMOVE FROM HIS BODY?
A. YES, MA'AM.
Q. FROM HIS PERSON? YOUR HONOR, AT THIS TIME WE'LL INTRODUCE NUMBER 51 INTO EVIDENCE.
THE COURT: ANY OBJECTION?

MS. DAVIS: WITH OUR PRIOR OBJECTION, YOUR HONOR.

THE COURT: OKAY. THE COURT STANDS BY ITS RULING.

MS. SHIPLEY: THANK YOU, YOUR HONOR.

(STATE'S EXHIBIT 51 WAS RECEIVED IN EVIDENCE.)

BY MS. SHIPLEY:

Q. OFFICER, CAN YOU PUBLISH THIS -- SHOW TO THE JURY THE GUN AND HOW IT OPERATES WITH THE CLIP?

A. LET ME TAKE IT OUT.

Q. I DON'T WANT YOU TO TAKE IT OUT FOR SAFETY REASONS, BUT JUST KIND OF DEMONSTRATE: HOW DOES THIS OBJECT FUNCTION? YOU'RE FAMILIAR WITH A NINE MILLIMETER.

A. YES.

Q. IS THAT A NINE MILLIMETER?

A. YES, MA'AM. IT'S A SEMIAUTOMATIC.

Q. OKAY. TELL THE JURY HOW THIS OPERATES.

A. YOU CLEAR THE GUN, PULL BACK THE SLIDE TO MAKE SURE THERE'S NO AMMUNITION IN IT, AND YOU TAKE IT AND YOU PUT IT IN THE RECEIVER. IT HAS A RECEIVER AT THE BOTTOM. YOU PUT IT IN THERE. MAKE SURE IT'S IN THERE. THEN YOU RACK -- IF YOU WANT TO ROUND THE CHAMBER, YOU RACK IT BACK AND THE ROUND IS IN THE CHAMBER.

Q. AFTER YOU OBSERVED THE OFFICERS PULL THAT WEAPON OFF OF THE DEFENDANT, WHAT DID YOU DO NEXT? AND I'LL TAKE THAT OUT OF YOUR HAND -- OUT OF YOUR WAY.

A. AFTER I FINISHED SEEING THOSE ITEMS TAKEN, I TOOK MR.

SMITH TO POLICE HEADQUARTERS.

Q. OKAY. AND AT POLICE HEADQUARTERS, WHAT HAPPENED THERE?

A. MR. SMITH GAVE A WRITTEN STATEMENT TO INVESTIGATOR MONTGOMERY.

Q. OKAY. SO YOUR GOAL WAS -- BASICALLY INVESTIGATOR MONTGOMERY ASSISTED YOU IN GETTING THE STATEMENT FROM HIM?

A. YES, MA'AM.

Q. THE NEXT DAY DID YOU -- ACTUALLY THAT SAME NIGHT DID YOU PARTICIPATE IN THE EXECUTION OF A SEARCH WARRANT?

A. YES, MA'AM.

Q. AND WHERE WAS THAT EXECUTED?

A. CORONET MOTEL, 6320 NORTH MAIN STREET.

Q. OKAY. DO YOU REMEMBER THE ROOM NUMBER?

A. IT WAS ROOM...

Q. IF I SHOWED YOU THE SEARCH WARRANT, WOULD THAT REFRESH YOUR MEMORY?

A. YES, MA'AM.

Q. OKAY.

A. IT WAS ROOM 110. ROOM 110.

Q. OH, YOU FOUND IT?

A. YES.

Q. AND WHOSE ROOM WAS THAT, INVESTIGATOR DOW?

A. I DON'T -- I DON'T KNOW WHOSE ROOM IT WAS. I THINK -- I DON'T KNOW WHOSE ROOM THAT WAS.

Q. IF I SHOWED YOU THE AFFIDAVIT, WOULD THAT ASSIST YOU?

A. YES, MA'AM.
Q. OKAY. WHEN YOU GET A SEARCH WARRANT, YOU HAVE TO PROVIDE FACTS TO A JUDGE. IS THAT CORRECT?
A. YES, MA'AM.
Q. WHAT DOES THE AFFIDAVIT INDICATE TO YOU WHOSE ROOM IT IS?
A. MR. ROBINSON.
Q. OKAY. THANK YOU, SIR. AND TO YOUR KNOWLEDGE, ON PAGE 4 WAS ANYTHING PERTINENT RECOVERED IN HIS ROOM?
A. NO, MA'AM.
Q. OKAY. NOTHING RELEVANT TO THIS CASE.
A. NO, MA'AM.
Q. THANK YOU. NOW, AFTER YOU EXECUTED THIS SEARCH WARRANT -- BY THE WAY, WHAT TIME WAS THAT EXECUTED?
A. 1:48 A.M.
Q. OKAY. WHERE DID YOU -- DID YOU PARTICIPATE OR HAVE FURTHER INVOLVEMENT IN THIS CASE THE FOLLOWING MORNING?
A. YES, MA'AM. I ATTENDED THE AUTOPSY ON THE VICTIM.
Q. AND SO YOU ATTENDED HIS AUTOPSY. WHERE WAS THAT LOCATED?
A. PALMETTO HEALTH RICHLAND HOSPITAL, PATHOLOGY DEPARTMENT.
Q. OKAY. AND HOW LONG WERE YOU AT THE AUTOPSY FOR?
A. FOR ABOUT THREE OR FOUR HOURS.
Q. OKAY. SO FROM 9 -- IT WAS 9:45 WHEN YOU GOT THERE?
A. YES, MA'AM.

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Q. AND WHEN DID IT END?
A. 1 P.M.
Q. OKAY. WHO WAS THE DOCTOR THAT DID THE AUTOPSY?
A. DR. STANTON KESSLER, M.D.
Q. OKAY. DID YOU OBSERVE DR. KESSLER -- FIRST OF ALL, DID YOU HAVE ALSO A CRIME SCENE INVESTIGATOR BY THE NAME OF ROSS PRESENT?
A. YES, MA'AM.
Q. AND IS IT TYPICAL FOR A CRIME SCENE INVESTIGATOR TO PHOTOGRAPH THE AUTOPSY?
A. YES, MA'AM.
Q. OKAY. WERE YOU ALSO PRESENT WHEN DR. KESSLER RECOVERED ITEMS FROM MR. SMITH?
A. YES, MA'AM.
Q. HIS BODY? WHAT DID YOU SEE HIM REMOVE FROM HIS BODY?
A. THREE SHELL CASINGS, THREE BULLETS.
Q. THREE PROJECTILES?
A. UH-HUH.
Q. AND DID YOU OBSERVE DR. KESSLER PACKAGE THOSE THREE BULLETS?
A. YES, MA'AM.
Q. AND HOW DID HE DO THAT?
A. I THINK IT WAS THREE CONTAINERS, THREE METAL CONTAINERS HE PUT THEM IN.
Q. OKAY. AND I'M GOING TO SHOW YOU WHAT'S BEEN MARKED

STATE'S NUMBER -- ACTUALLY, I'LL JUST SHOW IT THROUGH INVESTIGATOR ROSS. THAT'S OKAY. DID YOU HAVE ANY IDEA THAT MR. ROBINSON WAS GOING TO BE WALKING DOWN MAIN STREET CLOSE TO MIDNIGHT ON FEBRUARY 15TH, 2007, FOR YOUR WITNESS TO IDENTIFY?

A. NO, MA'AM.

MS. SHIPLEY: NO FURTHER QUESTIONS, YOUR HONOR.

MS. DAVIS: THANK YOU, YOUR HONOR.

CROSS-EXAMINATION

BY MS. DAVIS:

Q. INVESTIGATOR DOW, YOU SAID YOU PATROL THIS AREA? THE HOLE? YOU PATROL THAT AREA?

A. WHEN I WAS ON THE PATROL, I -- THE NORTH REGION. THAT WAS MY SPECIFIC PATROL AREA.

Q. BACK IN 2007, THAT WAS THE AREA THAT YOU WERE FAMILIAR WITH.

A. YES.

Q. WHEN YOU FIRST ARRIVED TO THE SCENE THE NIGHT OF THE INCIDENT, YOU WEREN'T THERE VERY LONG BEFORE YOU WERE TOLD TO TALK TO JEFFREY SMITH; RIGHT?

A. YES, MA'AM.

Q. YOU KNEW HE WAS A WITNESS?

A. I WAS TOLD JUST TO TAKE HIM TO POLICE HEADQUARTERS.

Q. SO DID YOU THINK HE COULD HAVE BEEN A SUSPECT?

A. I WAS TOLD---

Q. YOU KNEW HE WASN'T A SUSPECT; RIGHT?
A. YEAH.
Q. SO YOU ASSUMED HE EITHER HAD SOME OTHER RELEVANT INFORMATION...
A. I WAS TOLD TO TAKE HIM TO POLICE HEADQUARTERS TO GET A STATEMENT, AND THAT'S WHAT I DID.
Q. BUT YOU KNEW HE WASN'T A SUSPECT.
A. AT THAT TIME I WASN'T -- I WASN'T TOLD HE WAS A SUSPECT.
Q. OKAY. BEFORE YOU PLACED HIM IN THE CAR, YOU SEARCHED HIM FOR WEAPONS; RIGHT?
A. YES, MA'AM.

MS. DAVIS: NOTHING FURTHER, YOUR HONOR.

MS. SHIPLEY: NOTHING FURTHER, YOUR HONOR.

THE COURT: OKAY. YOU CAN STEP DOWN AND BE EXCUSED, SIR.

THE WITNESS: THANK YOU, YOUR HONOR.

MS. SHIPLEY: THE STATE CALLS OFFICER RODNEY FISHER AT THIS TIME, YOUR HONOR.

RODNEY FISHER, AFTER BEING DULY SWORN, TESTIFIED AS FOLLOWS:

THE CLERK: PLEASE HAVE A SEAT AND STATE YOUR FULL NAME FOR THE RECORD.

THE WITNESS: RODNEY FISHER.

DIRECT EXAMINATION

BY MS. SHIPLEY:

Q. OFFICER FISHER, WHERE ARE YOU EMPLOYED?

A. CITY OF COLUMBIA POLICE DEPARTMENT.

Q. AND HOW LONG HAVE YOU WORKED THERE?

A. ALMOST FIVE YEARS.

Q. AND WHAT AREA OF COLUMBIA DO YOU PATROL?

A. NORTH REGION.

Q. AND PART OF YOUR DUTIES -- WHAT ARE PART OF YOUR DUTIES?

A. RESPOND TO CALLS FOR SERVICE.

Q. DID YOU HAVE AN OPPORTUNITY TO BECOME INVOLVED IN THIS CASE ON THE NIGHT OF FEBRUARY 15TH, 2007?

A. YES.

Q. AND TELL THE JURY: WHAT SHIFT WERE YOU WORKING THAT NIGHT?

A. NIGHT SHIFT.

Q. AND WHAT ARE THOSE HOURS?

A. 5:30 TO 6 IN THE MORNING.

Q. AND WHO WERE YOU PATROLLING WITH THAT NIGHT?

A. I HAD A TRAINEE, OFFICER BAILEY, RIDING WITH ME.

Q. OKAY. AND IS THAT MICHAEL BAILEY, OFFICER MICHAEL BAILEY?

A. YES.

Q. OKAY. NOW, WHEN YOU'RE TRAINING WITH ANOTHER OFFICER, DO YOU RIDE IN THE SAME PATROL CAR?

A. YES.
Q. AND WERE YOU DRIVING THE PATROL CAR?
A. YES.
Q. WAS THE PATROL CAR YOUR PATROL CAR ASSIGNED TO YOU?
A. YES.
Q. AND WHAT NUMBER, UNIT NUMBER, IS ASSIGNED TO IT?
A. 165.
Q. OKAY. NOW, TELL THIS JURY: WHEN WAS IT THAT YOU HEARD OR BECAME AWARE THAT THERE HAD BEEN A SHOOTING INCIDENT ON MYERS STREET?
A. I HEARD IT OVER THE RADIO.
Q. OKAY. AND DESCRIBE FOR THE JURY: WHAT KIND OF INFORMATION DO YOU GET OVER THE RADIO?
A. THAT A BLACK MALE, LIGHT COMPLEXION, BALD WAS INVOLVED AND TO BE ON THE LOOKOUT FOR HIM.
Q. OKAY. DO YOU RECALL WHETHER ANY CLOTHING DESCRIPTION WAS PROVIDED?
A. NOT AT THAT TIME.
Q. OKAY. NOW, TELL THE JURY WHEN YOU HEARD A DESCRIPTION -- WHEN OFFICERS HEAR A DESCRIPTION OF A SUSPECT, WHAT DO THEY DO WITH THAT INFORMATION?
A. THEY DRIVE AROUND AND SEE IF THEY CAN LOCATE ANYBODY MATCHING THAT DESCRIPTION, GET OUT WITH THEM, I.D. THEM.
Q. OKAY. WAS THAT DONE IN THIS CASE?
A. YES.

Q. AND WHO WAS THE FIRST OFFICER TO MAKE CONTACT WITH THE DEFENDANT?
A. SERGEANT DUTTON.
Q. OKAY. DOES SERGEANT DUTTON WORK AT THE COLUMBIA POLICE DEPARTMENT ANYMORE?
A. NO.
Q. OKAY. NOW, WHEN -- HOW LONG AFTER SERGEANT DUTTON MADE CONTACT WITH THIS DEFENDANT DID YOU THEN GET ALERTED TO COME TO HER ASSISTANCE?
A. WITHIN SECONDS.
Q. ALL RIGHT. WHEN A PERSON -- WHEN YOU MAKE CONTACT WITH A SUSPECT, IS IT PROTOCOL AND PROCEDURE TO IMMEDIATELY CALL FOR BACK-UP?
A. IN THIS CASE, YES.
Q. OKAY. AND YOU SAID YOU GOT TO SERGEANT DUTTON IN SECONDS?
A. YES.
Q. WHERE WERE YOU IN PROXIMITY TO WHERE SHE WAS LOCATED?
A. WITHIN FOUR OR FIVE BLOCKS.
Q. OKAY. AND WHERE WAS SHE LOCATED WITH THE SUSPECT?
A. MAIN STREET.
Q. AND WHAT COLLEGE IS NEAR THERE?
A. COLUMBIA COLLEGE.
Q. WHEN YOU MADE CONTACT OR SHOWED UP WITH SERGEANT DUTTON AND THE DEFENDANT, CAN YOU DESCRIBE FOR THE JURY EXACTLY WHAT

SHE WAS DOING AND WHAT HE WAS DOING?
A. SHE HAD HIS I.D. CARD WRITING HIS INFORMATION DOWN, AND HE WAS TOWARDS THE BACK OF THE CAR AND SHE WAS TOWARDS THE FRONT OF THE CAR.
Q. OKAY. AND HE WAS NOT IN HANDCUFFS?
A. NO.
Q. WHAT DID YOU ASK HIM TO DO WHEN YOU GOT -- MADE CONTACT WITH HIM?
A. TO LEAN AGAINST THE CAR AND CROSS HIS LEGS.
Q. OKAY. AND AM I IMITATING THE STANCE CORRECTLY? LIKE THAT?
A. YES.
Q. WHAT'S THE PURPOSE OF MAKING SOMEONE STAND LIKE THAT?
A. SO WE CAN TELL IF THEY'RE GOING TO TRY TO RUN OR GET AWAY FROM US.
Q. OKAY. AND DID MR. ROBINSON TRY TO RUN IN ANY FASHION OR FORM?
A. NO.
Q. WAS HE COOPERATIVE?
A. YES.
Q. COOPERATIVE? NOW, HOW LONG DO YOU THINK YOU WERE WITH MR. ROBINSON UNTIL THE TIME INVESTIGATOR DOW DROVE BY?
A. MINUTES.
Q. MINUTES?
A. THREE TO FIVE MINUTES I'D SAY.

Q. OKAY. AND TELL THIS JURY: WHAT HAPPENED -- TO YOUR RECOLLECTION, WHAT INFORMATION DID INVESTIGATOR DOW PROVIDE YOU WITH?

A. WHEN INVESTIGATOR DOW PULLED UP, HE GOT OUT OF THE CAR AND MOTIONED ME TO COME TO HIM, AND WHEN I WENT OVER, HE TOLD ME THAT A WITNESS HAD I.D.'D THE SUBJECT AND TO GO AHEAD AND PLACE HIM UNDER DETENTION.

Q. AND WHEN HE INSTRUCTED YOU TO PLACE HIM UNDER DETENTION, WHAT DID THAT MEAN?

A. PLACE HIM IN HANDCUFFS.

Q. OKAY. ONCE A SUSPECT IS PLACED IN HANDCUFFS, ARE THEY FREE TO LEAVE?

A. NO.

Q. ARE THEY BASICALLY UNDER ARREST?

A. YES.

Q. ESPECIALLY IF SOMEONE -- A WITNESS HAS IDENTIFIED THEM?

A. YES.

Q. AND DID -- DID INVESTIGATOR DOW INSTRUCT YOU TO SEARCH HIM AS WELL AS HANDCUFF HIM?

A. YES.

Q. TELL THIS JURY HOW IT IS THAT YOU AND OFFICER BAILEY SEARCHED MR. ROBINSON.

A. I SEARCHED THE RIGHT SIDE AND OFFICER BAILEY SEARCHED THE LEFT SIDE.

Q. OKAY. AND DO YOU RECALL WHETHER OR NOT THAT TOOK PLACE

IMMEDIATELY AFTER HANDCUFFING HIM OR WAS HE PLACED IN THE PATROL CAR FIRST?

A. HE WAS PLACED IN THE CAR FIRST, AND THEN WE REALIZED HE HADN'T BEEN SEARCHED PRIOR TO OUR ARRIVAL, SO WE PULLED HIM BACK OUT AND SEARCHED HIM.

Q. OKAY. TELL THIS JURY: SINCE YOU SEARCHED HIS RIGHT SIDE OF THE BODY, WHAT DID YOU FIND?

A. I RECOVERED A SILVER-AND-BLACK PISTOL OUT OF HIS RIGHT FRONT POCKET.

Q. AND I'M GOING TO SHOW YOU WHAT'S ALREADY IN EVIDENCE, STATE'S NUMBER 50. DO YOU RECOGNIZE WHAT THIS IS?

A. YES.

Q. AND WHAT IS THAT?

A. IT'S A PISTOL.

Q. AND IS THAT THE PISTOL THAT YOU RECOVERED OFF OF MR. ROBINSON THAT NIGHT?

A. YES.

Q. WHAT ELSE DID YOU RECOVER OFF OF HIM?

A. CRACK COCAINE AND A SMALL BAG OF MARIJUANA.

Q. THE CRACK COCAINE THAT YOU RECOVERED -- I'M GOING TO SHOW YOU STATE'S 50. DOES THAT APPEAR TO BE THE QUANTITY THAT YOU FOUND ON MR. ROBINSON THAT NIGHT?

A. YES.

Q. AND, IN FACT, WHO BROUGHT IT TO YOUR ATTENTION THAT HE EVEN HAD IT ON HIM?

A. THE DEFENDANT.
Q. HE TOLD YOU HE HAD IT?
A. YES.
Q. AND I'M GOING TO SHOW YOU ANOTHER DOCUMENT. WHEN A -- WHEN DRUGS OR ANY EVIDENCE ARE COLLECTED OFF OF SOMEBODY, IS THERE A CASE NUMBER ASSIGNED TO THE CASE?
A. YES.
Q. OKAY. WHAT'S THE CASE NUMBER THERE?
A. 0-7-0-5-1-7-6.
Q. OKAY. AND I'M GOING TO SHOW YOU A FORM AND ASK YOU IF YOU RECOGNIZE THAT.
A. YES.
Q. AND WHAT IS IT?
A. IT'S A CHAIN OF CUSTODY.
Q. OKAY. AND DID YOU SIGN THAT CHAIN OF CUSTODY?
A. YES.
Q. AND WHO DID YOU SIGN THE DRUGS OVER TO AND THE GUN, FOR THAT MATTER, IN ORDER FOR IT TO BE TESTED?
A. TO I.D. TECH SCOTT.
Q. OKAY. AND IS HIS NAME I.D. TECH KERMIT SCOTT?
A. YES.
Q. OKAY. AND WHERE IS INVESTIGATOR KERMIT SCOTT NOW?
A. I BELIEVE HE'S CURRENTLY DEPLOYED.
Q. DEPLOYED?
A. YES.

Q. DO YOU KNOW WHAT COUNTRY HE'S FIGHTING FOR US IN?
A. NO.
Q. OKAY. ONCE YOU TURNED IT OVER -- AND DOES THAT APPEAR -- THE ROCKS OF CRACK, DOES THAT APPEAR TO BE IN THE GENERAL SAME CONDITION AS YOU RECOVERED IT---
A. YES.
Q. ---OFF OF MR. ROBINSON?
A. YES.
Q. ALL RIGHT. AND ON WHAT DATE AND TIME DID YOU FILL OUT THAT FORM TURNING CUSTODY OVER TO INVESTIGATOR KERMIT SCOTT?
A. ON FEBRUARY 16, 2007.
Q. OKAY. SO THAT WOULD BE IN THE EARLY MORNING HOURS SHORTLY AFTER YOU'VE MADE CONTACT WITH MR. ROBINSON?
A. YES.
Q. THANK YOU. NOW, DO YOU RECALL INVESTIGATOR REESE COMING TO THE SCENE?
A. YES.
Q. WHERE YOU WERE AT 4800 NORTH MAIN STREET?
A. YES.
Q. CAN YOU DESCRIBE FOR THIS JURY WHERE MR. ROBINSON WAS LOCATED WHEN MR. REESE SHOWED UP?
A. HE WAS SITTING IN THE BACK OF THE PATROL CAR.
Q. AND CAN YOU DESCRIBE HIS DEMEANOR?
A. HE WAS AGITATED.
Q. AT THAT POINT WHAT DID INVESTIGATOR REESE DO THAT YOU

WITNESSED IN ORDER TO CALM HIM DOWN?
A. HE LET HIM COME OUT OF THE VEHICLE AND GAVE HIM A CIGARETTE.
Q. AND DID HE -- WAS MR. ROBINSON HANDCUFFED?
A. YES.
Q. HOW WAS HE ABLE TO SMOKE HIS CIGARETTE?
A. INVESTIGATOR REESE ASSISTED HIM.
Q. AND SO DID YOU WITNESS INVESTIGATOR REESE GIVE THE MAN A CIGARETTE AND LIGHT IT FOR HIM?
A. YES.
Q. NOW, AT ONE POINT DID YOU HAVE ANY FURTHER CONTACT WITH MR. ROBINSON AFTER INVESTIGATOR REESE SHOWED UP?
A. I JUST STOOD BY.
Q. OKAY. AND WHAT HAPPENED NEXT?
A. INVESTIGATOR REESE WALKED AWAY AND MR. ROBINSON MADE A STATEMENT THAT, "I SHOT HIM. HE'S DEAD."
Q. AND WHAT---
MS. DAVIS: YOUR HONOR, WE JUST RENEW OUR OBJECTION AT THIS TIME.
THE COURT: OKAY. THE COURT STANDS BY ITS PRIOR RULING.
BY MS. SHIPLEY:
Q. WHEN HE TOLD YOU, "I SHOT HIM. HE'S DEAD," DID YOU ASK HIM ANY QUESTIONS---
A. NO.
Q. ---TO ELICIT THAT RESPONSE?

A. NO.
Q. AND WHAT DID YOU DO WHEN HE STARTED TELLING YOU, "I SHOT HIM. HE'S DEAD"?
A. I TOLD HIM TO HOLD UP. LET ME MIRANDIZE HIM.
Q. WHAT ARE MIRANDIZE -- WHAT DO YOU MEAN BY THAT?
A. TO GIVE HIM HIS RIGHTS.
Q. AND WHAT RIGHTS ARE THOSE?
A. THE RIGHTS TO BE QUESTIONED AND HAVE A LAWYER PRESENT OR STOP AT ANY TIME.
Q. AND SO AT THAT POINT WERE YOU GETTING READY TO GIVE HIM HIS RIGHTS?
A. YES.
Q. AND DID INVESTIGATOR REESE HEAR YOU GIVING HIM HIS RIGHTS?
A. NO.
Q. OKAY. WHAT HAPPENED DID INVESTIGATOR REESE INSTRUCTED YOU TO---
A. HE TOLD ME TO STOP.
Q. OKAY. DO YOU KNOW WHY INVESTIGATOR REESE ASKED YOU TO STOP?
A. IT'S NOT MY JOB TO QUESTION A SUBJECT.
MS. SHIPLEY: OKAY. THAT'S ALL I HAVE, YOUR HONOR.
THE COURT: OKAY. CROSS-EXAMINATION?
MS. DAVIS: WE HAVE NO QUESTIONS OF THIS WITNESS, YOUR HONOR.

MS. SHIPLEY: THE STATE CALLS INVESTIGATOR GIANNA STINNEY WILLIAMS.

GIANNA STINNEY WILLIAMS, AFTER BEING DULY SWORN, TESTIFIED AS FOLLOWS:

THE CLERK: PLEASE HAVE A SEAT AND STATE YOUR FULL NAME FOR THE RECORD.

THE WITNESS: IT'S GIANNA WILLIAMS.

DIRECT EXAMINATION

BY MS. SHIPLEY:

Q. INVESTIGATOR WILLIAMS, WHERE ARE YOU EMPLOYED NOW?

A. RIGHT NOW I'M CURRENTLY EMPLOYED WITH THE SOUTH CAROLINA LAW ENFORCEMENT DIVISION. I'M A SPECIAL AGENT.

Q. HOW LONG HAVE YOU BEEN A SPECIAL AGENT THERE?

A. I'VE BEEN THERE ALMOST A YEAR, AND PRIOR TO THAT I WORKED FOR THE COLUMBIA POLICE DEPARTMENT FOR ALMOST EIGHT YEARS.

Q. AND WHEN YOU WERE WORKING WITH THE COLUMBIA POLICE DEPARTMENT FOR EIGHT YEARS, WHAT FIELD OR EXPERTISE DID YOU WORK IN?

A. THE FIRST FIVE YEARS I WAS ASSIGNED TO PATROL IN THE METRO REGION WHICH IS DOWNTOWN, THE VISTA, UNIVERSITY OF SOUTH CAROLINA, AND THE TWO NOTCH ROAD AREA BEHIND BENEDICT COLLEGE.

Q. AND THEN EVENTUALLY DID YOU GET PROMOTED?

A. AND THEN AFTER THE FIRST FIVE YEARS I MOVED ON TO THE

CRIME SCENE UNIT, AND I WORKED THERE FOR THE LAST THREE BEFORE I LEFT TO GO TO S.L.E.D.

Q. THE LAST THREE YEARS?

A. UH-HUH.

Q. AND APPROXIMATELY -- I KNOW THIS IS PROBABLY A BIG NUMBER FOR YOU, BUT HOW MANY CASES DO YOU THINK YOU RESPONDED TO AS A CRIME SCENE INVESTIGATOR IN THOSE THREE YEARS?

A. PROBABLY A FEW HUNDRED.

Q. A FEW HUNDRED?

A. MAYBE MORE.

Q. AND HAVE YOU TESTIFIED IN A COURT OF LAW BEFORE?

A. YES, I HAVE.

Q. HAVE YOU BEEN QUALIFIED AS AN EXPERT IN CRIME SCENE---

A. AND FINGERPRINT ANALYSIS.

Q. AND FINGERPRINT ANALYSIS?

A. IN FINGERPRINTS.

Q. APPROXIMATELY HOW MANY TIMES HAVE YOU TESTIFIED?

A. MAYBE SIX OR SEVEN AS A CRIME SCENE OFFICER.

MS. SHIPLEY: OKAY. YOUR HONOR, AT THIS TIME WE WOULD OFFER SPECIAL AGENT WILLIAMS AS AN EXPERT IN THE FIELD OF CRIME SCENE ANAL -- INVESTIGATION AND FINGERPRINT ANALYSIS.

THE COURT: ANY OBJECTION?

MR. LEDDY: NO, YOUR HONOR.

THE COURT: OKAY. SHE IS SO QUALIFIED.

BY MS. SHIPLEY:

Q. NOW, BASED ON YOUR TRAINING AND EXPERIENCE, WHAT IS IT THAT A CRIME SCENE INVESTIGATOR FIRST DOES WHEN THEY COME ON A SCENE?

A. WELL, IN THIS PARTICULAR CASE AND JUST ABOUT ANY CASE YOU GO TO, THE FIRST THING I'LL DO IS -- THIS HAPPENED INSIDE A TRAILER. THE FIRST THING THAT I DO IS I WALK THROUGH JUST TO KIND OF GET AN IDEA ON WHAT'S HAPPENING AND WHAT I MAY NEED TO COLLECT. AFTER I KIND OF DO MY INITIAL WALK-THROUGH AND TALK TO THE INVESTIGATORS ABOUT WHAT THEY MAY NEED SPECIFICALLY AS, YOU KNOW, WHAT I'M GOING TO GO AHEAD AND GET, I'LL GO AHEAD AND I'LL PHOTOGRAPH EVERYTHING THE WAY THAT I FIND IT.

SO YOU'LL HAVE A DOZEN, YOU KNOW, MAYBE 50 PHOTOGRAPHS OF JUST THE ACTUAL SCENE, AND AFTER I GO THROUGH AND PHOTOGRAPH EVERYTHING THE WAY THAT I FIND IT, THEN I'LL GO BACK AND THAT'S WHEN I'LL START PUTTING IN LIKE THE NUMBER PLACARDS. SO LIKE HERE YOU'VE GOT NUMBER ONE, TWO, THREE, FOUR, FIVE, SIX, AND SO ON. I'LL LAY ALL MY PLACARDS DOWN. THEN I'LL GO BACK AND RE-PHOTOGRAPH EVERYTHING THAT I'VE JUST DONE. AND LIKE I SAID IN THIS CASE, IT'S GOING TO START FROM THE OUTSIDE OF THE TRAILER, ME WALKING UP, ME GOING INSIDE THE KITCHEN, ALL FOUR CORNERS OF THE TRAILER, THEN MOVING ON TO THE LIVING ROOM, THEN DOWN THE HALL, THE BEDROOMS, THE BATHROOM, THAT BACK ROOM, THEN OUT TO THE BACK SIDE.

Q. OKAY. AND I'M JUST GOING TO SHOW YOU A GROUP OF

PHOTOGRAPHS THAT HAVE ALREADY BEEN ADMITTED INTO EVIDENCE. DID YOU TAKE THOSE PHOTOGRAPHS DURING YOUR INITIAL WALK-THROUGH?

A. YES, I DID. THESE ARE THE ONES THAT DON'T HAVE ANY NUMBER MARKINGS, SO THIS IS THE FIRST THING I DID AFTER DOING THE WALK-THROUGH.

Q. OKAY. AND I THINK THE JURY IS NOW FAMILIAR WITH THE CRIME SCENE. DID YOU PREPARE THAT DIAGRAM?

A. YES, I DID.

Q. OKAY. I'M GOING TO SHOW YOU A SERIES OF PHOTOGRAPHS AND ASK YOU TO THUMB THROUGH THEM AND TELL ME IF YOU RECALL---

A. OKAY.

Q. ---TAKING THOSE.

A. YES, I DID.

Q. OKAY. AND DO THOSE SHOW THE PLACARDS YOU WERE JUST DESCRIBING FOR THE JURY?

A. YES, THEY DO.

Q. OKAY. AND THERE'S QUITE A FEW OF THEM, ISN'T THERE?

A. YES, THERE IS.

MS. SHIPLEY: OKAY. WE HAVE TO GET THEM I.D.'D AND MARKED FOR IDENTIFICATION. YOUR HONOR, CAN WE JUST GROUP ALL PHOTOS AND CLIP THEM TOGETHER AND HAVE THEM MARKED AS ONE I.D.?

THE COURT: THAT'S FINE.

MS. SHIPLEY: IS THAT OKAY WITH THE DEFENSE?

MR. LEDDY: THAT WOULD BE FINE.

MS. SHIPLEY: IS THAT OKAY?

MR. LEDDY: JUST AS LONG AS YOU'RE NOT GOING TO INTRODUCE THEM AS ANOTHER NUMBER LATER. THEY'RE GOING TO STAY TOGETHER; RIGHT?

MS. SHIPLEY: RIGHT.

MR. LEDDY: OKAY. JUST SO THAT -- I THINK THAT'S THE ONLY -- THAT'S THE ONLY CONFUSION. THAT'S THE ONLY THING I CAN THINK OF. OTHER THAN THAT, NO.

MS. SHIPLEY: WELL, OUT OF AN ABUNDANCE OF CAUTION, I AGREE WITH MR. LEDDY. LET'S JUST GET THEM NUMBERED. RIGHT NOW, YOUR HONOR, WE'RE GOING TO MARK THE ENTIRE STACK 55, AND SHOULD WE DESIRE TO INTRODUCE ANY OF THEM IN PARTICULAR, WE'LL DEAL WITH THE LETTER: 55-A, B., C., D., ET CETERA. IS THAT OKAY WITH THE DEFENSE?

MR. LEDDY: THAT SOUNDS GREAT.

(STATE'S EXHIBIT 55 WAS MARKED FOR IDENTIFICATION ONLY.)

MS. SHIPLEY: YOUR HONOR, MAY THE WITNESS STEP DOWN FROM THE...

THE COURT: ABSOLUTELY.

MS. SHIPLEY: THANK YOU.

BY MS. SHIPLEY:

Q. I'M GOING TO ASK YOU TO GO THROUGH -- JUST SHOW THE JURY WHAT'S IN EACH PHOTOGRAPH AND WHERE IT'S LOCATED ON YOUR DIAGRAM. OKAY?

A. OKAY.
Q. AND I DON'T KNOW IF YOU NEED THIS POINTER.
A. OKAY.
Q. THANK YOU.
A. THIS IS THE FIRST ONE, AND HERE YOU SEE NUMBERS ONE, TWO, THREE, AND FOUR, AND THAT RIGHT THERE IS IN THE KITCHEN AREA - ONE, TWO, THREE AND FOUR, AND THIS BEING THE VICTIM LYING HERE. ON THE SECOND PHOTOGRAPH YOU CAN SEE NOW FOUR, FIVE, AND SIX. AND, AGAIN, HERE IT'S FOUR, FIVE, AND SIX. AGAIN, THAT'S THE VICTIM. THAT WOULD BE THE STOVE. ANOTHER PICTURE OF FIVE AND SIX. UP HERE ON TOP OF THE STOVE I'VE GOT MARKED SEVEN, EIGHT, AND NINE, AND THERE IT IS THERE SEVEN, EIGHT, AND NINE ON TOP OF THE STOVE.
Q. AND THOSE ARE SHELL CASINGS?
A. THESE ARE SHELL CASINGS WHICH I BELIEVE WERE NINE MILLIMETER C.B.C. SHELL CASINGS. AND, AGAIN, THAT'S JUST A CLOSER VIEW BECAUSE YOU KIND OF DO IT LIKE FAR AWAY LIKE WHEN YOU FIRST WALK IN. THEN YOU WANT TO KIND OF GET CLOSE TO IT AND TAKE A CLOSER-UP SHOT OF THE SHELL CASINGS. AGAIN, HERE'S NUMBER THREE, A CLOSE-UP OF NUMBER THREE. NUMBER FOUR WHICH WOULD HAVE BEEN RIGHT OUTSIDE HIS ARM. NUMBER FIVE, CLOSE- UP. NUMBER SIX WHICH IS DOWN HERE BY HIS FOOT. THEN NUMBER SEVEN AGAIN ON TOP OF THE STOVE. THEN NUMBER EIGHT IS BACK HERE BY THE EYES. THEN NUMBER NINE IS BACK HERE IN THE REAR OF THE STOVE. ANOTHER PICTURE OF NUMBER NINE AND

THEN---

Q. DID YOU ALSO OBSERVE A BULLET HOLE IN THE STOVE TOP?

A. YES, I DID. LET ME FLIP BACK REAL QUICK. SORRY. IN FRONT OF NUMBER SEVEN THERE WAS A HOLE RIGHT THERE WHICH IS IN THE FRONT OF THE STOVE.

Q. AND WERE YOU EVER ABLE TO RECOVER THE BULLET THAT MADE THAT HOLE?

A. NO, I WAS NOT. NO. AND THEN NUMBER TEN WAS RIGHT HERE AT THE FRONT ENTRY DOOR, AND THAT WAS JUST WHAT APPEARED TO BE BLOOD AND A SAMPLE WAS TAKEN FROM THAT. THAT'S WHY THERE'S A NUMBER THERE. I MARK THINGS SUCH AS WHAT I THINK COULD BE BLOOD. THOSE ITEMS ARE MARKED. THEN I GO BACK AND TAKE A SWAB.

IN THIS TRAILER THERE WAS BLOOD THROUGHOUT THE LIVING ROOM, DOWN HERE, OUT HERE, AND I COLLECTED SOME BLOOD FROM HERE AND THEN DOWN HERE AND HERE. THAT'S NUMBER TEN WHICH WAS RIGHT THERE AT THE FRONT DOOR. AND THEN HERE IS NUMBER 11 WHICH WAS NEAR -- I KNOW I HAD MARKED IT AS A SPACE HEATER. AND AS YOU CAN SEE, THERE'S BLOOD HERE AND BLOOD THERE AND BLOOD THERE AND BLOOD THERE, AND I COLLECTED THE SWAB FROM THE LARGER POOL WHICH IS RIGHT HERE ON THE LEFT SIDE OF THE SPACE HEATER IN THE LIVING ROOM.

NUMBER 12 IS DOWN HERE. I MARKED THIS AS THE MASTER BEDROOM. WHEN YOU FIRST WALKED IN, ON THE FLOOR THERE WAS A WHITE TOWEL WHICH AGAIN APPEARED TO HAVE BLOOD DROPS ON IT,

SO I COLLECTED THAT. NUMBER 13 HERE IS GOING TO BE INSIDE THE CLOSET INSIDE THE MASTER BEDROOM. IT WAS INSIDE OF A BROWN-COLORED PURSE, AND IT APPEARED TO BE A GRAY-COLORED SHIRT. THERE WAS BLOOD ON THAT, SO I COLLECTED THAT SHIRT AND THAT PURSE, AND I COLLECTED THE PURSE JUST BECAUSE THE SHIRT WAS INSIDE OF IT.

Q. AND IN YOUR EXPERIENCE, INVESTIGATOR, WHEN YOU HAVE A DECEASED PERSON ON THE SCENE---

A. UH-HUH.

Q. ---IS IT -- HOW LIKELY IS IT THAT THAT'S HIS BLOOD?

A. WELL, IN THIS PARTICULAR CASE - IT'S NOT IN THE PHOTOGRAPH - BUT WHEN I FIRST ENTERED THE KITCHEN I COULD SEE WHERE THE DEFENDANT (SIC) WAS BY THE STOVE.

Q. YOU MEAN THE VICTIM?

A. OH, I'M SORRY. THE VICTIM. THE STOVE EYE WAS ON LIKE HE HAD BEEN AT THE STOVE. SO ALL THE BLOOD THAT I FOUND DOWN HERE TO ME DID NOT APPEAR TO HAVE BEEN FROM HIM BECAUSE IT SEEMED HE PRETTY MUCH FELL WHERE HE WAS SHOT.

Q. OKAY. AND THE SHELL CASINGS -- WERE THERE ANY FOUND IN THE BACK OF THE HOUSE?

A. NO. INSIDE THE HOUSE I ONLY FOUND THEM RIGHT HERE IN THE KITCHEN AREA.

Q. OKAY. THANK YOU.

A. NUMBER 14, THIS IS GOING OUT THE BACK DOOR AND IT'S LIKE THE STEPS THAT ARE LEADING DOWN. I FOUND A DROP OF BLOOD

HERE. YOU CAN KIND OF SEE IT HERE, NUMBER 14, AND THERE IT IS, A CLOSE-UP. AND NOW I'M GOING OUTSIDE THE BACK DOOR, AND IN THE BACK OF THE HOUSE THERE WAS A WEIGHT BENCH, AND OUTSIDE THE WEIGHT BENCH -- IT'S KIND OF LIKE A KNOCK-OFF KOOL-AID---

COURT REPORTER: I'M SORRY. KIND OF LIKE A WHAT?

THE WITNESS: A KOOL-AID PACK. IT'S LIKE A GREAT VALUE POWDER MIX, AND THAT APPEARED TO HAVE BLOOD ON IT. AND THIS IS GOING OUT THE BACK DOOR DOWN BY THAT WEIGHT BENCH WHICH IS PICTURED IN NUMBER 15.

BY MS. SHIPLEY:

Q. IN THAT PHOTOGRAPH THAT YOU WERE JUST LOOKING AT, DO YOU SEE THE PRESENCE OF CRIME SCENE TAPE?

A. YES, I DO.

Q. AND PATROL CARS AS WELL?

A. YES, I DO.

Q. ALL RIGHT. AND WHY IS IT IMPORTANT FOR CRIME SCENE TAPE TO BE PUT UP?

A. THAT WAY YOU WANT TO MAKE SURE THAT YOU KEEP THE GENERAL PUBLIC AND MAYBE FAMILY MEMBERS OR ANYBODY ELSE THAT DOESN'T NEED TO BE INSIDE THE CRIME SCENE OUT OF THE CRIME SCENE.

Q. AND THAT NOW I NOTICE -- PLEASE HAVE A SEAT. THANK YOU. LET ME HOLD THOSE. I'M GOING TO SHOW YOU WHAT'S BEEN ALREADY MARKED STATE'S 46 AND ASK YOU IF YOU RECOGNIZE THE CONTENTS OF THAT.

A. OKAY. THIS IS A BROWN EVIDENCE BAG, AND ON THE BACK IT'S GOT LISTED NINE 9 MILLIMETER LUGER C.B.C. SHELL CASINGS AND ONE PROJECTILE. THAT'S MY HANDWRITING.

Q. OKAY. GO AHEAD AND OPEN IT; YES, MA'AM?

A. AND, AGAIN, THESE ARE PACKAGED SEPARATELY. THE ONE PROJECTILE WHICH SAYS FROM BODY BAG IN KITCHEN... THIS ONE IS NINE 9 MILLIMETER LUGER C.B.C. SHELL CASINGS FROM THE KITCHEN.

Q. OKAY. AND DESCRIBE FOR THE JURY WHAT YOU MEAN FROM THE BODY BAG.

A. LIKE I SAID, THE FIRST THING THAT YOU DO AFTER YOU PHOTOGRAPH EVERYTHING IS YOU KIND OF DOCUMENT WHERE EVERYTHING IS, AND AFTER YOU'RE -- IN THIS CASE, YOU KNOW, AFTER I DID THE KITCHEN, WE MEASURED WHERE THE SHELL CASINGS WERE IN RELATION TO POINT A. AND B. OF THE KITCHEN. BEFORE WE DO ANYTHING WITH THE BODY, YOU WANT TO MAKE SURE EVERYTHING IS SECURE. AND THEN WITH THE CORONER, THE FIRST THING WE DID IS WE DID A G.S.R. KIT ON THE VICTIM, AND AFTER THE G.S.R. KIT WAS DONE ON THE VICTIM, THE CORONER'S OFFICE THEN WENT THROUGH HIS PERSON AND TOOK OUT SOME ITEMS FROM HIS POCKETS AND WHATNOT, AND WHEN THEY MOVED HIM INTO THE BODY BAG THEY FOUND A PROJECTILE THAT WENT INTO HIM.

Q. AND YOU INDICATED G.S.R. KIT. WHAT IS THAT?

A. IT'S A GUNSHOT RESIDUE KIT. BASICALLY YOU'RE JUST TESTING -- IN THIS CASE YOU'RE TESTING - THE COLUMBIA POLICE

DEPARTMENT DOES - ON SOMEONE'S HANDS TO SEE IF YOU EITHER FIRED A GUN OR EITHER HANDLED A GUN THAT HAD RECENTLY BEEN FIRED.

Q. AND I'M GOING TO HAND YOU STATE'S 53 AND ASK YOU IF YOU RECOGNIZE THAT.

A. OKAY. ANOTHER BROWN BAG LABELED BY ME AS ONE G.S.R. FROM THE VICTIM, THOMAS LEE SMITH, AND THIS IS THE G.S.R. KIT AFTER IT'S BEEN COMPLETED. YOU FILL OUT PAPERWORK AND YOU SEAL IT UP. THE RED MEANS WHAT I DID ON THE SCENE. IT'S SEALED UP. THE OTHER TAPE IS WHAT S.L.E.D. DID AFTER IT WAS SUBMITTED TO S.L.E.D. FOR TESTING.

Q. TELL THIS JURY HOW YOU COLLECT G.S.R. SAMPLES FROM EITHER A LIVE PERSON OR A DECEASED PERSON. DOES IT MATTER?

A. WELL, IT DEPENDS ON THE TYPE OF TEST YOU HAVE. THE ONE THE POLICE DEPARTMENT USES IS LIKE A TWO-PART TEST. THEY'RE TRYING TO TEST FOR THE ATOMIC ABSORPTION AND THE OTHER ONE BEING THE SIMS ANALYSIS. BASICALLY IT'S A TWO-PART THING. YOU TAKE YOUR HANDS. YOU HAVE THE PALM AND THE OUTSIDE OF YOUR HAND.

THE FIRST THING THAT YOU'RE GOING TO DO FOR THE SIMS ANALYSIS -- IT KIND OF LOOKS LIKE A RUBBER STAMP, AND YOU SORT OF TAKE IT AND YOU KIND OF STAMP THE BACK OF THE HAND. YOU LABEL IT. YOU PUT IT IN ITS LITTLE CONTAINER. THEN YOU STAMP THE PALM OF THE HAND. YOU DO IT FOR BOTH HANDS. YOU PACKAGE THAT SEPARATELY.

THEN YOU'VE GOT LITTLE COTTON SWABS, AND THEY COME WITH NITRIC ACID. PUT A COUPLE OF DROPS OF NITRIC ACID ON THE TOP OF THE COTTON BALL AND THE SAME THING: YOU GO BACK OVER THE PALM OF THE -- THE BACK OF THE HAND. SEAL THAT UP. PALM -- THE PALM OF THE HAND. FINISH THAT. SEAL THAT UP. MARK IT. AND IN THE G.S.R. KITS THERE'S SOME INFORMATION THAT YOU HAVE TO FILL OUT SUCH AS WHAT THE INCIDENT IS, IF YOU CAN IDENTIFY THE TYPE OF WEAPON OR THE TYPE OF BULLETS THAT WERE USED. THE TIME THAT YOU'RE DOING THE TEST -- IT'S TIME-SENSITIVE. YOU ONLY HAVE SIX HOURS TO COMPLETE A G.S.R. ON ANYBODY.

Q. WHY IS THAT?

A. YOU'LL PROBABLY -- YOU COULD LOSE THAT BIT OF -- ALL THE PRIMER DUST THAT'S ON YOUR HANDS OR COULD BE ON YOUR HANDS OR YOUR CLOTHING CAN GET DESTROYED. YOU COULD WASH IT OFF OR IT COULD JUST WEAR AWAY. WITHIN SIX HOURS IS WHEN THEY RECOMMEND THAT YOU TRY TO GET THOSE TESTS COMPLETED.

Q. OKAY. WHAT TIME DID YOU COLLECT IT FROM MR. SMITH IN THIS CASE?

A. FROM MR. SMITH IT WOULD HAVE BEEN AT 11:45 P.M.

Q. OKAY. AND ARE YOU FAMILIAR WITH WHAT TIME THE CRIME HAPPENED?

A. I BELIEVE ON THE REPORT IT HAPPENED ABOUT 9:41 P.M.

Q. OKAY. SO THAT'S DEFINITELY WITHIN THE SIX-HOUR PERIOD; CORRECT?

A. YES.

Q. NOW, AT THAT POINT -- AND, YOUR HONOR, AT THIS TIME WE'D INTRODUCE 53 INTO EVIDENCE, THE G.S.R. KIT.

MR. LEDDY: NO OBJECTION, YOUR HONOR.

THE COURT: OKAY. SO ADMITTED.

(STATE'S EXHIBIT 53 WAS RECEIVED IN EVIDENCE.)

BY MS. SHIPLEY:

Q. THE -- AND ARE YOU FAMILIAR WITH INVESTIGATOR KERMIT SCOTT?

A. YES, I AM.

Q. AND DID YOU TRAIN UNDER INVESTIGATOR KERMIT SCOTT?

A. YEAH, HE WAS MY SERGEANT.

Q. ALL RIGHT. AND DID YOU GET WITH MR. SCOTT THAT NIGHT, INVESTIGATOR SCOTT THAT NIGHT, AFTER YOU LEFT THE CRIME SCENE?

A. LATER ON AFTER -- EVERY DEPARTMENT IS DIFFERENT, BUT THE WAY WE DO THINGS AT THE COLUMBIA POLICE DEPARTMENT IS AFTER YOU LEAVE THE SCENE AND HAVE EVIDENCE, YOU TAKE IT BACK TO THE LAB WHICH IN THIS CASE IS AT NUMBER ONE JUSTICE SQUARE AND IT'S DOWN IN THE BASEMENT, AND ONLY THE CRIME SCENE OFFICERS AND THE CHEMISTS HAVE ACCESS TO THAT LAB. AND IT WAS IN THE LAB IS WHERE I MET WITH SERGEANT SCOTT AND THE EVIDENCE THAT HE HAD PHOTOGRAPHED, AND THE NEXT DAY OR LATER ON THAT DAY THEY WERE ALL PROCESSED.

Q. OKAY. I'M GOING TO HAND YOU STATE'S 54 AND ASK YOU IF YOU RECOGNIZE THAT.

A. THIS IS A BROWN EVIDENCE ITEM, AND THIS WAS FILLED OUT BY SERGEANT SCOTT, AND HE'S INDICATED ON THE BACK THAT IT WAS A G.S.R. KIT ON JOEL ROBINSON WITH HIS DATE OF BIRTH ON IT.

Q. OKAY. AND DID YOU TRAIN UNDER KERMIT SCOTT?

A. YES, I DID.

Q. AND SO THE WAY YOU HANDLED AND COLLECTED THE G.S.R. KIT IS FROM YOUR TRAINING FROM KERMIT SCOTT?

A. YES, IT IS.

Q. OKAY. AT THAT POINT WHEN DID YOU TURN THAT IN TO EVIDENCE ON THE PACKAGING?

A. LET'S SEE. ON THE PACKAGING IT JUST SAYS IT WAS RECEIVED ON FEBRUARY 16TH WHICH WOULD HAVE BEEN LATER ON THAT DAY.

Q. 2007?

A. YEAH, 2007. I'M SORRY.

MS. SHIPLEY: OKAY. THANK YOU. YOUR HONOR, AT THIS TIME WE'LL INTRODUCE STATE'S NUMBER 54.

THE COURT: OKAY.

MR. LEDDY: NO OBJECTION, YOUR HONOR.

(STATE'S EXHIBIT 54 WAS RECEIVED IN EVIDENCE.)

BY MS. SHIPLEY:

Q. NOW, I'M GOING TO HAND YOU BACK 46 BECAUSE I GOT A LITTLE SIDETRACKED. I APOLOGIZE.

A. OKAY.

Q. GOING BACK TO THE PROJECTILES, CAN YOU TELL THE JURORS

HOW IT IS THAT YOU PACKAGED EACH PROJECTILE?

A. UH-HUH. I'LL OPEN THIS UP FOR YOU SO YOU CAN TAKE A LOOK AT IT. WHEN WE COLLECT SHELL CASINGS -- EVERYONE'S GOT DIFFERENT RULES ON THIS, BUT GENERALLY ONE NUMBER FOR EVERY SHELL CASING YOU HAVE UNLESS YOU'VE GOT A BIG POOL OF SHELL CASINGS AND THERE'S ONE OVER HERE. I WOULD MAKE THE ONE OVER HERE ONE BY ITSELF AND THEN THE BIG POOL, SAY, ITEM NUMBER TWO. BUT IN THIS CASE THEY WERE KIND OF EQUALLY SPACED, SO I DID ALL OF THEM SEPARATELY.

IN THIS CASE HERE'S ITEM NUMBER ONE, AND THE ONE THAT YOU SEE MARKED IS THE ONE I DID ON THE SCENE WITH A BLACK SHARPIE MARKER. SO ITEM NUMBER ONE WHICH WAS THE ONE FOUND IN THE KITCHEN THEN AND THEN AGAIN ITEM NUMBER TWO, THREE, AND THEN SO ON...

Q. AND ARE ALL THE SHELL CASINGS THAT YOU COLLECTED MADE BY THE SAME MANUFACTURER?

A. IN MY REPORT I BELIEVE I HAVE LISTED THAT THEY WERE ALL NINE MILLIMETER LUGER C.B.C. SHELL CASINGS.

Q. OKAY. SO THEY WERE ALL FROM THE SAME MANUFACTURER?

A. YES, THEY WERE.

Q. AND WHAT ELSE BESIDES THE SHELL CASINGS ONE THROUGH NINE IS IN THAT PACKAGE?

A. AND IN THE SAME PACKAGE, NOT IN THIS ACTUAL PACKAGE BUT JUST IN THE GENERAL BAG, THERE WAS THE ONE PROJECTILE THAT WAS FOUND IN THE BODY BAG WITH THE VICTIM.

Q. OKAY. AND WHEN DID YOU OBSERVE THAT PROJECTILE?
A. WE DIDN'T SEE THAT ONE UNTIL AFTER HE WAS MOVED FROM THE FLOOR INTO THE BODY BAG AT THE CORONER'S OFFICER.
Q. OKAY. SO HIS BODY WAS SORT OF ON TOP OF IT?
A. UH-HUH. OR SORT OF FELL OUT, FELL LOOSE.
Q. FELL LOOSE FROM HIS CLOTHING?
A. OR HIS BODY.
Q. HIS BODY?
A. I'M NOT SURE.
Q. YOU'RE NOT SURE? OKAY. WHAT ELSE IS IN THAT BAG?
A. IN THIS BAG? ONLY THESE TWO ITEMS.
Q. OKAY. GREAT. AND DID YOU TURN ALL THAT IN TO EVIDENCE?
A. YES, I DID.
Q. AND WHAT DATE AND TIME DID YOU DO THAT?
A. LET'S SEE. AND, AGAIN, ON THIS ONE IT'S ONLY GOT THE ACTUAL DATE WHICH IS FEBRUARY 16TH, 2007.
Q. THE SAME DAY AS INVESTIGATOR SCOTT TURNED IN HIS EVIDENCE?
A. YES, IT WAS.
MS. SHIPLEY: OKAY. GREAT. YOUR HONOR, AT THIS TIME WE'LL INTRODUCE 46 INTO EVIDENCE.
MR. LEDDY: THAT'S THE SHELL CASINGS?
MS. SHIPLEY: THE NINE SHELL CASINGS AND THE PROJECTILE THAT CAME OUT OF THE BODY BAG.
MR. LEDDY: OKAY.

MS. SHIPLEY: THE NINE SHELL CASINGS FROM THE KITCHEN.

MR. LEDDY: WHAT IS THE NUMBER ON THE PROJECTILE?

THE WITNESS: THE PROJECTILE WAS NOT NUMBERED BECAUSE THAT SORT OF HAPPENED TOWARDS THE END WHEN WE JUST SORT OF -- WHEN THEY MOVED HIM AND WE SAW IT. SO I THINK I JUST TOOK A PICTURE OF IT.

MS. SHIPLEY: ARE YOU LOOKING FOR IT ON THE CHAIN OF CUSTODY?

MR. LEDDY: YEAH. I JUST DIDN'T SEE IT. THAT'S WHY I'M CONFUSED ABOUT IT.

MS. SHIPLEY: SURE.

MR. LEDDY: SHE'S TESTIFIED SHE DIDN'T NUMBER IT? THAT'S RIGHT. THAT'S FINE. NO OBJECTION. I DON'T HAVE AN OBJECTION.

MS. SHIPLEY: NO OBJECTION? OKAY. YOUR HONOR, STATE'S 46 IN EVIDENCE NOW.

(STATE'S EXHIBIT 46 WAS RECEIVED IN EVIDENCE.)

BY MS. SHIPLEY:

Q. I'M GOING TO SHOW YOU WHAT'S ALREADY BEEN MARKED STATE'S 47 AND 48, AND I'M GOING TO ASK YOU TO CONTINUE GOING THROUGH THE PHOTOGRAPHS LABELED STATE'S 55. FIRST SHOW THE JURORS: WHERE DID YOU SEE THAT VEHICLE THAT'S DEPICTED IN THAT PHOTOGRAPH?

A. THIS WAS THE 2004 FORD TAURUS.

Q. AND DO YOU RECALL SEEING IT ON YOUR WAY TO THE CRIME

SCENE?
A. YES, I DO.
Q. AND ARE YOU -- ARE YOU FAMILIAR WITH THE CRIME SCENE? JUST TO ORIENT YOU THE TRAILER.
A. OKAY.
Q. OKAY. AND THEN THERE'S THREE HOUSES AROUND THERE; CORRECT?
A. YES, THERE ARE.
Q. AND TELL THE JURORS APPROXIMATELY WHERE THAT---
A. THANK YOU.
Q. ---VEHICLE WAS PARKED AND WHICH DIRECTION IT WAS HEADED.
A. OKAY. THIS IS AMES ROAD, AND THEN COMING DOWN MYERS STREET, WHEN YOU KIND OF COME AROUND THIS CURVE, THE SUSPECT'S VEHICLE WAS PARKED SOMEWHERE HERE ON THE SIDE. AND AT THE TIME WHEN I GOT THERE, I DIDN'T KNOW WHOSE VEHICLE... I THOUGHT MAYBE IT WAS SOMEONE THAT LIVED IN ONE OF THESE HOMES. BUT THE TRUCK -- THE CAR WAS PARKED RIGHT HERE. AND WHILE I WAS INSIDE THE TRAILER AND AFTER THINGS WERE BEING PROCESSED, I WAS NOTIFIED THAT THAT WAS, IN FACT, THE SUSPECT'S VEHICLE, AND THAT'S WHY PHOTOGRAPHS WERE TAKEN.
Q. OKAY.
A. AND EVENTUALLY THE CAR WAS TOWED TO HEADQUARTERS.
Q. ALL RIGHT. AND WHY WAS IT TOWED TO HEADQUARTERS?
A. THEY DO A SEARCH WARRANT ON IT, AND THAT WAY YOU COULD DO A SEARCH WARRANT AND YOU COULD PROCESS THE VEHICLE FOR

FINGERPRINTS, LOOK FOR MORE EVIDENCE, STUFF LIKE THAT.
Q. OKAY. I'M GOING TO SHOW YOU ITEMS -- STATE'S EXHIBIT NUMBER 12 THAT IS ALREADY IN EVIDENCE. DID YOU TAKE THAT PHOTOGRAPH?
A. YES, I DID.
Q. AND DO YOU SEE THAT BUILDING BEHIND WHERE THE CAR WAS PARKED?
A. YES, I DO.
Q. AND DO YOU SEE THAT BUILDING ON THIS DIAGRAM?
A. I BELIEVE IT WILL BE THIS ONE RIGHT HERE.
Q. THIS ONE RIGHT HERE?
A. YEAH.
Q. OKAY.
A. IDA'S.
Q. IDA'S? ALL RIGHT. AND DESCRIBE FOR THE JURORS WHAT, IF ANY, DAMAGE YOU NOTED ON THIS VEHICLE.
A. OKAY. WELL, LOOKING AT THESE PHOTOGRAPHS, HERE'S A LONGER VIEW OF THE CAR ON THE PASSENGER SIDE, AND IF YOU LOOK BACK HERE WHERE THE GAS -- WHERE YOU FILL UP YOUR CAR, THERE'S A SLIGHT INDENTATION WHICH LOOKS LIKE MAYBE WHERE A BULLET STRUCK THE VEHICLE ON THAT RIGHT REAR SIDE.
Q. OKAY. AND WHAT IS THE NEXT PHOTOGRAPH OF?
A. AND THEN THE NEXT PHOTOGRAPH WOULD BE AFTER HIS VEHICLE WAS TOWED AWAY FROM THE SCENE, AND ONCE HIS CAR WAS TOWED, I WAS NOTIFIED BY SOME OFFICERS THAT WE HAVE SOME MORE SHELL

CASINGS ON THE GROUND. AND THIS WAS NIGHTTIME, AND AT THE TIME WE DIDN'T HAVE THE BEST FLASHES ON OUR CAMERA. IT WAS JUST THE LITTLE MANUAL FLIP-UP FLASH. BUT WHEN HIS CAR WAS MOVED, IN THE GROUND THEY FOUND SOME MORE SHELL CASINGS, AND THIS IS LABELED MY NUMBERS 20 TO 24.

Q. OKAY.

A. AND THAT WAS ON THE DRIVER'S SIDE OF THE CAR.

Q. DRIVER'S SIDE OF THE VEHICLE---

A. DRIVER'S SIDE.

Q. ---BEFORE IT GOT TOWED.

A. YES.

Q. OR THOSE PHOTOS WERE TAKEN OF THE SHELL CASINGS AFTER THE VEHICLE GOT TOWED?

A. WAS TOWED AWAY, YES.

Q. AND WHICH SIDE OF THE VEHICLE? YOU SAID DRIVER'S SIDE?

A. IT WAS ON THE DRIVER'S SIDE.

Q. HOW MANY SHELL CASINGS DID YOU RECOVER FROM THE GROUND WHERE THE DRIVER'S SIDE DOOR WAS?

A. FROM THE DRIVER'S SIDE, IT LOOKS LIKE I GOT -- LOOKS LIKE THERE WAS ABOUT TEN SHELL CASINGS AND, AGAIN, THEY WERE THE NINE MILLIMETER LUGER C.B.C. SHELL CASINGS, AND HERE'S SOME CLOSE-UP PHOTOGRAPHS. THAT'S NUMBER 20, NUMBER 21, NUMBER 22 AND, AGAIN, IT'S LIKE RIGHT THERE IN THE APEX OF THE SCALE. NUMBER 23. AND NUMBER 24 I SEE FOUR -- I ACTUALLY SEE FOUR NOW.

Q. AND THAT'S -- IF THEY'RE GROUPED TOGETHER, YOU'LL JUST GIVE THEM ONE---
A. YEAH.
Q. ---PLACARD?
A. I'LL GO AHEAD -- THERE'S ONE, TWO, THREE, AND FOUR SHELL CASINGS.
Q. OKAY. AND PLEASE LOOK IN STATE'S NUMBER 47 AND TELL ME IF YOU CAN IDENTIFY THOSE ITEMS.
A. OKAY. AND THIS IS THE BROWN EVIDENCE BAG WITH TEN 9 MILLIMETER SHELL CASINGS, AND I JUST HAVE LISTED FROM OUTSIDE NUMBERS 20 THROUGH 24.
Q. OKAY.
A. SAME THING: TEN 9 MILLIMETER LUGER C.B.C. SHELL CASINGS.
Q. AND DO YOU SEE YOUR HANDWRITING ON THE PACKAGING?
A. THAT'S MY HANDWRITING.
Q. AND YOU TURNED IT IN ON THE SAME DATE AS THE OTHER BULLETS, THE OTHER PROJECTILES?
A. YES, I DID. THIS WAS TURNED IN ON FEBRUARY 16TH, 2007.
Q. OKAY.
A. DO YOU WANT ME TO OPEN THIS?
Q. NO, THAT'S OKAY. THEY'RE ALL PHOTOGRAPHED?
A. YEAH.
Q. AND DO YOU SEE S.L.E.D. TAPE ON THERE?
A. YES, I DID.

Q. SO IT WAS SENT OFF FOR ANALYSIS?
A. YES, IT WAS.
Q. AND THEN STATE'S NUMBER 48, WHAT'S THAT?
A. OKAY.
Q. AND I THINK YOU'LL NEED TO GO THROUGH YOUR PHOTOGRAPHS A LITTLE BIT MORE BEFORE WE GET TO THE CONTENTS.
A. OKAY. IN THIS BROWN EVIDENCE BAG I'VE GOT LISTED A , AND IT SAYS FOUR PROJECTILES.
Q. IS THAT FROM THE RESIDENCE ACROSS THE STREET FROM ?
A. THAT'S CORRECT. THIS WOULD BE ACROSS THE STREET. WHILE WE WERE INSIDE THE TRAILER LATER ON - I'M NOT SURE WHO MENTIONED IT - BUT IT WAS LEARNED THAT THAT'S RIGHT ACROSS FROM , HAD BEEN SHOT UP MULTIPLE TIMES. AND SO WE WENT OVER THERE AND KIND OF PHOTOGRAPHED , AND I RECOVERED FOUR PROJECTILES. AND THEN ON THOSE ARE GOING TO BE LABELED ITEMS 16 THROUGH 19, AND I'VE GOT ONE PROJECTILE FROM THE FRONT OF THE -- I'M SORRY. IT SAYS FROM THE FLOOR OF THE FRONT ENTRY DOOR. NUMBER 17 WAS ONE PROJECTILE FROM THE EXTERIOR OF THE RIGHT FRONT WINDOW, AND NUMBER 18 WAS A PROJECTILE FROM THE EXTERIOR OF THE FRONT ENTRY DOOR, THE TOP CENTER, AND THEN ONE WAS A PROJECTILE ON THE FRONT YARD OF THE RESIDENCE ON THE LEFT SIDE.
Q. OKAY. AND WHAT WERE THE MAKE AND MODELS OF THOSE?
A. NOW, THESE ARE PROJECTILES SO -- WHEN YOU HAVE A BULLET, YOU HAVE -- YOU KNOW HOW A BULLET HAS A LITTLE SMOOTH EDGE

AND IT'S GOT THE LITTLE JACKET. THAT PART IS WHAT WE CALL THE SHELL CASING. ONCE YOU FIRE A GUN, IT SORT OF COMES APART. SO SOMETIMES YOU MIGHT HAVE A PIECE OF THE ACTUAL JACKET. IT MIGHT BE THE LITTLE TOP PIECE WHICH YOU MIGHT CALL THE BULLET; IT MIGHT BE PART OF THAT. SINCE I CAN'T TELL YOU WHAT IT IS, I THINK IT'S JUST A PIECE OF METAL WITH THAT LITTLE INDENT -- I JUST ALWAYS LABEL IT AS A PROJECTILE.

Q. AND IS THAT WHY IT'S SENT TO S.L.E.D. FOR ANALYSIS?

A. ALL THAT STUFF -- ALL THE SHELL CASINGS, PROJECTILES, BECAUSE THAT'S NOT PART OF MY TRAINING. I CAN'T DO THAT.

Q. OKAY. AND DO YOU SEE PHOTOGRAPHS OF THOSE PROJECTILES THAT YOU COLLECTED AT ?

A. THAT'S 18.

Q. OKAY.

A. THIS IS GOING TO BE NUMBER 19 WHICH, AS I SAID, IT'S IN THE FRONT YARD OFF TO THE LEFT.

Q. OKAY.

A. THIS IS JUST A PICTURE OF 1718 AND, AGAIN, HERE'S SOME PICTURES -- THESE AREN'T IN ORDER. SORRY. THAT'S GOING TO BE OF THE FRONT DOOR AND, AGAIN, YOU TAKE THE PICTURE LIKE YOU FIND IT. THAT'S THE FRONT DOOR OF 1718. THIS IS A CLOSE-UP SHOT. LOOKS LIKE MAYBE THIS -- I THINK THIS MIGHT HAVE COME FROM THE DOOR AS WELL. THAT'S A CLOSE-UP OF WHAT THE BULLET LOOKS LIKE WHEN IT ENTERS THE DOOR.

Q. ON THE OTHER SIDE OF THE DOOR?

A. UH-HUH. HERE IS NUMBER 16. I CAN'T REALLY SEE IT HERE. HOPEFULLY, I'VE GOT A CLOSE-UP ONE. THAT'S GOING TO BE THE LITTLE PIECE THAT'S LEFT OVER AFTER IT FINALLY FALLS.

Q. OKAY.

A. AND THERE'S 17. THAT'S STUCK IN THE WINDOW RIGHT THERE. THERE'S A CLOSE-UP OF THE ONE BEFORE. SORRY, GUYS. THESE GOT OUT OF ORDER. AND I'VE GOT---

Q. AND 10 AND 11 ARE ALREADY IN EVIDENCE. DID YOU LOOK AT THOSE? DID YOU PHOTOGRAPH THOSE?

A. YES, I DID.

Q. OKAY. AND DID YOU OBSERVE ANY EVIDENCE OF RECENT DAMAGE TO THE HOUSE WHEN YOU GOT ON THE PORCH?

A. WELL, YOU CAN SEE THAT THE -- THAT WAS LIKE THE LITTLE GLASS SCREEN DOOR. YOU CAN SEE THE GLASS IS SHATTERED AT THE BOTTOM FROM WHERE THE BULLET ENTERED THE FRONT DOOR.

Q. AND DO YOU SEE ANY DAMAGE TO THE RIGHT WINDOW, THE WINDOW TO THE RIGHT?

A. YEAH, RIGHT UP THERE IN THE CORNER, THE RIGHT-HAND CORNER. THAT'S WHERE THE PROJECTILE WAS LOCATED. IT WAS PULLED OUT WITH TWEEZERS.

(STATE'S EXHIBITS 56 THROUGH 59 WERE MARKED FOR IDENTIFICATION.)

BY MS. SHIPLEY:

Q. AFTER YOU COLLECTED ALL THIS EVIDENCE, DID YOU GO -- WHERE DID YOU TAKE ALL THIS EVIDENCE?

A. LIKE I SAID, AFTER YOU'RE FINISHED WITH EVERYTHING, AFTER HOURS OUR EVIDENCE ROOM IS NOT OPEN. THEY'RE ONLY OPEN FROM 8:30 UNTIL 6 P.M. SO WHEN YOU HAVE EVIDENCE, ESPECIALLY THINGS THAT YOU MAY WANT TO TEST, WE TAKE THAT BACK TO OUR LAB WHICH IS AT NUMBER ONE JUSTICE SQUARE DOWN IN THE BASEMENT.

Q. NOW, DID YOU MAKE CONTACT WITH INVESTIGATOR KERMIT SCOTT IN THE CRIME SCENE LAB?

A. UH-HUH. YES, I DID.

Q. I'M GOING TO SHOW YOU -- AND DID YOU PHOTOGRAPH THE ITEMS THAT HE SUBMITTED INTO EVIDENCE?

A. YES, I DID.

Q. I SHOW YOU STATE'S NUMBER 8 AND 56 THROUGH 59 AND ASK YOU: DO YOU RECOGNIZE THESE PHOTOGRAPHS?

A. OKAY. YES, I DO.

Q. OKAY. WHAT ARE THEY?

A. THESE ARE GOING TO BE THE ITEMS THAT KERMIT SCOTT HAD COLLECTED. WHEN YOU COME BACK TO THE LAB, WE'VE GOT LIKE THIS BROWN PAPER. YOU JUST KIND OF FOLD IT OVER, LAY IT OUT. THEN ALL THE ITEMS THAT HE'S COLLECTED WE SORT OF LAID THEM OUT, AND THAT WAY YOU COULD HAVE A PICTURE TAKEN OF THEM BEFORE HE DEALT WITH THEM BECAUSE THE THINGS THAT HE COLLECTED WERE THE THINGS HE WAS GOING TO PROCESS BUT THAT I WASN'T GOING TO DEAL WITH.

Q. OKAY. ARE YOU FAMILIAR WITH WHAT HE PROCESSED---

A. YES, I AM.
Q. ---AND HOW HE PROCESSED IT? WHAT DID HE DO?
A. I KNOW IN THIS CASE HE COLLECTED THE -- I BELIEVE IT'S A HI-POINT PISTOL---
Q. UH-HUH.
A. ---NINE MILLIMETER THAT HAD A SERIAL NUMBER OF 8-1-0-8-1-7. HE PROCESSED THAT, AND ALL THAT MEANS IN THIS CASE IS HE TOOK IT AND HE FUMED IT FIRST, AND FUMING IS JUST A -- YOU USE LIKE A SUPER GLUE AND HEAT IT UP, AND YOU PUT IT LIKE IN A LITTLE CHAMBER. AND WHEN THAT SUPER GLUE HEATS UP, IT KIND OF BINDS LIKE THE AMINO ACIDS AND STUFF THAT ARE LIKE ON YOUR FINGERPRINTS AND STUFF, AND IT WILL BIND WITH THAT. AND SO IF THERE IS A FINGERPRINT, IT WILL SHOW THE RIDGE DETAIL AND THEN YOU'LL GO BACK AND YOU'LL TAKE BLACK FINGERPRINT POWDER AND YOU'LL JUST DUST OVER IT AND ATTEMPT TO LIFT THE LATENT PRINT.
Q. OKAY. WAS THAT SUCCESSFUL IN THIS CASE?
A. NOT IN THIS CASE. NO IDENTIFIABLE PRINTS WERE FOUND.
Q. OKAY. AND IS THAT UNCOMMON FOR A FIREARM?
A. NO, IT'S NOT.
Q. EXPLAIN THAT TO THE JURY.
A. WELL, NUMBER ONE, IN LIKE THE SHELL CASINGS, ALL THE SHELL CASINGS THAT I COLLECTED I TOOK TO THE LAB AND I DUSTED THOSE FOR PRINTS. YOU CAN ALSO FUME THOSE AS WELL. BUT A SHELL CASING -- YOU NEVER SAY THIS. I DON'T EVER WANT TO SAY

YOU CAN'T GET FINGERPRINTS FROM THESE THINGS, BUT THE CHANCES OF YOU GETTING THEM ARE SLIM TO NONE.

WHEN YOU HAVE A SHELL CASING AND YOU FIRE A GUN, IT'S GOING TO EXPAND. IT'S GOING TO HEAT UP. IF THERE WAS A FINGERPRINT THERE, IT'S GOING TO BURN IT OFF. SO -- BUT YOU STILL DUST IT. YOU STILL FUME IT. YOU STILL DO ALL THOSE THINGS TO TRY AND GET IT. AND THE SAME THING WITH THE GUN: DEPENDS ON THE KIND OF SURFACE IT IS. IF IT'S LIKE A SMOOTH LIKE METAL GUN, YOU COULD PROBABLY GET A DECENT PRINT IF THEY HANDLED IT THE RIGHT WAY. THIS HI-POINT, I BELIEVE IT'S KIND OF TEXTURED. I THINK THE BOTTOM IS A HARD PLASTIC.

Q. HERE YOU GO.

A. OH.

Q. IS THAT KIND OF HANDLE OF THAT GUN CONDUCIVE TO PRINTS?

A. THE OUTSIDE HERE YOU PROBABLY WOULDN'T. THE BEST PLACE TO GET A GOOD PRINT, A GOOD IDENTIFIABLE PRINT - THAT'S ONE THAT I COULD GO BACK AND FILE THE MINUTIA IN AND RUN THROUGH A.F.I.S. - WOULD BE LIKE ON THE NICE SMOOTH SIDE OF THE SLIDE, MAYBE LIKE BACK HERE WHERE IT'S NICE AND SMOOTH. BUT JUST SOMETIMES THE WAY YOU'RE HOLDING IT -- MAYBE HE HAD GLOVES ON, MAYBE WIPED IT OFF. MAYBE IT RUBBED OFF IN HIS POCKET. THAT'S WHY LIKE WITH GUNS, A GOOD WAY TO PACKAGE THEM IS IN A BOX LIKE THIS. STRAP IT DOWN WHERE IT CAN'T MOVE.

IF YOU WERE TO TAKE EVIDENCE AND JUST STICK IT IN A BAG

WHICH YOU WANT TO PROCESS, YOU'D RUN THE RISK OF RUBBING SOMETHING AGAINST IT AND YOU COULD RUB AWAY THAT PRINT. THAT'S WHY SOMETIMES YOU JUST DON'T GET FINGERPRINTS ON THINGS.

Q. OKAY. AND IF SOMEONE -- IF THIS GUN IS FOUND OFF OF A PERSON, YOU KNOW, OFF A PERSON---

A. UH-HUH.

Q. ---IS IT PRETTY CLEAR THAT THEY'VE POSSESSED THE GUN THAT'S TAKEN OFF THEM?

A. IF IT'S IN THEIR POCKET, YES.

Q. OKAY. I'M GOING TO SHOW YOU TWO MORE PICTURES.

(STATE'S EXHIBITS 60 AND 61 WERE MARKED FOR IDENTIFICATION ONLY.)

BY MS. SHIPLEY:

Q. STATE'S NUMBER 60 AND 61. DO YOU RECOGNIZE THESE ITEMS?

A. YES, I DO. THIS IS GOING TO BE THE VICTIM, THOMAS LEE SMITH. IT'S GOING TO BE A PICTURE OF HIS WALLET AND HIS SOUTH CAROLINA I.D. CARD.

Q. OKAY. AND WAS THAT TAKEN OFF OF HIS PERSON?

A. YES, IT WAS BY THE CORONER'S OFFICE.

Q. OKAY. AND DID YOU WITNESS THAT?

A. YES, I DID. I WAS THERE.

Q. DID YOU ALSO PHOTOGRAPH THE QUANTITY OF MONEY IN HIS POCKET?

A. THIS WAS THE MONEY THAT WAS FOUND IN HIS POCKET.

Q. OKAY. AND INCIDENTALLY, HOW TALL WAS MR. SMITH? DOES IT SAY HOW TALL ON HIS LICENSE?

A. OOPS. SORRY. ON MR. SMITH'S DRIVER'S LICENSE, IT HAS HIM LISTED AS BEING 5'5" AND WEIGHING 142 POUNDS.

Q. OKAY. THANK YOU, MA'AM. AND GOING BACK TO THE PHOTOS THAT YOU TOOK BACK AT THE CRIME SCENE LAB WITH SERGEANT SCOTT---

A. UH-HUH. YES.

Q. ---DO YOU RECOGNIZE THOSE PHOTOS?

A. YES, I DO.

Q. AND DID YOU TAKE THOSE?

A. YES, I DID.

Q. AND WHAT NUMBERS -- EXHIBIT NUMBERS ARE THEY?

A. IT SAYS STATE'S EXHIBIT 8 AND THEN THE NEXT ONE SAYS 56, 57, 58, AND 59.

MS. SHIPLEY: OKAY. THANK YOU. YOUR HONOR, AT THIS TIME WE WOULD SEEK TO INTRODUCE -- 8 IS ALREADY IN EVIDENCE, BUT 59, 56. YEAH, I'VE ALREADY SHOWN YOU THIS. THIS ONE IS ALREADY IN EVIDENCE OR ACTUALLY, NO, 8 IS NOT IN EVIDENCE YET EITHER.

MR. LEDDY: I DON'T HAVE ANY OBJECTION TO THESE PICTURES.

MS. SHIPLEY: OKAY.

(STATE'S EXHIBITS 8 AND 56 THROUGH 59 WERE RECEIVED IN EVIDENCE.)

MS. SHIPLEY: MAY I PUBLISH THEM TO THE JURY, YOUR HONOR?

THE COURT: YOU MAY.

BY MS. SHIPLEY:

Q. AND THESE ARE THE ITEMS TAKEN OFF OF THE DEFENDANT AT THE TIME OF THE SEARCH?

A. YES, MA'AM.

Q. OKAY. AND I'M JUST GOING TO LABEL THIS ONE.

(STATE'S EXHIBIT 62 WAS MARKED FOR IDENTIFICATION.)

BY MS. SHIPLEY:

Q. AND THE ITEMS THAT ARE IN THOSE PHOTOGRAPHS, CAN YOU JUST GO THROUGH THIS BAG BRIEFLY? IT'S STATE'S NUMBER 62.

A. OKAY.

Q. DO YOU SEE THE ACTUAL PHYSICAL ITEMS THAT ARE DEPICTED IN THOSE PHOTOGRAPHS IN THAT BAG?

A. ON THE OUTSIDE OF THIS BAG I CAN TELL SERGEANT SCOTT IS THE ONE THAT PREPARED THIS. HE'S GOT INCLUDED ONE G.S.R. KIT, TWO LIGHTERS, U.S. CURRENCY EQUALING 50 CENTS, A BOX OF CIGARETTES, A WALLET WITH MISCELLANEOUS PAPERS, AND A SOUTH CAROLINA D.L., ONE CELL PHONE, AND ONE SET OF KEYS.

Q. WHEN DID HE TURN THAT IN TO EVIDENCE?

A. AGAIN, ALL THOSE ITEMS ARE PACKAGED SEPARATELY WITH THE OUTSIDE MARKED, YOU KNOW, SET OF KEYS, CELL PHONE, SOUTH CAROLINA D.L., BOX OF CIGARETTES.

(STATE'S EXHIBIT 63 WAS MARKED FOR IDENTIFICATION ONLY.)

THE WITNESS: AND THESE THINGS WERE ALSO TURNED IN TO THE EVIDENCE ROOM BY SERGEANT SCOTT ON FEBRUARY 16, 2007, AND THIS ONE ACTUALLY HAS THE DATE OF 1:30 P.M.

BY MS. SHIPLEY:

Q. THE TIME AS 1:30. AND THEN LASTLY I'M GOING TO HAVE YOU LOOK AT THE CONTENTS OF THAT.

A. OKAY. AND ON THE OUTSIDE THIS WAS ALSO MARKED BY SERGEANT SCOTT AND IT SAYS JACKET. INSIDE THE BAG THERE'S ONE TAN-IN-COLOR JACKET.

MS. SHIPLEY: OKAY. YOUR HONOR, AT THIS TIME WE'LL INTRODUCE 52 AND 60 INTO EVIDENCE. OR 63. MY APOLOGIES.

MR. LEDDY: OKAY. NO OBJECTION.

MS. SHIPLEY: I BELIEVE WITHOUT OBJECTION: 63 AND 52.

MR. LEDDY: YES, YOUR HONOR.

THE COURT: OKAY.

(STATE'S EXHIBITS 52 AND 63 WERE RECEIVED IN EVIDENCE.)

BY MS. SHIPLEY:

Q. AND WERE YOU INVOLVED AT ALL IN THE EXECUTION OF A SEARCH WARRANT AT THE ROOM 110 AT THE CORONET MOTEL?

A. NO, I WASN'T.

Q. OKAY. AND YOU DID NOT GO TO THE AUTOPSY; CORRECT?

A. NO, I DID NOT.

Q. WAS THERE ANYTHING ELSE THAT YOU PARTICIPATED -- DID YOUR ROLE END ONCE YOU PUT ALL THIS INTO EVIDENCE?

A. YES, IT DID.

Q. OKAY. AND AS PART OF YOUR DUTIES AS A CRIME SCENE INVESTIGATOR, DO YOU SOMETIMES HAVE TO TAKE EVIDENCE FROM THE COLUMBIA POLICE DEPARTMENT AND TAKE IT TO S.L.E.D.?

A. YES, WE DO.

Q. AND DESCRIBE FOR THE JURY THE MANNER IN WHICH YOU DO THAT.

A. OKAY. ONCE THINGS ARE TURNED IN TO THE EVIDENCE ROOM -- THAT'S A SEPARATE SECTION THAN WHAT THE CRIME SCENE UNIT IS. WE DON'T HAVE ACCESS TO THAT. THERE'S A CLERK THAT WORKS DOWN THERE, AND YOU'LL HAVE TO GO AND TELL THEM I NEED ITEM SUCH AND SUCH FOR THIS CASE NUMBER. THEY'LL SIGN IT OUT TO YOU, AND ONCE THAT EVIDENCE IS SIGNED OUT TO YOU, YOU TAKE IT FROM THE HEADQUARTERS AND YOU THEN DRIVE IMMEDIATELY TO BROAD RIVER ROAD TO S.L.E.D.'S FORENSIC BUILDING AND THERE YOU SUBMIT THAT EVIDENCE TO BE TESTED.

Q. AND AS CRIME SCENE INVESTIGATORS, ARE YOU -- DO YOU TAKE THE CHAIN OF CUSTODY OF THE EVIDENCE SERIOUSLY?

A. YES, YOU DO.

Q. WHAT'S THE POINT OF THAT?

A. WELL, THE POINT IS YOU WANT TO MAKE SURE THAT YOU CAN SAY BEYOND A SHADOW OF A DOUBT THIS IS THE EVIDENCE I HANDLED. IT WENT FROM POINT A. TO POINT B. TO POINT C.

Q. BECAUSE HOW MANY CRIMES HAPPEN IN RICHLAND COUNTY OR THE CITY OF COLUMBIA IN A YEAR?

A. MORE THAN THERE SHOULD BE.

Q. AND YOU DON'T WANT TO -- IS IT TRUE YOU DON'T WANT TO COMINGLE IT WITH SOMEBODY ELSE'S CASE?
A. CORRECT.
Q. ALL RIGHT. AND ON ALL THE ITEMS OF EVIDENCE THAT YOU JUST TESTIFIED TO, DID YOU SEE THE COLUMBIA POLICE DEPARTMENT CASE NUMBER ON THE BAGS?
A. YES, I DID.
Q. OKAY. AND THEY'RE ALL THE SAME.
A. THEY ARE ALL THE SAME.
Q. AND THEY PERTAIN TO THE CASE AGAINST MR. JOEL ROBINSON. IS THAT CORRECT?
A. YES, IT IS.
Q. AND ONE OF YOUR EVIDENCE CUSTODIANS IS DONNA MARTIN?
A. YES, SHE IS.
Q. AND SHE WOULD BE ABLE TO DESCRIBE WHAT OCCURRED WITH THE EVIDENCE FROM THERE.
A. YES, SHE WOULD BE. DONNA HAS BEEN THERE FOR A LONG TIME.

MS. SHIPLEY: OKAY. BEG THE COURT'S INDULGENCE, YOUR HONOR. THANK YOU, YOUR HONOR. NO FURTHER QUESTIONS.

CROSS-EXAMINATION

BY MR. LEDDY:
Q. SPECIAL AGENT STINNEY; RIGHT?
A. WILLIAMS.
Q. WILLIAMS NOW?

A. UH-HUH.
Q. OH, I SEE. OKAY. I'M A LITTLE BIT CONFUSED, AND I'LL TRY TO GET UNCONFUSED AS FAST AS I POSSIBLY CAN.
A. OKAY.
Q. SERGEANT SCOTT - HE CAME TO THE SCENE WITH YOU.
A. NOT INITIALLY.
Q. OKAY.
A. I ARRIVED BY MYSELF. I THINK I HAD BEEN THERE ALMOST TWO HOURS WHEN KERMIT ARRIVED. HE WAS REQUESTED, FROM MY UNDERSTANDING, BY SERGEANT BABIN, REQUESTED ADDITIONAL---
Q. TO GO TO NORTH MAIN STREET WHERE THEY HAD THE DEFENDANT DETAINED.
A. I THINK INITIALLY THEY WANTED KERMIT TO COME TO THE SCENE TO ASSIST IN COLLECTING EVIDENCE.
Q. RIGHT.
A. AND I THINK WHEN HE GOT THERE IS WHEN THE WORD CAME DOWN THAT MR. ROBINSON HAD BEEN LOCATED OR THE SUSPECT HAD BEEN LOCATED.
Q. OKAY. SO THEN HE LEFT AND WENT---
A. YEAH. HE CAME AND MET WITH ME. WHILE WE WERE TALKING, THEY WERE LIKE, "NO, KERMIT. YOU NEED TO GO TO SUCH AND SUCH," SO THEN HE LEFT.
Q. ALL RIGHT. NOW, I DON'T THINK THAT YOU TESTIFIED TO ANY PROJECTILES BEING FOUND OTHER THAN THE ONE THAT FELL OUT WHILE YOU WERE PUTTING HIM INTO THE---

A. THE ONE THAT FELL OUT IN THE BODY BAG AND JUST THE ONES THAT WERE FOUND AT .

Q. RIGHT. OKAY. AND, IN FACT, THERE WERE -- ACCORDING TO SERGEANT SCOTT'S INVENTORY, THERE WERE ACTUALLY FIVE PROJECTILES FOUND AT THE SCENE, IS THAT RIGHT, OF THAT THEY'VE DONE TESTS ON?

A. PROJECTILES OR DO YOU MEAN SHELL CASINGS?

Q. NO, I MEAN PROJECTILES.

A. I ONLY LOCATED ONE PROJECTILE INSIDE THE TRAILER. THAT'S ALL THAT I HAVE LISTED IN MY REPORT.

Q. OKAY. SO -- IF I CAN APPROACH.

A. YES.

Q. THIS IS VERY HELPFUL. AND SO IF I CAN PUT IT BACK UP THERE... THESE ARE ALL SHELL CASINGS.

A. THOSE ARE SHELL CASINGS, YES.

Q. RIGHT. AND YOU FOUND NO PROJECTILES IN HERE?

A. JUST THE ONE IN THE BODY BAG WAS THE ONLY ONE THAT I HAVE IN MY REPORT THAT I COLLECTED.

Q. OKAY. ALL RIGHT. WELL, SEE, THAT IS CONFUSING BECAUSE---

A. DO YOU WANT ME TO LOOK AT THE EVIDENCE THAT KERMIT SCOTT TURNED IN TO S.L.E.D.?

Q. IS THIS IT HERE? BECAUSE IT SEEMS SOME OF IT MUST HAVE COME FROM THE SCENE AT .

A. WELL, ON -- THIS RIGHT HERE IS AN EVIDENCE SHEET THAT'S

TURNED IN TO S.L.E.D. REQUESTING WHAT ITEMS YOU'RE TURNING IN THAT YOU'D LIKE COLLECTED. ACCORDING TO THIS, YOU HAVE THE HI-POINT GUN, THE G.S.R. KIT FROM ROBINSON, THE G.S.R. KIT FROM THOMAS, FOUR EACH PROJECTILES, AND IT'S GOT KERMIT'S INITIALS NEXT TO IT, ONE EACH PROJECTILE, NINE EACH SHELL CASINGS, TWO EACH BLOOD KITS, TWO EACH NINE MILLIMETER SHELL CASINGS AND ONE CLIP, THREE EACH PROJECTILES FROM AUTOPSY.

Q. UH-HUH.

A. OKAY. SO WE'VE GOT THE ONE PROJECTILE HERE, THE THREE HERE, AND THEN FOUR -- I'M NOT -- CAN WE FIND B-5 DASH B-8/B-9? I'M SORRY. B-5 THROUGH B-8. HOW IS THAT LISTED?

Q. YEAH. YEAH. YES, I THINK THAT'S HOW HE LABELED IT. THAT'S WHAT I'M CONFUSED ABOUT.

A. IF I CAN PHYSICALLY SEE IT, I CAN TELL YOU WHAT I CONSIDERED TO BE A PROJECTILE AND WHAT I CONSIDERED TO BE SHELL CASINGS. BUT ON THAT SHEET IT DOESN'T SAY IF IT CAME FROM OR .

Q. OKAY. ARE YOU AWARE THAT WHEN THE REPORT CAME BACK THERE WAS ACTUALLY ONE PROJECTILE THAT WAS DETERMINED TO NOT HAVE BEEN FIRED BY---

A. I DON'T KNOW ANY OF THE RESULTS FROM THE BALLISTICS TESTING AT ALL.

Q. OKAY. THIS IS INTERESTING BECAUSE THERE WAS ACTUALLY A BULLET FOUND THAT DIDN'T MATCH THAT GUN. IT WOULD HAVE BEEN IMPOSSIBLE TO HAVE BEEN FIRED FROM THAT HI-POINT.

A. OKAY.
Q. AND SO IT'S IMPORTANT TO ME---
A. WHERE WAS THAT LOCATED?
Q. WELL, THAT'S MY NEXT QUESTION.
A. I DIDN'T -- I DON'T -- ALL THAT I HAVE LISTED THAT I PHYSICALLY COLLECTED WERE NINE MILLIMETER C.B.C. LUGER SHELL CASINGS.
Q. SO YOU ---THE PROJECTILE YOU DON'T---
A. THE PROJECTILE -- AGAIN, I'M NOT A BALLISTICS EXPERT. LIKE I SAID, ONCE THE BULLET IS FIRED, IT COMES APART, AND THAT LITTLE PIECE THAT'S LEFT OVER IS WHAT I WOULD LABEL AS A PROJECTILE. THAT'S NOT SOMETHING I CAN LOOK AT AND SAY, OH, THAT'S OBVIOUSLY A NINE MILLIMETER OR IT'S OBVIOUSLY A .357. YOU ONLY KNOW THAT BASED ON THE SHELL CASINGS, AND IF YOU DON'T HAVE THE SHELL CASINGS WITH THE REST OF IT, YOU CAN'T -- I COULDN'T SAY THAT. MAYBE SOMEONE ELSE HAS THE KNOWLEDGE AND THE TRAINING TO DO THAT, BUT BASED ON THE BULLET COMING APART, IF IT DOESN'T HAVE THE SHELL CASING WITH THE STAMP ON THE BOTTOM SAYING WHAT IT IS - A NINE MILLIMETER, .45, .380 - YOU CAN'T SAY THAT BASED ON THE PIECES OF METAL THAT ARE CHARRED OR SHREDDED.
Q. OKAY. AND IF I CAN APPROACH. NOW, THIS IS YOUR INVESTIGATIVE REPORT; RIGHT?
A. THAT -- YEAH, THAT'S THE ONE I'VE GOT, ONE THROUGH THREE. YES, SIR.