

VOLUME I OF V

THE STATE OF SOUTH CAROLINA
In the Supreme Court

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

R. Scott Sprouse, Circuit Court Judge

Appellate Case No. 2019-000839

RECEIVED

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S.C. SUPREME COURT

Chris A. Liverman,

Petitioner,

v.

State of South Carolina,

Respondent

APPENDIX

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STATE OF SOUTH CAROLINA)
) COURT OF GENERAL SESSION
COUNTY OF RICHLAND) 2005-GS-40-6831, 6831

STATE OF SOUTH CAROLINA)
) VS.) TRANSCRIPT OF RECORD
)
CHRISTOPHER ANTHONY LIVERMAN)
) PARTIAL
DEFENDANT)

AUGUST 28, 2006
COLUMBIA, SOUTH CAROLINA

B E F O R E:

HONORABLE JAMES W. JOHNSON, JR., JUDGE.

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

BARNEY GIESE, SOLICITOR
MARGARET FENT, ASSISTANT SOLICITOR
KATHRYN LUCK CAMPBELL, ASSISTANT SOLICITOR
ATTORNEYS FOR THE STATE

ELIZABETH FRANKLIN, ASSISTANT PUBLIC DEFENDER
CAROLYN GRIPP, ASSISTANT PUBLIC DEFENDER
MAXWELL SCHARDT, ASSISTANT PUBLIC DEFENDER

JOY E. HOLSTON
OFFICIAL COURT REPORTER

I N D E X O F W I T N E S S E S

(IC) - DENOTES IN CAMERA
(DW) - DENOTES DEFENSE WITNESS
(SW) - DENOTES STATE'S WITNESS

J. HUNTLEY - JACKSON V. DENNO

DIRECT EXAMINATION BY MS. FENT: 26

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CROSS-EXAMINATION BY MS. FRANKLIN: 78

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RECROSS-EXAMINATION BY MS. FRANKLIN: 90

CERTIFICATE OF REPORTER 123

1 THE COURT: COUNSEL, HAVE YA'LL HAD AN OPPORTUNITY TO
2 COMPARE YOUR WITNESS LIST, SOME OF THEM I THINK YOU SAID
3 WERE GOING TO BE OVERLAPPING. CAN WE GO AHEAD AND HANDLE
4 THAT AT THIS TIME?

5 MS. FRANKLIN: YES, YOUR HONOR. MAY I APPROACH THE
6 BENCH?

7 THE COURT: SURE.

8 MS. FRANKLIN: I WILL GIVE YOU A COPY OF OUR WITNESS
9 LIST. THE ONES THAT ARE HIGHLIGHTED ARE THE ONES THAT WE
10 HAVE ON OUR LIST THAT THEY DO NOT HAVE ON THEIRS.

11 THE COURT: SO, THEY WOULD BE NEEDED TO BE ADDED TO
12 THE STATE'S LIST TO COVER EVERYONE, IS THAT RIGHT?

13 MS. FRANKLIN: YES, YOUR HONOR.

14 THE COURT: LET'S GO AHEAD AND GET ON THE RECORD
15 ARGUMENTS, STATEMENTS THAT WERE MADE PRIOR TO THE COURT
16 TAKING THE BENCH CONCERNING THE VOIR DIRE. I DO NOTE THAT
17 THE DEFENSE IS ASKING THAT A NUMBER OF QUESTIONS TO BE
18 ASKED BUT BASED ON THE RESPONSE OF PROSPECTIVE JURORS
19 PERMITTING VOIR DIRE BY COUNSEL, I AM NOT GOING TO PERMIT
20 COUNSEL TO DO THAT. I WILL HAVE FOLLOW-UP QUESTIONS OF
21 WHAT THEIR RESPONSES TO THE QUESTION WOULD BE. BUT WE
22 NEED TO SPECIFICALLY GET ON THE RECORD THE ISSUE
23 CONCERNING WHETHER THE COURT SHOULD IN SOME WAY ADVISE THE
24 JURY PANEL THAT GANGS MAY BE INVOLVED IN THE INCIDENT OR
25 IT IS ALLEGED THAT THERE IS GANG ACTIVITY INVOLVED IN THIS

1 SITUATION AND THE STATE WANTED THE COURT TO INQUIRE
2 WHETHER THE NATURE OF THE CHARGES AND THAT IS ONE OF THE
3 QUESTIONS, IS WHETHER THERE IS ANYTHING IN THE NATURE OF
4 THE ALLEGATIONS IN THE CASE THAT WOULD CAUSE ANY MEMBER OF
5 THE PANEL ANY PROBLEM AS SITTING AS AN IMPARTIAL JUROR.
6 THE DEFENSE, AS I UNDERSTAND IT, IS OBJECTING TO THE
7 MENTION OF ANY ALLEGED GANG ACTIVITIES. IS THAT CORRECT,
8 MS. FRANKLIN?

9 MS. FRANKLIN: YES, YOUR HONOR, IT IS.

10 THE COURT: AND, SOLICITOR, YOU HANDED UP STATE
11 VERSUS PRICE WHICH IS A 2006 SUPREME COURT CASE AND STATE
12 VERSUS MEANS WHICH IS A 1998 CASE. IT DOESN'T DEAL WITH
13 GANG RELATED ACTIVITY BUT THE PRICE CASE DOES. I WILL BE
14 GLAD TO HEAR FROM YOU.

15 MS. FENT: THANK YOU, YOUR HONOR. BASICALLY, THE
16 STATE V. MEANS ESTABLISHES JUST OUR GROUNDS THAT WE ARE
17 OFFERING THIS EVIDENCE, THE GANG MEMBERSHIP AND THE
18 ASSOCIATION OF IT IN TERMS OF PROVING MOTIVE IN THIS CASE.
19 WHILE IT IS NOT REQUIRED UNDER THE LAW WE ARE ALLOWED TO
20 PROVE THAT IT IS IN ESTABLISHMENT IN A HOMICIDE CASE. THE
21 STATE V. PRICE WHICH WAS TRIED HERE IN RICHLAND COUNTY, A
22 MURDER TRIAL INVOLVED A CONFRONTATION BETWEEN TWO RIVAL
23 GANGS, THE BLOODS AND THE CRIPS AND AN INVESTIGATOR WAS
24 ALLOWED TO TESTIFY AS AN EXPERT IN GANG AND GANG ACTIVITY.
25 HE TESTIFIED ABOUT THE HISTORY OF THE BLOODS AND THE

1 CRIPS, GANG ACTIVITY IN COLUMBIA, GANG CLOTHING, GANG HAND
2 SIGNALS. IN ADDITION, THE STATE ALSO INTRODUCED EVIDENCE
3 THAT WAS SEIZED FROM THE DEFENDANT'S APARTMENT, A PHOTO OF
4 THE DEFENDANT'S SHOWING GANG SIGNS, A NOTEBOOK IN
5 REFERENCE TO THE BLOODS AND THE RED CLOTHING THAT IS
6 SIGNIFICANT TO THE BLOODS. ALL OF THAT WAS FOUND PROPER
7 BY THE SUPREME COURT. THE ONLY THING IMPROPER THAT THE
8 SUPREME COURT FOUND WAS THAT THE INVESTIGATOR WAS ALLOWED
9 TO TESTIFY BASED ON HERESAY THAT THE DEFENDANT WAS A
10 MEMBER OF THE GANG. AND BUT THEY ALSO, FURTHER IN THE
11 OPINION, THAT ACTUALLY IT PROBABLY WOULD OF BEEN PROPER FOR
12 THE INVESTIGATOR TO TESTIFY AS AN EXPERT, THAT BASED ON
13 ALL OF THESE ITEMS, BASED UPON THE GANG SIGNS, THE PHOTO
14 OF THE GANG SIGNS, THE RED CLOTHING AND ALL OF THAT
15 INFORMATION AS AN EXPERT IN GANG ACTIVITY AND GANGS HE
16 COULD OF ACTUALLY TESTIFIED AS AN EXPERT. BUT IS NOT HOW
17 IT WAS PARTICULARLY OFFERED IN THAT CASE. AND IN
18 ADDITION, AND THE COURT SAID, IN REVIEWING ALL OF THE
19 OTHER EVIDENCE THAT WAS SUBMITTED, THE NOTEBOOK, ALL OF
20 THAT INFORMATION, THAT THE CONCLUSION, THE CONCLUSION
21 BASED UPON HERESAY INFORMATION WAS HARMLESS. IN THIS
22 PARTICULAR CASE, IN ORDER TO PROVE MOTIVE, IN ORDER TO
23 PROVE THE ASSOCIATION OF GANG MEMBERSHIPS WE ACTUALLY HAVE
24 THE FIRSTHAND KNOWLEDGE. WE HAVE WITNESSES THAT WILL
25 STATE THAT THE DEFENDANT HAS ADMITTED TO THEM THAT HE WAS

1 A MEMBER OF THE FOLK. AND THAT, AND THOSE AREN'T JUST A
2 SINGLE WITNESS, THERE ARE MULTIPLE WITNESSES. IN
3 ADDITION, WE ARE HOPING TO INTRODUCE EVIDENCE OF THE
4 TATTOOS ON HIS BODY THAT ARE INDICATIVE OF FROM A GANG
5 EXPERT THAT WILL EXPLAIN THE PITCHFORK, THE IGD WHICH IS
6 TATTOOED ON HIS HAND THAT HE IS A MEMBER OF THE INSANE
7 GANGSTER DISCIPLE WHICH IS A SET OF FOLK NATION. ALL OF
8 THIS GOES TO PROVE THAT HE IS, IN FACT, A MEMBER OF THE
9 FOLK. SO, NOT ONLY WOULD BE ABLE TO PRESENT AN EXPERT
10 THAT COULD TESTIFY TO ALL THE OTHER FACTS THAT WE INTEND
11 TO PRESENT THAT SHARE WITH HIS MEMBERSHIP BUT THE
12 DEFENDANT'S OWN ADMISSION HIMSELF AND THE MARKINGS ON HIS
13 OWN BODY THAT SHOW THAT MEMBERSHIP. BECAUSE GANG ACTIVITY
14 ARE CASES THAT WE PROSECUTED HERE ARE NOT ALLOWED GANG
15 ACTIVITIES, WE DON'T HAVE A LOT OF CASES TO BE ABLE TO
16 LOOK BACK ON. ALTHOUGH I DO BELIEVE THAT STATE V. PRICE
17 PROVIDES US SOLID GROUND TO GO FORWARD TO PROVE IT TO AND
18 TO ADMIT THAT EVIDENCE. BUT IN TERMS OF RESEARCHING INTO
19 JURISDICTION THAT HAVE BEEN DEALING WITH GANG ACTIVITY FOR
20 A DECADE, LOS ANGELES, CHICAGO, AND RESEARCHING THOSE
21 JURISDICTIONS THE CASE LAW IS OVERWHELMING THAT IT IS
22 ALLOWED TO BE PRESENTED IN TERMS OF PROVING MOTIVE IN THE
23 CASE. AND I PULLED AN ARTICLE JUST SO THE COURT CAN KIND
24 OF BRIEF WHAT OTHER JURISDICTIONS HAVE BEEN DOING IN TERMS
25 OF THE GANG ACTIVITY. I HAVE A COPY FOR THE DEFENSE AND

1 FOR YOUR HONOR. WHEN YOU LOOK THROUGH THIS ARTICLE IT IS
2 JUST OVERWHELMINGLY ON THE MAJORITY TO ALLOW IT TO COME IN
3 UNDER MOTIVE. IF YOU READ THROUGH THE ARTICLES THEY ARE
4 JUST PROBABLY A HANDFUL OF CASES THAT MENTION THAT THE
5 GANG ACTIVITY WAS ADMISSIBLE AND IT IS BECAUSE THE STATE
6 WAS OFFERING IT FOR OTHER REASONS. FOR INSTANCE, ONE WAS
7 IDENTITY, THERE WERE, EXCUSE ME, KNOWLEDGE OF HOW TO WORK
8 A MOTORCYCLE. AND THEY WERE TRYING TO INTRODUCE EVIDENCE
9 THAT HE WAS A HELLS ANGELS SO THEREFORE HE WOULD OF KNOWN
10 HOW TO OPERATE THE MOTORCYCLE. BUT VIRTUALLY EVERY SINGLE
11 CASE THAT DISCUSSED, THE STATE WAS OFFERING IT TO PROVE
12 MOTIVE OF THE HOMICIDE IT WAS ALLOWED IN. AND THIS IS NOT
13 ONLY FROM CHICAGO AND LA, BUT IT IS FROM THE JURISDICTION
14 ALL ACROSS THE UNITED STATES. IN ADDITION, THE COURT
15 CLEARLY SAID IN MANY OF THEIR OPINIONS THAT ALTHOUGH GANGS
16 ARE REGARDED WITH MUCH DISFAVOR, INDICATING THAT THE
17 DEFENDANT WAS A GANG MEMBER OR INVOLVED IN GANG RELATED
18 ACTIVITY, WILL GENERALLY BE ADMITTED IF IT IS BY THE
19 MOTIVE OR IN OTHERWISE INEXPLICABLE ACT. AND THAT
20 LANGUAGE IS JUST SEEN AGAIN AND AGAIN AND AGAIN, IT SAYS
21 IT IS ALLOWED TO ESTABLISH MOTIVE FOR SEEMINGLY UNPROVOKED
22 INEXPLICABLE KILLING. IN ADDITION TO MOTIVE THAT THE CASE
23 IS, AS I SAID, PUTS US ON SOLID GROUNDS THAT THIS IS
24 ADMISSIBLE. IT ALSO TALKS ABOUT RES GESTAE, THAT THERE
25 ARE FACTS INVOLVED IN THE CASE THAT JUST CAN'T BE, IF YOU

1 TAKE THOSE FACTS OUT THE WHOLE ENTIRE INCIDENT IS
2 OCCURRING IN A VACUUM AND IT HAS TO BE PRESENTED IN TERMS
3 OF THE RELEVANT PART OF THE RES GESTAE. SPECIFICALLY THEY
4 WERE TALKING ABOUT IN SOME OF THE CASES ABOUT WORDS THAT
5 ARE EXCHANGED IMMEDIATELY PRIOR TO THE SHOOTING. AND IN
6 THIS CASE WE INTEND TO PRODUCE EVIDENCE THAT JUST PRIOR TO
7 THE SHOOTING HE YELLED OUT THE NAME OF HIS GANG.
8 BASICALLY YELLED THE LANGUAGE, PARDON ME, YOUR HONOR,
9 YELLED THE LANGUAGE, FOLK BITCH, MEANING KIND OF LIKE,
10 TAKE THAT, YOU KNOW, YELLING THE NAME OF THE GANG. YOU
11 CANNOT TAKE THESE FACTS OUT OF THE ENTIRE INCIDENT AND
12 WHAT HAPPENED. BASICALLY, THE FACTS OF THE CASE THAT WE
13 HAVE HERE ARE THE FACT THAT THERE WAS AN ONGOING RIVALRY
14 BETWEEN THE DEFENDANT AND THE BLOODS, HE WAS WELL
15 ENTRENCHED IN THE FOLK NATION GANG AGAINST THE BLOODS.
16 THERE WAS A PARTICULAR INDIVIDUAL THAT LIVES ON TS MARTIN
17 AND THAT IS HOW THEY WENT TO LOOK FOR OVER ON TS MARTIN.
18 THEY YELLED OUT HIS NAME, THEY WERE YELLING GANG SIGNS,
19 THEY WERE THROWING GANG SIGNS, THEY WERE WEARING THE
20 COLORS OF THEIR GANG AND THERE IS GOING TO BE TESTIMONY
21 ABOUT HIM PUTTING THOSE COLORS ON HIM, TESTIMONY ABOUT
22 GOING TO DO A LIFT, WALKING OVER THERE ALL IN THEIR GANG
23 COLORS, WALKING FOR, ASKING FOR, DO THEY KNOW WHERE THE
24 SLOBS ARE. SLOBS MEANING, A MEMBER OF THE BLOODS WHERE
25 PEOPLE THAT DISRESPECT THEIR GANG, FOLK NATION GANG.

1 PULLING OUT THEIR WEAPONS AND YELLING, ARE YOU A SLOB, DO
2 YOU KNOW WHERE THEY ARE. WHEN IT IS RESPONDED, THERE
3 AREN'T ANY AROUND HERE, THAT IS WHEN THE SHOOTING
4 HAPPENED. YOU JUST CANNOT SEPARATE OUT, YOU KNOW, HOW THE
5 ENTIRE SITUATION UNFOLDS FROM WHY THEY WENT OVER THERE TO
6 DO THIS KILLING. IN ADDITION, YOUR HONOR, LOOKING THROUGH
7 THE ARTICLE, (PHONETIC), THERE IS ALSO DISCUSSION ABOUT,
8 NOT ONLY IN TERMS OF MOTIVE AND RES GESTAE BUT ALSO IN
9 TERMS OF ILL WILL AND MALICE. SOLIDLY FOR MOTIVE BUT IN
10 ADDITION BUT FOR ALL OF THOSE OTHER REASONS WE ARE ASKING
11 TO BE ALLOWED TO HAVE A GANG ACTIVITY MENTIONED.

12 THE COURT: ALL RIGHT, MS. FRANKLIN.

13 MS. FRANKLIN: YES, YOUR HONOR, MAY IT PLEASE THE
14 COURT. I WOULD POINT OUT TO THE COURT THAT THE GANG
15 MEMBERSHIP MAY BE RELEVANT BUT IT IS NOT HOWEVER AN
16 ELEMENT OF THE CRIME, IT IS NOT SOMETHING THAT THE STATE
17 ABSOLUTELY HAS TO INTRODUCE IN ORDER TO PROVE THEIR CASE.
18 I BELIEVE JUST HEARING ON THE RECORD ABOUT THESE OTHER
19 JURISDICTIONS, I DON'T KNOW THE SURROUNDING CIRCUMSTANCES
20 IN THOSE OTHER JURISDICTIONS, I DON'T KNOW IF THESE OTHER
21 JURISDICTIONS, WHEN THEY WERE CALLING THESE CASES, THAT
22 THOSE CASES HAVE THE SAME AMOUNT OF PUBLICITY THAT THIS
23 CASE HAS GOTTEN. JUST YESTERDAY, YOUR HONOR, ON THE FRONT
24 PAGE OF THE STATE NEWSPAPER THIS ARTICLE WAS REFERENCED.
25 THE ONLINE ISSUE OF THE STATE NEWSPAPER, ALSO HAD LISTED

1 ARTICLES FROM 2004. THIS WAS THE HIGH PROFILE CASE IN
2 2004, IT CONTINUES TO BE A HIGH PROFILE CASE. IN
3 ADDITION, THERE ARE ALL OF THESE OTHER CIRCUMSTANCES
4 INVOLVING GANGS JUST RECENTLY IN THE PAPER. AND I BELIEVE
5 THAT THE AUTHOR OF THE STATE NEWSPAPER ARTICLE IS ALSO
6 REFERENCING THIS OTHER ASSOCIATED GANG RELATED EVENTS,
7 OTHER MURDERS, EVEN, YOUR HONOR. I BELIEVE THAT IN THIS
8 PARTICULAR CIRCUMSTANCE THAT THE DISCUSSION OF GANG
9 MEMBERSHIP OF MY CLIENT'S ASSOCIATION OR MEMBERSHIP WITH
10 ANY PARTICULAR GANG WOULD LIKELY HAVE THE EFFECT OF
11 INFLAMING THE JURY. I THINK THAT WE NEED TO CONSIDER THIS
12 PARTICULAR CASE AND MY CLIENT IN THIS PARTICULAR
13 CIRCUMSTANCE AND I WOULD ASK THAT YOU RULE THAT ANY
14 DISCUSSION OF GANGS BE RULED INADMISSIBLE IN THIS CASE.
15 THE MENTION IS NOT SOMETHING THAT THEY HAVE TO PROVE, THEY
16 ARE CAPABLE OF PROVING THEIR CASE, IF THEY CAN, WITHOUT
17 REFERENCE TO GANG ACTIVITY.

18 THE COURT: ALL RIGHT, ANY RESPONSE, MS. FENT?

19 MS. FENT: NO, YOUR HONOR.

20 THE COURT: ALL RIGHT, BASED ON WHAT COUNSEL HAS
21 ARGUED AND INDICATED THE STATEMENTS OR THE EVIDENCE WOULD
22 BE, I FOUND THAT OF THE STATE V. PRICE THAT THE MENTION,
23 THE DISCUSSION OF GANG, GANG ACTIVITY WOULD BE ADMISSIBLE.
24 I HAVE CONDUCTED A 403 ANALYSIS AND FIND THAT THE
25 PROBATIVE VALUE OF THIS POTENTIAL TESTIMONY DOES OUTWEIGH

1 ANY DANGER OF UNFAIR PREJUDICE OR OTHER FACTORS INDICATED
2 IN 403. AND WHAT I WOULD INTEND TO DO BEFORE ASKING THEM
3 OF ANYTHING ABOUT THE NATURE OF THE CHARGES, WOULD CAUSE A
4 PROBLEM WITH ANY JUROR, IS MAKE A STATEMENT THAT THERE MAY
5 BE TESTIMONY OR EVIDENCE CONCERNING GANG ACTIVITY IN THIS
6 SITUATION. THAT IS ALL I AM GOING TO SAY. AND THEN I
7 WOULD ASK THEM ABOUT ANYTHING ABOUT THE NATURE OF THE
8 CHARGES THAT WOULD CREATE ANY PROBLEM. DEPENDING ON WHAT
9 THE RESPONSES TO THE QUESTIONS THAT THE COURT GOES OVER
10 WITH THE JURORS MIGHT BE THAT THERE WILL BE SOME FOLLOW-UP
11 QUESTIONS. WHETHER I DO THAT PRIVATELY IN THE BACK OR DO
12 THAT IN THE COURTROOM, I WILL JUST HAVE TO SORT OF PLAY IT
13 BY EAR AS WE GO. ALL RIGHT. IS THERE ANYTHING ELSE WE
14 NEED TO GET ON THE RECORD OR TO TAKE CARE OF BEFORE WE DO
15 THE JURY SELECTION?

16 MS. CAMPBELL: HAS ANY JUROR BEEN REPRESENTED BY ANY
17 OF THE ATTORNEYS IN THE PUBLIC DEFENDERS OFFICE.

18 THE COURT: I WILL BE ASKING THAT AS IT RELATES TO
19 ALL ATTORNEYS.

20 MS. CAMPBELL: THANK YOU, SIR.

21 THE COURT: ANYTHING ELSE, STRIKES WILL BE 10 AND 5.
22 LET'S GET THE PANEL UP.

23 (WHEREUPON, A JURY WAS SELECTED IN THE TRIAL OF THE
24 CASE AT APPROXIMATELY 12:25 P.M. AND EXCUSED FOR A
25 LUNCH BREAK.)

1 (WHEREUPON, A LUNCH BREAK WAS TAKEN.)

2 THE COURT: ALL RIGHT, PRETRIAL MATTERS, I HAVE GOT A
3 LIST OF MOTIONS FROM THE DEFENSE. WILL THE STATE HAVE ANY
4 PRETRIAL MATTERS?

5 MS. FENT: NO, YOUR HONOR, WE ARE, WE WOULD LIKE TO
6 DURING THE TRIAL, WE WILL BE ELICITING INFORMATION
7 REGARDING THE TATTOOS. SO AT SOME POINT WE WOULD JUST
8 WANT TO COVER THOSE PRIOR TO OPENING STATEMENTS.

9 THE COURT: ALL RIGHT, MS. FRANKLIN, I WILL TAKE THEM
10 IN WHATEVER ORDER YOU WOULD LIKE TO.

11 MS. FRANKLIN: YOUR HONOR, WE WILL START WITH THE
12 MOTION FOR THE ONE MONTH CONTINUANCE DUE TO PRETRIAL
13 PUBLICITY.

14 THE COURT: ALL RIGHT.

15 MS. FRANKLIN: AND I WOULD LIKE TO HAND OVER TO THE
16 STATE AND ALSO UP TO YOUR HONOR, I PULLED THESE OFF THE
17 STATE.COM YESTERDAY, YOUR HONOR. YESTERDAY THE STATE
18 NEWSPAPER RAN A STORY ON THIS CASE, SPECIFICALLY ON THIS
19 CASE, IT WENT ON THE FRONT PAGE OF THE STATE. IT WAS
20 TITLED GANGS AND SPOTLIGHT AS MURDER TRIAL OPENS. THE
21 ARTICLE INCLUDED A MUG SHOT OF CHRISTOPHER LIVERMAN AND OF
22 COURSE THAT WOULD BE CLEARLY INADMISSIBLE AT TRIAL.
23 THROUGHOUT THE ARTICLE THERE IS CONSTANT REITERATION OF MY
24 CLIENT'S REPORTED GANG. THE BURDEN IS ON THE STATE TO
25 PROVE SUCH MEMBERSHIP AS THEY CHOOSE AND I BELIEVE THAT

1 THE ARTICLE HAS THE AFFECT OR BURDEN SHIFTING, YOUR HONOR.
2 THE ARTICLE ALSO STATED THAT MY CLIENT'S POSSIBLE PRISON
3 EXPOSURE, 30 YEARS TO LIFE ON EACH COUNT. AND STATED THAT
4 THE SOLICITORS OFFICE WILL NOT BE SEEKING THE DEATH
5 PENALTY. I DON'T KNOW THAT THE JURORS WERE AWARE THAT
6 THIS MIGHT OF BEEN A DEATH PENALTY ELIGIBLE CASE. THE
7 ARTICLE ALSO REFERENCES MORE OTHER MURDERS IN CONNECTION
8 WITH GANG MEMBERSHIP, CONNECTING MY CLIENT WITH THOSE
9 ACTIVITIES EVEN THOUGH HE HAS BEEN INCARCERATED ABOUT THIS
10 TIME, YOUR HONOR. AND THEN THE ARTICLE INCLUDES
11 STATEMENTS, I GUESS, OFFICER CHRIS WHITE, A COLUMBIA
12 POLICE INVESTIGATOR WHO HAS AS FAR AS I CAN TELL
13 ABSOLUTELY NO CONNECTION WITH THIS CASE. HE WRITES ABOUT
14 THE BETHEL BISHOP GANG MEMBERS, BETHEL BISHOP HAPPENS TO
15 BE WHERE MY CLIENT IS FROM. SAID THAT GANGS GOALS ARE TO
16 MAKE MONEY, AND THAT INVOLVES DRUG DEALING AND SELLING
17 GUNS. THAT THEY WANT TO CONTROL THE CITY BY INTIMIDATION
18 AND FEAR AND VIOLENCE. AND THAT GANG MEMBERS, WHICH THE
19 ARTICLE HAS ALREADY STATED MY CLIENT'S PART, ENGAGE IN
20 PURSE SNATCHING AND STEALING CARS. BY ASSOCIATION OF THIS
21 INVESTIGATOR SORT OF IMPLICATES MY CLIENT OF THESE OTHER
22 SERIOUS CRIMES. I THINK THE PUBLICATION OF THIS ARTICLE
23 ON THE VERY DAY BEFORE WE WERE TO PICK A JURY WOULD DENY
24 MY CLIENT'S RIGHT OF DUE PROCESS. I DON'T BELIEVE THAT HE
25 CAN HAVE A FAIR TRIAL WITH THIS SORT OF PRETRIAL

1 PUBLICITY. AND IT ASSERTS CATEGORICALLY THAT MY CLIENT IS
2 A GANG MEMBER AND ASSOCIATES THAT MEMBERSHIP WITH OTHER
3 CRIMINAL ENTERPRISES. AND THE ARTICLE ASSOCIATES MY
4 CLIENT WITH OTHER MURDERS. ADDITIONALLY, THIS WAS
5 PUBLISHED ON A SUNDAY NEWSPAPER, THIS WAS NOT A MONDAY OR
6 A TUESDAY, THIS IS THE DAY THAT IS THE GREATEST
7 CIRCULATION, THE DAY THAT MOST PEOPLE INCLUDING MYSELF
8 SORT OF SIT AROUND AND READ THE PAPER FROM FRONT TO BACK.
9 I THINK WE MIGHT HAVE A DIFFERENT ISSUE, IN FACT, THIS
10 HAPPENED ON A MONDAY OR TUESDAY BUT IT WASN'T, IT WAS THE
11 SUNDAY PAPER. BUT THEN IT GETS A LITTLE BIT WORSE, YOUR
12 HONOR. AT THE STATE.COM THERE ARE LINKS TO OLDER ARCHIVE
13 ARTICLES AND I THINK THAT THIS RAISES EVEN MORE ISSUES.
14 THE ARTICLE FROM AUGUST THE 28TH ARE FOR, WHICH I HANDED
15 UP TO YOUR HONOR, ENTITLED GIRL TWELVE, BOY SIXTEEN, SLAIN
16 IN CITY. THE RECORDS IS ASSOCIATED WITH GANGS AND THEN IT
17 RELATES HIS RAP SHEET, THE GRAND LARCENY, PROBATION, THAT
18 HE HAD PICKED UP A CHARGE OF CRIMINAL SEXUAL CONDUCT WITH
19 A MINOR. AGAIN, THIS IS CLEARLY IS INADMISSIBLE
20 TESTIMONY, YOUR HONOR. IT ALSO CAME TO MY ATTENTION ON
21 THE 11:00 O'CLOCK NEWS THERE IS ANOTHER STORY AND I
22 BELIEVE THEY RAN FOOTAGE FROM BACK IN AUGUST OF 2004. AND
23 I AM AWARE OF MORE COVERAGE RIGHT NOW, I THINK, ON 98.1
24 RADIO STATION, SOMEBODY OR WAS JUST A FEW MINUTES AGO
25 MAKING, OVER LUNCH TIME, DISCUSSING GANG ISSUES AGAIN.

1 AND ALL OF THIS IS BEING, WORKS TOGETHER IN ORDER TO DENY
2 MY CLIENT A RIGHT TO A FAIR TRIAL. I THINK THERE IS, JUST
3 THINK THERE HAS BEEN SO MUCH IN THE NEWS LATELY ESPECIALLY
4 IN CONNECTION WITH THIS. THIS IS THE TWO-YEAR ANNIVERSARY
5 OF THIS TRAGEDY, YOUR HONOR. THIS IS WHEN THE SOLICITOR'S
6 INDICTED THIS CASE. I BELIEVE THAT THE PUBLICITY IS
7 SOMEWHAT RECIPROCAL AND BASED ON THAT WE ARE RESPECTFULLY
8 REQUESTING YOUR HONOR TO GRANT A ONE MONTH CONTINUANCE AT
9 THIS POINT.

10 THE COURT: ALL RIGHT.

11 MS. FENT: THANK YOU, YOUR HONOR. I BELIEVE WE
12 REALLY HANDLED THE SITUATION IN JURY SELECTION. THE
13 ENTIRE PANEL WAS ASKED IF THEY HAD HEARD ANYTHING IN THE
14 NEWS, IF THEY HAVE READ ANYTHING IN THE PAPER, IF THEY
15 HAVE SEEN ANYTHING ON TV. I THINK WHAT IS OF NOTE IS, ALL
16 THE JURORS, THERE WAS JUST A HANDFUL, I THINK THERE WERE
17 FIVE JURORS THAT RAISED THEIR HANDS AND YOU INDIVIDUALLY
18 ASKED THEM QUESTIONS ABOUT WHAT THEY READ, WHAT THEY
19 REMEMBERED. THOSE INDIVIDUALS STATED THAT, SOME OF THEM
20 SAID THEY REALLY JUST LOOKED AT THE TITLE, DIDN'T GLANCE
21 AT THE ARTICLE AND THEY COULD BE FAIR AND IMPARTIAL ON
22 THIS JURY. I BELIEVE ONE OF THE JURORS SAID THAT SHE
23 DIDN'T THINK SHE COULD BE FAIR AND YOUR HONOR EXCUSED THAT
24 JUROR. SO AT THIS POINT BASICALLY EVERYTHING HAS BEEN
25 TAKEN CARE OF. AND THEY HAVE BEEN NOW INSTRUCTED NOT TO

1 WATCH THE TV, NOT TO READ THE NEWSPAPER AND TO BASE THEIR
2 DECISION SOLELY ON THE FACTS IN THE CASE. I THINK THE ONE
3 MONTH CONTINUANCE OR WHATEVER CONTINUANCE WOULD ONLY
4 ACTUALLY PROBABLY AGGRAVATE THE SITUATION, THESE JURORS
5 WOULD NOW BE SENT OUT THERE WITHOUT ANY INSTRUCTION, WITH
6 NO CONTROL AND THE ARTICLES WHICH CONTINUE FOR WHATEVER
7 PERIOD UNTIL THE TRIAL COMES BACK. AND WE WOULD BE BACK
8 IN THE SITUATION THAT, ARTICLES IN THE PAPER. SO AT THIS
9 POINT YOU HAVE QUESTIONED THEM, THEY SAID THEY COULD BE
10 FAIR.

11 THE COURT: MS. FRANKLIN.

12 MS. FRANKLIN: LET ME RESPOND JUST BRIEFLY, YOUR
13 HONOR. I AM GOING TO POINT OUT THIS IS GOING TO BE AT
14 LEAST A ONE WEEK TRIAL, POSSIBLY A TWO WEEK TRIAL. AND AT
15 THIS POINT THE EXPOSURE IS EVERYWHERE. IT IS ON THE
16 RADIO, IT IS ON THE NEWS. MY FEAR THAT SOME OF THESE
17 JURORS ARE GOING TO BE UNINTENTIONALLY TO THIS MATERIAL
18 AND THEY WILL BE TRYING TO AVERT THEIR EYES AND NOT READ
19 IT. BUT I THINK IT IS STILL GOING TO HAVE A PREJUDICIAL
20 EFFECT ON THEM, YOUR HONOR. THIS IS RIGHT NOW THE
21 TWO-YEAR ANNIVERSARY AND A MONTH FROM NOW IT WILL NOT BE
22 THE TWO-YEAR ANNIVERSARY, I WOULD EXPECT SOME OF THIS TO
23 DIE DOWN. I WOULD JUST RENEW MY REQUEST, YOUR HONOR.

24 THE COURT: ALL RIGHT, I AM GOING TO DENY THE MOTION
25 FOR THE CONTINUANCE. I THINK THE CONCERNS, THE POTENTIAL

1 PROBLEMS THAT ARE ADDRESSED AS THE BASIS FOR THE MOTION
2 HAVE BEEN HANDLED THROUGH VOIR DIRE. BASED ON THE
3 PUBLICITY OF THE CASE, APPARENTLY HAS RECEIVED, I WILL
4 ANTICIPATE IT WILL CONTINUE RECEIVING PUBLICITY THROUGHOUT
5 THE TRIAL AND I WILL DEAL WITH IT AS BEST I CAN, THE SAME
6 AS I DO WITH OTHER CASES THAT MAY GENERATE PUBLICITY. IF
7 IT BECOMES, FROM MY PROSPECTIVE, AN UNHANDABLE SITUATION
8 THEN WE WILL HAVE TO DEAL WITH IT AT THAT TIME. BUT AT
9 THIS TIME I WILL DENY THE MOTION FOR A CONTINUANCE. ALL
10 RIGHT.

11 MS. FRANKLIN: I GUESS WE CAN GO INTO THESE MOTIONS--

12 THE COURT: IN THE ORDER THAT YOU HAVE GOT THEM?

13 MS. FRANKLIN: I WOULD JUST EXPECT THAT MOTIONS TWO
14 AND THREE TO TAKE SOME TIME. WE ARE ALSO MAKING A MOTION
15 TO EXCLUDE THE 911 TAPE. OUR ARGUMENT, THERE IS A 911
16 TAPE OF VARIOUS CALLS MAKING TO LAW ENFORCEMENT THAT
17 EVENING AS THIS INCIDENT WAS PROGRESSING, YOUR HONOR. OUR
18 ARGUMENT IS THAT IT IS OVERLY PREJUDICIAL, THERE ARE NO
19 ISSUES OF IDENTIFICATION PRESENT ON THE TAPE. THERE IS
20 NOTHING ON THE TAPE THAT SAYS THAT MY CLIENT WAS THE
21 PERSON WHO IS DOING IT. SO, IT IS NOT USEFUL FOR THAT
22 PARTICULAR REASON. IT IS EXTREMELY EMOTIONAL, IT IS
23 REALLY HEART WRENCHING. IT IS NOT, IN MY MIND YOUR HONOR,
24 THE STATE'S CASE, I DO BELIEVE IT WILL HAVE THE ABILITY OR
25 WILL IN FACT BE INFLAMING THE PASSION OF THE JURY. UNDER

1 403 BALANCING, YOUR HONOR, WE WOULD ARGUE THAT THE
2 PROBATIVE VALUE IS NOT OUTWEIGHED BY ITS PREJUDICIAL
3 EFFECT AND WE WOULD BE MOVING TO HAVE THAT EXCLUDED.

4 THE COURT: ALL RIGHT, SOLICITOR.

5 MS. FENT: WELL, YOUR HONOR, IF THE ENTIRE ARGUMENT
6 IS JUST BASED ON 403, THEN BASICALLY EVERY PIECE OF
7 EVIDENCE THAT WE INTRODUCE IN A TRIAL IS PREJUDICIAL. IF
8 IT IS NOT IT IS IRRELEVANT AND IT DOESN'T COME IN. THAT
9 IS WHAT PREVENTS US FROM PRESENTING EVIDENCE. THESE ARE
10 PRESENT SENSE IMPRESSIONS, THEY ARE ESTABLISHING A
11 TIMEFRAME, ESTABLISHING, YOU KNOW, A LOT OF DIFFERENT
12 FACTS, NOT JUST FOR PURPOSES OF, YOU KNOW, EMOTIONALLY
13 PERSUADING THE JURY. IN FACT, A COUPLE OF THE CALLS, THEY
14 AREN'T EVEN, THEY ARE NOT PEOPLE THAT ARE EVEN NEAR THE
15 VICTIMS OR NEAR THE SHOOTINGS, THERE ARE PEOPLE THAT ARE
16 OBSERVING OTHER THINGS ABOUT WHAT IS GOING ON IN AND
17 AROUND THE STREET. SO, IT IS NOT LIKE YOU, IT IS A TAPE,
18 SOMEONE STANDING OVER THE VICTIM OR THE VICTIMS THEMSELVES
19 SCREAMING.

20 THE COURT: HOW MANY TAPES ARE THERE?

21 MS. FENT: I BELIEVE THERE ARE FOUR OR FIVE TAPES AND
22 THERE IS A TAPE AT 9:10, THE SHOOTING ACTUALLY HAPPENED
23 ABOUT 9:40. THERE IS A CASE OF A PRIOR CALL OF ABOUT 9:10
24 WHERE A SECOND GROUP, ANOTHER GROUP OF INDIVIDUALS COME
25 OVER TO TS MARTIN AND SAID, THEY ARE CALLING 911 TO REPORT

1 THAT. AND THEN THERE IS A PHONE CALL OF, I BELIEVE IT IS
2 THE MAIN HOUSEHOLD. SO BASICALLY NOW AT 9:40 PEOPLE HAVE
3 RETURNED, THEY ARE STANDING IN FRONT OF THE HOUSE, SOMEONE
4 HAD THE GUN AND IT IS BASICALLY WALKING THAT PERSON
5 THROUGH, HOW MANY PEOPLE HAVE A GUN, WHAT ARE THEY
6 WEARING, YOU KNOW, WHERE ARE THEY STANDING. AND SHE IS
7 SAYING, PLEASE SEND THE POLICE AND THEN AT SOME POINT SHE
8 STARTED SAYING THEY ARE SHOOTING, THEY ARE SHOOTING, THEY
9 ARE SHOOTING. PLEASE BRING SOMEONE. THERE IS A TAPE OF
10 ANOTHER WOMAN WHO BASICALLY AS SHE IS DRIVING HOME BEING
11 ONTO TS MARTIN PASSES THE INDIVIDUALS THAT ARE WALKING,
12 SHE GOES INTO HER HOME AND AS SHE WENT INTO HER HOME SHE
13 HEARS THIS SHOT SO SHE IMMEDIATELY GRABS THE PHONE AND
14 SAYS, YOU NEED TO COME DOWN HERE, YOU KNOW, THERE ARE
15 SHOTS OUTSIDE, I AM NOT GOING OUTSIDE. THERE IS A FINAL
16 TAPE OF AN UNIDENTIFIED MAN AND HE DOESN'T SEEM TO REALLY
17 KNOW ANYTHING. HE IS JUST BASICALLY SAYING, HEY, THERE
18 ARE SOME SHOTS AND YOU NEED TO SEND SOMEBODY. I DON'T
19 EXPECT THAT WE ARE INTRODUCING THAT TAPE OF THE
20 UNIDENTIFIED MAN THAT IS SAYING, HEY, YA'LL NEED TO SEND
21 SOMEBODY. THAT IS ABOUT IT. BUT, I MEAN, THE TAPES ARE
22 THE ACTUAL EVENTS THAT WERE TAKING PLACE. AND THE CALLERS
23 CAN IDENTIFY THEIR VOICES AND THEY ARE RELEVANT TO ACTUAL
24 EYEWITNESSES WATCHING IT ALL HAPPEN, WATCHING IT ALL
25 UNFOLD.

1 THE COURT: I WOULD ASSUME THOSE TAPES ARE IN A FORM
2 WHERE I CAN TAKE THEM AND LISTEN TO THEM EITHER TONIGHT OR
3 IN THE MORNING?

4 MS. FENT: ABSOLUTELY.

5 THE COURT: THEN I WILL HAVE TO DO THAT BEFORE I CAN
6 RULE ON THE MOTION. AT THE END OF THE DAY IF YOU WILL GET
7 THOSE TO ME AND I WILL LISTEN TO THEM AND RULE ON THIS
8 MOTION TOMORROW.

9 MS. FRANKLIN: YOUR HONOR, WE ALSO HAVE A MOTION TO
10 SEQUESTER WITNESSES IN THIS CASE.

11 THE COURT: WHICH ONE TO SEQUESTER, I DIDN'T HEAR
12 WHAT YOU SAID.

13 MS. FENT: I AM SORRY, YES YOUR HONOR, A MOTION TO
14 SEQUESTER WITNESSES.

15 THE COURT: ANY OBJECTION TO THAT, SOLICITOR, OTHER
16 THAN YOUR, YOU HAVE GOT YOUR CHIEF INVESTIGATOR WHO OF
17 COURSE CAN STAY IN HERE AND I DON'T KNOW WHO ELSE YOU
18 WOULD WANT.

19 MS. FENT: THE VICTIM AND IN THAT CASE THAT WOULD
20 INCLUDE THE IMMEDIATE FAMILY OF THE VICTIMS, C.D.
21 AND T.M. WE ARE EXPECTING TO CALL
22 C.D.'S FATHER AND POSSIBLY T.M.'S
23 BROTHER, BUT THEY ARE IMMEDIATE FAMILY. AND I AM SORRY,
24 AND BRIAN DIXON, C.D.'S BROTHER. BUT THEY ARE
25 IMMEDIATE FAMILY AND I AM ASKING THAT THEY BE ALLOWED TO

1 COME IN HERE AND STAY AND WATCH THE TRIAL.

2 THE COURT: ALL RIGHT.

3 MS. FRANKLIN: YOUR HONOR, IF THEY ARE GOING TO DO
4 THAT I WOULD RESPECTFULLY REQUEST THAT YOUR HONOR ORDER
5 THAT THEY BE THE FIRST WITNESSES TO TESTIFY THEN.

6 THE COURT: WELL, UNDER THE VICTIMS RIGHTS THEY ARE
7 ENTITLED TO BE PRESENT DURING THE TRIAL. I WOULD ORDER
8 THEM, I DON'T IF THEY ARE HERE NOW OR NOT BUT I WOULD ALSO
9 RELY ON COUNSEL TO ADVISE THEM THAT WHILE THAT ARE NOT
10 SEQUESTERED THEY ARE NOT PERMITTED TO DISCUSS THEIR
11 TESTIMONY WITH ANY OTHER WITNESS AT ANY TIME BEFORE OR
12 AFTER THEY TESTIFY OR SHARE THAT WITH ANY OTHER WITNESS
13 WHO MAY BE SEQUESTERED. THAT WOULD BE IMPROPER.

14 MS. FENT: AND WE ARE ASKING ALSO THAT THE
15 REQUESTED--

16 THE COURT: AND THAT WOULD APPLY TO ALL WITNESSES.
17 AND JUST SO WE ARE ON THE SAME PAGE, I KNOW I TRY TO SAY
18 THIS IN EVERY CASE AND IT PERTAINS PRIMARILY TO THE
19 STATE'S WITNESSES. IF YOU HAVE A WITNESS WHO TESTIFIES
20 AND THEN THEY SIT THROUGH THE REST OF THE TESTIMONY AND
21 THEN YOU WANT TO CALL IN REPLY OR REBUTTAL, IF THEY DON'T
22 FALL WITHIN ONE OF THE EXCEPTIONS YOU COULD NOT CALL THEM.
23 ANY CHANCE OF THAT THEY NEED TO GO OUT OF THE COURTROOM
24 AFTER THEY TESTIFY. JUST SO THERE IS NO PROBLEM. I DO
25 NOT KNOW, WE HAVE GOT A LIST OF NUMEROUS WITNESSES, I HAVE

1 NO IDEA WHO THEY ARE, I HAVE TO RELY ON COUNSEL TO KEEP UP
2 WITH YOUR WITNESSES. AND I WOULD ASK THAT IF YOU SEE A
3 WITNESS IN HERE AND YOU THINK IT IS A DEFENSE WITNESS OR A
4 STATE'S WITNESS BEFORE YOU START ASKING QUESTIONS AND THEY
5 HEAR THE TESTIMONY, BRING THAT TO THE OTHER SIDES
6 ATTENTION SO THEY CAN GET THEM OUT OF HERE.

7 MS. FRANKLIN: THANK YOU, YOUR HONOR. WE ALSO HAVE A
8 MOTION TO SETTLE ANY OF DEFENSE RECORDS, RAP SHEETS.

9 THE COURT: DO YOU HAVE THOSE AT THIS TIME, MS. FENT?

10 MS. FENT: I BELIEVE I HAVE ALL THEIR RAP SHEETS
11 EXCEPT FOR ONE, EVERYBODY ELSE I BELIEVE ARE IN HERE AND
12 I WILL BE HAPPY TO SIT DOWN AND GO OVER THEM.

13 THE COURT: WHY DON'T YOU AT THE END DAY, YA'LL SIT
14 DOWN AND GO THROUGH THOSE AND THEN I CAN HANDLE ANYTHING
15 THAT YOU DISAGREE ON FIRST THING TOMORROW.

16 MS. FRANKLIN: AND WE MAKE A MOTION TO RENEW
17 DISCOVERY THIS MORNING.

18 THE COURT: IS THERE ANY NEW DISCOVERY, ANY DISCOVERY
19 THAT YOU ARE AWARE OF THAT HAS NOT BEEN PROVIDED TO THE
20 DEFENSE AT THIS TIME?

21 MS. FENT: NO, YOUR HONOR.

22 THE COURT: IF IT BECOMES AVAILABLE OR YOU SEE THAT
23 THERE IS SOMETHING THAT THEY HAVE NOT GIVEN TO YOU BRING
24 THAT TO MY ATTENTION AND WE WILL DEAL WITH IT.

25 MS. FRANKLIN: THANK YOU, YOUR HONOR. AGAIN, I WILL

1 MAKE A MOTION TO EXCLUDE ANY REFERENCES TO GANG
2 AFFILIATION OR MEMBERSHIP FOR THE REASONS THAT I STATED
3 EARLIER. I DO BELIEVE THAT ESPECIALLY WITHIN, THE
4 ENVIRONMENT THAT WE FIND OURSELVES, IT WILL HAVE THE
5 EFFECT ON THE PASSION OF THE JURY, CONFUSING THE ISSUES
6 THAT THIS GANG AFFILIATION MEMBERSHIP WILL HAVE THE EFFECT
7 OF DENYING MY CLIENT THE RIGHT TO A FAIR TRIAL. AND I
8 THINK IT IS AN EMOTIONALLY CHARGED ISSUE AT THIS POINT AND
9 IT NEEDS TO BE EXCLUDED.

10 THE COURT: THE ARGUMENTS IS ESSENTIALLY THE SAME
11 THING THAT WE ARGUED, THAT YOU ARGUED THIS MORNING BEFORE
12 WE GOT TO THE JURY SELECTION PROCESS, IS THAT RIGHT?

13 MS. FRANKLIN: YES, YOUR HONOR. IF I CAN JUST, FOR
14 THE RECORD.

15 THE COURT: I WOULD DENY THAT MOTION FOR THE GROUNDS
16 STATED EARLIER, I THINK IT IS APPROPRIATE. IF WHAT COMES
17 OUT IS WHAT WAS ARGUED TO THE COURT THIS MORNING, I THINK
18 IT WOULD BE APPROPRIATE. I WILL DENY YOUR MOTION ON THAT
19 GROUND AT THIS TIME.

20 MS. FRANKLIN: I GUESS, YOUR HONOR, I BELIEVE IN
21 ORDER TO PROPERLY PRESERVE THE RECORD I WOULD NEED TO
22 OBJECT TO WHEN ANYTHING OF THIS NATURE IS ABOUT TO COME
23 INTO EVIDENCE. WOULD YOU LIKE THAT I JUST STATE AS A
24 CONTINUING OBJECTION OR WHATEVER YOUR PREFERENCE IS, YOUR
25 HONOR.

1 THE COURT: I USED TO THINK WHATEVER MY PREFERENCE
2 WAS WOULD MAKE A DIFFERENCE. BUT THERE ARE PEOPLE WHO
3 VIEW THESE THINGS AND IT DOESN'T MAKE A WHOLE LOT OF
4 DIFFERENCE TO WHAT THE TRIAL COURT'S PREFERENCE IS. I
5 THINK YOU WOULD HAVE TO PROTECT THE RECORD AS BEST AS YOU
6 CAN. AS FAR AS I AM CONCERNED THEY CAN BE A CONTINUING
7 OBJECTION BUT AS FAR AS APPELLATE COURT IS CONCERNED, I
8 DON'T KNOW QUITE FRANKLY IF THAT PROTECTS YOU OR NOT. AND
9 I WOULD NOTE AT THIS TIME THAT YOU HAVE OBJECTED TO IT AND
10 WOULD CONTINUE TO OBJECT TO ANY REFERENCE TO GANG
11 AFFILIATION OR MEMBERSHIP. AND DURING THE COURSE, I DON'T
12 THINK THAT YOU NEED TO OBJECT EVERY TIME A WITNESS MAKES
13 REFERENCE TO THAT, MAYBE AN OBJECTION FOR ANY TIME ANY
14 WITNESS DOES, UNLESS IT IS SOME OTHER GROUND I WOULD
15 ASSUME THAT IT IS BASED ON THAT.

16 MS. FRANKLIN: OKAY.

17 THE COURT: UNLESS IT IS SOME OTHER GROUND THAT YOU
18 BRING TO THE COURT'S ATTENTION, I WOULD ASSUME THAT THAT
19 IS THE BASIS FOR IT.

20 MS. FRANKLIN: OKAY, THANK YOU, YOUR HONOR. WE WOULD
21 ALSO MAKE A MOTION TO DISPOSE OF A DEAL, PROMISES OF
22 LENIENCY FOR ANY STATE'S WITNESSES.

23 MS. FENT: WE HAVE NO DEALS WITH ANY OF THE
24 WITNESSES. I THINK MAYBE WHEN WE LOOK AT THE RAP SHEET
25 THERE ARE TWO WITNESSES THAT HAVE PENDING CHARGES. WE

1 HAVE MADE IT CLEAR TO THEM THAT WE ARE MAKING NO DEAL AT
2 ALL IN EXCHANGE FOR THEIR TESTIMONY.

3 THE COURT: THE STATE TAKES THE POSITION THAT THERE
4 IS NOTHING TO DISCLOSE ALONG THOSE LINES, MS. FRANKLIN.

5 MS. FRANKLIN: THANK YOU, YOUR HONOR. WHICH I GUESS
6 WE CAN MOVE TO THE NEIL V. BIGGERS OR THE JACKSON V.
7 DENNO.

8 THE COURT: LET'S START WITH JACKSON V. DENNO, DO YOU
9 HAVE YOUR WITNESSES HERE FOR THE JACKSON V. DENNO?

10 MS. FENT: YES I DO, YOUR HONOR. IF I CAN JUST HAVE
11 ONE MOMENT TO HAVE THE WITNESSES, THEY NEED TO GO AND
12 STAND OUTSIDE.

13 THE COURT: SURE.

14 MS. FRANKLIN: I BEG THE COURT'S INDULGENCE TO GET
15 OUT WITNESSES OUT OF HERE.

16 THE COURT: HOW MANY STATEMENTS ARE THERE?

17 MS. FENT: TWO STATEMENTS, YOUR HONOR.

18 THE COURT: WRITTEN, ORAL, BOTH?

19 MS. FENT: WRITTEN.

20 THE COURT: BOTH OF THEM ARE WRITTEN?

21 MS. FENT: YES, SIR.

22 THE COURT: ALL RIGHT, CALL YOUR FIRST WITNESS,
23 PLEASE.

24 MS. FENT: THE STATE CALLS CORPORAL HUNTLEY TO THE
25 STAND.

1 J. HUNTLEY, AFTER BEING DULY SWORN, TESTIFIED AS
2 FOLLOWS:

3 DIRECT EXAMINATION

4 BY MS. FENT:

5 Q STATE YOUR FULL NAME FOR THE RECORD.

6 A CORPORAL JOHNSON HUNTLEY.

7 Q CORPORAL HUNTLEY, WITH WHOM ARE YOU EMPLOYED?

8 A THE CITY OF COLUMBIA.

9 Q AND IN WHAT CAPACITY?

10 A CORPORAL PATROL.

11 Q BACK IN AUGUST OF 2004 DID YOU HAVE OCCASION TO
12 TRANSPORT A DEFENDANT OR A SUSPECT TO INVESTIGATOR JOE
13 GRAY'S OFFICE?

14 A YES, MA'AM.

15 Q AND DO YOU RECALL WHO THAT PERSON WAS?

16 A THE DEFENDANT.

17 Q OKAY.

18 THE COURT: CAN YOU SPEAK INTO THE MICROPHONE, PLEASE
19 SIR.

20 A THE DEFENDANT.

21 Q OKAY, IF YOU CAN JUST DESCRIBE WHAT HE IS WEARING SO
22 WE WILL ALL KNOW WE ARE TALKING ABOUT THE SAME PERSON.

23 A BUTTONED SHIRT, BEARD, GOATEE.

24 Q DO YOU RECALL HOW THAT TRANSPORTATION TOOK PLACE
25 BASICALLY?

1 A DISPATCHED CALL ME, INVESTIGATOR GRAY NEEDED TO TALK
2 TO THE INDIVIDUAL. I WAS WORKING THE SOUTH REGION AT THE
3 TIME, I VOLUNTEERED AND I WENT AND PICKED UP THE
4 INDIVIDUAL AND TRANSPORTED HIM TO HEADQUARTERS.

5 Q DID YOU TALK TO HIM ABOUT WHY YOU WERE TRANSPORTING
6 HIM?

7 A NO, MA'AM.

8 Q DID YOU TAKE ANY STATEMENTS FROM HIM OR DISCUSS
9 ANYTHING WITH HIM?

10 A NO, MA'AM.

11 Q WHERE DID YOU TAKE HIM TO?

12 A I DROVE HIM TO HEADQUARTERS, GOING UP, PROCEEDED UP
13 TO THE SECOND FLOOR IN INVESTIGATIONS.

14 Q AND WHO BASICALLY DID YOU HAND HIM OVER TO?

15 A INVESTIGATOR GRAY.

16 Q OKAY. AND WHAT HAPPENED BASICALLY AT THAT POINT ONCE
17 YOU HANDED HIM OVER TO INVESTIGATOR GRAY?

18 A HE WENT AND READ HIM HIS MIRANDA WARNINGS. I STEPPED
19 OUT AND HE TALKED TO HIM AND CALLED ME BACK IN.

20 Q AND WHY DID HE CALL YOU BACK IN?

21 A SO I COULD WITNESS THE STATEMENT THAT HE HAD WROTE,
22 THE SIGNING OF THE STATEMENT.

23 Q AND WITNESSING THAT STATEMENT DID THE DEFENDANT TO
24 YOU APPEAR TO UNDERSTAND WHAT WAS GOING ON?

25 A YES, MA'AM.

1 Q HE ACTUALLY READ OVER THE STATEMENT?

2 A YES, MA'AM.

3 Q AND DID YOU WITNESS HIM ACTUALLY SIGN THE STATEMENT?

4 A YES, MA'AM.

5 Q DID HE APPEAR TO BE UNDER THE INFLUENCE OF ANY DRUGS,
6 ALCOHOL OR MEDICATION?

7 A NO, MA'AM.

8 Q DID HE APPEAR TO BE UNDER UNDUE INFLUENCE OR HAVING
9 BEEN COERCED INTO GIVING A STATEMENT?

10 A NO, MA'AM.

11 Q WAS THERE ANY OTHER CONVERSATION THAT YOU HAD
12 BASICALLY WITH HIM?

13 A NO, MA'AM.

14 Q NOW, YOU SAID THAT YOU ACTUALLY WITNESSED THE MIRANDA
15 WARNINGS BEING GIVEN OR JUST THE SIGNATURE OF THE
16 STATEMENT?

17 A I BELIEVE THE SIGNING OF THE STATEMENT.

18 Q OKAY. I AM GOING TO SHOW YOU WHAT HAS BEEN MARKED AS
19 STATE'S EXHIBIT NUMBER 1 FOR IDENTIFICATION PURPOSES AND
20 DO YOU RECOGNIZE THAT?

21 A YES, MA'AM.

22 Q OKAY. AND WHAT IS THAT?

23 A IT IS OUR STATEMENT FORM FOR THE CITY OF COLUMBIA.

24 Q OKAY. AND IS THAT THE ONE THAT YOU WITNESSED THE
25 DEFENDANT SIGN?

1 A YES, MA'AM.

2 Q OKAY. NO OTHER QUESTIONS OF THIS WITNESS.

3 THE COURT: CROSS-EXAMINE, MR. SCHARDT.

4 MR. SCHARDT: THANK YOU, YOUR HONOR, IF IT PLEASE THE
5 COURT.

6 THE COURT: ALL RIGHT.

7 CROSS-EXAMINATION

8 BY MR. SCHARDT:

9 Q CORPORAL HUNTLEY, YOU TESTIFIED THAT YOU TRANSPORTED
10 TO INVESTIGATOR GRAY'S OFFICE?

11 A YES, SIR.

12 Q AND YOU PICKED HIM UP AT ALVIN S. GLENN?

13 A YES, SIR.

14 Q WHAT TIME DID YOU PICK HIM UP?

15 A TO MY BEST KNOWLEDGE, I CAN'T RECALL IT.

16 Q WAS ANYONE WITH YOU?

17 A NO, SIR.

18 Q WHEN YOU TRANSPORTED HIM?

19 A NO, SIR.

20 Q YOU TESTIFIED THAT YOU DID NOT TALK ABOUT THE CASE,
21 CORRECT?

22 A NO, SIR.

23 Q DID YOU HAVE ANY WORDS WITH CHRIS LIVERMAN?

24 A I CHECKED WITH DISPATCH TO SEE WHAT KIND OF PRISONER
25 I WAS PICKING UP, WHETHER IT WAS GOING TO BE AN AUTO

1 BREAK-IN SUSPECT OR SOMEBODY ELSE. WHEN THEY TOLD ME WHO
2 HE WAS I KNEW ABOUT THE CASE AND I DIDN'T WANT TO DISCUSS
3 ANYTHING WITH HIM. SO, I PICKED HIM UP AND TRANSPORTED
4 HIM TO HEADQUARTERS AND THAT WAS IT.

5 Q AND YOU DIDN'T HAVE ANY DISCUSSION WHATSOEVER?

6 A NO, SIR.

7 Q AND YOU BROUGHT CHRISTOPHER LIVERMAN TO THE SECOND
8 FLOOR AT THE POLICE DEPARTMENT ON WASHINGTON STREET?

9 A YES, SIR. WASHINGTON AND LINCOLN.

10 Q AND YOU TESTIFIED THAT YOU DID NOT WITNESS
11 INVESTIGATOR GRAY GOING OVER CHRISTOPHER LIVERMAN'S
12 MIRANDA RIGHTS, CORRECT?

13 A TO MY BEST KNOWLEDGE, NO.

14 Q BUT YOU SAW HIM, YOU SAW CHRISTOPHER LIVERMAN--

15 THE COURT: LET ME BE SURE I UNDERSTAND ON THAT. YOU
16 DIDN'T SIGN AS A WITNESS ON THE WAIVER OF RIGHTS FORM, IS
17 THAT RIGHT?

18 A YES, YOUR HONOR, I DID NOT SIGN IT.

19 THE COURT: I WAS THINKING IN RESPONSE TO THE STATE'S
20 QUESTION, YOU INDICATED, DID YOU HEAR MIRANDA RIGHTS BEING
21 GIVEN OR HAD YOU STEPPED OUT OF THE ROOM?

22 A I HAD STEPPED OUT OF THE OFFICE.

23 THE COURT: OKAY, GO AHEAD, MR. SCHARDT, I WANT TO BE
24 CLEAR ON THAT.

25 Q YOU TESTIFIED YOU HANDED CHRISTOPHER LIVERMAN OVER TO

1 INVESTIGATOR GRAY?

2 A YES, SIR.

3 Q WAS ANYONE ELSE THERE?

4 A NOT TO MY KNOWLEDGE.

5 Q WAS ANYONE ELSE IN THE ROOM WITH INVESTIGATOR GRAY
6 AND CHRISTOPHER LIVERMAN?

7 A NO, SIR.

8 Q DID YOU TRANSPORT CHRISTOPHER LIVERMAN BACK TO THE
9 JAIL?

10 A I BELIEVE I DID, YES.

11 Q DO YOU HAVE ANY RECOLLECTION ABOUT WHAT TIME THAT MAY
12 OF TAKEN PLACE?

13 A NO SIR, I DON'T.

14 Q LET ME ASK YOU A FEW QUESTIONS ABOUT THE
15 INVESTIGATION.

16 A OKAY.

17 Q WHERE, THIS ROOM WHERE CHRISTOPHER LIVERMAN WAS
18 TALKING TO INVESTIGATOR GRAY, CAN YOU DESCRIBE THE ROOM
19 FOR ME?

20 A MAYBE A SMALL OFFICE, THERE IS A DESK IN THERE, A
21 FILING CABINET, TWO CHAIRS, DOOR LOCKS FROM THE OUTSIDE,
22 SO IF BASICALLY IF THERE IS SOMEBODY IN THERE WE DON'T
23 HAVE TO WATCH THEM ALL THE TIME, WE CAN LOCK THE DOOR AND
24 THEY CANNOT GET OUT. A SMALL ROOM LIKE THAT.

25 Q JUST TO CLARIFY THAT, YOU STATED THAT SOMEONE CAN

1 WATCH FROM THE OUTSIDE?

2 A NO, NO. WE DON'T HAVE TO BE INSIDE THE ROOM, IT
3 LOCKS FROM THE OUTSIDE SO THEREFORE SOMEONE FROM INSIDE
4 CANNOT GET OUT OF THERE.

5 Q AND IT IS ONE DOOR?

6 A ONE DOOR, A SMALL ROOM, A SMALL OFFICE.

7 Q WAS THIS INVESTIGATOR GRAY'S OFFICE?

8 A NO, THIS IS USUALLY WHERE THEY DO MOST OF THE
9 INTERVIEWS, IT IS AN INTERVIEW ROOM.

10 Q AND YOU TESTIFIED YOU OBSERVED CHRISTOPHER LIVERMAN
11 WHILE HE WAS IN THAT ROOM, CORRECT?

12 A HE WAS INSIDE THE ROOM, CORRECT.

13 Q WAS HE HANDCUFFED?

14 A I BELIEVE HE WAS, I KNOW I HAD, I BELIEVE CORRECTLY
15 HE HAD SHACKLES ON HIS LEGS AND HE WAS HANDCUFFED.

16 Q I HAVE NOTHING FURTHER, YOUR HONOR.

17 THE COURT: ANY REDIRECT?

18 MS. FENT: NO MORE QUESTIONS OF THIS WITNESS.

19 THE COURT: YOU MAY STEP DOWN. CALL YOUR NEXT
20 WITNESS.

21 MS. FENT: CALL INVESTIGATOR JOE GRAY.

22 JOE GRAY, AFTER BEING DULY SWORN, TESTIFIED AS
23 FOLLOWS:

24 DIRECT EXAMINATION

25 BY MS. FENT:

1 Q INVESTIGATOR GRAY, WHO DO YOU WORK FOR?

2 A COLUMBIA CITY POLICE DEPARTMENT.

3 Q AND IN WHAT CAPACITY?

4 A INVESTIGATOR.

5 Q WERE YOU ASSIGNED TO INVESTIGATE THE DOUBLE HOMICIDE
6 ON TS MARTIN DRIVE?

7 A YES, MA'AM.

8 Q OKAY. AND THAT EVENING WITHIN THIRTY MINUTES TO AN
9 HOUR OF THE SHOOTING DID YOU HAVE SOMEONE IN CUSTODY?

10 A YES MA'AM, THERE WAS.

11 Q AND WHO DID YOU HAVE IN CUSTODY?

12 A CHRIS LIVERMAN.

13 Q SITTING IN THE COURTROOM TODAY?

14 A YES, HE IS.

15 Q BASICALLY AFTER HE WAS TAKEN INTO CUSTODY WHERE DID
16 YOU HAVE TO TRANSPORT HIM?

17 A HE WAS TAKEN TO THE COLUMBIA POLICE DEPARTMENT OF THE
18 SECOND FLOOR OF INVESTIGATIONS.

19 Q AND WHAT HAPPENED TO HIM THERE?

20 A HE WAS, AS FAR AS I KNOW HE WAS PLACED IN AN
21 INTERVIEW ROOM AND HE WAITED UNTIL I ARRIVED THERE SHORTLY
22 AFTER MIDNIGHT.

23 Q AND BASICALLY TELL US WHAT TRANSPIRED AT THAT POINT,
24 HE IS IN AN INTERVIEW ROOM, YOU SHOW UP, WHAT HAPPENED?

25 A HE IS IN THE INTERVIEW ROOM AND IF I CAN REFER TO MY

1 NOTES HERE. I JUST WENT IN AND TOLD HIM I WANTED TO TALK
2 TO HIM ABOUT IT. AND I ADVISED HIM OF HIS RIGHTS AND WENT
3 FORWARD WITH THE INTERVIEW.

4 Q AT THIS POINT WAS HE FREE TO LEAVE?

5 A NO, HE WASN'T.

6 Q OKAY. AND SO THAT IS WHY YOU ADVISED HIM OF HIS
7 RIGHTS?

8 A YES.

9 Q OKAY, AND IN WHAT FORM DID YOU ADVISE HIM, DID YOU
10 JUST DO IT ORALLY OR IN A WRITTEN FORM?

11 A IN A WRITTEN FORM THAT WE USE.

12 Q DO YOU HAVE THAT FORM WITH YOU?

13 A YES, I DO.

14 Q I AM GOING TO SHOW YOU WHAT WE MARKED AS STATE'S
15 EXHIBIT NUMBER 4 FOR IDENTIFICATION AND ASK YOU IF YOU
16 RECOGNIZE THAT?

17 A YES, THIS IS THE ADVICE OF RIGHTS FORM THAT I USED
18 THAT NIGHT.

19 Q OKAY, AND DO YOU RECALL APPROXIMATELY, APPROXIMATELY
20 WHAT TIME THE SHOOTING HAPPENED?

21 A IT WAS AROUND 9:40, 9:46.

22 Q OKAY. AND APPROXIMATELY WHAT TIME WAS HE IDENTIFIED
23 AND TAKEN INTO CUSTODY?

24 A IT WAS, AFTER I ARRIVED ON THE SCENE I WAS
25 INTERVIEWING ONE OF THE WITNESSES. IT WAS SHORTLY AFTER

1 10:00.

2 Q AND THEN YOU SAID YOU STARTED TAKING THIS STATEMENT
3 JUST AFTER MIDNIGHT?

4 A YES.

5 Q OKAY, SO JUST A COUPLE OF HOURS LATER?

6 A YES.

7 Q OKAY. HE IS NOT FREE TO LEAVE SO YOU ARE GOING TO
8 READ HIM HIS RIGHTS. SPECIFICALLY, IF YOU CAN GO THROUGH
9 HOW THAT WAS DONE AND THE SPECIFIC RIGHTS THAT YOU READ TO
10 HIM?

11 MR. SCHARDT: YOUR HONOR, I AM GOING TO OBJECT AT
12 THIS TIME. THERE HAS BEEN NO FOUNDATION LAID THAT SHOWS
13 THAT THIS WITNESS HAS THE ABILITY TO RECALL ANY OF THE
14 EVENTS THAT NIGHT SO WE ARE GOING TO OBJECT TO HIM USING
15 HIS NOTES UP THERE ON THE STAND UNTIL THEY LAY THIS
16 FOUNDATION.

17 MS. FENT: IT IS THE ACTUAL DOCUMENT THAT HE WENT
18 OVER AND READ, IT IS NOT--

19 THE COURT: THE OBJECTION IS OVERRULED. GO AHEAD.

20 A I HAVE A STANDARD FORM THAT WE USE, IT IS ENTITLED
21 INTERROGATION ADVICE OF RIGHTS. BEFORE I READ THAT TO MR.
22 LIVERMAN I MADE SOME NOTES AT THE TOP RIGHT-HAND CORNER,
23 ASKED HIM IF HE WAS UNDER THE INFLUENCE OF ANY DRUGS. HE
24 RESPONDED NO. I MADE A NOTE OF NO DRUGS. THE SAME WITH
25 ALCOHOL, HE SAID NO, I MADE A NOTE, NO ALCOHOL. I MADE A

1 NOTE OF HIS ADDRESS, [REDACTED] AND HIS
2 GRANDMOTHER'S NAME, MARGARITE RICE WITH HER TELEPHONE
3 NUMBER, [REDACTED]-3038. I MADE A NOTE WHERE HE SAID HE WAS
4 EMPLOYED AT MCDONALD'S ON TWO-NOTCH AND WHERE HE WENT TO
5 SCHOOL, C.A. JOHNSON PREPARATORY ACADEMY. AND SENIOR, SR
6 AND HE INDICATED THAT HE HAD ALREADY GRADUATED. UNDER
7 THAT IT HAS THE PLACE, ONE JUSTICE SQUARE; DATE, 8/27/04;
8 TIME WAS 00:17 HOURS. AND THEN I BEGAN READING THE
9 STATEMENT OR THE RIGHTS TO HIM. BEFORE WE ASK YOU ANY
10 QUESTIONS YOU MUST UNDERSTAND YOUR RIGHTS.

11 Q I NOTICED, STOP RIGHT THERE, I NOTICED NEXT TO EACH
12 LINE YOU HAVE A PEN MARK NEXT TO THAT LINE, WHAT DOES THAT
13 INDICATE?

14 A THAT JUST, JUST TO MAKE SURE I READ EACH SENTENCE TO
15 HIM.

16 Q AFTER READING YOU MAKE A NOTATION YOU HAVE READ THAT
17 TO HIM?

18 A AFTER I READ EACH SENTENCE I MADE A NOTATION.

19 Q OKAY, WHAT IS THE NEXT THING YOU SAY?

20 A YOU HAVE THE RIGHT TO REMAIN SILENT, ANYTHING YOU SAY
21 CAN BE USED AGAINST YOU IN COURT, YOU HAVE THE RIGHT TO
22 TALK TO A LAWYER FOR ADVICE BEFORE WE ASK YOU ANY
23 QUESTIONS AND TO HAVE THEM WITH YOU DURING QUESTIONING.
24 IF YOU CANNOT AFFORD A LAWYER ONE WILL BE APPOINTED FOR
25 YOU BEFORE ANY QUESTIONING, IF YOU WISH. IF YOU DECIDE TO

1 ANSWER QUESTIONS NOW WITHOUT A LAWYER PRESENT YOU STILL
2 HAVE THE RIGHT TO STOP ANSWERING AT ANY TIME. YOU ALSO
3 HAVE THE RIGHT TO STOP ANSWERING AT ANY TIME UNTIL YOU
4 TALK TO A LAWYER.

5 Q DID YOU RECEIVE RESPONSES FROM THE DEFENDANT AS YOU
6 READ THESE RIGHTS TO HIM?

7 A WHEN I FINISHED THAT LAST SENTENCE, I HAD THE FORM
8 TURNED SIDEWAYS SO HE COULD READ ALONG ON THE TABLE.
9 AFTER THAT LAST SENTENCE I ASKED HIM IF HE UNDERSTOOD
10 THOSE RIGHTS AND IF HE WANTED TO WAIVE THOSE RIGHTS.

11 Q AND DID HE INDICATE THAT HE UNDERSTOOD THOSE RIGHTS?

12 A YES, HE DID.

13 Q AND DID HE INDICATE TO YOU THAT HE WANTED TO WAIVE
14 THOSE RIGHTS?

15 A YES, HE DID.

16 Q AND WHAT FURTHER DID YOU READ TO HIM AND DO TO
17 DOCUMENT THAT WAIVER?

18 A I READ HIM THE WAIVER OF RIGHTS, IT SAYS I HAVE READ
19 THIS STATEMENT OF MY RIGHTS, I UNDERSTAND WHAT MY RIGHTS
20 ARE, I AM WILLING TO MAKE A STATEMENT AND ANSWER
21 QUESTIONS. I DO NOT WANT A LAWYER AT THIS TIME, I
22 UNDERSTAND AND KNOW WHAT I AM DOING. NO PROMISES OR
23 THREATS HAVE BEEN MADE TO ME AND NO PRESSURE OR COERCION
24 OF ANY KIND HAS BEEN USED AGAINST ME. AND HE SIGNED THE
25 FORM.

1 Q THAT IS HIS ACTUAL SIGNATURE ON THAT FORM?

2 A YES, MA'AM.

3 Q OKAY. AND THEN YOU SIGNED AND I GUESS, DATE AT THE
4 BOTTOM OF THAT CORNER?

5 A YES, MA'AM.

6 Q OKAY. DID YOU MAKE ANY PROMISES TO HIM IN EXCHANGE
7 FOR HIS STATEMENT?

8 A NO, MA'AM.

9 Q DID YOU THREATEN HIM IN ANY WAY TO MAKE HIM GIVE YOU
10 A STATEMENT?

11 A NO, MA'AM.

12 Q DID YOU COERCE HIM IN ANY WAY TO MAKE HIM GIVE YOU A
13 STATEMENT?

14 A NO, MA'AM.

15 Q DID HE APPEAR TO BE UNDER THE INFLUENCE OF ANY
16 ALCOHOL, DRUGS OR MEDICATION?

17 A NO, HE DIDN'T..

18 Q DID HE APPEAR TO UNDERSTAND EVERYTHING THAT YOU WERE
19 SAYING TO HIM?

20 A YES, HE DID.

21 Q AND HE INDICATED TO YOU THAT HE WANTED TO WAIVE HIS
22 RIGHTS?

23 A YES, HE DID.

24 Q AT THIS POINT AFTER YOU HAVE THE WAIVER, WHAT DID YOU
25 DO?

1 A I TOLD HIM THAT I WANTED TO TALK WITH HIM ABOUT THE
2 SHOOTING AT TS MARTIN AND BEGAN A QUESTION AND ANSWER
3 SESSION WITH HIM.

4 Q OKAY. DO YOU START WRITING IMMEDIATELY OR DID YOU
5 ALL TALK FOR A WHILE AND THEN YOU STARTED PUTTING IT DOWN
6 IN THE FORM OF A STATEMENT?

7 A IT DEPENDS ON THE INDIVIDUAL. IF SOMEONE IS
8 TALKATIVE I GENERALLY TALK WITH THEM. MR. LIVERMAN IS
9 VERY QUIET, I HAD TO ASK HIM SPECIFICALLY AND SO THAT IS
10 HOW THE INTERVIEW PROGRESSED, JUST QUESTION AND ANSWERS.

11 Q ARE ALL OF THE QUESTIONS THAT YOU ASKED OF THE
12 DEFENDANT DOCUMENTED IN THE STATEMENT?

13 A I HAVE SOME NOTES, MY CASE NOTES THAT I TOLD HIM WHAT
14 I WANTED TO TALK TO HIM ABOUT. AND HE STATED THAT HE HAD
15 NOT BEEN AT TS MARTIN THAT EVENING AND THEN I CONFRONTED
16 HIM WITH WITNESS INFORMATION AND TOLD HIM HE HAD BEEN
17 IDENTIFIED AS BEING THERE AT THE TIME OF THE SHOOTING.

18 Q OKAY. AND THEN AT WHAT POINT DID YOU START--

19 A THAT IS WHEN I STARTED THE QUESTION AND ANSWER.

20 Q SO, BASICALLY JUST LAY A FOUNDATION AS TO WHAT YOU
21 ARE TALKING ABOUT?

22 A RIGHT, RIGHT.

23 Q I AM GOING TO SHOW YOU WHAT HAS BEEN MARKED STATE'S
24 EXHIBIT NUMBER 3 FOR IDENTIFICATION. AND ASK YOU IF YOU
25 RECOGNIZE THAT?

1 A YES, THIS IS THE THREE PAGE STATEMENT THAT I TOOK
2 FROM CHRIS LIVERMAN.

3 Q AND IS THAT THE ORIGINAL STATEMENT?

4 A YES, IT IS.

5 Q OKAY. AND THE QUESTIONS AND THE ANSWERS YOU SAID
6 RESULTED IN A THREE PAGE STATEMENT?

7 A YES, MA'AM.

8 Q OKAY. UPON COMPLETION OF THE WRITTEN STATEMENT WHAT
9 DO YOU DO THEN IN TERMS OF ANY SIGNATURES OR
10 DOCUMENTATION?

11 A I, AFTER THE STATEMENT WAS COMPLETED I ASKED THE
12 PERSON I AM INTERVIEWING TO REVIEW THE STATEMENT AND MAKE
13 SURE IT IS CORRECT AND DEPENDING OF WHAT THEY PREFER I
14 READ IT TO THEM OR ASK THEM TO READ IT THEMSELVES. AND
15 THEN I ASK IF EVERYTHING IS CORRECT IN THE STATEMENT AND
16 THEN ASK THEM TO SIGN IT IF IT IS CORRECT.

17 Q DID HE READ OVER THE STATEMENT?

18 A YES, HE DID.

19 Q DID HE MAKE ANY CHANGES TO THE STATEMENT?

20 A I DON'T RECALL HIM MAKING ANY CHANGES, I MADE SOME,
21 SCRATCHED THROUGH A COUPLE OF ANSWERS OR ONE ANSWER ON
22 PAGE THREE AND ASK HIM TO INITIAL THAT.

23 Q AND THAT WOULD OF BEEN A CHANGE THAT HE HAD ASKED YOU
24 TO MAKE OR TO TAKE OFF. LET ME ASK YOU THIS, WHAT IS THE
25 PURPOSE OF HIS INITIALS OVER THAT SCRATCHED OUT PART?

1 A JUST TO SHOW THAT I HAVE DISCUSSED WITH HIM THAT I
2 HAD MARKED THROUGH THAT AND I THINK THAT MIGHT OF BEEN
3 JUST A MISTAKE I MADE IN WRITING THAT HE BROUGHT TO MY
4 ATTENTION THAT NEEDED TO BE CORRECTED.

5 Q OKAY. AND THE SIGNATURES THEN ARE HIS ADOPTION OR
6 OKAY OF THAT CHANGE?

7 A YES, MA'AM.

8 Q THAT IS HOW YOU DOCUMENT THAT?

9 A THE INITIALS, YES MA'AM.

10 Q YOU SAID YOU HAD HIM SIGN THE STATEMENT, IS THAT JUST
11 ONE SIGNATURE AT THE END OF THE ENTIRE STATEMENT OR EACH
12 PAGE?

13 A IT IS EACH PAGE.

14 Q AFTER YOU WERE FINISHED TAKING THE STATEMENT,
15 BASICALLY WHAT HAPPENED WITH CHRIS LIVERMAN?

16 A HE WAS GIVEN A COPY, THERE ARE ACTUALLY THREE, TWO
17 CARBON COPIES OF THIS STATEMENT, HE WAS GIVEN A PINK COPY.
18 AND THEN HE WAS LEFT IN THE ROOM AND EVENTUALLY
19 TRANSPORTED TO THE COUNTY JAIL.

20 Q DID YOU HAVE OCCASION TO MEET WITH CHRIS LIVERMAN AND
21 GET A SECOND STATEMENT FROM HIM?

22 A YES, I DID.

23 Q AND WHEN WAS THAT?

24 A THAT WAS THE FOLLOWING DAY, ON THE SAME DAY, THE 27TH
25 OF AUGUST AT AROUND 1:25 IN THE AFTERNOON.

1 Q SO, A LITTLE OVER 12 HOURS LATER?

2 A YES.

3 Q OKAY. AND BASICALLY HOW DID THIS COME ABOUT?

4 A I ASKED THAT HE BE TRANSPORTED UP FROM THE JAIL FOR
5 AN ADDITIONAL INTERVIEW. OFFICER HUNTLEY WAS DISPATCHED
6 AND BROUGHT HIM TO THE POLICE DEPARTMENT.

7 Q OKAY. AND HOW DID, HOW EXACTLY WAS THIS STATEMENT
8 THEN TAKEN FROM HIM?

9 A OKAY. OFFICER HUNTLEY BROUGHT HIM IN THE INTERVIEW
10 ROOM AND OFFICER HUNTLEY LEFT. I TOLD HIM THAT I HAD SOME
11 OTHER QUESTIONS THAT I WANTED TO ASK HIM. AND STARTED THE
12 STATEMENT AFTER WE READ THE RIGHTS.

13 Q WAS HE FREE TO LEAVE AT THIS TIME?

14 A NO.

15 Q AND THAT IS WHY YOU READ HIM HIS MIRANDA WARNINGS?

16 A YES, MA'AM.

17 Q OKAY. AND LET ME SHOW YOU WHAT HAS BEEN MARKED AS
18 STATE'S EXHIBIT NUMBER 2 FOR IDENTIFICATION AND ASK IF YOU
19 RECOGNIZE THAT?

20 A YES, THIS IS THE WAIVER OF RIGHTS FORM READ TO MR.
21 LIVERMAN.

22 Q AND IT APPEARS TO BE AN IDENTICAL FORM AS TO THE
23 PREVIOUS WAIVER, STATE'S EXHIBIT NUMBER 4?

24 A IT IS.

25 Q AND DID YOUR READING OF THAT STATEMENT VARY IN ANY

1 WAY AS TO WHAT YOU HAVE ALREADY TESTIFIED HOW YOU DID THE
2 FIRST ONE?

3 A OTHER THAN I DIDN'T GO INTO DRUGS OR ALCOHOL, OTHER
4 THAN THAT IT WAS BASICALLY THE SAME.

5 Q OKAY. YOU ALREADY HAD THE BACKGROUND INFORMATION
6 ABOUT BETHEL BISHOP, WHAT YOU ASKED HIM ABOUT MARGARITE
7 RICE, THE TELEPHONE NUMBER, C.A. JOHNSON, THAT INFORMATION
8 YOU ALREADY HAD BECAUSE YOU ALREADY HAD TAKEN A STATEMENT
9 FROM HIM?

10 A YES, MA'AM.

11 Q AND OBVIOUSLY, I GUESS, BECAUSE HE WAS IN ALVIN S.
12 GLENN YOU WEREN'T WORRIED ABOUT DRUGS OR ALCOHOL?

13 A THAT IS CORRECT.

14 Q DID HE APPEAR TO BE UNDER THE INFLUENCE OF ANY DRUGS
15 OR ALCOHOL OR MEDICATION?

16 A NO, HE DIDN'T.

17 Q OKAY. DID HE APPEAR TO UNDERSTAND EVERYTHING YOU
18 WERE SAYING TO HIM?

19 A YES, HE DID.

20 Q DID HE APPEAR TO UNDERSTAND ALL THE RIGHTS THAT YOU
21 READ TO HIM?

22 A YES, MA'AM.

23 Q DID HE WAIVE HIS RIGHTS?

24 A YES, HE DID.

25 Q AND DID HE SIGN THAT WAIVER OF RIGHTS FOR THE SECOND

1 STATEMENT?

2 A YES, HE DID.

3 Q WHAT HAPPENED THEN IN TERMS OF HIS SECOND STATEMENT
4 AND THE ACTUAL SUBSTANCE OF IT?

5 A THAT IS WHEN I WENT IMMEDIATELY IN TO THE QUESTION
6 REVIEW, THE QUESTION AND ANSWER, I AM SORRY.

7 Q OKAY. AND I AM GOING TO SHOW YOU WHAT HAS BEEN
8 MARKED AS STATE'S EXHIBIT NUMBER 1 FOR IDENTIFICATION AND
9 ASK YOU IF YOU RECOGNIZE THAT?

10 A YES, THIS IS A TWO-PAGE STATEMENT THAT I TOOK FROM
11 MR. LIVERMAN.

12 Q THAT IS THE SECOND STATEMENT THAT YOU TOOK AT ABOUT
13 1:30 THE FOLLOWING, OR THAT SAME DAY, I GUESS?

14 A YES, MA'AM.

15 Q AND BASICALLY WHAT WAS THE FIRST QUESTION THAT YOU
16 ASKED HIM?

17 A IN REFERENCE TO YOUR ORIGINAL STATEMENT DO YOU NOW
18 WISH TO GIVE MORE INFORMATION ABOUT THE SHOOTING.

19 Q AND WHAT WAS HIS RESPONSE?

20 A HIS RESPONSE WAS, YES SIR.

21 Q OKAY. AT ANY POINT DURING THE TAKING OF EITHER OF
22 THESE TWO STATEMENTS DID THE DEFENDANT EVER REQUEST A
23 LAWYER?

24 A NO, MA'AM.

25 Q PRIOR TO TAKING THE SECOND STATEMENT DID YOU MAKE ANY

1 PROMISES TO HIM?

2 A NO, MA'AM.

3 Q DID YOU THREATEN HIM IN ANY WAY?

4 A NOT AT ALL.

5 Q DID YOU COERCE HIM IN ANY WAY TO MAKE HIM GIVE YOU
6 THIS STATEMENT?

7 A NO, MA'AM.

8 MS. FENT: I HAVE NO FURTHER QUESTIONS AT THIS TIME
9 AND WOULD OFFER JUST FOR PURPOSES OF THE HEARING STATE'S
10 EXHIBIT NUMBERS 1 THROUGH 4.

11 (WHEREUPON, STATE'S EXHIBIT NOS. 1 THROUGH 4 WERE
12 MARKED FOR IDENTIFICATION ONLY.)

13 THE COURT: THE PURPOSES OF THIS HEARING, ALL RIGHT.
14 CROSS-EXAMINE.

15 MR. SCHARDT: THANK YOU, YOUR HONOR.

16 CROSS-EXAMINATION

17 BY MR. SCHARDT:

18 Q INVESTIGATOR GRAY, YOU WERE WORKING THE EVENING THAT
19 CHRIS LIVERMAN WAS ARRESTED, CORRECT?

20 A YES, SIR.

21 Q OKAY. YOU WERE WITH MR. LIVERMAN WHEN HE WAS
22 DETAINED AT 10:06 P.M., CORRECT?

23 A SHORTLY AFTER 10:00, YES SIR.

24 Q WHO WAS THERE WHEN CHRIS LIVERMAN WAS DETAINED, WHAT
25 OFFICERS WERE THERE?

1 A I KNOW OFFICER AULD AND I THINK OFFICER WHITTLE WERE
2 THERE IN THE AREA.

3 Q WAS ANY OTHER OFFICERS PRESENT?

4 A I AM NOT SURE IF THEY WERE OR NOT.

5 Q WHEN YOU FIRST CAME INTO CONTACT WITH CHRISTOPHER
6 LIVERMAN SOMETIME BETWEEN 10:20, AROUND 10:20 THAT
7 EVENING?

8 A YES SIR, AFTER 10:00, AFTER HE WAS DETAINED.

9 Q DO YOU KNOW WHAT TIME THAT WAS?

10 A I AM SURE I MADE A NOTE OF IT. IT WAS 10:20.

11 Q THAT IS WHEN YOU BROUGHT TYRONE SMITH TO TS MARTIN TO
12 CONDUCT A SHOWUP IDENTIFICATION, CORRECT?

13 A I TOOK HIM FROM TS MARTIN TO CALK STREET.

14 Q YOU HAD THE OPPORTUNITY TO OBSERVE CHRISTOPHER
15 LIVERMAN AT THAT TIME?

16 A YES, I DID.

17 Q SO, DID YOU LEAVE YOUR CAR?

18 A YES, MR. TYRONE WAS IN THE FRONT SEAT AND OFFICER
19 WHITTLE HAD MR. LIVERMAN IN THE PATROL CAR. I PARKED
20 PROBABLY 20 FEET BEHIND THE PATROL CAR, WALKED UP AND
21 SPOKE WITH OFFICER WHITTLE.

22 Q AND OFFICER WHITTLE WAS THERE WITH CHRISTOPHER
23 LIVERMAN?

24 A YES, SIR.

25 Q WAS CHRISTOPHER LIVERMAN TAKEN OUT OF THE PATROL CAR?

- 1 A HE WAS.
- 2 Q AND WHERE DID HE STAND?
- 3 A HE STOOD BY THE PATROL CAR.
- 4 Q AND WHO WAS WITH HIM?
- 5 A MYSELF AND OFFICER WHITTLE.
- 6 Q WAS CHRISTOPHER LIVERMAN ARRESTED AT THIS TIME?
- 7 A HE WAS ALREADY IN CUSTODY, IN MY MIND HE WAS UNDER
- 8 ARREST, HE WAS ARRESTED AFTER HE WAS IDENTIFIED BY THE
- 9 WITNESS.
- 10 Q HE WAS NOT FREE TO LEAVE?
- 11 A THAT IS CORRECT.
- 12 Q IN FACT HE WASN'T FREE TO LEAVE AT 10:06 P.M.,
- 13 CORRECT?
- 14 A NO, SIR.
- 15 Q OKAY. AND YOU TESTIFIED THAT YOU MET WITH
- 16 CHRISTOPHER LIVERMAN AT POLICE HEADQUARTERS THAT NIGHT?
- 17 A YES, SIR.
- 18 Q AND THAT WAS ACTUALLY AROUND 12:17 OR 12:20 IN THE
- 19 MORNING?
- 20 A YES, SIR.
- 21 Q OKAY. DO YOU HAVE ANY PERSONAL KNOWLEDGE OF WHO
- 22 CHRISTOPHER LIVERMAN WAS WITH BETWEEN THE HOURS OF 10:20
- 23 AND 12:17?
- 24 A JUST FROM THE INFORMATION WE GATHERED FROM THE
- 25 INVESTIGATION.

1 Q WHO WAS HE WITH?

2 A SEVERAL PEOPLE. THERE ARE SEVERAL PEOPLE THAT SAY
3 THEY WERE WITH HIM OR AROUND HIM AND THERE WERE OTHER
4 PEOPLE--

5 Q BETWEEN THE HOURS OF 10:20 P.M. AND 12:17 A.M., WHO
6 WAS HE WITH?

7 A I AM SORRY.

8 Q WHO WAS HE WITH?

9 A I AM SORRY. HE WAS TRANSPORTED TO HEADQUARTER BY
10 OFFICER WHITTLE AND, NO, I AM NOT SURE WHO WAS GUARDING
11 HIM THERE AT THE POLICE DEPARTMENT. I ASSUME IT WAS
12 OFFICER WHITTLE AND OFFICER CURRIE WENT THERE AT ONE POINT
13 TO ADMINISTER A TEST ON HIS HANDS FOR EVIDENCE.

14 Q AND AT WHAT POINT WAS HE TRANSPORTED TO THE POLICE
15 DEPARTMENT?

16 A IT WAS RIGHT AFTER THE SHOWUP AS FAR AS I KNOW, I
17 LEFT OFFICER WHITTLE WITH CHRIS LIVERMAN ON CALK STREET
18 AND I WENT BACK TO TS MARTIN SO I AM NOT SURE EXACTLY WHAT
19 TIME HE LEFT THERE.

20 Q BUT YOU DIDN'T SEE HIM AGAIN UNTIL 12:17?

21 A YES, SIR.

22 Q AND YOU LEFT HIM WITH OFFICER WHITTLE AND CORPORAL
23 AULD?

24 A WELL, CORPORAL AULD WASN'T THERE, IT WAS OFFICER
25 WHITTLE WENT ON, BEFORE I LEFT HE WAS PLACED BACK IN THE

1 BACK OF THE POLICE CAR AND THEN I LEFT.

2 Q TO THE BEST YOU KNEW HE WAS WITH THE OFFICER, OFFICER
3 WHITTLE?

4 A YES, I ASKED OFFICER WHITTLE TO TRANSPORT HIM TO THE
5 POLICE DEPARTMENT AS SOON AS POSSIBLE.

6 Q HAS OFFICER WHITTLE PROVIDED YOU WITH ANY NOTES ABOUT
7 WHAT HAPPENED BETWEEN 10:20 AND 12:17?

8 A NO, SIR.

9 Q WHEN YOU MET WITH CHRISTOPHER LIVERMAN AT THE POLICE
10 DEPARTMENT HOW LONG HAD HE BEEN IN?

11 A I AM NOT SURE WHEN HE WAS TRANSPORTED THERE TO BE
12 HONEST WITH YOU, I KNOW INVESTIGATOR OR OFFICER CURRIE
13 WENT THERE AT SOME POINT AND ADMINISTERED THE TEST AND
14 THERE SHOULD BE A TIME DOCUMENTED ON THAT. BUT, YOU KNOW,
15 A COUPLE OF HOURS.

16 Q SO, CHRISTOPHER LIVERMAN HAD ALREADY BEEN TESTED FOR
17 GUNSHOT RESIDUE AT THAT TIME?

18 A BY THE TIME I INTERVIEWED HIM, YES SIR.

19 Q AND WHEN YOU MET WITH HIM AT 12:17, THIS WAS AT THE
20 COLUMBIA POLICE DEPARTMENT, CORRECT?

21 A YES, SIR.

22 Q AND COULD YOU DESCRIBE THE, WHERE YOU MET HIM?

23 A THERE IS A ROOM THERE, IT IS PRIMARILY USED FOR
24 INTERVIEWING, THERE IS A DESK AND SEVERAL CHAIRS AND A
25 STORAGE CABINET, IT IS A LIGHTED ROOM APPROXIMATELY 8 X

1 12, THERE IS ONE DOOR IN, NO WINDOWS.

2 Q HOW MANY DOORS ARE THERE?

3 A ONE DOOR.

4 Q ONE DOOR. WHICH WAY WAS CHRISTOPHER LIVERMAN, WAS HE
5 SEATED?

6 A HE WAS SEATED WHEN I ARRIVED, YES SIR.

7 Q WHICH WAY WAS HE FACING?

8 A I DON'T RECALL.

9 Q AND HE WAS IN THE ROOM WHEN YOU ARRIVED?

10 A YES, SIR.

11 Q HAD ANYONE BEEN IN THE ROOM PRIOR TO YOUR ENTRY?

12 A NOT THAT I KNOW OF OTHER THAN MR. CURRIE, OFFICER
13 CURRIE.

14 Q OKAY. SO, YOUR UNDERSTANDING OFFICER CURRIE TOOK THE
15 GUNSHOT RESIDUE TEST WHILE HE WAS IN THAT ROOM?

16 A I AM NOT SURE WHICH ROOM IT WAS IN, I WASN'T THERE.

17 Q DID ANYONE HAVE PERMISSION TO BE IN THAT ROOM WITH
18 CHRISTOPHER LIVERMAN?

19 A I THINK MOSTLY PEOPLE WORKING UNDERSTOOD HOW
20 SENSITIVE IT WAS AS FAR AS TALKING TO HIM AND AS FAR AS I
21 KNOW THERE WAS NO ONE ELSE IN THERE WITH HIM.

22 Q WAS HE HANDCUFFED?

23 A I AM SURE HE WAS, HE WAS HANDCUFFED WHEN I ARRIVED.

24 Q DID HE HAVE SHACKLES ON HIS LEGS?

25 A NO SIR, NOT THAT I RECALL.

1 Q IT WAS JUST YOU AND MR. LIVERMAN IN THE ROOM?

2 A YES, SIR.

3 Q WAS ANYONE WATCHING FROM THE OUTSIDE?

4 A NO SIR, THERE ARE NO WINDOWS IN THE ROOM.

5 Q DID MR. LIVERMAN EVER REQUEST ANYTHING TO EAT OR
6 ANYTHING TO DRINK?

7 A NO, SIR.

8 Q DID HE EVER ASK THE OPPORTUNITY TO USE THE RESTROOM?

9 A NOT THAT I RECALL.

10 Q YOU TESTIFIED THAT YOU GOT SOME PRELIMINARY
11 INFORMATION ABOUT MR. LIVERMAN, SPECIFICALLY YOU ASKED
12 ABOUT HIS EDUCATION, CORRECT?

13 A I ASK IF HE WAS ATTENDING SCHOOL AND THAT IS WHEN HE
14 GAVE ME THE INFORMATION, YES SIR.

15 Q DID YOU EVER ASK HIM IF HE WAS IN SPECIAL EDUCATION
16 CLASSES?

17 A NO, SIR.

18 Q SO, YOU WERE NOT AWARE ONE WAY OR THE OTHER IF HE WAS
19 IN SPECIAL EDUCATION CLASSES?

20 A NO, SIR.

21 Q YOU TESTIFIED YOU WENT OVER HIS RIGHTS, YOU READ THE
22 RIGHTS TO HIM?

23 A YES, I DID.

24 Q AND SPECIFICALLY WHAT DID YOU DO TO ENSURE YOU WENT
25 OVER ALL OF THE RIGHTS?

1 A I JUST MADE A MARK BESIDE EACH STATEMENT, THE TOP
2 PORTION OF THE PAGE.

3 Q READING THE RIGHTS, SPECIFICALLY WHAT DID YOU DO TO
4 ENSURE HE UNDERSTOOD THESE RIGHTS?

5 A I GENERALLY TURN THE RIGHTS WAIVER, SO THE PERSON
6 THAT I AM READING THEM TOO CAN READ ALONG WITH IT AND READ
7 HIM THE RIGHTS. AND THEN ASKED HIM IF HE UNDERSTOOD THOSE
8 RIGHTS.

9 Q WERE YOU SEATED NEXT TO HIM?

10 A I WAS ACROSS THE DESK FROM HIM, IN FRONT OF HIM.

11 Q SO, YOU ASKED HIM IF HE UNDERSTOOD THEM?

12 A THAT'S CORRECT.

13 Q OTHER THAN THAT, IF HE UNDERSTOOD THE RIGHTS DID YOU
14 DO ANYTHING ELSE TO ENSURE HE UNDERSTOOD HIS RIGHTS?

15 A ONCE SOMEONE INDICATES TO ME THEY UNDERSTAND THEIR
16 RIGHTS I GO AHEAD AND MOVE FORWARD AND READ THE WAIVER.

17 Q SO, YOUR TESTIMONY THAT, YOUR TESTIMONY IS THAT HE
18 UNDERSTOOD HIS RIGHTS AND THE REASON YOU KNOW THAT IS
19 BECAUSE HE TOLD YOU THAT HE UNDERSTOOD THEM?

20 A HE TOLD ME HE UNDERSTOOD THE RIGHTS.

21 Q HAVE YOU REFUSED TO TAKE A STATEMENT FROM A PERSON
22 BECAUSE YOU FELT THAT THEY DID NOT TRULY UNDERSTAND THEIR
23 RIGHTS?

24 A YES SIR, I HAVE, ON THIS CASE.

25 Q WHEN WAS THIS?

1 A THAT WAS REGINALD JOYNER.

2 Q AND HE TOLD YOU HE UNDERSTOOD HIS RIGHTS?

3 A HE DIDN'T TELL ME THAT BUT THAT WAS MY BELIEF.

4 Q LET ME REPHRASE THE, HAVE YOU EVER REFUSED TO TAKE A
5 STATEMENT FROM SOMEONE WHO TOLD YOU HE UNDERSTOOD HIS
6 RIGHTS?

7 A IF SOMEONE IS INTOXICATED OR OBVIOUSLY UNDER THE
8 INFLUENCE OF DRUGS OR SOMETHING LIKE THAT, I AM SURE I
9 HAVE DONE THAT AT SOME POINT. SOME PEOPLE, I MAY NOT EVEN
10 HAVE READ THE RIGHTS IF THEY WERE IN THAT CONDITION. HE
11 SEEMED ALERT AND ATTENTIVE AND I DIDN'T SEE ANY PROBLEMS
12 IN ACCEPTING HIS WAIVER.

13 Q AND YOU FILLED OUT THE MIRANDA FORM AT 12:20 IN THE
14 MORNING, CORRECT?

15 A I THINK, AROUND 12:17 AND I THINK I SIGNED IT AS A
16 WITNESS AT 12:20.

17 Q AND YOU TOOK THE STATEMENT AT 12:35, CORRECT?

18 A I AM NOT SURE WHAT TIME IS ON THE STATEMENT, IT WAS
19 SHORTLY AFTER THE WAIVER.

20 Q INVESTIGATOR GRAY, DO YOU RECOGNIZE THIS DOCUMENT?

21 A YES SIR, THAT IS THE STATEMENT.

22 Q AND WHAT TIME?

23 A 12:35 A.M.

24 Q YOU WOULD AGREE THAT THERE IS A FIFTEEN MINUTE GAP IN
25 BETWEEN WHEN YOU READ CHRIS LIVERMAN'S MIRANDA RIGHTS WHEN

1 YOU TOOK THE STATEMENT, CORRECT?

2 A YES, SIR.

3 Q WHAT HAPPENED DURING THOSE FIFTEEN MINUTES?

4 A I TALKED TO HIM AND TOLD HIM WHY I WAS THERE AND TOLD
5 HIM WE WERE INVESTIGATING THE SHOOTING. ONE OF THE THINGS
6 I MENTIONED TO HIM WAS THAT HE HAD BEEN IDENTIFIED IN THAT
7 SHOOTING AND I DON'T REMEMBER WHAT ELSE I SAID TO HIM. AS
8 FAR AS HIM MAKING STATEMENTS, WHAT HE SAID WAS
9 INCORPORATED IN THAT STATEMENT FORM.

10 Q SO, DID YOU TELL HIM HOW HE WAS IDENTIFIED IN THE
11 SHOOTING, WHO IDENTIFIED HIM?

12 A I DIDN'T MENTION ANY NAMES, NO SIR.

13 Q DID YOU TELL HIM HOW MANY PEOPLE IDENTIFIED?

14 A NO, SIR.

15 Q YOU TOLD HIM THAT THIS HAD OCCURRED AT TS MARTIN?

16 A YES SIR, I DID.

17 Q CORRECT?

18 A YES.

19 Q YOU TOLD HIM THAT DURING THOSE FIFTEEN MINUTES?

20 A I AM SORRY?

21 Q YOU TOLD HIM THAT DURING THOSE FIFTEEN MINUTES?

22 A YES, I DID.

23 Q AND YOU TOLD HIM THAT CHILDREN HAD BEEN SHOT?

24 A I DIDN'T MENTION THE CHILDREN, I JUST MENTIONED THE
25 SHOOTINGS AS I RECALL, I DIDN'T GO INTO SPECIFICS AS FAR

1 AS THE AGES.

2 Q AND DID YOU DISCUSS THE TEST THAT HAD JUST BEEN
3 PERFORMED ON HIM, THE GUNSHOT RESIDUE TEST?

4 A NOT THAT I RECALL.

5 Q DID HE EVER ASK YOU?

6 A HE NEVER ASKED ME ABOUT THE TEST.

7 Q BEFORE YOU TOOK HIS STATEMENT AT 12:35 DID YOU REVIEW
8 HIS MIRANDA RIGHTS AGAIN?

9 A NO, SIR.

10 Q AND YOU JUST TESTIFIED YOU TOOK THIS STATEMENT IN
11 QUESTION, ANSWER FORM, CORRECT?

12 A THAT'S CORRECT.

13 Q DO YOU REMEMBER WHY YOU CHOSE THIS FORMAT?

14 A WHY I WANTED TO DIRECT THE QUESTIONING, HE WASN'T
15 VERY TALKATIVE AND I HAD TO ASK HIM QUESTIONS TO GET ANY
16 KIND OF RESPONSE OUT OF HIM.

17 Q HE WAS QUIET, CORRECT?

18 A HE WAS QUIET.

19 Q HE DIDN'T OPEN UP TO YOU?

20 A HE WAS VERY RESERVED.

21 Q VERY RESERVED. WHEN DID YOU ASK THE FIRST QUESTION
22 THAT WAS RECORDED IN THE STATEMENT?

23 A I AM NOT SURE. IT WAS PROBABLY AROUND THE TIME WHEN
24 I FILLED OUT THE HEADING ON THE STATEMENT FORM.

25 Q WHEN YOU BEGAN TALKING TO HIM HOW LONG DID IT TAKE

1 HIM TO ANSWER YOUR QUESTIONS?

2 A I DON'T RECALL ASKING HIM ANY SPECIFIC QUESTIONS
3 BEFORE THE QUESTION, ANSWER INTERVIEW. I TALKED TO HIM
4 AND I MAY EVEN LEFT THE ROOM AND CAME BACK AND TALKED TO
5 HIM SOME MORE BEFORE I STARTED DOING THE QUESTION AND
6 ANSWER.

7 Q SO, HE DIDN'T SAY ANYTHING FOR FIFTEEN MINUTES?

8 A ONE OF THE THINGS HE DID, I THINK I HAVE GOT IT IN MY
9 NOTES HERE. THE ONLY THING HE SAID WAS HE HAD NOT BEEN AT
10 TS MARTIN.

11 Q AT WHAT POINT DID HE SAY THIS, WAS THIS AT 12:20 OR
12 12:35?

13 A THAT WAS JUST BEFORE THE QUESTION AND ANSWER, AS I
14 RECALL.

15 Q SO, OTHER THAN THAT STATEMENT HE DID NOT SAY ANYTHING
16 FROM 12:00 TO JUST BEFORE 12:35?

17 A HE SAT THERE AND LISTENED TO ME AND I TALKED TO HIM
18 FOR A FEW MINUTES AND THEN HE MADE THAT STATEMENT AND I
19 TALKED TO HIM A FEW MINUTES MORE AND TOLD HIM THAT HE HAD
20 BEEN IDENTIFIED THERE.

21 Q DID HE REMAIN SILENT?

22 A HE DIDN'T SAY A LOT.

23 Q CARL SMITH WAS ALSO DETAINED AT THIS TIME, CORRECT?

24 A AROUND THAT TIME, YES SIR.

25 Q AND WHERE WAS HE THROUGHOUT THIS QUESTIONING?

1 A I AM NOT SURE WHICH OFFICE HE WAS IN, ONE OF THE
2 OTHER INVESTIGATORS HAD STARTED INTERVIEWING HIM SOME TIME
3 THAT MORNING. HE WAS IN A SEPARATE OFFICE AND IT WAS AWAY
4 FROM WHERE MR. LIVERMAN WAS.

5 Q WHEN YOU SAY AWAY, DOWN THE HALL?

6 A IT COULD OF BEEN ACROSS THE HALL, WE HAVE TWO OTHER
7 PLACES TO INTERVIEW, ONE IS IN A LARGER ROOM AND WE HAVE A
8 SMALLER ROOM AT THE END OF THE HALL SIMILAR TO THE ONE MR.
9 LIVERMAN WAS IN.

10 Q DID YOU TAKE PART IN THAT INTERVIEW?

11 A NOT AT FIRST, I DID LATER THAT MORNING.

12 Q AT WHAT TIME DID YOU BECOME INVOLVED WITH THE
13 INTERVIEW WITH CARL SMITH?

14 A I THINK IT WAS AROUND 4:20 THAT MORNING.

15 Q DID YOU EVER TELL CHRIS THAT CARL SMITH WAS ALSO
16 DETAINED?

17 A NO, I DON'T THINK I WOULD OF TOLD HIM THAT.

18 Q YOU DON'T RECALL OR?

19 A I DON'T THINK I WOULD OF TOLD HIM THAT, I DON'T
20 RECALL TELLING HIM SPECIFICALLY THAT.

21 Q DID YOU EVER DETERMINE CHRISTOPHER LIVERMAN COULD
22 WRITE?

23 A HE HAD NO PROBLEM SIGNING HIS NAME, I DIDN'T SEE HIM
24 ACTUALLY WRITE OTHER THAN SIGNING HIS NAME.

25 Q YOU CHOSE TO WRITE DOWN HIS STATEMENT, CORRECT?

1 A YES, SIR.

2 Q WHY DID YOU CHOOSE TO WRITE THE STATEMENT?

3 A I HAD QUESTIONS THAT I WANTED TO ASK HIM AND THAT IS
4 A COMMON WAY THAT I HAVE ALWAYS USED TO CONDUCT AN
5 INTERVIEW.

6 Q WHY DID YOU CHOOSE TO DO INTERVIEWS THAT WAY?

7 A BECAUSE I HAVE CERTAIN QUESTIONS THAT I WANT TO ASK
8 AND I AM LOOKING FOR RESPONSES FOR CERTAIN QUESTIONS.

9 Q WOULD IT BE FAIR TO SAY IT PROVIDES YOU WITH BETTER
10 CONTROL OVER THE INTERVIEW?

11 A WELL, MR. LIVERMAN WASN'T REAL TALKATIVE AND I HAD TO
12 ASK HIM QUESTIONS TO GET ANY KIND OF RESPONSE OUT OF HIM.

13 Q YOU COULD OF ASKED HIM QUESTIONS AND HAVE HIM WRITE
14 THE ANSWERS, CORRECT?

15 A I COULD HAVE AND I HAVE DONE THAT BEFORE, YES SIR.

16 Q I GUESS MY SPECIFIC QUESTION IS WHY DID YOU WRITE THE
17 ANSWERS?

18 A THAT IS JUST THE WAY I CHOSE TO DO IT.

19 Q I GUESS MY FOLLOW-UP, IS THERE A REASON YOU CHOSE TO
20 DO IT THAT WAY?

21 A JUST MAKES THE INTERVIEW FLOW BETTER, I ASK HIM A
22 QUESTION AND HE TALKS AND I WRITE THE ANSWER DOWN.

23 Q AND YOU TESTIFIED THAT CHRIS LIVERMAN REVIEWED THE
24 STATEMENT?

25 A YES, HE DID.

1 Q HOW LONG DID HE REVIEW, HOW LONG DID HE REVIEW THE
2 STATEMENT BEFORE HE SIGNED IT?

3 A I AM NOT SURE.

4 Q WAS IT A MINUTE?

5 A I AM NOT SURE, I AM SURE IT, HE APPEARED TO BE
6 READING THE STATEMENT.

7 Q THIS INTERVIEW BEGAN AT 12:35 A.M., CORRECT?

8 A YES, SIR. WELL, SHORTLY BEFORE THAT, RIGHT AFTER THE
9 STATEMENT FORM OR THE WAIVER FORM WAS SIGNED.

10 Q AND MR. LIVERMAN, WHAT TIME WAS MR. LIVERMAN BROUGHT
11 BACK TO THE ALVIN S. GLENN DETENTION CENTER?

12 A I AM NOT SURE WHAT TIME HE WAS TAKEN BACK.

13 Q IF I COULD, IF I TOLD YOU HE WAS TRANSPORTED BACK AT
14 2:30 A.M., WOULD THAT SOUND RIGHT?

15 A IT COULD BE.

16 Q HOW LONG DID THIS INTERVIEW LAST?

17 A UM, I AM NOT SURE, I AM NOT SURE HOW LONG IT WAS.
18 JUST TIME ENOUGH TO ASK HIM THE QUESTIONS AND DO THE
19 STATEMENT AND HAVE HIM TO REVIEW IT.

20 Q DID IT TAKE TWO HOURS?

21 A I DIDN'T THINK SO, NO SIR.

22 Q DID IT TAKE AN HOUR?

23 A PROBABLY 45 MINUTES TO AN HOUR, NOT EVEN AN HOUR.
24 PROBABLY ABOUT 45 MINUTES.

25 Q IT IS ONCE YOU STARTED WRITING DOWN THE QUESTIONS,

1 THE QUESTION AND ANSWER, CORRECT?

2 A YES, SIR.

3 Q DID YOU WRITE DOWN EVERYTHING HE SAID?

4 A AS A MATTER OF FACT I DO HAVE SOME OTHER NOTES HERE
5 IN MY CASE NOTES THAT I DIDN'T READ THERE, THERE ARE SOME
6 OTHER THINGS THAT HE DID SAY.

7 Q WAS THIS BEFORE OR AFTER?

8 A THIS WAS BEFORE THE QUESTION AND ANSWER STATEMENT.

9 Q OTHER THAN THOSE RESPONSES THAT YOU NOTED IN YOUR
10 CASE NOTES DID HE SAY ANYTHING ELSE?

11 A OTHER THAN WHAT I HAVE IN MY CASE NOTES, THAT IS ALL
12 HE SAID.

13 Q AND YOU HAVE YOUR OFFICE AT WASHINGTON STREET,
14 CORRECT?

15 A YES, SIR.

16 Q OKAY. YOU HAVE VIDEO TAPE EQUIPMENT AVAILABLE AT
17 HEADQUARTERS, CORRECT?

18 A NOT FOR INVESTIGATIONS, NOT FOR INTERVIEWS.

19 Q ARE THERE ANY VIDEO CAMERAS IN THE POLICE
20 HEADQUARTERS?

21 A THERE ARE SURVEILLANCE CAMERAS BUT THERE ARE NO VIDEO
22 CAMERAS IN ANY OF THE INTERVIEW ROOMS.

23 Q WHAT ABOUT HANDHELD CAMERAS?

24 A I AM SORRY?

25 Q WHAT ABOUT HANDHELD CAMERAS?

1 A THERE PROBABLY IS SOME BUT WE DON'T HAVE ACCESS TO
2 THEM.

3 Q YOU KNOW WHY YOU DON'T HAVE ACCESS TO THE--

4 A I DON'T MAKE THE POLICES AS FAR AS THAT GOES, WE
5 CONDUCT INTERVIEW ROOMS AND ROOMS WITH NO CAMERAS, NO
6 LISTENING DEVICES, NO OBSERVATION DEVICES.

7 Q AND YOU SAY THAT IS POLICY?

8 A IT IS THE WAY IT HAS BEEN DONE THERE.

9 Q THAT IS A COLUMBIA POLICE DEPARTMENT POLICY?

10 A I DON'T KNOW IF IT IS POLICY, THAT IS JUST THE
11 PRACTICE BECAUSE WE DON'T HAVE CAMERAS, THEY AREN'T SET
12 UP. THERE HAS BEEN SOME DISCUSSION ABOUT DOING THAT IN
13 THE FUTURE BUT I THINK IT IS BUDGETARY PROBLEMS IN THE
14 PAST.

15 Q YOU SAID BUDGETARY PROBLEMS. BUT THE COLUMBIA POLICE
16 DEPARTMENT DOES OWN VIDEO TAPES, CORRECT?

17 A I AM SURE THAT SOMEONE DOES, YES SIR.

18 Q IT IS A PRACTICE NOT TO VIDEO TAPE INTERROGATIONS,
19 CORRECT?

20 A I HAVE NEVER DONE IT.

21 Q HOW ABOUT THE INVESTIGATORS THAT YOU WORK WITH, DO
22 THEY?

23 A NONE OF THE OTHERS THAT I WORK WITH USE VIDEO
24 CAMERAS.

25 Q THEY DO USE?

1 A THEY DO NOT, AT THIS TIME THEY DID NOT THAT I KNEW
2 OF.

3 Q SO, THE INVESTIGATORS AT COLUMBIA POLICE DEPARTMENT
4 DON'T USE VIDEO CAMERAS?

5 A NONE OF THE INVESTIGATORS THAT I WORK WITH DIRECTLY.

6 Q AND WHY DON'T YOU USE VIDEO CAMERAS?

7 A WE AREN'T PROVIDED, THERE HAS TO BE CERTAIN EQUIPMENT
8 REQUIREMENTS TO USE THEM. AND THEN THEY HAVE TO BE
9 HANDLED AND STORED AND THEY JUST DON'T HAVE THE FACILITIES
10 TO DO THAT, THEY HAVE NEVER SET IT UP THAT WAY.

11 Q AS AN INVESTIGATOR AT THE POLICE DEPARTMENT, YOU DO
12 HAVE A TAPE RECORDER, CORRECT?

13 A I DON'T HAVE ONE, NO SIR.

14 Q YOU DON'T HAVE A TAPE RECORDER?

15 A NO SIR, I DON'T.

16 Q ARE THERE ANY TAPE RECORDERS AVAILABLE AT THE POLICE
17 DEPARTMENT?

18 A THERE ARE BUT I HAVE NEVER USED ONE IN AN INTERVIEW.

19 Q IS THAT YOUR POLICY OR THE DEPARTMENT'S POLICY?

20 A I DON'T KNOW IF THERE IS A POLICY ON IT, I JUST DON'T
21 USE ONE. THE INTERVIEWS, GOING IN THE ROOM, TALKING TO
22 THE PERSON AND DOING THE INTERVIEW AND THERE IS NO
23 RECORDINGS.

24 Q THAT IS YOUR PERSONAL POLICY?

25 A I DON'T KNOW IF IT IS MY PERSONAL POLICY, THAT IS

1 JUST THE COMMON PRACTICE THERE AT THE POLICE DEPARTMENT.

2 Q IT IS YOUR PERSONAL CHOICE?

3 A I DON'T REALLY HAVE A CHOICE, WE AREN'T PROVIDED WITH
4 EQUIPMENT TO DO THAT.

5 Q OKAY. YOU TESTIFIED THAT THIS INTERROGATION TOOK
6 APPROXIMATELY 45 MINUTES?

7 A IT WASN'T THAT LONG, I DON'T THINK IT WAS ANY MORE
8 THAN THAT.

9 Q SO, IT WOULD OF ENDED AT APPROXIMATELY 1:20?

10 A I AM NOT SURE WHEN IT ENDED, I TALKED TO HIM, AGAIN
11 THOSE QUESTION AND ANSWERS AT 12:35 AND HOWEVER LONG IT
12 TOOK TO COMPLETE THAT. I AM NOT SURE HOW LONG IT WAS, I
13 JUST ASKED THE QUESTIONS AND MADE NOTE OF THE ANSWERS AND
14 HE REVIEWED IT AND THAT WAS THE END OF IT.

15 Q AND IT WAS CERTAINLY AND WELL BEFORE 2:30 THEN,
16 CORRECT?

17 A CERTAINLY.

18 Q OKAY. DO YOU HAVE ANY KNOWLEDGE WHERE CHRIS WAS HELD
19 BETWEEN AFTER THE INTERVIEW AND 2:30 A.M.

20 A PROBABLY IN THE SAME ROOM, I HAD OTHER THINGS THAT I
21 NEEDED TO TAKE CARE OF.

22 Q DO YOU HAVE ANY KNOWLEDGE OF WHERE HE MAY OF BEEN?

23 A NO SIR, I DON'T.

24 Q SO, YOU CAN'T SAY IF ANYONE SAID ANYTHING TO CHRIS?

25 A IF ANYONE TALKED TO HIM OR, I AM SURE NO ONE WOULD

1 HAVE TALKED TO HIM ABOUT THIS CASE.

2 Q BUT YOU WEREN'T WITH HIM DURING THAT TIME?

3 A NO, SIR.

4 Q WHO TRANSPORTED HIM TO THE JAIL THAT NIGHT?

5 A OFFICER WHITTLE.

6 Q DID OFFICER WHITTLE EVER PROVIDE YOU WITH ANY NOTES
7 OR RECORDS OF WHAT MAY OF BEEN DISCUSSED WHILE THEY WERE
8 IN THE CAR?

9 A NO, SIR.

10 Q CHRIS LIVERMAN SPENT THAT NIGHT IN JAIL, CORRECT?

11 A YES, SIR.

12 Q AND YOU CONDUCTED ANOTHER INTERVIEW WITH HIM THE NEXT
13 DAY?

14 A YES, I DID.

15 Q AND WHO PICKED HIM UP FROM THE JAIL?

16 A OFFICER HUNTLEY.

17 Q ARE YOU AWARE OF ANY DISCUSSIONS THAT OFFICER HUNTLEY
18 HAD WITH CHRIS LIVERMAN?

19 A I AM NOT AWARE OF ANY.

20 Q DO YOU HAVE ANY REASON TO BELIEVE THAT THERE MAY OF
21 BEEN ANY DISCUSSIONS?

22 A NO, SIR.

23 Q CHRISTOPHER, THAT PREVIOUS NIGHT HE DENIED BEING
24 INVOLVED IN THE SHOOTING AT TS MARTIN, CORRECT?

25 A THAT'S CORRECT.

1 Q IT WAS YOUR CALL TO BRING HIM BACK AS FAR AS THE
2 SECOND INTERVIEW, CORRECT?

3 A THAT'S CORRECT.

4 Q HE DIDN'T REQUEST THAT?

5 A NOT THAT I RECALL.

6 Q AND YOU SENT FOR HIM?

7 A YES.

8 Q AND YOU WERE ATTEMPTING TO ELICIT A CONFESSION,
9 CORRECT?

10 A I WANTED TO TALK TO HIM SOME MORE, YES SIR.

11 Q YOU WANTED TO ELICIT A CONFESSION?

12 A THAT WOULD OF BEEN GREAT HAD HE CONFESSED TO
13 EVERYTHING THERE BUT I HAD SOME MORE QUESTIONS THAT I
14 WANTED TO ASK HIM.

15 Q YOU BEGAN THAT INTERVIEW AT 1:25 P.M., CORRECT?

16 A YES, SIR.

17 Q AND WHERE DID THAT INTERVIEW TAKE PLACE?

18 A IN AN INTERVIEW ROOM THERE AT THE POLICE DEPARTMENT
19 ON THE SECOND FLOOR IN INVESTIGATIONS.

20 Q WAS IT THE SAME ROOM?

21 A I BELIEVE IT WAS, YES SIR.

22 Q WAS CHRIS LIVERMAN HANDCUFFED AT THIS TIME?

23 A HE WAS HANDCUFFED WHEN HE WAS BROUGHT IT AND IT IS
24 OUR CALL TO TAKE THE CUFFS OFF OR MAYBE JUST HANDCUFF ONE
25 HAND TO THE CHAIR, I DON'T REMEMBER.

1 Q WAS HE SHACKLED, WAS HIS LEGS SHACKLED?

2 A I DON'T REMEMBER, OFFICER HUNTLEY TESTIFIED THAT HE
3 WAS.

4 Q AND WHO WAS PRESENT IN THE ROOM FOR THIS INTERVIEW?

5 A I WAS IN THERE WITH HIM BY MYSELF.

6 Q AND THE FIRST THING THAT YOU TOLD CHRIS THAT
7 SOMETHING NEEDED TO BE CLEARED UP, CORRECT?

8 A I TOLD HIM THAT THERE WAS SOME MORE QUESTIONS ABOUT
9 THE SHOOTING THAT NEEDED TO BE CLEARED UP, YES SIR.

10 Q DID HE GO INTO SPECIFICS ABOUT WHAT NEEDED TO BE
11 CLEARED UP?

12 A NO, SIR.

13 Q DID YOU TALK TO HIM AGAIN ABOUT THE WITNESS THAT
14 PLACED HIM THERE?

15 A NO SIR, I WENT STRAIGHT TO, DIRECTLY TO THE, AFTER HE
16 SHOOK HIS HEAD AFFIRMATIVELY I WENT STRAIGHT INTO THE
17 WAIVER FORM WITH HIM.

18 Q AT ANY POINT DID YOU TALK ABOUT GUNSHOT RESIDUE TEST?

19 A NOT THAT I RECALL.

20 Q BUT YOU MAY BUT YOU JUST DON'T RECALL?

21 A NO, I DON'T THINK I WOULD OF DISCUSSED THAT WITH HIM.

22 Q AND YOU REVIEWED HIS MIRANDA RIGHTS AGAIN THEN,
23 CORRECT?

24 A YES, SIR.

25 Q AND HOW DID YOU GO OVER HIS MIRANDA RIGHTS?

1 A I FILLED OUT THE UPPER RIGHT-HAND PORTION AND THEN
2 JUST READ THE STATEMENT AS I DID ON THE PREVIOUS RIGHTS
3 WAIVER FORM.

4 Q YOU WENT THROUGH THE SAME PROCEDURE?

5 A YES, SIR.

6 Q AND, AGAIN, HE TOLD YOU, HE INDICATED THAT HE
7 UNDERSTOOD?

8 A HE DID.

9 Q AND DID YOU TAKE ANY SPECIAL PRECAUTIONS TO ENSURE
10 THAT HE SPECIFICALLY UNDERSTOOD?

11 A I ASKED HIM IF HE UNDERSTOOD THOSE RIGHTS AND IF HE
12 WAS WILLING TO WAIVE THOSE RIGHTS AND HE INDICATED THAT HE
13 DID.

14 Q AGAIN, THE INTERVIEW AT 1:30, CORRECT?

15 A YES, SIR.

16 Q AGAIN, YOU ASKED QUESTIONS AND YOU WROTE DOWN THE
17 ANSWERS?

18 A THAT'S CORRECT.

19 Q AND THIS WAS NOT AUDIO TAPED?

20 A NO, SIR.

21 Q NOT VIDEO TAPED?

22 A NO, SIR.

23 Q I HAVE NO FURTHER QUESTIONS, YOUR HONOR.

24 THE COURT: REDIRECT?

25 REDIRECT EXAMINATION

1 BY MS. FENT:

2 Q THE NEXT DAY DID YOU BRING HIM DOWN TO THE POLICE
3 STATION FOR ANOTHER STATEMENT?

4 A YES, I DID.

5 Q AND WHAT HAPPENED THEN?

6 A HE INDICATED THAT HE HAD SPOKEN WITH AN ATTORNEY AND
7 WAS ADVISED NOT TO DISCUSS THE CASE.

8 Q OKAY. SO, HE CLEARLY HAD UNDERSTOOD THE TWO PREVIOUS
9 TIMES YOU READ HIM HIS RIGHTS, HE UNDERSTOOD THAT HE COULD
10 ASK FOR A LAWYER AND THE QUESTIONING WOULD STOP?

11 A THAT'S CORRECT.

12 Q OKAY. AND TO CLEAR UP, WHEN YOU TOOK THE FIRST
13 STATEMENT FROM HIM AT 00:17 HOURS IN YOUR INVESTIGATIVE
14 NOTES, YOU HAD GIVEN HIM, READ HIM HIS RIGHTS AND HE
15 SIGNED THE WAIVER, IS THAT CORRECT?

16 A THAT'S CORRECT.

17 Q AND THEN YOU TOLD HIM WHAT?

18 A I TOLD HIM THAT HE HAD BEEN IDENTIFIED IN THE
19 SHOOTING AT TS MARTIN EARLIER THAT EVENING.

20 Q AND WHAT WAS HIS RESPONSE AFTER BEING GIVEN HIS
21 MIRANDA WARNINGS AND SIGNING THE WAIVER, WHAT WAS HIS
22 RESPONSE TO YOUR STATEMENT?

23 A HE SAID HE HAD NOT BEEN AT TS MARTIN.

24 Q OKAY. THEN YOU TELL HIM WHAT?

25 A I TOLD HIM THAT HE HAD BEEN IDENTIFIED--

1 MR. SCHARDT: YOUR HONOR, I WOULD OBJECT AT THIS
2 TIME. I WOULD LIKE TO RENEW MY OBJECTION, THERE IS NO
3 FOUNDATION LAID THAT THE INVESTIGATOR LACKS ANY SORT OF
4 MEMORY TO RECALL WHAT HAPPENED AND THEREFORE SHOULD NOT BE
5 USING HIS NOTES WHEN HE IS ASKED THESE QUESTIONS.

6 THE COURT: BACK BEFORE YOU OBJECTED THE FIRST TIME,
7 THE WITNESS, SHORTLY AFTER HE STARTED TESTIFYING PULLED
8 OUT HIS NOTES AND SAID, I NEED TO GLANCE AT MY NOTES,
9 THERE WAS NO OBJECTION AT THAT TIME. HE CAN USE HIS NOTES
10 TO REFRESH HIS MEMORY. GO AHEAD, SOLICITOR, OBJECTION IS
11 OVERRULED.

12 Q OKAY. AND AFTER HE SAID HE HAD NOT BEEN AT TS MARTIN
13 THEN, I MEAN THEN BASICALLY WHAT DID YOU SAY TO HIM?

14 A I TOLD HIM THAT SOME WITNESSES HAD IDENTIFIED HIM AS
15 BEING THERE, THEY HAD PUT HIM IN THERE AT THE TIME OF THE
16 SHOOTING.

17 Q AND THEN THE REMAINDER OF THE INFORMATION IS
18 DOCUMENTED IN THE STATEMENT THAT YOU TOOK FROM HIM?

19 A YES, MA'AM.

20 Q BUT HIS FIRST STATEMENT, ORAL STATEMENT TO YOU WAS
21 THAT HE HAD NOT BEEN AT TS MARTIN?

22 A THAT IS CORRECT.

23 Q NO FURTHER QUESTIONS.

24 THE COURT: ANY RECROSS?

25 MR. SCHARDT: NOTHING, YOUR HONOR.

1 THE COURT: YOU MAY STEP DOWN.

2 MS. FENT: I WANT TO HAND TO THE COURT 1 THOUGH 4
3 THAT HAS BEEN ADMITTED FOR THIS HEARING.

4 THE COURT: ANY MORE TESTIMONY ON THIS ISSUE?

5 MS. FENT: NO, YOUR HONOR.

6 THE COURT: ANY TESTIMONY FROM THE DEFENSE ON THIS?

7 MR. SCHARDT: NOTHING, YOUR HONOR.

8 THE COURT: ALL RIGHT. I WILL HEAR YOUR ARGUMENTS
9 AND MAKE MY RULING BEFORE WE QUIT. LET'S GO AHEAD AND GET
10 ANY ADDITIONAL TESTIMONY WE NEED TO GET IN THIS AFTERNOON.
11 BEFORE WE DO THAT LET'S TAKE FIVE MINUTES, WE WILL TAKE A
12 SHORT BREAK.

13 (WHEREUPON, A SHORT BREAK WAS TAKEN.)

14 THE COURT: WE ARE READY FOR THE NEIL V. BIGGERS, IS
15 THAT RIGHT?

16 MS. FRANKLIN: THAT IS CORRECT, YOUR HONOR.

17 MS. FENT: BASICALLY, BEFORE I CALL THE WITNESS I
18 WOULD LIKE TO ACTUALLY KIND OF WORK THE OPPOSITE WAY. I
19 HAVE A CASE, STATE V. MCCLOUD. BASICALLY THE CASE STATES
20 THAT, THE CASE INVOLVES BASICALLY A VICTIM WHO HAD BEEN
21 ATTACKED BY AN INDIVIDUAL THAT SHE RECOGNIZED, NOT
22 NECESSARILY BY NAME. BUT AS SHE WAS BEING ATTACKED SHE
23 SAID, "OH, YOU HAD A--". SHE KNEW SHE HAD SEEN HIM AROUND
24 THE NEIGHBORHOOD, KNEW HIM BUT DIDN'T KNOW HIS NAME BUT
25 IMMEDIATELY RECOGNIZED HIM. THE CASE BASICALLY SAYS THAT

1 THE RULING AND THE DECISIONS OF U.S. V. WADE, GILBERT AND
2 FOSTER V. CALIFORNIA AND STOVALL, THESE ARE ALL CITED IN
3 NEIL V. BIGGERS ATTEMPTS TO AVERT THE DANGERS OF MISTAKEN
4 IDENTITY BY ESTABLISHING MANDATORY CONSTITUTIONAL
5 PROCEDURAL SAFEGUARDS. THE RULES ARE DESIGNED FOR
6 APPLICATION WHERE THE ACCUSED AND THE VICTIM ARE STRANGERS
7 TO EACH OTHER. THEY WERE NEVER INTENDED TO APPLY WHERE
8 THE VICTIM KNEW THE ACCUSED. AND SO THE COURT DOESN'T
9 NEED TO GO UNDER A BASIC REVIEW OF THE TOTALITY OF THE
10 CIRCUMSTANCES MEANING THE OPPORTUNITY TO OBSERVE THE
11 PERSON, THE LIGHTING CONDITIONS, THE SUGGESTIVENESS OF
12 EVEN A SHOWUP OR A LINEUP. BUT YOU KNOW, EVEN A SHOWUP
13 WHERE THE VICTIM OR A WITNESS KNOWS INDEPENDENTLY FROM THE
14 INCIDENT KNOWS THE PERSON THAT THEY ARE IDENTIFYING. AND
15 BASICALLY I JUST BRING IT TO THE COURT'S ATTENTION AT THIS
16 POINT BECAUSE I HAVE OUR IDENTIFICATION WITNESS HERE, HE
17 IS PREPARED TO ESTABLISH, YOU KNOW, THAT HE KNEW THE
18 DEFENDANT PRIOR TO THIS DAY. AND, YOU KNOW, TO BASICALLY
19 ESTABLISH THAT IT IS NOT A STRANGER CONFRONTATION BUT ONCE
20 THAT WITNESS IS TESTIFYING TO THE ESTABLISHMENT THAT WE
21 AREN'T STRANGERS THEN REALLY THE QUESTIONING AND THE
22 EXAMINATION DOESN'T GO ANY FURTHER THAN THAT. ANY
23 QUESTIONING OF THE WITNESS WITH REGARD TO, WELL, HOW WERE
24 YOU ABLE TO ACTUALLY OBSERVE THIS PERSON AND HOW WAS THE
25 LIGHTING AND HOW LONG DID YOU, YOU KNOW, HAVE THE ABILITY

1 TO OBSERVE THIS PERSON. ALL IT IS GOING TO GO TO IS
2 ATTACKING THAT WITNESS, ONCE THEY ARE ON THE STAND AND THE
3 STRENGTH OR WEAKNESS OF THE IDENTIFICATION. BUT THIS
4 WITNESS KNOWS THE DEFENDANT AND HAS SEEN HIM BEFORE AND IT
5 IS NOT A STRANGER SITUATION. SO, BASICALLY, NEIL V.
6 BIGGERS DOESN'T APPLY.

7 THE COURT: MS. FRANKLIN.

8 MS. FRANKLIN: YOUR HONOR, A COUPLE OF POINTS ABOUT
9 THAT. I WOULD NOTE THAT THE CASE OF THE SOLICITOR JUST
10 HANDED TO ME, I AM FAMILIAR WITH IT BUT NOT AS FAMILIAR
11 WITH THE FACTS OF THE CASE. BUT IN THIS CASE THE VICTIM
12 HERE WAS ACTUALLY PHYSICALLY ATTACKED AND HER ASSAILANT
13 STRUCK HER ON THE HEAD WITH A HARD OBJECT, CHOKED HER,
14 ATTEMPTED TO REMOVE HER UNDERGARMENTS. IN FACT IT WAS
15 SOMEBODY WHO WAS PRESENT RIGHT IN FRONT OF HER WHERE SHE
16 WOULD OF HAD AMPLE OPPORTUNITY TO MAKE AN IDENTIFICATION.
17 HER GOING ON TO SAY THAT THIS IS SOMEBODY SHE, IN FACT,
18 KNOWS, MAKES SENSE TO ME THAT THIS WOULD NOT BE AN
19 APPROPRIATE SITUATION TO HAVE THE NEIL V. BIGGERS. IN
20 THIS CASE, HOWEVER, WE HAVE DISCOVERY THAT HAS BEEN
21 PROVIDED TO US SO FAR SUGGEST THAT THE, THAT THIS WITNESS
22 KNOWS MY CLIENT BY NICKNAME. I DON'T BELIEVE THEY WENT TO
23 SCHOOL TOGETHER, I DON'T BELIEVE THAT THEY HAVE HAD ANY
24 RELATIONSHIP PRIOR TO THIS PARTICULAR ENCOUNTER. BUT IN
25 ANY EVENT I THINK IT IS, FROM THE CASE WE HAVE A SITUATION

1 WHERE THE WITNESS WAS REALLY QUITE SOME DISTANCE AWAY FROM
2 THE PERSON WHO ALLEGEDLY COMMITTED THIS ACT, YOUR HONOR.
3 I BELIEVE THAT THE WITNESS IS GOING TO SHOW THAT HE WAS IN
4 AN UPSTAIRS WINDOW LOOKING OUT INTO A STREET. SO, I THINK
5 IT IS ACTUALLY DISTINGUISHABLE FROM MCCLOUD ON THAT BASIS
6 ALONE. BUT I THINK THAT THERE ARE MORE REASONS FOR THAT,
7 THERE IS NOT ENOUGH OF AN EXISTING RELATIONSHIP BETWEEN
8 THE WITNESS AND MY CLIENT THAT WOULD MAKE IT IDENTIFIABLE
9 OR, THAT WOULD BRING IN UNDER THE MCCLOUD CASE.

10 THE COURT: LET'S DO THIS. LET THE STATE ESTABLISH
11 WHATEVER RELATIONSHIP OR PRIOR KNOWLEDGE THERE MAY BE AND
12 THEN I WILL SEE WHERE THAT FALLS WITHIN NEIL V. BIGGERS
13 AND STATE VERSUS MCCLOUD AND WHETHER THERE IS GOING TO BE
14 ADDITIONAL SHOWING OR MORE SHOWING THAN THIS RELATIONSHIP
15 AT THAT POINT AND TIME. GO AHEAD AND CALL YOUR WITNESS,
16 SOLICITOR.

17 MS. FENT: WE CALL TYRONE SMITH.

18 TYRONE SMITH, AFTER BEING DULY SWORN, TESTIFIED
19 AS FOLLOWS:

20 DIRECT EXAMINATION

21 BY MS. FENT:

22 Q TYRONE, HOW OLD ARE YOU?

23 A 19.

24 Q OKAY. WERE YOU ON TS MARTIN DRIVE ON AUGUST THE 26
25 OF 2004 WHEN THERE WAS A SHOOTING?

1 A YES MA'AM, I WAS.

2 Q AND SPEAK RIGHT INTO THE MICROPHONE SO WE CAN ALL
3 HEAR YOU AND UNDERSTAND YOU. WHERE WERE YOU ON TS MARTIN,
4 DO YOU REMEMBER?

5 A THE HOUSE ON [REDACTED].

6 Q AND WERE YOU DOWNSTAIRS OR UPSTAIRS WHEN THE ACTUAL
7 SHOOTING HAPPENED?

8 A I WAS UPSTAIRS.

9 Q AND WHERE WERE YOU UPSTAIRS?

10 A IN THE LEFT-HAND ROOM.

11 Q OKAY. WERE YOU BACK IN THE HOUSE OR WERE YOU LOOKING
12 OUT THE WINDOW?

13 A I WAS LOOKING OUT THE WINDOW.

14 Q DID YOU ACTUALLY SEE THE SHOOTING?

15 A YES MA'AM, I DID.

16 Q AND DID YOU ACTUALLY SEE THE SHOOTER?

17 A YES MA'AM, I DID.

18 Q DO YOU SEE THAT PERSON IN THE COURTROOM TODAY?

19 A YES MA'AM, I DO.

20 Q AND CAN YOU POINT TO HIM AND DESCRIBE WHAT HE IS
21 WEARING?

22 A HE IS WEARING A YELLOW LIME SHIRT, GRAY PANTS, BLACK
23 SHOES WITH GRAY AND BLACK SHOESTRINGS.

24 Q HOW DO YOU SEE HIS SHOES?

25 A I WAS SEATED NEXT TO HIM.

1 Q WHERE?

2 A RIGHT THERE.

3 Q OKAY, YOU CAME DOWN HERE EARLIER TODAY?

4 A YES, MA'AM.

5 Q OKAY. THIS MORNING BEFORE WE SEQUESTERED THE
6 WITNESSES YOU WERE IN THE COURTROOM?

7 A YES, MA'AM.

8 Q OKAY. HOW LONG HAVE YOU KNOWN THE DEFENDANT?

9 A SINCE ELEMENTARY SCHOOL.

10 Q ELEMENTARY SCHOOL?

11 A YES, MA'AM.

12 Q ABOUT WHAT GRADE?

13 A 5TH GRADE.

14 Q OKAY. AND HOW OLD ARE YOU NOW?

15 A 19.

16 Q OKAY. HOW DID YOU KNOW HIM WHEN YA'LL WERE IN
17 ELEMENTARY SCHOOL?

18 A HE STAYED, WELL, HE USED TO BE IN THE NEXT APARTMENT
19 NEXT TO MY AUNTIE'S.

20 Q WHAT APARTMENT COMPLEX, WHERE ARE WE TALKING?

21 A SAXON HOMES.

22 Q AND AT SAXON HOMES DID YOU ACTUALLY LIVE THERE OR DID
23 SOMEBODY ELSE DID?

24 A MY AUNTIE STAYED THERE.

25 Q OKAY. DID YOU GO OVER TO YOUR AUNT'S HOUSE?

1 A YES, MA'AM.

2 Q OKAY. AND YOU SAID THAT HE WAS ALSO THERE, HOW WAS
3 THAT?

4 A HE WAS, HE WAS A FRIEND OF MINE. ME AND ANOTHER
5 FELLOW.

6 Q WHAT IS THE OTHER FELLOWS NAME?

7 A GOO.

8 Q AND WHO ACTUALLY LIVED THERE, DID THE DEFENDANT OR
9 GOO?

10 A GOO.

11 Q DID THE DEFENDANT OR GOO?

12 A GOO LIVED THERE.

13 Q AND HOW DID YOU COME TO THEN TO BE FRIENDS OR KNOW
14 CHRIS LIVERMAN?

15 A I USED TO GO OVER THERE AND HE USED TO TALK TO GOO
16 FOR ME.

17 Q WHY WOULD HE TALK TO GOO FOR YOU?

18 A BECAUSE GOO WAS DEAF.

19 Q OKAY. HOW OFTEN DO YOU THINK YA'LL HUNG OUT?

20 A ABOUT THREE OR FOUR DAYS.

21 Q SINCE ELEMENTARY SCHOOL HAVE YOU SEEN HIM AGAIN?

22 A YES MA'AM, I DID.

23 Q OKAY, AND WHERE ELSE DID YOU SEE HIM?

24 A I SEEN HIM AT WORK BEFORE AT MCDONALD'S AND I SEEN
25 HIM AT NIGHT, THE DAY BEFORE THE MURDER, I MEAN THE DAY OF

1 THE MURDER.

2 Q LET'S BACK UP, YOU SAID AT WORK AT MCDONALD'S. IS
3 THAT WHERE YOU WERE WORKING OR HE WAS WORKING?

4 A HE WAS WORKING.

5 Q AND YOU SAW HIM HOW MANY TIMES AT THE MCDONALD'S?

6 A TWICE.

7 Q OKAY. AND THEN YOU SAID YOU SAW HIM AGAIN THE DAY OF
8 THE SHOOTING?

9 A YES, MA'AM.

10 Q AND WHERE DID YOU SEE HIM THAT DAY?

11 A AT BAY BERRY'S.

12 Q OKAY. EXPLAIN BASICALLY WHAT YOU SAW HIM DOING AT
13 BAY BERRY'S.

14 A WHEN WE WERE AT BAY BERRY I SAW HIM TAKING TO
15 DELSHAWN.

16 Q OKAY. DELSHAWN WAS WITH YOU?

17 A YES, MA'AM.

18 Q SO, SINCE ELEMENTARY SCHOOL UNTIL NOW YOU HAVE SEEN
19 HIM A NUMBER OF TIMES?

20 A YES, MA'AM.

21 Q AND WHAT DO YOU KNOW HIM TO BE CALLED?

22 A BABY JESUS.

23 MS. FENT: NO FURTHER QUESTIONS AT THIS TIME, YOUR
24 HONOR.

25 THE COURT: CROSS-EXAMINE?

CROSS-EXAMINATION

BY MS. FRANKLIN:

Q MR. SMITH, I AM GOING TO ASK YOU SOME QUESTIONS ABOUT
YOUR RELATIONSHIP WITH MR. LIVERMAN, OKAY. WHAT
ELEMENTARY SCHOOL DID YOU ATTEND?

A CARVER ELEMENTARY.

Q I AM SORRY?

A CARVER.

Q CARVER? AND YOU ARE CURRENTLY 19 YEARS OLD?

A YES, MA'AM. EXCUSE ME, I WAS IN A DIFFERENT
ELEMENTARY SCHOOL. I WENT TO CARVER AND JOHNSON,
(PHONETIC.)

Q JOHNSON?

A YES, MA'AM.

Q AND YOU ARE FRIENDS WITH GOO THEN?

A YES, MA'AM.

Q AND GOO'S AUNTIE LIVES THERE?

A I DON'T KNOW IF IT IS HIS AUNT OR HIS MOM STAYS
THERE.

Q HIS MOTHER. AND WHAT IS GOO'S MOTHER'S NAME?

A I DON'T KNOW.

Q YOU ARE FRIENDS WITH GOO?

A YEAH, WE WERE IN SCHOOL.

Q AND WHEN WAS THE LAST TIME YOU SAW GOO?

A TWO DAYS BEFORE THE MURDER.

1 Q AND WHEN YOU SAW, OR YOU CLAIM THAT YOU SAW MY CLIENT
2 IN SAXON HOMES, EXACTLY WHERE IN SAXON HOMES DID YOU SEE
3 HIM?

4 A IN GOO'S APARTMENT.

5 Q AND WHAT APARTMENT NUMBER WAS THAT?

6 A I DON'T KNOW.

7 Q AND IN FIFTH GRADE YOU WOULD OF BEEN 11 YEARS OLD?

8 A NO.

9 Q HOW OLD WERE YOU IN THE FIFTH GRADE?

10 A 12.

11 Q YOU WERE 12 YEARS OLD. SO THIS WAS SEVEN YEARS AGO,
12 CORRECT. YOU SAW HIM TWICE AT MCDONALD'S YOU CLAIMED?

13 A YES, MA'AM.

14 Q WHEN, WHAT NIGHTS?

15 A I DON'T REMEMBER WHICH NIGHTS.

16 Q CAN YOU TELL ME WHICH YEAR?

17 A IT WAS 2003.

18 Q 2003. WHAT MONTH OF 2003?

19 A I AM NOT SURE.

20 Q DO YOU REMEMBER IF IT WAS SPRING TIME OR WINTER TIME?

21 A I DON'T KNOW.

22 Q DO YOU REMEMBER IF IT WAS DAY OR NIGHT?

23 A IT WAS DAY.

24 Q AND WHAT TIME OF DAY?

25 A I DON'T KNOW.

1 Q AND DO YOU HAVE ANY OTHER FRIENDS THAT WORK AT
2 MCDONALD'S?

3 A NO, MA'AM.

4 Q WERE YOU THERE SPECIFICALLY TO SEE CHRIS LIVERMAN?

5 A NO, MA'AM.

6 Q AND WHAT WAS HE DOING WHEN YOU THERE?

7 A HE WAS WORKING ON THE GRILL.

8 Q ON THE GRILL?

9 A YES, MA'AM.

10 Q DID YOU EXCHANGE ANY WORDS WITH HIM?

11 A NO, MA'AM.

12 Q SO, YOU NEVER SPOKE TO HIM?

13 A NO.

14 Q YOU JUST REMEMBERED HIM FROM SEVEN YEARS EARLIER?

15 A YES.

16 Q AND THEN YOU CLAIMED YOU SAW MR. LIVERMAN UP AT BAY
17 BERRY?

18 A YES, MA'AM.

19 Q AND THIS WAS THE ACTUAL DAY OF THE SHOOTING?

20 A YES, MA'AM.

21 Q AND WHAT WAS MR. LIVERMAN WEARING?

22 A HE WAS WEARING A WHITE T-SHIRT AND SOME SHIRTS, I
23 MEAN SHORTS.

24 Q AND SHORTS?

25 A YES, MA'AM.

1 Q WHAT COLOR SHORTS?

2 A AS A MATTER OF FACT, I COULDN'T SEE WHAT HE HAD ON AT
3 THE BOTTOM.

4 Q YOU JUST SAW A WHITE T-SHIRT?

5 A A WHITE T-SHIRT.

6 Q YOU DID NOT SEE ANY SHOES?

7 A NO.

8 Q YOU DIDN'T PAY ANY ATTENTION TO ANY SHOES?

9 A NO.

10 Q YOU DIDN'T PAY ANY ATTENTION TO ANY PANTS OR SHORTS?

11 A NO, MA'AM.

12 Q AND HOW WAS HIS HAIR STYLED?

13 A IT WAS SPRAYED.

14 Q AND THAT IS ALL YOU REMEMBER ABOUT THAT?

15 A HE HAD BEADS IN THE BACK OF HIS HEAD.

16 Q AND WHO ELSE WAS PRESENT AT BAY BERRY WHEN YOU AND
17 DELSHAWN WERE THERE?

18 A MONEY.

19 Q MONEY?

20 A YES.

21 Q AND MONEY WAS WHERE?

22 A AT THE --

23 Q DID MONEY HAVE A BROTHER?

24 A YES, MA'AM.

25 Q HIS BROTHER'S NAME IS?

1 A CASH.

2 Q WAS CASH WITH HIM?

3 A NO, MA'AM.

4 Q JUST MONEY?

5 A YES, MA'AM.

6 Q WELL, MONEY LIVES AT [REDACTED], DOESN'T HE?

7 MS. FENT: YOUR HONOR, I OBJECT, THIS IS BEYOND THE
8 SCOPE OF THE RELATIONSHIP, THEY HAVE KNOWN EACH OTHER
9 SINCE ELEMENTARY SCHOOL AND THE PURPOSE OF THE HEARING IS
10 THE IDENTIFICATION OUT THE WINDOW, CAN HE BE ABLE TO POINT
11 TO HIM HERE IN THE COURTROOM.

12 THE COURT: YOU WANT TO TIE THAT BACK IN?

13 MS. FRANKLIN: IF I CAN GO ELSE WHERE WITH THAT, I
14 WILL WITHDRAW THAT QUESTION, YOUR HONOR.

15 THE COURT: GO AHEAD.

16 Q HOW LONG DID YOU SPEAK TO MR. LIVERMAN WHEN YOU SAW
17 HIM AT BAY BERRY?

18 A I DIDN'T SPEAK TO HIM.

19 Q HOW FAR AWAY WERE YOU PHYSICALLY FROM MR. LIVERMAN
20 WHEN YOU SAW HIM?

21 A ABOUT TWO HOUSES DOWN.

22 Q TWO HOUSES AWAY?

23 A YES, MA'AM.

24 Q IN BAY BERRY?

25 A YES, MA'AM.

1 Q SO, YOU DIDN'T ACTUALLY SPEAK TO HIM, YOU WERE TWO
2 HOUSES DOWN FROM BAY BERRY OR TWO HOUSES DOWN WHILE YOU
3 WERE THERE. WHAT TIME OF DAY WAS IT?

4 A IT WAS MORNING.

5 Q I AM SORRY?

6 A IT WAS AROUND, WELL, I DON'T KNOW WHAT TIME IT WAS.
7 IT WAS MORNING TIME.

8 Q IT WAS WHAT NOW?

9 A IT WAS, THE SUN WAS OUT.

10 Q THE SUN WAS OUT. AND WHEN YOU WERE TWO HOUSES DOWN
11 IN BAY BERRY WERE YOU INSIDE OR OUTSIDE?

12 A I WAS OUTSIDE.

13 Q AND DO YOU WEAR GLASSES?

14 A NO, I DO NOT.

15 Q AND HAD YOU BEEN DRINKING OR TAKING ANY DRUGS THAT
16 DAY?

17 A NO, I HAVEN'T.

18 Q AND ON THE DAY THAT YOU SAW HIM ON BAY BERRY YOU
19 DIDN'T KNOW HIS NAME, YOU KNEW HIS NICKNAME?

20 A I KNEW HIS NICKNAME.

21 Q SO, OVER THE COURSE OF YOUR LIFE YOU SAW HIM ON A
22 COUPLE OF OCCASIONS SEVEN YEARS AGO, CORRECT?

23 A I SAW HIM ABOUT FOUR DAYS IN A ROW SEVEN YEARS AGO
24 AND THEN TWICE WHILE HE WAS WORKING AT MCDONALD'S.

25 Q FOUR DAYS IN A ROW AND YOU DON'T RECALL WHAT MONTH

1 YOU SAW HIM?

2 A NO.

3 Q YOU DON'T RECALL WHAT HE WAS WEARING BACK THEN?

4 A AT WORK?

5 Q NO. BACK AT THE SAXON HOMES?

6 A NO.

7 Q YOU DON'T RECALL HOW HIS HAIR WAS STYLED?

8 A NO, I DON'T.

9 Q YOU DON'T RECALL HOW TALL HE WAS?

10 A HE WAS CHUBBY.

11 Q CHUBBY?

12 A YES.

13 Q AND THEN YOU SAW HIM TWICE AT MCDONALD'S BUT YOU
14 NEVER SPOKE TO HIM ON THOSE OCCASIONS, RIGHT?

15 A NO.

16 Q AND YOU JUST SAW HIM AT THE GRILL?

17 A YES, MA'AM.

18 Q YOU SAW HIM WHEN YOU WERE A CUSTOMER?

19 A YES, MA'AM.

20 Q SO, AT THE TIME THAT YOU WERE SEEING HIM AT
21 MCDONALD'S HOW FAR AWAY WOULD YOU OF BEEN FROM HIM?

22 A I WAS AT THE FRONT COUNTER.

23 Q AT THE FRONT COUNTER, AND YOU, CLOSER THAN ME?

24 A ABOUT THE SAME.

25 Q BUT YOU NEVER SPOKE TO HIM?

1 A NO.

2 Q LET THE RECORD REFLECT IT MAY BE 15 FEET. AND THE
3 DAY YOU SAW HIM AT BAY BERRY YOU SAW HIM TWO HOUSES AWAY
4 AND YOU DID NOT SPEAK TO HIM ON THAT OCCASION EITHER?

5 A NO, I DIDN'T.

6 Q AND YOU, AT NO TIME DURING THIS DID YOU EVER KNOW HIS
7 NAME?

8 A NOT HIS REAL NAME.

9 MS. FRANKLIN: OKAY, YOUR HONOR, I DON'T HAVE ANY
10 MORE QUESTIONS.

11 THE COURT: ANYTHING FURTHER FROM THE STATE?

12 MS. FENT: NO, YOUR HONOR. OBVIOUSLY BASED ON THE
13 CASE LAW AND THE RULING IS WHAT I HAVE ASKED TO RULE ON.

14 THE COURT: MS. FRANKLIN.

15 MS. FRANKLIN: YOUR HONOR, MY RESPONSE TO THIS IS NOT
16 SUFFICIENT IN SHOWING THAT THERE IS ANY KIND OF
17 PREEXISTING RELATIONSHIP BETWEEN THIS WITNESS AND MY
18 CLIENT. HE IS TESTIFYING THAT HE SAW, MAYBE FOUR DAYS IN
19 A ROW SEVEN YEARS AGO. THAT WOULD OF BEEN THE TIME WHEN
20 THIS WITNESS WAS 12 YEARS OLD, MY CLIENT WOULD OF BEEN 13.
21 SO, REALLY YOUNG, I THINK THAT AND THEIR PHYSICAL
22 CHARACTERISTICS CERTAINLY HAVE CHANGED DURING THE COURSE
23 OF THAT TIME. THEN IT APPEARS THAT WE HAVE TWO TIMES THAT
24 HE MAY OF SEEN OR CLAIMS HAVE SEEN HIM AT MCDONALD'S, HE
25 CANNOT GIVE ANY DESCRIPTION ABOUT THIS. WE DON'T HAVE

1 WHEN THE SEASON WAS, WHAT DAY, THE TIME OF THE DAY, THEY
2 NEVER SPOKE DURING THIS OCCASION, HE JUST SAYS HE SEES MY
3 CLIENT AND THAT IS IT, THEY NEVER SPEAK. AND THEN ON THE
4 DAY OF THIS HE CLAIMS HE SEES HIM AT BAY BERRY, BUT FROM
5 TWO HOUSES DOWN, NOT CLOSE. AND HE DOESN'T SPEAK ON THOSE
6 OCCASIONS EITHER, I AM SORRY, ON THAT OCCASION EITHER.
7 AND, YOUR HONOR, WE WOULD ARGUE THAT THIS IS NOT A
8 RELIABLE BASIS FOR AN IDENTIFICATION BASED ON THAT AND NOT
9 A RELIABLE BASIS FOR ASSERTING ANY SIGNIFICANT PREEXISTING
10 RELATIONSHIP BETWEEN THESE TWO PEOPLE.

11 TYRONE SMITH: EXCUSE ME, MAY I SAY SOMETHING?

12 THE COURT: NO SIR, YOU JUST SIT THERE. WELL, TO BE
13 HONEST WITH YOU, IN LOOKING AT THE CASE THAT WAS HANDED UP
14 BY THE STATE, THE STATE VERSUS MCCLOUD, THE TESTIMONY HERE
15 COMES AWFULLY CLOSE TO THAT. AT THE SAME TIME AND IT
16 SEEMS TO ME YOU COULD HAVE A PRIOR RELATIONSHIP BUT BEFORE
17 I CAN EXAMINE THE TOTALITY OF THE CIRCUMSTANCES I THINK I
18 STILL HAVE TO HEAR EXACTLY WHAT WAS GOING ON AT THE TIME
19 THE IDENTIFICATION WAS MADE. FOR THAT REASON I WILL LET
20 THE STATE CONTINUE EXAMINATION AS TO THE ACTUAL
21 IDENTIFICATION.

22 CONTINUE DIRECT EXAMINATION

23 BY MS. FENT:

24 Q OKAY, TYRONE, AFTER YOU SEE THE SHOOTING YOU SAID YOU
25 LOOKED OUT THE WINDOW AND YOU SAW BABY JESUS SHOOTING.

1 WHERE WAS HE IN RELATION TO YOUR HOUSE, WHEN YOU WERE
2 LOOKING OUT THE WINDOW?

3 A HE WAS RIGHT ACROSS THE STREET.

4 Q OKAY. AFTER THE SHOOTING HAPPENED, BASICALLY DO YOU
5 COME IN CONTACT WITH AN INVESTIGATOR OR A POLICE OFFICER
6 TO GIVE THE INFORMATION THAT YOU KNOW?

7 A AN INVESTIGATOR.

8 Q OKAY, INVESTIGATOR JOE GRAY?

9 A YES MA'AM, IT WAS.

10 Q AND WHERE PHYSICALLY WERE YOU WHEN YOU WERE GIVING
11 THAT STATEMENT, THE INFORMATION, EXCUSE ME?

12 A IN A POLICE CAR.

13 Q OKAY, ON TS MARTIN OR SOME PLACE ELSE?

14 A TS MARTIN.

15 Q AND IS IT PRETTY SOON AFTER THE SHOOTING?

16 A YES, MA'AM.

17 Q OKAY. YOU TALKED TO INVESTIGATOR JOE GRAY AND YOU
18 GIVE HIM THE INFORMATION THAT YOU SAW AT THE SHOOTING,
19 CORRECT?

20 A YES, MA'AM.

21 Q DO YOU RECALL BEING TAKEN TO ANOTHER LOCATION TO
22 IDENTIFY AN INDIVIDUAL?

23 A YES, MA'AM.

24 Q OKAY. ABOUT HOW FAR AWAY WERE YOU TAKEN? DID YOU
25 DRIVE FOR A LONG DISTANCE OR--

1 A ABOUT FOUR BLOCKS.

2 Q I AM SORRY?

3 A ABOUT FOUR BLOCKS.

4 Q AND YOU WENT OVER THERE TO POSSIBLY IDENTIFY SOMEONE?

5 A YES, MA'AM.

6 Q OKAY. HOW EXACTLY DID THAT HAPPEN, YOU ARE SITTING
7 IN INVESTIGATOR GRAY'S CAR?

8 A YES, MA'AM.

9 Q OKAY. AND DO YOU SEE ANOTHER INDIVIDUAL?

10 MS. FRANKLIN: YOUR HONOR, WE ARE GOING TO OBJECT TO
11 LEADING AT THIS POINT.

12 THE COURT: SUSTAINED.

13 Q DO YOU SEE ANOTHER INDIVIDUAL?

14 THE COURT: WELL, YOU CAN ASK THAT QUESTION BUT YOU
15 HAVE BEEN TESTIFYING AND HE HAS BEEN SAYING YES OR NO, SO
16 REFRAME FROM YOUR LEADING QUESTIONS. GO AHEAD, YOU CAN
17 REPEAT YOUR LAST QUESTION.

18 Q DID THEY SHOW YOU AN INDIVIDUAL?

19 A YES MA'AM, THEY DID.

20 Q AND WHAT WAS YOUR UNDERSTANDING OF WHAT YOU WERE
21 SUPPOSE TO DO WHEN YOU WERE SHOWN THAT INDIVIDUAL?

22 A I WAS SUPPOSE TO TELL THEM THAT WAS THE GUY THAT WAS
23 SHOOTING.

24 Q IF IT WAS THE GUY THAT WAS SHOOTING OR THAT WAS, IN
25 FACT THE GUY?

1 A THAT WAS THE GUY THAT WAS SHOOTING.

2 Q WHO WAS IT THAT THEY SHOWED YOU?

3 A CHRIS LIVERMAN.

4 Q THE PERSON THAT YOU HAVE ALREADY IDENTIFIED?

5 A YES, MA'AM.

6 Q OKAY. AND DO YOU REMEMBER WHERE HE WAS?

7 A HE WAS ON THE SIDE OF THE POLICE CAR.

8 Q AND WAS HE WEARING THE SAME CLOTHES THAT YOU SAW HIM
9 SHOOTING OR DIFFERENT CLOTHES?

10 A HE WAS WEARING THE SAME CLOTHES.

11 MS. FENT: YOUR HONOR, CAN I REQUIRE IF THAT IS
12 SUFFICIENT FOR THE GROUNDS THAT YOU WERE WANTING
13 INFORMATION?

14 THE COURT: YES, THAT, I NEEDED TO HEAR MORE ABOUT
15 THE ACTUAL INDENTIFICATION ITSELF AND YOU HAVE GONE THERE
16 AND I WILL LET THE DEFENSE CROSS-EXAMINE AND THEN YOU CAN
17 REDIRECT IF YOU FEEL IT IS NECESSARY. GO AHEAD, MS.
18 FRANKLIN.

19 MS. FRANKLIN: THANK YOU, YOUR HONOR.

20 THE COURT: BEFORE YOU START, LET ME ASK THE
21 DEFENDANT A QUESTION. BEFORE YOU WERE TAKEN TO THIS
22 SECOND LOCATION HAD YOU ALREADY TOLD THE POLICE,
23 INVESTIGATOR THE PERSON THAT YOU UNDERSTOOD THIS TO BE?

24 A YES SIR, I DID.

25 THE COURT: AND YOU HAD CALLED HIM BY HIS NICKNAME?

1 A YES, SIR.

2 THE COURT: GO AHEAD, MS. FRANKLIN.

3 MS. FRANKLIN: THANK YOU, YOUR HONOR.

4 CROSS-EXAMINATION

5 BY MS. FRANKLIN:

6 Q SO, YOU WENT OVER TO CALK STREET WITH INVESTIGATOR
7 GRAY, CORRECT?

8 A YES, MA'AM.

9 Q AND AT THAT TIME WHAT CONVERSATION DID YOU HAVE WITH
10 INVESTIGATOR GRAY WHILE YOU WERE IN THAT CAR TRAVELING
11 THOSE FOUR BLOCKS?

12 A HE ASKED ME, HE TOLD ME WE WERE GOING TO SEE IF THAT
13 WAS THE PERSON THAT DID THE MURDER. AND WHEN WE GOT THERE
14 HE SAID THAT HE DONE CAUGHT SOMEONE AND IT WAS HIM.

15 Q SO, INVESTIGATOR GRAY TOLD YOU THEY HAD CAUGHT
16 SOMEBODY WHO THEY BELIEVE WAS THE SHOOTER?

17 A YEAH, THEY CAUGHT SOMEONE, YES.

18 Q AND THEY TOOK YOU TO SEE IF YOU AGREED?

19 A YES.

20 Q DID YOU PROVIDE A PHYSICAL CLOTHING DESCRIPTION OF
21 THE PERSON YOU SAW SHOOTING?

22 A YES, I DID.

23 Q YOU DID. AND WHAT DID YOU SAY?

24 A I SAID HE HAD A WHITE SHIRT ON, SHORTS, NEW BALANCES.

25 Q NEW BALANCES?

1 A REFLECT OR SOMETHING, SHINY SHOES.

2 Q OKAY, WHITE SHIRT, NEW BALANCES AND WHAT?

3 A AND SHORTS. AND HE HAD A CAMOUFLAGE BANDANNA ON HIS
4 HEAD.

5 Q I AM SORRY, CAMOUFLAGE BANDANNA?

6 A YES.

7 Q AT THE TIMES THAT YOU SAW HIM, AT WHICH TIME YOU SAW
8 HIM?

9 A I AM TALKING ABOUT THE TIME I SEEN HIM, WHILE HE WAS
10 SHOOTING.

11 Q AT THE TIME OF THE SHOOTING, A CAMOUFLAGE BANDANNA?

12 A YES.

13 Q AND THE BANDANNA WAS WHERE?

14 A ON HIS HEAD.

15 Q OVER HIS FACE, CORRECT?

16 A NO, NOT THE CAMOUFLAGE BANDANNA, IT WAS JUST ON HERE,
17 HE USED IT I GUESS TO FOLD UP HIS HAIR OR SOMETHING.

18 Q I AM SORRY, I CAN'T HEAR YOU.

19 A IT WASN'T TIED, THE CAMOUFLAGE BANDANNA WASN'T TIED
20 AROUND HIS FACE, IT WAS JUST ON HIS HEAD.

21 Q THE CAMOUFLAGE BANDANNA ON HIS HEAD?

22 A YES.

23 Q THE BANDANNA OVER HIS MOUTH?

24 A HE HAD A BLACK BANDANNA ON HIS MOUTH. AS A MATTER OF
25 FACT, HE AIN'T HAD NO BANDANNA ON HIS MOUTH WHEN I SAW HIM

1 BECAUSE HE, FIRST HE HAD THE CAMOUFLAGE DOWN. HE DIDN'T
2 HAVE NO BLACK BANDANNA, I DON'T KNOW IF HE HAD ONE OR NOT.
3 I KNOW HE HAD A CAMOUFLAGE.

4 Q SO AS YOU ARE TESTIFYING RIGHT NOW YOU DON'T KNOW
5 WHETHER HE WAS OR WAS NOT WEARING A BLACK BANDANNA?

6 A NO.

7 Q BUT YOU ARE POSITIVE THAT HE WAS WEARING A CAMOUFLAGE
8 BANDANNA ON HIS HEAD?

9 A YES, MA'AM.

10 Q AND AT THE TIME THAT YOU SAW HIM OVER ON CALK STREET
11 HE WAS NOT WEARING A BANDANNA EITHER ON HIS HEAD OR ON HIS
12 MOUTH?

13 A I BELIEVE HE HAD IT STILL ON HIS HEAD.

14 Q SO, HE HAD A BANDANNA ON HIS HEAD AT CALK STREET?

15 A CALK STREET.

16 Q ALONG WITH HIS WHITE SHIRT, HIS NEW BALANCES AND WHAT
17 KIND OF PANTS?

18 A HE HAD SOME SHORTS.

19 Q SHORTS. HOW FAR AWAY WERE YOU AT THE TIME YOU MADE
20 THE IDENTIFICATION. I AM SORRY, LET ME WITHDRAW THAT
21 QUESTION. LET ME ASK ANOTHER ONE. WERE YOU INSIDE OF THE
22 CAR OR OUTSIDE OF THE CAR AT THE TIME YOU MADE THE
23 IDENTIFICATION?

24 A INSIDE.

25 Q DID YOU EVER GET OUTSIDE OF THE CAR?

1 A NO, I DIDN'T.

2 Q AND WERE YOU SITTING IN THE FRONT SEAT OR THE BACK?

3 A I WAS SITTING IN THE BACK SEAT.

4 Q BACK SEAT. WAS ANYBODY SITTING BACK THERE WITH YOU?

5 A NO.

6 Q YOU WERE ALONE. YOU AND INVESTIGATOR GRAY?

7 A YES, MA'AM.

8 Q JUST THE TWO OF YOU?

9 A YES, MA'AM.

10 Q AND IT WAS DARK OUTSIDE?

11 A YES, IT WAS.

12 Q AND AT THE TIME THAT YOU SAW CHRIS LIVERMAN WAS HE
13 SITTING IN A POLICE CAR OR WAS HE, WHERE WAS HE?

14 A WHEN I FIRST PULLED UP, WHEN WE FIRST PULLED UP HE
15 WAS IN A POLICE CAR.

16 Q AND HOW FAR AWAY FROM YOU WAS THE POLICE CAR?

17 A TWO OR THREE FEET.

18 Q TWO OR THREE FEET?

19 A YEAH, NOT TOO FAR.

20 Q SO, IF I WAS---

21 A NO, NO, NO.

22 Q LIKE THAT?

23 A NO, BACK UP SOME.

24 Q ABOUT THIS?

25 A YEAH, LIKE THAT.

1 Q ABOUT THIS FAR?

2 A YES.

3 Q AND THAT IS ABOUT SIX FEET. DID THEY TELL YOU THAT
4 THIS MIGHT NOT BE THE RIGHT PERSON?

5 A I TOLD THEM IT WAS THE RIGHT PERSON.

6 Q BUT DID THEY TELL YOU THAT, DID THEY SUGGEST TO YOU
7 THAT THIS WAS NOT THE RIGHT PERSON, THAT THEY WOULD
8 CONTINUE LOOKING FOR OTHER SUSPECTS?

9 A NO.

10 Q AT THE TIME THAT YOU SAW THE SHOOTING YOU WERE
11 UPSTAIRS, CORRECT?

12 A YES, I WAS.

13 Q IN YOUR ROOM?

14 A YES, IN THE ROOM.

15 Q WERE THE LIGHTS ON IN THE ROOM?

16 A NO, THEY WASN'T.

17 Q ARE THERE ANY STREET LIGHTS ON TS MARTIN?

18 A YES, THEY ARE.

19 Q WHERE ARE THEY?

20 A ONE OF THEM, I BELIEVE, WAS RIGHT BEHIND HIM, LIKE
21 OVER ON THE SIDE OF THE ROAD BY A STOP SIGN.

22 Q WHERE ARE YOU TALKING ABOUT, WHERE DO YOU THINK THE
23 STREET LIGHT IS?

24 A EITHER RIGHT HERE, RIGHT THERE.

25 Q LET THE RECORD REFLECT THAT HE IS POINTING TO AN AREA

1 RIGHT BESIDE 100 TS MARTIN.

2 A YES.

3 Q AND AT THE TIME THAT YOU SAW THE SHOOTING YOU WERE,
4 IN FACT, IN [REDACTED]?

5 A YES, BUT THERE IS LIGHTS ON THE SIDE, ON THE HOUSE.

6 Q THERE ARE LIGHTS ON IN THE HOUSES. I AM TALKING
7 ABOUT STREET LIGHTS. SO YOU WERE THREE HOUSES DOWN FROM A
8 STREET LAMP?

9 A YEAH.

10 Q OKAY. AND PREPARING FOR THIS HEARING HAS ANYONE
11 SHOWN YOU YOUR STATEMENT THAT YOU GAVE TWO YEARS AGO?

12 A YES, THEY HAVE.

13 Q AND WHEN WERE YOU GIVEN THE STATEMENT THAT YOU GAVE
14 TWO YEARS AGO?

15 A A COUPLE OF DAYS AGO.

16 Q TWO DAYS AGO?

17 A ABOUT TWO OR THREE DAYS AGO.

18 Q SO, ABOUT TWO OR THREE DAYS AGO YOU CAME TO THE
19 SOLICITORS OFFICE?

20 MS. FENT: I WOULD OBJECT TO THIS, THIS IS BEYOND THE
21 SCOPE OF THE IDENTIFICATION, THE ISSUE OF IDENTIFICATION.

22 THE COURT: I WILL PERMIT IT, GO AHEAD.

23 Q SO, TWO OR THREE DAYS AGO YOU CAME TO THE SOLICITORS
24 OFFICE?

25 A YES, I DID.

1 Q I AM SORRY?

2 A YES, I DID.

3 Q AND AT THAT POINT THEY DISCUSSED YOUR TESTIMONY IN
4 THIS CASE?

5 A YES, THEY DID.

6 Q AND THEY INFORMED YOU THAT YOUR IDENTIFICATION WAS
7 PRETTY IMPORTANT TO THIS CASE?

8 A YEAH.

9 Q AND THEN THEY GAVE YOU COPIES OF YOUR STATEMENT?

10 A NO, THEY DIDN'T GIVE THEM TO ME.

11 Q THEY READ THEM WITH YOU?

12 A YEAH.

13 Q AND THEY TOLD YOU YOU WOULD BE TESTIFYING?

14 A NO, I KNEW I WAS.

15 Q YOU KNEW YOU WERE GOING TO BE TESTIFYING?

16 A YES.

17 MS. FRANKLIN: NO MORE QUESTIONS AT THIS TIME, YOUR
18 HONOR.

19 THE COURT: ANY REDIRECT?

20 MS. FENT: JUST FOR THE RECORD, YOUR HONOR, THE
21 EXHIBIT THAT WAS REFERRED TO AND POINTED AT TO BY THE
22 WITNESS, I WOULD LIKE TO HAVE THAT JUST MARKED.

23 THE COURT: MARKED FOR IDENTIFICATION AT THIS TIME,
24 THIS IS STATE'S 5.

25

1 (WHEREUPON, STATE'S EXHIBIT NO. 5 WAS MARKED FOR
2 IDENTIFICATION ONLY.)

3 MS. FENT: STATE'S 5 FOR IDENTIFICATION IS THE
4 DIAGRAM USED BY DEFENSE COUNSEL TO, FOR THE WITNESS TO
5 POINT OUT THE LIGHTS ON THE STREETS. NOTHING FURTHER.

6 THE COURT: YOU MAY STEP DOWN. ANY FURTHER TESTIMONY
7 ON THIS ISSUE?

8 MS. FENT: YOUR HONOR, IF YOU BELIEVE THAT THE
9 EVIDENCE IS SUFFICIENT UNDER THE STATE V. MCCLOUD IN TERMS
10 OF THE RELATIONSHIP AND THE WITNESS'S IDENTIFICATION, THAT
11 IS ALL WE HAVE.

12 THE COURT: ANY TESTIMONY FROM THE DEFENSE?

13 MS. FRANKLIN: YOUR HONOR, WE JUST HAVE ARGUMENTS
14 WITH RESPECT TO, BACK TO YOUR ISSUES.

15 THE COURT: ALL RIGHT, I WILL BE GLAD TO HEAR YOUR
16 ARGUMENT.

17 MS. FRANKLIN: YOUR HONOR, AT THIS POINT OF THE
18 RECORD I AM OBJECTING TO THE LACK OF ALLOWING A FULL NEIL
19 V. BIGGERS HEARING IN THIS MATTER. I DON'T BELIEVE THAT
20 THIS FALLS WITHIN MCCLOUD FOR THE REASONS THAT I HAVE
21 ALREADY PUT ON THE RECORD. I DON'T BELIEVE THAT THERE IS
22 A SUFFICIENT SHOWING OF ANY REAL MEANINGFUL PREEXISTING
23 RELATIONSHIP BETWEEN THESE TWO PEOPLE. CERTAINLY IN SOME
24 CASE OVER SEVEN YEARS OLD AND THEN THERE IS A COUPLE OF
25 POSSIBLE ENCOUNTERS AT MCDONALD'S ALTHOUGH WE DON'T EVEN

1 KNOW WHAT YEAR, WHAT DAY, WE DON'T KNOW THE DISCUSSION
2 WITHIN THE PARTIES. OF COURSE, I AM OBJECTION TO THE,
3 USING THE BAY BERRY INCIDENT FOR THE BASIS OF ESTABLISHING
4 SOME PREEXISTING RELATIONSHIP BETWEEN THE PARTIES. AGAIN,
5 THEY NEVER SPOKE TO ONE ANOTHER. MR. SMITH CLAIMS THAT HE
6 SAW MY CLIENT FROM A DISTANCE OF TWO HOUSES AWAY. I AM
7 NOT SURE WHY HE CAN RECALL SEEING MY CLIENT AT ALL. BUT I
8 DON'T BELIEVE THAT THESE SITUATIONS THAT ARE CONSEQUENTLY
9 BY MCCLOUD, THE MCCLOUD CASE IS A SITUATION WHERE THE
10 PERSON WHO IS MAKING THE IDENTIFICATION IS THE ACTUAL,
11 PHYSICAL VICTIM IN A CASE. SHE SAID THEY HAD CLOSE
12 INTIMATE CONTACT WITH THE PERSON THAT SHE THEN GOES ON TO
13 IDENTIFY. IT GOES ON TO SAY SHE KNOWS THE DEFENDANT'S
14 MOTHER. SO, ARGUABLY, MAYBE SOME RELATIONSHIP THERE.
15 AGAIN, YOUR HONOR, FOR THOSE REASONS WE WOULD BE ASKING
16 FOR A FULL NEIL V. BIGGERS HEARING ON THIS ISSUE.

17 THE COURT: MS. FENT.

18 MS. FENT: THANK YOU, YOUR HONOR. BASICALLY YOUR
19 HONOR HAS ACTUALLY ALREADY HEARD SOME TESTIMONY IN TERMS
20 OF THE TIMEFRAME THAT SAYS, THE SHOOTING HAPPENED AT 9:40,
21 THAT HE WAS TAKEN INTO CUSTODY AT 10:10, AND INVESTIGATOR
22 GRAY ALREADY TESTIFIED THAT A WITNESS HAD ALREADY
23 IDENTIFIED HIM WHEN HE WAS TAKEN INTO CUSTODY. SO, THE
24 TIMEFRAME IS REALLY ALREADY PRETTY ESTABLISHED IN A VERY
25 SHORT TIMEFRAME. TYRONE SMITH SAYS HE KNOWS HIM BY NAME,

1 HE KNOWS HIM BY BABY JESUS, HE KNOWS HIM BY SIGHT, HE HAS
2 KNOWN HIM SINCE ELEMENTARY SCHOOL. WHEN HE SAW HIM ON A
3 HANDFUL OF OCCASIONS, OVER FOUR DAYS WHERE HE HUNG OUT
4 WITH HIM HE HAD CONVERSATIONS WITH HIM, CHRIS LIVERMAN
5 WOULD INTERPRET FOR HIM TO COMMUNICATE WITH GOO, THE DEAF
6 INDIVIDUAL. OVER A PERIOD OF YEARS HE SAW HIM A COUPLE OF
7 TIMES AT MCDONALD'S, WORKING AT MCDONALD'S AND THEN AGAIN
8 THAT DAY, THE VERY DAY OF THE INCIDENT. AND SAID, I
9 NOTICED HE WAS, SOMETHING ABOUT CHUBBIER. SO, CLEARLY HE
10 KNOWS, YOU KNOW, IT HAS BEEN A PERIOD OF YEARS THAT HE HAS
11 KNOWN THIS PERSON. THERE IS NO REQUIREMENT THAT IT BE A
12 MEANINGFUL RELATIONSHIP WHICH IS WHAT COUNSEL SAID. I
13 COULD BE A VICTIM OF A CRIME BY SOMEONE THAT WORKS HERE IN
14 THE COURT HOUSE, I DON'T KNOW THEIR NAME, I DON'T EVEN
15 KNOW WHAT THEY DO IN THE COURT HOUSE. MAYBE I SEE THEM IN
16 THE ELEVATOR ONCE OR TWICE OR THREE TIMES AND I CAN SAY I
17 DON'T KNOW HIS NAME, I DON'T KNOW WHAT HE DOES IN THE
18 COURT HOUSE BUT I KNOW I HAVE SEEN HIM IN THE ELEVATOR A
19 COUPLE OF TIMES. SO, THERE IS NO REQUIREMENT OF A
20 MEANINGFUL RELATIONSHIP, IT IS JUST, ARE YOU GOING TO
21 RECOGNIZE THAT FACE. AND EVEN MORE THAN JUST A FACE, WE
22 HAVE A NAME.

23 THE COURT: ALL RIGHT, MS. FRANKLIN.

24 MS. FRANKLIN: REPLY BRIEFLY, YOUR HONOR. I MEAN,
25 THIS PERSON'S TESTIMONY IS THAT HE ESSENTIALLY HAD THREE

1 ENCOUNTERS WITH MY CLIENT IN THE PAST SEVEN YEARS. AGAIN,
2 I DON'T THINK THAT THIS IS A SUFFICIENT ENOUGH BASIS FOR
3 FINDING THAT THERE IS SOME SORT OF RELATIONSHIP BETWEEN
4 THESE TWO PEOPLE SUCH THAT WOULD JUSTIFY FOR ALLIANCE IN
5 HIS IDENTIFICATION. I MEAN, AGAIN, WE ARE TALKING ABOUT A
6 CRIME THAT OCCURRED AND HE IS A WITNESS FROM A WINDOW ON A
7 STREET, ON A DARK STREET. I THINK IT IS ACTUALLY VERY
8 DIFFERENT FROM MCCLOUD.

9 THE COURT: ALL RIGHT, BASED ON WHAT HAS BEEN
10 PRESENTED THE CASE, STATE VERSUS MCCLOUD SIMPLY SAYS THAT
11 THE CONSTITUTIONAL AND PROCEDURAL SAFEGUARDS REQUIRED
12 UNDER NEIL V. BIGGERS WERE NEVER INTENDED TO APPLY WHERE
13 THE VICTIM KNEW THE ACCUSED. OF COURSE, THEY DON'T DEFINE
14 KNEW. AND THAT IS WHAT YOU FOLKS ARE ARGUING ABOUT. IT
15 DOESN'T TALK ABOUT THE DEGREE OF KNOWLEDGE, IT DOESN'T
16 HAVE TO BE AN INTIMATE RELATIONSHIP. BASED ON WHAT HAS
17 BEEN PRESENTED HERE I THINK THE RELATIONSHIP OR AT LEAST A
18 KNOWLEDGE EXISTED AND I THINK WHETHER IT WAS SUFFICIENT
19 KNOWLEDGE IT WOULD BE, GO MORE TOWARD THE WEIGHT OF THE
20 TESTIMONY RATHER THAN THE ADMISSIBILITY OF IT. BUT IN
21 ADDITION TO THAT I FIND THAT SUFFICIENT EVIDENCE HAS BEEN
22 SHOWN BY THE STATE UNDER THE TOTALITY OF THE CIRCUMSTANCES
23 TO MAKE IT AN IDENTIFICATION. IT IS PERMISSIBLE. AND I
24 KNOW THE ARGUMENT WOULD BE MADE THAT AT A SHOWUP
25 IDENTIFICATION WHERE THE DEFENDANT WAS THE ONLY ONE THERE

1 MIGHT BE OVERLY SUGGESTIVE BUT AT THE SAME TIME THE
2 WITNESS WHO TESTIFIED THAT HE KNEW THE DEFENDANT, HE KNEW
3 HIM FROM ELEMENTARY SCHOOL, FROM SEEING HIM AT MCDONALD'S,
4 FROM SEEING HIM ON BAY BERRY ON THE DATE OF THE SHOOTING.
5 HE KNEW HIM BY HIS NICKNAME, HE IDENTIFIED THE SHOOTER BY
6 NICKNAME TO THE OFFICER PRIOR TO HIM BEING TAKEN TO THE
7 SECOND LOCATION. BASED ON THAT I WILL PERMIT THE
8 IDENTIFICATION TESTIMONY AND YOU CAN STILL ARGUE ABOUT ITS
9 WEIGHT. ALL RIGHT, I NEED TO HEAR YOUR ARGUMENTS ON THE
10 STATEMENTS, THE JACKSON V. DENNO, WE HAVE THE TWO
11 STATEMENTS THAT WERE TESTIFIED TO.

12 MS. FENT: YOUR HONOR, INVESTIGATOR JOE GRAY CLEARLY
13 TESTIFIED HE BROUGHT HIM IN, HE ADMITTED THAT HE WAS NOT
14 PREBRIEFED, SO THAT IS WHY HE WENT THROUGH THE MIRANDA
15 WARNINGS, READ HIM EACH ONE AT A TIME, MARKED THEM OFF ON
16 THE PAPER TO MAKE SURE HE READ EACH ONE OF THEM ONE AT A
17 TIME. ASKED HIM IF HE UNDERSTOOD, CLEARLY HE SAID YES.
18 HE SIGNED THE WAIVER FORM AND THEN STARTED IN WITH THE
19 WRITTEN STATEMENT, ALLOWED HIM AN OPPORTUNITY TO READ
20 THAT, CHANGE ANYTHING HE WANTED TO DO AND THEN TO SIGN THE
21 WRITTEN STATEMENT. THE SAME THING WITH THE SECOND ONE, HE
22 BROUGHT HIM BACK OVER. SAID I WOULD LIKE TO TALK TO YOU
23 SOME MORE ABOUT THE SHOOTING ON TS MARTIN. READ HIM HIS
24 MIRANDA WARNINGS ONCE AGAIN, HE CLEARLY WASN'T FREE TO
25 LEAVE. MARKED EACH ONE, ASKED HIM AGAIN, DO YOU

1 UNDERSTAND. YES, I DO. HE SIGNED THE WAIVER FORM AND
2 THEN STARTED INTO THE SECOND WRITTEN STATEMENT. QUESTION
3 AND ANSWER, SIGNING THE BOTTOM OF BOTH PAGES OF THE
4 STATEMENT INDICATING THAT HE WANTED TO GIVE THESE
5 STATEMENTS. DIDN'T MAKE ANY CHANGES, ADDITIONS,
6 DELETIONS. IN ADDITION, IS THE INITIAL ORAL STATEMENT
7 THAT WAS GIVEN BY THE DEFENDANT AFTER HE WAS READ HIS
8 RIGHTS AND SIGNED THE WAIVER FORM. HE SAID HE HAD NOT
9 BEEN AT TS MARTIN. SO, THAT ADDITIONAL STATEMENT WE ARE
10 ASKING TO COME IN. CLEARLY, UNDERSTOOD WHAT WAS GOING ON,
11 AND IT IS INDICATIVE OF THE THIRD TIME HE IS BROUGHT OVER,
12 HE CLEARLY UNDERSTOOD HIS RIGHTS AFTER HAVING BEEN READ
13 THEM, YOU KNOW, DO YOU WANT TO GIVE ANOTHER STATEMENT. HE
14 SAID, NO. I HAVE SPOKEN WITH AN ATTORNEY AND I DON'T WANT
15 TO TALK. SO, HE CLEARLY UNDERSTOOD HOW TO INVOKE THE
16 RIGHTS AND CHOSE TO DO THAT.

17 THE COURT: ALL RIGHT, MR. SCHARDT.

18 MR. SCHARDT: THANK YOU, YOUR HONOR, MAY IT PLEASE
19 THE COURT. TO ADDRESS THE OVERALL ISSUE OF THE
20 ADMISSIBILITY, I GUESS, ON ALL OF THESE OCCASIONS. I
21 WOULD LIKE TO POINT TO STATE V. PENDERGRASS, SUPREME
22 COURT, SOUTH CAROLINA SUPREME COURT CASE WHICH STATES THAT
23 MERE PRESENCE OR THE EXISTENCE OF A WRITTEN WAIVER DOES
24 NOT CONCLUDE THE ISSUE AND YOU HAVE TO LOOK AT THE
25 TOTALITY OF THE CIRCUMSTANCES AND DIFFERENT FACTORS. I

1 BELIEVE THAT THE COURTS, UNITED STATES SUPREME COURT HAS
2 GIVEN US EXAMPLES OF WHAT SUCH VALUES WOULD BE. THE AGE
3 OF THE INDIVIDUAL, THE EXPERIENCE WITH LAW ENFORCEMENT,
4 EDUCATION, BACKGROUND, HIS INTELLIGENCE. YOUR HONOR, I
5 ASKED INVESTIGATOR GRAY WHAT ASSURANCES HE HAD THAT MR.
6 LIVERMAN UNDERSTOOD THE RIGHTS THAT HE WAS WAIVING AND
7 THAT HE WAS WAIVING, IN FACT I WAS ASKING HIM HOW HE WAS
8 SURE THAT MR. LIVERMAN'S WAIVER WAS KNOWINGLY MADE AND
9 INTELLIGENTLY MADE. YOUR HONOR, HIS ONLY RESPONSE WAS HE
10 READ THE RIGHTS AND THAT HE RECEIVED AN APPROPRIATE
11 RESPONSE FROM MR. LIVERMAN. WE WOULD ARGUE THAT THE MERE
12 AFFIRMATION FROM THE DEFENDANT WOULD NOT, WOULD NOT
13 SUFFICE TO PROPERLY ASSURE THAT THE DEFENDANT UNDERSTOOD
14 THE RIGHTS THAT HE IS WAVING. CERTAINLY WE CAN THINK OF
15 SITUATIONS WHERE A PERSON JUST DOES NOT AFFIRMATIVELY OR
16 CERTAINLY AGREE TO THE WAYS THEY DON'T UNDERSTAND. IN
17 FACT, I WOULD ARGUE THAT SOMEONE WHO DOESN'T UNDERSTAND
18 THEIR RIGHTS OR THEIR CONSTITUTIONAL RIGHTS UNDER THE LAW
19 WOULD BE MORE LIKELY JUST TO HAVE CONCERN. AND, YOUR
20 HONOR, I WOULD JUST ASK THAT YOU CONSIDER THAT MR.
21 LIVERMAN WAS YOUNG, HE WAS 19 YEARS OF AGE AT THE TIME, HE
22 HAD JUST TURNED 19. HE DOES HAVE SOME EXPERIENCE WITH LAW
23 ENFORCEMENT, ALTHOUGH HE DID HAVE SOME.

24 THE COURT: THAT IS NOT IN THE RECORD BEFORE ME AT
25 THIS POINT AND TIME, RIGHT?

1 MR. SCHARDT: I UNDERSTAND, YOUR HONOR.

2 THE COURT: GO AHEAD.

3 MR. SCHARDT: AND, YOUR HONOR, WE WOULD ALSO, IN
4 REGARDS TO HIS, I GUESS WHAT THE STATE WOULD CALL HIS
5 FIRST WRITTEN STATEMENT. WE WOULD LIKE TO CALL YOUR
6 ATTENTION TO THAT ISSUE AS WELL, YOUR HONOR. OUR ISSUE
7 WITH THAT FROM THE TESTIMONY FROM INVESTIGATOR GRAY, MR.
8 LIVERMAN WAIVED HIS RIGHTS AT 12:20 A.M. HE GAVE A
9 STATEMENT AT 12:35. INVESTIGATOR GRAY'S TESTIMONY WAS
10 THAT CHRISTOPHER LIVERMAN WAS QUIET, WAS RESERVED, WOULD
11 NOT SPEAK. I THINK, FROM THAT TESTIMONY THAT HE WAS
12 SILENT. I ASKED WHEN CHRISTOPHER LIVERMAN BEGAN TO SPEAK.
13 AGAIN, TO ANSWER QUESTIONS AND HE SAID, WELL, HE ANSWERED
14 A QUESTION JUST BEFORE I BEGAN THE QUESTION AND ANSWER
15 STATEMENT SESSION. FROM THOSE ANSWERS HE INDICATED THAT
16 CHRISTOPHER LIVERMAN FIRST BEGAN TO TALK TO INVESTIGATOR
17 GRAY AT 12:35 OR SHORTLY BEFORE THAT TIME. THAT LEAVES A
18 SPAN OF POSSIBLY OF TEN TO FIFTEEN MINUTES WHERE
19 CHRISTOPHER LIVERMAN, ACCORDING TO THE TESTIMONY OF MR.,
20 INVESTIGATOR GRAY WAS NOT RESPONSIVE. CERTAINLY WE
21 UNDERSTAND THAT THE STATE IS ARGUING THAT HE IS WAIVING
22 HIS RIGHTS BUT ALSO WE WOULD ASK FOR THE COURT TO CONSIDER
23 THE FACT THAT CHRISTOPHER LIVERMAN WAS REMAINING SILENT,
24 CHOSE TO REMAIN SILENT AND HIS ACTIONS AND HIS CHOICE TO
25 REMAIN SILENT, HE WAS INVOKING HIS RIGHT TO REMAIN SILENT

1 AT THAT POINT.

2 THE COURT: EVEN THOUGH HE HAS ALREADY SIGNED THE
3 WAIVER AT THAT POINT?

4 MR. SCHARDT: YOUR HONOR, --

5 THE COURT: YOU ARE WANTING ME, YOU ARE WANTING ME TO
6 RULE THAT HE HAS SIGNED AND WAIVED HIS RIGHTS AND THEN HE
7 IN SOME WAY INVOKED HIS RIGHTS?

8 MR. SCHARDT: YES, YOUR HONOR. OUR ARGUMENT, IS
9 FIRST OF ALL, HE NEVER UNDERSTOOD HIS RIGHTS. AND IF YOUR
10 HONOR DEEMS THAT HE DID IN FACT UNDERSTAND HIS RIGHTS WE
11 WOULD ARGUE HIS SILENCE IS A PROLONGED SILENCE. HIS
12 SILENCE OF TEN TO FIFTEEN MINUTES HIS RIGHTS WERE READ TO
13 HIM WOULD HAVE BEEN AN INDICATION OF HIS RIGHTS TO REMAIN
14 SILENT, AT THAT TIME IT SHOULD OF BEEN RECOGNIZED BY THE
15 INVESTIGATOR AT THE TIME. AND WE WOULD ASK THAT HIS
16 STATEMENT BE EXCLUDED FOR THAT REASON.

17 THE COURT: WHAT ABOUT THE FACT THAT WHEN HE WAS
18 BROUGHT BACK FOR THE THIRD TIME HE DID INVOKE HIS RIGHT TO
19 COUNSEL, NO OTHER QUESTIONS WERE ASKED. HE OBVIOUSLY
20 UNDERSTOOD HIS RIGHTS AT THAT POINT, DID HE NOT?

21 MR. SCHARDT: WELL, YOUR HONOR, WE WOULD ARGUE THAT
22 THAT WAS A DIFFERENT CIRCUMSTANCE AND WE DON'T, AND IN THE
23 TESTIMONY WE DON'T HAVE THE CIRCUMSTANCES OF THAT, OF THAT
24 INTERROGATION. THE CONVERSATIONS COULD OF BEEN, COULD OF
25 OCCURRED BETWEEN THAT TIME.

1 THE COURT: ONE OTHER QUESTION AND THEN I WILL HEAR
2 FROM THE STATE AND THEN YOU CAN RESPOND TO ANYTHING THEY
3 HAVE GOT TO SAY. YOU ARE SAYING THERE WAS A TEN TO
4 FIFTEEN MINUTE OF SILENCE, A PERIOD OF SILENCE BETWEEN THE
5 SIGNING OF THE WAIVER AND THE TIME THE ACTUAL STATEMENT
6 WAS GIVEN. IS THERE ANYTHING IN THE TESTIMONY THAT SAYS
7 THERE IS A PERIOD OF SILENCE OR ARE YOU SIMPLY LOOKING AT
8 THE TIME ON THESE FORMS?

9 MR. SCHARDT: YOUR HONOR, I INQUIRED ABOUT THAT WITH
10 THE INVESTIGATOR ON THE STAND. HE TESTIFIED THAT HE WAS
11 GIVING CHRISTOPHER LIVERMAN SOME INFORMATION OVER THOSE
12 TEN TO FIFTEEN MINUTES. AND HE ALSO TESTIFIED THAT
13 CHRISTOPHER LIVERMAN NON-RESPONSIVE, WAS NOT, WAS QUIET,
14 HE WAS NOT RESPONDING. AT SOME POINT TOWARD THE END OF
15 THAT FIFTEEN MINUTE PERIOD THE TESTIMONY WAS THAT
16 CHRISTOPHER LIVERMAN ANSWERED A QUESTION AND THAT IS WHEN
17 THE QUESTION AND ANSWER SESSION BEGAN. BUT I AM NOT
18 ARGUING THAT THERE WAS COMPLETE SILENCE IN A ROOM, I AM
19 ARGUING THAT MY CLIENT WAS SILENT. INVESTIGATOR GRAY, I
20 THINK TESTIFIED THAT HE MAY OF BEEN TALKING AT THAT TIME.

21 THE COURT: LET ME HEAR FROM MS. FENT AND THEN I WILL
22 BE GLAD TO HEAR A RESPONSE.

23 MS. FENT: YOUR HONOR, I BELIEVE THAT THE
24 INVESTIGATOR SAID THAT HE READ HIM HIS RIGHTS, THAT HE
25 SIGNED THE WAIVER, HE SAID I WANT TO TALK TO YOU ABOUT TS

1 MARTIN, THE DEFENDANT RESPONDED I WASN'T THERE ON TS
2 MARTIN. AND THEN THE INVESTIGATOR CONTINUED TALKING AND
3 DISCUSSING, HE EXHIBITED THAT THE DEFENDANT WASN'T VERY
4 RESPONSIVE AND THAT CAN CLEARLY BE, BECAUSE PEOPLE IN
5 CUSTODY SITTING DOWN TO GIVE A STATEMENT MIGHT RESPOND IN
6 DIFFERENT WAYS. ONE PERSON MIGHT JUST START SAYING LET ME
7 TELL YOU MY STORY AND START TALKING NONSTOP. OTHER PEOPLE
8 MAY BE SITTING AND WONDERING WHERE THIS INVESTIGATOR IS
9 GOING WITH THIS. I AM GOING TO SIT THERE AND WAIT AND SEE
10 WHAT HE KNOWS BEFORE I START TALKING. AND THAT IS WHY THE
11 INVESTIGATOR CHOSE TO START DOING QUESTIONS AND ANSWERS
12 BECAUSE THE PERSON WAS, THAT WAS THE WAY HE WAS GOING TO
13 BE ABLE TO PROCEED WITH THIS INTERROGATION, QUESTIONING,
14 STATEMENT, AND THAT, SOME PEOPLE ARE TALKATIVE AND SOME
15 OTHERS AREN'T. AND THAT IS HOW IT WENT.

16 THE COURT: ANYTHING FURTHER, MR. SCHARDT?

17 MR. SCHARDT: YOUR HONOR, I THINK THE RECORD
18 INDICATES THAT MR. LIVERMAN WAS SILENT, HE REMAINED
19 SILENT. WE CAN STRESS ABOUT WHAT THAT SILENCE INDICATED
20 BUT THE FACT THAT THE INVESTIGATOR CONTINUED TO TALK TO
21 MR. LIVERMAN, CONTINUED TO ASK HIM QUESTIONS IN AN EFFORT
22 TO GET MR. LIVERMAN TO TALK. AND FROM THE--

23 THE COURT: BUT HE HAD WAIVED HIS RIGHTS, CORRECT?
24 IF HE UNDERSTOOD THEM HE HAD WAIVED THEM, HE HAD SIGNED
25 THEIR WAIVER AT THAT POINT AND TIME, RIGHT?

1 MR. SCHARDT: YOUR HONOR, HE HAD WAIVED HIS RIGHTS
2 BUT AT THE SOME POINT WE WOULD MAKE THE ARGUMENT THAT BY
3 REMAINING SILENT HE WAS RECLAIMING HIS RIGHTS.

4 THE COURT: ALL RIGHT.

5 MR. SCHARDT: HE WAS INVOKING HIS RIGHT TO REMAIN
6 SILENT AT THAT TIME DESPITE THE WAIVER.

7 THE COURT: UNDER THE TOTALITY OF THE CIRCUMSTANCES I
8 THINK HE WAS ADVISED OF HIS RIGHTS, HE UNDERSTOOD HIS
9 RIGHTS, THERE IS NOTHING INDICATING HE DID NOT UNDERSTAND
10 HIS RIGHTS. HE WAIVED HIS RIGHTS AND THE STATEMENTS THAT
11 WERE GIVEN WERE GIVEN FREELY AND VOLUNTARY. HE WASN'T
12 THREATENED, HE WASN'T PROMISED ANYTHING AND THEY ARE
13 ESSENTIALLY A RESULT OF HIS WILL AND HIS WILL WAS NOT
14 OVERCOME. AND FOR THAT REASON THOSE STATEMENTS WOULD BE
15 ADMISSIBLE. ALL RIGHT, NOW, I BELIEVE THAT IS ALL THE
16 MOTIONS. AND I THINK THERE WAS ONE THAT I SAID THAT I
17 WOULD DEAL WITH FIRST THING IN THE MORNING AND QUITE
18 FRANKLY I CAN'T REMEMBER WHAT IT WAS.

19 MS. FENT: IT IS THE 911 TAPE.

20 THE COURT: YES.

21 MS. FENT: AND, YOUR HONOR, WHAT I DID WAS COPY THE
22 ORIGINAL. THERE WERE FIVE SEPARATE CALLS ON THE ORIGINAL
23 TAPE, I JUST PLACED EACH CALL ON A SEPARATE CASSETTE TAPE
24 SO THAT EACH WITNESS CAN AUTHENTICATE THEIR OWN VOICE.
25 BUT BASICALLY, I HAVE LABELED THEM 1 THROUGH 5. NUMBER 1

1 IS THE PREVIOUS INCIDENT ABOUT 40 MINUTES EARLIER. NUMBER
2 2 IS THE ACTUAL, THE PEOPLE THAT ARE CALLING THAT ARE IN
3 FRONT OF THE HOUSE. AT 9:40 THEY ARE SAYING THAT SHOTS
4 ARE FIRED. NUMBER 3 IS A WOMAN DOWN THE BLOCK THAT HAS
5 JUST ENTERED HER HOUSE AND SAYING SHOTS ARE BEING FIRED,
6 PLEASE COME OUT THERE. NUMBER 4 IS, IT SOUNDS LIKE A
7 NIECE OF THE VICTIM, [REDACTED] T.M. [REDACTED] BECAUSE SHE IS
8 SAYING MY UNCLE JUST GOT SHOT OVER ON TS MARTIN. AND THEN
9 SHE MIGHT BE ON A CORDLESS PHONE BECAUSE IT DOES SOUND
10 LIKE SHE THEN ARRIVED TO THE SCENE AND SHE IS SAYING HE IS
11 RIGHT HERE. SO THAT IS NUMBER 4. AND THEN NUMBER 5 IS AN
12 UNIDENTIFIED MALE JUST SAYING YA'LL NEED TO SEND THE
13 POLICE. THAT DOESN'T SEEM TO BE ON TS MARTIN OR ANYTHING
14 LIKE THAT. JUST SOMEONE HAS BEEN SHOT AND YOU NEED TO
15 SEND THE POLICE.

16 THE COURT: I WILL LISTEN TO THESE TONIGHT.
17 APPROXIMATLEY HOW LONG ARE THERE, ARE THEY LONG?

18 MS. FENT: THE LONGEST ONE IS NUMBER 2, THE REST OF
19 THEM ARE FAIRLY SHORT. AND MAYBE NUMBER 2 IS THREE OR
20 FOUR MINUTES, SOMTHING LIKE THAT.

21 THE COURT: I WILL LISTEN TO THESE AND RULE ON EACH
22 ONE OF THEM TOMORROW MORNING. ANYTHING ELSE PRETRIAL
23 MATTERS WE NEED TO DO?

24 MS. FENT: YES, YOUR HONOR. ONE, WE WANT TO TAKE UP
25 AN ISSUE REGARDING THE MEDIA. WE ARE ASKING THAT THE

1 NAMES OF ANY LAY WITNESSES BE, NOT BE MENTIONED IN ANY OF
2 THE NEWS REPORTS. IN ADDITION, ANY OF THE FACES OF THE
3 LAY WITNESSES THAT ARE TESTIFYING, THOSE ALSO NOT BE SHOWN
4 ON CAMERA. THAT IS ALL WITH REGARD TO THE MEDIA. THE
5 SECOND THING IS IN TERMS OF THE DEFENDANT'S TATTOOS. AND
6 I JUST HAVE SOME CASES THAT I CAN PROVIDE FOR YOU FOR THIS
7 EVENING AND, IF YOU WANT TO TAKE IT UP TOMORROW WE CAN.

8 THE COURT: THAT WILL BE FINE, I WOULD LIKE TO LOOK
9 AT THE LAW BEFORE I HEAR WHATEVER YOUR ARGUMENTS ARE. ON
10 THE MEDIA YOU ARE ASKING THAT THIS COURT ORDER THE MEDIA
11 TO NOT TO WRITE THE NAMES OF THE LAY WITNESSES WHO WOULD
12 TESTIFY IN A CASE?

13 MS. FENT: YES, YOUR HONOR.

14 THE COURT: AND WHAT WAS YOUR OTHER REQUEST?

15 MS. FENT: FACES, IF THERE IS CAMERAS IN THE
16 COURTROOM, THAT THEIR FACES--

17 THE COURT: DO YOU HAVE ANY CASE LAW ON THAT?

18 MS. FENT: NO, YOUR HONOR.

19 THE COURT: YOU WANT ME TO SERIOUSLY CONSIDER THAT
20 YOU NEED TO HAVE SOME CASE LAW FOR ME. BECAUSE I WOULD
21 THEN HAVE TO HAVE A HEARING AND GIVE THE MEDIA AN
22 OPPORTUNITY TO BE HEARD IN A FULL FLEDGED HEARING.

23 MS. FENT: OKAY.

24 THE COURT: ANYTHING ELSE FROM THE STATE?

25 MS. FENT: NO, YOUR HONOR.

1 THE COURT: FROM THE DEFENSE, ANYTHING FURTHER?

2 MS. FRANKLIN: YOUR HONOR, I WOULD ASK THAT THE STATE
3 INFORM ME TO WHAT CASE LAW.

4 MS. FENT: I WILL GIVE YOU A COPY.

5 MS. FRANKLIN: AND ARE WE HAVING A HEARING ON THIS,
6 AS TO THE TATTOOS?

7 THE COURT: I HAVEN'T RULED, I WANT TO SEE WHAT THE
8 CASES ARE. I WILL HEAR YOUR ARGUMENTS IN THE MORNING
9 BEFORE I MAKE THAT DETERMINATION. I KNOW THERE ARE SOME
10 CASES SAYING THAT THIS WAY OF TATTOOS AND OTHER THINGS,
11 STARS OF THAT NATURE ARE NOT TESTIMONIAL. YOU HAVE GOT
12 ANY CASE LAW WHERE THAT HAS NOT BEEN PERMITTED I WILL BE
13 GLAD TO TAKE A LOOK AT IT. I AM NOT SURE WHAT THESE CASES
14 SAY, I WOULD ASSUME THEY ARE PROBABLY SUPPORTING THE
15 STATE'S POSITION. WE WILL RECESS AND BE BACK AT 9:15 IN
16 THE MORNING.

17 (WHEREUPON, THE CASE WILL CONTINUE THE NEXT MORNING
18 AT 9:15 A.M.)

19 THE COURT: ALL RIGHT, WE WILL START WITH THE 911
20 TAPES, I DID LISTEN TO ALL FIVE OF THE TAPES LAST NIGHT.
21 IF PROPERLY IDENTIFIED THE COURT WOULD PERMIT NUMBER 1
22 WHICH IS, I DON'T KNOW IF THEY HAVE TIMES ON THEM OR NOT
23 BUT THEY ARE IDENTIFIED ON THE ONES THAT I LISTENED TO.
24 THIS IS THE ONE PRIOR TO THE SHOOTING INCIDENT. NUMBER 2
25 WHICH IS AT THE TIME OF THE SHOOTING INCIDENT. NUMBER 3

1 WHICH WAS APPARENTLY MADE FROM [REDACTED] TS MARTIN DRIVE. I
2 WILL SUSTAIN THE OBJECTION TO THE 4TH ONE WHICH WAS MADE
3 FROM [REDACTED] ENGLISH AVENUE AND ALSO TO NUMBER 5 WHICH WAS BY
4 AN UNIDENTIFIED INDIVIDUAL. I DON'T THINK THAT IT WAS
5 EVER INDICATED EXACTLY WHERE THAT PERSON IS. SO, 1, 2 AND
6 3 IF THEY ARE PROPERLY IDENTIFIED WOULD BE, I WOULD PERMIT
7 THOSE TO COME INTO EVIDENCE. 4 AND 5 I WILL SUSTAIN THE
8 OBJECTION TO THOSE. I AM GOING TO GIVE THESE BACK TO YOU.
9 I DON'T NEED THEM ANYMORE.

10 MS. FENT: THANK YOU, YOUR HONOR.

11 THE COURT: I KNOW ONE OTHER ISSUE DEALT WITH THE
12 STATE WISHING TO REQUIRE THE DEFENDANT TO DEMONSTRATE OR
13 EXPOSE TATTOOS. I DID NOT HEAR ANY ARGUMENTS ON THAT
14 YESTERDAY AND I KNOW THE STATE HANDED UP A FEW CASES ON
15 THAT. MS. FRANKLIN, I WILL HEAR ANY OBJECTION THAT YOU
16 MIGHT HAVE ON THAT.

17 MS. FRANKLIN: YES, YOUR HONOR, MAY IT PLEASE THE
18 COURT. AFTER REVIEWING THE CASE LAW THAT MS. FENT
19 PROVIDED TO US YESTERDAY AND AFTER DOING A LITTLE BIT OF
20 RESEARCH OURSELVES, YOUR HONOR, WE ARE GOING TO AGREE THAT
21 THE TATTOO WOULD BE NON-TESTIMONIAL. WE ALSO AGREE THAT
22 CHRIS LIVERMAN CANNOT ABSENT HIMSELF FROM THE COURTROOM
23 FOR PURPOSES OF AVOIDING AN IDENTIFICATION. WE ALSO AGREE
24 THAT THERE MUST BE A FOUNDATION, THEY MUST LAY A
25 FOUNDATION BEFORE THEY CAN ADMIT THESE TATTOOS INTO

1 EVIDENCE. AND I THINK, YOUR HONOR, THAT IS THE PROBLEM
2 HERE. I THINK THAT THE STATE WOULD BE ABLE TO SHOW THAT,
3 IN FACT, IT IS A TATTOO. I THINK THAT THEY MAY BE ABLE
4 TO, TO SOME DEGREE, EXPLAIN WHEN HE MAY OF RECEIVED THESE
5 TATTOOS. BUT I DO NOT BELIEVE THAT THEY CAN ATTRIBUTE A
6 SPECIFIC MEANING TO THE TATTOO. THE STATE CANNOT SHOW
7 THAT IT PURPORTS TO REPRESENT WHAT I BELIEVE IT IS A THING
8 THEY THINK THAT IT DOES REPRESENT. I BELIEVE THAT THEY
9 WANT TO ENTER THIS INTO EVIDENCE SO THAT THE JURY WILL
10 INFER THAT IT PRESENTS THE DEATH OF THESE TWO CHILDREN BUT
11 IT IS NOT WHAT THESE TWO TATTOOS MEAN. THERE IS A BASIC
12 REVIEW OF THE LITERATURE THAT IS ON THE INTERNET WILL SHOW
13 YOU THAT THIS IS A SYMBOL THAT HAS AN INVOLVING MEANING.
14 CERTAINLY THERE IS A FAMOUS NBS BASKETBALL STAR WHO ALSO
15 HAS THE SAME TATTOO REFERS TO THE DEATH OF HIS YOUNGER
16 BROTHER. I THINK GETTING INTO THIS SORT OF EVIDENCE IS
17 CHARACTER ASSASSINATION, I THINK THEY ARE TRYING TO
18 TERRIFY THE JURY WITH THIS TALK OF HIDDEN MEANINGS AND
19 SECRET MEANINGS OF GANG MEMBERS. WE BELIEVE THAT IN
20 ADDITION TO SIMPLY BEING ACCURATE THAT IT IS GROSSLY AND
21 UNDULY PREJUDICIAL TO MY CLIENT AND I THINK IT IS
22 CALCULATED TO INFLAME THE PASSIONS. BUT AT THE CORE I
23 DON'T THINK THAT THE STATE WILL BE ABLE TO LAY ANY
24 FOUNDATION FOR IT. ADDITIONALLY, I THINK IT IS
25 IRRELEVANT. THERE IS ANOTHER CONCERN. THIS ISN'T JUST A

1 REGULAR TATTOO, YOUR HONOR, THIS ISN'T A TATTOO THAT
2 SOMEONE JUST WALKS INTO A TATTOO PARLOR AND RECEIVES.
3 THIS IS VERY SPECIFICALLY A PRISON TATTOO. AND MY CONCERN
4 IS THAT AND THEY ARE TRYING TO BRING OUT TESTIMONY
5 REGARDING THESE TATTOOS, THERE IS ALSO GOING TO BE
6 IMPROPER EVIDENCE RELATING TO MY CLIENT'S PRIOR
7 CONVICTIONS. THE FACT THAT HE WAS IN PRISON AT THE TIME
8 HE RECEIVED THIS. I THINK THAT IS INAPPROPRIATE AND
9 INADMISSIBLE. SO, I BELIEVE THAT ALLOWING ANY EVIDENCE
10 ABOUT TATTOOS, YOUR HONOR, IS DENYING MY CLIENT'S RIGHT TO
11 A FAIR TRIAL AND REVOKE THE FEDERAL AND STATE
12 CONSTITUTIONS. AND I THINK IT IS AN INADMISSIBLE BACK
13 DOOR CHARACTER PROPENSITY EVIDENCE. AND FOR THESE REASONS
14 THAT YOU WOULD EXCLUDE ANY TESTIMONY RELATING TO MY
15 CLIENT'S TATTOO.

16 THE COURT: MS. FENT.

17 MS. FENT: THANK YOU, YOUR HONOR. BASICALLY THERE
18 ARE TWO SETS OF TATTOOS WE ARE TRYING OR WANT TO INTRODUCE
19 THE TATTOOS THAT WERE ON HIM THAT NIGHT TO GO TO PROVE
20 THAT HE WAS A MEMBER OF THIS GANG. THE TATTOOS DO HAVE A
21 SPECIFIC MEANING AND WE WILL PRESENT THE GANG EXPERT THAT
22 CAN COME UP AND INTERPRET AND IDENTIFY AND STATE THE
23 SPECIFIC MEANING. THIS ISN'T A SECRET MEANING OR A
24 MEANING OR A HIDDEN MEANING. THIS IS INFORMATION THAT
25 THEY HAVE GOTTEN FROM GANG MEMBERS THEMSELVES, FROM

1 INTERVIEWS, FROM RESEARCH, FROM TALKING TO THEM THEMSELVES
2 ABOUT THIS IS SPECIFICALLY WHAT THESE TATTOOS MEAN. THE
3 IGD ON HIS HAND WHICH IS THE INSANE GANGSTER DISCIPLE HAS
4 SET UP THE FOLK NATION. THE CROWN, THE PITCHFORK, ALL OF
5 THOSE THINGS ARE SPECIFICALLY FOLK NATION TATTOOS. AND
6 THE EXPERTS WILL BE ABLE TO TESTIFY TO THAT. THE SECOND
7 ONE IS THE TEAR DROP UNDER HIS LEFT EYE, FILLED IN TEAR
8 DROP UNDER HIS LEFT EYE. WE ARE PREPARED TO BE ABLE TO
9 PRESENT TESTIMONY THAT IT WASN'T THERE THAT NIGHT WHEN HE
10 WAS ARRESTED AND PENDING THIS CASE HE DOES NOW HAVE THAT
11 TEAR DROP TATTOO. THE GANG EXPERT WILL BE ABLE TO SAY
12 THAT THIS SPECIFICALLY, WHAT THAT MEANS. WE ARE ALSO
13 PREPARED TO PRESENT OR NOT TO PRESENT THAT HE WAS IN
14 PRISON WHEN IT HAPPENED, IT WASN'T THERE THAT NIGHT WHEN
15 HE SHOT THESE TWO PEOPLE AND IT IS THERE NOW. AND THE
16 MEANING OF IT IS THAT I KILLED SOMEONE. BASICALLY, I MEAN
17 LIKE ANY OTHER EVIDENCE THAT COMES IN THAT THE DEFENSE CAN
18 ALWAYS TRY TO SAY THAT THERE IS ANOTHER INTERPRETATION TO
19 IT AND THAT IS UP TO THE JURY. TO LISTEN TO THE EXPERTS,
20 TO LISTEN TO THEIR PROPOSED OTHER EXPLANATION AND TO
21 DECIDE, DO THEY BELIEVE THE EXPERTS OR NOT.

22 MS. FRANKLIN: YOUR HONOR, IF I MAY RESPOND.

23 THE COURT: SURE.

24 MS. FRANKLIN: I WOULD ASK FOR, I MEAN THIS IS THE
25 TESTIMONY THAT THEY BELIEVE THEY ARE GOING TO ELICIT I

1 WOULD ASK THAT WE HAVE AN IN-CAMERA HEARING ON THIS
2 SPECIFIC QUESTION BEFORE WE ACTUALLY DO THIS IN FRONT OF
3 THE JURY SO THAT YOU CAN MAKE A DETERMINATION OF WHETHER
4 OR NOT IT IS ADMISSIBLE EVIDENCE. IN ADDITION I WOULD
5 POINT OUT THAT ONE OF THEIR EXPERTS WHO WILL BE
6 TESTIFYING, AS TO MY UNDERSTANDING FROM THE WITNESS LIST
7 THAT THEY PROVIDED TO ME, IS FROM THE DEPARTMENT OF
8 CORRECTIONS, THE SOUTH CAROLINA DEPARTMENT OF CORRECTIONS.
9 AND WILL BE SPEAKING SPECIFICALLY ABOUT THE TATTOOS THAT
10 THEY TOOK PICTURES OF. EVEN IF THEY NEVER SAY PRISON OR
11 NEVER SAY THAT HE WAS IN THERE ON A PRIOR CHARGE, THE FACT
12 THAT THEY HAVE A SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
13 PERSON TO TESTIFY ABOUT CHRISTOPHER LIVERMAN'S TATTOOS, I
14 THINK THE JURY IS CLEARLY GOING TO MAKE A DIFFERENTIAL
15 LEAP THAT HE WAS SERVING TIME.

16 MS. FENT: WE WOULD BE HAPPY TO LEAVE OUT THE FACT
17 THAT THEY WORK FOR THE DEPARTMENT OF CORRECTIONS AND JUST
18 SAY YOU ARE A LAW ENFORCEMENT OFFICER. THE REALITY OF THE
19 SITUATION IS, I MEAN, WHEN YOU ARE TALKING ABOUT MURDER,
20 THAT IS HOW THESE PEOPLE BECOME, GET THEIR EXPERTISE AND
21 KNOW THIS INFORMATION.

22 THE COURT: IF HE IS PERMITTED TO TESTIFY AS A LAW
23 ENFORCEMENT OFFICER WITHOUT REFERENCE TO WHERE HE IS
24 EMPLOYED. AND, COUNSEL, YOU NEED TO EXPLAIN THAT TO HIM,
25 I RECALL A TRIAL A COUPLE OF MONTHS AGO WHERE WE HAD A

1 FEDERAL PROBATION AGENT WHO WENT RIGHT STRAIGHT INTO
2 SOMETHING HE HAD BEEN TOLD NOT TO TALK ABOUT AND WE HAD A
3 MISTRIAL IN THE CASE AND I DON'T WANT THAT TO HAPPEN IN
4 THIS CASE. WE PROBABLY NEED TO HAVE A COUNSEL HEARING
5 BEFORE THAT PERSON TESTIFIES JUST TO BE SURE, OUTSIDE THE
6 PRESENCE OF THE JURY.

7 MS. FRANKLIN: THANK YOU, YOUR HONOR.

8 THE COURT: ALL RIGHT, I KNOW THERE WAS ONE OTHER
9 REQUEST OR MOTION BY THE STATE CONCERNING NOT DISCLOSING
10 OR NOT PHOTOGRAPHING WITNESSES WHO TESTIFY. ANY CASE LAW
11 THAT YOU HAVE GOT ON THAT, MS. FENT?

12 MS. FENT: NO, YOUR HONOR.

13 THE COURT: ALL RIGHT, THAT MOTION IS DENIED.

14 MS. FENT: MAY I APPROACH, YOUR HONOR?

15 THE COURT: SURE.

16 (WHEREUPON, A BENCH CONFERENCE WAS HELD.)

17 THE COURT: ANYTHING ELSE BEFORE WE GET STARTED?

18 MS. FENT: YES, YOUR HONOR. YESTERDAY WHEN WE WERE
19 DISCUSSING THE SEQUESTRATION OF WITNESSES, I FAILED TO ADD
20 ANOTHER EXCEPTION. BASICALLY THE TWO EXPERTS, THE TWO
21 GANG EXPERTS, THEY ARE NOT FACT WITNESSES. THEY WILL BE
22 TESTIFYING, WE ARE HOPING THAT THEY WILL BE ABLE TO
23 TESTIFY TO INTERPRET THE LANGUAGE THAT WAS USED, THE
24 TERMINOLOGY, PEOPLE THAT TESTIFIED THAT THEY ACTUALLY SAW
25 THE TATTOOS, WHAT THE TATTOOS THAT THEY SAW, ETCETERA.

1 AND WE WOULD LIKE THOSE EXPERTS TO BE ABLE TO BE HERE TO
2 LISTEN TO THE ACTUAL TESTIMONY, THE COLORS THAT WERE USED,
3 THE GANG CRIMES, ALL OF THAT INFORMATION SO THAT WE WILL
4 BE ABLE TO ACCURATELY INTERPRET THAT AND TESTIFY TO THE
5 JURY AT THE END. THEY ARE EXPERTS AND THEY ARE NOT FACT
6 WITNESSES.

7 THE COURT: MS. FRANKLIN.

8 MS. FRANKLIN: YOUR HONOR, MY RESPONSE, WE WOULD
9 IMAGINE THAT THEY WOULD OF HAD AN OPPORTUNITY TO REVIEW
10 THE DISCOVERY IN THIS CASE. I DON'T SEE ANY REASON THAT
11 THEY NEED TO SIT HERE DURING THE COURSE OF THE TRIAL. IN
12 WORKING WITH THE SOLICITORS OFFICE HAS HAD ACCESS TO ALL
13 OF THIS INFORMATION THAT THE STATE IS PLANNING TO ELICIT
14 FROM THE STAND. WE ARE OPPOSED.

15 THE COURT: SINCE THEY ARE NOT FACT WITNESSES I WILL
16 PERMIT ANY EXPERTS EITHER FOR THE STATE OR THE DEFENSE TO
17 BE PRESENT TO HEAR, I THINK THERE IS CASE LAW THAT EXPERTS
18 ARE PERMITTED TO BASE THEIR OPINIONS ON TESTIMONY AND
19 OTHER EVIDENCE THAT IS PRESENTED AT TRIAL. SO, I WOULD
20 PERMIT THAT.

21 MS. FRANKLIN: WE WOULD ASK, YOUR HONOR, THAT THEY
22 NOT BE ALLOWED TO WEAR THE SOUTH CAROLINA DEPARTMENT OF
23 CORRECTIONS, IF THAT, I BELIEVE THAT THE EXPERT THAT THEY
24 ARE INTENDING TO CALL IS A SOUTH CAROLINA DEPARTMENT OF
25 CORRECTIONS AGENT. AGAIN, I AM TRYING TO PREVENT THE JURY

1 FROM MAKING--

2 THE COURT: I DIDN'T HEAR THE FIRST PART OF YOUR
3 REQUEST. THAT THEY NOT BE--

4 MS. FRANKLIN: THAT THEY NOT WEAR ANY EMBLEM THAT
5 DESIGNATES THE SOUTH CAROLINA DEPARTMENT OF CORRECTIONS.

6 THE COURT: CAN YOU TAKE CARE OF THAT, MS. FENT?

7 MS. FENT: ABSOLUTELY, YOUR HONOR.

8 THE COURT: ANYTHING FURTHER AT THIS TIME. I NEED TO
9 SEE COUNSEL IN-CHAMBERS IN JUST A MINUTE.

10 (WHEREUPON, THE COURT AND ATTORNEYS RETIRE TO
11 CHAMBERS.)

12 THE COURT: ALL RIGHT, I DECIDED TO GO AHEAD AND HAVE
13 THE VOIR DIRE OF THE JURORS INDIVIDUALLY HERE IN THE
14 COURTROOM AND WE HAVE EVERYBODY ENTITLED TO BE PRESENT AND
15 WE WILL TAKE THEM ONE AT A TIME AND IT DOES NOT MATTER TO
16 ME WHAT ORDER. YOU WILL JUST TELL WHO THEY ARE WHEN THEY
17 ARE BROUGHT IN, PLEASE.

18 (WHEREUPON, ALL JURORS ON THE TRIAL OF THIS CASE WERE
19 QUESTIONED BY THE COURT.)

20 THE COURT: BASED ON THE RESPONSES FROM THE OTHER
21 JURORS I FEEL LIKE I HAVE GONE OVER THE CONCERNS THAT THIS
22 COURT HAD AND THAT WE HAVE GOT 13 PEOPLE WHO COULD BE FAIR
23 AND IMPARTIAL IN THE CASE. I WILL BE GLAD TO HEAR ANY
24 COMMENTS, ANY ARGUMENTS ANYONE WOULD LIKE TO MAKE.

25 MS. FRANKLIN: YES, YOUR HONOR, IF IT PLEASE THE

1 COURT. BASED ON THE VOIR DIRE THAT WAS CONDUCTED I STILL
2 BELIEVE THAT THE MEDIA HAS TAINTED THIS JURY POOL, THAT
3 THE PRETRIAL PUBLICITY. AND I BELIEVE ONE OF THE JURORS
4 SAID THAT THEY FINALLY PUT IT TOGETHER, THEY REALIZED THAT
5 THIS IS THE CASE THAT HAS BEEN IN THE PAPER AND SO THEY
6 ALL KNOW IT IS ABOUT GANGS. AND WITH A COUPLE OF
7 EXCEPTIONS EVERY SINGLE ONE OF THEM SAID THAT THEY WERE
8 CONCERNED ABOUT IT, THEY WERE CONCERNED ABOUT RETALIATION,
9 CONCERNED ABOUT THE SAFETY OF THEIR FAMILIES. AND THESE
10 ARE, OF COURSE, ARE SIGNIFICANT CONCERNS. AND I WOULD
11 STATE THAT THEY ARE CONCERNS WITHOUT HAVING BEING
12 PRESENTED WITH A SINGLE PIECE OF EVIDENCE. AND I THINK
13 THAT THAT IS WHAT IS REALLY MOST CONCERNING ABOUT IT. YOU
14 KNOW, BUT THE STATE HAS THE BURDEN OF PROVING GANG
15 MEMBERSHIPS AND THIS JURY POOL HAS BEEN CONVINCED OF THE
16 FACT, THAT IS UNAPPROPRIATE. AND, AGAIN, I RENEW MY
17 MOTION TO CONTINUE THE TRIAL UNTIL SUCH TIME AS THE
18 PRETRIAL PUBLICITY DIES DOWN.

19 THE COURT: WHO FROM THE STATE WOULD LIKE TO RESPOND.

20 MS. CAMPBELL: I BEG THE COURT'S INDULGENCE. YOUR
21 HONOR, JUDGE WE ARE CONCERNED FOR MULTIPLE REASONS,
22 ESPECIALLY AS FAR AS THE APPELLATE PROCESS GOES AND I DO
23 NOT MEAN TO BE JUMPING TO THAT AND USUALLY I DON'T WORRY
24 ABOUT THAT THAT MUCH. BUT THE NOTE ITSELF WOULD GO ON
25 APPEAL AND SOMEWHAT WORRISOME IN THAT IT SAID, ABOUT HIS

1 FRIENDS AND THEY ALL RELATE TO GANG ACTIVITY. AND IN AND
2 OF ITSELF COULD BE INTERPRETED BY A COURT TO PRESUME,
3 PRIOR TO ANY TESTIMONY THAT IT IS GANG MEMBERS. I AM
4 SOMEWHAT CONCERNED ABOUT THAT WOULD PLAY OUT IN THE
5 FUTURE. IN ADDITION TO THAT, YOUR HONOR, THE STATE IS
6 CONCERNED SOMEWHAT ON THE FACT THE WORDS, RETALIATION IN
7 PUBLIC, THINGS OF THAT NATURE. WE CANNOT CONTROL WHO DOES
8 SHOW UP IN THE COURTROOM SHOULD PEOPLE START SHOWING UP
9 WHICH WE DON'T ANTICIPATE. BUT IF THIS IS A CONCERN OF
10 THEIRS AS THE TESTIMONY IN THIS CASE GOES, THAT COULD
11 ESCALATE. BUT, WE WILL LEAVE IT UP TO YOUR WISDOM, JUDGE,
12 BUT THOSE ARE CONCERNS AND I JUST WANTED TO PUT ON THE
13 RECORD ABOUT HOW THESE JURORS CAME ACROSS.

14 THE COURT: I HAVE MADE A NOTE DURING BOTH OF YOUR
15 ARGUMENTS, WHETHER THE NOTE INDICATES PREMATURE
16 DELIBERATIONS TO A DEGREE, THAT CREATES A PROBLEM IN THE
17 CASE.

18 MS. FRANKLIN: IF I COULD ADD TO THAT, I BELIEVE,
19 ACCORDING TO THE JURORS WHO, YOU ASKED SPECIFICALLY ABOUT
20 WHETHER OR NOT ANYONE HAS MADE A DETERMINATION OF HIS
21 GUILT. I BELIEVE ONE OF OUR ALTERNATES, HER REMARK,
22 SOMEBODY SAID IF HE IS GUILTY THEN THEY HAVE NO PROBLEM,
23 IF HE IS GUILTY THEY HAVE NO PROBLEM WITH IT. AND THEN I
24 BELIEVE MS. MARSHAL ALSO STATED IF A CRIME IS DONE THEN
25 THE CONSEQUENCES WOULD BE DONE OR SOMETHING LIKE THAT.

1 SO, WE HAVE AT LEAST TWO JURORS DISCUSSED THE SENTENCING
2 OR A VERDICT. I MEAN, I AM NOT SURE EXACTLY HOW TO
3 CONSTRUE THAT BUT I THINK THAT THOSE TWO ARE SOMEWHAT
4 PROBLEMATIC.

5 THE COURT: BECAUSE CONCERNS EXPRESSED BOTH BY THE
6 DEFENSE AND BY THE STATE THE MOTION FOR A CONTINUANCE WILL
7 BE GRANTED. I DON'T KNOW THAT I NEED TO PUT A 30 DAY OR A
8 SPECIFIC TIME LIMITATION ON THERE. I THINK, I MEAN YOU
9 FOLKS HAVE COORDINATED TO GETTING IT TO THIS POINT AND I
10 THINK YOU CAN DO THAT. IF YOU NEED ME TO HELP YOU SET A
11 TIME FOR IT I WILL BE GLAD TO DO THAT. I AM GOING TO
12 GRANT THE MOTION FOR CONTINUANCE BASED ON ALL THE MATTERS
13 WITH THE JURORS. BRING THE JURORS IN, PLEASE.

14 (WHEREUPON, THE JURORS WERE EXCUSED FROM THE TRIAL OF
15 THIS CASE.)

16 *** END OF PARTIAL TRANSCRIPT OF RECORD ***
17
18
19
20
21
22
23
24
25

CERTIFICATE OF REPORTER

STATE OF SOUTH CAROLINA)
)
COUNTY OF NEWBERRY)

I, JOY E. HOLSTON, OFFICIAL COURT REPORTER FOR THE
EIGHTH JUDICIAL CIRCUIT OF THE STATE OF SOUTH CAROLINA, DO
HEREBY CERTIFY THAT THE FOREGOING IS A TRUE, ACCURATE AND
PARTIAL TRANSCRIPT OF RECORD OF THE PROCEEDINGS HAD AND
EVIDENCE INTRODUCED IN THE TRIAL OF THE CAPTIONED CASE,
RELATIVE TO APPEAL, IN THE COURT OF GENERAL SESSIONS FOR
RICHLAND COUNTY, SOUTH CAROLINA, ON THE 28TH DAY OF
AUGUST, 2006.

I DO FURTHER CERTIFY THAT I AM NEITHER OF KIN,
COUNSEL NOR INTEREST TO ANY PARTY HERETO.

SEPTEMBER 30, 2006



JOY E. HOLSTON, COURT REPORTER

MY COMMISSION EXPIRES: MARCH 13, 2016

STATE OF SOUTH CAROLINA	)	
	)	COURT OF GENERAL SESSIONS
COUNTY OF RICHLAND	)	2005-GS-40-6831
		2005-GS-40-6832

THE STATE,	)	
	)	
VS.	)	TRANSCRIPT OF RECORD
	)	
CHRIS LIVERMAN,	)	
	)	
DEFENDANT,	)	

10/30/06 - 11/09/06
COLUMBIA, SOUTH CAROLINA

BEFORE:

THE HONORABLE JAMES W. JOHNSON, JR., JUDGE; AND A JURY.

APPEARANCES:

KATHRYN LUCK CAMPBELL, ASSISTANT SOLICITOR
MARGARET FENT, ASSISTANT SOLICITOR
BARNEY GIESE, SOLICITOR
ATTORNEYS FOR THE STATE

BETSY FRANKLIN, ASSISTANT PUBLIC DEFENDER
MAXWELL SCHARDT, ASSISTANT PUBLIC DEFENDER
CAROLYN GRIPP, ASSISTANT PUBLIC DEFENDER
ATTORNEYS FOR THE DEFENDANT

KAREN TRACY
OFFICIAL COURT REPORTER

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STATE'S EXHIBITS

<u>NO</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EV</u>
1	LIVERMAN, 2ND STATEMENT	88	550
2	WAIVER OF RIGHTS	88	546
3	LIVERMAN, 1ST STATEMENT	88	539
4	WAIVER OF RIGHTS	88	534
5	DIAGRAM, CURRIE'S	88	682
6	DIAGRAM, OVERVIEW	88	482
7	DIAGRAM, T.S. MARTIN/ENGLISH/EDISON	88	675
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COURT'S EXHIBITS

<u>NO</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EV</u>
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1 THE COURT: ALL RIGHT. THE CASE THAT WE'LL BE
2 SELECTING A JURY IN THIS AFTERNOON, TWO INDICTMENTS,
3 2005-40-6831 AND 6832.

4 IS THE DEFENDANT UP HERE YET? IS HE COMING IN?

5 MS. FRANKLIN: HE'S NOT UP HERE YET, YOUR HONOR.

6 THE COURT: HERE HE IS.

7 (PAUSE).

8 ALL RIGHT. 05-GS-40-6831, 6832, TWO COUNTS OF
9 MURDER, STATE VS. CHRIS LIVERMAN. BEFORE JURY SELECTION,
10 THE COURT WAS ADVISED THAT THE DEFENSE HAD A MOTION THEY'D
11 LIKE FOR ME TO HEAR.

12 MS. FRANKLIN: YES, SIR, YOUR HONOR, MAY IT PLEASE
13 THE COURT. I'VE HANDED UP A COPY OF OUR PRETRIAL MOTIONS,
14 OUR WITNESS LIST, REQUESTED VOIR DIRE.

15 WE ARE ASKING THAT YOUR HONOR CONSIDER HEARING A
16 MOTION IN LIMINE AS TO THE ADMISSIBILITY OF THE TEARDROP
17 TATTOOS ON MY CLIENT'S FACE. YOUR HONOR ASKED ME TO
18 PROVIDE TO HIM COPIES OF CASES I MENTIONED. THERE WAS A
19 CASE DOWN IN POLK COUNTY FLORIDA THAT MISTRIED OVER AN
20 ISSUE INVOLVING A TEARDROP TATTOO. IF I MAY HAND THOSE
21 UP, YOUR HONOR?

22 THE COURT: SURE.

23 MS. FRANKLIN: AND I'M HANDING UP A COPY FROM THE
24 INTERNET ABOUT THE FOLK COUNTY CASE. I'M ALSO HANDING UP
25 SOMETHING THAT OUR GANG EXPERT PROVIDED TO ME REGARDING

1 ISSUES OF COPYCAT TATTOOING, I BELIEVE UP IN ILLINOIS.

2 YOUR HONOR, OUR OFFICE RETAINED AN EXPERT BY THE NAME
3 OF MR. ROBERT WALKER. AT THIS POINT, AND WITH DEEP
4 APOLOGIES TO YOUR HONOR, HE IS NOT HERE YET. I KNOW THAT
5 HE IS ON HIS WAY. IF YOU WOULD LIKE, I CAN GO AHEAD AND
6 PUT MY ARGUMENTS ON THE RECORD REGARDING WHY WE'RE ASKING
7 THAT THIS BE EXCLUDED, AND THEN WHEN HE ARRIVES, WE CAN
8 GET TESTIMONY FROM HIM.

9 I IMAGINE THE STATE PROBABLY WILL WANT TO PUT UP
10 THEIR GANG EXPERTS TO TESTIFY AS TO WHAT THEY BELIEVE THE
11 MEANING OF THE TATTOO IS; HOWEVER, I'LL PROCEED AS YOU
12 LIKE.

13 THE COURT: LET'S GO AHEAD AND GET THE ARGUMENTS ON
14 THE RECORD, PLEASE.

15 MS. FRANKLIN: ESSENTIALLY, YOUR HONOR, MY CLIENT HAS
16 TWO TEARDROP TATTOOS. THE STATE -- IT'S MY UNDERSTANDING
17 THE STATE INTENDS TO PUT ON A GANG EXPERT TO TESTIFY THAT
18 THE MEANING OF THAT TATTOO IS THAT HE KILLED TWO PEOPLE;
19 THAT THESE TATTOOS CONSTITUTE, IN SOME SENSE, AN
20 ADMISSION.

21 AS I ARGUED IN THE PRETRIAL BEFORE THIS CASE FIRST
22 WENT TO TRIAL, I DON'T BELIEVE THAT THE STATE CAN LAY A
23 FOUNDATION FOR THAT. I DO NOT BELIEVE THAT THERE IS ANY
24 WAY THEY CAN SHOW THAT THESE TATTOOS RELATE SPECIFICALLY
25 TO WHAT HAPPENED IN THIS CASE.

1 I DON'T KNOW THAT -- YOU KNOW, MY CLIENT HASN'T
2 SPOKEN TO ANYONE ABOUT THE TATTOOS. I DON'T KNOW WHERE
3 THEY COME INTO THIS INFORMATION. I DON'T BELIEVE THAT
4 THEY'LL BE ABLE TO LAY A FOUNDATION FOR THAT.

5 THE ANALYSIS IN THE POLK COUNTY CASE RESTED ON A 403
6 ANALYSIS. I BELIEVE THAT THE JUDGE IN THAT CASE, IN
7 DECLARING A MISTRIAL AFTER ROUGHLY SIX WEEKS OF TESTIMONY,
8 FOUND THAT THE ADMISSION TESTIMONY REGARDING THE TATTOO
9 WAS UNDULY PREJUDICIAL, AND WE WOULD BE USING THAT AS A
10 BASIS FOR OUR ARGUMENT, AS WELL.

11 YOU KNOW, IN SHORT, I THINK I ADDRESSED THIS THE LAST
12 TIME I MADE THIS MOTION AND I BELIEVE THAT YOUR HONOR
13 ADDRESSED IT. IT WAS A CONCERN THAT HAVING THE SOUTH
14 CAROLINA DEPARTMENT OF CORRECTIONS OFFICERS TESTIFYING
15 ABOUT WHEN MY CLIENT GOT THE TATTOO WOULD UNFAIRLY AND
16 IMPERMISSIBLY REMARK ON HIS PRIOR CRIMINAL RECORD.

17 I BELIEVE THAT THE REMEDY THAT YOUR HONOR OFFERED IN
18 THAT CASE WAS TO PRECLUDE THE STATE FROM MENTIONING, OR
19 THE SOUTH CAROLINA DEPARTMENT OF CORRECTIONS, ALSO I THINK
20 HAVE TO BE WITHOUT THEIR UNIFORMS ON OR SOMETHING OF THAT
21 NATURE. AGAIN, I'M JUST ARGUING THAT THEY CANNOT LAY A
22 PROPER FOUNDATION.

23 THE REASON WHY I'M ASKING THAT IT BE ADDRESSED AT
24 THIS POINT IS I'M CONCERNED IF IT COMES OUT, IT'S GOING TO
25 BE A SITUATION WHERE WE ARE NOT GOING TO BE ABLE TO UNRING

1 A BELL.

2 I THINK IT'S GOING TO BE INCREDIBLY PREJUDICIAL TO MY
3 CLIENT THAT THEY'RE NOT GOING -- I MEAN, EVEN A CURATIVE
4 INSTRUCTION AT THAT POINT IS GOING TO BE ABLE TO UNDO THE
5 DAMAGE OF THAT TESTIMONY. FOR THAT REASON, I'M ASKING FOR
6 THIS MOTION PRIOR TO BRINGING THE JURY. THAT'S THE SUM
7 AND SUBSTANCE OF MY ARGUMENT, YOUR HONOR.

8 THE COURT: ALL RIGHT. MS. CAMPBELL?

9 MS. CAMPBELL: MAY IT PLEASE THE COURT, YOUR HONOR.
10 SHE DID HAND US -- I REQUESTED AND SHE DID GET ME THIS
11 CASE A LITTLE WHILE AGO.

12 IN READING IT, APPARENTLY WHAT HAPPENED IS THAT THE
13 CHIEF INVESTIGATOR IN THE CASE, WHO I DO NOT THINK WAS
14 QUALIFIED AS AN EXPERT IN GANG ACTIVITY AT ALL, RENDERED
15 AN OPINION AT SOME POINT IN THE CASE ABOUT WHAT THE TWO
16 TEARDROPS WERE REFERENCED AND EVERYTHING.

17 I DON'T KNOW WHAT THE JUDGE'S RULING HAD BEEN THERE.
18 I DON'T SEE ANYWHERE WHERE HE HAD BEEN QUALIFIED AS AN
19 EXPERT. I DON'T SEE WHERE THERE'S BEEN ANY FOUNDATION
20 LAID IN ORDER TO ADMIT THIS TESTIMONY AS TO WHEN HE GOT
21 THE TATTOOS OR ANYTHING OF THAT NATURE, THUS MAKING IT
22 RELEVANT TO THE CASE.

23 IN OUR CASE, YOUR HONOR, WE WILL HAVE TESTIMONY THAT
24 OUTLINES WHEN HE WAS ARRESTED ON THESE CHARGES BACK IN
25 2004, THAT HIS FACE HAD NO TATTOOS. THERE WILL BE

1 MULTIPLE PEOPLE TESTIFYING TO THAT.

2 THERE WILL BE PEOPLE IN THE DEPARTMENT OF CORRECTIONS
3 AS TO WHEN THEY -- AND THIS WILL BE TAKEN UP OUT OF THE
4 PRESENCE OF THE JURY, BUT BASICALLY, HE WAS FOUND TO BE IN
5 POSSESSION OF TATTOO PARAPHERNALIA. AT THAT POINT, HE WAS
6 ESCORTED OUT OF HIS CELL. AT THAT POINT, THEY DOCUMENTED
7 EXACTLY WHEN THE TATTOOS WERE ON HIS FACE IN FEBRUARY OF
8 2006, WHICH WOULD BE SINCE THE TIME PERIOD WHEN THESE TWO
9 PEOPLE WERE KILLED THAT THE STATE HAS CHARGED HIM WITH.

10 THERE WILL ALSO BE TESTIMONY FROM A PERSON WHO HAS
11 TESTIFIED BEFORE AS AN EXPERT AS TO GANG-RELATED ACTIVITY
12 AND GANG SYMBOLS.

13 MR. EDDIE O'CAIN FROM THE DEPARTMENT OF CORRECTIONS,
14 HE HAS BEEN QUALIFIED IN GREENVILLE IN A MURDER CASE
15 APPROXIMATELY A YEAR-AND-A-HALF AGO WHERE HE TESTIFIED AS
16 TO TATTOOS IN THAT CASE, AS WELL AS TO THE MEANING OF
17 VARIOUS GANG PARAPHERNALIA AND WHAT THE GANG TATTOOS
18 MEANT.

19 WE WOULD PROVIDE HIM. I THINK AT THIS POINT WE'RE
20 JUST DOING A PROFFER, BUT HE WOULD BE QUALIFIED AS A GANG
21 EXPERT BEFORE WE GO INTO ANY POSSIBLE MEANING. WHETHER OR
22 NOT THEY CAN ARGUE IT'S SYMBOLIZING SOMETHING ELSE, OF
23 COURSE, IT'S UP TO THEM. WE ARE SIMPLY JUST PUTTING IN
24 WHAT, IN HIS EXPERTISE, THESE TEARDROPS WOULD SHOW.

25 WE CAN NARROW DOWN THE TIME PERIOD AND ATTRIBUTE IT

1 TO A PERIOD OF TIME AFTER THESE TWO MURDERS OCCURRED.
2 IT'S NOT THAT WE'RE JUST RANDOMLY BRINGING UP TEARDROPS
3 AND CAN'T LAY A FOUNDATION AS TO WHEN HE GOT THEM OR
4 ANYTHING OF THAT NATURE.

5 ADDITIONALLY, YOUR HONOR, I BELIEVE EVEN IN THE --
6 ONE TEARDROP TATTOO IS MISUNDERSTOOD BY TEENAGE COPYCATS,
7 I THINK THAT EVEN BOLSTERS OUR ARGUMENT. IT GOES TO THE
8 WEIGHT, NOT THE ADMISSIBILITY, WHEN THEY'RE TALKING ABOUT
9 HOW IT'S A COPYCAT, THAT THESE MARKINGS WERE WORN ONLY IN
10 -- AND THIS IS IN HER ARTICLE, "THOSE WHO WERE COMMITTING
11 MURDERS OR TYPES OF ARMED ROBBERIES..."

12 THE COURT REPORTER: I'M SORRY, YOU'RE GOING TO HAVE
13 TO SLOW DOWN.

14 MS. CAMPBELL: I'M SORRY. "THE MARKING WERE WORN
15 ONLY BY THOSE COMMITTING MURDERS, SERVED TIME BEHIND BARS,
16 OR LOST A FELLOW GANG MEMBER."

17 IN THAT ARTICLE SHE HAS HANDED UP, SHE ACTUALLY
18 REPRESENTS THAT'S WHAT IT TRADITIONALLY SHOWS. OF COURSE,
19 SHE WILL BE ABLE TO CROSS-EXAMINE ANYONE, AND IT WOULD GO
20 TO THE WEIGHT, NOT THE ADMISSIBILITY, AND OFFER ANY
21 ALTERNATIVE THEORY SHE HAS AS TO WHY HE HAS TEARDROPS ON
22 HIS FACE.

23 MS. FRANKLIN: YOUR HONOR, IF I MAY RESPOND?

24 THE COURT: SURE.

25 MS. FRANKLIN: I'M JUST LOOKING BACK AT THE ARTICLE.

1 I HAVE AN ARTICLE FROM THE LEDGER DATED OCTOBER 12TH,
2 2003.

3 I THINK IT'S THE THIRD ARTICLE THAT I HANDED UP TO
4 YOUR HONOR WHERE -- AND THIS IS A NEWS REPORTER. I MEAN,
5 THIS ISN'T A COPY OF THE TRANSCRIPT OR ANYTHING, BUT THERE
6 IT APPEARS THAT JUDGE DICK PRINCE RULED THAT THE REMARK,
7 COUPLED WITH EARLIER REMARKS FROM THE JAILHOUSE TATTOO
8 ARTIST WOULD UNDULY PREJUDICE THE DEFENDANT IN THE JUROR'S
9 EYES.

10 I DO BELIEVE THAT THEY WERE DOING A 403 ANALYSIS IN
11 THIS PARTICULAR CASE AND NOT A GANG EXPERT. I DON'T
12 BELIEVE THAT IT WAS BECAUSE THIS PERSON HAD BEEN QUALIFIED
13 AS AN EXPERT. THAT'S THE BASIS FOR THE MISTRIAL.

14 MS. CAMPBELL: I BELIEVE THE ARTICLE SHE IS REFERRING
15 TO, JUDGE, IS WRITTEN BY A MAN NAMED JEFF SCULLIN WHO IS A
16 REPORTER AT THE LEDGER. WHETHER THE COVERAGE OF TRIALS IS
17 ENTIRELY ACCURATE WOULD BE SOMEWHAT SUSPECT.

18 AND AGAIN, YOUR HONOR, AS FAR AS IN SOUTH CAROLINA,
19 OF COURSE, THERE HAS BEEN EXPERT TESTIMONY ABOUT GANG
20 ACTIVITY AND GANG-RELATED ACTIVITY, AS WELL AS IN SOUTH
21 CAROLINA THAT -- AND I THINK ONLY -- YOU KNOW, WE WOULD
22 HAVE TO LAY A FOUNDATION AS TO WHEN HE GOT THESE TATTOOS.
23 IT WOULD HAVE TO BE SOME TIME AFTER THESE TWO MURDERS.

24 IN THAT CASE, TOO, THEY ALSO MAKE REFERENCE TO WHY HE
25 HAS SIX TEARDROPS ON HIS FACE OR SOMETHING OF THAT NATURE.

1 I DON'T KNOW THAT THEY CAN DIRECTLY RELATE IT.

2 MS. FRANKLIN: YOUR HONOR, IN RESPONSE TO THAT, I
3 MEAN, I WOULD SAY THERE NEEDS TO BE MORE OF A SHOWING OF
4 FOUNDATION OTHER THAN HE GOT IT ON SUCH AND SUCH A DAY.

5 I MEAN, THEY WANT TO ATTRIBUTE CERTAIN MEANINGS TO
6 TATTOOS IN THIS CASE, AND THE MEANING THEY'RE TRYING TO
7 ATTRIBUTE GOES TO THE ISSUES IN THIS CASE, AS IF THEY WANT
8 TO PUT AN EXPERT ON THE STAND TO ESSENTIALLY TESTIFY THAT
9 THEY BELIEVE THAT MY CLIENT MURDERED TWO CHILDREN.

10 I MEAN, TO A CERTAIN EXTENT, THEY'RE SERVING THE JURY
11 FUNCTION WITH THE NATURE OF THIS TESTIMONY. I THINK IT'S
12 CRITICAL TESTIMONY. I THINK IT'S VERY IMPORTANT
13 TESTIMONY. IT'S NOT RELATED TO SOME SORT OF COLLATERAL OR
14 MINOR ISSUE IN THIS CASE.

15 I MEAN, IT GOES TO A VERY CENTRAL ISSUE. FOR THAT
16 REASON, I WOULD ARGUE THAT THERE NEEDS TO BE A PROPER
17 FOUNDATION BEYOND MERELY WHEN HE GOT THE TATTOO.

18 I MEAN, IF THEY'RE GOING TO SAY THAT IT MEANS
19 SOMETHING SPECIFICALLY, I BELIEVE THAT THEY NEED TO MAKE A
20 SHOWING THAT IT MEANS THIS SPECIFICALLY FOR CHRIS
21 LIVERMAN, AND I THINK THAT THAT'S WHERE THEY'RE NOT GOING
22 TO BE ABLE TO MEET THEIR BURDEN.

23 THE COURT: WE HAD SOME ARGUMENT ON THIS POINT
24 PRETRIAL A COUPLE OF MONTHS AGO, DID WE NOT?

25 MS. FRANKLIN: YES, YOUR HONOR, WE DID.

1 MAY WE APPROACH?

2 THE COURT: YES.

3 (WHEREUPON, THERE WAS A BENCH CONFERENCE.)

4 THE COURT: WHAT WE WILL DO, BECAUSE WE'RE NOT SURE
5 EXACTLY WHEN THE EXPERTS WILL ARRIVE, IS JUST GO AHEAD AND
6 MAKE A PROFFER, MS. FRANKLIN, OF WHAT YOUR UNDERSTANDING
7 IS OF WHAT THE EXPERT WILL TESTIFY.

8 MS. FRANKLIN: THANK YOU, YOUR HONOR. MAY IT PLEASE
9 THE COURT. IT'S MY UNDERSTANDING THAT ROBERT WALKER IS
10 PREPARED TO TESTIFY THAT THE TEARDROP TATTOO IS ONE THAT
11 HAS AN EVOLVING MEANING. IT IS ONE THAT --

12 THE COURT: A WHAT, AN EVOLVING MEANING?

13 MS. FRANKLIN: AN EVOLVING MEANING. THAT IS AT ONE
14 POINT IT WAS A TATTOO, AND ONE THAT AT ONE POINT DID MEAN
15 TO THE MURDER OF SOMEBODY OR THE KILLING OF SOMEBODY. IT
16 IS SOMETHING THAT HAS BEEN EVOLVING. YOU SEE IT MUCH MORE
17 OFTEN THESE DAYS. IT DOES NOT MEAN THAT ANYMORE. IT DOES
18 NOT MEAN SPECIFICALLY THAT.

19 IN FACT, THE MEANING OF THIS TATTOO SEEMS TO
20 REPRESENT TO SOME DEGREE THESE DAYS LIKE THE DEATH OF A
21 LOVED ONE, THE DEATH OF A PARENT OR A FAMILY MEMBER OR AN
22 ASSOCIATE OF SOME SORT.

23 BEG THE COURT'S INDULGENCE.

24 (PAUSE).

25 THE COURT: SURE.

1 MS. FRANKLIN: YES, YOUR HONOR, IT'S MY UNDERSTANDING
2 THAT THE ORIGINAL MEANING OF THE TATTOO, AND WHY THE
3 TEARDROPS, IS BECAUSE PRISON IS A DIFFICULT PLACE TO LIVE.
4 IT'S A HARD ENVIRONMENT. PEOPLE COULD NOT CRY; THAT THE
5 TATTOO NOW IS GOING TO SYMBOLIZE GRIEF WITHIN AN
6 ENVIRONMENT WHERE, YOU KNOW, TO CRY IS SOMETHING THAT
7 WOULD SUBJECT YOU, POTENTIALLY, TO SOME ACT OF VIOLENCE
8 AGAINST YOU. THAT'S MY UNDERSTANDING OF THE ORIGIN OF THE
9 TATTOO, AND THAT IS STILL EVOLVING. THAT'S MY
10 UNDERSTANDING OF WHAT MR. WALKER WILL BE TESTIFYING TO,
11 YOUR HONOR.

12 THE COURT: ALL RIGHT. THANK YOU.
13 SOLICITOR?

14 MS. FENT: THANK YOU, YOUR HONOR. BASICALLY THROUGH
15 MULTIPLE WITNESSES, WE'RE NOT JUST ATTEMPTING TO INTRODUCE
16 THAT HE HAS -- COMES TO COURT WITH THESE TATTOOS. WE WILL
17 PROVIDE FOUNDATION FOR IT.

18 NUMBER ONE, THAT HE DID NOT HAVE THIS TATTOO THE
19 NIGHT THAT HE WAS ARRESTED FOR THESE TWO MURDERS. THERE
20 WAS NO TATTOO ON HIS FACE; NUMBER TWO, THAT HE, YOU KNOW,
21 GOT THIS TATTOO WHILE THE CASE WAS PENDING, AFTER BEING
22 CHARGED WAITING FOR THIS TRIAL. HE HAS GOTTEN A TATTOO
23 SINCE THEN. THE THIRD THING IS THAT IT IS NOT JUST SOME,
24 YOU KNOW, RANDOM PERSON THAT'S WALKING DOWN THE STREET
25 THAT HAS THE TATTOO.

1 HE IS AFFILIATED WITH A GANG, AND WE'LL HAVE MULTIPLE
2 WITNESSES SAYING THAT HE IS A MEMBER OF FOLK NATION. HE
3 HAS OTHER TATTOOS ON HIS BODY THAT GIVE HIM THAT
4 AFFILIATION. EVEN THE NIGHT OF THE MURDER WEARING THE
5 COLORS AND HAVING THAT TATTOOS.

6 ALL OF THAT ADDS TO THAT THIS IS NOT JUST AN
7 UNSUBSTANTIATED OR A TATTOO WITHOUT A FOUNDATION, BUT THAT
8 HE IS AFFILIATED AND HE IS IN A GANG AND THAT HE GETS THIS
9 WITHIN THE FOUNDATIONAL TIMEFRAME AFTER HAVING BEEN
10 CHARGED WITH THIS.

11 NUMBER THREE IS -- OR FOUR, THERE ARE ACTUALLY TWO
12 TATTOOS ON HIS FACE. THERE IS A CLOSED COLORED IN TATTOO,
13 AND THERE IS A TATTOO THAT IS NOT COLORED IN.

14 THE EXPERTS WILL BE ABLE TO TESTIFY TO THE
15 SIGNIFICANCE OF THAT; THAT THEY ARE OFTENTIMES GIVEN
16 DIFFERENT MEANINGS. IF ONE IS COLORED IN AND NOT COLORED
17 IN, WHAT THOSE SIGNIFICANT MEANINGS ARE, THAT ONE MEANS I
18 HAVE COMMITTED A MURDER. I HAVE KILLED. THERE IS A BODY
19 OUT THERE THAT I AM RESPONSIBLE FOR, AND THE OTHER ONE CAN
20 BE GIVEN THE MEANING OF, AS COUNSEL SAID, EITHER A FAMILY
21 MEMBER HAS DIED, A FELLOW GANG MEMBER HAS DIED, OR AN
22 INNOCENT BYSTANDER WAS KILLED. THE FACT THAT HE HAS GIVEN
23 TWO DIFFERENT MEANINGS THAT THESE TWO TATTOOS ALSO GIVES
24 MORE FOUNDATION.

25 FINALLY, AS MEANS OF A PROFFER, THE EXPERT THAT WE

1 HAVE BEEN TOLD THAT THEY ARE GOING TO BE PRESENTING IS A
2 ROBERT C. WALKER. HE HAS A WEBSITE CALLED GANGSORUS.

3 ON HIS OWN WEBSITE, ON HIS OWN WEBSITE, HE SAYS
4 BASICALLY THAT TEARDROP TATTOOS ARE NOT EXCLUSIVELY USED
5 BY GANG MEMBERS -- ASIAN GANG MEMBERS, EXCUSE ME, BUT THE
6 OPEN AND CLOSED TEARDROPS ARE ALSO USED BY WHITE,
7 HISPANIC, AND BLACK GANG MEMBERS.

8 THE OPEN TEARDROP IS SUPPOSED TO INDICATE THAT THE
9 WEARER HAS KILLED SOMEONE, AND THE CLOSED TEARDROP IS
10 SUPPOSED TO INDICATE THAT THE WEARER HAS LOST A MEMBER, A
11 FELLOW GANG MEMBER, OR A CLOSE FRIEND. THIS IS FROM THEIR
12 OWN DEFENSES' EXPERT WEBSITE.

13 JUST FOR -- I'LL TENDER TO YOUR HONOR.

14 MS. FRANKLIN: YOUR HONOR, IF I MAY RESPOND.

15 THE COURT: YOU MAY.

16 MS. FRANKLIN: MY CO-COUNSEL HAS RAISED TO MY
17 ATTENTION, AND HE HAS SPOKEN AT LENGTH WITH OUR EXPERT,
18 THAT, IN FACT, IT WOULD BE FAIR TO TESTIFY THAT THERE ARE
19 SEVERAL POSSIBLE MEANINGS TO THE TEARDROP TATTOO: ONE
20 WOULD BE SORT OF THE ONE THAT IS AT ISSUE HERE, OH IT'S AN
21 ADMISSION TO KILLING. THE OTHER WOULD BE THAT IT WAS THE
22 LOSS OF A LOVED ONE, THE INABILITY TO PROMOTE, THEREFORE,
23 PEOPLE GET THESE TATTOOS. ANOTHER IS THAT IT WOULD MEAN
24 NONE OF THE ABOVE. IT COULD HAVE SOME UNIQUE PERSONAL
25 MEANING TO THE WEARER OF THE TATTOO.

1 YOUR HONOR, FOR THE PROFFER, I JUST WANT TO BE CLEAR
2 THAT WE'RE NOT OBJECTING TO ANY OF THESE OTHER TATTOOS.
3 WE'RE OBJECTING SPECIFICALLY TO WHAT THEY'RE GOING TO SAY
4 ABOUT THIS PARTICULAR ONE.

5 IT'S OUR UNDERSTANDING, WHAT WAS PUBLISHED IN THE
6 PAPER AND WAS SAID ON THE RECORD WHEN WE FIRST STARTED
7 THIS TRIAL WAS THAT THEY INTEND TO USE VERY STRONG
8 LANGUAGE WITH RESPECT TO WHAT THEY BELIEVE THIS TATTOO
9 MEANS, THAT IS THAT IT WOULD BE AN ADMISSION TO THE
10 KILLING, SPECIFICALLY OF THE VICTIMS IN THIS CASE. THAT
11 IS WHAT WE ARE OBJECTING TO. THAT IS WHAT WE BELIEVE IS
12 WITHOUT FOUNDATION.

13 I BELIEVE THAT ANY OTHER ARGUMENT REGARDING GANG
14 TATTOOS ARE NOT PART OF THAT. YOU KNOW, WE CONCEDE THAT
15 THAT IS SOMETHING THEY ARE ALLOWED TO GO INTO, BUT THIS
16 ONE SPECIFIC TATTOO WE HAVE AN ISSUE WITH AND WE ARE
17 CONCERNED WILL UNDULY PREJUDICE THE JURY.

18 THE COURT: AS I UNDERSTAND YOUR ARGUMENTS, THE ISSUE
19 THAT IS BEFORE THE COURT ON THE TEARDROP TATTOO, IT SEEMS
20 TO ME THAT, OF COURSE, IT'S A QUESTION OF CIRCUMSTANTIAL
21 EVIDENCE AND WHAT WEIGHT, IF ANY, TO GIVE IT.

22 I THINK IT DOES GO MORE TO THE WEIGHT THAN TO THE
23 ADMISSIBILITY, ALTHOUGH THE GROUNDS FOR THE OBJECTION OR
24 THE MOTION TO EXCLUDE THE TEARDROP TATTOO IS ESSENTIALLY A
25 403 ANALYSIS, AS I UNDERSTAND YOUR ARGUMENT; IS THAT

1 RIGHT?

2 MS. FRANKLIN: YES, YOUR HONOR.

3 THE COURT: I HAVE REVIEWED WHAT HAS BEEN WRITTEN. I
4 UNDERSTAND THAT THERE ARE DIFFERING OPINIONS, AND I REALLY
5 THINK IT'S GOING TO BE UP TO THE JURY TO DETERMINE WHAT
6 WEIGHT, IF ANY, TO GIVE IT.

7 I WOULD FIND THAT IF A PROPER FOUNDATION IS LAID,
8 THAT IT WOULD BE ADMISSIBLE. FOR THAT REASON, YOUR MOTION
9 WILL BE OVERRULED.

10 MS. FRANKLIN: THANK YOU, YOUR HONOR.

11 THE COURT: ALL RIGHT. ANY OTHER PRETRIAL MATTERS?
12 I KNOW WE MAY HAVE SOME MORE, BUT I BELIEVE FROM THE
13 DISCUSSION WE HAD EARLIER TODAY, WE CAN DEAL WITH THEM
14 AFTER A JURY IS SELECTED. IS THAT YOUR UNDERSTANDING?

15 MS. FRANKLIN: THAT'S MY UNDERSTANDING, YOUR HONOR.

16 THE COURT: IS THE STATE READY TO PROCEED WITH THE
17 SELECTION OF THE JURY?

18 MR. GIESE: THE STATE IS READY.

19 THE COURT: IS THE DEFENSE READY?

20 MS. FRANKLIN: YES, YOUR HONOR.

21 THE COURT: LET ME ASK, CAN WE GO OVER THE WITNESS
22 LIST SO ANY DUPLICATES WON'T BE ASKED ABOUT TWICE? I KNOW
23 WE DID THAT THE FIRST TIME. IT MIGHT BE EASIER TO TELL
24 THE JURY THAT SOME NAMES MAY BE CALLED TWICE. IT MAY BE
25 EASIER TO DO THAT THAN TO TRY TO --

1 MS. FRANKLIN: WHAT I WOULD SUGGEST, YOUR HONOR, IF
2 YOU WANT TO TAKE THE STATE'S WITNESS LIST AND THEN THE
3 ONES THAT I'M PUTTING A CHECK MARK NEXT TO WOULD BE THE
4 ONES THAT WE HAVE ON OUR LIST THAT THEY DON'T HAVE ON
5 THEIRS.

6 IF I MAY APPROACH, YOUR HONOR?

7 THE COURT: SURE.

8 (WHEREUPON, THERE WAS A BENCH CONFERENCE.)

9 THE COURT: LESLIE.

10 MS. FRANKLIN: LESLIE.

11 THE COURT: BESSELLIEU. GOING OVER THE STATE'S LIST,
12 I WANT TO BE SURE I HAVE THE PRONUNCIATION CORRECTLY,
13 VANHOUTEN; IS THAT CORRECT?

14 MS. FENT: VANHOUTEN.

15 THE COURT: VANHOUTEN.

16 DESROCHERS; IS THAT RIGHT?

17 A-U-L-D IS AULD?

18 THERE'S A S-H-A-N-T--- SIMMONS. WHAT'S PRONOUNCED,
19 THE FIRST NAME?

20 MS. FENT: SHANTANE.

21 THE COURT: SHANTANE.

22 CHABAZZ, FIRST NAME?

23 MS. FENT: RUQUAYYA.

24 THE COURT: AS IN AUGUST ON THE DEFENDANT'S REQUEST
25 FOR VOIR DIRE, I WILL NOT PERMIT ANY QUESTION BY

1 COUNSEL -- IS THERE ANY OBJECTION TO ANY OF THE QUESTIONS
2 OR AREAS THAT HAVE BEEN REQUESTED BY THE DEFENSE?

3 MS. CAMPBELL: YOUR HONOR, WE JUST DON'T HAVE ANY.

4 MS. FRANKLIN: I'M SORRY, YOUR HONOR.

5 MS. CAMPBELL: I MAY BE MISTAKEN. I THOUGHT WE WERE
6 GOING TO DO BASICALLY WHAT YOU HAD DONE BEFORE.

7 THE COURT: IT MAY BE THE SAME THING.

8 MS. FRANKLIN: I'M SORRY.

9 THE COURT: I THINK IT MAY WELL BE.

10 MS. CAMPBELL: I THINK, YOUR HONOR, WITH THE
11 MODIFICATION, LIKE YOU DID LAST TIME, WE HAVE NO
12 OBJECTION -- I BELIEVE THERE WERE MORE QUESTIONS LAST
13 TIME, WEREN'T THERE?

14 MS. FRANKLIN: NO, THAT'S THE SAME SHEET.

15 THE COURT: PARDON ME?

16 MS. FRANKLIN: THAT'S THE SAME THING I PRINTED OFF
17 LAST TIME.

18 THE COURT: OKAY.

19 MS. FRANKLIN: I BELIEVE LAST TIME, YOUR HONOR, THERE
20 WAS ADDITIONAL VOIR DIRE IN LIGHT OF THE FACT THAT THE
21 MEDIA WAS GOING TO BE THERE.

22 AS WE DISCUSSED IN CHAMBERS, WE RESPECTFULLY ASKED
23 YOU TO ASK IF ANY OF THE JURORS ARE CONCERNED ABOUT MEDIA
24 COVERAGE OR ANYTHING OF THAT NATURE.

25 MS. CAMPBELL: I THINK WE DISCUSSED IN CHAMBERS WE

1 SAID SPECIFICALLY THEY COULDN'T BE SHOWN ON T.V. OR
2 ANYTHING OF THAT NATURE, THEIR NAMES WOULD NOT BE
3 PUBLISHED.

4 THE COURT: ALL RIGHT.

5 MS. CAMPBELL: YOUR HONOR, THE ONLY OTHER THING WE
6 WOULD ASK IS IF THEY HAVE BEEN SOCIAL ACQUAINTANCES OR
7 FRIENDS OR HAVE BEEN REPRESENTED BY THE PUBLIC DEFENDER'S
8 OFFICE.

9 THE COURT: I'LL BE ASKING THAT OF ALL THE ATTORNEYS.

10 MS. CAMPBELL: THAT'S FINE.

11 THE COURT: ALL RIGHT, COUNSEL. I'LL REMIND YOU THAT
12 STRIKING AND JURY SELECTION WILL BE DONE BY JUROR NUMBER,
13 NOT THE NUMBER THAT'S ON THE LIST. IT WILL BE DONE BY
14 JUROR NUMBER.

15 LOOKING AT YOUR LIST NUMBER FIVE IS COMMON PLEAS
16 ONLY, SO HE WILL NOT BE IN THE PANEL. NUMBER SEVEN WAS
17 NOT QUALIFIED BY THE QUALIFYING JUDGE EARLIER, IS WHAT I'M
18 BEING TOLD.

19 LET ME ASK YOU ONE OTHER QUESTION. STEP UP JUST A
20 MINUTE PLEASE, BEFORE WE GET STARTED.

21 (WHEREUPON, THERE WAS A BENCH CONFERENCE.)

22 THE COURT: ALL RIGHT. YOU CAN GET THE PANEL UP,
23 PLEASE.

24 THE CLERK: YES, SIR.

25 (WHEREUPON, THE JURY PANEL WAS BROUGHT INTO THE

1 COURTROOM.)

2 THE BAILIFF: THE JURY PANEL IS ALL PRESENT.

3 THE COURT: ALL RIGHT. THE JUROR WE DISCUSSED HERE
4 AT THE BENCH DID NOT COME UP WITH THE REST OF THE PANEL.
5 THAT'S WHY THERE'S 47.

6 LADIES AND GENTLEMEN, WELCOME TO COURTROOM 3-A. MY
7 NAME IS JIM JOHNSON. I'M FROM LAURENS COUNTY. I'VE BEEN
8 ASSIGNED TO THE COLUMBIA AREA FOR THE YEAR 2006. WE ARE
9 HOLING WHAT'S CALLED GENERAL SESSIONS COURT IN THIS
10 COURTROOM. MOST OF YOU KNOW THAT AS CRIMINAL COURT.

11 THE CASE THAT WE'RE ABOUT TO SELECT A JURY IN, THE
12 CASES IN GENERAL SESSIONS COURT ARE PROCESSED THROUGH THE
13 COURT SYSTEM BY MEANS OF THESE DOCUMENTS I'M HOLDING IN MY
14 HAND CALLED INDICTMENTS. YOU MAY HAVE HEARD THAT TERM
15 BEFORE.

16 THE INDICTMENTS ARE THESE PIECES OF PAPER THAT HAVE
17 CERTAIN INFORMATION. THEY HAVE THE CASE NAME AND THE CASE
18 NUMBER. THEY HAVE THE ALLEGATION OR THE CHARGE OR CHARGES
19 THAT ARE MADE IN A PARTICULAR CASE.

20 THESE DOCUMENTS YOU NEED TO UNDERSTAND ARE NOT
21 EVIDENCE AND CANNOT BE CONSIDERED BY THE JURY AS EVIDENCE
22 OF THE CHARGES THAT THEY CONTAIN.

23 THESE DOCUMENTS HAVE BEEN SERVED UPON THE DEFENDANT
24 AND THE DEFENDANT'S ATTORNEY AT SOME TIME PRIOR TO THE
25 CASE BEING CALLED FOR TRIAL TO PUT THE DEFENDANT AND THE

1 ATTORNEY ON NOTICE OF THE CHARGE OR CHARGES THAT WILL BE
2 FACED WHEN THE CASE WILL BE CALLED FOR TRIAL.

3 I'M GOING TO GIVE YOU SOME OF THE INFORMATION FROM
4 THE INDICTMENTS, JUST SOME GENERAL INFORMATION, AND THEN
5 WE'LL HAVE A NUMBER OF QUESTIONS TO ASK YOU, BUT LET ME
6 GET THIS IN THE RECORD TO START WITH. THESE -- THERE'S
7 TWO INDICTMENTS IN THIS CASE, 2005-GS-40-6831 AND 6832,
8 BOTH ENTITLED THE STATE VS. CHRIS LIVERMAN.

9 EACH INDICTMENT CONTAINS A CHARGE OF MURDER. IT IS
10 ALLEGED IN THE INDICTMENT THAT THESE OFFENSES OCCURRED ON
11 OR ABOUT AUGUST 26TH, 2004 HERE IN RICHLAND COUNTY. IT IS
12 ALLEGED IN THE INDICTMENTS THAT ONE VICTIM WAS ONE
13 [REDACTED] T.M. [REDACTED] AND ANOTHER VICTIM WAS ONE [REDACTED] C.D. [REDACTED]
14 [REDACTED]. THOSE ARE THE ALLEGATIONS THAT ARE MADE IN THE
15 INDICTMENTS.

16 THE DEFENDANT, MR. LIVERMAN, IS PRESENT. HE'S
17 REPRESENTED BY MS. FRANKLIN, MR. SCHARDT, AND MS. GRIPP.

18 MS. FRANKLIN, IF YOU WILL INTRODUCE YOURSELF,
19 CO-COUNSEL AND THE DEFENDANT.

20 MS. FRANKLIN: I'M ELIZABETH FRANKLIN. THIS IS MY
21 CLIENT, CHRIS LIVERMAN. THIS IS MAXWELL SCHARDT, AND MS.
22 CAROLYN GRIPP, AND OUR LAW CLERK SEATED ON THE END.

23 THE COURT: ALL RIGHT. THANK YOU.

24 THE STATE IN THIS CASE WILL BE REPRESENTED BY THE
25 SOLICITOR, MR. GIESE, ALONG WITH MS. CAMPBELL AND

1 MS. FENT.

2 IF YOU FOLKS WILL INTRODUCE YOURSELVES TO THE JURY
3 PANEL, PLEASE.

4 MR. GIESE: MAY IT PLEASE THE COURT, YOUR HONOR.

5 I'M BARNEY GIESE. I'M THE SOLICITOR FOR THE FIFTH
6 CIRCUIT, CONSISTING OF RICHLAND AND KERSHAW COUNTY. THIS
7 IS MY FIRST ASSISTANT, MS. LUCK CAMPBELL; MY ASSISTANT
8 SOLICITOR MS. MARGARET FENT.

9 THE COURT: THANK YOU.

10 NOW, LADIES AND GENTLEMEN, BEFORE I START ASKING ANY
11 QUESTIONS, I'M GOING TO READ TO YOU A FAIRLY LENGTHY LIST
12 OF POTENTIAL WITNESSES WHO MAY BE CALLED TO TESTIFY IN
13 THIS CASE, AND A FEW OF THESE PEOPLE MAY BE PRESENT. THE
14 VAST MAJORITY OF THEM ARE NOT PRESENT AT THIS TIME.

15 YOU DO NEED TO PAY ATTENTION TO THE NAMES BECAUSE
16 I'LL THEN BE ASKING YOU QUESTIONS ABOUT WHETHER YOU'RE
17 RELATED OR WHETHER YOU HAVE ANY KIND OF FRIENDSHIP OR
18 BUSINESS RELATIONSHIP TO ANY OF THESE INDIVIDUALS.

19 JUST GIVE ME YOUR ATTENTION WHILE I DO READ THESE
20 NAMES. I WOULD ASK IF ANY OF THESE INDIVIDUALS ARE
21 PRESENT, WHEN YOUR NAME IS READ, IF YOU WILL STAND BRIEFLY
22 AND FACE THE JURY PANEL SO THE JURY PANEL CAN TAKE A LOOK
23 AT YOU AND THEN YOU CAN HAVE A SEAT.

24 POTENTIAL WITNESSES IN THE CASE INVESTIGATOR: BRIAN
25 VANHOUTEN WITH THE COLUMBIA POLICE DEPARTMENT; SERGEANT

1 SCOTT DEROACHERS, ALSO WITH THE COLUMBIA POLICE
2 DEPARTMENT. AS A MATTER OF FACT, THESE FIRST ABOUT TEN OR
3 12 POTENTIAL WITNESSES ARE WITH THE POLICE DEPARTMENT:
4 LIEUTENANT M. JOHNSON; INVESTIGATOR PETE CURRIE,
5 C-U-R-R-I-E; SERGEANT ROBIN DUTTON; SERGEANT JIMMY AULD,
6 A-U-L-D; OFFICER JASON WHITTLE; INVESTIGATOR PAUL MEAD;
7 MELRON KELLY; SERGEANT MITCH WILKERSON; SERGEANT J.P.
8 SMITH; INVESTIGATOR JOE GRAY; INVESTIGATOR MARK VINSON;
9 CORPORAL JOHNSON HUNTLEY; MARY FRANCES O'GRADY-WATTS, WHO
10 IS WITH THE AIKEN POLICE DEPARTMENT AT THIS TIME; A
11 DR. CLAY NICHOLS; LIEUTENANT TONY WINGARD WITH E.M.S. AS
12 WELL AS IVY CROSS, ALSO WITH E.M.S.; DR. JAMES P. GILLEN,
13 G-I-L-L-E-N; A DR. JAMES NOTTINGHAM; AGENT DAN DEFREESE
14 WITH S.L.E.D.; AGENT ILA SIMMONS, ALSO WITH S.L.E.D.;
15 TYRONE TONY SMITH; TARSHA OSBORNE; ERIKA OSBORNE; ASHLEY
16 BANKS; DARESHA BANKS; ILENE BELTON; PRECIOUS SAMUELS-DEAN;
17 SHANTANE SIMMONS; LINCOLN JOHNSON; MICHAEL ANDERSON;
18 RUQUAYYA CHABAZZ; TYNISHA ROBINSON; DELSHAWN PRESCOTT;
19 SHANTE BETHEL; LOREE JOHNSON; ELAINE BELUE; LILLIAN
20 HERRINGTON. THOSE LAST TWO, MS. HARRINGTON AND MS. BELUE,
21 ARE WITH A.C. FLORA HIGH SCHOOL. CHRIS BRISBON; BRADY
22 BROWN; SHEROD PRAYLOW; CARL SMITH; DIEGO THOMPSON;
23 REGINALD JOYNER; BOBBY MERCHANT; GLENDIA BOONE; JACKIE
24 LIGHTFOOT; ERNEST REYNOLDS WITH THE COLUMBIA POLICE
25 DEPARTMENT, ALONG WITH SERGEANT DANA OREE, O-R-E-E, WITH

1 THE COLUMBIA POLICE DEPARTMENT, ALONG WITH CHRIS WHITE,
2 ALSO WITH THE COLUMBIA POLICE DEPARTMENT; CHRISTINE
3 MONTGOMERY BARRICKMAN WITH THE RICHLAND COUNTY SHERIFF'S
4 OFFICE; DONNA MARTIN WITH THE COLUMBIA POLICE DEPARTMENT;
5 LAURA CORLEY WITH S.L.E.D.; BRIAN DIXON; THEODORE HAIGLER;
6 OFFICER VALERIE MOORER, M-O-O-R-E-R, WITH THE COLUMBIA
7 POLICE DEPARTMENT; EDDIE O'CAIN; TIMOTHY FLOREA, T.L.
8 EDMONDS WITH THE COLUMBIA POLICE DEPARTMENT; WALTER
9 MAHONEY, ALSO WITH THE COLUMBIA POLICE DEPARTMENT.

10 THE NEXT FOUR POTENTIAL WITNESSES WITH S.L.E.D.:
11 DUSTIN SMITH; D.H. EARGLE; B. REED; S. BROWN; EMILY
12 NORRIS, ALSO WITH S.L.E.D.; S.M. STUTTS, ALSO WITH
13 S.L.E.D.; CHRISTINE BENSON WITH THE RICHLAND COUNTY
14 CORONER'S OFFICE; JOHANNA INNIS WITH E.M.S.; SERGEANT
15 EUGENE SKIPPER; LIEUTENANT ANN SHEPARD, BOTH OF WHOM ARE
16 WITH THE SOUTH CAROLINA DEPARTMENT OF CORRECTIONS; KENNETH
17 BROWN; JENNIFER BLAIR, AND JUDY SPELL WITH 911
18 COMMUNICATIONS; INVESTIGATOR W. PEGRAM WITH THE COLUMBIA
19 POLICE DEPARTMENT; RUDELL REMBERT; LANELLE DURANT; JEFF
20 HOLLIFIELD; DON GIRNDT; LAWRENCE MCNEELY; GLORIA PALMER;
21 MARGARITE RICE; DR. LESLIE BESSELLIEU OR BESSILOW
22 (PHONETIC) B-E-S-S-E-L-L-I-E-U; DR. CYNTHIA ROY;
23 DR. STEVEN COLLINS; JAMES BAXLEY; PARIS ALEXANDER; JOLIE
24 OR JOLI (PHONETIC) J-O-L-I-E, RISH; THERIN MINCY; FRANK
25 COLEMAN; RANDY JESKE, J-E-S-K-E, ROBERT WALKER. THOSE ARE

1 POTENTIAL WITNESSES WHO MAY BE CALLED TO TESTIFY IN THE
2 CASE.

3 NOW I'M GOING TO BE ASKING YOU FOLKS A NUMBER OF
4 QUESTIONS. I WOULD LIKE YOU TO KEEP IN MIND AS WE GO
5 THROUGH THIS QUESTIONING PROCESS THAT IN SELECTING A JURY
6 IN ANY CASE, WHAT WE'RE SEEKING ARE 12 INDIVIDUALS WHO ARE
7 NOT RELATED, WHO HAVE NO KNOWLEDGE OF ANYTHING ABOUT THE
8 CASE, 12 INDIVIDUALS WHO CAN COME INTO COURT AND SIT IN
9 THE JURY BOX AND MAKE A DECISION IN THE CASE BASED SOLELY
10 ON THE EVIDENCE THAT'S PRESENTED HERE IN THE COURTROOM,
11 UNINFLUENCED BY ANYTHING ELSE.

12 IF I ASK A QUESTION AND YOU'RE NOT SURE WHETHER YOU
13 SHOULD RESPOND OR NOT, PLEASE GO AHEAD AND STAND UP OR
14 RAISE YOUR HAND AND LET ME ASK YOU SOME FOLLOW-UP
15 QUESTIONS SO THAT WE CAN TAKE CARE OF ANY QUESTIONS LIKE
16 THAT TODAY RATHER THAN LATER ON.

17 IF YOU'RE NOT SURE WHETHER YOU SHOULD RESPOND, AGAIN
18 GO AHEAD AND RESPOND. IF YOU WOULD, PLEASE USE YOUR JUROR
19 NUMBERS AS WE'RE GOING THROUGH THIS PROCESS.

20 LET ME FIRST ASK IF THERE'S ANYONE ON THE JURY PANEL
21 WHO IS EITHER RELATED BY BLOOD OR CONNECTED BY MARRIAGE
22 EITHER TO THE DEFENDANT, MR. LIVERMAN OR TO EITHER OF THE
23 TWO VICTIMS OR TO ANY OF THE POTENTIAL WITNESSES IN THE
24 CASE. IF YOU ARE RELATED BY BLOOD OR CONNECTED BY
25 MARRIAGE TO ANY OF THOSE INDIVIDUALS, WOULD YOU PLEASE

1 STAND?

2 YOUR NAME, PLEASE, SIR?

3 PROSPECTIVE JUROR: JUROR NUMBER?

4 THE COURT: NUMBER, YES, SIR.

5 PROSPECTIVE JUROR: JUROR 259.

6 THE COURT: LET ME FIND YOU ON MY LIST, PLEASE, SIR.

7 HOLD ON ONE SECOND.

8 (PAUSE).

9 ALL RIGHT, SIR. THIS IS JUROR NUMBER 259, NUMBER 35
10 ON THE LIST.

11 IF YOU CAN TELL ME WHO AND THE RELATIONSHIP, PLEASE,
12 SIR.

13 PROSPECTIVE JUROR: CAROLINE COATES (PHONETIC), THE
14 CITY POLICE DEPARTMENT. WE ARE COUSINS.

15 THE COURT: COUSINS. IF THAT INDIVIDUAL IS
16 TESTIFYING AS A WITNESS IN THIS CASE, IS THAT GOING TO
17 AFFECT YOUR ABILITY TO BE A FAIR AND IMPARTIAL JUROR IN
18 THIS CASE?

19 PROSPECTIVE JUROR: NO, THAT WOULDN'T HAPPEN.

20 THE COURT: WELL, JUST ANSWER MY QUESTION, OKAY. IS
21 THAT RELATIONSHIP GOING TO AFFECT YOUR ABILITY TO BE FAIR
22 AND IMPARTIAL?

23 PROSPECTIVE JUROR: NO, NO.

24 THE COURT: ALL RIGHT. NOW, I'M GOING TO HAVE YOU
25 SIT DOWN RIGHT NOW. IF THERE'S SOMETHING ELSE YOU WANT TO

1 SAY, I'M GOING TO GO AHEAD WITH QUESTIONS.

2 PROSPECTIVE JUROR: OKAY.

3 THE COURT: WHEN I GET TO THE END, THERE'S GOING TO
4 BE SORT OF A CATCHALL. I'D LIKE FOR YOU TO STAND UP AND
5 I'LL TALK TO YOU PRIVATELY ABOUT THAT AT THAT TIME. OKAY.
6 ALL RIGHT. THANK YOU, SIR.

7 PROSPECTIVE JUROR: OKAY. THANK YOU, SIR.

8 THE COURT: ANYONE ELSE RELATED BY BLOOD OR CONNECTED
9 BY MARRIAGE TO ANY ONE OF THOSE INDIVIDUALS?

10 (THERE WAS NO RESPONSE.)

11 IF ANYONE ON THE JURY PANEL HAS ANY TYPE OF BUSINESS,
12 PERSONAL OR SOCIAL RELATIONSHIP EITHER WITH THE DEFENDANT
13 OR ANY OF THE POTENTIAL WITNESSES, I'LL ASK YOU TO STAND
14 IN JUST A MINUTE, BUT I'VE BEEN ASKED SOMETIMES, WELL,
15 "WHAT EXACTLY DO YOU MEAN BY A PERSONAL OR SOCIAL
16 RELATIONSHIP?" OF COURSE, BUSINESS RELATIONSHIP IF YOU
17 TRANSACT ANY KIND OF BUSINESS, BUT ALSO ANY TYPE OF SOCIAL
18 RELATIONSHIP, WHETHER YOU BELONG TO THE SAME CIVIC
19 ORGANIZATION, GO TO THE SAME CHURCH, OR ARE CLOSE FRIENDS
20 WITH OR HAVE A FRIENDSHIP WITH ANY OF THESE INDIVIDUALS,
21 AGAIN, ANY TYPE OF RELATIONSHIP LIKE THAT, THAT'S WHAT I
22 NEED TO KNOW ABOUT.

23 IF ANYONE ON THE JURY PANEL HAS ANY TYPE OF BUSINESS,
24 PERSONAL, OR SOCIAL RELATIONSHIP EITHER WITH THE
25 DEFENDANT, MR. LIVERMAN, OR WITH ANY POTENTIAL WITNESS IN

1 THE CASE, WOULD YOU PLEASE STAND?

2 ALL RIGHT YOUR NUMBER, PLEASE, MA'AM?

3 PROSPECTIVE JUROR: JUROR 107.

4 THE COURT: 107. PLEASE HOLD ON JUST A SECOND.

5 THIS IS NUMBER 40 ON THE LIST.

6 YES, MA'AM.

7 PROSPECTIVE JUROR: I KNOW THE TWO EMPLOYEES OF A.C.
8 FLORA HIGH SCHOOL.

9 THE COURT: ALL RIGHT. IS YOUR RELATIONSHIP OF
10 KNOWING THEM OR YOUR FRIENDSHIP, WOULD THAT IN ANY WAY
11 AFFECT YOUR ABILITY TO BE FAIR AND IMPARTIAL AS A JUROR IN
12 THIS CASE IF THEY DO TESTIFY?

13 PROSPECTIVE JUROR: NO, YOUR HONOR.

14 THE COURT: ALL RIGHT. YOU MAY HAVE A SEAT. THANK
15 YOU.

16 AND YOUR NUMBER, PLEASE?

17 PROSPECTIVE JUROR: JUROR NUMBER TWO.

18 THE COURT: NUMBER TWO, LET ME FIND YOU ON THE LIST.
19 NUMBER 47 ON THE LIST.

20 YES, MA'AM, SAME QUESTION, WHO AND WHAT'S THE NATURE
21 OF THE RELATIONSHIP?

22 PROSPECTIVE JUROR: LILLIAN HERRINGTON FROM A.C.
23 FLORA HIGH SCHOOL, CHURCH MEMBER.

24 THE COURT: ALL RIGHT. IF YOU WERE SELECTED IN THIS
25 CASE AS A JUROR AND THAT INDIVIDUAL TESTIFIED, WOULD THAT

1 AFFECT YOUR ABILITY TO BE FAIR AND IMPARTIAL IN THIS CASE?

2 PROSPECTIVE JUROR: NO, IT WOULD NOT.

3 THE COURT: THANK YOU. YOU MAY HAVE A SEAT. THANK
4 YOU.

5 THAT'S JUROR NUMBER TWO.

6 ANYONE ELSE?

7 (THERE WAS NO RESPONSE.)

8 IN MANY CASES, I HAVE NO IDEA WHETHER CASES GENERATE
9 ANY KIND OF PUBLICITY OR NOT. I AM AWARE THAT THIS CASE
10 HAS GENERATED PUBLICITY BOTH BY TELEVISION AND NEWSPAPER.

11 I DO NEED TO ASK THIS QUESTION: IF YOU HAVE READ OR
12 IF YOU HAVE HEARD OR IF YOU HAVE SEEN OR LISTENED TO OR
13 HAD DISCUSSIONS WITH AND TALKED TO ANYONE OR ANYTHING
14 ABOUT THE ALLEGATIONS IN THIS CASE, I WOULD ASK YOU TO
15 PLEASE STAND AT THIS TIME. I'LL HAVE SOME FOLLOW UP
16 QUESTIONS FOR YOU.

17 ALL RIGHT. YOUR NUMBER AGAIN, PLEASE?

18 PROSPECTIVE JUROR: 259.

19 THE COURT: 259.

20 PROSPECTIVE JUROR: YES, SIR.

21 THE COURT: FIRST OF ALL, IF YOU CAN JUST TELL ME THE
22 SOURCE OF THE INFORMATION, WHETHER IT WAS NEWSPAPER,
23 TELEVISION, RADIO OR ALL OF THE ABOVE OR WHAT.

24 PROSPECTIVE JUROR: ALL OF ABOVE.

25 THE COURT: ALL RIGHT, SIR. AND WOULD THAT HAVE BEEN

1 SOMETHING IN THE PAST OR SOMETHING RECENTLY? I'M AWARE
2 THAT A CASE IS IN THE PAPER AS RECENTLY AS TODAY.

3 PROSPECTIVE JUROR: IN THE PAST, AS WELL AS TODAY.

4 THE COURT: ALL RIGHT.

5 PROSPECTIVE JUROR: I READ THE PAPER PRETTY MUCH
6 EVERY DAY.

7 THE COURT: WHAT I NEED TO KNOW IS THIS, I'VE ALREADY
8 EXPLAINED WHAT WE'RE SEEKING ARE INDIVIDUALS WHO CAN MAKE
9 DECISIONS BASED ONLY ON THE EVIDENCE THAT'S PRESENTED IN
10 THE COURTROOM.

11 DO YOU FEEL LIKE YOU CAN SET ASIDE ANYTHING THAT YOU
12 HAVE READ OR SEEN OR HEARD ABOUT THIS CASE AND MAKE A
13 DECISION IN THE CASE BASED SOLELY ON THE EVIDENCE
14 PRESENTED HERE IN THE COURTROOM?

15 PROSPECTIVE JUROR: YES, SIR.

16 THE COURT: YOU FEEL LIKE YOU CAN DO THAT. YOU MAY
17 HAVE A SEAT, SIR.

18 ALL RIGHT. YOUR NUMBER, PLEASE, SIR?

19 PROSPECTIVE JUROR: 182.

20 THE COURT: 182.

21 THIS IS NUMBER TEN ON THE LIST.

22 SAME QUESTION, SIR, IF YOU CAN TELL ME THE SOURCE OF
23 WHATEVER THE INFORMATION IS.

24 PROSPECTIVE JUROR: NEWSPAPER, TELEVISION, RADIO.

25 THE COURT: ALL RIGHT, SIR. IN THE PAST OR RECENTLY?

1 PROSPECTIVE JUROR: BOTH.

2 THE COURT: BOTH. WOULD YOU BE ABLE TO SET WHATEVER
3 YOU HAVE SEEN OR HEARD OR READ ABOUT THIS CASE ASIDE AND
4 MAKE A DECISION BASED ONLY ON THE EVIDENCE PRESENTED IN
5 COURT, OR DO YOU FEEL LIKE THAT INFORMATION WOULD HAVE
6 SOME IMPACT ON YOUR ABILITY TO BE FAIR AND IMPARTIAL?

7 PROSPECTIVE JUROR: I BELIEVE I COULD MAKE A
8 DECISION.

9 THE COURT: ALL RIGHT. YOU BELIEVE YOU COULD BE FAIR
10 AND IMPARTIAL TO BOTH THE STATE AND THE DEFENSE?

11 PROSPECTIVE JUROR: YES, I DO.

12 THE COURT: YOU MAY HAVE A SEAT.

13 YOUR NUMBER, PLEASE?

14 PROSPECTIVE JUROR: THIRTY-TWO.

15 THE COURT: THIRTY-TWO. THIS IS NUMBER 33 ON THE
16 LIST.

17 YES, MA'AM, SAME QUESTION, THE SOURCE OF WHATEVER THE
18 INFORMATION MIGHT HAVE BEEN?

19 PROSPECTIVE JUROR: NEWSPAPER.

20 THE COURT: ALL RIGHT. RECENTLY OR IN THE PAST?

21 PROSPECTIVE JUROR: RECENTLY.

22 THE COURT: RECENTLY?

23 PROSPECTIVE JUROR: TODAY.

24 THE COURT: TODAY. DO YOU FEEL LIKE YOU COULD SET
25 ASIDE ANYTHING THAT YOU HAVE READ OR HEARD OR SEEN ABOUT

1 THIS CASE AND MAKE A DECISION IN THIS CASE BASED SOLELY ON
2 THE EVIDENCE PRESENTED HERE IN THE COURTROOM?

3 PROSPECTIVE JUROR: YES.

4 THE COURT: YOU FEEL LIKE YOU COULD DO THAT?

5 PROSPECTIVE JUROR: YES.

6 THE COURT: SO YOU DO NOT FEEL LIKE IT WOULD HAVE ANY
7 IMPACT ON YOUR ABILITY TO BE FAIR AND IMPARTIAL; IS THAT
8 RIGHT?

9 PROSPECTIVE JUROR: I DON'T THINK SO.

10 THE COURT: ALL RIGHT. YOU MAY HAVE A SEAT. THANK
11 YOU.

12 IS THERE ANY MEMBER OF THE JURY PANEL WHO HAS FORMED
13 OR EXPRESSED AN OPINION AS TO THE GUILT OR THE INNOCENCE
14 OF THE DEFENDANT IN THIS CASE? IF SO, WILL YOU PLEASE
15 STAND?

16 (THERE WAS NO RESPONSE.)

17 IS THERE ANY MEMBER OF THIS JURY PANEL WHO IS
18 SENSITIVE TO OR AWARE OF ANY KIND OF BIAS OR PREJUDICE
19 THAT YOU MIGHT HAVE THAT WOULD PREVENT YOU FROM BEING FAIR
20 AND IMPARTIAL? IF SO, WOULD YOU PLEASE STAND?

21 ALL RIGHT. COME UP AND LET ME TALK WITH YOU
22 PRIVATELY, PLEASE, MA'AM.

23 COUNSEL, ONCE THE JUROR GETS UP, YOU CAN STEP UP.

24 (THE FOLLOWING CONVERSATION TOOK PLACE OUT OF THE
25 HEARING OF THE JURY POOL AT THE COURT REPORTER'S

1. STATION.)

2 THE COURT: WHAT'S YOUR NUMBER, PLEASE?

3 PROSPECTIVE JUROR: FORTY-SEVEN.

4 THE COURT: FORTY-THREE, LET ME FIND YOU.

5 PROSPECTIVE JUROR: FORTY-SEVEN.

6 THE COURT: FORTY-SEVEN.

7 THE CLERK: SHE IS NUMBER 49, JUDGE.

8 THE COURT: ALL RIGHT. IF YOU JUST TELL ME SOFTLY,
9 PLEASE.

10 THIS IS NUMBER 49 ON YOUR LIST.

11 PROSPECTIVE JUROR: I'M AN ATTORNEY.

12 THE COURT: OKAY.

13 PROSPECTIVE JUROR: MY FIRST JOB WAS AT THE A.G.'S
14 OFFICE IN THE CRIMINAL PROSECUTION.

15 THE COURT: OKAY.

16 PROSPECTIVE JUROR: I DON'T KNOW IF -- ACTUALLY, I
17 RECOGNIZE HER. I DON'T KNOW IF WE WORKED TOGETHER.

18 MS. FRANKLIN: I THINK WE WORKED TOGETHER ONCE.

19 PROSPECTIVE JUROR: OKAY, THAT'S IT.

20 THE COURT: IS THAT GOING TO AFFECT YOUR ABILITY TO
21 BE FAIR AND IMPARTIAL?

22 PROSPECTIVE JUROR: MY ONLY CONCERN IS THAT WORKING
23 IN THE A.G.'S OFFICE IN THE PROSECUTION.

24 THE COURT: OKAY.

25 PROSPECTIVE JUROR: AND THAT IS MY ONLY CONCERN.

1 THE COURT: OKAY. BASED ON THAT, I'M GOING TO EXCUSE
2 YOU. PLEASE JUST HAVE A SEAT IN THE BACK. THANK YOU.

3 FORTY-SEVEN IS EXCUSED. FORTY-SEVEN IS EXCUSED FROM
4 THE TRIAL.

5 MS. CAMPBELL: JUDGE, I'M SORRY, THERE WERE THREE
6 PEOPLE THAT DIDN'T SHOW UP. I WANT TO MAKE SURE I KNOW
7 WHICH ONE.

8 (WHEREUPON, A BENCH CONFERENCE WAS HELD IN THE
9 PRESENCE, BUT NOT WITHIN THE HEARING, OF THE JURY).
10 (WHEREUPON, ROLL WAS CALLED.)

11 THE COURT: ALL RIGHT. NUMBER 105, NUMBER 21 ON THE
12 LIST IS NOT PRESENT.

13 IF THERE'S ANY MEMBER OF THE JURY PANEL WHO IS EITHER
14 CURRENTLY OR IN THE PAST BEEN REPRESENTED BY ANY OF THE
15 ATTORNEYS IN THE CASE, OR IF YOU HAVE ANY OTHER TYPE OF
16 BUSINESS, PERSONAL OR SOCIAL RELATIONSHIP WITH ANY OF
17 ATTORNEYS IN THE CASE, WOULD YOU PLEASE STAND.

18 YOUR NUMBER, PLEASE?

19 PROSPECTIVE JUROR: 236.

20 THE COURT: 236, LET ME FIND YOU.

21 THE CLERK: NUMBER ONE.

22 THE COURT: NUMBER ONE ON THE LIST.

23 YES, MA'AM. IF YOU CAN TELL ME WHO AND WHETHER IT'S
24 CURRENT OR IN THE PAST.

25 PROSPECTIVE JUROR: SOLICITOR GIESE.

1 THE COURT: ALL RIGHT.

2 PROSPECTIVE JUROR: I'VE KNOWN FOR OVER TEN YEARS.
3 OUR CHILDREN ATTEND THE SAME SCHOOL, AND WE ATTEND THE
4 SAME CHURCH.

5 THE COURT: IS THAT RELATIONSHIP GOING TO AFFECT YOUR
6 ABILITY TO BE FAIR AND IMPARTIAL AS A JUROR IN THIS CASE?

7 PROSPECTIVE JUROR: NO, YOUR HONOR.

8 THE COURT: THANK YOU. YOU MAY HAVE A SEAT. THAT'S
9 JUROR NUMBER ONE ON THE LIST, JUROR NUMBER 236.

10 ANYONE ELSE?

11 (THERE WAS NO RESPONSE.)

12 IF ANY MEMBER OF THE JURY PANEL IS EITHER CURRENTLY
13 OR IN THE PAST OR ANY MEMBER OF YOUR IMMEDIATE FAMILY
14 EITHER CURRENTLY OR IN THE PAST BEEN EMPLOYED BY ANY LAW
15 ENFORCEMENT AGENCY OR PROSECUTING AGENCY, WHETHER IT'S THE
16 SOLICITOR'S OFFICE, THE U.S. ATTORNEY'S OFFICE OR A PUBLIC
17 DEFENDER OR OFFICE OF APPELLATE DEFENSE OR A PRIVATE
18 ATTORNEY WHO PRACTICES CRIMINAL DEFENSE LAW, IF YOU OR ANY
19 MEMBER OF YOUR IMMEDIATE FAMILY IS EITHER CURRENTLY OR HAS
20 IN THE PAST BEEN EMPLOYED BY ANY SUCH AGENCY, WOULD YOU
21 PLEASE STAND?

22 ALL RIGHT. I KNOW YOUR NUMBER, 259. IF YOU CAN TELL
23 ME WHAT AGENCY.

24 PROSPECTIVE JUROR: I WAS AN OFFICER. I SPENT 13
25 YEARS PRIOR TO LAW ENFORCEMENT -- TEN WITH THE DEPARTMENT

1 OF CORRECTIONS AND THREE WITH THE DEPARTMENT OF PUBLIC
2 SAFETY.

3 THE COURT: ALL RIGHT. IS ANY OF THAT EXPERIENCE IN
4 ANY WAY GOING TO AFFECT YOUR ABILITY TO BE A FAIR AND
5 IMPARTIAL JUROR?

6 PROSPECTIVE JUROR: NO.

7 THE COURT: ALL RIGHT, SIR. YOU MAY HAVE A SEAT.
8 THAT'S NUMBER 35 ON THE LIST.

9 YES, MA'AM, YOUR NUMBER, PLEASE?

10 PROSPECTIVE JUROR: 157.

11 THE COURT: 157, LET ME FIND YOU ON THE LIST.

12 THE CLERK: EIGHT.

13 THE COURT: THIS IS NUMBER EIGHT ON THE LIST.

14 YES, MA'AM. IF YOU CAN TELL ME WHO AND WHAT AGENCY,
15 PLEASE?

16 PROSPECTIVE JUROR: MY BROTHER-IN-LAW IS WITH THE
17 CITY OF COLUMBIA. HE IS AN INVESTIGATOR.

18 THE COURT: CURRENTLY? IS THAT IN ANY WAY GOING TO
19 AFFECT YOUR ABILITY TO BE A FAIR AND IMPARTIAL JUROR?

20 PROSPECTIVE JUROR: NO.

21 THE COURT: YOU MAY HAVE A SEAT. THANK YOU.

22 ANYONE ELSE?

23 YES, YOUR NUMBER, PLEASE?

24 PROSPECTIVE JUROR: SEVENTY-EIGHT.

25 THE COURT: THIS IS NUMBER 23.

1 IF YOU CAN TELL ME WHO AND WHAT AGENCY, PLEASE.

2 PROSPECTIVE JUROR: MY FATHER, THE DEPARTMENT OF
3 CORRECTIONS.

4 THE COURT: CURRENTLY OR IN THE PAST?

5 PROSPECTIVE JUROR: IN THE PAST.

6 THE COURT: IN THE PAST. IS THAT EXPERIENCE IN ANY
7 WAY GOING TO AFFECT YOUR ABILITY TO BE FAIR AND IMPARTIAL
8 AS A JUROR?

9 PROSPECTIVE JUROR: NO.

10 THE COURT: THANK YOU. YOU MAY HAVE A SEAT.

11 ANYBODY ELSE?

12 (THERE WAS NO RESPONSE.)

13 IN THIS CASE THERE MAY BE ALLEGATIONS OR TESTIMONY
14 CONCERNING GANG INVOLVEMENT AND INCIDENTS THAT MAY HAVE
15 SOMETHING TO DO WITH THE CASE.

16 IS THERE ANYTHING ABOUT THE NATURE OF THE CHARGES
17 THAT ARE MADE IN THIS CASE THAT WOULD PREVENT YOU FROM
18 BEING A FAIR AND IMPARTIAL JUROR IF YOU ARE SELECTED IN A
19 CASE? IF SO, WOULD YOU PLEASE STAND?

20 (THERE WAS NO RESPONSE.)

21 IS THERE ANY MEMBER OF THE JURY PANEL OR ANY MEMBER
22 OF YOUR IMMEDIATE FAMILY OR ANY CLOSE PERSONAL FRIEND,
23 EMPLOYED BY W.A. PERRY MIDDLE SCHOOL, C.A. JOHNSON
24 PREPARATORY ACADEMY, OLYMPIA MIDDLE SCHOOL, OR KEENAN HIGH
25 SCHOOL? IF YOU, ANY MEMBER OF YOUR IMMEDIATE FAMILY, OR

1 ANY CLOSE PERSONAL FRIEND IS EMPLOYED AT ANY OF THOSE
2 INSTITUTIONS, WOULD YOU PLEASE STAND?

3 YOUR NUMBER, PLEASE, MA'AM?

4 PROSPECTIVE JUROR: 128.

5 THE COURT: 128.

6 THE CLERK: NUMBER 36.

7 THE COURT: THIS IS 36 ON THE LIST.

8 IF YOU CAN TELL ME WHO AND WHICH INSTITUTION, PLEASE,
9 MA'AM.

10 PROSPECTIVE JUROR: MY MOTHER IS EMPLOYED AT C.A.
11 JOHNSON.

12 THE COURT: IS THAT IN ANY WAY GOING TO -- PARDON ME?

13 PROSPECTIVE JUROR: I'M SORRY, I SHOULD HAVE SAID
14 PREPARATORY HIGH SCHOOL.

15 THE COURT: OKAY. IS THAT IN ANY WAY GOING TO AFFECT
16 YOUR ABILITY TO BE A FAIR AND IMPARTIAL JUROR IN THIS
17 CASE?

18 PROSPECTIVE JUROR: NO, YOUR HONOR.

19 THE COURT: ALL RIGHT. YOU MAY HAVE A SEAT. THANK
20 YOU.

21 ANYONE ELSE?

22 (THERE WAS NO RESPONSE.)

23 WE NEVER KNOW HOW LONG CASES ARE GOING TO TAKE TO
24 TRY. THERE IS A POSSIBILITY THAT THIS CASE WOULD SPILL
25 OVER INTO NEXT WEEK. IF THAT IS GOING TO CREATE ANY

1 PROBLEM FOR ANY JUROR THAT YOU CANNOT DEAL WITH, I WOULD
2 NEED TO TALK WITH YOU ABOUT THAT POTENTIAL PROBLEM.

3 WE WOULD KNOW THAT PROBABLY BY THURSDAY OF THIS WEEK
4 WHETHER OR NOT IT WOULD BE GOING INTO NEXT WEEK, BUT IF
5 THAT PRESENTS A PARTICULAR PROBLEM THAT YOU ARE UNABLE TO
6 DEAL WITH OR WORK AROUND, IF YOU WOULD PLEASE STAND.

7 ALL RIGHT. IF YOU WILL COME DOWN, LET ME TALK WITH
8 YOU PRIVATELY IN THE FRONT, PLEASE.

9 (THE FOLLOWING CONVERSATION TOOK PLACE AT THE COURT
10 REPORTER'S STATION.)

11 COME ON UP HERE. WHAT'S YOUR NUMBER, PLEASE?

12 PROSPECTIVE JUROR: 250.

13 THE COURT: 250.

14 THE CLERK: SIXTEEN, 16.

15 THE COURT: THIS IS NUMBER 250, 16 ON THE LIST.

16 YES, SIR?

17 PROSPECTIVE JUROR: I HAVE A BROTHER-IN-LAW IN NEW
18 YORK. HE'S BEEN COMATOSE FOR SEVEN YEARS. WE PULLED HIS
19 FEEDING TUBE LAST WEDNESDAY. HE'S GOING TO DIE SOMETIME
20 WITHIN THE NEXT SEVEN TO TEN DAYS.

21 THE COURT: ALL RIGHT. I'LL EXCUSE YOU FROM THE
22 TRIAL. HAVE A SEAT IN THE BACK OF THE COURTROOM.

23 NUMBER 250 IS EXCUSED.

24 NEXT?

25 THE CLERK: NUMBER 28. THIS IS NUMBER FOUR.

1 THE COURT: HOW ARE YOU? YES, MA'AM.

2 PROSPECTIVE JUROR: I HAVE A SMALL BUSINESS WITH 16
3 PEOPLE AND RIGHT NOW, EVEN TODAY, I HAVE DRIVEN TO WORK OR
4 LEFT AT LUNCH, AND I'LL BE DOING THAT EVERY DAY THAT THIS
5 GOES ON.

6 THE COURT: AND YOU ARE THE ONLY ONE WHO CAN DO THAT?

7 PROSPECTIVE JUROR: YES. I AM THE PAYROLL. THERE IS
8 NO ONE ELSE WHO DOES THAT. IT'S JUST THAT I WILL BE
9 WORKING EVERY MORNING AND EVERY NIGHT AROUND YOUR
10 SCHEDULE.

11 THE COURT: HAVE A SEAT BACK WITH THE PANEL WHERE YOU
12 WERE. I'M GOING TO HAVE TO GIVE IT SOME THOUGHT.

13 PROSPECTIVE JUROR: OKAY.

14 THE COURT: I MAY EXCUSE YOU. THANK YOU. JUST HAVE
15 A SEAT BACK WHERE YOU WERE, PLEASE.

16 NEXT?

17 THE CLERK: NUMBER 76.

18 THE COURT: YES, SIR, COME ON UP. YES, SIR.

19 PROSPECTIVE JUROR: I'M BASICALLY A BARBER. I WASN'T
20 THERE LAST WEEK. I DON'T GET PAID, BUT I HAVE A PROBLEM
21 WITH BEING HERE.

22 THE COURT: DO YOU WORK FOR YOURSELF OR DO YOU WORK
23 FOR SOMEONE?

24 PROSPECTIVE JUROR: I WORK FOR MYSELF.

25 THE COURT: HAVE A SEAT BACK WHERE YOU WERE. I MAY

1 EXCUSE YOU, BUT IF I DO, I'LL DO IT BY NUMBER. I'LL DO
2 THAT BEFORE WE PICK A JURY FOR THIS CASE.

3 PROSPECTIVE JUROR: YES, SIR.

4 THE CLERK: NUMBER 16.

5 THE COURT: HOLD ON ONE SECOND. LET ME FIND YOU ON
6 THE LIST.

7 THE CLERK: FIFTEEN.

8 THE COURT: FIFTEEN.

9 YES, SIR?

10 PROSPECTIVE JUROR: I'M ACTIVE DUTY IN THE UNITED
11 STATES AIR FORCE.

12 THE COURT: YES, SIR.

13 PROSPECTIVE JUROR: STATIONED FROM WARNER ROBBINS,
14 GEORGIA. I WON'T BE ABLE TO BE HERE NEXT WEEK.

15 THE COURT: ARE YOU ON LEAVE FOR THIS WEEK?

16 PROSPECTIVE JUROR: YES, SIR. THEY GAVE ME LEAVE
17 UNTIL FRIDAY.

18 THE COURT: OKAY. I'M GOING TO EXCUSE YOU FROM THIS
19 TRIAL. YOU CAN HAVE A SEAT AT THE BACK OF THE COURTROOM.

20 THAT'S NUMBER 16, EXCUSED.

21 COUNSEL, I'M GOING TO EXCUSE BOTH OF THE OTHER TWO,
22 NUMBER 28 WHICH IS FOUR ON THE LIST AND 76 IS NUMBER 20 ON
23 THE LIST.

24 JUROR NUMBER 28, WHERE DID SHE GO, 28, YOU MAY STEP
25 TO THE BACK OF THE COURTROOM, YOU BE EXCUSED FROM THIS

1 TRIAL AND ALSO JUROR NUMBER 20 -- EXCUSE ME, 76, YOU MAY
2 STEP TO THE BACK OF THE COURTROOM. YOU'RE EXCUSED JUST
3 FROM THIS TRIAL.

4 I'VE ASKED A NUMBER OF QUESTIONS. I DO HAVE ONE
5 FINAL QUESTION. WELL, LET ME ASK TWO. SOME OF YOU MAY
6 HAVE HAD JURY SERVICE BEFORE.

7 WE ARE DOING EVERYTHING WE DO. WE STARTED A FEW
8 WEEKS AGO USING ONLY JURY NUMBERS RATHER THAN NAMES AND
9 WHATNOT. IF THAT GIVES ANYONE ANY CONCERN, WOULD YOU
10 PLEASE STAND FOR ME, PLEASE?

11 (THERE WAS NO RESPONSE.)

12 ALL RIGHT. THE FINAL QUESTION IS THIS: IF THERE IS
13 ANY REASON THAT YOU ARE AWARE OF, WHETHER IT IS RELATED OR
14 TOUCHES ON ANY OTHER QUESTION THAT I'VE GONE OVER OR IF IT
15 IS TOTALLY UNRELATED TO ANY QUESTION THAT I HAVE GONE
16 OVER, IF YOU KNOW OF ANY REASON THAT YOU CANNOT GIVE BOTH
17 THE DEFENDANT, MR. LIVERMAN, AND THE STATE OF SOUTH
18 CAROLINA, A FAIR AND IMPARTIAL TRIAL, WOULD YOU PLEASE
19 STAND?

20 ALL RIGHT. COME UP AND LET ME TALK TO YOU PLEASE,
21 SIR.

22 ANYONE ELSE?

23 (THERE WAS NO RESPONSE.)

24 WHAT WAS YOUR NUMBER AGAIN, PLEASE?

25 PROSPECTIVE JUROR: 182.

1 THE COURT: 182. LET ME FIND YOU ON THE LIST.

2 THE CLERK: NUMBER TEN.

3 THE COURT: YES, SIR.

4 PROSPECTIVE JUROR: MY WIFE IS --

5 THE COURT: TALK SOFTLY.

6 PROSPECTIVE JUROR: MY WIFE IS A RETIRED EMPLOYEE OF
7 RICHLAND SCHOOL DISTRICT ONE.

8 THE COURT: OKAY.

9 PROSPECTIVE JUROR: THE REASON IS THAT SHE HAS BEEN
10 DIAGNOSED WITH POSTTRAUMATIC STRESS SYNDROME. SHE WAS
11 EMPLOYED IN SOME DIFFICULT SITUATIONS. I CANNOT SIT
12 FAIRLY AGAINST THE SCHOOL DIRECT. IN FACT, SHE BROUGHT
13 SUIT AGAINST THEM UNSUCCESSFULLY. YOU KNOW, I DON'T KNOW
14 WHAT THE RELATIONSHIP BETWEEN US, THIS CASE, THE SCHOOLS
15 IS.

16 THE COURT: I DON'T EITHER BUT THAT'S WHAT YOUR
17 PROBLEM IS; IS THAT RIGHT?

18 PROSPECTIVE JUROR: RIGHT.

19 THE COURT: IF YOU WOULD JUST HAVE A SEAT BACK THERE.
20 I MAY EXCUSE YOU, I MAY NOT. IF I SEND YOU BACK TO THE
21 BACK, I MAY EXCUSE YOU.

22 COULD YOU HEAR THIS?

23 MS. FRANKLIN: NO, SIR.

24 (WHEREUPON, A BENCH CONFERENCE WAS HELD IN THE
25 PRESENCE, BUT NOT WITHIN THE HEARING, OF THE JURY).

1 THE COURT: NUMBER 182, YOU'RE EXCUSED. IF YOU WILL
2 STEP BACK TO THE BACK OF THE COURTROOM, PLEASE, SIR.

3 ALL RIGHT. LADIES AND GENTLEMEN, WE ARE NOW GOING TO
4 SELECT A JURY. THE WAY WE DO THAT, IT IS DONE BY YOUR
5 JUROR NUMBER. AS YOUR NUMBER IS CALLED, IF YOU WILL BRING
6 WHATEVER PERSONAL BELONGINGS YOU HAVE WITH YOU AND COME
7 DOWN TO THE FRONT OF THE COURTROOM, YOU'RE NOT GOING TO BE
8 ASKED ANYMORE QUESTIONS.

9 FIRST THE STATE WILL BE ASKED WHETHER THEY'D LIKE FOR
10 YOU TO BE SEATED OR WHETHER THEY WOULD LIKE FOR YOU TO BE
11 EXCUSED FROM THIS PARTICULAR TRIAL. IF THE STATE
12 INDICATES THEY WOULD LIKE FOR YOU TO BE SEATED, THEN THE
13 DEFENSE IS ASKED THAT SAME QUESTION.

14 IF EITHER SIDE SAYS "PLEASE EXCUSE THIS JUROR FROM
15 THIS TRIAL," THEN YOU WILL SIMPLY GO TO THE BACK OF THE
16 COURTROOM AND HAVE A SEAT. IF BOTH THE STATE AND THE
17 DEFENSE ASKS THAT YOU BE SEATED, THEN TAKE A SEAT IN THE
18 JURY BOX OVER HERE.

19 THE STRIKES WILL BE TEN AND FIVE IN THIS CASE.

20 ALL RIGHT, MADAM CLERK?

21 THE CLERK: YES, SIR. NUMBER 236, IF YOU WOULD JUST
22 COME TO THE MICROPHONE AND STATE YOUR OCCUPATION, PLEASE.

23 PROSPECTIVE JUROR: REAL ESTATE MARKETING.

24 THE CLERK: WHAT SAYS THE STATE?

25 MS. CAMPBELL: PLEASE PRESENT THE JUROR.

1 THE CLERK: WHAT SAYS THE DEFENSE?

2 MS. FRANKLIN: PLEASE EXCUSE THIS JUROR.

3 THE CLERK: PLEASE HAVE A SEAT IN THE BACK OF THE
4 COURTROOM.

5 NUMBER 161.

6 PROSPECTIVE JUROR: I'M AN ATHLETIC TRAINER AT
7 ACCELERATED EVENTS (PHONETIC).

8 THE CLERK: DID YOU HEAR THAT?

9 PROSPECTIVE JUROR: I'M AN ATHLETIC TRAINER AT
10 ACCELERATED EVENTS.

11 THE CLERK: WHAT SAYS THE STATE?

12 MS. CAMPBELL: PLEASE EXCUSE MR. MCQUEEN.

13 THE CLERK: PLEASE HAVE A SEAT IN THE BACK OF THE
14 COURTROOM.

15 NUMBER 97.

16 PROSPECTIVE JUROR: I'M A SENIOR SYSTEMS ANALYST.

17 THE CLERK: WHAT SAYS THE STATE?

18 MS. CAMPBELL: PLEASE PRESENT THE JUROR.

19 THE CLERK: WHAT SAYS THE DEFENSE?

20 MS. FRANKLIN: PLEASE PRESENT THIS JUROR.

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

22 NUMBER 172.

23 PROSPECTIVE JUROR: I RECENTLY GRADUATED FROM SCHOOL.
24 I'M PURSUING A CAREER IN DESIGN AND GRAPHIC ILLUSTRATIONS.

25 THE CLERK: WHAT SAYS THE STATE?

1 MS. CAMPBELL: PLEASE PRESENT MR. MYERS.

2 THE CLERK: WHAT SAYS THE DEFENSE?

3 MS. FRANKLIN: PLEASE SEAT THIS JUROR.

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

5 NUMBER 157.

6 PROSPECTIVE JUROR: I PRINT.

7 THE CLERK: WHAT SAYS THE STATE?

8 MS. CAMPBELL: PLEASE PRESENT THE JUROR.

9 THE CLERK: WHAT SAYS THE DEFENSE?

10 MS. FRANKLIN: PLEASE EXCUSE THIS JUROR.

11 THE CLERK: PLEASE HAVE A SEAT IN THE BACK OF THE
12 COURTROOM.

13 NUMBER 196.

14 PROSPECTIVE JUROR: CURRENTLY I'M NOT EMPLOYED.

15 THE CLERK: WHAT SAYS THE STATE?

16 MS. CAMPBELL: PLEASE EXCUSE THE JUROR.

17 THE CLERK: PLEASE HAVE A SEAT IN THE BACK OF THE
18 COURTROOM.

19 NUMBER 103.

20 PROSPECTIVE JUROR: I'M AN ASSOCIATE PASTOR AND A
21 NANNY.

22 THE CLERK: WHAT SAYS THE STATE?

23 MS. CAMPBELL: PLEASE PRESENT THE JUROR.

24 THE CLERK: WHAT SAYS THE DEFENSE?

25 MS. FRANKLIN: PLEASE PRESENT THIS JUROR.

1 THE CLERK: PLEASE HAVE A SEAT IN THE JURY BOX.
2 NUMBER 170.

3 PROSPECTIVE JUROR: SALES MANAGER.

4 THE CLERK: WHAT SAYS THE STATE?

5 MS. CAMPBELL: PLEASE PRESENT THE JUROR.

6 THE CLERK: WHAT SAYS THE DEFENSE?

7 MS. FRANKLIN: PLEASE EXCUSE THIS JUROR.

8 THE CLERK: PLEASE HAVE A SEAT IN THE BACK OF THE
9 COURTROOM.

10 NUMBER 36.

11 PROSPECTIVE JUROR: I'M AN ADMINISTRATOR.

12 THE CLERK: WHAT SAYS THE STATE?

13 MS. CAMPBELL: PLEASE PRESENT THE JUROR.

14 THE CLERK: WHAT SAYS THE DEFENSE?

15 MS. FRANKLIN: PLEASE SEAT THE JUROR.

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

17 NUMBER 44.

18 PROSPECTIVE JUROR: ASSISTANT TELLER.

19 THE CLERK: WHAT SAYS THE STATE?

20 MR. GIESE: PLEASE PRESENT THE JUROR.

21 THE CLERK: WHAT SAYS THE DEFENSE?

22 MS. FRANKLIN: PLEASE SEAT THIS JUROR.

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

24 NUMBER 16.

25 THE COURT: HE'S BEEN EXCUSED FROM THE TRIAL OF THIS

1 CASE.

2 THE CLERK: NUMBER 225.

3 PROSPECTIVE JUROR: LIFE CLAIMS (INAUDIBLE).

4 THE COURT REPORTER: I'M SORRY, I DIDN'T HEAR THAT.

5 PROSPECTIVE JUROR: LIFE CLAIMS EXAMINER.

6 THE CLERK: WHAT SAYS THE STATE?

7 MS. CAMPBELL: PLEASE EXCUSE THE JUROR.

8 THE CLERK: PLEASE HAVE A SEAT IN THE BACK OF THE
9 COURTROOM.

10 NUMBER 268.

11 PROSPECTIVE JUROR: MORTGAGE LOAN PROCESSOR.

12 THE CLERK: WHAT SAYS THE STATE?

13 MS. CAMPBELL: PLEASE PRESENT THE JUROR.

14 THE CLERK: WHAT SAYS THE DEFENSE?

15 MS. FRANKLIN: PLEASE EXCUSE THIS JUROR.

16 THE CLERK: PLEASE HAVE A SEAT IN THE BACK OF THE
17 COURTROOM.

18 NUMBER 17.

19 PROSPECTIVE JUROR: CUSTOMER SERVICE REPRESENTATIVE.

20 THE CLERK: WHAT SAYS THE STATE?

21 MS. CAMPBELL: PLEASE PRESENT THE JUROR.

22 THE CLERK: WHAT SAYS THE DEFENSE?

23 MS. FRANKLIN: PLEASE EXCUSE THIS JUROR.

24 THE CLERK: PLEASE HAVE A SEAT IN THE BACK OF THE
25 COURTROOM.

1 NUMBER 238.

2 PROSPECTIVE JUROR: NURSE PRACTITIONER.

3 THE CLERK: WHAT SAYS THE STATE?

4 MS. CAMPBELL: PLEASE PRESENT THE JUROR.

5 THE CLERK: WHAT SAYS THE DEFENSE?

6 MS. FRANKLIN: PLEASE SEAT THIS JUROR.

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

8 NUMBER 26.

9 PROSPECTIVE JUROR: SUPERVISOR, ADVANCE INDIVIDUAL
10 TRAINING.

11 THE CLERK: WHAT SAYS THE STATE?

12 MS. CAMPBELL: PLEASE PRESENT THE JUROR.

13 THE CLERK: WHAT SAYS THE DEFENSE?

14 MS. FRANKLIN: PLEASE SEAT THIS JUROR.

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

16 NUMBER 78.

17 PROSPECTIVE JUROR: PART TIME RESTAURANT HOSTESS.

18 THE CLERK: WHAT SAYS THE STATE?

19 MS. CAMPBELL: PLEASE EXCUSE THE JUROR.

20 THE CLERK: PLEASE HAVE A SEAT IN THE BACK OF THE
21 COURTROOM.

22 THE STRIKE COUNT IS FOUR FOR THE STATE, FIVE FOR THE
23 DEFENSE.

24 NUMBER 252.

25 PROSPECTIVE JUROR: CONSTRUCTION MANAGER.

1 THE CLERK: WHAT SAYS THE STATE?

2 MS. CAMPBELL: PLEASE PRESENT THE JUROR.

3 THE CLERK: WHAT SAYS THE DEFENSE?

4 MS. FRANKLIN: PLEASE SEAT THIS JUROR.

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

6 NUMBER 102.

7 PROSPECTIVE JUROR: MANAGER WITH SCANA CORPORATION.

8 THE CLERK: WHAT SAYS THE STATE?

9 MS. CAMPBELL: PLEASE PRESENT THE JUROR.

10 THE CLERK: WHAT SAYS THE DEFENSE?

11 MS. FRANKLIN: PLEASE EXCUSE THIS JUROR.

12 THE CLERK: PLEASE HAVE A SEAT IN THE BACK OF THE
13 COURTROOM.

14 NUMBER 180.

15 PROSPECTIVE JUROR: I'M DISABLED.

16 THE CLERK: WHAT SAYS THE STATE?

17 MS. CAMPBELL: PLEASE PRESENT THE JUROR.

18 THE CLERK: WHAT SAYS THE DEFENSE?

19 MS. FRANKLIN: PLEASE PRESENT THIS JUROR.

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

21 NUMBER 223.

22 PROSPECTIVE JUROR: SCHOOL COUNSELOR.

23 THE CLERK: WHAT SAYS THE STATE?

24 MS. CAMPBELL: PLEASE PRESENT THE JUROR.

25 THE CLERK: WHAT SAYS THE DEFENSE?

1 MS. FRANKLIN: PLEASE EXCUSE THIS JUROR.

2 THE CLERK: PLEASE HAVE A SEAT IN THE BACK OF THE
3 COURTROOM.

4 NUMBER 231.

5 PROSPECTIVE JUROR: COMPUTER I.T. CONSULTANT.

6 THE CLERK: WHAT SAYS THE STATE?

7 MS. CAMPBELL: PLEASE PRESENT THE JUROR.

8 THE CLERK: WHAT SAYS THE DEFENSE?

9 MS. FRANKLIN: PLEASE SEAT THIS JUROR.

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

11 NUMBER 83.

12 (THERE WAS NO RESPONSE.)

13 THE COURT: JUROR NUMBER 83.

14 THANK YOU.

15 PROSPECTIVE JUROR: I'M UNEMPLOYED.

16 THE CLERK: WHAT SAYS THE STATE?

17 MS. CAMPBELL: PLEASE EXCUSE THE JUROR.

18 THE CLERK: PLEASE HAVE A SEAT IN THE BACK OF THE
19 COURTROOM.

20 NUMBER 101.

21 PROSPECTIVE JUROR: MANAGER OF A GROCERY STORE.

22 THE CLERK: DOES THE STATE CHALLENGE FOR CAUSE?

23 MS. CAMPBELL: PLEASE PRESENT THE JUROR.

24 THE CLERK: WHAT SAYS THE DEFENSE?

25 MS. FRANKLIN: PLEASE EXCUSE THIS JUROR.

1 THE CLERK: PLEASE HAVE A SEAT IN THE BACK OF THE
2 COURTROOM.

3 NUMBER 164.

4 PROSPECTIVE JUROR: I'M A SELF-EMPLOYED PAINTER.

5 THE CLERK: DOES THE STATE CHALLENGE FOR CAUSE?

6 MS. CAMPBELL: PLEASE PRESENT THE JUROR.

7 THE CLERK: WHAT SAYS THE DEFENSE?

8 MS. FRANKLIN: PLEASE SEAT THIS JUROR.

9 THE CLERK: PLEASE HAVE A SEAT IN THE JURY BOX.
10 NUMBER 32, 32.

11 PROSPECTIVE JUROR: RETIRED, BELLSOUTH.

12 THE CLERK: DOES THE STATE CHALLENGE FOR CAUSE?

13 MS. CAMPBELL: PLEASE PRESENT THE JUROR.

14 THE CLERK: WHAT SAYS THE DEFENSE?

15 MS. FRANKLIN: PLEASE EXCUSE THIS JUROR.

16 THE CLERK: PLEASE HAVE A SEAT IN THE BACK OF THE
17 COURTROOM.

18 NUMBER 144.

19 PROSPECTIVE JUROR: PROPERTY MANAGER.

20 THE CLERK: DOES THE STATE CHALLENGE FOR CAUSE?

21 MS. CAMPBELL: PLEASE PRESENT THE JUROR.

22 THE CLERK: WHAT SAYS THE DEFENSE?

23 MS. FRANKLIN: PLEASE SEAT THIS JUROR.

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

25 THE COURT: WE'LL HAVE AN ALTERNATE SELECTED. THE

1 STRIKES WILL BE TWO AND ONE ON THE FIRST ALTERNATE.

2 THE CLERK: NUMBER 259.

3 PROSPECTIVE JUROR: CORPORATE SECURITY, BOSE
4 CORPORATION.

5 THE CLERK: WHAT SAYS THE STATE?

6 MS. CAMPBELL: PLEASE PRESENT THE JUROR.

7 THE CLERK: WHAT SAYS THE DEFENSE?

8 MS. FRANKLIN: PLEASE EXCUSE THIS JUROR.

9 THE CLERK: PLEASE HAVE A SEAT IN THE BACK OF THE
10 COURTROOM.

11 NUMBER 128.

12 PROSPECTIVE JUROR: CURRENTLY UNEMPLOYED.

13 THE CLERK: WHAT SAYS THE STATE?

14 MS. CAMPBELL: PLEASE EXCUSE THE JUROR.

15 THE CLERK: PLEASE HAVE A SEAT IN THE BACK OF THE
16 COURTROOM.

17 NUMBER 253.

18 PROSPECTIVE JUROR: SOUTH CAROLINA DEPARTMENT OF
19 DISABILITIES AND SPECIAL NEEDS.

20 THE CLERK: DOES THE STATE CHALLENGE FOR CAUSE?

21 MS. CAMPBELL: PRESENT THE JUROR.

22 THE CLERK: WHAT SAYS THE DEFENSE?

23 MS. FRANKLIN: PLEASE PRESENT THIS JUROR.

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

25 THE COURT: WE'LL SELECT ANOTHER ALTERNATE. STRIKES

1 AGAIN WILL BE TWO AND ONE.

2 THE CLERK: NUMBER 51.

3 PROSPECTIVE JUROR: CUSTODIAN.

4 THE CLERK: WHAT SAYS THE STATE?

5 MS. CAMPBELL: PLEASE EXCUSE THE JUROR.

6 THE CLERK: PLEASE HAVE A SEAT AT THE BACK OF THE
7 COURTROOM.

8 NUMBER 191.

9 PROSPECTIVE JUROR: MEDICAL TRANSCRIPTIONIST.

10 THE CLERK: DOES THE STATE CHALLENGE FOR CAUSE?

11 MS. CAMPBELL: PLEASE PRESENT THE JUROR.

12 THE CLERK: WHAT SAYS THE DEFENSE?

13 MS. FRANKLIN: PLEASE PRESENT THIS JUROR.

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

15 THE COURT: ANY MOTIONS OR ANY MATTERS OF LAW
16 CONCERNING THE STRIKING OF THE JURY? ANYTHING FROM THE
17 STATE?

18 MS. CAMPBELL: YES, SIR.

19 THE COURT: ALL RIGHT. LADIES AND GENTLEMEN, THOSE
20 OF YOU WHO HAVE BEEN SELECTED, AT THIS TIME, I'M GOING TO
21 SEND YOU OUT TO YOUR JURY ROOM. LET ME ORDER YOU NOT TO
22 DISCUSS THIS CASE. THERE'S A MATTER OF LAW I'M REQUIRED
23 TO TAKE UP OUTSIDE OF YOUR PRESENCE. PLEASE DON'T DISCUSS
24 THE CASE. I'LL HAVE YOU BACK IN THE COURTROOM IN JUST A
25 FEW MINUTES. YOU CAN FOLLOW THE BAILIFFS OUT.

1 WHILE THE JURY IS FOLLOWING THE BAILIFFS OUT, THOSE
2 OF YOU JURORS WHO HAVE NOT BEEN SELECTED IN THE CASE, I'M
3 GOING TO ASK YOU TO PLEASE STAY ON THE THIRD FLOOR, BUT I
4 DO NEED TO HAVE YOU LEAVE THE COURTROOM WHILE I TAKE THIS
5 MATTER UP. I'LL HAVE YOU BACK IN A FEW MINUTES ALSO.

6 EVERYONE ELSE STAY SEATED, PLEASE.

7 (WHEREUPON, THE UNSELECTED MEMBERS OF THE JURY LEFT
8 THE COURTROOM.)

9 (WHEREUPON, THE JURY LEFT OPEN COURT AT APPROXIMATELY
10 4:16 P.M.)

11 THE COURT: ALL RIGHT. BEFORE I HEAR THE STATE'S
12 MATTER, ANY MOTIONS FROM THE DEFENSE?

13 MS. FRANKLIN: THERE WILL BE, YES, YOUR HONOR.

14 THE COURT: ALL RIGHT. LET ME HEAR FROM -- WAIT JUST
15 A MINUTE. LET ME HEAR FROM THE CLERK OF COURT FIRST.

16 (PAUSE).

17 ALL RIGHT, SOLICITOR.

18 MS. CAMPBELL: BEG THE COURT'S INDULGENCE.

19 (PAUSE).

20 YOUR HONOR, MY REVIEW OF THE STRIKES THAT WERE
21 EXERCISED BY THE DEFENSE IN THIS CASE, I BELIEVE ON THE
22 JURY, THE PRIMARY JURY, THEY EXERCISED NINE STRIKES. ALL
23 BUT ONE I BELIEVE -- BEG THE COURT'S INDULGENCE.

24 THE COURT: ALL BUT TWO.

25 MS. CAMPBELL: ALL OF THEM WERE FOR WHITE FEMALES OR

1 WHITE MALES. LET ME MAKE SURE I'M NOT SAYING IT WRONG.

2 THE COURT: SO IT'S A BATSON MOTION; IS THAT CORRECT?

3 MS. CAMPBELL: I TAKE THAT BACK, YOUR HONOR. ONE OF
4 THEM, JUROR NUMBER -- SHE IS NUMBER 19 ON THE LIST I
5 BELIEVE IS A BLACK FEMALE THAT'S EMPLOYED AT THE
6 DEPARTMENT OF MOTOR VEHICLES.

7 THE COURT: ALL RIGHT MS. FRANKLIN, PROVIDE YOUR
8 REASONS FOR YOUR STRIKES, PLEASE.

9 MS. CAMPBELL: YOUR HONOR, JUST TO CLARIFY FOR THE
10 RECORD, THE LAST STRIKE, I BELIEVE, WAS USED FOR
11 MR. WILLIAMS AND THAT WAS, I GUESS, AN ALTERNATE.

12 MS. FRANKLIN: YOUR HONOR, WE WILL SORT OF GO THROUGH
13 THIS, WITH MY CO-COUNSEL, AND SEE IF WE CAN FIGURE OUT
14 EXACTLY WHY WE DID. USING THE NUMBERS, IT'S DIFFICULT TO
15 REMEMBER EXACTLY WHO THESE PEOPLE ARE.

16 THE COURT: WHICH WILL BE EASIER, THE JUROR NUMBER OR
17 THE ONE ON THE LIST? THE FIRST WAS 231 ON THE LIST.

18 MS. FRANKLIN: YES. THE REASON WE STRUCK HER, WE
19 RECALL SHE SAID SHE ATTENDED CHURCH WITH MR. GIESE.

20 THE COURT: I CAN'T HEAR YOU AND UNDERSTAND YOU.

21 MS. FRANKLIN: I'M SORRY. SHE RELATED THAT SHE KNEW
22 MR. GIESE. SHE SAID SHE WENT TO CHURCH WITH MR. GIESE.
23 SHE ATTENDED CHURCH WITH HIM. WE THOUGHT THAT, EVEN
24 THOUGH SHE STATED THAT WOULDN'T HAVE AN EFFECT, NATURALLY
25 IT WOULD.

1 THE COURT: ALL RIGHT. THE NEXT IS JUROR 157, NUMBER
2 EIGHT ON THE LIST.

3 MS. FRANKLIN: EIGHT? WE STRUCK HER BECAUSE HER
4 BROTHER-IN-LAW IS INVESTIGATOR MCCrackEN WITH LAW
5 ENFORCEMENT AND SPECIFICALLY THIS DEPARTMENT, LAW
6 ENFORCEMENT. WE THOUGHT SHE MIGHT DEVELOP SOME IDEAS
7 ABOUT --

8 THE COURT: YOUR NEXT STRIKE, YOUR THIRD STRIKE, WAS
9 JUROR 170, NUMBER 12 ON THE LIST.

10 MS. FRANKLIN: I BELIEVE WE STRUCK HIM BECAUSE HE HAD
11 A YOUNG CHILD. WE THOUGHT THAT HE MIGHT BE OVERLY
12 SYMPATHETIC TO THE STATE'S CASE.

13 THE COURT: THE YOUNG CHILD AND WHAT ELSE?

14 MS. FRANKLIN: WE THOUGHT THAT HE MIGHT BE OVERLY
15 SYMPATHETIC TO THE FACTS IN THIS CASE; THAT HIS HAVING A
16 YOUNG CHILD MIGHT INFLUENCE HIS OPINION IN THIS CASE.

17 THE COURT: YOUR NEXT STRIKE WAS NUMBER 268, NUMBER
18 18 ON THE LIST.

19 MS. FRANKLIN: YOUR HONOR, AT THIS POINT WE DON'T
20 KNOW WHY WE STRUCK HER. YOUR HONOR, I DO NOT RECALL WHY I
21 STRUCK HER.

22 THE COURT: ALL RIGHT. YOUR NEXT STRIKE WAS JUROR
23 NUMBER 17, NUMBER 19 ON THE LIST.

24 MS. FRANKLIN: OKAY. WE BELIEVE THAT WHEN SHE CAME
25 UP TO -- WHEN SHE APPROACHED THE MICROPHONE, SHE LOOKED

1 LIKE SHE DIDN'T WANT TO BE HERE. SHE SCOWLED.

2 THE COURT: YOUR NEXT STRIKE WAS JUROR NUMBER 102,
3 NUMBER 25 ON THE LIST.

4 MS. FRANKLIN: YOUR HONOR, WE STRUCK HIM SIMPLY
5 BECAUSE HE HAD FOUR CHILDREN. AGAIN, WE THOUGHT THAT
6 WOULD MAKE HIM -- IT WOULD BE DIFFICULT FOR HIM TO SIT ON
7 A JURY INVOLVING CHILDREN.

8 THE COURT: YOUR NEXT STRIKE WAS NUMBER -- JUROR
9 NUMBER 223, NUMBER 27 ON THE LIST.

10 MS. FRANKLIN: WE STRUCK HER BECAUSE SHE WAS A SCHOOL
11 COUNSELOR.

12 THE COURT: YOUR NEXT STRIKE WAS JUROR 101, NUMBER 31
13 ON THE LIST.

14 MS. FRANKLIN: RIGHT. WE STRUCK HER BECAUSE SHE WAS
15 A BI-LO MANAGER. WE THOUGHT THAT AS A BI-LO MANAGER, SHE
16 MIGHT HAVE SOME CONTACT WITH THE CRIMINAL JUSTICE SYSTEM,
17 TO BE A PLACE WERE THERE WOULD BE SHOPLIFTINGS AND THAT
18 SORT OF THING.

19 THE COURT: ALL RIGHT. YOUR NEXT STRIKE IS JUROR
20 NUMBER 32 WHO IS NUMBER 33 ON THE LIST.

21 MS. FRANKLIN: YEAH, WE STRUCK HER BECAUSE OF HER
22 MEDIA EXPOSURE.

23 THE COURT: BECAUSE OF WHAT?

24 MS. FRANKLIN: THE MEDIA EXPOSURE. SHE CLAIMS THAT
25 SHE HAS READ ABOUT THIS RECENTLY AND IN THE PAST.

1 THE COURT: AND THEN ON THE ALTERNATE, YOUR FIRST
2 ALTERNATE, YOUR STRIKE WAS NUMBER 259, JUROR NUMBER 35 ON
3 THE LIST.

4 MS. FRANKLIN: I'M SORRY. OH, MR. WILLIAMS? BECAUSE
5 HE'S RELATED TO A LAW ENFORCEMENT OFFICER IN THIS CASE.

6 THE COURT: ALL RIGHT. AND YOU HAVE A RECIPROCAL
7 MOTION; IS THAT CORRECT?

8 MS. FRANKLIN: I DO, YOUR HONOR. I'M MAKING
9 ESSENTIALLY THE SAME -- WE'RE ALSO MAKING A BATSON
10 CHALLENGE, YOUR HONOR, BASED ON THE STATE'S USE OF SEVEN
11 STRIKES, SIX OF THEM WERE FOR AFRICAN AMERICANS.

12 THE COURT: ALL RIGHT. LET ME GET THE REASONS FOR
13 THE STRIKES FIRST, AND THEN I'M GOING TO LET YOU ALL
14 RESPOND TO YOUR VARIOUS STRIKES. I JUST WANT THE REASONS
15 TO START WITH. FIRST STRIKE IS 161, NUMBER TWO ON THE
16 LIST.

17 MS. CAMPBELL: YES, YOUR HONOR. HE'S A 22-YEAR-OLD
18 MALE LIVING IN THE NORTHEAST AREA WHERE GANG ACTIVITY IS
19 RAMPANT. WE FELT BECAUSE OF THE SIMILARITY IN AGE, WE
20 THOUGHT HE WOULD BE INTIMIDATED BEING AN INVOLVEMENT WITH
21 GANG ACTIVITY. WE CERTAINLY WILL BE EXPOSED TO IT.

22 THE COURT: THE NEXT STRIKE WAS NUMBER 196, NUMBER
23 NINE ON THE LIST.

24 MS. CAMPBELL: IS UNEMPLOYED.

25 THE COURT: YOUR NEXT STRIKE IS NUMBER 225, NUMBER 17

1 ON THE LIST.

2 MS. CAMPBELL: HAS AN ARREST FOR FRAUDULENT CHECK.
3 IN ADDITION HAS BEEN RECENTLY ARRESTED FOR DRIVING UNDER
4 SUSPENSION THIS SUMMER. HE WOULD HAVE GONE TO JAIL THIS
5 SUMMER.

6 THE COURT: THE STATE'S FOURTH STRIKE, JUROR NUMBER
7 78, NUMBER 23 ON THE LIST.

8 MS. CAMPBELL: SHE WAS LATE TO JURY SELECTION. SHE
9 IS ALSO IN THE AGE RANGE WHERE WE WERE WORRIED SHE MIGHT
10 BE INTIMIDATED OR SCARED. SHE IS IN HER EARLY 20S;
11 PRIMARILY BECAUSE SHE WAS LATE TO JURY QUALIFICATIONS.

12 THE COURT: YOUR FINAL STRIKE WAS NUMBER FIVE ON THE
13 LIST. EXCUSE ME, NUMBER 83 -- JUROR NUMBER 83, NUMBER 30
14 ON THE LIST.

15 MS. CAMPBELL: SHE WAS UNEMPLOYED. ALSO, SHE ROLLED
16 HER EYES WHEN SHE WALKED UP TO THE MICROPHONE, BUT
17 PRIMARILY TO BE CONSISTENT, SHE WAS UNEMPLOYED.

18 THE COURT: ALL RIGHT. AND GOING TO THE ALTERNATES,
19 JUROR NUMBER 128, NUMBER 36 ON THE LIST.

20 MS. CAMPBELL: WE HAD TO STRIKE HER BECAUSE SHE WAS
21 UNEMPLOYED, TO BE CONSISTENT.

22 THE COURT: AND JUROR NUMBER 51, 38 ON THE LIST.

23 MS. CAMPBELL: HAD A '97, I BELIEVE, ARREST FOR
24 CRIMINAL DOMESTIC VIOLENCE.

25 I WOULD NOTE FOR THE RECORD THE ONLY OTHER PERSON

1 WITH ANY KIND OF RECORD IS BRIAN MESSERSCHMIDT, AND WE
2 WERE OUT OF STRIKES WHEN WE GOT TO HIM. THAT WAS A
3 TACTICAL -- AND HE HAD GOTTEN P.T.I., I BELIEVE BACK IN
4 THE EARLY '70S.

5 THE COURT: ALL RIGHT. LET ME ASK BEFORE I HEAR ANY
6 RESPONSES. ON A COUPLE OF THE DEFENSE STRIKES BECAUSE
7 THEY HAD YOUNG CHILDREN, MS. FRANKLIN, AS AN OFFICER OF
8 THE COURT, ARE YOU AWARE OF ANY JURORS WHO HAVE BEEN
9 SEATED WHO HAVE YOUNG CHILDREN?

10 MS. FRANKLIN: I'M NOT SURE, YOUR HONOR. I'M NOT
11 FAMILIAR ENOUGH WITH THE WHOLE JURY LIST TO KNOW THAT.

12 THE COURT: ALL RIGHT. SOLICITOR, IF YOU'D LIKE TO
13 RESPOND TO ANY OF THE DEFENSE STRIKES.

14 MS. CAMPBELL: YOUR HONOR, NUMBER THREE HAS FOUR
15 CHILDREN. I'M GOING OFF -- WHICH NUMBER DO YOU WANT ME TO
16 GO ON SO I CAN KNOW?

17 THE COURT: WELL, YOU CAN RESPOND HOWEVER YOU WOULD
18 LIKE. YOU HEARD WHAT THE VARIOUS REASONS WERE.

19 MS. CAMPBELL: YES, YOUR HONOR. WE SPECIFICALLY
20 TAKE -- WE WILL CONCEDE SOME OF THEM. IT'S JUST JUROR
21 NUMBER 170, 268, 17, 102, AND 101, WE WOULD SAY THEY WERE
22 NOT RACIALLY NEUTRAL. THE REST OF THEM, LET ME CHECK.

23 THE COURT: WELL WAIT A MINUTE. GIVE ME THOSE
24 NUMBERS AGAIN. GO SLOWLY.

25 MS. CAMPBELL: 170.

1 THE COURT: ONE WHAT?

2 MS. CAMPBELL: 170, WHO IS THE JUROR WHO HAD THE
3 YOUNG CHILD, SO SHE SAYS.

4 THE COURT: ALL RIGHT.

5 MS. CAMPBELL: 268, WHO IS THE MORTGAGE LOAN PERSON
6 FROM BB&T.

7 THE COURT: ALL RIGHT.

8 MS. CAMPBELL: NUMBER 17, I BELIEVE SHE SAID SHE
9 SCOWLED. I DON'T KNOW IF THAT'S TRUE.

10 NUMBER 102.

11 THE COURT: WHAT'S THE DIFFERENCE IN SCOWLING AND
12 ROLLING THEIR EYES?

13 MS. CAMPBELL: I'LL CONCEDE THAT ONE.

14 NUMBER 102 AND NUMBER 101, SPECIFICALLY ON ONE OF
15 THEM, I BELIEVE IT WAS 268, SHE SAID SHE DIDN'T KNOW WHY
16 SHE STRUCK HER.

17 AS FAR AS OTHER JURORS ON HERE THAT HAVE CHILDREN,
18 YOUR HONOR, THAT SHE PUT ON THEM, IT'S JUROR NUMBER -- DO
19 YOU WANT ME TO USE THE NUMBERS ON THE LIST OR THE JURY
20 NUMBER?

21 THE COURT: AS LONG AS YOU CAN TELL ME.

22 MS. CAMPBELL: THE JUROR NUMBER 97, NUMBER THREE ON
23 THE LIST; NUMBER 36, WHO IS NUMBER 13 ON THE LIST; NUMBER
24 238.

25 THE COURT: ALL RIGHT. WHAT ABOUT THAT ONE?

1 MS. CAMPBELL: SHE HAS A CHILD. NUMBER 238 HAS TWO
2 CHILDREN; NUMBER 26 HAS ONE CHILD, AND THERE MAY BE MORE,
3 YOUR HONOR. I JUST HAVEN'T HAD A CHANCE TO GO THROUGH IT.
4 NUMBER 253, YOUR HONOR, THAT'S AN ALTERNATE, SHE HAS TWO
5 CHILDREN.

6 MAYBE IF I'M AWARE -- I'M NOT SURE WHY SHE THINKS HE
7 HAS A YOUNG CHILD OR WOULD HAVE A YOUNGER CHILD THAN
8 ANYONE ELSE, IF THAT'S RELEVANT. I MEAN, IF THAT'S PART
9 OF HER ANALOGY, JUST SO I KNOW.

10 THE COURT: WHICH ONE?

11 MS. CAMPBELL: THAT'S THE REASON SHE GAVE FOR THE
12 MANAGER, NUMBER 170. SHE SAYS HE HAS A YOUNG CHILD. I'M
13 NOT AWARE OF THE CHILD'S AGE.

14 THE COURT: ALL RIGHT. THE BURDEN NOW SHIFTS BACK TO
15 YOU, MS. FRANKLIN.

16 MS. FRANKLIN: YES, YOUR HONOR. I MEAN, LIKE I SAY,
17 YOU KNOW, WITHOUT PULLING SOME VOIR DIRE, AND DOING JURY
18 SELECTION IS A LOT LIKE READING TEA LEAVES. SOMETIMES WE
19 PICK SOMETHING THAT WE THINK MAY HAVE SOME EFFECT. YOU
20 KNOW, HAVING A YOUNG CHILD -- I FIGURED HE HAD A YOUNG
21 CHILD BECAUSE HE'S 29, SO WE'RE ASSUMING HE'S A YOUNG
22 CHILD.

23 WE DID NOT EXCLUDE THEM BECAUSE THEY WERE WHITE.
24 WE -- I THINK WE ARTICULATED -- I CANNOT REMEMBER WHY WE
25 EXCLUDED SHELLEY PRICE SPECIFICALLY, BUT WE BELIEVE THAT

1 THE GROUNDS THAT WE PUT FORWARD HAVE BEEN RACE NEUTRAL.

2 THE COURT: ALL RIGHT. NOW, LET ME HEAR YOUR
3 RESPONSE TO THEIR STRIKES. I DON'T THINK I'VE HEARD THAT
4 YET.

5 MS. FRANKLIN: YOUR HONOR, JUST WITH RESPECT TO AT
6 LEAST TWO OF THEM, WE BELIEVE THAT -- WE BELIEVE THAT
7 MR. JOHNSON O'QUEEN -- MCQUEEN, EXCUSE ME, THE STATE
8 ALLEGES THAT THEY THOUGHT HE MIGHT BE INTIMIDATED BECAUSE
9 HE'S FROM THE NORTHEAST, AND THERE'S A LOT OF GANG
10 ACTIVITY OUT THERE.

11 YOUR HONOR ADDRESSED THAT IN VOIR DIRE, I THINK, WHEN
12 HE INQUIRED AS TO WAS ANYONE CONCERNED ABOUT THE NATURE OF
13 THE CHARGES. HE CERTAINLY DIDN'T STAND UP AT THAT POINT,
14 SO WE WOULD ARGUE THAT THAT IS PRETEXTUAL. I BELIEVE THE
15 PERSON WHO IS NUMBER 70.

16 THE COURT: THAT WAS JUROR NUMBER 70, NUMBER 23 ON
17 THE LIST.

18 MS. FRANKLIN: NUMBER 78, AGAIN, THE SAME ARGUMENT.
19 I BELIEVE THAT YOUR HONOR INQUIRED AS TO WHETHER OR NOT
20 ANYONE WAS INTIMIDATED BY THE NATURE OF THE ALLEGATIONS.
21 THERE WAS NO RESPONSE. AGAIN, WE WOULD ARGUE THAT'S
22 PRETEXTUAL.

23 YOUR HONOR, AS TO PEOPLE WHO ARE UNEMPLOYED, I'M NOT
24 SURE THAT THEY DON'T HAVE A RIGHT TO SIT ON JURIES. I
25 DON'T KNOW WHY THAT IS AN APPROPRIATE BASIS FOR EXCLUDING

1 SOMEBODY. AGAIN, WE WOULD ARGUE THAT THAT IS PRETEXTUAL.
2 AS TO THE ARREST, THAT MAKES SENSE TO ME.

3 THE COURT: HOW IS IT PRETEXTUAL WHEN IT WAS APPLIED
4 UNIFORMLY THROUGHOUT?

5 MS. FRANKLIN: I'M UNAWARE OF HOW MANY ARE UNEMPLOYED
6 AND HOW MANY EMPLOYED WERE STRUCK. I DON'T KNOW WHETHER
7 OR NOT IT WAS UNIFORMLY APPLIED. I KNOW THAT THE STATE
8 USED FOR I BELIEVE TWO OF THEM BASED ON UNEMPLOYMENT.

9 I DO NOT KNOW WHETHER EVERYONE ELSE ON OUR JURY LIST
10 WHO IS NOT -- WHO CAME UP BEFORE THE COURT, YOUR HONOR,
11 WHETHER OR NOT THEY WERE ALL EMPLOYED.

12 THE COURT: ALL RIGHT. BASED ON THE ARGUMENTS THAT
13 HAVE BEEN MADE AS TO THE DEFENSE'S NINE STRIKES, ON JUROR
14 NUMBER 170, NUMBER 12 ON THE LIST; JUROR NUMBER 268, WHO
15 IS NUMBER 19 ON THE LIST; JUROR NUMBER 102, WHO IS NUMBER
16 25 ON THE LIST, THE REASONS ARE INSUFFICIENT. TWO OF
17 THOSE HAVE YOUNG CHILDREN.

18 THE STATE HAS ESTABLISHED THAT THERE WERE A NUMBER OF
19 OTHER JURORS WHO, IN FACT, WERE SEATED WHO HAD YOUNG
20 CHILDREN, SO FOR THAT REASON, THOSE WOULD BE IMPROPER.

21 THE LAW REQUIRES AN ARTICULABLE RACE, GENDER, OR AGE
22 NEUTRAL REASON FOR STRIKE. NO REASON WAS GIVEN ON JUROR
23 268, NUMBER 18 ON THE LIST. FOR THAT REASON THOSE THREE
24 WERE IMPROPER.

25 AS TO THE STATE'S STRIKES, I FIND INSUFFICIENT REASON

1 FOR JUROR 161, NUMBER TWO ON THE LIST. THE OTHERS CAN
2 STAND. THE REASON I HAVE TO MAKE THOSE FINDINGS IS
3 BECAUSE AS TO THOSE FOUR JURORS, WE GO BACK THROUGH JURY
4 SELECTION, THOSE CANNOT BE STRICKEN BECAUSE YOU HAVE GIVEN
5 ME UNDER THE LAW EVERY REASON THAT YOU HAVE FOR STRIKING
6 THOSE JURORS. I HAVE MADE A FINDING THAT THAT WAS
7 INSUFFICIENT, SO WE WILL STRIKE ANOTHER JURY WITH THIS
8 SAME PANEL.

9 THOSE WHO WERE DISQUALIFIED BY THE COURT OR SENT BACK
10 DOWNSTAIRS, THEY WERE TAKEN OUT. WHEN THEY COME IN, THEY
11 SHOULD NOT BE IN HERE.

12 BEFORE WE STRIKE A JURY, AGAIN, I HAVE A NOTE FROM A
13 JUROR WHO NEEDS TO SPEAK TO MS. SCOTT. I DON'T KNOW A
14 WHAT ELSE.

15 MS. SCOTT, I'LL LET YOU SPEAK TO THE JUROR. WE'LL
16 TAKE A BRIEF RECESS, THREE OR FOUR MINUTES, UNTIL WE DO IT
17 AGAIN.

18 (WHEREUPON, A SHORT BREAK WAS TAKEN.)

19 THE COURT: FOLKS, YOU CAN GO AHEAD AND HAVE A SEAT
20 BACK OUT HERE WHERE YOU WERE, BACK OUT HERE.

21 (WHEREUPON, THE JURY CAME INTO OPEN COURT AT
22 APPROXIMATELY 4:51 P.M.)

23 THE COURT: ALL RIGHT. LADIES AND GENTLEMEN, AS A
24 RESULT OF SOME MATTERS OF LAW THAT I'VE TAKEN UP WITH THE
25 ATTORNEYS, WE'RE GOING TO GO BACK THROUGH THE JURY

1 SELECTION PROCESS. AGAIN, THE SAME PROCEDURE. IF YOU
2 WILL DOWN TO THE FRONT OF THE COURTROOM, WE'LL PROCEED.

3 MADAM CLERK?

4 THE CLERK: THANK YOU, YOUR HONOR, NUMBER 236.

5 PROSPECTIVE JUROR: REAL ESTATE MARKING.

6 THE CLERK: WHAT SAYS THE STATE?

7 MS. CAMPBELL: PLEASE PRESENT THE JUROR.

8 THE CLERK: WHAT SAYS THE DEFENSE?

9 MS. FRANKLIN: PLEASE EXCUSE THIS JUROR.

10 THE CLERK: PLEASE HAVE A SEAT IN THE BACK OF THE
11 COURTROOM.

12 NUMBER 161.

13 PROSPECTIVE JUROR: I'M A TRAINER.

14 THE CLERK: WHAT SAYS THE STATE?

15 MS. CAMPBELL: PLEASE PRESENT THE JUROR.

16 THE CLERK: WHAT SAYS THE DEFENSE?

17 MS. FRANKLIN: PLEASE SEAT THE JUROR.

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

19 NUMBER 97.

20 PROSPECTIVE JUROR: SENIOR SYSTEMS ANALYST, BLUE
21 CROSS, BLUE SHIELD.

22 THE CLERK: WHAT SAYS THE STATE?

23 MS. CAMPBELL: PLEASE PRESENT THE JUROR.

24 THE CLERK: WHAT SAYS THE DEFENSE?

25 MS. FRANKLIN: PLEASE SEAT THIS JUROR.

1 THE CLERK: PLEASE HAVE A SEAT IN THE JURY BOX.
2 NUMBER 172.

3 PROSPECTIVE JUROR: RECENTLY GRADUATED FROM COLLEGE,
4 PURSUING A CAREER IN GRAPHIC DESIGN AND ILLUSTRATION.

5 THE CLERK: WHAT SAYS THE STATE?

6 MS. CAMPBELL: PLEASE PRESENT THE JUROR.

7 THE CLERK: WHAT SAYS THE DEFENSE?

8 MS. FRANKLIN: PLEASE PRESENT THIS JUROR.

9 THE CLERK: NUMBER 157.

10 PROSPECTIVE JUROR: I PRINT.

11 THE CLERK: WHAT SAYS THE STATE?

12 MS. CAMPBELL: PLEASE PRESENT THE JUROR.

13 THE CLERK: WHAT SAYS THE DEFENSE?

14 MS. FRANKLIN: PLEASE EXCUSE THIS JUROR.

15 THE CLERK: PLEASE HAVE A SEAT IN THE BACK OF THE
16 COURTROOM.

17 NUMBER 196.

18 PROSPECTIVE JUROR: UNEMPLOYED.

19 THE CLERK: WHAT SAYS THE STATE?

20 MS. CAMPBELL: PLEASE EXCUSE THE JUROR.

21 THE CLERK: PLEASE HAVE A SEAT IN THE BACK OF THE
22 COURTROOM.

23 NUMBER 103.

24 PROSPECTIVE JUROR: ASSOCIATE PASTOR AND NANNY.

25 THE CLERK: WHAT SAYS THE STATE?

1 MS. CAMPBELL: PLEASE PRESENT THE JUROR.

2 THE CLERK: WHAT SAYS THE DEFENSE?

3 MS. FRANKLIN: PLEASE EXCUSE THIS JUROR.

4 THE CLERK: PLEASE HAVE A SEAT IN THE BACK OF THE
5 COURTROOM.

6 NUMBER 170.

7 PROSPECTIVE JUROR: SALES MANAGER, HONDA MOTORCYCLES.

8 THE CLERK: WHAT SAYS THE STATE?

9 MS. CAMPBELL: PLEASE PRESENT THE JUROR.

10 THE CLERK: WHAT SAYS THE DEFENSE?

11 MS. FRANKLIN: PLEASE SEAT THIS JUROR.

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

13 NUMBER 36.

14 PROSPECTIVE JUROR: SWITCH ADMINISTRATOR.

15 THE CLERK: WHAT SAYS THE STATE?

16 MS. CAMPBELL: PLEASE PRESENT THE JUROR.

17 THE CLERK: WHAT SAYS THE DEFENSE?

18 MS. FRANKLIN: PLEASE PRESENT THIS JUROR.

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

20 NUMBER 44.

21 PROSPECTIVE JUROR: ASSISTANT TELLER.

22 THE CLERK: WHAT SAYS THE STATE?

23 MS. CAMPBELL: PLEASE PRESENT THE JUROR.

24 THE CLERK: WHAT SAYS THE DEFENSE?

25 MS. FRANKLIN: PLEASE SEAT THIS JUROR.

1 THE CLERK: PLEASE HAVE A SEAT IN THE JURY BOX.
2 NUMBER 225.

3 PROSPECTIVE JUROR: LIFE CLAIMS EXAMINER.

4 THE CLERK: WHAT SAYS THE STATE?

5 MS. CAMPBELL: PLEASE EXCUSE THE JUROR.

6 THE CLERK: PLEASE HAVE A SEAT IN THE BACK OF THE
7 COURTROOM.

8 NUMBER 268.

9 PROSPECTIVE JUROR: MORTGAGE LOAN PROCESSOR.

10 THE CLERK: WHAT SAYS THE STATE?

11 MS. CAMPBELL: PLEASE PRESENT THE JUROR.

12 THE CLERK: WHAT SAYS THE DEFENSE?

13 MS. FRANKLIN: PLEASE SEAT THIS JUROR.

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

15 NUMBER 17.

16 PROSPECTIVE JUROR: CUSTOMER SERVICE REP.

17 THE CLERK: WHAT SAYS THE STATE?

18 MS. CAMPBELL: PLEASE PRESENT THIS JUROR.

19 THE CLERK: WHAT SAYS THE DEFENSE?

20 MS. FRANKLIN: PLEASE STRIKE THIS JUROR.

21 THE CLERK: PLEASE HAVE A SEAT IN THE BACK OF THE
22 COURTROOM.

23 NUMBER 238.

24 PROSPECTIVE JUROR: NURSE PRACTITIONER.

25 THE CLERK: WHAT SAYS THE STATE?

1 MS. CAMPBELL: PLEASE PRESENT THE JUROR.

2 THE CLERK: WHAT SAYS THE DEFENSE?

3 MS. FRANKLIN: PLEASE SEAT THIS JUROR.

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

5 NUMBER 26.

6 PROSPECTIVE JUROR: SUPERVISOR, ADVANCE INDIVIDUAL
7 TRAINING.

8 THE CLERK: WHAT SAYS THE STATE?

9 MS. CAMPBELL: PLEASE PRESENT THE JUROR.

10 THE CLERK: WHAT SAYS THE DEFENSE?

11 MS. FRANKLIN: PLEASE PRESENT THE JUROR.

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

13 NUMBER 78.

14 PROSPECTIVE JUROR: RESTAURANT HOSTESS.

15 THE CLERK: WHAT SAYS THE STATE?

16 MS. CAMPBELL: PLEASE EXCUSE THE JUROR.

17 THE CLERK: PLEASE HAVE A SEAT IN THE BACK OF THE
18 COURTROOM.

19 NUMBER 252.

20 PROSPECTIVE JUROR: CONSTRUCTION MANAGER.

21 THE CLERK: WHAT SAYS THE STATE?

22 MS. CAMPBELL: PLEASE PRESENT THE JUROR.

23 THE CLERK: WHAT SAYS THE DEFENSE?

24 MS. FRANKLIN: PLEASE PRESENT THE JUROR.

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

1 NUMBER 102.

2 PROSPECTIVE JUROR: MANAGER WITH SCANA CORPORATION.

3 THE CLERK: WHAT SAYS THE STATE?

4 MS. CAMPBELL: PLEASE PRESENT THE JUROR.

5 THE CLERK: WHAT SAYS THE DEFENSE?

6 MS. FRANKLIN: PLEASE SEAT THIS JUROR.

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

8 NUMBER 180.

9 PROSPECTIVE JUROR: I'M DISABLED.

10 THE CLERK: WHAT SAYS THE STATE?

11 MS. CAMPBELL: PLEASE PRESENT THE JUROR.

12 THE CLERK: WHAT SAYS THE DEFENSE?

13 MS. FRANKLIN: PLEASE SEAT THE JUROR.

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

15 THE COURT: ALL RIGHT. SELECT FIRST ALTERNATE.

16 THE CLERK: NUMBER 223.

17 PROSPECTIVE JUROR: SCHOOL COUNSELOR.

18 THE CLERK: WHAT SAYS THE STATE?

19 MS. CAMPBELL: PLEASE PRESENT THE JUROR.

20 THE CLERK: WHAT SAYS THE DEFENSE?

21 MS. FRANKLIN: PLEASE SEAT THIS JUROR.

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

23 THE COURT: SELECT ANOTHER ALTERNATE.

24 THE CLERK: NUMBER 231.

25 PROSPECTIVE JUROR: COMPUTER I.T. CONSULTANT.

1 THE CLERK: WHAT SAYS THE STATE?

2 MS. CAMPBELL: PLEASE PRESENT THE JUROR.

3 THE CLERK: WHAT SAYS THE DEFENSE?

4 MS. FRANKLIN: PLEASE SEAT THIS JUROR.

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

6 THE COURT: ALL RIGHT. ANY MATTERS OF LAW, ANY
7 MOTIONS CONCERNING THE STRIKING OF THE JURY?

8 MS. CAMPBELL: NO, SIR.

9 THE COURT: FROM THE STATE? FROM THE DEFENSE?

10 MS. FRANKLIN: NO, YOUR HONOR.

11 THE COURT: ALL RIGHT. THOSE OF YOU WHO HAVE NOT
12 BEEN SELECTED, IF YOU WILL RETURN DOWNSTAIRS.

13 EVERYONE ELSE REMAIN SEATED.

14 WAIT JUST ONE SECOND. WAIT ONE SECOND.

15 (PAUSE).

16 BETTER NEWS THAN THAT, BE IN THE BIG ROOM DOWNSTAIRS
17 AT 9:30 TOMORROW. YOU'RE DONE FOR TODAY.

18 EVERYONE ELSE STAY SEATED, PLEASE.

19 (WHEREUPON, THE UNSELECTED MEMBERS OF THE JURY LEFT
20 THE COURTROOM.)

21 COUNSEL, WHILE THEY'RE EXITING, COME UP AND LET ME
22 SPEAK TO YOU JUST FOR SCHEDULING PURPOSES.

23 (WHEREUPON, A BENCH CONFERENCE WAS HELD IN THE
24 PRESENCE, BUT NOT WITHIN THE HEARING, OF THE JURY).

25 THE COURT: LADIES AND GENTLEMEN, YOU HAVE BEEN

1 SELECTED AS A JURY IN THIS CASE. THE TRIAL IS GOING TO
2 START TOMORROW, BUT BEFORE I LET YOU GO, I NEED TO GIVE
3 YOU A LITTLE INFORMATION.

4 NUMBER ONE, AT THIS TIME I AM GOING TO ORDER YOU NOT
5 TO WATCH OR READ OR LISTEN OR DISCUSS THIS CASE WITH
6 ANYBODY, ANY ASPECT OF IT. THAT HOLDS TRUE EVEN FOR YOUR
7 FELLOW JURORS.

8 YOU CANNOT DISCUSS THE CASE AT ANY TIME WITH ANYBODY.
9 YOU CAN'T READ ANYTHING IN THE PAPER ABOUT IT. YOU CAN'T
10 WATCH ANYTHING ON TELEVISION ABOUT IT. YOU CAN'T LISTEN
11 TO ANYTHING ON THE RADIO ABOUT IT. YOU CAN'T DISCUSS IT
12 WITH ANYONE.

13 THOSE OF YOU WHO HAVE FAMILY OR SPOUSES OR CHILDREN
14 WHO KNOW YOU HAVE GOT JURY SERVICE OR FRIENDS, I CAN
15 PRETTY MUCH GUARANTEE YOU IN THE NEXT 30, 45 MINUTES WHEN
16 YOU GET HOME, YOU'RE GOING TO GET PEPPERED WITH QUESTIONS,
17 "DID YOU GET PICKED ON A JURY? WHAT KIND OF CASE IS IT?"
18 THINGS LIKE THAT.

19 YOU CAN TELL THEM YOU'RE ON A JURY, AND YOU CAN TELL
20 THEM THE JUDGE SAID YOU CAN'T SAY ANYTHING BEYOND THAT.
21 IT WOULD BE IMPROPER TO DO THAT.

22 DURING THE TRIAL, PROBABLY SEVERAL TIMES DURING THE
23 TRIAL, I'LL ASK YOU JUST TO BE SURE YOU'VE BEEN ABLE TO
24 COMPLY WITH THOSE INSTRUCTIONS.

25 AGAIN, THE REASON FOR THAT IS WE SIMPLY DON'T WANT

1 YOU TO READ OR WATCH SOMETHING ABOUT THE CASE THAT WOULD
2 HAVE SOME IMPACT ON YOUR DECISION MAKING ABILITY.

3 WE DON'T WANT SOMEONE TO SAY SOMETHING OR MAKE SOME
4 COMMENT TO YOU THAT WOULD IMPACT YOUR DECISION MAKING
5 ABILITY. YOU'RE THE ONLY 12 FOLKS WHO HAVE BEEN SELECTED
6 TO MAKE DECISIONS IN THIS CASE. IT HAS TO BE BASED ONLY
7 ON THE EVIDENCE THAT'S PRESENTED HERE IN THIS COURTROOM.

8 NOW, HAVING GIVEN YOU THOSE INSTRUCTIONS, AND I'LL BE
9 TELLING YOU THAT EVERY TIME WE TAKE A BREAK, EVERY TIME WE
10 BREAK FOR THE DAY AND BEGIN ALL FOLLOW UP TO MAKE SURE
11 YOU'RE ABLE TO COMPLY WITH THAT.

12 NOW, I'M GOING TO SEND YOU HOME FOR THE DAY. WE'RE
13 GOING TO START THE TRIAL AT TEN O'CLOCK IN THE MORNING.
14 I'M BRINGING THE LAWYERS IN AT NINE O'CLOCK. WE HAVE GOT
15 SOME PRETRIAL MATTERS WE NEED TO TAKE CARE OF.

16 THEY'RE GOING TO COME BACK AT NINE, AND YOU WILL NEED
17 TO COME BACK AT TEN. WHEN YOU GET HERE AT TEN, YOU'LL
18 COME STRAIGHT HERE IN THE JURY ROOM IN THE MORNING.

19 I THINK THEY WANT YOU TO GO THROUGH AND GET SCANNED,
20 IS THAT RIGHT, DOWNSTAIRS?

21 THE CLERK: YES, SIR.

22 THE COURT: THEN JUST COME STRAIGHT ON UP HERE TO
23 YOUR JURY ROOM. THE BAILIFF WILL SHOW YOU WHERE THAT IS
24 IN JUST A FEW MINUTES.

25 WHEN I AM NOTIFIED IN THE MORNING THAT ALL OF YOU ARE

1 HERE, I WILL SEND WORD TO YOU TO SELECT A FOREMAN OR A
2 FORELADY.

3 IN SOUTH CAROLINA, THERE ARE TWO DIFFERENT WAYS OF
4 HAVING A JURY FOREMAN OR FORELADY SELECTED. ONE IS TO
5 SIMPLY PICK ONE OF YOU AND THE OTHER IS TO LET YOU, THE
6 JURY, DISCUSS AMONG THEMSELVES WHO THEY WOULD LIKE THAT
7 PERSON TO BE.

8 NOW, YOUR FOREMAN OR THE FORELADY, THEIR VOTE IS NO
9 MORE IMPORTANT THAN ANY OTHER MEMBER OF THE JURY, BUT THAT
10 PERSON WILL PRESIDE IN THE JURY ROOM AND BE THE
11 SPOKESPERSON FOR THE JURY.

12 ALL OF YOU, WHEN YOU GET HERE IN THE MORNING, THE
13 BAILIFF WILL NOTIFY ME YOU'RE HERE. I'M GOING TO SEND
14 WORD TO DISCUSS, TO DECIDE WHO YOU WANT YOUR FOREMAN OR
15 FORELADY TO BE. WRITE THAT NAME ON A SLIP OF PAPER AND
16 HAND IT TO THE BAILIFF.

17 WHEN WE GET STARTED IN THE MORNING, I'LL APPOINT THAT
18 PERSON. WHOEVER THAT PERSON IS WILL TAKE THE FIRST SEAT
19 IN THE FRONT ROW AND KEEP THAT SEAT THROUGHOUT THE TRIAL,
20 WHERE THE GENTLEMAN IN THE GREEN IS RIGHT THERE. THAT IS
21 WHERE YOUR FOREMAN OR FORELADY WILL BE SITTING.

22 THEN MY TWO ALTERNATE JURORS ON THE BACK ROW, IF YOU
23 TWO FOLKS WILL STAY ON THE BACK ROW WHEN WE COME BACK FOR
24 THE TRIAL. THE REST OF YOU CAN SIT WHEREVER YOU WOULD
25 LIKE TO IN THE JURY BOX AS YOU COME AND GO. I DO NEED MY

1 FOREPERSON AND THE ALTERNATES TO SIT IN THOSE DESIGNATED
2 SEATS.

3 WITH THOSE INSTRUCTIONS, AGAIN, I'M GOING TO LET YOU
4 GO FOR THE DAY. THE BAILIFF IS GOING TO SHOW YOU WHERE
5 THE JURY ROOM IS SO YOU WILL KNOW WHERE YOU NEED TO COME
6 TOMORROW MORNING. BE HERE AT TEN O'CLOCK. WE CAN'T DO
7 ANYTHING UNTIL THE ENTIRE JURY IS HERE.

8 AGAIN, DON'T WATCH, LISTEN, TALK, OR READ ANYTHING
9 ABOUT THE CASE. WHEN YOU GET BACK IN THE MORNING, YOU
10 WILL SELECT A FOREPERSON. I'LL MAKE A FEW BRIEF COMMENTS
11 TO YOU, AND THEN WE'LL GET STARTED WITH THE TRIAL.

12 HAVE A GOOD EVENING. BE BACK IN THE MORNING AT TEN
13 O'CLOCK IN THE MORNING, PLEASE.

14 EVERYONE ELSE STAY SEATED.

15 (WHEREUPON, THE JURY LEFT OPEN COURT AT APPROXIMATELY
16 5:08 P.M.)

17 THE COURT: ARE THERE ANY MATTERS WE NEED TO DISCUSS
18 TODAY RATHER THAN IN THE MORNING AT NINE O'CLOCK? I'M NOT
19 AWARE OF ANY. I JUST WANT TO MAKE SURE YOU ALL.

20 MS. FRANKLIN: NONE FROM THE DEFENSE, YOUR HONOR.

21 THE COURT: WE'LL START AT NINE O'CLOCK IN THE
22 MORNING WITH THE OTHER PRETRIAL MATTERS.

23 LET'S GET AHEAD AND GET ON THE RECORD THAT THE
24 TRANSCRIPT FROM THE AUGUST -- WE STARTED THE TRIAL AUGUST
25 28TH. I HAVE A COPY OF IT HERE. WITH THE CONSENT OF BOTH

1 PARTIES, IT WILL BE MADE A PART OF THIS RECORD. I'LL HAVE
2 IT MARKED AS A COURT'S EXHIBIT, AND IT WILL BE
3 INCORPORATED INTO ANY TESTIMONY OR ANY MOTIONS TO BE HEARD
4 TOMORROW; IS THAT CORRECT, MS. FRANKLIN?

5 MS. FRANKLIN: THAT'S CORRECT, YOUR HONOR.

6 THE COURT: IS THAT CORRECT, MS. CAMPBELL?

7 MS. CAMPBELL: YES, YOUR HONOR.

8 THE COURT: ALL RIGHT. I'LL HAVE IT MARKED AS
9 COURT'S EXHIBIT NUMBER ONE. WE'LL STAND IN RECESS UNTIL
10 NINE O'CLOCK.

11 (WHEREUPON, COURT'S EXHIBIT NO. 1 WAS MARKED FOR
12 IDENTIFICATION ONLY.)

13 (THERE WAS AN OVERNIGHT RECESS.)

14 (WHEREUPON, DEFENDANT'S EXHIBITS NOS. 1 - 4 WERE
15 MARKED FOR IDENTIFICATION ONLY.)

16 (WHEREUPON, STATE'S EXHIBITS NOS. 1 - 49 WERE MARKED
17 FOR IDENTIFICATION ONLY.)

18 THE COURT: ALL RIGHT. WE WILL START WITH THE
19 PRETRIAL MATTERS.

20 MS. FRANKLIN: I THINK WE'RE WAITING FOR THE
21 DEFENDANT TO BE --

22 THE COURT: IS HE HERE?

23 THE DEPUTY: YES, SIR. HE'S HERE. WE'RE GETTING
24 READY.

25 (WHEREUPON, THE DEFENDANT WAS BROUGHT INTO THE

1 COURTROOM.)

2 THE COURT: ALL RIGHT. MS. FRANKLIN?

3 MS. FRANKLIN: YES, YOUR HONOR, MAY IT PLEASE THE
4 COURT. WHEN I FILED A PRETRIAL MOTION YESTERDAY
5 REQUESTING THAT YOUR HONOR SORT OF REVISIT THE NEAL V.
6 BIGGERS RULING THAT YOU MADE WHEN THIS CASE WAS CALLED
7 AUGUST 28TH, 2006.

8 REQUESTING THE NEAL V. BIGGERS HEARING, AT THAT TIME
9 THE COURT OFFERED A COPY OF THE CASE STATE VS. MCLEOD AND
10 THAT LINE OF CASES WERE NOT IMPLICATED WHEN THE WITNESS
11 ALREADY KNOWS THE DEFENDANT.

12 THE STATE ASSERTED THAT THE COURT DIDN'T NEED TO HAVE
13 A FULL NEAL V. BIGGERS HEARING ON THE MATTER IF THEY CAN
14 SHOW THE WITNESS IN THIS CASE, TYRONE SMITH, KNEW THE
15 DEFENDANT PRIOR TO THIS INCIDENT.

16 I, OF COURSE, OBJECTED PRIOR TO THAT POINT, PUT FORTH
17 TWO OBJECTIONS ON THE RECORD, THE FIRST BASIS THAT I
18 DIDN'T BELIEVE TYRONE SMITH AND CHRISTOPHER LIVERMAN KNEW
19 ONE ANOTHER, AND TWO, IN THIS CASE WE STILL HAVE A WITNESS
20 WHO WAS PRETTY FAR AWAY.

21 TYRONE SMITH WAS WATCHING THESE EVENTS FROM AN
22 UPSTAIRS WINDOW AS THE SHOOTINGS WERE OCCURRING. I
23 THOUGHT THAT FACTUALLY ESTABLISHED A CLOUD SINCE IN THAT
24 CASE THERE WAS A CLOSE INTIMATE PERCEPTION OF THE
25 DEFENDANT WHO THE WITNESS KNEW.

1 THEN YOUR HONOR ESTABLISHED WHATEVER RELATIONSHIP OR
2 KNOWLEDGE EXISTED, AND YOU DECIDED WHETHER THAT EXISTED.
3 DURING THAT HEARING, HE TEMPERED THAT ONE: HE HAD SEEN
4 CHRIS LIVERMAN WHOSE NAME HE DID NOT KNOW THREE TO FOUR
5 DAYS, ROUGHLY SEVEN YEARS AGO, BACK WHEN THEY WERE
6 CHILDREN; TWO, THAT HE HAD SEEN HIM ON TWO OCCASIONS
7 WORKING AT MCDONALD'S. HE TESTIFIED HE DID NOT SPEAK TO
8 HIM AT THAT TIME AND STILL DID NOT KNOW HIS NAME; THREE,
9 HE CLAIMS HE SAW HIM THE MORNING OF THE SHOOTING FROM TWO
10 HOUSES AWAY. HE SAID HE DID NOT SPEAK TO HIM AND DID NOT
11 KNOW HIS NAME.

12 THE PROCEEDING BROUGHT IT WITHIN THE SCOPE OF THE
13 CLOUD FOR THE REASONS THAT I ARTICULATED LATER. AT THAT
14 TIME YOUR HONOR STATED -- FROM THE TRANSCRIPT, "IN LOOKING
15 AT THE CASE I WAS HANDED UP BY THE STATE, STATE V. MCLEOD,
16 IT COMES CLOSER TO THAT, BUT TO EXAMINE THE TOTALITY OF
17 THE CIRCUMSTANCES, I THINK I NEED TO HEAR EXACTLY WHAT WAS
18 GOING ON AT THE TIME IT WAS MADE. FOR THAT REASON, I'LL
19 LET THE STATE CONTINUE THE EXAMINATION." THAT'S FROM THE
20 TRANSCRIPT PAGE 86.

21 AT THAT POINT, MS. FENT CONTINUED HER
22 CROSS-EXAMINATION OF TYRONE SMITH SHOWING THE ACTUAL
23 SHOW-UP IDENTIFICATION OF CHRIS LIVERMAN THAT OCCURRED IN
24 THE CUT.

25 AT THE CONCLUSION MS. FENT INQUIRED, "YOUR HONOR, CAN

1 I INQUIRE IF THAT IS SUFFICIENT FOR THE GROUNDS YOU'RE
2 WANTING INFORMATION?"

3 THE COURT REPLIED THAT, "YES, I NEEDED TO HEAR MORE
4 INFORMATION ABOUT THE CASE ITSELF, AND I'LL GO THERE AND
5 YOU CAN REDIRECT IF YOU FEEL THAT'S NECESSARY."

6 IN THE EVENT YOU RULED ESSENTIALLY THAT ONE, THE
7 RELATIONSHIP OR AT LEAST A KNOWLEDGE EXISTED AND WHETHER
8 IT WAS SUFFICIENT KNOWLEDGE WOULD GO TO THE WEIGHT AND NOT
9 THE ADMISSIBILITY OF THE TESTIMONY AND THAT TWO,
10 SUFFICIENT EVIDENCE WAS SHOWN BY THE STATE UNDERSTOOD THE
11 TOTALITY OF THE CIRCUMSTANCES TO MAKE AN IDENTIFICATION.
12 AT THAT POINT, YOU FOUND THAT IT WAS ADMISSIBLE.

13 RESPECTFULLY, I'M ASKING YOU TO REVISIT YOUR DECISION
14 FOR A COUPLE OF REASONS. FIRST, WHAT DID NOT COME OUT
15 DURING THE COURSE OF THIS MCLEOD HEARING WERE THE OTHER
16 CIRCUMSTANCES SURROUNDING THE IDENTIFICATION OF THE
17 DEFENDANT ON THAT NIGHT.

18 I THINK THESE CIRCUMSTANCES DID COME OUT WHEN WE HAD
19 THE HEARING ON MY MOTION TO DISQUALIFY THE SOLICITOR'S
20 OFFICE, THE BRADY MATTER. AT THAT TIME, YOUR HONOR HEARD
21 MORE ABOUT THE FACT THAT TYRONE SMITH TELLS LAW
22 ENFORCEMENT ON THE NIGHT OF THE INCIDENT THAT HE SAW CHRIS
23 LIVERMAN IN A CAR THAT NIGHT AND THAT CHRIS LIVERMAN STUCK
24 A GUN IN HIS FACE THAT NIGHT.

25 HE TOLD LAW ENFORCEMENT ON TWO SEPARATE OCCASIONS AND

1 IN TWO DIFFERENT WRITTEN STATEMENTS THAT THAT'S HOW HE
2 RECOGNIZED BABY JESUS AS THE SHOOTER. HE NEVER TOLD LAW
3 ENFORCEMENT THAT HE RECOGNIZED HIM FROM THE SAXON HOMES OR
4 THAT HE RECOGNIZED HIM FROM MCDONALD'S.

5 I THINK THAT HAVING A MCLEOD HEARING INSTEAD OF
6 HAVING A FULL NEAL V. BIGGERS HEARING IS VERY IMPORTANT
7 INFORMATION THAT DID NOT COME TO THE COURT'S ATTENTION.

8 ADDITIONALLY, WE KNOW THE STATE COULD NOT SEE IT WAS
9 CHRIS LIVERMAN WHO WAS IN THAT CAR AND COULD NOT HAVE BEEN
10 THE PERSON WHO STUCK THE GUN IN TYRONE SMITH'S FACE.

11 WE DO NOT BELIEVE THAT IDENTIFICATION IS ACCURATE.
12 TO SAY THE IDENTIFICATION WAS BOTH ACCURATE IN THE SENSE
13 THEY WANT TO SAY THAT CHRIS LIVERMAN WAS A SHOOTER BUT
14 INACCURATE IN THE SENSE THAT HE WAS NOT THE PERSON WHO
15 STUCK THE GUN IN TYRONE SMITH'S FACE EARLIER, EVEN THOUGH
16 TYRONE SMITH CLAIMS THIS IS THE SAME PERSON. BY HAVING A
17 MCLEOD HEARING INSTEAD OF A NEAL V. BIGGERS HEARING, THIS
18 COURT NEVER HAD THE OPPORTUNITY TO PASS JUDGMENT IN LIGHT
19 OF THE IDENTIFICATION AND OTHER CIRCUMSTANCES.

20 IN PREPARING FOR THE NEAL V. BIGGERS, WE INTENDED TO
21 BRING THESE OTHER CIRCUMSTANCES TO THE COURT'S ATTENTION
22 FOR PURPOSES OF ASSESSING THE RELIABILITY OF THIS
23 IDENTIFICATION. AGAIN, THE IDENTIFICATION OF TYRONE SMITH
24 DOES NOT FALL TO MCLEOD. IT DOES NOT ESTABLISH THE BASIS
25 FOR HIS IDENTIFICATION THAT NIGHT.

1 TYRONE SMITH GIVES LAW ENFORCEMENT A COMPLETELY
2 DIFFERENT VERSION OF THE FACTS UPON WHICH HE BASES HIS
3 IDENTIFICATION, TOTALLY SEPARATE FROM THE MCLEOD HEARING.
4 I'M ASKING THE COURT TO HEAR WHAT I ARTICULATED BEFORE.
5 IT'S DIFFERENT.

6 IN MCLEOD YOU HAVE A WITNESS WHO -- THE CASES WERE
7 FROM 1973, THE CASE WAS RAVISHMENT OR ATTEMPTED
8 RAVISHMENT. THE WOMAN IS PHYSICALLY ATTACKED IN THAT
9 CASE. SHE SAYS TO HIM, "YOU'RE HATTIE'S BOY," AND AT THAT
10 POINT HE RUNS OFF, SO THERE WAS A VERY CLOSE PHYSICAL
11 CONNECTION BETWEEN THE SUSPECT AND ULTIMATELY THE
12 DEFENDANT IN THAT CASE AND THE WITNESS.

13 THIS CASE CAN STILL HAVE A SITUATION WHERE THE
14 WITNESS WAS WATCHING FROM AN UPSTAIRS WINDOW, AND
15 CERTAINLY HIS ABILITY TO PERCEIVE WHAT WAS GOING ON WAS
16 MUCH LESS THAN IT WAS IN THE MCLEOD CASE.

17 I WOULD SAY THAT THIS CASE PRESENTS VERY
18 CONTRADICTORY TESTIMONY. IT'S UNDER THESE SITUATIONS THAT
19 A NEAL V. BIGGERS HEARING SERVES MOST NEEDED. FOR THESE
20 REASONS, I'M REQUESTING THAT YOUR HONOR GRANT US A NEAL V.
21 BIGGERS HEARING TODAY.

22 THE COURT: ALL RIGHT. MS. FENT?

23 MS. FENT: YOUR HONOR, BASICALLY, ALL THE THINGS THAT
24 SHE'S ARGUING GO TO THE WEIGHT OF TYRONE SMITH'S
25 IDENTIFICATION AND NOT THE ADMISSIBILITY OF IT.

1 MCLEOD NEVER TALKS ABOUT THE FACTORS AS, YOU KNOW,
2 HOW GOOD THE IDENTIFICATION WAS, HOW CLOSE THEY WERE IN
3 PROXIMITY. IT'S JUST DOES THE PERSON MAKING THE
4 IDENTIFICATION HAVE AN INDEPENDENT KNOWLEDGE, KNOW WHO
5 THIS PERSON IS, VERSUS THE SITUATION WHERE THE ONLY
6 ENCOUNTER THAT THE PERSON MAKING AN IDENTIFICATION AND THE
7 PERSON IDENTIFIED SEE EACH OTHER JUST SOLELY IN THAT ONE
8 ENCOUNTER AND DON'T KNOW EACH OTHER OUTSIDE OF THAT
9 ENCOUNTER; THEREFORE, PROCEDURAL SAFEGUARDS NEED TO BE PUT
10 IN PLACE THAT A LINE-UP ISN'T SUGGESTIVE; THAT THEY WOULD
11 PICK OUT THIS PERSON THEY DON'T OTHERWISE KNOW.

12 IN THIS SITUATION WE ESTABLISH IN THE HEARING THAT HE
13 HAD A PRIOR KNOWLEDGE OF HIM, KNEW HIM AS BABY JESUS. FOR
14 AN AMOUNT OF YEARS HE KNEW HIM FROM SCHOOL; THAT HE HAD
15 SEEN HIM AT WHERE THE DEFENDANT WORKED, AT MCDONALD'S, AND
16 HAD EVEN SEEN HIM EARLIER THAT DAY, SAW BABY JESUS EARLIER
17 THAT DAY.

18 THE REST OF IT GOES TO THE WEIGHT OF THE
19 IDENTIFICATION, AND THEY CAN ATTACK THE IDENTIFICATION IN
20 WHATEVER WAYS THEY WANT TO, BUT IT DOESN'T FALL UNDER NEAL
21 V. BIGGERS, AND IT CLEARLY -- HE KNEW HIM PRIOR TO THIS
22 INCIDENT.

23 MS. FRANKLIN: I'D LIKE TO RESPOND, YOUR HONOR.

24 THE COURT: SURE.

25 MS. FRANKLIN: I MEAN, THIS COURT HAS THE AUTHORITY

1 TO DETERMINE THE RELIABILITY OF ANY EVIDENCE THAT'S PUT
2 FORTH. I MEAN, THAT IS THE COURT'S FUNCTION, EVEN IF IT'S
3 NOT UNDER NEAL V. BIGGERS, I THINK THAT RULE 104 UNDER THE
4 RULES OF EVIDENCE PROVIDE A BASIS FOR THE DETERMINATION.

5 THE STANDARD OF NEAL V. BIGGERS IS HIGHLY PREJUDICIAL
6 TO THE CIRCUMSTANCES. I BELIEVE THAT BECAUSE WE WENT TO A
7 MCLEOD HEARING AND NOT A NEAL V. BIGGERS HEARING THAT YOUR
8 HONOR NEVER GOT THE OPPORTUNITY TO CONSIDER THE LINE OF
9 CASES.

10 THE MCLEOD CASE STANDS FOR THE PROPOSITION THAT NEAL
11 V. BIGGERS AND THAT LINE OF CASES IS NOT NECESSARY FOR
12 PROCEDURAL SAFEGUARDS, BUT THAT'S NOT TO SAY THAT IT
13 PRECLUDES A NEAL V. BIGGERS UNDER THE CIRCUMSTANCES.

14 I WOULD ALSO BRING TO THE COURT'S ATTENTION THAT THIS
15 IDENTIFICATION WAS A SHOW-UP IDENTIFICATION WHICH THE CASE
16 LAW HAS BEEN PRETTY CLEAR IS A DISFAVORED FORM OF
17 IDENTIFICATION. I BELIEVE THAT ALL OF THESE REASONS
18 SUPPORT OUR MOTION FOR A NEAL V. BIGGERS HEARING IN THIS
19 CASE.

20 THE COURT: ALL RIGHT. GOING BACK THROUGH THE
21 TRANSCRIPT FROM THE AUGUST HEARING, AUGUST 28TH, AND
22 ADDITIONAL ARGUMENTS MADE BY COUNSEL, I STILL AM OF THE
23 OPINION THAT A SUFFICIENT SHOWING HAS BEEN MADE BY THE
24 STATE TO ESTABLISH A PRIOR KNOWLEDGE OR RELATIONSHIP
25 BETWEEN THE WITNESS, MR. SMITH, AND THE DEFENDANT AND

1 WOULD FIND THAT UNDER MCLEOD A FULL NEAL V. BIGGERS IS NOT
2 REQUIRED.

3 THE RULINGS WOULD BE THE SAME AS THEY WERE MADE BACK
4 IN AUGUST. ALL RIGHT.

5 MS. FRANKLIN: THANK YOU, YOUR HONOR. I THINK I NEED
6 TO DO THIS JUST TO PRESERVE THE RECORD.

7 THE COURT: SURE.

8 MS. FRANKLIN: IF I COULD LAY MY GROUNDS. I THINK IT
9 WOULD BE A VIOLATION OF MY CLIENT'S DUE PROCESS UNDER THE
10 STATE AND FEDERAL CONSTITUTIONS.

11 THE COURT: ALL RIGHT. THANK YOU.

12 ALL RIGHT. DO YOU HAVE SOME OTHER MOTIONS,
13 MS. FRANKLIN?

14 MS. FRANKLIN: YOUR HONOR, WE WOULD JUST MAKE ANOTHER
15 MOTION TO SUPPRESS WITNESSES, MOTION TO RENEW DISCOVERY,
16 BRADY MOTIONS.

17 THE COURT: YOU MEAN SEQUESTER THEM, NOT SUPPRESS
18 THEM?

19 MS. FRANKLIN: I'M SORRY, SEQUESTER THEM.

20 THE COURT: THAT WILL BE GRANTED, ALONG THE LINES AS
21 BEFORE, WITNESSES, IMMEDIATE FAMILY, AND INVESTIGATOR.

22 MS. CAMPBELL: YES, SIR, AND I THINK YOU MADE A
23 RULING BEFORE THAT TWO EXPERTS WOULD BE ALLOWED TO STAY.

24 THE COURT: ALL EXPERTS WOULD BE ABLE TO STAY IN THE
25 COURTROOM IF THAT'S GOING TO ASSIST THEM IN WHATEVER

1 TESTIMONY THEY MIGHT GIVE THE COURT.

2 MS. CAMPBELL: ALL RIGHT.

3 THE COURT: AGAIN, LET ME BE SURE YOU UNDERSTAND, I
4 DON'T KNOW WHO YOUR WITNESSES ARE. IT'S AN EXHAUSTIVE
5 LIST. I HAVE TO RELY ON COUNSEL TO KEEP UP WITH YOUR
6 WITNESSES AND WOULD TELL THE STATE IF THERE'S A
7 POSSIBILITY THAT THEY'RE GOING TO BE TESTIFYING IN
8 REBUTTAL, THEY NEED TO STILL BE SEQUESTERED. THEY CANNOT
9 COME BACK AND TESTIFY. THAT WOULD APPLY TO THE STATE AND
10 DEFENSE WITNESSES.

11 MS. FRANKLIN: I BELIEVE I SPOKE WITH MS. CAMPBELL
12 BRIEFLY ABOUT THIS. I BELIEVE THEY MAY HAVE TO UPDATE THE
13 LIST OF WITNESSES WHO HAVE PENDING CHARGES. WE COULD
14 ADDRESS THAT.

15 MS. CAMPBELL: I THOUGHT WE COULD WORK THAT OUT
16 AFTER, NARROW IT DOWN AND BRING IT TO THE COURT'S
17 ATTENTION.

18 THE COURT: THAT'S FINE DURING THE BREAK. I THINK
19 YOU ALSO WERE GOING TO RENEW DISCOVERY, AND THE STATE
20 INDICATED ALL DISCOVERY HAS BEEN PROVIDED; IS THAT RIGHT?

21 MS. CAMPBELL: YES, SIR. WE DID MEET WITH MAXWELL
22 SCHARDT OVER THE ENTIRE WITNESS LIST, BASICALLY WHAT THE
23 WITNESSES WERE GOING TO SAY. HE MADE NOTES.

24 THE COURT: AS FAR AS JACKSON V. DENNO, WE HAD A FULL
25 HEARING, AND THAT'S INCORPORATED INTO THIS AND THE RULING

1 IS THE SAME ON THAT.

2 MS. FRANKLIN: THANK YOU, YOUR HONOR.

3 THE COURT: THERE WERE SOME TAPES I HAD TO TAKE AND
4 LISTEN TO, I BELIEVE FIVE OF THEM. WE INDICATED THREE
5 WOULD BE ADMISSIBLE AND TWO WOULD NOT; IS THAT RIGHT?

6 MS. FRANKLIN: THAT'S MY UNDERSTANDING.

7 THE COURT: THOSE WERE 911 TAPES; IS THAT RIGHT?

8 MS. FENT: YES, YOUR HONOR.

9 THE COURT: ALL RIGHT. IS THERE ANYTHING ELSE
10 PRETRIAL WISE FROM THE DEFENSE?

11 MS. FRANKLIN: NOTHING ELSE, YOUR HONOR.

12 THE COURT: DOES THE STATE HAVE ANYTHING ELSE
13 PRETRIAL?

14 MS. CAMPBELL: NO, SIR.

15 THE COURT: ALL RIGHT. THEN WE FINISHED QUICKER THAN
16 I THOUGHT. THE JURY WILL BE HERE AT TEN O'CLOCK. WE'LL
17 START WITH OPENING STATEMENTS IN THIS CASE, ALL RIGHT.
18 WE'LL STAND IN RECESS UNTIL THAT TIME. THANK YOU.

19 (WHEREUPON, A SHORT BREAK WAS TAKEN.)

20 THE COURT: ALL RIGHT. ANYTHING FURTHER BEFORE THE
21 JURY IS BROUGHT IN? ANYTHING FROM THE STATE?

22 MR. GIESE: NO, YOUR HONOR.

23 THE COURT: ANYTHING FROM THE DEFENSE?

24 MS. FRANKLIN: NO, YOUR HONOR.

25 THE COURT: MS. FRANKLIN, YOU WILL BE MAKING THE

1 OPENING ARGUMENT?

2 MS. FRANKLIN: NO, YOUR HONOR, MR. SCHARDT WILL.

3 THE COURT: MR. SCHARDT WILL.

4 BRING THE JURY IN, PLEASE.

5 (WHEREUPON, THE JURY CAME INTO OPEN COURT AT
6 APPROXIMATELY 10:15 A.M.)

7 THE BAILIFF: THE JURY IS SEATED, YOUR HONOR.

8 THE COURT: ALL RIGHT. THANK YOU.

9 ALL RIGHT, LADIES AND GENTLEMEN. THANK YOU FOR BEING
10 HERE WHEN YOU WERE DIRECTED TO BE HERE THIS MORNING. THE
11 FIRST ORDER OF BUSINESS IS FOR ME TO APPOINT JUROR NUMBER
12 252 AS THE FOREMAN OF THE JURY. THAT'S WHO YOU HAVE
13 SELECTED. AGAIN, YOUR VOTE, SIR WILL NOT COUNT ANY MORE
14 AND IS NO MORE IMPORTANT THAN ANY OTHER MEMBER OF THE
15 JURY. YOU WILL BE THE SPOKESMAN FOR THE JURY. YOU HAVE
16 GOTTEN COMFORTABLE. I NEED YOU TO PLEASE STAND. THE
17 CLERK WILL ADMINISTER YOUR OATH IN THIS CASE.

18 THE CLERK: LADIES AND GENTLEMEN OF THE JURY, PLEASE
19 STAND AND RAISE YOUR RIGHT HAND TO BE SWORN.

20 YOU SHALL WELL AND TRULY TRY AND TRUE DELIVERANCE
21 MAKE, BETWEEN THE STATE OF SOUTH CAROLINA, AND THE
22 DEFENDANT AT BAR, WHOM YOU SHALL HAVE IN CHARGE, AND A
23 TRUE VERDICT GIVE, ACCORDING TO THE LAW AND THE EVIDENCE,
24 SO HELP YOU GOD.

25 (ALL RESPONDED AFFIRMATIVELY.)

1 THANK YOU. YOU MAY BE SEATED.

2 PRETRIAL CHARGE:

3 THE COURT: MR. FOREMAN AND LADIES AND GENTLEMEN, I
4 HAVE A FEW VERY BRIEF COMMENTS TO MAKE TO YOU BEFORE WE
5 START WITH THE TESTIMONY.

6 I'M JUST GOING TO EXPLAIN TO YOU PROCEDURALLY WHAT
7 WILL BE OCCURRING DURING THE TRIAL OF THIS CASE. WHAT I'M
8 ABOUT TO TELL YOU IS CERTAINLY NOT INTENDED TO BE A
9 SUBSTITUTE FOR THE DETAILED INSTRUCTIONS OF LAW THAT I'LL
10 GIVE YOU AT THE END OF THE CASE.

11 AGAIN, THIS IS A CRIMINAL CASE COMMENCED BY THE
12 STATE. I MAY REFER TO THE STATE AS THE PROSECUTION OR THE
13 SOLICITOR, AGAINST THE DEFENDANT, CHRIS LIVERMAN, WHO HAS
14 BEEN INTRODUCED TO YOU.

15 THE CASE IS BASED ON THE INDICTMENTS THAT I BRIEFLY
16 EXPLAINED TO YOU YESTERDAY. THE INDICTMENTS, AGAIN,
17 CONTAIN THE CHARGES IN THE CASE. THEY ARE NOT EVIDENCE,
18 AND THEY CANNOT BE CONSIDERED BY THE JURY AS EVIDENCE OF
19 THE CHARGES THAT THEY CONTAIN.

20 AGAIN, IN THIS CASE THERE ARE TWO INDICTMENTS. EACH
21 ONE CONTAINING A CHARGE OF MURDER. THE DEFENDANT HAS PLED
22 NOT GUILTY TO THESE CHARGES, AND THE STATE THEREFORE HAS
23 THE BURDEN OF PROVING EACH OF THE ESSENTIAL ELEMENTS OF
24 THE CHARGES IN THESE INDICTMENTS BEYOND A REASONABLE
25 DOUBT.

1 THE PURPOSE OF THIS TRIAL IS TO DETERMINE WHETHER THE
2 STATE HAS MET THAT BURDEN. YOUR PURPOSE AS JURORS AS IN
3 EVERY CASE, YOU BECOME THE JUDGES OF THE FACTS. YOU
4 DETERMINE WHAT THE FACTS ARE BASED ON THE EVIDENCE THAT'S
5 PRESENTED HERE IN THE COURTROOM. UNDER OUR LAW, I AM NOT
6 PERMITTED, I WILL NOT AND I DO NOT HAVE ANY OPINION AS TO
7 WHAT THE FACTS ARE. THAT IS A MATTER SOLELY FOR THE JURY
8 TO DETERMINE.

9 I AM THE JUDGE OF THE LAW, AND YOU JUST AGREED UNDER
10 THE OATH THAT YOU HAVE TAKEN TO ACCEPT AND APPLY THAT LAW
11 AS I WILL EXPLAIN IT TO YOU AT THE END OF THE CASE, SO YOU
12 ARE THE JUDGE OF THE FACTS. I AM THE JUDGE OF THE LAW.
13 YOU MAKE YOUR DETERMINATION OF WHAT THE FACTS ARE BASED ON
14 WHAT THE EVIDENCE IS THAT'S PRESENTED HERE IN THE
15 COURTROOM.

16 I WOULD AGAIN INSTRUCT YOU AT THIS TIME NOT TO
17 DISCUSS THE CASE WITH ANYONE, EITHER INSIDE OR OUTSIDE THE
18 COURTHOUSE, NOT EVEN AMONG YOURSELVES. AS I EXPLAINED TO
19 YOU YESTERDAY, THAT WOULD BE IMPROPER.

20 YOU ARE NOT PERMITTED TO WATCH, READ, OR LISTEN TO
21 ANYTHING ABOUT THE CASE. AGAIN, I DON'T WANT ANY OUTSIDE
22 FACTOR HAVING ANY KIND OF EFFECT ON YOUR ABILITY TO BE
23 FAIR AND IMPARTIAL AS JURORS IN THIS CASE.

24 PROCEDURALLY WHAT WILL OCCUR IN JUST A MOMENT WHEN I
25 CONCLUDE THESE REMARKS IS I'LL RECOGNIZE THE ATTORNEYS TO

1 MAKE BRIEF OPENING STATEMENTS TO YOU.

2 THESE OPENING STATEMENTS BY THE ATTORNEYS, THE
3 ATTORNEYS ARE NOT TESTIFYING. THEY SIMPLY EXPLAIN TO YOU
4 THEIR POSITION IN THIS CASE. I'LL RECOGNIZE THE
5 SOLICITOR'S OFFICE FIRST, AND THEN I'LL RECOGNIZE AND GIVE
6 THE DEFENSE THE SAME OPPORTUNITY.

7 ONCE YOU HEARD FROM THE ATTORNEYS, THEN WE'LL PROCEED
8 WITH THE PRESENTATION OF TESTIMONY AND OTHER EVIDENCE.
9 WHEN ALL THE EVIDENCE HAS BEEN PRESENTED TO YOU, THEN THE
10 ATTORNEYS WILL COME BACK BEFORE YOU AND MAKE WHAT WE CALL
11 CLOSING ARGUMENTS. THEN I WILL INSTRUCT YOU IN THE LAW,
12 AND THEN YOU WILL BE SENT BACK TO DELIBERATE AND REACH A
13 VERDICT IN THE CASE. PROCEDURALLY THAT'S WHAT YOU CAN
14 EXPECT.

15 FROM TIME TO TIME THE ATTORNEYS MAY OBJECT TO CERTAIN
16 QUESTIONS. THEY MAY OBJECT TO CERTAIN EXHIBITS THAT ARE
17 OFFERED INTO EVIDENCE. NUMBER ONE, YOU DO NOT HOLD ANY
18 OBJECTION AGAINST AN ATTORNEY OR THE ATTORNEY'S CLIENT.
19 IF ONE OF THE ATTORNEYS MAKES AN OBJECTION, THAT IS HIS OR
20 HER WAY OF BRINGING TO MY ATTENTION THAT A RULE OF
21 EVIDENCE HAS COME INTO PLAY. AT THAT TIME I'LL HAVE TO
22 MAKE A RULING.

23 IF THAT OBJECTION IS SUSTAINED, YOU ARE NOT PERMITTED
24 TO GUESS AT WHAT THE ANSWER WOULD HAVE BEEN IF IT HAD BEEN
25 PERMITTED TO BE ANSWERED. IF IT IS AN EXHIBITS THAT

1 ENTERED AND THE OBJECTION IS SUSTAINED, YOU CANNOT GUESS
2 WHAT THAT WOULD HAVE BEEN. YOU CAN ONLY RELY ON THE
3 TESTIMONY AND THE OTHER EVIDENCE THAT'S ADMITTED INTO THE
4 RECORD.

5 FROM TIME TO TIME ONCE AS EXHIBIT HAS BEEN ADMITTED
6 INTO EVIDENCE, THE JURY WILL TAKE THAT EXHIBIT, WHETHER
7 IT'S SOMETHING TANGIBLE, A DOCUMENT OR PHOTOGRAPH, AND
8 PASS IT AMONG YOU FOLKS IN THE JURY BOX WHILE THE CASE IS
9 GOING ON. THERE'S NOTHING WRONG WITH THAT.

10 I HAVE HAD SOME JURORS EXPRESS TO ME CONCERN THAT
11 THEY DIDN'T HAVE LONG ENOUGH TO LOOK AT SOMETHING FOR AS
12 LONG OR AS CLOSELY AS THEY WANTED TO. I WILL POINT OUT TO
13 YOU THAT ALL THE EVIDENCE THAT IS ADMITTED WILL BE WITH
14 YOU IN THE JURY ROOM WHILE YOU ARE DELIBERATING. YOU CAN
15 LOOK AT THEM FOR AS LONG AS YOU LIKE TO.

16 ONE OF THE THINGS I DO DURING THE TRIAL IS MAKE SURE
17 I KEEP AN EYE ON YOU FOLKS TO MAKE SURE YOU'RE PAYING
18 ATTENTION. AS JURORS, ESSENTIALLY WHAT YOU DO IS SIT AND
19 LISTEN AND WATCH WHAT GOES ON HERE IN THE COURTROOM. IT'S
20 HARD TO STAY FRESH MORE THAN ABOUT AN HOUR, HOUR AND 15
21 MINUTES. WE'LL TAKE A BREAK THAT FREQUENTLY. IF WE GET
22 TO THAT POINT AND WE'RE NOT THERE, RAISE YOUR HAND.

23 THE SAME WILL HOLD TRUE IF A WITNESS IS TESTIFYING
24 AND YOU CANNOT HEAR OR UNDERSTAND WHAT THAT WITNESS IS
25 TESTIFYING TO, IF YOU RAISE YOUR HAND AND MAKE SURE THEY

1 SPEAK UP LOUDLY ENOUGH AND CLEARLY ENOUGH FOR YOU TO
2 UNDERSTAND WHAT THE TESTIMONY IS.

3 ONE OTHER THING I FAILED TO MENTION YESTERDAY: I
4 TALKED TO YOU ABOUT PUBLICITY. THERE MAY BE CAMERAS IN
5 THE COURTROOM, TELEVISION, NEWS MEDIA. IT IS AGAINST THE
6 LAW FOR ANY JUROR IN THIS STATE TO BE TELEVISED,
7 IDENTIFIED, OR PHOTOGRAPHED IN ANY WAY. YOU DON'T NEED TO
8 LET THAT BOTHER YOU. IT DOESN'T BOTHER THE COURT. WE'VE
9 BECOME ACCUSTOMED TO IT OVER THE PAST 15 OR 20 YEARS.

10 IT USED TO BE FAIRLY COMMONPLACE THAT JURORS WERE NOT
11 PERMITTED TO TAKE NOTES. MOST OF THE JUDGES HAVE RELAXED
12 THAT. I DO PERMIT JURORS TO TAKE NOTES, BUT I'LL POINT
13 OUT TO YOU THEY'RE PERSONAL. THEY ARE YOUR NOTES.

14 ONCE YOU HAVE HEARD THE OPENING STATEMENTS FROM THE
15 ATTORNEYS, I'VE ASKED THE CLERK TO PASS OUT PADS AND
16 PENCILS AND PENS. WHAT I WOULD ASK YOU TO DO ON THE TOP
17 PAGE IS JUST WRITE YOUR NAME. THOSE NOTES WILL STAY HERE
18 IN THE COURTHOUSE, AND WHEN WE TAKE A BREAK, THEY'LL STAY
19 IN THE JURY ROOM.

20 ONCE THE CASE IS CONCLUDED, THOSE NOTES ARE TAKEN UP
21 AND THEY ARE DESTROYED. YOU'RE PERMITTED TO TAKE NOTES.
22 YOU DON'T HAVE TO, BUT WE'LL SUPPLY MATERIALS FOR YOU TO
23 TAKE NOTES IF YOU LIKE.

24 WITH THOSE COMMENTS, WE'LL COMMENCE WITH THE TRIAL.
25 FIRST THE OPENING STATEMENTS FOR THE STATE AND THE

1 DEFENSE.

2 MADAM SOLICITOR?

3 OPENING STATEMENT:

4 MS. FENT: ON AUGUST 26TH OF 2004, THE DEFENDANT WENT
5 ON A HUNT. HIS KILLING FIELD WAS T.S. MARTIN DRIVE HERE
6 IN OUR CITY.

7 BOLDLY EXPLAINED THE COLORS OF HIS GANG, ARMED WITH A
8 22 RIFLE WITH A SCOPE, HE SET OUT TO KILL. TODAY THE
9 DEFENDANT SITS IN FRONT OF YOU WITH THE SUCCESS OF HIS
10 HUNT TATTOOED ON HIS FACE IN THE FORM OF A TEARDROP.

11 WE, THE SOLICITOR'S OFFICE, REPRESENTATIVES OF
12 RICHLAND COUNTY, WILL BE PRESENTING THE EVIDENCE TO YOU
13 AND THE CHARGES OF MURDER OF 12-YEAR-OLD [REDACTED] C.D.
14 AND 16-YEAR-OLD [REDACTED] T.M. AGAINST THE DEFENDANT,
15 CHRIS LIVERMAN.

16 THIS CASE, LADIES AND GENTLEMEN, IS ABOUT GANG
17 WARFARE. IT IS ABOUT THE FOLK NATION GANG AND THEIR
18 RIVALRY AGAINST THE BLOODS, THE FOLK NATION CALLED SLOBS.

19 ON AUGUST 26TH OF 2004 A LITTLE AFTER NINE O'CLOCK IN
20 THE EVENING, A GROUP OF YOUNG MEN DROVE AROUND TO T.S.
21 MARTIN DRIVE.

22 THEY GOT OUT OF THAT CAR, AND THEY WERE LOOKING FOR
23 SOMEONE, PROBABLY A YOUNG MAN BY THE NAME OF DELSHAWN
24 WHOSE FAMILY MEMBERS LIVE THERE ON T.S. MARTIN DRIVE.

25 ONE OF THOSE YOUNG MEN IN THAT CAR BY THE NAME OF

1 CARL SMITH, HE ALSO GOES BY POOH, HE WAS SEEN BY ONE OF
2 THE WOMEN WHO IS STAYING IN THAT HOUSE. SHE KNEW HIM.
3 HER NAME IS PRECIOUS SAMUELS. SHE SEES POOH AND SHE YELLS
4 AT HIM, CALLS OUT HIS NAME. SHE SAYS, "GET ON OUT OF
5 HERE." POOH GETS BACK IN THAT CAR, DRIVES BACK OVER TO
6 THE BETHEL BISHOP APARTMENTS.

7 THEY DISPERSE BUT POOH MEETS UP WITH THE DEFENDANT,
8 CHRIS LIVERMAN, AND TELLS HIM WHAT HAPPENED, AND THE
9 DEFENDANT TELLS HIM, "I'M GOING OVER TO T.S. MARTIN." THE
10 DEFENDANT SHOWS POOH A CLIP, A MAGAZINE. THE DEFENDANT
11 TELLS HIM IT GOES TO A RUGER 22, THE DEFENDANT CALLS
12 "DEUCE DEUCE".

13 HE TELLS POOH THEY'RE FIXING TO GO ON A LICK. POOH
14 TELLS HIM, "DON'T GO OVER THERE. IT'S HOT. I WAS JUST
15 SEEN. THEY SAW ME OVER THERE. DON'T GO. DON'T GET INTO
16 ANY TROUBLE."

17 THE LAST POOH SEES IS THE DEFENDANT, CHRIS LIVERMAN,
18 WALKING TOWARDS T.S. MARTIN WITH A YOUNG MAN BY THE NAME
19 OF DIEGO THOMPSON AND ANOTHER YOUNG MAN BY THE NAME OF
20 REGINALD JOYNER WHO GOES BY GOO.

21 THEY WALK OVER TO T.S. MARTIN. DIEGO THOMPSON WILL
22 TELL YOU THE DEFENDANT PULLS OUT HIS FLAG, HIS COLORS,
23 PUTS IT AROUND HIS NECK.

24 THEY ARRIVE AT T.S. MARTIN AND THEY STAND IN THE
25 MIDDLE OF THE STREET. DOWN THE STREET AT ■ T.S. MARTIN

1 IS BRIAN DIXON WHO IS STANDING ON HIS FRONT PORCH WITH HIS
2 FRIEND CHRISTOPHER ROBINSON. THE DEFENDANT AND HIS POSSE
3 YELL OUT, "WHERE ARE THE SLOBS?" AND AS BRIAN AND
4 CHRISTOPHER TELL HIM, "AIN'T NONE HERE."

5 AT THAT POINT, [REDACTED] C.D. [REDACTED] HAS NOW ARRIVED ON THE
6 FRONT PORCH, AND THE YOUNG MAN, [REDACTED] T.M. [REDACTED], WHO
7 LIVES ON THE STREET BACK HAD ALSO JUST ARRIVED AT THAT
8 VERY SPOT.

9 IT'S AT THAT MOMENT THAT THE DEFENDANT KNEELS DOWN IN
10 THE MIDDLE OF THE STREET, AIMS THROUGH THE SCOPE OF THAT
11 RIFLE AND SHOOTS. TEN CASINGS ARE RECOVERED FROM THAT
12 STREET, FROM THAT LOCATION. YOU WILL HEAR A MAGAZINE
13 HOLDS TEN BULLETS.

14 DIEGO THOMPSON TURNS THE MINUTE HE SEES THE DEFENDANT
15 KNEEL DOWN TO START TO SHOOT, AND HE TURNS AND STARTS
16 RUNNING AWAY. AS HE GETS TO THE END OF THE STREET, HE
17 TURNS BACK, SEES THE DEFENDANT DOWN AT THAT LOCATION.

18 ALL OF THEM THEN RUN BACK, START HEADING BACK TOWARDS
19 THE BETHEL BISHOP APARTMENTS FROM AROUND T.S. MARTIN, UP
20 BELTLINE, UP ACROSS THE RAILROAD TRACKS. IT'S WHEN THEY
21 GET THROUGH A CUT IN THE RAILROAD TRACKS IN THE WOODS THAT
22 THEY STOP. THE DEFENDANT TAKES OFF HIS SHIRT, WRAPS THE
23 GUN IN HIS SHIRT AND HIDES IT IN A LOG.

24 THEY CONTINUE RUNNING BACK TOWARDS THE BETHEL BISHOP.
25 SLOWLY THEY SEPARATE, AND IT'S AT THIS POINT THE DEFENDANT

1 STOPS AT THE BETHEL BISHOP AND STARTS TALKING ABOUT WHAT
2 HE JUST DID. A YOUNG LADY OVERHEARS HIM, SHANTE BETHEL.
3 SHE HEARS THE DEFENDANT SAY HE JUST SHOT SOMEONE IN THE
4 FACE, AND THAT HE WAS JUST SPRAYING.

5 THE LAST THAT SHANTE SEES IS THE DEFENDANT RUNNING
6 TOWARDS ANOTHER CUT THAT EXITS OUT OF THE BETHEL BISHOP
7 ACROSS THE RAILROAD TRACKS. POLICE, LAW ENFORCEMENT, ARE
8 STARTING TO SURROUND THAT AREA.

9 SERGEANT JIMMY AULD AND OFFICER JASON WHITTLE,
10 KNOWING OF THAT CUT, DECIDE THAT'S WHERE THEY'LL GO SET
11 UP. THEY GO TO THE END OF THAT CUT THROUGH THE WOODS,
12 PREPARE THEIR WEAPONS, AND JUST AS THEY ARE HEADING UP
13 THROUGH THAT CUT COMES THE DEFENDANT RIGHT OVER THAT HILL
14 SWEATING PROFUSELY FROM THE RUN THAT HE JUST TOOK ALL THE
15 WAY TO T.S. MARTIN.

16 THE DEFENDANT IS TAKEN INTO CUSTODY. HE'S BROUGHT
17 DOWN TO THE POLICE STATION WHERE HE SITS DOWN WITH
18 INVESTIGATOR JOE GRAY, AND HE GIVES THE FIRST OF A FEW
19 STATEMENTS. INITIALLY HE SAYS, "I WAS NOT AT T.S. MARTIN.
20 I DON'T KNOW WHAT YOU'RE TALKING ABOUT."

21 WHEN CONFRONTED OR TOLD THAT THERE ARE WITNESSES THAT
22 PUT HIM THERE, HE GIVES THE FIRST OF ONE OF HIS WRITTEN
23 STATEMENTS. IN THAT WRITTEN STATEMENT HE SAYS, "OKAY. I
24 WAS THERE. SOMEONE ELSE I DON'T KNOW WAS SHOOTING THE
25 RIFLE."

1 THE DEFENDANT IS THEN SWABBED FOR GUNSHOT RESIDUE.
2 YOU WILL HEAR FROM THE EXPERTS THE CHALLENGES THAT THERE
3 ARE IN GETTING A POSITIVE RESULT, EVEN FROM SOMEONE WHO
4 HAS SHOT A WEAPON, THE WIND, SWEAT, WIPING IT OFF.

5 THE DEFENDANT IS TAKEN BACK TO THE JAIL, AND HE'S GOT
6 12 HOURS TO THINK ABOUT THAT GUNSHOT RESIDUE SWAB. IN THE
7 MEANTIME, INVESTIGATOR JOE GRAY TALKS WITH OTHER
8 WITNESSES, AND THE DEFENDANT IS BROUGHT BACK THE NEXT DAY,
9 "DO YOU WANT TO GIVE ANY FURTHER INFORMATION ABOUT THE
10 SHOOTING AT T.S. MARTIN?"

11 HE SAYS YES. "OKAY. I WAS SHOOTING, BUT I WAS
12 SHOOTING A 32 AUTOMATIC IN A DIFFERENT DIRECTION."

13 THE DEFENDANT CONTACTS DIEGO THOMPSON WHO WAS WITH
14 HIM, CONTACTS HIM ON THE PHONE AND SAYS "I'VE HEARD THE
15 GUN IS MISSING. GO FIND IT. GO MOVE THE GUN."

16 APPROXIMATELY SIX WEEKS LATER THE WEAPON IS FOUND
17 NEAR THE BETHEL BISHOP APARTMENTS BY ANOTHER LAW
18 ENFORCEMENT OFFICER OUT DOING OTHER ROUTINE PATROLS. THAT
19 GUN, TOGETHER WITH THE CASINGS, BULLET, BULLET FRAGMENTS,
20 ARE ALL SENT TO THE SOUTH CAROLINA LAW ENFORCEMENT
21 DIVISION FOR ANALYSIS. THOSE TEN CASINGS FOUND ON T.S.
22 MARTIN MATCH BACK TO THAT RUGER 22 RIFLE.

23 SINCE HIS ARREST AND PRIOR TO COMING TO COURT TODAY,
24 THE DEFENDANT GAVE HIS FINAL CONFESSION, AND THAT WAS IN
25 THE FORM OF THE TATTOO ON HIS FACE, AND YOU WILL HEAR FROM

1 THE EXPERTS AS TO WHAT THAT TATTOO MEANS: "I KILLED".

2 THERE IS A PLAQUE DOWNSTAIRS NEXT TO THE ELEVATORS ON
3 THE FIRST FLOOR THAT PROBABLY GOES UNNOTICED BY MOST
4 PEOPLE WHO COME IN AND OUT OF THE COURTROOM DOING THE
5 BUSINESS THAT THEY COME HERE TO DO.

6 IT IS PROBABLY MORE IMPORTANT THAT ANY OF THE
7 BEAUTIFUL PAINTINGS THAT ADORN OUR WALLS, AND THAT PLAQUE
8 SAYS "JUSTICE WILL DIRECT OUR COURSE." AS WE PRESENT THE
9 EVIDENCE TO YOU, LADIES AND GENTLEMEN, THAT WILL BE OUR
10 COURSE.

11 AT THE CLOSE OF THE EVIDENCE, WE, THE SOLICITOR'S
12 OFFICE, WILL STAND BACK BEFORE YOU, AND WE WILL ASK YOU TO
13 RETURN VERDICTS BASED UPON THE EVIDENCE, BASED UPON THE
14 LAW AND BASED UPON JUSTICE, VERDICTS THAT THE DEFENDANT IS
15 GUILTY OF THE MURDER OF 12-YEAR-OLD [REDACTED] C.D. AND
16 16-YEAR-OLD [REDACTED] T.M.

17 THE COURT: ALL RIGHT. THANK YOU, MS. FENT.

18 MR. SCHARDT?

19 MR. SHARDT: THANK YOU, YOUR HONOR.

20 OPENING STATEMENT:

21 MR. SHARDT: CHRIS LIVERMAN IS NOT GUILTY. THERE IS
22 STORY TOLD ABOUT AUGUST 26TH, 2004. NOW, AUGUST 26TH,
23 2004 AT APPROXIMATELY 8:40 P.M., A WHITE FORD ESCORT
24 TRAVELED DOWN EDISON AVENUE.

25 THIS WHITE FORD ESCORT WAS FULL OF FIVE FOOTBALL

1 PLAYERS FROM C.A. JOHNSON HIGH SCHOOL. THE QUARTERBACK
2 FROM THE TEAM, BRADY BROWN, WAS DRIVING THIS WHITE FORD
3 ESCORT. THIS WHITE FORD ESCORT TRAVELED DOWN EDISON
4 AVENUE AND STOPPED SUDDENLY RIGHT IN FRONT OF THE T.S.
5 MARTIN NEIGHBORHOOD.

6 THE WHITE ESCORT STOPPED BECAUSE A BOY IN THE T.S.
7 MARTIN NEIGHBORHOOD, A BOY YELLED AT THE CAR, YELLED
8 INSULTS, SCREAMED INSULTS, AT THOSE FOOTBALL PLAYERS.
9 THAT BOY WAS DELSHAWN PRESCOTT.

10 YOU WILL HEAR WHO THAT BOY WAS. THAT BOY SCREAMED
11 INSULTS AT THAT CAR, AND THE FIVE INDIVIDUALS IN THAT CAR
12 SCREAMED BACK AT HIM.

13 THERE WAS A VERBAL ALTERCATION THAT ENSUED FOR A FEW
14 MINUTES BEFORE THAT WHITE FORD ESCORT SPED OFF WITH FIVE
15 C.A. JOHNSON FOOTBALL PLAYERS. WHO WILL NOT HEAR CHRIS
16 LIVERMAN WAS IN THAT CAR BEFORE IT SPED OFF AND ULTIMATELY
17 FOUND ITS WAY TO THE BETHEL BISHOP APARTMENTS.

18 WHILE IN THE BETHEL BISHOP APARTMENTS, THREE OF THOSE
19 FOOTBALL PLAYERS GOT OUT OF THAT WHITE FORD ESCORT LEAVING
20 BRADY BROWN, THE DRIVER OF THE WHITE FORD ESCORT, AND HIS
21 TEAMMATE, PARIS ALEXANDER, IN THE CAR.

22 THEY TOLD THE PEOPLE AROUND THE BETHEL BISHOP
23 APARTMENTS WHAT HAD JUST OCCURRED. THEY TOLD PEOPLE ABOUT
24 THAT BOY, THAT BOY WHO HAD JUST INSULTED THEM AND THEIR
25 NEIGHBORHOOD.

1 AS A RESULT, TWO OTHER INDIVIDUALS, SHEROD PRAYLOW
2 AND CARL SMITH, HOPPED INTO THAT CAR. CHRIS LIVERMAN
3 NEVER GOT INTO THAT CAR, SO THIS WHITE FORD ESCORT WHICH
4 CONTAINED BRADY BROWN, PARIS ALEXANDER, SHEROD PRAYLOW AND
5 CARL SMITH, TRAVELED BACK, TRAVELED BACK TO THE T.S.
6 MARTIN NEIGHBORHOOD TO FIND THAT BOY.

7 AT APPROXIMATELY 9:05 P.M. THAT NIGHT ON AUGUST 26TH,
8 2004 AT APPROXIMATELY 9:05 P.M. THAT WHITE FORD ESCORT
9 CONTAINING THOSE FOUR INDIVIDUALS, BRADY BROWN, PARIS
10 ALEXANDER, SHEROD PRAYLOW, AND CARL SMITH ARRIVED AT T.S.
11 MARTIN. THIS TIME THEY JUST DIDN'T STOP AT THE ENTRANCE.
12 THIS TIME THEY DIDN'T JUST DRIVE BY.

13 THIS WHITE FORD ESCORT TRAVELED DOWN T.S. MARTIN
14 DRIVE TO SEARCH FOR THAT BOY. THEY TURNED AROUND AT T.S.
15 MARTIN COURT LOOKING FOR THAT BOY. THEY PULLED OUT OF
16 T.S. MARTIN, AND BRADY BROWN PARKED THAT CAR RIGHT AT THE
17 CORNER OF EDISON AND T.S. MARTIN.

18 THE CAR PARKED AND THE FOUR INDIVIDUALS, BRADY BROWN,
19 PARIS ALEXANDER, SHEROD PRAYLOW, AND CARL SMITH GOT OUT OF
20 THE CAR.

21 WHEN THEY GOT OUT OF THE CAR, AND YOU'LL HEAR
22 WITNESSES TESTIFY TO THIS, WHEN THEY GOT OUT OF THE CAR,
23 THEY HAD BANDANNAS ON THEIR FACES COVERING THEIR FACES.

24 THEY STEPPED OUT ONTO T.S. MARTIN DRIVE INTO THE T.S.
25 MARTIN NEIGHBORHOOD ON FOOT TO LOOK FOR THAT BOY. YOU

1 WILL HEAR WITNESSES UPON WITNESS TELL YOU THAT THEY WERE
2 ARMED AT 9:09 P.M. AS THOSE FOUR BOYS WITH BANDANNAS
3 COVERING THEIR FACES, WITH AT LEAST ONE GUN ON THE SCENE,
4 AT 9:09 P.M., WITH THEM TRAVELING ON FOOT THROUGHOUT THEIR
5 NEIGHBORHOOD TERRORIZING THE NEIGHBORHOOD.

6 THE RESIDENTS OF T.S. MARTIN KNEW THAT THEY WERE IN
7 TROUBLE. THEY KNEW BECAUSE THIS HAD BEEN GOING ON, AND
8 THEY KNEW THAT THIS WAS TROUBLE.

9 AT 9:09 P.M., A 911 CALL WAS MADE FROM [REDACTED] T.S.
10 MARTIN DRIVE, A 911 CALL TO THE COLUMBIA POLICE DEPARTMENT
11 TO ASK FOR HELP. AT 9:15 THE POLICE ARRIVED, AND THE BOYS
12 IN THE FORD ESCORT WERE GONE, THE FOUR BOYS WERE GONE.

13 THE POLICE PULLED INTO [REDACTED] T.S. MARTIN DRIVE INTO THE
14 YARD, AND THEY ASKED -- THEY WERE TOLD ABOUT THE
15 BANDANNAS, ABOUT THE GUN AND ABOUT THE BOYS IN THE WHITE
16 FORD ESCORT. THEY WERE TOLD ABOUT THAT. WHILE THEY WERE
17 THERE, CHILDREN FROM THE NEIGHBORHOOD, CHILDREN FROM THE
18 NEIGHBORHOOD WHO HAD ALL SEEN WHAT HAD HAPPENED RUSHED
19 OVER FROM THE YARD TO TALK TO THE POLICE.

20 YOU WILL HEAR THAT [REDACTED] C.D., ONE OF THE VICTIMS
21 IN THIS CASE, WAS OUT THERE WHEN THIS CONVERSATION TOOK
22 PLACE AND THE CHILDREN TOLD THE POLICE WHAT THEY HAD SEEN,
23 THE BANDANNAS, THE GUN, THE CAR, THE THREATS. THEY BEGGED
24 THE POLICE FOR HELP.

25 WHILE THIS CONVERSATION WAS TAKING PLACE, WHILE THE

1 COLUMBIA POLICE DEPARTMENT WAS ON THE SCENE, THAT SAME
2 WHITE FORD ESCORT TRAVELED UP EDISON AVENUE ONCE AGAIN.
3 IT CRAWLED UP EDISON AVENUE SLOWLY, AND THOSE CHILDREN,
4 THOSE CHILDREN, POINTED THE CAR OUT TO THE POLICE, SAID
5 "THAT IS THE CAR. THAT IS THE WHITE FORD ESCORT," AND
6 THEY ASKED THE POLICE TO DO SOMETHING TO STOP THAT CAR.
7 THE POLICE DID NOT RESPOND. THEY DID NOT STOP THAT CAR.

8 YOU'LL HEAR THAT AT 9:34 P.M., 19 MINUTES AFTER THEY
9 HAD ARRIVED WITH THE FULL KNOWLEDGE THAT THIS WHITE FORD
10 ESCORT, THE SAME FORD ESCORT, WAS STILL DRIVING AROUND IN
11 THE AREA.

12 THE POLICE LEFT THOSE CHILDREN. THEY LEFT THE
13 RESIDENCE OF T.S. MARTIN. WELL, AT 9:41 P.M., SEVEN
14 MINUTES AFTER THE POLICE LEFT, SEVEN MINUTES, THE BOYS
15 WERE BACK AT T.S. MARTIN.

16 AT 9:41 P.M. ANOTHER 911 CALL CAME IN FROM [REDACTED] T.S.
17 MARTIN DRIVE BEGGING THE POLICE TO COME BACK, COME BACK TO
18 THE SCENE AND PROTECT THEM. AT 9:44 THE POLICE WERE
19 DISPATCHED TO THE SCENE, BUT IT WAS TOO LATE. AT
20 9:46 P.M., TEN SHOTS RANG OUT, SHOTS THAT WOULD TAKE THE
21 LIVES OF [REDACTED] C.D. [REDACTED] AND [REDACTED] T.M. [REDACTED].

22 THE POLICE SHOWED BACK UP AT 9:48. BY THE TIME THEY
23 HAD SHOWED UP, THAT GROUP OF BOYS WERE GONE, AND WHEN THE
24 POLICE ARRIVED, THEY ARRIVED TO A GROUP OF HYSTERICAL
25 RESIDENTS WHO WERE CRYING OVER THE BODIES OF TWO DYING

1 CHILDREN. THEY ARRIVED TO A GROUP OF ANGRY RESIDENTS THAT
2 KNEW THAT THEY HAD BEEN THERE MINUTES EARLIER.

3 THEY HAD ARRIVED WITH THE KNOWLEDGE THAT THEY HAD
4 SEEN THAT GIRL ONLY 20 MINUTES EARLIER. THEY HAD THAT
5 KNOWLEDGE. THE RESIDENTS WERE NOT HAPPY WITH THEIR
6 PERFORMANCE BECAUSE THEY MESSED UP, AND NOW THEY WERE
7 SUPPOSED TO FIND A GROUP OF YOUNG BLACK MALES IN THIS
8 PREDOMINANTLY BLACK NEIGHBORHOOD IN THE MIDDLE OF THE
9 NIGHT, A GROUP OF BLACK MALES THAT HAD JUST DISAPPEARED
10 INTO THE AUGUST NIGHT.

11 REMARKABLE, PERHAPS TO TOO REMARKABLE, AT 10:06 P.M.,
12 18 MINUTES AFTER THEY ARRIVED, THEY DETAINED SOMEONE. THE
13 FIRST PERSON THEY DETAINED AT 10:06 P.M., 18 MINUTES AFTER
14 THEY ARRIVED AT THE SCENE WAS CHRIS LIVERMAN.

15 NOW, THEY DIDN'T STOP AND -- THEY DIDN'T DETAIN CHRIS
16 LIVERMAN IN THE T.S. MARTIN NEIGHBORHOOD. THEY STOPPED
17 HIM, THEY PUT HIM IN HANDCUFFS IN HIS OWN NEIGHBORHOOD,
18 THE NEIGHBORHOOD WHERE HE LIVED, WHERE HIS GRANDMOTHER
19 LIVED, WHERE HIS AUNT LIVED, WHERE HIS GIRLFRIEND LIVED.

20 WHEN THEY STOPPED CHRIS LIVERMAN, HE DIDN'T HAVE A
21 FIREARM ON HIM. HE DIDN'T HAVE A WEAPON OF ANY KIND ON
22 HIM. WHEN THEY STOPPED CHRIS LIVERMAN, HE DIDN'T RUN. HE
23 STOPPED, AND THEY PUT HIM IN HANDCUFFS. THAT HAPPENED AT
24 10:06 P.M., 18 MINUTES AFTER THEY ARRIVED, 18 MINUTES
25 AFTER THEY REALIZED THEY MESSED UP. IT WAS A QUICK ARREST

1 AT 10:20 P.M., WE'RE TALKING 14 MINUTES AFTER THE POLICE,
2 HAD BEEN DETAINED.

3 AT 10:20 P.M., THE POLICE DROVE THE INDIVIDUAL, AN
4 INDIVIDUAL THAT THEY THOUGHT WAS A WITNESS, AN INDIVIDUAL
5 NAMED TYRONE SMITH, THEY DROVE HIM IN A POLICE CAR TO THE
6 LOCATION WHERE CHRISTOPHER LIVERMAN WAS DETAINED TO MAKE
7 AN IDENTIFICATION.

8 NOW, LADIES AND GENTLEMEN, YOU'LL HEAR THAT THIS
9 WASN'T AN IDENTIFICATION THAT YOU MIGHT THINK OF FROM
10 WATCHING T.V. THIS WASN'T A SITUATION WHERE YOU BRING IN
11 A WITNESS AND THERE'S TEN PEOPLE LINED UP OR SIX PEOPLE
12 LINED UP. THIS WASN'T A SITUATION WHERE YOU GIVE THE
13 WITNESS A BOOK OF PHOTOS, YOU SAY, "LOOK THROUGH THE
14 PHOTOS AND YOU SEE IF YOU SEE THE GUY." THIS WASN'T THIS
15 SITUATION.

16 THEY DROVE THEIR WITNESS TO WHERE THEY HAD
17 CHRISTOPHER LIVERMAN DETAINED. THEY DROVE HIM IN THEIR
18 CAR RIGHT UP TO CHRISTOPHER LIVERMAN. THEY PULLED CHRIS
19 LIVERMAN OUT OF THE CAR IN HANDCUFFS, PUSHED HIM RIGHT UP
20 AGAINST THE POLICE CAR THAT HE WAS IN, HAD TYRONE SMITH IN
21 THE OTHER POLICE CAR, SHINED THE LIGHT ON CHRISTOPHER
22 LIVERMAN, SHOWED TYRONE SMITH CHRISTOPHER LIVERMAN IN
23 HANDCUFFS SURROUNDED BY POLICE OFFICERS, AND THEY ASKED
24 TYRONE, THEY SAID, "TYRONE, IS THAT THE GUY?"

25 HE SAID, "YEAH. YEAH." BUT HERE IS WHERE IT GETS

1 INTERESTING: LATER ON THAT NIGHT AND A FEW DAYS LATER,
2 THEY TALK TO TYRONE AGAIN. THEY TOOK MORE STATEMENTS FROM
3 TYRONE. THEY TRIED TO BUILD A CASE, AND THEY WANTED MORE
4 INFORMATION FROM TYRONE SO THAT THEY COULD SHOW THAT HIS
5 IDENTIFICATION WAS GOOD, THAT HE WAS KNOWLEDGEABLE.

6 THEY TOOK STATEMENTS FROM TYRONE, AND IN THOSE
7 STATEMENTS, IN THOSE EARLY DAYS IN THE INVESTIGATION, DO
8 YOU KNOW WHAT TYRONE TOLD THEM? HE SAID, "YEAH, IT WAS
9 CHRIS. I SAW CHRIS EARLIER. HE GOT OUT OF THE WHITE CAR,
10 THE WHITE FORD ESCORT. HE GOT OUT OF THE WHITE FORD
11 ESCORT AND POINTED A GUN AT ME."

12 TYRONE SMITH TOLD THE POLICE FROM THE VERY BEGINNING
13 THAT HE KNEW IT WAS CHRIS LIVERMAN BECAUSE HE SAW
14 CHRISTOPHER LIVERMAN IN THAT WHITE CAR, THE WHITE CAR THAT
15 HE WAS NEVER IN.

16 I SUBMIT TO YOU LADIES AND GENTLEMEN THAT FROM THE
17 VERY BEGINNING, FROM THAT FIRST NIGHT, THE POLICE WERE PUT
18 ON NOTICE THAT THE BASIS OF THEIR ARREST, THAT
19 IDENTIFICATION, WAS A BAD ONE, THAT IT WAS A MISTAKE.

20 AT 10:32 P.M., 10:32 P.M., 12 MINUTES AFTER TYRONE
21 SAID, "YEAH, IT WAS THAT GUY," AT 10:32 P.M. WHILE
22 CHRISTOPHER LIVERMAN SAT IN THE POLICE CAR IN HANDCUFFS,
23 THE POLICE HEARD TWO GUNSHOTS GO OFF IN THE DISTANCE.

24 I SUBMIT TO YOU THAT THAT COULD NOT HAVE BEEN A GOOD
25 SIGN THAT THEY WERE ON THE RIGHT TRACK. YOU HAVE YOUR

1 SUSPECT IN HANDCUFFS, AND YOU HEAR GUNSHOTS GOING OFF IN
2 THE DISTANCE.

3 NEVERTHELESS, CHRISTOPHER LIVERMAN REMAINED IN
4 CUSTODY. AT 12:05 A.M., WE'RE TALKING APPROXIMATELY TWO
5 HOURS AFTER THE SHOOTING, THEY BROUGHT CHRISTOPHER
6 LIVERMAN TO THE POLICE DEPARTMENT.

7 THEY DECIDED TO BEGIN TO BUILD THEIR CASE. THEY
8 DECIDED TO CONDUCT A TEST ON CHRIS LIVERMAN, A TEST THEY
9 USE TO PROSECUTE PEOPLE, A SCIENTIFIC TEST THAT THEY SWEAR
10 BY IN COURT. THEY CONDUCTED A GUNSHOT RESIDUE TEST ON
11 CHRISTOPHER LIVERMAN.

12 THE LEAD INVESTIGATOR IN THIS CASE, INVESTIGATOR JOBY
13 GRAY, HAD HIS PEOPLE SWAB CHRISTOPHER LIVERMAN'S HANDS AND
14 TAKE THE EVIDENCE, TAKE IT INTO EVIDENCE, CONDUCT A
15 SCIENTIFIC TEST THAT WILL SHOW THAT CHRISTOPHER LIVERMAN
16 WAS THE SHOOTER. WELL, I WILL GET BACK TO THAT TEST IN A
17 FEW MINUTES.

18 CHRISTOPHER LIVERMAN WAS ARRESTED IN 18 MINUTES, AND
19 HE HAS BEEN UNDER ARREST EVER SINCE. FOR THE LAST 26
20 MONTHS HE HAS BEEN UNDER ARREST, AND FOR THE LAST 26
21 MONTHS THE STATE HAS HAD THE OPPORTUNITY TO BUILD A CASE
22 AGAINST HIM, SO THAT'S 26 MONTHS HE HAS BEEN IN JAIL.
23 IT'S BEEN PUBLIC KNOWLEDGE THAT HE HAS BEEN THEIR GUY. HE
24 HAS BEEN THEIR GUY.

25 FOR THE LAST 26 MONTHS, THE STATE HAS BEEN ABLE TO

1 TALK TO WITNESSES, TALK TO PEOPLE ON THE STREET AND TRY TO
2 BUILD A CASE AGAINST THIS MAN. THAT'S 26 MONTHS.

3 THEY'RE GOING TO BRING THESE WITNESSES INTO COURT
4 HERE TODAY, THE FRUITS OF THEIR LABOR. DIEGO THOMPSON,
5 WE'RE GOING TO TEAR FROM DIEGO THOMPSON; SHANTE BETHEL,
6 WE'RE GOING TO HEAR FROM SHANTE BETHEL. THAT'S THEIR
7 CASE, AND YOU'RE GOING TO GET AN OPPORTUNITY TO HEAR WHAT
8 MR. THOMPSON AND MS. BETHEL HAVE TO SAY.

9 YOU'RE GOING TO GET THE OPPORTUNITY TO OBSERVE
10 MR. THOMPSON AND MS. BETHEL, AND YOU'RE GOING TO GET THE
11 OPPORTUNITY TO COME TO YOUR OWN CONCLUSIONS ABOUT WHETHER
12 THEY CAN BE BELIEVED, ABOUT WHETHER THEY'RE RELIABLE,
13 ABOUT WHETHER THEY HAVE A MOTIVE TO LIE, ABOUT WHETHER
14 THEIR STORIES MAKE ANY SENSE AT ALL.

15 I'LL LEAVE IT UP TO YOU. YOU'RE GOING TO GET TO HEAR
16 THEM ON THE STAND, BUT IN THE LAST 26 MONTHS WHILE THE
17 STATE HAS BEEN BUSY FOCUSING ON CHRISTOPHER LIVERMAN, THE
18 MAN IN JAIL, THE LOGICAL SCAPEGOAT FOR EVERYONE TO PUT
19 THIS ON, WHILE THEY HAVE BEEN FOCUSING ON HIM, THEY'VE
20 BEEN IGNORING EVIDENCE THAT HAS COME IN THAT'S POINTED TO
21 CHRISTOPHER LIVERMAN'S INNOCENCE FOR THE LAST 26 MONTHS.

22 FIRST, THEY IGNORED TYRONE SMITH'S STATEMENTS.
23 THEY'VE IGNORED THE FACT THAT TYRONE SMITH TOLD THEM IN
24 HIS OWN STATEMENT FROM THE VERY BEGINNING THAT HIS
25 IDENTIFICATION WAS BAD, THAT HE PLACED CHRISTOPHER

1 LIVERMAN IN A CAR THAT HE WAS NEVER IN.

2 MS. FENT: YOUR HONOR, I'M SORRY TO DO THIS, BUT I
3 OBJECT. THIS IS ARGUMENT AT THIS POINT.

4 THE COURT: I SUSTAIN. IT GOES BEYOND THE PURPOSE OF
5 THE OPENING STATEMENT.

6 CONTINUE, MR. SCHARDT.

7 MR. SHARDT: THANK YOU, YOUR HONOR.

8 YOU ARE GOING TO HEAR IN COURT THAT TYRONE SMITH,
9 THEIR WITNESS, WASN'T THE ONLY PERSON THAT WAS PRESENT AT
10 T.S. MARTIN DRIVE WHEN THE SHOOTING TOOK PLACE. HE WASN'T
11 THE ONLY PERSON WHO SAW THE INDIVIDUALS. HE WASN'T THE
12 ONLY PERSON THERE.

13 IT WAS 10:00 O'CLOCK. IT WAS ALMOST TEN O'CLOCK AT
14 NIGHT. THIS NEIGHBORHOOD WAS FULL OF PEOPLE, AND YOU'RE
15 GOING TO HEAR FROM WITNESSES THAT WERE THERE, THAT SAW THE
16 GROUP OF BOYS.

17 YOU'RE GOING TO HEAR FROM PEOPLE WHO ARE ON T.S.
18 MARTIN THAT KNEW CHRIS LIVERMAN, THAT WENT TO SCHOOL WITH
19 CHRISTOPHER LIVERMAN, THAT WENT TO MIDDLE SCHOOL WITH
20 CHRISTOPHER LIVERMAN, THAT WENT TO HIGH SCHOOL WITH
21 CHRISTOPHER LIVERMAN, THAT WALKED TO SCHOOL AND WALKED
22 FROM SCHOOL WITH CHRISTOPHER LIVERMAN.

23 THEY HAD TALKED TO CHRISTOPHER LIVERMAN BEFORE.
24 YOU'RE GOING TO HEAR FROM PEOPLE THAT REALLY KNEW
25 CHRISTOPHER LIVERMAN. TYRONE DIDN'T EVEN KNOW CHRISTOPHER

1 LIVERMAN'S NAME.

2 YOU'RE GOING TO HEAR FROM PEOPLE WHO REALLY KNEW
3 CHRISTOPHER LIVERMAN WHO WERE THERE WHO SAW THE BOYS, AND
4 NOT ONE OF THOSE PEOPLE, NOT ONE, IS EVER GOING TO PUT
5 CHRISTOPHER LIVERMAN AT THE SCENE. NONE OF THE RESIDENTS
6 AT T.S. MARTIN ARE GOING TO PUT CHRIS LIVERMAN AT THAT
7 SCENE.

8 FINALLY, THE STATE HAS IGNORED THE GUNSHOT RESIDUE
9 TEST, THE SCIENCE, THEIR SCIENCE. AT THE VERY BEGINNING
10 OF THIS INVESTIGATION, THEY TOOK THAT EVIDENCE FROM
11 CHRISTOPHER LIVERMAN'S OWN HANDS.

12 THE HEAD INVESTIGATOR IN THIS CASE, INVESTIGATOR
13 GRAY, OFFERED THAT TEST, AND THEY SENT IT TO THEIR LABS TO
14 BE ANALYZED.

15 ON OCTOBER 13TH, 2004, WE'RE TALKING OVER TWO YEARS
16 AGO, LADIES AND GENTLEMEN, ON OCTOBER 13TH, 2004, THEY GOT
17 THE RESULTS OF THIS TEST BACK. THEY GOT THE RESULTS OF
18 THEIR SCIENCE BACK, NEGATIVE, NEGATIVE.

19 THEIR OWN SCIENCE, THEIR OWN TEST, WHICH I'M SURE
20 THEY'RE GOING TO TRY TO EXPLAIN AWAY NOW, BUT THEIR OWN
21 SCIENCE, THEIR OWN TEST, SHOW THAT CHRISTOPHER LIVERMAN
22 DID NOT SHOOT A GUN THAT NIGHT, AND THAT'S SOMETHING THAT
23 THEY WILL NOT BE ABOUT TO EXPLAIN AWAY. IT WAS THEIR OWN
24 SCIENCE, THEIR TEST. IF IT CAME BACK DIFFERENTLY, YOU'D
25 BE HEARING ALL ABOUT IT THROUGHOUT THIS TRIAL.

1 CHRISTOPHER LIVERMAN WAS PUT IN JAIL THAT NIGHT.
2 HE'S BEEN UNDER ARREST EVER SINCE. FROM DAY ONE, THE
3 PEOPLE OF COLUMBIA HAVE BEEN ABLE TO KNOW THAT A SWIFT
4 ARREST WAS MADE.

5 LADIES AND GENTLEMEN, THERE'S A SAYING, THERE'S A
6 SAYING, THAT IN A REAL INVESTIGATION, IN A REAL
7 INVESTIGATION, YOU FOCUS ON THE EVIDENCE AND NOT THE
8 SUSPECT. IN A REAL INVESTIGATION YOU FOCUS ON THE
9 EVIDENCE AND NOT THE SUSPECT.

10 I SUBMIT TO YOU AFTER YOU HEAR ALL OF THIS EVIDENCE
11 THAT COMES IN, ALL OF THE STATE'S EVIDENCE, THIS CASE
12 WOULD BE THE POSTER CHILD FOR WHEN THAT RULE IS NOT
13 FOLLOWED.

14 THEY FOCUSED ON CHRISTOPHER LIVERMAN FROM DAY ONE,
15 DESPITE ALL OF THE EVIDENCE THAT'S POINTED TO HIS
16 INNOCENCE, DESPITE THE FACT THAT THEY HAVEN'T BEEN ABLE TO
17 COLLECT ANY EVIDENCE ONCE HE WAS KILLED BESIDES SOME
18 TESTIMONY. THEY KEPT THE FOCUS ON CHRISTOPHER LIVERMAN.

19 NO ONE ELSE HAS BEEN ARRESTED IN THIS CASE. IT'S
20 BEEN CHRISTOPHER LIVERMAN FROM DAY ONE, FROM 18 MINUTES
21 ON.

22 I BROUGHT A MAZE INTO COURT TODAY. I HATE MAZES. I
23 HATE MAZES. THEY'RE FRUSTRATING. THEY'RE TIME CONSUMING.
24 THEY'RE FULL OF WRONG TURNS. I DON'T LIKE DOING THEM, BUT
25 THERE'S ONE THING ABOUT MAZES THAT I CAN APPRECIATE.

1 YOU'RE SUPPOSED TO GET FROM THE OUTSIDE, FROM THE
2 BEGINNING, FIND YOUR WAY TO THE MIDDLE, THE ANSWER, THAT'S
3 THE GOAL, AND I DON'T LIKE DOING THEM BECAUSE THERE'S
4 WRONG TURNS ALL OVER THE PLACE. THERE'S WRONG TURNS RIGHT
5 FROM THE BEGINNING. IT DEAD ENDS, WRONG TURNS, DEAD ENDS.
6 THAT'S WHY I DON'T LIKE THEM. THEY'RE FRUSTRATING.

7 I DO KNOW THAT IF YOU SIT DOWN WITH A MAZE, IF YOU
8 SIT DOWN WITH A MAZE, YOU GRAB A PENCIL AND YOU'RE NOT
9 AFRAID TO ERASE, AND YOU'RE NOT AFRAID TO BACK UP, AND
10 YOU'RE NOT AFRAID TO REFOCUS, WHEN YOU TAKE A WRONG TURN,
11 YOU'RE NOT AFRAID TO ERASE AND GO BACK AND TRY A NEW PATH.

12 I KNOW SOONER OR LATER IF YOU PUT ENOUGH TIME AND
13 ENOUGH WORK IN A MAZE, YOU'RE GOING TO FIND YOUR WAY TO
14 THE MIDDLE. YOU'RE GOING TO FIND THE ANSWER. YOU'RE
15 GOING TO GET THERE, BUT THERE'S SOMETHING ELSE ABOUT MAZES
16 THAT I REALIZED -- I REALIZED THIS WHILE I WAS PREPARING
17 FOR THIS CASE.

18 IT MAKES SENSE -- IT MAKES SENSE IF YOU FORGET ABOUT
19 THE MIDDLE. IF YOU SAY MAZES ARE TOO TIME CONSUMING OR
20 TOO FRUSTRATING, I DON'T FEEL LIKE DEALING WITH IT, YOU
21 CAN PICK ANY SPOT ON THIS MAZE, ANY SPOT, EVEN SPOTS RIGHT
22 IN FRONT OF DEAD ENDS, RIGHT THERE, RIGHT THERE, YOU CAN
23 PICK ANY SPOT AND WORK BACKWARDS.

24 IF YOU WORK BACKWARDS, NO, YOU'RE NOT GOING TO GET TO
25 THE MIDDLE, BUT YOU'LL GET OUT OF THE MAZE. IT'S TRUE.

1 NO MATTER WHAT SPOT YOU PICK, EVEN THE WORST OF SPOTS. IF
2 YOU WORK BACKWARDS, YOU'LL GET OUT OF THE MAZE. IT
3 DOESN'T SOLVE THE MAZE, BUT YOU GET OUT.

4 WELL, AN INVESTIGATION IS KIND OF LIKE A MAZE. YOU
5 HAVE AN INVESTIGATOR WHO COMES ONTO THE CASE. YOU CAN
6 BEGIN RIGHT HERE. HE HAS TO MAKE DECISIONS. HE HAS TO
7 LOOK AT EVIDENCE, AND EVENTUALLY IN A REAL INVESTIGATION,
8 IN A REAL INVESTIGATION, HIS GOAL IS GOING TO GET TO THE
9 MIDDLE, TO GET TO THE TRUTH, TO GET TO JUSTICE, IN A REAL
10 INVESTIGATION.

11 AN INVESTIGATOR WILL SIT DOWN WITH HIS PENCIL AND HIS
12 ERASER, AND HE WON'T BE SCARED TO BACK UP AND REFOCUS AND
13 CONSIDER NEW EVIDENCE. HE'LL GO ABOUT THE CASE, AND HE
14 MAY MAKE A TURN. HE MAY MAKE A TURN AND GO DOWN A PATH.
15 THIS PATH MAY BE A DEAD END. THIS PATH MAY HAVE A BAD
16 IDENTIFICATION. IT MAY HAVE SHOTS GOING OFF IN THE
17 DISTANCE WHILE THE SUSPECT IS IN CUSTODY IN HANDCUFFS. IT
18 MAY HAVE A LACK OF CORROBORATING WITNESSES AT THE SCENE
19 THAT CAN IDENTIFY THE SUSPECT. IT MAY -- IT MAY HAVE A
20 NEGATIVE GUNSHOT RESIDUE TEST. IT MAY HAVE ALL OF THESE
21 DEAD ENDS.

22 AT SOME POINT THE INVESTIGATOR, IF HE'S CONDUCTING A
23 REAL INVESTIGATION, IF HE'S TRYING TO GET TO THE TRUTH,
24 HE'S GOING TO SAY, "DEAD END, DEAD END, DEAD END." HE'S
25 GOING TO GET OUT OF THAT PATH AND PICK A NEW ONE, BECAUSE

1 EVENTUALLY YOU'RE GOING TO FIND THE RIGHT PATH, AND YOU'RE
2 GOING TO GET TO THE TRUTH.

3 LADIES AND GENTLEMEN, I TOLD YOU THAT IN A MAZE YOU
4 GET ABOUT THE TRUTH. YOU CAN ALWAYS GET OUT. YOU CAN
5 PICK ANY SPOT ON A MAZE AND GET OUT. YOU CAN PICK A
6 SPACE, THE WORST SPOT ON THIS MAZE RIGHT IN FRONT OF A
7 DEAD END, RIGHT IN FRONT OF THREE DEAD ENDS, RIGHT IN
8 FRONT OF A NEGATIVE GUNSHOT RESIDUE TEST, RIGHT IN FRONT
9 OF A BAD IDENTIFICATION. YOU CAN PICK THAT SPOT. YOU CAN
10 LABEL IT "CHRIS LIVERMAN" AND YOU CAN IGNORE THESE DEAD
11 ENDS THAT ARE RIGHT IN FRONT OF YOU.

12 LADIES AND GENTLEMEN, IF YOU'RE NOT CONCERNED ABOUT
13 GETTING TO THE TRUTH, YOU'RE NOT CONCERNED ABOUT GETTING
14 TO THE TRUTH, THEN YOU'RE MORE CONCERNED WITH CLOSING A
15 CASE.

16 IF YOU'RE MORE CONCERNED ABOUT GETTING OUT OF THE
17 MAZE, IF YOU'RE MORE CONCERNED ABOUT MAKING A QUICK
18 ARREST, IF YOU'RE MORE CONCERNED ABOUT YOUR AGENCY WHO
19 SCREWED UP --

20 MS. FENT: YOUR HONOR, I APOLOGIZE AGAIN.

21 MR. SHARDT: -- BIG TIME.

22 THE COURT: THIS IS OPENING STATEMENT.

23 MR. SHARDT: THANK YOU.

24 YOU CAN WORK BACKWARDS. YOU CAN ALWAYS WORK
25 BACKWARDS AND FIND YOUR WAY OUT OF THE MAZE. YOU CAN

1 CLOSE THE FILE.

2 THE EVIDENCE WILL SHOW THAT THIS INVESTIGATION HAS
3 NOT BEEN ABOUT FINDING THE TRUTH. IT'S BEEN ABOUT GETTING
4 OUT OF THE MAZE. THE EVIDENCE WILL SHOW THAT THIS
5 INVESTIGATION HAS FOCUSED ON A SUSPECT, NOT THE EVIDENCE.

6 CHRISTOPHER LIVERMAN, AS A CRIMINAL, THANKS YOU FOR
7 THIS CASE, LIKE ALL CITIZENS OF THE UNITED STATES
8 DESERVES, IS ENTITLED TO DIGNITY AND RECEIVES CERTAIN
9 RIGHTS.

10 HE HAS CHOSEN A TRIAL BY JURY, AND HE HAS PUT HIS
11 FATE IN THE HANDS OF EACH AND EVERY ONE OF YOU, AND HE
12 WILL RECEIVE CERTAIN CONSTITUTIONAL PROTECTIONS THROUGHOUT
13 THIS TRIAL.

14 FIRST, CHRISTOPHER LIVERMAN IS PRESUMED INNOCENT.
15 THIS MAN, CHRISTOPHER LIVERMAN, THIS MAN, IS PRESUMED
16 INNOCENT. HE'S AN INNOCENT MAN. DON'T BE AFRAID TO LOOK
17 AT HIM. HE'S AN INNOCENT MAN.

18 THE FACT THAT THE STATE HAS DRAGGED HIM IN HERE AND
19 SAT HIM DOWN IN THAT CHAIR, THAT DOES NOT INDICATE AT ALL,
20 NOT IN THE LEAST, THAT'S HE IS GUILTY OF WHAT HE'S ACCUSED
21 OF. HE'S AN INNOCENT MAN.

22 NOW, IF YOU LOOK AT CHRISTOPHER LIVERMAN AND YOU
23 THINK HE LOOKS WEIRD OR GOOFY OR SILLY OR SCARY, WHATEVER
24 YOU THINK ABOUT HIM AT THIS POINT, WHEN YOU LOOK AT HIM,
25 WHATEVER YOU THINK ABOUT THAT MAN, IT'S TIME TO GET IT OUT

1 OF YOUR HEAD. I'M GOING TO ASK YOU TO GET IT OUT OF YOUR
2 HEAD AND WIPE THE SLATE CLEAN, BECAUSE HE SITS HERE AN
3 INNOCENT MAN. HE'S INNOCENT.

4 YOU HAVE NOT HEARD ANY EVIDENCE HERE. THIS CASE HAS
5 NOT -- THIS TRIAL HAS NOT EVEN BEGUN. WIPE IT CLEAN;
6 SECOND, THE STATE IN THIS CASE, LIKE IN ALL CRIMINAL
7 CASES, THE STATE BEARS THE BURDEN OF PROOF, OKAY.

8 THEY MUST BRING IN EVIDENCE THAT'S RELIABLE AND
9 RELEVANT TO PROVE THEIR CASE. THEY HAVE TO BRING IN
10 RELIABLE EVIDENCE.

11 YOU'RE GOING TO HEAR THE EVIDENCE. YOU'RE GOING TO
12 HEAR FROM WITNESSES THAT ARE GOING TO PUT ON CHRIS.
13 YOU'RE GOING TO HEAR FROM DIEGO THOMPSON. HE'S GOING TO
14 PUT ON CHRIS. YOU'LL HEAR FROM SHANTE. SHE IS GOING TO
15 PUT ON CHRIS. IT HAS TO BE RELIABLE. YOU'RE GOING TO
16 HAVE THE OPPORTUNITY TO HEAR WHAT THEY HAVE TO SAY. IF
17 YOU LISTEN TO WHAT THEY SAY, IT JUST DOESN'T MAKE SENSE,
18 IF YOU THINK THEY'RE LYING, TREAT THEM LIKE A LIAR. TREAT
19 THEM LIKE A LIAR.

20 JUST BECAUSE THE STATE CALLS A WITNESS TO THE STAND
21 AND SITS THEM RIGHT THERE DOESN'T MEAN THEY'RE TELLING THE
22 TRUTH, DOESN'T MEAN THEY'RE TELLING THE TRUTH. IF YOU
23 THINK THEY'RE LYING, TREAT THEM LIKE A LIAR, AND THE STATE
24 WANTS TO PROVIDE EVIDENCE THAT IS RELEVANT.

25 LADIES AND GENTLEMEN, THIS -- ALL OF THE EVENTS THAT

1 TOOK PLACE ON AUGUST 26TH, 2004, IT WAS A TRAGEDY, IT WAS
2 A TRAGEDY, AN ABSOLUTE TRAGEDY. [REDACTED] C.D. WAS 12
3 YEARS OLD. [REDACTED] T.M. WAS 16 YEARS OLD.

4 YOU'RE NOT GOING TO HEAR ANYONE SAY THAT THEY
5 DESERVED THIS. YOU'RE NOT GOING TO HEAR ANYONE SAY THEIR
6 FAMILIES DESERVED THIS. YOU'RE NOT GOING TO HEAR ANYONE
7 SAY THEIR COMMUNITY DESERVED THIS. NO ONE DESERVED THIS.
8 THAT'S BEYOND DISPUTE.

9 YOU'RE GOING TO HEAR TESTIMONY FROM FAMILY MEMBERS
10 AND FROM OTHER PEOPLE THAT HAVE BEEN PROFOUNDLY AFFECTED
11 BY THIS TRAGEDY. THERE'S GOING TO BE EMOTION.

12 YOU'RE GOING TO HEAR TESTIMONY ABOUT THOSE CHILDREN,
13 ABOUT WHAT TYPE OF CHILDREN THEY WERE. YOU'RE GOING TO
14 HEAR TESTIMONY ABOUT THE FACTS SURROUNDING THEIR DEATH.
15 YOU'RE GOING TO HEAR TESTIMONY -- I WOULD IMAGINE YOU'RE
16 GOING TO HEAR TESTIMONY ABOUT THEIR STRUGGLE TO HOLD ONTO
17 LIFE, OKAY. IT'S GOING TO BE EMOTIONAL. IT'S GOING TO BE
18 GUT WRENCHING. IT'S GOING TO BE VERY SAD. IT'S GOING TO
19 MAKE YOU ANGRY. IT'S GOING TO BE EMOTIONAL.

20 THERE'S NOTHING WRONG WITH THIS. YOU SHOULD HEAR
21 THAT TESTIMONY, BUT THE FACT OF THE MATTER IS THE REASON
22 WHY WE'RE HERE TODAY IS NOT TO DETERMINE WHETHER OR NOT
23 THIS WAS A TRAGEDY BECAUSE IT WAS.

24 WE'RE HERE TO DETERMINE IF MY CLIENT, CHRISTOPHER
25 LIVERMAN, IS RESPONSIBLE FOR THE DEATHS, AND WHILE THAT

1 TESTIMONY THAT YOU'RE GOING TO HEAR, THAT EMOTIONAL
2 TESTIMONY, IS VERY IMPORTANT AND YOU SHOULD HEAR IT, IT
3 HAS NOTHING TO DO WITH WHO KILLED THOSE CHILDREN.

4 FINALLY, THE STATE HAS THE BURDEN OF PROVING THEIR
5 CASE BEYOND A REASONABLE DOUBT TO EACH AND EVERY ONE OF
6 YOU JURORS. FIRST, EACH AND EVERY ONE OF YOU JURORS MEANS
7 AS INDIVIDUALS. THIS IS NOT A TEAM PROJECT. THIS WILL
8 NOT BE A GROUP DECISION.

9 AS INDIVIDUALS IN ORDER TO CONVICT, YOU MUST BE
10 CONVINCED BEYOND A REASONABLE DOUBT THAT CHRISTOPHER
11 LIVERMAN IS GUILTY, AS INDIVIDUALS. EACH AND EVERY ONE OF
12 YOU JURORS HOLDS CHRISTOPHER LIVERMAN'S FATE IN YOUR
13 HANDS.

14 THE SECOND PART OF THAT IS THE STATE MUST PROVE THEIR
15 CASE BEYOND A REASONABLE DOUBT. THAT'S A VERY HIGH
16 STANDARD. THAT'S A HIGH BURDEN. THAT'S THE HIGHEST
17 BURDEN IN OUR COURT SYSTEM, AND IT'S THAT WAY FOR A
18 REASON. IT PROTECTS THE INNOCENT FROM BEING CONVICTED OF
19 CRIMES THEY DID NOT COMMIT. IT WILL PROTECT CHRISTOPHER
20 LIVERMAN HERE. IT WILL PROTECT CHRISTOPHER LIVERMAN HERE
21 TODAY.

22 THIS WAS A TRAGEDY, BUT BEYOND A REASONABLE DOUBT IS
23 NOT A SLIDING SCALE. THE FACTS IN THIS CASE ARE AWFUL,
24 BUT THE STATE MUST STILL MEET THAT SAME BURDEN OF PROOF.
25 THAT BEING SAID, IT'S NOT GOING TO BE CLOSE.

1 IF REASONABLE DOUBT IS A WHISPER THAT SAYS "NOT
2 GUILTY, NOT GUILTY," A WHISPER IN YOUR HEAD THAT SAYS "NOT
3 GUILTY, NOT GUILTY," THIS CASE, AFTER YOU HEAR THE
4 EVIDENCE, IS GOING TO BE SCREAMING NOT GUILTY, NOT GUILTY.

5 ON AUGUST 27TH, 2004, THE PEOPLE OF T.S. -- OR THE
6 PEOPLE OF COLUMBIA WERE ABLE TO HEAR THAT A SUSPECT HAD
7 BEEN CAUGHT. THEY WERE ABLE TO HEAR ABOUT A SWIFT ARREST
8 BEING MADE. THEY WERE ABLE TO HEAR THAT CHRISTOPHER
9 LIVERMAN WAS IN JAIL.

10 FOR THE LAST 26 MONTHS THE STATE HAS HAD THE
11 OPPORTUNITY TO BUILD THIS CASE AGAINST CHRISTOPHER
12 LIVERMAN, HAS HAD THE OPPORTUNITY TO TALK TO AS MANY
13 PEOPLE ON THE STREET AS THEY COULD.

14 MS. FENT: OBJECTION, YOUR HONOR. THIS IS ARGUMENT.

15 THE COURT: I SUSTAIN. IT GOES BEYOND THE PURPOSE OF
16 THE OPENING STATEMENT, MR. SCHARDT.

17 MR. SHARDT: THANK YOU, YOUR HONOR.

18 YOU WILL HEAR THE EVIDENCE THAT THE STATE BRINGS IN,
19 AND YOU'LL HEAR EVIDENCE THAT THE STATE HAS HAD FROM THE
20 BEGINNING THAT POINTS TO CHRISTOPHER LIVERMAN'S INNOCENCE.

21 AT THE END OF THIS TRIAL, YOU WILL HAVE THE
22 OPPORTUNITY TO TURN THE FATE OF THIS CASE. YOU WILL HAVE
23 THE OPPORTUNITY TO SAY TO THE POLICE BACK ON THE STREET TO
24 DO A REAL INVESTIGATION THIS TIME.

25 YOU'LL HAVE THE OPPORTUNITY TO TELL THEM --

1 MS. FENT: OBJECTION, YOUR HONOR. THIS IS
2 ARGUMENTATIVE.

3 THE COURT: ALL RIGHT. COME FORWARD. COME UP HERE
4 JUST A MINUTE, PLEASE.

5 (WHEREUPON, A BENCH CONFERENCE WAS HELD IN THE
6 PRESENCE, BUT NOT WITHIN THE HEARING, OF THE JURY).

7 THE COURT: THE OBJECTION IS SUSTAINED.

8 MR. SHARDT: AT THE END OF THIS CASE, YOU'LL HAVE
9 CHRISTOPHER LIVERMAN'S FATE IN YOUR HANDS. THIS DAY HAS
10 BEEN 26 MONTHS IN THE MAKING.

11 AFTER YOU HEAR THE EVIDENCE, CHRISTOPHER LIVERMAN
12 WILL HAVE BEEN WAITING 26 MONTHS. SEND HIM HOME. YOU
13 WILL BRING JUSTICE FOR [REDACTED] C.D. [REDACTED] AND [REDACTED] T.M. [REDACTED]
14 [REDACTED], AS WELL, BECAUSE THEIR REAL KILLER NEEDS TO COME
15 AND FACE THESE CHARGES BECAUSE CHRISTOPHER LIVERMAN IS NOT
16 GUILTY.

17 THANK YOU.

18 THE COURT: THE CLERK IS GOING TO HAND OUT THESE
19 NOTEPADS THAT I MENTIONED TO YOU EARLIER, LADIES AND
20 GENTLEMEN.

21 (PAUSE).

22 ALL RIGHT. EVERYONE WHO WANTS A NOTEPAD HAS ONE?

23 (INDICATING).

24 ALL RIGHT, SOLICITOR, YOU MAY CALL YOUR FIRST
25 WITNESS.

1 MS. FRANKLIN: YOUR HONOR, MAY WE APPROACH?

2 THE COURT: SURE.

3 (WHEREUPON, A BENCH CONFERENCE WAS HELD IN THE
4 PRESENCE, BUT NOT WITHIN THE HEARING, OF THE JURY).

5 THE COURT: FOR THE RECORD, AN OBJECTION HAS BEEN
6 NOTED BY THE DEFENSE COUNSEL. WE WILL PUT IT FULLY ON THE
7 RECORD DURING THE NEXT BREAK.

8 ALL RIGHT, CALL YOUR FIRST WITNESS, PLEASE.

9 MS. FENT: THE STATE CALLS BRIAN DIXON.

10 BRIAN DIXON, AFTER BEING DULY SWORN,
11 TESTIFIED AS FOLLOWS:

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

14 THE WITNESS: BRIAN ALPHONSO DIXON.

15 THE COURT: YOU'RE GOING TO NEED TO SLIDE UP AND
16 SPEAK INTO THE MICROPHONE, SIR.

17 THE WITNESS: BRIAN ALPHONSO DIXON.

18 THE COURT: ALL RIGHT.

19 DIRECT EXAMINATION:

20 BY MS. FENT

21 Q BRIAN, AS WE TALK HERE, I NEED YOU TO SPEAK AS LOUD
22 AS YOU CAN SO THAT ALL THE JURORS CAN HEAR EVERYTHING YOU
23 HAVE TO SAY, OKAY?

24 A OKAY.

25 Q BRIAN, HOW OLD ARE YOU?

1 A EIGHTEEN YEARS OLD.

2 Q OKAY. AND TELL US WHAT YOU'RE DOING WITH YOURSELF.
3 ARE YOU GOING TO SCHOOL? ARE YOU WORKING?

4 A NO, MA'AM.

5 Q OKAY. BACK ON AUGUST OF 2004, WHERE DID YOU LIVE?

6 A [REDACTED].

7 Q WHAT HOUSE? WHICH HOUSE ON T.S. MARTIN DID YOU LIVE
8 IN?

9 A [REDACTED]

10 Q WHO DID YOU LIVE THERE WITH?

11 A ME, MY MOM, AND MY SISTER.

12 Q WHAT WAS YOUR SISTER'S NAME?

13 A [REDACTED] C.D.

14 Q WHAT ABOUT [REDACTED] C.D.'S DAD? DID HE LIVE IN THE HOUSE
15 WITH YOU?

16 A YES.

17 Q WHAT'S HIS NAME?

18 A THEODORE HAIGLER.

19 Q HOW LONG HAD YOU LIVED ON THAT HOUSE AT T.S. MARTIN?

20 A ABOUT TWO YEARS.

21 Q OKAY. AND HOW OLD WAS [REDACTED] C.D.? WAS SHE OLDER OR
22 YOUNGER THAN YOU?

23 A YOUNGER THAN ME.

24 Q ON THIS PARTICULAR NIGHT, AUGUST 26TH, 2004, IN THE
25 EVENING AROUND NINE O'CLOCK, WHERE WERE YOU?

1 A I WAS OUTSIDE ON THE PORCH.

2 Q OKAY. SPEAK UP.

3 A I WAS OUTSIDE ON THE PORCH.

4 Q OKAY. THE FRONT PORCH OR BACK PORCH?

5 A FRONT PORCH.

6 Q AND WHO WERE YOU WITH?

7 A ME AND MY FRIEND, CHRISTOPHER ROBINSON.

8 Q OKAY. WHERE DID CHRISTOPHER ROBINSON LIVE?

9 A HE LIVED AT [REDACTED] --

10 Q OKAY.

11 A -- IN THE CIRCLE.

12 Q SO IN THAT NEIGHBORHOOD ALSO?

13 A YES, MA'AM.

14 Q AND WHAT WERE YOU AND CHRISTOPHER DOING?

15 A OH, WE WERE JUST SITTING ON THE PORCH TALKING.

16 Q DO YOU REMEMBER WAS IT LIGHT OUTSIDE OR WAS IT DARK?

17 A IT WAS DARK OUTSIDE.

18 Q OKAY. TELL US ABOUT WHAT THE LIGHTING CONDITIONS

19 WERE, IF THERE WERE ANY LIGHTS ON AROUND YOUR HOUSE OR THE

20 NEIGHBORHOOD?

21 A NO. IT WAS JUST OUR PORCH LIGHT ON.

22 Q OKAY. SO YOU'RE FRONT PORCH LIGHT WAS ON?

23 A UH-HUH.

24 Q OKAY.

25 THE COURT: I NEED A "YES" OR A "NO".

1 THE WITNESS: YES, MA'AM.

2 THE COURT: ALL RIGHT.

3 BY MS. FENT

4 Q WHAT HAPPENED AROUND THAT TIME? DID YOU SEE ANYBODY
5 ELSE?

6 A WHERE? OUTSIDE?

7 Q UH-HUH.

8 A I SEEN -- NO. AT FIRST IT WAS JUST ME AND HIM, AND
9 THEN I SEEN -- WE SEEN SOME BOYS COME AROUND THE CORNER
10 AND ASK US, ASK US QUESTIONS.

11 Q OKAY. FROM ABOUT HOW FAR AWAY? ARE YOU SAYING
12 AROUND THE CORNER RIGHT AT YOUR HOUSE OR DOWN THE STREET?
13 WHERE WERE THEY?

14 A LIKE UP THE STREET.

15 Q OKAY. AND DO YOU KNOW HOW MANY BOYS THERE WERE
16 APPROXIMATELY?

17 A I DON'T REALLY KNOW.

18 Q OKAY.

19 A ABOUT FIVE OR SIX.

20 Q SOMEWHERE AROUND THERE?

21 A YES, MA'AM.

22 Q AND YOU SAID THEY ASKED YOU SOMETHING. WHAT DID THEY
23 ASK?

24 A "IS THERE ANY SLOBS AROUND HERE."

25 Q AND WHAT DID THAT MEAN TO YOU? HAD YOU HEARD THAT

1 WORD BEFORE, "SLOBS"?

2 A YES, MA'AM.

3 Q WHAT IS THAT?

4 A TO DISRESPECT THE BLOODS.

5 Q SO THESE FIVE OR SIX GUYS DOWN THE STREET, THEY ASKED

6 YOU, "ARE THERE ANY SLOBS AROUND HERE?" WHAT DO YOU OR

7 CHRISTOPHER SAY?

8 A WE SAID, "NO, WE HAVEN'T SEEN ANY. WE DON'T KNOW."

9 Q SPEAK UP.

10 A WE SAID, "WE DON'T KNOW."

11 Q OKAY. THEN WHAT HAPPENS NEXT? IS IT STILL JUST YOU

12 AND CHRISTOPHER, OR DID ANYBODY ELSE SHOW UP?

13 A NO. IT'S JUST ME AND HIM.

14 Q OKAY. THEN WHAT HAPPENS NEXT?

15 A OH, THEY JUST -- THEY HAD WENT BEHIND THE HOUSE. I

16 JUST SEEN THEM WALK OFF. THEN ME AND HIM WAS SITTING ON

17 THE PORCH TALKING. I WENT IN THE HOUSE THE FIRST TIME

18 AND -- TELL TEDDY THAT IT DIDN'T LOOK RIGHT.

19 Q YOU TOLD TEDDY. WHO IS TEDDY?

20 A MY STEPDAD.

21 Q THEODORE HAIGLER?

22 A THEODORE HAIGLER, YES.

23 Q OKAY. YOUR STEPDAD?

24 A UH-HUH.

25 Q YOU SAID SOMETHING DIDN'T LOOK RIGHT?

1 A I SAID IT DIDN'T LOOK RIGHT, AND THEN I JUST WENT
2 BACK OUTSIDE. ME AND CHRIS STARTED TALKING.

3 Q OKAY.

4 A AND WHEN I WENT -- I WAS FIXING TO GO IN THE HOUSE
5 FOR A SECOND TIME. WHEN I WAS GOING IN THE HOUSE AND I
6 CRACKED THE DOOR, THAT'S WHEN THEY STARTED SHOOTING, SO I
7 JUST RAN IN THE HOUSE.

8 Q DO YOU REMEMBER WHEN COURTNEY SHOWED UP ON THE PORCH?

9 A NO, MA'AM. I DIDN'T EVEN SEEN HER AT ALL.

10 Q OKAY. AND HOW ABOUT ANYBODY ELSE THERE IN THAT FRONT
11 YARD? WHO ELSE WAS THERE?

12 A WHERE? IN THE FRONT YARD?

13 Q UH-HUH, RIGHT THERE AT YOUR HOUSE.

14 A WHAT? LIKE BACK OUTSIDE, TOO?

15 Q UH-HUH.

16 A IT WAS [REDACTED] T.M. [REDACTED] AND [REDACTED] C.D. [REDACTED].

17 Q [REDACTED] T.M. [REDACTED] ?

18 A UH-HUH, YES.

19 Q DID YOU KNOW WHERE [REDACTED] T.M. [REDACTED] LIVED?

20 A YES, MA'AM. HE LIVED IN THE HOUSE BEHIND THE
21 NEIGHBORHOOD.

22 Q SO WHEN YOU SAID -- WHEN THE SHOTS WERE FIRED, WHAT
23 ARE YOU DOING EXACTLY?

24 A WHAT AM I DOING?

25 Q UH-HUH.

1 A OH, I WAS IN THE HOUSE.

2 Q HAD YOU GOTTEN ALL THE WAY IN THE HOUSE --

3 A UH-HUH.

4 Q -- OR YOU WERE STILL WALKING IN THE HOUSE?

5 A I GOT ALL THE WAY IN THE HOUSE.

6 Q AND THEN YOU HEAR THE SHOTS AND WHAT HAPPENS NEXT?

7 A I HEARD THE SHOTS AND THEN THAT'S WHEN I HEARD
8 CHRISTOPHER ROBINSON SAID, " C.D. AND T.M. GOT
9 SHOT."

10 Q SO THEN WHAT DID YOU DO?

11 A THEN I HAD GOT ON THE PHONE AND TRIED TO CALL MY
12 COUSINS AND EVERYBODY BECAUSE I WAS SCARED. I DIDN'T KNOW
13 WHAT TO DO.

14 Q OKAY. DID YOU EVER GO OUTSIDE AND SEE WHAT HAD
15 HAPPENED?

16 A UH-HUH.

17 Q YES?

18 A (NODS IN THE AFFIRMATIVE).

19 Q BRIAN, I'M GOING TO SHOW YOU A COUPLE OF PHOTOS. ONE
20 OF THEM IS MARKED STATE'S EXHIBIT 11 AND THE OTHER ONE IS
21 MARKED STATE'S EXHIBIT 12. JUST TAKE A LOOK AT THOSE AND
22 TELL ME YES OR NO IF YOU RECOGNIZE WHAT'S IN THAT PHOTO.

23 A UH-HUH.

24 Q SAY IT IN THE MICROPHONE.

25 A YES, I DO.

1 Q OKAY. AND WHAT IS THIS? WHAT IS THIS PICTURES OF?
2 SAY IT IN THE MICROPHONE.

3 A THE SCENE WHERE IT GOT SHOT AT.

4 Q OKAY. WHOSE HOUSE IS THAT THAT'S SHOWN IN THE PHOTO?

5 A MY HOUSE.

6 Q IS THAT HOW IT LOOKED THAT NIGHT AFTER THEY GOT SHOT?

7 A YES, MA'AM.

8 MS. FENT: OFFER INTO EVIDENCE STATE'S EXHIBIT 11 AND
9 12? I'VE SHOWN THEM TO DEFENSE COUNSEL.

10 MS. FRANKLIN: YOUR HONOR, MAY WE APPROACH?

11 THE COURT: SURE.

12 (WHEREUPON, A BENCH CONFERENCE WAS HELD IN THE
13 PRESENCE, BUT NOT WITHIN THE HEARING, OF THE JURY).

14 THE COURT: MR. FOREMAN, LADIES AND GENTLEMEN, A
15 MATTER OF LAW HAS COME UP THAT I'M GOING TO HAVE TO TAKE
16 UP.

17 LET ME TELL YOU THROUGHOUT THE TRIAL THERE WILL BE
18 MATTERS OF LAW AND OTHER MATTERS THAT COME UP THAT I'M
19 REQUIRED TO TAKE UP OUTSIDE OF YOUR PRESENCE AND HAVE TO
20 MAKE SOME RULINGS.

21 WE'VE BEEN GOING A LITTLE OVER AN HOUR, SO IT'S A
22 GOOD TIME TO TAKE A BREAK FOR YOU. GO BACK IN THE JURY
23 ROOM, STRETCH YOUR LEGS, USE THE RESTROOM. WE'LL PROBABLY
24 TAKE ABOUT 10 OR 15 MINUTES. YOU CAN LEAVE THE NOTEPADS
25 THERE IN YOUR CHAIRS, IF YOU LIKE.

1 AGAIN, DON'T DISCUSS THE CASE AMONG YOURSELVES OR
2 WITH ANYONE ELSE. TAKE A BREAK. YOU CAN STEP BACK TO
3 YOUR JURY ROOM.

4 EVERYONE ELSE STAY SEATED, PLEASE.

5 (WHEREUPON, THE JURY LEFT OPEN COURT AT APPROXIMATELY
6 11:27 A.M.)

7 THE COURT: BEFORE I HEAR THE OBJECTION ON THESE
8 PHOTOGRAPHS, LET'S GET THE OBJECTION THAT WAS MADE AT THE
9 BENCH JUST PREVIOUSLY.

10 COUNSEL CAME UP AND MADE AN OBJECTION TO A PORTION OF
11 THE STATE'S OPENING STATEMENT; IS THAT RIGHT,
12 MS. FRANKLIN?

13 MS. FRANKLIN: THAT'S RIGHT, YOUR HONOR. I'D LIKE TO
14 PUT THIS ON THE RECORD TO PRESERVE THIS FOR APPEAL, YOUR
15 HONOR, THAT AGAIN, WE ARE OBJECTING TO THE INTRODUCTION OF
16 THE TEARDROP TATTOO. THERE'S BEEN A COUPLE OF REFERENCES
17 TO THAT.

18 WE'RE DENYING THAT'S WHAT IT MEANS. WE'RE ARGUING
19 THAT IT'S INADMISSIBLE. IT'S UNDULY PREJUDICIAL. THEY
20 WILL NOT BE ABLE TO LAY A FOUNDATION FOR IT AND THAT THE
21 INTRODUCTION OF IT WILL VIOLATE MY CLIENT'S RIGHTS TO DUE
22 PROCESS AS GUARANTEED UNDER THE STATE AND FEDERAL
23 CONSTITUTION.

24 THE COURT: I HAD ESSENTIALLY RULED ON THAT, BUT YOUR
25 OBJECTION IS NOTED ON THE RECORD AT THE TIME IT WAS MADE,

1 AND IT IS OVERRULED.

2 MS. FRANKLIN: THANK YOU.

3 THE COURT: NOW, LET ME HEAR YOUR OBJECTIONS ON
4 STATE'S 11 AND 12.

5 MS. FRANKLIN: YOUR HONOR, I WOULD OBJECT TO THE
6 INTRODUCTION OF BOTH PHOTOGRAPHS ON THE GROUNDS THAT IT'S
7 CUMULATIVE. I BELIEVE THAT THE PHOTOGRAPHS ARE RELATIVELY
8 VERY SIMILAR.

9 THEY APPEAR TO BE TAKEN MAYBE A FOOT OR TWO APART
10 FROM ONE ANOTHER. I BELIEVE THAT BECAUSE OF THE SUBJECT
11 MATTER OF THE PHOTOGRAPHS, THEY'RE VERY DISTURBING.

12 I THINK THAT THE EFFECT OF HAVING BOTH PHOTOGRAPHS
13 WOULD CONTRIBUTE TO ITS PREJUDICIAL EFFECT AND WOULD BE
14 UNDULY PREJUDICIAL, UNDULY PREJUDICIAL, YOUR HONOR, AND
15 NOT -- MORE UNDULY PREJUDICIAL THAN PROBATIVE. I BELIEVE
16 THAT THE INTRODUCTION OF ONE PHOTOGRAPH IS PROBATIVE; TWO,
17 IT'S CUMULATIVE.

18 THE COURT: ALL RIGHT. LET ME HEAR THE STATE'S
19 RESPONSE.

20 MS. FENT: THEY ACTUALLY SHOW TWO DIFFERENT
21 LOCATIONS, ONE [REDACTED] T.M. [REDACTED] WAS BACK KIND OF BETWEEN
22 THE HOUSES, BACK AND [REDACTED] C.D. [REDACTED] IS KIND OF IN THE FRONT.
23 THAT'S WHY THE TWO PHOTOS SHOW DIFFERENT ANGLES AND WHERE
24 THE TWO DIFFERENT VICTIMS WERE.

25 THE COURT: ARE THERE ANY OTHER PHOTOGRAPHS OF THE

1 STATE THE STATE INTENDS TO OFFER?

2 MS. FENT: YES. I DON'T THINK THERE ARE ANY MORE
3 THAT ACTUALLY SHOW THE LOCATION WHERE THE TWO VICTIMS WERE
4 LYING. BASICALLY, ALL THE OTHER ONES ARE INSIDE THE
5 HOUSE, AROUND THE ANGLES --

6 THE COURT: I MEAN, AT THIS LOCATION.

7 MS. FENT: THAT LOCATION, I BELIEVE THOSE ARE THE
8 ONLY TWO.

9 THE COURT: THE OBJECTION IS OVERRULED. IN LOOKING
10 AT THAT PHOTOGRAPHS, I DON'T BELIEVE THEY ARE CUMULATIVE.
11 THEY DO SHOW -- WHILE THEY'RE SHOWING THE SAME THING, TWO
12 DIFFERENT LOCATIONS, UNDER 403 THEY ARE PROBATIVE AND ANY
13 PREJUDICE IS NOT -- IS OUTWEIGHED BY THE PROBATIVE VALUE
14 OF THE PHOTOGRAPHS. FOR THAT REASON, STATE'S 11 AND 12
15 WILL BE ADMITTED.

16 ALL RIGHT. LET'S TAKE ABOUT FIVE, NO MORE THAN TEN
17 MINUTES AND WE'LL RESUME. ALSO, FOR PLANNING PURPOSES, I
18 THINK I HAVE ALREADY TOLD YOU THAT I HAD A NOTE FROM ONE
19 JUROR. WE'LL BE STOPPING NO LATER THAN 5:30 THIS
20 AFTERNOON, MAYBE A LITTLE BIT EARLIER THAN THAT.

21 I BELIEVE I HAVE A BOND HEARING AT TWO O'CLOCK THIS
22 AFTERNOON, SO WHEN WE BREAK, I'M GOING TO HAVE TO GET THAT
23 DONE. YOU WON'T HAVE TO WORRY ABOUT THAT. I'LL HAVE TO
24 WORRY ABOUT THAT. THAT'S WHY I'LL BE DOING SOME OF THE
25 THINGS I HAVE TO BE DOING.

1 MS. FRANKLIN: THANK YOU, YOUR HONOR.

2 THE COURT: TEN MINUTES.

3 (WHEREUPON, STATE'S EXHIBITS NOS. 11, 12 WERE
4 ADMITTED INTO EVIDENCE.)

5 (WHEREUPON, A SHORT BREAK WAS TAKEN.)

6 THE COURT: IS THE STATE READY, OR DO WE NEED TO WAIT
7 ON MS. CAMPBELL?

8 MS. FENT: WE'RE READY.

9 THE COURT: IS THE DEFENSE READY?

10 (THERE WAS NO RESPONSE.)

11 IS THE DEFENSE READY?

12 MS. FRANKLIN: I'M SORRY, YES, YOUR HONOR.

13 THE COURT: ALL RIGHT. LET'S GET THE JURY BACK IN,
14 PLEASE.

15
16 THE BAILIFF: ALL RIGHT.

17 (WHEREUPON, THE JURY CAME INTO OPEN COURT AT
18 APPROXIMATELY 11:46 A.M.)

19 THE BAILIFF: THE JURY IS SEATED, YOUR HONOR.

20 THE COURT: ALL RIGHT. STATE'S EXHIBITS 11 AND 12
21 HAVE BEEN ADMITTED.

22 YOU MAY CONTINUE, MS. FENT.

23 BY MS. FENT

24 Q OKAY. BRIAN.

25 A YES.

1 Q TAKING A LOOK AT THESE PHOTOGRAPHS THAT YOU JUST
2 DESCRIBED, CAN YOU SHOW US BASICALLY WHERE [C.D.] WAS
3 AND WHERE [T.M.] WAS?

4 A [C.D.] WAS RIGHT THERE AND [T.M.] WAS -- NO.
5 (PAUSE).

6 YEAH.

7 Q WHO WAS CLOSER TO THE HOUSE?

8 A [C.D.]

9 Q OKAY. AND --

10 A [T.M.] WAS LIKE TOWARDS...

11 Q SPEAK UP A LITTLE BIT.

12 A [T.M.] WAS LIKE IN BETWEEN THE TWO HOUSES.

13 Q OKAY. AND WHAT'S ON THE GROUND THERE?

14 A BLOOD.

15 Q OKAY. AND THERE'S SOME PAPERWORK. DO YOU KNOW WHOSE
16 THAT WAS?

17 A NO.

18 Q OKAY. YOUR HONOR, MAY I ASK THAT THE WITNESS COME
19 DOWN?

20 THE COURT: HE'S GOING TO NEED TO KEEP HIS VOICE UP,
21 AND YOU'RE GOING TO BE IN CHARGE OF HIM KEEPING HIS VOICE
22 UP SO THE COURT REPORTER AND THE JURORS AND THE ATTORNEYS
23 WILL BE ABLE TO HEAR.

24 MS. FENT: ABSOLUTELY.

25 THE COURT: ALL RIGHT.

1 BY MS. FENT

2 Q LET'S FACE THE JURY, OKAY. NOW, IT'S REAL IMPORTANT
3 THAT YOU SPEAK VERY LOUDLY. I WANT YOU TO SPEAK TO THE
4 BAILIFF IN THE BACK OF THE COURTROOM SO HE CAN HEAR YOU.
5 CAN YOU DO THAT? JUST SPEAK LOUD ENOUGH THAT THE PERSON
6 SITTING AT THE DOOR -- OKAY? VERY LOUDLY.

7 A OKAY.

8 Q NOW, YOU HAD DESCRIBED BEING ON THE FRONT PORCH, AND
9 THEN KIND OF WHERE THESE FIVE OR SIX PEOPLE WERE. WOULD
10 IT HELP YOU TO BE ABLE TO LOOK AT THE DIAGRAM TO DESCRIBE
11 EXACTLY WHERE THEY WERE AND WHERE YOU WERE?

12 A YES, MA'AM.

13 Q OKAY. I'M GOING TO SHOW YOU WHAT'S BEEN MARKED AS
14 STATE'S EXHIBIT NUMBER FIVE. DO YOU RECOGNIZE WHAT THIS
15 DIAPHRAGM SHOWS?

16 A T.S. MARTIN.

17 Q OKAY. YOUR NEIGHBORHOOD?

18 A YES, MA'AM.

19 Q OKAY. AND YOU SAID YOU WERE IN WHICH HOUSE?

20 A WHERE I STAYED?

21 Q YEAH, SPEAK UP.

22 A RIGHT HERE, [REDACTED] T.S. MARTIN.

23 Q OKAY. AND WHERE WAS IT THAT YOU SAW, YOU SAID, THE
24 FIVE OR SIX MALES? COULD YOU TELL IF THEY WERE BOYS OR
25 GIRLS?

1 A NO. IT WAS DARK, SO I REALLY COULDN'T TELL WHO IT
2 WAS.

3 Q OKAY. SPEAK UP.

4 A LIKE RIGHT THERE.

5 Q OKAY.

6 A UP THE STREET A LITTLE BIT.

7 Q OKAY. SO KIND OF IN FRONT OF -- YOU POINTED IN FRONT
8 OF [REDACTED] ACROSS THE STREET?

9 A UH-HUH, YES, MA'AM.

10 Q YES?

11 A YES, MA'AM.

12 Q OKAY. WHERE THE BIG YELLOW CIRCLE IS?

13 A YES, MA'AM.

14 Q OKAY. AND YOU WERE AT [REDACTED], CORRECT?

15 A YES, MA'AM.

16 Q AND YOU HAVE ALREADY SAID THAT THERE WERE FRONT PORCH
17 LIGHTS. DO YOU REMEMBER ANY OTHER LIGHTS OR STREET LIGHTS
18 THAT YOU CAN REMEMBER?

19 A NO, I CAN'T REMEMBER.

20 Q OKAY.

21 A NO, MA'AM.

22 Q WERE YOU ABLE AT ALL TO IDENTIFY ANY OF THE FACES OF
23 THESE PEOPLE?

24 A NO, MA'AM.

25 Q WHERE WAS IT THAT YOU SAID [REDACTED] T.M. [REDACTED] LIVED?

1 A IN THE BACK OF T.S. MARTIN.

2 Q OKAY. WHAT'S THIS ROAD RIGHT BACK HERE?

3 A WHERE YOU CAN GO PARK AT.

4 Q OKAY.

5 A IN THE BACK.

6 Q SO IT'S NOT ACTUALLY A STREET. IT'S JUST TO GET TO
7 THE DRIVEWAYS?

8 A IT'S A STREET TO GET TO THE DRIVEWAYS, YES.

9 Q OKAY. AND THEN HE LIVED ON THE OTHER SIDE OF THAT?

10 A YES, MA'AM.

11 Q OKAY. AND THESE TWO DOTS IN FRONT OF [REDACTED] WHAT DO
12 THEY SHOW?

13 A THE WHO? THE TWO DOTS?

14 Q THESE TWO WHITE DOTS.

15 A WHERE THEY WAS AT WHEN THEY GOT SHOT.

16 Q OKAY. YOU CAN GO HAVE A SEAT.

17 (PAUSE).

18 OKAY. AFTER THE SHOOTING, WHAT BASICALLY HAPPENED?
19 WHERE DID YOU GO? DID YOU STAY AT HOME, OR DID YOU GO
20 SOME PLACE?

21 A AFTER THE SHOOTING, WE HAD -- WHEN THEY GOT SHOT, WE
22 HAD WENT TO THE HOSPITAL WHERE THEY WAS. WE WENT TO THE
23 HOSPITAL WHERE THEY WAS.

24 Q OKAY. AND THE WHOLE FAMILY WENT?

25 A YES, MA'AM.

1 Q OKAY. AND DID YOUR SISTER, [REDACTED] C.D., EVER COME HOME
2 FROM THE HOSPITAL?

3 A NO, MA'AM.

4 MS. FENT: I HAVE NO FURTHER QUESTIONS AT THIS TIME.

5 THE COURT: ALL RIGHT. CROSS-EXAMINE?

6 MS. FRANKLIN: WE HAVE NO QUESTIONS OF THIS WITNESS,
7 YOUR HONOR.

8 THE COURT: ALL RIGHT. YOU MAY STEP DOWN.

9 ALL RIGHT. CALL YOUR NEXT WITNESS.

10 MS. FENT: THE STATE CALLS THEODORE HAIGLER.

11 MS. FRANKLIN: YOUR HONOR, I THINK WE NEED TO
12 APPROACH.

13 (WHEREUPON, A BENCH CONFERENCE WAS HELD IN THE
14 PRESENCE, BUT NOT WITHIN THE HEARING, OF THE JURY).

15 THEODORE HAIGLER, AFTER BEING DULY
16 SWORN, TESTIFIED AS FOLLOWS:

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

19 THE WITNESS: MY NAME IS THEODORE HAIGLER.

20 DIRECT EXAMINATION:

21 BY MS. FENT

22 Q SAME THING, I NEED YOU TO SPEAK RIGHT INTO THE
23 MICROPHONE SO EVERYBODY CAN HEAR YOU, OKAY?

24 A YES, MA'AM.

25 Q MR. HAIGLER, CAN YOU EXPLAIN THE RELATIONSHIP BETWEEN

1 [REDACTED] C.D. AND BRIAN DIXON AND YOURSELF?

2 A [REDACTED] C.D. WAS MY DAUGHTER. THAT WAS BRIAN'S
3 SISTER. WE HAD A PRETTY GOOD CLOSE RELATIONSHIP.

4 Q OKAY. LET'S MOVE THE MICROPHONE UP A BIT. IF YOU
5 NEED TO MOVE THE CHAIR UP SOME, GO RIGHT AHEAD AND DO
6 THAT. SPEAK RIGHT INTO THERE. I'M SORRY.

7 [REDACTED] C.D. IS YOUR DAUGHTER?

8 A YES, MA'AM.

9 Q OKAY. WERE YOU ALSO LIVING ON T.S. MARTIN, [REDACTED] T.S.
10 MARTIN?

11 A YES, MA'AM.

12 Q AND HOW LONG HAD YOU BEEN LIVING THERE?

13 A FOR APPROXIMATELY TWO YEARS.

14 Q OKAY. THIS PARTICULAR NIGHT THAT WE'RE TALKING
15 ABOUT, AUGUST 26TH, 2004, WHERE WERE YOU?

16 A I WAS SITTING ON THE COUCH WATCHING TELEVISION.

17 Q OKAY. AND WHAT DO YOU REMEMBER ABOUT WHO CAME IN THE
18 HOUSE AND LEFT THE HOUSE? WHERE WAS BRIAN, AND WHERE WAS

19 [REDACTED] C.D. ?

20 A WELL, I REMEMBER FIRST WATCHING TELEVISION. WHEN
21 THEY -- BRIAN WENT OUT THE DOOR AND STARTED TALKING TO HIS
22 FRIEND ON THE PORCH. ME AND [REDACTED] C.D. WAS SITTING IN
23 THERE. [REDACTED] C.D. WAS TELLING ME SHE HAD TO GO GET
24 SOMETHING FROM HER FRIEND'S HOUSE.

25 BRIAN CAME BACK IN AND TOLD ME, "DADDY, SOMETHING

1 DON'T LOOK RIGHT OUTSIDE." HE WENT BACK OUT. SECONDS
2 LATER SHE WENT OUT AND SECONDS LATER BRIAN CAME BACK IN
3 AND JUMPED IN THE DOOR. THAT'S WHEN I HEARD THE GUNSHOTS.

4 Q OKAY. WHEN YOU HEARD THE GUNSHOTS, WHAT DID YOU DO?

5 A I DROPPED TO THE FLOOR.

6 Q I GUESS AFTER THE GUNSHOTS STOPPED, WHAT DO YOU DO
7 NEXT?

8 A I JUMPED UP AND CHECKED BRIAN, MAKE SURE HE WASN'T
9 HIT BY ANY BULLETS OR WHATNOT. I JUMPED UP, AND THEN IT
10 DAWNED ON ME THAT C.D. HAD JUST WALKED OUT THE DOOR.

11 Q SO WHAT DID YOU DO WHEN YOU REALIZED THAT?

12 A (THERE WAS NO RESPONSE.)

13 Q TAKE YOUR TIME.

14 A I WENT OUT.

15 (CRYING).

16 Q IT'S OKAY.. TAKE YOUR TIME. IT'S OKAY, OKAY?

17 (CRYING.)

18 WHERE DID YOU GO?

19 A I WENT OUT THE DOOR.

20 Q OKAY.

21 A AND I THOUGHT -- GOD. I TOLD C.D. WHEN SHE EVER
22 HEARS GUNSHOTS, DROP TO THE FLOOR, TO THE GROUND. THAT'S
23 WHAT I THOUGHT SHE WAS DOING. WHEN I WENT TO CHECK HER
24 BODY, SHE WASN'T MOVING.

25 I LIFTED HER HEAD, AND THAT'S WHEN I SEEN THE BLOOD

1 COME FROM HER HEAD. I HOLLERED TO HER MOTHER TO BRING ME
2 A TOWEL. THAT WAS IT.

3 Q DO YOU REMEMBER SEEING ANYONE ELSE OUT THERE BESIDES
4 C.D. ?

5 A YEAH. I GLANCED TO MY RIGHT, AND I THOUGHT I SEEN
6 T.M. BUT I DIDN'T RECOGNIZE THAT WAS HIM AT THE
7 MOMENT.

8 Q OKAY. COULD YOU -- YOU COULDN'T SEE HIS FACE? IS
9 THAT WHAT WAS PROBLEM WAS?

10 A NO, MA'AM.

11 Q OKAY. AND THEN AS YOU HELD C.D. WHAT HAPPENED
12 NEXT BASICALLY?

13 A THERE WAS NO MOVEMENT. THERE WAS NO MOVEMENT AT ALL.

14 Q DID YOU STAY THERE UNTIL E.M.S. ARRIVED?

15 A YES, MA'AM.

16 Q OKAY. AND THEN AFTER E.M.S. ARRIVED TO TAKE CARE OF
17 C.D. AND T.M. THEN WHERE DID YOU GO?

18 A I WENT BACK IN THE HOUSE TO PUT SOME CLOTHES ON, AND
19 THEN WE GOT IN MY NEIGHBOR'S CAR, AND WE FOLLOWED THE
20 AMBULANCE TO THE HOSPITAL.

21 Q OKAY. FROM THE TIME THAT YOU STEPPED OUT ON THE
22 PORCH, DO YOU SEE ANYBODY RUNNING FROM THE SCENE OR
23 ANYBODY THAT YOU CAN IDENTIFY AS BEING INVOLVED IN THIS?

24 A NO, MA'AM.

25 Q AFTER YOU GO TO THE HOSPITAL, DO YOU REMEMBER ABOUT

1 HOW LONG IT WAS BEFORE YOU FOUND OUT THEY WEREN'T GOING TO
2 MAKE IT?

3 A ONCE WE WENT INTO THE HOSPITAL, THE DOCTOR SAT THE
4 FAMILY IN A ROOM AND THEY TOLD US -- THE DOCTOR CAME BACK
5 AND TOLD US HOW THE BULLET HAD ENTERED HER HEAD AND CUT
6 HER BRAIN STEM. THAT'S WHEN HE TOLD ME IT DOESN'T LOOK
7 GOOD. HE DIDN'T THINK SHE WAS GOING TO MAKE IT.

8 Q OKAY. AND THEN IT WAS THE FOLLOWING MORNING YOU
9 FOUND OUT THAT THEY HAD NOT MADE IT?

10 A YES, MA'AM.

11 Q I'M GOING TO SHOW YOU SOME PHOTOGRAPHS. THEY'RE
12 MARKED AS EXHIBITS 41, 42, 43, AND 44. DO YOU RECOGNIZE
13 WHAT'S IN THESE PHOTOGRAPHS?

14 A YES, MA'AM.

15 Q OKAY. AND BASICALLY, WHAT DO THESE PHOTOGRAPHS SHOW?

16 A THE POSITION OF THE LIVING ROOM.

17 Q OKAY. THE HOUSE THAT YOU WERE IN?

18 A YES, MA'AM.

19 Q OKAY. AND THIS IS BASICALLY HOW IT LOOKED THAT NIGHT
20 WHEN THIS HAPPENED?

21 A YES, MA'AM.

22 MS. FENT: I OFFER INTO EVIDENCE 41 THROUGH 44 AND
23 TENDER TO DEFENSE COUNSEL.

24 MS. FRANKLIN: WITHOUT OBJECTION, YOUR HONOR.

25 THE COURT: WITHOUT OBJECTION, STATE'S 41, 42, 43,

1 AND 44 ARE ADMITTED.

2 (WHEREUPON, STATE'S EXHIBITS NOS. 41 - 44 WERE
3 ADMITTED INTO EVIDENCE.)

4 MS. FENT: MAY I ASK THAT THE WITNESS BE ALLOWED TO
5 COME DOWN?

6 THE COURT: YES, SIR. KEEP YOUR VOICE UP WHILE
7 YOU'RE AWAY FROM THE MICROPHONE.

8 THE WITNESS: YES, SIR.

9 BY MS. FENT

10 Q OKAY. REAL -- AS LOUD AS YOU CAN, BASICALLY SHOW US
11 WHERE YOU WERE SITTING IN THAT LIVING ROOM.

12 A I WAS SITTING IN THIS COUCH OVER HERE FACING THIS
13 WAY.

14 Q OKAY. IF WE'RE LOOKING AT THIS PHOTOGRAPH, IS THE
15 COUCH GOING TO BE OVER HERE?

16 A YES, FACING THE WINDOW.

17 Q FACING THE WINDOW, OKAY. SO IT'S THAT SOFA RIGHT
18 HERE IN 42 IN THE CORNER?

19 A YES, MA'AM.

20 Q OKAY. AND YOU SAID THAT YOU STARTED HEARING BULLETS.
21 WHAT EXACTLY WAS IT THAT YOU HEARD?

22 A I HEARD THE BULLETS COMING THROUGH THIS WINDOW HERE.

23 Q OKAY. AND THEN THAT 41 SHOWS WHERE ONE OF THE
24 BULLETS CAME THROUGH THE WINDOW?

25 A YES, MA'AM.

1 Q OKAY. AND 43 ACTUALLY SHOWING ONE OF THOSE BULLETS?

2 A YES, MA'AM.

3 Q OKAY. JUST ACROSS FROM WHERE YOU WERE SITTING?

4 A YES, MA'AM.

5 MS. FENT: THAT'S GOOD. OKAY.

6 NO FURTHER QUESTIONS OF THIS DEFENDANT.

7 THE COURT: ALL RIGHT. CROSS-EXAMINE?

8 MS. FRANKLIN: WE HAVE NO QUESTIONS FOR THIS WITNESS,

9 YOUR HONOR.

10 THE COURT: ALL RIGHT, SIR. YOU MAY STEP DOWN.

11 THE BAILIFF: WATCH YOUR STEP.

12 THE COURT: ALL RIGHT. CALL YOUR NEXT WITNESS,

13 PLEASE.

14 MR. GIESE: LIEUTENANT TONY WINGARD.

15 TONY WINGARD, AFTER BEING DULY SWORN,

16 TESTIFIED AS FOLLOWS:

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

18 FOR THE RECORD.

19 THE WITNESS: TONY LAMONT WINGARD.

20 THE COURT: MR. WINGARD, YOU MAY NEED TO SLIDE UP

21 CLOSER TO THE MICROPHONE AND SPEAK INTO IT.

22 ALL RIGHT, SOLICITOR.

23 DIRECT EXAMINATION:

24 BY MR. GIESE

25 Q WHERE ARE YOU EMPLOYED?

1 A RICHLAND COUNTY E.M.S.

2 Q YOU'RE A LIEUTENANT THERE?

3 A YES.

4 Q WHAT ARE YOUR DUTIES?

5 A RIGHT NOW MY DUTIES ARE TO ASSIST THE RUNNING OF A
6 NORMAL SHIFT. I RESPOND TO BACK UP CALLS WHERE A UNIT MAY
7 NEED ASSISTANCE AND ALSO RESPOND TO RESCUE CALLS.

8 Q AND AS A LIEUTENANT, I GUESS YOU'RE IN A SUPERVISORY
9 ROLE?

10 A YES.

11 Q HOW LONG HAVE YOU BEEN WITH E.M.S.?

12 A I'VE BEEN WITH E.M.S. 14 YEARS ALTOGETHER. I'VE BEEN
13 WITH RICHLAND COUNTY FOR NINE YEARS.

14 Q DO YOU HAVE ANY SPECIAL TRAINING THAT YOU GO THROUGH?

15 A YES.

16 Q WHAT IS THAT?

17 A INITIALLY I WENT THROUGH E.M., EMERGENCY MEDICAL
18 TECHNICIAN TRAINING, AT FT. SAM, HOUSTON, TEXAS. FROM
19 THERE I WENT TO PARAMEDIC SCHOOL AT MIDLANDS E.M.S. SINCE
20 THAT TIME I'VE HAD HAZ. MAT. TRAINING AND EXTRICATION
21 TRAINING, WEAPONS OF MASS DESTRUCTION TRAINING, AND SO ON
22 AND SO FORTH.

23 Q NOW, I WANT TO DRAW YOUR ATTENTION BACK TO AUGUST
24 26TH, 2004. WERE YOU WORKING THAT NIGHT?

25 A YES.

1 Q AND DO YOU REMEMBER WHAT SHIFT YOU WERE WORKING?

2 A I BELIEVE I WAS WORKING "B" SHIFT THAT NIGHT.

3 Q AND "B" SHIFT IS WHAT TIME?

4 A MY SHIFT STARTED AT 5:30 IN THE EVENING, AND IT ENDS
5 AT 5:30 IN THE MORNING.

6 Q AND I WANT TO SPECIFICALLY DRAW YOUR ATTENTION TO A
7 CALL THAT YOU RECEIVED TO GO TO 106 T.S. MARTIN DRIVE. DO
8 YOU REMEMBER THAT CALL?

9 A YES.

10 Q APPROXIMATELY WHAT TIME DID YOU GET THAT CALL?

11 A I GOT THAT CALL -- THE CALL WAS RECEIVED AT 21:48,
12 AND IT WAS DISPATCHED TO ME AT 21:48.

13 Q ALL RIGHT. SO 21:48 IS 9:48 P.M.?

14 A YES.

15 Q ALL RIGHT. NOW, WHEN YOU GOT THAT CALL, WHERE WERE
16 YOU?

17 A I WAS CLEARING OFF A CALL RIGHT OFF OF READ STREET.

18 Q ALL RIGHT. SO YOU'RE AT READ STREET ON ONE CALL.
19 YOU GOT THAT CALL, AND WHAT DID YOU DO?

20 A I CLEARED THE CALL I WAS ON. I COPIED THE CALL,
21 WHICH MEANS I RECEIVED THE CALL FROM THE DISPATCHER, AND I
22 WENT EN ROUTE TOWARD T.S. MARTIN.

23 Q AND APPROXIMATELY HOW FAR IS IT FROM READ STREET TO
24 T.S. MARTIN?

25 A IT'S NOT THAT FAR. IT ONLY TOOK ME TWO MINUTES TO

1 GET THERE.

2 Q SO TWO MINUTES AFTER YOU GOT THE CALL, YOU RESPONDED
3 TO T.S. MARTIN. TELL THE JURY WHAT -- WHEN YOU ARRIVE ON
4 THE SCENE, WHAT'S THE FIRST THING THAT YOU DO?

5 A UPON ARRIVING ON THE SCENE, IT'S MY NUMBER ONE
6 RESPONSIBILITY TO MAKE SURE THAT THERE ARE NO DANGERS TO
7 MYSELF OR MY CREW MEMBER. UPON, YOU KNOW, REALIZING THAT
8 THERE AREN'T ANY DANGERS AND THAT THE CREW IS GOING TO BE
9 SAFE, THEN I FIND OUT WHERE THE PATIENT IS AND WHAT'S
10 WRONG WITH THEM.

11 Q DID YOU DO THAT IN THIS SITUATION?

12 A YES.

13 Q TELL THE JURY EXACTLY WHAT YOU SAW, EXACTLY WHAT YOU
14 DID, WHEN YOU FIRST ARRIVED THERE.

15 A WHEN I FIRST GOT THERE, AGAIN, I MADE SURE THE SCENE
16 WAS SAFE. I EXITED MY UNIT. THERE WAS A LARGE GROUP OF
17 PEOPLE STANDING AROUND. I NOTICED THAT THERE WAS A YOUNG
18 LADY LAYING SUPINE ON THE GROUND ON HER FATHER'S LAP, WHO
19 I ASSUMED WAS HER FATHER. I WENT, I MADE CONTACT WITH THE
20 PATIENT AND STARTED MY TREATMENT.

21 Q NOW, YOU SAY THAT THERE WAS SOMEONE YOU ASSUMED TO BE
22 HER FATHER?

23 A YES.

24 Q AND THE VICTIM WAS LYING IN HIS ARMS AT THAT TIME?

25 A YES.

1 Q NOW, WHEN YOU WALKED UP OR RAN UP THERE, TELL THE
2 JURY WHAT YOU DID.

3 A WHEN I WALKED UP, I ASKED THE -- WHO I ASSUMED TO BE
4 HER FATHER TO STEP ASIDE, SO I COULD SEE WHAT WAS GOING
5 ON.

6 I NOTICED THERE WAS BLOOD, A TOWEL WITH BLOOD ON IT
7 AT THE BACK OF HER HEAD. I MOVED IT, NOTICED THAT THERE
8 WAS A GUNSHOT WOUND TO THE BACK OF HER SKULL.

9 AT THAT POINT IN TIME, I WENT TO SEE IF SHE WAS
10 BREATHING. THE PATIENT WAS NOT BREATHING. I CHECKED FOR
11 A PULSE. THERE WAS A VERY FAINT CAROTID PULSE, WHICH IS A
12 PULSE IN THE NECK.

13 Q ALL RIGHT. SO THE PERSON THAT YOU THOUGHT WAS THE
14 FATHER, WAS, TURNED HER OVER TO YOU?

15 A YES.

16 Q VERY LITTLE PULSE, NO BREATHING?

17 A THAT'S CORRECT.

18 Q NOW, DURING THIS TIME THAT YOU'RE DETERMINING THE
19 VERY LOW PULSE AND THE NO BREATHING, DID YOU DISCOVER
20 THERE WAS SOMEONE ELSE AT THE SCENE?

21 A YES.

22 Q TELL THE JURY ABOUT THAT.

23 A AT THAT TIME -- SHORTLY AFTER I ARRIVED, MY
24 SUPERVISOR AT THE TIME, MARK SERGEANT, ARRIVED ON THE
25 SCENE. HE POINTED OUT ANOTHER PATIENT.

1 I INSTRUCTED -- I HAD A THREE-MAN CREW THAT NIGHT. I
2 INSTRUCTED ONE OF MY PARTNERS TO GO AHEAD AND START
3 ASSESSING THAT PATIENT, AND HE, ALONG WITH MARK SERGEANT,
4 STARTED THEIR TREATMENT OF THAT PATIENT.

5 Q AND ONCE YOU FOUND OUT THAT THERE WAS A VERY LOW
6 HEARTBEAT, AS YOU SAY, AND NO BREATHING, WHAT DID YOU DO?

7 A AT THAT TIME I ATTEMPTED TO INTUBATE THE PATIENT, WAS
8 UNSUCCESSFUL WITH INTUBATION.

9 Q WHAT'S INTUBATION?

10 A THAT'S WHENEVER WE TAKE A TUBE, INSERT IT INTO THEIR
11 MOUTH THROUGH THEIR VOCAL CORDS AND INTO THEIR TRACHEA SO
12 THAT WE CAN BREATHE FOR THEM.

13 MY INITIAL ATTEMPT WAS UNSUCCESSFUL, SO I INSERTED AN
14 AIRWAY, JUST TO KEEP THE AIRWAY OPEN, AND I BEGAN
15 VENTILATING THE PATIENT WITH A BAG VALVE MASK.

16 Q HOW DO YOU DO THAT?

17 A IT'S A BAG. YOU HOOK IT UP TO OXYGEN, PUT THE MASK
18 OVER THE FACE, GET A GOOD SEAL AND CONTROL THE
19 VENTILATIONS VIA THE BAG, BY SQUEEZING IT.

20 Q AT THAT TIME WHAT DID YOU DO?

21 A AT THAT TIME WE PUT THE PATIENT ON THE SPINE BOARD.
22 WE DID WHAT WE CALL A FULL C SPINAL MOBILIZATION, PUT A
23 COLLAR ON THE PATIENT'S NECK, PUT THEM ON THE SPINE BOARD
24 TO PROTECT THEIR SPINE AND PUT HER ON THE STRETCHER AND
25 PUT HER IN THE AMBULANCE.

1 Q SO IS IT SAFE TO SAY THAT YOU TRY TO -- YOU TRIED TO
2 STABILIZE THE VICTIM?

3 A THAT'S CORRECT.

4 Q AND THEN GET THEM TO THE HOSPITAL AS SOON AS
5 POSSIBLE?

6 A THAT'S CORRECT.

7 Q AND DID YOU DO THAT?

8 A YES.

9 Q THIS WHOLE CONVERSATION THAT WE JUST HAD AND
10 EVERYTHING THAT YOU DID AT THAT SCENE THAT NIGHT, HOW LONG
11 DID THAT TAKE?

12 A FROM THE TIME I GOT ON THE SCENE, I GOT ON THE SCENE
13 AT 9:52 P.M., AND I ARRIVED AT THE HOSPITAL AT -- IT LOOKS
14 LIKE 10:11, SO THAT'S 20 MINUTES.

15 Q NOW, SPECIFICALLY, ONCE YOU GOT THE VICTIM INTO YOUR
16 AMBULANCE OR YOUR E.M.S., DID HER HEART STOP AT ANY TIME?

17 A YES.

18 Q TELL THE JURY ABOUT THAT.

19 A ONCE WE GOT HER IN THE AMBULANCE AND WE DID A
20 REASSESSMENT OF THE PATIENT, WE FOUND HER HEART WAS NO
21 LONGER BEATING. WE BEGAN MANUAL C.P.R. AND CONTINUED TO
22 VENTILATE THE PATIENT.

23 Q AND YOU TURNED HER OVER TO THE EMERGENCY ROOM AT
24 RICHLAND MEMORIAL HOSPITAL?

25 A THAT'S CORRECT.

1 MR. GIESE: THAT'S ALL I HAVE.

2 THE COURT: ALL RIGHT. CROSS-EXAMINE?

3 MS. FRANKLIN: THANK YOU, YOUR HONOR. MAY IT PLEASE
4 THE COURT.

5 CROSS-EXAMINATION:

6 BY MS. FRANKLIN

7 Q I JUST HAVE A COUPLE OF REALLY QUICK QUESTIONS FOR
8 YOU, LIEUTENANT.

9 A OKAY.

10 Q SO YOU GOT YOUR DISPATCH CALL AT 9:48; IS THAT
11 CORRECT?

12 A YES.

13 Q OKAY. AND HOW DO YOU GET YOUR DISPATCH CALL?

14 A OVER OUR RADIO.

15 Q OKAY. IS THAT -- DOES LAW ENFORCEMENT CALL YOU OUT?
16 IS THAT HOW THAT WORKS?

17 A WE GET OUR CALLS FROM CENTRAL DISPATCH. NOW, HOW
18 THEY RECEIVE THE CALL, I DON'T KNOW.

19 Q OKAY.

20 A OR I DON'T KNOW FOR THIS PARTICULAR SITUATION.

21 Q AND I'M SORRY, YOU SAID THAT YOU ARRIVED AT THE
22 HOSPITAL AT 9:42?

23 A AT 22:11.

24 Q SO 10:11.

25 OKAY. I HAVE NO FURTHER QUESTIONS, YOUR HONOR.

1 THE COURT: ANY CROSS?

2 MS. CAMPBELL: NO, YOUR HONOR. MAY HE BE EXCUSED?

3 THE COURT: ANY OBJECTION?

4 MS. FRANKLIN: NO OBJECTION.

5 THE COURT: YOU'RE EXCUSED, SIR. THANK YOU.

6 THE BAILIFF: WATCH YOUR STEP, SIR.

7 THE WITNESS: THANK YOU.

8 MR. GIESE: THE STATE CALLS IVY CROSS.

9 IVY CROSS, AFTER BEING DULY SWORN,

10 TESTIFIED AS FOLLOWS:

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

13 THE WITNESS: IVY CROSS.

14 DIRECT EXAMINATION:

15 BY MR. GIESE

16 Q MS. CROSS, WHERE ARE YOU EMPLOYED?

17 A CURRENTLY AT Z.L.B. PLASMA SERVICES.

18 Q PRIOR TO THAT WHERE WERE YOU EMPLOYED?

19 A RICHLAND COUNTY E.M.S.

20 Q AND HOW LONG DID YOU WORK FOR RICHLAND COUNTY E.M.S.?

21 A ABOUT TWO YEARS.

22 Q NOW, SPECIFICALLY, I WANT TO DRAW YOUR ATTENTION BACK
23 TO AUGUST 26TH, 2004. WERE YOU WORKING FOR RICHLAND
24 COUNTY E.M.S. AT THAT TIME?

25 A YES, I WAS.

1 Q AND WHERE WERE YOU WORKING?

2 A I'M SORRY?

3 Q YOU WERE WORKING WITH AN E.M.S. CREW?

4 A YES.

5 Q NOW, SPECIFICALLY, ON AUGUST 26TH, 2004, DID YOU HAVE
6 AN OPPORTUNITY TO BE CALLED TO T.S. MARTIN CIRCLE?

7 A YES, I WAS.

8 Q AND TELL THE JURY WHAT TIME THAT WAS.

9 A 21:57, 9:57 P.M.

10 Q SO 9:57 P.M. YOU WERE CALLED TO THE SCENE THERE?

11 A YES.

12 Q OKAY. WHERE HAD YOU BEEN?

13 A WE WERE SITTING ACTUALLY AT THE END OF T.S. MARTIN.

14 Q AND WHY WERE YOU SITTING AT THE END OF T.S. MARTIN?

15 A BECAUSE WE HEARD THE CALL GO OUT, AND MY PARTNER AND
16 I THOUGHT THAT WE ACTUALLY HAD A BETTER SHOT, POSSIBLY, OF
17 GETTING THERE.

18 Q BEFORE ANYBODY ELSE?

19 A BEFORE ANYBODY ELSE.

20 Q THAT'S KIND OF HOW IT WORKS. YOU GET THE CALL AND
21 EVERYBODY TRIES TO RESPOND IF YOU'RE IN THE AREA?

22 A WELL, THE DISPATCHER HAS A PRETTY GOOD IDEA OF WHERE
23 WE ARE, AND THE CREW THAT HE HAD CALLED, IT WAS KIND OF A
24 TOSS UP WHICH ONE OF US WAS CLOSER.

25 Q BUT YOU TRIED TO GET TO THE SCENE?

1 A RIGHT.

2 Q AND EVENTUALLY, YOU GOT A CALL WHILE YOU WERE NEAR
3 THE SCENE?

4 A RIGHT.

5 Q AND YOU WENT TO T.S. MARTIN?

6 A YES.

7 Q ALL RIGHT. TELL THE JURY WHAT YOU SAW WHEN YOU GOT
8 THERE.

9 A WELL, WHEN WE CAME ON THE SCENE, THERE WAS, YOU KNOW,
10 A VERY LARGE CROWD OF PEOPLE, POLICE OFFICERS, A CROWD OF
11 WHAT I ASSUMED WERE, YOU KNOW, PEOPLE WHO LIVED IN THE
12 NEIGHBORHOOD, AND MY PATIENT WAS BEING BACK BOARDED BY
13 OTHER MEMBERS OF RICHLAND COUNTY E.M.S.

14 Q NOW, YOUR PATIENT, THAT WOULD BE [REDACTED] T.M. [REDACTED] ?

15 A [REDACTED] T.M. [REDACTED], UH-HUH.

16 Q AND YOU SAY HE'S BEING BACK BOARDED. WHAT DO YOU
17 MEAN BY THAT?

18 A HE WAS BEING PLACED ON A LONG HARDBOARD TO PROTECT
19 THE SPINAL CORD FROM ANY POSSIBLE INJURY OR FURTHER
20 INJURY.

21 Q SO SOMEONE WAS ALREADY WORKING WITH [REDACTED] T.M. [REDACTED] --

22 A YES.

23 Q -- WHEN YOU GOT THERE?

24 A YES.

25 Q ALL RIGHT, BUT YOU WERE THE SECOND ACTUAL E.M.S.

1 AMBULANCE TO GET THERE?

2 A THAT'S CORRECT.

3 Q NOW, YOU SAY HE WAS BEING PUT ON THE BOARD. WHO WAS
4 ACTUALLY PUTTING HIM ON THE BOARD, DO YOU KNOW?

5 A MEMBERS OF THE FIRST CREW THAT RESPONDED AND ALSO A
6 SUPERVISOR.

7 Q MR. SERGEANT?

8 A YES.

9 Q AS YOU WENT OVER THERE TO [REDACTED] T.M. ON THE BOARD, WHAT
10 DID YOU DO?

11 A I ASSESSED HIS CONDITION, JUST A REAL QUICK
12 ASSESSMENT.

13 Q WHAT DID YOU FIND?

14 A HE WAS UNRESPONSIVE. HE WAS BREATHING, A LITTLE BIT
15 OF MOVEMENT. RIGHT AFTER WE GOT HIM ONTO THE STRETCHER
16 AFTER HE WAS BACK BOARDED, HE BEGAN TO PROJECTILE VOMIT,
17 WHICH IS A VERY VIOLENT VOMITING.

18 Q HAS HE BEEN BROUGHT UP AT THAT POINT, OR WAS HE STILL
19 ON THE GROUND?

20 A HE WAS BEING BROUGHT UP.

21 MS. FRANKLIN: YOUR HONOR, I HAVE A MATTER. WE NEED
22 TO APPROACH THE BENCH.

23 THE COURT: ALL RIGHT.

24 (WHEREUPON, A BENCH CONFERENCE WAS HELD IN THE
25 PRESENCE, BUT NOT WITHIN THE HEARING, OF THE JURY).

1 THE COURT: GO AHEAD, SOLICITOR.

2 BY MR. GIESE

3 Q THANK YOU, YOUR HONOR.

4 LET ME THINK BACK. HE'S ON THE GROUND, OR HE'S ON A
5 BOARD? HE'S PUT ON A STRETCHER?

6 A HE'S ABOUT HALFWAY UP.

7 Q HALFWAY UP, AND WHAT HAPPENS?

8 A HE BEGAN TO VOMIT.

9 Q HOW MANY TIMES DID HE VOMIT?

10 A JUST ONCE.

11 Q ONCE HE VOMITS, WHAT DO YOU SEE, IF ANYTHING?

12 A NOTHING, REALLY. JUST BECAUSE THEN MY FOCUS IS TO
13 TRY TO CLEAR HIS AIRWAY --

14 Q OKAY.

15 A -- TO MAKE SURE THAT HE'S NOT ASPIRATING THE VOMIT SO
16 THAT HE CAN'T BREATHE.

17 Q AND DID YOU DO THAT?

18 A YES.

19 Q WHAT HAPPENED, IF ANYTHING?

20 A NOTHING REALLY. I MEAN, HE STOPPED VOMITING BUT HIS
21 TEETH WERE CLENCHED SO THAT I COULDN'T FURTHER ASSIST HIS
22 AIRWAY MANUALLY. ALL I COULD DO THEN WAS MAKE SURE THAT
23 HE CONTINUED TO BREATHE AND ASSIST IN HIS RESPIRATIONS. I
24 COULDN'T ADVANCE AN AIRWAY OR ANYTHING LIKE THAT.

25 Q WAS HE STILL BREATHING?

1 A YEAH. YES, HE WAS.

2 Q WHAT KIND OF BREATHING WAS IT?

3 A SHANE STOKES.

4 Q SHANE STOKES?

5 A UH-HUH.

6 Q WHAT IS IT?

7 A IT'S A RESPIRATORY PATTERN WHERE THE BREATHING STARTS
8 OUT KIND OF SHALLOW AND FAST. IT GETS DEEPER, FASTER,
9 STOPS, THEN STARTS UP AGAIN THAT SAME PATTERN OVER AND
10 OVER AGAIN.

11 Q HAD A HEARTBEAT?

12 A YES, HE DID.

13 Q NOW, YOU SAY HIS TEETH WERE CLENCHED. IS THAT
14 COMMON? DO YOU SEE THAT OFTEN?

15 A WITH HEAD INJURY.

16 Q YOU SAY IT WAS A HEAD INJURY. TELL THE JURY WHAT YOU
17 SAW.

18 A I SAW A SMALL WOUND TO THE RIGHT AREA RIGHT ABOUT
19 HERE (INDICATING). IT WASN'T BLEEDING. THE BLEEDING WAS
20 ALREADY CONTROLLED, BUT IT WAS A SMALL OPEN WOUND.

21 Q HE GOT INTO THE AMBULANCE. I KEEP CALLING IT AN
22 AMBULANCE.

23 A YES, THAT'S WHAT IT WAS.

24 Q OKAY. AND WHAT DID YOU DO?

25 A PRETTY MUCH WHAT I WAS STILL DOING ON THE SCENE. I

1 WAS STILL TRYING TO CLEAR THE VOMIT, YOU KNOW, FROM HIS
2 MOUTH AS BEST I COULD, CONTINUED TO ASSIST HIS
3 RESPIRATIONS WITH 100 PERCENT OXYGEN WITH WHAT WE CALL A
4 BAG VALVE MASK. THE MASK IS PLACED OVER THE FACE, AND WE,
5 YOU KNOW, MANUALLY FORCE AIR, ESSENTIALLY.

6 Q AND YOU ALL TRANSPORTED HIM TO RICHLAND MEMORIAL
7 HOSPITAL?

8 A YES.

9 Q TURNED HIM OVER TO THE EMERGENCY ROOM?

10 A YES.

11 Q AND THAT WAS YOUR LAST CONTACT WITH HIM THAT NIGHT?

12 A YES.

13 Q AND I BELIEVE LOOKING AT YOUR REPORT, YOU ARRIVED AT
14 21:58 OR 9:58, AND YOU LEFT THE SCENE AT 22:01. YOU WERE
15 THERE FOR THREE MINUTES?

16 A CORRECT.

17 Q AND THAT'S WHAT YOU TRY TO DO, GET THE PATIENT OR THE
18 VICTIM OUT OF THERE AS QUICKLY AS POSSIBLE?

19 A YEAH. THE GOAL IS -- WITH TRAUMA, WITH ANY TRAUMA,
20 THE GOAL IS LESS THAN TEN MINUTES ON THE SCENE.

21 MR. GIESE: THANK YOU. THAT'S ALL I HAVE.

22 THE COURT: ALL RIGHT. CROSS-EXAMINE?

23 MR. SHARDT: NO QUESTIONS FOR THIS WITNESS, YOUR
24 HONOR.

25 THE COURT: ALL RIGHT. MA'AM, YOU MAY STEP DOWN.

1 MR. GIESE: YOUR HONOR, MAY SHE BE EXCUSED ALSO?

2 THE COURT: ANY OBJECTION?

3 MR. SHARDT: NO OBJECTION.

4 THE COURT: THE WITNESS IS EXCUSED.

5 ALL RIGHT. NEXT WITNESS?

6 MS. FENT: THE STATE CALLS OFFICER ERNEST REYNOLDS.

7 ERNEST REYNOLDS, AFTER BEING DULY

8 SWORN, TESTIFIED AS FOLLOWS:

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

11 THE WITNESS: ERNEST REYNOLDS.

12 DIRECT EXAMINATION:

13 BY MS. FENT

14 Q OFFICER REYNOLDS, WHO DO YOU WORK FOR?

15 A CITY OF COLUMBIA POLICE DEPARTMENT.

16 Q IN WHAT CAPACITY?

17 A I'M A POLICE OFFICER.

18 Q I NEED YOU TO SPEAK UP.

19 A POLICE OFFICER.

20 Q OKAY. AND HOW LONG HAVE YOU BEEN A POLICE OFFICER
21 WITH THE COLUMBIA POLICE DEPARTMENT?

22 A GOING ON THREE YEARS.

23 Q CAN YOU BASICALLY EXPLAIN TO THE JURY WHAT YOUR
24 DUTIES AND RESPONSIBILITIES ARE AS A POLICE OFFICER?

25 A I'M A PATROLMAN FOR THE METRO REGION POLICE

1 DEPARTMENT.

2 Q AND WHAT DOES A PATROLMAN DO?

3 A BASICALLY PATROL PROCEDURES. IT'S JUST TO PATROL THE
4 AREAS, DETER CRIME, RESPOND TO INCIDENTS FOR CRIME, DEAL
5 WITH THE GENERAL PUBLIC.

6 Q AND YOU WERE WORKING AS A PATROL OFFICER ON AUGUST
7 26TH, 2004?

8 A YES, I WAS.

9 Q AND DOES YOUR REGION COVER T.S. MARTIN DRIVE?

10 A YES, IT DOES.

11 Q OKAY. WERE YOU CALLED OUT TO T.S. MARTIN DRIVE ON
12 THAT DAY?

13 A YES, I DO RECALL AN INCIDENT WHERE I WAS CALLED OUT.

14 Q OKAY. WHEN WAS THE FIRST TIME THAT YOU WERE CALLED
15 OUT TO T.S. MARTIN?

16 A IT WAS EARLIER THAT DAY. I CAN'T REMEMBER THE
17 SPECIFIC TIME.

18 Q LET ME ASK YOU THIS: HAVE YOU LOOKED AT THE 911 --
19 THE CLOSED INCIDENT REPORTS?

20 A YES, I HAVE SEEN THEM.

21 Q OKAY. WOULD IT REFRESH YOUR MEMORY AS TO WHAT TIME
22 YOU WENT OUT THERE TO BE ABLE TO LOOK AT THOSE REPORTS?

23 A YES, IT WOULD.

24 Q OKAY.

25 A OKAY.

1 Q DOES THAT REFLECT THE TIME YOU WERE DISPATCHED OUT
2 THERE?

3 A YES, YES.

4 Q AND WHAT IS THAT TIME?

5 A 9:11.

6 Q IS THAT P.M. OR A.M.?

7 A IT'S P.M.

8 Q P.M., OKAY. AND WHAT WAS THE NATURE OF THE CALL?

9 A IT WAS A CIVIL DISTURBANCE. A 1049 IS A CIVIL
10 DISTURBANCE IN PROGRESS.

11 Q OKAY. DID THAT HAVE ANY MEANING TO YOU AT THE TIME?
12 I MEAN, WHAT'S THE DIFFERENCE BETWEEN A CIVIL DISTURBANCE
13 AND SOMETHING ELSE?

14 A THE ONLY THING IT MEANS IS THAT IT'S A DISTURBANCE
15 BETWEEN TWO UNRELATED PARTIES.

16 Q OKAY. SO YOU ARRIVED AT T.S. MARTIN, AND WHAT DO YOU
17 DO? WHAT HAPPENS?

18 A WHEN I GOT THERE, I SPOKE WITH SOME PEOPLE AT THE
19 RESIDENCE IN T.S. MARTIN, I THINK IT'S [REDACTED] T.S. MARTIN
20 DRIVE, WHO INFORMED ME THAT THEY HAD -- SOME PEOPLE HAD
21 JUST CAME THERE LOOKING FOR A PARTICULAR PERSON, AND THEY
22 WAS PRETTY IRATE DURING THE TIME OF LOOKING FOR THAT
23 PERSON.

24 Q OKAY. DID THEY EXPLAIN TO YOU HOW THOSE PEOPLE
25 SHOWED UP, IF THEY WERE WALKING, IF THEY WERE IN A CAR?

1 A THEY STATED THEY WERE IN A CAR, IN A SMALL WHITE
2 VEHICLE.

3 Q OKAY. AND DID THEY GIVE YOU THE NAME OF THE PERSON
4 THAT THEY THOUGHT THESE INDIVIDUALS IN THE CAR WERE
5 LOOKING FOR?

6 A YES, THEY DID.

7 MR. SHARDT: OBJECTION, YOUR HONOR. THAT CALLS FOR
8 HEARSAY.

9 MS. FENT: I JUST -- I DIDN'T ASK FOR THE NAME AT
10 THIS POINT. I JUST SAID, "DID THEY GIVE YOU THE NAME?"

11 THE COURT: OVERRULED, GO AHEAD.

12 THE WITNESS: YES, THEY GAVE ME A NAME.

13 BY MS. FENT

14 Q OKAY. AND YOU KNOW, ASIDE FROM THE WHITE, SMALL
15 WHITE VEHICLE, THE NAME OF THE PERSON THAT THEY THOUGHT
16 THE PEOPLE -- THE NAME OF THE PERSON THEY WERE LOOKING
17 FOR, ANY OTHER INFORMATION THAT YOU GATHERED FROM THEM?

18 A BLACK MALES.

19 Q I'M SORRY?

20 A IT WAS BLACK MALES IN THE VEHICLE.

21 Q AND BASED ON THIS INDIVIDUALS THAT YOU GOT FROM THE
22 INDIVIDUALS AT [REDACTED] T.S. MARTIN, WHAT DID YOU DO NEXT?

23 A AFTER THAT, ME AND ANOTHER OFFICER THAT WAS ASSISTING
24 ME, WE GOT THE INFORMATION. WE WENT TO CAROL DRIVE TO
25 TALK TO THE PERSON THAT THEY HAD NAMED AS BEING THE PERSON

1 THAT THE OTHER PEOPLE WERE LOOKING FOR.

2 Q OKAY. AND HOW DID YOU GET THAT ADDRESS, CAROL DRIVE?

3 A ONE OF THE PERSONS WAS A RELATIVE OF THE PERSON THAT
4 THEY WERE SAYING -- THEY STATED THAT THE PERSON DID NOT
5 LIVE ON T.S. MARTIN DRIVE. THEY ACTUALLY LIVED AT THE
6 ADDRESS AT CAROL DRIVE.

7 Q ONE OF THE PEOPLE IN [REDACTED] T.S. MARTIN?

8 A YES.

9 Q GAVE YOU THAT ADDRESS?

10 A YES.

11 Q DO YOU RECALL WHO THE PERSON WAS THAT YOU CONTACTED
12 AT CAROL DRIVE?

13 A I DON'T QUITE -- I REMEMBER HIS FACE. I'M NOT
14 100 PERCENT SURE OF HIS NAME. I THINK IT'S RASHAWN OR
15 DELSHAWN OR SOMETHING LIKE THAT.

16 Q DELSHAWN?

17 A RIGHT.

18 Q AND YOU ACTUALLY SPOKE WITH DELSHAWN?

19 A YES.

20 Q AND WHAT WERE YOU CONTACTING DELSHAWN ABOUT? WHY DID
21 YOU GO OVER THERE?

22 A WE WANTED TO SEE WHAT HIS INVOLVEMENT WAS WITH THE
23 DISTURBANCE. DID HE -- COULD HE IDENTIFY OR KNOW THE
24 PEOPLE WHO WERE LOOKING FOR HIM, OR WAS HE -- HOW WAS HE
25 INVOLVED IS BASICALLY WHAT WE WAS TRYING TO DO.

1 Q DO YOU RECALL ABOUT HOW LONG IT WAS THAT YOU SPOKE
2 WITH DELSHAWN?

3 A I WOULD SAY PROBABLY ABOUT TEN, 15 MINUTES.

4 Q OKAY. SO FROM THE TIME YOU WERE DISPATCHED OUT A
5 LITTLE AFTER NINE O'CLOCK, YOU SPOKE WITH THOSE PEOPLE AT
6 ■ T.S. MARTIN?

7 A YES.

8 Q THEN YOU WENT OVER TO CAROL DRIVE?

9 A YES.

10 Q OKAY. WHAT HAPPENS NEXT AFTER YOU SPEAK WITH
11 DELSHAWN?

12 A AFTER WE SPEAK -- UPON LEAVING OR AFTER WE SPOKE WITH
13 DELSHAWN, WE GET A CALL ON THE RADIO OF ANOTHER
14 DISTURBANCE AT T.S. MARTIN, ON T.S. MARTIN DRIVE.

15 Q AND WHAT WAS THE NATURE OF THAT DISTURBANCE ON T.S.
16 MARTIN?

17 A AT FIRST IT STARTED OUT -- THE NATURE WAS --
18 INITIALLY, IT WAS DISPATCHED AS ANOTHER 1049. IT
19 IMMEDIATELY TURNED INTO A SHOTS FIRED CALL.

20 Q ALL RIGHT. YOU HEAR THAT CALL, AND WHAT DO YOU DO?

21 A I IMMEDIATELY GO TO RESPOND TO T.S. MARTIN DRIVE.

22 Q ABOUT HOW FAR AWAY, HOW LONG DOES IT TAKE YOU TO GET
23 OVER TO T.S. MARTIN?

24 A THREE, FOUR MINUTES. IT'S PROBABLY ABOUT THREE OR
25 FOUR BLOCKS FROM WHERE I WAS AT.

1 Q YOU ARRIVE AT T.S. MARTIN, AND WHAT DO YOU DO?

2 A WELL, WHEN I GET THERE, I OBSERVED THE SCENE. I SEE
3 A LOT OF COMMOTION, A LOT OF PEOPLE OUT IN THE FRONT AREA
4 OF 110 T.S. MARTIN. WHEN I GET THERE, I SEE TWO
5 INDIVIDUALS LAYING ON THE GROUND, IN THE GRASS.

6 EVERYONE THAT WAS STANDING AROUND IN THE YARD OR IN
7 THE AREA WAS YELLING TO ME SAYING THAT, "THEY'RE RIGHT
8 THERE. THEY'RE RIGHT THERE. THEY'RE RIGHT BEHIND THERE.
9 THEY RAN THIS WAY," AND THEY WERE POINTING TO THE BACK OF
10 THE HOUSE AT 110 T.S. MARTIN.

11 I GET IN BACK -- I TURN MY PATROL VEHICLE AROUND AND
12 HEAD TO THE BACK OF T.S. MARTIN, WHICH IS THE ROAD RIGHT
13 BEHIND IT, WHICH IS ENGLISH AVENUE.

14 Q OKAY. AND YOU'RE GOING TO DO WHAT?

15 A TO SEE IF I CAN APPREHEND THESE SUSPECTS. ACCORDING
16 TO THE WITNESSES THAT WAS THERE, THEY WERE SAYING THAT THE
17 PEOPLE HAD JUST LEFT, THEY'RE RIGHT THERE, THEY'RE RIGHT
18 BEHIND THE HOUSE. I BELIEVED THAT THEY COULD BE
19 IMMEDIATELY CAPTURED AT THAT TIME.

20 Q OKAY. AND IF THE INDIVIDUALS WERE POINTING BEHIND
21 THE HOUSE, IS THAT ALSO IN THE DIRECTION OF BELTLINE?

22 A YES, IT IS.

23 Q OKAY. SO YOU GO UP ENGLISH AVENUE LOOKING FOR THE
24 SUSPECTS. WHAT DO YOU SEE? WHAT DON'T YOU SEE? WHAT
25 HAPPENS?

1 A WHEN I GET BACK THERE, I DON'T SEE ANY MOVEMENT, ANY
2 PERSONS ON THE STREET. I GO ALL THE WAY UP TO BELTLINE
3 BOULEVARD AND TURN AROUND, FIGURED I MUST HAVE OVERSHOT
4 THEM -- MAYBE THEY HAVEN'T GOT THAT FAR BACK YET OR THEY
5 WERE STILL IN THE WOOD LINE BETWEEN THE TWO -- BETWEEN
6 BELTLINE AND ENGLISH, SO I BACKTRACKED TO -- BACKTRACKED
7 TO ENGLISH AVENUE.

8 Q OKAY. LISTENING TO DISPATCH AND HAVING ARRIVED AT
9 THE SCENE, ARE YOU AWARE OF WHAT ELSE IS HAPPENING IN
10 TERMS OF E.M.S. OR OTHER OFFICERS BEING CALLED TO THE
11 SCENE? WHAT ELSE IS GOING ON?

12 A THERE'S A LOT OF TRAFFIC ON THE RADIO, OTHER OFFICERS
13 RESPONDING, MANY OFFICERS RESPONDING, E.M.S. BEING CALLED.
14 WELL, E.M.S. WAS CALLED AND BEING EN ROUTE AND OTHER
15 OFFICERS ALSO WERE EN ROUTE, YOU SEE.

16 Q THEN AFTER YOU BACKTRACKED TO SEE IF MAYBE YOU
17 OVERSHOT THE SUSPECTS, WHERE DO YOU GO NEXT?

18 A I WENT BACK TO T.S. MARTIN DRIVE.

19 Q BACK TO 110?

20 A BACK TO 110 T.S. MARTIN.

21 Q OKAY. AND THEN WHAT DO YOU DO ONCE YOU'RE BACK AT
22 110?

23 A I HELPED SECURE THE SCENE. I TAKE DOWN INFORMATION,
24 NAMES AND ADDRESSES, CONTACT INFORMATION FOR PEOPLE ON THE
25 SCENE, SUCH AS WITNESSES OR BYSTANDERS THAT WAS IN THE

1 AREA.

2 Q ANYTHING ELSE THAT YOU DID AT THAT LOCATION?

3 A OTHER THAN HELP SECURE THE SCENE, NO, THERE'S NOTHING
4 ELSE.

5 Q AND DOES 110 T.S. MARTIN, IS IT LOCATED IN RICHLAND
6 COUNTY?

7 A YES, IT IS.

8 Q I'M GOING TO SHOW YOU WHAT'S BEEN MARKED AS STATE'S
9 EXHIBIT NUMBER SIX AND ASK YOU IF YOU RECOGNIZE THIS
10 DIAGRAM.

11 A YES, I DO.

12 Q OKAY. AND WOULD IT ASSIST YOU IN BEING ABLE TO REFER
13 TO THIS DIAGRAM TO BE ABLE TO SHOW EXACTLY WHERE YOU WERE
14 ON T.S. MARTIN, WHERE YOU DROVE ONTO ENGLISH AND IN THE
15 AREA?

16 A YES.

17 MS. FENT: MAY I ASK THE WITNESS BE ALLOWED TO STEP
18 DOWN?

19 THE COURT: SIR, YOU'RE GOING TO NEED TO SPEAK UP SO
20 THE COURT REPORTER AND EVERYONE ELSE IN THE COURTROOM WILL
21 BE ABLE TO HEAR YOU.

22 THE WITNESS: YES.

23 THE COURT: ALL RIGHT. YOU MAY STEP DOWN.

24 BY MS. FENT

25 Q I'M GOING TO REEMPHASIZE, I NEED YOU TO SPEAK UP AND

1 ACTUALLY TALK TO THE VERY LAST PERSON IN THE COURTROOM SO
2 THEY CAN HEAR YOU, OKAY?

3 A OKAY.

4 Q STATE'S EXHIBIT NUMBER SIX, CAN YOU POINT OUT AND
5 SHOW US WHERE T.S. MARTIN IS THEN?

6 A T.S. MARTIN IS THIS AREA HERE. THIS IS T.S. MARTIN
7 DRIVE, AND THESE ARE THE HOUSES LOCATED ON T.S. MARTIN.

8 Q OKAY. AND WHERE IS ENGLISH AVENUE THAT YOU DROVE?

9 A ENGLISH AVENUE IS RIGHT HERE.

10 Q OKAY.

11 A IT'S -- THIS IS ENGLISH AVENUE BEHIND THE HOUSES ON
12 T.S. MARTIN.

13 Q AND WHAT IS THIS ROAD RIGHT BEHIND THE HOUSES ON T.S.
14 MARTIN, BETWEEN T.S. MARTIN AND ENGLISH?

15 A THAT'S A SERVICE ROAD THAT LEADS TO THE BACK OF THE
16 APARTMENT, THE BACK OF THE HOUSE ON T.S. MARTIN DRIVE.

17 Q OKAY.

18 A THERE'S A SERVICE ROAD.

19 Q AND CAN YOU BASICALLY GIVE US, DESCRIBE THE OTHER
20 STREETS AND WHAT ELSE IS ON THIS DIAGRAM SO WE CAN KIND OF
21 GET A PERSPECTIVE OF WHERE WE ARE?

22 A THIS IS BELTLINE BOULEVARD HERE. THIS IS THE
23 RAILROAD TRACKS LEADING TO -- LEADING BETWEEN -- OFF OF
24 BELTLINE. THIS IS EDISON STREET THAT LEADS TO ENGLISH
25 AVENUE WHICH GOES TO BELTLINE BOULEVARD. ALSO, WE HAVE

1 THE ROAD -- THE WOOD LINE AND CUT OFF OF CALK STREET THAT
2 GOES INTO RIPPLEMEYER OR BETHEL BISHOP.

3 Q THIS AREA HERE WHERE IT SAYS RIPPLEMEYER IS THE
4 BETHEL BISHOP?

5 A YES.

6 Q AND THE OTHER TWO HOUSING AREAS?

7 A IT'S THE COLONY APARTMENTS, WHICH IS RIGHT ABOVE
8 THAT.

9 Q OKAY.

10 A RIGHT ABOVE IT.

11 Q OKAY. AND WHERE WAS IT ON THIS DIAGRAM OR OFF THIS
12 DIAGRAM, WHICH DIRECTION, IS THE CAROL ADDRESS THAT YOU
13 WENT TO?

14 A IT'S NOT ON THE DIAGRAM, BUT I CAME OFF OF GERMAN
15 STREET, WHICH IS RIGHT HERE AT THE END OF EDISON, RIGHT.
16 RIGHT HERE WOULD BE GERMAN STREET. GERMAN STREET LEADS
17 RIGHT UP INTO TWO NOTCH ROAD WHICH TURNS TO -- RIGHT
18 ACROSS FROM TWO NOTCH ROAD WOULD BE COVENANT ROAD, AND
19 CAROL DRIVE IS THE FIRST STREET OFF OF COVENANT.

20 Q OKAY. SO JUST CROSSING TWO NOTCH AND THEN YOU HIT
21 CAROL --

22 A RIGHT.

23 Q -- WHERE YOU WERE? SO IT'S ABOUT FROM THIS LOCATION
24 OVER TO T.S. MARTIN, YOU HAD TO MAKE IT --

25 A YES.

1 Q -- BACK TO --

2 A YES.

3 Q OKAY. AND AS FAR AS YOUR REGION THAT YOU PATROL,
4 WHAT ARE THE -- IS THERE A BOUNDARY ON THIS DIAGRAM THAT
5 WE CAN SEE?

6 A YES. WELL, PART OF OUR REGION STARTS HERE AT ENGLISH
7 AND GOES DOWN TO THE RAILROAD TRACK, JUST FOR METRO
8 REGION. WE STARTED AT ENGLISH AVENUE, GO TO THE RAILROAD
9 TRACKS. THIS LITTLE PART HERE FROM ENGLISH ALL THE WAY UP
10 TO BOONE IS IN THE COUNTY. WE PICK BACK UP ON THE OTHER
11 SIDE OVER ON TWO NOTCH ROAD.

12 Q OKAY. YOU EXPLAINED ONE CUT GOING FROM BETHEL BISHOP
13 OVER TO COX. HAVING PATROLLED THIS AREA, ARE YOU AWARE OF
14 ANY OTHER CUTS THAT GO ACROSS THE RAILROAD TRACKS?

15 A YES. THERE'S SEVERAL CUTS RIGHT HERE FROM -- GO
16 ALONG HAMMOND AVENUE, YOU SEE THE WATERLINE HERE. THERE'S
17 ACTUALLY SEVERAL CUTS THAT THEY'VE MADE ACROSS THIS WOOD
18 LINE.

19 THEY'VE ACTUALLY, IN SOME PLACES, PUT LOGS DOWN ON
20 THE -- ACROSS THE WATER TO BE ABLE TO CROSS OVER INTO THE
21 COLONY OR THE BETHEL BISHOP AREA. ALL OF IT GOES
22 THROUGH -- ALL OF IT HERE FROM ALL THE WAY FROM CALK
23 STREET ALL THE WAY TO THE SCHOOL, I THINK IT'S GIBBS
24 MIDDLE SCHOOL, THERE'S LITTLE CUTS IN BETWEEN.

25 Q OKAY. YOU CAN HAVE A SEAT.

1 A ALL RIGHT.

2 Q YOU SAID THE FIRST TIME YOU RESPONDED WAS 9:0 -- WHAT
3 WAS THAT AGAIN?

4 A ACCORDING TO THE DISPATCHER THAT GAVE IT TO ME, THAT
5 INITIALLY DISPATCHED THAT, IT WAS AT 9:11.

6 Q OKAY. AND WHAT TIME WAS IT -- AND I CAN SHOW YOU THE
7 CLOSED INCIDENT REPORT TO REFRESH YOUR MEMORY. WHAT TIME
8 WAS IT THAT YOU RECEIVED THE DISPATCH BACK FOR THIS SECOND
9 CALL?

10 A 9:44, ACCORDING TO THE DISPATCH LOG.

11 Q THE FIRST TIME YOU WENT TO T.S. MARTIN JUST A LITTLE
12 BIT AFTER NINE O'CLOCK, WERE THERE ANY INDIVIDUALS THAT
13 HAD BEEN INJURED?

14 A NO, THERE WAS NOT.

15 Q OKAY. JUST, BASICALLY, THAT THESE PEOPLE HAD COME IN
16 A CAR. THEY GAVE THE DESCRIPTION, AND THEN YOU WENT TO
17 KIND OF INVESTIGATE THAT?

18 MR. SHARDT: OBJECTION, YOUR HONOR.

19 THE COURT: SUSTAINED.

20 MS. FENT: NO FURTHER QUESTIONS AT THIS TIME.

21 THE COURT: ALL RIGHT. CROSS EXAMINE, MR. SHARDT?

22 MR. SHARDT: THANK YOU, YOUR HONOR. MAY IT PLEASE
23 THE COURT.

24 CROSS-EXAMINATION:

25

1 BY MR. SHARDT

2 Q GOOD MORNING, OFFICER REYNOLDS.

3 A GOOD MORNING?

4 Q HOW LONG HAVE YOU BEEN A POLICE OFFICER?

5 A ABOUT THREE YEARS.

6 Q THREE YEARS WITH THE CITY OF COLUMBIA?

7 A YES.

8 Q OKAY. SO WE GO BACK TO 2004. THAT WOULD HAVE BEEN
9 THE FIRST YEAR?

10 A YES.

11 Q WHEN YOU WERE TRAINED AS A POLICE OFFICER, YOU WERE
12 TRAINED TO TAKE NOTES, CORRECT?

13 A YES.

14 Q THEY TOLD YOU HOW TO FILL OUT FORMS SO THAT YOU COULD
15 REFRESH YOUR RECOLLECTION LATER ON?

16 A YES. IN SOME INSTANCES, YES.

17 Q IF YOU WERE CALLED TO A TRIAL, YOU COULD REFER BACK
18 TO YOUR NOTES, REMEMBER THE INCIDENT?

19 A IF WE HAD TAKEN THEM, YES.

20 Q AND YOU TESTIFIED THAT YOU RESPONDED TO A CIVIL
21 DISTURBANCE AT 9:11 P.M.?

22 A ACCORDING TO THE DISPATCH LOG, IT WAS DISPATCHED AT
23 9:11.

24 Q AND YOU TESTIFIED THAT YOU ALSO RESPONDED TO A
25 SHOOTING WHERE TWO CHILDREN DIED?

1 A YES.

2 Q SO THAT WAS A BUSY NIGHT FOR YOU?

3 A THOSE TWO INCIDENTS WERE BUSY, YES. THEY CAME CLOSE
4 TOGETHER.

5 Q THROUGHOUT THIS ENTIRE EVENING, DID YOU TAKE ANY
6 NOTES? HAVE YOU PROVIDED ANY NOTES TO THE SOLICITOR'S
7 OFFICE FOR THIS CASE?

8 A OTHER THAN I TURNED IN MY NOTES THAT I TOOK THE
9 INFORMATION FOR, CONTACT INFORMATION, FOR THE PEOPLE I
10 TALKED TO ON THE SCENE.

11 Q SO YOU DIDN'T TAKE ANY NOTES ABOUT WHAT YOU SAW?

12 A NO.

13 Q OR WHAT YOU OBSERVED OR WHO YOU TALKED TO THAT NIGHT?

14 A NO, SIR.

15 Q SO AS YOU TESTIFIED HERE TODAY, YOU'RE GOING BASED ON
16 MEMORY FROM 26 MONTHS AGO?

17 A YES.

18 Q YOU TOLD US THAT YOU WERE CALLED AT 9:11 P.M. TO REDACTED
19 T.S. MARTIN DRIVE?

20 A YES.

21 Q YOU TALKED -- YOU STATED THAT YOU HAD TALKED TO THE
22 RESIDENTS OF THAT ADDRESS?

23 A I TALKED TO SOME PEOPLE THAT WAS ON THE PORCH AND IN
24 THE YARD. I THINK ONE OF THEM STATED THAT THEY LIVED
25 THERE, YES.

1 Q YOU TALKED TO SOME PEOPLE?

2 A YEAH, IT WAS --

3 Q HOW MANY PEOPLE?

4 A IT WAS APPROXIMATELY ABOUT THREE. AGAIN, I'M
5 GUESSING, BUT IT'S ABOUT THREE OR FOUR PEOPLE THAT WAS ON
6 THE PORCH AND INSIDE THE RESIDENCE.

7 Q YOU CAN'T REMEMBER EXACTLY HOW MANY PEOPLE?

8 A THREE OR FOUR, I WOULD SAY.

9 Q WERE THESE PEOPLE CHILDREN?

10 A SOME OF THEM WERE YOUNG TEENAGERS, YES.

11 Q SO YOU TALKED TO SOME YOUNG TEENAGERS. IS IT
12 POSSIBLE THAT THEY WERE FROM THE NEIGHBORHOOD AND NOT FROM
13 104 T.S. MARTIN?

14 A I DON'T KNOW WHERE ALL OF THEM RESIDED, NO, SIR.

15 Q YOU DON'T REMEMBER?

16 A I DO NOT KNOW. I DID NOT GATHER WHERE THEY RESIDED.

17 Q THESE PEOPLE THAT YOU TALKED TO, YOU JUST STATED THAT
18 THEY GAVE YOU A NAME, AND THEY TOLD YOU ABOUT THE WHITE
19 CAR, CORRECT?

20 A YES.

21 Q OKAY. DID THEY TELL YOU ABOUT INDIVIDUALS GETTING
22 OUT OF THE WHITE CAR?

23 A I THINK THEY DID GET OUT OF THE WHITE CAR. I'M NOT
24 SURE WHETHER THEY GOT OUT OR NOT. THEY JUST SAID THE
25 WHITE CAR WAS CAUSING -- THE PEOPLE IN THE WHITE CAR WAS

1 CAUSING A DISTURBANCE THAT WAS THERE AT THE RESIDENCE.

2 Q I WANT TO BE CLEAR. AS YOU SIT HERE TODAY IN COURT,
3 DID THOSE PEOPLE TELL YOU ABOUT PEOPLE GETTING OUT OF THE
4 WHITE CAR?

5 A I CAN'T REMEMBER, TO BE HONEST WITH YOU.

6 Q DID THEY TELL YOU ABOUT PEOPLE WEARING BANDANNAS ON
7 THE SCENE TO COVER THEIR FACES?

8 A NO, THEY DID NOT.

9 Q THEY DIDN'T?

10 A NO, NOT TO MY KNOWLEDGE.

11 Q NOT TO YOUR KNOWLEDGE, OR THEY DIDN'T?

12 A I CAN'T RECALL THEM EVER SAYING ANYTHING ABOUT A
13 BANDANNA.

14 Q YOU CAN'T RECALL?

15 A NO, SIR.

16 Q DID THEY TELL YOU ANYTHING ABOUT A GUN?

17 A NO, SIR, NOT THAT I RECALL.

18 Q NOT THAT YOU RECALL OR NO?

19 A NOT THAT I RECALL.

20 Q DID ANY OF THOSE INDIVIDUALS THAT YOU TALKED TO TELL
21 YOU THAT THEY HAD A GUN POINTED AT THEM?

22 A NOT THAT I RECALL, NO, SIR.

23 Q IF THEY HAD TOLD YOU THAT, DO YOU THINK YOU WOULD
24 REMEMBER HERE TODAY?

25 A YES.

1 Q OKAY. WHILE YOU WERE TALKING TO THESE INDIVIDUALS,
2 DID YOU SEE A WHITE CAR DRIVE BY?

3 A NO, SIR, I DID NOT.

4 Q DID THE PEOPLE YOU WERE TALKING TO POINT TO A WHITE
5 CAR?

6 A YES, THEY DID.

7 Q THEY DID POINT TO A WHITE CAR?

8 A THEY DID SAY THAT A WHITE CAR HAD DROVE BY WHILE I
9 WAS THERE TALKING TO THEM, YES.

10 Q DID THEY POINT IN THE DIRECTION OF THE WHITE CAR?

11 A YES, THEY DID.

12 Q YOU TESTIFIED THAT YOU ARRIVED AT 9:11 P.M.?

13 A NO, SIR. I TESTIFIED THAT I WAS DISPATCHED AT 9:11.

14 Q DO YOU REMEMBER WHAT TIME YOU ARRIVED?

15 A NO, I DON'T REMEMBER, BUT I CAN READ IT ON THE LOG.
16 DO YOU WANT ME TO READ IT?

17 Q DO YOU HAVE YOUR NOTES?

18 A I HAVE THE LOG HERE.

19 Q YOU HAVE THE LOG. WHAT DOES THE LOG SAY?

20 A THE LOG STATES THE ARRIVAL TIME OF 21:48, WHICH IS
21 9:48 P.M.

22 Q THAT WAS FOR THE FIRST CALL?

23 A EXCUSE ME, NO, SIR. YOU'RE RIGHT. THAT WAS FOR THE
24 SECOND CALL. I APOLOGIZE. THE ARRIVAL TIME FOR THE FIRST
25 CALL WAS 21:15, WHICH WAS 9:15 P.M.

1 Q YOU ARRIVED AT 9:15?

2 A YES.

3 Q DO YOU KNOW WHAT TIME YOU LEFT?

4 A NO, SIR, I DO NOT.

5 Q WOULD THE LOG INDICATE WHAT TIME YOU LEFT?

6 A NOT SPECIFICALLY. IT GOT TO THE TIME OF CLEARED THE
7 CALL AT 9:34, BUT THAT DOESN'T REALLY STATE THAT I LEFT AT
8 THAT PARTICULAR TIME.

9 Q WOULD IT BE FAIR TO SAY THAT YOU LEFT AROUND 9:34?

10 A YES, IT WOULD BE.

11 Q OKAY. KNOWING THAT YOU HAD BEEN THERE FROM 9:15 TO
12 APPROXIMATELY 9:34, WHAT TIME DID THE CHILDREN TELL YOU
13 ABOUT THE WHITE CAR?

14 A SAY THAT ONE MORE TIME, PLEASE.

15 Q KNOWING THAT YOU HAD BEEN THERE BETWEEN 9:11 AND
16 APPROXIMATELY 9:34, AT WHAT TIME DID THE CHILDREN POINT
17 OUT OR DID THE PEOPLE POINT OUT THE WHITE CAR?

18 A I WOULD SAY PROBABLY ABOUT A FEW MINUTES WHEN I WAS
19 TALKING TO THEM, FIVE -- MAYBE FIVE MINUTES INTO THE
20 CONVERSATION OR TALKING TO THEM TO GET THE INFORMATION,
21 MAYBE THAT'S WHEN THEY POINTED OUT THAT THEY HAD SAW THE
22 WHITE CAR JUST PASS BY.

23 Q SO AFTER THEY POINTED OUT THE WHITE CAR, DID YOU
24 REMAIN ON THE SCENE?

25 A YES, FOR A FEW MOMENTS.

1 Q FOR A FEW MOMENTS. AT SOME POINT, YOU DECIDED TO GO
2 TO CAROL DRIVE?

3 A YES.

4 Q OKAY. AT THIS TIME, YOU ARE AWARE THAT THE PEOPLE
5 WHO CALLED YOU THERE HAD TOLD YOU THAT THE WHITE CAR WAS
6 IN THE AREA, CORRECT?

7 A YES. WELL, THE CAR HAD JUST RECENTLY PASSED BY, YES.

8 Q YOU WERE AWARE THAT THE WHITE CAR WAS IN THE AREA?

9 A YES.

10 Q OKAY. WHEN YOU LEFT AT APPROXIMATELY 9:34 ON CAROL
11 DRIVE, DID ANYONE -- DID ANY OFFICERS THAT WERE WITH YOU
12 STAY BEHIND?

13 A NO, SIR.

14 Q HOW MANY OFFICERS WERE WITH YOU?

15 A ONE OFFICER.

16 Q SAME CAR OR DIFFERENT CARS?

17 A DIFFERENT CARS.

18 Q SO TWO CARS?

19 A YES.

20 Q AND BOTH OF YOU LEFT?

21 A YES.

22 Q OKAY. BEFORE YOU LEFT, DID YOU CALL ANY OTHER
23 OFFICERS FOR BACK UP?

24 A THE FIRST TIME?

25 Q YES, SIR.

1 A NO, SIR.

2 Q DID YOU CALL ANY OFFICERS TO THE SCENE TO MONITOR THE
3 NEIGHBORHOOD?

4 A NO, SIR.

5 Q TO DRIVE AROUND THE NEIGHBORHOOD?

6 A NO, SIR.

7 Q TO MAKE SURE THAT WHITE CAR DIDN'T COME BACK?

8 A NO, SIR.

9 Q OKAY. AND THAT SECOND TIME -- THE SECOND CALL, WHAT
10 TIME DID YOU RESPOND? AT WHAT TIME DID YOU ARRIVE?

11 A 21:48, ACCORDING TO THE LOG.

12 Q SO AT 9:48 YOU RESPONDED, AND YOU TESTIFIED THAT YOU
13 WENT TO LOOK FOR THE SUSPECTS OR LOOK FOR THE INDIVIDUALS.

14 A YES.

15 Q OKAY. AND I JUST WANT TO MAKE THIS CLEAR. YOU DID
16 NOT SEE ANY INDIVIDUALS ON THE SCENE?

17 A NO, SIR, I DID NOT.

18 Q OKAY. ALL RIGHT. OFFICER, YOU TALKED A LITTLE BIT
19 ABOUT THE CUTS, OKAY, THE CUTS THAT CONNECT BETHEL BISHOP
20 AND THE COLONY TO OTHER AREAS, OTHER SURROUNDING AREAS,
21 CORRECT?

22 A YES.

23 Q OKAY. AND NOW, THESE ARE ESSENTIALLY PATHS THROUGH
24 THE TREES THAT LEAD TO OTHER AREAS?

25 A YES.

1 Q OKAY. AND YOU SAID THAT THEY HAVE SET THEM UP. JUST
2 A FEW MOMENTS AGO -- I'M PARAPHRASING, YOU SAID THEY HAD
3 SET THEM UP. WHEN YOU SAY "THEY", YOU ARE REFERRING TO --

4 A PEOPLE WHO USED THOSE PATHS.

5 Q OKAY. SO WE'RE TALKING ABOUT THE RESIDENTS OF BETHEL
6 BISHOP?

7 A IT COULD BE -- ANYONE WHO USED THE PATHS WOULD HAVE.

8 Q OKAY. SO CUTS LEADING FROM BETHEL BISHOP TO OTHER
9 AREAS, WHEN YOU SAID "THEY", YOU'RE TALKING ABOUT THE
10 RESIDENTS OF BETHEL BISHOP OR THE OTHER AREAS?

11 A YES.

12 Q OKAY. SO THESE ARE PATHS THAT PEOPLE HAVE MADE;
13 CORRECT?

14 A YES.

15 Q OVER THE YEARS?

16 A YES.

17 Q AND IT PROVIDES ACCESS TO OTHER AREAS, OTHER
18 SURROUNDING AREAS?

19 A IT GOES FROM HAMMOND AVENUE TO -- BACK TO RIPPLEMEYER
20 AND OVER TO THE COLONY OR THE BETHEL BISHOP AREAS, YES.

21 Q THIS PARTICULAR CUT?

22 A THOSE PARTICULAR CUTS, YES.

23 Q THERE'S SEVERAL CUTS?

24 A RIGHT, EXACTLY.

25 Q OKAY. NOW, THESE CUTS ARE PATHS, CORRECT?

1 A YES.

2 Q IT'S NOT WALKING IN BETWEEN TREES. I MEAN, YOU ALL
3 HAVE GOTTEN -- THEY'RE BEATEN PATHS?

4 A YES.

5 Q WORN PATHS?

6 A YES.

7 Q PATHS THAT HAVE BEEN WORN OVER THE YEARS?

8 A YES.

9 Q OKAY. AND THEY'RE USED?

10 A (THERE WAS NO RESPONSE.)

11 Q PEOPLE USE THESE PATHS?

12 A YES.

13 Q OKAY. DID THE PEOPLE AT BETHEL BISHOP USE THESE
14 PATHS?

15 A I KNOW THOSE PEOPLE USED THOSE PATHS TO GET BACK
16 TO -- I BELIEVE THEY USED THOSE PATHS TO GET BACK TO
17 BETHEL BISHOP. WHERE THEY ARE BETHEL BISHOP RESIDENTS, I
18 HAVE NO IDEA.

19 Q SO YOU'RE TESTIMONY IS PEOPLE FROM THE OUTSIDE USE
20 THESE PATHS TO GET TO BETHEL BISHOP?

21 A I KNOW PEOPLE USE IT. IT COULD BE BETHEL BISHOP
22 PEOPLE USING THOSE PATHS TO GET BACK AND FORTH TO OTHER
23 AREAS, OR IT COULD BE OTHER PEOPLE FROM OTHER AREAS USING
24 THOSE PATHS TO GET TO BETHEL BISHOP. WHICH IS WHICH, I DO
25 NOT KNOW.

1 Q IS IT POSSIBLE THAT --

2 A YES.

3 Q -- PEOPLE IN BETHEL BISHOP USE THESE PATHS TO GET TO
4 OTHER AREAS, AND PEOPLE FROM OTHER AREAS USE THESE PATHS
5 TO GET TO BETHEL BISHOP?

6 A YES.

7 Q OKAY.

8 I BEG THE COURT'S INDULGENCE.

9 (PAUSE).

10 ON AUGUST 26TH, YOU RESPONDED TO A CIVIL DISTURBANCE?

11 A YES, THAT'S TRUE.

12 Q AND YOU RESPONDED TO WHAT, AS IT TURNS OUT, IS A
13 HOMICIDE?

14 A IT WAS INITIALLY PUT OUT AS A CIVIL DISTURBANCE, AND
15 IT ENDED UP BEING A SHOTS FIRED CALL IN WHICH TWO PEOPLE
16 WAS INJURED.

17 Q AND JUST TO BE CLEAR, YOU NEVER WROTE AN INCIDENT
18 REPORT?

19 A NO, SIR, I DID NOT.

20 Q YOU NEVER TOOK ANY NOTES?

21 A NO, SIR.

22 MR. SHARDT: I HAVE NO FURTHER QUESTIONS FOR THIS
23 WITNESS.

24 THE COURT: ALL RIGHT. REDIRECT?

25 REDIRECT EXAMINATION:

1 BY MS. FENT

2 Q AFTER YOU RECEIVED INFORMATION FROM THE PEOPLE AT [REDACTED]
3 T.S. MARTIN AS TO WHO THEY THINK THIS CAR WAS LOOKING FOR,
4 WHERE DO YOU GO?

5 A I GO TO THE RESIDENCE WHERE THE PERSON -- THEY STATED
6 THE PERSON STAYED AT, WHERE THEY WERE LOOKING.

7 Q THE PEOPLE -- THE PERSON THAT IS POSSIBLY AT RISK,
8 CORRECT?

9 A YES.

10 Q AND WHEN YOU GO BACK THE SECOND TIME, 9:44, 9:45, YOU
11 SAID YOU WENT OVER TO ENGLISH TO LOOK FOR THE SUSPECTS.
12 ARE YOU LOOKING FOR SOMEONE IN A CAR, OR ARE YOU LOOKING
13 FOR PEOPLE ON FEET?

14 A ON FOOT, PEOPLE ON FOOT.

15 MS. FENT: NO FURTHER QUESTIONS.

16 THE COURT: ANY FURTHER CROSS?

17 MR. SHARDT: NOTHING FURTHER, YOUR HONOR.

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

19 THE BAILIFF: WATCH YOUR STEP, SIR.

20 THE COURT: ALL RIGHT. WE'RE GOING TO BREAK FOR
21 LUNCH AT THIS TIME.

22 MR. FOREMAN, LADIES AND GENTLEMEN, I HAVE ANOTHER
23 HEARING AT TWO O'CLOCK IN ANOTHER CASE. IT DOESN'T HAVE
24 ANYTHING TO DO WITH THIS CASE. THAT SHOULD TAKE ABOUT 30
25 MINUTES, BUT I NEED TO GET FOLKS OUT TO GET BACK TO THAT,

1 SO THEY CAN GET A BITE TO EAT AND DO THE HEARING.

2 BE BACK IN YOUR JURY ROOM AT 2:30. WE'LL CONTINUE
3 WITH THE TESTIMONY AT THAT TIME. LET ME AGAIN REMIND YOU,
4 DO NOT DISCUSS THE CASE AMONG YOURSELVES OR WITH ANYONE
5 ELSE.

6 LET ME ALSO ASK YOU TO DO THIS, IF YOU WOULD: WHEN
7 YOU GET BACK TO THE COURTHOUSE, PLEASE DON'T HANG AROUND
8 OUT IN THE LOBBIES, OR YOU DON'T NEED TO GO BACK TO THE
9 ASSEMBLY ROOM DOWNSTAIRS. COME STRAIGHT TO THE JURY ROOM
10 WHEN YOU GET BACK HERE.

11 WE'LL CONTINUE AT 2:30, SO HAVE A GOOD LUNCH. WE'LL
12 SEE YOU BACK AT 2:30.

13 EVERYONE ELSE REMAIN SEATED, PLEASE.

14 YOU CAN LEAVE YOUR PADS IN YOUR CHAIRS, OR YOU CAN
15 LEAVE THEM IN THE JURY ROOM, WHICHEVER YOU PREFER.

16 (WHEREUPON, THE JURY LEFT OPEN COURT AT APPROXIMATELY
17 12:49 P.M.)

18 THE COURT: ALL RIGHT. WE'LL BREAK UNTIL -- I HAVE A
19 HEARING AT TWO O'CLOCK. THIS TRIAL WILL RESUME AT 2:30.

20 LET ME SEE THE LAWYERS UP HERE JUST FOR SCHEDULING
21 PURPOSES, PLEASE.

22 (WHEREUPON, THERE WAS A BENCH CONFERENCE.)

23 (WHEREUPON, A LUNCH BREAK WAS TAKEN.)

24 THE COURT: ALL RIGHT. WE WERE GOING TO SETTLE THE
25 RECORD OF THE NEXT WITNESS.

1 SOLICITOR?

2 MS. CAMPBELL: YOUR HONOR, THE STATE'S NEXT WITNESS
3 IS CARL SMITH. HE DOES HAVE, AND I'VE SHARED -- I'VE
4 GIVEN A COPY OF ALL THE RAP SHEETS TO THE DEFENSE.

5 HE DOES HAVE FROM 2005, A CONVICTION FOR ASSAULT ON A
6 POLICE OFFICER WHILE RESISTING ARREST FOR WHICH HE
7 RECEIVED A ONE-YEAR SENTENCE SUSPENDED ON PROBATION, AND
8 THEN HE ALSO HAS ACCOMPANIED BY A SIMPLE POSSESSION OF
9 MARIJUANA.

10 I WOULD NOTE FOR THE COURT THAT THESE WERE NOT --
11 THESE CHARGES CAME AFTER HE HAD GIVEN STATEMENTS TO THE
12 POLICE AND WERE NOT PENDING AT THE TIME OF HIS ARREST.

13 THE COURT: ALL RIGHT. IT IS A CONVICTION? IT'S NOT
14 JUST OUTSTANDING CHARGES; IS THAT CORRECT?

15 MS. CAMPBELL: YES, SIR. IT'S CONVICTION.

16 THE COURT: ALL RIGHT. THE DEFENSE WOULD INTEND TO
17 USE THAT FOR IMPEACHMENT PURPOSES?

18 MS. FRANKLIN: YES, YOUR HONOR, WE DO. WE BELIEVE
19 IT'S RELEVANT THAT MR. SMITH HAS CONTINUED TO ENGAGE IN
20 CRIMINAL ACTIVITY.

21 IN THIS CASE, IT'S ALL ABOUT THE CREDIBILITY OF THE
22 WITNESSES. WHEN A WITNESS TAKES THE STAND, CERTAINLY
23 CREDIBILITY IS ALWAYS AN ISSUE.

24 THIS IS THE STATE'S WITNESS. THEY DECIDED TO USE
25 HIM. MY DEFENDANT, MY CLIENT, HAS GOT FULL RIGHT TO

1 CONFRONT ANY WITNESSES AGAINST HIM, AND THAT WOULD INCLUDE
2 ANY CONVICTIONS THAT THAT WITNESS WOULD HAVE.

3 THE COURT: ALL RIGHT, SOLICITOR?

4 MS. CAMPBELL: YOUR HONOR, I JUST REREAD THE RULE,
5 AND I BELIEVE THAT IT WOULD BE ADMISSIBLE.

6 THE COURT: ALL RIGHT. I BELIEVE IT IS, TOO, UNDER
7 THE RULE, AND IT WOULD BE PERMITTED, AGAIN, ONLY FOR
8 IMPEACHMENT PURPOSES. THERE ARE ONLY TWO OR THREE
9 QUESTIONS THAT ARE PROPER UNDER THAT RULE. ON THAT
10 CONVICTION, THAT'S AS FAR AS YOU GO WITH IT.

11 ALL RIGHT.

12 MS. FRANKLIN: OKAY.

13 THE COURT: ANYTHING ELSE BEFORE THE JURY IS BROUGHT
14 BACK?

15 MS. CAMPBELL: NO, SIR. I BELIEVE WE ALL AGREE
16 THAT'S THE EXTENT OF HIS RECORD. WE DID PULL HIS JUVENILE
17 RECORD, AS WELL, AND THAT'S OUR UNDERSTANDING.

18 MS. FRANKLIN: THAT'S OUR UNDERSTANDING, AS WELL.

19 MS. CAMPBELL: ALL RIGHT.

20 MS. FRANKLIN: WE ARE NOT CONTESTING THE
21 ADMISSIBILITY OF THE OTHERS.

22 THE COURT: ALL RIGHT. LET'S GET THE JURY IN,
23 PLEASE.

24 (WHEREUPON, THE JURY CAME INTO OPEN COURT AT
25 APPROXIMATELY 2:42 P.M.)

1 THE BAILIFF: THE JURY IS SEATED, YOUR HONOR.

2 THE COURT: ALL RIGHT. MR. FOREMAN, LADIES AND
3 GENTLEMEN, WE WILL CONTINUE WITH THE TESTIMONY.

4 SOLICITOR, CALL YOUR NEXT WITNESS.

5 MS. CAMPBELL: MAY IT PLEASE THE COURT. THE STATE
6 CALLS CARL SMITH.

7 CARL SMITH, AFTER BEING DULY SWORN,
8 TESTIFIED AS FOLLOWS:

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

11 THE BAILIFF: WATCH YOUR STEP.

12 OKAY. STATE YOUR FULL NAME.

13 THE WITNESS: YES, MY NAME IS CARL DUANE SMITH.

14 DIRECT EXAMINATION:

15 BY MS. CAMPBELL

16 Q MR. SMITH, YOU'RE GOING TO HAVE TO TALK UP. IT'S
17 HARD TO HEAR IN HERE, OKAY. WHAT'S YOUR NAME AGAIN?

18 A CARL DUANE SMITH.

19 Q HOW OLD ARE YOU, MR. SMITH?

20 A TWENTY YEARS OLD.

21 Q DO YOU HAVE A NICKNAME?

22 A YES, THEY CALL ME POOH.

23 Q POOH?

24 A YES, MA'AM.

25 Q AND HOW DID YOU GET THE NICKNAME POOH?

1 A MY AUNTIE GAVE IT TO ME WHILE I WAS LITTLE.

2 Q WHERE DID YOU GROW UP?

3 A IN WHAT NEIGHBORHOOD?

4 Q UH-HUH.

5 A OVER IN PINEHURST, AND I MOVED OVER THERE TO BETHEL

6 BISHOP.

7 Q BETHEL BISHOP?

8 A UH-HUH.

9 Q AND HOW LONG HAVE YOU LIVED IN THE COLUMBIA AREA?

10 A ALL MY LIFE.

11 Q WHERE DID YOU GO TO HIGH SCHOOL?

12 A I WENT TO SPRING VALLEY, C.A. JOHNSON, AND DREHER.

13 Q AND WHAT YEAR DID YOU ATTEND C.A. JOHNSON? WHAT

14 GRADE WERE YOU IN?

15 A TENTH.

16 Q AND WHAT GRADE WERE YOU IN WHEN YOU WENT TO DREHER?

17 A WHAT GRADE? ELEVENTH AND 12TH.

18 Q DID YOU FINISH HIGH SCHOOL?

19 A NO, MA'AM.

20 Q WHEN DID YOU DROP OUT?

21 A THE 12TH GRADE.

22 Q AND DO YOU WORK NOW?

23 A YES, MA'AM.

24 Q AND WHAT KIND OF WORK DO YOU DO?

25 A UTILITY WORK AT BENEDICT COLLEGE.

1 Q BENEDICT COLLEGE?

2 A YES, MA'AM.

3 Q AND THAT'S WHERE YOU'RE CURRENTLY EMPLOYED?

4 A YES, MA'AM.

5 Q DO YOU KNOW A MAN NAMED CHRIS LIVERMAN?

6 A YES, MA'AM.

7 Q AND CAN YOU TELL THE JURY, HOW DO YOU KNOW CHRIS
8 LIVERMAN?

9 A WE WENT TO SCHOOL TOGETHER AT C.A. JOHNSON.

10 Q AT C.A. JOHNSON?

11 A UH-HUH.

12 Q AND DO YOU REMEMBER WHETHER HE WAS YOUR AGE, ABOUT
13 YOUR AGE OR OLDER, YOUNGER, DO YOU REMEMBER?

14 A PROBABLY ABOUT MY AGE.

15 Q AND YOU MET HIM AT SCHOOL?

16 A YES, MA'AM.

17 Q AND AFTER YOU TRANSFERRED TO DREHER, DID YOU CONTINUE
18 TO SEE HIM SOMETIMES?

19 A WHEN I WOULD GO TO BETHEL BISHOP, I SEEN HIM OUT
20 THERE PLAYING WITH HIS SISTER AND WHATNOT, TALKING TO HIS
21 GRAND.

22 Q OKAY. YOU HAD SEEN HIM OUT THERE PLAYING WITH HIS
23 SISTER OUT THERE AT BETHEL BISHOP?

24 A UH-HUH.

25 Q IS BETHEL BISHOP AN APARTMENT COMPLEX?

1 A YES, MA'AM.

2 Q AND YOU SAID YOU SEEN HIM OUT THERE WITH HIS SISTER?

3 A AND TALKING TO HIS GRANDMA.

4 Q AND TALKING TO HIS GRANDMA?

5 A UH-HUH.

6 Q DID HIS GRANDMOTHER LIVE IN THE BISHOP?

7 A YES, MA'AM.

8 Q WERE YOU LIVING AT THE BISHOP BACK IN 2004 WHEN ALL
9 OF THIS HAPPENED THAT WE'RE GETTING READY TO TALK ABOUT?

10 A NO, MA'AM.

11 Q WHERE WERE YOU LIVING?

12 A I WAS LIVING IN [REDACTED] THEN.

13 Q DID YOU HAVE A REASON, THOUGH, TO GO OVER TO THE
14 BISHOP A LOT?

15 A NOT A LOT, NO, MA'AM.

16 Q OKAY. DID YOU HAVE A REASON TO GO OVER TO THE BISHOP
17 SOME?

18 A YES, MA'AM, BECAUSE MY SON WAS LIVING OUT THERE AT
19 THAT TIME.

20 Q OKAY. I'M SORRY, I CAN'T HEAR YOU.

21 A MY SON WAS LIVING OVER THERE.

22 Q YOUR SON WAS LIVING OVER THERE?

23 A UH-HUH.

24 Q AND HOW OLD IS YOUR SON NOW?

25 A HE'S FIVE.

1 Q DID YOU KNOW CHRIS LIVERMAN -- HOW OFTEN WOULD YOU
2 SEE CHRIS?

3 A NOT THAT OFTEN, LIKE EVERY OTHER BLUE MOON WHEN I
4 WENT OUT THERE.

5 Q DID YOU KNOW HIM TO HAVE A NICKNAME?

6 A YEAH. SOME PEOPLE CALLED HIM BABY JESUS, BUT I
7 CALLED HIM CHRIS, THOUGH.

8 Q YOU CALLED HIM CHRIS?

9 A UH-HUH.

10 Q BUT WHAT DID SOME PEOPLE CALL HIM?

11 A BABY JESUS.

12 Q AND JUST FOR THE RECORD, YOU DON'T WANT TO BE HERE
13 TODAY, DO YOU?

14 A NO.

15 Q BACK IN 2004, WERE YOU IN A GANG?

16 A YES, MA'AM, I WAS.

17 Q AND WHAT GANG WERE YOU IN?

18 A I WAS IN THE FOLKS.

19 Q THE FOLKS?

20 A YES, MA'AM.

21 Q DID YOU KNOW WHETHER OR NOT CHRIS LIVERMAN OR BABY
22 JESUS WAS IN A GANG?

23 MS. FRANKLIN: YOUR HONOR.

24 THE COURT: HOLD ON ONE SECOND.

25 MS. FRANKLIN: YOUR HONOR, I OBJECT, HEARSAY.

1 THE COURT: COME UP. COME UP FOR ONE SECOND. LET ME
2 TALK TO COUNSEL.

3 (WHEREUPON, A BENCH CONFERENCE WAS HELD IN THE
4 PRESENCE, BUT NOT WITHIN THE HEARING, OF THE JURY).

5 BY MS. CAMPBELL

6 Q YOU MENTIONED THAT YOU WERE IN THE FOLK GANG. DID
7 YOU EVER TALK TO CHRIS LIVERMAN ABOUT BEING IN A GANG?

8 A WE TALKED, BUT IT WASN'T LIKE NOTHING SERIOUS OR
9 NOTHING LIKE THAT.

10 Q DID YOU EVER SEE ANY TATTOOS ON HIM?

11 A YES. HE HAD TATTOOS.

12 Q AND WHAT DID THOSE TATTOOS --

13 THE COURT: GET CLOSER TO THE MICROPHONE, PLEASE,
14 SIR.

15 THE WITNESS: I DON'T REMEMBER THE TATTOO. WE WERE
16 IN HIGH SCHOOL. NOW I DON'T REMEMBER, YOU KNOW WHAT I'M
17 SAYING?

18 BY MS. CAMPBELL

19 Q OKAY. BUT BASED ON THOSE TATTOOS, DID YOU KNOW HE
20 WAS IN A GANG?

21 A YEAH, I WAS IN THE GANG AT THE SAME TIME, TOO.

22 Q YOU WERE IN THE SAME GANG?

23 A UH-HUH.

24 Q AND WHAT WAS THAT GANG?

25 A THE FOLK ORGANIZATION.

1 Q THE FOLK NATION?

2 A (NODS IN THE AFFIRMATIVE).

3 Q AND I BELIEVE YOU HAVE GOT A TATTOO ON YOUR NECK,
4 DON'T YOU?

5 A UH-HUH.

6 Q AND WHAT DOES THAT INDICATE?

7 A WHAT DO YOU MEAN? THE FOLKS, BOSS.

8 Q BOSS?

9 A YEAH.

10 Q AND THAT MEANS YOU WERE A MEMBER?

11 A YEAH, UH-HUH. I'M A MEMBER OF THE FOLK GANG.

12 Q OKAY. THAT YOU WERE A MEMBER OF THE FOLK GANG. ARE
13 YOU FAMILIAR OR YOU KNOW A GROUP CALLED THE BLOODS?

14 A YES, MA'AM, I'M FAMILIAR.

15 Q AND DO THE BLOODS AND THE FOLK GET ALONG?

16 A NO, NOT LIKE THAT.

17 Q DO YOU KNOW WHAT THE TERM SLOB OR SLOBS MEAN?

18 A YES, I DO.

19 Q AND WHAT DOES SLOB MEAN?

20 A DISRESPECTING THE BLOODS.

21 Q I CAN'T HEAR YOU.

22 A DISRESPECTING THE BLOODS.

23 Q DISRESPECTING THE BLOODS?

24 A UH-HUH.

25 Q I WANT TO TURN YOUR ATTENTION BACK TO AUGUST 26TH,

1 2004. WERE YOU HANGING OUT AT THE BETHEL BISHOP
2 APARTMENTS THAT DAY?

3 A YES, I WAS.

4 Q AT SOME POINT DURING THAT EVENING, DID YOU MEET UP
5 WITH BRADY BROWN?

6 A YES, MA'AM.

7 Q CAN YOU TELL THE JURY HOW YOU MET UP WITH BRADY AND
8 WHAT YOU ALL WERE GOING TO DO?

9 A YES, MA'AM. OKAY. IT WAS RIGHT -- I GUESS HE HAD
10 BEEN COMING FROM FOOTBALL PRACTICE OR WHATNOT FROM C.A.
11 JOHNSON --

12 Q OKAY.

13 A -- AND THEY GO TO T.S. MARTIN. THEY SAID A COUPLE OF
14 GUYS RAN UP TO THEIR CAR AND WHATNOT, AND THEY WANTED TO
15 FIGHT. THEY WERE OUTNUMBERED, SO THEY CAME AND GOT ME, SO
16 I WENT BACK UP THERE.

17 Q OKAY. YOU SAID THEY CAME UP IN A CAR. DO YOU
18 REMEMBER WHOSE CAR IT WAS?

19 A BRADY BROWN'S.

20 Q AND WHAT KIND OF CAR WAS IT?

21 A A WHITE FORD ESCORT.

22 Q WHO WAS WITH BRADY BROWN WHEN HE CAME UP AND TALKED
23 TO YOU?

24 A JUST HIM AND PARIS.

25 Q HIM AND PARIS?

1 A (THE WITNESS NODS IN THE AFFIRMATIVE.)

2 Q AND HOW DID YOU KNOW BRADY?

3 A WE WENT TO SCHOOL TOGETHER.

4 Q AND HOW DID YOU KNOW PARIS?

5 A WE WENT TO SCHOOL TOGETHER.

6 Q IS HE ACTUALLY YOUR COUSIN?

7 A NO, MA'AM, JUST A GOOD FRIEND. WE WENT TO MIDDLE
8 SCHOOL AND HIGH SCHOOL TOGETHER.

9 Q BUT YOU CALL HIM YOUR COUSIN SOMETIMES?

10 A UH-HUH.

11 Q IT WAS PARIS AND BRADY AT THAT POINT, RIGHT, AND
12 WHERE WERE YOU WHEN THEY APPROACHED YOU?

13 A I WAS AT MY BABY'S MOTHER'S HOUSE.

14 Q YOUR BABY'S MOTHER'S HOUSE?

15 A UH-HUH.

16 Q AND WHERE IS THAT LOCATED?

17 A BETHEL BISHOP.

18 Q WERE YOU INSIDE OR OUTSIDE WHEN THEY FOUND YOU?

19 A WHEN WHO FOUND ME?

20 Q WERE YOU INSIDE OR OUTSIDE THE APARTMENT WHEN THEY
21 FOUND YOU?

22 A WHO IS THEY?

23 Q BRADY.

24 A NO, MA'AM, I WAS OUTSIDE IN FRONT OF THE HOUSE.

25 Q AND HE ASKED YOU TO COME ALONG WITH HIM?

1 A UH-HUH.

2 Q ONCE -- DID YOU KNOW WHERE YOU ALL WERE GOING?

3 A YES, MA'AM.

4 Q DID YOU KNOW WHO YOU WERE LOOKING FOR?

5 A YES, MA'AM.

6 Q WHO WERE YOU LOOKING FOR?

7 A I DON'T KNOW HIS LAST NAME. I KNOW HIS NAME IS

8 DELSHAWN, THOUGH.

9 Q DELSHAWN?

10 A UH-HUH.

11 Q DID YOU ALSO PICK UP ANOTHER PERSON THAT ENDED UP

12 GETTING IN THE CAR?

13 A YES, MA'AM.

14 Q WHO WAS THAT?

15 A HIS NAME IS SHEROD. I DON'T KNOW HIS LAST NAME.

16 Q ONCE THE FOUR OF YOU ALL WERE ALL IN THE CAR, DID YOU

17 PICK UP SHEROD IN THE BISHOP?

18 A UH-HUH.

19 Q WHERE DID YOU ALL GO?

20 A WHEN WE LEAVE -- WELL, WHEN WE LEFT THE BISHOP?

21 Q YES, SIR.

22 A WE WENT STRAIGHT TO T.S. MARTIN.

23 Q AND YOU WERE LOOKING FOR?

24 A DELSHAWN.

25 Q HOW LONG DID IT TAKE TO GET TO T.S. MARTIN?

1 A NOT LONG, ABOUT FIVE MINUTES. OH, NOT THAT LONG,
2 PROBABLY ABOUT THREE, THREE OR FOUR MINUTES.

3 Q IT'S NOT VERY FAR?

4 A NO, MA'AM.

5 Q DID YOU GO BY FOOT, OR DID YOU ARRIVE BY CAR?

6 A IN A CAR.

7 Q ONCE YOU THE GOT OVER TO T.S. MARTIN, TELL THE JURY
8 WHAT YOU ALL DID. WHO WAS DRIVING?

9 A BRADY BROWN.

10 Q WHERE WERE YOU SITTING?

11 A IN THE BACKSEAT.

12 Q OKAY. WHAT HAPPENED?

13 A WE GOT OUT, WHATNOT. AS SOON AS WE GOT OUT OF THE
14 CAR, WE WERE CROSSING THE STREET AND A FEMALE HAD CALLED
15 MY NAME OR WHATNOT. SO THEY STARTED WALKING AROUND.

16 THEY HAD SEEN SOMEBODY ON THE PORCH CUTTING ON THE
17 LIGHT, YOU KNOW WHAT I'M SAYING? THEY HAD BEEN POINTING
18 LIKE, "THERE GOES ONE OF THEM RIGHT THERE." I HAD CALLED
19 THEM BACK, YOU KNOW WHAT I'M SAYING, BECAUSE I DON'T KNOW
20 WHO THAT GIRL IS. YOU KNOW, WE INITED' (PHONETIC) HIS
21 MAN, YOU KNOW WHAT I'M SAYING. I'M GOING TO BE THE FIRST
22 ONE TO GO DOWN. YOU KNOW WHAT I'M SAYING?

23 MS. FRANKLIN: YOUR HONOR, I'M HAVING TROUBLE HEARING
24 HIM, I'M SORRY.

25 MS. CAMPBELL: I'LL SLOW IT DOWN.

1 THE COURT: ALL RIGHT. SLOW DOWN AND SPEAK CLEARLY.
2 GO AHEAD. START OVER.

3 THE WITNESS: START OVER?

4 BY MS. CAMPBELL

5 Q OKAY. BASICALLY, WHEN YOU GET OUT OF THE CAR, WHAT
6 ARE YOU WEARING AROUND YOUR HEAD?

7 A A BLACK BANDANNA.

8 Q WHAT DOES A BANDANNA SIGNIFY?

9 A THE FOLKS.

10 Q FOLKS?

11 A YES, SIR.

12 Q YOU'RE FAMILIAR WITH THE TERM FLAG?

13 A OH YES, MA'AM.

14 Q TELL THE JURY WHEN YOU'RE PUTTING ON A FLAG WHAT
15 YOU'RE SHOWING.

16 A I'M REPRESENTING, PUT IT LIKE THAT.

17 Q DID THE OTHER PEOPLE IN THE CAR HAVE BANDANNAS ON?

18 A MA'AM?

19 Q DID THE OTHER PEOPLE, BRADY AND SHEROD --

20 A YES, MA'AM.

21 Q DID OTHER PEOPLE IN THE CAR HAVE BANDANNAS ON?

22 A (NODS IN THE AFFIRMATIVE).

23 Q WHEN YOU ALL GOT OUT OF THE CAR, WHERE DID YOU GO?

24 A WELL, WE GOT IN THE MIDDLE OF THE STREET. WHEN THE
25 GIRL CALLED MY NAME, YOU KNOW WHAT I'M SAYING.

1 Q OKAY. LET ME STOP THERE. YOU GOT OUT IN THE STREET
2 AND A GIRL CALLED YOUR NAME?

3 A YES, MA'AM.

4 Q WHEN SHE CALLED YOUR NAME, WHAT DID YOU DO?

5 A AT FIRST IT DIDN'T CLICK, YOU KNOW WHAT I'M SAYING.
6 I'M LIKE WHO? WHO IS THE FEMALE, YOU KNOW WHAT I'M
7 SAYING. SO THEM BOYS ARE MOVING ALL FAST TRYING TO FIND
8 WHO THEY HAD BEEN LOOKING FOR.

9 Q WHEN YOU SAY THOSE BOYS WERE MOVING FAST, WHO ARE
10 THOSE BOYS?

11 A BRADY BROWN, PARIS, AND THE REST OF THEM. YOU KNOW
12 WHAT I'M SAYING?

13 Q AND THEY WERE LOOKING FOR?

14 A DELSHAWN.

15 Q OKAY. AND THIS GIRL IS YELLING YOUR NAME?

16 A YES, MA'AM.

17 Q SO WHAT DID YOU SAY?

18 A SO YOU KNOW WHAT I'M SAYING. I GUESS THEY SEEN
19 SOMEBODY, SOMEBODY COMING OUTSIDE, THOUGHT IT WOULD BE
20 DELSHAWN. THEY WHEN DOO-RAG WENT BACK IN THE HOUSE AND
21 CLOSED THE DOOR, THEY MIGHT BE THINKING LIKE, YOU KNOW
22 WHAT I'M SAYING, THIS GIRL SCREAMED MY NAME.

23 THE COURT REPORTER: I'M SORRY. YOU'RE GOING TO HAVE
24 TO SLOW DOWN.

25

1 BY MS. CAMPBELL

2 Q YOU'RE GOING TO HAVE TO SLOW DOWN A LITTLE BIT, OKAY.
3 YOU TALK FASTER THAN I DO.

4 WHEN THIS GIRL WAS CALLING YOUR NAME, WHAT WERE YOU
5 THINKING?

6 A YOU KNOW WHAT I'M SAYING, IF WE DO JUMP SOMEBODY, YOU
7 KNOW WHAT I'M SAYING, I'M GOING TO BE THE FIRST ONE TO GO
8 DOWN BECAUSE SHE SEEN ME. SHE KNEW WHO I WAS.

9 Q OKAY.

10 A AND SHE DIDN'T KNOW WHO THE REST OF -- WHO THEY WAS.

11 Q DID YOU ALL HAVE GUNS?

12 A NO, MA'AM.

13 Q WHAT WEAPON DID YOU HAVE?

14 A SOME BRASS KNUCKLES.

15 Q AND WHO HAD -- AND DO YOU REMEMBER WHICH ONE OF YOU
16 HAD THOSE? DID YOU HAVE THEM?

17 A NO, MA'AM.

18 Q AND WHAT WERE THE BRASS KNUCKLES MADE OUT OF?

19 A I GUESS CHROME LIKE.

20 Q CHROME LIKE SILVER?

21 A UH-HUH.

22 Q AND DO YOU KNOW WHICH OF THE OTHER THREE HAD THOSE?

23 A NO, MA'AM.

24 Q SO DID YOU CONTINUE -- WHAT DID YOU SAY TO THE OTHER
25 GUYS TO GET THEM TO STOP?

1 A I TOLD THE BOYS, "COME ON. GET BACK IN THE CAR."
2 YOU JUST SEEN THAT GIRL SCREAM MY NAME, YOU KNOW WHAT I'M
3 SAYING.

4 Q SLOW DOWN. SLOW DOWN.

5 "GET BACK IN THE CAR BECAUSE THAT GIRL HAD BEEN
6 SCREAMING YOUR NAME?"

7 A YES, MA'AM.

8 Q OKAY. AT THAT POINT WHAT DID THEY DO?

9 A THEY GOT BACK INTO THE CAR BECAUSE THE DUDE HAD CUT
10 BACK OFF THE PORCH LIGHT AND CLOSED THE DOOR, SO WE LEFT.
11 WE GOT BACK IN THE CAR.

12 Q THE DUDE THAT CUT OFF THE PORCH LIGHT?

13 A UH-HUH.

14 Q DID YOU KNOW WHO THE DUDE WAS?

15 A NO, MA'AM. I DIDN'T GET A GOOD LOOK.

16 Q DID YOU KNOW ANYBODY BY THE NAME OF TYRONE SMITH?

17 A TYRONE SMITH, NO, MA'AM.

18 Q HE'S NOT RELATED TO YOU?

19 A HUH-UH.

20 Q OKAY. ONCE YOU ALL GOT BACK IN THE CAR, WHAT
21 HAPPENED?

22 A THEY DROPPED ME BACK OFF IN THE BISHOP, AND I GUESS
23 BRADY WENT HOME.

24 Q WHO STAYED IN THE CAR WITH BRADY?

25 A IT WAS HIM AND PARIS, I THINK.

1 Q OKAY. AND WHAT DID SHEROD DO?

2 A SHEROD, HE GOT DROPPED BACK OFF, TOO, IN THE FRONT OF
3 THE BISHOP.

4 Q SO LET ME GET THIS STRAIGHT: ONCE YOU WERE AT T.S.
5 MARTIN ONCE YOU GOT HIM BACK IN THE CAR, YOU ALL WENT
6 STRAIGHT BACK TO BETHEL BISHOP?

7 A BETHEL BISHOP, YES, MA'AM.

8 Q DID YOU DRIVE BACK?

9 A I DIDN'T DRIVE, BRADY DROVE.

10 Q OKAY. ONCE YOU GOT BACK TO THE BETHEL BISHOP AND HE
11 DROPPED YOU OFF, WHERE DID YOU LAST SEE BRADY'S CAR WITH
12 BRADY IN IT?

13 A GOING OUT THE BACK ROADWAY THROUGH THE COLONY.
14 THAT'S THE LAST TIME I SEEN HIM. HE SAID HE WAS GOING
15 HOME.

16 Q AND HE HAD ONE OTHER PERSON WITH HIM AT THAT POINT?

17 A UH-HUH.

18 Q DID YOU SEE WHERE SHEROD WENT?

19 A NO, MA'AM. HE GOT IN THE CAR IN FRONT OF THE BISHOP,
20 AND HE HAD DROVE ME AROUND TO THE BACK WHERE MY BABY'S
21 MOTHER LIVED AT.

22 Q SO HE HAD HIS CAR PARKED THERE, AND HE DROVE YOU
23 AROUND TO THE BACK?

24 A UH-HUH.

25 Q AND ONCE YOU GOT OUT OF THAT CAR, DID YOU SEE WHERE

1 SHEROD WENT IN HIS CAR?

2 A NO, MA'AM. SHEROD, I DON'T THINK HE HAD A CAR.

3 Q WHOSE CAR WAS HE DRIVING AROUND BACK?

4 A HE WASN'T DRIVING NOBODY'S CAR. I SAID BRADY HAD
5 DROPPED HIM OFF IN THE FRONT AND BRADY DROVE --

6 Q AND THEN DROPPED YOU OFF?

7 A YES, MA'AM.

8 Q I'M SORRY, I MISUNDERSTOOD. SO BRADY THEN DROPPED
9 YOU OFF IN THE BACK, SO YOU DON'T KNOW WHERE SHEROD LIVED?

10 A NO, MA'AM.

11 Q AFTER THAT, ONCE YOU GOT BACK TO BETHEL BISHOP, WAS
12 IT DARK AT THIS POINT?

13 A YES, MA'AM.

14 Q DID YOU -- DO YOU REMEMBER SEEING CHRIS LIVERMAN
15 AFTER YOU HAD COME BACK FROM THE T.S. MARTIN INCIDENT?

16 A YES, MA'AM.

17 Q AND AT THAT POINT WAS BRADY BROWN OR BRADY BROWN'S
18 CAR ANYWHERE AROUND WHEN YOU SAW CHRIS?

19 A NO, MA'AM.

20 Q WAS SHEROD ANYWHERE AROUND?

21 A NO, MA'AM.

22 Q TELL THIS JURY WHEN YOU FIRST SAW CHRIS WHERE HE WAS
23 AND WHO HE WAS WITH.

24 A WELL, I HAD BEEN IN THE BACK BY MY BABY'S MOTHER
25 HOUSE. HE HAD BEEN COMING OUT OF THE BAYBERRY APARTMENTS.

1 Q AND WHERE IS BAYBERRY APARTMENTS IN RELATION TO THE
2 BETHEL BISHOP APARTMENTS?

3 A IT'S RIGHT BEHIND IT.

4 Q OKAY. ON THE SAME SIDE AS THE COLONY OR ON THE
5 OPPOSITE SIDE OF IT?

6 A IT'S ON THE SAME SIDE.

7 Q THE SAME SIDE OF 277?

8 A UH-HUH.

9 Q BUT IT'S THE COLONY AND THEN --

10 A IT'S THE COLONY, THEN THE BETHEL BISHOP, THEN
11 BAYBERRY.

12 Q OKAY. AND YOU SAID YOU SAW HIM WALKING FROM THE
13 BAYBERRY AREA TOWARDS YOU, WHERE YOU WERE IN THE COLONY?

14 A I WAS IN THE BISHOP.

15 Q IN THE BISHOP, I'M SORRY. WERE YOU OUTSIDE AT THAT
16 POINT?

17 A YES, MA'AM.

18 Q WHAT WERE YOU DOING? WHAT HAD YOU GONE TO DO?

19 A WHAT I WAS GOING TO DO?

20 Q UH-HUH.

21 A I HAD CAME FROM GETTING ME A SODA AT THE LAUNDROMAT,
22 50 CENTS. I SEEN HIM. I TOLD HIM THE INCIDENT THAT WENT
23 DOWN WHATNOT, YOU KNOW WHAT I'M SAYING.

24 Q OKAY. LET ME STOP YOU. YOU SAW HIM. DID HE COME UP
25 AND TALK TO YOU?

1 A UH-HUH. WELL, HE WAS WALKING. I WAS WALKING TOWARDS
2 HIM, SO YOU KNOW WHAT I'M SAYING, SO WE JUST HELD A
3 CONVERSATION RIGHT THERE.

4 Q SO YOU JUST KIND OF MET?

5 A UH-HUH.

6 Q YOU SAID THERE WERE SOME PEOPLE WITH HIM?

7 A YEAH.

8 Q DID YOU RECOGNIZE ANY OF THEM?

9 A JUST ONE OF THEM.

10 Q WHO WAS THAT?

11 A THAT WAS MY FRIEND GOO.

12 Q YOUR FRIEND GOO?

13 A UH-HUH.

14 Q AND DOES GOO -- DO YOU KNOW GOO'S REAL NAME?

15 A REGINALD JOYNER I THINK, YEAH.

16 Q OKAY. AND DOES GOO HAVE A HANDICAP?

17 A YES, MA'AM. HE'S DEAF.

18 Q CAN HE STILL COMMUNICATE?

19 A THROUGH SIGN LANGUAGE.

20 Q WAS THERE ANYBODY ELSE WITH CHRIS WHEN YOU SAW HIM?

21 A JUST THE OTHER THREE DUDES.

22 Q AND COULD YOU TELL, WERE THEY OLDER OR YOUNGER OR
23 WHAT?

24 A YOU CAN'T TELL, PROBABLY RIGHT AROUND THE SAME AGE.

25 Q DID YOU KNOW ANY OF THE OTHER THREE DUDES?

1 A MA'AM?

2 Q DID YOU KNOW ANY OF THE OTHER THREE PEOPLE WITH HIM
3 OTHER THAN GOO?

4 A OH NO, MA'AM. AFTER GOO IT WAS JUST TWO. IT WAS
5 FOUR IN ALL.

6 Q FOUR IN ALL, I'M SORRY. SO DID YOU KNOW ANY OF THE
7 OTHER TWO?

8 A NO, MA'AM.

9 Q DID YOU AND CHRIS HAVE A CONVERSATION RIGHT THERE IN
10 THE BETHEL BISHOP APARTMENT PARKING LOT AREA?

11 A OH YES, MA'AM.

12 Q AND TELL THIS JURY WHAT HAPPENED OR WHAT HE SAID TO
13 YOU DURING THAT CONVERSATION AND WHAT YOU TOLD HIM.

14 A OKAY. WELL, I HAD TO TELL HIM ABOUT WHAT HAPPENED AT
15 T.S. MARTIN. THE INCIDENT -- YOU KNOW WHAT I'M SAYING, WE
16 WERE SUPPOSED TO FIGHT SOMEBODY BUT WE DIDN'T SEE HIM, YOU
17 KNOW WHAT I'M SAYING.

18 THE COURT REPORTER: I'M SORRY, YOU'RE GOING TO HAVE
19 TO SLOW DOWN.

20 THE WITNESS: WE WERE SUPPOSED TO FIGHT BUT WE DIDN'T
21 SEE HIM, SO WE CAME BACK WHEN THE GIRL SCREAMED MY NAME.
22 YOU KNOW WHAT I'M SAYING?

23 BY MS. CAMPBELL

24 Q AND THAT'S WHAT YOU TOLD HIM?

25 A UH-HUH.

1 Q AND WHAT DID HE TELL YOU?

2 A HE HAD BEEN LIKE SOMEBODY, YOU KNOW WHAT I'M SAYING
3 FROM WHAT SAME WAY, I DON'T KNOW IF IT'S THE SAME PERSON
4 OR WHATNOT, YOU KNOW WHAT I'M SAYING.

5 Q YOU SAID WHAT? I CAN'T UNDERSTAND YOU.

6 A I DON'T KNOW IF YOU'RE TALKING ABOUT THE SAME PERSON,
7 BUT HE'S TALKING ABOUT SOMEBODY AT T.S. MARTIN, YOU KNOW
8 WHAT I'M SAYING, LIKE RUN HIM OUT THERE A COUPLE OF DAYS
9 BEFORE.

10 Q SO SOMEBODY FROM T.S. MARTIN HAD RUN HIM OUT FROM A
11 COUPLE OF DAYS BEFORE?

12 A YEAH.

13 Q AND WHAT DID HE SHOW YOU AT THAT POINT WHEN THIS GUY
14 RAN HIM OUT FROM T.S. MARTIN A COUPLE OF DAYS BEFORE?

15 A HE PULLED OUT ABOUT THREE OR FOUR LITTLE BULLETS IN
16 HIS HAND.

17 Q ALL RIGHT. DID HE SHOW THEM TO YOU?

18 A YES, MA'AM.

19 Q AND WHAT DID HE SAY WHEN HE SHOWED THEM TO YOU?

20 A WHAT DID HE SAY?

21 Q YEAH.

22 A HE SAID HE HAD JUST GOTTEN THEM AND WHATNOT, YOU KNOW
23 WHAT I'M SAYING.

24 Q HE HAD JUST GOTTEN THEM?

25 A UH-HUH.

1 Q DID HE TALK ABOUT ANY KIND OF GUN HE WAS GOING TO
2 USE?

3 MS. FRANKLIN: YOUR HONOR, I'M GOING TO OBJECT TO
4 LEADING.

5 THE COURT: I SUSTAIN TO THE LAST QUESTION. REPHRASE
6 YOUR QUESTION.

7 BY MS. CAMPBELL

8 Q I'LL REPHRASE, I'M SORRY.

9 WHAT, IF ANYTHING, DID HE TELL YOU ABOUT ANY WEAPONS?

10 A THAT HE OWNED THEM. HE HAD JUST BEEN TALKING. HE
11 HAD JUST GOTTEN HIM A NEW GUN AND WHATNOT, BUT HE AIN'T
12 PULLED IT OUT OR NOTHING.

13 Q HE DIDN'T SHOW IT TO YOU?

14 A HUH-UH.

15 Q BUT HE TOLD YOU ABOUT IT?

16 A UH-HUH?

17 Q DID HE TELL YOU WHAT KIND OF GUN IT WAS?

18 A HE SAID IT HAD BEEN A .22.

19 Q TWENTY-TWO. DID HE SAY IT WAS A LONG OR A SHORT GUN?

20 A HE DIDN'T REALLY GET INTO IT.

21 Q DID YOU ACTUALLY SEE THE BULLETS YOU SAID HE HAD IN
22 HIS HAND?

23 A YES, MA'AM.

24 Q AND DID YOU KNOW WHAT KIND OF BULLETS THOSE WERE?

25 A YES, MA'AM. I KNEW WHAT KIND OF BULLETS THOSE WERE.

1 Q DID HE TELL YOU WHAT KIND OF BULLETS THEY WERE?

2 A MA'AM?

3 Q DID HE TELL YOU WHAT KIND OF BULLETS THEY WERE?

4 A YES, MA'AM.

5 Q WHAT KIND?

6 A TWENTY-TWO BULLETS.

7 Q HE SAID THEY WERE. 22 BULLETS?

8 A UH-HUH.

9 Q DID HE TELL YOU ANYTHING ELSE WHILE YOU WERE STANDING
10 RIGHT THERE AT FIRST?

11 A NO. HE JUST KEPT SAYING, YOU KNOW WHAT I'M SAYING,
12 HE'S ABOUT TO GO BACK UP THERE. I TOLD HIM NO. HE'S
13 LIKE, "I'M GOING TO WALK GOO HOME."

14 Q PRIOR TO THAT, DID HE TELL YOU HE WAS GOING TO DO
15 SOMETHING?

16 A SAY THAT AGAIN.

17 Q DID HE TELL YOU HE WAS GOING TO GO DO SOMETHING WHEN
18 HE WAS SHOWING YOU THE BULLETS?

19 A HE SAID THAT HE MIGHT GO ON A LICK OR WHATNOT.

20 Q AND HE SAID HE WAS GOING TO GO ON A LICK?

21 A YEAH.

22 Q AND WHAT DOES A LICK MEAN?

23 A LIKE GOING TO GET SOME MONEY OR WHATNOT, YOU KNOW
24 WHAT I'M SAYING.

25 Q GOING TO GET SOME MONEY, NOT OUT OF AN A.T.M.?

1 A NO, I DON'T KNOW.

2 Q CAN A LICK MEAN SOMETHING ELSE?

3 A I DON'T KNOW. IT'S LIKE SAYING THAT HE'S GOING TO
4 RAKE SOMEBODY'S YARD OR WHATNOT. IT AIN'T BUT LIKE A TEN
5 OR \$15 YARD. THEY PAY YOU LIKE \$40 OR \$50. THAT'S A LICK
6 RIGHT THERE. YOU KNOW WHAT I'M SAYING, BECAUSE THEY PAID
7 YOU MORE.

8 Q WAS HE TALKING ABOUT DOING A LICK RIGHT AS HE WAS
9 TELLING YOU ABOUT THE GUY THAT HAD DONE SOMETHING TO HIM A
10 COUPLE OF DAYS EARLIER?

11 A YEAH, SOMETHING LIKE THAT. IT WAS IN A CONVERSATION.
12 ALL OF IT WAS IN THE SAME CONVERSATION.

13 Q OKAY. DID HE CONTINUE TO WALK ON PAST YOU TOWARDS
14 THE BELTLINE AREA?

15 A YES, MA'AM.

16 Q AND DID YOU FEEL -- DID YOU WANT TO -- DID YOU END
17 UP --

18 MS. FRANKLIN: YOUR HONOR, I OBJECT TO THE LEADING
19 AGAIN.

20 THE COURT: SUSTAINED.

21 BY MS. CAMPBELL

22 Q WHAT DID YOU SAY TO HIM AFTER THAT? I'M SORRY.

23 A MA'AM?

24 Q WHAT DID YOU SAY TO HIM AFTER THAT AS HE WAS WALKING
25 AWAY?

1 A HE HAD GOT IN THE CAR. I HAD SCREAMED OUT. I HAD
2 CALLED HIS NAME. YOU KNOW, HE HAD HEARD ME. I ASKED HIM
3 PLEASE NOT TO GO BACK UP THERE, YOU KNOW WHAT I'M SAYING,
4 BECAUSE IF HE GOES TO DO SOMETHING, THEY'RE GOING TO
5 SUSPECT ME. THE FEMALE WHO HAD CALLED MY NAME, YOU KNOW
6 WHAT I'M SAYING, PROBABLY WILL THINK IT WAS ME. I ASKED
7 HIM PLEASE NOT TO GO BACK UP THERE.

8 Q WHY DID YOU TELL HIM, PLEASE, NOT TO GO BACK UP
9 THERE?

10 A I WAS TRYING TO LOOK OUT FOR HIM, YOU KNOW WHAT I'M
11 SAYING?

12 Q AND YOU ALL HAD BEEN TALKING ABOUT T.S. MARTIN?

13 A MA'AM?

14 Q YOU ALL HAD BEEN TALKING ABOUT T.S. MARTIN?

15 A YES, MA'AM.

16 Q THAT NIGHT WHEN YOU SAW CHRIS LIVERMAN, DID YOU GET A
17 GOOD LOOK AT HIS FACE WHEN YOU WERE TALKING TO HIM?

18 A YEAH.

19 Q DID HE HAVE ANY TATTOOS ON HIS FACE?

20 A NO, MA'AM.

21 Q AFTER YOU YELLED AT HIM, WHERE WAS HE WHEN YOU
22 YESTERDAY AT HIM TO STOP?

23 A HE WAS IN THE COLONY APARTMENTS, LIKE YOU KNOW WHAT
24 I'M SAYING, LIKE UP THE HILL GOING TOWARDS THE LITTLE CUT
25 AND WHATNOT.

1 Q AND HOW MANY WERE WITH HIM?

2 A THE SAME FOUR.

3 Q DID HE STOP?

4 A WHEN HE HEARD ME CALL HIM?

5 Q UH-HUH.

6 A YES, MA'AM.

7 Q WHAT DID HE SAY?

8 A HE SAID, ALL RIGHT. HE WAS GOING TO WALK GOO HOME.

9 HE PROBABLY WASN'T GOING TO GO UP THERE.

10 Q AFTER THAT, DID YOU SEE HIM ANYMORE?

11 A NO, MA'AM. I WENT BACK TO THE PARTY.

12 Q WAS THERE A PARTY GOING ON?

13 A YES, MA'AM.

14 Q LATER THAT NIGHT DID YOU BECOME AWARE THAT THERE HAD

15 BEEN A SHOOTING AT T.S. MARTIN AFTER YOU HAD LEFT?

16 A YES, MA'AM.

17 Q ONCE YOU FOUND OUT ABOUT THAT, WHERE DID YOU GO?

18 A I WENT HOME BECAUSE I KNEW THAT THEY WERE GOING TO

19 COME TO MY HOUSE. MY MOTHER CALLED ME CRYING, WHATNOT,

20 TOLD ME THAT THEY HEARD SOME PEOPLE SCREAMING MY NAME IN A

21 MURDER CHARGE AND WHATNOT. I TOLD THEM I DIDN'T KNOW

22 NOTHING ABOUT IT, SO I WENT STRAIGHT HOME, YOU KNOW WHAT

23 I'M SAYING. I KNEW THEY WAS GOING TO COME.

24 Q WHO WAS GOING TO COME?

25 A THE POLICE.

1 Q WHY DID YOU GO HOME?

2 A I TOLD THEM I DIDN'T HAVE NOTHING TO DO WITH IT. I
3 AIN'T HAD NOTHING TO DO WITH IT. I AIN'T KILLED NOBODY.

4 Q AND DID THE POLICE COME THAT NIGHT?

5 A YES, MA'AM.

6 Q AND DID YOU GO WITH THEM?

7 A YES, MA'AM.

8 Q AND WHEN YOU SAID THEY CAME TO YOUR HOUSE, WHERE WAS
9 YOUR HOUSE?

10 A [REDACTED]

11 Q AND WHAT PART OF TOWN IS THAT IN?

12 A MA'AM?

13 Q WHERE IS THAT?

14 A IN THE C.A. JOHNSON AREA.

15 Q SO IT'S NOT IN THE BISHOP APARTMENTS?

16 A NO, MA'AM.

17 Q ONCE YOU WENT DOWN TO -- WHERE DID YOU GO ONCE THE
18 POLICE CAME?

19 A TO WASHINGTON STREET INTO THE INTERROGATION ROOM, I
20 GUESS.

21 Q DID YOU HAVE A -- DID THEY START ASKING YOU -- DID
22 THEY ACTUALLY ADVISE YOU OF YOUR RIGHTS THEN?

23 A YES, MA'AM.

24 Q AND I'M GOING TO SHOW YOU THIS. DO YOU REMEMBER
25 SIGNING OFF ON YOUR ADVICE OF RIGHTS?

1 A YES, MA'AM.

2 Q AND YOU ACTUALLY SIGNED OFF ON A WAIVER OF RIGHTS; IS
3 THAT CORRECT?

4 A OH YES, MA'AM.

5 Q AND DID YOU AGREE TO TALK TO THEM?

6 A YES, MA'AM.

7 Q AND AT FIRST, WHEN YOU FIRST STARTED TALKING TO THEM,
8 DID YOU TELL THEM THE TRUTH?

9 A NO, MA'AM.

10 Q WHY NOT?

11 A BECAUSE I WAS SCARED. I DIDN'T KNOW WHAT WAS GOING
12 ON AT FIRST UNTIL THEY TOLD ME, YOU KNOW WHAT I'M SAYING.

13 Q AND WHAT INFORMATION DID YOU GIVE THEM AT FIRST THAT
14 NIGHT?

15 A AT FIRST, I DIDN'T GIVE THEM NO INFORMATION AT FIRST.

16 Q AND, IN FACT, I THINK YOU DENIED BEING AT T.S. MARTIN
17 THAT NIGHT.

18 A YES, MA'AM.

19 Q AFTER TALKING TO THE INVESTIGATOR INITIALLY, DID HE
20 LEAVE THE ROOM?

21 A YES, MA'AM.

22 Q AFTER THAT, DID HE COME BACK IN?

23 A YES, MA'AM.

24 Q AND AT THAT POINT, DID YOU START TELLING HIM WHAT HAD
25 REALLY HAPPENED?

1 A I STARTED TELLING HIM MY PART ABOUT -- HE TOLD ME
2 THAT HE HAD THE PERSON WHOSE CAR WE HAD BEEN IN. I TOLD
3 HIM WHAT HAPPENED WHEN WE HAD BEEN UP THERE.

4 Q HE HAD WHO?

5 A BRADY BROWN.

6 Q SO BRADY BROWN WAS BEING QUESTIONED, TOO?

7 A YES, MA'AM.

8 Q AT THAT POINT DID YOU TELL HIM WHAT HAD HAPPENED?

9 A YES, MA'AM.

10 Q DID YOU GIVE HIM A DESCRIPTION OF THE PEOPLE THAT
11 WERE WITH CHRIS?

12 A YES, MA'AM.

13 Q DID YOU DESCRIBE THE CLOTHING YOU HAD SEEN CHRIS IN
14 LAST?

15 A MA'AM?

16 Q DID YOU DESCRIBE THE CLOTHING?

17 A YES, MA'AM.

18 Q SO WHEN YOU FIRST TALKED TO THE POLICE, YOU DIDN'T
19 TELL THEM THE TRUTH?

20 A NO, MA'AM.

21 Q BUT THEN WHEN YOU FOUND OUT BRADY WAS THERE TALKING,
22 YOU DID?

23 A UH-HUH.

24 Q DID YOU TELL THEM THE SAME INFORMATION YOU RELATED?

25 A YES, MA'AM.

1 Q AND THAT WAS THE INFORMATION YOU GAVE THEM ON THE
2 NIGHT OF -- THE EARLY MORNING HOURS OF THE 27TH, THAT SAME
3 NIGHT THE SHOOTING OCCURRED?

4 A YES, MA'AM.

5 Q BACK THEN YOU WERE IN A GANG. ARE YOU STILL IN ONE?

6 A NO, MA'AM.

7 Q WHY NOT?

8 A BECAUSE I'M GROWN UP. MAN, I GOT CHILDREN NOW, YOU
9 KNOW WHAT I'M SAYING. I AIN'T GOT TIME FOR ALL THAT
10 STUPID STUFF. ALL THESE ACCIDENTS HAPPEN AND WHATNOT. I
11 AIN'T GOT TIME TO BE CAUGHT UP IN IT.

12 Q YOU CAN'T GET CAUGHT UP IN IT?

13 A HUH-UH.

14 Q YOU DECIDED TO GET OUT AFTER WHAT HAPPENED TO THOSE
15 CHILDREN THAT NIGHT?

16 A YES, MA'AM.

17 Q BEG THE COURT'S INDULGENCE.

18 (PAUSE).

19 JUST ONE THING, YOU GAVE A STATEMENT BACK WHEN IT
20 HAPPENED, RIGHT?

21 A (THERE WAS NO RESPONSE).

22 Q AND IN THE STATEMENT YOU PUT DOWN WHAT CHRIS SAID TO
23 YOU THAT NIGHT, RIGHT?

24 A UH-HUH.

25 Q IN IT, DO YOU SEE IN THERE WHERE YOU TOLD HIM THAT

1 CHRIS SAID IT BELONGED TO A -- THE AMMUNITION BELONGED TO
2 A .22 RIFLE?

3 A YES, MA'AM.

4 Q AND IS THAT WHAT CHRIS TOLD YOU?

5 A YES, MA'AM.

6 Q AND YOU DON'T WANT TO BE HERE?

7 A (THERE WAS NO RESPONSE.)

8 Q BACK IN 2005, YOU WERE CONVICTED FOR ASSAULT ON A
9 POLICE OFFICER WHILE RESISTING ARREST?

10 A YES, MA'AM.

11 Q THE PERSON THAT YOU KNEW AS CHRIS LIVERMAN THAT
12 TALKED TO YOU ABOUT GOING TO DO A LICK, DO YOU SEE HIM
13 HERE IN THE COURTROOM?

14 A YES, MA'AM.

15 Q WILL YOU POINT HIM OUT FOR THE JURY, PLEASE?

16 A POINT HIM OUT?

17 Q YES, SIR. POINT TO HIM.

18 A (THERE WAS NO RESPONSE.)

19 Q CAN YOU SAY WHERE HE'S SITTING?

20 A (THERE WAS NO RESPONSE.)

21 Q YOU DON'T WANT TO LOOK AT HIM?

22 A (THERE WAS NO RESPONSE.)

23 MS. CAMPBELL: I HAVE NOTHING FURTHER, YOUR HONOR.

24 THE COURT: ALL RIGHT. CROSS-EXAMINE?

25 CROSS-EXAMINATION:

1 BY MS. FRANKLIN

2 Q OKAY. WE'RE GOING TO DISCUSS YOUR INVOLVEMENT, WHAT
3 HAPPENED ON T.S. MARTIN ON THE NIGHT OF AUGUST 26TH, 2004.
4 DO YOU UNDERSTAND?

5 A YES, MA'AM.

6 Q DO YOU HAVE A COPY OF YOUR STATEMENT?

7 A NO, MA'AM. OH, YEAH, I GOT THEM AT THE HOUSE. I
8 DON'T HAVE THEM ON ME.

9 Q DO YOU NEED A COPY OF YOUR STATEMENTS?

10 A (THERE WAS NO RESPONSE).

11 Q ALL RIGHT. YOUR NICKNAME IS POOH. YOU'RE 20 YEARS
12 OLD, AND YOU'RE CURRENTLY A MEMBER OF FOLK NATION, AREN'T
13 YOU?

14 A (NODS IN THE AFFIRMATIVE).

15 Q YOU ARE?

16 A (NODS IN THE AFFIRMATIVE).

17 Q WHEN THE POLICE FOUND YOU THAT NIGHT, YOU WERE AT
18 YOUR APARTMENT, AND YOUR APARTMENT IS ON [REDACTED] WHO
19 WAS LIVING WITH YOU AT THAT TIME?

20 A MY GRANDMOTHER AND MY UNCLE.

21 Q AND HOW LONG HAVE YOU BEEN LIVING THERE?

22 A ABOUT -- ALMOST A YEAR AT THAT TIME.

23 Q AND THE POLICE FOUND YOU THERE, AND THEY TOLD YOU
24 THAT THEY HAD QUESTIONS FOR YOU?

25 A UH-HUH.

1 Q WHAT TIME DID THEY COME AND PICK YOU UP THAT NIGHT?

2 A AROUND 12, 12:15, SOMETHING LIKE THAT.

3 Q AND HAD YOU GONE TO SLEEP THAT NIGHT?

4 A (THERE WAS NO RESPONSE).

5 Q AND YOU WENT WITH SERGEANT WILKERSON FROM POLICE
6 HEADQUARTERS?

7 THE COURT: WAIT. DID HE ANSWER?

8 MS. FRANKLIN: I'M SORRY, HE DID.

9 THE WITNESS: I'M SORRY.

10 THE COURT: ALL RIGHT. THAT'S FINE. SOMETIMES IT'S
11 HARD TO SAY YES OR NO, BUT THIS LADY IS A COURT REPORTER,
12 AND SHE HAS TO TAKE EVERYTHING DOWN. IF YOU NOD YOUR HEAD
13 OR SHAKE YOUR HEAD, SHE CAN'T GET THAT. WE'LL NEED YES OR
14 NO.

15 GO AHEAD, MS. FRANKLIN.

16 BY MS. FRANKLIN

17 Q YOU MET -- SO OFFICER MELRON KELLY IS THE ONE WHO
18 TRANSPORTED YOU TO POLICE HEADQUARTERS?

19 A YES, MA'AM.

20 Q ANYONE ELSE WITH MR. KELLY?

21 A NO, MA'AM.

22 Q JUST KELLY. THEY REVIEWED YOUR ADVICE OF RIGHTS FORM
23 WITH YOU ABOUT 12:05?

24 A YES, MA'AM.

25 Q AND YOU SIGNED THE WAIVER THAT STATED THAT YOU KNEW

1 YOUR RIGHTS ABOUT 12:15?

2 A YES, MA'AM.

3 Q AND YOU REALIZED THAT YOU WERE THERE TO DISCUSS THE
4 SHOOTING?

5 A YES, MA'AM.

6 Q AND YOU KNEW THAT TWO CHILDREN HAD BEEN SHOT?

7 A NOT AT THAT TIME, UNTIL I GOT THERE AND THEY TOLD ME.

8 Q AT THE TIME THAT YOU GAVE THE STATEMENT, YOU WERE
9 ATTENDING DREHER HIGH SCHOOL?

10 A YES, MA'AM.

11 Q AND YOU WERE IN REGULAR CLASSES?

12 A UH-HUH, YES, MA'AM.

13 Q AND YOU UNDERSTOOD YOUR RIGHTS?

14 A YES, MA'AM.

15 Q YOU UNDERSTOOD YOUR RIGHTS?

16 A YES, MA'AM.

17 Q OKAY. AND YOU KNEW THAT THE POLICE WERE LOOKING FOR
18 TRUTHFUL STATEMENTS FROM YOU?

19 A YES, MA'AM.

20 Q YOU UNDERSTOOD THAT YOU WERE REQUIRED TO GIVE
21 ACCURATE STATEMENTS TO POLICE?

22 A YES, MA'AM.

23 Q AND AT FIRST SERGEANT WILKERSON ALLOWED YOU TO WRITE
24 YOUR STATEMENT IN YOUR OWN HAND.

25 A UH-HUH.

1 Q IS THAT ACCURATE?

2 A YES.

3 Q YOU SAT IN THERE. HE GAVE YOU A FORM. HE SAID,
4 "TELL US WHAT HAPPENED."

5 A NO.

6 Q YES?

7 A YES. HE STARTED OFF WITH THAT, YES, MA'AM.

8 Q SO AT THAT POINT, YOU WROTE ABOUT A PARAGRAPH?

9 A UH-HUH.

10 Q WAS SERGEANT WILKERSON IN THE ROOM WITH YOU WHEN YOU
11 GAVE THAT FIRST STATEMENT?

12 A I DON'T REMEMBER WHERE HE GAVE IT AT.

13 Q AND WHERE WERE YOU?

14 A I WAS IN THE INTERROGATION ROOM.

15 Q DO YOU RECALL WAS IT UPSTAIRS, WAS IT DOWNSTAIRS?

16 A I DON'T KNOW. IT HAD BEEN -- I DON'T KNOW.

17 Q WAS IT A LARGE ROOM, WAS IT A SMALL ROOM?

18 A A SMALL ROOM.

19 Q WERE YOU HANDCUFFED AT THE TIME THAT YOU GAVE YOUR
20 FIRST STATEMENT?

21 A YES.

22 Q AND DO YOU REMEMBER WHAT YOU TOLD SERGEANT WILKERSON
23 DURING THAT FIRST INTERVIEW?

24 A UH-HUH.

25 Q YOU TOLD HIM THAT YOU WERE AT YOUR BABY'S MAMA'S

1 HOUSE IN THE BISHOP?

2 A YES.

3 Q WHICH APARTMENT NUMBER IN BISHOP DOES YOUR BABY'S
4 MAMA LIVE?

5 A I DON'T REMEMBER RIGHT NOW.

6 Q SHE IS NOT THERE ANYMORE?

7 A NO, MA'AM.

8 Q BUT YOU TOLD THE OFFICERS THAT NIGHT YOU WERE NOWHERE
9 NEAR T.S. MARTIN?

10 A YES, I DID.

11 Q YOU TOLD THEM THAT YOU WERE JUST HANGING OUT WAITING
12 TO SEE YOUR SON THAT NIGHT?

13 A YES, I DID.

14 Q BUT THAT WASN'T THE TRUTH.

15 A NO.

16 Q AND THEN OFFICER WILKERSON DECIDED TO ENGAGE IN
17 WHAT'S CALLED A QUESTION AND ANSWER WITH YOU; IS THAT
18 RIGHT?

19 A YES.

20 Q IT WAS AT THAT POINT HE STARTED WRITING THINGS IN HIS
21 OWN HAND.

22 A UH-HUH.

23 Q HE WAS ASKING YOU QUESTIONS, AND THEN HE WAS WRITING
24 DOWN WHAT IT IS THAT YOU MAY HAVE SAID.

25 A YES.

1 Q HOW LONG AFTER -- BETWEEN THE TIME THAT YOU GAVE THIS
2 FIRST STATEMENT IN YOUR OWN HAND UNTIL THE TIME THAT
3 SERGEANT WILKERSON CAME AND STARTED ASKING YOU QUESTIONS?

4 A I DON'T REMEMBER. I KNOW IT HAD BEEN A GOOD BIT,
5 LIKE ABOUT 30 MINUTES OR WHATNOT.

6 Q AND AT THAT POINT HE WANTED TO KNOW IF YOU HAD BEEN
7 AT T.S. MARTIN AT ANY TIME THAT DAY OF THE SHOOTING?

8 A UH-HUH.

9 Q DO YOU REMEMBER WHAT YOU TOLD HIM?

10 A I TOLD HIM I HAD BEEN THERE ABOUT THREE O'CLOCK
11 EARLIER THAT DAY WITH MY HOMEGIRL.

12 Q AND YOUR HOMEGIRL IS SHANTE. SO YOU TOLD HIM YOU HAD
13 BEEN AT T.S. MARTIN ABOUT THREE O'CLOCK WITH SHANTE ABOUT
14 THREE O'CLOCK THAT AFTERNOON?

15 A YES. WE RODE THROUGH. WE WAS NOT LIKE RIDING
16 AROUND.

17 Q RIGHT, BUT YOU WERE WITH SHANTE.

18 A YES.

19 Q YOU ALL DROVE THROUGH T.S. MARTIN IN HER CAR --

20 A YES.

21 Q -- IS WHAT YOU TOLD HIM.

22 A UH-HUH.

23 Q YOU TOLD HIM -- YOU TOLD THE INVESTIGATOR THAT YOU
24 DIDN'T KNOW HER LAST NAME, BUT YOU DID KNOW THAT SHE LIVED
25 IN BETHEL BISHOP, AS WELL?

1 A YES, I DID.

2 Q AND THEN YOU TOLD THE INVESTIGATOR THAT YOU HAD NOT
3 BEEN THERE AT ALL --

4 A YES, I DID.

5 Q -- ON THE NIGHT?

6 A I TOLD.

7 Q YOU DID LATER. I'M TALKING ABOUT YOUR SECOND
8 STATEMENT AT THIS POINT.

9 A UH-HUH.

10 Q WHEN YOU'RE TALKING, WHEN YOU'RE HAVING YOUR QUESTION
11 AND ANSWER WITH SERGEANT WILKERSON, YOU AGAIN TOLD HIM YOU
12 HAD NOT BEEN THERE AT ALL ON THE NIGHT OF AUGUST 26TH?

13 A YEP.

14 Q AND HE ASKED YOU IF YOU WERE RIDING AROUND IN A WHITE
15 FORD ESCORT?

16 A UH-HUH.

17 Q AND AGAIN, YOU DENIED THAT YOU HAD BEEN THERE, THAT
18 YOU HAD DONE THAT.

19 ACCORDING TO YOU, YOU FOUND OUT ABOUT THE SHOOTING --
20 YOU FOUND OUT ABOUT THE SHOOTING WHEN YOU RECEIVED A PHONE
21 CALL FROM CARL JACKSON, AND THAT'S YOUR UNCLE?

22 A CURTIS JACKSON.

23 Q CURTIS JACKSON, AND HE CALLED YOU, AND HE CALLED YOU
24 AT YOUR APARTMENT OR AT YOUR BABY'S MAMA'S APARTMENT?

25 A CELL PHONE.

1 Q ON THE CELL PHONE. NOW, THE NIGHT THAT YOU'RE GIVING
2 THIS STATEMENT, AT SOME POINT INVESTIGATOR GRAY COMES INTO
3 THE ROOM WITH YOU. DO YOU RECOGNIZE INVESTIGATOR GRAY?

4 A I'M SAYING I DON'T REMEMBER HIS FACE.

5 Q YOU DON'T REMEMBER?

6 A YEAH.

7 Q BUT YOU REMEMBER THAT ANOTHER INVESTIGATOR CAME TO
8 SPEAK WITH YOU. YOU REALIZED AFTER INVESTIGATOR GRAY WAS
9 IN THE ROOM WITH YOU THAT BRADY BROWN WAS ALSO THERE?

10 A YES, BECAUSE HE TOLD ME.

11 Q SO INVESTIGATOR GRAY TOLD YOU THAT BRADY BROWN WAS
12 THERE?

13 A YES.

14 Q DID INVESTIGATOR GRAY TELL YOU THAT CHRISTOPHER
15 LIVERMAN WAS THERE?

16 A YES.

17 Q AND HE INFORMED YOU AT THAT TIME THAT THERE WERE SOME
18 SERIOUS INCONSISTENCIES BETWEEN WHAT YOU WERE SAYING AND
19 WHAT BRADY BROWN WAS SAYING?

20 A UH-HUH.

21 Q YOU CONTINUED TO DENY THAT YOU HAD BEEN TO T.S.
22 MARTIN THAT NIGHT?

23 A AFTER HE CAME BACK IN THE ROOM, I FOUND OUT. I TOLD
24 HIM EVERYTHING.

25 Q SO YOU TOLD HIM EVERYTHING? BEFORE INVESTIGATOR GRAY

1 CAME BACK INTO THE ROOM, YOU CONTINUED TO DENY THAT YOU
2 WERE WITH PARIS ALEXANDER, YES?

3 A YES, MA'AM.

4 Q YOU CONTINUED TO DENY THAT YOU WERE WITH SHEROD
5 PRAYLOW?

6 A YES, MA'AM.

7 Q OKAY, PARIS ALEXANDER AND SHEROD PRAYLOW. OKAY. AT
8 THE TIME THAT YOU WERE LEFT IN THE ROOM OR THE TIME THAT
9 YOU HAD LAST SPOKEN WITH SERGEANT WILKERSON UNTIL THE TIME
10 THAT INVESTIGATOR JOBY GRAY CAME TO SPEAK WITH YOU, YOU
11 WERE HANDCUFFED TO THE CHAIR AS YOU WAITED THERE. YOU
12 WERE THERE ALL ALONE.

13 A UH-HUH.

14 Q AND YOU KNEW THAT BRADY BROWN WAS TALKING TO THE
15 POLICE.

16 A YES.

17 Q AND YOU KNEW THAT CHRISTOPHER LIVERMAN WAS THERE,
18 TOO.

19 A YES.

20 Q AND YOU KNEW THAT THE POLICE WERE BELIEVING BRADY
21 BROWN MORE THAN THEY WERE BELIEVING YOU.

22 A YES.

23 Q SO REALLY, AT THAT POINT, IT WAS JUST YOU AND CHRIS
24 AT HEADQUARTERS BY THE TIME JOBY GRAY CAME BACK INTO THE
25 ROOM?

1 A I DON'T KNOW.

2 Q HE DIDN'T TELL YOU THAT BRADY HAD GONE HOME?

3 A NO. HE TOLD ME THAT DELSHAWN AND HIS AUNTIE WAS
4 THERE, TOO.

5 Q HE TOLD YOU DELSHAWN WAS THERE, TOO, AND WHO?

6 A HIS AUNTIE OR HIS COUSIN OR WHOEVER.

7 Q BUT YOU WERE THERE IN THE MIDDLE OF THE NIGHT?

8 A YES.

9 Q AND I BET HAVING THE HANDCUFFS ON MADE YOU NERVOUS?

10 A YES.

11 Q THEY HAD ALREADY CAUGHT YOU IN SOME LIES?

12 A UH-HUH.

13 Q AND THEY DIDN'T BELIEVE WHAT YOU HAD TO SAY. THEY
14 WEREN'T BELIEVING YOU, WERE THEY?

15 A NO, MA'AM.

16 Q OKAY. I BET YOU WANTED TO GO HOME, YEAH?

17 A YES, I WAS.

18 Q YEAH, YOU WANTED TO GO HOME. THEN AFTER YOU HAD BEEN
19 THERE, ALONE AND HANDCUFFED FOR OVER AN HOUR, THEN YOU
20 DECIDE THERE'S SOMETHING ELSE THAT YOU WANTED TO SAY,
21 RIGHT?

22 A YES. I WENT AND TOLD THEM --

23 Q RIGHT.

24 A -- WHAT I WAS DOING OVER THERE.

25 Q RIGHT, RIGHT. AT THAT POINT, YOU INITIATED CONTACT

1 WITH INVESTIGATOR GRAY?

2 A I DID WHAT?

3 Q YOU WERE THE ONE WHO TOLD -- YOU SAID, "I GOT
4 SOMETHING ELSE TO SAY"?

5 A YES.

6 Q "I WANT TO TALK TO AN INVESTIGATOR," RIGHT? ALL
7 RIGHT. SO YOU KNEW YOU HAD TO MAKE IT GOOD.

8 A WHAT'S THAT YOU SAID?

9 Q YOU KNEW YOU HAD TO MAKE IT GOOD. I MEAN, YOU KNEW
10 YOU WERE ABOUT TO GET ARRESTED FOR THIS?

11 A NO.

12 Q NO.

13 A I TOLD THEM TO GIVE ME SOME LIE DETECTOR TEST AND SEE
14 IF THEY COULD FIND SOME GUNPOWDER ON MY HAND.

15 Q UH-HUH, AND THEY DID ULTIMATELY DO A G.S.R. ON YOU?

16 A YES..

17 Q AND THAT'S HOW YOU KNEW YOU WERE A SUSPECT IN THE
18 SHOOTING, RIGHT?

19 A THEY TOLD ME THAT. I'M NOT GOING DOWN WHEN I DON'T
20 KNOW NOTHING ABOUT THIS, YOU KNOW WHAT I'M SAYING? THAT'S
21 WHY I WENT AND TOLD THEM THE TRUTH, WHAT I WAS DOING OVER
22 THERE.

23 Q RIGHT. EXACTLY. OKAY. SO AT THE TIME THAT
24 INVESTIGATOR GRAY FINALLY COMES INTO THE ROOM, YOU'RE
25 THERE AT 4:20 IN THE MORNING?

1 A YES.

2 Q THAT'S WHEN YOU DECIDE YOU'RE GOING TO GIVE THE
3 TRUTH?

4 A NO. NO, MA'AM.

5 Q RIGHT?

6 A NOT BEFORE THAT, NO.

7 Q THAT'S NOT WHEN YOU DECIDED TO GIVE THE TRUTH?

8 A I MEAN, BEFORE THAT. IT SHOULD HAVE BEEN BEFORE
9 THAT, WAY BEFORE THAT.

10 Q I'M SORRY?

11 A IT SHOULD HAVE BEEN WAY BEFORE THAT, LIKE TWO OR ONE
12 OR SOMETHING LIKE THAT.

13 Q THE INVESTIGATOR SHOULD HAVE COME BACK INTO THE ROOM
14 TO TAKE TO YOU AT TWO?

15 A IT WAS LIKE HE CAME IN THERE AND TALKED TO ME. I
16 WOULDN'T TELL HIM THE TRUTH. HE LEFT BACK OUT, CAME BACK
17 IN, TOLD ME THAT HE HAD BRADY TELLING ME THAT BRADY SAID I
18 WAS IN THE CAR WITH HIM. SO THAT'S WHEN I TOLD HIM THAT
19 BRADY'S --

20 THE COURT REPORTER: I'M SORRY. YOU'RE GOING TO HAVE
21 TO SLOW DOWN. I DIDN'T UNDERSTAND THE LAST PART YOU SAID.

22 THE COURT: REPEAT THAT, PLEASE.

23 THE WITNESS: SHIT. OKAY. I WENT...

24 BY MS. FRANKLIN

25 Q WELL, LET'S BACK UP. YOU GAVE ONE STATEMENT IN YOUR

1 OWN HAND.

2 A YES.

3 Q INVESTIGATOR WILKERSON THEN TOOK ANOTHER STATEMENT
4 FROM YOU OR QUESTION AND ANSWER?

5 A UH-HUH, AND HE WENT IN THE MIDDLE. I GUESS THAT'S
6 WHEN HE GOT BRADY DOWN THERE OR WHATNOT.

7 Q OKAY.

8 A SO HE --

9 Q AND THEN BY THE TIME THAT YOU'RE GIVING YOUR
10 STATEMENT --

11 MS. CAMPBELL: OBJECTION, YOUR HONOR. SHE HAS TO LET
12 HIM FINISH HIS ANSWER.

13 THE COURT: YES. HE CAN FINISH HIS ANSWERS.

14 THE WITNESS: SO I GUESS HE TOLD ME THAT HE HAD BRADY
15 BROWN DOWN THERE, SO AFTER HE TOLD HIM THAT, BRADY TOLD
16 HIM I WAS IN THE CAR WITH HIM, SO I WENT AND TOLD HIM WHAT
17 WE WERE DOING THAT NIGHT.

18 BY MS. FRANKLIN

19 Q MY POINT IS THIS --

20 A YES.

21 Q -- BY THE TIME YOU'RE GIVING A THIRD STATEMENT, YOU
22 DECIDED, FINALLY, TO TELL THE TRUTH.

23 A YES.

24 Q THEN LET'S TALK ABOUT THAT THIRD STATEMENT THAT YOU
25 GAVE WHEN YOU DECIDED TO FINALLY TELL THE TRUTH. THAT'S

1 WHEN YOU TOLD INVESTIGATOR GRAY THAT YOU HAD BEEN ON T.S.
2 MARTIN ON THE NIGHT OF THE SHOOTING, YES?

3 A YES.

4 Q AND YOU TOLD HIM YOU WERE THERE WITH SHEROD PRAYLOW,
5 BRADY BROWN, AND PARIS ALEXANDER?

6 A YES.

7 Q YOU TOLD INVESTIGATOR GRAY THAT SOMEBODY HAD TRIED TO
8 JUMP PARIS EARLIER IN THE DAY.

9 A PARIS AND BRADY BROWN.

10 Q AND BRADY. AND YOU THOUGHT THE GUYS WHO JUMPED PARIS
11 AND BRADY WERE ON T.S. MARTIN DRIVE.

12 A THAT'S WHAT HE TOLD ME, YES, MA'AM.

13 Q OKAY. SO YOU HEADED TO T.S. MARTIN DRIVE TO GET INTO
14 A FIGHT.

15 A YES.

16 Q ALL RIGHT. BUT NOW, TODAY ON THE STAND AND ALSO AS
17 YOU WERE TALKING TO THE INVESTIGATOR BACK ON THE NIGHT
18 THIS HAPPENED WHEN YOU'RE FINALLY TELLING THE TRUTH, YOU
19 CONTINUED TO DENY THAT YOU HAD ANY GUNS.

20 A RIGHT.

21 Q SO NO ONE HAD ANY GUNS THAT NIGHT?

22 A NOPE.

23 Q NOT A SINGLE ONE OF YOU HAD A GUN?

24 A NO, MA'AM.

25 Q SO YOU'RE TELLING THIS JURY TODAY YOU DID NOT HAVE A

1 GUN ON T.S. MARTIN DRIVE?

2 A I'M TELLING THE JURY TODAY THAT I DID NOT HAVE NO
3 GUN.

4 Q YOU TOLD INVESTIGATOR GRAY THAT YOU SAW A GIRL ON THE
5 PORCH OF ONE OF THE HOUSES?

6 A YES, MA'AM.

7 Q DID YOU TALK TO HER?

8 A NO, MA'AM. WE WORKED TOGETHER.

9 Q SO THE GIRL THAT YOU SAW ON THE PORCH, THAT YOU THINK
10 YOU SAW ON THE PORCH, WAS PRECIOUS SAMUELS?

11 A YES, MA'AM.

12 Q SO YOU NEVER TOLD THE INVESTIGATOR THAT YOU GOT OUT
13 OF A WHITE FORD ESCORT AND PUT A GUN IN TYRONE SMITH'S
14 FACE?

15 A DID I DO THAT?

16 Q YEAH.

17 A NO, I HAVEN'T.

18 Q SO YOU STILL HAVE NOT SAID THAT?

19 A NO.

20 Q AND YOU TOLD THE INVESTIGATOR THAT YOU WERE THERE
21 AROUND EIGHT O'CLOCK THAT NIGHT?

22 A IT WAS GETTING DARK, LIKE EIGHT, 8:15, SOMETHING LIKE
23 THAT.

24 Q SO WERE YOU WEARING A WATCH?

25 A NO, MA'AM, I DON'T KNOW WHAT TIME.

1 Q COULD YOU SEE IT ON THE DASHBOARD?

2 A NO, MA'AM.

3 Q SO YOU'RE ESTIMATING EIGHT O'CLOCK?

4 A YES, MA'AM.

5 Q SO YOU'RE ESTIMATING THAT'S WHAT TIME IT WAS. AGAIN,
6 AS YOU CONTINUE TO TELL THE TRUTH TO THE INVESTIGATOR,
7 THIS THIRD STATEMENT, YOU DIDN'T MENTION THAT YOU HAD YOUR
8 FACE COVERED WITH A BANDANNA THAT NIGHT?

9 A I TOLD HIM I HAD IT ON MY HEAD. YES, I DID HAVE IT
10 ON MY HEAD.

11 Q SO IT NEVER MADE IT INTO THE STATEMENT?

12 A NO, BECAUSE HE DIDN'T ASK.

13 Q HE NEVER ASKED?

14 A NO.

15 Q PEOPLE WEAR BANDANNAS ON THEIR HEAD OR ON THEIR FACES
16 TO CONCEAL THEIR IDENTITY, IS THAT ACCURATE?

17 A RIGHT.

18 Q AND ALSO TO REP. YOUR SET?

19 A THAT'S RIGHT.

20 Q AND THEN WHILE YOU'RE CONTINUING TO TELL THE TRUTH,
21 YOU START TALKING ABOUT CHRISTOPHER LIVERMAN, YES?

22 A YES, YOU'RE RIGHT.

23 Q AND INVESTIGATOR GRAY TOLD YOU THAT CHRISTOPHER
24 LIVERMAN WAS IN CUSTODY, SO YOU KNEW THAT?

25 A UH-HUH.

1 Q YOU KNEW HE WAS IN THE SAME BUILDING AS YOU?

2 A YES.

3 Q AND WHILE YOU'RE TELLING THE TRUTH, YOU SAY THAT YOU
4 SAW CHRIS WALKING FROM BAYBERRY MEWS AT AROUND NINE TO
5 9:15 P.M.?

6 A YES, I DID.

7 Q SO THAT WOULD BE ROUGHLY AN HOUR AFTER YOU CLAIM THAT
8 YOU WERE AT T.S. MARTIN?

9 A I GUESS SO.

10 Q DO YOU REALIZE THE FIRST CALL TO LAW ENFORCEMENT OUT
11 TO T.S. MARTIN THAT NIGHT HAPPENED AT 9:10, 9:11? DID YOU
12 KNOW THAT?

13 A NO, MA'AM.

14 Q SO YOU'RE NOT ALWAYS VERY ACCURATE IN YOUR TRUTH
15 TELLING.

16 A I'M NOT ACCURATE TELLING THE TIME IF I AIN'T GOT NO
17 CLOCK, WOULD YOU? COULD YOU TELL ME THE TIME IF YOU HAD
18 NO WATCH?

19 MS. FRANKLIN: YOUR HONOR, I'M GOING TO OBJECT.

20 THE COURT: GO AHEAD AND ASK THE QUESTIONS.

21 BY MS. FRANKLIN

22 Q SO YOU CLAIM THAT YOU NEVER SAW A GUN?

23 A YES, MA'AM.

24 Q YOU NEVER SAW CHRISTOPHER LIVERMAN WITH A GUN?

25 A NO, MA'AM, I HAVEN'T.

1 Q AND YOU TOLD INVESTIGATOR GRAY THAT CHRIS DIDN'T PULL
2 OUT THE RIFLE --

3 A UH-HUH.

4 Q -- BECAUSE YOU WERE UNDER A CAMERA?

5 A THAT COULD HAVE BEEN THE REASON HE DIDN'T PULL IT
6 OUT. I DON'T KNOW FOR SURE WHY HE DIDN'T PULL IT OUT.

7 Q OKAY.

8 A I DIDN'T ASK HIM TO PULL IT OUT EITHER.

9 Q I'M ABOUT TO SHOW YOU -- YOUR HONOR, MAY I APPROACH
10 THE WITNESS?

11 THE COURT: SURE.

12 BY MS. FRANKLIN

13 Q I'M GOING TO SHOW YOU WHAT'S BEEN MARKED AS DEFENSE
14 EXHIBIT FOUR, ALL RIGHT. I KNOW IT'S KIND OF HARD TO GET
15 YOUR BEARINGS HERE BUT --

16 MS. CAMPBELL: OBJECTION. I WOULD JUST ASK THAT SHE
17 MOVE IT INTO EVIDENCE IF SHE WANTS TO USE IT.

18 THE COURT: DO YOU INTEND TO OFFER IT?

19 MS. FRANKLIN: I WAS GOING TO USE IT FOR
20 DEMONSTRATION PURPOSES, BUT WE CAN DO THAT.

21 THE COURT: IT NEEDS TO COME IN IF THERE'S GOING TO
22 BE QUESTIONING ABOUT IT.

23 MS. FRANKLIN: OKAY.

24 MS. CAMPBELL: OBJECTION, YOUR HONOR. IF SHE IS
25 GOING TO USE IT, WE'D ASK THAT SHE PUT IT INTO EVIDENCE.

1 THE COURT: SHE'S ASKING THE WITNESS IF HE RECOGNIZES
2 IT. IF HE DOESN'T AND HE CAN'T TESTIFY FROM IT, THEN IT
3 HASN'T BEEN IDENTIFIED.

4 BY MS. FRANKLIN

5 Q DO YOU RECOGNIZE WHAT THIS MIGHT BE?

6 A (THERE WAS NO RESPONSE.)

7 Q CAN YOU SORT OF GET YOUR BEARINGS STRAIGHT ON THIS?

8 A YES. YES, MA'AM, I KNOW WHAT THAT IS.

9 Q WHAT'S THAT?

10 A THAT'S THE COLONY AND THAT'S THE BISHOP, RIGHT?

11 Q UH-HUH, YEAH. SO YOU RECOGNIZE WHICH ONE IS COLONY
12 AND WHICH ONE IS BISHOP?

13 A UH-HUH.

14 Q ALL RIGHT. AND --

15 THE COURT: ALL RIGHT. HE HAS IDENTIFIED THAT HE
16 RECOGNIZES IT; IS THAT CORRECT?

17 MS. FRANKLIN: YES.

18 THE COURT: ARE YOU NOW MOVING IT INTO EVIDENCE?

19 MS. FRANKLIN: YES, YOUR HONOR.

20 THE COURT: WHAT WAS IT MARKED?

21 MS. FRANKLIN: I'M SORRY, IT'S MARKED AS DEFENDANT'S
22 EXHIBIT NUMBER FOUR.

23 THE COURT: ANY OBJECTION?

24 MS. CAMPBELL: NO, SIR.

25

1 (WHEREUPON, DEFENDANT'S EXHIBIT NO. 4 WAS ADMITTED
2 INTO EVIDENCE.)

3 THE COURT: DEFENDANT'S EXHIBIT FOUR IS ADMITTED.
4 BY MS. FRANKLIN

5 Q ALL RIGHT. SO TO GET YOUR BEARINGS STRAIGHT, I MEAN
6 HERE IS WEST BELTLINE, OKAY.

7 A UH-HUH.

8 Q SO THIS IS COMING INTO THE COLONY APARTMENTS, RIGHT?

9 A YES.

10 Q AND THIS IS UP HERE. IT'S THE BISHOP.

11 A UH-HUH.

12 Q DO YOU SEE ON THIS MAP WHERE IT IS THAT YOU WERE
13 SPEAKING TO CHRISTOPHER LIVERMAN THAT NIGHT?

14 YOUR HONOR, MAY I HAVE THE WITNESS SORT OF STAND
15 DOWN?

16 THE COURT: HE CAN COME DOWN.

17 SIR, YOU'RE GOING TO HAVE TO KEEP YOUR VOICE UP.

18 WE HAD A POINTER IN HERE. I DON'T KNOW WHERE IT WENT
19 TO. WE HAD IT LAST WEEK. MAYBE SOMEBODY BORROWED IT
20 DOWNSTAIRS. I DON'T KNOW.

21 THE WITNESS: YOU WANT ME TO POINT WHERE?

22 BY MS. FRANKLIN

23 Q YOU NEED TO POINT TO ME WHERE IT IS THAT YOU WERE
24 SPEAKING TO CHRISTOPHER LIVERMAN.

25 A (INAUDIBLE).

1 THE COURT: WAIT, WAIT, WAIT. THE COURT REPORTER
2 CAN'T HEAR.

3 I CAN'T HEAR, MS. FRANKLIN. I CAN'T HEAR YOU --
4 MS. FRANKLIN: I'M SORRY.

5 THE COURT: -- AND I CAN'T HEAR THE WITNESS, AND I'M
6 SURE THE COURT REPORTER IS HAVING THE SAME PROBLEM. BOTH
7 OF YOU ARE GOING TO HAVE TO SPEAK UP.

8 BY MS. FRANKLIN

9 Q OKAY. I'LL ASK YOU MORE LOUDLY THIS TIME, COULD YOU
10 PLEASE POINT TO WHERE YOU CLAIM YOU SAW CHRISTOPHER
11 LIVERMAN THAT NIGHT?

12 A WHERE I WAS LIVING AT, THE LAUNDROMAT, I WALKED
13 ACROSS THE BRIDGE. THIS IS MY BABY'S MAMA HOUSE RIGHT
14 HERE. SHE WAS LIVING RIGHT HERE.

15 Q OKAY.

16 A WE WERE AT THE MAILBOX. WE STOPPED RIGHT ABOUT
17 THERE. WE CAME FROM THAT AREA WALKING. THEY WERE COMING
18 DOWN RIGHT THERE, SO THE SIDEWALK, WHAT I'M TALKING ABOUT,
19 YOU KNOW WHAT I'M SAYING? WHEREVER WE STARTED WALKING,
20 TALKING ABOUT IT, YOU KNOW WHAT I'M SAYING, AND THIS RIGHT
21 HERE IS WHERE THE CAMERA IS. WE'RE STANDING AT THE FRONT.

22 Q SO THE CAMERA IS DOWN HERE?

23 A YEAH.

24 Q AND YOU'RE HAVING THIS CONVERSATION --

25 A NO. I SAID WHEN WE GOT TOWARDS THE FRONT, THAT'S

1 WHEN HE, YOU KNOW WHAT I'M SAYING, DROPPED THE BULLET OR
2 WHATNOT, YOU KNOW WHAT I'M SAYING? THAT'S WHEN I TOLD HIM
3 TO PUT IT BACK IN HIS POCKET.

4 Q OKAY.

5 A LIKE I SAID, I KEPT TELLING HIM MAN, DON'T GO UP
6 THERE.

7 Q OKAY. ALL RIGHT. OKAY. WE'RE DONE WITH THAT. YOU
8 CAN RETURN.

9 HOW LONG DID THIS CONVERSATION LAST FOR?

10 A IT WASN'T LONG. IT WAS JUST --

11 THE COURT: PULL THAT MICROPHONE DOWN. GET IT RIGHT
12 UNDER YOUR MOUTH, PLEASE.

13 THE WITNESS: YES, MA'AM. IT WASN'T LONG. WE WAS
14 JUST WALKING FROM THE BACK TO THE FRONT. IT PROBABLY
15 WASN'T ABOUT THREE MINUTES, THREE, MAYBE FOUR.

16 BY MS. FRANKLIN

17 Q WHAT WERE YOU WEARING ON THE NIGHT OF AUGUST 26TH,
18 2004?

19 A A WHITE T-SHIRT, SOME BLUE JEAN PANTS.

20 Q AND DID THE POLICE EVER TAKE YOUR CLOTHES INTO
21 EVIDENCE?

22 A (THERE WAS NO RESPONSE).

23 Q AND PETE CURRIE PERFORMED A GUNSHOT RESIDUE TEST ON
24 YOUR HANDS, DID HE?

25 A YES, MA'AM. I REFERRED THAT.

1 Q HUH?

2 A I TOLD HIM I WANTED HIM TO DO THAT TO ME.

3 Q SO YOU TOLD --

4 A YES, MA'AM.

5 Q -- MR. CURRIE THAT YOU WANTED TO TAKE A GUNSHOT
6 RESIDUE TEST?

7 A AND A LIE DETECTOR TEST, BUT HE DIDN'T GIVE IT TO ME.

8 Q SO YOU KNEW THAT THE POLICE CONSIDERED YOU A SUSPECT
9 IN THE SHOOTING?

10 A YES, MA'AM.

11 Q SO AFTER THIS THIRD STATEMENT THAT YOU GAVE TO
12 INVESTIGATOR GRAY, ACCORDING TO YOU, AND THE FIRST
13 TRUTHFUL STATEMENT THAT YOU HAD GIVEN THAT NIGHT, YOU
14 FINALLY GOT TO GO HOME?

15 A YES, MA'AM.

16 Q SO AFTER YOU GAVE A STATEMENT, FINALLY, ABOUT
17 CHRISTOPHER LIVERMAN, YOU GOT TO GO HOME THAT NIGHT?

18 A AFTER THEY -- I GUESS THEY HAD PUT ME IN A ROOM. I
19 TOLD THEM TO GIVE ME A LIE DETECTOR TEST AND THE GUNPOWDER
20 STUFF ON MY HAND. AFTER THAT, I KNOW WHEN THEY HAD
21 SEARCHED MY HOUSE, THEY DIDN'T FIND NO GUN OR WHATNOT, NO
22 EVIDENCE. THEY LET ME GO HOME.

23 Q SO THEY --

24 A ONE OF THE OFFICERS GAVE ME A RIDE HOME.

25 Q HUH?

1 A ONE OF THE OFFICERS HAD GAVE ME A RIDE HOME.

2 Q BUT YOU WERE NEVER CHARGED WITH A CRIME?

3 A NO, MA'AM.

4 Q NEVER SWORE OUT A WARRANT AGAINST YOU FOR PULLING A
5 GUN ON TYRONE SMITH?

6 A I DIDN'T, I MEAN...

7 Q SO YOU DIDN'T DO THAT. THE STATE HAS NOT FILED ANY
8 CHARGES AGAINST YOU AT ALL IN CONNECTION WITH ANY OF THE
9 EVENTS AT ALL THAT NIGHT?

10 A NO, MA'AM.

11 Q YOU ARRIVED AT THE SOLICITOR'S OFFICE ON AUGUST 28TH,
12 2006 FOR THE FIRST TRIAL, DIDN'T YOU?

13 A OH YES, MA'AM; YES, MA'AM, I DID.

14 Q AND YOU DROVE OVER TO THE COURTHOUSE WITH BRADY
15 BROWN?

16 A YES, MA'AM.

17 Q YOU WAITED OUTSIDE THE SOLICITOR'S OFFICE TO MEET
18 WITH THE INVESTIGATORS?

19 A YES, MA'AM.

20 MS. CAMPBELL: OBJECTION, YOUR HONOR, MAY WE
21 APPROACH?

22 THE COURT: YES, YOU MAY.

23 (WHEREUPON, A BENCH CONFERENCE WAS HELD IN THE
24 PRESENCE, BUT NOT WITHIN THE HEARING, OF THE JURY).

25 THE COURT: ALL RIGHT. MS. FRANKLIN, YOU MAY

1 CONTINUE.

2 BY MS. FRANKLIN

3 Q OKAY. AFTER YOU WERE WAITING OUTSIDE THE SOLICITOR'S
4 OFFICE, THERE WERE A NUMBER OF PEOPLE THERE?

5 A YES, MA'AM.

6 Q HOW MANY TIMES HAVE YOU MET WITH THE SOLICITORS PRIOR
7 TO TODAY?

8 A HOW MANY TIMES HAVE I MET WITH THEM?

9 Q UH-HUH.

10 A WELL, PROBABLY ABOUT TWO TIMES.

11 Q AND YOU WENT OVER YOUR STATEMENTS WITH THEM?

12 A YES.

13 Q YES? AND YOU DISCUSSED YOUR TESTIMONY WITH THEM?

14 A YES.

15 Q AND YOU KNEW THAT THE STATEMENTS THAT YOU GAVE BACK
16 IN 2004 KEPT YOU OUT OF JAIL, DIDN'T THEY?

17 A MA'AM?

18 Q THE STATEMENTS THAT YOU GAVE BACK IN 2004 KEPT YOU
19 OUT OF JAIL.

20 A IT COULDN'T BE THE STATEMENTS. IT COULD HAVE BEEN
21 THAT THEY --

22 Q IT KEPT YOU OUT OF JAIL.

23 MS. CAMPBELL: OBJECTION, YOUR HONOR. LET HIM
24 FINISH.

25 THE COURT: I SUSTAIN. I SUSTAIN. HE CAN FINISH HIS

1 ANSWER.

2 YOU CAN COMPLETE YOUR ANSWER.

3 THE WITNESS: WELL, IT COULDN'T HAVE BEEN THAT
4 BECAUSE OF THE STATEMENTS. IT COULD HAVE BEEN BECAUSE
5 THEY AIN'T FOUND NO GUNPOWDER OR NO GUN IN MY HOUSE OR
6 NOTHING LIKE THAT.

7 BY MS. FRANKLIN

8 Q SO YOU DON'T EXPECT TO GO TO JAIL AT ALL FOR ANYTHING
9 THAT HAPPENED ON THAT NIGHT, DO YOU?

10 A I DON'T WANT TO. I DIDN'T DO NOTHING.

11 Q YOU DON'T EXPECT TO EVER BE CHARGED WITH ANYTHING
12 THAT OCCURRED ON THAT NIGHT?

13 A LIKE I SAID, I DON'T WANT TO. I DIDN'T DO NOTHING.

14 Q AND YOU'RE TESTIFYING FOR THE FIRST TIME TODAY THAT
15 YOU HAD BRASS KNUCKLES --

16 A YES.

17 Q -- OVER AT T.S. MARTIN?

18 A I DIDN'T SAY I HAD THEM. I SAID SOMEBODY IN THE CAR
19 HAD THEM.

20 Q SOMEBODY IN THE CAR HAD BRASS KNUCKLES.

21 CAN YOU DESCRIBE THE CLOTHING THAT CHRISTOPHER
22 LIVERMAN WAS WEARING THAT NIGHT, BACK IN AUGUST OF 2004?

23 A CAN I NOW?

24 Q YEAH.

25 A NO. I KNOW HE HAD SOME SHELLS ON THE BACK OF HIS

1 HEAD AND SOME GRAY ON. I DON'T REMEMBER EXACTLY RIGHT NOW
2 WHAT HE HAD ON.

3 Q SO YOU DON'T REMEMBER WHAT HE WAS WEARING?

4 A NO.

5 MS. FRANKLIN: NO FURTHER QUESTIONS.

6 THE COURT: ALL RIGHT. ANY REDIRECT?

7 MS. CAMPBELL: BEG THE COURT'S INDULGENCE.

8 (PAUSE).

9 THE WITNESS: BUT DO I STAY HERE?

10 THE COURT: NO, JUST HOLD ON.

11 THE WITNESS: OH.

12 MS. CAMPBELL: I DON'T HAVE ANYTHING FURTHER, YOUR
13 HONOR.

14 THE COURT: ALL RIGHT. YOU MAY STEP DOWN, SIR.

15 THE BAILIFF: WATCH YOUR STEP FOR ME.

16 MS. CAMPBELL: YOUR HONOR, MAY HE BE EXCUSED AT THIS
17 POINT?

18 THE COURT: ANY OBJECTION?

19 MS. FRANKLIN: WITHOUT OBJECTION, YOUR HONOR.

20 THE COURT: THE WITNESS IS EXCUSED.

21 ALL RIGHT. MR. FOREMAN, LADIES AND GENTLEMEN, IN
22 TALKING WITH THE ATTORNEYS BEFORE WE STARTED BACK, THERE
23 WAS A SCHEDULING MIX UP. THERE ARE SOME OTHER MATTERS OF
24 LAW FOR ME TO TAKE UP WITH THE ATTORNEYS OUTSIDE OF YOUR
25 PRESENCE.

1 I KNOW I HAD AT LEAST ONE NOTE FROM A JUROR ASKING TO
2 BE OUT OF HERE BY A CERTAIN TIME TODAY, AND I'M AWARE OF
3 WHAT'S HAPPENING TONIGHT AS FAR AS HALLOWEEN IS CONCERNED.

4 I'M GOING TO GO AHEAD AND BREAK FROM YOUR STANDPOINT
5 RIGHT NOW AND LET YOU GO FOR THE DAY. THE ATTORNEYS AND I
6 WILL STAY HERE AND CONTINUE WITH THESE MATTERS, AND WE'LL
7 CONTINUE IN THE MORNING.

8 AGAIN, LET ME ORDER YOU AT THIS TIME NOT TO READ OR
9 WATCH OR LISTEN TO ANYTHING ABOUT THE CASE. DON'T DISCUSS
10 IT WITH ANYONE INSIDE OR OUTSIDE THE COURTROOM.

11 HOLD ON ONE SECOND.

12 (PAUSE).

13 WE WILL START AT 9:30 IN THE MORNING. WE NORMALLY
14 ARE GOING TO GO UNTIL ABOUT 5:30 IN THE AFTERNOON, SO YOU
15 NEED TO MAKE THOSE PLANS. WE'LL START AT 9:30 IN THE
16 MORNING. PLEASE BE IN THE JURY ROOM AT THAT TIME.

17 YOU'RE EXCUSED. EVERYONE ELSE STAY SEATED, PLEASE.

18 (WHEREUPON, THE JURY LEFT OPEN COURT AT APPROXIMATELY
19 3:41 P.M.)

20 THE COURT: BE SURE THEY LEAVE THEIR NOTE PADS IN THE
21 JURY ROOM, MR. BAILIFF.

22 THE BAILIFF: YES, SIR.

23 THE COURT: ALL RIGHT. THERE HAD BEEN SOME
24 INDICATION THAT WE WOULD SETTLE THE RECORD ON OTHER
25 POTENTIAL WITNESSES IN THE CASE. DO YOU NEED A FEW

1 MINUTES TO SEE WHAT'S OBJECTED TO AND WHAT'S NOT?

2 MS. CAMPBELL: YES, SIR, THAT WOULD BE HELPFUL.

3 THE COURT: ALL RIGHT. I'LL GIVE YOU ABOUT TEN
4 MINUTES TO GO OVER THAT, ABOUT TEN OR 15. I'LL BE IN
5 CHAMBERS. WHEN YOU'RE READY FOR ME TO SETTLE THE RECORD,
6 COME GET ME IN CHAMBERS, WE'LL TAKE CARE OF THAT.

7 WE'LL STAND IN RECESS ABOUT 15, 20 MINUTES.

8 (WHEREUPON, A LONG BREAK WAS TAKEN AND COURT WAS
9 RECESSED FOR THE EVENING.)

10 THE COURT: ALL RIGHT. ANY MATTERS THAT NEED TO BE
11 PUT ON THE RECORD PRIOR TO THE JURY COMING BACK? ANYTHING
12 FROM THE STATE?

13 MS. CAMPBELL: NO, SIR.

14 THE COURT: ANYTHING FROM THE DEFENSE?

15 MS. FRANKLIN: NO, YOUR HONOR.

16 THE COURT: WE'LL START. I'LL MAKE A STATEMENT TO
17 THE JURY ABOUT WHAT WE DISCUSSED IN CHAMBERS AND THEN
18 WE'LL PROCEED.

19 ALL RIGHT, SIR. BRING THE JURY IN, PLEASE.

20 (WHEREUPON, THE JURY CAME INTO OPEN COURT AT
21 APPROXIMATELY 10:14 A.M.)

22 THE BAILIFF: THE JURY IS ALL PRESENT, YOUR HONOR.

23 THE COURT: THANK YOU, MR. BAILIFF.

24 LADIES AND GENTLEMEN, BEFORE WE CONTINUE WITH THE
25 TESTIMONY, I NEED TO MAKE ONE BRIEF EXPLANATION. IT WAS

1 MENTIONED YESTERDAY SOMETHING ABOUT THE FIRST TRIAL IN
2 REFERRING TO THIS CASE.

3 I JUST WANT TO BE SURE TO EXPLAIN TO YOU THAT THE
4 CASE WAS SCHEDULED TO BE CALLED FOR TRIAL BACK IN AUGUST,
5 AUGUST 28TH. AT THAT TIME, WE HAD ALL THE PRETRIAL
6 HEARINGS AND MATTERS AND THINGS OF THAT NATURE, BUT BEFORE
7 THE JURY WAS EVER SWORN, BEFORE THERE WAS ANY TESTIMONY IN
8 FRONT OF THE JURY, THE CASE WAS CONTINUED UNTIL THIS WEEK.

9 I DIDN'T WANT ANY OF YOU TO BE UNDER THE
10 MISIMPRESSION THAT THERE HAD BEEN A JURY TRIAL AT SOME
11 TIME IN THE PAST. THIS CASE HAS NOT BEEN PRESENTED TO A
12 JURY. I JUST WANTED TO EXPLAIN THAT TO YOU.

13 WE'LL CONTINUE WITH THE CASE AT THIS TIME.

14 THE STATE, CALL YOUR NEXT WITNESS.

15 MS. CAMPBELL: MAY IT PLEASE THE COURT. THE STATE
16 CALLS DIEGO THOMPSON.

17 DIEGO THOMPSON, AFTER BEING DULY
18 SWORN, TESTIFIED AS FOLLOWS:

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

21 THE BAILIFF: YOU NEED TO SPEAK UP LOUD SO THEY CAN
22 HEAR YOU BECAUSE WE'RE GOING TO HAVE PROBLEMS. SPEAK INTO
23 THAT MICROPHONE AND STATE YOUR FULL NAME FOR THE RECORD.

24 THE WITNESS: DIEGO THOMPSON.

25 DIRECT EXAMINATION:

1 BY MS. CAMPBELL

2 Q SPEAK UP FOR US. HOW OLD ARE YOU?

3 A SEVENTEEN.

4 Q ARE YOU IN SCHOOL RIGHT NOW?

5 A NO.

6 Q PRIOR TO -- AND LET'S GET IT STRAIGHT, YOU'RE
7 CURRENTLY INCARCERATED ON A BURGLARY CHARGE; IS THAT
8 CORRECT?

9 A YES.

10 Q AND ALSO A GRAND LARCENY CHARGE?

11 A RIGHT.

12 Q AND YOU'RE INCARCERATED WHERE?

13 A ALVIN S. GLENN.

14 Q PRIOR TO THAT, WERE YOU IN SCHOOL?

15 A YES.

16 Q AND WHERE DID YOU GO TO SCHOOL?

17 A OLYMPIA.

18 Q PRIOR TO GOING TO THE OLYMPIA SCHOOL, DID YOU GO TO
19 ANOTHER SCHOOL?

20 A YES.

21 Q WHAT SCHOOL WAS THAT?

22 A C.A. JOHNSON.

23 Q HOW LONG HAVE YOU LIVED IN COLUMBIA?

24 A ALL MY LIFE.

25 Q ALL 17 YEARS?

1 A RIGHT.

2 Q WHAT PART OF COLUMBIA DID YOU GROW UP IN?

3 A OFF OF COLONIAL DROVE.

4 Q EXCUSE ME, I CAN'T UNDERSTAND YOU.

5 A OFF OF COLONIAL DRIVE.

6 THE COURT: ALL RIGHT. LET ME ASK YOU THIS, THE
7 MICROPHONE IS SORT OF DISTORTING YOUR VOICE. BACK OFF OF
8 IT JUST A LITTLE BIT AND A LITTLE BIT SPEAK LOUDER. I
9 THINK THAT WILL WORK.

10 BY MS. CAMPBELL

11 Q I'M SORRY.

12 A COLONIAL DRIVE.

13 Q ARE YOU FAMILIAR WITH THE PART OF TOWN WHERE BETHEL
14 BISHOP APARTMENTS ARE?

15 A YES.

16 Q AND PRIOR TO BEING ARRESTED ON THE BURGLARY CHARGE,
17 DID YOU USED TO FREQUENT THAT AREA?

18 A RIGHT.

19 Q TELL THE JURY WHY YOU WOULD GO OVER THERE, WHAT YOU
20 WOULD DO WHEN YOU WENT TO BETHEL BISHOP APARTMENTS.

21 A JUST TO HANG OUT, PLAY BASKETBALL, WHATNOT.

22 Q NOW, ARE YOU IN A GANG?

23 A NO.

24 Q DO YOU KNOW PEOPLE IN GANGS?

25 A YES.

1 Q DID YOU KNOW A MAN NAMED CHRIS LIVERMAN?

2 A YES.

3 Q AND WHAT NAME DID YOU KNOW HIM BY?

4 A BABY JESUS.

5 Q AND HOW DID YOU FIRST KNOW OR COME TO KNOW OF CHRIS
6 LIVERMAN?

7 A SCHOOL AND BETHEL BISHOP.

8 Q AND WHICH SCHOOL WAS THAT?

9 A C.A. JOHNSON.

10 Q AND THEN YOU HAD SAID ALSO BETHEL BISHOP?

11 A RIGHT.

12 Q DID YOU KNOW WHETHER OR NOT MR. LIVERMAN LIVED IN
13 BETHEL BISHOP?

14 A NO, I DIDN'T KNOW.

15 Q DID HE HAVE RELATIVES THAT LIVED THERE THAT YOU KNOW
16 OF?

17 A I THINK SO.

18 Q WHO WAS THAT?

19 A I THINK HIS GRANDMOTHER.

20 Q DID YOU SOMETIMES HANG OUT WITH BABY JESUS?

21 A YES.

22 Q DID BABY JESUS HAVE A CLOSE FRIEND THAT YOU KNEW OF?

23 A YES.

24 Q AND WHAT WAS HIS GOOD FRIEND'S NAME?

25 A GOO.

1 Q GOO?

2 A RIGHT.

3 Q DID YOU KNOW HIS REAL NAME?

4 A NO.

5 Q AND, IN FACT, AT THE TIME, AND GOING BACK TWO YEARS
6 AGO, DID YOU KNOW BABY JESUS'S REAL NAME?

7 A YES.

8 Q OKAY. BUT YOU DIDN'T KNOW GOO'S REAL NAME?

9 A NO.

10 Q DO YOU KNOW A GUY NAMED POOH?

11 A YES.

12 Q DOES HE ALSO HANG OUT IN THE BETHEL BISHOP?

13 A YES.

14 Q DID YOU EVER HAVE CONVERSATIONS WITH CHRIS LIVERMAN
15 OR BABY JESUS ABOUT THE GANG HE WAS IN?

16 A YES.

17 Q DID HE TALK TO YOU ABOUT THAT?

18 A SOMETIMES.

19 Q DID YOU ALSO KNOW WHETHER OR NOT HE HAD SOME TATTOOS?

20 A YES.

21 Q AND DID YOU KNOW FROM LOOKING AT THOSE TATTOOS WHAT
22 IT SYMBOLIZED, WHAT IT MEANT?

23 A I CAN'T REMEMBER.

24 Q OKAY. THE TATTOOS THAT YOU SAW ON BABY JESUS BACK
25 WHEN YOU KNEW HIM, WHERE WERE THEY? DO YOU REMEMBER WHERE

1 ONE WAS?

2 A ON HIS ARM.

3 Q WHAT GANG WAS BABY JESUS IN?

4 A FOLKS.

5 Q ARE YOU FAMILIAR WITH ANOTHER GANG CALLED THE BLOODS?

6 A YES.

7 Q AND DO YOU KNOW WHAT THE TERM SLOBS MEAN?

8 A IT'S A DISRESPECTFUL WORD FOR THE BLOODS.

9 Q I'M SORRY. I DIDN'T UNDERSTAND WHAT YOU SAID.

10 A DISRESPECTING TO BLOODS..

11 Q DISRESPECTING BLOODS?

12 A RIGHT.

13 Q I WANT TO TURN YOUR ATTENTION BACK TO AUGUST OF 2004.

14 SPECIFICALLY, I BELIEVE IT'S ON THE 16TH. DID YOU HAVE AN

15 OCCASION TO RUN INTO BABY JESUS WHEN YOU WERE AT THE

16 BISHOP THAT DAY?

17 A YES.

18 Q AND DURING THE DAYLIGHT HOURS HAD YOU BEEN HANGING

19 OUT AT THE BISHOP THAT DAY?

20 A I WAS AT BAYBERRY.

21 Q AT BAYBERRY?

22 A RIGHT.

23 Q TELL THIS JURY, WHERE IS BAYBERRY? HOW FAR IS IT

24 FROM THE BETHEL BISHOP APARTMENTS?

25 A NOT FAR, RIGHT BEHIND.

1 Q AND WHAT WERE YOU DOING WHEN YOU WERE HANGING OUT
2 THAT DAY IN THE BAYBERRY AREA?

3 A WE WENT TO BELVEDERE AND PLAYED BASKETBALL.

4 Q DID YOU PLAY BASKETBALL?

5 A RIGHT.

6 Q WHEN IT STARTS GETTING TOWARDS DARK, DID YOU RUN INTO
7 BABY JESUS?

8 A YES.

9 Q CAN YOU TELL THE JURY HOW THAT HAPPENED?

10 A I WAS ON MY WAY BACK HOME AND WHATNOT. I HAD SEEN
11 WHERE SOMEBODY HAD CALLED MY NAME. I GOT OUT OF THE CAR.
12 THEN I SEEN -- THEY ASKED ME TO GO SOMEWHERE WITH HIM.

13 Q AND YOU WERE HEADING BACK HOME. WHERE WERE YOU
14 LIVING BACK THEN?

15 A ON SURREY STREET.

16 Q SURREY STREET?

17 A RIGHT.

18 Q IS THAT CLOSE TO BETHEL BISHOP?

19 A ABOUT FIVE MINUTES, A FIVE-MINUTE DRIVE.

20 Q A FIVE MINUTE DRIVE?

21 A RIGHT.

22 Q CAN YOU WALK THERE?

23 A YES.

24 Q AND YOU MENTIONED THAT YOU RAN INTO BABY JESUS.
25 WHERE WAS HE?

1 A IN BETHEL BISHOP.

2 Q AND WAS HE IN AN APARTMENT THERE? WAS HE OUTSIDE?
3 WHERE WAS IT?

4 A OUTSIDE.

5 Q WAS HE ALONE WHEN YOU RAN INTO HIM?

6 A I CAN'T REMEMBER.

7 Q OKAY. DID YOU GO SPEAK TO HIM?

8 A YES.

9 Q AND WAS THAT WHAT YOU WOULD NORMALLY DO?

10 A YES.

11 Q WHEN YOU WENT AND TALKED TO HIM, WHAT DID HE TELL
12 YOU?

13 A HE SAID HE HAD TO GO HANDLE SOMETHING.

14 Q DID HE ELABORATE ANYMORE ON WHAT HE WAS GOING TO
15 HANDLE?

16 A NO.

17 Q AT THAT POINT, DID HE ASK YOU TO DO ANYTHING?

18 A HE ASKED ME TO GO WITH HIM.

19 Q AND DURING THE COURSE OF THIS CONVERSATION, DID HE
20 TELL YOU WHERE YOU WERE GOING?

21 A T.S. MARTIN.

22 Q T.S. MARTIN?

23 A RIGHT.

24 Q DID YOU KNOW WHERE T.S. MARTIN WAS?

25 A NOT REALLY, NOT THEN.

- 1 Q AND HOW OLD WERE YOU BACK THEN?
- 2 A FIFTEEN.
- 3 Q WHEN HE ASKED YOU TO GO WITH HIM, WHAT DID YOU SAY?
- 4 A I TOLD HIM OKAY.
- 5 Q AND DID YOU KNOW WHAT HE MEANT WHEN HE SAID HE HAD TO
- 6 GO HANDLE SOMETHING?
- 7 A NO.
- 8 Q AT THAT POINT HAD YOU SEEN A GUN?
- 9 A NO.
- 10 Q ONCE HE ASKED YOU TO GO WITH HIM, DID YOU START
- 11 WALKING WITH HIM?
- 12 A YES.
- 13 Q DID YOU ALL MEET UP WITH SOME OTHER PEOPLE?
- 14 A YES.
- 15 Q AND WHO WAS THAT?
- 16 A TY AND GOO AND LITTLE CHRIS.
- 17 Q TY, GOO, AND LITTLE CHRIS?
- 18 A RIGHT.
- 19 Q OKAY. YOU MENTIONED GOO EARLIER. IS THAT HIS
- 20 FRIEND?
- 21 A RIGHT.
- 22 Q DOES GOO HAVE ANY SPECIAL HANDICAP?
- 23 A HE IS DEAF.
- 24 Q ARE YOU ABLE TO COMMUNICATE WITH GOO?
- 25 A YES.

1 Q HOW DOES THAT WORK?

2 A SIGN LANGUAGE.

3 Q YOU MENTIONED A TY?

4 A RIGHT.

5 Q DID YOU KNOW TY'S REAL NAME?

6 A NO.

7 Q CAN YOU DESCRIBE TY?

8 A HE IS ABOUT 5'8", DARK SKIN, ABOUT 160 POUNDS.

9 Q YOU MENTIONED A LITTLE CHRIS. THAT WOULD BE
10 DIFFERENT FROM BABY JESUS, RIGHT?

11 A RIGHT.

12 Q CAN YOU DESCRIBE LITTLE CHRIS?

13 A HE WAS SHORT, ABOUT 5'1", 5'2", SOMEWHERE ALONG
14 THERE, DARK SKIN, SMALL.

15 Q DO YOU KNOW APPROXIMATELY HOW OLD LITTLE CHRIS WAS
16 BACK THEN?

17 A NO. HE WAS LIKE A YEAR OR TWO YOUNGER THAN ME.

18 Q AND DID BABY JESUS HAVE A CONVERSATION WITH THEM
19 ALSO?

20 A RIGHT.

21 Q DID THEY AGREE TO GO?

22 A YES.

23 Q DO YOU KNOW HOW MANY TOTAL PEOPLE YOU ALL GOT
24 TOGETHER TO GO OVER TO T.S. MARTIN?

25 A ABOUT FIVE.

1 Q AND WHO WAS THE PERSON THAT WANTED TO GO OVER THERE
2 TO TAKE CARE OF BUSINESS?

3 A CHRIS.

4 Q WHICH CHRIS?

5 A BABY JESUS.

6 Q AS YOU WERE WALKING THROUGH THE BISHOP, DID YOU SEE
7 POOH?

8 A YES.

9 Q AND DID HE AND BABY JESUS HAVE A CONVERSATION?

10 A YES.

11 Q DO YOU KNOW WHAT WAS SAID OR WHAT WAS SHOWN DURING
12 THAT CONVERSATION?

13 A THE ONLY THING I KNOW POOH SAID, "BE CAREFUL BECAUSE
14 THEY HAD -- THEY DONE CAME OVER THERE."

15 MR. SHARDT: OBJECTION, YOUR HONOR, TO THE HEARSAY.

16 THE COURT: THIS IS THIS WITNESS WHO TESTIFIED
17 YESTERDAY?

18 MS. CAMPBELL: YES, SIR.

19 THE COURT: OVERRULED.

20 BY MS. CAMPBELL

21 Q AS YOU WERE WALKING AWAY FROM POOH, DID HE SAY
22 SOMETHING TO YOU ALL?

23 A HE SAID, "BE CAREFUL ON THE WAY OVER THERE," BECAUSE
24 THEY HAD PULLED SOME GUNS ON SOME BLOODS.

25 Q HE SAID, "BE CAREFUL", AND THAT WAS POOH THAT WAS

1 SAYING THAT?

2 A RIGHT.

3 Q DID YOU ALL CONTINUE TO WALK TOWARDS T.S. MARTIN?

4 A YES.

5 Q AND HOW DID YOU GET THERE?

6 A ON FOOT. WE WALKED.

7 Q AND AGAIN, HOW MANY OF YOU ARE THERE?

8 A FIVE.

9 Q AND YOU MENTIONED YOU -- WHO ALL?

10 A ME, BABY JESUS, LITTLE CHRIS, TY, AND GOO.

11 Q HOW DID YOU WALK THROUGH -- AS YOU WERE EXITING OUT
12 THE BETHEL BISHOP AREA, TELL THE JURY WHICH WAY YOU ALL
13 WENT, HOW YOU GOT OVER THERE?

14 A A CUT THROUGH THE COLONY.

15 Q A CUT THROUGH THE COLONY?

16 A RIGHT.

17 Q AND WHEN YOU CUT THROUGH THE COLONY, WHERE DO YOU END
18 UP?

19 A ON THE RAILROAD TRACKS.

20 Q AND ONCE YOU CUT THROUGH THE COLONY AND GOT TO THE
21 RAILROAD TRACKS, WHERE DID YOU ALL GO?

22 A TO T.S. MARTIN.

23 Q AND HOW DID YOU GET THERE?

24 A ON FOOT.

25 Q DID YOU CROSS OVER -- WHAT STREETS DID YOU GO OVER,

1 DO YOU REMEMBER?

2 A BELTLINE.

3 Q YOU WOULD GO ACROSS BELTLINE?

4 A RIGHT.

5 Q AND THEN T.S. MARTIN IS ON THE OTHER SIDE OF
6 BELTLINE?

7 A RIGHT.

8 Q DO YOU REMEMBER APPROXIMATELY -- WAS IT DAYLIGHT OR
9 NIGHTTIME AT THIS POINT?

10 A IT WAS ABOUT NIGHTTIME.

11 Q SOMETIME -- IT WOULD HAVE BEEN AFTER NINE AT NIGHT?

12 A I'M NOT SURE.

13 Q BUT IT WAS DARK?

14 A RIGHT.

15 Q AND WHEN YOU WENT OVER THERE, WAS POOH WITH YOU?

16 A NO.

17 Q AND JUST THE PEOPLE YOU NAMED WERE WITH YOU AT THAT
18 POINT?

19 A RIGHT.

20 Q AS YOU WALKED OVER THERE, TELL THE JURY WHAT HAPPENS
21 AS YOU ALL TURN ONTO T.S. MARTIN DRIVE.

22 A I SEE. BABY JESUS PUT A FLAG AROUND HIS NECK.

23 Q AND WHEN YOU SAY BABY JESUS PUT A FLAG AROUND HIS
24 NECK, WHAT IS THAT?

25 A A BANDANNA.

1 Q WHAT DOES PUTTING A FLAG AROUND THE NECK OR A
2 BANDANNA AROUND THE NECK MEAN?

3 A HE WAS REPPING HIS SET.

4 Q REPPING HIS SET?

5 A RIGHT.

6 Q AND THAT WOULD BE THE FOLK SET?

7 A RIGHT.

8 Q AT THAT POINT HAD YOU SEEN A GUN?

9 A NO.

10 Q ONCE HE PUT ON HIS BANDANNA WHEN HE GOT TO T.S.
11 MARTIN DRIVE, WHAT HAPPENED?

12 A WE CONTINUED TO WALK. WHEN WE GOT THERE, LITTLE
13 CHRIS ASKED THE BOY SITTING ON THE PORCH, HE ASKED HIM WAS
14 HE A SLOB.

15 Q WAS HE A SLOB? YOU SAID A LITTLE BOY SITTING ON A
16 PORCH?

17 A RIGHT.

18 Q DID YOU KNOW THE LITTLE BOY?

19 A NO.

20 Q WHEN HE USED TERM "SLOB", AGAIN, WHAT IS HE LOOKING
21 FOR?

22 A DISRESPECTING BLOODS.

23 Q HE'S DISRESPECTING THE BLOODS?

24 A RIGHT.

25 Q SO LITTLE CHRIS ASKED ABOUT -- IF THERE WERE ANY

1 BLOODS AROUND?

2 A RIGHT.

3 Q DID THE LITTLE BOY ANSWER?

4 A YES.

5 Q AND WHAT DID HE SAY?

6 A HE SAID, "THERE AIN'T NO GANG BANGING AROUND HERE."

7 Q AT THAT POINT WHERE WERE YOU ALL ON THE STREET?

8 A ALMOST IN FRONT OF THE HOUSE.

9 Q WHERE THE LITTLE BOY WAS?

10 A RIGHT.

11 Q DID YOU TURN BACK AROUND AND WALK BACK UP THE STREET?

12 A NOT AT THAT POINT.

13 Q OKAY. WHAT HAPPENED NEXT?

14 A AFTER THAT, I SEEN HIM GET ON THE PHONE. THEN I WAS

15 LIKE, YOU KNOW WHAT I'M SAYING, IT'S TIME FOR US TO GO.

16 EITHER HE'S CALLING THE POLICE OR HE'S CALLING SOME OTHER

17 BOYS TO COME OVER. BABY JESUS SAID THAT'S WHAT HE WANTED

18 HIM TO DO.

19 Q LET ME SLOW YOU DOWN. YOU SAW SOMEBODY ON THE PHONE?

20 A RIGHT.

21 Q AND YOU SAID YOU NEEDED TO GO?

22 A RIGHT.

23 Q AND WHAT DID BABY JESUS SAY THEN?

24 A EITHER HE WAS CALLING THE POLICE OR HIS BOYS. HE

25 SAID, "IF HE'S CALLING HIS BOYS, THAT'S WHAT I WANT HIM TO

1 DO."

2 Q "IF HE'S CALLING HIS BOYS, THAT'S WHAT I WANT HIM TO
3 DO"?

4 A RIGHT.

5 Q AND THAT WOULD BE -- HE JUST ASKED HIM ABOUT SLOBS?

6 A RIGHT.

7 Q AND DID YOU ALL TURN AROUND AND LEAVE AT THAT POINT?

8 A NO.

9 Q WHAT HAPPENED?

10 A AFTER THAT I SEEN BABY JESUS PULL OUT A GUN.

11 Q AND WHERE DID HE PULL THE GUN OUT FROM?

12 A FROM THE SIDE OF HIS PANTS LEG.

13 Q AND WHAT KIND OF GUN WAS IT?

14 A A .22 RIFLE.

15 Q DID YOU KNOW UP UNTIL THAT POINT HE HAD THE GUN?

16 A NO, NOT UNTIL HE PULLED IT OUT.

17 Q HOW IS HE ABLE TO HAVE A GUN -- THIS IS A LONG RIFLE,
18 RIGHT?

19 A RIGHT.

20 Q HOW WAS HE ABLE TO HAVE A GUN? WHAT KIND OF CLOTHING
21 DID HE HAVE ON?

22 A A BLACK AND WHITE SHIRT, SOME BLACK SHORTS AND BLACK
23 AND WHITE SHOES.

24 Q OKAY. SO HE HAD ON -- YOU MENTIONED TWO SHIRTS?

25 A RIGHT.

1 Q ONE WAS BLACK?

2 A RIGHT.

3 Q AND WHAT WAS THE OTHER ONE?

4 A WHITE.

5 Q AND THEN HE HAD ON WHAT KIND OF PANTS?

6 A SHORTS, DICKEYS.

7 Q AND HOW LONG WERE THEY?

8 A I CAN'T REMEMBER. THEY WERE PRETTY LONG, THOUGH.

9 Q AND THEN WHAT KIND OF SHOES?

10 A BLACK AND WHITE SHOES.

11 Q AND WHERE DID HE PULL THE GUN FROM?

12 A FROM THE SIDE.

13 Q FROM THE SIDE?

14 A RIGHT.

15 Q FROM IN OR OUTSIDE HIS CLOTHING?

16 A HE PULLED IT FROM INSIDE.

17 Q AND YOU WEREN'T ABLE TO SEE THE GUN?

18 A NO.

19 Q ARE YOU AWARE THAT THERE ARE CAMERAS IN THE BETHEL

20 BISHOP AREA?

21 A YES.

22 Q SO IF ANYONE HAS A GUN, IT WOULD BE CONCEALED?

23 A RIGHT.

24 Q WHEN YOU SAW HIM PULL OUT THE GUN, WHERE WAS GOO?

25 A HE WAS STANDING NEXT TO HIM.

1 Q WHERE WERE YOU?

2 A I WAS FURTHER BACK.

3 Q WHERE WERE THE OTHER TWO BOYS?

4 A WITH ME.

5 Q WITH YOU?

6 A RIGHT.

7 Q DID YOU SEE ANYBODY ELSE PULL OUT A GUN AT THAT
8 POINT?

9 A NO.

10 Q WHEN YOU SAW THE GUN -- WHEN HE PULLED OUT THE GUN,
11 WAS HE KIND OF ACROSS THE STREET FROM THE HOUSE WHERE THE
12 LITTLE BOY WAS?

13 A RIGHT.

14 Q AT THAT POINT, DID YOU EVER SEE THE LITTLE GIRL COME
15 OUT?

16 A NO.

17 Q WHEN YOU SAW HIM PULL OUT THE GUN, TELL THE JURY WHAT
18 HAPPENED.

19 A THEN I SAID, "IT'S TIME FOR US TO GO." I STARTED TO
20 BACK AWAY. I SEEN GOO WITH A SHOTGUN AT HIS HAND, AND
21 CHRIS SIGNED TO HIM, BABY JESUS SIGNED TO HIM, TELL HIM TO
22 SHOOT AT THE HOUSE.

23 Q AND AT THAT POINT, WHAT HAPPENED?

24 A AFTER THAT, AFTER CHRIS POINTED, WE STARTED RUNNING.
25 THEN I HEARD GUNSHOTS.

1 Q OKAY. LET ME STOP YOU THERE. YOU ARE DOWN THE
2 STREET A LITTLE BIT. WHAT'S THE LIGHTING LIKE OUT THAT
3 NIGHT?

4 A PRETTY DARK.

5 Q AND YOU SAID YOU SAW -- WHAT DID YOU SEE ABOUT CHRIS
6 POINTING?

7 A I SEEN HIM PULL OUT THE RIFLE AND POINT.

8 Q WHERE DID HE POINT THE RIFLE?

9 A TOWARD THE HOUSE.

10 Q WHICH HOUSE?

11 A THE HOUSE WHERE THE LITTLE BOY IS ON THE PORCH.

12 Q YOU MENTIONED THAT YOU STARTED TO RUN?

13 A RIGHT.

14 Q DID YOU RUN TOWARDS THE HOUSE OR WHAT DIRECTION?

15 A AWAY FROM IT, GOING BACK TOWARD BELTLINE.

16 Q WHAT WAS THE NEXT THING YOU DO?

17 A WHEN I LOOKED BACK, I SEEN CHRIS THROWING DOWN THE
18 RIFLE AND PICKING UP THE SHOTGUN.

19 Q IN BETWEEN THE TIME WHEN YOU STARTED RUNNING AWAY AND
20 YOU TURNED AWAY FROM WHERE CHRIS HAD THE GUN POINTED --

21 A RIGHT.

22 Q -- COULD YOU TELL WHAT KIND OF GUN IT WAS?

23 A A .22 RIFLE.

24 Q HAD YOU EVER SEEN THAT GUN BEFORE?

25 A RIGHT.

1 Q WHO HAD YOU SEEN HAVING THAT GUN BEFORE?

2 A BABY JESUS.

3 Q DID YOU HEAR ANY SHOTS?

4 A MA'AM?

5 Q DID YOU HEAR ANY SHOTS?

6 A YES.

7 Q AND WHEN DID YOU HEAR THE SHOTS, WHILE YOU WERE
8 STANDING THERE OR WHEN YOU TURNED AROUND OR WHAT?

9 A WHEN I WAS RUNNING.

10 Q DO YOU KNOW HOW MANY SHOTS YOU HEARD?

11 A A GOOD MANY. IT WAS OVER SIX OR SEVEN.

12 Q AND AT THAT POINT, WHO WAS THE ONLY PERSON YOU HAD
13 SEEN POINTING THE .22 AT THE HOUSE?

14 A BABY JESUS.

15 Q YOU MENTIONED THAT -- AFTER YOU RAN FOR A LITTLE BIT
16 AND HEARD THE SHOTS, YOU TURNED AROUND?

17 A RIGHT.

18 Q WHAT DID YOU SEE THEN?

19 A I SEEN BABY JESUS THROWING DOWN THE RIFLE AND PICKING
20 UP THE SHOTGUN.

21 Q WHO HAD THE SHOTGUN?

22 A GOO.

23 Q WHERE DID HE PICK -- WHERE DID BABY JESUS PICK THE
24 SHOTGUN UP AFTER HE FINISHED WITH THE .22?

25 A ON THE GROUND.

1 Q DID YOU SEE WHAT HE DID WITH THE SHOTGUN AT THAT
2 POINT?

3 A I SEEN HIM POINTING.

4 Q DID YOU HEAR ANY MORE SHOTS?

5 A NO.

6 Q YOU DON'T KNOW WHETHER OR NOT THE GUN JAMMED OR NOT?

7 A NO.

8 Q AT THAT POINT HAD YOU SEEN WHETHER OR NOT HE HAD
9 ACTUALLY HIT ANYBODY?

10 A NO.

11 Q DID YOU EVER SEE ANYONE OTHER THAN BABY JESUS
12 SHOOTING THAT NIGHT?

13 A NO.

14 Q WHEN YOU WERE RUNNING AWAY, WAS ANYBODY RUNNING WITH
15 YOU?

16 A YES.

17 Q WHO WAS RUNNING WITH YOU?

18 A TY, GOO, AND LITTLE CHRIS.

19 Q SO GOO HAD ACTUALLY RUN AWAY, TOO, WHEN THE SHOOTING
20 OCCURRED?

21 A RIGHT.

22 Q WHERE DID YOU RUN?

23 A WE WAS GOING BACK TOWARDS THE COLONY.

24 Q AND DID YOU GO BACK THE SAME WAY YOU CAME?

25 A YES.

1 Q AND ONCE YOU GOT INTO THE COLONY, DID YOU SEE BABY
2 JESUS AGAIN?

3 A YES.

4 Q HOW DID THAT HAPPEN? TELL THE JURY WHEN HE CAUGHT
5 UP.

6 A AT THE GATE WHEN HE PUT THE RIFLE AND SHOTGUN UNDER
7 THE LOG.

8 Q OKAY. NOW, YOU'RE GOING TO HAVE TO BACK UP A LITTLE.
9 YOU RAN BACK INTO THE COLONY?

10 A RIGHT.

11 Q AND THAT'S WHEN YOU MET UP WITH BABY JESUS AGAIN?

12 A RIGHT.

13 Q AND FOR THE RECORD, WERE YOU ALL RUNNING OR WERE YOU
14 ALL WALKING OR WHAT?

15 A RUNNING.

16 Q AND AT THAT POINT WHEN YOU SAW BABY JESUS AGAIN,
17 WHERE WERE YOU IN THE COLONY? EXPLAIN THAT TO THE JURY.

18 A RIGHT AT THE CUT. RIGHT BEFORE YOU ENTER THE COLONY,
19 IT'S LIKE A BLACK GATE TO SEPARATE THE COLONY FROM THE
20 RAILROAD TRACK.

21 Q OKAY. AND AT THAT POINT, WHAT DID BABY JESUS DO?

22 A HE TOOK HIS SHIRT AND WRAPPED THE SHOTGUN AND RIFLE
23 TOGETHER AND PUT THEM UNDER A LOG.

24 Q HOW MANY GUNS DID HE HAVE?

25 A TWO.

1 Q AND WHICH SHIRT DID HE WRAP THEM UP IN?

2 A A BLACK ONE.

3 Q DID HE SAY ANYTHING?

4 A NOT AT THAT POINT.

5 Q AT THAT POINT, WHAT HAPPENED?

6 A AFTER THAT, WE WENT THROUGH THE LITTLE FENCE, THEN WE
7 WERE GOING BACK TOWARD THE BETHEL BISHOP.

8 Q WHAT HAPPENED NEXT?

9 A WE KEPT RUNNING. WE KIND OF WENT OUR SEPARATE WAYS
10 AND WHATNOT. ME AND GOO STAYED TOGETHER. WHEN WE WERE AT
11 THE BETHEL BISHOP, WE HEARD THE POLICE OR WHATNOT. I SAW
12 O.B., AND HE TOLD ME TO JUST WAIT FOR THE POLICE TO COME
13 AND TO GO SO I WOULD BE ALL RIGHT.

14 Q SO AT THIS POINT YOU'RE WITH GOO?

15 A RIGHT.

16 Q AND YOU RUN INTO A MAN NAMED O.B.?

17 A RIGHT.

18 Q AND HE GIVES YOU ADVICE?

19 A RIGHT.

20 Q AND WHERE IS BABY JESUS AT THIS POINT, IF YOU KNOW?

21 A I DON'T KNOW.

22 Q WHEN YOU LAST SAW BABY JESUS, WAS HE WALKING, RUNNING
23 OR WHAT?

24 A HE WAS RUNNING WITH US.

25 Q DID YOU STAY IN THE BETHEL BISHOP AREA?

1 A FOR A LITTLE BIT.

2 Q DID YOU SEE BABY JESUS ANYMORE THAT NIGHT?

3 A NO.

4 Q DID YOU RUN BACK THROUGH THE CUT?

5 A NO.

6 Q DO YOU KNOW WHETHER OR NOT BABY JESUS ENDED UP BACK
7 IN THE CUT?

8 A NO.

9 Q WHEN YOU LEFT BETHEL BISHOP, WHERE DID YOU GO?

10 A I WENT TO BAYBERRY.

11 Q AND WHAT DID YOU DO OVER AT BAYBERRY?

12 A WE STAYED AT SOMEBODY'S HOUSE NAMED JOHN UNTIL IT
13 COOLED DOWN. HE TOOK US HOME.

14 Q WHAT HAPPENED, YOU WENT BACK HOME?

15 A RIGHT.

16 Q DID YOU HAVE ANY CONTACT WITH THE POLICE OR WITH BABY
17 JESUS ANYMORE THAT NIGHT?

18 A NO.

19 Q THE NEXT DAY, DID YOU COME IN CONTACT WITH THE
20 POLICE?

21 A I BELIEVE SO.

22 Q DO YOU REMEMBER GOING AND GIVING A STATEMENT TO
23 INVESTIGATOR GRAY?

24 A YES.

25 Q AND I BELIEVE THAT WOULD HAVE BEEN ON AUGUST 27TH OF

1 '04?

2 A YES.

3 Q AND IS THAT YOUR HANDWRITING?

4 A YES.

5 Q AND DID YOU KNOW WHY YOU WERE GOING DOWN TO TALK TO
6 THE POLICE?

7 A THEY CALLED MY MOTHER AND TOLD MY MOTHER I NEEDED TO
8 COME DOWN FOR QUESTIONING.

9 Q AND DID YOU KNOW WHAT THAT WAS ABOUT?

10 A NOT AT THAT POINT.

11 Q DID YOU KNOW WHAT HAD HAPPENED THE NIGHT BEFORE?

12 A RIGHT.

13 Q AND DID THEY ASK YOU QUESTIONS ABOUT HAD YOU SEEN
14 CHRIS LIVERMAN THE NIGHT BEFORE OR POOH OR ANYBODY LIKE
15 THAT?

16 A YES.

17 Q THEY ASKED YOU ABOUT MULTIPLE PEOPLE, RIGHT?

18 A YES.

19 Q AND DID YOU GIVE THEM A STATEMENT?

20 A YES.

21 Q DID YOU TELL THEM THE WHOLE TRUTH OR PART OF IT?

22 A PART OF IT.

23 Q AND WHY WAS THAT?

24 A BECAUSE I DIDN'T WANT TO GET CHARGED WITH NOTHING AT
25 THAT POINT.

1 Q HAD YOU DONE ANY SHOOTING?

2 A NO.

3 Q BUT YOU HAD BEEN THERE?

4 A RIGHT.

5 Q WHEN YOU TALKED TO THE POLICE ON THE 27TH, ALL YOU

6 TOLD THEM WAS THAT YOU HAD SEEN BABY JESUS?

7 A RIGHT.

8 Q AND THAT HE SAID HE NEEDED TO GO HANDLE SOMETHING?

9 A RIGHT.

10 Q YOU DIDN'T TELL HIM THE WHOLE TRUTH ABOUT HOW YOU

11 WENT WITH HIM?

12 A RIGHT.

13 Q WAS YOUR MOTHER WITH YOU THAT DAY?

14 A YES.

15 Q ABOUT A WEEK LATER ON SEPTEMBER 2ND, DID THE POLICE

16 GET BACK IN CONTACT WITH YOU?

17 A YES.

18 Q IN THE MEANTIME, HAD YOU HEARD FROM BABY JESUS?

19 A YES.

20 Q AND TELL THE JURY HOW YOU HEARD FROM BABY JESUS.

21 A HE CALLED ME, ASKED ME TO GET THE GUNS FROM UP UNDER
22 THE LOG, TO MOVE THEM.

23 Q WHAT ELSE DID HE SAY ABOUT THE GUNS?

24 A HE HEARD SOMEBODY IN THE BISHOP HAD THEM.

25 Q DID YOU KNOW WHERE HE WAS CALLING YOU FROM?

1 A NO.

2 Q WHAT DID YOU TELL HIM?

3 A I TOLD HIM ALL RIGHT.

4 Q DID YOU GO AND GET THE GUNS AND MOVE THEM?

5 A NO.

6 Q WHY NOT?

7 A IT WASN'T THERE. I ALREADY KNEW SOMEBODY HAD MOVED

8 THEM.

9 Q FROM WHAT YOU HAD HEARD?

10 A RIGHT.

11 Q DID YOU HAVE ANYMORE CONVERSATIONS WITH BABY JESUS

12 AFTER THAT?

13 A NO.

14 Q ON SEPTEMBER 2ND, THE POLICE HAD YOU COME DOWN AND

15 TALK TO THEM AGAIN?

16 A RIGHT.

17 Q DID YOUR MOTHER GO WITH YOU?

18 A YES.

19 Q AGAIN, YOU'RE 15?

20 A YES.

21 Q AND YOU KNEW THAT CHRIS LIVERMAN WAS IN A GANG?

22 A RIGHT.

23 Q DID YOU WANT TO TALK ABOUT IT?

24 A NOT THEN.

25 Q DURING THE COURSE OF THAT WEEK, DID YOU BECOME AWARE

1 THAT TWO CHILDREN HAD BEEN KILLED?

2 A RIGHT.

3 Q AND WHEN YOU WENT BACK AND TALKED TO THE POLICE, THEY
4 ACTUALLY ADVISED YOU OF YOUR RIGHTS?

5 A RIGHT.

6 Q AND YOU DIDN'T ACTUALLY SIGN OFF ON THOSE RIGHTS, BUT
7 YOU KNEW WHAT THEY WERE?

8 A RIGHT.

9 Q DID YOU AGREE TO TALK TO THEM?

10 A YES.

11 Q WHAT DID YOUR MOTHER TELL YOU TO DO?

12 A GO AHEAD AND TELL THE TRUTH.

13 Q AND WHAT DID YOU TELL THE POLICE WHEN YOU WENT DOWN
14 ON THAT DAY?

15 A I WENT AND TOLD THEM EVERYTHING THAT HAPPENED.

16 Q YOU TOLD THEM WHAT HAPPENED?

17 A RIGHT.

18 Q WHAT YOU JUST TESTIFIED TO?

19 A RIGHT.

20 Q WHY DID YOU TELL THEM THE TRUTH THEN?

21 A BECAUSE I FELT I HAD TO.

22 Q BECAUSE WHY?

23 A THE KIDS.

24 Q THAT NIGHT WHEN YOU SAW BABY JESUS, ON THE NIGHT OF
25 THE 26TH AND THE 27TH, DID HE HAVE ANY TATTOOS ON HIS

1 FACE?

2 A NO.

3 Q BEG THE COURT'S INDULGENCE.

4 (PAUSE).

5 WHEN YOU WENT TO TALK TO THE POLICE, WHO ACTUALLY
6 TOOK YOU THERE?

7 A MY MOTHER.

8 Q YOU MENTIONED ABOUT WHEN HE PULLED OUT THE FLAG OR
9 THE BANDANNA, WHAT COLOR WAS THE BANDANNA?

10 A BLACK.

11 Q WHAT'S THE COLOR OF THE FOLK GANG?

12 A BLACK.

13 Q DID CHRIS EVER TALK ABOUT THE .22 RIFLE?

14 A YES.

15 Q WHAT DID HE CALL IT?

16 A THE DEUCE DEUCE RIFLE.

17 Q WHEN YOU ALL WERE RUNNING AFTER THE SHOTS, YOU HEARD
18 THE SHOTS AND EVERYTHING, DID YOU -- WERE YOU RUNNING FAST
19 OR SLOW, CAN YOU TELL ME THAT?

20 A FAST.

21 Q AND WAS BABY JESUS ABLE TO CATCH UP WITH YOU?

22 A YES.

23 Q AND AGAIN, YOU'RE FACING BURGLARY SECOND CHARGES?

24 A RIGHT.

25 Q DO YOU KNOW HOW MUCH TIME THE MAXIMUM IS ON THAT?

1 A RIGHT.

2 Q WHAT IS IT?

3 A FIFTEEN.

4 Q ZERO TO 15?

5 A RIGHT.

6 Q AND THEN ON THE LARCENY CHARGE, DO YOU KNOW HOW MUCH
7 TIME THAT IS?

8 A YES.

9 Q HOW MUCH?

10 A FIVE.

11 Q AND DO YOU HAVE A LAWYER ON THOSE CHARGES?

12 A YES.

13 Q IS HE HERE IN THE COURTROOM?

14 A I DON'T SEE HIM.

15 Q WAS HE WITH YOU EARLIER?

16 A YES.

17 Q THE PERSON YOU KNOW AS -- BEG THE COURT'S INDULGENCE.
18 (PAUSE).

19 THE PERSON THAT YOU KNOW AS BABY JESUS, DO YOU SEE
20 HIM IN THE COURTROOM?

21 A YES.

22 Q WOULD YOU POINT HIM OUT FOR THE JURY?

23 A RIGHT THERE (INDICATING).

24 Q SITTING AT THE TABLE? WHAT COLOR JACKET DOES HE HAVE
25 ON?

1 A BLACK.

2 MS. CAMPBELL: YOUR HONOR, MAY THE RECORD REFLECT HE
3 HAS IDENTIFIED THE DEFENDANT?

4 THE COURT: ALL RIGHT.

5 MS. CAMPBELL: THANK YOU.

6 THANK YOU.

7 THE COURT: ALL RIGHT.

8 MR. SHARDT, CROSS-EXAMINE?

9 MR. SHARDT: THANK YOU, YOUR HONOR. MAY IT PLEASE
10 THE COURT.

11 MS. CAMPBELL: YOUR HONOR, MAY WE APPROACH?

12 THE COURT: SURE.

13 (WHEREUPON, A BENCH CONFERENCE WAS HELD IN THE
14 PRESENCE, BUT NOT WITHIN THE HEARING, OF THE JURY).

15 MS. CAMPBELL: THANK YOU, SIR.

16 THE COURT: ALL RIGHT. MR. SHARDT, YOU MAY PROCEED.

17 CROSS-EXAMINATION:

18 BY MR. SHARDT

19 Q MR. THOMPSON, DIEGO, BEFORE ANSWERING THE SOLICITOR,
20 MS. CAMPBELL'S, QUESTIONS HERE IN COURT TODAY, YOU HAD
21 SPOKEN TO THE STATE SEVERAL TIMES ABOUT THIS CASE; ISN'T
22 THAT CORRECT?

23 A RIGHT.

24 Q YEAH. YOU SPOKE TO INVESTIGATOR GRAY ON AUGUST 27TH,
25 2004, CORRECT?

1 A RIGHT.

2 Q YOU SPOKE TO HIM AT THE COLUMBIA POLICE DEPARTMENT?

3 A RIGHT.

4 Q AND YOU GAVE A STATEMENT?

5 A RIGHT.

6 Q AND YOU SPOKE TO INVESTIGATOR GRAY AGAIN ON
7 SEPTEMBER 2ND, 2004?

8 A RIGHT.

9 Q AT THE COLUMBIA POLICE DEPARTMENT?

10 A RIGHT.

11 Q YOU GAVE A STATEMENT?

12 A RIGHT.

13 Q AND YOU SPOKE TO MARGARET FENT?

14 A RIGHT.

15 Q THIS LADY RIGHT HERE.

16 A RIGHT.

17 Q AND MS. CAMPBELL?

18 A RIGHT.

19 Q YOU SPOKE TO BOTH OF THEM IN AUGUST OF 2006?

20 A RIGHT.

21 Q YOU SPOKE TO THEM A FEW MONTHS AGO, AND YOU MET WITH
22 THEM IN THE SOLICITOR'S OFFICE?

23 A YES.

24 Q DID YOU TALK TO THEM ABOUT YOUR TESTIMONY?

25 A YES.

1 Q DID YOU TALK TO THEM ABOUT WHAT YOU WERE GOING TO SAY
2 ON THE STAND?

3 A RIGHT.

4 Q BUT THEN LAST THURSDAY YOU MET WITH THE STATE AGAIN,
5 DIDN'T YOU?

6 A RIGHT.

7 Q ON OCTOBER 26TH, 2006?

8 A RIGHT.

9 Q YOU MET WITH MS. FENT?

10 A RIGHT.

11 Q AND MS. CAMPBELL AGAIN?

12 A RIGHT.

13 Q IN THE SOLICITOR'S OFFICE?

14 A RIGHT.

15 Q TO TALK ABOUT YOUR TESTIMONY?

16 A RIGHT.

17 Q TO TALK ABOUT WHAT YOU WERE GOING TO SAY?

18 A RIGHT.

19 Q TO PREPARE FOR THIS DAY IN COURT?

20 A RIGHT.

21 Q HAVE YOU TALKED TO THE STATE ANYMORE SINCE THEN?

22 A NO.

23 Q THAT'S IT?

24 A RIGHT.

25 Q SO THE LAST TIME YOU TALKED TO THEM WAS AUGUST 26TH?

1 A AND EARLIER TODAY.

2 Q SO YOU SPOKE WITH THEM EARLIER TODAY?

3 A RIGHT.

4 Q YOU SPOKE TO MS. FENT?

5 A RIGHT.

6 Q AND MS. CAMPBELL ABOUT WHAT YOU WERE GOING TO SAY
7 TODAY?

8 A RIGHT.

9 Q SO YOU HAVE SPOKEN TO THEM IN THE LAST TWO MONTHS.
10 APPROXIMATELY THE LAST TWO MONTHS, YOU HAVE SPOKEN TO EACH
11 OF THEM ABOUT THREE TIMES ABOUT WHAT YOU'RE GOING TO SAY
12 HERE TODAY?

13 A RIGHT.

14 Q ABOUT WHAT YOU CLAIM IS THE TRUTH?

15 A RIGHT.

16 Q LET'S TALK ABOUT YOUR FIRST STATEMENT TO THE POLICE.
17 YOU GAVE THAT STATEMENT AT SEVEN O'CLOCK P.M. ON
18 AUGUST 27TH, 2004.

19 A RIGHT.

20 Q TO INVESTIGATOR GRAY?

21 A RIGHT.

22 Q YOU REMEMBERED MEETING WITH INVESTIGATOR GRAY THAT
23 DAY?

24 A YES.

25 Q AND INVESTIGATOR GRAY IS SEATED RIGHT OVER THERE?

1 A YES.

2 Q AT THIS TIME WHEN YOU SPOKE TO INVESTIGATOR GRAY, YOU
3 KNEW THAT CHRIS HAD BEEN ARRESTED?

4 A RIGHT.

5 Q SO YOU WERE AWARE THAT CHRIS WAS IN JAIL WHEN YOU
6 SPOKE TO INVESTIGATOR GRAY?

7 A RIGHT.

8 Q YOU KNEW THAT THE POLICE WERE SAYING THAT CHRIS DID
9 THE SHOOTING?

10 A RIGHT.

11 Q THEY WERE BLAMING HIM?

12 A RIGHT.

13 Q AND YOU MET WITH INVESTIGATOR GRAY AT THE COLUMBIA
14 POLICE DEPARTMENT?

15 A RIGHT.

16 Q AND HE HAD YOU WRITE OUT A STATEMENT?

17 A RIGHT.

18 Q OKAY. SPECIFICALLY, HE HAD YOU WRITE OUT A STATEMENT
19 CONCERNING BABY JESUS, CORRECT?

20 A CORRECT.

21 MR. SHARDT: PERMISSION TO APPROACH THE WITNESS, YOUR
22 HONOR?

23 THE COURT: ALL RIGHT, SIR.

24 BY MR. SHARDT

25 Q MR. THOMPSON, IS THIS THE STATEMENT YOU WROTE ON

1 AUGUST 27TH, 2004?

2 A YEAH, YEAH.

3 Q THE STATEMENT YOU GAVE TO INVESTIGATOR GRAY?

4 A YES.

5 Q COULD YOU READ THAT LINE RIGHT THERE?

6 A "I'M GIVING THIS STATEMENT CONCERNING BABY JESUS."

7 Q SAY IT ONE MORE TIME TO THE JURY.

8 A "I'M GIVING THIS STATEMENT CONCERNING BABY JESUS."

9 Q IT SAYS, "YOU ARE GIVING THIS STATEMENT CONCERNING
10 BABY JESUS"?

11 A RIGHT.

12 Q IT DOESN'T SAY, "YOU'RE GIVING THIS STATEMENT
13 CONCERNING THE SHOOTING ON T.S. MARTIN"?

14 A RIGHT.

15 Q RIGHT. IT'S CONCERNING BABY JESUS?

16 A RIGHT.

17 Q IN THIS STATEMENT THAT YOU GAVE ON AUGUST 27TH, ON
18 THAT STATEMENT, YOU TOLD INVESTIGATOR GRAY THAT YOU
19 WEREN'T THERE?

20 A RIGHT.

21 Q YOU DIDN'T KNOW ANYTHING ABOUT THE SHOOTING?

22 A RIGHT.

23 Q ALL RIGHT. YOU GAVE INVESTIGATOR GRAY AN ALIBI,
24 CORRECT?

25 A CORRECT.

1 Q YOU TOLD INVESTIGATOR GRAY THAT YOU WERE AT THE
2 COPPERFIELD APARTMENTS BETWEEN 8:30 AND TEN O'CLOCK P.M.
3 THAT NIGHT?

4 A RIGHT.

5 Q YOU TOLD INVESTIGATOR GRAY THAT YOU WERE THERE WITH
6 YOUR RIDE, CORRECT?

7 A RIGHT.

8 Q AND HIS GIRLFRIEND?

9 A CORRECT.

10 Q AND YOU USED THE WORDS "YOUR RIDE" SEVERAL TIMES.

11 A RIGHT.

12 Q AND HE WAS GOING TO BE SOMEONE WHO WAS GOING TO VOUCH
13 FOR YOUR ALIBI?

14 A RIGHT.

15 Q DID INVESTIGATOR GRAY EVER ASK WHO YOUR RIDE WAS?

16 A I THINK SO.

17 Q IS IT ANYWHERE IN YOUR STATEMENT?

18 A NO.

19 Q SO YOU EXPLAINED TO INVESTIGATOR GRAY -- YOU GAVE HIM
20 VAGUE DESCRIPTIONS OF WHO COULD ATTEST YOUR ALIBI?

21 A RIGHT.

22 Q YOU GAVE HIM VAGUE DETAILS ABOUT YOUR ALIBI, DIDN'T
23 YOU?

24 A RIGHT.

25 Q YOU TOLD INVESTIGATOR GRAY -- YOU TOLD HIM

1 SPECIFICALLY THAT YOU KNEW YOU HAD GOTTEN HOME JUST AFTER
2 TEN BECAUSE COMIC VIEW WAS ON B.E.T., BLACK ENTERTAINMENT
3 TELEVISION, RIGHT?

4 A RIGHT.

5 Q SO YOU GAVE HIM THAT SPECIFIC FACT?

6 A RIGHT.

7 Q YOU TOLD HIM THAT THE FIRST COMEDIAN WAS STILL ON THE
8 STAGE?

9 A RIGHT.

10 Q THAT'S WHAT YOU TOLD INVESTIGATOR GRAY. THAT WAS THE
11 FACT THAT WOULD HAVE ESTABLISHED THAT YOU WEREN'T ON T.S.
12 MARTIN THAT NIGHT?

13 A RIGHT.

14 Q YOU HAD THAT ALIBI. BEFORE YOU MET INVESTIGATOR
15 GRAY, YOU HAD THAT ALIBI PLANNED OUT, DIDN'T YOU?

16 A NOT REALLY.

17 Q YOU JUST CAME UP WITH THAT ON THE SPOT?

18 A YEAH.

19 Q OKAY. AND THIS ALIBI PLACED YOU SEVERAL MILES AWAY?

20 A RIGHT.

21 Q FROM T.S. MARTIN?

22 A RIGHT.

23 Q AFTER YOU GAVE INVESTIGATOR GRAY THIS STATEMENT ON
24 AUGUST 27TH, 2004, HE LET YOU GO HOME?

25 A RIGHT.

1 Q CORRECT?

2 A RIGHT.

3 Q HE DIDN'T EVEN ARREST YOU, DID HE?

4 A NO.

5 Q OKAY. AND AGAIN, IN YOUR STATEMENT HE NEVER
6 ASCERTAINED WHO YOUR -- HE NEVER LEARNED WHO YOUR RIDE
7 WAS?

8 A RIGHT.

9 Q SO HE NEVER CHECKED BEHIND YOUR ALIBI?

10 A RIGHT.

11 Q RIGHT. AND THAT ALIBI THAT YOU GAVE INVESTIGATOR
12 GRAY ON AUGUST 27TH, 2004 -- WELL, LET ME ASK YOU FIRST,
13 THIS STATEMENT -- YOU SIGNED THIS STATEMENT?

14 A RIGHT.

15 Q YOU SIGNED IT?

16 A RIGHT.

17 Q YOU SWORE TO IT?

18 A RIGHT.

19 Q YOU SWORE THAT WAS THE TRUTH?

20 A RIGHT.

21 Q YOU SWORE TO INVESTIGATOR GRAY THAT IT WAS THE TRUTH?

22 A RIGHT.

23 Q AND NOW WHAT YOU'RE TELLING US TODAY IS THAT THAT
24 STATEMENT WAS A COMPLETE LIE?

25 A RIGHT.

1 Q RIGHT. OKAY. AS A RESULT OF THIS LIE, INVESTIGATOR
2 GRAY LET YOU LEAVE THE POLICE STATION?

3 A RIGHT.

4 Q LET'S TALK ABOUT YOUR SECOND STATEMENT. YOU GAVE
5 THAT STATEMENT TO THE POLICE, TO INVESTIGATOR GRAY, ON
6 SEPTEMBER 2ND, 2004, CORRECT?

7 A RIGHT.

8 Q AT 2:45 P.M.?

9 A RIGHT.

10 Q RIGHT. DO YOU REMEMBER GIVING A STATEMENT ON
11 SEPTEMBER 2ND?

12 A RIGHT.

13 Q OKAY. WELL, LET'S BACK UP A LITTLE BIT ON
14 SEPTEMBER 2ND. LET'S TALK ABOUT THE MORNING OF
15 SEPTEMBER 2ND, OKAY. ALL RIGHT. THAT MORNING YOU WERE
16 SCHEDULED TO MEET WITH INVESTIGATOR GRAY, CORRECT?

17 A RIGHT.

18 Q YOU WERE SUPPOSED TO MEET HIM AT NINE O'CLOCK IN THE
19 MORNING, RIGHT?

20 A RIGHT.

21 Q RIGHT. AND AT THIS MEETING, YOU WERE SUPPOSED TO
22 ANSWER MORE QUESTIONS THAT INVESTIGATOR GRAY HAD ABOUT THE
23 SHOOTING?

24 A RIGHT.

25 Q AND YOUR MOTHER CAME WITH YOU TO MEET WITH

1 INVESTIGATOR GRAY?

2 A RIGHT.

3 Q AND ONCE YOU ARRIVED AT THE POLICE DEPARTMENT, YOU
4 MET WITH INVESTIGATOR GRAY. YOU AND YOUR MOTHER WENT AND
5 MET WITH INVESTIGATOR GRAY, RIGHT?

6 A RIGHT.

7 Q OKAY. AND INVESTIGATOR GRAY INFORMED YOU THAT HE
8 WANTED ANOTHER STATEMENT?

9 A RIGHT.

10 Q AND HE READ YOU YOUR RIGHTS?

11 A RIGHT.

12 Q OKAY. AND HE TOLD YOU THAT ANYTHING YOU SAID COULD
13 BE HELD AGAINST YOU IN A COURT OF LAW?

14 A RIGHT.

15 Q RIGHT. AND HE SAID YOU HAD A RIGHT TO REMAIN SILENT?

16 A RIGHT.

17 Q YOU HAD THE RIGHT TO AN ATTORNEY?

18 A RIGHT.

19 Q AND HE ASKED YOU TO SIGN A SHEET OF PAPER?

20 A RIGHT.

21 Q HE ASKED YOU TO WAIVE YOUR RIGHTS?

22 A RIGHT.

23 Q OKAY. DID YOU SIGN THAT SHEET OF PAPER?

24 A I DON'T THINK SO.

25 Q YOU DON'T RECALL SIGNING A SHEET OF PAPER, DO YOU?

1 A NOT WAIVING MY RIGHTS.

2 Q NO, YOU DIDN'T WAIVE YOUR RIGHTS, DID YOU?

3 A NO.

4 Q YOU REFUSED TO WAIVE YOUR RIGHTS, DIDN'T YOU?

5 A RIGHT.

6 Q SO AFTER YOU REFUSED TO WAIVE YOUR RIGHTS TO
7 INVESTIGATOR GRAY ON SEPTEMBER 2ND, ON THAT MORNING, YOU
8 AND YOUR MOTHER LEFT INVESTIGATOR GRAY'S OFFICE, RIGHT?

9 A RIGHT.

10 Q HE DIDN'T ARREST YOU AT THAT TIME, DID HE?

11 A NO.

12 Q HE LET YOU LEAVE AGAIN, DIDN'T HE?

13 A RIGHT.

14 Q THIS IS WHAT, ABOUT 9:15, 9:30?

15 A SOMETHING LIKE THAT.

16 Q EARLY IN THE MORNING?

17 A RIGHT.

18 Q OKAY. SO YOU LEFT THE POLICE STATION, RIGHT?

19 A CORRECT.

20 Q FROM THE POLICE STATION YOU WENT TO FIND AN ATTORNEY,
21 DIDN'T YOU?

22 A RIGHT.

23 Q YOU MET WITH TODD RUTHERFORD THAT MORNING?

24 A RIGHT.

25 Q AND YOU TOLD HIM ABOUT THE MEETINGS THAT YOU HAD WITH

1 INVESTIGATOR GRAY?

2 A RIGHT.

3 Q AND YOU TOLD HIM ABOUT THE QUESTIONS THAT
4 INVESTIGATOR GRAY HAD BEEN ASKING YOU?

5 A RIGHT.

6 Q AND AGAIN, YOU TOLD HIM THAT CHRIS LIVERMAN WAS
7 ARRESTED?

8 A RIGHT.

9 Q YOU TOLD HIM THAT CHRISTOPHER LIVERMAN WAS IN JAIL?

10 A RIGHT.

11 Q YOU TOLD TODD RUTHERFORD ALL ABOUT THIS?

12 A RIGHT.

13 Q AND YOU HIRED TODD RUTHERFORD TO BE YOUR LAWYER?

14 A RIGHT.

15 Q NOW, LET'S TALK ABOUT MR. RUTHERFORD FOR A MINUTE.
16 HE HAS THE REPUTATION AS BEING A GOOD ATTORNEY, CORRECT?

17 A RIGHT.

18 Q THAT'S WHY YOU HIRED HIM?

19 A RIGHT.

20 Q HE TAKES CARE OF PEOPLE'S PROBLEMS, RIGHT?

21 A RIGHT.

22 Q HE'S A POLITICIAN, TOO?

23 A RIGHT.

24 Q HE'S A MEMBER OF THE STATE HOUSE OF REPRESENTATIVES,
25 RIGHT?

1 A RIGHT.

2 Q HE'S A STATE REPRESENTATIVE. HE'S KNOWN AS SOMEONE
3 WITH CONNECTIONS, CORRECT?

4 MS. CAMPBELL: OBJECTION, YOUR HONOR. HOW IS THIS
5 RELEVANT, NUMBER ONE, AND NUMBER TWO, I THINK IT GOES
6 BEYOND THE SCOPE OF CROSS-EXAMINATION OF THIS WITNESS.

7 THE COURT: SUSTAINED ON THE GROUNDS OF RELEVANCY.
8 GO AHEAD, AS TO THE LAST QUESTION. GO AHEAD.

9 BY MR. SHARDT

10 Q YOU ALSO KNOW AN OFFICER DARRIN HICKS, DON'T YOU?

11 A RIGHT.

12 Q HE'S A MEMBER OF THE COLUMBIA POLICE FORCE?

13 A RIGHT.

14 Q HE WAS A MEMBER OF THE COLUMBIA POLICE FORCE BACK IN
15 2004?

16 A RIGHT.

17 Q HE'S STILL A MEMBER OF THE COLUMBIA POLICE FORCE
18 TODAY. ARE YOU, BY CHANCE, RELATED TO DARRIN HICKS?

19 A YES.

20 Q HE'S YOUR UNCLE, RIGHT?

21 A RIGHT.

22 Q SO YOU HAD AN UNCLE ON THE POLICE FORCE?

23 A RIGHT.

24 Q SO AT THE SAME TIME THAT YOU WERE MEETING WITH
25 INVESTIGATOR GRAY AND WALKING IN THERE WITH STATE

1 REPRESENTATIVE RUTHERFORD, YOU HAD AN OFFICER, YOU HAD AN
2 UNCLE, WHO WAS ON THE POLICE FORCE?

3 A RIGHT.

4 Q YOURSELF, YOUR MOTHER, REPRESENTATIVE RUTHERFORD, YOU
5 ALL WENT BACK TO MEET WITH INVESTIGATOR GRAY LATER THAT
6 DAY, RIGHT?

7 A I THINK SO.

8 Q YOU MET WITH INVESTIGATOR GRAY AT TWO O'CLOCK THAT
9 AFTERNOON?

10 A I THINK SO.

11 Q YOU BROUGHT REPRESENTATIVE RUTHERFORD WITH YOU?

12 A RIGHT.

13 Q IN FACT, REPRESENTATIVE RUTHERFORD HAD CALLED
14 INVESTIGATOR GRAY EARLIER TO SET UP A TIME?

15 A RIGHT.

16 Q RIGHT. THE POLICE WERE EXPECTING YOU. THEY KNEW
17 REPRESENTATIVE RUTHERFORD WAS COMING.

18 A RIGHT.

19 Q AND THEY KNEW HE WAS BRINGING YOU, AND WHEN YOU
20 WALKED IN THERE WITH STATE REPRESENTATIVE RUTHERFORD, YOU
21 GAVE A SECOND STATEMENT, DIDN'T YOU?

22 A RIGHT.

23 Q YOU GAVE THE STATEMENT AT 2:45 P.M.?

24 A RIGHT.

25 Q OKAY. IT WAS 2:45. I WANT TO BE SPECIFIC ABOUT

1 THIS. YOU GAVE IT AT 2:45?

2 A I BELIEVE SO.

3 Q BUT YOU ARRIVED THERE AT TWO?

4 A RIGHT.

5 Q SO THERE'S 45 MINUTES IN BETWEEN THE TIME WHEN YOU
6 ARRIVED AND WHEN YOU GAVE THE STATEMENT.

7 A (THERE WAS NO RESPONSE.)

8 Q YOU AND STATE REPRESENTATIVE RUTHERFORD --

9 A RIGHT.

10 Q -- WERE AT THE POLICE STATION FOR 45 MINUTES BEFORE
11 INVESTIGATOR GRAY SAT DOWN AND TOOK YOUR STATEMENT, RIGHT?

12 A RIGHT.

13 Q AND AT 2:45, AT 2:45, YOU SAT DOWN AND WROTE YOUR
14 SECOND STATEMENT?

15 A RIGHT.

16 Q STATE REPRESENTATIVE RUTHERFORD TOLD YOU IT WAS OKAY
17 TO?

18 A RIGHT.

19 Q YOU GAVE THIS STATEMENT IN AN INTERVIEW ROOM?

20 A RIGHT.

21 Q YEAH. AND MR. -- STATE REPRESENTATIVE RUTHERFORD,
22 I'M SORRY, WAS THERE WITH YOU?

23 A RIGHT.

24 Q WHILE YOU WERE THERE, STATE REPRESENTATIVE RUTHERFORD
25 NEVER LEFT YOUR SIDE, DID HE?

1 A RIGHT.

2 Q HE STAYED WITH YOU THE WHOLE TIME?

3 A RIGHT.

4 Q NOW, THE SECOND STATEMENT, THE STORY CHANGED FROM
5 WHEN YOU HAD SWORN THE TRUTH TO INVESTIGATOR GRAY A FEW
6 DAYS BEFORE, RIGHT?

7 A RIGHT.

8 Q YOUR STORY HAD CHANGED?

9 A RIGHT.

10 Q THIS TIME YOU TOLD THE POLICE THAT YOU WERE AT THE
11 SCENE?

12 A RIGHT.

13 Q AND YOU TOLD THE POLICE THAT YOU SAW CHRIS DO IT,
14 RIGHT?

15 A RIGHT.

16 Q AND YOU TOLD THE POLICE THAT YOU RAN FROM THE SCENE,
17 AND YOU SAW CHRIS HIDING THE GUNS?

18 A RIGHT.

19 Q AND THAT YOU HAD NO IDEA WHAT CHRIS WAS GOING TO DO?

20 A RIGHT.

21 Q NO IDEA AT ALL?

22 A RIGHT.

23 Q THAT YOU WERE SHOCKED WHEN CHRIS PULLED OUT A GUN?

24 A RIGHT.

25 Q YOU WERE SHOCKED?

1 A RIGHT.

2 Q AND IT WASN'T YOUR FAULT, RIGHT?

3 A RIGHT.

4 Q OKAY. AFTER YOU GAVE THIS STATEMENT, AFTER YOU
5 WALKED IN THERE WITH STATE REPRESENTATIVE RUTHERFORD AND
6 SAT DOWN WITH INVESTIGATOR GRAY AND TALKED ABOUT CHRIS
7 LIVERMAN, WHO WAS IN JAIL --

8 A RIGHT.

9 Q -- AFTER YOU GAVE YOUR STORY, INVESTIGATOR GRAY LET
10 YOU LEAVE, RIGHT?

11 A RIGHT.

12 Q HE DIDN'T ARREST YOU, DID HE?

13 A RIGHT.

14 Q YOU JUST WALKED OUT OF THE POLICE STATION?

15 A RIGHT.

16 Q YOU AND REPRESENTATIVE RUTHERFORD JUST WALKED OUT?

17 A RIGHT.

18 Q YOU WERE NOT CHARGED WITH MURDER, WERE YOU?

19 A NO.

20 Q TO THIS DAY, HAVE YOU EVER BEEN CHARGED WITH A CRIME
21 RELATING TO THESE EVENTS?

22 A NO.

23 Q OKAY. YOU SAID THERE WAS A THIRD MEETING. YOU TOLD
24 US THERE WAS A THIRD MEETING BETWEEN YOU AND THE STATE,
25 RIGHT?

1 A RIGHT.

2 Q OKAY. AND DIEGO, YOU ALREADY HAVE RECOGNIZED THESE
3 TWO WOMEN SITTING HERE?

4 A RIGHT.

5 Q MS. FENT, AND MS. CAMPBELL?

6 A RIGHT.

7 Q OKAY. OKAY. NOW, MS. FENT, LET'S TALK ABOUT HER
8 SPECIFICALLY. YOU HAVE PENDING CHARGES, RIGHT?

9 A RIGHT.

10 Q YOU HAVE HEARD ABOUT THAT?

11 A RIGHT.

12 Q SHE WAS YOUR SOLICITOR ON YOUR PENDING CHARGES,
13 WASN'T SHE?

14 A I THINK SO.

15 Q WAS SHE YOUR SOLICITOR ON THE PENDING CHARGES?

16 A YES.

17 Q SHE WAS?

18 A RIGHT.

19 Q SO YOU DON'T THINK SO, YOU KNOW SO?

20 A RIGHT.

21 Q RIGHT. OKAY. SO SHE WAS PROSECUTING YOUR CASE?

22 A RIGHT.

23 Q WHEN YOU MET WITH THEM THE FIRST TIME?

24 A RIGHT.

25 Q OKAY. AND YOU MET WITH THEM ON AUGUST 15TH, 2006?

1 A RIGHT.

2 Q IN PREPARATION FOR THIS TRIAL. YOU WERE BROUGHT OVER
3 FROM THE JAIL. YOU HAD BEEN STAYING IN JAIL, RIGHT?

4 A RIGHT.

5 Q SO YOU'RE BROUGHT OVER FROM THE JAIL TO MEET WITH THE
6 SOLICITOR'S OFFICE?

7 A RIGHT.

8 Q AND MS. CAMPBELL WAS THERE, TOO?

9 A RIGHT.

10 Q NOW, ALSO THERE WAS MR. KENDRICK?

11 A RIGHT.

12 Q THAT'S YOUR LAWYER. IS HE IN THE COURTROOM?

13 A YES.

14 Q WOULD YOU POINT HIM OUT?

15 A IN THE BACK.

16 Q SO MR. KENDRICK IS HERE FOR YOUR TESTIMONY HERE
17 TODAY?

18 A RIGHT.

19 Q OKAY. SO HE SHOWED UP?

20 A RIGHT.

21 Q OKAY. AND YOU RECOGNIZE MR. KENDRICK. HE'S YOUR
22 ATTORNEY?

23 A RIGHT.

24 Q AND HE WAS THERE FOR THE MEETING WITH MS. FENT AND
25 MS. CAMPBELL, RIGHT?

1 A RIGHT.

2 Q OKAY. SO THE FOUR OF YOU -- IT WAS THE FOUR OF YOU?

3 A RIGHT.

4 Q IT WAS JUST YOU, MR. KENDRICK, UP THERE?

5 A RIGHT.

6 Q MS. CAMPBELL, AND MS. FENT?

7 A RIGHT.

8 Q YOU ALL SAT DOWN ON AUGUST 15TH, 2006. WAS IT AUGUST
9 15TH, ABOUT THAT TIME?

10 A RIGHT.

11 Q OKAY. SO IT WAS SOMETIME IN AUGUST?

12 A RIGHT.

13 Q OKAY. LET'S TALK ABOUT THAT MEETING. YOU WERE
14 LIVING IN JAIL AT THE TIME?

15 A RIGHT.

16 Q YOU'RE STILL BEING HELD ON BURGLARY AND GRAND LARCENY
17 CHARGES?

18 A RIGHT.

19 Q OKAY. SO ON THAT DAY IN AUGUST 2006 WHEN YOU MET
20 WITH THE SOLICITOR AND YOUR ATTORNEY?

21 A RIGHT.

22 Q YOU WOKE UP IN THE JAIL. THEY TRANSPORTED YOU TO THE
23 COURTHOUSE?

24 A RIGHT.

25 Q THIS WASN'T THE FIRST TIME THEY HAD DONE THIS. YOU

1 HAD BEEN TRANSPORTED A FEW DAYS EARLIER.

2 A RIGHT.

3 Q BUT NEVER MET WITH ANYONE? .

4 A RIGHT.

5 Q MR. KENDRICK NEVER MADE IT TO TALK TO YOU?

6 A RIGHT.

7 Q SO YOU WOKE UP, AND YOU WERE BROUGHT DOWN TO THE
8 COURTHOUSE?

9 A RIGHT.

10 Q YOU WERE TRANSPORTED FROM A VAN IN THE JAIL?

11 A RIGHT.

12 Q THEY BROUGHT YOU DOWN TO HOLDING?

13 A RIGHT.

14 Q NOW, HOLDING -- WE'RE TALKING ABOUT -- HOLDING IS
15 BELOW US, RIGHT?

16 A RIGHT.

17 Q IT'S IN THE BASEMENT OF THIS COURTHOUSE?

18 A RIGHT.

19 Q OKAY. AT AROUND NINE O'CLOCK THAT MORNING, YOU WERE
20 IN HOLDING?

21 A RIGHT.

22 Q OKAY. MR. KENDRICK, MR. KENDRICK YOUR LAWYER UP
23 THERE --

24 A RIGHT.

25 Q -- HE CAME DOWN TO THE HOLDING CELL TO MEET WITH YOU,

1 RIGHT?

2 A RIGHT.

3 Q AND HE TOLD YOU THAT YOU WERE ABOUT TO MEET WITH THE
4 SOLICITOR'S OFFICE, RIGHT?

5 A RIGHT.

6 Q OKAY. AND HE HANDED YOU COPIES OF THE STATEMENTS YOU
7 MADE TO INVESTIGATOR GRAY.

8 A RIGHT.

9 Q HE HANDED YOU COPIES OF THE STATEMENTS YOU MADE TO
10 INVESTIGATOR GRAY ON SEPTEMBER 2ND, 2004?

11 A RIGHT.

12 Q WHEN YOU SAID YOU SAW CHRIS DO EVERYTHING?

13 A RIGHT.

14 Q OKAY. THOSE STATEMENTS YOU MADE WITH MR. RUTHERFORD
15 ON YOUR SIDE?

16 A RIGHT.

17 Q AND HE TOLD YOU TO REVIEW THE STATEMENTS, RIGHT?

18 A RIGHT.

19 Q HE TOLD YOU TO REVIEW THE STATEMENTS CAREFULLY AND
20 READ THEM OVER?

21 A RIGHT.

22 Q BEFORE YOU MET WITH THE SOLICITORS?

23 A RIGHT.

24 Q AND YOU REVIEWED THEM?

25 A RIGHT.

1 Q AND YOU READ THEM OVER?

2 A RIGHT.

3 Q AND YOU TOOK SOME TIME?

4 A RIGHT.

5 Q YOU PREPARED FOR YOUR MEETING WITH THE SOLICITOR'S
6 OFFICE?

7 A RIGHT.

8 Q AND AFTER YOU AND MR. KENDRICK WERE DONE PREPARING,
9 YOU WENT UP TO THE SOLICITOR'S OFFICE?

10 A RIGHT.

11 Q OKAY. AND THAT'S WHEN YOU MET WITH THE SOLICITORS?

12 A RIGHT.

13 Q YOU SAT DOWN WITH THEM, AND YOU REVIEWED YOUR
14 TESTIMONY WITH THEM.

15 A RIGHT.

16 Q FOR ABOUT AN HOUR.

17 A I BELIEVE SO.

18 Q ABOUT AN HOUR YOU REVIEWED YOUR TESTIMONY WITH THEM.
19 SO YOU PREPARED YOUR TESTIMONY FOR THE SOLICITOR'S OFFICE
20 THAT DAY?

21 A RIGHT.

22 Q ALL RIGHT. NOW, THERE'S A FOURTH MEETING, CORRECT?

23 A CORRECT.

24 Q THAT WAS LAST THURSDAY?

25 A RIGHT.

1 Q OCTOBER 26TH, 2006, CORRECT?

2 A RIGHT.

3 Q AGAIN, YOU WERE BROUGHT OVER FROM THE JAIL, RIGHT?

4 A RIGHT.

5 Q HE BROUGHT YOU TO HOLDING?

6 A RIGHT.

7 Q WITH MR. KENDRICK?

8 A RIGHT.

9 Q OKAY. HE SHOWED UP?

10 A RIGHT.

11 Q DID HE GIVE YOU YOUR STATEMENTS AGAIN?

12 A YEAH.

13 Q SO YOU REVIEWED YOUR STATEMENTS AGAIN?

14 A RIGHT.

15 Q OKAY. AND YOU TOOK YOUR TIME. YOU READ OVER THEM?

16 A RIGHT.

17 Q MEMORIZED THEM?

18 A RIGHT.

19 Q RIGHT. MEMORIZED THEM, OKAY. DID YOU TALK TO HIM?

20 A RIGHT.

21 Q OKAY. AND YOU WENT UP TO THE SOLICITOR'S OFFICE.

22 A RIGHT.

23 Q THEY BROUGHT YOU UP TO THE SOLICITOR'S OFFICE, AND
24 YOU MET WITH MS. FENT AND MS. CAMPBELL, RIGHT?

25 A RIGHT.

1 Q OKAY. AND AGAIN, THEY TALKED TO YOU ABOUT YOUR
2 TESTIMONY?

3 A RIGHT.

4 Q AND THEY WENT OVER YOUR STATEMENTS, RIGHT?

5 A RIGHT.

6 Q AND TALKED ABOUT WHAT YOU WERE GOING TO SAY?

7 A RIGHT.

8 Q OKAY. DID THEY TALKED ABOUT QUESTIONS I MIGHT ASK?

9 A NOT REALLY.

10 Q OKAY. AND NOW YOU'RE TELLING US YOU MET WITH THEM
11 THIS MORNING?

12 A RIGHT.

13 Q DID YOU REVIEWING YOUR STATEMENTS AGAIN?

14 A RIGHT.

15 Q RIGHT. YOU REVIEWING YOUR STATEMENTS AGAIN. DID YOU
16 MEMORIZE YOUR STATEMENTS AGAIN?

17 A NO. THEY TOLD ME TO TELL THE TRUTH.

18 Q OKAY. THEY JUST TOLD YOU TO TELL THE TRUTH?

19 A RIGHT.

20 Q DO YOU HAVE TO PRACTICE TO TELL THE TRUTH?

21 A NO.

22 Q OKAY. ALL RIGHT. SO YOU MET WITH THEM THIS MORNING,
23 AND YOU REVIEWED WHAT YOU WERE GOING TO TESTIFY TO AGAIN
24 WITH THEM AGAIN TODAY?

25 A RIGHT.

1 Q SO YOU MET WITH THE SOLICITORS THREE TIMES THEN?

2 A RIGHT.

3 Q BEFORE TODAY.

4 A RIGHT.

5 Q THREE TIMES IN THE LAST COUPLE OF MONTHS.

6 A RIGHT.

7 Q LET'S REVIEW WHAT YOU TOLD US TODAY, OKAY, WHAT YOU
8 TOLD THE JURY TODAY. YOU WERE PLAYING BASKETBALL.

9 A RIGHT.

10 Q ALL RIGHT. AND CHRIS CAME UP TO YOU IN BAYBERRY.

11 A BETHEL BISHOP.

12 Q IN BETHEL BISHOP, OKAY. WELL, LET'S START THERE.

13 CHRIS CAME UP TO YOU IN BETHEL BISHOP. THAT'S THE TRUTH?

14 A RIGHT.

15 Q RIGHT.

16 PERMISSION TO APPROACH THE WITNESS, YOUR HONOR?

17 THE COURT: ALL RIGHT.

18 BY MR. SHARDT

19 Q IS THIS THE STATEMENT YOU GAVE ON SEPTEMBER 2ND,
20 2004?

21 A RIGHT.

22 Q OKAY. COULD YOU READ THIS STATEMENT RIGHT HERE
23 STARTING WITH "SO"?

24 A "SO ME, TY, GOO, LITTLE CHRIS, AND BABY JESUS GOT
25 INTO BETHEL BISHOP."

1 Q STOP. SO ON THE 2ND OF SEPTEMBER, YOU SAID, "SO WHEN
2 TY, LITTLE CHRIS, GOO, CHRIS, OF COURSE, CHRIS," WHEN YOU
3 ALL GOT TO BETHEL BISHOP?

4 A RIGHT.

5 Q SO YOU'RE TELLING ME IN YOUR STATEMENT ON THE SECOND,
6 YOU DIDN'T MEET CHRIS IN BETHEL BISHOP?

7 A RIGHT.

8 Q YOU EVENTUALLY GOT TO BETHEL BISHOP?

9 A RIGHT.

10 Q SO WHAT YOU'RE TELLING ME IS YOUR TESTIMONY TODAY WAS
11 WRONG?

12 A NO.

13 Q WELL, WHAT IS IT THEN? DID YOU MEET HIM IN BETHEL
14 BISHOP, OR DID YOU MEET HIM SOMEWHERE ELSE TO GET TO
15 BETHEL BISHOP?

16 A I WAS IN THE CAR AND WENT TO BETHEL BISHOP.

17 Q SO YOU MET HIM IN -- SO YOU MET HIM IN BETHEL BISHOP?

18 A RIGHT.

19 Q SO IN YOUR STATEMENT WHEN YOU TALKED ABOUT WHEN YOU
20 ALL GOT TO BETHEL BISHOP, THAT WAS JUST A MISTAKE?

21 A YEAH, I JUST MISWORDED IT.

22 Q YOU JUST WORDED IT, MISWORDED IT.

23 A RIGHT.

24 Q ON SEPTEMBER 2ND, 2004, YOU JUST MISWORDED --

25 A RIGHT.

1 Q -- WHAT YOU WERE SAYING?

2 A RIGHT.

3 Q OKAY. ALL RIGHT. OKAY. AND THEN OF COURSE, YOU
4 KNOW, IN YOUR STATEMENT WHEN YOU -- IN THIS STATEMENT WHEN
5 YOU SAY YOU WALKED WITH CHRIS AND GOO AND LITTLE CHRIS AND
6 TY ON THE WAY TOWARDS BAYBERRY MEWS TO THE BISHOP, IT'S
7 MISWORDED?

8 A RIGHT.

9 Q OKAY. SO LET'S TALK ABOUT THIS WALK.
10 I BEG THE COURT'S INDULGENCE.
11 (PAUSE).

12 YOUR HONOR, COULD THE WITNESS STEP DOWN?

13 THE COURT: YOU HAVE TO KEEP YOUR VOICE UP. THERE'S
14 A POINTER RIGHT THERE. I DON'T KNOW IF HE CAN REACH IT
15 WHERE HE'S SEATED OR NOT.

16 ALL RIGHT. THAT'S FINE. ALL RIGHT.

17 MR. SHARDT: SO NOW YOU'RE TELLING US --

18 THE COURT: LET ME EXPLAIN TO ALL OF YOU, THE COURT
19 REPORTER BACK HERE HAS GOT TO TAKE DOWN EVERY WORD THAT'S
20 SAID, THE ATTORNEYS NEED TO BE ABLE TO HEAR, THE JURY
21 NEEDS TO BE ABLE TO HEAR, EVERYONE NEEDS TO BE ABLE TO
22 HEAR. SPEAK LOUDLY AND CLEARLY ENOUGH SO THAT EVERYONE
23 WILL BE ABLE TO HEAR.

24 BY MR. SHARDT

25 Q MR. THOMPSON, DO YOU RECOGNIZE THIS MAP?

1 A RIGHT.

2 Q DO YOU RECOGNIZE THAT THIS IS A MAP OF BETHEL BISHOP
3 AND THE COLONY?

4 A RIGHT.

5 Q ALL RIGHT. AND THIS WOULD BE BELTLINE. THIS WOULD
6 BE 77?

7 A RIGHT.

8 Q SO YOU RECOGNIZE WHAT WE'RE TALKING ABOUT?

9 A RIGHT.

10 MR. SHARDT: YOUR HONOR, AT THIS POINT WE WOULD MOVE
11 TO INCLUDE --

12 THE COURT: ANY OBJECTION TO THE EXHIBIT? WHAT'S THE
13 NUMBER?

14 MR. SHARDT: FOUR.

15 THE COURT: FOUR IS ALREADY IN. ISN'T THAT RIGHT,
16 MADAM COURT REPORTER?

17 THE COURT REPORTER: IT IS. IT IS.
18 BY MR. SHARDT

19 Q MR. THOMPSON, COULD I JUST ASK YOU TO STEP ASIDE SO
20 THE JURORS COULD ALL OBSERVE?

21 OKAY. NOW, TODAY YOU'RE TELLING US THAT YOU MET
22 CHRIS IN BETHEL BISHOP?

23 A RIGHT.

24 Q RIGHT. WHERE IN BETHEL BISHOP?

25 A I'M NOT SURE. IT WAS AFTER YOU GET OFF OF THE BACK

1 ROAD, LIKE RIGHT BEFORE YOU HIT THE BACK ROAD.

2 Q UP TOWARDS BAYBERRY MEWS?

3 A RIGHT.

4 Q SO AT THE -- IF BAYBERRY VIEWS IS OFF THE MAP, RIGHT,
5 THIS IS THE BACK OF BETHEL BISHOP?

6 A RIGHT.

7 Q YOU'RE TALKING ABOUT YOU MET THEM UP HERE?

8 A NO, COMING DOWN FROM BAYBERRY, SO TOWARDS THE MIDDLE.

9 Q TOWARDS THE MIDDLE, OKAY. SO NOW YOU'RE TELLING US
10 YOU MET THEM IN THE MIDDLE OF THAT, WHICH IS HERE?

11 A RIGHT.

12 Q OKAY. ALL RIGHT. SO YOU MEET HIM IN BETHEL BISHOP,
13 OKAY. AND YOU STARTED TO WALK WITH HIM. IS THAT YOUR
14 TESTIMONY?

15 A RIGHT.

16 Q OKAY. WHERE DID YOU WALK? YOU MET HIM HERE. WHERE
17 DID YOU WALK?

18 A (INDICATING).

19 Q YOU WALKED DOWN THE ROAD?

20 A RIGHT, WE WERE WALKING THROUGH -- GOING TOWARD THE
21 CUT.

22 Q THROUGH THE MIDDLE? THROUGH THE MIDDLE OF BETHEL
23 BISHOP?

24 A RIGHT, GOING TOWARD THE COLONY.

25 Q OKAY. PLEASE MAKE THIS CLEAR. WALKING RIGHT THROUGH

1 THE MIDDLE OF BETHEL BISHOP?

2 A RIGHT.

3 Q RIGHT THROUGH THE MIDDLE?

4 A RIGHT.

5 Q THE MAIN ROAD, OKAY. THEN YOU TOOK A LEFT RIGHT
6 HERE? I'M ASKING YOU.

7 A WE CAME OUT THE BISHOP, GO ALL THE WAY THROUGH THE
8 BISHOP, CAME OUT THE BISHOP.

9 Q OKAY. YOU WALKED THOUGH THE BISHOP, TOOK A LEFT IN
10 THE FRONT OF THE BISHOP?

11 A RIGHT.

12 Q OKAY. AND THEN WALKED INTO THE COLONY?

13 A RIGHT.

14 Q SO YOU WALKED THROUGH THE MAIN ROAD THROUGH THE
15 BISHOP, TOOK A LEFT RIGHT UP THE FRONT AND WALKED --
16 EXITED THE BISHOP RIGHT INTO THE COLONY?

17 A RIGHT.

18 Q SO YOU WALKED THROUGH THE MAIN ROAD?

19 A RIGHT.

20 Q MAIN ROAD?

21 A YEAH, WE CAME OFF GOING TOWARDS THERE.

22 Q OKAY. NOW, THIS CUT THAT YOU'RE REFERRING TO, WOULD
23 THAT BE THE CUT RIGHT THERE ONTO THE TRAIN TRACKS? I KNOW
24 THIS MAP IS A LITTLE CONFUSING.

25 A I BELIEVE THAT -- I THINK THAT'S IT. I KNOW IT'S

1 SOMEWHERE ON THE TRACKS, BUT I'M NOT SURE.

2 Q IT'S A CUT THAT LEADS FROM THE COLONY TO THE TRAIN
3 TRACKS, RIGHT?

4 A RIGHT.

5 Q THAT'S YOUR TESTIMONY?

6 A RIGHT.

7 Q OKAY. SO YOU WALKED THROUGH THE MAIN ROAD IN BETHEL
8 BISHOP, DOWN THE CENTER OF THE COLONY?

9 A NO. WE DIDN'T WALK THE SAME. WE TOOK -- WENT BACK
10 TOWARD HERE.

11 Q RIGHT.

12 A AND WE WALKED KIND OF BEHIND THERE TO GET TO THE CUT.

13 Q OKAY. SO YOU WALKED THROUGH BETHEL BISHOP THROUGH
14 THE COLONY TO THIS POINT?

15 A RIGHT.

16 Q AND THEN WENT BACK HERE?

17 A RIGHT.

18 Q AND THEN UP TO THE TRAIN TRACKS?

19 A RIGHT.

20 Q OKAY. ALL RIGHT. STOP AT THE TRAIN TRACKS.

21 AND -- I'M SORRY. YOU CAN HAVE A SEAT.

22 (PAUSE).

23 OKAY. YOU WALK TO THE TRAIN TRACKS, AND YOU WALKED
24 UP BELTLINE?

25 A RIGHT.

1 Q IS THAT YOUR TESTIMONY? YOUR TESTIMONY IS YOU WENT
2 IN ENGLISH AVENUE?

3 A I BELIEVE THAT IS IT.

4 Q AND THEN TO EDISON?

5 A I BELIEVE THAT'S IT.

6 Q AND THEN TO T.S. MARTIN?

7 A RIGHT.

8 Q ALL RIGHT. FIRST OF ALL, YOU JUST TESTIFIED THAT
9 CHRIS PUT ON A BANDANNA?

10 A RIGHT.

11 Q OKAY. I BEG THE COURT'S INDULGENCE.

12 (PAUSE).

13 A FLAG, A BANDANNA. THAT'S WHAT YOU'RE ALLEGING
14 CHRIS PUT OVER HIS FACE?

15 A RIGHT.

16 Q DO YOU KNOW THE DIFFERENCE BETWEEN A BANDANNA, A
17 FLAG, AND A DOO-RAG?

18 A RIGHT.

19 Q OKAY. THERE'S A CLEAR DIFFERENCE, RIGHT?

20 A RIGHT.

21 Q THIS IS A BANDANNA.

22 A RIGHT.

23 Q RIGHT. OKAY. THIS IS A DOO-RAG.

24 A RIGHT.

25 Q SOMETHING YOU WEAR OVER YOUR HEAD.

1 A RIGHT.

2 Q TO PROTECT YOUR WAVES.

3 A RIGHT.

4 Q GROW YOUR WAVES.

5 A RIGHT.

6 Q OKAY. SO THERE'S A DIFFERENCE?

7 A RIGHT.

8 Q AND YOU SAW CHRIS PUT ON A BANDANNA?

9 A RIGHT.

10 Q THAT'S YOUR TESTIMONY. OKAY. LET'S TALK ABOUT CHRIS
11 PUTTING ON THAT BANDANNA FOR A SECOND. YOU JUST SAT HERE
12 TODAY, AND YOU SAID THAT CHRIS PUT ON THAT BANDANNA ON
13 T.S. MARTIN DRIVE, CORRECT?

14 A NO, ON THE RAILROAD TRACKS.

15 Q YOU DIDN'T JUST TELL US THAT WHEN CHRISTOPHER
16 LIVERMAN GOT ON T.S. MARTIN DRIVE, HE PUT THAT BANDANNA
17 OVER HIS FACE?

18 A NO, ON THE RAILROAD.

19 Q YOU'RE DENYING THAT YOU JUST SAID THAT?

20 A RIGHT.

21 Q OKAY. THE TRUTH IS YOUR STATEMENT SAYS HE PUT IT ON
22 THE RAILROAD TRACKS, RIGHT?

23 A RIGHT.

24 Q THE STATEMENT YOU GAVE ON 9/2/04, SEPTEMBER 2ND, '04?

25 A CORRECT.

1 Q THE STATEMENT I HAVE IN MY HAND.

2 A RIGHT.

3 Q AND NOW YOU'RE TELLING US THAT YOU NEVER SAID HE PUT
4 IT ON AT T.S. MARTIN. HE PUT IT ON...

5 A AT THE RAILROAD TRACKS.

6 Q AT THE RAILROAD TRACKS.

7 A RIGHT.

8 Q AND THAT'S IN YOUR STATEMENT?

9 A RIGHT.

10 Q OKAY. LET ME GRAB THIS ONE MORE TIME.

11 OKAY. THAT WALK, THAT WALK DOWN BISHOP AND DOWN TO
12 COLONY -- THERE WAS A GROUP OF YOU WALKING?

13 A RIGHT.

14 Q OKAY. FIVE OF YOU?

15 A RIGHT.

16 Q HOW FAST WERE YOU WALKING?

17 A NOT FAST.

18 Q WERE YOU RUNNING?

19 A NO.

20 Q WERE YOU JOGGING?

21 A NO.

22 Q WERE YOU WALKING LIKE THIS (INDICATING)?

23 A NO.

24 Q SO YOU WERE WALKING?

25 A RIGHT.

1 Q WHICH WAS NORMAL.

2 A RIGHT.

3 Q SLOW?

4 A RIGHT.

5 Q OKAY. IT WAS A SLOW WALK RIGHT DOWN BETHEL BISHOP,
6 RIGHT THROUGH THE MIDDLE OF BETHEL BISHOP, RIGHT THROUGH
7 THE MAIN EXIT AND THE MAIN ENTRANCE INTO THE COLONY,
8 RIGHT?

9 A RIGHT.

10 Q IT'S FIVE MINUTES. ALL RIGHT. THANK YOU.

11 NOW, EVENTUALLY -- YOUR TESTIMONY IS YOU WALKED AND
12 YOU COME UP TO T.S. MARTIN?

13 A RIGHT.

14 Q IT TAKES SOME TIME. I IMAGINE YOU'RE WALKING SLOWLY.

15 A RIGHT.

16 Q RIGHT. WHEN YOU GET THERE, CERTAIN EVENTS HAPPEN.
17 YOU JUST TESTIFIED TO CERTAIN THINGS THAT YOU SAY
18 HAPPENED.

19 A RIGHT.

20 Q BUT ALL OF A SUDDEN CHRIS LIVERMAN, ACCORDING TO YOUR
21 TESTIMONY, PULLED OUT A GUN.

22 A RIGHT.

23 Q IS THERE A TRIGGER?

24 MS. CAMPBELL: IT'S IN THE BOX. IT'S A SAFETY
25 MECHANISM.

1 BY MR. SHARDT

2 Q I'LL KEEP IT IN THE BOX.

3 CHRIS LIVERMAN WAS WEARING SHORTS THAT NIGHT?

4 A RIGHT.

5 Q THAT'S YOUR TESTIMONY?

6 A RIGHT.

7 Q YOU WALKED -- NOW YOU'RE TELLING US YOU STARTED IN

8 THE BISHOP.

9 A RIGHT.

10 Q OKAY. SO YOU WALKED THROUGH THE BISHOP.

11 A RIGHT.

12 Q THROUGH THE COLONY.

13 A RIGHT.

14 Q THROUGH THE CUT.

15 A RIGHT.

16 Q ON BELTLINE, BELTLINE BOULEVARD?

17 A RIGHT.

18 Q ON ENGLISH AVENUE.

19 A RIGHT.

20 Q ON EDISON AVENUE.

21 A RIGHT.

22 Q ALL THE WAY TO T.S. MARTIN.

23 A RIGHT.

24 Q OKAY. YOU DIDN'T SEE CHRISTOPHER LIVERMAN PICK UP A

25 GUN ALONG THE WAY?

1 A NO.

2 Q NO. SO YOUR TESTIMONY IS HE HAD THIS GUN --

3 A RIGHT.

4 Q -- FROM THE BEGINNING.

5 A RIGHT.

6 Q YOUR TESTIMONY IS THAT CHRISTOPHER LIVERMAN WAS
7 WEARING SHORTS?

8 A RIGHT.

9 Q OKAY. MR. THOMPSON, SO YOU'RE TELLING US HERE TODAY
10 THAT CHRISTOPHER LIVERMAN MET YOU, HE HAD THIS GUN. IS
11 THIS THE TYPE OF GUN HE HAD?

12 A RIGHT.

13 Q IS THIS THE GUN HE HAD?

14 A RIGHT.

15 Q SO HE HAD THIS GUN ON HIS PERSON FOR THAT ENTIRE
16 WALK?

17 A RIGHT.

18 Q YOU NEVER HAD ANY KNOWLEDGE OF THAT?

19 A NO.

20 Q YOU NEVER KNEW?

21 A NO.

22 Q AND HE JUST PULLED IT OUT OF HIS CLOTHES, RIGHT?

23 A RIGHT.

24 Q AND IT SHOCKED YOU, RIGHT?

25 A RIGHT.

1 Q AND YOU RAN.

2 A NOT THEN.

3 Q YOU DIDN'T RUN THEN?

4 A I DIDN'T RUN UNTIL HE POINTED IT TOWARD THE HOUSE.

5 Q OKAY. SO YOU RAN WHEN HE POINTED IT AT THE HOUSE?

6 A RIGHT.

7 Q ALL RIGHT. YOU JUST DIDN'T KNOW HE HAD A GUN ON HIM?

8 A RIGHT.

9 Q YOU'RE INNOCENT?

10 A RIGHT.

11 Q DO YOU HAVE ANY IDEA HOW HE PUT THIS IN HIS SHORTS?

12 A I'M NOT SURE. I MEAN, IT'S POSSIBLE. HE COULD HAVE
13 -- HE HAD ON A BELT. HE COULD HAVE HAD THE BUTTON UP HERE
14 SOMEWHERE (INDICATING).

15 Q OH, OKAY. THAT'S POSSIBLE?

16 A THAT'S POSSIBLE.

17 Q OKAY. AND YOU WOULDN'T HAVE HAD ANY IDEA?

18 A NO. I WASN'T PAYING ATTENTION TO IT.

19 Q RIGHT. I GOT YOU.

20 MS. CAMPBELL: PUT IT ON THAT TABLE.

21 MS. FENT: JUST PUT IT RIGHT THERE.

22 MR. SHARDT: I'LL PUT IT RIGHT HERE.

23 THE BAILIFF: PUT IT ON THAT TABLE.

24 BY MR. SHARDT

25 Q OKAY. AND YOU -- LET'S GO BACK TO THAT BANDANNA.

1 LET'S GO BACK TO THIS BANDANNA. YOU SAY WHEN CHRIS PUT ON
2 THIS BANDANNA --

3 A RIGHT.

4 Q -- ON CROSS, YOU'RE TELLING US IT WAS AT THE TRACKS.

5 A RIGHT.

6 Q YOU WERE SHOCKED BY THIS, TOO, RIGHT?

7 A NOT REALLY.

8 Q IN YOUR STATEMENT, YOU SAID YOU WERE SURPRISED. YOU
9 ASKED WHY HE WAS DOING IT.

10 A RIGHT.

11 Q RIGHT. THAT MEANS YOU DIDN'T HAVE A BANDANNA ON YOUR
12 FACE, RIGHT?

13 A NO.

14 Q NO, BECAUSE YOU HAD NO IDEA WHAT WAS GOING TO HAPPEN.

15 A RIGHT.

16 Q RIGHT. NO ONE ELSE HAD ANY BANDANNA OVER THEIR FACE?

17 A NOT THAT I'M AWARE OF.

18 Q NOT THAT YOU'RE AWARE OF? YOU WERE WITH THE PEOPLE,
19 RIGHT?

20 A RIGHT, I DON'T --

21 Q GIVE ME AN ANSWER.

22 A I DON'T REMEMBER ANYBODY HAVING A DOO-RAG -- I MEAN A
23 BANDANNA ON BUT CHRIS.

24 Q DO YOU THINK YOU WOULD HAVE REMEMBERED SOMEONE HAVING
25 A BANDANNA COVERING THEIR FACE? DO YOU THINK THAT'S

1 SOMETHING YOU WOULD REMEMBER?

2 A YEAH, BUT NO ONE HAD A BANDANNA COVERING THEIR FACE.

3 Q OKAY. SO NO ONE HAD A BANDANNA COVERING THEIR FACE.

4 A RIGHT.

5 Q JUST CHRIS?

6 A I DON'T THINK HE HAD IT ACROSS HIS FACE THEN. IT WAS
7 ACROSS HIS NECK.

8 Q JUST CHRIS?

9 A RIGHT.

10 Q SO NOW HE HAD TWO BANDANNAS?

11 A NO, HE ONLY HAD ONE AROUND HIS NECK. HE DIDN'T -- I
12 NEVER DID SEE HIM PUT ON TWO, HIS FACE.

13 Q RIGHT, RIGHT. YOU SAW HIM PUT THE BANDANNA ACROSS
14 HIS NECK.

15 A RIGHT.

16 Q BUT NO ONE ELSE HAD A BANDANNA ON AT ALL --

17 A RIGHT.

18 Q -- IS WHAT I'M SAYING.

19 A RIGHT.

20 Q OKAY. CHRIS WAS THE ONLY ONE.

21 A RIGHT.

22 Q NOW, IT WASN'T A DOO-RAG AROUND HIS NECK. IT WAS
23 DEFINITELY A BANDANNA.

24 A RIGHT.

25 Q A BLACK BANDANNA.

1 A RIGHT.

2 Q ALL RIGHT. OKAY. YOU TALKED ABOUT HOW YOU RAN,
3 RIGHT?

4 A RIGHT.

5 Q YOU TESTIFIED WHEN CHRIS PULLED THE GUN, YOU RAN.

6 A RIGHT.

7 Q OKAY. YOU RAN BECAUSE YOU DIDN'T WANT ANYTHING TO DO
8 WITH THIS.

9 A RIGHT.

10 Q RIGHT. SO YOU'RE INNOCENT?

11 A RIGHT.

12 Q AND YOU RAN -- I ASSUME YOU RAN FAST TO GET AWAY FROM
13 THE TRUCK, RIGHT?

14 A RIGHT.

15 Q SPRINTED?

16 A NO, I RAN.

17 Q YOU RAN FAST?

18 A RIGHT.

19 Q OKAY. WHAT ARE YOU, 6'3"?

20 A 6'4" NOW.

21 Q 6'4", AND YOU RAN FAST. YOU DIDN'T SEE -- YOUR
22 TESTIMONY IS YOU DIDN'T WAIT FOR CHRIS TO SHOOT THE GUN.

23 A RIGHT.

24 Q YOU WERE OUT QUICKLY.

25 A RIGHT.

1 Q OKAY. WELL, FIRST OF ALL, LET'S TALK ABOUT WHO RAN
2 WITH YOU. ON DIRECT, YOU JUST STATED TO THE JURY THAT TY,
3 LITTLE CHRIS, AND GOO RAN WITH YOU, RIGHT?

4 A RIGHT.

5 Q RIGHT. DO YOU REMEMBER GIVING THAT STATEMENT? DO
6 YOU REMEMBER THAT STATEMENT YOU GAVE ON SEPTEMBER 2ND,
7 2004?

8 A RIGHT.

9 Q COULD YOU JUST READ RIGHT THERE?

10 A WHERE?

11 Q JUST HOW HE TRIED TO SHOOT IT. I THINK YOU'RE
12 TALKING ABOUT CHRIS TRYING TO SHOOT THE SAWED OFF, TRIED
13 TO SHOOT IT. JUST READ FROM THERE ON. READ THE REST OF
14 THAT SENTENCE.

15 A WHERE DO YOU SEE THAT AT?

16 Q RIGHT THERE.

17 A OH, "TRIED TO SHOOT THE GUN. IT WOULDN'T SHOOT, SO
18 WHEN BABY JES., TY, GOO, AND LITTLE CHRIS CAUGHT UP
19 WITH" --

20 Q STOP. SO YOU SAID WHEN BABY JES., GOO, TY, AND CHRIS
21 CAUGHT UP WITH YOU?

22 A RIGHT.

23 Q I THOUGHT THEY TOOK OFF WITH YOU?

24 A RIGHT, THEY DID. CAUGHT UP WITH ME WHEN WE GOT TO
25 THE CUT, IF YOU KEEP READING.

1 Q OH, SO WHEN YOU GOT TO THE CUT, THEY CAUGHT UP WITH
2 YOU?

3 A RIGHT. WE RAN TOGETHER, BUT I ENDED UP LEAVING THEM.

4 Q RIGHT. DID CHRIS RUN WITH YOU?

5 A WITH BABY JESUS?

6 Q YEAH.

7 A AT THAT TIME, NO.

8 Q OKAY. SO YOU'RE SAYING NOW THAT YOU ALL RAN AT THE
9 SAME TIME AS A GROUP. YOU JUST RAN FASTER THAN THEM, AND
10 THEY EVENTUALLY CAUGHT UP TO YOU?

11 A RIGHT.

12 Q AT THE SAME TIME CHRIS DID?

13 A RIGHT.

14 Q RIGHT, RIGHT. NOW, LET'S BE CLEAR. YOU TOOK OFF AND
15 YOU WERE RUNNING.

16 A RIGHT.

17 Q OKAY. BUT AT THE SAME TIME, YOU TELL US THAT YOU
18 HAPPENED TO LOOK BACK --

19 A RIGHT.

20 Q -- TO SEE CHRIS THROW DOWN A GUN AND PICK UP ANOTHER
21 ONE?

22 A RIGHT.

23 Q RIGHT. WHILE YOU WERE RUNNING AWAY?

24 A RIGHT.

25 Q OKAY. LET'S TALK ABOUT WHEN THIS GROUP OF BOYS WHERE

1 YOU TALK ABOUT THEY CAUGHT UP WITH YOU. YOU TESTIFIED
2 THAT YOU SAW CHRIS HIDING THE GUNS UNDER A LOG.

3 A RIGHT.

4 Q OKAY. AND THAT CHRIS WRAPPED THESE GUNS AND PUT THEM
5 UNDER A LOG.

6 A RIGHT.

7 Q AND YOU WERE THERE.

8 A RIGHT.

9 Q THAT'S YOUR TESTIMONY. YOU WERE THERE. YOU SAW
10 THIS.

11 A RIGHT.

12 Q AND WHILE YOU WERE THERE, I DON'T THINK YOU TESTIFIED
13 TO THIS, BUT WHILE YOU WERE THERE, YOU HEARD THAT CHRIS
14 HAD BEEN SHOOTING ON THE TRACKS, AS WELL, RIGHT?

15 A RIGHT.

16 Q NOW, AT THAT SAME TIME WHEN YOU WERE -- YOU'RE
17 TELLING US WHILE YOU WERE WATCHING CHRIS PUT THESE GUNS
18 UNDER A LOG -- AND THIS IS RIGHT AFTER THE SHOOTING?

19 A RIGHT.

20 Q YOU HEARD THAT CHRIS WAS SHOOTING RIGHT ON THE
21 TRACKS?

22 A RIGHT.

23 Q OKAY. YOU INCLUDED THAT IN YOUR STATEMENT TO
24 INVESTIGATOR GRAY ON SEPTEMBER 2ND, RIGHT?

25 A RIGHT.

1 Q YOU TOLD HIM ABOUT CHRIS HIDING THE GUNS AND THAT YOU
2 WERE THERE, RIGHT?

3 A RIGHT.

4 Q OKAY. AND THAT YOUR STATEMENT TO INVESTIGATOR GRAY
5 ON SEPTEMBER 2ND, 2004, IT BLAMES THE SHOTGUN BLAST THAT
6 WERE ON THE TRACKS, THAT HAPPENED ON THE TRACKS, YOUR
7 STATEMENT BLAMES THAT ON CHRISTOPHER LIVERMAN, TOO, RIGHT?

8 A I SAID THAT'S WHAT I HEARD. THAT'S WHAT THEY SAID ON
9 THE TRACKS --

10 Q RIGHT. SO YOU -- YOUR STATEMENT BLAMES CHRISTOPHER
11 LIVERMAN FOR THAT TOO, RIGHT?

12 A NO. I'M SAYING THAT'S WHAT I HEARD. I NEVER HEARD
13 SHOTS --

14 Q BUT YOU TOLD HIM --

15 THE COURT REPORTER: I'M SORRY BUT --

16 MS. CAMPBELL: OBJECTION.

17 THE COURT: WAIT, WAIT, WAIT. WAIT JUST A MINUTE.

18 THERE'S AN OBJECTION. WHAT'S THE OBJECTION?

19 MS. CAMPBELL: HE NEEDS TO LET HIM FINISH HIS
20 SENTENCE.

21 THE COURT: LET HIM COMPLETE HIS ANSWER. DON'T CUT A
22 WITNESS OFF WHEN HE'S ANSWERING. HE CAN COMPLETE THE
23 ANSWER TO THE LAST QUESTION. YOU MAY HAVE TO REPEAT THE
24 QUESTION.

25

1 BY MR. SHARDT

2 Q YOU, IN YOUR STATEMENT TO INVESTIGATOR GRAY ON
3 SEPTEMBER 2ND, 2004 BLAMED CHRISTOPHER LIVERMAN FOR
4 SHOOTING THE GUN ON THE TRACKS, CORRECT?

5 A NO, I DIDN'T BLAME HIM. I SAID THAT'S WHAT I HEARD
6 THAT THEY SAID HE SHOT ON THE TRACKS. I DIDN'T --

7 Q OKAY. SO YOU GAVE INVESTIGATOR GRAY -- ON
8 SEPTEMBER 2ND, 2004, YOU GAVE INVESTIGATOR GRAY
9 INFORMATION THAT WOULD LEAD HIM TO BELIEVE THAT
10 CHRISTOPHER LIVERMAN SHOT THE GUN ON THE TRACKS, CORRECT?

11 A POSSIBLY.

12 Q POSSIBLY. AND YOU TOLD -- GETTING BACK TO PUTTING
13 THE GUNS UNDER THE LOG, YOU TOLD INVESTIGATOR GRAY ABOUT
14 THIS IN YOUR STATEMENT ON SEPTEMBER 2ND, 2004?

15 A RIGHT.

16 Q RIGHT. IN YOUR STATEMENT, DID YOU EVER TELL THE
17 POLICE WHERE THE LOG WAS?

18 A I'M NOT SURE. I KNOW I -- I DON'T THINK I WROTE --

19 Q YOU WANT TO REVIEW YOUR STATEMENT?

20 A YEAH.

21 Q WOULD THAT HELP YOU?

22 A YEAH.

23 Q OKAY. REVIEW YOUR STATEMENT FROM SEPTEMBER 2ND, 2004
24 AND YOU TELL ME WHEN YOU WERE TALKING TO INVESTIGATOR
25 GRAY, IF YOU EVER TOLD HIM WHERE CHRIS HID THESE GUNS

1 UNDER THIS LOG.

2 A (COMPLIES). NO.

3 Q YOU NEVER TOLD HIM?

4 A NO.

5 Q DID YOU EVER ASK?

6 A EVENTUALLY, BUT I DIDN'T WRITE IT IN MY STATEMENT.

7 HE ASKED ME WHERE WAS THE LOG LOCATED, AND I TOLD HIM

8 RIGHT NEAR THE FRONT OF THE CUT, RIGHT NEAR THE OPENING IN

9 THE FRONT OF THE GATE.

10 Q YOU NEVER PUT IT IN YOUR STATEMENT, THOUGH?

11 A NO.

12 Q OKAY. LET'S TALK ABOUT AFTER THE -- WE HAVE HEARD

13 YOU TESTIFY ABOUT THE LOG. LET'S TALK ABOUT LATER ON THAT

14 NIGHT. YOU TESTIFIED YOU MET WITH O.B.?

15 A RIGHT.

16 Q O.B., THAT'S WHEN YOU GOT BACK TO BETHEL BISHOP?

17 A RIGHT.

18 Q YOU MET WITH O.B.

19 A RIGHT.

20 Q OKAY. THE TESTIMONY IS THAT YOU WERE BY YOURSELF

21 WALKING WHEN YOU RAN INTO O.B.

22 A RIGHT.

23 Q YOU RAN INTO O.B. IN BETHEL BISHOP.

24 A RIGHT.

25 Q AND WHERE DID YOU RUN INTO O.B., IN THE FRONT, BACK?

1 A NEAR THE FRONT.

2 Q NEAR THE FRONT OF THE BISHOP, OKAY. NOW, LET'S TALK
3 ABOUT O.B. O.B. IS A GOVERNMENT NAME. HIS REAL NAME IS
4 THOMAS O'BRIEN WILLIAMS, CORRECT?

5 A RIGHT.

6 Q ALL RIGHT. YOU KNEW O.B. THEN?

7 A RIGHT.

8 Q YOU KNEW WHO HE WAS?

9 A RIGHT.

10 Q STILL KNOW O.B. TODAY?

11 A RIGHT.

12 Q STILL KNOW WHO HE IS?

13 A RIGHT.

14 Q ALL RIGHT. O.B. IS THE SET GANG FOR THE INSANE
15 GANGSTER DISCIPLES IN BETHEL BISHOP, ISN'T HE?

16 A I GUESS.

17 Q YOU GUESS?

18 A RIGHT.

19 Q IS HE THE SET KING?

20 A I DON'T KNOW.

21 Q BUT YOU SAID YOU GUESSED. WHAT ARE YOU BASING THAT
22 ON?

23 A I GUESS. I DON'T KNOW WHO IT IS. I NEVER HAD ANY
24 INFORMATION ABOUT THAT, BUT IT COULD BE TRUE OR IT
25 COULDN'T. FOR ME, I DON'T KNOW.

1 Q YOU DON'T WANT TO SAY?

2 A WHO?

3 Q YOU DON'T WANT TO SAY?

4 A I SAID I DON'T KNOW.

5 Q ALL RIGHT. SET KING IS THE LEADER, RIGHT?

6 A RIGHT.

7 Q THAT'S THE LEADER OF THE GANG?

8 A RIGHT.

9 Q THE INSANE GANGSTER DISCIPLES, THEY'RE A GANG?

10 A RIGHT.

11 Q THEY'RE A PART OF FOLK NATION?

12 A RIGHT.

13 Q OKAY. THE TRUTH IS -- DIEGO, THE TRUTH IS THAT YOU
14 WERE A MEMBER OF THE INSANE GANGSTER DISCIPLES BACK THEN,
15 ISN'T IT?

16 A NO.

17 Q THAT'S NOT THE TRUTH?

18 A NO.

19 Q YOU'RE DENYING THAT YOU WERE A MEMBER OF A GANG BACK
20 THEN?

21 A RIGHT.

22 Q OKAY. THE TRUTH IS YOU'RE STILL A MEMBER TODAY,
23 ISN'T IT?

24 A NO.

25 Q YOU'RE DENYING THAT YOU'RE A MEMBER OF THE INSANE

1 GANGSTER DISCIPLES?

2 A YES.

3 Q YOU'RE DENYING YOU'RE A MEMBER OF ANY GANG?

4 A RIGHT.

5 Q I WANT YOU TO TURN AND TELL THE JURY, TELL THEM, TELL
6 THEM THAT THEY HAVE YOUR WORD THAT YOU ARE NOT, YOU WERE
7 NOT, A MEMBER OF A GANG.

8 MS. CAMPBELL: OBJECTION, YOUR HONOR.

9 THE COURT: SUSTAINED.

10 MS. CAMPBELL: ASKED AND ANSWERED.

11 THE COURT: SUSTAINED.

12 BY MR. SHARDT

13 Q OKAY. SO YOU CAME INTO BETHEL BISHOP?

14 A RIGHT.

15 Q AND YOU IMMEDIATELY RAN INTO O.B.?

16 A RIGHT.

17 Q HE GAVE YOU SOME ADVICE, RIGHT?

18 A RIGHT.

19 Q YOU KNOW O.B. HE TOLD YOU TO WAIT FOR THE POLICE TO
20 COME THROUGH, RIGHT?

21 A RIGHT.

22 Q HE TOLD YOU TO WAIT FOR THE POLICE TO COME THROUGH
23 THE BISHOP SO THEY COULD SEE YOU, SO THEY WOULDN'T SUSPECT
24 THAT YOU WERE INVOLVED, RIGHT?

25 A RIGHT.

1 Q AND YOU TOOK HIS ADVICE RIGHT?

2 A RIGHT.

3 Q OKAY. THAT'S WHAT YOU DID, RIGHT? YOU STAYED IN
4 PLAIN SIGHT AND LET THE POLICE DRIVE BY.

5 A YES.

6 Q AND THE POLICE DROVE BY?

7 A RIGHT.

8 Q THIS WAS RIGHT AFTER THE SHOOTING?

9 A RIGHT.

10 Q OKAY. THEY DROVE RIGHT BY YOU. HOW FAR AWAY WERE
11 THEY FROM YOU, THE POLICE CARS?

12 A RIGHT NEXT TO ME. THEY CAME THROUGH.

13 Q RIGHT NEXT TO YOU. CLOSE?

14 A RIGHT.

15 Q WERE THEY WITHIN SHOUTING DISTANCE?

16 A RIGHT.

17 Q WERE THEY WITHIN TALKING DISTANCE?

18 A RIGHT.

19 Q DID THEY LOOK AT YOU?

20 A YEAH.

21 Q THEY LOOKED AT YOU AND THEY MOVED ON BECAUSE YOU WERE
22 OUTSIDE?

23 A RIGHT.

24 Q O.B.'S ADVICE WORKED, RIGHT?

25 A RIGHT.

1 Q AND YOU CONTINUED TO WALK THROUGH THE BISHOP?

2 A RIGHT.

3 Q THAT'S YOUR TESTIMONY?

4 A RIGHT.

5 Q I THINK YOU TESTIFIED THAT YOU SPENT -- YOU WENT TO
6 SOMEONE'S HOUSE.

7 A RIGHT.

8 Q OKAY. THE TRUTH IS YOU WERE PICKED UP IN A VAN,
9 RIGHT?

10 A RIGHT.

11 Q BY A MAN NAMED JOHN?

12 A RIGHT.

13 Q OKAY. JOHN WHO?

14 A I DON'T KNOW HIS LAST NAME.

15 Q SO YOU DIDN'T KNOW THE MAN'S LAST NAME?

16 A RIGHT.

17 Q AND YOU WENT TO THAT HOUSE. YOU WENT TO HIS HOUSE?

18 A RIGHT.

19 Q SO YOU WENT TO A HOUSE WITH SOMEONE YOU DIDN'T KNOW
20 HIS LAST NAME?

21 A RIGHT.

22 Q OKAY. THIS IS IN BAYBERRY MEWS?

23 A RIGHT.

24 Q OKAY. AND YOU SAT THERE -- YOU WATCHED T.V., RIGHT?

25 A RIGHT.

1 Q YOU TESTIFIED YOU WATCHED T.V. YOU WERE WATCHING THE
2 NEWS, RIGHT?

3 A RIGHT.

4 Q SO FOR AN HOUR OR SO -- HOW LONG DID YOU STAY, I'M
5 SORRY?

6 A ABOUT THAT LONG.

7 Q ABOUT AN HOUR?

8 A YEAH.

9 Q SO FOR LIKE AN HOUR THAT NIGHT YOU STAYED AT HIS
10 HOUSE AND WATCHED THE NEWS?

11 A RIGHT.

12 Q AND THEN HE DROVE YOU BACK HOME?

13 A RIGHT.

14 Q OKAY. YOU HAVE TESTIFIED THAT YOU DIDN'T HAVE
15 ANYTHING TO DO WITH THE SHOOTING, RIGHT?

16 A RIGHT.

17 Q OKAY. YOU'RE INNOCENT?

18 A RIGHT.

19 Q BUT YOUR TESTIMONY IS THAT YOU KNEW WHO FIRED THE
20 SHOTS, RIGHT?

21 A RIGHT.

22 Q YOU TESTIFIED THAT YOU KNEW WHERE THE GUNS WERE
23 HIDDEN?

24 A RIGHT.

25 Q YOU KNEW THE EXACT LOCATION OF WHERE THE GUNS WERE

1 HIDDEN. THAT'S YOUR TESTIMONY, RIGHT?

2 A RIGHT.

3 Q AND YOU KNEW WHO ELSE WAS THERE. THAT'S YOUR
4 TESTIMONY, RIGHT?

5 A RIGHT.

6 Q OKAY. YET, O.B., WHEN YOU WERE WITH O.B. RIGHT AFTER
7 THAT CONVERSATION, THE POLICE DROVE RIGHT BY YOU.

8 A RIGHT.

9 Q DID YOU EVER TRY TO STOP THEM, TELL THEM WHAT
10 HAPPENED?

11 A NO.

12 Q OKAY. WHEN THE POLICE WERE DRIVING AROUND THE AREA
13 LOOKING FOR INFORMATION, YOU WERE AT JOHN'S HOUSE, RIGHT?

14 A RIGHT.

15 Q YOU WERE WATCHING THE NEWS?

16 A RIGHT.

17 Q WATCHING ABOUT WHAT WAS GOING ON?

18 A RIGHT.

19 Q OKAY. DID YOU EVER GO OUTSIDE AND TRY TO TELL THE
20 POLICE ABOUT WHAT HAPPENED?

21 A NO.

22 Q OKAY. WHEN INVESTIGATOR GRAY ASKED YOU ON
23 AUGUST 27TH, 2004 WHAT HAPPENED, DID YOU TELL HIM?

24 A NO.

25 Q YOU DENIED ANY KNOWLEDGE, RIGHT? YOU SAID YOU WERE

1 NOT THERE, RIGHT?

2 A RIGHT.

3 Q THE TRUTH IS YOU DIDN'T TELL THE POLICE ANY OF THIS
4 UNTIL SEPTEMBER 2ND.

5 A RIGHT.

6 Q OKAY. YOU DIDN'T TELL THE POLICE ANY OF THIS UNTIL
7 THEY STARTED QUESTIONING YOU SERIOUSLY ABOUT THIS CRIME,
8 RIGHT?

9 A RIGHT.

10 Q YOU DIDN'T TELL THE POLICE ABOUT ANY OF THIS UNTIL
11 AFTER YOU HAD MET WITH STATE REPRESENTATIVE TODD
12 RUTHERFORD?

13 A RIGHT.

14 Q RIGHT. OKAY. THAT EVENING YOU ALSO RAN INTO POOH.

15 A RIGHT.

16 Q CARL SMITH.

17 A RIGHT.

18 Q IS HE IN A GANG?

19 A RIGHT.

20 Q HE'S IN A GANG?

21 A I DON'T KNOW.

22 Q YOU DON'T KNOW THAT EITHER?

23 A RIGHT.

24 Q OKAY. NO IDEA IF HE'S AN INSANE GANGSTER DISCIPLE?

25 A NO.

1 Q FOLK NATION, NO IDEA?

2 A NO.

3 Q YOU RAN INTO HIM. HE HAD TOLD YOU HE HAD BEEN AT
4 T.S. MARTIN.

5 A RIGHT.

6 Q AND HE HAD TOLD YOU THAT HE HAD PULLED SOME PISTOLS
7 OUT ON SOME BLOODS THAT WERE THERE.

8 A RIGHT.

9 Q SO HE TOLD YOU HE HAD GUNS IN THE HOUSE?

10 A RIGHT.

11 Q SO HE PULLED GUNS ON PEOPLE THEN.

12 A RIGHT.

13 Q ON SOME BLOODS?

14 A RIGHT.

15 Q RIGHT. OKAY. OKAY. LET'S TALK ABOUT YOUR SITUATION
16 NOW DIEGO, OKAY. YOU'RE LIVING IN JAIL, RIGHT?

17 A RIGHT.

18 Q THAT'S WHERE YOU SLEEP AT NIGHT?

19 A RIGHT.

20 Q YOU'RE BEING HELD ON A BURGLARY CHARGE?

21 A RIGHT.

22 Q BURGLARY SECOND DEGREE?

23 A RIGHT.

24 Q AND GRAND LARCENY, RIGHT?

25 A RIGHT.

1 Q YOU HAVE NEVER BEEN CHARGED WITH DOUBLE HOMICIDE?

2 A NO.

3 Q REGARDING THIS CASE?

4 A RIGHT.

5 Q OKAY. AND YOU'RE REPRESENTED BY MR. KENDRICK OVER
6 THERE, RIGHT?

7 A RIGHT.

8 Q OKAY. AND THIS IS YOUR LAWYER ON THOSE CHARGES?

9 A RIGHT.

10 Q IT'S HIS JOB TO MEET WITH THE SOLICITOR?

11 A RIGHT.

12 Q RIGHT?

13 A RIGHT.

14 Q IT'S HIS JOB TO WORK OUT A DEAL FOR YOU?

15 A RIGHT.

16 Q RIGHT. HE CAN'T MAKE PLEA OFFERS, RIGHT?

17 A NO.

18 Q IT'S NOT HIS POWER. THAT'S THE SOLICITOR'S JOB,
19 RIGHT?

20 A RIGHT.

21 Q THAT'S HOW YOU UNDERSTAND IT?

22 A RIGHT.

23 Q THE SOLICITORS MAKE PLEA OFFERS, BUT HE CAN TRY TO
24 GET THE BEST PLEA OFFER HE CAN, RIGHT?

25 A RIGHT.

1 Q THAT'S HIS JOB, RIGHT?

2 A RIGHT.

3 Q NOW, BEFORE I GO ANY FURTHER, ARE YOU GOING TO TELL
4 ME THAT THERE'S NO DEAL IN PLACE FOR YOUR TESTIMONY NOW,
5 RIGHT?

6 A RIGHT.

7 Q THERE'S NOTHING IN PLACE?

8 A NO.

9 Q AND YOU'RE HERE JUST TO TELL THE TRUTH?

10 A RIGHT.

11 Q THAT'S WHAT YOU'RE HERE TO DO. OKAY. YOU MET WITH
12 THE SOLICITORS THREE TIMES.

13 A RIGHT.

14 Q YOU MET WITH MARGARET.

15 A RIGHT.

16 Q MS. FENT?

17 A RIGHT.

18 Q WHEN SHE WAS THE SOLICITOR ON YOUR CASE.

19 A RIGHT.

20 Q MR. KENDRICK HAS BEEN THERE EVERY TIME.

21 A RIGHT.

22 Q RIGHT. AND YOUR TESTIMONY IS THAT THERE'S NO OFFERS
23 OF LENIENCY?

24 A RIGHT.

25 Q YOU'RE JUST DOING THIS BECAUSE IT'S THE RIGHT THING

1 TO DO?

2 A RIGHT.

3 Q DO YOU LIKE JAIL?

4 A WHAT?

5 Q DO YOU LIKE JAIL? DO YOU LIKE LIVING IN JAIL?

6 A NO.

7 Q HOW MANY MEN ARE WITH YOU IN A DORM IN JAIL?

8 A I DON'T KNOW. THERE'S A GOOD MANY.

9 Q ABOUT 100?

10 A SOMEWHERE ALONG THERE.

11 Q DO YOU HAVE A ROOMMATE?

12 A YES.

13 Q SO YOU SHARE A ROOM, A CELL, WITH ANOTHER MAN?

14 A RIGHT.

15 Q ANY WOMEN?

16 A NO.

17 Q NO WOMEN?

18 A NO.

19 Q WHAT ABOUT THE FOOD, HOW'S THE FOOD?

20 A TERRIBLE.

21 Q YOU PROBABLY LOST WEIGHT, HUH?

22 A YEAH.

23 Q DO YOU HAVE A JOB?

24 A NO.

25 Q YOU JUST SIT THERE?

1 A RIGHT.

2 Q DAY AFTER DAY, RIGHT?

3 A RIGHT.

4 Q YOU'RE LOOKING FORWARD TO BEING RELEASED, RIGHT?

5 A RIGHT.

6 Q CAN'T WAIT?

7 A RIGHT.

8 Q LET'S TALK ABOUT YOUR CHARGES OKAY. THEY'RE SERIOUS
9 CHARGES, RIGHT?

10 A RIGHT.

11 Q THE BURGLARY CHARGE, YOU'RE FACING 15 YEARS ON THAT
12 CHARGE, AREN'T YOU?

13 A RIGHT.

14 Q UP TO 15 YEARS?

15 A RIGHT.

16 Q OKAY. LET'S TALK ABOUT YOUR GRAND LARCENY CHARGE.
17 FIVE YEARS, RIGHT?

18 A RIGHT.

19 Q SO YOU'RE FACING UP TO 20 YEARS ON THESE CHARGES?

20 A RIGHT.

21 Q CORRECT?

22 A RIGHT.

23 Q OKAY. OF COURSE, YOU KNOW THAT IT DEPENDS ON WHAT
24 SORT OF PLEA OFFER YOU GET, RIGHT?

25 A RIGHT.

1 Q THAT MAKES A BIG DIFFERENCE, CORRECT?

2 A RIGHT.

3 Q AND YOU'D LIKE AN OFFER?

4 A RIGHT.

5 Q OKAY. MR. KENDRICK'S JOB IS TO SPEAK UP FOR YOU, TRY
6 TO GET YOU THAT OFFER.

7 A RIGHT.

8 Q AND THE SOLICITOR'S OFFICE HAS THE POWER TO MAKE SUCH
9 AN OFFER?

10 MS. CAMPBELL: OBJECTION, YOUR HONOR, JUST TO THIS
11 LINE OF QUESTIONING. I THINK IT'S BEEN GONE OVER SEVERAL
12 TIMES.

13 THE COURT: WELL, IT'S BEEN ASKED AND ANSWERED.
14 SUSTAINED.

15 MS. CAMPBELL: THANK YOU.

16 MR. SHARDT: YOUR HONOR, MAY I APPROACH?

17 THE COURT: YOU CAN CONTINUE.

18 MR. SHARDT: OKAY.

19 THE COURT: BUT IF YOU HAVE ASKED THE SAME QUESTION
20 ONCE --

21 MR. SHARDT: YES, YOUR HONOR.

22 THE COURT: -- THEN YOU'VE ASKED IT, AND IT'S BEEN
23 ANSWERED.

24 MR. SHARDT: YES, YOUR HONOR.

25 THE COURT: YOU MAY CONTINUE.

1 BY MR. SHARDT

2 Q YES, YOUR HONOR.

3 OKAY. YOU'RE FACING UP TO 20 YEARS, BUT THERE'S SOME
4 THINGS THAT COULD HAPPEN IN YOUR CASE. DIFFERENT
5 POSSIBILITIES COULD HAPPEN, RIGHT?

6 A RIGHT.

7 Q OKAY. YOUR SOLICITOR COULD DISMISS THE CHARGES,
8 CORRECT?

9 A RIGHT.

10 Q OKAY. AND IF YOUR SOLICITOR DISMISSED YOUR CHARGES,
11 YOU WOULD GO HOME?

12 A RIGHT.

13 Q YOU WOULDN'T EVEN HAVE TO PLEAD GUILTY OR ANYTHING.
14 YOU WOULD GO HOME.

15 A RIGHT.

16 Q OKAY. YOUR SOLICITOR COULD MAKE AN OFFER OF TIME
17 SERVED, RIGHT?

18 A RIGHT.

19 Q TIME SERVED WOULD MEAN THAT YOU'D HAVE TO PLEAD
20 GUILTY, BUT YOU'D GO HOME IMMEDIATELY.

21 A RIGHT.

22 Q NO PROBATION OR ANYTHING. YOU'D JUST GO HOME.

23 A RIGHT.

24 Q OKAY. YOUR SOLICITOR COULD MAKE AN OFFER OF
25 PROBATION, RIGHT?

1 A RIGHT.

2 Q THIS IS SOMETHING THAT THEY COULD WORK OUT.

3 A RIGHT.

4 Q OKAY. AND IF YOU HAD AN OFFER OF PROBATION, YOU
5 COULD PLEAD AND YOU COULD GO HOME?

6 A RIGHT.

7 Q RIGHT?

8 A RIGHT.

9 Q YOU'D HAVE TO DO PROBATION, BUT YOU'D GET OUT OF
10 JAIL, RIGHT?

11 A RIGHT.

12 Q YOU WOULDN'T HAVE TO GO TO PRISON, RIGHT?

13 A RIGHT.

14 Q OKAY. SO WHAT I'M HEARING IS THE STATE HAS A LOT OF
15 POWER, YOU WOULD AGREE?

16 A RIGHT.

17 Q THE SOLICITORS HAVE A LOT OF POWER.

18 A RIGHT.

19 Q THE SOLICITOR IN YOUR CASE COULD MAKE THE DIFFERENCE
20 BETWEEN 20 YEARS AND GOING HOME TOMORROW, CORRECT?

21 A RIGHT.

22 Q MR. THOMPSON, YOU HAVE BEEN IN JAIL SINCE MARCH,
23 RIGHT?

24 A RIGHT.

25 Q MARCH 14TH, ON THESE CHARGES?

1 A RIGHT.

2 Q THAT'S WHEN YOU WERE ARRESTED, MARCH 14TH, 2006?

3 A RIGHT.

4 Q YOU'D LIKE TO LEAVE, RIGHT?

5 A RIGHT.

6 Q YOU'RE WAITING TO DISPOSE YOUR CASE, RIGHT?

7 A RIGHT.

8 Q YOU'D LIKE TO DO THAT SOON?

9 A RIGHT.

10 Q AND YOU KNOW THIS CASE IS NOT GOING TO MOVE UNTIL
11 AFTER THIS TRIAL, RIGHT?

12 A RIGHT.

13 Q YOU'RE NOT ABLE TO MOVE YOUR CASE UNTIL THIS TRIAL IS
14 OVER?

15 A RIGHT.

16 Q UNTIL AFTER YOU TESTIFY?

17 A RIGHT.

18 Q RIGHT?

19 A RIGHT.

20 Q LET'S TALK ABOUT A COUPLE OF MORE THINGS YOU SAID
21 TODAY.

22 THE COURT: SOLICITOR -- I MEAN MR. SCHARDT, IF
23 YOU'RE AT A GOOD BREAKING POINT, WE'VE BEEN GOING FOR
24 ABOUT AN HOUR-AND-A-HALF. WE'RE GOING TO TAKE A SHORT
25 BREAK AT THIS POINT IN TIME.

1 MR. FOREMAN, LADIES AND GENTLEMEN, WE'LL TAKE ABOUT
2 TEN MINUTES. DON'T DISCUSS THE CASE. USE THE RESTROOM,
3 TAKE A SHORT BREAK AND WE'LL RESUME. YOU'RE EXCUSED ABOUT
4 TEN MINUTES.

5 EVERYONE ELSE STAY SEATED, PLEASE.

6 (WHEREUPON, THE JURY LEFT OPEN COURT AT APPROXIMATELY
7 11:41 A.M.)

8 THE COURT: WE'LL TAKE ABOUT TEN MINUTES.

9 MR. THOMPSON, DON'T DISCUSS YOUR TESTIMONY WITH
10 ANYONE DURING THE BREAK.

11 (WHEREUPON, A SHORT BREAK WAS TAKEN.)

12 THE COURT: ALL RIGHT. MR. SHARDT, ARE YOU READY TO
13 PROCEED?

14 MR. SHARDT: YES, SIR.

15 THE COURT: IS THE STATE READY?

16 MS. CAMPBELL: THE STATE IS READY.

17 THE COURT: ALL RIGHT. GET THE JURY BACK IN, PLEASE.

18 (WHEREUPON, THE JURY CAME INTO OPEN COURT AT
19 APPROXIMATELY 12:01 P.M.)

20 THE BAILIFF: THE JURY IS ALL PRESENT, YOUR HONOR.

21 THE COURT: MR. SCHARDT, YOU MAY CONTINUE.

22 BY MR. SHARDT

23 Q ALL RIGHT. MR. THOMPSON, I'M GOING TO GET YOU OFF
24 THE STAND IN JUST A FEW MINUTES.

25 LET'S GO BACK TO -- LET'S GO BACK TO YOUR TESTIMONY,

1 OKAY. YOU TESTIFIED THAT CHRISTOPHER LIVERMAN CALLED YOU?

2 A RIGHT.

3 Q THIS WAS...

4 A A COUPLE OF DAYS AFTER.

5 Q A COUPLE OF DAYS AFTER?

6 A RIGHT.

7 Q HE CONTACTED YOU VIA PHONE?

8 A RIGHT.

9 Q OKAY. AND YOU TESTIFIED THAT HE SAID --

10 A IF YOU FIND OUT WHERE THEY WERE, GO GET THEM.

11 Q FIND OUT WHERE THE GUNS WERE?

12 A RIGHT.

13 Q SO YOUR TESTIMONY IS HE CALLED YOU FROM JAIL?

14 A RIGHT.

15 Q AND TOLD YOU --

16 A TO FIND OUT --

17 Q GET THE GUNS?

18 A RIGHT.

19 Q AND THAT'S WHAT YOU TOLD INVESTIGATOR GRAY --

20 A RIGHT.

21 Q -- ON SEPTEMBER 2ND, 2004?

22 A RIGHT.

23 Q AND THAT'S THE TRUTH?

24 A RIGHT.

25 Q ALL RIGHT. OKAY. ONE THING THAT YOU DIDN'T TALK

1 ABOUT TODAY, IN YOUR STATEMENT TO INVESTIGATOR GRAY ON
2 SEPTEMBER 2ND, 2004, YOU ALSO TALKED ABOUT SEEING THAT GUN
3 BEFORE, CORRECT?

4 A CORRECT.

5 Q OKAY. AND YOU TOLD INVESTIGATOR GRAY THAT YOU HAD
6 SEEN CHRISTOPHER LIVERMAN WITH A GUN BEFORE, CORRECT?

7 A CORRECT.

8 Q WITH A .22 RIFLE BEFORE?

9 A RIGHT.

10 Q OKAY. YOU SAID THAT YOU HAD SEEN HIM SEVERAL MONTHS
11 AGO?

12 A RIGHT.

13 Q WITH THAT .22 RIFLE?

14 A RIGHT.

15 Q AND THAT'S TRUE?

16 A RIGHT.

17 Q SO YOU'RE TELLING US THAT YOUR TESTIMONY HERE TODAY
18 IS YOU SAW CHRISTOPHER LIVERMAN WITH A .22 RIFLE, THAT .22
19 RIFLE, SEVERAL MONTHS BEFORE THE SHOOTING?

20 A RIGHT.

21 Q RIGHT. MR. THOMPSON, YOU HAVE BEEN IN JAIL FOR
22 SEVERAL MONTHS NOW.

23 A RIGHT.

24 Q YOU HAD A ROOMMATE?

25 A RIGHT.

1 Q CELL MATE THE ENTIRE TIME?

2 A RIGHT.

3 Q OKAY. OVER THOSE MONTHS, HAVE YOU SWITCHED DORMS?

4 A RIGHT.

5 Q YOU'VE HAD SEVERAL ROOMMATES?

6 A RIGHT.

7 Q OVER THOSE SEVERAL MONTHS, HAVE YOU EVER TALKED TO
8 ANY OF YOUR CELL MATES ABOUT THIS CASE?

9 A NO.

10 Q YOU NEVER HAVE SPOKEN TO ANY OF THEM ABOUT IT?

11 A NO.

12 Q YOU NEVER GAVE THEM STATEMENTS?

13 A NO.

14 Q YOU NEVER SAID ANYTHING DIFFERENT?

15 MS. CAMPBELL: OBJECTION, YOUR HONOR, ASKED AND
16 ANSWERED.

17 THE COURT: SUSTAINED.

18 MS. CAMPBELL: THANK YOU.

19 BY MR. SHARDT

20 Q OKAY. YOU TESTIFIED YOU DID NOT SHOOT C.D.

21 . YOU TESTIFIED YOU DID NOT SHOOT T.M.

22 A RIGHT.

23 Q YOU TESTIFIED THAT CHRIS LIVERMAN HAS.

24 A RIGHT.

25 Q DO YOU RECALL TALKING TO A TEAM OF SOCIAL WORKERS, A

1 GROUP OF PEOPLE ON MARCH 18TH, 2005, AT THE MIDLANDS
2 EVALUATION CENTER?

3 A RIGHT.

4 Q DO YOU RECALL HAVING THAT CONVERSATION?

5 A RIGHT.

6 Q AND YOU MET WITH SEVERAL PEOPLE?

7 A RIGHT.

8 Q FOR A PSYCHOLOGICAL EVALUATION?

9 A RIGHT.

10 Q ALL RIGHT. AND YOU SPOKE TO THEM ABOUT THINGS GOING
11 ON IN YOUR LIFE SO THEY COULD DEVELOP A TREATMENT PLAN FOR
12 YOU, CORRECT?

13 A CORRECT.

14 Q ON MARCH 18TH, 2005, OKAY, WE'RE TALKING FOUR
15 MONTHS -- THREE MONTHS AFTER THE SHOOTING. IN THIS
16 MEETING, DID YOU OR DID YOU NOT ADMIT TO THOSE PEOPLE, TO
17 THOSE PSYCHOLOGISTS AND SOCIAL WORKERS, THAT YOU WERE A
18 MEMBER OF A GANG?

19 A NO.

20 Q DID YOU OR DID YOU NOT IN THAT MEETING ADMIT THAT YOU
21 HAD SHOT AT MEMBERS OF OTHER GANGS AS WELL AS STRANGERS?

22 A NO.

23 Q YOU'RE DENYING YOU EVER MADE THOSE STATEMENTS?

24 A YES.

25 MR. SHARDT: OKAY. I HAVE NOTHING FURTHER, YOUR

1 HONOR.

2 THE COURT: ALL RIGHT. REDIRECT?

3 MS. CAMPBELL: YES, SIR.

4 REDIRECT EXAMINATION:

5 BY MS. CAMPBELL

6 Q THE DEFENSE COUNSEL ASKED YOU ABOUT YOUR MEETINGS
7 WITH THE STATE.

8 A RIGHT.

9 Q AND YOUR LAWYER WAS PRESENT IN THOSE MEETINGS, RIGHT?

10 A RIGHT.

11 Q AND HE'S LOOKING OUT FOR YOUR INTERESTS?

12 A RIGHT.

13 Q DID YOU AND YOUR LAWYER ALSO AGREE TO MEET WITH THE
14 DEFENSE IF THEY WANTED TO?

15 A RIGHT.

16 Q DID THEY EVER WANT TO TALK TO YOU?

17 A NO.

18 Q HE ASKED YOU ABOUT BEING REPRESENTED BY TODD
19 RUTHERFORD. YOU MET WITH HIM ON SEPTEMBER 2ND, 2004; IS
20 THAT CORRECT?

21 A RIGHT.

22 Q AND WHEN YOU MET WITH HIM ON SEPTEMBER 2ND, 2004,
23 AFTER MEETING WITH YOU, HE TOLD YOU TO GO TO THE POLICE
24 AND TELL THEM THE TRUTH.

25 A RIGHT.

1 Q AND THAT'S WHEN YOU GAVE THAT STATEMENT?

2 A CORRECT.

3 Q AND THE DEFENSE ATTORNEY ASKED YOU ABOUT PORTIONS OF
4 YOUR STATEMENT; IS THAT RIGHT?

5 A RIGHT.

6 Q I WANT YOU TO REVIEW THIS. IS THIS YOUR ENTIRE
7 STATEMENT.

8 A (PAUSE). RIGHT.

9 Q I BELIEVE IT'S FIVE PAGES LONG.

10 A RIGHT.

11 Q AND HE ASKED YOU SPECIFICALLY TO READ INTO THE RECORD
12 PORTIONS OF THIS STATEMENT.

13 A RIGHT.

14 Q AND HE EVEN TOLD YOU TO STOP ON OCCASION.

15 A RIGHT.

16 MS. CAMPBELL: AT THIS TIME I'D OFFER THE STATEMENT
17 INTO EVIDENCE PURSUANT TO RULE 106.

18 THE COURT: ANY OBJECTION?

19 MR. SHARDT: NOTHING, YOUR HONOR.

20 THE COURT: IT WILL BE MARKED AND ADMITTED WITHOUT
21 OBJECTION.

22 TELL ME WHAT THE NUMBER IS.

23 MS. CAMPBELL: BEG THE COURT'S INDULGENCE.

24 (PAUSE).

25 FORTY-NINE.

1 (WHEREUPON, STATE'S EXHIBIT NO. 49 WAS ADMITTED INTO
2 EVIDENCE.)

3 BY MS. CAMPBELL

4 Q AND WHEN YOU MET WITH THE POLICE ON SEPTEMBER 2ND OF
5 2004, YOU DID WAIVE YOUR RIGHTS AND TALK TO THEM, DIDN'T
6 YOU?

7 A RIGHT.

8 Q AND YOU TOLD THEM EVERYTHING, WHAT YOU TESTIFIED TO
9 HERE TODAY; IS THAT CORRECT?

10 A RIGHT.

11 Q AND WHOSE HANDWRITING IS THIS?

12 A MINE.

13 Q WHEN DID YOU GET ARRESTED ON YOUR BURGLARY CHARGE?

14 A MARCH 14TH.

15 Q OF WHAT YEAR?

16 A 2005.

17 Q 2005 OR 2006?

18 A '06.

19 Q AND WHEN DID YOU GIVE YOUR STATEMENT?

20 A SEPTEMBER 2ND.

21 Q AND IN STATE'S EXHIBIT 49, DOES THIS TALK ABOUT
22 EVERYTHING THAT HAPPENED JUST LIKE YOU TESTIFIED TO?

23 A RIGHT.

24 Q AND THAT'S BEFORE THE STATE HAD ANY PENDING CHARGES
25 ON YOU.

1 A RIGHT.

2 Q AND DID YOU KNOW THAT YOUR CASE HAD BEEN TRANSFERRED
3 FROM THE SOLICITOR TO ANOTHER SOLICITOR, NOT MS. FENT?

4 A NO.

5 Q HE ASKED YOU ABOUT INSANE GANGSTER DISCIPLES.

6 A YES.

7 Q IS I.G.D. THE ABBREVIATION FOR THAT?

8 A RIGHT.

9 Q AND ARE YOU AWARE THAT CHRIS LIVERMAN HAS THAT ON HIS
10 HAND?

11 A I BELIEVE SO.

12 Q HE ASKED YOU ABOUT WHETHER OR NOT YOU TOLD THE POLICE
13 IF YOU KNEW WHERE THE LOG WAS IN THE COLONY.

14 A RIGHT.

15 Q AND YOU INDICATED YOU TOLD THEM AFTER?

16 A RIGHT.

17 Q DID YOU ALSO TELL THEM THE GUNS HAD ALREADY BEEN
18 MOVED FROM THERE?

19 A RIGHT.

20 Q YOU MET WITH US ON THREE DIFFERENT OCCASIONS.

21 A RIGHT.

22 Q WHAT HAVE WE TOLD YOU TO TELL THIS JURY?

23 A JUST TELL THE TRUTH.

24 Q HAVE THERE BEEN ANY PROMISES MADE TO YOU AT THIS
25 TIME?

1 A NO.

2 THE COURT: ANY RECROSS?

3 MR. SHARDT: YOUR HONOR, MAY WE APPROACH?

4 (WHEREUPON, A BENCH CONFERENCE WAS HELD IN THE
5 PRESENCE, BUT NOT WITHIN THE HEARING, OF THE JURY).

6 THE COURT: ALL RIGHT. ANY RECROSS, MR. SCHARDT?

7 MR. SHARDT: NOTHING, YOUR HONOR.

8 THE COURT: ALL RIGHT. YOU MAY STEP DOWN.

9 THE BAILIFF: WATCH YOUR STEP WHEN YOU STEP DOWN.

10 THE COURT: ALL RIGHT. YOUR NEXT WITNESS, PLEASE?

11 MS. FENT: IF WE COULD APPROACH, YOUR HONOR?

12 (WHEREUPON, A BENCH CONFERENCE WAS HELD IN THE
13 PRESENCE, BUT NOT WITHIN THE HEARING, OF THE JURY).

14 THE COURT: MR. FOREMAN, LADIES AND GENTLEMEN, WE'VE
15 GOT TWO WITNESSES ON THEIR WAY. WE NEED TO TAKE A SHORT
16 BREAK AND GIVE THEM TIME TO GET HERE.

17 I'M GOING TO SEND YOU BACK TO YOUR JURY ROOM. WE'LL
18 CONTINUE AS SOON AS THEY'RE HERE. IT SHOULD BE ABOUT FIVE
19 OR TEN MINUTES. PLEASE DON'T DISCUSS THE CASE WHILE
20 YOU'RE BACK THERE.

21 EVERYONE ELSE STAY SEATED.

22 (WHEREUPON, THE JURY LEFT OPEN COURT AT APPROXIMATELY
23 12:15 P.M.)

24 THE COURT: WE'LL TAKE A SHORT BREAK UNTIL THE
25 WITNESSES GET HERE.

1 (WHEREUPON, A BREAK WAS TAKEN AND THE FOLLOWING WAS
2 PLACED ON THE RECORD.)

3 THE COURT: I KNOW YOU'RE TRYING TO GET THESE FOLKS
4 UP HERE. WE'VE WAITED LONG ENOUGH. WE'RE GOING TO LUNCH.

5 IS THERE ANY OBJECTION TO THE CLERK DISMISSING THE
6 JURY FOR LUNCH?

7 MS. FRANKLIN: NO, YOUR HONOR.

8 THE COURT: DOES THE STATE HAVE ANY OBJECTION TO
9 THAT?

10 MS. FENT: NO, YOUR HONOR. I APOLOGIZE.

11 THE COURT: WHAT I NEED TO DO -- LET ME TALK TO YOU
12 UP HERE ABOUT SCHEDULING AND WHAT WE'RE GOING TO DEAL WITH
13 WHEN WE COME BACK FROM LUNCH.

14 WE'LL BE IN RECESS UNTIL -- I'M NOT SURE WHAT TIME.

15 (WHEREUPON, THERE WAS A BENCH CONFERENCE.)

16 THE COURT: ALL RIGHT. WE WILL RECESS IN HERE UNTIL
17 2:15.

18 (WHEREUPON, A LUNCH BREAK WAS TAKEN.)

19 MS. FRANKLIN: YOUR HONOR, MAY WE APPROACH?

20 THE COURT: ALL RIGHT.

21 (WHEREUPON, THERE WAS A BENCH CONFERENCE.)

22 THE COURT: ALL RIGHT. MS. FRANKLIN AND SOLICITOR,
23 WE AGREED TO HAVE A HEARING DEALING WITH A POTENTIAL
24 WITNESS IN A CASE, AND THAT'S WHERE WE ARE RIGHT NOW.

25 MS. FRANKLIN: YES, YOUR HONOR.

1 THE COURT: MS. FRANKLIN?

2 MS. FRANKLIN: MAY IT PLEASE THE COURT. YOUR HONOR,
3 WE EXPECT THAT THE STATE WILL ATTEMPT TO INTRODUCE THE
4 TESTIMONY OF REGINALD JOYNER IN THIS CASE AGAINST MR.
5 CHRISTOPHER LIVERMAN.

6 REGINALD JOYNER, GOES BY THE NICKNAME GOO, IS DEAF.
7 HE USES AMERICAN SIGN LANGUAGE AS HIS PRIMARY FORM OF
8 COMMUNICATION.

9 OUR UNDERSTANDING PER THE DISCOVERY WE HAVE RECEIVED
10 IN THIS CASE IS THAT HE INITIALLY GAVE A STATEMENT TO LAW
11 ENFORCEMENT ON AUGUST 31ST, 2004. THIS STATEMENT WAS
12 SUMMARIZED DUE TO ITS NATURE, YOUR HONOR.

13 HE APPARENTLY SPOKE THROUGH AN INTERPRETER,
14 MS. GLENDIA BOONE, AND ANOTHER INTERPRETER, JACKIE
15 LIGHTFOOT, WAS ALSO PRESENT. THE STATEMENT WAS NEVER
16 SIGNED BY HIM.

17 IN ADDITION TO THE ISSUES SURROUNDING INTERPRETATION,
18 WE STATED ANOTHER GROUND FOR EXCLUDING THIS: THAT IT'S
19 NOT A STATEMENT AT ALL. RATHER, IT PURPORTS TO BE SOME
20 SORT OF A SUMMARY WHOSE TRUTH WAS NEVER ADOPTED BY
21 REGINALD JOYNER. HE NEVER SIGNED IT. THERE'S NO
22 VIDEOTAPE OR AUDIOTAPE OF THE INTERVIEW WITH WHICH TO DEEM
23 ITS RELIABILITY.

24 IT SHOULD NOT BE ADMISSIBLE FOR ANY REASON. IN
25 ALLOWING THE STATE TO INTRODUCE IT WILL RESULT IN A DENIAL

1 OF MY CLIENT'S RIGHT OF CONFRONTATION AS GUARANTEED UNDER
2 THE STATE AND FEDERAL CONSTITUTIONS, BUT ADDITIONALLY
3 DR. COLLINS --

4 THE COURT: AND IT WOULD VIOLATE WHICH RIGHT?

5 MS. FRANKLIN: CONFRONTATION, THE RIGHT TO
6 CONFRONTATION, YOUR HONOR.

7 THE COURT: ALL RIGHT.

8 MS. FRANKLIN: ADDITIONALLY, I HAVE TWO WITNESSES
9 HERE TODAY, YOUR HONOR, WHO HAVE PERFORMED LINGUISTIC
10 ANALYSIS ON MR. REGINALD JOYNER. DURING THE COURSE OF
11 THAT, SOME OTHER ISSUES CAME UP.

12 DR. STEPHEN COLLINS AND DR. CYNTHIA ROY ARE HERE IN
13 THE COURTROOM TODAY, AND THEY ARE PREPARED TO TESTIFY
14 TODAY. DR. COLLINS COMMUNICATED WITH REGINALD JOYNER
15 ABOUT THIS INTERVIEW WITH GLENDIA BOONE AND REFEED TO IT
16 IN HIS REPORT. I HAVE PROVIDED THAT TO THE COURT, YOUR
17 HONOR.

18 SECONDLY, REGINALD JOYNER ALLEGEDLY MADE STATEMENTS
19 TO A YOUNG GIRL, MS. LORI JOHNSON, ABOUT HIS KNOWLEDGE OF
20 EVENTS. DR. COLLINS, AGAIN, HAS USEFUL INFORMATION TO
21 SHARE REGARDING THE RELIABILITY OF THAT COMMUNICATION, BUT
22 AGAIN, WE STATE ANOTHER GROUND FOR EXCLUDING ANY OTHER
23 STATEMENT LORI JOHNSON MADE REGARDING THESE
24 COMMUNICATIONS. OUR POSITION IS IT'S SIMPLY INADMISSIBLE
25 HEARSAY AND FALLS WITHIN THAT EXCEPTION.

1 DR. COLLINS SPOKE TO REGINALD JOYNER ABOUT HIS
2 ABILITY TO COMMUNICATE WITH HIS PEERS, AND THAT
3 INFORMATION IS CONTAINED IN THE REPORT, AND ALSO,
4 APPARENTLY REGINALD JOYNER MADE SOME STATEMENTS DURING
5 CLASS AT A.C. FLORA HIGH SCHOOL ABOUT HIS KNOWLEDGE OF
6 EVENTS.

7 DR. COLLINS ALSO HAS USEFUL INFORMATION TO SHARE
8 REGARDING THE RELIABILITY OF THAT COMMUNICATION, AS WELL,
9 BUT WE WOULD ALSO ARGUE THESE STATEMENTS ARE INADMISSIBLE
10 HEARSAY, IN ADDITION TO THE COMMUNICATION ISSUES THAT ARE
11 PRESENT IN THIS CASE.

12 ESSENTIALLY, THESE ARE THREE DIFFERENT COMMUNICATIONS
13 ALLEGEDLY MADE BY REGINALD JOYNER. WE ARE ASKING THIS
14 COURT TO SUPPRESS BECAUSE THEY'RE UNRELIABLE. WE BELIEVE
15 THAT THEY ARE EXCLUDABLE FOR OTHER REASONS, AS WELL, WITH
16 THE DIFFICULTIES PRESENT BECAUSE INTERPRETATION ISSUES, WE
17 SUBMIT THIS PROVIDES ANOTHER GROUND FOR EXCLUDING THESE
18 STATEMENTS.

19 OUR POSITION IS THAT REGINALD JOYNER HE HAS NOT BEEN
20 RELIABLY INTERPRETED DURING THE COURSE OF THIS CASE. OUR
21 POSITION IS BASED ON OUR UNDERSTANDING OF OUR EXPERT'S
22 ASSESSMENT OF REGINALD JOYNER, HAVING SPOKEN AT LENGTH
23 WITH HIM ABOUT THESE ISSUES.

24 THEY PREPARED A REPORT IN THE CASE. IT WAS PROVIDED
25 TO THE STATE AUGUST 28TH, 2006. THEY'RE HERE TODAY TO

1 TESTIFY TO THE CONTENTS OF THAT REPORT.

2 THE COURT: ALL RIGHT. BEFORE I TAKE ANY TESTIMONY,
3 ANY RESPONSE AT THIS STAGE AS TO THE ISSUES THAT HAVE BEEN
4 RAISED?

5 MS. FENT: WELL, NUMBER ONE, WITH REGARD TO THIS
6 STATEMENT THAT WAS GIVEN TO INVESTIGATOR JOE GRAY,
7 BASICALLY, AS DEFENSE COUNSEL SAID WAS SUMMARIZED, IT IS
8 THE SAME AS ANY OTHER WITNESS THAT COMES IN AND TALKS TO
9 THE INVESTIGATOR.

10 THEY ARE ADVISED OF THEIR RIGHTS, IF NECESSARY. YOU
11 KNOW, OTHER WITNESSES AREN'T, AND DO YOU WANT TO GIVE A
12 WRITTEN STATEMENT OR NOT? THIS GOES TO, YOU KNOW,
13 DEFENDANTS, SUSPECTS, WITNESSES.

14 THIS PARTICULAR WITNESS SAID, "NO, I'M NOT GOING TO
15 PROVIDE A WRITTEN STATEMENT," AND SO THE INVESTIGATOR
16 SUMMARIZED HIS CONVERSATION THROUGH AN INTERPRETER WITH
17 THE WITNESS, AND AS ANY OTHER STATEMENT THAT'S GIVEN TO
18 LAW ENFORCEMENT THAT'S AN ORAL STATEMENT, THE INVESTIGATOR
19 WOULD BE HERE POTENTIALLY TO TESTIFY TO ANY
20 INCONSISTENCIES IF HE SAYS SOMETHING ELSE ON THE STAND
21 THAT WAS DIFFERENT THAN WHAT HE TOLD THE INVESTIGATORS.

22 THE FACT THAT IT'S, YOU KNOW, NOT A SIGNED STATEMENT
23 IS NO DIFFERENT THAN THE FACT THAT HE IS HEARING IMPAIRED,
24 AS IF HE WAS HEARING.

25 SECONDLY, AS TO THE STATEMENTS TO LORI JOHNSON, WE'RE

1 KIND OF, I GUESS, GETTING AHEAD OF OURSELVES A LITTLE BIT
2 IF SHE IS TRYING TO SAY THAT IT'S INADMISSIBLE HEARSAY.

3 WELL, IF WE PROPERLY SET UP THE FOUNDATION AND THE
4 WITNESS COMES IN AND APPROPRIATELY DENIES OR ADMITS OR
5 WHATEVER RESPONSE IS POTENTIALLY -- IT IS NO LONGER
6 INADMISSIBLE HEARSAY. IT IS A PRIOR INCONSISTENT
7 STATEMENT AND CAN BE INTRODUCED; SECONDLY, IS ANY, YOU
8 KNOW, VARIABLES REGARDING THE INTERPRETATION OF THAT
9 STATEMENT THAT THE WITNESS MADE TO THAT PERSON, TO LORI
10 JOHNSON, WOULD GO TO THE WEIGHT THAT THE JURY WANTS TO
11 GIVE IT AND NOT ITS ADMISSIBILITY.

12 THEN FINALLY, THE SAME BASIC THING TO THE A.C. FLORA
13 STATEMENT OR CONVERSATION THAT WAS OVERHEARD BY THE
14 TEACHER IS, YOU KNOW, ANY POSSIBLE MISINTERPRETATIONS,
15 JUST AS IF IT WAS AN INDIVIDUAL THAT WASN'T HEARING
16 IMPAIRED THAT A CONVERSATION IS OVERHEARD BETWEEN TWO
17 INDIVIDUALS, THE THIRD PERSON HEARS IT AND COMES IN AND
18 RELAYS WHAT THEY OVERHEARD WOULD GO TO THE WEIGHT OF
19 WHETHER SHE ACCURATELY HEARD IT, THE WAY SHE IS REPORTING
20 AND NOT ITS ADMISSIBILITY.

21 THE COURT: ALL RIGHT.

22 MS. FRANKLIN: YOUR HONOR, IN RESPONSE, WE JUST SAY
23 THAT, YOU KNOW, THESE ARE STATEMENTS. I MEAN, THESE ARE
24 VERY IMPORTANT COMPONENTS OF THIS TRIAL AND OF WHAT
25 REGINALD JOYNER ALLEGEDLY SAID. THERE ARE INTERPRETATION

1 ISSUES. WE'RE PREPARED TO OFFER TESTIMONY AS TO THAT.

2 WE BELIEVE THAT IT'S DEEPER THAN JUST A WEIGHT
3 VERSUS -- YOU KNOW, A WEIGHT ISSUE. WE BELIEVE IT GOES TO
4 THE VERY RELIABILITY OF THE STATEMENTS THEMSELVES.

5 WE WOULD ASK THIS COURT TO CONSIDER MAKING A RULING
6 AS TO THE RELIABILITY, AND FIND THAT THEY ARE INHERENTLY
7 UNRELIABLE.

8 THE COURT: ALL RIGHT. I'LL BE GLAD TO HEAR YOU, TO
9 TAKE TESTIMONY AND HEAR FROM YOUR WITNESSES.

10 MS. FRANKLIN: OKAY. YES, YOUR HONOR. IF I MAY CALL
11 TO THE STAND DR. CYNTHIA ROY.

12 CYNTHIA ROY, AFTER BEING DULY SWORN,
13 TESTIFIED AS FOLLOWS:

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

16 THE WITNESS: CYNTHIA B. ROY.

17 DIRECT EXAMINATION:

18 BY MS. FRANKLIN

19 Q COULD YOU PLEASE TELL THE COURT WHERE YOU WORK?

20 A I WORK AT GALLAUDET UNIVERSITY. I'M AN ASSOCIATE
21 PROFESSOR THERE.

22 Q OKAY. AND WHAT DO YOU TEACH THERE?

23 A I TEACH INTERPRETING.

24 Q AND YOU ARE -- ARE YOU A CERTIFIED INTERPRETER?

25 A YES.

1 Q AND COULD YOU TELL US A LITTLE BIT ABOUT THAT?

2 A IN SIGN LANGUAGE INTERPRETING IN THE UNITED STATES WE
3 ARE CERTIFIED BY A NATIONAL MEMBERSHIP ASSOCIATION CALLED
4 THE REGISTRY OF INTERPRETERS FOR THE DEAF. I AM CERTIFIED
5 AS A COMPREHENSIVE SKILLS CERTIFICATE, A C.S.C., AND HAVE
6 BEEN FOR 25 YEARS.

7 Q AND WHAT IS YOUR EDUCATIONAL BACKGROUND?

8 A I HAVE A MASTER'S DEGREE IN LINGUISTICS, A PH.D. IN
9 SOCIOLINGUISTS FROM GEORGETOWN UNIVERSITY. I DO RESEARCH
10 ON INTERPRETING AND INTERPRETERS, AS WELL AS TEACH AT
11 GALLAUDET UNIVERSITY.

12 THE COURT: CAN YOU SPELL THE NAME OF THE UNIVERSITY,
13 PLEASE?

14 THE WITNESS: CERTAINLY, G-A-L-L-A-U-D-E-T.

15 THE COURT: THANK YOU.

16 MS. FRANKLIN: AND YOUR HONOR, AT THIS TIME WE WOULD
17 TENDER DR. ROY AS AN EXPERT FOR PURPOSES OF THIS HEARING.

18 THE COURT: ANY OBJECTION, ANY CROSS-EXAMINATION TO
19 QUALIFICATIONS AT THIS TIME?

20 MS. FENT: IS THIS AS AN EXPERT IN THE AREA OF
21 INTERPRETING?

22 THE WITNESS: YES.

23 MS. FRANKLIN: YES.

24 THE WITNESS: I'M ALSO A TRAINED LINGUIST. I DO
25 LINGUISTICS ANALYSIS, AS WELL.

1 MS. FENT: SHE IS BEING BROUGHT HERE --

2 THE COURT: SHE IS BEING TENDERED AS AN EXPERT IN
3 INTERPRETING; IS THAT CORRECT?

4 MS. FRANKLIN: YES.

5 MS. FENT: OKAY.

6 THE COURT: WITHOUT OBJECTION SHE IS FOUND TO BE
7 QUALIFIED AS AN EXPERT IN THAT FIELD.

8 YOU MAY CONTINUE, MS. FRANKLIN.

9 BY MS. FRANKLIN

10 Q AND DR. ROY, COULD YOU EXPLAIN TO THE COURT THE
11 CIRCUMSTANCES UNDER WHICH THIS REPORT WAS CREATED?

12 A YOUR OFFICE CONTACTED MYSELF AND DR. COLLINS TO ASK
13 FOR A LINGUISTIC ANALYSIS OF A DEAF MAN.

14 I RECOMMENDED THAT DR. COLLINS COME AND GIVE THE
15 ANALYSIS, AS HE IS DEAF HIMSELF AND A NATIVE USER OF
16 AMERICAN SIGN LANGUAGE AND THAT I WOULD ACCOMPANY HIM TO
17 DO, AS HIS INTERPRETER, AND TO OFFER ANY OTHER ASSISTANCE
18 OR ANALYSIS THAT MIGHT PERHAPS BE NECESSARY. SO WE BOTH
19 CAME, HAD A TALK WITH REGINALD AND WROTE THE REPORT.

20 Q AND COULD YOU PLEASE EXPLAIN TO THE COURT A LITTLE
21 BIT ABOUT INTERPRETATION AND INTERPRETING AND HOW IT
22 WORKS?

23 A INTERPRETING IS A PROCESS WHERE PEOPLE ARE TRYING TO
24 EXCHANGE MESSAGES, EXCHANGE INFORMATION, EXCHANGE IDEAS.
25 IT'S A COMPLICATED PROCESS, JUST AS COMMUNICATION BETWEEN

1 ANY TWO PEOPLE IS A COMPLICATED PROCESS, BUT IN
2 INTERPRETATION, ONE OF THE FUNDAMENTAL PRINCIPLES OF ANY
3 INTERPRETATION IS THAT THINGS ARE LOST, THINGS ARE GAINED,
4 THINGS ARE CHANGED.

5 PEOPLE, MOST PEOPLE IN -- LAY PEOPLE WHO KNOW NOTHING
6 ABOUT INTERPRETING BETWEEN LANGUAGES THINK THERE'S A WORD
7 FOR WORD CORRESPONDENCE OR PERHAPS A WORD FOR SIGNED
8 CORRESPONDENCE.

9 IT DOESN'T WORK THAT WAY, AND IT DOESN'T WORK THAT
10 WAY IN ANY LANGUAGE. LANGUAGES HAVE DIFFERENT WAYS OF
11 EXPRESSING THEIR IDEAS, DIFFERENT WAYS OF COMMUNICATING,
12 CERTAIN SPECIFIC FEATURES IN COMMUNICATION, AND THUS,
13 THERE'S NO -- THERE'S NEVER ANY GOOD WAY TO MATCH THEM
14 WORD FOR WORD, SIGN FOR SIGN. DO YOU WANT ME TO SAY MORE?

15 Q THAT'S OKAY.

16 A OKAY.

17 Q COULD YOU EXPLAIN TO THE COURT WHY THERE MIGHT BE
18 CERTAIN MISTAKES IN INTERPRETING?

19 A CERTAINLY. FIRST OF ALL, MISTAKES ARE A NATURAL PART
20 OF THE INTERPRETING PROCESS THAT GET MADE, BUT THERE'S
21 ALSO THE SORT OF WILLINGNESS AND COOPERATION OF THE
22 INTERPRETER, WHETHER OR NOT THE INTERPRETER IS WILLING TO
23 STOP SOMEONE WHO IS SPEAKING AND ASK THEM FOR MORE
24 CLARIFICATION. JUST LIKE YOU CAN BE AMBIGUOUS IN ENGLISH.
25 YOU CAN BE AMBIGUOUS IN AMERICAN SIGN LANGUAGE, IF YOU

1 OVERLOOK THE AMBIGUITY.

2 SIGN LANGUAGE IS ALSO A LANGUAGE THAT'S IN THE FACE
3 AND THE HANDS, SO IT GOES BY QUITE QUICKLY. IF YOU'RE A
4 SECOND LANGUAGE LEARNER, THERE MAY BE A SLIGHT FEATURE OF
5 THE LANGUAGE THAT'S DISPLAYED THAT YOU OVERLOOK OR YOU
6 MISS AS YOU INTERPRET. ANOTHER REASON YOU MIGHT NOT
7 INTERPRET WELL IS BECAUSE YOU HAVE A BASIC UNDERSTANDING
8 AND NOT A NATIVE LIKE SPEAKER FLUENCY IN THE LANGUAGE.

9 Q IS THERE A -- CAN YOU EXPLAIN TO THE COURT THE
10 DIFFERENCE BETWEEN A NATIVE DEAF PERSON AND THEN SOMEBODY
11 WHO COMES BY IT AS A SECOND LANGUAGE?

12 A CERTAINLY. IT'S LIKE ANY LANGUAGE ACQUISITION
13 PROCESS. MOST OF US LEARN THE LANGUAGE THAT WE SPEAK AS A
14 NATIVE SPEAKER BECAUSE WE ARE BORN INTO THAT LANGUAGE
15 GROUP.

16 YOU'RE BORN AS SOMEONE IS BORN TO ENGLISH SPEAKING
17 PARENTS SO YOU LEARN TO SPEAK ENGLISH, BUT 90 PERCENT OR
18 BETTER OF DEAF PEOPLE ARE BORN TO PEOPLE WHO SPEAK
19 ENGLISH. THEY DON'T AUTOMATICALLY LEARN A LANGUAGE.

20 WHAT DOES HAPPEN, HOWEVER, IS THAT YOU HAVE DEAF
21 CHILDREN WHO ARE BORN OF DEAF PARENTS. THEY'RE CONSIDERED
22 NATIVE SPEAKERS OF THE LANGUAGE, AS WELL AS CHILDREN WHO
23 CAN HEAR WHO ARE BORN TO DEAF PARENTS, BUT MANY PEOPLE
24 LEARN AMERICAN SIGN LANGUAGE AS THEY FIRST ATTEND A
25 RESIDENTIAL SCHOOL FOR THE DEAF AND INTERACT WITH OTHER

1 PEOPLE. THAT'S WHAT MAKES SIGN LANGUAGES UNIQUE IN THE
2 WORLD IS THAT THEIR LANGUAGE IS GENERALLY ACQUIRED AS A
3 CHILD WITHIN AND AMONG OTHER CHILDREN.

4 Q AND YOU AND DR. COLLINS WORKED ON THIS REPORT
5 TOGETHER?

6 A YES.

7 Q IS THAT ACCURATE?

8 A YES.

9 MS. FRANKLIN: MAY I APPROACH THE WITNESS, YOUR
10 HONOR?

11 THE COURT: SURE.

12 BY MS. FRANKLIN

13 Q OKAY. DO YOU RECOGNIZE THIS REPORT?

14 A YES.

15 Q IS THIS YOUR SIGNATURE ON THE LAST PAGE OF THIS
16 REPORT?

17 A YES.

18 MS. FRANKLIN: OKAY. YOUR HONOR, I WOULD ASK THAT WE
19 MOVE THIS INTO EVIDENCE FOR PURPOSES OF THIS HEARING.

20 THE COURT: FOR PURPOSES OF THIS HEARING?

21 MS. FRANKLIN: YES.

22 THE COURT: ANY OBJECTION TO THAT?

23 MS. FENT: MAY I SEE THAT JUST TO MAKE SURE IT'S --

24 MS. FRANKLIN: YES.

25 (PAUSE).

1 MS. FENT: FOR PURPOSES OF THIS HEARING.

2 THE COURT: FOR PURPOSES OF THIS HEARING, IT WILL BE
3 MARKED AS WHATEVER THE NEXT ONE IS, DEFENDANT'S FIVE.

4 (WHEREUPON, DEFENDANT'S EXHIBIT NO. 5 WAS MARKED FOR
5 IDENTIFICATION ONLY.)

6 BY MS. FRANKLIN

7 Q CAN YOU EXPLAIN A LITTLE BIT ABOUT INTERPRETATION IS
8 TAUGHT IN SCHOOLS AND THE ROLE OF INTERPRETERS AND THE
9 SCHOOL ENVIRONMENT?

10 A IN THE UNITED STATES, THE EDUCATION OF INTERPRETERS
11 HAS TRADITIONALLY -- OR GOT STARTED, RATHER, IN ASSOCIATE
12 OF ARTS DEGREE PROGRAMS. FOR MANY YEARS, INTERPRETERS
13 HAVE BEEN TAUGHT IN TWO-YEAR TRAINING PROGRAMS IN WHICH
14 THEY ARE FIRST TRYING TO LEARN THE LANGUAGE ITSELF, AND
15 THEN RIGHT ON TOP OF IT LEARN TO INTERPRET THE LANGUAGE.

16 IN MOST INTERPRETING UNIVERSITIES AROUND THE WORLD,
17 OTHER INTERPRETERS ARE FIRST JUDGED TO BE FLUENT IN A
18 LANGUAGE, THEN THEY'RE TAUGHT TO INTERPRET OR TRANSLATE
19 IT.

20 IN SIGN LANGUAGE, WE THOUGHT WE COULD DO BOTH AT THE
21 SAME TIME, SO MANY, MANY OF THE INTERPRETERS WHO ARE
22 INTERPRETING TODAY GOT THEIR TRAINING IN AN ASSOCIATE'S OF
23 ARTS DEGREE PROGRAM.

24 WHEN THAT HAPPENS, YOU CAN'T -- SOMEONE'S FLUENCY
25 DOESN'T DEVELOP IN ANY SERIOUS DEPTH IN TWO YEARS, AND

1 CONSEQUENTLY, IT TAKES MANY YEARS OF INTERACTING WITH DEAF
2 COMMUNITIES AND DEAF PEOPLE IN ORDER TO BECOME FLUENT.

3 ON TOP OF THAT, IN MANY OF THE SYSTEMS, PUBLIC
4 INSTITUTIONS WHERE INTERPRETERS MIGHT WORK, SUCH AS
5 SCHOOLS, EDUCATIONAL SYSTEMS HAVE LONG THOUGHT YOU COULD
6 PUT ENGLISH ON THE HANDS. ALTHOUGH WE HAVE A LOW -- MUCH
7 RESEARCH TO DEMONSTRATE THAT'S NOT POSSIBLE, MANY
8 EDUCATIONAL PROGRAMS PERSIST IN THE IDEA THAT IF THEY SIGN
9 ENGLISH ON THE HANDS, THEN DEAF CHILDREN WILL LEARN
10 ENGLISH. THAT'S A FALLACY. AGAIN, THERE'S A LOT OF
11 RESEARCH TO DOCUMENT THAT PROGRESS.

12 SO CONSEQUENTLY, INTERPRETERS AREN'T SIGNING THE
13 NATURAL LANGUAGE OF DEAF PEOPLE. THEY'RE SIGNING A CODED
14 SYSTEM THAT IS AT BEST LOUSY. IT TEACHES NEITHER ENGLISH
15 NOR A NATURAL SIGN LANGUAGE, UNFORTUNATELY.

16 Q AND AGAIN, YOU AND DR. COLLINS PRODUCED THIS REPORT
17 WITH RESPECT TO REGINALD JOYNER, CORRECT?

18 A YES.

19 MS. FRANKLIN: OKAY. AT THIS POINT I HAVE NO MORE
20 QUESTIONS FOR THIS WITNESS.

21 THE COURT: ALL RIGHT. YOU MAY CROSS-EXAMINE.

22 CROSS-EXAMINATION:

23 BY MS. FENT

24 Q DR. ROY, WHEN YOU MET WITH REGINALD JOYNER, YOU JUST
25 STAYED FOR THE FIRST PORTION OF IT OR YOU WERE THERE FOR

1 THE WHOLE ENTIRE CONVERSATION OF MR. JOYNER?

2 A WHEN WE ARRIVED, WE WERE -- WE ARRIVED WITH THE
3 UNDERSTANDING THAT WE WERE GOING TO TALK TO A DEAF MAN WHO
4 HAD NO LANGUAGE.

5 Q I'M SORRY. LET ME ASK MY QUESTION AGAIN.

6 A OKAY.

7 Q IT SAYS THAT YOUR INTERVIEW LASTED -- THE WHOLE
8 INTERVIEW LASTED TWO OR MORE HOURS.

9 A YES.

10 Q MY QUESTION TO YOU --

11 A I'M SORRY.

12 Q -- IS DID YOU JUST STAY FOR THE INITIAL PORTION OF IT
13 TO DETERMINE IF HE WAS FULLY CAPABLE OF ANSWERING
14 QUESTIONS AND RELAYING INFORMATION OR DID YOU REMAIN --

15 A I WAS IN THE ROOM FOR ALL BUT FIRST TEN MINUTES. THE
16 FIRST FIVE TO TEN MINUTES, DR. COLLINS TALKED TO REGINALD
17 JOYNER BY HIMSELF, AND I WATCHED THROUGH A GLASS WINDOW,
18 SO I OBSERVED THE CONVERSATION.

19 AT THAT POINT, WE COULD FIGURE OUT THAT REGINALD
20 JOYNER HAD A LANGUAGE SO WE ALL MOVED INTO THE ROOM, AND I
21 STAYED FOR THE REST OF THE --

22 Q FOR THE ENTIRE TWO OR MORE HOURS?

23 A YES.

24 Q OKAY. AND THIS INTERVIEW TOOK PLACE ON FRIDAY,
25 AUGUST 25TH?

1 A YES, I THINK. I'M SORRY, I DON'T REMEMBER THE EXACT
2 DAY.

3 Q DO YOU HAVE A COPY OF YOUR -- THE REPORT THAT YOU PUT
4 TOGETHER WITH DR. COLLINS?

5 A YES.

6 Q IN FRONT OF YOU?

7 A NO.

8 (PAUSE).

9 YES.

10 Q OKAY.

11 A ON AUGUST 25TH.

12 Q FRIDAY, THE 25TH. THEN THE DATE OF THE REPORT THAT
13 YOU ACTUALLY GENERATED IS THE 28TH, AUGUST 28TH?

14 A YES.

15 Q SO THAT'S MONDAY?

16 A YES.

17 Q OKAY. SO FROM FRIDAY TO MONDAY, DID YOU ALL SPEND
18 ALL WEEKEND GENERATING THIS REPORT? DID YOU JUST MEET
19 BACK ON MONDAY AND GENERATE THE REPORT?

20 A WE DISCUSSED THE REPORT AND OUTLINED OUR ANSWERS AND
21 YOU KNOW, GENERALLY WHAT WE WOULD SAY ON THE FLIGHT BACK.
22 I THEN TYPED UP A DRAFT. DR. COLLINS REVIEWED IT. WE
23 CHANGED IT, REVISED IT MOSTLY ON MONDAY.

24 Q OKAY.

25 A AND THEN WE E-MAILED IT TO MS. FRANKLIN.