

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

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S.C. SUPREME COURT

Chris A. Liverman,

Petitioner,

v.

State of South Carolina,

Respondent

APPENDIX

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1 Q AND HOW LONG WAS THAT FLIGHT BACK?

2 A AN HOUR.

3 Q SO YOU TALKED FOR AN HOUR, AND THEN IT WAS YOUR
4 RESPONSIBILITY OVER THE WEEKEND TO TYPE UP THIS REPORT, A
5 DRAFT?

6 A YES.

7 Q AND THEN MONDAY MORNING YOU ALL MEET AND JUST READ IT
8 OVER QUICKLY AND SEND IT TO MS. FRANKLIN?

9 A WELL, YOU KNOW, REVISED IT IN DIFFERENT WAYS, ADDED
10 INFORMATION, CHANGED IT, WHATEVER.

11 Q OKAY.

12 A BUT YES.

13 Q IT WAS ON THAT MONDAY THAT YOU GAVE IT TO
14 MS. FRANKLIN?

15 A YES.

16 Q OKAY. YOUR CONCLUSIONS TOGETHER, I ASSUME THAT BOTH
17 OF YOU AGREED WITH EVERYTHING THAT WAS IN THIS REPORT --

18 A YES.

19 Q -- WAS THAT R.J., MEANING REGINALD JOYNER, HIS
20 COMMUNICATION WAS CLEAR AND COMPETENT.

21 A YES.

22 Q HE WAS ABLE TO DESCRIBE EVENTS?

23 A (NODS IN THE AFFIRMATIVE).

24 Q YES?

25 A YES, SORRY.

1 Q PEOPLE AND PLACES WITH DETAILS?

2 A YES.

3 Q HE WAS ABLE TO EXPLAIN HIS --

4 A THE SORT OF DETAILS THAT PEOPLE USE WHEN THEY USE
5 AMERICAN SIGN LANGUAGE.

6 Q OKAY.

7 A DETAILS IN ENGLISH AND DETAILS IN AMERICAN SIGN
8 LANGUAGE MEAN TWO DIFFERENT THINGS.

9 Q OKAY. BUT YOU DIDN'T CLARIFY THAT STATEMENT ON THE
10 REPORT. YOUR SENTENCE THERE JUST SAYS HE WAS ABLE TO
11 DESCRIBE EVENTS, PEOPLE, AND PLACES IN DETAILS.

12 A IT'S PRECEDED BY THE STATEMENT THAT SHE'S FLUENT IN
13 AMERICAN SIGN LANGUAGE.

14 Q OKAY. HE WAS ABLE TO EXPLAIN HIS OWN ACTIONS AND
15 REASONS FOR HIS BEHAVIOR?

16 A UH-HUH.

17 Q ASK QUESTIONS?

18 A UH-HUH.

19 Q IS THAT A YES, JUST SO THE COURT REPORTER...

20 A I'M SORRY, YES.

21 Q AND USE CONVERSATIONAL FEATURES SUCH AS STORY
22 TELLING?

23 A YES.

24 Q HE CAN BE EASILY UNDERSTOOD BY ANY DEAF ADULT OR
25 FLUENT USERS OF A.S.L.?

1 A YES.

2 Q OKAY. THEN BASICALLY, YOU SPENT HOW MUCH TIME
3 ACTUALLY TALKING ABOUT THE FACTS OF THE CASE AND HIS
4 VERSION OF FACTS OF THIS CASE? HOW MUCH OF THOSE TWO --

5 A MOST OF IT.

6 Q OKAY.

7 A THE MAJORITY OF THE TIME THAT WAS -- WHEN --

8 Q AND WHEN YOU SAY IN THE REPORT THAT THE INTERVIEW
9 LASTED TWO OR MORE HOURS, WHAT DO YOU MEAN BY THE WORD
10 "MORE"?

11 A I'M SORRY. IT WAS PROBABLY SLIGHTLY OVER TWO HOURS.
12 I JUST WASN'T EXACT IF IT WAS TWO-AND-A-HALF OR TWO HOURS
13 AND 45 MINUTES.

14 Q OKAY.

15 A WE DIDN'T TIME IT WHEN WE WENT IN OR TIME IT WHEN WE
16 LEFT. WE WERE TRYING TO GET AN APPROXIMATE IDEA OF HOW
17 MUCH TIME WAS SPENT.

18 Q OKAY, BUT NOT THREE HOURS?

19 A I DON'T KNOW, I'M SORRY.

20 Q OKAY.

21 A I DON'T KNOW.

22 Q SO IT COULD HAVE BEEN THREE HOURS, BUT YOU PUT TWO OR
23 MORE?

24 A AGAIN, I DON'T RECALL THE EXACT AMOUNT OF TIME. I
25 KNOW IT WAS MORE THAN TWO HOURS. IF IT WAS THREE, IT WAS

1 THREE.

2 Q OKAY. AFTER THAT TIME WITH -- MS. FRANKLIN WAS
3 THERE?

4 A YES.

5 Q AND MS. SCHARDT WAS THERE?

6 A YES.

7 Q AND THEN A LAW CLERK OF THEIRS WAS THERE?

8 A YES.

9 Q OKAY. AFTER THAT TIME SPENDING, YOU SAID MOST OF THE
10 TWO HOURS TALKING ABOUT THE FACTS OF THE CASE, YOU GO AND
11 GET ON AN AIRPLANE AND LEAVE?

12 A NO, ACTUALLY, WE SPENT THE NIGHT HERE.

13 Q OKAY. WHEN YOU WERE HERE, DID YOU CONTACT GLENDIA
14 BOONE WHO INTERPRETED?

15 A NO. WE DIDN'T KNOW HER NAME, WE DIDN'T.

16 Q YOU WERE NEVER PROVIDED HER NAME?

17 A NOT UNTIL RECENTLY.

18 Q OKAY. SO AS PART OF MAKING THIS REPORT ON THE
19 LANGUAGE ASSESSMENT AND INTERVIEW, YOU WERE NEVER GIVEN
20 THE NAME OF THE INTERPRETER WHO INTERPRETED HIS STATEMENT
21 TO INVESTIGATOR JOE GRAY? THEY NEVER PROVIDED THAT
22 INFORMATION TO YOU?

23 A THEY COULD HAVE. THERE WERE A LOT OF NAMES DURING
24 THAT TWO-AND-A-HALF HOURS, AND OUR POINT --

25 Q THAT'S WHAT I'M ASKING.

1 A -- OUR CODE OF CONDUCT IS WE PREFER TO KEEP THOSE
2 THINGS CONFIDENTIAL.

3 Q OKAY.

4 A SO THAT WASN'T REALLY NECESSARY FOR US TO KNOW.

5 Q IT WAS NOT NECESSARY FOR YOU TO KNOW WHO INTERPRETED
6 HIS STATEMENT TO INVESTIGATOR JOE GRAY?

7 A NO.

8 Q SO YOU KNOW NOTHING ABOUT --

9 A WELL, WHY WOULD IT BE? I DON'T UNDERSTAND.

10 Q LET ME ASK YOU THE QUESTIONS.

11 THE COURT: WAIT, WAIT, WAIT. LET HER FINISH HER
12 ANSWER BEFORE YOU ASK ANOTHER QUESTION.

13 GO AHEAD, MS. FENT.

14 BY MS. FENT

15 Q DO YOU KNOW ANYTHING ABOUT MS. BOONE'S QUALIFICATIONS
16 TO INTERPRET?

17 A NO, BUT THAT WAS THE POINT.

18 Q DO YOU KNOW?

19 A I WANTED TO RENDER -- WE WANTED TO RENDER AN
20 IMPARTIAL ASSESSMENT OF WHAT WE WERE TOLD. WE WEREN'T
21 THERE TO EVALUATE THE INTERPRETER, WHOEVER SHE WAS
22 SPECIFICALLY, BECAUSE WE HAD NO EVIDENCE OF WHAT SHE HAD
23 INTERPRETED. THERE WAS NO VIDEO. THERE WAS NO AUDIO.
24 THERE WAS ONLY A STATEMENT THAT WAS A SUMMARY, AND
25 DR. COLLINS READ THE SUMMARY.

1 Q OKAY. SO YOUR DEFINITION OF IMPARTIAL IS TO LISTEN
2 TO MS. FRANKLIN, MAXWELL SCHARDT, AND REGINALD JOYNER AND
3 THAT'S IT?

4 A YES.

5 Q SO YOU NEVER ALSO SPOKE WITH LORI JOHNSON, THE NINE
6 YEAR OLD THAT GAVE THE STATEMENT --

7 A NO.

8 Q -- THAT REGINALD JOYNER SPOKE TO?

9 A NO.

10 Q YOU NEVER SPOKE WITH ELAINE BESSELLIEU WHO IS THE
11 TEACHER THAT OVERHEARD REGINALD JOYNER'S CONVERSATION?

12 A NO.

13 Q AND THAT IS YOUR DEFINITION OF BEING IMPARTIAL, ONLY
14 SPEAKING WITH REGINALD JOYNER AND HIS VERSION OF THE
15 EVENTS?

16 A WE WERE ASKED TO COME AND MAKE AN ASSESSMENT OF HIS
17 LANGUAGE. WHEN WE COULD EXPLAIN THAT HE HAD THE ABILITY
18 TO COMMUNICATE WELL IN AMERICAN SIGN LANGUAGE, WE WERE
19 THEN ASKED TO INTERPRET AN INTERVIEW WITH HIM, WHICH WE
20 DID.

21 Q BUT INTERPRETING AN INTERVIEW THAT YOU ONLY HAD ONE
22 SIDE OF?

23 A THAT'S ALL YOU CAN EVER DO.

24 Q YOU ALSO NEVER SPOKE WITH INVESTIGATOR JOE GRAY ABOUT
25 HIS INTERVIEW WITH REGINALD JOYNER?

1 A NO.

2 Q YOUR SECTION THAT SAID --

3 A RIGHT.

4 Q -- YOU SAID FIRST, R.J., REGINALD JOYNER, TOLD US
5 THAT BOTH LAW ENFORCEMENT AND THE STATE'S ATTORNEYS
6 QUESTIONED HIM WITHOUT THE PRESENCE OF AN INTERPRETER. WE
7 BELIEVE THAT THIS IS A VIOLATION OF CURRENT LAWS REGARDING
8 DEAF PERSON'S RIGHTS TO AN INTERPRETER IN SUCH
9 PROCEEDINGS.

10 I MEAN YOU ARE MAKING A JUDGMENT ABOUT THE SITUATION,
11 CORRECT. "WE BELIEVE", YOU ARE MAKING A JUDGMENT ABOUT
12 THE SITUATION?

13 A YES.

14 Q OKAY.

15 A REGIONAL JOYNER TOLD US THAT THERE WERE SEVERAL --
16 THERE WAS AT LEAST ONE OCCASION WHERE HE WAS QUESTIONED BY
17 POLICE OFFICERS WITHOUT ANY INTERPRETERS.

18 Q OKAY. AND YOU DIDN'T MAKE ANY STEPS TO CONFIRM IF
19 THAT WAS TRUE OR NOT?

20 A NO. THAT WAS NOT OUR JOB AND NOT OUR RESPONSIBILITY.

21 Q ALTHOUGH YOU ARE ULTIMATELY SAYING WHETHER OR NOT
22 RIGHTS WERE VIOLATED, YOU MADE NO STEPS TO CONFIRM IF
23 RIGHTS WERE ACTUALLY TRULY VIOLATED OR NOT?

24 A THAT WAS NOT PART OF OUR RESPONSIBILITY. IT WAS NOT
25 PART OF WHAT WE WERE ASKED TO DO.

1 MS. FENT: OKAY. NO FURTHER QUESTIONS.

2 THE COURT: ANY REDIRECT?

3 MS. FRANKLIN: JUST ONE.

4 REDIRECT EXAMINATION:

5 BY MS. FRANKLIN

6 Q YOU PERFORMED THESE LINGUISTICS ANALYSIS IN THE PAST?

7 A YES.

8 Q AND HOW MANY OF THESE HAVE YOU DONE, CAN YOU
9 APPROXIMATE?

10 A FIVE TO TEN. I MEAN, I REALIZE THAT'S A WIDE RANGE.

11 Q OKAY.

12 A BUT I HAVE A 30-YEAR HISTORY.

13 Q ALL RIGHT. THANK YOU.

14 A YES.

15 THE COURT: ALL RIGHT. YOU MAY STEP DOWN. THANK
16 YOU.

17 MS. FRANKLIN: I NEXT CALL DR. STEPHEN COLLINS TO THE
18 STAND.

19 YOUR HONOR, JUST TO EXPLAIN, DR. CYNTHIA ROY WILL BE
20 ACTING AS HIS INTERPRETER.

21 THE COURT: ALL RIGHT. WHAT I WILL NEED TO DO, FIRST
22 OF ALL, IS SWEAR YOU AS AN INTERPRETER.

23 CYNTHIA ROY, AFTER BEING DULY SWORN,
24 INTERPRETED AS FOLLOWS:

25 MS. FENT: MAY WE APPROACH, YOUR HONOR?

1 THE COURT: SURE.

2 (WHEREUPON, THERE WAS A BENCH CONFERENCE.)

3 THE COURT: DO WHATEVER YOU NEED TO DO TO MAKE
4 YOURSELF -- I'LL TELL YOU WHAT, WHY DON'T WE DO THIS, IF
5 IT'S NOT TOO MUCH TROUBLE, DO WE HAVE A CHAIR THAT WE CAN
6 PLACE RIGHT WHERE THE INTERPRETER IS, AND THEN THAT'S
7 FINE?

8 THE INTERPRETER: YES, DR. COLLINS THINKS THAT WILL
9 BE BETTER, AS WELL.

10 THE COURT: ALL RIGHT. LET'S DO THAT.

11 THE INTERPRETER: DO I NEED THE MICROPHONE?

12 THE COURT: THERE IS ONE CLOSE BY BECAUSE I'M PICKING
13 ONE UP.

14 MS. FRANKLIN: THAT ONE RIGHT THERE.

15 STEPHEN COLLINS (JURY ABSENT), AFTER
16 BEING DULY SWORN, TESTIFIED AS FOLLOWS:

17 THE COURT: THAT'S THE MEDIA MICROPHONE. I THINK THE
18 ONE WE'RE ON IS WORKING.

19 DIRECT EXAMINATION:

20 BY MS. FRANKLIN

21 Q DR. COLLINS, WOULD YOU STATE YOUR NAME FOR THE
22 RECORD, PLEASE?

23 THE INTERPRETER: I'M DR. STEPHEN D. COLLINS.

24 Q AND WHERE DO YOU WORK, DR. COLLINS?

25 THE INTERPRETER: I WORK AT GALLAUDET UNIVERSITY AS

1 THE CHAIR OF THE DEPARTMENT OF INTERPRETATION.

2 Q AND HOW LONG HAVE YOU BEEN THERE FOR?

3 THE INTERPRETER: I'VE WORKED AS AN GALLAUDET
4 EMPLOYEE SINCE 1992.

5 Q OKAY. COULD YOU PLEASE SUPPLY THE COURT WITH YOUR
6 EDUCATIONAL BACKGROUND?

7 THE INTERPRETER: I ATTENDED GALLAUDET UNIVERSITY IN
8 1984 AND GRADUATED WITH A BACHELORS DEGREE IN
9 COMMUNICATION STUDIES.

10 IN 1990 I ENTERED GALLAUDET AGAIN FOR A MASTER'S
11 DEGREE IN INTERPRETING. I'M THE FIRST DEAF PERSON TO GET
12 AN INTERPRETING DEGREE.

13 I HAVE WORKED AT GALLAUDET FOR MANY YEARS, AND THEN I
14 BEGAN P.H.D. WORK AT UNION INSTITUTE AND GOT MY DEGREE IN
15 LINGUISTICS, MAJORING -- I MAJORED IN LINGUISTICS IN 2004.

16 Q AND DO YOU HAVE ANY SPECIAL CERTIFICATIONS RELATED TO
17 YOUR ABILITY TO INTERPRET?

18 THE INTERPRETER: YES. I AM CERTIFIED DEAF
19 INTERPRETER OF C.D.I. THROUGH THE REGISTRY OF INTERPRETERS
20 FOR THE DEAF.

21 MS. FRANKLIN: YOUR HONOR, AT THIS POINT I WOULD
22 TENDER DR. STEPHEN COLLINS AS AN EXPERT FOR PURPOSES OF
23 THIS HEARING.

24 THE COURT: IS THERE ANY OBJECTION FOR PURPOSES OF
25 THIS HEARING?

1 MS. FENT: NO OBJECTION.

2 THE COURT: THE WITNESS IS FOUND TO BE AN EXPERT IN
3 THE FIELD OF INTERPRETING AND LINGUISTICS.

4 GO AHEAD.

5 BY MS. FRANKLIN

6 Q AND DR. COLLINS, YOU HELPED PREPARE THIS REPORT, THIS
7 LANGUAGE ASSESSMENT ON REGINALD JOYNER, DID YOU NOT?

8 THE INTERPRETER: YES.

9 Q AND WHEN WE HIRED YOU, WHAT WAS YOUR EXPECTATION OF
10 WHAT YOU WERE TO DO?

11 THE INTERPRETER: WHEN YOU HAD CONTACTED ME AND
12 INVITED ME TO COME, YOU ASKED ME TO ASSESS THE LANGUAGE
13 AND THE LINGUISTIC ABILITIES OF THIS DEAF PERSON, SO I
14 EXPECTED TO -- I EXPECTED TO COME AND TO INTERVIEW THIS
15 DEAF PERSON AND DESCRIBE HIS LANGUAGE ABILITIES.

16 Q AND COULD YOU PLEASE PROVIDE FOR THIS COURT A LITTLE
17 BIT ABOUT AMERICAN SIGN LANGUAGE, SOME INFORMATION ABOUT
18 AMERICAN SIGN LANGUAGE, ITS HISTORY, SPECIFICALLY THE
19 DIFFERENCE BETWEEN AFRICAN AMERICAN SIGN LANGUAGE AND
20 WHITE SIGN LANGUAGE?

21 THE INTERPRETER: ALL RIGHT. AMERICAN SIGN LANGUAGE
22 IS A VISUAL LANGUAGE. IT'S BEEN USED FOR MANY YEARS SINCE
23 THE EARLY 1900S WHEN THE COUNTRY WAS FOUNDED.

24 (PAUSE).

25 I'M SORRY. THE INTERPRETER NEEDED TO STOP.

1 (PAUSE) .

2 A.S.L. IS FULLY STRUCTURAL AND HAS ITS OWN LINGUISTIC
3 RULES LIKE ANY OTHER LANGUAGE IN THE UNITED STATES, BUT
4 LIKE ANY OTHER LANGUAGE, IT HAS VARIETIES, AND ONE OF
5 THESE VARIETIES IS A LINGUISTIC VARIETY CALLED BLACK
6 A.S.L. THEY TEND TO HAVE THEIR OWN LEXICON AND
7 VOCABULARY.

8 WHILE THEY STILL USE MUCH OF THE AMERICAN SIGN
9 LANGUAGE THAT THE REST OF DEAF AMERICANS USE, THERE ARE
10 SPECIFIC POINTS ABOUT THE VARIETY OF BLACK A.S.L.

11 Q IS IT YOUR BELIEF THAT REGINALD JOYNER SPEAKS A
12 PARTICULAR VARIETY OF AMERICAN SIGN LANGUAGE?

13 THE INTERPRETER: OH YES. HE IS A COMPLETELY
14 COMPETENT USER OF A.S.L., AND HE USES FEATURES OF AMERICAN
15 SIGN LANGUAGE USED IN THE UNITED STATES.

16 Q AND COULD YOU PLEASE TELL THIS COURT A LITTLE BIT
17 ABOUT THE SENTENCE STRUCTURES OF SIGN LANGUAGE, SOME OF
18 THE PROBLEMS WITH REDUCING SIGN LANGUAGE INTO WRITING?

19 THE INTERPRETER: ALL RIGHT. A.S.L. USES -- THE
20 GRAMMATICAL NATURE OF A.S.L. IS BOTH NOT ONLY ON THE HANDS
21 BUT ALSO IN THE FACE, AND THEREFORE, THERE ARE MANY PARTS
22 OF THE LANGUAGE THAT ARE ON THE FACE AND HANDS, JUST LIKE
23 ENGLISH HAS INTONATION. IT HAS VERBS. IT HAS SUBJECTS.
24 IT HAS WORD ORDER, AND THE SAME IS -- FOR EXAMPLE, LIKE
25 FRENCH HAS WORD ORDER, BUT A DIFFERENT KIND OF WORD ORDER

1 THAN ENGLISH.

2 THERE ARE MANY KINDS OF WAYS YOU CAN ARRANGE
3 LANGUAGES IN THE WORLD, AND SO A.S.L. HAS A STRUCTURE, BUT
4 A STRUCTURE THAT IS VERY DIFFERENT FROM WRITING.

5 Q AND DOES THAT MANIFEST ITSELF LIKE IN THE
6 EDUCATIONAL -- WHEN NATIVE DEAF SPEAKERS ARE GIVEN
7 STANDARDIZED TEST, HOW DO THEY TYPICALLY PERFORM ON THOSE
8 TESTS?

9 THE INTERPRETER: NO. MOST DEAF SPEAKERS DON'T DO
10 WELL BECAUSE IT DEPENDS ON THEIR ENGLISH ABILITY. OFTEN
11 IN PUBLIC SCHOOLS THEY PROVIDE INTERPRETERS WHO FOR -- LET
12 ME START OVER AGAIN. I'M SORRY.

13 THE COURT: SURE.

14 THE INTERPRETER: THE INTERPRETER NEEDS TO ASK
15 DR. COLLINS TO SLOW DOWN.

16 (PAUSE).

17 FOR PEOPLE WHO ARE DEAF, ENGLISH IS A SECOND
18 LANGUAGE, AND IT'S NOT TO SAY -- THEY DON'T GET THE SAME
19 ACCESS TO IT THAT PEOPLE WHO CAN HEAR. THEY DON'T HAVE
20 FULL ACCESS TO THE WRITTEN LANGUAGE. THEY HAVE FULL
21 ACCESS TO A VISUAL LANGUAGE, AND SO THEREFORE, IN SCHOOLS
22 THEY HAVE A SIGN SYSTEM THAT'S TRYING TO MATCH WHAT THE
23 WRITTEN LANGUAGE IS, BUT IT'S REALLY A REDUCED FORM OF
24 LANGUAGE BECAUSE YOU CAN'T CAPTURE ALL THE FEATURES OF
25 BOTH SOUND AND VISION IN ONE LANGUAGE, SO THERE'S NOT

1 EQUAL ACCESS TO COMMUNICATION.

2 Q AND COULD YOU PLEASE TELL THIS COURT DURING THE
3 COURSE OF YOUR INTERVIEW WITH REGINALD JOYNER PERCEPTIONS
4 OF HIS TREATMENT DURING THE COURSE OF THIS INVESTIGATION,
5 INCLUDING HIS RELATIONSHIP WITH INTERPRETERS IN THIS CASE?

6 THE INTERPRETER: WHEN I SAT DOWN AND HAD A
7 CONVERSATION WITH R.J., THE TWO OF US HAD A LONG
8 CONVERSATION, AND I SHOWED HIM THE PAPER. HE TOLD ME THAT
9 MANY THINGS WERE MISSING. HE DIDN'T AGREE WITH WHAT HAD
10 BEEN SAID THERE AND THAT THE INTERPRETER MUST HAVE MISSED
11 SOME OF THE THINGS THAT HE SAID.

12 FOR EXAMPLE, HE SIGNED PRETTY FAST AND HE FINGER
13 SPELLED OFTEN, BUT THE INTERPRETER DIDN'T RECOGNIZE MANY
14 OF THE FINGER SPELLED WORDS THAT HE MENTIONED.

15 HE WAS PRETTY FRUSTRATED, AND HE SAID THAT'S NOT WHAT
16 HE WANTED TO SAY. HE WAS GIVEN THE OPPORTUNITY TO READ
17 IT, AND HE READ IT AS BEST HE COULD BUT DID HE UNDERSTAND
18 IT FULLY IS ANOTHER QUESTION, BUT FOR A HALF HOUR, WE
19 TALKED TO HIM ABOUT WHAT WAS SAID ON THE PAPER. HE
20 SAID -- AND HE SAID THAT HE FELT LIKE HE WASN'T FULLY
21 UNDERSTOOD.

22 THERE WERE SOME WORDS THAT THERE THAT DIDN'T MATCH
23 WHAT HE HAD SAID. THERE WERE SOME SIGNS THAT HE HAD NEVER
24 USED, WORDS THAT HE HAD NEVER USED THE SIGNS FOR, THAT
25 KIND OF THING, SO IT REALLY TOLD ME THAT MUCH OF WHAT GOT

1 INTERPRETED WAS MISSING. THERE WERE SOME HOLES THERES.

2 Q AND WHAT IS OFTEN THE RESPONSE OF DEAF SPEAKERS WHEN
3 THEY DON'T BELIEVE THAT THEY'RE BEING UNDERSTOOD?

4 THE INTERPRETER: WAIT, LET ME BE CLEAR ABOUT THE
5 QUESTION. WOULD YOU MIND SAYING IT AGAIN?

6 Q SURE. WHEN NATIVE DEAF SPEAKERS FEEL LIKE THEY'RE
7 NOT GOING TO BE UNDERSTOOD, DO THEY TYPICALLY RESPOND IN
8 PARTICULAR WAYS?

9 THE INTERPRETER: OFTEN THEY'LL ASK FOR CLARIFICATION
10 OR MOST OF THE TIME THEY'LL JUST NOD IN AGREEMENT, AND
11 THEY'RE NOT BOTHERING TO ASK FOR CLARIFICATION OR TO
12 REALLY GET IT STRAIGHT BECAUSE WHEN THEY DO, THEY KNOW
13 THEY WON'T GET A CLEAR ANSWER BACK OR THEY WON'T
14 UNDERSTAND PEOPLE VERY WELL. SO THEY JUST GO ALONG AND
15 NOD IN AGREEMENT.

16 OFTEN, THEY'LL TRY TO COMMUNICATE THROUGH GESTURES,
17 BUT IT'S NOT A PERFECT WAY TO COMMUNICATE. THEY MAY NOT
18 UNDERSTAND THE GESTURES THAT COME BACK AT THEM, SO THEY'LL
19 GIVE UP, WON'T EVEN TALK TO THE PERSON THAT'S ASKING THEM
20 QUESTIONS OR TRY TO GET INFORMATION FROM THEM.

21 Q CAN YOU ALSO COMMENT ON THE ABILITY OF A NATIVE DEAF
22 PERSON'S ABILITY TO COMMUNICATE WITH THEIR PEERS?

23 THE INTERPRETER: WHEN YOU TALK ABOUT PEERS, IT
24 DEPENDS ON WHO ARE THE PEERS YOU'RE TALKING ABOUT. IF
25 IT'S A GROUP OF HEARING PEOPLE WHO DON'T SIGN, A GROUP OF

1 STUDENTS OR KIDS WHO LIP READ, WOULD A DEAF PERSON
2 UNDERSTOOD THEM FULLY? WOULD THEY BE ABLE TO UNDERSTAND
3 GESTURES AND LIP READING, NO, LESS THAN 50 PERCENT.

4 EVEN WITH WRITING, WOULD THEY BE ABLE TO WRITE FULL
5 SENTENCES? WOULD THE HEARING PEERS WRITE BACK FULL
6 SENTENCES? NO, AND DEAF STUDENTS WHO ARE TRYING TO
7 UNDERSTAND -- HEARING PEOPLE WHO WRITE MESSAGES BACK AND
8 FORTH ARE OFTEN PICKING OUT SPECIFIC WORDS, BUT THEY'RE
9 NOT UNDERSTANDING THE CONNECTION BETWEEN THE WORDS.

10 WITH OTHER PEERS WHO PERHAPS ARE DEAF AND HAVE BEEN
11 TALKING IN A.S.L. FOR MANY YEARS, THERE'S FULL
12 COMMUNICATION. THEY UNDERSTAND EACH OTHER PERFECTLY, AND
13 THERE'S FULL AND EQUAL ACCESS TO LANGUAGE. MAYBE THAT
14 PEER GROUP IS A FAMILY, A BUNCH OF FAMILY MEMBERS, SEVERAL
15 FAMILY MEMBERS, AND THE RESEARCH SAID 90 PERCENT OF FAMILY
16 MEMBERS DON'T COMMUNICATE FULLY WITH THEIR DEAF CHILDREN.
17 THEY MAY USE HOME SIGNS OR THEY MAY COMMUNICATE WITH
18 GESTURES, BUT DO THEY UNDERSTAND EACH OTHER 100 PERCENT,
19 PROBABLY NOT. THEY MAY LIP READ. THEY MAY TRY TO WRITE
20 NOTES AND MAYBE WHEN DEAF -- I'M SORRY, HOLD ON, THE
21 INTERPRETER'S FAULT.

22 WHEN A PERSON IN A FAMILY WHO CAN HEAR TRIES TO WRITE
23 NOTES, THEY MAY WRITE A SENTENCE, BUT IT WILL HAVE
24 DISJOINTED WORDS, WORDS THAT ARE NOT CONNECTED TOGETHER
25 PROPERLY.

1 SO AS A SECOND LANGUAGE LEARNER OF ENGLISH, IT'S
2 REALLY DIFFICULT. THAT'S WHY IT DEPENDS ON WHO YOU'RE
3 CALLING PEERS GROUP. OFTEN, IT DEPENDS ON WHICH PEER
4 GROUP YOU'RE TALKING ABOUT AND WHAT KIND OF LANGUAGE
5 ACCESS AND ABILITY THEY HAVE WITH THE DEAF SPEAKER, WITH
6 THE DEAF PERSON.

7 MANY PEOPLE THINK THAT IF YOU CAN FINGER SPELL THAT'S
8 GOOD ENOUGH, YOU CAN UNDERSTAND, BUT THAT'S NOT EXACTLY --
9 THAT'S NOT TRUE, AND IF THE POINT IS THAT A.S.L. IS A FULL
10 AND RICH DEVELOPED LANGUAGE, SO UNLESS YOU UNDERSTAND AND
11 ARE ABLE TO USE IT FLUENTLY, THERE'S NO WAY YOU REALLY
12 COMMUNICATE WITH SOMEONE WHO IS DEAF.

13 Q AND DR. COLLINS, DO YOU HAVE AN OPINION, BASED ON
14 YOUR EXPERIENCE, AS TO WHETHER REGINALD JOYNER BELIEVES HE
15 WAS INTERPRETED CORRECTLY WHEN HE SPOKE TO LAW ENFORCEMENT
16 BACK IN 2004?

17 THE INTERPRETER: NO.

18 Q YOU DO NOT HAVE AN OPINION?

19 THE INTERPRETER: THE WAY I UNDERSTAND THROUGH MY
20 CONVERSATION, THE POLICE -- HE HAD A DIFFICULT TIME
21 INTERPRETING. I'M SORRY, HE HAD A DIFFICULT TIME SPEAKING
22 WITH THE POLICE, AND YES, HE DID SPEAK THROUGH AN
23 INTERPRETER.

24 WHEN HE SPOKE WITH JUST THE POLICE -- WHEN HE SPOKE
25 WITH JUST THE POLICE AND THERE WAS NO INTERPRETER, THE

1 POLICEMAN DIDN'T SIGN. HE DIDN'T HAVE FULL COMMUNICATION,
2 BUT WHEN HE COMMUNICATED WITH THE POLICE THROUGH THE
3 INTERPRETER, THROUGH WRITING, THERE WASN'T A FULL
4 STATEMENT THERE. HE FELT LIKE MANY OF THE THINGS HE HAD
5 SAID DIDN'T GET THROUGH, SO HE FELT LIKE IT WASN'T A
6 SUCCESSFUL COMMUNICATION.

7 Q AND DR. COLLINS, DO YOU ALSO HAVE AN OPINION BASED ON
8 YOUR EXPERIENCE ABOUT HIS ABILITY TO BE UNDERSTOOD
9 RELIABLY BY A NINTH GRADER WHO HAD NO EXPERIENCE WITH
10 AMERICAN SIGN LANGUAGE?

11 THE INTERPRETER: NO. I THINK THAT WAS A VERY
12 LIMITED COMMUNICATION BETWEEN THOSE TWO. IF THAT GIRL,
13 YOUNG GIRL, DIDN'T KNOW A.S.L. FLUENTLY, SHE MIGHT HAVE
14 LIP READ HIM, SHE MIGHT HAVE KNOWN A SIGN OR TWO, BUT
15 THERE'S NO WAY SHE UNDERSTOOD HIM COMPLETELY AND, OF
16 COURSE, HE DIDN'T UNDERSTAND HER VERY WELL, SO HE OFTEN --
17 HE TOLD ME HE WOULD OFTEN JUST SIMPLY NOD IN AGREEMENT AND
18 JUST LOOK AT HER AND NOD SO THAT HE -- SO THE CONVERSATION
19 WOULD GO BY, BUT -- AND WHILE SHE MAY HAVE BEEN ABLE TO
20 FINGER SPELL OR WHATEVER, THAT WAS STILL INSUFFICIENT FOR
21 HER TO TRULY UNDERSTOOD WHAT HE MIGHT HAVE SAID TO HER.

22 Q AND DR. COLLINS, CAN YOU ALSO DISCUSS WITH THE COURT
23 SOME OF THE ETHICAL ISSUES SURROUNDING INTERPRETATION OR
24 INTERPRETERS SPECIFICALLY ABOUT HAVING DOUBLE ROLES
25 WORKING FOR THE STATE AND THEN SERVING AS AN INTERPRETER

1 OR WORKING FOR THE DEFENSE AND THEN SERVING AS AN
2 INTERPRETER?

3 THE INTERPRETER: AS INTERPRETERS IN LEGAL
4 SITUATIONS, WE TEND TO ASK INTERPRETERS TO BE ON ONE SIDE
5 OF THE LEGAL SYSTEM OR THE OTHER. WE THINK IT'S UNETHICAL
6 FOR INTERPRETERS TO INTERPRET FOR BOTH SIDES, BOTH THE
7 DEFENSE AND THE STATE. THEY NEED TO BE NEUTRAL AND DO
8 THEIR JOB WITHOUT GIVING THEIR OPINION AND WITHOUT DOING
9 ANY ADVISEMENT.

10 SO REALLY, IN A SITUATION -- THEY'VE HIRED US TO --
11 THEY'VE -- SO THE DEFENSE HAS HIRED US AS EXPERT WITNESSES
12 ACCORDING TO -- WAIT A MINUTE, I'M SORRY. I'M SORRY. THE
13 INTERPRETER NEEDS TO BACK UP. I LOST SOME INFORMATION.

14 THE COURT: ALL RIGHT.

15 (PAUSE).

16 THE INTERPRETER: OKAY. IN A LEGAL SITUATION, OUR
17 CODE OF CONDUCTS SUGGEST THAT INTERPRETERS SHOULD WORK FOR
18 ONE SIDE OR THE OTHER, NOT FOR BOTH, BECAUSE THE
19 INTERPRETERS, KNOWING INFORMATION FROM ONE SIDE AND THEN
20 GO AND WORK FOR EXAMPLE THE STATE, AND THEN GO TO WORK FOR
21 THE DEFENSE WOULD BRING INFORMATION THEY KNEW FROM
22 INTERPRETING FOR THE STATE INTO THE DEFENSE, AND THAT'S
23 NOT APPROPRIATE. THAT'S TOO CONFUSING AND ALLOWS FOR TOO
24 MUCH MIXING OF THE ROLE.

25 Q AND DR. COLLINS, HOW MANY OF THESE LINGUISTIC

1 ANALYSIS HAVE YOU COMPLETED DURING THE COURSE OF YOUR
2 CAREER?

3 THE INTERPRETER: I'VE DONE OVER 100 OF THESE. EVERY
4 YEAR APPROXIMATELY BETWEEN COURT TO UNIVERSITIES, I'VE
5 BEEN CALLED TO DO A LINGUISTIC ANALYSIS FOR ALL KINDS OF
6 DEAF PEOPLE, FOR TEACHERS IN PUBLIC SCHOOL SYSTEMS, FOR
7 COURTROOMS. I'VE BEEN CALLED OFTEN AND HAVE DONE OVER
8 HUNDREDS OF THESE LINGUISTIC KINDS OF ANALYSIS.

9 MS. FRANKLIN: YOUR HONOR, I HAVE NO MORE QUESTIONS
10 AT THIS TIME.

11 THE COURT: ALL RIGHT.

12 CROSS-EXAMINE, MS. FENT?

13 MS. FRANKLIN: ALTHOUGH, YOUR HONOR, AT THIS POINT I
14 THINK WE WOULD HAVE AN OBJECTION TO THE STATE USING
15 DR. ROY FOR PURPOSES OF DOING A CROSS-EXAMINATION.

16 THE COURT: OVERRULED.

17 GO AHEAD, MS. FENT.

18 THE INTERPRETER IS UNDER OATH TO INTERPRET TO THE
19 BEST OF HER ABILITY, AND THAT'S WHAT I'VE GOT TO RELY ON.

20 GO AHEAD, MS. FENT.

21 CROSS-EXAMINATION:

22 BY MS. FENT

23 Q DR. COLLINS, YOU MET WITH REGINALD JOYNER ON
24 AUGUST 25TH, CORRECT?

25 THE INTERPRETER: YES.

1 Q AND THEN YOU GENERATED THE REPORT BY AUGUST 28TH, TO
2 GIVE TO DEFENSE COUNSEL?

3 THE INTERPRETER: YES, WITH DR. ROY.

4 Q AND YOU ALL DISCUSSED THIS FOR ONE HOUR ON THE PLANE
5 COMING FROM COLUMBIA BACK TO YOUR HOMETOWN?

6 THE INTERPRETER: YES.

7 Q WHEN YOU WERE IN COLUMBIA AFTER THIS INTERVIEW, WHEN
8 DID YOU MEET WITH GLENDIA BOONE WHO INTERPRETED REGINALD
9 JOYNER'S STATEMENT?

10 THE INTERPRETER: NO.

11 Q WHEN DID YOU MEET WITH LORI JOHNSON, THE YOUNG LADY
12 WHO ALSO SPOKE WITH REGINALD JOYNER REGARDING THIS CASE?

13 THE INTERPRETER: NO, I NEVER MET HER.

14 Q WHEN DID YOU SPEAK WITH INVESTIGATOR JOE GRAY
15 REGARDING THE TAKING OF THE STATEMENT FROM REGINALD
16 JOYNER?

17 THE INTERPRETER: NO. I DIDN'T TALK WITH THE POLICE
18 OFFICER EITHER.

19 Q WHEN DID YOU TALK TO ELAINE BESSELLIEU, THE TEACHER
20 AT A.C. FLORA, THAT OVERHEARD REGINALD JOYNER TALKING
21 ABOUT THIS CASE?

22 THE INTERPRETER: NO, I NEVER MET HER.

23 Q IN YOUR REPORT, YOU MADE NUMEROUS -- OR EXPRESSED
24 NUMEROUS CONCERNS REGARDING INTERPRETATIONS, PEOPLE'S
25 INTERPRETATIONS, CORRECT?

1 THE INTERPRETER: YES.

2 Q AND THIS WAS BASED UPON YOUR CONVERSATION WITH
3 REGINALD JOYNER ALONE?

4 THE INTERPRETER: YES.

5 Q WHERE IN YOUR REPORT DO YOU EXPRESS YOUR CONCERNS
6 REGARDING REGINALD JOYNER'S MOTIVES TO TELL YOU A
7 DIFFERENT STORY?

8 THE INTERPRETER: I'M NOT SURE I UNDERSTAND YOUR
9 QUESTION. WILL YOU REPEAT THAT?

10 Q YOU UNDERSTOOD THAT REGINALD JOYNER WAS POTENTIALLY
11 AT THE SCENE OF A DOUBLE HOMICIDE?

12 THE INTERPRETER: OKAY. JUST A MINUTE. CAN I DO
13 THAT PRIOR QUESTION?

14 (PAUSE).

15 ALL RIGHT.

16 Q KNOWING THAT POTENTIAL ROLE, WHERE DID YOU EXPRESS
17 CONCERNS IN YOUR REPORT ABOUT REGINALD JOYNER'S MOTIVES TO
18 TELL YOU HIS VERSION OF THIS STORY?

19 THE INTERPRETER: WHEN I READ THE STATEMENT, THOSE
20 STATEMENTS WEREN'T ABOUT MOTIVE. WE WERE LOOKING AT THE
21 STATEMENTS OF R.J., AND HE NEVER UNDERSTOOD THE PROCESS.
22 HE NEVER UNDERSTOOD WHY HE WAS BEING ASKED THE QUESTIONS.
23 HE DIDN'T UNDERSTAND WHY HE WAS THERE. HE DIDN'T
24 UNDERSTAND WHAT THE STATEMENT HAD REALLY SAID AND THINGS
25 LIKE THAT.

1 Q SO YOU HAD --

2 THE INTERPRETER: SO THAT'S WHAT WE DISCUSSED. FROM
3 MY EXPERTISE IN THE INTERPRETING FIELD AND MY ANALYSIS OF
4 LINGUISTIC ANALYSIS, WE WERE JUST TRYING TO FIGURE OUT
5 WHAT LEVELS HE COULD UNDERSTAND AND HOW HE COULD EXPRESS
6 HIS OWN FEELINGS AND HIS OWN VERSION OF WHAT HAPPENED.

7 HE VERY MUCH -- HE OFTEN TOLD ME, "I DON'T UNDERSTAND
8 WHAT WAS SAID. I HAVEN'T UNDERSTOOD MUCH OF MY SITUATION
9 FOR THE PAST TWO YEARS."

10 Q SO YOU BELIEVED EVERYTHING THAT HE TOLD YOU WITHOUT
11 QUESTION?

12 THE INTERPRETER: YES.

13 MS. FENT: NO FURTHER QUESTIONS.

14 THE COURT: ALL RIGHT. ANY REDIRECT?

15 MS. FRANKLIN: NO MORE QUESTIONS, YOUR HONOR.

16 THE COURT: ALL RIGHT. YOU MAY STEP DOWN.

17 ALL RIGHT. ANY OTHER TESTIMONY AT THIS TIME?

18 MS. FRANKLIN: NO MORE TESTIMONY, YOUR HONOR.

19 THE COURT: DO EITHER THE DEFENSE OR THE STATE HAVE
20 ANY CASE LAW ON THIS OR A SIMILAR TYPE ISSUE?

21 MS. FRANKLIN: I DO NOT HAVE ANY CASE LAW REGARDING
22 THIS SPECIFIC ISSUE, YOUR HONOR. ALL I KNOW IS
23 ESSENTIALLY WHAT WE'VE SEEN. I THINK THE SUPREME COURT
24 CAME DOWN WITH SOME NEW RULES REGARDING INTERPRETERS. I
25 BELIEVE THAT CAME DOWN IN THE SUMMER. THAT'S THE ONLY LAW

1 THAT I KNOW OF IN ADDITION TO WHAT IS OBTAINED IN THE
2 STATUTE ON THIS ISSUE.

3 THE COURT: LET ME -- IS THIS WITNESS GOING TO BE
4 CALLED THIS AFTERNOON?

5 MS. FENT: NO, YOUR HONOR.

6 THE COURT: ALL RIGHT. ALL RIGHT. I'LL BE GLAD TO
7 HEAR YOUR ARGUMENTS OR WE CAN DO THAT AT A LATER POINT IN
8 TIME. I KNOW YOU TOLD ME YOUR WITNESSES ARE HERE AND
9 NEEDED TO GET BACK AND WOULD COME BACK, BUT IF YOU'RE DONE
10 WITH THEM, THEN I DON'T HAVE ANY QUESTIONS FOR THEM. I
11 DON'T KNOW IF YOU'RE READY TO RELEASE THEM OR NOT.

12 MS. FRANKLIN: OKAY. IF THE STATE IS NOT INTENDING
13 TO CALL REGINALD JOYNER TO THE STAND TODAY, THEN I WOULD
14 RELEASE THEM.

15 THE COURT: THAT'S FINE.

16 (PAUSE).

17 ALL RIGHT. LET ME GO AHEAD AND TAKE BRIEF ARGUMENTS
18 UP WHILE IT IS FRESH IN MY MIND. I'VE HEARD YOUR
19 STATEMENT BEFOREHAND, AND I'VE HEARD YOUR TESTIMONY.

20 MS. FRANKLIN?

21 MS. FRANKLIN: YOUR HONOR.

22 THE COURT: THERE MAY NOT BE ANYTHING ELSE YOU NEED
23 TO ADD IN ADDITION.

24 MS. FRANKLIN: I LAID OUT OUR ARGUMENT WHILE I WAS
25 LAYING OUT THIS. OUR POSITION IS THAT MR. JOYNER

1 MAINTAINS THAT HE WAS NOT APPROPRIATELY AND CORRECTLY
2 INTERPRETED AT THE TIME THAT HE GAVE STATEMENTS TO LAW
3 ENFORCEMENT.

4 WE BELIEVE THAT THAT ITSELF SUGGESTS THAT HIS
5 STATEMENT GIVEN AT THAT TIME WAS UNRELIABLE AND, OF
6 COURSE, THE TESTIMONY REGARDING ANYTHING HE MAY HAVE SAID
7 TO A NINTH GRADER WHO HAS ABSOLUTELY NO EXPERIENCE WITH
8 AMERICAN SIGN LANGUAGE WOULD ALSO HAVE TO BE INHERENTLY
9 UNRELIABLE, YOUR HONOR.

10 YOU KNOW, WITH RESPECT TO THE COMMUNICATIONS THAT MAY
11 HAVE BEEN MADE OR OVERSEEN BY A TEACHER AT A.C. FLORA, YOU
12 KNOW, I THINK DR. COLLINS JUST EXPRESSED THE REAL
13 DIFFICULTY OF SOMEBODY, YOU KNOW, OVERSEEING HOW, YOU
14 KNOW, PEOPLE ARE COMMUNICATING IF THEY'RE ALL DEAF OR IF
15 SOME OF THEM ARE DEAF, SOME OF THEM ARE SECOND LANGUAGE
16 SIGN USERS.

17 AGAIN, I DON'T KNOW -- I DON'T HAVE A STATEMENT FROM
18 MS. ELAINE BESSELLIEU. I'M NOT SURE WHAT SHE IS PREPARED
19 TO TESTIFY TO. OUR POSITION ADDITIONALLY IS IT'S
20 INADMISSIBLE HEARSAY.

21 I DO BELIEVE THE TESTIMONY FROM DR. COLLINS AND
22 DR. ROY HAS BROUGHT TO THE COURT'S ATTENTION SOME DEEP
23 ISSUES WITH INTERPRETATION, THAT THESE STATEMENTS WOULD
24 HAVE TO BE CHARACTERIZED AS INHERENTLY UNRELIABLE.

25 THAT IS THE CRUX OF IT. I MEAN, WITH RESPECT TO THE

1 STATEMENT THAT WAS -- OR THE SUMMARY OF THE STATEMENT THAT
2 WAS GIVEN TO, I GUESS, LAW ENFORCEMENT ON THE 31ST, I
3 MEAN, OUR ARGUMENT ON THAT IS THAT IT'S JUST A SUMMARY OF
4 AN INTERVIEW, THAT IT'S NOT EVEN A STATEMENT AND SHOULDN'T
5 COME IN FOR THAT REASON.

6 WITH RESPECT TO THE STATEMENTS MADE TO LORI JOHNSON,
7 AGAIN, WE WOULD ALSO ARTICULATE OUR BASIS FOR EXCLUDING
8 THAT ON THE HEARSAY BASIS, AS WELL AS THE ALLEGED
9 COMMUNICATIONS THAT MS. BESSELLIEU APPARENTLY OVERSAW, AS
10 WELL.

11 WE'RE ALLEGING, REALLY, TWO BASES FOR EACH OF THESE
12 COMMUNICATIONS, ADDITIONALLY HEARSAY. OUR POSITION IS
13 THAT THE RELIABILITY OF THESE TRANSLATIONS IS INHERENTLY
14 UNRELIABLE.

15 THE COURT: IF THE WITNESS COMES INTO COURT AND TAKES
16 THE STAND AND TESTIFIES AND IS SUBJECT TO BEING
17 CROSS-EXAMINED, THERE IS NO MORE HEARSAY PROBLEM, CORRECT?

18 MS. FRANKLIN: I THINK IT WOULD DEPEND ON WHAT HE
19 TESTIFIES TO.

20 THE COURT: NO. HEARSAY IS AN OUT-OF-COURT STATEMENT
21 MADE BY A WITNESS OFFERED FOR THE TRUTH OF THE MATTER
22 ASSERTED, AND YOU DON'T -- THE REASON IT'S EXCLUDED IN
23 MOST CASES IS BECAUSE YOU DON'T HAVE THE ABILITY TO
24 CROSS-EXAMINE ABOUT THAT STATEMENT, AND YOU WOULD HAVE THE
25 ABILITY TO CROSS-EXAMINE ABOUT TESTIMONY AND ANYTHING

1 ELSE, WOULD YOU NOT?

2 MS. FRANKLIN: I THINK I'M A LITTLE LOST. I MEAN,
3 ARE YOU ASKING ABOUT THE FIRST STATEMENT TO LAW
4 ENFORCEMENT, WHETHER OR NOT --

5 THE COURT: I'M ASKING THIS: IS ONE OF YOUR BASES
6 FOR EACH OF THESE COMMUNICATIONS, WHETHER IT IS A STUDENT,
7 THE NINTH GRADER, OR THE TEACHER, OR THE STATEMENTS TO LAW
8 ENFORCEMENT IS THAT IT'S HEARSAY?

9 MS. FRANKLIN: WELL, I'M NOT MAKING THE HEARSAY
10 OBJECTION WITH RESPECT TO THE STATEMENT GIVEN TO LAW
11 ENFORCEMENT. THAT WE'RE ASKING TO EXCLUDE BECAUSE IT'S
12 JUST A STATEMENT. IT WAS NOT SIGNED. THERE IS NO
13 AFFIRMATION OF WHAT WAS CONTAINED IN THAT.

14 THE COURT: OKAY. ALL RIGHT.

15 MS. FRANKLIN: BUT WITH RESPECT TO LORI JOHNSON AND
16 THEN THIS SCHOOL, WE'RE RAISING THE HEARSAY OBJECTION TO
17 THOSE TWO.

18 THE COURT: BUT IF THE INDIVIDUAL WHO ALLEGEDLY MADE
19 THE STATEMENT, MR. -- IS IT JOYNER? IS THAT HIS NAME?

20 MS. FRANKLIN: YES.

21 THE COURT: IF MR. JOYNER TESTIFIES AND YOU CAN
22 CROSS-EXAMINE HIM, THEN HE IS IN COURT. HE'S SUBJECT TO
23 CROSS-EXAMINATION, AND IT DOESN'T MATTER. YOU CAN ASK HIM
24 ABOUT ANYTHING HE HAS EVER SAID AT ANY TIME, AS LONG AS
25 IT'S RELEVANT TO THE CASE. IT'S NOT HEARSAY ONCE HE TAKES

1 THE WITNESS STAND. THAT'S MY UNDERSTANDING OF HEARSAY.

2 NOW, I'M NOT SURE ON THE OTHER. LET ME HEAR FROM THE
3 STATE. I'M NOT GOING TO RULE RIGHT NOW. I'M TO SOME
4 DEGREE THINKING OUT LOUD.

5 WHOEVER WANTS TO RESPOND?

6 MS. FENT: BASICALLY, YOUR HONOR, MY INITIAL
7 ARGUMENTS BEFORE WE STARTED, THE TESTIMONY IS STILL HOW I
8 STAND; BASICALLY THAT HER STATEMENT SHOULD BE TREATED AS
9 ANY OTHER HEARING WITNESS. HE TALKED TO INVESTIGATOR JOE
10 GRAY THROUGH AN INTERPRETER AND POTENTIALLY IF HE SAYS
11 ANYTHING INCONSISTENT WITH THAT, INVESTIGATOR JOE GRAY CAN
12 TESTIFY TO IT.

13 WITH REGARD TO THE STATEMENT TO LORI JOHNSON AND ANY
14 STATEMENTS OVERHEARD BY ELAINE BESSELLIEU, SAME THING,
15 THAT THEY ARE POTENTIALLY, YOU KNOW, INCONSISTENT
16 STATEMENTS THAT COME IN, AND WHETHER OR NOT IT WAS
17 COMMUNICATED CORRECTLY OR OVERHEARD, SO TO SPEAK
18 CORRECTLY, RELAYED CORRECTLY, ALL OF THAT GOES TO THE
19 WEIGHT THAT THE JURY WANTS TO GIVE IT AND NOT TO THE
20 ADMISSIBILITY.

21 FURTHER, WE ARE KIND OF ARGUING ABOUT HIS INITIAL
22 STATEMENT TO JOE GRAY, I REALLY ALSO SEE KIND OF A
23 STANDING PROBLEM IN TERMS OF THEM ASSERTING, YOU KNOW, IT
24 WASN'T A WRITTEN STATEMENT AND, I GUESS, SOME TYPE OF
25 VIOLATION OF RIGHTS IS THAT THEY REALLY HAVE NO STANDING

1 TO SUPPRESS A POTENTIAL STATEMENT FROM A WITNESS THAT'S
2 NOT A DEFENDANT SITTING IN THE COURTROOM.

3 MS. FRANKLIN: WELL, YOUR HONOR, THAT WE WOULD
4 RESPOND THAT IT'S AN EVIDENCE PROBLEM, NOT A STANDING
5 PROBLEM. I MEAN, WE HAVE MAINTAINED THAT, BUT I MEAN, WE
6 DON'T WANT TO GET -- YOU KNOW, WE ARE MAKING THE HEARSAY
7 OBJECTION, YOUR HONOR, BUT AT HEART WE'RE MAKING -- YOU
8 KNOW, AT THE CORE WE'RE MAKING A RELIABILITY ISSUE.

9 WE BELIEVE THAT THE STATEMENTS MADE BY MR. JOYNER TO
10 DR. COLLINS AND DR. ROY ARE UNRELIABLE BY ITS NATURE. I
11 DON'T KNOW THAT ANY COMMUNICATION BY A NATIVE DEAF SPEAKER
12 TO SOMEBODY WHO HAD NO EXPERIENCE WITH AMERICAN SIGN
13 LANGUAGE COULD EVER BE RELIABLE. BECAUSE THESE ARE
14 STATEMENTS AND THEIR IMPACT COULD BE GRAVE, WE'RE ASKING
15 THIS COURT TO PASS ON THE RELIABILITY ISSUE.

16 THE COURT: ALL RIGHT. I WILL MAKE A RULING BEFORE
17 THE WITNESS IS CALLED.

18 MS. FRANKLIN: THANK YOU.

19 THE COURT: I WILL BE TALKING TO YOU ALL ONCE WE GET
20 DONE TODAY TO TRY TO GET AN IDEA OF WHEN THAT MIGHT BE.

21 MS. FRANKLIN: THANK YOU.

22 THE COURT: ANYTHING FURTHER BEFORE WE CONTINUE WITH
23 THE JURY?

24 MS. CAMPBELL: YOUR HONOR, THE ONLY OTHER THING ABOUT
25 A WITNESS THAT I DID WANT TO PUT ON THE RECORD, SHANTE

1 BETHEL, SHE DOES HAVE A PENDING ASSAULT WITH INTENT TO
2 KILL WHICH CARRIES ZERO TO TEN YEARS. WE AGREE THAT
3 SHOULD COME IN.

4 I DID GET INFORMATION -- I JUST NEED A RULING FROM
5 THE COURT. SHE GAVE INFORMATION IN THIS CASE -- SHE GAVE
6 ABOUT TWO DAYS AFTER THE ACTUAL SHOOTING OCCURRED. SHE
7 DID GIVE A STATEMENT IN ANOTHER CASE, NOT RELATED TO THIS
8 CASE, BUT SHE GAVE A STATEMENT TO LAW ENFORCEMENT ON
9 ANOTHER CASE.

10 ALSO, ANOTHER TIME THE POLICE CONTACTED HER TWO YEARS
11 AGO. SHE GAVE A STATEMENT ON A CASE. SHE HAS NEVER
12 TESTIFIED TO ANYTHING. HER HALF BROTHER WAS THE VICTIM
13 THAT WAS BEATEN TO DEATH IN A GANG INITIATION IN THE JAIL.
14 I'VE GIVEN THAT INFORMATION TO COUNSEL. SOME OF THIS,
15 YOUR HONOR, I'M GOING TO ARGUE IS NOT RELEVANT. I'M JUST
16 TRYING TO MAKE SURE I PROVIDE ALL INFORMATION PRIOR TO HER
17 TESTIFYING, AND ALSO MS. BETHEL HAS OVER THE LAST SEVERAL
18 WEEKS BEEN STAYING WITH FRIENDS AND STUFF.

19 WE DID HOUSE HER, AS WE DO WITH MANY WITNESSES, IN A
20 HOTEL FOR PURPOSES OF GETTING HER TO COURT FOR TWO DAYS.

21 MS. FRANKLIN: AND YOUR HONOR, MY UNDERSTANDING IS
22 THAT WITH RESPECT TO -- I MEAN, SHE IS STILL, IT'S MY
23 UNDERSTANDING, A POTENTIAL WITNESS IN A MURDER CASE THAT
24 YOU HAVE ONGOING; IS THAT CORRECT?

25 MS. CAMPBELL: IN ONE THAT'S ONGOING, YES, SHE GAVE A

1 STATEMENT.

2 MS. FRANKLIN: THERE'S ANOTHER CASE THAT SHE IS
3 PREPARING TO TESTIFY IN, IS MY UNDERSTANDING.

4 MS. CAMPBELL: SHE'S NOT PREPARING TO TESTIFY IN
5 ANYTHING YET. SHE IS PREPARED TO TESTIFY IN THIS CASE.
6 SHE GAVE A STATEMENT. I WOULD HAVE TO REVIEW THE
7 STATEMENT TO SEE WHAT THE SUBSTANCE OF IT IS, BUT SHE DID
8 GIVE INFORMATION TO THE POLICE.

9 THE COURT: ALL RIGHT. WHAT DO I NEED TO RULE ON
10 RIGHT NOW? I MEAN --

11 MS. CAMPBELL: THE ONLY THING YOU NEED TO RULE ON IS
12 WHETHER OR NOT THEY WILL BE ABLE TO ASK HER ABOUT GIVING A
13 STATEMENT IN ANOTHER CASE IN WHICH THE POLICE INTERVIEWED
14 HER AFTER THIS CASE.

15 MS. FRANKLIN: AND YOUR HONOR, WE DO THINK THAT WOULD
16 BE APPROPRIATE. I MEAN, IF THIS IS SOMEBODY WHO, YOU
17 KNOW, IS LOOKING TO GET CURRY OR TO CURRY FAVOR WITH LAW
18 ENFORCEMENT, I THINK THAT WOULD BE --

19 THE COURT: YOU CAN ASK IN GENERAL ABOUT THE
20 STATEMENT. THE DETAILS OF WHATEVER THAT CASE MIGHT BE
21 WOULD BE IRRELEVANT.

22 MS. FRANKLIN: I DON'T HAVE THEM ANYWAY.

23 MS. CAMPBELL: YOUR HONOR, AS FAR AS THE STATEMENT
24 SHE GAVE TO POLICE ON AN UNRELATED MATTER TWO YEARS AGO,
25 SHE NEVER TESTIFIED IN THE CASE. I DON'T THINK IT'S --

1 THE COURT: I THINK IT'S FALLING UNDER THE SAME
2 CATEGORY.

3 MS. FRANKLIN: OKAY. SO THE FACT THAT SHE DID HELP
4 LAW ENFORCEMENT ON PRIOR --

5 MS. CAMPBELL: THAT WAS PRIOR -- I THOUGHT THAT THEIR
6 BIAS WAS BECAUSE SHE HAD AN A.W.I.K. PENDING AT THE TIME.
7 I DON'T THINK AT THAT POINT, WHEN SHE GAVE THAT
8 INFORMATION, SHE HAD ANY PENDING CHARGES.

9 THE COURT: WHEN WERE THOSE CHARGES BROUGHT?

10 MS. CAMPBELL: I DON'T EVEN KNOW. IT JUST CAME TO MY
11 ATTENTION WHEN I ASKED HER TO MADE SURE I HAD EVERYTHING.

12 MS. FRANKLIN: THOSE CHARGES WERE OUTSTANDING AT THE
13 TIME. THEY'RE FROM JULY 2ND, 2004.

14 THE COURT: AND WHEN WAS THIS STATEMENT WE'RE TALKING
15 ABOUT NOW?

16 MS. FRANKLIN: THE STATEMENT -- ARE YOU TAKING ABOUT
17 WHEN SHE -- THIS IS LAJARIUS JORDAN (PHONETIC)?

18 MS. CAMPBELL: I DON'T KNOW THE CASE NAME.

19 MS. FRANKLIN: I THINK THERE IS A CASE THAT SHE
20 TESTIFIED TO IN DECEMBER OF THAT YEAR.

21 THE COURT: OF '04?

22 MS. FRANKLIN: THAT'S MY UNDERSTANDING.

23 MS. CAMPBELL: SHE TESTIFIED?

24 MS. FRANKLIN: WELL, SHE GAVE A STATEMENT. I DON'T
25 KNOW IF SHE TESTIFIED.

1 THE COURT: I HAVE NO IDEA WHEN THE CHARGES -- IF
2 THEY WERE BROUGHT IN -- WAS IT JULY OF '04?

3 MS. FRANKLIN: THE ASSAULT WITH INTENT TO KILL CHARGE
4 AGAINST MS. BETHEL.

5 THE COURT: ANY STATEMENTS THAT SHE HAS GIVEN IN ANY
6 CASES SINCE THEN, IN GENERAL TERMS, YOU CAN ASK HER ABOUT
7 IT, NOT THE DETAILS OF THE CASE.

8 MS. FRANKLIN: THANK YOU.

9 MS. CAMPBELL: AND THAT WOULD BE, I ASSUME, THE TWO
10 CASES WE JUST DISCUSSED, AND YOU'RE REPRESENTING TO ME
11 BECAUSE I DON'T HAVE THE STATEMENTS THAT THOSE WERE GIVEN
12 AFTER JULY OF '04?

13 MS. FRANKLIN: THAT IS MY UNDERSTANDING. I MEAN, I
14 DON'T HAVE THE RECORD WITH ME, BUT IT'S MY UNDERSTANDING
15 THAT SHE GAVE THE STATEMENT IN DECEMBER OF '04
16 REGARDING --

17 THE COURT: IF YOU HAVE GOT SOMETHING ELSE, IF YOU
18 CAN ESTABLISH THE DATE, I'VE ALREADY ESTABLISHED WHAT I
19 WOULD RULE. OTHERWISE, YOU'RE GOING TO BE STUCK WITH
20 WHATEVER SHE ANSWERS, IF SHE KNOWS.

21 IF THERE WERE OUTSTANDING CHARGES AT THE TIME
22 STATEMENTS WERE MADE, THAT'S HOW THAT QUESTION NEEDS TO BE
23 ASKED. IF SHE KNOWS AND THEY WERE, YOU ASK CAN HER ABOUT
24 THAT, NOT THE DETAILS OF THE CASE. IF SHE SAYS NO, THERE
25 WERE NO OUTSTANDING CHARGES, THAT'S WHERE WE ARE UNLESS

1 YOU HAVE SOMETHING ELSE TO PRESENT TO ME.

2 MS. CAMPBELL: FINALLY, YOUR HONOR, IN 2005, HER HALF
3 BROTHER, I THINK IT WAS HER FATHER'S CHILD, WAS IN THE
4 ALVIN S. GLENN DETENTION CENTER AND WAS ALLEGEDLY IN THE
5 PROCESS OF BEING BEATEN INTO A GANG WHEN HE DIED AS A
6 RESULT OF I THINK A -- WAS IT A HEART ATTACK? I THINK IT
7 WAS A HEART ATTACK OR SOMETHING THAT HAPPENED AS A RESULT
8 OF BEING BEATEN.

9 I NOTICED THAT THEY HAVE A MR. JAMES BAXLEY ON THEIR
10 WITNESS LIST. I BELIEVE HE WAS THE DEFENDANT, I JUST PUT
11 THIS ALL TOGETHER, ON THAT CASE.

12 THE COURT: DO YOU INTEND TO GO INTO THAT FOR
13 IMPEACHMENT PURPOSES?

14 MS. FRANKLIN: INTO THE BEATING IN INCIDENT?

15 THE COURT: PARDON ME?

16 MS. FRANKLIN: I'M SORRY, WITH RESPECT TO --

17 THE COURT: THE FACT THAT A STEPBROTHER WAS...

18 MS. FRANKLIN: I HAD NOT INTENDED TO GO THERE.

19 THE COURT: OKAY.

20 MS. CAMPBELL: AND THEN FINALLY THE FACT THAT WE HAVE
21 HOUSED HER IN A HOTEL, AND HAD HER IN ONE LAST TIME, TOO,
22 FOR PURPOSES OF HAVING ACCESS TO HER.

23 MS. FRANKLIN: YEAH, I DON'T KNOW ANYTHING ABOUT
24 THIS. WHERE IS SHE HOUSED?

25 THE COURT: IT IS A HOTEL.

1 MS. CAMPBELL: IT IS A HOTEL HERE IN TOWN SHE HAS
2 BEEN HOUSED AT FOR PURPOSES OF THIS TRIAL SINCE SUNDAY
3 NIGHT. WE DON'T THINK THAT'S RELEVANT TO THESE
4 PROCEEDINGS.

5 MS. FRANKLIN: I MEAN, I GUESS MY QUESTION IS WAS SHE
6 HOUSED WITH ANYONE ELSE WHO IS RELATED TO THIS CASE?

7 MS. CAMPBELL: NO. SHE HAD HER OWN ROOM.

8 MS. FRANKLIN: WAS SHE HOUSED IN THE PAST?

9 MS. CAMPBELL: AT THE PRIOR TRIAL WE PUT HER UP ONE
10 NIGHT, AND IT DIDN'T GO ANYWHERE.

11 MS. FRANKLIN: WE WANT TO KNOW WAS SHE HOUSED WITH
12 ANYONE ELSE AT THE TIME SHE WAS THERE?

13 MS. CAMPBELL: NO. MS. BROWN IS IN THE COURTROOM,
14 AND SHE WAS THE ONLY ONE HOUSED FOR THAT ONE. THERE IS --
15 IT'S LIKE THE OUT-OF-TOWN WITNESS, OF COURSE.

16 THE COURT: DO YOU INTEND TO GO INTO THAT?

17 MS. FRANKLIN: YOUR HONOR, I JUST FOUND OUT ABOUT
18 THIS. I MEAN, CAN I INQUIRE AS TO THE REASON WHY SHE AND
19 SHE ALONE WAS HOUSED?

20 MS. CAMPBELL: BECAUSE SHE --

21 THE COURT: THE SOLICITOR INDICATED SO SHE WOULD BE
22 AVAILABLE WHEN SHE WAS CALLED TO TESTIFY, I THINK IS WHAT
23 SHE'S SAYING; IS THAT CORRECT, SOLICITOR?

24 MS. CAMPBELL: YES, SIR.

25 MS. FRANKLIN: I DO NOT PLAN ON CROSS-EXAMINING INTO

1 THAT AT THIS POINT.

2 THE COURT: ALL RIGHT.

3 MS. FRANKLIN: IF IT'S SOMETHING THAT IT COMES UP,
4 I'LL --

5 THE COURT: BRING IT TO MY ATTENTION BEFORE YOU ASK
6 THE QUESTION.

7 MS. CAMPBELL: THANK YOU, YOUR HONOR. I WANTED TO
8 MAKE SURE I BROUGHT IT TO YOUR ATTENTION.

9 THE COURT: ANYTHING ELSE BEFORE THE JURY IS BROUGHT
10 BACK?

11 LET'S GET THEM INSIDE, PLEASE.

12 (WHEREUPON, THE JURY CAME INTO OPEN COURT AT
13 APPROXIMATELY 3:39 P.M.)

14 THE BAILIFF: THE JURY IS ALL PRESENT, YOUR HONOR.

15 THE COURT: THANK YOU, SIR.

16 SOLICITOR CALL YOUR NEXT WITNESS, PLEASE.

17 MS. CAMPBELL: MAY IT PLEASE THE COURT. THE STATE
18 CALLS SHANTE BETHEL.

19 SHANTE BETHEL, AFTER BEING DULY SWORN,
20 TESTIFIED AS FOLLOWS:

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

23 THE WITNESS: SHANTE BETHEL.

24 DIRECT EXAMINATION:

25

1 BY MS. CAMPBELL

2 Q SHANTE, HOW OLD ARE YOU?

3 A TWENTY-THREE.

4 Q WHERE DID YOU GROW UP?

5 A IN COLUMBIA.

6 Q HAVE YOU LIVED HERE YOUR WHOLE LIFE?

7 A YES, YES, MA'AM.

8 Q OKAY. YOU'RE GOING TO HAVE TO TALK A LITTLE BIT
9 LOUDER.

10 A YES, MA'AM.

11 Q THANK YOU.

12 A YOU'RE WELCOME.

13 Q WHERE DID YOU GO TO HIGH SCHOOL?

14 A IRMO.

15 Q OKAY. AND DID YOU FINISH HIGH SCHOOL?

16 A YES. I STOPPED AT 12TH GRADE.

17 Q YOU STARTED 12TH GRADE?

18 A STOPPED AT THE 12TH.

19 Q OKAY. YOU STOPPED AT THE 12TH GRADE. ARE YOU
20 EMPLOYED?

21 A YES.

22 Q WHERE DO YOU WORK?

23 A OLAN MILLS.

24 Q ARE YOU FAMILIAR WITH AN AREA OF TOWN CALLED THE
25 BETHEL BISHOP APARTMENTS?

1 A YES.

2 Q AND AT ONE POINT, DID YOU LIVE THERE OR HANG OUT
3 THERE?

4 A YES, MA'AM.

5 Q AND IS IT YOU LIVED THERE OR YOU JUST WOULD GO THERE?

6 A I LIVED THERE.

7 Q AND WHEN DID YOU LIVE THERE?

8 A BACK IN 2003.

9 Q AND DURING THE TIME THAT YOU WERE LIVING THERE, DID
10 YOU MAKE FRIENDS IN THE AREA?

11 A YES.

12 Q DO YOU KNOW CHRIS LIVERMAN?

13 A YES, MA'AM.

14 Q AND DO YOU KNOW HIM BY ANY KIND OF NICKNAME, A
15 NICKNAME?

16 A YES, MA'AM.

17 Q AND WHAT NICKNAME DO YOU KNOW HIM BY?

18 A BABY JESUS.

19 Q AND HOW DID YOU MEET CHRIS LIVERMAN?

20 A IN THE NEIGHBORHOOD.

21 Q AND WHEN YOU SAY IN THE NEIGHBORHOOD, IN WHAT
22 NEIGHBORHOOD, SHANTE?

23 A BETHEL BISHOP.

24 Q DO YOU KNOW CARL SMITH OR POOH?

25 A YES, MA'AM.

1 Q AND HOW DID YOU MEET HIM?
2 A THROUGH -- IN THE NEIGHBORHOOD.
3 Q AT ANY POINT, SHANTE, WERE YOU IN A GANG?
4 A YES, MA'AM.
5 Q AND WHAT GANG WERE YOU IN?
6 A FOLK.
7 Q AND ARE YOU STILL IN THAT GANG?
8 A NO, MA'AM.
9 Q YOU HAVE A TATTOO ON YOUR NECK, THOUGH.
10 A YES, MA'AM.
11 Q WHAT DOES THAT TATTOO SAY?
12 A BOSS.
13 Q WHAT DOES THAT SYMBOLIZE?
14 A BROTHERS OF STRONG STRUGGLE.
15 Q DOES THAT HAVE TO DO WITH A GANG?
16 A YES, MA'AM.
17 Q WHICH GANG IS THAT?
18 A FOLK.
19 Q DID YOU KNOW IF CHRIS LIVERMAN WAS IN A GANG?
20 A DID I KNOW?
21 Q DID YOU KNOW IF HE WAS IN A GANG?
22 A YEAH.
23 Q AND WHAT GANG WAS HE IN?
24 A THE SAME THING, FOLK.
25 Q AND POOH?

1 A YES, MA'AM.

2 Q SAME THING?

3 A YES, MA'AM.

4 Q DO YOU UNDERSTAND WHAT THE TERM "SLOBS" MEAN?

5 A YES, MA'AM.

6 Q WHAT DOES THAT MEAN?

7 A IT'S A DISRESPECT TO THE BLOODS.

8 Q I WANT TO TURN YOUR ATTENTION BACK TO THE EVENING OF

9 AUGUST 26TH AND 27TH WHEN THE SHOOTING OCCURRED, THE TWO

10 CHILDREN WERE KILLED.

11 A UH-HUH.

12 Q WHERE WERE YOU THAT EVENING?

13 A AT THE DOOR.

14 Q WHERE?

15 A AT THE DOOR IN FRONT OF BUILDING TWO.

16 Q AT THE DOOR IN FRONT OF BUILDING TWO?

17 A UH-HUH.

18 Q AND WHAT APARTMENT COMPLEX WAS THAT?

19 A BETHEL BISHOP.

20 Q AND ON THAT EVENING DID YOU HAVE OCCASION TO SEE

21 CHRIS LIVERMAN OR BABY JESUS?

22 A YES, MA'AM.

23 Q AND CAN YOU TELL THE JURY HOW WHEN YOU FIRST SAW HIM

24 THAT NIGHT, THE FIRST TIME, WHAT YOU SAW?

25 A WHAT I SAW?

1 Q AND HEARD FROM CHRIS LIVERMAN.

2 A I HEARD THAT THEY WAS GOING TO --

3 MS. FRANKLIN: OBJECTION, YOUR HONOR, TO HEARSAY.

4 MS. CAMPBELL: I'M SORRY. LET ME REPHRASE MY
5 QUESTION. I'M SORRY.

6 THE COURT: GO AHEAD.

7 BY MS. CAMPBELL

8 Q YOU CAN SAY WHAT CHRIS LIVERMAN SAID, OKAY.

9 A HE WAS GOING TO T.S. MARTIN.

10 Q IS THIS WHAT CHRIS LIVERMAN TOLD YOU?

11 A UH-HUH, TO GO RIDE WITH SOME SLOBS.

12 Q DID YOU SEE A CONVERSATION, OR DID YOU SEE POOH
13 SAYING SOMETHING TO CHRIS LIVERMAN THAT EVENING?

14 A NO. WELL, HE -- WELL, HE WAS LIKE AROUND THE AREA,
15 RIGHT AROUND WHERE THE CIRCUMSTANCE WAS.

16 Q OKAY. AND DO YOU REMEMBER HEARING POOH SAY SOMETHING
17 TO CHRIS LIVERMAN ABOUT T.S. MARTIN AND NOT GOING OVER
18 THERE?

19 A UH-HUH.

20 MS. FRANKLIN: YOUR HONOR, THAT CALLS FOR HEARSAY.

21 THE COURT: NO. OVERRULED. SHE IS ASKING ABOUT
22 POOH, AND HE HAS TESTIFIED.

23 BY MS. CAMPBELL

24 Q I'M SORRY. WHAT DID POOH SAY TO CHRIS LIVERMAN THAT
25 YOU HEARD?

1 A THEY WAS GOING TO T.S. MARTIN.

2 Q UH-HUH. AND WHAT DID POOH TELL CHRIS LIVERMAN, BABY
3 JESUS, NOT TO DO?

4 A NOT TO GO OVER THERE.

5 Q WHERE DID YOU LAST SEE BABY JESUS WALKING AS YOU WENT
6 -- AS HE LEFT THE BETHEL BISHOP AREA?

7 A THROUGH A CUT IN THE BISHOP.

8 Q AND WAS HE ALONE?

9 A NO.

10 Q DO YOU REMEMBER HOW MANY PEOPLE WERE WITH HIM?

11 A LIKE THREE MORE PEOPLE.

12 Q AND DID YOU KNOW ANY OF THOSE PEOPLE THAT WERE WITH
13 HIM?

14 A YES, MA'AM.

15 Q AND WHO DID YOU KNOW THAT YOU RECOGNIZED?

16 A GOO, AND I THINK HIS NAME WAS DIEGO -- WELL, YEAH,
17 AND A DUDE -- HIS NAME WAS RAJ (PHONETIC) -- I THINK
18 THAT'S WHAT THEY CALLED HIM.

19 THE COURT REPORTER: I'M SORRY, I DIDN'T HEAR THAT
20 LAST PART.

21 THE WITNESS: GOO AND MIRAGE.

22 BY MS. CAMPBELL

23 Q OKAY. AND YOU SAID THE WORD "DIEGO"?

24 A AND DIEGO.

25 Q AND WAS IT LIGHT OR DARK WHEN YOU SAW THEM THAT

1 NIGHT, DO YOU REMEMBER?

2 A IT WAS LIKE DARK.

3 Q OKAY. ARE THERE LIGHTS, THOUGH, IN THE OUTSIDE OF
4 THE BETHEL BISHOP?

5 A YES, MA'AM.

6 Q ARE THERE ALSO CAMERAS OUT THERE?

7 A YES, MA'AM.

8 Q AND WHILE YOU SAW GOO AT THAT POINT, YOU NEVER SAW --
9 I MEAN EXCUSE ME, BABY JESUS, YOU DIDN'T SEE HIM WITH A
10 GUN, DID YOU?

11 A NO, MA'AM.

12 Q A LITTLE WHILE LATER, DID BABY JESUS COME BACK WHEN
13 YOU SAW HIM AGAIN?

14 A YES, MA'AM.

15 Q WHERE WERE YOU THEN?

16 A STILL OUT THE DOOR.

17 Q OKAY. IN THE SAME GENERAL AREA?

18 A UH-HUH.

19 Q WHEN HE CAME UP, WAS HE WALKING, RUNNING, OR DO YOU
20 REMEMBER?

21 A HE WAS AT LIKE FULL SPEED.

22 Q DID YOU WITNESS HIM HAVING A CONVERSATION WITH ONE OF
23 HIS FRIENDS OR SOMEBODY HE WAS TALKING TO?

24 A YES, MA'AM.

25 Q AND WERE YOU ABLE TO -- AND LIMIT IT TO WHAT HE SAID.

1 WERE YOU ABLE TO OVERHEAR WHAT BABY JESUS SAID?

2 A UH-HUH.

3 Q AND WHAT WAS THAT?

4 A THAT THEY JUST LEFT T.S. MARTIN SHOOTING, SHOOTING
5 OVER THERE OR WHATEVER, AND WHAT WAS IT? (PAUSE).

6 SOMEONE GOT SHOT IN THE FACE AND IN THEIR STOMACH OR
7 SOMETHING LIKE THAT, A LITTLE -- TWO LITTLE KIDS.

8 Q UH-HUH. DID HE SAY ANYTHING ELSE ABOUT HOW HE WAS
9 SHOOTING?

10 A THEY WAS SPRAYING.

11 Q HE WAS WHAT?

12 A SPRAYING.

13 MS. FRANKLIN: YOUR HONOR, I'M GOING TO OBJECT TO
14 HEARSAY. I'M NOT SURE WHO THIS CONVERSATION HAPPENED TO.

15 IS THIS SOMETHING SHE IS OVERHEARING SAID TO SOMEBODY
16 ELSE?

17 THE COURT: THE QUESTION, AS I RECALL IT, WAS WHAT
18 DID THE DEFENDANT SAY, WHAT DID YOU HEAR THE DEFENDANT
19 SAY; IS THAT CORRECT, SOLICITOR?

20 MS. CAMPBELL: YES, SIR.

21 THE COURT: IS THAT THE QUESTION THAT YOU WERE
22 ANSWERING?

23 THE WITNESS: YES, MA'AM -- I MEAN YES, SIR.

24 THE COURT: YOU MAY CONTINUE.

25

1 BY MS. CAMPBELL

2 Q AND WHAT YOU'RE TELLING THE JURY IS WHAT BABY JESUS
3 SAID AND WHAT YOU HEARD?

4 A YES. YES, MA'AM.

5 Q HE WAS SAYING IT TO SOMEBODY ELSE?

6 A YES, MA'AM.

7 Q AND YOU SAID THAT HE SAID HE WAS SPRAYING?

8 A (NODS IN THE AFFIRMATIVE).

9 Q WHAT'S THAT?

10 A THAT'S ANOTHER WORD FOR SHOOTING.

11 Q DID HE TELL THE MAN WHY HE DID IT?

12 A BECAUSE EARLY THAT EVENING THEY HAD GOT IN SOMETHING
13 WITH SOME BLOODS.

14 Q AND WHEN CHRIS WAS TALKING TO THE OTHER GUY, WAS GOO
15 STILL WITH HIM AT THAT POINT?

16 A NO, MA'AM.

17 Q AFTER YOU HEARD HIM HAVE THAT CONVERSATION WITH A
18 FRIEND OR SOME ACQUAINTANCE OF HIS, WHAT DID HE DO?

19 A WHAT DID HE DO AFTER THE FACT?

20 Q AFTER YOU HEARD HIM HAVE THAT CONVERSATION, WHAT DID
21 HE DO?

22 A GO TO BAYBERRY.

23 Q IS THERE A CUT OR SOMETHING IN THAT AREA?

24 A YES, MA'AM.

25 Q AND WHEN HE LEFT THERE, WAS HE WALKING OR RUNNING, DO

1 YOU REMEMBER?

2 A NOT WALKING. HE WAS RUNNING.

3 Q HE WAS RUNNING?

4 A UH-HUH.

5 Q DO YOU REMEMBER WHAT CHRIS WAS WEARING THAT NIGHT
6 WHEN YOU SAW HIM THAT SECOND TIME?

7 A I JUST REMEMBER THE BLACK SHORTS AND WHITE T-SHIRT.

8 Q AND AGAIN, GOO WAS NO LONGER WITH HIM AT THAT POINT?

9 A NO, MA'AM.

10 Q DO YOU REMEMBER WHAT HE WAS WEARING EARLIER?

11 A NO, MA'AM.

12 Q OKAY. AND AFTER HE RAN OFF TOWARDS THE CUT, DID YOU
13 SEE HIM ANYMORE THAT NIGHT?

14 A NO, MA'AM.

15 Q AND YOU HAVEN'T SEEN HIM SINCE?

16 A HUH-UH.

17 Q THAT NIGHT WHEN YOU SAW HIM, DID HE HAVE ANYTHING ON
18 HIS FACE SUCH AS A TATTOO OR ANYTHING?

19 A NO, MA'AM.

20 Q DO YOU REMEMBER A COUPLE OF DAYS AFTER THIS HAPPENED,
21 RIGHT AFTER HE RAN OFF INTO THE CUT, DID THE POLICE
22 ARRIVE?

23 A YES.

24 Q AND DID YOU LATER FIND OUT THAT THE TWO CHILDREN HAD
25 BEEN HIT?

1 A YES, MA'AM.

2 Q TWO DAYS LATER DID YOU GIVE -- GO TO THE POLICE
3 STATION AND GIVE A STATEMENT?

4 A NO. THEY PICKED ME UP.

5 Q THEY PICKED YOU UP?

6 A YES, MA'AM.

7 Q AND I'M GOING TO SHOW YOU A COPY OF THIS FIVE-PAGE
8 STATEMENT. DID THEY GO DOWN AND GET A STATEMENT FROM YOU
9 ABOUT WHAT YOU KNEW?

10 A YES, MA'AM.

11 Q AND THEY WERE ASKING YOU ABOUT THE STATEMENTS MADE BY
12 CHRIS LIVERMAN IN REFERENCE TO THE SHOOTING AT T.S.
13 MARTIN?

14 A YES, MA'AM.

15 Q AND YOU TOLD THEM WHAT YOU KNEW ABOUT WHAT CHRIS
16 LIVERMAN HAD SAID ABOUT THE SHOOTING?

17 A YES, MA'AM.

18 Q DID YOU KNOW THAT POOH HAD BEEN OVER TO T.S. MARTIN
19 EARLIER THAT NIGHT?

20 A YES, MA'AM.

21 Q AND HOW DID POOH GET OVER THERE?

22 A WITH BRADY AND HIS BROTHER AND SHEROD.

23 Q YOU WEREN'T ACTUALLY OVER THERE WHILE THEY WERE AT
24 T.S. MARTIN THOUGH, WERE YOU?

25 A NO, MA'AM.

1 Q DID YOU SEE HIM DRIVE OFF?

2 A YES, MA'AM.

3 Q AND WHEN YOU SAW LIVERMAN AFTER YOUR FIRST
4 CONVERSATION WITH HIM, WHEN HE WAS WALKING OFF, DID HE
5 DRIVE OFF IN A CAR OR ANYTHING?

6 A NO, MA'AM.

7 Q HE WAS WALKING WITH THE OTHER BOYS?

8 A UH-HUH.

9 Q AND THE POLICE CAME AND FOUND YOU AND THEY GOT
10 INFORMATION. YOU HAVE TALKED WITH THE POLICE BEFORE ABOUT
11 OTHER CRIMES IN THE BETHEL BISHOP AREA?

12 A SAY THAT AGAIN.

13 Q HAVE YOU GIVEN STATEMENTS TO THE POLICE ABOUT OTHER
14 CRIMES IN THE BETHEL BISHOP?

15 A YES, MA'AM.

16 Q ON TWO OCCASIONS?

17 A YES, MA'AM.

18 Q AND THAT'S BEEN IN THE LAST TWO OR THREE YEARS, BUT
19 YOU HAVE NEVER TESTIFIED BEFORE IN COURT, HAVE YOU?

20 A NO, MA'AM.

21 Q NOW, YOU MET WITH ME OR MY OFFICE ON HOW MANY
22 OCCASIONS, DO YOU REMEMBER?

23 A THREE.

24 Q THREE TIMES INCLUDING TODAY?

25 A YES, MA'AM.

1 Q AND WOULD YOU HAVE BEEN WILLING TO MEET WITH THE
2 DEFENSE IF THEY HAD WANTED TO?

3 A YES, MA'AM.

4 Q AND YOU DON'T KNOW WHAT HAPPENED OVER THERE. YOU
5 JUST KNOW WHAT CHRIS SAID?

6 A I JUST KNOW WHAT -- YEAH.

7 Q AND THAT'S BABY JESUS?

8 A YES, MA'AM.

9 Q AND RIGHT NOW YOU HAVE GOT PENDING -- ACTUALLY, IT'S
10 IN THE LEXINGTON COUNTY SOLICITOR'S OFFICE THAT ACTUALLY
11 HAPPENED HERE, YOU HAVE PENDING AN ASSAULT WITH INTENT TO
12 KILL CHARGE?

13 A YES, MA'AM.

14 Q AND DO YOU KNOW HOW MUCH TIME YOU CAN GET ON THAT?

15 A ZERO TO TEN YEARS.

16 Q ZERO TO TEN YEARS, AND DID ANYONE PROMISE YOU
17 ANYTHING IN EXCHANGE FOR YOUR TESTIMONY HERE?

18 A NO, MA'AM.

19 Q DID THEY PROMISE YOU ANYTHING IN EXCHANGE WHEN YOU
20 TOLD THEM WHAT HAPPENED?

21 A NO, MA'AM.

22 Q AND WHY DID YOU TELL THE POLICE WHAT HAPPENED?

23 A BECAUSE I WAS PUSHED. I COULD TELL THE TRUTH OR NOT
24 TELL THE TRUTH.

25 Q SHANTE, DO YOU SEE THE GUY YOU KNOW AS CHRIS LIVERMAN

1 OR BABY JESUS? DO YOU SEE HIM HERE IN THE COURTROOM?

2 A YES, MA'AM.

3 Q CAN YOU POINT HIM OUT FOR THE JURY?

4 A RIGHT THERE.

5 Q AND WHERE IS HE SITTING AT THAT TABLE?

6 A THE SECOND FROM THE END, NEXT TO THE LADY AT THE END
7 OF THAT TABLE.

8 MS. CAMPBELL: YOUR HONOR, MAY THE RECORD REFLECT SHE
9 HAS IDENTIFIED THE DEFENDANT.

10 THE COURT: ALL RIGHT.

11 ALL RIGHT. CROSS-EXAMINE?

12 MS. FRANKLIN: THANK YOU, YOUR HONOR, MAY IT PLEASE
13 THE COURT.

14 CROSS-EXAMINATION:

15 BY MS. FRANKLIN

16 Q ALL RIGHT. MS. BETHEL, I HAVE SOME QUESTIONS FOR YOU
17 ABOUT THE STATEMENT THAT YOU GAVE TO INVESTIGATOR GRAY.
18 ALL RIGHT. DO YOU UNDERSTAND?

19 A YES, MA'AM.

20 Q OKAY. AS YOU JUST NOTED, YOU USED TO BE IN A GANG
21 RIGHT, A FORMER GANG MEMBER?

22 A UH-HUH.

23 Q BUT YOU'RE OUT OF THE GANG NOW, RIGHT?

24 A YES, MA'AM.

25 Q WHEN DID YOU GET OUT?

1 A I GOT OUT LAST YEAR.

2 Q LAST YEAR. YOU ALSO CLAIM THAT YOU HAVE INFORMATION
3 ABOUT THE SHOOTINGS THAT OCCURRED ON AUGUST 26TH --

4 MS. CAMPBELL: OBJECTION, YOUR HONOR. MAY WE
5 APPROACH?

6 THE COURT: SURE.

7 (WHEREUPON, A BENCH CONFERENCE WAS HELD IN THE
8 PRESENCE, BUT NOT WITHIN THE HEARING, OF THE JURY).

9 THE COURT: ALL RIGHT. YOU MAY CONTINUE
10 MS. FRANKLIN.

11 BY MS. FRANKLIN

12 Q ALL RIGHT. SO YOU CLAIMED TO HAVE INFORMATION ABOUT
13 THE SHOOTINGS THAT OCCURRED ON AUGUST 26TH, 2004.

14 A YES, MA'AM.

15 Q THAT WE'RE ALL HERE ABOUT NOW. AND YOU CALLED
16 INVESTIGATOR GRAY ON AUGUST 28TH, RIGHT?

17 A YES, MA'AM.

18 Q AT TWO O'CLOCK IN THE AFTERNOON. THAT WAS TWO FULL
19 DAYS AFTER THE SHOOTING, YES?

20 A YES.

21 Q OKAY. AND YOU KNEW AT THAT TIME THAT CHRIS LIVERMAN
22 HAD BEEN ARRESTED. HE WAS DETAINED. YES?

23 A YES.

24 Q AND YOU ALSO KNEW AT THAT POINT THAT HE WAS THE ONLY
25 PERSON ARRESTED IN CONNECTION WITH THESE EVENTS? YES?

1 A YES.

2 Q AND AT THE TIME YOU CALLED INVESTIGATOR GRAY, YOU
3 INFORMED HIM THAT YOU KNEW SOMETHING ABOUT THE SHOOTING.

4 A YES.

5 Q YES. AND YOU HAD HEARD THAT SOME PEOPLE WERE
6 INVOLVED.

7 A UH-HUH.

8 Q AND WHEN YOU CALLED INVESTIGATOR GRAY, YOU RELATED TO
9 HIM THE NAMES OF COOCHIE, MIRAGE, AND PARIS, DIDN'T YOU?

10 A YES.

11 Q YES. SO YOU TOLD INVESTIGATOR GRAY AT THAT TIME THAT
12 YOU HEARD THOSE PEOPLE WERE INVOLVED, RIGHT?

13 A YEAH, BY NICKNAME, YES.

14 Q OKAY. AND COOCHIE AND MIRAGE ARE NICKNAMES?

15 A YEAH.

16 Q YEAH. BUT PARIS IS PARIS ALEXANDER, ISN'T IT?

17 A IT'S WHO?

18 Q PARIS ALEXANDER?

19 A NO.

20 Q SO WHEN YOU SAID THAT PARIS WAS INVOLVED IN THE CASE,
21 YOU DIDN'T MEAN PARIS ALEXANDER?

22 A NO.

23 Q YOU MEANT PARIS WHO?

24 A BY A NICKNAME, PARIS.

25 Q SO PARIS IS A NICKNAME?

1 A UH-HUH.

2 Q AND DO YOU KNOW WHO PARIS IS A NICKNAME FOR?

3 A NO.

4 Q YOU DON'T KNOW HIS REAL NAME?

5 A NO.

6 Q BUT AT THAT TIME, YOU INFORMED INVESTIGATOR GRAY THAT
7 THOSE WERE THE PEOPLE INVOLVED IN THE SHOOTING, RIGHT?

8 A NOT AT THE TIME, NO.

9 Q BUT WHEN YOU CALLED INVESTIGATOR GRAY AND YOU TOLD
10 HIM THAT YOU HAVE HEARD SOME PEOPLE WERE TALKING AND SOME
11 PEOPLE WERE INVOLVED IN THE SHOOTING, YOU GAVE HIM THE
12 NAMES COOCHIE, MIRAGE, AND PARIS?

13 A I DIDN'T GIVE A STATEMENT, I GAVE --

14 Q NOW, I KNOW --

15 A I GAVE THAT ON THE PHONE.

16 Q OKAY, SO YOU GAVE HIM THOSE NAMES OVER THE PHONE?

17 A UH-HUH.

18 Q YOU DIDN'T ACTUALLY WRITE IT IN A STATEMENT.

19 A HE NEVER ASKED WHO DID THE SHOOTING. HE ASKED ME WHO
20 WAS WITH THE PERSON, SO I TOLD HIM.

21 Q SO WHEN HE CALLED --

22 THE COURT: WAIT A MINUTE. WAIT, WAIT, WAIT.

23 MS. FRANKLIN: OKAY.

24 THE COURT: LET HER FINISH HER ANSWER BEFORE YOU ASK
25 THE QUESTION. GO AHEAD.

1 BY MS. FRANKLIN

2 Q OKAY. SO, WHEN YOU CALLED INVESTIGATOR GRAY, WHAT
3 YOU'RE TESTIFYING TO NOW IS THAT YOU WEREN'T CALLING TO
4 TELL HIM ACTUALLY WHO DID THE SHOOTING, JUST WHO WAS WITH
5 HIM, THE SHOOTER?

6 A HE ASKED ME WHO WAS WITH THE PERSON WHO DID THE
7 SHOOTING. THAT'S ALL HE ASKED ME SO I TOLD HIM.

8 Q OKAY, BUT YOU DIDN'T --

9 A HE DIDN'T --

10 THE COURT REPORTER: I'M SORRY BUT I CANNOT TAKE IT
11 WHEN TWO PEOPLE TALK --

12 MS. FRANKLIN: I THOUGHT SHE WAS --

13 THE COURT REPORTER: -- AT THE SAME TIME.

14 MS. FRANKLIN: -- FINISHED.

15 THE COURT: RIGHT, JUST HOLD UP. GO AHEAD AND FINISH
16 YOUR ANSWER.

17 THE WITNESS: OKAY. HE NEVER ASKED ME WHO WAS -- WHO
18 DID THE SHOOTING. HE JUST ASKED ME WHO WAS WITH THE
19 PERSON WHO DID THE SHOOTING. HE ALREADY KNEW AT THE TIME
20 WHO DID THE SHOOTING, SO HE JUST ASKED ME THE OTHER NAMES.
21 I GAVE HIM THE OTHER THREE NAMES.

22 BY MS. FRANKLIN

23 Q I SEE. SO OKAY. SO HE CALLED AND YOU SAID COOCHIE,
24 MIRAGE, AND PARIS. THOSE ARE THE NAMES THAT YOU GAVE HIM
25 AT THAT TIME?

1 A YES.

2 Q BUT YOU DID NOT HEAD DOWN TO THE POLICE HEADQUARTERS
3 AT THAT TIME, DID YOU?

4 A THEY NEVER -- THEY PICKED ME UP.

5 Q RIGHT.

6 A THEY PICKED ME UP, SO THAT'S WHEN THEY PICKED ME UP.
7 THEY ASKED ME FOR A STATEMENT. I GAVE THEM MY STATEMENT.

8 Q OKAY. BUT YOU DIDN'T DO THAT ON THE 28TH, RIGHT?

9 A ON THE WHAT?

10 Q ON THE 28TH.

11 A I WAS JUST QUESTIONED OVER THE PHONE.

12 Q OKAY. SO THEY CAME AND THEY GOT YOU ON THE 29TH,
13 RIGHT?

14 A I GUESS.

15 Q OKAY. SO THEY ARRANGED FOR AN INTERVIEW TO TAKE
16 PLACE AT THAT TIME, RIGHT?

17 A YES.

18 Q AND YOU DID THAT OVER THE PHONE?

19 A YES.

20 Q AND THEN YOU MET WITH INVESTIGATOR GRAY AT 6:45 ON
21 THE NIGHT OF AUGUST 29TH. DOES THAT SOUND ABOUT RIGHT?

22 A YES.

23 Q OKAY. AND AT THAT TIME, THREE DAYS AFTER THE
24 SHOOTING, THREE DAYS AFTER THE SHOOTING, YOU TELL HIM WHAT
25 YOU KNOW ABOUT CHRIS LIVERMAN?

1 A THEY ASKED, AND I TOLD THE TRUTH.

2 Q RIGHT, SO THREE DAYS AFTER THE SHOOTING YOU FINALLY
3 TOLD THE TRUTH. THEN YOU CLAIM THAT YOU HAVE A STORY TO
4 TELL INVESTIGATOR GRAY ABOUT CHRISTOPHER LIVERMAN.

5 A NO. THEY ASKED ME. I WASN'T THE ONLY ONE GETTING
6 QUESTIONED, SO HE ASKED ME AND OTHER PEOPLE WHO TOLD HIM
7 WHAT HAPPENED SO...

8 Q I'M SORRY?

9 A I SAID I WASN'T THE ONLY ONE GETTING QUESTIONED.

10 Q OKAY.

11 A LIKE DOWN AT THE POLICE STATION, AS FAR AS THIS
12 STATEMENT. WHEN HE ASKED ME WHAT HAPPENED, I TOLD HIM
13 WHAT HAPPENED.

14 Q RIGHT. YOU FINALLY TOLD HIM WHAT HAPPENED.

15 MS. CAMPBELL: OBJECTION, YOUR HONOR, TO THE
16 CHARACTERIZATION.

17 THE COURT: ALL RIGHT. I SUSTAIN IT TO THE FORM OF
18 THE QUESTION, AND REALLY, IT WASN'T A QUESTION. IT WAS A
19 COMMENT. YOU DON'T NEED TO COMMENT. JUST ASK THE
20 QUESTION SO THE WITNESS CAN ANSWER. GO AHEAD.

21 BY MS. FRANKLIN

22 Q WELL, LET'S TALK ABOUT WHAT YOU HAD TO SAY ABOUT
23 CHRISTOPHER LIVERMAN, ALL RIGHT. NOW, YOU KNOW HOW TO
24 READ, YES?

25 A YES.

1 Q OKAY. YOU CAN WRITE.

2 A YEAH.

3 Q AND I THINK YOU JUST TESTIFIED TO YOUR EDUCATIONAL
4 BACKGROUND. YOU LEFT SCHOOL AROUND 12TH GRADE?

5 A YES.

6 Q BUT YOU DIDN'T WRITE THE STATEMENT THAT YOU GAVE
7 INVESTIGATOR GRAY, DID YOU?

8 A NO.

9 Q OKAY. SO HE WROTE THE STATEMENT?

10 A YES.

11 Q IT'S IN HIS HANDWRITING, AND YOU SPOKE TO
12 INVESTIGATOR GRAY BEFORE YOU STARTED GIVING THAT
13 STATEMENT.

14 A YES.

15 Q AND HOW LONG DID YOU SPEAK TO INVESTIGATOR GRAY
16 BEFORE YOU STARTED GIVING THAT STATEMENT?

17 A CAN YOU ASK THE QUESTION AGAIN?

18 Q HOW LONG DID YOU TALK TO INVESTIGATOR GRAY BEFORE YOU
19 STARTED ACTUALLY GIVING YOUR STATEMENT?

20 A I GAVE THE STATEMENT AS SOON AS WE GOT DOWN THERE.
21 AS SOON AS HE STARTED ASKING ME QUESTIONS, I MADE A
22 STATEMENT.

23 Q AS SOON AS YOU GOT THERE. AND INVESTIGATOR GRAY
24 EXPLAINED TO YOU HOW IMPORTANT IT WAS TO BE ACCURATE,
25 DIDN'T HE?

1 A YES.

2 Q AND HE EXPLAINED TO YOU THAT IT WAS IMPORTANT TO BE
3 THOROUGH?

4 A YES.

5 Q AND HE TOLD YOU THAT YOU HAD TO TELL THE TRUTH?

6 A YES.

7 Q AND YOU KNEW AT THIS POINT THAT YOU WERE HELPING LAW
8 ENFORCEMENT IN A MURDER INVESTIGATION.

9 A I WAS HELPING THEM?

10 Q UH-HUH.

11 A I DIDN'T KNOW HOW TO HELP THEM, BUT I KNEW I WAS
12 GOING TO GIVE MY --

13 Q WELL, YOU WERE GOING --

14 A -- STATEMENT.

15 Q SORRY.

16 A YEAH.

17 Q OKAY. SO YOU WERE GIVING A STATEMENT TO LAW
18 ENFORCEMENT REGARDING A MURDER INVESTIGATION.

19 A YES.

20 Q AND YOU WANTED EVERYTHING TO BE CORRECT.

21 A YES.

22 Q BECAUSE YOU WOULDN'T WANT TO LIE TO INVESTIGATOR
23 GRAY, WOULD YOU?

24 A NO.

25 Q OKAY. AND YOU WOULDN'T WANT TO BE MISTAKEN IN WHAT

1 YOU TOLD HIM.

2 A NO.

3 Q HOW LONG DID YOU SPEND TALKING TO HIM WHEN YOU GAVE
4 THIS STATEMENT? HOW LONG WERE YOU THERE FOR?

5 A AT LEAST ABOUT 30 MINUTES.

6 Q HUH?

7 A ABOUT 30 MINUTES TO AN HOUR.

8 Q THIRTY? AND AT THE TIME YOU GAVE THE STATEMENT, YOU
9 KNEW CHRISTOPHER LIVERMAN WAS ARRESTED, YES?

10 A YES.

11 Q YOU KNEW HE WAS THE ONLY PERSON ARRESTED.

12 A AT THE TIME I DIDN'T KNOW WHO ALL WAS ARRESTED. THEY
13 DIDN'T EVER TELL ME WHO ALL WAS ARRESTED.

14 Q BUT YOU KNEW THAT CARL SMITH HAD NOT BEEN ARRESTED.

15 A CARL SMITH?

16 Q YEAH.

17 A I KNEW THAT THEY HAD BROUGHT PEOPLE IN FOR
18 QUESTIONING.

19 Q RIGHT, BUT YOU KNEW THAT CARL SMITH HAD NOT BEEN
20 ARRESTED.

21 A UH-HUH.

22 Q AND DO YOU KNOW PARIS ALEXANDER?

23 A YES.

24 Q OKAY. AND SO YOU KNEW THAT HE HAD NOT BEEN ARRESTED?

25 A LIKE I SAY, I DIDN'T KNOW AT THE TIME WHO WAS

1 ARRESTED OR WHAT.

2 Q RIGHT.

3 A I JUST KNOW THAT THEY BROUGHT ME IN FOR A STATEMENT,
4 AND I GAVE MY STATEMENT.

5 Q BUT DID YOU HAVE ANY REASON TO BELIEVE THAT PARIS
6 ALEXANDER HAD BEEN ARRESTED?

7 A I HADN'T SEEN HIM OUT THERE SO HE COULD HAVE BEEN
8 ARRESTED.

9 Q DO YOU KNOW BRADY BROWN?

10 A UH-HUH.

11 Q OKAY. DID YOU THINK THAT HE WAS ARRESTED?

12 A I KNOW HE WAS AT HEADQUARTERS.

13 Q OKAY, BUT WAS HE ARRESTED?

14 A I DON'T KNOW.

15 Q YOU HAD NO IDEA?

16 A I DON'T KNOW.

17 Q AND DO YOU KNOW REGINALD JOYNER, GOO?

18 A YEAH.

19 Q ALL RIGHT. DID YOU THINK HE HAD BEEN ARRESTED?

20 A LIKE I SAY, HE HAD BEEN DOWN THERE, TOO, FOR
21 QUESTIONING. I DON'T KNOW IF THEY'D BEEN ARRESTED OR NOT.

22 Q SO YOU HAD NO IDEA WHETHER ANY OF THESE PEOPLE WHO
23 LIVED IN YOUR NEIGHBORHOOD HAD ACTUALLY BEEN ARRESTED IN
24 CONNECTION WITH THESE EVENTS?

25 A NO.

1 Q JUST --

2 A THE POLICE PICKED THEM UP. I DIDN'T KNOW WHAT THEY
3 DID FROM THERE.

4 Q YOU JUST KEPT TO YOURSELF?

5 A UH-HUH.

6 Q THEY ALL LIVED IN THE NEIGHBORHOOD. WELL, MOST OF
7 THEM LIVED IN THE NEIGHBORHOOD WITH YOU, RIGHT?

8 A MOST OF THEM DID.

9 Q AND YOU'RE FRIENDS WITH SOME OF THESE PEOPLE, AREN'T
10 YOU?

11 A YES.

12 Q AND YOU'RE STILL PRETTY GOOD FRIENDS WITH CARL SMITH,
13 AREN'T YOU?

14 A YES.

15 Q AND YOU WERE VERY GOOD FRIENDS WITH HIM BACK THEN?

16 A YES.

17 Q ALL RIGHT. NOW, YOU TOLD INVESTIGATOR GRAY THAT
18 YOU'RE HANGING OUT BY BUILDING TWO IN BETHEL BISHOP WHEN
19 YOU FIRST SAW CHRISTOPHER LIVERMAN. DO YOU KNOW WHERE
20 THAT IS?

21 A YES.

22 Q OKAY. IS THAT UP TOWARDS THE FRONT?

23 A YES.

24 Q OKAY. AND YOU WERE TALKING TO SOME PEOPLE, YEAH?

25 A YEAH.

1 Q ALL RIGHT. WHO ALL WERE YOU TALKING TO?

2 A WHO ALL WAS I TALKING TO?

3 Q YEAH. WHO ALL WAS OUT THERE?

4 A IT WAS A LOT OF PEOPLE OUT THERE.

5 Q LIKE WHO?

6 A LIKE WHO?

7 Q LIKE WHO?

8 A GIRLS, BOYS.

9 Q GIRLS, BOYS. WHO?

10 A YOU SAID WHO?

11 Q WHO? NAMES.

12 A DO I HAVE TO GIVE THEIR NAMES?

13 Q YES.

14 A (THERE WAS NO RESPONSE).

15 Q WHAT ARE THEIR NAMES?

16 A THEY WAS MY FRIENDS.

17 Q WHO ARE THEY?

18 A IT WAS A LOT OF PEOPLE OUT THERE.

19 MS. FRANKLIN: YOUR HONOR, I WOULD ASK YOU TO DIRECT

20 THE WITNESS TO ANSWER.

21 THE COURT: ANSWER THE QUESTION. IF YOU KNOW THE

22 NAMES OF THE PEOPLE, ANSWER THE QUESTION.

23 THE WITNESS: PEACHES WAS OUT THERE. CARL WAS OUT

24 THERE, A GIRL NAMED TIDDLE, GOO. THERE WAS A LOT. I

25 CAN'T REMEMBER EVERYONE'S NAME.

1 BY MS. FRANKLIN

2 Q SO CARL, PEACHES, AND GOO?

3 A UH-HUH.

4 Q AND WHO ELSE?

5 A A GIRL NAMED TIDDLE.

6 Q TILL?

7 A TIDDLE.

8 Q OKAY. BUT YOU NEVER PROVIDED THOSE NAMES TO
9 INVESTIGATOR GRAY, DID YOU?

10 A HE NEVER ASKED.

11 Q AND YOU DIDN'T THINK IT WAS IMPORTANT INFORMATION TO
12 GIVE HIM?

13 A HE NEVER ASKED. I ONLY ANSWERED QUESTIONS HE ASKED
14 ME. I ANSWERED.

15 Q SO THE ANSWER IS NO, YOU DIDN'T THINK IT WAS
16 IMPORTANT INFORMATION TO GIVE HIM?

17 A NO.

18 Q AND YOU TOLD INVESTIGATOR GRAY THAT THESE PEOPLE WERE
19 ARGUING OVER A MAN OR SOMETHING, RIGHT?

20 A UH-HUH.

21 Q AND AS YOU WERE STANDING UP BY BUILDING TWO, YOU TOLD
22 THE INVESTIGATOR THAT YOU SAW CHRIS, GOO, AND SOME LITTLE
23 KID NAMED MIRAGE. DO YOU RECALL GIVING THAT STATEMENT?

24 A YES.

25 Q OKAY. DESCRIBE MIRAGE.

1 A SHORT, LOOKED LIKE HE WAS ABOUT LIKE 15 OR 16 YEARS
2 OLD.

3 Q FIFTEEN OR 16 NOW OR AT THE TIME?

4 A AT THE TIME.

5 Q AND WHERE DID HE LIVE?

6 A I DON'T KNOW.

7 Q NOW, WHEN YOU SAY SHORT, HOW SHORT WAS HE?

8 A ABOUT FIVE, 5'2".

9 Q 5'2" AND DESCRIBE WHAT GOO LOOKS LIKE.

10 A TALL.

11 Q HOW TALL WOULD YOU SAY GOO IS?

12 A ABOUT 5'6".

13 Q AND DID INVESTIGATOR GRAY ASK YOU WHO MIRAGE WAS?

14 A DID HE ASK ME THAT?

15 Q YES.

16 A YES.

17 Q DID YOU TELL HIM WHERE HE COULD FIND MIRAGE?

18 A YES.

19 Q DID YOU TELL HIM WHERE HE COULD FIND GOO?

20 A FIND GOO, NO, NO.

21 Q AND THEN, ACCORDING TO YOUR STATEMENT, CHRIS SAID
22 SOMETHING LIKE, "WE'RE FIXING TO GO HANDLE THIS. WE'RE
23 FIXING TO GO DO THIS RIGHT NOW," RIGHT?

24 A YES.

25 Q AND THAT'S WHAT YOU TOLD THE INVESTIGATOR?

1 A YES.

2 Q BUT YOU NEVER SAID ANYTHING ABOUT SEEING A RIFLE OR A
3 PISTOL.

4 A NO.

5 Q OKAY. AND HE SAID HE WAS TRYING TO GET SOME PEOPLE
6 TO GO WITH HIM?

7 A YES.

8 Q NOBODY WOULD GO?

9 A NO.

10 Q NOBODY WOULD DO IT. SO IT WAS JUST THESE THREE
11 PEOPLE. IT WAS CHRIS, GOO, AND SOME YOUNG KID NAMED
12 MIRAGE, ACCORDING TO YOUR STATEMENT?

13 A YES.

14 Q RIGHT? AND THEN YOU SAW CHRIS, GOO, AND THIS LITTLE
15 KID WALKING THROUGH THE CUT.

16 A YES.

17 Q AND YOU NEVER SAW DIEGO THOMPSON THAT NIGHT?

18 A HE WAS OUT THERE.

19 Q OKAY.

20 A HE WAS WITH THEM. IT'S DARK OUT THERE, BUT I KNOW
21 WHO I SEEN WAS WALKING WITH HIM THROUGH THAT CUT, BUT HE
22 COULD HAVE MET UP WITH THEM OR WHATEVER.

23 Q WELL, HE COULD HAVE MET UP WITH HIM, BUT YOU DIDN'T
24 SEE HIM?

25 A WHO.

1 Q DIEGO.

2 A DIEGO?

3 Q YEAH.

4 A HE WAS OUT THERE THAT NIGHT, BUT I DIDN'T SEE HIM
5 DIRECTLY GOING WITH HIM.

6 Q SO YOU DID NOT SEE HIM WITH CHRIS?

7 A HE WAS OUT THERE THAT NIGHT.

8 Q I UNDERSTAND THAT, BUT YOU DIDN'T SEE HIM WITH CHRIS,
9 AND GOO, AND MIRAGE?

10 A I DIDN'T UNDERSTAND.

11 Q DO YOU RECALL TESTIFYING THAT YOU SAW DIEGO WITH
12 CHRIS?

13 A I SEEN THEM TOGETHER, YES. THEY WAS TOGETHER.

14 Q BUT WERE THEY TOGETHER -- BUT THEN YOU JUST TESTIFIED
15 THAT THEY WERE NOT TOGETHER WALKING THROUGH THE CUT.

16 A I DIDN'T SEE THEM WALKING THROUGH THE CUT. I SEEN
17 THEM TOGETHER.

18 Q BUT YOU DID SAY THAT YOU SAW CHRIS, GOO, AND MIRAGE
19 GOING INTO THE CUT.

20 A I SEEN THEM WALKING THROUGH THE CUT.

21 Q BUT YOU DIDN'T SEE DIEGO WALKING THROUGH THE CUT?

22 A HE WAS WITH THEM. I DON'T KNOW IF HE WENT THROUGH
23 THE CUT. I DON'T KNOW.

24 Q WHICH CUT DID YOU SEE THEM WALK THROUGH?

25 A BETHEL BISHOP.

1 Q AND WHERE IS THE CUT IN BETHEL BISHOP?

2 A IN THE BACK.

3 Q IN THE BACK?

4 A UH-HUH.

5 Q WHERE IN THE BACK?

6 A BACK -- WELL, NOT BACK THERE RIGHT NOW. IT'S LIKE A

7 PARK BACK THERE.

8 Q IT'S A PARK BACK THERE?

9 A UH-HUH.

10 Q AND SO YOU'RE UP AT BUILDING TWO, RIGHT?

11 A YES.

12 Q AND THEY'RE WALKING FURTHER BACK INTO BETHEL BISHOP?

13 A UH-HUH.

14 Q OKAY. AND HOW LONG DID YOU SEE CHRIS LIVERMAN FOR?

15 A WHAT DO YOU MEAN?

16 Q HOW LONG DID YOU SEE HIM FOR THAT NIGHT?

17 A HOW LONG DID I SEE HIM?

18 Q YEAH.

19 A LIKE FACE TO FACE OR AROUND?

20 Q YEAH. HOW LONG DID YOU SEE HIM FOR?

21 A TWENTY, 30 MINUTES.

22 Q SO YOU SAW HIM FOR 20 TO 30 MINUTES IN BETHEL BISHOP?

23 A I SEEN HIM BECAUSE WE WAS ALL OUT THERE CHILLING, SO

24 THEY WAS JUST LEANING AROUND, SO ABOUT 20, 30 MINUTES.

25 Q TWENTY OR 30 MINUTES. CHRISTOPHER LIVERMAN, HE LIVES

1 IN BETHEL BISHOP, RIGHT?

2 A YEAH.

3 Q AND YOU KNEW THAT, BUT YOU'RE NOT FRIENDS WITH CHRIS,
4 ARE YOU?

5 A NO. I JUST ASSOCIATED WITH HIM. I AIN'T FRIENDS
6 WITH HIM.

7 Q BUT YOU NEVER REALLY HAVE SPOKEN TO EACH OTHER VERY
8 MUCH, HAVE YOU?

9 A NO, NOT MUCH.

10 Q AND THERE WERE A NUMBER OF PEOPLE AT BETHEL BISHOP
11 THAT NIGHT, WEREN'T THERE?

12 A YES.

13 Q WERE YOU WITH CARL SMITH EARLIER IN THE DAY OVER ON
14 T.S. MARTIN?

15 A NO.

16 Q SO WHEN CARL SMITH SAYS HE HAS A REALLY GOOD FRIEND
17 NAMED SHANTE, THAT'S NOT YOU?

18 A UH-HUH.

19 Q DID YOU DRIVE A CAR BACK THEN?

20 A YES.

21 Q WHAT KIND OF CAR DID YOU HAVE?

22 A I HAD A LOT OF CARS.

23 Q HOW MANY CARS DID YOU HAVE?

24 A DIFFERENT KINDS.

25 Q HOW MANY CARS DID YOU HAVE?

1 A ABOUT FOUR.

2 Q YOU OWNED FOUR CARS AT THE TIME?

3 A I WASN'T IN FOUR CARS AT THE TIME, BUT I HAD
4 DIFFERENT KINDS OF CARS.

5 Q OKAY. SO AFTER THE SHOOTING HAPPENED -- I MEAN
6 EVERYONE WAS TALKING ABOUT WHAT HAPPENED AT T.S. MARTIN,
7 WEREN'T THEY?

8 A EVERYONE WAS TALKING ABOUT IT?

9 Q UH-HUH.

10 A IT WASN'T LIKE EVERYBODY WAS TALKING ABOUT IT, LIKE
11 TELLING WHAT HAPPENED BECAUSE EVERYONE STUCK TOGETHER, SO
12 THEY WEREN'T REALLY TALKING TOO MUCH ABOUT IT.

13 Q EVERYONE STICKS TOGETHER IN BETHEL BISHOP?

14 A UH-HUH.

15 Q BUT IT WAS BIG NEWS?

16 A IT WAS BIG NEWS, YEAH.

17 Q IT WAS IN THE PAPERS, RIGHT?

18 A WHEN IT STARTED BEING IN THE PAPER AND ON THE NEWS,
19 IT WAS BIG.

20 Q SO YOU KNEW PRETTY QUICKLY THAT THE STATE HAD THEIR
21 SUSPECT IN CUSTODY, RIGHT?

22 A UH-HUH, YES.

23 Q WHEN DID YOU FIND OUT THAT CHRIS LIVERMAN HAD BEEN
24 DETAINED?

25 A ON THE DAY THAT I GOT PICKED UP FOR QUESTIONING.

1 Q ON THE DAY THAT YOU GOT PICKED UP ON --

2 A I KNEW THAT HE WAS IN CUSTODY. IT WAS LIKE A DAY
3 AFTER IT HAPPENED, REALLY.

4 Q SO -- BUT YOU CALLED LAW ENFORCEMENT TWO DAYS AFTER
5 IT HAPPENED.

6 A I CALLED LAW ENFORCEMENT?

7 Q RIGHT. AND THEY PICKED YOU UP THE DAY AFTER THIS
8 HAPPENED?

9 A NO. THEY DIDN'T PICK ME UP THE DAY AFTER THIS
10 HAPPENED.

11 Q I'M ASKING YOU WHEN YOU FOUND OUT THAT CHRIS LIVERMAN
12 WAS IN CUSTODY?

13 A WHEN I SEEN IT ON THE NEWS.

14 Q RIGHT. AND WHEN WAS THAT?

15 A I CAN'T REMEMBER.

16 Q WAS IT SHORTLY AFTER IT HAPPENED?

17 A NO, THE NEXT DAY.

18 Q THE NEXT DAY. AND SO WHAT YOU JUST TESTIFIED TO, YOU
19 SAID THAT IT WAS AFTER THE SHOOTING, ACCORDING TO YOU,
20 CHRIS LIVERMAN COMES RUNNING, RUNNING, RUNNING INTO BETHEL
21 BISHOP, RIGHT? RUNNING, RUNNING, RUNNING?

22 A YES.

23 Q FROM WHICH DIRECTION?

24 A FROM THE DIRECTION COMING FROM T.S. MARTIN ON THE --
25 OFF THE RAILROAD TRACKS.

1 Q SO YOU ACTUALLY SAW HIM COME OFF THE RAILROAD TRACKS?

2 A I DIDN'T SEE HIM COME OFF THE RAILROAD TRACKS. I
3 SEEN HIM WHEN HE CAME -- WHEN HE WAS IN BISHOP.

4 Q OKAY. MY QUESTION IS HOW DID HE GET INTO THE BISHOP?

5 A THROUGH THE CUT.

6 Q BUT YOU DIDN'T ACTUALLY SEE HIM COME THROUGH THE CUT?

7 A NO, BUT IF HE WAS THERE, YOU KNOW THAT HE CAME
8 THROUGH THE CUT. WHERE ELSE IS HE GOING TO COME FROM?

9 Q MY QUESTION IS WHEN YOU SAW HIM, WERE YOU STILL UP AT
10 BUILDING TWO?

11 A I WAS STILL OUTSIDE, YES.

12 Q WERE YOU STILL UP AT BUILDING TWO?

13 A I WAS OUTSIDE.

14 Q WERE YOU STILL UP AT BUILDING TWO?

15 A SAY THAT AGAIN.

16 Q WERE YOU STILL UP AT BUILDING TWO?

17 A NO, I WAS IN THE AREA.

18 Q ALL RIGHT. SO YOU MOVED AT THAT POINT. YOU WEREN'T
19 STILL AT BUILDING TWO.

20 A I MOVED.

21 Q WHERE DID YOU MOVE TO?

22 A I WAS IN THE AREA OF THE PARKING LOT.

23 Q ARE THERE NOT A LOT OF PARKING LOTS THERE?

24 A YES, THERE IS.

25 Q OKAY. WHICH PARKING LOT?

1 A I DON'T KNOW WHICH BUILDING, BUT I KNOW I WAS IN THE
2 MIDDLE, IN THE OTHER -- ON THE OTHER SIDE OF THE BUILDING
3 FROM BUILDING TWO.

4 Q OKAY. SO YOU HAD MOVED ONE PARKING LOT OVER THEN?

5 A UH-HUH.

6 THE COURT: MS. FRANKLIN, ARE YOU AT A GOOD BREAKING
7 POINT?

8 MS. FRANKLIN: I COULD BE.

9 THE COURT: JUST FOR A MINUTE. MR. FOREMAN, LADIES
10 AND GENTLEMEN, I KNOW YOU HAD A BREAK, AND WE STARTED
11 LATE.

12 WE HAVEN'T HAD A BREAK SINCE ABOUT 2:15, AND WE NEED
13 TO TAKE ABOUT TEN MINUTES. PLEASE STEP BACK TO YOUR JURY
14 ROOM AND WE'LL CONTINUE.

15 EVERYONE ELSE STAY SEATED, PLEASE.

16 (WHEREUPON, THE JURY LEFT OPEN COURT AT APPROXIMATELY
17 4:15 P.M.)

18 THE COURT: WE'LL TAKE A TEN-MINUTE RECESS.

19 MS. BETHEL, YOU CAN STEP DOWN IF YOU WOULD LIKE. YOU
20 CANNOT TALK WITH ANYBODY ABOUT YOUR TESTIMONY WHILE WE
21 TAKE THIS BREAK. YOU WILL STILL BE ON THE STAND WHEN WE
22 RESUME.

23 (WHEREUPON, A SHORT BREAK WAS TAKEN.)

24 THE COURT: ARE YOU READY?

25 MS. FRANKLIN: YES, YOUR HONOR.

1 THE COURT: IS THE STATE READY?

2 MS. CAMPBELL: YES, SIR.

3 THE COURT: ALL RIGHT. LET'S GET THE JURY BACK IN,
4 PLEASE.

5 (WHEREUPON, THE JURY CAME INTO OPEN COURT AT
6 APPROXIMATELY 4:30 P.M.)

7 THE BAILIFF: THE JURORS ARE ALL PRESENT, YOUR HONOR.

8 THE COURT: ALL RIGHT. MS. FRANKLIN, CONTINUE,
9 PLEASE.

10 MS. FRANKLIN: YES, YOUR HONOR, MAY IT PLEASE THE
11 COURT.

12 BY MS. FRANKLIN

13 Q JUST TO SORT OF BACK UP A LITTLE WHERE WE WERE, OKAY,
14 YOU JUST TOLD LAW ENFORCEMENT -- OR YOU JUST TOLD THIS
15 COURT THAT RIGHT AFTER THE SHOOTING, YOU SAW CHRIS RUNNING
16 UP, RIGHT?

17 A YES, MA'AM.

18 Q OKAY. AND AT THAT POINT, YOU HAD SORT OF MOVED. YOU
19 MOVED INTO A DIFFERENT PARKING AREA?

20 A YES.

21 Q WHERE EXACTLY DID YOU SEE HIM RUNNING FROM?

22 A FROM THE WOODS COMING FROM THE CUT.

23 Q BUT YOU DIDN'T SEE HIM IN THE CUT, RIGHT?

24 A NO.

25 Q DID YOU SEE HIM COMING UP THROUGH THE COLONY?

1 A THROUGH THE COLONY?

2 Q YES.

3 A IF I'M STANDING IN THE MIDDLE OF THE PARKING LOT AND
4 HE COMES FROM THIS WAY OR THAT WAY, HE CAN EITHER COME
5 FROM THE CUT OR THE COLONY. HE CAN COME EITHER WAY. WHEN
6 HE'S COMING FROM BEHIND THE BUILDING, YOU DON'T KNOW --
7 BECAUSE THE CUT IS RIGHT THERE AND THE COLONY IS RIGHT
8 THERE, SO I NEVER KNEW.

9 Q OKAY. SO WHEN YOU SAID YOU SAW HIM COMING FROM THE
10 CUT, I MEAN YOU -- THAT'S NOT REALLY PRECISE, BECAUSE YOU
11 DIDN'T SEE HIM DO THAT, RIGHT?

12 A YEAH, I KNEW WHERE HE WAS COMING FROM.

13 Q BUT YOU DO NOT HAVE PERSONAL KNOWLEDGE OF WHETHER HE
14 WAS COMING FROM THE CUT OR WHETHER HE WAS JUST COMING
15 THROUGH THE COLONY, DO YOU?

16 A NO.

17 Q AND THEN AS HE'S RUNNING, HE RUNS UP, AND I GUESS HE
18 STOPS TO TALK TO YOU?

19 A HE DIDN'T STOP TO TALK TO ME. HE STOPPED TO TALK TO
20 ME AND OTHER PEOPLE.

21 Q OKAY. SO HE STOPPED TO TALK TO YOU AND SOME OTHER
22 PEOPLE. WHO ELSE WAS HE TALKING TO?

23 A AT THE TIME I CAN'T REMEMBER.

24 Q YEAH. OKAY. SO HE STOOD THERE FOR A FEW MINUTES,
25 TALKED TO YOU AND SOME OTHER PEOPLE --

1 A UH-HUH.

2 Q -- AND THEN TOOK OFF RUNNING FURTHER, RIGHT?

3 A YES.

4 Q AND THEN STARTED RUNNING BACK IN THE OTHER DIRECTION?

5 A YES.

6 Q NOW, THAT'S NOT WHAT YOU SAID IN YOUR STATEMENT TO
7 INVESTIGATOR GRAY, IS IT?

8 A HE RAN -- HE WENT TO BAYBERRY.

9 Q THAT'S NOT WHAT YOU SAID IN YOUR STATEMENT TO
10 INVESTIGATOR GRAY, IS IT?

11 A WHAT, THAT HE RAN FROM --

12 Q THAT HE WAS RUNNING FROM YOU BACK --

13 A I DIDN'T SAY HE RAN FROM ME. I SAID AFTER HE DID
14 WHAT HE DID -- AFTER HE TOLD WHAT HE DID, HE WENT TO
15 BAYBERRY TO SOMEONE'S HOUSE.

16 Q BUT THAT'S NOT THE STATEMENT THAT YOU GAVE TO
17 INVESTIGATOR GRAY, IS IT?

18 A IT SHOULD BE.

19 Q I'M GOING TO SHOW YOU -- MAY I APPROACH THE WITNESS,
20 YOUR HONOR?

21 THE COURT: YOU MAY.

22 BY MS. FRANKLIN

23 Q OKAY. DOES THAT REFRESH YOUR MEMORY AT ALL?

24 A YEAH.

25 Q OKAY.

1 A OKAY. IN BAYBERRY, HE STAYED AT HIS BABY'S MAMA'S
2 HOUSE AT BAYBERRY. I JUST MENTIONED BAYBERRY TO YOU.

3 Q AND YOU TOLD HIM THAT YOU SAW CHRIS LIVERMAN WALKING
4 THROUGH THE CUT?

5 A AFTER, I WAS SAYING -- AFTER IT HAPPENED, I TOLD YOU
6 THAT HE WENT TO BAYBERRY. IT SAID THAT IN MY STATEMENT,
7 THAT HE WENT TO BAYBERRY, BUT YOU NEVER ASKED ME WHOSE
8 HOUSE HE WENT TO. I SAID HIS BABY'S MAMA IN MY STATEMENT.
9 I JUST TOLD YOU BAYBERRY.

10 Q OKAY. BE YOU DIDN'T SEE HIM IN BAYBERRY?

11 A HE WALKED TOWARDS THEM. THERE'S ONLY ONE WAY TO
12 BAYBERRY.

13 Q AND WHICH WAY DID YOU SEE HIM IN BAYBERRY?

14 A GOING UP TOWARD THIS WAY.

15 Q UP WHICH WAY?

16 A I DON'T KNOW HOW TO EXPLAIN IT TO YOU.

17 Q WELL --

18 A DO YOU GOT A POSTER?

19 Q ALL RIGHT. NOW, DO YOU KNOW WHAT THIS IS?

20 A NO.

21 Q IT'S ALREADY BEEN ADMITTED INTO EVIDENCE. DO YOU
22 RECOGNIZE THIS ROAD HERE?

23 A WHICH ROAD?

24 Q THIS ROAD RIGHT HERE.

25 A NO, I DON'T RECOGNIZE THAT.

1 Q YOU HAVE NO IDEA? NOW, IF I TOLD YOU THIS WAS --

2 MS. CAMPBELL: OBJECTION, YOUR HONOR. I DON'T THINK
3 SHE CAN TELL HER ANYTHING.

4 THE COURT: IF SHE CAN IDENTIFY A LANDMARK OR
5 WHATEVER IS THERE, THAT'S FINE. I'LL PERMIT IT, BUT IF
6 NOT, SHE CAN'T IDENTIFY IT, SO SHE WON'T BE ABLE TO. I'LL
7 LET YOU ASK THE QUESTION. GO AHEAD.

8 BY MS. FRANKLIN

9 Q THANK YOU, YOUR HONOR.

10 DOES THIS LOOK LIKE THE COLONY AND THEN BAYBERRY --
11 I'M SORRY, AND THEN BETHEL BISHOP?

12 A NO, MA'AM, IT DON'T.

13 Q IT DOESN'T LOOK ANYTHING LIKE IT, DOES IT?

14 A NO.

15 Q SO YOU HAVE NO IDEA WHAT THIS IS?

16 A NO, I DON'T.

17 Q OKAY. ALL RIGHT. SO YOU SAID THAT YOU SAW HIM
18 WALKING UP TOWARDS BAYBERRY. DID YOU SEE HIM TAKING THE
19 ROAD?

20 A I SEEN HIM GOING IN THAT DIRECTION TO BAYBERRY,
21 MA'AM. I DIDN'T SEE NO ROAD. I WASN'T REALLY PAYING NO
22 ATTENTION RIGHT THERE, BUT I KNOW HE WENT TO BAYBERRY. HE
23 WAS TAKING THAT ROAD TO BAYBERRY. THERE'S ONLY ONE WAY TO
24 BAYBERRY. FROM THE BISHOP TO BAYBERRY, IT'S LIKE -- IT'S
25 A ONE WAY IN AND ONE WAY OUT TO BAYBERRY.

1 Q RIGHT.

2 A IN THE BETHEL BISHOP, WE'VE GOT A BACK ROAD. THERE'S
3 A WAY THROUGH THE COLONIES TO COME IN. YOU GO THROUGH
4 BAYBERRY, THERE'S ONLY ONE WAY IN AND ONE WAY OUT.

5 Q AND IS THE ONLY WAY TO GET TO BAYBERRY GOING THROUGH
6 THE CUT?

7 A NO.

8 Q OKAY.

9 A YOU GO THROUGH THE CUT AND GO OTHER PLACES.

10 Q AND SO WHEN YOU SAID THAT YOU SAW HIM GOING THROUGH
11 THE CUT, THAT'S NOT ACCURATE THEN. YOU SAW HIM GOING
12 TOWARDS BAYBERRY.

13 A HE CAME TO ME JUST AFTER HE DID WHAT HE DID.

14 Q OKAY. SO HE CAME TO YOU AFTERWARDS?

15 A I'M SAYING, YOU'RE ASKING ME DID HE GO THROUGH THE
16 CUT TO GO TO T.S. MARTIN OR DID HE GO THROUGH THE CUT TO
17 GO TO BAYBERRY? AT WHICH PLACE ARE YOU ASKING ME?

18 Q I'M ASKING YOU -- EXCUSE ME. I'M ASKING YOU WHETHER
19 HE TOOK THE CUT TO GO TO BAYBERRY?

20 A NO. HE WENT THROUGH BAYBERRY. THERE'S ONLY ONE WAY
21 IN. IF YOU WANTED TO GO THROUGH THE WOODS TO GO THROUGH
22 BAYBERRY, YOU CAN. THAT'S ON YOU, BUT THERE'S ONLY ONE
23 WAY INTO BAYBERRY, ONE WAY OUT.

24 Q OKAY. SO WHEN YOU TOLD INVESTIGATOR GRAY THAT HE WAS
25 WALKING THROUGH THE CUT ON THE WAY UP TO BAYBERRY, THAT

1 WAS INACCURATE?

2 A YEAH, IT COULD BE. YOU CAN GO THROUGH THE ROADWAY.
3 IT DON'T MATTER, EITHER WAY.

4 Q OKAY. BUT YOU JUST SAID THERE WAS ONE WAY UP TO
5 BAYBERRY.

6 A OKAY. IT'S A ROAD WHEN YOU FIRST -- SAY ON THE ROAD
7 TO GO TO THE BISHOP, IT'S A ROAD THAT GOES STRAIGHT UP TO
8 BAYBERRY. IT'S STILL THE SAME WAY. YOU CAN WALK THROUGH
9 THE WOODS. BOTH OF THEM ARE STILL A STEADY WAY, ONE WAY
10 IN AND ONE WAY OUT.

11 Q SO YOU'RE TELLING THIS JURY THAT YOU SAW HIM TAKING
12 THE ROAD UP TO BAYBERRY AND --

13 A I SEEN -- I KNOW HE WENT THROUGH THE WAY TO GO TO
14 BAYBERRY. I DON'T KNOW WHICH ROAD -- CUT. THERE SHOULD
15 HAVE BEEN A CUT BECAUSE YOU COULD GO THROUGH THE WOODS.
16 IF HE WAS RUNNING FROM SOMETHING, HE COULD HAVE WENT
17 THROUGH THE WOODS.

18 Q BUT WHAT WE'RE ASKING YOU TO TESTIFY, MS. BETHEL, IS
19 WHAT YOU SAW.

20 A UH-HUH.

21 Q WHAT YOU SAW.

22 A HE WENT TO BAYBERRY.

23 Q DID YOU SEE HIM TAKE THE ROAD UP TO BAYBERRY?

24 A I CAN'T REMEMBER, BUT I KNOW HE WENT TO BAYBERRY.

25 Q OKAY. SO YOU CAN'T REMEMBER?

1 A HUH-UH.

2 Q OKAY. SO YOU DIDN'T SEE HIM AFTER THIS?

3 A DID I SEE HIM AFTER WHAT?

4 Q AFTER -- SO HE COMES UP AND APPARENTLY HAS A
5 CONVERSATION WITH YOU AND THEN STARTS RUNNING AWAY. YOU
6 DON'T KNOW WHERE HE WENT.

7 A TO BAYBERRY.

8 Q ALL RIGHT. SO ON JULY 2ND, 2004, YOU WERE CHARGED
9 WITH ASSAULT WITH INTENT TO KILL.

10 A YES.

11 Q YEAH. AND THAT'S LESS THAN TWO MONTHS BEFORE THIS
12 SHOOTING HAPPENED.

13 A YES.

14 Q YES. AND IT'S ALLEGED THAT YOU ATTEMPTED TO SHOOT
15 SOMEBODY INTENDING TO KILL THEM, YES?

16 A NO, MA'AM. I DISCHARGED A FIREARM.

17 Q YOU DISCHARGED A FIREARM.

18 A THAT'S ALL I DID.

19 MS. CAMPBELL: OBJECTION, YOUR HONOR. MAY I
20 APPROACH?

21 THE COURT: SURE.

22 (WHEREUPON, A BENCH CONFERENCE WAS HELD IN THE
23 PRESENCE, BUT NOT WITHIN THE HEARING, OF THE JURY).

24 THE COURT: YOU MAY CONTINUE, MS. FRANKLIN.

25

1 BY MS. FRANKLIN

2 Q YOU WERE ARRESTED FOR THAT, WEREN'T YOU?

3 A YES.

4 Q AND IT'S A VERY SERIOUS CHARGE.

5 A YES.

6 Q YEAH. IT'S A FELONY.

7 A YEAH.

8 Q AND IT CARRIES A POSSIBLE TEN-YEAR SENTENCE.

9 A YES, MA'AM.

10 Q AND THERE IS A LEAD INVESTIGATOR ASSIGNED TO THAT
11 CASE, ISN'T THERE?

12 A UH-HUH.

13 Q AND DO YOU RECALL WHO THAT INVESTIGATOR --

14 MS. CAMPBELL: OBJECTION, YOUR HONOR. MAY WE
15 APPROACH?

16 (WHEREUPON, A BENCH CONFERENCE WAS HELD IN THE
17 PRESENCE, BUT NOT WITHIN THE HEARING, OF THE JURY).

18 THE COURT: ALL RIGHT. MS. FRANKLIN, CONTINUE.

19 BY MS. FRANKLIN

20 Q DO YOU KNOW WHO THE LEAD INVESTIGATOR IN THAT CASE
21 WAS?

22 A YES.

23 Q AND WHO WAS IT?

24 A GRAY.

25 Q AND THAT'S THE LEAD INVESTIGATOR ON THIS CASE?

1 A YES.

2 Q AND AFTER YOU WERE ARRESTED, YOU WERE TAKEN DOWN TO
3 THE DETENTION CENTER, WEREN'T YOU?

4 A YES.

5 Q AND YOU SPENT THE NIGHT IN JAIL, DIDN'T YOU?

6 A YES.

7 Q AND WHILE YOU WERE DOWN AT THE DETENTION CENTER --
8 MS. CAMPBELL: OBJECTION, YOUR HONOR. MAY WE
9 APPROACH?

10 (WHEREUPON, A BENCH CONFERENCE WAS HELD IN THE
11 PRESENCE, BUT NOT WITHIN THE HEARING, OF THE JURY).
12 THE COURT: GO AHEAD.

13 BY MS. FRANKLIN

14 Q OKAY. WHILE YOU WERE DOWN AT THE DETENTION CENTER,
15 YOU WERE PROBABLY SENT TO X-RAY.

16 A SAY THAT AGAIN? X-RAY?

17 Q X-RAY IS THE WARD FOR WOMEN, RIGHT?

18 A RIGHT.

19 Q AND IT'S VERY CROWDED IN THERE.

20 A YES.

21 Q AND YOU SHARED A SMALL CELL WITH ANOTHER WOMAN,
22 DIDN'T YOU?

23 A YES.

24 Q AND DOWN AT THE DETENTION CENTER, THEY TELL YOU WHAT
25 TIME YOU HAVE TO WAKE UP IN THE MORNING.

1 A YES.

2 Q YEAH? AND THEY TELL YOU WHAT TIME YOU HAVE TO GO TO
3 BED.

4 A YES.

5 Q THEY TELL YOU WHAT YOU HAVE TO EAT.

6 A YEAH.

7 Q AND THE CELL IS PROBABLY ABOUT SIX BY TEN FEET.

8 A YES.

9 Q IT'S KIND OF SMALL. THERE'S NOT A WHOLE LOT OF
10 PRIVACY IN THE CELL, IS THERE?

11 A NO.

12 Q AND YOU PROBABLY HAVE LOVED ONES WHO ARE NOT DOWN IN
13 X-RAY, RIGHT?

14 A UH-HUH.

15 Q AND YOU COULDN'T SEE YOUR LOVED ONES WHEN YOU WANTED
16 TO, COULD YOU?

17 A NO.

18 Q AND YOU'RE PROBABLY NOT INTERESTED IN SPENDING
19 ANYMORE TIME IN JAIL AT ALL, ARE YOU?

20 A NO.

21 Q AND YOU WERE JUST DOWN AT THE DETENTION CENTER,
22 RIGHT?

23 A YES.

24 Q AND YOU KNOW THAT PRISON PROBABLY WOULD BE A WHOLE
25 LOT WORSE.

1 A YES.

2 Q YEAH. I MEAN, WITH A CONVICTION, YOU MIGHT HAVE
3 ENDED UP IN PRISON. THIS ASSAULT WITH INTENT TO KILL
4 CHARGE THAT YOU PICKED UP OVER TWO YEARS AGO --

5 A YES.

6 Q -- IT'S STILL OUTSTANDING, ISN'T IT?

7 A IT'S STILL PENDING.

8 Q STILL PENDING. YOU HAVEN'T PLEADED TO IT.

9 A NO.

10 Q YOU HAVEN'T GONE TO TRIAL ON IT.

11 A NO.

12 Q IT'S JUST HANGING OUT THERE.

13 A YES.

14 Q AND YOU EVEN HAVE AN ATTORNEY ON THAT CASE, DON'T
15 YOU?

16 A YES.

17 Q AND WHO IS IT?

18 A NATHANIEL ROBERSON.

19 Q DO YOU EVEN HAVE A SCHEDULED COURT DATE?

20 A NO.

21 Q NO. AND AFTER THIS CASE, YOU CONTINUED TO TRY TO
22 HELP LAW ENFORCEMENT MAKE THEIR CASES, HAVEN'T YOU?

23 A NO, NOT -- NOT -- I DON'T -- THAT QUESTION YOU JUST
24 ASKED ME, THE ONLY WAY I DID HELP THEM -- LIKE THAT, YOU
25 HAVE TO BE SOMEBODY THAT I HELD, BEEN AROUND OR WHATEVER.

1 THAT'S HOW THEY GET THEIR INFORMATION. IT'S NOT JUST NO
2 VOLUNTEER INFORMATION JUST TO HELP ME.

3 Q SO YOU HAVEN'T VOLUNTEERED ANY INFORMATION?

4 A NOT TO HELP ME, NO. IT'S JUST PEOPLE THAT I -- THE
5 WRONG CROWD AT THE TIME I HUNG AROUND, AND I GOT
6 QUESTIONED FOR IT, AND I ANSWERED IT WITH THE TRUTH.

7 Q WELL, ARE YOU SAYING THAT YOU DON'T CALL LAW
8 ENFORCEMENT, AND THAT THEY CALL YOU?

9 A THEY DON'T HAVE TO CALL ME. IT'S JUST THAT MY NAME
10 GETS PUT IN A LOT OF STUFF. IT WAS GETTING PUT IN A LOT
11 OF STUFF AT THE TIME, AND THEY ASKED ME QUESTIONS AND I
12 ANSWERED THEM.

13 Q SO YOUR NAME JUST GETS THROWN AROUND A LOT?

14 A NO. IT'S JUST THE PEOPLE THAT I USED TO HANG AROUND.
15 IT GETS THROWN UP IN A LOT OF STUFF.

16 Q BUT YOU'RE CURRENTLY A WITNESS IN ANOTHER TRIAL,
17 AREN'T YOU, FOR THE STATE?

18 A SAY THAT AGAIN NOW.

19 Q AREN'T YOU CURRENTLY A WITNESS FOR ANOTHER TRIAL FOR
20 THE STATE?

21 A YES.

22 Q AND WHAT'S THE NATURE OF THAT CASE?

23 A BEING AROUND THE WRONG CROWD, NO INFORMATION.

24 Q IS IT ANOTHER MURDER TRIAL?

25 A SAY IT AGAIN.

1 Q IS IT ANOTHER MURDER TRIAL?

2 A YES.

3 Q OKAY. SO YOU JUST SORT OF HAPPEN TO BE IN PLACES
4 WHERE PEOPLE KNOW THINGS ABOUT MURDERS?

5 A NO. IF YOU WAS AFFILIATED WITH A GANG OR YOU WAS
6 AFFILIATED AROUND OR HANGING AROUND THE WRONG PEOPLE AT
7 THE WRONG TIME, YOU WOULD BE IN A LOT OF STUFF AND KNOW A
8 LOT OF STUFF, TOO.

9 Q A LOT OF INFORMATION.

10 A YES.

11 Q HAVE YOU WORKED FOR THEM ON ANY OTHER CASES?

12 A NO.

13 Q SO JUST THOSE TWO?

14 A JUST THE TWO MURDER CASES.

15 Q IS THAT IT?

16 A UH-HUH, AND A LITTLE INFORMATION. THAT'S ABOUT IT.

17 Q SO YOU'RE GIVING INFORMATION?

18 A JUST INFORMATION FROM PEOPLE THAT I AM AFFILIATED
19 WITH, YES.

20 Q OKAY. SO YOU HAVE GIVEN STATEMENTS IN OTHER CASES?

21 A NO.

22 Q NEVER?

23 A NOT FROM -- NO.

24 Q YOU DON'T RECALL EVER GIVING A STATEMENT IN ANOTHER
25 CASE?

1 A JUST ONE MORE, YEAH.

2 Q WELL, WHAT IS THAT ONE MORE?

3 A WHAT DO YOU MEAN WHAT IS THE ONE MORE?

4 Q WHAT OTHER CASE HAVE YOU WORKED FOR?

5 A A ROBBERY.

6 Q A ROBBERY.

7 A UH-HUH.

8 Q AND WHEN WAS THAT?

9 A THAT WAS A WHILE BACK.

10 Q WHEN WAS IT?

11 A (THERE WAS NO RESPONSE).

12 Q YOU HAVE NO RECOLLECTION?

13 A 2000 -- WHEN I WAS STAYING IN THE BISHOP. AGAIN,

14 IT'S PEOPLE THAT I HUNG WITH THAT STAYED WITH ME, PEOPLE I

15 KNEW.

16 Q OKAY. SO WHEN WAS IT?

17 A IT WAS IN LIKE IN 2002.

18 Q 2002?

19 A TWO OR 2003, ONE OF THE TWO.

20 Q WAS IT 2004?

21 A I DON'T KNOW. I CAN'T REMEMBER.

22 Q YOU CAN'T REMEMBER, SO YOU NOW HAVE WORKED WITH LAW

23 ENFORCEMENT ON THREE CASES, YES?

24 A OKAY, YEAH.

25 Q ANY MORE?

1 A NO.

2 Q OKAY. SO IT'S BEEN NEARLY TWO-AND-A-HALF YEARS THAT
3 HAVE PASSED SINCE YOU PICKED UP THAT LAST CHARGE, RIGHT?

4 A YES.

5 Q YOU DON'T EXPECT TO GO TO JAIL ON THAT CHARGE, DO
6 YOU?

7 A DO I EXPECT TO GO TO JAIL?

8 Q YES.

9 A I DON'T KNOW WHAT'S GOING TO HAPPEN.

10 Q YOU HAVE NO IDEA WHAT'S GOING TO HAPPEN. AND THAT
11 CASE HAS BEEN TRANSFERRED OVER TO LEXINGTON COUNTY, RIGHT?

12 A YES.

13 Q DO YOU THINK INVESTIGATOR GRAY WILL PUT IN A GOOD
14 WORD FOR YOU WHEN THE SOLICITORS OVER THERE ARE TRYING TO
15 RESOLVE THAT CASE?

16 A NO.

17 Q NO. DO YOU THINK THE SOLICITORS WILL PUT IN A GOOD
18 WORD FOR YOU?

19 A NO.

20 Q NO. YOU'RE PROBABLY HOPING THEY WILL, RIGHT?

21 A NO.

22 Q YOU'RE NOT EVEN HOPING? SO YOU DON'T CARE IF THEY
23 PUT IN A GOOD WORD FOR YOU OR NO?

24 A IF THEY PUT IN A GOOD WORD FOR ME, THANKS TO THEM.

25 Q BUT YOU DON'T WANT ANYTHING LIKE THAT, DO YOU?

1 A I DON'T KNOW ABOUT THAT.

2 Q SO YOU'RE FRIENDS WITH CARL SMITH?

3 A YES.

4 Q GOOD FRIENDS WITH CARL SMITH?

5 A YES.

6 Q POOH?

7 A UH-HUH.

8 Q AND HOW MANY TIMES HAVE YOU MET WITH THE SOLICITORS?

9 A THREE.

10 Q WHEN WAS THE LAST TIME YOU MET WITH THEM?

11 A YESTERDAY.

12 Q YESTERDAY?

13 A WELL, THE DAY BEFORE.

14 Q AND DID YOU REVIEW YOUR TESTIMONY WITH THEM?

15 A DID I GO REVIEW --

16 Q YEAH, DID YOU GO OVER YOUR TESTIMONY WITH THEM?

17 A WE TALKED.

18 Q AND YOU TALKED ABOUT THIS CASE, RIGHT?

19 A YES.

20 Q AND ON ALL THREE OCCASIONS, YOU TALKED WITH THEM

21 ABOUT THIS CASE?

22 A IT WASN'T ALL ABOUT THAT, BUT YES.

23 Q YOU DIDN'T TALK ABOUT THIS CASE?

24 A YES.

25 Q OKAY. SO THREE TIMES ABOUT THIS CASE. DID THEY SHOW

1 YOU YOUR STATEMENT THAT YOU GAVE?

2 A DID THEY SHOW IT TO ME?

3 Q YEAH, YOUR STATEMENT, THE STATEMENT THAT YOU GAVE
4 INVESTIGATOR GRAY.

5 A I ALREADY GAVE MY STATEMENT.

6 Q DID THEY SHOW IT TO YOU AGAIN?

7 A WE WENT OVER IT.

8 Q YOU WENT OVER IT. ALL THREE TIMES?

9 A NO.

10 Q SO THE FIRST TIME YOU DIDN'T GO OVER THE STATEMENT?

11 A THE FIRST TIME, WHAT NOW?

12 Q DID YOU GO OVER THE STATEMENT THE FIRST TIME YOU MET
13 THEM?

14 A YES.

15 Q HOW ABOUT THE SECOND TIME?

16 A YEAH.

17 Q HOW ABOUT THE THIRD TIME?

18 A NO.

19 Q SO YESTERDAY YOU DIDN'T GO OVER THE STATEMENT?

20 A NO.

21 Q NO? YOU DIDN'T TALK IT AT ALL?

22 A WE TALKED ABOUT THE SITUATION OF THIS CASE RIGHT
23 HERE, BUT WE DIDN'T TALK ABOUT NO STATEMENT.

24 Q AND WHEN YOU SAY CHRIS' BABY'S MAMA'S HOUSE, WHO WAS
25 THAT?

1 A I DON'T KNOW.

2 Q SO YOU'RE NOT AWARE THAT CHRIS LIVERMAN HAS NO
3 CHILDREN?

4 A NO.

5 Q SO HE --

6 A I DON'T KNOW IF HE HAD KIDS. I JUST KNOW THEY SAY
7 HE'S -- HIS BABY'S MAMA WAS STAYING IN BAYBERRY.

8 Q DID YOU KNOW HER NAME?

9 A DID I KNOW HER NAME?

10 Q YEAH.

11 A NO, I DIDN'T KNOW HER NAME.

12 Q NOW, YOU TESTIFIED EARLIER -- I JUST HAVE A COUPLE
13 MORE QUESTIONS FOR YOU.

14 NOW, YOU SAID THAT WHEN YOU CALLED INVESTIGATOR GRAY
15 BACK ON AUGUST 28TH, THAT YOU WERE JUST CALLING HIM TO
16 TELL HIM WHO ELSE YOU HEARD WAS INVOLVED IN THE SHOOTING?

17 A IT WASN'T SPECIFICALLY. WE WASN'T REALLY TALKING
18 ABOUT JUST THIS CASE OR WHATEVER. IT WAS OTHER THINGS
19 THAT WAS SAID AND THAT WAS TOLD TO MR. GRAY. IT WASN'T
20 ALL ABOUT JUST CALL JUST TO GIVE INFORMATION ON THIS CASE.

21 Q OKAY. I WAS --

22 A THIS CASE CAME UP. THAT'S WHY.

23 Q DO YOU RECALL MY ASKING YOU COOCHIE, MIRAGE, AND
24 PARIS?

25 A YES.

1 Q AND I ASKED YOU DID YOU GIVE THOSE NAMES TO
2 INVESTIGATOR GRAY?

3 A YES.

4 Q AND YOU SAID, "WELL, INVESTIGATOR GRAY JUST WANTED TO
5 KNOW WHO ELSE WAS INVOLVED, AND THOSE WERE THE NAMES I
6 GAVE THEM"?

7 A YEAH, NOT ON ONE SPECIFIC PERSON.

8 Q WELL, DO YOU RECALL IN YOUR STATEMENT THAT YOU GAVE
9 THAT YOU WERE ASKED, "WAS ANYONE ELSE TALKING ABOUT BEING
10 WITH CHRIS AT THE TIME OF THE SHOOTING?" AND YOU
11 RESPONDED "NO"?

12 A UH-HUH.

13 Q DO YOU RECALL GIVING THAT IN YOUR STATEMENT?

14 A UH-HUH.

15 Q SO THAT'S NOT WHAT YOU JUST TESTIFIED TO, IS IT?

16 A WHICH ONE?

17 Q I MEAN, THAT'S NOT WHAT YOU JUST TESTIFIED TO.

18 I HAVE NO FURTHER QUESTIONS FOR THIS WITNESS, YOUR
19 HONOR.

20 THE COURT: ALL RIGHT. REDIRECT?

21 MS. CAMPBELL: BEG THE COURT'S INDULGENCE.

22 (PAUSE).

23 REDIRECT EXAMINATION:

24 BY MS. CAMPBELL

25 Q LET ME JUST CLEAR UP ONE OTHER THING. YOU TESTIFIED

1 ABOUT GIVING NAMES TO PEOPLE.

2 A YES.

3 Q THE THREE NAMES THAT YOU JUST SAID --

4 A YES.

5 Q JUST TO CLEAR IT UP, IN YOUR STATEMENT, IT SAID, "DID
6 YOU HEAR ANYONE ELSE TALKING ABOUT BEING WITH CHRIS AT THE
7 SHOOTING THAT NIGHT?" AND YOU SAID "NO"?

8 A YES.

9 Q AND YOU NEVER TOLD THEM THE DAY BEFORE THAT YOU HEARD
10 ANYBODY ELSE TALKING ABOUT IT. YOU JUST TOLD THEM WHO
11 ELSE WAS OUT THERE.

12 A YES.

13 MS. CAMPBELL: THANK YOU.

14 THE COURT: ANYTHING FURTHER?

15 MS. FRANKLIN: NOTHING, YOUR HONOR.

16 THE COURT: ALL RIGHT. YOU MAY STEP DOWN.

17 THE WITNESS: THANK YOU.

18 MS. CAMPBELL: YOUR HONOR, MAY SHE BE EXCUSED?

19 THE COURT: THE WITNESS IS EXCUSED.

20 ANY OBJECTION?

21 MS. FRANKLIN: WITHOUT OBJECTION.

22 THE COURT: ALL RIGHT.

23 CALL YOUR NEXT WITNESS PLEASE, SOLICITOR.

24 MS. FENT: THE STATE CALLS SERGEANT JIMMY AULD.

25 JIMMY AULD, AFTER BEING DULY SWORN,

1 TESTIFIED AS FOLLOWS:

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

4 THE WITNESS: MY NAME IS JAMES PATRICK AULD.

5 THE COURT: MR. AULD, SLIDE UP A LITTLE CLOSER TO THE
6 MICROPHONE OR PULL THEM TOWARDS YOU, SIR.

7 DIRECT EXAMINATION:

8 BY MS. FENT

9 Q YOU ARE A SERGEANT WITH THE COLUMBIA POLICE
10 DEPARTMENT?

11 A YES, MA'AM.

12 Q OKAY. HOW LONG HAVE YOU BEEN A SERGEANT?

13 A NOW, FOR NINE MONTHS.

14 Q OKAY. AND CAN YOU TELL THE JURY, BASICALLY, YOUR
15 EDUCATION, TRAINING, AND YOUR CAREER WITH THE COLUMBIA
16 POLICE DEPARTMENT?

17 A YES, MA'AM. I'VE BEEN WITH THE COLUMBIA POLICE
18 DEPARTMENT NOW FOR 15 YEARS. I AM A GRADUATE OF MIDLANDS
19 TECH AND HAVE ALSO GONE TO THE UNIVERSITY OF SOUTH
20 CAROLINA, EXTENSIVE TRAINING AT THE SOUTH CAROLINA
21 CRIMINAL JUSTICE ACADEMY, TEN YEARS AS A K-9 OFFICER WITH
22 THE DEPARTMENT, FIVE YEARS AS A TACTICAL LEADER FOR THE
23 SQUAD TEAM FOR THE COLUMBIA POLICE DEPARTMENT, AND NOW I
24 RUN A SPECIAL OPERATIONS GROUP IN THE SOUTH REGION OF THE
25 CITY OF COLUMBIA.

1 Q OKAY. AUGUST 26TH OF 2004, WHAT REGION WERE YOU
2 WORKING?

3 A I WAS A CORPORAL IN THE METRO REGION, WHICH IS THE
4 CENTER PART OF COLUMBIA, THE DOWNTOWN AND TWO NOTCH ROAD.

5 Q OKAY. AND WERE YOU WORKING THAT EVENING AROUND THE
6 NINE O'CLOCK HOUR, 9:00 P.M.?

7 A YES, MA'AM, I WAS.

8 Q OKAY. AND BASICALLY WHAT WERE YOU DOING ABOUT THAT
9 TIME, LET'S SAY EVEN GO TO ABOUT 9:40, 9:30.

10 A I WAS UP -- AS BEING A CORPORAL, AN ASSISTANT
11 SUPERVISOR TO THE STREET, WE HAVE A SERGEANT. I WAS
12 ASSISTING THEM RUNNING THE OPERATIONS ON THE STREET AND
13 JUST WORKING WITH MY -- THE GROUP THAT -- MY OFFICERS THAT
14 PATROL THAT AREA.

15 Q AND WHAT DO YOU MEAN BY RUNNING OPERATIONS ON THE
16 STREET? WHAT ARE YOUR --

17 A ANSWERING CALLS, THE STANDARD 911 TYPE CALLS AND JUST
18 PEOPLE NEEDING ASSISTANCE.

19 Q OKAY. AROUND 9:44 P.M., DID YOU GET A DISPATCH
20 REGARDING SHOTS FIRED?

21 A THERE WAS A DISPATCH THAT WENT OUT OVER THE AIR. I
22 HEARD IT, AND I HEARD THE OFFICERS WHO WERE A LITTLE BIT
23 CLOSER THAT WERE RESPONDING TO THAT LOCATION, AND I ALSO
24 STARTED IN THAT DIRECTION.

25 Q OKAY. ABOUT HOW FAR AWAY WERE YOU FROM THE LOCATION

1 THAT THE SHOTS WERE FIRED?

2 A I WAS ON WAITS ROAD OFF OF TWO NOTCH, CLOSE TO THE --
3 ONE OF THE LITTLE CONVENIENCE STORES OVER THERE.

4 Q AND BASICALLY, WHEN YOU ARE BEING DISPATCHED, WHAT IS
5 THE COMMUNICATION BETWEEN DISPATCH AND ALL THE OTHER
6 OFFICERS OUT THERE?

7 A THEY'LL CALL A PARTICULAR OFFICER OR OFFICERS IN
8 ADJOINING TERRITORIES. THE REGION IS BROKEN DOWN INTO
9 TERRITORIES, AND THEY DISPATCH THE CLOSEST OFFICER IN THAT
10 -- FOR THAT PARTICULAR AREA.

11 Q WERE YOU THE ONLY PERSON DISPATCHED, OR WERE THERE
12 MULTIPLE OFFICERS DISPATCHED?

13 A I WAS NOT DISPATCHED.

14 Q OKAY.

15 A AGAIN, AS A SUPERVISOR, I WAS NOT. THE OFFICER THAT
16 WAS WORKING THAT AREA, AND I DON'T REMEMBER EXACTLY WHICH
17 OFFICER IT WAS RESPONDED TO THAT SCENE WHEN THE CALL CAME
18 OUT FOR THAT INCIDENT.

19 Q OKAY. AND WHEN YOU HEAR ABOUT WHAT'S GOING ON, WHAT
20 DO YOU DO?

21 A AGAIN, IMMEDIATELY AS A SUPERVISOR IN AN INCIDENT
22 LIKE THIS, I MOVE IN THAT DIRECTION TO MAKE SURE THAT I
23 CAN ASSIST AND COORDINATE AND MAKE SURE THAT ALL THE
24 OFFICERS GET WHERE THEY NEED TO BE AND START HELPING
25 TAKING CARE OF THE PROBLEM THERE.

1 Q AND WHERE DID YOU HEAD TO, SPECIFICALLY?

2 A TO THE LOCATION OVER BY THE PARK. THE EXACT ADDRESS
3 I'M NOT SURE OFF THE TOP OF MY HEAD.

4 Q T.S. MARTIN?

5 A T.S. MARTIN, YES, MA'AM.

6 Q OKAY.

7 A ONCE I WAS HEADING IN THAT DIRECTION, I HEARD SOMEONE
8 COME OVER THE AIR AND STATE THAT THE SUBJECTS WERE RUNNING
9 BACK TOWARDS THE RAILROAD TRACKS. AT THAT POINT, I KNEW
10 THAT OFFICER WHITTLE, WHO WAS CLOSE, WHO WAS WITH ME OVER
11 TOWARDS WAITS ROAD, I HEARD HIM ON THE AIR. I TOLD HIM TO
12 FOLLOW ME. I WAS HEADING OVER TOWARDS CALK STREET, WHICH
13 IS OVER BEHIND BETHEL BISHOP. I KNOW THERE'S A CUT.

14 FOR MANY YEARS I WORKED IN THE EAU CLAIRE AREA OF THE
15 CITY, AND AS A K-9 OFFICER WORKED THOSE PATHS A LOT. I
16 TOLD OFFICER WHITTLE TO GO IN THAT DIRECTION, MEET ME ON
17 CALK STREET, THAT WE WERE GOING TO CHECK THE CUT. IT
18 SOUNDS LIKE THE PEOPLE WHO WERE RUNNING WERE HEADING IN
19 THAT DIRECTION.

20 Q OKAY. AND AGAIN, ARE YOU ONE OF THE ONLY OFFICERS
21 THAT IS RESPONDING TO HELP OUT AND LOOK FOR THESE
22 SUSPECTS?

23 A THERE WAS A GROUP THAT HAD ALREADY GONE TO THE SCENE.
24 THEY WERE TAKING CARE OF THAT, BUT AT THAT POINT, MYSELF
25 AND WHITTLE WERE GOING TO THAT LOCATION ON CALK STREET,

1 AND THERE WERE OTHER OFFICERS WHO WERE RESPONDING TO
2 BETHEL BISHOP AND THE COLONY.

3 I HAD OTHER OFFICERS WITH K-9 THAT WERE -- EVERYONE
4 WAS HEADED IN THAT DIRECTION.

5 Q OKAY. AND YOU ALL REPORTED WELL HEAD OVER TO CALK
6 STREET?

7 A YES, MA'AM.

8 Q YOU AND OFFICER JASON WHITTLE?

9 A YES, MA'AM.

10 Q OKAY. ABOUT -- I GUESS HOW QUICK OR HOW LONG DID IT
11 TAKE YOU TO GET OVER TO CALK STREET?

12 A FROM THE TIME -- THE EXACT TIME FROM WHEN THE CALL,
13 WHEN THE DISPATCH CALL CAME OUT FROM WHERE WE WERE ON
14 WAITES ROAD, I WENT IN A STRAIGHT LINE DEALING WITH
15 TRAFFIC AND GETTING BACK ACROSS BELTLINE, JUST A FEW
16 MINUTES.

17 Q OKAY. ARE YOU USING LIGHTS AND SIREN?

18 A ONCE -- IN THE BEGINNING, YES, MA'AM I WAS.

19 Q OKAY.

20 A BUT ONCE WE GOT TOWARDS SOUTH -- WEST BELTLINE,
21 EXCUSE ME, I SHUT EVERYTHING OFF, AND I GOT THEM TO
22 BECAUSE I DIDN'T WANT TO SPOOK WHOEVER WAS RUNNING AND
23 KNOW WHERE WE WERE GOING TO BE, SO WE SHUT EVERYTHING DOWN
24 AND HEADED TO THAT LOCATION.

25 Q SO YOU BASICALLY DIDN'T WANT, IF SOMEONE WAS RUNNING

1 THROUGH THAT CUT, TO KNOW THAT YOU WERE ON THE OTHER SIDE?

2 A EXACTLY.

3 Q OKAY. YOU ARRIVED AT THE CUT. WHAT HAPPENS?

4 A ONCE WE ARRIVED ON THE SCENE, MYSELF AND OFFICER
5 WHITTLE BOTH, I TELL WHITTLE TO RETRIEVE HIS SHOTGUN OUT
6 OF THE BACK OF THE VEHICLE, BECAUSE WE DIDN'T KNOW HOW
7 MANY PEOPLE WERE GOING TO BE THERE POSSIBLY WALKING UP ON
8 THEM IN THE DARK.

9 SO WE WENT AND PROCEEDED TO THE BOTTOM OF THE CUT,
10 WENT OVER TO THE RAILROAD TRACKS, AND IT'S A MOUND. WE
11 BOTH -- AS WE WENT UP THE TOP AND STARTED OVER THE OTHER
12 SIDE, WE COULD HEAR CRASHING THROUGH THE WOODS.

13 ABOUT THAT TIME WE PULLED OUR LIGHTS OUT AND HIT A
14 PERSON WITH A FLASHLIGHT COMING ALMOST AT A RUN OUT OF THE
15 WOODS. WE COMMANDED HIM TO STOP AND FREEZE, WHICH HE DID.

16 AT THAT POINT WE COULD HEAR PEOPLE THAT WERE STILL
17 BACK UP IN THE WOODS, DON'T KNOW HOW MANY OR WHAT, BUT
18 THEY TOOK OFF IN ANOTHER DIRECTION.

19 WE -- I TOLD WHITTLE TO HOLD SECURITY ON THE
20 GENTLEMAN THAT WAS DOWN ON THE GROUND. I WENT OVER, I
21 HANDCUFFED HIM, WENT BACK UP TO WHITTLE, OFFICER WHITTLE,
22 TOLD HIM TO KEEP AN EYE ON THIS GUY, AND I WENT AND
23 CLEARED ABOUT 25 YARDS INTO THE WOODS, BECAUSE I DIDN'T
24 WANT TO BE STANDING OUT THERE IN THE OPEN WORRYING ABOUT
25 SOMEBODY POSSIBLY TAKING A SHOT AT US.

1 Q WHEN THE PERSON COMES, YOU SAID, OVER BASICALLY THE
2 MOUND, DOES WHITTLE HAVE HIS SHOTGUN OUT?

3 A WHEN WE CAME UP, AND IT'S UP AND DOWN, WHEN WE CAME
4 UP, WE SAW HIM DOWN HERE AS SOON AS WE WERE COMING OUT.
5 AS SOON AS WE ROUNDED THE TOP, HE CAME OUT OF THE WOODS.
6 AND YES, WE COMMANDED HIM TO STOP AND GET DOWN ON THE
7 GROUND.

8 Q FLASHLIGHT AND SHOTGUN, AND HE STOPS FROM HIS RUN?

9 A YES, IDENTIFIED OURSELVES AS COLUMBIA POLICE, FREEZE,
10 STAY WHERE YOU ARE, GO DOWN TO YOUR KNEES, AND THEN WE
11 SECURED HIM.

12 Q OKAY. DESCRIBE HIM PHYSICALLY -- I MEAN, YOU SAID
13 HE'S RUNNING, BUT WHAT DO YOU NOTE ABOUT HIM?

14 A HE WAS VERY OUT OF BREATH, BREATHING VERY HARD AND
15 WAS VERY SWEATY. WE COULD TELL THAT HIS HEART WAS
16 BEATING. I PUT MY HAND ON HIS BACK. WHEN I STARTED TO
17 HANDCUFF HIM, I COULD FEEL HIS HEART BEATING THROUGH HIS
18 BACK.

19 Q AND THEN YOU SAID THAT AT SOME POINT YOU WENT AND
20 SEARCHED THE REST OF THE WOODS TO SEE IF THERE WAS ANYBODY
21 ELSE OUT THERE?

22 A ONCE IT WAS SECURE AND WE HAD OTHER OFFICERS ARRIVE
23 ON THE SCENE WHERE WE HAD DETAINED THIS INDIVIDUAL, K-9
24 SHOWED UP AND SEVERAL OTHER OFFICERS, AND WE WENT AND DID
25 AN AREA SEARCH, AN IMMEDIATE AREA RIGHT THERE TO MAKE SURE

1 THERE WAS NO WEAPON, AND THEN WE USED K-9 TO DO A SEARCH
2 OF A LARGER AREA.

3 WE DID AN EXTENSIVE SEARCH FOR A COUPLE OF --
4 PROBABLY AN HOUR-AND-A-HALF, TWO HOURS OF THAT AREA
5 LOOKING FOR OTHER PEOPLE OR EVIDENCE.

6 Q OKAY. WHEN YOU SAY "WE", DOES THAT INCLUDE JASON
7 WHITTLE?

8 A NO, MA'AM.

9 Q OKAY. SO BASICALLY, JASON MAINTAINS CUSTODY OF THE
10 INDIVIDUAL?

11 A YES, MA'AM.

12 Q OKAY. THE PERSON THAT CAME -- YOU SAW AT THE BOTTOM
13 OF THAT MOUND -- YOU'RE AT THE TOP OF THAT MOUNT, DO YOU
14 SEE HIM IN THE COURTROOM TODAY?

15 A YES, MA'AM.

16 Q CAN YOU POINT TO HIM OR DESCRIBE WHERE HE IS OR WHAT
17 HE'S WEARING?

18 A BLUE COAT AND WHITE SHIRT, I BELIEVE.

19 MS. FENT: MAY THE RECORD REFLECT THE WITNESS HAS
20 IDENTIFIED THE DEFENDANT.

21 THE COURT: ALL RIGHT.

22 BY MS. FENT

23 Q AND THEN FROM THERE, BASICALLY, DO YOU HAVE ANY OTHER
24 CONTACT WITH THE DEFENDANT?

25 A NO, MA'AM, NONE.

1 Q HE'S NOW WITH JASON WHITTLE?

2 A YES, MA'AM.

3 MS. FENT: OKAY. MAY THE WITNESS COME DOWN FROM THE
4 WITNESS STAND?

5 THE COURT: YES.

6 BY MS. FENT

7 Q I'M GOING TO HAVE YOU TAKE A LOOK AT STATE'S EXHIBIT
8 NUMBER SIX FOR IDENTIFICATION AND OVER HERE, BASICALLY,
9 THE AREA, BELTLINE AND THE RAILROAD TRACKS.

10 A YES, MA'AM.

11 Q DO YOU RECOGNIZE WHAT'S ON HERE?

12 A YES, MA'AM, I DO.

13 Q OKAY. AND CALK STREET WHERE YOU WENT TO IS ON THIS
14 DIAGRAM?

15 A YES, MA'AM, RIGHT HERE.

16 Q OKAY. LABELED CALK STREET, RIGHT?

17 A YES, MA'AM.

18 Q WHAT IS THIS WHERE IT SAYS HAMMOND, KIND OF THIS AREA
19 RIGHT HERE?

20 A IT'S AN OPEN LOT BEHIND THE CAR DEALERSHIP HERE, JUST
21 AN OPEN LOT.

22 Q OKAY. SO WHEN YOU GO TO CALK STREET, POINT ON THE
23 DIAGRAM WHERE YOU GO.

24 A WE CAME, OF COURSE, DOWN THIS WAY, DOWN TRUMAN AND
25 CAME DOWN CALK STREET TO THE DEAD END RIGHT HERE. RIGHT

1 ALONG THE RAILROAD TRACKS HERE IS A CREEK. WE PARKED OUR
2 CARS RIGHT HERE NEXT TO THE SANDLOT AND GO INTO THE WOODS
3 AND COME OUT TO THE TOP OF THE RAILROAD TRACKS RIGHT HERE.

4 AS YOU CAN SEE ALONG HERE, IT'S A VERY DISTINCT TRAIL
5 THAT'S BEEN USED FOR AS LONG AS I'VE BEEN A POLICE OFFICER
6 I KNOW OF. THAT'S WHERE I MET HIM, ON THAT SIDE OF THE
7 RAILROAD TRACKS, ON THIS SIDE OF THE RAILROAD TRACKS.

8 Q OKAY. AND HERE WHERE IT SAYS RIPPLEMEYER IS THE
9 BETHEL BISHOP?

10 A YES, MA'AM.

11 Q OKAY. AND YOUR REGION AT THAT TIME WAS ON THIS SIDE
12 OF THE RAILROAD TRACKS, BASICALLY?

13 A YES, MA'AM, THE METRO REGION.

14 Q OKAY. IF YOU CAN HOLD ON FOR ONE SECOND, I HAVE
15 ANOTHER DIAGRAM.

16 I'M GOING TO ASK YOU IF YOU RECOGNIZE WHAT'S NUMBER
17 NINE?

18 A YES, MA'AM.

19 Q OKAY. AND IT'S A CLOSE UP OF THE SANDLOT AND CALK
20 STREET?

21 A YES, MA'AM.

22 Q SINCE WE'RE CLOSER, IF YOU CAN POINT TO BASICALLY --
23 IS THIS THE RAILROAD TRACKS RIGHT HERE?

24 A YES, MA'AM.

25 THE COURT: COUNSEL, ARE YOU MOVING THOSE INTO

1 EVIDENCE?

2 MS. FENT: I'D OFFER STATE'S EXHIBIT NUMBER NINE AND
3 SIX INTO EVIDENCE.

4 THE COURT: ANY OBJECTION?

5 MS. FRANKLIN: NO.

6 THE COURT: WITHOUT OBJECTION, THOSE ARE ADMITTED.
7 GO AHEAD.

8 (WHEREUPON, STATE'S EXHIBITS NOS. 6, 9 WERE ADMITTED
9 INTO EVIDENCE.)

10 BY MS. FENT

11 Q AND YOU SAID THIS IS THE PATH OR THE CUT THAT'S BEEN
12 USED FOR A LONG TIME?

13 A YES, MA'AM.

14 Q SO BASICALLY JUST A HUMAN MADE PATH?

15 A YES, MA'AM.

16 Q OKAY. IF YOU CAN CLOSER SHOW US WHERE YOU PULLED UP,
17 WHERE YOU WENT, AND WHERE YOU FOUND THE DEFENDANT.

18 A AGAIN, CALK STREET DEAD ENDS RIGHT HERE WHERE A CLUMP
19 OF TREES IS. WE ENDED UP -- WE HAD TO GO OUT AND BACK
20 AROUND TO THE TREES. BACK UP HERE IS A RAILROAD SIGN.

21 YOU CAN SEE WHERE IT'S ALL SCUFFED UP WHERE THE
22 PEOPLE HAD BEEN COMING UP THE RAILROAD ROCKS AND CLIMBING
23 UP. THAT'S WHERE I MET THE INDIVIDUAL.

24 Q OKAY. AND THIS IS BASICALLY WHERE THIS MOUND IS, YOU
25 SAY?

1 A YES, MA'AM. THIS SIDE IS HIGHER THAN THIS SIDE.
2 WHEN WE CAME UP ON TOP, WE WERE SEVERAL FEET UP ABOVE HIM.

3 Q OKAY. HAVE A SEAT.

4 A YES, MA'AM.

5 Q AND THEN THIS GENERAL AREA, THIS FORESTED AREA, IS
6 WHERE YOU CONTINUED TO SEARCH?

7 A OVER TOWARDS THE RIPPLEMEYER SIDE OF THE RAILROAD
8 TRACKS.

9 Q OKAY. AND IT WAS YOU AND OTHER OFFICERS. WHO ELSE?

10 A PATROL OFFICERS THAT ARE REGULARLY ASSIGNED TO THE
11 BETHEL BISHOP, COLONY, FOREST AREA. THEY WERE WORKING
12 BETHEL BISHOP LOOKING IN THAT AREA, AND MYSELF AND
13 SERGEANT MARSH AND K-9 OFFICERS CAME AND SEARCHED THAT
14 AREA.

15 SERGEANT WILLIAMS, WHO IS THE HEAD OF THE K-9
16 DIVISION, CAME OVER WITH HIS DOG BLUE, AND WE SEARCHED,
17 RAN THE TRACKS AND SEARCHED THE AREA AND AGAIN DID AN AREA
18 SEARCH FOR ANYTHING ELSE WE COULD FIND.

19 Q OKAY. SO. DESPITE THE FACT THAT JASON WHITTLE HAD
20 PHYSICAL CUSTODY OF THE DEFENDANT, YOU ALL CONTINUED
21 SEARCHING THE AREA?

22 A YES, MA'AM.

23 MS. FENT: NO FURTHER QUESTIONS AT THIS TIME.

24 THE COURT: ALL RIGHT. CROSS-EXAMINE, MS. FRANKLIN?

25 CROSS-EXAMINATION:

1 BY MS. FRANKLIN

2 Q THANK YOU, YOUR HONOR MAY IT PLEASE THE COURT.

3 HI.

4 A HI.

5 Q OKAY. SO. YOU'RE SERGEANT AULD NOW; IS THAT
6 CORRECT?

7 A YES, MA'AM.

8 Q AND AT THE TIME OF THESE EVENTS, YOU WERE A CORPORAL?

9 A YES, MA'AM.

10 Q AND THE NIGHT THIS HAPPENED, YOU WERE WORKING WITH
11 OFFICER WHITTLE?

12 A YES, MA'AM.

13 Q IS THAT CORRECT? AND JUST TO BE CLEAR, DID YOU WRITE
14 ANY NOTES IN CONNECTION WITH ANY OF THIS?

15 A NO, MA'AM, I DID NOT.

16 Q SO AS YOU'RE TESTIFYING HERE TODAY, YOU'RE DOING THIS
17 FROM MEMORY?

18 A YES, MA'AM.

19 Q IS THAT ACCURATE? OKAY. SO ABOUT 26 MONTHS AGO, BUT
20 IT'S STILL PRETTY FRESH IN YOUR MIND?

21 A YES, MA'AM.

22 Q AND YOU'RE A GRADUATE OF THE POLICE ACADEMY?

23 A YES, MA'AM.

24 Q AND YOU CONTINUED YOUR LAW ENFORCEMENT EDUCATION?

25 A YES, MA'AM.

1 Q AND WHEN YOU WERE A CORPORAL, THAT MEANS THAT YOU'RE
2 LIKE AN IMMEDIATE PATROL SUPERVISOR, IS THAT ACCURATE?

3 A YES AND NO. KIND OF A RIGHT-HAND MAN TO THE
4 SERGEANT. SERGEANT DESROCHERS WAS MY IMMEDIATE SUPERVISOR
5 AT THAT TIME.

6 Q OKAY. SO YOU DID, IN FACT, CALL OUT K-9 UNITS THAT
7 NIGHT?

8 A NO, MA'AM, I DID NOT.

9 Q OKAY. BUT THEY WERE CALLED OUT?

10 A YES, MA'AM.

11 Q AND I KNOW THAT THERE ARE DIFFERENT KINDS OF K-9
12 UNITS. IS THAT ACCURATE TO SAY?

13 A YES, MA'AM.

14 Q AND YOU BROUGHT OUT A K-9 UNIT FOR -- SEARCHING FOR
15 WEAPONS?

16 A A TRACKING K-9.

17 Q A TRACKING K-9. WHAT WOULD HE TRACK?

18 A HE TRACKS HUMAN SCENT.

19 Q WAS THERE A K-9 UNIT TRACKED FROM T.S. MARTIN UP INTO
20 BETHEL BISHOP?

21 A NO, MA'AM. IT -- WELL, HE DID COME DOWN THE RAILROAD
22 TRACKS, BUT AT THAT POINT I CAN'T TELL YOU IF HE WAS
23 RUNNING A TRACK AT THAT POINT OR NOT.

24 Q OKAY.

25 A THEY WERE DOING AN AREA SEARCH ALSO FOR --

1 IMMEDIATELY FOR ANY WEAPONS OR ANYTHING WE COULD FIND IN
2 THE AREA.

3 Q OKAY. SO THE K-9'S THAT WERE THERE, YOU WEREN'T
4 QUITE SURE IF THEY WERE TRACKING A PERSON OR WHETHER THEY
5 WERE TRACKING FOR WEAPONS?

6 A WE WERE DOING AN AREA SEARCH. WELL, THE K-9 WAS.
7 SERGEANT WILLIAMS WHO WAS RUNNING THE DOG WAS DOING AN
8 AREA SEARCH FOR ANY POSSIBLE WEAPONS, AND THEN WE DID A
9 BACKTRACK ON THE INDIVIDUAL THAT CAME FROM THE WOODS THAT
10 MR. LIVERMAN -- AFTER HE CAME OUT OF THE WOODS. WE WERE
11 ALSO SEARCHING FOR ANY OTHER PEOPLE THAT COULD POSSIBLY BE
12 HIDING IN THOSE WOODS.

13 Q OKAY. BUT YOU DON'T HAVE THE RESULTS OF ANY SORT OF
14 BACKTRACK?

15 A NO, MA'AM.

16 Q WITH RESPECT TO MR. LIVERMAN?

17 A NO, MA'AM.

18 Q OKAY. SO A DOG NEVER HIT ON MR. LIVERMAN?

19 A THERE WAS NO -- THERE WAS NO STARTING POINT ON THAT.
20 WE WERE MAINLY LOOKING FOR OTHER INDIVIDUALS IN THE WOODS,
21 WEAPONS.

22 Q OKAY. AND DID YOUR SEARCH CONTINUE ALL THE WAY DOWN
23 INTO COLONY APARTMENTS?

24 A NO, MA'AM, NOT DIRECTLY ALL THE WAY INTO IT, NO,
25 MA'AM.

1 Q SO IT --

2 A WE DIDN'T SEARCH THAT.

3 Q SO NO ONE SEARCHED FOR WEAPONS ALONG WHERE THE COLONY
4 CUT IS?

5 A I'M NOT AWARE OF NONE, NO, MA'AM. NOW, THE COLONY
6 CUT? I APOLOGIZE, I'M SORRY. NOW, THERE IS -- THE CUT
7 THAT I'M SPEAKING OF GOES INTO BETHEL BISHOP.

8 Q IT'S BETHEL BISHOP.

9 A YES, MA'AM.

10 Q THAT'S TRUE.

11 YOU'RE AWARE OF THE CUT IN THE COLONY, ARE YOU NOT?

12 A THERE'S SEVERAL.

13 Q SEVERAL CUTS?

14 A YES, MA'AM.

15 Q TO THE BEST OF YOUR KNOWLEDGE, THERE WAS NO SEARCH
16 FOR WEAPONS CONDUCTED ALONG THOSE OTHER CUTS?

17 A TO MY KNOWLEDGE, NO, MA'AM.

18 Q ALL RIGHT. SO THERE ARE VARIOUS CUTS IN THE AREA,
19 AND YOU'RE AWARE OF THE ONES IN COLONY OR THE ONE IN
20 COLONY, CORRECT?

21 A THERE ARE PATHS, YES, MA'AM.

22 Q AND YOU'RE AWARE OF THE ONE IN BETHEL BISHOP?

23 A YES, MA'AM.

24 Q AND ARE YOU AWARE THAT THERE ARE ONES UP IN BAYBERRY?

25 A THAT'S UP IN THE COUNTY. I HAVEN'T DONE A LOT OF

1 DEALINGS WITH BAYBERRY MEWS.

2 Q DO YOU KNOW HOW MANY CUTS THERE ARE IN THE AREA?

3 A NO, MA'AM, I SURE DON'T.

4 Q DO YOU KNOW IF THERE ARE A LOT?

5 A YES, MA'AM.

6 Q OKAY. AND AGAIN, THESE ARE NOT ESTABLISHED PATHS,
7 RIGHT? LET ME REPHRASE THAT. THESE ARE NOT PAVED PATHS?

8 A NO, MA'AM.

9 Q OKAY. THEY'RE FOOTPATHS, AND THESE PATHS, THEY DON'T
10 HAVE GRAVEL DOWN ALONG THEM, DO THEY?

11 A NO, MA'AM.

12 Q OKAY. THESE CUTS ARE NOT DESIGNED BY THE CITY OF
13 COLUMBIA?

14 A NO, MA'AM.

15 Q OKAY. THE PEOPLE IN THESE COMMUNITIES JUST CREATED
16 THESE PATHS FOR THEIR OWN CONVENIENCE?

17 A YES, MA'AM.

18 Q AND THEY'RE USED FAIRLY FREQUENTLY, ARE THEY NOT?

19 A YES, MA'AM.

20 Q OKAY. ON THIS NIGHT YOU DECIDED TO CHECK OUT THE
21 PATH AROUND BETHEL BISHOP?

22 A WELL, WE HAD HEARD THAT -- OVER THE RADIO, THE
23 DISPATCHERS HAD CALLED OUT OF THE INCIDENT THAT HAPPENED
24 OVER AT THE PARK.

25 WE THEN HAD SOMEBODY ON THE RADIO CALL -- THEY THINK

1 THEY WERE RUNNING ON THE RAILROAD TRACKS. FROM MY YEARS
2 OF EXPERIENCE OF WORKING IN THAT AREA, THAT'S WHY WE WENT
3 TO THAT OTHER END OF THE CUT, HOPING THAT WE COULD CUT
4 SOMEBODY OFF.

5 Q DO YOU KNOW IF ANY POLICE OFFICERS WENT TO THE CUT IN
6 THE COLONY?

7 A THERE WERE, YES, MA'AM, BUT I -- WHICH ONES, I DON'T
8 KNOW.

9 Q ALL RIGHT. I THINK YOU TESTIFIED TO -- THAT JUST A
10 FEW MOMENTS AGO THAT AS YOU WERE COMING UP THE MOUND, UP
11 THE CUT, YOU SAW A FLASHLIGHT COMING THROUGH THE WOODS?

12 A NO, MA'AM.

13 Q YOU HAD A FLASHLIGHT?

14 A YES, MA'AM.

15 Q OKAY. BUT WHEN YOU SAW MR. LIVERMAN, HE DID NOT RUN,
16 DID HE?

17 A NO, MA'AM.

18 Q AND YOU SAW HIM ON THE BETHEL BISHOP SIDE COMING UP
19 TOWARDS THE RAILROAD TRACK?

20 A YES, MA'AM.

21 Q IS THAT ACCURATE? SO YOU TOLD MR. LIVERMAN TO STOP,
22 AND HE DID?

23 A YES, MA'AM.

24 Q AND THEN YOU KEPT MR. LIVERMAN DETAINED UNTIL OFFICER
25 GRAY ARRIVED?

1 A NO, MA'AM. I DID NOT. OFFICER WHITTLE HELD ONTO
2 HIM. WE TOGETHER DETAINED HIM IN THE BEGINNING, AND
3 OFFICER WHITTLE DETAINED HIM UNTIL INVESTIGATORS SHOWED
4 UP.

5 Q WELL, DID YOU HANDCUFF HIM OR DID --

6 A I DID, YES, MA'AM.

7 Q AND HE STAYED WITHIN YOUR CONTROL AND CUSTODY
8 UNTIL -- OR YOURS OR DEPUTY WHITTLE'S UNTIL HE WAS
9 TRANSPORTED?

10 A HE STAYED IN -- ONCE HE WAS SECURED, I CLEARED THAT
11 AREA OF THE WOODS TO ENSURE THAT I DIDN'T HAVE ANYBODY
12 ELSE RIGHT THERE IN MY IMMEDIATE AREA. THEN HE WAS
13 WATCHED BY OFFICER WHITTLE, AND I THEN CONTINUED ON WITH
14 TRYING TO LOCATE OTHER PEOPLE.

15 Q AND DID YOU CHECK HIS POCKETS?

16 A I DON'T BELIEVE I DID. I'M NOT SURE. I KNOW I DID A
17 TERRY PAT TO MAKE SURE HE DIDN'T HAVE ANY WEAPONS ON HIM
18 THERE IMMEDIATELY ON HIS BODY.

19 Q OKAY. SO YOU DID NOT FIND ANY WEAPONS ON HIS BODY?

20 A NO, MA'AM.

21 Q YOU DIDN'T FIND ANY -- A PISTOL OR --

22 A NO, MA'AM.

23 Q ALL RIGHT. SO JUST SO I'M CLEAR -- ALL RIGHT, SO YOU
24 APPREHENDED HIM, AND THEN OFFICER WHITTLE PRETTY MUCH KEPT
25 HIM, RIGHT, AND THEN YOU TOOK OFF?

1 A WELL, I STAYED IN THE IMMEDIATE AREA.

2 Q RIGHT.

3 A I DIDN'T LIKE LEAVE HIM THERE, BUT YES, MA'AM.

4 Q OKAY. AND MR. LIVERMAN WAS PLACED ON THE GROUND WHEN
5 YOU -- WHEN YOU ALL APPREHENDED HIM, IS THAT TRUE?

6 A TOLD HIM TO GET DOWN, YES, MA'AM.

7 Q AND WERE YOU THERE WHEN THE GUNSHOTS WENT OFF FURTHER
8 UP ON THE TRACK?

9 A YES. I BELIEVE THAT WAS ME WHO CALLED OUT THAT I
10 HEARD ANOTHER SHOT DOWN THE TRACKS.

11 Q AND DID YOU HEAR ONE GUNSHOT, TWO GUNSHOTS?

12 A I DON'T RECALL. I REMEMBER THAT THERE WAS A SHOT.

13 Q DO YOU KNOW HOW LONG AFTER MR. LIVERMAN WAS DETAINED
14 YOU HEARD THAT SHOT?

15 A TO THE BEST OF MY MEMORY, I'D PROBABLY SAY CLOSE TO
16 30 MINUTES OR MORE.

17 Q AND DO YOU RECALL APPROXIMATELY WHAT TIME YOU
18 DETAINED MR. LIVERMAN?

19 A THE TIME LINE, NO, MA'AM, NOT OFF THE TOP OF MY HEAD,
20 NOT THE EXACT TIME.

21 Q DO YOU THINK IT WAS AROUND TEN O'CLOCK, A LITTLE
22 AFTER TEN?

23 A I CAN'T ANSWER THAT. I DON'T KNOW.

24 Q AND THIS AREA OF THE CUT, IT'S VERY WOODED, IS IT
25 NOT?

1 A YES, MA'AM.

2 Q I MEAN THERE ARE A LOT OF LOW LYING BRANCHES, AND YOU
3 KIND OF HAVE TO -- A LITTLE BIT SORT OF MOVE THINGS OUT OF
4 YOUR WAY TO WALK THROUGH IT?

5 A IN PARTS, YES, MA'AM.

6 Q IN PARTS. OKAY. SO YOU DIDN'T FIND ANY OTHER
7 EVIDENCE IN THAT PARTICULAR AREA, AND YOU DIDN'T FIND ANY
8 OTHER PEOPLE IN THAT AREA?

9 A NO, MA'AM.

10 Q THE ONLY PERSON YOU DETAINED IS CHRISTOPHER LIVERMAN
11 THERE, AND HE WAS WALKING UP TOWARDS THE TRACKS.

12 A HE CAME OUT OF THE WOODS RUNNING, YES, MA'AM.

13 Q COMING UP TOWARDS THE TRACKS?

14 A YES.

15 MS. FRANKLIN: I HAVE NO MORE QUESTIONS.

16 THE COURT: ANY REDIRECT?

17 MS. FENT: NO, YOUR HONOR.

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

19 MS. FENT: MAY THIS WITNESS BE EXCUSED?

20 THE COURT: SIR, YOU'RE EXCUSED.

21 SOLICITOR, DO YOU HAVE A SHORT WITNESS, OR IS IT A
22 GOOD TIME TO BREAK?

23 MS. FENT: GOOD TIME TO BREAK, YOUR HONOR.

24 THE COURT: ALL RIGHT. MR. FOREMAN AND LADIES AND
25 GENTLEMEN, WE WILL BREAK FOR THE EVENING. AGAIN, PLEASE

1 DON'T WATCH ANYTHING ON T.V. ABOUT THIS CASE OR LISTEN TO
2 ANYTHING ON THE RADIO OR READ ANYTHING IN THE PAPER. I
3 WILL BE ASKING YOU ABOUT THAT IN THE MORNING BEFORE WE GET
4 STARTED BACK. DON'T DISCUSS IT WITH YOUR FAMILY OR
5 FRIENDS OR WITH ANYONE ELSE.

6 WE'LL START AT 9:30 IN THE MORNING, AND BE PREPARED
7 TO HAVE A FULL DAY TOMORROW IF YOU WILL, PLEASE. HAVE A
8 GOOD NIGHT. WE'LL SEE YOU IN THE MORNING.

9 EVERYONE ELSE STAY SEATED.

10 9:30 IN THE MORNING, PLEASE.

11 (WHEREUPON, THE JURY LEFT OPEN COURT AT APPROXIMATELY
12 5:18 P.M.)

13 THE COURT: ALL RIGHT. WE'LL RECESS UNTIL 9:30. LET
14 ME SEE YOU ALL UP FOR SCHEDULING PURPOSES, PLEASE.

15 (WHEREUPON, STATE'S EXHIBITS NOS. 50 - 62 WERE MARKED
16 FOR IDENTIFICATION ONLY.)

17 MR. GIESE: YOUR HONOR, MAY WE APPROACH FOR JUST ONE
18 SECOND?

19 THE COURT: SURE.

20 (WHEREUPON, THERE WAS A BENCH CONFERENCE.)

21 THE COURT: ALL RIGHT. ANY MATTERS WE NEED TO TAKE
22 UP, PUT ON THE RECORD PRIOR TO RESUMING? ANYTHING FROM
23 THE STATE?

24 MR. GIESE: NO, YOUR HONOR.

25 THE COURT: FROM THE DEFENSE?

1 MS. FRANKLIN: NO, YOUR HONOR.

2 THE COURT: ALL RIGHT. LET'S GET THE JURY IN,
3 PLEASE.

4 (WHEREUPON, THE JURY CAME INTO OPEN COURT AT
5 APPROXIMATELY 9:54 A.M.)

6 THE BAILIFF: THE JURY IS SEATED, YOUR HONOR.

7 THE COURT: ALL RIGHT. THANK YOU. I HOPE YOU HAD A
8 GOOD EVENING. LET ME ASK YOU THIS TIME, I TOLD YOU I
9 WOULD BE ASKING DURING THE COURSE OF THE TRIAL. IS THERE
10 ANYONE ON THE JURY WHO EITHER PURPOSELY OR INADVERTENTLY
11 HAS NOT BEEN ABLE TO COMPLY WITH THE COURT'S ORDER NOT TO
12 READ, WATCH, OR LISTEN TO ANYTHING ABOUT THE CASE, OR HAS
13 ANYONE APPROACHED OR ATTEMPTED TO DISCUSS THE CASE WITH
14 YOU IN ANY MANNER? IF YOU WOULD, PLEASE RAISE YOUR HAND
15 FOR ME.

16 (THERE WAS NO RESPONSE.)

17 ALL RIGHT. WE WILL CONTINUE.

18 SOLICITOR, CALL YOUR NEXT WITNESS, PLEASE.

19 MS. FENT: THE STATE CALLS OFFICER WHITTLE.

20 JASON WHITTLE, AFTER BEING DULY SWORN,
21 TESTIFIED AS FOLLOWS:

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

24 THE WITNESS: JASON WHITTLE.

25 THE COURT: BEFORE HE STARTS, LET ME JUST ADVISE YOU

1 THAT ONE REASON WE WERE A LITTLE LATE STARTING THIS
2 MORNING, THE TECHNICIAN HAS BEEN UP HERE TO REPLACE THE
3 AMPLIFIER FOR OUR P.A. SYSTEM, SO I HOPE IT WILL BE
4 WORKING A LITTLE BIT BETTER.

5 GO AHEAD, SOLICITOR.

6 DIRECT EXAMINATION:

7 BY MS. FENT

8 Q WHO DO YOU WORK FOR?

9 A THE COLUMBIA POLICE DEPARTMENT.

10 Q IN WHAT CAPACITY?

11 A A PATROL OFFICER.

12 Q HOW LONG HAVE YOU BEEN A PATROL OFFICER?

13 A NINE YEARS.

14 Q OKAY. WERE YOU WORKING ON AUGUST 26TH, 2004?

15 A YES, I WAS.

16 Q AND WHAT REGION WERE YOU WORKING?

17 A I WAS IN THE METRO REGION.

18 Q OKAY. APPROXIMATELY THAT EVENING 9:45 -- BETWEEN
19 9:45 AND TEN, DID YOU HAVE OCCASION TO RESPOND OR HELP OUT
20 REGARDING THE CALL OF A SHOOTING AT T.S. MARTIN?

21 A YES, I DID.

22 Q OKAY. CAN YOU TELL THE JURORS BASICALLY HOW THAT
23 CAME ABOUT, WHAT YOUR INVOLVEMENT WAS?

24 A I HEARD THE CALL BE DISPATCHED ON THE RADIO, AND I
25 RESPONDED TO THE AREA.

1 Q OKAY. WHAT AREA IS THAT?

2 A I RESPONDED TO THE CALK STREET, TRUMAN STREET AREA.

3 Q OKAY. WHY IS IT THAT YOU WENT TO THE CALK STREET,
4 TRUMAN STREET AREA?

5 A GIVEN MY FAMILIARITY WITH THE AREA FROM T.S. MARTIN
6 AND THE RELATIONSHIP TO CALK STREET, I KNEW THAT'S A
7 POSSIBILITY OF WHERE SUBJECTS USUALLY GO.

8 Q OKAY. AND WERE YOU BY YOURSELF, OR WERE YOU WITH
9 SOMEONE ELSE?

10 A I WAS A PATROLMAN BY MYSELF.

11 Q OKAY. YOU RESPOND TO CALK STREET. WHAT HAPPENS
12 THERE?

13 A MYSELF AND SERGEANT AULD BOTH RESPONDED AT THE SAME
14 TIME. WE EXIT OUR VEHICLES, START WALKING UP TOWARDS THE
15 RAILROAD TRACKS.

16 Q OKAY. DID YOU ARM YOURSELVES?

17 A YES. I GOT A SHOTGUN OUT OF MY VEHICLE.

18 Q OKAY. WHAT WAS THE LIGHTING LIKE AT THIS POINT?

19 A IT WAS DARK.

20 Q OKAY. SO YOU BASICALLY STOP, PARK, GET YOUR -- YOU
21 SAID SHOTGUN?

22 A SHOTGUN OUT OF THE TRUNK OF THE VEHICLE.

23 Q OKAY. AND START WALKING WHERE?

24 A UP TOWARDS THE RAILROAD TRACKS.

25 Q OKAY. IS THERE A PAVED PATH, OR WHERE ARE YOU

1 WALKING TO?

2 A IT'S A GRAVEL PATH.

3 Q START WALKING TOWARDS THAT AREA, AND WHAT HAPPENS?

4 A I REACHED THE TOP OF THE RAILROAD TRACKS, AND WE SEE
5 AN INDIVIDUAL RUNNING TOWARDS US ON THE OTHER SIDE OF THE
6 RAILROAD TRACKS.

7 Q THE OTHER -- YOU SAID YOU REACHED THE TOP OF THE
8 RAILROAD TRACKS, SO ARE YOU LOOKING DOWN AT THIS
9 INDIVIDUAL OR UP AT THIS INDIVIDUAL?

10 A LOOKING DOWN.

11 Q OKAY. AND IS THIS PERSON WALKING, RUNNING?

12 A NO, HE'S RUNNING.

13 Q AND WHAT DO YOU ALL DO WHEN YOU SEE HIM?

14 A WELL, I ARM THE SHOTGUN, POINT MY SHOTGUN AT THE
15 INDIVIDUAL, AND AT WHICH TIME I TELL HIM TO GET ON THE
16 GROUND.

17 Q OKAY. AND DOES HE COMPLY?

18 A YES, HE DOES.

19 Q OKAY. DO YOU SEE THAT PERSON IN THE COURTROOM TODAY?

20 A YES, I DO.

21 Q COULD YOU POINT TO HIM AND DESCRIBE WHAT HE'S
22 WEARING, WHERE HE'S SITTING, SO WE KNOW WHAT YOU'RE
23 TALKING ABOUT?

24 A HE'S THE INDIVIDUAL IN THE DARK BLUE JACKET AND THE
25 CREAM COLORED SHIRT.

1 MS. FENT: MAY THE RECORD REFLECT THE WITNESS HAS
2 IDENTIFIED THE DEFENDANT?

3 THE COURT: ALL RIGHT.

4 BY MS. FENT

5 Q SO THE DEFENDANT COMPLIES. PHYSICALLY WHAT DOES HE
6 DO?

7 A HE GETS DOWN ON THE GROUND.

8 Q AT YOUR COMMAND?

9 A YES, OR SUBJECT ON COMMAND.

10 Q OKAY. AND THEN WHAT DO YOU DO?

11 A SERGEANT AULD PROCEEDS TO HANDCUFF THE INDIVIDUAL.

12 Q OKAY. WHAT HAPPENS NEXT?

13 A SERGEANT AULD -- I DETAINED THE SUBJECT BY MY
14 VEHICLE. WE GOT TO THE TOP OF THE RAILROAD TRACKS. I
15 DETAINED HIM THERE, STAND BY WITH SERGEANT AULD, TAKES MY
16 SHOTGUN AND PROCEEDS TO THE WOODED AREA TO SEARCH FOR MORE
17 INDIVIDUALS.

18 Q OKAY. SO YOU'RE STAYING RIGHT THERE WITH THE
19 DEFENDANT, AND SERGEANT AULD IS CHECKING THE REST OF THE
20 WOODS?

21 A CORRECT.

22 Q OKAY. AFTER HE CLEARS THE WOODS, WHAT HAPPENS NEXT?

23 A HE RETURNS BACK TO WHERE I AM.

24 Q OKAY. THEN WHAT DO YOU DO?

25 A I CONTINUE TO WAIT. I PAT DOWN THE SUBJECT, AND THEN

1 I PLACED HIM INSIDE MY VEHICLE.

2 Q OKAY. SO NOW YOU HAVE MOVED HIM FROM THE RAILROAD
3 TRACKS OVER TO YOUR CAR?

4 A RIGHT.

5 Q AND YOU GO TO YOUR CAR. WHERE DO YOU PUT HIM? WHAT
6 HAPPENS NEXT?

7 A I PUT HIM IN THE BACKSEAT OF MY PATROL VEHICLE.

8 Q AND WHAT DO YOU WAIT FOR?

9 A I AWAIT FURTHER WORD OF SERGEANT AULD OR JUST FROM
10 SOMEBODY ELSE.

11 Q OKAY. DO YOU GET ANY FURTHER WORD OF WHAT'S
12 HAPPENING NEXT?

13 A I HEAR THAT A WITNESS IS ON THE WAY OVER HERE.

14 Q OKAY. YOU HEAR THIS BASICALLY THROUGH THE RADIO OR
15 DISPATCH?

16 A CORRECT.

17 Q OKAY. SO YOU'RE JUST HOLDING HIM THERE UNTIL THIS
18 WITNESS SHOWS UP?

19 A YES.

20 MS. FRANKLIN: OBJECTION, LEADING.

21 MS. FENT: I'M JUST FOLLOWING UP WHAT HE'S ALREADY --

22 THE COURT: ALL RIGHT. I OVERRULE AS TO THE LAST
23 QUESTION. YOU MAY CONTINUE.

24 BY MS. FENT

25 Q WHO SHOWS UP WITH THIS WITNESS OR WHAT HAPPENS NEXT?

1 A INVESTIGATOR GRAY SHOWS UP.

2 Q OKAY. WITH AN INDIVIDUAL?

3 A YES.

4 Q DID YOU ACTUALLY SEE THAT WITNESS?

5 A NO.

6 Q OKAY. WHEN INVESTIGATOR GRAY SHOWS UP, WHAT HAPPENS?

7 A I EXIT THE INDIVIDUAL OUT OF THE BACKSEAT OF MY CAR,
8 STAND HIM OUTSIDE OF MY VEHICLE, SHINE MY FLASHLIGHT
9 ONTO -- GET A LIGHTED APPEARANCE OF THE INDIVIDUAL SO THE
10 WITNESS CAN SEE HIM.

11 Q OKAY. AND THEN AFTER DOING THAT?

12 A I PLACE HIM BACK INSIDE MY VEHICLE.

13 Q AND WHAT'S THE NEXT INSTRUCTION THAT YOU'RE GIVEN?

14 A TO TAKE THAT INDIVIDUAL TO HEADQUARTERS.

15 Q OKAY. AND WHEN YOU KEEP SAYING "THE INDIVIDUAL",
16 WE'RE TALKING ABOUT --

17 A THE DEFENDANT.

18 Q THE DEFENDANT, THE PERSON YOU HAVE IDENTIFIED?

19 A CORRECT.

20 Q YOU'RE INSTRUCTED TO TAKE HIM TO HEADQUARTERS. WHAT
21 DO YOU DO?

22 A TAKE HIM TO HEADQUARTERS AND TAKE HIM UP TO THE THIRD
23 FLOOR INVESTIGATIONS.

24 Q WHAT'S YOUR UNDERSTANDING? FOR THE PURPOSE OF HIM TO
25 SEE WHO, DO WHAT?

1 A JUST TO PASS IT OFF TO INVESTIGATOR GRAY TO ALLOW HIM
2 AN INTERVIEW.

3 Q OKAY. AND DOES INVESTIGATOR GRAY MEET YOU UP THERE
4 AT HEADQUARTERS THEN?

5 A YES, HE DOES.

6 Q OKAY. WHAT DO YOU DO NEXT?

7 A I WAIT OUTSIDE THE EMPTY ROOM IN THE LOBBY AREA.

8 Q DO YOU KNOW ABOUT HOW LONG YOU WAITED?

9 A I WOULD SAY PROBABLY MORE THAN TWO HOURS, I WOULD
10 THINK.

11 Q AND THEN AFTER THAT ONE OR TWO HOURS, WHAT'S YOUR
12 NEXT INSTRUCTIONS?

13 A TO TAKE THE DEFENDANT TO ALVIN S. GLENN DETENTION
14 CENTER.

15 Q AND DO YOU HAVE ANY FURTHER INSTRUCTIONS WITH WHAT
16 YOU'RE SUPPOSED TO DO WHEN YOU GET HIM THERE?

17 A YES. TO TAKE HIS CLOTHING HE'S WEARING AND TAG IT
18 INTO THE EVIDENCE ROOM.

19 Q AT ANY POINT DID YOU PAT THE DEFENDANT DOWN --

20 A YES, I DID.

21 Q -- FOR WEAPONS OR ANYTHING LIKE THAT?

22 A YES, I DID.

23 Q AND WHEN DID YOU DO THAT?

24 A BEFORE I PLACED HIM INSIDE MY PATROL VEHICLE.

25 Q AND DID YOU FIND ANYTHING ON HIS PERSON?

1 A HE HAD A BANDANNA IN HIS RIGHT POCKET, A DOO-RAG.

2 Q I'M GOING TO SHOW YOU WHAT'S BEEN MARKED AS STATE'S
3 EXHIBIT 58. IF YOU CAN LOOK INSIDE THERE AND SEE IF YOU
4 RECOGNIZE IT.

5 A YES, I DO.

6 Q AND WHAT IS THAT?

7 A IT'S A BLACK DOO-RAG.

8 Q OKAY. AND WHERE DID YOU FIND THAT ON THE DEFENDANT?

9 A IN HIS RIGHT POCKET.

10 MS. FENT: THE STATE OFFERS INTO EVIDENCE STATE'S
11 EXHIBIT NUMBER 58.

12 THE COURT: ANY OBJECTION? WHAT'S THE NUMBER?

13 MS. FENT: FIFTY-EIGHT.

14 MS. FRANKLIN: WITHOUT OBJECTION, YOUR HONOR.

15 THE COURT: STATE'S 58 IS ADMITTED.

16 (WHEREUPON, STATE'S EXHIBIT NO. 58 WAS ADMITTED INTO
17 EVIDENCE.)

18 BY MS. FENT

19 Q NOW, WHEN YOU FOUND THIS IN HIS POCKET, WHAT DID YOU
20 DO WITH IT AT THAT POINT?

21 A I JUST LOOKED AT IT AND PLACED IT RIGHT BACK IN HIS
22 POCKET.

23 Q OKAY. AND WHEN YOU TOOK HIM TO ALVIN S. GLENN, YOU
24 COLLECTED ALL OF THIS?

25 A CORRECT.

1 Q OKAY. YOU SAID YOU ALSO GOT THE REST OF HIS CLOTHES?

2 A YES, I DID.

3 Q I'M GOING TO SHOW YOU WHAT'S BEEN MARKED AS STATE'S
4 EXHIBIT 62 AND SEE IF YOU CAN LOOK THROUGH THERE AND SEE
5 IF YOU RECOGNIZE IT.

6 A YES, I DO.

7 Q AND WHAT IS THAT?

8 A THESE ARE -- THE CLOTHING THE DEFENDANT WAS WEARING.

9 Q THAT YOU COLLECTED AT ALVIN S. GLENN?

10 A YES.

11 MS. FENT: I OFFER INTO EVIDENCE STATE'S EXHIBIT 62.

12 MS. FRANKLIN: WITHOUT OBJECTION.

13 THE COURT: STATE'S 62 IS ADMITTED.

14 (WHEREUPON, STATE'S EXHIBIT NO. 62 WAS ADMITTED INTO
15 EVIDENCE.)

16 BY MS. FENT

17 Q JUST SO THE RECORD IS CLEAR, IF YOU CAN -- 62 IS
18 ACTUALLY A BAG, AND THERE ARE NUMEROUS ITEMS INSIDE OF
19 THERE. WHAT SPECIFICALLY IS INSIDE OF THERE?

20 A A GRAY PAIR OF SHORTS, A DARK BLUE PAIR OF BASKETBALL
21 SHORTS.

22 Q AND THE DARK BLUE PAIR OF BASKETBALL SHORTS, WHERE
23 WERE THEY? WHICH ONE WAS OVER THE TOP?

24 A THE GRAY PANTS WERE OVER THE BASKETBALL SHORTS.

25 Q OKAY. SO THESE ARE ON UNDERNEATH THE GRAY PAIR OF

1 SHORTS?

2 A YES, ALSO A WHITE T-SHIRT, SOME BLACK AND WHITE
3 TENNIS SHOES.

4 Q I GUESS HIS SOCKS ALSO?

5 A YES.

6 Q OKAY. I'M GOING TO SHOW YOU WHAT'S BEEN MARKED AS
7 STATE'S EXHIBITS 59, 60, AND 61 AND ASK IF YOU RECOGNIZE
8 THOSE.

9 A YES, I DO.

10 Q AND WHAT DO THESE SHOW?

11 A THOSE ARE THE CLOTHING WORN BY THE DEFENDANT, WHICH I
12 TOOK OFF OF HIM AT THE JAIL.

13 Q OKAY. THIS IS HOW HE LOOKED WHEN YOU ARRESTED HIM?

14 A YES, IT WAS.

15 MS. FENT: I OFFER INTO EVIDENCE 59, 60, AND 61.

16 MS. FRANKLIN: WITHOUT OBJECTION.

17 THE COURT: STATE'S 59, 60, AND 61 ARE ADMITTED.

18 (WHEREUPON, STATE'S EXHIBITS NOS. 59 - 61 WERE
19 ADMITTED INTO EVIDENCE.)

20 BY MS. FENT

21 Q THAT NIGHT WHEN YOU CAME IN CONTACT WITH THE
22 DEFENDANT AND ARRESTED HIM, DID HE HAVE ANY TATTOOS ON HIS
23 FACE?

24 A NO, HE DIDN'T.

25 MS. FENT: NO FURTHER QUESTIONS AT THIS TIME.

1 THE COURT: ALL RIGHT. MS. FRANKLIN?

2 MS. FRANKLIN: THANK YOU, YOUR HONOR. MAY IT PLEASE
3 THE COURT.

4 CROSS-EXAMINATION:

5 BY MS. FRANKLIN

6 Q GOOD MORNING.

7 A GOOD MORNING.

8 Q OKAY. SO YOU HAVE BEEN WITH THE CITY OF COLUMBIA
9 POLICE DEPARTMENT FOR NINE YEARS NOW?

10 A YES, I HAVE.

11 Q AND YOU'RE A GRADUATE OF THE POLICE ACADEMY?

12 A YES, I AM.

13 Q AND WHILE YOU'RE AT THE POLICE ACADEMY, DID THEY
14 TEACH YOU HOW TO FILL OUT INCIDENT REPORTS?

15 A YES.

16 Q OR MAKE NOTES?

17 A YES.

18 Q OKAY. AND DID YOU WRITE ANY NOTES IN CONNECTION WITH
19 WHAT HAPPENED ON THIS NIGHT?

20 A NO, I DIDN'T.

21 Q SO AS YOU'RE TESTIFYING HERE TODAY, 26 MONTHS AFTER
22 THESE EVENTS, YOU'RE TESTIFYING PURELY FROM YOUR MEMORY?

23 A CORRECT.

24 Q ALL RIGHT. SO WHEN YOU WENT OUT TO THE CUT THAT
25 NIGHT -- I MEAN, IT'S PRETTY DARK OUT THERE, ISN'T IT?

1 A YES.

2 Q I MEAN, THERE ARE NO STREET LIGHTS SURROUNDING THE
3 CUT, ARE THERE?

4 A NO.

5 Q AND YOU GOT THERE -- YOU TESTIFIED YOU WERE
6 DISPATCHED SOME TIME AROUND 9:46 UP UNTIL ABOUT TEN
7 O'CLOCK. IS THAT ACCURATE?

8 A I'M NOT EXACTLY SURE WHAT TIME I WAS DISPATCHED.

9 Q WHEN YOU ARRIVED AT THE SCENE ON CALK STREET -- YOU
10 ARRIVED AT CALK STREET, EXCUSE ME.

11 A YES.

12 Q AND YOU QUICKLY DETAINED MR. LIVERMAN, IS THAT
13 ACCURATE?

14 A YES.

15 Q HOW LONG DO YOU THINK YOU HAD BEEN THERE BEFORE YOU
16 APPREHENDED MR. LIVERMAN?

17 A MAYBE ONE MINUTE.

18 Q OKAY. SO ABOUT A MINUTE. BACK IN THE CUT -- I MEAN
19 IT'S VERY WOODED, ISN'T IT?

20 A YES.

21 Q OKAY. SO THE CUT ACTUALLY COMES THROUGH SOME WOODS,
22 DOES IT NOT?

23 A ON THE OTHER SIDE OF THE RAILROAD TRACKS.

24 Q ON THE OTHER SIDE.

25 A IT'S WOODED, YEAH.

1 Q SO THE AREA WHERE YOU SAW MR. LIVERMAN COMING FROM
2 WAS VERY WOODED?

3 A THE AREA HE WAS COMING FROM, YES.

4 Q ALL RIGHT.

5 A IT WAS VERY WOODED.

6 Q AND DARK. DO YOU REMEMBER CHECKING MR. LIVERMAN'S
7 POCKETS?

8 A YES.

9 Q AND IN HIS POCKETS, YOU TESTIFIED JUST NOW THAT YOU
10 FOUND A DOO-RAG.

11 A YES.

12 Q DO YOU RECALL FINDING A SOUTH CAROLINA IDENTIFICATION
13 IN HIS POCKET?

14 A I DON'T RECALL THAT, NO.

15 Q DO YOU RECALL FINDING A CELL PHONE IN HIS POCKET?

16 A I DON'T RECALL.

17 Q YOU DID NOT FIND A BANDANNA IN HIS POCKET, DID YOU?

18 A NO.

19 Q AND YOU DID NOT FIND ANY SORT OF FIREARM OR ANY SORT
20 OF WEAPON?

21 A NO, I DID NOT.

22 Q AND YOU DID NOT FIND ANY BULLETS?

23 A NO.

24 Q AND AS YOU DETAINED MR. LIVERMAN, YOU TOLD HIM TO
25 STOP OR CORPORAL AULD TOLD HIM TO STOP?

1 A I BELIEVE IT WAS SERGEANT AULD, MA'AM.

2 Q BUT HE STOPPED?

3 A YES.

4 Q AND YOU DIDN'T FIND ANYONE ELSE AROUND, DID YOU?

5 A NO, I DIDN'T FIND ANYONE ELSE AROUND.

6 Q AND CORPORAL AULD SORT OF LEFT WHERE YOU WERE AND

7 WENT LOOKING FOR OTHER PEOPLE, DIDN'T HE?

8 A YES.

9 Q AND DIDN'T FIND ANYONE?

10 A CORRECT.

11 Q WERE YOU THERE WHEN THE GUNSHOTS WENT OFF FURTHER

12 DOWN THE TRACK?

13 A YES.

14 Q AND DO YOU RECALL HEARING THOSE GUNSHOTS?

15 A YES.

16 Q AND AT THE TIME THAT INVESTIGATOR GRAY BRINGS A

17 WITNESS TO THE SCENE, IT'S STILL DARK, RIGHT?

18 A YES.

19 Q OKAY. AND THERE ARE NO STREET LIGHTS IN THE AREA?

20 A NO.

21 Q AND YOU PHYSICALLY REMOVED MR. LIVERMAN FROM THE BACK

22 OF THE CAR, IS THAT ACCURATE?

23 A I ASKED HIM TO EXIT THE VEHICLE, YES.

24 Q OKAY. SO HE EXITED THE VEHICLE?

25 A YEAH.

1 Q AND YOU HAD A FLASHLIGHT YOU SHINED ON HIM?

2 A YES.

3 Q OKAY. AND SO JUST A REGULAR FLASHLIGHT?

4 A A STANDARD FLASHLIGHT, YES.

5 Q A STANDARD FLASHLIGHT, SO THOSE WERE THE LIGHTING
6 CONDITIONS UNDER WHICH THIS IDENTIFICATION WAS MADE?

7 A YES.

8 Q YOU DIDN'T HAVE ANY SORT OF BIG BEAMS, ANY BIG LIGHT
9 BEAMS, DID YOU?

10 A I BELIEVE THERE WERE SOME HEADLIGHTS OUT THERE.

11 Q OKAY. BUT YOU HAD THE FLASHLIGHT?

12 A YES.

13 Q WHAT TIME HAD YOU STARTED WORKING THAT NIGHT?

14 A I BELIEVE IT WAS 6:00 P.M., 18:00 HOURS.

15 Q AND WHAT TIME WERE YOU SCHEDULED TO GET OFF THAT
16 NIGHT?

17 A 06:30.

18 Q AND YOU ONLY CHECKED THIS PARTICULAR CUT ON CALK
19 STREET, CORRECT?

20 A I DIDN'T CHECK THE CUT. I RESPONDED TO WHERE THE
21 RAILROAD TRACKS WERE.

22 Q AND THAT'S THAT AREA WE HAVE BEEN REFERRING TO AS THE
23 CUT, RIGHT?

24 A YES.

25 Q SO YOU NEVER WENT THROUGH COLONY TO THAT PARTICULAR

1 CUT, DID YOU?

2 A ~~NO~~.

3 MS. FRANKLIN: OKAY. I HAVE NO FURTHER QUESTIONS.

4 THE COURT: ALL RIGHT. ANY REDIRECT?

5 MS. FENT: NO, YOUR HONOR.

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

7 MS. FENT: MAY THIS WITNESS BE EXCUSED?

8 MS. FRANKLIN: WITHOUT OBJECTION.

9 THE COURT: YOU'RE EXCUSED.

10 ALL RIGHT. YOUR NEXT WITNESS?

11 MS. FENT: THE STATE CALLS INVESTIGATOR JOE GRAY.

12 JOE GRAY, 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: JOE ROBERT GRAY, JR.

17 DIRECT EXAMINATION:

18 BY MS. FENT

19 Q INVESTIGATOR GRAY, WHO DO YOU WORK FOR?

20 A THE COLUMBIA CITY POLICE DEPARTMENT.

21 Q OKAY. COULD YOU EXPLAIN TO THE JURY BASICALLY YOUR
22 EDUCATION, YOUR TRAINING, AND YOUR CAREER WITH THE
23 COLUMBIA POLICE DEPARTMENT THAT LEADS YOU HERE TODAY?

24 A I'VE BEEN AT THE POLICE DEPARTMENT FOR ABOUT

25 22-AND-A-HALF YEARS. I STARTED AS A PATROLMAN. I DID

1 THAT FOR ABOUT THREE YEARS. I WAS ON THE S.W.A.T. TEAM
2 FOR A COUPLE OF YEARS. I WAS PROMOTED TO INVESTIGATOR IN
3 1989. I WAS ASSIGNED FOR A SHORT WHILE TO THE PROPERTY
4 CRIMES UNIT, AND THEN I WAS TRANSFERRED TO MAJOR CRIMES.
5 I DID THAT FROM '89 UNTIL -- AS AN INVESTIGATOR FROM '89
6 UNTIL 2005. I AM CURRENTLY ASSIGNED TO INVESTIGATIONS AS
7 A POLYGRAPH EXAMINER.

8 I ATTENDED THE UNIVERSITY OF SOUTH CAROLINA. I HAVE
9 AN ASSOCIATE'S DEGREE IN CRIMINAL JUSTICE, A BACHELORS
10 DEGREE IN INTERDISCIPLINARY STUDIES AND SOME GRADUATE
11 LEVEL COURSES FROM THE DEPARTMENT OF DEFENSE, POLYGRAPH
12 INSTITUTE.

13 Q AS AN INVESTIGATOR, WHAT ARE YOUR RESPONSIBILITIES?

14 A WHENEVER CERTAIN TYPES OF CRIMES OCCUR, WE'RE CALLED
15 TO THE SCENE TO INVESTIGATE THE CRIME, GATHER ANY
16 INFORMATION, INTERVIEW WITNESSES AND BASICALLY TRY TO
17 SOLVE THE CRIME.

18 Q AS THE LEAD INVESTIGATOR, DO YOU SORT OF GUIDE THE
19 INVESTIGATION?

20 A YES, MA'AM.

21 Q DO YOU WORK ALONE, OR DO OTHER INVESTIGATORS ASSIST
22 YOU?

23 A IT DEPENDS ON THE TYPE OF CRIME. IF IT'S SOMETHING I
24 CAN DO BY MYSELF OR ANOTHER INVESTIGATOR COULD DO BY
25 THEMSELVES, WE WORK BY OURSELVES. IN A CASE LIKE THIS,

1 THERE ARE CERTAINLY A LOT OF OTHER INVESTIGATORS INVOLVED.

2 Q OKAY. THIS PARTICULAR NIGHT THAT WE'RE TALKING
3 ABOUT, AUGUST 26TH, 2004, HOW WAS IT THAT YOU BECAME
4 ASSIGNED TO INVESTIGATE THIS CASE?

5 A I WAS WORKING THE EVENING SHIFT THAT NIGHT, AND WE
6 HAVE THE AREA OF RESPONSIBILITY DIVIDED UP AMONG THE
7 INVESTIGATORS. WHERE THIS OCCURRED WAS IN MY AREA OF
8 RESPONSIBILITY.

9 Q ASIDE FROM THE MANY OTHER NOTES AND STATEMENTS AND
10 DOCUMENTS THAT YOU HAVE COLLECTED, DID YOU DO BASICALLY A
11 REPORT OR A SUMMARY OF YOUR INVESTIGATION?

12 A I DID SOME INCIDENT REPORTS, AS WELL AS I HAVE CASE
13 NOTES ABOUT THE INVESTIGATION.

14 Q OKAY. DO YOU HAVE YOUR CASE NOTES WITH YOU?

15 A YES, MA'AM.

16 Q OKAY. IF AT ANY TIME YOU NEED TO REFRESH YOUR
17 MEMORY, WOULD IT HELP YOU TO LOOK AT THAT REPORT TO DO
18 THAT?

19 A YES, IT WOULD.

20 Q OKAY. WHAT TIME WAS IT THAT YOU WERE NOTIFIED OF THE
21 SHOOTING?

22 A IT WAS ABOUT 9:56 IN THE EVENING. I WAS WORKING ON
23 ANOTHER CASE AT THE POLICE HEADQUARTERS. I WAS NOTIFIED
24 BY PHONE.

25 Q UPON BEING NOTIFIED OF THE SHOOTING, WHAT DID YOU DO?

1 A I RESPONDED TO THE SCENE AT ABOUT TEN AFTER, TEN
2 AFTER TEN.

3 Q OKAY. YOU ARRIVE AT THE SCENE AND WHAT HAPPENS?

4 A I BASICALLY TRIED TO GATHER INFORMATION ABOUT WHAT
5 OCCURRED. I SPOKE WITH THE OFFICERS ON THE SCENE AND JUST
6 TRIED TO GET A GRASP OF WHAT WAS OCCURRING AT THE TIME.

7 Q WERE YOU DIRECTED TO ANY POTENTIAL WITNESSES?

8 A YES, I WAS.

9 Q OKAY. AND DID YOU START TALKING TO A PARTICULAR
10 WITNESS?

11 A YES, I DID.

12 Q AND DO YOU RECALL HIS NAME OR HER NAME?

13 A TYRONE SMITH.

14 Q HOW DO YOU START TALKING TO THEM? WHERE IS THIS?

15 A AFTER I FOUND HIM, WE SAT IN MY CAR. THERE WAS A LOT
16 OF ACTIVITY GOING ON AROUND. MY CAR WAS RIGHT THERE, BACK
17 AWAY FROM WHERE THE SHOOTING ACTUALLY OCCURRED. WE SAT IN
18 MY CAR, AND WE BASICALLY STARTED THE INTERVIEW.

19 Q HOW QUICKLY AFTER YOU ARRIVE -- AT TEN MINUTES AFTER,
20 HOW QUICKLY DO YOU START TALKING TO TYRONE SMITH?

21 A PROBABLY FIVE OR TEN MINUTES MAYBE.

22 Q AND AT THIS POINT HAVE YOU ACTUALLY STARTED TAKING A
23 WRITTEN STATEMENT FROM HIM, OR ARE YOU JUST GATHERING ORAL
24 INFORMATION FROM HIM?

25 A I'M JUST GATHERING ORAL INFORMATION SITTING TALKING

1 TO HIM TRYING TO FIGURE OUT EXACTLY WHAT HE SAW AND WHAT
2 HAPPENED.

3 Q OKAY. AND THE NATURE OF WHAT HE WITNESSED, WHAT DID
4 HE ACTUALLY SEE?

5 A HE INDICATED THAT HE HAD SEEN THE SHOOTING --

6 MS. FRANKLIN: YOUR HONOR, THIS IS HEARSAY.

7 THE COURT: I'LL LET HIM RESPOND TO THAT. HE CAN'T
8 GO INTO ANY KIND OF CONVERSATIONS HE HAD WITH THIS
9 INDIVIDUAL.

10 BY MS. FENT

11 Q DID HE ACTUALLY SEE WHAT HAPPENED?

12 A YES.

13 Q OKAY. AND DID HE -- WAS HE ABLE TO PROVIDE YOU A
14 NAME OR A NICKNAME OF THE PERSON THAT HE SAW SHOOTING?

15 A YES, HE DID.

16 Q OKAY. AT THIS POINT, THE INFORMATION THAT YOU HAVE,
17 IS THERE ONE SHOOTER OR MULTIPLE SHOOTERS?

18 A ONE PERSON SHOOTING.

19 Q ONE PERSON. AS YOU'RE TALKING TO TYRONE, WHAT
20 INFORMATION DO YOU GET?

21 A THAT THERE WERE A GROUP OF PEOPLE THERE PRIOR TO THIS
22 SOMETIME BEFORE THE SHOOTING, AND THEN JUST PRIOR TO THE
23 SHOOTING HE WAS OUTSIDE, I BELIEVE. THEN HE WENT IN THE
24 HOUSE, WENT UPSTAIRS TO WATCH WHAT --

25 MS. FRANKLIN: YOUR HONOR, OBJECTION. I MEAN THIS --

1 THE COURT: SUSTAINED.

2 BY MS. FENT

3 Q YOU'RE TALKING TO TYRONE AND JUST GATHERING
4 INFORMATION?

5 A THAT'S CORRECT.

6 Q WHAT DO YOU DO NEXT, IF ANYTHING, WITH TYRONE?

7 A I -- AFTER I GOT THE INFORMATION, I WAS NOTIFIED THAT
8 SOMEONE WAS STOPPED, A POSSIBLE SUSPECT, BY RADIO ON CALK
9 STREET. I ESCORTED HIM TO THAT LOCATION.

10 Q OKAY. AND THE PEOPLE THAT HAVE SOMEONE DETAINED, WHO
11 WERE THOSE INDIVIDUALS?

12 A WHEN I ARRIVED ON CALK STREET, IT WAS OFFICER
13 WHITTLE.

14 Q I'M GOING TO SHOW YOU STATE'S EXHIBIT NUMBER NINE.
15 IS THIS THE LOCATION OF THE CUT THAT YOU REPORT TO ON CALK
16 STREET?

17 A YES.

18 Q OKAY. WHO IS WITH YOU WHEN YOU GO OVER TO CALK?

19 A TYRONE SMITH.

20 Q IN THE -- SITTING IN THE FRONT SEAT, BACKSEAT, DO YOU
21 REMEMBER?

22 A HE'S SEATED IN THE FRONT SEAT OF MY CAR.

23 Q OKAY. YOU DRIVE OVER TO CALK. WHAT DO YOU SEE?
24 WHAT HAPPENS?

25 A WHEN I GET THERE, I SEE OFFICER WHITTLE'S PATROL CAR.

1 THE LIGHTS WERE ON. I PULLED UP ABOUT 20 FEET BEHIND THE
2 PATROL CAR, PUT MY LIGHTS ON BRIGHT. I TOLD TYRONE JUST
3 TO SIT THERE. WE HAD SOMEONE STEP OUTSIDE, TAKE A LOOK AT
4 HIM. THEN I WENT UP TO OFFICER WHITTLE. HE GOT OUT OF
5 THE CAR. I TOLD HIM WHAT WAS GOING ON. HE THEN ASKED
6 MR. LIVERMAN TO GET OUT OF THE BACKSEAT. I HAD
7 MR. LIVERMAN TURN AND FACE WHERE MY CAR WAS WHERE THE
8 WITNESS WAS SEATED.

9 Q AND WHAT WAS THE LIGHTING SITUATION AT THIS POINT?

10 A WELL, THERE WERE NO STREET LIGHTS. OFFICER WHITTLE
11 HAD HIS FLASHLIGHTS, BUT I ALSO HAD MY LIGHTS. IT WAS A
12 CHEVY LUMINA. I HAD IT ON HIGH BEAMS POINTED DIRECTLY AT
13 MR. LIVERMAN.

14 Q YOUR HEADLIGHTS?

15 A YES.

16 Q AND AT THIS POINT, YOU HAVE ALREADY RECEIVED A NAME
17 FROM TYRONE OVER AT T.S. MARTIN?

18 A A NICKNAME, YES, MA'AM.

19 Q WAS THAT BEFORE OR AFTER YOU KNEW SOMEONE WAS IN
20 CUSTODY?

21 A THAT WAS BEFORE.

22 Q YOU SHINED THE LIGHTS ON THE SUSPECT. WHAT HAPPENS
23 NEXT?

24 A I HAD HIM STAND THERE FACING MY CAR FOR A FEW
25 MINUTES, AND THEN WE PUT HIM BACK IN THE PATROL CAR. I

1 WENT BACK AND TALKED TO TYRONE AND ASKED HIM IF THAT WAS
2 THE PERSON THAT HE KNEW AS BABY JESUS, BABY JES.

3 Q OKAY. AND WHAT DID HE SAY?

4 MS. FRANKLIN: YOUR HONOR, ~~OBJECTION~~. IT'S HEARSAY.

5 MS. FENT: IT'S AN IDENTIFICATION THAT WE'VE HAD A
6 MOTION ON THAT'S COMING IN.

7 THE COURT: WELL, COME UP.

8 (WHEREUPON, A BENCH CONFERENCE WAS HELD IN THE
9 PRESENCE, BUT NOT WITHIN THE HEARING, OF THE JURY).

10 THE COURT: MR. FOREMAN, LADIES AND GENTLEMEN, IF YOU
11 WILL STEP BACK FOR A FEW MINUTES, LET ME DEAL WITH THIS
12 MATTER. PLEASE DON'T DISCUSS THIS MATTER. IF YOU WILL
13 STEP BACK, WE'LL HAVE YOU BACK IN A FEW MINUTES.

14 (WHEREUPON, THE JURY LEFT OPEN COURT AT APPROXIMATELY
15 10:23 A.M.)

16 THE COURT: STATE YOUR OBJECTION ON THE RECORD
17 PLEASE, MS. FRANKLIN.

18 ~~MS. FRANKLIN:~~ YOUR HONOR, ~~WE'RE OBJECTING TO THE~~
19 ~~IDENTIFICATION BASED ON HEARSAY.~~ I MEAN, MS. FENT JUST
20 ELICITED FROM THIS WITNESS, "AND WHAT DID HE SAY?"

21 ~~THE PURPOSE OF THAT WAS TO MAKE AN IDENTIFICATION OF~~
22 ~~CHRISTOPHER LIVERMAN AS THE PERSON WHO TYRONE SMITH~~
23 ~~IDENTIFIED AS THE SHOOTER IN THIS CASE.~~ HE'S TRYING TO
24 BACK DOOR THE I.D. WITHOUT ACTUALLY CALLING THE I.D.
25 WITNESS. IT'S HEARSAY. ~~TYRONE SMITH HASN'T TESTIFIED.~~

1 IT'S GETTING THIS INFORMATION OUT THROUGH THE
2 INVESTIGATOR.

3 THE COURT: ALL RIGHT. MS. FENT?

4 MS. FENT: WELL, AT THE VERY LEAST, YOUR HONOR, AT
5 THIS POINT, IT IS -- I THINK HE CAN INDICATE IT'S A
6 POSITIVE IDENTIFICATION, AND THAT'S WHY THE INVESTIGATION
7 CONTINUES.

8 BASED ON THAT POSITIVE IDENTIFICATION, HE TAKES THE
9 DEFENDANT IN CUSTODY, HAS HIM BROUGHT DOWN TO ALVIN -- OR
10 TO THE POLICE HEADQUARTERS AND GETS A STATEMENT FROM HIM.

11 SO REGARDLESS OF OFFERING IT -- NOT OFFERING IT FOR
12 THE TRUTH OF THE MATTER ASSERTED, BUT HE RELIES ON IT IN
13 TAKING THIS PERSON INTO CUSTODY. HE RELIES ON THAT
14 IDENTIFICATION.

15 MS. FRANKLIN: AND YOUR HONOR, IN RESPONSE TO THAT,
16 YOU KNOW, MS. FENT CAN CERTAINLY ASK INVESTIGATOR GRAY
17 WHETHER OR NOT HIS INVESTIGATION CONTINUED AFTER THIS
18 ENCOUNTER WITHOUT ACTUALLY HAVING THIS INVESTIGATOR MAKE
19 TYRONE SMITH'S INVESTIGATION FOR HIM.

20 THE COURT: THERE'S A CASE I WANT TO TAKE A LOOK AT.
21 WE'LL TAKE ABOUT FIVE MINUTES.

22 (WHEREUPON, A SHORT BREAK WAS TAKEN.)

23 (WHEREUPON, STATE'S EXHIBITS NOS. 63 - 67 WERE MARKED
24 FOR IDENTIFICATION ONLY.)

25 THE COURT: ALL RIGHT. ANYTHING FURTHER BEFORE I

1 RULE?

2 MS. FRANKLIN: I JUST NEED TO GET MY CLIENT BACK.

3 THE COURT: THAT'S RIGHT.

4 MR. GIESE: YOUR HONOR, MAY WE APPROACH ON THAT OTHER
5 MATTER?

6 THE COURT: SURE.

7 (WHEREUPON, THERE WAS A BENCH CONFERENCE.)

8 THE COURT: ALL RIGHT. PRIOR TO RESUMING, I
9 OVERRULED THE OBJECTION. I BELIEVE IT FALLS UNDER THE
10 EXCEPTION OF PRESENT SENSE IMPRESSION, AS I UNDERSTAND THE
11 LAW.

12 THAT WAS CHANGED BACK WHEN THE RULES WERE CHANGED,
13 BUT I FIND THAT IT IS AN EXCEPTION WITHIN THE -- TO THE
14 HEARSAY RULE. FOR THAT REASON, THE OBJECTION WOULD BE
15 OVERRULED.

16 ~~MS. FRANKLIN~~: OKAY, YOUR HONOR. I JUST WANT TO MAKE
17 SURE THAT I'VE GOT MY BASIS FOR THE OBJECTION STILL ON THE
18 RECORD.

19 ~~MY UNDERSTANDING IS THAT INVESTIGATOR JOBY GRAY IS~~
20 ~~GETTING READY TO MAKE THE IDENTIFICATION THAT TYRONE SMITH~~
21 ~~OTHERWISE WOULD BE MAKING. OUR POSITION IS IT IS HEARSAY.~~
22 IT IS AN OUT-OF-COURT STATEMENT OFFERED FOR THE TRUTH OF
23 THE MATTER ASSERTED.

24 ~~THE STATE MADE THE ARGUMENT, I BELIEVE, THAT IT WAS~~
25 ~~NECESSARY FOR THE PURPOSES OF SHOWING WHY THE~~

1 ~~INVESTIGATION CONTINUED~~. OUR POSITION IS THAT THEY CAN
2 CERTAINLY TALK ABOUT THE CONTINUANCE OF THEIR
3 INVESTIGATION WITHOUT ALLOWING THIS WITNESS TO MAKE AN
4 IDENTIFICATION OF SOMEBODY WHO IS NOT EVEN -- WHO HAS NOT
5 EVEN TESTIFIED YET WOULD OTHERWISE BE MAKING.

6 ~~WE WOULD JUST ASSERT IT IS A DENIAL OF DUE PROCESS~~
7 ~~AND ALSO THE CONFRONTATION CLAUSE~~, YOUR HONOR.

8 THE COURT: ALL RIGHT. ANY OTHER MATTERS YOU WANT TO
9 PUT ON THE RECORD, SOLICITOR -- EXCUSE ME, MS. FRANKLIN?

10 MS. FRANKLIN: YOUR HONOR, IF I COULD ALSO SAY FOR
11 RECORD, ~~WE ALSO THINK THIS WOULD BE A VIOLATION OF~~
12 ~~CRAWFORD~~.

13 THE COURT: CRAWFORD MEANING -- DON'T GIVE ME THE
14 CASE NAME. TELL ME WHAT THE PRINCIPLE IS.

15 MS. FRANKLIN: THE IDEA, YOUR HONOR, ~~THAT THIS PERSON~~
16 ~~WOULD BE TESTIFYING WITHOUT THE RIGHT FOR THIS DEFENDANT~~
17 ~~TO THEN CROSS-EXAMINE AS TO THE IDENTIFICATION MADE IN~~
18 ~~THIS CASE~~.

19 HE IS -- ~~TYRONE SMITH IS NOT ON THE STAND YET~~. HE
20 HAS NOT BEEN SUBJECT TO CROSS-EXAMINATION AND --

21 THE COURT: LET ME --

22 MS. FRANKLIN: BEG THE COURT'S INDULGENCE FOR JUST A
23 MINUTE.

24 (PAUSE) . .

25 YOUR HONOR, WHAT HAPPENED HERE IS THAT THEY'VE TAKEN

1 A WITNESS TO THE SCENE FOR A SHOW UP. THEY ELICITED
2 STATEMENTS FROM HIM. THEIR STATEMENTS WERE TESTIMONIAL IN
3 NATURE.

4 HE'S NOT TAKING THE STAND. HE'S NOT HERE AND SUBJECT
5 TO CROSS-EXAMINATION. FOR THAT REASON, IT'S A VIOLATION
6 UNDER CRAWFORD V. WASHINGTON, YOUR HONOR.

7 THE COURT: SOLICITOR, MS. FENT?

8 MS. FENT: I HAVE NOTHING FURTHER, YOUR HONOR.

9 THE COURT: WHAT ABOUT THE DEFENSE'S ARGUMENT ON THE
10 CONFRONTATION CLAUSE?

11 MS. FENT: WELL, AS I STATED BEFORE, ACTUALLY, I
12 BELIEVE THAT IT IS NOT HEARSAY BECAUSE IT'S NOT BEING
13 OFFERED NECESSARILY FOR THE TRUTH OF THE MATTER ASSERTED.

14 IT GOES TO EXPLAIN THE INVESTIGATION AND HOW IT
15 CONTINUES AND WHY HE, YOU KNOW, TAKES THE NEXT STEP IN HIS
16 INVESTIGATION. THAT IS MUCH OF WHAT, YOU KNOW, AN
17 INVESTIGATION DOES IS YOU GET LEADS ON THIS, YOU TAKE THAT
18 PATH. IT MAY BE A DEAD END. IT MAY LEAD TO SOMETHING
19 ELSE, BUT IT EXPLAINS WHY THE NEXT STEP OF THE
20 INVESTIGATION TAKES PLACE.

21 WHY DOES HE KEEP THE DEFENDANT IN CUSTODY AND HAVE
22 HIM TRANSPORTED DOWN TO ALVIN S. GLENN? YOU KNOW, WHY
23 DOES HIS INVESTIGATION CONTINUE IN THE MANNER THAT IT
24 DOES? BECAUSE HE RECEIVED A POSITIVE IDENTIFICATION FROM
25 TYRONE SMITH.

1 MS. FRANKLIN: IF I MAY RESPOND TO THAT, YOUR HONOR.

2 THE COURT: YES.

3 ~~MS. FRANKLIN: YOU KNOW, SOMETHING CAN BE OTHERWISE~~
4 ~~ADMISSIBLE UNDER A HEARSAY EXCEPTION AND STILL VIOLATE THE~~
5 ~~CONFRONTATION CLAUSE.~~ THE CONFRONTATION CLAUSE IS A
6 VIOLATION OF DUE PROCESS, A VIOLATION. YOU KNOW, ~~WE~~
7 ~~MAINTAIN THIS WOULD BE A VIOLATION OF THE CONFRONTATION~~
8 ~~CLAUSE.~~

9 THE COURT: FOR THAT REASON, I'M NOT GOING TO ALLOW
10 HIM TO TESTIFY AS TO THE STATEMENT MADE BY THAT WITNESS.
11 IF THAT WITNESS TESTIFIES OR AFTER THAT STATEMENT OR IF
12 THAT WITNESS TESTIFIES -- IF YOU NEED TO RECALL THE
13 OFFICER, YOU CAN DO IT AT THAT POINT IN TIME.

14 I SUSTAIN THE OBJECTION AT THIS POINT IN TIME.

15 MS. FRANKLIN: THANK YOU, YOUR HONOR.

16 THE COURT: AS TO THE STATEMENT THAT WAS MADE BY THIS
17 PARTICULAR WITNESS TO THIS OFFICER, THAT'S WHAT I'M
18 SUSTAINING THE OBJECTION. YOU CAN GO INTO "A RESULT OF
19 WHATEVER HAPPENED, WHAT DID YOU DO?"

20 ALL RIGHT. WE STILL HAVE THE OFFICER ON THE STAND.
21 BEFORE WE BRING THE JURY BACK IN HERE, ANYTHING ELSE
22 BEFORE WE RESUME?

23 MS. FENT: NO.

24 THE COURT: ALL RIGHT. GET THE JURY IN, PLEASE.

25 THE BAILIFF: OKAY.

1 (WHEREUPON, THE JURY CAME INTO OPEN COURT AT
2 APPROXIMATELY 11:05 A.M.)

3 THE BAILIFF: THE JURY IS SEATED, YOUR HONOR.

4 THE COURT: ALL RIGHT. THANK YOU.

5 MS. FENT, YOU MAY CONTINUE.

6 MS. FENT: THANK YOU, YOUR HONOR.

7 THE BAILIFF: WAIT ONE MOMENT, SIR.

8 THE COURT: WHAT ARE WE WAITING ON?

9 (PAUSE).

10 THE BAILIFF: THEY'RE ALL HERE.

11 THE COURT: UNLESS WE HAVE PICKED UP AN EXTRA ONE
12 SOMEWHERE IN THE HALL.

13 ALL RIGHT. LET'S CONTINUE.

14 MS. FENT?

15 BY MS. FENT

16 Q OKAY. INVESTIGATOR GRAY, I GUESS JUST BY WAY OF
17 FOUNDATION, I THINK WE WERE -- YOU HAD TAKEN TYRONE SMITH
18 OVER TO CALK STREET, CORRECT?

19 A YES.

20 Q FOR THE PURPOSES OF WHAT?

21 A IDENTIFICATION.

22 Q OKAY. PRIOR TO -- AND I WANT TO BACK UP AND CLEAR
23 SOMETHING ELSE UP, IS PRIOR TO HEADING OVER TO CALK, WHEN
24 YOU SPOKE WITH TYRONE SMITH, I ASKED YOU DID HE GIVE YOU A
25 NAME. WAS THAT A PROPER NAME, OR WAS IT A NICKNAME THAT

1 HE GAVE YOU?

2 A IT WAS A NICKNAME.

3 Q OKAY. DID HE KNOW THIS PERSON'S PROPER NAME?

4 A NO.

5 Q PRIOR TO ARRIVING OVER TO CALK STREET, HAD YOU
6 RECEIVED INFORMATION AS TO WHO WAS IN CUSTODY?

7 A NO.

8 Q DID YOU KNOW THE NAME OF THE PERSON THAT WAS IN
9 CUSTODY?

10 A NO.

11 Q DID YOU KNOW A NICKNAME OF THE PERSON THAT WAS IN
12 CUSTODY?

13 A NO.

14 Q YOU COMPLETED THE, I GUESS, IDENTIFICATION PROCESS?

15 A THAT'S CORRECT.

16 Q AND BASED UPON THAT IDENTIFICATION PROCESS, WHAT
17 DIRECTIONS OR -- WHAT DIRECTIONS DID YOU GIVE JASON
18 WHITTLE?

19 A I ASKED OFFICER WHITTLE TO TRANSPORT MR. LIVERMAN TO
20 THE COLUMBIA POLICE HEADQUARTERS.

21 Q AND THEN WHAT DID YOU DO WITH TYRONE?

22 A I WENT BACK TO T.S. MARTIN TO CONTINUE THE INTERVIEW
23 AND ALSO TO KEEP UP WITH WHAT WAS GOING ON THERE AT THE
24 SCENE.

25 Q OKAY. DO YOU RECALL -- ARE YOU STILL JUST GETTING

1 BASICALLY A VERBAL INTERVIEW WITH TYRONE SMITH, OR ARE YOU
2 STARTING TO COMMIT THIS TO A WRITTEN STATEMENT?

3 A AT SOME POINT I DID BEGIN THE WRITTEN STATEMENT, BUT
4 WE DID TALK SOME MORE PRIOR TO THE WRITTEN STATEMENT.

5 Q OKAY. AND WITHOUT SAYING THE DETAILS OF WHAT TYRONE
6 SMITH GIVES YOU, BASICALLY, WHAT'S THE NATURE OF THE
7 INFORMATION YOU'RE TRYING TO GET FROM HIM?

8 A WHERE HE WAS AND WHAT HE SAW.

9 Q WAS HE ABLE TO DIRECT YOU TO A LOCATION WHERE THE
10 SHOOTER WAS STANDING?

11 A YES. AS WE WERE SEATED IN THE CAR AND I SPOKE WITH
12 HIM, HE DID IDENTIFY A LOCATION WHERE HE SAID THAT -- TWO
13 LOCATIONS, ACTUALLY, WHERE HE SAID THE PERSON STANDING WAS
14 SHOOTING. BASED ON THAT INFORMATION, I HAD ONE OF THE
15 OFFICERS SECURE THAT AREA, AND WE BEGAN A GRID SEARCH OF
16 THAT AREA.

17 Q OKAY. WHAT DO YOU MEAN BY SECURE THAT AREA?

18 A ACTUALLY THE PLACES WHERE HE POINTED OUT, ONE WAS IN
19 THE MIDDLE OF THE STREET. ONE WAS ALONG THE EDGE OF THE
20 STREET TO THE CURB.

21 AT THAT POINT WE WEREN'T SURE WHERE THE PERSON WAS
22 STANDING. ONCE IT WAS LOCATED, WE SECTIONED THAT OFF WITH
23 CRIME SCENE TAPE TO ELIMINATE ANY FOOT TRAFFIC OR ANYONE
24 GOING IN THAT AREA OR CONTAMINATING ANY EVIDENCE.

25 Q AND YOU WERE LOOKING FOR WHAT TYPE OF EVIDENCE IN

1 THAT AREA?

2 A ANY EVIDENCE RELATED TO GUNSHOTS, A WEAPON, SHELL
3 CASINGS OR ANYTHING OF THAT NATURE.

4 Q WHAT HAPPENS NEXT, BASICALLY?

5 A THERE WAS A LOT THAT WAS GOING ON AT THE TIME. THE
6 INVESTIGATION WAS GOING IN SEVERAL DIFFERENT DIRECTIONS.
7 I CALLED SOME OTHER PEOPLE IN FOR HELP. SOME OF THE
8 INVESTIGATORS BEGAN CANVASSING THE AREA TO SEE IF THERE
9 WERE ANY ADDITIONAL LEADS OR ADDITIONAL INFORMATION OR
10 ADDITIONAL WITNESSES.

11 Q ARE OTHER INVESTIGATORS HELPING YOU TO GET WITNESS
12 STATEMENTS AND THAT SORT OF THING?

13 A YES. THERE WERE OTHER INVESTIGATORS COLLECTING
14 STATEMENTS WHILE I CONTINUED THE INTERVIEW WITH MR. SMITH.

15 Q OKAY. THERE'S BEEN THE MENTION OF THE TWO DIFFERENT
16 INCIDENT, THE ONE THAT HAPPENED ABOUT 30 OR 45 MINUTES
17 PRIOR THE SHOOTING AND THEN THE SHOOTING ITSELF.

18 A THAT'S CORRECT.

19 Q WERE ANY OTHER WITNESSES BROUGHT TO YOUR ATTENTION
20 THAT ACTUALLY SAW THE SHOOTING ITSELF?

21 A NO, THERE WEREN'T.

22 Q WHAT DO YOU DO NEXT IN YOUR INVESTIGATION?

23 A WE HAD A LOT GOING ON. THERE WAS -- WE WERE
24 FOLLOWING LEADS BASED ON THE INFORMATION ABOUT THE CAR
25 THAT HAD BEEN THERE EARLIER. WE WERE TRYING TO LOCATE THE

1 CAR. WE WERE TRYING TO LOCATE DELSHAWN. WE WERE TRYING
2 TO LOCATE THE PEOPLE WHO WERE IN THE CAR, SO THERE WERE
3 INVESTIGATORS GOING TO DIFFERENT AREAS TRYING TO COLLECT
4 INFORMATION AND SECURE OTHER EVIDENCE THAT MIGHT BE
5 RELEVANT TO THIS SCENE.

6 Q HAVE YOU ALSO RECEIVED OR WERE YOU TRYING TO RECEIVE
7 ANY INFORMATION REGARDING THE STATUS OF THE VICTIMS?

8 A YES. I'M CONSTANTLY GETTING UPDATES FROM THE
9 OFFICERS. WE HAD OFFICERS AT THE HOSPITAL TELLING ME WHAT
10 WAS GOING ON AT THE HOSPITAL. ONE OF THE INVESTIGATORS
11 WAS DIRECTED TO GO TO THE HOSPITAL TO COLLECT THE
12 CLOTHING.

13 Q BASED UPON TALKING TO WITNESSES OF THE TWO DIFFERENT
14 INCIDENTS, DO YOU HAVE AN OFFICER GO, TRY TO FIND CARL
15 SMITH OR POOH?

16 A YES.

17 Q AND DO YOU RECALL WHO THAT OFFICER WAS?

18 A THAT WAS OFFICER KELLY WITH THE COLUMBIA POLICE
19 DEPARTMENT.

20 Q OKAY. YOU DIRECTED JASON WHITTLE TO TAKE THE
21 DEFENDANT DOWN TO COLUMBIA POLICE DEPARTMENT, AND YOU SAID
22 YOU ALSO HAVE INVESTIGATORS LOOKING FOR THE POSSIBLE
23 WEAPONS OR SHELL CASINGS OR THAT SORT OF THING AT THE
24 SCENE?

25 A THAT'S CORRECT.

1 Q WHO IS YOUR INVESTIGATOR THERE THAT'S HEADING UP THE
2 CRIME SCENE PROCESS?

3 A PETER CURRIE.

4 Q DID YOU DIRECT HIM TO DO ANYTHING IN REGARDS TO THE
5 DEFENDANT?

6 A YES. I ASKED HIM TO GO TO HEADQUARTERS AS SOON AS HE
7 COULD TO ADMINISTER THE GUNSHOT RESIDUE TEST.

8 Q ON THE DEFENDANT?

9 A ON MR. LIVERMAN.

10 Q OKAY. AT WHAT POINT DO YOU, I GUESS, LEAVE T.S.
11 MARTIN AND HEAD DOWN TO THE COLUMBIA POLICE DEPARTMENT?

12 A OKAY. I THINK IT WAS AROUND 11:45 THAT EVENING.

13 Q OKAY. SO YOU STAYED THERE SINCE ABOUT TEN AFTER TEN
14 TO ABOUT 11:45?

15 A YES, MA'AM.

16 Q OKAY. YOU GET BACK TO THE COLUMBIA POLICE DEPARTMENT
17 AND WHAT HAPPENS?

18 A JUST KIND OF GET AN OVERVIEW OF WHAT WAS GOING ON,
19 AND A FEW MINUTES LATER I WENT IN TO INTERVIEW THE
20 DEFENDANT.

21 Q WHO ELSE, IF ANYBODY, WAS DOWN AT THE POLICE STATION
22 TO GIVE STATEMENTS?

23 A CARL SMITH WAS THERE.

24 Q AND WHO WAS INTERVIEWING HIM?

25 A SERGEANT WILKERSON.

1 Q WERE YOU INVOLVED AT ALL IN THAT INTERVIEW? DO YOU
2 KNOW ANYTHING THAT CARL SMITH, POOH, IS SAYING?

3 A NO, I DON'T.

4 Q OR NOT SAYING?

5 A NOT AT THAT TIME.

6 Q OKAY. SO YOU GO TO SIT DOWN AND TALK WITH THE
7 DEFENDANT?

8 A THAT'S CORRECT.

9 Q CAN YOU EXPLAIN, BASICALLY, THAT PROCESS, WHAT
10 HAPPENS? WHERE IS HE?

11 A HE'S SEATED IN A ROOM THAT'S JUST A PLAIN ROOM WITH A
12 DESK AND SOME CHAIRS AND SOME FILE CABINETS. HE WAS
13 HANDCUFFED, PROBABLY TO THE CHAIR AT THAT TIME, AND I WENT
14 IN AND BEGAN THE INTERVIEW.

15 Q WHAT'S THE -FIRST STAGE OF YOUR INTERVIEW?

16 A THE FIRST THING I DO IS ADVISE THE PERSON OF THEIR
17 RIGHTS, THEIR CONSTITUTIONAL RIGHTS.

18 Q AND DO YOU RECALL APPROXIMATELY WHAT TIME IS IT THAT
19 YOU WERE SITTING DOWN TO DO THE ADVICE OF RIGHTS?

20 A IT WAS ABOUT 17 MINUTES AFTER 12.

21 Q I'M GOING TO SHOW YOU WHAT'S BEEN MARKED AS STATE'S
22 EXHIBIT NUMBER FOUR FOR IDENTIFICATION AND ASK IF YOU
23 RECOGNIZE THAT.

24 A YES, I DO.

25 Q AND WHAT IS THAT?

1 A THIS IS THE INTERROGATION ADVICE OF RIGHTS FORM.

2 Q IS THAT A COPY OR IS IT THE ORIGINAL?

3 A THIS IS THE ORIGINAL.

4 Q OKAY. CAN YOU GO THROUGH, THEN, YOUR PROCESS OF HOW
5 YOU START ADVISING THE DEFENDANTS OF HIS RIGHTS? WHAT
6 INFORMATION DO YOU GATHER?

7 A SOME OF THE QUESTIONS I ASKED PRIOR TO READING HIS
8 RIGHTS WERE: WAS HE UNDER THE INFLUENCE OF ANY DRUGS, AN
9 ALCOHOL. I GATHERED HIS ADDRESS; HIS NEXT OF KIN,
10 TELEPHONE NUMBER FOR HIS GRANDMOTHER; HIS PLACE HE WORKED,
11 MCDONALD'S ON TWO NOTCH ROAD; WHERE HE WENT TO SCHOOL,
12 C.A. JOHNSON PREPARATORY ACADEMY, A SENIOR, AND I
13 INDICATED ON THIS FORM THAT HE HAD ALREADY GRADUATED.

14 Q I'M SORRY, INDICATED WHAT ON THE FORM?

15 A THAT HE HAD ALREADY GRADUATED.

16 Q OKAY. AND WHAT'S THE PURPOSE OF GATHERING
17 INFORMATION IN TERMS OF ARE YOU UNDER THE INFLUENCE OF AN
18 DRUGS OR ALCOHOL?

19 A HE APPEARED COHERENT. I JUST WANTED TO SEE IF THERE
20 WAS ANYTHING THAT MIGHT HAVE CAUSED HIM NOT TO UNDERSTAND
21 OR BE COHERENT.

22 Q OKAY. SO THAT YOU CAN MAKE SURE HE UNDERSTANDS HIS
23 RIGHTS?

24 A THAT'S CORRECT.

25 Q AND GETTING HIS EDUCATIONAL BACKGROUND, THE PURPOSE

1 OF THAT?

2 A I JUST WANTED TO MAKE SURE THAT, IN MY MIND, THAT HE
3 COULD READ AND WRITE.

4 Q YOU GOT HIS AGE?

5 A I DON'T THINK I ASKED HIS AGE ON THIS FORM.

6 Q NOT ON THE WAIVER OF RIGHTS FORM?

7 A I DON'T SEE IT, NO.

8 Q OKAY. AND YOU ASKED HIM WHERE HE WORKED. THAT'S
9 JUST FOR WHAT PURPOSE?

10 A JUST INFORMATION.

11 Q OKAY. AND WHERE DID HE SAY THAT HE WORKED?

12 A HE SAID THAT HE WORKED AT MCDONALD'S ON TWO NOTCH.

13 Q ON THE WAIVER OF RIGHTS FORM, WHAT TYPE OF
14 INFORMATION ARE YOU DOCUMENTING?

15 A I INITIALLY DOCUMENTED THE PLACE THAT THE INTERVIEW
16 OCCURRED, THE DATE, AND THE TIME.

17 Q AND THEN AFTER GETTING THE BACKGROUND INFORMATION,
18 WHAT'S THE NEXT STEP?

19 A I BEGAN READING THE RIGHTS WAIVER.

20 Q OKAY. AND HOW DO YOU DO IT? DO YOU READ THE WHOLE
21 SHEET AT ONCE AND THEN ASK HIM IF HE UNDERSTANDS, OR DO
22 YOU READ EACH INDIVIDUAL RIGHT?

23 A I READ EACH INDIVIDUAL STATEMENT AND COMPLETE THE
24 FIRST PART. I STOP AND ASK IF THEY UNDERSTAND AND
25 CONTINUE WITH THE WAIVER.

1 Q OKAY. CAN YOU READ TO US WHAT EACH OF THE RIGHTS
2 WERE AND EVERYTHING THAT YOU READ TO THE DEFENDANT?

3 A "BEFORE WE ASK YOU ANY QUESTIONS, YOU MUST UNDERSTAND
4 YOUR RIGHTS. YOU HAVE THE RIGHT TO REMAIN SILENT.
5 ANYTHING YOU SAY CAN BE USED AGAINST YOU IN COURT. YOU
6 HAVE THE RIGHT TO TALK TO A LAWYER FOR ADVICE BEFORE WE
7 ASK YOU ANY QUESTIONS AND TO HAVE HIM WITH YOU DURING
8 QUESTIONING. IF YOU CANNOT AFFORD A LAWYER, ONE WILL BE
9 APPOINTED FOR YOU BEFORE ANY QUESTIONING, IF YOU WISH. IF
10 YOU DECIDE TO ANSWER QUESTIONS NOW WITHOUT A LAWYER
11 PRESENT, YOU STILL HAVE THE RIGHT TO STOP ANSWERING AT ANY
12 TIME. YOU ALSO HAVE THE RIGHT TO STOP ANSWERING AT ANY
13 TIME UNTIL YOU TALK TO A LAWYER."

14 Q AND I NOTICED NEXT TO EACH OF THESE RIGHTS THERE'S A
15 CHECK MARK. WHAT WAS THAT ACKNOWLEDGING?

16 A I JUST MADE A CHECK MARK BY EACH ONE, JUST TO ENSURE
17 THAT I READ EACH STATEMENT.

18 Q OKAY. SO AFTER YOU READ THE FIRST ONE, YOU MARK IT
19 OFF?

20 A YES, MA'AM.

21 Q AFTER READING HIM HIS RIGHTS, DID HE INDICATE THAT HE
22 UNDERSTOOD THEM?

23 A I ASKED HIM IF HE DID, AND HE INDICATED HE DID.

24 Q OKAY. AND THEN AFTER HE INDICATES THAT HE
25 UNDERSTANDS HIS RIGHTS, WHAT'S THE NEXT STEP?

1 A I HAVE A WAIVER OF RIGHTS, AND I READ THAT WAIVER TO
2 HIM.

3 Q OKAY. WHAT WAS IT THAT YOU READ TO HIM?

4 A "I HAVE READ THIS STATEMENT OF MY RIGHTS AND
5 UNDERSTAND WHAT MY RIGHTS ARE. I UNDERSTAND THE STATEMENT
6 AND WANT TO ANSWER QUESTIONS. I DO NOT WANT A LAWYER AT
7 THIS TIME. I UNDERSTAND AND KNOW WHAT I'M DOING. NO
8 PROMISES OR THREATS HAVE BEEN MADE TO ME, AND NO PRESSURE
9 OR COERCION OF ANY KIND HAS BEEN USED AGAINST ME."

10 Q AND THEN HOW DO YOU ACKNOWLEDGE THAT THE DEFENDANT IS
11 WAIVING HIS RIGHTS?

12 A I GENERALLY ASK THE PERSON IF THEY'RE WILLING TO
13 WAIVE THEIR RIGHTS. IF SO, I ASK THEM TO SIGN THE FORM,
14 AND I SHOW THEM WHERE TO SIGN.

15 Q DID THE DEFENDANT SIGN THAT FORM WAIVING HIS RIGHTS?

16 A YES, HE DID.

17 Q DID THE DEFENDANT AT ALL APPEAR TO BE UNDER THE
18 INFLUENCE OF ANY DRUGS OR ALCOHOL?

19 A NO, HE DIDN'T.

20 Q DID HE APPEAR TO UNDERSTAND AND ACKNOWLEDGE
21 EVERYTHING THAT YOU READ TO HIM?

22 A YES, I DID.

23 Q DID YOU MAKE ANY PROMISES TO HIM?

24 A NO, MA'AM.

25 Q DID YOU THREATEN HIM IN ANY WAY?

1 A NO, MA'AM.

2 Q DID YOU COERCE HIM IN ANY WAY TO GIVE THIS STATEMENT?

3 A NO, MA'AM.

4 Q AND THEN AT THE BOTTOM, HOW DO YOU ACKNOWLEDGE THE
5 ENTIRE FORM HAS BEEN READ?

6 A THERE'S TWO SPACES, A WITNESS AND THEN THE TIME,
7 00:30 AND MY SIGNATURE.

8 MS. FENT: I OFFER INTO EVIDENCE STATE'S EXHIBIT
9 NUMBER FOUR, TENDERED TO DEFENSE COUNSEL.

10 MS. FRANKLIN: YOUR HONOR, WE DO HAVE AN OBJECTION,
11 SUBJECT TO THE SAME OBJECTIONS WE MADE IN AN EARLIER
12 PROCEEDING.

13 THE COURT: ALL RIGHT. NOTHING ADDITIONAL TO WHAT'S
14 BEEN MADE EARLIER?

15 MS. FRANKLIN: JUST WHAT HAS ALREADY BEEN STATED IN
16 COURT.

17 THE COURT: IT'S OVERRULED. THE EXHIBIT, STATE'S
18 FOUR; IS THAT RIGHT?

19 MS. FENT: YES, YOUR HONOR.

20 THE COURT: IS ADMITTED.

21 (WHEREUPON, STATE'S EXHIBIT NO. 4 WAS ADMITTED INTO
22 EVIDENCE.)

23 BY MS. FENT

24 Q YOU RECEIVED THE DEFENDANT'S WAIVER OF HIS RIGHTS.
25 WHAT'S THE NEXT STEP YOU TAKE?

1 A AT THAT TIME, I BEGAN TALKING TO HIM, AND I DON'T
2 REMEMBER EVERYTHING THAT I SAID, BUT ONE OF THE THINGS I
3 TOLD HIM WAS THAT HE HAD BEEN IDENTIFIED AS BEING INVOLVED
4 IN A SHOOTING AT T.S. MARTIN DRIVE.

5 Q DID HE RESPOND TO THAT STATEMENT?

6 A YES, HE DID. HE SAID --

7 Q WHAT WAS THAT RESPONSE?

8 A HE SAID HE HAD NOT BEEN AT T.S. MARTIN.

9 Q DID YOU RESPOND TO THAT?

10 A I TOLD HIM THAT WE HAD WITNESS INFORMATION PUTTING
11 HIM THERE AT THE TIME OF THE SHOOTING.

12 Q AND THEN WHAT HAPPENED NEXT?

13 A THEN HE ADMITTED HE WAS AT T.S. MARTIN EARLIER, AND
14 HE MENTIONED SOME NAMES..

15 Q ARE YOU JUST TAKING AN ORAL STATEMENT? THE FIRST
16 THING HE SAYS, "I WAS NOT AT T.S. MARTIN," THAT'S JUST AN
17 ORAL STATEMENT. IT WAS NOT WRITTEN?

18 A THAT'S JUST AN ORAL STATEMENT.

19 Q OKAY. DO YOU START COMMITTING TO WRITING WHAT HE'S
20 TELLING YOU?

21 A YES, I DO.

22 Q AND YOU DO THAT ON A STATEMENT FORM?

23 A YES, MA'AM.

24 Q A STANDARD STATEMENT FORM THAT YOU USE AT THE
25 COLUMBIA POLICE DEPARTMENT?

1 A YES, MA'AM.

2 Q I'M GOING TO SHOW YOU WHAT'S BEEN MARKED AS STATE'S
3 EXHIBIT NUMBER THREE FOR IDENTIFICATION AND ASK IF YOU
4 RECOGNIZE THAT.

5 A YES. THIS IS THE THREE-PAGE STATEMENT THAT I TOOK
6 FROM THE DEFENDANT.

7 Q OKAY. WHAT INFORMATION DO YOU START DOCUMENTING ON
8 THE TOP OF THAT WRITTEN STATEMENT FORM?

9 A THE DATE, THE TIME, THE PLACE, THE NAME, THE DATE OF
10 BIRTH, ADDRESS AND WHAT THE STATEMENT IS IN REFERENCE TO.

11 Q DID HE TELL YOU WHAT HIS DATE OF BIRTH WAS?

12 A YES, HE DID.

13 Q AND WHAT WAS THAT?

14 A [REDACTED], 1985.

15 Q AND "I'M GIVING THIS STATEMENT CONCERNING" WHAT?

16 A ON THE FORM IT SAYS, "I'M GIVING THE STATEMENT
17 CONCERNING THE SHOOTING AT T.S. MARTIN TO J. GRAY WHO
18 IDENTIFIED HIMSELF AS AN INVESTIGATOR, C.P.D."

19 Q OKAY. AND THEN BASICALLY WHAT WAS THE FORM THAT THE
20 STATEMENT TOOK? DID YOU JUST HAND HIM A PEN SO HE COULD
21 WRITE OR ASK QUESTIONS AND ANSWER?

22 A JUST A QUESTION AND ANSWER.

23 Q WHY IS IT THAT YOU DID THAT INSTEAD OF JUST GIVING
24 HIM A PEN TO WRITE?

25 A THAT WAS JUST MY CHOICE. IT'S A COMMON WAY THAT WE

1 CONDUCT INTERVIEWS. I HAD THINGS THAT I WANTED TO ASK
2 HIM, AND I DOCUMENTED HIS RESPONSES.

3 Q OKAY. AFTER -- YOU SAID IT WAS A THREE-PAGE
4 STATEMENT YOU TOOK?

5 A YES, MA'AM.

6 Q AFTER YOU TAKE THE ENTIRE STATEMENT, WHAT DO YOU
7 BASICALLY DO?

8 A SOMETIMES I WILL READ THE STATEMENT TO THE PERSON.
9 SOMETIMES I WILL JUST GIVE IT TO THEM TO ASK THEM TO READ
10 IT TO ENSURE IT'S CORRECT. ONCE THEY HAVE READ THE
11 STATEMENT AND INDICATE THE STATEMENT IS CORRECT, I ASK
12 THEM TO SIGN EACH STATEMENT FORM.

13 Q OKAY. WHAT DID YOU DO IN THIS CASE? DID YOU READ IT
14 TO HIM OR HAVE HIM READ IT?

15 A AS I RECALL, I ASKED HIM TO READ IT, GAVE IT TO HIM.

16 Q OKAY. SO YOU BASICALLY HAND HIM THE STATEMENT, READ
17 IT OVER?

18 A THAT'S CORRECT.

19 Q GIVE THEM A CHANCE TO MAKE ANY CHANGES IF THEY WANT
20 TO MAKE ANY CHANGES?

21 A THAT'S CORRECT.

22 Q MAKE ANY DELETIONS IF THEY WANT TO TAKE ANYTHING OFF?

23 A THAT'S CORRECT.

24 Q ADD ANYTHING IF THEY WANT TO ADD ANYTHING?

25 A YES.

1 Q ON PAGE THREE OF THE STATEMENT, THERE IS ONE OF THE
2 ANSWERS THAT'S CROSSED OUT; IS THAT CORRECT?

3 A THAT'S CORRECT.

4 Q AND WHO WAS THAT DONE BY?

5 A I CROSSED IT OUT.

6 Q BECAUSE YOU WANTED TO CROSS IT OUT OR AT HIS
7 DIRECTION? HOW DID THAT HAPPEN?

8 A WELL, AT SOME POINT MR. LIVERMAN INDICATED THAT THAT
9 WAS NOT CORRECT, AND THEN I MADE THE CORRECTION AND HE
10 INITIALED WHERE I SCRATCHED IT OUT.

11 Q OKAY. SO HE PUTS HIS INITIALS "C.L." THERE WHERE IT
12 WAS SCRATCHED OUT?

13 A YES.

14 Q SO HE UNDERSTOOD THAT HE COULD CHANGE ANYTHING, ADD
15 ANYTHING, DELETE ANYTHING BECAUSE HE DID?

16 A YES, MA'AM; YES, MA'AM.

17 Q AND DOES HE SIGN ALL THREE PAGES OF THIS WRITTEN
18 STATEMENT?

19 A YES, HE DID.

20 MS. FENT: I OFFER INTO EVIDENCE STATE'S EXHIBIT 3.

21 MS. FRANKLIN: YOUR HONOR, SUBJECT TO THE SAME
22 OBJECTIONS.

23 THE COURT: SAME OBJECTIONS PREVIOUSLY MADE?

24 MS. FRANKLIN: YES.

25 THE COURT: I OVERRULE. STATE'S THREE IS ADMITTED.

1 (WHEREUPON, STATE'S EXHIBIT NO. 3 WAS ADMITTED INTO
2 EVIDENCE.)

3 BY MS. FENT

4 Q INITIALLY HE TELLS YOU, "I WAS NOT AT T.S. MARTIN."
5 YOU TELL HIM THERE ARE WITNESSES THAT PUT HIM THERE AT THE
6 SCENE. CAN YOU READ, THEN, THE STATEMENT THAT THE
7 DEFENDANT GAVE TO YOU?

8 A "WHY WERE YOU AT T.S. MARTIN TONIGHT?" RESPONSE: "I
9 WAS COMING FROM EVERGREEN APARTMENTS WITH TY AND CHRIS
10 FROM BELVEDERE AND TWO OF THEIR FRIENDS. THEY WERE ALL
11 FROM BELVEDERE."

12 QUESTION, "WHO WAS SHOOTING ON T.S. MARTIN DRIVE?"
13 ANSWER: ONE OF THE DARK SKINNED DUDES. I DIDN'T SEE
14 NOTHING BUT ONE GUN."

15 QUESTION: "WHAT WERE YOU SHOOTING -- WHAT WERE THEY
16 SHOOTING AT?" ANSWER: "A HOUSE. YOU COULD HEAR THE
17 WINDOWS BREAKING."

18 QUESTION: "WHAT KIND OF GUN WAS USED?" ANSWER: A
19 RIFLE WITH A SCOPE, AND IT WAS SAWED OFF."

20 QUESTION: "WHO IS O.B.?" ANSWER: "SOMEONE I WENT
21 TO SCHOOL WITH."

22 QUESTION: "DOES O.B. HAVE A DISPUTE WITH DELSHAWN?"
23 ANSWER: "YEAH, A WHILE BACK. THAT'S WHAT DELSHAWN TOLD
24 ME."

25 ON PAGE TWO, QUESTION: "WHAT TIME WERE YOU SITTING

1 ON THE BRIDGE?" ANSWER: "AROUND TEN. I WALKED OFF MY
2 GRANDMOTHER'S -- WALKED OUT OF MY GRANDMOTHER'S HOUSE AND
3 WAS SITTING ON THE BRIDGE. A WHITE ESCORT CAME BY WITH
4 POOH, LITTLE BOSS, AND GRADY" -- OR "BRADY DRIVING. THEY
5 SAID THEY WERE GOING TO T.S. MARTIN."

6 QUESTION: "WHY DO YOU THINK THEY WERE GOING THERE?"

7 ANSWER: "I DON'T KNOW."

8 QUESTION: "SO YOU HAD ALREADY COME FROM T.S. MARTIN
9 WHEN THEY -- WHEN THE PERSON WITH YOU WAS SHOOTING?"

10 ANSWER: "YES. I HAD ALREADY COME HOME WHEN I SAW POOH."

11 QUESTION: "AND WHAT WAS -- WHAT WAS AFTER YOU SAW --
12 AND THAT WAS AFTER YOU SAW THE GUY WITH YOU SHOOTING AT
13 T.S. MARTIN?" ANSWER: "YES. I SAW POOH AND THEM TWICE.
14 THE FIRST TIME I SAW THEM WHEN I WAS COMING FROM MY COUSIN
15 JOHN'S HOUSE AROUND SIX TO 7:00 P.M. THEY WERE MAD ABOUT
16 SOMETHING."

17 QUESTION: "WHERE DOES O.B. LIVE?" ANSWER: "OFF
18 BROAD RIVER ROAD."

19 PAGE THREE, "WHAT DOES POOH LOOK LIKE?"

20 "HE'S SHORT, 5'6", LOW HAIR, PECAN COLOR. HE LIVES
21 AT COLUMBIA GARDEN APARTMENTS."

22 QUESTION: "WHO IS LITTLE BOSS?" ANSWER: "LIGHT
23 SKINNED", AND THEN INITIALLY I HAD WRITTEN "ABOUT THE SAM
24 HEIGHT AS POOH." THAT WAS SCRATCHED THROUGH AND INITIALE
25 BY THE DEFENDANT AND CORRECTED TO READ "LIGHT SKINNED,

1 SHORTER THAN POOH."

2 QUESTION: "DID YOU SHOOT A GUN TODAY OR LAST NIGHT
3 AT ANY TIME?" ANSWER: "NO."

4 QUESTION: "WHERE DID THE DARK SKINNED PEOPLE STAY?"
5 ANSWER: "THEY (SIC) BY THE SCHOOL, THE FIRST SCHOOL.
6 THEY LIVE ON THE ROAD THAT RUNS INTO TRUMAN."

7 Q UNTIL UP TO THE POINT THAT YOU TOOK THIS STATEMENT
8 FROM CHRIS LIVERMAN, HAD YOU RECEIVED ANY INFORMATION FROM
9 ANYONE REGARDING A DETAIL OF A SCOPE?

10 A NO, MA'AM.

11 Q YOU FINISHED TAKING THIS STATEMENT. WHAT HAPPENS
12 NOW?

13 A AFTER THE STATEMENT I LEFT THE ROOM. I HAD OTHER
14 WORK TO DO. AT SOME POINT A BOOKING SLIP WAS FILLED OUT
15 BY ME FOR MR. LIVERMAN, BUT AS FAR AS INTERVIEWING, THAT
16 WAS THE END OF THE INTERVIEW. I HAD OTHER BUSINESS TO DO.

17 Q I NOTICE ON STATE'S EXHIBIT 3, THE STATEMENT FORM,
18 THAT IT APPEARS THERE ARE DUPLICATE COPIES HERE. DID THE
19 DEFENDANT GET A COPY OF HIS STATEMENT?

20 A YES. IT'S A THREE PAGE STATEMENT -- THREE PAGES ON
21 EACH STATEMENT FORM, WHITE, YELLOW, AND PINK. HE WAS
22 GIVEN A COPY OF THAT STATEMENT.

23 Q OKAY. AND IN ADDITION TO -- JUST TO MAKE SURE THE
24 STATEMENT IS COMPLETE, WE HAVE PAGES ONE, TWO, THREE.

25 A THAT'S CORRECT.

1 Q SO WE KNOW THERE ARE NO OTHER PAGES. THIS IS THE
2 ENTIRETY OF THE STATEMENT?

3 A YES, IT IS.

4 Q WHERE DO YOU HAVE THE DEFENDANT SENT AT THIS POINT?

5 A WELL, HE STAYED IN THAT ROOM FOR A WHILE, AND LATER
6 HE WAS TRANSPORTED TO THE RICHLAND COUNTY JAIL.

7 Q OKAY. BY WHOM?

8 A OFFICER WHITTLE, I BELIEVE.

9 Q OKAY. AND DID YOU GIVE OFFICER WHITTLE INSTRUCTIONS
10 WITH REGARD TO THE DEFENDANT'S CLOTHES?

11 A YES, I DID. AS A MATTER OF FACT, I FILLED OUT THE
12 INFORMATION ON THE EVIDENCE BAGS AND REQUESTED THE OFFICER
13 TO COLLECT HIS CLOTHING WHEN HE WAS BOOKED IN.

14 Q WHAT HAPPENS NEXT? WHERE IS YOUR INVESTIGATION
15 GOING?

16 A AT THAT POINT WE WERE STILL WORKING ON TRYING TO GET
17 THE CAR AND ANY EVIDENCE RELATED TO THE CAR IN THE EARLIER
18 INCIDENT. SOME SEARCHES WERE DONE. THE INTERVIEW WITH
19 CARL SMITH CONTINUED BY THE OTHER INVESTIGATOR, AND
20 SEVERAL OTHER THINGS WERE GOING ON.

21 Q OKAY. AT WHAT POINT ARE YOU NOTIFIED REGARDING THE
22 STATUS OF THE VICTIMS?

23 A THAT WAS THE NEXT MORNING -- I'M SORRY. THAT WAS THE
24 NEXT MORNING AT 11:00 A.M.

25 Q OKAY. YOU'RE GATHERING NAMES OF THE OTHER PEOPLE

1 THAT WERE POTENTIALLY INVOLVED IN THE CAR?

2 A YES. THERE WERE SOME SEARCHES DONE. THE CAR
3 INVOLVED EARLIER WAS LOCATED. IT WAS SEARCHED. THERE WAS
4 A SEARCH DONE OF THE RESIDENCE OF THE PEOPLE THAT OWNED
5 THE CAR. WARRANTS WERE BEING PREPARED, SEARCH WARRANTS
6 WERE BEING PREPARED, ARREST WARRANTS, AND ONE OF THE OTHER
7 PEOPLE IN THE CAR EARLIER WAS BROUGHT TO HEADQUARTERS,
8 BRADY BROWN, AND WE HAD PEOPLE AT THE SAME TIME, HAD THE
9 DEFENDANT'S RESIDENCE UNDER SURVEILLANCE UNTIL WE COULD
10 SECURE A SEARCH WARRANT FOR THAT LOCATION.

11 Q AT WHAT POINT DO YOU GET DIEGO'S NAME?

12 A JUST DURING THE COURSE OF THE INVESTIGATION OR LATER
13 THAT MORNING -- IT MAY HAVE BEEN FROM ONE OF THE OTHER
14 PEOPLE THAT WE INTERVIEWED.

15 Q DO YOU HAVE YOUR INVESTIGATIVE NOTES IN FRONT OF YOU?

16 A YES, I DO.

17 Q OKAY.

18 A IT WAS...

19 Q PAGE THREE, I DIRECT YOUR ATTENTION TO PAGE THREE,
20 MIDDLE OF THE PAGE.

21 A YES. AROUND NOON, 12:05, I HAVE IN MY NOTES THAT I
22 RECEIVED A VOICE MAIL MESSAGE FROM CARL SMITH IN REFERENCE
23 TO THE TALL PERSON WITH LIVERMAN, AND HE GAVE ME THE NAME
24 OF DIEGO, A STUDENT AT C.A. JOHNSON. FROM THERE WE FOUND
25 OUT MORE INFORMATION ABOUT DIEGO.

1 Q OKAY. YOU MAKE ATTEMPTS TO CONTACT DIEGO AND HAVE
2 HIM BROUGHT IN?

3 A YES, I DID.

4 Q AND WHO BROUGHT HIM IN?

5 A HIS MOTHER BROUGHT HIM TO HEADQUARTERS.

6 Q OKAY. AT WHAT POINT DO YOU HAVE INFORMATION
7 REGARDING REGINALD JOYNER, OR GOO, IS INVOLVED?

8 A AT THAT POINT AROUND 12:30 I RECEIVED INFORMATION
9 FROM ANOTHER POLICE OFFICER WHO IS A SCHOOL RESOURCE
10 OFFICER AT C.A. JOHNSON, AND HE SAID THAT HE HAD HEARD
11 REGINALD JOYNER, OR GOO, HAD BEEN INVOLVED AND THAT GOO
12 WAS A STUDENT AT A.C. FLORA.

13 Q OKAY. AND ARE YOU NOW TRYING TO LOCATE GOO?

14 A THAT'S CORRECT.

15 Q BRING HIM IN FOR A STATEMENT?

16 A YES.

17 Q APPROXIMATELY 12 HOURS AFTER YOU INTERVIEWED THE
18 DEFENDANT THE FIRST TIME YOU BRING HIM BACK FOR A SECOND
19 STATEMENT?

20 A THAT'S CORRECT.

21 Q HOW DOES THAT HAPPEN?

22 A AT THAT POINT THE TWO CHILDREN HAD DIED, SO WE HAD TO
23 UPGRADE THE WARRANTS FROM ASSAULT AND BATTERY WITH INTENT
24 TO KILL TO MURDER AND THOSE WARRANTS HAD TO BE SERVED. H
25 WAS BROUGHT TO HEADQUARTERS. I INITIATED AN INTERVIEW AT

1 THAT TIME PRIOR TO SERVING THE WARRANTS.

2 Q WHO BROUGHT HIM TO HEADQUARTERS?

3 A THAT WAS OFFICER HUNTLEY.

4 Q OKAY. AND SAME THING. WHERE DOES HE GO, IN
5 HEADQUARTERS?

6 A HE WENT TO AN INTERVIEW ROOM.

7 Q YOU MADE CONTACT WITH HIM?

8 A YES.

9 Q AND SIT DOWN AND TALK WITH HIM?

10 A YES, I DID.

11 Q AND WHAT'S THE FIRST THING YOU DO WHEN YOU SIT DOWN
12 AND TALK TO HIM THIS TIME?

13 A THIS TIME I TOLD HIM THERE WERE SOME MORE QUESTIONS
14 ABOUT THE SHOOTING THAT NEEDED TO BE CLEARED UP.

15 Q DO YOU READ HIM HIS RIGHTS AGAIN?

16 A YES. HE SHOOK HIS HEAD AFFIRMATIVELY AFTER I SAID
17 THAT, AND THEN I STARTED THE WAIVER FORM.

18 Q OKAY. STATE'S EXHIBIT NUMBER TWO FOR IDENTIFICATION,
19 DO YOU RECOGNIZE THAT?

20 A YES, I DO.

21 Q AND WHAT IS THAT?

22 A THIS IS THE INTERROGATION, ADVICE OF RIGHTS FORM.

23 Q OKAY. IS IT THE SAME ONE THAT WE WENT OVER BEFORE?

24 A THIS IS A DIFFERENT FORM.

25 Q BUT IT SAYS EXACTLY THE SAME THING ON IT?

1 A YES, MA'AM.

2 Q OKAY. AND YOU READ THAT TO HIM?

3 A YES, I DID.

4 Q EVERY SINGLE STATEMENT?

5 A YES, MA'AM.

6 Q EVERY SINGLE RIGHT?

7 A YES, MA'AM.

8 Q ASK HIM IF HE UNDERSTANDS IT?

9 A YES, MA'AM.

10 Q AND DOES HE WAIVE HIS RIGHTS AGAIN?

11 A YES, HE DID.

12 Q AND HOW DOES HE ACKNOWLEDGE HIS WAIVER OF RIGHTS?

13 A WITH A SIGNATURE.

14 Q AND YOU ALSO SIGN IT?

15 A YES, I DO.

16 MS. FENT: I OFFER INTO EVIDENCE STATE'S EXHIBIT
17 NUMBER TWO FOR IDENTIFICATION.

18 MS. FRANKLIN: SUBJECT TO THE SAME OBJECTION.

19 THE COURT: SUBJECT TO THE SAME OBJECTION. STATE'S
20 TWO, IS THAT THE NUMBER, IS ADMITTED.

21 (WHEREUPON, STATE'S EXHIBIT NO. 2 WAS ADMITTED INTO
22 EVIDENCE.)

23 BY MS. FENT

24 Q LET ME BACK UP A LITTLE BIT. EARLIER YOU HAD SAID
25 THAT YOU DIRECTED INVESTIGATOR PETE CURRIE TO DO A GUNSHO

1 RESIDUE TEST?

2 A YES, I DID.

3 Q AT WHAT POINT HAD THAT BEEN DONE?

4 A IT WAS SOME TIME PRIOR TO THE INTERVIEW. I DON'T
5 REMEMBER IF IT WAS DONE DURING THE INTERVIEW, BUT I
6 BELIEVE IT WAS DONE BEFORE I INTERVIEWED HIM.

7 Q OKAY. WHEN YOU SAY "THE INTERVIEW", ARE WE TALKING
8 ABOUT THE STATEMENT THAT WE'VE ALREADY INTRODUCED INTO
9 EVIDENCE?

10 A THAT'S CORRECT.

11 Q OKAY. SO THE FIRST WRITTEN STATEMENT HE GAVE TO YOU
12 THAT NIGHT?

13 A YES.

14 Q OKAY. AND WHY DID YOU WANT INVESTIGATOR CURRIE TO DO
15 THIS GUNSHOT RESIDUE TEST?

16 A THERE WAS A WINDOW OF TIME BETWEEN -- THE BEST TIME
17 TO COLLECT EVIDENCE FROM THE GUNSHOT, I THINK IS FOUR TO
18 SIX HOURS. WE WANTED THAT DONE AS QUICKLY AS POSSIBLE, AS
19 WELL AS ANY EVIDENCE, TO GATHER OF ANY EVIDENCE OF GUNSHOT
20 RESIDUE.

21 Q OKAY. SO PRIOR TO JASON WHITTLE TAKING THE DEFENDANT
22 BACK TO ALVIN S. GLENN WITH HIS WRITTEN STATEMENT IN HAND,
23 THAT GUNSHOT RESIDUE TEST HAD BEEN DONE?

24 A YES, IT HAD.

25 Q AND THAT INVOLVES PHYSICALLY --

1 A SWABBING THE HANDS.

2 Q OF THE DEFENDANT?

3 A YES.

4 Q THE WAIVER OF RIGHTS FORM, THIS SECOND WAIVER OF
5 RIGHTS FORM, CAN YOU READ TO US THOSE RIGHTS THAT YOU READ
6 THE DEFENDANT?

7 A THE INTERROGATION, ADVICE OF RIGHTS, ADVICE OF YOUR
8 RIGHTS, PLACE: ONE JUSTICE SQUARE; DATE: 8/27/04; TIME:
9 13:25; BEFORE WE ASK YOU ANY QUESTIONS, YOU MUST
10 UNDERSTAND YOUR RIGHTS. YOU HAVE THE RIGHT TO REMAIN
11 SILENT. ANYTHING YOU SAY CAN BE USED AGAINST YOU IN
12 COURT. YOU HAVE THE RIGHT TO TALK TO A LAWYER FOR ADVICE
13 BEFORE WE ASK YOU ANY QUESTIONS AND HAVE HIM WITH YOU
14 DURING QUESTIONING. IF YOU CANNOT AFFORD A LAWYER, ONE
15 WILL BE APPOINTED FOR YOU BEFORE ANY QUESTIONING, IF YOU
16 WISH. IF YOU DECIDE TO ANSWER QUESTIONS NOW WITHOUT A
17 LAWYER PRESENT, YOU STILL HAVE THE RIGHT TO STOP ANSWERING
18 AT ANY TIME. YOU ALSO HAVE THE RIGHT TO STOP ANSWERING AT
19 ANY TIME UNTIL YOU TALK TO A LAWYER, AND THERE'S A WAIVER
20 OF RIGHTS.

21 IT SAYS, "I'VE READ THIS STATEMENT OF MY RIGHTS AND
22 UNDERSTAND WHAT MY RIGHTS ARE. I'M WILLING TO MAKE A
23 STATEMENT AND ANSWER QUESTIONS. I DO NOT WANT A LAWYER AT
24 THIS TIME. I UNDERSTAND AND KNOW WHAT I'M DOING. NO
25 THREAT -- NO PROMISES OR THREATS HAVE BEEN MADE TO ME. NC

1 PRESSURE OR COERCION OF ANY KIND HAS BEEN USED AGAINST
2 ME." SIGNED, CHRIS LIVERMAN. I WITNESSED IT. THE TIME
3 WAS 13:28.

4 Q DID YOU THREATEN THE DEFENDANT IN ANY WAY IN GIVING
5 YOU THIS STATEMENT?

6 A NO, I DID NOT.

7 Q DID YOU COERCE HIM IN ANY WAY?

8 A NO, I DID NOT.

9 Q DID YOU MAKE ANY PROMISES TO HIM REGARDING THE
10 STATEMENT?

11 A NO, I DID NOT.

12 Q AND YOU TOLD HIM YOU HAD SOME MORE QUESTIONS THAT YOU
13 WANTED TO ASK HIM?

14 A YES.

15 Q AND YOU SAID THAT HE NODDED HIS HEAD?

16 A HE NODDED HIS HEAD AFFIRMATIVELY.

17 Q AND THAT'S WHEN YOU READ HIM HIS RIGHTS?

18 A THAT'S CORRECT.

19 Q I SHOW YOU STATE'S EXHIBIT NUMBER ONE FOR
20 IDENTIFICATION AND ASK IF YOU RECOGNIZE THAT.

21 A YES. THIS IS A TWO-PAGE STATEMENT THAT I TOOK FROM
22 THE DEFENDANT.

23 Q HIS SECOND WRITTEN STATEMENT?

24 A YES.

25 Q AND THE INFORMATION THAT YOU NOTE ON THE TOP OF THAT

1 STATEMENT?

2 A IS THE DATE, TIME, PLACE, NAME, DATE OF BIRTH,
3 ADDRESS, WHAT THE STATEMENT IS IN REFERENCE TO, MY NAME
4 AND WHO I AM.

5 Q OKAY. AND THE DEFENDANT SIGNED BOTH PAGES OF THIS
6 STATEMENT?

7 A YES, HE DID.

8 MS. FENT: I OFFER INTO EVIDENCE STATE'S EXHIBIT
9 NUMBER ONE.

10 MS. FRANKLIN: SUBJECT TO THE SAME OBJECTIONS, YOUR
11 HONOR.

12 THE COURT: ALL RIGHT, THE OBJECTION IS OVERRULED.
13 STATE'S ONE IS ADMITTED.

14 (WHEREUPON, STATE'S EXHIBIT NO. 1 WAS ADMITTED INTO
15 EVIDENCE.)

16 BY MS. FENT

17 Q IT SAYS, "I'M GIVING THIS STATEMENT CONCERNING T.S.
18 MARTIN;" IS THAT CORRECT?

19 A THAT'S CORRECT.

20 Q OKAY. IF WE CAN READ THE STATEMENT THAT THE
21 DEFENDANT GAVE TO YOU.

22 A IT'S DATED 8/27/04; THE TIME IS 13:30; THE PLACE ONE
23 JUSTICE SQUARE. "I AM CHRIS LIVERMAN. MY BIRTHDAY IS

24 [REDACTED]/85. MY ADDRESS AND PHONE NUMBER ARE [REDACTED]

25 [REDACTED]. I'M GIVING THIS STATEMENT CONCERNING T.S. MARTIN

GRAY - DIRECT (FENT)

550

1 TO J. GRAY WHO HAS IDENTIFIED HIMSELF AS INVESTIGATOR,
2 C.P.D."

3 QUESTION: "IN REFERENCE TO YOUR ORIGINAL STATEMENT,
4 DO YOU NOW WISH TO GIVE MORE INFORMATION ABOUT THE
5 SHOOTING?" ANSWER: "YES, SIR."

6 QUESTION: "WERE YOU SHOOTING A GUN ON T.S. MARTIN
7 LAST NIGHT?" ANSWER: "YES. I WAS SHOOTING A .32
8 AUTOMATIC. I ONLY HAD TWO BULLETS. I SHOT AT A HOUSE ON
9 THE CORNER WITH A RED DOOR. I WAS SHOOTING AT A TOP
10 WINDOW WITH A ROUND HOLE LIKE AN ATTIC."

11 QUESTION: "WHERE DID YOU GET THE PISTOL?" ANSWER:
12 "FROM ONE OF THOSE OTHER BOYS FROM BELVEDERE."

13 QUESTION: "DESCRIBE THE OTHER GUN ONE OF THE PEOPLE
14 WITH YOU WERE SHOOTING." ANSWER: "THE BARREL AND THE
15 WOOD STOCK WERE SAWED OFF, AND IT HAD A SCOPE."

16 PAGE TWO: "WHAT WAS THAT PERSON" -- QUESTION: "WHAT
17 WAS THAT PERSON SHOOTING AT?" ANSWER: "HE WAS SHOOTING
18 DOWN THE STREET IN THE DARK."

19 QUESTION: "DID YOU SHOOT DOWN THE STREET?" ANSWER:
20 "NO, SIR."

21 QUESTION: "DID YOU -- WHAT DID YOU DO WITH THE GUN
22 YOU HAD?" ANSWER: "I GAVE IT BACK TO THE BOY."

23 QUESTION: "WAS GOO WITH YOU?" ANSWER: "NO, SIR."

24 "WAS DIEGO WITH YOU?" ANSWER: NO, BUT I KNOW HIM."

25 QUESTION: "WAS CARL SMITH WITH YOU WHEN YOU SHOT?"

1 ANSWER: "NO."

2 IT'S BEEN INITIALLED BY "C.L.", CHRIS LIVERMAN.

3 Q AND AS YOU DID WITH THE FIRST WRITTEN STATEMENT, YOU
4 PUT PAGE ONE OF TWO SO WE KNOW IT'S JUST TWO PAGES LONG?

5 A THAT'S CORRECT.

6 Q AND THE DEFENDANT SIGNED THE BOTTOM OF BOTH OF THOSE
7 PAGES?

8 A YES.

9 Q OKAY. HOW, THIS TIME, DID YOU HAVE THE DEFENDANT
10 READ OR READ OVER AND REVIEW THIS STATEMENT?

11 A THIS STATEMENT I ASKED OFFICER HUNTLEY INTO THE ROOM
12 AS I RECALL, I READ THE STATEMENT THAT HE READ ALONG WITH
13 ME, AND THEN OFFICER HUNTLEY WITNESSED THE STATEMENT.

14 Q OKAY. WHEN YOU SAY "I READ IT AND HE READ IT ALONG
15 WITH ME," THE HE YOU'RE TALKING ABOUT IS...

16 A THE DEFENDANT.

17 Q THE DEFENDANT. SO YOU'RE BASICALLY JUST SITTING AT A
18 TABLE BOTH LOOKING AT THE STATEMENT AT THE SAME TIME?

19 A AS I RECALL, I CAME AROUND THE END OF THE TABLE,
20 TURNED THE STATEMENT SIDEWAYS AND ASKED HIM TO READ ALONG
21 AS I READ IT ORALLY.

22 Q SAME THING? HE COULD MAKE ANY CHANGES IF HE WANTED
23 TO?

24 A YES, HE COULD HAVE.

25 Q TAKE ANYTHING OUT?

1 A YES, HE COULD HAVE.

2 Q ADD ANYTHING?

3 A YES.

4 Q HE SIGNED THAT STATEMENT IN YOUR PRESENCE?

5 A YES, HE DID.

6 Q AFTER GETTING THIS STATEMENT, DO YOU GO BACK TO T.S.
7 MARTIN AT ALL?

8 A YES, I DID.

9 Q OKAY. AND WHO DID YOU GO WITH? WHAT DID YOU DO?

10 A BASED ON THE INFORMATION THAT THE DEFENDANT GAVE, I
11 WAS TRYING TO LOCATE THE ATTIC VENT THAT HE REFERRED TO,
12 SO WE WENT THERE AND WE LOOKED FOR THE VENT. WE FOUND A
13 HOUSE WITH A VENT SIMILAR TO WHAT HE DESCRIBED. WE
14 EXAMINED THE VENT THE BEST WE COULD FROM THE GROUND. WE
15 DID NOT SEE ANY BULLET HOLES IN THE VENT OR THE HOUSE.
16 CURRIE TOOK PHOTOGRAPHS OF THAT. WE ALSO LOOKED AT OTHER
17 HOUSES IN THE AREA. WHILE WE WERE THERE, WE ALSO SEARCHED
18 FOR ANY OTHER ADDITIONAL AROUND THE GENERAL AREA.

19 Q AND SPECIFICALLY, YOU SAID BASED ON THE INFORMATION
20 THE DEFENDANT GAVE YOU, YOU ARE LOOKING FOR WHAT POSSIBLE
21 EVIDENCE?

22 A LOOKING FOR EVIDENCE OF HIM FIRING THE GUN IN THE
23 MANNER THAT HE DID, SHOOTING AT THE HOUSE, A BULLET HOLE,
24 A BULLET, OR ANY KIND OF SHELL CASING. NORMALLY AN
25 AUTOMATIC PISTOL THAT IS FUNCTIONING PROPERLY WILL EJECT A

1 SHELL CASING THAT'S FIRED.

2 Q DID YOU FIND ANY DAMAGE ON ANY OTHER HOME THERE ON
3 T.S. MARTIN OTHER THAN ■■■ T.S. MARTIN?

4 A NO, MA'AM.

5 Q DID YOU FIND ANY OTHER SHELL CASINGS OR ANY OTHER
6 EVIDENCE OUT THERE?

7 A NO, MA'AM. THERE WAS OTHER EVIDENCE, BUT AS FAR AS
8 SHELL CASINGS, THE ONLY ONES WE FOUND THERE WERE WHERE
9 MR. SMITH POINTED TO.

10 Q YOU ARE ALSO STILL IN CONTACT TRYING TO GET DIEGO IN
11 TO GIVE YOU A STATEMENT; IS THAT CORRECT?

12 A THAT'S CORRECT.

13 Q OKAY. AND THEN SUBSEQUENTLY YOU INTERVIEWED DIEGO?

14 A YES, I DID.

15 Q YOU ALSO RECEIVED A PHONE CALL AND SOME INFORMATION
16 FROM SHANTE BETHEL?

17 A YES, I DID.

18 Q AND AT SOME POINT SHE COMES IN AND GIVES YOU A
19 STATEMENT; IS THAT CORRECT?

20 A THAT'S CORRECT.

21 Q DID YOU MAKE ANY PROMISES TO HER REGARDING HER
22 PENDING CASE?

23 A NOT AT ALL.

24 Q DID SHE MAKE ANY COMMENTS TO YOU ABOUT HER PENDING
25 CASE?

1 A NOT AT ALL.

2 Q SHE HAD INFORMATION ABOUT THIS, AND YOU ASKED HER TO
3 COME IN AND GIVE A STATEMENT?

4 A YES. SHE LIVED IN THE AREA. SHE KNOWS A LOT OF
5 PEOPLE, AND SHE WANTED TO HELP.

6 Q YOU EVENTUALLY -- THE NIGHT OF THIS SHOOTING, YOU DID
7 GET A WRITTEN STATEMENT FROM TYRONE SMITH, CORRECT?

8 A THAT'S CORRECT.

9 Q OKAY. AND THEN IN YOUR INVESTIGATION, YOU DID A
10 FOLLOW-UP INTERVIEW WITH TYRONE AND GOT ANOTHER WRITTEN
11 STATEMENT FROM HIM?

12 A THAT'S CORRECT.

13 Q AND YOU ARE HAVING HIM LOOK AT OTHER PHOTOGRAPHS TO
14 SEE IF HE CAN IDENTIFY ANY OTHER INDIVIDUALS, CORRECT?

15 A YES, MA'AM.

16 Q CONTINUING TO LOOK FOR REGINALD JOYNER OR GOO?

17 A YES.

18 Q DO YOU EVENTUALLY SET UP AN APPOINTMENT, A TIME, TO
19 TALK TO GOO?

20 A YES, I DID.

21 Q AND WHO BROUGHT HIM IN?

22 A I PICKED HIM UP AND BROUGHT HIM IN MYSELF.

23 Q OKAY. WHAT, IF ANY, DISABILITIES DID HE HAVE?

24 A HE'S DEAF MUTE. I HAD INFORMATION THAT HE COULD
25 SPEAK SOME. THAT'S WHY I ATTEMPTED TO INTERVIEW HIM.

1 Q OKAY. AND YOU GOT THAT INFORMATION FROM WHO?

2 A I THINK ONE OF HIS FAMILY MEMBERS OR FRIENDS.

3 Q OKAY. BASICALLY, IT'S LIKE HE CAN READ AND WRITE.
4 YOU CAN TALK TO HIM?

5 A WELL, HE COULD COMMUNICATE. I WAS HOPING I COULD DO
6 IT BY WRITING AND HAVING HIM READ MY WRITING AND THEN DO
7 IT THAT WAY.

8 Q OKAY. BUT WHAT ENDED UP HAPPENING?

9 A HE DID NOT UNDERSTAND. I TOLD HIM WHY I WAS THERE,
10 AND I ATTEMPTED TO READ A WAIVER FORM. HE DIDN'T
11 UNDERSTAND. I STOPPED, TOOK HIM BACK HOME. HE WAS NOT
12 QUESTIONED.

13 Q OKAY. YOU STOPPED BECAUSE YOU WEREN'T COMFORTABLE
14 WITH THE SITUATION?

15 A YEAH, HE DIDN'T UNDERSTAND.

16 Q OKAY. AND SO YOU SET UP AN INTERPRETER?

17 A YES, MA'AM; THAT'S CORRECT.

18 Q AND SET UP, I GUESS, ANOTHER TIME FOR HIM TO COME
19 BACK IN FOR AN INTERVIEW?

20 A YES, MA'AM.

21 Q AND DID THAT LATER HAPPEN?

22 A YES. WE HIRED TWO INTERPRETERS FROM THE
23 COMMUNICATION ACCESS NETWORK, AND LATER DID THAT
24 INTERVIEW.

25 Q OKAY. CERTIFIED INTERPRETERS?

1 A THAT'S CORRECT.

2 Q AND YOU SAID TWO. IS THAT THEIR STANDARD PROCEDURE?
3 THEY SEND MORE THAN ONE?

4 A YES. WHEN I FIRST INITIALLY MADE CONTACT WITH THE
5 PERSON IN CHARLESTON, THEY SAID THAT IT WOULD BE BETTER TO
6 HAVE TWO, AND THEY RECOMMENDED THAT, SO WE BROUGHT TWO
7 PEOPLE IN, ONE FROM ATLANTA AND ONE FROM CHARLESTON.

8 Q AND YOU INTERVIEWED THEM. THROUGH THESE CERTIFIED
9 INTERPRETERS, YOU INTERVIEWED GOO?

10 A YES, MA'AM.

11 Q DID YOU GO BACK OUT TO CALK STREET OR BETHEL BISHOP
12 YOURSELF AND CANVAS THE AREA?

13 A YES, I DID. I THINK THAT WAS ON THE 30TH OF AUGUST.
14 I WENT BACK TO LOOK FOR ANY ADDITIONAL EVIDENCE JUST TO
15 SEE WHAT THE AREA LOOKED LIKE, AS WELL, AND I DID WALK
16 DOWN THE PATHS THROUGH THAT AREA LOOKING FOR ANY WEAPONS
17 OR ANY OTHER EVIDENCE THAT MIGHT BE RELATED TO THE CASE.

18 Q AND DID YOU FIND ANYTHING AT THAT TIME?

19 A NO, MA'AM.

20 Q BASICALLY, YOU HAVE SAID THAT YOU HAD A LOT OF
21 INVESTIGATORS AND OFFICERS INVOLVED IN THE CASE. IS THERE
22 INFORMATION OUT THERE AS TO WHAT TYPE OF WEAPON YOU'RE
23 LOOKING FOR?

24 A WE KNEW THAT IT WAS A .22 RIFLE, BUT SPECIFICALLY
25 OTHER THAN THAT, NO.

1 Q AND IN YOUR INVESTIGATION, ARE YOU CONTINUING TO
2 ATTEMPT TO IDENTIFY THIS LITTLE CHRIS AND TY?

3 A YES, MA'AM.

4 Q AND DOES THAT DEVELOP ANYWHERE ANY POSITIVE
5 IDENTIFICATIONS AS TO WHO THESE PEOPLE ARE?

6 A NO, MA'AM.

7 Q BASED UPON YOUR YEARS AS AN INVESTIGATOR, IS IT
8 UNUSUAL THAT PEOPLE DON'T NECESSARILY WANT TO COME FORWARD
9 AND HELP AND COOPERATE?

10 A IT'S NOT UNUSUAL, ESPECIALLY IN A CASE LIKE THIS
11 WHERE A LOT OF PEOPLE ARE SCARED, AFRAID TO BE INVOLVED.

12 Q YOU ALSO -- DO YOU GO OUT TO THE BETHEL BISHOP AND
13 SEE IF THERE WERE VIDEO CAMERAS, CORRECT --

14 A YES.

15 Q -- SET UP AROUND THE BETHEL BISHOP?

16 A YES.

17 Q DO YOU COLLECT THOSE C.D.'S, THOSE TAPES OF THE
18 BETHEL BISHOP?

19 A YES, I DID.

20 Q CAN YOU DESCRIBE FOR THE JURY BASICALLY THE AMOUNT OF
21 TAPES THAT YOU HAVE, THE CAMERA SET UP AND WHAT THAT
22 EVIDENCE WAS YOU RECEIVED FROM BETHEL BISHOP?

23 A THERE IN THE OFFICE AT THE APARTMENT COMPLEX, THEY
24 HAVE A SURVEILLANCE SYSTEM. THERE'S CAMERAS INSTALLED AT
25 DIFFERENT PLACES AROUND THE APARTMENT COMPLEX, AND IT'S

1 RECORDED 24 HOURS A DAY.

2 THE CAMERA IS SET UP SO THAT IF SOMEONE WANTS TO DO
3 SPECIFIC SURVEILLANCE, THEY CAN GO IN THERE AND MANIPULATE
4 A CERTAIN CAMERA, ZOOM IN, ZOOM OUT OR TRACK SOMEONE FROM
5 CAMERA TO CAMERA. OTHER THAN THAT, THE INFORMATION IS
6 JUST RECORDED, GOING BACK AND FORTH FROM CAMERA TO CAMERA.

7 WHEN WE GOT THE C.D.S, IT WAS SET UP IN THE FORMAT
8 WHERE WHEN IT COMES UP ON THE SCREEN, THERE WERE SEVERAL
9 CAMERAS. IT GOES BACK AND FORTH.

10 THE CAMERAS MAY BE ON THIS CORNER OF THE BUILDING.
11 SOMEONE COULD BE STANDING UNDER THE CAMERA, BUT THE CAMERA
12 IS PROBABLY -- IN MOST CASES, THE CAMERA WAS POINTED OUT
13 RECORDING OTHER AREAS, AND I SPENT AT LEAST FOUR TO
14 FIVE -- AT LEAST FOUR TO FIVE HOURS REVIEWING THOSE TAPES.

15 Q SO IF THAT'S A CAMERA AT BETHEL BISHOP, AND I AM
16 STANDING UNDER IT, IT'S NOT NECESSARILY RECORDING ME THIS
17 CLOSE?

18 A SOME OF THE CAMERAS ARE SET UP WHERE THEY WOULD BE
19 OUT VIEWING OUT ABOVE THAT AREA.

20 Q SO WAY OUT ACROSS THE COURTROOM?

21 A YES, MA'AM.

22 Q AND LOOKING AT THOSE TAPES AND LOOKING AT EVERYTHING
23 THAT'S RECORDING, ARE YOU ABLE TO GET ANY DETAILS OF ANY
24 INFORMATION?

25 A THERE'S A LOT OF PEOPLE. IT'S THE SUMMERTIME. IT'S

1 A WARM EVENING. THERE'S A LOT OF PEOPLE OUT IN THE AREA.
2 A LOT OF PEOPLE ARE WEARING DIFFERENT TYPES OF CLOTHING,
3 AND THERE'S A LOT OF PEOPLE COMING AND GOING FROM EVERY
4 DIRECTION. THE CAMERAS ARE SWITCHING BACK AND FORTH. AS
5 FAR AS IDENTIFYING ANYONE, I COULDN'T.

6 Q OKAY. WHEN YOU SAY CAMERAS ARE SWITCHING BACK AND
7 FORTH, IF I AM STANDING UNDER THIS CAMERA, IT'S NOT
8 NECESSARILY RECORDING EVERY MINUTE OF MY MOVE? DESCRIBE
9 THAT? WHAT DO YOU MEAN BY "THE CAMERAS ARE SWITCHING BACK
10 AND FORTH"?

11 A ON THE FORMAT, THE CAMERA ARE -- SOMETIMES THERE MAY
12 BE A BLANK SPACE FROM THAT CAMERA, THEN IT SWITCHES TO
13 ANOTHER CAMERA, THEN IT WILL REAPPEAR. MAYBE A FEW
14 SECONDS LATER, A FEW MINUTES LATER, RECORDING ANOTHER
15 AREA.

16 Q SO THIS CAMERA TURNS OFF AND ANOTHER CAMERA TURNS ON?

17 A I'M NOT SURE IF THEY TURN OFF AND ON, BUT THEY DO
18 RECORD CERTAIN AREAS AS THEY APPEARED.

19 Q OKAY. SO IT'S POSSIBLE I'M WALKING ACROSS THE ROOM
20 AND THE CAMERA JUST WOULDN'T CATCH THAT PART OF ME WALKING
21 IN FRONT OF THE CAMERA?

22 A THAT'S WHAT IT LOOKED LIKE AS I REVIEWED THEM.

23 Q WERE ALL OF THE CAMERAS WORKING?

24 A I DON'T THINK SO. THERE WERE SOME BLANK SPOTS ON THE
25 SCREEN BY THE CAMERA.

1 MS. FRANKLIN: I WOULD OBJECT AT THIS POINT. I'M NOT
2 SURE THAT THIS IS SOMETHING THAT'S WITHIN THE KNOWLEDGE OF
3 INVESTIGATOR GRAY.

4 THE COURT: SUSTAINED. HE CAN DESCRIBE WHAT HE SAW.
5 BY MS. FENT

6 Q OKAY. WHEN YOU LOOK AT THE SCREEN, THERE ARE
7 MULTIPLE CAMERAS?

8 A YES, MA'AM.

9 Q AND WERE ALL OF THE CAMERAS SHOWING SOMETHING OR WERE
10 SOME BLACK?

11 A SOME WERE BLACK.

12 Q YOU SAID YOU LOOKED AT THOSE FOR FOUR OR FIVE HOURS?

13 A PROBABLY AT LEAST THAT MUCH, MAYBE MORE.

14 Q OKAY. HOW MANY PEOPLE WALKING AROUND IN WHITE
15 T-SHIRTS AND JEANS AND BLACK CLOTHES ON?

16 A QUITE A FEW.

17 Q OKAY. ABLE TO IDENTIFY ANY FACES AT ALL?

18 A NO, MA'AM.

19 Q APPROXIMATELY SIX WEEKS LATER, WAS THE RECOVERY OF A
20 WEAPON BROUGHT TO YOUR ATTENTION?

21 A YES, IT WAS.

22 Q AND WHAT TYPE OF WEAPON?

23 A IT WAS A RUGER 1022 SEMIAUTOMATIC RIFLE WITH A SCOPE.

24 Q AND WHO WAS THAT OFFICER, LAW ENFORCEMENT PERSON,
25 THAT RECOVERED THAT PERSON?

1 A THAT WAS OFFICER -- SERGEANT -- OFFICER DUTTON.

2 Q SHE CONTACTED YOU REGARDING THE FINDING OF THE
3 WEAPON?

4 A I WAS NOTIFIED, AND I'M NOT SURE IF IT WAS HER OR ONE
5 OF THE OTHER CRIME SCENE PEOPLE, BUT I WAS NOTIFIED THAT
6 THE RIFLE HAD BEEN COLLECTED.

7 Q AND YOU NOW HAVE A RUGER .22 RIFLE WITH A SCOPE IN
8 YOUR POSSESSION. WHAT DO YOU WANT TO DO WITH IT?

9 A HAVE FORENSICS DONE, HAVE IT COMPARED WITH THE --
10 HAVE THE SHELL CASINGS FOUND AT THE SCENE COMPARED WITH
11 THAT RIFLE.

12 Q AND DID YOU REQUEST THAT THAT BE DONE AND ALL THAT
13 INFORMATION BE GIVEN TO S.L.E.D.?

14 A YES, I DID.

15 Q DID YOU ACTUALLY SEE THAT WEAPON?

16 A YES, I DID.

17 Q I'M GOING TO SHOW YOU WHAT'S BEEN MARKED AS STATE'S
18 EXHIBIT 63. IS THAT THE WEAPON?

19 A YES, IT IS.

20 Q THAT'S THE .22 RIFLE WITH A SCOPE THAT DUTTON
21 RECOVERED?

22 A YES, MA'AM.

23 Q DID YOU ASK THAT IT BE LOOKED AT FOR PURPOSES OF --

24 MS. FRANKLIN: YOUR HONOR, LEADING --

25 THE COURT: SUSTAINED TO THE FORM OF THE QUESTION.

1 BY MS. FENT

2 Q ASIDE FROM SENDING IT TO S.L.E.D. FOR BALLISTIC
3 ANALYSIS, ANY OTHER PROCESSING THAT YOU WANTED POSSIBLY TO
4 BE DONE?

5 A YES, MA'AM. WE WERE INTERESTED IF THERE WERE ANY
6 FINGERPRINTS ON THE GUN. I ASKED ONE OF THE CRIME SCENE
7 OFFICERS TO GO AND LOOK AT IT, SEE IF IT WAS IN ANY
8 CONDITION TO BE PROCESSED FOR THAT HAVING BEEN -- IT HAD
9 BEEN OUTSIDE FOR QUITE SOME TIME, IT APPEARED. SHE DID
10 LOOK AT THE GUN.

11 Q WHAT CONDITION? DESCRIBE THE CONDITION THE GUN WAS.

12 A WHEN THE GUN WAS RECOVERED, IT WAS RUSTY. IT HAD
13 DIRT ON IT. IT HAD OBVIOUSLY BEEN OUTSIDE FOR QUITE SOME
14 TIME.

15 Q IS THAT GOING TO AFFECT THE ABILITY TO GET ANY PRINTS
16 OFF OF IT?

17 A FROM WHAT SHE EXPRESSED TO ME, IT WAS --

18 MS. FRANKLIN: YOUR HONOR, HEARSAY.

19 THE COURT: SUSTAINED.

20 BY MS. FENT

21 Q AFTER THAT REVIEW YOU HAD IT SENT TO S.L.E.D.?

22 A THAT'S CORRECT.

23 Q OF ALL THE INDIVIDUALS THAT YOU SPOKE WITH, COLLECTED
24 STATEMENTS FROM, TOOK STATEMENTS FROM, HOW MANY WITNESSES
25 HAD INFORMATION REGARDING THE ACTUAL SHOOTING?

1 A TWO.

2 Q ACTUALLY SEEING -- I'M SORRY, AT T.S. MARTIN SEEING
3 THE SHOOTING?

4 A OKAY, ONE.

5 Q OKAY.

6 BEG THE COURT'S INDULGENCE.

7 (PAUSE).

8 IN THE SECOND WRITTEN STATEMENT THAT THE DEFENDANT
9 GAVE TO YOU, STATE'S EXHIBIT NUMBER ONE, THE DEFENDANT,
10 YOU ASKED HIM TO DESCRIBE THE GUN ONE OF THE OTHER PEOPLE
11 WITH YOU WERE SHOOTING. THE ANSWER: "THE BARREL AND
12 STOCK WERE SAWED OFF, AND IT HAD A SCOPE," CORRECT?

13 A YES, MA'AM.

14 Q STILL AT THIS POINT TALKING TO ALL THE OTHER
15 WITNESSES, DID YOU HAVE ANY OTHER INFORMATION REGARDING A
16 SCOPE?

17 A NO, MA'AM.

18 Q THE DEFENDANT IS THE ONLY PERSON THAT HAS EVER
19 MENTIONED A SCOPE?

20 A THAT'S CORRECT.

21 MS. FENT: NO FURTHER QUESTIONS AT THIS TIME.

22 THE COURT: ALL RIGHT. LET'S TAKE A BRIEF RECESS
23 BEFORE CROSS-EXAMINATION. WE'LL TAKE ABOUT FIVE MINUTES.

24 MR. FOREMAN, LADIES AND GENTLEMEN, PLEASE DON'T
25 DISCUSS THE CASE. YOU'RE EXCUSED TO YOUR JURY ROOM.

1 EVERYONE ELSE STAY SEATED, PLEASE.

2 (WHEREUPON, THE JURY LEFT OPEN COURT AT APPROXIMATELY
3 12:00 P.M.)

4 THE COURT: A SHORT BREAK. FIVE MINUTES.

5 (WHEREUPON, A SHORT BREAK WAS TAKEN.)

6 MS. FRANKLIN: MAY I APPROACH?

7 THE COURT: SURE.

8 (WHEREUPON, THERE WAS A BENCH CONFERENCE..)

9 THE COURT: ALL RIGHT. IS THE DEFENDANT READY?

10 MS. FRANKLIN: YES, YOUR HONOR.

11 THE COURT: IS THE STATE READY?

12 MS. FENT: YES, YOUR HONOR.

13 THE COURT: ALL RIGHT. GET THE JURY IN, PLEASE.

14 (WHEREUPON, THE JURY CAME INTO OPEN COURT AT
15 APPROXIMATELY 12:11 P.M.)

16 THE BAILIFF: THE JURY IS SEATED, YOUR HONOR.

17 THE COURT: ALL RIGHT. MS. FRANKLIN, YOU MAY

18 CROSS-EXAMINE.

19 MS. FRANKLIN: THANK YOU, YOUR HONOR. MAY IT PLEASE
20 THE COURT.

21 CROSS-EXAMINATION:

22 BY MS. FRANKLIN

23 Q HOW ARE YOU, INVESTIGATOR GRAY?

24 A FINE, THANK YOU. HOW ARE YOU?

25 Q OKAY. YOU HAVE BEEN AN INVESTIGATOR WITH THE

1 COLUMBIA POLICE DEPARTMENT AGAIN FOR HOW LONG?

2 A SINCE 1989.

3 Q IN ORDER TO BECOME AN INVESTIGATOR, I MEAN YOU WERE
4 FIRST SORT OF A DEPUTY, RIGHT?

5 A I WAS A PATROL OFFICER.

6 Q PATROL OFFICER, AND YOU'RE A GRADUATE OF THE POLICE
7 ACADEMY?

8 A YES, MA'AM.

9 Q AND WHAT YEAR DID YOU GET OUT?

10 A '85, I THINK IT WAS.

11 Q AND AT THE ACADEMY YOU LEARNED HOW TO DEVELOP AND
12 WRITE INCIDENT REPORTS?

13 A YES, MA'AM.

14 Q AND YOU LEARNED HOW TO INVESTIGATE CASES, RIGHT?

15 A THERE WAS SOME INFORMATION ABOUT THAT, YES, MA'AM.

16 Q DID YOU LEARN MOST OF YOUR INFORMATION JUST BY DOING
17 IT? I MEAN, IS THAT HOW YOU BECOME A GOOD INVESTIGATOR?

18 A WELL, THAT'S WHERE I'VE LEARNED THE MOST FROM MY
19 MISTAKES.

20 Q AND IT'S IMPORTANT TO INVESTIGATE CASES THOROUGHLY,
21 ISN'T IT?

22 A YES, MA'AM.

23 Q AND YOU HAVE INVESTIGATED MANY CRIMES?

24 A YES, MA'AM.

25 Q AND YOU HAVE INVESTIGATED MANY MURDER CASES, HAVEN'T

1 YOU?

2 A YES, MA'AM.

3 Q DO YOU KNOW HOW MANY MURDER CASES YOU HAVE WORKED ON?

4 A NO, MA'AM.

5 Q WOULD YOU SAY IT WAS A LOT?

6 A YES, MA'AM.

7 Q AND YOU MAKE CAREFUL NOTES DURING THE COURSE OF THE
8 INVESTIGATION, DON'T YOU?

9 A I TRY TO.

10 Q YOU KNOW THAT THESE NOTES ARE GOING TO BE HANDED TO
11 OTHER PEOPLE?

12 A YES.

13 Q AND YOU KNOW THAT SOLICITORS RELY ON THESE REPORTS?

14 A YES.

15 Q AND THE DEFENSE COUNSEL RELIES ON THESE REPORTS?

16 A YES, MA'AM.

17 Q AND SO YOU WANT TO BE THOROUGH IN YOUR NOTE TAKING?

18 A YES.

19 Q YOU WANT TO BE ACCURATE IN YOUR NOTE TAKING?

20 A AS ACCURATE AS I CAN, YES, MA'AM.

21 Q AND YOU'RE UNDER AN AFFIRMATIVE OBLIGATION TO BE
22 COMPLETELY TRUTHFUL IN YOUR STATEMENTS; IS THAT CORRECT?

23 A YES, MA'AM.

24 Q BECAUSE YOU DON'T WANT INNOCENT PEOPLE IMPLICATED IN
25 CRIMES THAT THEY DIDN'T COMMIT.

1 A THAT'S CORRECT.

2 Q AND YOU WANT PEOPLE WHO ARE RESPONSIBLE FOR
3 COMMITTING CRIMES TO ACTUALLY BE HELD RESPONSIBLE FOR
4 COMMITTING THOSE CRIMES?

5 A YES, MA'AM.

6 Q AND YOU CREATED NOTES RELATIVE TO THE INVESTIGATION
7 THAT YOU DID IN THIS CASE?

8 A YES, MA'AM.

9 Q AND YOU PROVIDED TO THE SOLICITOR'S OFFICE AND YOU
10 PROVIDED TO US SIX PAGES OF TYPEWRITTEN NOTES THAT YOU
11 CREATED IN THE COURSE OF THIS INVESTIGATION?

12 A YES, MA'AM.

13 Q OKAY. AND YOU DIDN'T TYPE THESE NOTES AS YOU WERE
14 CURRENTLY UNDERGOING THE INVESTIGATION, DID YOU?

15 A NO, MA'AM, I DID NOT.

16 Q YOU PROBABLY HAND WROTE SOME NOTES AND TYPED THEM UP
17 AT A LATER POINT?

18 A I WOULD HANDWRITE THEM AS I GO AND TRY TO TYPE THEM
19 THE SAME DAY.

20 Q IS THAT WHAT HAPPENED IN THIS CASE?

21 A NO, MA'AM.

22 Q BUT YOU HAVE NOT PROVIDED ANY HANDWRITTEN NOTES TO
23 THE DEFENSE IN THIS CASE, HAVE YOU?

24 A ON THE LAST PAGE OF -- I'M SORRY, ON PAGE EIGHT
25 THERE'S SOME HANDWRITTEN NOTES AND A COUPLE OF OTHER

1 PAGES, SOME HANDWRITTEN NOTES, ONE FROM DECEMBER OF '05.

2 Q OF '05, OKAY. SO ON PAGE EIGHT YOU'RE TALKING ABOUT
3 THE TYPEWRITTEN PAGES, AND THEN YOU HAVE ANOTHER INSERT?

4 A SOME MORE, YES, MA'AM.

5 Q AND ALL THE NOTES IN YOUR INVESTIGATION ARE FROM YOUR
6 OWN PERSONAL KNOWLEDGE?

7 A YES, MA'AM.

8 Q AND OTHER INVESTIGATORS WRITE NOTES ABOUT WHAT THEY
9 EXPERIENCE, RIGHT?

10 A YES, MA'AM.

11 Q AND YOU DON'T RECALL WHEN YOU TYPED UP THESE NOTES?

12 A NO, I DON'T.

13 Q DO YOU RECALL IF IT WAS BACK IN 2004?

14 A OH YES.

15 Q OR WHETHER IT WAS LATER?

16 A YES, IT WAS.

17 Q WOULD IT HAVE BEEN AROUND THE TIME THAT THIS INCIDENT
18 OCCURRED?

19 A YES, MA'AM.

20 Q NOW, WHEN THIS EVENT HAPPENED AND THESE MURDERS TOOK
21 PLACE, I MEAN IT WAS REALLY BIG NEWS AT THE TIME, WASN'T
22 IT?

23 A IT WAS ON THE NEWS, YES, MA'AM.

24 Q AND IT WAS IN THE NEWSPAPERS?

25 A YES.

1 Q YES. AND IT WAS ON TELEVISION?

2 A YES.

3 Q AND, IN FACT, IT'S STILL A HIGH PROFILE CASE, IS IT
4 NOT?

5 A I GUESS IT IS.

6 Q YES. AND SOME ORGANIZATIONS WERE HOLDING MEETINGS
7 BECAUSE OF THIS EVENT. DO YOU RECALL THAT?

8 A I'M SORRY?

9 Q DO YOU RECALL THERE BEING THESE COMMUNITY MEETINGS --

10 A YES, MA'AM.

11 Q -- AFTERWARDS?

12 A YES, MA'AM.

13 Q AND EVEN MAYOR BOB COBLE MADE PUBLIC REMARKS ABOUT
14 THIS CASE.

15 A I REALLY DIDN'T PAY ATTENTION TO A LOT OF THAT DURING
16 THE INVESTIGATION.

17 Q DOUBLE HOMICIDES ARE NOT VERY COMMON IN THE CITY OF
18 COLUMBIA POLICE JURISDICTION, ARE THEY?

19 A THEY HAPPEN. WE HAD A TRIPLE HOMICIDE THIS MORNING.

20 Q YES. BUT IT SEEMS -- BUT GENERALLY SPEAKING, IT'S
21 NOT VERY COMMON, IS IT?

22 A IT OCCURS ABOUT EVERY YEAR.

23 Q BUT YOU PROBABLY GET A WHOLE LOT MORE ROBBERIES AND
24 BURGLARIES AND THINGS OF THAT NATURE THAN DOUBLE
25 HOMICIDES?

1 A YES, MA'AM.

2 Q WOULD THAT BE ACCURATE? IT'S PROBABLY MUCH LESS
3 COMMON FOR THE VICTIMS TO BE CHILDREN.

4 A YES, MA'AM.

5 Q AT THE TIME THIS HAPPENED, I MEAN THE COMMUNITY WAS
6 OUTRAGED BY WHAT HAD HAPPENED, WAS IT NOT?

7 A I THINK THEY WERE, YES, MA'AM.

8 Q OKAY. YOU WERE NOTIFIED OF THIS SHOOTING BY DISPATCH
9 AT 9:57?

10 A YES, MA'AM.

11 Q AND THAT'S ROUGHLY 11 MINUTES AFTER THE SHOTS HAD
12 BEEN FIRED?

13 A YES, MA'AM.

14 Q AND APPROXIMATELY NINE MINUTES AFTER THE OFFICERS
15 INITIALLY SHOWED UP TO THE SCENE. WOULD THAT BE ACCURATE?

16 A YES, MA'AM.

17 Q AND THEN YOU QUICKLY WENT TO THE SCENE?

18 A I WENT THERE AS QUICKLY AS I COULD.

19 Q DID YOU LIVE IN TOWN?

20 A NO. I LIVE OUT OF TOWN.

21 Q YOU'RE OUT. WERE YOU DOWN AT POLICE HEADQUARTERS?

22 A YES. I WAS WORKING THE EVENING SHIFT FROM FOUR
23 O'CLOCK TO -- 3:30 TO 12:00.

24 Q AND OTHER OFFICERS WERE PRESENT WHEN YOU ARRIVED AT
25 THE SCENE?

1 A YES.

2 Q AND THOSE OFFICERS WERE SERGEANT DESROCHERS. AM I
3 PRONOUNCING THAT RIGHT?

4 A DESROCHERS.

5 Q DESROCHERS. LIEUTENANT MIKE JOHNSON?

6 A YES.

7 Q MELRON KELLY?

8 A YES.

9 Q PETE CURRIE?

10 A YES.

11 Q INVESTIGATOR VINSON?

12 A VINSON CAME A LITTLE BIT LATER, BUT HE WAS THERE ON
13 THE SCENE.

14 Q AND DEPUTY VANHOUTEN?

15 A YES.

16 Q SO IMMEDIATELY AFTER THE SHOOTING, THERE WERE SEVEN
17 OFFICERS PRESENT ON THE SCENE, INCLUDING YOU?

18 A YES, MA'AM.

19 Q AND YOU WERE DESIGNATED THE LEAD INVESTIGATOR?

20 A YES, MA'AM.

21 Q AND WERE YOU GOING TO BE THE LEAD INVESTIGATOR ON ANY
22 MAJOR CRIME SCENE THAT HAPPENED THAT NIGHT? I MEAN, HOW
23 IS THAT DETERMINATION MADE?

24 A AS I RECALL, THERE WERE TWO OFFICERS WORKING. WE HAD
25 THE AREAS OF THE CITY DIVIDED UP, AND THIS ONE OCCURRED IN

1 MY AREA.

2 Q ALL RIGHT. SO YOU WERE IN CHARGE OF THE SCENE, THE
3 CRIME SCENE.

4 A YES, MA'AM.

5 Q DID YOU AT THAT POINT EVER CREATE AN ADMINISTRATIVE
6 LOG?

7 A NO, I DIDN'T.

8 Q DID YOU OR ANYONE ELSE UNDER YOUR COMMAND EVER
9 ESTABLISH A WRITTEN RECORD TO DETERMINE EVERYONE WHO WAS
10 IN THAT SCENE?

11 A NO, MA'AM.

12 Q DID YOU ESTABLISH ANY SORT OF A WRITTEN RECORD TO
13 ESTABLISH WHO WAS LEAVING THE SCENE?

14 A NO, MA'AM..

15 Q SO WE DON'T HAVE A RECORD OF EVERYONE WHO WAS PRESENT
16 THERE, DO WE?

17 A PROBABLY NOT. THERE WERE A LOT OF PEOPLE WORKING FOR
18 THE POLICE DEPARTMENT.

19 Q WELL, THERE WERE A LOT OF PEOPLE FROM THE POLICE
20 DEPARTMENT. THERE WERE ALSO A LOT OF PEOPLE FROM THE
21 COMMUNITY. IS THAT ACCURATE?

22 A YES, BUT THEY WERE MOSTLY IN THEIR HOUSES.

23 Q I'M SORRY?

24 A THEY WERE MOSTLY IN THEIR HOMES AT THAT TIME.

25 Q DID YOU HAVE YELLOW TAPE PLACED AROUND THE CRIME

1 SCENE?

2 A YES, I DID.

3 Q WHEN DID YOU HAVE THAT DONE?

4 A IT WAS SOMETIME DURING THE INTERVIEW WITH MR. SMITH,
5 AND IT WAS AFTER I WENT TO CALK STREET, SO IT WAS PROBABL
6 AROUND 10:30, IN THAT AREA.

7 Q OKAY. SO UPON YOUR ARRIVAL AT THE SCENE, YOU WERE
8 MADE AWARE PRETTY QUICKLY WHAT HAPPENED?

9 A YES, MA'AM.

10 Q SO YOU KNEW IMMEDIATELY THERE HAD BEEN A SHOOTING?

11 A YES.

12 Q AND YOU KNEW IMMEDIATELY THERE WERE A NUMBER OF
13 PEOPLE WHO MAY HAVE BEEN INVOLVED IN THE SHOOTING?

14 A YES, MA'AM.

15 Q YOU KNEW THAT A NUMBER OF BOYS HAD BEEN SPOTTED IN
16 THE AREA?

17 A YES.

18 Q AND YOU KNEW THAT THOSE BOYS WERE NOT FROM THAT
19 NEIGHBORHOOD?

20 A NO, I DIDN'T.

21 Q YOU DIDN'T KNOW IF THEY WERE FROM THE NEIGHBORHOOD OI
22 NOT?

23 A NO.

24 Q WHEN YOU WERE SPEAKING TO WITNESSES, DID THEY SAY
25 THAT THEY KNEW WHO THESE PEOPLE WERE?

1 A NO, MA'AM.

2 Q OKAY. SO THEY DID NOT KNOW WHO THESE PEOPLE WERE?

3 A NOT AT THAT POINT, NO.

4 Q AND YOU ALSO KNEW PRETTY QUICKLY THAT WHOEVER HAD
5 DONE THIS HAD RUN AWAY FROM THE SCENE PRETTY QUICKLY?

6 A YES.

7 Q THE WITNESSES WERE SAYING THAT THE BOYS RAN IN THE
8 DIRECTION OF WEST BELTLINE; IS THAT CORRECT?

9 A I THINK SOME OF THE WITNESSES DID, YES.

10 Q DID YOU REQUEST THAT A DOG TRAIL BE RUN?

11 A NO, I DIDN'T.

12 Q IS THAT SOMETHING THAT YOU COULD HAVE DONE?

13 A I'VE DONE IT IN THE PAST, BUT IN THIS AREA THERE'S A
14 LOT OF FOOT TRAFFIC, A LOT OF PEOPLE WALKING AROUND,
15 GENERALLY.

16 Q BUT YOU COULD HAVE CALLED S.L.E.D. THEY WOULD HAVE
17 HELPED YOU. IS THAT WHO WOULD HAVE HELPED DOG TRACK?

18 A WELL, WE HAVE OUR OWN DOGS. GENERALLY, THE UNIFORM
19 OFFICERS MAKE THE DECISION ABOUT THE DOGS.

20 Q SO SOMEONE UNDER YOUR COMMAND WOULD HAVE MADE THAT
21 DECISION?

22 A WELL, I WAS JUST IN CHARGE OF THE CRIME SCENE
23 INVESTIGATION. THE DOGS WOULD HAVE BEEN CALLED OUT BY,
24 MOST LIKELY, UNIFORMED OFFICERS IF THEY THOUGHT IT WAS
25 NECESSARY.

1 Q OKAY. BUT YOU DID SEND SOME OFFICERS INTO SOME OF
2 THE SURROUNDING NEIGHBORHOODS?

3 A THOSE ARE WELL TRAINED OFFICERS. THEY KNEW WHERE TO
4 GO. ALL OF THAT WAS OCCURRING WHILE I ARRIVED AT THE
5 SCENE AND AS I WAS AT THE SCENE.

6 Q OKAY.

7 A AND SOMEONE ELSE HAD ORCHESTRATED ALL OF THAT.

8 Q WELL, WHO HAD ORCHESTRATED WHERE THESE OFFICERS WOULD
9 BE SENT?

10 A I'M NOT SURE. JIMMY AULD, AS HE TESTIFIED, HE'S
11 FAMILIAR WITH THE AREA. THE OTHER OFFICERS IN THAT AREA
12 ARE FAMILIAR WITH THE AREA, AND IT WOULD HAVE BEEN
13 PROBABLY ONE OF THE SUPERVISORS THAT LIEUTENANT JOHNSON OR
14 SERGEANT DESROCHERS OR JIMMY AULD.

15 Q SO ANOTHER SUPERVISOR WOULD HAVE BEEN RESPONSIBLE FOR
16 MAKING SURE THAT THERE WERE POLICE CHECKING ALL OF THESE
17 PARTICULAR AREAS; IS THAT CORRECT?

18 A YES, MA'AM.

19 Q YOU HAD BEEN ON THE SCENE FOR A VERY SHORT TIME
20 BEFORE OFFICER VANHOUTEN APPROACHED YOU, TOLD YOU THERE
21 WAS A WITNESS TO THE SHOOTING.

22 A YES. I'M NOT SURE WHAT TIME IT WAS, BUT IT WAS JUST
23 AFTER I ARRIVED.

24 Q HE TOOK YOU OVER TO MEET TYRONE SMITH?

25 A I DON'T KNOW IF HE TOOK ME. I JUST HAD INFORMATION

1 THAT TYRONE SMITH HAD WITNESSED THE SHOOTING.

2 Q AND SO WHERE DID YOU FIND TYRONE SMITH?

3 A HE WAS IN A HOUSE THERE ON T.S. MARTIN.

4 Q SO HE WAS INSIDE AT THE TIME THAT YOU SPOKE TO HIM?

5 A YES.

6 Q AND HE WAS AT HOUSE 106?

7 A I THINK SO.

8 Q T.S. MARTIN?

9 A IT WAS IN A HOUSE RIGHT THERE ACROSS FROM WHERE THE
10 SHOOTING OCCURRED.

11 Q AND HE TOLD YOU HE HAD SEEN THE SHOOTING AS HE WAS
12 UPSTAIRS. HE WAS LOOKING OUT OF A WINDOW FROM THE SECOND
13 FLOOR WHEN HE SAW THE SHOOTING?

14 A THAT'S CORRECT.

15 Q AND HE TOLD YOU THAT HE WAS THERE WITH SOME FAMILY
16 MEMBERS?

17 A AND SOME OTHER PEOPLE IN THE HOUSE.

18 Q AND SOME OTHER PEOPLE. HE TOLD YOU THAT THERE WAS
19 ONLY ONE PERSON WHO WAS SHOOTING THAT NIGHT?

20 A THAT'S CORRECT.

21 Q AND HE INFORMED YOU THAT THERE WERE OTHER PEOPLE WHO
22 WERE THERE PRESENT WITH THE SHOOTER?

23 A YES, HE DID.

24 Q AND HE GAVE YOU A NICKNAME FOR THE SHOOTER?

25 A YES, HE DID.

1 Q TO BE CLEAR, I MEAN, THIS IS A DISCUSSION YOU HAD
2 WITH HIM PRIOR TO TAKING A WRITTEN STATEMENT WITH HIM?

3 A YES, MA'AM.

4 Q AND IT WAS DURING YOUR TALK WITH TYRONE SMITH THAT
5 LIEUTENANT MIKE JOHNSON APPROACHED YOU AND TOLD YOU THAT
6 CORPORAL AULD WAS OVER ON CALK STREET WITH A SUSPECT?

7 A THAT'S CORRECT.

8 Q AND AT THAT POINT, YOU AND TYRONE SMITH LEFT T.S.
9 MARTIN TOGETHER AND WENT OVER THERE?

10 A THAT'S CORRECT.

11 Q YOU WERE THE ONLY TWO PEOPLE WHO WERE IN THE CAR --

12 A YES, MA'AM.

13 Q -- WHEN YOU WENT OVER THERE? YOU TOLD TYRONE SMITH
14 THAT YOU HAD A SUSPECT IN CUSTODY, AND HE WANTED TO KNOW
15 IF HE WAS GOING TO IDENTIFY HIM AS THE SHOOTER?

16 A NO, I DID NOT.

17 Q OKAY. YOU TOLD TYRONE SMITH THERE WAS A SUSPECT IN
18 CUSTODY. YOU WANTED TO SEE IF THIS IS WHO IT WAS, RIGHT?

19 A I TOLD HIM THE POLICE HAD STOPPED SOMEONE, AND I
20 ASKED HIM TO GO WITH ME TO SEE IF THAT'S ONE OF THE PEOPLE
21 INVOLVED.

22 Q WELL SO WHEN TYRONE SMITH WENT OVER THERE, I MEAN HE
23 KNEW THAT THIS WAS IN CONNECTION WITH THE SHOOTING --

24 A YES, MA'AM.

25 Q -- AND HE WAS GOING OVER THERE FOR PURPOSES OF SEEING

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1 WHETHER OR NOT THIS WAS THE SHOOTER?

2 A YES, MA'AM.

3 Q AND DURING YOUR RIDE OVER THERE, I THINK MR. SMITH
4 PROVIDED SOME INFORMATION, TOLD YOU THAT HE ONLY KNOWS THE
5 NICKNAME OF THE PERSON WHO DID THIS, CORRECT?

6 A AND HE GAVE ME A NICKNAME, AND HE ALSO GAVE ME A
7 BRIEF PHYSICAL DESCRIPTION.

8 Q OKAY. HE TOLD YOU HE WAS 6'1"?

9 A YES, MA'AM.

10 Q AND HE DIDN'T ACTUALLY -- WELL, HE TOLD YOU THAT HE
11 WAS OF MEDIUM WEIGHT.

12 A YES, MA'AM.

13 Q SO IN OTHER WORDS, WHOEVER DID THIS WASN'T FAT.

14 A HE SAID MEDIUM WEIGHT.

15 Q OKAY. NOT FAT, NOT SKINNY, SO AVERAGE, CORRECT?

16 A JUST MEDIUM WEIGHT IS WHAT HE TOLD ME.

17 Q OKAY. HE SAID THAT HE HAD LIGHT SKIN.

18 A YES.

19 Q HE HAD HE HAD BRAIDED HAIR?

20 A YES, MA'AM.

21 Q HE DID NOT MENTION ANYTHING ABOUT HAVING A CAMOUFLAGE
22 BANDANNA OR ANYTHING LIKE THAT, DID HE?

23 A I'D HAVE TO LOOK AT THE STATEMENT.

24 (PAUSE).

25 NO, HE DIDN'T.

1 Q YOU WOULD HAVE MADE A NOTE OF THAT IF HE HAD GIVEN
2 THAT TO YOU AS A PHYSICAL DESCRIPTION?

3 A I THINK I WOULD HAVE, YES, MA'AM.

4 Q AND YOU RECALL TAKING TWO WRITTEN STATEMENTS FROM
5 TYRONE SMITH?

6 A YES, MA'AM.

7 Q REGARDING THESE EVENTS? AND YOU TOOK THE FIRST ONE
8 ON THE NIGHT OF THE SHOOTING?

9 A THAT'S CORRECT.

10 Q ABOUT AN HOUR AFTER THE SHOOTING. PLEASE CORRECT ME
11 IF I'M WRONG, BUT YOU STARTED THAT STATEMENT WITH TYRONE
12 SMITH AT T.S. MARTIN?

13 A YES, MA'AM.

14 Q AND AFTER MIKE JOHNSON TOLD YOU ABOUT CORPORAL AULD,
15 I MEAN, YOU STOPPED TAKING THAT STATEMENT AND WENT OVER
16 THERE?

17 A WELL, I WAS STILL DOING THE ORAL STATEMENT, JUST
18 GETTING SOME INFORMATION WHEN I WAS INFORMED THE PERSON
19 HAD BEEN DETAINED. THAT'S WHEN I WENT OVER THERE.

20 Q OKAY.

21 A AND I CAME BACK AND CONTINUED TO TALK TO HIM AND
22 STARTED THE WRITTEN STATEMENT.

23 Q OKAY. SO YOU TESTIFIED AS TO THE ORAL STATEMENT, BUT
24 YOU DIDN'T START THE WRITTEN STATEMENT UNTIL AFTER THE
25 IDENTIFICATION WAS MADE?

1 A ~~YES~~, MA'AM.

2 Q OKAY. SO YOU TOOK TYRONE SMITH TO CALK STREET. YOU
3 CONDUCTED THE SHOW-UP PROCEDURE?

4 A YES, MA'AM.

5 Q DO YOU RECALL TAKING TYRONE SMITH'S SECOND STATEMENT
6 ON AUGUST 26TH, 2004?

7 A I REMEMBER TAKING A STATEMENT, YES, MA'AM.

8 Q AND THAT DATE SOUNDS ABOUT RIGHT?

9 A YES, MA'AM.

10 Q AND THAT STATEMENT, YOU WERE TRYING TO GET PHYSICAL
11 DESCRIPTIONS FROM SOME OF THE OTHER PEOPLE THAT WERE
12 THERE; IS THAT RIGHT?

13 A I'D HAVE TO LOOK AT THE STATEMENT. I DON'T REMEMBER
14 WHAT I ASKED HIM. I JUST DON'T REMEMBER.

15 Q BUT YOU WOULD HAVE WANTED TO KNOW WHAT THE PHYSICAL
16 DESCRIPTION OF THESE OTHER PEOPLE WERE.

17 A YES, MA'AM.

18 Q DO YOU NEED TO SEE A COPY OF TYRONE SMITH'S SECOND
19 STATEMENT?

20 A PROBABLY TO REFRESH.

21 MS. FRANKLIN: OKAY. BEG THE COURT'S INDULGENCE.

22 THE COURT: SURE.

23 (PAUSE).

24 MS. FRANKLIN: WITH PERMISSION TO APPROACH THE
25 WITNESS, YOUR HONOR?

1 THE COURT: SURE.

2 BY MS. FRANKLIN

3 Q JUST SEE IF THIS REFRESHES YOUR RECOLLECTION. LET ME
4 MAKE SURE I GAVE YOU THE RIGHT ONE.

5 A YOU DID.

6 Q OKAY. OKAY. IF YOU JUST WANT A COUPLE OF MINUTES TO
7 SORT OF REVIEW THAT, JUST LET ME KNOW WHEN YOU'RE READY.

8 (PAUSE).

9 A THERE IS SOME REFERENCE TO DESCRIBING THE OTHER
10 PEOPLE, YES, MA'AM.

11 Q OKAY. AND THAT'S SOMETHING THAT YOU'D BE TRYING TO
12 DO?

13 A YES, MA'AM.

14 Q IS GETTING A PHYSICAL DESCRIPTION?

15 A YES, MA'AM.

16 Q AT ONE POINT, YOU ASKED HIM TO DESCRIBE THE YOUNG BOY
17 WHO POINTED TO [REDACTED] C.D. [REDACTED]'S HOUSE JUST PRIOR TO THE
18 SHOOTING. DO YOU RECALL THAT?

19 A WHICH PAGE IS THAT ON?

20 Q LET ME GET MY OWN COPY.

21 BEG THE COURT'S INDULGENCE.

22 (PAUSE).

23 A I'M SORRY. I FOUND IT. IT'S ON PAGE TWO.

24 Q OKAY. SO YOU FOUND IT ON PAGE TWO. SO YOU ASKED HIM
25 TO DESCRIBE THE YOUNG BOY WHO POINTED AT [REDACTED] C.D. [REDACTED]'S

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1 HOUSE JUST PRIOR TO THE SHOOTING?

2 A I ASKED "DESCRIBE THE TWO SHORT PEOPLE." THAT'S ON
3 ABOUT THE THIRD OR FOURTH PAGE.

4 Q OKAY. THE ANSWER WAS, "THE ONE THAT POINTED WAS
5 WEARING A WHITE T-SHIRT. HE WAS SHORTER THAN ME. I'M NOT
6 SURE HOW TALL I AM." DO YOU RECALL THAT?

7 A YES.

8 Q SO THIS WITNESS WHO GIVES YOU AN EXACT HEIGHT OF THE
9 SHOOTER DOESN'T EVEN KNOW HIS OWN HEIGHT; IS THAT
10 ACCURATE?

11 A HE SAID HE DIDN'T KNOW HOW TALL HE WAS.

12 Q OKAY. TYRONE SMITH HAD INFORMED YOU THAT BABY JES.
13 HAD BEEN TO T.S. MARTIN EARLIER THAT NIGHT WITH A GUN. DO
14 YOU RECALL THAT?

15 A YES, MA'AM.

16 Q AND AT 10:20 YOU AND TYRONE SMITH ARRIVE AT CALK
17 STREET FOR AN IDENTIFICATION?

18 A YES, MA'AM.

19 Q OFFICER WHITTLE HAD CHRISTOPHER LIVERMAN IN THE BACK
20 OF HIS PATROL CAR?

21 A YES.

22 Q AND YOU LEFT TYRONE IN THE CAR WHILE YOU HELPED
23 OFFICER WHITTLE GET CHRIS LIVERMAN OUT OF THE CAR?

24 A THAT'S CORRECT.

25 Q AND CHRISTOPHER LIVERMAN WAS IN HANDCUFFS?

1 A YES, HE WAS.

2 Q ~~HOW FAR WAS THE CAR FROM WHERE TYRONE SMITH WAS~~
3 ~~SEATED?~~

4 A ~~PROBABLY 20 FEET.~~

5 Q 20 FEET. ~~AND IT WAS NIGHTTIME~~ WHEN THIS
6 IDENTIFICATION HAPPENED?

7 A YES, MA'AM.

8 Q OKAY. AND THEN ~~YOU TOOK TYRONE SMITH BACK TO~~ PS.
9 ~~MARTIN DRIVE?~~

10 A ~~YES.~~

11 Q ~~AND THEN YOU TOOK A STATEMENT?~~

12 A YES.

13 Q ~~AND IT'S AT THIS POINT AFTER YOU'VE DONE THIS~~
14 ~~IDENTIFICATION THAT HE GIVES YOU A CLOTHING DESCRIPTION OF~~
15 ~~THE SHOOTER?~~

16 A ~~DURING THE WRITTEN STATEMENT I GOT A CLOTHING~~
17 ~~DESCRIPTION.~~

18 Q AND THAT WAS AFTER YOU DID THE IDENTIFICATION?

19 A YES, MA'AM. ~~NOW, SOME OF THE INFORMATION IN HIS~~
20 ~~STATEMENT WAS GIVEN TO ME IN THE ORAL STATEMENT.~~ IT MAY
21 HAVE BEEN THROUGH, BUT AS FAR AS THE WRITTEN STATEMENT,
22 ~~THE ACTUAL WRITING OF THE STATEMENT WAS DONE AFTER.~~

23 Q WAS DONE AFTERWARDS?

24 A YES.

25 Q OKAY. ~~AND ACCORDING TO YOUR NOTES, AS YOU'RE GOING~~

1 OVER TO CALK STREET, HE GIVES YOU A DESCRIPTION OF HIS
2 BEING 6'1" MEDIUM BUILD, LIGHT SKINNED, BRAIDS?

3 A THAT'S CORRECT.

4 Q OKAY. AND THERE'S NO CLOTHING DESCRIPTION INCLUDED
5 AT THE TIME?

6 A NO.

7 Q THERE'S A CLOTHING DESCRIPTION GIVEN IN THE STATEMENT
8 AFTERWARDS?

9 A YES, MA'AM.

10 Q AND YOU DID NOT PERFORM ANY OTHER SHOW-UP
11 IDENTIFICATIONS THAT NIGHT, DID YOU?

12 A MA'AM.

13 Q AND NO ONE ELSE ON T.S. MARTIN CLAIMED TO HAVE SEEN
14 THE SHOOTER?

15 A NO, MA'AM.

16 Q DO YOU HAVE A ROUGH ESTIMATE OF HOW MANY PEOPLE WERE
17 PRESENT ON T.S. MARTIN ON THE NIGHT WHEN THE SHOOTING
18 HAPPENED?

19 A NO, I DON'T.

20 Q WOULD YOU KNOW IF IT WAS BETWEEN TEN AND 12?

21 A AS FAR AS OUTSIDE WHEN THE SHOOTING HAPPENED?

22 Q OR JUST IN THE AREA, PEOPLE WHO MAY HAVE BEEN ON THE
23 PORCHES EARLIER. I MEAN PEOPLE WHO --

24 A PEOPLE WHO --

25 Q -- MAY HAVE BEEN OUTSIDE.

1 A I DON'T KNOW WHO WAS OUT THERE PRIOR TO THE SHOOTING.
2 I COULD ESTIMATE THE NUMBER OF HOUSES THERE, BUT I DON'T
3 KNOW HOW MANY PEOPLE LIVE IN THE HOUSES.

4 Q HOW MANY HOUSES ARE THERE?

5 A FIFTEEN, MAYBE 20.

6 Q SO THERE'S ONLY ONE PERSON ON THIS STREET WHO CLAIMS
7 TO HAVE SEEN THE SHOOTING?

8 A WELL, HE WAS IN THE HOUSE. WHEN HE SAW THEM
9 APPROACH, HE WENT IN THE HOUSE AND LOOKED THROUGH THE
10 WINDOW.

11 Q I UNDERSTAND, BUT I MEAN THERE IS ONLY ONE PERSON WHO
12 EVER CLAIMS TO HAVE SEEN THE ACTUAL SHOOTING HAPPEN?

13 A THERE WERE SOME PEOPLE THERE AT THE HOUSE WHERE THE
14 VICTIMS WERE.

15 Q AND HE'S THE ONLY ONE WHO CLAIMS THAT HE ACTUALLY SAW
16 THE SHOOTING?

17 A HE'S THE ONE THAT SAW THE PERSON THAT FIRED THE
18 SHOTS.

19 Q YES. SO AT THE TIME THAT YOU DID THE SHOW-UP
20 IDENTIFICATION AND AT THIS TIME OF THE NIGHT, TYRONE SMITH
21 IS REALLY THE ONLY PERSON YOU HAD AS A WITNESS AT THAT
22 TIME?

23 A THAT ACTUALLY -- YES, MA'AM.

24 Q AND WHEN YOU RETURNED TO T.S. MARTIN, TYRONE SMITH
25 SHOWED YOU WHERE THE SHOOTING HAPPENED, FROM PHYSICALLY IN

1 THE STREET?

2 A WHEN I WAS TALKING TO HIM, THAT'S ONE OF THE THINGS I
3 ASKED HIM, WHERE WAS THE PERSON STANDING WHEN HE SHOT, AND
4 HE POINTED TO THE AREA.

5 Q AND THEN YOU HAD A GRID SEARCH INITIATED IN THAT
6 AREA?

7 A THAT'S CORRECT.

8 Q BUT YOU DID NOT INITIATE A GRID SEARCH FOR THE ENTIRE
9 BLOCK, DID YOU?

10 A NO, I DID NOT. I WENT BACK THE NEXT DAY --

11 Q I'M JUST TALKING ABOUT THE NIGHT THAT YOU WERE THERE.

12 A NO, NOT THAT NIGHT.

13 Q YOU DID A GRID SEARCH WHERE TYRONE SMITH TOLD YOU HE
14 THOUGHT YOU MIGHT FIND SOMETHING?

15 A YES, MA'AM.

16 Q OKAY. AND YOU LOOKED FOR BULLETS WHERE TYRONE SMITH
17 SAID THERE MIGHT BE BULLETS?

18 A LOOKED FOR ANY EVIDENCE, YES, MA'AM.

19 Q BUT YOU DID NOT AT THAT POINT LOOK FOR BULLETS
20 ANYWHERE ELSE?

21 A LIKE I SAID, THERE WERE A LOT OF EXPERIENCED
22 OFFICERS. I'M SURE THEY SEARCHED THAT AREA. IN FACT,
23 PETE CURRIE HAD LOOKED AROUND IN THAT AREA, AND I'M SURE
24 SOME OF THE OTHER OFFICERS DID. IN FACT, DESROCHERS SAID
25 THEY CHECKED AND HADN'T FOUND ANYTHING. SO THERE WAS SOME

1 SEARCHING THAT HAD OCCURRED, BUT NOT AT THAT SPECIFIC AREA
2 WHERE MR. SMITH SAID MR. LIVERMAN WAS STANDING.

3 Q AND, OF COURSE, WE HAVEN'T RECEIVED ANY NOTES
4 REGARDING THE SEARCHES?

5 A I HAVE.

6 Q NEVER BEEN MEMORIALIZED?

7 A BUT I REMEMBERED THE OFFICERS LOOKED AND TOLD ME THEY
8 HAD NOT FOUND ANY SHELL CASINGS OR ANY EVIDENCE.

9 Q ONCE YOU RETURNED TO THE SCENE, YOU SAID OFFICER PETE
10 CURRIE WENT TO POLICE HEADQUARTERS TO DO A GUNSHOT RESIDUE
11 TEST ON MR. LIVERMAN.

12 A YES, MA'AM.

13 Q AND YOU SENT HIM TO CONDUCT THIS G.S.R. TEST AFTER
14 YOU COMPLETED YOUR INTERVIEW WITH TYRONE SMITH?

15 A AS I RECALL, WHEN I GOT BACK TO THE SCENE, I ASKED
16 CURRIE TO DO THAT AS SOON AS HE COULD.

17 Q OKAY.

18 A SO I WAS STILL -- I THINK I FINISHED THE INTERVIEW
19 AFTER I ASKED HIM TO DO THAT.

20 Q OKAY. SO YOU WERE ACTUALLY STILL TALKING TO TYRONE
21 SMITH, STILL TAKING A STATEMENT FROM TYRONE SMITH WHEN YOU
22 TALKED TO PETE CURRIE TO GO AND DO THE G.S.R.?

23 A YES, I HAD A LOT OF THINGS TO GET STRAIGHT.

24 Q AND DURING YOUR INTERVIEW WITH TYRONE SMITH, I MEAN,
25 YOU WERE MADE AWARE THAT THE GUN INVOLVED WAS A .22

1 CALIBER GUN?

2 A HE SAID IT SOUNDED LIKE A .22.

3 Q RIGHT. SO HE THOUGHT IT SOUNDED LIKE A .22. THAT
4 WAS SOME INDICATION THAT THAT MIGHT BE THE KIND OF WEAPON
5 INVOLVED?

6 A YES.

7 Q BUT HE TOLD YOU THAT HE BELIEVED THAT THE SHOOTER WAS
8 SHOOTING A TECH .22?

9 A THAT'S WHAT HE SAID.

10 Q AND HE DESCRIBED IT AS LONG AND SLENDER, AND HE SAID
11 THAT THE WAY IT SOUNDED, IT SOUNDED LIKE A .22?

12 A YES.

13 Q AND ARE .22 CALIBER RIFLES COMMON?

14 A YES.

15 Q IT'S OFTEN USED TO HUNT SMALL ANIMALS?

16 A YES, MA'AM.

17 Q OKAY. AND FOR PLINKING COKE CANS AND THAT SORT OF
18 THING?

19 A YES, MA'AM.

20 Q BUT ESSENTIALLY, IT'S LIKE A HUNTING RIFLE; IS THAT
21 ACCURATE?

22 A MA'AM?

23 Q IS THAT ACCURATE TO SAY IT'S LIKE A HUNTING RIFLE?

24 A IT'S PROBABLY USED MORE FOR HUNTING THAN ANYTHING
25 ELSE, AND TARGET PRACTICE.

1 Q AND I GUESS .22 CALIBER RIFLES WOULD BE MORE COMMON
2 THAN SAY A TECH .22?

3 A PROBABLY.

4 Q ARE TECH .22S COMMON?

5 A I'VE SEEN A LOT OF THEM, YES, MA'AM.

6 Q SO WOULD YOU SAY THEY ARE FAIRLY COMMON?

7 A I DON'T KNOW.

8 Q SO NOT UNCOMMON?

9 A THEY SELL THEM IN THE STORES. THEY SEEMED TO BE A
10 LOT MORE COMMON BACK IN THE '90S THAN THEY ARE NOW.

11 Q LET'S TALK A LITTLE BIT ABOUT THE FACTS THAT WERE
12 MADE AWARE TO YOU DURING YOUR INITIAL CONTACT WITH TYRONE
13 SMITH ON AUGUST 26TH, OKAY. YOU'RE AWARE THAT HE ATTENDED
14 KEENAN HIGH SCHOOL?

15 A I DON'T KNOW IF I ASKED HIM THAT OR NOT.

16 Q OKAY. ARE YOU AWARE THAT HE WAS IN THE NINTH GRADE?

17 A HE MAY HAVE TOLD ME, BUT I DIDN'T MAKE A NOTE OF IT.
18 I DON'T REALLY KNOW.

19 Q YOU DIDN'T ASK HIM IF HE WAS IN ANY SPECIAL EDUCATION
20 COURSES?

21 A NO, MA'AM.

22 Q AND TYRONE SMITH INFORMED YOU DURING THIS INITIAL
23 MEETING WITH HIM THAT A WHITE FORD ESCORT HAD BEEN ON T.S.
24 MARTIN EARLIER IN THE EVENING?

25 A YES, HE DID.

1 Q AND YOU WERE MADE AWARE THAT THE CAR WAS THERE ABOUT
2 NINE O'CLOCK THAT NIGHT?

3 A ~~SOME TIME AROUND NINE, YES~~ MA'AM.

4 Q ~~AND THAT'S THE TIME HE THOUGHT?~~ HE THOUGHT IT WAS
5 AROUND NINE O'CLOCK?

6 A YES.

7 Q ~~AND YOU WERE MADE AWARE THAT TYRONE SMITH BELIEVED~~
8 THAT BABY JESUS, IS WHAT HE CALLED HIM, THAT HE BELIEVED
9 THAT CHRISTOPHER ~~LIVERMAN~~ AND TWO OTHER PEOPLE WERE IN
10 THAT CAR?

11 A HE INDICATED THAT HE WAS ~~THERE EARLIER~~.

12 Q ~~AND THAT THEY EXITED THE VEHICLES AT T.S. MARTIN?~~

13 A YES, MA'AM.

14 Q ~~YOU WERE MADE AWARE THAT THESE PEOPLE WERE LOOKING~~
15 ~~FOR DELSHAWN PRESCOTT?~~

16 A ~~YES~~, MA'AM.

17 Q ~~AND WHO INFORMED YOU THAT THEY WERE LOOKING FOR~~
18 ~~DELSHAWN PRESCOTT?~~

19 A ~~I'M NOT SURE~~.

20 Q MIGHT IT HAVE BEEN -- I MEAN, DO YOU RECALL IF IT WAS
21 TYRONE SMITH WHO SAID THEY WERE LOOKING FOR DELSHAWN?

22 A I'D HAVE TO LOOK AT HIS STATEMENT. IT MIGHT HAVE
23 BEEN TYRONE SMITH IN HIS STATEMENT. I'D HAVE TO LOOK AT
24 HIS STATEMENT TO SEE.

25 Q AND YOU WERE MADE AWARE THAT C.D. HAD

1 SPOKEN TO TYRONE SMITH EARLIER THAT NIGHT?

2 A I THINK MR. SMITH TOLD ME HE HAD SOME CONTACT, SPOKE
3 TO HER OR SOMETHING.

4 Q SO YOU KNEW THAT THEY KNEW ONE ANOTHER?

5 A I THINK SO.

6 Q WERE YOU AWARE THAT SHE HAD BEEN OVER AT MR. SMITH'S
7 HOUSE EARLIER?

8 A NO, NOT UNLESS IT'S IN HIS STATEMENT.

9 Q SO WERE YOU MADE AWARE THAT SHE, ALONG WITH ASHLEY
10 AND DARESHA BANKS, TYRONE SMITH, HAD ACTUALLY BEEN OUTSIDE
11 TALKING TO LAW ENFORCEMENT WHEN THIS WHITE CAR DROVE BY
12 EARLIER?

13 A I HEARD THAT TESTIMONY, 'BUT AS FAR AS TALKING TO LAW
14 ENFORCEMENT, I DIDN'T KNOW THAT.

15 Q WERE YOU MADE AWARE THAT SHE HAD MADE CONTACT FOR
16 SOMEONE WHO WAS LOOKING FOR WHERE THE SLOBS LIVED?

17 A YES. I THINK THAT WAS IN ONE OF THE STATEMENTS.

18 Q ~~AND YOU WERE MADE AWARE, AFTER SPEAKING WITH TYRONE~~
19 ~~SMITH, THAT BABY JES. POINTED A .38 SPECIAL AT TYRONE~~
20 ~~SMITH; IS THAT ACCURATE?~~

21 A ~~THAT'S WHAT HE SAID, YES.~~

22 Q ~~AND YOU WERE MADE AWARE THAT THERE WAS PROBABLY SOME~~
23 ~~CONFUSION ABOUT MAYBE WHO TYRONE SMITH WAS. PEOPLE WHO~~
24 ~~WERE IN THE CAR MAYBE THOUGHT HE WAS DELSHAWN PRESCOTT~~
25 ~~FIRST?~~

1 A ~~I'M NOT SURE ABOUT THAT.~~

2 Q DO YOU RECALL SOMEONE SAYING THAT TYRONE SMITH IS
3 TELLING YOU THAT SOMEONE SAID, "THAT AIN'T DELSHAWN," AND
4 THEN GOT BACK IN THE CAR?

5 A IF IT'S IN HIS STATEMENT, YES.

6 Q AFTER THE PISTOL HAD ALREADY BEEN PUT IN HIS FACE?

7 A IF THAT'S IN HIS STATEMENT.

8 Q SO YOU DON'T HAVE ANY INDEPENDENT RECOLLECTION?

9 A NO, I DON'T.

10 Q YOU'RE AWARE FROM, I GUESS, TESTIMONY THAT THE GUN
11 WAS PULLED ON TYRONE SMITH THAT WAS ACTUALLY FROM A HOUSE
12 -- AT A DISTANCE OF TWO HOUSES AWAY?

13 A I DON'T REMEMBER.

14 Q ~~WERE YOU AWARE THAT THE POLICE HAD PREVIOUSLY BEEN~~
15 ~~CALLED TO T.S. MARTIN REGARDING --~~

16 A YES, MA'AM.

17 Q -- ~~WHAT HAPPENED?~~

18 A ~~YES,~~ MA'AM.

19 Q AND YOU KNEW THAT WHEN YOU HAD ARRIVED AFTER THE
20 SHOOTING HAD OCCURRED?

21 A ~~I HAD A LITTLE BIT OF INFORMATION, I KNEW THAT THERE~~
22 ~~HAD BEEN A DISTURBANCE. I KNEW THE POLICE HAD GONE THERE~~
23 ~~AND LEFT TO CHECK ON DELSHAWN.~~

24 Q WERE YOU AWARE THAT TYRONE SMITH HAD POINTED THIS CAR
25 OUT TO POLICE AS IT HAD DRIVEN BY THE NEIGHBORHOOD A

1 SECOND TIME?

2 A HE MAY HAVE TOLD ME THAT IN THE STATEMENT. I'M NOT
3 SURE.

4 Q BUT YOU WERE AWARE THAT THERE WERE SOME PEOPLE IN A
5 WHITE FORD ESCORT WHO WERE LOOKING FOR TROUBLE ON T.S.
6 MARTIN DRIVE?

7 A THERE WERE SOME PEOPLE IN A WHITE FORD ESCORT
8 REPORTED TO BE IN THAT AREA, YES, MA'AM.

9 Q AND YOU'RE AWARE THAT TYRONE SMITH BELIEVED THAT IT
10 WAS THE SAME GROUP OF BOYS THAT CAME BACK BEFORE THE
11 SHOOTING HAPPENED?

12 A HE MADE SOME REFERENCE TO THAT IN HIS STATEMENT. I'I
13 HAVE TO LOOK AT HIS STATEMENT FOR SPECIFICS.

14 Q AND YOU HAVE THE STATEMENT, RIGHT? IT'S THE SECOND
15 STATEMENT?

16 A I THINK THIS IS THE SECOND STATEMENT.

17 Q DO YOU WANT THE FIRST ONE?

18 BEG THE COURT'S INDULGENCE.

19 (PAUSE).

20 MAY IT PLEASE THE COURT. MAY I APPROACH THE WITNESS?
21 THE COURT: SURE.

22 THE WITNESS: HE REFERRED TO IT IN HIS STATEMENT THAT
23 BABY JES. CAME BACK WITH FOUR OTHER PEOPLE, AND THEY WERE
24 ALL WALKING.

25

1 BY MS. FRANKLIN

2 Q SO YOU KNEW THAT A GROUP OF BOYS HAD COME BACK ON
3 FOOT ABOUT FIVE MINUTES AFTER POLICE LEFT THAT SCENE?

4 A HE SAID FIVE MINUTES, YES, MA'AM.

5 Q OKAY. ACCORDING TO HIS STATEMENT?

6 A YES, MA'AM.

7 Q AND YOU KNEW THAT THE SHOOTER HAD HANDED ANOTHER BOY
8 A PISTOL AND THAT THE PERSON WITH A PISTOL ALLEGEDLY
9 HANDED THE SHOOTER THE RIFLE?

10 A HE MADE SOME REFERENCE TO THE PASSING OF THE GUN IN
11 HIS STATEMENT.

12 Q RIGHT, BECAUSE HE BELIEVES BABY JES. IS THERE WITH
13 THE PISTOL AND THAT SOMEBODY ACTUALLY PULLS OUT THE RIFLE
14 AND HANDS IT TO THE SHOOTER.

15 MS. FENT: I JUST WOULD OBJECT TO THE FORM OF THE
16 QUESTION AS TO THIS INVESTIGATOR.

17 THE COURT: SUSTAINED. SUSTAINED AS TO THE FORM.
18 NOW, HE CAN'T TESTIFY AS TO WHAT SOMEONE ELSE BELIEVED.

19 BY MS. FRANKLIN

20 Q BUT YOU WERE MADE AWARE, AFTER SPEAKING WITH TYRONE
21 SMITH, THAT THE SHOOTER HANDED THE BOY A PISTOL AND THEN
22 THAT BOY TURNED AROUND AND HANDED THE SHOOTER A RIFLE?

23 A ~~HE SAYS IN THE STATEMENT THAT BABY JES. HANDED ONE OF~~
24 ~~THEM A REVOLVER, AND THAT PERSON HANDED HIM A TECH--22.~~

25 Q YES. THAT'S WHAT I'M REFERRING TO.

1 A AND THAT IT WAS LONG AND SLENDER, SLENDER.

2 Q AND YOU KNEW THAT, ACCORDING TO YOUR WITNESS
3 STATEMENT ON THAT NIGHT, TYRONE SMITH, THAT TWO YOUNG KIDS
4 THERE HAD ACTUALLY POINTED OVER AT [REDACTED] T.S. MARTIN,

5 [REDACTED] C.D. [REDACTED]'S HOUSE, RIGHT BEFORE THE SHOOTER STARTED
6 SHOOTING?

7 A YES, MA'AM.

8 Q AND THAT THE SHOOTER ACTUALLY SHOT IN THE DIRECTION
9 THAT WAS POINTED OUT BY THESE TWO YOUNG BOYS THAT WERE
10 THERE?

11 A HE SAID THAT THAT'S THE DIRECTION THEY SHOT, YES,
12 MA'AM.

13 Q AND THEN AFTER THE SHOTS WERE FIRED, YOUR WITNESS,
14 TYRONE SMITH, TOLD YOU THOSE BOYS RAN TOWARDS WEST
15 BELTLINE?

16 A YES.

17 Q OKAY. SO YOU KNEW ON THE VERY NIGHT OF THE INCIDENT
18 APPROXIMATELY FIVE PEOPLE WERE INVOLVED. YES?

19 A YES.

20 Q THAT TWO PEOPLE HAD ACTUALLY POINTED IN THE DIRECTION
21 OF HER HOME RIGHT BEFORE THE SHOOTER SHOT AND THAT SOMEONE
22 HANDED A RIFLE TO THE SHOOTER BEFORE THOSE SHOTS WERE
23 FIRED.

24 A THAT'S WHAT MR. SMITH INDICATED.

25 Q AND ALL OF THESE PEOPLE WHO WE JUST REFERENCED, COULD

1 THESE PEOPLE HAVE BEEN CHARGED WITH MURDER?

2 A THE PERSON THAT FIRED THE SHOT, THAT SHOT THESE
3 CHILDREN WAS THE FOCUS OF THE INVESTIGATION, YES.
4 CERTAINLY, THERE WERE SOME OTHER PEOPLE INVOLVED.

5 Q I'M JUST ASKING. I MEAN, COULD SOME OF THESE PEOPLE
6 HAVE BEEN CHARGED WITH MURDER?

7 A THEY COULD HAVE BEEN, YES, MA'AM.

8 Q BUT CHRIS LIVERMAN WAS THE ONLY PERSON WHO WAS EVER
9 CHARGED IN CONNECTION WITH THESE EVENTS?

10 A THE PERSON THAT SHOT, MR. LIVERMAN, YES, MA'AM.

11 Q HE'S THE ONLY PERSON WHO HAS EVER BEEN?

12 A YES, MA'AM.

13 Q OKAY. SO WE HAVE ESTABLISHED THAT YOU HAVE SOME
14 KNOWLEDGE OF THE WHITE CAR ON THE VERY NIGHT OF THIS
15 INCIDENT.

16 A YES, MA'AM.

17 Q AND AT SOME POINT YOU DETERMINED WHO OWNED THAT CAR.

18 A YES, MA'AM.

19 Q AND YOU FOUND OUT THAT BRADY BROWN WAS DRIVING THE
20 CAR THAT NIGHT.

21 A THAT'S CORRECT.

22 Q AND THEN ABOUT 3:12 IN THE MORNING, ON THE MORNING OF
23 AUGUST 27TH, YOU INTERVIEWED BRADY BROWN.

24 A YES, MA'AM.

25 Q AND EARLIER THAT NIGHT YOU HAD ALSO INTERVIEWED CARL

1 SMITH.

2 A ONE OF THE OTHER INVESTIGATORS HAD INTERVIEWED CARL
3 SMITH.

4 Q BUT YOU INTERVIEWED HIM ABOUT 4:20 IN THE MORNING,
5 RIGHT?

6 A 4:20 AFTER BRADY.

7 Q YEAH, AFTER THAT, BUT I MEAN AT SOME POINT YOU
8 INTERVIEWED POOH ALSO?

9 A YES.

10 Q WE'LL COME BACK TO THAT LATER, BUT YOU KNOW BRADY
11 BROWN, AND YOU SPOKE TO HIM ABOUT THE EVENTS OF THAT
12 NIGHT.

13 A YES, MA'AM.

14 Q AND YOU'RE STILL CONDUCTING YOUR INVESTIGATION
15 REGARDING THE SHOOTING?

16 A YES.

17 Q AND YOU WANTED MORE INFORMATION?

18 A YES.

19 Q AND YOU BELIEVED THAT THERE WERE A NUMBER OF PEOPLE
20 INVOLVED IN THE SHOOTING.

21 A THERE WERE PEOPLE THERE, YES.

22 Q AND YOU WANTED TO IDENTIFY THEM.

23 A YES.

24 Q BRADY BROWN TOLD YOU HE HAD BEEN OVER TO T.S. MARTIN
25 EARLIER.

1 MS. FENT: OBJECTION, YOUR HONOR, HEARSAY.

2 THE COURT: SUSTAINED.

3 BY MS. FRANKLIN

4 Q DID YOU COME TO FIND OUT THAT HE HAD BEEN THERE
5 EARLIER THAT NIGHT?

6 MS. FENT: OBJECTION.

7 THE COURT: SUSTAINED.

8 MS. FRANKLIN: YOUR HONOR, CAN WE BE HEARD ON THIS?

9 THE COURT: SURE.

10 (WHEREUPON, A BENCH CONFERENCE WAS HELD IN THE
11 PRESENCE, BUT NOT WITHIN THE HEARING, OF THE JURY).

12 BY MS. FRANKLIN

13 Q OKAY. SO YOU SPOKE WITH BRADY BROWN TO FIND OUT SOME
14 MORE INFORMATION ABOUT WHAT HAD HAPPENED?

15 A YES, MA'AM.

16 Q AND YOU WANTED INFORMATION ABOUT THE SHOOTING?

17 A YES, MA'AM.

18 Q AND DID YOU GET ANY INFORMATION IN YOUR CONVERSATIONS
19 WITH BRADY BROWN THAT DIRECTED YOUR INVESTIGATION FURTHER?

20 A YES.

21 Q DID HE TELL YOU OR DID YOU FIND OUT ABOUT OTHER
22 PEOPLE WHO MAY HAVE BEEN PRESENT?

23 MS. FENT: OBJECTION, HEARSAY.

24 THE COURT: NOT ON THAT. I'LL LET HIM ANSWER THAT
25 QUESTION. OVERRULED.

1 THE WITNESS: I DID FIND OUT THERE WERE OTHER PEOPLE
2 INVOLVED IN THE EARLIER INCIDENT WHEN HE WAS UP THERE AT
3 T.S. MARTIN.

4 BY MS. FRANKLIN

5 Q AND FINDING OUT THOSE OTHER PEOPLE, DID YOU THEN
6 PROCEED TO INVESTIGATE THEM?

7 A YES, MA'AM.

8 Q AND WHO DID YOU BEGIN TO INVESTIGATE?

9 A I'D HAVE TO LOOK AT HIS STATEMENT, BUT THERE WERE
10 SEVERAL NAMES MENTIONED IN HIS STATEMENT.

11 Q DO YOU WANT ME TO GIVE YOU THE STATEMENT?

12 A I'VE GOT IT HERE.

13 (PAUSE).

14 YES. HE INDICATED THREE PEOPLE IN THIS STATEMENT.

15 Q AND DID YOU BEGIN TO INVESTIGATE THOSE THREE PEOPLE?

16 A MR. PRAYLOW, MR. POOH, AND THERE'S SOME HINTS THAT
17 WERE MADE TO CONTACT MR. PARIS, BUT I NEVER DID INTERVIEW
18 HIM.

19 Q SO YOU NEVER INTERVIEWED PARIS ALEXANDER?

20 A NO, MA'AM.

21 Q DO YOU KNOW ANYTHING ABOUT ANY FOOTBALL TEAM ISSUES
22 THAT NIGHT?

23 A I DON'T REMEMBER. I REMEMBER SOMETHING ABOUT SOME
24 FOOTBALL PLAYERS, BUT I DON'T REMEMBER THE SPECIFIC
25 ISSUES.

1 Q SO DO YOU RECALL ANYTHING ABOUT ANYONE BEING
2 DISRESPECTED THAT NIGHT?

3 A YES, MA'AM.

4 Q DO YOU RECALL WHO HAD BEEN DISRESPECTED?

5 A NO, MA'AM.

6 Q WERE YOU MADE AWARE THAT SOMEBODY HAD MADE A COMMENT
7 ABOUT BETHEL BISHOP APARTMENTS?

8 A IN THE INVESTIGATION, I REMEMBER THAT, YES, MA'AM.

9 Q DO YOU RECALL EXACTLY WHAT WAS SAID?

10 A NO, MA'AM.

11 Q BUT YOU KNEW IN THE COURSE OF YOUR INVESTIGATION THAT
12 BRADY BROWN HAD GOTTEN SOME PEOPLE TOGETHER AND HAD GONE
13 OVER TO T.S. MARTIN?

14 A I DON'T KNOW IF HE GOT THEM TOGETHER OR IF SOMEONE
15 ELSE ASKED HIM TO GO OVER THERE.

16 Q BUT THAT HE WAS WITH OTHER PEOPLE WHEN HE WAS THERE?

17 A YES, MA'AM.

18 Q WERE YOU MADE AWARE THAT THESE PEOPLE HAD THEIR FACES
19 COVERED WITH BANDANNAS WHEN THEY WENT OVER THERE?

20 A YES, MA'AM.

21 Q SO FOR PURPOSES OF YOUR INVESTIGATION, ROUGHLY FIVE
22 HOURS AFTER THE SHOOTING, YOU WERE MADE AWARE OF THE
23 INVOLVEMENT OF THESE OTHER PEOPLE, BRADY BROWN, SHEROD
24 PRAYLOW, CARL SMITH, PARIS ALEXANDER?

25 A IN THE FIRST INCIDENT, YES.

1 Q YES.

2 A YES.

3 Q AND YOU KNEW THIS WITHIN FIVE HOURS OF THE SHOOTING?

4 A YES, MA'AM.

5 Q BUT YOU DID NOT INTERVIEW SHEROD PRAYLOW UNTIL ABOUT
6 FIVE DAYS AFTER THE SHOOTING?

7 A THAT WAS WHEN HE WAS LOCATED.

8 Q AND YOU INTERVIEWED HIM ON SEPTEMBER 1ST, 2004?

9 A I DID INTERVIEW HIM, YES, MA'AM.

10 Q AND AGAIN, YOU NEVER INTERVIEWED PARIS ALEXANDER?

11 A NO, I DIDN'T.

12 Q AT THE TIME YOU INTERVIEWED BRADY BROWN, YOU HAD
13 ALREADY SPOKEN TO TYRONE SMITH ABOUT THE EVENTS EARLIER
14 THAT NIGHT?

15 A YES, MA'AM.

16 Q SO YOU KNEW THE PEOPLE IN THE WHITE FORD ESCORT
17 STOPPED AT HIS HOUSE, PULLED A GUN ON HIM?

18 A YES, MA'AM.

19 Q AND YOU KNEW THE PEOPLE IN THE WHITE FORD ESCORT WERE
20 LOOKING FOR DELSHAWN PRESCOTT.

21 A YES.

22 Q YOU KNEW THEY HAD GUNS.

23 A HE SAID THAT THERE WERE SOME GUNS BROUGHT.

24 Q YOU KNEW THEY WERE COVERING THEIR FACES.

25 A YES.

1 Q AND YOU KNEW THAT THE RESIDENTS OF T.S. MARTIN WERE
2 SO SCARED THAT THEY CALLED THE POLICE.

3 A THE POLICE WERE CALLED FOR THAT EARLIER INCIDENT,
4 YES, MA'AM.

5 Q AFTER YOU INTERVIEWED BRADY BROWN, YOU NEVER CHARGED
6 HIM WITH ANYTHING, DID YOU?

7 A NO, MA'AM.

8 Q HE JUST WALKED OUT OF POLICE HEADQUARTERS?

9 A YES, MA'AM.

10 Q LET'S TALK A LITTLE BIT ABOUT YOUR INTERVIEW WITH
11 CHRIS LIVERMAN. NOW, AT THE TIME YOU INTERVIEWED CHRIS
12 LIVERMAN ABOUT THESE EVENTS, IT WAS ABOUT 12:20?

13 A YES.

14 Q IT WAS IN A ROOM?

15 A YES.

16 Q AN INTERROGATION ROOM?

17 A YES.

18 Q IT IS A SMALL ROOM.

19 A IT IS.

20 Q THAT ROOM WAS ONE DOOR.

21 A CORRECT.

22 Q IT HAS NO WINDOWS.

23 A CORRECT.

24 Q WOULD YOU SAY IT'S ABOUT EIGHT TO TEN FEET?

25 A TEN BY 12, EIGHT BY 12.

1 Q EIGHT BY 12, AND IT WAS IN THE POLICE STATION.

2 A YES, MA'AM.

3 Q AND BY THE TIME YOU HAD INTERVIEWED HIM, HE HAD NOW
4 BEEN DETAINED FOR ABOUT TWO HOURS AND 15 MINUTES.

5 A DETAINED RIGHT AFTER 10:00 P.M., YES, MA'AM.

6 Q AND YOU SPENT MOST OF THAT TIME, TWO HOURS, IN THE
7 BACK OF A POLICE CAR.

8 A I DON'T THINK SO. WHEN -- AFTER I LEFT CALK STREET,
9 I ASKED OFFICER WHITTLE TO TRANSPORT HIM TO POLICE
10 HEADQUARTERS. ACCORDING TO WHAT HE TESTIFIED TO, THAT'S
11 WHAT HE DID, SO I THINK THE MAJORITY OF THE TIME HE WAS
12 SPENT SITTING THERE.

13 Q JUST SITTING THERE?

14 A IN THE INTERVIEW ROOM, NOT IN THE POLICE CAR.

15 Q SO HE WAS IN THE INTERVIEW ROOM MOST OF THAT TIME,
16 AND HE WAS SITTING THERE IN HANDCUFFS.

17 A I ASSUME HE WAS HANDCUFFED THAT WHOLE TIME.

18 Q SO WE DON'T HAVE ANY NOTES FROM CORPORAL AULD -- OR
19 SERGEANT AULD AND OFFICER WHITTLE ABOUT ANY STATEMENTS
20 THAT MAY HAVE BEEN MADE TO CHRISTOPHER LIVERMAN DURING THE
21 TIME THAT HE WAS OUT THERE AND CUFFED, DO WE?

22 A THEY TESTIFIED WHAT THEY TOLD.

23 Q RIGHT. WE DON'T HAVE ANYTHING --

24 A AS FAR AS ANY NOTES, I DON'T HAVE ANY NOTES.

25 Q SO NOTHING WAS REDUCED TO WRITING. OKAY, SO HE'S

1 OVER AT THE POLICE DEPARTMENT. INVESTIGATOR CURRIE CAME
2 IN, AND HE TOOK THE GUNSHOT RESIDUE TEST, CORRECT?

3 A YES.

4 Q SO HE HAD ALREADY HAD THIS GUNSHOT RESIDUE TEST
5 PERFORMED BY THE TIME YOU STARTED INTERVIEWING HIM?

6 A AS I RECALL, THAT HAD ALREADY BEEN DONE.

7 Q AND YOU ASKED HIM SOME PRELIMINARY QUESTIONS.

8 A YES.

9 Q YOU GATHERED HIS EDUCATIONAL LEVEL.

10 A YES.

11 Q DID YOU EVER INQUIRE WHETHER HE WAS IN SPECIAL
12 EDUCATION COURSES OR ANYTHING OF THAT NATURE?

13 A NO. HE SAID HE ATTENDED C.A. JOHNSON AND GRADUATED.

14 Q BUT YOU DIDN'T TAKE ANY AFFIRMATIVE STEPS TO SEE IF
15 HE HAD SPECIAL NEEDS?

16 A NO, MA'AM.

17 Q OR ANYTHING LIKE THAT.

18 A NO.

19 Q SO WHEN YOU READ THAT SPECIAL ADVICE OF RIGHTS FORM,
20 WE CALL THAT MIRANDA, RIGHT?

21 A YES, MA'AM.

22 Q YOU BEGAN THE STATEMENT ABOUT 12:35?

23 A THE WRITTEN STATEMENT, YES, MA'AM.

24 Q AND YOU READ HIM HIS RIGHTS FROM 12:20, STARTED
25 TAKING THE STATEMENT AT 12:35.

1 A YES.

2 Q SO THERE'S A 15-MINUTE GAP THERE.

3 A YES, MA'AM.

4 Q AND DURING THAT 15 MINUTES, YOU TALK TO HIM ABOUT THE
5 CASE?

6 A I'M SURE I DID. I DON'T REMEMBER WHAT I TALKED TO
7 HIM ABOUT, BUT AS FAR AS WHAT HE SAID ABOUT THE CASE, IT'S
8 DOCUMENTED IN THE STATEMENT.

9 Q YOU TOLD HIM THAT HE HAD BEEN IDENTIFIED AS THE
10 SHOOTER.

11 A I TOLD HIM HE HAD BEEN IDENTIFIED AS BEING THERE AT
12 THE SCENE.

13 Q I MEAN, YOU MAY NOT HAVE TOLD HIM WHO, BUT YOU TOLD
14 HIM THAT HE WAS -- THAT HE HAD BEEN I.D.'D?

15 A I TOLD HIM HE HAD BEEN IDENTIFIED AS BEING THERE AT
16 THE SCENE.

17 Q AND THAT'S WHY HE WAS THERE AT POLICE HEADQUARTERS,
18 CORRECT?

19 A YES, MA'AM.

20 Q AND THAT HAPPENED BEFORE HE STARTED GIVING HIS
21 STATEMENT?

22 A YES, MA'AM.

23 Q AND AS YOU'RE ACTUALLY GIVING THE STATEMENT, YOU DO
24 IT BY QUESTION AND ANSWER FORM?

25 A YES.

1 Q OKAY. YOU WROTE THE QUESTIONS AND THE ANSWERS?

2 A THAT'S CORRECT.

3 Q AND YOU DID ALL OF THE WRITING?

4 A YES.

5 Q OKAY. AND THEN CHRIS GAVE A STATEMENT.

6 A YES.

7 Q YES? AND HE SIGNED IT.

8 A YES.

9 Q AND HE REVIEWED IT BEFORE HE SIGNED IT?

10 A YES, HE DID.

11 Q DO YOU KNOW HOW LONG HE REVIEWED IT FOR?

12 A NO, I DON'T, MAYBE A COUPLE OF MINUTES.

13 Q AND THEN AFTER THE STATEMENT, CHRIS WAS TRANSPORTED
14 TO THE JAIL ABOUT 12:30 -- OR 2:30 IN THE MORNING.

15 A YES.

16 Q AND THIS INTERVIEW WAS NEVER VIDEOTAPED.

17 A NO.

18 Q DO YOU HAVE VIDEO EQUIPMENT AT POLICE HEADQUARTERS?

19 A WE DO NOT USE VIDEO EQUIPMENT IN INVESTIGATIONS. I
20 DON'T AND NONE OF THE OTHER INVESTIGATORS I WORK WITH USE
21 VIDEO EQUIPMENT.

22 Q I KNOW, BUT YOU HAVE IT THERE, RIGHT?

23 A NO, I DIDN'T.

24 Q YOU DIDN'T HAVE IT THERE. HOW ABOUT AUDIOTAPE?

25 A NO, MA'AM.

1 Q YOU DON'T HAVE ANY TAPE-RECORDERS?

2 A NO, MA'AM.

3 Q NO TAPE-RECORDERS UP AT POLICE HEADQUARTERS?

4 A NO, I DON'T HAVE ONE. I WAS ISSUED ONE SEVERAL YEAR
5 AGO, BUT IT QUIT WORKING. AS FAR AS RECORDING INTERVIEWS
6 THAT'S JUST NOT A COMMON PRACTICE AT THE POLICE
7 DEPARTMENT.

8 Q SO IT'S NOT A COMMON PRACTICE, BUT I MEAN, IT'S
9 SOMETHING THAT COULD BE DONE, IS THAT TRUE?

10 A IT COULD BE, BUT THE WAY WE DID IT IS A VALID AND
11 RELIABLE WAY TO DO AN INTERVIEW, AND THAT'S WHAT WE DID.

12 Q I UNDERSTAND, BUT DO YOU HAVE ANY SPECIFIC POLICY FO
13 NOT VIDEOTAPING OR AUDIOTAPING INTERVIEWS?

14 A NO.

15 Q BUT YOU JUST DON'T DO IT? I MEAN, THIS POLICE
16 DEPARTMENT DOESN'T DO IT.

17 A THE WAY THIS INTERVIEW WAS CONDUCTED IS THE WAY IT I
18 COMMONLY DONE IN OTHER POLICE DEPARTMENTS, AS WELL.

19 Q WELL, YOU ARE AWARE THERE ARE JURISDICTIONS WHERE
20 THEY VIDEOTAPE INTERVIEWS, RIGHT?

21 A YES, MA'AM.

22 Q ALASKA, MINNESOTA?

23 A YES, MA'AM.

24 Q AND THEN BEFORE YOU CAME TO DO THIS SECOND INTERVIEW
25 MR. LIVERMAN HAD SPENT A FULL NIGHT IN JAIL, CORRECT?

1 A IT WAS ABOUT ONE O'CLOCK THE SAME DAY, YES.

2 Q BUT HE WAS TRANSPORTED DOWN AT THE ALVIN S. GLENN
3 DETENTION CENTER. HE WAS BROUGHT BACK AFTER HAVING SPENT
4 THE NIGHT IN JAIL.

5 A YES, MA'AM.

6 Q AND OFFICER HUNTLEY IS THE ONE WHO PICKED HIM UP AT
7 JAIL AND BROUGHT HIM OVER TO THE COLUMBIA POLICE
8 DEPARTMENT?

9 A THAT'S CORRECT.

10 Q SO YOU TOOK HIM INTO ANOTHER SMALL ROOM.

11 A YES, MA'AM.

12 Q AND AGAIN, HE WAS ALL ALONE.

13 A YES, MA'AM.

14 Q WAS HE HANDCUFFED TO THE CHAIR AT THAT POINT?

15 A HE PROBABLY WAS.

16 Q OKAY. SO YOU DID MIRANDA AGAIN?

17 A YES, MA'AM.

18 Q AND YOU DIDN'T TAKE ANY SPECIFIC PRECAUTIONS TO MAKE
19 SURE THAT HE UNDERSTOOD?

20 A I WAS QUITE SURE THAT HE UNDERSTOOD AND COULD READ
21 FROM HAVING GONE -- THE FIRST STATEMENT.

22 Q SO YOU FELT CONFIDENT THAT HE UNDERSTOOD, RIGHT?

23 A YES.

24 Q BUT YOU DIDN'T TAKE ANY EXTRA PRECAUTIONS TO SEE IF
25 ANYONE ELSE AGREED WITH YOUR ASSESSMENT?

1 A NO, MA'AM.

2 Q AND AGAIN, YOU DIDN'T VIDEOTAPE AND YOU DIDN'T
3 AUDIOTAPE?

4 A NO, MA'AM.

5 Q THE INFORMATION THAT'S CONTAINED IN THIS STATEMENT,
6 IT'S NOT COMPLETELY ACCURATE, IS IT? NO?

7 A IN HIS STATEMENT?

8 Q YEAH.

9 A AS FAR AS I KNOW IT'S ACCURATE. THAT'S WHAT HE TOLD
10 ME.

11 Q BUT YOU NEVER FOUND LIKE A .32 SHELL CASING, DID YOU?

12 A NO.

13 Q AND DURING THAT STATEMENT, YOU GOT THE NAME OF --
14 THERE WERE OTHER NAMES THAT CAME UP, CORRECT?

15 A YES.

16 Q SOMEBODY BY THE NAME OF TY?

17 A YES.

18 Q SOMEBODY BY THE NAME OF LITTLE CHRIS?

19 A YES.

20 Q SOMEBODY BY THE NAME OF O.B.?

21 A YES.

22 Q AND DID YOU EVER INTERVIEW O.B.?

23 A I NEVER DID FIND O.B.

24 Q YOU COULDN'T FIND HIM?

25 A NOT AT THAT TIME, NO, MA'AM. THERE'S NO INDICATION

1 HE WAS INVOLVED THERE OR ON THE SCENE AT THE TIME OF THE
2 SHOOTING.

3 Q BUT YET YOU'RE THE ONE WHO BROUGHT HIS NAME UP DURING
4 YOUR QUESTION AND ANSWER.

5 A YES.

6 Q DID YOU ACTUALLY GO OUT AND LOOK FOR HIM?

7 A I DID YES, MA'AM, A COUPLE OF TIMES AT BETHEL BISHOP
8 APARTMENTS.

9 Q BUT YOU DIDN'T LIST THAT IN YOUR INVESTIGATIVE NOTES?

10 A NO, I DIDN'T.

11 Q AT THE TIME YOU TOOK THIS SECOND STATEMENT FROM
12 CHRIS, YOU DIDN'T HAVE ANYONE ELSE IN CUSTODY AT THIS
13 POINT?

14 A NO, MA'AM.

15 Q HE WAS THE ONLY ONE YOU HAD ARRESTED?

16 A RIGHT.

17 Q AND THIS CASE AT THIS TIME HAD ALREADY GENERATED A
18 LOT OF PRESS COVERAGE, A LOT OF MEDIA ATTENTION.

19 A I WAS BUSY WORKING. I LEFT WORK, SHOWERED, CAME
20 BACK.

21 Q SO YOU HAD NO IDEA?

22 A DIDN'T WATCH THE NEWS.

23 THE COURT: MS. FRANKLIN, WE'RE AT A PRETTY GOOD
24 BREAKING POINT IF THIS IS A GOOD BREAKING POINT FOR YOU.

25 MS. FRANKLIN: IT IS.

1 THE COURT: ALL RIGHT. LADIES AND GENTLEMEN, WE'RE
2 BREAKING FOR LUNCH. BE BACK AT 2:15. AGAIN, PLEASE
3 DON'T -- WAIT ONE SECOND, PLEASE.

4 DON'T DISCUSS IT, READ OR WATCH ANYTHING. JUST OUT
5 OF AN ABUNDANCE OF CAUTION, LET ME GO AHEAD -- I'VE ASKED
6 YOU AND DIRECTED YOU NOT TO READ OR WATCH OR LISTEN TO
7 ANYTHING ABOUT THIS CASE. I WOULD EXPAND THAT TO ANY NEWS
8 COVERAGE, WHETHER IT'S ABOUT THIS CASE OR ANYTHING ELSE.
9 IF YOU WOULD PLEASE JUST NOT READ, WATCH, OR LISTEN TO ANY
10 MEDIA COVERAGE, I WOULD APPRECIATE IT.

11 THANK YOU VERY MUCH. BE BACK AT 2:15.

12 EVERYONE STAY SEATED WHILE THE JURY IS EXCUSED.

13 (WHEREUPON, THE JURY LEFT OPEN COURT AT APPROXIMATELY
14 1:06 P.M.)

15 THE COURT: MR. GRAY, DON'T DISCUSS YOUR TESTIMONY
16 DURING THE LUNCH BREAK. YOU BE BACK ON THE STAND AFTER
17 LUNCH. WE'LL RECESS UNTIL 2:15.

18 (WHEREUPON, A LUNCH BREAK WAS TAKEN.)

19 THE COURT: IS THE DEFENSE READY?

20 MS. FRANKLIN: YES, YOUR HONOR.

21 THE COURT: IS THE STATE READY?

22 MS. FENT: YES, YOUR HONOR.

23 THE COURT: ALL RIGHT. GET THE JURY IN, PLEASE.

24 THE BAILIFF: YES, SIR.

25

1 (WHEREUPON, THE JURY CAME INTO OPEN COURT AT
2 APPROXIMATELY 2:25 P.M.)

3 THE BAILIFF: THE JURY IS SEATED, YOUR HONOR.

4 THE COURT: ALL RIGHT. THANK YOU. MS. FRANKLIN, YOU
5 MAY CONTINUE YOUR CROSS-EXAMINATION.

6 THE BAILIFF: OH, I'M SORRY.

7 THE COURT: WE'RE MISSING ONE. WE BETTER WAIT.

8 (PAUSE).

9 THE BAILIFF: THE JURY IS SEATED, YOUR HONOR.

10 THE COURT: ALL RIGHT. ALL RIGHT. MS. FRANKLIN?

11 BY MS. FRANKLIN

12 Q THANK YOU, YOUR HONOR MAY IT PLEASE THE COURT.

13 OKAY. INVESTIGATOR GRAY, A FEW QUESTIONS FOR YOU.

14 WE TALKED A LITTLE BIT ABOUT YOUR INTERVIEW WITH CARL

15 SMITH WHO -- OKAY. YOU AND SERGEANT WILKERSON INTERVIEWED

16 HIM ON THE NIGHT OF THE SHOOTING, DID YOU NOT?

17 A YES, MA'AM.

18 Q AND OFFICER MELRON KELLY IS THE ONE WHO FOUND CARL

19 SMITH AND TRANSPORTED HIM OVER TO THE POLICE HEADQUARTERS?

20 A I BELIEVE THAT'S CORRECT.

21 Q SO IT WAS A LITTLE AFTER MIDNIGHT THAT THE FIRST

22 INTERVIEW WITH HIM STARTED?

23 A I THINK IT WAS, YES, MA'AM.

24 Q AND YOU WERE IN ANOTHER ROOM WHEN THIS WAS HAPPENING?

25 A YES, MA'AM.

1 Q BUT YOU WERE INTERVIEWING CHRISTOPHER LIVERMAN IN
2 ANOTHER ROOM. AT 2:30 A.M. YOU HAD MR. LIVERMAN
3 TRANSPORTED TO THE DETENTION CENTER?

4 A YES, MA'AM.

5 Q AND HE HAD ALREADY GIVEN YOU YOUR FIRST STATEMENT AT
6 THAT POINT.

7 A YES, MA'AM.

8 Q BUT CARL SMITH REMAINED AT THE POLICE STATION?

9 A YES.

10 Q AND AT ABOUT 3:12 A.M. YOU STARTED INTERVIEWING BRAD
11 BROWN AT THE STATION.

12 A YES, MA'AM.

13 Q AND HIS VERSION OF EVENTS WAS DIFFERENT THAN CARL
14 SMITH'S.

15 A YES, MA'AM.

16 Q AND YOU CONFRONTED CARL SMITH ABOUT THE DISPARITIES?

17 A I DID.

18 Q AND CARL SMITH HAD ALREADY ESSENTIALLY WRITTEN OUT
19 ONE STATEMENT IN HIS OWN HAND, AND THEN SINCE HE HAD MET
20 WITH SERGEANT WILKERSON, THERE WAS ANOTHER PART OF THAT
21 STATEMENT AT THAT POINT?

22 A THAT'S RIGHT.

23 Q AND AT SOME POINT YOU LEFT CARL SMITH ALONE,
24 HANDCUFFED TO A CHAIR IN THAT ROOM.

25 A THAT'S CORRECT.

1 Q AND THEN MAYBE AN HOUR LATER CARL SMITH INFORMED YOU
2 THAT HE WANTED TO TALK TO YOU.

3 A IT WAS AROUND 4:20.

4 Q 4:20 IN THE MORNING. HE WAS COMPLETELY ALONE DURING
5 THIS TIME.

6 A YES, MA'AM.

7 Q AND HE WAS HANDCUFFED TO THE CHAIR.

8 A YES.

9 Q AND A GUNSHOT RESIDUE TEST HAD ALREADY BEEN PERFORMED
10 ON HIM?

11 A YES, MA'AM.

12 Q AND YOU MADE IT CLEAR HE WAS A SUSPECT IN THIS EVENT?

13 A I DON'T THINK I TOLD HIM. HE WAS THERE FOR
14 QUESTIONING.

15 Q DID YOU NOT CONSIDER HIM A SUSPECT?

16 A WE WERE STILL TRYING TO FIGURE OUT HIS INVOLVEMENT IN
17 THE FIRST PART OF WHAT HAPPENED EARLIER THAT EVENING.

18 Q BUT THEN YOU TOOK A THIRD STATEMENT FROM CARL SMITH
19 AT 4:20 IN THE MORNING.

20 A YES, MA'AM.

21 Q AND HE HAD BEEN DETAINED FOR OVER FOUR HOURS AT THAT
22 POINT.

23 A YES, MA'AM.

24 Q AND HE IS THE ONE WHO INITIATED THE CONTACT WITH YOU;
25 IS THAT ACCURATE?

1 A I THINK HE KNOCKED ON THE DOOR OR SOMETHING LIKE THAT
2 BUT --

3 Q OKAY. BUT I MEAN, WAS IT CLEAR THAT HE WANTED TO
4 TALK TO YOU?

5 A YES.

6 Q OKAY. BUT AFTER HE GAVE THIS THIRD STATEMENT, HE WAS
7 ALLOWED TO GO HOME.

8 A YES, MA'AM.

9 Q AND IT WAS IN THIS THIRD STATEMENT THAT HE TOLD YOU
10 THAT CHRIS LIVERMAN WAS INVOLVED IN THIS.

11 A YES..

12 Q BUT AFTER HE IMPLICATED CHRIS LIVERMAN, HE WAS
13 ALLOWED TO GO HOME.

14 A YES, MA'AM.

15 Q AND CARL SMITH HAS NOT BEEN CHARGED WITH ANY CRIME?

16 A NO, MA'AM.

17 Q EVEN THOUGH YOU HAVE EVIDENCE AT THAT POINT HE MAY
18 HAVE PULLED A GUN AT A YOUNG BOY OUT AT T.S. MARTIN?

19 A YES, MA'AM.

20 Q AND HE HAD LIED TO YOU IN HIS STATEMENTS.

21 A HE HAD.

22 Q BUT THEN YOU LET HIM LEAVE.

23 A YES, HE LEFT.

24 Q AND THEN AT SOME POINT YOU DECIDED THAT YOU NEEDED TO
25 SPEAK TO DIEGO THOMPSON.

1 A THAT'S CORRECT.

2 Q LET'S TALK A LITTLE BIT ABOUT THAT. THE DAY AFTER
3 YOU RELEASED CARL SMITH, YOU GOT DIEGO THOMPSON'S NAME.

4 A YES, MA'AM.

5 Q AND BEFORE THAT, YOU HAD NOT HEARD HIS NAME MENTIONED
6 IN CONNECTION WITH THESE EVENTS?

7 A THAT IS CORRECT.

8 Q CARL SMITH DIDN'T GIVE YOU HIS NAME DURING THE COURSE
9 OF THE STATEMENTS THAT HE GAVE YOU THE NIGHT BEFORE, DID
10 HE?

11 A NO, HE DIDN'T.

12 Q WHEN YOU SPOKE TO DIEGO, HE MENTIONED TO YOU THAT HE
13 HAD SPOKE TO POOH EARLIER THAT NIGHT.

14 A I'D HAVE TO LOOK BACK AT HIS STATEMENT.

15 Q DO YOU HAVE A COPY OF THEM, OR DO YOU HAVE --

16 A I HAVE...

17 Q I'M SPEAKING SPECIFICALLY OF DIEGO'S SECOND
18 STATEMENT.

19 A NO, I DON'T THINK I HAVE A COPY.

20 Q I'LL GIVE YOU ONE. JUST A MOMENT. BEG THE COURT'S
21 INDULGENCE.

22 THE COURT: SURE.

23 (PAUSE).

24 MS. FRANKLIN: MAY I APPROACH THE WITNESS, YOUR
25 HONOR?

1 THE COURT: YOU MAY.

2 BY MS. FRANKLIN

3 Q LET'S SEE IF THIS REFRESHES YOUR MEMORY. IF YOU WANT
4 TO REVIEW THAT FOR A FEW MOMENTS, IT'S FINE.

5 (PAUSE).

6 A YES, MA'AM.

7 Q SO DIEGO'S SECOND STATEMENT, HE MENTIONED HE HAD
8 SPOKEN TO POOH EARLIER THE NIGHT OF THE SHOOTINGS.

9 A YES, MA'AM.

10 Q NEVERTHELESS, ON THE NIGHT THAT YOU SPOKE TO POOH, HE
11 DIDN'T INDICATE THAT HE KNEW WHO DIEGO WAS.

12 A HE DIDN'T KNOW HIS NAME.

13 Q AND HE TOLD YOU THE NEXT DAY THAT DIEGO WAS A STUDENT
14 AT C.A. JOHNSON.

15 A HE SAID HE FOUND OUT HIS NAME IS DIEGO, AND HE'S A
16 STUDENT AT C.A. JOHNSON.

17 Q AND AT 5:45 ON AUGUST 27TH, YOU CONTACTED DIEGO'S
18 MOTHER AND SHE AGREED TO BRING HIM IN FOR AN INTERVIEW.

19 A YES, MA'AM.

20 Q AND WHEN YOU INTERVIEWED DIEGO, THE HEADING ON THE
21 STATEMENT FORM WAS "BABY JESUS". THAT MAY BE ON THE FIRST
22 STATEMENT. DO YOU HAVE IT?

23 A THIS IS THE SECOND STATEMENT.

24 Q LET ME GET YOU A COPY OF THE FIRST SECOND.

25 (PAUSE).

1 MAY IT PLEASE THE COURT, YOUR HONOR?

2 THE COURT: ALL RIGHT.

3 BY MS. FRANKLIN

4 Q SEE IF THIS REFRESHES YOUR MEMORY.

5 A YES, MA'AM.

6 Q OKAY. SO WHEN YOU INTERVIEWED DIEGO THIS FIRST TIME,
7 THE HEADING OF THE STATEMENT FORM IS "BABY JESUS"?

8 A YES, MA'AM.

9 Q SO YOU BROUGHT HIM TO THE POLICE STATION SPECIFICALLY
10 TO TALK ABOUT CHRISTOPHER LIVERMAN.

11 A WELL, NOT SPECIFICALLY. JUST TO TALK ABOUT HIS
12 ASSOCIATION WITH LIVERMAN AND HIS INVOLVEMENT IN THIS
13 CASE.

14 Q OKAY. BUT THE HEADING OF THE STATEMENT IS "BABY
15 JESUS".

16 A THAT DOESN'T NECESSARILY MEAN THAT'S THE ONLY THING
17 I'M GOING TO ADDRESS IN THE INTERVIEW.

18 Q OKAY.

19 A THAT'S JUST BASICALLY FILLING IN THE BLANK.

20 Q AND IN THIS STATEMENT THAT DIEGO THOMPSON GAVE YOU,
21 HE INFORMED YOU THAT HE HAD LEFT HIS GRANDMOTHER'S HOUSE.

22 A YES, MA'AM.

23 Q AND HE TOLD YOU THAT HE HAD PLAYED SOME BASKETBALL
24 WITH SOME PEOPLE.

25 A YES.

1 Q YES. AND HE TOLD YOU THAT A RIDE HAD COME AND PICKED
2 HIM UP FROM BAYBERRY AND HEADED OVER TO BETHEL BISHOP.

3 A YES.

4 Q AND HE SAID HE RAN ACROSS CHRIS LIVERMAN, DIDN'T SEE
5 HIM WITH A GUN, DIDN'T SEE HIM WITH ANYONE.

6 A YES, MA'AM.

7 Q OKAY. AND HE SAID THAT CHRIS WAS HEADING TO T.S.
8 MARTIN TO HANDLE SOMETHING.

9 A YES.

10 Q DIEGO SAID HE DIDN'T GO WITH HIM.

11 A THAT'S CORRECT.

12 Q BUT THAT HE WENT TO COPPERFIELD APARTMENTS INSTEAD.

13 A THAT'S CORRECT.

14 Q AND THEN HE TOLD YOU HE GOT HOME A LITTLE AFTER
15 10:00 P.M.

16 A YES, MA'AM.

17 Q AND HE REMEMBERED THE TIME BECAUSE HE WAS WATCHING
18 COMIC VIEW.

19 A THAT'S WHAT HE SAID.

20 Q SO HE WENT SO FAR AS TO SAY THAT EVEN THE FIRST COMIC
21 WAS STILL ON TELEVISION.

22 A HE SAID THAT THE FIRST COMIC WAS STILL UP THERE, AND
23 THEN HE GOT ON THE PHONE.

24 Q AND AT THAT POINT YOU LET HIM LEAVE THE POLICE
25 STATION?

1 A AFTER HE FINISHED HIS STATEMENT, YES, MA'AM.

2 Q BUT YOU WANTED TO RE-INTERVIEW HIM LATER, CORRECT?

3 A YES.

4 Q OKAY. BUT YOU DIDN'T BUY IT?

5 A I KNEW HE WAS LYING.

6 Q OKAY. YOU KNEW HE WAS LYING. SO ON AUGUST 31ST YOU
7 ATTEMPTED TO INTERVIEW HIM A SECOND TIME.

8 A YES.

9 Q AND YOU WENT TO SURREY STREET, WHICH IS WHERE HE WAS
10 LIVING?

11 A I THINK HIS GRANDPARENTS LIVE AT THAT ADDRESS.

12 Q IS THAT WHERE YOU BELIEVED THAT YOU COULD LOCATE HIM?

13 A YES.

14 Q AND APPARENTLY, HE HAD JUST LEFT ON FOOT --

15 A YES.

16 Q -- WHEN YOU ARRIVED. YOU SEARCHED THE AREA.

17 A YES.

18 Q BUT YOU COULDN'T FIND HIM.

19 A YES.

20 Q AND THEN LATER ON THAT AFTERNOON, YOU CONTACTED HIS
21 MOTHER.

22 A THAT'S CORRECT.

23 Q AND SHE AGREED TO BRING HIM IN FOR A SECOND INTERVIEW
24 AT 9:00 A.M. ON SEPTEMBER 2ND, 2004.

25 A YES, MA'AM.

1 Q AND THAT WOULD BE TWO DAYS LATER?

2 A YES, MA'AM.

3 Q AND THEY SHOWED UP FOR THAT INTERVIEW.

4 A YES, THEY DID.

5 Q OKAY. BUT DIEGO'S MOTHER WOULDN'T ALLOW HIM TO SIGN
6 THE WAIVER OF RIGHTS FORM, WOULD SHE?

7 A THAT'S CORRECT.

8 Q SO AT THAT POINT, YOU DECIDED NOT TO CONDUCT AN
9 INTERVIEW?

10 A RIGHT.

11 Q BUT THEN YOU RECEIVED A PHONE CALL FROM A LOCAL
12 ATTORNEY, A STATE LEGISLATOR, TODD RUTHERFORD.

13 A YES, MA'AM.

14 Q AND HE HAD BEEN RETAINED BY DIEGO THOMPSON'S FAMILY
15 FOR THE PURPOSES OF REPRESENTING HIM IN CONNECTION WITH
16 THIS.

17 A YES, MA'AM.

18 Q AND ATTORNEYS LOOK OUT FOR THEIR CLIENTS, RIGHT?

19 A THEY ARE HIRED TO. YOU SHOULD KNOW.

20 Q THAT'S WHAT THEY'RE HIRED TO DO, RIGHT? THEN HE
21 TELLS YOU THAT HE'S GOING TO BRING IN DIEGO FOR PURPOSES
22 OF GIVING A STATEMENT.

23 A HE SAID THAT --

24 Q YES.

25 A -- HE WAS THERE AT THE TIME OF THE SHOOTING, AND HE

1 WAS GOING TO GIVE ME A STATEMENT.

2 Q EXACTLY. AT THIS POINT YOU FIND OUT FROM
3 REPRESENTATIVE RUTHERFORD THAT, IN FACT, DIEGO THOMPSON
4 HAD BEEN PRESENT AT THE TIME OF THE SHOOTING.

5 A YES.

6 Q AND AT THE TIME THAT YOU RECEIVED THIS INFORMATION,
7 YOU ALREADY HAD TWO STATEMENTS FROM TYRONE SMITH.

8 A YES.

9 Q AND YOU HAD STATEMENTS FROM VARIOUS OTHER PEOPLE.

10 A YES.

11 Q AND SO YOU MUST HAVE KNOWN AT THE TIME YOU GOT THIS
12 PHONE CALL THERE WERE SEVERAL GUNS PRESENT WHEN THESE
13 MURDERS OCCURRED.

14 A SEVERAL GUNS PRESENT?

15 Q YES.

16 A JUST BASED ON TYRONE SMITH'S STATEMENT, THERE WAS AN
17 INDICATION OF MORE THAN ONE GUN.

18 Q RIGHT, AND HE SUGGESTED THERE WAS AT LEAST A RIFLE, A
19 SHOTGUN AND POSSIBLY A PISTOL.

20 A YES.

21 Q AND YOU ALSO KNEW THAT THERE WERE SEVERAL PEOPLE WHO
22 WERE INVOLVED IN WHAT HAPPENED THAT NIGHT.

23 A YES.

24 Q SO AT TEN -- AT 2:10 THAT AFTERNOON, YOU TOOK ANOTHER
25 STATEMENT FROM DIEGO WHILE IN THE PRESENCE OF HIS

1 ATTORNEY.

2 A THAT'S CORRECT.

3 Q AND YOU MUST HAVE HAD A CONVERSATION WITH
4 MR. RUTHERFORD PRIOR TO ALLOWING DIEGO TO GIVE A
5 STATEMENT.

6 A I DID.

7 Q SO WHEN YOU FINALLY GOT THIS STATEMENT, THAT PUTS
8 CHRISTOPHER LIVERMAN IN THE MIDDLE OF THIS MESS, PUTS HIM
9 INTO THIS CRIME.

10 A HE SAID THAT CHRIS LIVERMAN SHOT THE CHILDREN.

11 Q RIGHT.

12 A OR SHOT AT THE CHILDREN.

13 Q AND THAT'S WHAT -- THAT'S THE SUM AND SUBSTANCE,
14 ESSENTIALLY, OF WHAT DIEGO SAID IN HIS STATEMENT, BUT YOU
15 WOULD CONCEDE THAT DIEGO'S FIRST STATEMENT THAT HE GAVE TO
16 YOU IS A COMPLETE LIE.

17 A HE MAY HAVE MADE -- I DON'T KNOW IF THE ENTIRE THING
18 IS A COMPLETE LIE, THE FIRST PART OF IT, AS FAR AS THE --

19 Q WELL, THE IMPORTANT PARTS.

20 A YEAH.

21 Q I MEAN, THE FACT THAT HE DENIED BEING THERE AND THEN
22 ALL OF A SUDDEN HE SAID HE WAS THERE.

23 A SURE.

24 Q SO THAT FIRST STATEMENT WAS A COMPLETE LIE.

25 A SOME OF THE INFORMATION HE GAVE AT THE FIRST PART OF

1 THE STATEMENT COULD HAVE BEEN TRUE, I DON'T KNOW. HE MAY
2 HAVE MET UP WITH CHRIS THERE IN THE APARTMENTS, BUT MOST
3 OF IT WAS FALSE, YES.

4 Q AND POLICE STATEMENTS ARE SWORN STATEMENTS, AREN'T
5 THEY?

6 A YES, THEY ARE.

7 Q I MEAN, THEY'RE AFFIDAVITS.

8 A SOMETIMES, YES, MA'AM.

9 Q OKAY. BUT THIS -- HE WAS SWORN --

10 A YES, HE WAS.

11 Q -- WHEN HE GAVE THIS STATEMENT.

12 A YES, HE WAS.

13 Q OKAY. SO DIEGO HAD ALREADY LIED TO YOU UNDER OATH BY
14 THE TIME HE AND HIS ATTORNEY CAME TO MEET WITH YOU.

15 A YES, MA'AM.

16 Q OKAY. SO LET'S TALK A LITTLE BIT ABOUT WHAT DIEGO
17 HAD TO SAY IN HIS SECOND STATEMENT.

18 A OKAY.

19 Q OKAY. AND IN HIS SECOND STATEMENT, DIEGO HAD
20 INFORMED YOU THAT HE HAD ENCOUNTERED POOH IN THE BISHOP ON
21 THE DAY OF THE SHOOTINGS.

22 A HE SAID HE SAW BABY JESUS AND GOO "COMING UP TO ME."
23 HE SAID THEY WERE COMING UP TO HIM AND ASKING WHAT HE WAS
24 DOING.

25 Q WELL, HE ENCOUNTERED POOH. I'M TALKING ABOUT CARL

1 SMITH.

2 A OKAY. YES, MA'AM.

3 Q OKAY. AND ACCORDING TO HIM, POOH INFORMED THEM THAT
4 THEY NEEDED TO BE CAREFUL BECAUSE EARLIER THEY HAD TO PULL
5 OUT SOME PISTOLS ON SOME BLOODS, AND THEN THEY WERE
6 SHOOTING IN THE AIR.

7 A YES, MA'AM.

8 Q OKAY. AND THAT'S -- ACCORDING TO DIEGO, THAT'S WHAT
9 CARL INFORMED HIM.

10 A THAT'S CORRECT.

11 Q BUT YOU NEVER FOUND ANY OTHER KINDS OF SHELL CASINGS
12 ON T.S. MARTIN, DID YOU?

13 A NO, MA'AM.

14 Q AND DIEGO THOMPSON TOLD YOU THAT CHRIS PULLED OUT HIS
15 FLAG, RIGHT?"

16 A HE DID.

17 Q BUT YOU NEVER FOUND A BLACK BANDANNA OR A CAMOUFLAGE
18 BANDANNA ON CHRISTOPHER LIVERMAN, DID YOU?

19 A NO, WE FOUND THE --

20 Q YOU FOUND A DOO-RAG.

21 A THE SCARF, THE DOO-RAG.

22 Q YOU FOUND A DOO-RAG. THEN DIEGO TELLS YOU THAT CHRIS
23 HAD JUST PULLED OUT THE .22 RIFLE, AND THEN GOO PULLED OUT
24 THE SAWED OFF SHOTGUN?

25 A YES.

1 Q AND OF COURSE, DIEGO TELLS YOU THAT HE HAS NO IDEA
2 THAT THESE OTHER TWO PEOPLE HAD BEEN WALKING WITH GUNS?

3 A YES. HE INDICATED HE DID NOT SEE THE GUNS.

4 Q AND ACCORDING TO DIEGO CHRIS ATTEMPTED TO FIRE NOT
5 JUST THE RIFLE BUT ALSO THE SHOTGUN.

6 A YES.

7 Q AND HE SAYS THAT HE SEES THIS EVEN THOUGH HE CLAIMS
8 HE'S RUNNING IN THE OTHER DIRECTION.

9 A HE SAID HE WAS TRYING TO GET BABY JESUS TO COME HOME,
10 AND THEN HE LOOKED BACK AND SAW BABY JESUS THROW DOWN THE
11 .22 RIFLE.

12 Q SO HE'S TRYING TO LEAVE THE SCENE, AND THEN HE TURNS
13 AROUND AND THAT'S WHEN HE CLAIMS THAT HE SEES THESE
14 THINGS. SO HE SAYS HE'S RUNNING BEFORE HE EVER HEARS THE
15 FIRST GUNSHOT.

16 A HE SAYS HE WAS TRYING TO GET BABY JESUS TO COME HOME.
17 THEN HE WALKED TOWARD THERE, "BUT THE HOUSE -- AND I RAN,
18 AND THEN I HEARD GUNSHOTS."

19 Q SO HE RAN AND THEN HE HEARD THE GUNSHOTS. NOW, DIEGO
20 TELLS YOU THAT HE THINKS CHRIS SHOT THE SHOTGUN OFF ON THE
21 RAILROAD TRACKS.

22 A I'M SORRY, I DON'T SEE THAT PART IN THE STATEMENT.

23 Q YOU DON'T SEE THAT IN THE STATEMENT?

24 (PAUSE).

25 A I REMEMBER SOME MENTION OF THAT.

1 Q JUST A MOMENT.

2 (PAUSE).

3 MS. FRANKLIN: MAY I APPROACH THE WITNESS?

4 THE COURT: SURE.

5 BY MS. FRANKLIN

6 Q I DIRECT YOU TO PAGE TWO. LET'S SEE, THE RAILROAD
7 TRACKS.

8 A OKAY. YES. YES. HE SAID, "LITTLE CHRIS CAUGHT UP
9 WITH ME. THEY SAID -- THEY SAID BABY JESUS SHOT THE SAWED
10 OFF ON THE TRACKS."

11 Q RIGHT. SO DIEGO IS TELLING YOU THIS BECAUSE HE
12 THINKS THAT CHRIS SHOT THE SHOTGUN OFF ON THE RAILROAD
13 TRACKS.

14 A HE SAID THEY SAID THAT.

15 Q RIGHT, BUT HE BELIEVES THAT. THIS IS WHY HE'S
16 COMMUNICATING THIS TO YOU.

17 A I DON'T KNOW WHAT --

18 MS. FENT: OBJECTION AS TO WHAT SOMEBODY ELSE
19 BELIEVES.

20 THE COURT: SUSTAINED.

21 BY MS. FRANKLIN

22 Q BUT THEN HE TELLS YOU THAT HE SEES CHRIS TAKE OFF THE
23 SHIRT, WRAP THE GUNS IN IT, HIDES IT UNDER A LOG NEAR THE
24 TRACKS.

25 A YES.

1 Q DID IT OCCUR TO YOU THAT IF DIEGO WASN'T THERE TO SEE
2 A GUN BEING FIRED ON THE TRACKS THAT HE COULDN'T HAVE BEEN
3 THERE TO SEE THE GUNS BEING PLACED UNDER THE LOG?

4 A WELL, HE COULDN'T BE IN TWO PLACES AT ONCE.

5 Q EXCUSE ME?

6 A I SAID HE COULDN'T BE AT TWO PLACES AT ONCE.

7 Q RIGHT. AND YOU MUST HAVE KNOWN THAT SINCE THESE
8 GUNSHOTS ON THE TRACKS OCCURRED ROUGHLY 25 MINUTES AFTER
9 CHRISTOPHER LIVERMAN WAS DETAINED, THAT HE COULDN'T HAVE
10 BEEN THE ONE TO FIRE THE GUNS ON THE TRACK.

11 A RIGHT. THE OFFICER SAID HE WAS IN CUSTODY WHEN HE
12 HEARD THE GUNSHOT.

13 Q EXACTLY. THEN DIEGO TALKS ABOUT SOME GUY NAMED JOHN
14 WHOSE HOUSE HE AND GOO WENT TO AFTER THE SHOOTING.

15 A YES. HE WENT TOWARDS BAYBERRY.

16 Q TO GO TO SOME GUY NAMED JOHN'S HOUSE.

17 A I THINK HE SAID THAT. I CAN'T FIND IT IN THE
18 STATEMENT.

19 (PAUSE).

20 YES. I SEE IT, YES. I'M SORRY.

21 Q SO HE TELLS YOU HE GOES TO SOME GUY NAMED JOHN'S
22 HOUSE?

23 A THAT'S CORRECT, MA'AM.

24 Q HE AND GOO WENT.

25 A YES.

1 Q AND YOU NEVER TRACKED THAT PERSON DOWN, DID YOU?

2 A NO, I DIDN'T.

3 Q DIEGO MENTIONS THAT HE RUNS INTO SOMEBODY NAMED O.B.
4 IN THE BISHOP.

5 A YES, HE DID.

6 Q I THINK WE ESTABLISHED YOU NEVER SPOKE WITH O.B. IN
7 CONNECTION WITH THIS CASE.

8 A NO, WE DIDN'T.

9 Q DIEGO TOLD YOU THAT ONE OR TWO DAYS PASSED, AND THEN
10 CHRISTOPHER CALLED THEM AND ASKED ABOUT THE GUNS.

11 A YES.

12 Q AND YOU KNEW THAT CHRISTOPHER LIVERMAN WAS
13 INCARCERATED, WASN'T HE?

14 A YES.

15 Q AND AREN'T PHONE CALLS FROM THE JAIL RECORDED?

16 A I'M NOT SURE IF THEY ARE OR NOT.

17 Q SO YOU DON'T KNOW, IN YOUR EXPERIENCE AS A LAW
18 ENFORCEMENT OFFICER, WHETHER OR NOT PHONE CALLS FROM ALVIN
19 S. GLENN DETENTION CENTER ARE RECORDED?

20 A THEY MAY BE.

21 Q BUT NEVERTHELESS, WE HAVE NO TAPE OF ANY SUCH PHONE
22 CONVERSATION, DO WE?

23 A NO, MA'AM.

24 Q DIEGO MENTIONS ALL THESE OTHER NAMES. HE MENTIONS
25 ERIC, TY, LITTLE CHRIS, 50, PICCOLO, TROY, LITTLE C. AND

1 JEROD; IS THAT CORRECT?

2 A YES, MA'AM.

3 Q AND TO DATE, YOU DON'T KNOW WHO THESE PEOPLE ARE, DO
4 YOU?

5 A SOME OF THEM.

6 Q WHO IS ERIC?

7 A I'M SORRY, NO. NOT THESE PEOPLE HE MENTIONED IN THE
8 STATEMENT, NO.

9 Q SO YOU DON'T KNOW THESE PEOPLE?

10 A NO, I DON'T.

11 Q AND YOU HAVEN'T SPOKEN TO ANY OF THESE PEOPLE?

12 A NO.

13 Q SO YOU HAVEN'T BEEN ABLE TO CORROBORATE DIEGO'S
14 STATEMENT BY TALKING TO ANY OF THE PEOPLE HE MENTIONS IN
15 THE STATEMENT?

16 A I DON'T.

17 Q DID IT OCCUR TO YOU AFTER GIVING THE SECOND STATEMENT
18 THAT HE WAS NOT BEING COMPLETELY TRUTHFUL?

19 A I DON'T KNOW IF HE WAS OR NOT. I MEAN, IT APPEARED
20 TO BE.

21 Q OKAY. THE DAY AFTER THE SHOOTING, YOU CONTACTED
22 BETHEL BISHOP APARTMENTS.

23 A YES, MA'AM.

24 Q AND YOU KNEW THAT THEY HAD SURVEILLANCE CAMERAS
25 THERE, AND THEY MIGHT BE HELPFUL IN YOUR INVESTIGATION?

1 A YES, MA'AM; YES, MA'AM.

2 Q DO YOU KNOW HOW MANY CAMERAS THEY HAVE?

3 A I THINK IT'S 16 OR 15.

4 Q AND THERE ARE CAMERAS IN THE COLONY, AS WELL, AREN'T
5 THERE?

6 A I DON'T KNOW ABOUT THE COLONY.

7 Q THERE'S A POLICE SUBSTATION RIGHT OUTSIDE THE COLONY,
8 ISN'T THERE?

9 A YES, THERE IS.

10 Q AND THERE ARE VIDEO MONITORS IN THE POLICE
11 SUBSTATION?

12 A IF THEY ARE; THEY BEEN PUT IN SINCE I WAS LAST IN
13 THERE.

14 Q OKAY. BUT THESE 16 CAMERAS IN BETHEL BISHOP, THEY
15 COVER THE WHOLE AREA, DO THEY NOT?

16 A RIGHT. THEY COVER A LOT OF THE AREA. I DON'T KNOW
17 IF THEY COVER THE WHOLE AREA.

18 Q THERE ARE MANY LIGHTS IN THIS AREA.

19 A YES, THERE ARE A LOT IN THIS AREA.

20 Q AND THESE CAMERAS ROTATE AND THEY ZOOM IN, RIGHT?

21 A IF SOMEONE IS OPERATING THE CAMERA MANUALLY, I THINK
22 THEY CAN ZOOM IN, YES.

23 Q ISN'T IT TRUE THAT MANUALLY YOU CAN SORT OF DIRECT IT
24 ANYWHERE YOU WANT TO?

25 A YES, YES.

1 Q BUT IS IT NOT THE CASE THAT WHEN YOU'RE LOOKING AT
2 THESE TAPES THAT THEY SORT OF ROTATE, ZOOM IN ON
3 SOMETHING, PULL BACK, ROTATE, ZOOM IN ON SOMETHING ELSE?

4 A WHEN I VIEWED THE TAPE, I HAD NO MEANS TO ZOOM IN
5 LIKE THAT.

6 Q OKAY. SO YOU DON'T RECALL EXACTLY HOW THESE CAMERAS
7 OPERATE?

8 A NO, I DON'T.

9 Q THESE CAMERAS ARE HERE FOR A REASON, AREN'T THEY?

10 A SECURITY.

11 Q YEAH. IT'S A HIGH CRIME AREA, ISN'T IT?

12 A YES.

13 Q AND THE POLICE ARE INTERESTED IN SEEING WHAT HAPPENS
14 IN THIS NEIGHBORHOOD, RIGHT?

15 A WELL, THAT AND PLUS THE -- I THINK THE MANAGEMENT
16 MONITORS THE CAMERAS, AS WELL.

17 Q I'M SORRY?

18 A THE MANAGEMENT MONITORS THE CAMERAS, AS WELL.

19 Q RIGHT. BUT I MEAN, THERE ARE NOT CAMERAS IN
20 EVERYBODY'S NEIGHBORHOOD, IS THAT TRUE?

21 A CORRECT.

22 Q I MEAN THERE ARE CAMERAS HERE IN BETHEL BISHOP. YES?

23 A THERE ARE CAMERAS THERE, YES.

24 Q AND THEY'RE HERE BECAUSE POLICE ARE INTERESTED IN
25 SEEING WHAT HAPPENS IN THIS NEIGHBORHOOD?

1 A I DON'T KNOW IF THEY PUT THOSE CAMERAS IN AT POLICE
2 REQUEST OR NOT, BUT THEY'RE THERE IF WE NEED THEM.

3 Q AND YOU STATED YOU DON'T KNOW WHETHER OR NOT COLONY
4 APARTMENTS ALSO HAS THE VIDEO SURVEILLANCE?

5 A I DON'T KNOW.

6 Q DID YOU EVER ASK ANYONE WHETHER OR NOT THERE MIGHT BE
7 CAMERAS IN THE COLONY?

8 A NO, I DIDN'T.

9 Q SO YOU JUST TESTIFIED THAT YOU DIDN'T REALIZE THAT
10 THERE WERE VIDEO MONITORS IN THE POLICE SUBSTATION OUTSIDE
11 THE COLONY APARTMENTS?

12 A NO, I DIDN'T KNOW THAT.

13 Q THE GUN IN THIS CASE WAS RECOVERED ON OCTOBER 1ST,
14 2004?

15 A YES, MA'AM.

16 Q AND YOU HAVE SEEN THIS GUN?

17 A YES, MA'AM.

18 Q AND THE GUN HAS A SOCIAL SECURITY NUMBER ENGRAVED ON
19 IT, DOESN'T IT?

20 A YES, IT DOES.

21 Q AND THE GUN TRACED -- WELL, EXPLAIN TO THE JURY WHAT
22 A GUN TRACE IS.

23 A THE SERIAL NUMBER FOR THE GUN IS PROVIDED TO THE
24 STATE LAW ENFORCEMENT DIVISION OR THE ALCOHOL, TOBACCO,
25 AND FIREARMS. THEY CAN DO A TRACE FOR OWNERSHIP WHICH

1 WOULD SHOW WHEN AND WHERE THE GUN WAS PURCHASED.

2 Q AND THE GUN TRACE FOR THIS GUN WAS RUN IN MAY OF THIS
3 YEAR, WASN'T IT?

4 A YES.

5 Q AND GUN TRACES ARE IMPORTANT, AREN'T THEY?

6 A SOMETIMES.

7 Q THEY CAN TELL YOU WHOSE GUN IT WAS THAT WAS USED IN A
8 CRIME.

9 A YEAH. SOMETIMES, YES, MA'AM.

10 Q AND SO IT TOOK SOME NUMBER OF MONTHS TO ACTUALLY RUN
11 THE GUN TRACE IN THIS CASE.

12 A YES, MA'AM.

13 Q AND IT WAS RUN AFTER I REQUESTED THAT IT BE RUN.

14 A YES, MA'AM.

15 Q OKAY. ON AUGUST 28TH, 2004 YOU RECEIVED A PHONE CALL
16 FROM SHANTE BETHEL.

17 A YES, MA'AM.

18 Q AND THAT WAS TWO DAYS AFTER THE SHOOTING.

19 A YES.

20 Q AND MS. BETHEL HAS ALREADY TESTIFIED IN THIS CASE.

21 A YES.

22 Q YES. AND YOU KNEW HER BEFORE SHE CALLED ON THAT DAY,
23 DIDN'T YOU?

24 A YES. I HAD CONTACT WITH HER BEFORE.

25 Q BECAUSE SHE HAD BEEN ARRESTED BEFORE.

1 A YES.

2 Q SHE HAD BEEN ARRESTED IN JULY OF THAT YEAR.

3 A YES.

4 Q AND YOU WERE THE LEAD INVESTIGATOR ON HER OUTSTANDING
5 CHARGE.

6 A I WAS.

7 Q AND THAT CHARGE WAS ASSAULT WITH INTENT TO KILL?

8 A YES.

9 Q AND AFTER SHE PICKED UP THAT CHARGE, SHE WAS
10 ARRESTED.

11 A YES, SHE WAS.

12 Q OKAY. SHE WAS TRANSPORTED TO THE JAIL THAT NIGHT.

13 A SHE WAS.

14 Q OKAY. SO THIS WAS THE PERSON WHO CALLED YOU UP AND
15 SAID SHE HAD INFORMATION ABOUT THE SHOOTING.

16 A YES.

17 Q SHE SAID SHE HEARD HE WAS INVOLVED IN THE SHOOTING.

18 A SHE STATED THAT SHE HEARD FROM PEOPLE TALKING SOME
19 INFORMATION ABOUT THE SHOOTING.

20 Q WELL, I MEAN ACCORDING TO YOUR NOTES, SHE SAID SHE
21 TOLD YOU SHE HEARD PEOPLE TALKING, COOCHIE, MIRAGE, AND
22 PARIS DID THE SHOOTING.

23 A YES.

24 Q AND THAT'S WHAT SHE TOLD YOU, AND THAT'S WHAT YOU
25 REPORTED IN YOUR NOTES.

1 A I DID.

2 Q AND SHE GAVE YOU THIS INFORMATION RELATIVE TO YOUR
3 INVESTIGATION AT TWO O'CLOCK ON AUGUST 28TH, 2004.

4 A YES.

5 Q BUT YOU DIDN'T HAVE HER COME DOWN TO THE POLICE
6 STATION RIGHT THEN, DID YOU?

7 A SHE CAME DOWN LATER. I'M NOT SURE OF THE DATE.

8 Q RIGHT, BUT SHE DIDN'T COME DOWN AT THAT TIME AFTER
9 THE PHONE CALL.

10 A NO, SHE DIDN'T.

11 Q AND YOU DID SOME MORE INVESTIGATING BEFORE YOU GAVE
12 HER A TELEPHONE CALL BACK?

13 A YES.

14 Q AT THAT POINT, YOU TOOK A SECOND STATEMENT FROM
15 TYRONE SMITH BEFORE YOU EVER MET WITH HER.

16 A I THINK I DID, YES.

17 Q AND AT THE TIME YOU SPOKE WITH TYRONE SMITH,
18 CHRISTOPHER LIVERMAN WAS STILL THE ONLY SUSPECT YOU HAD IN
19 CUSTODY.

20 A AT THAT TIME, HE WAS THE ONE THAT HAD BEEN ARRESTED
21 FOR THE SHOOTING, YES, MA'AM.

22 Q AND HE'S THE ONLY PERSON.

23 A YES, MA'AM.

24 Q AND WHEN YOU MET WITH TYRONE SMITH THE SECOND TIME,
25 YOU SHOWED HIM SOME PHOTO LINEUPS.

1 A YES.

2 Q YOU SHOWED HIM TWO PHOTO LINEUPS.

3 A YES.

4 Q YOU SHOWED HIM ONE LINEUP WITH CARL SMITH, POOH, IN
5 IT.

6 A THAT'S CORRECT:

7 Q BUT HE DID NOT IDENTIFY CARL SMITH AS BEING PRESENT
8 THERE --

9 A THAT'S CORRECT.

10 Q -- AT T.S. MARTIN, AND YOU SHOWED HIM A PHONE LINEUP
11 OF SHEROD PRAYLOW.

12 A THAT'S CORRECT.

13 Q BUT HE DID NOT IDENTIFY SHEROD PRAYLOW AS HAVING BEEN
14 PRESENT THERE THAT DAY?

15 A NO, HE DID NOT.

16 Q BUT OTHER WITNESSES HAD PUT THE THREE THERE THAT
17 NIGHT.

18 A NOT AT THE TIME OF THE SHOOTING.

19 Q BUT THERE THAT NIGHT.

20 A EARLIER THAT EVENING, YES, MA'AM.

21 Q EARLIER THAT EVENING AROUND NINE.

22 A YES, MA'AM.

23 Q 9:11, 9:14.

24 A YES, MA'AM.

25 Q AND YOU ALSO KNEW THAT SHEROD PRAYLOW WAS THERE THAT

1 NIGHT.

2 A YES, MA'AM.

3 Q BUT TYRONE SMITH DIDN'T PICK EITHER OF THEM OUT OF A
4 PHOTO LINEUP.

5 A THAT'S CORRECT.

6 Q SO BY THE TIME YOU MADE AN APPOINTMENT TO MEET WITH
7 SHANTE BETHEL, YOU MUST HAVE REALIZED THERE WERE PROBLEMS
8 WITH TYRONE SMITH'S RECOLLECTION OF WHAT HAPPENED THAT
9 NIGHT.

10 A I JUST WANTED TO DOCUMENT WHAT HIS RECOLLECTIONS
11 WERE.

12 Q ALL RIGHT. SO ON AUGUST 29TH AT 6:45, YOU MET WITH
13 SHANTE BETHEL.

14 A YES.

15 Q AND TO DATE, SHE HAS NEVER BEEN PROSECUTED FOR THE
16 CHARGE FOR WHICH YOU ARRESTED HER FOR?

17 A I HAVE NO CONTROL OVER THAT.

18 Q ALL RIGHT. BUT TO THE BEST OF YOUR KNOWLEDGE SHE HAS
19 NOT BEEN PROSECUTED.

20 A SHE TESTIFIED SHE WASN'T, YES.

21 Q I JUST HAVE SOME FOLLOW-UP INVESTIGATION QUESTIONS.
22 THE GUN WAS RECOVERED ON OCTOBER 2ND, 2004.

23 A YES.

24 Q TWENTY MONTHS LATER, YOU RUN A GUN TRACE ON THE
25 WEAPON.

1 A YES.

2 Q YOU NEVER DETERMINED WHO TY WAS.

3 A NO.

4 Q DID YOU EVER DETERMINE WHO LITTLE CHRIS WAS?

5 A NO, MA'AM.

6 Q YOU NEVER TOOK ANY STATEMENTS FROM PARIS ALEXANDER.

7 A NO, I DIDN'T.

8 Q YOU NEVER TOOK A STATEMENT FROM O.B.

9 A NO, I DIDN'T.

10 Q IN THE COURSE OF YOUR INVESTIGATION, IT CAME TO YOUR
11 ATTENTION TO THAT O.B., SHEROD, CARL SMITH MAY HAVE BEEN
12 INVOLVED IN SOME WAY.

13 A THE FIRST TIME AROUND, POSSIBLY.

14 Q BUT THEIR NAMES HAD BEEN FLOATED AROUND AS HAVING
15 POSSIBLE CONNECTIONS WITH THESE EVENTS.

16 A YES.

17 Q DURING THE COURSE OF YOUR INVESTIGATION, YOU HEARD
18 THAT SOMEBODY BY THE NAME OF "CLOROX" MIGHT KNOW
19 SOMETHING.

20 A THAT WAS A PHONE CALL, JUST KIND OF RANDOM. THE
21 PERSON CALLING SAID THAT HIS SISTER AT U.S.C. HAD TOLD HIS
22 SISTER THAT THEY WERE HIDING THEIR SON, CLOROX, BECAUSE HE
23 WAS INVOLVED IN THE SHOOTING.

24 Q SO YOU HAD THE NAME "CLOROX" FLOATING OUT THERE, AND
25 YOU TOOK THE NUMBER OF THE PERSON WHO RELAYED THAT

1 INFORMATION TO YOU.

2 A YES.

3 Q AND YOU NEVER FOLLOWED UP ON THAT.

4 A YES, I DID.

5 THE COURT: SIR, CAN YOU SPEAK UP?

6 THE WITNESS: I'M SORRY.

7 THE COURT: I'M HAVING A PROBLEM HEARING YOU.

8 THE WITNESS: I DID SOME FOLLOW-UP CALLS TO THOSE

9 NUMBERS. THE LAST TIME I TALKED TO MR. JOHNSON, I BELIEVE

10 IT WAS, HE SAID IF HE HAD ANY ADDITIONAL INFORMATION, HE

11 WOULD CALL BACK. I NEVER DID HEAR FROM HIM.

12 BY MS. FRANKLIN

13 Q ALL RIGHT. AND SO YOU NEVER HEARD ANYTHING, AND THEN

14 AFTER YOU RECEIVED THAT CALL, YOU NEVER MADE ANY FURTHER

15 INQUIRIES ON THAT --

16 A I RAN IT TO SEE IF IT WAS IN OUR FILE, NICKNAME FILE,

17 BUT NEVER FOUND ANYTHING UNDER THAT NAME, CLOROX.

18 Q AT SOME POINT IN YOUR INVESTIGATION YOU PLACED A HOLD

19 ON A GUN THAT WAS LOCATED ON SURREY STREET.

20 A YES, I DID.

21 Q AND SURREY STREET IS WHERE DIEGO THOMPSON LIVED.

22 A YES.

23 Q AND YOU PLACED A HOLD ON THAT GUN ON SEPTEMBER 15TH,

24 2004.

25 A YES.

1 Q OKAY. THAT GUN WAS RECOVERED ON SEPTEMBER 14TH OF
2 2004.

3 A I DON'T HAVE THE PAPERWORK FROM THAT, BUT I DID PLACE
4 THE GUN --

5 MS. FENT: I OBJECT TO THE RELEVANCE OF THIS. MAY WE
6 APPROACH?

7 MS. FRANKLIN: YOUR HONOR, I THINK IT'S --

8 MS. FENT: IF WE CAN APPROACH.

9 THE COURT: SURE. COME UP.

10 (WHEREUPON, A BENCH CONFERENCE WAS HELD IN THE
11 PRESENCE, BUT NOT WITHIN THE HEARING, OF THE JURY).

12 THE COURT: OVERRULED. THE OBJECTION IS OVERRULED.
13 GO AHEAD.

14 BY MS. FRANKLIN

15 Q SO THE GUN WAS A .38 CALIBER PISTOL?

16 A YES.

17 Q AND TYRONE SMITH INFORMED YOU THAT SOMEONE ON THE
18 NIGHT OF AUGUST 26TH POINTED A .38 CALIBER PISTOL IN HIS
19 FACE.

20 A YES.

21 Q THE GUN WAS FOUND ACROSS THE STREET FROM DIEGO
22 THOMPSON'S HOUSE.

23 A I'M NOT SURE.

24 Q AND YOU KNEW WHERE BRADY BROWN LIVED DURING THE TIME
25 OF THIS INCIDENT.

1 A YES.

2 Q AND YOUR OFFICERS HAD SPOKEN WITH HIM IN THE EARLY
3 HOURS OF THE MORNING.

4 A YES.

5 Q HE WAS BROUGHT DOWN TO POLICE HEADQUARTERS THAT
6 NIGHT.

7 A THAT'S CORRECT.

8 Q YOU NEVER HAD THE WHITE FORD ESCORT FINGERPRINTED,
9 DID YOU?

10 A NO, I DIDN'T.

11 Q YOU NEVER ATTEMPTED TO RECOVER ANY D.N.A. FROM INSIDE
12 OF THAT VEHICLE, DIDN'T YOU?

13 A NO, MA'AM.

14 Q YOU HAD THE POWER TO IMPOUND THAT VEHICLE IF YOU HAD
15 WANTED TO.

16 A IF THERE WAS AN INDICATION IT HAD BEEN INVOLVED IN
17 THE SHOOTING, YES, MA'AM.

18 Q AND YOU NEVER HAD A GUNSHOT RESIDUE TEST PERFORMED ON
19 BRADY BROWN, DID YOU?

20 A NO, MA'AM.

21 Q OR ON PARIS ALEXANDER.

22 A NO.

23 Q OR ON SHEROD PRAYLOW.

24 A NO, MA'AM.

25 Q OR ON REGINALD JOYNER.

1 A NO, MA'AM.

2 Q OR ON DIEGO THOMPSON.

3 A NO. SOME OF THOSE PEOPLE WERE CONTACTED FAR BEYOND
4 THE TIME PERIOD THAT THE GUNSHOT RESIDUE TEST COULD HAVE
5 BEEN --

6 Q SURE, BECAUSE GENERALLY SPEAKING, THERE'S ABOUT A SIX
7 HOUR WINDOW, RIGHT?

8 A YES.

9 Q BUT YOU HAD SOME OF THESE NAMES QUICKLY AFTER THIS
10 INCIDENT HAPPENED.

11 A A COUPLE OF THEM, YES.

12 Q BUT YOU DIDN'T HAVE A GUNSHOT RESIDUE TEST PERFORM ON
13 ANY OF THEM.

14 A NO.

15 Q BUT YOU HAD A GUNSHOT RESIDUE TEST PERFORMED ON
16 CHRISTOPHER LIVERMAN.

17 A YES.

18 Q AND IT CAME BACK NEGATIVE.

19 A YES.

20 Q AND YOU KNEW ON OCTOBER 27TH THAT IT CAME BACK
21 NEGATIVE.

22 A YES.

23 Q ACCORDING TO THE NOTES THAT YOU PROVIDED TO US, THE
24 LAST TIME YOU INTERVIEWED ANYONE IN CONNECTION WITH THESE
25 CASES, THIS MATERIAL, WAS SEPTEMBER 18TH OF 2004. IS THAT

1 THE LAST TIME THAT YOU SPOKE TO SOMEBODY ABOUT THIS CASE?

2 A NO, MA'AM.

3 Q DID YOU -- WHEN YOU FOUND THE GUN IN THIS CASE, DID
4 YOU CHECK FOR FINGERPRINTS ON THE MAGAZINE?

5 A WHEN THE GUN WAS RECOVERED, I ASKED ONE OF OUR I.D.
6 PEOPLE TO TAKE A LOOK AT THE GUN AND SEE IF IT WAS
7 ANYTHING THAT COULD BE PROCESSED ON IT. SHE INFORMED ME
8 THAT THE GUN DID NOT APPEAR TO BE IN ANY CONDITION TO BE
9 PROCESSED BECAUSE OF HOW LONG IT HAD BEEN OUT IN THE
10 WEATHER, SO SHE DIDN'T ATTEMPT TO PROCESS IT.

11 Q OKAY.

12 A SHE EXAMINED THE MAGAZINE, THE SCOPE, THE GUN.

13 Q OKAY. SO THE GUN ITSELF WAS NOT CAPABLE OF BEING
14 PROCESSED BECAUSE IT HAD BEEN WEATHERED.

15 A THAT'S CORRECT.

16 Q BUT A MAGAZINE IS ACTUALLY INSERTED INSIDE OF A GUN,
17 IS IT NOT?

18 A THAT'S CORRECT, BUT IT'S NOT WATERTIGHT.

19 Q IT'S NOT WATERTIGHT?

20 A NO.

21 Q BUT YOU JUST NEVER CHECKED.

22 A I NEVER CHECKED IT. MS. O'GRADY LOOKED AT THE GUN.
23 I ASSUME SHE LOOKED AT THE MAGAZINE AND THE SCOPE AND
24 DETERMINED THAT IT WAS NOT IN A CONDITION TO BE PROCESSED.

25 Q AND SO HER ASSESSMENT OF IT, NOT BEING CAPABLE OF

1 BEING PROCESSED, YOU FELT THAT EXTENDED TO THE MAGAZINE
2 THAT WAS LODGED IN THE WEAPON?

3 A SHE IS PRETTY THOROUGH WITH HER WORK.

4 Q OKAY. I'M JUST ASKING.

5 A YES.

6 Q DID YOU EVER GET ANY LEADS ON WHO ACTUALLY STOLE THE
7 GUN?

8 A NO, MA'AM.

9 Q WOULD THAT HAVE BEEN IMPORTANT TO THIS INVESTIGATION?

10 A YES, MA'AM.

11 Q AND THE TAPES THAT YOU RECOVERED FROM BETHEL BISHOP
12 APARTMENTS, I BELIEVE YOU TESTIFIED YOU SPENT ABOUT FOUR
13 OR FIVE HOURS REVIEWING THESE TAPES.

14 A YES.

15 Q AND DURING YOUR REVIEW OF THE TAPES, YOU SAID THERE
16 WERE QUITE A FEW PEOPLE WHO WERE WEARING LIKE BLACK AND
17 WHITE SHIRTS AND JEANS.

18 A THERE WAS A VARIETY OF CLOTHING THAT PEOPLE WERE
19 WEARING, YES.

20 Q IS A WHITE T-SHIRT SORT OF A POPULAR THING TO BE
21 WEARING?

22 A IT'S PRETTY COMMON.

23 MS. FRANKLIN: BEG THE COURT'S INDULGENCE, YOUR
24 HONOR.

25 THE COURT: ALL RIGHT.

1 (PAUSE).

2 MS. FRANKLIN: NO FURTHER QUESTIONS AT THIS TIME,
3 YOUR HONOR.

4 THE COURT: ALL RIGHT. REDIRECT?

5 MS. FENT: THANK YOU, YOUR HONOR.

6 REDIRECT EXAMINATION:

7 BY MS. FENT

8 Q REGARDING TY AND LITTLE CHRIS, YOU SPOKE WITH A
9 NUMBER OF PEOPLE TRYING TO IDENTIFY THESE TWO INDIVIDUALS,
10 CORRECT?

11 A YES, I DID.

12 Q OKAY. ANOTHER INDIVIDUAL NAMED CHRIS, SOMEONE NAMED
13 TY, CORRECT?

14 A YES.

15 Q OR HAD NICKNAMES SIMILAR TO A LITTLE CHRIS.

16 A YES.

17 Q DID ANY OF THOSE LEADS TO BE ABLE TO POSSIBLY
18 IDENTIFY WHO THOSE TWO PEOPLE WERE, WHO TY AND CHRIS WERE,
19 OUT ON T.S. MARTIN?

20 A NO, THEY DIDN'T.

21 Q YOU, YOURSELF, WENT OUT AND SEARCHED T.S. MARTIN THE
22 FOLLOWING DAY.

23 A YES, I DID.

24 Q IN THE DAYLIGHT.

25 A YES.

1 Q OKAY. AND THAT SEARCH, I GUESS, THE SEARCH THE NIGHT
2 BEFORE THAT ALL THE LAW ENFORCEMENT OFFICERS WERE DOING,
3 TOGETHER WITH THAT SEARCH THAT YOU DID THE FOLLOWING DAY,
4 WALKING UP AND DOWN THAT STREET, DID YOU RECOVER ANY
5 EVIDENCE TO SHOW THAT ANYTHING OTHER THAN A .22 RIFLE WAS
6 SHOT?

7 A NO, MA'AM.

8 Q THE G.S.R. ON THE DEFENDANT WAS ACTUALLY DONE AT
9 HEADQUARTERS?

10 A I THINK IT WAS.

11 Q OKAY. BECAUSE YOU HAD DIRECTED JASON WHITTLE TO TAKE
12 HIM TO THE STATION, TAKE HIM TO HEADQUARTERS, CORRECT?

13 A YES, MA'AM.

14 Q AND THEN YOU SAID THAT YOU CONTACTED PETE CURRIE AT
15 THE SCENE AND SAID, "PLEASE GO TO HEADQUARTERS TO G.S.R.
16 HIM"?

17 A YES.

18 Q OKAY. AFTER GIVING HIS FIRST STATEMENT THAT NIGHT AT
19 THE POLICE STATION, THE DEFENDANT GAVE HIS FIRST WRITTEN
20 STATEMENT, DID YOU HAVE ANY OTHER DISCUSSIONS WITH HIM
21 REGARDING THE CASE?

22 A NO, MA'AM.

23 Q AND YOU SAID A COPY OF THE STATEMENT WAS GIVEN TO THE
24 DEFENDANT?

25 A YES, IT WAS.

1 Q AND HE WAS ABLE TO PHYSICALLY TAKE THAT STATEMENT
2 WITH HIM TO ALVIN S. GLENN DETENTION CENTER?

3 A YES, MA'AM.

4 Q SHEROD PRAYLOW, PARIS ALEXANDER, BRADY BROWN, CARL
5 SMITH, YOUR INVESTIGATION INDICATES THAT THEY WERE
6 INVOLVED IN THE FIRST INCIDENT WITH THE CAR, CORRECT?

7 A YES.

8 Q THAT HAPPENED 30, 40 MINUTES PRIOR TO THE SHOOTING?

9 A THAT'S CORRECT.

10 Q WAS THERE ANY EVIDENCE IMPLICATING THEM 30, 40
11 MINUTES LATER IN THE SHOOTING OF [REDACTED] C.D. AND
12 [REDACTED] T.M. ?

13 A NO, MA'AM.

14 Q CARL SMITH, POOH, SAID -- SHE ASKED, "HE DIDN'T GIVE
15 DIEGO'S NAME." IT WASN'T THAT HE -- TO CLARIFY, IT WASN'T
16 THAT HE DIDN'T SAY DIEGO WASN'T INVOLVED. HE JUST DIDN'T
17 KNOW THE PERSON'S NAME?

18 A CORRECT.

19 Q HE SAID HE WOULD LEAVE AND GO TRY TO FIND OUT WHAT
20 THIS GUY'S NAME WAS.

21 A YES, MA'AM.

22 Q AND THEN HE TALKED AROUND, CALLED YOU BACK AND SAID
23 IT WAS DIEGO THOMPSON?

24 A HE SAID IT WAS DIEGO THOMPSON, AND HE WENT TO C.A.
25 JOHNSON.

1 Q OKAY. AND DIEGO CAME IN, SAT DOWN, HE AND HIS
2 MOTHER -- I GUESS HIS MOTHER WASN'T COMFORTABLE WITH HIM
3 TALKING, CORRECT?

4 A THAT'S CORRECT.

5 Q SO YOU LET THEM LEAVE. THEY WANTED TO GO TALK TO A
6 LAWYER. THAT'S WHAT YOU NEEDED TO DO, RIGHT?

7 A THAT'S CORRECT.

8 Q AND AFTER CONFERRING WITH THAT LAWYER, YOU DON'T KNOW
9 WHAT THEY DISCUSSED, DO YOU? YOU HAVE NO IDEA WHAT THEIR
10 CONVERSATION WAS WITH THAT LAWYER.

11 A NO, I DON'T.

12 Q YOU WEREN'T PRESENT.

13 A NO, MA'AM.

14 Q HE CAME BACK AND SAID, "I WILL TALK TO YOU," CORRECT?

15 A YES.

16 Q THE CALLS FROM THE JAIL, IN YOUR EXPERIENCE IN
17 INVESTIGATING CRIMINAL CASES, DO INMATES OFTENTIMES MAKE
18 WHAT ARE CALLED THREE-WAY CALLS OUTSIDE THE JAIL?

19 A I THINK THAT'S POSSIBLE, YES.

20 Q OKAY. AND THOSE CAN'T BE TRACED, CORRECT?

21 A WHEN I INQUIRED ABOUT THE PHONE CALLS THAT HE MAY
22 HAVE MADE, I HAD TO PROVIDE A SUSPECTED NUMBER THAT MAY
23 HAVE BEEN CALLED, AND ANOTHER NUMBER COULD HAVE BEEN
24 CALLED AND THEN TRANSFERRED TO THAT NUMBER. ACCORDING TO
25 THE LADY I TALKED TO, THAT WOULD NOT HAVE SHOWN UP.

1 Q YOU WOULDN'T HAVE BEEN ABLE TO DOCUMENT THAT AND SHOW
2 THAT CALL WAS MADE?

3 A THAT'S CORRECT.

4 Q BUT YOU DID INVESTIGATE AND SEE WHAT YOU COULD FIND
5 OUT?

6 A YES, MA'AM.

7 Q OKAY. THE CAMERAS AT BETHEL BISHOP, WAS SOMEONE
8 MANUALLY OPERATING THOSE CAMERAS THAT NIGHT?

9 A NO, MA'AM.

10 Q SO THE IMAGE THAT GOT PUT ONTO THOSE TAPES IS WHAT
11 WE'RE STUCK WITH, CORRECT?

12 A YES, MA'AM.

13 Q YOU CAN'T GO BACK AND ZOOM IN ON A PICTURE THAT'S
14 ALREADY TAKEN?

15 A NOT THAT I'M AWARE OF.

16 Q OKAY. AND IF AN IMAGE ISN'T A GOOD ONE, IT'S JUST
17 GOING TO GET DISTORTED EVEN MORE AS WE BLOW IT UP?

18 A PROBABLY.

19 Q IT'S NOT GOING TO BE ANY BETTER OF A PICTURE BLOWN
20 UP?

21 A I WOULDN'T BELIEVE SO.

22 Q OKAY. REGARDING THE TRACE OF THE RIFLE, IN YOUR
23 EXPERIENCE IN INVESTIGATING CRIMINAL CASES ALL THESE
24 YEARS, IS IT -- HOW OFTEN IS IT THAT CRIMES INVOLVING
25 WEAPONS THAT ARE COMMITTED ARE DONE WITH A WEAPON THAT'S

1 REGISTERED TO THE PERSON THAT COMMITS THE OFFENSE?

2 A VERY RARELY.

3 Q OKAY. AND WHEN THEY ASKED YOU WOULD YOU PLEASE DO
4 THE GUN TRACE, YOU DID IT?

5 A YES.

6 Q AND LO AND BEHOLD, THE RESULT OF YOUR INVESTIGATION
7 WAS WHAT?

8 A THE GUN WAS STOLEN DURING AN AUTO BREAKING.

9 Q AND YOU CONTACTED THE VICTIM OF THE AUTO BREAKING?

10 A YES, I DID.

11 Q YOU LET HIM KNOW, "WE RECOVERED YOUR WEAPON, BUT
12 YOU'RE NOT GETTING IT BACK"?

13 A YES.

14 Q IT'S NOW A PIECE OF A CRIMINAL INVESTIGATION?

15 A MA'AM?

16 Q IT'S NOW A PIECE OF EVIDENCE --

17 A YES, MA'AM.

18 Q -- IN A CRIMINAL INVESTIGATION?

19 SHE ASKED YOU IF YOU HAD ANY LEADS ON WHO STOLE THAT
20 WEAPON. IN FACT, YOU DID HAVE ONE LEAD IN YOUR
21 INVESTIGATION, DIDN'T YOU?

22 A WELL, THERE WAS I THINK A PAIR OF SUNGLASSES LEFT IN
23 THE CAR AT THE TIME.

24 Q OKAY. DID DIEGO GIVE A STATEMENT ABOUT WHERE THE
25 DEFENDANT GOT THIS WEAPON?

1 A YES, HE DID.

2 Q OKAY. AND DIEGO TOLD YOU THAT THE DEFENDANT SAID HE
3 STOLE IT A FEW MONTHS BEFORE.

4 A HE SAID HE HAD STOLEN THE GUN, YES.

5 Q THERE WERE A FEW QUESTIONS REGARDING, YOU KNOW,
6 WITNESSES, WHETHER THEY KNEW WHO WAS OUT THERE. COULD YOU
7 CLARIFY FOR US THE DIFFERENCE BETWEEN WITNESSES KNOWING
8 THE PEOPLE THAT ARE OUT ON THE STREET AND THEIR ABILITY TO
9 IDENTIFY THE FACES OF THE PEOPLE THAT WERE OUT THERE?

10 A THERE WERE A LOT OF WITNESSES THAT NIGHT THAT WERE
11 INTERVIEWED, BUT SOME JUST HEARD THINGS. SOME HEARD THE
12 GUNSHOTS, SOME CAME OUT AFTERWARDS AND SAW WHAT WAS GOING
13 ON AND HEARD OTHER PEOPLE TALKING, BUT AS FAR AS A WITNESS
14 WHO ACTUALLY SAW SOMEONE FIRE THE GUN, THAT WAS TYRONE
15 SMITH. HE'S THE ONLY ONE, WE THINK.

16 Q AND THAT'S -- WE'RE TALKING NOW ABOUT THE PEOPLE THAT
17 LIVE ON T.S. MARTIN.

18 A CORRECT.

19 Q OKAY. SO YOU INTERVIEWED MANY PEOPLE THAT HAD
20 INFORMATION ABOUT THE FIRST INCIDENT AND PEOPLE, BRIAN
21 DIXON, WHO WAS OUT ON THE PORCH, CORRECT?

22 A YES.

23 Q I MEAN, HE SAW WHAT HAPPENED, BUT HE COULDN'T
24 IDENTIFY ANYBODY.

25 A THAT'S CORRECT.

1 Q CHRISTOPHER ROBINSON SAW WHAT HAPPENED, BUT HE WASN'T
2 ABLE TO IDENTIFY ANYBODY.

3 A YES.

4 Q THE DEFENDANT CAME IN AND INITIALLY -- THE VERY FIRST
5 TIME YOU MET WITH HIM, AND HE GAVE YOU HIS FIRST ORAL
6 STATEMENT AND THAT WAS IN RESPONSE TO WHAT STATEMENT THAT
7 YOU MADE?

8 A I CONFRONTED HIM AND TOLD HIM THAT HE HAD BEEN
9 IDENTIFIED AS HAVING BEEN INVOLVED IN A SHOOTING ON T.S.
10 MARTIN DRIVE.

11 Q AND HE SAID?

12 A HE SAID HE HAD NOT BEEN AT T.S. MARTIN.

13 Q "I HAVE NOT BEEN AT T.S. MARTIN." HIS FIRST WRITTEN
14 STATEMENT THAT HE GAVE, HE READ THAT ENTIRE STATEMENT?

15 A YES.

16 Q HE, IN FACT, EVEN MADE A CHANGE TO THAT STATEMENT,
17 CORRECT?

18 A YES.

19 Q HIS SECOND STATEMENT, HE READ THE ENTIRE STATEMENT?

20 A IT WAS READ TO HIM. HE READ IT ALONG WITH ME AS I
21 READ IT.

22 Q DEFENSE COUNSEL ASKED YOU OR STATED THAT ALL OF THE
23 WRITING ON THERE IS YOUR HANDWRITING, BUT THAT'S NOT
24 CORRECT, IS IT?

25 A HIS SIGNATURE AND HIS INITIALS ARE ON THESE

1 STATEMENTS.

2 Q HIS SIGNATURE, HIS WRITING, IS ON ALL OF THESE
3 STATEMENTS, CORRECT?

4 A YES.

5 Q HIS SIGNATURE IS ON EVERY SINGLE PAGE OF EACH OF
6 THESE STATEMENTS, ISN'T IT?

7 A YES, IT IS.

8 Q THAT'S IN HIS HANDWRITING?

9 A YES, IT IS.

10 Q WHEN ASKED ABOUT HOW MANY WITNESSES THERE ARE TO THE
11 SHOOTING OF [REDACTED] C.D. [REDACTED] AND [REDACTED] T.M. [REDACTED], THERE'S
12 MORE THAN TYRONE SMITH, ISN'T THERE?

13 A YES, MA'AM.

14 Q TYRONE SMITH IDENTIFIED THE DEFENDANT ON T.S. MARTIN,
15 CORRECT?

16 A YES.

17 Q DIEGO THOMPSON IDENTIFIES THE DEFENDANT SHOOTING THAT
18 GUN ON T.S. MARTIN, DOESN'T HE?

19 A YES, HE DID.

20 Q SHANTE BETHEL IDENTIFIES THE DEFENDANT AS HAVING SHOT
21 OVER AT T.S. MARTIN, CORRECT?

22 A YES.

23 Q AND THE DEFENDANT HIMSELF SAYS, "I WAS ON T.S.
24 MARTIN, AND I WAS SHOOTING," DIDN'T HE?

25 A YES.

1 MS. FENT: NO FURTHER QUESTIONS.

2 THE COURT: RECROSS?

3 MS. FRANKLIN: QUICKLY, YOUR HONOR.

4 THE COURT: YOU'RE LIMITED THIS TIME, MS. FRANKLIN.

5 MS. FRANKLIN: I'M SORRY?

6 THE COURT: YOU'RE LIMITED ON REDIRECT TO WHAT CAME
7 OUT ON CROSS-EXAMINATION.

8 RECROSS-EXAMINATION:

9 BY MS. FRANKLIN

10 Q WITH RESPECT TO THE THREE-WAY PHONE CALLS AND THE
11 INFORMATION YOU JUST TESTIFIED TO, THAT'S NO WHERE
12 CONTAINED IN YOUR INVESTIGATION NOTES, IS IT?

13 A I DON'T KNOW. I DON'T THINK IT IS.

14 Q NO.

15 A BUT IT IS FOLLOW UP THAT I DID.

16 Q YOU TOOK A PHONE -- I MEAN, YOU TOOK A PHONE NUMBER
17 FROM DIEGO THOMPSON?

18 A I HAD A SEARCH DONE WITH HIS HOME PHONE NUMBER.

19 Q OKAY. AND SO NOTHING WAS PRODUCED FROM THAT?

20 A NO, MA'AM.

21 MS. FRANKLIN: NO MORE QUESTIONS.

22 THE COURT: ALL RIGHT. ANYTHING FURTHER, SOLICITOR,
23 OF THIS WITNESS?

24 MS. FENT: NO, YOUR HONOR.

25 THE COURT: YOU MAY STEP DOWN.

1 MS. CAMPBELL: THE STATE CALLS OFFICER HUNTLEY.

2 THE COURT: ALL RIGHT.

3 MS. CAMPBELL: I APOLOGIZE, YOUR HONOR. THE
4 WITNESSES ARE SEQUESTERED. HUNTLEY.

5 (PAUSE).

6 JONATHAN HUNTLEY, AFTER BEING DULY
7 SWORN, TESTIFIED AS FOLLOWS:

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

10 THE WITNESS: IT'S CORPORAL JONATHAN HUNTLEY.

11 DIRECT EXAMINATION:

12 BY MS. CAMPBELL

13 Q CORPORAL HUNTLEY, WHERE ARE YOU EMPLOYED?

14 A THE CITY OF COLUMBIA.

15 Q AND WHAT DO YOU DO THERE?

16 A I'M A PATROLMAN.

17 Q AND AS A PATROLMAN, ON OCCASIONS DO YOUR DUTIES
18 INCLUDE TRANSPORTING PRISONERS?

19 A YES, MA'AM.

20 Q I WANT TO TURN YOUR ATTENTION TO THE MORNING OF --
21 THE MORNING AND INTO THE AFTERNOON OF AUGUST 27TH, 2004.
22 DID YOU HAVE AN OCCASION TO COME IN CONTACT WITH CHRIS
23 LIVERMAN?

24 A YES, MA'AM.

25 Q AND TELL THIS JURY HOW YOU CAME IN CONTACT WITH HIM

1 AND WHAT YOU WERE DOING.

2 A I WAS DISPATCHED TO THE RICHLAND COUNTY DETENTION
3 CENTER TO PICK UP A PRISONER FOR INVESTIGATOR GRAY.

4 Q AND DID YOU, IN FACT, GO TO ALVIN S. GLENN DETENTION
5 CENTER AND PICK UP CHRIS LIVERMAN?

6 A YES, MA'AM.

7 Q DID YOU TRANSPORT HIM BACK TO HEADQUARTERS?

8 A YES, MA'AM.

9 Q TELL THIS JURY, ONCE YOU GOT TO HEADQUARTERS, WHAT IF
10 ANYTHING, YOU DID WITH MR. LIVERMAN?

11 A WHEN WE GOT TO HEADQUARTERS, I TOOK HIM UP TO THE
12 SECOND ROOM -- OR SECOND FLOOR TO THE INVESTIGATIONS PART.
13 I WALKED HIM INTO A ROOM, AN INVESTIGATION ROOM, WHERE
14 INVESTIGATOR GRAY WAS.

15 Q AND JUST FOR THE RECORD, DURING THE TIME PERIOD YOU
16 WERE TRANSPORTING HIM, DID YOU ATTEMPT TO QUESTION HIM IN
17 ANY WAY OR ANYTHING OF THAT NATURE?

18 A NO, MA'AM.

19 Q ONCE YOU GOT HIM INTO THE INVESTIGATION DEPARTMENT IN
20 THAT ROOM, DID YOU THEN TURN CUSTODY OF HIM OVER TO
21 INVESTIGATOR GRAY?

22 A YES, MA'AM.

23 Q AND ONCE YOU DID THAT, WHERE DID YOU GO?

24 A I WENT INTO A CONFERENCE ROOM, A BREAK ROOM.

25 Q AND SOMETIME LATER, DID YOU GET CALLED BACK INTO THE

1 ROOM WHERE YOU HAD LEFT CHRIS LIVERMAN?

2 A YES, MA'AM.

3 Q AND HOW DID THAT HAPPEN?

4 A INVESTIGATOR GRAY CALLED ME IN.

5 Q AND WHAT DID HE WANT YOU TO DO?

6 A WITNESS THE SIGNING OF THE STATEMENT.

7 Q AND WHEN YOU SAY THE SIGNING OF STATEMENT, AT THAT
8 POINT DID YOU BECOME AWARE THAT MR. LIVERMAN HAD GIVEN A
9 STATEMENT THAT HAD BEEN REDUCED TO WRITING?

10 A YES, MA'AM.

11 Q AND ONCE YOU WALKED BACK IN THERE TO WITNESS THAT,
12 WHAT ACTUALLY HAPPENED?

13 A INVESTIGATOR GRAY WAS READING OVER THE STATEMENT.
14 MR. LIVERMAN WAS ACKNOWLEDGING IT. HE SIGNED IT.
15 INVESTIGATOR GRAY SIGNED IT. AT THAT TIME I TRANSPORTED
16 HIM BACK.

17 Q OKAY. SO WHILE YOU WERE THERE, YOU ACTUALLY
18 WITNESSED INVESTIGATOR GRAY READING MR. LIVERMAN'S
19 STATEMENT TO HIM?

20 A YES, MA'AM.

21 Q AND WHEN YOU SAY HE ACKNOWLEDGED IT, HOW DID HE
22 ACKNOWLEDGE IT?

23 A HE SIGNED IT. HE WAS NODDING AS HE WAS READING IT,
24 STUFF LIKE THAT.

25 Q AND WAS HE GIVEN THE INFORMATION THAT IF YOU AGREE

1 WITH THIS, SO SIGN IT?

2 A YES, MA'AM.

3 Q AND YOU WITNESSED THAT HAPPEN?

4 A YES, MA'AM.

5 Q I WANT TO SHOW YOU -- BEG THE COURT'S INDULGENCE.

6 (PAUSE).

7 THIS STATEMENT THAT'S 8/27/04 AT 13:30. IF YOU CAN

8 JUST REVIEW THAT.

9 A YES, MA'AM.

10 Q AND FOR THE RECORD, THAT WOULD BE STATE'S EXHIBIT

11 NUMBER ONE. IS THAT THE STATEMENT THAT INVESTIGATOR GRAY

12 WENT OVER WITH THE DEFENDANT, CHRIS LIVERMAN?

13 A YES, MA'AM.

14 Q AND IN YOUR REVIEW OF THIS STATEMENT, IS THAT HOW IT

15 WAS READ TO HIM?

16 A YES, MA'AM.

17 Q AND THEN YOU ACTUALLY SAW HIM SIGNING HIS NAME ON THE

18 TWO SEPARATE PAGES?

19 A YES, MA'AM.

20 Q DO YOU SEE CHRIS LIVERMAN HERE IN THE COURTROOM?

21 A YES, MA'AM, I DO.

22 Q CAN YOU JUST POINT HIM OUT FOR THE JURY?

23 A THE FELLOW OVER THERE IN THE BLAZER AND I BELIEVE A

24 WHITE OR YELLOW SHIRT.

25 MS. CAMPBELL: YOUR HONOR, MAY THE RECORD REFLECT HE

1 HAS IDENTIFIED THE DEFENDANT?

2 THE COURT: ALL RIGHT.

3 MS. CAMPBELL: THAT'S ALL I'D HAVE.

4 THE COURT: ALL RIGHT. CROSS-EXAMINE?

5 MR. SHARDT: I HAVE NO QUESTIONS FOR THIS WITNESS.

6 THE COURT: ALL RIGHT. YOU MAY STEP DOWN.

7 THE WITNESS: THANK YOU.

8 MS. CAMPBELL: YOUR HONOR, MAY HE BE EXCUSED?

9 THE COURT: ANY OBJECTION?

10 MR. SHARDT: NO OBJECTION.

11 THE COURT: OFFICER, YOU MAY STEP DOWN.

12 THE WITNESS: THANK YOU.

13 MS. CAMPBELL: THE STATE CALLS INVESTIGATOR PETE
14 CURRIE.

15 PETE CURRIE, 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: MY NAME IS PETER CURRIE.

20 DIRECT EXAMINATION:

21 BY MS. CAMPBELL

22 Q INVESTIGATOR CURRIE, WHERE ARE YOU EMPLOYED?

23 A I'M EMPLOYED WITH THE COLUMBIA POLICE DEPARTMENT.

24 Q AND WHAT DO YOU DO THERE, SIR?

25 A CURRENTLY, I WORK IN THE CRIME SCENE UNIT.

1 Q AND TELL THIS JURY, AS WORKING IN THE CRIME SCENE
2 UNIT, WHAT YOUR DUTIES INCLUDE.

3 A THE MAIN DUTIES THAT I HAVE, I PHOTOGRAPH, COLLECT,
4 AND PROCESS EVIDENCE.

5 Q AND TELL THIS JURY A LITTLE BIT ABOUT YOUR EDUCATION,
6 YOUR TRAINING, IN THE FIELD OF CRIME SCENE INVESTIGATION.

7 A I HAVE BEEN IN -- I WORKED CRIME SCENE INVESTIGATION
8 FOR APPROXIMATELY 11 YEARS. I HAVE ATTENDED AND COMPLETED
9 BASIC FINGERPRINT, F.B.I. ADVANCED FINGERPRINT, I.D. TECH,
10 BASIC PHOTOGRAPHY, ADVANCED PHOTOGRAPHY. I'M ALSO A
11 MEMBER OF THE I.E.I. WHICH KEEPS US UP ON THE OLD
12 INFORMATION AND NEW INFORMATION THAT COMES AS FAR AS CRIME
13 SCENE WORK IS CONCERNED.

14 Q AND HAVE YOU BEEN QUALIFIED BEFORE AS AN EXPERT IN
15 CRIME SCENE INVESTIGATION?

16 A NUMEROUS TIMES.

17 Q IN STATE COURT, THIS COURT?

18 A YES, MA'AM.

19 Q AND CRIME SCENE INVESTIGATION ALSO INCLUDES TRYING TO
20 COLLECT FINGERPRINTS AND FINGERPRINT COMPARISON, AS WELL?

21 A CORRECT.

22 MS. CAMPBELL: YOUR HONOR, AT THIS TIME WE'D OFFER
23 HIM AS AN EXPERT IN CRIME SCENE INVESTIGATION.

24 THE COURT: ANY OBJECTION OR CROSS-EXAMINATION AS TO
25 QUALIFICATIONS?

1 MR. SHARDT: NO OBJECTION, YOUR HONOR.

2 THE COURT: ALL RIGHT. THE WITNESS IS FOUND TO BE A
3 EXPERT IN CRIME SCENE INVESTIGATION.

4 MR. FOREMAN, LADIES AND GENTLEMEN, LET ME EXPLAIN TO
5 YOU THAT ORDINARILY WITNESSES ARE NOT PERMITTED TO TESTIFY
6 AS TO THEIR OPINIONS. ONE EXCEPTION TO THAT GENERAL RULE
7 IS IF A WITNESS IS QUALIFIED AS AN EXPERT, THAT GIVES HIM
8 OR HER THE RIGHT TO VOICE HIS OR HER OPINION IN THAT
9 PARTICULAR FIELD. I'LL HAVE MORE INSTRUCTIONS ABOUT THAT
10 AT THE END OF THE CASE BUT WANTED TO EXPLAIN TO YOU WHAT
11 WAS GOING ON.

12 YOU MAY CONTINUE, SOLICITOR.

13 BY MS. CAMPBELL

14 Q THANK YOU, YOUR HONOR.

15 DID YOU HAVE AN OCCASION TO RESPOND TO A SHOOTING AT
16 T.S. MARTIN?

17 A YES, I DID.

18 Q WHEN DID YOU ACTUALLY RESPOND TO THAT SCENE?

19 A IT WAS ON MAY 26, '04.

20 Q AND APPROXIMATELY WHAT TIME WAS IT WHEN YOU GOT
21 THERE, SIR?

22 A IT WAS, I WOULD SAY PROBABLY ABOUT 9:30 IN THE
23 EVENING, 21:30.

24 Q COULD IT HAVE BEEN SOMETIME AFTER TEN O'CLOCK?

25 A THE INCIDENT OCCURRED AT 21:10. WE WERE CALLED RIGHT

1 AWAY. I RESPONDED THERE. IT WOULD TAKE ME ABOUT TEN,
2 MAYBE 15 MINUTES TO GET THERE. IT COULD POSSIBLY HAVE
3 BEEN RIGHT AT TEN O'CLOCK.

4 Q AND WHEN YOU RESPONDED TO THE SCENE THAT DAY, ONCE
5 YOU GOT THERE, WHAT WAS THE SCENE LIKE WHEN YOU GOT THERE?

6 A QUITE A FEW PEOPLE THERE. I WAS ADVISED WHERE THE
7 VICTIMS WERE SHOT AT, APPROXIMATELY WHERE THEY WERE SHOT
8 FROM. OF COURSE, AT THAT POINT, THE FIRST THING WE DO IS
9 PHOTOGRAPH EVERYTHING AS IT IS BEFORE ANYTHING HAS BEEN
10 DISTURBED.

11 Q AND WHEN YOU GOT THERE, HAD POLICE OFFICERS -- WERE
12 OTHER POLICE OFFICERS ALREADY ON THE SCENE?

13 A YES, MA'AM.

14 Q AND WERE THEY DOING THEIR BEST TO KEEP THAT SCENE
15 INTACT UNTIL YOU COULD ACTUALLY PROCESS IT?

16 A YES, MA'AM.

17 Q AND YOU SAID PART OF YOUR INITIAL THING IS TO
18 PHOTOGRAPH THE CRIME SCENE AS IT APPEARS WHEN YOU GET
19 THERE?

20 A THAT'S CORRECT.

21 Q I WANT TO SHOW YOU STATE'S EXHIBIT 11 AND 12. WHEN
22 YOU GOT THERE, WERE THE VICTIMS STILL THERE OR HAD E.M.S.
23 ALREADY COME AND TAKEN THEM?

24 A THEY HAD ALREADY COME AND TAKEN THEM TO THE HOSPITAL.

25 Q YOU GOT THERE AFTER E.M.S. HAD RESPONDED AND

1 DEPARTED?

2 A THAT'S CORRECT.

3 Q AND I WANT TO SHOW YOU STATE'S EXHIBIT 11 AND 12 AND
4 ASK YOU RECOGNIZE THOSE PHOTOGRAPHS.

5 A YES, MA'AM. THAT'S THE PHOTOGRAPH I TOOK IN FRONT OF
6 THE ADDRESS OF 110 T.S. MARTIN DRIVE. I WAS ADVISED THIS
7 IS WHERE THE FEMALE WAS LAYING. THAT IS HER BLOOD.

8 Q OKAY. AND IN STATE'S EXHIBIT NUMBER 11, WHAT DOES
9 THAT SHOW?

10 A THAT IS THE SAME THING, JUST A LITTLE FURTHER OVER.
11 IT SHOWS SOME -- WHAT APPEARED TO BE SOME SCHOOL PAPERS
12 THERE AND SOME ITEMS LEFTOVER FROM E.M.S.

13 Q OKAY. AND THIS WOULD HAVE BEEN WHERE, LOCATED AT 110
14 T.S. MARTIN DRIVE?

15 A TO THE RIGHT OF THE RESIDENCE WHEN YOU'RE FACING IT.

16 Q AND ACTUALLY, ON STATE'S EXHIBIT 12, I NOTICE THERE'S

17 A --

18 THE COURT: WAIT. WAIT JUST A MINUTE.

19 MR. SHARDT: YOUR HONOR, I OBJECT AT THIS TIME. MAY
20 WE APPROACH?

21 (WHEREUPON, A BENCH CONFERENCE WAS HELD IN THE
22 PRESENCE, BUT NOT WITHIN THE HEARING, OF THE JURY).

23 THE COURT: YOU MAY CONTINUE.

24 BY MS. CAMPBELL

25 Q THANK YOU, YOUR HONOR.

1 STATE'S EXHIBIT NUMBER 12. I NEEDS THERE'S A
2 CONCRETE AREA.

3 A YES, MA'AM.

4 Q AND THEN A PATH THAT KIND OF LEADS INTO WHAT LOOKS
5 LIKE A PORCH. IS THAT ACTUALLY IN FRONT, KIND OF IN FRONT
6 OF 110 T.S. MARTIN?

7 A THAT IS IN FRONT OF T.S. MARTIN, YES, MA'AM.

8 Q AND THE RED SPOT THAT'S IN THE GRASSY AREA ACTUALLY
9 GOES INTO THE SIDEWALK AREA?

10 A I'M SORRY?

11 Q THE RED SPOTS HERE..

12 A RIGHT.

13 Q WHAT WOULD THAT INDICATE?

14 A THAT APPEARED TO BE THE BLOOD OF THE VICTIM.

15 Q AND AGAIN, SHE WAS GONE BY THE TIME YOU GOT THERE?

16 A YES, MA'AM.

17 Q STATE'S EXHIBIT NUMBER 11, I NOTICE THAT YOU
18 MENTIONED THAT THERE WERE SOME PAPERS INVOLVED.

19 A THAT'S CORRECT.

20 Q AND IF I SHOW YOU HERE THESE PAPERS, WHAT KIND OF
21 PAPERS WERE THOSE THAT WERE THERE RIGHT NEXT TO THE BODY
22 OF THE 15 YEAR OLD?

23 A THEY APPEARED TO BE SCHOOL PAPERS.

24 Q AND AGAIN, BEHIND THAT YOU CAN SEE A REDDISH AREA AND
25 THEN WHAT LOOKS LIKE WRAPPINGS OR SOMETHING NEXT TO THAT.

1 A YEAH, I WAS ADVISED THAT IS WHAT E.M.S. LEFT BEHIND.

2 MS. CAMPBELL: YOUR HONOR, MAY I PUBLISH THE PHOTOS?

3 THE COURT: YOU MAY.

4 BY MS. CAMPBELL

5 Q THANK YOU.

6 INITIALLY, WHAT -- YOU PHOTOGRAPHED THE CRIME SCENE
7 RIGHT THERE OUTSIDE. AFTER YOU HAD PHOTOGRAPHED THAT, DID
8 YOU THEN PROCEED TO PHOTOGRAPH SOME OF THE INTERIOR OF THE
9 HOUSE, AS WELL AS THE EXTERIOR?

10 A THAT IS CORRECT.

11 Q AND TELL THIS JURY, JUST BRIEFLY TELL THEM HOW YOU
12 WENT ABOUT DOING THAT AND WHAT YOU FOUND.

13 A AGAIN, I WAS ADVISED BY SOME OF THE OFFICERS WHERE
14 THE RESIDENCE WAS HIT BY BULLETS. IT STARTED OUT AT THE
15 FRONT WHICH SHOWED SEVERAL ROUNDS HAD HIT THE RESIDENCE.
16 SOME I BELIEVE AT THE DOOR; A COUPLE OF BULLETS WENT
17 THROUGH THE FRONT WINDOWS. I RECOVERED ONE PROJECTILE ON
18 THE FRONT PORCH, THEN WHEN I ENTERED THE RESIDENCE, I
19 FOUND A PROJECTILE, PROJECTILE MEANING THE LEAD PART OF
20 THE BULLET. THAT'S WHAT COMES OUT. I FOUND ONE IN THE
21 HALLWAY AS YOU GO INTO THE RESIDENCE.

22 WHEN YOU GO INTO THE RESIDENCE INTO THE HALLWAY, YOU
23 TAKE YOUR FIRST LEFT. THAT IS THE LIVING ROOM, AND I
24 FOUND ANOTHER PROJECTILE ON THE LIVING ROOM COUCH.

25 Q AND DID YOU PHOTOGRAPH THESE PROJECTILES? YOU

1 MENTIONED THAT YOU COLLECTED THEM, BUT DID YOU PHOTOGRAPH
2 THEM WHERE THEY WERE INSIDE AND OUTSIDE THE HOUSE PRIOR TO
3 REMOVING THEM?

4 A YES, MA'AM.

5 Q AND I WANT TO SHOW YOU WHAT IS ALREADY INTO EVIDENCE,
6 WHICH IS STATE'S EXHIBIT NUMBER 41. DO YOU RECOGNIZE
7 THOSE?

8 A YES, MA'AM.

9 Q AND I'LL GET BACK TO THOSE. WHAT DO THOSE SHOW?

10 A THAT SHOWS THE INSIDE OF THE RESIDENCE AND WHERE THE
11 PROJECTILE WAS FOUND.

12 Q IN ADDITION TO THAT, I WANT TO SHOW YOU SOME
13 ADDITIONAL PHOTOGRAPHS OF THE HOUSE. FIRST, I'LL JUST
14 SHOW THEM TO YOU 31, 38, AND 35. CAN YOU JUST LOOK AT
15 THOSE AND SEE IF YOU RECOGNIZE ALL OF THOSE PHOTOGRAPHS?
16 EXCUSE ME, STATE'S EXHIBIT 31 THROUGH 34, 38 THROUGH 40,
17 AND 35 THROUGH 37 FOR I.D.

18 A OKAY. RIGHT HERE IS SHOWING --

19 (THERE WAS A DISTURBANCE.)

20 THE COURT: WHOA, WHOA, WHOA, WHOA.

21 MS. CAMPBELL: JUST STAND STILL.

22 THE COURT: YOU'VE GOT THAT ON THE MICROPHONE.

23 YOU'VE GOT THAT ON THE MICROPHONE.

24 THE WITNESS: I'M SORRY.

25 THE COURT: THERE YOU GO.

1 BY MS. CAMPBELL

2 Q LET ME HOLD THEM FIRST.

3 A OKAY.

4 Q STATE'S EXHIBIT 31 THROUGH 34, ARE THOSE PHOTOGRAPHS
5 YOU TOOK THAT NIGHT?

6 A THAT IS CORRECT.

7 Q JUST SAY YES OR NO.

8 A YES.

9 Q AND DO THOSE FAIRLY AND ACCURATELY DEPICT HOW THE
10 SCENE WAS WHEN YOU GOT THERE?

11 A YES, IT WAS..

12 Q STATE'S EXHIBIT NUMBER 38 THROUGH 40, ARE THOSE
13 PHOTOGRAPHS YOU TOOK THAT NIGHT?

14 A YES, MA'AM.

15 Q AND DO THOSE FAIRLY AND ACCURATELY DEPICT THE SCENE
16 AS IT WAS THAT NIGHT?

17 A YES, IT DOES.

18 Q FINALLY, STATE'S EXHIBIT 35 THROUGH 37.

19 A THIS IS THE WAY IT WAS.

20 Q AND THAT FAIRLY AND ACCURATELY DEPICTS HOW THE SCENE
21 WAS THAT NIGHT?

22 YOUR HONOR, AT THIS TIME WE OFFER THEM ALL INTO
23 EVIDENCE.

24 THE COURT: ANY OBJECTION TO ANY OF THOSE,
25 MR. SCHARDT?

1 MR. SHARDT: WITHOUT OBJECTION.

2 THE COURT: WITHOUT OBJECTION, STATE'S 31 THROUGH 40
3 ARE ADMITTED INTO EVIDENCE.

4 (WHEREUPON, STATE'S EXHIBITS NOS. 31 - 40 WERE
5 ADMITTED INTO EVIDENCE.)

6 MS. CAMPBELL: YOUR HONOR, MAY THE WITNESS STEP DOWN?

7 THE COURT: YES.

8 KEEP YOUR VOICE UP, PLEASE, WHILE YOU'RE OFF THE
9 WITNESS STAND.

10 BY MS. CAMPBELL

11 Q FIRST, ON THE EXTERIOR OF THE HOUSE, I WANT TO SHOW
12 YOU STATE'S EXHIBIT NUMBER 31 THROUGH 34. WHAT DO THOSE
13 PHOTOGRAPHS SHOW, SIR?

14 A THOSE ARE BULLET HOLES THAT WERE FIRED INTO THE
15 RESIDENCE.

16 Q AND I SEE THAT THIS LOOKS LIKE THE TOP OF A DOOR JAMB
17 HERE.

18 A THAT'S THE FRONT DOOR.

19 Q THAT'S THE FRONT DOOR. STATE'S EXHIBIT NUMBER 32. I
20 NOTICE THERE IS WHAT APPEARS TO BE A RULER ON THAT.

21 A YES.

22 Q AND WHAT IS THAT? WHY DID YOU PUT A RULER THERE, AND
23 WHAT ARE YOU TRYING TO SHOW?

24 A WE JUST SHOW WHAT SIZE HOLE WAS PLACED INTO THE
25 RESIDENCE.

1 Q AND WHAT KIND OF HOLE WAS THAT?

2 A THAT IS A BULLET HOLE.

3 Q I WANT TO SHOW YOU STATE'S EXHIBIT NUMBER 33. THERE
4 APPEARS TO BE A PLACE THAT'S LIT UP THERE. AGAIN, WHAT IS
5 THAT?

6 A THAT'S ANOTHER BULLET HOLE. THAT IS TO THE LEFT OF
7 THE FRONT DOOR.

8 Q TO THE LEFT OF THE FRONT DOOR. FOR THE RECORD, WHERE
9 IS THIS ONE LOCATED?

10 A THAT IS ON TOP OF THE FRONT DOOR.

11 Q SO THIS IS ACTUALLY -- 32 IS ACTUALLY A CLOSER UP
12 SHOT OF 31, AND THEN STATE'S EXHIBIT 34.

13 A AGAIN, SHOWS THE MEASUREMENT OF IT.

14 Q AND THIS ONE?

15 A YES, MA'AM.

16 Q SO THOSE CORRESPOND TO EACH ANOTHER. YOU MENTIONED
17 THAT YOU WERE ABLE TO COLLECT A PROJECTILE.

18 A YES.

19 Q DO YOU RECALL WHERE THE PROJECTILE WAS THAT YOU
20 COLLECTED ON THE FRONT PORCH?

21 A ONE OF THEM. I THINK I HAVE A PHOTO RIGHT HERE. I
22 THINK IT IS RIGHT TO THE LEFT OF THE FRONT DOOR.

23 Q STATE'S EXHIBIT NUMBER 37, WHAT IS THAT?

24 A THAT IS TO THE LEFT OF THE FRONT DOOR. THAT IS THE
25 PROJECTILE RIGHT HERE.

1 Q STATE'S EXHIBIT NUMBER 35 AND 36, SIR, WHAT DOES THAT
2 SHOW?

3 A THAT SHOWS THE FRONT WINDOW TO THE LEFT. AGAIN, TO
4 THE LEFT OF THE FRONT DOOR, THERE WAS A BIG WINDOW THERE
5 AND THOSE WERE BULLET HOLES RIGHT THERE.

6 Q AND AGAIN, WHAT'S THE ADDRESS ON THIS ONE?

7 A [REDACTED] T.S. MARTIN.

8 Q AND THIS WAS IN THE HOUSE WHERE THE CHILDREN HAD
9 BEEN?

10 A THAT'S CORRECT.

11 Q ONCE YOU HAD COLLECTED THAT PROJECTILE, AND I'LL GET
12 BACK TO THAT IN A MINUTE, DID YOU THEN GO INTO THE
13 INTERIOR OF [REDACTED]?

14 A YES, I DID.

15 Q AND I'M SHOWING YOU WHAT'S BEEN MARKED AS STATE'S
16 EXHIBIT NUMBER 38. DO YOU RECOGNIZE THAT?

17 A YES, MA'AM, I DO.

18 Q AND WHAT DOES STATE'S EXHIBIT NUMBER 38 SHOW?

19 A THAT IS THE INSIDE OF THE LIVING ROOM WINDOW WHERE
20 THE BULLET CAME IN. THAT'S A SHOT OF THE INSIDE.

21 Q STATE'S EXHIBIT NUMBER 39?

22 A SAME THING.

23 Q AND STATE'S EXHIBIT NUMBER 40?

24 A IT'S A MEASUREMENT OF IT.

25 Q STATE'S EXHIBIT NUMBER 41, WHAT DOES THAT SHOW?

1 A THAT SHOWS -- AGAIN, IT SHOWS THE LIVING ROOM. IT
2 SHOWS WHERE THE BULLET ENTERED, AND IT SHOWS THE COUCH
3 WHERE THE PROJECTILE WAS FOUND.

4 Q WHERE ONE OF THE PROJECTILES WAS FOUND?

5 A THAT'S CORRECT.

6 Q AND FOR THE RECORD, HOW MANY PROJECTILES? AND WHEN
7 YOU SAY PROJECTILE, WHAT DO YOU MEAN?

8 A AS I SAID BEFORE, IT'S THE LEAD THAT COMES OUT OF A
9 BULLET. A BULLET IS A SHELL CASING, USUALLY A PRIMER, AND
10 LEAD OR A TOP COATED LEAD. A .22 CALIBER DOES NOT HAVE A
11 COPPER BULLET. IT'S A PIECE OF LEAD THAT COMES OUT OF THE
12 BULLET.

13 Q OKAY. SO THE PROJECTILE IS THE PART THAT GETS SPIT
14 OUT?

15 A EXACTLY. THAT'S THE PART THAT HURTS YOU.

16 Q AND WHAT HAPPENS TO THE SHELL CASING?

17 A THE SHELL CASING, DEPENDING ON WHETHER YOU HAVE AN
18 AUTOMATIC WEAPON OR A REVOLVER, IN A REVOLVER IT STAYS
19 INSIDE OF IT. AN AUTOMATIC WEAPON IS EJECTED OUT.

20 Q OKAY. AND I SEE ON STATE'S EXHIBIT NUMBER 42 THERE'S
21 A PHONE HERE ON THE COUCH.

22 A YES, MA'AM.

23 Q AND A CLOSER UP IS NUMBER 43 WHERE YOU HAVE THAT
24 NUMBER THREE. WHAT DOES THAT SHOW?

25 A THAT IS WHERE YOU SEE THE PROJECTILE LAYING NEXT TO

1 IT.

2 Q IS THAT THE SILVER THING THERE?

3 A YES, MA'AM.

4 Q AND THAT IS ACTUALLY ON THE COUCH INSIDE THE
5 RESIDENCE?

6 A THAT'S CORRECT.

7 Q FURTHER INTO THE RESIDENCE, IS THERE THAT HALLWAY?

8 A THERE'S A HALLWAY, YES, MA'AM.

9 Q AND STATE'S EXHIBIT NUMBER 44, HOW IS THAT
10 SIGNIFICANT?

11 A THAT SHOWS THE ENTRANCE OF THE HALLWAY AND THE
12 PROJECTILE LAYING IN FRONT OF IT.

13 Q THE PROJECTILE WOULD BE RIGHT IN FRONT OF THAT NUMBER
14 TWO?

15 A OKAY.

16 Q AND AGAIN, THAT'S IN THE INTERIOR FURTHER INSIDE THE
17 RESIDENCE?

18 A THAT'S INSIDE THE RESIDENCE, YES, MA'AM.

19 Q OKAY. WHILE YOU'RE UP HERE, WHEN WE'RE TALKING ABOUT
20 T.S. MARTIN, I'LL SHOW YOU WHAT'S BEEN MARKED AS STATE'S
21 EXHIBIT NUMBER SEVEN, FIRST JUST ANSWER YES OR NO, DO YOU
22 RECOGNIZE THIS?

23 A YES, I DO.

24 Q DOES THIS FAIRLY AND ACCURATELY ZOOM IN ON THE T.S.
25 MARTIN AREA?

1 A THAT IS CORRECT.

2 MS. CAMPBELL: YOUR HONOR, AT THIS TIME WE'D LIKE TO
3 OFFER STATE'S EXHIBIT NUMBER SEVEN INTO EVIDENCE.

4 THE COURT: WHAT'S THE NUMBER?

5 MS. CAMPBELL: SEVEN.

6 THE COURT: SEVEN. ANY OBJECTION?

7 MR. SHARDT: WITHOUT OBJECTION, YOUR HONOR.

8 THE COURT: STATE'S SEVEN IS ADMITTED.

9 (WHEREUPON, STATE'S EXHIBIT NO. 7 WAS ADMITTED INTO
10 EVIDENCE.)

11 BY MS. CAMPBELL

12 Q OFFICER, STATE'S EXHIBIT NUMBER SEVEN, DOES THIS
13 SHOW, BASICALLY, WHERE T.S. MARTIN DRIVE IS? LET ME GET
14 ON THE OTHER SIDE OF YOU.

15 A YES, IT DOES. IT SHOWS T.S. MARTIN RIGHT HERE.

16 Q AND WHERE WOULD BELTLINE BE IN RELATION TO ALL OF
17 THIS? THIS IS ACTUALLY --

18 A BELTLINE IS UP THIS WAY. YOU HAVE T.S. MARTIN. YOU
19 HAVE ENGLISH AVENUE. AS A MATTER OF FACT, I BELIEVE THE
20 NEXT STREET UP IS BELTLINE.

21 Q IT'S BELTLINE?

22 A YES.

23 Q IT'S ACTUALLY SHOWN HERE ON THIS CORNER, ISN'T IT?

24 A THAT IS CORRECT.

25 Q AND WHEN YOU COME INTO THIS NEIGHBORHOOD, WHAT TYPE

1 OF RESIDENCES ARE THESE?

2 A THESE ARE HOMES.

3 Q HOMES?

4 A YES, MA'AM.

5 Q AND T.S. MARTIN DRIVE ITSELF IS DIFFERENT FROM T.S.
6 MARTIN COURT; IS THAT CORRECT?

7 A YES, THAT'S CORRECT.

8 Q AND WHERE IS T.S. MARTIN DRIVE ON THIS?

9 A T.S. MARTIN DRIVE IS RIGHT HERE.

10 Q OKAY. AND WHERE IS T.S. MARTIN COURT?

11 A T.S. MARTIN COURT IS RIGHT HERE.

12 Q AND THIS IS KIND OF -- WHAT'S THIS AREA OVER HERE?
13 IS THAT A PARK?

14 A THAT'S A PARK, YES, MA'AM.

15 Q SO IT'S KIND OF SECLUDED, BUT BEHIND T.S. MARTIN ON
16 THIS SIDE, ARE THERE HOUSES BACK HERE?

17 A YES, MA'AM.

18 Q AND DID YOU BECOME AWARE THAT THE VICTIM, T.M.
19 [REDACTED], LIVED IN A HOUSE RIGHT HERE AT THE FENCE?

20 A I'M SORRY?

21 Q THAT THE VICTIM, ONE OF THE VICTIMS, LIVED RIGHT
22 BEHIND THE HOUSE?

23 A NO. I WAS NOT AWARE OF WHERE THE VICTIM LIVED.

24 Q OKAY. WHEN YOU COME INTO T.S. MARTIN DRIVE, WHAT ARE
25 THE NUMBERS ON THESE? DO THEY START IN THE HUNDREDS?

1 A RIGHT. I THINK IT GOES FROM ABOUT TWO TO ABOUT 16,
2 IF I'M --

3 Q 100, 102?

4 A RIGHT.

5 Q ON DOWN? AND THIS IS THE STREET WHERE THE ACTUAL
6 SHOOTING OCCURRED; IS THAT CORRECT?

7 A THAT IS CORRECT.

8 Q AND OVER HERE ON THIS SIDE OF THE STREET IS A HOUSE,
9 WE WILL GET BACK TO IN A MINUTE, WHERE YOU ALSO FOUND SOME
10 SHELL CASINGS.

11 A THAT'S CORRECT.

12 MR. SHARDT: YOUR HONOR.

13 THE COURT: YES?

14 MR. SHARDT: I'M GOING TO OBJECT AT THIS POINT. I'D
15 JUST ASK THAT COUNSEL NOT BE ALLOWED TO LEAD THE WITNESS.

16 THE COURT: ALL RIGHT. WHEN YOU -- WHEN THERE'S A
17 QUESTION YOU WANT TO OBJECT TO, GO AHEAD.

18 GO AHEAD, SOLICITOR.

19 MS. CAMPBELL: YOUR HONOR, MAY HE STEP BACK UP?

20 THE COURT: YES.

21 BY MS. CAMPBELL

22 Q YOU MENTIONED THE PROJECTILES YOU ACTUALLY COLLECTED.
23 I WANT TO SHOW YOU WHAT'S BEEN MARKED AS STATE'S EXHIBIT
24 NUMBER 52 AND ASK FIRST IF YOU RECOGNIZE WHAT THIS IS.

25 A YES, MA'AM. THESE ARE THE PROJECTILES THAT WERE

1 COLLECTED AT THE SCENE.

2 Q AND WHEN YOU SAY AT THE SCENE, AT WHICH SCENE?

3 A THAT WAS -- THOSE PROJECTILES WERE COLLECTED IN FRONT
4 AND INSIDE THE RESIDENCE AT 110 T.S. MARTIN COURT.

5 MS. CAMPBELL: YOUR HONOR, AT THIS TIME WE'D OFFER
6 THEM INTO EVIDENCE.

7 MR. SHARDT: WITHOUT OBJECTION, YOUR HONOR.

8 THE COURT: WITHOUT OBJECTION. ARE THEY NUMBERED?

9 (THERE WAS NO RESPONSE.)

10 WHAT'S THE NUMBER?

11 MS. CAMPBELL: IT WOULD BE NUMBER 52, YOUR HONOR.

12 THE COURT: STATE'S 52 WITHOUT OBJECTION IS ADMITTED.

13 (WHEREUPON, STATE'S EXHIBIT NO. 52 WAS ADMITTED INTO
14 EVIDENCE.)

15 BY MS. CAMPBELL

16 Q I'M JUST GOING TO PULL OUT ONE OF THEM, BUT
17 BASICALLY --

18 THE COURT: SOLICITOR, HOW MANY TOTAL ARE IN THERE?

19 BY MS. CAMPBELL

20 Q THREE PROJECTILES, YOUR HONOR, FROM 110.

21 I SHOW YOU THIS. IS THIS ONE OF THE ONES YOU
22 COLLECTED?

23 A THAT IS CORRECT.

24 Q AND JUST SO THE JURY CAN SEE IT, IT SEEMS TO BE
25 SOMEWHAT JAGGED. IS THAT THE CONDITION IT WAS IN WHEN YOU

1 COLLECTED IT?

2 A THAT IS EXACTLY THE CONDITION IT WAS IN.

3 Q AND A PROJECTILE, WHEN IT COMES OUT, IT CAN BE
4 SMOOTH, BUT ONCE IT HITS SOMETHING --

5 MR. SHARDT: OBJECTION TO THE LEADING.

6 THE COURT: SUSTAINED TO THE FORM OF THE QUESTION.

7 BY MS. CAMPBELL

8 Q YES, SIR.

9 WHAT CAN HAPPEN TO A BULLET ONCE IT LEAVES AND HITS
10 SOMETHING?

11 A IT'S INTACT WHEN IT LEAVES. WHEN IT HITS SOMETHING,
12 IT MAY SPLIT APART. IT MAY MASH FLAT. PRETTY MUCH WHAT
13 IT DOES. SOME OF THEM EVEN DISINTEGRATE.

14 Q AND JUST FOR THE RECORD, THESE WERE THE THREE YOU
15 WERE ABLE TO FIND?

16 A THAT IS CORRECT.

17 Q THAT EVENING WERE THERE OTHER OFFICERS ASSISTING YOU
18 IN YOUR SEARCH OF THE AREA?

19 A THERE WERE OTHER OFFICERS.

20 Q CAN YOU TELL THEM WHAT KIND OF SEARCH WAS GOING ON
21 AND HOW IT WAS BEING DONE IN SEARCH OF ANY EVIDENCE THAT
22 MIGHT PERTAIN TO THIS CASE?

23 A IT WAS STILL DARK, SO A LOT OF TIMES IT'S VERY HARD
24 TO FIND EVIDENCE DURING THAT TIME OF NIGHT, PERIOD. WE
25 HAD SEVERAL OFFICERS WALKING THE GRASS WITH FLASHLIGHTS UP

1 AND DOWN THE STREET IN GRIDS, AS PER SE, TO TRY TO FIND
2 ANYTHING THAT WE POSSIBLY COULD FIND.

3 Q AND DURING THE COURSE OF THAT EVENING, DID YOU
4 BECOME -- YOU CAN'T SAY WHAT IT WAS, BUT DID YOU BECOME
5 AWARE OF SOME INFORMATION OF WHERE THE SHOOTER MAY HAVE
6 STOOD WHEN SHOTS WERE FIRED?

7 A THAT'S CORRECT.

8 Q WHY IS THAT SIGNIFICANT? AND WHY WOULD YOU WANT TO
9 SEARCH AN AREA WHERE A SHOOTER MAY STAND WHEN HE SHOOTS?

10 A SIMPLY, IF HE WAS SHOOTING AN AUTOMATIC WEAPON, THERE
11 COULD BE SHELL CASINGS ON THE GROUND.

12 Q AND AGAIN, WHEN YOU USE THE TERM AUTOMATIC VERSUS
13 SEMIAUTOMATIC, WE'RE REFERRING TO KIND OF THE SAME THING?

14 A AUTOMATIC WEAPON OR A SEMIAUTOMATIC WEAPON WHICH -- I
15 MEAN, I'M SORRY, A REVOLVER. A REVOLVER, THE BULLETS STAY
16 ON THE INSIDE OF THE GUN UNTIL YOU EJECT THEM YOURSELF.
17 IN AN AUTOMATIC WEAPON, THEY EJECT THEMSELVES
18 AUTOMATICALLY.

19 Q OKAY. STATE'S EXHIBIT NUMBERS 13, 14, 15, 16 AND 17,
20 JUST FIRST I WANT TO HAND THEM TO YOU AND SEE IF YOU
21 RECOGNIZE THOSE.

22 A YES, I DO. I RECOGNIZE THEM NOW.

23 Q OKAY. AND AGAIN, WAS YOUR ATTENTION FOCUSED -- DID
24 SOMEONE PUT YOUR ATTENTION INTO THIS AREA WHERE YOU FOUND
25 THIS EVIDENCE ULTIMATELY?

1 A YES, I DID.

2 Q WHO WAS THAT?

3 A IT WAS ONE OF THE OFFICERS ON THE STREET, I DON'T
4 KNOW WHO IT WAS. THEY CALLED ME AND TOLD ME THEY HAD
5 FOUND SOME SHELL CASINGS.

6 Q OKAY. AND DO THESE FAIRLY AND ACCURATELY, 13 THROUGH
7 17, DEPICT THE CRIME SCENE WHERE THE SHELL CASINGS WERE
8 FOUND THAT NIGHT?

9 A THAT'S CORRECT.

10 Q AND ARE THESE PHOTOGRAPHS YOU ACTUALLY TOOK?

11 A THOSE ARE PHOTOGRAPHS I TOOK.

12 MS. CAMPBELL: YOUR HONOR, WE OFFER 13 THROUGH 17.

13 MR. SHARDT: WITHOUT OBJECTION, YOUR HONOR.

14 THE COURT: STATE'S 13, 14, 15, 16, AND 17 ARE
15 ADMITTED.

16 MS. CAMPBELL: THANK YOU, YOUR HONOR.

17 (WHEREUPON, STATE'S EXHIBITS NOS. 13 - 17 WERE
18 ADMITTED INTO EVIDENCE.)

19 BY MS. CAMPBELL

20 Q AFTER THIS WAS ALL OVER, AND I'LL GET BACK --

21 MR. SHARDT: YOUR HONOR, MAY WE APPROACH?

22 (WHEREUPON, A BENCH CONFERENCE WAS HELD IN THE
23 PRESENCE, BUT NOT WITHIN THE HEARING, OF THE JURY).

24 THE COURT: THERE'S BEEN AN OBJECTION. IT'S
25 OVERRULED.

1 MS. CAMPBELL: THANK YOU.

2 THE COURT: AND WE'LL PUT IT ON THE RECORD IN JUST A
3 MOMENT WHEN WE TAKE A BREAK.

4 BY MS. CAMPBELL

5 Q OFFICER, I APOLOGIZE. I'M SHOWING YOU SOMETHING I
6 NEED TO MARK. NO, EXCUSE ME, STATE'S EXHIBIT NUMBER FIVE.
7 DO YOU RECOGNIZE THIS?

8 A YES, I DO.

9 Q IS THIS, IN FACT, A DIAGRAM THAT YOU PREPARED?

10 A YES, I DID.

11 Q AND DOES IT FAIRLY AND ACCURATELY DEPICT THE CRIME
12 SCENE, AS WELL AS WHERE YOU RECOVERED SOME EVIDENCE?

13 A THAT IS CORRECT.

14 MS. CAMPBELL: YOUR HONOR, AT THIS TIME WE'D OFFER
15 STATE'S EXHIBIT 5.

16 THE COURT: THE OBJECTION IS WHAT WAS STATED HERE AT
17 THE BENCH; IS THAT CORRECT, MR. SCHARDT?

18 MR. SHARDT: IT IS, YOUR HONOR.

19 THE COURT: IT IS OVERRULED. STATE'S FIVE IS
20 ADMITTED.

21 (WHEREUPON, STATE'S EXHIBIT NO. 5 WAS ADMITTED INTO
22 EVIDENCE.)

23 MS. CAMPBELL: YOUR HONOR, MAY THE WITNESS STEP DOWN?

24 THE COURT: ALL RIGHT. KEEP YOUR VOICE UP, PLEASE.

25

1 BY MS. CAMPBELL

2 Q REFERRING TO STATE'S EXHIBIT NUMBER SEVEN, STATE'S
3 EXHIBIT NUMBER FIVE, HOW DOES THAT CORRELATE TO STATE'S
4 EXHIBIT NUMBER SEVEN WHICH IS AN OVERVIEW?

5 A IT'S JUST A LITTLE MORE CLOSER BLOW UP OF THIS RIGHT
6 HERE.

7 Q OKAY. CAN YOU COME AROUND HERE?

8 A SURE.

9 Q SO THAT THE COURT REPORTER CAN HEAR YOU. I NOTICE
10 THAT THERE ARE SOME NUMBERS ON THIS. WHAT DO THOSE
11 NUMBERS SIGNIFY?

12 A I'M SORRY?

13 Q THE NUMBERS ON THE WHITE -- WHAT ARE THESE?

14 A OKAY. THESE ARE THE HOUSE NUMBERS OF THE RESIDENCES
15 ON T.S. MARTIN DRIVE.

16 Q AND THIS IS THE 100 BLOCK OF T.S. MARTIN?

17 A YES, MA'AM.

18 Q AND THIS BACK HERE, THIS ALLEYWAY, WHAT IS THAT?

19 A THAT'S A BACK ROAD JUST BEHIND -- IT'S AN ALLEYWAY
20 BEHIND THE RESIDENCE.

21 Q AND THESE SQUARES RIGHT HERE, WHAT ARE THOSE? WHERE
22 THE CARS ARE PARKED.

23 A JUST A PARKING AREA.

24 Q AND WHEN YOU FIRST -- 110, WHERE IS THAT ON HERE?

25 A 110 IS RIGHT HERE.

1 Q 110 IS RIGHT HERE?

2 A YES.

3 Q AND I NOTICED THAT YOU HAVE TWO LITTLE DOTS HERE.

4 A RIGHT.

5 Q WHAT DO THOSE SIGNIFY?

6 A THAT SHOWS APPROXIMATELY WHERE THE TWO VICTIMS WERE
7 LAYING.

8 Q OKAY. AND AGAIN, THIS MAY NOT BE ENTIRELY TO SCALE,
9 BUT IT'S APPROXIMATELY?

10 A APPROXIMATELY.

11 Q AND YOU MENTIONED THAT THAT NIGHT YOUR ATTENTION WAS
12 BROUGHT DOWN TO A PLACE FURTHER DOWN THE STREET?

13 A THAT'S CORRECT. THIS IS WHERE THE SHELL CASINGS WERE
14 FOUND.

15 Q AND THAT'S ACTUALLY IN FRONT OF HOUSE NUMBER 104; IS
16 THAT CORRECT?

17 A THAT IS CORRECT.

18 Q AND I'M SHOWING YOU STATE'S EXHIBIT NUMBER 13. WHAT
19 DID YOU FIND THERE THAT NIGHT?

20 A I FOUND NINE .22 CALIBER SHELL CASINGS THERE.

21 Q AT A LATER TIME, DID YOU FIND AN ADDITIONAL SHELL
22 CASING?

23 A I FOUND, AT A LATER TIME ABOUT IN THE MIDDLE OF THE
24 STREET IN HERE, EVIDENTLY A SHELL CASING GOT KICKED OUT
25 THERE SOMEWHERE OR ANOTHER. I DID NOT PHOTOGRAPH THAT

1 SHELL CASING. I JUST PICKED IT UP AND COLLECTED IT.

2 Q OKAY. YOU MENTIONED FIRST -- AND I SHOW YOU STATE'S
3 EXHIBIT NUMBER 13, WHAT DOES THAT SHOW?

4 A THAT SHOWS WHERE THE NINE SHELL CASINGS THAT I FIRST
5 RECOVERED, THAT'S WHERE THEY WERE, WHICH IS THIS CORNER
6 RIGHT HERE.

7 Q RIGHT THERE?

8 A RIGHT THERE.

9 Q AND I NOTICE THAT THERE'S A BRICK WALL HERE. WHAT
10 HOUSE DID THAT REPRESENT?

11 A THIS HOUSE RIGHT HERE.

12 Q OKAY. SO IT WOULD HAVE BEEN NEAR THIS CORNER WHERE
13 THIS HOUSE IS?

14 A YES, MA'AM.

15 Q AND I'M SHOWING YOU STATE'S EXHIBIT NUMBER 14.

16 A THAT JUST SHOWS A CLOSE UP OF THIS RIGHT HERE.
17 THAT'S ALL THAT IS.

18 Q AND STATE'S EXHIBIT NUMBER 15?

19 A SAME.

20 Q STATE'S EXHIBIT NUMBER 16?

21 A AGAIN, IT'S THE SAME THING. YOU CAN'T SEE THE SHELL
22 CASINGS ON THIS. IT'S A LITTLE FROM THE BACK, BUT YOU CAN
23 -- ON EACH ONE OF THESE NUMBERS HERE, YOU CAN SEE THE
24 SHELL CASING.

25 Q AND FINALLY, STATE'S EXHIBIT NUMBER 17?

1 A SAME THING. IT AGAIN SHOWS THE SHELL CASING.

2 Q AND AGAIN, I NOTICE IN SOME OF THESE THERE ARE SOME
3 CONCRETE AREAS.

4 A RIGHT.

5 Q AND SOME BLACKTOP.

6 A RIGHT.

7 Q BUT SOME WERE FOUND WHERE?

8 A SOME IN THE STREET AND SOME OF THEM IN THE GRASSY
9 AREA RIGHT HERE BETWEEN THE STREET AND THE SIDEWALK.

10 Q YOU MENTIONED THAT YOU FOUND -- THERE ARE NINE
11 NUMBERS IN THERE; IS THAT CORRECT?

12 A YES, MA'AM.

13 Q AND YOU MENTIONED THAT YOU FOUND AN ADDITIONAL SHELL
14 CASING?

15 A YES, I DID.

16 Q AND DID YOU ALSO COLLECT THAT?

17 A I COLLECTED IT.

18 Q WAS THERE ANYTHING SIMILAR OR DISSIMILAR ABOUT THE
19 SHELL CASINGS YOU COLLECTED THAT NIGHT?

20 A THEY WERE ALL SIMILAR FROM WHAT I COULD TELL BY
21 LOOKING AT THEM.

22 Q AND WHAT WERE YOU ABLE TO DETERMINE BY LOOKING AT
23 THEM, IF ANYTHING?

24 A THEY WERE .22 CALIBER.

25 Q AND I SHOW YOU WHAT'S BEEN MARKED AS STATE'S EXHIBIT

1 NUMBER 51. YOU CAN LOOK AT IT HERE. DO YOU RECOGNIZE
2 THIS?

3 A YES, MA'AM.

4 Q AND WHAT ARE THOSE?

5 A THOSE ARE THE SHELL CASINGS I COLLECTED FROM 100 T.S.
6 MARTIN DRIVE.

7 Q AND AS DEPICTED IN STATE'S EXHIBIT NUMBER 13?

8 A THAT IS CORRECT.

9 Q AND THE ADDITIONAL ONE IN THE ROAD?

10 A RIGHT.

11 MS. CAMPBELL: YOUR HONOR, AT THIS TIME WE WOULD
12 OFFER STATE'S EXHIBIT NUMBER 51 INTO EVIDENCE.

13 MR. SHARDT: WITHOUT OBJECTION.

14 THE COURT: WITHOUT OBJECTION, STATE'S 51 IS
15 ADMITTED.

16 (WHEREUPON, STATE'S EXHIBIT NO. 51 WAS ADMITTED INTO
17 EVIDENCE.)

18 BY MS. CAMPBELL

19 Q CAN YOU SHOW THESE TO THE JURY?

20 A I THOUGHT I WAS GOING TO TAKE ONE OF THEM OUT. THIS
21 IS A .22 CALIBER SHELL CASING WHICH CAN BE FIRED OUT OF A
22 RIFLE OR A PISTOL, A VERY SMALL CALIBER.

23 Q ONCE YOU COLLECTED THOSE, DID YOU THEN TAKE THEM BACK
24 TO TRY TO DO ANY TESTING AT A LATER TIME?

25 A NO. I TOOK THEM BACK, ENTERED THEM INTO EVIDENCE.

1 NORMALLY YOU WOULD TRY TO RECOVER A FINGERPRINT OFF OF
2 THOSE ITEMS THAT YOU RECOVER, ITEMS SUCH AS THIS.

3 AS SMALL AS THIS IS, YOU WOULD NOT LEAVE -- THERE'S
4 SEVERAL REASONS WHY I DID NOT PROCESS THEM. YOU WOULD NOT
5 LEAVE MUCH OF A PRINT ON A SHELL CASING TO START OFF WITH
6 TO DO ME ANY GOOD, BUT THEN YOU ALSO HAVE TO CONSIDER THIS
7 BEING AN AUTOMATIC WEAPON.

8 WHEN THAT BULLET IS EJECTED INTO THE CHAMBER, IT'S A
9 PRETTY SNUG FIT, SO IF THERE'S ANYTHING ON IT, IT WOULD
10 RUB SOME OF THAT OFF.

11 WHEN THE TRIGGER IS PULLED, THE FIRING PIN HITS THIS
12 AND IT GOES OFF. FOR A SPLIT SECOND, THIS SHELL CASING
13 EXPANDS TIGHT UP AGAINST THE WALLS. THAT'S WHAT MAKES
14 THAT BULLET COME OUT. THEN AS SOON AS IT IS FIRED, IT IS
15 EJECTED OUT OF THE CHAMBER, AGAIN RUBBING AGAINST THE WALL
16 OF THE CHAMBER. YOU WILL NOT GET THE FINGERPRINT OFF OF
17 THIS.

18 Q AND THAT'S YOUR EXPERT OPINION, YOU SIMPLY CAN'T?

19 A THAT'S CORRECT.

20 Q AND YOU HAVE TO HAVE A CERTAIN AMOUNT OF FINGERPRINT
21 IN ORDER TO MAKE A COMPARISON?

22 A YES, YOU DO.

23 Q ONCE YOU HAVE COLLECTED EVERYTHING THERE -- YOU CAN
24 TAKE THE STAND AGAIN, I'M SORRY. I APOLOGIZE.

25 WHILE YOU WERE THERE AT THE SCENE, DID INVESTIGATOR

1 GRAY REQUEST THAT YOU DO SOMETHING ON A PERSON NAMED CHRIS
2 LIVERMAN?

3 A THAT IS CORRECT.

4 Q AND WHAT DID HE WANT YOU TO DO?

5 A MY UNDERSTANDING IS HE WAS AT HEADQUARTERS AND I WAS
6 REQUESTED TO DO WHAT IS CALLED A GUNSHOT RESIDUE KIT ON
7 THE INDIVIDUAL.

8 Q BEFORE WE GO ANY FURTHER, I WANT TO SHOW YOU STATE'S
9 EXHIBIT NUMBER 54. WHILE YOU WERE AT THE SCENE -- DO YOU
10 RECOGNIZE THESE?

11 A THAT'S WHAT WAS LAYING -- I BELIEVE THAT WAS WHAT WAS
12 OUT ON THE GROUND -- LET ME LOOK HERE.

13 (PAUSE).

14 NO, I DON'T.

15 Q WERE THOSE THE GLASSES AND THE PAPER YOU COLLECTED
16 THAT NIGHT THAT'S IN YOUR REPORT?

17 A THAT'S WHAT I -- YES, I'M SORRY, YES. 110 T.S.
18 MARTIN DRIVE, COLLECTED TWO PIECES OF PAPER AND A PAIR OF
19 GLASSES.

20 Q AND THESE WOULD HAVE BEEN LOCATED WHERE, WHERE THE
21 SHELL CASINGS WERE?

22 A NO. THOSE WERE PAPERS THAT WERE LAYING WHERE THE
23 BLOOD IS.

24 Q IN STATE'S EXHIBIT 11 AND 12.

25 YOUR HONOR, AT THIS TIME WE WOULD OFFER STATE'S

1 EXHIBIT 54.

2 THE COURT: ANY OBJECTION?

3 MR. SHARDT: WITHOUT OBJECTION.

4 THE COURT: STATE'S 54 IS ADMITTED.

5 (WHEREUPON, STATE'S EXHIBIT NO. 54 WAS ADMITTED INTO
6 EVIDENCE.)

7 BY MS. CAMPBELL

8 Q YOU MENTIONED THAT YOU WENT TO DO A GUNSHOT RESIDUE
9 TEST.

10 A YES, I DID.

11 Q WHERE DID YOU GO TO DO THAT?

12 A AT HEADQUARTERS AT THE COLUMBIA POLICE DEPARTMENT.

13 Q AND WHO INITIALLY -- YOU ACTUALLY DID TWO. WHO
14 INITIALLY DID YOU GET A TEST FROM?

15 A I INITIALLY GOT ONE FROM CHRIS LIVERMAN.

16 Q AND TELL THIS JURY HOW DO YOU GO ABOUT COLLECTING
17 GUNSHOT RESIDUE FROM A PERSON'S HANDS?

18 A GUNSHOT RESIDUE IS A KIT. ACTUALLY, IT HAS TWO
19 FUNCTIONS. THERE ARE FOUR VIALS INSIDE OF IT. WHEN YOU
20 OPEN ONE OF THE VIALS UP, IT HAS A STICKY SURFACE ON THE
21 END OF IT, SO YOU USE THAT STICKY SURFACE ON THE PALM OF
22 YOUR HAND. THEN YOU TAKE ANOTHER VIAL AND YOU GET THE
23 BACK OF THE HAND, AND YOU DO THE SAME THING WITH THE OTHER
24 SIDE.

25 THERE IS ALSO A SWAB PROCEDURE WHERE YOU PUT

1 DISTILLED WATER WITH FIVE PERCENT NITRIC ACID ON THAT
2 SWAB, AND AGAIN YOU SWAB THE BACK OF THE HAND, THE FRONT
3 OF THE HAND ON BOTH HANDS. YOU ALSO SWAB THE BULLET, THE
4 SHELL CASING, FOR RESIDUE. ALL THAT IS PACKAGED AND
5 FORWARDED TO TRACE EVIDENCE.

6 Q AND THE TESTING ON THAT IS ACTUALLY DONE BY A
7 DIFFERENT AGENCY THAN YOURS?

8 A THAT'S CORRECT. THE TEST WAS DONE BY S.L.E.D.

9 Q AND THAT NIGHT WHAT TIME WERE YOU ABLE TO ACTUALLY DO
10 A GUNSHOT RESIDUE TEST ON CHRIS LIVERMAN?

11 A ON CHRIS LIVERMAN IT WAS DONE AT 12:10 A.M. THE
12 FOLLOWING MORNING.

13 Q SHORTLY AFTER MIDNIGHT?

14 A RIGHT.

15 Q AND LATER THAT NIGHT, DID YOU ALSO HAVE -- NOT THAT
16 MUCH LATER THAT NIGHT, DID YOU ALSO DO ONE ON A CARL
17 SMITH?

18 A YES, I DID. THAT WAS DONE APPROXIMATELY 1:05 A.M. IN
19 THE MORNING.

20 Q AND THEN ONCE YOU COLLECTED THOSE TESTS, THOSE WERE
21 LATER FORWARDED TO S.L.E.D.?

22 A CORRECT.

23 Q THAT NIGHT -- THE NEXT MORNING DID YOU HAVE AN
24 OCCASION TO RETURN BACK AT T.S. MARTIN DRIVE?

25 A YES, I DID.

1 Q AND WHO DID YOU GO OUT THERE WITH, DO YOU REMEMBER?

2 A MYSELF AND INVESTIGATOR GRAY.

3 Q AND WHEN YOU WENT OUT THERE, DID YOU HAVE A COUPLE OF
4 PURPOSES FOR GOING OUT THERE?

5 A DEFINITELY. WE WENT BACK THE NEXT MORNING TO MAKE
6 SURE THAT WE DID NOT MISS ANYTHING. AGAIN, AS I SAID, IT
7 WAS DARK WHEN IT WAS FIRST PROCESSED. SOMETIMES YOU MAY
8 FIND SOMETHING ELSE DURING DAYLIGHT HOURS. WE ALSO WANTED
9 TO MAKE SURE THAT NO OTHER HOMES WERE HIT BY BULLETS.

10 Q I WANT TO SHOW YOU WHAT'S BEEN MARKED AS STATE'S
11 EXHIBIT 21, 18, 20, AND 19. JUST FIRST SEE IF YOU CAN
12 IDENTIFY THOSE.

13 A YES, I CAN.

14 Q AND THOSE FOUR PHOTOGRAPHS, IS THAT HOW IT APPEARED
15 THE NEXT MORNING?

16 A YES.

17 Q WHEN YOU GOT BACK OUT THERE?

18 A YES, MA'AM, IT WAS.

19 Q AND THOSE FAIRLY AND ACCURATELY DEPICT THAT AREA THE
20 NEXT DAY?

21 A EXACTLY THE WAY IT WAS.

22 MS. CAMPBELL: YOUR HONOR, AT THIS TIME WE OFFER THEM
23 INTO EVIDENCE.

24 MR. SHARDT: WITHOUT OBJECTION.

25 THE COURT: WITHOUT OBJECTION STATE'S 18, 19, 20 AND

1 21 ARE ADMITTED.

2 (WHEREUPON, STATE'S EXHIBITS NOS. 18 - 21 WAS
3 ADMITTED INTO EVIDENCE.)

4 BY MS. CAMPBELL

5 Q STATE'S 21, WHAT DOES THAT SHOW, SIR?

6 A THAT SHOWS GOING, AGAIN, DOWN TOWARDS T.S. MARTIN
7 DRIVE.

8 Q OKAY. WOULD THAT BE AT THE BEGINNING OF T.S. MARTIN
9 DRIVE AT THE 100 BUILDING?

10 A THAT'S CORRECT.

11 Q AND WOULD IT BE LOOKING DOWN THE STREET TOWARDS 110?

12 A THAT'S CORRECT.

13 Q AND THAT'S WHAT THIS PHOTOGRAPH DEPICTS; IS THAT
14 CORRECT?

15 A THAT'S CORRECT.

16 Q AND YOU MENTIONED IN THIS PHOTOGRAPH, WHICH IS
17 STATE'S EXHIBIT NUMBER 13, WE SEE A BRICK WALL. IS THAT
18 HOUSE ACTUALLY DEPICTED IN THIS PHOTOGRAPH?

19 A THAT IS THIS RESIDENCE RIGHT HERE.

20 Q IS THAT WHERE MY FINGER IS POINTING TO?

21 A THAT'S IT, YES, MA'AM.

22 Q SO THOSE SHELL CASINGS WOULD HAVE BEEN IN FRONT OF
23 THAT HOUSE RIGHT THERE; IS THAT CORRECT?

24 A THAT IS CORRECT.

25 Q STATE'S EXHIBIT NUMBER 18, IS THAT ANOTHER VIEW DOWN

1 THAT STREET?

2 A YES, IT IS, MA'AM. JUST A LITTLE DIFFERENT ANGLE.

3 Q IS THAT ACTUALLY FROM THE CORNER WHERE THE BRICK
4 HOUSE WOULD BE?

5 A THAT IS RIGHT. THAT IS CORRECT.

6 Q YOU CAN'T ACTUALLY -- CAN YOU SEE THE BRICK HOUSE ON
7 THIS?

8 A NO, YOU CAN'T.

9 Q BUT WHICH HOUSE WOULD IT BE ACROSS FROM?

10 A IT WOULD BE ACROSS 104.

11 Q WHICH IS WHICH HOUSE ON HERE, WHAT COLOR?

12 A YELLOW.

13 Q SO 104 WOULD HAVE BEEN A YELLOW HOUSE. AND THE SHELL
14 CASINGS THAT YOU FOUND, WHERE WERE THEY LOCATED NOW THAT
15 WE CAN SEE IN THE DAYLIGHT?

16 A THEY WERE IN THIS AREA RIGHT HERE.

17 Q RIGHT HERE?

18 A YES, MA'AM.

19 Q RIGHT IN THIS AREA. STATE'S EXHIBIT NUMBER 20, IS
20 THAT THE SAME STREET BUT FROM A DIFFERENT ANGLE?

21 A THAT IS SHOOTING BACK IN THE OTHER DIRECTION FROM 110
22 TO WHERE THE SHELL CASINGS WERE.

23 Q AND IS THE BRICK HOUSE DEPICTED IN THIS PHOTOGRAPH?

24 A YES, IT IS.

25 Q AND I BELIEVE THIS WAS TAKEN FROM ACTUALLY WHAT AREA?

1 A FROM THE FRONT PORCH.

2 Q FINALLY, STATE'S EXHIBIT NUMBER 19, WHAT DOES THAT
3 SHOW?

4 A THAT SHOWS THE FRONT OF THE RESIDENCE OF 110.

5 Q AND THIS IS AFTER IT HAD BEEN CLEANED UP?

6 A THAT IS CORRECT.

7 Q WHILE YOU WERE THERE, YOU MENTIONED YOU WERE ALSO.
8 LOOKING FOR EVIDENCE OF ANY OTHER SHOOTINGS OR ANYTHING OF
9 THAT NATURE. DID YOU SPECIFICALLY GO TO A HOUSE FURTHER
10 DOWN THE STREET TOWARDS THE CORNER?

11 A YES, WE DID. WE WENT TO SEVERAL HOMES THERE TO MAKE
12 SURE THERE WERE NOT ANY BULLET HOLES IN THOSE RESIDENCES,
13 BULLET HOLES.

14 Q AND I BELIEVE WE'RE REFERRING TO THE YELLOW HOUSE AS
15 104. WOULD IT ACTUALLY BE 106? I'LL SHOW YOU STATE'S
16 EXHIBIT NUMBER 24.

17 A I CAN'T SEE EXACTLY. I BELIEVE THAT'S ONE OF -- I
18 CAN'T READ IT.

19 Q OKAY. THAT'S THE YELLOW HOUSE, THOUGH, ACROSS FROM
20 THE BRICK HOUSE?

21 A RIGHT. THAT'S 104.

22 Q STATE'S EXHIBIT NUMBER 22, WHAT HOUSE IS THAT?

23 A LET ME SEE.

24 Q THAT'S THE YELLOW HOUSE.

25 A OKAY. THAT IS THE HOUSE TO THE LEFT OF THE

1 RESIDENCE.

2 MS. CAMPBELL: YOUR HONOR, AT THIS TIME WE'D OFFER
3 STATE'S EXHIBIT 22 AND 24.

4 MR. SHARDT: WITHOUT OBJECTION.

5 THE COURT: THAT'S 22 AND 24; IS THAT RIGHT?

6 MS. CAMPBELL: YES, SIR.

7 THE COURT: STATE'S 22 AND 24 ARE ADMITTED.

8 (WHEREUPON, STATE'S EXHIBITS NOS. 22, 24 WERE
9 ADMITTED INTO EVIDENCE.)

10 BY MS. CAMPBELL

11 Q I SHOW YOU STATE'S EXHIBIT NUMBER 22, EXCUSE ME. HAD
12 YOU ALL GOTTEN SOME INFORMATION THAT ANOTHER HOUSE MAY
13 HAVE BEEN SHOT AT THAT NIGHT?

14 A THAT'S CORRECT.

15 Q AND STATE'S EXHIBIT 22, DID YOU DO A SEARCH OF THIS
16 HOUSE FOR ANY EVIDENCE OF BULLET HOLES OR ANYTHING LIKE
17 THAT?

18 A YES, WE DID.

19 Q AND WHAT WERE THE RESULTS OF YOUR SEARCH?

20 A WE DID NOT FIND ANY BULLET HOLES IN ANY OTHER
21 RESIDENCE EXCEPT 110.

22 Q DID YOU ALSO TALK TO THE RESIDENTS?

23 A YES, WE DID.

24 Q DID THEY INDICATE WHETHER OR NOT THERE HAD BEEN ANY
25 FIRING UPON THEIR HOUSE?

1 A NO, NOBODY COMPLAINED ABOUT ANYTHING.

2 Q STATE'S EXHIBIT NUMBER 24, THAT'S ALSO A HOUSE ON
3 THAT STREET?

4 A YES, MA'AM.

5 Q AND WAS THERE ANY DAMAGE TO STATE'S EXHIBIT
6 NUMBER 24?

7 A NO, MA'AM.

8 Q DID YOU EXAMINE THE OTHER HOUSES ON THAT STREET?

9 A YES, I DID.

10 Q DID YOU FIND ANY EVIDENCE OF ANY BULLET HOLES, ANY
11 SHELL CASINGS, ANYTHING? DID YOU SEARCH THE ENTIRE
12 STREET?

13 A YES, WE DID.

14 Q DID YOU FIND ANYTHING ON THIS STREET ANYWHERE BUT IN
15 FRONT OF THIS BRICK HOUSE AND WHERE THE BULLETS WERE FIRED
16 AT 110?

17 A THOSE WERE THE ONLY PLACES.

18 Q DID YOU FIND ANY .32 CALIBER, .38 CALIBER OR ANY
19 OTHER CALIBER SHELL CASINGS?

20 A NO OTHER SHELL CASINGS. NO OTHER EVIDENCE, PERIOD.

21 Q DID YOU ALSO MEASURE THE DISTANCE FROM WHERE THE
22 SHELL CASINGS WERE AND WHERE THE VICTIMS WERE SHOT?

23 A I'M SORRY?

24 Q DID YOU MEASURE THE DISTANCE FROM WHERE THE SHELL
25 CASINGS WERE TO WHERE THE VICTIMS WERE SHOT?

1 A I MADE AN APPROXIMATE MEASUREMENT. I DID NOT KNOW
2 EXACTLY WHERE THE VICTIM WAS LYING BUT CLOSE TO IT.

3 Q AND WHAT WAS IT, APPROXIMATELY?

4 A IT WAS 115 FEET.

5 Q TURNING YOUR ATTENTION TO AUGUST 30TH, DID YOU ATTEND
6 AN AUTOPSY ON ONE OF THE VICTIMS?

7 A YES, I DID.

8 Q AND WHICH VICTIM'S AUTOPSY DID YOU ATTEND?

9 A THAT WAS THE AUTOPSY OF [REDACTED] T.M.

10 Q AND WHAT WAS THE PURPOSE OF YOUR ATTENDING THE
11 AUTOPSY, SIR?

12 A WE ATTEND ALL AUTOPSIES TO, AGAIN, DO ANY PHOTOGRAPHY
13 WORK THAT NEEDS TO BE DONE OR COLLECT ANY EVIDENCE THAT
14 NEEDS TO BE COLLECTED.

15 Q WHILE YOU WERE THERE, DID YOU PHOTOGRAPH THE VICTIM?

16 A YES, I DID.

17 Q DID YOU ALSO PERFORM A GUNSHOT RESIDUE KIT ON THE
18 VICTIM AS A PRECAUTION?

19 A YES, I DID.

20 Q IS THAT CUSTOMARY?

21 A YES, IT IS.

22 Q I SHOW YOU STATE'S EXHIBIT NUMBER 50. DID YOU ALSO
23 RECEIVE PROJECTILES --

24 MR. SHARDT: OBJECTION, YOUR HONOR, LEADING.

25 THE COURT: SUSTAINED TO THE FORM OF THE QUESTION.

1 BY MS. CAMPBELL

2 Q WHAT DID YOU RECEIVE FROM DR. NICHOLS THAT WAS TAKEN
3 FROM THE BODY OF [REDACTED] T.M. ?

4 A IT WAS A PROJECTILE.

5 Q AND IS THAT WHAT'S IN STATE'S EXHIBIT 50, I BELIEVE?

6 A YES.

7 MS. CAMPBELL: YOUR HONOR, AT THIS TIME WE WOULD
8 OFFER STATE'S EXHIBIT 50 INTO EVIDENCE.

9 MR. SHARDT: WITHOUT OBJECTION, YOUR HONOR.

10 THE COURT: STATE'S 50, WITHOUT OBJECTION, IS
11 ADMITTED.

12 (WHEREUPON, STATE'S EXHIBIT NO. 50 WAS ADMITTED INTO
13 EVIDENCE.)

14 BY MS. CAMPBELL

15 Q ONCE YOU COLLECTED THAT EXHIBIT, WHAT DID YOU DO WITH
16 THAT?

17 A THAT WAS PLACED UP -- I PACKAGED IT AND PLACED IT
18 INTO OUR EVIDENCE ROOM.

19 Q YOU MENTIONED THAT YOU DID NOT FINGERPRINT THE SHELL
20 CASINGS?

21 A THAT'S CORRECT.

22 Q AND YOUR REASONS FOR THAT WERE THAT YOU COULDN'T GET
23 ANYTHING. DID YOU FIND ANYTHING ELSE AT THAT POINT IN
24 YOUR INVESTIGATION THAT COULD BE FINGERPRINTED?

25 A NO, MA'AM.

1 Q WAS THERE ANY NEED TO FINGERPRINT THE ACTUAL VICTIM'S
2 HOUSE?

3 A I'M SORRY?

4 Q WAS THERE ANY NEED TO FINGERPRINT THE VICTIM'S HOUSE?

5 A NO. HE LIVED THERE.

6 Q THE VICTIM LIVED THERE?

7 A RIGHT, THE VICTIM LIVED THERE.

8 Q WAS THERE ANY INDICATION THAT THE DEFENDANT HAD
9 ENTERED THE HOUSE OR TOUCHED ANYTHING AT THE HOUSE?

10 A NO, MA'AM.

11 MS. CAMPBELL: THANK YOU, SIR. I DON'T HAVE ANY
12 FURTHER QUESTIONS.

13 THE COURT: ALL RIGHT. WE'LL TAKE A RECESS BEFORE
14 CROSS-EXAMINATION, ABOUT TEN MINUTES. MR. FOREMAN, LADIES
15 AND GENTLEMEN, PLEASE DON'T TALK ABOUT THE CASE.

16 EVERYONE STAY SEATED, PLEASE.

17 THE JURY IS EXCUSED.

18 (WHEREUPON, THE JURY LEFT OPEN COURT AT APPROXIMATELY
19 4:02 P.M.)

20 THE COURT: OFFICER, YOU CAN STEP DOWN DURING THE
21 BREAK. DON'T DISCUSS YOUR TESTIMONY.

22 WE'LL TAKE TEN MINUTES.

23 (WHEREUPON, A SHORT BREAK WAS TAKEN.)

24 THE COURT: READY?

25 MR. SHARDT: YES, YOUR HONOR. YES, SIR.

1 DO YOU WANT TO PUT THAT ON THE RECORD?

2 THE COURT: BEFORE WE RESUME THE TESTIMONY,
3 MR. SCHARDT, YOU HAD MADE AN OBJECTION TO AN EXHIBIT THAT
4 WAS HEARD HERE AT THE BENCH. I OVERRULED YOUR OBJECTION.
5 LET'S GET IT ON THE RECORD, PLEASE.

6 MR. SHARDT: YES, YOUR HONOR. MY OBJECTION WAS THE
7 INTRODUCTION INTO EVIDENCE OF STATE'S EXHIBIT NUMBER FIVE.
8 IT WAS DISPLAYED TO THE JURY. IT'S A PICTURE OF T.S.
9 MARTIN, BUT IN THE UPPER RIGHT-HAND CORNER --

10 THE COURT: LEFT-HAND CORNER.

11 MR. SHARDT: OH EXCUSE ME, UPPER LEFT-HAND CORNER, IT
12 DOES SAY -- IT'S PRINTED "MURDER TIMES TWO; MURDER X TWO".

13 THE COURT: RIGHT.

14 MR. SHARDT: MY CONCERN IS THAT THOSE WORDS PRINTED
15 ON AN EXHIBIT THAT WAS SHOWN TO THE JURY, SOMETHING THAT
16 IS GOING BACK INTO EVIDENCE, IS VERY PREJUDICIAL IN THIS
17 CASE. IT'S WHAT MY CLIENT IS ACCUSED OF. IT'S
18 UNNECESSARY TO HAVE THIS ON THIS. I MEAN, IT'S NOT
19 ESSENTIAL AT ALL TO WHAT THIS PICTURE IS MEANT TO
20 REPRESENT. IT COULD HAVE BEEN DELETED, AND IT'S JUST VERY
21 PREJUDICIAL. THAT IS OUR OBJECTION.

22 THE COURT: ALL RIGHT. SOLICITOR?

23 MS. CAMPBELL: YOUR HONOR, I BELIEVE THAT HE'S
24 CHARGED WITH MURDER. THAT IS THE STATE'S POSITION. IT'S
25 A DOCUMENT THAT WAS GENERATED BY PETE CURRIE WITH

1 INVESTIGATIONS.

2 I DON'T -- AND MAYBE I DON'T UNDERSTAND IT, BUT I
3 DON'T THINK THEY'RE SAYING THIS ISN'T A MURDER. I THINK
4 THEY'RE SAYING THEIR CLIENT DIDN'T DO IT, BUT I DON'T MEAN
5 TO INFER WHAT THEIR DEFENSE MAY BE.

6 I DO NOT THINK IT'S UNDULY PREJUDICIAL. I MEAN, WE
7 HAVE USED THE TERM MURDER OVER AND OVER. ADDITIONALLY, I
8 THINK MS. FENT SHOWED ONE OF THE FIRST WITNESSES THAT
9 WITHOUT AN OBJECTION, SO WE DON'T THINK IT'S UNDULY
10 PREJUDICIAL.

11 THE COURT: ALL RIGHT.

12 MR. SHARDT: YOUR HONOR, IF I MIGHT RESPOND. THE
13 STATE IS ALSO ARGUING THAT MY CLIENT GAVE STATEMENTS TO
14 THE POLICE. HIS STATEMENTS COULD POTENTIALLY AMOUNT TO
15 SOMETHING OTHER THAN MURDER, EVEN IF THE JURORS WERE TO
16 BELIEVE THE TRUTH OF THOSE STATEMENTS, AND THERE ARE
17 CERTAINLY LESSER-INCLUDED CHARGES.

18 THE COURT: AT THE TIME THE OBJECTION WAS MADE I
19 LOOKED AT THE EXHIBIT. WHILE I THINK IT WAS SHOWN TO A
20 WITNESS, NOT THE JURY BUT A WITNESS, EARLIER IN THE TRIAL,
21 NOBODY OBJECTED TO IT. IT DID NOT COME. IT WAS NOT
22 OFFERED AT THAT POINT IN TIME.

23 THIS CASE, FROM THE BEGINNING, THE JURY HAS BEEN
24 EXPLAINED THAT THERE ARE TWO CHARGES IN THE INDICTMENTS,
25 TWO CHARGES OF MURDER. EVEN YOUR CO-COUNSEL ON

1 CROSS-EXAMINATION ASKED ONE OF THE INVESTIGATORS OR POLICE
2 OFFICERS ABOUT HOW COMMON IT IS TO HAVE A DOUBLE HOMICIDE,
3 AND I DON'T SEE HOW THAT BEING ON THAT EXHIBIT IS IN ANY
4 WAY PREJUDICIAL ANY MORE THAN THE FACT THAT THERE ARE TWO
5 CHARGES OF MURDER IN THIS CASE.

6 YOUR OBJECTION IS NOTED. IT WAS OVERRULED.

7 MR. SHARDT: THANK YOU, YOUR HONOR.

8 THE COURT: ALL RIGHT. GET THE JURY BACK, PLEASE.

9 (WHEREUPON, THE JURY CAME INTO OPEN COURT AT
10 APPROXIMATELY 4:26 P.M.)

11 THE BAILIFF: THE JURY IS SEATED, YOUR HONOR.

12 THE COURT: ALL RIGHT. CROSS-EXAMINATION,

13 MR. SCHARDT?

14 MR. SHARDT: THANK YOU, YOUR HONOR. MAY IT PLEASE
15 THE COURT.

16 CROSS-EXAMINATION:

17 BY MR. SHARDT

18 Q INVESTIGATOR CURRIE, YOU WERE THE CRIME SCENE
19 INVESTIGATOR IN THIS CASE, CORRECT?

20 A THAT IS CORRECT.

21 Q AND I BELIEVE YOU HAVE TESTIFIED YOU HAVE EXPERIENCE
22 AS A CRIME SCENE INVESTIGATOR, 11 YEARS?

23 A THAT IS CORRECT.

24 Q OKAY. AND YOU HAVE GONE THROUGH TRAINING AT THE
25 F.B.I.

1 A THE TRAINING IS LOCAL, BUT IT WAS F.B.I. TRAINING.

2 Q IT WAS F.B.I. TRAINING, AND YOU HAVE BEEN TO SEMINARS
3 AND CLASSES?

4 A SIR?

5 Q YOU HAVE BEEN TO SEMINARS AND CLASSES?

6 A THAT IS CORRECT.

7 Q OKAY. SO YOU HAVE LEARNED YOUR CRAFT.

8 A YES, SIR.

9 Q YOU'RE GOOD AT WHAT YOU DO.

10 A I THINK SO.

11 Q INVESTIGATOR GRAY ASKED YOU TO TAKE GUNSHOT RESIDUE
12 SAMPLES THAT NIGHT.

13 A DO WHAT, SIR?

14 Q INVESTIGATOR GRAY ASKED YOU TO TAKE GUNSHOT RESIDUE
15 SAMPLES FROM CHRIS LIVERMAN THAT NIGHT.

16 A I DID.

17 Q UPON INVESTIGATOR GRAY'S REQUEST?

18 A THAT IS CORRECT.

19 Q AND YOU CONDUCTED THIS -- YOU TOOK THIS SAMPLE AT
20 12:10 A.M.?

21 A THAT IS CORRECT.

22 Q ON AUGUST 27TH.

23 A THAT IS CORRECT. WELL, IT WOULD BE THE 28TH. IT
24 WOULD BE 00:10 HOURS, SO THAT WOULD BE ON THE 28TH, THAT
25 WOULD BE THE NEXT MORNING, TEN MINUTES AFTER MIDNIGHT.

1 Q RIGHT, ON THE 27TH.

2 A RIGHT. THAT WOULD BE THE 28TH.

3 Q OKAY. OKAY.

4 A I'M SORRY. HOLD ON.

5 (PAUSE).

6 NO, I'M SORRY, THAT WAS THE 27TH.

7 Q TWENTY-SEVENTH?

8 A THAT IS CORRECT.

9 Q OKAY. AND YOU EXPLAINED TO US HOW YOU CONDUCT THAT
10 TEST.

11 A THAT IS RIGHT.

12 Q OKAY. AND THIS IS A REGULAR PART OF YOUR JOB.

13 A YES, SIR.

14 Q CONDUCTING A GUNSHOT RESIDUE TEST.

15 A YES, SIR.

16 Q AND YOU'RE AWARE OF PROTOCOLS AND GUIDELINES
17 INVOLVED --

18 A THAT IS CORRECT.

19 Q -- ON HOW TO PROPERLY COLLECT SAMPLES.

20 A THAT IS CORRECT.

21 Q OKAY. AND YOU FOLLOW THESE GUIDELINES.

22 A YES, SIR.

23 Q HOW MANY OF THESE TESTS HAVE YOU ADMINISTERED?

24 A HOW MANY TESTS HAVE I DONE?

25 Q GUNSHOT RESIDUE TEST.

1 A SEVERAL HUNDRED.

2 Q SEVERAL HUNDRED?

3 A YES, SIR.

4 Q SO YOU HAVE EXPERIENCE PERFORMING THIS TEST?

5 A YES, SIR.

6 Q COLLECTING THIS EVIDENCE?

7 A YES, SIR.

8 Q OKAY. SO YOU KNOW WHAT YOU'RE DOING?

9 A YES, SIR.

10 Q YOU HAVE BEEN TRAINED?

11 A BEEN TRAINED, YES, SIR.

12 Q YOU HAVE EXPERIENCE?

13 A YES, SIR.

14 Q YOU'RE CAREFUL ABOUT YOUR WORK?

15 A SIR?

16 Q YOU'RE CAREFUL ABOUT YOUR WORK?

17 A YES, SIR.

18 Q YOU STAND BY YOUR WORK?

19 A YES, I DO.

20 Q OKAY. ON THAT DAY AT APPROXIMATELY 12:10 A.M. YOU

21 TOOK A GUNSHOT RESIDUE SAMPLE FROM CHRIS LIVERMAN,

22 CORRECT?

23 A THAT IS CORRECT.

24 Q YOU WALKED INTO THE ROOM WHERE CHRIS WAS?

25 A CORRECT.

1 Q AT THE POLICE STATION?

2 A (THERE WAS NO RESPONSE.)

3 Q AT THE POLICE STATION?

4 A YES, SIR.

5 Q YOU EXPLAINED THIS TEST TO HIM?

6 A YES, I DID.

7 Q SO YOU EXPLAINED WHAT YOU WERE GOING TO DO?

8 A EXACTLY.

9 Q SO YOU EXPLAINED TO HIM THIS WAS A TEST FOR GUNSHOT
10 RESIDUE?

11 A THAT IS CORRECT.

12 Q OKAY. HE ALLOWED YOU TO TAKE THE TEST?

13 A YES, HE DID.

14 Q HE HELD OUT HIS HANDS, AND HE LET YOU TAKE IT?

15 A YES, SIR.

16 Q HE DIDN'T FIGHT OR RESIST?

17 A NO, SIR.

18 Q AND YOU FOLLOWED ALL GUIDELINES AND PROTOCOLS WHEN
19 YOU TOOK THIS SAMPLE?

20 A YES.

21 Q AND YOU SEALED THE SAMPLE ONCE YOU TOOK IT FROM CHRIS
22 LIVERMAN'S HAND?

23 A YES.

24 Q YOU SEALED THEM?

25 A YES.

1 Q AS YOU'RE SUPPOSED TO?

2 A YES.

3 Q AS YOU'RE TAUGHT?

4 A RIGHT.

5 Q OKAY. AND YOU SENT -- YOU SENT THEM OFF TO S.L.E.D.
6 TO BE ANALYZED, CORRECT?

7 A NO, SIR. THEY WERE PLACED IN THE EVIDENCE ROOM AT
8 COLUMBIA POLICE DEPARTMENT.

9 Q SO YOU PLACED THEM DIRECTLY INTO THE EVIDENCE ROOM.

10 A RIGHT.

11 Q AND YOU HAVE TOLD US YOU STAND BY YOUR WORK. I AM
12 ASSUMING YOU STAND BY THE WORK YOU DID THAT NIGHT, AS
13 WELL?

14 A THAT IS CORRECT.

15 MR. SHARDT: I HAVE NO FURTHER QUESTIONS FOR THIS
16 WITNESS, YOUR HONOR.

17 THE COURT: ANY REDIRECT?

18 MS. CAMPBELL: NO, SIR, YOUR HONOR. MAY THIS WITNESS
19 BE EXCUSED?

20 THE COURT: ANY OBJECTION?

21 MR. SHARDT: NO OBJECTION.

22 THE COURT: YOU'RE EXCUSED, SIR.

23 THE BAILIFF: WATCH YOUR STEP.

24 MS. CAMPBELL: THE STATE CALLS CORPORAL DUTTON.

25 ROBIN DUTTON, AFTER BEING DULY SWORN,

1 TESTIFIED AS FOLLOWS:

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

4 THE WITNESS: SERGEANT ROBIN DUTTON.

5 DIRECT EXAMINATION:

6 BY MS. CAMPBELL

7 Q SERGEANT DUTTON, WHERE ARE YOU EMPLOYED?

8 A THE CITY OF COLUMBIA POLICE DEPARTMENT.

9 Q WHAT DO YOU DO THERE, MA'AM?

10 A I'M A POLICE PATROL SERGEANT.

11 Q AND AS A PATROL SERGEANT, CAN YOU EXPLAIN TO THIS JURY
12 WHAT YOUR DUTIES INCLUDE?

13 A I'M IN CHARGE OF SEVERAL PATROL OFFICERS, AND WE DO
14 ROUTINE PATROL IN A SPECIFIED AREA.

15 THE COURT: SPEAK UP A LITTLE BIT CLOSER INTO THE
16 MICROPHONE, PLEASE.

17 THE WITNESS: I'M IN CHARGE OF SEVERAL EMPLOYEES,
18 PATROL OFFICERS, AND I SUPERVISE THEM AND THEIR DUTIES.

19 BY MS. CAMPBELL

20 Q ARE YOU FAMILIAR WITH THE BETHEL BISHOP APARTMENT
21 AREA?

22 A YES, I AM.

23 Q AND IS THAT PART OF YOUR AREA THAT YOU PATROL?

24 A YES. I'VE ACTUALLY PATROLLED THAT AREA FOR LAST
25 SEVEN YEARS.

1 Q FOR LAST SEVEN YEARS. ARE YOU FAMILIAR WITH WHERE
2 T.S. MARTIN DRIVE IS?

3 A YES, MA'AM.

4 Q AND CAN YOU EXPLAIN TO THIS JURY -- THERE HAVE BEEN
5 REFERENCES TO THE COLONY APARTMENTS, BETHEL BISHOP AND I
6 BELIEVE THE BAYBERRY AREA. CAN YOU KIND OF EXPLAIN TO
7 THEM HOW THOSE ARE ALL CONNECTED OR NOT?

8 A WELL, THEY ACTUALLY KIND OF -- YOU HAD TO GO THROUGH
9 ONE TO GET TO THE OTHER, BASICALLY. BAILEY STREET, BETHEL
10 BISHOP -- BAILEY STREET YOU WOULD HAVE TO DRIVE DOWN THE
11 CENTER OF THE APARTMENT COMPLEX, AND YOU WOULD END UP
12 INSIDE 100 RIPPLEMEYER. THEN ONCE YOU GO THROUGH THAT
13 COMPLEX, YOU ACTUALLY CAN GO OUT THROUGH ANOTHER STREET
14 THAT WOULD GO OUT TO BAYBERRY MEWS.

15 Q OKAY. AND WHEN YOU SAY YOU ENTER ON BAILEY STREET,
16 IS BAILEY STREET -- WHAT STREET -- WHAT MAIN STREET DOES
17 THAT RUN OFF OF?

18 A IT RUNS OFF OF BELTLINE.

19 Q AND T.S. MARTIN, IF YOU'RE TALKING ABOUT THE COLONY
20 BEING ON ONE SIDE OF BELTLINE, WHERE IS T.S. MARTIN
21 LOCATED IN REFERENCE TO BELTLINE?

22 A IT'S ON DOWN BELTLINE ON THE RIGHT-HAND SIDE OF THE
23 ROAD. YOU HAVE TO GO OFF THE ROAD, OFF OF BELTLINE TO
24 REACH IT.

25 Q SO TO GET FROM THE COLONY OR BETHEL BISHOP APARTMENTS

1 OVER TO T.S. MARTIN, WOULD YOU HAVE TO CROSS BELTLINE
2 BOULEVARD?

3 A YES, YOU WOULD.

4 Q AND ARE YOU FAMILIAR WITH SOME TRAIN TRACKS IN THAT
5 AREA?

6 A YES. YOU WOULD HAVE TO ACTUALLY -- WELL, THEY KIND
7 OF RUN BESIDE ALL THOSE APARTMENT COMPLEXES, BETHEL
8 BISHOP, BAILEY STREET, AND BAYBERRY MEWS.

9 Q I WANT TO TURN YOUR ATTENTION TO YOUR INVOLVEMENT IN
10 THIS CASE WHICH ACTUALLY DIDN'T OCCUR UNTIL OCTOBER 2ND,
11 2004.

12 A THAT IS CORRECT.

13 Q AND AROUND 3:10 THAT MORNING, DID YOU HAVE AN
14 OCCASION TO BE AT THE 5700 BLOCK OF BAILEY STREET IN THE
15 COLONY APARTMENTS?

16 A YES. I WAS ACTUALLY ATTEMPTING TO CAPTURE AN
17 INDIVIDUAL THAT WAS ATTEMPTING TO ELUDE ME ON FOOT.

18 Q AND WHAT INDIVIDUAL WAS THAT?

19 A HIS STREET NAME IS O.B., BUT HIS REAL NAME IS THOMAS
20 O'BRIEN WILLIAMS.

21 Q AND WITHOUT GOING INTO THE NATURE OF THE REASON YOU
22 WERE TRYING TO GET HIM, DID THAT CHASE LEAD YOU INTO KIND
23 OF A CREEK AREA AT THE COLONY APARTMENTS?

24 A YES, IT DID.

25 Q CAN YOU TELL THE JURY WHAT HAPPENED AND HOW THAT

1 CHASE PROCEEDED AND WHAT EVIDENCE YOU ACTUALLY ENDED UP
2 FINDING?

3 A SURE. IT STARTED AT THE BEGINNING, THE FRONT
4 ENTRANCE OF THE APARTMENT COMPLEX. HE RAN DOWN THE WEST
5 SIDE OF THE APARTMENT COMPLEX, WHICH IS TO THE LEFT.

6 IF YOU WERE GOING DOWN THE CENTER OF THE COMPLEX,
7 THERE'S A FENCE, A KIND OF WROUGHT IRON TYPE FENCE THAT
8 RUNS ALONG THE LEFT SIDE. HE WAS RUNNING DOWN THAT SIDE
9 OF THE FENCE.

10 I WAS FOLLOWING HIM WHICH COMES TO A CREEK AREA, AND
11 THERE'S A LITTLE PATH THAT YOU CAN CROSS OVER THE CREEK.
12 I HAD LOST SIGHT OF HIM, SO I ATTEMPTED TO LOCATE MAYBE
13 WHAT HE HAD POSSIBLY DROPPED OR THROWN DOWN IN THAT CREEK
14 AREA.

15 Q AND AGAIN, WHAT WAS THE DATE OF THIS?

16 A IT WAS OCTOBER 2ND OF 2004.

17 Q AND WHAT TIME OF THE DAY WAS THIS?

18 A THIS WAS IN THE EARLY MORNING HOURS, APPROXIMATELY
19 THREE O'CLOCK IN THE MORNING, 3:10 IN THE MORNING.

20 Q WHEN YOU RETURNED TO THE CREEK AREA TO FIND OUT IF HE
21 HAD POSSIBLY THROWN DOWN ANY EVIDENCE, DID YOU, IN FACT,
22 COME UPON ANY EVIDENCE YOU DID COLLECT THAT NIGHT?

23 A YES. I ACTUALLY CAME ACROSS AN ITEM THAT LOOKED LIKE
24 -- INITIALLY LIKE A STICK, BUT IT HAD A HOLE IN THE TOP OF
25 IT, AND IT WAS WRAPPED IN A BAG. I WENT DOWN TO RETRIEVE

1 THAT IN THIS LITTLE CREEK AREA ON THE SIDE, KIND OF LIKE
2 ON A LITTLE HILL THAT LEADS DOWN INTO THE CREEK, PICKED IT
3 UP. IT WAS ACTUALLY A RIFLE THAT HAD BEEN WRAPPED IN A
4 PLASTIC BAG.

5 Q AND AT THAT POINT DID YOU KNOW WHAT SIGNIFICANCE, IF
6 ANY, THAT RIFLE HAD?

7 A NO, I DID NOT.

8 Q BUT YOU COLLECTED IT?

9 A YES, I DID.

10 Q WHY IS THAT?

11 A WELL, YOU CAN'T LEAVE A WEAPON OUT THERE FOR YOUNG
12 CHILDREN OR ANYONE ELSE TO PICK UP SO...

13 Q ONCE YOU COLLECTED THE GUN, DID YOU ACTUALLY DO A
14 REPORT IN THIS CASE ON HOW YOU FOUND THE GUN?

15 A YES. WHAT WE DO IS WE TYPICALLY -- IF IT'S NOT
16 AFFILIATED WITH ANYTHING THAT WE'RE ACTUALLY DEALING WITH
17 AT THAT TIME, IT'S BASICALLY FOUND PROPERTY, AND I INCLUDE
18 THAT WITH MY REPORT WITH THE INDIVIDUAL THAT I HAD
19 CAPTURED. IT WAS TAGGED IN AS FOUND PROPERTY, AFTER IT
20 WAS MADE SAFE AND ANY ROUNDS OR ANYTHING LIKE THAT TAKEN
21 OUT OF IT.

22 Q AND, IN FACT, DID THAT GUN HAVE MAGAZINE AND ROUNDS
23 IN IT?

24 A IT HAD ROUNDS IN IT, YES, IT DID.

25 Q I WANT TO SHOW YOU WHAT'S BEEN MARKED AS STATE'S

1 EXHIBIT NUMBER 63, THE MAGAZINE FROM IT, 64. FIRST OF
2 ALL, BEFORE YOU SAY ANYTHING, JUST SEE IF YOU RECOGNIZE
3 THIS.

4 A YES, I DO. YES, I DO.

5 Q AND 63 AND 64 WOULD HAVE ACTUALLY BEEN IN 63, THE
6 MAGAZINE?

7 A YES.

8 Q AND YOU ACTUALLY WROTE THE SERIAL NUMBER DOWN, I
9 BELIEVE IN YOUR REPORT?

10 A YES, I DID.

11 Q AND THIS MATCHES UP TO THIS ONE, AND THIS IS THE GUN
12 YOU ACTUALLY COLLECTED THAT NIGHT?

13 A YES, IT IS.

14 MS. CAMPBELL: YOUR HONOR, AT THIS TIME WE'D OFFER 63
15 AND 64 INTO EVIDENCE.

16 MS. FRANKLIN: WITHOUT OBJECTION, YOUR HONOR.

17 THE COURT: WITHOUT OBJECTION, STATE'S 63 AND 64 ARE
18 ADMITTED.

19 (WHEREUPON, STATE'S EXHIBITS NOS. 63, 64 WERE
20 ADMITTED INTO EVIDENCE.)

21 BY MS. CAMPBELL

22 Q BEFORE I HAVE YOU COME DOWN, I WANT TO SHOW YOU AN
23 EXHIBIT THAT'S MARKED STATE'S EXHIBIT NUMBER 10. DO YOU
24 RECOGNIZE THAT OVERVIEW?

25 A YES, I DO.

1 Q AND DOES IT FAIRLY AND ACCURATELY KIND OF SHOW THE
2 AREA OF THE GUN, WHERE YOU LOCATED IT?

3 A YES, IT DOES.

4 Q AND YOUR HONOR -- STATE'S EXHIBIT 45, 46, 47, AND 48,
5 DO YOU RECOGNIZE THOSE PHOTOS?

6 A YES, I DO.

7 Q DOES THAT FAIRLY AND ACCURATELY DEPICT THE AREA WHERE
8 YOU RECOVERED THE GUN ON OCTOBER 2ND, 2004?

9 A YES, IT DOES.

10 MS. CAMPBELL: YOUR HONOR, AT THIS TIME WE'D OFFER
11 STATE'S EXHIBIT 10 AND 45 THROUGH 48 INTO EVIDENCE.

12 THE COURT: ANY OBJECTION?

13 MS. FRANKLIN: WITHOUT OBJECTION.

14 THE COURT: WITHOUT OBJECTION, THOSE FIVE EXHIBITS,
15 STATE'S 10 AND 45, 46, 47, AND 48 ARE ADMITTED.

16 (WHEREUPON, STATE'S EXHIBITS NOS. 10, 45 - 48 WERE
17 ADMITTED INTO EVIDENCE.)

18 BY MS. CAMPBELL

19 Q BEFORE I HAVE YOU COME DOWN BEFORE THE JURY, ARE YOU
20 FAMILIAR WITH -- AND EXPLAIN TO THIS JURY, ARE THOSE
21 WHAT'S KNOWN AS CUTS OR PATHS THAT SURROUNDS THE BETHEL
22 BISHOP APARTMENTS, AS WELL AS THE COLONY APARTMENTS?

23 A YES. NORMALLY, THEY'RE COMMONLY USED TO JUST CUT
24 OVER TO THE TRACKS OR OVER TO THE OTHER SIDE OF THE
25 STREET.

1 Q AND IS THERE ONE THAT COMES OFF THE BETHEL BISHOP
2 APARTMENTS TOWARDS THE BACK THAT ACTUALLY RUNS OVER TO
3 CALK STREET?

4 A YES. THERE'S A DIRECT LINE, STRAIGHT PATH, THAT
5 CROSSES OVER THE RAILROAD TRACKS TO CALK STREET.

6 Q AND I WANT TO SHOW YOU SOME PHOTOGRAPHS. YOU HAVE
7 BEEN PATROLLING THIS AREA FOR HOW LONG?

8 A SEVEN YEARS.

9 Q I WANT TO SHOW YOU 25 THROUGH 31. I MEAN, FIRST OF
10 ALL, LOOK AT THOSE AND SEE IF YOU RECOGNIZE THEM.

11 A (PAUSE).

12 YES, I DO.

13 Q AND DO THOSE FAIRLY AND ACCURATELY DEPICT THE CUT
14 THAT GOES THROUGH TO CALK STREET FROM THE BETHEL BISHOP
15 APARTMENTS AND THE AREAS KIND OF RIGHT PRECEDING AROUND
16 THAT?

17 A YES, IT DOES.

18 MS. CAMPBELL: YOUR HONOR, AT THIS TIME WE'D OFFER 25
19 THROUGH 31.

20 MS. FRANKLIN: MAY I SEE THOSE?

21 (PAUSE).

22 WITHOUT OBJECTION.

23 THE COURT: WITHOUT OBJECTION STATE'S 25 THROUGH 31
24 ARE ADMITTED.

25 (NOTE: PER STATE'S PREMARKING OF EXHIBITS, 31 WAS

1 DOUBLE MARKED. THIS EXHIBIT 31 WAS LATER RENUMBERED
2 TO REFLECT THE NUMBER OF 31-B.)

3 (WHEREUPON, STATE'S EXHIBITS NOS. 25 - 31-B WERE
4 ADMITTED INTO EVIDENCE.)

5 MS. CAMPBELL: THANK YOU, YOUR HONOR. MAY THE
6 WITNESS STEP DOWN?

7 THE COURT: YES. KEEP YOUR VOICE UP, PLEASE, WHILE
8 YOU'RE AWAY FROM THE MICROPHONE.

9 THE BAILIFF: WATCH YOUR STEP.
10 BY MS. CAMPBELL

11 Q COME OVER ON THIS SIDE SO THE COURT REPORTER CAN HEAR
12 YOU A LITTLE BIT EASIER..

13 FIRST OFF, AND I HAVEN'T SHOWN YOU THIS. I WANT TO
14 SHOW YOU THIS OVERVIEW. TAKE YOUR TIME TO ORIENT
15 YOURSELF.

16 (PAUSE):

17 STATE'S EXHIBIT NUMBER SIX, YOU JUST WERE BRIEFLY
18 DESCRIBING FOR THE JURY HOW THESE THREE HOUSING AREAS ARE
19 KIND OF CONNECTED. CAN YOU KIND OF WALK THEM THROUGH IT
20 FROM BELTLINE?

21 A SURE. THIS IS THE ENTRANCE TO BAILEY STREET RIGHT
22 HERE. THESE ARE THIS ONE-STORY DWELLING RIGHT HERE. THIS
23 IS THE APARTMENT COMPLEX RIGHT IN THROUGH HERE.

24 Q AND WHICH APARTMENT COMPLEX?

25 A THAT'S BAILEY STREET, THE COLONY.

1 Q THE COLONY, OKAY.

2 A THIS THEN ENDS. THE STREET STILL CONTINUES, BUT IT
3 BRANCHES OFF RIGHT HERE. ONCE YOU GO THROUGH HERE TO
4 HERE, THAT'S AN ENTRANCE TO 100 RIPPLEMEYER. IT'S BETHEL
5 BISHOP APARTMENTS. THEY'RE TWO-STORY APARTMENTS.

6 Q OKAY.

7 A YOU CAN GET -- THERE'S TWO WAYS TO GET TO LESTER
8 DRIVE RIGHT HERE. YOU CAN TAKE THIS OR YOU CAN GO THROUGH
9 THESE TWO APARTMENT COMPLEXES AND COME OUT TO A SIDE
10 STREET.

11 Q AND IT GOES UP TO HERE?

12 A YES. YOU HAVE TO CROSS OVER A BRIDGE IN THE CENTER
13 OF THE COMPLEX AND FOLLOW THE STREET OUT WHICH COMES OUT
14 TO LESTER DRIVE.

15 Q AND I SEE THAT THERE IS A -- WHAT APPEARS TO BE A
16 LARGE ROAD THAT RUNS PARALLEL TO LESTER DRIVE?

17 A YES. THIS IS 277 WHICH EVENTUALLY TURNS INTO THE
18 INTERSTATE. IF YOU GO DOWN BULL STREET, IT TURNS INTO 277
19 WHICH TURNS INTO 77, IF YOU'RE FAMILIAR WITH THAT.

20 Q AND BAYBERRY IS NOT ACTUALLY DEPICTED ON THIS, BUT
21 WHERE -- HOW WOULD YOU GET TO BAYBERRY IF IT WAS INVOLVED?

22 A AGAIN, IF YOU TAKE THE SPLIT TO GO TO THE LEFT OR GO
23 TO THE RIGHT, YOU CAN STILL COME OUT ON LESTER DRIVE RIGHT
24 HERE. BAYBERRY IS RIGHT IN THIS AREA RIGHT HERE. THIS IS
25 A HEAVILY WOODED AREA. IT ENDS AT THIS COMPLEX, 100

1 RIPPLEMEYER. JUST A -- MAYBE ABOUT -- I DON'T KNOW HOW
2 FAR, BUT IT'S NOT VERY FAR. BAYBERRY IS JUST RIGHT HERE.
3 Q ON THAT SAME DIAGRAM, I BELIEVE YOU CAN ACTUALLY SEE
4 T.S. MARTIN, AND THERE'S T.S. MARTIN AND T.S. MARTIN
5 COURT, T.S. MARTIN DRIVE. DOES IT START RIGHT THERE AT
6 THE CORNER OF ENGLISH?

7 A YES, RIGHT HERE. THIS IS WHERE YOU CAN GO -- YOU CAN
8 EITHER -- THIS IS BELTLINE RIGHT HERE, AND THERE ARE TWO
9 SIDE STREETS IN WHICH YOU CAN GET TO IT. NORMALLY, LESTER
10 WILL TAKE EDISON, AND IT CROSSES OVER ENGLISH. THIS
11 BECOMES T.S. MARTIN RIGHT HERE.

12 Q OKAY. AND JUST FOR CLARIFICATION, YOU WEREN'T
13 INVOLVED IN THE INITIAL INVESTIGATION IN THIS CASE?

14 A NO, I WAS NOT.

15 Q OKAY. THIS LINE HERE THAT CROSSES OFF, WHAT DOES
16 THAT REPRESENT?

17 A THAT'S THE RAILROAD TRACKS THAT PARALLEL THESE
18 APARTMENT COMPLEXES.

19 Q ON OCTOBER 2ND AROUND THREE IN THE MORNING, YOU WERE
20 CHASING O.B. AND SHOW THIS JURY WHERE -- HOW YOU -- WHERE
21 WOULD BELTLINE BE? THAT'S NOT DEPICTED ON THIS MAP.

22 YOUR HONOR, THIS IS STATE'S EXHIBIT 10, I'M SORRY.

23 A IT LOOKS LIKE THE ENTRANCE WOULD BE FURTHER DOWN
24 HERE. HERE IS THE LEFT SIDE OF THE COMPLEX RIGHT HERE.
25 THIS IS THE CREEK THAT RUNS IN BETWEEN -- WITHIN THAT

1 COMPLEX, THE COLONY.

2 IT'S A SHORT DISTANCE FROM THE ENTRANCE HERE. WE
3 WERE RUNNING ALONG THIS FENCE LINE HERE WHERE THIS CREEK
4 IS, RIGHT IN THIS AREA RIGHT HERE.

5 Q AND WHERE DID YOU LOSE SIGHT OF THE PERSON YOU WERE
6 LOOKING FOR?

7 A AS SOON AS HE TURNED AROUND THIS BUILDING, BECAUSE
8 YOU HAVE TO USE CAUTION WHEN APPROACHING BUILDINGS. WHEN
9 CHASING SOMEONE, YOU HAVE TO KIND OF STOP. ONCE HE PASSED
10 BY THIS TREE RIGHT HERE, I LOST HIM IN THIS VICINITY RIGHT
11 HERE.

12 Q IS THERE A WAY THE PEOPLE ARE ABLE TO GET ACROSS THAT
13 CREEK AND PROCEED ON?

14 A YES. THERE'S A LITTLE PATH THAT GOES OVER. IT'S
15 ALMOST LIKE A STORM DRAIN, KIND OF A LITTLE BRIDGE YOU CAN
16 GO THROUGH. THERE'S A COUPLE OF THEM. ONE YOU CAN RUN
17 DOWN INTO THE ACTUAL CREEK AND COME UP ON THE OTHER SIDE,
18 OR YOU CAN TAKE THE PATH TO THE RIGHT.

19 Q OKAY. I WANT TO SHOW YOU WHAT'S BEEN MARKED AS
20 STATE'S EXHIBIT NUMBER 45 THROUGH 48. WHAT DO THESE
21 PHOTOS REPRESENT?

22 A THESE PHOTOS REPRESENT THE PICTURES OF THE CREEK THAT
23 RUNS DOWN THE MIDDLE AND ALSO THE FENCE LINE AND THE AREAS
24 IN WHICH I RECOVERED THE WEAPON.

25 Q AND YOU RECOVERED THE WEAPON AROUND THREE O'CLOCK IN

1 THE MORNING, SO THESE PHOTOGRAPHS WERE TAKEN AT A LATER
2 TIME?

3 A RIGHT.

4 Q IN THE DAYLIGHT?

5 A YES, MA'AM.

6 Q BUT OTHER THAN THE LIGHTING CONDITIONS, THEY
7 REPRESENT THE AREA WE'RE TALKING ABOUT?

8 A YES, THEY DO.

9 Q AND STATE'S EXHIBIT NUMBER 45, WHAT DO THOSE SHOW?

10 A THIS IS FROM THE ROAD LOOKING DOWN TOWARDS THE AREA
11 IN WHICH THE WEAPON WAS RECOVERED. IT'S JUST BASICALLY
12 THE CREEK FROM THE ROAD GOING DOWN THE CENTER OF THE
13 COMPLEX.

14 Q AND I SEE THIS LITTLE POLL THERE, IN STATE'S EXHIBIT
15 NUMBER 46, IS THIS CLOSER UP OR FURTHER DOWN THE AREA?

16 A THIS IS MORE TOWARDS THE STREET. THIS IS THE FENCE
17 LINE BACK HERE, SO I TOOK THE PHOTOGRAPH FROM THE STREET
18 TOWARDS THE ACTUAL AREA, SO THIS IS THE STREET LEVEL.
19 THIS IS A LITTLE CLOSER. THIS IS A FEW YARDS IN, AND IT
20 DEPICTS WHERE THERE IS A PLACE WHERE YOU CAN CROSS.

21 Q STATE'S EXHIBIT NUMBER 47, WHAT DOES THAT SHOW?

22 A THIS SHOWS THE ACTUAL AREA IN WHICH I RECOVERED THE
23 WEAPON. JUST BELOW ON THE HILL IS WHERE I RECOVERED THE
24 WEAPON. THIS SHOWS THE GENERAL VICINITY IN WHICH I WAS
25 LOOKING DOWN INTO THE WOODED AREA OF THE CREEK.

1 Q AND STATE'S EXHIBIT 48, YOU REMOVED THE GUN THAT
2 NIGHT, DID YOU NOT?

3 A YES.

4 Q FOR THE REASONS THAT YOU STATED, BUT DOES THIS SHOW
5 THE AREA WHERE THE GUN WAS RECOVERED?

6 A YES. THIS IS THE GENERAL AREA RIGHT IN HERE WHERE
7 THE WEAPON WAS FACING WITH THE BARREL UP.

8 Q AND HOW WAS THE WEAPON PACKAGED?

9 A IT WAS IN A BLACK PLASTIC BAG.

10 Q YOU MENTIONED SOME OF THE CUTS IN THE AREA. I WANT
11 TO SHOW YOU A DIAGRAM, STATE'S EXHIBIT NUMBER NINE. ARE
12 YOU FAMILIAR WITH THE CALK STREET CUT THROUGH?

13 A YES, I AM.

14 Q AND USING THIS, DOES THIS LOOK LIKE THE EDGE OF WHAT
15 COMPLEX?

16 A THAT IS 100 RIPPLEMEYER, WHICH IS THE BETHEL BISHOP,
17 THE TWO-STORY APARTMENTS.

18 Q OKAY. AND DOWN HERE, THIS STREET, CALK STREET?

19 A THIS IS CALK STREET, AND THIS IS THE ENTRANCE TO THE
20 CUT COMMONLY USED BY MOST PEOPLE THAT LIVE IN THE COMPLEX
21 TO GET OVER TO CALK STREET WHICH THEY COULD -- IF YOU TAKE
22 THEM TO A SUPERMARKET OR, YOU KNOW, ONE OF THE GAS
23 STATIONS OR SOMETHING LIKE THAT. IT'S JUST AN EASIER
24 ROUTE. MOST PEOPLE TAKE IT.

25 Q I WANT TO SHOW YOU STATE'S EXHIBIT NUMBER 25. WHAT

1 DOES THAT SHOW AS EXHIBITED ON STATE'S EXHIBIT
2 NUMBER NINE?

3 A THIS IS THE ACTUAL ENTRANCE INTO THE CUT.

4 Q FROM WHICH AREA? FROM THE...

5 A FROM THE BETHEL BISHOP AREA.

6 Q AND I SHOW YOU TWO MORE PHOTOGRAPHS, 26 AND 27. WHAT
7 DO THOSE SHOW?

8 A JUST AS YOU'RE GOING INSIDE THE CUT, IT BASICALLY
9 SHOWS YOU THE PATH.

10 Q ALL RIGHT. STATE'S EXHIBIT NUMBER 28 AND 29.

11 A THIS IS JUST INSIDE THE PATH LOOKING BACK AT THE
12 BUILDING, THE APARTMENT BUILDING, RIGHT AT THE ENTRANCE.
13 THIS IS JUST ANOTHER ANGLE OF THE ENTRANCE.

14 Q STATE'S EXHIBIT NUMBER 30 AND 31?

15 A THIS IS LOOKING OUT FROM THE PATH. THERE'S --
16 BASICALLY, YOU CAN LOOK AND SEE IN BETWEEN TWO BUILDINGS,
17 AND THIS IS JUST AT THE ENTRANCE LOOKING IN THE OTHER
18 DIRECTION.

19 Q AND FINALLY, WE HAVE MENTIONED A RAILROAD TRACK.
20 DOES THIS CUT GO OVER THE RAILROAD TRACK?

21 A YES, IT DOES.

22 Q CAN YOU SHOW THEM WHERE?

23 A HERE IS THE RAILROAD TRACK RIGHT HERE. HERE IS THE
24 ENTRANCE TO THE CUT. YOU CAN SEE THE LINE WHERE IT'S
25 HEAVILY WALKED. YOU WILL HAVE TO CLIMB UP A LITTLE GRADE.

1 ONCE YOU GET UP THERE, YOU CAN CROSS OVER THE TRACK AND
2 COME BACK DOWN.

3 Q THANK YOU. TAKE A SEAT.

4 OFFICER, ONCE YOU COLLECTED THE WEAPON AND THE
5 AMMUNITION, THE MAGAZINE, ON STATE'S EXHIBIT NUMBER 63 AND
6 64, WHAT DID YOU DO WITH THEM?

7 A I PLACED THEM IN THE TRUNK OF MY VEHICLE, AND I
8 IMMEDIATELY TOOK THE ITEMS DOWN TO OUR PROPERTY ROOM AND
9 PLACED THEM IN A LOCKER, IN A SECURED LOCKER.

10 Q AND WHILE THOSE ITEMS WERE IN YOUR POSSESSION, DID
11 YOU ALTER THEM OR DO ANYTHING WITH THEM OR CHANGE THEM IN
12 ANY WAY?

13 A NO, I DIDN'T.

14 Q AND, IN FACT, WOULD YOUR REPORT HAVE BEEN FORWARDED
15 TO THE INVESTIGATIVE UNIT?

16 A YES, IT WOULD.

17 MS. CAMPBELL: THANK YOU, MA'AM. PLEASE ANSWER ANY
18 QUESTIONS OF THIS WITNESS.

19 THE COURT: ALL RIGHT. CROSS-EXAMINE?

20 MS. FRANKLIN: THANK YOU, YOUR HONOR. MAY IT PLEASE
21 THE COURT.

22 CROSS-EXAMINATION:

23 BY MS. FRANKLIN

24 Q HELLO, OFFICER DUTTON.

25 A HELLO.

1 Q I'M SORRY, HOW LONG HAVE YOU BEEN WITH THE COLUMBIA
2 POLICE DEPARTMENT?

3 A SEVEN YEARS.

4 Q SO PRETTY MUCH YOUR ENTIRE CAREER YOU HAVE BEEN IN
5 THIS PARTICULAR AREA THEN, HAVEN'T YOU?

6 A YES, I HAVE.

7 Q AND AT THE POLICE ACADEMY, YOU LEARNED HOW TO WRITE
8 INCIDENT REPORTS, AND YOU'RE THOROUGH AND YOU'RE ACCURATE
9 AND YOU'RE COMPLETE, CORRECT?

10 A YES, MA'AM.

11 Q AND SO WHEN YOU WERE ON ROUTINE PATROL ON OCTOBER 2ND
12 IN THE COLONY AREA, YOU WERE INVESTIGATING A PARTICULAR
13 PERSON IN THAT AREA?

14 A AND ACTUALLY CAME ACROSS THIS INDIVIDUAL THAT I KNOW
15 BY SIGHT AND NAME.

16 Q OKAY. BUT FOR SOME REASON ON THAT NIGHT YOU HAD
17 REASON TO SUSPECT THAT HE WAS INVOLVED IN SOME WRONGDOING?

18 A YES.

19 Q OKAY. AND YOU BELIEVED THAT HE WAS CARRYING A
20 WEAPON?

21 A AT THAT TIME, YES, I DID.

22 Q AND SO YOU -- THE REASON WHY YOU WERE CHASING HIM IS
23 BECAUSE YOU THOUGHT THAT'S WHAT HE WAS DOING OUT THERE.

24 A WELL, WHEN I APPROACHED HIM AND HE RAN, YEAH. I
25 CHASED HIM FOR THAT REASON, YES.

1 Q AND AT SOME POINT HE WAS DETAINED?

2 A HE WAS ACTUALLY PLACED IN CUSTODY, YES.

3 Q AND WHEN HE WAS DETAINED, YOU DID NOT FIND A WEAPON
4 ON HIM?

5 A NO, I DID NOT.

6 Q OKAY. SO YOU WERE LOOKING IN THIS DRAINAGE AREA
7 BECAUSE YOU FELT THAT MAYBE HE HAD DISCARDED A WEAPON DOWN
8 THERE?

9 A CORRECT.

10 Q BUT WHEN YOU RECOVERED THE WEAPON, IT LOOKED LIKE --
11 WELL, I GUESS IT WAS IN A PLASTIC BAG; IS THAT CORRECT?

12 A YES. THE WEAPON WAS PARTIALLY IN A PLASTIC BAG, YES.

13 Q AND WAS IT LIKE A GARBAGE BAG OR A -- THAT SORT OF
14 BAG OR JUST --

15 A IT WAS A BLACK PLASTIC GARBAGE BAG THAT COULD BE USED
16 FOR LEAVES OR ANYTHING LIKE THAT. COMMONLY USED, IT'S
17 BLACK.

18 Q SO IT'S THE ONE OF THOSE BIG ONES THAT YOU PULL OUT,
19 AND IT'S GOT THAT LITTLE TIE ON IT?

20 A I DON'T RECALL THE YELLOW TIE ON IT, NO, I DON'T.

21 Q BUT IT WAS ONE OF THOSE BIG GALLON BAGS. IS THAT
22 WHAT YOU'RE DESCRIBING?

23 A IT'S LARGE. I DON'T KNOW WHAT GALLON SIZE IT WAS.

24 Q DID YOU TAKE THAT BAG AND PLACE THAT INTO CUSTODY?

25 A I DON'T RECALL.

1 Q BECAUSE YOU TOOK THE WEAPON INTO CUSTODY, YES?

2 A YES.

3 Q AND YOU TOOK THE MAGAZINE INTO CUSTODY?

4 A UH-HUH.

5 Q AND DO THINK YOU WOULD HAVE TAKEN THE PLASTIC BAG
6 INTO CUSTODY ALSO?

7 A IT'S POSSIBLE. AT THAT TIME IN ORDER TO GET TO THE
8 WEAPON, THE BAG HAD TO BE RIPPED BECAUSE IT HAS THIS --
9 THERE'S A SCOPE ON THE ACTUAL WEAPON. SO THE BAG WAS
10 RIPPED AND IT WAS HANDLED, SO I DON'T RECALL WHETHER OR
11 NOT I TAGGED IN THE PLASTIC BAG.

12 Q NEVERTHELESS, I MEAN, WHEN YOU SAW THE GUN, ~~IT WAS IN~~
13 PRETTY BAD SHAPE, WASN'T IT?

14 A YES. IT HAD BEEN THROUGH SOME WEATHER.

15 Q WAS IT COVERED WITH MUD?

16 A NO. THERE WAS NO MUD, BUT THERE WAS RUST ON IT.

17 Q AND THE GUN WAS RECOVERED NEAR A WELL WORN FOOTPATH,
18 IS THAT CORRECT?

19 A THE WEAPON WAS IN A CREEK BED.

20 Q YES.

21 A BUT IT WASN'T CLOSE TO -- IT WAS CLOSE TO A PATH, BUT
22 NOT WHERE FOOT TRAFFIC WOULD BE.

23 Q SO THIS PATH NEXT TO THE DRAINAGE DITCH, YOU'RE
24 TELLING -- YOU'RE SAYING IS NOT PARTICULARLY USED?

25 A NO, IT IS USED.

1 Q OKAY. THE PATH IS THERE BECAUSE THAT'S WHERE PEOPLE
2 ARE TRYING TO TRAVEL TO AND FROM, CORRECT?

3 A RIGHT.

4 Q AND YOU DIDN'T FIND ANY OTHER GUNS IN THE DRAINAGE
5 DITCH?

6 A NO, I DID NOT.

7 Q AND THEN YOU PLACED THAT GUN INTO EVIDENCE?

8 A YES, I DID.

9 Q AND DID YOU RUN AN N.C.I.C. CHECK ON THAT GUN?

10 A YES. THAT'S WHAT WE COMMONLY DO WHEN WE EVER FIND
11 ANYTHING THAT HAS SERIAL NUMBER, PARTICULARLY WEAPONS, TO
12 MAKE SURE IT DOESN'T COME BACK STOLEN OR ANYTHING LIKE
13 THAT.

14 Q AND CAN YOU EXPLAIN WHAT THE ACRONYM N.C.I.C. MEANS?

15 A IT'S THE NATIONAL CRIME -- I GUESS -- I DON'T KNOW
16 PER SE THE LAST TWO, BUT I KNOW IT'S NATIONAL CRIME --
17 IT'S THE ACTUAL N.C.I.C. IT'S SOMETHING WE NATIONALLY --
18 THE NUMBERS ARE PUT INTO A COMPUTER.

19 IT'S A NATIONAL SYSTEM IN WHICH ANY AGENCY CAN ENTER
20 A SERIAL NUMBER FROM A STOLEN PRODUCT, AND IT WILL COME
21 BACK ON A HIT. YOU KNOW, A STEREO SYSTEM HAS A NUMBER OR
22 ANYTHING LIKE THAT.

23 IF YOU RECORD IT ON A BURGLARY OR ANYTHING LIKE THAT,
24 IT'S ENTERED INTO THIS COMPUTER SYSTEM WHICH IS NATIONAL.
25 IF SOMETHING IS RECOVERED IN ANOTHER STATE OR ANYTHING

1 LIKE THAT AND THAT NUMBER IS ENTERED, THEN IT CAN BE
2 FOUND. IT CAN BE LOCATED. WE CAN IDENTIFY WHO IT BELONGS
3 TO.

4 Q OKAY. AND AT THE TIME THAT YOU DID THIS N.C.I.C.
5 CHECK, I MEAN IT CAME BACK CLEAR, DIDN'T IT?

6 A YES, IT DID.

7 Q BY CLEAR, IT WAS NOT REPORTED STOLEN AT THAT POINT.

8 A THAT'S CORRECT.

9 Q OKAY. BUT DID YOU COME TO KNOW AT SOME POINT THAT IT
10 HAD BEEN STOLEN BACK IN JUNE OF 2004?

11 A NO, I DID NOT.

12 Q OKAY. NOW, AT THE TIME THAT YOU RETRIEVED THE GUN,
13 YOU DIDN'T TAKE ANY PICTURES AT THAT TIME, DID YOU?

14 A NO, I DID NOT.

15 Q NOW, DID YOU REQUEST THAT THE GUN BE ANALYZED FOR
16 FINGERPRINTS?

17 A I DID NOT PERSONALLY MAKE THE REQUEST, NO. AT THAT
18 TIME I DIDN'T HAVE A REASON. IT WAS FOUND PROPERTY, AND
19 IT DID NOT COME BACK STOLEN.

20 Q WOULD THAT HAVE BEEN YOUR JOB TO DO THAT, THOUGH?

21 A NO, IT WOULD NOT.

22 Q SO YOU MADE THE GUN SAFE FOR PLACEMENT IN THE
23 EVIDENCE ROOM. IS THAT ACCURATE?

24 A YES. WHEN YOU HANDLE A WEAPON, YOUR FIRST INITIAL
25 THING IS YOU HAVE TO MAKE IT SAFE, WHICH MEANS YOU HAVE TO

1 TAKE OUT ANY ROUNDS OR ANYTHING LIKE THAT, THAT MIGHT
2 PREVENT A MISFIRE. ALSO IN TRANSPORT, YOU HAVE TO MAKE IT
3 SAFE.

4 Q SO IN ADDITION TO TAKING OUT THE ROUNDS, WHAT OTHER
5 ACTIONS DID YOU TAKE TO MAKE THIS SAFE, OR IS THAT ENOUGH?

6 A WHEN TAKING OUT THE ROUNDS, YOU CLEAR THE WEAPON
7 WHICH IS TYPICALLY -- IF THERE'S ANYTHING THAT CAN RACK
8 THE WEAPON BACK AND FORTH OF THE CYLINDER WHERE THE ACTUAL
9 BULLETS GO OR THE ROUNDS, YOU WANT TO MAKE SURE THERE'S
10 NOTHING INSIDE. THEN YOU LEAVE THE ACTION OPEN SO THAT
11 PEOPLE CAN SEE THERE'S NOTHING IN IT, SO IT CAN'T BE
12 FIRED.

13 Q SO THIS GUN WAS LOADED WHEN YOU FOUND IT?

14 A YES, IT WAS.

15 Q AND IT HAD FIVE ROUNDS?

16 A I'LL HAVE TO LOOK AT THE REPORT. I DON'T -- THE
17 ROUNDS WERE JAMMED IN IT, SO WE HAD DIFFICULTY GETTING ALL
18 OF THE ROUNDS OUT, BUT IT ENDED UP BEING FIVE .22 CALIBER
19 ROUNDS THAT WE WERE ACTUALLY ABLE TO GET OUT OF THE
20 WEAPON.

21 Q AND DID YOU HAPPEN TO NOTICE WHAT KIND OF BULLETS,
22 THE MAKE OF THE BULLETS?

23 A I DID NOT INDICATE WHAT TYPE OF ROUNDS THEY WERE,
24 JUST THAT THEY WERE .22 CALIBER, WHICH IS WHAT I WOULD GET
25 FROM READING IT, BUT I DIDN'T PUT THE ACTUAL NAME OF THE

1 ROUND.

2 MS. FRANKLIN: I HAVE NO FURTHER QUESTIONS FOR THIS
3 WITNESS.

4 THE COURT: ALL RIGHT. REDIRECT?

5 MS. CAMPBELL: JUST A COUPLE.

6 REDIRECT EXAMINATION:

7 BY MS. CAMPBELL

8 Q SHE ASKED YOU ABOUT THIS WEAPON WAS FOUND NEAR WHERE
9 YOU WERE CHASING O.B. WHAT KIND OF WEAPON DID O.B. HAVE
10 ON HIM?

11 A I SUSPECTED IT WAS A HANDGUN, SOMETHING YOU COULD
12 PLACE IN YOUR HAND BECAUSE I SAW WHAT I THOUGHT WAS THE
13 ACTUAL HANDLE -- FORGIVE ME, THE HANDLE POKING OUT OF HIS
14 SHIRT. HE'S A RATHER SLENDER INDIVIDUAL, AND HIS CLOTHES
15 WERE -- THE SHIRT WAS HUNG UP ON IT. THAT'S WHAT I
16 SUSPECTED WAS ON HIS SIDE.

17 Q SO YOU DIDN'T CHARGE HIM WITH THIS GUN?

18 A NO, I DID NOT.

19 Q AND DID YOU THINK HE HAD THROWN THIS GUN DOWN THAT
20 NIGHT?

21 A NO, I DID NOT.

22 Q AND YOU HAVE ALREADY DESCRIBED THE CONDITION OF THE
23 GUN. IT'S RUSTY.

24 A YES. THE GUN HAD BEEN WEATHERED. IT WAS WRAPPED IN
25 THIS BAG, AND IT WAS RUSTED. IT WAS APPARENT THAT IT HAD

1 BEEN OUT IN THE WEATHER.

2 Q AND SHE ALSO TRIED TO SAY SOMETHING ABOUT THE PATH
3 BEING NEAR WHERE THE GUN WAS FOUND. CAN YOU EXPLAIN THAT
4 TO THE JURY, THAT THOSE WERE SEPARATE AREAS?

5 A I THINK WHAT SHE WAS REFERRING TO WAS SEPARATE. THE
6 PATH GOING OVER TO CALK STREET IS A LONG PATH. IT'S
7 SEPARATE. IT'S ON THE OTHER SIDE OF WHERE THE CREEK IS
8 AND ANOTHER COMPLEX, THE TWO-STORY COMPLEX, BETHEL BISHOP.

9 THE CREEK THAT I WAS REFERRING TO WHERE I FOUND THE
10 WEAPON AT IS BAILEY STREET. THOSE ARE SINGLE -- IT'S
11 ONE-STORY DWELLINGS. YOU WOULD HAVE TO GO THROUGH THAT
12 APARTMENT COMPLEX TO GET TO THE OTHER, SO THERE'S A LITTLE
13 BRIDGE THAT GOES OVER THE CREEK. THAT'S A SMALL PATH, AND
14 IT'S PROBABLY APPROXIMATELY -- I WOULD SAY PROBABLY AROUND
15 10 FEET, TEN TO 12 FEET FROM WHERE I ACTUALLY FOUND THE
16 WEAPON.

17 MS. CAMPBELL: THANK YOU.

18 THE COURT: ANY RECROSS?

19 MS. FRANKLIN: JUST A COUPLE REAL QUICK, YOUR HONOR.

20 RECROSS-EXAMINATION:

21 BY MS. FRANKLIN

22 Q SO THIS PATH RIGHT HERE?

23 A UH-HUH.

24 Q THE ONE THAT'S MARKED RIGHT NEXT TO THE STREAM. THIS
25 IS THE PATH THAT'S SORT OF THE WELL-WORN PATH THAT I WAS

1 SPEAKING ABOUT.

2 A RIGHT.

3 Q AND THAT -- YOU WOULD AGREE THAT'S SORT OF A
4 WELL-WORN PATH?

5 A RIGHT.

6 Q OKAY. IT'S NOT PARTICULARLY CLOSE TO THE CUT AT THE
7 BETHEL BISHOP, IS IT?

8 A NO.

9 Q OKAY. AND WHEN YOU SAW THE GUN IN THE BAG, WAS THE
10 BAG IN POOR SHAPE, OR WAS IT IN RELATIVELY GOOD SHAPE?

11 A NO. THE BAG HAD SEVERAL HOLES IN IT AND WEATHERED.
12 IT WAS APPARENT IT HAD BEEN LAYING THERE FOR A WHILE.

13 Q SO YOU BELIEVE THAT THE BAG HAD BEEN THERE FOR A
14 WHILE, TOO?

15 A THE WEAPON WAS WRAPPED IN THE BAG, SO YES.

16 Q WAS THERE MUD ON TOP OF THE BAG?

17 A THERE WAS DIRT. IT WAS A DRY DAY. THERE WAS JUST
18 DIRT. THERE WAS NO MUD ON THE PARTICULAR DAY.

19 Q IS THERE WATER DOWN IN THAT DITCH?

20 A IT'S A RATHER DRY DITCH. IT'S NOT REAL -- IT'S NOT
21 SOMETHING THAT WATER RUNS RAMPANT THROUGH. IT'S A
22 SOMEWHAT VERY DRY DITCH. ON OCCASION, IF IT RAINS, THERE
23 WILL BE WATER IN THERE.

24 Q SO THE BAG HAD HOLES IN IT.

25 A YES, THE BAG HAD HOLES ALL OVER IT.

1 MS. FRANKLIN: NO FURTHER QUESTIONS, YOUR HONOR.

2 THE COURT: ALL RIGHT. ANY REDIRECT?

3 MS. CAMPBELL: YOUR HONOR, MAY SHE BE EXCUSED?

4 THE COURT: ANY OBJECTION?

5 MS. FRANKLIN: NO OBJECTION.

6 THE COURT: MA'AM, YOU'RE EXCUSED.

7 ALL RIGHT.

8 THE BAILIFF: WATCH YOUR STEP.

9 MS. FENT: MAY WE APPROACH, YOUR HONOR?

10 THE COURT: SURE.

11 (WHEREUPON, A BENCH CONFERENCE WAS HELD IN THE
12 PRESENCE, BUT NOT WITHIN THE HEARING, OF THE JURY).

13 THE COURT: MR. FOREMAN, LADIES AND GENTLEMEN, WE
14 HAVE A MATTER. IF YOU JUST STEP BACK TO YOUR JURY ROOM A
15 COUPLE OF MINUTES PLEASE.

16 EVERYONE ELSE STAY SEATED.

17 (WHEREUPON, THE JURY LEFT OPEN COURT AT APPROXIMATELY
18 5:03 P.M.)

19 THE COURT: ALL RIGHT. THE STATE HAS INDICATED THE
20 NEXT WITNESS IS WITH THE DEPARTMENT OF CORRECTIONS. LET'S
21 GO AHEAD AND STATE THIS CONCERN AND GET SOME GUIDANCE
22 ABOUT WHAT COULD AND COULD NOT BE SAID ABOUT APPARENTLY
23 THE WITNESS IS GOING TO BE TESTIFYING TO SOME PHOTOGRAPHS
24 AND THINGS OF THAT NATURE; IS THAT RIGHT?

25 MS. FENT: CORRECT. IT'S AN OFFICER AT THE

1 DEPARTMENT OF CORRECTIONS WHO WORKS AT THE LIEBER
2 INSTITUTE. THEY DOCUMENT -- BASICALLY UPON AN INMATE'S
3 ARRIVAL INTO THE DEPARTMENT OF CORRECTIONS, THEY'RE
4 PROCESSED AT KIRKLAND.

5 AT THAT POINT, THERE ARE DOCUMENTATIONS INTO THEIR
6 COMPUTER SYSTEM AS TO WHAT TATTOOS AN INDIVIDUAL HAS, SO
7 CERTAIN TATTOOS WERE DOCUMENTED ON THE DEFENDANT'S BODY.

8 I GUESS HE GOES TO A COUPLE OF DIFFERENT LOCATIONS.
9 UPON HIS ARRIVAL AT LIEBER, THIS PARTICULAR SERGEANT
10 NOTICES THE TATTOOS ON THE FACE, LOOKS IT UP IN THE
11 COMPUTER AND NOTICES THOSE ARE NOT DOCUMENTED.

12 A SHORT TIME LATER, YOU KNOW, TWO WEEKS LATER, BRINGS
13 THE DEFENDANT UP, TAKES THE PHOTOS OF THE TATTOOS AND
14 DOCUMENTS THEM INTO THE COMPUTER SYSTEM.

15 THEN IN ADDITION, THE FOLLOWING DAY THE DEFENDANT IS
16 BROUGHT BACK UP TO HIS OFFICE JUST TO FINISH THE
17 PAPERWORK, AND THE DEFENDANT VOLUNTEERS TO HIM, "WHAT ARE
18 YOU GOING TO DO WITH THESE PHOTOGRAPHS?"

19 NOW, THERE'S A -- I GUESS A COUPLE OF DIFFERENT
20 ISSUES INVOLVED IS "A", MR. SCHARDT IN HIS OPENING
21 STATEMENT REPEATED OVER AND OVER AND OVER AGAIN THAT HIS
22 CLIENT HAS BEEN INCARCERATED FOR THE PAST 26 MONTHS. SO
23 IT IS CLEAR, YOU KNOW, CLEAR TO THE JURY THAT HE HAS BEEN
24 INCARCERATED.

25 THE OTHER ISSUE IN TERMS OF US, YOU KNOW, BRINGING UP

1 WHETHER WE CAN MENTION HE'S IN THE DEPARTMENT OF
2 CORRECTIONS IS THEY HAVE PROVIDED A WITNESS LIST OF
3 POTENTIAL WITNESSES, AND A COUPLE OF THEM ARE INMATES AT
4 THE DEPARTMENT OF CORRECTIONS.

5 ONE OF THEM SPECIFICALLY, THEY PROFFER TO US, WILL BE
6 TESTIFYING THAT HE'S THE ONE THAT GAVE THE TATTOOS TO THE
7 DEFENDANT. YOU KNOW, IF ULTIMATELY, YOU KNOW, THAT IS
8 COMING OUT, THAT'S ANOTHER REASON WHY THE TIMING AND THE,
9 YOU KNOW, DOCUMENTATION OF THESE TATTOOS THROUGH THE
10 DEPARTMENT OF CORRECTIONS AND HOW THAT'S DONE COULD
11 POTENTIALLY STILL COME OUT AND OBVIOUSLY NOT BE ANY
12 PROBLEM.

13 THE COURT: MS. FRANKLIN?

14 MS. FRANKLIN: YOUR HONOR, IN RESPONSE I WOULD STATE
15 THAT WHAT THEY'RE ATTEMPTING TO DO WITH THIS LINE OF
16 EVIDENCE, THIS LINE OF TESTIMONY, IS GOING TO UNFAIRLY
17 REMARK ON MY CLIENT'S PRIOR CRIMINAL HISTORY.

18 YOU KNOW, I THINK THERE'S GOING TO HAVE TO BE SOME
19 EXPLANATION WHY HE WAS IN THE DEPARTMENT OF CORRECTIONS
20 VERSUS DOWN AT ALVIN S. GLENN DETENTION CENTER, THAT IS
21 GOING TO REFER BACK TO HIS PROBATION REVOCATION AND TO THE
22 FACT THAT HE WAS INCARCERATED.

23 MY UNDERSTANDING IS THAT THAT IS INADMISSIBLE
24 EVIDENCE UNTIL SUCH TIME AS MY CLIENT DECIDES TO EITHER
25 TAKE OR NOT TAKE THE STAND. IF HE DOESN'T TAKE THE STAND

1 IT DOESN'T COME IN.

2 THE COURT: LET ME ASK THIS, JUST SORT OF AS AN
3 ASIDE, BECAUSE IT WAS REFERRED TO THROUGHOUT THE OPENING
4 STATEMENT AS TO HOW LONG THE DEFENDANT HAD BEEN
5 INCARCERATED, AND PART OF THAT PERIOD OF TIME HE HAS BEEN
6 INCARCERATED FOR A PROBATION VIOLATION?

7 MS. FRANKLIN: THAT IS WHY HE WAS IN THE DEPARTMENT
8 OF CORRECTIONS.

9 THE COURT: IS THAT NOT SOMEWHAT MISLEADING TO THE
10 JURY?

11 MS. FRANKLIN: WELL, HE WAS DETAINED.

12 THE COURT: WITH THE IMPLICATION OF HE'S BEEN IN JAIL
13 WAITING FOR TRIAL FOR 27-SOME-ODD MONTHS?

14 MS. FRANKLIN: WELL, YOUR HONOR, HE HAS BEEN IN, ALSO
15 AT THIS TIME, WAITING FOR THE TRIAL. I MEAN, THESE
16 CHARGES HAVE BEEN OUTSTANDING 26 MONTHS, EVEN THOUGH HE
17 WAS SERVING TIME WITH PROBATION.

18 THE COURT: GO AHEAD.

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

20 THE COURT: GO AHEAD. I DIDN'T MEAN TO CUT YOU OFF.
21 GO AHEAD WITH WHAT YOU WERE SAYING.

22 MS. FRANKLIN: I MEAN, YOUR HONOR, AGAIN, I THINK A
23 CRIMINAL HISTORY IS NOT SOMETHING THAT IS BEFORE THE JURY
24 UNTIL SUCH TIME AS THE CLIENT TAKES THE STAND AND OPENS
25 THE DOOR FOR IT.

1 MS. FENT: IT WAS ONE OF THEIR MAJOR KIND OF THEMES
2 IN THEIR OPENING STATEMENT WAS THAT HE HAS BEEN SITTING
3 INCARCERATED WAITING FOR HIS DATE OF TRIAL. THEY HAVE
4 PRESSED THESE CHARGES AGAINST HIM. THEY'RE WAITING FOR
5 THIS TRIAL WHEN, IN FACT, SOME OF THAT TIME, MUCH OF THAT
6 TIME, HE WAS INCARCERATED DESPITE THIS.

7 MS. FRANKLIN: OF COURSE, YOUR HONOR, EVEN THOUGH HE
8 WAS SERVING TIME ON A PROBATION VIOLATION, IT DOESN'T
9 PRECLUDE THE STATE FROM CALLING HIM TO TRIAL ON THESE
10 CHARGES.

11 THE COURT: THE STATE HAS ALREADY ESTABLISHED THROUGH
12 A NUMBER OF WITNESSES THAT AT THE TIME THAT THE DEFENDANT
13 WAS TAKEN INTO CUSTODY, THERE WERE NO TATTOOS ON HIS FACE;
14 IS THAT CORRECT?

15 MS. FENT: THAT NIGHT WHEN HE WAS ARRESTED, CORRECT.

16 THE COURT: AND ESSENTIALLY, THAT'S WHAT THIS PERSON
17 FROM S.C.D.C. WOULD BE TESTIFYING TO?

18 MS. FENT: IT WOULD BE --

19 THE COURT: IT WOULD BE DOCUMENTING THAT HE DIDN'T
20 HAVE ANY TATTOOS ON HIS FACE AT WHATEVER TIME HE WAS
21 PROCESSED INTO WHICHEVER INSTITUTION IT WAS?

22 MS. FENT: CORRECT. IT WAS APPROXIMATELY
23 FEBRUARY 2ND OF THIS YEAR THAT HE ENTERED LIEBER, AND THAT
24 OFFICER NOTICED, YOU KNOW, THERE WERE THESE TATTOOS ON HIS
25 FACE, LOOKED IT UP IN THE COMPUTER AND NOTICED THEY WERE

1 NOT DOCUMENTED UPON HIS ARRIVAL INTO THE DEPARTMENT OF
2 CORRECTIONS AND THEN BROUGHT HIM UP A COUPLE OF WEEKS
3 LATER AND ACTUALLY TOOK THOSE PHOTOGRAPHS OF THE TATTOOS.

4 MS. FRANKLIN: YOUR HONOR, I GUESS I WOULD WANT TO
5 INQUIRE WHEN THE FIRST PHOTOGRAPHS OF MR. LIVERMAN WERE
6 WHEN HE DID NOT HAVE THE TATTOOS.

7 MS. FENT: THEY'RE IN EVIDENCE. THEY WERE ADMITTED
8 INTO EVIDENCE THE NIGHT HE WAS ARRESTED.

9 MS. FRANKLIN: OKAY. SO SOMETIME BETWEEN THE NIGHT
10 OF THE ARREST UP UNTIL FEBRUARY 2ND?

11 IS THE STATE PLANNING TO INTRODUCE ANY OTHER -- I
12 MEAN, I DON'T KNOW HOW OFTEN THESE PHOTOGRAPHS ARE TAKEN.
13 THEY WERE TAKEN JUST ONE TIME?

14 MS. FENT: WELL, AND THAT'S WHAT THE OFFICER WILL SAY
15 IS THAT, YOU KNOW, UPON NOTICING THEM, THEY DOCUMENT THEM.
16 THEY WEREN'T...

17 THE COURT: IS THERE ANY WAY THE STATE CAN QUESTION
18 THIS WITNESS WITHOUT IT BEING INDICATED WHERE HE WORKS AND
19 IN WHAT CONNECTION THESE PHOTOGRAPHS WERE TAKEN?

20 MS. FENT: I GUESS IN A GENERIC SENSE THE OFFICER --
21 SINCE THEY HAVE CLEARLY STATED HE HAS BEEN INCARCERATED
22 FOR 26 MONTHS, WE COULD HAVE THE OFFICER JUST STATE
23 GENERICALLY HE'S A LAW ENFORCEMENT OFFICER WITH A
24 DETENTION CENTER. HE IS IN CHARGE OF -- WHILE HE WAS IN
25 THE DEFENDANT'S CUSTODY.

1 MS. CAMPBELL: WHILE HE WAS BEING DETAINED.

2 MS. FENT: THAT HE'S A LAW ENFORCEMENT OFFICER, AND
3 WHILE THE DEFENDANT HAS BEEN IN HIS CUSTODY, THEY NOTICED
4 THESE TATTOOS AND DOCUMENTED THEM THIS FEBRUARY.

5 MS. CAMPBELL: AND DON'T MENTION THE DEPARTMENT OF
6 CORRECTIONS.

7 MS. FRANKLIN: BUT YOUR HONOR, I MEAN WHAT THIS IS
8 GOING TO BRING UP IS A WHOLE CAN OF WORMS. I MEAN, AS
9 MS. FENT JUST SAID, HE WAS TRANSFERRED INTO THE VARIOUS
10 LOCATIONS. THAT'S WHAT HAPPENS WITH A LOT OF GUYS WHO ARE
11 IN THERE. I MEAN, THEY'RE CHECKED INTO KIRKLAND. THEY'LL
12 GO TO ONE INSTITUTION. SOMETIMES THEY'LL GO TO ANOTHER
13 INSTITUTION.

14 OF COURSE, WHAT WE'LL BE CROSS-EXAMINING HIM ON IS
15 THEY JUST NOTICED ON FEBRUARY 2ND, 2006? I MEAN, WHAT
16 OTHER INSTITUTIONS WAS HE IN, AND THAT, OF COURSE, IS
17 GOING TO BRING UP THAT HE WAS IN THE SOUTH CAROLINA
18 DEPARTMENT OF CORRECTIONS FOR SOME TIME.

19 MS. FENT: I THINK IT COULD BE FASHIONED -- THE
20 SERGEANT COULD SAY, "I AM A CORRECTIONS OFFICER. THE
21 DEFENDANT WAS IN MY CUSTODY. I NOTICED ON FEBRUARY 2ND HE
22 HAD THESE TATTOOS."

23 THERE'S ALSO THE BRAND, PITCHFORK BRAND, THAT HE HAD
24 PLACED ON HIS BACK, SO THE 424, THE TEARDROPS, THE
25 PITCHFORK BRAND, AND THE TWO TATTOOS B.O.S. AND S.O.S,

1 BROTHERS OF STRUGGLE, AND SISTERS OF THE STRUGGLE.

2 THEY HAVE NOT BEEN PREVIOUSLY DOCUMENTED IN THE
3 DETENTION CENTER," GENERIC DETENTION FACILITY, "AND I
4 DOCUMENTED THEM ON THESE DAYS, TOOK PHOTOS OF THEM ON THIS
5 DAY."

6 THESE TATTOOS NOT ONLY TIE IN THE MEANING OF THE
7 TATTOOS, BUT THE MEANING OF THE TATTOOS ARE DIRECTLY
8 INVOLVED TO HIS GANG INVOLVEMENT.

9 THE COURT: WELL, I UNDERSTAND THAT. I'M JUST TRYING
10 TO FIGURE OUT IF THERE'S ANY WAY YOU CAN ASK THESE
11 QUESTIONS OF THIS WITNESS, OR IF YOU HAVE ALREADY
12 ESTABLISHED -- I KNOW AS FAR AS THE TATTOO ON THE FACE,
13 YOU HAVE ALREADY ESTABLISHED THAT IN AUGUST OF '04, IT WAS
14 NOT PRESENT. SEVERAL WITNESSES HAVE TESTIFIED TO THAT.

15 MS. FRANKLIN: EXACTLY, YOUR HONOR. I MEAN, I THINK
16 THAT -- I REALLY THINK THAT IF THEY GO DOWN THIS ROAD,
17 THERE'S GOING TO BE A WHOLE LOT OF TESTIMONY THAT'S GOING
18 TO BE NEEDED IN ORDER TO PROPERLY CROSS-EXAMINE THESE, YOU
19 KNOW, THIS PERSON ABOUT THE EXISTENCE OR NONEXISTENCE OF
20 WHEN THEY CAME ON HIS FACE OR WHEN THEY WERE NOT PRESENT.

21 THAT'S GOING TO NECESSARY INVOKE, YOU KNOW, A
22 DISCUSSION ABOUT WHICH INSTITUTIONS HE WAS IN, WHO WAS IN
23 CHARGE OF THOSE INSTITUTIONS, WHO WAS IN CHARGE OF, YOU
24 KNOW, CATALOGING EXACTLY THIS SORT OF THING. THE JURY IS
25 PROBABLY GOING TO HEAR ABOUT TWO OR THREE DIFFERENT

1 ~~DEPARTMENT OF CORRECTIONS FACILITIES.~~

2 MS. FENT: THAT'S WHAT WE'RE SAYING IS WE'RE GOING TO
3 NARROW IT DOWN TO THIS ONE INDIVIDUAL.

4 MS. FRANKLIN: WELL, I KNOW THAT'S WHAT THEY WANT TO
5 DO, BUT I HAVE CROSS-EXAMINATION THAT I HAVE TO CONSIDER.
6 GOING INTO THIS IS GOING TO NECESSARILY LEAD TO THIS OTHER
7 STUFF WHICH IS NECESSARY FOR MY CLIENT'S RIGHT TO
8 CONFRONTATION.

9 ADDITIONALLY, YOUR HONOR, I MEAN THE FACT THAT THEY
10 HAVE PEOPLE WHO TESTIFIED TO THE FACT HE DIDN'T HAVE
11 TATTOOS AND CLEARLY HE'S SITTING HERE WITH THEM NOW, I
12 MEAN, IT SEEMS TO ME THAT THEY COULD MAKE THEIR POINT
13 WITHOUT REFERRING TO THE DEPARTMENT OF CORRECTIONS AT ALL.

14 THE COURT: WHAT ABOUT THAT?

15 MS. FENT: WE'VE OFFERED -- THAT IS THE ALTERNATIVE
16 WE ARE TRYING TO FASHION IS A DIFFERENT, A GENERIC
17 REPRESENTATION FROM THE WITNESS OTHER THAN SAYING HE WORKS
18 FOR THE DEPARTMENT OF CORRECTIONS.

19 THEY HAVE ALREADY TOLD THIS JURY THAT HE HAS BEEN
20 INCARCERATED FOR 26 MONTHS. THEY'VE TOLD IT OVER AND OVER
21 AND OVER AGAIN IN THEIR OPENING STATEMENTS. THEY KNOW HE
22 IS IN CUSTODY. HE IS NOT FREE TO LEAVE. THEY KNOW THIS.

23 WE'RE SAYING WE'LL OFFER THE WITNESS AS "I AM A
24 CORRECTIONS OFFICER. HE WAS IN OUR FACILITY ON THIS DAY.
25 WE DOCUMENTED NO TATTOOS. ON THIS DAY, WE NOTICED THEM.

1 WE DOCUMENTED THE TATTOOS." THE JURY KNOWS HE'S
2 INCARCERATED.

3 MS. FRANKLIN: BUT YOUR HONOR, IT GOES RIGHT BACK TO
4 WHERE WE JUST WERE. THE FACT IS HE HAS BEEN TRANSFERRED
5 TO SEVERAL FACILITIES IN THIS STATE, AND THE
6 CROSS-EXAMINATION WOULD NECESSARILY HAVE TO INVOLVE
7 DISCUSSION ABOUT THESE OTHER --

8 THE COURT: WHY?

9 MS. FRANKLIN: TO DETERMINE EXACTLY WHEN THE TATTOOS
10 WERE FIRST DISCOVERED BY LAW ENFORCEMENT. I MEAN, IF THEY
11 WERE TO SAY THAT THIS IS SOME SORT OF REFERENCE TO WHAT
12 HAPPENED ON THAT NIGHT, IT SEEMS TO ME THAT IF THEY HAVE
13 SOME KNOWLEDGE THAT HE ONLY GOT THEM WITHIN THE PAST YEAR,
14 THAT THAT WOULD DIMINISH, REALLY, SORT OF THE RELEVANCY OF
15 THEIR ARGUMENT AND MAKE IT LESS PLAUSIBLE THAN "THIS IS
16 WHAT THIS REFERS TO". IS THAT CLEAR?

17 THE COURT: HUH-UH.

18 MS. FRANKLIN: OKAY. LET ME START THAT OVER. I
19 MEAN, IF THEY'RE ONLY DISCOVERING THESE TATTOOS ON
20 FEBRUARY 2ND, 2006 WHEN, IN FACT, IS THE CASE THAT HE'S
21 BEEN IN OTHER INSTITUTIONS IN THE PAST TWO YEARS, IF
22 THEY'RE ONLY NOW DISCOVERING THESE AND MAYBE DID NOT
23 DISCOVER THEM AT SOME EARLIER TIME, THEN IT MAKES IT LESS
24 LIKELY THAT THESE TATTOOS WOULD BE IN REFERENCE TO AN
25 EVENT TWO YEARS EARLIER.

1 I THINK THAT FOR PURPOSES OF CROSS-EXAMINATION, WE
2 WOULD HAVE TO ESTABLISH WHO WOULD HAVE BEEN IN A POSITION
3 TO NOTICE THESE TATTOOS AT THESE VARIOUS FACILITIES TO SEE
4 WHETHER OR NOT THEY BELIEVE THEY WERE PRESENT OR NOT.

5 MS. FENT: WHAT DEFENSE COUNSEL IS BASICALLY SAYING
6 IS, YOUR HONOR, PLEASE DON'T LET THE STATE NARROW DOWN
7 WHEN THEY GOT HIM SO YOU CAN LEAVE THIS BROAD TIMEFRAME SO
8 THAT WE CAN COME UP WITH SOME OTHER EXPLANATION FOR THEM,
9 SO PLEASE DON'T LET THE STATE, YOU KNOW, OFFER A BETTER
10 CASE SO THAT WE HAVE THIS LATITUDE OF THROWING OUT THERE
11 "IT COULD BE ANYTHING; IT WAS TWO YEARS."

12 WE'RE TRYING TO NARROW DOWN AS MUCH AS WE CAN, THE
13 WITNESSES THAT WE HAVE, TO A TIMEFRAME, AND WE SHOULD BE
14 ENTITLED TO DO THAT.

15 MS. FRANKLIN: AND YOUR HONOR, I MEAN, THAT'S REALLY
16 NOT A FAIR CHARACTERIZATION AT ALL. I MEAN, WHAT I'M
17 TRYING TO DO, I MEAN, I'VE ARGUED FROM THE BEGINNING I
18 DON'T THINK THESE ARE RELEVANT AT ALL.

19 NOW, THEY WANT TO SAY IT'S A DIRECT REFERENCE. NOW.
20 THEY WANT TO BRING IN HIS PRIOR CRIMINAL HISTORY, REALLY,
21 AS SOME SORT OF CHARACTER PROPENSITY EVIDENCE FACTORING
22 THAT IN. WHEN REALLY, THESE ARGUMENTS ABOUT THE TATTOO
23 ARE GOING TO BE BASED ON CONJECTURE AND SPECULATION TO
24 BEGIN WITH.

25 MS. FENT: BASED ON THEIR OPENING STATEMENT, YOUR

1 HONOR, I THINK WE SHOULD BE ABLE TO PUT IN THAT HE HAS
2 BEEN IN THE DEPARTMENT OF CORRECTIONS ON A PROBATION
3 VIOLATION BECAUSE THEY MISCHARACTERIZED WHY HE'S SITTING
4 THERE. WE'RE OFFERING AN ALTERNATIVE THAT WILL BE
5 PRESENTED DIRECTLY --

6 THE COURT: ALL RIGHT. LET'S TAKE A BREAK. I'LL SEE
7 YOU BACK HERE IN CHAMBERS, JUDGE COOPER'S CHAMBERS, IF
8 IT'S AVAILABLE. WE'LL TAKE A SHORT RECESS.

9 (WHEREUPON, A SHORT BREAK WAS TAKEN.)

10 THE COURT: DID YOU HAVE ENOUGH TIME WITH YOUR CLIENT
11 MS. FRANKLIN?

12 MS. FRANKLIN: YES, YOUR HONOR.

13 THE COURT: THERE HAS BEEN A STIPULATION BY THE STATE
14 AND THE DEFENSE TO READ IT INTO THE RECORD TO BE SURE THAT
15 I HAVE GOT IT ACCURATELY.

16 "THE STATE AND THE DEFENSE AGREE THAT ON FEBRUARY 2,
17 2006, THE TATTOOS AS SHOWN ON STATE'S EXHIBIT 68, 69, 70
18 AND 71 WERE OBSERVED ON THE DEFENDANT'S PERSON. THESE
19 TATTOOS WERE NOT PRESENT ON THE DEFENDANT'S PERSON AS OF
20 MARCH 11TH, 2005."

21 THE STATE STIPULATES TO THAT?

22 MS. FENT: YES, YOUR HONOR.

23 THE COURT: THE DEFENSE STIPULATES TO THAT?

24 ~~MS. FRANKLIN:~~ YES, YOUR HONOR.

25 THE COURT: ALL RIGHT. THE STIPULATION HAS BEEN

1 PLACED ON THE RECORD. IT WILL BE READ TO THE JURY
2 TOMORROW MORNING. THOSE EXHIBITS ARE THEN, AS A PART OF
3 THE STIPULATION, ARE ADMITTED INTO EVIDENCE; IS THAT
4 CORRECT?

5 (THERE WAS NO RESPONSE.)

6 ANY OBJECTION TO THE EXHIBITS, I THINK SINCE THEY'RE
7 PART OF THE STIPULATION?

8 (THERE WAS NO RESPONSE.)

9 ANY OBJECTION TO THE EXHIBITS THAT HAVE COME IN AS
10 PART OF THE STIPULATIONS?

11 MS. FRANKLIN: JUST ONE MOMENT.

12 THE COURT: YES.

13 (PAUSE).

14 MS. FRANKLIN: NO OBJECTION, YOUR HONOR.

15 THE COURT: ALL RIGHT. THOSE 68, 69, 70, AND 71 ARE
16 THEN ADMITTED. ALL RIGHT. WE'LL RECESS UNTIL 9:30 IN THE
17 MORNING.

18 (WHEREUPON, STATE'S EXHIBITS NOS. 68 - 71 WERE MARKED
19 FOR IDENTIFICATION AND RECEIVED INTO EVIDENCE.)

20 MS. FENT: YOUR HONOR, VERY BRIEFLY, IN THE
21 ALTERNATIVE TO HAVING THE DEFENDANT ACTUALLY EXHIBIT HIS
22 TATTOOS TO THE JURY, WE'RE ASKING THAT OUR TWO EXPERTS BE
23 ALLOWED, TOMORROW, TO GO DOWN AND EXAMINE THE DEFENDANT SO
24 THEY CAN SEE THE TATTOOS THEMSELVES AND BE ABLE TO TESTIFY
25 FIRSTHAND VERSUS --

1 THE COURT: ANY OBJECTION TO THAT? RATHER THAN HIM
2 STANDING? THAT'S THE REQUEST THAT BE MADE, NONTESTIMONIAL
3 EVIDENCE?

4 MS. FENT: CORRECT.

5 MS. FRANKLIN: I'M SORRY. ARE THEY ASKING MY CLIENT
6 TO TAKE OFF HIS CLOTHES IN THE COURTROOM? I MEAN, IS THAT
7 WHAT --

8 MS. FENT: NO. THAT'S IN THE ALTERNATIVE TO THAT.
9 IN THE ALTERNATIVE TO HAVING THE DEFENDANT ACTUALLY SHOW
10 HIS TATTOOS TO THE JURY, WE'RE ASKING THAT TOMORROW OUR
11 EXPERTS JUST BE ALLOWED TO GO DOWN TO THE HOLDING CELL --

12 MS. FRANKLIN: YES.

13 MS. FENT: -- OR SOMETHING PRIOR TO THE TATTOOS --

14 THE COURT: PRIOR TO THE CASE STARTING BACK? ANY
15 OBJECTION TO THAT.

16 ~~MS. FRANKLIN: NO, I THINK THAT'S APPROPRIATE.~~

17 THE COURT: NOT WAIVING ANY OTHER OBJECTION YOU MIGHT
18 HAVE, BUT AS AN ALTERNATIVE TO HIM MAKING A PHYSICAL
19 DISPLAY TO THE JURY?

20 MS. FENT: YES. AND WE'LL MAKE SURE THAT ONE OF YOU
21 ARE THERE, ABSOLUTELY.

22 THE COURT: ALL RIGHT. WE'LL START AT 9:30 IS WHAT
23 I'M TOLD. 9:30 IN THE MORNING.

24 (THERE WAS AN OVERNIGHT RECESS.)

25 THE COURT: ALL RIGHT. WHEN THE JURY IS BROUGHT IN,

1 I WILL GO BACK OVER THE STIPULATION THAT WAS ENTERED
2 YESTERDAY, ALONG WITH THOSE EXHIBITS.

3 I TOLD COUNSEL I WOULD RULE ON A MOTION BY THE
4 DEFENSE CONCERNING THE INTERPRETATION OF A POTENTIAL
5 WITNESS'S STATEMENT. I HAVE GONE BACK OVER THE ARGUMENTS
6 AND THE LAW, AS I UNDERSTAND IT, AND FIND THAT THE
7 OBJECTIONS THAT ARE MADE, THAT I AM NOT IN A POSITION AT
8 THIS TIME TO RULE THAT ANY INTERPRETATION OR THAT THE
9 TESTIMONY OF A STATEMENT IS UNRELIABLE, WHICH IS THE BASIS
10 FOR THE MOTION TO -- REALLY, THE MOTION TO SUPPRESS THE
11 STATEMENT GIVEN TO LAW ENFORCEMENT.

12 I THINK THAT THE ARGUMENTS THAT HAVE BEEN MADE BY
13 COUNSEL REALLY DO GO MORE TOWARDS THE WEIGHT THAN THE
14 ADMISSIBILITY. FOR THAT REASON, THE MOTION IS DISALLOWED.

15 THIS IS ALL ASSUMING A PROPER FOUNDATION IS MADE. A
16 MOTION TO DISALLOW ANY STATEMENTS MADE BY THAT WITNESS.

17 WHAT IS HIS NAME?

18 MS. FENT: REGINALD JOYNER.

19 THE COURT: REGINALD JOYNER, TO DISALLOW HIS
20 STATEMENTS IS DENIED.

21 NOW, IS THE STATE READY TO PROCEED?

22 MS. FENT: WE ARE READY, YOUR HONOR.

23 THE COURT: IS THE DEFENSE READY?

24 MS. FRANKLIN: YOUR HONOR, I WOULD LIKE TO BE HEARD
25 ON ONE THING.

1 THE COURT: SURE.

2 ~~MS. FRANKLIN:~~ YOUR HONOR, ~~IT'S MY UNDERSTANDING~~ THAT
3 THE STATE -- I BELIEVE ~~THE STATE MAY BE INTENDING TO CALL~~
4 ~~THEIR GANG EXPERTS~~ AT THIS TIME.

5 ~~I DO WANT TO RENEW MY OBJECTIONS TO ANY OF THIS~~
6 ~~TESTIMONY REGARDING EITHER THE INDICATION OR THE PURPORTED~~
7 ~~MEANING OF ANY TATTOOS FOR THE REASONS THAT I HAVE~~
8 ~~ARTICULATED EARLIER,~~ WHICH ESSENTIALLY ARE THAT ~~IT'S~~
9 ~~CUMULATIVE~~ --

10 THE COURT: ALL RIGHT.

11 MS. FRANKLIN: -- THAT ~~IT'S UNDULY PREJUDICIAL~~ THAT
12 ~~THEY'RE NOT GOING TO BE ABLE TO PROVIDE A FOUNDATION FOR~~
13 ~~THE MEANING OF THE TATTOOS ISSUE.~~

14 I BELIEVE THAT ~~ALLOWING THIS TESTIMONY IN WILL RESULT~~
15 ~~IN A DENIAL OF MY CLIENT'S RIGHT TO A FAIR TRIAL AS~~
16 ~~GUARANTEED BY THE STATE AND FEDERAL CONSTITUTION.~~

17 YOU KNOW, I -- IN PRESERVING THE RECORD, I'M
18 CONCERNED, YOU KNOW, I DON'T WANT TO HAVE TO JUMP UP AFTER
19 EVERY QUESTION IS ASKED, YOUR HONOR. ~~I WOULD ASK THAT YOU~~
20 ~~ALLOW ME TO HAVE A CONTINUING OBJECTION AND MAYBE AT THE~~
21 ~~END OF THIS TESTIMONY PUT THE OBJECTIONS ON THE RECORD~~
22 ~~AGAIN JUST SO I CAN PRESERVE THIS ISSUE.~~

23 THE COURT: ALL RIGHT. SOLICITOR?

24 MR. GIESE: YOUR HONOR, WE'RE NOT PUTTING HIM UP THIS
25 MORNING. IT WILL NOT BE UNTIL MONDAY, SO WE CAN PROBABLY

1 SIT DOWN AND DISCUSS THIS PART SHE IS TALKING ABOUT.

2 THE COURT: WELL, THAT'S FINE. I THINK MS. FRANKLIN
3 JUST DOESN'T WANT TO LOSE HER RIGHT --

4 MR. GIESE: I UNDERSTAND.

5 THE COURT: -- ON A POTENTIAL APPELLATE ISSUE IF SHE
6 DOESN'T OBJECT.

7 I ALWAYS -- EVERY TIME I THINK I UNDERSTAND WHEN
8 THERE CAN BE A CONTINUING OBJECTION, I SEE A CASE WHERE IT
9 SAYS, "OOPS, COUNSEL DID NOT POSE AN OBJECTION."

10 IT SEEMS TO ME THAT THIS -- IN RULING ON THE
11 ADMISSIBILITY OR THINGS OF THAT NATURE, ONCE I HAVE MADE A
12 RULING AND IT COMES IN, I THINK YOU'RE PROTECTED IF YOU
13 OBJECTED TO IT BEFORE AND HAVE ARTICULATED THOSE REASONS
14 FOR IT.

15 I DON'T KNOW THAT YOU WOULD NEED TO OBJECT EVERY TIME
16 A QUESTION IS ASKED BECAUSE THE OBJECTION WAS TO THE WHOLE
17 BODY OF THAT TESTIMONY.

18 I DON'T THINK A -- I DON'T THINK A SEPARATE OBJECTION
19 WOULD HAVE TO BE MADE TO EVERY QUESTION ALONG THOSE LINES.

20 ~~MS. FRANKLIN:~~ AND YOUR HONOR, ~~THAT IS MY~~
21 ~~UNDERSTANDING. I JUST DON'T WANT TO BE PERCEIVED AT SOME~~
22 ~~FUTURE DATE AS HAVING WAIVED THE ISSUE BY~~ NOT MAKING A
23 CONTEMPORANEOUS OBJECTION.

24 THE COURT: IT'S COUNSEL'S INTENTION NOT TO WAIVE ANY
25 OBJECTION TO TESTIMONY OF THAT NATURE.

1 MS. FRANKLIN: OKAY. THANK YOU, YOUR HONOR.

2 THE COURT: ALL RIGHT. LET'S GET THE JURY IN,
3 PLEASE.

4 (WHEREUPON, THE JURY CAME INTO OPEN COURT AT
5 APPROXIMATELY 10:14 A.M.)

6 THE BAILIFF: THE JURY IS ALL PRESENT, YOUR HONOR.

7 THE COURT: ALL RIGHT. THANK YOU. MR. FOREMAN,
8 LADIES AND GENTLEMEN, THANK YOU FOR BEING HERE ON TIME
9 THIS MORNING.

10 YESTERDAY THERE WAS A STIPULATION REACHED BETWEEN THE
11 STATE AND THE DEFENSE. A STIPULATION IS AN AGREEMENT.
12 YOU CAN ACCEPT AS FACT THE MATTERS THAT ARE STIPULATED OR
13 THAT ARE AGREED TO IN THE STIPULATION, AND I'M GOING TO
14 READ TO YOU AT THIS TIME THE STIPULATION THAT WAS MADE BY
15 THE STATE AND THE DEFENSE, THAT ON FEBRUARY 2ND, 2006,
16 TATTOOS AS EXHIBITED ON STATE'S EXHIBIT 68, 69, 70, AND 71
17 WERE NOT ON THE DEFENDANT'S PERSON.

18 THESE TATTOOS WERE NOT -- WERE ON THE DEFENDANT --
19 WERE OBSERVED ON THE DEFENDANT'S PERSON AS OF FEBRUARY 2,
20 2006. THESE TATTOOS WERE NOT PRESENT ON THE DEFENDANT'S
21 PERSON AS OF MARCH 11TH, 2005. THAT HAS BEEN STIPULATED
22 TO BY THE STATE AND THE DEFENSE.

23 THOSE EXHIBITS, STATE'S 68, 69, 70, AND 71 ARE NOW IN
24 EVIDENCE. ALL RIGHT.

25 MS. CAMPBELL: YOUR HONOR, PERMISSION TO PUBLISH THE

1 PHOTOS?

2 THE COURT: ALL RIGHT. YOU MAY PUBLISH THOSE
3 EXHIBITS.

4 MS. CAMPBELL: THANK YOU.

5 THE COURT: ALL RIGHT. YOU MAY CALL YOUR NEXT
6 WITNESS.

7 MS. FENT: THE STATE CALLS TYRONE SMITH.

8 THE BAILIFF: SIR, PLACE YOUR LEFT HAND ON THE BIBLE,
9 RAISE YOUR RIGHT AND FACE THE CLERK.

10 TYRONE SMITH, 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 BAILIFF: WATCH YOUR STEP. SPEAK LOUD SO THEY
15 CAN HEAR YOU.

16 THE WITNESS: TYRONE SMITH.

17 DIRECT EXAMINATION:

18 BY MS. FENT

19 Q TYRONE, HOW OLD ARE YOU?

20 A NINETEEN.

21 Q AND HOW FAR DID YOU GO IN SCHOOL?

22 A THE NINTH GRADE.

23 Q OKAY. DO YOU KNOW THE DEFENDANT, BABY JESUS?

24 A YES, I DO.

25 Q DO YOU SEE HIM IN THE COURTROOM?

1 A YES, I DO.

2 Q CAN YOU POINT TO HIM AND DESCRIBE WHAT HE'S WEARING,
3 WHERE HE IS, SO THAT WE KNOW WHO YOU'RE TALKING ABOUT?

4 A HE'S WEARING BLACK TUXEDO, VANILLA SHIRT.

5 MS. FENT: MAY THE RECORD REFLECT THE WITNESS HAS
6 IDENTIFIED THE DEFENDANT?

7 THE COURT: ALL RIGHT.

8 BY MS. FENT

9 Q AND ON AUGUST 26TH OF 2004, YOU KNEW HIM BY HIS
10 NICKNAME?

11 A YES, MA'AM.

12 Q AND THAT WAS BABY JESUS?

13 A YES, MA'AM.

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

15 A SINCE ELEMENTARY SCHOOL.

16 Q OKAY. CAN YOU TELL THE JURY, BASICALLY, DID YOU GO
17 TO ELEMENTARY SCHOOL WITH HIM?

18 A NO, I DIDN'T.

19 Q OKAY. BUT YOU WERE IN ELEMENTARY WHEN YOU --

20 MS. FRANKLIN: YOUR HONOR, I WOULD OBJECT TO THE
21 LEADING.

22 THE COURT: SUSTAINED TO THE FORM OF THE QUESTION.

23 BY MS. FENT

24 Q YOU SAID SINCE ELEMENTARY SCHOOL. THEN HOW DID
25 YOU -- WHY DO YOU SAY ELEMENTARY SCHOOL?

1 A BECAUSE THAT'S THE GRADE I WAS IN.

2 Q OKAY. AND HOW DID YOU MEET HIM?

3 A I WAS NEXT DOOR TO MY AUNTIE'S HOUSE AT GOO'S HOUSE.

4 Q OKAY. YOU WOULD STAY AT YOUR AUNTIE'S HOUSE?

5 A YES.

6 Q OKAY. AND WHO LIVED NEXT DOOR?

7 A GOO.

8 Q IS GOO THE INDIVIDUAL WITH THE HEARING DISABILITY?

9 A YES, MA'AM.

10 Q OKAY. AND WHERE WAS THIS APARTMENT?

11 A IT WAS SAXON HOMES TO THE LEFT OF MY AUNTIE'S HOUSE.

12 Q OKAY. I'M JUST GOING TO MOVE THE MICROPHONE A LITTLE
13 CLOSER IN FRONT OF YOU.

14 IN SAXON HOMES, YOU SAID?

15 A YES, MA'AM.

16 Q OKAY. AND HOW DID YOU KNOW THEN THE DEFENDANT? YOU
17 WERE STAYING AT SAXON HOMES. GOO LIVED NEXT DOOR. HOW
18 DID YOU KNOW THE DEFENDANT?

19 A BECAUSE HE WAS GOO'S FRIEND. THAT'S HOW I MET HIM.
20 HE USED TO TALK WITH GOO FOR ME.

21 Q AND PROBABLY HOW LONG OR HOW OFTEN DID YOU HANG OUT
22 WITH HIM AT THAT TIME PERIOD?

23 A PROBABLY TWO, THREE DAYS.

24 Q OKAY. SINCE THEN, SINCE ELEMENTARY SCHOOL, HAVE YOU
25 HAD OTHER OCCASIONS TO SEE THE DEFENDANT?

1 A YES, I HAVE.

2 Q AND CAN YOU TELL THE JURY THOSE OTHER OCCASIONS?

3 A I SAW HIM AT HIS PLACE OF WORK, MCDONALD'S, TWICE. I
4 SAW HIM THE DAY OF THE MURDER, AND I SAW HIM LIKE TWO
5 WEEKS BEFORE THE MURDER AT A BASKETBALL COURT.

6 Q OKAY. THE DAY OF THE MURDER, DID YOU SEE HIM -- AT
7 WHAT POINT DURING THE DAY DID YOU FIRST SEE HIM?

8 A I SAW HIM AROUND ABOUT THREE.

9 Q OKAY. EARLIER THAT AFTERNOON?

10 A YES, MA'AM.

11 Q BEFORE THE MURDERS?

12 A YES, MA'AM.

13 Q OKAY. AND WHERE WAS THAT THAT YOU SAW HIM?

14 A I SAW HIM IN THE BAYBERRY.

15 Q WAS ANYBODY WITH YOU?

16 A YES.

17 Q WHO WAS WITH YOU?

18 A DELSHAWN AND BRADY.

19 Q DELSHAWN?

20 A YES, MA'AM.

21 Q DID YOU ACTUALLY TALK TO THE DEFENDANT AT THAT POINT?

22 A NO, I DIDN'T.

23 Q DID ANYBODY ELSE TALK TO HIM?

24 A DELSHAWN TALKED TO HIM.

25 Q DID YOU HEAR THAT CONVERSATION?

1 A NO, I DIDN'T.

2 Q BUT YOU SAW THEM TALKING TO EACH OTHER?

3 A YES, I DID.

4 Q AND I GUESS ABOUT HOW LONG, YOU KNOW, DID YOU SEE HIM

5 AT THAT POINT?

6 A PROBABLY ABOUT THREE, FOUR MINUTES.

7 Q OKAY. AND THEN WHERE DID YOU AND DELSHAWN GO?

8 A BACK TO T.S. MARTIN.

9 Q WERE YOU LIVING ON T.S. MARTIN AT THAT TIME?

10 A YES, I WAS.

11 Q WHO WERE YOU LIVING WITH?

12 A MY AUNT.

13 Q AND WHAT WAS THE ADDRESS OF THE HOME YOU WERE LIVING

14 IN?

15 A [REDACTED] T.S. MARTIN DRIVE.

16 Q WHO ELSE WAS LIVING IN THAT HOME WITH YOU?

17 A MY COUSINS.

18 Q AND THEIR FIRST NAMES?

19 A ASHLEY AND DARESHA.

20 Q AND THEN YOUR AUNTIE?

21 A MY AUNTIE.

22 Q ANYBODY ELSE LIVING IN THE HOME?

23 A THEIR BABIES.

24 Q OKAY. LATER IN THE EVENING, AROUND NINE O'CLOCK IN

25 THE EVENING, ARE YOU STILL THERE AT T.S. MARTIN?

1 A YES, MA'AM.

2 Q AND IS DELSHAWN STILL WITH YOU?

3 A YES, MA'AM.

4 Q AND HOW LONG DOES HE STAY THERE?

5 A NOT TOO LONG AFTER NINE.

6 Q OKAY. AND WHERE DID HE GO?

7 A I BELIEVE HE WENT TO PINEHURST, HOME.

8 Q BUT HE LEFT T.S. MARTIN?

9 A YES, HE DID.

10 Q HE DID NOT LIVE THERE AT THAT HOUSE?

11 A NO, HE DIDN'T.

12 Q DID HE HAVE OTHER RELATIVES OR --

13 A JUST --

14 Q THAT LIVED ON THAT STREET?

15 A HIS SISTER STAYED NEXT DOOR, AND HIS OTHER SISTERS

16 STAYED ABOUT TWO HOUSES UP.

17 Q OKAY. SO HIS TWO SISTERS LIVED ON THAT STREET IN

18 DIFFERENT HOUSES?

19 A YES, MA'AM.

20 Q DID YOUR AUNTIE LIKE DELSHAWN HANGING OUT AT YOUR

21 HOUSE?

22 A NO, SHE DIDN'T.

23 Q OKAY. DO YOU KNOW IF DELSHAWN IS IN A GANG?

24 A YES, I DO.

25 Q WHAT GANG IS DELSHAWN IN?

1 A BLOODS.

2 Q AFTER DELSHAWN LEAVES, WHAT ARE YOU DOING? WHERE ARE
3 YOU IN THE HOUSE?

4 A SITTING INSIDE.

5 Q OKAY. WHAT, IF ANYTHING, HAPPENS? ANYBODY COME TO
6 THE HOUSE, COME TO THE STREET?

7 MS. FRANKLIN: YOUR HONOR, I'M GOING TO OBJECT TO THE
8 LEADING.

9 THE COURT: SUSTAINED TO THE FORM OF THE QUESTION.

10 MS. FENT: I SAID WHAT, IF ANYTHING, HAPPENS.

11 THE COURT: YOU SAID "WHAT, IF ANYTHING," WHICH WAS
12 FINE, BUT THEN YOU ASKED A LEADING QUESTION.

13 BY MS. FENT

14 Q DID YOU EVER GO OUTSIDE?

15 A YES, MA'AM. I GOT A CALL FROM C.D. SAYING THAT
16 SOME BOYS HAD COME TO HER AND ASKED WHERE THE SLOBS STAYED
17 AT.

18 Q OKAY. AND WHAT DID YOU DO WHEN YOU GOT THAT PHONE
19 CALL?

20 A I WENT OUTSIDE TO TALK TO HER.

21 Q DID YOU SEE THOSE BOYS?

22 A NO, NOT AT THAT TIME.

23 Q DID YOU EVER SEE THOSE BOYS?

24 A YES, I DID.

25 Q DESCRIBE THEN WERE THEY WALKING? WERE THEY IN A CAR?

1 A THEY WAS IN A CAR.

2 Q AND WHAT HAPPENED? THAT CARS SHOWS UP, AND WHERE DID
3 THEY GO?

4 A ONE WENT ACROSS THE STREET FROM ANY AUNTIE'S HOUSE,
5 AND ONE WENT TWO HOUSE UP FROM MY AUNTIE'S HOUSE.

6 Q OKAY. SO A COUPLE OF PEOPLE ACTUALLY GOT OUT OF THE
7 CAR?

8 A YES, MA'AM.

9 Q WHAT WERE THEY WEARING?

10 A ONE WAS WEARING A LIGHT T-SHIRT, HAD A BLACK BANDANNA
11 COVERING UP HALF OF HIS FACE. HE HAD BRAIDS. THE OTHER
12 ONE, I CAN'T REALLY REMEMBER WHAT HE WAS WEARING.

13 Q OKAY. THE PERSON THAT YOU SAID WAS -- HAD A BLACK
14 BANDANNA AND WAS COVERING UP HIS FACE, WHERE DID HE GO?

15 A HE WENT TWO HOUSES UP FROM MY AUNTIE'S HOUSE ON THE
16 SAME ROAD.

17 Q OKAY. AND WHERE ARE YOU STANDING OR SITTING AT THIS
18 POINT?

19 A I'M STANDING ON THE PORCH.

20 Q OKAY. AND WHEN THIS PERSON WITH THE BANDANNA GOES TO
21 THE HOUSE TWO HOUSES UP, WHAT DO YOU DO?

22 A I TRY TO GET IN THE HOUSE.

23 Q OKAY. AND WHAT HAPPENS?

24 A HE HAD A GUN POINTING IT AT ME. HE TOLD ME THAT --
25 HE SAID, "I'LL KILL YOU" AND HE WAS LIKE, "THAT AIN'T

1 DELSHAWN." HE JUST LIKE TURNED AROUND, AND I RAN IN THE
2 HOUSE.

3 Q OKAY. HE SAID, "THAT AIN'T DELSHAWN"?

4 A YES.

5 Q AND THEN YOU RAN INTO THE HOUSE?

6 A YES.

7 Q WHAT DO YOU ALL DO ABOUT THAT?

8 A CALL THE POLICE.

9 Q OKAY. NOW, THIS PERSON THAT'S TWO HOUSES UP, YOU
10 SAID HE HAD A BANDANNA COVERING HALF OF HIS FACE?

11 A YES, HE DID.

12 Q HOW MUCH OF HIS FACE DID YOU ACTUALLY SEE?

13 A THE TOP PART, LIKE HIS EYES AND HIS BRAIDS.

14 Q OKAY. HIS EYES?

15 A UH-HUH.

16 Q AND JUST HIS BRAIDS ON THE TOP OF HIS HEAD?

17 A YES.

18 Q SO ONLY THAT PART OF HIS FACE?

19 A YES, MA'AM.

20 Q GO INSIDE, YOU CALLED THE POLICE. DID THE POLICE
21 SHOW UP?

22 A YES, MA'AM.

23 Q AND AT THAT POINT, IS THE CAR STILL THERE OUT IN
24 FRONT?

25 A NO, MA'AM.

1 Q AND WHAT DO YOU ALL BASICALLY TELL THE POLICE, WHAT
2 HAPPENED?

3 A WE TOLD THEM THAT HE CAME UP, HAD GUNS, SAID HE WAS
4 LOOKING FOR DELSHAWN. HE SAID THEY WERE GOING TO SEE
5 DELSHAWN, TALK TO DELSHAWN'S PEOPLE.

6 Q OKAY. AND DID YOU THINK THAT YOU KNEW WHO THIS
7 PERSON WAS WITH THE BANDANNA UP TO THE EYES?

8 A NOT AT THAT TIME.

9 Q OKAY. DID YOU TELL THE POLICE WHO YOU THOUGHT THIS
10 PERSON WAS?

11 A YES, I DID.

12 Q AND WHO DID YOU TELL THE POLICE YOU THOUGHT THIS
13 PERSON WAS?

14 A BABY JES.

15 Q OKAY. THE POLICE, AFTER YOU TELL THEM WHAT JUST
16 HAPPENED, WHAT HAPPENS?

17 A THEY WENT TO GO TALK TO DELSHAWN'S PEOPLE.

18 Q AND THEN WHAT HAPPENED NEXT?

19 A WHILE THEY WAS GONE, WE WAS SITTING ON THE PORCH.

20 Q WHEN YOU SAY "WE", WHO?

21 A ME AND MY COUSIN ASHLEY, DARESHA, ANOTHER FEMALE. WE
22 WERE SITTING ON THE PORCH.

23 Q OKAY. SO YOU'RE SITTING ON THE PORCH AND WHAT
24 HAPPENS?

25 A FIVE GUYS COMING FROM THE FRONT OF THE NEIGHBORHOOD

1 WALKING. THE FIRST PERSON, HE AIN'T HAD NO BANDANNA ON.
2 THE REST OF THEM HAD BANDANNAS ON.

3 Q WHEN YOU SAID THE FIRST PERSON, YOU MEAN THE PERSON
4 WALKING IN FRONT OF THESE FIVE GUYS?

5 A I MEAN, BABY JES.

6 Q OKAY. AND NOW HE HAS NOTHING ON HIS FACE?

7 A NO.

8 Q AND YOU SAID THEY COME WALKING UP?

9 A WALKING.

10 Q YOU DON'T SEE THE WHITE CAR?

11 A DON'T SEE THE WHITE CAR.

12 Q AND WHERE ARE THEY WALKING IN YOUR NEIGHBORHOOD?

13 A THEY WALKED DIRECTLY IN FRONT OF MY AUNTIE'S HOUSE.

14 Q WHAT DO YOU ALL DO WHEN YOU SEE THESE FIVE GUYS
15 WALKING UP?

16 A GET UP AND RUN IN THE HOUSE.

17 Q AND WHERE DO YOU GO IN THE HOUSE?

18 A I RAN UPSTAIRS TO THE LEFT-HAND WINDOW.

19 Q ARE THERE ANY LIGHTS ON INSIDE OF YOUR HOUSE?

20 A NO, WE CUT THEM OFF.

21 Q YOU CUT THEM OFF AND WHAT ABOUT -- WHAT'S THE
22 LIGHTING LIKE OUTSIDE?

23 A I COULD SEE.

24 Q OKAY. BUT ARE THERE STREET LIGHTS? CAN YOU TELL THE
25 JURY IF THERE ARE STREET LIGHTS OR PORCH LIGHTS OR WHAT

1 YOU REMEMBER ABOUT THE LIGHTING?

2 A THERE WAS A MOTION DETECTOR HOUSE ON THE NEIGHBOR'S
3 HOUSE WHERE THEY WAS AT.

4 Q ON WHAT HOUSE?

5 A THE FEMALE'S HOUSE THEY WAS AT.

6 Q OKAY. THE HOUSE THAT THEY WERE STANDING AT?

7 A YES.

8 Q OKAY. YOU SAID A MOTION DETECTOR LIGHT. WHAT DO YOU
9 MEAN?

10 A LIKE YOU WALK IN THE YARD AND A LIGHT COMES ON.

11 Q OKAY. ANY OTHER STREET LIGHTS THAT YOU REMEMBER?

12 A I BELIEVE IT'S A STREET LIGHT ON THE FIRST -- LIKE ON
13 THE CORNER.

14 Q OKAY. ON THE CORNER WHERE THEY'RE STANDING OR ON THE
15 CORNER A LITTLE BIT DOWN THE STREET?

16 A A LITTLE BIT DOWN THE STREET.

17 Q OKAY. SO WHERE -- YOU'RE UPSTAIRS IN THE LEFT-HAND
18 WINDOW?

19 A YES.

20 Q AND WHERE ARE THEY STANDING?

21 A STANDING DIRECTLY ACROSS THE STREET.

22 Q WHAT DO YOU SEE HAPPEN?

23 A I SEE A -- I SEEN ONE BOY HAD -- ONE TALL BOY HAD
24 ANOTHER ONE, A RIFLE. HE HAD LIKE A REVOLVER.

25 Q HE GAVE HIM. GIVE ME NAMES.

1 A I SEEN BABY JES. GET THE RIFLE FROM SOMEONE, AND HE
2 GAVE THE OTHER PERSON A RIFLE -- I MEAN A REVOLVER.

3 Q OKAY. SO BABY JESUS HANDS THIS OTHER PERSON A
4 REVOLVER, AND THAT PERSON HANDS BABY JESUS A RIFLE?

5 A YES.

6 Q OKAY. AND WHAT CAN YOU TELL FROM THE UPSTAIRS
7 WINDOW? HOW DO YOU DESCRIBE THE GUN, OR WHAT CAN YOU SAY
8 ABOUT THIS RIFLE?

9 A IT'S LONG, A LITTLE BIT DARK.

10 Q AND THEN WHAT HAPPENS ONCE BABY JES. HAS THE RIFLE?

11 A I SAW A LITTLE SHORT GUN POINT DOWN THE STREET.

12 Q POINT DOWN THE STREET, WHAT DIRECTION?

13 A TOWARDS THE VICTIM'S HOUSE.

14 Q OKAY. AND THEN WHAT HAPPENS NEXT?

15 A BABY JES. KNEELS DOWN, AIMS, STARTS SHOOTING, STANDS
16 UP, KEEPS SHOOTING.

17 Q OKAY. WHAT DID THE OTHER PEOPLE DO WHEN HE STARTED
18 SHOOTING?

19 A THE FIRST SHOT EVERYBODY RAN.

20 Q AND WHAT DIRECTION DID EVERYBODY ELSE RUN?

21 A THE SAME DIRECTION THEY CAME.

22 Q TOWARDS WHAT STREET?

23 A TOWARDS -- TOWARDS LIKE THEY WAS GOING PAST THE
24 TAKE-A-BREAK ON DOWN THE STREET.

25 Q PAST WHAT?

1 A THE TAKE-A-BREAK.

2 Q OKAY. AND YOU SAID THEY ALL STARTED RUNNING. AT
3 WHAT POINT?

4 A AFTER THE FIRST SHOT.

5 Q AFTER THE FIRST SHOT?

6 A YES.

7 Q HOW MANY SHOTS DO YOU THINK YOU REMEMBER HEARING?

8 A IT SOUNDED LIKE HE PULLED THE TRIGGER THREE TIMES,
9 BUT I HEARD MULTIPLE SHOTS.

10 Q MULTIPLE SHOTS?

11 A YEAH.

12 Q OKAY. IS ANYBODY ELSE IN YOUR HOUSE? IS ANYBODY
13 ELSE STANDING AT THAT WINDOW WITH YOU?

14 A NO.

15 Q WHERE IS EVERYBODY ELSE THAT YOU DESCRIBED, ASHLEY,
16 AND DARESHA AND EVERYBODY ELSE IN THE HOME?

17 A RUNNING AROUND BEHIND -- IN THE HALLWAY.

18 Q OKAY. DID ANYBODY CALL THE POLICE?

19 A YES, THEY DID.

20 Q WHO WAS ON THE PHONE WITH THE POLICE?

21 A MY COUSIN ASHLEY.

22 Q OKAY. DO YOU REMEMBER AT WHAT POINT SHE PICKED UP
23 THE PHONE, THAT YOU SAW HER PICK UP THE PHONE TO CALL THE
24 POLICE?

25 A NO, I DIDN'T.

1 Q OKAY. ARE YOU AT THE WINDOW BEFORE SHE CALLS THE
2 POLICE OR AFTER SHE'S ON THE PHONE WITH THE POLICE?

3 A BEFORE SHE CALLS THE POLICE.

4 Q SO BEFORE SHE IS ON THE PHONE, YOU'RE ALREADY AT THE
5 WINDOW?

6 A YES.

7 Q AND NOBODY ELSE IS AT THAT WINDOW WITH YOU?

8 A NO.

9 Q IS YOUR AUNTIE HOME AT THIS TIME?

10 A NO, SHE WASN'T.

11 Q SO IT'S YOU ASHLEY, DARESHA, AND WHO ELSE IS IN THE
12 HOME?

13 A ME, ASHLEY, DARESHA, AND ANOTHER FEMALE.

14 Q SHANTANE?

15 A YES.

16 Q DOES THAT SOUND FAMILIAR?

17 A YES.

18 Q OKAY. AND NONE OF THESE PEOPLE -- THEY'RE ALL JUST
19 RUNNING AROUND IN THE BACK OF THE HOUSE?

20 A YES. I JUST HEAR A LOT OF NOISE.

21 Q OKAY. WHAT HAPPENS AFTER BABY JES. STOPS SHOOTING?

22 A HE GETS UP -- WELL, HE WAS IN THE STREET WHEN HE WAS
23 SHOOTING. HE WAS TRYING TO CALK THE GUN BACK, BUT LIKE A
24 BULLET DIDN'T COME UP. HE WAS TRYING TO SHOOT AGAIN. HE
25 TURNED AROUND AND RAN AWAY.

1 Q AND RAN -- DID HE RUN? WHICH DIRECTION?

2 A THE SAME WAY THE OTHER BOYS WENT.

3 Q AND THEN WHAT DO YOU DO NEXT, BASICALLY?

4 A WE TRIED TO RUN DOWNSTAIRS TO COME OUTSIDE, BUT THE
5 SCREEN DOOR WOULDN'T OPEN FOR SOME REASON.

6 Q OKAY. EVENTUALLY, DID YOU GO OUTSIDE?

7 A YES, WE DID.

8 Q OKAY. AND DO THE POLICE SHOW UP?

9 A A WHILE AFTER.

10 Q OKAY. AN AMBULANCE, DID YOU SEE THE AMBULANCE,
11 E.M.S.?

12 A IT TOOK A LONG TIME.

13 Q OKAY. DO YOU REMEMBER SPEAKING WITH INVESTIGATOR JOE
14 GRAY OUT AT T.S. MARTIN?

15 A YES, I DID.

16 Q RIGHT OVER HERE?

17 A YES, MA'AM.

18 Q OKAY. WHEN THE POLICE SHOW UP, DO YOU LET THEM KNOW
19 WHAT YOU SAW?

20 A I LET JOE GRAY KNOW WHAT I SAW.

21 Q OKAY. WHERE DID JOE GRAY TAKE YOU SO THAT YOU COULD
22 TALK TO HIM?

23 A IN THE CAR.

24 Q STILL STAYING ON T.S. MARTIN?

25 A YES, MA'AM.

1 Q AND DID HE EVENTUALLY TAKE YOU TO ANOTHER LOCATION?

2 A YES, MA'AM, TO IDENTIFY A PERSON THAT THEY HAD
3 CAUGHT.

4 Q OKAY. BEFORE HE TOOK YOU TO THAT LOCATION, DID YOU
5 TELL HIM WHO YOU SAW SHOOTING?

6 A YES, MA'AM, I DID.

7 Q AND YOU TOLD HIM WHAT NAME?

8 A BABY JES.

9 Q OKAY. WHAT, BASICALLY, DOES JOE GRAY TELL YOU ABOUT
10 GOING TO THIS OTHER LOCATION AND SEEING SOMEBODY?

11 A HE SAID THAT THEY HAD CAUGHT SOMEBODY GOING
12 THROUGH -- TRYING TO GO THROUGH A CUT.

13 Q OKAY.

14 A HE WANTED ME TO SEE IF I COULD IDENTIFY THE PERSON.

15 Q OKAY. AND DO YOU REMEMBER ABOUT HOW FAR AWAY THAT
16 LOCATION WAS THAT HE TOOK YOU?

17 A ABOUT FOUR OR FIVE MILES.

18 Q OKAY. DID IT TAKE YOU VERY LONG TO GET THERE?

19 A NO, MA'AM.

20 Q OKAY. YOU GET OVER TO THAT LOCATION. DO YOU
21 REMEMBER WHAT THAT LOCATION WAS? I KNOW IT'S KIND OF
22 DARK, BUT DO YOU REMEMBER WHERE IT WAS THAT HE TOOK YOU?

23 A IT WAS A CUT LEADING TO THE BISHOP.

24 Q OKAY. HAVE YOU EVER TAKEN THAT CUT?

25 A YES, MA'AM, I HAVE.

1 Q OKAY. HE DRIVES YOU OVER THERE AND TELL THE JURY,
2 BASICALLY, WHAT HAPPENS WHEN YOU'RE OVER THERE AT THAT
3 CUT.

4 A WE PULLED UP, BABY JES. GETS OUT OF THE CAR; THE
5 POLICE OFFICER GETS HIM OUT OF THE CAR. I SEE HIS FACE.
6 I SAID, "YES, THAT'S BABY JES." HE PULLED OFF.

7 Q "YES, THAT'S BABY JESUS," AND DO YOU TELL THEM WHAT
8 ELSE ABOUT BABY JESUS?

9 A OH, THAT'S THE SHOOTER.

10 Q OKAY. AND IF THEY HAD SHOWED YOU SOMEONE THAT WAS
11 NOT THE SHOOTER, WHAT WOULD YOU HAVE TOLD THEM?

12 A THAT'S NOT THE SHOOTER.

13 Q AFTER YOU IDENTIFY HIM, DID YOU GIVE A STATEMENT, A
14 WRITTEN STATEMENT, TO INVESTIGATOR JOE GRAY ABOUT
15 EVERYTHING THAT YOU SAW?

16 A WELL, I THINK IT WAS BEFORE, BEFORE I IDENTIFIED HIM.
17 I WAS ALREADY -- I HAD ALREADY MADE A STATEMENT OF WHO HE
18 WAS.

19 Q OKAY. YOU HAD ALREADY TOLD HIM THE INFORMATION
20 BEFORE YOU WENT TO GO LOOK AT BABY JESUS?

21 A YES, MA'AM.

22 Q OKAY. BUT DO YOU REMEMBER ACTUALLY FINALLY SIGNING A
23 WRITTEN STATEMENT?

24 A YES, MA'AM, I DID.

25 Q OKAY. AND LATER, A COUPLE OF DAYS LATER,

1 INVESTIGATOR JOE GRAY HAD YOU COME BACK AND GIVE ANOTHER
2 WRITTEN STATEMENT?

3 A YES, MA'AM.

4 Q ASK YOU SOME MORE QUESTIONS ABOUT WHAT YOU SAW?

5 A YES, MA'AM.

6 Q TYRONE, I'M GOING TO SHOW YOU A COUPLE OF
7 PHOTOGRAPHS, OKAY. STATE'S EXHIBIT -- YOU SAID WHAT WAS
8 THE NUMBER OF THE HOUSE THAT YOU LIVED IN?

9 A [REDACTED].

10 Q OKAY. I'M GOING TO SHOW YOU STATE'S EXHIBIT 18 AND
11 24. IS THAT THE HOUSE YOU WERE STAYING IN?

12 A YES, MA'AM, IT IS.

13 MS. FENT: OKAY. AND MAY I ASK THIS WITNESS TO COME
14 DOWN IN FRONT OF THE JURY BOX?

15 THE COURT: ALL RIGHT. KEEP YOUR VOICE UP SO
16 EVERYONE CAN HEAR WHILE YOU'RE OUT OF THE WITNESS STAND,
17 PLEASE.

18 BY MS. FENT

19 Q OKAY. STAY RIGHT OVER HERE, TYRONE. COME HERE, LOOK
20 AT THE PHOTOGRAPHS. I WANT YOU TO TALK TO THE PERSON IN
21 THE VERY BACK OF THE COURTROOM SO THEY CAN HEAR YOU. TALK
22 VERY LOUD BECAUSE THIS COURT REPORTER NEEDS TO GET IT ALL
23 DOWN.

24 CAN YOU SHOW ON STATE'S EXHIBIT NUMBER 18 WHERE YOU
25 WERE, WHERE YOU WERE LOOKING OUT?

1 A I WAS LOOKING OUT THIS WINDOW.

2 Q LOUDER.

3 A I WAS LOOKING OUT THIS WINDOW.

4 Q OKAY. AND WHERE WAS IT THAT YOU SAW BABY JESUS
5 STANDING?

6 A RIGHT HERE. I SAW BABY JESUS STANDING RIGHT ACROSS
7 THE STREET.

8 Q OKAY. IS THIS A HOUSE RIGHT HERE?

9 A YES, MA'AM.

10 Q OKAY. AND THIS IS A CLOSER PICTURE OF [REDACTED] OF THE
11 HOUSE. WHAT WINDOW WERE YOU IN?

12 A I WAS IN THE LEFT WINDOW.

13 Q THE UPPER LEFT WINDOW?

14 A YES, MA'AM.

15 Q OKAY. STATE'S EXHIBIT NUMBER FIVE, YOU SAID YOU WERE
16 IN?

17 A [REDACTED]

18 Q [REDACTED] ONE, TWO, THREE, FOUR HOUSES DOWN?

19 A YES, MA'AM.

20 Q AND IS THIS WHERE HE WAS STANDING FROM THE WINDOW?

21 A YES, MA'AM.

22 Q OKAY. THAT'S A HOUSE RIGHT THERE?

23 A YES, MA'AM.

24 Q OKAY. AND IN RELATION TO THIS HOUSE, YOU SAID AT
25 FIRST THEY WERE STANDING OVER BY THE HOUSE. WHERE WERE

1 ALL OF THESE GUYS STANDING?

2 A BEHIND THE HOUSE.

3 Q POINT AT IT.

4 A (INDICATING).

5 Q OKAY. IS THAT A FRONT DOOR OR A BACK DOOR TO THE
6 HOUSE?

7 A YES, MA'AM.

8 Q OKAY. AND WHERE WAS THIS MOTION DETECTOR LIGHT, DO
9 YOU THINK?

10 A RIGHT ON THE LIGHT AT THE CORNER.

11 Q SPEAK A LITTLE LOUDER.

12 A RIGHT ON THE CORNER AT THE TOP OF THE HOUSE.

13 Q OKAY. I'M GOING TO SHOW YOU WHAT'S BEEN MARKED AS
14 STATE'S EXHIBIT NUMBER 23. DO YOU RECOGNIZE THIS
15 PHOTOGRAPH?

16 A YES, MA'AM.

17 Q AND WHO TOOK THIS PHOTOGRAPH?

18 A I DID.

19 Q OKAY. AND WHAT IS THIS? DOES THIS ACCURATELY SHOW
20 YOUR VIEW FROM THE WINDOW DOWN TO WHERE YOU SAW BABY
21 JESUS?

22 A YES, MA'AM, IT DOES.

23 MS. FENT: I OFFER STATE'S EXHIBIT 23 INTO EVIDENCE.

24 MS. FRANKLIN: WITHOUT OBJECTION.

25 THE COURT: ANY OBJECTION?

1 MS. FRANKLIN: WITHOUT OBJECTION, YOUR HONOR.

2 THE COURT: STATE'S 23 IS ADMITTED.

3 (WHEREUPON, STATE'S EXHIBIT NO. 23 WAS ADMITTED INTO
4 EVIDENCE.)

5 BY MS. FENT

6 Q SO THIS IS WHERE YOU'RE STANDING AND LOOKING DOWN?

7 A YES, MA'AM.

8 Q AND WHERE IS IT THAT FIRST BABY JESUS GOES AND STANDS
9 WHEN HE FIRST WALKS DOWN THE STREET?

10 A RIGHT HERE.

11 Q OKAY. WHERE THAT DOOR WAS THAT YOU JUST DESCRIBED?

12 A YES, MA'AM.

13 Q OKAY. AND THEN WHERE DOES HE MOVE TO WHEN HE STARTS
14 SHOOTING?

15 A HE MOVES --

16 Q SPEAK LOUD.

17 A HE KNEELED DOWN TO THE SIDE OF THE HOUSE, LIKE ON THE
18 CORNER, AND AIMED DOWN THE STREET.

19 Q OKAY. AND THEN YOU SAID THAT HE MOVED AGAIN AS HE
20 WAS SHOOTING?

21 A YES, MA'AM.

22 Q SHOW THAT.

23 A HE STARTED SHOOTING, AND HE BACKED UP ON THE STREET
24 AND STOPPED RIGHT HERE IN THE MIDDLE OF THE STREET AND
25 PLAYED WITH THE GUN. THEN HE TURNED AROUND AND RAN AWAY.

1 Q OKAY. WHICH DIRECTION DID -- YOU SAID THESE FOUR
2 OTHER PEOPLE STARTED RUNNING, FIRST SHOT, AND THEN BABY
3 JES. RAN IN THE SAME DIRECTION. WHICH DIRECTION?

4 A THIS WAY.

5 Q OUT THIS WAY?

6 A YES, MA'AM.

7 MS. FENT: HAVE A SEAT, OKAY.

8 THE BAILIFF: GET CLOSE TO THE MIC AND SPEAK LOUD
9 LIKE YOU DID A WHILE AGO. THANK YOU.

10 BY MS. FENT

11 Q TYRONE, YOU HAVE SOME PENDING CHARGES IN OUR OFFICE
12 RIGHT NOW, IS THAT CORRECT?

13 A YES, I DO.

14 Q OKAY. AT THE TIME THAT YOU GAVE THESE STATEMENTS TO
15 INVESTIGATOR JOE GRAY, DID YOU HAVE ANY PENDING CHARGES IN
16 OUR OFFICE?

17 A NO, I DIDN'T.

18 Q AND DO YOU KNOW WHAT THE MAXIMUM SENTENCE IS YOU'RE
19 FACING ON YOUR CHARGES?

20 A ELEVEN YEARS.

21 Q THAT'S FIVE, FIVE, AND ONE, CORRECT?

22 A YES, MA'AM.

23 Q OKAY. AND ALSO, AS A JUVENILE YOU HAD A BURGLARY,
24 CORRECT?

25 A YES, MA'AM.

1 Q OKAY. AND YOUR PENDING CHARGES THAT YOU HAVE IN OUR
2 OFFICE RIGHT NOW THAT ARE THE FIVE, FIVE, AND THE ONE,
3 IT'S A POSSESSION OF A STOLEN PISTOL; IS THAT CORRECT?

4 A YES, MA'AM.

5 Q POSSESSION OF A PISTOL BY A PERSON UNDER THE AGE OF
6 21?

7 A YES, MA'AM.

8 Q AN UNLAWFUL CARRYING?

9 A YES, MA'AM.

10 Q ALL OUT OF THE SAME INCIDENT?

11 A YES, MA'AM.

12 Q OKAY. HAVE WE MADE ANY PROMISES WITH YOU WITH REGARD
13 TO THOSE CHARGES?

14 A NO, MA'AM.

15 Q YOU HAVE NO IDEA WHAT'S GOING TO HAPPEN WITH THOSE
16 CHARGES?

17 A NO, I DON'T.

18 Q AND THESE ARE BRAND NEW CHARGES YOU HAVE, CORRECT?

19 A YES, MA'AM.

20 Q OKAY. HOW LONG WERE YOU STANDING AT THAT WINDOW FROM
21 THE TIME YOU GO UPSTAIRS TO THAT WINDOW, START LOOKING OUT
22 AT BABY JESUS, HOW LONG DO YOU THINK YOU ARE STANDING
23 THERE?

24 A FOUR TO FIVE MINUTES.

25 Q OKAY. AND WHY DO YOU KNOW THAT?

1 A BECAUSE I LISTENED TO THE TAPE.

2 Q OKAY. WE LISTENED TO THE 911 TAPE TOGETHER?

3 A YES, MA'AM.

4 Q OKAY. AND YOU SAID THAT BEFORE THEY PICKED UP THAT
5 PHONE TO CALL 911, YOU WERE ALREADY AT THAT WINDOW?

6 A YES, MA'AM.

7 Q OKAY. AND YOU RECOGNIZED ASHLEY AND DARESHA'S VOICES
8 ON THAT TAPE?

9 A YES, I DID.

10 Q AND DID YOU ALSO HEAR YOUR OWN VOICE?

11 A YES, MA'AM.

12 Q IN THE BACKGROUND?

13 A (NODS IN THE AFFIRMATIVE).

14 Q DO YOU WANT TO BE HERE TODAY, TYRONE?

15 A YES, I DO.

16 Q OKAY. WHY?

17 A BECAUSE THERE AIN'T NO CAMERAS IN HERE.

18 Q OKAY.

19 A AND FOR THAT --

20 Q EXPLAIN THAT.

21 A BECAUSE I WANT TO COME AND TESTIFY FOR THE SISTER,
22 BUT HE'S A BROTHER, BUT I DIDN'T WANT TO BE ON T.V.

23 Q OKAY. BECAUSE YOU'RE SCARED?

24 A YES, MA'AM.

25 Q BUT YOU WANT TO DO IT FOR --

1 A THE FAMILY.

2 Q THE FAMILY.

3 I DON'T HAVE ANY FURTHER QUESTIONS RIGHT NOW, OKAY.

4 THE COURT: ALL RIGHT. MS. FRANKLIN?

5 MS. FRANKLIN: THANK YOU, YOUR HONOR. MAY IT PLEASE
6 THE COURT.

7 CROSS-EXAMINATION:

8 BY MS. FRANKLIN

9 Q OKAY. WE'RE GOING TO DISCUSS YOUR KNOWLEDGE OF WHAT
10 HAPPENED ON THE NIGHT OF AUGUST 26TH, 2004. DO YOU
11 UNDERSTAND?

12 A YES.

13 Q AND IN CONNECTION WITH THESE EVENTS, YOU HAVE GIVEN
14 TWO WRITTEN STATEMENTS TO LAW ENFORCEMENT; IS THAT
15 CORRECT?

16 A YES, I HAVE.

17 Q YOU GAVE THOSE STATEMENTS SPECIFICALLY TO
18 INVESTIGATOR JOBY GRAY?

19 A YES, I DID.

20 Q YOU GAVE ONE STATEMENT ON THE NIGHT OF AUGUST 26TH,
21 2004. YES?

22 A YES.

23 Q YOU GAVE ANOTHER STATEMENT ON THE AFTERNOON OF
24 AUGUST 29TH, 2004.

25 A YES.

1 Q OKAY. AND YOU ALSO HAVE TESTIFIED IN AN EARLIER
2 PROCEEDING INVOLVING THIS CASE. YES?

3 A WHAT'S YOUR QUESTION? SAY THAT AGAIN.

4 Q YOU HAVE TESTIFIED IN A COURTROOM INVOLVING THIS CASE
5 BEFORE.

6 A YES, MA'AM; YES, MA'AM.

7 Q AND YOU DID THAT ON AUGUST 28TH OF 2006, RIGHT?

8 A YEAH.

9 Q AND WHEN YOU TESTIFIED AT THAT POINT, THE COURT
10 REPORTER WAS HERE, RIGHT?

11 A I BELIEVE SO.

12 Q THE JUDGE WAS HERE?

13 A YEAH.

14 Q RIGHT. AND THE SOLICITORS WERE ALL HERE. YES?

15 A YES.

16 Q OKAY. AND THE DEFENSE COUNSEL WAS HERE. YES?

17 A I BELIEVE SO.

18 Q OKAY. AND YOU RECALL ALL OF THIS. YOU RECALL
19 SITTING IN THIS ROOM.

20 A YES.

21 Q AND YOU WERE UNDER OATH AT THAT TIME.

22 A YES, I WAS.

23 Q NOW, WHERE DID YOU ATTEND ELEMENTARY SCHOOL?

24 A COGBURN.

25 Q ~~YOU DID NOT ATTEND ELEMENTARY SCHOOL WITH CHRIS,~~

1 LIVERMAN, HAVE YOU?

2 A NO, I DIDN'T.

3 Q AND YOU NEVER ATTENDED SCHOOL WITH CHRISTOPHER
4 LIVERMAN, HAVE YOU?

5 A NO, I DIDN'T.

6 Q AND YOU TESTIFIED EARLIER THAT YOU SAW HIM AT
7 MCDONALD'S?

8 A YES, I DID.

9 Q WHEN DID YOU SEE HIM AT MCDONALD'S?

10 A I DON'T REMEMBER THE DATE.

11 Q DO YOU REMEMBER THE YEAR?

12 A NO.

13 Q DO YOU REMEMBER TESTIFYING ON AUGUST 28TH, 2006 THAT
14 YOU DID REMEMBER THE YEAR?

15 A NO.

16 Q YOU DON'T REMEMBER THAT? BEG THE COURT'S INDULGENCE.
17 (PAUSE).

18 DO YOU RECALL BEING ASKED BY ME?

19 MS. FENT: YOUR HONOR, I OBJECT. SHE CAN SHOW IT TO
20 HIM TO REFRESH HIS MEMORY, BUT SHE CAN'T READ IT INTO THE
21 RECORD. HE SAID HE DOESN'T REMEMBER, SO SHE CAN SHOW IT
22 TO HIM TO REFRESH HIS MEMORY.

23 MS. FRANKLIN: YOUR HONOR, MAY I APPROACH THE
24 WITNESS?

25 THE COURT: SURE.

1 BY MS. FRANKLIN

2 Q (INDICATING). DO YOU RECALL THAT?

3 A YEAH.

4 Q DOES THAT REFRESH YOUR MEMORY?

5 A YEAH.

6 Q AND WHAT YEAR DID YOU SAY THAT YOU SAW CHRIS LIVERMAN
7 WORKING AT MCDONALD'S?

8 A 2003.

9 Q DO YOU RECALL ALSO STATING YOU SAW HIM TWICE IN THAT
10 YEAR?

11 A YES.

12 Q AND THAT YOU NEVER SPOKE TO HIM AT THAT TIME?

13 A NO, I DIDN'T.

14 Q AND THEN YOU SAID THAT YOU SAW HIM ON THE DAY OF THE
15 MURDER --

16 A YES, I DID.

17 Q -- OKAY, EARLIER WITH DELSHAWN. AND YOU TESTIFIED
18 TODAY THAT YOU SAW HIM TWO WEEKS EARLIER AT THE BASKETBALL
19 COURT?

20 A YES, I DID.

21 Q BUT YOU DIDN'T TESTIFY TO THAT BEFORE, DID YOU?

22 A NO, THEY DIDN'T LET ME SPEAK.

23 Q I'M SORRY?

24 A THE JUDGE DIDN'T LET ME SAY ANYTHING AGAIN WHEN IT
25 ASKED.

1 Q SO THE JUDGE DIDN'T LET YOU TALK?

2 A NO.

3 Q AND IN NEITHER OF YOUR STATEMENTS TO INVESTIGATOR
4 GRAY, YOU NEVER MENTIONED ANYTHING ABOUT A BASKETBALL
5 COURT, DID YOU?

6 A I DON'T RECALL.

7 Q AND YOU JUST TESTIFIED YOU SAW CHRIS LIVERMAN TALKING
8 TO TYRONE -- I'M SORRY, TO DELSHAWN PRESCOTT FOR ABOUT
9 THREE OR FOUR MINUTES?

10 A YES.

11 Q DO YOU RECALL THAT? YOU SAID IT WAS ABOUT
12 THREE O'CLOCK IN THE AFTERNOON?

13 A NO -- YES, IT WAS EARLIER THAT DAY.

14 Q SO IT WAS EARLIER THAT DAY?

15 A YES.

16 Q SO IT MIGHT HAVE BEEN THE MORNING?

17 A IT WAS IN THE AFTERNOON.

18 Q ALL RIGHT. DID YOU SAY IT WAS THE MORNING, OR DO YOU
19 NOT REMEMBER WHEN YOU SAID IT WAS?

20 A IT WAS IN THE AFTERNOON.

21 Q DO YOU RECALL BEING ASKED BACK ON AUGUST 28TH, 2006
22 THIS QUESTION: "SO YOU DIDN'T ACTUALLY SPEAK TO HIM. YOU
23 WERE TWO HOUSES DOWN FROM HIM FROM BAYBERRY OR TWO HOUSES
24 DOWN WHILE YOU WERE THERE? WHAT TIME OF DAY WAS IT?"

25 ANSWER: "IT WAS MORNING."

1 QUESTION: "I'M SORRY."

2 ANSWER: "IT WAS AROUND -- WELL, I DON'T KNOW WHAT
3 TIME IT WAS. IT WAS MORNING" --

4 MS. FENT: OBJECTION, YOUR HONOR, HEARSAY. IF HE
5 DOESN'T REMEMBER, SHE CAN REFRESH HIS MEMORY, BUT SHE
6 CAN'T --

7 THE COURT: FIRST OF ALL, THE DOCUMENT YOU HAVE GOT,
8 IS THAT A TRANSCRIPT FROM A PRIOR HEARING?

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

10 THE COURT: I THINK HE NEEDS TO BE -- IT NEEDS TO BE
11 EXPLAINED THAT'S WHAT IT IS.

12 MS. FRANKLIN: ALL RIGHT.

13 THE COURT: YOU CAN ASK HIM A QUESTION. YOU CAN'T
14 JUST PUBLISH THAT TO THE JURY.

15 MS. FRANKLIN: OKAY.

16 THE COURT: I SUSTAIN THE OBJECTION TO THE FORM OF
17 THE QUESTION.

18 BY MS. FRANKLIN

19 Q DO YOU KNOW WHAT THIS IS, MR. SMITH?

20 A YES, I DO.

21 Q OKAY. AND WHAT IS IT?

22 A A DOCUMENT OF WHAT I SAID LAST TIME THAT I WAS HERE.

23 MS. FRANKLIN: YOUR HONOR, MAY WE APPROACH?

24 THE COURT: SURE.

25

1 (WHEREUPON, A BENCH CONFERENCE WAS HELD IN THE
2 PRESENCE, BUT NOT WITHIN THE HEARING, OF THE JURY).

3 THE COURT: THERE IS A COURT'S EXHIBIT THAT'S...

4 THE COURT REPORTER: I THINK YOU STILL HAVE IT UP
5 THERE.

6 (PAUSE).

7 THE COURT: THEY FOUND IT.

8 MS. FRANKLIN: YOUR HONOR, WILL IT SATISFY THE COURT
9 IF I GAVE HIM A PORTION OF HIS --

10 THE COURT: THAT'S FINE.

11 MS. FRANKLIN: -- THE TRANSCRIPT THAT RELATES TO HIS
12 TESTIMONY?

13 THE COURT: THAT'S FINE.

14 MS. FRANKLIN: MAY I APPROACH THE WITNESS?

15 THE COURT: SURE.

16 BY MS. FRANKLIN

17 Q I'M HANDING YOU UP A COPY OF YOUR TESTIMONY FROM THAT
18 FORMER PROCEEDING. SO FEEL FREE TO REFER TO THAT AT ANY
19 POINT DURING THIS CROSS-EXAMINATION.

20 DO YOU RECALL STATING AT THAT HEARING THAT THIS
21 HAPPENED DURING THE MORNING TIME?

22 A YEAH.

23 Q AND THEN TODAY YOU SAID THAT YOU SAW MR. PRESCOTT,
24 CHRISTOPHER LIVERMAN, SPEAK FOR ROUGHLY THREE OR FOUR
25 MINUTES.

1 A YES.

2 Q OKAY. OKAY. SO YOU GAVE YOUR FIRST STATEMENT TO
3 INVESTIGATOR GRAY ON THE NIGHT OF THE INCIDENT AT 10:45
4 P.M.?

5 A I DON'T KNOW THE TIME.

6 Q CORRECT?

7 A I DON'T KNOW THE TIME.

8 Q WOULD YOU LIKE -- WOULD SEEING A COPY OF YOUR
9 STATEMENT REFRESH YOUR MEMORY?

10 A IT WOULDN'T IF I DIDN'T KNOW THE TIME.

11 Q OKAY. BUT THIS IS THE STATEMENT THAT WE'RE GOING TO
12 DISCUSS FIRST. YOU STARTED GIVING A STATEMENT TO
13 INVESTIGATOR GRAY ROUGHLY AN HOUR AFTER THE SHOOTING
14 OCCURRED; IS THAT RIGHT?

15 A IT WAS A WHILE.

16 Q IT WAS A WHILE. AND YOU CLAIMED AT THAT TIME THAT
17 YOU HAD WITNESSED THE SHOOTING IN THIS CASE.

18 A YES, I DID.

19 Q AND YOU HAD ALREADY SPOKEN TO DEPUTY VANHOUTEN THAT
20 NIGHT?

21 A IS THAT A POLICE OFFICER?

22 Q THAT'S A POLICE OFFICER. DID YOU SPEAK TO DEPUTY --
23 TO A FORMER POLICE OFFICER BEFORE YOU SPOKE TO
24 INVESTIGATOR GRAY?

25 A I DON'T REMEMBER THE NAME, BUT I DID SPEAK TO A

1 POLICE OFFICER.

2 Q HAD YOU SPOKEN TO ANY OTHER LAW ENFORCEMENT OFFICERS
3 THAT NIGHT?

4 A A FEMALE POLICE OFFICER.

5 Q AND DO YOU RECALL WHO THAT FEMALE POLICE OFFICER WAS?

6 A NO, I DO NOT.

7 Q NOW, IS SHE THERE THE FIRST TIME YOU CALL THE POLICE
8 OUT OR THE SECOND TIME?

9 A BOTH POLICE OFFICERS WERE THERE.

10 Q SO BOTH POLICE OFFICERS WERE THERE BOTH TIMES?

11 A I JUST REMEMBER THEM BEING THERE THE FIRST TIME.

12 Q OKAY. SO THERE WAS A MALE INVESTIGATOR AND A FEMALE
13 INVESTIGATOR THERE WHEN YOU CALLED THE POLICE OUT THE
14 FIRST TIME?

15 A YEAH.

16 Q AND YOU SPOKE TO THOSE POLICE OFFICERS AFTER THEY
17 ARRIVED THERE ABOUT 9:15 THAT NIGHT?

18 A I DON'T KNOW WHAT TIME.

19 Q BUT YOU KNEW IT WAS EARLIER, THEN, WHEN YOU CALLED
20 THE POLICE WITH THE SHOOTING?

21 A YES.

22 Q RIGHT. AND AT THE TIME THAT THIS HAPPENED, YOU WERE
23 A NINTH GRADE STUDENT AT KEENAN HIGH SCHOOL?

24 A YES, I WAS.

25 Q OKAY. SO YOU WERE STILL ON THE SCENE. YOU WERE

1 STILL AT T.S. MARTIN WHEN YOU STARTED GIVING YOUR
2 STATEMENT?

3 A YES, I WAS.

4 Q WERE THERE OTHER PEOPLE PRESENT AS YOU WERE GIVING
5 YOUR STATEMENT?

6 A NO, A POLICE OFFICER.

7 Q JUST A POLICE OFFICER. WAS IT A POLICE OFFICER IN
8 ADDITION TO INVESTIGATOR GRAY, OR WAS JUST INVESTIGATOR
9 GRAY THERE?

10 A IT WAS INVESTIGATOR GRAY.

11 Q BUT YOU STARTED GIVING YOUR STATEMENT SHORTLY AFTER
12 POLICE OFFICERS ARRIVED THAT NIGHT?

13 A MA'AM?

14 Q YOU STARTED GIVING YOUR STATEMENT SHORTLY AFTER
15 POLICE OFFICERS ARRIVED THAT NIGHT?

16 A A WHILE AFTER.

17 Q OKAY. SO YOU INFORMED INVESTIGATOR GRAY WHAT YOU SAW
18 EARLIER IN THE NIGHT, ACCORDING TO YOUR STATEMENT, A WHITE
19 FORD ESCORT DRIVE INTO T.S. MARTIN?

20 A YES, I DID.

21 Q AND YOU WERE PRESENT WHEN THAT WHITE FORD ESCORT
22 DROVE BY?

23 A WHEN?

24 Q EARLIER THAT NIGHT WHEN THE WHITE FORD ESCORT DROVE
25 BY, YOU WERE PRESENT?

1 A YES.

2 Q AND YOU SAW THE WHITE FORD ESCORT?

3 A YES, I DID.

4 Q AND THE WHITE ESCORT HAD TINTED WINDOWS, DIDN'T IT?

5 A I DON'T RECALL.

6 Q ALL RIGHT. BUT THIS CAR DROVE BY AROUND 9:15. YES?

7 BECAUSE THAT'S ABOUT THE TIME THAT YOU CALLED THE POLICE.

8 MS. FENT: OBJECTION, YOUR HONOR. HE HAS ALREADY

9 SAID HE DIDN'T KNOW THE TIME. THAT'S ASKED AND ANSWERED.

10 THE COURT: ALL RIGHT. REPHRASE YOUR QUESTION,

11 COUNSEL.

12 BY MS. FRANKLIN

13 Q ~~AT THE TIME THIS CAR INITIALLY DROVE BY, IT WAS~~

14 ~~ALREADY DARK BY THEN, WASN'T IT?~~

15 A YEAH, IT WAS SORT OF DARK.

16 Q AND THERE ARE A COUPLE OF STREET LIGHTS ON T.S.

17 MARTIN DRIVE, CORRECT?

18 A YES.

19 Q BUT THEY'RE NOT NEXT TO THE HOUSE WHERE YOU WERE AT,

20 ARE THEY?

21 A I'M NOT SURE.

22 Q RIGHT, NO STREET LIGHTS THERE. YOU TOLD AN

23 INVESTIGATOR THAT YOU BELIEVED THAT THERE -- INVESTIGATOR

24 GRAY, EXCUSE ME, THAT YOU BELIEVED THERE WERE THREE BOYS

25 IN THAT FIRST CAR.

1 A YES.

2 Q AND THEN YOU TOLD INVESTIGATOR GRAY THAT BABY JES.
3 GOT OUT OF THAT CAR?

4 A YES, I DID.

5 Q AND YOU SAID THAT THE BOYS WERE WEARING BANDANNAS
6 OVER THEIR FACES?

7 A I DON'T RECALL ONE OF THE -- ONE OF THE GUYS.

8 Q OKAY. SO THE FIRST TIME THE BOYS CAME BY, THEY WERE
9 NOT WEARING BANDANNAS?

10 A I DON'T RECALL THE OTHER GUY, WHETHER HE HAD A
11 BANDANNA OR NOT. I JUST KNOW THAT BABY JES. HAD A
12 BANDANNA ON A FACE THE FIRST TIME HE CAME.

13 Q SO BABY JES. HAD A BANDANNA ON HIS FACE THE FIRST
14 TIME?

15 A YES.

16 Q YOU SAW TWO BOYS GET OUT OF THAT CAR?

17 A YES, I DID.

18 Q AND THEY WERE ACROSS THE STREET FROM YOU?

19 A ONE WAS ACROSS THE STREET, AND ONE WAS LIKE ON THE
20 SAME SIDE I WAS.

21 Q SO ONE WAS OVER ON THE OTHER SIDE, AND ONE WAS CLOSER
22 TO YOU?

23 A THE ONE THAT WAS ACROSS THE STREET WAS CLOSER, BUT
24 THE ONE THAT WAS ON -- BABY JES. WAS LIKE ON THE SIDE
25 WHERE I WAS AT.

1 Q OKAY. SO BABY JES. WAS ON THE SIDE WHERE YOU WERE?
2 A YES.
3 Q WE'RE TALKING ABOUT THE BOYS IN THE CAR. YOU
4 UNDERSTAND THAT, RIGHT?
5 A YES.
6 Q AND THEN YOU SAID THAT THE PERSON WHO WAS ON THE SIDE
7 OF THE STREET CLOSER TO YOU HAD A GUN?
8 A OH, CLOSER ON THE SIDE?
9 Q UH-HUH. SOMEBODY --
10 A ON THE SAME SIDE OR CLOSER ON THE SIDE?
11 Q OKAY. ONE OF THOSE PEOPLE --
12 A BABY JES. HAD THE GUN.
13 Q BABY JES. HAD THE GUN?
14 A YEAH.
15 Q WAS HE ON THE OTHER SIDE OF THE STREET OR WAS HE --
16 A NO, HE WAS ON MY SIDE.
17 Q SO HE WAS ON YOUR SIDE. SO THE PERSON ON YOUR SIDE
18 OF THE STREET WHO YOU HAVE IDENTIFIED AS BABY JESUS HAD
19 THE PISTOL?
20 A YES.
21 Q AND C.D. HAD CALLED YOU BEFORE THIS
22 HAPPENED; IS THAT RIGHT?
23 A YES, SHE DID.
24 Q AND SHE TOLD YOU THAT A CAR HAD SLOWED DOWN IN FRONT
25 OF YOUR HOUSE?

1 A NO, SHE DIDN'T.

2 Q SHE DIDN'T? WHAT DID SHE TELL YOU?

3 A SHE SAID SOME BOYS CAME THROUGH AND ASKED WHERE THE
4 SLOBS STAYED.

5 Q AND SHE CALLED YOU BECAUSE SHE WAS CONCERNED, RIGHT?
6 WAS SHE FEARFUL?

7 A YEAH, SHE MUST HAVE BEEN.

8 Q EVEN THOUGH YOU KNEW THAT THEY WERE LOOKING FOR SLOBS
9 THAT NIGHT, I MEAN, YOU WALKED OUT OF THE HOUSE.

10 A I WALKED OUT TO GO TO MY COUSIN'S. I WAS TRYING TO
11 STOP HER FROM GOING OUTSIDE.

12 Q BUT YOU WALKED OUT OF THE HOUSE?

13 A YES.

14 Q BUT YOUR COUSIN WAS OUTSIDE?

15 A YES, MA'AM. THE BOYS ARRIVED WHEN HE WAS OUTSIDE THE
16 COLONY.

17 Q WHO ELSE WAS OUTSIDE WHEN THE BOYS IN THE CAR WERE
18 THERE?

19 A MY COUSIN, DARESHA.

20 Q YOUR COUSIN, DARESHA, WAS OUTSIDE?

21 A YES.

22 Q AND SOMEONE IN THAT WHITE FORD ESCORT YELLED, "THERE
23 GOES DELSHAWN"?

24 A YEAH.

25 Q YOU HEARD THAT?

1 A YEAH.

2 Q AND THAT PERSON WAS THE DRIVER OF THE CAR?

3 A I BELIEVE SO.

4 Q AT THAT POINT, YOU FELT THEY WERE TALKING ABOUT YOU?

5 A I DON'T KNOW WHO THEY WERE TALKING TO, BUT I WAS THE
6 ONLY PERSON OUTSIDE.

7 Q BUT --

8 A YEAH, THEY HAD TO BE TALKING ABOUT ME. I WAS THE
9 ONLY PERSON OUTSIDE.

10 Q YEAH. I MEAN, YOU FELT THEY WERE TALKING ABOUT YOU
11 BECAUSE AFTER BABY JES. PUTS THE GUN IN YOUR FACE --

12 A THAT WAS BEFORE HE SAID THAT, BEFORE HE PULLED THE
13 GUN.

14 Q RIGHT. BEFORE THE GUN IS PLACED IN YOUR FACE,
15 SOMEONE SAYS, "THERE GOES DELSHAWN"?

16 A YES.

17 Q AND AFTER THE PERSON PUTS THE GUN IN YOUR FACE, HE
18 GETS CLOSE ENOUGH TO YOU, WHAT DID HE SAY?

19 A HE WASN'T CLOSE. HE WAS A LITTLE DISTANCE.

20 Q OKAY. BUT THAT PERSON SAID, "THAT AIN'T DELSHAWN,"
21 RIGHT?

22 A YES.

23 Q SO SOMEBODY THOUGHT YOU WERE DELSHAWN?

24 A YES, THEY DID.

25 Q AND THE PERSON WHO PULLED THE GUN WAS STANDING IN

1 FRONT OF HOUSE 102 WHEN HE SAID, "I'LL KILL YOU, BITCH"?

2 A I DON'T REMEMBER WHICH HOUSE. I KNOW HE WAS LIKE TWO
3 HOUSES UP.

4 Q I THINK YOU TOLD INVESTIGATOR GRAY IT WAS LIKE HOUSE
5 102.

6 A I DON'T KNOW THE NUMBER.

7 Q SO ARE YOU THINKING IT'S IN FRONT OF ANOTHER HOUSE AT
8 THIS POINT?

9 A HUH?

10 Q DO YOU THINK IT WAS IN FRONT OF ANOTHER HOUSE AT THIS
11 POINT, OR DO YOU THINK IT WAS 102?

12 A IT WAS ONE OF THOSE HOUSES.

13 Q AND DID THAT PERSON ALSO SAY SOMETHING ELSE TO YOU?

14 A HE SAID, "I'LL KILL YOU BITCH."

15 Q WAS THERE SOMETHING ELSE THAT PERSON SAID LIKE,
16 "BBBRRRAAATTT KILLER"? DID SOMEONE SAY THAT TO YOU?

17 A ONE OF THEM SAID THAT.

18 Q OKAY. SO SOMEBODY SAID, "I'LL KILL YOU, BITCH," AND
19 SOMEBODY ELSE SAID, "BBBRRRAAATTT KILLER"?

20 A SOMEBODY SAID THAT.

21 Q DID THE SAME PERSON SAY BOTH THINGS?

22 A I DON'T RECALL, BUT I KNOW HE SAID, "I'LL KILL YOU,
23 BITCH," AND THEN HE SAID, "THAT'S NOT DELSHAWN".

24 Q BUT DO YOU RECALL SOMEONE SAYING --

25 A YES, MA'AM.

1 Q DO YOU RECALL SOMEONE SAYING, "BBBRRRAAATTT KILLER"?

2 A NO, I DO NOT RECALL WHO SAID THAT.

3 Q DO YOU RECALL TELLING INVESTIGATOR JOBY GRAY THAT
4 SOMEBODY, THE SAME PERSON, SAID BOTH STATEMENTS TO YOU?

5 A YES, I DID.

6 Q OKAY. SO YOU TOLD INVESTIGATOR GRAY THIS BACK IN
7 2004, BUT AS YOU'RE SITTING HERE TODAY, YOU DON'T RECALL?

8 A I KNOW WHAT I SAID BACK THEN BUT RIGHT NOW...

9 Q RIGHT NOW YOU CAN'T REMEMBER?

10 A YEAH.

11 Q AND AFTER THE PERSON SAID, "THAT AIN'T DELSHAWN," AND
12 PUT THE GUN DOWN, THAT PERSON WENT BACK TO THE CAR?

13 A I SEEN HIM TURN. THAT'S WHEN MY COUSTIN -- I GUESS
14 THEY HAD UNLOCKED THE DOOR AND I RAN IN.

15 Q BUT THE PERSON WHO HAD PULLED THE GUN ON YOU WENT
16 BACK TO THE CAR?

17 A HE TURNED AROUND.

18 Q HE TURNED AROUND?

19 A YEAH, THEN TO THE CAR.

20 Q AND THEN TO THE CAR. WHILE ALL OF THIS IS GOING
21 ON -- IS IT SOMEBODY FROM YOUR HOUSE WHO CALLS THE POLICE?

22 A YES.

23 Q OR DID SOMEBODY FROM NEXT DOOR CALL THE POLICE?

24 A MY PEOPLE CALLED THE POLICE.

25 Q AND YOU WERE IN 106?

1 A YES.

2 Q SO THIS WHITE FORD ESCORT HAD BEEN ON YOUR STREET
3 BEFORE THE SHOOTING OCCURRED THAT NIGHT?

4 A YES, THEY HAD.

5 Q AND YOU HAD SPOKEN TO THE PEOPLE IN THE WHITE FORD
6 ESCORT BEFORE THEY CAME BACK WITH GUNS THAT NIGHT?

7 A NO, I DIDN'T.

8 Q DID YOU NOT HAVE THIS -- OR THESE PEOPLE SPOKE TO
9 YOU?

10 A YEAH, THEY SAID SOMETHING.

11 Q AND THAT CAR HAD COME THROUGH THE NEIGHBORHOOD
12 EARLIER?

13 A YES, IT DID.

14 Q SO BEFORE THE PEOPLE CAME OUT, BEFORE THE WHITE FORD
15 ESCORT CAME BY AND THE PEOPLE GOT OUT WITH THE GUN IN YOUR
16 FACE, THAT SAME WHITE FORD ESCORT HAD BEEN THROUGH YOUR
17 NEIGHBORHOOD EARLIER THAT DAY?

18 A THEY RODE STRAIGHT DOWN THE STREET.

19 Q SO THEY MAY HAVE BEEN THERE BEFORE?

20 A YEAH.

21 Q DID THEY SPEAK TO YOU WHEN THEY WERE THERE THAT VERY
22 FIRST TIME?

23 A SPEAKING IN GENERAL.

24 Q SPEAKING IN GENERAL?

25 A YEAH. IT WAS LIKE, "COME DOWN HERE. COME DOWN

1 HERE."

2 Q AND DID YOU SAY ANYTHING TO THEM AT THAT POINT?

3 A NO, I DIDN'T.

4 Q SO WHEN THAT CAR FIRST CAME DOWN HERE AND THEY SAID,
5 "COME ON DOWN HERE. COME ON DOWN HERE"?

6 A THEY WERE SPEAKING TO DELSHAWN.

7 Q BUT YOU DIDN'T SAY ANYTHING?

8 A NO, I DIDN'T.

9 Q SO THESE PEOPLE RAN INTO DELSHAWN EARLIER AT T.S.
10 MARTIN?

11 A THEY RODE -- THEY WAS RIDING PAST, AND DELSHAWN WAS
12 THROWING UP SIGNS. I WAS THROWING UP SIGNS, TOO.

13 Q SO YOU ALL WERE BOTH THROWING UP SIGNS?

14 A YES, I WAS.

15 Q AND WHAT DO YOU MEAN BY THROWING UP SIGNS?

16 A GANG SIGNS.

17 Q SO YOU AND DELSHAWN WERE THROWING UP GANG SIGNS TO
18 THE PEOPLE IN THE WHITE FORD ESCORT?

19 A YES.

20 Q AND DID DELSHAWN SAY ANYTHING TO THESE PEOPLE?

21 A YEAH.

22 Q WHAT DID HE SAY?

23 MS. FENT: OBJECTION HEARSAY.

24 THE WITNESS: HE SAID --

25 THE COURT: WAIT. WAIT JUST A MINUTE.

1 (PAUSE) .

2 SUSTAINED.

3 BY MS. FRANKLIN

4 Q BUT YOU DIDN'T SAY ANYTHING TO THESE PEOPLE, DID YOU?

5 A NO, I DIDN'T.

6 Q OKAY. SO AFTER THIS INCIDENT WITH THE WHITE FORD
7 ESCORT, A GUY GETS OUT, BABY JES. GETS OUT, PUTS THE GUN
8 IN YOUR FACE. AT SOME POINT THE POLICE ARRIVED?

9 A YEAH.

10 Q YEAH. AND YOU JUST TESTIFIED THAT THERE WERE TWO
11 POLICE OFFICERS WHO ARRIVED?

12 A YEAH.

13 Q ONE OF THEM WAS OFFICER REYNOLDS?

14 A TWO POLICE OFFICERS.

15 Q TWO POLICE. ONE WAS MALE, ONE WAS FEMALE?

16 A YES.

17 Q AND THEY HAD BEEN CALLED BECAUSE THESE BOYS WERE IN
18 THE NEIGHBORHOOD?

19 A YES.

20 Q ALL RIGHT. AND YOU TOLD THEM ABOUT WHAT HAPPENED?

21 A YES, I DID.

22 Q AND YOU --

23 A NO. HE TOLD THEM THAT HE CALLED, SAID THESE BOYS HAD
24 CAME OUT AND ASKED WHERE THE SLOBS STAYED.

25 Q RIGHT. SO YOU TOLD LAW ENFORCEMENT THIS?

1 A YEAH.

2 Q AND YOU WERE STANDING OUT THERE WITH A COUPLE OF
3 OTHER PEOPLE, RIGHT?

4 A WHEN THE POLICE ARRIVED?

5 Q UH-HUH.

6 A MY FAMILY.

7 Q OKAY. WHEN THOSE FIRST TWO PEOPLE -- YOU WERE THERE
8 WITH ASHLEY BANKS, RIGHT?

9 A YEAH.

10 Q AND DARESHA BANKS?

11 A YES.

12 Q WAS [REDACTED] C.D. [REDACTED] THERE?

13 A I DON'T RECALL.

14 Q BUT YOU TOLD THESE POLICE OFFICERS THAT THESE BOYS
15 CAME AROUND IN THE CAR?

16 A YES, I DID.

17 Q AND YOU TOLD THEM THAT THERE WAS AT LEAST ONE GUN
18 PRESENT?

19 A YES, I DID.

20 Q AND YOU TOLD POLICE OFFICERS AT THE TIME THAT
21 SOMEBODY PULLED A GUN ON YOU?

22 A YES, I DID.

23 Q LAW ENFORCEMENT NEVER TOOK A STATEMENT FROM YOU, DID
24 THEY?

25 A THE POLICE OFFICERS?

1 Q YEAH. YOU NEVER WROTE ANYTHING DOWN LIKE YOU WROTE
2 THINGS DOWN FOR INVESTIGATOR GRAY.

3 A NO, I DIDN'T.

4 Q I'M SORRY?

5 A NO, I DIDN'T.

6 Q AND THEY NEVER TOOK ANY STATEMENTS FROM ANYONE ELSE
7 WHO WAS IN THE HOUSE, DID THEY?

8 A VERBAL?

9 Q WELL, DID THEY WRITE ANYTHING DOWN?

10 A NO. THEY DIDN'T WRITE ANYTHING DOWN.

11 Q AND AS YOU WERE TALKING TO LAW ENFORCEMENT THAT
12 NIGHT, THE WHITE FORD ESCORT CAME BACK BY AGAIN, DIDN'T
13 IT?

14 A YES, IT DID.

15 Q AND YOU SAW THE WHITE FORD ESCORT COME BY AS YOU WERE
16 TALKING TO POLICE OFFICERS?

17 A YES, I DID.

18 Q AND YOU POINTED THAT CAR OUT TO THE POLICE, DIDN'T
19 YOU?

20 A I BELIEVE MY COUSINS DID.

21 Q YOU THINK YOUR COUSINS DID. THEN ABOUT 19 MINUTES
22 LATER THE POLICE LEFT, DIDN'T THEY?

23 A SOMETIME LATER. THEY SAID THEY WANTED DELSHAWN.

24 Q DID YOU TELL THEM WHERE DELSHAWN COULD BE FOUND?

25 A NO, I DIDN'T.

1 Q DO YOU KNOW HOW THEY KNEW WHERE TO GO?

2 A PROBABLY MY COUSIN.

3 Q SO -- OKAY. SO ONE OF YOUR RELATIVES HAD TOLD THEM,
4 BUT YOU NEVER GAVE A PHYSICAL DESCRIPTION OF THE PERSON
5 WHO POINTED THE GUN AT YOU, DID YOU?

6 A TO THE POLICE OFFICERS?

7 Q YES.

8 A I DON'T BELIEVE SO.

9 Q AND YOU NEVER GAVE A CLOTHING DESCRIPTION OF THE
10 PERSON WHO PUT THE GUN IN YOUR FACE TO POLICE OFFICERS,
11 DID YOU?

12 A I DON'T BELIEVE SO.

13 Q AND WHEN THE POLICE WERE TALKING TO YOU ABOUT THE
14 GUN, YOU NEVER TOLD THEM THAT BABY JESUS PULLED A GUN ON
15 YOU?

16 A I DON'T BELIEVE SO.

17 Q SO WE'RE GOING TO TALK ABOUT SOME OF THE THINGS THAT
18 YOU SAID IN YOUR FIRST STATEMENT. ACCORDING TO YOUR
19 STATEMENT, FIVE MINUTES AFTER THE POLICE LEFT, THE SAME
20 PEOPLE RETURNED ON FOOT, IS THAT ACCURATE?

21 A SOMETIME AFTER.

22 Q OKAY. BUT IN YOUR STATEMENT YOU SAID IT WAS FIVE
23 MINUTES.

24 A THE TIME -- THEY CAME BACK.

25 Q BUT YOU RECALL --

1 A I DON'T KNOW WHAT TIME IT WAS. I DON'T KNOW HOW MANY
2 MINUTES IT TOOK, BUT I KNOW THEY CAME BACK.

3 Q AND YOU KNEW THEY CAME BACK QUICKLY?

4 A YEAH, ABOUT -- YEAH, IT WAS PROBABLY LIKE FIVE, TEN
5 MINUTES.

6 Q ~~AND YOU BELIEVED IT WAS THE SAME PEOPLE WHO WERE IN~~
7 ~~THE CAR?~~

8 A ~~ONE OF THE PEOPLE, FOR SURE, WAS THE SAME PERSON.~~

9 Q SO ONE OF THE PEOPLE WHO WAS IN THE CAR IS THE PERSON
10 WHO CAME BACK ON FOOT?

11 A YEAH.

12 Q AND YOU WERE STILL HANGING OUT ON THE PORCH?

13 A WE HAD WENT IN AFTER THE POLICE WENT TO LOOK FOR
14 DELSHAWN, BUT WE DID COME BACK ON THE PORCH.

15 Q AND ALL THE OTHER PEOPLE WHO WERE THERE WERE IN THE
16 HOUSE AT THAT POINT?

17 A NO. ALL OF US WAS SITTING ON THE PORCH.

18 Q SO AS THE BOYS WITH GUNS ARE COMING, WALKING BACK ON
19 FOOT, THERE ARE PEOPLE FROM YOUR FAMILY WHO ARE STILL OUT
20 ON THE PORCH?

21 A YES, THEY ARE.

22 Q AND WHO ALL WAS STILL OUT ON THE PORCH?

23 A ME, MY COUSINS.

24 Q IS THAT DARESHA AND ASHLEY?

25 A YEAH, AND THAT GIRL SHANTE.

1 Q BUT AT SOME POINT YOU WENT INSIDE?

2 A YEAH, WE RAN INSIDE.

3 Q AND THEN YOU RAN UPSTAIRS AND YOU OPENED A WINDOW?

4 A NO, I LIFTED THE BLIND.

5 Q SO YOUR WINDOW WAS CLOSED AT THE TIME THAT YOU
6 WITNESSED THE SHOOTING?

7 A I LIFTED THE BLIND UP.

8 Q RIGHT, BUT I'M TALKING ABOUT THE SORT OF GLASS PANE.

9 A THE GLASS, YEAH.

10 Q WAS THAT OPEN OR SHUT?

11 A IT WAS SHUT.

12 Q BUT YOU OPENED UP THE BLINDS?

13 A YEAH.

14 Q AND THE BOYS THAT RETURNED WERE WEARING BANDANNAS
15 AROUND THEIR FACE?

16 A FOUR OF THEM WERE.

17 Q AND THOSE PEOPLE WALKED OVER TO THE BRICK HOUSE IN
18 FRONT OF 106?

19 A YES, THEY DID.

20 Q AND I BELIEVE THAT MS. FENT SHOWED YOU THAT HOUSE?

21 A YES, SHE DID.

22 Q AND THEN YOU SAW THE SHOOTER HAND A PISTOL TO ONE OF
23 THE OTHER PEOPLE?

24 A I SAW -- YEAH, I SAW THE SHOOTER DO THAT.

25 Q AND YOU BELIEVED THAT WAS THE SAME PISTOL THAT HAD

1 BEEN PULLED ON YOU ABOUT AN HOUR EARLIER?

2 A SOMETIME EARLIER, YES.

3 Q AND YOU THOUGHT IT WAS THE SAME PISTOL?

4 A I BELIEVE THAT WAS THE SAME PISTOL.

5 Q AND THEN THAT OTHER PERSON HANDED THE SHOOTER A
6 RIFLE?

7 A YES, THEY DID.

8 Q AND YOU SAW IT WAS A VERY LONG GUN?

9 A YES, IT WAS LONG.

10 Q AND IT WAS SLENDER?

11 A YES.

12 Q AND WHEN IT FIRED, YOU SAID IT SOUNDED LIKE A .22?

13 A YES.

14 Q AND YOU SAID YOU THOUGHT IT SHOT THREE AT A TIME.

15 A YES, I DID.

16 Q BUT IT DIDN'T ACTUALLY SHOOT THREE AT A TIME, DID IT?

17 A NO. THAT'S THE WAY HE WAS PULLING IT.

18 Q AND THEN TWO OF THE OTHER PEOPLE WITH THE SHOOTER
19 ACTUALLY POINTED OVER TO [REDACTED] T.S. MARTIN, DIDN'T THEY?

20 A WHAT DID YOU SAY?

21 Q TWO OF THE PEOPLE WHO WERE THERE ACTUALLY POINTED
22 OVER TO [REDACTED] T.S. MARTIN, [REDACTED] C.D. [REDACTED]'S HOUSE?

23 A NO, IT WAS ONE.

24 Q JUST ONE LITTLE BOY POINTED?

25 A YEAH.

1 Q AND AFTER THE FIRST SHOT, YOU SAW FOUR KIDS RUNNING
2 TOWARDS WEST BELTLINE?

3 A YES.

4 Q AND YOU DIDN'T SEE ANYONE THROW DOWN ANY GUNS, DID
5 YOU?

6 A NO.

7 Q NO ONE THROUGH DOWN ANY GUNS?

8 A NO, NOT THAT I SEEN.

9 Q NOW, AS THEY WERE RUNNING -- I'M GOING TO SHOW YOU
10 WHAT'S BEEN MARKED AS STATE'S EXHIBIT 7, AND CAN I GET
11 PERMISSION TO HAVE THE WITNESS STEP DOWN FOR A MINUTE?

12 THE COURT: YES. KEEP YOUR VOICE UP, PLEASE.

13 BY MS. FRANKLIN

14 Q HERE. CAN YOU COME HERE FOR JUST A MOMENT,
15 MR. SMITH?

16 (COMPLIES).

17 NOW, DO YOU RECOGNIZE THIS?

18 A YEAH.

19 Q YOU RECOGNIZE THIS. WHEN THOSE BOYS WERE RUNNING,
20 WHERE DID YOU SEE THEM RUN?

21 A I SEEN THEM RUN UP THIS WAY.

22 THE COURT: SPEAK UP, PLEASE.

23 THE WITNESS: I SEEN THEM RUN UP THIS WAY.

24 BY MS. FRANKLIN

25 Q SO ARE YOU SURE THAT THEY CAME IN FRONT OF THIS HOUSE

1 RIGHT HERE?

2 A NO, I'M NOT.

3 Q OKAY. SO YOU DON'T KNOW IF THEY RAN IN BETWEEN
4 HOUSES OR WHETHER THEY RAN INTO THE STREET?

5 A NO, I DO NOT.

6 Q OKAY. THANK YOU. YOU CAN HAVE A SEAT NOW.

7 A OKAY.

8 Q SO YOU SAW THEM RUN, AND YOU DON'T KNOW WHERE THEY
9 WENT?

10 A NOT EXACTLY WHERE THEY WENT.

11 Q THIS ENTIRE EVENT HAPPENED PRETTY QUICKLY, DIDN'T IT?

12 A NO.

13 Q NO. IT TOOK A WHILE FOR ALL OF THIS TO HAPPEN?

14 A YOU'RE TALKING ABOUT FROM THE SHOOTING TO THEM
15 RUNNING?

16 Q UH-HUH.

17 A IT TOOK ABOUT FOUR OR FIVE MINUTES.

18 Q SO OVER THE COURSE OF FOUR OR FIVE MINUTES, TEN SHOTS
19 WERE FIRED, OR YOU THINK IT HAPPENED MORE QUICKLY THAN
20 THAT?

21 A WHEN THE SHOTS WERE FIRED, THEY HAD -- WHEN THE SHOTS
22 WERE FIRED -- YEAH, THEY DID. IT WASN'T THAT LONG BEFORE
23 THEY STARTED RUNNING.

24 Q ALL RIGHT.

25 A THE FIRST BOYS RAN AFTER THE FIRST SHOT. HE FINISHED

1 SHOOTING BEFORE HE RAN.

2 Q BUT PRETTY MUCH AFTER THE SHOTS WERE FIRED, I MEAN,
3 THOSE PEOPLE, THEY RAN OUT THERE PRETTY QUICKLY, DIDN'T
4 THEY?

5 A WHAT PEOPLE?

6 Q THE SHOOTERS. THE SHOOTER AND THE PEOPLE WHO WERE
7 WITH THEM. DID THEY RUN? DID THEY RUN PRETTY QUICKLY?

8 A OH, YEAH. THE FOUR PEOPLE, THEY RAN PRETTY QUICKLY.

9 Q OKAY. SO WE'RE GOING TO STOP TALKING ABOUT YOUR
10 FIRST STATEMENT A LITTLE BIT AND TALK A LITTLE BIT ABOUT
11 YOUR IDENTIFICATION OF CHRIS LIVERMAN ON THE RAILROAD
12 TRACKS, OKAY. SO THE POLICE ARRIVED ON THE SCENE AFTER
13 THE SHOOTING? YES?

14 A WHAT DID YOU SAY?

15 Q THAT THE POLICE RETURNED TO T.S. MARTIN AFTER THE
16 SHOOTING, IS THAT CORRECT?

17 A YES, THEY DID.

18 Q AND SOMEBODY FROM YOUR HOUSE CALLED THEM TO HAVE THEM
19 RETURNED, RIGHT?

20 A YES.

21 Q SO SOMEBODY FROM YOUR HOUSE CALLED THE POLICE?

22 A YES.

23 Q AND DO YOU RECALL EXACTLY WHO IT WAS FROM YOUR HOUSE
24 WHO CALLED THE POLICE AT THAT POINT?

25 A MY COUSIN, ASHLEY.

1 Q SO IT WAS ASHLEY? AND YOU HAD SPOKEN WITH ONE OF THE
2 OFFICERS WHO WAS THERE INITIALLY, AND THEN YOU SPOKE TO
3 INVESTIGATOR GRAY AFTERWARDS, RIGHT?

4 A I DON'T RECALL SPEAKING TO THE OFFICER. I KNOW I
5 PROBABLY SAID -- YEAH, I PROBABLY SAID SOMETHING TO THEM.

6 Q OKAY. SO YOU MAY HAVE SAID SOMETHING TO AN OFFICER,
7 AND THEN YOU STARTED TALKING TO INVESTIGATOR GRAY, RIGHT?

8 A YOU'RE TALKING ABOUT THE FIRST TIME OR THE SECOND
9 TIME?

10 Q I'M TALKING ABOUT THE SECOND TIME, AFTER THE
11 SHOOTING.

12 A ~~THE SECOND TIME I JUST RECALL TALKING TO MR. GRAY.~~

13 Q BUT INVESTIGATOR GRAY WANTED TO KNOW WHAT YOU HAD
14 SEEN, RIGHT?

15 A YES.

16 Q THAT'S WHY HE WANTED TO TALK TO YOU. YOU TOLD HIM AT
17 THAT POINT THAT THE PERSON WHO SHOT THE CHILDREN WAS THE
18 SAME PERSON WHO PULLED THE GUN ON YOU EARLIER.

19 A YES, I DID. I BELIEVE I DID, YES. YES, MA'AM.

20 Q YES, THAT'S WHAT YOU TOLD HIM. YOU TOLD HIM THAT YOU
21 KNEW WHO THIS PERSON WAS.

22 A YES, I DID.

23 Q YOU DESCRIBED HIM AS BEING A LITTLE OVER SIX FEET
24 TALL, RIGHT?

25 A I DON'T REMEMBER HEIGHT.

1 Q YOU DON'T RECALL THE DESCRIPTION YOU GAVE HIM?

2 A HE WAS BIGGER THAN ALL OF THE OTHER BOYS, AND I SEEN
3 HIS HAIR. I SEEN HIS FACE. I REMEMBER HIS CLOTHES.

4 Q HE WAS BIGGER THAN ALL THE OTHERS?

5 A YEAH, HEAVIER.

6 Q DID YOU SAY HE WAS HEAVY?

7 A CHUBBY, YEAH.

8 Q CHUBBY. YOU DIDN'T KNOW THIS PERSON'S NAME, DID YOU?

9 A NOT AT THAT TIME.

10 Q YOU KNEW HIM BY NICKNAME. YOU KNEW HIM AS BABY JES.
11 OR BABY JESUS?

12 A YEAH.

13 Q BUT AGAIN, I MEAN, YOU HAD ATTENDED KEENAN HIGH
14 SCHOOL, RIGHT?

15 A YES, I DID.

16 Q WHICH IS NOT -- YOU DID NOT GO TO SCHOOL WITH
17 CHRISTOPHER LIVERMAN?

18 A NO, I DIDN'T.

19 Q SO YOU DIDN'T KNOW HIM FROM SCHOOL?

20 A NO.

21 Q AND AT SOME POINT, YOU WENT UP TO CALK STREET WITH
22 INVESTIGATOR GRAY. YES?

23 A YES.

24 Q AND YOU TRAVELED AT NIGHTTIME TO THIS PLACE.

25 A YES.

1 Q I MEAN, IT WAS DARK, WASN'T IT?

2 A YES.

3 Q OKAY. AND WHEN YOU DROVE UP TO CALK STREET, DID YOU
4 DRIVE -- WELL, WHEN YOU WENT TO THE CUT, DID YOU DRIVE UP
5 THROUGH CALK STREET, OR DID YOU COME IN THROUGH THE BETHEL
6 BISHOP SIDE?

7 A CALK STREET.

8 Q OKAY. SO CHRISTOPHER LIVERMAN AT THAT POINT WAS ON
9 CALK STREET, RIGHT?

10 A YES, HE WAS.

11 Q AND HE WAS IN THE BACK OF A POLICE CAR?

12 A YES, HE WAS.

13 Q AND OFFICER WHITTLE, INVESTIGATOR GRAY, PULLED HIM
14 OUT OF THE CAR FOR YOU.

15 A THE POLICE OFFICER THAT HAD CAUGHT HIM HAD PULLED
16 HIM --

17 Q PULLED HIM OUT OF THE CAR. YOU'RE NOT CLOSE TO HIM
18 WHEN YOU MADE THE IDENTIFICATION, WERE YOU?

19 A I WAS CLOSE ENOUGH TO SEE.

20 Q BUT YOU WERE NOT IMMEDIATELY IN FRONT OF HIM, WERE
21 YOU?

22 A NOT FACE TO FACE.

23 Q NO. SO YOU WERE SOME DISTANCE AWAY?

24 A YEAH.

25 Q AND YOU TOLD INVESTIGATOR GRAY THAT YOU RECOGNIZED

1 ~~HIM AS THE~~ SHOOTER, WHAT YOU SAW HIS FACE AND WHAT HE HAD
2 ON.

3 A ^{YES} YES, I DID.

4 Q DO YOU RECALL TELLING THIS COURT ON AUGUST 28TH, 2006
5 THAT YOU DIDN'T KNOW WHETHER THE SHOOTER WAS WEARING A
6 BANDANNA ON HIS FACE OR NOT?

7 A THE SECOND TIME HE WASN'T WEARING A BANDANNA.

8 Q DO YOU RECALL TELLING THIS COURT ON AUGUST 28TH, 2006
9 THAT YOU DID NOT KNOW WHETHER THE SHOOTER WAS WEARING A
10 BANDANNA ON HIS FACE OR NOT?

11 A THE FIRST TIME OR THE SECOND TIME?

12 Q THE SECOND, THE SHOOTER.

13 A OH, HE DIDN'T HAVE NO BANDANNA ON HIS FACE.

14 Q MY QUESTION IS WHETHER OR NOT YOU RECALL TELLING THIS
15 COURT ON AUGUST 28TH THAT YOU DID NOT KNOW WHETHER HE WAS
16 WEARING A BANDANNA OR NOT?

17 A I DON'T KNOW WHAT I SAID.

18 Q OKAY. YOU HAVE A COPY OF YOUR TRANSCRIPT. OKAY.
19 LOOK AT PAGE 92 OF THE TRANSCRIPT, AND DO YOU RECALL MY
20 ASKING YOU, "SO AS YOU'RE TESTIFYING RIGHT NOW, YOU DON'T
21 KNOW WHETHER HE WAS OR WAS NOT WEARING A BLACK BANDANNA?"
22 YOU RESPONDED "NO".

23 A WHAT DID YOU SAY?

24 Q AND YOU RESPONDED "NO".

25 A NO. YOU SAID CHRISTOPHER. YOU SAID CHRISTOPHER.

1 Q I'M SORRY?

2 A SAY EVERYTHING YOU SAID.

3 Q OKAY. YOU RECALL THAT I ASKED YOU, BACK ON
4 AUGUST 28TH, 2006, THIS WAS THE QUESTION I ASKED YOU: "SO
5 AS YOU'RE TESTIFYING RIGHT NOW, YOU DON'T KNOW WHETHER HE
6 WAS OR WAS NOT WEARING A BLACK BANDANNA." ANSWER: "NO."
7 DO YOU RECALL GIVING THAT ANSWER?

8 A NO.

9 Q DO YOU SEE IT IN THE TRANSCRIPT?

10 A YES, I DO.

11 Q ALL RIGHT. YOU ALSO HAD SAID THAT YOU DID KNOW THAT
12 THE SHOOTER WAS WEARING A CAMOUFLAGE BANDANNA ON THE NIGHT
13 OF THE SHOOTING. DO YOU REMEMBER THAT?

14 A YEAH, TIED UP IN HIS HAIR.

15 Q ALL RIGHT. SO YOU TESTIFIED TO THAT ON AUGUST 28TH.
16 YOU HADN'T PUT THAT IN EITHER OF YOUR EARLIER STATEMENTS.
17 THAT'S WHAT YOU TESTIFIED TO ON AUGUST 28TH. DOES THAT
18 SOUND FAMILIAR?

19 A WHAT DID YOU SAY?

20 Q DO YOU RECALL TESTIFYING ON AUGUST 28TH THAT HE WAS
21 WEARING A CAMOUFLAGE BANDANNA ON HIS HEAD?

22 A YES. IT WASN'T ON HIS HEAD. IT WAS IN HIS HAIR.

23 Q ON HIS WHERE?

24 A IN HIS HAIR.

25 Q IT WAS IN HIS HAIR, BUT YOU NEVER SAID THAT IN YOUR

1 STATEMENT ON AUGUST 26TH OR AUGUST 29TH, DID YOU?

2 A I DON'T RECALL.

3 Q AND AS YOU TOLD -- YOU TOLD INVESTIGATOR GRAY THAT
4 BABY JES. HAD BEEN THERE EARLIER ON T.S. MARTIN WITH A
5 GUN. DO YOU RECALL TELLING HIM THAT?

6 A NO.

7 Q YOU DON'T RECALL TELLING INVESTIGATOR GRAY AS YOU
8 WERE GOING TO GO -- AS YOU WERE DOING THE LINEUP THAT THAT
9 GUY HAD BEEN AT YOUR STREET EARLIER WITH A GUN?

10 A OH, YEAH.

11 Q WHEN YOU GAVE A DESCRIPTION, A CLOTHING DESCRIPTION
12 OF WHAT THE SHOOTER WAS WEARING, YOU STARTED DOING THAT
13 WRITTEN STATEMENT AFTER YOU HAD ALREADY DONE THE LINEUP,
14 DIDN'T YOU?

15 A I DON'T RECALL.

16 Q YOU DON'T REMEMBER WHEN YOU DID A WRITTEN STATEMENT?

17 A I REMEMBER I TOLD HIM WHO HE WAS. I DON'T REMEMBER
18 IF I SAID WHAT HE HAD ON BEFORE.

19 Q BUT YOU WROTE -- ON THE NIGHT OF THE INCIDENT, YOU
20 GAVE A WRITTEN STATEMENT TO LAW ENFORCEMENT, RIGHT?

21 A I WROTE IT?

22 Q WELL, YOU AND INVESTIGATOR GRAY, YOU DID SORT OF A
23 QUESTION AND ANSWER. WELL, I'M SORRY. INVESTIGATOR GRAY
24 TOOK YOUR STATEMENT. YOU TOLD HIM WHAT HAPPENED. HE
25 WROTE DOWN YOUR STATEMENT. DO YOU REMEMBER THAT?

1 A YES.

2 Q AND YOU KNOW THAT IN THAT STATEMENT, YOU GAVE A
3 DESCRIPTION OF WHAT THE SHOOTER WAS WEARING.

4 A OKAY.

5 Q DO YOU REMEMBER THAT?

6 A (NODS IN THE AFFIRMATIVE).

7 Q AND YOU GAVE THIS WRITTEN STATEMENT AFTER YOU HAD
8 ALREADY GONE OVER TO CALK STREET, DIDN'T YOU?

9 A I DON'T RECALL.

10 Q YOU DON'T REMEMBER.

11 A I GAVE SOME OF THE STATEMENT BEFORE AND THEN SOME
12 AFTER, BUT I TOLD HIM WHO BABY JES. WAS BEFORE WE WENT
13 THERE.

14 Q RIGHT. SO YOU WROTE -- SOME OF IT WAS DONE BEFORE
15 YOU WENT OVER TO CALK STREET, AND THEN SOME OF IT WAS DONE
16 AFTERWARDS?

17 A YES, IT WAS.

18 Q AND WHEN YOU GAVE THE CLOTHING DESCRIPTION OF WHAT
19 THE SHOOTER WAS WEARING, YOU GAVE THAT AFTER YOU GOT BACK
20 FROM THE SHOW UP, RIGHT?

21 A I ALREADY KNEW WHAT HE HAD ON.

22 Q OKAY. I'M JUST SAYING BUT YOU GAVE THAT IN YOUR
23 STATEMENT AFTER YOU HAD DONE THE SHOW UP.

24 A I DON'T RECALL.

25 Q AND AT THE TIME YOU DID THE IDENTIFICATION, YOU NEVER

1 LEFT THE POLICE CAR, DID YOU?

2 A WHAT?

3 Q WHEN YOU WERE DOING THE SHOW UP IDENTIFICATION, WHEN
4 YOU'RE IDENTIFYING THE SHOOTER, YOU NEVER ACTUALLY GOT OUT
5 OF THE POLICE CAR, DID YOU?

6 A NO. I WAS TELLING HIM ABOUT WHO WAS -- ABOUT BABY
7 JES.

8 Q RIGHT, BUT YOU WERE SITTING IN THE CAR.

9 A I WAS SITTING -- YEAH, I WAS SITTING IN THE CAR.

10 Q AND YOU NEVER GOT OUT?

11 A NO, I DIDN'T.

12 Q OKAY. AND IT WAS DARK OUTSIDE WHEN YOU WERE DOING
13 THIS IDENTIFICATION, WASN'T IT?

14 A NOT WHEN I WAS SITTING IN THE POLICE CAR.

15 Q WAS IT DARK?

16 A UH-HUH, YEAH. IT WAS DARK.

17 Q AND WHEN YOU WITNESSED THE SHOOTING, YOU WERE
18 UPSTAIRS.

19 A YES, I WAS.

20 Q AND THERE'S NO STREET LAMP NEXT TO YOUR HOUSE, IS
21 THERE?

22 A IT WAS DARK BUT IT WAS LIGHT ENOUGH, BUT I COULD SEE
23 ANYWAY IF THERE WASN'T A LIGHT OUTSIDE.

24 Q RIGHT. BUT THERE WAS NO STREET LAMP NEXT TO YOUR
25 HOUSE. THAT'S WHAT I'M ASKING.

1 A BUT THERE WAS A LIGHT ON WHERE I WAS AT.

2 Q AND I GUESS WE'LL TALK ABOUT THAT. YOU TESTIFIED
3 TODAY THAT THERE ARE MOTION DETECTOR LIGHTS ON IN THE
4 HOUSE OVER THERE, RIGHT?

5 A OUTSIDE.

6 Q OUTSIDE. ON WHOSE HOUSE?

7 A THE HOUSE IN FRONT OF MY AUNTIE'S, THE HOUSE WHERE
8 THEY DID THE SHOOTING.

9 Q OKAY. SO THIS -- I'M SHOWING YOU WHAT'S MARKED AS
10 STATE'S EXHIBIT 23 RIGHT HERE. SO THIS HOUSE?

11 A YEAH.

12 Q THIS HOUSE. NOW, THIS WAS THE FIRST TIME YOU EVER
13 TESTIFIED ABOUT A LIGHT, A MOTION DETECTOR LIGHT, ON THAT
14 HOUSE, IS IT?

15 A I DON'T RECALL.

16 Q DO YOU RECALL BEING THERE BACK ON --

17 A I DON'T RECALL SEEING THEM GO OVER THERE AND --

18 Q BUT BACK ON AUGUST 28TH, 2006, WE WERE TALKING ABOUT
19 THIS STUFF, RIGHT?

20 A YEAH.

21 Q AND YOU NEVER MENTIONED ANYTHING ABOUT A MOTION
22 DETECTOR LIGHT BEFORE?

23 A I DON'T RECALL.

24 Q DO YOU RECALL YOU MENTIONED IT IN YOUR STATEMENT BACK
25 ON AUGUST 26TH, 2004.

1 A I DON'T RECALL.

2 Q WOULD YOU LIKE TO SEE COPIES OF YOUR STATEMENTS TO
3 REFRESH YOUR MEMORY?

4 A NO.

5 Q SO YOU JUST DON'T REMEMBER?

6 A NO, I REMEMBER WHAT I SAW. I DON'T REMEMBER IF I
7 SAID ANYTHING.

8 Q YOU DON'T REMEMBER, BUT TODAY IS THE FIRST DAY WE
9 EVER SAID ANYTHING ABOUT IT THAT YOU HEARD IN COURT?

10 A OKAY.

11 Q TODAY IS THE FIRST DAY YOU EVER HEARD ANYTHING ABOUT
12 IT?

13 A HEARD ANYTHING ABOUT WHAT?

14 Q ABOUT THE MOTION DETECTOR LIGHTS.

15 A I TOLD THEM THAT.

16 Q WHEN YOU SAW CHRISTOPHER LIVERMAN AND DELSHAWN
17 PRESCOTT UP IN BAYBERRY EARLIER THAT DAY. THEY DIDN'T --
18 THEY WEREN'T FIGHTING, WERE THEY?

19 A NO. IT JUST SEEMED LIKE THEY WERE JUST HAVING A
20 CONVERSATION.

21 Q AND YOU TOLD THIS COURT THAT YOU SAW THAT EVENT
22 HAPPEN FROM ABOUT TWO HOUSES AWAY?

23 A YES, MA'AM, YEAH.

24 Q AND BACK ON AUGUST 28TH, 2006 WHEN YOU TOLD THIS
25 COURT UNDER OATH THAT YOU KNEW WHO CHRISTOPHER LIVERMAN

1 WAS, THAT YOU HAD SEEN HIM ON THESE THREE PRIOR OCCASIONS,
2 RIGHT? YOU HAD SEEN HIM IN SAXON HOMES ABOUT SEVEN YEARS
3 EARLIER, RIGHT?

4 A (NODS IN THE AFFIRMATIVE).

5 Q YOU HAD SEEN HIM AT MCDONALD'S, RIGHT?

6 A YES. I SEEN HIM WORK AT MCDONALD'S.

7 Q AND THEN YOU SAID YOU SAW HIM IN BAYBERRY MEWS?

8 A YEAH.

9 Q UP AT BAYBERRY EARLIER THAT DAY, RIGHT?

10 A YEAH.

11 Q BUT ON THE NIGHT THAT THIS HAPPENED, YOU TOLD
12 INVESTIGATOR GRAY THAT YOU KNEW -- YOU RECOGNIZED BABY
13 JES. BECAUSE HE'S THE ONE WHO STUCK THE GUN IN YOUR FACE
14 EARLIER THAT NIGHT.

15 MS. FENT: YOUR HONOR, I OBJECT TO THE
16 MISCHARACTERIZATION OF THE 'STUCK THE GUN IN HIS FACE.'
17 HE HAS NEVER TESTIFIED THAT THE GUN WAS IN HIS FACE. HE
18 HAS CONSISTENTLY SAID "TWO HOUSES DOWN". SHE KEEPS SAYING
19 IN HER QUESTION "IN THE FACE". IT'S A MISCHARACTERIZATION
20 OF HIS TESTIMONY.

21 THE COURT: I CAN'T TELL COUNSEL HOW TO ASK A
22 QUESTION. YOU CAN ASK THE QUESTION, AND THE WITNESS CAN
23 RESPOND. IF THAT'S WHAT HE SAID, THAT'S WHAT HE SAID. IF
24 IT'S NOT WHAT HE SAID, THEN I'M SURE HE WILL RESPOND THAT
25 WAY.

1 GO AHEAD, MS. FRANKLIN.

2 BY MS. FRANKLIN

3 Q BUT YOU TOLD INVESTIGATOR GRAY YOU RECOGNIZED WHO
4 CHRISTOPHER LIVERMAN, BABY JES., OR THE SHOOTER WAS
5 BECAUSE HE HAD STUCK THE GUN IN YOUR FACE EARLIER THAT
6 NIGHT?

7 A I DIDN'T SAY THAT. I SAID I RECOGNIZED WHO IT WAS
8 BECAUSE OF HIS BRAIDS, AND THEN LATER ON I SAW HIS FACE
9 WHEN HE CAME. HE WAS WALKING, AND I REMEMBERED WHAT HE
10 HAD ON EARLIER THAT DAY.

11 Q BUT YOU TOLD INVESTIGATOR GRAY IT WAS THE SAME PERSON
12 WHO PUT THE GUN IN YOUR FACE WHO DID THE SHOOTING OF THE
13 CHILDREN THAT NIGHT?

14 A YEAH.

15 Q AT THE TIME OF THE SHOOTING, YOU DIDN'T KNOW CHRIS
16 LIVERMAN, DID YOU?

17 A I JUST REMEMBER HIM.

18 Q BUT YOU FOUND OUT AFTER THE SHOOTING THAT CHRISTOPHER
19 LIVERMAN WAS THE PERSON WHO WAS CHARGED IN THIS CASE?

20 A I FOUND OUT THAT CHRISTOPHER LIVERMAN WAS BABY JES.,
21 YEAH.

22 Q YOU TOLD INVESTIGATOR GRAY THAT UP IN BAYBERRY MEWS
23 EARLIER THAT DAY THAT WHEN CHRIS AND DELSHAWN WERE TALKING
24 IN BAYBERRY, YOU WERE RIGHT THERE. DO YOU REMEMBER THAT?

25 A I WAS PRESENT, BUT I WASN'T WHERE I COULD HEAR WHAT

1 THEY WAS TALKING ABOUT.

2 Q RIGHT. BUT YOU'RE SAYING THAT YOU GAVE -- STATED YOU
3 TOLD THEM THAT YOU WERE RIGHT THERE, RIGHT?

4 A NO, NOT REALLY.

5 Q WELL, I MEAN, THEN YOU CAME AND YOU TESTIFIED YOU
6 WERE ACTUALLY TWO HOUSES AWAY, CORRECT?

7 A SAY THAT THE FIRST TIME YOU SAID IT.

8 Q WHEN YOU WERE -- WHEN YOU SAW CHRIS AND DELSHAWN
9 TALKING UP IN BAYBERRY EARLIER, DO YOU REMEMBER THAT?

10 A UH-HUH.

11 Q DO YOU RECALL TELLING INVESTIGATOR GRAY RIGHT AFTER
12 THE INCIDENT THAT YOU WERE RIGHT THERE WHEN THAT
13 CONVERSATION WAS HAPPENING?

14 A NO, I DO NOT.

15 Q BUT BY THE TIME -- I MEAN, WHEN YOU TESTIFIED ON
16 AUGUST 28TH, 2006, YOU SAID THAT YOU WERE TWO HOUSES AWAY,
17 RIGHT?

18 A I BELIEVE IN AUGUST I SAID THAT.

19 Q OKAY. SO YOU BELIEVE YOU WERE ABOUT TWO HOUSES AWAY?

20 A YEAH.

21 Q AND INVESTIGATOR GRAY ASKED YOU IF YOU KNEW GOO,
22 RIGHT?

23 A NO.

24 Q YEAH. AND GOO IS REGINALD JOYNER, RIGHT?

25 A DIDN'T KNOW HIM BY HIS FIRST NAME.

1 Q YOU DIDN'T KNOW HIS REAL NAME?

2 A NO.

3 Q BUT YOU KNOW WHO HE IS?

4 A YES, I DO.

5 Q AND YOU TOLD INVESTIGATOR GRAY THAT HE WASN'T THERE
6 THAT NIGHT.

7 A THE NIGHT OF --

8 Q YEAH, THE NIGHT OF THE SHOOTING.

9 A I DIDN'T IDENTIFY HIM.

10 Q RIGHT. YOU DIDN'T SEE HIM THERE?

11 A NO.

12 Q AND YOU TOLD INVESTIGATOR GRAY THAT YOU DON'T REALLY
13 KNOW WHO PARIS ALEXANDER IS.

14 A AT THAT TIME, NO.

15 Q AND YOU DIDN'T KNOW CARL SMITH, POOH?

16 A NO.

17 Q AND YOU DIDN'T KNOW SHEROD PRAYLOW, DID YOU?

18 A NO.

19 Q AND YOU DIDN'T GO TO SCHOOL WITH THESE GUYS, DID YOU?

20 A NO.

21 Q AT THE TIME OF YOUR SECOND INTERVIEW, YOU WERE SHOWN
22 PHOTO LINEUPS THAT INCLUDED PICTURES OF CARL SMITH AND
23 SHEROD PRAYLOW, IS THAT RIGHT?

24 A I DON'T RECALL.

25 Q YOU DON'T RECALL EVER BEING SHOWN PHOTO LINEUPS WHEN

1 YOU WENT IN AND TALKED TO INVESTIGATOR GRAY?

2 A NO.

3 Q AND DO YOU KNOW WHAT A PHOTO LINEUP IS?

4 A YES, I DO.

5 Q AND YOU JUST DON'T REMEMBER?

6 A NO.

7 Q BUT YOU DON'T RECALL THEM EVER GIVING YOU A PHOTO
8 LINEUP OF CHRIS LIVERMAN WITH CHRIS LIVERMAN IN IT, DID
9 THEY?

10 A RECENTLY.

11 Q RECENTLY?

12 A BUT I DON'T REMEMBER THEM DOING THAT BEFORE.

13 Q RECENTLY THEY SHOWED YOU A LINEUP WITH CHRIS LIVERMAN
14 IN IT?

15 A NO. I JUST SEEN A PICTURE. NOT -- NO.

16 Q BUT LAW ENFORCEMENT NEVER SHOWED YOU A PHOTO LINEUP
17 WITH PARIS ALEXANDER'S FACE IN IT, DID THEY?

18 A I DON'T RECALL.

19 Q AND THEY NEVER SHOWED YOU A PHOTO LINEUP WITH BRADY
20 BROWN IN THERE, DID THEY?

21 A WHO?

22 Q BRADY BROWN.

23 A WHO IS THAT?

24 Q YOU DON'T KNOW WHO BRADY BROWN IS?

25 A NO.

1 Q NOW, YOU MET WITH THE SOLICITOR'S OFFICE PRIOR COMING
2 INTO COURT ON AUGUST 28TH, 2006, DIDN'T YOU?

3 A WHAT DID YOU SAY?

4 Q YOU CAME UP TO THE SOLICITOR'S OFFICE. YOU HAVE BEEN
5 UP HERE A COUPLE OF TIMES.

6 A YES.

7 Q AND HAVE TALKED TO THESE PEOPLE OVER HERE A FEW
8 TIMES?

9 A YES.

10 Q YEAH. AND AT THAT TIME THEY REVIEWED YOUR STATEMENTS
11 FROM TWO YEARS AGO?

12 A YES, THEY DID.

13 Q AND THEY DISCUSSED YOUR TESTIMONY IN THIS CASE WITH
14 YOU?

15 A WHAT DO YOU MEAN?

16 Q DID THEY TALK TO YOU ABOUT WHAT YOU WERE GOING TO
17 SAY?

18 A THIS, I JUST READ THE STATEMENTS.

19 Q YOU JUST READ YOUR STATEMENTS?

20 A I DON'T RECALL THEM TALKING ABOUT IT.

21 THE COURT: MS. FRANKLIN, WE NEED TO TAKE A BREAK AT
22 THIS POINT IN TIME. YOU CAN COMPLETE YOUR
23 CROSS-EXAMINATION SHORTLY.

24 MR. FOREMAN, LADIES AND GENTLEMEN, PLEASE DON'T
25 DISCUSS THE CASE. STEP BACK TO YOUR JURY ROOM.

1 EVENING ELSE STAY SEATED, PLEASE.

2 (WHEREUPON, THE JURY LEFT OPEN COURT AT APPROXIMATELY
3 11:40 A.M.)

4 THE COURT: ALL RIGHT. DON'T DISCUSS YOUR TESTIMONY
5 WITH ANYONE DURING THIS BREAK. WE'LL TAKE ABOUT A
6 TEN-MINUTE BREAK.

7 (WHEREUPON, A SHORT BREAK WAS TAKEN.)

8 MS. FRANKLIN: YOUR HONOR, MAY WE APPROACH?

9 THE COURT: YES.

10 (WHEREUPON, THERE WAS A BENCH CONFERENCE.)

11 THE COURT: ALL RIGHT. LET'S GET THE WITNESS BACK.
12 IS HE COMING IN?

13 THE DEPUTY: HE'S COMING.

14 THE COURT: ALL RIGHT. BRING THE JURY BACK IN,
15 PLEASE.

16 (WHEREUPON, THE JURY CAME INTO OPEN COURT AT
17 APPROXIMATELY 11:58 A.M.)

18 THE BAILIFF: THE JURY IS PRESENT, YOUR HONOR.

19 THE COURT: ALL RIGHT. MS. FRANKLIN, YOU MAY
20 CONTINUE.

21 MS. FRANKLIN: YES, YOUR HONOR, MAY IT PLEASE THE
22 COURT.

23 BY MS. FRANKLIN

24 Q MR. SMITH, I ONLY HAVE A COUPLE MORE QUESTIONS FOR
25 YOU. WE'RE ALMOST FINISHED.

1 THIS PICTURE THAT YOU TOOK FROM YOUR WINDOW, PROVIDED
2 TO THE SOLICITOR'S OFFICE, WHEN DID YOU TAKE THAT PICTURE?

3 A AFTER THE MURDER, LIKE PROBABLY THE LAST TWO MONTHS.

4 Q SO ABOUT TWO MONTHS AFTER?

5 A NO, TWO OR THREE MONTHS AGO.

6 Q OKAY. SO TWO OR THREE MONTHS AGO FROM TODAY'S
7 DATE --

8 A YEAH.

9 Q -- YOU WENT AND TOOK THAT PICTURE. OKAY. AND DO YOU
10 RECALL WHEN YOU GAVE A PHYSICAL DESCRIPTION OF THE
11 SHOOTER, YOU SAID THAT THEY WERE WEARING -- THAT THE
12 SHOOTER WAS WEARING NEW BALANCES?

13 A YEAH..

14 Q NEW BALANCE TENNIS SHOES?

15 A YEAH, REFLECTIVE SHOES.

16 Q LET ME SHOW YOU -- I'M SHOWING YOU -- WHERE IS THE
17 STATE'S EXHIBIT.

18 THE COURT: THOSE WERE IN AN EXHIBIT.

19 THE COURT REPORTER: SIXTY-TWO.

20 THE COURT: SIXTY-TWO.

21 BY MS. FRANKLIN

22 Q OKAY. I'M SHOWING YOU WHAT'S IN STATE'S EXHIBIT 62.
23 ~~THESE ARE SHOES, RIGHT?~~

24 A YEAH.

25 Q ARE THESE NEW BALANCES?

1 A NO, ~~BUT THEY HAVE REFLECTORS ON THEM.~~

2 Q RIGHT, BUT THESE ARE NOT NEW BALANCES, ARE THEY?

3 A NO.

4 Q AND AS YOU'RE SITTING HERE RIGHT NOW, YOU HAVE SOME
5 OUTSTANDING CHARGES, RIGHT?

6 A YEAH.

7 Q AND THEY'RE GUN CHARGES?

8 A YEAH.

9 Q AND YOU'RE LOOKING AT A POSSIBLE EXPOSURE OF 11 YEARS
10 ON THOSE CHARGES?

11 A YEAH.

12 MS. FRANKLIN: ALL RIGHT. I HAVE NO FURTHER
13 QUESTIONS, YOUR HONOR.

14 THE COURT: ALL RIGHT. ANY REDIRECT?

15 MS. FENT: YES, YOUR HONOR.

16 REDIRECT EXAMINATION:

17 BY MS. FENT

18 Q DO YOU REMEMBER WHY YOU SAID YOU THOUGHT THEY WERE
19 NEW BALANCES?

20 A BECAUSE THEY REFLECTIVE.

21 Q BECAUSE WHY?

22 A THEY ARE SHINY AT NIGHT.

23 Q OKAY. DEFENSE COUNSEL WAS ASKING YOU OR SAYING THAT
24 YOU HAD NEVER MENTIONED THE MOTION LIGHTS ON THAT HOUSE
25 BEFORE. DO YOU REMEMBER HER ASKING YOU THAT?

1 A YEAH.

2 Q THAT YOU HAD NEVER, UNTIL TODAY, MENTIONED THE LIGHTS
3 ON -- THE MOTION LIGHTS ON THIS HOUSE BEFORE.

4 A YEAH.

5 Q DO YOU HAVE A COPY OF THE TRANSCRIPT STILL?

6 A YES.

7 Q I WANT YOU TO TURN TO PAGE 95. ACTUALLY, THE BOTTOM
8 OF PAGE 94. DO YOU HAVE 95 ALSO THERE? HERE IS 94. THE
9 BOTTOM OF THAT PAGE, LINE 22, SHE ASKED YOU ABOUT THE
10 STREET LIGHT; IS THAT CORRECT?

11 A UH-HUH.

12 Q SAY YES OR NO.

13 A YES.

14 Q AND YOU EVIDENTLY POINTED IT OUT ON THE DIAGRAM,
15 RIGHT?

16 A YES.

17 Q AND THEN SHE SAID, "LET THE RECORD REFLECT THAT HE'S
18 POINTING TO AN AREA RIGHT BESIDE 100 T.S. MARTIN," AND YOU
19 ANSWERED YES?

20 A YES.

21 Q AND SHE ASKED YOU, MS. FRANKLIN ASKED YOU, "AND AT
22 THE TIME THAT YOU SAW THE SHOOTING, YOU WERE, IN FACT, IN
23 106, CORRECT?"

24 A YES.

25 Q AND YOUR ANSWER WAS WHAT?

1 A "YES".

2 Q READ THE WHOLE ANSWER.

3 A "YES, BUT THERE IS LIGHTS ON THE SIDE OF THE HOUSE,
4 ON THE HOUSE."

5 Q OKAY. AND THEN SHE BASICALLY SAID, "I'M SORRY, I'M
6 TALKING ABOUT THE STREET LIGHTS," SO SHE REDIRECTED YOUR
7 ANSWER.

8 A YES.

9 Q YOU TRIED TO TELL HER ABOUT THOSE LIGHTS ON THE SIDE
10 OF THE HOUSE, AND SHE SAID, "NO, NO, NO, I WANT TO TALK
11 ABOUT THE STREET LIGHTS"?

12 A YEAH.

13 Q YOU WERE IN 106, CORRECT?

14 A YES, I WAS.

15 Q NOW, WHEN THE GROUP OF THE FIRST -- THE CAR COMES
16 WITH THE GROUP OF GUYS, YOU SAID THAT ONE OF THE PEOPLE
17 WENT TWO HOUSES DOWN?

18 A YES.

19 Q SO YOU'RE IN 106?

20 A YES.

21 Q TOWARDS EDISON STREET OR TOWARDS [REDACTED] C.D. 'S
22 HOUSE WAS THAT PERSON?

23 A TOWARDS EDISON STREET.

24 Q OKAY. SO 104, 102? THAT PERSON WENT TO 102?

25 A YES, APPROXIMATELY AROUND THAT AREA.

1 Q OKAY. APPROXIMATELY THERE TWO HOUSES DOWN, RIGHT?

2 A YES.

3 Q AND THAT PERSON THAT YOU SAW TWO HOUSES DOWN YOU SAID
4 HAD A BANDANNA ON HIS FACE.

5 A YES, HE DID.

6 Q AND YOU ONLY SAW HIS EYES AND THE BRAIDS?

7 A YES.

8 Q YOU HAVE NEVER SAID THAT THAT PERSON POINTED A GUN IN
9 YOUR FACE?

10 A NO, I HAVEN'T.

11 Q HE WAS TWO HOUSES DOWN.

12 A YES, HE WAS.

13 Q WHEN THE DEFENDANT RETURNED AND WAS STANDING ACROSS
14 THE STREET AS YOU'RE LOOKING DOWN AT HIM, DID YOU EVER
15 SAY -- HAVE YOU EVER SAID THAT THE DEFENDANT IN THE MIDDLE
16 OF THAT STREET HAD A BANDANNA ON HIS FACE?

17 A NO, I DIDN'T.

18 Q HE MIGHT HAVE BEEN WEARING SOMEONE -- SOMEONE -- ON
19 THE REST OF HIS BODY. YOU SAID, "I DON'T KNOW IF HE WAS
20 WEARING ONE," BUT YOU NEVER SAID THE DEFENDANT HAD ONE ON
21 HIS FACE?

22 MS. FRANKLIN: YOUR HONOR, SHE IS --

23 THE COURT: SUSTAINED TO THE FORM OF THE QUESTION.

24 MS. FRANKLIN: COUNSEL IS TESTIFYING.

25

1 BY MS. FENT

2 Q PREVIOUSLY SHE ASKED YOU, "DID YOU SAY THAT HE WAS
3 WEARING ONE?" YOU ANSWERED "I DON'T KNOW"?

4 A YES.

5 Q AND IN THE TRANSCRIPT THAT SHE WENT OVER, YOU SAID,
6 "I DON'T KNOW IF HE WAS WEARING ONE," CORRECT?

7 A YEAH.

8 Q BUT YOU HAVE NEVER SAID, "HAVE YOU EVER SAID THAT HE
9 HAD ONE ON HIS FACE?"

10 A "NOT WHEN HE RETURNED."

11 Q "NOT WHEN HE RETURNED." ON THAT STREET, ACROSS THE
12 STREET, AS YOU LOOK AT HIM?

13 A YES, MA'AM.

14 Q THE TIMES THAT WE'VE TALKED, WHAT IS THE ONLY THING I
15 HAVE ASKED YOU TO SAY?

16 A THE TRUTH.

17 MS. FENT: NO FURTHER QUESTIONS.

18 THE COURT: ANY RECROSS?

19 MS. FRANKLIN: BRIEFLY, YOUR HONOR.

20 RECROSS-EXAMINATION:

21 BY MS. FRANKLIN

22 Q SO YOU'RE SAYING NOW THAT YOU THOUGHT THEY WERE NEW
23 BALANCES, BUT WHEN YOU GAVE YOUR STATEMENT, YOU SAID,
24 "THEY WERE NEW BALANCES."

25 A BECAUSE I DIDN'T KNOW THEY MADE THOSE KIND OF SHOES

1 WITH REFLECTORS ON THEM.

2 Q WITH RESPECT TO THE STREET LIGHT, I MEAN, YOU HAVE
3 NEVER SAID "MOTION DETECTION LIGHT", HAVE YOU? YOU SAID
4 THE LIGHT ON THE SIDE OF THE HOUSE, BUT THAT'S A NEW --
5 THAT'S A NEW WORD FOR YOU, ISN'T IT?

6 A WHAT WORD?

7 Q MOTION DETECTION LIGHT.

8 A NO, IT'S NOT.

9 Q YOU HAD NOT TESTIFIED TO THAT BEFORE.

10 A I DON'T RECALL.

11 Q AND YOU NEVER MENTIONED IT IN YOUR STATEMENTS TO JOBY
12 GRAY, EITHER YOUR FIRST STATEMENT OR YOUR SECOND
13 STATEMENT.

14 A WHAT DID YOU SAY?

15 Q YOU NEVER MENTIONED A MOTION DETECTION LIGHT IN YOUR
16 FIRST STATEMENT TO JOBY GRAY OR YOUR SECOND STATEMENT TO
17 JOBY GRAY.

18 A I DON'T RECALL.

19 Q YOU DON'T RECALL. NO MORE QUESTIONS.

20 (PAUSE).

21 ONE MORE FURTHER QUESTION, YOUR HONOR.

22 HOW MANY TIMES HAVE YOU MET WITH THE SOLICITOR'S
23 OFFICE?

24 A MA'AM?

25 Q HOW MANY TIMES HAVE YOU MET WITH THE SOLICITOR'S

1 OFFICE?

2 A ABOUT THREE.

3 Q ABOUT THREE TIMES?

4 A I'M NOT SURE.

5 Q WHEN IS THE LAST TIME YOU MET WITH THEM?

6 A TODAY. I MEAN, TODAY.

7 Q TODAY YOU MET WITH THEM?

8 A YEAH.

9 MS. FRANKLIN: NO FURTHER QUESTIONS, YOUR HONOR.

10 THE COURT: ANYTHING FURTHER, MS. FENT?

11 MS. FENT: NO, YOUR HONOR.

12 THE COURT: ALL RIGHT. YOU MAY STEP DOWN.

13 THE BAILIFF: WATCH YOUR STEP.

14 THE COURT: ALL RIGHT.

15 MS. CAMPBELL: MAY IT PLEASE THE COURT. THE STATE
16 CALLS OFFICER OREE.

17 THE BAILIFF: PLACE YOUR LEFT HAND ON THE BIBLE,
18 RAISE YOUR RIGHT HAND, FACE THE CLERK.

19 DANA OREE, AFTER BEING DULY SWORN,
20 TESTIFIED AS FOLLOWS:

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

23 THE WITNESS: MY NAME IS SERGEANT DANA OREE.

24 THE COURT: YOU WILL NEED TO GET CLOSE TO THE
25 MICROPHONE, PLEASE, AND SPEAK INTO THE MICROPHONE. YOU

1 MAY NEED TO PULL IT DOWN JUST A TAD.

2 THE WITNESS: SERGEANT DANA OREE.

3 DIRECT EXAMINATION:

4 BY MS. CAMPBELL

5 Q SERGEANT OREE, WHERE ARE YOU EMPLOYED?

6 A COLUMBIA POLICE DEPARTMENT.

7 Q AND WHAT DO YOU DO THERE, SIR?

8 A I AM CURRENTLY A SUPERVISOR IN THE INVESTIGATIONS
9 DIVISION.

10 Q I WANT TO TURN YOUR ATTENTION BACK IN THE FALL OF
11 2003. WERE YOU WORKING WITH A GANG UNIT AT THAT POINT?

12 A YES, MA'AM, I WAS.

13 Q AND WHAT WAS THE PURPOSE OF THAT UNIT? WHAT KIND OF
14 INFORMATION WERE YOU TRYING TO GATHER?

15 A WE WERE TRYING TO IDENTIFY SPECIFIC GANGS AND GANG
16 MEMBERS IN AN EFFORT TO IDENTIFY POTENTIAL PROBLEMS OR
17 CONFLICTS IN THE CITY.

18 Q AND ARE YOU FAMILIAR WITH THE TERM "BLOODS"?

19 A YES, MA'AM, I AM.

20 Q AND WHAT IS -- WHEN I SAY THE WORD "BLOOD", WHAT DOES
21 THAT MEAN?

22 A IT IS A NAME OF A SPECIFIC GROUP, A GANG.

23 Q AND ARE YOU FAMILIAR WITH THE TERM FOLK OR FOLK
24 NATION?

25 A YES, MA'AM.

1 Q AND WHAT IS THAT?

2 A IT ALSO IS A SPECIFIC GANG.

3 Q AND THE INITIALS I.G.D., WHAT DOES THAT MEAN?

4 A IT'S INSANE GANGSTER DISCIPLES. IT IS A SET OF THE
5 FOLK NATION.

6 Q I WANT TO TURN YOUR ATTENTION TO SEPTEMBER OF 2003.
7 DID YOU HAVE AN OCCASION TO GO TO C.A. JOHNSON HIGH SCHOOL
8 AND TO MEET WITH CHRIS LIVERMAN?

9 A YES, MA'AM, I DID.

10 Q AND WAS YOUR PURPOSE TO GATHER INFORMATION?

11 A YES, MA'AM.

12 Q AND WHEN YOU MET WITH MR. LIVERMAN, DID HE INDICATE
13 THAT HE HAD A NICKNAME?

14 A YES, MA'AM, HE DID.

15 Q WHAT DID MR. LIVERMAN TELL YOU HIS NICKNAME WAS?

16 A BABY JESUS.

17 Q DID YOU ALSO ASK HIM ABOUT ANY AFFILIATION HE MAY
18 HAVE WITH A GANG OR BEING IN A GANG?

19 A YES, MA'AM.

20 Q AND DID HE INDICATE TO YOU WHETHER OR NOT HE WAS IN A
21 GANG?

22 A YES, MA'AM, HE DID.

23 Q AND WHAT GANG DID HE SAY HE WAS IN?

24 A HE SAID HE WAS A MEMBER OF THE I.G.D. FOLK NATION.

25 Q THE I.G.D. FOLK NATION?

1 A YES, MA'AM.

2 Q DID HE GIVE YOU ANY OTHER INFORMATION ABOUT HIS
3 RANKING AND THE WORKINGS OF THAT GROUP?

4 A YES, MA'AM, HE DID.

5 Q AND CAN YOU TELL THE JURY WHAT THAT IS?

6 A HE TOLD ME HE WAS A SET KING OF THE I.G.D. OR FOLK
7 NATION IN COLUMBIA AND CHARLESTON AT THAT TIME.

8 Q IN COLUMBIA AND CHARLESTON?

9 A YES, MA'AM.

10 Q AND WHAT IS A SET KING?

11 A IT IS THE LEADER OF A SPECIFIC -- OF THAT SPECIFIC
12 GROUP OF GANG, INSIDE THE SUBDIVISION OF THE GANG.

13 Q OKAY. AND THE GANG OVERALL IS CALLED FOLK, AND
14 THAT'S NATIONWIDE?

15 A YES, MA'AM.

16 Q AND THEN WHEN WE TALK ABOUT A SET, EXPLAIN THAT. IS
17 THAT THE WHOLE GROUP OR A CERTAIN PART OF THE FOLK NATION?

18 A IT IS A DIVISION OF THE FOLK NATION, BASICALLY BY
19 TERRITORY AND/OR CITIES AND AREAS.

20 Q AND WHERE DID HE INDICATE HIS TERRITORY WAS?

21 A COLUMBIA AND CHARLESTON.

22 Q DID HE ALSO, WITHOUT GOING INTO SPECIFICS, GIVE YOU
23 SOME INFORMATION ABOUT RANKINGS IN THE GANG?

24 A YES, MA'AM.

25 Q DID HE INDICATE HOW MANY MEMBERS WERE -- HOW MANY

1 GANG MEMBERS WERE IN HIS SET?

2 A YES, MA'AM, HE DID.

3 Q AND HOW MANY WAS THAT?

4 A HE SAID THERE WERE 356 IN COLUMBIA AND OVER 1,000 IN
5 CHARLESTON THAT WERE -- SPECIFICALLY REPORTED TO HIM.

6 Q DID HE ALSO GIVE YOU, WITHOUT GOING INTO DETAILS, THE
7 ORGANIZATION OF THE GROUP?

8 A YES, MA'AM.

9 Q AND DID HE INDICATE WHERE HIS TERRITORY RAN IN
10 COLUMBIA?

11 A YES, MA'AM.

12 Q AND WHERE WAS HIS TERRITORY RUNNING TO?

13 A HE SAID THE RAILROAD TRACKS THAT RAN DOWN HARDEN
14 STREET MARKED THE DIVISION IN THE TERRITORY, AND HIS WAS
15 ON THE NORTH SIDE.

16 Q DID HE GIVE YOU INFORMATION AS TO HOW MEMBERS WHO
17 VIOLATED RULES WERE PUNISHED?

18 A YES, MA'AM, HE DID.

19 Q AND HOW WERE THEY PUNISHED?

20 A THEY WERE BEATEN BY OTHER MEMBERS OF THE GANG FOR SIX
21 MINUTES WHEN THEY MET.

22 Q AND HE ALSO GAVE YOU OTHER DETAILS ABOUT THE BOOK OF
23 KNOWLEDGE?

24 A YES, MA'AM, NOT SPECIFIC INFORMATION ABOUT HIS BOOK
25 OF KNOWLEDGE BUT YES, MA'AM.

1 Q CHRIS LIVERMAN, DID YOU ALSO NOTE THAT AT THAT POINT
2 IN AUGUST -- EXCUSE ME, IN SEPTEMBER OF 2003, DID HE HAVE
3 ANY TATTOOS OR SCARS THAT YOU NOTED ON YOUR REPORT?

4 A YES, MA'AM.

5 Q AND WHAT TATTOOS DID YOU NOTE THAT HE HAD AT THAT
6 TIME?

7 A AT THAT TIME HE HAD THE LETTERS C.T.C. ON HIS LEFT
8 ARM AND A STAR OF DAVID TATTOOED ON HIS RIGHT LEG.

9 Q AND HE GAVE YOU SOME OTHER INFORMATION, BUT THE GIST
10 OF IT WAS CHRIS -- EXCUSE ME, THE PERSON YOU KNOW AS CHRIS
11 LIVERMAN, BABY JESUS, DO YOU SEE HIM HERE IN THE
12 COURTROOM?

13 A YES, MA'AM, I DO.

14 Q AND CAN YOU IDENTIFY HIM FOR THE JURY?

15 A YES, MA'AM. HE'S THE GENTLEMAN THERE WITH THE BLUE
16 SHIRT AND THE BLAZER ON AND THE WHITE SHIRT.

17 Q IS THAT THE PERSON WHO TOLD YOU HE WAS A SET KING FOR
18 THE FOLK?

19 A YES, MA'AM.

20 MS. CAMPBELL: THAT'S ALL I HAVE.

21 THE COURT: ALL RIGHT. CROSS-EXAMINE?

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, INVESTIGATOR.

3 A GOOD MORNING.

4 Q INVESTIGATOR OREE, HOW -- WHAT DAY DID YOU HAVE THIS
5 CONVERSATION?

6 A IT WAS LATE AUGUST, SEPTEMBER OF 2003.

7 Q AUGUST TO SEPTEMBER OF 2003. IT WAS -- WHO WAS
8 PRESENT FOR THAT CONVERSATION?

9 A MYSELF AND MR. LIVERMAN AND OFFICER HILTON, I'M
10 SORRY.

11 Q OFFICER HILTON?

12 A YES, SIR.

13 Q OKAY. AUGUST AND SEPTEMBER 2003, YOU WERE WORKING IN
14 THE -- YOU SAID THE GANG UNIT?

15 A YES, SIR, THE GANG INTELLIGENCE UNIT.

16 Q OKAY, GANG INTELLIGENCE UNIT. THAT'S UNDER THE
17 COLUMBIA POLICE DEPARTMENT?

18 A YES, SIR.

19 Q OKAY. AND HOW LONG HAD YOU BEEN WORKING IN THE GANG
20 INTELLIGENCE UNIT?

21 A WE HAD RECENTLY STARTED THE UNIT, I BELIEVE IN
22 FEBRUARY OF THAT YEAR.

23 Q SO FEBRUARY OF 2003, SO THIS WAS SEVEN MONTHS AFTER
24 YOU HAD STARTED -- BEGUN?

25 A YES, SIR, APPROXIMATELY.

1 Q OKAY. SEVEN MONTHS. OKAY. AND NOW, THIS GANG
2 INTELLIGENCE UNIT, THE FOCUS IS SPECIFICALLY ON GANGS?

3 A YES, SIR.

4 Q OKAY. AND WE'RE TALKING GANGS, WE'RE TALKING WHAT,
5 MAYBE THREE, THREE SPECIFIC MAJOR GROUPS OF GANGS IN
6 COLUMBIA?

7 A YES, SIR.

8 Q ABOUT THREE?

9 A YES, SIR, ABOUT THREE MAIN.

10 Q OKAY. SO THREE MAIN, AND FOLK NATION WOULD BE ONE OF
11 THEM?

12 A YES, SIR, THAT'S CORRECT.

13 Q NOW, YOU WORK THERE FULL-TIME?

14 A YES, SIR, I DO.

15 Q OKAY. AND YOUR JOB IS TO FOCUS ON GANGS?

16 A YES, SIR.

17 Q THAT'S ALL YOU DID?

18 A YES, SIR.

19 Q OKAY. ANY OTHER PEOPLE IN THE GANG INTELLIGENCE
20 UNIT?

21 A AT THAT TIME I HAD A PARTNER.

22 Q YOU HAD A PARTNER, SO THERE WAS ANOTHER INDIVIDUAL.
23 WHAT WAS HIS NAME?

24 A HER NAME WAS INVESTIGATOR TYLER.

25 Q INVESTIGATOR TYLER?

1 A TYLER.

2 Q AND SHE WAS FOCUSING ON GANG INTELLIGENCE?

3 A YES, SIR.

4 Q GANG INTELLIGENCE?

5 A YES, SIR.

6 Q FULL-TIME?

7 A YES, SIR.

8 Q OKAY. YOU TESTIFIED THAT, FIRST OF ALL, YOU SAW
9 THESE TATTOOS ON MR. LIVERMAN?

10 A IF YOU WILL LET ME CHECK MY NOTES, PLEASE.

11 Q OKAY.

12 A I DON'T INDICATE IN MY NOTES WHETHER I ACTUALLY SAW
13 THE TATTOOS.

14 Q SO YOU DON'T KNOW IF YOU SAW THE TATTOOS OR NOT?

15 A I DON'T RECALL.

16 Q SO WHEN YOU SAID THAT CHRISTOPHER LIVERMAN HAD A
17 TATTOO ON HIS LEG, YOU WEREN'T SPEAKING OUT OF PERSONAL
18 KNOWLEDGE?

19 A NO, SIR.

20 Q YOU'RE JUST ASSUMING THAT'S CORRECT?

21 A I WAS SPEAKING OUT OF MY NOTES, YES, SIR.

22 Q OKAY. ALL RIGHT. NOW, MR. LIVERMAN, YOU JUST
23 TESTIFIED HE TOLD YOU -- LET'S SEE. OKAY. HE TOLD YOU
24 THAT HE'S IN CHARGE OF PEOPLE IN COLUMBIA AND CHARLESTON?

25 A YES, SIR.

1 Q ACROSS THE STATE?

2 A YES, SIR; THAT'S CORRECT.

3 Q ALL RIGHT. HE'S CHARGED -- LET'S SEE. LET ME GET
4 THIS RIGHT: 356 INDIVIDUALS IN COLUMBIA. THAT'S WHAT HE
5 TOLD YOU.

6 A YES, SIR; THAT'S CORRECT.

7 Q AND 1,000 -- I'M SORRY, OVER 1,000, OVER 1,000 PEOPLE
8 IN CHARLESTON?

9 A YES, SIR; THAT'S CORRECT.

10 Q IS THAT WHAT HE SAID? OKAY. SO YOU SAT DOWN WITH
11 MR. LIVERMAN, AND YOUR TESTIMONY IS HE SAID HE WAS -- AT
12 LEAST OVER 1,356 PEOPLE THROUGHOUT THE STATE?

13 A YES, SIR.

14 Q GANG MEMBERS.

15 A YES, SIR, THAT'S WHAT HE TOLD ME.

16 Q ALL RIGHT. AND, IN FACT, YOU TOOK NOTES THAT HE SAID
17 HE TOOK ORDERS FROM SOMEONE IN CALIFORNIA?

18 A THAT'S CORRECT.

19 Q ALL THE WAY OUT IN CALIFORNIA?

20 A THAT'S WHAT HE TOLD ME.

21 Q SOMEBODY HE CALLS HIS BROTHER, PERHAPS?

22 A PERHAPS. ~~HE DIDN'T IDENTIFY THAT PERSON.~~

23 Q OKAY. IN THE SEVEN MONTHS BEFORE THIS CONVERSATION,
24 HAVE YOU EVER HEARD THIS INFORMATION THAT HE WAS IN CHARGE
25 OF 1,356 PEOPLE THROUGHOUT THE STATE, OR WAS THAT NEWS?

1 A ~~THAT'S THE FIRST TIME I HEARD IT.~~

2 Q THAT'S NEW, OKAY. SO INVESTIGATOR TYLER NEVER
3 REPORTED THAT SHE HEARD THAT SAME INFORMATION?

4 A I DON'T RECALL IF SHE HEARD IT OR NOT.

5 Q BEG THE COURT'S INDULGENCE.

6 (PAUSE).

7 THESE CLAIMS THAT CHRIS LIVERMAN IS -- WELL, LET ME
8 ASK YOU ONE OTHER THING: WHEN YOU'RE TALKING TO YOUTH, DO
9 SOME PEOPLE THAT YOU TALK TO, DO THEY TEND TO ENHANCE
10 THEIR STATUS?

11 A I'M SORRY, SIR?

12 Q DO THEY TEND TO ENHANCE THEIR STATUS TO BOLSTER THE
13 REAL RANK?

14 A I --

15 Q YOU NEVER COME ACROSS THAT?

16 A I ASSUME IT HAPPENS.

17 Q YOU ASSUME IT HAPPENS?

18 A YEAH.

19 Q DO YOU EVER COME ACROSS IT?

20 A NOT SPECIFICALLY.

21 Q OKAY. BUT YOU WOULD AGREE THAT, SLIGHTLY, THAT SOME
22 INDIVIDUALS WOULD INFLATE THEIR POSITION?

23 A I MEAN, I GUESS THEY COULD.

24 Q ALL RIGHT. WELL, SINCE YOU APPARENTLY HAD THIS
25 CONVERSATION AND MR. LIVERMAN SAID HE WAS IN CHARGE OF AT

1 LEAST 1,356 GANG MEMBERS IN THIS STATE AND ANSWERED TO
2 CALIFORNIA, HAVE YOU BEEN ABLE TO VERIFY THIS CLAIM?

3 A I HAVE NOT. I'M NO LONGER IN THE UNIT.

4 MR. SHARDT: I HAVE NO FURTHER QUESTIONS FOR THIS
5 WITNESS.

6 THANK YOU.

7 THE COURT: ALL RIGHT.

8 REDIRECT EXAMINATION:

9 BY MS. CAMPBELL

10 Q JUST ONE QUESTION.

11 WHEN DID YOU -- HOW LONG WERE YOU THERE?

12 A LESS THAN A YEAR.

13 Q OKAY. AND YOU GOT OUT SHORTLY AFTER THIS?

14 A YES, MA'AM.

15 MS. CAMPBELL: OKAY.

16 THE COURT: ANYTHING FURTHER, MR. SCHARDT?

17 MR. SHARDT: NO FURTHER QUESTIONS.

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

19 THE BAILIFF: WATCH YOUR STEP.

20 MS. CAMPBELL: YOUR HONOR, MAY HE BE EXCUSED?

21 THE COURT: ANY OBJECTION?

22 MR. SHARDT: NO.

23 THE COURT: THE WITNESS IS EXCUSED.

24 MS. CAMPBELL: THE STATE CALLS INVESTIGATOR PEGRAM.

25 YOUR HONOR, MAY WE APPROACH?

1 THE COURT: ALL RIGHT.

2 (WHEREUPON, A BENCH CONFERENCE WAS HELD IN THE
3 PRESENCE, BUT NOT WITHIN THE HEARING, OF THE JURY).

4 WILLIAM PEGRAM, AFTER BEING DULY
5 SWORN, TESTIFIED AS FOLLOWS:

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

8 THE WITNESS: GOOD AFTERNOON. WILLIAM PEGRAM.

9 DIRECT EXAMINATION:

10 BY MS. CAMPBELL

11 Q WHERE ARE YOU EMPLOYED?

12 A COLUMBIA POLICE DEPARTMENT.

13 Q AND I WANT TO TURN YOUR ATTENTION TO A SPECIFIC DATE,
14 JUST ANSWER MY QUESTION SPECIFICALLY, IF YOU WOULD, TO
15 NOVEMBER 24TH, 2003.

16 A YES, MA'AM.

17 Q DID YOU HAVE AN OCCASION TO HAVE A CONVERSATION WITH
18 CHRIS LIVERMAN?

19 A YES, MA'AM.

20 Q AND DURING THE COURSE OF THAT CONVERSATION, DID YOU
21 ASK HIM THE QUESTION, "ARE YOU AFFILIATED WITH THE I.G.D.?"

22 A YES, MA'AM.

23 Q AND WHAT WAS HIS RESPONSE WHEN YOU ASKED HIM ABOUT
24 I.G.D.?

25 A "YES".

1 Q AND WHAT DOES I.G.D. STAND FOR?

2 A THE INSANE GANGSTER DISCIPLES.

3 Q AND WHAT BIGGER GANG IS THAT INSANE GANGSTER
4 DISCIPLES, WHAT IS THAT PART OF?

5 A THE FOLK NATION.

6 Q DID YOU THEN ASK HIM WHAT HIS RANK WAS?

7 A I DID.

8 Q AND WHAT WAS HIS RESPONSE?

9 A SET KING TWO, ONE STRIKE.

10 Q AND THE PERSON THAT YOU TALKED TO BACK ON
11 NOVEMBER 24TH, 2003, DO YOU SEE HIM IN THE COURTROOM?

12 A YES, MA'AM.

13 Q AND CAN YOU POINT HIM OUT FOR THE JURY?

14 A THE GENTLEMAN IN THE BLUE JACKET, THE WHITE SHIRT.

15 MS. CAMPBELL: YOUR HONOR, MAY THE RECORD REFLECT
16 THAT HE HAS IDENTIFIED THE DEFENDANT?

17 THE COURT: ALL RIGHT.

18 CROSS-EXAMINE?

19 MR. SHARDT: MAY IT PLEASE THE COURT, YOUR HONOR.

20 THE COURT: ALL RIGHT.

21 CROSS-EXAMINATION:

22 BY MR. SHARDT

23 Q AFTER MR. LIVERMAN MADE THAT STATEMENT, DID YOU TAKE
24 ANY STEPS TO VERIFY ANY OF IT?

25 A NO.

1 MR. SHARDT: I HAVE NO FURTHER QUESTIONS FOR THIS
2 WITNESS, YOUR HONOR.

3 THE COURT: ANY REDIRECT?

4 MS. CAMPBELL: NO, SIR.

5 THE COURT: ALL RIGHT, SIR. YOU MAY STEP DOWN.

6 THE WITNESS: THANK YOU.

7 MS. CAMPBELL: YOUR HONOR, MAY WE APPROACH?

8 THE COURT: SURE.

9 (WHEREUPON, A BENCH CONFERENCE WAS HELD IN THE
10 PRESENCE, BUT NOT WITHIN THE HEARING, OF THE JURY).

11 THE COURT: ALL RIGHT. MR. FOREMAN, LADIES AND
12 GENTLEMEN, BEFORE WE STARTED THIS MORNING, I HAD MET WITH
13 THE ATTORNEYS AND SORT OF THROUGH A JOINT REQUEST, THEY
14 ASKED ME THAT WE BREAK AT LUNCH TODAY SO THAT THEY COULD
15 GET READY, AND WE COULD ALL HAVE A WEEKEND AND PREPARE FOR
16 NEXT WEEK.

17 WE'RE AT A PRETTY GOOD BREAKING POINT RIGHT NOW.
18 WE'RE GOING TO BREAK FOR THE WEEK. IT'S BEEN A LONG WEEK.
19 I APPRECIATE YOUR BEING HERE. YOU HAVE BEEN INSTRUCTED TO
20 BE HERE.

21 LET ME AGAIN ORDER YOU ON THE RECORD NOT TO READ OR
22 WATCH OR LISTEN OR TO DISCUSS WITH ANYONE ANY NEWS REPORTS
23 ABOUT THIS CASE OR ANYTHING ELSE.

24 WE WILL RESUME AT 9:30 ON MONDAY MORNING IN THIS
25 COURTROOM, SO WHEN YOU COME BACK FROM MONDAY, GO STRAIGHT

1 TO YOUR JURY ROOM. WE SHOULD BE IN A POSITION TO START
2 IMMEDIATELY AT 9:30. HAVE A GOOD WEEKEND, AND WE'LL SEE
3 YOU MONDAY MORNING AT 9:30.

4 EVERYONE STAY SEATED WHILE THE JURY IS EXCUSED.

5 I DO NEED TO SEE JUROR NUMBER 161. IF YOU WILL JUST
6 WAIT FOR ME OUT IN THE BACK HALL, PLEASE.

7 (WHEREUPON, THE JURY LEFT OPEN COURT AT APPROXIMATELY
8 12:26 P.M.)

9 THE COURT: ALL RIGHT. WE'LL STAND IN RECESS UNTIL
10 9:30 ON MONDAY.

11 IF I COULD SEE COUNSEL UP HERE FOR A MINUTE, PLEASE.

12 (WHEREUPON, THERE WAS A BENCH CONFERENCE.)

13 (WHEREUPON, A SHORT BREAK WAS TAKEN.)

14 (WHEREUPON, COURT'S EXHIBIT NO. 2 WAS MARKED FOR
15 IDENTIFICATION ONLY.)

16 THE COURT: ALL RIGHT. ANY MATTERS WE NEED TO ATTEND
17 TO?

18 MS. FRANKLIN: YES, YOUR HONOR. MR. ROBERT WALKER, A
19 GANG EXPERT WE HIRED, WE WOULD JUST ASK THE COURT
20 PERMISSION TO BE ALLOWED TO SIT IN ON THE TESTIMONY
21 REGARDING GANGS.

22 THE COURT: ANY EXPERT IS EXEMPT FROM THE
23 SEQUESTRATION ORDER.

24 MS. FRANKLIN: ALL RIGHT. THANK YOU, YOUR HONOR.

25 THE COURT: ANYTHING ELSE?

1 MR. SHARDT: YOUR HONOR, WE DO HAVE ONE OTHER MATTER.
2 WE HAVE UPDATED OUR WITNESS LIST, AND WE'VE ADDED SIX
3 NAMES TO THE LIST.

4 THE COURT: THAT WERE NOT VOIR DIRE WHEN WE SELECTED
5 THE JURY?

6 MR. SHARDT: YES, YOUR HONOR.

7 THE COURT: COULD THAT NOT CREATE SOME POTENTIAL
8 PROBLEMS?

9 MR. SHARDT: IT COULD, YOUR HONOR. I BRING IT TO THE
10 COURT'S ATTENTION NOW. I'VE ALREADY BROUGHT IT TO THE
11 SOLICITOR'S ATTENTION EARLIER THIS MORNING. I DO BELIEVE
12 ONE OF THE INDIVIDUALS ON OUR LIST IS SOMEONE WHO IS ON
13 THE STATE'S LIST.

14 MS. FENT: INVESTIGATOR PAUL MEAD.

15 MR. SHARDT: AND THE OTHER INDIVIDUALS, THEY WOULD BE
16 ADDING MINOR POINTS.

17 THE COURT: HAVE YOU GOT THEM INDICATED SOMEWHERE OR
18 ANOTHER SO THAT I KNOW WHO HAS NOT BEEN -- THAT THE JURY
19 HAS NOT BEEN ASKED ABOUT?

20 MR. SHARDT: YES, YOUR HONOR. MAY I APPROACH?

21 THE COURT: YES.

22 DO YOU KNOW ABOUT HIS FIRST NAME?

23 MR. SHARDT: OUR INVESTIGATOR'S COMPUTER WAS DOWN
24 THIS MORNING, SO AT THIS TIME I DON'T. I KNOW HE'S A
25 LIEUTENANT WITH ALVIN S. GLENN DETENTION CENTER FROM MY

1 KNOWLEDGE.

2 THE COURT: ALL RIGHT. SOLICITOR?

3 MR. GIESE: YOUR HONOR, I'D LIKE TO BE HEARD ON THIS
4 ISSUE. WE NEED A PROFFER AS TO WHAT THESE MINOR POINTS
5 ARE THE DEFENSE ATTORNEY TALKED ABOUT. I MEAN, WHAT'S A
6 MINOR POINT IN THIS CASE?

7 WE'D LOVE TO KNOW EXACTLY WHAT THESE FIVE OR SIX
8 WITNESSES THAT THEY'VE ADDED TO THEIR WITNESS LIST MONDAY,
9 A WEEK AFTER TRIAL STARTED, PRIOR TO VOIR DIRE.

10 THE COURT: MR. SCHARDT?

11 MR. SHARDT: YOUR HONOR, IF WE -- WITNESS NUMBER 46,
12 LIEUTENANT MONTJOY, INVESTIGATOR GRAY WHEN HE TOOK THE
13 STAND GOT INTO THE TAPING OF TELEPHONE CALLS A LITTLE BIT
14 FROM THE JAIL.

15 WE FEEL THAT MAY HAVE BEEN UNCLEAR, AND WE WOULD BE
16 CALLING LIEUTENANT MONTJOY TO STRAIGHTEN OUT AND CLARIFY
17 ANY ISSUES REGARDING THE TAPING OF PHONE CALLS FROM THE
18 JAIL. WE DO BELIEVE THAT HE WOULD BE THE APPROPRIATE
19 PERSON TO DO THAT.

20 MARY LOU TAYLOR, STEPHEN FINKELSTEIN AND VANESSA
21 HIERS, THEY ARE ALL POTENTIAL WITNESSES THAT WOULD
22 POTENTIALLY SAY THE SAME THING. AT THIS POINT, WE ARE
23 STILL SORTING OUT WHO WOULD BE THE MOST APPROPRIATE
24 WITNESS TO CALL.

25 THE STATE HAS BEEN -- IT RELATES TO A REPORT THAT THE

1 STATE HAS BEEN IN POSSESSION OF WITH DR. BESSELLIEU WHO
2 WAS ON OUR WITNESS LIST. THESE INDIVIDUALS ALSO SIGNED
3 OFF ON THE REPORT.

4 THEY DID -- THEY TALK ABOUT PRIOR STATEMENTS MADE BY
5 ONE OF THE STATE'S WITNESSES, DIEGO THOMPSON, AND YOUR
6 HONOR, WE WOULD BE CALLING ONE OF THEM. AT THIS POINT OUT
7 OF AN ABUNDANCE OF CAUTION, WE PUT ALL OF THEM ON THE
8 LIST, BUT WE'RE UNSURE EXACTLY WHICH ONE WOULD BE THE BEST
9 ONE TO CALL, ASSUMING DR. BESSELLIEU WHO IS ALREADY ON OUR
10 LIST IS NOT THE APPROPRIATE PERSON TO CALL IN THIS MATTER.

11 INVESTIGATOR PAUL MEAD AND LISSA DAVIS, THEY BOTH --
12 AGAIN, THEY ARE DUPLICATE WITNESSES IN THAT THEY WOULD BE
13 POTENTIALLY SAYING THE SAME THING, AND WE WOULD JUST BE
14 DETERMINING WHICH ONE WOULD BE BEST. THAT IS SIMPLY TO
15 ESTABLISH -- I BELIEVE ON THE STAND INVESTIGATOR GRAY HAD
16 INDICATED HE WENT TO SURREY STREET TO PICK UP DIEGO
17 THOMPSON.

18 IT WAS UNCLEAR TO US WHETHER DIEGO THOMPSON'S ACTUAL
19 STREET ADDRESS CAME OUT IN THAT TESTIMONY, AND WE WOULD
20 JUST BE SEEKING TO INTRODUCE DIEGO THOMPSON'S ACTUAL
21 STREET ADDRESS ON SURREY STREET OR WHERE DIEGO THOMPSON'S
22 FAMILY WAS RESIDING ON SURREY STREET AS OPPOSED TO JUST
23 LIVING ON THAT STREET.

24 THE COURT: I WILL VOIR DIRE THE JURY ABOUT THESE SIX
25 WITNESSES. IF THERE'S A POSITIVE RESPONSE FROM ANY JUROR,

1 THEN WE'VE GOT -- I'VE GOT SOME PROBLEMS. WE ALL HAVE
2 SOME PROBLEMS, AND I'M NOT SURE THAT ALL THESE WITNESSES
3 HAVE TESTIFIED.

4 MR. SHARDT: THAT'S ALL RIGHT.

5 THE COURT: ALL RIGHT. ANYTHING FROM THE STATE
6 BEFORE WE CONTINUE?

7 MR. GIESE: NO, YOUR HONOR.

8 THE COURT: ALL RIGHT. BRING THE JURY IN, PLEASE.

9 (WHEREUPON, THE JURY CAME INTO OPEN COURT AT
10 APPROXIMATELY 9:48 A.M.)

11 THE BAILIFF: THE JURY IS SEATED, YOUR HONOR.

12 THE COURT: ALL RIGHT. MR. FOREMAN, LADIES AND
13 GENTLEMEN, I HOPE YOU HAD A GOOD WEEKEND. WE ARE ABOUT
14 READY TO PROCEED WITH THE TRIAL.

15 BEFORE WE DO THAT, IT'S BEEN BROUGHT TO THE COURT'S
16 ATTENTION THAT THERE MAY BE A FEW OTHER POTENTIAL
17 WITNESSES. IF YOU WILL THINK BACK TO LAST MONDAY WHEN YOU
18 WERE SELECTED IN THE CASE, I WENT OVER A LONG LIST OF
19 POTENTIAL WITNESSES AND ASKED WHETHER ANYONE WAS RELATED
20 OR HAD ANY TYPE OF RELATIONSHIP. I'M GOING TO ASK THESE
21 SAME QUESTIONS ABOUT THESE OTHER POTENTIAL WITNESSES, AND
22 IF YOU WILL SIMPLY RESPOND.

23 OTHER POTENTIAL WITNESSES ARE LIEUTENANT MONTJOY,
24 MARY LOU TAYLOR, STEVEN FINKELSTEIN,
25 F-I-N-K-E-L-S-T-E-I-N, VANESSA GALVARINO HIERS, H-I-E-R-S,

1 LISSA DAVIS. THOSE ARE POTENTIAL OTHER WITNESSES IN THIS
2 CASE.

3 IF ANYONE ON THIS JURY IS RELATED BY BLOOD OR
4 CONNECTED BY MARRIAGE TO ANY OF THOSE POTENTIAL WITNESSES,
5 WOULD YOU RAISE YOUR HAND FOR ME PLEASE?

6 (THERE WAS NO RESPONSE.)

7 IF ANY MEMBER OF THE JURY HAS ANY OTHER TYPE OF
8 PERSONAL, BUSINESS, OR SOCIAL RELATIONSHIP WITH ANY OF
9 THOSE WITNESSES, AGAIN KEEPING IN MIND HOW I DEFINED THOSE
10 TERMS LAST MONDAY, ANY PERSONAL, BUSINESS, OR SOCIAL
11 RELATIONSHIP WITH ANY OF THESE FOLKS, PLEASE RAISE YOUR
12 HAND.

13 (THERE WAS NO RESPONSE.)

14 IF ANY OF THESE WITNESSES WERE CALLED AS WITNESSES IN
15 THIS CASE, WOULD IT AFFECT YOUR ABILITY TO BE A FAIR AND
16 IMPARTIAL JUROR IN THIS CASE? IF SO, WOULD YOU PLEASE
17 RAISE YOUR HAND.

18 (THERE WAS NO RESPONSE.)

19 ALL RIGHT. HAVING RECEIVED NO RESPONSE FROM ANY
20 JUROR, WE WILL CONTINUE.

21 SOLICITOR, CALL YOUR NEXT WITNESS.

22 MS. CAMPBELL: MAY IT PLEASE THE COURT. THE STATE
23 CALLS MARY FRANCIS O'GRADY-WATTS.

24 MARY FRANCES O'GRADY-WATTS, AFTER
25 BEING DULY SWORN, TESTIFIED AS FOLLOWS:

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

3 THE WITNESS: MARY FRANCES O'GRADY-WATTS.

4 DIRECT EXAMINATION:

5 BY MS. CAMPBELL

6 Q INVESTIGATOR WATTS, WHERE ARE YOU EMPLOYED?

7 A CURRENTLY WITH THE AIKEN COUNTY SHERIFF'S OFFICE,
8 FORENSICS UNIT.

9 Q WITH THE AIKEN COUNTY FORENSICS UNIT?

10 A YES.

11 Q AND HOW LONG HAVE YOU BEEN WORKING IN AIKEN?

12 A IT WILL BE TWO YEARS IN JANUARY.

13 Q PRIOR TO WORKING IN AIKEN COUNTY, WHERE WERE YOU
14 EMPLOYED?

15 A THE COLUMBIA POLICE DEPARTMENT WITHIN THE CRIME SCENE
16 UNIT.

17 Q AND COULD YOU TELL THIS JURY A LITTLE BIT ABOUT YOUR
18 TRAINING, YOUR EDUCATION, IN THE FIELD OF CRIME SCENE
19 INVESTIGATION?

20 A I HAVE TWO BACHELOR DEGREES FROM THE UNIVERSITY OF
21 SOUTH CAROLINA AND A MASTERS DEGREE FROM TAGERT UNIVERSITY
22 IN ALABAMA. I HAVE NUMEROUS COURSES THAT I'VE TAKEN, BOTH
23 IN THE PRIVATE SECTOR, AND THROUGH THE CRIMINAL JUSTICE
24 ACADEMY DEALING WITH CRIME SCENE, EVERYTHING FROM
25 PROCESSING CRIME SCENES, TO DOCUMENTATION, PHOTOGRAPHY.

1 Q DOES IT INCLUDE FINGERPRINT ANALYSIS?

2 A AND FINGERPRINT ANALYSIS.

3 Q AND THAT'S BOTH IN THE COLLECTION OF FINGERPRINTS, AS
4 WELL AS THE COMPARISON?

5 A CORRECT, DEVELOPMENT AS WELL AS IDENTIFICATION.

6 Q AND IN THAT AREA, HAVE YOU BEEN QUALIFIED BEFORE AS
7 AN EXPERT IN CRIME SCENE INVESTIGATION?

8 A YES, I HAVE.

9 Q INCLUDING FINGERPRINT COMPARISON OR IDENTIFICATION?

10 A YES.

11 MS. CAMPBELL: YOUR HONOR, AT THIS TIME WE WOULD
12 OFFER HER AS AN EXPERT IN CRIME SCENE INVESTIGATION.

13 MS. FRANKLIN: WITHOUT OBJECTION.

14 THE COURT: WITHOUT OBJECTION, THE EXPERT IS FOUND TO
15 BE AN EXPERT IN CRIME SCENE INVESTIGATION.

16 THANK YOU.

17 BY MS. CAMPBELL

18 Q INVESTIGATOR WATTS, YOU WERE NOT INITIALLY INVOLVED
19 IN THE INVESTIGATION OF THIS CASE; IS THAT CORRECT?

20 A CORRECT.

21 Q BUT ON AUGUST 28TH, DID YOU HAVE AN OCCASION TO
22 ATTEND AN AUTOPSY AT RICHLAND MEMORIAL HOSPITAL?

23 A YES, I DID.

24 Q AND WHOSE AUTOPSY WAS THAT?

25 A THAT WOULD HAVE BEEN -- LET ME REFER TO MY NOTES,

1 [REDACTED] C.D. .

2 Q AND WHO ACTUALLY PERFORMED THE AUTOPSY?

3 A DR. CLAY NICHOLS.

4 Q DURING THE COURSE OF THAT -- AND WHAT'S THE PURPOSE
5 OF YOU GOING INTO AN AUTOPSY IN A MURDER CASE?

6 A YOU'RE ACTUALLY DOCUMENTING WHAT ACTUALLY HAPPENED TO
7 THE HUMAN BODY, ANY TYPE OF POTENTIAL DAMAGE, INJURIES,
8 PHOTOGRAPHICALLY, AS WELL AS SOMETIMES WE EVEN SKETCH
9 THEM. A LOT OF TIMES YOU'RE LOOKING TO COLLECT ANYTHING
10 OFF OF THAT BODY. THAT COULD BE HAIRS, FIBERS,
11 BALLISTICS.

12 Q I WANT TO SHOW YOU WHAT'S BEEN MARKED AS STATE'S
13 EXHIBIT 53 AND ASK IF YOU RECOGNIZE THAT.

14 A THIS IS MY HANDWRITING ON MY BAG.

15 Q AND WHAT IS THAT?

16 A THIS IS GOING TO BE FRAGMENTS OF AN UNKNOWN CALIBER
17 ROUND BULLET THAT WAS RETRIEVED FROM [REDACTED] C.D. 'S BODY.

18 MS. CAMPBELL: YOUR HONOR, AT THIS TIME WE WOULD
19 OFFER STATE'S EXHIBIT 53 INTO EVIDENCE.

20 MS. FRANKLIN: WITHOUT OBJECTION.

21 THE COURT: STATE'S WHAT?

22 MS. CAMPBELL: FIFTY-THREE, YOUR HONOR.

23 THE COURT: FIFTY-THREE. WITHOUT OBJECTION 53 IS
24 ADMITTED.

25

1 (WHEREUPON, STATE'S EXHIBIT NO. 53 WAS ADMITTED INTO
2 EVIDENCE.)

3 BY MS. CAMPBELL

4 Q AND ONCE YOU COLLECTED STATE'S 53, WHAT DID YOU DO
5 WITH IT?

6 A YOU BRING IT BACK TO HEADQUARTERS AND LOCK IT INTO
7 EVIDENCE.

8 Q AND DID YOU DO THAT IN THIS CASE?

9 A YES.

10 Q I WANT TO TURN YOUR ATTENTION NOW TO THE FIRST OF
11 OCTOBER OF 2004. AT THE REQUEST OF INVESTIGATORS DID YOU
12 EXAMINE WHAT'S BEEN MARKED AS STATE'S EXHIBIT NUMBER 63?
13 I'LL JUST HOLD IT UP, IF YOU DON'T MIND.

14 A YES.

15 Q AND WHAT WAS THE PURPOSE OF YOU EXAMINING THIS RIFLE
16 AFTER IT HAD BEEN RECOVERED?

17 A THE POTENTIAL FOR PROCESSING IT FOR POTENTIAL LATENTS
18 TO SEE IF THERE WERE ANY LATENT PRINTS OF ANY KIND ON THAT
19 WEAPON.

20 Q AND WHEN YOU'RE TALKING ABOUT LATENT PRINTS, YOU'RE
21 TALKING ABOUT WHAT KIND, FINGERPRINTS?

22 A THESE ARE THE TYPE THAT YOU'RE GOING TO ACTUALLY
23 TRANSFER ONTO AN OBJECT. THEY CAN'T REALLY SEE THEM, BUT
24 WHAT YOU'RE GOING TO DO IS YOU'RE GOING TO TAKE AN ITEM,
25 IN THIS CASE A RIFLE. YOU WILL TAKE IT INTO A LAB. YOU

1 CAN EITHER USE CHEMICALS OR POWDER TO TRY TO BRING OUT THE
2 FINGERPRINT ON THE ITEM.

3 Q AND DURING THE COURSE OF YOUR FORENSIC CAREER, HAVE
4 YOU HAD THE OPPORTUNITY TO EXAMINE HUNDREDS OF ITEMS TO
5 SEE IF IT'S SUITABLE FOR LATENT PRINT COMPARISONS --
6 LATENT FINGERPRINTS?

7 A YES.

8 Q IN THIS CASE I'M GOING TO SHOW YOU WHAT'S BEEN MARKED
9 AS STATE'S EXHIBIT 65, 66, AND 67 AND ASK IF YOU RECOGNIZE
10 THOSE.

11 A THIS IS THE RIFLE IN ITS ORIGINAL STATE WHEN I LOOKED
12 AT IT INITIALLY.

13 Q AND THAT WAS IN OCTOBER AFTER IT HAD BEEN RECOVERED
14 ON OCTOBER 2ND?

15 A CORRECT.

16 MS. CAMPBELL: YOUR HONOR, AT THIS TIME WE WOULD
17 OFFER THESE INTO EVIDENCE.

18 MS. FRANKLIN: I'D LIKE TO TAKE A LOOK AT THEM, YOUR
19 HONOR.

20 (PAUSE).

21 WITHOUT OBJECTION, YOUR HONOR.

22 THE COURT: STATE'S 65, 66, AND 67 ARE ADMITTED.

23 (WHEREUPON, STATE'S EXHIBITS NOS. 65 - 66 WERE
24 ADMITTED INTO EVIDENCE.)

25

1 BY MS. CAMPBELL

2 Q INVESTIGATOR, WILL YOU TELL THIS JURY WHEN YOU GOT
3 THIS GUN, WERE YOU ABLE TO PROCESS IT FOR FINGERPRINTS?

4 A NO. IT HAD BEEN EXPOSED TO THE ELEMENTS. BECAUSE OF
5 THAT EXPOSURE, ITS STATE WAS DETERIORATED, SO YOU'RE NOT
6 GOING TO EASILY DEVELOP ANY TYPE OF LATENTS.

7 Q OKAY. AND IN YOUR EXPERT OPINION, THIS SIMPLY WASN'T
8 SUITABLE FOR YOU TO EVEN TRY TO GET FINGERPRINTS?

9 A NO.

10 Q AND WHY IS THAT? EXPLAIN THAT TO THE JURY.

11 A THIS CASE BECAUSE IT WAS EXPOSED TO ELEMENTS, A LOT
12 OF TIMES MOISTURE, WHAT YOU'RE ACTUALLY GIVING OFF ON YOUR
13 FINGERS AND ON THE BOTTOM OF YOUR FEET IS MOISTURE.
14 THAT'S WHAT WOULD TRANSFER ONTO ANOTHER OBJECT.

15 WELL, WHEN YOU TAKE -- EXPOSE AN OBJECT TO FURTHER
16 MOISTURE, IT BASICALLY NULL AND VOIDS THE POTENTIAL FOR
17 DEVELOPMENT. IT'S NOT GOING TO RETAIN THE DEFINITION.
18 IT'S LIKE MIXING LIQUID IN A LIQUID. IT JUST BASICALLY
19 MELTS INTO ONE ANOTHER.

20 Q AND I SHOW YOU STATE'S EXHIBIT 65. WHAT PART OF THAT
21 RIFLE DOES THAT SHOW?

22 A THIS IS RIGHT -- THIS IS THE BARREL RIGHT BELOW THE
23 SCOPE.

24 Q OKAY. AND STATE'S EXHIBIT NUMBER 66, WHAT DOES THAT
25 SHOW?

1 A THIS IS THE ACTUAL SCOPE RIGHT ABOVE THE TRIGGER
2 MECHANISM.

3 Q AND FINALLY STATE'S EXHIBIT NUMBER 67, WHAT DOES THAT
4 SHOW?

5 A THE ACTUAL STOCK ITSELF.

6 Q AND I NOTICE THAT THERE ARE SOME -- KIND OF GRAY
7 LOOKING AREAS ON THAT. WHAT IS THAT?

8 A IT'S DIRT FROM THE SOIL, ON IT.

9 MS. CAMPBELL: YOUR HONOR, PERMISSION TO PUBLISH?
10 THE COURT: YES.

11 MS. CAMPBELL: THANK YOU.
12 BY MS. CAMPBELL

13 Q I WANT TO TURN YOUR ATTENTION TO OCTOBER 6TH OF 2004.
14 DID YOU HAVE AN OCCASION TO TRANSPORT SOME EVIDENCE TO
15 S.L.E.D.?

16 A YES, I DID.

17 Q AND YOU DIDN'T ACTUALLY TAKE THE GUNSHOT RESIDUE KIT
18 TO S.L.E.D., INVESTIGATOR CURRIE DID?

19 A CORRECT.

20 Q YOU ACTUALLY TOOK WHAT ITEMS TO S.L.E.D. ON OCTOBER
21 6TH?

22 A I TOOK THE RUGER .22 CALIBER RIFLE, FIVE .22 CALIBER
23 UNFIRED ROUNDS, ONE BULLET FRAGMENT, THREE PROJECTILES,
24 TEN .22 CALIBER SHELL CASINGS, AND ONE UNKNOWN CALIBER
25 FRAGMENTED ROUND.

1 Q AND WHAT IS THE PURPOSE OF TAKING THE PROJECTILES, AS
2 WELL AS THE SHELL CASINGS AND THE RIFLE, TO S.L.E.D.?

3 A WITH THESE ITEMS THAT I BASICALLY TOOK TO THE LAB,
4 THEY'RE GOING TO SUBMIT THEM TO THE BALLISTICS LABORATORY
5 ITSELF. WHAT THEY'RE GOING TO TRY TO DO IS BASICALLY
6 MATCH IT TO THE RIFLE ITSELF. BETWEEN ALL OF THESE
7 DIFFERENT THINGS, YOUR ACTUAL EXPERT HOPEFULLY WILL BE
8 ABLE TO TELL YOU A YES OR NO ANSWER AS TO WHETHER THESE
9 ITEMS ARE RELATED.

10 MS. CAMPBELL: THANK YOU, MA'AM. I DON'T HAVE
11 ANYTHING FURTHER.

12 MS. FRANKLIN: THANK YOU, YOUR HONOR. MAY IT PLEASE
13 THE COURT.

14 THE COURT: ALL RIGHT.

15 CROSS-EXAMINATION:

16 BY MS. FRANKLIN

17 Q WHEN YOU RECEIVED THIS RIFLE, YOU ALSO RECEIVED A
18 MAGAZINE THAT WAS IN THE BAG, DID YOU NOT?

19 A THAT'S CORRECT.

20 Q DID YOU EVER CHECK THAT FOR PRINTS?

21 A NO. THEY WERE BOTH ABOUT THE SAME CONDITION. IT'S
22 JUST A MATTER OF WHEN YOU GET TO THAT POINT, THERE'S NOT
23 GOING TO BE ANYTHING YOU CAN DO WITH IT.

24 Q OKAY. SO YOU DID NOT CHECK THE MAGAZINE?

25 A YES, I DID, BUT THERE'S NO -- EVERYTHING IS TOGETHER,

1 SO IT'S ALL IN THE SAME CONDITION.

2 Q RIGHT. BUT I MEAN, THE MAGAZINE WHEN IT WAS
3 RECOVERED --

4 A RIGHT.

5 Q -- YOU KNEW THIS WAS INSIDE OF THE WEAPON, CORRECT?

6 A CORRECT.

7 Q . AND WHEN YOU RECEIVED IT, IT WAS NOT INSIDE THE
8 WEAPON, WAS IT?

9 A YEAH, BUT I MEAN IT -- ONCE YOU'RE EXPOSED, IT'S
10 GOING TO BE IN THE SAME CONDITION.

11 Q AND, I GUESS, THE FOLLOW UP IS YOU DIDN'T CHECK ANY
12 OF THE BULLETS THAT WERE IN THE MAGAZINE, DID YOU?

13 A NO, BECAUSE YOU'RE GOING TO LEAVE THAT UP TO THE
14 BALLISTICS EXPERT ANYWAY.

15 Q AND WHEN YOU RECEIVED THESE ITEMS, YOU DID NOT
16 RECEIVE THE PLASTIC BAG WITH THESE ITEMS, DID YOU?

17 A IT WAS IN A PLASTIC BAG.

18 Q IT WAS IN A PLASTIC BAG. DO YOU KNOW WHETHER IT WAS
19 THE PLASTIC BAG THAT WAS RECOVERED AT THE SCENE?

20 A FROM WHAT I UNDERSTAND, YES.

21 Q AND DID YOU CHECK THAT PLASTIC BAG FOR ANYTHING?

22 A YES. THE PLASTIC BAG IS NOT GOING -- IT'S IN THE
23 SAME CONDITION AS EVERYTHING BEING TOGETHER.

24 Q SO YOU DIDN'T CHECK IT?

25 A NO.

1 Q AND DID YOU ENTER THAT PLASTIC BAG INTO EVIDENCE?

2 A EVERYTHING SHOULD HAVE BEEN IN EVIDENCE TOGETHER.

3 Q OKAY. AND CAN YOU TESTIFY AS TO THE CONDITION OF
4 THAT PLASTIC BAG?

5 A I'D HAVE TO HAVE THE PLASTIC BAG IN FRONT OF ME
6 AGAIN. IT'S -- BASICALLY, IF EVERYTHING WAS TOGETHER,
7 BEING THE GUN BEING IN THE BAG AND THE BAG BEING ATTACHED
8 TO THE ELEMENTS, EVERYTHING IS THE SAME, WHETHER YOU'RE
9 GOING TO BE, IN THIS CASE MOISTURE OR HOW EVER.

10 Q SO EVEN IF YOU HAVE A GUN THAT IS WRAPPED IN A
11 PLASTIC BAG, THEN YOU ASSUME THAT EVERYTHING THAT'S INSIDE
12 THE BAG, AS WELL AS THE BAG, ARE GOING TO BE EQUALLY
13 WEATHERED?

14 A PRETTY MUCH. IT DEPENDS ON HOW WELL THEY'RE WRAPPED
15 AND WHAT THEY ARE ACTUALLY EXPOSED TO. IN THIS CASE,
16 MOISTURE CAN GET INTO A NUMBER OF PLACES. YOU CAN
17 ACTUALLY SEE ON THE RIFLE ITSELF THAT, OBVIOUSLY, THERE'S
18 SOIL ON IT, SO IT COULDN'T HAVE BEEN WRAPPED ALL THAT
19 TIGHT.

20 MS. FRANKLIN: OKAY. NO FURTHER QUESTIONS.

21 THE COURT: ANY REDIRECT?

22 MS. CAMPBELL: NO, SIR. YOUR HONOR, MAY SHE BE
23 EXCUSED?

24 THE COURT: ANY OBJECTION TO THE WITNESS BEING
25 EXCUSED?

1 MS. FRANKLIN: NO OBJECTION.

2 THE COURT: YOU'RE EXCUSED, MA'AM.

3 MS. CAMPBELL: THE STATE CALLS ILA SIMMONS.

4 ILA SIMMONS, AFTER BEING DULY SWORN,
5 TESTIFIED AS FOLLOWS:

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

8 THE WITNESS: MY NAME IS ILA SIMMONS.

9 DIRECT EXAMINATION:

10 BY MS. CAMPBELL

11 Q AGENT SIMMONS, WHERE ARE YOU EMPLOYED?

12 A AT THE SOUTH CAROLINA LAW ENFORCEMENT DIVISION, ALSO
13 KNOWN AS S.L.E.D. IN THE FORENSICS LABORATORY IN THE TRACE
14 EVIDENCE DEPARTMENT.

15 Q AND WHAT IS THE TRACE EVIDENCE DEPARTMENT?

16 A WE ANALYZE GUNSHOT RESIDUE, GUN POWDER. WE DO FIBER
17 COMPARISONS, PAINT COMPARISONS. WE ANALYZE FIBER DEBRIS
18 AND EXPLOSIVES RESIDUE.

19 Q CAN YOU TELL THIS JURY A LITTLE BIT ABOUT YOUR
20 TRAINING IN THE AREA OF TRACE EVIDENCE?

21 A YES. I HAVE A BACHELOR'S DEGREE IN CHEMISTRY. AFTER
22 COMPLETING COLLEGE, I FIRST WORKED AT S.L.E.D. IT WAS MY
23 FIRST PLACE OF EMPLOYMENT. I WENT THROUGH A THREE-YEAR
24 IN-HOUSE PROGRAM IN THE TRAINING OF TRACE EVIDENCE WHERE I
25 WORKED WITH A QUALIFIED TRACE EXAMINER WHO TAUGHT ME HOW

1 TO COLLECT TRACE EVIDENCE, ANALYZE IT USING OUR
2 INSTRUMENTATION.

3 I HAD TO TAKE COMPETENCY EXAMS IN ALL OF THOSE AREAS
4 AND PASS THEM SUCCESSFULLY. I AM A MEMBER OF THE SOUTHERN
5 ASSOCIATION OF FORENSIC SCIENCE. I AM ALSO A MEMBER OF
6 THE F.B.I. GUNSHOT RESIDUE SYMPOSIUM WHERE THE F.B.I.
7 PICKS NUMEROUS GUNSHOT ANALYSTS FROM AROUND THE COUNTRY
8 AND BRINGS THEM IN TO SET THE STANDARDS AND PRACTICES OF
9 GUNSHOT RESIDUE.

10 Q OKAY. HAVE YOU BEEN QUALIFIED BEFORE AS AN EXPERT IN
11 THE AREA OF TRACE ANALYSIS?

12 A YES, I HAVE.

13 Q DO YOU KNOW HOW MANY TIMES YOU HAVE BEEN QUALIFIED?

14 A PROBABLY 70 OR MORE.

15 MS. CAMPBELL: AT THIS TIME WE OFFER HER AS AN EXPERT
16 IN TRACE ANALYSIS.

17 MS. FRANKLIN: WITHOUT OBJECTION, YOUR HONOR.

18 THE COURT: WITHOUT OBJECTION, THE WITNESS IS FOUND
19 TO BE QUALIFIED AS AN EXPERT IN THE FIELD OF TRACE
20 EVIDENCE.

21 BY MS. CAMPBELL

22 Q AGENT, I WANT TO TURN YOUR ATTENTION TO THE CASE
23 INVOLVING THE DEFENDANT, CHRIS LIVERMAN. DID YOU RECEIVE
24 CERTAIN GUNSHOT RESIDUE KITS IN THIS CASE?

25 A YES, I DID.

1 Q AND HOW MANY GUNSHOT RESIDUE KITS DID YOU RECEIVE?

2 A THREE.

3 Q THOSE GUNSHOT RESIDUE KITS, WHO DID THEY BELONG TO?

4 A ONE WAS FROM CHRIS LIVERMAN. ONE WAS FROM CARL
5 SMITH, AND ONE WAS [REDACTED] T.M. [REDACTED].

6 Q TELL THIS JURY, WHEN YOU RECEIVE A KIT, WHAT ARE YOU
7 LOOKING FOR?

8 A GUNSHOT RESIDUE IS A MIXTURE OF MICROSCOPIC CHEMICALS
9 THAT ARE EXPELLED FROM A GUN WHEN IT'S FIRED. IT CAN GET
10 ON ANYTHING IN CLOSE PROXIMITY TO THE WEAPON WHEN A GUN IS
11 FIRED, INCLUDING THE PERSON'S HANDS THAT IS SHOOTING THE
12 GUN.

13 WE PROVIDE A SPECIFIC TYPE KIT TO COLLECT THE GUNSHOT
14 RESIDUE. IT CONSISTS OF TWO PARTS. IT CONSISTS OF
15 PARTICLE LIFTS, WHICH ARE LITTLE STICKY TABS THAT ARE
16 CARBON, TWO-SIDED CARBON TAPE, ON A LITTLE PANEL. THIS IS
17 COLLECTED FROM FOUR AREAS. IT'S COLLECTED FROM THE RIGHT
18 PALM, THE BACK OF THE RIGHT HAND, THE LEFT HAND PALM, AND
19 THE BACK OF THE LEFT HAND. THE SECOND PORTION OF THE KIT
20 ARE Q-TIPS WHICH ARE TREATED WITH A DILUTE ACID. THEY'RE
21 ALSO TAKEN FROM THESE SAME AREAS, AND THEY'RE SEALED AND
22 PLACED INTO THE ENVELOPE.

23 Q AND WHAT TYPES -- YOU MENTIONED YOU'RE LOOKING FOR
24 CERTAIN THINGS ON THE HANDS TO INDICATE WHETHER OR NOT
25 SOMEONE MAY OR MAY NOT HAVE SHOT A GUN.

1 A THAT'S CORRECT.

2 Q AND WHAT THINGS ARE YOU LOOKING FOR?

3 A WE'RE LOOKING FOR PRIMARILY FOR THREE CHEMICALS:
4 LEAD, BARIUM, AND ANTIMONY. THEY ARE ASSOCIATED WITH A
5 FIREARM WHEN IT'S DISCHARGED.

6 Q AND FOR A PERSON TO HAVE ANY ONE OF THOSE THREE
7 ELEMENTS ON THEIR HANDS, DOES IT MEAN THEY HAD TO HAVE
8 HANDLED A GUN?

9 A NO, IT DOES NOT.

10 Q AND EXPLAIN THAT TO THE JURY, HOW EVERYONE HAS
11 CERTAIN LEVELS OF THIS TYPE.

12 A YOU CAN COME INTO CONTACT WITH LEAD, BARIUM, AND
13 ANTIMONY IN OTHER AREAS. HOWEVER, WHAT WE LOOK FOR IS ARE
14 THESE THREE ELEMENTS IN COMBINATION WITH EACH OTHER IN
15 CERTAIN RATIOS THAT GIVES AN INDICATION THAT GUNSHOT
16 RESIDUE IS PRESENT.

17 Q HOW DOES IT GET ON THE HAND?

18 A SOMEONE CAN FIRE A WEAPON, SOMEONE CAN BE IN CLOSE
19 PROXIMITY, MOST LIKELY WITHIN FIVE FEET OF A HANDGUN.
20 THEY CAN ALSO HANDLE AN ITEM THAT HAS GUNSHOT RESIDUE ON
21 IT.

22 Q IS THERE A CERTAIN TIME PERIOD IN WHICH THE KIT NEEDS
23 TO BE COLLECTED IN ORDER FOR YOU TO MAKE ANY KIND OF
24 ANALYSIS?

25 A ON A LIVING PERSON, GUNSHOT RESIDUE WILL ONLY REMAIN

1 FOR SIX HOURS. SO IF A G.S.R. KIT IS COLLECTED 12 HOURS
2 AFTER A SHOOTING INCIDENT, IT ISN'T ANALYZED.

3 Q I BELIEVE ON [REDACTED] T.M., IT WAS COLLECTED
4 SOME -- HE LIVED FOR A PERIOD OF TIME, AND THE AUTOPSY WAS
5 PERFORMED SOME THREE DAYS LATER. WOULD YOU STILL ANALYZE
6 THAT?

7 A YES, BECAUSE ONCE SOMEONE IS DECEASED, THE SKIN STOPS
8 SWEATING. YOU STOP ABSORBING THINGS FROM YOUR SKIN, SO
9 THE GUNSHOT RESIDUE WOULD NOT BE LOST UNLESS IT'S REMOVED
10 IN SOME WAY BY AN OUTSIDE SOURCE.

11 Q IN THIS CASE, WHAT WERE THE RESULTS OF YOUR TESTING
12 ON THE THREE GUNSHOT RESIDUE KITS?

13 A ON THE KIT THAT WAS LABELED "CHRIS LIVERMAN", I DID
14 NOT FIND GUNSHOT RESIDUE. ON THE KIT LABELED "CARL
15 SMITH", I ALSO DID NOT FIND GUNSHOT RESIDUE. ON THE KIT
16 LABELED "[REDACTED] T.M.", I DID NOT FIND GUNSHOT
17 RESIDUE.

18 Q AND AGAIN, AS YOU JUST TESTIFIED, THERE MAY HAVE BEEN
19 THE PRESENCE OF SOME ELEMENTS ON THE HAND. IT JUST DIDN'T
20 REACH THE LEVEL YOU HAVE TO HAVE IN ORDER FOR YOU TO CALL
21 IT?

22 A YES; THAT'S CORRECT.

23 Q DOES THAT MEAN THAT NONE OF THESE PEOPLE FIRED A
24 WEAPON?

25 A NO, IT DOES NOT.

1 Q WHY?

2 A GUNSHOT RESIDUE -- OH, I'M SORRY.

3 Q GO AHEAD.

4 A GUNSHOT RESIDUE HAS THE CONSISTENCY OF FLOUR, SO IT'S
5 VERY EASILY REMOVED. IF SOMEONE WERE TO WASH THEIR HANDS,
6 IT WOULD BE REMOVED. IF YOU ARE SWEATING PROFUSELY, IF
7 YOU ARE RUNNING, IF YOU WERE TO PUT YOUR HANDS IN AND OUT
8 OF YOUR POCKETS, ALL OF THESE THINGS CAN REMOVE GUNSHOT
9 RESIDUE FROM YOUR HANDS.

10 Q SO SAY IF SOMEONE HAD FIRED A GUN, AND AS YOU JUST
11 MENTIONED, WAS RUNNING AND SWEATING PROFUSELY FOR A PERIOD
12 OF 20 MINUTES OR SO, COULD THAT AFFECT YOUR FINDINGS?

13 A YES, BECAUSE IT CAN BEGIN REMOVING THE GUNSHOT
14 RESIDUE.

15 Q AND IF SOMEONE HAD ACTUALLY REMOVED A SHIRT OVER
16 THEIR HEAD AND WRAPPED SOMETHING OVER IT, COULD THAT
17 AFFECT YOUR FINDINGS?

18 A YES, BECAUSE AS THE SHIRT WAS BEING WIPED ACROSS THE
19 HANDS, IT CAN COULD REMOVE THE GUNSHOT RESIDUE, IF IT WERE
20 PRESENT.

21 Q AND IF SOMEONE WERE TO JUST WIPE THEIR HANDS IN THEIR
22 POCKETS, COULD THAT AFFECT IT?

23 A YES.

24 Q SO THE GUNSHOT RESIDUE TEST, DOES THAT CONCLUSIVELY
25 SHOW WHETHER OR NOT A PERSON HAD FIRED A GUN OR SHOT?

1 A NO. ALL THE GUNSHOT RESIDUE TEST CAN TELL US IS IF
2 GUNSHOT RESIDUE IS PRESENT AT THE TIME THAT THE KIT WAS
3 COLLECTED.

4 Q YOU'RE FAMILIAR WITH THE DIFFERENCE BETWEEN A RIFLE
5 AND A PISTOL?

6 A YES, I AM.

7 Q AND A PISTOL OR REVOLVER OR SOME TYPE OF HANDGUN IS
8 WHAT I'M REFERRING TO.

9 A YES.

10 Q IS IT MORE LIKELY TO GET GUNSHOT RESIDUE WHEN FIRING
11 A RIFLE OR WHEN FIRING A PISTOL?

12 A WHEN FIRING A PISTOL, BECAUSE THE MUZZLE OF THE GUN
13 IS MUCH SHORTER. IF YOU'RE FIRING A GUN, YOUR HANDS ARE
14 CLOSER TO THE MUZZLE.. THAT'S WHERE THE MAJORITY OF THE
15 GUNSHOT RESIDUE COMES OUT. YOU HAVE A BETTER CHANCE OF
16 GETTING GUNSHOT RESIDUE ON YOUR HANDS BECAUSE YOUR HANDS
17 ARE CLOSER TO THE END OF THE GUN.

18 Q SO THE FACT THAT CHRIS LIVERMAN, CARL SMITH, AND
19 [REDACTED] T.M. 'S GUNSHOT RESIDUE KITS WERE OFFICIALLY
20 NEGATIVE, WHAT ARE THE OPTIONS THAT CAN INDICATE?

21 A FIRST, IT COULD BE THAT NONE OF THESE PEOPLE WERE IN
22 A VICINITY OF A FIRED GUN WITHIN SIX HOURS OF THE KIT'S
23 BEING COLLECTED. THE SECOND OPTION IS THAT A GUN WAS
24 FIRED. THEY FIRED A WEAPON OR WERE IN THE VICINITY OF A
25 WEAPON, AND THE GUNSHOT RESIDUE WAS REMOVED BEFORE THE

1 G.S.R. KITS WERE COLLECTED.

2 Q OF THE THREE TESTS THAT YOU EXAMINED, YOU MENTIONED
3 EARLIER THAT ALL OF THEM HAVE CERTAIN LEVEL OF LEAD. WHAT
4 WERE THE THREE ELEMENTS?

5 A LEAD, BARIUM, AND ANTIMONY.

6 Q YOU HAVE A CERTAIN AMOUNT OF THAT ON THE HANDS
7 ANYWAY?

8 A YES.

9 Q WHOSE GUNSHOT RESIDUE KIT HAD THE MOST LEAD, BARIUM
10 OR WHATEVER THAT OTHER ONE WAS?

11 A ANTIMONY, CHRIS LIVERMAN.

12 Q BUT IT DIDN'T RISE TO THE LEVEL THAT YOU COULD
13 FIND --

14 A CORRECT, IT DID NOT RISE TO THAT LEVEL.

15 MS. CAMPBELL: THANK YOU, MA'AM.

16 THE COURT: CROSS-EXAMINE?

17 MS. FRANKLIN: THANK YOU, YOUR HONOR. MAY IT PLEASE
18 THE COURT.

19 CROSS-EXAMINATION:

20 BY MS. FRANKLIN

21 Q HOW ARE YOU?

22 A HOW ARE YOU?

23 Q OKAY. SO THE LEVELS THAT YOU'RE LOOKING FOR WHEN
24 YOU'RE RUNNING THE -- OR WHEN YOU'RE ANALYZING THESE
25 G.S.R. TESTS, IS IT 200 PARTS PER BILLION?

1 A YES.

2 Q IS THAT ACCURATE?

3 A YES.

4 Q SO IN ORDER FOR SOMETHING TO TEST AS POSITIVE FOR
5 G.S.R., YOU'RE LOOKING FOR LEAD, BARIUM, AND ANTIMONY IN
6 LEVELS OVER 200 PARTS?

7 A WELL, THE ANTIMONY WOULD BE IN LEVELS OF TEN, 20 AND
8 HIGHER, AND THE BARIUM AND ANTIMONY, YES, SIR, WOULD BE
9 200 BARS PER BILLION OR HIGHER.

10 Q BUT IN ORDER FOR IT TO BE CONCLUSIVE, IS IT TRUE THAT
11 ALL THREE OF THOSE ELEMENTS HAVE TO REACH OVER THE 200
12 PARTS PER BILLION THRESHOLD?

13 A THE LEAD AND BARIUM, YES. THE ANTIMONY WOULD BE LESS
14 BECAUSE THERE IS LESS IN THE WEAPON.

15 Q OKAY. AND THE LEVELS THAT -- THESE LEVELS THAT WE'RE
16 DISCUSSING, THIS 200 PARTS PER BILLION, I MEAN, THOSE ARE
17 S.L.E.D. STANDARDS?

18 A YES, THEY ARE S.L.E.D. STANDARDS.

19 Q AND THOSE S.L.E.D. STANDARDS ARE DETERMINED BY WAY OF
20 ANALYZING CASE STUDIES?

21 A AND TESTING, THE TESTING OF WEAPONS, YES.

22 Q AND WHEN YOU'RE DOING THESE TESTINGS AND YOU'RE DOING
23 THESE CASE STUDIES, I MEAN THEY INCORPORATE BOTH PISTOLS
24 AND RIFLES, DO THEY NOT?

25 A YES.

1 Q BECAUSE THIS IS A GUNSHOT RESIDUE TEST AND NOT A
2 PISTOL RESIDUE TEST?

3 A CORRECT.

4 Q SO THE QUICKER THAT YOU RUN ONE OF THESE G.S.R.
5 TESTS, PROBABLY THE MORE LIKELY IT IS THAT YOU'RE GOING TO
6 FIND G.S.R. ON THE HANDS?

7 A YES. IT'S OPTIMAL TO TRY TO GET IT AS QUICKLY AS
8 POSSIBLE AFTER THE SHOOTING INCIDENT OCCURRED.

9 Q AND NEITHER BARIUM, NOR ANTIMONY ARE UNIQUE TO
10 GUNSHOT RESIDUE, IS THAT TRUE?

11 A THE ELEMENTS TOGETHER ARE UNIQUE TO GUNSHOT RESIDUE,
12 YES, BUT JUST HAVING ONE OR THE OTHER ON --

13 Q ALL OF THESE ELEMENTS I THINK YOU CAN GET BY WAY OF
14 ENVIRONMENT FACTORS?

15 A THAT'S CORRECT.

16 Q NOW, IS IT TRUE THAT IF SOMEBODY SHOOTS A WEAPON ONE
17 TIME, IT'S GOING TO LEAVE LESS G.S.R. THAN IF THAT PERSON
18 SHOOTS THAT WEAPON TWICE?

19 A YES, BECAUSE THERE WOULD BE MORE GUNSHOT RESIDUE
20 EXPOSED TO THE ENVIRONMENT MORE TIMES THAN ONE SHOT.

21 Q SO IF SOMEBODY SHOOTS A WEAPON TEN TIMES, YOU'RE
22 GOING TO FIND HIGHER G.S.R. LEVELS THAN SOMEBODY WHO
23 SHOOTS THAT RIFLE OR THAT GUN ONCE?

24 A YES.

25 Q AND IF SOMEBODY WERE TO WASH THEIR HANDS, I MEAN,

1 THAT WOULD REMOVE ALL OF THESE G.S.R. COMPONENTS, WOULD IT
2 NOT?

3 A YES, IT CAN.

4 Q OKAY. SO THEY WOULD BE NEGATIVE FOR ALL THREE OF
5 THESE METALS?

6 A YES. THEY WOULD -- THE THRESHOLD LEVELS WOULD NOT BE
7 MEET WHAT WE HAVE TO SAY TO HAVE GUNSHOT RESIDUE ON YOUR
8 HANDS.

9 Q AND DO YOU HAVE A COPY OF THE LEVELS, THE METAL
10 LEVELS, THAT YOU FOUND?

11 A YES, MA'AM, I DO.

12 Q YOU JUST TESTIFIED THAT CHRISTOPHER LIVERMAN HAD THE
13 HIGHEST LEVELS.

14 A YES, MA'AM, OF LEAD.

15 Q OF LEAD?

16 A YES, MA'AM.

17 Q BUT NOT OF ANTIMONY OR BARIUM?

18 A NO, MA'AM.

19 Q AND YOU SEE FOR CHRISTOPHER LIVERMAN IN YOUR REPORT
20 WHEN YOU LOOK AT THE RIGHT PALM FOR ANTIMONY, THAT NUMBER
21 IS THREE?

22 A YES, MA'AM.

23 Q AND AGAIN, THE RIGHT PALM FOR LEAD, THAT NUMBER IS
24 60?

25 A YES, MA'AM.

- 1 Q AND THAT RIGHT PALM FOR BARIUM, THAT'S NEGATIVE 758?
- 2 A YES, MA'AM.
- 3 Q BUT THAT PROBABLY JUST MEANS IT'S ZERO, RIGHT?
- 4 A YES.
- 5 Q SO THAT JUST MEANS THERE'S NO BARIUM?
- 6 A RIGHT. WHEN WE -- A CONTROL WAS ALSO COLLECTED FROM
- 7 AN AREA THAT IS EXPOSED TO GUNSHOT RESIDUE, AND IT'S ALSO
- 8 SUBTRACTED FROM THE AREAS ON THE HANDS TO TAKE INTO
- 9 CONSIDERATION ANY ENVIRONMENTAL SOURCES OF BARIUM THE
- 10 PERSON MAY HAVE COME INTO CONTACT WITH ON THE EVIDENCE.
- 11 Q I'M JUST TRYING TO BE -- SO THAT NEGATIVE 758, I
- 12 MEAN, THAT DOESN'T REFLECT AN ABSOLUTE NUMBER, DOES IT?
- 13 A NO. IT'S LESS THAN -- IT'S LESS THAN ZERO, YES,
- 14 MA'AM.
- 15 Q AND THEN ONTO LIVERMAN'S RIGHT BACK HAND, AGAIN, THE
- 16 ANTIMONY IS THREE?
- 17 A YES, MA'AM.
- 18 Q THE LEAD IS 77?
- 19 A YES.
- 20 Q AND THE BARIUM IS AGAIN NEGATIVE?
- 21 A YES.
- 22 Q THEN ON THE LEFT PALM, IF ANTIMONY -- AGAIN, IT'S
- 23 THREE?
- 24 A YES.
- 25 Q LEAD OF 117?

1 A YES.

2 Q AND THEN BARIUM IS ZERO?

3 A YES, NEGATIVE.

4 Q NEGATIVE 28, ZERO. THEN ON THE LEFT BACK THE
5 ANTIMONY IS ONE?

6 A YES.

7 Q THE LEAD IS 69?

8 A YES.

9 Q THE LEFT BACK IS NEGATIVE 564?

10 A YES.

11 Q OKAY. SO NONE OF THESE ARE APPROACHING 200 PARTS PER
12 BILLION?

13 A NO, THEY'RE NOT.

14 Q NOW, ON CARL SMITH'S RESULTS, I MEAN AGAIN ON HIS
15 RIGHT PALM, HIS ANTIMONY LEVEL WAS FIVE?

16 A YES.

17 Q THE LEAD IS 32?

18 A UH-HUH.

19 Q THE BARIUM IS ZERO?

20 A YES, NEGATIVE.

21 Q ON THE RIGHT BACK, HE HAS GOT AN ANTIMONY OF SIX?

22 A YES.

23 Q LEAD OF 49, BARIUM NEGATIVE 487?

24 A YES.

25 Q AND ON THE LEFT PALM, HIS ANTIMONY IS EIGHT?

1 A YES.

2 Q LEAD IS 51?

3 A UH-HUH.

4 Q THE BARIUM IS ZERO, AND THE LEFT BACK THE ANTIMONY
5 WAS THREE?

6 A YES.

7 Q THE LEAD WAS 17?

8 A UH-HUH.

9 Q AND THE BARIUM IS NEGATIVE 650?

10 A CORRECT.

11 Q BUT IT WOULD BE IMPORTANT IN DETERMINING -- IT WOULD
12 BE IMPORTANT FOR GETTING AN ACCURATE SORT OF DETERMINATION
13 WHETHER OR NOT SOMEBODY FIRED A RIFLE THAT THESE TESTS BE
14 RUN QUICKLY; IS THAT CORRECT?

15 A YES. THE MORE QUICKLY THEY ARE RUN, THEY ARE
16 COLLECTED AFTER THE SHOOTING INCIDENT, THE MORE
17 OPPORTUNITY I HAVE OF FINDING GUNSHOT RESIDUE BECAUSE IT
18 BEGINS TO FALL AWAY ALMOST IMMEDIATELY.

19 Q BEGINS TO FALL AWAY, SO ~~WHEN YOU TESTIFIED THAT~~
20 ~~CHRISTOPHER LIVERMAN HAD THE HIGHEST LEVELS, I MEAN YOU'RE~~
21 ~~JUST TALKING ABOUT THAT ONE SPECIFIC METAL?~~

22 A YES, MA'AM.

23 Q AND AGAIN, TO HAVE THE -- TO CONCLUDE THAT THERE IS
24 THE PRESENCE OF GUNSHOT RESIDUE, OR THAT IT WAS POSITIVE
25 FOR GUNSHOT RESIDUE, YOU WOULD HAVE TO HAVE ALL THREE

1 METALS IN THOSE NUMBERS THAT WE DISCUSSED?

2 A CORRECT.

3 Q SO IT IS TRUE THAT HIS GUNSHOT RESIDUE TEST WAS
4 NEGATIVE?

5 A THAT'S CORRECT.

6 MS. FRANKLIN: NO MORE QUESTIONS. THANK YOU.

7 THE COURT: ANY REDIRECT?

8 MS. CAMPBELL: YES, SIR.

9 REDIRECT EXAMINATION:

10 BY MS. CAMPBELL

11 Q EVEN IF A PERSON FIRES A GUN TEN TIMES, THE FACTORS
12 YOU TALK ABOUT, SWEATING, WIPING OF THE HANDS, ALL THOSE
13 CAN STILL BE REMOVED?

14 A YES, IT CAN.

15 Q REGARDLESS OF HOW MANY TIMES A GUN IS FIRED?

16 A CORRECT, YES.

17 Q AND, OF COURSE, IF A PERSON CHOOSES TO RUN FROM A
18 CRIME SCENE AND SWEAT PROFUSELY, REMOVE HIS SHIRT, THOSE
19 ARE ALL FACTORS THAT WOULD REMOVE ALL EVIDENCE?

20 A YES. THEY CAN ALL REMOVE GUNSHOT RESIDUE.

21 Q AND HIS LEAD LEVELS WERE THE HIGHEST OF ANYONE'S?

22 A YES, MA'AM.

23 MS. CAMPBELL: THANK YOU. I DON'T HAVE ANYTHING
24 FURTHER.

25 THE COURT: ANYTHING FURTHER?

1 MS. FRANKLIN: ONE LAST THING.

2 BY MS. FRANKLIN

3 Q IF SOMEBODY SHOOTS A RIFLE TEN TIMES, THERE'S GOING
4 TO BE MORE G.S.R. THAT IS GOING TO HAVE TO FALL OFF THE
5 HANDS, IS THAT ACCURATE?

6 A YES, THAT'S ACCURATE.

7 THE COURT: ALL RIGHT. YOU MAY STEP DOWN.

8 MS. CAMPBELL: YOUR HONOR, MAY SHE BE EXCUSED?

9 THE COURT: ANY OBJECTION?

10 MS. FRANKLIN: NO, YOUR HONOR.

11 THE COURT: THE WITNESS IS EXCUSED.

12 DAN DEFREESE, 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: MY NAME IS FRANK DAN DEFREESE, THAT'S
17 D-E-F-R-E-E-S-E.

18 DIRECT EXAMINATION:

19 BY MR. GIESE

20 Q WHAT'S YOUR POSITION? WHERE DO YOU WORK?

21 A I WORK FOR THE SOUTH CAROLINA LAW ENFORCEMENT
22 DIVISION IN THE CRIME LABORATORY IN COLUMBIA.

23 Q AND HOW LONG HAVE YOU WORKED IN THE CRIME LABORATORY
24 IN COLUMBIA?

25 A FOR 39 YEARS.

1 Q AND WHAT AREA OF EXPERTISE DO YOU WORK IN IN THE
2 CRIME LAB?

3 A I'M ASSIGNED TO THE UNIT WHERE WE DO THE ANALYSIS OF
4 FIREARM AND TOOL MARK EVIDENCE.

5 Q EXPLAIN TO THE JURY WHAT THAT IS.

6 A PRINCIPALLY WHAT WE'RE ASKED TO DO IS TO IDENTIFY THE
7 BULLETS OR CARTRIDGE CASES BACK TO THE GUNS IN WHICH THEY
8 WERE FIRED. IN ADDITION TO THAT, WE ALSO DO THE
9 IDENTIFICATION OF TOOL MARKS ON PHYSICAL SECURITY DEVICES
10 THAT MAY HAVE BEEN ATTACKED BY SUCH THINGS AS CROW BARS,
11 HAMMERS, PRY BARS, AND WHAT HAVE YOU.

12 Q WHAT IS YOUR TRAINING AND BACKGROUND IN THAT AREA?

13 A MY PRINCIPLE TRAINING OUT IN THE FIELD I RECEIVED AT
14 S.L.E.D. AFTER MY EMPLOYMENT, I WAS ASSIGNED TO THE
15 FIREARMS LABORATORY, AND I UNDERTOOK THE COURSE OF STUDY
16 THAT LASTED ABOUT TWO-AND-A-HALF YEARS.

17 I STUDIED THE TECHNIQUES OF FIREARM AND TOOL MARK
18 ANALYSIS UNDER LIEUTENANT MILLER CATE. LIEUTENANT CATE
19 ESTABLISHED THE S.L.E.D. LABORATORY WHEN S.L.E.D. ITSELF
20 WAS ESTABLISHED IN 1947.

21 AFTER I COMPLETED MY COURSE OF INSTRUCTION, I BEGAN
22 ACCEPTING CASES ON MY OWN AND TESTIFYING AS TO MY RESULTS.
23 I'VE BEEN DOING THAT SINCE 1969.

24 Q 1969?

25 A YES.

1 Q AND HOW MANY TIMES HAVE YOU BEEN QUALIFIED AS AN
2 EXPERT IN THIS AREA IN THE COURTS OF SOUTH CAROLINA?

3 A I DON'T KNOW EXACTLY, PROBABLY BETWEEN 600 AND 700
4 TIMES.

5 MR. GIESE: YOUR HONOR, AT THIS TIME WE'D OFFER
6 LIEUTENANT DEFREESE AS AN EXPERT IN FIREARM AND TOOL MARK
7 ANALYSIS.

8 MS. FRANKLIN: WITHOUT OBJECTION, YOUR HONOR.

9 THE COURT: WITHOUT OBJECTION, HE'S FOUND TO BE
10 QUALIFIED IN THE FIELD OF FIREARM AND TOOL MARK ANALYSIS.
11 BY MR. GIESE

12 Q NOW, LIEUTENANT -- I THINK IT'S LIEUTENANT, CORRECT?

13 A ACTUALLY, IT'S JUST AGENT.

14 Q AGENT, I'M SORRY. AGENT, VERY GOOD. YOU SAID YOU
15 HAVE BEEN WORKING IN THIS AREA SINCE 1969?

16 A YES, SIR.

17 Q SPECIFICALLY, I WANT TO DRAW YOUR ATTENTION TO THE
18 WORK THAT YOU DID IN THIS CASE.

19 A YES, SIR.

20 Q WHEN DID THAT TAKE PLACE?

21 A I BEGAN MY ANALYSIS ON NOVEMBER 23RD OF 2004, AND
22 COMPLETED IT ON DECEMBER 1ST.

23 Q SPECIFICALLY, I HAND YOU WHAT'S BEEN MARKED STATE'S
24 EXHIBIT NUMBER 63 AND ASK YOU PLEASE TO SEE IF YOU CAN
25 IDENTIFY IT FIRST.